UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
FIRST SESSION

VOLUME 123—PART 17

JUNE 23, 1977 TO JUNE 30, 1977

(PAGES 20481 TO 21954)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1977

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

SENATE—*Thursday, June 23, 1977*

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Behold, I stand at the door, and knock: if any man hear my voice, and open the door, I will come in to him. . . . Revelation 3: 20.

O God, infinite, eternal and unchangeable who waits at the threshold of every heart, grant us the will to open the door of our hearts and let Thee in. If we have been too busy with lesser things, unheedful of Thy knocking and unresponsive to Thy voice, forgive us. In this hallowed moment, descend upon our hearts with all Thy quickening power. Take the dimness of our souls away that we may love Thee and serve Thee as we ought. Support us with Thy wisdom and grace as we toil with the tangled problems of our times. Crown our deliberations with actions which set forward Thy kingdom of justice and brotherhood.

We pray for the President and his counselors and for that unseen host in the service of this Nation that they may be given strength for the needs of the day.

And what we pray for this Nation we pray for all mankind that Thy kingdom may come on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 23, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, June 22, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for time under the standing order, and I yield back my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with statements therein limited to 2 minutes.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations confirmed today are printed at the end of the Senate proceedings.)

TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 89

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

I am transmitting herewith a copy of the "Twenty-First Annual Report of the President of the United States on the Trade Agreements Program—1976" issued pursuant to Section 163 of the Trade Act of 1974. This report covers a period of time prior to my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *June 23, 1977.*

MESSAGES FROM THE HOUSE

At 10:19 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has agreed to the resolution (H. Con. Res. 254) authorizing a correction in the engrossment of H.R. 6161, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 583. An act to amend chapter 5 of title 37, United States Code, to extend the special pay provisions for reenlistment and enlistment bonuses, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. MORGAN).

At 11:19 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. ANDREWS of North Carolina, Mr. HAWKINS, Mr. FORD of Michigan, Mr. CORRADA, Mr. QUIE, and Mr. GOODLING were appointed managers of the conference on the part of the House.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 7558. An act making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1978, and for other purposes; and

H.R. 7589. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following communications which were referred as indicated:

EC–1542. A letter from the Principal Deputy Assistant Secretary of Defense transmitting, pursuant to law, the report of Department of Defense Procurement from Small and Other Business Firms for October-December 1976 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–1543. A letter from the Deputy Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a follow-up report on the recommendations of the National Voluntary Service Advisory Council (with an accompanying report); to the Committee on Governmental Affairs.

EC–1544. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Ground Water: An Overview" (CED–77–69) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1545. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Crime In Federal Recreation Areas—A Serious Problem Needing Congressional and Agency Action" (GGD–77–28) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1546. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a report on a document concerning the National Direct Student Loan, College Work-Study, Supplemental Educational Opportunity Grant Programs which was recently published in the Federal Register (with accompanying papers); to the Committee on Human Resources.

EC–1547. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a report on a document concerning final regulations amending Title 45 of CFR Part 158 governing the Follow Through programs which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC–1548. A letter from the Chairman of the Federal Election Commission transmitting, pursuant to law, a copy of correspondence concerning the Mid-Session review of the 1978 Budget which the Commission has sent to the Office of Management and Budget (with accompanying papers); to the Committee on Rules and Administration.

EC–1549. A letter from the Secretary of Transportation transmitting, pursuant to law, the Final Report on activities carried out under the High Speed Ground Transportation Act of 1965 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–1550. A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a copy of an application by the Pleasant Valley County Water District of Ventura County, for a loan under the Small Reclamation Projects Act (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1551. A letter from the Deputy Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a status report concerning follow-up actions to the Defense Manpower Commission's final report; to the Committee on Governmental Affairs.

EC–1552. A letter from the Mayor of Washington, District of Columbia transmitting, pursuant to law, the annual report of the Office of Emergency Preparedness of the District of Columbia for fiscal year 1976 (with an accompanying report); to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

With an amendment:

S. 142. A bill for the relief of Gaspar Louis Sayoc (Rept. No. 95–289).

Without amendment:

S. 344. A bill for the relief of Mr. Angelo B. Cortes (Rept. No. 95–290).

With an amendment:

S. 614. A bill for the relief of Chin-Ping Haskell (title amendment) (Rept. No. 95–291).

Without amendment:

H.R. 1437. An act for the relief of Soo Jin Lee (Rept. No. 95–292).

H.R. 3838. An act for the relief of Tulsedei Zalim (Rept. No. 95–293).

H.R. 4246. An act for the relief of Hee Kyung Yoo (Rept. No. 95–294).

By Mr. JOHNSTON, from the Committee on Appropriations:

With amendments:

H.R. 7589. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95–295).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. Res. 204. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 9. Referred to the Committee on the Budget.

By Mr. EAGLETON, from the Committee on Appropriations:

With amendments:

H.R. 7558. An act making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes (Rept. 95–296).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

John M. Harmon, of North Carolina, to be an Assistant Attorney General.

George M. Anderson, of North Carolina, to be U.S. attorney for the eastern district of North Carolina.

Henry M. Michaux, Jr., of North Carolina, to be U.S. attorney for the middle district of North Carolina.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following House bills were read twice by their titles and referred as indicated:

H.R. 7558. An act making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes; to the Committee on Appropriations.

H.R. 7589. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes; to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent the second time, and referred as indicated:

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 1747. A bill to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 1748. A bill to amend title 5, United States Code, to provide Federal employees under investigation for misconduct the right to representation during questioning regarding such misconduct; to the Committee on Governmental Affairs.

S. 1749. A bill to amend title 5, United States Code, to guarantee to each employee in the executive branch who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. PELL, Mr. RIEGLE, and Mr. STAFFORD):

S. 1750. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 1747. A bill to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HATFIELD. Mr. President, today I introduce and send to the desk legislation to add the site of the salt cairn utilized by the Lewis and Clark Expedi-

tion to the Fort Clatsop National Memorial in Oregon.

I am pleased to have my colleague from Oregon, Senator BOB PACKWOOD, join me in introducing this legislation today. Congressman LES AUCOIN, who represents Oregon's First Congressional District, already has introduced a companion bill in the House. After considering this legislation during the last session, the full Senate approved it. I am hopeful that we will again take action to preserve this tangible evidence of a historic and courageous trek across our country.

The availability of salt was of the utmost importance to the Lewis and Clark Expeditions. Their journals tell us that during the preparations for the journey and on the trip itself the leaders were greatly concerned about having enough salt for their men. It was necessary because the strenuous physical activity involved in such an endeavor resulted in the loss of body salt, as well as to make their food more palatable.

When the expedition arrived at Fort Clatsop in December of 1805, it was imperative that their salt supply be replenished. Capt. William Clark wrote:

> We haveing fixed on this Situation as the one best Calculated for our Winter quarters I deturmin'd to go as direct a Course as I could to the Sea Coast which we could here roar and appeared to be at no great distance from us, my principle object is to look out a place to make Salt.

The place was found and a group of men spent 2 months to produce 20 gallons of salt by a continuous process of boiling sea water in five "kittles." The site of that salt cairn is located in what is now Seaside, Oreg. The land is presently owned by the Oregon Historical Society, which is willing to give it to the National Park Service as a satellite of the Fort Clatsop National Memorial, some 25 miles away.

I believe this action would be highly appropriate. The two areas are joined historically, and the designation of the salt cairn as a part of the Fort Clatsop National Memorial will result in better maintenance and identification of the area.

We in Oregon are fortunate to have Dr. E. G. Chuinard as the driving force behind this effort. Dr. Chuinard, who serves as chairman of the Oregon Lewis and Clark Trail Heritage Foundation Committee, has worked hard on this proposal with local government and interested citizens in an effort to protect this site. We owe it to our heritage to do so.

By Mr. MATHIAS:

S. 1748. A bill to amend title 5, United States Code, to provide Federal employees under investigation for misconduct the right to representation during questioning regarding such misconduct; to the Committee on Governmental Affairs.

S. 1749. A bill to amend title 5, United States Code, to guarantee to each employee in the executive branch who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes; to the Committee on Governmental Affairs.

DUE PROCESS FOR FEDERAL EMPLOYEES

Mr. MATHIAS. Mr. President, I am pleased to introduce today two pieces of legislation which will provide due process for Federal employees in vital areas. These bills are the Federal Employee Right to Representation Act of 1977 and the Federal Employee Administrative Hearing Rights Guarantee Act of 1977. They deal with issues of immediate concern to all Federal workers.

FEDERAL EMPLOYEE RIGHT TO REPRESENTATION ACT OF 1977

This bill guarantees Federal employees the right to representation at meetings involving actual or potential disciplinary action. In a recent decision, Weingarten against United States, the Supreme Court ruled that under the National Labor Relations Act, private sector employees are guaranteed such a right. The Federal Labor Relations Council, in a major policy pronouncement, however, decided that under Executive Order 11491, as amended, Federal employees are not guaranteed a similar right. Therefore, it is necessary to enact legislation which would assure Federal workers this minimum guarantee of due process.

Under the legislation I am introducing today, any employee of an executive agency under investigation for misconduct which could lead to suspension, removal, or reduction in rank or pay of such employee, would not be required to answer questions relating to the misconduct under investigation unless he or she had been advised in writing of the nature of the alleged misconduct and of his or her right to representation. The employee would then be allowed reasonable time, not to exceed 5 working days, to obtain a representative of his choice, and would be allowed to have that person present during any questioning related to the allegations.

FEDERAL EMPLOYEE ADMINISTRATIVE HEARING RIGHTS GUARANTEE ACT OF 1977

This bill would guarantee Federal workers the right to a hearing prior to removal or suspension without pay. Under present civil service regulations, an employee is first discharged and then has a right of appeal. This process can take anywhere from 6 to 8 months. During this time the employee is off the payroll and generally out of work. Moreover, it has been the experience of those familiar with this area, that once a Federal employee is discharged from the Government it is extremely difficult for that person to obtain employment elsewhere.

This legislation would guarantee the right of a hearing to persons in the excepted service. Under existing law, if an individual is in the excepted service, he or she is not entitled to notice or a hearing unless he or she is a veteran. Obviously, this strikes most directly at women, most of whom are not veterans and, therefore, not entitled to any degree of due process. In lieu of this procedure, the bill also provides that a union holding exclusive recognition could negotiate a procedure which would be a substitute for the Civil Service Commission procedure, such as binding arbitration.

Thus, the simple purpose of this bill is to guarantee to employees in the executive branch, except those employees whose positions are of a confidential or policy determining character, a prompt evidentiary hearing conducted by an impartial individual prior to any removal or suspension without pay.

This two-bill package extends due process protections to Federal workers who would otherwise not be afforded these safeguards. The procedures outlined will not cost the taxpayer any additional money. They will, however, fulfill an obligation to be fair in matters related to public employment. The loss of a job or proceedings that might lead to such a loss are particularly important in this era of high unemployment. We must not be insensitive to the need for equitable treatment of those who do the Government's work. It is for that reason that I urge my colleagues to join with me in seeking passage of these two measures.

By Mr KENNEDY (for himself, Mr. SCHWEIKER, Mr. PELL, Mr. RIEGLE, and Mr. STAFFORD):

S. 1750. A bill to amend the Public Health Service Act and the Federal Food, Drug and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods; to the Committee on Human Resources.

SACCHARIN STUDY, LABELING AND ADVERTISING ACT

Mr. KENNEDY, Mr. President, I rise on behalf of my self and Senators SCHWEIKER, PELL, and STAFFORD to introduce the Saccharin Study, Labeling and Advertising Act.

Last March the Food and Drug Administration announced its intention to severely limit the availability of saccharin and to remove it completely from food products. The initial public reaction to the announcement was one of widespread disbelief and anger. Emotions ran high and often obscured the scientific controversy that underlaid the regulatory action.

In an effort to shift the debate from the emotional passions of the moment to a careful consideration of the health and safety issues involved, the Senate

Subcommittee on Health and Scientific Research requested the Office of Technology Assessment to assemble a panel of distinguished scientists to summarize all the known facts about the carcinogenic effects of saccharin. The OTA panel was also asked to assess the potential benefits of saccharin and the availability of alternative sweeteners. While the study was in progress, the subcommittee sought out the views of other prominent scientists.

The OTA report concluded that saccharin was a carinogen in animals and, therefore, had to be presumed to cause cancer in man. The nature of the risk was not defined and remained an unknown factor. Although the panel concluded that there had not been a scientific demonstration that saccharin was a benefit to any group of individuals, at least half the members of the panel felt that the potential benefits were of such a degree as to justify the continued marketing of saccharin with fully informed consent to the consumer.

Other experts were more positive about the potential benefits. Dr. Kurt J. Isselbacher, chairman of the Department of Medicine at Harvard and the chairman of the Harvard University Cancer Committee, testified before the Congress on March 24, 1977—

> Thus, I would submit to you that in the case of saccharin, the available data indicates, in my view, that the risk to humans for developing cancer from saccharin in the amounts ingested by the average individual is remote. While the harm I believe which may occur to millions in the absence of a non-nutrient sugar substitute is great.

Many other prominent physicians and scientists shared that view, the American Diabetic Association and the American Heart Association endorsed that view.

It was on the basis of that record that I issued a press release on June 10 enumerating the following conclusions about the saccharin controversy:

First. The Food, Drug, and Cosmetic Act as currently written leaves the FDA no choice but to remove saccharin from foods. I do not fault the FDA for its actions. The fault lies in the statute and not the Federal agency.

Second. Saccharin almost certainly causes cancer in rats.

Third. Saccharin poses potential risks for man. The nature and extent of that risk is unknown, but the worst case example presented indicates that a limited number of people would be affected—perhaps a thousand cases of bladder cancer a year.

Fourth. Saccharin may have benefit for several groups of persons: diabetics, obese people, persons with hypertension, thus, the group which may suffer adverse health effects by the removal of saccharin from the market is quite large—perhaps as many as 50 million Americans.

Fifth. The scientific community is deeply and approximately evenly divided over whether the risks of leaving saccharin on the market outweigh the benefits. Persons with impeccable scientific credentials reach exactly opposite conclusions after reviewing the same data.

Sixth. The central policy question is whether, in the face of scientific uncertainty about risk and benefit, individuals ought to be able to make a risk/benefit determination on a personal basis or whether the Federal Government ought to do it for them.

I pointed out at that time that whatever action we take involves a risk. If we ban saccharin, we avoid a potential risk of cancer, but we create a new potential risk in its place—a risk of exacerbated illness for large numbers of diabetics and others who may benefit now from saccharin.

Because of the division in the scientific community, because of the division in the OTA panel, because of the genuine uncertainty on each side of the risk/benefit equation—I decided that it would be best to allow each individual to become fully informed and then make a personal decision about saccharin use.

However, simply suspending the FDA action would not provide the fullest opportunity for informed judgments by consumers, so I recommended that conditions be imposed on the advertising, marketing, and promotional activities for foods containing saccharin. I proposed that all products containing saccharin have prominent box warnings on the labels. I proposed more extensive summaries of the scientific information be posted in stores selling food products containing saccharin. I urged that the advertising of products containing saccharin be strictly limited with all written advertisements to include a prominently displayed warning. I suggested significant restrictions for television and radio advertising. The reason for this was to limit the ability of the industry to counteract the effects of a box warning with massive media promotion. In addition, I proposed that no product containing saccharin be sold in vending machines unless those vending machines carried prominent warning messages.

I said that in addition to these measures, the National Academy of Sciences ought to be mandated to study the food additive provisions of the Food, Drug, and Cosmetic Act to see if the public health could be better protected by more flexible administrative provisions in that act. I also recommended a study to delineate the nature of contaminants currently found in commercial saccharin to see whether the current risk arises from the saccharin or from its contaminants.

During the past week, additional information on the saccharin controversy has come to public attention. In Canada an epidemiologic study, which is being reviewed by the Food and Drug Administration, concluded that saccharin is a human carcinogen. That study showed that males using saccharin have a significantly increased risk of developing bladder cancer as a result of saccharin use. If the Canadian statistics are applied to the American population, 7 percent of all male bladder cancer cases can be attributed to saccharin. There are 30,000 cases of bladder cancer annually in the United States with approximately 22,000 of them occurring in males. Thus, somewhere between 1,500 and 2,000 bladder cancer cases a year in males in the United States might be attributed to the use of artificial sweetners, primarily saccharin.

Subsequently, additional information came to light contradicting the conclusions of the Canadian study. Although the numbers of saccharin users in this case were much smaller, no statistical association between bladder cancer and saccharin use was found.

As chairman of the Senate Health and Scientific Research Subcommittee, I felt it would be important to have these new studies carefully evaluated before any legislative action was taken by the Congress in this matter. The Commissioner of the Food and Drug Administration felt the new information was of such significant importance for him to reopen the hearing process in order to fully evaluate its significance. Thus, the threat of an imminent removal of saccharin from the market was removed. The Commissioner has given us assurances that saccharin will remain on the market at least until October first.

In view of those assurances, I was surprised that the House of Representatives voted to require that FDA take no action to remove saccharin from the market. This measure was tacked onto an appropriations bill, was developed in haste, and had effects that reached far beyond any appropriate moratorium on FDA's action on saccharin. I think such precipitous action while the substantive committees of the Congress are weighing the scientific risks and benefits in order to present the Members of each body with all the pertinent information for them to make an appropriate decision, is unjustified.

Mr. President, I have obtained a copy of the Canadian study and I have asked both the Food and Drug Administration and several consultants to review it and comment on it for me. At the moment, after an initial review of the data, I still believe that the individual is in the best position to make a responsible judgment about whether he or she wishes to use saccharin. I believe more firmly than ever, however, that the individual must be given the information upon which to make that decision. Thus, the restrictions that I proposed earlier are far more important today. The legislation that Senator SCHWEIKER and I are introducing will enable the individual to fully inform himself, or herself, and to make an appropriate decision for themselves and for their children.

I have scheduled a Senate Health and Scientific Research Subcommittee executive session for Wednesday, June 29, at 10 a.m. to consider this legislation. By that time, I will have received the analysis of the Commissioner of the Food and Drug Administration as well as the consultants we will be contacting.

Mr. President, I know that millions of Americans strongly disagree with the Government's regulatory action with regard to saccharin. They want to be able to make their own decision unless the risk/benefit equation changes dramatically over the next week. I believe that is an appropriate course to follow, but the key is whether an informed judgment

can be made. The Congress must be informed when it makes its decision and must make it possible for the citizens to be informed so as to make their own personal decisions. That is why the appropriations process is not the proper vehicle to resolve the saccharin question. I believe this legislation will afford the Senate a full opportunity to be fully informed on the facts and to make an informed decision.

Mr. SCHWEIKER. Mr. President, I am pleased to join in introducing the Saccharin Study, Labeling and Advertising Act. This bill is an outgrowth of the agreement Senator KENNEDY and I reached earlier this month on a responsible, joint approach to dealing with the issues raised by the Food and Drug Administration's proposed ban on saccharin.

As I am sure all my colleagues know, the saccharin debate has been among the most heated issues of this session. When the FDA first announced its decision to impose a ban on saccharin, there was an enormous public outcry. Partially because of the way the original announcement was handled, public confidence in the FDA and in Federal food additive safety policy seemed at a low ebb. Many people did not want to see the last nonnutritive artificial sweetener taken off the market. They viewed the ban as an unjustified intrusion into their lives based on dubious scientific evidence. Many distinguished scientists felt that available evidence did not warrant a ban, especially in light of the health benefits that the use of an artificial sweetener may afford to diabetics and other persons who must for health reasons restrict their consumption of sugar. Feelings on the other side of the issue also ran deep, with some groups complaining that the FDA had dragged its feet and waited too long to impose the ban.

In light of these deep concerns, I called for hearings on the saccharin issue and introduced legislation to provide for a weighing of the risks and benefits before the ban went into effect. The Health and Scientific Research Subcommittee, on which I serve as ranking minority member and Senator KENNEDY serves as chairman, met with scientific experts, commissioned a review of the issues by a distinguished scientific panel, and held a public hearing on June 7. Legislation was also introduced and hearings were conducted in the House of Representatives.

Because it seemed that the FDA might act before Congress had had the chance to carefully consider the issues raised by the proposed saccharin prohibition, Senator KENNEDY and I reached an agreement which would guarantee time for proper congressional deliberation. The major points of that agreement are reflected in the bill we introduce today, which is in most respects similar to legislation sponsored by the chairman and ranking minority member of the House Health Subcommittee, Representative ROGERS and Representative CARTER. Briefly, the bill would provide for:

First. Two studies—one on the broader issues of food additive safety regulation and a second study devoted to the specific issue of saccharin. These studies would be completed within 1 year.

Second. A delay in FDA imposition of a ban on saccharin for 18 months, unless new data show that saccharin presents an unreasonable and substantial risk to public health. This delay will allow time for the studies to go on and new evidence to be carefully evaluated.

Third. The placing of warning labels on all saccharin-containing food products and warning statements on all written advertising of saccharin-containing food products.

Fourth. The posting of information on the saccharin issue in supermarkets and retail stores which sell saccharin-containing food products.

Fifth. Restriction of radio and television advertising of saccharin-containing food products to messages containing the information on the saccharin controversy which has been prepared for posting in retail establishments.

I believe the approach of this bill is preferable to the action taken by the House of Representatives during its consideration of the Agriculture appropriations bill on Tuesday. It gives the House and Senate authorizing committees the opportunity to fully review proposals for changes in our food additive safety laws. It guarantees consumers the right of informed choice when they consider whether or not to purchase saccharin and saccharin-containing products for themselves and their families. It provides for much-needed further research and allows for reasoned evaluation of the new evidence obtained.

I know some of my colleagues are disturbed by recent reports of a new study, not yet available for scrutiny, which purports to link saccharin consumption with human bladder cancer. This type of evidence is certainly of great significance to the saccharin debate. The original FDA ban was proposed on the basis of tests which indicated that saccharin induced cancer in animals. No research associating saccharin with human cancer was presented at that time. Surely this new study must be weighed in making regulatory decisions about saccharin, along with other studies of the cancer-causing potential of saccharin which have recently come to light and which do not show any connection between saccharin consumption and human cancer.

The bill Senator KENNEDY and I propose today is designed to provide the American people with the information they need to make informed decisions while the scientific review process goes on. Both he and I firmly believe that we in Congress must not shirk our responsibility to protect the public health from unreasonable risks posed by the presence of carcinogens in our food supply. At the same time, it is unwise policy to ban saccharin until we have a fuller picture of the health risks and benefits posed by its use.

I believe this bill is a responsible approach, and I look forward to its prompt consideration by the Health and Scientific Research Subcommittee of the Human Resources Committee next week.

Mr. President, I ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Saccharin Study, Labeling and Advertising Act".

SEC. 2. For the purposes of this Act, the term saccharin includes saccharin, saccharin calcium, saccharin sodium, and saccharin sodium tablets.

SEC. 3. Title V of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"SEC. 514. (a) The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as "Secretary") shall arrange for the conduct of a study or studies to assess and evaluate—

(1) current technical capabilities to predict the direct or secondary toxicity or carcinogenicity in humans of substances which are added to or naturally occur in food, and which have been found to cause cancer in animals;

(2) the direct and indirect health benefits and risks to individuals from foods which contain toxic or carcinogenic substances;

(3) the existing means of evaluating the risks to health from the toxicity and carcinogenicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing authority and need for weighing such risks against such benefits;

(4) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

(b) The study or studies, required under subsection (a), shall be completed within one year of the date of the enactment of this Act. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations for legislative and administrative action as deemed necessary.

(c)(1) The Secretary shall first request the Institute of Medicine of the National Academy of Sciences (hereinafter in this section referred to as "Institute") to conduct the study or studies, required under subsection (a), under an arrangement whereby the actual expenses incurred by the Institute directly related to the conduct of such study or studies will be paid by the Secretary. If the Institute is willing to do so, the Secretary shall enter into such an arrangement with the Institute.

(2) If the Institute declines the Secretary's request to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate public or nonprofit private groups or associations to conduct such study or studies and prepare and submit such study or studies and the report or reports thereon as provided in subsection (b)," and

"SEC. 515. (a) The Secretary shall conduct or arrange for the conduct of a study or studies to determine to the extent feasible—

(1) the chemical identity of any impurities contained in commercially used saccharin,

(2) the toxicity of any such impurities including their carcinogenicity in humans, and

(3) the health benefits, if any, to humans resulting from the use of non-nutritive sweeteners in general and saccharin in particular.

(b) The study or studies, required under subsection (a), shall be completed within one year of the date of enactment of this Act. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations for legislative and administrative action as deemed necessary."

SEC. 5. (a) During the eighteen-month period beginning on the date of the enactment of this Act—

(1) the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin on April 15, 1977 (sec. 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), shall, notwithstanding paragraph (c) of such regulation, remain in effect; and

(2) the Secretary may not take action under the Federal Food, Drug, and Cosmetic Act, as amended, or any other authority to prohibit or restrict the sale or distribution of saccharin or any food, food additive, drug, or cosmetic containing saccharin on the basis of the carcinogenic effect of saccharin, unless the Secretary determines, on the basis of data reported to the Secretary after the date of enactment of this Act, that saccharin presents an unreasonable and substantial risk to the public health and safety.

(b) Subsection (a) does not limit the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act, as amended, to prescribe labeling for saccharin or any food, food additive, drug, or cosmetic containing saccharin. Notwithstanding the first sentence hereof, the Secretary shall not take any action with respect to the labeling of food inconsistent with the requirements of Section 6 of this Act.

SEC. 6. (a) Section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, is amended by adding at the end thereof the following new subsections:

"(o) If it contains saccharin, unless its packaging and labeling bear the following statement: 'WARNING: THIS PRODUCT CONTAINS SACCHARIN, WHICH CAUSES CANCER IN ANIMALS. USE OF THIS PRODUCT MAY INCREASE YOUR RISK OF DEVELOPING CANCER.' Such statement shall be located in a conspicuous place on such packaging and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on the package.".

"(p) If it contains saccharin and is sold through a vending machine, unless the vending machine bears the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place or conspicuous places on such vending machine as proximate as possible to the name of each food containing saccharin that is sold through such vending machine and shall appear in conspicuous and legible type in contrast by typography, layout, and color with the name of each such food.";

"(q) If it contains saccharin and is offered for sale at a retail establishment unless it is offered for sale at such retail establishment accompanied by a prominently displayed notice of conspicuous and legible type and at a place of reasonable proximity to such food. Such notice shall be in such form and manner as required by the Secretary. The Secretary shall prepare the text of such notice and shall include information on the nature of the controversy surrounding saccharin including evidence of its carcinogenicity. The Secretary shall periodically review and revise, if necessary, the text of such notice to make sure that it accurately conveys the current state of knowledge concerning saccharin.";

"(r) If it contains saccharin and is advertised on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, unless the manufacturer, packer, distributor, or retailer of such food devotes the entirety of each advertisement issued or caused to be issued by such manufacturer, packer, distributor, or retailer to all of the information contained in the notice prepared by the Secretary pursuant to subsection (q)." and,

"(s) If it contains saccharin and is advertised by written communication, unless the manufacturer, packer, distributor, or retailer of such food includes in each advertisement the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place in such advertisement and shall appear in conspicuous and legible type in contrast by typography, layout or color with other printed matter in such advertisement.".

(b) The effective date of this section shall be ninety days after the date of enactment of this Act.

Mr. PELL. Mr. President, the recent disclosure of the results of scientific studies conducted in Canada on the possible carcinogenic affects of saccharin have created a complex and difficult situation in this country. On one hand, we have a long, well-established, and valuable Federal statutory policy which prohibits, through the Delaney Clause of the Food and Drug Act, the sale or use as a food or food additive of any material which can be shown to cause cancer in animals or humans. On the other hand, in this unique situation a peremptory ban on the use of saccharin would deprive millions of Americans of the only sugar substitute on the market and would undoubtedly constitute a serious hardship to diabetics, to overweight children and adults, to persons concerned about proper dental care, and to many people who take prescription medicine which must be flavored with saccharin to make it palatable.

This situation has been further complicated by serious scientific questions raised about the cancer studies in themselves, and about the capability of current scientific technologies to assess carcinogenicity in substances such as saccharin.

I receive hundreds of letters from concerned and thoughtful Rhode Islanders, none of whom, of course, wish to contract cancer, but all of whom firmly believe that saccharin must remain available to them or to their children, at least in the immediate future until a substitute can be developed.

Therefore, today I am joining with Senator KENNEDY, the chairman of the Health Subcommittee, in introducing the "Saccharin Study, Labeling and Advertising Act of 1977." I believe this legislation will enable the Congress to respond to the immediate needs of Americans who consume saccharin as well as to establish a framework for regulating this substance in the future. This legislation is designed to accomplish three objectives. First, it delays for 18 months any ban by the Food and Drug Administration on the sale or distribution of saccharin. Second, it initiates a study of whether or not we have the technical capability to predict whether substances which cause cancer in animals can cause cancer in humans. This study would also evaluate how to measure and compare the benefits and the risks to humans from foods which contain toxic or carcinogenic substances, and it would elaborate for us those instances in which the benefits so far outweigh the risks that tolerance of such substances on the market place is advisable.

Finally, and this is a most difficult area in which to legislate wisely, this legislation establishes an interim regulation which calls for clear and forceful warnings about the possible cancer-causing effects of saccharin to be affixed to saccharin or to the labelling on food which contains saccharin, and requires equally effective notification in advertising for foods which contain saccharin.

The public has a right to have sugar substitutes available in the market, but until we know the full effect of saccharin, we must take every reasonable step to assure that the public is fully aware of the possible detrimental side-effects of this substance.

Mr. President, the subject of regulation of foods and drugs is complex and becoming more complex every day. The more science can tell us about food and its relationship to health, the more difficult some of these decisions may become, but I believe that the Congress must work in a partnerhip with the public so that these decisions can be made in an informed and responsible manner, and to avoid arbitrary or hasty decisions which affect millions of individuals.

ADDITIONAL COSPONSORS

S. 927

At the request of Mr. DOLE, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 927, to establish a Minority Business Development and Assistance Administration.

AMENDMENT NO. 414

At the request of Mr. CRANSTON, the Senator from Vermont (Mr. STAFFORD), the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of amendment No. 414, to be proposed to the bill (S. 1307)—with the amended title—to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes.

SENATE RESOLUTION 204—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 9

(Referred to the Committee on the Budget.)

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following resolution:

S. RES. 204

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 9. Such waiver is necessary because (1) Section 506 of the bill, amending Section 308(b) of the Coastal Zone Management Act, as amended, establishes a coastal state impact fund for distribution of funds to States which are adversely impacted by offshore oil and gas exploration and development and production with appropriations beginning in fiscal year 1977; (2) Section 321(a) of the bill authorizes appropriations beginning in fiscal year 1978 for the funding of the Oil Spill Liability Fund which is established by the bill; and (2) Section 413 (a) and (b) authorize appropriations upon enactment for the funding of the Fishermen Contingency Fund which is established by the bill.

All these provisions relate to impacts of Outer Continental Shelf oil and gas development which are already occurring. Furthermore, additional development needs to be expedited to meet national energy needs.

The Committee action to report S. 9 was delayed because of the need to consider (1) other major bills which had not been within the Committee's jurisdiction prior to adoption of S. Res. 4 and (2) the energy proposals submitted to Congress by the President to implement his National Energy Plan.

AMENDMENTS SUBMITTED FOR PRINTING

WATER CONSERVATION—S. 1306

AMENDMENT NO. 463

(Ordered to be printed and referred to the Select Committee on Small Business.)

Mr. JOHNSTON. Mr. President, today I am submitting an amendment to S. 1306 which would provide special forgiveness on disaster loans made to disaster victims who suffer through consecutive disasters. This morning I submitted testimony to the Select Committee on Small Business on the purpose and effect of my amendment. I ask unanimous consent that the texts of the amendment and the testimony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 463

On page 4 add the following section:

SEC. 7. Notwithstanding the provisions of this or any other Act, the Administrator may cancel the principal of any disaster loan made prior to or after the date of enactment of this paragraph upon providing a subsequent disaster loan involving the same property damaged or destroyed by the prior disaster, except that. . . .

(1) the amount so canceled shall not exceed $10,000.00; and

(ii) in applying the $10,000.00 limitation with respect to the total amount of such loan which may be canceled, the Administrator shall consider as part of the amount so canceled any part of such loan which was previously canceled.

In the event that the Administrator determines such loss to have been an insurable property loss, no person shall receive an additional disaster loan for damage or destruction with respect to the same insurable property in connection with a disaster which occurs after the date of a cancellation under this paragraph. The Administrator shall promulgate regulations defining insurable property and insurable property loss pursuant to the purposes of this paragraph.

STATEMENT BEFORE COMMITTEE

Mr. Chairman, the proposed amendment addresses two problems: First, the compounded damage and hardship caused communities by consecutive disasters: and second, the lack of incentives for individuals and/or communities to procure adequate property insurance.

Disasters, by definition, occur suddenly and cause great damage and hardship. Consecutive disasters in any one community are very rare; yet when they do occur, the pain and suffering of a community are multiplied manyfold.

I come from a State which has supplied our Nation with an abundance of natural and human resources. Unfortunately, my State has had to bear more than its fair share of natural disasters. In September 1965 when Hurricane Betsy struck Louisiana, for example, thousands of my constituents were forced to abandon their homes to find more secure shelter. When they returned, many discovered substantial damage to housing structures and personal properties. Others returned to find their homes and personal properties completely lost. Hurricane Betsy wrought millions of dollars of physical damage and destruction and caused untold human hardship. In response to this calamity, Congress passed the "Southeast Disaster Relief Act of 1965". This act provided for low-interest disaster loans and for partial forgiveness of a disaster loan in an amount not to exceed $1,800 under certain prescribed conditions. Over twenty-six thousand disaster loans were made in eighteen of the southernmost parishes of my State alone. Four years later when Hurricane Camille struck Louisiana in August 1969, extensive damage and destruction again befell many of the same unfortunate victims of Hurricane Betsy. More than three thousand additional loans were made in the identical southernmost parishes to which I previously referred. Between 1965 and 1975, five of the eighteen parishes in the southernmost part of my State were declared major disaster areas on five separate occasions.

It is my belief that Congress is slowly but surely developing a comprehensive disaster relief and prevention policy. Past disaster relief legislation, however, has been directed towards major isolated disasters in providing disaster relief, little or no consideration has been given to those disaster victims who had recently experienced a prior disaster. The purpose of my amendment is to fill in the gap of our current disaster relief policy by authorizing special consideration of disaster victims who suffer subsequent disasters.

The amendment gives the Administrator of SBA the authority to cancel up to $10,000 of a previous disaster loan when a disaster victim applies for and receives a disaster loan for repair or replacement of the same property for which he received the first disaster loan. Please permit me to explain the limitations on this authorization.

On a subsequent disaster loan, a disaster victim would be eligible for a maximum forgiveness of $10,000.00 on the first disaster loan. If part of the first disaster loan had already been forgiven, however, the disaster victim would only be eligible for forgiveness in an amount equal to the difference between $10,000.00 and the prior forgiveness. For example, if a disaster victim received a $20,000.00 SBA disaster loan with a $2,500.00 forgiveness feature in 1965, and then applied for a $15,000.00 disaster loan in 1970 because of a new disaster, the disaster victim would only be eligible for $7,500.00 worth of forgiveness on the outstanding balance of his 1965 $20,000.00 disaster loan. This forgiveness feature is a small amount when compared to the trauma of someone who suffers successive disasters.

The amendment also provides an incentive for individuals and communities to obtain adequate insurance coverage for insurable property losses. By informing those who request and obtain the benefits of the amendment's cancellation feature that they must obtain adequate insurance on damaged property determined by the SBA Commissioner to be insurable, the disaster victim must then choose between obtaining insurance or being vulnerable to an absolute property loss in future disasters. This advance warning should be sufficient incentive to the wise to obtain insurance coverage.

Mr. Chairman, I believe that the amendment is creative, sensitive and practical. I thank you for your time and urge you to accept this measure to provide a small amount of relief to those who are or will be heavily burdened.

NOTICES OF HEARINGS

NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, June 30, 1977, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

M. Carr Ferguson, of New York, to be Assistant Attorney General vice Scott P. Crampton, resigned (Tax Division).

Russell G. Clark, of Missouri, to be U.S. district judge for the western district of Missouri vice William H. Becker, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

ADDITIONAL STATEMENTS

ATROCITIES AGAINST THE KURDS

Mr. PROXMIRE. Mr. President, as the time approaches when the Senate will consider the Genocide Convention, I would like to review a current example of a government which is persecuting an ethnic group within its borders. I refer to the action of Iraq toward its Kurdish population.

Perhaps the best overview of the atrocities committed by the Iraqis against the Kurds is a list compiled by the Kurdistan Democratic Party and submitted to Dr. Kurt Waldheim, the Secretary-General of the United Nations. Mr. President, I ask unanimous consent that this summary, entitled "Examples of Acts of Genocide Against the Kurdish People—Civilian Bombings, Massacres, Execu-

tions, Atrocities, Explusions, Deportations, and Acts of Terror," be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXAMPLES OF ACTS OF GENOCIDE AGAINST THE KURDISH PEOPLE—CIVILIAN BOMBINGS, MASSACRES, EXECUTIONS, ATROCITIES, EXPULSIONS, DEPORTATIONS, AND ACTS OF TERROR

On 9 June 1963, the Ba'th Government ordered a round-up of 128 innocent Kurds in the city of Sulaimaniya and transported them to the outskirts of that city, where thty were executed en masse and dumped into a mass grave.

During the second half of June 1963, the Republican Quarter in Kirkuk with 1,200 houses and 24 villages north of the town in the Dibis area, were attacked by tanks and levelled to the ground by bulldozers. Innumerable people were killed, others fled for their lives without any belongings. Up to May 1974, the Government still refuses to allow the people to rebuild their homes. Their land is being exploited by others, despite the fact that there was an explicit clause in the Peace Agreement 1970, guaranteeing the return of the villagers to their land. An eyewitness account of this act of genocide was published by a correspondent of the London Telegraph.

At the end of June 1963, on the order of the Ba'th Government, in the Kurdish town of Koy Sanijaq six innocent Kurds were tied to telephone posts and executed.

In July 1963, Taha al-Shakarchi (who was appointed in February 1974 commander of the Eighth Iraqi Army Division) was commanding officer of an Army unit near Koy Sanjaq. Near the village of Chinarook he rounded up the 15 Kurdish non-commissioned officers of his unit, forced them into a teahouse, where he had them crushed to death by rolling his tanks over the house. Six months later, and after the collapse of the Ba'th regime, the bodies of the NCOs were discovered.

In Spring 1966, in the village of Saruchawa, close to the town of Raniya, and while an Army unit was approaching menacingly, the village elders, led by the village Mulla (village priests), holding out the Koran, appealed for mercy on behalf of the entire village community. In response, they were all mowed down by machine guns and buried in a mass grave.

On 19 August 1969, the village of Dakan within the Shaikhan district (Mosul province) fell into the hands of an Iraqi Army unit. The children and women of the village had already taken refuge in a cave close by. Under direct orders of and supervision by the commander of the Fourth Division and the commander of the Shaikhan district, the Iraqi Army surrounded the cave and burned alive the 67 women and children trapped inside.

In September 1969, the Christian village of Soria in the Zakho area was surrounded by tanks from every direction and shelled until no inhabitants were left alive.

On 9 October 1969, a Kurdish representative met the President of the United Nations General Assembly at New York, where he presented to him a memorandum supported with documents and photographs condemning the Government's dastardly acts at the village of Dakan.

On 30 January 1973, Iraqi Army forces attempted to take over the Shaikhan region of Khaneqin, expelling scores of families from their ancient homesteads and killing innocents who refused to leave. Despite the fact that representatives of the KDP and the Ba'th Party were negotiating the implementation of the Peace Agreement 1970 on Kurdish Autonomy for Kurdistan, the Ba'th Party ordered to terrorize and to kill systematically the Kurdish population.

On 9 February 1973, Iraqi artillery shelled the village of Yosfan in the Sinjar region. The reason for the indiscriminate and inhuman shelling was the refusal of the local inhabitants to be enrolled in the Ba'th Party. The shooting caused the death of ten women and five children. Eleven members of the local KDP were summarily executed and shot in the open street.

On 26 February 1973, Iraqi soldiers employed brutal methods, when searching houses of Kurdish inhabitants of Sinjar.

On 6 March 1973, 46 Kurdish peasants were expelled from the Ghere village in Kirkuk region and Arab tribesmen were settled in their place.

On 7 March 1973, the Ba'th Party gives order to the inhabitants of the village Qazan Belagh, in Qara Hasan, Kirkuk region to evacuate the village under the pretext of national interest. The village is far from any oil fields and any military installations.

On 26 March 1973, a number of Iraqi soldiers, belonging to a unit of the Fourth Division whose commander was on inspection tour, attempted to molest sexually 12-year old Ferma Mohammed from Dinarta in Aquara region. When the child resisted, he was assaulted and knocked unconscious. Thereafter, the Iraqi soldiers bound his legs to a mule, to be dragged along the ground.

On 27 March 1973, the same unit attacked the village of Dinarta, expelling the inhabitants of the village. Nine men were killed, trying to defend the inhabitants, including 65 year old headman Haji Ali Amda.

On 24 April 1973, a telegram of the Zakho region informs the KDP about additional large numbers of refugees fleeing from Sinjar as a result of continual terror being applied by the Iraqi authorities there. The refugees lack food and are shelterless.

On 15 May 1973, a brigade of the Iraqi Army enters the village of Teqteq in Shaikhan area. The two hundred families there are terrorized and expelled. They flee into the mountains.

On 22 May 1973, more than two hundred families are terrorized and expelled from Ain Safin region by the Iraqi Army. The families are left shelterless and starving. Although a serious smallpox epidemic breaks out among the children, the Iraqi health centers in the region refuse to treat them. Over one hundred children died.

On 24 May 1973, two bodies are found in the river Wandin Khaneqin. The security forces of the Iraqi Government claimed that these bodies had been washed ashore by a flood. The bodies were, however, identified as of two locala men who had been tortured by the Army recruiting forces and had subsequently been shot and thrown into the river.

On 8 June 1973, Iraqi police forces were sent to the villages Annare and Tel-Ades to arrest eight members of the KDP. The remaining villagers were terrorized and all expelled.

On 28 June 1973, Iraqi police forces occupied the village Qamishlan in Khanaqin area. The inhabitants are expelled and flee to the liberated area, adding to the strain on food and shelters.

On 1 July 1973, an Iraqi Army unit, backed by artillery, started a heavy attack on Khaneqin, causing many casualties among the civilian population.

On 12 September 1973, Iraqi police forces of Kirkuk headquarters, supported by ten armored vehicles, surrounded the village Zerdik, arrested and deported many of its inhabitants. Their fate is unknown.

On 29 January 1974, Iraqi security forces entered Duzkhormatu region in Kirkuk area and arrested eight Turkmen Iraqi citizens. Their fate is unknown.

On 8 February 1974, the Iraqi Government gave orders to the inhabitants of the villages Qerede, Qotaras, Karenmed and Qoshqanje to evacuate their villages within 24 hours.

On 10 February 1974, the following additional villages receive orders to be evacuated within 24 hours. The order is signed by the Central Government's Governor of Kirkuk province and commander of the Second Division under pretext of military security. The inhabitants of the villages Muhhawali, Pelhani, Sarelo, Soy, Serbeshakh, Olafat, Olasor, Jabal Bor, Matare, Tel Sharaw and Charok are forcefully removed within five hours.

After outbreak of total war in April the following examples illustrate conditions of genocide:

On 14 April 1974, 11 Kurdish patriots were hanged in Arbil, after having been sentenced to death and tortured in Bagdad. Indeed, some of them had had their hands cut off or their eyes gouged out. Some of these martyrs had been in government custody for one and two years on trumped up charges. The hanging at that time was a deliberate provocation for the KDP.

On 16 April 1974, Aqra, with a population of 7,000 was heavily bombed. Many houses, churches and mosques were destroyed, collapsing over the bodies of their inhabitants, all civilians.

On 24 April 1974, Qala Diza, with a population of 20,000 was heavily bombed. 131 civilians were killed and over 300 injured. The martyrs were mainly children attending schools, since two schools were bombed deliberately.

Between 23 and 27 April 1974, the area of Chouman was bombed, including Gallala, with a population of 5,000. 40 people were killed and 51 injured. (See photograph in Exhibit F).

On 25 and 26 April 1974, Dahok, with a population of 40,000 was shelled. Many people were killed and injured.

On 28 April 1974, the town of Halbja, 80 km from the battle field, was bombed and over 100 houses were destroyed. 42 people were killed and over 100 were injured. The inhabitants had to evacuate the town and took refuge in the mountains.

Between 21 April and 10 May 1974, Zakho, a town with a population of 25,000 was bombed and shelled. During these 20 days the town kept burning.

On 30 April 1974, 5 Kurdish students attending the College of Literature of Bagdad University, were sentenced to death and executed. Among them was a girl, Layla Kassem.

On 1 May 1974, the Iraqi Army entered the town Zakho and indiscriminately shot at everybody in sight. 63 persons were killed and over 100 injured, mostly women and children.

On 8 May 1974, another 6 university students were hanged.

Mr. PROXMIRE. Mr. President, this list is over 3 years old. It is incomplete, reflecting only the known incidents of crimes against the Kurds. These events nevertheless indicate the seriousness of the campaign of persecution directed against the Kurds.

Mr. President, our information about the situation in Iraq is sparse at best. Nonetheless all countries should condemn such actions taken against an ethnic minority.

The attacks upon the Kurds over the past few years vividly demonstrate the continuing need for the United States to press for human rights. I urge my fellow Senators to join me in urging ratification of the Genocide Convention to make clear the opposition of this Nation to the crime of genocide.

POPULATION POLICY

Mr. PACKWOOD. Mr. President, today our country faces a pervading crisis which some call a population explosion, others an ecological threat, still others polluted environment, because population and pollution are interdependent, I will speak of a population crisis—a crisis which makes a mockery of "America the beautiful!"

Those were my thoughts 7 years ago when I introduced several bills to help promote population control. Those are my thoughts today. Sadly, little has been accomplished in the past 7 years despite the mounting evidence that pollution of our country and gluttony of our resources make population control absolutely necessary.

Let us look at some of the developments since 1970. The energy crisis, the dangers of pollution to our bodies and our spirits, water shortages and high unemployment—all of these relate directly to population control. Yet despite the debates on these problems, the connection is rarely made of their critical relationship to population control.

Most Americans think the lower birth rate and women's liberation have taken care of our population problem without any planning. This erroneous impression overlooks the distressing increase in illegal immigation and a birth rate higher than zero population growth. The facts are that we cannot expect this crisis to resolve itself or disappear.

If we continue at the present rate, our population will exceed 320 million in 50 years. This growth equals 31 more cities the size of Chicago, and will require additional farmland to grow more food for this many more people, additional energy to run their homes, and the list goes on and on. Those figures are based on our 1975 rate of growth with 3,149,000 American births, 450,000 legal immigrants and some 800,000 illegal immigrants.

[These are the figures cited by ZPG, and the illegal immigration estimate is higher than I cited in introducing this bill.]

So here we are in 1977 with little accomplished in this area. Where do we go? Fortunately, the United States is in a position to stabilize population painlessly if we start planning now. Given our past record that, of course, is a very big "if." Specific fertility goals and a crackdown on illegal immigration are both essential to make the transition from growth to stabilization go smoothly.

Reducing the influx of illegal immigrants is a crucial component of population stabilization for this country. Recently I introduced the Alien Employment Act to prohibit the employment of illegal aliens. I believe this bill targets the problem well. Today it is not against the Federal law to employ an illegal alien, and that means these jobs are lost to our citizens. Too many Americans assume illegal aliens only take low-paying jobs that Americans do not want. This is not true. A recent study by the Immigration and Naturalization Service shows that fewer than one-third of the illegals in the United States are employed in agriculture. Most have jobs that could and should be filled by Americans.

Illegal aliens cost American taxpayers an estimated $13 billion per year. For each additional 250,000 illegal immigrants, the taxpayer's bill increases approximately $500 million. These illegal aliens affect our population problem now and their impact will be even worse in the future.

Limits on illegal immigration are only one of the steps we must take to reduce our population growth. While strict policies will be needed to reduce illegal immigration, a reduced fertility rate can be achieved through voluntary actions of Americans. Voluntary action, however, must be encouraged through education and planning. Universal family planning services are absolutely essential. Our activities in this area in the past 7 years have not been adequate. An estimated 4.6 million low and marginal income women were denied family planning help in 1975, because these services were not available. Two million middle and upper class teenagers also could not get help.

Although the number of women of child-bearing age is increasing, funding for family planning has remained at about half the level required to help only low- and marginal-income women. This is unconscionable. Fortunately, funding for family planning has recently taken an upward turn and is likely to be raised even higher than the President's recommendation in the fiscal year 1978 Labor-HEW appropriation bill. The plus to spending for family planning is that for each dollar spent now, the Government will save $2 next year in medicaid and welfare payments. These savings will continue through the years.

Contraceptive help for teenagers is an issue many State and Federal legislators and parents would prefer to ignore. When one out of five babies in the United States has a teenage mother, however, we can no longer pretend teenage pregnancy is not a serious problem. Teenagers also account for half of all illegitimate births and one-third of all abortions. These numbers represent young people who desperately need family planning help.

Our Victorian approach to contraceptives—whether through denial of access to teenagers or prohibiting advertising and displays—has been truly detrimental in terms of the present high rate of sexually transferred diseases, the number of unwanted, and unloved children who are brought into the world, and the limited educational and employment opportunities facing young women who are forced too early into motherhood. We need to deal with contraception in a mature and enlightened way.

I also consider it of great importance that we encourage contraceptive research. The Commission on Population Growth and the American Future recommended a minimum annual funding of $150 million for reproductive and contraceptive research. In fiscal year 1976, less than $12 million was appropriated. At a time when controversies abound about the safety of some birth control methods, new alternatives are not available. This is a serious obstacle to any progress we try to make in the family planning area.

Particularly considering the rather poor choices available for temporary birth control, it also is very important that any individual be able to choose sterilization as an alternative, without restriction and with sufficient information about procedures, risks, and consequences to make an intelligent decision.

Underlying all these changes must be a commitment to education about the need for population control, human sexuality, contraception, family life, parenthood and no-children families. Active, informed public participation in formulating sensible population policy depends on increased public awareness of population trends and our dwindling natural resources.

In America, we still have time to achieve zero population growth without coercion and without sacrificing our environment further to support more people. Seven years ago, we could only see the shadow of environmental and energy problems; today the burdens of pollution and waste are ominous realities. We do not have 7 more years to waste before we tackle our population crisis. We must act now to adopt a national population policy and to prevent an America without room, resources or hope for her people.

AWACS SALE TO IRAN

Mr. CULVER. Mr. President, the sale of E–3A AWACS aircraft to Iran would raise some very basic questions regarding our own national security interests and President Carter's new arms sales policy.

After earlier press reports on the possibility of such a sale, Senators EAGLETON, PROXMIRE, MATHIAS, and NELSON joined me in requesting a General Accounting Office investigation into this matter. We are particularly concerned that sensitive AWACS technology could fall into unfriendly hands, that the inherent offensive battle management capabilities of the AWACS system could have a destabilizing effect in the Middle East, and that the already large-scale presence of American support personnel in Iran will be exacerbated. The evidence made available to me to date indicates that these are well founded concerns that deserve the closest scrutiny if this sale is proposed to the Congress as required under the Arms Export Control Act.

President Carter recently established a welcome new policy to restrict and control foreign arms sales. Since Iran already is the recipient of vast quantities of modern U.S. weaponry and AWACS represents our most sophisticated military technology, this sale may well be the place to draw the line—in our own national security interest.

Mr. President, I ask unanimous consent that today's Washington Post arti-

cle about the AWACS to Iran proposal and the text of our request to the General Accounting Office be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BATTLE EXPECTED ON RADAR SALE TO IRAN

(By Robert G. Kaiser)

The Carter administration has notified Congress in secret that it intends to sell Iran seven highly sophisticated airborne radar systems for $1.2 billion.

This decision—which will be made formal and public July 6—is expected to provoke the first public debate over American arms sales to foreign countries since President Carter announced a new policy intended to reduce those sales. Several administration officials said yesterday that the $1.2 billion sale to Iran violates that new policy, but others disagreed.

Two senators said they thought the sale flouted Carter's stated intentions, and Sen. Thomas F. Eagleton (D-Mo.) said it is "my very strong inclination" to introduce a motion in the Senate to block the sale.

The proposed deal—which was all but finally arranged by the Ford administration—raises many of the problems the Carter administration will face if it seriously tries to reduce America's role as an international arms merchant.

Opponents of the sale will attack it on many fronts, charging that it involves a radar system of questionable efficacy, that it will escalate the arms race in the Middle East, that it risks revealing valuable secrets to the Soviet Union, that it could draw Americans into a future Iranian military adventure and that Iran is incapable of handling such sophisticated equipment.

Eagleton, a longtime opponent of this radar system, called the proposed sale "outlandishly incredible." Sen. John C. Culver (D-Iowa) said it was "basically contradictory to Carter's arms-sales policy."

Proponents reply that Iran has no reliable air defense system, and it is in America's interest to sell one to the shah. Because the system is primarily defensive, it should not escalate the arms race in the region, they say. The fact that Americans will have to help man the system means the United States will be able to influence and restrain the shah if necessary, they add.

Administration officials also contend that the radar system—known formally as the Airborne Warning and Control System (AWACS)—is less lethal than many of the American weapons systems the Shah would like to buy.

Since the Carter administration plans to sell the Shah less than he was able to buy from the Nixon and Ford administrations, they add, this sale should be seen as something of a sop to the Iranian appetite for fancy weaponry.

These officials note that Carter has "already decided not to allow Iran to purchase F-18L fighter aircraft, a model that is unlikely to be built for the U.S. Air Force.

AWACS has long been a controversial system, and has already cost the United States more than $2.4 billion. For that amount the Air Force has thus far received two copies of the system—a modified Boeing 707 jet aircraft equipped with elaborate radar and data processing equipment built by Westinghouse.

Congress has appropriated funds for the gradual acquisition of 28 of them at a cost of $125.6 million apiece—more than the unit cost of the controversial B-1 bomber.

Two reports prepared by the General Accounting Office have sharply criticized the AWACS concept as extravagant and potentially ineffective. The GAO, an arm of Congress, is preparing another study of the implications of selling AWACS to Iran. It is also expected to be critical.

The original U.S. Air Force mission for AWACS was to provide a flying defense perimeter around the continental United States that would provide early warning of a Soviet bomber attack. As that threat diminished, the Air Force talked of using AWACS as a tactical weapon that could be used over a European battlefield.

Most recently it is described as most effective as an early warning system and potential command and control vehicle over friendly territory during an air attack, perhaps in Europe.

Through all these changes in proposed mission, the Air Force remained firm on one point: it needed 31 of the planes, whatever they were to be used for.

The United States has long been pressing its NATO allies to acquire an AWACS force for use in Europe. Though well-disposed to this idea in principle, the NATO countries have never produced the money to buy the expensive planes, and it is not clear that they ever will.

Congressional sources charge that the Air Force wants to sell AWACS to Iran in part to keep the project alive here, pending a decision by NATO to acquire it, or an increase in the number of planes acquired by the Pentagon. The Carter administration has reduced the annual U.S. "buy" from six to three AWACS planes—a level of production which Boeing officials call "not an economic rate."

The idea that Iran acquire AWACS is not a new one. It was most recently ratified in a study the Pentagon completed in January on a contract from the shah, who wanted U.S. advice on how to improve his air defenses.

According to one well-placed source, Westinghouse had a lot to do with preparing that report. "People in the Pentagon who reviewed that study got briefings on it from Westinghouse," the source said.

Carter administration officials cite that report as the justification for selling AWACS to Iran. The gist of its conclusions was forwarded to Congress in the advance notification of the sale—classified "confidential"—that the Pentagon sent to the Hill June 16.

The notification said a ground radar system would cost billions for Iran because of rough terrain and atypical air temperature patterns in the Persian Gulf, so AWACS was desirable. Moreover, the Pentagon said AWACS would enable Iran to guide fighter aircraft whose mission would be to defend cities and oilfields in case of an enemy attack.

This is a reference to the AWACS aircraft's acknowledged capability to serve as a command and control weapon—a defensive capability in an enemy attack, but potentially an offensive capability too, if Iran sought to launch an attack.

Culver and other critics cite this as the principal reason why the sale of AWACS to Iran would violate Carter's arms transfer policy.

In May Carter said that, henceforth, the United States would not "be the first supplier to introduce into a region newly developed, advanced weapons systems which create a new or significantly higher combat capability."

For Iran's neighbors—Iraq, say—AWACS' command and control capability would certainly look like a new combat capability, Culver said yesterday.

Congressional critics also ask whether Iran can be trusted with AWACS' secrets (even its operating manuals are highly classified in the U.S. Air Force), and whether the United States wants to sell Iran a system that would admittedly have to be manned by American technicians for years to come.

Each craft is intended to carry a crew of 26, according to one source, and most of these would be Americans until Iran's already-strained skilled manpower pool could be drawn on to provide native replacements.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 27, 1977.

Mr. ELMER B. STAATS,
Comptroller General of the United States, Washington, D.C.

DEAR MR. STAATS: It is our understanding that the Defense Security Assistance Agency will give preliminary notification to the Congress in the near future of a proposed sale of E-3A AWACS aircraft to Iran.

We have serious questions about the advisability of this sales, and we request that the General Accounting Office prepare a Letter Report to assist the Congress in reviewing this proposal under the provisions of The Arms Export Control Act. We would like the report to address the following issues.

1. What is the intelligence community assessment of the technological security problems involved in this sale? Which AWACS component systems, including enhancements, are most sensitive in terms of United States and NATO weapons systems and capabilities? What benefits for its own weapons development programs could the Soviet Union gain from access to an AWACS aircraft or its components? What benefits could such access provide for Soviet countermeasures against a NATO AWACS force, and for countermeasures against the NATO air defense system? Would the presence and operation of AWACS in Iran expose sensitive AWACS systems to greater security risks from espionage by agents in place, or from ELINT and SIG INT operations, than would be the case for an AWACS deployment in Europe? How could an Iranian AWACS configuration be altered to reduce the security risks of Soviet access?

2. How could AWACS be used to increase the offensive capabilities of the Iranian Armed Forces, particularly for force projection beyond Iranian borders? Which AWACS component systems are most significant for offensive operations? Could Iran net its land and naval forces into the AWACS command and control system? How could an Iranian AWACS configuration be altered to limit its capabilities to primarily defensive operations?

3. How many American support personnel and dependents over what time frame are associated with is proposed sale? Will Americans be required to support the 707-320B airframes?

As you know, the preliminary notification period for submitting a proposed arms sale for Congressional review is 20 calendar days, and the Congress has 30 calendar days after a formal notification to vote a concurrent resolution of disapproval.

We are therefore requesting an expedited report, which we believe is warranted by the serious questions involved in this case. We would appreciate your report on or about July 1, 1977. Interim partial responses would be welcomed.

To facilitate your inquiry, we are sending a copy of this letter to the Secretary of State and the Secretary of Defense.

Sincerely,

JOHN C. CULVER.
THOMAS F. EAGLETON.
WILLIAM PROXMIRE.
CHARLES MCC. MATHIAS, JR.
GAYLORD NELSON.

A-10—AIR SUPPORT AIRCRAFT

Mr. GOLDWATER. Mr. President, there has recently been considerable discussion of the Air Force's newest close air support aircraft, the A-10.

Unfortunately, much of the discussion has centered around the tragic accident at the Paris Airshow involving

the A–10. It is important that this accident not detract from the positive facets of the A–10 program.

The A–10's greatest asset, in any view, is its capacity in an antitank role with the 30-mm cannon. If you have not seen a film clip showing that cannon in action against tanks during tests in Nevada, you have missed an impressive sight.

Equally impressive, but not as readily apparent, is the ability of the A–10 to survive in the combat environment where the aircraft can operate to best advantage. An article in the June 20 edition of Aviation Week and Space Technology magazine provides a comprehensive assessment of the survivability of the A–10 in the attack role. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A–10 SURVIVABILITY IN ATTACK ROLE SHOWN DURING SIMULATED COMBAT

(By Donald E. Fink)

BARSTOW, CALIF.—USAF/Fairchild Republic A–10s demonstrated higher than anticipated survivability rates during attacks against simulated Warsaw Pact armored forces participating in the recent Red Flag 77–76/Irwin II multi-service combat exercise staged at the U.S. Army's nearby Ft. Irwin range.

The four-week exercise combined two of USAF's recurring Red Flag combat training sessions at Nellis AFB, Nev., with full-scale Army Maneuvers at Ft. Irwin involving 4,000 ground troops (AW&ST May 23, p. 24).

Coordinated air strikes during the exercise were flown against ground targets simulating a massive well-protected armored thrust of the type the Warsaw Pact is capable of launching against North Atlantic Treaty Organization forces in Western Europe.

The combined defensive threat that would accompany such a thrust was represented by simulated Soviet surface-to-air missile and anti-aircraft gun sites on the Nellis Red Flag range and agressor aircraft flown from Nellis air combat training squadrons. A Soviet-style command and control network was used by the aggressor forces to coordinate the combined air and ground defenses with the ground attack.

More than 100 aircraft flown by Air Force, Navy and Marine Corps pilots and several units of Army helicopters took part in the exercise, flying more than 3,500 sorties. It was the first time the A–10 had participated in an exercise of this scale or fired live ordnance under conditions closely matching those of actual combat.

During the first three weeks of the exercise, four A–10s from the 333rd Tactical Fighter Training Squadron at Davis-Monthan AFB, Ariz., operated from a rough strip on Bicycle Dry Lake, 10 to 15 mi. behind the main battle area. But a flash flood generated by heavy rains on the Ft. Irwin desert range inundated the dry lakebed and forced the unit to shift its operations to the Barstow/Daggett Airport here.

While at Bicycle Lake, the A–10s operated in a variety of harsh conditions, including temperatures in both extremes, high winds with blowing dust and finally, the flash flood. Despite the conditions, the A–10 unit flew more than 50 sorties from its Bicycle Lake base without encountering any unusual maintenance problems.

Average turnaround time between sorties was 15–20 min., according to ground crews, even though the blowing dust often was so bad the men had to wear surgical masks and sand goggles.

During the three weeks of remote operations, the ground crews had to change two main landing gear tires—one of which was in marginal condition for rough field operations when the aircraft arrived—and one nosewheel tire, according to Chief M/Sgt. Richard T. Furney, maintenance supervisor for the A–10 unit.

"We carried in a lot of spares we didn't need, since we encountered no unusual maintenance problems at all," Furney said. "The exercise was harder on the people than it was on the airplanes."

The aircraft carried full 1,350-round loads of live 30-mm. ammunition for the General Electric GAU–8/A 30–mm. gun mounted in the nose and two USAF/Hughes Maverick air-to-surface missiles under the wings. The pilots were limited to firing 600 rounds of 30-mm. ammunition per sortie, and on most flights carried special training versions of the Maverick, which were attached to the wing pylons and electronically compute trajectories each time the pilot fires. Seven live missiles were fired against a variety of armored targets with excellent results.

After shifting to Barstow/Daggett—during the redeployment the four aircraft flew the prescribed number of sorties—the A–10 unit went into a surge exercise aimed at flying a maximum number of sorties in a single day. The goal of 24 sorties was exceeded by eight.

At Barstow/Daggett, the aircraft were based slightly closer to the battlefield target areas than was general practice during combat operations in South Vietnam, Furney said. Sorties over the Ft. Irwin range averaged about 30 min., whereas most ground attack missions in Vietnam lasted about 50 min.

The Red Flag/Irwin exercise provided realistic training, and from the pilot point of view was well worth the money spent, in the opinion of Lt. Col. Thomas B. Thompson, commander of the 333rd Tactical Fighter Training Squadron. This was the first opportunity the A–10 pilots had to fire live ordnance and at the same time evaluate defensive tactics that were developed in A–10 tests at Nellis earlier this year.

The Nellis tests showed several things about the A–10's capabilities when attacking armored columns with forward firing weapons, such as the Maverick missile and the GAU–8 gun, Thompson said. The first is that A–10's pilots can negate most of the threat from enemy interceptor aircraft and surface-to-air missile batteries by flying to the battle area at altitudes of 100 ft. and below.

Once the battlefield area has been penetrated, the effective ranges of the Maverick and the gun make it possible for A–10 pilots to hit the lead elements of attacking tank forces and turn away before closing within range of low-altitude anti-aircraft guns, such as the mobile ZSU–23–4 quad-23-mm. and ZSU–57 twin 57-mm. guns the Soviets use with their armored forces.

"The 30-mm. gun is devastating at slant ranges of 4,000 ft., and has the capability to kill tanks at ranges of up to 6,000 ft.," Thompson said. "It's effective against lightly armored vehicles at ranges of 10,000–12,000 ft."

The Maverick missile has an effective slant range of more than 25,000 ft., and is limited primarily by the pilot's ability to acquire visually and identify targets at those distances, he said.

"What we are trying to do is stay under the radar of the surface-to-air missiles and outside the quad-23 range," Thompson said. "We feel as A–10 drivers that if we can stay outside 6,000–7,000 ft., we can greatly reduce the effectiveness of the type of defensive threats we know the other side has."

If it becomes necessary to close to shorter ranges, the experience gained at the Red Flag/Irwin exercise and the earlier tactics tests at Nellis show the A–10 still can survive with the right kind of three-dimensional jinking. During the joint exercise, video tapes were taken through the optical view finders on simulated ZSU–23–4 and ZSU–57 sites on the Nellis range as aggressor forces attempted to track attacking A–10's.

In 112 missions most of which were flown against a coordinated ground and air defense threat, one A–10 was certified as being shot down by a ZSU–23 battery. Several A–10s were caught in ZSU–23 radar and optical trackers, but computer analyses of the tracking data showed the aircraft either were out of range or the pilots evaded the 23-mm. shells by following prescribed jinking techniques.

Four other A–10s were certified as being shot down, one by a simulated Soviet SA–6 surface-to-air missile site at Nellis and three by aggressor interceptors.

The A–10's maneuverability at low altitudes and high speeds is another feature that enhances its ability to survive in a high-threat environment, according to Navy Lt. Carter Chapman, Jr. Chapman is a Navy exchange pilot assigned to the 333rd, and has been flying the A–10 since November.

"The gun makes it possible for us to hit targets without ever going inside 4,000 ft.," Chapman said. "And, once we've made our kill, the aircraft's tight turning radius enables us to get out of there without passing over the target."

The ability to press home an effective attack and break off before passing over the target is considered to be an important factor in the A–10's survivability, based on combat experience in South Vietnam. In that arena, aircraft attacking targets with shorter-range guns or free-fall ordnance usually ended up flying over the targets. This increased their exposure to the Soviet supplied quad-23-mm. and twin 57-mm. guns and also made them vulnerable to attacks with the shoulder-launched SA–7 infrared-guided missile as they flew away from the target.

The A–10 operates most effectively when used in pairs, Chapman said. One aircraft goes in at low altitude to attack the front line of armor with the 30-mm. gun, while the other one trails several thousand feet behind at a higher altitude and off to one side.

"The first aircraft in attacks the tanks, while the second one stands off and uses the Mavericks to knock out the quad-23 gun sites," he said. "The No. 1 aircraft operates up to the minimum of 4,000 ft. from the front line, while No. 2 stays out in the area between 12,000 and 4,000 ft."

After making a couple of passes at the front line of armor, during which the first aircraft expends its 30-mm. ammunition and the second its Mavericks, the aircraft fly out of the battlefield area, exchange positions in the formation and return for another series of attacks.

The effectiveness of the A–10 against ground targets was observed by this Aviation Week & Space Technology editor during a flight over the Red Flag/Irwin battlefield in a USAF/Cessna O–2A forward air control aircraft. The pilot, Maj. Robert L. Keen of the California Air National Guard's 196th Tactical Air Support Squadron, was one of three forward air controllers directing strikes on the Ft. Irwin range on the day the A–10s flew the 32-mission surge.

All of the pilots appeared to be taking the exercise as seriously as actual combat—this editor earlier flew a low-level attack mission in a USAF/Cessna A–37 with the Air Force Reserve's 47th Tactical Fighter Squadron—and the constant threat of aggressor air attack, coupled with communica-

tions jamming in the battlefield area, added to the realism.

A–10 attacks observed by this editor were pressed home from extremely low altitudes, and made maximum use of the mountainous terrain on the Irwin range. For the exercise, all pilots were restricted to a minimum altitude of 100 ft., but in a real combat situation the A–10 pilots said they would fly lower.

During one sortie, two A–10s flying in thee dual-aircraft formation alternately attacked a double column of Army trucks lined up to simulate tanks. The canvas covers had been removed from the truck beds, which gave them low silhouettes.

In multiple runs, the A–10s approached from behind hills that flanked the dual column of vehicles, and attacked through a narrow pass. Both aircraft directed what appeared to be devastating 30-mm fire along the full length of both columns before breaking off and flying low-altitude evasive profiles at speeds ranging between 300 and 400 kt.

In the air-to-air arena, A–10 pilots use this same low-altitude maneuverability to counter attacks by aggressor aircraft, Thompson said. This forces aggressor aircraft to move in for short-range gun attacks, since their missile radars are not able to distinguish the low-flying aircraft from the backgound clutter.

"In terms of the air-to-air threat, we force the opposition into a hemisphere of action, versus a sphere of action," he said. "At low-level, we deprive aggressors of the three dimensions they need to press home an effective attack."

THREAT EVASION

If an A–10 pilot can see an aggressor aircraft in time, he has an excellent chance of evading the threat, Thompson said. In the two-ship formation, the pilots continually are checking each other to prevent a surprise attack from the rear.

"I'm not saying we wouldn't lose aircraft in a combat situation, because we would," he said. "But we now believe the A–10 has a much higher survivability than we thought before."

This view is shared by the Red Flag/Irwin officials who were operating the simulated Soviet air/ground threats during the exercise. Their conclusion was that the tactics tested so far by the A–10s will considerably improve their ability to survive in a high-threat environment.

The development of tactics has to be evolutionary to keep pace with new defensive threat improvements, according to Col. Joseph C. Romack, deputy chief of staff for tactics at the Nellis AFB Tactical Fighter Weapons Center. By early next year, the Nellis group will have looked at a full spectrum of tactics for the A–10, ranging from methods for firing the 30-mm. gun and Mavericks at very low levels to the proper techniques for delivering free-fall ordnance and working with Army helicopters performing close ground support missions.

INITIAL TESTS

Initial tactics tests with the A–10 were conducted at Nellis early this year, using six aircraft from the 333rd squadron at Davis-Monthan, Romack said. The combined air and ground threat on the Nellis range was arranged to match the conditions the A–10s would face from Soviet-type defenses. In the first series of tests, the effectiveness of the GAU–8A gun was evaluated during firings at medium altitudes of about 2,000 ft., with the aircraft firing at targets from slant ranges of about 4,000 ft. In a second series of tests currently under way, the effectiveness of the gun is being evaluated in firings at altitudes around 100 ft.

"These are not tactics tests per se, since they are aimed more at determining how effective the weapon is," he said. "At the 4,000-ft. slant range, 80% of the rounds hit in a 16-ft.-dia. circle."

At the very low altitudes, the slant range trajectories will be much shallower, so the bullet patterns will be more elliptical in shape, Romack said. But preliminary test results indicate that a sufficiently large number of rounds still would hit a target.

Since the tests are aimed at proving the gun can be fired effectively at the very low altitudes, a limited number of rounds will be used each time and the targets will be full-scale representations of armored vehicles, not real tanks. "We've already done penetration tests on real armored vehicles and are satisfied the 30-mm. gun is an effective anti-tank weapon," Romack said.

COMPUTER PREDICTIONS

"This time we're trying to determine if we can duplicate computer predictions of hit probabilities at the very low altitudes." When attacking at the low altitudes, the A–10s actually will be using the front lines of heavy armor as screens against the ZSU–23 and ZSU–57 guns, which would be mounted on lightly armored vehicles following some distance behind.

"The quad–23s, for example, would not be the first vehicles out. The GAU–8 could take them on and destroy them at ranges of 8,000 to 10,000 ft.," he said. "So they have to trail behind the front lines of tanks, and if we attack at the very low altitudes, the gunners would have to depress their barrels so low they would be shooting the antennas off the lead tanks." Romack added that the low-level maneuverability of the A–10 has proved to be an effective capability in countering air attacks, and that the Nellis tests showed A–10 pilots flying the two-ship formation actually are able to protect each other using the GAU–8 gun in the air-to-air mode. "We haven't yet worked out A–10 tactics for delivery of free-fall weapons, but we'll do that late this year," he said. "We also are going to be working with the Army to develop tactics for working with and against helicopters."

These activities will include escorting helicopters, flying flack suppression missions for them, operating with helicopter-borne forward air controllers and finally pitting the A–10 against helicopters in an aggressor role.

One of the most interesting aspects of the A–10 participation in the Red Flag/Irwin exercise involved coordinated operations with Army/Bell AH–1S Cobra helicopters equipped with the Army/Hughes TOW anti-tank missiles, according to Thompson.

"Both the A–10 and the Cobra are low-altitude aircraft and have a similar stand-off capability," Thompson said. "We're able to operate down in the same type of terrain, at about the same altitudes, and the Red Flag exercise gave us a good opportunity to develop techniques for coordinated operations in a communications jamming situation."

The Cobras were located at Bicycle Lake with the A–10s for the first part of the exercise, but when the lakebed was flooded, the helicopters went to dispersed sites and the A–10s shifted to Barstow/Daggett. Rendezvous techniques then were worked out, enabling the A–10s to meet the Cobras over the battlefield on a precise schedule.

In general, the Red Flag/Irwin exercise gave most of the participating pilots an opportunity to improvise and exercise their own judgment under stress conditions closely matching those of combat.

Such a situation was encountered during the A–37 attack mission this editor flew with the 47th Tactical Fighter Squadron. The leader of the six-aircraft flight was Capt. James Valance, and the aircraft this editor rode in was flown by Capt. Ron B. Wilhite.

The mission was briefed to fly a loose formation from Nellis to a holding point called Silurian Hills, east of the Ft. Irwin range, and then attack a truck convoy in the northern part of the battlefield. Weather conditions were marginal, and a low-altitude freezing level kept the O–2A forward air control aircraft grounded, so the mission was directed by a ground-based forward controller.

The A–37s flew to the Silurian Hills holding point and circled, with four aircraft low and two high for protection against aggressor attacks, until the flight was cleared into the battlefield area. Communications were fair to poor with heavy jamming, and the flight was slightly disorganized in leaving the holding point. But the pilots still managed to press the attack, and this editor—riding in the sixth aircraft—was given a good demonstration of high-speed, terrain-following flight.

The flight leader hit the pre-planned initial point on time, but a communications problem developed with the forward controller. When the flight leader's aircraft popped up over the target area, Valance said he saw moving vehicles instead of the expected stationary ones.

DRY RUN

Since there was no smoke marking the target, Valance did not drop his ordnance—live BDU–33 training bombs—and called to the rest of the flight that he was "going through dry." Each pilot was given the option of dropping his bombs if he spotted the target, but each decided to carry his ordnance back to Nellis.

Wilhite said later that the training gained on such missions was extremely valuable for a pilot whether or not he had previous combat experience because it stressed the importance of being able to think clearly under conditions of stress.

MINE SAFETY

Mr. WILLIAMS. Mr. President, Tuesday the Senate passed S. 717, the Mine Safety and Health Amendments Act of 1977, after 2 days of careful consideration and debate. Many Senators worked hard in shaping this legislation, and in considering it.

The careful consideration of this bill was aided by the hard, talented and unselfish work of the staff of the Subcommittee on Labor. I want the record to reflect my gratitude for the tireless efforts of Ms. Denise Medlin, Ms. Joan Wilson, Ms. Maureen Dollard, and Ms. Martha Woodman. I would also like to praise the efforts of Mr. Roy Wade of the staff of the Committee on Human Resources, who has for years worked on and has come to intimately understand the safety and health problems of our Nation's miners.

Their dedicated work and long hours helped immeasurably in preparing this bill for the consideration of the Senate, and on behalf of the committee, I would like to thank them.

"THERE'S MORE TO RUSSIA THAN AMERICANS RECOGNIZE"

Mr. MATHIAS. Mr. President, I wish to commend to my colleagues an excellent article by Peter Osnos of the Washington Post entitled "There's More to Russia Than Americans Recognize." Mr. Osnos has been in Moscow since 1974. He makes the point that it is dangerous for Americans to take what amounts to a one-dimensional view of the U.S.S.R. Too much depends on our recognizing that this is a complex country. I ask unanimous consent that this

excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THERE IS MORE TO RUSSIA THAN AMERICANS RECOGNIZE

(By Peter Osnos)

Moscow.—After three years of living in Moscow, it would be relatively easy in a farewell piece such as this to tell you all that is wrong with the U.S.S.R., to rehearse once again the inefficiencies and inequities of the Soviet system. But if Americans know anything about the Soviet Union, we probably know what is bad about it.

Instead, I'd like to suggest something of what I think is wrong with us.

That may seem an odd way of rounding out a tour as a Moscow correspondent, but my point is precisely that we have tended over the years to dwell so much on the very real shortcomings of the Soviet Union that we bear a deep hostility toward this remarkable and confounding country—which doesn't do us any particular good and in a nuclear age could lead to catastrophe.

We recognize a great deal in the United States that is evil—crime, racism, poverty, injustice—and yet we don't conclude from such glaring faults that we are all bad.

It is, by the same token, a mistake to conclude that, because there is so much in the U.S.S.R. which we find repugnant—the lack of free expression, the self-righteousness and hypocrisy of the ideology—the whole system is rotten.

As seen from here, though, Americans are so suspicious of Soviet political motives that, aside from the ballet and making weapons, they don't think Russians are good for much.

The phenomenon is hardly a new one. Twenty years ago, Harold J. Berman, then as now a scholar of Soviet law at Harvard, wrote a memorable essay he called "The Devil and Soviet Russia." In that era of Sputnik supremacy in space, when Americans were suddenly alarmed about the successes of Soviet science, Berman's contention was that we had become so fixated on the evils of communism that we were not prepared for its achievements.

If Russia was really as bad as we imagined it, he wrote, "with 20-million prisoners in Siberian labor camps, workers ground down by management, every tenth person an informer, people afraid to talk about anything," then we in the West should have nothing to worry about: "Such a system could not survive a single major crisis."

In fact, said Berman, "The Soviet system which has been created is quite different. It is a working totalitarianism . . . It is a system that gives promise of achieving the very goals it has set for itself: economic security, political power and technological progress—by the very means it proclaims: absolute subservience to party discipline and the party line."

The professor was right. For all the continuing backwardness in some rural areas and a general living standard that is still far below that in the West, the U.S.S.R. today is unquestionably one of history's imperial giants. The Kremlin now presides over the world's second largest economy, the biggest in terms of critical energy output. It has a mighty military machine and dominates an alliance that the Pentagon would have us believe is stronger in many respects than our own. And Moscow today wields formidable political influence on events in every corner of the globe.

There was truth as well as pure bombast in the speech Leonid Brezhnev made last month when he presented a new national constitution to the party's Central Committee.

"The capitalist encirclement of the U.S.S.R. exists no more," he declared. "Socialism has turned into a world system and a mighty socialist community has formed. The position of world capitalism has been substantially weakened. Dozens of young states, former colonies, are coming out against Western imperialism."

Considering this is a country that, as every Russian will tell you, was ravaged by revolutions, invasions and terror for most of the century, the record is certainly impressive. That much in recent years has come to be officially recognized in the United States—at least it was in the previous administration.

"The issue of how to deal with the Soviet Union has been a central feature of American policy for three decades," Henry A. Kissinger declared in a major pronouncement on the subject in February, 1976. "What is new today is the culmination of 30 years of postwar growth of Soviet industrial, technological and military power. No American policy caused this; no American policy could have prevented it . . .

"Coping with the implications of this emerging superpower," he added, "has become our central security problem."

Kissinger's solution was detente (he wasn't the first to come up with the idea, but he was the one to get it implemented). Detente, as the French writer André Fontaine neatly put it, was not the same as peace or else it would have been called peace. It was an arrangement whereby a combination of political, military, technical and commercial agreements were reached for the expressed purpose of preventing the sort of confrontation that would end in mutual annihilation. For a time, roughly between the summers of 1972 and 1975, the process was working. To borrow from Chairman Mao, a hundred flowers bloomed.

I have watched detente unravel since then to the point where virtually all that is left is a batch of yellowing declarations of good intentions, essentially meaningless in a real crisis, and the strategic arms limitation talks that are a lot further from success than any reasonable person would want them to be.

The Kremlin reviles Jimmy Carter, calling him a "demagogue" in his domestic policy who supports "absurd and wild concoctions" about Soviet abuses of human rights and who seeks "unilateral advantage" for the United States in the arms talks. Carter says people shouldn't get rattled every time Brezhnev sneezes.

Two-way trade is stagnant and hardly anyone here holds out much hope for improvement, let alone the billions that were once talked about. Cultural and scientific contacts are mostly cosmetic. For the first time in years, an American diplomat and journalist have been expelled. Others have been severely harassed.

Where have all the flowers gone?

There are, of course, a multitude of explanations for what went wrong. On my list are: A) Détente was oversold by Richard Nixon in an effort to distract attention from Watergate, and then disillusionment set in; B) A powerful alliance of security-minded conservatives and human-rights liberals in the United States whipsawed Kissinger as alternatively soft and cynical; C) The Soviets, being Soviets, pressed for advantages in places like Angola (where they succeeded) and Portugal (where they did not), thereby cutting the ground out from those in Washington who contended that Moscow would act responsibly; D) Military-industrial lobbies in both countries went on pursuing their vested interests in expanded outlays for defense.

I leave it to geopolitical pundits to assess the strategic implications of issues like C and D. The arguments I want to stress here are more the matters of attitude, A and B. It was, unfortunately, I believe, American antagonism to détente, those endless debates over one and two-way streets, whether we were duped in this deal or that, which was instrumental in its eventual collapse.

We have so deeply ingrained an aversion to godless Bolshevism, going back for as long as the Communists have been around, that we seem incapable of accepting that the Russians can ever do anything positive, except for the occasional talent or goodwill of individuals.

As Berman was saying two decades ago, the fact that this is a system we do not like does not mean that it is totally bereft of virtues.

"It is a false conception of evil," he wrote, "which assumes that men who believe in evil doctrines—such as doctrines of world revolution or the dictatorship of the proletariat—cannot at the same time work to accomplish great humanitarian benefits. . . . For example, under the leadership of the Communist Party of the Soviet Union, the number of doctors in Russia increased from about 20,000 in 1917 to about 300,000 in 1957 . . . and, under the same leadership, illiteracy declined from over 50 percent to less than 5 percent."

The Kremlin's firm and often harsh control has made it possible to mobilize the resources for transforming places like Kazakhstan in Central Asia, Daghestan in the Caucasus Mountains and Yakutia in Northeastern Siberia from the wilds they were merely two generations ago, remote lands of nomads and exiles, into modern societies. After all, vast areas of the Soviet Union were totally undeveloped at the time of the revolution. But today, for instance, Yakutsk, the capital of Yakutia, has a population of 150,000, high-rise apartment buildings, theaters, a university—all that in winter temperatures often more than 40 degrees below zero.

Yes, the U.S.S.R. is an empire run from Moscow and outright nationalism is not tolerated. Nonetheless, such ancient peoples as the Armenian, Georgians and Uzbeks retain amazingly strong local identification and character. What they have lost in autonomy, small and often embattled nations like Armenia have gained in security. They have a language, their culture, even their own church. Communism has been imposed on them, but it has not crushed them.

Even in the most enlightened of philosophies good and bad are intertwined. Berman again: "Did not Cromwell, the great restorer of English liberties, treat the Irish with barbaric cruelty? Did not Americans who fought for the inalienable rights of 'all men' at the same time buy and sell slaves?"

Turning the reasoning around a bit: Is it not conceivable that the same Soviet leadership which so severely restricts free expression at home and seeks ever greater influence abroad might genuinely want to improve its peoples' lives, might genuinely want a measure of mutually beneficial cooperation with the West, might genuinely be committed to preventing a nuclear holocaust?

The way it has looked to me from here, Americans more often than not say no.

Partly, we may be negative because Kremlin ideology is so infuriatingly bumptious, demanding credit that is not deserved and asserting achievements that have not been attained. Because the Soviets so aggressively insist that they are perfect, we instinctively want to counter with their flaws.

In the early 1970s, when the Kremlin began to allow tens of thousands of Jews and other minorities to emigrate each year, it proclaimed that anyone who wished to go could do so (except for those with state secrets, who would have to wait a few years and that no one who tried to leave would be harassed. It was obvious to Americans that those assurances were false. Hundreds of Jews lost their jobs, some were drafted into the army, others were jailed.

So, instead of concentrating on how much

the door had been opened—in 1973, about 35,000 Jews left—we focused on how closed it still was. Finally, the Soviets got fed up with the controversy, claiming that their humanism was not appreciated. The rate of Jewish emigration, at least, is down by more than half.

But sometimes it has struck me that our suspicions were exaggerated. Take the case of the 1975 Apollo-Soyuz mission when Russian and American spaceships linked briefly in orbit. On the eve, an article by a space expert published on The Post's editorial page reamed the exercise, comparing it to the 1972 grain deal in which the Russians suckered American traders. The expert's contention was that the Soviets were benefitting by access to our advanced technology while the U.S. side got nothing.

The way it looked from here, the United States got valuable first-hand exposure to the Soviet space program and examined its intricacies and shortcomings, which we found to be many. But even more importantly, the mission was the occasion for a tremendous outpouring of good will toward the United States. "The Apollo-Soyuz project," said an article in an important Soviet journal, "is a symbol of the changing relations between the U.S. and the U.S.S.R."

Many ordinary Russians were emotional. I listened carefully as they watched the blast-offs on television, clustered at store windows, in offices and homes. Invariably, the comments centered on the excitement of such cooperation and how it might mean the countries would get along more easily.

"It makes me feel better," said a World War II veteran, a man I know well and who keeps a very cool eye trained on what the Kremlin does, "to know that old allies can work together instead of always trying to outdo each other." Treacly, perhaps, but sincere.

I had to fly to Washington the next day, so it was there that I watched Apollo maneuvering into position for docking with the waiting Soyuz. "At last," cracked someone in the group gathered around the TV set, "we found a way to stick it to the Russians." Everyone else guffawed.

We are also condescending about some things the Soviets do well. The example of literature has fascinated me. It is a very rare American who could name any contemporary Russian author besides Alexander Solzhenitsyn—and he is better known for his political dissent than his novels. Yet there is a very active literary life here: People like Yuri Trifonov, Valentin Rasputin, Vasily Belov, Alexander Vampilov, Vasily Shukshin, Chinghiz Aitmatov and Fazil Iskander are greatly admired by the intelligentsia and write with style and insight—even if they do battle the censors behind desks and in their heads.

Two years ago, when I wrote a long article about some of these authors, the headline given by an editor was "The Writers Who Stay," as if anyone of worth should be expected to leave.

For all the well-known restrictions on Soviet cultural life, it is a fact that a sophisticated Russian knows a great deal more about our contemporary fiction than we about theirs. "Anywhere that people like to read," as one Russian put it, there are fans of Faulkner, Baldwin, Salinger, Vonnegut, Updike, Albee, all of whom and others have been expertly translated.

We like to believe that our literature must be better than theirs because it is unfettered. But that should not impose ideological blinders on Americans which prevent us from taking what the Soviets do at its true worth.

The Soviet Union is a closed society, but it is not nearly as closed in many ways as it used to be. For over three years now, since jamming ended, millions of Russians have listened to the daily broadcasts of the Voice of America and the BBC. It is no longer even considered daring to do so. Russian young people, even in the countryside, pattern themselves increasingly on the casual, blue-jeaned and rock music styles of their Western counterparts. Hundreds of thousands of sportsmen and visitors will be streaming into Moscow for the 1980 Olympics, another big hole in what was once truly an Iron Curtain. Always lurking somewhere, crude and vicious, are the men from the KGB security police.

But the KGB is not everything.

Well, then, you may fairly ask, how do I think we can make our attitude toward the Soviets less reflexively hostile?

That is a very tough question for which I have no all-encompassing answer. We should try, in keeping ourselves informed about what is happening here, to separate the real advances in Soviet economic and social life from the ideologically inspired claims—pro and con. We should try, of course, to continue expanding contacts in scientific and cultural fields that slowly grind down barriers to understanding. We should be, perhaps, more skeptical of what dissidents say because, with a cause to plead, they cast matters in the most apocalyptic light.

Changes obviously can come about. Remember how menacing the Red Chinese seemed only a few years ago? Then came the Nixon trip to Peking in 1972 and a slew of what in retrospect were naive reports on the dignity and purity of Chinese life. Today, we probably have a more realistic view of China than of the Soviet Union, although we know less about it.

So far, 1977 has been a terrible year for Soviet-American relations. A freeze like that, it seems to me, encourages just those repressive influences in the system that we find most abhorrent. The current crackdown on dissidents, the most extensive in this decade, would be harder for the Kremlin to undertake if Moscow's vested interest in good relations with Washington were greater.

Lev Kopelev, a wonderful man, a writer now 65 who spent a decade in Stalin's prison camps and has been harassed again in recent years for his outspoken defense of human rights, put the situation so eloquently in an interview not long ago that I'd like to repeat it.

"I sympathize with your President Carter in his support of human rights," Kopelev said. "I think that he is a good and sincere man. There is at last a politician who puts together politics and morals. But I think that in his tactics, especially with our country, he makes mistakes.

"He is too straightforward, too direct. He doesn't understand the special nature of our society—not Communist or Marxist traditions, but Byzantine, Oriental conceptions of prestige. If I were to advise Carter how to help us," he chuckled, "I would say, 'Be firm in your convictions but, at the same time, offer some golden bridges. Make it so that our side can come to you without losing prestige'."

He added with a sigh: "If now starts again, the Cold War it will be worse for us, for all our people."

THE AMERICAN LEAGUE PENNANT RACE

Mr. BROOKE. Mr. President, at the risk of running afoul of my colleagues from New York, Maryland, Ohio, Wisconsin, and Michigan, I feel compelled to rise this afternoon and convey my belief to these gentlemen that the pennant race in the American League's eastern division is all but over.

Now I know it is only June. I know anything can happen. I know the best of teams can falter in the dog days of August or down the grueling September stretch.

But I also know that our beloved Boston Red Sox have jelled into the most awesome club in the league. They amaze at the plate; they excel in the field; they now dominate on the mound.

I think my colleagues from New York can attest to this. For it was only last Friday that their rich and somewhat bloated Yankees came to Boston in first place only to be bombarded back to third place by sunset Sunday.

And for those that think the Sox success stems from friendly Fenway Park, we need only witness the methodical destruction of the somewhat respectable Baltimore Orioles in Baltimore Monday, Tuesday, and Wednesday nights.

Mr. President, I remember all too well sitting with the distinguished Speaker of the House TIP O'NEILL and one of the truly great Red Sox fans, his dear wife Millie, during the seventh game of the 1975 World Series. Mr. President, we were denied that year. But only by Joe Morgan's two-out single in the very last inning. And Mr. President, this year it will be different. This year, Mr. President, the Red Sox are going all the way.

Mr. MATHIAS. Mr. President, the Senator from Massachusetts, Mr. BROOKE, has referred to me and I feel obliged to respond.

We who cheer for the Baltimore Orioles are not daunted by the Senator's taunts. We retain a quiet confidence in our team. They have won the pennant before and we know they will again. The timing is part of the art they know through practice how to bring to perfection. We love our Birds when they win and only a little less when they lose.

It seems to me that the Senator's statement ignores one of the most famous lessons in the literature of sport.

I would be the last to equate Boston, the Athens of America, the hub of the universe, with Mudville. But the Senator from Massachusetts should remember Mudville.

In Mudville they too thought victory was in the bag. It was in Mudville that Casey stood, as those in Boston apparently stand today, "in haughty grandeur there." But when it was all over there was "no joy in Mudville."

I do not wish to dilute the Senator's anticipation of joy today because it may be all he will get. But a great baseball classic cries out in answer to the Senator from Massachusetts. I feel obliged to recite it now to refresh his memory and to restore an historic equilibrium to our national sport:

CASEY AT THE BAT

It looked extremely rocky for the Mudville nine that day;
The score stood two to four, with but an inning left to play.
So, when Cooney died at second, and Burrows did the same,
A pallor wreathed the features of the patrons of the game.

A straggling few got up to go, leaving there the rest,
With that hope which springs eternal within the human breast.

For they thought: "If only Casey could get a whack at that,"
They'd put even money now, with Casey at the bat.
But Flynn preceded Casey, and likewise so did Blake,
And the former was a pudd'n, and the latter was a fake.
So on that stricken multitude a deathlike silence sat;
For there seemed but little chance of Casey's getting to the bat.
But Flynn let drive a "single," to the wonderment of all,
And the much-despised Blakey "tore the cover off the ball."
And when the dust had lifted, and they saw what had occurred,
There was Blakey safe at second, and Flynn a-huggin' third.
Then from the gladdened multitude went up a joyous yell—
It rumbled in the mountaintops, it rattled in the dell;
It struck upon the hillside and rebounded on the flat;
For Casey, mighty Casey, was advancing to bat.
There was ease in Casey's manner as he stepped into his place,
There was pride in Casey's bearing and a smile on Casey's face;
And when responding to the cheers he lightly doffed his hat,
No stranger in the crowd could doubt 'twas Casey at the bat.
Ten thousand eyes were on him as he rubbed his hands with dirt,
Five thousand tongues applauded when he wiped them on his shirt;
Then when the writhing pitcher ground the ball into his hip,
Defiance glanced in Casey's eye, a sneer curled Casey's lip.
And now the leather-covered sphere came hurtling through the air,
And Casey stood a-watching it in haughty grandeur there.
Close by the sturdy batsman the ball unheeded sped;
"That ain't my style," said Casey. "Strike one," the umpire said.
From the benches, black with people, there went up a muffled roar,
Like the beating of the storm waves on the stern and distant shore.
"Kill him! kill the umpire!" shouted someone on the stand;
And it's likely they'd have killed him had not Casey raised his hand.
With a smile of Christian charity great Casey's visage shone;
He stilled the rising tumult, he made the game go on;
He signaled to the pitcher, and once more the spheroid flew;
But Casey still ignored it, and the umpire said, "Strike two."
"Fraud!" cried the maddened thousands, and the echo answered "Fraud!"
But one scornful look from Casey and the audience was awed;
They saw his face grow stern and cold, they saw his muscles strain,
And they knew that Casey wouldn't let the ball go by again.
The sneer is gone from Casey's lips, his teeth are clenched in hate,
He pounds with cruel vengeance his bat upon the plate;
And now the pitcher holds the ball, and now he lets it go,
And now the air is shattered by the force of Casey's blow.
Oh, somewhere in this favored land the sun is shining bright,
The band is playing somewhere, and somewhere hearts are light;
And somewhere men are laughing, and somewhere children shout,
But there is no joy in Mudville: Mighty Casey has struck out.

ERNEST LAWRENCE THAYER.

INTRODUCTION OF SMALL BUSINESS PAPERWORK REDUCTION AND INVESTMENT ACT

Mr. NELSON. Mr. President, as chairman of the Select Committee on Small Business, I have reported periodically to the Senate on our committee's inquiry into the impact of the Pension Reform Act of 1974, ERISA, on small businesses.

Our annual report for 1975 (S. Rept. 94–646) outlined the problems of reporting and compliance which were being experienced by the 96 percent of retirement plans which have less than 100 participants, and the 93 percent which have less than 25 participants. These problems were taken up in public hearings conducted jointly with the Senate Finance Committee on February 2 and 3, 1976. The interim findings were summarized in a statement to the Senate at the end of the 94th Congress (CONGRESSIONAL RECORD, September 30, 1976, p. 33951, and in the committee's annual report for 1976 (S. Rept. 95–30). Last month, our joint hearings with the Senate Finance Committee were resumed, with sessions on May 10, 11, 24, and 25.

Out of these most recent hearings has emerged a bill which is being introduced today. The purpose of the bill is to address the unintended side effects of ERISA, including the excessive paperwork, lack of coordination among administering agencies, delays in governmental action, and increased conservatism which has placed pension fund investment beyond the reach of the small business segment of our economy.

WHAT THIS BILL WOULD DO

The major provisions of this bill include:

A single annual report on pensions. Such a combined report would be filed with one Government agency.

This would be backed up by requiring an agreement among all agencies on access to the particular information which they need.

The Federal Paperwork Commission estimated that such provisions would result in initial savings of $50 billion to Government and $357 billion to business. Annual savings thereafter approximate $288 million, for a total of $2.99 billion over a 10-year period.

Small business representation on the ERISA Advisory Council. There would be at least one small business spokesman on this body so that input on the needs of smaller firms can be furnished before regulations and forms are published.

The bill also makes the Council advisory to the Department of the Treasury and the Pension Benefit Guaranty Corporation, in addition to the Department of Labor, as is provided in the present law.

Consequences of delay shifted to the Government. The burden of inertia in decisionmaking would be shifted to the Government by holding a business harmless for a year if the Government does not act on an ERISA-related request within 180 days.

Joint report to Congress. The bill gives Congress a mechanism for following through on its recommendations by requiring a joint report by the agencies concerned on their progress in carrying out the act within 180 days.

Extending the Federal "prudent man" rule. The bill asserts a new policy—that pension investments should take into account the long-term productivity and capacity of the economy; and it creates a legal protection—that investment in a smaller business is not an automatic violation of the prudence standard of the law.

Because of the statistics showing that the great majority of retirement plans are sponsored by smaller businesses and because we know that these smaller plans are less able to absorb the costs and fees of filing multiple reports, limiting the Government to requiring a single report would clearly be most helpful to smaller firms.

BENEFITS TO THE RETIREES AND THE ECONOMY

We have seen in the social security study now underway in the Senate Finance Committee that the ratio of active workers to dependents is falling from about 3 to 1 now to 2½ to 1 or even 2 to 1 in the years ahead, and this calls for maximum efficiency and productivity to sustain the real income of retirees. Under these circumstances, we cannot afford a situation where a prime source of capital is effectively "off limits" to the most inventive, resourceful and competitive segment of the economy—smaller business.

Many studies confirm the fact that more than half of all inventions originate with small enterprises or individual inventors. Thus, small enterprises can help to assure that the economy remains healthy and vibrant. This helps retirees by building the ability of the economy to deliver to them the highest possible real-income purchasing power.

INHIBITING EFFECT OF ERISA ON INVESTMENT IN SMALLER BUSINESS

However, witnesses at the May hearings confirm that access to pension fund investment has been virtually eliminated for the small business community.

The intention of those who drafted the statute may have been completely different. But the day-to-day practicalities are illustrated by a survey of the International Foundation of Employee Benefit Plans, which found that, because of the enactment of ERISA, nearly two-thirds of pension fund managers—64 percent—felt less willing to place their funds in anything other than the most established "blue chip" investments.

For example, Bruce Fielding, a trustee of a pension fund set up by the 500,000-member National Federation of Independent Business, testified at the May

hearings that investment by this fund was restricted to securities which are rated AA or higher. This means that even capital formed by small business is being funneled to Government and big business.

CONTINUING EFFORT TO DEVELOP A SOLUTION

Nearly everyone who has examined this area recognizes that ERISA has created problems for smaller plans and smaller businesses in the administrative and investment areas. This bill is an attempt to advance the dialog on what should be done about these problems.

The intent of our bill is certainly not to compel any investments in small business. We are seeking to make clear the fact that the statute should not prohibit a sound investment opportunity by the stronger pension plans in a venture capital firm or smaller business, which promises to benefit the beneficiaries and the general economy at the same time. If a fund manager wished to consider such possibilities, the many protections of the statute, including the requirements of prudence, would continue to apply to any and all investments of this type.

If these proposals can be improved upon, we shall gladly make the effort to develop them further to accommodate all of those who are concerned. We welcome and are seeking suggestions by the pension community and shall hold further hearings in an effort to formulate reasonable and effective legislation in this area.

MINORITY BUSINESS AND ASSISTANCE ACT

Mr. MATHIAS. Mr. President, I am pleased today to become a cosponsor of S. 927, a bill by the distinguished senior Senator from Kansas, Mr. DOLE, to establish a Minority Business Development and Assistance Administration in the Department of Commerce for the purpose of improving Federal assistance to minority business enterprise.

The heritage of business enterprise that has made our country the vital and strong democracy that it is today is in no small way the legacy of every American. It is the responsibility of the Senate to do whatever it can to encourage Americans of every race and national origin to participate in this heritage.

We must, in short, encourage minority business ownership. The people of Maryland are aware of this and two men, Herman Carter and Isaiah McKenzie of Harbor City Associates, have developed a "Bold Blueprint for Successful Minority Economic Development." I would like to conclude my remarks by asking unanimous consent that their paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

A BOLD BLUEPRINT FOR SUCCESSFUL MINORITY ECONOMIC DEVELOPMENT

This paper defines a program of long-range economic planning for the minority community. The major premise is economic parity can only be achieved by a major long-term commitment to increase minority proprietorship of firms in selected industries coupled with the long-term employment and career opportunities they provide. Past programs and legislative attempts have failed to achieve this goal due to their focus on short-term solutions. The CMEP speaks to this problem with far-reaching implications in an attempt to provide an alternative.

INTRODUCTION

The events of the late fifties and turbulent sixties produced a series of economic, educational, social and political gains for the Black Community. The 1954 Supreme Court decision opened the door for occupational advancement and quality in education. The many pieces of Civil Rights legislature were aimed at the creation of quality of life for all people. The Voting Rights Act allowed many Blacks, especially in the South, to exercise their franchise to choose elected representatives; thereby increasing economic opportunities at their local level. Billions of dollars were allocated during this period extending from fiscal 1960 to the present for the purpose of bettering the economic lot of the poor, Blacks and other minorities. Programs of description were devised and administered for upgrading skills, teaching skills, providing low-cost housing, daycare for children of working mothers, medical assistance and food stamps to name a few.

The Small Business Administration assisted in the creation and guidance of thousands of minority enterprises by making available millions of dollars in direct funding or guarantees for loans from local lending institutions nationwide. The surviving new entities provided a new income-base for the entrepreneurs and jobs for minority workers. President Nixon authorized the creation of Minority Enterprise Small Business Investment Companies (MESBIC's) to create venture capital for businesses owned by socially or economically disadvantaged persons to offset the inherent risk of minority business. Minorities have been the beneficiaries to a lesser extent of increased entrance in the trade unions. These two decades of American history were characterized by a re-assessment of several social values, resulting in the burning of bras and cities.

The major goal of all such programs is to "better the economic lot of the poor and the disadvantaged" thereby substantially increasing their stake in the social, political and cultural fabric of the nation. This was an attempt to correct many centuries of disregard, discrimination and deprivation of economic equity. It is our basic contention that these programs have failed to produce a meaningful impact in this area of social responsibility. The billions of dollars expended to achieve this objective have not yielded a suitable return on investment, if the true intent is economic parity. It is the purpose of this paper to examine these efforts on various levels, suggest an alternative solution, and discuss means of implementation.

SIZE AND DISTRIBUTION OF THE BLACK POPULATION IN THE UNITED STATES

The 1970 Census Report indicates that 11.1 percent of the total United States is Black.[1] Blacks represent 90 percent of the total minority population in the United States or 22.6 million persons. The largest concentration of Blacks is in New York representing 11.9 percent of that state's population.[2] Other population characteristics are depicted in Illustration I. The Black population is concentrated predominantly in the metropolitan areas. As depicted in Illustration I, more than half of all Blacks are still residing in the South. The gains in housing have not been as drastic as some others (income, elective office, etc.) so the main location of Blacks is in the inner-city. Economic gains have allowed only a small percentage of Blacks to migrate to the surrounding suburban communities. Even with the "open-housing" provisions of Civil Rights legislation, there still exists the "economic discrimination" and credit restrictions to disallow the acquisition of the desired property. Urban Renewal and low-income housing is a substitute for this.

Hence, Black businesses tend to be concentrated in the inner-city in order to be accessible to the minority market.

ILLUSTRATION I

RACE OF THE POPULATION FOR REGIONS: 1970

U.S. regions	Negro and other races					Percent distribution				
	Total	White	Total minority	Negro	Total other	Total	White	Total	Negro	Other
United States	203,211,926	177,748,975	25,462,951	22,580,289	2,882,662	100	87.5	12.5	11.1	1.4
Regions:										
Northeast	49,040,703	44,310,504	4,730,199	4,344,153	386,046	100	90.4	9.6	8.9	.8
North-Central	56,571,663	51,641,183	4,930,480	4,571,550	358,930	100	91.3	8.7	8.1	.6
South	62,795,367	50,420,108	12,375,259	11,969,961	405,298	100	80.3	19.7	19.1	.6
West	34,804,193	31,377,180	3,427,013	1,694,625	1,732,388	100	90.2	9.8	4.9	5.0

INCOME LEVELS

As indicated in Illustration II, the ten years 1960–1970 produced a 50 percent increase in median income in the blacks and other races category ($4236 to $6516) a ratio of 64 percent compared to White income in 1970. "With upgraded employment and income, Negroes provide a growing consumer . . .".[3] The estimated purchasing power of Blacks in 1970 was $33 billion.[4] "Median Income in 1973 was $7270 for Black families and $12,600 for White families . . . Black family median income did not grow between 1969 and 1973, after an appreciable 32 percent increase during the previous four-year period."[5]

This peak is a result of the Nixon Administration's progressive paring of federally funded social programs, and continued with the extension of this policy into the Ford Administration. Further interpretation of income distribution shows that although purchasing power approximates $30 to $35 billion the black market is by no means a rich one.

Footnotes at end of article.

ILLUSTRATION II

DISTRIBUTION OF FAMILIES BY INCOME—IN 1947, 1960, AND 1970

[Adjusted for price changes, in 1970 dollars]

Income	Negro and other races			White		
	1947	1960	1970	1947	1960	1970
Number of families (thousands)	3,117	4,333	5,413	34,120	41,123	46,535
Percent	100	100	100	100	100	100
Under $3,000	54	36	20	20	13	8
$3,000 to $4,999	25	22	17	24	13	10
$5,000 to $6,999	11	16	16	24	17	11
$7,000 to $9,999	7	15	18	18	26	20
$10,000 to $14,999		8	17		21	28
$15,000 and over	4	3	11	15	10	24
Median income	$2,807	$4,236	$6,516	$5,478	$7,664	$10,236
Net change, 1947–70:						
Amount	(X)	(X)	$3,709	(X)	(X)	$4,758
Percent	(X)	(X)	132.1	(X)	(X)	86.9

Source: U.S. Department of Commerce, Social and Economic Statistics Administration, Bureau of the Census. Note: X—Not applicable.

Approximately 33 percent of all Black families are below the $3,500 poverty level and 35 percent earn greater than $10,000.[6] These two observations of black income i.e., the peak in 1969 and the divergence in income levels of the black new middle class and the black "underclass" are important if one is to get a realistic picture. However, Blacks as consumers are a potent force, causing firms to devote an ever-increasing portion of their marketing budget to this market segment. More recent estimates of the minority community's spending power are close to $70 billion annually.

PROGRESS IN BLACK BUSINESS?

With the enormous influx of resources in the form of capital, technical assistance, legislation at all levels of government, what is the state of minority business today? William B. Johnson, former director of the State of Ohio Office of Minority Enterprises has stated that "the biggest problem with black businesses is that there are not enough of them. Blacks spend an estimated $70 billion annually in the U.S. Marketplace, yet Black owned firms make up less than three percent of all U.S. firms. Blacks participate in the economy primarily as consumers and this needs to change." The problem and the challenge is well-stated.

The "Survey of Minority Owned Businesses," a Bureau of the Census Special Report released in 1972 informs us that in 1969 all minorities comprised approximately 17% of the U.S. population, controlling only 0.9% of the total number of businesses. Blacks comprise approximately 11% of the 1969 population and controlled only 0.9% of the total businesses in the country. Gross receipts for all minority-owned businesses during this period totalled 10.6 billion dollars, 0.1% of the total business receipts. In 1971, minority businesses owned only 0.3% of all business assets and accounted for only 0.1% of business investments. The number of Black firms increased during the period 1969–1972 from 163,000 to 195,000. Gross receipts increased from $4.5 billion in 1969 to $7.2 billion in 1972. This still only approximates 0.1% of total gross receipts for U.S. business. It also does not indicate the number of businesses started-up and failed during the period.

Studies conducted by the public and private sector indicate that 60% small businesses fail within the first five years. Businesses located within the inner-city ghetto areas still have an even higher failure rate. Blacks have no businesses approaching the corporations in the Fortune 500, and relatively few listed on the New York Stock Exchange. Thus, we see that the efforts of the public and private sectors to maintain a "viable, dynamic and progressive role for small enterprise in the American economy."[7] have produced no significant change.

What are the programs and organizations involved in this effort to achieve economic parity? What are the shortfalls in their structure and mechanisms for implementation that allow this gap in income and ownership to be perpetuated? Is this the best approach to the problem, or is there a better way? Examination of the various entities will possibly provide greater insight and answers to the questions.

FEDERAL PROGRAMS

Federal efforts directed to the minority enterprise community are many and varied. The following discussion is an attempt to dissect and evaluate some of the entities that have the greatest funding and impact.

SMALL BUSINESS ADMINISTRATION

The Small Business Administration (SBA) was created by Congress in 1953 as an independent agency. In an effort to assist small business and increase the number of minorities in business, Title IV of the Economic Opportunity Act of 1964 authorized an Economic Opportunity Loan Program (EOL). This program was established to administer minority business loans involving direct financing and commercial bank participation. The main purpose of the EOL program involves "assisting low-income individuals who, due to social or economic disadvantage, have been denied the opportunity to acquire adequate business financing through normal lending channels on reasonable terms."[8] Public Law 94–305 June 4, 1976 raised the ceiling on EOL from the 1972 level of $50,000 to $100,000.

The SBA guaranteed loan program requires the lending of funds from commercial banks with an SBA guarantee of 90% repayment.

EOL LOANS

FY 1964 to FY 1974, 46,109 loans, $683.4 Million. Average loan $14,821.

	Number loans	Total dollars	Direct	SBA part
Fiscal year:				
1973	7,661	$148.25	$73.75	$74.50
1974	5,290	109.00	63.00	46.00
1975	3,618	73.60		

It is without question that the EOL program is needed to provide capital for the potential small businessman and the existing business with a need for a small amount of debt financing for expansion or inventory requirements. The criteria used to evaluate potential businesses' (business plan, market analysis, funding requirement, long-range planning, resource utilization, management team even break-even analysis) are not of sufficient quality in some instances to make an intelligent and realistic decision. It has been an honest criticism that some businesses have been programmed for failure from their inception.

It has been historically traditional for the SBA to undercapitalize a starting entity, not allowing for contingencies or seasonal and cyclical sales variations. Most of the loans have been for activities in the retain and service sectors of business. These loans leave little if any room for working capital but are designed for acquisition of tangible or intangible assets. It has been the frequent criticism of loan recipients and their advisors that unless peak dollar sales are generated from the first day of operation the enterprise is doomed.

Another criticism is the management and technical assistance provided by the Administration is often inadequate and inappropriate. SCORE and ACE advisors are often unacquainted with the individual nuances of the business they are assigned. There are not enough of them to assist and the entrepreneur is not often sophisticated enough to seek the assistance before the crisis ensues. Because the evaluating criteria for the management assistance is based on the volume of clients served little information can be documented in regards to the quality of the assistance given.

Congressman Parren Mitchell in response to the plight of the minority businessman and the inadequacies of the SBA has introduced legislation HR 567.

OFFICE OF MINORITY BUSINESS ENTERPRISE (OMBE)

OMBE under the Department of Commerce is instrumental in funding Business Development Organizations (BDO's) in an effort to assist clients in the procurement of contracts, prepare financial packages. The BDO's also supply management assistance and technical services. OMBE was established in 1969 by Executive Order to coordinate various government programs. In 1972 $40 million was appropriated to generate small businesses through over 300 local community organizations. This was cut in 1973 to six regional offices and twelve field offices. The establishment of "one-stop service centers" eliminated duplicity of effort by several organizations in one area. These Centers should provide all services a potential businessman requires. These include market research, financial packaging, management and technical assistance, etc. OMBE's budget has increased from $40 million in 1969 to $53 million currently.

In fiscal year 1976 OMBE:

(1) assisted 7121 clients to procure $486 million in contracts—

Private Sector—39 percent—$189.6 million.

Federal Government—32 percent—$155.5 million.

State and Local Government—29 percent—$140.9 million.

(2) assisted in preparing 5700 approved financial packages averaging $57,800.00

(3) loans to minority entrepreneurs number 4301 valuing $231.4 million

(4) lines of credit extended numbered 265 nationally with a dollar value of $14.4 million.

PROBLEMS

The "Investigative Report on the Office of Minority Business Enterprise" (March 1975)

Footnotes at end of article.

issued by the House Appropriations Committee pointed out several organizational difficulties. Functionally, the Committee concluded that nationally:

(1) Generalists, often lacking education or experience in business, serve in specialist positions in finance, business education, construction contracting and government and private procurement.

(2) While considered a key factor in the ultimate success of a minority business, management services and technical assistance (MSTA) has been much less than anticipated and is predominately oriented to the initial period of the contract, with little assistance after a firm begins operations.

(3) Employees of the funded organizations (BRC's, CEBO's) lack a depth of expertise in MSTA to provide the kind and amount of assistance required even if staffing and time were available.

BUSINESS RESOURCES CENTERS

Business Resource Centers (BRC's) receive funds from OMBE as business development centers (BDO's), local private sector groups and perhaps local government. They have a variety of functions which include:

(1) Providing the link between minority suppliers and majority (corporate) purchasers through a Minority Purchasing Council (MPC).

(2) Provide local businessmen with management services and technical assistance.

(3) Maintain a core of professional advisors from the corporate community.

(4) Provide a capital base through a capital development program involving local commercial lending institutions, mortgage broker, bonding companies and industrial finance companies.

Problem.—They operate under OMBE with the aforementioned difficulties. The National Minority Purchasing Council has yet to develop a reporting procedure which corporations are comfortable with, nor has the purchase requirements of the local MPC's been set high enough to produce an appreciable impact. The focus is on contracts in the service area with no appreciable input as to industrial and manufacturing opportunities realistically availble for minorities.

COUNCIL FOR EQUAL BUSINESS OPPORTUNITY

Councils for Equal Business Opportunity (CEBO's) are funded by OMBE, and other public and private organizations. They have several alliances in the business community that provide advice and counsel. Most CEBO's specialize in packaging deals for minority businesses and providing "start-up" funding. Others have been designated, as is the case with BRC's as "one-stop service centers." These have the additional functions of providing MSTA, business counseling, and other client assistance. Certification for 8A assistance for the SBA in addition to preparation of loan information packages are also included. Their activities include servicing and counseling of clients in several sectors of business (service, industrial, contracting, etc.).

Problem.—CEBO's do their best work in the start-up of businesses. The necessary MSTA and follow-up have been discussed under the House Appropriations Committee Report. As in the case of BRD's and BRC's the measures provide a means for starting a business in the usual areas (service, retail) but lack the components necessary for long-range servicing. This contributes to the failure rate of businesses.

MINORITY PURCHASING COUNCILS

Minority Purchasing Councils are organizations with representation from the major corporations nationwide. Their goal is to actively identify products and service requirements within their organizations that can be supplied by minority contractors. The Purchasing Agents of these Corporations match these requirements to a list of minority contractors and suppliers that has been developed. The National Minority Purchasing Council had reported total contracts of approximately $700 million in fiscal 1976. This concept is an excellent means for providing business to ongoing minority concerns capable of quality output.

Problem.—The contracts goal of several local MPC's is set much too low to significantly impact the community in which it operates. Several members state that if certain manufacturing companies were minority-owned their output could be much greater. However, again, minority firms are clustered in the service and retail areas. This still remains a bonafide attempt on the part of the majority (corporate) community even though greater efforts could be made.

PRIVATE AND LEGISLATIVE EFFORTS

Equal Employment Opportunities Commismission (EEOC) and Affirmative Action Programs.

Legislative attempts have produced the EEOC and Affirmative Action Programs. The goal is to assure minority participation in employment and contractual opportunities. This is the Federal government's mandate directed to the public and private sector. The concepts are now being challenged as being a form of reverse discrimination. The Supreme Court has recently decided to hear a case involving university admission requirements which may have a negative impace on both these needed pieces of legislation.

After two decades of programs and monetary attempts to foster minority business, several facts stand out in description of the black business community.

Blacks represent 11% of the total U.S. community with a purchasing power approaching $70 billion. Blacks are a growing consumer force.

Median income increased from 55% of white income in 1960, peaked at 64% of white income in 1970 and fell to 58% in 1973.

MEDIAN INCOME

	1960	1970	1973
Black	$4,236	$6,516	$7,270
White	7,664	10,236	12,600
Percent	55	64	58

Black business represent only 0.3% of total U.S. business. There is not one corporation in Fortune 500, only a few listed on the New York Stock Exchange.

Black business receipts in 1969 were 0.1% of total business investments. In 1972 receipts were still less than 0.1% of total business even though there was an increase to $7.2 billion.

There was a net gain of 32,000 businesses during the period 1969–1972 (163,000 to 195,000) and a net gain of $2.7 billion ($4.5 to $7.2 billion).

SBA is experiencing a 30% loan default rate and businesses have a 65% failure rate.

Black business still is 60% family-owned and concentrated heavily in the service and retail areas. The businesses are clustered in the inner-city where duplicity of service and competition for the black market is greatest.

PROGRAMS

SBA, OMBE, CEBO, MESBICS, CETA, BRC, MPC, EEOC, Affrmative Action.

Failure to Deliver the Achieved Goals—

Lack of adequate funding—Funds on short-term basis no long-term funding,

Provision of funds to acquire assets not working capital,

Funding is insufficient to acquire high-level income producing businesses (manufacturing production),

Therefore businesses cluster in service.

Lack of management capabilities (experience with successful, planned, well-financed business),

Persons with the expertise remain in sheltered corporated environment due high capital requirements of manufacturing, production,

Persons with partial training in some areas of business do not have available information to acquire expertise,

Programs lack coordination of effort to deliver similar services at an effective rate,

Programs are geared for start-up funding and servicing. There is a paucity of intermediate and long-term planned utilization and replacement of resources, and

Management and technical assistance does not compare with the knowledge of modern business concepts, mechanics and proper planning on the part of the owner or entrepreneurial group. MS&TA offered by program agents is evaluated on the basis of client encounters, not quality of information.

Minority business will not make sufficient progress toward increasing the low (0.1%) of the Gross Business Receipts until the nature of the businesses significantly shifts from the service and retail sectors to the industrial and manufacturing sectors. We must concentrate our attention toward not only the number of businesses but give even greater attention to the quality and income producing potential of the business. There must be a planned effort using the best available talent and resources to achieve this goal if true economic parity is ever to be realized.

CARTER-M'KENZIE ECONOMIC PLAN (CMEP)

Now, let us turn our attention to one possible alternative to the chronic unemployment of the Black community, and a plan to achieve economic parity. The only inconsistency with public and private sectors' attempt to solve the problem is they have not completed the journey to the end of the road. The problem with minority entrepreneurs is their fraternity is not large enough to have a significant impact on the economy. There is an immense imbalance in the ownership structure of American Business. Economic parity can only be achieved by increased minority ownership of main line businesses. To word the problem more effectively, we will never be able to reach parity as long as minorities do not have a proportionate segment of privately owned enterprises within our capitalistic society. As long as we follow the trend of dribbling small doses of medicine to the minority community under the disguise of minority development programs designed to meet the least of community and/or minority businessmen's needs, programs will ultimately result in failure. Programs must be designed to succeed rather than flounder and eventually fail.

How do we go about building economic parity? What are the best means to insure success rather than failure? There is no easy answer to these two questions. The Carter-McKenzie Economic Development Plan for the minority community attempts to provide an answer.

Let us take a look at economic parity. By definition, it refers to being equal partners within the economy. Equality in income, employment, ownership and even unemployment. Blacks spend an estimated $70 billion annually in the United States as consumers, but own less than 3% of manufacturing firms that produce the consumable items. Unemployment is approximately 7.6% overall. However, it approaches 13% within the Black community, 47% for Black teenagers. These are current statistics despite the funds targeted for economic development. Despite an enormous number of programs that came out of the sixties and seventies, the statistics prove a worsening situation. This coupled with the aforementioned situation relative

to minority proprietorship, clearly indicates that we do not even encroach or approximate economic parity.

The major impact of the CMEP will be the increased ownership of firms in the manufacturing and production industries. Our $70 billion of consumption can be returned to minority owned businesses, thereby increasing job opportunities within the minority community. This would in turn increase minority employment in the total job market.

CMEP is a bold blueprint for success. We propose to build an organization that would search for the companies within the economic community with the following characteristics:

1. Present operating companies with excellent growth potential in specific, designated target industries.
2. The industries are labor intensive and can have increased employee rolls.
3. High potential for diversification of product lines and clients.
4. Stable or increasing market.
5. Income producing companies with economic impact.

Once the companies have been identified, the organization would initiate the process of purchasing or financing the operation of the firm for minority ownership and development. This is in keeping with the major goal of CMEP:

"To provide long-term employment and career opportunities for minorities in the private sector through increased minority proprietorship."

SHORT-RANGE EMPLOYMENT REQUIREMENTS

In any economic development plan, it is necessary to develop the type of labor that is required to perform the tasks. Our short-term employment plan does just that. It prepares the labor pool on a short-range basis to be absorbed into the business's pool for long-term employment. Whenever possible, CETA and Public Works funds will be used for training for a guaranteed position in an ongoing concern rather than merely being given a temporary job. The private sector could be involved in that training. Using CETA or Public Works funds, training could be given on their sites for employment by the minority enterprise. The providing of training sites instructors, plant foremen, etc. would enhance their corporate image. It would also add immensely to their Affirmative Action and Social Action plans. Of course, whenever possible, training would be done at the minority firms.

Training programs have been severely criticized in the past for several reasons. These include:

(1) Training persons for non-existent jobs.
(2) Oversaturating a specific job field.
(3) Poor training due to poor programs and/or poor supervision.
(4) Short-term employment with no chance of advancement.

CMEP short-range employment objectives are designed to negate all these criticisms and present training/employment opportunities to the capable unemployed with potential for making a contribution.

IMPLEMENTATION

The objective of the CMEP in regards to the acquisition of businesses meeting the aforementioned criteria will be accomplished by the following operating procedure:

(1) Search and Selection.—The businesses will be selected in conformance with the standards and criteria mentioned previously. A staff of experts well-trained in the area of acquisitions will be established with the only function of preparing documentation on operating businesses with the required amount of potential for minority ownership. A strict set of guidelines will be developed. Recommendations to the Director will be made.

(2) Mechanism for Ownership.—Procedural guidelines will be developed and used by expert staff to determine the best approach for financing or purchase of the business.

(3) Selection of Proprietor and Staff.—A staff will be developed to search for the proper type of proprietorship. Several alternatives are available which will be discussed later. It will be the purpose of the CMEP to develop the proper proprietorship mix and structure, provide the best talent available for management and technical expertise. Rather than provide MS & TA, the CMEP is interested in locating or developing trained experienced personnel. Rigid requirements will be formulated and adhered to.

(4) Funding Requirements.—Utilizing the best available tools including econometric models, PERT etc., the CMEP staff will determine the mode mechanism and mix of funding the operation requires over the short, intermediate and long-range. In conjunction with the Marketing Staff, determinations will be made to maximize the use of financial, human and material resources.

(5) Loan Committee.—A committee of elected and appointed officials would be selected to approve the use of a financial pool for the minority businesses recommended by CMEP.

CMEP implementation will be carried out by the following staff and functions:

1. Research and Development Department—

This department will be responsible for identifying labor intensive industries with high growth potential within a stable or growing market. Research and Development staff will also have the capability to determine the employment outlook and expansion potential of the firm into new markets. This department will explore the possible acquisition of divisions or subsidiaries of major corporations.

2. Marketing Department—

This department will be chiefly responsible for the actual acquisition of the firms. They will evaluate the profit potential, market development, diversification of the industry and all and every aspect of the industry and the potential companies.

The Marketing Department will not be seeking new or high-risk ventures. They will not be seeking companies that cannot survive in their prospective market places. Start-up and risk capital should be left to the organizations presently established. They will perform the most complete financial analysis of each firm before the actual acquisition decision is established. Such analysis will include a study of their actual and potential sales over the last ten years, sources and uses of funds, profit and loss projections over the next 10–20 years, labor and economic impact long-range, and other analyses assisted by econometric data. Total long-range planning will be performed thoroughly and accurately before any recommendations are made.

FINANCIAL DEPARTMENT

The Financial Department will be responsible for the determination of the following:

(1) Staffing and funding requirements to ensure long-term success and growth.
(2) Appropriate and adequate financing of the acquisition.
(a) public funding
(b) private funding
(c) equity financing
(d) bond market
(3) After analyzing the business plan in conjunction with Marketing Department, Finance will make the recommendations as to the type, mix and amount of financing needed.

CAPITAL FUNDING COMMITTEE

The Capital Funding Committee should be composed of either elected/appointed officials or individuals appointed by the officials. This important Committee (3–5 persons) will be presented with the findings of the CMEP staff (Information Package) to include the following data:

1. Funding requirements
2. Management and technical requirements
3. Employment impact and absorption potential (prior-trained employees)
4. Potential use of volunteers from the Corporate community
5. Marketing and business plans
6. Financial plan (short, medium and long-range).

It is anticipated that the Committee would have the capacity to make swift, binding decisions based on the available information provided by the staff.

CMEP calls for a pool of $50 million. These funds, approved by the Committee would be used as direct loans with interest tied to the cost of money to the government. This is similar to the SBA Direct Loan Mechanism. Even when funding is achieved through the private sector, the Capital Funding Committee should act on the recommendation. This Committee could be tied to the House Sub-committee of Banking. Under these conditions, lines of credit will be sought whenever possible with the major Black banks in the United States.

RESEARCH DEPARTMENT

We have intentionally reserved one responsibility of the Research Department for last. The Research Dearment will conduct research efforts to develop a management pool to draw potential buyers to purchase and manage these firms. Essential to the success of any operation is expert management with sufficient assets and working capital funding. CMEP insists that the following minimum standards be established.

(1) Present entrepreneurs operating successful businesses (15–500 employee range)
(2) General management from Corporations
(3) Middle and top-level management on loan from major corporations to assist in search and start-up
(4) Recruitment of top black graduates from business schools
(5) Emphasis on proven talent with the best credentials and motivation.
(6) Projects must be low-risk as supported by research (venture capital is not the goal)
(7) Provisions for adequate financing must be assured.
(8) Provisions for low-interest long term capital financing must be assured.

SUMMARY

We have established the need for a new approach to the pursuit of economic parity. The only logical and consistent approach to the problem. It is by no means intended to be a panacea for such a complex problem as this. We certainly need the programs mentioned earlier to even begin to dent the economic frontier. Abolishment of the programs is not the answer, improvement and expansion is. But the use of funds for long-range projects is certainly a needed and worthwhile adjunct to the other efforts. We have presented the concept and structure. Proper placement and mechanics have been suggested, but more time and the expertise of other individuals more attuned to government is needed. It is our hope that you endorse the idea, offer your suggestions for improvement and set the wheels in motion for timely implementation.

FOOTNOTES

[1] "Largest Black Population Business Will Find in The Empire State," Commerce Today 2 (April 1972) : 29.
[2] Ibid.
[3] "Growing Retail Market Seen in Joint Survey of Nation's Minorities," Commerce Today (August 1971) : 18.
[4] Ibid.

[5] "Blacks Gain in Elective Office, Education: Drop in Income Ratio," Commerce Today (September 1974): 16.

[6] "Black America Still Waiting for Full Membership," Fortune (April 1975): 165.

[7] The Vital Majority: Small Business in the American Economy, Small Business Administration, Washington, D.C. 1973 p. xiii.

[8] U.S. Small Business Administration Annual Report (1974), Small Business Administration, Washington, D.C.

TELEVISED DISCUSSION OF SMALL BUSINESS ISSUES

Mr. NELSON. Mr. President, Senator HATHAWAY and representatives of the small businesses recently appeared on public television's MacNeil/Lehrer Report. In the lively discussion which followed, the small business representatives, Roger Travis, John Ellsworth, and Milton Stewart, examined a number of public policies affecting independent business. Mr. Stewart was able to reflect on a recent meeting he had participated in with President Carter. Senator HATHAWAY mentioned pending small business legislation and provided information on the work of the Senate Small Business Committee. Overall, the program provided a clear-cut summary of many of the issues affecting small business, and some of the legislative initiatives directed toward those issues.

Mr. President, I ask unanimous consent that the transcript of the program be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

THE MACNEIL/LEHRER REPORT

ROBERT MACNEIL. Good evening. It didn't exactly dominate the headlines today, but President Carter made a little history yesterday. He was the first President in living memory to sit down to hear the woes of small business and make key members of his cabinet listen with him. Why is that important? Politically it's important for Carter because the small businessmen of America are collectively probably the most frustrated bloc of citizens in the nation. Economically it's important because ninety-seven percent of the businesses in this country are small. They provide half of private employment and they create more than a third of the Gross National Product. But they also represent one of the last institutions clinging to the great American myth of free enterprise—the historic belief that any man with energy and a business idea could set up to sell a product or a service, and make it. And in making it, he would nourish the American virtues of competition and independence.

Today they see that myth exploding around them as they count the rising bankruptcies and struggle not for success but for survival. Tonight, what are their problems, and can Jimmy Carter do anything about them? Jim?

JIM LEHRER. Robin, the President and his people listened to a long list of problems yesterday. Some of them were familiar and the kind that are not necessarily unique to small business—things such as inflation, taxes, high interest rates, and so on. But there is one particular gripe that has its special slant for the operator of a small business, and it's called "government regulation." It came out number one on a list of complaints of small business that was compiled recently by the U.S. Chamber of Commerce. One of the deliverers of this and other messages at the White House yesterday was Milton Stewart. Mr. Stewart is president of the National Small Business Association and chairman of the board of his own company, Terra California, a construction firm started fifteen years ago; it presently has fifty employees. Mr. Stewart, what did your group tell the President yesterday that you wanted him to do about government regulation?

MILTON STEWART. Essentially, Mr. Lehrer, we could have summarized it very hastily: to change the direction of federal policy in six or seven major areas from supporting bigness in the economy in many ways to specifically expanding the small business sector of the economy, something to which the President committed himself in October at a meeting he had with the leaders of the small business community. When you say "government regulation" you have to think of it more broadly than those words are usually meant. We were talking about the whole structure and thrust of the executive branch of the government as managed by the President.

LEHRER. I realize that, but the government regulation is the term of the small businessmen themselves, not mine. Now, what do you want the President to do on that specific thing? Do you want him to do away with regulations, do you want him to change regulations, or what?

STEWART. We know he can't do away with them every place and every way, but we'd like to do at least reach for goals like only two reports a year from a small business to the federal government . . .

LEHRER. Compared with what now?

STEWART. We quit counting, when you get over 1,400 or 1,500 sometimes in some kinds of businesses. But if you got down to two reports and the second one, the non-tax report, was duplicated by government computers all through the government, we think that would be better than having to come back to small companies again and again and again. It seems like an easy thing to do, but the government is so big and the laws are so complex it isn't.

LEHRER. Let me make sure I understand what you mean. A small business, no matter what kind of small business it was, no matter what regulatory agency they were reporting to, would file one basic report a year plus a tax return, right?

STEWART. Right.

LEHRER. And then what you're saying is that basic information would then through the government bureaucracy have to be funded—it would become the government's responsibility to distribute rather than yours.

STEWART. Right. Now, that's a nice idea, just like it's a nice idea that we all could pay less taxes. Now, we all can't but our business tax structure can be made much fairer. We can arrange it so it follows the same principle our personal taxes do: biggest burden for broadest back—not the case now. Our biggest companies pay relatively less than our small companies in taxes.

LEHRER. All right. Mr. Stewart, did President Carter say, "Right on, fellas. I'm going to do everything you want"?

STEWART. It's a cherished aim to quote the President of the United States, but let's put it this way: this was step two in the democratic process; before he became President he expressed a point of view about the need to expand the small business sector and to change the direction of the government with respect to these matters. Yesterday, sitting in the White House, he reaffirmed that commitment and he also expressed with it the view of his government, his administration. He had with him an unprecedented number; he had three Assistant Secretaries, the Director of the Budget, the Manager of the Domestic Economic Council, six or seven White House assistants . . .

LEHRER. Two reports a year—he said, "I'm going to do that for you"?

STEWART. No, he emphatically did not. What he said was he thought that was the right direction for us to move toward, and he and Mr. Lance—he's put him in charge of this paperwork business—I came away convinced, and I think we all did, that they're going to try. Whether they can reach our dream target or not within one year, four years, eight years, none of us know. But the thing we were after what this was more than anything else—was a direct . . . confrontation is the wrong word . . . meeting between the Presidency, which represents all the country, and the small business community's leadership in a broader, better way than we've ever had the opportunity to do before. Now it will take some time for step three—implementation, policy, action—to go through this enormous establishment, the federal government. But we know we're going to have the help of Congress in this as well as the President, and that makes a great difference.

LEHRER. All right. It's a delight to interview a happy man; a man with problems, but who is happy.

STEWART. Happier, Sir.

LEHRER. All right. Thank you, Mr. Stewart. Robin?

MACNEIL. Let's talk to a man in the thick of these problems. John Ellsworth is the president of Ellsworth Cabinet, Incorporated, of Willoughby, Ohio. He employs fifteen people making crafted home furniture. Mr. Ellsworth is a political scientist who left graduate school just short of a Ph.D., joined the Navy for four years, and then thought he'd try being his own boss. Mr. Ellsworth, do you draw hope from the President's meeting yesterday?

JOHN ELLSWORTH. Very much. I think it's the first time that we know that we have a small businessman in the White House who has fought the battles that we're fighting presently and who has established a dialogue. He was the one who offered the invitation for the small business people to come down. We're very hopeful.

MACNEIL. Mr. Carter is a millionaire now in his peanut business—or before he let it go into trusteeship during his Presidency—is that a small business?

ELLSWORTH. No, it isn't, but I suppose it's the great hope of any of us who decide to become a small businessman that someday we will not be a small businessman; and I think that he is the epitome of the American dream.

MACNEIL. Okay. What is a small business in your definition?

ELLSWORTH. I think that there can be many definitions of small business people, but basically small business people are those who have an idea or want to perform a service or make a product and use all their wits about them to get into business so that they can do what they want to do the way they want to do it. It may be as many as a hundred or even 150 people, but as long as they are not a monopoly in their market and they're not on the open market, nor do they publicly trade stock, they're probably a small business person.

MACNEIL. What are the problems of a small businessman that you see from your perspective?

ELLSWORTH. The very largest is that of retaining enough from profits so that we can form capital, and in forming capital to have enough to operate on, to buy machinery and equipment to create jobs, because basically small business is peculiar from large business in the sense that we are much more labor-intensive than are the larger busi-

nesses, we tend to have many, many more people working for us for the product that comes out rather than having a machine which knocks out widgets all day long.

MACNEIL. Okay—creating capital is one problem with the tax structure and the economy the way it is. What about the specific problem of our interface with the government bureaucracy?

ELLSWORTH. We can have serious difficulties. I know of several cases where one regulatory agency would require one thing, another regulatory agency would require something else. For the small business person to wade through all of the regulations is sometimes just stymying. I would say that knowing what the regulations are, understanding how to get through them and being optimistic enough to get through them or to make the attempt is probably the biggest problem in that area.

MACNEIL. What's the worst example of that you've run into?

ELLSWORTH. I can give you a specific example which is my own. Several years ago I needed to have an additional process so that I could go out and expand my market by being able to service several larger stores, and it was a simple matter of installing a larger spray booth. But I ran up against an ocean of regulation, an Occupational Safety and Health Administration regulation, which required that I have a certain temperature in the spray booth. In order to get that temperature I had to satisfy an Environmental Protection Agency requirement that the air going out would be mixed in so many parts of particulate matter, and so forth, and it also had to be heated air, which brought in the requirement for natural gas. At the time we had twenty-one employees. I was hoping to add four jobs. We now have fifteen people. I didn't expand the market because I couldn't get through the regulation in time to be able to satisfy the demand that was there. That is probably one of the most typical examples that I can give.

MACNEIL. Do you have any real hope that as a result of yesterday's meeting that the government is really going to make life easier for you, or is it endemic in the way our government is organized that it cannot do that?

ELLSWORTH. It may be endemic that the government cannot do it, but the real hope is there. If the hope is finally gone that a person can't have a dream and pursue it, then indeed the whole American enterprise system is just not going to survive.

MACNEIL. We'll come back, Jim?

LEHRER. Robin, I think the next guest is with you in New York—Mr. Travis.

MACNEIL. You're absolutely right.

LEHRER. You can't win them all.

MACNEIL. (Laughing.) Yeah. Thank you. I hope you were listening, though. He's a man who would seem to be the epitome of the American dream. Roger Travis started with $1,000 in capital and two employees ten years ago to manufacture disposable medical products. His company, Medi, Inc., of Holbrook, Massachusetts, now employs 450 people and is successful. He's also president of the Smaller Business Association of New England. Let's talk about the SBA, the Small Business Administration, which is supposed to be looking after people in small business. You told us that you didn't use the Small Business Administration when you were setting up your business. Why not?

ROGER TRAVIS. Primarly, when I originally started my business I didn't really know very much about the SBA, and then when I did try to learn something about them, one of the basic requirements is the fact that you have to be turned down by your bank before the SBA will grant you a loan. Fortunately I convinced my bank that they shouldn't turn me down, so I overcame that obstacle.

MACNEIL. From the point of view of smaller businessmen in New England, as you call them, is the SBA doing its job?

TRAVIS. I think you have to keep in mind that the SBA at current time has something like 4,000 employees. They are representing ten million American small businesses. That's not very many people. I think that working under the constraints of the Congressional delegation puts new responsibilities on the SBA continually while the Office of Management and Budget continually cuts them back. So it's a difficult thing; I think they're doing their job, considering the limited resources they have . . .

MACNEIL. They're understaffed and underfinanced, you think.

TRAVIS. You can compare the Department of Agriculture; it has 100,000 employees.

MACNEIL. What should the Small Business Administration be doing that it's not to help you people?

TRAVIS. I think there are several things. First of all, it can come from the top. Currently in the federal government there are nine different agencies dealing with small business. What I would like to see is all these agencies combined and have an office—whatever you want to call it—office of small business and have it at cabinet-level status. That would be a start. The other thing would be to do something . . .

MACNEIL. Why should there be that when there isnt an office of big business in the cabinet?

TRAVIS. They're there; they're in Washington all the time. (Laughing.) We just can't afford people there all the time. I think it's such a significant part of the economy; if this country is to grow and prosper you'd have new companies and new ideas—the small business person is the one that's going to do it, and we need representation at the White House level, at the cabinet level.

MACNEIL. When a business gets as large as yours does—450 employees now—does it have the same problems that Mr. Ellsworth's business does with only fifteen employees, or can you better cope with all this tangle of regulation?

TRAVIS. No, I don't think we can cope any easier than Mr. Ellsworth. We've got the same problems that everybody else has. 450 people are not very many people. You look at the large corporations; General Motors probably has more lawyers than we have employees. We don't have in-house lawyers and we don't have in-house accountants.

MACNEIL. How many people of your 450 are occupied most of their time dealing with government?

TRAVIS. Currently—we just happen to be in the medical business—in the past year I've had to add five people that do nothing but work on the area of what they call "medical device legislation" which was passed last May. This required our company to expend $400,000 in upgrading and renovating our plant, plus five, six new people just to implement the regulations. This comes under the Food and Drug Administration. Those people, as far as I'm concerned, are nonproductive. I wish the government would pay for them; we're paying for them, though.

MACNEILL. Thank you. Jim?

LEHRER. Yes, Robin. The Senate's legislative business concerning small business, including oversight of that Small Business Administration, now comes under the Senate Select Committee on Small Business, and that, interestingly enough, is a new development. The man most responsible for this change is Senator William Hathaway, Democrat of Maine, a member of the Select Committee. Senator, first of all, why is that change that you engineered so important?

Sen. WILLIAM HATHAWAY. For the first time since the Small Business Committee was started some twenty-five years ago, the Small Business Committee now has some legislative jurisdiction. Prior to this time the jurisdiction over the Small Business Administration was the Subcommittee of Banking; the Small Business Committee itself simply made recommendations to the other committees of the Senate—with some success, but not as much success as when you have the jurisdiction yourself to legislate. Now, to be sure, our jurisdiction is limited to just the Small Business Administration, but already this year we've had a bill passed, signed by the President, to increase the authorization for the Small Business Administration. We're working on a product liability bill that would make the Small Business Administration a reinsurer with respect to product liability. And the Committee, I expect, will be very active. Of course, we'd like to have had more jurisdiction than that, but if you took jurisdiction over everything in which small business is involved then you'd have too much jurisdiction—you'd have jurisdiction over every committee in the Senate.

LEHRER. Senator, you just took my next question right out of me. That's really the problem, isn't it? The Small Business Administration has, as you say, limited kinds of things that it can do, and yet the regulations that these gentlemen are complaining about can come under the jurisdiction of a health committee, a safety committee, a labor committee, or whatever, and there's nothing at all that you-all can do about it, right?

HATHAWAY. No, nothing that we can do within the Committee. But the members on the Small Business Committee do serve in some of these other committees. You mentioned some of the regulations; well, I serve on the Human Services Committee. As a matter of fact, we're holding hearings on the Occupational Safety and Health Act right now in that Committee, so I have a chance to get a small business input into that.

LEHRER. Based on your perspective—you've served on this Select Committee since 1972, if I'm not mistaken, so you've been watching this whole area for some time—what would you pinpoint as the Small Business Administration's most glaring problem at this point, or its deficiency in terms of serving small business?

HATHAWAY. I think it was pointed out already, I think by Mr. Ellsworth or perhaps by Mr. Travis, maybe both, that the Small Business Administration is grossly understaffed; you know, it's 40,000 people trying to handle a tremendous workload.

LEHRER. What would they do if they had enough staff?

HATHAWAY. For example, in the area of government procurement there aren't enough personnel there to get to the small business people to let them know how they should bid on government contracts. Now, the law provides that the small business sector of the country should get its fair share of government contracts. The Defense Department does pretty well—I think they get thirty-seven percent in the Defense Department, but the overall volume I think is down close to, from all government agencies, around twenty-five percent. And a lot of the reason for this percentage being so low is because a lot of small business people throughout this country just have no way of getting that information, and we don't have the personnel in the Small Business Administration to help these people out. Now, we hold seminars and do things like that, and we have some traveling agents—I think there are one or two in the New England area that go up into Maine and Vermont and New Hampshire for a short period of time and try to help the people out, but that's nothing like

having someone in every small business office who's an expert on government contracting.

LEHRER. Senator, in the real political world of the U.S. Congress and trying to accomplish, in terms of legislation, what these gentlemen want and what small business wants, and obviously what you support, too, aren't you going to be confronted with a real problem? After all, the regulation that Mr. Ellsworth was just talking about in his spray unit—those regulations were originally set up to protect the workers, to protect the air for the general public—there's a reason for these regulations. How do you resolve those very, very conflicting interests?

HATHAWAY. It's very difficult to. We have cut down a little bit of the burden of regulations—the ERISA forms, for example, which is the new pension law. They used to have to fill out, I think, sixteen pages, and that's cut down to six. Another report, 941, on which you have to list your employees that you pay Social Security or withholding taxes for, we've changed that requirement so you just list the employees on an annual basis instead of quarterly. And that saves the small businessman a lot. As a result of a suggestion made to me by a constituent of mine, Dick Kendall in Auburn, Maine, we're doing something that Mr. Stewart mentioned earlier in the program: we're trying to get OMB to go through all of the forms that the small businessman has to fill out and make sure that they only have to answer the same question once. Oftentimes they have to answer the same question over and over and over again through many different forms, and that one answer could be computerized through and satisfy all the rest of the forms they have to fill out.

LEHRER. Let me ask you, Mr. Ellsworth; here you have Senator Hathaway, a member of the committee that has jurisdiction over you and your concerns. If you had one thing you'd like for him to do—you've got an opportunity here—what would it be, Sir?

ELLSWORTH. I think I would like to ask Senator Hathaway to: (a) continue to be a champion of small business in the Senate Small Business Committee; (b) I would like to ask him for further help in regard to those types of forms which are extremely difficult to fill out. For example, the 1040, which this year contains on the first page what I would consider to be an apology from the Director of the Internal Revenue Service for the very difficult nature of it.

LEHRER. Of course, that's something that applies to everyone.

ELLSWORTH. It certainly does.

HATHAWAY. That's something to be done through the Finance Committee.

LEHRER. All right. Robin?

MACNEIL. Yes. Let me ask what is probably in this company a heretical question. Is it possible that we are moving irresistably in this era into a time when big business will increasingly take over simply on the grounds of its efficiency—its cost efficiency and everything else—to the country and that it is just a sentimental attachment to perhaps outdated ideas to keep on wanting to support small business? Why do we need small business, and isn't it more efficient just to go to big business?

TRAVIS. I totally disagree with that. If you look at where the small, innovative ideas come from in this country—Polaroid Camera, Xerox, digital equipment with their minicomputers—the new, innovative ideas that make this country grow come from small companies, they do not come from big businesses. Big businesses are basically good at taking something that's already been built into an idea; and when you get to the stage where you have to mass produce it and mass service it and mass merchandise it, big companies are good at that.

MACNEIL. Is big business the enemy of small business, Mr. Stewart?

STEWART. Yes and no. No in an ideological sense; yes, unfortunately, if you use the word "enemy," properly speaking, as a competitor for what the society has to offer. I'm delighted that Roger mentioned the innovative role of small business technologically, because this was one thing the President specifically mentioned yesterday. He told us he had just had a report from the director of his Office of Science and Technology, Dr. Press, telling him about how much greater leverage, value and exchange for investment the government got from putting dollars into small business research and development as against big business. Now, to answer your question, small business gets three and a half percent of $25 federal billion a year that go for R&D in this country. The federal government has put over a trillion dollars into fewer than 200 companies since World War II.

MACNEIL. Can I interrupt you for a moment?

STEWART. Please.

MACNEIL. If it's so glaringly obvious that the return is better of R&D from small business, why hasn't the government discovered that before?

STEWARD. I think this has not been what you might call a secret to many people, in government and out; but that government trombone is endless. You blow in very hard for very long before you get any noise coming out the other end. And let me put it this way: that's one of the things we were delighted with about yesterday's meeting. We think our new President is going to cut the length of that trombone, that when we blow in at one end it's going to get to the right ears a lot faster than it ever has before.

MACNEIL. If small business represents such a large and important—and as you've just indicated, important in a different way—part of the economy, why has it been so hard up to now to get anyone to pay effective attention to this in government?

STEWART. Well, you've got three of us here. John, Roger and I are not atypical people at all. There are some ten million of us in the country; we're cranky, stiff-necked, opinionated. You get four of us in a room, you'll get eight opinions. That starts the problem. We're tough to organize, we're tough to hold together. Big business and big labor and the big bureaucracy—the government—can do things more easily, more quickly, but at last, as the young people say, we've got our thing together. And I think you're going to find—we've always been somewhat feisty—I think you're going to find we are going to be more effective in the future. There is no inevitability to the growth of business in this country. It reflects public policy.

MACNEIL. Do you believe that, now that the wand of Presidential publicity has touched you?

TRAVIS. Very much, and I couldn't agree with Milt more, because Mr. Stewart and I have had great difference of opinion just between the two of us. I would not hasten to say, either, that all we need is a place to stand up and shout, and we'll shout long and hard because we are independent people. We're not loners, we're just independent people and we have a tendency to make things go. Kentucky Fried Chicken, for example, is one of the things we made go, and power steering and a whole host of inventions of military significance.

LEHRER. I just wanted to ask the Senator Robin's question in terms of why the small business message has not gotten over in Washington up till now.

HATHAWAY. Probably because it's been somewhat diffused over the years, probably because small businessmen feel, like a lot of other individuals, "Oh, well, I'm just small; there's nothing I can do." But I think that over the years, Jim—just the last few years—that its impact is increasing considerably. Witness the House version of the tax stimulus bill, where the employee tax credit really is designed just for small business—the forty percent with a $40,000 cap, and I think that was a step in the right direction.

MACNEIL. Senator, could I ask you one quick question, because we just have a few seconds?

HATHAWAY. Sure.

MACNEIL. Do you believe Mr. Carter will be able to shift the emphasis towards more small business—a growth in small business proportionally in the economy?

HATHAWAY. Yes, I do, Robin.

MACNEIL. Thank you very much indeed. Thank you both in Washington, Mr. Stewart and Senator. Thanks, Jim, and good night. Thank you both here. Jim Lehrer and I will be back tomorrow night. As you may have heard, the SALT talks collapsed in Moscow today. Tomorrow night we'll look into the reasons for that and its possible significance. I'm Robert MacNeil. Good night.

PORTUGAL

Mr. BROOKE. Mr. President, both Houses of the Congress have passed legislation authorizing the appropriation of a $300 million balance of payments loan for Portugal. This loan will be an important U.S. investment in democracy in Portugal. It will give further substance to our commitment to democratic government.

Those of us who have watched developments in Portugal during the past several years have been deeply impressed with the commitment of the Portuguese people to freedom. In April 1974, they rejected the decades old authoritarianism of the Salazar-Caetano dictatorship. Having done so they then rejected an attempt by the Communists and others to impose a dictatorship of the left in November 1975. Since that time they have democratically elected a president and a parliament and have a functioning, albeit minority government. The Portuguese military is supportive of the democratic experiment and has returned to its rightful role as a professional military, now concerned with closer integration in NATO.

In achieving their revolution into democracy the Portuguese people have suffered many economic dislocations. These dislocations, if allowed to fester and deepen, would pose a major threat to Portuguese democracy. It is for that reason that the United States and other donors are being asked to provide medium term economic assistance to Portugal. The government of Portugal is taking steps to put its economic house in order but it needs the financial support of its sister democracies to do so. This need and the reasons why the United States and others should be willing to help meet it have been outlined in a detailed submission to the Congress by the Executive entitled, "Balance of Payments Loan For Portugal." I recommend that interested Senators contact the State Department for a copy of this justification.

Recently, The Economist published a survey of Portugal that I believe is an excellent review of many of the factors that should be taken into consideration as the U.S. seeks to fashion its relation-

ship with Portugal in such a way as to give maximum encouragement to the democratic forces there. The Economist survey is also an excellent companion piece to the Executive's justification document for the $300 million loan. I, therefore, ask unanimous consent that the Portugal Survey in The Economist be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROOKE. Mr. President, credit for the existence of democracy in Portugal rests with the Portuguese people. U.S. efforts to date have been supportive of their desire for a free and open society. A decision on the part of the Congress to agree with the administration's recommendation of the $300 million loan to Portugal is in the best interest of our country, for it is becoming increasingly evident that democracy and freedom can only flourish if states adhering to these ideals are mutually supportive of each other. At this point in time it is Portugal that is in need of our support. And it is in our interest to provide it.

EXHIBIT 1

A REVOLUTION TAMED

The revolution in Portugal has been tamed. Anarchy has been avoided. The extremists on both the left and the right have been curbed. But the victory the moderate democrats have won is precarious. In trying to make sure that political commonsense will prevail, they know that they still have a fight on their hands.

In April, 1974, the soldiers who for nearly 40 years had kept in power one of Europe's most ossified dictatorships, tutored by a reclusive pre-Keynesian professor of economics, contemptuously kicked it aside. In September, 1974, a far-left minority emerged as the most powerful force among the country's soldier rulers. For a bizarre year, Portugal was treated to an immature and sometimes incoherent debate between rival officers about what form of "popular power" should be imposed on a bewildered and reluctant people. A revolutionary Pandora's box of indiscriminate nationalisation, workers' takeovers and land seizures reduced the economy to near ruin. But in April, 1975, the Portuguese people took advantage of their first free elections for 50 years to express massive support for the country's three democratic parties. When Portugal's military rulers tried to override the voters' choice, a popular revolt, designed to stop the threatened abortion of democracy, broke out in the north.

For a time, in a maelstrom of conflicting political, economic and even geographical interests, Portugal teetered on the edge of anarchy. But in November, 1975, a group of efficient, professional officers at last decided to restore order and to try to take the army out of politics. Giving their support to the democratic idea, they put down the last bid of the extreme left to seize power.

Today Portugal is a country with a hangover after a revolutionary spree. The innocent euphoria of April, 1974, and the effervescent enthusiasm of party activists have been replaced by the feeling that life and work must go on. The Portuguese man in the street is less subdued than he was under Salazar, but he now seems to be reconciled to the idea that society cannot be changed overnight.

With the political dust settling, Lisbon still looks remarkably as it did before the revolution. The same battered cars race crazily down the streets; the men wear the same carefully brushed, old-fashioned suits; the women still wear clothes that might have been judged fashionable in France before the war. For the traveller entering Portugal from Spain, it is immediately apparent that the political changes in Spain have arisen from deeper social and economic causes than has been the case in Portugal. Portugal's revolution has been largely political; the economic and social changes are only now just beginning to follow in its wake.

Portugal is a small country, with a population of less than 9m. So it is easy to dismiss the constant rumours of plots and counterplots, which are still the coin of political discussion today, as the fevered imagination of a country that has had an overdose of palace revolutions and to dismiss the bitter infighting of the past two years as the parish pump politics of an isolated and backward society. It is tempting even to belittle Portugal's democratic achievement. With the tattered remnants of yesterday's garish political posters peeling slowly off the walls, the people seem to be weary of revolutionary and even democratic verbiage. Many of the people living in run-down, high-priced, sometimes food-rationed Lisbon complain resignedly that Salazar had never allowed his capital to become like this.

But this is an over-pessimistic view, for the great majority of the people cherish their new-found freedom and wish to preserve it. They knew that the years after Portugal lost its dictatorship and its colonial empire would not be easy ones. Their country had been brought close to ruin when it became the political plaything of a handful of inexperienced army captains inspired by the crude revolutionary teachings of the liberation movements that they had once been sent to suppress in the jungles of Portuguese Africa. At the same time, the world economic recession helped to dry up the remittances from Portuguese workers abroad, cut Portugal's tourist earnings, reduced its exports and jacked up its energy bills. The surprising thing is that Portugal came out on the other side with a democracy at all. Most Portuguese are now prepared to give their first democratic government in 51 years a chance to get on top of problems that were not, for the most part, of its own making. This has been underlined by the extraordinary consistency of Portuguese voters in the support they give the various political parties (as the chart above shows).

In Portugal, the people took on their rulers and won. Suddenly freed from one dictatorship, the Portuguese refused to stoop down and let another one climb on to their backs. In doing so, they taught others in the western world a lesson. A clique of far-left soldiers were prevented from gaining undemocratic control of a Nato country with an important strategic base in the Azores. Portugal's openly anti-democratic Communist party was a warning to western statesmen to take a close look at the democratic claims of other Communist parties, such as those in Italy, Spain and France. At the same time, the close links forged between Portugal's democratic parties and their counterparts elsewhere in western Europe, as well as Portugal's starry-eyed enthusiasm for EEC membership, show that the European community is a rallying point for democracy. The Americans too have learned something. In Chile, they rushed flat-footedly into helping right-wing soldiers to engineer a coup that would almost certainly have taken place without their interference, and they got pilloried round the world for doing so. In Portugal, they held themselves discretely aloof and so helped the democratic forces to expose the blatant Marxist attempt, backed by Russian money, to seize power.

Portugal's recent history has also acted as a warning light for Spain, although most Spaniards would deny they had anything to learn from the backward little neighbour they like to patronise. Portugal provides an awful example to Franco's successors of what happens if you try to turn a dictatorship into a democracy too slowly. When Salazar was incapacitated by a stroke in 1968, his successor was the well-intentioned Mr. Marcello Caetano, whose gradual approach to liberal reform over five years succeeded only in antagonising the extreme right, in frustrating the democratic opposition and in giving the revolutionary left a rare opportunity to gain power. Portugal's example showed the Spaniards too that the people's democratic vote can be the strongest bulwark against any revolutionary bid for power.

Portugal's importance as an emergent democracy in a world where democracy, especially in Latin countries, is under threat, is by no means over. Democracy in Portugal is still not unassailable. How the democrats finally came to power in Portugal will be briefly described in the next article. The rest of the survey will deal with their chances of staying in control.

WHIRLWIND

A handful of captains sent Portugal's prime minister and president, Mr. Marcello Caetano and Admiral Amerigo Tomas, scurrying to Brazil in April, 1974. The captains were finally moved to revolt by the colonial wars in which they had been serving. Stirrings within the army against Portuguese rule in Angola and Mozambique had been growing in the mid-1960s as the cost to Portugal of fighting the wars began to outweigh the economic advantages of retaining the colonies. Many of the professional officers were influenced by the left-wing literature of the Marxist liberation movements they encountered. And there was plenty of discontent among the conscripts, many of whom were in the army for a full four-year spell. To appease the conscripts, Mr. Caetano ill-advisedly devised a scheme to promote them faster than the professional soldiers. This further incensed the middle-ranking officers, who formed a dissident organisation, the Armed Forces Movement (AFM), in 1973.

The skillfully planned coup of April 25, 1974, was based on a surprise takeover of Lisbon. It was made possible by the wholesale indifference of most officers as to whether the Caetano regime lived or died. Hardly a shot was fired in its defense, except by the secret police, terrified, for the most part unreasonably, of what might happen to them. The young AFM officers asked an Angolan war hero and renowned critic of the old regime's colonial policy, General Antonio de Spinola, to take over as president. The general committed the AFM to holding elections within a year, and appointed a respected liberal, Mr. Palma Carlos, as prime minister. Within weeks, leftwingers in the AFM, critical of what they called "bourgeois democracy", were chafing at the president's conservatism. In July they forced General Spinola to replace Mr. Carlos by one of their number, Colonel Vasco Gonçalves, whose subsequent line was undeviatingly pro-Communist. In September, they forced General Spinola himself to resign, replacing him as president with a pliant opportunist, General Costa Gomes.

In the ensuing six months, the AFM radicals went on an anti-democratic jamboree. They announced their intention of staying in power for at least three years more. They allowed the Communists and others on the far left to take over most of the media, local

authorities and trade unions. The soldiers stood aside as public meetings of non-socialist parties were broken up by left-wing mobs. The drive to the left went out of all control after March, 1975, when a right-wing countercoup, supposedly led by General Spinola, was suppressed. Banks, insurance companies and major industries were nationalised; workers took over many factories; peasants and workers seized land in the southern and central provinces of Portugal; and military discipline largely collapsed. The army radicals themselves split into quarreling factions, differing on obscure points of left-wing semantics. One group, led by a maverick left-wing romantic, Portugal's security chief, General Otelo Saraiva de Carvalho, championed the idea of Cuban-style "people's power" to replace the political parties. Another group, led by the prime minister, General Gonçalves, supported a more orthodox system of Soviet-style " committees for the defence of the revolution".

The soldiers reckoned without the people. The radicals made the fatal mistake of sticking to the old AFM promise of free elections within the year, dismissing them as an "opinion poll" that could not possibly affect their hold on power. But the results were damning. Over 70% of the voters supported the three democratic parties taking part, and no more than 17% supported the soldiers' only friends, the Communist party and its allies.

When the soldiers tried to stamp out what remained of Portugal's shortlived press freedom, the democratic parties took their hordes of followers on to the streets in orderly shows of strength against the soldiers. And beginning in July, 1975, anti-Communist riots broke out in the north. The riots forced the inanimate bulk of the Portuguese officer corps, which had up to then lamely followed the lead of the radical junior officers, to sit up and take notice. In September a group of socialist officers under Major Melo Antunes, the most intelligent and moderate of the original Marxist AFM officers, threatened to go north and raise the standard against a complete takeover of Lisbon by the extreme left. The president was finally compelled to sack General Gonçalves as prime minister, and to replace him with the more moderate Admiral Pinheiro de Azevedo.

The admiral struggled manfully to restore a semblance of order against the left-wing strikers, right-wing bombers, mutineering soldiers and angry farmers who took to Portugal's streets that heated autumn. But his nominal chief of security, General de Carvalho, was on the other side. The government itself went on strike in November, and anarchy seemed close at hand. But on November 25th, an unknown young officer, Lieutenant-Colonel Ramalho Eanes, moved in with a crack commando force to scotch an uprising by far left paratroops supporting General de Carvalho, and peace, if not prosperity, was restored to Portugal.

So ended Portugal's extraordinary flirtation with the far left. Like shooting stars, Portugal's khaki revolutionaries have plummeted into obscurity. General Goncalves, the former pro-Communist prime minister, lives quietly near Lisbon. Major, formerly General de Carvalho, is free but is awaiting an investigation into his alleged part in the November uprising. General Spinola, after more than a year in exile, returned to Portugal in August. Some of the left-wing soldiers are in exile. Some have been retired or given secondary posts. Of the officers who once tried to run a country only General Eanes retains real power.

Unsmiling Sentry

In the relatively short space of time—no more, in fact, than 18 months—since General Antonio Ramalho Eanes came into prominence, he has emerged as the builder of Portugal's democracy. He did not design it. That was done by the political parties in the constituents assembly. He did not provide the raw materials. That was done by the Portuguese electors. But he alone put it patiently together, stone by stone.

Having emerged as the army's strongman in November, 1975, and having been appointed the following month as chief of staff, he quickly set about bringing the motley remnants of Portugal's politicised armed forces to order. Extreme left-wingers were rigorously purged. He then overruled the more moderate socialist soldiers, led by Major Antunes, who argued that the army still had a part to play in making sure the country's civilian rulers stuck to socialist policies. With equal firmness, he overrode the objections of right-wing officers, who were grumbling at the socialist bias of the new Portuguese constitution, and who disliked the idea of the Socialists, Portugal's biggest party, governing the country. In February, 1976, General Eanes signed a pact with the political parties which relegated the army to a fairly minor constitutional role. The new constitution came into effect in April, 1976, when parliamentary elections were held. These produced much the same results as the constituent assembly elections held the year before. In June, General Eanes, who had been persuaded to run for president with the backing of the three democratic parties, won over 60 percent of the vote. The following month he swore in Portugal's first democratic government since 1926, a minority Socialist one under Mr. Mario Soares.

You do not, of course, sign away the most powerful force in Portuguese politics at the stroke of a pen, and Portuguese democracy still looks frayed around the edges. The defense minister, Lieutenant-Colonel Firmino Miguel, an old associate of ex-president Spinola's, is a serving soldier, not a politician. The constitution gives the army a role unusual in most western democracies. For example, article 273 gives the armed forces "the historic role of guaranteeing conditions which allow the peaceful and pluralist transition of Portuguese society towards democracy and socialism". The governing body of the old Armed Forces Movement, its revolutionary council, still exists, though more as a field where Major Antunes and his socialist soldiers have been put out to grass than as a politcal force.

But General Eanes, the man who could have taken power by force of arms but chose the ballot box instead, is the best guarantee of the army's neutrality. "Portuguese democracy", as the Socialist prime minister, Mr. Mario Soares, once remarked without a trace of flattery, "is lucky to have such a man as Ramalho Eanes." A serious, quiet, shy, intensely hardworking man who rarely smiles in public, the general reminds people of that old model of Portuguese introspection, the dictator Antonio Salazar. Such impressions, however, are wrong, for, unlike Salazar, General Eanes sees his mission as that of making Portugal a modern western European democracy. He is blunt about the limited role he wants the army to play in Portugal. The army exists only, he says, "to defend national interests, and to guarantee the institutions established by the freely expressed will of the people through their votes."

The moderation of his views owes a lot to the course of his own political career. As one of ex-president Spinola's early supporters, he was appointed in 1974 to run Portuguese television. After opposing Communist attempts to monopolise the small screen, he was accused of being implicated in the abortive right-wing coup of March, 1975, and resigned. But he was subsequently cleared in an inquiry and attached to the general staff of the armed forces. He became the link man between the moderate socialist officers, under Major Melo Antunes, who in the summer of 1974, with the Socialist party leader, Mr. Mario Soares, were fighting to stop the extreme left taking the country over completely, and a group of no-nonsense professional soldiers. The most important of these "operational" soldiers were Colonel Jaime Neves, who heads the Amadora commando regiment, and Colonel Soares Carneiro, a soldier with a subtle politcal mind who, as president of the Commando Association, can still call on the loyalty of several thousand ex-comnandos. With the help of the commander of the northern military region, Brigadier Pires Veloso, these were the two men who waited for, and crushed, the left-wing uprising of November, 1975.

So General Eanes has divided loyalties. With no military power base of his own, he has to keep his right-wing commando allies sweet. At the same time he owes his political elevation to Major Antunes's moderate socialist soldiers and to the Socialist party itself. General Eanes was partly paying off old debts when in July, 1976, he accepted the not exactly faultless argument of Mr. Mario Soares that he should lead a Socialist minority government, although his party had gained only 35 percent of the vote. The president has respected old debts, too, by not removing Major Antunes and his friends from the revolutionary council. General Eanes has even refrained from firing General Vasco Lourenco, the left-wing military governor of Lisbon, who is always making provocative remarks about Portuguese politics. The socialist officers have no real power any more, But their repeated warnings that the army must act to stop civilian politicians moving the country too far to the right are a constant source of irritation to right-wing officers.

The views of Colonels Neves and Carneiro are hardening. They are unhappy that Melo Antunes and his friends are still around. They are unhappy too that General Eanes bowed to civilian blandishments and ran for the presidency of the republic. They regarded his candidacy as putting him too much in hock to the political parties, especially the Socialists, who supported him. The colonels would have preferred General Eanes to have stayed above the battle as an impartial military figure, watching from the sidelines and ready to intervene should the civilian politicians make a mess of things.

The colonels are still loyal to General Eanes—perhaps all the more so now that he has the democratic halo of having won three-fifths of the vote in a free election. But they want him to use his powers to push the government in a conservative direction. They would either like him to insist that Mr. Soares form a coalition with one of the parties to his right; or they would like General Eanes to form a government of "technocrats" and soldiers; or they would like him to dissolve parliament and to call another general election, in which he would lead his own Gaulist-style party and would appeal for a mandate for tough action.

Anxious not to be left out in the cold, the socialist officers under Major Melo Antunes have also argued that General Eanes should take a more direct role in government. They say he should appoint a moderate left-winger as prime minister. Possible names for the job are the present defense minister, Lieutenant-Colonel Firmino Miguel, or a member of the council of revolution, Commander Almeida e Costa of the Portuguese navy.

With friends such as these on both his left and his right, it says much for General Eanes's strength of mind that he has stuck to his resolve to keep the soldiers in the barracks. Long before any mutterings in the army, whatever their political tone, come to a head, he hopes that the government will have taken the measures needed to make Portugal's economic recovery possible. The President is watching the Socialists' progress

in this direction. The economic measures announced in February and the government reshuffle in March were, in his view, a step forward. If international bankers are satisfied enough with the government's progress to lend Mr. Soares a third of the $1.5 billion for which he is negotiating, General Eanes may be satisfied too.

Even so, the president has not avoided leaning on his Socialist friends when necessary. General Eanes sees his central role as that of "creating the conditions in which the government can exercise its authority". That definition embraces a promise to send troops to help the government enforce its agrarian reform laws against the Communist-run farm co-operatives of the south, the offer of full presidential support for the government in any tussle with the unions, and a pledge of support for any attempt to get the private sector of the economy moving forward again. General Eanes's speech at the swearing-in of the minister of industry in February, for example, sounded like a recital of battle orders: "The role of private investors and the conditions which allow private saving to take place must be defined so that people understand it is not a social sin to succeed". Acidly, he remarked of the public sector: "The policy of permanent loans, of deferred payments, of artificially maintaining high costs is an abandonment of essential social programmes". The civilian prime minister was being reminded that the army president could keep the colonels at bay only if measures are taken to restore the economy to health. For democracy to survive in Portugal, socialist ideals have to take second place.

To keep the soldiers out of politics as far as he can, President Eanes has actively began trying to promote the role the army can play in the defence of western Europe. In this he is getting help from the Americans and from Nato. In February, the Americans handed out $30m in military assistance, most of it presumably to be spent on Portugal's brand-new Nato brigade now being set up in Santa Margarida, 90 miles north of Lisbon. The brigade will be an air portable one for use in southern Europe. Who will transport this force remains something of a mystery, as Portugal lacks the aircraft. But Nato itself seems less concerned with what the Portuguese force would add to western defence than with Portugal maintaining itself as a democracy. The brigade will be equipped with American-modernised M48 tanks. The Portuguese air force has also been given 14 Fiat G-91 jet-attack and six trainers by the West Germans, as well as a batch of T-38 training aircraft by the Americans. The Portuguese would like some modern fighter-bombers and long range maritime reconnaissance planes, but they may have to wait a while. The navy wants new frigates and corvettes. But then the navy, although the best trained of Portugal's armed services and potentially the most useful to Nato, is in no position to stage a coup and so it comes at the end of the queue for new equipment.

General Eanes, as army chief of staff at the beginning of 1976, began to slash the size of the armed forces from a colonial peak of 210,000 to about 60,000 now. By next year, the plan is to reduce the army from 36,000 to 26,000 men and the navy from 12,800 to 8,000 men. The air force is to retain its present strength of 10,000 men. The unkempt, politicised units of the Portuguese armed forces which in October, 1975, were giving the army chief of staff clenched-fist salutes on inspection, have been disbanded. The AFM general assembly—the soldiers' "parliament"—has been replaced by a more orthodox, hierarchical military command and the only political soldiers still openly around—those on the revolutionary council—were forced in August, 1976, to give up all their military commands. Conscription still exists in name, but the exemptions are many and the tour of duty is short. The authorities now seem to be using the draft chiefly as an instrument of educational policy, by applying it largely in areas where schooling is poor.

General Eanes hopes to dispense with the armed forces' occasional role as emergency policemen, and he plans to increase the number of ordinary police, which is now 13,700 men, and the number of paramilitary Republican National Guardsmen, now 9,700. The defence budget has been cut from 4.6 percent of Portugal's gnp in 1975 to 3.1 percent for 1977, which puts it below the average Nato percentage. In a moment of extravagance, the left-wing military governor of Lisbon, General Lourenco, remarked in February that Portugal would not be dictated to by Nato. If it wanted to, he said, Portugal could pick the *enfant terrible* of 1975, the far-left Major Otelo de Carvalho, to officer the new Nato brigade. Other officers hastily denied that this was being planned. It is much more likely that Portugal's right-wing army toughies will become Portugal's crack Nato troops—not least to keep their minds off domestic politics.

Please Behave Yourselves

Whether power in Portugal once again comes to rest in the hands of one man, the president, turns crucially on the question whether Portugal's three democratic parties behave responsibly enough. Portugal's earlier attempts at democratic rule all foundered on the reef of a multi-party system. During the 16 years of the Portuguese Republic, in 1910–26, the country averaged one revolution and three governments a year. In that time, no less than 500 people held cabinet office.

At first glance the party system for which Portuguese voted in 1975 and 1976 hardly looks a bedrock of stability. The Socialists emerged as the largest party, with 35% of the vote. They had been seen by many in Portugal as the last bulwark of democracy against the threat that the Communists and left-wing extremists in the army would install a dictatorship. So the Socialist party leader, Mr. Mario Soares, shunned a coalition with the Communist party, although this would have commanded a majority of the seats in parliament. The right-wing vote was divided betwen two parties, the Popular Democrats, who have now changed their name to Social Democrats, and the Centre Democrats. Although between them they won 42% of the vote, a coalition of the two would not produce a majority in parliament, and could be defeated if the Communists and Socialists voted together.

So the Socialists had to be in government, either alone, or in coalition with one or both of the right-wing parties. Bull-headedly, Mr. Soares made a pledge in the 1976 election campaign not to form a coalition with anyone. His own party loved him for saying it, not least because it gave the Socialists control over government patronage. That policy also helped to paper over dangerous cracks within the party, in which the left-wing members, led by a well-intentioned Socialist idealist, Mr. Lopes Cardoso, insisted that the party must be even-handed in its contempt for the dictatorial left and the reactionary right.

President Eanes swore in the Socialists, as the country's first democratic government in half a century, in July, 1976. It looked frail, but it would have needed at least the passive collusion of the opposite ends of the Portuguese political spectrum—Communists at one extreme, Social Democrats and Centre Democrats at the other—to bring it down. This, in the early days of the government, did not happen. The Communists were happy enough to wreck anything. But the right-wing parties were unwilling to behave with partisan irresponsibility. They were frightened on bringing the leaden hand of the Portuguese army back into politics again.

But responsibility in opposition can soon wear off, especially when a none-too-competent government is in power. Mr. Soares's party has always been a many-headed animal. The prime minister is arguably Portugal's most skillful politician. He is a deft conciliator, who can inspire his party with words bland enough not to provide. But by nature he will not fight until he is forced into a corner. Moreover, the Socialists did not want to take measures that might lose them votes in last December's local elections. So for six months Portugal drifted. The government's economic measures were ineffectual and unimaginative. The administrative machinery was so sadly deficient that many of the laws passed by the legislative assembly were never put into effect. Only feeble attempts were made to try to correct the worst excesses of Portugal's land reform, against the fierce opposition of the leftwing minister of agriculture, Mr. Cardoso. Only after an attempt by the Socialist left to challenge Mr. Soares's hold over the party was Mr. Cardoso at last dismissed in November. By that time, the opposition parties were chafing at the bit.

An open challenge then came from the Social Democrats, whose leader, Mr. Francisco Sa Carneiro, decided to bulldoze his way into a coalition. The government, he argued, represented only a third of the electorate, was making a mess of things and needed a partner with a sense of purpose. Mr. Sa Carneiro's political calculation was obvious. Should there be any clash between the coalition partners, he was banking on President Eanes to take his side against the Socialists, which would make his party the dominant partner in government.

Mr. Sa Carneiro's party, a mixture of liberal academics and writers, has always been one to seize opportunities as they arise. In 1975, the party paid lip service to left-wing sentiments and this enabled it to operate relatively freely in the April election. It then won a large part of the non-Socialist vote in the north, which it has held ever since. Its decision to launch an all-out attack on Mr. Soares's government coincided, not altogether accidentially, with the renewed grumblings against the Socialists by army officers, particularly, of course, by Colonels Neves and Carneiro.

But the rug was quickly pulled out from under Mr. Sa Carneiro's feet. Mr. Soares had made clear that he would rather resign than go into government with the Social Democrats. The two party leaders have an almost pathological dislike for each other. General Eanes was anxious to reduce the pressure being exerted by his army colleagues, but he disapproved of the frontal attack made by Mr. Sa Carneiro. Instead, the Socialists, reaching over Mr. Sa Carneiro's head, looked for support from the other right-wing party, the Centre Democrats. This is the party most closely associated with Europe's Christian Democratic parties and Britain's Conservative party. Under Portugal's left-wing army rulers the party had a rough birth because it did not profess socialist ideals; in the 1975 election campaign, its meetings were disrupted and it won just 7% of the vote. But after the dust of the revolution had settled, the Centre Democrats were able to campaign freely the following year, and more than doubled their vote. The party's leaders, Mr. Diogo Freitas do Amaral and Mr. Adelino Amaro da Costa, won themselves a reputation for being both consistently conservative and consistently democratic.

They lived up to that reputation in January this year, when they refused to join the Social Democrats' all-out attack on the government. "Democracy in Portugal is too frail to risk the fall of a government only six months after it has come to office", explained Mr. Freitas do Amaral. His policy of "civilised opposition"—abstaining when the government's majority in parliament is at risk—has made Mr. Sa Carneiro's attack a flop. It

has also brought a vigorous reaction from some Centre Democratic right-wingers who argue that their present leaders should be replaced by the more conservative figure of General Galvao de Melo, a former air force chief turned deputy, who is likely to run in the next presidential election. Three rival right-wing splinter parties have sprung up since the election—the Christian Democrats, Popular Alliance and the Movement for National Reconstruction—but none of them look like taking many votes from the Centre Democrats. But the Movement for National Reconstruction, which is led by a colonial hawk, General Kaulza de Arriaga, might one day serve as a civilian nucleus for a right-wing coup.

But Mr. Freitas do Amaral has been given a helping hand by President Eanes. He is shortly to be appointed president of a commission to reform the administration. The inefficiency of the Portuguese bureaucracy has always been one of the biggest stumbling blocks in the way of effective government in Portugal. Under the old regime there was no proper career structure: if you went in at the top, you stayed at the top; if you went in lower down, you stayed lower down. Salaries at the top were well below those being offered in industry, and, as a natural result, government service did not attract the right men. Administrative law was an uncodified maze. There was no proper training college, such as the British civil service college or the French Ecole Nationale d'Administration. Speed and efficiency within the bureaucracy were notable only by their absence. A large suburban development on the outskirts of Lisbon, for example, took five years to have telephones installed. The public services lagged well behind private enterprise in the boom in the 1960s. The building of roads, for example, fell way behind the expansion of the tourist trade in the Algarve region in southern Portugal.

All these failings were horribly compounded after April 1974. Although remarkably few of the old regime's civil servants lost their jobs, a whole new layer of politically active administrators was grafted on to the system. The number of staff employed by the ministry of social communication, to take one example, nearly doubled from 700 to 1,300 between 1974 and 1975. Politics began to govern what should have been purely administrative decisions. Worse still, with hostile governments succeeding each other, new ministers would add coteries of trusted confidants to the top administrative layers. And when Mr. Soares's government took office in July, the ministers, distrusting the bureaucracy, added yet another layer of junior ministers and personal advisers. "The result", as one senior civil servant put it, "is that politicians make administrative decisions and civil servants make political decisions".

If Mr. Freitas do Amaral manages to cut through this Gordian knot, he will have brought Portugal considerably closer to his own ideal of making it a modern European state. He wants to reduce the number of civil servants drastically, introduce a proper training, pay and career structure, reorganise administrative law and streamline bureaucratic procedures. He has agreed to serve only on the condition that his committee's recommendations are put into immediate effect. Here he will certainly have the president's backing.

But his role is likely to be wider still. He will have direct access to General Eanes, and as a constitutional expert is already being asked for his advice by a president who is anxious to know just how wide his powers are. The rightwing officers in the army have to some extent been appeased by his appearance as a counterbalance to Mr. Soares. Mr. Freitas do Amaral is widely respected for his statesmanlike mien and as a young, charismatic figure, he is seen as the colonels' first choice for prime minister. But he insists he would rather go into exile than come to power undemocratically. He calculates that his new role will strengthen his party's performance at the next election.

His impending appointment to his new post has had a calming effect. Mr. Sa Carneiro, at first incensed, has toned down his earlier demand to be brought into an immediate coalition with the Socialists. Instead, he now hopes that the president will appoint a government of technocrats drawn from all parties. And he still thinks that Portugal's economic ordeal will force the president to turn to his party for help this autumn. But for the first time he has also begun to take seriously private Centre Democratic overtures for a united front between the two conservative parties at the next election. Such an alliance would certainly produce Portugal's biggest party, and it might even be capable of winning a majority of the votes.

For the time being, however, Portugal will have a coalition government in all but name. Mr. Freitas do Amaral will be a kind of executive prime minister while Mr. Soares will be a kind of legislative one. The Centre Democrats will make sure the government survives in parliament. And neither party has incurred the obloquy, among its own members, of entering into a formal agreement with the other. How easy it will be for Mr. Soares to accept some of the tough measures likely to be recommended by Mr. Freitas do Amaral is a moot point. But General Eanes has the constitutional power, the popular legitimacy and, if need be, the support of the army to override Mr. Soares. The prime minister's only weapon is a threat to resign, which in the past he has been reluctant to use lightly. If Mr. Soares resigned there would be little alternative to the presidential system now being touted by Colonel Jaime Neves and his friends. It would not be the end of Portuguese democracy—for did not de Gaulle save democracy for France? But democracy would then depend even more completely than it does now on one man.

Stalin Still Lives

The first constitutional government since the revolution was sworn in last July. But effective government has taken longer to emerge. Mr. Soares has only recently begun to enforce the government's authority in two major areas: industrial relations and land reform. In both areas, the principal obstacle was hammer-and-sickle shaped. When the old regime fell in 1974, it left behind it one of the most predictable legacies of a right-wing dictatorship—a Communist party which had thrived in clandestinity and was eager to take over every rein of Portuguese power it could lay its hands on.

The old cardboard facade of Salazar's corporate state, the Intersindical labour organisation, was taken over by the Communists before Portugal's other parties could say "secret ballot". So were the local authorities and much of the media. In 1975, the Communists were the driving force behind workers' takeovers and the nationalisation of the banks, of insurance companies and of most of Portugal's biggest firms. South of the Tagus, in the Alentejo region, the party organised large gangs of farm labourers and unemployed urban workers to move into and to seize the large estates of absentee *latifundistas*. The Communists also tried to spread the land seizures to the northern and central provinces.

After the anti-Communist backlash in the summer of 1975, the Communists were gradually deprived of their hold on local government, on the media, on banking and on industry. But they clung on to the unions and the Alentejo farms. The Alentejo was easy to defend because of its geographical unity, and because the land takeovers had genuinely benefited many of the landless peasants of the area. The Communist grip on the unions was tightened when the Socialists landed themselves in the driving seat of government and had to take measures which were unpopular with industrial workers. Increases in indirect taxes in the autumn of 1976 cut the workers' real wages, and legislation was passed in October limiting absenteeism and giving employers the right to fire workers for "an unjustified refusal to carry out orders, repeated absences with grave results for a firm, or causing financial or physical harm to a company or those who work in it". And then in March an attempt was made to control Portugal's soaring cost of labour by restricting wage increases to 15% for 1977, officially estimated at half the likely increase in prices. The Communists have not been slow in trying to exploit the workers' new grievances.

At the same time, the Socialist party has launched a frontal attack on the Communist union monopoly. A law was passed in October permitting other union groups to form as rivals to Intersindical. The Socialists, however, were themselves divided about what form the attack should take. One faction, which included two parliamentary deputies, argued that the party should work to change Intersindical from within. But in November they were kicked out of their seats on the Socialist party's labour committee, and in January they were expelled from the party as "Trotskyists". Another group, led by another deputy, Mr. Kalidas Barreto, believed in a dialogue between Socialist and Communist trade unions. Mr. Barreto joined the executive of Intersindical although he stayed a member of the Socialist party. The majority of Socialist trade unionists, however, joined a group called Carta Aberta—"open letter"—named after a manifesto defying Intersindical they had published in the press in the summer of 1975. About 80 of Portugal's 340 trades unions are affiliated to Carta Aberta, a handful to the two right-wing political parties and the rest to Intersindical.

The war between Carta Aberta and Intersindical really got rough when the government passed a law in January cutting off the union dues employers have to pay to Intersindical, a legacy from the days of Salazar. In retaliation, union officials disrupted production by collecting union dues from their members during working hours, and employers were often only too glad to pay the old dues voluntarily. The Communist counter-offensive began in the first four days of February, when Intersindical staged a grandly named "Congress of All the Trade Unions". The Socialists were generously offered four or five seats on Intersindical's 32-man executive. The Socialists refused, claiming that the general elections had shown their working class support to be much greater than that of the Communists. The congress went ahead without the Socialists, and Intersindical was given the more resonantly European name of "Portuguese General Confederation of Workers-Intersindical". After the congress, the Communist leader, Mr. Alvaro Cunhal, cockily asked to see President Eanes. The president was then told by Mr. Cunhal he had two choices: to bow to the wishes of the workers or to shoot them. "I can quite see that there are two alternatives," General Eanes is said to have replied coolly.

The choice is not as stark as Mr. Cunhal would have it. His party remains the most rigidly Stalinist one in western Europe. He denied heatedly, on his return from a meeting with Italy's Communist leader, Mr. Enrico Berlinguer, in February that his party was becoming committed to the democratic methods of "Eurocommunism," like the Italian one. "We believe in the principle that

every party must base its activities on the realities of its own country. Portugal is different from other western European countries because in Italy, France, West Germany and Britain there exist capitalist state monopolies. In Portugal, after the April 25th revolution, capitalist state monopolies were liquidated, all monopolies were liquidated." Both the analysis and logic are baffling. But as another party leader remarked of Mr. Cunhal: "He has been in prison too long (eight years under the old regime) to change his spots now."

But the fervour with which Mr. Cunhal upholds the idea of the dictatorship of the proletariat does not mean he is entirely lacking in tactical sense. Even for a Communist party which thrived on clandestinity, there is not much attraction in having the lid slammed down again by a right-wing coup. That is what Mr. Cunhal fears might happen if he puts too much pressure on the present government. Instead, he can calculate that his party could gain considerable support in the next three years among industrial workers hit by the austerity measures of Mr. Soares' government. After only five months of Socialist government, the Communists' support in December's local elections rose from 14% at the general election to 18%. Support for the Socialists fell by two percentage points.

But Mr. Cunhal has also to consider the hard-line argument for having no truck with democracy in Portugal. The Communists made themselves extremely unpopular by their overt grab for power in 1975, but thanks to their friends in the army they achieved their primary objectives of getting Mozambique and Angola relinquished by Portugal when Marxists in those countries were poised to take power. The Communists would now like to scupper Portugal's chances of entering the EEC. They also want to upset Spain's peaceful transition to democracy. An army coup in Portugal would serve both those ends very well. Even so, Mr. Cunhal is probably prepared to wait a little longer before sacrificing the pleasures of a Lisbon summer for the cold grey winter of exile in Moscow.

If he does decide to play the democratic game to his advantage for a while, he will have to be very careful not to let himself be identified too closely with the government, or he will risk losing disgruntled working class support to the country's profusion of far-left parties. The main far-left alliance, Popular Unity, got a dismal 2% in December's local elections. But its potential attractions were vividly displayed when its presidential candidate in June, Major Otelo de Carvalho, came second, with 16% of the vote. Most of his support was personal. The major was the army's strongman of the previous two years, an attractive personality with a flair for his own special brand of far-left populism. Major de Carvalho, now awaiting one of Portugal's rarely held conspiracy trials, will still be around in three years' time for the next presidential election.

That prospect is enough at least to worry Mr. Cunhal and it helps to explain the apparent contradictions of present Communist tactics. There have been, for example, sabre-rattling strikes in the fishing, textile and electrical industries. But significantly in key industries, such as ship-building and ship-repairing where the Communists have almost total control over the workforce, union leaders have co-operated with management, and refrained from striking or demanding excessive wage increases.

Mr. Cunhal has to give the appearance of leading an indignant revolt against the "anti-worker" policies of the present government, but at the same time he is trying not to provoke the army to take steps against his party. Many people wonder whether Mr. Cunhal, with his hard-line reputation, is the right man to perform this delicate balancing act. But nobody else in the party looks more able to do so. Mr. Cunhal is better known than the party's parliamentary leader, Mr. Octavio Pato, who won just 7% of the vote when he stood for president last June. Or, indeed, than Mr. Aboim Ingles, usually thought to be Mr. Brezhnev's favourite candidate for the succession.

Southern Soil Is Red

Mr. Cunhal may also have trouble in keeping his farmworking supporters in the Alentejo happy. Agriculturally, Portugal is two nations: the farms of southern Portugal are the loyal fiefs of the Communist party, but the farmers in the north are its bitterest opponents. The north is the old heart of Portugal, where the writ of the church traditionally ran and still runs deepest. The landholdings there are a patchwork of minifundias, tiny plots parcelled out between the children of each generation. In the south, where the land was slowly conquered from the Moors in the thirteenth century, territory was handed out to the Portuguese nobility in large estates, latifundias.

Portugal's northern farmers are hard-working, independent and contented. Very few landholdings are more than 20 acres in size, and few farmers there envy their neighbours. Portugal's southern peasants were mostly agricultural labourers on huge estates, often run by absentee landlords living in Lisbon. In the north 90% of the agricultural land is farmed by people with 50 acres or less, and about half of the farms are less than 10 acres each. In the central region of the country, the figures are 60% and 26% respectively. In the south, 64% of the land belongs to farms which are more than 250 acres in size. Just one hundredth of Portugal's farms occupy more than half the country's agricultural land while nearly three-fifths of Portugal's farms occupy a tenth of the argricultural land.

Thus the disparities between northern and southern landholdings are total. About the only thing they have in common is their inefficiency. Portuguese agriculture has the lowest productivity per head in western Europe. In the south this was because, until the late 1960s, the latifundistas could draw on a plentiful supply of cheap labour, without bothering to invest in farm machinery or land improvements. Over a third of Portuguese farmland lay fallow, because southern farmers could not be bothered to speed up the natural processes of soil renewal by using fertilisers. Pasture areas were not expanded, and such irrigation projects as there were, affecting about 15% of the land, were paid for by the government.

In the north, the farms were too small to make any large scale investment possible. Even in Portugal's boom years, agricultural investment stayed stiflingly low. In 1972, for example, agricultural investment as a proportion of gross agricultural product was no more than 7½%, compared to about 12% in Spain and about 17% in Greece. Industrial investment at the time represented 20% of gnp. As a result, agricultural production remained stagnant—rising by an average of only 0.1% a year from the late 1960s, when the gnp as a whole was growing at a rate of about 7%. The northern farmers, as it happened, worked their land more efficiently than the southern latifundistas. But with a large family living on just a few acres, productivity per head was lower than in the wide open spaces of the south.

The southern latifundias were ripe plums for the picking by the Portuguese Communist party. Low agricultural wages had driven many workers from the land, either abroad to earn their living as migrant workers in western Europe or into Portugal's expanding industries. Between 1960 and 1970, the number of people employed in Portuguese agriculture fell from 42% to 30%, with about three-quarters of the migrants going abroad. But with the onset of the economic recession in 1974, many workers lost their jobs in Europe. Some returned home. Because of the political crisis in Portugal, many of them stopped sending remittances to their families. In the south, the Algarve tourist and construction boom faded out and many workers lost their jobs. In Lisbon new work was hard to come by as firms, unable to lay off workers by law, stopped taking on newcomers. This rootless and discontented mass of unemployed men was the natural ally of the Communists, who urged groups of them to take over the southern latifundias, and in the summer of 1975, groups of Communist-led workers marched into most of the Alentejo estates and took control, often expelling the old owners at the point of a gun.

But the Communists and their allies did not know where to stop. They tried to extend their takeover of the farms north of the Tagus. They then found that they had plunged their hand into a wasp's nest. The smallholders of the north did not want to be collectivised. They reacted angrily when the Communists began to move into some of the medium-sized holdings in central Portugal. And an especially inept law, passed when the Communists' ally General Vasco Gonçalves, was prime minister, sent a shudder of alarm through the north. A Lei Gonçalvisa—the Gonçalves law—was an attempt by the Communists to win the support of northern tenant farmers. Most agreements between landlords and tenants in the north were not set out in writing and were settled in kind. A typical deal might be for the tenant to give his landlord half his production of wine and about 15 carros (6,000 kilos) of grain a year. The landlord was responsible for improving the property and for investments in farm machinery. But under the new law, all contracts had to be written and absurdly low money rents were set. In one typical case, in the hard-hit town of Penafiel, near Oporto, one landlord had the $570 worth of wine he used to get cut to just $5 a year in rent.

But passing a law is one thing, and enforcing it another. With the nation's local magistrates and police unwilling to touch anything that had political overtones, a Communist-run body, the Movement for Northern Agricultural Tenants (Marn), set out to try to persuade tenants to claim their new rights under the Gonçalves law. They soon discovered that many of the tenants who they thought they were helping were also landlords. Because the pattern of northern landholdings is so fragmented, most farmers owned fields in several different places. In order to make farming easier, the farmers tended to rent from a neighbour the fields adjoining one of their own. In turn, the farmers would let other fields farther away to their neighbours. Those landlords who were not also small farmers were usually small fry, depending on rents for all their income. When the new law was passed, many of the landlords stopped improving their properties. And the tenants were reluctant to spend money improving properties that were not theirs. Some landlords let their land lie fallow.

Relatively few tenants took advantage of the law, but the ones who did helped to provoke the anti-Communist reaction in the north that eventually found its outlet in the sackings of Communist party headquarters in northern provincial towns. Militant farmers also joined a new organisation, the Confederation of Portuguese Farmers (Cap). It showed its muscle on the night of November 24, 1975, when its members blocked the main road to Lisbon at the confederation's headquarters in Rio Maior, 25 miles north of the capital. The demonstration played a major part in forcing the government to move against the left-wing uprising that took place the following day. Since then, the farmers have threatened to impose food

blockades on Lisbon so as to get the government to restore order on the farms.

Mr. Soares's government has yet to come to any decision about amending the new law. But, after much humming and hawing last autumn, it has got around to regulating the excesses of the southern land seizures. The joker in the pack until last November was the left-wing minister of agriculture, Mr. Lopes Cardoso, who believed that all agricultural land should eventually be expropriated. Even after the full fury of the revolution had spent itself, only about a fifth—2.5m acres—of all Portuguese farmland had been taken over. Mr. Cardoso accepted the fact that there was little chance of making headway among the smallholdings of the north. Under the revised Socialist agrarian law, only farms larger than 75 acres, or, under a complex valuation system, worth more than 50,000 "points" are liable to expropriation. But Mr. Cardoso argued that the government should go ahead and take over the 1,250,000 "excess" acres still in private hands before handing back the areas illegally expropriated in 1975.

The prime minister, Mr. Soares, did not agree, and prodded Mr. Cardoso into forcing the illegal occupiers of some 100 smallholdings off the farms they had taken over, sometimes at the end of a truncheon. Mr. Cardoso's left-wing scruples finally cost him his job in November. He was replaced by one of the few unqualified successes of the present government, Mr. Antonio Barreto.

Under Mr. Cardoso, the Communist-run co-operatives had threatened to harass small farmers who returned to their land. Mr. Barreto put a stop to that by sending in police and soldiers. He has also set about trying to enforce the system of reservas, under which all former landowners, even the biggest absentee latifundistas, have the right to retain an area of 75 acres, provided they farm it themselves. The ousted Mr. Cardoso argues vehemently that the reservas of the land seized in 1975 should be carved out of the land that is still due for expropriation, not the land on which co-operatives are already settled. But Mr. Barreto does not agree with him. And the land being earmarked for return to private hands is likely to be in compact lots, so as to prevent any further intimidation by the co-operatives.

Mr. Barreto has hit upon an effective instrument for bending the co-operatives to his will. With all Portuguese banks and financial institutions nationalised, he is using selective control of credit to force the co-operatives to put their house in order. This credit weapon is being used to compel the Alentejo's 400-odd co-operatives to break up into smaller units, to reduce their labour force and to abandon poor lands which in a fit of optimism they had been trying to cultivate. The ministry of agriculture has been appointing administrative management committees to supervise the more profligate co-operative spendthrifts.

Mr. Barreto also wants to introduce some element of private ownership into the co-operatives and he is anxious to break the Communist grip on them. Workers guilty of publicly criticising the Communist party have been expelled on occasion from the co-operatives. Mr. Barreto would like to put a stop to this "new landlordism". The wrestling match between Mr. Barreto and the Communists is likely to go on for some while yet. Mr. Cardoso's liberal distribution of largesse last autumn gave most co-operatives enough money to keep going for a while and to replace some of the herds of cattle slaughtered in the first flush of the land seizures, when the occupying workers could see no other way of producing enough to feed themselves. In April, Mr. Barreto accused the Communist-run institutes of agrarian reform of fiddling agricultural credits to the tune of over $2m. Thanks to the politicisation and inefficiency of the co-operatives, he said, Portugal's wheat and barley crops were likely to be down by a half, and oats by a third, on last year.

Even if Mr. Barreto finally brings the co-operatives to heel, his problems will be just beginning. In only two major farm products—wine and tomato concentrate—does Portugal undersell its European competitors. If Portugal joins the Common Market, the country's inefficient farming methods and fragmented land holdings will face stiff competition. The government hopes to invest a lot of money to improve Portuguese farming techniques, machinery and fertilisers. The government also plans to irrigate a much larger area of the south, and it may get around soon to developing the country's enormous—and largely unexploited—timber potential.

But the biggest improvement will come only when the northern small-holdings are brought together, and a lot of people there leave the land. "Each farmer has his cereal patch, his little plot for wine, his few animals", one Cap official in the northern town of Braga told your correspondent, "but northern produced cereals are uncompetitive. Only mass produced cereals in the Alentejo are economic. Wine needs to be cultivated in an area of at least two hectares [five acres], and fruit in an area of eight hectares [20 acres] to be economic".

Yet there are few northern farms large enough to fit his definition of economic production. The answer, as the confederation sees it, lies in voluntary co-operatives, which are beginning to take root in northern Portugal. The town of Famalicao, for example, provides common machinery and marketing for 120 farms producing 2,500 tons of fruit annually and 300 farms producing 1½m litres of wine a year. But the process of extending co-operatives is a slow one, and any rationalization of land use that demands a smaller labour force will have to wait for the regeneration of industry, for only well-paid new jobs in the cities will really attract peasants off the land.

Maybe Tomorrow

The regeneration of Portuguese industry can only be achieved by a government with clear economic objectives. Until recently, as a top official at the ministry of planning cheerfully admitted to your correspondent, "these objectives here have contradictory." One of the first things needed for example, to get agriculture moving again is an end to the price controls which were originally imposed by Salazar to help the poor. These were maintained by post-1974 governments, who tried to cushion the Portuguese people against the worst effects of their own economic incompetence.

Low food prices helped to keep agricultural investment and production down and have boosted foreign imports to a level that the economy simply cannot afford. In 1972 agricultural imports exceeded agricultural exports by $77m. In 1973, the deficit rose to $99m. After the coup of 1974, wages rocketed and the Portuguese went on a spending spree on foreign food, so that the deficit that year rose to $439m, and in 1975 to $451m. Portugal is now importing well over half its food requirements, which represent 20% of its total imports. Only if farmers are offered realistic prices for their products are they likely to increase cereal production—which now accounts for a third of all food imports—and the production of the wine, fruit and vegetable crops which are Portugal's most competitive agricultural exports abroad.

But higher food prices will hurt everyone and the Socialist government is naturally reluctant to enforce them. So far austerity measures have been wrung from the government's heart in agonized sobs. A tax of between 30% and 60% has been imposed on "nonessential" imports. Importers have to put down an interest-free deposit for six months on the value of the goods they import. Vat on most goods was raised to 12% in February and is payable at 20% on luxuries. Petrol now costs over $3 a gallon. All these measures are supposed to reduce the import bill: Portugal's balance-of-payments deficit rose from $800m in 1975 to $1,100m in 1976, but the government hopes to get it down to $800m again this year. That will be none too soon. Since 1974, Portugal has used up $1 billion of its foreign exchange reserves, so painstakingly built up by the tight monetary policies of Antonio Salazar, and has borrowed more than $3 billion. The deficit can hardly be laid at the door of the increased cost of oil, for altogether oil adds only $300m to Portugal's import bill.

Mr. Soares argues with some justification that he needs time to get to grips with an economy which has been messed about by economically illiterate soldiers. Time means money from international bankers. In February a grateful Portugal received an emergency American loan of $300m. To see the economy through until the end of the year, the Portuguese would have liked an IMF loan of $1.5 billion. But there were conditions attached to such a loan. Mr. Soares resisted the main IMF condition of an escudo devaluation until the Americans indicated that their share of the loan had not been included in their budget for this year. The prime minister caved in, and on February 25th announced a 15 percent devaluation of the escudo. The devaluation is 10 percent less than what the IMF wanted, but it means that the ecudo has depreciated since 1975 by about 35 percent. In April President Carter accordingly wrote to the other main IMF members to persuade them to agree to the loan to Portugal. In May, the Americans and the West Germans agreed to lend Portugal $500m off their own bat, but the Portuguese government still hopes to be lent the remaining $1 billion over the next 15 months.

Devaluation, as Portugal's ministers of economics never tire of repeating, solves nothing. It increases the cost of servicing Portugal's foreign debt and the price of the capital imports which Portugal needs to get its heavy industry off the ground again. Worst of all, it gives the rise in prices, already expected to be about 30 percent this year, another horrible twist. But to foreign bankers, the real purpose of the Portuguese devaluation was to offset the rise in labour costs that has made so many of Portugal's exports less competitive. Labour costs in Portugal have almost doubled since 1974. If the government can hold to the linch-pin of its economic policy—a limit of 15 percent on wage increases in a year in which prices will rise by not less than 30 percent and perhaps by as much as 40 percent—the way should have been cleared for smaller inflationary pressures next year.

But there is another if. Investment must revive. The resources released by the greater competitiveness of Portuguese goods abroad and the fall in real wages must be directed into improving productivity. Last year investment as a percentage of gnp was down to 10 percent, compared with 22 percent the year before. The government hopes to get it up to 16 percent this year (compared to an average of 25 percent for OECD countries). How? Partly by strong-arm methods. Government investment is to be financed by an increase in national insurance contributions and by the introduction of a forced savings sheme, which is expected to raise about $250m. But the government proposes to spend, on both current and capital account, a total of $4 billion this year, which will amount to 31 percent of the expected gnp. So where is the money for new capital investment to come from?

Here the sparks start to fly. The Centre Democratic party's economic spokesman, its deputy leader Mr. Amaro da Costa, says that the money will be all but impossible to

raise voluntarily in savings from a people squeezed by inflation on the one hand and by a forced savings scheme on the other. He suspects the missing millions will come out of the banking system, which since 1975 has been controlled by the state. And that means if the government keeps to last year's modest rate of expansion in the money supply—M2 rose by 17 percent—that credit for private industry will be harder to come by. The leader of the Social Democratic party, Mr. Sa Carneiro, has weighed in with an attack on the proposals for public investment. According to the government's plan for 1977, private investment at a dismal $745m will lag well behind the state's investment plans. And that, the government's conservative critics are agreed is ludicrous in an economy where the private sector accounts for some 90 percent of exports and some 70 percent of all employment. Even the Socialist minister of agriculture, Mr. Barreto, seems critical of his own government's plan: "I don't think the public sector is going to be the most dynamic. We must promote small and medium-sized industries, most of them privately owned, which together employ many more workers than the nationalised industries".

The minister of planning, Mr. Eugenio Sousa Gomes, argues, on the other hand, that with private investment, both foreign and domestic, in the doldrums last year, large investments by the state are the only way to get the economy moving again. The IMF is worried about the size of the budgetary deficit—which is expected to rise from $770m to about $1.3 billion (9 percent of gnp) this year. But the ministers say that it makes no sense to adopt orthodox monetary policies, such as balanced budgets and credit restrictions, at a time when Portugal has idle industrial capacity and when a quarter of the workforce is unemployed. The state, both Mr. Sousa Gomes and Mr. Medina Carreira, the finance minister, insist, must lead a dash for growth.

Taken to extremes, that could be a recipe for disaster. The arguments for growth come what may would be convincing if the government gave the impression that it knew quite how to spend the money. At this moment the government spends on public services and administration proportionately more than twice as much as the Swedes do. Its spending on "economic services", largely in the industries that the government has run at a loss since nationalisation in 1975, is equally lavish. Portugal's public investment programme is concentrated on three main areas: some 20 percent will go into housing, construction and public works projects; some 40 percent will go into the nationalised industries; and a further 40 percent will go into key industrial investments, the bulk of it on the project for a massive petrochemical complex and deep water port at Sines in southern Portugal. Other projects include the renovation of Portugal's railways and Lisbon's underground system and the irrigation and mechanisation of farms in the Alentejo.

The plan is heavily biased towards big industrial projects which will involve substantial imports of capital goods and which are not especially labour intensive. This is not entirely the government's fault. The fastest growing part of Portugal's economy in the 1960s was the heavy industrial sector, such as shipbuilding and repairing, cranemaking and cement manufacture. This was because Salazar's nursemaid state only allowed a few large, banking-based groups to expand—such as Cuf and the Champalimaud groups. The Sines complex, which has already cost a lot, was begun under Mr. Caetano. The present government found Portugal so deeply committed to it that "returning were as tedious as go o'er".

The Sines complex will, when finished, cost about $3 billion. The main idea behind it is to create a deep-water port for large vessels, particularly tankers, where oil and other products will be transhipped to smaller vessels which can enter other European ports. A large refinery there will more than double Portugal's existing refining facilities, to a total of about 20m tons of crude oil a year. The refinery's chief products will be petrochemicals and fertilisers, not liquid fuels. Next door to the refinery is a petrochemical plant and, farther south, a plant to process pyrites from deposits in the Alentejo. There will also be a large engineering plant. The Sines project has been severely criticised on the grounds that the world oil crisis and the diminishing size of tankers after the reopening of the Suez canal will deprive it of its main purpose. Sensibly, the Gabinete do Area de Sines which runs the project is concentrating much of its investment over the next year into building up the infrastructure around the port. The Gabinete wants to attract light industry into the area so that it will become an industrial centre in its own right. Tax incentives for private industry to move into the area are being considered, and many firms are said to be interested in the area's possibilities. The project already employs 7,000 people, and the hope is that a change of direction for Sines towards smaller-scale industry will result in more labour-intensive firms being attracted to the south.

Sines locks up a lot of money at a time when Portugal has little to spend, and at the best it will be slow to yield a profitable return. Not all of Portugal's once booming heavy industrial sector is suffering, however. The Portuguese crane-makers, Mague, are doing a fine trade in the Middle East, and ship-repairing and shipbuilding, although suffering from the world recession in the industry, are still highly competitive. The two biggest yards are the Lisnave ship-repairers on the opposite bank of the Tagus to Lisbon, and the Setenave yard, which was originally intended for tanker construction but which has now moved into the repairing field. The Setenave yard, built out into the huge estuary of the Sado river south of Lisbon, is still being completed. It is working at 70% of its capacity, because of the contraction in world demand. But its ship-repairing facilities are still making a profit. This year, 100 vessels are expected to use the yard, compared with 50 or so in 1976. Its shipbuilding yards have the capacity to make three or four supertankers every two years, and will eventually be expanded to a capacity of five every two years. At the moment, the profits from ship-repairing largely offset Setenave's shipbuilding losses.

As a ship-repairer, Lisnave is suffering less than Setenave from the crisis in shipbuilding and from Japanese competition. But its chairman, Mr. Alvaro Barreto, is frank about the problems Lisnave faces. "There are", he says, "now three dry docks in western Europe with a capacity of more than 200,000 tons. Within a few years there will be between nine and eleven of them competing for a smaller market". Political uncertainty, he adds, has not helped: "Ship-repairing takes time. Our customers, as when they go on holiday, want to be sure their ships are going to have a peaceful time". In the quieter atmosphere of 1976, production at Lisnave was 30 percent higher than in 1975, and back to its 1974 level. Although labour costs have risen steeply and have blunted both Lisnave's and Setenave's competitive edge over their European rivals, wages are still not higher than those in other countries.

Shipbuilding and ship-repairing are the second largest item, after cork, in Portugal's export account. But world conditions are unlikely to pick up soon enough to help them generate the kind of economic revival which the government hopes for. Agricultural investment is important for Portugal's balance of payments, but is also going to be slow in yielding results. The main hope for quick recovery seems to be in Portugal's traditional sectors, such as textiles and foodstuffs, which are almost all still in private hands. Under Salazar's restrictive credit policies, small firms stayed small; and the textile industry, although fairly inefficient, was based on extremely cheap labour in Portugal's country areas. This industry clearly needs to be shaken up, but it is still competitive. Light industry is another possible area for expansion.

So too is tourism. Tourism earnings slumped in 1975, with the number of visiting Americans falling by half from the 1974 figure, the number of Britons by a quarter and the number of Germans by a seventh. Tourist receipts fell from a high of $320m in 1973 to a low of $167m in 1975. With the calming of the political waters and this year's devaluation, tourism has shown encouraging signs of revival. But one thing Portugal will have to do is to spend more money on promoting tourism: only 1.5 percent of tourist investment now goes on promotion, compared with a promotion budget of up to 15 percent in Spain.

FAG-ENDS

Economic confidence must be restored if Portugal's small and medium-sized enterprises are to pick themselves up from the floor. Businessmen and private investors still break out in a cold sweat when they remember what happened in 1975. They can be reasonably certain that the country is unlikely to swing back towards the extreme left. But they still suspect that Mr. Soares and his team of socialist economists do not really know what they are up to. In particular, they dislike the fag-ends left lying around after the revolutionary excesses. They are concerned specifically with:

Government control of the banking sector. Even under the old dictatorship, Portuguese banks were closely linked to the bigger industrial interests and sparing in their credit to smaller firms. Now private investors are frightened that the government's ambitious spending plans are going to suck up the credit that might have gone to them. Banking liquidity is in short supply, and banking procedures for processing loans are bureaucratic and inefficient. Sometimes it takes as long as a year for a loan to be arranged. The banks are still suffering from making credit too freely available to their friends in industry in the boom years before 1974. And many entrepreneurs are still recovering from the shock of having their accounts in different banks compared by the workers who took them over briefly in 1975. The banks also suffer from a lack of specialisation, which the government is trying to put right by getting different nationalised industries to go to different banks.

The Confederation of Portuguese Industry (Cip) thinks that a private banking sector in competition with the state banks is essential. Cip hopes that if Portugal enters the common market European banks will be allowed to set up branches in Portugal.

A firm promise of an end to nationalisation. The state now controls industries producing 24 percent of total value added in Portugal and accounting for 45.5 percent of total investment. The government has already pledged itself to a law setting out the limits of the public sector, and proposes to relinquish control of 400 companies, most of which are losing money. Foreigners have been compensated for any of their property that has been nationalised, but the government is still vague about its intentions towards the Portuguese who have been expropriated.

Nationalisation had a traumatic effect in 1975, when many firms were taken over by unqualified workers. But now that management committees and financial control committees have been set up, the running of nationalised firms has become more formal and more efficient. At Setenave, for example the

chief shareholder was removed from the board, and another member of the old board, Mr. Hugo de Jesus, appointed chairman in his place. The government looks at Setenave's books and expects to be consulted when the company tries to raise money abroad, but it plays no part in the day-to-day running of the enterprise. Nor has the government tried to push the directors into making the company's operations more labour-intensive. The firm, almost untouched in structure, is still expected to make a profit. Private capitalism has, in effect, become state capitalism.

A law setting the limits to workers' control. The forms of workers' control are as varied as the firms in which they operate. About 5 percent of Portuguese industry is run by workers' co-operatives. Most of them lose money. Workers usually have representatives on the financial control commissions of nationalised industries, and have a say in the membership of the management councils.

In most firms, the workers' councils have been prepared to co-operate with the management. At Setenave, for example, the workers themselves came up with the idea of an extra night shift so as to compensate for nightly power cuts due to an energy shortage last summer. In Lisnave, the managing director meets workers' representatives once a week, but he has flatly rejected any suggestion that they should have a day-to-day say in business decisions. Nevertheless, some businessmen are still afraid that the government will cook up a cumbersome procedure of prior consultation with workers' committees on all business decisions. As Mr. Barreto of Lisnave puts it: "Modern business requires fast decisions. I completely reject prior consultation. I am perfectly prepared to explain to, and be criticised by, workers' committees afterwards, as already happens with our shareholders".

Revision of the foreign investment code. The government has already agreed to this. The last foreign investment code was pushed through by its predecessor in April, 1976, and it restricts the repatriation of profits more than most European countries do.

In one area at least, private businessmen have little to complain about. Because Portugal's middle class is so small, the redistribution of wealth through direct taxation is simply not on—not even as a political slogan of the extreme left. Direct taxation is among the lowest in Europe, and has actually declined since 1974 as a percentage of budget receipts—from 21% to 18%, compared to a fall in indirect tax receipts from 48% to 45%. In almost all other countries in western Europe, direct taxes are a larger source of revenue than indirect ones. Not surprisingly, the burden of tax in Portugal is appreciably lower than that in the rest of western Europe, with enterprises such as Lisnave exempt from any form of company taxation.

Even an idealistic socialist government, as the present one was when it took office in July, has found there is little that can be done to redistribute incomes. Social spending this year will be lower, as a proportion of the budget, than that of other western European countries, and the government's principal attempt to better the lot of the poor has centered on the introduction of a minimum wage of about $115 a month. But Portugal's "dual labour market", in which workers living in Portugal's coastal belts earn much more than their impoverished brothers in the interior, makes it almost impossible to enforce the minimum wage throughout the country. Women textile workers—about four-fifths of all those employed in the industry in the interior—earn an average of about $50 a month. About 400,000 Portuguese work in cottage industries of this kind. Of the 1m people employed in agriculture, the minimum wage has only affected farm-workers in the south, not the much greater number of farmers who are their own bosses in the north. Among the 2.6m salaried workers, there is a yawning gap between minimum wage earners and workers in modern, highly industrialised sectors in the Lisbon-Setubal belt and the Oporto—Braga area, who earn an average of $180 a month.

THE IDLE QUARTER

Portugal's economy must be revived if the unemployed are to be rescued from poverty. Under the old dictatorship there was a high rate of under-employment, but a low rate of wholly unemployed. Most people had a job of sorts, if only helping seasonally on the land, or selling lottery tickets in the streets, or as bootblacks, or knitting at home in the underpaid textile industry, or as domestic servants. Wages were low, but most families got enough to live on by putting two or three part-time employments together.

Immediately after the coup in April, 1974, the rise in industrial wages actually pushed up employment in these fringe jobs temporarily. But, as the economic recession deepened, Portugal's under-employed became Portugal's unemployed. It was extremely difficult in the revolutionary climate of 1975 to lay off industrial workers, but the ranks of the unemployed were swollen by a large number of young people coming on to the labour market, by Portuguese emigrant-workers who returned home and by soldiers demobbed from the army. And to those ranks were added the retornados: the nearly 1m settlers who had gone to build a new life for themselves in Portugal's colonies, and who had fled from the conflicts in Angola and Timor and the Marxist takeover in Mozambique. They returned broken-spirited to the country whose horizons they had found too narrow years earlier. Officially, unemployment is now at about 18 percent, representing over 500,000 of the country's workforce of 3m people. In fact it is probably as high as 25 percent.

About two-fifths of the newly unemployed are industrial workers, among whom Communist influence is strong, and the authorities fear that sparks of violent protect could be kindled into flame. Many of them live in the Lisbon area. The retornados, on the other hand, are the stuff from which counter-revolutions are made. Bitterly critical of the coup in 1974 which sent Portugal packing its colonial bags, the retornados are an understandably angry lot. They support Portugal's conservative parties. Many would welcome a return to right-wing dictatorship. Some still cherish the unrealistic hope that one day they will be able to go back to Africa. Some of the retornados have worked closely with anti-communist black leaders—such as the exiled Mr. Domingos Arouca from Mozambique or Mr. Jonas Savimbi in Angola. Some have protested violently. They did so once in 1975, when Lisbon banks refused to cash the Angolan money they held, and again in February this year, when the government offices in the Algarve fell behind in their social security payments to the refugees. In March, the retornados demonstrated outside parliament in support of their new champion, the independent deputy, General Galvao de Melo, who was expelled in April from the Centre Democratic party. Even so, the government, which had long been worried about the use right-wingers might make of the grievances of the retornados, now feels it is getting on top of the problem.

Money has, of course, provided part of the answer. The government has introduced a "social pension", roughly equivalent to Britain's social security payments, which gives the urban unemployed worker $26 a month, and the rural unemployed worker, who lives more cheaply and is less of a political worry to the government, $13 a month. The retornados have also been given a lot by a country which has little to give. When the biggest flow of refugees came from Angola, in the winter of 1975–76, the retornados were housed in camps outside Lisbon and, at the expense of the state, in Lisbon's hotels. Altogether, the Institute for Assistance to National Refugees (IARN) spent $308m in 1976, of which $108m went on housing. The rest went on schools, medical care, clothing and other essential services. Single refugees are entitled to $65, married couples to $130, and each child to $13 a month. The refugees do not receive the "social pension" as well.

IARN is run with military efficiency by a high commissioner for the refugees, a senior army man, Lieutenant-Colonel Gonçalves Ribeiro. His aim is to get the refugees off his books and into jobs as soon as possible. "We need to create 100,000–120,000 jobs and as many houses in the next few years", he says. But the social background of many of the retornados makes job-hunting doubly difficult. More than half of the retornados are under 16, which has put a burden on schooling. Two-thirds of the retornados worked in service industries, while only 20 percent were industrial workers and 4 percent were farmers. By last year jobs had been found for about 33,000 of them, leaving 112,000 still looking for work. IARN at the end of 1976 was still paying the board and lodgings of 24,000 families out of the 147,000 on its books, most of them housed in small pensions and hotels. The rest had found somewhere else to live, usually with the families they had left behind when they set out on their short-lived African adventure.

Lieutenant-Colonel Ribeiro's idea is to give the retornados generous credits to start their own small businesses. The Portuguese budget earmarks only $117m in direct assistance to the retornados in 1977, but offers credits of $170m for the setting up of new businesses by the refugees. Most of the money already borrowed by them has been invested in small farms, at the high average cost of about $4,820 for each new job created. "By the end of 1980 the words retornado and refugee should have disappeared from the daily vocabulary", says Colonel Ribeiro optimistically.

But that may well be easier said than done. Some of the retornados are living relatively comfortably on their monthly allowances. Others are not. Inevitably, there have been scandals. Crooked hotel keepers, for example, have overcharged IARN at the *retornados'* expense. In some boarding houses, large numbers of *retornados* have been jammed into one room, while the landlord picked up the bill for lodging them separately. Many other Portuguese view the retornados as scroungers living off state subsidies. Many other refugees feel themselves exploited by the natives, and gather in idle, frustrated groups to grumble in Lisbon's central streets and squares. The retornados have brought a drug problem with them back from Africa, and most Portuguese hold them responsible for the recent upsurge in violent crime. There were 43 murders in 1975, compared with only 29 the year before. Antipathy between the two communities should not be exaggerated, for the Portuguese are a temperate people—but the social strains are already apparent.

Nor has the flow from Portugal's ex-colonies ended. The government, its kitty empty, announced that refugees returning after November 30, 1976, would not qualify for assistance. But the Portuguese embassies in Timor (now occupied by Indonesia) and Mozambique do not seem to have got the message. Permits are still being issued in large quantities to families fleeing from both countries. "We were afraid our possessions would be confiscated and we would be herded into concentration camps", a young woman refugee explained to your correspondent. The

flow of refugees increased after the Mozambique government in March gave people who retained Portuguese nationality two months to leave the country.

The problem created by these new arrivals was dumped on the doorstep of the Portuguese Red Cross, whose tiny staff was being worked to the bone coping with a weekly influx of up to 150 people. Destitute families arriving at Lisbon airport had to wait days on end while Red Cross officials chide the ministries into providing them with food and lodgings on an ad hoc basis.

The government grudgingly agreed to reimburse the Red Cross for the cost of housing and looking after new arrivals—most of whom got a paltry allowance of less than $1.50 a person a day. In May the government announced that the latest refugees would qualify for assistance from IARN. Nearly half the new arrivals are black. This could sow the seeds of racial tension, although the Portuguese are, with some reservations, an attractively colour-blind people. Portugal's government has at least made a better start than France did after the Algerian war even though it has been faced with a problem that, in relative terms, is at least ten times as great.

HEALTH AND STRENGTH

Under Salazar, the unemployed were hardly given benefits at all. About 1½m of them were, in effect, simply exported abroad as migrants to a booming Europe. Old people were looked after by their families, not by the state. The poor were given alms by the church. Only Lisboners, the rich and the very sick went to good hospitals. Schools were socially selective, and the poorer ones were understaffed and under-equipped.

A Socialist government with social ambitions and very little money to spare has just begun to cover the first few miles of the marathon it has to run to put matters right. Retirement pensions have been doubled since 1974, to about $30 a month, and the government has started spending money on old people's homes, and on day-centres and medical assistance for the elderly. The health service is being reorganised and expanded: treatment will be free to all living on "social pensions" and to children, but others will have to pay between 25 percent and 40 percent of the cost of treatment, depending on income.

Portugal has no shortage of doctors—there is one for every 900 people now, and by 1982 this is expected to narrow to one for every 500. But the minister for social affairs, Mr. Armando Bacelar, believes that they are too heavily concentrated in the big cities of Portugal, particularly Lisbon. Medical facilities in the provinces are rudimentary in the extreme. The minister intends to make tours of duty in the provinces a compulsory part of medical training. He wants to attract young doctors to the regional health centres and mobile clinics he hopes will increase in numbers over the next few years. The district hospitals, now the Meccas for general health care in Portugal's provinces, should, in his view, deal only with serious cases. The central hospitals in Lisbon and Oporto will become more specialised than they are now. Mr. Bacelar hopes optimistically that private medicine, which flourished before 1974, will quietly die out in competition with an efficient state system.

Education also has a high priority in the government's welfare plans. Educational reform is almost as hot a political potato as agrarian reform. The old educational system under Mr. Caetano had two major faults. It was political: children were indoctrinated from an early age in the virtues of the "greater Portugal"—the mainland and its African colonies. And it was selective. At 12, most children left school. The ones who stayed were streamed either into superior lyceums to go on with academic work or into inferior schools to learn industrial skills. The technical courses lasted four years, at the end of which bright pupils went on to technical institutes. Lyceum courses lasted three years, followed by two optional years of further education, which could take pupils to the universities. Oddly enough, because the technical schools were mostly concentrated in towns and the lyceums in the country, the universities drew a disproportionate number of entrants from the country. As a result many top Portuguese come from poor families in remote country areas.

Just before the fall of the old order, a progressive minister of education, Mr. Veiga Simao, announced plans to replace the old system by a comprehensive scheme. All children would go through the same mill—a single teacher at primary level for the first four years, and different teachers for different subjects at preparatory and secondary levels up to the age of 16. Two years' further education would produce students for the universities and technical colleges. Even students on technical courses would, after three years, get the chance of going on to gain a doctorate at university. Four new universities—at Evora, Braga, Aveiro and Lisbon—were planned to complement the four already existing at Coimbra, Oporto and Lisbon (where there were two). But Mr. Simao was swept out on the revolutionary tide before he had completed his reform. As a result, the educational system is now a chaotic muddle of comprehensives, lyceums, technical schools and private schools. (Mr. Mario Soares, the prime minister, is a part-owner of one of Portugal's most famous private schools.) Most Portuguese educationalists still hope the Simao reforms will be implemented. Not all was stagnant under the old regime, it seems.

Nor were Mr. Simao's reforms the only things to suffer after 1974. In 1975, left-wing teachers took over the ministry of education and substituted Marxist textbooks for the old Salazarist ones. Schools were taken over by committees of management, elected by teachers, pupils and domestic staff alike. Parents, those embodiments of bourgeois values, were firmly deprived of any say in the new system. The old Portuguese marking system—all work was given marks of between 0 and 20—was abandoned. Classes were examined on their collective work and pupils were given a say in marking. Most of the universities and many of the schools were closed by strikes for long periods in 1975.

This mess was dumped on the plate of Mr. Sottomayor Cardia, a mild-looking ex-Communist who became the Socialist minister of education when Mr. Soares took office. Mr. Cardia's actions were anything but mild. He fired 300 left-wingers from the ministry of education and then successfully defied a series of protest strikes. The textbooks were changed once again this time away from politics and towards academic work. Mr. Cardia proposed a law to regulate the management committees. Under pressure from the Socialists' unofficial coalition partner, the Centre Democrats, he introduced a parental say into the system. And the old 0–20 marking system came back with a vengeance—over the protests of even conservative teachers, who found it too inflexible.

Mr. Cardia has shown himself good at wielding a cane. He has taken the tough disciplinary action needed to restore order in the schools. Portugese educationists are waiting for him to show he can modernise a system which is now almost back to where it was in 1974. But he will need a lot of money to do it.

FROM AFRICA TO EUROPE

Today Europe is the be-all and end-all of Portugal's foreign policy. Mr. Soares has staked his government's existence and his personal reputation on Portugal's entry into the EEC. In March he presented Portugal's formal application to join the community. Both the other democratic party leaders, Mr. Sa Carneiro and Mr. Freitas do Amaral, have pledged their full support to the prime minister's efforts to gain entry. Two of Portugal's political parties—the Socialists and the Centre Democrats—are closely linked to socialist and conservative parties elsewhere in western Europe. Europe is seen by all the democratic leaders as a political and economic lifeline which will enable democratic Portugal to survive.

Members of the European club may wonder what all the fuss is about. The answer is that Portugal wants to be accepted. It is a small country whose impact on the world, since the days when Henry the Navigator sent his ships down the coast of Africa in the fourteenth century, has far exceeded its size. Portugal's ex-colony in South America, Brazil, has become the most powerful country in that continent; and Portuguese traders and administrators have left their mark on Angola, Mozambique, Sao Tomé and Guinea-Bissau in Africa, on Goa in India, Macao in China and Timor in the East Indies. Largely ignored by Europe, Portugal has looked to other continents for the power it has usually wielded through trade, and not by force of arms. The empire dominated Portugal's political aims to a much greater extent than the empire ever dominated British politics. Geographically and culturally in Europe, the backwardness of Portugal's economic and political system made it something of an adjunct to its African colonies.

Economically, EEC membership may not make much difference to the Portuguese, although private industrialists hope that competition from EEC countries will make Portuguese governments more economicallly realistic. Under a 1973 trading agreement, signed when three of Portugal's old Efta trading partners joined the common market, the community still maintains tariff barriers against many Portuguese goods, particularly textiles and agricultural products such as canned fish and sardines. There are also quotas on the amount of Portuguese wines and cork that can be brought into the community. On the other hand the EEC has been benefiting from the gradual abolition of Portuguese tariffs on the goods of its member countries. Most of Portugal's tariffs will be phased out this year, although duties of up to 20 percent can still be levied on EEC goods that compete with new Portuguese manufacturing industries. But even these are due to lapse by 1985. Paradoxically, because of Portugal's current economic weakness, the deadlines for the ending of tariffs may actually be extended if a transitional period for EEC entry is negotiated. The Portuguese as well as members of the EEC are now talking in terms of a transitional period of as long as 15 years. But, however long this period, Portugal's immediate political aims would be satisfied by membership of the EEC's political institutions in the near future.

Portugal's accession to the EEC is unlikely to cost the community much in the short term, although its economic backwardness could act as a drag on the community's policies in the longer one. Mr. Vitor Constancio, the able young economist in charge of Portugal's economic negotiations with the EEC, says that the agricultural policy will have to be modified, "because as it stands, Portugal will be a net contributor to the agricultural fund, which is clearly ridiculous". Only in such areas as wines, tomato concentrate and textiles are Portuguese goods likely to be competitive within the EEC. Portugal will add a new burden to the EEC's overworked social and regional funds, and will make the EEC's council of ministers, in which each country has a veto, larger and more unwieldy still. But Portugal is a small enough country for the richer EEC countries to carry without too great a strain.

The real problem is that Portugal's ap-

plication follows hard on that made by Greece and will, presumably, be followed by one from Spain. If the community accepts one of these, it probably will have to accept all three. Not surprisingly, the members least happy about this state of affairs are those southern European countries with large agricultural interests—France and Italy—that will face the greatest competition from the new members. But with Germany and Britain (which, after all, is already Portugal's largest customer and faces stiff competition from Portugal in textiles and footwear) pressing hard for Portuguese membership on purely political grounds, France and Italy will probably fall in line with them.

Some EEC members have been known to argue that Portugal's democracy is not yet secure, adding that an army coup in a common market country would be a great embarrassment to the community. The Germans and British reply that the best way to ensure that Portugal stays democratic will be to open the EEC's doors. Because Portuguese membership of the community will provide little immediate economic benefit to either party, the decision to let Portugal in will require the community to exercise its political will. Its member countries are being asked in effect to show that they can live up to the faith that Portugal's democrats have put in them over the past three years. So far at least, for all the private grumbles, none of the EEC prime ministers whom Mr. Soares met in his whirl around the community's capitals in February and March seems to be willing to be branded as the man who shut the door in Portugal's face. But they may still keep Portugal talking in the doorway for a little while yet.

Portugal could one day have a more important role to play in Europe than it currently exercises. Its unique geographical position and ports make it a gateway to the central Atlantic. Its links with the emerging superpower of Latin America, Brazil, and two of the potentially richer countries in Africa, Angola and Mozambique, could make it a useful ambassador for the community in some parts of the wider world. The trading skills of its people could make the country, as one Portuguese industrialist put it, the "Singapore of Europe." That may sound optimistic but the Portuguese are a hardworking, able people whose misfortune it has been to have been badly governed for too long.

The modernisation of Portuguese society has much farther to go than that of Spanish society. That is another reason why western Europe should go out of its way to help Portugal. Portugal's politicians have succeeded in pulling democracy out of the barrel of a gun in a country whose social organisation makes democracy anything but the natural form of government. The country's rulers are now wrestling with problems that would shake even a rock-solid democracy to its foundations—an appalling economic crisis, massive unemployment, the integration of refugees and a revolutionary Communist party. Unless democracy gets on top of these problems—all of them, incidentally, the legacies of dictatorship—a new set of army rulers could come to power. But Portugal's luck may still hold. In General Eanes it probably has the only leader capable of withstanding the pressures from the right. Both he and the democratic parties will need all the help from western powers that they can get.

One of the hoariest clichés of Iberian political gossip, designed to show the moderation of the Portuguese temperament, is to point out that in Spain they kill the bull in a bullfight, and in Portugal they do not. True, but the Portuguese lead it away, bleeding, to the abattoir afterwards. Portugal's revolution has been tamed (not easily) and is now an almost docile democratic animal. It will be a tragedy for Portugal and the western world if it is allowed to be led away to provide for the colonels' plates.

THE 3M CO. IS 75 YEARS OLD

Mr. HUMPHREY. Mr. President, some 75 years ago, on June 23, 1902, articles of incorporation were filed for what has become a worldwide, diversified manufacturing organization of 80,000 people. I refer to Minnesota Mining and Manufacturing, commonly known as the 3M Co.

A butcher, a doctor, a lawyer, and two railroad men were the five original incorporators of 3M at Two Harbors, Minn., on the north shore of Lake Superior in the center of North America. Their plans to mine a useful abrasive mineral never were realized. Consequently, the word "Mining" as part of the 3M name is a misnomer. But they turned to manufacturing, and their small firm grew by converting the needs of society into business opportunities.

First it was a sandpaper, a pervasive tool of industry, to help smooth the world's rough edges. Then, Scotch brand tapes and adhesives to help hold an expanding world together. Today—through privately financed industrial research and development, through careful customer service, through quality control and truth in marketing—the list of 3M products and services has grown to include office systems and electrical products for better human communications, reflective signing for safer roads and bridges, new health care products for patient comfort, and packaging materials for fresher food—some 40 major product lines in all.

Too often in our interdependent civilization, we forget the relevance of sandpaper to pipes and plowshares, of tapes and other packaging materials to food and shelter, of all the behind-the-scenes technology that goes into the fabrication of wheels and wings and bridges to bring people together. Just as we tend to take for granted the marvels of magnetic recording tape—one of many 3M developments—we also tend to take for granted water at the push of the tap, light at the flick of switch, mobility at the turn of key, and a helpful human voice at the other end of a telephone line. As a trusted supplier of essential tools, materials, and equipment to others in industry and commerce, 3M is a partner in filling all of these and other categories of human need.

On this anniversary of 3M Co.'s founding, I salute the people who have made possible such a fruitful, efficient, and productive socio-economic mechanism, mindful not only of the firm's good record as a taxpayer and of its thousands of industrious employees, but also of its more than 100,000 shareholders who reinvest some of each year's earnings, as seed money, in new and often risky ventures.

From HHH to MMM, my friends and neighbors in Minnesota and elsewhere, I say Godspeed in pursuing your stated anniversary objective: to perpetuate the vitality of an organization which provides not only jobs and careers for many people, but also useful goods and services for others in society while exercising a prudent regard for all the resources entrusted to your use.

SENATOR McINTYRE RECEIVES PUBLIC SERVICE AWARD

Mr. NELSON. Mr. President, as chairman of the Senate Small Business Committee, I am pleased to report that during Small Business Week, the Senator from New Hampshire (Mr. McINTYRE) was honored with a presentation of an Outstanding Public Service Award at the 10th annual meeting of the Small Business Service Bureau in Worcester, Mass.

Senator McINTYRE ranks next to the chairman on the majority side of the Small Business Committee on which he has served as a distinguished member since 1969.

The senior Senator from New Hampshire has been conducting a variety of investigations over the years with impressive results. As chairman of the Senate Small Business Committee's Subcommittee on Government Regulation, his public hearings commencing in 1972 made the burdens of paperwork a national issue. His on-going hearings in this field laid the foundation for the creation of the Commission on Federal Paperwork, and he was appointed co-chairman of that body.

When the Small Business Committee joined with the Private Pension Plans Subcommittee of the Senate Finance Committee to hold hearings on the burdens of compliance under the Pension Reform Act of 1974—ERISA—Senator McINTYRE undertook to co-chair two of the sessions in an effort to gain implementation of the recommendations of the Paperwork Commission in its special report on ERISA paperwork published December 3, 1976. As a consequence, we have prepared legislation to implement all of these recommendations as well as the testimony of other witnesses in the hearings.

Because of the diligence of such men as Senator McINTYRE, it has been possible for the Senate Small Business Committee to hold 107 days of public hearings during the 94th Congress, 1975–76, and 38 days so far in 1977.

In accepting the award, Senator McINTYRE pointed out that about 100 of the 300 recommendations of the Paperwork Commission have already been adopted with an estimated saving to American citizens and the Government of approximately $1 billion. The Senator also commented on recent activities and accomplishments of the Senate Small Business Committee.

Accordingly, I ask unanimous consent that excerpts of Senator McINTYRE's Small Business Week address be printed in the RECORD for the information of all concerned.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR McINTYRE BEFORE THE SMALL BUSINESS SERVICE BUREAU, WORCESTER, MASS.

Senator Humphrey, ladies and gentlemen: I want all of you to know how proud I am of the award your organization has given me.

To be designated for "Outstanding Public Service" is a most appreciated honor, I assure you. But I must confess I'm somewhat embarrassed by being honored for simply following my conscience and doing my duty.

You see, I believe in small business.

I know what small business means to America.

To honor me for doing whatever I can to enhance the viability of small business, to bolster its capacity to compete, and to free it from crippling over-regulation and smothering paperwork is to reward me for carrying on a labor of love.

I want you to know that there is no man in public life today with whom I would rather share a platform than this truly great American, the Honorable Hubert H. Humphrey.

I'm sure what he has to say today will be eminently worth while, so my own remarks will be brief.

They say that each of us is the sum of our genes and our personal experience. And maybe that explains why I have always felt the way I do about small business.

You see, my father was a small businessman. I knew what it meant to him. And I knew what it meant to the community where I grew up.

I didn't know then what I know is true today—that there are thirteen million members in the small business constituency, that small business employs half of the non-government work people in this country, provides a third of the actual production and almost half of the Gross National Product.

But even so, by the time I first arrived in the Senate in 1962 I had some pretty solid convictions about small business, its worth to the economy and to society, and I was determined to do whatever I could to respond to its legitimate complaints and relieve its genuine problems.

Now I use the words "legitimate" and "genuine" deliberately, for you know as well as I that small businessmen are no different than any other group of Americans, that sometimes their complaints are not so legitimate and sometimes the problems are more imagined than real.

The challenge for me has been to concentrate on the legitimate and the genuine. And I hope I've had some success in accomplishing what I set out to do.

Now one of the most legitimate complaints voiced by small business is the complaint about government paperwork compliance.

So I was pleased to accept the co-chairmanship of the Commission on Federal Paperwork when that Commission was appointed to find ways and means to reduce the paperwork burden.

The Commission is now winding up its two year assignment and I think its accomplishments to date are quite impressive. More than 100 of the 300 recommendations it has made have been adopted, and the resulting reduction in paperwork is saving citizen and government an estimated billion-plus dollars.

One significant item of legislation coming out of a Commission recommendation will save small business some $360 million next year. I refer to the switch in wage reporting to the Social Security Administration that goes into effect in January. From that time on, employers will be required to file such reports only once a year—instead of quarterly.

Commission staff members are about to submit additional reports on housing, public works, Title XX, paperwork clearance processes in the government, paperwork impact on labor unions, welfare reform and doing business with the government, for consideration by the Commission at its June 10 meeting.

Included in the new reports is a recommendation that small businesses be allowed to sell the Federal government up to $10,000 in goods and services and submit only a simple invoice in order to get paid. Right now a sale of more than $2,000 requires the seller to complete reams of paperwork before he gets his money.

But while I have been pleased to co-chair the Paperwork Commission and though I am gratified by the Commission's accomplishments to date, my major efforts in behalf of small business are made through the Small Business Committee and the subcommittees I chair on Government Regulation and Small Business Advocacy.

Now I have no intention of recapping those efforts through the years but let me just give you a quick run-down on some current activities.

Last Thursday, for instance, the Senate passed the Small Business Administration authorization bill.

The Committee asked for $906.5 million, with $150 million earmarked for direct government loans to small businesses $40 million for loans for the handicapped businessman $60 million under the economic opportunity program $40 million for local development companies, and $200 million in direct and guaranteed loans to small business investment companies which provide capital for businesses to create jobs.

The bill also would provide money for loans affected by the energy crisis, dislocated by Federal and State programs, and for water pollution control.

One of the programs we were determined to make sure gets enough money to operate properly is the Advocacy Office at SBA. The Advocacy Office is designated to work with other agencies to cut down government red tape and over-regulation and to provide a place in the government where a small businessman can go when he is faced with a specific regulatory problem that he feels is adversely and unfairly affecting his business.

We also hope to expand SBA's management assistance program. Under our bill, SBA would be directed to develop effective training programs for businessmen and women.

The SBA authorization bill also provides that the SBA can allow some loan repayments to be deferred when it appears that a company will be able to repay its loan in the future.

Still another feature of the bill would give the SBA final authority to oversee the certificate of competency program in order to end discrimination between big and small business. A certificate of competency, as you know, declares that a company is able to meet the performance requirements of a government contract.

And I'm happy to report that the Senate also increased the level of assistance under the SBA's disaster relief programs.

So now all we can do is hope the House will go along with us.

Let me close now with but a brief mention of one other area where I've been deeply involved in recent years—small business's role in developing alternative sources of energy.

As some of you know, I've been an enthusiastic backer of solar energy. Tomorrow I'll be chairing hearings on small business and energy research in Portland to explore New England's potential for alternative energy development.

On May 25 in Washington I'll be chairing hearings on S. 807, my bill to provide a loan fund for small business to get money to market, merchandise and install solar energy and energy conservation equipment on buildings and homes. The total amount of the loan fund is $75 million and that could result in bank guaranteed loans to small businesses totaling as much as $500 million.

Well, I've gone on too long, but sometimes I get carried away when I talk about small business, its contributions, its potential, its problems and the help it needs.

To me this is as clearly evident today as it was when I first came to the Senate fifteen years ago: A strong small business community means greater employment, a better development of our resources, more stable communities, healthy climate for competition, and a better break for the nation's consumers.

It's been a privilege and a pleasure to meet with you during National Small Business Week, and in closing I want you to know that the honor you have paid me is deeply appreciated and will be forever cherished.

THE NEEDS OF SENIOR CITIZENS

Mr. STEVENS. Mr. President, I submit for insertion into the RECORD today a speech which my respected colleague, Senator PETE DOMENICI, recently delivered before the American Health Association's Spring Congressional Conference.

The newly restructured Committee on Aging provides a much better forum for addressing the needs of our Nation's senior citizens. The major initiatives taken by the committee since reorganization was completed have gone a long way to enhance the physical comfort and financial security of older Americans. Senator DOMENICI's speech outlines some of the many areas in which the committee has met the challenge posed by our ever-growing community of senior citizens. Much more remains to be done, however, and I know that Senator DOMENICI and his colleagues will do even more in the months and years ahead to insure that the lives of our older Americans are made as productive and satisfying as possible. I applaud Senator DOMENICI for his efforts on behalf of our senior citizens and I am pleased to have this opportunity to share his speech with you, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AMERICAN HEALTH ASSOCIATION'S SPRING CONGRESSIONAL CONFERENCE

Mr. Cacich, Mr. Brewer, Ladies and Gentlemen. I am pleased to have this opportunity to participate in the American Health Care Association's Congressional Conference. As the Ranking Minority Member on the Special Committee on Aging, and as a member of the Senate's Budget Committee, I have had an opportunity to shape legislation, appropriations, and public policies which directly affect the quality of life of our nation's 22 million senior citizens.

As many of you know, the Special Committee on Aging underwent a major restructuring earlier this year. The size of the Committee was reduced from 23 to 9—and the seven subcommittees were abolished. Since February, I have worked to focus the Committee's attention on those areas where we can have maximum impact on public policy. A non-legislative, 23-member committee can have such diversity within its ranks that it is unable to set realistic priorities. I believe that the new—smaller—committee, functioning without subcommittees, is more cohesive and better suited to fulfilling the role we were designed to play.

Since the first of the year, we have directed our attention to four areas:

First, we have continued our ongoing investigation into fraud and abuse in the Medicare/Medicaid programs. I believe that many of you have heard of this particular series of hearings. Over the past several years, we have exposed evidence of fraud, abuse, and corruption in certain nursing

homes, clinical laboratories, home health care providers, the so-called "Medicaid Mills" and some individual physicians. One tragic aspect of our findings is that hundreds of millions of dollars of Federal and State funds are being "ripped-off" instead of being used to provide much-needed medical services to our poor and elderly citizens. I would be remiss, however, if I did not state at this point that the overwhelming majority of nursing homes—both proprietary and non-profit—have done outstanding work; and the abuses in a few should not diminish our appreciation for those which have given dignity, hope, and comfort to many thousands of infirm individuals.

The second major area of Committee activity has centered on the rising cost of energy and its impact on middle and lower income elderly. The energy situation is a very serious and complex problem. For the last four years our nation has been confronted by a crisis situation in the field of energy and we have not really risen to the challenge. In spite of the oil embargo in 1973, the steady rise in energy prices, and the bitterly cold winter of 1976–77, our nation still lacks a true "Energy Policy". The Carter Administration has become the third Administration to offer a comprehensive energy program to the Congress. The choices we face are extremely difficult; I cannot stress that point too often or too strongly. The policies we shape are going to change the lifestyles of our people—and change is never an easy or painless process. I am working to see to it that, whatever energy policy emerges from the 95th Congress, takes into consideration the special needs of older persons who are living on fixed and limited incomes. I would note that only time will tell whether this President—and this Congress—have the courage to really come to grips with the energy problem and, in doing so, find meaningful short-range and long-range solutions to this dilemma.

The third area on which the Committee has focused its attention is the still somewhat nebulous concept of "alternatives to institutional care." Many people in the nursing home industry who have talked with me have expressed the fear that efforts to develop alternative services are really designed to depopulate existing institutions. This is not the case!

During her testimony before the Committee on May 17th, Dr. Marie Callender, formerly HEW's Special Assistant for Nursing Home Affairs, noted that originally ". . . nursing homes were seen to be alternatives to hospital care." She went on to express her belief that it may not be cost effective to encourage early discharges from nursing homes—but it certainly would be cost effective to seek ways to prevent unnecessary early admissions. As the size of our elderly population increases, there will be a continued, and even growing, demand for a wide range of supportive services—including institutional care. We need to develop a whole range of community-based services to supplement, not replace, existing long-term care facilities. I support the development of home health services, homemaker services, nutrition services, day care services, community mental health center outpatient services, foster home care, as well as long-term institutional service. There are tens of thousands of elderly persons across this nation who have the desire and the ability to remain in their own homes—in their own communities. In a free society such as ours, those individuals should have the right and the ability to exercise their freedom of choice. But for those individuals who are no longer able to sustain an independent lifestyle—quality institutional care must be available to help them meet their needs. I support the development of alternative services even though I recognize that they cannot fill all the needs of our elderly population. From my governmental experience on both the national and municipal levels, I can say to you in all candor that I am not even certain that the delivery of comprehensive in-home services would be less costly than institutional care.

The fourth area of Committee activity this year revolved around ongoing efforts to reform the Food Stamp Program. As you know, this program has grown very rapidly over the last decade and it now costs the Federal Government almost 5.5 billion dollars a year. While the Senate's Agriculture, Nutrition, and Forestry Committee was drafting a Food Stamp Reform bill—the Special Committee on Aging held two days of hearings designed to highlight the special needs of older persons vis-a-vis this program. A number of these suggestions, such as the elimination of the purchase requirement, were contained in the reform package that passed the Senate earlier this year. This kind of impact on the various authorizing committees is one of the important roles the Special Committee on Aging can fulfill. I strongly support this new activist role for our Committee and I hope to see its influence increase over the coming years so that we can be a more effective spokesman for the needs of our senior citizens.

These four areas, some more far reaching than others, have been the focal points of our Committee's activities so far this year. I believe the new—post-reorganization direction taken by the Committee is a healthy and productive one, and I intend to continue working to make the Senate Committee on Aging a truly effective advocate on Capitol Hill for the needs of Older Americans.

I would like to take a few minutes to explore in greater depth my own views on the delivery of health services to America's 22 million senior citizens.

Medical science has probably advanced more in the last 35 years than in all the previous history of mankind. Notwithstanding this progress, it is clear that we have not been able to deliver to all our citizens, wherever they may live and at a price they can afford, the quality medical care that we are capable of providing.

Nursing homes have been a relatively modern development. At the beginning of this century, nursing homes were virtually unknown in the United States and there was apparently no great demand for institutions providing specialized care for older citizens. In 1900, only about one out of every 35 Americans reached the age of 65. Those that did rarely experienced any change in their life styles or working arrangements. For the most part, older workers continued in their occupations without interruption until death or disability intervened. Concepts such as retirement and expanded leisure in old age had not developed at this point in our history. Changes during the last three decades, however, began to rapidly transform this picture.

The number of persons reaching old age began to increase dramatically and thus more families faced the prospect of caring for and supporting dependent parents or other relatives. At the same time, other factors such as industrialization, the growing mobility of our population, and other economic and social changes were combining to make it increasingly difficult for families to meet all of their traditional responsibilities to dependent older family members.

The nursing home industry developed as a response to these changes in our society and undoubtedly received its greatest impetus from the enactment of the Medicare and Medicaid programs in 1965. These programs greatly expanded the Federal Government's interest in and financial commitment to long-term institutional care.

During the 1960's, the number of nursing homes in the United States increased by 25%. Today, we have over 22,000 long-term care facilities and the resident population in nursing homes now exceeds one million people. This number is expected to double by the year 2000—which is less than 25 years away.

In recent years, Congress has begun to concern itself with non-financial matters such as nursing home standards, quality and appropriate levels of care, utilization, and alternatives to institutionalized care.

While there are many reasons for the rising cost in the health care area, there are also inefficiencies and waste in the system which must be eliminated. Every health facility cannot and should not do everything. There are numerous examples of needless duplication of services offered by hospitals. Some experts estimate that as many as 30% of the hospital admissions are unnecessary—and our goal must be to provide the appropriate level of care needed. The General Accounting Office in 1971 issued a report to the Congress which concluded that many patients in nursing homes do not require skilled care and should have been provided with less intensive services. Thus we can conclude that there are not necessarily too many nursing home beds—but a partial mismatching of existing resources with the truly infirm elderly population.

Of secondary concern is the fact that millions of Americans do not have access to quality care because of a lack of adequate insurance or adequate income. Again, we are making progress in the financing of medical cost. For example, in 1950, only 50% of our population had health insurance. Today, approximately 90% have some form of protection. Of course, such protection does not mean adequate coverage, and we are now engaged in a national debate as to what form a national health insurance program should take.

Today, one out of every 10 Americans is age 65 or older. Six million of our senior citizens are below the poverty level. Only 14% of our 20 million elderly citizens have no chronic conditions, diseases, or impairments. Individuals over 65 see a physician more often—and have more and longer hospital stays. In any one year, a person over 65 has one chance in 7 of requiring a short-term hospital stay and one chance in 25 of requiring long-term institutional care. The chances of needing some form of long-term care obviously increase with advancing age. I would note, for clarification, that—when I use the term long-term care without a qualifier, I am referring to a broad range of institutional and home delivered services.

I believe that this nation must develop a national policy on long-term care. As unbelievable as it may seem, no such policy exists today and the Congress has tended to respond to the challenge in a piecemeal fashion—leading to fragmentation and serious inequities. The absurdity of some of our policies may be seen in the case of a Florida man who was forced to divorce his wife of many years in an effort to qualify her under Medicaid so that she could secure the necessary medical treatment. A national policy that would produce this result is unbelievably inhumane—obviously such a system cries out for attention.

In shaping that new policy, we must keep in mind the fact that Medicare was never designed to provide long-term care benefits. Medicaid was designed to meet the medical needs of the general—low income—population, not those specifically related to the elderly. In addition, while the Medicaid law reflects the limited constraints of the traditional medical view of health services, it does, however, provide custodial care and other services not covered by Medicare. The Congress must recognize that the current long-term care delivery system is not

adequately meeting the needs of our older population.

Several approaches designed to correct this deplorable situation will soon be introduced in the 95th Congress.

Senator Heinz of Pennsylvania plans to introduce in the not too distant future, the long-term care amendments of 1977 that will seek to completely overhaul the way long-term care services are delivered to the elderly. This bill, which is similar to legislation he introduced in the House of Representatives in 1975, would establish a Long-Term Care Service Program within Title XVIII of the Social Security Act. Medicaid would be replaced as the funding vehicle for Long-Term Care Services and a comprehensive strategy would be developed that would strike a harmonious balance between medical services rendered in institutional and non-institutional settings. In short, the Long-Term Amendments of 1977 will completely overhaul our nation's long-term care delivery system. Senator Heinz advises me that he has structured this bill so that it can either be enacted on its own, thus reforming the way long-term care services are delivered in this country, or be incorporated into an overall national health insurance program; whichever comes first.

In addition, I am working on legislation that would streamline and strengthen the delivery of home health and supportive services within the framework of the existing Medicare/Medicaid/Title XX programs. This legislation which is now in the drafting stage, is a direct outgrowth of the recent hearings we held on "alternatives" to institutional care. My objective in drafting this legislation is to broaden and simplify the existing programs of home-delivered services. At the present time, Parts A and B of Title XVIII—Title XIX and Title XX all provide some home-delivered services. But the ability to provide these services is severely hampered by a confusing, intricate, and often inconsistent maze of regulations, guidelines, and directives. I would like to see, at the very least, greater uniformity in the funding mechanism and the Federal standards for home delivered services. Narrow constraints, such as the 3-day hospitalization requirement, the limit on allowable visits, the emphasis on acute or restorative care, etc., should be eliminated.

I would like to see a complete overhaul of our entire long-term care delivery system. I would like to see us replace the present system with one that would deliver services in a comprehensive, coordinated, and coherent fashion. Such a system, encompassing both medical and non-medical services delivered in institutional and non-institutional settings, could begin to meet the patient's needs—rather than the other way around.

Other legislation that could well see action in the 95th Congress includes a measure to combat fraud and abuse in the Medicare/Medicaid programs and a second bill designed to reform the administrative and reimbursement mechanisms of these programs. I was pleased to find that the latter bill, he Medicare-Medicaid Administrative and Reimbursement Reform Act, recognizes the need for a reasonable profit margin in providing institutional services. I believe a more responsive and realistic reimbursement procedure would aid both profit and non-profit long-term care facilities, and I hope it will be promptly enacted.

A proposal which I hope is not enacted—promptly or otherwise—is the President's Hospital Cost Containment Act. I am as deeply concerned as anyone about the spiralling cost of hospital care—but I do not believe that the Administration's approach is a sound or workable one. Arbitrary controls and ceilings have a way of distorting the market and impeding the delivery of services over the long run.

In closing, let me mention one other legislative area which just might receive favorable action in the 95th Congress. I am referring to efforts to strengthen the role of the Congress in reviewing Federal regulations. While I do not believe that Congress can effectively review every Federal regulation, rule, guideline, and/or directive—I do believe that the enactment of regulatory reform legislation would make the bureaucracy more sensitive and responsive to the needs of our people. I never cease to be amazed by the volume of Federal rulemaking and paperwork. The Federal Government employs 84,773 regulators—4% of all Federal employees, excluding the military. The direct cost to the Federal Treasury is approximately 3 billion dollars, and the indirect cost to all sectors of our economy is vastly greater. Last year alone there were 57,000 pages of regulations in the Federal Register, down slightly from the year before. There are 5,536 approved Federal forms that require an estimated 130 million man hours for businesses and individuals to complete each year. I often wonder how State and local governments, non-profit corporations, businesses, and individual service providers cope with the growing burden of governmental "redtape" that ensnares all of these programs.

I am pleased to have had this opportunity to address your Congressional Conference. Congress faces many difficult decisions in the coming months and I am glad to have been able to discuss some of them with you. I hope that together we will find ways to overcome the problems which exist in providing comprehensive Long-Term Care Services to Older Americans.

PUBLIC OPINION: CRUCIAL ELEMENT IN CONGRESSIONAL LEGISLATIVE DECISIONS

Mr. HUMPHREY. Mr. President, yesterday, the Joint Economic Committee employed a relatively new and, in my judgment, valuable technique to improve the scope of information available to committees of Congress in their consideration of proposed policies and programs.

The JEC's Subcommittee on Economic Growth and Stabilization, of which I am cochairman, held a hearing yesterday at which representatives of five nationally prominent polling organizations presented the results of surveys which indicated public opinion and attitudes on a range of subjects. These include inflation, unemployment, the level of esteem in which the administration and Congress are held, the issues which the public thinks Congress should give priority, the Nation's energy crisis, and the administration's energy program proposals.

Mr. President, I particularly wish to call the attention of my colleagues to the results of the polls dealing with our energy crisis. Among other things they reveal a concern and a willingness to sacrifice that I think exceeds the impressions generally held by the Congress and the administration. I would also indicate the critically important need, indicated by opinion surveys, for an ongoing education program in this area by the administration

This is the second such hearing held by the subcommittees. The first was scheduled in the fall of 1975. Both were highly rewarding in terms of providing members of the committee and congress with a comprehensive view of what the public thinks Congress is doing right and what it is doing wrong and where Congress and the administration should be headed.

Mr. President, public opinion and public attitudes are too often missing from congressional hearings and congressional consideration of proposals aimed at shaping significant policies and programs. The bulk of hearing testimony is frequently presented by agency officials and representatives of special interest groups. Decisions are subsequently made by committees and by the Congress in the absence of a firm understanding of how the public will react to these changes. Policies and programs are implemented without knowing to what degree they will be supported by the people.

As a result, Congress, in a very real and crucial sense, often finds itself legislating in the dark regarding knowledge of how successful its efforts will be in terms of public acceptance and public utilization.

The witnesses who participated in yesterday's hearing were:

Richard Baxter, vice president, the Roper Organization; Richard Curtin, director, Surveys of Consumer Attitudes, Institute of Social Research, University of Michigan; Louis Harris, president, Louis Harris & Associates; Jay Schmiedeskamp, vice president, the Gallup organization; and Arthur H. White, executive vice president, Yankelovich, Skelly & White.

Mr. President, in order to provide the Members of Congress with convenient access to the findings of these five public opinion polling experts, I will present their prepared statements in the RECORD in two installments today and tomorrow.

A summary of the remarks of Louis Harris and Arthur White together with their prepared statements follow:

SUMMARY OF STATEMENT BY MR. LOUIS HARRIS

With Democrats controlling both Congress and the White House, confidence in both the legislative and executive branches is rising.

The majority of the public is not yet convinced that the nation is clearly traveling the road to economic recovery. Widespread belief continues to exist that we are still in the throes of recession. Renewed pessimism about the future of the economy has taken place in the past few months. People are frightened by the prospect of heightened inflation.

At the same time apprehension about increasing unemployment is diminishing. The majority feels the nation is again poised on the brink of another period of relatively favorable employment conditions, but spiraling inflation will diminish benefits from rising incomes.

Consumer expectations in terms of purchases remain flat or down from June to June 1976–1977. Consumer demand could be riding into real trouble during the next six months.

The vast majority of the people believe the nation has a long term energy shortage caused for the most part by waste, dependence on foreign oil, the reluctance of oil companies to tap new reserves and presumed decisions by oil companies to withhold natural gas and oil from the marketplace.

People are deeply worried by the energy shortage and believe that drastic steps are necessary to adequately meet the situation. Above all else, people want leadership in Washington willing to risk unpopularity if necessary to articulate the "tough medicine" required to do the job. In this vein, the public is far more willing than the leadership

believes to make sacrifices if such sacrifices are equitable.

SUMMARY OF STATEMENT BY ARTHUR WHITE

American families are much happier and more optimistic than they were two years ago. There is a prevailing sense of an improving economy and rising standard of living. But a large majority continue to worry about the adequacy of their income.

The recession has taken its toll among young parents. Eighty percent of the young parents polled say that economic security and providing for the family dominates inclinations to achieve self-fulfillment.

Inflation is considered to be the country's primary problem. A majority places the blame for inflation on a combination of factors consisting of energy costs, labor demands, and government spending. Union leaders point to energy costs, inadequate competition and business profit levels. The Financial community includes excessive regulation in the factors it believes are responsible for inflation.

The public continues to overwhelmingly reject wage and price controls, under present circumstances, but controls are favored by a majority if inflation again rises to double digit levels.

The majority of the business leaders polled said inflation should be fought by elimination of anti-competitive regulations, vigorous antitrust enforcement, reduction of government spending and encouragement of capital formation to improve and increase productivity.

The energy crisis is viewed as an economic problem by a majority. The high cost of energy is seen as a major contributor to inflation.

A large majority accepts the President's judgment that significant effort must be made now to solve the energy problem if the nation is to avoid a catastrophe in the future. Paradoxically, 59 percent of the people polled believe the President's energy program proposals are fair to them, but 58 percent believe that people are not willing to make the sacrifices the President has called for.

A majority believe the energy program contains too little emphasis on public transportation and the development of new gas and oil reserves.

Large majorities believe that energy costs will have greatly increased during the next five to ten years but that Americans will nevertheless still be living as well as they are now. They expect gasoline may be rationed.

The public is not clear in its thinking regarding the energy crisis and much more "continuous communication" is required on the subject.

Mr. President, I ask unanimous consent to have the prepared statements of Mr. Harris and Mr. White printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

TESTIMONY OF LOUIS HARRIS

Mr. Chairman, let me say it is a distinct pleasure to come back before your committee at a time when, for the first time in 10 years, I can report some rising confidence among the public in both the executive and legislative branches of the Federal Government. The Congress has gone up from 9 percent who felt they had a great deal of confidence in the people running Congress in 1976 to 18 percent this year. Comparable confidence in the people running the executive branch has risen from 11 percent to 32 percent. Thus, with the Democrats controlling both the legislative and executive branches of the Federal establishment for the first time in 8 years, there are rising hopes out there in the Nation.

Having reported this optimistic note, however, there are some other recent facts about the public's view of the economy that you will not find encouraging. One basic fact is that despite the pronouncements of economists that this country has been on the road to economic recovery for nearly two years now, despite the glowing and continuing rise of leading economic indicators, a 56–33 percent majority of the people of this country remain unconvinced. That majority believes the country is still in the throes of a recession. To be sure, a year ago this month, a higher 68–23 percent majority thought we were in a recession and a year earlier, a staggering 85–10 percent majority felt we were.

But, make no mistake about it, to a majority of the American people, times are still hard and troubled. They are still having a perfectly dreadful time making ends meet, and are deeply worried. We have to go back all the way to February of 1972 to find a time when a 51-33 percent majority felt we were not in a recession. Since early 1975, people have been convinced by sizable majorities that our economic state is that of a recession.

And in the past few months, pessimism about the future of the economy has begun to take hold again. Back in April, there were the first signs of real optimism. By a narrow 37–34 percent, a small plurality felt that a year from then, the country would not be in a recession. That was the first time since 1972 that more people expected a recovery instead of a recession ahead. But last month, expectations sagged again to the point where by 45–34 percent a plurality once again expected a recession 12 months from then. And our latest June survey, which has not been published, shows a discouraging 45–36 percent plurality who feel a year from now we will have a recession.

The reasons for this pessimism are not hard to find. The American people are once again deeply worried about a return of high levels of inflation. By 81–18 percent, most people feel that prices today are rising as fast or faster than they were a year ago. This has been the case since last February when the latest anguish over high prices took hold again. A year ago, a much lower 55–43 percent majority thought prices were rising as fast or faster than a year previously. The number who think prices are rising even faster has jumped from 31 to 56 percent just this past year alone. And in the next 12 months, a sizable 64–26 percent majority believes prices will be going up again at the same rate they have for the past five or six months of this year.

People are frightened by the spectre of inflation, Mr. Chairman, make no mistake about that. By contrast, there has been a rather sharp decline in apprehensions about unemployment. While 29 percent just this month estimated that joblessness in their own community was increasing, while 23 percent said it was going down and 41 percent remaining the same, only last February a much higher 46 percent said unemployment was on the increase and no more than 11 percent felt it was going down. So, unemployment awareness has declined dramatically in the past six months. So have expectations about unemployment in the next 12 months. While 21 percent think it will increase, a higher 25 percent believe it will decrease and 41 percent believe it will stay the same. Back in early 1975, 43 percent thought joblessness would go up and only 16 percent thought it would go down. On balance, the public is cautiously optimistic that some of the downward trends in the official unemployment statistics are reflective of more to come.

Indeed, if the public had to sum up what it feels the current economic situation is like, most would say that we seem to be poised on the brink of another and more classic period of relatively good employment, but with spiraling inflation that could well sap whatever benefits might be gained from rising income.

And people have not changed their views over the past 6 years on one fundamental lesson they feel they have learned from living with their economic troubles over that period of time, it is this: you can't beat inflation by yourself. When you try, you end up getting a pay increase and more money in your pockets one day and then having your pocket picked the next at the supermarket or nearly everywhere else you might go to pay your bills. Thus, when we have asked people if they would rather have a pay increase greater than the rise in the cost of living, but with no assurances that inflation would be brought under control, on the one hand, or a pay increase less than the rising in the cost of living, on the other, by 71–12 percent, the American people have come down on the side of opting for lower pay increases.

The immediate, near-term impact of this deep worry over inflation has been to discourage people from wanting to rush out to the marketplace to buy new products around Christmas time of this year. Let me cite you a few numbers of this trend, which our firm provides our private clients on an ongoing basis each month of the year. These are June 1977 consumer expectations by product type in expectations to purchase compared with June 1976. In the case of automobiles, the trend is flat; 10 percent thought they would buy a year ago and the same 10 percent today on travel by auto, the trend is down from 47 to 45%, on vacation by air, the trend is down from 22 to 16%; on vacations to Europe, down from 4 to 2%; on new home purchases, down from 8 to 7%; on new furniture, down from 29 to 25%; on major appliances, down from 19 to 16%; on small appliances, down from 28 to 24%; on new clothing, down from 84 to 82%; on new credit cards, down from 12 to 9%. On the purchase of stocks, down from 13 to 9%; on purchase of savings certificates, down from 21 to 15%; on purchase of mutual funds, down from 10 to 8%.

These estimates have proven to be quite accurate over the four year period during which we have been keeping them. We have called the turn on the revival of demand for automobiles as well as an increase in home purchasing, an upturn in individual stock purchases, among other important developments on the basis of this data. So I would not pass these latest results off lightly, Mr. Chairman. This current recovery, which has depended so much on consumer pull thrust, could be riding into some real trouble in the next six months—at least as far as consumer demand side is concerned.

One of the important concerns tending to discourage people from making more purchases is the tendency on the part of the public to worry about rising energy costs. By 67–25%, a sizable majority expects the President's energy program, if enacted, to increase their overall cost of living.

Having reported this on energy, however, I must also report that our findings consistently have shown that people take the long term shortage of energy much more seriously than many in Washington believe they do. For example, an 85–11 percent majority believe the shortage is serious and real, up from only a 67–30 percent majority who felt the same way back in 1974.

And, at the head of the list of culprits for the energy crisis, cited by a high 62 percent of the American people, more than any other single cause is "the wastefulness of most Americans in the use of energy." Other major causes are "too much dependence on foreign oil," cited by 56 percent; "oil companies withholding oil and natural gas from the market," 55 percent; "the fact that there is just so

much oil and gas in the world and we are using it up too quickly," 54 percent; "the high standard of living in this country," 53 percent; "a reluctance on the part of oil companies to drill for more gas and oil unless prices are raised," 53 percent; "the production of too many gas-guzzling cars," 51 percent; and the "fact that with only 6 percent of the world's population, the U.S. consumes 32 percent of the world's energy," an even 50 percent.

I have much, much more to report, Mr. Chairman, on energy and hope I will be given a chance to report it in the question period. The point, however, is that people are deeply worried by the energy shortage, are prepared to take drastic steps to meet that situation, but above all else, want leadership down here in Washington, D.C., which is willing to risk unpopularity to tell the people the tough medicine they have to take to do the job. They still have a notion that almost no one wants to bite the bullet on this energy business, and to tell people they have to sacrifice to make conservation work. Yet, they themselves are far more willing to step up and make the sacrifices, if made equitably, than our national leadership will believe.

STATEMENT OF ARTHUR H. WHITE

I will concentrate on three subjects in this statement:

1. The general mood of the country with particular reference to the economic situation;

2. Our findings among the general population and leaders with respect to inflation;

3. Energy.

1. THE STATE OF THE COUNTRY

The American family in 1977 is a lot happier and more optimistic than we found them in 1975 when you included our last report for General Mills in your hearings.

The following charts make clear the encouraging change in attitudes of most Americans in this 1975–1977 period.

The present outlook of American families stands in sharp contrast to the mood of pessimism which prevailed just two years ago. According to the results of The General Mills American Family Report 1974–75, only 18% of the families reported that they felt things were going well in the country. Today a sizable majority (60%) share this view.

Standards of living

Underlying the present more ebullient mood of parents is a sense of an improved economy and rising standards of living. In 1974–75, 37% of the parents reported that their standards of living were worse than a year ago and only 14% said better. Today there is a reversal, with 32% feeling that their living standards have improved and 17% reporting that they are no longer able to live as well as they did a year ago.

Ability to cope

A large majority of fathers and mothers indicate that they can manage most money problems that face them, but 21% say that they worry a lot about money. Among those who worry a lot, 55% are earning less than $12,000 a year and 72% have a high school education or less.

Satisfaction with family life—1975–77

Parents today are even more satisfied with family life than they were two years ago. There is among them a greater sense of optimism and confidence in their own futures. The large majority continue to feel good about the way the family works together, the amount of time they are spending with their children and the fun and pleasure they are getting from it.

While still sharply critical of the standards and values of society, they expressed less discontent than two years ago.

Parents' satisfactions with family life

	1975 %	1977 %
Way they are handling problems in their lives	78	79
Way the family works together	78	80
Amount of time spent with the family	72	73
Amount of fun and enjoyment derived from family life	69	73
Way they are getting ahead achieving success	54	63
Things they can afford for the children	54	69
Confidence they feel in the future, their sense of security	44	57
Standards and values of society	19	28

Optimism and the future

In terms of their own personal hopes and goals, almost all of the parents (88%) are very or fairly optimistic.

Yet for young parents who, as we will see, place a relatively low premium on money and a high premium on self-fulfillment as personal values, the years of the recession have left their mark. Asked to make a choice, 80% said that in thinking about the future, economic security and providing for the family will have to come first; only 19% take economic security for granted and are more concerned with doing things that will provide them with a sense of self-fulfillment.

2. INFLATION

How serious a problem?

When we turn to the subject of inflation, the findings are considerably less clear or pleasing.

We find first that inflation is considered the country's Number 1 problem and that for significant majorities of both the public and the leaders inflation is a more serious problem than is unemployment.

Causes?

But there is little agreement on the causes of inflation.

A majority of the public places the blame on a combination of energy costs, labor demands and government spending.

Union leaders point to energy costs and even more emphatically (almost 9 out of 10 of the union leaders) to inadequate competition and business profit levels.

In the financial community, 9 out of 10 fault government spending, and lesser majorities cite energy costs, labor demands, or excess regulation.

Solutions

Wage and price controls are overwhelmingly rejected by the general public and leaders under present circumstances. However, if inflation escalates to double digit levels, 57 per cent of the public and significant majorities of every leadership group except unions and financial executives favor such controls.

Elimination of anti-competitive regulation, vigorous antitrust enforcement, reductions in federal spending, and encouragement of capital formation (to allow increases in productive capacity) are solutions suggested by majorities (typically 50–60 percent) of the leaders with whom we talk. It is noteworthy that jawboning is supported by fewer than 1 out of 4 leaders and scaling down environmental goals by fewer than 1 out of 5 leaders.

3. ENERGY

The energy problem for most Americans is an economic problem. It is the high cost of energy which is the problem in their minds. It is a major contributor to their conclusion that "inflation is the country's Number 1 problem."

Some of our current findings with respect to the energy problem and President Carter's proposals are:

72 percent of the public accept President Carter's judgment that we must begin to solve the energy problem now or we will be faced with a national catastrophe in the future.

85 percent have confidence that President Carter is doing something constructive about it.

59 percent believe that President Carter's program is fair to "people like themselves."

Yet, 58 percent also agree that "people are not ready to make the kinds of sacrifices President Carter is talking about."

Only 23 percent favor increasing taxes on gasoline "to discourage people from using too much."

Only 43 percent favor imposing a special tax on gas guzzling cars "if this creates unemployment in the auto industry."

62 percent believe that the energy program gives too little emphasis to public transportation.

50 percent believe that the program doesn't do enough to encourage production of more oil and gas in the United States.

47% say that the program gives too little emphasis to encouraging conservation of energy among industry.

55% believe that "five to ten years from now people will still be driving big cars."

60% believe that five to ten years from now "Americans will still be living as well as they are today."

85% state that "Congress will still be arguing about what to do" five to ten years from now.

82% believe that utility rates will be doubled in five to ten years.

82% believe that five to ten years from now a gas tax will be instituted.

71% think that gasoline will cost at least $1.25 a gallon in five to ten years.

57% think we will have gas rationing in five to ten years.

Our conclusion is that the public is not yet clear in its thinking on the problem. There is growing recognition that we have a serious problem and less tendency to shrug it off as a "plot by the big oil companies to raise prices." The people are caught up in a confusing kind of double-think, a state of mind we associate with a problem that is only half thought through. They need a lot more continuous communication on the subject than they have received thus far from the President, the Congress and other leaders. Such communication—briefly stated—should: (a) report on progress to date, and (b) answer the many questions on this complex subject so clearly troubling the nation.

MILITARY UNIONIZATION

Mr. THURMOND. Mr. President, on March 18, 1977, the Armed Services Committee held its first hearing on the issue of military unionization. Appearing as witnesses at this hearing were Secretary of Defense, Harold Brown, and Secretary of the Navy, Graham Claytor. At the hearing, the committee learned that the current Department of Defense policy is as follows:

No member of the armed forces, or civilian employee of the Department of Defense, may negotiate or bargain on behalf of the United States, with respect to terms and conditions of military service of members of the armed forces, with any individual, organization or association which represents or purports to represent members of the armed forces; nor may any member of the armed forces, or civilian employee of the Department of Defense, recognize any individual, organization or association for any such purpose.

This policy clearly shows that mem-

bership in a military union is not prohibited. It further shows that solicitation for membership is not prohibited.

The American Federation of Government Employees, one union currently considering organizing the military, is presently conducting a referendum among its membership to determine if the members desire to allow the military to join their union. It has come to my attention that the union leadership is already planning how it will organize the military, thus assuming the success of the referendum.

In addition over 1,900 military members have signed a petition sent to the Congress requesting that legislation banning military unions not be passed.

There is also a pamphlet which is being distributed to servicemen by a group called Project Lamda, which urges them to strike until they have the right to negotiate a binding labor contract. Mr. President, I ask unanimous consent that a copy of this pamphlet be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. My point is that it is imperative for the Armed Services Committee to continue hearings on this issue very soon. It is very important that action be taken to stop the organization of the armed forces into labor unions. I urge my colleagues here in the Senate to continue to support my bill, S. 274, which now has 40 cosponsors.

I have received mail from my State and from all over the country supporting my bill to prohibit military unions. I have received resolutions adopted by highly respected organizations which support my proposed legislation and urge me to continue the fight to avoid the disastrous consequences of military unions. Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

SOLDIERS, SAILORS & AIRMEN OF THE UNITED STATES—DO YOU KNOW SEVEN FACTS ABOUT YOUR JOB?

1. The U.S. Constitution & the Bill of Rights do not apply to the military. Congress can legislate for you in a manner "constitutionally impermissible" for civilians. *Greer* v. *Spock* 96 S. Ct. 1211 (1976), *Parker* v. *Levy* 94 S. Ct. 2547 (1974).

2. In order to prevent you from forming a union to defend your interests, Congress is preparing to amend the United States Code, Title 10, Section 975 so that it shall be "unlawful for any individual . . . to solicit or otherwise encourage any member of the armed forces to join any labor organization." (S-3079/HR 13608 94th Congress 2nd Session) Violators of this act may receive up to five years in prison.

3. Your enlistment contract is fraudulent. Its obligations are unenforceable in a United States Court. *Reamer* v. *United States* 532 F. 2nd 349 (1976), *Carini* v. *United States* 528 F. 2nd 738 (1975).

4. Only circumstances as seen by a jury, not any "lawful order" can justify the use of force or compulsion. Instructions from higher authority will not protect you from prosecution for "planning, preparation, initiation and waging of wars of aggression" or for any other "crimes against the peace." *Principles of International Law* International Law Commission of the United Nations (1950), *The Nuremberg Judgment*, International Military Tribunal (1946).

5. Oral sex is a crime in the military. If you do anything outside of the "missionary position" even with your own wife/husband, you may be charged with "unnatural carnal copulation" under United States Code, Title 10, Section 925 (Article 125 Uniform Code of Military Justice).

6. The Supreme Court has affirmed the decision of a Federal District Appellate Court citing the Hebrew Canon (Leviticus 18:22, the Holiness Code) as authority for upholding Sodomy Statutes in the United States. *Doe v. Commonwealth's Attorney*. 96 S. Ct. 1489 (1976) 403 F. Supp. 1199 (1975).

7. In order to bring you this information urging you to defend your professional interests through industrial action and collective bargaining, PROJECT LAMBDA (justice) organizers are risking imprisonment for up to ten years for violating Section 2387, United States Code, Title 18 (Treason and Subversive Activities).

Soldiers, Sailors & Airmen of the United States, project Lamdba urges you to:

1. Stand up to the politicians.
2. Stop being a government slave.
3. Withdraw your labor and refuse to perform your duty until your right to negotiate a binding contract and to receive equal treatment under the law is recognized by the United States courts.

JEFFREY VOWLES,
Director.

Project Lambda, 689 Tyrone, Apt. I, El Cajon, CA 92020.

EXHIBIT 2

GREATER COLUMBIA CHAMBER OF COMMERCE,
Columbia, S.C., May 12, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: It is our understanding that there has been activity regarding unions in the military recently.

We feel as though an effective defense force is built and maintained upon a foundation of discipline, patriotism, command authority, and quick responsiveness. It would be impossible for this foundation to exist with loyalty divided between the chain of command and a union. One of the oldest truths of war is divide and conquer. Enemies of freedom throughout the world would rejoice should unionization take place in the American Armed Services.

Recently the Board of Directors of the Greater Columbia Chamber of Commerce adopted policy opposing unionization of the Military. This policy adopted after careful study represents the input of many business and professional members. Your interest and support in this matter will be very much appreciated.

I enjoyed the pleasure of being with you recently at the Congressional Dinner in Washington.

Cordially yours,

S. D. GUTHRIE,
Executive Vice President.

CHARLESTON TRIDENT CHAMBER OF COMMERCE,
Charleston, S.C., March 29, 1977.

Hon. STROM THURMOND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: Enclosed is a resolution adopted by our Board of Directors on Thursday, March 24th. This resolution reflects the sentiment of our board members on the issue of union organization in the Armed Forces.

Yours very truly,

JAMES M. DEATON, CCE,
Executive Vice President.

RESOLUTION

Whereas, the Charleston Trident Chamber of Commerce recognizes that an effective defense force is built and maintained upon a foundation of discipline, patriotism, command authority and quick responsiveness; and

Whereas, unionization of the American armed forces will seriously threaten these time honored principles which have protected the United States throughout its history;

Now therefore be it resolved, that the Board of Directors of the Charleston Trident Chamber of Commerce, meeting in regular session on Thursday, March 24, 1977, do hereby support the adoption of Senate Bill S. 274 to prohibit union organization in the armed forces; and

Be it further resolved, that the Board of Directors commend Senators Thurmond and Hollings, and others who co-sponsored this much needed legislation.

ROBERT B. SCARBOROUGH,
President.

GREATER MYRTLE BEACH CHAMBER OF COMMERCE,
March 25, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: It is with pleasure that I inform you that our Chamber's Board of Directors has voted unanimously in support of your position on unionization of the military. We discussed the situation during our March meeting and wish to inform you officially of our support for your position.

Sincerely,

ASHBY WARD,
Executive Vice President.

STAFFORD GRAHAM POST 31,
Lancaster, S.C., May 8, 1977.

Hon. J. STROM THURMOND,
U.S. Senator,
Hon. ERNEST F. HOLLINGS,
U.S. Senator,
Hon. KENNETH HOLLAND,
Member of Congress,
Washington, D.C.

DEAR SIRS: The undersigned, as well as other members of the American Legion, is deeply concerned over the apparent movement to unionize the Armed Forces.

It is the opinion of those who have served in the Armed Forces that it is imperative that authority be maintained by those who have in the past proved that they are able to direct our men in combat. To have the Armed Forces controlled by unionization and the resulting political overtones would only lead to disaster.

It is urged that you use your influence to prevent this insidious movement.

Respectfully yours,

F. W. CANNON, *Past Commander.*

NORTHWEST FLORIDA RETIRED OFFICERS CLUB,
Fort Walton Beach, Fla., May 23, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: We are an organization composed of some 420 members, all of whom are retired commissioned and warrant officers of the Uniformed Services of the United States.

We are opposed to military unionism in any form.

Military command must establish discipline through training, foster esprit de corps, build morale, develop confidence, and inspire willingness for execution of the mission. Any organization that acts to diminish these attributes is calamitous. Undivided authority vested solely in the commander is essential to military leadership, and only leadership can bring about combat readiness, a prereq-

uisite to victory on the battlefield. If the chain-of-command is weakened and abridged by superimposing an alien organization upon it, the whole structure of the Armed Forces is in jeopardy. Witness the effects of an abortive attempt to democratize the Armed Forces following World War II. Several years later, in battle, the results were disastrous. Casualties were abnormally high during the initial phases of the Korean Affairs. As a result, and with a price, democratization was dropped and proven methods of command were re-established. Tampering ceased, until now.

Unionism in the military system will create divisiveness between a commander and the people in his command, with predictable results. Union issues, whether they are right or wrong, must be divisive. Union leaders, if they are to be effective, must impose themselves between the commander and his unit at some level in the chain-of-command. Finally, the ultimate weapon of a union is the strike to break an impasse in negotiations, irrespective of its legality. How could the people of our Nation expect to have National security under such circumstances? Moreover, are the members of our Armed Forces being subjected to such onerous, inexorable conditions that they must resort to representation by a union to seek justice? We think not. Are time-tested grievance procedures, that have been successful for over 200 years, now invalid? We think not.

Union proponents claim that someone has to halt the erosion of military benefits, to improve grievance procedures, to represent military men and women against further inequities in their pay, promotion standards, customs and rights, and so forth. But, are these sufficient reasons to recognize a demand for unionization of the Armed Services? We think not. Although some of our benefits have been eroded, and attempts are being made to reduce or eliminate others, do members of the Armed Forces need to be represented by a union, or unions, for the protection of their rights and benefits? We think not. We still support our Constitutional Government.

Article I, Section 8, of the Constitution for the United States, in part, charges the Congress with the power . . . "To raise and support Armies, . . .; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining the Militia; and for governing such Part of them as may be employed in the Service of the United States, . . .".

We believe that the advocate for members of the Armed Forces is the Congress. To permit Military unionism is a denegation of Congressional function and responsibility. Continued indifference by the Congress to act constructively on matters which would erode command authority and degrade Military rights and benefits is not only inequitable treatment of the Armed Forces, but it gives union organizers validity and strength.

To represent Armed Services personnel, the presence of a union would alter the Constitutional relationship between the Congress and the Armed Forces, and the Constitutional chain-of-command between the President and the Armed Forces. Moreover, union demands and negotiations ultimately would have to be acted upon by the Congress; legislation probably would be required to rectify alleged inequities. If Congress does deny its function and responsibility, will the presence of a third party, which would be responsible and accountable to no one but itself, be a more fruitful approach than that which is set forth in the Constitution? We think not.

We urge you to drive for immediate enactment of legislation that would prohibit any union from representing any part of the Armed Forces—be it the active duty forces, the Reserve forces, or the National Guard. Further, the legislation should provide severe, mandatory penalties for any member of the Armed Forces, either on active or inactive duty, who actively supports or advocates unionization of the Armed Forces, or who joins a union whose purpose it is to represent Military Service Members.

Sincerely,

HENRY B. KUCHEMAN, Jr.,
Major General, USAF, Retired, President, Northwest Florida Retired Officers Club.

TAMPA, FLA.,
March 9, 1977.

Senator STROM THURMOND,
Senate Office Building,
Washington, D.C.

DEAR STROM: The National Guard Officers Association, of which I am a member, is holding its annual convention March 24, 1977 in Orlando, Flarida. You will find enclosed herewith copy of Resolution which I have prepared for introduction on the convention floor.

I know that you are opposed to this unionization and I want to congratulate you on the stand you have taken. If I can do anything to help you in the fight let me know.

I would appreciate your reading this resolution and giving me your opinion of its contents.

With warm personal regards, I am

Sincerely,

SUMTER L. LOWRY

RESOLUTION SUBMITTED TO NATIONAL GUARD OFFICERS ASSOCIATION OF FLORIDA

Whereas, There is a movement on foot to unionize the Armed Forces of the United States of America; and

Whereas, This movement has the support of some influential liberal members of Congress; and

Whereas, It also has the support of powerful labor leaders; and

Whereas, We believe that to unionize any segment of the Armed Forces would have a profound effect on the morale, discipline and efficiency of our Armed Forces; and

Whereas, The theory of unionization of the Army, if once adopted even to a small degree, could not be stopped and that eventually the Armed Forces would be completely unionized.

Now, therefore, be it resolved, That the National Guard Officers Association of Florida, in convention assembled at Orlando, Florida, this 25th day of March, 1977, hereby goes on record that we are unalterably opposed to unionization of the Armed Forces in part or in whole;

Be it further resolved, That it is of extreme importance to stop the effort to unionize the Armed Forces before this idea takes hold.

Be it further resolved, That we urge the President of the United States to make a strong public statement opposing the unionization of the Armed Forces.

Be it further resolved, That the Secretary of Defense and the Chiefs of all departments of our Armed Forces be alerted to the dangers from the efforts to unionize our Armed Forces.

Be it further resolved, That copies of this Resolution be furnished to:

President of the United States, Secretary of Defense, Chiefs of the Various Armed Services, Governor of Florida, Members of Congress from Florida and that it be given wide circulation to the news media both state and national.

CONNECTICUT STATE FEDERATION OF WOMEN'S CLUBS, INC.,
May 10, 1977.

Hon. STROM THURMOND,
Senate Building
Washington, D.C.

Dear SENATOR THURMOND: The Connecticut State Federation of Women's Clubs, at their Convention May 3rd, passed the attached Resolution regarding Proposed Unionization of the Armed Forces.

I will be attending the General Federation of Women's Clubs Convention in Seattle, Washington June 4–9, 1977 and will be presenting this as an emergency resolution for vote at that time.

For your information there are 11 million members in the General Federation of Women's Clubs representing all states including Puerto Rico, Alaska and International Clubs and there are 15,000 members of the Connecticut Federation of Women's Clubs alone.

We are wholeheartedly against the unionization of the Armed Forces and hope that this information will be of some assistance to you in the Senate when you fight to head off this deadly prospect.

Sincerely,

URSULA KOLB,
(Mrs. Francis J.),
President.

PROPOSED STATE RESOLUTION

Re proposed unionization of the Armed Forces.

Whereas, there has been increased pressure placed on Congress to unionize the Armed Forces, and plans are being made to bring this matter to fruition under the new Administration; and

Whereas, unionization of the military—

(1) Would be a serious breach of national security,

(2) Would impair our ability to maintain continuity and discipline within the military,

(3) Would impair our ability to preserve the standards necessary for our defense,

(4) Would put control of our defenses in the hands of a few union leaders, and

(5) Would give an overwhelming advantage to any power wishing to assault our defenses and security;

Now, therefore, be it resolved that the Connecticut State Federation of Women's Clubs go on record as opposing unionization of the Armed Forces of the United States, and take the following appropriate steps:

(A) Notify President Carter, Senators Ribicoff and Weicker, and our Representatives of our position on this issue, asking that they actively work to oppose military unionization;

(B) Notify all State Clubs of the passage of this resolution and ask them to pass similar resolutions and notify their elected representatives as described in (A) above; and

(C) Notify the General Federation of Women's Clubs of the passage of this resolution and ask them to—

(i) Pass a similiar resolution,

(ii) Notify our elected representatives,

(iii) Notify all national Clubs of the passage of the GFWC resolution,

(iv) Ask that all Clubs pass similar resolutions, and notify their elected representatives (President, Senators and Representatives) of their opposition to unionization of the Armed Forces.

DISCHARGE UPGRADING: S. 1307 AS AMENDED—AN EQUITABLE ALTERNATIVE TO THE BEARD AMENDMENT ON H.R. 7554

Mr. CRANSTON. Mr. President, on June 14 I submitted, with the cosponsorship of the Senator from South Carolina (Mr. THURMOND), Amendment No. 414, proposing amendments to S. 1307, a bill

which the Senator from South Carolina (Mr. THURMOND) introduced on April 19, 1977, to amend title 38 of the United States Code to deny veterans' benefits to certain individuals whose discharges from service during the Vietnam era under less than honorable conditions are administratively upgraded under temporarily revised standards to discharge under honorable conditions. S. 1307 as so amended was ordered reported today by the Committee on Veterans' Affairs, with the cosponsorship of the full membership of the committee.

This bill as reported provides clarification of the effect of S. 1307 in such a way as to assure a fair and equitable basis—in keeping with sound, fundamental principles regarding the conferring of veterans' benefits—for granting such benefits to former military personnel whose undesirable discharges received during the Vietnam era are upgraded under the Defense Department's special discharge review program. It also is designed to insure that no individual who responded to the President's offer of assistance under the special discharge review program would be prejudiced, by having done so, in terms of having lost opportunities for obtaining eligibility for veterans' benefits that would have been available had the special discharge review program never been established.

The amendment would also provide the Administrator of Veterans' Affairs with discretionary authority to furnish health care for the service-connected illnesses or injuries of former military personnel with undesirable discharges, and would preclude the U.S. Government from seeking reimbursement for any benefits actually provided pursuant to a special discharge review program upgrading prior to enactment of this legislation.

Mr. President, I want to express publicly my appreciation for the cooperative efforts of the Senator from South Carolina (Mr. THURMOND) in developing these amendments with me. His openmindedness and fairness enabled us to produce amendments to his bill which, I believe, warrant the support of the entire Congress.

BACKGROUND

On January 21, 1977, President Carter announced his pardon of those who had violated the draft laws during the Vietnam conflict, which he described as the period August 4, 1964, to March 28, 1973. At that time, I felt that moral and equitable considerations required that he also extend a comparable measure of forgiveness and compassion to individuals who entered and served in military service during that same period, but who failed to complete military service successfully. In fact, in announcing the pardon, the President stated that he was referring to the Department of Defense the question of how, in light of the pardon, to deal equitably with the problems of former military personnel from the Vietnam era who had received less-than-honorable discharges during that time.

On March 29, 1977, Secretary of Defense Harold Brown announced that the President had approved a program for the review of certain administrative discharges—other than honorable discharges—received during the Vietnam era.

I have, and have had, a number of major concerns regarding the program which was announced on March 29 and implemented on April 5, 1977—the special discharge review program. First, as a program that is supposed to help bind up the divisions of the Vietnam era, I do not believe that it fully effectuates a measure of compassion for those with unsatisfactory military experiences similar to the forgiveness extended to those who had violated the selective service laws. In my mind, forgiveness for former GI's—comparable to the pardon—should mean wiping the slate clean in every case where it is reasonable to do so in the spirit of forgiveness and compassion, through the issuance of honorable discharges to those who received general or undesirable administrative discharges.

In my mind, the special discharge review program fails to accomplish that objective in several important respects. For example, unlike the pardon, whereby forgiveness was extended with respect to draft law violations which occurred during the period of the Vietnam conflict, as the President defined it, the scope of the special discharge review program is tied to an administrative step taken by the military services—the issuance of an administrative discharge—rather than tied to the individual's conduct during that period. For the programs to be truly parallel, I believe that all administrative discharges based in whole or in part upon the individual's behavior during the period defined as the Vietnam conflict should have been encompassed within this program.

I also believe that this program should extend to individuals who served in Vietnam after the involvement of regular military personnel in armed conflict in Vietnam but prior to the August 4, 1964, Gulf of Tonkin Resolution.

Moreover, I think that the special program will fall far short as an act of forgiveness, in that it seems to favor the upgrading of undesirable discharges to general discharges, which have a serious stigmatizing impact, rather than favoring upgrading to fully honorable discharges.

However, beginning with my March 2, 1977, letter to President Carter regarding the possible formulation of a special discharge review program, I have held and expressed a deep concern regarding the need to distinguish between the compassionate upgrading of certain "bad paper" discharges to remove their stigmatizing effects, on the one hand, and the conferring of veterans' benefits as a consequence of such upgrading, on the other hand. Compassion and forgiveness under these circumstances properly call for the cleaning up of a bad record so that the individual can resume his or her normal civilian pursuits without the disadvantage of a stigmatizing discharge; but compassion and forgiveness should not, in my view, automatically entail financial rewards in all cases. The decision regarding entitlement to benefits should be made on the basis of a careful case-by-case review in accordance with standards applicable to all veterans and taking into account the full record in each case. I believe that the broad and sweeping conferring of such benefits without regard to the whole record, on grounds of compassion, does substantial damage to the fundamental principle that veterans' benefits are entitlements to be earned through honorable military service to the Nation.

Moreover, such a system might impair our ability to assure fully adequate benefits and services for veterans in clear need of them whose claim to such benefits and services is undisputed.

I have expressed these various concerns about the special discharge review program in correspondence with the President and the Secretaries of Defense and of the Army. Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks copies of my March 2 letter to the President, my April 27 letter to the Secretary of Defense, the June 2 response from the Secretary of the Army, my June 14 reply to him, and his June 22 further response, preceded by copies of S. 1307 as reported and a description of the reported bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATION INTRODUCED

Mr. CRANSTON. Mr. President, shortly after the announcement of the special discharge review program, several bills were introduced in the House of Representatives reflecting that same basic concern regarding any special standards for conferring benefits; and, in the Senate, my distinguished colleague and fellow member of this committee, the Senator from South Carolina (Mr. THURMOND), introduced a similar measure, S. 1307, on April 19. While supporting the position reflected in such bills that veterans' benefits should not be awarded solely on the basis of revised standards not applicable to all veterans, I believed that those measures needed certain important revisions in order to assure that they would deal fairly and equitably with persons who responded to the President's invitation to seek an upgrading of their discharges.

Senator THURMOND and I met several times to discuss my reservations concerning the measure he had introduced and, after extensive discussions, we were able to produce amendment No. 414 to his bill, which I believe should be deserving of wide support. I want again to express my sincere appreciation to Senator THURMOND for his openmindedness, his cooperative spirit, and the fairness with which he has approached these discussions involving these amendments to legislation which he had sponsored. I am similarly grateful to his staff for their cooperation and contributions.

SUMMARY OF S. 1307 AS REPORTED

To summarize the provisions of S. 1307 as reported, it provides clarification of the effect of S. 1307 as introduced in such a way as to assure a fair and equitable basis—in keeping with sound, fundamental principles regarding the conferring of veterans' benefits—for granting such benefits to former military personnel

whose undesirable discharges received during the Vietnam era are upgraded under the Defense Department's special discharge review program. It also is designed to insure that no individual who responded to the President's offer of assistance under the special discharge review program would be prejudiced, by having done so, in terms of opportunities for obtaining eligibility for veterans' benefits that would have been granted if the special program had never been established.

It would do this, Mr. President, by giving persons who receive such an upgrading the right to a second discharge review board determination as to whether they would have been granted an upgrading under generally applicable standards. If a review board determines that it would ordinarily have upgraded the veteran's discharge, the veteran would become eligible for veterans' benefits just as he or she would have under normal circumstances. The amendment would also assure that, if the initial indication is that upgrading would not have been granted under generally applicable standards, the individual would be afforded the procedural due process normally involved in discharge review proceedings—notice and an opportunity for personal appearance, even though the individual may already have appeared personally under the special discharge review program.

I also wish to stress that the bill as reported places the obligation on the Government—where it belongs—to avoid prejudice to the full opportunity of an individual under generally applicable standards to obtain a discharge upgrading by virtue of having applied or applying under the special discharge review program. Thus, the committee bill requires the discharge review board, on its own motion—unless the individual, after being notified, objects—to proceed to make the second review of the case for upgrading under generally applicable standards.

Mr. President, nothing in the bill as reported would alter the nature of the discharge paper which would be granted the individual under the special discharge review program—only the entitlement to benefits thereby.

The committee bill deletes one potentially troublesome provision included in S. 1307 as originally introduced and similar bills in the House of Representatives. While that provision would have preserved the existing right of an individual, whose undesirable discharge had been upgraded under the special program, to apply to the Veterans' Administration for a determination that he or she was discharged "under conditions other than dishonorable"—which determination carries with it an entitlement to veterans' benefits—it would have required the VA to consider such applications for these so-called "character-of-discharge" determinations only under those regulations in existence on April 1, 1977. Such a "freezing" of VA "character-of-discharge" determination regulations for purposes of consideration only of the application of those who have received an upgrading under the special discharge review program would, in my mind, have unfairly discriminated against these individuals. These regulations are in need of revisions and clarification, and are currently under review by the VA. If they are revised, it would not be fair to require that one class of applicants be dealt with under the present regulations. Thus, the bill as reported drops the "freezing" provision. Instead, the committee bill contains a section requiring that any new or revised VA regulations in this area should not create a unique or special class of persons to be treated differently from all others.

The basic concept embodied in the Committee bill is that benefits should be awarded as a result of discharge upgrading or a VA "character-of-discharge" determination only under standards of general applicability, not under standards made specially applicable only to individuals whose service was during a certain period.

Our bill would also provide the Administrator of Veterans' Affairs with authority to furnish health care for the service-connected illnesses or injuries incurred in line of duty by former military personnel who may not otherwise be entitled to such care because they have undesirable discharges, and would prohibit the U.S. Government from seeking reimbursement for any benefits actually provided pursuant to a special discharge review program upgrading prior to enactment of this legislation.

BIPARTISAN APPROACH

As I indicated earlier, the committee bill is now cosponsored by each member of the Veterans' Affairs Committee and supported by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the AMVETS, the Paralyzed Veterans of America, and the Blinded Veterans of America. Moreover, it is noteworthy that this approach has commanded the same bipartisan approach in the House of Representatives. On Monday, June 20, the ranking minority member of the House Veterans' Affairs Committee, JOHN PAUL HAMMERSCHMIDT, introduced H.R. 7885, legislation identical to amendment No. 414. On Tuesday, this legislation was endorsed by Congressman TOM DOWNEY of New York, a leader in the field of discharge review board reform legislation.

INEQUITABLE BEARD AMENDMENT ON APPROPRIATIONS ACT

On the other hand, Mr. President, it is quite disturbing that on June 14, 1977, the House passed by a vote of 273 to 136, the so-called Beard amendment to H.R. 7554, the House-passed version of the HUD-Independent Agencies Appropriations Act for fiscal year 1978.

That amendment, on its face, would absolutely prohibit the expenditure of funds for veterans benefits from fiscal year 1978 appropriations for any individual whose undesirable discharge is upgraded under the special program, even though that individual might have been entitled to an ungrading under generally applicable discharge review standards, or to a favorable "character-of-discharge" determination from the VA. Thus, an individual—with an undesirable discharge—who responded to the President's invitation in the spirit of compassion and forgiveness to seek a discharge upgrading would be penalized if he received such an upgrading, by being automatically denied thereafter any benefits out of fiscal year 1978 appropriations. In contrast, another individual with identical circumstances who did not apply for upgrading in the special program would be fully eligible to apply under the regular discharge review process and, if successful, obtain benefits which the Beard amendment would deny to the former individual.

Mr. President, I believe such a provision has no business in an appropriations bill, and I urge that no such amendment be offered in the Senate when H.R. 7554 is taken up. Today, Senator THURMOND and I wrote to each Senator urging that the Senate not adopt the Beard amendment, or, if it is offered, that it be tabled.

Mr. President, I ask unanimous consent that the text of our "Dear Colleague" letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 23, 1977.

DEAR COLLEAGUE: We are writing regarding the so-called Beard Amendment, added in the House of Representatives, to H.R. 7554, the HUD-Independent Agencies Appropriations Act of FY 1978.

The Beard Amendment provides: "No part of the foregoing appropriation shall be used for the adjudication of claims or the payment of benefits for any individual who was discharged from the military under less than honorable conditions, and who received an honorable or general discharge as the result of revised standards for review of discharges as implemented April 5, 1977, by the Department of Defense's special discharge review program."

The Beard Amendment on its face denies veterans' benefits out of FY 1978 appropriations to any individual whose undesirable discharge is upgraded under the Carter program, even though that individual might have been entitled to an upgrading under the generally applicable discharge review standards, or to a favorable character-of-discharge determination from the VA. Thus, an individual with an undesirable discharge who responded to the President's invitation to seek a discharge upgrading under the Special Discharge Review Program would be penalized if he received such an upgrading, by being automatically denied thereafter any benefits out of FY 1978 appropriations. In contrast, another individual with identical circumstances who did not apply for upgrading in the Special Program would be fully eligible to apply under the regular discharge review process and, if successful, obtain benefits which the Beard Amendment would deny to the former individual.

The Committee on Veterans' Affairs today, after due consideration, ordered reported S. 1307, as amended by the text of Amendment No. 414 which we submitted for printing on June 14, with two minor amendments. The bill as reported is cosponsored by all members of the Committee on Veterans' Affairs, and is supported by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, the Paralyzed Veterans of America, and the Blinded Veterans of America.

It is our intention to report the bill next Tuesday, June 28; the leadership has agreed to seek floor action next week. Enclosed is

the text of S. 1307 as reported and a description of the reported bill.

We believe that the approach embodied in S. 1307, as reported from Committee, is far preferable to the Beard Amendment. For the reasons set forth below, we urge that no action be taken in the Senate on the Beard Amendment in contemplation of rapid Congressional action on S. 1307 as reported.

In S. 1307 as reported, we have sought to vindicate the principle that veterans' benefits should be afforded to persons with less than honorable discharges only under standards applicable to all such persons, and at the same time to ensure that the enactment of legislation denying benefits to individuals whose undesirable discharges are upgraded under the special standards in the Carter program does not take away any rights of those individuals to obtain benefits under the regular military Discharge Review Board standards or through the regular VA character-of-discharge process.

The Committee bill, in addition to protecting these rights, makes clear how an individual would obtain a determination regarding benefits eligibility—through a determination by the military Discharge Review Board as to whether an upgrading would have been granted under the generally applicable standards. Full recourse to the VA process is also preserved, and the amendment would authorize the VA to provide health care for the service-connected conditions incurred in line of duty by persons with undesirable discharges.

We think that the overall legislative approach in S. 1307, as reported, is a fair and honorable one, preserving, as it does, historical principles governing the award of veterans' benefits and applying appropriate standards of equity and even-handed treatment. Meanwhile, we again urge that the Beard Amendment not be offered in the Senate, or, if it is offered, that it be tabled.

If you have questions on this matter, please feel free to contact either of us, or have your staff contact Jon Steinberg or Ed Scott at ext. 49126 or Gary Crawford at ext. 49132.

Sincerely,

ALAN CRANSTON,
Chairman.
STROM THURMOND,

Enclosures.

CONCLUSION

Mr. CRANSTON. Mr. President, enactment of S. 1307, as we propose to amend it, would remove the cloud of doubt surrounding this program cast by this pending legislation, which may be discouraging many who are eligible for the special discharge review program from submitting their applications out of fear that they might be adversely affected as a result of having participated.

Mr. President, I believe that we owe it to all those who have applied or who are eligible to apply for upgrading to resolve these doubts promptly.

Again, Mr. President, I urge that no action be taken on the Beard amendment tomorrow and that it be dropped in conference, in contemplation of rapid congressional action on S. 1307 as reported.

S. 1307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3103 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of law, no benefits under laws administered by the Veterans' Administration shall be provided on the basis of an award of an honorable or general discharge under revised standards for the review of discharges (A) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (B) as implemented after January 1, 1977, and not made generally applicable.

"(2) With respect to any person who was discharged from active military, naval, or air service under less than honorable conditions and, under the revised standards described in paragraph (1) of this subsection, has been awarded a general or honorable discharge, the board of review concerned under section 1553 of title 10, United States Code, subject to review by the Secretary concerned, shall, on its own initiative and in the absence of objection by such person after being duly notified of its intention to do so, make a separate determination whether such person would have been awarded an upgraded discharge under generally applicable standards for the review of discharges under such section 1553. Any such determination that a person would have been awarded an upgraded discharge shall entitle such person to benefits under laws administered by the Veterans' Administration just as though the upgraded discharge had been awarded under generally applicable standards. In the event that such board determines that such person would not have been awarded an upgraded discharge under such generally applicable standards, such person shall be entitled to notice thereof and appearance before the board as provided in section 1553(c) of such title.".

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs, may, in the Administrator's discretion pursuant to such regulations as the Administrator shall prescribe, provide health care pursuant to chapter 17 of title 38, United States Code, for any disability incurred during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103 of such title, but not, pursuant to this section, for any disability incurred during a period of service from which person was discharged by reason of a bad conduct discharge.

SEC. 3. The Administrator of Veterans' Affairs, in promulgating, or in making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, providing any unique or special advantage to veterans who have received upgraded discharges under the Department of Defense's special discharge review program or otherwise making any special distinction between such veterans and other veterans.

SEC. 4. Section 1 of this Act shall apply retroactively to deny entitlement to benefits, but the United States shall not make any claim to recover the value of any benefits provided prior to the date of enactment of this Act.

Amend the title so as to read: "A bill to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes.".

DESCRIPTION OF S. 1307 AS REPORTED BY THE COMMITTEE ON VETERANS' AFFAIRS

S. 1307, as reported with the cosponsorship of all members of the Committee, is summarized as follows:

1. The bill, as reported, would preclude the granting of veterans' benefits solely by virtue of an upgrading of an undesirable discharge under the Defense Department's Special Discharge Review Program. This is the same result as provided for in S. 1307, as introduced, which is redrafted to clarify and tighten its effect. It also is refined to preclude such granting of benefit eligibility under any special review program standards thereafter adopted which are not of general applicability, that is, single out a particular service period for special treatment.

2. S. 1307, as introduced, had left unclear whether and how an individual who receives an upgrading of an undesirable discharge under the Special Program could receive a determination of his case under the generally applicable standards of the relevant Discharge Review Board (each Service has its own DRB). It thus left open the possibility that a person who received an upgrading of an undesirable discharge under the Special Program would have lost the opportunity which others have of becoming entitled to veterans' benefits via the ordinary discharge-review route. The effect of the amendment is that no individual would be worse off under the combination of the "Carter" program and this legislation than if the Carter program had never been established. Thus, the reported bill specifies that unless the individual objected, a determination would be made as to whether the DRB would have granted an upgrading under its generally applicable standards. (The initiative would be taken by the Government rather than placing the onus on the individual veteran to reapply.) A favorable determination would entitle the individual to veterans' benefits, retaining whatever upgraded discharge (general or honorable) has been given under the Special Program. In addition, the reported bill provides that, in connection with such a determination, the individual would have the same procedural protections as are currently available to persons applying for discharge upgrading under ordinary circumstances, such as the right to personal appearance.

3. Under current law, persons with undesirable discharges also have the right (whether they applied to a DRB or not) to apply to the VA for a determination whether the discharge was "under conditions other than dishonorable", a favorable determination carrying with it entitlement to veterans' benefits. In the cases of persons receiving an upgrading of an undesirable discharge under the Special Program, S. 1307 as introduced would have required the VA to consider their applications for such determinations under its regulations as they existed on April 1, 1977. The reported bill would delete this "freezing" of VA regulations pertaining to these "character of discharge" determinations. In addition, the reported bill contains a provision expressing the sense of the Congress that any new or revised VA regulations on this subject should not create any unique or special class of persons to be treated differently from others.

4. The bill, as reported, would also add a new provision giving the VA discretionary authority to provide health care for the treatment of the service-connected injuries or illnesses of persons not otherwise eligible for veterans' benefits—but not including persons automatically barred from benefits under section 3103 of title 38 (for example, persons discharged by order of a general court-martial or as a deserter) and persons with bad conduct discharges imposed by special courts-martial. This provision restores some eligibility that might have been provided under the Special Program to veterans wounded in service.

5. The bill, as reported, specifies that the provision denying veterans' benefits applies retroactively but precludes the Federal Gov-

ernment from recovering the value of any benefits provided prior to the date of enactment.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., March 2, 1977.

Hon. JIMMY CARTER,
President,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing concerning the formulation of guidelines for policies in regard to Vietnam-era veterans with less than honorable discharges.

It is my understanding that various executive branch officials and advisors to you will be meeting in order to present options and recommendations to you concerning review and upgrading of the discharges of Vietnam-era veterans released from service under conditions other than honorable. Apparently, the group of executive branch officials does not include representation from the Veterans' Administration.

The failure to include a representative from the VA, the agency responsible for overseeing and implementing veterans' benefits legislation and programs, seems to me to be a serious omission.

As you know, eligibility for veterans' benefits is contingent upon the character of a veteran's discharge from military service. In those instances where the veteran has other than an honorable or general discharge, the VA must determine whether, and to what extent, the discharge has been granted under conditions other than dishonorable.

For example, section 1652 of title 38 in defining eligibility for GI bill benefits specifies that:

The term eligible veterans means any veteran who (A) served on active duty for a period of more than 180 days . . . and who was discharged or released therefrom under conditions other than dishonorable.

Eligibility for other veterans' benefits are similarly contingent upon a determination by the VA that the conditions under which the veteran was released from active duty were other than dishonorable.

It is important to distinguish between the character of discharge and subsequent eligibility for veterans' benefits. Generally, upgrading of a discharge to the status of "general" would confer entitlement for veterans' benefits upon veterans otherwise eligible. In contrast, approximately 90 percent of applications for veterans' benefits eligibility who have a bad conduct or undesirable discharge are found by the VA not to have left the service under conditions other than dishonorable and thus are denied eligibility. It is not clear whether the Administration intends to extend eligibility for veterans' benefits at the same time that the stigma of a bad discharge is removed.

The recent report by The Vietnam Offenders Study, entitled "Reconciliation After Vietnam, A Program of Relief for Vietnam Era Draft and Military Offenders", found that wholesale granting of general discharges would "ordinarily confer automatic eligibility for veterans' benefits to all recipients who served 6 months or more on active duty." The study delineated the ramifications of such a determination as follows:

A uniform policy of this type would treat veterans' benefits as a social welfare program, not a form of compensation for service to the country. However, this would be contrary to the traditional justification for veterans' benefits. Vietnam military offenders should be relieved of enduring stigmas, but that does not mean that they should be rewarded with full veterans' benefits for service they did not, in fact, perform.

The VA is in the very best position to contribute to an understanding of these very subtle and complex issues. Thus, I feel strongly that any discussion concerning the formulation of policies in regard to Vietnam-era veterans with less than honorable discharges should include full representation from the VA, and I respectfully urge you to direct that this be done.

Thank you for your attention to this matter.

With warm regards.

Sincerely,

ALAN CRANSTON,
Chairman.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., April 27, 1977.

Hon. HAROLD BROWN,
Secretary of Defense, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: I am writing in connection with your recently announced program for the review and upgrading of certain administrative discharges issued during the period August 4, 1964, through March 28, 1973.

Previously, in a March 2, 1977, letter to President Carter (a copy of which I sent to you), I expressed my concern regarding the need to distinguish between the upgrading of "bad paper" discharges to remove their stigmatizing effects and the extending of veterans' benefits as a consequence of discharge-upgrading. Careful review of the March 29, 1977, press release announcing the Special Discharge Review program and the April 5, 1977, Department of the Army document entitled "Information for Members of Congress" and discussions between my staff and a representative of your office have not allayed this concern.

I fully appreciate the President's basic intention to extend compassion and forgiveness to Vietnam era military personnel who received discharges other than honorable. Indeed, given the President's recent pardon of those who avoided military service during the Vietnam War through Selective Service violations, I believe that moral and equitable considerations compel some measure of forgiveness for those who entered and served in the military during that same period but failed to complete their service satisfactorily. In addition to avoiding unjustifiably disparate treatment of those who failed to complete it, on the other, such an act of forgiveness contributes substantially to the President's efforts to bind up the divisions of the Vietnam era.

If, however, the means for extending forgiveness entail broad gage, indiscriminate granting of eligibility for veterans benefits, I fear that needless damage will be done to historic notions regarding the integrity of military service and to the fundamental principle that veterans benefits are entitlements to be earned through honorable service to the nation. At present, I am very apprehensive that the Special Discharge Review Program will have these regrettable consequences because it fails to distinguish adequately between compassion and the conferring of valuable entitlements.

At the same time, I am equally concerned that the program be well designed to implement its compassionate purposes in an equitable, evenhanded fashion. Any program of this nature should be carefully fashioned to extend forgiveness to all those who would come within its compassionate purposes, should provide for a careful case-by-case review, and should set forth precise standards for the guidance of individualized reviews. On the basis of the information presently available to me, I have serious doubts that the program is adequate in any of these respects.

The following questions and comments reflect both my concern that the Special Discharge Review Program will needlessly compromise the integrity of military service and basic principles underlying veterans benefits, and my doubts that the program is so structured as to function in a just and equitable manner.

1. I believe that the present method for delimiting the program should be modified. The program covers only those persons who received general or undesirable discharges during the period August 4, 1964, to March 28, 1973, and those who are currently in a deserter status (except from a combat zone) which began during that same period. Many others are, in terms of equitable considerations, at least equally as deserving of consideration. They include, at a minimum, two groups of former military personnel who served in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia while American regular Armed Forces were engaged in the conflict in Vietnam: (a) those who so served and were discharged prior to August 4, 1964; and (b) those who served there prior to March 28, 1973, as part of an enlistment which was administratively terminated after that date. I can discern no basis for totally withholding from these persons the compassion which the discharge-upgrading program will extend to many who never served in those areas. For example, I find it very difficult to accept the fact that a current deserter who, after very brief service, left his unit on March 27, 1973, and never returned will be covered under the special program, and thus possibly be treated more favorably than a veteran who served honorably in Vietnam and was given an undesirable discharge after March 27, 1973, for a stateside incident.

A similarly unjust disparity would appear to exist between two persons who left their units on March 27, 1973, one returning in June 1973 and receiving an undesirable discharge at that time and the other never returning until after the announcement of the special program. Only the latter, ostensibly the more egregious offender, is now eligible for a compassionate upgrading.

I think there are numerous similar inequities along these lines that would be ameliorated (to some extent at least) by extending the program to include (a) persons whose discharges resulted, in whole or in part, from events which occurred during the August 4, 1964, through March 28, 1973, period, including the commencement of unauthorized absences; (b) those who served in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia prior to March 28, 1973, as part of an enlistment which was administratively terminated after that date; and (c) those who, after American regular Armed Forces became involved in the conflict in Vietnam, served in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia and were discharged prior to August 4, 1964. In all cases, discharges based on desertion from the combat zone could be excluded. Category (a) would seem to be the largest grouping; and the approach it reflects would be more consistent with the terms of the President's pardon of draft resisters inasmuch as it focuses more on individual's conduct during a particular time period rather than on particular dates of discharge issuance. The other categories, by focusing on service dates, not discharge dates, are more in keeping with the traditional method for measuring eligibility based on military service.

2. In view of the above, I would like to know what effect, if any, you intend or anticipate the Special Discharge Review Program criteria to have upon the applications of persons whose discharges occurred earlier or later than the prescribed period; and I urge you to clarify this matter in a directive. Your staff has suggested that this matter might best be left to the discretion of individual boards or panels of boards. Letting individual panels of the Discharge Review Boards decide on their own whether and when to ap-

ply those standards will create a situation fraught with opportunities for inequitable actions. I believe it is wrong for the government knowingly to encourage the uneven application of standards, particularly when the consequences are of such great personal significance and duration.

3. In light of the hundreds of thousands of potential applications under this program, what specific plans do you have for supplementing the membership of the existing Discharge Review Boards and for orienting new members to their responsibilities? What estimates do you have regarding the average or maximum number of cases per day which individual panels may be deciding?

4. Also, given the number of Discharge Review Board panels, possible expansion in the numbers of panels, and the enlarged caseloads with which they must now deal, do you plan to establish a monitoring system to detect diverging trends in the outcomes of similar cases and to correct any significant inequities which may occur? If so, please explain those monitoring and corrective systems and whether retroactive correction of inequitable results is planned.

5. With regard to the degree of upgrading in undesirable discharge cases, are you providing any standards for determining whether discharges should be upgraded to general or to honorable? In this connection, it would seem to me that an upgrading from undesirable to general would have a minimal impact on stigmatization, and would thus, ironically, accomplish little by way of simple forgiveness while still conferring full benefits under existing laws.

6. The press release announcing this program stated that it "will not apply to those who were separated for reasons involving violence, criminal intent, or the use of force". The April 5, 1977, "Information for Members of Congress" memorandum, however, does not contain this wording. Rather, the April 5 document states that, "providing there are no compelling reasons to the contrary", eligible persons will have their undesirable discharges upgraded if they meet certain criteria, such as having been wounded as a result of military action. In addition, an attachment to the April 5 document, entitled "Qs & As for Use by PAOs", states:

Compelling reasons for a service Discharge Review Board not to upgrade a discharge are:

(a) Discharge was for desertion or absence in or from the combat zone. An individual who departed the combat zone on leave, TDY, or other authorized absence basis and did not return is considered to have deserted or absented himself in or from the combat zone. Conversely, an individual who failed to report to an embarkation point for further assignment to the combat zone is not considered to have been absent in or from the combat zone.

(b) Discharge was based on an act of violence or violent conduct.

(c) Discharge was based on cowardice or misbehavior before the enemy.

(d) Discharge was based on an act or conduct that would be subject to criminal prosecution if it had taken place in a civilian environment.

The terms used in items "b", "c", and "d", in the above quotation, seem imprecise. If they accurately represent official policy, I would like to know what guidelines will be issued in order to assure fair and uniform interpretations of those standards.

Also, there appears to be a conflict between item "d", which indicates that "a compelling reason" for denial of upgrading exists when a discharge was based on "conduct that would be subject to criminal prosecution if it had taken place in a civilian environment", and item "h" on the first page of the "Qs & As for Use by PAOs", which suggests that "drug abuse", which generally involves criminal conduct in civilian life, might not be a "compelling reason" to deny an upgrading. Please let me know how you intend to resolve this apparent conflict.

7. Moreover, the March 29 press release and the April 5 materials are in conflict in a major respect. While the press release, which was widely quoted in the media, indicates that persons in three categories would not even be eligible for consideration, the April 5 materials suggest the contrary by leaving the decision to the individual board. If the April 5 materials are accurate in this regard, it would seem that a considerable effort should be made to correct the misunderstanding conveyed by the press release.

Also, assuming the April 5 materials prevail, an important question arises as to whether the "compelling reasons" for denial are intended to be absolute bars to upgrading. The information provided me seems to indicate that that may be the intent, and it is certainly a possible interpretation by members of the review boards. Such an absolute bar, however, would produce a substantial number of seriously inequitable results. For example, an individual who was seriously wounded in combat in Vietnam, or one who successfully completed a tour of duty there and was highly decorated for such service, may be considered ineligible for upgrading if he was later discharged for reasons involving a criminal offense, such as simple assualt, regardless of any mitigating or extenuating circumstances. I would strongly recommend clarification or modification of the "compelling reasons" standard to avoid such inequities by indicating that each case should be judged on its merits and that positive factors can outweigh negative factors.

Unless this is done, I believe that the inequities entailed in the coverage of individuals charged with desertion represents a gross injustice to those who tried and rendered valorous and honorable service for almost their entire tours.

8. This brings me to a concern that I highlighted at the onset of this letter—the need for judicious case-by-case determinations based on documentation and carefully developed guidelines. It appears to me that quite the opposite is planned in this program—as illustrated by the repetition of the word "automatically" in the April 5 materials. Automatic upgrading is one thing, but automatic conferring of a full range of veterans benefits on those who did not serve honorably is quite another. I think this kind of blanket approach demeans and diminishes honorable service in a major way.

9. Providing for careful, individualized determinations according to clear, detailed guidelines should be combined with strong, well-publicized encouragement—individualized to the maximum extent feasible—for all persons within the scope of the program to apply and obtain case-by-case determinations based on their particular circumstances. It would be most unfair for some eligible persons not to receive consideration through ignorance of their opportunities under the program.

10. A number of questions exist as to the intended meaning of several of the criteria for discharge upgrading: Are there guidelines for determining whether an individual was "wounded as a result of military action"? Will those persons who, at the end of service in Southeast Asia, submitted to urological tests which disclosed the presence of drugs be deemed to have "successfully completed an assignment" there? Is "discharge for abuse of drugs or alcohol" intended to be a negative factor as the use of the phrase "contributing or extenuating factors" suggests? If not, I believe that a clarifying directive to that effect is needed.

11. With regard to persons presently in deserter status which began after August 4, 1964, and before March 28, 1973, I would like to know what procedures are being established to give them reliable information as to whether there are other charges pending against them. Will those procedures give assurance that the making of an inquiry will involve no risk of being arrested? There is no mention of such assurance in any of the materials thus far issued.

12. What are your plans for providing counsel without charge to individuals whose applications for upgrading are initially denied? I believe all steps should be taken to arrange for private counsel (pro bono wherever possible) rather than to rely on military counsel. Will all persons whose applications are initially denied be advised of and granted the right of rehearing and the right to counsel? If not, what categories of applicants will not be so advised?

13. Will upgraded discharge papers bear any indication that the discharge has been upgraded, such as an issuance date reflecting the date of upgrading.

14. If a person is denied an upgrading of an undesirable discharge under this program, he might erroneously conclude that he is ineligible to seek a Veterans' Administration determination that he was discharged for reasons other than dishonorable and is, therefore, entitled to benefits. I suggest that persons refused upgrading of undesirable discharges be advised that they still have that opportunity to apply to the VA for benefits.

15. Among the persons who received bad conduct discharges as a result of offenses occurring during the period August 4, 1964, through March 28, 1973, how many were based on charges solely of desertion or prolonged absence?

16. I would like to know what statistical tabulations you plan to compile of Review Board decisions. It might be very useful for both monitoring and possible legislative purposes to develop, in all decided cases, profiles of key characteristics of the veteran, his or her service, and whether and to what extent an upgrading was granted. These characteristics would include the existence of a service-connected disability and the rating therefor, and the existence of one or more of the "compelling reasons" for denial of upgrading, together with specification of the conduct involved. It might also be useful to know as much objective data regarding the eight general considerations as could be made available. Such information might include, *e.g.*, age, length of service, education level, and whether substantial weight was given to a record of good citizenship since discharge.

17. Your staff advises that it is not possible to provide individualized notice to persons eligible for discharge upgrading. The reason apparently is that present recordkeeping practices do not make it possible for you to retrieve the military records involved according to date and type of discharge. Are you now establishing a procedure that would provide you with the capacity to notify individuals in the event of the establishment of any future discharge review program?

18. Consideration of the Special Discharge Review Program recalls longstanding criticisms of the administrative discharge process. Do you plan any overall review of alleged procedural shortcomings in that process and the various proposals for correcting them?

I would greatly appreciate a prompt response to this letter in order to assist us in evaluating various legislative proposals that have already been introduced in the Congress. If, for any reason, you encounter delays in providing complete answers, please provide periodic responses and have a member of your staff keep Jonathan R. Steinberg, Chief Counsel, or Edward P. Scott, General Counsel, of the Senate Committee on Veterans' Affairs, advised as to what informa-

tion is currently available and as to the progress in preparing a full response.

Sincerely,

ALAN CRANSTON,
Chairman.

SECRETARY OF THE ARMY,
Washington, D.C., June 2, 1977.

DEAR MR. CHAIRMAN: This is in reply to your letter of April 27, 1977 concerning the Department of Defense Special Discharge Review Program.

Due to the detailed nature of your questions, I have responded to each in the attached Inclosure. In addition, the following remarks are provided as a matter of background information and to address your general concerns regarding this progam.

The program is designed to achieve the President's basic objective to extend compassion and forgiveness to Vietnam era personnel who received administrative discharges other than honorable. In designing a program to achieve this objective, DOD considered but elected not to use any system of categorical upgrade which would bypass the normal system for discharge review. In our view such an approach would tend to detract from the character of the discharge of others who served honorably and would adversely impact on military morale and integrity. Rather, we designed a program which employs existing mechanisms for discharge review; provides for a case-by-case review; and provides for simplified application procedures.

The military departments are using the existing Discharge Review Boards for review of discharges under this Special Program. Due to the increased workload, the Boards have been augmented with additional officers and support personnel. All officers selected to augment the Boards must meet the same standards of maturity and professionalism required of those assigned permanently. Additionally, the same internal operating rules and procedures apply, thereby maintaining the integrity of the discharge review system.

Each case considered by the Boards is reviewed on its own merits. Neither indiscriminate nor categorical upgrading procedures will be used in this Special Program. The application procedures have been simplified (toll-free telephonic application) to facilitate entry into the review process. Evidence of successful and honorable service, somewhat similar to the "special considerations" announced in the Special Program, have traditionally been a part of the discharge review process. The principal difference in the Special Program is that if an applicant meets one of the "special considerations," upgrading will occur unless the Board finds there is a compelling reason to the contrary. This provision, coupled with the simplified application procedures, make this a Special Program. You will note that the "special considerations" are all related to honorable actions. The "mitigating factors" are included, in the spirit of compassion, as additional matters to be considered in this Special Program.

This program maintains the integrity of the Armed Services' discharge characterization system, and yet retains elements of compassion and fairness.

The last point concerns the eligibility parameters of the program. In designing the program, we sought to follow the President's desires that the program encompass the Vietnam era, 4 August 1964 through 28 March 1973, inclusive. These are the same dates that President Ford used in his Clemency Program. In any program with finite limits, there will be some "near misses." Therefore, you are correct in observing that some individuals who served during the period are not eligible to participate. However, to compensate for this, we provide to each applicant who is ineligible a letter explaining how to apply for discharge review under normal procedures and for convenience, enclose a copy of the appropriate application form.

I trust that this explanation of the program's implementation will allay your concerns and that the detailed answers to each of your questions will provide information which is helpful in your most important work.

Sincerely,

CLIFFORD L. ALEXANDER, Jr.

Inclosure.

QUESTION ONE

The period of the program, 4 August 1964–28 March 1973, coincides with the Vietnam-era as defined in former President Ford's clemency program and in President Carter's pardon of draft evaders. These dates correspond to the dates of United States direct involvement in the Vietnam conflict. Applicants who do not fall within the parameters of the SDRP are not ignored, however. Each is supplied information and appropriate application forms are provided, which may be used to request upgrade under the normal procedures. Experience has shown that successful and honorable service in combat weighs heavily in the applicant's favor during the review process.

QUESTION TWO

Special Discharge Review Program criteria and mitigating factors do not differ greatly from those normally considered by the board in reviewing discharges. All facts pertaining to combat service, awards, decorations, and prior honorable service are taken into consideration and any mitigating factors are inclusive in the consideration given to the whole man by the board. The principal differences between regular discharge review and this special program are that under the special program, if an applicant meets "special considerations", upgrading will occur unless the board determines that compelling reasons exist to the contrary.

QUESTION THREE

The existing discharge review boards of the three services are being augmented by additional members to enable each of these boards to increase the number of panels available to hear cases. The members augmenting the boards must meet the same standards and criteria as original members and the conditions under which they sit duplicate the conditions under which regular members sit.

QUESTION FOUR

The Presidents of the several boards have the responsibility of insuring uniformity between the various panels. Furthermore, there is no rigidity in panel configuration by membership. Members are rotated between panels daily as are presiding officers of the panels so that no single panel has the capability of establishing a single personality or philosophy differing from that of other panels. In addition, results of board reviews will be monitored by periodic reports to the Office of the Secretary of Defense.

QUESTION FIVE

The determination of whether or not to grant a general versus an honorable discharge is based on the overall conduct and efficiency of the individual during service, the nature and type of service performed (combat versus noncombat), the length of service, and conditions under which the cause for discharge occurred. These factors when considered with all other mitigating factors, are taken into account by the boards in making case-by-case determinations.

QUESTION SIX

In essence, the boards, in addition to determining whether or not the offense committed would have been punishable under civilian criminal law, will consider the evidence of calculated criminal intent, intent of grievous bodily harm to an individual, intent of substantial permanent loss to an individual of his possessions, offenses against minors, and the like. Further, the Special Discharge Review Program was developed in response to the President's desire that certain discharges be re-examined in a spirit of compassion. The Program is designed to provide extraordinary relief, but is not intended to restrict any favorable policies specified by competent authority to be followed by the Discharge Review Boards prior to the announcement of the Program. Accordingly, no change is anticipated because of the SDRP in regard to the disposition of cases involving drugs or alcohol.

QUESTION SEVEN

The press release was not all inclusive. The more complete materials that were published later in the Federal Register (Page 21308 through Page 21310 (26 Apr 77) are the basic documents of the Special Discharge Review Program. The determination of all factors in each individual's records will be used as the basis for the case-by-case review for possible upgrading of each applicant. Individual contact with one of the toll-free numbers and followup correspondence will serve to clarify specific eligibility questions.

QUESTION EIGHT

The boards are not conferring automatic upgrades, but instead are making decisions based on the presence or absence of supporting documentation in the military records or as provided by the applicants. While it is true that upgrading to a general discharge will occur in certain circumstances because of the special criteria, upgrade to an honorable discharge depends upon the entire record. Further, where special criteria are not present, upgrades will depend on the review of the entire file.

QUESTION NINE

Careful consideration has been given to thoroughly publicizing the Special Discharge Review Program to insure that maximum response will be obtained. In an effort to reduce the overall cost, the decision was made to rely to a great extent on the media to assist in providing the information to the public through news stories and public service announcements. Additionally, other government agencies have been requested to assist in this effort by providing their field agencies with information concerning the program and the application procedures.

Since the program was announced on 28 March 1977, the Department of Defense has made four news releases concerning the program and application procedures. These news releases were provided to the national media through the Pentagon press corps. Another major effort to publicize the program was to provide radio spot announcements to the program directors of 6,500 radio stations across the United States for use as public service announcements.

In addition to these news releases, the Department of the Army, acting as the Department of Defense executive agent for the program, is providing daily feeder reports to all military Public Affairs Offices with instructions on how to use this information to increase public awareness of the program through cooperation with local media representatives.

Initial data received from the Public Affairs Offices indicate that information about the program is receiving media coverage country-wide as well as some coverage in foreign countries. Cooperation of the media has been most encouraging.

QUESTION TEN

The term "wounded as a result of military action" generally refers to those individuals who received bonafide wounds, making them eligible for the award of the Purple Heart for service in Vietnam. The term "successfully

completed an assignment in Vietnam" encompasses those who were ordered to Vietnam, and were given credit for a completed assignment without having been recommended for discharge for improper conduct while in Vietnam.

QUESTION ELEVEN

Each service has one central office which maintains custody of deserter records. Each deserter will make contact with this central office for eligibility determination. During the process of determining eligibility each deserter record is thoroughly checked to see if there are charges pending other than for absence without official leave (AWOL) or desertion. If there are other charges pending, the individual at this point is so informed and is also informed of the decision made by the general court-martial convening authority as to whether the other charges will be dropped or retained for prosecution.

Instructions have been issued in the media and to all military agencies that deserter personnel are first to call or write their respective service for information on their status. Hopefully this will be done. In the event a deserter appears in person at an installation and inquires as to his or her status for participation in the program, he or she will not be placed in confinement or detained. If the deserter is determined to be eligible and the only charge pending is AWOL or desertion and he or she elects not to participate in the program, the deserter will be allowed to depart the installation. If other charges exist, he or she will be detained pending disposition of these charges.

In the course of determining eligibility, should the fact become known that a deserter has a civilian felony charge pending, the individual will be informed of such and also informed that the military service cannot be responsible for any civil warrants. The military services, in these instances, are obligated to disclose information regarding this individual to the agency holding the warrant. The fact that a deserter has civilian charges pending does not make him or her ineligible for the program.

QUESTION TWELVE

The Judge Advocate General of each of the armed services will arrange for counsel when requested by applicants who do not have a discharge under honorable conditions after initial review of their record and who request a de novo hearing. It is anticipated that the majority of counsel provided will be military lawyers. Each applicant who does not receive the relief requested is advised that he or she may request that his or her case be reviewed again and that he or she has the right to appear in person. However, only those who still have a discharge under other than honorable conditions after the initial review may request that the Government furnish counsel.

QUESTION THIRTEEN

In accordance with current procedures for preparation of associative discharge papers for those applicants receiving upgrading of their cases, individual copies of the DD Form 214 will not reflect that upgrading was accomplished pursuant to the Special Discharge Review Program.

QUESTION FOURTEEN

Advice will be given as you suggest.

QUESTION FIFTEEN

A precise answer to this question would be extremely difficult to obtain. The best estimate at this time is approximately 20,000.

QUESTION SIXTEEN

A number of items are being gathered from military records. These include normal service information such as personal data, tours, decorations, mitigating factors, review board action and finalization documents for discharge recharacterization.

QUESTION SEVENTEEN

Since 1972, information as to the type of discharges received by individual military personnel has been gathered and is on file. However, the problem is one of locating the individual once discharged from active service. Our experience in the Special Program thus far indicates relatively few of the applicants have the same address as the one indicated in their personnel records. Any attempt by the military services to maintain the current address would be in violation of the Privacy Act. Present experience with applicants reveals that most, upon moving, have not made provisions for forwarding their mail.

QUESTION EIGHTEEN

The following Department of Defense initiatives have occurred since the administrative discharge hearings were held in November 1975 before the Subcommittee on Military Personnel of the House Armed Services Committee. As you can see, the Department has been reviewing and adjusting its administrative discharge procedures to keep pace with legal developments and changes in policy and will continue to do so in the future. In addition, OSD personnel presently are working with the staffs of the Military Departments in developing joint service regulations covering the operation of the discharge review boards and the boards for correction of military records.

October 1975—Established Regional and Traveling Discharge Review Boards.

April 1976—Deleted term "unfitness" by incorporating subreasons into Unsuitability or Misconduct.

April 1976—Established specific category for discharge or personal abusers of drugs.

April 1976—Precluded offenses of misdemeanor type adding together to warrant discharge in lieu of court-martial.

April 1976—Directed that discharge authority cannot discharge if administrative board recommends retention.

April 1976—Provided for minority membership on administrative discharge board if member is of a minority group.

April 1976—Authorized invitational travel orders for important civilian witnesses for administrative boards.

April 1976—Added emphasis and provisions for discharge of marginal performers.

January 1977—Discontinued the term "Undesirable Discharge" in favor of the term "Discharge Under Other Than Honorable Conditions."

January 1977—Included inactive service with active service in determining eligibility of member for administrative board proceedings involving unsuitability.

January 1977—Authorized use of conditional waiver of administrative board proceedings at the discretion of the Military Departments, when initiated by the member.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 14, 1977.

Hon. CLIFFORD L. ALEXANDER, Jr.,
The Pentagon,
Washington, D.C.

DEAR CLIFF: Thank you for your June 2, 1977, letter, with enclosure, in response to my April 27, 1977, letter to Secretary Brown regarding the Special Discharge Review Program which he established on April 5, 1977.

There were several instances in which the information you provided was either incomplete or not fully responsive to the suggestions I had made and the questions I had asked. I would, therefore, appreciate it if you would provide me with specific answers to the following questions. (The numbering of these questions corresponds to the numerical designation I used in my April 27, 1977, letter to Secretary Brown.) In a few instances, I have added followup questions which are underlined.

Because this Committee will be conducting hearings on June 23, 1977, on a measure pertaining to the Special Discharge Review Program, it is important that I receive your response to this letter no later than June 20. I would appreciate your cooperation in expediting a response.

1. Your June 2 letter and enclosure did not respond to the suggestion I made that the Special Discharge Review Program include "persons whose discharges resulted, in whole or in part, from events which occurred during the period August 4, 1964, through March 28, 1973, including the commencement of unauthorized absences." It seems very clear to me that this approach would be more consistent with the terms of the President's pardon of draft resisters inasmuch as it, like the pardon, focuses on the individual's conduct during the period in question, not on the date of an administrative action such as the issuance of an administrative discharge.

What is the rationale for using the date of discharge issuance as the determinative factor rather than the individual's conduct, as I have suggested?

2. Your answer seems to indicate that the Special Discharge Review Program criteria are intended to have no effect on the review of cases not coming within the scope of that program. Is that the case? Have any directives been issued to that effect? If they have been issued, please provide me with copies.

3. Are there any orientation or training programs for new Discharge Review Board members? If such plans and programs exist, please describe them for me or provide me with copies of pertinent materials describing them.

What estimates do you have as to the average or maximum number of cases per day which individual panels may be deciding? What has been the experience to date in these respects?

Please describe the details of the processing of an average case.

4. and 16. Has a system been established by which the Secretary of Defense or the Secretaries of the Army, Navy, and Air Force can periodically monitor the results of the Program and detect diverging trends in the outcomes of similar cases, such as by statistical tabulations reflecting key data from decided cases? Are there any plans for the correction of inequities (rather than merely monitoring to ascertain them) which may develop, such as may be reflected by divergent trends among the services?

5. What written standards have been issued under the Special Discharge Review Program for determining when discharges should be upgraded to general as distinguished from honorable? If there are such standards, please provide me with copies of them. If no such standards have been specially developed for that Program, please provide me with copies of the general standards which are applied.

6. Have any guidelines been issued in order to assure fair and uniform interpretations of what are now clauses (b), (c), and (d) of section 4b(2) of the "Plan for Review of Discharges of Certain Vietnam Era Personnel", as published in the April 26, 1977, Federal Register at page 21309? If such guidelines have been issued, pleases provide me with copies of them.

Please provide me with copies of the "favorable policies" regarding cases involving drugs or alcohol.

7. Please provide me with any directives which require that "all factors in each individual's records . . . be used as the basis for the case-by-case review for possible upgrading of each applicant", including clarification of the position that "compelling reasons" will not be treated as absolute bars to upgrading.

8. Do I conclude correctly from your letter that you anticipate that the vast majority of upgradings of undesirable discharges under the Program will be to general rather than honorable?

10. Please provide me with copies of any directives which clarify the terms set forth at clauses b, c, and f of section 3 of the "Criteria for Discharge Review" set forth at page 21310 of the April 26, 1977, Federal Register.

Please answer specifically the question regarding those given urological tests.

11. If an individual currently in deserter status has been informed by telephone or in writing by the service concerned that there are no military charges other than AWOL or desertion pending, and that information is erroneous or the service concerned changes its position and decides to prosecute such a charge, what specific assurance has each individual been given (and is it in writing or oral) that he or she will not be detained and charged upon return to military control or that he or she will not be arrested prior to such return by virtue of having disclosed his or her current address?

12. How will it be determined whether military or private counsel will be provided? Are persons who still have a discharge under other than honorable conditions after a Special Discharge Review Program initial review fully advised of their right to counsel and the manner in which that right can be exercised? If they are so advised, please provide me with copies of any substantiating documentation and of any forms used in providing such advice in writing.

13. What discharge date will appear on a discharge upgraded in the Special Discharge Review Program?

17. Please advise whether you believe that a program under which persons with discharges under other than honorable conditions are encouraged to keep the Department of Defense advised of their current addresses would violate the Privacy Act. Please specify the provisions of the Act which may be violated by such a policy.

In closing I would again like to stress the importance of your providing me with responses to the foregoing questions by June 20. If you are unable to provide complete responses by that date, please let me have whatever answers and requested documents you can provide by that date.

Sincerely,

ALAN CRANSTON,
Chairman.

Enclosure.

SECRETARY OF THE ARMY,
Washington, June 22, 1977.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of June 14, 1977 concerning the Department of Defense Special Discharge Review Program. I apologize for the delay in responding, but this was necessary to insure you were furnished answers in the detail requested.

I hope the preliminary information provided your staff on June 20 was useful pending receipt of this formal reply. As with your letter of April 27 1977 concerning this program, I have responded to each question in the attached enclosure.

I trust this explanation of the program's implementation and additional clarfification of existing procedures will assist you in your important work. We look forward to further discussions during the hearings of June 23, 1977.

Sincerely,

CLIFFORD L. ALEXANDER, Jr.

Inclosure.

QUESTION ONE

The intent during the conception of the program was to provide the relief desired by President Carter. Conceptually, it would have been desirable to make such a program available to all persons who were, in fact, adversely affected by the Vietnam war. However, when translating concept to practice it became obvious that this was not possible and that finite parameters had to be established. As noted previously, whatever limits were selected, would result in some "near miss" situations. For example, your suggestion of setting "date of conduct" vis-a-vis "date of discharge," within the window period as the determinative factor would have resulted in a vastly larger number of potential applicants. While there is no doubt that many of these additional applicants would have been adversely affected by the VN conflict, it is also true that most of these applicants would not have served in Vietnam and would have performed below standard for other than VN-Era related causes. If Congress concludes that the eligibility period for the program should be extended, the DoD would of course consider that carefully.

QUESTION TWO

The Department of Defense Special Discharge Review Program establishes criteria and conditions which are applicable only to individuals discharged between the dates of 4 August 1964 and 28 March 1973. Under the provisions of that plan, the Discharge Review Boards of the services are correct in interpreting that the specific procedures of the plan are not applicable to individuals who fall outside the dates mentioned above. However, it must be borne in mind that the criteria in use for the Special Program are duplicative of the criteria that are part and parcel of the discharge review, per se, since they deal with the totality of the individual and his service. To that extent, there is similarity in consideration of cases. The essential difference is, of course, that under the Special Program, there is a requirement to upgrade under certain circumstances and this requirement would not otherwise be present under normal review. The LOI for this program is attached as Inclosure 8.

QUESTION THREE

Each DRB received augmentation personnel to assist in conducting the Special review. These personnel were duplicative in grade, experience and length of service to normal board members. The function of discharge review is such that specified training, per se, is oriented almost exclusively on technique and procedures and not on the exercise of judgmental ability. These are assumed to be inherent in the type of officers (senior) who are assigned to duty. All newly assigned officers were familiarized with the standing operating procedures of the various boards and, as well, the specific procedures associated with the Special Discharge Review Program. Attached are the President's Guidance (Inclosure 2), and the various specific issue memoranda (A thru K) (Inclosure 3) issued by the President of the ADRB to the newly assigned members. With respect to the average number of cases per day that the panels are deciding, each DRB increased the normal panels to hear cases. As an example, the Army increased its operational capability from 4 to 10 panels. At the moment, the Army is processing a total of 300 Special Program cases per day and 50 reguhar cases per day.

QUESTION FOUR

Periodic reports are provided to the Executive Agent and, in turn, to the Department of Defense. Historically, there have been differences between the results of the panels because of the differing missions of the service, the differing methods by which discharges are granted and the conditions under which they are granted, and the differing standards that must necessarily apply. All boards meet periodically and compare procedures and results. It is through this process that the degree of similarity which is permissible under the statute is established.

QUESTION FIVE

There are no specific standards which would permit distinguishing between a discharge which should be upgraded to General, vis-a-vis one that should be upgraded to Honorable. This rests exclusively in the judgmental decision-making processes of the Board of the panel members, in which there are five. Based on their experience and past action, plus the standards for initial award of such discharges, these panel members decide relative cut-off points on a case by case basis. There is no arithmetic means by which this decision can be arrived at.

QUESTION SIX

Yes. With regard to acts of violence or violent conduct, the general guidance is contained in SFRB Memorandum of Instructions (Inclosure 2), paragraph 4b, page 16. This general guidance is intended to be broad in order to allow the exercise of mature, experienced judgment on the part of board members. In dealing with cases based on cowardice or misbehavior before the enemy, the brief, general guidance is also contained in Inclosure 2, paragraph 4c, page 16. The major detailed guidance is contained in the UCMJ, paragraph 178 (extracted at Inclosure 4). For an act or conduct that would be subject to criminal prosecution if it had taken place in a civilian environment, the general guidance is contained in: The President's Guidance (Inclosure 1), paragraph 17, page 20b; the SFRB Memorandum of Instructions (Inclosure 2), paragraph 4c, page 16; and in Special Program Memorandum K (Inclosure 3). It should be noted that all board decisions resulting in "no change", based on any of the above compelling reasons to the contrary for upgrade, are automatically reviewed by the legal advisor to the Army Council of Review Boards, a JAGC officer, who insures uniform compliance with the technical aspects of military and civilian law.

QUESTION SEVEN

It is inherent in discharge review and is applicable to this Special Program that the totality of the official military personnel file of the individual concerned be considered by the Board, and, in addition, any documentation which may be provided by the individual and/or his counsel. This requirement is inclusive in the regulations of the three services establishing the procedure for discharge review, and as an example, there is attached a copy of AR 15–180 (Inclosure 5) for the Army. As provided for in the plan and Letter of Instruction, a compelling reason to the contrary is treated as a bar to an upgrading under the special criteria of the Discharge Review Program. However, it would still not be impossible that upon consideration of the whole record and any mitigating circumstances it might contain, (the kind of consideration the Discharge Review Boards always have given) that an upgrade could be granted in a particular case.

QUESTION EIGHT

Yes. It is only in that category of cases in which normal discharge review would result in upgrading to Honorable that upgrading of applicants under the Special Program would be taken to Honorable. In this respect, there will be a percentage of applicants under the Special Program, who otherwise would have applied under regular procedures, whose discharge will be upgraded to Honorable and would have been, absent the Special Program.

QUESTION TEN

In clarification of these terms, the following guidance is provided:

(1) Wounded in action. A member of the armed services is considered to have been wounded in action, if the wound was incurred while the member was engaged in armed conflict or an operation or incident involving armed conflict, caused by an instrumentality of war, incurred in line of duty during a period of war as defined by law.

(2) Satisfactorily completed an assignment in Southeast Asia or in the Western Pacific in support of operations of Southeast Asia. Determination of fulfillment of this criteria is contained in AR 614-30, Table 1-1 and 1-2 (Inclosure 6).

(3) Had a record of satisfactory active military service for 24 months prior to discharge. Guidance for this criteria is contained in SFRB Special Program Memorandum B (Inclosure 3).

Those who were found to be "positive" on urological tests were treated and then returned to the U.S.

QUESTION ELEVEN

A precise review of each case is made by the respective service. A determination is made then as to whether the individual is eligible or not for the program. Subsequently, the individual is notified either by telephone or in writing concerning his status. Normally, phone notifications are followed up by written instructions. The services have no intention of prosecuting an individual who is eligible for the program in lieu of administrative discharge proceedings unless the individual should, upon return to military control, commit a subsequent act in violation of the Uniform Code of Military Justice. At any time an eligible individual who voluntarily returns to military control for program participation decides not to participate, processing will be suspended and he or she will be allowed to depart the military installation. An eligible participant is not confined or placed under guard unless he or she commits an act which so warrants, after return to military control. There is no specific guidance provided the individual which states that he or she will not be detained and charged upon return to military control. However, each service has been provided specific guidance which prohibits this action unless another act is committed. The services are not allowed to utilize information obtained from those individuals expressing a desire to participate in the program for any subsequent actions, to include arrest.

QUESTION TWELVE

a. Part One. "When the initial review by the Army Discharge Review Board results in no upgrading for holders of discharges under other than honorable conditions, the Army will notify the individual that military legal counsel will be provided for the de novo hearing, at no expense to the applicant upon his request. Applicants are advised that they may not request military legal counsel by name. The applicant is also advised that he may elect to be represented at the hearing by civilian legal counsel of his own choice at no expense to the Government. In that event, however, Government provided counsel will not be authorized."

b. Part Two. "Yes."

c. Part Three. Letters attached as requested (see Inclosure 7).

QUESTION THIRTEEN

The discharge date will be retrospective, that is, back to the original date of discharge.

QUESTION SEVENTEEN

The Department of Defense has established records keeping systems which would permit the recall and identification of individuals separated for various reasons and differing characterization of discharge. However, records would reflect only the last known address at the time of separation. Due to the transitory and dynamic nature of the typical American household, and based on recent experience with applicants, most last known addresses are no longer current. Any program that would require provision of current address could violate the provisions of the Privacy Act. However, since the Special Discharge Review Program provisions are voluntary, as the provisions of any conceivable future programs would be, no problem with the Privacy Act would be expected. The establishment of a requirement for the Services or the General Services Administration to continually update the records of individuals separated with discharges under other than honorable conditions would be administratively burdensome and unnecessary, since Discharge Review is based on individual application.

Mr. DURKIN. Mr. President, I have spent a good deal of time, over the years, thinking about the Vietnam war—its effect on our national pride; its effect on our foreign relations; but most important its effect on the men and women who fought in that war.

The tragedies of that war are well known and a continual burden to the citizens of this country who are trying hard to forget the horrors that often brought violent dissension at home in our then-polarized society. Much can be said in defense of putting the war behind us—not forgetting it, but learning from it so that we can pursue a more positive and productive role in pursuing our national goals. But there is no defense for those who would forget the veterans of that unforgettable tragedy.

The emotions wrought by Vietnam run deeply, but many of us, in our hearts, are aware that the Government sent our youth off to fight, and many to die, in the jungles of Southeast Asia. I am firmly convinced that for the good of the country we should do everything we can to heal the wounds that have remained long past our evacuation from that sad country. Once this is done we can leave the final analyses of Vietnam to the historians.

For these reasons, I support President Carter's proposal to upgrade less than honorable discharges. But because I am aware of the political realities of this body and because I know there is a real possibility that no upgrading program will be allowed, I have reluctantly decided to support the Cranston-Thurmond proposal only because my failure to do so might result in an even greater injustice to our Vietnam veterans.

Let me emphasize that I have never, and will never, condone desertion or the acts of many of those who were court-martialed. But I cannot turn my back on the lessons and realities of that tragic war. Whether we want to admit it or not, in Vietnam, young men were ordered to fight a war that was steeped in failure. It was fought by those who were poor or uneducated, and who were unable to find the same loopholes in the Selective Service laws that were found by the children of our wealthy. Poor and uneducated young men could not hire expensive lawyers and doctors that many employed to keep themselves out of the war. These are the children, the poor and the uneducated, that the Government sent to face the horrors of the Vietnam war.

These are the people we are talking about today. They are no longer children, but they are still suffering the adverse effects of the war. If we forget about these men by failing to clear the records of the deserving then we condemn them and ourselves to continue suffering the horrors of Vietnam.

We can all agree that the tragic story of Vietnam must be brought to a close. But it will be a tragic injustice not to end Vietnam for those who were young and forced to choose between fighting in an inconclusive war or of enduring the wrath of this Nation and the subsequent stigma of a restrictive discharge.

I pray that we can finally put an end to this suffering. I am of the firm conviction that this proposal represents the most that can possibly be attained at this time in the U.S. Senate. Although I would like to allow benefits, as well as clean paper to those found deserving after a case-by-case review under the compassionate discharge program, I am aware that the Cranston-Thurmond proposal is the best that can be attained. Because the book must now be closed for the benefit of the entire Nation, I reluctantly support Cranston-Thurmond. While I disagreed with the President's amnesty program because it was not on a case-by-case basis, to fail to upgrade meritorious cases would again result in discrimination against a class of people who have already paid such a high price in the conflict—namely, the sons and daughters of the working class families of America.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Harold D. Hardin, of Tennessee, to be U.S. attorney for the middle district of Tennessee for the term of 4 years vice Charles H. Anderson, resigning.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, June 30, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Emmett W. Fairfax, of Missouri, to be U.S. marshal for the western district of Missouri for the term of 4 years vice John T. Pierpont.

George R. Grosse, of Florida, to be U.S. marshal for the middle district of Florida for the term of 4 years vice Mitchell A. Newberger.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, June 30, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

(This concludes additional statements submitted today.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now resume consideration of S. 208, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 208) to amend the Urban Mass Transportation Act of 1964 to extend the authorization for assistance under such act, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Massachusetts (Mr. BROOKE), with 1 hour on any amendment, except an amendment to be offered by the Senator from California (Mr. HAYAKAWA), on which there shall be 2 hours, and with 30 minutes on any debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following people be granted permission to be on the floor during debate on S. 208: Howard Menell, Marcia Wolf, and Lisa Walker.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, S. 208, the National Mass Transportation Assistance Act of 1977, would insure that the progress made in providing improved mass transportation over the past decade will be sustained in the years to come. Enactment of S. 208 will revitalize mass transit programs across the country while helping to save energy by promoting a solid alternative to the private automobile.

Just over 2 months ago, President Carter went before the American people to discuss the energy problem. The picture he painted was bleak indeed, a picture of the world's greatest power entering into perhaps the most difficult period in its glorious history without well-developed solutions to a problem of unprecedented magnitude. The President called the energy crisis "the greatest challenge that our country will face during our lifetime," outside of preventing war.

This is not overstating the case. Again, to use the President's words, "our decision about energy will test the character of the American people and the ability of the Congress to govern this Nation."

In his nationwide address on April 18, 1977, the President invoked some grim images to get his point across. And I thought he did it most effectively by stating that failure to take positive and effective action would mean that "our cars would continue to be too large and inefficient. Three quarters of them would carry only one person—the driver—while our public transportation system continues to decline." He concluded that action to prevent a "national catastrophe" must begin immediately with the formulation and implementation of national policy.

So along with millions of other Americans, I eagerly awaited the subsequent energy message which was to be a Presidential blueprint for our national energy policy.

On April 20, 1978, President Carter addressed a joint session of Congress to spell out in more detail the components of his energy policy.

The content of the President's speech is still being discussed and debated. And the Congress is now trying in all earnest to pass the enabling legislation. But I was more distressed over some of the omissions from the President's speech—omissions which I believe could prove fatal to any energy policy. Specifically, the President failed to include mass transportation in his program enunciated at that time.

Mr. President, this neglect has triggered a storm of protest. The President has made a point of communicating with the American people and, in this case, they were listening carefully. In fact, almost two thirds of the American people agree that President Carter has failed to put enough emphasis on public transportation, according to a survey commissioned by one prominent magazine.

Mr. President, the Congress has encouraged and promoted mass transportation since the early part of the last decade, but never has it been more important that we act to improve and assure continuity in this program.

It offers a strategic alternative to the Nation's growing dependence on petroleum inputs. If we are ever to develop a cogent, realistic energy policy, we must continue to promote mass transportation. If public transportation—mass transit—is to gear up as the viable alternative to commuter use of the automobile, Congress must fill the gap left in the President's energy program, and we have an opportunity to fill that gap, so far as we in the Senate are concerned, with the legislation that is before us.

The reasons are clear enough. If we are to reduce gasoline consumption and if the American people are to turn to public transportation to meet their commuting needs, this legislation is required to provide the necessary resources and facilities to accommodate new riders.

Nationwide statistics show that 53 percent of commuters drive to work alone in an automobile; another 21 percent are automobile passengers. A mere 8 percent commute on public transportation.

Transportation accounts for 25 percent of our Nation's total energy consumption and for 52.6 percent of our total petroleum use. Cars in cities alone consume 34.2 percent of the transportation total. The average commuter automobile carries 1.4 people and is one of the least efficient energy consuming modes of transportation. In sharp contrast, in terms of passenger miles per gallon of fuel, a bus with 30 passengers is six times as efficient to operate and a subway car with 35 passengers would be seven times as efficient.

Clearly, it is in the national interest—now more than ever—to continue and extend the ongoing mass transit program in order to meet our energy goals.

Mr. President, in plain terms, there can be no energy policy nor can our energy objectives be accomplished without increased reliance on our Federal mass transportation program. Congress should recognize this by promptly passing S. 208 and this is the route, in my opinion, which will revitalize mass transit programs across the country.

Mr. President, since this measure was introduced in January by Senators KENNEDY, HEINZ and myself, support has come from all regions of the United States. At the hearings held in February, the U.S. Conference of Mayors, the National Association of Counties, the National Conference of State Legislatures, the American Association of State Highway and Transportation Officials, the American Public Transit Association, the Environmental Action, Highway Action Coalition, the Sierra Club, as well as individuals from every area of our Nation stressed the urgent need for the prompt enactment of this legislation.

S. 208 reflects the advice of the Secretary of Transportation and has been amended for the express purpose of according him sufficient time to review transportation policy. S. 208 would reconcile this request with the obvious, pressing need to adequately fund existing programs and provide funds for new starts.

The enactment of S. 208, the National Mass Transportation Assistance Act of 1977, is of the utmost necessity if we are to continue our progress in providing efficient urban mass transportation throughout our Nation. The Federal commitment contained in this proposed legislation will encourage development and further improvement of urban mass transportation. If we are to reach our goals of alleviating air pollution, traffic congestion, rebuilding our inner cities and resolving the energy crisis, the Congress must assume the responsibility and the initiative to prevent any interruption of the highly successful public transportation program. The Senate has the opportunity to start on the realistic path toward energy dependence today with the passage of S. 208.

Mr. President, I ask unanimous consent that a summary of the bill be reprinted at this point in my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

S. 208, as reported by the Committee on Banking, Housing, and Urban Affairs, would amend the Urban Mass Transportation Act as follows: (Section references are to the present law)

1. UMTA Section 3—Capital Grant Program:

a. Add $5.3 billion in new grant authority for discretionary capital grants through fiscal year 1982.

b. Change mass transit funding from a contract authority basis to an authorization/appropriation basis (by providing a rolling 5 year authorization cycle in which appropriations can be provided one year in advance) to comply with Congressional Budget Act.

c. Formalize procedures used by UMTA in funding major capital grants.

d. Require a $400 million annual set aside for new bus equipment purchases.

e. Require the Secretary of Transportation to report to Congress periodically on detailed estimate of costs of capital assistance grants.

2. UMTA Section 5—Formula Grant Program:

a. Authorize areas other than urbanized areas (i.e., rural areas) to use $500 million set aside in 1974 in the capital grant program for operating assistance as well.

b. Restore $125 million for fiscal year 1980 borrowed for the fiscal 1977 transition quarter.

c. Create a new "second tier", $295 million fund to supplement the operating assistance provided under basic section 5 formula. The three year source of funding would be $145 million in "recycled" authority (e.g., unused operating funds now automatically returned to Treasury), plus $50 million in new authority for fiscal years 1978 through 1980. In developing a formula, the Secretary would have broad discretion guided by three factors—share of national total of revenue passengers, vehicle miles, and population weighted by density.

3. UMTA Section 10—Fellowship Assistance Grants for Managerial Training Program:

Remove present restrictions on Secretary's ability to make grants to provide fellowships for training of personnel employed in managerial, technical or professional positions in the urban mass transportation field.

4. UMTA Section 12(c)—A Definition of Preliminary Engineering:

Make clear that capital grant funds under sections 3 and 5 of the Act may be used for preliminary engineering of mass transportation capital projects.

5. UMTA Section 8—Loan Forgiveness:

Authorize the Secretary to convert prior loans to capital grants by forgiving principal and interest on previously made loans.

6. UMTA Section 16—Mass Transportation for Elderly and Handicapped Persons:

Revise and extend existing law by requiring that projects receiving assistance provide for the effective utilization of mass transportation services by elderly and handicapped persons, that a local advisory committee be established, that technical study grants include work elements necessary to produce a local plan, that the Secretary establish a National Advisory Council and that the Secretary shall prepare a report to Congress.

7. UMTA Section 17—Emergency Commuter Rail Operating Assistance:

Extend the termination date for commuter rail emergency operating assistance provided by the Rail Revitalization and Regulatory Reform Act of 1976 from March 15, 1978 to March 15, 1980 with a $30 million annual authorization for fiscal years 1979 and 1980.

8. Commuter Rail Operating Assistance:

Add a new section 18 to the Act to provide operating assistance funds to rail commuter services which are not eligible under section 17. $10 million is authorized in fiscal 1978 for formula distribution by the Secretary to cover operating deficits of eligible services.

Mr. WILLIAMS. Mr. President, this bill, as I indicated, has been developed and worked up, heard and reported by the Committee on Banking, Housing, and Urban Affairs. It comes to us—and if it is passed and if the program becomes law—at the best and most promising time, with a new administration, with a dynamic Secretary of Transportation, with the nomination of a most knowledgeable individual—Mr. Richard Page—about to be considered as the head of the Urban Mass Transit Administration, an individual who has a background, in transit policy and management, in one of our major cities. His nomination has not been confirmed as yet, but is to be considered in hearings and by the Committee on Banking, Housing, and Urban Affairs next week.

I emphasize the two individuals who will be in charge of transportation, as we are addressing the problem of urban mass transit. I feel certain that the best minds and the best talents will be applied to administering the legislation continued here, and considered today for continuation and significant improvements in the program.

We say "urban mass transit." We have learned over the years that all urban areas to be served are not giant cities. We have included in the past, and we have greatly improved this year, our attention to mass transportation in areas that are not the size of our giant metropolitan areas—cities, yes, but cities under 50,000 people. They are given new emphasis in this bill.

I was here in this position when urban mass transit was accepted as a national effort in 1961. There was at that time some fear that it was sort of an exclusive bill; it was called a big-city bill.

Certainly, our most densely populated areas present the greatest problems in transportation; and substantial moneys, capital money and operating money, go to the most dense metropolitan areas.

But we have learned, and we have delivered on what we have learned. We have made this a national program for all our States and for all our communities where people are gathered together and need a mass transportation opportunity.

I will say that in this matter of transportation, as with so many, the ranking minority member of our committee in this area, the Senator from Massachusetts, brings to us all the knowledge and experience of someone from that part of our country who has been a leader in mass transportation, and he has certainly brought his particular leadership to us as we develop this program.

I am happy he is my partner as we manage this bill today.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, I first thank my distinguished colleague, the chairman of the subcommittee and floor manager of the bill, for his very kind and very generous words. However, as we all know, in the Senate, HARRISON WILLIAMS has really been sort of the father—though he is a young man—of mass transit; and he has done an exceptionally well and able job as chairman of this subcommittee in bringing important mass transit legislation to Congress.

I commend him and say for the RECORD how privileged and pleased I am to serve with him on this important committee, as we bring to the Senate, for deliberation and for passage, what I believe to be an important bill.

Mr. President, S. 208, the National Mass Transportation Assistance Act of 1977, provides important assistance to the development of our urban transportation systems. This bill provides an additional $5.318 billion in new authority for rapid transit and bus systems. Together with the available existing authority of more than $3.3 billion, we are providing for a 5-year funding level of $8.65 billion for mass transit.

Without this legislation, development of our transit systems will come to a standstill. Presently, needed additions are scheduled for Los Angeles, Boston, Philadelphia, and additional funding will be needed for Chicago, Honolulu, New York, and southern New Jersey. This legislation will provide the necessary funding to serve these and other systems.

Additionally, it provides that at least $400 million a year is to be reserved exclusively for bus purchases. Transportation in nonurban areas is all too often forgotten, but we provide at least $500 million for this purpose.

Until a few years ago, most communities gave little attention to the importance of public transportation. Most families were automobile-oriented and energy was cheap and plentiful. As we know, all too well, however, changes have occurred which have caused a renaissance in public transportation.

Not only in large cities, but in many small and medium-sized communities, people are realizing the benefits and convenience of public transportation. Greater interest by the public has spurred greater innovation by transit managers. This, in turn, has fostered increased use of mass transportation.

Today, public transportation must be thought of as being as important as any other public institution. A community should provide adequate transportation to its citizens, just as it must provide adequate police and fire protection, as well as other public services.

Mr. President, as the chairman and I very well know, mass transit systems are urgently needed to take people from the inner city to their place of employment, and many of our unemployment problems have come about because of a resulting dearth in rapid transit systems across the country.

All too often, we think of public transportation as being dominated by huge multimillion-dollar rapid transit or heavy rail systems. In fact, most communities rely on buses to provide public transportation. This legislation provides funds for many modes of transportation. It provides that at least $400 million a year will be available for bus purchases. Additionally, it recognizes the need for public transportation in smaller towns. It specifically sets aside $100 million a year for these communities, and they

can use the money either for capital or operating assistance.

We have received much testimony on the need to provide more authority as soon as possible. While there is over $3 billion in existing authority, the Department of Transportation has a moral commitment to obligate about $2.8 billion of this authority. This would leave only about $600 million for new commitments in future years. The problem with large-scale transit projects is that they need a commitment at the outset that sufficient funds will be available to insure the completion of the project.

They cannot start the project without full knowledge that they will be able to go forward to full completion. Otherwise, that money would have been wasted. Unless we provide the additional funds in this legislation, in future years, very few, if any, major rapid transit projects can be approved.

At a time when we are concerned about conserving energy, and at a time when more people are using public transportation, this is not the moment to cut back and reverse an established trend in funding new transit proposals. While the cost of some of these projects seems large, they are small compared to the alternate costs associated with large gasoline consumption by cars, congestion of our city streets, delays in moving about the city, and increased pollution in our urban areas.

Mr. President, many times when we go to our major cities, we get caught in traffic jams and we wonder whether we ever will be able to get out. We wonder what is going to happen if more and more cars continue to get on roads, and all of a sudden we say we are going to come to a standstill in this country.

We have the same feeling here in Washington, D.C., in New Jersey, and in California, certainly in my city of Boston, and elsewhere across the country.

If we do not have rapid transit systems to move the people, there will be no recourse.

Some people will say, "Well, they will not ride rapid transit systems." But the facts are to the contrary. Testimony before our committee indicated strongly that people do and will ride rapid transit systems if they are provided. Even in the small towns, when you cannot get from town to town because there is no bus system to take, it is obvious that there is a great need for buses as well.

So, Mr. President, I submit that this legislation is necessary for us to continue the assistance we have made in the past, and to provide adequate levels of public transportation to the cities of this country. I would urge my colleagues to support its passage.

Mr. JAVITS. Mr. President, I commend the committee for its efforts on this bill and I would like to comment on two excellent features.

I consider to be particularly important the introduction of a second formula for allocation of section 5 moneys for operating assistance that would expand such aid to cities most in need. As the committee report notes, smaller urban areas often have unobligated balances while major urban areas are greatly in need of additional assistance. New York has consistently utilized all assistance available under this program. Under the present formula the largest urban areas receive less than one-quarter the assistance per passenger that the small urban areas receive. Even using a per vehicle mile comparison, the largest areas receive only about 40 percent of the amount obtained by the small urban areas. The new formula will not eliminate this imbalance, but it is an important first step in correcting the inequity and in focusing Federal funds on mass transit systems most in need.

A second feature of this bill that I consider also as important is the additional operating assistance for commuter rail systems not presently aided by the emergency assistance program. These systems carry 80 percent of the Nation's commuter rail passengers and so are vital to our overall mass transportation system. Although the funds are limited and the duration of the program only 1 year, I feel this measure is an important one. I commend the committee for recognizing the need for interim assistance while it studies the national commuter rail assistance program.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the committee amendment be agreed to and considered as original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 521

Mr. WILLIAMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 521.

Mr. WILLIAMS. Mr. President, I will explain the amendment. I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 19, strike out "$5,318,000,000" and insert in lieu thereof "$4,750,000,000".

At the end of the bill add the following new section:

SEC. 13. Section 12(d) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There are authorized to be appropriated not to exceed $545,000,000 to carry out the functions under this Act. Any amount appropriated pursuant to this subsection shall remain available until expended. The aggregate amounts appropriated may not exceed $145,000,000 prior to October 1, 1978; $345,000,000 prior to October 1, 1979; and $545,000,000 prior to October 1, 1980.

Mr. WILLIAMS. Mr. President, this is an amendment to section 2 of the bill which provides the authorizations for the section 3 capital grant program. It is in the nature of a technical amendment, the need for which was not discovered until after the committee reported the bill.

Section 2 of the bill would add $5.318 billion to the section 3 program through fiscal year 1982. The committee arrived at this figure based upon the assumption that there was $3.332 billion in remaining contract authority. The committee's intent was to provide a total of $8.65 billion.

According to the Congressional Budget Office, $3.912 billion of old contract authority will be available in fiscal 1978 or some $580 million more than estimated by the committee, and reflected in S. 208. Unless adjustments are made, the bill would authorize $580 million more than the maximum appropriation allowed under the bill. Accordingly, the amendment would reduce the authorization in section 2 of the bill from $5.318 billion to $4.750 billion to realize the committee's intent.

The amendments made by the bill to section 4(c) of the act require another perfecting amendment. Previously, budget authority for section 12(d) programs, such as technical studies planning, research and development, managerial training, university research and administrative expenses was derived from section 3 contract authority. However, the bill would provide that all available contract authority must be used exclusively for section 3 grants and loans. Thus, it is necessary to provide separate authorizations for section 12(d) programs.

The second part of the amendment would therefore provide a separate authorization for functions funded under section 12(d) of the act. Specifically, the amendment would authorize $545 million to allow for continued, steady expansion in these vital programs.

These technical amendments will not increase the total level of mass transit budget authority involved in the bill. As a matter of fact, these amendments would necessitate a $12 million reduction in the total authorization approved in committee. But they will make certain that all programs under the Urban Mass Transportation Act are adequately funded.

This is a correction of the placement of those figures because of information received by us from the Congressional Budget Office after the committee had reported S. 208, and it conforms the bill to the figures that we received at that time.

Mr. BROOKE. Mr. President, I have no objection to the amendment.

The ACTING PRESIDENT pro tempore. Is all time on the amendment yielded back?

Mr. BROOKE. I yield back my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

UP AMENDMENT NO. 522

Mr. BROOKE. Mr. President, I send to the desk an amendment, for myself and the Senator from Texas (Mr. TOWER), and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

Mr. BROOKE. I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 17, beginning with "Such" on line 21, strike out all through the period on line 23 and insert the following: "At the time of such an announcement, the Secretary shall set aside, from the amount authorized under section 4(c), an amount not to exceed the amount stipulated as the Secretary's financial participation.".

Mr. BROOKE. Mr. President, I offer this amendment because there seems to be some confusion as to the meaning of section 3 of this bill. I interpret it to mean one thing, while others may interpret it to mean something else. But I think we are all agreed as to what it should say.

I think that the report language is clearer, and I would take the language of the report, which is what the committee really intends, but which is somewhat different from the legislative language as drafted. This amendment would do no more than make absolutely clear what we intend.

The report language is on page 7 of the report of the Committee on Banking, Housing, and Urban Affairs, and reads as follows:

The issuance of the letter would not constitute an obligation or an administrative reservation; it would constitute a representation from UMTA to obligate from future available budget authority and would also create a "set aside" of section 3 budget authority. Funds to see the project through each year of construction would be considered "set aside" from funds authorized for each future year and would be obligated as appropriations are made.

The amendment which I have offered merely states:

On page 17, beginning with "Such" on line 21, strike out all through the period on line 23 and insert the following: "At the time of such an announcement, the Secretary shall set aside, from the amounts authorized under section 4 (c), an amount not to exceed the amount stipulated as the Secretary's financial participation.".

In other words, Mr. President, what I am trying to do here is to use the report language as the bill language, because I think it is more representative and more clearly indicates the intent of the subcommittee than the language presently contained in the bill, and for no other reason.

Mr. WILLIAMS. Mr. President, I wish to express my personal gratitude to the Senator from Massachusetts for bringing this clarification to what I think anyone reading the provisions would recognize as a complex and sometimes confused procedure—authorization, commitment, intention, getting ready for later obligation and appropriation, and so forth.

Speaking as one member of the Banking, Housing, and Urban Affairs Committee, there is a deep gratitude running to the Senator from Massachusetts, who knows the appropriations process from his membership on the Appropriations Committee and recognizes the need for clarification in the procedures. They are complex as reported by the committee; any way we can find to clarify and make this better understood, I certainly favor. This clearly does. I know there has been confusion with the language of set-aside and what follows.

I am grateful to the Senator and happy to accept this amendment.

Mr. BROOKE. I thank my distinguished chairman. He is absolutely correct, that there is some confusion. We hope, through the substitution of this language, we now have clarification. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 523

Mr. WILLIAMS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment No. 523.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 24, line 5, strike out all through page 30, line 4.

On page 30, line 5, strike out "Sec. 11." and insert in lieu thereof "Sec. 10.".

On page 30, line 24, strike out "Sec. 12." and insert in lieu thereof "Sec. 11.".

Mr. WILLIAMS. Mr. President, I offer a committee amendment which has been agreed to on both sides—to strike section 10 of the committee reported bill. This amendment is offered because the committee language is no longer necessary.

Section 10 of S. 208 is comparable language to that passed by the Senate in 1975 in S. 662 which clarified and reinforced the intent of Congress that all mass transit programs assisted under the Urban Mass Transportation Act were to be accessible to elderly and handicapped individuals. I had introduced this legislation because no significant efforts had been made by the Department of Transportation or UMTA in previous years to carry out the intent of Congress and implement the accessibility mandate. During consideration of S. 662 in the previous Congress, the UMTA Administrator had testified that the language of S. 662, requiring the Secretary to take steps to assure that all mass transit facilities—including stations and facilities, trains and buses—could be utilized by the elderly and handicapped, was not necessary because standards and specifications for the conventional-size bus of the future, Transbus, would soon be available and that the Transbus would assure full accessibility to the handicapped and elderly. In the summer of 1976, UMTA announced that the Transbus project was being shelved.

However, section 10 of S. 208 has been made unnecessary by the announcement by Secretary Adams on May 19 of his decision to require all new public buses purchased with DOT grants to be designed for easy access by elderly and handicapped persons. This decision makes possible the implementation of the congressional mandate for full accessibility without new legislation. To carry out this decision, the Secretary has directed the use of the Transbus specifications, requiring all buses offered for bid after September 30, 1979, to have a floor height of not more than 22 inches, to be capable of kneeling to 18 inches above the ground and to be equipped with a ramp for boarding. Between now and October 1979, Secretary Adams has left in place an interim policy on accessibility for the elderly and the handicapped which requires manufacturers to continue to offer optional wheelchair lifts and requires local transit authorities to either purchase buses with lifts or provide special services for elderly and handicapped passengers. This action by the Secretary means that elderly and handicapped persons will no longer be excluded from adequate transit service because of its inaccessibility. It also makes unnecessary our enacting amendments to section 16 to force PMTA and DOT to take action on the accessibility mandate and to clarify that the term handicapped includes persons in wheelchairs. Thus, I am offering this amendment to delete section 10 of the committee bill.

Mr. President, I yield to the senior Senator from Florida (Mr. CHILES).

Mr. CHILES. I thank the distinguished Senator from New Jersey. I am fully in accord with the action. Section 10 is no longer required in view of Secretary Adams' decision of May 19, 1977, mandating that all standard-size transit buses purchased with Federal assistance after September 30, 1979, be accessible to elderly and handicapped individuals. At hearings before the Special Committee on Aging we have been told many times that the lack of accessible public transportation is one of the greatest problems facing older Americans. The Secretary's decision will allow millions of the Nation's elderly to live with independence and dignity, and will prevent many thousands from being forced into unnecessary institutionalization, often at great expense to local and National Government.

However, I do wish to clarify the intent and effect of S. 208 following deletion of section 10. Am I correct in assuming that, even after September 1979, individual communities will be free to supplement accessible full-sized bus services with special services, to serve demands not met by the regular transit system, including the needs of the most severely handicapped individuals whose needs may not be able to be met by the regular transit system?

Mr. WILLIAMS. That is correct. S. 208 and Secretary Adams' accessibility decision continue to leave planning and implementation of local public transportation to local officials. They continue to retain the authority to supplement regular fixed-route service with specialized services on smaller, so-called paratransit vehicles in order to meet the needs of the elderly and the handicapped in a comprehensive and comparable way. As

part of the comprehensive local plan for meeting these needs these specialized services may be offered on their own initiative or on a contractual basis to local social service agencies.

I point out in this regard that, following adoption of S. 208, section 16(b)(2) of the Urban Mass Transportation Act continues in full effect. As my colleague is aware, that section reserves up to 2 percent of UMTA capital grant moneys for grants and loans to private nonprofit corporations and associations in order to assist them in providing transportation meeting the special needs of elderly and handicapped individuals.

Funds for specialized transportation demonstration projects will also continue to be available under section 6 of the act.

Mr. CHILES. I thank the Senator. I am particularly aware of the enormous differences which the section 16(B)(2) program has worked in the lives of elderly persons in diverse communities, and I wanted to be sure that this valuable assistance would continue to be available. Accessible regular transit is required both by law and by our constitutional principle of equal protection. But regular transit generally serves the travel patterns of working commuters and is often inappropriate to the needs of retirees seeking to get to the doctor, the bank or the grocery, their senior centers or house of worship. And, of course, in many rural areas of my State the low population density and rough terrain makes the use of full-sized buses inappropriate or impossible. May I say, while on the subject of the needs of rural areas, that I am glad to see that S. 208 will finally allow nonurban locales the same freedom to use their UMTA funds for operating as well as capital expenses as has long been enjoyed by the cities. It makes little sense for we in Washington to deny to local decisionmakers the authority to decide how these moneys can result in the best transportation plan for their area, to provide vehicles and then deny the operating funds needed for safe and reliable service.

Mr. WILLIAMS. The Senator's observations are well taken. Accessible standard buses will certainly have to be supplemented by other services for the foreseeable future in order to assure the provision of comprehensive service to elderly and handicapped persons. Secretary Adams' estimated delivery of these accessible buses was January 1981 for all manufacturers. Given that their average life is 12 years and there is no speed up in the schedule, regular transit fleets may not be composed completely of accessible vehicles until sometime in the 1990's. However, at least one manufacturer expects to have the Transbus on the market before that and I would hope that pressure from Congress and the communities will speed up the schedule. Secretary Adams has rightfully indicated that he will consider sole source procurements to get Transbus on the streets before that.

Mr. CHILES. I thank the Senator for that valuable information. As I said earlier, I concur fully with the decision of section 10 of S. 208. The Secretary's May 19 decision will result in vehicles which can be utilized by nearly all citizens. They will be safer and more comfortable than present buses, and their attractiveness should increase ridership and contribute to the national effort to conserve energy. In combination with the section 16(B)(2) program as well as the other transportation resources, for example, as the title VII nutrition program of the Older Americans Act, I believe we are making great strides toward furnishing the type of mobility necessary for lives of dignity.

Mr. WILLIAMS. I could not agree more. And I would like to add here, that the Senate Subcommittee on the Handicapped, chaired by Senator RANDOLPH, has had a significant input as we developed a response to the needs of handicapped individuals in transportation.

When Secretary Adams announced this important decision, I commented that many additional steps would need to be taken to assure that this policy could be effectively planned for and carried out in all of our local communities which receive mass transit funding.

I think we must all be concerned that adequate steps be taken both by UMTA and the Department of Transportation, and also by local transit planners and operators, to assure that the accessibility mandate makes available to all persons transportation services which meets their everyday needs. Since section 504 of the Rehabilitation Act, prohibiting discrimination on the basis of handicap, also makes these required duties of DOT/UMTA grantees, leadership on the part of the Department and UMTA can ease the pressures and needed responses of local planners by putting thought into what is required on a step-by-step basis. Leadership in this area by the Department is a critical factor, I believe, in assuring full implementation and in promoting full understanding by grantees. And this advanced planning can help us meet head-on the likely resources, time and political constraints which will have to be overcome. These actions by the Department and UMTA can greatly assist localities in planning for cooperative planning and service delivery between grantees and other providers in local communities which assist elderly and handicapped persons. Certainly, much could be gained by giving thought to ways to more effectively utilize other transit services in these communities. And trouble shooting now on the part of the Department will solve many problems in the future.

Accordingly, I believe there are critical steps which must be taken now with respect to the establishment of mechanisms for public input and continuing sensitization of public officials to the needs of the elderly and handicapped, with respect to the establishment of an adequate planning apparatus, the monitoring of the progress of Transbus, and the accessibility steps taken by localities.

First, I believe steps must be taken by the Secretary and the Administrator to involve representatives of the elderly, and handicapped in all aspects of Federal transit activities, including all research and development activities, policy development, and training activities. As a broad response, both the Secretary and the Administrator should establish advisory groups to work with them on an ongoing basis, and they should make use of the valuable expertise which exists with the advisory board to the Architectural and Transportation Barriers Compliance Board.

These groups should be built into UMTA's and DOT's decisionmaking process so that input and advice is sought on the technological developments in other areas which may be helpful, on other service needs, and on other sources of expertise and suggestions for personnel training and sensitization. To be useful, I think meetings of this kind should occur on a frequent basis, say monthly, and efforts should be made to get broad representation of the elderly and handicapped utilizing persons who represent or can represent these groups and have applicable knowledge to UMTA's task. But beyond these formal advisory groups, UMTA should undertake new activities to open up all of its decisionmaking—to invite directed comment from interested publics and to seek the assistance of others involved in meeting similar public needs.

And, to facilitate this process, efforts should be made to publicize those persons in UMTA and other agencies who are responsible for various aspects of the implementation of the Transbus decision and the accessibility mandate.

Secondly, an effective plan must be set up to assure that all interim steps are accomplished.

This includes an effective monitoring system for the Transbus development and for local progress. Milestones must be established so we will know well in advance if there are problems in implementation and so we can take steps to counter them. Problems such as insurance, safety programs and public information should be examined well in advance. The specific needs of rural and outlying communities and other geographically distinguished areas should be examined. An expanded education program must be undertaken for the public, planners and operators and transit employees: and technical training programs, utilizing elderly and handicapped groups, must be made available to help facilitate the planning and implementation strategies of localities so they do not feel they must go it alone—and to acquaint them with their duties under section 504.

I also believe in this process UMTA must give greater attention to the issue of specialized service, both in terms of the quality of equipment available and the problems of these services in the field. Localities must be helped to plan for the interim—not to overbuy or buy inadequate equipment. Full examination should be given to coordinated strategies with other service providers.

Thirdly, I believe that localities must also undertake activities which involve elderly and handicapped persons in a meaningful way. S. 208 and its predecessor S. 662 mandated local advisory committees and I believe that these groups, representative of the elderly and handicapped community, should be set up as soon as possible and should meet on a frequent basis to advise well in advance

on all plans and action steps. I also believe that UMTA must ask the localities to develop other mechanisms for input and to provide documentation that they are undertaking these activities. The importance of these groups, I think, is in their public and formal nature, and as a contact point for other members of the elderly and handicapped population. They should be used fully and on an ongoing basis to assist in planning and problem solving. Other steps that should be taken to facilitate involvement by these constituent communities should be: ongoing informal contact with elderly and handicapped organizations, including special notice to these groups of all public hearings, advisory group meetings and other important meetings where plans will be discussed and decided on; advance, broad public notice of all such meetings; publication, in newspapers, journals or separately, on a timely and periodic basis, data and research results; surveys of user needs including travelers, interest groups and the general citizenry; examination of all activities from the viewpoint of their impact on the elderly or handicapped population; and review and approval of plans by this population. Localities should also plan for employment of handicapped and elderly professionals and for removal of barriers from all aspects of their activities. UMTA would obviously, in this way, be taking great steps toward its obligations under section 504 if it undertook advance steps such as these.

Finally, all technical study grants to be undertaken after October 1, 1977, should include work elements to address the phased implementation of the Transbus and full accessibility mandate. While UMTA may undertake some technical study grants which are not directly applicable, UMTA should adopt a clear priority that implementation of this mandate and technical study grants necessary to implementation should be made first before funding other studies, and that all studies should examine impact or applicability to the elderly and handicapped population.

I am today writing to Secretary Adams to request that he provide me with detailed information about plans for implementation of Transbus and to suggest that he fully implement these interim-planning requirements. I intend to forward to him also a list of persons who can be helpful in advising him in this area. I ask unanimous consent that my letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., June 22, 1977.

HON. BROCK ADAMS,
Secretary, U.S. Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: As a result of your landmark decision on Transbus, I have concluded that the provisions of S. 208, the National Mass Transportation Assistance Act of 1977 relating to transit accessibility for the elderly and handicapped are no longer necessary. Accordingly, when the Senate considers S. 208, I will move to have section 10 deleted from the bill.

I want to reaffirm my support for your May 19, 1977 decision which I believe will finally achieve the full intent of section 16 of the Urban Mass Transportation Act.

However, the need remains for the Department and UMTA to undertake several further steps to assure the successful implementation of the Transbus decision and to achieve full accessibility. As noted in the Transbus decision document, DOT and UMTA have a clear obligation to assure adequate and equal transportation services to elderly and handicapped persons. The statutes administered by the Department and section 504 of the Rehabilitation Act of 1973 leave no room for any other interpretation. In view of these substantial responsibilities, I believe the Department must make every effort and take every opportunity during the interim period and for the long term to facilitate the successful and orderly implementation of its Transbus decision.

Accordingly, I would like to recommend the following steps for your consideration. First, formal and informal mechanisms should be established to assure that the elderly and handicapped communities are involved in the decision making processes of the Department and its grantees. As one part of this effort, I believe a new advisory group should be appointed to work with UMTA and the Department during this interim period. In addition, the Architectural and Transportation Barriers Compliance Board, already in existence, has expertise and resources which can be drawn upon. In this connection, I will soon be forwarding to you the names of individuals knowledgeable about and active in the field of transit for the elderly and the handicapped for your consideration and appointment.

As a second step, I believe it is both necessary and desirable to establish a monitoring system to make certain that Transbus is available on a timely basis and that localities are well-informed as to their obligations under the accessibility mandate. A combination of monitoring and planning at the Federal and local levels will permit the smooth implementation of your previous decision. The Department has at its disposal all of its technical assistance and technical study grants to make effective planning and monitoring mandatory. And it has the ability to encourage the formation of local advisory councils to provide for consultation and cooperation with the elderly and handicapped populations. This is by no means an exclusive list of methods available to the Department, but I believe that these represent useful points of departure.

Finally, given the interest of the Congress on all matters affecting elderly and handicapped citizens, the Department should anticipate active oversight of Transbus progress by the Committee. In preparation for such oversight, the Department should immediately make the necessary budget and staff resources available to assist localities and implement the monitoring system. In addition, the Department should prepare and submit to the Committee periodic progress reports. In terms of content, these reports should include information concerning timetables for Transbus, specialized services and other planning at the local level, and the Department's plan for program changes and other activities directed towards the implementation of the Transbus decision. A preliminary work plan should be submitted to the committee within the near future, to be updated within a year by a more detailed progress report.

Implementation of the Transbus decision will require cooperation from many people. I know that it will be important for all of us to work together in the coming months and I believe that we need to lay out plans now. I would, of course, welcome your comments on ways the Committee and our staff could be helpful to you and look forward to your response to my recommendations.

With best wishes,
Sincerely,
HARRISON A. WILLIAMS, JR.,
Chairman.

Mr. WILLIAMS. I also ask unanimous consent that the Secretary's decision document on Transbus and some background information on this new bus design be printed in the RECORD for the information of my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 19, 1977.

DECISION OF BROCK ADAMS, SECRETARY OF TRANSPORTATION, TO MANDATE TRANSBUS

INTRODUCTION

The question before me is whether to mandate or encourage the acquisition of a low-floor, ramped bus ("Transbus") by all local transit authorities seeking federal assistance for the purchase of standard-size mass transit buses, after a certain date. Further questions include: if Transbus is mandated, what should be (i) the effective date of the mandate; (ii) the design of the bus; (iii) the federal role in introducing the bus; and (iv) the interim bus acquisition policy.

In 1971, the Urban Mass Transportation Administration ("UMTA") of the Department of Transportation ("DOT") initiated a major research project to develop an improved transit bus that would attract mass ridership, be accessible to those elderly and handicapped persons for whom the high floors and stairs of current buses provide serious obstacles and encourage continued competition among the manufacturers of transit buses. UMTA enlisted the aid of the three major domestic bus manufacturers, AM General, General Motors and the Flexible Co. (a wholly-owned subsidiary of Rohr Industries), to supply prototypes of such a bus for testing. Prototypes were built by all three manufacturers, tested by UMTA contractors and demonstrated in actual service in four cities. This process enabled the development of draft specifications for production of Transbus.

In July 1976, Robert E. Patricelli, who was then UMTA Administrator, announced that DOT would not mandate Transbus. Instead, the agency would permit the introduction of an advanced design bus ("ADB"), would mandate requirements for making buses accessible to elderly and handicapped passengers (to become effective on February 15, 1977) and would provide funds for research and development of under-the-floor components that would be needed by a low-floor bus in the future. This decision generated considerable public discussion. Many elderly and handicapped groups asserted that the bus accessibility requirements were unsatisfactory. Litigation was initiated challenging UMTA's authority to fund acquisition of ADBs. Work on developing Transbus came to a virtual halt.

Shortly after I was sworn in as Secretary of Transportation in January, I took several steps to address these issues. First, I announced that the decision against mandating Transbus would be reconsidered and a public hearing on the matter would be held on March 15. Second, I waived that portion of the regulations on accessibility for the elderly and handicapped that might have been inconsistent with a future decision on Transbus, until after that decision was made. Third, I initiated new policies and procedures for the interim acquisition of ADBs. A decision on Transbus was promised by May 27.

In reviewing this matter I have had available to me the record on which former Administrator Patricelli based his decision, the transcript of the March 15 public hearing, written material subsequently submitted for the record, summaries of staff discussions with interested parties, also in the record, and, of course, the relevant statutes which I am responsible for administering.

THE DECISION

After carefully weighing the date and views submitted by manufacturers, the American Public Transit Association ("APTA"), individual transit authorities, groups representing the elderly and handicapped and others, I have decided, for the reasons stated below, to mandate Transbus. This mandate will take the form of requiring the use of a Transbus specification for all standard-size buses acquired with UMTA assistance. The mandate will apply to all procurements containing vehicle specifications approved by UMTA, issued for bid after September 30, 1979. The specifications already developed after consultation with APTA and others will be used with some minor modifications. The specifications include a requirement for a stationary floor height of not more than 22 inches, for an effective floor height including a kneeling feature of not more than 18 inches, and for a ramp for boarding and exiting.

Additionally, I have decided that DOT should encourage the formation of groups of purchasers to make the initial purchases of Transbus through advertised, low-bid competitions. Progress payments will be permitted for these initial purchases. Finally, I have decided to leave in effect the interim policy on accessibility for the elderly and handicapped. That is, manufacturers must continue to offer optional wheelchair lifts, and local transit authorities must either purchase buses with lifts or provide special services for elderly and handicapped passengers. Each of these decisions is discussed more fully below.

THE STATUTORY FRAMEWORK

In 1964, Congress responded to a growing pattern of declining ridership and increasing financial difficulties in the Nation's mass transportation systems by enacting the Urban Mass Transportation Act of 1964 (UMT Act). There have been several major amendments since 1964, and, as amended, it continues to provide the legislative basis for the federal role in urban mass transportation. Section 2 of the UMT Act states that its purposes are: to assist in the development of improved mass transportation facilities, equipment, techniques, and methods; to encourage the planning and establishment of areawide mass transportation systems needed for economical and desirable urban development; and to provide assistance to State and local governments and their instrumentalities in financing such systems.

To accomplish these purposes, sections 3 and 5 of the UMT Act authorize grants to State and local public bodies to assist in the financing of mass transportation related capital facilities including standard-size transit buses. The federal share of a capital facilities grant under section 3 is 80 percent of net project cost. Under section 5, which also authorizes payments for operating assistance, the Federal share of a capital facilities grant is a maximum of 80 percent of net project cost.[1]

Section 6 of the UMT Act, under which the Transbus research activities were funded, authorizes research, development and demonstration projects in all phases of urban mass transportation. Section 9 authorizes grants for urban mass transportation planning and technical studies.

[1] The Federal-Aid Highway Act of 1973 also authorizes capital assistance to mass transportation including assistance to acquire standard size transit buses.

A 1970 amendment to the UMT Act declared the mass transportation needs of elderly and handicapped persons to be of national importance and required DOT to exercise a special leadership role to insure that their rights were protected. This 1970 amendment added section 16 to the Act to read, in part, as follows:

"SECTION 16. (a) It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation (including the programs under this Act) should contain provisions implementing this policy."

Equally important, section 504 of the Rehabilitation Act of 1973 established the right of every handicapped person to be free of discrimination in any federally-assisted program. Section 504 reads:

"No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Shortly after the adoption of section 16, DOT began implementing the legislative mandate requiring special federal leadership in the area of mass transportation for elderly and handicapped persons through written guidelines for UMTA grantees. UMTA also financed research and studies in the area. In April 1976, the earlier guidance to grantees was formalized and strengthened by the publication of UMTA's regulations on transportation for elderly and handicapped persons. These regulations set forth a comprehensive scheme of planning, service and design requirements.

DOT has long recognized that a low-floor, standard-size bus that provides access for nonambulatory and wheelchair-bound passengers would be an effective means to accommodate these several statutory mandates. The Transbus program was initiated, at least in part, to test the feasibility of such a bus. Of the methods of accomplishing accessibility that were studied and demonstrated in the Transbus program, UMTA acknowledged that the ramped Transbus emerged as the most desirable. The ramp was nonetheless not required in the specifications that were subsequently developed. The existing statutory mandates regarding transportation for the elderly and handicapped and the proven feasibility of a low-floor, ramped Transbus that will result in substantial benefits to the able-bodied as well as the disabled, argue convincingly for a Transbus mandate.

Section 16 of the UMT Act, section 504 of the Rehabilitation Act and other statutory provisions have resulted in a number of lawsuits brought by elderly and handicapped persons. Although DOT has generally been successful in that litigation, litigation success alone provides no reason to avoid or defer a federal mandate of technological improvements as they become available, especially when, as here, those improvements significantly advance the mass transportation interests of all persons, including the elderly and handicapped, and when the improvements are quite unlikely to be introduced without a federal mandate.

There is one additional statutory reason, apart from improved accessibility, for mandating Transbus. First, DOT has a statutory obligation to assist in the development of improved mass transportation facilities and equipment. Until the recent introduction of ADBs there had been essentially no change in bus design since the advent of the "new look" bus in 1959. The advanced designs presently being offered are logical intermediate steps on the way to the introduction of Transbus, and in fact, they are in part outgrowths of the Transbus program. Yet these advanced designs fall short of accomplishing one of the major goals of the Transbus program—a low-floor with attendant benefits in boarding and exiting for all passengers. Thus, a Transbus mandate will bring to fruition the full benefits of federally-assisted research and development in the area of standard-size buses.

Finally, as the transit bus market has moved to new levels of product improvement, it has become increasingly difficult to fashion procurement methods since ADBs are of somewhat different designs, with different levels of performance and, quite naturally, different prices. A Transbus mandate will provide the necessary federal leadership in the marketplace to allow transit bus manufacturers to plan investments and tooling costs around certain required minimum performance and design characteristics. This, in turn, will permit low-bid procurements that will assist in the maintenance of a viable and competitive bus manufacturing industry based upon a predictable federal policy.

THE NEED FOR A MANDATE

A review of the history of the Transbus program convinces me that simply encouraging Transbus will not result in its prompt introduction and may not result in its introduction even in the long-run. Even after approximately $27 million of UMTA investment, all serious efforts toward producing Transbus stopped when UMTA announced in July 1976 that it would not be mandated. The history of change in bus design is not one of constant innovation. As noted earlier, the so-called "new look" bus, the one currently in use, was introduced in 1959.[2] ADBs will not be on the streets for another year and do not offer the advances of Transbus.

A review of the statutes that guide this decision suggests strongly that any inclination to postpone a mandate further would thwart the intent of the Congress. A review of recent litigation suggests equally strongly that the courts are also not prepared to countenance needless delay in making urban mass transit vehicles accessible to the elderly and handicapped.

Even if the Congressional and judicial concerns were not as clear as they are, I believe it is my responsibility to insure to the extent feasible that no segment of our population is needlessly denied access to public transportation. It is now within our technological capability to insure that elderly and handicapped persons are accorded access to urban mass transit buses. This access is fundamental to the ability of such persons to lead independent and productive lives. In my view, a decision assuring that access could have been made some years ago.

Today, the ADB represents the state-of-the-art in bus design from the floor up. But their floor height (even with a kneeling feature) does not make them accessible to the elderly and handicapped without a wheelchair lift. The lift is an expensive piece of hardware, principally benefiting those in wheelchairs. Many of those individuals, how-

[2] The lack of innovation in bus design prompted a study by the National Academy of Engineering (NAE) documenting the need for an improved transit bus. The NAE study concluded that a low-floor bus was: "The most desirable means—within the existing state of the art—for improving bus transportation." The low-floor, the NAE noted, would result in a bus that was "not only . . . easy and comfortable to use, but usable readily and without embarrassment by the physically and economically handicapped, the aged, the pregnant woman, the businessman, and the young adult."

ever, regard the lift as degrading and have expressed concern about the difficulty and safety of using it. In addition, use of the lift slows bus operations since it takes time to deploy and other passengers cannot board or exit during that time.

The low-floor Transbus can, on the other hand, accommodate a ramp. The ramp is swift to deploy and can be used beneficially by many passengers, including most categories of mobile elderly and handicapped. A low-floor, ramped bus will decrease the loading and unloading time for all passengers.

It is important to keep in mind that in discussing bus accessibility for the elderly and handicapped we are not concerned only with those confined to wheelchairs. We are concerned as well with any mobility-impaired person, a group which numbers at least 10 million. At any time there may be many other riders who are at least temporarily disabled. We cannot deny these people the rights that so many others enjoy when it is within our ability to accord them such rights.

I am acutely aware that many who are opposed to Transbus argue that it is not how within our ability to produce a low-floor, ramped bus which can operate safely and efficiently in day-to-day transit service. These objections are discussed in detail below and, in my judgment, satisfactorily refuted.

Further, a Transbus mandate does not interfere with the traditional responsibility of local officials to plan for and implement mass transportation projects. Routes, schedules and fares continue to be matters of local decision and State and local officials retain the authority to plan for and implement all transit services including specialized services where these can contribute to overall mobility needs. For those communities utilizing standard-size bus service over fixed routes, the Transbus will permit faster and more efficient bus service by minimizing the time required to take on and discharge all passengers, including those who are elderly or handicapped. Better accessibility, new styling features and a better ride will attract and retain new ridership, add to the operating revenue of transit operators and enhance the image of mass transportation in every community. Moreover, testimony at the public hearing, as well as a number of comments on the Transbus question, indicate that several communities have been and continue to be vitally interested in obtaining low-floor standard-size buses, but have been unable to do so because of the commercial unavailability of Transbus. A Transbus mandate will permit DOT to be responsive to these locally conceived mass transportation objectives, as contemplated by the UMT Act.

THE EFFECTIVE DATE OF THE MANDATE

The record of the March 15 hearing (and the hearing conducted by UMTA in 1976) contains conflicting projections of when Transbus could be ready for production. AM General indicates that Transbus could be available approximately 34 months from the date of a mandate. Flexible says 36–60 months, and General Motors says five years. These manufacturers have different views about the desirability of Transbus and the adequacy of ADBs, and their existing investments reflect these judgments.

My analysis of the entire record convinces me that all three current manufacturers could begin deliveries in 3½ years. This date allows almost 2½ years for development before bidding would begin, and approximately 15 months thereafter before the buses are actually delivered.

As I said in my opening remarks at the Transbus hearing, we have a very competent bus manufacturing industry and I believe competition, as well as innovation, must be encouraged. I am certain that these manufacturers can meet the challenge of producing Transbus. Additionally, I believe the pressure of effective competition among the manufacturers will result in a prompt introduction of this needed improvement. If one manufacturer is ready substantially before the effective date of the mandate, we will consider sole source procurements to get Transbus on the streets as soon as it is available.

Accordingly, as I stated above, I am ordering that all bus procurements utilizing UMTA capital assistance funds must use the Transbus specifications after September 30, 1979. I urge those manufacturers who can to make Transbus available voluntarily at an earlier date.

THE DESIGN OF TRANSBUS

In connection with the research effort to develop Transbus, UMTA developed a complete procurement document—the Transbus Procurement Requirements (TPR)—for use by local transit authorities in buying Transbuses. The document contains four parts:

Part I: Bid Requirements/Contractual Provisions. Provides legal and other instruments for procuring coaches;

Part II: Technical Specifications. Specifies the buses being procured;

Part III: Quality Assurance Provisions. Specifies the minimum quality control requirements in the manufacture of the buses; and

Part IV: Warranty Provisions. Describes the warranty coverage on the buses after their acceptance by local transit authorities.

The TPR was developed for DOT by Booz-Allen Applied Research with full participation by the APTA Bus Technology Committee, AM General, General Motors, Flxible, and UMTA. It was designed to be used by procuring agencies in competitive procurements of Transbuses under the UMTA Capital Grants Program.

It was originally intended that the Transbus prototypes developed by each manufacturer would be tested and evaluated and a winning design selected for use by all manufacturers. However, while the three Transbus manufacturers met the performance requirements for Transbus prototypes, all three used different approaches based on their individual body styling, construction and manufacturing techniques. UMTA concluded that to require all three manufacturers to build buses around one manufacturer's design would put two of the manufacturers at an unnecessary competitive disadvantage and would stifle innovation. Thus, the design specification approach was abandoned on January 8, 1975, when UMTA announced a policy which would permit all three designs to qualify for production if they meet a performance specification to be developed by UMTA as a result of testing and evaluation of the prototype vehicles.

The specifications that were developed as a result of this decision nevertheless include certain design requirements such as floor height, door width, step riser height and tread depths intended to insure that accessibility goals are met. The specifications include options for features such as power plant size, air-conditioning, bus width, bus length, etc. The TPR requires every manufacturer to be able to bid on any specified combination of options in direct cost competition. The specifications are intended to be modified, from time to time, as improved components or designs are developed.

I am today adopting, with some modifications, the specifications developed and set forth in the TPR. The most important modification is the one which makes the ramp a mandatory feature of the bus. The TPR, as modified, will be available from UMTA on June 13.

In my judgment, use of this specification will promote the earliest availability of Transbus without stifling innovation in manufacture and design.

THE FEDERAL ROLE IN INTRODUCING TRANSBUS

As I indicated above, DOT has already invested approximately $27 million in the Transbus program. As a result of that investment we have learned what is and is not technologically feasible in connection with development of a low-floor, ramped bus. We have identified the problems of the prototype buses as well as solutions to them. We have determined which components need further development, and which are presently able to be produced. In my judgment, the $27 million was well spent.

I am aware that costs remain in connection with going to production models of Transbus. I am convinced, however, that this type of cost should properly be borne by the manufacturers. Direct federal funding for tooling and start-up costs is not appropriate given the knowledge and experience already gained through the DOT investment. Product quality, production methods and related matters are and should be uniquely the responsibility of the manufacturer.

This would not be the case had the federal investment not already proven the underlying feasibility of Transbus. We could not reasonably require manufacturers to invest in a wholly unproven technology. But, as discussed more completely elsewhere, I am convinced the technology for Transbus is proven and consequently I believe it appropriate to require the manufacturers to put that technology into production.

There is, however, another important responsibility for the government to undertake in introducing Transbus into the marketplace. We should, I believe, do everything feasible to assure early purchases of substantial numbers of the first production Transbuses. To this end, we will encourage formation of purchaser groups to make initial procurements of Transbuses from each manufacturer through advertised low-bid competitions. While I do not think it is appropriate to allocate the market in an effort to guarantee that each manufacturer's bus will be bought, we will permit each consortium to make initial Transbus purchases from more than one manufacturer if the consortium members so desire.

Additionaly, we will agree to make progress payments in connection with these initial purchases to help defray start-up production costs. As I have already stated, we will also consider making sole source procurements of any manufacturer's Transbus which is avaliable substantially earlier than the others.

I believe that these steps represent the maximum necessary federal role in introducing Transbus.

INTERIM ACCESSIBILITY POLICY

I am aware that even after Transbus is mandated purchases of conventional buses will continue, with UMTA financial assistance, for slightly more than two years. Inasmuch as these newly purchased buses will continue in operation for 12 or more years, I believe it is necessary to announce the policy that we will follow concerning accessibility of mass transit for elderly and handicapped in the period before the introduction of Transbus. I have decided that our existing policy in this matter should be continued.

That policy is based on requirements that all manufacturers offer optional equipment (*e.g.*, lifts) for loading wheelchair-bound and other handicapped passengers, and that local transit authorities must either purchase accessible buses, or provide special services suitable for transporting elderly and handicapped passengers.

Many handicappped passengers have expressed concern about the operation and safety of the lift. Additionally, the lifts are cumbersome and time-consuming to operate and will become entirely outmoded by the Transbus ramp. They do, however, make

buses accessible to mobility-impaired passengers. On the other hand, many elderly and handicappped representatives opppose special services since they require advance notification or have other disadvantages not associated with regular scheduled bus service. These representatives argue that "separate but equal" transit services are inherently unequal and do not enable elderly and handicappped persons to lead the most fully integrated lives possible.

Accordingly, I believe it appropriate to allow local governments to decide how best to serve their elderly and handicapped populations until Transbus is ready for production. Those who purchase lift-equipped buses will thereby offer substantially enhanced accessibility to their elderly and handicapped citizens. Those offering special services will provide valuable experience for the period after Transbus is introduced since even fully accessible fixed route buses will not meet the transportation needs of all elderly and handicapped. DOT will carefully monitor the activities of grantees of UMTA funds to be certain that the transportation needs of elderly and handicapped citizens are being addressed.

THE TECHNOLOGICAL FEASIBILITY OF TRANSBUS

A critical factor in determining the desirability of a Federal mandate of Transbus is technological and economic feasibility. I find that a bus that meets the existing Transbus specifications, as modified to require a ramp, serve the needs of the elderly and handicapped, can be produced in a reasonable period of time and would be operationally acceptable.

Axles, tires and brakes are the most unique components of the Transbus. These components do not require technological breakthroughs, but merely enough time for proper development. The Transbus prototypes, manufactured by AM General, General Motors and Flexible, showed that in at least one instance the new axles were lightweight, used many existing internal subcomponents and can accommodate the current design automatic transmission.

Similarly, Transbus will probably require tires which are substantially smaller than those presently available. Such tires have been undergoing development for some time and could be put into production in time for Transbus deliveries. While I understand that these tires will have shorter lives than current tires, estimates of Transbus operating costs, as discussed later, include an assumption that the smaller tires will be used. In my view, any problems that the tires may cause are more than offset by the greater accessibility of the Transbus.

Transbus brakes will also be somewhat different than existing bus brakes, yet will utilize essentially the same technology. Despite the smaller diameter wheels, the Transbus specification provides for more brake area per pound of vehicle weight than on current buses. Since this specification can be met using conventional drum brakes, very little development will be required.

Several Transbus operating issues have arisen. These include road clearance, problems associated with the kneeling feature and the appropriate width of the front door. Because the Transbus prototypes experienced minor road clearance problems, the final Transbus specifications require additional road clearance. After the prototypes were tested, every observed ground clearance problem was carefully analyzed and the final specifications written so as to eliminate those problems within the limits of the prototype technology. The specifications call for road clearance *equivalent to or better than* that attained by all three current model buses.

Some problems have been experienced in the past with the kneeling feature found on ADBs, some current buses and Transbus. First, the earliest kneeling devices did not always operate properly. This was found to be a result of corrosion within electrical components. When greater protection for that system was provided, the problem was solved. Further, there were complaints of drivers not kneeling the bus when passengers needed it. While this remains a potential problem, it can be overcome by proper driver training. A bus that can kneel to at least 18 inches will benefit all passengers, not just those who need the ramp. These benefits far outweigh the difficulties.

The front door width called for in the specifications is 44 inches. This is wide enough to allow room for wheelchair-bound passengers or to allow for a double stream of ambulatory passengers. This feature is desired by many operators because it allows an inbound and outbound stream at the same time, thus shortening the loading and unloading time. Some operators prefer a narrow (24") door making a double stream impossible and, therefore, fares easier to collect. The productivity improvements stemming from the wide door and consequent reduced loading time should more than offset any occasional inconvenience in fare collection, and the wide door is a prerequisite to achieving accessibility. For these reasons, the narrow door option has been dropped from the specifications.

The record of the public hearing and studies done for UMTA demonstrate the efficacy of the ramp in providing access for those with mobility impairments. The Transbus specifications call for a ramp that will yield the full benefit of this technology. The specifications provide that the maximum ramp angle on a level street with no curb must not be more than 14 degrees. This means that on a level street with a six-inch curb, the ramp angle will be less than ten degrees; even with a typical crowned street and no curb, the ramp angle would be approximately 15 degrees. This is within the range in which most wheelchair-bound persons can be expected to make unassisted entry although in some cases those in wheelchairs may need assistance in exiting. These angles can be accommodated with a ramp not more than 6 feet long and a slight incline where the ramp meets the bus floor. This type of technology has already been utilized by at least one of the prototype manufacturers.

Probably the most complex feasibility questions with respect to Transbus involve its economic viability. The Transbus prototypes included spacious seating arrangements with seating capacity for 42 to 43 people as compared to the maximum seating capacity of current production buses of 51 to 53. Actually, Transbus could have a seating capacity of 47 if it is designed with that goal in mind. ADBs seat between 43–47 passengers, depending on their seat design. Therefore, I do not believe that there will be a serious loss of seating capacity. Moreover, full load capacity is more relevant in determining transit system revenues, and Transbus will have a full load capacity comparable to current buses.

A similar situation exists with regard to weight and fuel economy. The Transbus specifications require that curb weight not exceed 26,000 pounds. This weight is about 1,000 to 2,000 pounds more than current production buses but is the same as the ADB specifications. The added weight is a reflection of the need for an additional axle and related components. Transbus reliability and maintainability have become issues as a result of the greater complexity of Transbus prototypes, especially as compared to current buses. The low-floor of the Transbus necessitates greater mechanical complexity in the running gear of the bus, but does not necessitate new or unique technology. It is important to remember that there has been no significant change in bus design in almost 20 years. It is not surprising, therefore, that those with responsibility for maintaining buses are concerned. Experience and familiarity with these changes and good product design will remedy this problem. I am, therefore, convinced that bus maintainability and reliability will not be seriously affected. Above the floor, Transbus will be similar to ADBs. We will have had considerable experience with ADBs before Transbuses are actually on the street.

Because of its greater complexity, smaller diameter tires and slightly increased weight, the Transbus will cost more than the current bus. The most reliable cost estimates indicate that, while the initial cost of Transbus will be approximately 15 to 18 percent more than current buses, this is only about five percent more than ABDs. A comprehensive analysis of cost estimates showed that the Transbus would have operating costs only about one percent higher than current buses. I conclude that these added costs are not unreasonable in light of the substantial benefits to all bus riders which Transbus will provide.

BROCK ADAMS,
Secretary of Transportation.

BACKGROUND INFORMATION ON TRANSBUS

In 1967, during the final years of the Johnson Administration, the National Academy of Engineering under contract from the Department of Transportation conducted an intensive panel study, in which all elements of the mass transit industry participated, to specify the design characteristics of a new generation of buses, the purpose: "to take the largest possible single step forward in bus technology and design within the existing state of the art." The National Academy concluded that a low-floor bus was "The most desirable means for improving bus transportation."

Subsequently, in the Transbus Project, conducted with the three American manufacturers (GM, AM General, and Rohr) of full-size buses, UMTA expended $27 million to design, develop, test and evaluate a low-floor bus. The final reports on the Transbus research and development project were released in April, 1976. Those reports concluded that a low floor (17 to 22 inch) single step bus with a ramp, which can be rapidly extended to provide "level" boarding, is technologically feasible and announced specifications for an improved, accessible, attractive and cost-effective bus which can now be put into production.

The UMTA reports, comparing the Transbus to the current standard bus and to the RTS II, a "new" bus proposed for production by General Motors, showed the following benefits inter alia from the Transbus:

Boarding time is halved by the Transbus.

Trip-time is reduced by 10 percent.

Revenue miles-per-driver's-wage dollar is increased 5 percent.

The ride quality (noise, vibration, temperature) of the Transbus aproaches that of passenger cars.

Passenger, traffic and pedestrian accidents, and insurance costs, will be substantially reduced—boarding/alighting accidents will be cut by 20 percent, on-board accidents by 35 percent; traffic accident costs by 25 percent, total insurance costs by 20 percent.

Maintenance and repair costs remain constant on a unit basis.

Ridership increases (exclusive of the elderly and the handicapped) up to 10 percent.

"Improvement for the elderly will be significant only on the low-floor Transbus design"; "accessibility for the handicapped can only be achieved on a low floor, Transbus at a reasonable additional cost and without introducing significant operational problems."

Increased handicapped ridership alone will reduce operating deficits by 4 percent to 10 percent.

IMPACT SUMMARY

a. Results. A summary of the impact analyses contained in this report is presented in Table 18 in three categories:

Operational Impacts.

Passenger and Public Impacts.

Cost Impacts.

Key factors are presented in quantitative terms and indexed to the current production bus. In Table 18, the current production bus, therefore, appears as 100 percent for any factor in the analysis which can be quantified. The table references detailed discussions or supporting tables in the body of the report.

The following key results refer to Interim bus and Transbus. Results are summarized in the order in which they appear on Table 18.

The potential for trip time reductions of up to 19 percent exists, depending on the type of route. If current routes are not rescheduled, this should result in an immediate improvement in schedule adherence, except on very congested arterial routes in large cities. Improved bus characteristics offer the potential for increased driver productivity and/or route coverage. Improved bus performance might be coupled with innovations, such as electronic scheduling, to provide significant benefits as these technologies are developed.

Trip speed improvements are sufficient to affect passengers only on express/suburban routes, where current trip times are relatively long. On other types of routes, trip times are shorter and/or crowded conditions negate the impact of improved speed.

Unit capacity reductions, seated plus standees, will be up to 7 percent on the new design buses. An analysis by route type and system size, however, indicates that the national transit bus fleet would have to increase by less than 2 percent, because capacity is not critical on many routes. High-capacity buses, articulated or double-decked, are a more cost-effective solution for high-passenger volume routes.

TABLE 18.—SUMMARY OF THE IMPACT OF INTERIM BUS (RTS-2) AND TRANSBUS ON PUBLIC TRANSPORTATION IN THE UNITED STATES

Impact categories	Bus designs: Current fleet	Interim bus (RTS-2)	Transbus	Reference to supporting sections and tables
Operational impacts:				
Trip time compared to baseline	100 percent	100-93 percent	96-90 percent	2.c: tables 4 and 5.
Improved schedule adherence		In large and medium systems	In large and medium systems	2.c(1): table 3.
Improved driver productivity		Long-term potential significant	Long-term potential significant	2.c(2).
Increased route coverage		Due to speed	Due to speed and axle loading	2.c(3).
Modal choice effect on ridership		In express service only	In express service only	2.c(4).
Fleet size/capacity:				
Unit capacity	100 percent	95 percent	93 percent	2.d: fig. 4, table 6.
National fleet size	do	100.5-10 percent	101-102 percent	2.d: tables 2 and 7.
Passenger and public impacts:				
Safety and insurance costs	do	86 percent	80 percent	3.a: table 8.
Traffic accidents	do	75 percent	75 percent	3.a(1): table 8.
Passenger accidents	do	95 percent	71 percent	3.a(2): table 8.
Pedestrian accidents	do	94 percent	84 percent	3.a(3): table 8.
Provisions for the elderly	Limited	Limited	Greatly improved	3.b: table 9.
Options for the handicapped	Costly retrofit	Difficult	Major improvement in basic design	3.b: table 9.
Options for wheelchairs	do	Costly retrofit	do	3.c: table 9.
Environmental	Meets public standards	Reduced noise/emissions	Reduced noise/emissions	3.d.
Esthetic/image	For 1960's	1980's	1980's	3.e.
Comfort:				
Seat spacing	28-34 inches	28-34 in	23-34 in	3.f(1).
Ride quality	Standard	An improvement	Approaches passenger car	3.f(2).
Ease of boarding/alighting measured as time.	100 percent	100 percent	85-60 percent	3.f(3).
National ridership potential	do	102.5-105 percent	105-110 percent	3.g: tables 10, 11 and 12.
Cost impacts:				
Operating costs (1973 baseline=134.6 cents per mile).	do	100 percent	101percent	4.a: tables 13, 14, 15 and 16.
Production costs (1975=$68,200) [1]	do	105.5 percent	112.5 percent	4.b: table 17.
Introduction costs		Production engineering/tooling new facilities/equipment.		4.c.

[1] Production cost comparison is for equivalently equipped 1975 production bus in 1975 dollars.

TABLE 14.—CHANGES IN MAINTENANCE, SERVICING AND CONSUMABLES COSTS FOR COMPLETE REPLACEMENT OF FLEET

Categories	Current bus cents per mile	Interim bus: Cents per mile	Interim bus: Basis	Transbus: Cents per mile	Transbus: Basis
Repairs to revenue equipment:					
Accidents	1.39	0.80	Improved body repairability and energy bumpers.	0.80	Same as interim bus.
Powerplant	1.83	1.83	8V-71	1.83	8V-71.
Body and doors	1.68	1.60	Doors are more complex panograph but body is stainless steel.	1.80	New inward opening door and steel or aluminum body.
Suspension/chassis/rear axle/drive train.	1.47	1.47	Same as current	2.20	Extra rear axle/suspension.
Brakes	1.13	1.75	Self-adjusting (FMVSS 121)	1.75	Self-adjusting (FMVSS 121).
Transmission	.82	1.02	V-730 more complex	1.02	V-730 more complex.
Electrical, starter, generator	1.11	1.11	Essentially the same	1.11	Same.
Air-conditioning	.64	.64	Same	.64	No credit for heavy duty, redundant compressor system—unproven but has potential of 50 cents per mile.
Front axle/steering	.49	.71	Single axle, independent power assist	.71	Single axle, independent, power assist.
Air system	.37	.41	Increased capacity for FMVSS 121	.41	Increased capacity for FMVSS 121.
Total for repairs	10.93	11.34		12.27	
Daily servicing, cleaning, fueling, and inspection.	2.81	2.81	Cantilevered seats will improve cleanability	2.81	Cantilevered seats will improve cleanability.
Fuel	7.75	8.14	Increased weight	8.83	Increased weight.
Oil	.16	.16	Similar engine	.16	Similar engine.
Tires	1.28	1.35	Increased tire load: Larger tire used	1.63	Firestone estimate for number of tires, tire life, and unit cost.
Total	22.93	23.69		25.59	

Source: Booz, Allen applied research: Current bus costs based on survey of 16 major properties. Interim bus and transbus projections based upon engineering estimates, which utilize transbus durability test data, component manufacturer's data, and judgement based on observations of vehicles and drawings of equipment.

Start-up costs, requiring investment in production engineering and tooling by manufacturers, will be substantial. Capital requirements for new facilities and equipment at properties will be typical of any new bus order, since most components are the same as those on the current production bus.

Transbus start-up would include a joint transit industry/government-managed quality assurance program, plus a product improvement program supported by UMTA.

b. Conclusions. The following conclusions can be drawn about the impact of these new bus designs.

Operational impacts of increased trip speed and reduced unit capacity should counterbalance. Potential exists for improving service dependability and driver productivity, but the transit industry will require time to adjust operations to maximize the impact of these new bus designs.

It is estimated that the new buses could increase ridership by 10 percent, or perhaps more, when coupled with service improvements and marketing programs with the Transbus having the greatest potential.

Significant safety improvements will be reflected in reduced claims costs.

In this comparison, Transbus could have a significant impact on the overall comfort and safety of the elderly who are a significant portion of the riding population.

Initial response to new design buses will be positive, since a new transit bus design is overdue, despite one-time costs and potential start-up problems, which should be anticipated in planning the new bus introduction.

In summary, the potential benefits of Transbus over Interim bus and current production buses are rider oriented. This offers the potential for patronage improvements and greater support from local political organizations responsible for transit funding. Specific benefits are related to passenger safety, accommodation of the elderly, and service dependability. These benefits are accompanied by increased unit production costs. Interim bus should also produce positive but lower patronage gains with commensurately lower production cost increases.

To many operators, the opportunity to introduce new technology and project a new public image for their bus operations may be the most important factor. Each of the new buses has new styling and improved interior passenger amenities to achieve this new image. The Interim bus can be made available sooner and thus can have the greatest immediate impact. Transbus, with the low floor, will have the greatest potential for achieving a lasting impact on the public, based upon the bus features selected as "most important" by 10,000 riders and potential riders during the four city demonstrations of the Transbus prototypes.

The introduction of these new bus designs is an opportunity for the transit industry, which will at long last have a new bus, to improve its image and thus generate increased additional revenues. The magnitude of the positive economic impact depends on the degree to which patronage increases can be generated and sustained, and the ability to minimize production costs.

Mr. BROOKE. Mr. President, I commend the distinguished Senator from New Jersey for this amendment. It is necessary that it be submitted, and I join him. I was elated to hear the announcement of Secretary Adams the other day. For too long, the handicapped and the elderly have been denied easy access to public transportation.

I applaud the fact that even in the city of Washington, and in some other cities and towns around the country, they are beginning to cut their crosswalks so that wheelchairs can be used to get across the streets.

It is certainly enlightening and encouraging to know that we now have the technology, we now have the advanced art, so that these vehicles can be constructed so as to make easy access by the handicapped and the elderly in our country. This is a giant step forward. It certainly will be appreciated by those who are handicapped and those who are elderly.

I believe the Senator's amendment is an important one under the circumstances, and I accept the amendment.

Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, if the Senator will yield, it is my understanding that this improves the situation for the very classes of people which are referred to in the amendment.

Mr. WILLIAMS. That is correct.

Mr. JAVITS. It also is a reverse from what was decided by the previous administrator of Urban Mass Transit, but, nonetheless, the Senator is convinced that this is best for the handicapped, with whom we are particularly concerned, and the elderly?

Mr. WILLIAMS. Yes. This is really one of the most promising developments that the elderly and handicapped could have in terms of accessibility on mass transportation vehicles.

Mr. JAVITS. If the Senator will yield further, I am very much impressed with that because the Secretary of HEW, Mr. Califano, also is issuing regulations under section 504 of the handicapped bill which we passed, and has made a similar landmark decision. I am pleased that our chairman of the Human Resources Committee has taken this initiative in order to carry through what I understand to be the same concept here.

Mr. WILLIAMS. The Senator is exactly right. Some of the material I have placed in the RECORD does show the relationship with the section 504 regulations of HEW.

Mr. JAVITS. I thank my colleague very much. I favor the amendment.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER (Mr. NUNN). All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor: Barbara Washburn, of Senator JAVITS' staff; Ingrid Hanson, of Senator STEVENS' staff; Gene Larimore, of Senator THURMOND's staff; Connie Maffin, of Senator HEINZ's staff; Donna Maddox, of Senator PERCY's staff; Marc Steinberg, of Senator GRIFFIN's staff; and Elvira Orly, and Jan Olsen, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 524

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA), for himself, Mr. SCHMITT, and Mr. HATCH, proposes unprinted amendment No. 524.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 13. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"Minority Employment Opportunities in Transportation"

"SEC. 19. (a) Notwithstanding any other provision of this Act, no assistance under this Act may be made available to assist mass transportation service in any State or locality which maintains or enforces any restriction or requirement relating to the operation of the taxicab business except the following:

"(1) A requirement that the operator have a valid motor vehicle operator's license.

"(2) A requirement that the operator have a valid chauffeur's or hacker's license, at a cost not to exceed $35, which license may be granted after requirements (in addition to those required for the regular motor vehicle operator's license) reasonably necessary to assure a knowledge of streets, locations, and traffic laws of the State or locality are met by the operator.

"(3) A requirement that the motor vehicle to be used must pass any regular motor vehicle inspection required by the State or locality.

"(4) A requirement that proof of motor vehicle insurance be furnished to the same extent as such insurance must be obtained by all drivers within the locality but with no required minimum term of such insurance.

"(5) A requirement that ownership of the motor vehicle (or in the case of ownership by someone other than the operator, the approval of the owner for the commercial use proposed) be demonstrated.

"(6) A requirement that the operator periodically pass a medical examination.

"(7) A requirement that the operator not have been convicted of a felony and not have committed an excessive number of motor vehicle violations.

"(8) A requirement that the operator be 18 years of age or older.

"(b) A State or locality, which receives assistance under this Act may not regulate taxicab rates, fares, or routes, except that a State or locality may establish a schedule of maximum rates and zones to which those rates apply, in order to protect the consumer.

"(c) The Secretary shall establish a procedure for the payment of, and shall pay, claims by persons who, prior to the date of enactment of this section, made investments (as defined by the Secretary for the purpose of this section) in order to comply with requirements which this section prohibits and which, as a result of the application of this section, a State or locality has repealed. The amount of any such payment shall not exceed:

"(1) 90 percent of the amount invested in the case of an investment made 1 year or less prior to such repeal,

"(2) 79 percent of the amount invested in the case of an investment made more than 1 year but not more than 2 years prior to such repeal,

"(3) 67 percent of the amount invested in the case of an investment made more than 2 years but not more than 3 years prior to such repeal,

"(4) 54 percent of the amount invested in the case of an investment made more than 3 years but not more than 4 years prior to such repeal,

"(5) 39 percent of the amount invested in the case of an investment made more than 4 years but not more than 5 years prior to such repeal,

"(6) 23 percent of the amount invested in the case of an investment made more than 5 years but not more than 6 years prior to such repeal,

"(7) 5 percent of the amount invested in the case of an investment made more than 6 years but not more than 7 years prior to such repeal,

No payment shall be made for any investment made more than 7 years prior to such repeal. Notwithstanding any other provision of this Act, any sums available to the Secretary for grants under section 3 of this Act shall be available for the payment of claims under this subsection.".

Mr. HAYAKAWA. Mr. President, I express my gratitude, first of all, to the

distinguished Senators from New Jersey and Massachusetts for their presentation of this bill in support of mass transit. They come from enormous, vibrant urban areas, and they understand the situation well. I believe that, in offering this amendment, I shall be strengthening their purposes and their hopes for what mass transit can do, both for the convenience of people and for the saving of energy.

My amendment is designed to provide employment and business opportunities for members of minority groups and low skilled individuals by requiring States and local governments to loosen their restrictions and regulations on the taxicab and/or jitney business.

Specifically, the amendment sets out maximum requirements and restrictions that could be imposed on an individual seeking to enter the taxicab or jitney business by any State or locality receiving Federal mass transit funds and prohibits the granting of funds under this act to any State or locality that maintains more stringent restrictions and regulations on these businesses. In addition, the amendment specifically prohibits regulation of routes and fares, other than to establish maximum rates and a zone system to which they apply.

Finally, the amendment establishes a system of compensation for those individuals who have recently purchased a permit, certificate, or medallion, either from the State or locality, or from another individual or company, in order to comply with the established procedure to enter the business.

In other words, I should like to see far more people get into the taxi and the jitney business.

The maximum allowable requirements are:

First. A requirement that the operator have a valid motor vehicle operator's license.

Second. A requirement that the operator have a valid chauffeur's or hacker's license, at a cost not to exceed $35, which license may be granted after requirements—in addition to those required for the regular motor vehicle operator's license—reasonably necessary to assure a knowledge of streets, locations, and traffic laws of the locality are met by the operator.

Third. A requirement that the motor vehicle to be used must pass any regular motor vehicle inspection required by the State or locality.

Fourth. A requirement that proof of motor vehicle insurance be furnished to the same extent as such insurance must be obtained by all drivers within the locality, but with no required minimum term of such insurance.

Fifth. A requirement that ownership of the motor vehicle—or in the case of ownership by someone other than the operator, the approval of the owner for the commercial use proposed—be demonstrated.

Sixth. A requirement that the operator periodically pass a medical examination.

Seventh. A requirement that the operator not have been convicted of a felony and not have committed an excessive number of motor vehicle violations.

Eighth. A requirement that the operator be 18 years of age or older.

I should like to make it clear that these requirements are the maximum permissible and are not mandatory. For instance, if a city wants to allow 16-year-olds to drive taxis, it could do so under this provision.

On the other hand, these requirements are all-inclusive. Therefore, a city could not, for instance, establish a residency requirement or an education requirement. It could not require any special equipment on the vehicle other than that required to pass the regular private auto inspection. It could not require that the insurance be purchased from particular companies. It could not prevent an individual from using his own private vehicle as a taxi or jitney, so long as he met the maximum requirements.

The provision allowing States and localities to set only maximum rates is designed to protect the consumer—so that he knows the most he will have to pay for a given trip—while, at the same time, giving new entrants into the business the opportunity to build up a clientele by providing cheaper service. There is also a prohibition against route regulation.

In the early 1900's, cities put jitneys and taxis out of business by requiring them to make long trips where the costs of operation exceeded the fare, by excluding them from high-density downtown areas, or by prohibiting them from operating along the mass transit system's lines. I do not want to see these types of restrictions used to limit opportunities for low-skilled individuals to earn a living by driving cabs or jitneys.

Finally, in order to be fair to those individuals who have played by the rules of the game—that is, the existing rules—and recently purchased taxi permits or medallions, the amendment includes a scheme to compensate those individuals for that investment. This compensation scheme is based on how long the individual has held the permit and, therefore, how long he has been reaping monopoly benefits due to the restricted nature of the business. If the individual, instead of purchasing the permit, had invested the money at a 10 percent rate of return, he would have doubled his money within 8 years. A 10 percent rate of return is considered normal on an investment. The rate of return should be even higher under a restricted, monopoly situation. And this is a lower rate of return than the average rate of return on stockholders' equity for the last 10 years.

Reducing the amount of compensation based on a 10 percent rate of return results in a higher amount of compensation than would be justified by the higher rate of return on stocks over this period. In this regard, the compensation scheme is generous. In addition, when an individual purchases a permit, he has no guarantee that he will be able to sell it in the future for as much as he paid for it. Thus, we are again being generous by guaranteeing him compensation based upon his purchase price.

That is the technical explanation of the amendment. Now I shall explain why this amendment should be adopted.

The taxicab business is one which would, in the absence of government barriers, present great employment opportunities to members of minorities, college students, and people with few job skills. Driving a car involves no difficult technical education. It is a skill that almost everyone has. In addition, the initial capital investment required to enter the business is very low—a downpayment on a car and the cost of insurance. But the high restrictions that localities place upon taxicab operation exclude from the business all those with limited capital to invest.

For example, in many cities, an initial investment of tens of thousands of dollars is required to purchase a "taxicab medallion" which is required to operate a cab.

(At this point, Mr. HARRY F. BYRD, JR., assumed the chair.)

The last I heard, a medallion in Los Angeles cost $33,000, just to get the permit, which is several times the cost of the automobile itself, and up to $27,000 in San Francisco.

In some cities, the number of medallions is strictly limited to protect those already in the business and to keep out potential competitors. Many individuals, especially the less fortunate members of minority groups, cannot muster the resources needed to purchase the medallion. Maybe they can afford the car, but they surely cannot afford the medallion. Many cities prohibit an individual from using his private auto as a taxi or jitney. Some have residency requirements, education requirements, and equipment requirements that limit entry into the business. In addition, most jurisdictions regulate routes and fares so that a new entrant cannot build up business by undercharging his competitors or providing more convenient service.

In most cases, the fare and route regulations are designed so that taxis cannot compete with the city's mass transit facility but in the final analysis, all these regulations and restrictions amount to a publicly sanctioned, huge conspiracy in restraint of trade aimed at the entrepreneur with modest capital resources.

There is no economic justification for any of these restrictions, nor do they serve the interests of commerce, consumers, the general public, or minorities. But the cities maintain these restrictions to protect existing large cab monopolies and mass transit systems, all of which operate at larger and larger federally subsidized deficits every year. Obviously, large transit and cab companies have greater political clout than the individual, unorganized taxi operator. But the Federal Government should not encourage cities to give in to the political pressure and protect these large companies at the expense of employment and business opportunities for low income individuals. However, the Federal Government does encourage these restrictive policies by continuing to subsidize, to an increasing extent, the operating deficits of mass transit companies. It also funds most of the expense of building new transit systems.

If localities had to pay for their own transit systems, they would be more likely to remove their restrictions on the taxi business to encourage greater participation in the overall transportation

systems by individually operated taxis or jitneys.

Let me explain a little bit about a jitney, which is a disappearing phenomenon in American cities.

Jitney is a term that has commonly been used to refer to a private auto or minibus which picks up passengers for a fee. In the early 1900's, jitneys began to operate, providing cheaper, speedier, and more convenient service to passengers than did the streetcars operating at the time. It is generally said that the advent of the jitney was on July 1, 1914 in Los Angeles when L. P. Draper picked up a passenger in his Ford Model T touring car, took him a short distance, and accepted a nickel fare as payment. During the depression that followed the outbreak of World War I in the fall of 1914, many unemployed men began to operate jitneys. However, as the jitney business began to flourish and grow, transit companies—mainly buses and streetcars—perceived the jitney as responsible for the financial problems of the transit systems, and lobbied for strict regulations on jitney operations. The regulations enacted in most localities were stringent enough to put jitneys, for all intents and purposes, out of business. Thus, by mid 1915, there were as many as 62,000 jitneys operating in 175 cities in the United States.

Then the regulations began to be enacted, one by one, in city after city, and by 1920, the jitney had virtually disappeared.

This put a large number of the American people and self-dependent individuals out of business altogether.

Jitneys were also used in the South late in the 19th century—this is an aspect of/history of the jitney that I find completely fascinating—to counter racial discrimination on public transportation. We are all familiar with the famous bus boycott in Montgomery, Ala., in the 1950's. It launched the modern civil rights movement and made Martin Luther King a national figure. But not too many people know about the first boycott movement against Jim Crow transportation. It occurred way back at the turn of the century. I would like to tell the Senate about it, because it pertains directly to some of our problems today.

In those days, even in the deep South, public transportation—in the form of horse-drawn trolleys—was not always segregated. It was only in the 1890's that racially separate public accommodations were imposed upon the people of this land.

The black citizens of the South reacted to the new Jim Crow laws with anger, courage, and determination. They boycotted the segregated cars. Their newspapers urged, "Do not trample on our pride by being 'Jim Crowed,' Walk!" When a public official in Savannah gave his Negro maid carfare to carry his two heavy suitcases to city hall, she arrived very late, exhausted, and soaked with perspiration. She had carried the suitcases, but she had walked all the way. She did her duty, but she maintained her pride. She would not humiliate herself by riding on a segregated trolley.

But the minority population of the South did far more than simply walk. In many cities, they set up their own transportation systems. They used their vans and wagons, their carriages and carts to start black-owned-and-operated trolley lines. And they did it without help from the EEOC, the Department of Transportation, or the Small Business Administration.

Especially in Virginia and Tennessee, alternate transport lines were a temporary success. And in Houston, the law-abiding Negroes who were operating their own horse-drawn carriages obeyed the Jim Crow ordinance by marking off the back seats of their jitneys with signs reading, "Whites Only."

In the long run, however, their efforts and attempts to sustain minority-owned business and minority rights through minority business enterprise failed. Lack of capital and lack of experience played one part, as did harassment by public authorities. For example, local humane officers suddenly became extremely solicitous of the health of the horses pulling black-owned jitneys. It put them out of business.

Of course, times have changed. Segregation is a thing largely of the past. But rising fares on buslines are not past. Poor service and inconvenience and dirty buses and dangerous subways are still with us. And what are we to do? Follow the advice of the black newspapers of 75 years ago and walk? Or should we patronize instead our own privately operated transportation systems, jitney buses and taxies, and minivans?

But the problem is there are not any! They have been suppressed by local legislation designed to benefit special interest groups rather than consumers and the community.

However, as is obvious from today's experience, the disappearance of the jitney did not solve the financial problems of the transit companies. From 1946 to 1963, ridership dropped from 23 to 8 billion riders and the business had become so unprofitable that most private transit companies shut down and the Government took over. But the situation has only continued to worsen, with larger and larger subsidized operating deficits each year. But the public transportation systems are in just as much financial trouble without the jitneys as they would have been with them. And I think there is an explanation for that.

If there were a free enterprise system in taxis and jitneys, so that they can compete with each other and with the existing taxi system, then we will have a feeder supplement to the mass transit system—to BART, for example, in the San Francisco Bay area—that will feed and enhance the usefulness of the mass transit system. This, I think, is a most important point.

The most important reason for the demise of most transit systems is their fixed route, parallel line structure, which does not offer the average passenger the flexibility he needs and demands. For instance, many BART passengers must drive their own auto to the closest BART station to be able to use the service. The individual often decides that he might as well drive where he is going, especially if the BART station closest to his destination is also a formidable distance. Low cost, quick, efficient jitneys could provide him with this point of origin to BART station and BART station to destination service at a reasonable price.

In other words, the jitneys can be a supplement at both ends to mass transit service. But, obviously, if the supplement is too expensive, as it now is, it is not going to be used, and they will use their own cars instead. In so doing, they will skip mass transit altogether.

Many commuters will take their own auto to work in case they must go somewhere during the day that is not conveniently served by the transit system. Or in Washington, D.C., for instance, if an individual works long or erratic hours, the transit system may not serve his needs. Who wants to take the chance of having to work late in the evening and then having to wait half an hour or more for a bus which may not even take you within walking distance of your home? But if reasonably priced jitneys were available to handle such infrequent, sporadic situations you might just leave your auto at home and ride the bus or subway.

I think that all these systems will supplement each other, and complement each other. We will get people to give up their private cars only if we have two or three or four different systems to take people around as economically as possible. Now what I want to do then is to give the unemployed, especially those who want to go into business for themselves, a chance to run their own jitneys, their own taxicabs, without undue licensing requirements, without the requirement of tens of thousands of dollars in capital investment, to go into business at all. The evidence I have collected would seem to indicate that individuals will take advantage of this opportunity.

We have that evidence right here in Washington, D.C. It is the major city in the United States with the lowest restrictions on entering the taxi business. The charming thing I found about Washington when I first arrived here and I started asking drivers these questions was that an individual can use his own car, and for the price of insurance plus less than $50 for a driver's license, hacker's license, public service auto license, and police check, enter the taxi business. Consequently, Washington has the best, least expensive taxi service in the country, and the highest black ownership of cabs relative to black population. Also, 7,700 cabs operate on the streets of Washington.

Now, Philadelphia has only between 500 and 600 cabs. Let me repeat that: Washington has 7,700 cabs to serve the people; Philadelphia has only 500 to 600, of which only one-fourth are owned by individuals. However, in order to operate a cab in Philadelphia, you must obtain a permit from the State public utilities commission. Only a limited number of certificates have been issued, the last new permit having been issued several years ago, and none since. One must prove public necessity to the commission to obtain a permit in that manner.

However, certificates exchange hands between individuals. The going market

price for a taxi certificate in Philadelphia now is about $35,000. Rates are set by the commission, the cars are required to have meters, top lights, and four doors, and the driver must be at least 19. There are no data available on minority ownership of cabs.

San Diego is an interesting example in my State. Until the recent bankruptcy of Yellow Cab in California, San Diego had no individual ownership of cabs. The city issued permits to operate cabs, which could only be transferred with the approval of the city council. Ten companies operated in the city with only 410 permits having been issued, and that is a city that needs at least 3,000 to serve the public adequately.

The supply of permits was limited and the city set the fares. After the bankruptcy of Yellow Cab, the city sold 61 permits to individuals. In order to get an individual permit, a person had to pass a police check, pay $200, and paint their cab a certain color. The permits were passed out on a first-come, first-served basis, and there was demand for a far greater number of individual permits.

So far, the individual operator/owner system has proved very successful. Surveys have indicated that the independents are more successful than the established companies, and they have found that the individualized service builds up a regular clientele. The city ordinances are being revised to make it easier to comply with the two-way radio requirement. The city is also conducting a market analysis study and believes that the study will show that the improved taxi service has increased the demand for taxicabs—still speaking of San Diego. They will probably issue more individual permits. Finally, they have found that the individual owner/operators provide better service to minority neighborhoods than the established companies do, and about 20 of the independent cabs plus 1 of the small cab companies are owned and operated by minorities.

Again, let us look at it from the point of view not of the minority businessman but from the minority customer and passenger in taxi service. I encountered this repeatedly in Chicago and continuously encountered it in San Francisco.

There are only a limited number of taxis. If you are a member of the minority race and you want to go to the Southside or the Westside of Chicago or Fillmore in San Francisco, there will not be many white operators who will take you there at all, despite the fact that they paid $30,000 for a certificate of public convenience and necessity. When you need a cab, they will not even take you there.

What solved that problem is the same solution we had back further in American history, when blacks owned jitneys and taxicabs. They got into business for themselves to take care of the neighborhoods and the people the regular system would not take care of.

Mr. President, I have similar information on other cities which I ask unanimous consent to have printed in the RECORD at this point, plus an article from the Philadelphia Tribune written by Dr. Walter Williams, a distinguished black economist at Temple University.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATLANTA

Atlanta sells permits to drivers entering the taxicab business. There is no limit to the supply of permits, which are issued on a daily basis to new drivers at an initial cost of $25, a charge of $15 to transfer companies, and charge of $5 to replace if lost. All drivers must operate under a company banner, but can use their private autos if they have meters, top lights, and door signs and comply with company requirements and color schemes. The drivers pay approximately $25 to $45 weekly to use the company banner. There are approximately 45 to 50 companies operating 900 cabs. All new companies must operate at least 50 cabs. The city council sets the fares.

BALTIMORE

Baltimore allows individual ownership of cabs, but the driver must belong to a dispatch organization, have a 2-way radio and paint his car to fit the company pattern. Approximately ⅔ of the 1,151 cabs are owned by individuals or small groups. The Maryland Public Service Commission controls taxicabs, and a driver must have a permit to operate. However, permits are not available from the state, the last 150 having been issued to GIs in 1946 after the war. Thus permits can only be obtained from someone else at a market price which varies between $4,000 and $10,000. Fares are set by the State Public Service Commission. There is a minimum age requirement of 24 or 25. Approximately ½ of the individually owned cabs belong to blacks.

BOSTON

Of 1,525 cabs in Boston, 850 are individually owned. A private auto can be used as a cab if it has a partition between the front and back seats, a meter, and a toplight. A driver requires a state permit to operate, but none have been issued since 1945. Permits exchange hands privately at a market price of about $25,000. Rates are set by the police commissioner. There are 20 large fleets of cabs and fifty smaller companies and associations with 10 cabs or less operating in the city. Minority ownership is substantial, with about 60% of permits recently purchased going to blacks and Puerto Ricans.

CHICAGO

In Chicago 934 of 4,600 cabs are owned by individuals. The proportion owned by minorities is unknown, but believed to be quite large. An operator must have a medallion to operate, however, they can no longer be purchased from the city. There are only 4,600 medallions. The last time a permit was issued was around World War II. The city collects an annual fee of $90 from the owner of a medallion. The going market price for a medallion is currently about $16,000. Private cars cannot be used as cabs, and all cabs must have a meter, a top light, be a certain length, width, and height, and must be clearly numbered inside and out. Yellow Cab and Checker Cab operate almost all of the 3,666 company owned cabs. The city council sets the taxicab rates.

DENVER

In Denver there is no individual ownership of cabs. All cabs are either owned by a company or leased to a company for their use. The State Public Utilities Commission grants taxi certificates to the companies. The certificate specifically limits the number of cabs that the company can operate. Certificates are not exchangeable among companies. Only three companies operate between 450 and 500 cabs in the city of Denver. The Public Utilities Commission sets the fares. All cabs must have meters and two-way radios. A taxi operator must be at least 21 years of age.

DETROIT

The city of Detroit issues bond plates for taxicabs. Currently, there are 2,300 bond plates issued, and no more can be issued. The last one was issued some time around World War II. Almost all taxicabs in Detroit are owned by individuals. However, they must pay to join a company and use its name and dispatch service. All cabs must have meters, partitions, top lights, and markings on the side. There are about six major cab companies operating in Detroit, and in addition many small companies and independents. Currently, ownership of cabs is about evenly split between blacks and whites. The going market price for a bond plate is between 1,000 and 3,500 dollars. The city council sets the taxicab fares.

LOS ANGELES

Up until a short while ago in Los Angeles, all cabs had to be owned by companies, according to city ordinance. Companies were given "franchises" and could operate only in certain areas of the city. A cab could not go out of "its area" unless it got a telephone request. What this meant was that if a cab from one company took a passenger into another company's section, it could not pick up a return passenger. This increases costs of operation and consequently fares and wastes energy as well.

Companies must apply to the City Board of Public Utilities for a franchise. Currently seven companies have franchises.

The city just authorized individual permits a short while ago, but they are still being processed. All drivers will have to belong to a dispatch association, and each association is limited to 100 permits. Permits will cost drivers $250. So far only two dispatch associations have been formed, and the applications are all still pending council approval.

There are currently 350–450 cabs operating in Los Angeles. There is no limit on taxicabs allowed to a franchise; they may operate whatever the traffic will bear. The companies pay the insurance, and hire the drivers to drive the cabs.

MIAMI

The city of Miami issues permits to operate taxicabs. A city ordinance establishes that there must be one taxicab per 1,500 people. However, since 1949, with the exception of one or two hardship cases, no new permits have been issued. There are only 431 permits available in the city currently. The going market price for a permit is approximately $10,000 to $15,000. In order to secure a new permit from the city, an individual must prove public convenience or hardship. Miami does allow individual ownership of cabs, and approximately 25% to 30% of the cabs in Miami are individually owned. An individual may use his own car as a taxicab so long as it has a meter and a certain size sign on it. Of the individually owned cabs, a large proportion are owned by blacks, Cubans, and Pakastanies. There are also nine taxicab companies operating in the city. The city of Miami has the power to set taxicab fares, however, has chosen to let the Dade County Board of Supervisors set the rates.

Miami also has a jitney operation, mostly in the black areas. There are currently 21 jitnies that run along established routes. They are regulated by the city and must operate a certain number of times per hour. These jitney routes have been established for a long time, and the rates they can charge are set by the city. There has only been one case recently where some one proved public necessity and was allowed to set up a new jitney route. However, this operation only lasted a short time. The main problem with the jitney operations is that they are in competition with the city bus lines.

NEW YORK

An individual must have a permit from the city of New York to operate a taxicab. The

number has remained stable at around 11,787 since 1938, except for some fluctuation after World War II. Permits are no longer obtainable from the city. They are exchangeable, however, and sell at a market price of approximately $42,000. New York does allow individual ownership of cabs, and approximately 4,971 individuals own their own cabs. However, they can not use their private autos for this purpose. All taxies must have meters which are approved by the Taxi and Limousine Commission, and must conform to certain technical standards and have top lights. There are currently approximately 2,200 companies operating cabs in New York, but many of these are companies with only two car fleets owned by the same person. Cab holdings are usually split into these smaller companies to limit liability. The Taxi and Limousine Commission sets the rates for taxicabs.

SAN FRANCISCO

Since the bankruptcy of Yellow Cab, there are only 461 cabs currently operating in San Francisco. There have been 849 permits issued, but Yellow Cab owned 500 of them. Twelve have so far been auctioned off and the remaining 488 are tied up in legal battles.

San Francisco now has a situation where almost all the cabs are individually owned. The large companies are really co-ops. Most of the owners of the cabs drive the cabs, but some people in the company own two or more cabs, and might hire other drivers to drive the others. The drivers/owners will pool their money to buy insurance for the fleet of cabs, and will often split the profits. In some of the smaller cab companies (co-ops), the drivers will be completely independent of the company. He may just be paying a flat monthly rate for the use of the name and color scheme. He would pay his own insurance, collect his own profits, keep his own hours and often work out of home. However, a cabbie cannot use his private auto as a cab, because the meter must be running at all times when operating.

Permits may be sold or transferred. The last permit that was sold went for $30,000 but that was before Yellow Cab's bankruptcy. People may apply for new permits if they can prove "public necessity or convenience", but this is almost impossible, the last permit being issued in 1968. Minorities own approximately 25% of the city's cabs, mostly Chinese-Americans.

MINORITY-OWNED BUSINESSES IS ONE WAY MINORITIES CAN FIND WAY OUT OF POVERTY

(By Dr. Walter Williams, an associate professor of economics, Temple University, School of Business Administration)

Though not as promising as other economic alternatives, minority-owned businesses offers one way that minorities can find their way out of poverty. However, the deck is stacked against would-be minority businessmen in several important ways. One important way is the characteristics of the business environment in which they find themselves operating. This environment features relatively high crime rates which adds to their operation cost, and low income which lowers the demand for the products and services that they sell. Though mostly neglected, the other important way that minority business is inhibited is through highly restrictive practices in many potentially rewarding business activities.

For many businesses, as one of the conditions of entry, the entrant must have legal permission to practice the business. Most often the person must meet the requirements set by a governmental body that is controlled either directly or indirectly by people presently involved in that business. Obviously, the incumbent practitioners of the business have little interest in seeing a large number of new entrants. The reason, though disguised in lofty moral language, is that increased competition means that they could not charge as high a price, or that they would have to improve their services and hence their incomes would not be as high.

Entry restrictions are rife in the American economy. Here I will discuss only two for illustrative purposes in terms of minority interests, because they are businesses where (1) there are not high capital costs relative to other businesses and (2) they do not require high skill levels. Therefore, the only reason for small minority participation in these businesses stems from artificial barriers to entry.

The taxicab business is one such where capital and skill requirements are low. However, entry is restricted through prohibitively high legal requirements. For example, in New York and Boston a license fee costing $30,000 must be paid for each vehicle operated. In Baltimore and Chicago these licenses sell for $14–$18,000 dollars. In Philadelphia, a certificate is required. The Board of Commissioners, in Harrisburg, sits to decide whether to issue certificates or not based on whether they think the community needs more taxi service. For the last few years, they have decided that Philadelphia had adequate taxi service, because they have not issued a single certificate.

In Washington, D.C., the story is quite different. Fee requirements are nominal. As a consequence, Black ownership relative to the Black population is high, and in addition, taxi fares in Washington, D.C., are among the lowest in the nation.

Another potential business for minority entry is the trucking industry. Here, too, are significant entry restrictions. To own and operate a truck requires that one receive a certificate from the Interstate Commerce Commission (ICC). A certificate will be granted if the entrant can prove that he can provide a service that no other trucker is providing. If the entrant only offers to provide a better service at cheaper prices, he will be denied a certificate. Behind the ICC are teamsters and trucking companies who benefit from restricting entry in order to keep wages and income higher than they would be with more competition. In a recent Illinois crackdown on trucking without certificates, the majority of those arrested were Black truckers. Additionally, the fact that there are very few Blacks licensed to be common carriers points up the adverse effects of the regulations in the trucking industry.

The market entry restrictions noted here are not racial in their intent. To the contrary, the stated intentions are those of high social objectives such as "orderly markets," "fair prices" and so forth. However, the clear effects are racial to the extent that these market entry restrictions discriminate most against late-comers, poor people, and those with meager political clout. Minorities are disproportionately represented in such a group.

In general, what minority businesses need more than government loans is freedom from governmental interference with their attempts, and indeed what I consider Constitutional rights, to earn a livelihood in their chosen field.

Mr. HAYAKAWA. In conclusion, Mr. President, I would like to say that although my amendment offers many benefits—better and cheaper transportation, greater employment and business opportunities for the disadvantaged, and reduced Government expenditures on public assistance and public jobs—I feel that the most important benefit of the amendment is that it provides opportunities for people to help themselves, rather than to accept a Government handout.

From a public service point of view, I believe that these jitneys and taxicabs operating competitively and, therefore, at a lower rate, will act as a supplement to mass transit systems that will help to make mass transit economically more successful.

But let me go back to the problem of the individual trying to make his living.

By operating his own taxi, an individual can get himself off the public dole, learn to operate a little business, and most importantly restore his self-respect and pride. The benefits of easier entry into the taxi business would not even just benefit the hard-core unemployed and poor. The laid-off steelworker or aeronautical engineer, rather than having to go on public assistance, could temporarily support his family by operating his car as a jitney while he searches for a new job. In the process he would maintain his pride and manhood.

If this is our goal—to help people to help themselves—then we should encourage localities to remove their excessive restrictions on taxicabs and jitneys. I believe that this amendment will give them that incentive. I hope you agree with me and support this amendment. It would be the best thing that the Federal Government has done in years to help people help themselves.

Let me say, in closing, that I speak not only as a concerned citizen and a legislator, but I speak also as an ex-taxi driver. That was one of the things I did to work my way through college and graduate school, and I treasure that experience, which is the kind of thing that makes it possible for you to work part time or full time, continue your studies or continue other occupations at the same time, and maintain your self-respect and maintain your pride while you are temporarily faced with a difficult economic circumstance.

Therefore, I hope Senators will agree with me and support this amendment.

Mr. President, I yield to the distinguished Senator from New Mexico.

Mr. SCHMITT. I thank the Senator from California. I compliment him on his scholarly and very extensively researched presentation in defense of his amendment, and I also wish to emphasize my support and cosponsorship of that amendment.

In addition to being a believer in the taxicab and jitney, although never a driver of either, I want to emphasize that I am a fan of mass transportation. I think it will in the future be one of the major ways that we come to grips with our basic problem of insuring that our use of energy is in balance with its availability from exhaustible sources.

However, for mass transportation to be a viable part of our society, it must be lower in cost, it must be higher in convenience, and it must be considerably more efficient in its use of energy. It also must be fun to use.

The Senator's amendment goes to the heart of one of these four issues, and that is convenience. I think he has made that point, and I want to underline and italicize that point, that with a feeder system of jitneys and taxis, mass transportation can start to be more economical than it is at present, and much more convenient to use.

Mr. President, as a cosponsor of this amendment, I wish to emphasize the

principle of competition which it endorses. It is a principle that should be applied whenever possible to the provision of goods and services to the American public. Competition can generate the lowest cost and most efficient source of most goods and services in the economy, and it should be given every opportunity to function in the provision of intracity transportation services as well as in other portions of our society.

The production of monopoly organizations, whether they be privately or publicly operated, should not be supported when the possibility exists that cheaper and more responsive services are available. We could only help the inner cities and encourage economic development and encourage minorities by seeking the lowest cost form of mass transportation for the residents of our metropolitan areas.

While the Federal Government's emphasis in recent years has been on the funding of large rail mass transit systems, it is time now to look at the alternatives and compare the relative merits of all forms of transportation. While certain advantages are available from the use of rail transit, it does carry some liabilities in some cases as a service to the residents of urban areas. This has been pointed out eloquently by the Senator from California. Routes, for example, are fixed and unable to adjust to the ever changing service requirements of a dynamic metropolitan region. And while the rail and mass transit alternatives are relatively fuel efficient in operation, overall it is a very costly system to establish. That is extremely capital intensive. We need only look at the District of Columbia metro system and the problems it has getting established to comprehend how expensive the systems are to the taxpayers.

By comparison, the jitney and the taxi service provide relatively fuel-efficient and flexible service inside the city. But the survival of the special interest groups supporting mass rail and other transit systems requires that these economically viable transit vehicles be made and continue to be illegal. History has shown, however, that even this degree of protectionism has not been sufficient to keep many of the mass rail systems economically viable. Buses, which eventually replaced some rail-borne streetcars and commuter trains in the past, have proved to be no more effective in serving the public as were the systems that they have replaced. The fiscal problems which followed were solved by the infusion of massive subsidies at taxpayer expense. The result has been taxpayers bearing the cost of a service that few people are willing to pay for.

I wish to compliment the Senator from California for his extensive effort and initiative in this area, and I am happy to join him as a cosponsor. I yield back the floor to him.

Mr. HAYAKAWA. I thank the distinguished Senator from New Mexico for his supporting remarks.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from Kansas (Mr. DOLE) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT SUBMITTED

Mr. DOMENICI. Mr. President, I am pleased to give my support to the amendment to the pending bill offered by my distinguished colleague from California, Senator HAYAKAWA. I commend him for finding ways in the legislative process to advance and enhance the opportunities available to individual people, particularly members of minority groups.

By this amendment, Senator HAYAKAWA, would, in effect, put the considerable leverage of urban mass transit Federal grants to work for individuals who want to use their own private autos to enter the taxicab business. As I understand it, this amendment would not prohibit reasonable and tolerable procedures for dealing effectively with such individuals, but it would prevent unreasonable, intolerable regulations and requirements intended to discourage this kind of entrepreneurship in favor of some other kind of transportation system.

I think this is an entirely proper course of action and I urge my colleagues to adopt Senator HAYAKAWA's amendment or to make some provision to achieve the purpose of his amendment.

Mr. SCHMITT. Mr. President, will the Senator yield for one unanimous-consent request?

Mr. HAYAKAWA. I yield.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Chris Brewster of Senator DANFORTH's staff be accorded the privilege of the floor during consideration of S. 208.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I yield myself a few minutes.

In responding to the very able and very distinguished Senator from California and his amendment to this mass transit bill, I will try to be brief since we are on controlled time. I thank and applaud the Senator from California for his eloquent and imaginative statement which has brought to our attention an area that perhaps we have overlooked. This is certainly helpful in our efforts to improve mass transit as an element of more effective and efficient urban transportation systems. As I sat here listening to the Senator's review of the history of the jitney, I confess I wondered just where the word "jitney" came from. I checked in a dictionary, and that dictionary said it is an archaic word, origin unknown.

So, evidently, the jitney has been around for a long time. Maybe horse-drawn chariots were used as jitneys after their days of glory in the ring were over. Were these the first jitneys? We do not know.

But my personal gratitude goes to the Senator for giving us some of the history of the jitney and for describing to us how people who were excluded or relegated to a particular part of the regular transportation, responded by introducing the jitney.

I come now to a little ad for the great State I represent and one of its cities: Atlantic City, N.J., has had, does have, and I believe will continue to have great jitney service.

It is interesting that the main avenue in Atlantic City closest to the Atlantic Ocean is called Pacific Avenue; farther inland is Atlantic, then Arctic, and then Baltic. They were named after all the oceans. But down Pacific and Atlantic, of course, the jitneys flow as I am sure many visitors of years back remember. There are fewer right now. But there is a wave of visitors coming on their way to New Jersey shortly to visit our "Granada," Atlantic City, and some of its great opportunities for economic advancement. Though I am glad the jitney is there, I do not want to prolong the debate, but I also applaud the Senator from California for his attention to and his concern for the employment of minorities, students, and those who are unskilled in other types of employment but skilled enough to drive a vehicle. These are all most worthy concerns and considerations, and he addresses their needs through this amendment.

But that brings me to one or two other observations.

Many of those to whom encouragement would be granted under this amendment have already entered the field.

I take a cab from the airport into town so frequently. It is remarkable the number of students that I meet that way who are driving, exactly as the Senator did in his student days. Students are doing it today.

In New York I believe one of the ways to keep updated in your education is the cab ride in New York. What a variety of backgrounds, nations, and talents there are in the taxi! Even now, it is a fertile opportunity for employment; in fact, the National Association of Taxicab People tell us they are always searching for people to drive cabs.

My problem with the amendment, I respectfully say to the Senator from California, is that it is deserving of more discussion, more thought, and more searching inquiry than we can give it here in the Chamber. It is worthy of hearings. I know the vitality of the Senator from California and his courage is greater than mine.

When we enter an area that has been a State province, as is insurance, and say here, in our Federal majesty, to the States and communities, "We are going to tell you your limitations on what you can require in terms of insurance," I tell the Senator I know we are running right into a buzz saw.

The opposition to that would be immense. Perhaps not justified, but it would give all kinds of problems. Therefore, I for one would like to consider this further, and, as a part of our transportation efforts, give it fuller hearing.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. BROOKE. Mr. President, let me first say that I never cease to be amazed at the talents of our distinguished colleague from California, and the scholarship that went into the statement that he has made on this floor this morning.

I just regret that many of our colleagues in the Senate, who I am sure are tied up in committees and have other commitments, could not be present. I wish they could have been treated—and it was a treat—to the scholarship that went into the Senator's presentation, and the obvious indepth research that also went into the presentation.

The concept is, as the Senator from California has said, not a new concept, but it is a fresh concept for us to consider in rapid transit legislation, and it is a concept that I think carries with it great possibilites.

I did not know that the Senator had formerly been a taxi driver; but I certainly say that that augurs well for the taxicab profession, if the Senator from California has once served as a member of that profession.

I listened very intently, with few interruptions and minor interruptions, to what the Senator had to say. It was not only scholarly, but it was amusing and delightful to hear. Nevertheless, it was a serious presentation, and I know full well that many of the things that the Senator has pointed out few Members of this body are aware of.

I know the problems that minorities have had, for example, in breaking into the field of taxicabs and getting jobs. I know firsthand, as a former attorney general, of the enormous cost of the medallions, from $25,000 to $33,000 and maybe even higher. And cities do not get that revenue; they are sold from individual to individual, which automatically forecloses the possibility that the poor or even the near poor, or even some of these moderate income people, could afford to pay for medallions.

I also know of the scarcity of taxicabs and taxi service in many of the cities across the Nation; and I also know full well, as the Senator very astutely pointed out, that there are cabs that will not take certain groups to certain sections in the city, and yet they are regulated by localities.

There are some problems, as our distinguished chairman has brought out; and as I said a while ago, the purposes of the amendment are laudable. I think I ought to present to the Senator for his thinking some of the questions which come to mind.

First of all is the question of cost. To my knowledge, no one has determined just what the cost of this would be, how much this amendment would cost us.

Then I am particularly concerned with subsection (c). Subsection (c) requires the Secretary to pay claims to persons who, prior to the date of enactment, made investments in order to comply with requirements which this section prohibits.

As an example, if a locality had no requirement for auto insurance, but it did require taxi operators to be insured, as I understand the proposal, the DOT Secretary would have to reimburse the owner of the taxi the amount of his insurance premiums. Is that correct?

(Mr. HASKELL assumed the Chair as Presiding Officer.)

Mr. HAYAKAWA. Excuse me?

Mr. BROOKE. I am sorry that the Senator was interrupted at the time. I will put the question again to the Senator, if I may.

Mr. HAYAKAWA. I thank the Senator.

Mr. BROOKE. Subsection (c)—and I refer the Senator to subsection (c) of his amendment—subsection (c), as I understand it, requires the Secretary to pay claims to persons who, prior to the date of enactment, made investments in order to comply with requirements which this section prohibits.

As an example, if a locality had no requirement for automobile insurance, but it did require taxi operators to be insured, as I understand the proposal, the DOT Secretary would have to reimburse the owner of the taxi the amount of his insurance premium; is that correct?

Mr. HAYAKAWA. Briefly, the original purpose included the purpose that the Secretary, in order to comply with the requirements, has discretion as to what he shall reimburse.

What we essentially had in mind, of course, was the reimbursement of his license fees, the medallion fees.

Mr. BROOKE. Let me read the provision:

> The Secretary shall establish a procedure for the payment of, and shall pay, claims by persons who, prior to the date of enactment of this section, made investments.

That is not permissible or discretionary. It seems to me that language is mandatory.

Mr. HAYAKAWA. It seems to me that the parenthetical expression "as defined by the Secretary for the purpose of this section" makes it discretionary.

Mr. BROOKE. "As defined by the Secretary for the purpose of this section?"

Mr. HAYAKAWA. Yes.

Mr. BROOKE. It would be a question of statutory interpretation, but I do not think that modifies the expression "shall pay." Even though it would be an investment as defined by the Secretary, "shall pay" relates to claims by persons who made investments. Does the Senator not envision the Secretary having to pay for those investments?

Mr. HAYAKAWA. No; I would envision the Secretary only having to pay that licensing fee. On things like insurance, they have already received the service that was paid for.

Mr. BROOKE. It might be pro rata. There might be some days still remaining, or 1 year or 2 years still remaining on a 3-year policy. On a 5-year policy there might be 3 or 4 years still remaining. Would they not get a pro rata payment for that?

Mr. HAYAKAWA. It seems to me the Secretary would have discretion as to how to define that.

Mr. BROOKE. But at least it could be a cost to the Federal Government?

Mr. HAYAKAWA. It could be.

Mr. BROOKE. If the Secretary used that discretion, there is no question but that the Secretary would have to pay the cost of the medallion; the Senator has done that part very well, passing it down from 90 percent to 5 percent, and then, after 7 years, there is a mark out to zero.

Mr. HAYAKAWA. If the language can be refined in such a way as to exclude everything but the repayment for the medallion, I would certainly accept that.

Mr. BROOKE. But even as to the cost of the medallion reimbursement, I do not know what we are talking about. It would appear to me that we could be talking about literally millions of dollars. Is that not correct?

Mr. HAYAKAWA. Most of these medallions have been held by the company for many, many years, in figuring on a 10-percent return per year, paying for the investment in the course of 8 or 10 years; and most of those medallions would already have been amortized.

Mr. BROOKE. What about the individual medallion that was just purchased for, say, $33,000?

Mr. HAYAKAWA. That was precisely what I had in mind.

Mr. BROOKE. And held for 1 year. That person would be reimbursed?

Mr. HAYAKAWA. Reimbursed for that fraction of the 8 years or so that he had regarded the investment to be good for.

Mr. BROOKE. Another concern I have——

Mr. HAYAKAWA. And there is not that much turnover in medallions, anyway. I would be surprised if the whole thing came to a million dollars.

Mr. BROOKE. Well, another concern I have, and I am sure this is one that concerns the Senator from California as well: The amendment would allow Federal regulation of what have been traditionally matters of local concern.

As an example, this amendment would restrict by Federal law the amount the locality could charge for a hacker's license. Additionally, it requires that any community receiving UMTA funds would be precluded from establishing taxicab fares or routes. I submit to the distinguished Senator that this has long been under the control of local governments. I just question why a recipient of Federal UMTA funds should now be denied the local regulatory role it has traditionally enjoyed.

Mr. HAYAKAWA. Mr. President, in reply to the distinguished Senator from Massachusetts, it seems to me that it is the kind of regulation that is analogous to those articles of the Constitution which state Congress shall make no law in restraints, let us say, of freedom of speech. The only kind of law we are passing is a law which says the municipality shall make no law in restraint of trade of this kind. I really have wondered, long before I came to this distinguished body, why antitrust proceedings have not been taken against these combines long, long ago. If it has not happened yet, it is unlikely to happen. It seems to me that these restrictions in restaint of trade can be legislated out, in the same way that in EOC and in other affirmative action we have legislated out certain discriminations in employment, and so on. This kind of restraint upon human freedom, which is now legislated by the cities, would have to stop. I believe the Federal Government has taken this kind of step toward preventing or stopping localities and States from imposing these restrictions

upon human freedom. This is my justification for it.

Mr. BROOKE. The Senator from California makes a strong case, but I believe in the position taken by the distinguished chairman, that, in short, there are many unknowns about this proposed amendment. I agree with the principle. I even agree with the amendment itself, with what it attempts to do. The intent of the amendment, I believe, is commendable. It is laudatory. It is an excellent proposal. I believe it is a proposal which the Senate ought to hear. But there are unknowns. There are unknowns as to cost. The chairman brought up the question of getting into the insurance problem, which is a very real problem.

I urge upon the Senator from California that, since the chairman has said he thought this was an amendment which merited hearings, we get an agreement with the distinguished chairman of the subcommittee—as the ranking minority member of it, I would certainly concur—to have hearings on this. We do need jitneys added to our transportation system. There is no question about it. At the same time we get that benefit, we get the benefit of alleviating the problems the Senator has pointed out so well, so vividly, to the Senate which already exist in the taxi industry in this country.

The amendment is certainly one that I, in principle and concept, could support and would like to support. I would like to see the Senate have hearings, rather than to just take this now, have a vote on it, and if it failed, to send out a message that this concept is not approved by the Senate. I do not think that would be fair.

If the Senator would consider it, I would prefer letting us hold hearings as soon as we possibly can, getting witnesses in, and ironing out some of the difficulties we might have with the amendment, perfecting the amendment. Then we would come back to the Senate with a bill, because I believe it should be a bill which could be accepted by the Senate, voted upon by the House, and passed into law. I know that is what the Senator wants. He is not just trying to make a record; he wants it as law. I believe it should be given serious consideration.

I urge the Senator to consider what I take is an offer from the distinguished chairman to hold hearings on the subject, if the Senator so desires.

Mr. HAYAKAWA. Mr. President, I believe the distinguished Senator from Massachusetts and the distinguished chairman of the subcommittee are right in feeling that this is a subject which requires further reflection. I believe to him it is a novel idea. It has not been discussed before. It has not been widely discussed in the press at all. Therefore, I would be glad to have hearings on this matter so this whole thing can be better understood before it is legislated. I believe I understand it well enough, but certainly I would like to have other people share in the discussion of it.

I would like to be assured that a hearing would be held during this session, very soon, so that it just does not drop through the cracks.

Mr. WILLIAMS. I do not have a chairmanship in this area on our Banking, Housing, and Urban Affairs Committee, but I believe our chairman will certainly give me the authority to follow up with hearings. The more we discuss this, the more I am stimulated, indeed excited, about the opportunity to consider the jitney, the taxi cab, more comprehensively in our transportation thinking and planning.

I can say absolutely for myself that I would call a hearing, again subject to the chairman of the full committee, and I am sure there will be no problem. I would welcome setting it up as soon as we can, and certainly within this session.

Mr. BROOKE. If the Senator will yield, I am sure the Senator from California must know from what I have said that I share in the excitement of this novel approach. In addition to serving as the ranking minority member on the subcommittee, I serve on the full committee. I will urge the distinguished chairman of the full committee to hold hearings in this session of Congress. I believe it is something which can be used and can be used now. I appreciate the Senator from California, after giving us this very sound approach to the improvement of mass transit, agreeing to hearings.

Mr. HAYAKAWA. Mr. President, I do agree to these hearings. I hope they will be held as soon and as expeditiously as possible. I welcome wider discussion of this entire issue.

Upon receiving these assurances for an early hearing, I withdraw my amendment from consideration.

Mr. BROOKE. When the Senator has drafted his final bill, I would seriously like to be considered as a cosponsor.

Mr. HAYAKAWA. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the withdrawal of the amendment? The Chair hears none and the amendment is withdrawn.

The bill is open to further amendment.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 525

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes unprinted amendment No. 525.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 22 and line 24, strike the following: "$10,000,000" and insert in lieu thereof "$20,000,000".

Mr. ROBERT C. BYRD. Mr. President, I, along with many others, remain concerned that the energy program proposed by the administration does not include a transportation component. One of the goals of such a program should be the development of mass transit options for the commuting public.

If we are to solve the energy crisis over the long run, more energy-efficient forms of transportation must be fostered by the Federal Government. One of these means of transportation is our Nation's rail system. Our rail system has too long been neglected; it has too long been the orphan child of transportation. We have only recently begun to rediscover its potential and to enact legislation to foster its development.

In some areas of transportation, such as commuter rail, it is the people of this country who are the innovators, the leaders. Many young people are setting up their households in close proximity to local commuter rail systems. Too often, however, they have found these lines running trains infrequently, trains which are too crowded, arriving too late in the morning, or too early in the evening to allow them to use the system to commute to work. Their only recourse, in many instances, is to continue to rely on their automobiles.

I have often thought that these young people are showing us one of the ways out of the energy dilemma. Surely, this country must and can do more to improve its commuter rail system. An expansion of the system would attract a larger proportion of commuters. It would not only lead to energy conservation—with fewer individuals relying on personal automobiles to commute to work—but it would also serve to improve the quality of life in our urban and rural areas by providing transportation options to the economically less advantaged and to the handicapped, as well as the general population. Expansion of the commuter rail system would also reduce the congestion that plagues our Nation's highways and cities.

The amendment I am proposing would increase by $10 million the operating assistance funds available for rail commuter services which are not part of the ConRail system. Over 15 million commuters use the rail services which would benefit from this amendment. These rail services would be able to apply these additional funds towards offsetting their operating deficits. Such deficits often force a cutback in service.

Mr. President, the country must go forward with the development of an alternatives to dependence on the private automobile. Commuter rail systems—many of which are deficit-ridden—serve some 19 million commuters. Improvement of these systems will help us realize our national energy objectives.

I hope that the Senate will approve my amendment.

Mr. WILLIAMS. Mr. President, the amendment that the distinguished majority leader has offered to the bill deals with a section that was added in committee by the Senator from Illinois (Mr STEVENSON). It reaches an area that had

not been reached by another section dealing with commuter service provided by ConRail that has been in the law and is extended in the bill. But this section deals with lines that are not within ConRail. It was a gap in our response to the needs and we accepted the Stevenson amendment in committee. It was at a $10 million level; this would increase that to $20 million.

Certainly, the need is there and, while budget considerations were of some concern, we have learned that there is no limitation in the budget procedure that would keep us from going to the $20 million. As manager of the bill on this side, I certainly applaud and accept the amendment.

Mr. ROBERT C. BYRD. I thank the manager.

Mr. BROOKE. Mr. President, I concur. I think it is a sound amendment. As the distinguished subcommittee chairman has said, it is needed and I commend the Senator from West Virginia for proposing the amendment.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished ranking member for his support.

ADDITIONAL STATEMENT SUBMITTED

Mr. STEVENSON. Mr. President, the largest cities are discriminated against. They receive only about 18 cents per transit vehicle mile in UMTA funds. Smaller cities receive 35 cents per transit vehicle mile. They receive only 6 cents per rider, while smaller cities receive 15½ cents per rider. They are the victims of an unfair distribution of section 5 funds, and they receive no section 17 funds. The commuter rail services which would benefit from this amendment and the new section 18 program I authored in the Committee on Banking, are now faced with a need to cut back service and increase fares. This amendment would provide some relief in addition to that which the bill now authorizes. It is little enough, and I urge the Senate to support it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. ROBERT C. BYRD. I yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

M. ROBERT C. BYRD. I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The existing Urban Mass Transportation Act authorizes up to $500 million

Mr. STAFFORD. Mr. President, I urge the Senate to approve S. 208, the National Mass Transportation Act of 1977, in order to eliminate the discrimination against all of my State of Vermont and many rural areas that is incorporated in the law at present.

The existing Urban Mass Transportation Act authorizes up to $500 million of Federal assistance under section 3 for areas of the country with populations of less than 50,000 persons. But, this Federal assistance is restricted solely to capital grants.

The section 5 program of the act authorizes formula grants to assist in meeting both the capital and operating assistance costs of public mass transportation service in urbanized areas. By definition, that assistance is limited to cities or areas of at least 50,000 persons.

Thus, existing law contains no provision for operating subsidies for transportation agencies that serve cities of less than 50,000 persons. This despite the fact that one of the landmark features of the law is that it is the first Federal mass transit act to provide a subsidy for public mass transportation operating expenses.

The effect of all this has been to prevent operating subsidies for small bus companies that serve rural areas and small cities—and also to provide no operating subsidies at all to the States of Vermont and Wyoming, simply because they are the only States in the union without an urbanized area—a city of 50,000 persons.

Federal assistance is available for the purchase of buses and other capital equipment to serve rural areas and small cities, but no Federal aid is available to help to operate those buses.

We are all aware that public mass transportation systems cannot operate in the black on the fare box alone. The Urban Mass Transportation Act recognizes that economic fact of life. It is ironic that UMTA, which has helped to purchase buses for service in rural areas, is prohibited by law from providing the necessary operating subsidies to keep those buses running to serve the public.

It is apparent that the $500 million capital grant program for nonurbanized areas fails to meet the total needs of those areas.

Earlier this year, I introduced S. 46, a bill to authorize use of the $500 million for operating as well as capital assistance, on such terms and conditions as the Secretary of Transportation may require.

Under the proposal, the Secretary would be authorized to make operating subsidy grants under terms and conditions similar to those governing section 5 grants to urbanized areas. This bill would provide for alternative use of the $500 million in funds already authorized, and requires no additional new Federal funding.

That bill, S. 46, has been incorporated in S. 208, the measure pending before the Senate today. I urge its passage.

That proposal was contained in a bill, S. 662, passed by the Senate last year, and that provision won approval in a House committee. Unfortunately, because of disagreement over the sections of S. 662, that bill was never enacted into law.

It is my hope that this Congress will deal with this urgent matter, which it has previously recognized, at the earliest possible moment of this session to provide equal treatment in the matter of operating subsidies not only to my own State of Vermont and to Wyoming, but also to rural areas of all parts of our country.

Mr. MOYNIHAN. Mr. President, the legislation before us marks an important step forward in assuring equity in Federal assistance to mass transit. Mass transit operating assistance is provided to cities by section 5 of the Urban Mass Transportation Act, and the formula which appears in section 5 is described by the Department of Transportation as follows:

> The formula currently used to allocate section 5 funds to urbanized areas distributes them half in proportion to urbanized area population and half in proportion to urbanized area population weighted by population density.

The Department goes on to note that—

> When the resulting allocations are compared to transit ridership and vehicle miles, there are considerable variations within and between population groups.

This is an understatement, since the variations are not only considerable but enormous. The section 5 formula ignores the two factors in which New York City ranks first, transit vehicle miles and transit ridership. As a result, New York receives 3 cents per rider in Federal assistance, while, to cite a few examples, Los Angeles receives 20 cents, Houston 19 cents, and Dallas 12 cents. The average assistance per rider for cities of over 1 million in population is 6 cents, twice what New York receives. The situation is the same for assistance per vehicle mile: New York receives 12 cents, while, to cite some examples once again, Los Angeles receives 42 cents, Houston 33 cents, and Kansas City 30 cents. The national average for cities of over 1 million in population is 18 cents, or 50 percent more than New York City receives.

The result of the use of the section 5 formula is simple. As Deputy Mayor John C. Burton of New York City told the Senate Banking, Housing, and Urban Affairs Committee on March 30, 1977, "New York City has more than 30 percent of the national transit ridership. Nevertheless, under the section 5 formula, the city receives only 10.7 percent of the annual section 5 authorization."

Mr. President, the Senate Banking Committee has acted to redress, at least in part, the inequities inherent in the section 5 formula in the National Mass Transportation Act of 1977. The act makes $295 million available to the Secretary of Transportation to be divided by him according to three factors: population weighted by density, and two new factors, share of the national total of revenue passengers, and vehicle miles. As the committee's report states, "Experience with the basic formula grant program indicates that major urban areas of the country are in need of additional operating assistance funds." The committee has provided for additional funds, which are very much needed in many of our largest cities, and especially needed in our largest city, New York. I thank the committee for its action, which indicates not only its understanding of the problems of mass transit in our cities, but its commitment to help cope with them.

Mr. CHAFEE. Mr. President, the bill we have before us this morning, S. 208, the National Mass Transportation Assistance Act of 1977, deserves the full support of Congress.

Few domestic issues are of greater importance than the development of coordinated public mass transportation systems. At a time when 26 percent of our energy consumption and as much as 50 percent of our air pollution problems are directly the result of transportation alone, it could not be more timely for us to endorse this legislation.

We cannot discuss mass transportation without recognizing the significant benefits it brings to the quality of life in many different types of communities. It is key to the revitalization of our older decaying cities and to the economic viability of all urban areas, whether new or old. It is key to the mobility and independence of elderly, handicapped, and economically disadvantaged citizens in both urban and rural communities. And, it is key to relieving the congestion and claustrophobia that makes many people flee to the sprawling suburbs.

Mr. President, as you know, Rhode Island has a largely urban population, lying in a corridor between New York City and Boston. The upgrading of public transportation services is extremely important to our economic development efforts at this time, and we will benefit significantly under this legislation, as will most States.

The city of Providence, under Mayor Vincent Cianci, has developed plans for a major transportation project which provides for an auto-restricted zone in the downtown commercial area and free fare transit within that area for expanded inner-city bus service. They will soon be taking their request to the Department of Transportation for funding under section 3 of the Urban Mass Transportation Act. Mr. President, I would like to see that adequate funds exist to insure that this project will get underway.

In 1964 as Governor, I created the Rhode Island Public Transit Authority. This agency will also be the recipient of assistance from the legislation we are considering this morning; first under section 5, the formula grant program, for routine bus replacement and, second, under section 8 of the bill, the loan forgiveness provision.

I would like to take this opportunity to emphasize the importance of this provision. In 1964 before Federal legislation was enacted, we in Rhode Island were farsighted enough to begin development of a State-financed public mass transportation system. To accomplish this the transit authority obtained a $3.1 million loan from the U.S. Department of Transportation to purchase the Providence Bus Line and make other capital purchases and improvements. A year later, pursuant to provisions of the new Urban Mass Transportation Act of 1964, such assistance was provided to States predominantly through capital grants rather than through the loan program.

As it is pointed out in the committee's report on S. 208, the Rhode Island Public Transit Authority has been in arrears on the loan since 1969. In fact, Mr. President, the Department of Transportation in 1971 granted RIPTA a moratorium on payment of both the principle and interest on the loan pending final congressional action on the loan forgiveness proposal. Assuming that this legislation is enacted, the original loan will be transformed to a capital grant requiring a 33-percent match from the State.

Mr. President, this provision will simply put Rhode Island, and the State of Pennsylvania which is likewise affected, on even ground with those States that have been grant recipients in the years subsequent to 1964. I might point out that the loan forgiveness was also included in S. 622, passed by the Senate during the 94th Congress but not acted on by the House.

As ranking member of the Senate Aging Subcommittee. I am particularly pleased by the provisions in this bill for transportation services to elderly and handicapped persons; 12 percent of all Rhode Islanders are 65 years old or over. Transportation provides more than a means for many of these people to get from one place to another; it is an essential link between them and their community. All too often, elderly and handicapped persons remain sequestered in their homes because an adequate means of transportation adapted to their special needs is not readily available. Instead of remaining active members of their community, employed, taking advantage of nutritional programs and health services, or simply visiting friends and relatives, these people are tied to their homes. Frequently, they become dependent upon friends and relatives because suitable public transportation does not exist.

The bill before us addresses this problem. The bill reinforces our "national policy that elderly and handicapped persons have the same rights as other persons to utilize mass transportation facilities and services". The bill recognizes that special efforts in design, planning and administration will be necessary to provide these services. It is clear to me, Mr. President, that such special efforts will not only benefit elderly and handicapped passengers, but all passengers and each community as a whole.

Mr. President, I think we all realize that S. 208 is not the all-encompassing transportation reform bill that many of us in the Senate, as well as the House and the administration, would like to see. It is essentially a continuation of the transit assistance programs that have worked in the past and promise to continue to do so. In Providence, for example, with UMTA assistance, bus ridership has jumped 17 percent in the last 5 years. And, with the innovative transportation programs contemplated by the city, I think we can look forward to further progress.

However, we must not lose sight of the overall need to review and coordinate national policy among all modes of commercial, public, and private transportation and to synchronize such policy with our goals of energy conservation and independence. As a new member of the National Transportation Policy Study Commission and as ranking minority member of the Environment and Public Works Transportation Subcommittee, I look forward to progress in these areas. And I heartily endorse S. 208 as the first major step taken in the 95th Congress.

Mr. HEINZ. Mr. President, S. 208, the National Mass Transportation Assistance Act of 1977, of which I am a cosponsor with Senators WILLIAMS and KENNEDY, demonstrates that the Congress is firmly committed to the goals of developing efficient and coordinated mass transportation systems. The legislation before us today is the most significant mass transit measure to be considered by the Congress in 3 years. I wholeheartedly support its passage.

The distinguished Senator from New Jersey (Mr. WILLIAMS) should be commended for his leadership and diligence in guiding the Banking, Housing, and Urban Affairs Committee through the hearings and markup sessions needed to produce this legislation. He deserves the national reputation he has gained as being the father of mass transit.

I believe that this legislation offers us a unique opportunity to have a far reaching effect in providing solutions to several vexing national problems. There is no question in my mind that Federal support for the development of new mass transit facilities and the expansion and maintenance of existing transit systems, offer solutions to the energy crisis, our environmental problems, and the revitalization of many of our great cities.

By no means will the availability and widespread use of mass transportation be a panacea. It will, however, assist in reducing energy consumption, help to curtail automobile pollution, and can be instrumental in encouraging urban reinvestment.

Our efforts to date have led to the development of transportation alternatives in many major metropolitan areas. Federal assistance for mass transportation facilities, both existing and new, has provided the resources to improve both the quantity and quality of public transportation. In urban areas throughout the Commonwealth of Pennsylvania new transportation facilities are being designed or are under construction. Older rail systems and equipment have been replaced or rehabilitated. Many of the smaller urban areas in the State, which do not have a sufficient population to support a rail system, have vastly expanded bus services through the purchase of new equipment.

With the addition, in the National Mass Transportation Act of 1974, of the section 5 operating subsidy program there has been a dramatic increase in ridership. In my home city of Pittsburgh ridership has increased 17 percent between 1971 and 1975. This is true despite the continued, and unfortunate, loss of population within the entire Pittsburgh metropolitan area. Much of this increase can be attributed to the availability of an assured amount of Federal funds to subsidize fares and improve services.

The legislation which we have before us today contains several titles which cover a broad range of mass transit issues. Included in this bill are provisions which increase and extend authorizations for the capital projects program, establish new procedures for the long-term funding of major capital projects, and requirements for the development of accessibility standards in order to provide a barrier-free environment for persons with mobility limitations. In addition, the bill contains a setaside of funds

for equipment replacement, and a clarification which allows grant funds to be used to cover the substantial preliminary engineering costs incurred in designing mass transportation capital projects.

Although each of these provisions is important, I would like to focus on two sections of the bill which I believe are critical to the continuation of effective mass transit programs in many older urban areas of this country: the emergency commuter rail operating assistance program and the operating subsidy formula grant program.

In 1973 and 1976 the Congress passed the Railroad Reorganization Acts. Under this legislation the Consolidated Rail Corporation, or ConRail, was created. The intent of Congress was to make every possible effort for ConRail to become a profitable corporation. ConRail's primary purpose was to facilitate rail freight transportation. Rail passenger service was to be operated by Amtrak for inter-city service, and by ConRail for local commuter service. The law provides that there is to be no "cross subsidization" between freight and passenger service.

In 1976, with the passage of the Rail Revitalization and Regulatory Reform Act, it was recognized that in many cases the subsidy required to continue local commuter services under the cost allocation plan required by the act and developed by the Rail Services Planning Office—RSPO—of the Interstate Commerce Commission would be significantly higher than the subsidies previously paid by local transit authorities to the private railroads. For example, in the Philadelphia area, the Southeastern Pennsylvania Transit Authority—SEPTA—had been paying the Penn Central and Reading Railroads approximately $26 million a year during fiscal years 1975 and 1976, prior to the start of ConRail operations on April 1, 1976. Based on the RSPO standards, ConRail has now estimated that the present subsidy required for SEPTA will be over $50 million a year.

Congress recognized the financial problems that would be created for local governments and transit authorities in continuing even a minimal level of commuter rail services without some assistance. As a result, section 17 of the Urban Mass Transportation Act—UMTA—was added in 1976. Section 17 provided for emergency operating assistance to local transit authorities for the 2½ year period from April 1, 1976 to September 30, 1978. The Federal share of additional costs over previous subsidy levels is 100 percent through March of 1977, 90 percent through March of 1978, and 50 percent through September of 1978. After that date, the subsidy was to be discontinued.

In addition to financing the basic operating deficit to continue commuter services, Congress provided for the use of section 17 funds for programs to correct deferred maintenance to bring the rail facilities and equipment up to reasonable standards of safety and performance. UMTA has received preliminary requests for over $30 million of such deferred maintenance work as of April, 1977.

Obviously, the level of subsidy is not adequate to meet the operation costs of the ConRail commuter lines. Neither is the subsidy able to allow local transit authorities with ConRail lines to correct long postponed maintenance which would bring the facilities up to reasonable standards.

In recognition of the severe financial burden which would be placed on both state and local governments and the very real possibility of total or partial curtailment of the service provided by commuter lines, the Banking, Housing, and Urban Affairs Committee has proposed a 2-year extension of the commuter rail operating, subsidy program. This extension, contained in section 12 of S. 208, would continue the 50 percent level of subsidy for 2 years. In the Philadelphia metropolitan area this would mean the continuation of services which carry over 30 million commuters annually.

If we fail to approve the extension of the commuter rail operating subsidy program, rail passenger service in Massachusetts, Rhode Island, New Jersey, New York, Delaware, Indiana, and Pennsylvania will be adversely affected. If we have a real commitment to making mass transit a reality, we must provide financial assistance to subsidize existing systems as well as the development of new rail and bus alternatives in areas which do not have them at present.

The second area of critical importance to the development and continuation of viable transit systems are the changes proposed in the section 5 operating subsidy program. Enacted in 1974, the operating subsidy program has played a vital role in subsidizing existing transit systems and in encouraging the expansion of mass transportation services in many parts of the country. However, the present formula for allocation of funds which is based on population and population density has created great disparities among many urban areas. S. 208 contains a major revision of the operating subsidy program which substantially redresses this inequity.

The disparities in operating assistance are substantial. For example, in the 25 urban areas with populations over 1 million, the subsidy per rider ranges from a low of 3 cents in New York to a high of 59 cents in San Jose. In Pittsburgh the per ride subsidy is 5 cents. In Philadelphia it is 6 cents. In Detroit and Dallas, however, the per rider subsidy is 12 cents and in Houston the average subsidy is 19 cents. In the 15 urban areas with populations in the 500,000 to 1 million range, the per rider subsidy ranges from a low of 6 cents in New Orleans to a high of $1.11 in Oklahoma City.

Clearly, if our commitment is to provide an equitable subsidy to all urban areas, this situation cannot be allowed to continue.

I believe that the expansion of the basic formula grant contained in S. 208 brings about a partial resolution of this problem. S. 208 creates a new second tier formula program financed by both newly authorized funds and the reapportionment of unobligated funds. In addition, the bill calls upon the Secretary of the Department of Transportation to develop a new formula which takes into consideration ridership, vehicle-miles, and population weighted by density. The total authorization for this new source of funds for high impact areas will be $295 million over a 3-year period. Under the distribution approach outlined in the bill all urbanized areas would receive additional funds, but the areas which have made a substantial investment in mass transit, those most in need of additional funds, would receive a larger share.

Again, if our commitment is to provide transportation alternatives in our major metropolitan areas, we must move on two fronts. First, we must insure that existing mass transit systems—much of which has been constructed without Federal funds—are maintained. This must include funds for the operation of these facilities and capital grants for their improvement and modernization. Second, we must encourage the development of new transportation systems and the expansion of existing systems in areas of the Nation which have to date not been able to provide transportation alternatives.

I believe that S. 208 addresses both of these issues. The National Mass Transportation Assistance Act of 1977 demonstrates that Congress remains firmly committed to the goals of providing financial assistance for the development of efficient and coordinated mass transportation systems as part of the broad objectives of urban management, development and revitalization.

Today's legislation is another milestone along the road to the achievement of that goal and I strongly urge its adoption.

Mr. MUSKIE. Mr. President, the Senate now has before it S. 208, the National Mass Transportation Assistance Act of 1977. This is a major mass transit bill, authorizing over $5.6 billion in future spending, and I am certain the Senate will want to know how passage of the bill could impact on the fiscal 1978 and future Federal budgets.

As I mentioned, S. 208 provides total authorizations of over $5.6 billion. The bulk of this, $4.8 billion, represents future year authorizations for UMTA's capital grant program. An analysis by the Congressional Budget Office indicates that it likely will not be necessary to appropriate any of this until fiscal 1980. The reason is that there still is approximately $3.9 billion in contract authority available from funds provided by the Federal-Aid Highway Act of 1973 and the National Mass Transportation Assistance Act of 1974. This remaining contract authority must be fully utilized before there will be any need to appropriate from the $4.8 billion capital grant authorization contained in S. 208.

Of the remaining $0.8 billion in authorizations, $0.5 billion represent a ceiling authorization for miscellaneous UMTA research and administrative expenses for the next 3 years. These expenses are already authorized under current law, but not at any specific amount. The remaining $0.3 billion provide additional authorizations for UMTA's formula grant and rail commuter subsidy programs. These funds would be expected to be appropriated during fiscal 1978 through fiscal 1980.

The portion earmarked for fiscal 1978 is $60 million.

Obviously, enactment of S. 208 would have minimal impact in the fiscal year immediately ahead of us. In fact, enactment of the bill as reported, and full funding of its new fiscal 1978 authorization, would result in additional fiscal 1978 budget impacts of only $60 million in budget authority and $85 million in outlays. These impacts would fall in function 400, the Commerce and Transportation category of the budget.

The fiscal 1978 first budget resolution includes targets of $20 billion in budget authority and $19.4 billion in outlays for Commerce and Transportation. Given the outlook for spending in this budget function, I believe it is safe to conclude that funding of S. 208's minimal new authorizations for fiscal 1978 would not result in any excessive pressure on the fiscal 1978 first budget resolution targets.

Mr. President, as I mentioned, the great bulk of the authorizations in S. 208, $4.8 billion, is intended to permit future year appropriations for UMTA's capital grant program. What the bill therefore does, is to provide some assurance to the Nation's cities that the UMTA capital grant program is going to continue into the long-range future. I agree with the authorizing committee that the cities need long-term assurance in order to plan effectively for their future transportation needs.

Having said this, however, I feel I should remind the Senate that unlike the Mass Transportation Assistance Act of 1974 which provided contract authority, the bill before us provides authorizations for appropriations. Therefore enactment of the bill we are considering today will result in new budget authority and outlays only to the extent provided in appropriation acts. Further, as I indicated earlier, the great bulk of these appropriations will be for UMTA's capital grant program and will not be needed until fiscal 1980 and beyond.

This means that although it may pass S. 208 today, the Senate will not be forfeiting its opportunity to control the level of funding of the captal grant program through future budget resolutions and appropriations bills. This is fortunate, I feel, for it appears that there are a number of important questions concerning the capital grant program which need to be resolved.

The questions to which I refer go to the issue of what type of mass transit project financed with Federal assistance can best and most economically solve the cities' transportation-related problems. S. 208, as I understand it, proposes an authorization level sufficient to allow a heavy emphasis on major fixed rail projects, including the construction of costly new fixed rail systems and major extentions of existing rail systems in a few selected cities. This is the most expensive type of capital project.

On the other hand, there seems to be a growing number of people—including President Carter, in a much publicized note to Transportation Secretary Adams—who believes the cities' transportation objectives can be adequately served by more emphasis on bus purchases, preferential bus lanes, priority access highways, minor rail system improvements, and similar projects which have as their basic objective improving the productivity of the existing transportation network. These types of capital projects cost must less than major fixed rail projects, and in consequence would involve much less budget impact, both for the Federal Government and for the cities.

Fortunately, we are not required today to choose among these alternative mass transit investment strategies. S. 208 provides sufficient authorizations for the discretionary capital grant program that either a high- or low-cost capital project strategy can be adopted. Hopefully, we will know much more about alternative mass transit strategies and their comparative costs and benefits before the appropriations committee is required to recommend levels of funding for this legislation.

As a final comment, I would add only that I feel it is unfortunate that the Senate is being asked today to take a position on the long-range authorization future of the capital grant program, when it appears there is no necessity for, or prospect of enacting, legislation this year. The questions surrounding the cost and effectiveness of alternative capital grant strategies are sufficently important that the Senate could profitably use additional time to acquire better information for making legislative decisions on this important program. And there is such time available—if we were to choose to use it.

As I pointed out earlier, no new authorization for appropriations is needed for the capital grant program for fiscal 1978, and likely will not be necessary until fiscal 1980. In addition, the House authorizing committee has indicated it has no intention to report legislation this year. The administration has stated that it does not intend to submit its proposal until early next year, and also has said that it believes enactment of legislation this year is premature and unnecessary. I note further that the distinguished chairman of the Banking Committee, Senator PROXMIRE, has filed dissenting views on S. 208 in which he agrees with the administration on these points. I am sorry the Banking Committee chose not to accept the counsel of its chairman.

Mr. President, I believe the major capital grant program provisions of S. 208 should be held over until next year. However, enactment of S. 208 would not necessarily commit the Congress to any specific capital grant strategy. Rather, it would provide an authorization level that gives the Appropriations Committee the flexibility to fund whatever specific types and mix of capital grants finally are determined to be most appropriate. For this reason, although I would prefer to have another year to study the issue, I have decided to vote in favor of S. 208. I encourage my colleagues to do likewise.

URBAN MASS TRANSPORTATION

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the National Mass Transportation Assistance Act with my colleagues, Senators WILLIAMS and HEINZ. I think that this act represents a great step forward in providing mass transit as a truly viable alternative to private one-in-a-car conveyance. Creating such a system is of such benefit—to save energy, cleanse the air, end the isolation of the elderly, handicapped, and rural poor, and unclog our cities—that it must always remain a legislative priority, until, in setting out for the office each morning most workers decide to leave the car in the driveway to board a quick comfortable bus.

The act we are considering today is a vital element in continuing advances in mass transit. It provides much needed authorization for capital assistance so that the effort to provide mass transit systems in new area of the country can proceed. About $5 billion is provided for a 5-year period, through 1982. The vast majority of the current authorization is already pledged to a series of projects. Many more worthy projects will be coming in and there must be funds available for them. This act provides those funds.

In addition this act regularizes the procedure by which the Department of Transportation pledges funds for ongoing projects. It does not leave municipalities in the position of wondering whether they will be frozen out in the middle of a multiyear project. The fear of initiating a project without the assurance of continuing Federal funds may be a great deterrent to localities when they consider making their investment.

The bill also provides for operating subsidies of $500 million for rural systems, for the first time, to supplement the capital funds we have already provided. It allows for an annual set-aside of $400 million for the purchase of new buses; stimulates transportation managerial training; allows for the funding of the preliminary engineering of mass transit systems and provides commuter rail assistance.

Mr. President, I want to spell out for a moment some of the benefits of a mass transportation system and to emphasize that people will in fact use such a system if it compares to the convenience of their own cars.

The most immediate savings of course, is in energy. The energy requirements of the private automobile are enormous. A quarter of all the energy used in the United States, and half of the petroleum, is used for transportation. Over 43 percent of this is used for urban mass transit and all but 2 percent of this is fed into, and coughed out of, cars.

The Office of Technology Assessment has estimated that if the ridership of mass transit were doubled, by diverting auto users, as much as 100,000 barrels of oil a day could be saved.

The same benefits are clear when we look at the effect of public transportation and the commuters' own buggy on the air.

In cities in Europe and Japan, where auto traffic has been kept out of downtown areas, the concentration of carbon monoxide has been reduced by 50 to 80 percent. Even a downtown parking ban

alone reduced carbon monoxide by 40 percent in Marseilles, France.

Mr. President, I think one of the greatest benefits of increased public transportation comes in the ambulatory advantage given to the handicapped, the elderly and the rural poor. There are now 22.5 million people over 65 in this country. There are 12 million people who are physically handicapped—including 5 million who are cardiac patients who cannot walk long distances or climb stairs, and 250,000 who are wheelchair bound. Finally, there are the rural poor and elderly who have not been able to get around at all, let along in comfort, since in many rural areas there simply is no public transportation.

Secretary Adams has displayed his sensitivity to the problems of this group when he recently mandated that cities which receive Federal transit funds must convert to buses which are engineered to make their use easier for the elderly and handicapped. Of course, increasing the availability of these buses, as well as improving the design, is particularly important to this group which is especially dependent on them. They will especially enjoy the public transportation system that we are helping to put together today.

Finally, cities will become more enjoyable places to live and work when they are not clogged with cars to watch out for, cars to sound horns, and cars to fill the streets.

Cities and States all over the country have realized the tremendous advantages of mass transit. This is nowhere so evident as in their great transfer of funds from the interstate highway system to local mass transit programs.

In 1973 the Federal Highway Act first made it possible for localities to cancel nonessential links of the Interstate Highway System and to use the money for mass transit projects. In Massachusetts, Boston has won approval for $197 million worth of projects that will be funded with moneys formerly set aside for the highway system. These projects include extending the South Shore rapid rail line, building two new stations, and purchasing about 140 new cars. In Philadelphia, authorities have cancelled an expressway and put the funds into buying 88 communter rail cars, and redoing five subway stations. Philadelphia also plans to purchase 190 new buses and 100 light-rail vehicles and trolley buses.

In Portland, Oreg., a 5-mile stretch of interstate was withdrawn and $150 million has been set aside for bus lanes, car lanes, car pools, and a possible light-rail line.

This focus on mass transit has been rewarded with a strong response from the people who live in these areas. Time and time again, improved mass transit has met with a sure response in increased ridership. The impressive figures are pointed out in the committee report—increases in Los Angeles, San Francisco, Washington, D.C., Seattle, Atlanta, Cincinnati, Denver and Phoenix, among many other cities.

Rail transit increases should be even more impressive in the next few years since most of the money that has been granted for rail commuting in the last 10 years has gone into projects which have not yet been finished. When they are, we should see sizable jumps in mass transit ridership.

Mr. President, I think that this act will greatly facilitate starting and improving mass transit systems, and I urge my colleagues to give this bill favorable consideration.

Mr. PELL. Mr. President, I am delighted today to add my support to S. 208, the Urban Mass Transportation Act amendments. As a long-time proponent of mass transit in this country, I am pleased that the Senate—under the effective leadership of Senator WILLIAMS—has taken the initiative to meet the problem of lack of funding in this vital area. S. 208 meets this need most commendably by adding $5.3 billion in new grant authority for discretionary capital grants over the next 5 years, and by increasing to $900 million by fiscal year 1980 the authorization for capital and operating costs, thereby creating a more equitable funding distribution in this vital area. Of crucial importance is the high priority attached to mass transit as we face an energy crisis of alarming proportions. Mass transit is clearly the best long-term investment we can make to meet this crisis and so I am pleased to lend my voice in support of this measure.

Of special concern to us in Rhode Island is section 8 of S. 208, concerning the Federal Government's forgiveness of outstanding capital loans made under the now defunct mass transit loan program. The Rhode Island Public Transit Authority's outstanding obligation of $3.8 million—based on a $3.1 million original loan—came about under the old loan program deactivated in 1970 due to congressional passage of the capital grant program. Currently there are two outstanding loans in the country and this bill, if enacted, would bring RIPTA and Philadelphia into parity with all other public bodies that received grants under the much more generous grant program.

We in Rhode Island are proud of the excellent job RIPTA has done to increase ridership. Between 1971 and 1975, we saw a 17 percent increase in the number of public transit riders in our State capital and we look to an expanded role for mass transit as we face an energy-deficient future.

Mr. DOMENICI. Mr. President, I wish to associate myself with the remarks earlier today by the distinguished chairman of the Senate Budget Committee, Senator MUSKIE. In my opinion, it is entirely proper that Senator MUSKIE, in his capacity as chairman of the Budget Committee, look beyond the immediate budget impacts of multi-year authorization bills.

S. 208 does not present immediate budget problems, but it does give cause to reflect on the process by which we in the Congress establish long-term policies dictating the pattern and extent of expenditures of public moneys in future years. In my own mind, there are serious questions about the heavy emphasis this bill places on fixed rail systems as the favored recipient of Federal assistance to cities for mass transit purposes. I am concerned, as well, about the prospect that enticing or encouraging metropolitan areas to concentrate on the construction of fixed rail systems through massive Federal grants may cause those cities, with good reason, to feel that the Federal Government must be as active a partner in sharing the inevitable operating losses.

In short, I am apprehensive that this bill may be premature, an apprehension I note is shared by the distinguished chairman of the Banking, Housing, and Urban Affairs Committee, Senator PROXMIRE. As the chairman of the committee of jurisdiction, Senator PROXMIRE noted in additional views in Senate Report 95–183, that additional funds are not needed at this time. In his views, the chairman fully explains his position in this regard and, in addition, explains why he feels that program levels contained in this bill may well be excessive.

It is my hope and expectation that these issues will be addressed and resolved satisfactorily in the remainder of the legislative process related to the future of Federal urban mass transit programs and in any case, prior to the time appropriations are required.

Mr. WILLIAMS. Mr. President, we are under controlled time. I have no requests for Members indicating that they have any further amendments from the committee. Our amendments are completed. I am ready to yield back my time.

Mr. BROOKE. Mr. President, there are no further amendments on our side that I know of. I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Mass Transportation Assistance Act of 1977".

SEC. 2. Section 4(c) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(c)(1) To finance grants and loans under sections 3, 7(b), and 9 of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $10,925,000,000, as may be approved in an appropriation Act, less amounts appropriated pursuant to section 12(d) of this Act and the amount appropriated to the Urban Mass Transportation Fund by Public Law 91–168. This amount (which shall be in addition to any amounts available to finance such activities under subsection (b) of this section) shall become available for obligation upon the effective date of this subsection and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection such sums as are necessary. Sums so appropriated shall remain available until expended. After September 30, 1977, amounts remaining unobligated shall be available to finance grants and loans under section 3 only. Of the total amount available to finance activities under this Act (other than section 5) on and after the date of enactment of the

National Mass Transportation Assistance Act of 1974, not to exceed $500,000,000 shall be available exclusively for assistance in areas other than urbanized areas (as defined in section 5(a)(3)), and such $500,000,000 may be used in such areas for the payment of the cost of construction projects or for the payment of subsidies for operating expenses. Grants for assistance in other than urbanized areas under the preceding sentence shall be subject to such terms, conditions, requirements, and provisions (similar as may be appropriate to those applicable to grants under section 5) as the Secretary may determine to be necessary or appropriate for other than urbanized areas.

"(2) To finance grants and loans under section 3 of this Act, there are authorized to be appropriated not to exceed $4,750,000,000 for the period ending September 30, 1982.

"(3) The aggregate amounts obligated under section 4(c)(1) and appropriated under section 4(c)(2) may not exceed $1,450,000,000 prior to October 1, 1978; $3,100,000,000 prior to October 1, 1979; $4,850,000,000 prior to October 1, 1980; and $6,700,000,000 prior to October 1, 1981, and $8,650,000,000 prior to October 1, 1982. Appropriations pursuant to paragraphs (1) and (2) may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation and shall remain available until expended.".

SEC. 3. Section 4 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(e) The Secretary is authorized to announce an intention to obligate for a defined capital facilities project through the issuance of a letter to the project sponsor. Such an action shall not be deemed an obligation as defined under section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200), nor shall such a letter be deemed an administrative reservation, but the letter shall be regarded as an intention to obligate from future available budget authority provided in an appropriation Act not to exceed an amount stipulated as the Secretary's financial participation in the defined project under this Act. At the time of such an announcement, the Secretary shall set aside, from the amounts authorized under section 4(c), an amount not to exceed the amount stipulated as the Secretary's financial participation. No obligation or administrative reservation may be made pursuant to such letter of intent except as funds are provided in appropriation Acts. The total estimated amount of future Federal obligations covered by such letter of intent shall not exceed the balance of funds, previously authorized under subsection (c)(1) and authorized to be appropriated under subsection (c)(2) which have not been obligated, appropriated, or made available for obligation through appropriation Acts.".

SEC. 4. Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(i) The first $400,000,000 appropriated and available for obligation under this section for each fiscal year beginning after September 30, 1977, shall be available only for grants to assist State and local public bodies in financing the acquisition of equipment for use, by operation, lease, or otherwise, in mass transportation service in urban areas. To permit applicants to develop adequate plans for the utilization of such sums, the Secretary shall advise the appropriate local officials in each urbanized area of the amount that is expected to be available each year not later than ninety days prior to the beginning of the fiscal year in which sums will be available.".

SEC. 5. Section 5 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out subsection (c)(2) and inserting in lieu thereof the following:

"(2) There are authorized to be appropriated to finance grants under this section not to exceed $125,000,000 for the fiscal year ending on September 30, 1980. Appropriations pursuant to the authority of this paragraph may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.";

(2) by inserting at the end of subsection (c) the following new paragraph:

"(3) Sums apportioned under paragraph (1) of subsection (b) shall be available for obligation by the Governor or designated recipient for a period of two years following the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall be added to the sums available for obligation under subsection (d) for the next succeeding fiscal year.";

(3) by redesignating subsections (d) through (n) as subsections (f) through (p), respectively, and by inserting after subsection (c) the following new subsections:

"(d)(1) To finance additional grants under this section, there are authorized to be appropriated not to exceed $150,000,000 for the period ending on September 30, 1980. Appropriations for such purpose under this subsection shall not exceed $50,000,000 in any one year. Sums so appropriated shall remain available until expended. Appropriations under this subsection may be included in the appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be made available for obligation.

"(2) The Secretary shall apportion in fiscal years 1978 through 1980 the sums authorized by paragraph (1) and made available under subsection (c)(3). Such sums shall be made available for expenditures in urbanized areas or parts thereof on the basis of a formula which the Secretary shall develop and publish not later than June 30, 1977. Such formula shall take into account each eligible area's share of the national total of revenue passengers, vehicle miles, and population weighted by density and assure an equitable distribution of funds.

(4) by striking out "subsection (e)" in subsection (f)(2), as redesignated, and inserting in lieu thereof "subsection (g)"; and

(5) by striking out "under this section" in the first sentence of subsection (h), as redesignated, and inserting in lieu thereof "under subsection (c)".

SEC. 6. Section 10 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS FOR TRAINING PROGRAMS

"SEC. 10 The Secretary is authorized to make grants to States, local public bodies, and agencies thereof and private mass transportation operators to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation fields. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the urban mass transportation industry. The recipient of a fellowship under this section shall be selected on the basis of demonstrated ability and for the contribution which he can reasonably be expected to make to an efficient mass transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $12,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the educational institution in connection with the fellowship and billed to the grant recipient, and (3) the regular salary of the fellowship recipient for the period the fellowship (to the extent that salary is actually paid or reimbursed by the grant recipient.".

SEC. 7. Section 12(c) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following:

"(6) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or acquisition of facilities and equipment for use in public mass transportation, including designing, engineering, location surveying, mapping acquisition of right-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing.".

SEC. 8. (a) The Secretary of Transportation shall convert equipment and facilities loans heretofore made under section 3(a) of the Urban Mass Transportation Act of 1964 or title II of the Housing Amendments of 1955 (42 U.S.C. 1492) to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 3(a) of the Urban Mass Transportation Act of 1964 shall provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to mass transportation projects in the urbanized area, on a schedule acceptable to the Secretary of Transportation, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for projects eligible for funding under section 3(a), and may not be used to satisfy the local matching requirements for any other grant project.

SEC. 9. Section 4(d) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "To assure orderly planning and program development under section 3, the Secretary shall report to Congress on or before February 1, 1980, a detailed estimate of the cost of grants to be made under section 3 for providing public mass transportation service in urban areas for each fiscal year within the period beginning with fiscal year 1980 and ending with fiscal year 1984. On or before February 1, 1982, the Secretary shall report to Congress a detailed estimate of the cost of grants to be made under section 3 for providing public mass transportation service in urban areas for each fiscal year within the period beginning with fiscal year 1978 and ending with fiscal year 1986.".

SEC. 10. Section 17 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "180-day" in subsection (d)(4) and inserting in lieu thereof "30-month" each place it appears;

(2) in the last sentence of subsection (d), by striking out "beyond the time specified in subsection (d)(3)" and inserting in lieu thereof "for the last 12 months within the period specified in clause (4); and

(3) in subsection (f), by striking out "$125,000,000" in the first sentence and inserting in lieu thereof "$185,000,000" and by amending the second sentence thereof to read

as follows: "There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977, $125,000,000 by September 30, 1978, $155,000,000 by September 30, 1979, and $185,000,000 by September 30, 1980.".

SEC. 11. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"SEC. 18. (a) The Secretary shall provide financial assistance annually for the purpose of reimbursing States, local public bodies and agencies thereof for the cost of financially supporting or operating rail passenger service provided by railroads designated as class I.

"(b) Financial assistance under subsection (a) of this section shall not be available to support (1) intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation under section 403(b)(2) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 562(b)); and (2) rail passenger service required by section 304(e)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)).

"(c) The Secretary shall distribute financial assistance authorized by subsection (a) pro rata on the basis of the passenger-miles attributable to each eligible rail pasenger service, except that (1) for the purposes of such apportionment in no case shall any State, local public body or agency thereof supporting or operating rail passenger service eligible for assistance under this section be credited with more than 30 per centum of the total passenger miles eligible for such assistance for the calendar year ending immediately prior to the commencement of the Federal fiscal year for which the distribution is made, and (2) no Federal grant for the payment of subsidies for operating expenses shall exceed 50 per centum of the total operating losses of such service.

"(d) Financial assistance authorized by subsection (a) may be applied to the payment of operating expenses or programs to correct deferred maintenance within the meaning of section 304(e)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)), but in no case may it exceed the total of the amounts applied by the grantee from its own funds to the payment of operating expenses and programs to correct deferred maintenance for the same fiscal period.

"(e) Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate.

"(f) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate not to exceed $20,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $20,000,000 by September 30, 1978, such sum to remain available until expended.".

SEC. 12. Section 12(d) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There are authorized to be appropriated not to exceed $545,000,000 to carry out the functions under this Act. Any amount appropriated pursuant to this subsection shall remain available until expended. The aggregate amounts appropriated may not exceed $145,000,000 prior to October 1, 1978; $345,000,000 prior to October 1, 1979; and $545,000,000 prior to October 1, 1980.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, again, I compliment the managers of the bill (Mr. WILLIAMS and Mr. BROOKE) on their very fine presentation of the bill, on their skill in developing the legislation through the subcommittee and committee process, and on a splendid performance with respect to the way they have managed the bill on the floor today. I salute them and I am sure that the Senate does, likewise.

Mr. WILLIAMS. Mr. President, we receive those words with great gratitude.

Mr. BROOKE. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 7554

Mr. ROBERT C. BYRD. I ask unanimous consent that, at such time as the HUD bill be called up and made the pending business, there be the following agreement as to time: 1 hour on the bill to be equally divided between Mr. PROXMIRE and Mr. MATHIAS; that there be a time limitation on any amendment of 30 minutes, on any debatable motion or appeal or point of order, if such is submitted to the Senate for its consideration, of 20 minutes; and that the agreement with respect to control of time be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 7554 (Order No. 260), an act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. Proxmire) and the Senator from Maryland (Mr. Mathias): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12:35 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

TRANSPORTATION DEPARTMENT AND RELATED AGENCIES APPROPRIATIONS, 1978

Mr. ROBERT C. BYRD. Mr. President, under the order authorizing the leadership to call up H.R. 7557, the transportation appropriations bill at any time, I ask the Chair to lay before the Senate Calendar No. 250, H.R. 7557.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. The time limit on this bill is 1 hour, and a half hour on each amendment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, the Department of Transportation Subcommittee has held extensive hearings on the fiscal 1978 budget of the Department of Transportation and the related agencies which are under the subcommittee's jurisdiction.

Thus, the bill is here before us, having been reported from our subcommittee and the full Committee on Appropriations.

Before proceeding, I want to express my personal thanks to the other members of our Transportation Subcommittee for their assistance throughout the

hearings. I especially appreciate the efforts of the ranking Republican member, Senator CASE, with whom I have had the pleasure of working on the Transportation Subcommittee since I became chairman three budgets ago.

Senator CASE not only assisted in chairing several hearings, but also he and his staff, directed by Mr. Wally Berger, worked very closely with me and my staff.

I also compliment Mr. Jim English and Mr. Tim Leeth, members of my staff on the Appropriations Committee, for the excellent cooperation we had all working together in developing the recommendations which are now before the Senate.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without waiving points of order?

Mr. BAYH. Without waiving points of order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAYH. The subcommittee considered budget estimates totaling $6.28 billion in new budget authority and $8.58 billion in liquidating cash. The committee's recommendations total $14.42 billion, of which $6.277 billion is new budget authority and $8.14 billion is liquidating cash. That puts our recommendations below the budget by $6 million in new budget authority and $437.9 million in liquidating cash.

Mr. President, the committee report which accompanies the bill contains a summary of major recommendations on pages 1 and 2, so I will not repeat all of them at this time. I would, however, like to highlight just a few of them:

IN NEW BUDGET AUTHORITY

First. For FAA's operations personnel, an appropriation of $1.815 billion, plus $209 million for their facilities and equipment activities, $81 million for R. & D. and the full $15 million authorization for airport planning grants.

Second. For the Coast Guard:

A sum of $879 million for operating expenses; and

A sum of $256 million for their acquisition and construction activities.

The $5 million involved in the amendment of the Senator from Oregon is contained in this and does not increase the amount. It just moves it from one category to another.

Third. For the Federal Highway Administration, the full $75 million authorized for making safety improvements at rail-highway crossings off the Federal-aid system is appropriated, as well as $90 million for making off-system roads safer.

We have tried to emphasize the expenditure of funds in those areas where we can insure safer roads and more secure lives for those who use our highways.

Fourth. For Amtrak, $680 million is recommended—that includes the full $130 million authorized for making improvements to their facilities and equipment.

Fifth. Other appropriations for rail programs include $400 million for the Northeast corridor program, $200 million for rehabilitation work nationwide, $84 million for rail assistance to the States, and $45 million in commuter subsidies.

Sixth. For public transit programs of UMTA:

The sum of $70 million is appropriated for their research programs; and

The sum of $469 million for interstate substitution projects.

IN OBLIGATION CEILINGS ON CONTRACT AUTHORITY PROGRAMS

First. For Federal-aid highway construction, up to $7.445 billion in obligations can be incurred in fiscal year 1978.

Second. For UMTA's programs—$2.415 billion, including $1.45 billion in capital grants.

Third. For airport development aid grants—$540 million.

Fourth. For rail loan guarantees—up to $600 million in loans can be outstanding at any one time.

Fifth. For highway safety grants to the States—$200 million, which, again, is an emphasis that our committee has tried to place on how we can make our highways safer.

Sixth. For interstate transfer contract authority programs—$350 million can be obligated.

IN LIQUIDATING CASH

First. Appropriations of funds to liquidate obligations incurred under contract authority programs total $8.143 billion, as follows: Federal-aid highways, $5.85 billion; UMTA grants, $1.76 billion; airport development grants, $0.33 billion; NHTSA highway safety, $0.12 billion; miscellaneous others, $0.08 billion.

Mr. President, this is a well-balanced budget for fiscal 1978 for the programs of DOT and the related agencies funded under the bill that will enable them to effectively conduct their programs during fiscal 1978. At the same time, we have succeeded in bringing the bill to the Senate floor under the budget requests and within the subcommittee's allocation under the congressional budget resolution.

OFFICE OF THE SECRETARY OF TRANSPORTATION

For the Office of the Secretary of Transportation, we recommend appropriations totaling $61,400,000. Of that amount, $28,000,000 is for transportation planning, research, and development, including the full request of $12,600,000 to be used to analyze such important transportation policy matters as: The upper Mississippi system of locks and dams, impacts of waterway user charge legislation, export expansion, port policy development, coal slurry pipeline issues, domestic airline route structure and pricing, and transportation regulatory changes. We were very pleased with the testimony of Brock Adams before the subcommittee. He has an excellent background in transportation matters and demonstrated a keen grasp of the many complex issues facing us. I am convinced that he will work with us here in the Congress in making substantial improvements in the Nation's transportation system. I particularly appreciate the Secretary's early attention to the Minority Business Resource Center. He has taken several key steps that should insure better results for that important effort in the future.

COAST GUARD

For the Coast Guard, the bill contains appropriations totaling $1,368,312,023. Of this amount, the largest amount, $879,365,000, would go to fund the operating expenses of the Coast Guard and authority is provided for employment of 37,641 military and 5,539 civilian personnel. Positions above the number requested are provided for 200-mile fisheries enforcement and for tanker inspection.

For the Coast Guard's acquisition, construction, and improvements activities, an appropriation of $256,302,000 is provided. The full budget request of $82,848,000 for the procurement of medium-range surveillance aircraft; $55,300,000 for the medium endurance cutter program; $27,000,000 for three 140-foot harbor tugs with icebreaking capability; $5,600,000 for two short-range helicopters and facilities for Cordova, Alaska; and $10,000,000 for the Puget Sound Traffic Control System are the major items funded in this activity.

The full budget requests are provided for the Coast Guard's bridge replacement program, retired pay, reserve training, and State boating safety assistance programs, as well as $20,000,000 for research and development. No funds are provided for the pollution fund—there appears to be an adequate balance in the fund at this time, but we will keep a close watch on it throughout the year and will provide additional funds, if necessary.

FEDERAL AVIATION ADMINISTRATION

For the Federal Aviation Administration, we recommend $1,814,750,000, of which $5,600,000 will be derived by transfer, for operations. This amount will fund 55,022 positions, including 29,716 for air traffic control, 13,161 for systems maintenance, and 4,677 for flight standard personnel.

For facilities and equipment for the National Airspace System, $209,000,000 is provided, of which $9,000,000 is to be derived by transfer. Of this amount, $15,000,000 may be used to replace the oldest VOR/VORTAC's with solid state equipment. This is $8,000,000 above the House allowance and $5,000,000 below the amount requested.

For research, engineering, and development, $80,000,000 is appropriated. No funds are included for continuation of the Aerosat program other than $1,000,000 for a study of the need for such technology. Traffic forecasts for the North Atlantic are down and cost estimates for such a satellite program are higher than originally anticipated for this program, so we feel it should be looked over again.

For airport development grants and airport planning grants, the full amounts authorized for fiscal year 1978 are provided—$540,000,000 and $15,000,000, respectively.

FEDERAL HIGHWAY ADMINISTRATION

For the Federal Highway Administration, the largest activity is the Federal-

aid highway program. The bill provides for obligations in that contract authority program of up to $7,445,000,000 in fiscal 1978. Also, $5,850,000,000 is appropriated to provide liquidating cash for the obligations incurred under this program. Other liquidating cash appropriations are provided as follows: highway beautification, $45,000,000; highway-related safety grants, $20,000,000; off-system roads, $45,000,000; national scenic and recreational highway, $10,000,000; and right-of-way revolving fund, $20,000,000.

Appropriations of new budget authority are provided for motor carrier safety, $8,000,000; highway safety R. & D., $9,000,000; highway beautification, $19,150,000; railroad-highway crossing demonstration projects, $5,100,000; access highways to public recreation areas on certain lakes, $8,650,000; highways crossing Federal projects, $20,000,000; overseas highway, $17,000,000 plus $8,000,000 in contract authority; project acceleration demonstration program, $5,000,000; intermodal urban demonstration project, $2,250,000; and highland scenic highway study, $1,700,000.

Also, the full $75,000,000 authorization is appropriated for the off-system railway-highway crossings program and $90,000,000 for the safer off-system roads program for which no budget request was received. Both of these programs are important in providing funds for safety improvements to roads that are off the Federal-aid system. Much of the work done with these funds will be low-cost, high payoff improvements that will result in fewer fatalities and more efficient use of those highways.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the traffic and highway safety activities of the National Highway Traffic Safety Administration, $80,000,000 is appropriated. This is $2,747,000 above the House allowance and $3,540,000 below the budget. In addition, 28 of the 31 positions reduced by the House have been restored.

For NHTSA's portion of the highway safety grant program, $172,000,000 in obligations can be incurred in fiscal 1978. That amount, coupled with $28,000,000 from the FHWA, will allow a program level of $200,000,000, which is $50,000,000 above the budget and the House allowance. These funds are to be used to continue to maximize State investments in such high payoff areas as alcohol countermeasures and selected traffic enforcement with emphasis on the demonstrated life-saving and fuel-saving elements of the 55 mph speed limit. Past increases in this program have yielded excellent results and I am certain this year's level will produce even greater benefits in these vital highway programs.

FEDERAL RAILROAD ADMINISTRATION

For the programs of the Federal Railroad Administration, $1,446,650,000 is appropriated. Of this amount $19,100,000 is for rail safety programs. A field inspection staff of 331 positions is provided which is 21 more than last year and 9 above the budget request.

For railroad R. & D. $53,600,000 is provided, of which $12,800,000 is to be used in connection with the transportation test center at Pueblo, Colo.

For rail service assistance programs, $84,000,000 is provided, including $6,000,000 for the Minority Business Resource Center. Also, the full request of $400,000,000 for the Northeast Corridor improvement program is recommended. That program has gotten off to a slow start, as have several of the rail programs established under the Quad R Act, but they appear to be proceeding much better recently.

For Amtrak, $680,000,000 is appropriated, of which $500,000,000 is for operations, $130,000,000 is for improvements to plant and equipment, $25,000,000 is to reduce indebtedness, and $25,000,000 is for payments on the purchase of the corridor.

For rail rehabilitation programs, $200,000,000 is appropriated and provisions for up to $600,000,000 in federally-backed loans to be outstanding at any one time are included in the bill.

URBAN MASS TRANSPORTATION ADMINISTRATION

For the programs of the Urban Mass Transportation Administration, we have included a general provision in the bill allowing up to $2,415,000,000 to be committed from the urban mass transportation fund. Of this amount, $1,450,000,000 is for capital grants including $430,000,000 for bus and bus-related programs; $545,000,000 is for improvements at existing fixed rail facilities at eight metropolitan areas—New York, northern New Jersey, Chicago, Cleveland, Pittsburgh, Boston, Philadelphia, and San Francisco.

For new fixed rail starts, most of the $475,000,000 provided will be allocated for ongoing construction of projects at Atlanta, Baltimore, and Philadelphia.

A total of $775,000,000 may be committed for formula grants, $55,000,000 for technical studies, $45,000,000 for commuter rail subsidies, and $20,000,000 for administrative expenses.

For R. & D., we have included $70,000,000, which is $3,000,000 above the House allowance and $3,100,000 below the budget request. Language in the report indicates that $10,000,000 is recommended for phase II of the advanced group rapid transit program, $6,900,000 for bus and paratransit research, and $5,000,000 for continuation of the R. & D. work being done on the people mover system at the Dallas-Fort Worth Airport.

In addition to those programs, which are funded from the urban mass transportation fund, the bill includes $469,000,000 from the general fund of the Treasury for projects substituted for interstate system projects. The report accompanying the bill recommends allocation of that appropriation as follows: WMATA, $275,000,000; Chicago, $132,000,000; Baltimore, $30,000,000; northern New Jersey, $15,000,000; Denver, $12,000,000; and Salem, $5,000,000.

Also, an additional $350,000,000 in contract authority may be used for interstate substitution grants, with $200,000,000 estimated to be needed for Boston, $90,000,000 for Philadelphia, $50,000,000 for Portland, and $10,000,000 for Hartford.

For the Materials Transportation Bureau, the bill includes an appropriation of $8,100,000, the same as the House allowance. This bureau now handles the grants-in-aid for pipeline safety and operations and R. & D. done in this area under the Office of the Secretary.

Finally, for the St. Lawrence Seaway, we included the full $1,114,000 requested and included by the House for the limit on administrative expenses.

RELATED AGENCIES

The following appropriations are provided for the related agencies funded in the bill:

National Transportation Safety Board	$14,710,000
Civil Aeronautics Board:	
Salaries and expenses	23,367,000
Payments to air carriers	72,510,000
Interstate Commerce Commission	61,566,000
Panama Canal Zone Government:	
Operating expenses	70,500,000
Capital outlay	2,130,000
Panama Canal Company (Limit on general and administrative expenses)	(26,231,000)
U.S. Railway Association	10,000,000
Washington Metropolitan Area Transit Authority:	
Federal contribution	2,700,000
Interest subsidy	60,900,000
National Transportation Policy Study Commission	2,000,000

Mr. President, this is a bill that is well balanced and I believe provides adequate funds, within the President's budget requests, to enable the DOT and related agencies to pursue their programs vigorously during fiscal year 1978. I am confident that we will see substantial progress made in fiscal year 1978 toward improving our national transportation network.

Before yielding the floor, let me express my thanks and gratitude to the distinguished chairman of the Appropriations Committee (Mr. McCLELLAN). He has done a remarkable job again this year in providing the leadership necessary to keep the appropriations process moving so that the many schedules and deadlines are being adhered to.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I understand the request has already been made and agreed to, that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. I would like to repeat once again what I said earlier, that the subcommittee chairman is indebted to his distinguished ranking member, the distinguished Senator from New Jersey. I do not know what relationship other chairmen have with their ranking members, but I do not know how it is possible to have a better working relationship, a more amicable relationship, than the Senator from Indiana has with his colleague from New Jersey. It has been a great asset to the efforts of the committee

that he and his staff and myself and my staff have been able to approach these programs with the kind of attitude and with the kind of spirit of cooperation which I believe represents the best of the legislative process.

I am prepared to yield the floor. I yield the floor at this time.

Mr. CASE. Mr. President, I do not know whether it has already been done or not, but if not, I ask unanimous consent that Mr. Berger of the committee staff have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. CASE. Mr. President, as the ranking member of the subcommittee responsible for this bill, I associate myself completely with the remarks made by our chairman, and I associate myself most particularly with the remarks he made about our happy relationship. It has been an enormous privilege to work with him and our staffs on both the Republican and Democratic side. His considerations and the diligence of his staff made possible the completion of the job in a satisfactory fashion, within the time limits imposed by the necessities of our Budget Act, and also with regard to the request of our chairman (Mr. McCLELLAN), whose cooperation has also been most important.

Mr. President, as ranking member of the subcommittee responsible for this legislation, I would like to associate myself with the remarks made by our chairman, Senator BAYH. The bill contains $6.27 billion in budget authority and outlays of $15.12 billion. It is, therefore, approximately $425 million below the first concurrent resolution in budget authority and $375 million below in outlays. The bill as it currently stands is also $6 million below the budget request.

I would just like to take a moment to touch on some of the provisions I believe are important.

In the area of commuter and mass transit services the bill further strengthens the Federal commitment to mass transit by providing $45 million for commuter service to communities in the Northeast and Midwest. This sum is $15 million above the administration's budget request. These funds are badly needed for renovation and repair of commuter rail equipment. Many of the commuter cars are more than 30 years old and require extensive renovation and repair if they are to provide acceptable service.

The appropriations bill provides an additional $100 million for upgrading existing subway systems and for the purchase of transit buses. The funds earmarked for subway systems are needed to halt the further deterioration of services which carry the urban commuter to and from his office and his home. Thirty percent of these funds will go to subway systems such as those in New York, Chicago, and Philadelphia. About $70 million will go for the purchase of new buses to assist communities that do not have subway systems.

Two smaller transit items included in the bill are the addition of $1 million over the House bill for the development of energy conservation systems for buses and $600,000 for the demonstration of an accelerated moving walkway. This walkway will be the first operational accelerated walkway in the world. The new energy systems for buses employ flywheel devices to capture the energy generated during braking. Such systems have been successfully demonstrated on subways and have great promise for saving energy in mass transit.

In another area, the appropriations bill provides $400 million in continuing improvements for the Northeast rail corridor linking Washington and Boston. When completed, the corridor will carry passengers at speeds of up to 120 mph.

The Senate version of the appropriations bill also restores $11.5 million in operating expenses for Amtrak service, bringing to $500 million the amount allocated to Amtrak operations in the 1978 budget. The bill includes $130 million for capital improvement for Amtrak. These funds are $25 million above the budget request and will permit Amtrak to purchase new passenger cars and increase its capability of performing maintenance on the existing fleet.

Some of the safety related items included in the bill include:

A $200 million State and community highway safety grants program, an increase of $50 million over the House. The program will provide funds to States for such high priority items as the 55 mph speed limit enforcement, emergency medical services and alcohol safety. These programs have proven effective at increasing traffic safety at both State and local levels.

The addition of $1,230,000 for 177 new positions in air traffic control work. These posts are necessary to accommodate increases in air traffic in a safe and efficient manner.

The committee also directed the Federal Aviation Administration to prepare a plan of the action to reduce the incidence of noncompliance with standard procedures by air traffic controllers and pilots. Information presented to the committee indicates that 90 percent of the aviation accidents can be attributed to human error. Additionally, the National Transportation Safety Board has found that 77 percent of the voice tapes show some degree of noncompliance with established flight procedures.

The report also instructs the Coast Guard to strengthen its leadership role in providing assistance for State boating safety programs. During hearings, information available to the subcommittee indicated that the Coast Guard fails to exercise its leadership role and fails to evaluate the effectiveness of its programs in this area.

The Transportation Subcommittee has also pointed out that the Department has failed to assign a leadership role for transit safety to any one agency. The committee directed the Office of the Secretary to expedite a study on transit safety and report back to the committee by April 1, 1978.

In the area of environmental protection, the committee strengthened the Coast Guard's inspection program of foreign oil tankers entering U.S. ports. The Coast Guard fulfills a vital function in protecting all coastal States from oil spills. Recent evidence shows that a majority of these tankers entering U.S. ports have one or more defects that might contribute to oil spills, therefore the bill includes 150 positions for inspectors. This is 100 more than requested in the budget.

The Transportation Subcommittee also believes that the Office of the Secretary of Transportation should provide full funding for its noise abatement, environmental protection, and energy conservation programs.

The committee has increased by $6.275 million the amount recommended by the House for airport planning These funds will assist in development of noise abatement programs and long-range site and facilities planning.

Several additional items deserve note. The committee has increased the funding for the minority business resource center—$5 million over that recommended in the House version. This brings the center up to the $10 million level requested in the budget. The committee recognizes that one of the major impediments to the involvement of minority firms in the rail reconstruction effort is their inability to secure venture capital. The $5 million provided in our bill, through the use of leverage, generates an additional $25 million in venture capital for minority-owned businesses.

One of the more controversial issues encountered during the markup of the transportation bill was the interstate transfer provision. The Federal-Aid Highway Act of 1976 provided that projects substituted for interstate roadway segments would be treated as budget authority and require appropriations action. This year, we received requests for some five programs. The House, in an effort to greatly increase the funds available for one of these programs and add two additional nonbudget programs, deleted the funding of three programs requested by the administration. None of the programs added nor the one substantially increased had, at the time of our subcommittee markup, progressed to the point of receiving approval for the interstate transfer or the substitute projects. I do not dispute the concept that these funds, in effect, "belong" to the localities even though they do come from the General Treasury. However, in exercising our oversight responsibilities we must have assurance that the money so appropriated will be spent to implement those programs that will best serve the communities involved. Therefore, this committee was reluctant to recommend funding for these programs that had not undergone the scrutiny from both the executive and legislative branches. Therefore, I am pleased that the administration has agreed to send up a revised budget request to resolve this difficult issue. It has been estimated that approximately $6 billion in interstate transfers are possible given the present configuration of our interstate system. Certainly we intend to continue to exercise considerable care in appropriating funds for these programs.

The committee report contains language requiring the Federal Rail Administration to study the consequences of using concrete versus wooden ties on the Northeast corridor improvement project. Preliminary evidence indicates that while concrete ties may be more expensive on a per-tie basis, the overall installation costs and life cycle costs are less expensive than their wooden counterparts. The major issues, however, relate not so much to cost as they do to ride quality, maintenance, and future use of the corridor.

In the event that corridor service is upgraded beyond 120 mph it will be necessary to install concrete ties in order to assure that the track gage meets the necessary tolerances. All of the ultra-high speed rail systems currently use concrete ties and we certainly do not intend that the report language be interpreted to restrict the use of such ties on the Northeast corridor. Since the committee has consistently stated its desire to have the Northeast corridor serve as a model rail system for the Nation, it would now be inconsistent to restrict the designers from using the best performing materials, whatever they are.

The committee report also contains language taking exception to the House's attempt to restrict rail services assistance for the reconstruction and upgrading of branch lines to FRA class I standards. The committee believes that in certain instances, upgrading beyond class I standards is desirable. Experience has shown that branch line rehabilitation can significantly improve both service and revenue. Therefore, the committee directed FRA to fund such rehabilitation projects at whatever level is required if significant increases in transportation services would result or the need for Federal subsidy would ultimately be decreased.

The committee also took exception to the House report language imposing a formula for the determination of route discontinuances on the Amtrak system. The committee believes that the revenue and cost formula suggested by the House does not give sufficient consideration to the social and environmental implications of passenger train service. The committee feels that the criteria and procedures for making route and service decisions approved by Congress should be the basic vehicle for the determination of route and service decisions. The committee agrees that Amtrak should carefully reconsider its route structure and apply the criteria in order to optimize the system.

In closing, I would like to compliment the senior Senator from Indiana (Mr. BAYH) for his efforts in ably seeing this legislation through to this point and to urge my colleagues to support this bill.

I have no further statement to make. I yield the floor.

Mr. BAYH. Mr. President, I yield to the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank my distinguished colleague, the floor manager of this bill.

Mr. President, I should like to address myself to the rail service assistance appropriation. Most of this appropriation will fund the rail service continuation program for freight branchlines that otherwise would have been abandoned. The program was authorized by title IV of the Regional Rail Reorganization Act and title VIII of the Rail Revitalization and Regulatory Reform Act. The programs are administered by a designated State agency in each State. In particular, I note that the authorizing law establishes a variety of mechanisms for States to use in coping with the problems of threatened rail service: Operating subsidy, rehabilitation, acquisition, construction of alternate facilities. It is the view of the States that each State should have considerable flexibility in administering its program to spend the funds on those measures which are best suited to the State's objective and the local rail service needs.

I ask the distinguished floor manager what is the committee's view?

Mr. BAYH. Mr. President, I respond to our colleague from Massachusetts that the committee concurs with his assessment, and I appreciate his bringing this matter to specific focus. This is still a pioneering program. That is the purpose for its existence. The States should be given considerable flexibility within the bounds, of course, of reasonable fiscal responsibility and financial management to devise programs that are best suited to each State and each locality's needs.

Mr. BROOKE. I also call to the Senate's attention that this rail service continuation program is not, as many apparently still believe, being used to save political face or to ease the transition by forestalling abandonment and gradually phasing out the branchlines not included in the ConRail System. Rather, the States have largely bitten the tough bullet in the beginning, allowed many lines to be abandoned at the outset and concentrated their resources on branchlines which stood a reasonable chance of becoming permanent contributors to the U.S. rail system. For instance, my own State of Massachusetts has used this Federal assistance program to continue only six of the 18-line segments not included in the ConRail final system, only about half of the mileage. It is concentrating its resources on revitalizing these six lines physically and servicewise and on stimulating industrial development along them.

Mr. BAYH. I say to my colleague that the committee is aware of this and point out that of the some 6,000 miles that were originally to be abandoned under the ConRail system the States have only subsidized about half of this. So I think a good faith effort is being made only to subsidize those portions of the system not included in ConRail as was necessary in the State's judgment.

Mr. BROOKE. I thank the Senator. I was particularly pleased to see the committee's report language addressing the standards for rehabilitation of branchlines under this program. This is a vital concern to many States. For instance, Massachusetts is intensely pursuing industrial expansion and new development along the lines it is continuing. But in order to convince business that such investments are well justified, the State must be able to assure the relative permanence of rail service. One of the best ways to do this is to rehabilitate the lines to a standard compatible with permanent service. This is generally substantially above the minimum safety standards embodied in the FRA class I standard. Such improved rehabilitation pays off in many operational ways but a big advantage is the stimulus it can give to industrial development. I want to be sure that the committee recognized this when it composed its report.

Mr. BAYH. The committee does recognize industrial expansion as a legitimate reason for the rehabilitation of branch lines beyond class I.

In fact, if the Senator will look at the committee report, he will find that we directed FRA to not take a narrow view of such rehabilitation projects, but rather to support the legitimate economic stimulus and rail service improvement objectives of the States.

What we want is to have a broad front, and certainly one of the legitimate reasons for rehabilitation projects is to support legitimate economic stimulus which this proposal would provide for economic recovery and overall economic health.

Mr. BROOKE. I thank the Senator for his response to my question. I think it will be very helpful in making legislative history which will be of importance to those who are concerned with this legislation.

Mr. BAYH. As usual, I find the distinguished Senator from Massachusetts very sensitive to critical problems, and I appreciate very much his assistance here.

Mr. HARRY F. BYRD, JR. Mr. President, I rise to make a brief comment concerning funding for the proposed Norfolk Downtown People Mover program.

Last year, the Department of Transportation named Norfolk as one of the 11 finalist cities in the Downtown People Mover project, stating that its application had considerable merit.

Ten of the 11 finalist cities will have received some kind of funding or funding commitment for their Downtown People Mover programs.

On page 31 of the report accompanying H.R. 7557, the Appropriations Committee directs the Urban Mass Transit Administration to include the cities of Jacksonville, St. Louis, Indianapolis, and Baltimore into the full Downtown People Mover program upon application by the proper authorities in those cities. This language was intended to insure funding for those People Mover programs which were determined as meritorious by the Department of Transportation, but which are not among the four finalists initialy receiving grants.

It is my understanding that the distinguished Senior Senator from Indiana had no objection to the inclusion of the Norfolk program in the language of the report, and if Norfolk's expression of interest had been received prior to the report being printed, Norfolk would have been included.

In view of this fact, I would request the assurance of the Senator from Indiana that the Appropriations Committee

would have no objection to the funding of the Norfolk Downtown People Mover program upon submission of a satisfactory application.

Mr. BAYH. The Appropriations Committee, at least the Subcommittee on Transportation, of which the Senator from Indiana is chairman, would have no objection. I think the Senator from Virginia states the case accurately.

The Senator from Indiana has no objection whatsoever to the inclusion of Norfolk. The Senator from Virginia accurately describes the situation as it was; in fact, Norfolk was among the 11 finalists.

As a word of explanation as to why Norfolk was left out, the Senate has been on the point, leading the charge in this area, and the House of Representatives has been very reluctant to include any programs.

In fact, as my colleague will note, there were no provisions in this area when the bill came over from the House of Representatives, and we were afraid that we could get so much done in this area before it would be more than the traffic would bear, and we would not be able to reconcile our differences with the House and would end up with nothing.

The Norfolk interest was not conveyed to us until we were in the full committee markup, when a letter was hand-delivered, and that was very late in the game.

I would be glad to say not only that there is no opposition on my part, but if the Senator from Virginia would like, I would be willing to pursue this actively and express my favorable position.

Mr. HARRY F. BYRD, JR. Mr. President, I am very glad to have the assistance of the Senator from Indiana, and I appreciate his comments for the RECORD very much.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. I would like to address a question to my friend from Indiana. Regarding page 36 of the report, in the second paragraph, it indicates that the committee directs USRA to study the effect of ConRail's purchasing power relative to American versus foreign manufacturers. In particular, the committee requests that USRA determine the impact on U.S. employment associated with ConRail's current purchasing policy.

I commend the committee, and both Senator BAYH and Senator CASE, for the work on the bill and for this particular request of USRA in the report.

I am very interested in what it is we really are looking for as a result of this language. In my own State of Pennsylvania, there has been a lot of concern expressed about ConRail's purchase of some 33,000 wheels from French manufacturers. Perhaps both the Senator from Indiana and the Senator from New Jersey have received similar comments. As a result, I would particularly like to know to what extent ConRail intends to continue this policy of foreign purchase, and what procurement procedures they will be following in the future.

My particular question is this, I say to the Senator from Indiana: The committee directs USRA to study the effects of these purchases and this purchasing policy. Are we also asking them to give us a report after they have done a study?

Mr. BAYH. By all means. We have discussed this matter, the staff and I, with USRA. I think the Senator from Pennsylvania concurs with me that there is very little reason to be studying it unless we get the product of that study. We are anxious to have the report back to us to see how widespread this business of purchasing commodities and parts and whatnot outside of this country is going to be, what impact it has on our economy. We are talking about ConRail being appropriated over $2 billion. That ought to have a significant impact on the economy. Of course, we want that impact to be on our economy in this country.

Mr. HEINZ. Will the report also give us a clear idea of how ConRail is applying whatever criteria it now applies to purchases, what factors they take into consideration, so that we really understand the way they are currently making up their mind? And if, as a result of that self-analysis and examination, they feel that it is wise to change that, will they also lay out for us the direction in which they intend to go? Is that the Senator's understanding?

Mr. BAYH. That is accurate. We want to know not only what they are doing, but how they reached that conclusion. I assume that, because of the interest expressed by some of our colleagues, including the Senator from Pennsylvania, they will probably take a closer look than they might otherwise at this particular practice.

Mr. HEINZ. I certainly hope so, I say to the Senator from Indiana.

One other question: When are the study and report due?

Mr. BAYH. I must say to my colleague from Pennsylvania that I do not know. We have urged them to get involved. The USRA will now be involved in studying it. They are studying a number of other things, like the impact of the Minority Business Resource Center, and some other matters in which they are keeping a public eye over what ConRail is doing, what the economic health of ConRail is, so we have a true picture of what is going on.

I frankly was more interested in getting them started and urging them to proceed at full speed than I was in finding out how long it will take. I shall be glad to go back and get an estimate from them as to how long it will take, now that they have started, and report back to my colleague.

Mr. HEINZ. I should appreciate that, because everybody with responsibilities finds much more on their plate than they either can or want to do. I should hate to see ConRail inadvertently—or advertently, for that matter—procrastinate. I hope, though I shall certainly leave this to the excellent judgment of the Senator from Indiana, that such a study could, in fact, be completed in 6 months. That would seem to be enough time. I am more than willing to leave that to the Senator's judgment.

Mr. BAYH. I should think that would be, at upper level, 3 to 6 months. It should not take too long to find out, first of all, what the facts are, and giving them a chance to reassess what they might want to do in the future could take a bit longer, I should think. But I think a 6-month target would be a very fair one.

Mr. HEINZ. One other question: Why did the committee decide not to give the same direction to Amtrak, which also has been known to make purchases from foreign suppliers?

Mr. BAYH. We have discussed that with Amtrak at the committee level. The information that they have given us so far, at least, would lead us to believe that they are buying the equipment that provides the best service, buying from those sources that are the most competitive. If the Senator from Pennsylvania would like to have a more careful and thorough report from them, we can ask them to make one of a more formal nature.

Mr. HEINZ. I should be most appreciative if the Senator from Indiana or the Senator from New Jersey could accommodate me in such a request.

There was a considerable problem caused in western Pennsylvania, at the Westinghouse Air Brake Corp., about a year and a half ago, when they learned, with regard to some 235 Amtrak railroad cars, that they had lost those contracts to a West German company. And at that point, I ask unanimous consent to have printed in the RECORD this article from our local newspaper, the Pittsburgh Post-Gazette, to bring it to my colleagues' attention.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Post-Gazette, June 20, 1975]

AMTRAK'S GERMAN PACT IRKS WABCO WORKERS

When Westinghouse Air Brake Corp. (WABCO) employes learned they'd lost out on a sizable government contract for 235 Amtrak railroad cars, they wrote it off as the risks of the bidding game.

But when they learned the work was going to a German manufacturer, they started screaming, they were still screaming yesterday and they said they won't stop until they're heard in Washington.

"It's our tax dollars supporting Amtrak," said Dan Marguriet, president of United Electrical Workers District 6. "And then they turn around and use our money to hire German workers to build their cars."

The successful bidder on the Amtrak contract is listed as New York Brake, but WABCO employes said their company learned most of the work was being subcontracted to German manufacturers.

"It's an insult to the entire Pittsburgh area," said Commissioner Thomas J. Foerster.

"It's a slap in the face to WABCO," said William R. Moore, chief union steward at Wabco.

"It's obscene," said Marguriet.

The six union officials who met with Foerster late yesterday said the contract would have enabled Wabco to call back the 139 employes now laid off for lack of work and hire an additional 150 to 300 persons.

"It's not just the loss of jobs to workers here at a time of high unemployment," said Marguriet. "There's also a safety factor. The German equipment has never been tested or inspected in this country. We don't know how dependable it will be. We know ours will work."

The union representatives said they can't find out how much New York Brake bid, how much of the work is being subcontracted to German manufacturers, or what the contract covers.

Edward J. Myers, vice president of United Electrical Local 610, warned that if the German manufacturers get the contract, they'll have an edge on all future Amtrak work.

The present contract is for a 235-car integrated passenger rail service.

"If they build the system, they'll be called for all the parts and service," said Myers. "And if any cars are added, we'll have to do special engineering studies so we can integrate our products with theirs. They'll just have to add on."

Foerster said he would meet with the Greater Pittsburgh Chamber of Commerce today and other local organizations within the next few days to organize "a caravan to Washington" to protect the Amtrak contract award.

"You wouldn't find this happening in Germany," Foerster said.

Mr. HEINZ. Mr. President, I thank Senator BAYH and Senator CASE for their indulgence. I am very appreciative of their cooperation.

Mr. BAYH. I appreciate the Senator's bringing this up and I shall, immediately if not sooner, ask my colleague from New Jersey to join in this request of Amtrak. The response we have had—and perhaps we ought to take a closer look—is that they have had great difficulty in getting some of the more advanced, sophisticated equipment here. That may be an excuse and may not be, but let me say to the Senator—I say this not really to continue this colloquy unnecessarily, because I think the Senator from Pennsylvania and the Senator from Indiana want to go down the same track, to use the terminology of this bill. But our companies in our country had been behind other countries in the development of technology. In fact, we have hundreds of millions of dollars in this bill to try to upgrade our technology.

Be that as it may, although we may have a short-term technological shortfall, I should think that the kind of money we are plowing in there and the kind of emphasis we are putting in there—and I just recited the millions of dollars that we are putting in R. & D.—would soon get us to that place where we do not have that shortfall, if, indeed, we do have one right now.

Mr. HEINZ. I think the committee is to be commended for making available the resources and money. If we are not, however, developing the technology we need—either we are not developing the technology we need or we are not competitive because we lack technology—maybe somebody is not spending money as wisely as they should, or maybe we are not investing enough in research and development.

The Senator from Indiana is to be commended, I think, for leading the way.

Mr. BAYH. I appreciate the thoughts of the Senator from Pennsylvania. I want to see just what is the situation in that particular instance involving his constituency. We are late in getting involved. I think we all realize that we gave orders to start laying down track, we had specifically mandated them to meet certain time schedules and to implement certain lines. It is conceivable that we did that before the technology was available in this country to do certain things; or at least, the technology may not have been quite as far advanced in this country as it was in others. As I say, if that does exist, I hope and expect that that will be a short-term kind of situation and will not be the kind of thing that we keep having to face year after year.

The signals are out now. All signals are go. We are going to make this system work and we are going to require that it utilize the most sophisticated equipment, so that, ultimately, we can have the best system possible. Hopefully, that equipment can be made and manufactured by our manufacturers and our workers here.

Mr. HEINZ. Mr. President, I thank the Senator from Indiana and the Senator from New Jersey.

Mr. BAYH. I am prepared to yield back my time.

Mr. CASE. I yield back my time.

COAST GUARD APPROPRIATIONS

Mr. PACKWOOD. I would like to speak briefly concerning the Coast Guard's enforcement capabilities for the 200-mile fishery conservation zone. In the appropriations bill before us there are an additional 50 positions designated for the Coast Guard for 200-mile enforcement responsibilities. I am sure the chairman and the other members of this committee rcognize the great importance for adequate monitoring and inspection if we are to have a sound fisheries conservation zone. I applaud their efforts to see that that capability is provided. What I want to insure, however, is that the purpose for the additional 50 positions is made clear for the administration. It is my understanding that these additional positions will be used for manning and operation of an additional backup Coast Guard cutter or cutters. Basically, these 50 positions correspond to the additional personnel ceilings established in the Coast Guard authorization bill which the Commerce Committee, on which I serve, passed earlier this spring.

Secondly, I am concerned that the full appropriation for 200-mile enforcement for fiscal year 1977 be spent on enforcement. In the conference report for the Department of Transportation appropriations for fiscal year 1977, the Department of Transportation was given the authority to transfer $5 million from the Coast Guard's "essential acquisition, construction, and improvement projects"—and that the "conferees expect that restoration of those funds ($5 million) will be submitted in a supplemental budget request."

The $5 million which this provision allowed to be transferred was taken out of the "essential" and I stress essential budget which the Coast Guard has for 200-mile enforcement. Therefore I would like to offer an amendment to the bill before us directing the restoration of $5 million from the pollution fund to the 200-mile enforcement fund as Congress originally intended. It is my understanding there are sufficient moneys in the pollution fund to both replace the $5 million for management of our 200-mile zone as well as maintain an adequate budget to meet emergency pollution cleanup. I believe the distinguished Senator from Indiana, chairman of the Appropriations Subcommittee on Transportation and the ranking Member agree with the purpose of this amendment. I thank them very much for their consideration of this important matter.

In summary, I would like to ask the Senator from Indiana if he concurs with my explanation of the 50 additional Coast Guard positions as well as the amendment I have offered to restore $5 million to the Nation's 200-mile enforcement fund.

Mr. BAYH. Mr. President, I thank the Senator from Oregon for his comments regarding the committee's work on the Coast Guard appropriations for next year. I think it very important that these additional positions be provided for 200-mile enforcement and specifically for the manning and operation of back-up vessels. After all, it is only possible to physically inspect foreign fishing vessels by boarding them from another vessel. The need for a strong enforcement team is truly needed and I concur with the Senator.

On his second point, I believe the amendment he has offered directing a transfer of $5 million from the pollution fund to the 200-mile fund is sound. The amendment is consistent with the committee's intent of providing a "temporary mechanism to meet emergency clean-up requirements" and that the "essential" funds for 200-mile enforcement be restored. Again, I thank the Senator for raising these points and continuing to oversee the enforcement activities of our new 200-mile fisheries zone.

Mr. CASE. Mr. President, I would like to associate myself with the remarks of the Senator from Indiana and the Senator from Oregon. For too long we have awaited a 200-mile fishing zone and now that one has been established, we need to insure that it is well managed. In that regard, the additional 50 positions and the restoration of $5 million to the 200-mile budget are well deserved.

UP AMENDMENT NO. 526

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 526: After line 11, add the following: "Pollution fund"—

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I ask unanimous consent that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, after line 11, add the following:

"POLLUTION FUND"

"There shall be transferred from the appropriation "Pollution Fund, 1977" $5 million to be used for 200-mile fisheries zone enforcement and to be added to the appropriation contained in this measure for "acquisition, construction, and improvements."

Mr. PACKWOOD. Mr. President, this amendment has been cleared on both sides. What it would do is insure that money in this bill will be used to activate one or two new Coast Guard cutters, and allow the personnel to man those Coast Guard cutters, so that the 200-mile zone might be properly patroled.

Mr. BAYH. Mr. President, I am prepared to accept this amendment. We all want to make certain that there will be sufficient money for the water pollution fund. We provided $10 million last year, but because of lack of authorization, those funds were not used.

The fund now contains $13 million. If the amendment of the Senator from Oregon is accepted, we will still have $8 million. The Coast Guard can come back to us for supplemental funds later in the year, and I am certain they would not have a dissenting vote, for additional money that might be needed in this critical water pollution area. We all recognize the additional burden placed on the Coast Guard as a result of the 200-mile limit, and I think transferring that $5 million to that particular component of our bill would be worthwhile.

For that reason, if there be no objection—our colleague from New Jersey, as I understand, has associated himself with this transfer in the colloquy—I am willing to accept the amendment.

Mr. PACKWOOD. Mr. President, I am very grateful to the Senator from Indiana, which has no 200-mile zone, for acquiescing in this amendment.

Mr. CASE. Mr. President, the Senator from Indiana is correct with respect to the position of the Senator from New Jersey.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon. Do Senators yield back their time?

Mr. BAYH. I yield back the remainder of my time.

Mr. PACKWOOD. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Oregon is agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. MUSKIE. Mr. President, the Senate has before it H.R. 7557, the transportation and related agencies appropriation bill for fiscal 1978. I would like to comment on the relationship between this bill and the first budget resolution. But first, I want to say that I support this bill.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to it under the budget resolution. This bill is under the subcommittee's section 302(b) allocation, and is consistent with the first budget resolution targets.

The Transportation Subcommittee's allocation under section 302(b) of the Budget Act amounts to $6.7 billion in budget authority and $15.5 billion in outlays. The reported bill provides $6.3 billion in budget authority and $15.2 billion in outlays, including $10.9 billion in outlays from prior year authority. In addition, legislative actions concluded in prior years that are included in the Transportation Subcommittee's allocation total $0.3 billion in budget authority and less than $50 million in outlays. Enactment of H.R. 7557 as reported therefore would leave $0.1 billion in budget authority and $0.3 billion in outlays available within the subcommittee's allocation.

There are a number of potential claims on this remaining allocation which could produce supplemental appropriations. For example, there could be additional appropriations required for various highway, rail, and mass transit programs that might require an estimated $300 million in budget authority and $100 million in outlays. However, the first budget resolution anticipated these additional requirements, and therefore their appropriation should not result in a breach of the budget resolution targets.

There is a potential problem in that these supplemental appropriations could cause the Transportation Subcommittee to exceed its section 302(b) allocation for budget authority by perhaps $200 million. I believe that this overage can be accommodated by savings in other areas, but I would point out that such savings will have to come from other subcommittees since the full Appropriations Committee has not held any of its allocation in reserve except a small amount for pay raises.

Finally, Mr. President, I am pleased to note that the reported bill includes obligation ceilings for the highway and airport development programs funded through trust funds. These are valuable programs and it is important that they be adequately funded to satisfy our transportation needs. But it is also important that the Congress apply some practical limitations on program growth in any one year. If it did not, then there would be little protection against an unexpected temporary upsurge in new program commitments that could threaten our budget resolution outlay and deficit targets.

I wish to thank the distinguished chairman, Senator BAYH, for his support of the budget process, and to commend him and the other members of the Transportation Subcommittee for reporting a bill that is consistent with the first budget resolution. I urge my colleagues to join with me in voting for passage of H.R. 7557.

A NEW TRANSPORTATION PLAN FOR CHICAGO

Mr. PERCY. Mr. President, last month, Illinois Gov. James Thompson and Chicago Mayor Michael Bilandic reached an agreement on a transportation plan for the Chicago metropolitan area. This historic agreement, which resulted after months of negotiations among the Governor, the Mayor, Members of Congress, and Federal officials, resolves many years of local controversy over use of Interstate Highway funds in Chicago.

Under the terms of the agreement, Illinois has requested that the Department of Transportation withdraw a $453 million segment of the proposed Chicago crosstown expressway from the Interstate System. Of this amount, $300 would be used to build a new Chicago subway, and $153 million would be used for road and street improvements in the Chicago area.

Once an agreement was reached, sufficient Federal funds were needed for the projects. Today, in passing the Department of Transportation Appropriations Act for fiscal year 1978 the Senate has provided, among other things, an opportunity for the State and the city to begin implementing a major transportation plan for the metropolitan Chicago area. Included in the act, under the Urban Mass Transportation budget for fiscal year 1978, is $132 million in Interstate Highway funds for the Chicago projects. Thirty-two million will be used for preliminary engineering on the Chicago subway; $10 million for right-of-way procurement and engineering for Chicago area street improvements; and $90 million for street construction or rehabilitation.

The Senate's action today reaffirms my belief that cities, States, and the Federal Government can work effectively and swiftly to meet mutual needs.

Last week I had received assurances from the administration that it would move swiftly to approve the State's funding application. In my talks with my Senate colleagues on the Senate Appropriations Subcommittee on Transportation, they too assured me that they would move swiftly on this appropriations request. They have kept that promise. And now, due to the bipartisan support this project has received in both the House and Senate the State and the city will be able to begin implementing their areawide plan for a new subway plus road and street improvements.

Mr. BENTSEN. Mr. President, I rise in support of H.R. 7557 which provides funding for the Department of Transportation and related agencies for 1978. Through my duties with the Public Works Committee, I have become familiar with many of the items covered in this bill, and I congratulate Mr. BAYH and the other members of his subcommittee for their admirable work.

I would like to comment on one particular aspect of this legislation which provides funding for research and development work on an innovative automated transit system—known as Airtrans—which is currently in operation at the Dallas/Fort Worth Regional Airport. It is likely that this demonstration effort will lead to the development of economical automated transit system for the Nation's larger cities. In this controlled airport environment, Airtrans has been shown to be a practical means of mass transit, but it is apparent that continued developments are needed to improve the system's efficiency.

The history of this system is interesting. During the 94th Congress both House and Senate Public Works Committees authorized $7 million research and development for this system. The main objective of the authorization was

to increase the speed of Airtrans from a cruising speed of 9 miles per hour and a top speed of 17 miles per hour to a range of 30 to 35 miles per hour. This hardware R. & D. work is going on now as authorized.

However, the Congress last year approved only $2 million of the $7 million authorized. The remaining $5 million, which the Senate Appropriations Committee has now approved, will allow the R. & D. program to be completed by September 30, 1978. The test vehicle has already reached a speed of 32.1 miles per hour for short distances and the engineers are confident that this additional R. & D. will result in an operational top speed of 30 miles per hour for the automated system.

I might stress this project is an excellent example of business and the Federal Government working together—the contractor has spent $21 million of its own funds on this system, which are not reimbursable.

Mr. President, the original authorization for this project expires September 30, 1977. Because the completion of the R. & D. work will extend beyond that date, the remaining $5 million has been included in this bill as a supplement to the R. & D. funds for the Urban Mass Transportation Administration of DOT. I would like to make it clear to this agency that this supplement is for the continuation of this research effort and that there should be no interruption between the work being completed under the present $2 million contract, which expires September 30, 1977—and the amended contract which should be activated October 1, 1977. I think both the authorizing and appropriating committees would not want any lag in work due to bureaucratic redtape.

Mr. President, for the record I would like to advise the Senate that through March of this year the system has carried 11,506,060 revenue passengers. Currently the system is averaging about 18,000 riders daily. The total vehicle miles is approximately 10,000 miles every 24 hours. During one 6-month period in 1975, when the system was operated by the builder, Airtrans vehicles traveled a distance equivalent to 67 times around the world without an interruption in service.

The system has many attractive economic and environmental features. It runs over a 13-mile fixed guideway on rubber tires which results in only a minimum of noise; it is powered by electricity which does not pollute the air; it is automated which results in an operating and maintenance cost in 1976 of $0.69 per vehicle mile as compared to buses operating in Washington, D.C. in 1974 at a cost of $1.66 per vehicle mile

Mr President, the Senate shows good leadership in funding the R. & D. program with the firm intent the Department of Transportation will cooperate to the fullest extent.

THE FEDERAL HIGHWAY ADMINISTRATION'S ROADSIGN POLICY

Mr. PELL. Mr. President, the Federal Highway Administration recently issued a notice of proposed rulemaking that would have encouraged States to convert mileage and speed limit designations on their road signs exclusively to the metric system of measurement over the next few years. This proposed rulemaking, although in my opinion a legitimate exercise of FHWA authority, was questioned by some who said FHWA was acting beyond the scope of its legislative mandate.

During the June 8 House debate on H.R. 7557, an amendment was offered to prohibit DOT funds from being spent to carry out any such regulation. The amendment's proponents later withdrew the amendment upon receiving assurances that the proposed regulation was being withdrawn by FHWA.

As the Senate sponsor of Public Law 94-168, the Metric Conversion Act of 1975, and as one who has been urging United States conversion to the metric system for many years, I am disappointed that FHWA withdrew its proposal to move forward toward metric. However, I want to join my distinguished colleague in the House, Congressman ROBERT MCCLORY, a longstanding proponent of metric conversion, in emphasizing that this withdrawal of proposed rulemaking should not signal a retreat from the goal of having the Federal Government be an active participant in the metric conversion process.

I think we all realize that metric conversion efforts should receive some sort of central Federal direction, as envisioned by Congress when it established the U.S. Metric Board in Public Law 94-168. However, it has been 18 months since the passage of that act, and no nominations have been sent to the Senate which could be acted on in a timely fashion. We now await President Carter's nominations of 17 individuals to be members of the U.S. Metric Board and we have received encouraging assurances from the White House that these nominations should be coming soon. I want to stress though, that the lack of a functioning U.S. Metric Board does not mean that Federal agencies should halt their plans for dealing with the expected conversion process. This process is going to take years and the sooner that we start to plan for metric conversion the more efficient and less costly it will ultimately be. I hope that FHWA and other Federal agencies will keep pace with the growing number of State and local governments who are meeting this responsibility intelligently by educating citizens about the system our country will soon adopt.

Although I have not spoken directly with Administrator Cox on this issue, I am confident that he is committed to acting responsibly on the question of metric conversion and will continue to assist States to help their motorists become accustomed to metric. The Federal Government cannot keep its head in the sand while the citizens of this country move in increasing numbers to accept the metric system. I believe that FHWA will continue to take a leadership role in this vital area and hope that the coordination among our Federal agencies and among Federal, State, and local governments will continue.

Mr. STEVENSON. Mr. President, the Department of Transportation appropriations bill contains $469 million for interstate transfer projects; $132 million of this amount is allocated to needed mass transit and road rehabilitation and repair projects in the Chicago metropolitan area. I want to thank the members of the Appropriations Committee for their favorable consideration of my request to have this amount for the Chicago area projects included in the bill. I especially appreciate the leadership of the chairman of the Transportation Subcommittee, Senator BAYH, in this matter. He has helped greatly in resolving the difficulties which arose during the committee's consideration of my request. I am grateful for his understanding of the need to appropriate the funds now. I also thank the Secretary of Transportation and the Director of the Office of Management and Budget for their decision to include the full amount needed for the Chicago projects in the administration's budget.

The interstate transfer section of the Federal Highway Act is designed to encourage urbanized areas to decide what mix of transportation projects will make the greatest contribution toward improving their total transportation systems. The city of Chicago and the State of Illinois have agreed on a mix of projects that they believe constitutes the best use of the funds allocated to the interstate segment. Appropriation of the full $132 million will enable them to make a substantial start on these projects in fiscal 1978.

Mr. President, I cannot overemphasize the importance of these projects to the Chicago area transportation system. The agreement between the city and the State to request the withdrawal of an interstate segment in Chicago should make available $453 million in Federal funds. This agreement resolves a longstanding transportation controversy in Illinois. The city and the State propose to use the funds to begin work on the Franklin Street Subway, an important addition to Chicago's mass transit system, and to do a substantial amount of vitally needed road improvement and bridge work in the Chicago metropolitan area.

Mr. President, the grant application for the Franklin Street Subway has been pending at the Urban Mass Transportation Administration since 1971. Engineering grants since 1972 total almost $11 million; another engineering grant of $3.5 million is about to be made. The line, approximately four and one-half miles long, will provide improved mass transit service in the western downtown Chicago area, one of the most rapidly developing areas of the city. It should allow a portion of the elevated structure, known as "the loop," which encircles Chicago's downtown area, to be removed. The Franklin Street line is the first phase of the larger core area project, which is designed to provide improved mass transportation in the central city area.

The road rehabilitation projects have been pending at the Federal Highway Administration since fall, 1976. Included are badly needed intersection improvement, resurfacing, and widening projects on major streets and highways in the Chicago metropolitan area. These

projects can be started quickly and will provide immediate benefits in the six-county Chicago metropolitan area.

HIAWATHA AVENUE IMPROVEMENT PROJECT

Mr. HUMPHREY. Mr. President, I wish to express my sincere appreciation to the members of the Appropriations Committee, particularly the Senator from Indiana (Mr. BAYH), for their support of funding for planning the Intermodal Urban Demonstration Project in the city of Minneapolis.

This project will improve the Hiawatha Avenue Corridor which is the principle connecting link between the Central Business District in Minneapolis and the Minneapolis-St. Paul International Airport. It is the primary radial route continuing to connect the communities of southeast Minnesota and the airport to downtown Minneapolis.

Mr. President, this project is vital to the Minneapolis-St. Paul metropolitan area and I am deeply grateful to Senator BAYH and the other members of the Appropriations Committee for their understanding of its importance.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall the bill pass?

Mr. BAYH. Mr. President, I hate to inconvenience our colleagues, but we are talking about $14 billion here. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. RIEGLE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

I also announce that the Senator from Texas (Mr. BENTSEN) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—86

Allen	Gravel	Metzenbaum
Anderson	Griffin	Morgan
Baker	Hansen	Moynihan
Bayh	Hart	Muskie
Bellmon	Haskell	Nelson
Biden	Hatch	Nunn
Brooke	Hatfield	Packwood
Bumpers	Hathaway	Pearson
Burdick	Hayakawa	Pell
Byrd, Harry F., Jr.	Heinz	Percy
	Helms	Proxmire
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Roth
Case	Humphrey	Sarbanes
Chafee	Jackson	Sasser
Chiles	Javits	Schmitt
Clark	Johnston	Schweiker
Cranston	Kennedy	Scott
Culver	Lavalt	Sparkman
Danforth	Leahy	Stafford
DeConcini	Long	Stevens
Dole	Lugar	Stevenson
Domenici	Magnuson	Stone
Durkin	Mathias	Talmadge
Eagleton	McClure	Thurmond
Eastland	McGovern	Tower
Ford	McIntyre	Wallop
Garn	Melcher	Weicker
Glenn	Metcalf	Young

NAYS—0

NOT VOTING—14

Abourezk	Goldwater	Riegle
Bartlett	Inouye	Stennis
Bentsen	Matsunaga	Williams
Church	McClellan	Zorinsky
Curtis	Ribicoff	

So the bill (H.R. 7557) was passed.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BAYH, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. JOHNSTON, Mr. CASE, Mr. YOUNG, Mr. MATHIAS, and Mr. WEICKER conferees on the part of the Senate.

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 1 HOUR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 3 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HART).

UNANIMOUS-CONSENT AGREEMENT—H.R. 7556

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the State-Justice appropriation bill is called up and made the pending business, there be a 1-hour limitation on the bill, to be equally divided between and controlled by Mr. HOLLINGS and Mr. WEICKER; that there be a time limitation on any amendment of 30 minutes, with the exception of one amendment by Mr. HATFIELD, on which there be a 1-hour limitation, and three amendments by Mr. DOLE, on each of which there be a 1-hour limitation; that there be a limitation of 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate for consideration; and that the agreement with respect to the control and division of time be in the usual order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Also with respect to the State-Justice bill, I add this proviso: that there be a 1-hour limitation on an amendment by Mr. HATHAWAY and Mr. MUSKIE, and that the agreement be in the usual form so far as division and control of time are concerned.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 7556 (Order No. 263), an act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending Sept. 30, 1978, and for other purposes, debate on any amendment (except an amendment by the Senator from Oregon (Mr. HATFIELD), on which there shall be 1 hour; three amendments to be offered by the Senator from Kansas (Mr. DOLE), on each of which there shall be 1 hour; and an amendment to be offered by the Senators from Maine (Messrs. MUSKIE and HATHAWAY), on which there shall be 1 hour) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Connecticut (Mr. WEICKER): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the

Senate completes its business today, it stands in recess until 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HATCH AND SENATOR STEVENS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. HATCH and Mr. STEVENS be recognized for 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that my staff assistant, Helen Kalk, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES TRANSFERRED TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three measures on the calendar which are eligible for passage by unanimous consent. They are Calendar Nos. 264, 265, and 266. I ask that the clerk transfer those measures to the unanimous calendar.

The PRESIDING OFFICER. They will be transferred.

CORRECTION IN ENGROSSMENT OF H.R. 6161—H. CON. RES. 254

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 254.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 254) authorizing a correction in the engrossment of H.R. 6161.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, this measure authorizes a correction in the engrossment, as the clerk stated, of H.R. 6161, the Clean Air Act amendments.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 254) was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 7554 AND H.R. 7556 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the orders for the recognition of Senators tomorrow, the Senate proceed with the consideration of H.R. 7554, the HUD appropriations bill, and that it be followed by H.R. 7556, the State, Justice, Commerce appropriations bill with the following proviso:

That no rollcall votes occur before the hour of 12 o'clock noon tomorrow and that if action on the HUD appropriations bill is complete but for the vote or votes in the event rollcalls are ordered prior to 12 o'clock noon that bill then would be set aside until 12 o'clock noon and that in the interim the Senate would proceed with the consideration of the State, Justice, Commerce, and Judiciary appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS, UPON COMPLETED SENATE ACTION TOMORROW, UNTIL 10 A.M., MONDAY, JUNE 27, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if the Senate completes action on State, Justice, Commerce appropriations bill tomorrow, which I assume it will, that at the close of business tomorrow the Senate stand in recess until the hour of 10 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that provides, does it not, that if the Senate should get stalled on State-Justice tomorrow the Senate is free to come in on Saturday?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. But if the Senate completes State-Justice tomorrow, the Senate would go over until Monday at 10 a.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR NO ROLLCALL VOTES PRIOR TO 3 P.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes on Monday prior to the hour of 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the minority for its cooperation in waiving the 3-day rule in connection with these two measures.

I also want to thank certain Senators on the majority side for their cooperation in waiving the 3-day rule so that the Senate could proceed with the consideration of these two measures.

That being the case, if the Senate completes action on State, Justice, and Commerce appropriations tomorrow there will be no session Saturday.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations, beginning with Calendar Order No. 288 and going through the calendar with the exception of Calendar Order No. 296.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. ROBERT C. BYRD. I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

BOARD FOR INTERNATIONAL BROADCASTING

The second assistant legislative clerk read the nomination of John A. Gronouski, of Texas, to be a member of the Board for International Broadcasting.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF COMMERCE

The second assistant legislative clerk read the nomination of Fabian Chavez, Jr., of New Mexico, to be Assistant Secretary of Commerce for Tourism.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF TRANSPORTATION

The second assistant legislative clerk read the nomination of John McGrath Sullivan, of Pennsylvania, to be administor of the Federal Railroad Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF THE TREASURY

The second assistant legislative clerk read the nomination of Stuart Evan Siegel, of the District of Columbia, to be an Assistant General Counsel in the Department of the Treasury—Chief Counsel for the Internal Revenue Service.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of John M. Rector, of Virginia, to be Assistant Administrator of Law Enforcement Assistance.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Coast Guard placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that those nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 8:30 tomorrow morning.

After the two leaders or their designees have been recognized under the standing order, the Senator from Utah (Mr. HATCH) and the Senator from Alaska (Mr. STEVENS) will be recognized, each for not to exceed 15 minutes, after which the Senate will immediately proceed to Calendar Order No. 260, H.R. 7554, an act making appropriations for the Department of Housing and Urban Development. There is a time agreement on that bill. There is also a provision that there will be no rollcall votes before 12 o'clock noon.

In the event that the HUD appropriation bill is completed prior to 12 noon, and rollcall votes are ordered on passage of the bill or on amendments in relation to it, such rollcall votes will begin at 12 noon, but in the meantime the Senate will temporarily set that measure aside, as I say, if action is completed thereon except for rollcall votes, and proceed to the consideration of H.R. 7556, the State-Justice-Commerce-Judiciary appropriation bill, also under a time-limitation agreement.

Rollcall votes will occur throughout the day tomorrow. If the Senate completes its action on the State-Justice-Commerce appropriations, which is anticipated even though it may take us into the evening—hopefully not—then the Senate would go over until 10 o'clock a.m. on Monday. In the alternative, if the Senate cannot reach a final vote on State-Justice tomorrow, the Senate is not locked out of a session on Saturday.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8:30 tomorrow morning.

The motion was agreed to; and at 4:32 p.m., the Senate recessed until tomorrow, Friday, June 24, 1977, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 23, 1977:

DEPARTMENT OF STATE

William E. Schaufele, Jr., of Ohio, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

NUCLEAR REGULATORY COMMISSION

Kent Forrest Hansen, of Massachusetts, to be a member of the Nuclear Regulatory Commission for the remainder of the term expiring June 30, 1978, vice Edward A. Mason, resigned.

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general

Maj. Gen. Richard H. Thompson, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. William E. Eicher, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Richard L. Harris, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. James G. Boatner, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Lt. Gen. Edward C. Meyer, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. William R. Richardson, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Edward A. Partain, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Roscoe Robinson, Jr., xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Alexander M. Weyand, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Robert G. Yerks, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. James M. Rockwell, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Albert B. Akers xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Maj. Gen. Ernest D. Peixotto, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Morris J. Brady xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Wesley E. Peel, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Benjamin L. Harrison, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Donald E. Rosenblum, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles C. Rogers, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Paul S. Williams, Jr., xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Richard E. Cavazos, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. John N. Brandenburg, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Oscar C. Decker, Jr., xxx-xx-xx... Army of the United States (colonel, U.S. Army).

Maj. Gen. John K. Stoner, Jr., xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Emmett W. Bowers, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. William I. Rolya, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Story C. Stevens, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Sampson H. Bass, Jr. xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line and staff corps of the Navy, subject to the qualifications therefor as provided by law:

Timothy M. Aspery	Jerome A. Schuller, Jr.
William H. Hagedorn	Michael A. Sloan
Steven W. Hamilton	*William M. Smith
*Warren H. Harner, Jr.	John R. Taylor
Walter F. Lundin	Steven A. Webb
Mark R. Lyons	Donald E. Wilson
William R. Morrison	

The following-named Navy Enlisted Scientific Education Program candidates to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

James T. Glass
Adrian C. McElwee

The following-named temporary Chief Warrant Officer to be appointed a permanent Chief Warrant Officer, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

*CWO-3 John L. Griffin, Jr., USNR

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the Medical Service Corps, in the U.S. Navy, subject to the qualifications therefor as provided by law:

LCDR George W. Robinson, MSC, USN (ret.)

The following-named enlisted candidates to be appointed ensigns in the Medical Service Corps, in the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law:

Robert A. Acklin, Jr.	Denzel E. Garner
Mark E. Babbitt	Craig A. Jimerfield
Stephen F. Blacke	Elwood L. Kephart
Richard L. Bloomquist	Bernard T. Miller
Thomas W. Burden	James A. Moos
Henry M. Chinnery	Charles W. Neefe, Jr.
Robert V. Collins	Bobby D. Nipper
Robert J. Engelhart	Robert P. Owen
John D. Faulls	Herman J. Pagan
Lawrence E. Fowler	Michael W. Ross

The following-named Chief Warrant Officers to be appointed lieutenants (junior grade), for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Francis P. Bryce, Administration.

* Roger T. McManus, Operations (surface).

* Milton E. Moore, Jr., Cryptology.

Alfio J. Vasta, Mess Management (Supply Corps).

The following-named temporary Chief Warrant Officer to be appointed a temporary Chief Warrant Officer, W–3, in the U.S. Navy, subject to the qualifications therefor as provided by law:

* CWO–3 John L. Griffith, Jr., USNR.

The following-named (U.S. Navy Officer (ret.)) to be reappointed from the temporary disability retired list as a temporary Commander in the Medical Service Corps, in the U.S. Navy, subject to the qualifications therefor as provided by law:

LCDR George W. Robinson, MSC, USN (Ret.)

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

CDR John R. Dooley, MSC, USN.

FEDERAL HOME LOAN BANK BOARD

Robert H. McKinney, of Indiana, to be a member of the Federal Home Loan Bank Board for the term of 4 years expiring June 30, 1981, vice Grady Perry, Jr.

* Appointment sent out Ad Interim (During the recess of the Senate) 8 through 17 April 1977.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 23, 1977:

DEPARTMENT OF STATE

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

John Andrew Linehan, of Maryland, a Foreign Service Officer of Class two, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sierra Leone.

Herman J. Cohen, of New York, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Donald Gordon MacDonald, of Florida, to be an Assistant Administrator of the Agency for International Development.

BOARD FOR INTERNATIONAL BROADCASTING

John A. Gronouski, of Texas, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1980.

DEPARTMENT OF COMMERCE

Fabian Chavez, Jr., of New Mexico, to be Assistant Secretary of Commerce for Tourism.

FEDERAL RAILROAD ADMINISTRATION

John McGrath Sullivan of Pennsylvania, to be Administrator of the Federal Railroad Administration.

DEPARTMENT OF THE TREASURY

Stuart Evan Seigel, of the District of Columbia, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

DEPARTMENT OF JUSTICE

John M. Rector, of Virginia, to be Assistant Administrator of Law Enforcement Assistance.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning Garace A. Reynard, to be chief warrant officer, W–2, and ending Jay H. Smith III, to be permanent chief warrant officer, which nominations were received by the Senate and appeared in the Congressional Record on May 13, 1977.

HOUSE OF REPRESENTATIVES—*Thursday, June 23, 1977*

The House met at 10 o'clock a.m.

Rev. Loren White, pastor, East Grand Baptist Church, Dallas, Tex., offered the following prayer:

Dear God, our Heavenly Father, we approach Your gracious throne with humbleness, yet with boldness as Christ taught us.

Please bless these who are making the laws for our beloved Nation. Supply them with divine guidance and wisdom.

As national leaders whose influence touches virtually all the world, help them to realize their inadequacy in order that they might be sensitive and responsive to the leadership You have made available to them through Your Word and Your Spirit.

While we pray for those who govern we would also remember to ask Your blessings upon the governed. Give the people of America a desire to be right with You above all else. Help us to know and to do Your good will.

In Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 3849. An act to establish qualifications for individuals appointed to the National Advisory Committee on Oceans and Atmosphere and to authorize appropriations for the committee for fiscal year 1978.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6655) entitled "An act to amend certain Federal laws pertaining to community development housing, and related programs, disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. MCINTYRE, Mr. CRANSTON, Mr. STEVENSON, Mr. BROOKE, Mr. TOWER, Mr. GARN, and Mr. HEINZ to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S 1539 An act to authorize appropriations for fiscal year 1978 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that Mr. GLENN was appointed as a conferee for the consideration of certain specified issues in S. 826, to establish a Department of Energy.

REV. LOREN WHITE

(Mr. MATTOX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATTOX. Mr. Speaker, it is a real honor for me to introduce to you today, Dr. Loren White, pastor of the East Grand Baptist Church in Dallas, Tex., the church of which I am a lifelong member.

We have with us today a minister who realizes that the church in today's community has many responsibilities. He has the understanding that our Lord was a minister unto the people in the byways and highways and not just to the sanctimonious who enjoy great privilege. He understands that there is more to his responsibility than just preaching sermons. Every day Brother White visits his membership and takes his ministry to the community.

We have with us today a minister who understands the responsibility of the Government in this world and the responsibility of the church and the necessity for the separation of church and state. At the same time, he realizes that

individuals should participate both in their government and in their church.

I am proud to have my pastor here to deliver the prayer for today.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT DURING HOUSE SESSION TODAY

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs may be permitted to sit during the session of the House today.

Mr. Speaker, this is similar to the request I made yesterday, which was objected to by the gentleman from California (Mr. ROUSSELOT). I am advised by the office of the ranking minority Member of the committee that the gentleman from California (Mr. ROUSSELOT) no longer objects to this unanimous-consent request.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania

There was no objection.

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF TECHNOLOGY ASSESSMENT BOARD OF OFFICE OF TECHNOLOGY ASSESSMENT

The SPEAKER laid before the House the following resignation as a member of the Technology Assessment Board of the Office of Technology Assessment:

WASHINGTON, D.C., *June 1, 1977.*

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I hereby resign from the Technology Assessment Board of the Office of Technology Assessment, effective July 1, 1977.

Sincerely,

MARJORIE S. HOLT,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of section 4(a), Public Law 92-434, the Chair appoints, effective July 2, 1977, the gentleman from New York (Mr. WYDLER) as a member of the Technology Assessment Board to fill the existing vacancy thereon.

APPOINTMENT OF CONFEREES ON H.R. 6111, JUVENILE JUSTICE AMENDMENTS OF 1977

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. PERKINS, ANDREWS of North Carolina, HAWKINS, FORD of Michigan, CORRADA, QUIE, and GOODLING.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 5, not voting 46, as follows:

[Roll No. 367]

YEAS—382

Abdnor	Cederberg	Findley
Addabbo	Chisholm	Fish
Akaka	Clausen, Don H.	Fisher
Alexander	Clawson, Del	Fithian
Allen	Clay	Flood
Ammerman	Cleveland	Florio
Anderson, Calif.	Cochran	Flowers
Andrews, N. Dak.	Cohen	Flynt
Annunzio	Coleman	Foley
Applegate	Collins, Ill.	Ford, Mich.
Archer	Collins, Tex.	Ford, Tenn.
Armstrong	Conable	Forsythe
Ashbrook	Conte	Fountain
Ashley	Corcoran	Fowler
Aspin	Corman	Fraser
AuCoin	Cornell	Frenzel
Badham	Cornwell	Frey
Bafalis	Cotter	Fuqua
Barnard	Coughlin	Gammage
Baucus	Crane	Gaydos
Beard, R.I.	Cunningham	Giaimo
Beard, Tenn.	D'Amours	Gibbons
Benjamin	Daniel, Dan	Gilman
Bennett	Daniel, R. W.	Ginn
Bevill	Danielson	Glickman
Biaggi	de la Garza	Goldwater
Blanchard	Delaney	Gonzalez
Blouin	Dellums	Goodling
Boggs	Derrick	Gore
Boland	Derwinski	Gradison
Bonior	Devine	Grassley
Bowen	Dickinson	Gudger
Brademas	Dicks	Guyer
Breaux	Dodd	Hagedorn
Breckinridge	Dornan	Hall
Brinkley	Downey	Hamilton
Brodhead	Drinan	Hammer-schmidt
Brooks	Duncan, Oreg.	Hanley
Broomfield	Duncan, Tenn.	Hannaford
Brown, Mich.	Early	Harkin
Brown, Ohio	Edgar	Harrington
Broyhill	Edwards, Ala.	Harris
Buchanan	Edwards, Calif.	Harsha
Burgener	Edwards, Okla.	Hawkins
Burke, Calif.	Eilberg	Hefner
Burke, Fla.	Emery	Heftel
Burleson, Tex.	English	Hightower
Burlison, Mo.	Erlenborn	Hillis
Butler	Ertel	Holland
Byron	Evans, Colo.	Hollenbeck
Caputo	Evans, Del.	Holt
Carney	Evans, Ga.	Holtzman
Carr	Evans, Ind.	Horton
Carter	Fary	Howard
Cavanaugh	Fascell	Hubbard
	Fenwick	Huckaby
Hughes	Mitchell, N.Y.	Sawyer
Hyde	Moakley	Schroeder
Ichord	Moffett	Schulze
Ireland	Mollohan	Sebelius
Jacobs	Montgomery	Sharp
Jeffords	Moore	Shipley
Jenkins	Moorhead, Calif.	Shuster
Jenrette	Moorhead, Pa.	Sikes
Johnson, Calif.	Mottl	Simon
Johnson, Colo.	Murphy, Ill.	Sisk
Jones, Okla.	Murphy, N.Y.	Skelton
Jones, Tenn.	Murphy, Pa.	Slack
Jordan	Murtha	Smith, Iowa
Kasten	Myers, Gary	Smith, Nebr.
Kazen	Myers, Michael	Snyder
Kelly	Myers, Ind.	Spence
Kemp	Natcher	St Germain
Ketchum	Neal	Staggers
Keys	Nedzi	Stangeland
Kildee	Nichols	Stanton
Kindness	Nix	Stark
Koch	Nolan	Steed
Kostmayer	Nowak	Steers
Krebs	O'Brien	Stokes
LaFalce	Oakar	Stratton
Lagomarsino	Oberstar	Studds
Latta	Obey	Stump
Le Fante	Ottinger	Symms
Leach	Panetta	Taylor
Lederer	Patten	Thompson
Leggett	Patterson	Thone
Lehman	Pattison	Thornton
Lent	Pease	Traxler
Levitas	Pepper	Treen
Lloyd, Calif.	Perkins	Trible
Lloyd, Tenn.	Pettis	Tsongas
Long, La.	Pickle	Tucker
Long, Md.	Pike	Udall
Lott	Pressler	Ullman
Lujan	Preyer	Van Deerlin
Luken	Price	Vander Jagt
Lundine	Pritchard	Vento
McClory	Pursell	Volkmer
McCormack	Quayle	Waggonner
McDade	Quie	Walgren
McDonald	Quillen	Walker
McEwen	Rahall	Walsh
McFall	Railsback	Wampler
McHugh	Regula	Watkins
McKay	Reuss	Waxman
Madigan	Rhodes	Weaver
Maguire	Richmond	Weiss
Mahon	Rinaldo	Whalen
Mann	Risenhoover	Whitehurst
Markey	Roberts	Whitley
Marks	Robinson	Whitten
Marlenee	Roe	Wilson, Bob
Marriott	Rogers	Wilson, C. H.
Martin	Roncalio	Wilson, Tex.
Mattox	Rooney	Winn
Mazzoli	Rosenthal	Wolff
Meeds	Rostenkowski	Wright
Metcalfe	Rousselot	Wydler
Mevner	Rudd	Wylie
Michel	Runnels	Yates
Mikulski	Ruppe	Yatron
Mikva	Russo	Young, Alaska
Milford	Ryan	Young, Fla.
Miller, Calif.	Santini	Young, Mo.
Miller, Ohio	Sarasin	Young, Tex.
Mineta	Satterfield	Zablocki
Minish		Zeferetti

NAYS—5

Bauman	Hansen	Seiberling
Davis	Mitchell, Md.	

NOT VOTING—46

Ambro	Dent	Rodino
Anderson, Ill.	Diggs	Rose
Andrews, N.C.	Dingell	Roybal
Badillo	Eckhardt	Scheuer
Baldus	Flippo	Skubitz
Bedell	Gephardt	Solarz
Beilenson	Heckler	Spellman
Bingham	Jones, N.C.	Steiger
Bolling	Kastenmeier	Stockman
Bonker	Krueger	Teague
Brown, Calif.	McCloskey	Vanik
Burke, Mass.	McKinney	White
Burton, John	Mathis	Wiggins
Burton, Phillip	Moss	Wirth
Chappell	Poage	
Conyers	Rangel	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further

consideration of the bill H.R. 7797, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, Wednesday, June 22, 1977, the Clerk had read through line 25 on page 11.

The Clerk will read:

The Clerk read as follows:

SEC. 113. Funds appropriated by this Act may not be obligated or expended to provide security assistance to any country for the purpose of aiding, directly or indirectly, the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PERFECTING AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. CONTE: On page 13, line 5, after "aiding," insert "or likely to have the effect of aiding,".

Mr. CONTE. Mr. Chairman, this is simply a minor perfecting amendment to make the language of section 113 of this bill, the general human rights provision, conform to that of section 19 of the International Security Assistance Act as passed by the House last May 24.

This change simply modifies language which I had inserted into the bill to prohibit security assistance not only where it would be for the purpose of aiding repressive activities, but also where it would have that effect.

The language which I had inserted omitted any reference to the likely effect of assistance. This amendment corrects that omission, and I hope that there would be no objection to its inclusion.

Mr. LONG of Maryland. Mr. Chairman, we have read the pending amendment. I might add that I am not quite sure what it accomplishes, but we have no objection to it.

So, Mr. Chairman, I would like to ask unanimous consent that all debate on this amendment be limited to 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. YOUNG of Florida. Mr. Chairman, reserving the right to object, I would like to ask the chairman of the subcommittee, the gentleman from Maryland (Mr. LONG), if the gentleman might be willing to withhold his request for just about a minute and perhaps we can resolve this in less than 10 minutes?

Mr. Chairman, I withdraw my reservation of objection.

Mr. LONG of Maryland. Mr. Chairman, I would be happy to withdraw my unanimous-consent request.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in a very brief colloquy with the gentleman from Massachusetts (Mr. CONTE), if he would, and ask him: As I read the amendment, it appears to me that this will actually give considerable strength to our declaration on human rights; is that his understanding and intent?

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

That is absolutely right. That was the purpose of this language when we discussed it in the subcommittee and also in the full committee. The gentleman is absolutely right when he says this will strengthen our stand on human rights.

Mr. YOUNG of Florida. I thank the gentleman for that statement and would like to say that I believe that we should have as strong a stand on human rights as we possibly can in this bill and one applied consistently to all nations—leftwing, rightwing, or middlewing. I am prepared to accept this amendment for the minority.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

As the author of this same amendment within the authorization bill, I applaud the purposes of the gentleman from Massachusetts, but I wonder how he is going to delineate what is likely to influence the question of human rights.

Mr. CONTE. If the gentleman from Florida will yield, I am sorry; I did not hear the gentleman. May I have the question again?

Mr. WOLFF. I would like to know how the gentleman from Massachusetts can delineate something which is likely to influence the denial of human rights.

Mr. CONTE. The purpose of this language is to give those who administer our assistance program a stronger hand in dealing with these countries. Although we might not intend our aid to be used for repressive activity, we might find in the middle of our program that it is having such an effect. The language I am proposing would mandate the termination of aid under such circumstances. This is exactly the same language as the gentleman put in the authorized bill.

Mr. WOLFF. Yes. If the gentleman from Florida will yield further, one thing that I was concerned with in introducing the amendment in committee was the question of a restraint on political activities within a country, to see to it that there was no restraint on political activities that this would engender.

Mr. CONTE. I do not understand that question. Would the gentleman state that again?

Mr. WOLFF. I do not want to infer with an amendment such as this that there is an intent to restrain political activities within a country.

Mr. CONTE. Legitimate political activities?

Mr. WOLFF. That is correct.

Mr. CONTE. Of course not, just the opposite. We want to encourage democratic processes, including all legitimate political activity.

Mr. WOLFF. I thank the gentleman.

Mr. YOUNG of Florida. Mr. Chairman, I accept the amendment and yield back the remainder of my time.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The perfecting amendment was agreed to.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 13, immediately after line 8, insert the following new section:

SEC. 114. None of the funds appropriated or made available pursuant to this Act shall be obligated or expended to finance, directly or indirectly, any assistance to Mozambique and Angola.

Mr. CRANE. Mr. Chairman, when the House passed the International Security Assistance Act (H.R. 6884) back on May 24, it included an amendment to the effect that no security supporting assistance funds could go to Mozambique, Angola, Tanzania, or Zambia except that the President may waive this prohibition if he determines that granting this aid would further the foreign policy interests of the United States. As the author of the first half of this amendment, I would like to suggest that it has two major weaknesses that we ought to correct in this appropriation bill.

The first weakness is that, due to the fact that more than one authorization bill is encompassed by this appropriation bill, simply cutting off security supporting assistance to these countries does not mean that they would not—or could not—be recipients of some other form of foreign aid—aid that could still be used indirectly to support guerrilla activities against Rhodesia. An example involves the United Nations Development Bank. Under terms of this bill the United States will contribute $120 million to that organization in fiscal year 1978 and, over the next 5 years, it intends to spend $18 million on Mozambique. Mozambique has received $25,000 in disaster assistance in fiscal year 1977 already—but I think the point is clear. Banning security supporting assistance is not enough to keep aid money from going to a cause inimical to our interests and to those of a peacefully negotiated settlement in Rhodesia.

The second weakness is the language giving the President the right to waive the ban on aid if he thinks it to be in the foreign policy interests of the United States. This language renders the prohibitions virtually inoperative. Moreover, it flies in the face of any exercise of congressional prerogatives in the foreign policy area. Those who opposed our involvement in Vietnam or Angola should, if they are to be consistent, oppose this waiver on the grounds that Congress should be the ultimate arbiter of our involvement. If circumstances change, and a better case can be made for aid, Congress can always pass a supplemental appropriation and, at the same time, lift any restriction on aid that may have passed previously.

To remedy these two weaknesses, I propose that we simply amend this bill to ban the use of any money in this bill for direct or indirect aid to Mozambique and Angola. My colleagues will note that Zambia and Tanzania are not included in this amendment as they were in the one offered May 24; this is to meet the objections of many who felt that Zambia and Tanzania did not fall into the same category as the other two nations and that it would be desirable to permit

greater flexibility in dealing with those nations. While I deplore Tanzania's support of guerrilla warfare against Rhodesia and Zambia's declaration of a "state of war" against Rhodesia, I will agree that they are not so Communist inclined as Mozambique and Angola, and I am willing to give them the benefit of the doubt if in turn we leave no doubt as to our unwillingness to aid the others. This, I gather, would go a long way toward meeting the State Department's objections while still making it clear that we are not about to encourage either bloodshed in, or Communist domination of, southern Africa.

Mr. Chairman, nothing has happened since May 24 to suggest that Mozambique and Angola are any less Marxist than they were then. Nor has anything happened to suggest that they are doing anything to stop Russian, Chinese, or Cuban advisers for training guerrillas or to cut the flow of Communist-produced arms to guerrillas. All they are doing is providing weapons, training, and sanctuary to guerrillas at the very same time the United States and Great Britain are trying to work out a peaceful settlement of the situation in Rhodesia.

Which brings me to a final point: What business do nations like Mozambique and Angola—or Tanzania, Zambia, and Botswana for that matter—have involving themselves in the internal affairs of other nations? Who, for example, but the Rhodesians themselves should say that Mugabe or Nkomo are more representative of the black majority than Bishop Muzorewa or someone else. Yet, it would appear that imposing Mugabe or Nkomo is exactly what these so-called front-line nations have in mind, illustrating once again that when they use the term majority rule they mean it in a racial sense but not a democratic sense. Needless to say, if the current administration's commitment to human rights is to mean anything, the United States should insist that both meanings of the term become applicable and the best way to do that is to discourage outside intervention and to let the Rhodesians decide matters for themselves. While some may think it too slow, progress has been made in that direction and one would hardly wish to trade it in for what might well turn out to be a regime no more committed to individual liberty and minority rights than that of Idi Amin. After all, President Machel of Mozambique has already gone on record as saying he opposes any guarantees for minority rights for whites.

Mr. Chairman, I could go on for quite some time, but rather than become repetitive let me simply say that my amendment prevents aid money from going where it has no business going without the specific, explicit approval of Congress. It prevents any confusion or misunderstanding and it reduces the possibility of prolonging the bloodshed and delaying the peaceful settlement of the Rhodesian question. I urge its adoption.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

It is difficult to rise in opposition because I do have some sympathy for the gentleman's cause. But let me point out that this amendment would provide maximum nuisance with minimum benefit.

There is no direct aid going to Angola nor to Mozambique from the United States, and there are no World Bank and no IDA loans going to those countries. There are only small African Development Fund, UNDP and UNICEF programs. UNICEF is for children, and children do not have much to do with communism. I would hope we do not do anything to hurt them in order to make a symbolic gesture, which is all this amendment seeks to do.

The situation is fluid and we would like to leave maximum freedom in the hands of the administration. This amendment represents another incursion into the charter of these banks and will make it very difficult to deal with the international banks and further imperil the future of multilateral bank help in international aid.

Mr. Chairman, I oppose the amendment.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

Once when the late Peter Marshall was Chaplain of the U.S. Senate he offered a prayer as follows:

> Lord, help us when we want to do the right thing and know not what it is, but help us most of all when we know perfectly well what it is and do not want to do it.

This amendment represents a temptation to slap out in a futile and frenetic way and express our displeasure at what has been happening in Mozambique and Angola. It does not do any good. It does some potential harm.

This amendment would make it impossible I think for the African Development Bank to accept any contributions from the United States because by the charter of that bank contributors are not permitted to earmark funds for one country or another. It would rob the President and the State Department and their emissaries to the bank of any opportunity to exert any influence on where the funds from the African Development Bank would go.

If we are denied from participating, it would rob us of any opportunity to exercise any benign influence upon the future course of events in Mozambique and Angola and thoroughout much of Africa.

Africa is a continent where volatile currents are aflow. Changes can occur. Shall we surrender what opportunity we may have to make an impact upon the future development of that continent?

Shall we by our withdrawal give to the Soviets and others the opportunity they so obviously seek to fill the void that our departure would leave? I think that is the question.

It may be attractive to go back and boast to our constituents that we lashed out in a strong and forceful way against Mozambique and Angola. While I do not like what is going on in Mozambique and Angola, either, I do want to retain for the United States some remnant of opportunity to influence the course of events in those countries. If we adopt this amendment, we sacrifice that chance. We throw it away. And it would not do any good to anybody anywhere on earth.

Mr. Chairman, I urge a no vote on this amendment.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, would not the gentleman agree that, for instance, in a case like Portugal, just a short time ago we faced the prospect of a government there with which we wanted nothing whatsoever to do and because of the change in events, we turned back rather quickly to a democratic government in that area. Would it not be silly for us to preclude the same kind of action on our part if there were to be a change of government in the countries referred to by this amendment?

Mr. WRIGHT. The gentleman from Wisconsin makes an excellent point. I think that point is absolutely essential to our discussion here today. If we adopt this kind of amendment, we will be withdrawing, in effect, from any opportunity to influence future events. If there should be a desirable change in Mozambique or in Angola, as has occurred very recently in Portugal, as the gentleman pointed out, we would have our hands tied. We could not help them. We would be unable to assist the forces of freedom that would be developing in those countries.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I think one could apply that same line of reasoning to Nazi Germany. We were able to respond at the end of the war once we knew that that menace to civilization was removed. We were able to provide for the rebuilding of that country.

Further, we have already established the precedent with respect to Uganda, Laos, Cambodia, and Vietnam, so there is nothing more involved here than applying the same principle to two African nations that have come under the control of the Soviet Union. They are the recipients of massive arms assistance by the Soviet Union.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. WRIGHT. Mr. Chairman, I simply want to say that it would be, indeed, consistent with what happened yesterday; but if we are just going to reach out and name one after another every country in the world with which we presently disagree—and that seems to be the course on which the gentlemen here are embarking—then we leave nothing to the State Department, we leave nothing to the President. We have taken away from him the exercise of any opportunity for foreign policy initiatives throughout the world. I do not think we want to do that.

I think what we did yesterday was wrong. I wish I had said it then, before that other amendment was adopted. I think it was very unfortunate. I think we made a mistake and I do not want to compound that mistake. We could rectify that error, at least in part by rejecting this present amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first, I want to comment on what my friend, the majority leader, just said. I am looking at the language. How the gentleman can refer to the Young amendment as an effort "futile and fanatic" escapes me. I think that his statement is a little bit of an overkill.

Mr. Chairman, I would like to make one additional point. It seems to me rather strange how we differentiate between the American taxpayers and foreign countries. I would point out that there is no American taxpayer, there is no American business, there is no American school or educational institution, there is no American group, association, poverty program, or legal service program that gets a dime of our money without what—rules, regulations, redtape, guidelines, quotas, or you name it. Oh yes, we follow the old adage of who pays the piper calls the tune when it comes to our own people.

Yet, when it comes to the foreign countries, give them what they want, the liberals in Congress say. Do not present a single guideline on their funds. Do not become involved in how the money is spent. What kind of a charade are we pulling around here? I ask you, What kind of a charade are we pulling? Every foreign country that comes before the taxpayers for money should have the same congressional guidelines, the same rules, the same regulations, that we enforce on the American taxpayers.

Now, where are the voices for the American taxpayers? What in the world has happened to us when we look at every foreign country in the world, and of course we do not agree with some of them, and just say open up the Treasury. I have listened to Secretaries of State, Republican and Democratic, and I have applied exactly the same standards—maybe even a little tougher standards to Republican Secretaries of State than I have to Democratic Secretaries of State—and some of us get a little tired when we hear a Secretary of State say, "Oh, we have got to have 130 different foreign policies for 130 different countries."

To that I say, baloney. The American taxpayers ought to expect a single standard to be applied as nearly as possible to all the countries of the world, just as we apply that standard to them.

Let me remind the Members that we are going to have a legal services program coming up after this particular piece of legislation. It will be full of guidelines, rules, and regulations, and yet we hear the majority leader and people on the other side of the aisle—and unfortunately, a few on this side of the aisle—say, "Oh, no, when it comes to these programs, give it to them, open up the Treasury, let them have it. Do not try to enforce any standards; do not try to become involved in any policy decisions."

The last point I would make is that I heard some of my colleagues on the other side of the aisle, particularly during the Vietnam war, say, "Congress has got to get back into foreign policy." Now, they say, "Oh, no, do not tie the President's hands." We had better tie the President's hands, whether it be a Nixon, a Ford, or a Carter, or we will have more Vietnams.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. CRANE. We have another precedent for this action, and it is based on the action taken here yesterday with respect to aid to Argentina. There is abundant evidence of the denial of human rights, political imprisonment, torture, and abuse that has taken place in both Mozambique and Angola. So, I think that whether this amendment is one that seemingly is out of phase with what liberals would normally embrace, it is not out of phase with the action taken on Argentina, and is in accord with the action this Congress took by an overwhelming vote yesterday.

Mr. ASHBROOK. I would further add that if this indeed is a mistake, if the gentleman from Texas is correct, I think the American people would treat it as one of the minor and less significant mistakes this Congress has made.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. ROUSSELOT. Is it not true that in Angola there are still present, in a substantial number, Cuban troops—approximately 12,000—and it is possible that if we did not adopt this restriction that the gentleman from Illinois has asked us to attach to this appropriation, that some of these funds could end up in the hands of Cuban troops present in Angola?

Mr. CRANE. Mr. Chairman, if the gentleman will yield further, after losing Argentina yesterday, perhaps the strategy is to win Cuba over today.

Mrs. BURKE of California. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr Chairman, a vote for this amendment will make it very clear that we have decided to let the Soviet Union unilaterally wield its influence alone in Africa, particularly in the countries of Mozambique and Angola. I think that it bears discussion whether or not we are willing to withdraw totally from these countries and say that we will make no attempt to have a presence in Angola and Mozambique indirectly. It should be emphasized we have no direct aid to these countries.

Originally, my understanding was that the gentleman planned to include Tanzania. I think that Tanzania provides us a really interesting example of what has happened in Africa. Perhaps one of the biggest fights in Tanzania came between the Chinese and the Russians as to who would be in control. The Chinese built a railroad, and thousands of Chinese came in to build the railroad. The Russians came in to build a road. They said, "We are going to get Tanzania," so they built a road. So today there is a railroad and a road. The Soviets are out, the Chinese are out, but do the Members know whose goods are traveling over that road? Approximately 90 percent of the goods which travel on that road are American-made goods. It is interesting to note what happens in some of these countries. They do not want to trade one master, a colonial master, for a Soviet master. But I would like to give them alternatives. We talk about taxpayers' money. The African Development Fund, is the only one in which these two countries will participate. They do not participate in the World Bank or any of the others.

Three percent is all we contribute to the African Development Fund. I would say that it is worth 3 percent, the small amount that we put in, to make sure that we can have some inpute to peaceful solutions to possibly violent conflict in southern Africa. I will say to the Members that I do not believe that Angola is totally going to be in the Soviet bloc irretrievably. I do not believe that Mozambique is there irretrievably. Mozambique admittedly describes itself as Socialist. But in terms of what this country is trying to do to bring about a peaceful settlement, the role of Mozambique is a linchpin. This is due to the high regard in which its President Somora Michele is held throughout the bulk of African countries. To slap Mozambique in the face by denying any possible developmental assistance through the World Bank would be akin to pulling the rug out from under our President. It is important to remember that Mozambique has gained a great deal of sympathy from recent Rhodesian invasions in its territory.

Mr. Chairman, I would now like to discuss Angola. I find that certain things which have happened in Angola have distressed me from time to time. But there is one thing that I find very interesting about Angola. Do the Members know who provides 85 percent of the money for the operation of the Government of Angola? Gulf Oil. And it seems to me that Gulf Oil believes that they can stay there and not pull out. I do not think that Gulf Oil is Communistic. I think they are probably one of those who are most dedicated to the idea of some of the things which usually are articulated by those who would support this amendment. I believe if Gulf Oil believes they have a good investment there that we should at least invest something to keep a foot in the door. If we keep a foot in the door we can compete in the world market to have more than one viewpoint and more than one alternative available.

We have no diplomatic recognition of Angola due to the presence of Cuban troops. Legally, it cannot receive U.S. assistance. It is important, however, that we remember the interests of U.S. oil companies—Gulf—in that country before we take a precipitous action that will deny future open doors to Angola.

The CHAIRMAN. The time of the gentlewoman from California (Mrs. BURKE) has expired.

(On request of Mr. CRANE and by unanmous consent, Mrs. BURKE of California was allowed to proceed for 2 additional minutes.)

Mr. CRANE. Mr. Chairman, will the gentlewoman yield?

Mrs. BURKE of California. I yield to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. I thank the gentlewoman for yielding.

Mr. Chairman, as the gentlewoman is aware, there is a source of funding for both Angola and Mozambique that goes vastly beyond the 3 percent to which she is referring, and that is the United Nations Development Bank, which has a projected $18 million in investment in Mozambique over the next 5 years and $10½ million in Angola.

I think there has been another point which has been raised which some clarification, too.

Gulf Oil does not view Angola as a desirable climate for investment. The Gulf Oil operation in Cabinda long antedates the Cuban takeover of the Angolan government with the backing of the Soviet Union. That happens to be the only functioning economic entity, thanks to the Soviet domination of Angola, and we cannot blame Gulf Oil if they continue to hang in there, because otherwise they are going to lose their total investment.

But if we speak to the people from Gulf Oil today, we would hear reassurances from them of the fact that they do not find Angola to be a desirable climate for investment and they are sorry that these events have come about.

Mrs. BURKE of California. Mr. Chairman, I have talked at length with the people at Gulf Oil, and their feeling is that they want to have a presence in Angola. They do not feel that the overriding consideration is who is in charge of the government, as long as that government will deal with them. That is their major consideration, because they have a valuable asset there.

I am not blaming Gulf Oil for that attitude. I am glad to see that they feel this way, because it appears that Gulf Oil is the only group of people we are going to be able to use as our representatives within that country.

We talk about the UNDP, and I think a distinction needs to be made between the UNDP and the kind of aid we are talking about here. The UNDP does not use moneys for these purposes; those moneys are not necessarily moneys that go to a country or to a government. UNDP moneys, in these countries are heavily composed of UNICEF funds. They are necessary because we know there is a great problem there of starvation and needs of refugees. With the kind of turmoil they have there, these funds are needed.

Mr. BAUMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the only issue at hand is how best to spend the precious few billion tax dollars, as some of my liberal friends describe $7 billion, that we have in this bill for aiding foreign countries. I believe we should have a voice in choosing those countries.

The gentleman from Illinois (Mr. CRANE) has offered an amendment that addresses itself in two specific instances to that very choice. Yesterday we heard a great deal of wailing and gnashing of teeth over the internal conditions of the police state in Argentina. Today we will hear similar descriptions regarding Nicaragua. We also heard a very eloquent address by one of our freshmen colleagues, the gentleman from Oklahoma (Mr. EDWARDS), regarding the double standard of judgment that is practiced daily, minute by minute in this Chamber, depending on the nature of the countries involved. We are repeatedly told, aid the leftist and Communist governments, cut off aid to anti-Communists.

So let us look at the nature of the two countries affected by this amendment.

First, consider Angola. Less than 2 years ago in this Chamber you voted to cut off military aid to the forces in Angola that might have established a democracy or at least a pro-Western government. As a result of that cutoff of U.S. aid, Angola fell to the Communists, and the present head of Angola is an avowed Communist, Augustino Neto. His troops have been armed by the Soviet Union. He has thousands of Cuban troops, who are the agents of the Soviet Union, in Angola to maintain his dictatorship. Fidel Castro was warmly received by him a few months ago. Only a few weeks ago Neto brutally put down an uprising in the capital city in which a great many people were killed. That brutality had to be used in order to maintain his dictatorship. An active anti-Neto force is still fighting his government from the bush country.

Angola also is serving as a base for Marxist military operations against Zaire, an ally of the United States. It is serving as a base for military operations against the Southwest African Territory allowing terrorists from the SWAPO group to attack that area, which will in a short time be allowed by the Republic of South Africa to attain self-rule. So we have this country, Angola, which we are now being asked to exclude from our aid, serving as a base for all these Communist and terrorist activities.

In comparison consider: Is Nicaragua or Argentina attacking their neighbors in South America? Yet those countries are being singled out for such cuts for far less reason. So, if we give Angola aid, we would only further this bloodshed and needless revolution.

Now, let us look at Mozambique. Less than 3 weeks ago refugees were fleeing from many areas of Mozambique. Samora Machel, the head of state in Mozambique, the refugees told the press, had had them arrested and incarcerated for months, one of them for the simple reason that he expressed his criticism of the government at a party at which Mrs. Machel was present. At her order, everybody at the party was imprisoned and sent to several reeducation camps for extended reeducation. We used to call such camps concentration camps in the old days when we fought the Nazis. At least six camps are known to exist in the country.

The refugees talked about the deplorable food that was given to them. They said that beatings were administered to them if even a word was uttered against the Government of Mozambique. They were made to perform hard labor for months with little sanitation or sleep. Thousands of others have suffered a similar fate and executions are not unknown.

Both of these countries are encompassed within the Soviet orbit. They are armed by the Soviets. We were told in this House less than 2 years ago that it was wrong for us to help them arm themselves when Portugal relinquished control and there was a chance of their establishing a democracy and staying with the West. Now you say we have an obligation to use our American taxpayers' money to finance and subsidize the further control of the Communists.

We will never have freedom in either of these countries or in any nation in southern Africa if we close our eyes to what is happening there. They are not going to appreciate any aid we give to these Communist governments, because the money will certainly go to prop up unpopular governments and finance guerrillas engaged in international warfare.

Yesterday the House refused to abolish the $100 million discretionary special African fund which the President can use to aid both Mozambique and Angola, and based on the Carter-Andrew Young African policy, such aid probably will be given.

Mr. Chairman, I ask, What kind of madness are we engaged in in this Chamber? It is very clear that if a standard for human rights is to be applied, we should apply it across the board. And Angola and Mozambique, both fail the test miserably.

Mr. Chairman, these repressive governments should not be aided; and we ought to adopt the amendment offered by the gentleman from Illinois (Mr. CRANE).

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I think the gentleman from Maryland (Mr. BAUMAN) made a mistake.

He does understand, does he not, that neither Mozambique nor Angola are members of the World Bank?

Mr. BAUMAN. I did not say they were members of the World Bank. I never mentioned it.

Mr. CHARLES WILSON of Texas. I thought the gentleman did. I am sorry.

Mr. BAUMAN. No, I did not.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CRANE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INVESTMENT IN INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury for the (1) first installment of the United States contribution to the fifth replenishment, and (2) the third installment of the United States contribution to the fourth replenishment as authorized by the International Development Association Act of August 14, 1974 (Public Law 93-373) $950,000,000, to remain available until expended.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Florida: On page 16, line 18: strike "$950,000,000" and insert in lieu thereof "$473,000,000".

Mr. YOUNG of Florida. Mr. Chairman, this amendment establishes the IDA contribution in this bill at last year's amount plus 10 percent.

Mr. Chairman, our colleagues in the House yesterday were very generous to me with respect to my active involvement in the discussion on this legislation; and I think they will be happy to learn that this is the last amendment that I will offer to this bill.

Mr. Chairman, this amendment goes to the very heart of the point that I have been trying to make in a day and a half now, and that is that it is time that the American people were involved in a dialog, a national debate, with respect to just what our future involvement in this business of foreign aid is going to be. It is time that we tell the American people just exactly what they are paying for and what they are getting for it. It is time that we let them know what IDA is, for example.

Mr. Chairman, how do you think our constituents would like to have the opportunity to get the kind of soft loan, which IDA provides to foreign countries. A soft loan on which they would pay nothing back for the first 10 years and then would repay the loan over the balance of a 40-year period, without any interest, just a small administrative handling charge?

Mr. Chairman, that is not a bad deal. I would imagine that over the last year or two, during some of the economic problems that our country has experienced, every one of us has had constituents, automobile dealers or builders or suppliers or whatever, who have come to us and said, "Congressman, why can't you help me get a loan from the Small Business Administration?" They could not get it because they were not eligible or there was no money available. Although their taxes go to support soft loans throughout the world through IDA. That is what happens through IDA. IDA is not the only soft-loan window of the various international banks.

Mr. Chairman, one of the tragedies in the economy of our own country is those low-income people who believe that the answer to their problems is more and more borrowing. They find someone to lend them some money, to give them a first mortgage or a second mortgage or a third mortgage; or they find a finance company which will consolidate their debts for them. Then, all of a sudden, they find that they are so deeply in debt that they cannot get out. They simply cannot get out.

Mr. Chairman, all of us know people like that.

The Wall Street Journal had a very interesting article on the 14th day of April of this year in which they reported concern about the debt of these developing countries. They related the story of how much debt these countries are getting into, which they are not going to be able to pay back.

What happens? Have we done these countries a favor by letting them get themselves to the point at which they are absolutely faced with international bankruptcy?

I do not think so.

I have an interesting comment from Secretary Vance that was delivered by him in a speech in Paris, France, on May 30, 1977, in talking about how much we do for the world. He said there should be a new international economic system.

Pay close attention to that.

I do not think that people of my district want to become part of a new international economic system at the expense of the stability of the American economic system. I believe in this national debate when we are talking about foreign aid we ought to find out just what Secretary Vance had in mind for this new international economic system because in that very same speech he told us it has not worked too well so far.

He said, in the very same speech, that in the last 2 years:

The United States through both private and official sources have provided capital transfers to the developing countries averaging 1 percent of our gross national product. But we know that even these transfers are no more than a beginning, and that they have not always been most usefully directed.

That is exactly what I said all through the day yesterday, that they have not always been most usefully directed.

And in that very same speech, just two paragraphs later, Secretary Vance said:

Let me be candid: Too many of our transfers, too much of our aid has not been intelligently directed to the purposes and priorities which will really make a difference in people's lives.

Mr. Chairman, I respectfully submit that this is the point that I made yesterday repeatedly, time after time after time.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. YOUNG of Florida was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. So, Mr. Chairman, what my colleague is saying is that during testimony before the Committee on Appropriations, there was no real justification for such a substantial increase. The gentleman's amendment would provide for an increase of roughly 10 percent over that of last year?

Mr. YOUNG of Florida. Ten percent over last year's appropriation.

The argument is that we have to meet our IDA 4 replenishment and our IDA 5 replenishment or we will be pikers in the eyes of the world.

The truth is that even the amount in this bill is not enough to meet our obligations under IDA 4 and IDA 5, there is not enough money there because the commitments are too high.

Mr. ROUSSELOT. What is the great emergency for all this amount of money that has to come out of the pockets of the taxpayers.

Mr. YOUNG of Florida. A lot of the projects there were financed by IDA in fiscal year 1976.

Mr. ROUSSELOT. Were these water projects?

Mr. YOUNG of Florida. Some of them were water projects.

Mr. ROUSSELOT. Where are some of these water projects located?

Mr. YOUNG of Florida. They are located in Egypt, Senegal, Somalia, Zaire, Afghanistan, Bangladesh, Burma, India, Nepal, Pakistan, and Yemen.

Mr. ROUSSELOT. These are water projects for countries that are already receiving substantial aid in other portions of this bill.

Mr. YOUNG of Florida. These are water projects.

Mr. ROUSSELOT. These water projects in foreign countries have been recommended by the administration that wants to cut off other water projects in this country?

Mr. YOUNG of Florida. The testimony would establish that.

Mr. ROUSSELOT. That certainly is very enlightening after we have heard from the same administration that it wishes to stop certain water projects in this country.

Mr. ASHBBROOK. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the gentleman from Florida (Mr. YOUNG) made a very eloquent presentation on IDA, and a very illuminating one, but I believe, in all honesty, that the gentleman may have left out one point on the point of reimbursement of IDA loans, the gentleman did not mention the fact that in many cases, even with these unusual easy terms the countries receiving IDA loans, they still come in and ask to be forgiven from paying them altogether.

Mr. YOUNG of Florida. That is correct. We have a hard time finding out much of anything about IDA. The officials of the World Bank did not come before us. When the Senate committee invited them to appear before them, they refused to do so. You cannot get an audit of the loans they have made. You cannot find out any of this type of information. You cannot attend their meetings when they are making these decisions.

The employees of the World Bank are getting as much as 57 percent more in salary than comparable employees in the U.S. Civil Service, and the salaries of these World Bank employees are tax free.

Do the Members realize that these people travel all over the world and they have even refused to give an accounting of the dollars that they have spent for their travel, or that of their wives when their wives were along, and usually they were. But they refused to give us this information. They refused to testify.

I just think that the American people deserve to be told what is happening in our foreign aid program through these

international banks. I think they ought to be told about it, and they should be consulted as to whether or not they believe this is the way for us to go. Then let the American people make the decision.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

Hopefully, these increases are temporary. That is why we have the increase which the gentleman from Florida objects to.

If we cut this appropriation, other countries are going to cut also. There is going to be a multiplier effect. Since this is the basic program to help the world's poor, we are going to be scuttling a very basic program of foreign aid. About 90 percent of IDA lending goes to countries with annual per capita income levels below $200. None of the recipient countries has a per capita income above $375 per person.

We are trying to help the poor. We are trying to get other countries to come in and help us so that we would not have to carry the whole load. If this cut takes place we will be sending a signal that we are cutting and that it is all right for them to cut way down. This is an amendment that offers a maximum nuisance.

I rise in opposition to the amendment, and I do hope it is defeated.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, first of all, let me say that I want to compliment the gentleman from Florida. This is his first foreign aid bill as the ranking minority member of this committee, and although I disagree with him on some of these amendments, I do want to compliment him. He has done his homework and he has handled himself well on the floor of the House. I think it augurs well for his tenure on this committee.

I am somewhat disappointed in the administration on some of these amendments, though, because they have not really done their homework, and they have not really informed the Members of the House how important it is to defeat some of these amendments.

Now let us discuss the cut that the gentleman from Florida is trying to make. This was a budget item sent up by Gerry Ford when he was President of the United States, and at that time I did not hear so many Members on this side of the aisle saying that we should cut it. The staunch opponents of foreign aid were out there, but outside of them, there were not many ready to knock the heart out of this program. I do not see why at this time with a new President we should be making this kind of a cut. It is very embarrassing to the administration. It is very embarrassing for a new President to come in here when a former President, his predecessor, had sent up a budget message for these funds to the Congress. President Ford made commitments, and these have been reaffirmed by a new President. Now this amendment proposes to go out and chop his legs off. I do not think the House is going to be that irresponsible today and do a thing like that. We have already done enough irresponsible things on these amendments, on human rights and restrictions on multilateral institutions.

At the request of the Congress, and especially the Appropriations Committee, the administration has signed up for IDA–V subject to appropriation. That means that the replenishment agreement does not go into effect until we appropriate the $800 million for the first installment. The remainder of the amount we finally decide on should go for past installments of the fourth replenishment for which we are in arrears.

IDA has disbursed more than 75 percent of its funds already to 28 countries where the yearly income for more than a billion people range from $60 to $130 per capita. That means between 16 and 35 cents a day.

The projects carried out by IDA are for the poorest of the poor. These are for people who do not have water to drink; these are for people who do not have sanitary facilities; there are people who do not have a proper diet or food; and these are people who go to bed every night with a hunger pang in their stomach. They suffer from thirst and sickness. The projects financed by IDA for water and for sanitation and for education are the things that really make a difference to these poor people of the world.

About 50 percent of our contributions to IDA are returned directly to the United States through procurement and local expenditures. Procurement of goods and services by the World Bank and IDA in the United States total $4.7 billion by the end of June 1976. In fiscal year 1976, IDA and the World Bank had a net favorable impact on the U.S. balance of payments of $555 million.

I wish there were more in the House at this time to hear that: The favorable balance of payments to the United States was $555 million. This not only does good for these poor people but it also creates jobs at home, right here in the United States.

In regard to these high salaries and all, I agree with the gentleman. And the administration is waging a vigorous campaign to contain excessive IFI salary increases. The World Bank has agreed to examine its lending policies, particularly its allocation of resources between the different regions of the world.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(By unanimous consent, Mr. CONTE was allowed to proceed for 3 additional minutes.)

Mr. CONTE. Mr. Chairman, increased emphasis is being placed on Africa. In Lesotho, emphasis is on labor-intensive projects to make that country less dependent on South Africa. In the Sahel, IDA is fighting river blindness and the effects of the drought. This is about the most effective financial institution we have, and I hope this amendment is soundly defeated.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman from Massachusetts for yielding.

The gentleman is fully aware that the amendment offered by our colleague, the gentleman from Florida, does not cut the guts out of anything. It is merely a restraint on a 100 percent increase in funding for IDA. Mr. YOUNG's amendment still would provide for a 10-percent increase on these "replenishment" funds.

I am on the Banking Finance and Urban Affairs Committee. We review the international financial institutions, as do the numbers of the Appropriations Committee. Time and time again we cannot get definitive information as to whether these projects are really coming on line the way we are told and that the dollars spent are really helping people who are thirsty, as the gentleman talks about. Some of these dollars do not reach people.

But even more important than that, in many cases, as the gentleman knows, these projects are funded by these international financial institutions with no pay-back requirement for the first 10 years. We cannot fund a water project in this country funded that way. We are bending over backwards to help these countries, and the difference in the two positions is less than $400 million. The gentleman from Florida is providing an increase of 10 percent. So no child will be left hungry because most of the dollars do not go for food production.

Mr. CONTE. Mr. Chairman, I refuse to yield further.

The gentleman from California knows that not everything is black and white. He makes a very logical argument here and he says there are no water projects in the United States funded that way, but there are also no people in the United States who are in such misery as those people in India or Bangladesh or Pakistan who are dying of starvation.

IDA has disbursed more than 75 percent of its funds to 28 countries where the yearly income for more than a billion people range from $60 to $130—that is between 16 and 35 cents a day.

I am well aware of the fact that we have domestic problems and poverty in this country—but nowhere do we have people earning less than $130 a year.

These people have nothing. They do not have enough food to eat. They do not have any water at all to drink. I'm trying to give them a little bit of food and medicine so they will not die.

Has the gentleman ever seen these people? We cannot compare their plight with conditions in our country. We have more domestic programs of food stamps, family assistance, housing, you name it. Nobody in the United States has to go to bed hungry at night. No one in the United States has to go without medication. No one in the United States has to go without water. What you are talking about are apples and oranges. There is no comparison and I urge the defeat of this amendment.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, given the limited number of people on the floor, I suppose it really does not make much sense to try to go through the history of this a little bit to explain for anybody who has not already made up his mind why we have this supposedly large increase in the U.S. funding.

The way it works is this. Every few years the countries who belong to IDA get together and they reach another agreement on the amount of contributions from every country into that fund. So we have slice one and slice two and slice three and slice four. We have now just negotiated slice five in Geneva. We have agreed that we will appropriate, subject to the appropriations process, $800 million a year; over a 3-year period, $2.4 billion.

We also faced the fact when we went into those negotiations we have been trying to get the U.S. share of that whole program reduced every year, and it has been reduced every year. We were faced with the fact that we were the only country in the world behind in our contribution schedules for the previous slice. So while the gentleman from California said this really does not gouge anything, that it is just a little old limiting amendment, the fact is that the gentleman knows better than that. The gentleman is on the Committee on Banking. The gentleman knows we have to provide at least $800 million to meet the obligation to IDA, slive five, or we will cause that entire negotiation to have to be redone.

We have gained a number of things out of the five IDA negotiations, including a reduction in percentage of the contribution from the United States, including an agreement that no one country would obtain such a huge amount of money out of that fund as India did in past years.

In addition to that, we are trying to maintain a small token commitment on IDA No. 4 to indicate we have not abandoned that slice of the package.

Here we are, the greatest country in the world, and we sit and we handicap our negotiators every time they go in because we are the only country in the world that has not lived up to the bargain on IDA. I just do not think that befits the dignity of this country. I think we ought to support the President of the United States, who has made a very sincere effort to obtain some rational dialog with the underdeveloped Third World.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, the gentleman has made a fine statement. I underwrite it.

Is it not true if we cut this by another half a billion dollars, as the gentleman suggests, that this will have a multiplier effect in causing every other contributing nation to make a significant reduction.

We are already underfunded, so this will have a maximum deleterious effect on foreign aid.

Mr. OBEY. Mr. Chairman, that is absolutely correct. We have a lot of good Yankee traders in this Congress. What would we do if some other major contributor to this fund was lagging far behind in its agreed contributions? We would not be very happy about it. If we made an agreement, as the other countries in IDA did, if we made an agreement and our contribution would be contingent upon some other country providing $800 million and they reneged we would be very unhappy and I think we would retaliate, as I am sure the other countries will.

Mr. Chairman, I want to read a paragraph from the President's letter which the majority leader read in part yesterday:

> It is of particular importance to obtain an appropriation for the International Development Association (IDA) as close as possible to my original request. We are deeply concerned with the Committee's recommendation to cut $225 million from that request. Any further reductions would be disastrous.

Mr. Chairman, indeed, it would.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. OBEY I yield to the gentleman from California.

Mr. ROUSSELOT. The gentleman is well aware, as I am, that our contribution to these funds is usually 25 to 30 percent. We are the highest contributor to these international funds of any other country.

Mr. OBEY. It is higher than that.

Mr. ROUSSELOT Well, all right. At one time, we were as high as 50 or 60 percent, so to make the claim that we are not doing our part, or have not done our part, is false. This country has contributed many billions of dollars to these international financial institutions.

Mr. OBEY. Our percentage contribution is down by 25 percent from the last slice, and the gentleman is going to mess up those negotiations.

Mr. WRIGHT. Mr Chairman, I rise in opposition to the amendment.

Let us put this in perspective, if we can. This bank is the institution that helps the poorest nations of the world. I think the gentleman from Massachusetts (Mr. CONTE) expressed it very well. These are people who go to bed hungry at night. These are people who lack potable water supplies. These are people who lack even the most rudimentary necessities of health care. These are people who surely ought to be the recipients of what charitable or humanitarian help we can give them in attempting to build the most basic infrastructures of self-generating development.

Two Presidents of the United States have made commitments to this bank. President Ford and President Carter both have made commitments. We have not lived up yet to the most recent of those commitments, replenishment number four. So part of this money is to catch up on the arrearage that we had committed and have not made, whereas every other country involved has made up its fourth replenishment. Now, that is not the position we want our Nation to be in. It is incompatible with our most fundamental principles of responsible behavior.

In addition to that, we have brought in the OPEC nations for the first time. They are making contributions to this bank as a result of our entreaties. Shall we, having done this through the skill and diplomacy of our two Presidents, President Ford and President Carter, now turn our backs upon them and slam the door? Shall we say to the other participants, "We are resigning from it. You fellows whom we have enticed into engaging in this enterprise with us are going to have to carry it on your own, because we in the Congress are hereby repudiating the good faith promises of our two Presidents?" I do not think we are going to do that.

Surely, this is an irresponsible amendment. Bear in mind that the committee already has reduced the President's request by $225 million. That is a substantial reduction. If the figure offered by the gentleman from Florida in this amendment were agreed to, we would be reducing the administration's request by approximately 60 percent; $473 million is only about 40 percent of what the administration initially requested. Surely, that is too big a cut for us to make. It would be an irresponsible act.

When the President of the United States, whether he be a Republican or a Democrat—whether his name be Ford or Carter, and in both cases it applies here—has made a commitment to help the poorest and neediest of the world, and has through that commitment encouraged others, including the OPEC countries, to join us in helping the poorest and neediest, it is not an act of statesmanship for the House then to abrogate the agreements made by both Presidents. We cannot have 435 Secretaries of State. It just will not work that way.

The gentleman from Massachusetts (Mr. CONTE) expressed it well. Let us demonstrate that our commitment to the future, the children of the poorest in the world, is not ended, and that we still stand for those good and decent things that this Nation has always exemplified.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will not take the full 5 minutes because I, like the gentleman from Wisconsin (Mr. OBEY), recognize the futility, particularly with the few Members we have present here.

On percentages I would like to point out a couple of things. One is that of the loans that are made, the United States receives a far greater percentage of the business that occurs than the U.S. contribution. Second, and I think really most importantly, among the donor countries, among the countries of the West and Japan which are donors to this particular program, the U.S. contribution as a percentage of its gross national product is among the very lowest of all of the donor countries. And we have continued to negotiate it even lower.

Finally, about the projects, I would like to relate an experience. This was a project funded by the Inter-American Bank but much like the projects which are funded by IDA. I was in Guatemala a month ago, and I went there to see some of these water projects which we have heard so much about. I was taken out to a rural community and I was shown a water project which served approximately 2,000 people, and it had been built with an American contribution of about $100 per person. A lady was up on the top of the mountain washing her clothes with the first fresh water she had ever had in her life. She was 50 years old. Other than this year, the water to wash those clothes had come from one mile away, straight down a ravine. I submit to the Members that that sort of thing is the kind of thing which makes one proud to be an American, with a compassionate foreign policy and a foreign policy which cares about others. But more than that, I submit that it is in the American interest that that woman not have to walk that mile for fresh water.

Mr. Chairman, finally, to my friends on this side of the aisle, I try to be reasonably consistent in my foreign policy votes. I do not believe in singling countries out. I believe in supporting the President of the United States. I supported President Nixon's foreign policy in every aspect, once the Vietnam war was over. When President Ford became President there was not a single measure which he sent up here which I did not support, including Turkey, the large appropriations for lending institutions, and all of the rest. I supported Henry Kissinger in every action he ever took. I think there is some merit to the Members of Congress to some degree being willing to subordinate some of our own prejudices, some of our own will, to support the President of the United States, the Secretary of State of the United States and the foreign policy of the United States.

Mr. DANIELSON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. It is obvious to the Chair that a quorum will not be obtained within the time limitation.

Therefore, the Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 368]

Akaka	Andrews, N.C.	Beard, R.I.
Anderson, Calif.	Ashley	Bedell
Anderson, Ill.	Baldus	Boland
	Barnard	Bonker
Brown, Calif.	Flippo	Runnels
Burke, Mass.	Ford, Mich.	Ruppe
Burton, John	Fraser	Santini
Burton, Phillip	Giaimo	Sawyer
Carney	Goldwater	Scheuer
Cederberg	Hagedorn	Seiberling
Chappell	Harsha	Shuster
Chisholm	Heckler	Sikes
Clausen, Don H.	Kemp	Solarz
Collins, Ill.	Leggett	Spellman
Conyers	Lundine	Stangeland
D'Amours	McCloskey	Steiger
Dent	McKinney	Stockman
Derwinski	Mathis	Teague
Diggs	Metcalfe	Udall
Drinan	Miller, Calif.	Volkmer
Duncan, Tenn.	Mitchell, Md.	Watkins
Eckhardt	Moakley	Wiggins
Edwards, Ala.	Moorhead, Pa.	Young, Alaska
Fish	Pike	
	Poage	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 7797, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 362 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The Speaker resumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on June 22, 1977, the President approved and signed bills of the House of the following titles:

H.R. 6206. An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Commercial Fisheries Research and Development Act of 1964.

The SPEAKER. The Committee will resume its sitting.

The Committee resumed its sitting.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL, 1978

Mr. KOCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment for many of the reasons so eloquently stated by my colleague, the gentleman from Texas (Mr. CHARLES WILSON), and yield to the distinguished majority leader the gentleman from Texas (Mr. WRIGHT).

Mr. Chairman, I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman for yielding.

This amendment now pending goes to the very heart of the principle concern expressed by President Carter in his letter of June 21 to the Speaker. Please bear with me as I read two paragraphs from that letter. The President says:

It is of particular importance to obtain an appropriation for the International Development Association (IDA) as close as possible to my original request. We are deeply concerned with the Committee's recommendation to cut $225 million from that request. Any further reductions would be disastrous.

It is important to realize that the committee already has reduced the President's request for IDA by $225 million. If this amendment, offered by the gentleman from Florida, were to be adopted, it would cut the President's request by approximately 60 percent. It would cut the legs from under his commitment and the commitment of former President Ford to participate in this Bank which helps the poorest of the poor throughout the world.

One other statement from the President's letter, wherein he says:

All other countries—

Now, please contemplate this:

All other countries have already made their full contributions to IDA IV, while the United States has contributed only half of the pledge. Any further reduction in the appropriation would give rise to serious doubts as to whether the United States intends to carry through on the contribution which it agreed in 1975 to make to IDA IV.

Mr. Chairman, that is the date. We made an agreement in 1975 when Mr. Ford was President of the United States. That agreement was reaffirmed by President Carter in his recent visit with heads of state. Because of his and former President Ford's commitment we have been able to get other countries, including the OPEC countries, to join in helping us to assist those peoples who do not have food to eat, nor pure water to drink, nor even the most rudimentary of health facilities.

This is not the place to cut. To agree to the amendment offered by the gentleman from Florida would be to render formal Presidential commitments meaningless. It would cut from under them the ground on which they must stand if they are to speak credibly for our Nation. It would repudiate them in the eyes of the world, and it would repudiate the historic commitment of this Nation to help the poor, to feed the hungry, to clothe the naked, and otherwise to assist in the development of those starved economies which need it the most.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, the distinguished majority leader has served under at least three Republican Presidents; is that correct?

Mr. WRIGHT. Mr. Chairman, if the gentleman from New York will yield, that is correct.

Mr. CHARLES WILSON of Texas. Mr. Chairman, if the gentleman will yield further, has the majority leader generally tried to support the policies of the President of the opposition party?

Mr. WRIGHT. Mr. Chairman, if the gentleman will yield further, in every instance I have.

Mr. CHARLES WILSON of Texas, Mr. Chairman, I thank the gentleman.

Mr. KOCH. Mr. Chairman, I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I would like to add to the majority leader's excellent statement the point that if we do not carry through with our commitments to the developing world, Saudi Arabia and others that control our oil prices are very likely to retaliate by increasing oil prices. They have made this clear in the meetings in Paris and elsewhere that they are watching our performance in this regard and their actions will be guided accordingly. The dollars we might save by this amendment would look like small change compared to what Americans would lose if oil prices went up by a substantial percentage.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

Mr. YOUNG of Florida. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, again we are hearing a lot of philosophic emotional arguments. That may be well and good and I think that it is appropriate for the gentleman to use whatever he can to persuade votes; but let us talk about some of the facts here.

The distinguished majority leader says that these dollars go to the poorest of the poor. Now, what is the fact about how much the poorest of the poor participate in these "soft loans".

In a memorandum from the Treasury Department of the U.S. Government, dated April 19, 1977, to the General Accounting Office, they say this:

The concessional rate of interest—

IFI soft loans—

to the development banks is substantially lower than the interest collected from the ultimate borrower.

Do the Members hear that? The concessional rate is only to the government. The ultimate borrower pays high interest rates. How high of an interest rate does that ultimate borrower pay? Let me suggest that in Colombia last year the borrowers paid up to 17 percent for these soft loans. In Guatemala, the poorest of the poor paid 12 percent to get the money IFI's are loaning to the government at no interest. In Mexico, they paid as high as 12 percent. In Peru, they paid as high as 14 percent.

The argument that soft loan money goes to the poorest of the poor needs explaining. It is not given to the poorest of the poor. When it is loaned to the poorest of the poor, they pay a high interest rate. The State Department goes on to say that they follow the principle that these benefits should accrue to the specific government concerned. They do not talk about the concessional benefits of these loans reaching the poorest of the poor. They talk about accruing to the benefit of the Government. That is our State Department and our General Accounting Office.

In this conversation we had a discussion about supporting our President. I would suggest, Mr. Chairman, that my position is as consistent today as it was under Gerald Ford and as it was under Richard Nixon. I think the foreign aid program is a disaster, and if the people of America find out how little they are getting for the money and how little the poor people are getting helped by this program, I think we would have somewhat of a political revolution on our hands.

Let me tell the Members what Cyrus Vance told a meeting in Paris in May of 1977. He said:

Too many of our transfers, too much of our aid has not been intelligently directed to the purposes and priorities which will really make a difference in people's lives.

Now, where is the consistency? That is the Secretary of State of this administration, and he is saying what I have said to this House now for a day and a half. I just cannot understand why we cannot get together and decide whether the President, through the majority leader, is telling the truth, or whether Cyrus Vance, the Secretary of State, is telling the truth. But, my friends, the people of America deserve the truth. They deserve to know what a soft loan is. They deserve to know what IDA is all about. They deserve to know that when we talk about the poorest of the poor, that 40 percent of the dollars in IDA go to India.

What has India done with the money? While India was using our money through IDA to do whatever they did with it, they were using their own funds—something like a sleight-of-hand transfer—to pay for Soviet airplanes and for Soviet tanks, and they developed the capability of exploding an atomic device, which they have done, and that certainly is not consistent with our policy of nonproliferation.

I think we really need to pay attention to the facts, and not a lot of philosophical rhetoric about what we should or should not be doing.

Now, let us talk about these commitments. This is really something else. Mr. Chairman, the chairman of our subcommittee has told us that these dollars are only temporary. Let me analyze that for a second. Yes, they are only temporary, he is right. The IDA IV cost to the U.S. taxpayer is $1.4 billion.

Yes, that was temporary, because they came back with IDA–V and our IDA–V commitment is $2.4 billion. Now hold on to your hats; when we get IDA–VI you bet this IDA appropriation is only temporary.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this bill would scatter across the face of the Earth over $7 billion of the taxpayers' money to many countries which would not lift their little finger to help us if the situation were reversed. This is an increase of $1½ billion over the foreign aid bill for the current year. If the money in this bill were trimmed and limited to Israel and certain other nations which have demonstrated their friendship for our Nation, I might feel differently and vote differently. But this is at a time when we are told that we cannot afford to provide employment for millions of our youths who walk the streets, who have worn out shoe leather seeking employment, only to be faced every place they go with a sign saying, "No Help Wanted." This is at a time when we are told that there is not sufficient money to take care of our elderly as they should be provided for, or to take care of our veterans of World War I, or the educational needs of our veterans of the Vietnam war.

It has been said that "charity begins at home." For these reasons, I must vote for this amendment and against the bill. If we truly want to balance the budget by 1981, here is the place to start. The former chairman of this subcommittee told me last year that $500 billion—one-half trillion dollars, if you will—of our total national debt could be attributed to the squandering of U.S. taxpayers' money since the beginning of the foreign aid program on a modest basis and a well-merited basis, under the Marshall plan, back in 1945. I say that it is time to stop this fritering away of billions of dollars of American taxpayers' money.

Mr. Chairman, I think we should vote not only for this amendment, but also against this bill.

Mr. HUGHES. Mr. Chairman, will the gentleman yield at that point?

Mr. ALLEN. I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I commend the gentleman from Tennessee for his fine statement. I associate myself with his remarks.

Mr. Chairman, it is with deep regret that I must also oppose final passage of H.R. 7797, the foreign assistance appropriations bill for fiscal year 1978, even if this amendment passes.

I had hoped that this year, I would be able to support the foreign assistance appropriations measure, but upon closer scrutiny, I find it impossible. I am not opposed to the basic concept of foreign assistance and I feel that the United States has an obligation to participate fully in world events. But, what I do find objectionable, is the way in which we, as Members of Congress, find this appropriations bill presented to us.

The commingling of the economic aid and military assistance credits of this legislation is neither wise nor advisable. For far too long, Congress simply abrogated its responsibilities as a coequal partner of the Executive in setting forth a workable and realistic foreign affairs policy for the United States, which we all recall as one of the most wrenching periods of time in our recent history. Fortunately, the situtation is changing, but I am afraid the changes are not occurring as rapidly as I would like. One of the best ways in which to insure more equal footing for Congress in the decisionmaking process is to separate the economic aid from the military assistance, by requiring two separate measures so that each of these concepts could be explored thoroughly and independently.

Mr. Chairman, I am also forced to speak against the deaccentuation of our bilateral commitments in favor of multilateral commitments. In my estimation, this will be a costly mistake, both in emphasis and in dollars. If we are to fund these multilateral organizations in such a generous fashion, we will be providing a goodly number of our dollars to several nations such as $44 million to Vietnam, $30 million to Uganda, and $42 million to Ethiopia. The Appropriations Committee has specifically denied direct aid to these countries with the exception of Ethiopia. To turn around and hand these nations, whose governments are so antithetical to the United States, vast sums in "indirect aid" defies logic. We can no longer afford to abrogate our responsibility over these multilateral aid programs. Clearly, we need to have some sort of handle on our international commitments. The American people deserve no less than an honest accounting of how their money is expended.

The other provision of the bill that I find so difficult to accept is the section of the bill dealing with water projects. In the light of what the Congress has been through this year on the subject of water projects, it seems incongrous that we are funding water projects around the globe at the same time we are cutting back at home. This is just another example of confused priorities.

Perhaps the most difficult thing for me to do is cast my vote against the bill for it does contain $785 million in supporting assistance for Israel, in addition to $1 billion in foreign military credits, half of which will be repaid to the United States. Israel both needs and deserves these funds. This is a most poignant example of the need to separate these programs on the basis of issue so that I and those colleagues who share this reasoning will not be placed in the same box again next year when we go through the appropriations process.

Mr. Chairman, I yield back the balance of my time.

Mr. LONG of Maryland. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. LONG of Maryland. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 99; noes 24.

So the motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. TSONGAS).

Mr. TSONGAS. Mr. Chairman, the next few years and the next few decades are going to deal almost exclusively in terms of our relations with the third world.

We went through that in the 1960's, and we spent $150 billion for carrying on the war in Vietnam. The appropriations for those moneys sailed through the Congress, and there were many people killed in that war.

But now we are dealing with people in terms of food, with people in terms of clothing, and with people in terms of housing and an infrastructure to provide a reasonable standard of living. Yet we have all this difficulty.

Mr. Chairman, I think we will continue to have to deal with the Third World and the Fourth World. This is the vehicle by which we can accomplish that. If we turn our backs on the IDA soft-loan window, I think that would be a mistake, and it would be a mistake that is going to come back to haunt us in the future.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I urge strongly that the Members cast a no vote on this amendment.

It has been said that this amendment does not cut the guts out of this bill. It does not, of course. But it does cut the guts out of a lot of poor people in a developing world. We do not pull the wings off flies with this amendment, but we do keep the water from the lips of the thirsty, we take the food from the stomachs of the starving, and we take the medicine from the sick.

Mr. Chairman, I say that we must meet our responsibilities, just as President Ford did when he recommended this money. Let us knock down this "flat world" amendment and go on and meet our responsibilities as Americans should.

Mr. YOUNG of Florida. Mr. Chairman, I would just like to say that the Food for Peace program that feeds the hungry people in the world is not in this bill. That is a phony argument. It is a good argument, but the fact is that it does not relate to this bill.

I am not talking about food and medicine in this particular amendment, and we are not talking about Food for Peace in this bill. The Food for Peace program comes up under an entirely different piece of legislation. The argument that this relates to food and medicine is just something that is thrown in to confuse the issue.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, this amendment is merely a restraint on a 100-percent increase. The gentleman from Florida (Mr. YOUNG) calls for a 10-percent increase over what our U.S. Treasury turned over to IDA last year.

We are carrying our fair share of this IDA burden. We put in 30 percent, and at one time we put in as much as 60 percent of these funds. We are certainly doing our part. We always have—more than our part.

This amendment is no great "gut cutter," although one of my colleagues tried to say it was. It does not relate to food or medicine. There are no loans made from IDA for that purpose. That is a phony argument.

The amendment does relate to water projects and other public works projects. We came into this body the other day and cut out water projects here in America, and they were water projects on which they would have had to pay the normal interest rates. In many cases under IDA these countries get loans with no interest or principle paid for 10 years.

Mr. Chairman, I say that this is a reasonable increase, this 10-percent increase for which my colleague, the gentleman from Florida (Mr. YOUNG), has asked. We should support the amendment. It is a reasonable restraint on an unwarranted increase.

The CHAIRMAN. The Chair recognizes the gentlewoman from Nebraska (Mrs. SMITH).

Mr. YOUNG of Florida. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, before the Committee on Rules the other day, the gentleman from California (Mr. SISK) made some comments about the unusually large size of this bill.

The chairman of the subcommittee, the gentleman from Maryland (Mr. LONG), said to the gentleman from California (Mr. SISK) as follows:

> Let me say I share the gentleman's feeling. I am appalled, too, by the size of it. Partly, this is due to the fact these are multilateral institutions.

He goes on to say in the next paragraph as follows:

> I don't like multilateral institutions. It is back door foreign aid, getting it out from under congressional control.

Mr. Chairman, that is what the chairman of our subcommittee said about the multilateral institutions, the international banks. This is a transcript of the hearing before the Committee on Rules, I say, for those who would like to read it.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, the gentleman from California bleeds all over the floor because we are providing very low interest rate loans, but the gentleman from Florida (Mr. YOUNG) takes the other side of the street and says that these people are being charged outlandish rates of 18 to 20 percent, the fact is that if they had to pay the going rates in their own countries, they would have to pay upwards of 50 percent in some instances.

Mr. Chariman, let me also make quite clear again that this is a gutting amendment. We are the only country in the world which has not paid what we said we would pay on IDA slice IV, under the new negotiations, on which our share drops from 40 to 31 percent.

Mr. Chairman, we would be precluded from participating in that agreement because there would not be enough money in this bill to provide for that share. That would require a total renegotiation of IDA slice V, which makes no sense whatsoever.

Mr. Chairman, I would strongly urge a "no" vote on the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

I would like to read just one more piece from the transcript of the hearing before the Committee on Rules.

I refer to discussions concerning water projects in the United States, with some of them not being funded, and how some of these dollars will go for similar water projects in other parts of the world.

At the hearing I made a comment about that.

The gentleman from Maryland (Mr. LONG) replied by saying:

> The financial banks are basically public works institutions. I don't think it is right just to be moving in that direction.

Mr. Chairman, that is the statement of the chairman of the subcommittee, which presents this bill today, in his testimony before the Committee on Rules.

Mr. BAUMAN. Mr. Chairman, I would only add that the taxpayers of the United States since 1946 have spent upwards of $200 billion on foreign aid. The gentleman simply asks us not to double this one program this year, but to hold down the increase, under his amendment, to 10 percent over last year.

Mr. Chairman, I think that is a reasonable request on behalf of the American taxpayers, considering the taxes they have to pay.

The CHAIRMAN. The Chair recognizes the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Mr. Chairman, I know that the gentleman from Florida (Mr. YOUNG) did not mean to misrepresent anything to this body.

However, he has listed a number of interest rates all of which refer to countries from Latin America. Latin America gets no more than 3 percent of the money under IDA.

Perhaps the gentleman was reading from data from the Inter-American Development Bank.

Another thing I would like to clarify, Mr. Chairman, because we know where this money goes, is that 43 percent of it went to India. I think India is a good example of what happens to a very poor country, but where we see the kind of development that took place over the last 3 years. We saw, first of all, a change in the economic condition of that country; and we saw a change in the political leadership of the country. Whether we agree with or disagree with it, IDA funds have an impact; and we only contribute one-third to that fund.

Therefore, I ask, Why should we not pay the money we committed?

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I am going to vote against this bill, H.R. 7797, foreign assistance appropriations. Although I supported and voted for the economic aid and military assistance authorization bills passed earlier, and although there are a number of items in the bill I specifically endorse and support, such as security assistance funds for the Middle East, especially to Israel. I cannot support the committee in its decision to increase the funding to international financial instittuions by the large amount proposed.

I wonder if the members realize that fully one-third of the funds appropriated in this bill, $2.1 billion out of some $7 billion total, is allocated for six international banks. This is an increase of $981.5 million—86 percent over last year's appropriation in this area. There are a number of disturbing aspects to this allocation. First of all, these institutions continue to make loans to countries where serious human rights violations occur, in contradiction to our stated policy of not providing aid to such regimes or of trying to negotiate for improvements. Second, it is well documented that this type of assistance rarely reaches the needy, being concentrated on capital intensive projects. Third, the salaries of international bank officials have risen to inordinate levels. And fourth, with bank loans increasing by such a huge percentage, the question arises as to whether the banks can effectively administer the projects they fund.

But most of all, Mr. Chairman, I am concerned about what this increase portends in terms of congressional and U.S. control over the use of our funds. When fully one-third of our foreign assistance goes to international banks, that means in essence we are moving toward abandonment of the concept of bilateral, nation-to-nation aid toward a multilateral, "third-party" approach, with the loss of direct control that implies.

I do not think the U.S. taxpayers realize this is happening, and I do not think they would like it if they did. We have very little control or oversight over how multilateral funds are spent—in fact audits of loans are not available.

Mr. Chairman, in view of the fact that this bill almost doubles the level of funds for such programs, and the administration has asked for even more, I am going to vote "no," and I urge my colleagues to do likewise.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, the gentlewoman from California (Mrs. BURKE) was absolutely correct, the interest figures that I read were from the Inter-American Development Bank. But they were in response to the general comments made by the majority leader on all of the international banks, and I used this example in response.

Mrs. BURKE of California. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I did not attempt to mislead the House. Those figures were from the Inter-American Development Bank but they are a part of the international financial institutions that we are talking about today.

Mrs. BURKE of California. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentlewoman from California.

Mrs. BURKE of California. Mr. Chairman, just to clarify this, I think the gentleman should say to this House that he was quoting figures that did not apply to the bank under consideration by the amendment that was before the House.

Mr. YOUNG of Florida. If the gentleman will yield further, my remarks applied to the comments that were made involving the general subject of international financial institutions.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

Mr. WRIGHT of Texas. Mr. Chairman, I ask unanimous consent that I may be permitted to yield my time to the gentleman from Texas (Mr. GONZALEZ).

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GONZALEZ. Mr. Chairman, I do hope that on this occasion the Members of the House will somehow transcend some of the obvious distortions presented this afternoon against this funding which reflects the accumulated responsibilities that our Government has pledged, particularly during the immediate past two Presidents.

The debate makes it look as if we are doubling the request when, in effect, it is complying with a pledge originally entered into by our two prior Presidents and which we supported, and did so against the same arguments presented here.

We have heard the same arguments against IDA every time the replenishment question comes up. I hope the House will respect the recommendations of the committee.

The CHAIRMAN. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. I rise in opposition to the amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I thank our distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), for yielding to me.

Continuing with what I was saying, Mr. Chairman, I believe that it is not fair to present distorted arguments, very ingeniously woven in to make it look as if some facts are so that are not facts but are misstatements of facts.

Some of the interest rates used by the gentleman from Florida, (Mr. YOUNG) were adroitly presented as if they were the interest rates being paid for these concessional loans. That is not true.

For example, the gentleman mentioned Mexico. Mexico did not make any loans from IDA lately so there is no such thing as Mexico paying 13 percent in comparison with what it trickles down to to those who are supposed to be poor.

As a matter of fact, what the gentleman was quoting were the private, ongoing market rates on interest charges which historically and proverbially have

always been higher in these countries as compared to ours.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, we are having a very interesting constitutional argument. We keep hearing the proponents of IDA talking about what we have said we would pay to IDA. Let us be specific about it, it is what the President of the United States committed, not the Congress but the President.

As I understand the Constitution, as I understand what has been developing over a period of years in this body, we are trying to maintain some separation of power on the discharge of our constitutional obligations. Where did we get the idea that the President can commit us? Do we cede the appropriation process to him so he can promise whatever he wants?

Let us look at the question.

It all depends, it seems, on what our President has committed us to. For instance, we have witnessed many amendments that took away the discretion of the President, and some of the Members now speaking voted to take away that discretion because they did not happen to like it. Now they use the opposite arguments here, they say it is a test of our commitment to the President to give him what he wants. Soon the test of how much we want to back him up will be how much we want to up the ante each year. I think we all can understand what is happening here.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, we are talking about a multilateral institution here; we are not talking about bilateral aid. In bilateral aid we can argue on the House floor that we should give 10 percent more than we gave the previous year, but no more. But here we are talking about a situation where a number of countries of the world, 23 in number, have gotten together, and they have agreed upon, not only a specific overall dollar amount, but a percentage figure for each country. The United States has been given a certain percentage figure. It is a lower percentage figure than previous formulas. Every single penny of the amount that has been requested by the administration is necessary in order to reach the U.S. fair share or percentage figure. Should the United States not honor that percentage figure, all the other nations would think that they, too, could lower that amount. As a matter of fact, they have said, "Because you are the one nation out of 23 that has not honored your commitment to the fourth replenishment, we, insofar as the fifth replenishment is concerned, are going to want to see 100 percent of your percentage appropriated."

If we appropriate 50 percent of our percentage figure, and that is the effect of this amendment, then every other nation will reduce their contribution by that same percentage. The United States will then have taken the lead in undermining the very institution it worked so hard to create and the financial agreement it worked so hard to arrange.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I am sure the gentleman from Texas (Mr. GONZALEZ) did not intend to suggest that I was purposely distorting anything. I would invite the gentleman to come and look at the facts and figures I have used throughout this entire debate. They are documented. It is not something I made up; it is information provided me by official agencies of the Government of the United States. I am sure the gentleman did not mean to suggest I was intentionally distorting.

The comments of the gentleman from New York are very, very interesting. The gentleman talks about how we are given a percentage to meet. That is one of the big problems I have with this proposal. Who gives us the percentage? Who makes our commitments? They sit around in Paris or Geneva or Vienna, or someplace like that, and somebody gives us a percentage. Somebody makes a commitment. None of those people were elected to the Congress of the United States who has the constitutional responsibility and authority to commit American dollars. The commitments are not made by U.S. Representatives or Senators. We are in fact presented with a financial commitment and told to appropriate it or risk being embarrassed in the world.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I oppose the amendment. Keep in mind that the committee already cut this IDA appropriation by approximately one-quarter billion dollars. If any further cuts are made, other nations are sure to follow, and the key element of this program, helping the poor, will be gutted. This amendment is irresponsible and I urge that it be defeated by a wide margin.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. YOUNG).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. YOUNG of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 233, not voting 25, as follows:

[Roll No. 369]

AYES—175

Abdnor	Broyhill	Daniel, Dan
Allen	Burgener	Daniel, R. W.
Anderson, Calif.	Burke, Fla.	Davis
Andrews, N. Dak.	Burleson, Tex.	Derrick
Applegate	Butler	Derwinski
Archer	Byron	Devine
Armstrong	Carter	Dickinson
Ashbrook	Chappell	Dicks
Badham	Clausen, Don H.	Dornan
Bafalis	Clawson, Del	Duncan, Tenn.
Bauman	Cleveland	Edwards, Ala.
Beard, R.I.	Cochran	Edwards, Okla.
Beard, Tenn.	Cohen	Emery
Bennett	Coleman	English
Bevill	Collins, Tex.	Erlenborn
Brinkley	Corcoran	Ertel
Brooks	Cornwell	Evans, Ind.
Broomfield	Coughlin	Fish
Brown, Ohio	Crane	Fithian
	Cunningham	Flowers
		Flynt
Fountain	Lagomarsino	Rose
Frey	Latta	Rousselot
Fuqua	Lent	Rudd
Gammage	Lloyd, Tenn.	Runnels
Gaydos	Lott	Russo
Gibbons	Lujan	Santini
Gilman	McDonald	Satterfield
Glickman	McEwen	Schulze
Goldwater	Madigan	Shipley
Goodling	Mann	Shuster
Gradison	Marlenee	Sikes
Grassley	Marriott	Sisk
Guyer	Martin	Skubitz
Hagedorn	Michel	Smith, Nebr.
Hall	Milford	Snyder
Hammer-schmidt	Miller, Ohio	Spence
	Mitchell, N.Y.	Stratton
Hansen	Montgomery	Stump
Harsha	Moore	Symms
Heckler	Moorhead, Calif.	Taylor
Hillis		Thone
Holland	Mottl	Traxler
Holt	Murphy, Ill.	Treen
Hubbard	Murphy, Pa.	Trible
Huckaby	Myers, Ind.	Vander Jagt
Hughes	Nichols	Volkmer
Hyde	O'Brien	Waggonner
Ichord	Panetta	Walker
Ireland	Pettis	Walsh
Jeffords	Pickle	Wampler
Jenkins	Pressler	Watkins
Jenrette	Quayle	Whitehurst
Johnson, Colo.	Quillen	Whitten
Jones, Tenn.	Regula	Wilson, Bob
Kasten	Rinaldo	Wilson, C. H.
Kelly	Risenhoover	Winn
Kemp	Roberts	Wydler
Ketchum	Robinson	Young, Alaska
Kindness	Rogers	Young, Fla.

NOES—233

Addabbo	Fenwick	Markey
Alexander	Findley	Marks
Ambro	Fisher	Mattox
Ammerman	Flood	Mazzoli
Andrews, N.C.	Florio	Metcalfe
Annunzio	Foley	Meyner
Ashley	Ford, Mich.	Mikulski
Aspin	Ford, Tenn.	Mikva
AuCoin	Forsythe	Miller, Calif.
Badillo	Fowler	Mineta
Barnard	Fraser	Minish
Baucus	Frenzel	Mitchell, Md.
Bellenson	Gephardt	Moakley
Benjamin	Giaimo	Moffett
Biaggi	Ginn	Moorhead, Pa.
Bingham	Gonzalez	Moss
Blanchard	Gore	Murphy, N.Y.
Blouin	Gudger	Murtha
Boggs	Hamilton	Myers, Gary
Boland	Hanley	Myers, Michael
Bolling	Hannaford	Natcher
Bonior	Harkin	Neal
Bonker	Harrington	Nedzi
Bowen	Harris	Nix
Brademas	Hawkins	Nolan
Breckinridge	Hefner	Nowak
Brodhead	Heftel	Oakar
Brown, Mich.	Hightower	Oberstar
Buchanan	Hollenbeck	Obey
Burke, Calif.	Holtzman	Ottinger
Burlison, Mo.	Horton	Patten
Burton, John	Howard	Patterson
Caputo	Jacobs	Pattison
Carney	Johnson, Calif.	Pease
Carr	Jones, N.C.	Pepper
Cavanaugh	Jones, Okla.	Perkins
Cederberg	Jordan	Pike
Chisholm	Kastenmeier	Preyer
Clay	Kazen	Price
Collins, Ill.	Keys	Pritchard
Conable	Kildee	Pursell
Conte	Koch	Quie
Conyers	Kostmayer	Rahall
Corman	Krebs	Railsback
Cornell	Krueger	Rangel
Cotter	LaFalce	Reuss
D'Amours	Le Fante	Rhodes
Danielson	Leach	Richmond
de la Garza	Lederer	Rodino
Delaney	Leggett	Roe
Dellums	Lehman	Roncalio
Dingell	Levitas	Rooney
Dodd	Lloyd, Calif.	Rosenthal
Downey	Long, La.	Rostenkowski
Drinan	Long, Md.	Roybal
Early	Luken	Ryan
Eckhardt	Lundine	Sarasin
Edgar	McClory	Scheuer
Edwards, Calif.	McCormack	Schroeder
Eilberg	McDade	Sebelius
Evans, Colo.	McFall	Seiberling
Evans, Del.	McHugh	Sharp
Evans, Ga.	McKay	Simon
Fary	Maguire	Skelton
Fascell	Mahon	Slack

Smith, Iowa	Tsongas	Whitley
Solarz	Tucker	Wilson, Tex.
Spellman	Udall	Wirth
St Germain	Ullman	Wolff
Staggers	Van Deerlin	Wright
Stanton	Vanik	Wylie
Stark	Vento	Yates
Steed	Walgren	Yatron
Steers	Waxman	Young, Mo.
Stokes	Weaver	Young, Tex.
Studds	Weiss	Zablocki
Thompson	Whalen	Zeferetti
Thornton	White	

NOT VOTING—25

Akaka	Diggs	Ruppe
Anderson, Ill.	Duncan, Oreg.	Sawyer
Baldus	Flippo	Stangeland
Bedell	McCloskey	Steiger
Breaux	McKinney	Stockman
Brown, Calif.	Mathis	Teague
Burke, Mass.	Meeds	Wiggins
Burton, Phillip	Mollohan	
Dent	Poage	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Akaka against.

Mr. Breaux for, with Mrs. Burke of Massachusetts against.

Mr. HYDE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 505. None of the funds appropriated or made available pursuant to this Act shall be used to provide military assistance, international military education and training, or foreign military credit sales to the Governments of Ethiopia, Nicaragua, and Uruguay.

AMENDMENT OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHARLES WILSON of Texas: On page 20, line 21, of the bill, in section 505, delete "Nicaragua".

Mr. CHARLES WILSON of Texas. Mr. Chairman, this amendment is very simple. It simply reinstates Nicaragua as a recipient of U.S. military assistance.

First of all, the most important point which needs to be made is that, in my judgment, Nicaragua is not a gross violator of human rights. Nicaragua's main sin seems to me to be that it is friendly to the United States. What is the situation in Managua? The largest newspaper in Nicaragua, La Prensa, is in vigorous opposition to the Somoza regime. In any country which we think of as being in gross violation of human rights we very seldom see a vigorous, large, major newspaper that is anti the President. But there is active opposition to the President of Nicaragua. The last election there was monitored by the Organization of American States. The very people who helped my good friend from New York orchestrate the case against human rights in Nicaragua are now back in Nicaragua continuing their opposition to the government.

How many countries can we think of that are accused of being in gross violation of human rights would allow their people to come to the United States, testify against their country, and then go home and remain free? Certainly that does not fit my description of a country that violates human rights, nor that of most Members.

We did have some Catholic priests making allegations, and we had a bishop's letter of some sort that alleged great violations of human rights there. I am suspicious of this, however.

In my district I have 500,000 white Protestants, mostly Baptists; I have 100,000 black Protestants, mostly Baptists. As a result of this and as a result of only being exposed to Protestant preachers and in many cases to evangelists, I became very suspicious of radical preachers as a very young boy. Since I came to Washington I have expanded that suspicion to include radical rabbis, radical priests, and radical Korean gurus. We should rely on our own State Department and not on religious opinion in these matters, especially whe religious opinion has a stake in the results.

Before the present government took power in Nicaragua, the church was much more powerful and the church owned much more land.

It has been said by my friend, the gentleman from Wisconsin (Mr. OBEY), that the gentleman from New York (Mr. KOCH) has indeed made a case against Nicaragua, in fact a compelling case against Nicaragua. I submit to the Members that any Member of this House can make a compelling case against any country on this Earth. No one is perfect, no one is pure.

I would like to show the Members some things I would use if I were making cases against people that I did not particularly like for one reason or another. I could show the police in Houston pictured as "brutal and unchecked." But my friend, the gentleman from New York (Mr. KOCH), could say, "What would you expect from barbarians such as those?"

And so in addition to that, I might say to my friend, the gentleman from New York: "Attica—a premeditated massacre. They came to Attica to kill and to torture—Attica where time ran out."

The recipient countries of about one-third of the funds in this bill have also been accused of violations of human rights. Israel is pictured as an "occupier, using excessive force, and enforcing strict security." This resulted in a 5-month investigation where reporters have shown that Israeli interrogators routinely mistreat and often torture Arab prisoners.

That is not true. I have been there many times, and I know it is not true. The Israeli occupation of the West Bank is probably the most humane occupation in the history of civilization. Just because some reporters who wanted to write a story said it violates human rights does not make it true.

In the same light, because some dissident bishop came up here and said these things about Nicaragua does not make them true.

On the international scene there are over 100 countries, that are said to be violators of human rights, and money for many of them is contained in this bill. We should not single out one country, and if we are going to single out one country, we should not single out one of our best friends in this hemisphere.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman for his statement. I certainly concur with it, and I go back to the gentleman's initial point.

The gentleman has indicated—and I think it is proper—that almost every country falls a little bit short of what we might ideally establish as a norm. Does the gentleman not think that many in this body try more zealously to apply these high standards to our friends than to our enemies?

Mr. CHARLES WILSON of Texas. I think that is right, but I am not even conceding that Nicaragua has done these things. I am only saying that some dissidents in that country say they have.

The CHAIRMAN. The time of the gentleman from Texas (Mr. CHARLES WILSON) has expired.

(On request of Mr. DERWINSKI and by unanimous consent, Mr. CHARLES WILSON of Texas was allowed to proceed for 1 additional minute.)

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I have one question to ask the gentleman, but first I wish to comment that in going over his worldwide list of oppressive regimes, the gentleman should not forget the Democratic machine in Chicago.

Mr. CHARLES WILSON of Texas. Yes, of course.

Mr. DERWINSKI. Mr. Chairman, my question is this: Would the gentleman enlighten the House on the facts of guerrilla war that is going on in Nicaragua and the need for some of the security measures they have had to take because of lawlessness?

Mr. CHARLES WILSON of Texas. That is true. As this House will recall, as ill fated and as ill advised as it was, the Government of Nicaragua allowed its country to be used as a steppingoff point for the Bay of Pigs, and as a result Nicaragua has been a continuous target for Castro. The result has been continuous confrontations with Castro-trained guerrillas.

The CHAIRMAN. The time of the gentleman from Texas (Mr. CHARLES WILSON) has again expired.

(On request of Mr. ZABLOCKI and by unanimous consent, Mr. CHARLES WILSON of Texas was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding. At the very outset I wish to commend the gentleman from Texas (Mr. CHARLES WILSON) for proposing this amendment. I think it is a responsible amendment.

We are all dedicated to promoting human rights, but we certainly should not single out countries that are friendly to us in trying to get them to live up to our mores and our standards.

There are violations of human rights in some degree as the gentleman from Texas (Mr. CHARLES WILSON) has pointed out, in almost every country.

Mr. Chairman, I must ask the gentleman this question: Would it not be preferable, if the gentleman's amendment did prevail, in order that the FMS funds be available? It is my understanding that Secretary Todman has given assurance that the funds would be withheld until improvements in the area of human rights would be made. Would that not be a greater incentive to bringing about that which the Subcommittee on Appropriations and particularly the gentleman from New York are trying to bring about in Nicaragua?

Mr. CHARLES WILSON of Texas. The gentleman is absolutely correct. The State Department has given our committee assurances that there will be no military assistance for 1978 unless there are improvements in human rights. The administration feels that if it has this leverage, there will be an improvement in human rights; and only if it has this leverage will that improvement occur.

Mr. ZABLOCKI. Would the gentleman also agree, if his amendment does not prevail, that the proposal of the Subcommittee on Appropriations would be counterproductive to our countries' interests?

Mr. CHARLES WILSON of Texas. Absolutely counterproductive.

Mr. ZABLOCKI. I thank the gentleman.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is always somewhat painful to ever be in opposition to my good friend, the gentleman from Texas (Mr. CHARLES WILSON). We are on the same side so many times.

However, let me say why this is a clear, convincing, and compelling case, and why the committee did what it did.

I think we ought to put all the cards on the table, Mr. Chairman.

This amendment introduced by my good friend, the gentleman from Texas (Mr. CHARLES WILSON), is supported by my colleague the gentleman from New York (Mr. MURPHY). It would restore $3.1 million in military credit sales. That is all we are cutting off. We are not cutting off the $15 million in economic aid that is in the bill. They already have $58 million in appropriated moneys not yet expended, which we gave them, and that money is now in the pipeline.

The amount of $3 million for military aid for last year has been held up by the State Department because of the current human rights situation, so they have not even gotten last year's sum which we appropriated. The United States still holds it.

Why are we in this situation and why can I demonstrate that this is a compelling case, different from any of the others that might have been brought to us? I say that because this committee held extensive hearings, 2 days of hearings on this subject of a deprivation of human rights in Nicaragua.

It is interesting to hear the witnesses against the Samoya regime discounted by Mr. WILSON. Let me recite who the witnesses were. One would get the impression from my good friend, the gentleman from Texas (Mr. CHARLES WILSON), that the witnesses here are some dissident priests, some radical priests, who, God knows, want to topple Nicaragua. Let me recite who the committee relied on.

In January of this year all of the Catholic hierarchy, including the archbishop of Managua, the bishop of Grenada, and the bishop of Matagalpa, and a number of other members of the Catholic clergy in Nicaragua issued a pastoral letter which could not be printed in the press because the press is under censorship. However, it was read from the pulpit of every church.

Let me just read a couple of passages. This statement is from that pastoral letter, which as I said, was read in every church in Nicaragua.

It says, talking about the Government, that the Government utilizes methods which are "humiliating and inhuman; from tortures and rapes to executions without a previous civil or military trial."

Then it goes on to say as follows:

> Another violation that disturbs the practice of the fundamental liberties is the interference in the religious realm.
>
> In other locations in the mountains of Zelaya and Matagalpa the patrols have occupied the Catholic chapels using them as barracks.
>
> There are cases in which delegates of the Word (the reference is to priests) have been taken prisoners by members of the Army, have been tortured and others have disappeared.

Then it goes on to say as follows:

> All these practices and others like them, contrary to human dignity and the fundamental rights of man, degrade civilization and are totally contrary to the plan of God, Christ is categorical in what He says in this respect: "What you did with one of these the least of my brothers, you did to Me."

Mr. Chairman, that is the pastoral letter which was read in every church in Nicaragua.

My good friend, the gentleman from New York (Mr. MURPHY) put a four- or five-page statement in the RECORD a couple of days ago, and I read it with great interest. He talked about the witnesses who came before our very committee, and he said the following in his statement:

> As to the allegations of political prisoners, torture, disappearance, and the threat of exile, our intelligence sources can confirm no political prisoners, no executions, no torture, and no disappearances.

However, Mr. Chairman, what does the State Department say about that? Let me quote from the hearings of April 5. I am now quoting Deputy Assistant Secretary of State Charles Bray, who said:

> It is our belief, based on available information and the opinions expressed by reasonable and unbiased sources, that the Nicaraguan National Guard has used brutal and, at times, harshly repressive tactics in maintaining internal order. . . .

Let me go on and tell the Members—because there will be a question raised as to whether or not we will in some way or other endanger U.S. national security if we cut off the $3,100,000 in military credit sales—let me tell you what the Secretary in charge of the State Department's Division on Human Rights has said in response to a question posed by this committee, a question which the gentleman from Maryland (Mr. LONG), the chairman asked her:

> What would be the reaction of the State Department if this committee were to suspend all aid to Nicaragua, in view of some of the gross violations of human rights that have taken place there? What would be lost to the United States and would there be a violation of our security interests?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KOCH was allowed to proceed for 3 additional minutes.)

Mr. KOCH. The answer to that question was given by Mrs. Lucy Benson, Assistant Secretary of State for Security Assistance, and she said:

> I cannot think of a single thing.

What do we have here that distinguishes this case from any other one that might be brought up by way of an amendment? We have testimony, that is what we have, and we have the testimony of opponents that was given to us by my friend, the gentleman from New York, JACK MURPHY. He asked for a special day of hearing. We gave it to him. I interrogated those witnesses. I said to one of the witnesses that Congressman MURPHY quotes in his statement in the CONGRESSIONAL RECORD. I said to one of the witnesses that testified:

> Would you characterize the archbishops of Nicaragua as radicals on the left?

And this answer was given by the witness, Professor Wilson, who was brought to the committee by JACK MURPHY and referred to in his statement in the CONGRESSIONAL RECORD, and Professor Wilson said this:

> I would say definitely they are not characterized as such.

So the difference, my friends, is this when the gentleman from Texas, CHARLES WILSON, says he is talking about some radicial priests whom he does not trust, I do not know what he is talking about. But I can say that one of the most conservative Catholic hierarchies in Latin America, happens to be the hierarchy in Nicaragua, and they have had it up to here.

Finally, Mr. Chairman, the Nicaraguan Government would not permit this pastoral letter to be published in the press that was written by the bishops.

Just to conclude, Mr. Chairman, what are we taking from them? Three million one hundred thousand dollars in military sales credits when there is exactly that amount in last year's appropriation that the State Department has said it would not turn over because of the repression in Nicaragua.

What are we giving them? We are giving them some $15 million in economic aid. Let us face it, what did we give them in addition to this $15 million, last year and the years before? Fifty-eight million dollars in economic aid that is still unspent and appropriated now in the pipeline.

If there ever was an occasion to cut off military aid, this is it.

Mr. CEDERBERG. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise on this occasion in support of the amendment because I do not think we are doing anything for human rights by naming Nicaragua in this bill.

First let me say that all of us are for human rights. I do not know of anyone who is not for human rights. The question is how do we best accomplish the objectives that we want in human rights? It certainly is not by naming countries in this bill.

I have been down at the White House and the President has expressed a desire for some flexibility as he deals with this very difficult problem. I have told the President, and I told Secretary of State who called me yesterday morning, that I would try to be helpful as they try to foster human rights and improvements in human rights in all of these countries.

No one is saying there are not problems, not only in Nicaragua but in many other areas. But it just seems to me that we are going to lose our ability to be helpful in this area if we just go blindly on our way naming countries in this bill, because the President and the Secretary of State then do not have the opportunity, or the opportunity will be denied them, of trying to accomplish the very thing that we all want. So I would hope that we would seriously consider supporting this amendment. It is a good amendment. Here is a country that is one of the friendliest countries we know, who always supports us in the United Nations, who allowed us to use their territory to prepare for the Bay of Pigs operation. For us at this time to deny the administration the ability to deal with these people is unwise.

I received a letter yesterday, and it may have been referred to earlier, from Terence Todman, the Assistant Secretary for Inter-American Affairs, on this very subject. Let me just quote. I will not quote all of it.

> I give you the formal assurance of this Administration that we will not sign a fiscal year 1978 security assistance agreement unless there is an improvement; nor would we sign an agreement in fiscal year 1978 without further consultations with this Committee designed to assure that you and we agree that there has been improvement in the human rights situation.

What more do we want if the administration says this? I believe the administration, and we should not take away from them the tool that will give them the opportunity to improve human rights in this and in other areas.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to this amendment.

The gentleman from New York (Mr. KOCH) was the author of an amendment which cut out this money for Nicaragua. The cutting is only one-sixth of the money. Five-sixths of all the aid will still be there; so nobody can say we are really hurting our friends too much. If we have hurt Somoza, it has been in a very friendly way.

What we are trying to do is to send him a message, a message that the Department of State has always been very reluctant to give. State is great on talking but when it comes to actual performance, really doing something, they do not deliver. That is what this Congress is for. That is what the appropriations process is for.

We talk here about human rights violations. Some say their rights have been violated if somebody speaks to them harshly. Let me read the Members a little bit about what real brutality is.

We have here testimony from Fernando Cardenal, Society of Jesuits—a Nicaraguan Jesuit priest, former dean of the University of Central America, currently professor of philosophy at the National Autonomous University of Nicaragua. Here are some of the human rights violations he describes.

When a prisoner is captured, his head is immediately covered by a sort of sack made of strong black material and tied at the neck with a cord. This sack hardly allows the person to breathe. In this fashion the questioning starts.

The prisoner is insulted, threatened, and beaten, especially in the stomach, chest, and head. Simulations of hangings and executions are frequently practiced. The testicles of prisoners are stuck with needles. The prisoner is left in a refrigerated room for several days, still hooded, and with no nourishment but salt water. Electric shocks are also applied, especially in the genital area.

Other common forms of torture practiced including hanging the prisoner from the thumbs, clubbing him on the head, and submerging him in pits of filthy water until the prisoner loses consciousness.

Women are raped, and they are stripped naked for interrogation.

Father Cardenal goes on—

> Amada Pineda, Arauz, a married peasant woman and mother of eight children was brutally raped in 1974 by all the members of the National Guard patrol headed by Sergeant Soto. They abused her sexually for several days, leaving her very ill.

The gentleman from New York has correctly pointed out that Mrs. Benson said no great harm is going to happen to our foreign policy if we cut this one-sixth of our foreign aid to Nicaragua, if that is cut off. People came before us and gave plenty of time to those who wanted to defend the Government of Nicaragua. Here was my colloquy with Mr. Molina:

> Mr. LONG. Your 5 minutes are up, Mr. Molina.
>
> Do you have a contract with the Nicaraguan Government?
>
> Mr. MOLINA. At the present time I don't have a contract.
>
> Mr. LONG. Have you had a contract?
>
> Mr. MOLINA. Yes; I have had a contract. Under contract I worked with the Government. Like I say, my field has been the human rights area.
>
> Mr. LONG. How big a contract did you have?
>
> Mr. MOLINA. A $2.5 million contract.

Then I said, after some further discussion:

> . . . Supposing you came here and gave us the story that Mr. Brown gave us—just suppose. Do you think you would ever get another contract in Nicaragua?

There followed about 15 minutes of this and that and the other, but he did not claim he could ever get another contract if he had given the opposite kind of testimony.

If we believe in human rights, if we are shocked by this kind of thing, then this is the case we go to bat with. If we do not do it, then let us say we are never going to cut off anything to any country because of human rights violations. This is a crucial case.

I urge that this amendment be defeated.

Mr. O'BRIEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would address myself, before getting into the body of my remarks, to the notion that if human rights were not being violated in this area we would not be debating the issue at all, so notwithstanding the powerful statements by the chairman, the heart of the matter is how can we best improve human rights in Nicaragua.

As the gentleman from New York (Mr. KOCH) asked the other day while we were in general debate: Why Nicaragua? Well, while I am not the most knowledgeable Member of the House on foreign affairs by a long shot, let me nevertheless tell the Members what I think is persuasive in this argument over the adoption of the amendment.

First, it is supported by the State Department and the administration. Notwithstanding the comment by Mrs. Benson before the committee, there is no doubt that the testimony of support by Mr. Bray, representing the State Department, given this year on April 5, was that the administration needed this amendment.

Second, it was mentioned by the gentleman from Maryland earlier in the debate that the best kind of aid is a bilateral type of aid. We are a party to this agreement for aid. We are not giving it to any independent body that will isolate us from all control.

Third, we are dealing with an international friend. There is no Latin American nation that has supported us in Latin American affairs or in the United Nations more consistently than Nicaragua.

Fourth, consider executive authority and its importance to a new administration. This is the administration of the majority. This is the first time this administration has had a chance to do something with human rights. This administration is the announced champion of human rights. Let our President try. He wants the authority to act in such matters, and, quite candidly, he could not have such authority and we could not give it to him in any better way than we are doing in the Nicaraguan case.

In addition to the exercise of this authority, there has to be some proof of some progress in the negotiations over human rights before the funds can be transferred.

And something that has not been touched upon, the negotiators must return to the committee and consult with Members like the distinguished gentleman from Maryland (Mr. LONG) on whether there has been any progress. If there is any way or any proper way in

which we should be involved in such matters, this is that way.

With respect to human rights, we are all involved in the cause. But how do we provide them and protect them? Keep in mind we should not have so much anxiety to punish the offender that we would forget our objective, which is to help the oppressed.

The Nicaraguans are the humans who are having the trouble. These are the people we are trying to help, and the amendment serves this purpose.

There has been some evidence the light of freedom is breaking through in Nicaragua. I understand on good authority that the National Guard's questionable activities have been cut back, and that political exiles are being granted more freedom. There is some light coming through. We ought to encourage this trend. I do not think we should strip the President of his chance to help Nicaraguans.

One more point. The gentleman from New York (Mr. KOCH) talked about Uruguay last year. Where are we now? Uruguay is now one of the most inflexible countries of Latin America. This business of cutting off aid has not worked with Uruguay. We did it last year, and now these people are isolated from us.

I do not think the human rights committee of the gentleman from Minnesota (Mr. FRASER) had any access to Uruguay at all.

Mr. Chairman, all I say in conclusion is that if we cut off this particular aid, such action will not remove any sacks from any heads. It will not help a single Nicaraguan who needs help. It will simply freeze up a bad situation.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, the gentleman mentioned that last year we cut off aid to Uruguay in the same amount, $3 million. The Department of State was in opposition.

This year Secretary of State Cyrus Vance came before our committee and said, in effect, "You were right last year, you were so right. We are not going to ask for military aid for Uruguay this year."

In addition, things have changed in Uruguay. Does the gentleman know that Uruguay has allowed people from the outside to come in to Uruguay and to inspect the prisons; is the gentleman aware of that?

Mr. O'BRIEN. No; the gentleman knows they would not let the gentleman from Minnesota (Mr. FRASER) come there for hearings. I do not think the case of Uruguay supports the gentleman's position.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I think we may have two State Departments, particularly when we hear Lucy Benson say there will be no effect on U.S. policy if we do not support Nicaragua in this endeavor.

I would like to read part of a statement that accompanied the letter from Secretary Terence Todman to the chairman of the subcommittee, the chairman of the full committee, and the ranking minority member:

SECURITY ASSISTANCE FOR NICARAGUA

U.S. security concerns in Nicaragua and the rest of Central America relate directly to our need for secure flanks and our commitment to hemispheric collective security under the Rio Treaty. Our objectives include prevention of the introduction of hostile forces and bases into the region, limitation of hostile influences, protection of lines of communication, and maintenance of regional stability. We seek to provide the Central Americans with the sense of security essential for social, economic and political development, and to encourage their initiatives toward regional cooperation. While no single Central American country can be considered vital to U.S. security, further attenuation of our influences in the region as a whole would weaken our security position in the hemisphere.

In addition to that security interest, the Department feels that for political reasons Nicaragua should continue to receive the modest amount of security assistance from the U.S. requested for fiscal year 1978.

Nicaragua physically is the largest of the Central American countries. It extends from the Pacific to the Caribbean. It is a blocking position in Central America against the spread of Communist subversion. That is why it is a target for Communist infiltration from Cuba and has been ever since Castro took power in Cuba. That country has a blocking position and we knew it 30 or 40 years ago when we put two U.S. Marine divisions in there in order to stop the flow of terror in Central America. We realized even then the strategic importance of this particular country.

Now, how did the witnesses get here that built up such a convincing case of human rights violations in Nicaragua? Well, now, there is an organization here in Washington called WOLA; that is the Washington Office of Latin America. The Washington Office of Latin America has gone into Central America, and here is their statement and I read from it. It is addressed to participants in hearings before the Subcommittee on International Organizations of the Committee on International Relations. It is from Bill Brown, who works with the gentleman from New York (Mr. KOCH). The statement is coauthored by Mr. Jose Eldride, an Allende Chilean supporter. It gives instructions on the preparation of testimony, its nature and format. WOLA says it is going down in Latin America to find the people to testify against El Salvador, Guatemala, and Nicaragua and to do their work.

I submit at this point in the RECORD the text of this primer for anti-American testimony before a committee of the Congress, dated May 11, 1976:

WASHINGTON OFFICE ON LATIN AMERICA,
Washington, D.C., May 11, 1976.

Re Preparation of Testimony: its nature and format.

To: Participants in Hearings before Subcommittee on International Organizations of the Committee on International Relations, House of Representatives of the U.S. Congress.

From: Bill Brown and Jose Eldridge.

We are mailing this information sheet concerning your participation in the upcoming Congressional hearings in the hope that it will be helpful to you in the preparation of your testimony. It is also planned to have a member of our staff (probably Bill Brown) come to Central America to meet with you sometime during the week of May 24th. Exact details will be furnished soon.

First, we reprint herewith a substantial part of the text of the original proposal for the above-cited hearings, since this outlines the nature and the scope of the proceedings which will be held on June 8th and June 9th. It is quite probable that you have already seen this proposal; copies were mailed to all prospective witnesses about two weeks ago, but, due to the uncertainties of mail delivery in some areas, we feel that a repetition of the material could prove beneficial to you in the preparation of your testimony. Furthermore, under separate cover, we are sending a Congressional publication (South Korea and the Philippines) containing the published records of a previously-held set of hearings, similar in format to this in which you will be concerned. This should give you a good idea of just how such hearings are held.

"Proposal for a Congressional Hearing into the Denial of Democratic Processes and the Violations of Human Rights in El Salvadore, Guatemala and Nicaragua: The underlying premise of this proposal is that the present policy of the United States toward Latin American countries, as carried out under the direction of Secretary of State Henry Kissinger tends toward the support of military dictatorships, with the consequent undermining of locally engendered attempts to maintain and/or to establish free and genuine democracies, and that this policy is, unfortunately, pursued openly at the precise moment in history when the United States is commemorating the 200th anniversary of the founding of its democracy. It is contended herein that this morally bankrupt support of dictatorships in the countries affected results, first, in absolute suppression of political expression and the functioning of all democratic processes and, second, in wholesale violations of human rights, all of which is done to guarantee the continuance of the dictatorship.

"In order to illustrate this premise it is proposed that the state of civil and human rights violations in three Latin American countries be examined, with qualified witnesses from each asked to testify before an appropriate committee of the Congress. These countries are El Salvador, Guatemala and Nicaragua They were chosen because they have much in common (extreme poverty, repressive military dictatorships, large scale denial of political rights and wholesale violation of human rights) with respect to the area of proposed investigation. Witnesses from these countries, chosen from among the leaders of the opposition to the governing dictatorships, could be expected to provide much valuable criticism and constructive comment.

"In all three of these countries, in spite of many years of repression, strong and potentially viable political coalitions survive, and continue to strive for meaningful democratic expression. These political coalitions have broad bases of popular support, from professional and business groups, from university professors and students, from church, labor and farm organizations. In general, however, it may be said that the largest organization, and the dominant leadership, is provided by the Christian Democrats, who have sound roots in democratic processes.

"These coalitions today, despite strong demonstration of continuing efforts to mount effective political opposition to the ruling dictatorship, have been robbed time and again of victory at the polls—through fraud, military interference and the complete denial of the ordinarily accepted expressions of political rights. Yet, in each of these three countries, political leaders con-

tinue to look toward and to work for a future in which the benefits of a true democracy may be enjoyed by all citizens. In these efforts political leaders daily face death, torture, 'disappearance' (a relatively new and frightening form of political harassment) and the threat of exile.

"In the proposal outlined here, testimony before an appropriate committee of the Congress would be given by three outstanding political leaders of the political coalitions, one each from El Salvador, Guatemala and Nicaragua. This testimony would be relevant to an examination of the total problem of United States policy in relation to these countries. Such important considerations as the following, as well as any additional pertinent material which might be included, would be taken under examination at the proposed hearings

1. State Department policy in relation to the charge frequently voiced in the host country that the United States supports and 'props up' the military dictatorship.

2. The nature and the value of U.S. economic aid, whether it does indeed reach those most needy segments of the population. Open criticism of the AID program, from highly qualified non-government leaders should be beneficial in future AID planning.

3 Military aid (and the now discontinued OPS aid), just what it means and how much it is used to support the military dictatorship and to repress the exercise of democratic rights. (Guatemala and Nicaragua, on a per capita basis, have been among Latin America's largest recipients of such aid.)

4. First hand reports from qualified witnesses on the nature and extent of violations of human rights in each country.

5. First hand reports from qualified witnesses on the nature and extent of the denial of the free exercise of democratic rights to the citizens of the respective countries.

6. Other relevant information germain to the subject matter of the proposed hearing.

"The Washington Office on Latin America has made inquiries among the leaders of the political coalitions in each of the countries under consideration and has received assurances of cooperation and support. There are a number of responsible and truly democratic persons, each of whom would make highly qualified and articulate witnesses, ready to testify. It is felt that the proposed plan is workable and that the results would be of great value not only to members of Congress, but to the people of the United States as well, people who, while jealously guarding their own principles of democracy, have demonstrated for 200 years their love and their concern for democracy everywhere in the world."

These proposed hearings have now become a reality and will be held over a two-day period (June 8th and 9th, 1976). In Washington with the afternoon of each day from 2:00 p.m. to 5:00 p.m. or 6:00 p.m. scheduled for testimony. On the first day, June 8th, testimony will be given by each of the three spokesmen from the countries under consideration. (Verbal testimony should last from 15 to 20 minutes, no longer, and will be followed by questions from committee members. Complete details regarding presentation of testimony are given below).

Invitations have now been sent by the Congressional Committee to the following individuals: Dr. Fabio Castillo (El Salvador), Dr. Rene de Leon Schlotter (Guatemala) and Lic. Petdor Joanquin Chamorro (Nicaragua). These distinguished representatives of their respective countries will testify on the first afternoon. Testimony on the following afternoon (June 9th) will be furnished by three qualified witnesses who have not as yet been designated. It is planned that two will be from the academic field, and one from the U.S. Department of State. In the case of the witnesses from the academic area, it is planned to have one witness testify on the state of violations of human rights in the three countries under consideration; the second will be asked to analyze the implications of U.S. economic assistance and of U.S. military aid to the area. These witnesses will address themselves to overall considerations of the problems under investigation, and will not duplicate the specific testimony of the first three witnesses.

On the first day each of the three witnesses will be expected to comment on the following four topics, as they apply to his particular country and, of course, to include any additional testimony which he might feel would be appropriate and useful to these hearings. The four topics are:

1. Violations of human rights, including documentation regarding unlawful arrest and imprisonment, use of torture, assassination, "disappearances, and instances wherein large segments of the population of entire villages have been slaughtered.

2. Violations of political rights, including documentation of wholesale political repression, massive pre-election intimidation, illegal restraint on freedom of political activity, restraints on freedom of the press and of public assembly, and large-scale fraud in the voting process itself.

3. Assessments of the impact of U.S. policies toward each country, with reference to the significance of U.S. support in helping the dictatorships perpetuate their positions of power.

4. Evaluation of U.S. economic aid programs in terms of benefit to the people as a whole, i.e., the economically lowest 60% of the population. (This assessment should include all Agency for International Development funding, as well as financial aid from sources largely controlled by the U. S., such as the Inter-American Development Bank, the World Bank, etc.) and an evaluation of the impact of U.S. military assistance programs.

As stated above, it is expected that these hearings will result in the providing of much information which will be useful to the Congress in establishing guidelines in the preparation of future legislation. It is, therefore, imperative that testimony be sharp, penetrating and critical of U. S. involvements wherever necessary. It is our understanding, from direct conversation with or from reliable reports concerning, each of the witnesses being asked to testify that each has profound concerns regarding U. S. policies in his country; that each has profound concerns regarding the suppression of political rights in his country. We would, therefore, expect a thorough and completely critical analysis of the problems we are addressing in these hearings.

As to the format of the testimony itself there is no limit (except the dictates of prudence) to the length of the material submitted—perhaps a limit of 9,000 to 10,000 words. Your testimony, in its entirety, will be printed in the hearing report, as indicated in the publication (dealing with South Korea and the Phillipines) sent separately for your guidance. Those sections which you will read from your testimony as you appear before the Subcommittee, should not, in total, be more than 1600 to 4000 words. Just that amount which can be read by you in 15 to 20 minutes, no longer. This is important, since ample time each afternoon must be left for questioning by members of the Subcommittee. You should arrange your material so that paragraphs to be read (totalling no more than 15 to 20 minutes of reading time; see above) can be easily excerpted from the entire testimony.

It is our understanding that each of the witnesses is sufficiently fluent in English to permit the reading of his own testimony. Should, however, a witness desire to have an interpreter during questioning, this will be arranged. All written testimony must be submitted in English. If it is necessary to have translations made, this can be done, but such material must be submitted to us by June 1. When our staff person meets with you, any remaining questions can be answered.

It is also possible to include additional written testimony, distinct and separate from the testimony given by the witnesses before the Subcommittee. This written testimony will be printed in the hearing report and will become an important part of the total body of information produced by the hearings. (For examples of the way this written testimony is handled, see South Korea and Philippines hearings publication). We urge you to elicit such material from qualified persons—scholars, church leaders, labor leaders campesino leaders—those in your country who have recognized expertise in their respective fields. Their written testimony, subject to acceptance by the Subcommittee, will enhance the value of these hearings.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Are they going to look for witnesses to give the same testimony on Cuba?

Mr. MURPHY of New York. I would imagine they would have already come if they did request that opportunity to go to that country.

But, they find Pedro Joaquin Chammorro in Nicaragua as their key man, and he is the one who sent up Father Fernando Cardenal, whose brother is a Marxist, and both of them have freedom of movement throughout Nicaragua and the Americas. They sent Father Miguel D'Escoto who advocates violent overthrow of the government and who presently is operating a housing program which is financed with $7 million of United States funds for the people of Nicaragua.

I would like, however, to point out that Pedro Joaquin Chammorro, is the publisher of La Prensa—and my friend from Texas just referred to it—let me give a little of the background as it was placed in the record of the Committee on International Relations. He has organized an armed invasion of Nicaragua. He was convicted of conspiracy in the assassination of the former President of Nicaragua, the present President's father.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There being no objection——

Mr. LONG of Maryland. Mr. Chairman, I reserve the right to object. I wonder if we could try and get a limitation on debate. I wonder if the gentleman could cut that down to a couple of minutes.

Mr. MURPHY of New York. I think that if my colleague would bear with me, 5 minutes is a small amount of time to address ourselves to a vital area of interest in the Americas, because Nicaragua is the first target and the first wedge as we seal away our allies in Central America, and the evidence of what this is about——

Mr. LONG of Maryland. Further reserving the right to object, at the conclusion of the gentleman's testimony I would like——

Mr. DELLUMS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

POINT OF ORDER

Mr. BIAGGI. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BIAGGI. The time for objecting has passed. If the Chair will read back, he has stated no objections were heard.

The CHAIRMAN. The Chair will indicate to the gentleman from New York that the gentleman from Maryland was on his feet seeking to reserve the right to object.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from New York is recognized for 3 minutes.

Mr. MURPHY of New York. We are still talking about Pedro Joaquin Chamorro. He is one of the individuals who sent these witnesses up and worked with the Washington Office on Latin America. He met with Fidel Castro and Che Gueverra to send support for armed rebellion against the Government of Nicaragua. He conducted a full armed invasion. He led public riots in the streets of Managua. He was banished from Nicaragua twice, and officially advocated defiance of the Nicaraguan Constitution, which requires citizens to vote, and called upon citizens to abstain from voting.

He became head of UDEL—the Union for Democratic Liberation. That is a conglomeration of Marxists and violent organizations.

That is where the witnesses came from, and then we had some balanced witnesses come up and give some quite different information.

The pastoral letter from the Bishops had two translations. There is one in Mr. KOCH's statement in the report, and there is a second translation in the hearings of the committee. I wish the committee staff would get together on the two translations, because there is no mention of rape in the committee statement, but there is in Mr. KOCH's report.

What the pastoral letter says is that if you cause terrorism and violence on one side, you cause terrorism and violence on both sides. They were talking about the FSLN, the enemies of the Nicaraguan government, the Sandinista Liberation Front. It is the same type of entreaty that Pope Pius, Pope John and Pope Paul have all used—throughout World War II, the Korean war and the Vietnam war. And here is why it decries violence on both sides. An incident took place in Nicaragua in December of 1974 where FSLN terrorists captured hostages to blackmail the Government of Nicaragua. Fourteen terrorists surrounded a home where a party was being held for the U.S. Ambassador to Nicaragua. They killed Mr. Castillo, the host and three guards at the house. They captured the former Minister of Agriculture. They captured Sevilla-Sacasa, Nicaragua's Ambassador to the United States—a man who is the dean of the diplomatic corps here in Washington. They captured in all, 42 other people. Who negotiated their freedom? President Somoza, with the Archbishop of Managua, Monsignor Miguel Obando y Brovo of Managua. These people demanded 14 convicted criminals—all FSLN terrorists—to be taken out of cells. They demanded $5 million. They got $1 million. They got a plane. They flew to Cuba. The Ambassador of Spain and Mexico were among those who helped negotiate. The same terrorists, 14 months later, were back in Nicaragua.

Mr. LONG of Maryland. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a division.

Mr. LONG of Maryland. Mr. Chairman, I withdraw my motion.

Mr. BAUMAN. Regular order, Mr. Chairman.

The CHAIRMAN. The Chair has already put the question, and a division has been demanded.

On a division (demanded by Mr. ASHBROOK) there were—ayes 29, noes 26.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 220, not voting 42, as follows:

[Roll No. 370]

AYES—171

Addabbo	Barnard	Bonior
Alexander	Baucus	Bonker
Allen	Beard, R.I.	Bowen
Ambro	Beard, Tenn.	Brademas
Ammerman	Benjamin	Breaux
Andrews, N.C.	Bingham	Breckinridge
Annunzio	Blanchard	Brinkley
Applegate	Boland	Brodhead
Aspin	Bolling	Broyhill
Burke, Calif.	Johnson, Calif.	Obey
Burleson, Tex.	Jones, N.C.	Patten
Byron	Jones, Okla.	Patterson
Carney	Jones, Tenn.	Pease
Carr	Jordan	Perkins
Carter	Kastenmeier	Pike
Chisholm	Koch	Preyer
Clausen, Don H.	LaFalce	Price
Clay	Le Fante	Rahall
Cochran	Lederer	Railsback
Collins, Ill.	Lehman	Reuss
Corman	Lent	Roberts
Cotter	Lloyd, Calif.	Rose
D'Amours	Lloyd, Tenn.	Rosenthal
Daniel, R. W.	Long, La.	Rostenkowski
Danielson	Long, Md.	Runnels
Delaney	Lujan	Russo
Drinan	Lundine	Ryan
Duncan, Oreg.	McClory	Santini
Eilberg	McCormack	Sharp
English	McDade	Simon
Evans, Colo.	McFall	Skelton
Evans, Ind.	McKay	Slack
Fary	Maguire	Snyder
Fenwick	Mahon	Solarz
Fisher	Marks	St Germain
Fithian	Marlenee	Staggers
Flood	Martin	Steed
Flowers	Mazzoli	Thompson
Forsythe	Meeds	Thornton
Fowler	Meyner	Traxler
Fraser	Mikulski	Tsongas
Ginn	Mikva	Udall
Gonzalez	Mollohan	Ullman
Goodling	Montgomery	Vander Jagt
Hall	Moorhead, Pa.	Vento
Hamilton	Moss	Weaver
Hanley	Mottl	Weiss
Hannaford	Murphy, Ill.	Whitehurst
Harrington	Murphy, Pa.	Whitley
Harris	Murtha	Whitten
Hefner	Myers, Michael	Wilson, Bob
Hightower	Natcher	Wright
Hillis	Nedzi	Yates
Hollenbeck	Nix	Yatron
Holt	Nolan	Young, Tex.
Huckaby	Nowak	Zablocki
Jenrette	Oakar	
	Oberstar	

NOES—220

Abdnor	Dodd	Kasten
Anderson, Calif.	Dornan	Kazen
Andrews, N. Dak.	Downey	Kelly
Archer	Duncan, Tenn.	Kemp
Armstrong	Early	Ketchum
Ashbrook	Eckhardt	Kildee
AuCoin	Edgar	Kindness
Badham	Edwards, Ala.	Kostmayer
Badillo	Edwards, Calif.	Krebs
Bafalis	Edwards, Okla.	Krueger
Bauman	Emery	Lagomarsino
Beilenson	Ertel	Latta
Bennett	Evans, Del.	Leach
Bevill	Evans, Ga.	Leggett
Biaggi	Fascell	Levitas
Boggs	Findley	Lott
Brooks	Fish	Luken
Broomfield	Flynt	McDonald
Brown, Mich.	Foley	McEwen
Brown, Ohio	Ford, Tenn.	McHugh
Buchanan	Fountain	Mann
Burgener	Frenzel	Markey
Burton, John	Frey	Marriott
Butler	Gammage	Mattox
Caputo	Gephardt	Metcalfe
Cavanaugh	Giaimo	Michel
Cederberg	Gilman	Milford
Chappell	Glickman	Miller, Calif.
Clawson, Del	Goldwater	Miller, Ohio
Cleveland	Gore	Mineta
Cohen	Gradison	Minish
Coleman	Grassley	Mitchell, Md.
Collins, Tex.	Gudger	Mitchell, N.Y.
Conable	Guyer	Moakley
Conte	Hagedorn	Moffett
Conyers	Hammer-schmidt	Moore
Corcoran	Hansen	Moorhead, Calif.
Cornell	Harkin	Murphy, N.Y.
Coughlin	Harsha	Myers, Gary
Crane	Hawkins	Myers, Ind.
Cunningham	Heckler	Neal
Daniel, Dan	Heftel	Nichols
Davis	Holtzman	O'Brien
de la Garza	Horton	Ottinger
Dellums	Howard	Panetta
Derrick	Hubbard	Pattison
Derwinski	Hughes	Pepper
Devine	Hyde	Pettis
Dickinson	Ichord	Pickle
Dicks	Ireland	Pressler
Dingell	Jeffords	Pritchard
	Johnson, Colo.	Pursell

Quayle	Schulze	Vanik
Quie	Sebelius	Volkmer
Rangel	Shipley	Waggonner
Regula	Shuster	Wa gren
Rhodes	Sikes	Walker
Richmond	Sisk	Walsh
Rinaldo	Skubitz	Wampler
Risenhoover	Smith, Iowa	Watkins
Robinson	Smith, Nebr.	Waxman
Rodino	Spence	Whalen
Roe	Stanton	White
Rogers	Stark	Wilson, Tex.
Roncalio	Steers	Winn
Rooney	Stokes	Wirth
Rousselot	Stratton	Wolff
Roybal	Studds	Wydler
Rudd	Stump	Wylie
Ruppe	Symms	Young, Alaska
Sarasin	Taylor	Young, Fla.
Satterfield	Thone	Young, Mo.
Scheuer	Treen	Zeferetti
Schroeder	Trible	

NOT VOTING—42

Akaka	Erlenborn	Mathis
Anderson, Ill.	Flippo	Poage
Ashley	Florio	Quillen
Baldus	Ford, Mich.	Sawyer
Bedell	Fuqua	Seiberling
Blouin	Gaydos	Spellman
Brown, Calif.	Gibbons	Stangeland
Burke, Fla.	Holland	Steiger
Burke, Mass.	Jacobs	Stockman
Burlison, Mo.	Jenkins	Teague
Burton, Phillip	Keys	Tucker
Cornwell	McCloskey	Van Deerlin
Dent	McKinney	Wiggins
Diggs	Madigan	Wilson, C. H.

Mr. SPENCE and Mr. SEBELIUS changed their vote from "aye to "no."

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have resisted every amendment in this bill so far in this debate to cut off funds for any country by legislative act. I opposed the amendment yesterday which would cut off the funds for Argentina.

This is the only time today that I will make an exception to that rule and it is the only time today that I will oppose the position of the administration. I think there is a very good reason for doing so.

It has been my general position that we should leave it to the President and to the State Department to determine who gets aid and who does not unless extraordinary conditions are present. I think those extraordinary conditions must be two.

No. 1. There should not be any U.S. security interest involved in the area; and

No. 2. I think it is incumbent upon those who try to cut off funds to build a specific record in black and white which the entire Congress can read before they make a determination as to whether or not they ought to cut off funds.

Mr. Chairman, what I am more concerned about than any other factor at this point, given what has happened to this bill, is process. I am concerned that a bill like this, which is always emotional, will always be unraveled unless we follow a disciplined procedure. That is why I opposed the Argentine amendment yesterday, because we have not built where everyone could read it in the committee hearings, a record to justify the elimination of funds to Argentina; but the committee did that in this instance. We had a full day's hearing at the request of persons opposed to the committee action. We went into it in great detail.

It seems to me that while as a general rule we ought to follow the administration's request and give them maximum flexibility, in an area where there is no security interest and in an area where we can show beyond a shadow of a doubt that the country we are talking about is beyond hope of redemption in terms of their behavior on human rights, then we ought to make that one exception.

Mr. Chairman, I do not know if anyone knows or is very familiar with the record of the Somoza regime, but I will state there is not a bigger ripoff operation in this world than that by the Somoza family. There is not anything that happens in Nicaragua that that family does not have a piece of. It is one of the most disgusting, cruel and corrupt governments in the world. There is no U.S. security interest that requires us to continue to make our funds available. We are not trying to knock out economic aid to help poor people. This is military aid. They do not have a military threat.

General Fish testified last year there is not a single Latin American country that faces a cross-border threat from its neighbors.

Now, the specter of communism in Cuba has been raised. Let me state that the one sure way we can make it easy for Castro to continue to gain converts in Latin America is if we continue to support regimes of the ilk of the Somoza family. That is how we encourage the growth of communism. That is how we discourage the growth of democracy in Latin America.

Mr. Chairman, given the speeches I have made lately about the press, I am not one, I suppose, who should quote from a newspaper editorial, but I think we ought to follow in this instance the advice of the Washington Post when they said:

> No factor of American security requires the United States to persist in military support of a regime that, we believe, scarcely a single American would willingly accept for himself.

Let me read one paragraph from the New York Times.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, that article says in part:

> Prisoners are frequently suspended by their fingers or thumbs and beaten in the stomach or forced to swallow a button attached to a string that is then tugged violently. Those that are subsequently executed are buried in an improvised cemetery just east of Waslala.

That is routine treatment in that country. We do not have any security interest that requires that we continue to finance that kind of operation.

Mr. Somoza has shown by his past arrogance that the only way he will pay attention is if we do limit funds. We are not cutting off all funds. We are limiting 15 percent. All we are doing is hitting him on the head to get his attention.

Mr. Chairman, I submit in this one instance we ought to ignore, if you please, the late advice of the administration and remember what Assistant Secretary Benson said when she testified before the committee, that there was no damage to U.S. security by this amendment.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

Mrs. FENWICK. Mr. Chairman, I ask unanimous consent that the gentleman from Wisconsin (Mr. OBEY) be recognized for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I do so only to ask whether the gentleman from Wisconsin voted to cut off debate a few moments ago.

Mr. OBEY. I did not ask for the extension.

Mr. BAUMAN. I understand.

Mrs. FENWICK. I asked for the extension.

Mr. BAUMAN. In deference to my colleague from New Jersey, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield.

Mrs. FENWICK. We have had questions as to the qualifications of witnesses on the two sides of this question. I just wanted to ask, has Amnesty International expressed any views on this?

Mr. OBEY. I yield to the gentleman from New York (Mr. KOCH) to reply to that.

Mr. KOCH. Amnesty International has expressed a point of view with respect to Nicaragua. Let me read it:

> Torture, arbitrary detention and "disappearance" appear increasingly characteristic of the human rights situation in Nicaragua. Amnesty International is currently studying the cases of more than 100 prisoners detained in the custody of military courts under the state of siege that has been in force since December 1974. The state of siege suspends personal guarantees—including the right to *habeas corpus*—and permits indefinite administrative detention incommunicado. Many of these prisoners have alleged periods of up to four months in complete isolation. Most have allegedly suffered severe torture.

Mr. RUDD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support this amendment to restore the $3.1 million in military assistance to the pro-American Government of Nicaragua. I suggest we do what is best for the United States of America.

Congress must not become a party to the concerted effort to single out Nicaragua for termination of U.S. assistance.

Nicaragua is an influential nation in Central America. Leftists and pro-Communist element in Nicaragua and throughout Latin America are most anxious for an end to U.S. assistance, which is helpful to the legitimate Nicaraguan Government in defending itself and the Nicaraguan people from Communist-inspired terrorism.

Leftists have, therefore, mounted a massive propaganda campaign against

Nicaragua on the human rights theme to achieve this objective.

During the committee hearings about alleged human rights violations in Nicaragua, I am not aware of a single witness who gave credible firsthand evidence of such violations.

These reports have been thirdhand accounts taken without verification from La Prensa—Nicaragua's major opposition newspaper—published by Pedro Joaquin Chamorro, leader of the opposition Democratic Liberation Union.

I have lived and traveled in Nicaragua during my many years in Latin America on diplomatic assignment.

I found that the way to learn what is going on in these countries was to get out and talk to the people—working people, shopowners, taxi drivers—not to be swayed or taken in by limiting one's information to what is written in the partisan press, or handed out by our State Department.

I have talked to the Nicaraguan people. They are free—living in a relatively free country.

They have an elected government and freedom of the press. They are not afraid to criticize their government—which is an unmistakable hallmark of freedom—and do so without reprisal.

These are not indications of a repressive government, as critics of military assistance to Nicaragua would have us believe.

There is no question about the police action to protect freedom against a Castro-supported Communist guerrilla insurgency in Nicaragua's northern jungles.

Communist revolutionaries have initiated the same kind of terrorist assault and bloodshed to intimidate the Nicaraguan people that they have initiated in other Latin American countries.

The Nicaraguan Government is responding properly to this Communist terrorism to protect the country's free institutions.

We would expect a similar response from our own Government if murderous revolutionaries attempted to overthrow the legitimate authorities by force, terror, and bloodshed.

This is a Castro-supported guerrilla operation by the Sandinista National Liberation Front, which aims to overthrow Nicaragua's free institutions and impose their own style of government.

The United States has a moral obligation to assist the friendly Nicaraguan Government with military aid, in order to maintain stability and freedom in that country—a stability desperately needed.

Nicaragua's President Anastasio Somoza is an educated man, who was trained at West Point.

He is pro-American, and stands out clearly as a man for stability and against blood-thirsty terrorists.

He deserves our Government's continued support—to protect his people and his country's free institutions from Cuban-supported revolutionary assaults.

Why unnecessarily kick a friendly government in the teeth by denying Nicaragua $3.1 million of needed military assistance?

Why needlessly deny President Carter the flexibility he needs to improve relations between our two nations?

We must preserve a friendship in Latin America not incur an unnecessary and unneeded enmity.

I urge a yes vote for this amendment.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, we were discussing Matagalpa a little while ago and we were reviewing the reasons and the problems in Nicaragua and why there was violence. There were, of course, 42 people, mostly government dignitaries and their families, who had been captured by 14 terrorists. Four of them were brutally murdered. Those terrorists and their requests would empty Nicaragua's jails. Fourteen of them were flown to Cuba. One million dollars was paid out as ransom as part of the deal to retrieve the innocent hostages. And, of course, in 2 years these same terrorists infiltrated Nicaragua again. They came over the Costa Rican border and also they came over the Honduran border with forged passports. They had a retraining and rearming period in Cuba. That is the insurgency operation in Nicaragua that has been going on for years. It has been going on for years for a very simple reason.

When the United States felt that it could start its Bay of Pigs operation, it trained its force in Guatemala, moved it to Nicaragua and launched it from the beaches of Nicaragua. That made Nicaragua a target. And, to correct my colleague, the gentleman from Wisconsin, we are not worried about a border threat. We are worried about the threat of a naval invasion from Cuba.

Mr. OBEY. Mr. Chairman, will the gentleman yield at that point?

Mr. MURPHY of New York. I will yield in just a moment.

The CHAIRMAN. The gentleman from New York (Mr. BIAGGI) has the time.

Mr. MURPHY of New York. Also, to correct the gentleman from Wisconsin, I do not think any Member of this committee has visited Nicaragua. They have been to Timbuktu, they have been out to Mount Kilimanjaro. They bring along their own fly nets these days, and fans. Try going to Nicaragua, you will find you are far safer in the towns and cities in Nicaragua than you are here in Washington, D.C. The oligarchy in Nicaragua——

Mr. OBEY. Do the trains run on time?

Mr. MURPHY of New York. Happen to be the monied families. Those are the families who control the economic interests and oppose Somoza.

That happens to be a fact. We should find out who the conservative party is. I would ask my colleague to go there and get the facts for himself.

I want to give the Members 10 reasons why they should support this amendment.

The first has to do with Nicaragua's support of the United States in the United Nations and the OAS on terrorism. Nicaragua has always supported and worked hand in hand with the United States in the common cause against international terrorism and has opposed the Soviet bloc on this issue.

Second, the expulsion of Nationalist China: Nicaragua was the only Latin American country that supported the position of the United States to avoid the expulsion of China from the United Nations. Costa Rica refused to support the United States.

Third, Israel: Whenever the United States asks Nicaragua to speak in defense of an Israel position in the United Nations—and it is usually by request of the U.S. Mission—the Nicaraguan delegation has supported Israel's position. During the last year in the General Assembly, on a vote on a draft resolution against Israel, Nicaragua joined with the United States in support of Israel's position.

Fourth, disarmament: At the request of the U.S. delegation, Nicaragua has taken the floor and argued against the U.S.S.R. and for the American position on disarmament.

Fifth, South Korea: At the request of the United States, Nicaragua cosponsored the U.S.-backed Korean peace plan.

Sixth, Puerto Rico: Whenever Cuba has presented draft resolutions in different committees and the General Assembly calling for Puerto Rican independence, Nicaragua has supported the United States.

Seventh, Cuba: Whenever the Cuban delegation has insulted the U.S. Government and its Presidents, including the last three, Nicaragua has taken the floor in defense of the United States and its several administrations.

Eighth, in the Security Council, Nicaragua has consistently supported the different motions presented by the United States.

Ninth, Nicaragua was one of two Latin American countries that supported the U.S. military base in Iceland. Costa Rica voted against it.

Tenth, Cuba: Nicaragua voted with the United States against lifting the OAS ban on Cuba. Costa Rica was in favor.

On a historical note, Nicaragua was the second country to declare war against the Axis countries in World War II and was the first Latin American country to give the United States rubber and raw materials for the war effort. Nicaragua was the No. 1 exporter of rubber to the United States in World War II.

Finally, the fact of the matter is that the Carter administration—which certainly cannot be faulted for its high standards in the international area in terms of human rights—has requested that Nicaragua not be retaliated against or punished by the Congress through the withholding of these foreign assistance funds. I would hope that the Congress would act as responsibly toward a government that has been our friend and ally and which should continue to be supported by the U.S. Government which has taken freely of that little country's friendship and support.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have spent the greater part of my adult life in America fighting for both civil and human rights. I oppose oppression anywhere in the world.

But, Mr. Chairman, I support the amendment now before us, and I support it for several reasons: First, because I object to singling out one nation under these circumstances.

There is already a provision in this bill that says this:

> Funds appropriated by this act may not be obligated or expended to provide security assistance to any country for the purpose of aiding directly or indirectly the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

Mr. Chairman, I think this covers the situation. I think there is something basically and morally wrong with singling out a particular country under these circumstances, and particularly when it is being singled out by one of the countries that is itself one of the 66 countries listed by Amnesty International as being violative of human rights.

I think that some of us ought to read Amnesty International. We ought to read the part where they say Amnesty International groups are working in eight cases of American prisoners, and other cases are being investigated by its research department. They go on to say that it is impossible to estimate the number of political prisoners in the United States; then they go on to make reference to persons in the United States who are imprisoned for crime, he or she is alleged to have committed, under suspicionable circumstances.

There is something immoral to me in saying to Nicaragua that, "We are going to cut off your funds because you are more wrong than we are." There is something morally wrong with that.

Realizing the importance of this particular issue, Mr. Chairman, I was at the White House about 2 weeks ago and I asked the President what his position is with regard to Congress cutting off funds to these countries that are violative of human rights.

The President said, "I would hope that the Congress would not tie my hands. I would hope that the Congress would permit me the right to negotiate with these countries where these violations of human rights are occurring."

The President said recently that on an issue in the United Nations that is important to the United States, only 20 percent of the nations in the world would vote with the United States.

It is to me distressing to see the President of the United States standing there grieving over the fact that 80 percent of the nations in the world vote against the United States on something that is important to this Nation.

The President reminded those of us who were there that the United States is not itself free of violations of human rights. He said:

> Under the McCarran Act, Americans couldn't even travel around the world until I became President and signed an Executive Order permitting you to travel to other countries.

Then he mentioned the fact that Paraguay had just released its political prisoners because his wife was on her way there.

The President talked of how his hands are being tied and how his position as President of the United States is being lessened in his relationship to Soviet Russia because we have taken this kind of action in the Congress.

Mr. Chairman, I happened to have worked pretty hard to see him become President of the United States. He has been President for 100 days and a little more. I happen to think that he is entitled to an opportunity to negotiate these things though with these countries, particularly in view of the strong stand he has taken in favor of human rights and against the violation of human rights.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, what distresses me about the gentleman's position is this: The gentleman in the well never has any hestitation in asking this House to single out Rhodesia for special treatment, and I agree with him because I think the deprivation of human rights there is outrageous. I voted the same way the gentleman did on Rhodesia, and the reason was that case was made for action against that repressive government.

The gentleman is on the subcommittee, but he did not sit in on the testimony that was taken. We made out a case, an extensive case establishing repression exists in Nicaragua; and we used as evidence the pastoral letter of the Archbishop of Nicaragua.

Mr. STOKES. Mr. Chairman, I would say to the gentleman that whether he made out an extensive case or not is a matter of his own judgment.

Mr. KOCH. If the gentleman will just let me proceed for 1 minute. I reiterate the gentleman did not sit in on those hearings.

Mr. STOKES. I would say to the gentleman that he has never been to Nicaragua, either.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have not spoken in 2 days as we have debated this bill; but I now take the opportunity to make several comments. In a moment I will speak directly to the amendment before us, but first I would like to address a procedural issue.

Mr. Chairman, I believe that it has been shocking and appalling over the past couple of days that Members of this House who are not members of this subcommittee have, on most occasions, not had the opportunity to speak for their full 5 or more minutes under the 5-minute rule.

Mr. Chairman, this is the House of Representatives. It is not the House Subcommittee on Appropriations; it is the House of Representatives. All of us should have an opportunity to speak.

I would simply say to my distinguished colleague, the gentleman from Ohio (Mr. ASHBROOK), that I will ask him publicly now, as I ask him in private, will he reconsider his standard objection to those of us who are the garden-variety noncommittee Members of the House who end up at the conclusion of the debate speaking for 45 or 50 seconds, which I consider to be a gross embarrassment, creating an indignity for those of us who have the right to speak out as articulately and as intelligently as we can on the issues that come before this body?

Mr. Chairman, I ask him to reconsider that because it is those of us who are at the tail end who do not have enough time to make an intelligent and a cogent statement. I hope the gentleman will think about it and will reconsider it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, as the gentleman knows, most of my objections have been directed toward the exact object the gentleman is talking about, about most Members not being able to get 5 minutes to speak while committee members take 10 or 15 minutes.

The gentleman does present the case very well, and I will reconsider.

Mr. DELLUMS. Mr. Chairman, I appreciate that. May I say for the record that I am totally appalled about the manner in which this debate is being conducted because it has not provided an opportunity for noncommittee members to speak out intelligently.

Mr. Chairman, how can anyone make a statement on matters as complex and as profound as human rights and dignity and freedom and world peace, our responsibility to the world and our role in the world, in 50 seconds? It is absurd, it is ridiculous, it is ludicrous, and it is tragic. Yet, that is how we end up in debate. That is why I voted not to limit the time, and I have decided that I am never going to limit the time anymore because I think all Members of the House ought to have an opportunity to speak.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

I think he makes an excellent point.

I do not believe we should cut off debate on the part of Members of the House because they are nonmembers of the particular committee.

I join the gentleman, Mr. Chairman. I have never voted to cut off debate on any measure or on any motion.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 3 additional minutes.

The CHAIRMAN. The Chair will advise the gentleman from California that the gentleman still has one and a half minutes remaining under his original 5 minutes.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for whatever time is necessary to give me 5 full minutes to speak on the amendment.

The CHAIRMAN. Without objection, the gentleman from California will be recognized for 5 minutes at this time.

There was no objection.

Mr. DELLUMS. Mr. Chairman, there are several points that have been made during this debate that I am in total agreement with. My distinguished colleague, a member of the Congressional Black Caucus, the gentleman from Ohio (Mr. STOKES) I agree with the gentleman that the United States is a nation that in many instances has been and continues to be in gross violation of human rights. There is no question at all about that. That is not contradictable, debatable or negotiable, it is a fact. It is right. I think whatever we have to do in order to bring this country to a position where it is in total compliance with not only the letter of the law but also the concept and the spirit of human rights, human freedom and human dignity, we must try to do. I join my colleagues in this effort.

The second point on which I agree is this: The statement has been made by many of my colleagues, particularly on this side of the aisle, who tend to be labeled as right of center, that we should be consistent in our application of the code of human rights. I agree with that. I am in total agreement with that. But we have not achieved, unfortunately, an agreement upon which shall be the criteria. That is a discussion that we must have in this House. That discussion must be orderly, it must be intelligent, it must be consistent and it must make sense at the end so that we can apply it around the world.

Also, Mr. Chairman, the statement has been made as to why we are singling out Nicaragua.

In the absence of the United States being committed to human rights totally, in the absence of a code, in the absence of a consistent application of that code, I would suggest the following principle that we must be guided by because we live in a real world. We cannot close the door on that world until that magic moment when America is a great nation and the blacks, the whites, the browns, the reds, and the yellows can live together with equal human rights and freedom. However, we live in the world of 1977 so, Mr. Chairman, what shall be the criteria? I suggest this one: That knowledge brings responsibility, and we, since we are in the House of Representatives, guided by certain particular processes on how we achieve knowledge, and that is through committee hearings, testimony, printed records, et cetera, let that be the criteria of knowledge.

In this instance we are not singling out a country, because this committee processed and worked on it, in this instance, the committee held hearings on it. It did not hold hearings on Angola, it did not hold hearings on Mozambique, it did not hold hearings on Cape Verde, or Vietnam, it did not hold hearings on Cuba, it did not hold hearings on all these other countries, but it did hold hearings on this country. In the absence of other criteria, then I bring you a guide to use on this floor and that is that knowledge brings responsibility and in this instance all of us in this Chamber have knowledge that is documented through that committee process that Nicaragua is oppressing human beings. All of us on the floor of this Congress ought to be adamant in our objection to other people being able to murder, imprison, starve, harm, and maim other people on the face of this Earth.

Why are there only three democracies in the world? Maybe it is because we have not stood up as a democratic nation and said clearly and firmly that we do not just stand on the side of our friends, we stand on the side of what is right. A murderer, I do not care if he is a friend of the United States or if he is a friend of the Soviet Union, is still a murderer, I repeat, a murderer. That ought to be the position we take.

Violating human rights does not bring back life when you kill someone because they are a friend of the United States.

It would seem to me that we must be guided by this principle.

I heard many statements yesterday about Idi Amin and Uganda. I said to a Member, "Why is it that you keep bringing this up?"

The Member said, "Because he is a dictator."

When I came to the Congress in 1971, we were propping up 22 tin gods in the world, 22 military dictators, and we still are. What about Park? What about all the other people we are propping up and sending money to? The justification, it is said, is they are friends of the United States. I object to that.

We got rid of Richard Nixon because he played friendship games. We got rid of many other people because they played friendship games. Do we think violating human rights is any better because they are pro-West rather than pro-East? If someone is kicking me in my teeth, I do not care what side he is on; it still hurts.

It seems to me that if the Members of Congress stand for what is right and want the United States to play a healthy role in the world, then I stand as one person saying to my colleagues that knowledge brings responsibility. In this instance we are not singling out a country. We have worked within the framework of the process that guides the U.S. Congress—the committee process, the subcommittee process, holding hearings. A report has been developed. Hearings are held.

I applaud the gentleman from New York for the articulate nature of his presentation, for his clarity, his courage, and his integrity on the question of human rights. I appreciate the fact that he had the courage to come into this well and challenge the sentiment of this House.

Mr. Chairman, if we are to come here and debate which side of the issue we shall be on, we have to understand the world that goes on around us. For a moment we must freeze that world with the camera of our mind and evaluate it and say against those perceptions we must make decisions. I would suggest to the Members that the tragedy is that many of us have not updated the camera shot. We froze the world in the 1950's, the days of the good guys and the bad guys, the white hats and the black hats, the anti-Communists and the pro-Communists. I ask the question, Is McCarthyism over in this country? If it is and the right of free speech prevails, then let all people speak on the issue. Let it be understood by everyone, whether a friend or foe of the United States, that we would not allow that friendship to be the umbrella under which they are supported in a rain of terror on these people.

President Carter has now opened this issue of human rights up. Maybe he did not know exactly what he was opening up. You and I do not know. We are stumbling and bumbling right here. But it is healthy that we are stumbling, and it is healthy that we are trying, but it is not healthy when we do not understand that there is a criterion that needs to be developed. But in this instance we have done it .We have proved it beyond a shadow of a doubt. That knowledge does indeed bring a responsibility to act.

Mr .Chairman, I urge all of my colleagues to strike down this amendment. It does not speak to the best that is within us but only the worst.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from California who has just spoken has raised an excellent question, and I believe the Members deserve an answer. He suggested that we are stumbling about on the question of human rights, and maybe we are. But the House has spoken very specifically on the question of human rights. I should call to the attention of all the Members what we have done.

In section 113 of this bill we cite the Universal Declaration of Human Rights. That is the guideline on human rights for this bill. I call attention to that document: The Universal Declaration of Human Rights. It is a very, very broad, generous statement on the protection of human rights.

When we go back into the House, I will ask permission to submit this Universal Declaration of Human Rights following these remarks so that all of us can see exactly what it is we are talking about when we discuss protection of human rights.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I will be happy to yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

The gentleman will agree with the gentleman from California that if human rights are being violated in Nicaragua, and that if the Declaration of Human Rights is being violated in Nicaragua, that there should be no funds given to Nicaragua?

Mr. YOUNG of Florida. I am saying to the gentleman, as I said earlier in the debate, that I believe the standard of human rights should apply consistently across the board, to left-wing governments, to right-wing governments, or to middle-wing governments, and I believe the President of the United States should be able to apply that parameter, and that is what this language in section 113 provides.

What I am attempting to do at this point is answer the question of the gentleman from California as to what we mean by human rights. This Universal

Declaration of Human Rights tells us what we mean by human rights.

Mr. Chairman, I insert the Universal Declaration of Human Rights in the RECORD at this point:

UNIVERSAL DECLARATION OF HUMAN RIGHTS

The declaration was the work of the UN Commission on Human Rights which met in January 1947 under the chairmanship of Mrs. Franklin D. Roosevelt. The Universal Declaration of Human Rights they drew up was adopted and proclaimed by the General Assembly on December 10, 1948. It was the first effort to set common standards of achievement in human rights for all peoples of all nations.

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Mr. VOLKMER. Mr. Chairman, that gives us a starting point. Perhaps that should give us something from which we could start and we could develop it further. But does the gentleman agree with the statement then that whether or not the country is friendly or unfriendly does not decide the issue as to whether they should be given funds from this Government?

Mr. YOUNG of Florida. I believe I have answered that question thoroughly.

Mr. VOLKMER. I thank the gentleman.

Mr. DORNAN. Will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I would like to ask the gentleman from California, if he would come back to the leadership table, perhaps the chairman on the other side would ask for more time so he might respond to my question. I believe he inadvertently just overlooked it.

I believe the statement of the gentleman from California was very eloquent and credible and I would like to associate myself with those remarks. I will get those remarks and mail them to New England to Alexandr Solzhenitsyn and have him send his comments on this problem of undercutting a military junta on the right with the sometimes sad result that we deliver the nation over to leftwing terrorists and a worse police state with all the problems the gentleman just discussed compounded to the *n*th degree.

Does the gentleman not believe the President is so sincere in his commitment to human rights that if we extend to him and our State Department this aid, in accordance with the wishes of the gentleman from Texas, that if human rights continue to be violated, that our President would not immediately come down hard upon the side of human rights in that country? I believe he would.

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield, first of all I cast no aspersion on the President of the United States.

Second, I do not perceive the President as an individual I do or do not trust. I see the President as having a constitutional responsibility, whoever occupies that position.

Secondly, I would say we also have a responsibility. When I was in elementary school we were taught that there are three branches of Government, three coequal branches, and these three coequal branches have responsibilities to participate in and make policy.

I am not saying in this that I do not trust the President. I am saying, given the fact that we are coequal branches of Government, that with respect to Nicaragua we have a responsibility to investigate and to document, which we have done, and I say based on that this whole body has a responsibility and we cannot leave it to the President now because the whole mechanism has evolved.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will yield some of my time to the gentleman from California Mr. Dellums but first I would like to mention to him a discussion I have had with a South American ambassador. I believe if the gentleman from California and I were to make up a list of South American countries that are doing a fair job in respecting human rights, I think he would agree with me that the country I'm thinking about is doing as good a job as any Latin neighbor.

I will not mention the name of the South American Ambassador that I will quote, but I will tell Mr. Dellums his identity privately if he wishes. This ambassador told me that as the American Ambassador he has clout with the head of state in the host country and that he can ease some of the human rights problems with prisoners, but when our Government cuts off funds and publicly blackballs a country, then the U.S. Embassy is left without any clout at all to do what they can to help alleviate civil rights violations.

I know that the gentleman has discussed this problem before on the Jackson-Vanik amendment and how that valiant effort may have backfired and brought more suffering to people of various ethnic groups in the Soviet Union. Maybe I am singing an old song to say to these countries, "We are giving you another chance. We are going to give you conditional aid. We are going to give you help so you can protect yourself from left wing terrorist bombers, but if you do not clean up your act in regard to civil rights, that is it, and if you end up behind a banana or iron or bamboo curtain, so be it."

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I appreciate the comments of my distinguished colleague from California.

First of all, I would simply say we have not cut off economic aid. There is $15.9 million in the bill for economic aid.

Point No. 2. We have not closed the door. The door is, in fact, 85 percent open, not closed. We only cut off 15 percent of the amount of aid, so we are well over 50 percent of reaching into that door to play some influential role. We are trying by this 15 percent to make a clear statement to Nicaragua and many other countries that we are associated with.

Finally, Mr. Chairman, I cannot associate myself with one of the gentleman's evaluations that Nicaragua would be ranked as one of the least repressive nations.

Mr. DORNAN. No. I was referring to another country hundreds of miles to the south of Nicaragua.

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield further, that is my response to the question. The door is 85-percent open, not 85-percent closed.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, let me say to my friend, I have a consistent record of deploring repression, whether it is left or right. The gentleman can confirm that with my good friend, the gentleman from California (Mr. ROUSSELOT).

Mr. Chairman, I want to say with respect to the particular question, it is not just the fact that we are giving this $15 million in this bill. We gave them $3 million on credit sales last year, still held by our Government because of the human rights situation, which are still available when they clean up their act.

In addition, there is $58 million that is now in the pipeline for economic aid that we have appropriated and it was not expended.

Mr. DORNAN. Mr. Chairman, if the gentleman will give me back some time, I promise to give the gentleman the last word.

Mr. Chairman, let me state that I will probably vote for the amendment of the gentleman from Texas (Mr. CHARLES WILSON).

I notice that many of the Members of our body can give an up-to-date report on Paris or London, but nobody has taken advantage of an opportunity to go to Nicaragua to get an in-country briefing there or who has any first-hand evidence to give the House.

I took note of the 33 weird votes yesterday on giving reparations to one of the most vicious, killing, repressive regimes on the face of the Earth, North Vietnam. I believe if we were to have a vote today on recognizing Cuba today and thereby giving respectability to its head of state who shot to death his opponent in a student body election in the 1930's, Fidel Castro, a first degree murderer, who executed 1,000 people in just the first 30 days of his regime for openers, that same weird 33 would vote for embracing Cuba. So I feel again we see a tragic selective morality here.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, the gentleman is absolutely wrong. I happened to vote in support of the amendment yesterday. Before the gentleman casts any more aspersions than the gentleman has already, the gentleman should know that I consider the Soviet Union under Stalin the same way that I considered Germany under Hitler.

I consider what is happening in Nicaragua the same way that I consider it in Uruguay or any other country like that.

Mr DORNAN. Mr. Chairman, I do know the gentleman's feelings about the Soviet Union and applaud him and I did not mean by inference to put him in that group of 33 weird pro-North Vietnam votes of yesterday

Mr BOWEN Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not use the full 5 minutes.

I rise in support of this amendment. I had an opportunity to spend about a week in Nicaragua last fall, and I toured extensively throughout that country. I had a chance to travel without the accompaniment of Government officials. I had a chance to talk to opposition politicians, to opposition newspaper editors, to people who were highly critical of the Government. They told me that they were amazed at the progress that was being made in that country, though they certainly wanted more.

Now, I read a story in the Washington Post about a week ago containing a long list of horrors recounted by a reporter who toured that country recently. To read that story, which referred to the bishops' report, one would think that all those atrocities were occurring right now. I investigated that story and found that the events that were referred to in that story all occurred more than a year ago. The bishops' pastoral letter was in mid-1976, not in 1977

Most of these events were in the early part of 1976 when the Sandinista terrorism was at its peak. This does not mean that the Government countermeasures were good. They were bad, but they are not happening now People I talked to indicated that the Government response was a pattern which developed because of the very atrocities imposed upon people by the terrorists themselves. I regret very deeply, as all of us do, that we have terrorism and the kind of methods used by the Sandinista front and others of that stripe. I deeply regret that it is sometimes necessary to fight violence with violence.

After spending a week in that country, I found a strong spirit of dissent, the freedom to stand up and criticize the Government. Newspapers were printing editorials attacking the Government, just as in this country.

I do not say that they have anything remotely approximating the freedom we have, but just because this committee devoted a great deal of time and attention to analyzing that one country, we should not single it out for discrimination. As the gentleman from California (Mr. DELLUMS) said, knowledge brings responsibility. If we want to analyze another 100 nations around in the world in the same detailed manner, we certainly could come up with many of the same conclusions.

But, Mr. Chairman, I feel there is no justification for singling out one nation which is making progress. It sets no standard for anybody, but it is making progress. So, why should we tie the hands of the President of the United States in dealing with this country? Why should we punish them when they are substantially reducing the use of force in dealing with their internal problems and showing greater respect for human rights than in recent years?

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I thank the gentleman for his support. I think it is very significant that probably in this body the gentleman from Mississippi (Mr. BOWEN) and the gentleman from New York (Mr. MURPHY) have been the only ones who have been to that country. I would like to say to my friend that I am going over the Fourth of July recess, and I would like to have some company.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentlewoman.

Mrs. HECKLER. Mr. Chairman, I rise in support of the amendment and agree with the decision made by my distinguished colleague. My information received from the State Department today reveals that their present assessment of the problem of human rights in Nicaragua is that there is a meaningful recognition by the Nicaraguan Government of the need that substantive steps taken to protect human rights and that there are indications that there will be a movement for change.

I would not accept an indication of a movement for social change as being adequate. I have been assured by the State Department further, which was contained in their testimony before the Committee on International Relations, that this aid would not be granted without proof acceptable to the State Department that actual change had taken place. In view of that commitment by the State Department, and in view of the fact that the gentleman in the well has witnessed himself some of the progress that Nicaragua is experiencing, I feel that our commitment to human rights can best be served by extending support on this conditional basis, which provides a reward for the fulfillment of the promise in terms of the aid which they claim to need very badly.

Thus, I support this amendment, and I feel that on a country-by-country basis, we will be less than accurate, less than just, less than informed, if we are to make broad ,sweeping judgments of principle which are unrelated to the specific facts in the individual countries affected and the assessment of our own State Department and of our President.

Mr. Chairman, the relationship between our governments and the people of Nicaragua remains a warm, and friendly one. For this reason, and particularly because of the assurances by the State Department that respect for human rights will be a condition of this aid, that I urge approval of this appropriation.

Mr. BOWEN. I thank the gentlewoman. I would simply conclude by saying that there is progress in Nicaragua. It might not be going on as rapidly as it should. Certainly, it is happening more rapidly than in many of the nations around the world which are receiving American assistance. There is no reason for us to single this nation out as a leper among nations for statutory punishment of this kind.

I urge the Members to support President Carter and allow him and the State Department the flexibility to make appropriate decisions in this matter. I urge you to vote for this amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened with interest to the statement of my friend and colleague, the gentleman from California, and one point he made was that knowledge should bring responsibility. I agree with that, but I wonder how much knowledge came from this particular hearing on Nicaragua. I am not a speed reader, but as I look at the hearings I find it quite interesting. If the Members will follow the text and go through it, I believe they will also wonder what kind of a hearing was conducted by the Appropriation Subcommittee.

In reading from these hearings, the gentleman from Maryland (Mr. LONG) said. "The witnesses before us today are * * *" and he names them. He then said, "We will give them 3 minutes apiece." Think of that. Can you have an in-depth probe in 3 minutes.

In the middle of almost every witness he cut them off, and he said, "I am sorry, Mr. Dubon, your time has expired." He took that much space in the record, about 2 inches.

On page 533, here is a Dr Somarrida. He took 3 inches of type, perhaps 2 inches. Right in the middle of his statement, the gentleman from Maryland (Mr. LONG) said, "Doctor, your time has expired."

I do not think they wanted to hear him very badly.

Mr. KOCH. Mr Chairman, if the gentleman will yield. I was at those hearings. I can tell the gentleman what took place.

Mr. ASHBROOK. At the end of the

testimony of Mr. Gallo, the gentleman from Maryland (Mr. LONG) said, "I am sorry, the time has expired."

Mr. Morice spoke for a while. The gentleman from Maryland (Mr. LONG) said, "The time of the gentleman has expired," Mr. Morice said. "Thank you, Mr. Chairman."

The gentleman from Maryland (Mr. LONG), again I read from the record, said, "We have allowed 18 minutes to the people who speak favorably on Nicaragua. Now we will hear the opponents."

I do not know why, but it seems they took little longer time in hearing the opponents. It looks to me like he got three pages. He got three pages because he was talking about Nicaragua. This is all in the hearings.

Mr. Chairman, I would like to have some justification for this. No questions appear to be asked by any Member to anybody favorable to Nicaragua, and yet there are pages and pages—the gentleman from New York (Mr. KOCH) has a number of them—pages and pages asked given to opponents of Nicaragua.

Knowledge may bring responsibility, but I cannot help but wonder how much knowledge we deduce in allowing people favorable to a country to speak for 18 minutes, they are not even questioned, and the hearing is closed off within a very few minutes.

I would agree with the gentleman from California (Mr. DELLUMS) that something of this importance, if it is to guide the House of Representatives in its decision, ought to be a book as thick as the entire hearing, not just a few pages. Not a few pages certainly and not allotting, as the gentleman from Maryland pointed out, 18 minutes to those who spoke in favor of the situation in Nicaragua.

We have a word to describe it. That sounds a little bit like a kangaroo court. I do not want to cast any aspersions, but that is not giving a whole lot of time for people to speak for the life and death of their country. Let us be honest about this. We all know that there are differences of opinion in this body. I serve on a labor committee with my good friend, the gentleman from New Jersey (Mr THOMPSON). We both look at bills. One does not have to be a Phi Beta Kappa to know that the gentleman from New Jersey (Mr. THOMPSON) is going to come down on one side and I am going to come down on the other side in most cases. One does not have to be a Phi Beta Kappa to know which side the gentleman from New York (Mr. KOCH) is going to come down on. I think I had a pretty good idea on which side the gentleman from New York (Mr. MURPHY) was going to come down on. I respect all of their opinions. But to stand up here and say that we had a hearing, to say that Nicaragua had its day in court, they were found wanting, ergo this conclusion, I cannot agree with that. My friend from California (Mr. DELLUMS) is right. Knowledge brings responsibility. But we did not get much knowledge from these brief hearings on Nicaragua.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New York (Mr. KOCH).

Mr. KOCH. I thank the gentleman for yielding.

Mr. Chairman, I think if the gentleman looks at my record he will find that one cannot call in advance what position I take on every issue. If he looks at yesterday's voting, he will find that on several amendments he and I voted in the same way.

Mr. ASHBROOK. I will tell my friend that I have been surprised many times.

Mr. KOCH. If the gentleman will yield further, this is not a situation where he is talking to someone who condones left wing oppression or right wing oppression. I denounce both.

Let me get to the hearings. I suspect that these hearings on Nicaragua were far more extensive, and I will get to their extensiveness in a moment, than any hearings the gentleman has held on Cuba.

I would ask the gentleman if he has held hearings on Cuba. The gentleman is always introducing amendments on Cuba.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. KOCH. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I will be glad to yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, I happen to vote against permitting aid to Cuba because I think it is an oppressive government and engages in repression. I believe it violates human rights.

But when the gentleman from Ohio (Mr. ASHBROOK) cites this hearing, which went on for 2 days—and I know because I was there—and when the gentleman points to a hearing record that contains for the most part the full statements of everyone who wanted to put in a statement and decrys the hearing, I think he is misleading the Members.

There was extensive questioning at the hearings. I did some of the questioning.

I asked Mr. Wilson of Nicaragua who was introduced to the committee by my colleague, the gentleman from New York (Mr MURPHY), and who was brought into that hearing room by the same gentleman, whether or not he would describe the Catholic hierarchy in Nicaragua, consisting of the archbishop and the bishops, as radicals.

He said, "Definitely not."

This committee relied in part on the pastoral letter of the hierarchy from Nicaragua that stated there was raping and torturing of not only the civilian population but also there was torturing of the clergy in that country.

Does the gentleman have hearings comparable to that concerning Cuba?

Mr. ASHBROOK. Yes, I do.

Mr. KOCH. Did the gentleman conduct hearings on that respect on Cuba?

Mr. ASHBROOK. Well, starting in the 1960's, we did.

Mr. KOCH. That was back in the 1960's. These Nicaragua hearings were held this vear.

Mr. ASHBROOK. Mr. Chairman, I would have to admit that those hearings were held by a committee with which the gentleman has not always been very friendly over the years, and perhaps the gentleman does not remember too much about it. It was the old Internal Security Committee.

If I may refer again to this volume of hearings, on page 542 I find this to be quite interesting and will repeat:

Mr. LONG. All time has expired for those who are defending the human rights situation in Nicaragua."

The total time they were allotted was approximately 18 minutes . . .

Mr. Chairman, I yield back the balance of my time.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there are a number of reasons why my area, the Greater Miami area, feels a strong friendship for Nicaragua and has a special interest in Nicaragua. The first one, I suppose, is that we have physical proximity to that territory.

Another one is because the second largest city in Dade County—Hialeah, a city of 150,000—is a sister city of the capital city of Managua, Nicaragua.

The third reason is that recently when they had a terrible earthquake in Nicaragua, our area, led by Hialeah, contributed a great deal of food and medical supplies and other aid to Nicaragua, as did the rest of Florida and many other parts of America, alleviating the awful suffering that the people of Nicaragua experienced as a result of that very disastrous earthquake.

Another reason is that there are a great many people of Cuban background in my area, some of whom hold high office, who remember that Nicaragua was the area from which they embarked upon the Bay of Pigs invasion. I had a telephone call yesterday from Mr. Manolo Rebozo, who was in the Bay of Pigs invasion launched from Nicaragua and who is now a member of the city commission of the city of Miami. Those people who are identified as being in opposition to Castro and who had some part, either sympathetically or physically, in the Bay of Pigs invasion which embarked from Nicaragua have a very warm feeling toward the Government and the people of Nicaragua for the aid that country gave them in their efforts to wrest the freedom of that country from the tyranny which has taken it over.

Another reason is that those people with their sources of information feel that they have adequate information that Castro is very rapidly infiltrating Nicaragua with Communists, and that he is trying his best and doing everything he can to subvert that territory and convert all the territory he can in the Western Hemisphere to the philosophy and the practice of communism.

Those are things that are meaningful to me, because they come from the sentiment of my area.

I think that all of us agree that we are, of course, for the protection of human rights. But is there any Member of this House who claims that he is more zealous in the protection of human rights than President Jimmy Carter?

And yet President Carter has asked this House to support this amendment.

It was only by a vote in the committee of 21 to 20 that the prohibition against Nicaragua, against which this amendment is aimed, was inserted in this bill. The margin was one vote, not a large majority.

What we do about this matter is not a matter of our power or of our devotion to the cause of human rights; it is a matter of policy, a matter of wisdom.

The best way to achieve our objective sometimes is to make a frontal attack. Sometimes one goes around to the rear or makes a side assault. One's tactics will, perhaps, determine the course that he chooses to pursue. One's objective is not discredited because he chooses other than a frontal attack upon his objective.

Mr. Chairman, who has better information, who has better sources of information to determine the degree to which human rights are being denied by nations which seek our aid, the executive branch of this Government or this House of Representatives?

We have heard some reports here about a hearing that was had before our subcommittee. Is that superior to the information that the CIA and the FBI and all the intelligence services of the Armed Forces of our country and our U.S. Embassies and Ambassadors, and all of our executive personnel can supply to the Chief Executive?

Mr. Chairman, unless we question the sincerity of the Executive, it would seem to me that we should give him an opportunity, considering his avowed advocacy of the protection of human rights, to try to work out, in the best possible way, the achievement of that high goal.

We do not have too many friends in the world. Anybody who has ever followed a vote in the United Nations or in the Interparliamentary Union or in other organizations of worldwide character has found out that we do not have too many nations who are standing up beside us.

It happens that this government of Nicaragua is our friend. That does not excuse it for violating human rights and perpetrating wrongs upon human beings; but it should, perhaps, influence our discretion, our judgment in this House, so as to allow the Executive an opportunity, at least until his effort fails dismally, to try to work out this situation in a way that would best protect the human rights of the people of Nicaragua and the public interests of America.

Mr. METCALFE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to support the statement made by my distinguished colleague, the gentleman from Florida (Mr. PEPPER), and my good friend, the gentleman from Mississippi (Mr. BOWEN), and associate myself with those remarks.

I would like to bring a sobering note into this particularly animated discussion.

I happen to have been privileged to have visited Nicaragua. I had the opportunity to talk with the President and to visit and talk with the people of Nicaragua.

What disturbs me, Mr. Chairman, is the trend that I see emanating from this august body, and that is one of a lack of concern for human rights.

Yes, I applaud President Carter for his bold stand in rewriting history and trying to bring a morality to this world that has never been seen before. I applaud him for recognizing that there is a need for it through his program for human rights. I recognize that he would not be advocating anything that would be contrary to what he morally thinks is right.

Mr. Chairman, it is not going to be an easy job. We have a long history of prejudice and of biased opinions that have been emanating from our society simply because too frequently we do not recognize the dignity of our fellow man and fellow woman.

What disturbs me, Mr. Chairman, is that we are dealing not with a single country, Nicaragua, because of its leadership or because of its dictatorship, but, rather, we are singling out Nicaragua. I think this is a gross error on our part, and I solicit the Members' consideration of the fact that we have had to deal with heads of state at times when we do not necessarily agree with the policy of those states. However, if we are going to try to imbue within their minds the dignity of the human being and the need for civil rights, I think that the answer is not in cutting the appropriation for a single country that we have designated, Nicaragua; but rather, to show that we are broad enough to recognize that we have faith that we are going to be a part of the human rights program for the world so that we will be writing a legacy for our children and our children's children, thereby bringing love and understanding into a government as well as showing that we are able to get along with our neighbors.

Has there ever been a period in which there has been no war or no threat of war? There is discord in the Middle East. There is discord in many other sections of our world. Why do we single out Nicaragua? Why do we not single out the dictatorship that exist in Africa and in all of Latin America? I believe we are making a serious mistake if we so single out Nicaragua.

I rise in support of restoring the funds to Nicaragua and saying to not only Nicaragua but to the President that we are behind you because you are doing a decent thing and because it is the fair thing for us to do. There is no justifiable reason in my opinion for us to do otherwise.

Mr. Chairman, I would repeat that I did visit Nicaragua and I found there a very vital and clean country. Surely there is need for improvements in human rights and that is true not only in Nicaragua but we do not even have to leave the shores of these United States before we see a need for us to improve human rights.

Let us act with good judgment. Let us not single out Nicaragua.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during World War II, it was my pleasure to have in the company I commanded three Mexican-American men, three of the nicest, pleasantest fellows one could imagine, and men who carried out the wounded under fire. One Mexican-American boy in another company of the 152d Infantry Regiment, Joe Alverado, was given a battlefield promotion to lieutenant. Just a few years ago, his son was the center of Notre Dame's football team.

It has given me great pleasure to serve with such good men as Hon. HENRY B. GONZALEZ, Hon. MANUEL LUJAN, and Hon. E. DE LA GARZA for a number of years. I know of no men I respect and admire more. Now, Mr. Chairman, over the years our country's made a sad mistake in not concentrating more on our southern neighbors in Mexico, Central America, and South America. Our children should be taught Spanish. They are our neighbors, and I trust that we shall treat them as good neighbors.

These countries have various forms of government, some are benevolent dictatorships, some are dictatorships without benevolence; but it should behoove us to do our best to be of help to all of these countries. I submit, Mr. Chairman, that we should give great flexibility to the President and to the State Department. I strongly support a good neighbor policy toward the people of Mexico, Central America, and South America, and I trust we will reflect this in what we say and in how we vote.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I suppose that I may be the only person who came to this floor without a predetermination on how to vote on this question. But I am persuaded by arguments on the floor that the amendment offered by the gentleman from Texas (Mr. WILSON) is a proper and a good amendment, in part because of what the gentleman from Kentucky (Mr. CARTER) has said on the floor, and also in part from somewhat of a reappraisal of the extremely eloquent speech given by the gentleman from California (Mr. DELLUMS).

The one thing that the gentleman from California (Mr. DELLUMS), did not point out, I believe, is that never at any time did any committee of this House make a comprehensive study of comparative repression of human rights in various Latin American and other countries. I think this body is an excellent body with respect to investigation of the bases of legislation, but I am sometimes inclined to think that this body is not a very good inquisitor when it comes to the question of determining good or evil. I am convinced that a comparative study of the positions of various nations has not made a case against Nicaragua alone.

Mr. CARTER. I thank the distinguished gentleman for his contribution.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I just noticed something that I do not know how many other Members of the body here know—I am sure the members of the committee know—and that is that this section 505 really does not just ap-

ply to Nicaragua. We are just not saying no military aid to Nicaragua; we have got Ethiopia and Uruguay in there also. I noticed that during the debate on this a lot of the Members have said, Well, we have got this other language in the bill that prohibits human rights; we have got the President who is going to stand by the concept of human rights; why are we just picking out Nicaragua as far as the amendment is concerned?

I would like to ask the gentleman from Texas, Why do we not just say let us knock out the whole section, if we really feel the way the debate has indicated?

Mr. CARTER. I thank the distinguished gentleman for his contribution.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

I commend the gentleman for his comments. I would like to associate myself with his remarks, and with the remarks of the gentleman from Illinois (Mr. METCALFE) who preceded him. Mr. Chairman, I support the amendment.

Mr. CARTER. I thank the distinguished gentleman.

Mr. Chairman, I yield back the remainder of my time.

Mr. DE LA GARZA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I will not prolong the debate much longer. I just wanted to bring out a couple of matters that I do not think have been covered.

One point, and perhaps the most important point, is that in showing our concern over human rights, in showing our concern for the individual and for the dignity of the individual during the debate we have had in this Chamber over this amendment, I think that possibly will be one of the greater moments for this body, so that the world can see and all the countries of the world can realize our interest, our concern and our determination for the cause of universal human rights.

My concern is about the way we operate. As the gentleman preceding me mentioned briefly, it is not the most practical because we are dealing with such difficult matters. One of my colleagues takes after Argentina and another one takes after El Salvador and another takes after Nicaragua, and we are spreading our efforts and I think not achieving our purpose. If anything comes of this matter it will be because of the debate that was held here.

As far as I am concerned I feel somewhat—not ashamed, but I feel somewhat sad that many of our colleagues from the opposition, from the minority party have had to come up here and remind us: "Support your President." They have said: "Support your President who has spoken out for human rights. Support your President who is working for human rights."

I think we should support him. The matter is moving.

Yesterday a committee of the Organization of American States adopted a resolution on human rights. This is the last hurdle for it to be adopted by the Organization of American States. That has not been mentioned here. We are moving, the message has been sent.

So we topple this Somoza. So we knock out the military in Argentina. So we knock out the military in Chile. What will take their place? Communism.

The gentleman from New York is a brilliant young dedicated American. But I am concerned that in his honest, dedicated efforts, he will, in fact, do the opposite. If we do as he says, and I say this with respect for my friend and I will yield to him momentarily, I say this because what do we substitute?

The Cubans are there. The Russians are there. We will not have any church. We will not have any bishops. We will not have any liberty. We will continue the oppression. We will continue the torture. This is historical.

We do not have a need for any hearing in any committee to accept the fact that the Communists torture, that they oppress, that they deny religious choice.

The alternative in these countries, if we just cut them off at this time and stop the dialog, is communism.

Many of us cheered. As for myself, I cheered. I said: "Batista is out. Castro, the brilliant young man with stars in his eyes, is coming in. He has toppled the dictatorship." Take a look at how many Cubans are left who were free. Take a look at those in Florida. Yes, I cheered when Castro came into power. I said: "The dictatorship is out. Freedom will once again come to Cuba. The people will be able to go to their churches. The bishops will be able to minister to their brethren." Democracy will return, free elections, our system of freedom.

Did this happened? No. And if we knock out the existing governments, right, left, dictator, or what, as the gentlemen have suggested, what will be left, my friends? Communism. We must work with the President, we must work within the established institutions. We have sent the message, we will not tolerate oppression, denial of human rights from any source. But you do not do this by striking blindly in an appropriation bill.

Mr. KOCH. Mr. Chairman, will the gentleman yield? He mentioned my name.

Mr. DE LA GARZA. I yield to the gentleman. I mentioned the gentleman's name.

Mr. KOCH. Mr. Chairman, I really regret that the gentleman made that statement. I tell the gentleman why. I happen to believe that it is when we do not denounce oppression on the right, equally with the oppression on the left, and become associated with right-wing oppression, that the peoples suffering under these regimes, losing all hope for democracy, turn to the Communists.

Mr. DE LA GARZA. We have denounced them here. We are doing it. The gentleman has denounced it.

Mr. KOCH. The gentleman used my name. Will he not let me respond?

Mr. DE LA GARZA. Yes, but not for the rest of my time. I yielded to the gentleman the time that I used mentioning his name.

Mr. KOCH. I ask the gentleman to yield to me to respond.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. KOCH, and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. KOCH. Mr. Chairman, I believe it is in the national interest of the United States to make certain that we do not become identified with oppressive governments. I consider myself as anti-Communist as any Member in this Chamber. I denounce Castro's repression of the Cuban people. I denounce the Soviet Union repeatedly on this floor. But how do we defeat communism? Do we blindly support right-wing dictatorships? No. Dictators like Somoza create support for the Communists. Democratic opponents of the Somoza regime have no hope to end the dictatorship and create a real democracy if we blindly support Somoza. Must we tell the people of Nicaragua, "Sorry, you have only two choices, Somoza or the Communists." If we support Somoza by providing him with U.S. arms to repress his own people, then we become the oppressors. And that is not in our national interest.

Mr. DE LA GARZA. The gentleman has made his point and my point. We have denounced communism. We have denounced the oppression. We have denounced the lack of human rights. This has been done. That is what I said in the beginning. The best thing we could have done was to debate this issue. We do not support these actions, but now I give the Members the alternative.

If the gentleman prevails, what replaces that? Communism. That is the answer. It will not be democracy, I would say, I wish it were, and we need to work toward that end for all peoples of the world, but if we look at history, at the countries involved, I am afraid we risk more than we gain. We must continue to work with the President, within the norms available for effective action and send the message, as we have done, to all the world. Not by individual action, for individual personal reasons, but because we are all committed to that end as a country and as a people.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

The proposed amendment would prohibit the use of funds appropriated in the fiscal year 1978 Foreign Assistance Appropriations Act for bank lending for palm oil, sugar, and citrus. The provision would in effect require that the United States condition its contributions and subscriptions to the international development banks on a requirement that these funds not be used to finance loans for such commodities.

Specifying that U.S. funds could not be used for these commodities would in all probability make it impossible for these institutions to accept U.S. funds and would jeopardize continued U.S. participation in the banks.

The terms and conditions on which the U.S. contribution and the contributions of all other countries are made available to the international development banks are laid down in their articles of agreement and in the replenishment resolutions of the Boards of Gov-

ernors of these institutions. Neither the charter nor such resolutions contain provisions permitting the banks to agree to receive funds subject to a unilaterally imposed restriction that the funds not be used for certain commodities. In fact, any decision with respect to particular loans, must be made in accordance with the multilateral decisionmaking process and the criteria for making loans established in the charter.

In 1975, the Inter-American Development Bank refused to accept contributions earmarked for a specific purpose from the United States. The funds were accepted only after the earmarking requirement was repealed in subsequent legislation.

A requirement that contributions from a member cannot be used to lend for certain commodities would be totally inconsistent with the multilateral framework within which these institutions operate.

Such earmarking would set a bad precedent. If the United States were to earmark funds, other countries would undoubtedly follow the same practice. This would eventually lead to a complete breakdown of the international cooperative character of the development banks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WILSON).

The question was taken; and on a division (demanded by Mr. KOCH) there were—ayes 66, noes 28.

RECORDED VOTE

Mr. KOCH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 180, answered "present" 1, not voting 27, as follows:

[Roll No. 371]

AYES—225

Abdnor	Cochran	Gore
Ambro	Collins, Tex.	Gradison
Andrews, N. Dak.	Conable	Grassley
	Conte	Gudger
Annunzio	Corcoran	Guyer
Applegate	Coughlin	Hagedorn
Archer	Crane	Hall
Armstrong	Cunningham	Hammer-schmidt
Ashbrook	Daniel, Dan	
Ashley	Daniel, R. W.	Hansen
Badham	Davis	Harsha
Bafalis	de la Garza	Hawkins
Barnard	Delaney	Heckler
Bauman	Derwinski	Hightower
Beard, R.I.	Devine	Hillis
Beard, Tenn.	Dickinson	Hollenbeck
Bennett	Dornan	Holt
Bevill	Duncan, Tenn.	Horton
Biaggi	Eckhardt	Hubbard
Boggs	Edwards, Ala.	Huckaby
Bowen	Erlenborn	Hyde
Breaux	Ertel	Ichord
Breckinridge	Evans, Del.	Ireland
Brinkley	Evans, Ga.	Jeffords
Brooks	Fary	Johnson, Calif.
Broomfield	Fascell	Jones, N.C.
Brown, Mich.	Findley	Jones, Okla.
Brown, Ohio	Fish	Jordan
Broyhill	Flood	Kasten
Buchanan	Flowers	Kazen
Burgener	Flynt	Kelly
Burke, Fla.	Ford, Tenn.	Kemp
Burleson, Tex.	Forsythe	Ketchum
Butler	Fountain	Kindness
Byron	Frenzel	LaFalce
Carter	Frey	Lagomarsino
Cederberg	Fuqua	Latta
Chappell	Gammage	Le Fante
Clausen, Don H.	Gilman	Lederer
	Ginn	Lehman
Clawson, Del	Goldwater	Lent
Clay	Gonzalez	Levitas
Cleveland	Goodling	Lloyd, Calif.
Lloyd, Tenn.	Pepper	Stokes
Long, La.	Perkins	Stratton
Lott	Pettis	Stump
Lujan	Pickle	Symms
Luken	Price	Taylor
McClory	Pritchard	Thone
McDade	Pursell	Treen
McDonald	Railsback	Trible
McEwen	Regula	Van Deerlin
Madigan	Rhodes	Vander Jagt
Mann	Risenhoover	Waggonner
Marriott	Roberts	Walker
Martin	Robinson	Walsh
Mattox	Rogers	Wampler
Metcalfe	Rose	White
Michel	Rostenkowski	Whitehurst
Milford	Rudd	Whitley
Mitchell, N.Y.	Runnels	Whitten
Montgomery	Ruppe	Wilson, Bob
Moore	Sarasin	Wilson, C. H.
Moorhead, Calif.	Satterfield	Wilson, Tex.
	Schulze	Winn
Murphy, Ill.	Sebelius	Wirth
Murphy, N.Y.	Sikes	Wright
Murphy, Pa.	Sisk	Wydler
Murtha	Skubitz	Wylie
Myers, Gary	Smith, Iowa	Yatron
Myers, Michael	Smith, Nebr.	Young, Alaska
Myers, Ind.	Snyder	Young, Fla.
Nichols	Spence	Young, Mo.
Nix	St Germain	Young, Tex.
O'Brien	Staggers	Zablocki
Patten	Stanton	
Pattison	Steed	

NOES—180

Alexander	Foley	Nowak
Allen	Fowler	Oakar
Ammerman	Fraser	Oberstar
Anderson, Calif.	Gaydos	Obey
	Gephardt	Ottinger
Anderson, Ill.	Giaimo	Panetta
Andrews, N.C.	Gibbons	Patterson
Aspin	Glickman	Pease
AuCoin	Hamilton	Pike
Badillo	Hanley	Pressler
Baucus	Hannaford	Preyer
Beilenson	Harkin	Quayle
Benjamin	Harrington	Quie
Bingham	Harris	Rahall
Blanchard	Hefner	Rangel
Blouin	Heftel	Reuss
Boland	Holtzman	Richmond
Bolling	Howard	Rinaldo
Bonior	Hughes	Rodino
Bonker	Jacobs	Roe
Brademas	Jenrette	Roncalio
Brodhead	Johnson, Colo.	Rooney
Burke, Calif.	Jones, Tenn.	Rosenthal
Burlison, Mo.	Kastenmeier	Roybal
Burton, John	Keys	Russo
Burton, Phillip	Kildee	Ryan
Caputo	Koch	Santini
Carney	Kostmayer	Scheuer
Carr	Krebs	Schroeder
Cavanaugh	Leach	Seiberling
Chisholm	Leggett	Sharp
Cohen	Long, Md.	Shipley
Coleman	Lundine	Shuster
Collins, Ill.	McCormack	Simon
Conyers	McFall	Skelton
Corman	McHugh	Slack
Cornell	McKay	Solarz
Cotter	Maguire	Spellman
D'Amours	Markey	Stark
Danielson	Marks	Steers
Dellums	Marlenee	Studds
Derrick	Mazzoli	Thompson
Dicks	Meeds	Thornton
Dingell	Meyner	Traxler
Dodd	Mikulski	Tsongas
Downey	Mikva	Tucker
Drinan	Miller, Calif.	Udall
Duncan, Oreg.	Miller, Ohio	Ullman
Early	Mineta	Vanik
Edgar	Minish	Vento
Edwards, Calif.	Mitchell, Md.	Volkmer
Edwards, Okla.	Moakley	Walgren
Eilberg	Moffett	Watkins
Emery	Mollohan	Waxman
English	Moorhead, Pa.	Weaver
Evans, Colo.	Moss	Weiss
Evans, Ind.	Mottl	Whalen
Fenwick	Natcher	Wolff
Fisher	Neal	Yates
Fithian	Nedzi	
Florio	Nolan	

ANSWERED "PRESENT"—1

Rousselot

NOT VOTING—27

Addabbo	Bedell	Cornwell
Akaka	Brown, Calif.	Dent
Baldus	Burke, Mass.	Diggs
Flippo	McKinney	Stangeland
Ford, Mich.	Mahon	Steiger
Holland	Mathis	Stockman
Jenkins	Poage	Teague
Krueger	Quillen	Wiggins
McCloskey	Sawyer	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Addabbo against.

Mr. Teague for, with Mr. Akaka against.

Mr. Zeferetti for, with Mr. Baldus against.

Mr. Krueger for, with Mr. Cornwell against.

Mr. Mathis for, with Mr. Diggs against.

Mr. Wiggins for, with Mr. Ford of Michigan against.

Mr. Quillen for, with Mr. Brown of California against.

Messrs. ALEXANDER, THORNTON, and MOAKLEY changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

AMENDMENT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORE: Page 21, immediately following line 14, add the following new section:

"SEC. 509. None of the funds appropriated or made available to International Financial Institutions pursuant to this Act shall be used by the United States representatives to those institutions for the purpose of establishing or expanding production of sugar, palm oil or citrus crops if the United States is a producer of the same, similar or competing agricultural commodity."

Mr. MOORE. Mr. Chairman, I hope to be brief. The purpose of this amendment is to prohibit the use of our dollars going to the international development banks for expanding production of sugar, palm oil, and citrus crops in competition with those crops that we grow in this country.

Mr. Chairman, this is essentially the same amendment that the House adopted on April 6, 1977, offered by the gentleman from Georgia (Mr. MATHIS) and myself. It passed by a recorded vote of 218 to 145.

At that time the distinguished chairman of the subcommittee, the gentleman from Maryland (Mr. LONG), and the distinguished chairman of the full committee, the gentleman from Texas (Mr. MAHON), supported that amendment. The debate on that amendment can be found in the CONGRESSIONAL RECORD of April 6, 1977. I do not think I need to repeat it at length today. The issue is exactly the same.

Mr. Chairman, the reason the amendment is being offered again is that the other body adopted a much watered-down version. I believe we must show the other body that we are serious and that we intend that this limitation on the use of our funds be effected. Therefore, I am offering it as part of this appropriation bill. It is already in the House version of the authorization bill.

I point out that in this bill there is a 45-percent increase of a $1 billion increase for appropriations to go to these institutions. These are institutions over which we have no control with respect to what is done with the funds.

On March 16, 1977, the distinguished chairman of the subcommittee, the gentleman from Maryland (Mr. LONG), entered into a colloquy with me, and in discussing this problem, he made this comment which I quote from the CONGRESSIONAL RECORD of that date:

We have reached the alarming point where about 69 percent of all money given out by the United States in foreign aid is beyond the control of the Congress. This is something to be concerned about and this year we are heading even further in this direction of giving up control, because the requests for the multilateral banks have more than doubled in fiscal year 1978.

Mr. Chairman, this is exactly what is happening. We are increasing the aid we give to these institutions in this bill with no control over the use of the funds which are in fact being used to compete with our own crops and people. It is unfair to our farmers to give a 1 percent or a three-quarters of 1 percent loan for 50 years to foreign countries and not do the same thing for our own people.

The USDA has estimated that by 1980 one-half of the world's production of palm oil will be directly due to loans from these institutions, with our dollars making that possible. Two-thirds of that world crop will be for export, much of it coming to this country.

Mr. Chairman, we are presently the only importing country of palm oil in the world which does not have an import duty or a restriction upon palm oil coming in. We do not have one, and we are not going to have one if it interferes with international trade agreements.

We see that on sugar as the President of the United States has refused to lower an import quota on foreign sugar at a time when that industry is in real trouble, so it surely will not be established on palm oil.

By 1985, Mr. Chairman, it is predicted by USDA that 15 million bushels, or one-half million acres of soybeans will not be produced, as they will be displaced by the increasing amounts of palm oil coming into this country.

Mr. Chairman, there is something which concerns me even more than that, and that is the fact that palm oil is detrimental to the health of the American people. It has the highest saturated fat content of any oil used in our foodstuffs in this country, 45 percent saturated fats. Hog lard is 38 percent. That gives us a good comparison. It is not good for our people or economy.

These same arguments as to the unfair foreign competition should be made concerning our funds being used by these institutions to finance foreign sugar and citrus crop production. Those industries also have their difficulties especially sugar, and do not need their own tax dollars working against them.

Therefore, Mr. Chairman, I ask that the committee today adopt this amendment as they did on April 6, 1977, to regain some control over our funds and to protect the American consumer and the American farmer from ourselves, for it is our money that is making this undesirable situation possible.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. MOORE).

The question was taken; and on a division (demanded by Mr. MOORE) there were—ayes 34, noes 39.

RECORDED VOTE

Mr. MOORE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 179, not voting 45, as follows:

[Roll No. 372]

AYES—209

Abdnor	Ginn	Nichols
Alexander	Glickman	Nolan
Allen	Goldwater	O'Brien
Ambro	Gradison	Oakar
Andrews, N. Dak.	Grassley	Oberstar
Applegate	Gudger	Panetta
Archer	Guyer	Perkins
Armstrong	Hagedorn	Pettis
Ashbrook	Hall	Pickle
Badham	Hammer-schmidt	Pike
Bafalis	Hansen	Pressler
Barnard	Harkin	Pursell
Baucus	Harsha	Quayle
Bauman	Hefner	Quie
Benjamin	Heftel	Railsback
Bennett	Hightower	Regula
Bevill	Hillis	Rhodes
Blouin	Hollenbeck	Risenhoover
Bowen	Holt	Roberts
Breaux	Horton	Robinson
Breckinridge	Hubbard	Roe
Brinkley	Huckaby	Rogers
Brooks	Hyde	Roncalio
Broomfield	Ichord	Rooney
Broyhill	Ireland	Rose
Burgener	Jeffords	Rostenkowski
Burke, Fla.	Jenrette	Rousselot
Burleson, Tex.	Johnson, Colo.	Rudd
Burlison, Mo.	Jones, N.C.	Runnels
Butler	Jones, Okla.	Santini
Byron	Jones, Tenn.	Sarasin
Carter	Kasten	Satterfield
Chappell	Kazen	Schulze
Clausen, Don H.	Kelly	Sebelius
Clawson, Del	Kemp	Sharp
Cleveland	Ketchum	Shipley
Cochran	Kindness	Shuster
Cohen	Krebs	Sikes
Coleman	Lagomarsino	Simon
Collins, Tex.	Latta	Sisk
Corcoran	Leach	Skelton
Crane	Lent	Smith, Nebr.
Cunningham	Lloyd, Tenn.	Snyder
Daniel, Dan	Long, La.	Spence
Daniel, R. W.	Lott	Stratton
Davis	Lujan	Stump
de la Garza	McCormack	Symms
Derrick	McDade	Taylor
Devine	McDonald	Thone
Dickinson	McEwen	Thornton
Dornan	McKay	Traxler
Duncan, Tenn.	Madigan	Treen
Edwards, Ala.	Mahon	Trible
Edwards, Okla.	Mann	Tucker
Eilberg	Marlenee	Vander Jagt
Emery	Marriott	Volkmer
English	Martin	Waggonner
Evans, Ga.	Michel	Walker
Evans, Ind.	Miller, Ohio	Walsh
Findley	Mitchell, N.Y.	Wampler
Fithian	Mollohan	Watkins
Flowers	Montgomery	White
Flynt	Moore	Whitehurst
Fountain	Moorhead, Calif.	Whitley
Fowler	Mottl	Whitten
Frenzel	Murtha	Wilson, Bob
Frey	Myers, Ind.	Winn
Fuqua	Natcher	Yatron
Gephardt	Neal	Young, Alaska
		Young, Fla.
		Young, Tex.

NOES—179

Ammerman	Bolling	Chisholm
Anderson, Calif.	Bonior	Clay
Andrews, N.C.	Bonker	Collins, Ill.
Annunzio	Brademas	Conable
Ashley	Brodhead	Conte
Aspin	Brown, Mich.	Conyers
AuCoin	Brown, Ohio	Corman
Badillo	Buchanan	Cornell
Beard, R.I.	Burke, Calif.	Cotter
Bellenson	Burton, John	Coughlin
Biaggi	Burton, Phillip	D'Amours
Bingham	Caputo	Danielson
Blanchard	Carr	Delaney
Boland	Cavanaugh	Dellums
	Cederberg	Derwinski
Dicks	Le Fante	Rangel
Dingell	Lederer	Reuss
Dodd	Leggett	Richmond
Downey	Levitas	Rinaldo
Drinan	Lloyd, Calif.	Rodino
Early	Long, Md.	Roybal
Eckhardt	Luken	Ruppe
Edgar	Lundine	Russo
Erlenborn	McClory	Ryan
Ertel	McFall	Scheuer
Evans, Colo.	McHugh	Schroeder
Evans, Del.	Maguire	Seiberling
Fary	Markey	Skubitz
Fascell	Marks	Slack
Fenwick	Mattox	Smith, Iowa
Fish	Mazzoli	Solarz
Fisher	Meeds	Spellman
Flood	Metcalfe	St Germain
Foley	Meyner	Stanton
Ford, Mich.	Mikulski	Stark
Ford, Tenn.	Milford	Steed
Forsythe	Miller, Calif.	Steers
Fraser	Mineta	Stokes
Gibbons	Minish	Studds
Gilman	Mitchell, Md.	Thompson
Gonzalez	Moakley	Tsongas
Goodling	Moffett	Udall
Gore	Moorhead, Pa.	Ullman
Hamilton	Moss	Van Deerlin
Hanley	Murphy, Ill.	Vanik
Hannaford	Murphy, Pa.	Vento
Harrington	Myers, Gary	Walgren
Harris	Nedzi	Waxman
Heckler	Nix	Weaver
Holtzman	Nowak	Weiss
Howard	Obey	Whalen
Hughes	Ottinger	Wilson, Tex.
Jacobs	Patten	Wirth
Johnson, Calif.	Patterson	Wolff
Jordan	Pattison	Wright
Keys	Pease	Wydler
Kildee	Pepper	Wylie
Koch	Preyer	Yates
Kostmayer	Price	Young, Mo.
LaFalce	Rahall	Zablocki

NOT VOTING—45

Addabbo	Flippo	Murphy, N.Y.
Akaka	Florio	Myers, Michael
Anderson, Ill.	Gammage	Poage
Baldus	Gaydos	Pritchard
Beard, Tenn.	Giaimo	Quillen
Bedell	Hawkins	Rosenthal
Boggs	Holland	Sawyer
Brown, Calif.	Jenkins	Staggers
Burke, Mass.	Kastenmeier	Stangeland
Carney	Krueger	Steiger
Cornwell	Lehman	Stockman
Dent	McCloskey	Teague
Diggs	McKinney	Wiggins
Duncan, Oreg.	Mathis	Wilson, C. H.
Edwards, Calif.	Mikva	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Addaboo against.

Ms. Boggs for, with Mr. Zeferetti against.

Mr. Beard of Tennessee for, with Mr. Akaka against.

Mr. Quillen for, with Mr. Baldus against.

Mr. Stangeland for, with Mr. Burke of Massachusetts against.

Mr. Wiggins for, with Mr. Staggers against.

Mr. Cornwell for, with Mr. Diggs against.

Mr. Mathis for, with Mr. Hawkins against.

Messrs. HILLIS and ROSTENKOWSKI changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 21, after line 14, insert the following new section:

SEC. 510. The total amount of funds appropriated or made available pursuant to this Act for purposes of military assistance, foreign military credit sales, and international military education and training to the Government of the Republic of Korea shall not exceed twelve-fifteenths of the total amount so appropriated or made available for such

purposes for the period beginning July 1, 1976 and ending September 30, 1977, unless the President submits a detailed report to the Congress after the date of enactment of this Act stating that the government of the Republic of Korea is making substantial progress in the observance of internationally recognized standards of human rights.

Mr. CONTE. Mr. Chairman, would the Clerk please rereport the amendment?

The CHAIRMAN. The Clerk will report the amendment from the beginning.

The Clerk reread the amendment.

POINT OF ORDER

Mr. LONG of Maryland. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LONG of Maryland. If there ever was an amendment that was out of order, this is it. The gentleman's amendment contains language which conditions the availability of funds on a performance of a new affirmative duty on the part of a Federal official, specifically, the President. In addition, the amendment requires the President to submit a detailed report to Congress on the human rights situation in Korea, which imposes additional duties on the executive branch official.

For both these reasons, the amendment constitutes legislation on an appropriation bill and is in violation of rule XXI, clause 2.

The CHAIRMAN. Does the gentleman from Iowa wish to be heard?

Mr. HARKIN. Yes, Mr. Chairman.

Mr. Chairman, I submit the amendment does not, in fact, impose any new duties upon the President. Under section 502(b) of the bill which we are debating, which is already a part of the law, subsection (3)(b) imposes a duty upon the President, through the Secretary of State, to transmit to the Congress as a part of the materials for security assistance programs proposed for each fiscal year a full and complete report prepared with the assistance of the Coordinator for Human Rights and Humanitarian Affairs with respect to proposals regarding the observance of a respect for internationally recognized human rights for each country proposed as a recipient of security assistance.

Therefore, Mr. Chairman, I submit that this language imposes no new responsibilities, but is only a reaffirmation of the duties and responsibilities he already has under section 502(b), subsection (3)(b) of existing law. I submit that the amendment is in order.

The CHAIRMAN. The Chair is ready to rule.

It seems to the Chair that this amendment does, in fact, require an additional duty on the part of the President to submit a detailed report to the Congress after the enactment of this act. If the gentleman from Iowa had wanted this amendment to conform to the reporting requirement in existing law, he could have so provided in this amendment and made it conform to law. But, in the opinion of the Chair the President here must submit a different report, which is a detailed report as to whether South Korea is making substantial progress in the observance of internationally recognized standards of human rights, and is over and beyond what is required in the law that the gentleman has referred to.

For that reason, the Chair respectfully sustains the point of order.

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 21, after line 14, insert the following new section:

SEC. 510. The total amount of funds appropriated or made available pursuant to this Act for purposes of military assistance, foreign military credit sales, and international military education and training to the Government of the Republic of Korea shall not exceed twelve-fifteenths of the total amount so appropriated or made available for such purposes for the period beginning July 1, 1976 and ending September 30, 1977.

Mr. HARKIN. Mr. Chairman, this amendment brings the appropriation level for fiscal year 1978 for military assistance, for military sales, to the Republic of South Korea to the funding level of 1977. The reason we used this language of twelve-fifteenths is because of the transition quarter which took place before fiscal year 1977. But the impact of this amendment, should it pass, would be to keep the funding level for South Korea at the same spending level that we had last year. In effect, this would be cutting about $45 million out of the increased amount in the funding level that would be authorized for military assistance to South Korea. But I want to make it clear that the amount of spending that could take place under this amendment would be the same as last year. I think this amendment would send a clear signal to the dictator in South Korea, Chung Hee Park, that we are deeply concerned about human rights in that country and of human rights violations by that government.

Mr. Chairman, I would like to say to my friends on both sides of the aisle who have stood fast on the human rights concerns on the issue of Cambodia, Angola, Vietnam, Mozambique, and other places, that they should also have a little bit of consistency here and address the human rights problem that exists in South Korea. I believe the human rights situation we have in South Korea at least as important as in some of these other countries and, to a great extent, it is much more important because of our special relationship with South Korea.

I do not have to recite for the Members here all of the history of the human rights violations by the present President of South Korea. But, I think it is good to review just a little bit of the history, to bring us up to date. It should come as no surprise to us that President Park has dictatorial instincts. After all, prior to the Second World War—this is something very few people know of—President Park was an officer in the Korean Army that served the Japanese occupying force which had occupied South Korea since 1910. We had another instance of that with Thieu, the former President of South Vietnam, who fought on the side of the French against his own countrymen. And here we have Chung Hee Park in the same kind of a situation. I would remind the Members that Park came to power not through an election, but he seized power in a military coup in 1961. Immediately after taking over, he banned demonstrations, closed newspapers, arrested thousands of people, established the now infamous KCIA, and established a whole new system of military courts. The Kennedy administration responded forcefully to this. President Kennedy threatened to cut off all aid to South Korea. Park relented, and democracy reigned in South Korea from about 1963 to 1971. Then during the election in 1971, Park was threatened by a man named Kim Dae Jung, who ran against him and got 46 percent of the vote. Park was so frightened that he would not be able to stay in as President, that he began a whole new series of repressions after the 1971 election. In 1972 South Korea got a new constitution, pushed through by Park, which is really a charter for dictatorship. President Park was able to proclaim himself President for life. Under the old constitution this would have been his last term in office. Since that time, since 1971, the repression under Park, under this dictator, has continued and, I submit, it is growing worse. Amnesty International can list these cases of torture, executions, imprisonments of clergy and students, not Communists, not sympathizers with the North, but Christians who were trying to bring that country back to a rule of free government, a rule of law, a democratic system.

Amnesty International lists some of the things that have been going on in South Korea. Let me just read the list for the Members. We have heard about Nicaragua. Let us hear about South Korea now. Here are some of the different tortures that have been documented in South Korea:

Water tortures—cold water is forced up the nostrils through a tube. A cloth is simultaneously placed in the victim's mouth so that breathing is impossible;

Electrical torture—especially to sensitive parts of the body such as toes and genitals;

Deprivation of sleep;

Being hung from the ceiling and spun around;

Having a ballpoint pen placed between the fingers and having the fingers twisted and crushed against it;

Beatings, particularly to the soles of the feet;

Burning with flames and cigarettes;

Kicking below the knees;

Prolonged standing; and

Ruptured eardrums.

The list goes on and on.

Let me cite a case in point of one individual. I have literally tens and hundreds of cases of tortures, but there is one in particular here where the person was arrested and taken to CIA headquarters and tortured for several days.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to procede for 5 additional minutes.)

Mr. HARKIN. Mr. Chairman, this is what this individual said:

I was taken to the Yongdenungpo Police Station" on a certain date "from where I was taken to the Korean CIA headquarters, where I was interrogated in 3 different rooms. I was viciously beaten.

He said further that:

On a certain date at about 6 p.m. I was taken to an interrogation room at the CIA where two agents and two or three policemen administered water torture. First I was forced to kneel down to the cement floor, where I was beaten with the side slat of an Army cot all over my body. I was threatened; one of the agents said to me: "You know Professor Choi Jong Kil" (a man "who reportedly committed suicide during interrogation and whose body was never released) died at KCIA headquarters? Not a rat or a bird told a soul where his body is. You know, you could die and we could dispose of your body, and that would be the end of it. You didn't know the KCIA was such a frightening place, did you?"

Next they stripped me, bound my wrists and ankles, forced the stick they had beaten me with between my wrists and ankles, hung me upside down from the ceiling, and forced water into my mouth. While doing this, they ordered me to admit the following: that (blank) was the power behind what I did; that I received my instructions from North Korean broadcasts regularly; that I had been to North Korea; to say that (blank) had been to North Korea, and that we were planning to overthrow the Park government by force. They then wanted to put my thumbprint on the confession they had written. When I refused, the process began again and again. At last I could take no more, and I agreed to sign.

In August of 1976, 18 religious, political and academic leaders were sentenced to jail for signing a declaration stating simply that democracy ought to be restored to South Korea.

As a result of that, a letter was written to Dictator Park last October, and it was signed by 153 Members of this Congress, including 135 Members of the House. The letter was signed by Members on both sides of the aisle, and the letter deplored the arrest of those 18 people and asked for that to be undone, urging that the sentences be remitted.

The distinguished chairman of the subcommittee signed that letter.

What has happened to those people since last October? Nothing. They are still in jail months later. Kim Dae Jung, the man who had run for President, instead of having his sentence commuted, was transferred from a jail in Seoul to a prison in a remote area where no one could visit him. His wife is allowed to visit him for 5 minutes each month.

Since that time, in April of this year, a new wave of repression has taken place. Over 100 people were arrested. Some students at a Christian school, the EWHA University, were subjected to torture for planning to read a statement during chapel service on April 11.

Much of this new wave of repression is simply due to this statement and the activity that students devoted toward getting signatures for it. I could give the Members a partial list of those people who were arrested. This is only a partial list, and it includes, for instance, the Secretary of the Korean Christian Social Mission, the chairperson of the Young People's Presbyterian Church in Seoul, and there are many others. This is the list of the people who were picked up.

I would like to reiterate that these opposition people are not Communists. They are Christians whose main concern is to restore democracy to South Korea.

Mr. Chairman, I would like to end on this note:

We are going to hear a lot of arguments against this amendment on the basis that we are withdrawing our troops from South Korea, and that as we withdraw our troops from South Korea, we have to beef up South Korean military security there. All right, let us buy that argument. Let us assume that is correct; that that is exactly what we have to do.

But I will submit that that is not our only choice. Let us withdraw our troops. I am in favor of that. But let us go ahead and keep up our military support of South Korea—I am in favor of that—but let us not give Chung Hee Park a carte blanche; let us not give him a blank check. Let us not tell him that we are going to keep giving him money for more and more military goods regardless of how repressive he becomes or how much torture is inflicted upon his own people.

Mr. Chairman, I say that by adopting this amendment, by just leaving the funding level at the level it had been last year, we send a message to Park saying, "Clean up your act. Restore democracy to South Korea. Live up to the 1963 Constitution and restore human rights to South Korea, and then we will keep our commitment to your government."

We made a mistake several years ago when we withdrew troops from another place called South Vietnam, without insisting at that time that the President of that country, Nguyen Van Thieu, restore democracy or restore a measure of human rights to his country. Thieu was powerful, and had all of the military equipment and military support he needed. But he did not have the support of the people.

Mr. Chairman, if we do the same thing with Park, we are going to wind up some years down the road, and not too many years from now, with President Park undoing everything we have ever done in South Korea.

The billions and billions of dollars we have spent there to build up a viable economy and the work we have done there to build up a democracy in Asia will all be undone because of one dictator interested only in himself—and his power.

I urge adoption of the amendment.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, at this point my feelings toward the manner in which the administration has lobbied this bill are not exactly friendly because it has been my impression that if there was an agreement to support the bill, that agreement would extend to both ends of Pennsylvania Avenue and not just be binding upon the Congress of the United States.

If I were to let my temporary anger persuade me, at this moment I would not be standing here opposing this amendment; but if I did not oppose the amendment, I think it would be irresponsible of me.

Mr. Chairman, I think my opinions on Korea are well known. I think our relationship with the Government of Korea has bordered on disgrace.

The Members will recall that for years the past chairman of this subcommittee would fill the RECORD with laudatory statements about the Korean Government, and I would just as regularly write dissenting views objecting to those laudatory comments. In fact, in the Subcommittee on Foreign Operations I believe I was the first member of that subcommittee to raise questions about the operations of the Korean CIA within this country.

Mr. Chairman, my son is very close to a Korean family in this community, and that family has been harassed by the Korean CIA.

And I do want to point out that I raised a number of specific questions on the operation of the Korean CIA with Mr. Habib in the hearings 2 years ago. So, I do not think it is necessary to establish my credentials as an opponent of the present Korean Government and as a Member of Congress who is disgusted by it.

Let me, nevertheless, make clear that while I would have voted for this amendment at a different time, it is very dangerous because at this moment when the administration is in the process of withdrawing troops from Korea, I think it is important that our disentanglement from that Government be accomplished in a manner which is systematic and which will not disturb other areas, most notably Japan.

Mr. Chairman, this administration is not an administration which is shutting its eyes to human rights. This administration has been giving more visibility to that issue than any administration that I have served under, and certainly, I think, any administration in my political memory.

Mr. Chairman, I really believe that the administration, if it is left to its own devices in this area, will provide the most effective effort to improve the actions of the Korean Government if, in fact, that is possible; and I, for one, am very skeptical that the Korean Government will change its attitude as far as human rights are concerned, no matter what we do.

However, I do think that we have to give special recognition to the fact that this is an especially sensitive area of the world.

As I said earlier, I think there must be two conditions present before the Congress takes unto itself the responsibility of trying to limit funds in an appropriation bill for any specific country. One, we must prove beyond a shadow of doubt that that Government is not subject to influence on that issue. I think that situation was true in Nicaragua; and I think, frankly, that it is probably true in Korea as well. Second, I think that, if we are to be sensible about it, there must also be an absence of a security interest on our part.

I do not believe any Member can deny in connection with Korea that there is a security interest at the present time. That means we have to rely on the Car-

ter administration to disentangle ourselves from a very distasteful Government in the most rational and balanced manner possible. I believe that this can only be done if we allow the Carter administration to proceed the way that it has been proceeding. As a matter of fact, this administration has already been criticized from the other direction. It has been criticized by a subcommittee chairman, a rather influential one, for their intention to withdraw our troops from Korea.

I would submit that the best way we can disentangle ourselves from a very distasteful Government is to pull our troops out of Korea as the Carter administration is trying to do, and then try to persuade the Korean Government, if it can, to come forward with some rational position on human rights.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, here we go again. The gentleman from Iowa, (Mr. HARKIN), offers an amendment to the foreign assistance appropriations bill to slash funds for the Republic of Korea.

This is the same amendment, in principle, that the gentleman offered on May 24 of this year when the House debated the International Security Assistance bill. On that occasion his amendment was defeated by a vote of 260 to 139. His latest amendment deserves the same fate.

The proposed slash in security assistance for Korea would come at a time when the President's representatives are negotiating a withdrawal of all U.S. ground forces. Our President has committed the United States to a modernization of Republic of Korea forces so they can deter an attack from North Korea's irrational dictator, Kim Il Sung. To offset the pull out of American troops from Korea, we will need to spend more—not less—to build up South Korea's armed forces.

It is in our own self-interest to maintain the military balance, peace and stability in Asia. The security of Japan is directly linked to the security of Korea which is the key to our Pacific defense strategy.

Even the Korean Government's domestic critics favor continued U.S. assistance and the security relationship with the United States.

In this day and age of the press coverage of the so-called Korean scandal, it is not the easiest thing to be defending a situation related to Korea. But I would like to put a few facts before the Members. One is that if we are going to be rating countries, South Korea is not by any means the worst of the lot.

As a matter of fact, out of the 150 countries in the United Nations there are perhaps 24 who have legitimate governments and 126 have some form of suspect structure. I would rate the Koreans as probably in the upper half of the category.

Mr. Chairman, I believe that we have to keep in mind a few things. One is that they have a wild-eyed diabolical Red dictator to their north who is making almost daily threats. They have discovered tunnels that have been dug by the North Koreans under the demilitarized zone. The press is full of stories concerning Korean fishing ships being picked up by the North Koreans and by the Communist Chinese. They are under constant pressure. I was there a year ago just after an American officer was killed by the North Koreans in the demilitarized zone. That certainly was not an act of charity. So we have to appreciate the fact that the Koreans more than any other country in the world feel under direct attack. As a result there is martial law. There is some denial of freedoms, nobody denies that, but, as I say, we also have to appreciate the circumstances that exist.

But, Mr. Chairman, even with all this pressure I think they have to be given credit for some democratic procedure. They still have a functioning parliament which is more than what you find in most of Asia and Africa. In fact, just the other week they had elections in two districts and in both of those districts independents were elected to the parliament. The elections were not rigged.

The gentleman from Iowa (Mr. HARKIN) made a good point and it is a hard point to debate against, but the issue here is not an emotional one and the issue here is not one of trying to translate a precise case of abuse in a national pattern. It just is not the fact that Korea as such is a vast prison camp and totally opposed to the kind of things that we would support.

There is freedom of religion there. For every clergyman you meet who condemns the Government I can get you a clergyman who supports the Government and will tell you of the manner in which they serve the populace.

We have now embarked on a policy which will produce the step-by-step withdrawal of our troops from South Korea. It is obvious that what we do not want in the process is another invasion of South Korea by the North Koreans. If there is a signal to be given by this amendment, it would be a signal to the North to contemplate an attack on the South, not a signal to the South that they are bad boys and they have to straighten up.

This amendment in principle at least was the same the gentleman offered about 3 weeks ago to the authorization bill. At that time it was rejected by the House, and I hope that is the case this afternoon.

Let me read to the Members a brief passage from the publication, "Foreign Policy," the spring 1977 edition. This is a quote from one of our colleagues who is a critic of the Government of South Korea, and I quote from this article:

> I believe that if the South Korean Government persists in its present course, the United States must be prepared to disengage from South Korea carefully and in full consultation with Japan on a step-by-step basis.

Then he went on to say:

> If we are forced to depart because the South Korean Government continues to severely restrict human rights, we should give South Korea enough additional arms so that it can defend itself, and offer Japan additional U.S. forces.

That argument was made by my dear friend, the Members' dear friend, the gentleman from Minnesota (Mr. FRASER). Even Mr. FRASER, who is something less than a fan of the Government of South Korea, recognized that if we are to disengage our forces, we will actually have to raise the support not lower it.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HARKIN, and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 3 additional minutes.

Mr. DERWINSKI. Mr. Chairman, in gratitude, I yield to the gentleman who I am sure has a question for me.

Mr. HARKIN. I thank the gentleman for yielding.

I would just like to correct one slight error. The Dear Colleague letter that the gentleman sent around stated that this is the same amendment I offered in May or April. That is not true. The amendment I offered at that time was a 5-percent cut across the board. It did not say for North Korea or anything else. It just was a 5-percent straight cut in the military assistance program. That is all it was. It had nothing to do with Korea.

I have one second point. I do not think we are ever going to find that South Korea militarily is in a better position than they are right now. They have a third more troops than they have in North Korea. They have more up-to-date fighter aircraft and bombers. They have air wings, and two aircraft carriers and our support over there. So I do not think they are in any danger at all of being overrun by North Korea. I think that is a false argument.

But the gentleman made the point we are trying to withdraw our troops, and I understand that argument. But I would like the gentleman to address himself to the point that in fact we do not want Park to put strings on human rights; that in fact he may become more and more repressive; his whole history is repression and being a dictator; he has never on his own given up any power; and that he will in fact become more repressive and destroy everything we have ever done in South Korea.

Mr. DERWINSKI. Let me just first answer that comment. I am not here as a spokesman for President Park. I am here because I believe this amendment would be a disservice to our entire position in Asia. But if we are to embark through the vehicle of this bill, on correcting the alleged internal weaknesses of every country that is a recipient, that would be the easiest way to kill the so-called foreign aid program. Egypt, Jordan, Syria, a number of other countries, Turkey could well be subject to the same criticism.

President Park is in fact an absolute ruler of that country. No one denies that. But I think it is at least fair to keep in mind the constant pressure that they face from the North, the pressure they feel.

On the point the gentleman made about their defense and their defense forces, yesterday we had the former

KCIA director testify before our subcommittee. He is a critic of the Government. In his official testimony he described the North Koreans as having superior air and naval forces.

Last year during the debate there were all sorts of statistics that showed that in terms of up-to-date equipment, the North Koreans have been better equipped by the Russians than we in turn have equipped the South Koreans.

Mr. HARKIN. If the gentleman will yield further, no one can tell me that a MIG–15 or 17 is better than an F–14—no way.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman just briefly.

Mr. YOUNG of Florida. I thank the chairman for yielding.

I wonder if the gentleman might make a comment, since Amnesty International has been discussed so often, why Amnesty International makes no mention of this problem?

Mr. LONG of Maryland. I think the gentleman can do that very well when he gets his time and I hope he will speak on that.

Mr. Chairman, it is evident to anybody who has read our report and listened to the debate that the committee has not retreated in its responsibility to human rights. As a matter of fact we have been criticized for going too far. We brought to the floor a bill which eliminates all military assistance to two countries we consider to be guilty of gross violations. The committee further recommends the elimination of one or more aspects of foreign aid in five more countries, but we deliberately abstained from trying to cut off military aid to those countries in which there was an overriding security interest. That is the one factor which we agreed rises above the question of human rights. In my opinion it is the only one.

Now the gentleman comes along with an amendment which would seriously reduce proposed assistance programs to Korea, a country in which I do think we have an overriding security interest. There may be serious human rights violations.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield on that point?

Mr. LONG of Maryland. If the gentleman will let me finish my speech, then I will yield.

Mr. Chairman, there probably are violations of human rights in the Republic of Korea. I got in a heated debate with one of the high officials on this very problem and pointed out how very seriously we regard these violations in the United States.

But remember, the situation in Korea is unique. South Korea and that entire region of the world face a very real Communist threat from North Korea and Communist China. We know it. We have been in a major war as a result of it. They left behind a trail of carnage and torture. The people of South Korea have not forgotten it and, believe me, when I was there 3 years ago and taken up to the DMZ one could tell by the very attitude of their military and our military that the South Koreans are absolutely scared to death of North Korea. Whether they should be or not is a real question, but they are absolutely terrified.

If we are going to pull our troops out, as the President indicated, then we jolly well better make sure the South Koreans can defend themselves, and that certainly is not compatible with cuts in military aid at this time. We have to make sure they are beefed up to the point where they can take care of themselves.

It is a very unappetizing regime, I agree completely.

Let me point out that we have a very real problem if we ever pull out of South Korea and the North Koreans move in, as they can very well do, would we want our American boys to be involved in another war over there? But if we pull out and North Korea takes over and the whole Korean Peninsula goes communist, a message is going to go out very clearly to Japan and other countries, but especially to Japan.

Nobody wants to say so, but this is the real worry we have got. We do not want the military establishment in Japan to be reestablished and the Japanese to launch on another military venture. That would disturb, I think, the whole peace balance of the world. That to me is the most important factor.

We have got to continue, whether we like the current South Korean regime or not, to give them the kind of aid they have to have to take care of themselves against another North Korean venture.

Mr. Chairman, I do not think this is something we ought to take a chance on, so I hope the gentleman's amendment is voted down.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. LONG) has expired.

(At the request of Mr. JOHNSON of Colorado, and by unanimous consent, Mr. LONG of Maryland was allowed to proceed for an additional 2 minutes.)

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a glib phrase is being used frequently around here, that it is in our national security interest, and nobody can deny that.

As a matter of fact, earlier this year I read from the National Security Council of 1947, this is a document just recently declassified in the National Security Council of 1947 and the Joint Chiefs of Staff in 1948, both said Korea was not vital to our security interests at that time. So we keep repeating these phrases very glibly and we fall back on them without real analysis.

Mr. Chairman, I would like to ask the gentleman this question, international strategy aside, why do we feel we ought to be giving any aid to a government that is subverting our own Government? Why are we giving aid to a government that is bribing Members of this body? That is a most absurd state of affairs. This is not a friendly government. This is an enemy government. We are supporting this country year after year when we know they are bribing Members of this body. It is an absurd situation, it is absolutely ridiculous.

Mr. LONG of Maryland. Mr. Chairman, the gentleman is asking me to defend bribery. Of course, I am not going to do that.

Let me point out, it may very well be that Korea is not a security problem for the United States and it is quite possible we are not living in a world that is thoroughly Communist but the problem is how Japan perceives the Korean peninsula. There is an old saying in politics that "perception is reality." Japan has been concerned about this for a long time. It is how Japan perceives this situation.

Mr. JOHNSON of Colorado. Mr. Chairman, I agree.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to endorse very heartily what the distinguished gentleman from Maryland (Mr. LONG) has just said. The gentleman has spoken some very sound truths and I think the House ought to listen to the gentleman and vote with the gentleman.

We had some discussion earlier in the day about "pernicious" amendments. I do not know whether this is a pernicious amendment, but it is certainly a very dangerous amendment. It would be a tragedy, indeed, if it were to be adopted.

Now, we have reduced our strategic sights a little bit since the Vietnam war. We are not the policeman of the world any more, but we do have three vital areas of interest in the world to which the security of this country is committed. One is in Western Europe with NATO. The second is in the Middle East with Israel and its Arab neighbors; and the third is in Korea and the Japanese archipelago. If any of these three areas were to erupt in a war that would involve the United States. It could place our security in serious jeopardy.

The delicate nature of the situation in NATO we have come to recognize, although for many years we talked about bringing back our troops from Europe, that we should not keep them over there perpetually. Now we know that by keeping 300,000 men in Europe we are securing the peace of Western Europe.

We know also that our commitment to Israel is something that has maintained a difficult, but, nevertheless, a continuing truce in that area—and has prevented a new war.

Korea is the third vital area. We have not had a war there for some 25 years. Now, certainly we do not want to do anything today that would increase the chance of a new war there. We do not want to do anything to destabilize the Korean situation. Yet this amendment would do exactly that. Here we are today with the Government of Korea under investigation in this House. Also, the President of the United States has announced unilaterally that he is going to withdraw all our troops from the Korean Penin-

sula within 5 years. The Japanese are deeply disturbed by this announcement, as the gentleman from Maryland has said; but they are apparently too polite to say so. Somehow they think it is going to go away; but I am not sure it is going to go away.

I had the privilege of chairing an inquiry into the strategic views of the Chief of Staff of the American Forces in Korea, General Singlaub.

He lost his job, but what he said was something that every Member of this Chamber deserves to listen to. He said that the Koreans themselves believe that if we withdraw our troops from Korea, we are going to have war, and he said he was inclined to agree with them. Maybe as an active officer he should not have said that in the open; but we in this body, charged with the ultimate responsibility for the defense of our country, ought to be aware that all the top military and diplomatic people who are familiar with East Asia, all agree with General Singlaub; although today nobody, apparently, will open his mouth. But, those are still the blunt facts.

The other body, the other day, turned down by a vote of 75 to 15 a proposal that they simply endorse the President's withdrawal program. Instead of that, they went on record that U.S. policy in Korea should be made not only by the President, but by the Congress as well.

Now, what does the Harkin amendment do? The President of the United States has suggested that in 5 years we can withdraw our troops; but he has also said that we are going to provide Korea with the ability to defend itself. We have at present a 5-year plan to provide military assistance to Korea to bring about that increased capability. But the gentleman from Iowa is asking us to destroy the first year of that 5-year plan.

But, what is wrong with that plan? General Singlaub testified before our committee that the 5-year plan is actually a 5-year funding plan over 5 fiscal years; but the results of the military buildup will not be felt in Korea until 8 years from now. That is why he said that if all of our troops are pulled out of there in 5 years, we could, indeed, open up the possibility of a surprise attack from North Korea. So, with this amendment we would be not only undercutting the program that the President wants, but even that program falls 3 years short of accomplishing what the President wants us to do; namely, give the South Koreans enough military capability by the time our forces are withdrawn to be able to defend itself.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. STRATTON was allowed to proceed for 3 additional minutes.)

Mr. STRATTON. So here we are, with a program that even in 5 years will not match the defense needs of Korea. And this committee is now being asked to begin undercutting it because the democracy they have in Korea is not a perfect democracy. I do not know whether it is a perfect democracy or not. I do not believe it is, from what I see. But as the gentleman from Maryland and others have pointed out, the capital city of South Korea is only 25 miles from those crack North Korean troops. All the North Koreans have to do is to launch a surprise attack, which they can do, and capture the capital of Seoul; and then they are in a position to demand that the South Koreans sue for peace. The war will be over and the Communists will be facing Japan.

So, it is most important that the military power we have in Korea be there in place. If the Russians were 25 miles from Washington or 25 miles from New York City, I think we too might be just a little bit tougher on some of our citizens in this country, as we were in California after the surprise attack on Pearl Harbor.

The thing that we have got to avoid is taking action in this body which will convince the Japanese that we are not interested in protecting their security. Korea, under Communist control, I will say to my friend from Maryland, would be a dagger pointed at the heart of Japan. I just met 3 days ago with about 20 of the top businessmen of Japan, and they are deeply worried about this problem. I told them, "For heaven's sake, speak out. Do not just be polite. This is the time when we are choosing up sides, and if you want us to influence the decision, speak out and let your voices be heard."

And what would be the other great danger if we were to adopt the Harkin amendment? What is the most urgent concern of the People's Republic of China? They are deeply worried whether the United States really has got the guts and the will to stand up to the Soviet military threat.

If we cut the money destined to strengthen the defenses of South Korea, then the People's Republic of China will be convinced that we Americans are a paper tiger, after all; that we just do not have the will to resist North Korean aggression.

So that is why this is a dangerous amendment, and that is why it should be opposed.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

Let me acknowledge at the outset that I was impressed by some of the things which were said by my friend, the gentleman from Iowa (Mr. HARKIN). Honestly, I do not know as much as perhaps I should about the internal affairs of South Korea. All of us would agree that it probably is not a paragon of political purity.

But let us compare it, my colleagues, to North Korea. Does anyone suggest that North Korea is more respective of human rights? We have been voting earlier today to cut aid for those countries which have not been friendly to the United States. Now we are beginning to hear suggestions that we cut out aid to those countries which, whatever their political coloration, have indeed been friends of the United States in our international dealings. Nobody will deny that South Korea, whatever its faults, has stood with us at critical moments when the chips were down.

Let us ask ourselves what this cut would mean. In the first place, it is a cut, according to the President and the State Department. The gentleman from Iowa (Mr. HARKIN) surely is sincere when he suggests that this $45 million cut, which amounts to about 16 percent of the foreign military sales authorized in this bill for South Korea, would bring it only to last year's level. The State Department does not agree with those mathematics. The fiscal year 1977 program level was exactly the same as that authorized in this bill, $275 million. So it would be, according to the State Department at least, a rather substantial reduction below last year's funding level.

I think it already has been said, and said pretty well, that if there were a time to do this as a means of sending a message to the President of South Korea that we wanted him to pay more attention to human rights, that time is not now. Our President's announcement that in the period lying immediately ahead he is going to withdraw troops from South Korea already has sent tremors of apprehension among all of those nations who are our friends in Asia, all the way from Japan to Australia. All of them have in one way or another expressed their concern. Now if we compound that by saying not only are we withdrawing American troops, but we are also reducing the amount of military sales which will permit South Korea to defend itself, those tremors will expand and that apprehension will become deeper, and we will raise serious and legitimate concerns throughout Asia as to whether we have any continuing commitment to the peace of Asia and to our friends in Asia.

And what do we say to the north, to North Korea? I can well remember with anguish and sadness what happened in 1949. Are memories so short that any of us could forget? The Congress of the United States in that year voted to terminate aid to South Korea. That was interpreted by North Korea as an open invitation to marauding military aggression.

In the year immediately following, they invaded South Korea. That brought about a blood bath in which the hillsides of Korea were stained with the blood of young men from 17 nations, including thousands of young Americans. Surely we cannot afford to make that same mistake again.

Let us be a bit restrained. Let us follow the request of the President and the State Department. The phased withdrawal of American troops is a gradual thing. It will not precipitate war unless we by our folly invite it. The President's commitment to human rights cannot be questioned. Nor can his commitment to world peace.

Let us not compound these problems and upset the delicate balance of peace by sending shock waves throughout all of Asia, as we could do with the adoption of this amendment.

Mr. HARKIN. Mr. Chairman, will the majority leader yield?

Mr. WRIGHT. Of course, I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the majority leader for yielding.

There are just a couple of things I

want to cover. I think, No. 1, the cut that Congress enacted in 1949 was more the result of the speech that Dean Acheson gave to the National Press Club downtown, in which he outlined the parameters of the U.S. security program, than anything else.

Mr. WRIGHT. Of course, the gentleman is basically correct, but history shows us that it was a mistake then and it would be a mistake today, whether Dean Acheson was rightly or wrongly interpreted by Congress.

Mr. HARKIN. The point is that perhaps that is not in the security interests of the United States.

Mr. WRIGHT. It turned out that it was, or at least we determined later that it was. Precious blood was spilled to defend South Korea against an invasion from the North.

Whether it posed a threat of invasion of the United States is one question, and whether it posed a threat of the epidemic of war and aggression that would be allowed to infect and run rampant and spread across the face of the globe is another thing.

I think we all agreed at the time that military aggression was to be stopped. Surely we do not want unwittingly to encourage it today.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. LONG of Maryland. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 5:05 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. HARKIN. Mr. Chairman, reserving the right to object, I notice that a number of Members here would like to speak on this amendment. We spent a lot of time on Nicaragua. I would submit that South Korea is at least as important as Nicaragua, and I would hope that the gentleman would give us a little more time.

Mr. LONG of Maryland. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. Chairman, I move that all debate on this amendment and all amendments thereto conclude at 5:15 p.m.

The motion was agreed to.

(By unanimous consent, Mr. OBEY and Mr. LONG of Maryland yielded their time to Mr. ZABLOCKI.)

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, during the debate on the appropriation bill before the committee numerous amendments of dubious advisability were proposed. The pending amendment offered by the gentleman from Iowa that would reduce the foreign military sales, FMS, credit ceiling for Korea by $40 million should be defeated because it is not in our own country's best security interest.

However, in opposing the amendment, I want to make the record absolutely clear that I fully share the gentleman from Iowa's deep concern for human rights in Korea and throughout the world. Indeed, there are pockets in our own country where human rights are denied. I believe that this Congress and our Government as a whole should make every reasonable and workable effort to improve and protect human rights everywhere.

But, in all due respect to the gentleman, his amendment, if enacted, would be counterproductive both with regard to the human rights situation in Korea and with regard to our efforts to begin a phased withdrawal of U.S. troops from that country.

First, with respect to the human rights issue, I think it is noteworthy that all of the Korean Government's domestic critics favor continued U.S. security assistance to Korea and believe that a cutoff or reductions in such assistance would not have a beneficial impact on human rights. On the contray, such an action could very well force the Korean Government into a more defensive posture which would not improve but in fact worsen the human rights situation there.

Second, at this particular time, with U.S. officials engaged in very delicate discussions concerning the manner and timing of the withdrawal of U.S. ground forces from Korea, the suggested reduction would have a very negative impact on our foreign relations in East Asia. It would, on the other hand, produce no positive benefit to the American taxpayer.

The Committee on International Relations recently received testimony from the Under Secretary of State, Philip Habib which indicated that one of the factors that will allow for successful withdrawal of ground forces from Korea is continued U.S. support for the maintenance of Korean self-defense capability. He also pointed out that Japan, our chief Asian ally, believes that withdrawal of U.S. ground forces should be balanced with supply of equipment to meet shortfalls caused by the withdrawal.

The proposed amendment could be regarded by Japan and our other friends in Asia as a signal of lessening U.S. commitment to the peace and security in the region during this time of transition. What is even a matter of greater concern to me is that it could be misinterpreted by the North Koreans.

In order to enhance its own capability and eliminate the need for overwhelming quantities of U.S. assistance, Korea has embarked upon an ambitious program of force improvement. It requires no grant aid from us to attain its objectives. The foreign military sales program provides credits and guaranties to support Korea's own development of greater self reliance and it does so without involving costs to the American taxpayer.

In conclusion, even a small reduction in FMS credit provided Korea would have a negative impact far out of proportion to the actual monetary value of the reduction. It gains us nothing, invites miscalculation, and places in jeopardy the security and self-reliance on the part of South Korea. For this reason. I urge you to oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I had not expected to speak, but nobody has expressed my view.

I was one of those who signed many of those letters against the imprisonment of people in Korea.

But, Mr. Chairman, we sit in this country in safety, judging other nations, judging cultures we do not know anything about, born of histories about which we are ignorant.

Nobody is going to take a message from us. None of these dictatorships will pay attention to messages from us.

All we can do by adopting this amendment is to make it impossible for the President to do what he intends to do, to withdraw our troops from South Korea in such a way as not to imperil the safety of the whole of East Asia.

That is the important thing. We are not foreign policy experts, and we are not able to design wisely. The President is, I hope and believe, able to design wisely, not only in the interest of the security of this country, but in the interest of human rights.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, it is hard to believe that this modest amendment—which cuts $45 million in military aid from the $280 million earmarked in the bill for South Korea—will cause South Korea to collapse or will impair the ability of the President of the United States to carry out his policy of troop withdrawal from South Korea.

Instead, if we fail to adopt this amendment, we will be rewarding the Government of South Korea for the utter contempt it has shown towards this country. It tried to bribe Members of this Congress; it drew the cloak of diplomatic immunity over the perpetrators of these crimes; it removed them from this country and prevented them from being questioned. South Korea has refused to cooperate with us in any way in the investigation of this wrongdoing. Instead, it has continued to maintain a posture of arrogance and disdain.

Mr. Chairman, we should not reward the Government of South Korea for that, or for the contempt and arrogance with which it has treated the basic rights of its own people. I urge the adoption of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, in 1976 we were treated to the Bicentennial Minute, and today we have had the opportunity to have 1 minute on Korea.

Let me just say that there have been very few facts stated here. Most of what we have heard has been hyperbole.

We have learned from the gentleman from Maryland that the Japanese will be alarmed, and we have learned from our distinguished majority leader that the

North Koreans are going to stream over the border if we do not provide the $275 million in aid.

Frankly, Mr. Chairman, I hope the amendment fails by one vote so that the President will have the flexibility to pursue his policy.

The present Korean Government is willing to spend millions of dollars to bribe Members of the House of Representatives to say and do their bidding, I think that is wrong. If one thing is clear beyond that, it is that they watch this House and they watch our activities, so let us send them that message. If the amendment fails by one vote the President gets his way and we send our message.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, yesterday for about 9 hours we had General Wook before our committee. He was the righthand man to Park for many, many years. He broke with Park when Park became an absolute dictator.

General Wook came out of hiding in this country and his life is on the line only because he is afraid that the American people are going to turn their backs on South Korea simply because of Park and the Georgetown club affair. He said:

> If you are really interested in human rights at all, don't turn your backs on the people of South Korea. Don't run out on us now. Our only hope for human rights is America.

Mr. Chairman, I would hope we would think seriously before we decide to vote for an amendment such as that which is presented to us at this time.

(By unanimous consent, Mr. DAN DANIEL yielded his time to Mr. STRATTON.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I believe it is worth commenting on the earlier remarks of the author of the amendment, the gentleman from Iowa (Mr. HARKIN) that we should not have to worry about the security situation in Korea because South Korea has much more military power than North Korea. The troops are larger and the rest of the picture there is also larger in South Korea. But, Mr. Chairman, that just does not happen to be true. One does not base military power simply on the number of individuals or infantry troops. Other factors have a bearing, too.

Mr. Chairman, I wish that the gentleman from Iowa (Mr. HARKIN) could listen to and see the secret report of the CIA and the DIA on exactly what has happened in recent months to the military power of North Korea that was recently presented to the Senate Committee on Foreign Relations. And he should have noticed that the observation made by the chairman of the Senate Committee on Foreign Relations after hearing that report, indicating to me that those developments had made a very deep impression on him. I think before we adopt this kind of amendment we ought to get all the facts, not legislate in the dark.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman, in light of what happened earlier here this afternoon, it is probably pretty obvious to predict what is going to happen in a few minutes.

I really wish some of the Members who are so supportive of the present regime in Korea, would remember, that we have been there since 1950, or a mere 27 years. If you would really ask yourself what has really changed in Korea in those 27 years, despite the billions of dollars it has received from the American people plus the blood, sweat, and tears of those Koreans who believe in democracy, what has really changed? Is it not about time that we tell the South Koreans that they are our client rather than vice versa.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Iowa (Mr. HARKIN). I would like to use my time in order to pay a personal tribute to the minority manager of the bill and the manner in which he has conducted himself the last 2 days. The gentleman from Florida (Mr. YOUNG) does not talk a great deal on the floor on many bills but the gentleman certainly has mastered the expertise required to discuss this bill.

I think most Members on both sides of the issues we have had before us will admit that the conservative point of view on the foreign aid issue has been heard all too rarely from either side of the aisle, especially from our side in recent years.

The gentleman from Florida (Mr. YOUNG) has acquitted himself admirably. The gentleman has my applause and I believe that certainly he has the support of conservative Members on both sides of the aisle for the manner in which he has done his job.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I believe we have to be clear on what was said by the gentleman from New York (Mr. STRATTON) when he was saying something about the CIA report. I would ask: Where did they get their information? Probably from the KCIA.

Mr. Chairman, some Members say that this is going to be a deep slash, this $45 million.

In August of 1975 Defense Secretary Schlesinger committed this country to a $5 billion arms program to South Korea which will take place between now and 1981. Is the gentleman going to tell me that $45 million out of $5 billion is going to cripple South Korea? I am sorry; I do not buy it.

Let me say further that we are not talking about supporting or not supporting the South Korean people; we are talking about Park Chung Hee. He is the culprit.

I remember when Nixon was in the White House and when he was going downhill. What argument did he use? "Support your Government." "Support your Government." He confused the fact that he was not the Government; he was an individual. Let us not make the same mistake with South Korea: Dictator Park is not the South Korean Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and on a division (demanded by Mr. HARKIN), there were—ayes 24, noes 59.

Mr. HARKIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: On page 21, after line 14 add the following new section:
>
> SEC. 510. None of the funds appropriated in this Act shall be used for any form of aid or trade, either by monetary payment or by the sale or transfer of any goods of any nature, directly or indirectly to Cuba.

Mr. ASHBROOK. Mr. Chairman, this is similar to the amendment that I offered on May 12th to the International Development and Food Assistance Act of 1977. On a motion to recommit with instructions the amendment passed by a vote of 288 to 119.

What I said about the amendment last month is even more true today. We are in a time of changing policies. While there are three basic provisions of law that prohibit aid to Communist countries, there has been a sustained move in the other body to circumvent prohibitions on trade and aid with Vietnam and Cuba. And it has been 15 years since one of the provisions that I mentioned became law, 7 years since another passed, and 4 for one of the other prohibitions. This amendment keeps the House on record as opposing aid or trade with Vietnam or Cuba.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a battleground that has been fought over, and it is full of dead bodies, and I do not plan to repeat the arguments. We have been all through this before.

I yield back the remainder of my time.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 35, noes 36.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that I make a point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. ASHBROOK. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 274, noes 112, not voting 47, as follows:

[Roll No. 373]

AYES—274

Abdnor	Early	Latta
Alexander	Edwards, Ala.	Leach
Allen	Edwards, Okla.	Lederer
Ambro	Eilberg	Lent
Ammerman	Emery	Levitas
Anderson, Calif.	English	Lloyd, Tenn.
	Erlenborn	Long, La.
Anderson, Ill.	Ertel	Lott
Andrews, N.C.	Evans, Del.	Lujan
Andrews, N. Dak.	Evans, Ga.	Luken
	Evans, Ind.	Lundine
Applegate	Findley	McClory
Archer	Fish	McDade
Armstrong	Fisher	McDonald
Ashbrook	Fithian	McEwen
AuCoin	Flood	McKay
Badham	Florio	Madigan
Bafalis	Flowers	Mahon
Barnard	Flynt	Mann
Baucus	Ford, Tenn.	Marks
Bauman	Fountain	Marlenee
Beard, R.I.	Fowler	Marriott
Beard, Tenn.	Frenzel	Martin
Benjamin	Fuqua	Mattox
Bennett	Gammage	Michel
Bevill	Gibbons	Mikulski
Biaggi	Gilman	Milford
Blanchard	Ginn	Miller, Ohio
Bowen	Glickman	Mineta
Breaux	Goldwater	Minish
Breckinridge	Goodling	Mitchell, N.Y.
Brinkley	Gore	Mollohan
Brooks	Gradison	Montgomery
Broomfield	Grassley	Moore
Brown, Mich.	Gudger	Moorhead, Calif.
Brown, Ohio	Guyer	
Broyhill	Hagedorn	Mottl
Buchanan	Hall	Murphy, Ill.
Burke, Fla.	Hamilton	Murphy, N.Y.
Burleson, Tex.	Hammer-schmidt	Murphy, Pa.
Butler		Murtha
Byron	Hanley	Myers, Gary
Caputo	Hansen	Myers, Ind.
Carney	Harris	Natcher
Carter	Harsha	Neal
Cederberg	Heckler	Nichols
Clausen, Don H.	Hefner	O'Brien
	Heftel	Oakar
Clawson, Del	Hightower	Panetta
Cleveland	Hillis	Patterson
Cochran	Hollenbeck	Pepper
Cohen	Holt	Perkins
Coleman	Horton	Pettis
Collins, Tex.	Hubbard	Pickle
Conable	Huckaby	Pike
Conte	Hughes	Pressler
Corcoran	Hyde	Preyer
Cotter	Ichord	Pritchard
Coughlin	Ireland	Pursell
Crane	Jacobs	Quayle
Cunningham	Jeffords	Quie
D'Amours	Johnson, Calif.	Rahall
Daniel, Dan	Johnson, Colo.	Railsback
Daniel, R. W.	Jones, N.C.	Regula
Davis	Jones, Okla.	Rhodes
de la Garza	Jones, Tenn.	Rinaldo
Delaney	Kasten	Risenhoover
Derrick	Kazen	Roberts
Derwinski	Kelly	Robinson
Devine	Kemp	Roe
Dickinson	Keys	Rogers
Dodd	Kindness	Rooney
Dornan	Krebs	Rousselot
Duncan, Oreg.	Krueger	Rudd
Duncan, Tenn.	Lagomarsino	Runnels
Ruppe	Staggers	Wampler
Russo	Stanton	Watkins
Santini	Steers	Weaver
Sarasin	Stratton	White
Satterfield	Stump	Whitehurst
Schulze	Symms	Whitley
Sebelius	Taylor	Whitten
Sharp	Thone	Wilson, Bob
Shuster	Thornton	Wilson, Tex.
Sikes	Treen	Winn
Sisk	Trible	Wolff
Skelton	Tucker	Wydler
Skubitz	Ullman	Wylie
Slack	Van Deerlin	Yatron
Smith, Nebr.	Volkmer	Young, Alaska
Snyder	Waggonner	Young, Fla.
Spellman	Walker	Young, Mo.
Spence	Walsh	Zablocki

NOES—112

Annunzio	Fraser	Patten
Ashley	Gephardt	Pattison
Aspin	Giaimo	Pease
Badillo	Gonzalez	Price
Bellenson	Hannaford	Reuss
Bingham	Harkin	Richmond
Blouin	Harrington	Rodino
Boiling	Holtzman	Roncalio
Bonior	Howard	Rose
Bonker	Jordan	Rosenthal
Brademas	Kastenmeier	Rostenkowski
Brodhead	Kildee	Roybal
Burke, Calif.	Koch	Scheuer
Burlison, Mo.	Kostmayer	Schroeder
Burton, John	LaFalce	Seiberling
Burton, Phillip	Leggett	Shipley
Carr	Lehman	Simon
Cavanaugh	Lloyd, Calif.	Smith, Iowa
Chisholm	Long, Md.	Solarz
Collins, Ill.	McCormack	Stark
Conyers	McFall	Steed
Corman	McHugh	Stokes
Cornell	Markey	Studds
Danielson	Mazzoli	Thompson
Dellums	Meeds	Tsongas
Dicks	Meyner	Udall
Downey	Mikva	Vanik
Drinan	Mitchell, Md.	Vento
Eckhardt	Moakley	Walgren
Edgar	Moffett	Waxman
Edwards, Calif.	Moorhead, Pa.	Weiss
Evans, Colo.	Moss	Whalen
Fary	Nedzi	Wirth
Fascell	Nix	Wright
Fenwick	Nowak	Yates
Foley	Oberstar	Young, Tex.
Ford, Mich.	Obey	
Forsythe	Ottinger	

NOT VOTING—47

Addabbo	Frey	Poage
Akaka	Gaydos	Quillen
Baldus	Hawkins	Rangel
Bedell	Holland	Ryan
Boggs	Jenkins	Sawyer
Boland	Jenrette	St Germain
Brown, Calif.	Ketchum	Stangeland
Burgener	Le Fante	Steiger
Burke, Mass.	McCloskey	Stockman
Chappell	McKinney	Teague
Clay	Maguire	Traxler
Cornwell	Mathis	Vander Jagt
Dent	Metcalfe	Wiggins
Diggs	Miller, Calif.	Wilson, C. H.
Dingell	Myers, Michael	Zeferetti
Flippo	Nolan	

The Clerk announced the following pairs:

On this vote:

Mr. Boland for, with Mr. Burke of Massachusetts against.

Mr. Cornwell for, with Mr. Addabbo against.

Mr. Zeferetti for, with Mr. Hawkins against.

Mr. Mathis for, with Mr. Maguire against.

Mr. Chappell for, with Mr. Rangel against.

Mr. Jenrette for, with Mr. Clay against.

Mr. Teague for, with Mr. Akaka against.

Mr. St Germain for, with Mr. Brown of California against.

Mrs. Boggs for, with Mr. Baldus against.

Mr. Stangeland for, with Mr. Diggs against.

Mr. Quillen for, with Mr. Dingell against.

Mr. Burgener for, with Mr. Metcalfe against.

Mr. Vander Jagt for, with Mr. Miller of California against.

Mr. Steiger for, with Mr. Ryan against.

Mr. CARR and Mr. WALGREN changed their vote from "aye" to "no."

Messrs. PREYER, BREAUX, FLOOD, and BLANCHARD changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman. I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: On page 21 after line 14 insert the following:

SEC. 511. Of the total budget authority provided in this Act for payments not required by law, five per centum shall be withheld from obligation and expenditure: Provided, That of the amount provided for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed ten per centum.

Mr. MILLER of Ohio. Mr. Chairman, we have heard and considered this amendment many times. The Members considered this amendment on each one of the appropriation bills last year.

I did not take the time of the Members to offer this amendment on all the bills this year, and I hope they will have patience and give me a few minutes of their attention this time, because it is only the second time this year that it has been offered. I waited patiently until this time to offer the amendment so the Members would not be bothered. I listened patiently while many of the Members spoke about their concerns relating to this foreign assistance bill, and I think it is now time to deal a blow for the taxpayer.

We have been hearing a very eloquent description of all the problems around the world. Since 1946 we have had about $200 billion of our money put out by the American taxpayers to some 134 countries and 8 territories around the world. I think it is important that we now turn our eyes toward home.

I believe it is very important that at least one part of my message gets through, and that is this: That we have people today who are lending us money who are the very countries we helped through our foreign assistance program. As a result, they started to have an economy that thrived, and they have in turn loaned us money to pay our national debt. In the case of Germany, for instance, we have allocated to Germany $3,767,000,000.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to ask the gentleman in the well for a confirmation of this statement.

Although we have cast many votes to chastise the Cubans, the Argentines, and others, and although we have voted either to eliminate certain countries from the bill or not eliminate certain countries from the bill, is it not true that we have not in fact cut 1 cent from the total appropriation of the bill?

Mr. MILLER of Ohio. Yes, the gentleman is correct, and now we will also hear that we are under the budget. The fact is, though, we are $1.5 billion over the appropriations of fiscal year 1977.

Mr. BROWN of Ohio. If we want to cut the bill, and some of us do, we should support the gentleman's amendment.

Mr. MILLER of Ohio. And the amendment would mean $373 million less.

Mr. Chairman, I would like, if I may, to state that we allocated to West Germany over $3.75 billion in the past 30 years. They, in turn, have now lent us $22.3 billion to help pay our national debt; and on that, we paid from $1.3 billion in interest last year.

In the case of Japan, we have given them over the years $3⅓ billion, and they have loaned to us $12 billion. We sent them $800 million in interest last year.

These loans comprise the same money we are now spending to give to other countries, and I think it is very important that we be aware of this. At this point I would like to include in the RECORD a table showing the amount we have borrowed, the name of the country, and the interest we sent to that country last year.

DEC. 31 FOREIGN HOLDINGS OF PUBLIC DEBT SECURITIES AND CALENDAR YEAR INTEREST PAYMENTS, CALENDAR YEARS 1975 AND 1976

[In billions of dollars]

	1975		1976	
	Dec. 31 holdings	Calendar year interest	Dec. 31 holdings	Calendar year interest
Australia	2.3	0.1	1.3	0.1
Belgium	1.8	.1	1.1	.1
Canada	3.1	.2	3.3	.2
England	.8	.1	.6	.1
France	6.2	.2	3.0	.2
Germany	20.8	1.4	22.3	1.3
Italy	(1)	.1	(1)	(1)
Japan	8.7	.6	12.0	.8
Netherlands	2.4	.2	2.2	.1
Sweden	2.1	.1	1.4	.1
Switzerland	3.5	.2	4.9	.3
Ecuador	(1)	(1)	(1)	(1)
Indonesia	.2	(1)	.1	(1)
Venezuela	.3	(1)	.4	(1)
African OPEC	2.2	.1	1.2	.1
Asian OPEC	5.4	.2	9.2	.5
International	2.9	.1	4.9	.2
All other	3.8	.7	8.8	.5
Total	66.5	4.4	[2] 76.7	4.6

[1] Less than $50,000,000.
[2] Preliminary.

Many people do not like to talk about this situation. In the Middle East we are funding both sides, Israel, with $1.8 billion, and then Egypt with $750 million, Syria with $90 million and Jordan with $224 million.

Mr. Chairman, again, I think it is important that we be aware that we are borrowing money in order to give it to some other nation.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I thank the gentleman for yielding.

I congratulate him on the amendment he has offered. I intend to support it.

As I understand it, if the amendment is agreed to, this bill will still be something like $1.1 billion over the expenditure level for the present fiscal year.

Mr. Chairman, it seems to me that if we are going to balance the budget by fiscal year 1981, we are going to have to start doing it now, and this bill is certainly one with which I would like to begin so that we might look back upon the epoch-making decision that we made today, which resulted in a balanced budget in 1981, as the President has said he wants to do.

Mr. MILLER of Ohio. Mr. Chairman, I thank the distinguished minority leader.

One other item I would like to mention is the debt that we have today. As the Members know, we have a national debt of about $800 billion, and we are paying interest on that debt of approximately $129 million a day. We have been borrowing money to give to other countries.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I cannot tell the Members how much I admire my friend, the gentleman from Ohio (Mr. CLARENCE MILLER).

He labored hard and came up with an amendment about which I can say the following: The only good thing about it is that it is the last amendment before us today.

We have all heard this amendment in one form or another year after year.

Mr. Chairman, the Subcommittee on Foreign Operations, which I chair, conducted hours of hearings over a period of 3 months. Many more hours went into the process of bringing together a bill which would be acceptable to the House.

As a result of the committee's action, we have before us today a bill which is 7 percent below the budget, not 5 percent, but 7 percent, $552 million.

In essence, these reductions were made deliberately and with thoughtful consideration. In some places we did not cut at all. In other places we cut a lot more.

The proposed amendment is the familiar meat-axe approach to budgeting. Let me point this out: The proposed amendment would necessarily mandate cutting funding for Israel. It would cut funding for Italy's earthquake relief. It would cut funding for Lebanon reconstruction. It would cut funding for Portugal. It would cut funding for Cyprus. It would cut funding for Africa.

Mr. Chairman, I ask that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 168, not voting 51, as follows:

[Roll No. 374]

AYES—214

Abdnor	Ashbrook	Bevill
Allen	AuCoin	Biaggi
Ammerman	Badham	Bowen
Anderson, Calif.	Bafalis	Breaux
Andrews, N.C.	Barnard	Brinkley
Andrews, N. Dak.	Bauman	Brooks
Archer	Beard, R.I.	Broomfield
Armstrong	Beard, Tenn.	Brown, Mich.
	Benjamin	Brown, Ohio
	Bennett	Broyhill
Burke, Fla.	Hanley	Pike
Butler	Hansen	Pressler
Byron	Harkin	Quayle
Carter	Harsha	Quie
Cederberg	Hefner	Rahall
Chappell	Hillis	Railsback
Clausen, Don H.	Holt	Regula
Clawson, Del	Horton	Rhodes
Cochran	Hubbard	Risenhoover
Coleman	Huckaby	Roberts
Collins, Tex.	Hughes	Robinson
Conable	Hyde	Rogers
Corcoran	Ichord	Roncalio
Coughlin	Ireland	Rousselot
Crane	Jacobs	Rudd
Cunningham	Johnson, Colo.	Runnels
D'Amours	Jones, N.C.	Ruppe
Daniel, Dan	Jones, Okla.	Russo
Daniel, R. W.	Jones, Tenn.	Santini
Davis	Kasten	Sarasin
de la Garza	Kazen	Satterfield
Derrick	Kelly	Schroeder
Derwinski	Kemp	Schulze
Devine	Keys	Sebelius
Dickinson	Kindness	Sharp
Dicks	Kostmayer	Shipley
Dornan	Krueger	Shuster
Duncan, Oreg.	Lagomarsino	Sikes
Duncan, Tenn.	Latta	Sisk
Early	Leach	Skelton
Edwards, Ala.	Levitas	Skubitz
Edwards, Okla.	Lloyd, Tenn.	Smith, Nebr.
Emery	Lott	Snyder
English	Lujan	Spellman
Erlenborn	Luken	Spence
Ertel	McClory	Stanton
Evans, Del.	McDade	Steed
Evans, Ind.	McDonald	Stump
Findley	McEwen	Symms
Fish	Madigan	Taylor
Fithian	Mann	Thone
Flowers	Marks	Treen
Flynt	Marlenee	Trible
Forsythe	Martin	Volkmer
Fountain	Mazzoli	Waggonner
Fowler	Michel	Walker
Frenzel	Milford	Walsh
Fuqua	Miller, Ohio	Wampler
Gammage	Mitchell, N.Y.	Watkins
Gibbons	Montgomery	Weaver
Ginn	Moore	White
Goldwater	Moorhead, Calif.	Whitehurst
Goodling	Mottl	Whitley
Gore	Murphy, Ill.	Whitten
Gradison	Murtha	Wilson, Bob
Grassley	Myers, Ind.	Winn
Gudger	Natcher	Wydler
Guyer	Neal	Wylie
Hagedorn	Nichols	Yatron
Hall	O'Brien	Young, Alaska
Hamilton	Perkins	Young, Fla.
Hammer-schmidt	Pettis	
	Pickle	

NOES—168

Alexander	Dellums	Koch
Ambro	Dodd	Krebs
Anderson, Ill.	Downey	LaFalce
Annunzio	Drinan	Lederer
Applegate	Eckhardt	Leggett
Ashley	Edgar	Lehman
Aspin	Edwards, Calif.	Lloyd, Calif.
Badillo	Eilberg	Long, La.
Baucus	Evans, Colo.	Long, Md.
Beilenson	Evans, Ga.	Lundine
Bingham	Fary	McCormack
Blanchard	Fascell	McFall
Blouin	Fenwick	McHugh
Bolling	Fisher	McKay
Bonior	Flood	Mahon
Bonker	Florio	Markey
Brademas	Foley	Mattox
Breckinridge	Ford, Mich.	Meeds
Brodhead	Ford, Tenn.	Meyner
Buchanan	Fraser	Mikulski
Burke, Calif.	Gephardt	Mikva
Burleson, Tex.	Giaimo	Mineta
Burlison, Mo.	Gilman	Minish
Burton, John	Glickman	Mitchell, Md.
Burton, Phillip	Gonzalez	Moakley
Caputo	Hannaford	Moffett
Carney	Harris	Mollohan
Carr	Heckler	Moorhead, Pa.
Cavanaugh	Heftel	Moss
Chisholm	Hightower	Murphy, N.Y.
Cohen	Hollenbeck	Murphy, Pa.
Collins, Ill.	Holtzman	Myers, Gary
Conte	Howard	Nedzi
Conyers	Jeffords	Nix
Corman	Johnson, Calif.	Nowak
Cornell	Jordan	Oakar
Danielson	Kastenmeier	Oberstar
Delaney	Kildee	Obey

Ottinger	Rosenthal	Tucker
Panetta	Rostenkowski	Udall
Patten	Roybal	Ullman
Patterson	Scheuer	Van Deerlin
Pattison	Seiberling	Vanik
Pease	Simon	Vento
Pepper	Slack	Walgren
Preyer	Smith, Iowa	Waxman
Price	Solarz	Weiss
Pritchard	Staggers	Whalen
Pursell	Stark	Wilson, Tex.
Reuss	Steers	Wirth
Richmond	Stokes	Wolff
Rinaldo	Stratton	Wright
Rodino	Studds	Yates
Roe	Thompson	Young, Mo.
Rooney	Thornton	Young, Tex.
Rose	Tsongas	Zablocki

NOT VOTING—51

Addabbo	Frey	Myers, Michael
Akaka	Gaydos	Nolan
Baldus	Harrington	Poage
Bedell	Hawkins	Quillen
Boggs	Holland	Rangel
Boland	Jenkins	Ryan
Brown, Calif.	Jenrette	Sawyer
Burgener	Ketchum	St Germain
Burke, Mass.	Le Fante	Stangeland
Clay	Lent	Steiger
Cleveland	McCloskey	Stockman
Cornwell	McKinney	Teague
Cotter	Maguire	Traxler
Dent	Marriott	Vander Jagt
Diggs	Mathis	Wiggins
Dingell	Metcalfe	Wilson, C. H.
Flippo	Miller, Calif.	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Cornwell for, with Mr. Addabbo against.

Mr. Burgener for, with Mr. Teague against.

Mr. Cleveland for, with Mr. Rangel against.

Mr. Frey for, with Mr. Zeferetti against.

Mr. Lent for, with Mr. Akaka against.

Mr. Marriott for, with Ms. Boggs against.

Mr. Quillen for, with Mr. Boland against.

Mr. Sawyer for, with Mr. Cotter against.

Mr. Stangeland for, with Mr. Diggs against.

Mr. Stockman for, with Mr. Dingell against.

Mr. Vander Jagt for, with Mr. Harrington against.

Mr. Wiggins for, with Mr. Hawkins against.

Mr. Jenrette for, with Mr. Le Fante against.

Mr. Mathis for, with Mr. Burke of Massachusetts against.

Mr. St Germain for, with Mr. Baldus against.

Messrs. MADIGAN, BREAUX, and DERWINSKI changed their vote from "no" to "aye."

Mrs. FENWICK changed her vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. FRENZEL. Mr. Chairman, as with most complex legislation, H.R. 7797, the foreign assistance appropriations for 1978, contains a number of provisions that deserve our support. But the total package, representing a 25-percent increase in spending over last year, suffers from a combination of inconsistencies which cannot be ignored.

I support funneling economic assistance through multilateral lending institutions with a corresponding deemphasis on bilateral aid. In recent years Congress and the executive branch seemed to be moving in this direction. But this bill appears to have us marching off in both directions.

Spending for multilateral programs is up 86 percent over last year but requests for bilateral spending are up by 20 percent as well. If multilateral assistance makes the most sense we should continue to emphasize these programs while reducing support for the less effective country-to-country programs, excepting of course, special situations like the Middle East. Given our current budgetary situation we are going to have to set some priorities and then stick to them.

The bill also serves to perpetuate the inconsistent approach we have taken toward countries that continue to abuse human rights. Once again we are being asked to support termination of aid to certain countries that demonstrate a consistent pattern of human rights violations while ignoring several other countries with a similar track record. Either we should withhold foreign aid from all violators or we should give the President authority to make these determinations. The latter would be my preference. As an example, the bill prohibits use of any military assistance or education and training funds for Ethiopia, Nicaragua, or Uruguay and it limits the military assistance and training funds for the Philippines. At the same time it fails to sanction Indonesia, Haiti, Paraguay, Argentina, and the Dominican Republic despite a similar pattern of human rights violations. This type of inconsistency only serves to undermine our attempts at improving human rights around the world.

In general our foreign assistance programs aimed at raising the living standards of Third World countries are likely to be a hidden subsidy for the oil-producing OPEC countries. To be sure our aid programs do not directly fund the purchase of high priced oil. But the net effect is the same since we are increasingly being forced to fund projects that could otherwise have been funded internally but for the huge increase in energy costs. This means we are having to spend more money in a losing effort to stem further economic decline. Unless the oil rich OPEC countries in the Middle East and elsewhere play a much more vigorous role in helping to ameliorate a situation largely of their own making, I see little reason for us to carry such a heavy load.

I remain a strong supporter of those foreign assistance programs aimed at encouraging a long-range solution to the Middle East conflict. Approximately 34 percent of the funding in this bill is earmarked for this purpose. These funds represent a prudent investment in the search for a lasting peace. In the past I have consistently supported the foreign aid program. While foreign aid has no constituency, I continue to believe that it provides an important foreign policy tool for the President. The inconsistencies in H.R. 7797, and its excessive cost, are extremely disappointing to me. I hope the Committee will come back from the conference committee with an amended version that reflects a more coherent picture of our foreign policy objectives.

The passage of the Miller amendment cutting the total spending by 5 percent, without making any specific line item cuts, has caused me to vote for this bill. But it still needs plenty of improvement which I hope will occur in the conference committee.

Mr. LEGGETT. Mr. Chairman, I wish to express my support for H.R. 7797, the foreign assistance appropriations bill.

I am in full agreement with the Appropriations Committee's emphasis on a policy encompassing the inevitable interrelationship between a nation's population growth, development growth, and overall living standards. The present practice among developing countries of importing advanced technology does little for their impoverished masses. The committee's encouragement of light capital—or appropriate—technology will create more jobs in these developing countries and thus decrease their need for aid in the long run.

The committee has approached the human rights issue in an equally sound manner. It has, for example, recognized our country's right to refuse material support to nations abusing the rights of their citizens. While some maintain that the United States should not grant aid to any country violating this declaration, the administration has stated that such a blanket restriction would severely limit its flexibility in the formation of international policy.

I am in favor of leaving the administration with the greatest possible degree of negotiating power. Some countries have had their aid reduced, and if the other countries in question fail to make significant strides forward in the human rights area, we can always impose material restrictions upon them at a later date.

Furthermore, while the $7.04 billion presently authorized for foreign economic and military assistance is $1.45 billion above last year's funding, $5.25 million was pared from the original request. This reduced amount will have much less of an inflationary effect on our country's economy.

I feel that because the foreign assistance appropriations bill is both financially and humanistically sound, it deserves the support of the House.

Mr. MAGUIRE. Mr. Chairman, the record of the South Korean Government on human rights is abominable. A 1975 report by Amnesty International detailed the pattern of intimidation, torture, fabricated charges, forced confessions, flawed judicial proceedings, and illegal executions that have been a consistent characteristic of the Park regime. The situation remains the same today.

On May 23, 35 Congressmen signed a letter to the South Korean Embassy requesting further information on a court case condemning four young men to death as North Korean spies.

The men are Koreans born in Japan, a category of humans almost stateless and without protection. Student and church groups are concerned that these students are being condemned on trumped up charges, and have been denied due process, simply to discourage democratic opposition to the Park regime. They asked our help.

We received a phone call from Japan several days ago, informing us that the execution of one of the students—who was scheduled to die in May—was delayed, and the letter from Congress about the case was felt to be the strongest voice in staying this execution.

We hope the other three executions will be stayed and that more light will be thrown on this case. The answer to our

first letter from the Korean Embassy in Washington was unsatisfactory. But unconvincing refutations are less important than that lives may be saved by our showing interest. This case is but the latest in a long list of denials of human rights of human beings by the South Korean Government.

A voice today, though it merely holds back temporarily a small portion of the appropriation to South Korea, will be a message to the people of Korea, who by law may not even constructively criticize their own rulers, that we do not wish to continue to assist dictators in the repression of their own people.

Mr. Chairman, I strongly support the Harkin amendment. He does not seek to reduce our assistance. He seeks only to prevent increases while the pattern of oppression continues in South Korea. The gentleman from Iowa has emerged as a strong spokesman in the House for human rights. He and the people of Korea deserve our support on this amendment.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. LONG of Maryland. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments adopted by the Committee of the Whole, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, had directed him to report the bill back to the House with sundry amendments adopted by the Committee of the Whole, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

MOTION TO RECOMMIT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. YOUNG of Florida. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. YOUNG of Florida moves to recommit the bill to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. YOUNG of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 208, nays 174, not voting 51, as follows:

[Roll No. 375]

YEAS—208

Alexander	Forsythe	Nedzi
Ambro	Fowler	Nix
Ammerman	Fraser	Nowak
Anderson, Ill.	Frenzel	O'Brien
Annunzio	Fuqua	Oberstar
Applegate	Gammage	Obey
Ashley	Gephardt	Ottinger
Aspin	Giaimo	Patten
Badillo	Gilman	Patterson
Baucus	Glickman	Pease
Beard, R.I.	Gonzalez	Pepper
Bellenson	Gore	Pettis
Benjamin	Gradison	Preyer
Biaggi	Guyer	Price
Bingham	Hamilton	Pritchard
Blanchard	Hanley	Pursell
Bolling	Hannaford	Quie
Bonior	Harris	Railsback
Bonker	Heckler	Reuss
Brademas	Heftel	Richmond
Breaux	Hillis	Rinaldo
Breckinridge	Hollenbeck	Rodino
Brodhead	Holtzman	Roe
Broomfield	Horton	Rogers
Brown, Mich.	Howard	Rooney
Buchanan	Hyde	Rose
Burke, Calif.	Ireland	Rosenthal
Burke, Fla.	Jeffords	Rostenkowski
Burlison, Mo.	Johnson, Calif.	Roybal
Burton, Phillip	Jordan	Ruppe
Caputo	Keys	Santini
Carney	Kildee	Sarasin
Cederberg	Koch	Scheuer
Chisholm	Kostmayer	Seiberling
Cohen	Krebs	Sharp
Collins, Ill.	Krueger	Simon
Conable	LaFalce	Skelton
Conte	Leach	Smith, Iowa
Corman	Lederer	Solarz
Coughlin	Leggett	Spellman
D'Amours	Lehman	Stanton
Danielson	Levitas	Steers
Delaney	Lloyd, Calif.	Stokes
Derwinski	Long, La.	Stratton
Dicks	Long, Md.	Thompson
Dodd	Luken	Tsongas
Downey	Lundine	Tucker
Drinan	McClory	Udall
Duncan, Oreg.	McDade	Ullman
Eckhardt	McFall	Van Deerlin
Edgar	McHugh	Vanik
Edwards, Calif.	McKay	Vento
Eilberg	Madigan	Walgren
Erlenborn	Marks	Walsh
Ertel	Mazzoli	Waxman
Evans, Colo.	Meeds	Weiss
Evans, Del.	Meyner	Whalen
Evans, Ga.	Mikulski	Wilson, Bob
Fary	Mikva	Wilson, Tex.
Fascell	Mineta	Winn
Fenwick	Minish	Wolff
Findley	Mitchell, Md.	Wright
Fish	Mitchell, N.Y.	Wydler
Fisher	Moakley	Yates
Fithian	Mollohan	Yatron
Flood	Moorhead, Pa.	Young, Mo.
Florio	Moss	Young, Tex.
Foley	Murphy, Ill.	Zablocki
Ford, Mich.	Murphy, N.Y.	
Ford, Tenn.	Myers, Gary	

NAYS—174

Abdnor	Fountain	Nichols
Allen	Gibbons	Oakar
Anderson, Calif.	Ginn	Panetta
Andrews,	Goldwater	Pattison
Andrews, N.C.	Goodling	Perkins
N. Dak.	Grassley	Pickle
Archer	Gudger	Pike
Armstrong	Hagedorn	Pressler
Ashbrook	Hall	Quayle
AuCoin	Hammer-schmidt	Rahall
Badham	Hansen	Regula
Bafalis	Harkin	Rhodes
Barnard	Harsha	Risenhoover
Bauman	Hefner	Roberts
Beard, Tenn.	Hightower	Robinson
Bennett	Holt	Roncalio
Bevill	Hubbard	Rousselot
Blouin	Huckaby	Rudd
Bowen	Hughes	Runnels
Brinkley	Ichord	Russo
Brooks	Jacobs	Satterfield
Brown, Ohio	Johnson, Colo.	Schroeder
Broyhill	Jones, N.C.	Schulze
Burleson, Tex.	Jones, Okla.	Sebelius
Burton, John	Jones, Tenn.	Shipley
Butler	Kasten	Shuster
Byron	Kastenmeier	Sikes
Carter	Kazen	Sisk
Cavanaugh	Kelly	Skubitz
Chappell	Kemp	Slack
Clausen, Don H.	Kindness	Smith, Nebr.
Clawson, Del	Lagomarsino	Snyder
Cochran	Latta	Spence
Coleman	Lloyd, Tenn.	Staggers
Collins, Tex.	Lott	Stark
Conyers	Lujan	Steed
Corcoran	McCormack	Studds
Cornell	McDonald	Stump
Crane	McEwen	Symms
Cunningham	Mahon	Taylor
Daniel, Dan	Mann	Thone
Daniel, R. W.	Markey	Thornton
Davis	Marlenee	Treen
de la Garza	Martin	Trible
Dellums	Mattox	Volkmer
Derrick	Michel	Waggonner
Devine	Milford	Walker
Dickinson	Miller, Ohio	Wampler
Dornan	Moffett	Watkins
Duncan, Tenn.	Montgomery	Weaver
Early	Moore	White
Edwards, Ala.	Moorhead, Calif.	Whitehurst
Edwards, Okla.	Mottl	Whitley
Emery	Murphy, Pa.	Whitten
English	Murtha	Wilson, C. H.
Evans, Ind.	Myers, Ind.	Wirth
Flowers	Natcher	Wylie
Flynt	Neal	Young, Alaska
		Young, Fla.

NOT VOTING—51

Addabbo	Flippo	Miller, Calif.
Akaka	Frey	Myers, Michael
Baldus	Gaydos	Nolan
Bedell	Harrington	Poage
Boggs	Hawkins	Quillen
Boland	Holland	Rangel
Brown, Calif.	Jenkins	Ryan
Burgener	Jenrette	Sawyer
Burke, Mass.	Ketchum	St Germain
Carr	Le Fante	Stangeland
Clay	Lent	Steiger
Cleveland	McCloskey	Stockman
Cornwell	McKinney	Teague
Cotter	Maguire	Traxler
Dent	Marriott	Vander Jagt
Diggs	Mathis	Wiggins
Dingell	Metcalfe	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Gaydos against.

Mr. Akaka for, with Mr. Cornwell against.

Mr. Lent for, with Mr. Burgener against.

Mr. Sawyer for, with Mr. Frey against.

Mr. Steiger for, with Mr. Marriott against.

Mr. Vander Jagt for, with Mr. Quillen against.

Mr. Zeferetti for, with Mr. Stangeland against.

Ms. Boggs for, with Mr. Wiggins against.

Mr. Cotter for, with Mr. Teague against.

Mr. Burke of Massachusetts for, with Mr. Mathis against.

Until further notice:
Mr. Baldus with Mr. Bedell.
Mr. Boland with Mr. Jenkins.
Mr. Harrington with Mr. Jenrette.
Mr. Brown of California with Mr. Ryan.
Mr. Maguire with Mr. Nolan.
Mr. Rangel with Mr. Hawkins.
Mr. Miller of California with Mr. Carr.
Mr. Clay with Mr. Dent.
Mr. Diggs with Mr. Metcalfe.
Mr. Dingell with Mr. Holland.
Mr. Flippo with Mr. Traxler.
Mr. Le Fante with Mr. Michael Myers.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, and I also ask unanimous consent that in revising my own remarks, I may include certain extraneous and tabular material.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE CONFERENCE REPORT ON H.R. 7636, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1978

Mr. YATES. Mr. Speaker. I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a conference report on the bill (H.R. 7636) making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that I may be permitted to insert extraneous material in my remarks during the debate on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7933, DEFENSE APPROPRIATIONS, FISCAL YEAR 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–460) on the resolution (H. Res. 655) providing for the consideration of H.R. 7933 making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. CHAPPELL. Mr. Speaker, I was absent when rollcall 373 was taken this afternoon.

Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, yesterday on rollcall 363 I placed my card in the electronic device to vote "aye." I just learned that I am recorded as not voting.

I ask unanimous consent that the statement I am now making be placed in the permanent RECORD so as to indicate that if my vote had been recorded, it would have been "aye."

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

TWENTY-FIRST ANNUAL REPORT OF THE PRESIDENT OF THE UNITED STATES ON THE TRADE AGREEMENTS PROGRAM, 1976—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Ways and Means:

To the Congress of the United States:

I am transmitting herewith a copy of the "Twenty-First Annual Report of the President of the United States on the Trade Agreements Program—1976" issued pursuant to Section 163 of the Trade Act of 1974. This report covers a period of time prior to my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *June 23, 1977.*

LETTER TO SECRETARY BREZHNEV ON BEHALF OF UKRAINIAN DISSIDENTS

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include a letter.)

Mr. BONIOR. Mr. Speaker, in the long, difficult struggle for human rights, the culprits are ofttimes much easier to identify than the heroes.

We are aware of dissident movements within the Soviet Union and have repeatedly offered our moral support. Beyond the much-publicized movements, there exists outposts of human rights activists, no less heroic though less visible, that deserve our support. One such group is the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords. Its members have been harassed and imprisoned.

I submit the following letter which I sent to Secretary Brezhnev in their behalf:

His Excellency LEONID BREZHNEV,
General Secretary, Central Committee of the Communist Party, Moscow, U.S.S.R.

DEAR MR. SECRETARY: On August 1, 1975 the Soviet Union, by attaching its signature to the Final Act of the Conference on Security and Co-Operation in Europe, declared: The Soviet Union "will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language, or religion.

"They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms, all of which derive from the inherent dignity of the human person and are essential for his free and full development."

The Soviet Union further confirmed "the right of the individual to know and act upon his rights and duties in this field".

Pursuant to this declaration by the Soviet government, the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords was formed in Kiev on November 9, 1976. Its avowed purpose was to acquaint the Ukrainian public with the Helsinki provisions, promote the free flow of ideas, and have the Ukraine, a nation with its own seat in the United Nations, represent itself at conferences dealing with the Helsinki Accords.

On February 5, 1977 Mykola Rudenko and Oleksiy Tykhy, members of the Ukrainian Group, were arrested by the KGB. Since then, others of the Group have also been arrested.

Seldom has the language of an international document been so explicit on this issue and a signatory to that document so obviously in violation of its own declarations.

Apparently, the Soviet government overestimated its ability to withstand dissent. One wonders whether the actions of the Group could even be termed dissent since the only thing advocated was popular support for, and application of, declared Soviet policy.

We, in the United States, have had ample opportunity to observe the rich and proud heritage of the Ukrainians among our own people. To deprive Ukrainians of rights acknowledged by the Soviet Union and international law is a disservice to Ukrainians everywhere and denigrates Soviet integrity in the eyes of all free men.

I would ask you to review the cases of all those Ukrainians incarcerated because of their activities with the Ukrainian Group and urge their expeditious release.

Sincerely,

DAVID E. BONIOR,
U.S. Congress.

RESOLUTION ON KOREAN WITHDRAWAL

The SPEAKER. Under a previous order of the House, the gentleman from Oklahoma (Mr. EDWARDS) is recognized for 60 minutes.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I am placing a resolution before the House today on the subject of

President's Carter's planned withdrawal of American ground forces from South Korea. What this resolution seeks to do is really very simple, and I think that my colleagues in the House will agree with me that it is both timely and necessary, given the serious nature of any withdrawal decision.

With all that has been said up to now, I do not think I have to tell the Members of this body about the importance of South Korea to America's political and military position in Asia. A free, non-Communist South Korea is the key to that position today. Its significance extends far beyond the limited territory of the Republic of South Korea; it embraces Japan, the western Pacific, and all of non-Communist Southeast Asia.

The American presence in South Korea stands today, as it has for the last 27 years, as a tangible, concrete symbol of this Nation's commitment to the principles of freedom, and to the defense, in conjunction with its regional allies, of those shared principles. The significance of the American troop presence in South Korea has thus been psychological as well as military. While those troops would undoubtedly play a major role in any ground action which might take place in Korea, they serve even more importantly as a deterrent to such a conflict—for the North Koreans, as well as the People's Republic of China and the Soviet Union well known that any Communist aggression on the Korean Peninsula would inevitably involve the weight of American arms. That knowledge, in turn, has been primarily responsible for the relative peace which has prevailed on the Korean Peninsula for over two decades.

Naturally, then, I find myself extremely concerned—with any development in that area which threatens to disturb that fragile peace. The withdrawal of American ground forces from South Korea which is now being planned by the executive branch is just such a development. Any major alteration in the balance of forces in Korea, or any major action which might affect the perceptions of the Communist powers or of our allies in the area threatens, in the absence of concrete signs of new stability there, to destabilize the political and military situation in Korea, and in all of northeast Asia.

I am not saying that an American withdrawal will necessarily lead to war. But the chance that it will is very real, and has been the source of grave concern among many responsible officials of this Government, both civilian and military, and among many authoritative observers outside it. The evidence which supports those fears is more than ample. To this day, North Korea's dictator Kim il Sung has relentlessly and ceaselessly persisted in his pursuit of a single objective: The hostile intent manifested by the recent hacking to death of American officers in the truce village zone, and by North Korean tunneling under the DMZ, should make North Korea's aggressive intentions perfectly clear. As concrete evidence of those intentions, the North Korean Armed Forces have been dramatically strengthened within the last few years, and it has been reported that new evidence exists which indicates that our previous analysis of North Korean strength was grossly underestimated.

There is a great deal in this issue that must be looked into before we proceed with the withdrawals which we have been told will occur. How was this decision made? To what extent were our Asian allies consulted beforehand? What will be the benefits of a withdrawal in force? And most importantly, is this withdrawal related to a rational, comprehensive American policy for Northeast Asia? The gravity of any major withdrawal of American power from the Korean Peninsula is extreme, and fraught with inescapable consequences for ourselves and our allies. We must know, before we take this important step, that it is indeed in this country's national interest, and that we are not proceeding aimlessly into an uncertain future.

This is a proper subject for the Congress to consider. Indeed, it is the responsibility of this body, to itself and to the millions of constituents which it represents, to examine to its own satisfaction this troop withdrawal question. The Congress must clearly assert its intention to participate in this decision, lest it abdicate the power given to it by the American people.

This is what this resolution seeks to do. It does not bar the President from withdrawing American ground forces from Korea; nor does it say that those forces must or should remain in Korea indefinitely. What it does do is urge the President not to proceed with his withdrawal plans until this body, as a copartner of the Executive, has had the opportunity to fully investigate, discuss, and examine the troop withdrawal question to its own satisfaction. Haste in today's circumstances would be a serious mistake, and we must not allow it to preclude active congressional involvement. It is both our right and our duty.

The text of this resolution reads as follows:

CONCURRENT RESOLUTION

Expressing the sense of the Cougress that the United States take no action to withdraw United States ground forces from South Korea until the Congress has had an opportunity to examine the American security commitment to South Korea and the effects such a withdrawal would have on the stability of the Korean peninsula.

Whereas the stability of the Korean peninsula is vital to the stability of Northeast Asia and to the interests of the United States and its allies;

Whereas the initiation of conflict on the Korean peninsula holds profound escalatory potential, leading possibly to major power confrontation;

Whereas United States military presence in South Korea has to date served as a primary deterrent to renewed North Korean aggression;

Whereas all evidence suggests that the government of North Korea has persisted in an unrelenting manner in its preeminent objective of military subjugation of the South;

Whereas since 1973 the North Korean armed forces have been dramatically expanded to the point where those forces now enjoy substantial superiority over those of the South;

Whereas North Korea's unprovoked attack on South Korea on June 25, 1950, occurred shortly after the completion of a planned U.S. military withdrawal from the peninsula; and

Whereas considerable concern has been expressed that the proposed withdrawal of American forces may, in these circumstances, provide the occasion for renewed North Korean aggression;

It is the sense of Congress that no action be taken by the United States to effect the withdrawal of U.S. ground forces from South Korea until the Congress has had the opportunity to fully examine and consider to its satisfaction the question of the American security commitment to South Korea and the effects which such a security commitment to South Korea and the effects which such a withdrawal would have on the stability of the Korean peninsula and on American relationships with concerned allied powers.

I urge the full support of the House.

Mr. Speaker, at this time I would like to yield to my colleague, the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. I thank my colleague for yielding.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks, and to include extraneous material, on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, on Monday of this week I joined with the scholars of the Stanford Research Institute, particularly Dr. Richard B. Foster, who is the director of the Strategic Studies Center; Harold C. Hinton, professor of political science and international affairs, George Washington University; Gen. Ichiji Sugita, Japanese Self-Defense Force, and Gen. Richard Stilwell, senior adviser and consultant of the Strategic Studies Center, and also a former United Nations commander and 8th Army commander in Korea.

I endorse the comments made by my colleague, the gentleman from Oklahome (Mr. EDWARDS). I have extensive papers that include a report of the select committee that I chaired that went to Korea 2 years ago.

The conclusions of that committee are as relevant today as they were at that time.

I also have some preliminary remarks which address themselves to a communication I addressed to President Carter in January of this year concerning the inadvisability of withdrawing American troops from the Korean Peninsula.

Mr. Speaker, I have these documents here and they will appear later in my special order.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield to the gentleman from California, my colleague (Mr. DORNAN), who has as a freshman done such a magnificent job in speaking out for freedom throughout the world.

Mr. DORNAN. Mr. Speaker, I thank the gentleman from Oklahoma.

I associate myself vigorously with his remarks and I would just make two comments on this Korean issue, particularly in view of some of the torture stories we heard here today.

One, it is my understanding that there is a color motion picture film of the two young American officers having their skulls caved in with axes in this deliberate, high-command-motivated, cold-blooded murder that took place by North Koreans last year. I think if we could have set up a large screen behind the Speaker of this House in front of that American flag and shown that color film, maybe some of the Members of this body would not have been so quick to try to destroy the government in the south that has hovering above them in the north the same vicious enemy that put into their graves more than 36,000 young Americans.

Also there is the story given me by the commander of the U.S.S. *Pueblo*, Comdr. Pete Bucher. When I asked him what had motivated him to sign any confession the North Koreans wanted, he told me he was taken into a room after days and days of beatings of himself and his men and he was shown what was described to him as a young South Korean agent chained to a wall in medieval style. His two eyeballs had been very recently gouged out of his face and the fluid from his destroyed eyes was still streaming onto his cheeks and he was covered with cuts and gashes on his chest and arms. The North Koreans told Commander Bucher that he was going to have to watch this brutality performed on all of his crew starting with the youngest members. Bob Sheever was the youngest man on his ship, an 18-year-old. The North Koreans said they would start with this 18-year-old and move through the 18-year-olds to the 19-year-olds and then the 20-year-olds, and so on.

They said to him:

Before we get through 6 or 7 of your men, torturing them like this, you will crack. Why not crack now before these men have to be tortured?

There was the South Korean, tortured alive, hanging on the wall and moaning. He said to me:

Bob, I think I could have stood any type of torture myself but thinking of those 18-year-olds was enough to crack me and I said I would sign anything they wanted.

Mr. Speaker, the Carter administration has been attempting to justify its decision to remove U.S. troops from South Korea in the face of tough opposition from the military, from the South Koreans themselves and from the Japanese Government. It has yet to take its case either to the Congress as a body or to the American people.

Well, I submit, Mr. Speaker, that in front of these two audiences the case of the administration will find the toughest going yet. In these circumstances, the President will find himself seriously handicapped. He cannot "recall" a Congressman opposed to the pullout; he cannot "fire" an irate citizen who also voices his opposition.

In short, the President will discover that there are many groups and individuals in this country who are determined that an American withdrawal, if it is recommended, should be made only under the most propitious circumstances and only after careful and painstaking reflection by all agencies and branches of the Government, including the U.S. Congress.

Mr. Speaker, the policy of this administration remains a mystery to many of us in Congress. We do not know its origins, its motivations or the many implications that such a policy will have upon U.S. foreign policy in Asia. Why is the administration taking this destabilizing move?

There are many in Congress who remain unconvinced that a withdrawal is justified under contemporary circumstances. In this regard, I would like to submit for the RECORD an article by Kenneth Adelman, which appeared in the Chicago Tribune on May 29. Mr. Adelman served as an assistant to Secretary of Defense Donald Rumsfeld, and is currently with the Stanford Research Institute. I recommend this article especially because it points to the apparent lack of serious and long-term considerations with which the administration's Korean policy has been made. Entitled, "A Reckless Policy in Korea", Mr. Adelman's article is a call for wisdom and reflection at a time when our foreign policy is apparently being re-made overnight without sufficient reflection or justification and without sufficient study by the Congress.

The article follows:

[From the Chicago Tribune, May 29, 1977]

A RECKLESS POLICY IN KOREA

(By Kenneth Adelman)

Gen. John K. Singlaub is not the type to shoot from the hip. His position that the withdrawal of 32,000 American ground troops from South Korea would lead to war was well-considered, even though his open criticism of the Carter administration's policy was not. Uniformed officers do not openly oppose their commander-in-chief, as Douglas A. MacArthur quickly learned.

The general got into trouble by telling a newspaper reporter, "If we withdrew our ground forces [from Korea] on the schedule suggested, it will lead to war." When the President read the general's remarks, he ordered Singlaub back to Washington for an explanation.

General Singlaub, with 34 years of active service and major combat decorations from three wars, has now paid the price. President Carter summarily fired him as chief of staff of U.S. forces in Korea and clouded his future in the Army.

Perhaps the problem is one of communication, since few in the Pentagon or elsewhere have heard the underlying reasons for the troop withdrawals. More likely, however, the problem is one of basic policy, since the danger of troop withdrawals certainly outweighs the nebulous benefits.

No one around Washington is quite sure why the President feels so strongly about ending the primary deterrent force in that volatile part of the world. We know that Carter first preached the idea when he was a little-known candidate fighting for name recognition.

He made up his mind without the advice of the Joint Chiefs, State Department, or our Asian allies. Few people listened—or even cared—when he first broached the subject during the New Hampshire primary, promising he would "not be rash about the withdrawal," but would proceed nonetheless. In an interview a year ago, he referred to Korean President Park Chung Hee as "much too autocratic" with "very little concern about human rights," and reiterated his withdrawal pledge.

As President, Carter announced the official policy rather briskly in response to a news conference question last March. The schedule for withdrawal would be "worked out carefully" with the Korean government and in consultation with Japan over a four to five year span. South Korean ground forces should be able to protect the nation "against any intrusion from North Korea," particularly with U.S. air support which, he promised, would be continued indefinitely and might even be strengthened.

Carter's two points—on human rights and South Korea's ability to ward off an invasion—are well-taken, but neither justifies the full scale withdrawal of our ground forces. In fact, the policy will prove counter productive if not outright dangerous both to human rights and our strategic concerns.

The President sized up human rights in Korea fairly accurately. Park is a harsh leader who allows precious few civil and political liberties.

The South Koreans' only attempt at parliamentary democracy—in 1960 after Syngman Rhee's downfall—was nothing short of disastrous. During months of choatic maneuvering in the National Assembly, the crime rate doubled, the growth rate halved, and the economy ground to a halt.

The people sighed in relief and even the exhausted student rebels did not object when Park seized control in May, 1961. The Koreans then, as now, seemed far more concerned with order, stability, and economic progress than Western concepts of individual liberty.

While human rights in South Korea are deplorable, those in the North are diabolical. North Korea's President Kim Il-Sung, propagandizes himself as a god-come-to-earth but he is actually a savage and brutal tyrant. His thoughts, actions, and presence dominate the land in a way which makes the Maoism of China and Leninism of Russia subtle in comparison.

Even as they push for greater freedoms at home, South Korean dissidents strongly support the continued presence of U.S. ground troops as they realize the real threat and brutality of the North. The U.S. should follow suit and use leverage on the Seoul regime to advance the cause of human rights. We should avoid handing Park further justification for repressive measures or handing Kim greater opportunities to practice his barbarism on 34 million more Koreans.

President Carter's judgment that South Korea, with continued or reinforced U.S. air support, could contain northern aggression has some merit. With twice the population and more men under arms than the North, South Korea is a strong and determined force. Its economic miracle—truly one of the most impressive in the world—continues unabated and will provide the additional resources needed for a strong defense. While the North has greater airpower, this could be balanced by American air support, and Washington could also help neutralize the North's strong navy.

Apparently President Carter considers the South Koreans fully capable of supplying ground forces needed to protect the country.

Withdrawal of U.S. troops eliminates any automatic American involvement in a conflict, possibly preventing us from becoming involved in another land war in Asia. In short, U.S. ground forces may not be needed to fill a military gap and maintain the overall balance on the peninsula.

This is, however, somewhat beside the point. The purpose of the Second Division has not been to fill any such gap and provide the necessary force to win a war. At present, U.S. troops comprise only 5 per cent of the strength along the southern DMZ. Their purpose has been to prevent war from ever breaking out. The deterrent effect of U.S. troops stationed in the path of invasion is effective as they represent the power and resolve of the United States. This cannot be replaced by South Korean soldiers. Nor can deterrence be effective without some automatic involvement in case of invasion.

Totally absent from President Carter's public explanations for troop withdrawal is an appreciation of larger strategic political, and economic concerns—not only in Asia but worldwide.

The Korean peninsula represents a strategic point on earth, where major interests of four of the five world powers—China, Russia, Japan, and the U.S.—all intersect and where the fifth—Europe—watches with keen interest.

The primary Chinese concern in the world—rapidly becoming an obsession—is containment of Soviet power. For this reason, Chinese diplomats tell Americans, Japanese, Filippinos—and anyone else who will listen—that they look on U.S. troop withdrawals from Korea "with concern." This diplomatese means that they flat out oppose the policy, along with any other reductions of U.S. presence abroad, particularly in Asia.

To the Japanese, the Korean peninsula is "a dagger pointed at the heart of Japan." The Japanese government now wants to prevent an outbreak of conflict in Korea at almost any cost. Yet they realize that Kim is unlikely to abandon his dream of unification and the southerners are unlikely to peacefully allow him to realize it.

At present our policy of withdrawing all ground troops is being done gratis, with nothing in return. Contrary to popular thinking, the withdrawal will not even save money, since troops are as expensive to station in the U.S. as in Korea. Over the next five years, in fact, redeployment will cost an additional $150 million, according to a study just released by the Congressional Budget Office.

In short, the President's policy is one of those rare birds. It has pleased our primary adversaries—the Soviet Union and particularly North Korea, which needs the boost now as its economy is failing and its diplomats are being sent home for peddling heroin in foreign capitals. The U.S. policy has angered our primary allies—Japan, South Korea, and many Europeans. The Chinese consider it just another sign of U.S. flabbiness and continuation of our "binge of disengagement" in the face of worldwide Soviet buildup.

The troop withdrawal could have been a wise one, had the necessary diplomatic groundwork been laid and changes in the international scene been brought about over time. As it stands, however, it is a rather reckless course appealing in appearance though unjustified in substance.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, if the U.S. commander in charge of the American Air Force at the time had the ability to make a decision, Commander Bucher and his ship and men would never have been captured by the North Koreans.

Mr. DORNAN. That is true. Bucher said if they had taken a vote among his men before they were tortured they would have said: "For God sake, let us hold out until we are rescued." They would not have believed the foot dragging that went on over a period of days until it ended up through the whole year of 1968.

But I just bring up that particular torture story and cold blooded execution of our two officers to give the fine remarks of the gentleman from Oklahoma (Mr. EDWARDS) a little more impact, and I will be joining the gentleman's special order with one of my own very soon.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I will be joining the gentleman's special order with one of my own.

I thank the gentleman very much.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank my friend from California for this very moving and eloquent statement.

Mr. Speaker, I yield to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I thank my colleague. I think it is most timely and fitting for the gentleman to take this special order, inasmuch as it is an anniversary we all should be aware of. There has been a lot said about Korean influence in the Congress of the United States in questionable ways. I hope the controversy will not be allowed to obscure the reality of a great people and a fine nation and a dependable ally. I have seen them operate in Vietnam. I feel they are first class.

Mr. Speaker, the continued maintenance of American ground forces in the Republic of Korea constitutes one of the principal strategic deployment of our forces in the world today. Thus, any withdrawal of these forces must be considered in the context of the regional strategic implications, and not simply the narrow framework of turning defense responsibilities over to the South Koreans.

A general misconception lies at the root of the withdrawal of American infantry forces from Korea: the deployment of these forces were never considered simply a temporary expedient pending the upgrading of the South Korean military forces. Instead, they have been regarded as both an integral element of the United Nations Command structure in South Korea necessary for maintaining the armistice agreement and also as visible presence of America's general commitment of support to her allies in East Asia.

Thus, prior to the present administration, no general plan or timetable existed for the removal of the estimated 32,000 ground troops in the Republic of Korea. We never had any long-range Koreanization plan of turning over all defense responsibilities to the South Koreans as we did to the Vietnamese. Thus, the application of the so-called Nixon or Guam doctrine has no particular revelance to Korea. Unlike the other nations in Asia, we fought a war in Korea, have a mutual defense pact, and help maintain the existing armistice agreement. Consequently, one cannot simplistically apply to Korea a proposition about removing American forces from the land mass of Asia.

The continued presence of 32,000 ground forces, only a little more than half of whom are in the 2d Infantry Division, hardly constitutes a massive involvement in any potential land war on the Asian mainland. Instead, the presence of these forces has quite clearly been the principal contributory factor to the peace and stability in the region for the past 23 years. The surest way to guarantee potentially massive involvement of the United States in war in Korea would be to remove the troops and precipitate a crisis where we have had none for nearly a quarter of a century.

The forces do substantially contribute to the security of Korea by the fact that the 2d Infantry Division is the best armed force in Korea and that they have access to use of tactical nuclear weapons. Through access to this enormous amount of firepower, the small American force makes up for the disparity in existing military strength between the South and North Koreans. But the forces have much broader significance as well.

The American forces in Korea must be understood as part of a general framework of operations in East Asia; and thus, any withdrawal must be understood in a regional context. Quite simply the United States has established an arch of bases which one can trace running from Alaska, through Japan and Korea, down to Taiwan and the Philippines. Previously this arch extended through Vietnam to Thailand, but through the triumph of the North Vietnamese Army, we have lost these valuable bases.

Thus, the question to be fairly faced in the proposed withdrawal of forces for Korea is whether the United States can maintain any credible defense posture in East Asia without a significant presence in Korea. The United States cannot project power in a region of the world without bases of support to operate from.

We have a large flotilla of naval strength in the area with the 7th Fleet. But sailing the high seas does not constitute the impressive staying power of ground fortifications; moreover, the naval forces effectiveness depends substantially upon their abilities to use port facilities in the area. Rhetoric of support for allies cannot form a plausible substitute for a continued military presence. The constant drift of actions taken in the direction of fewer and fewer bases and diminishing forces stationed at each base provides the graphic evidence of a nation in retreat.

Thus, the withdrawal from Korea certainly is and will continually be perceived as an American retreat from responsibilities in the region and no flam-

boyant rhetorical denials can mask the evidence. Only by demanding some mutuality of restraint of forces in the region should the United States consider any scaling down of forces in Korea. But until such time as an adequate agreement between the United States, the Soviet Union, China, and both North and South Korea is arrived at, any withdrawal from Korea would be a most ill-conceived and dangerous action.

Mr. Speaker, I again commend the gentleman from Oklahoma for giving us this opportunity today to share in this commemoration.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank my friend for his contribution.

Mrs. HOLT. Mr. Speaker, June 25 will be the 27th anniversary of the outbreak of the Korean conflict. It was another repetition of unprovoked aggression within 10 years after our own Nation experienced the hideous attack on Pearl Harbor by Japan.

It should be noted that one of our youngest colleagues in the House was then only 16 months and 27 days old. For the younger generation, the Vietnam war was a horrible aberration in international relations, and World War II and the Korean conflict are mere pages from history that do not arouse deep personal feelings.

But for those of us who are old enough to remember these large tragedies and the conditions that created them, it is fitting that we act from our experience with history. Let us reflect on the folly of unpreparedness, the naivete that would be deterred by our expressions of good will, the failure to estimate the real intentions and capabilities of would-be aggressors.

After an American Secretary of State conceded that South Korea was not important to our national security, Communist North Korea became emboldened to invade. Only then did we respond to the desperate need of an ally with American arms and troops, and the cost of our previous weakness ran very high.

But it was a high point in our history when the late President Truman responded firmly to the aggression, although we were not prepared for it. We had reduced our military forces in the hope of lasting peace, and suddenly we were mobilizing our Reserves and sending them to Korea in a frantic effort to repel the cruel invasion.

Today South Korea remains independent and cherishes her independence from the ruthless adversary to her north. She remains a staunch American ally guarding the western line of our Pacific defense perimeter.

We are not pleased with the authoritarian rule of President Park Chung Hee. We are embarrassed by the activities of the KCIA in the United States and its alleged attempts to bribe Members of Congress. I believe the Congress and the Justice Department must relentlessly investigate and expose these activities.

But we must not ignore the strategic importance of the South Korean Peninsula, its vital role in the defense of Japan and the Western Pacific. Our enemies regard South Korea as a grand prize, a potential base from which aggression could be extended to other territories.

We must not forget that South Korea is a steadfast ally of the United States at a time when many alliances are subject to doubt, and that South Korea sent troops to join our fighting men in South Vietnam.

We have a moral imperative to remember that the South Korean people, although lacking the political freedom that Americans have, have an overwhelming resolve to remain free of the brutal, totalitarian rule of the North Korean slave-master, Kim Il Sung.

President Carter properly professes our concern for human rights and makes it the moral foundation of American foreign policy. But the quality of human rights varies from country to country, and it would be immoral to deliver a half-free people to the total tyranny of a ferocious despot.

Very serious questions have been raised about President Carter's decision to withdraw American troops from Korea. Many of us believe this would be repeating the tragic policy errors that preceded the outbreak of the Korean conflict in 1950. We believe that the dictator Kim Il Sung will be tempted to new aggression, that he has been awaiting this opportunity while he has been building his war machine for a new assault. Our military commanders know that the risk is great.

Only a glance at the map will tell you why Japan is highly nervous about President Carter's decision to withdraw from South Korea. Japan, which must live with the proximity of the Soviet Union to its northern islands, is not pleased at any threat to the security of South Korea.

I should also mention another loyal friend of the United States, Taiwan, with whom we have an historic alliance. It is reasonable that we seek an improving relationship with Communist China in our effort to maintain a balance of power with the Soviet Union, but this does not mean we should betray an old ally for a diplomatic deal.

At a time when morality is a dominant theme of our foreign policy, America should not consider dropping her defense commitment to a free nation to accommodate the interests of a totalitarian country. It would be a foul deed, casting doubt on the value of all American commitments.

Mr. BURGENER. Mr. Speaker, my colleagues have presented some very solid arguments on why we should not withdraw our ground forces from South Korea at this time. I would just like to express my great concern and briefly state my position on this issue.

With all due respect to President Carter, it is my opinion that his decision to withdraw U.S. troops from South Korea is both untimely and unwise.

It was barely 2 years ago that first Cambodia, then Vietnam, then Laos were lost to the Communists. Some blame the United States, some blame the Southeast Asians, others blame both. Regardless of where the responsibility for those debacles lies, it is obvious that our country has lost much of her credibility with the rest of the world. Already in the eyes of many, we can no longer be depended upon to honor our commitments. This action would be regarded as a further erosion of our will by both friends and foes and therefore, encourage further Communist expansion.

Kim Il Sung has never abandoned his goal of annexing South Korea. Ever ready to strike, he has watched for every opportune moment in which to make his move. At the time of the North Vietnamese victory when the United States was most vulnerable, there were strong indications that North Korea was considering some action against the ROK. Kim visited Peking and Moscow to get support. He did not succeed in his quest and so a venture that could have resulted in disastrous consequences was averted. It is not too farfetched to believe that the withdrawal of American forces could trigger such a venture.

One of the key arguments for removing our ground troops from the Korean Peninsula is that this will keep us from being drawn into another Asian war. This line of reasoning in my opinion is defective. For a quarter of a century, the 40,000-odd American soldiers have served as an effective deterrent to North Korea designs and have kept peace in the area. With the 2d Infantry Division straddling the traditional invasion route, Kim Il Sung has not been able to talk his patrons into supporting him in his dangerous scheme. Both the Russians and the Chinese are most reluctant to get involved in any action that would mean direct confrontation with the United States, and without Soviet or Chinese assistance, the North Koreans could not hope to stage a successful invasion of the South as long as U.S. forces remain firmly in place as an indication that our commitment to defend the ROK remain unquestionable.

Proponents of this action have argued that actually we are not entirely withdrawing our protective umbrella from the South Koreans, that air and offshore naval support will still be provided. I do not find very much comfort in this. Planes and ships can very quickly leave the scene and the North Koreans know it. They also know that any American President would think twice before getting involved in another Asian war if no American lives are at stake. Thus, with the removal of the physical presence of U.S. troops, the unpredictable dictator of North Korea may feel that the time is ripe for an invasion of the South, with or without the aid of his cohorts. There is also the danger that once the threat of confrontation with the United States is removed, one or the other of the Com-

munist superpowers would be willing to underwrite Kim's adventures.

I have also heard arguments that the military strength of North and South Korea are well-balanced enough to deter the North from taking any drastic steps. The opinion of our military experts is that this is not so. It is true that in terms of manpower, the ROK has the edge; however, in terms of firepower, the northern army outranks that of the South both in number and quality. The North's tank force outnumbers the South's by a margin of 2 to 1; her airpower is three times that of the ROK and her ships can outrun and outgun most of the ROK's fleet.

In addition, we must remember that Seoul lies only 25 miles south of the DMZ. With a sudden surprise attack, it is possible that the North Koreans can quickly penetrate ROK defenses and take the capital. Should that happen, there is a real danger that the whole South Korean resistance would collapse.

If it is our intention to leave the South Koreans to fend for themselves, then the troop withdrawal would be a logical step; however, the President has stated that our commitment to defend the security of the ROK and assure the stability in the area remains "undeviating and staunch." If this is indeed so, then I fear that Mr. Carter has opened a Pandora's box. He has introduced instability where there was stability; he has brought about uncertainty where there was none and thus created a dangerously volatile situation. Instead of preventing the possibility of hostilities, he has only succeeded in provoking them.

Mr. Speaker, I am not advocating that our forces remain forever in South Korea. There will come a time when the ROK will be in a position to defend herself from outside aggression and we will be able to leave with the certainty that security in Northeast Asia is assured; however, this is not yet the time and I sincerely hope that President Carter will reconsider his decision and postpone our troop withdrawal from the Korean Peninsula.

GENERAL LEAVE

Mr. EDWARDS of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

FINANCIAL STATEMENT

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GARY A. MYERS) is recognized for 5 minutes.

Mr. GARY A. MYERS. Mr. Speaker, as I promised the people of Pennsylvania's 25th Congressional District while campaigning for Congress, I am submitting for the record my net worth statement and an account of my earnings while serving in Congress for the year ended December 31, 1976.

In addition, I am making public an auditing firm report by certified public accountants of all my office receipts and expenditures.

I offer this, Mr. Speaker, as an example of what I consider to be full financial disclosure. The reaction among the people I represent to my efforts at operating a completely open office has been highly favorable and I hope my colleagues in Congress will also come to accept such public disclosure of financial interests as a primary step in restoring public confidence in the Federal Government:

CONGRESSMAN GARY A. MYERS' OFFICE ACCOUNT, STATEMENT OF CASH RECEIPTS AND EXPENDITURES AND SUPPLEMENTARY INFORMATION WITH REPORT OF CERTIFIED PUBLIC ACCOUNTANTS YEAR ENDED DECEMBER 31, 1976

REPORT OF CERTIFIED PUBLIC ACCOUNTANTS

Congressman GARY A. MYERS,
25th District, Pennsylvania, House of Representatives, Washington, D.C.

We have examined the statement of cash receipts and expenditures of Congressman Gary A. Myers' Office Account for the year ended December 31, 1976. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying statement of cash receipts and expenditures presents fairly the recorded cash transactions of Congressman Gary A. Myers' Office Account for the year ended December 31, 1976.

The accompanying supplementary information, while not necessary for a fair presentation of the cash receipts and expenditures, has been examined and, in our opinion, is fairly stated in all material respects in relation to the statement of cash receipts and expenditures taken as a whole.

ELMER FOX, WESTHEIMER & CO.
Washington, D.C., February 14, 1977.

CASH RECEIPTS AND EXPENDITURES

(On a cash basis)

Year ended December 31, 1976

Receipts:	
Stationery allowance	$6,500
REACH Program (Note 3)	3,000
District office expense allowance	2,500
Flag reimbursements (Note 4)	1,090
Reimbursement for staff purchases	847
Personal funds	1
Total	13,938
Expenditures:	
Stationery and supplies	4,122
Refund to REACH (Note 3)	1,478
Flags (Note 4)	1,090
Subscriptions	1,057
Staff purchases	847
Communications services	673
Office	282
Meetings and receptions	238
Refund of personal funds	200
Repairs and maintenance	185
Tickets	104
Postage	38
Total	10,314
Increase in cash	3,624
Cash balance at beginning of year	2,353
Cash balance at end of year	5,977
Cash balance represented by:	
Stationery account	4,361
The United National Bank of Pittsburgh	1,064
The National Capital Bank	427
Petty cash balances	125
Total	5,977

The accompanying notes are an integral part of the financial statement.

NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 1976

1. Stationery allowance:

A stationery allowance of $6,500 per regular session is provided each member of Congress for purchase of office supplies. The entire sum may be withdrawn in cash or kept in the stationery account for purchase of stationery and office supplies through the Clerks House Office Supply Service.

For the year ended December 31, 1976, this amount consisted of the following transactions and balance:

Cash balance at January 1, 1976, $1,343.

Stationery allowance, $6,500 minus $3,482 for stationery supplies and expenses, $3,018.

Total cash balance and stationery expenses, $4,361.

2. District office expense allowance:

An office expense allowance of $500 per calendar quarter is provided to Members of Congress by the Clerk of the House.

The allowance for the fourth quarter of 1975 was not withdrawn until February 1976 in the amount of $500. Also, the regular allowance of $500 for each of the four calendar quarters was withdrawn in the sum of $2,000. This represents a total withdrawal for the year of $2,500.

3. Republican Extra Assistance for Communication Help (REACH): The REACH program is funded by the Republican Congressional committee which allowed a $750 quarterly allotment for franked communication purchases during the regular session for Republican members of Congress. During the year ended December 31, 1976 REACH expenditures of $1,522 were made. The allotment and the expenditures are reflected in the statement of cash receipts and expenditures. The remaining balance in the amount of $1,478 was returned to the Republican Committee on December 16, 1976.

4. Flag reimbursements: During the year, the stationery account was reimbursed for flags purchased by constituents in the amount of $1,090.

SUMMARY OF PETTY CASH BALANCES YEAR ENDED DECEMBER 13, 1976

Office	
Washington, D.C	$50
New Castle, Pennsylvania	25
Butler, Pennsylvania	25
Beaver, Pennsylvania	25
Total	125

NET WORTH STATEMENT

	Dec. 31, 1975	Dec. 31, 1976
Total net worth	$66,733.66	$89,162.78
Assets:		
Cash	3,747.60	5,408.40
Savings bonds	180.96	191.97
Armco thrift plan (Note 1)	19,879.42	24,691.11
Cash value of life insurance	3,504.77	3,979.14
Automobiles	5,675.00	4,295.00
Residences (Note 2)	142,000.00	151,860.00
Household furnishing	7,200.00	9,500.00
Escrow in mortgage accounts	486.18	261.24
Retirement fund deductions	3,125.77	6,693.77
Accrued income and wage tax prepayments	11,503.37	11,909.23
Total assets	197,303.07	218,789.86
Liabilities:		
Security on rental property	300.00	300.00
5½ percent mortgage secured by residence (annual amortization and interest payment amount to $1,596.00)	15,540.61	14,766.18
8¼ percent mortgage secured by residence (annual amortization and interest payment amount to $2,242.56)	23,284.73	22,958.61
9¼ percent mortgage secured by residence (annual amortization and interest payment amount to $7,106.40)	73,913.70	73,455.21
10.09 percent note secured by 1975 Granada	3,534.18	1,690.26
10.09 percent note secured by 1975 Maverick	2,588.30	1,393.70
Accrued income taxes on unrealized asset appreciation (Note 3)	5,169.69	7,372.09
Accrued income and wage taxes payable	6,238.20	7,691.03
Total liabilities	130,569.41	129,627.08
Total net worth	66,733.66	89,162.78

NOTES TO THE PERSONAL FINANCIAL STATEMENT OF CONGRESSMAN AND MRS. GARY A. MYERS

Note 1. Armco Thrift Plan: The Thrift Plan is an account accumulated through personal and company contributions and account earnings during my Armco employment prior to becoming a Member of Congress. All personal and company contributions ceased as of 12/21/75, and changes while a Member of Congress will reflect only changes in market prices of securities in the account along with earnings or losses on the securities. The number of shares of Armco Common Stock in the account were: 12/31/75—688.499 Shares; 12/31/76—704.150 Shares.

Note 2. Residences: The estimated values of the residences reflect an independent appraisal on my Butler home early in 1975 of $50,000, adjusted at a rate of 5% to reflect an increase in market value ($52,500), and the purchase price of my McLean house early in 1975 ($92,000), adjusted at a rate of 8% to reflect the increase in market value ($99,360).

Note 3. Accured Income Taxes on Unrealized Asset Appreciation: Unrealized appreciation in value of assets would, if realized, require payment of taxes at capital gains rates. Therefore, an estimate using a tax rate of 15% on this accrual has been made on that basis.

1976 STATEMENT OF INCOME CONGRESSMAN AND MRS. GARY A. MYERS

Earned income:	
Member of U.S. Congress Salary	$44,600.00
Honoraria	500.00
Earned Income Total	45,100.00
Unearned income:	
Net Income on Rental of Butler Home	2,353.39
Interest on Savings and Life Insurance Accounts	212.69
Unearned Income Total	2,566.08
Total Earnings	47,666.08

Congressman Gary A. Myers office and staff allowance for 1976

Allowance account	Available	Used	Balance
Staff	$243,724.00	$224,811.83	$18,912.17
Stationery	7,843.01	3,482.00	4,361.01
Postage	1,140.00	570.00	570.00
Constituent communication	7,198.26	4,616.80	2,581.46
Equipment lease program	9,000.00	8,804.08	195.92
Telephone and telegraph	14,005.70	11,112.10	2,893.60
Member's travel allowance	2,715.36	2,036.55	678.81
District office lease	12,128.00	12,128.00	----------
District office expense	2,000.00	2,000.00	----------
Statutory mileage	212.00	----------	212.00
Total	299,966.33	269,561.36	30,404.97
Capital equipment on hand in 1976 No expenditures			
Electrical and mechanical equipment	$5,500.00	$3,812.75	$1,687.25
District office equipment and furnishings	27,000.00	14,163.38	12,836.62
Total	32,500.00	17,976.13	14,523.87

Note: The balance in each account, except for the stationery account (see addendum), is nontransferable and noncumulative.

ADDENDUM

Staff Allowance: This amount includes a clerk hire base of $218,908.00 and a research assistant amount of $24,816.00 for an available total of $243,724.00. The breakdown of the usage is as follows: $219,740.63 (staff) +$5,071.20 (computer) =$224,811.83. A member may use up to $1,000.00 of unused clerk hire per month for computer services.

Stationery: The unused balance in the stationery account is considered taxable income to each Congressman. On the 1976 unused balance of $4,361.01, Congressman Myers paid a total of $1,274.15 ($344.25 in 1975 and $929.90 in 1976) in federal personal income tax. The balance of $3,086.66 was placed in an office expense account to be used to pay for any expenditures not covered by the 1977 allowance. The amount available includes $1,343.01 carried over from 1975 and the $6.500 allowance for 1976.

Constituent Communication: $5,000.00 (allowance for 1976) +$2,198.26 (carried over from 1975) =$7,198.26 (total available allowance for 1976.)

Telephone and Telegraph: This allowance is based on a total of 125,000 units per session rather than a dollar limitation. For comparison sake, a rate of 10c per unit (same as 1975) was used.

Example: 125,000 units ($12,500.00) +15,057 units carried over ($1,505.70) = 140,057 units available ($14,005.70)—111,121 units used ($11,112.10) = 28,936 unit balance ($2,893.60).

Member's Travel: Member's travel is based on an allowance of 26 round trips to the congressional district. Of the 26 round trips, 6 may be allocated to designated employees of his or her office. The 34 trips available for 1976 include the 26 trips allowed in 1975 and 8 trips carried over from 1975. Trip usage was as follows: Member, 21 trips; staff, 4.5 trips. The actual cost of 25.5 trips was $2,036.55 or an average of $79.86 per trip. The balance of $678.81 was determined by multiplying the 8.5 unused trips by the average cost per trip.

District Office Lease: Breakdown is as follows: Monaca, $6,000.00; Butler, $2,356.00; and New Castle, $3,772.00. Monaca is a private lease at $500.00 per month. The New Castle and Butler figures are determined by GSA on the basis of the prevailing rental rate in the area times the square footage.

Statutory Mileage Reimbursed at Arms: Each Member of Congress is alloted 20¢ per mile at the beginning and end of each session for a trip to the Member's home district. (The mileage is according to Rand McNally Atlas Mileage Guide.) Congressman Myers waived the equivalent of $212.00 for this provision.

Electrical and Mechanical Equipment: No actual purchase of equipment was made in 1976. Net value of equipment on hand equaled $3,812.75 based on the depreciated value of the equipment. $5,500 (actual allowance)—$3,812.75 (value of equipment on hand) equals $1,687.25 (balance).

District Office Equipment and Furnishings: The total aggregate ceiling for all three district offices is $27,000.00. The usage breakdown is as follows: Monaca, $3,985.64; Butler, $4,290.78; and New Castle, $5,886.96. Included in the New Castle figure is $698.89 for carpet and drapes purchased in 1972 by the former Congressman. Replacement of equipment and furnishings may be made after six years unless earlier replacement is approved by the Regional Office Director. Charges for on-hand excess and rehabilitated equipment are made on the basis of a regional purchase price or at appraised value, not to exceed the current replacement value. There were no new expenditures in 1976 and the figures represent only capital value of equipment and furnishings on hand.

THE CONSEQUENCES OF A DECADE OF DISINVESTMENT IN OUR NATION'S DEFENSE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, tomorrow we begin general debate on the fiscal year 1978 Department of Defense appropriation bill. In advance of floor consideration of the bill, I would like to acquaint my colleagues with my views on the fiscal year 1978 bill, and some of my perceptions as a member of the Defense Appropriations Committee as to the circumstances of the international environment in which we consider this bill:

ADDITIONAL VIEWS OF JACK F. KEMP

I am seriously concerned that the resources allocated to Defense for fiscal year 1978 are not adequate to meet the projected military threat posed by the Soviet Union. Fiscal year 1978 budget outlays are nearly ten percent less than constant fiscal year 1978 dollar outlays in fiscal year 1964—a year when military compensation and related personnel costs accounted for only 42 percent of the defense budget compared to over 50 percent today. Moreover, the character of the threat has changed dramatically in the intervening years. In fiscal year 1964 for example, the Soviet Union had fewer than two hundred ICBMs and fifty SLBMs, today they have eight times that number.

A weakness in Congressional action on defense budget issues is an extensive focus on year-to-year changes in expenditures for particular defense programs, without any substantial reference to the threat against which the adequacy of defense programs must be measured. The long-lead times associated with budget formulation in the Department of Defense—as much as eighteen months between formulation and execution—makes it particularly important for the Congress to make the current and projected threat an integral component of its deliberations, not merely a concern about the annual increase in a particular program account.

In the foregoing discussion, I do not argue that the United States should make an effort comparable in every respect to the Soviet Union whether in expenditure, manpower, inventories of equipment, or deployment patterns. All of these statistics are merely aspects of military capability, but do not necessarily measure military capability. Nevertheless, in many important elements of national military power, under virtually any plausible scenario of conflict the United States faces serious shortcomings. In many cases, meeting these problems is a question of providing additional resources, but in others, one must focus on other factors such as efficiency, military doctrine, etc.

THE THREAT

The past decade has been characterized by substantial disinvestment in defense despite considerable attention devoted to the subject by the Congress. The disinvestment in defense, while small in any given fiscal year since Fiscal Year 1968, has had a cumulative effect which places at risk the ability of the United States to support its foreign policy with military forces in the forthcoming decade.

The Soviet Union has made substantial improvements in its forces, both strategic and general purpose in the past year, and the impact has been even more dramatic since 1968. Most of these changes have not been adequately addressed by the Congress, and consequently, there has been a relative attrition in the capability of U.S. military forces to deal with a direct Soviet military challenge. Although the list is long, a sample of some of the important changes which have been observed in the Soviet military posture in the time since the Congress acted on the FY 76 defense budget is instructive.

1. The Soviet Union has initiated deployment of the SS–20, a two stage mobile missile equipped with multiple independently targeted re-entry vehicles (MIRV) with an order of magnitude improvement in the delivery accuracy over its predecessor systems (the SS–4/5 and the variable range SS–11). Moreover, if the SS–20 is loaded with a single warhead of the size of the U.S. Poseidon type, the SS–20 is capable of intercontinental range when deployed from either the Kola or Kamchatka Peninsulas. Thus, a substantial fraction of the United States could be brought under attack from a system which can neither be counted (due to its ease of concealment) nor reliably located. If the SS–20 is mated to its SS–16 first stage, a procedure which cannot reliably be verified by national technical means of verification, the United States could be faced with a mobile MIRV threat of more than 1000 launchers.

The United States will not have a mobile ICBM system available for deployment until the mid-1980s at the earliest, because the Administration has elected to slow down the MX (Advanced ICBM) program.

2. The Soviet Union is proceeding with the deployment of ICBMs with a hard-target kill capability; a predominant character of their land-based ICBM program since the late 1960s. Their new generation of ICBMs have an accuracy which exceeds all but the most advanced American designs. However, because the explosive yield of the new generation of Soviet warheads is five to ten times their American counterparts on so-called "light missiles" (SS–16–19s), and up to 250 times the Minuteman III yield on their largest missiles, the Soviet Union will have a first strike threat against U.S. fixed point installations by the early 1980s unless deterred or reduced by negotiation.

3. The Soviet Union has initiated deployment of the Delta III submarine capable of launching multiple warhead (MIRV) payloads comparable to the proposed U.S. Trident II in range if not in sophistication. The deployment of the Delta II with a single 4,200 nautical mile range missile is continuing.

3(a). The Soviet Union has stepped up production of the Backfire-B (Tu–26) strategic bomber to a rate of five aircraft per month. While there is some dispute about the circumstances in which the Backfire can conduct two-way unrefueled missions, there is no controversy that the Backfire armed with a modified AS–6 air-to-surface missile can reach American targets on a refueled basis reliably, and can hit all targets of military significance on a one-way mission with reconstitution in territory adjacent to the United States (e.g. Mexico, Cuba, the Bahamas, etc.) similar to American practice with current B–52 mission profiles.

It is unfortunate that the Congress will elect to produce only 5 B–1 bombers in FY 78 at a time when the Soviet Union is turning out Backfires at a rate of five per month. From a perspective of the threat, arms control objectives, and the cost of alternative means of performing the mission, the B–1 is clearly the best choice.

4. The Soviet Union has conducted a probably vigorous series of underground nuclear experiments, several with yields exceeding the 150 kiloton threshold, apparently consistent with the rapid pace of the modernization of Soviet theater nuclear and strategic nuclear forces.

Despite testimony before the Defense subcommittee by Department of Defense witnesses to the effect that continued nuclear testing was essential to American foreign and defense policy objectives, the U.S. test program has not been funded to permit adequate development of advanced nuclear explosives.

5. Evidence continues to mount that the Soviet Union is maintaining a reload capability for some of its intercontinental and intermediate range ballistic missiles. While this problem is not addressed in the existing Strategic Arms Limitation agreement (only silos for intercontinental range missiles are limited), the potential threat to the United States should a reload capability become widespread is apparent.

6. Since the mid-1950s, the Soviet Union has deployed more than 5,000 cruise missiles of all types. When the United States possessed a vast preponderance in ICBMs, bombers, and SLBMs, the Soviet cruise missile advantage mattered little in the strategic balance However, with the development of modern missile guidance systems, miniature nuclear warheads, and high performance propulsion systems, the potential of cruise missiles has become particularly for tactical as well as strategic warfare. The large volume (cubic meters) of Soviet cruise missiles makes the potential threat from Soviet cruise missiles severe because of the large range and payload capability inherent in Soviet designs should they catch up to American technology (as they now have in MIRV technology) in guidance systems, propulsion, and warhead size and weight reduction.

Faced with a vast increase in the Soviet target complex, it is particularly unfortunate that the Committee has elected to reduce by one-half, the procurement funds for the most advanced cruise missile now being developed by the United States, the air-launched cruise missile.

7. The Committee was provided with evidence that the Soviet Union has not attenuated its effort in ballistic missile defense research since it signed the ABM Treaty in 1972. To the contrary, not only is the Soviet R&D establishment making substantial efforts in such advanced "conventional" type ABM systems such as loiter-mode interceptors and advanced phased array radars, but is also investing heavily in "exotic" ABM concepts such as charged particle beam and high energy laser weapons as well. The Soviets continue to operate their one operational *Galosh* ABM site, and maintain a large ABM test facility in Central Asia as well.

Under the circumstances, the United States will be taking a serious risk with circumstances where the Soviets may abrogate the ABM Treaty by electing to terminate the one remaining Perimeter Acquisition Radar (PAR) in North Dakota. This radar, the most advanced of its type, has been turned over to the Air Force and is employed in providing threat characterization information—data which may provide the margin between survival and destruction of a large fraction of the land-based ICBM force—as well as otherwise unobtainable "hands-on" training for advanced radar operators in the event the United States had to resume ABM deployment sometime in the future.

8. Soviet capabilities for theater warfare in Europe has been improved continuously since the early 1960s. During the past year, a number of important changes have taken place which add to the impact of earlier changes in Soviet theater forces, particularly since 1968.

Soviet Motorized Rifle Divisions deployed in Eastern Europe have been increased in size by one tank battalion per MRD; additional tank and artillery units have been assigned to the Soviet Army and Front level as well, thereby substantially increasing the combat power of the Soviet division in Europe. The recent improvements in Soviet forces in Europe give them the equivalent of 38 1970-type division organizations although the number of divisions deployed in Eastern Europe has not changed since 1968 (31).

The Soviet Union has redeployed water crossing units from the Western part of the USSR to forward areas in East Germany, thereby giving the Soviet Union a greater capability for unreinforced attack in Europe. This (and related) developments which serve to reduce tactical warning of an attack are directed at NATOs two most serious shortcoming, its weak reserve structure, and the cumbersome decision process associated with a decision to introduce tactical nuclear weapons into a conflict.

The Soviets are making good on their shift in tactical emphasis from air defense oriented to ground attack aircraft. The deployment of the MiG–23 Flogger, and its variant, the MiG–27 as well as the SU–19 Fencer and the Tu–26 Backfire expose the vulnerability of U.S. forces to Soviet air attack. The relaxed pace of the development of Patriot (SAM–D) air defense system can be traced to a decade of complacency and consequent underfunding of the program, the only available system for adequate field air defense for American forces.

The Soviet Union will, in a very short time, deploy more of their new T–72/64 tank than will the United States deploy of the proposed XM–1 system in its entire proposed buy. The budget proposed by the committee reduces the FY 78 tank buy by 10 units due to a belief that tank production at a level one half that of annual Soviet output cannot be sustained.

Soviet capabilities in electronic warfare and chemical warfare are growing significantly, and in the latter case, almost without notice, or apparent concern. The heavy dependence of the United States on elegant command, control, and communications makes us particularly vulnerable to unexpected catastrophe on the battlefield if we do not begin to regard EW as a "weapon" like any other weapon system. Similarly, our posture of militant disregard for Soviet capabilities for attack and defense in the chemical warfare field cannot be easily remedied if the Soviets should introduce such weapons in a conflict.

The aforementioned "list" is not intended to be alarmist. Rather, it is intended to suggest some of the important developments now taking place in both strategic and general purpose forces maintained by our principal adversary, the Soviet Union. It is possible to reprimand an officer for calling attention to these issues in the public domain, but that will not make them go away. Two decades ago when American military superiority was stark and overwhelming, it was reasonable to overlook details of the Soviet military posture on the grounds that no small changes could make any significant impact on the balance of military power. Today, we no longer enjoy this luxury, and Congressional deliberations should reflect this fact.

LAND BASED ICBM FORCES IN THE FISCAL YEAR 1978 BUDGET

The Committee has supported the reduced Carter Administration's request for $134 million for the MX ICBM program, but eliminating the development work on a survivable basing mode for the missile. The Administration has moved to terminate the existing Minuteman III production line, even though no new Strategic Arms Limitation agreement is in sight, and no replacement for the Minuteman III will be available in quantity for a decade. Wing II of the existing Minuteman II missiles will not have its silo hardness upgraded, thereby making it possible for the Soviets to attack these missiles (approximately 150) with less accurate warheads, reserving the more accurate warheads for multiple attacks on other targets. The production line on Minuteman III components (engines and guidance and control subsystems) will also be terminated if the Administration gets its wish, thereby prejudicing modernization of the Minuteman II.

The result of these efforts by the Administration will be to make the land-based ICBM force more vulnerable to Soviet attack than if other steps had been taken. Moreover, within the next decade, the land-based force will almost certainly be eliminated as a reliable component of our deterrent forces because of its vulnerability. However, this vulnerability will not be symmetrical; because Soviet throw weight will double by the early 1980s, while the United States is eliminating its capability to deter Soviet investment in heavy-payload ICBMs, the Soviet ICBM force will be a potent threat, not only to fixed point silos, but to submarines at sea and land-based aircraft as well. This dangerous set of circumstances will come about (unless remedial American action is taken) as a consequence of the Soviet throw-weight advantage which will leave them with substantial amounts of excess re-entry vehicles (above what would be required to target American land-based ICBMs, and to retain a reserve for Communist China) to permit barrage attacks against aircraft escape areas and large areas of ocean where missile firing submarines may be on patrol. Current policy embodied in the proposed fiscal year 1978 budget will result in the atrophy of the ICBM force in the next decade unless there is a change of mind in the Administration and the Congress. Specifically,

(a) The upgrade of Wing II of the Minuteman II force should be completed to be compatible with the balance of the force including installation of the Command Data Buffer for flexible command and control capabilities and increases in silo hardness; failure to do so will make the Wing vulnerable to Soviet SLBM attack in the 1980s;

(b) Minuteman II modernization with either Minuteman III components or more advanced components (e.g. the Advanced Intertial Reference Sphere) to improve the capability of the missile to give the United States the greatest deterrent capability possible within the limits of our existing payload disadvantage;

(c) Accelerate MX development by taking advantage of basing studies carried out over the past six years, and channeling additional funds into development of the missile itself. Merely by replacing existing Minuteman III missiles with the MX, survivability would be increased because the number of surviving re-entry vehicles remaining after an attack would be greater with the MX than with the existing Minuteman III. Moreover, the MX will be compatible with a mobile basing scheme if a suitable one can be identified.

Any or all of the aforementioned steps would be appropriate steps for the Administration to take in light of current Soviet strategic nuclear deployments. Regrettably, neither (a) nor (b) are mentioned in the FY 78 defense budget even though the testimony of DoD witnesses supports such an effort, and the Administration reduced the Ford Administration's request for the MX program by $160 million (from $294 to $134 million).

INADEQUATE INVENTORIES OF COMBAT EQUIPMENT

Testimony provided to the Defense subcommittee suggested appalling shortages in almost every major item of Army combat equipment. Classification prevents being specific about items where shortages exist, but in most cases, less than fifty percent of authorized strength is on hand. General Hollingsworth's European survey in November, 1976 revealed similar shortages in our ammunition inventories in Europe.* Testimony on the Fiscal Year 1976 Defense Budget by the Army Chief of Staff revealed a cumulative deficiency of more than $11 billion in equipment and ammunition deficiencies in the Army alone. Since then, the shortfall is even larger. To tolerate such shortages is inexcusable for those who have to bear the burden of fighting should war break out would suffer most from a failure to provide adequate inventories to support our requirements in the event of war.

The issues raised here are not intended to be either a systematic condemnation of the present appropriation bill, or all inclusive directions to the Department of Defense. Rather, the intent is to call attention to the magnitude of the very serious problems in our current and projected defense posture (unless policies are changed) when arrayed against the Soviet military threat. Defense is the only "uncontrollable" element of the Federal budget for it is the only account where requirements emerge as a consequence of decisions taken by foreign powers rather than explicit decisions taken by the American government. These problems will not be corrected by "business as usual" action by the national security bureaucracy, new directions need to be taken by the Congress and the President as well if the current or some future President is not to be deprived of the ability to guarantee the security of the United States.

*See the report of Senators Bartlett and Nunn in, "NATO and the New Soviet Threat, CONGRESSIONAL RECORD, Vol. 123, No. 13, January 25, 1977.

A BILL TO HELP PRESERVE OUR VITAL FISHING INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, on March 15, 1977, I introduced a bill to amend the Federal Water Pollution Control Act. The amendment simply redefined the term "pollutant" under the act to exclude the discharge of seafood processing waste into well-flushed bodies of water. Because deliberations on this subject were then taking place in the Committee on Public Works and Transportation, I decided not to reintroduce the bill at that time. Due to the lack of action by the Senate and the dropping of the committee bill in conference, I have decided to resubmit my bill with cosponsors.

Under the terms of the Federal Water Pollution Control Act, the Environmental Protection Agency was charged with establishing effluent guidelines that will come into effect on July 1, 1977. Unfortunately, a side effect of these guidelines will be the closure of 6 percent of the west coast seafood processors. I think

it shameful that we seek to help the American fishing industry on one hand by passing the Fishery Conservation and Management Act, our 200-mile law, and yet we help destroy that same industry by closing down processing facilities.

There is no scientific evidence that proves that seafood waste hurts the aquatic environment when it is discharged into areas that are flushed by tides, currents, et cetera. On the contrary, at least one study has shown that the number of fish in an area has increased due to the presence of a processing plant. We are all in favor of clean water; however, we should not make our water so clean that nothing will live in it.

I hope that my colleagues will see the wisdom of this piece of legislation and will act accordingly to prevent the demise of our fishing industry. With the guidance of Congress, we may once again see the United States become a world leader among fishing nations.

ROLLA CLYMER

The SPEAKER. Under a previous order of the House, the gentleman from Kansas (Mr. SKUBITZ) is recognized for 10 minutes.

Mr. SKUBITZ. Mr. Speaker, one of the truly great figures in Kansas journalism, Rolla Clymer, editor of the El Dorado Times, passed away on June 4, 1977. The deep abiding love Rolla Clymer had for his community and the State of Kansas—so eloquently expressed through his editorial comment—endeared him to all those who were privileged to know him.

The newspaper career of Rolla Clymer spanned over 70 years. He began his career in 1907 with the Emporia Gazette where he worked for the late William Allen White. Clymer learned well from his mentor and emerged from his 7 years with the Gazette as an accomplished newspaperman.

The genius Rolla Clymer displayed in his work at the El Dorado Times prompted Clyde Reed, editor and publisher of the Parsons Sun and a distinguished writer in his own right, to say:

Editorials in the Times are and have been for many years the standards by which all other Journalistic output is judged. The style, the rhythm, the vocabulary, not to mention the content, are the products of a master and a perfectionist.

They are at once penetrating and indignant, kindly and humorous, not to mention condemning and forgiving, for Rolla Clymer sits at his easel, the typewriter, and daily composes the editorial canvas which has brought him lasting notice and a succession of recognition and honors.

But it is for his readers he writes. That is the important and only genuine purpose of the editorial.

In his comments, I believe Clyde Reed has isolated and identified the quality that set Rolla Clymer apart from all his imitators: he wrote for his readers.

Rolla Clymer wrote for the common man in a manner and a style the common man could understand and appreciate. More than that, however, was the fact that he wrote about matters of interest to the common man of his own community. This quality was brought out in the following passage about Rolla, authored by an individual unknown to me—but an individual who certainly knew Rolla well:

Rolla A. Clymer has many talents and capabilities, but his most valuable quality to himself and to his community, is his good sense. He has the good sense, that is, to run a paper for his own community rather than attempt to imitate the big city dailies, and produce a paper that gets nowhere and pleases nobody."

Rolla Clymer had the ability to inject commonsense and logic into many burning issues of his day, none of which more eloquently than his comments on the creation of a Tall Grass Prairie National Park in his beloved southeast Kansas. It was Rolla Clymer, Sage of the Flint Hills, who awakened not only Kansas, but the Nation to the beauty of the prairie. In 1970, Rolla described the prairie in these words:

THE HILLS—APOSTLES OF PEACE

The Hills—Apostles of Peace in June's Radiance. The Flint Hills have now achieved their full panoply of radiance and charm after their long winter siesta and a laggard spring. The brilliant emerald of their cover has been spread evenly over their surface, staining with bright perfection every alluring feature of this billowing wonderland of the Kansas prairies.

During countless epochs of an unmeasured antiquity, the Hills in their course have clung to an identical pattern. One canto follows another with fidelity in an unbroken regimen, but always with such magic that monotony never intrudes. Now, as midsummer nears, the Hills once more lie smiling under June's benevolent touch—and their loveliness grips the beholder anew with a full sensuous appeal.

The same sweet grasses bend their heads before the South Wind's vagrant whim; the same riot of wildflowers runs glitteringly through the expanse; the same anthems of birdsong rise from feathered throats; and the same smoke haze dances afar off where the sky bends downward to earth. Over all this comely region the same great solitude prevails—a silence that is its distinctive symbol—a reflective, relaxing calm with healing in its wings.

How small do the woes that grip our world today appear when arrayed against the Hills' sobering stillness; how trifling seem our wars, our tumults, our fretful outbursts when judged by the Hills' quiet example! These Hills—oh Man—have passed through every joy and pain that human kind has experienced. They have withstood primeval cataclysms and eruptions of land and sea; they have seen the earth take form as a habitation for its creatures, and have witnessed the rise and fall of mighty dynasties of forgotten and recorded history.

Most assuredly, they beheld primitive man's struggle against his environment and saw him begin to lift himself when he perfected the wheel; during latter days they have looked benignly upon the stirring drama when our astronauts first walked upon the moon. Their ties with the sons of Adam all the way across past milleniums have been closely binding and tender.

With all their knowledge, they have kept their own peace. At the present juncture with the world's clamor sounding about them, the Hills have wrapped themselves in the garments of their own tranquility. No harshness nor violence breaks their repose. Obedient to the will of their Master, they are serving mankind in the same modest, profoundly useful, way they always have done. In this moment of trial for our republic, they are the perfect anodyne for all our fears and folly—for all our agony and anguish!

As one of the first, and the foremost spokesmen for the awe-inspiring splendor of the southeast Kansas landscape, Rolla stood head and shoulders above a host of Johnny-come-lately defenders of their splendor. To the very end, Rolla's thoughts and dreams were of the Prairie as they were here when he wrote:

The Hills have warmed me with their sheen
And charmed me by their grace;
Throughout life's bitter cudgeling
They've clasped me in embrace.

And now that life itself must end
And I no longer fill
A bootless spot, I do beseech
They may embrace me still.

Clymer understood the prairie had been made what it was by the cattlemen. He knew that once the cattlemen were removed from the prairie, its beauty would cease and the area would become a virtual weedpatch unworthy of tribute of any kind. Rolla loved the hills and prairies of Kansas and understood their loveliness with heart-felt affection.

I have always had—and will always have—a very warm place in my heart for Rolla Clymer. When I first ran for Congress, Rolla was already an established giant in Kansas journalism. He supported me in that first campaign—not for his own gain or betterment—for there was nothing I could offer him—but simply because he believed in me and my ideas.

Of all the thrills and honors I have received during my political career, I consider one of the greatest is to have known Rolla Clymer and to have been able to say he was my friend.

THE PLIGHT OF THE KATZ FAMILY

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. BALDUS) is recognized for 5 minutes.

Mr. BALDUS. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible, "to deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" irregardless of political boundaries.

Because of the Soviet Union's restrictive immigration policy, I have been asked, as a Member of Congress, to direct my attention to those families which remain separated due to the Soviet Union's practices.

I bring before you the situation of the Katz family. Boris and Natalya Katz are young mathematicians from Moscow. They graduated in 1970 from the Moscow State University, Department of Mathematics and Mechanics. Both are trained computer programers. Boris worked as a junior researcher at an institute studying tractors. He also worked on programs for writing verses. It is hard to imagine what state secrets he could

possibly have acquired in the short time he was employed in his specialty.

Meanwhile, his elderly mother, Mrs. Khaika Landman, who resides in the United States, anxiously awaits the day when she will be able to see her son whom she sorely misses. She finds the pain of separation and loneliness a dreadful burden to bear.

In a letter directed to the U.S. Senate, his brother, a student at Harvard writes on behalf of his mother:

I would like to ask if you could please help my brother and sister-in-law who were refused permission to emigrate from the U.S.S.R.

Our family was separated when my mother and I emigrated from the U.S.S.R. in December 1975. We now live in Cambridge, Mass. I am 17 years old and I am a freshman at Harvard University. My brother is 28 and his wife is 29.

The official reason given for the refusal is that my brother and sister-in-law had access to secret documents in their job. But, in reality, neither one of them knows secrets of any kind.

Please help our family unite.

THE KOREAN CONNECTION AND THE CUBAN CONNECTION

The SPEAKER pro tempore. Under a previous order of the House, tht gentleman from Georgia (Mr. McDONALD) is recognized for 5 minutes.

Mr. McDONALD. Mr. Speaker, two committees of the House of Representatives are investigating activities of the South Korean Central Intelligence Agency regarding possible attempts to exert improper influence on Members of this House. These investigations are of great value. It is important that we be aware of activities by foreign intelligence agents aimed at influencing our legislative process. Of equal importance should be determining whether foreign intelligence agents have used their connections with Members of the Congress or their staffs to obtain classified information.

Unfortunately, both investigations of Korean Intelligence influence have been hampered by the lack of a good, credible witness. The main available witness is Kim Hyung Wook, who was the former director of the KCIA until 1969. According to the Washington Post of June 6, 1977, Kim allegedly has a "long KCIA list of U.S. Congressmen paid by South Korea, but he has failed to produce any such list." In addition, Kim has made contradictory statements to U.S. Government investigators. During the time we had a Republican Presidential administration, Kim charged that the 1964 Johnson campaign and the 1968 Humphrey campaign had received Korean Government money illegally. Now that we have a Democratic administration, Kim has changed his story and admitted that his previous allegation was untrue.

The Washington Post pointed out that in a New York Times interview Kim had made statements that—

Contained some minor conflicts with what he previously has said to Federal investigators. After telling investigators last year that he knew of no intelligence activities by Washington karate entrepreneur Jhoon Rhee or Korean-born Capitol Hill secretary Suzi Park Thomson, Kim described them both in the Times interview of KCIA "lesser operatives."

Kim told U.S. investigators last year that Tong-sun Park had "no specific relationship" with the KCIA while Kim was its director. In the Times interview, Kim was quoted as saying: "When I was director of the KCIA he was my agent. I controlled Park at that time."

Despite these conflicts, U.S. investigators find Kim to be credible. Knowledgeable sources are unsure, however, whether Kim will ever be used as a witness in criminal trials because much of his information is second hand and therefore technically excludable as hearsay.

I am sure that our colleagues in the House Ethics Committee and International Affairs Committee will diligently pursue all leads in this matter. At the same time, a similar situation in regard to Cuban intelligence operations has unfortunately been ignored by this Congress. I would like to share with my colleagues some information concerning the "Cuban connection" that I have been able to develop. Some of the information comes from documents found in the briefcase of Orlando Letelier. The contents of the briefcase were obtained at the time of Letelier's death last September as a result of a car bomb. Copies of the documents soon found their ways into the hands of the press. Although a number of newspapers made reference to the documents, the most detailed account appeared in Review of the News in its issues of April 27 and May 4, 1977.

The documents themselves, however, have not been made available to the American public. I am therefore including them as an appendix to this report. Those documents in Spanish have been translated into English.

The documents show that Letelier served as a Soviet agent operating under the direction of the Cuban DGI. His job was to serve as an agent of influence to utilize Members of Congress and other prominent persons to promote Communist goals in the Western Hemisphere. When the press first began carrying stories on this matter, Letelier's associates in the leftist think-tank, Institute for Policy Studies, launched a disinformation campaign to obscure the truth about Cuban operations in Washington using Letelier. Accuracy in Media, an organization which serves as a watchdog for the American public on the press, attempted to clarify the record by placing an advertisement in the Washington Post. It was rejected. It was later rejected by the Washington Star and the New York Times. An examination of the documents shows that Accuracy in Media was once again accurate in its media criticism.

Letelier's DGI case officer was Julian Torres Rizo, who serves the Cuban intelligence apparatus as their top man in the United States. His cover is First Secretary of the Cuban Mission to the United Nations. Part of Rizo's DGI responsibility includes liaison with such terrorist-connected groups as the Prairie Fire Organizing Committee—above ground apparatus of the Weather Underground—and the Puerto Rican Socialist Party—the parent organization of the FALN terrorists—as well as support groups for foreign terrorist organizations such as the Palestine Liberation Organization and the Chilean MIR terrorists.

Rizo has used the Cuban diplomatic pouch to transmit material from his agents to Cuba and to obtain Cuban instructions and documents for his agents. For example, on December 12, 1965, Letelier gave Rizo two envelopes of material to be transmitted via pouch to Havana. A week later, on December 19, Rizo gave Letelier some packages that had been sent to him via pouch from Cuba.

Another agent of Rizo, who had been closely associated with Letelier is Juan Gabriel Valdes, an active member of the Chilean Marxist-Leninist organization MAPU–OC. Valdes, who has been to Cuba a number of times, has had the honor of being Rizo's guest for lunch. On September 14, 1976, Valdes wrote a letter to Emilo Brito, a high ranking DGI official in the American Department of the Central Committee of the Communist Party of Cuba. After mentioning his contact with Rizo, Valdes wrote—

I hope to visit Cuba again during the first months of the coming year and I am looking forward to having the pleasure of talking with you again. (Document 1)

On March 29, 1976, Letelier had written to Beatriz Allende Fernandez, who lives in Cuba and is the wife of one of the top DGI officials—

Juan Gabriel Valdez (MAPU–OC) who up till now has been in New York (at this moment he is in Cuba. Possibly you have seen him) will also be transferring to work more directly with me in Washington. (Document 2)

Rizo has been very proud of his acceptance by respectable Americans. Last year he boasted that he had been able to gain access to the library of the Council on Foreign Relations for his wife, who had been assisting him on DGI operations through his contact with Abraham Lowenthal, an official of the CFR. Lowenthal, now head of the Latin American section of the Woodrow Wilson Center of the Smithsonian Institute advised a member of my staff that he did not remember Rizo specifically but that he did remember making arrangements for someone at the mission to utilize the library, which could be used only by permission, sometime over a year ago.

Rizo was first identified by American intelligence as a DGI agent, when he served as member of the crew of a Cuban ship taking the Venceremos Brigade to Cuba. Rizo, since surfacing 3 years ago as a "Cuban diplomat," has been very close to former members of the Venceremos Brigade, some of whom received terrorist training in Cuba. One of Rizo's responsibilities is checking out Americans who apply for visas to visit Cuba. The visitors, including members of the Venceremos Brigade and the National Lawyers Guild, fill out lengthy biographical questionnaires which Rizo then uses to check on their backgrounds.

Beatriz Allende Fernadez, who is the daughter of the late Salvador Allende, former Marxist ruler of Chile, was Lete-

lier's main contact in Cuba. A series of letters between her and Letelier were found in the briefcase—see Documents 2, 3, and 4. In her letter of May 8, 1975, Allende advised Letelier that she would send him a thousand dollars a month from Cuba for his expenses. She stated:

Now I am sending you five thousand in order not to have to send it monthly.

As part of the disinformation campaign to defend Letelier, his associate at the Institute for Policy Studies wrote in the Washington Post of February 18, 1977—

The Unidad Popular sent Letelier money to pay expenses incurred for this kind of work. The treasurer of the Unidad Popular is Beatriz "Tati" Allende, the slain President's daughter; she lives in Cuba, with her Cuban husband and children. But the party's treasury is not in Cuba. Its funds were raised in Western Europe and in the United States from labor unions and social democratic parties, and from religious groupings. None of the money sent to Letelier came from the Cuban government.

The associate, Saul Landau, had told a similar story to Washington Post reporter, Lee Lescaze, which appeared in the Washington Post on February 17, 1977. Landau did not bother to explain why money raised in Western Europe could not be sent to the United States through normal banking channels. By sending it from Cuba it had to be smuggled in. Beatriz Allende's own account appeared in the Washington Post on April 30, 1977. She claimed that—

The money has been collected by Chile support committees throughout the world—donated by labor unions, political parties and humanitarian organizations.

She went on to say:

Since I am in charge of one of these accounts, I had the task of sending Letelier $1,000 a month; a minimal amount of money to help him to defray the expenses incurred by Chile solidarity work; to live, he worked at the Institute for Policy Studies, without abandoning the central objective of his life, which was the struggle against fascism. As you can see, there is nothing mysterious about the remittance of $1,000 which we Chileans sent Letelier through our own channels.

Allende did not identify "our own channels" but the nature of those channels may be indicated by her statement—

We will not hide our gratitude for those who give us their generous solidarity in such difficult moments, and especially that given by revolutionary Cuba.

Landau, who orchestrated the disinformation campaign, has a long record of Castroite activities. On April 25, 1961, Herbert Romerstein testified before the Senate Subcommittee on Internal Security about a meeting that he had covered of a Communist youth organization called Advance on January 28, 1961, where Saul Landau, "made a speech on behalf of the Fair Play for Cuba Committee." (Communist Appeal to Youth Aided by New Organizations, pg. 13.) The Fair Play for Cuba Committee you will recall disbanded in 1963 after one of its active members, Lee Harvey Oswald, murdered President Kennedy.

Document 4, another letter from Allende to Letelier dated August 20, 1976, refers to an additional $5,000 being sent to him for expenses. A March 29, 1976, letter from Letelier to Allende boasts of the close relationship that he had with MIR (document 2). The MIR is a terrorist group, which has carried out atrocities against civilians in both its native Chile and in Argentina where it collaborates with such terrorist groups as the Peronist Montoneros and Trotskyite ERP. The MIR receives training, financial and logistical support from the Cuban intelligence service, the DGI.

Other letters in the Letelier briefcase were from Clodomiro Almeyda, who serves as the executive secretary of the Popular Unity, UP. Almeyda makes his headquarters in Communist East Germany. Although these letters (Documents 5–7) deal mainly with inter-Party matters, Document 5, a letter dated August 10, 1976, refers to the role of the Soviets in trying to obtain an invitation for Mrs. Salvador Allende to attend a Conference of Non-Aligned Countries.

The briefcase contained an interesting letter dated August 25, 1976, on the letterhead of the Castroite North American Congress on Latin America, NACLA. The letter written by Elizabeth Farnsworth says in part—

I have a strong feeling that you could help us a great deal with certain parts of the December Report. I have asked Rebecca Switzer to talk with you, and in about 3 weeks, Richard Feinberg (who is co-authoring our Report with me) will contact you basically for an interview. Do not tell anyone else that he is working on the project, please. It wouldn't help his work at Treasury (obviously). Meanwhile, if you have any new information about U.S.-Chile relations, public or private, that would give me some good leads, please do not hesitate to call collect (home 415: 843–3164 work 415: 849–1414). I hope it is alright with you that Rebecca and Richard speak with you about the project. (Document 8).

Feinberg, reached at the Treasury Department by a Review of News reporter, denied having anything to do with the December 1976, NACLA report entitled, "Time of Reckoning, the U.S. and Chile," signed by Elizabeth Farnsworth. Miss Farnsworth, however, attributes some of her statements to an unnamed source in the government according to the footnotes. Feinberg has since been promoted out of the Treasury Department, into the State Department.

One document in the briefcase, dated June 17, 1976, indicated extensive travel for Letelier. His planned travel for 1977 included trips to Cuba and the Soviet Union. (Document 9).

One of Letelier's most important operations was to organize support for the Communist controlled conference "The Third Session of the International Commission of Enquiry into the Crimes of the Military Junta in Chile," which took place in Mexico City, February 18 to 21, 1975. The conference was controlled by the international Communist front, World Peace Council, which at its December 1974, conference in Prague, Czechoslovakia, ordered its activists to attend the conference. Letelier's job was to recruit respectables. His successes enabled the World Peace Council to boast of support for the conference from, "U.S. Senators and Congressmen." (Peace Courier, publication of the World Peace Council, April 1975). The Commission with headquarters in Helsinki—also the headquarters of the WPC—got its printing done in Communist East Germany. The Mexico City conference was loaded with representatives from the Iron Curtain countries and Communists from the free world. The Secretary General of the Commission, Hans Goran Franck, has been a World Peace Council activist for a number of years.

Financial documents in the Letelier briefcase indicate that at least one Member of Congress had some of his expenses to the Mexico City conference paid for by Letelier from his Cuban stipend. (Documents 10–11.) Document 3 shows Beatriz Allende advising Letelier that she had conferred with people in Cuba about a matter related to the same Congressman.

That Congressman in answer to a letter concerning news reports regarding his receipt of money from Letelier stated—

By prior arrangement with the Commission, I was to be reimbursed for my travel expenses to Mexico. This reimbursement came in two installments: first, the Commission official issued a check for $370; second, the balance needed to cover my expenses ($164) was given by former Chilean ambassador and minister Orlando Letelier. Letelier, who also attended the Conference, had recently been released from prison in Chile and was then living in Washington. When he learned that the original Commission checks had left me with unreimbursed expenses, he advanced me the balance. It was my understanding that he would receive repayment from the Commission.

It is clear from the documents in Letelier's briefcase that he was not reimbursed by "the Commission" but by money sent to him from Cuba. A Congressman approached by a Cuban agent or a South Korean agent often has no way of knowing that he is dealing with a foreign intelligence service. However, just as the House of Representatives is investigating the Korean connection, it has the same responsibility to investigate the Cuban connection.

Members who have written to the Ethics Committee about Letelier's relationship with Members of Congress have been told that after consultation with representatives of the executive branch on an informal basis, "the staff advises that there appears to be insufficient substance to these charges to warrant investigation by the Committee." I have great respect for the committee staff, but, if we have learned anything in the past 5 years, it is that Congress should not take the word of the executive branch when they tell us not to worry about a possible criminal or ethical violation. In this case, I know that the Justice Department is fully aware of the role DGI agent Rizo played in transmitting Letelier's messages to Cuba.

I have asked the Justice Department to investigate whether Isabel Letelier, the widow of Orlando Letelier, has been operating in the United States in violation of the Foreign Agents Registration Act. The Justice Department has advised me that they are looking into this matter.

Orlando Letelier wrote to Beatriz Allende on March 29, 1976, about the "Human Rights Committee" which his wife Isabel was directing. Letelier wrote warning Allende not to reveal the Cuban connection of his wife's committee. He said:

I think that given the nature of its "sponsors" and of the front that this Committee is taking care of in the United States, it is preferable that information about it not be spread from Havana, because you know how these "liberals" are. It is possible that congressmen serving as patrons could be afraid that they would be linked with Cuba, etc., and eventually drop their support of the Committee, which is quite important at this time. (Document 26)

The cynical manipulation of liberals by the Communists is not new but this shockingly frank statement by Letelier should certainly shock those who had been sucked into his schemes.

Letelier's associates have boasted of his substantial success in manipulating Members of the House and Senate. Names of Senators and Representatives have been discussed in considerable detail in leftist circles. They substantiate their claims by pointing to the names of prominent persons including Members of both Houses who are listed as active members of their organizations.

Both the House and the Senate have the responsibility to determine whether any of their Members have been improperly influenced due to the activities of Letelier and other DGI agents.

Letelier's DGI control officer, Julian Torres Rizo, remains at his post at the Cuban Mission to the United Nations in New York. He should be declared persona non grata and expelled from the United States.

[DOCUMENT I]

WASHINGTON, D.C.,
September 14, 1976.

Comrade EMILIO BRITO,
American Department, Central Committee, Havana, Cuba.

MY DEAR COMRADE BRITO: In the first place I beg you to accept my apologies for having taken so much time to send you this material which you had asked me for. I thank you at this time for the documents of the First Congress which I received by hand from Julian Rizo and which have been of great use in my work.

I attach a bibliography on the Democratic Christian Party which is from the catalog of the library of the University where I study. As you will see, much of the books are in English and I imagine you would have problems getting them there. If you are interested particularly in any of them, be sure and ask me and I will send them to you through the Mission.

I hope to visit Cuba again during the first months of the coming year and I am looking forward to having the pleasure of talking with you again.

Without more, I salute you very warmly,

JUAN GABRIEL VALDES.

[DOCUMENT II]

LETTER FROM LETELIER TO BEATRIZ ALLENDE FERNANDEZ

MARCH 29, 1976.

My DEAR TATI: It has been sometime since I received your long letter written in the beginning of January, which crossed with others that I had sent to you. I am writing you now to tell you of our activity in this country and to answer some of the questions that you asked me. At the end of the letter, I will give you the data on our accounts.

1. In general I think that our activities in the United States are going very well. We have consolidated the organization of Chile Democratico or Committees of members and sympathizers of the U.P. in a large number of cities.[1] At the same time, we are maintaining the solidarity movement, i.e., the North American committees that are reasonably active. In general I can tell you that the level of solidarity has heightened here, even though the opposite could have happened with the passage of time. The relations with the MIR are going quite well; they work basically with a North American organization called NICH, and I have permanent relations with both groups.[2] In other words, MIR is not integrated with the committees of Chile Democratico, but it functions with NICH in parallel form with a high level of coordination.

I want to congratulate you on Bulletin No. 76, "Imperialism and the Junta." It is excellent. I have been in contact with Chavela, Barutlin, and with the people in Mexico. We are arranging with them for the distribution of the Bulletin in the United States. By the way, I want to ask you to advise the comrades in Havana not to send the Bulletin to me by way of Caracas. For all practical purposes I shall be in Washington at the Institute for Policy Studies (1901 Que Street, N.W., Washington, D.C. 20009).

Also, some commentaries by Pancho Fernandez were sent to me in Caracas. Please send them to me at my address in this city.

It is strange that Ricardo Alarcon doesn't get the Bulletin from Mexico, since it gets to me and also the other comrades and committee on the list that you sent me. I haven't contacted all of them, but the three or four that I asked all responded in the affirmative.

The basic problem as far as increasing interest in subscriptions to the report resides in the language. There are a lot of comrades who work directly with the Committee of Solidarity with Chile that do not speak Spanish. Together with the comrades in Mexico, I am looking into a way to produce an English version of the Report, even if it is summarized, because there would no doubt be quite a lot of interest in it. I will inform you of the results of these efforts.

As I think I have previously mentioned, apart from my Washington office, we have an office for Chile Democratico across from the United Nations in New York that is set up well. We manage all our affairs relating to the Human Rights Resolution from there, and we have succeeded in maintaining it in permanent form. This, as is obvious, implies some financial problems, since the budget for this office is about $32,000 a year. This includes, naturally, all the expenses: the lease, telephone, salaries for two comrades, stationery, etc. However, we are developing here a campaign for its financing which has been going quite well.

2. With respect to the Human Rights Committee which Isabel is directing, I am sending you some information.[3] As you know, it was desired to maintain this Committee as an apolitical or non-partisan scheme, oriented solely to the problems of human rights. The object is to mobilize the "liberals" and other people who do not identify with us from an ideological point of view, but who at least do so in matters of human rights.

Recently the Committee brought the Inti-Illimani to Washington and they filled Lisner Auditorium, something which has never been done before with any Chile Solidarity function. I am enclosing a pamphlet, a copy of the newsletter published by the Committee, and the program of the concert by the Inti-Illimani.

Footnotes at end of article.

They have also organized a work program for the rest of the year that is very interesting. It is incredible that Isabel and a small number of people have been able to put together an apparatus that includes an office, a program of work, a lot of prestige, etc.

I think that given the nature of its "sponsors" and of the front that this Committee is taking care of in the United States, it is preferable that information about it not be spread from Havana, because you know how these "liberals" are. It is possible that congressmen serving as patrons could be afraid that they would be linked with Cuba, etc., and eventually drop their support of the Committee, which is quite important at this time.

To avoid making this letter too long, I have asked Isabel to write to you directly giving you the information about the Committee. On another matter, Isabel tells me that she has not yet received the letter from Paya about the Solidarity Museum that you mentioned in your letter. Please let it be known.

3. I am enclosing a copy of the Church Committee Report that you asked me for, although Aviva tells me that she sent you the copy that I gave to her to send to you. I am also enclosing the main clippings of news stories about Chile published on the East coast of the United States covering the last two months. There will also go a memo from our office in New York explaining its activities. I shall enclose a report prepared recently with the United Nations on the economic situation in Chile, and also the final report of the working group on human rights in Chile. This was published only recently, and I think that possibly you have not yet received it. I will send also a brochure (cuadernillo) of the National Coordinating Center so that you will be able to be informed about the different activities developing from this Center.

Finally, I will add other material that I think will interest you but which I will not enumerate for the sake of brevity.

4. Lately I have had a great deal of work. I have been giving lectures at different universities and have been participating in diverse activities. Also, at the end of January and the beginning of February, I was in various cities in Canada. I lectured at four universities, took part in a function at the headquarters of the Education Workers in Quebec, appeared on various TV programs, and gave a good number of press interviews for the main dailies and magazines. These were published in an outstanding way. Also, there are internal problems with our party there, which I hope that I helped solve, but I dare not assure you of that right now.

A few days ago, I visited Texas, where there is an interesting solidarity movement, especially in Austin. Strangely, one of the main Chilean backers of the solidarity movement there is Bernardo Berdichewski, brother of the Air Force general that you can place perfectly (que tu perfectamente ubicas) and a man of the left who is consequential and dedicated. He is a professor of anthropology at the University of Texas. There I also gave various lectures, etc.

At the beginning of March I was in Holland and Italy. In Amsterdam I have good access to the communication media and academic circles, because the Institute for Policy Studies has an affiliate there. I think that the trip to Holland was extremely useful. I spoke with the principal ministers, etc., participated in various functions, and formulated a project that we are now beginning to develop there with Jorge Arrate and that could have a great impact for the party. In Holland the party is well, and in general so are the Chileans.

In Italy, I participated together with CAO, Jore Arrate, and Homero Julio in the Congress of the Socialist Party of Italy[4] (We were with the comrades of the Cuban dele-

gation several times). CAO was one of only two speakers at the opening function, and we were extraordinarily well received. We talked with CAO for a long time about how to proceed to put together the pieces of this party of ours, and I like to think that we will be able to solve some of the problems, carrying out concrete tasks in various places.

5. Returning to the United States, I must tell you that we have set up a Chile Legislative Center office which is dedicated exclusively to Congressional matters.[5] It has not been easy, but we did it. When you ask me about the Kennedy Amendment and other legislative matters, I will quickly send you a complete report. In the meantime let me go on with some other information:

As you know, in the budget for FY 1974–75, the Kennedy Amendment was passed, prohibiting credits and sales made by suppliers and paid for in cash for all types of military goods. However, at the beginning of July 1975, the President began to authorize cash sales on the ground that the Kennedy Amendment was in force only until June 30, 1975. Consideration of the new bill for military aid for 1975–76 has been delayed in Congress (for reasons relating to Chile), and Kennedy introduced a new amendment to halt cash sales. The President had not included in the bill any specific amount of military credit for Chile. However, sales to the Council were continuing, and that is what Kennedy wanted to stop. The Kennedy Amendment was approved by the Senate in February by a wide margin (48–39). However, a similar amendment presented by Harrington was defeated in the House of Representatives. Instead, they approved the Buchanan Amendment which approved cash sales and did not halt deliveries on contracts already concluded, which was the other thing Harrington wanted. Since there is a conflict between the Kennedy Amendment approved by the Senate and the Buchanan Amendment approved by the House, the matter is now before what we would call in Chile a "mixed committee" (here they call it Conference). This must produce a wording for the amendment that will satisfy both sides. It will have to be a little weaker than the total embargo on military sales envissioned by the Kennedy Amendment.

For this reason we are now working on the law that will cover the 1976–77 period that will have to be approved by the end of May. For this purpose, we have organized a series of actions at the congressional level. A group of Chilean congressmen of the U. P. will come from various parts of the world to participate in this. The P. C.[6] suggested we include Renan Fuentealba in this group, something which he finally appears to have accepted.[7]

On another matter, as you know, with respect to economic aid another Kennedy Amendment has passed that will reduce the aid of this type in the fiscal year of June 1976 to October 1976 (sic). However, before passage of the Kennedy Amendment, the government had already authorized credits for food for this period up to the limit of $45 million imposed by Kennedy on all types of aid. So AID loans, guarantees, deliveries of food, etc. in the period mentioned will effectively reach $90 million. Anyway, this represents an important reduction in the amount that the Administration had lent to the Junta in the preceding year, before the passage of the Kennedy Amendment.

It is possible that you have been informed about the passage of these amendments. Pablo H. Rodriguez, Julio Duran and others have started in Chile a brutal campaign against me (main errand boy of Kennedy?) in which via the Second and the Third (note: two newspapers in Chile) and television they call me a traitor, a thief, and even an ex-Alessandrista.[8] Naturally, this is a cost of our struggle which seems natural to me, as you will understand. Nevertheless, it makes my mother in Chile a little nervous, since she is old, and the campaign has been very persistent with much infamy.

I forgot to say that among the things they say, they report that you and I are shareholders in ITT. Naturally this comes from the money we stole in Chile. I tell you this so you will understand the level of irrationality that they have reached in their defamation.

6. The Frei booklet has had a certain impact here. It must not be forgotten that he was, is and will be Washington's man. Now he has broadened the level of the elements that are attacking the Junta, but this raises the very serious question of whether or not there is an intention to push from here a formula of disguised fascism, seemingly legitimized externally by the participation of Frei and other Christian Democrat elements in the government.

I think that this would be one of the worst things for the popular movement in Chile. But it is an alternative that could eventually emerge, in view of which it is indispensable that the Left have clear ideas. Needless to say, I am working at different levels to counter acceptance of this little game on the part of various North American elements, especially those with relations with the various presidential candidates of the Democratic Party.

This is a very important year for us in this country, because of the presidential elections in November. I would like to write to you about all this at length, but in any case, I have discussed the details with CAO.

Happily, within a few weeks Waldo and Cecilia Fortin will begin working here with me, greatly strengthening our apparatus. On another matter, Juan Gabriel Valdez (MAPU–OC) who up till now has been in New York (at this moment he is in Cuba. Possibly you have seen him) will also be transferring to work more directly with me in Washington.

7. Please thank Marta for her book. I read it with great enthusiasm. Perhaps some day not far distant we can also do what has been done in Cuba.

For now, this is all, together with a big hug from—

[unsigned carbon copy]

P.S.: I will enclose for you the data on our accounts.

FOOTNOTES

[1] U. P. stands for Unidad Popular, the left-wing coalition headed by Salvador Allende.

[2] MIR is Movimiento de Izquierda Revolucionaria (Movement of the Revolutionary Left), a Chilean terrorist group. NICH is Non-intervention in Chile with headquarters in Berkeley, Calif.

[3] Letelier's wife is named Isabel.

[4] CAO appears to refer to Carlos Altamiran, head of the Socialist Party.

[5] Listed in the phone book as at 120 Maryland Ave., N. E., Washington, D. C.

[6] Communist Party.

[7] Renan Fuentealba is a prominent Chilean Christian Democrat.

[8] The words in brackets read (principalmentnsejero de Kennedy), evidently a typo. "Alessandrista" would be a follower of Alessandri, the former Nationalist president.

[DOCUMENT 3]

TRANSLATION OF LETTER TO ORLANDO LETELIER FROM BEATRIS ALLENDE

HAVANA, *May 8, 1975.*

"Year of the First Congress"

DEAR ORLANDO: I am very sorry that you could not come to the meeting of the Socialist Party. I showed your letter to Carlos and to Jorge Arrate, who promised to arrange the (deleted) matter. ("se comprometio a arreglar lo de (deleted)).

I know that Altamirano wants to communicate with you to give you a solution to the problems that have come up there, and he has asked me to inform you that, from here, we will send you, in the name of the Party, a thousand dollars ($1,000) per month to support your work. Now I am sending you five thousand in order not to have to send it monthly.

We are sending you the Bulletin and I promise soon to write you at greater length since I have to go out at once to mail this letter so it can get off.

Take, together with Isabel Margarita, a big hug from

(Signed) TATI.

NOTE.—Name of Member of Congress deleted by Congressman McDonald pursuant to House Rule XIV.

[DOCUMENT 4]

TRANSLATION OF LETTER TO LETELIER FROM BEATRICE ALLENDE

AUGUST 20, 1976.

DEAR ORLANDO: Each time I start a letter to you I criticize myself for the haphazard way our correspondence has been going and I also see that our lives continue to bounce around from one side to another which makes me lose my sense of time.

I knew that there was much success with the delegation over which you presided at the meeting of the Non-Aligned in Argelia; about the meeting in Sri-Lanka I only knew that you were able to get an invitation to the meeting and then later you got visas for all of us, even without an invitation, a situation which should be regarded as positive, as it is the same situation that those who are trying to become observers or who are trying to become members of the Non-Aligned. I knew that Sergio Insunza, a radical (I think that Camilo Salvo) and a comrade journalist, left. And also, for your specific work there will be Hern an Sania Cruz, but we still don't know how it went for them. It is possible that you will know before we do.

I want to tell you that we had many problems (because of the difficulties we have with our methods of communications) to send the brochures of Pretoria-Santiago; we had been sending them in tiny quantities, above all the ones in English but they weren't being received (they were going in your name and in the name of Juan Gabriel.) Later, Comrade Alejandro Jiliberto took from here I think about a thousand copies in Spanish, 2,000 or more in English and, I think, 1,000 in French and he was going to see with the comrades in the U.S.S.R. or in the G.D.R. if they could get them to you, hoping to support your work at the U.N. (Did they get there?) [handwritten]

We have been trying to find a way to get our bulletin out in English. For that Juan Somavia went to see if he could get some help from the Swiss; if it works out, I think it will be a great help for the work in that difficult country. I will tell you about it even if it doesn't work out.

We are now getting out a piece on the relationships between the Junta and the Non-Aligned nations. I'm sorry we couldn't send all the copies we wanted too to Sri-Lanka; I think that they would also be useful to you people, so we are going to try to send you some this week.

I am also sending you $5,000 which goes for the budget of the montns of August through December, inclusive. I know this is very little when you consider all of the expenses you have with your work, but it is just not possible to get more from this poor Party. Don't you think it would be good to talk to others so they will also contribute?

I thank you with all my heart for the work that you people have been doing and above all what you have been accomplishing. This time you are facing a difficult time in the

U.N., but I think that the experience of last year will be useful. We can send you whole files full of materials, unfortunately in Spanish; but anyway, I hope to hear your answer on this.

And lastly, I should tell you "unofficially" and without mentioning my name, that the Institute of Investigation on Fascism is having its problems in Mexico; Belloni has problems and is criticized on delicate questions; and as I don't want to get into problems of another country, I am telling you this only for your handling, but I ask you to be cautious, even though I know that you can find this out yourself.

Here is a great big hug with much affection,

(Signed) TATI.

P.S.—I ask you to always keep us in mind on information above all for utilization in the Bulletin. We published the church report when you sent it to me in February of 1976.

A big hug from Aviva.

[DOCUMENT 5]

(Translation)

BERLIN, *August 10, 1976.*

POPULAR UNITY,
Executive Secretariat,
Berlin-RDA.

DEAR ORLANDO: I want to refer to several different matters:

I received a copy of my work at Oaxtepec. I hope to send it back to you soon with a minimum of corrections.

CONFERENCE OF NON-ALIGNED COUNTRIES

I am sorry you cannot attend. It is almost certain that Tencha (Mrs. Salvador Allende) will not go. Camilo Salvo, Sergio Insunza and Eduardo Salum will be there. Tencha was only given a visa but they did not want to invite her, despite the efforts made. There is a pending Soviet intervention, but I am not optimistic. Besides it is very late for her to make the trip, even if she got a favorable reply.

Our final position there, on the basis of what you talked about in Algiers, was discussed in Havana with the Cubans by Jose Miguel Insulza and Manuel Valdes last week.

EXPANDED MEETING OF NEW AMERICAN SECRETARIAT OF SOLIDARITY IN HAVANA

Unfortunately I have learned that it was not held. I believe Maira is thinking of holding it at the end of August. A little late. In any case I believe you will be invited, in accordance with my instructions. You'll have to "bombard" Maira asking support for your initiatives (program of September, presidential campaign, United Nations Assembly, etc.) in order to get something out of him because I regard him a bit obtuse. Your demands will make him take his responsibilities seriously.

I want to allude especially to the new period of meetings of the OAS Human Rights Commission in Washington. I believe it is number 39, to be held in November and, according to what I've been told, will receive information only up to September 30th.

I believe that you in Washington, in collaboration with the Solidarity Committee of Havana, have a lot of material prepared, tidy and recent and that you can make a good, opportune presentation before this organization. Let me have your opinion about this.

I am writing Maira about this matter.

FORMATION OF POPULAR UNITY

I have learned that you feel offended because I suggested to Ricardo Alvarado in a private letter instead of an official communication, that he promote the formation of a Popular Unity in his area. I believe I did the same with you informally at The Hague.

I have not yet sent an official circular and in case I do so, I undoubtedly would send you one. I did the same with Alvarado, and I am doing the same everywhere, making use of private letters.

On the other hand, I believe that you already have the directive. Once this is formalized, and if you agree, send me an official note, advising me who has been named by consensus to take on the responsibility; I understand that it must be you. There are no special rules regarding the length of term of the person designated to be responsible. We must go by the conditions in each country. In accordance with the Oaxtepec agreement, the person responsible for Popular Unity in each country must be named by consensus.

This letter will serve the purpose of a formal request that a Popular Unity be set up ther, in accordance with Oaxtepec.

POPULAR UNITY UNDERTAKING OF ECONOMIC PROGRAM

In accordance with The Hague discussions, I have started this work on the basis of four key teams: Caracas, Mexico, Paris and Berlin.

With reference to the United States, I believe that you will have to work independently. To assist you in this matter, I enclose copy of the circular which I sent to the persons responsible for each of the four groups, together with the annexes, one of which is a questionnaire which suggests, only as an indication, a theme to be developed.

You will see if you can form a working group, if there is enough to form a team, and if you can expect it to make an effective contribution. If the answer is negative you should answer the questionnaire, or, if you prefer, give us your opinion about the economic program, following up by handling the problem as you see fit. In any case, I consider your contribution fundamental, not only because of your knowledge of the subject but also because of your experience in our government. I am confident that you will not ignore the contribution I am asking you to make. I do not have to emphasize the importance of this matter. What we saw at The Hague demonstrates it.

PUBLICATIONS

In conformance with opinions we exchanged at The Hague in this regard, please send the Secretariat the bulletin which you prepare on economic questions. I can assure you that we will make good use of it, including special distribution of its essential contents.

Please let me have your ideas on how to rationalize the matter of publications, specially with reference to how it affects you in what you are doing and planning to do.

OUR CONTACTS

I hope this letter, somewhat informal as yet because I will not be formally installed with an office and my own secretary until September, will be the beginning of a mutually open and frank contact through correspondence which I believe will be very useful to me. I hope you will propose or suggest initiatives which you believe worthwhile, as well as your political opinions or reflections. They will be very useful.

Cordially,

CLODOMIRO ALMEYDA.

P.S.: In another letter, I brought up some questions about the Party.

C. A.

My new address is Casilla (PSF) 255, 102 Berlin, D.D.R.

I am taking the liberty of enclosing a copy of the Declaration of the Executive Secretariat of the Popular Unity, with reference to the Castillo and Velasco matter. Also, a copy of some suggestions brought to the attention of the Cuban authorities about politics in connection with the next United Nations meeting.

I will be grateful if you address your correspondence to my new address:

Casilla (PSF) 255, 102 Berlin—DDR, Telephone 4825197 Berlin.

[DOCUMENT 6]

(Translation)

BERLIN, *August 10, 1976.*

Comrade ORLANDO LETELIER.

DEAR ORLANDO: I presume that you will remember our conversation at The Hague about the serious party situation. We agreed there on the need to find a definition for the political "impasse" in the Party leadership, which is leading to separation and lack of discipline due to absence of decision on fundamental political questions.

Sharing this preoccupation and desiring to find a harmonious and unitarian solution to the crisis, after conversing especially with Rolando Calderón, we decided to propose to Carlos Altamirano, as Secretary General, a political agreement among us which would give us a majority in the Foreign Secretariat, in order to end this "impasse," reestablish discipline and face the separating and dividing tendencies which not only hurt the Party, but communicate our inaction to the Popular Unity coalition and to all the Left, making unity of the antifascist forces difficult and giving an outward image of internal difficulties which aid and favor the Junta.

This consensus which we seek and propose to the Secretary General is based on the following points:

1. Support of the political line agreed upon at the joint session in Havana and reiterated in the Declaration of Berlin.

2. Support and strengthening of Popular Unity—on the basis of the socialist—communist understanding—and development of a policy designed to form a broad antifascist political alliance in order to isolate and defeat the Junta.

3. A consistent fight against fractionalism and divisionism and the organic and ideological sources which nurture them. To do this—as a beginning—the Directive which succeeds the one that was presided by Comrade Exequiel Ponce must be recognized as the only Directive in the interior; then the so-called "Coordinator of Regionals" and "MR-2" must be condemned as antiparty fractions, to be followed by reorganization of local Directives whose members support and foster recognition of anti-party fractions as legitimate authorities.

4. Definite and resolute support of the fight in the interior, placing all the resources available at the service of the legitimate Directive.

5. Development and strengthening of the ties with the socialist states without affecting the reaffirmation of the independence and autonomy of the Party to pass judgment on the external and internal political situation.

6. Ideological fight against ideological deviations of the right and the "left," which conspire against the unity of the Party, of the left, and of the anti-fascist forces.

7. Collective and team work in the Secretariat under the leadership of comrade Altamirano to promote this policy which with his support would have a majority in the Administration.

The ratification of this line, and including the agreement of a new Secretariat which could push it harder, would be material for the next joint session of the Central Committee which is being considered for sometime this year.

We have pointed out to the comrade Secretary General the gravity that his opposition to these proposals would cause. We warned him that we believe that his closest friends and collaborators share our position and we call upon him to accept this agreement which is the only way to avoid aggravating and hastening the internal political crisis and the continuous dismemberment of the Party by such sterile and demoralizing internal disagreements.

I believe it is necessary to advise you of these facts with the hope that it might contribute to the formation of a movement of

opinion that would help put over these proposals which we know are yours also.

Fraternally yours,

CLODOMIRO ALMEYDA M.

[DOCUMENT 7]

(Translation)

CIRCULAR NO. 1.

ALEXIS GUARDIA,
PEDRO FELIPE RAMIREZ,
Casa Chile-Unidad Popular-Mexico.
Hugo Fazio.

DEAR COMRADE: At the summit meeting in Oaxtepec, Mexico, the recently created Executive Secretariat of the UP (popular unity coalition) was assigned the task of promoting, in exile, the coordinated efforts of the teams and specialists of the different parties for developing and exploring the programmed economic directives contained in the Declaration of Berlin and reaffirmed in the projected political document prepared there.

In order to facilitate this approach, the Executive Secretariat gave the different work and specialist groups the enclosed questionnaire (Annex No. 1 of this Circular) so that it may serve as a guide for the development of the programmed directives.

The four study teams, representing different areas, which will follow the guidelines are:

a. Paris (Western Europe), headed by Alexis Guardia;

b. Venezuela, headed by Pedro Felipe Ramirez;

c. Mexico. The person responsible for this team's functions will be named by mutual agreement of the Casa Chile and the Popular Unity of that country, and

d. Berlin (Socialist countries), headed by Hugo Fazio.

Each team will incorporate specialists able to assist in the task. The head of each team will advise the Executive Secretariat regarding the composition of the groups, in accordance with the Calendar contained in the enclosed Annex No. 2.

To facilitate the teams' work and in order to enlist the participation of the largest number of competent persons in some degree or other, it would be advisable to send everyone the attached questionnaire, even if some of the members do not reside in the headquarters city of the respective team and personal contact with them is difficult. Every effort should be made to send the questionnaire to at least one representative of each party belonging to Popular Unity.

This circular will also be sent to the technicians of Popular Unity who may be able to make valuable contributions in this field and who, because of their geographical location, cannot join the aforementioned groups directly.

Looking forward to your early reply, I greet you fraternally,

We shall triumph,

CLODOMIRO ALMEYDA,
Executive Secretary, Popular Unity.

[DOCUMENT 8]

NACLA, NORTH AMERICAN CONGRESS ON LATIN AMERICA,
Berkeley, Calif., August 25, 1977.

Mr. ORLANDO LETELIER,
Transnational Institute, IPS,
Washington, D.C.

DEAR ORLANDO: For some reason I don't have the address of the Transnational Institute, of your offices. Please forgive my sending this through IPS.

I was sorry not to see you on your brief visit to the Bay Area, but I know you were busy, and we can just as easily correspond by mail.

I am sending you a fund-raising proposal for our project. As you will see, we plan two NACLA Reports to be published in November and December, 1976. The East-coast office is responsible for the first, and our office for the second. The first will deal mostly with internal economic developments in Chile, while the second will discuss the external sector and U.S.-Chile policy. I think the fund-raiser sums up the plan pretty well. I have also enclosed a very preliminary outline for our December Report. We will emphasize the private sector more than the outline indicates. This is because Bill Goodfellow covers the aid (U.S. bilateral and IDB etc.) situation so well. Have you read his paper?

I have a strong feeling that you could help us a great deal with certain parts of the December Report. I have asked Rebecca Switzer to talk with you, and in about 3 weeks, Richard Feinberg (who is co-authoring our Report with me) will contact you basically for an interview. Meanwhile, if you have any new information about U.S.-Chile relations, public or private, that would give me some good leads, please do not hesitate to call collect (home 415: 843-3164; work 415: 849-1414). I hope it is alright with you that Rebecca and Richard speak with you about the project.

We already have some very good information, good leads, good interviews etc. I know you will be pleased that some of this information all be gathered into one place. I will send copies of the fund-raiser to the Menil Foundation, as you suggested, and to Cyrus K. Eaton. Perhaps you will also be able to help us from your own funds.

I will appreciate any criticisms, comments—whatever—from you. Thanks for everything.

Yours,

ELIZABETH FARNSWORTH.

[DOCUMENT 9]

[From the Transnational Institute, Washington, D.C., June 17, 1976]

PENDING TRIPS

A. INVITATIONS ACCEPTED

June—End or beginning of July—Jamaica. Invitation by Prime Minister Manley.

July 1–5—Amsterdam—Seminario Institute for Social Studies (see documents). (Take vacations, book, between 6–25 July—confirm later.)

August 4–6—California, San Francisco—Business with "Chile Democratico".

August 7–8—Paris.

August 9–19—Sri Lanka, Colombo—Meeting with the non-aligned countries (note: above entry crossed out).

August 9—Amsterdam—Return to Washington on August 10.

August 20–27—Pakistan—Invitation of Egbal(?) Ahmad—postponed (handwritten) (note: above entry crossed out).

September 1–6—Amsterdam—TNI Fellows Meeting—Work group on alternative socialist models.

October 25–28—Argelia—Invitation by (Aurelio Peccei), Club of Rome, for meeting on the "New International Economic Order".

November—Irak—(middle of the month)—Conference on the "Western Way" (speak to Eqbal).

December 1–4—Amsterdam—Seminar "TNI New International Economic Order".

January 2–16—India, New Delhi—Deliver 1976 "International Criminal Law Award" and the Commission Conference.

B. DATES NOT DEFINITE

U.S.S.R.—See the possibility of going at the end of September 1976 or postpone until 1977.

Cuba—Postpone until February, 1977.

Brazil—(Invitations of CEBRAP and ECIEL) postpone until 1977.

Australia—Postpone until 1977.

Africa—Senegal, Tanzania, Guinea-Bisau and Popular Republic of the Congo. (See if I can send another person in the second half of 1976 or postpone until 1977.) See the possibility of making two trips.

Canada—Postpone until 1977.

ARTICLES PENDING

"The Nation"—On "The Political Affects of the Application of the Friedman Model on Chilean Society"—This should be delivered before the 24th of June. Postpone delivery until the end of July.

"TNI Review"—Essay with M. Moffitt on the "New International Economic Order" complete this as soon as possible (in July). Article on "Africa This Way" and see if it can be delivered in August.

"Race & Class"—Article offered for delivery in January.

[DOCUMENT 10]

Political office expense sheet—until October, 1975

Received: Two payments, one for $3,000 at the beginning of the year, and the other for $5,000 in May, 1975. Total received: $8,000.

1. Expenses from January to the end of April: $2,694.03 (payments already made, copy included.)

2. May, 1975:	
Office rent	$130.00
Telephone bill	346.00
Trips to New York, three	210.00
Secretarial salary	200.00
Secretarial expenses and miscellaneous	179.00
Subtotal	1,065.00
3. June 1975:	
Office rent	130.00
Telephone bill	239.62
Secretarial salary	200.00
Trips to New York, six, related to the presentations made before the Human Rights Commission of the U.N.	410.00
Payment difference pending to Repsentative[1] for his trip to Mexico	174.00
Secretarial expenses and miscellaneous	146.00
Expenses of the trip to GDR in accordance with instructions of CAO	184.00
Expenses of trip to return via Mexico as requested by CAO and AAM	336.00
Subtotal	2,369.88
4. August 1975:	
Office rent	130.00
Secretarial salary	200.00
Trips for two comrades to New York	140.00
Telephone bill	286.31
Secretarial and miscellaneous	122.00
Subtotal	878.31
5. July 1975:	
Office rent	130.00
Telephone bill	361.05
Secretarial salary	200.00
Secretarial expenses and miscellaneous	148.00
Subtotal	839.05
6. September 1975:	
Office rent	130.00
Secretarial salary	200.00
Telephone bill	239.72
Trips of two comrades to New York	160.00
Secretarial expenses and miscellaneous	176.20
Subtotal	905.92
Total expenses January to April	2,694.03
Total expenses May to September	6,058.10
Total expenses January to September	8,752.13

[1] Name of Member of Congress deleted by Congressman MCDONALD pursuant to House Rule XIV.

NOTE: As per the instructions of Comrade OL, this does not include in September the expenses which were incurred by the office in relation to the visits to the United States of some leading comrades of the resistance.

[DOCUMENT 11]

May 1975:	
Office rent	$130.00
Secretary	200.00
Telephone bill	346.00
Trip to New York	210.00
Secretarial and various	179.00
	1,065.00
June 1975:	
Office rent	130.00
Telephone bill	239.62
Secretary	200.00
Trip to New York—6—C two comrades N.U.	410.00
Expenses of two comrades	550.00
Secretary and various	146.00
Difference in the ticket of [1]	174.26
Expenses of trip to G.D.R.	184.00
USS	2,045.88
Difference in ticket to Mexico from the G.D.R.	296.00
	2,341.88
Ticket [1] received from Helsinki	380.00
Paid	554.06
Paid from my pocket	174.26
May 1975:	
Trip to Mexico	296.00
Additional expenses trip to (unreadable).	
October 1975:	
Two trips to New York (this unreadable)	226.00
Given to Juan Gabriel (Oct. 21, 1975)	200.00

[1] Name of Member of Congress deleted by Congressman McDonald pursuant to House Rule XIV.

A-10 SURVIVABILITY

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. BYRON) is recognized for 5 minutes.

Mr. BYRON. Mr. Speaker, I thought that my colleagues might be interested to see the results of a recent red flag multiservice combat exercise to test the survivability of the A-10 aircraft under a variety of conditions. I feel that success of the A-10 in these tests, as described by the June 20 article in Aviation Week, which I am also submitting, further reveals the value and necessity of deploying this plane with our forces, especially in Europe, where the threat of a major armored assault is greatest:

A-10 SURVIVABILITY IN ATTACK ROLE SHOWN

(By Donald E. Fink)

BARSTOW, CALIF.—USAF/Fairchild Republic A-10s demonstrated higher than anticipated survivability rates during attacks against simulated Warsaw Pact armored forces participating in the recent Red Flag 77-76/Irwin II multi-service combat exercise staged at the U.S. Army's nearby Ft. Irwin range.

The four-week exercise combined two of USAF's recurring Red Flag combat training sessions at Nellis AFB, Nev., with full-scale Army maneuvers at Ft. Irwin involving 4,000 ground troops (AW&ST May 23, p. 24).

Coordinated air strikes during the exercise were flown against ground targets simulating a massive well-protected armored thrust of the type of the Warsaw Pact is capable of launching against North Atlantic Treaty Organization forces in Western Europe.

The combined defensive threat that would accompany such a thrust was represented by simulated Soviet surface-to-air missile and anti-aircraft gun and aggressor aircraft flown from Nellis air combat training squadrons. A Soviet-style command and control network was used by the aggressor forces to coordinate the combined air and ground defenses with the ground attack.

More than 100 aircraft flown by Air Force, Navy and Marine Corps pilots and several units of Army helicopters took part in the exercise, flying more than 3,500 sorties. It was the first time the A-10 had participated in an exercise of this scale or fired live ordnance under conditions closely matching those of actual combat.

During the first three weeks of the exercise, four A-10s from the 333rd Tactical Fighter Training Squadron at Davis-Monthan AFB, Ariz., operated from a rough strip on Bicycle Dry Lake, 10 to 15 mi. behind the main battle area. But a flash flood generated by heavy rains on the Ft. Irwin desert range inundated the dry lakebed and forced the unit to shift its operations to the Barstow/Daggett Airport here.

While at Bicycle Lake, the A-10s operated in a variety of harsh conditions, including temperatures in both extremes, high winds with blowing dust and, finally, the flash flood. Despite the conditions, the A-10 unit flew more than 50 sorties from its Bicycle Lake base without encountering any unusual maintenance problems.

Average turnaround time between sorties was 15-20 min., according to ground crews, even though the blowing dust often was so bad the men had to wear surgical masks and sand goggles.

During the three weeks of remote operations, the ground crews had to change two main landing gear tires—one of which was in marginal condition for rough field operations when the aircraft arrived—and one nosewheel tire, according to Chief M/Sgt. Richard T. Furney, maintenance supervisor for the A-10 unit.

"We carried in a lot of spares we didn't need, since we encountered no unusual maintenance problems at all," Furney said. "The exercise was harder on the people than it was on the airplanes."

The aircraft carried full 1,350-round loads of live 30-mm. ammunition for the General Electric GAU-8/A 30-mm. gun mounted in the nose and two USAF/Hughes Maverick air-to-surface missiles under the wings. The pilots were limited to firing 600 rounds of 30-mm. ammunition per sortie, and on most flights carried special training versions of the Maverick, which were attached to the wing pylons and electronically compute trajectories each time the pilot fires. Seven live missiles were fired against a variety of armored targets with excellent results.

After shifting to Barstow/Daggett—during the redeployment the four aircraft flew the prescribed number of sorties— the A-10 unit went into a surge exercise aimed at flying a maximum number of sorties in a single day. The goal of 24 sorties was exceeded by eight.

At Barstow/Daggett, the aircraft were based slightly closer to the battlefield target areas than was general practice during combat operations in South Vietnam, Furney said. Sorties over the Ft. Irwin range averaged about 30 min., whereas most ground attack missions in Vietnam lasted about 50 min.

The Red Flag/Irwin exercise provided realistic training, and from the pilot point of view was well worth the money spent, in the opinion of Lt. Col. Thomas B. Thompson, commander of the 333rd Tactical Fighter Training Squadron. This was the first opportunity the A-10 pilots had to fire live ordnance and at the same time evaluate defensive tactics that were developed in A-10 tests at Nellis earlier this year.

The Nellis tests showed several things about the A-10's capabilities when attacking armored columns with forward firing weapons, such as the Maverick missile and the GAU-8 gun, Thompson said. The first is that A-10 pilots can negate most of the threat from enemy interceptor aircraft and surface-to-air missile batteries by flying to the battle area at altitudes of 100 ft. and below.

Once the battlefield area has been penetrated, the effective ranges of the Maverick and the gun make it possible for A-10 pilots to hit the lead elements of attacking tank forces and turn away before closing within range of low-altitude anti-aircraft guns, such as the mobile ZSU-23-4 quad-23-mm. and ZSU-57 twin 57-mm. guns the Soviets use with their armored forces.

"The 30-mm. gun is devastating at slant ranges of 4,000 ft., and has the capability to kill tanks at ranges of up to 6,000 ft.," Thompson said. "It's effective against lightly armored vehicles at ranges of 10,000-12,000 ft."

The Maverick missile has an effective slant range of more than 25,000 ft., and is limited primarily by the pilot's ability to acquire visually and identify targets at those distances, he said.

"What we are trying to do is stay under the radar of the surface-to-air missiles and outside the quad-23 range," Thompson said. "We feel as A-10 drivers that if we can stay outside 6,000-7,000 ft., we can greatly reduce the effectiveness of the type of defensive threats we know the other side has."

If it becomes necessary to close to shorter ranges, the experience gained at the Red Flag/Irwin exercise and the earlier tactics tests at Nellis show the A-10 still can survive with the right kind of three-dimensional jinking. During the joint exercise video tapes were taken through the optical view finders on simulated ZSU-23-4 and ZSU-57 sites on the Nellis range as aggressor forces attempted to track attacking A-10s.

In 112 missions, most of which were flown against a coordinated ground and air defense threat, one A-10 was certified as being shot down by a ZSU-23 battery. Several A-10s were caught in ZSU-23 radar and optical trackers, but computer analyses of the tracking data showed the aircraft either were out of range or the pilots evaded the 23-mm. shells by following prescribed jinking techniques.

Four other A-10s were certified as being shot down, one by a simulated Soviet SA-6 surface-to-air missile site at Nellis and three by aggressor interceptors.

The A-10's maneuverability at low altitudes and high speeds is another feature that enhances its ability to survive in a high-threat environment, according to Navy Lt. Carter Chapman, Jr. Chapman is a Navy exchange pilot assigned to the 333rd, and has been flying the A-10 since November.

"The gun makes it possible for us to hit targets without ever going inside 4,000 ft.," Chapman said. "And, once we've made our kill, the aircraft's tight turning radius enables us to get out of there without passing over the target."

The ability to press home an effective attack and break off before passing over the target is considered to be an important factor in the A-10's survivability, based on combat experience in South Vietnam. In that arena, aircraft attacking targets with shorter-range guns or free-fall ordnance usually ended up

flying over the targets. This increased their exposure to the Soviet supplied quad-23-mm. and twin 57-mm. guns and also made them vulnerable to attacks with the shoulder-launched SA-7 infrared-guided missile as they flew away from the target.

The A-10 operates most effectively when used in pairs, Chapman said. One aircraft goes in at low altitude to attack the front line of armor with the 30-mm. gun, while the other one trails several thousand feet behind at a higher altitude and off to one side.

"The first aircraft in attacks the tanks, while the second one stands off and uses the Mavericks to knock out the quad-23 gun sites," he said. "The No. 1 aircraft operates up to the minimum of 4,000 ft. from the front line, while No. 2 stays out in the area between 12,000 and 4,000 ft."

After making a couple of passes at the front line of armor, during which the first aircraft expends its 30-mm. ammunition and the second its Mavericks, the aircraft fly out of the battlefield area, exchange positions in the formation and return for another series of attacks.

The effectiveness of the A-10 against ground targets was observed by this Aviation Week & Space Technology editor during a flight over the Red Flag/Irwin battlefield in a USAF/Cessna O-2A forward air control aircraft. The pilot, Maj. Robert L. Keen of the California Air National Guard's 196th Tactical Air Support Squadron, was one of three forward air controllers directing strikes on the Ft. Irwin range on the day the A-10's flew the 32-mission surge.

All of the pilots appeared to be taking the exercise as seriously as actual combat—this editor earlier flew a low-level attack mission in a USAF/Cessna A-37 with the Air Force Reserve's 47th Tactical Fighter Squadron—and the constant threat of aggressor air attack, coupled with communications jamming in the battlefield area, added to the realism.

A-10 attacks observed by this editor were pressed home from extremely low altitudes, and made maximum use of the mountainous terrain on the Irwin range. For the exercise, all pilots were restricted to a minimum altitude of 100 ft., but in a real combat situation the A-10 pilots said they would fly lower.

During one sortie, two A-10s flying in the dual-aircraft formation alternately attacked a double column of Army trucks lined up to simulate tanks. The canvas covers had been removed from the truck beds, which gave them low silhouettes.

In multiple runs, the A-10s approached from behind hills that flanked the dual column of vehicles, and attacked through a narrow pass. Both aircraft directed what appeared to be devastating 30-mm. fire along the full length of both columns before breaking off and flying low-altitude evasive profiles at speeds ranging between 300 and 400 kt.

In the air-to-air arena, A-10 pilots use this same low-altitude maneuverability to counter attacks by aggressor aircraft, Thompson said. This forces aggressor aircraft to move in for short-range gun attacks, since their missile radars are not able to distinguish the low-flying aircraft from the background clutter.

"In terms of the air-to-air threat, we force the opposition into a hemisphere of action, versus a sphere of action," he said. "At low-level, we deprive aggressors of the three dimensions they need to press home an effective attack."

THREAT EVASION

If an A-10 pilot can see an aggressor aircraft in time, he has an excellent chance of evading the threat, Thompson said. In the two-ship formation, the pilots continually are checking each other to prevent a surprise attack from the rear.

"I'm not saying we wouldn't lose aircraft in a combat situation, because we would," he said. "But we now believe the A-10 has a much higher survivability than we thought before."

This view is shared by the Red Flag/Irwin officials who were operating the simulated Soviet air/ground threats during the exercise. Their conclusion was that the tactics tested so far by the A-10s will considerably improve their ability to survive in a high-threat environment.

The development of tactics has to be evolutionary to keep pace with new defensive threat improvements, according to Col. Joseph C. Romack, deputy chief of staff for tactics at the Nellis AFB Tactical Fighter Weapons Center. By early next year, the Nellis group will have looked at a full spectrum of tactics for the A-10, ranging from methods for firing the 30-mm. gun and Mavericks at very low levels to the proper techniques for delivering free-fall ordnance and working with Army helicopters performing close ground support missions.

INITIAL TESTS

Initial tactics tests with the A-10 were conducted at Nellis early this year, using six aircraft from the 333rd squadron at Davis-Monthan, Romack said. The combined air and ground threat on the Nellis range was arranged to match the conditions the A-10s would face from Soviet-type defenses. In the first series of tests, the effectiveness of the GAU-8A gun was evaluated during firings at medium altitudes of about 2,000 ft., with the aircraft firings at targets from slant ranges of about 4,000 ft. In a second series of tests currently under way, the effectiveness of the gun is being evaluated in firings at altitudes around 100 ft.

"These are not tactics tests per se, since they are aimed more at determining how effective the weapon is," he said. "At the 4,000-ft. slant range, 80 percent of the rounds hit in a 16-ft. dia. circle.

At the very low altitudes, the slant range trajectories will be much shallower, so the bullet patterns will be more elliptical in shape, Romack said. But preliminary test results indicate that a sufficiently large number of rounds still would hit a target.

Since the tests are aimed at proving the gun can be fired effectively at the very low altitudes, a limited number of rounds will be used each time and the targets will be full-scale representations of armored vehicles not real tanks. "We've already done penetration tests on real armored vehicles and are satisfied the 30-mm. gun is an effective anti-tank weapon," Romack said.

COMPUTER PREDICTIONS

"This time we're trying to determine if we can duplicate computer predictions of hit probabilities at the very low altitudes." When attacking at the low altitudes, the A-10s actually will be using the front lines of heavy armor as screens against the ZSU-23 and ZSU-57 guns, which would be mounted on lightly armored vehicles following some distance behind.

"The quad-23s, for example, would not be the first vehicles out. The GAU-8 could take them on and destroy them at ranges of 8,000 to 10,000 ft.," he said. "So they have to trail behind the front lines of tanks, and if we attack at the very low altitudes, the gunners would have to depress their barrels so low they would be shooting the antennas off the lead tanks." Romack added that the low-level maneuverability of the A-10 has proved to be an effective capability in countering air attacks, and that the Nellis tests showed A-10 pilots flying the two-ship formation actually are able to protect each other using the GAU-8 gun in the air-to-air mode. "We haven't yet worked out A-10 tactics for delivery of free-fall weapons, but we'll do that late this year," he said. "We also are going to be working with the Army to develop tactics for working with and against helicopters."

These activities will include escorting helicopters, flying flack suppression missions for them, operating with helicopter-borne forward air controllers and finally pitting the A-10 against helicopters in an aggressor role.

One of the most interesting aspects of the A-10 participation in the Red Flag/Irwin exercise involved coordinated operations with Army/Bell AH-1S Cobra helicopters equipped with the Army/Hughes TOW anti-tank missiles, according to Thompson.

"Both the A-10 and the Cobra are low-altitude aircraft and have a similar stand-off capability," Thompson said. "We're able to operate down in the same type of terrain, at about the same altitudes, and the Red Flag exercise gave us a good opportunity to develop techniques for coordinated operations in a communications jamming situation."

The Cobras were located at Bicycle Lake with the A-10s for the first part of the exercise, but when the lakebed was flooded, the helicopters went to dispersed sites and the A-10s shifted to Barstow/Daggett. Rendezvous techniques then were worked out, enabling the A-10s to meet the Cobras over the battlefield on a precise schedule.

In general, the Red Flag/Irwin exercise gave most of the participating pilots an opportunity to improvise and exercise their own judgment under stress conditions closely matching those of combat.

Such a situation was encountered during the A-37 attack mission this editor flew with the 47th Tactical Fighter Squadron. The leader of the six-aircraft flight was Capt. James Valance, and the aircraft this editor rode in was flown by Capt. Ron B. Wilhite.

The mission was briefed to fly a loose formation from Nellis to a holding point called Silurian Hills, east of the Ft. Irwin range, and then attack a truck convoy in the northern part of the battlefield. Weather conditions were marginal, and a low-altitude freezing level kept the O-2A forward air control aircraft grounded, so the mission was directed by a ground-base forward controller.

The A-37s flew to the Silurian Hills holding point and circled, with four aircraft low and two high for protection against aggressor attacks, until the flight was cleared into the battlefield area. Communications were fair to poor with heavy jamming, and the flight was slightly disorganized in leaving the holding point. But the pilots still managed to press the attack, and this editor—riding in the sixth aircraft—was given a good demonstration of high-speed, terrain-following flight.

The flight leader hit the pre-planned initial point on time, but a communications problem developed with the forward controller. When the flight leader's aircraft popped up over the target area, Valance said he saw moving vehicles instead of the expected stationary ones.

DRY RUN

Since there was no smoke marking the target, Valance did not drop his ordnance—live BDU-33 training bombs—and called to the rest of the flight that he was "going through dry." Each pilot was given the option of dropping his bombs if he spotted the target, but each decided to carry his ordnance back to Nellis.

Wilhite said later that the training gained on such missions was extremely valuable for a pilot whether or not he had previous combat experience because it stressed the importance of being able to think clearly under conditions of stress.

LEGISLATION RETURNING ACCOUNTABILITY OF USPS OPERATIONS TO THE PRESIDENT AND CONGRESS.

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. WILSON) is recognized for 5 minutes.

Mr. CHARLES H. WILSON of California. Mr. Speaker, in recent months I have been perhaps the most vocal congressional critic of present top management at the U.S. Postal Service.

One area for my dissatisfaction is the apparent inability of these high-level administrators to communicate with Congress, postal employees and the public which have alienated those of us who want to work with postal management to solve the Service's problems.

As chairman of the Postal Personnel and Modernization Subcommittee and as a veteran of over a dozen years service on the Post Office and Civil Service Committee, I have developed considerable expertise on postal matters and now firmly believe that substantial modification of the present postal management structure must be legislated. For that reason I have cosponsored with my fellow postal subcommittee Chairman, JIM HANLEY of New York, H.R. 7700, a bill which would return some degree of accountability for USPS operations to the President and Congress.

The need for such legislation has been underscored lately by several actions which have further heightened the degree of alienation between top postal management and the rest of the Service's employees.

First, the Postal Service's public relations office has embarked upon a vindictive new program aimed at postmasters who have made critical comments about top management.

Under this plan, the local newspapers of these postmasters have received press releases for no apparent reason listing the postmasters annual salary. While the purpose of these releases is ostensibly to show the "economic impact" of postal operations in a community, the postmaster is the only individual salary revealed. Now these press releases are also being sent out when new postmasters are appointed.

Incidentally, the public relations flack, Jamison Cain, who has been signing these stupid releases does not reveal his salary, probably because many people would be surprised that it is $41,215.

Needless to say, the postal public relations team is not listing managerial salaries in headquarters releases, either.

Also we have learned that top management has just received a substantial pay raise from their rubberstamp Board of Governors. These increases which in many instances exceeded 20 percent have further increased the animosity of postal supervisors and postmasters.

It is ironic that these senior officials would seek increases while continuing a 2-year fight to prevent supervisors and postmasters from receiving any cost-of-living raises. Indeed, it was the same Senior Assistant Postmaster General James Conway who has so sternly fought these raises who made the plea for top management salary increases.

Mr. Speaker, the fact is, we now have a situation where the small isolated group of officials housed in L'Enfant Plaza has literally declared war on the rest of postal managers and supervisors throughout the system. The result has been a severe morale problem among those dedicated people who really make the Postal Service run.

It has been my experience that these local postal managers are genuinely interested in providing the public with the best mail service possible.

It is truly tragic that they must endure the kinds of abuse which misguided postal policy has in recent years detailed.

THE ADVENT OF A NEW AND EXCITING ERA FOR CHICAGO: THE INAUGURAL ADDRESS OF MICHAEL A. BILANDIC

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, it was my privilege yesterday to listen to the inspiring inaugural address of the newest mayor in the United States. Inaugurated yesterday in Richard J. Daley Plaza before 12,000 citizens of Chicago was Michael A. Bilandic, a native son committed to the service of the people of our great urban center. His remarks upon this hopeful occasion signal a new era for our city and the strength of his words indicate to me that a time for continued vitality for Chicago is with us.

I had the very fortunate honor to present the city's congressional delegation at the inauguration. I came away convinced that Mayor Bilandic's remarks were a rallying call to our citizens to continue the greatness of Chicago. I have known Mayor Bilandic as a friend and as a public servant for a long time. I know he will become the friend of many, many more who share his commitment to the social improvement and continued economic stability of our city. I am even more confident that if performance and effort are the yardsticks by which he will be measured no one has better prospects for success or will work harder to keep Chicago in the forefront as an outstanding world municipality.

The future bodes well for Chicago under the direction of its new dynamic and dedicated first citizen. We wish him well and commit ourselves to continued constructive support.

The mayor's inaugural address follows:

INAUGURAL ADDRESS OF HON. MICHAEL A. BILANDIC

This is a solemn and historic moment in the life of our city. It is fitting that this inauguration is being held in the Richard J. Daley Plaza. In many ways this open space in the heart of the central city symbolizes much of what Mayor Daley sought to preserve and achieve for his beloved Chicago.

This soaring architectural structure—this court house representing a dignity and respect for law—the flags and the eternal memorial flame—the simple fountain—the Picasso, a great work of art, with its description in braille—and the beautiful trees—reflect the vision we all share.

It is the sight of people using the plaza that means the most to us. This is the scene of groups presenting samples of their ethnic culture—military reviews for visiting heads of foreign countries—young people exhibiting their talent to the people in the square—and many similar events.

This plaza is the product of leadership and foresight—it was the inspiration for the development of more open spaces—of great sculptures with trees and fountains throughout the central area, where hundreds of thousands of Chicagoans work and shop. These plazas are attractive. They are Chicago's showplaces of art and entertainment—free for public use and enjoyment.

We just completed a period in our history when the Nation was beset by the consequences of war, recession, unemployment and inflation. The last decade was one of extreme ferment caused by an almost revolutionary shift in basic values.

Cities were particularly vulnerable to the onslaught of national problems and Chicago was no exception. Cities were faced with deficit budgets.

Many cities were forced to cut essential services, forced to increase local taxes, and compelled to cut back on capital improvements.

There was a loss of confidence in the future of cities—a pessimism and a sense of futility.

But not in Chicago—the difference was in the quality of political, business, labor, religious and governmental leadership and the indomitable "I will" spirit of our citizens.

The challenge and responsibility that I accept as mayor of Chicago is to move forwards to a greater city.

We have become a nation of cities. Over 75 percent of our population lives in cities.

The health of the national economy and the health of the nation's cities are interrelated. Secretary of Commerce Krebs acknowledged this fact last week when she told the United States Conference of Mayors: "as the cities go, so goes the nation."

Since the vitality of our national economy is directly affected by the vitality of our cities, it is imperative that we continue our policy of cooperation between the national, State and local governments. In Illinois, we have demonstrated that cooperative efforts by our State and city officials, working with the Carter administration and with our bipartisan leadership in the Congress, can be beneficial to the economy of our Nation, State and city.

I agree with Secretary of Housing and urban development Patrica Harris that "the day of national urban policy being conceived in Washington, directed from Washington, and controlled by Washington is over . . . we are committed to building a partnership with you."

President Carter has stated on many occasions that his administration is committed to an intergovernmental partnership between the cities, States and Federal Government in which the resources and authorities of each are utilized.

On behalf of this administration, I want to respond by saying that we are committed to building a partnership with the National and State Government which will best serve the public interst.

Although the problems of our cities are difficult, we can face the future with the confidence that there are many factors that favor long-term viability of central cities, such as:

Increased energy costs are making relatively high-density, resource-conserving city living more efficient and less costly;

The cities already possess facilities and services which would be extraordinarily expensive and wasteful to duplicate outside the city;

Much high-skilled service employment is being retained in the older urban centers; and

The amenities of urban life are becoming more appealing.

We have learned much from the experiences of the past to add to our resources for the making of the future. As mayor—I look to the coming years as years of opportunity for leadership.

Leadership—to launch programs that will maintain and create employment. We will take full advantage of every program to put people to work as quickly as possible. We will do everything in our power to cut red tape and bureaucratic delays.

Leadership—to continue to expand city services and increase productivity.

Leadership—to expand programs which give aid and opportunity to our senior citizens, to provide more health care and medical services to the young and old. To continue unabated those programs that direct themselves to the personal needs of our citizens.

Leadership—to improve our environment.

Leadership—to continue to enforce and improve standards that protect the consumer.

Leadership—to initiate projects, programs and developments, in every neighborhood and business district of the city, which will improve communities and stimulate the economy.

Leadership—to convert plans into reality. To utilize local, state and federal funds to improve the neighborhoods of our city—to provide better transportation, to rehabilitate and conserve housing, to create parks and malls as well as to extend water and sewer facilities.

Leadership—to move ahead to complete existing and pending projects and to launch new public works essential to the progress of the city and its neighborhoods.

Leadership—to retain the confidence of investors in the city by upholding its sound fiscal and financial position.

Our goal must be to provide a community of people, who respect one another, and are willing to work together for the common good.

I am committed to working closely with business, labor, and other groups in the interest of all Chicago residents. It is this working together that has done so much to make Chicago a viable city.

Our purpose is to maintain Chicago as the city of good neighborhoods—for all people—regardless of heritage, culture or any other distinction. We are all Chicagoans and as mayor I am the servant of all the people.

At this solemn moment, I seek the cooperation of the city council in the months and years ahead. I will work with you in the same cooperative spirit in which I did as one of your members.

I ask for the help of our greatest resource, the people of our city. For my part, I shall rededicate myself to the task for which you have selected me. I feel this honor very deeply and I shall devote every waking moment to deserve your trust.

We face immense problems in the days ahead, but we in this city are blessed with hard working men and women of talent and ability and above all with the "I will" spirit that has kept Chicago in the forefront of the nation.

It is with that assurance that I am optimistic about the future and with your prayers and help, I pledge myself to do all in my power to improve the quality of life in the city we all love.

LEGISLATION TO PROVIDE FEDERAL SUPPORT FOR THE PLASTIC AND GRAPHIC ARTS

The SPEAKER. Under a previous order of the House, the gentlewoman from Maryland (Mrs. SPELLMAN) is recognized for 5 minutes.

Mrs. SPELLMAN. Mr. Speaker, today I have introduced a bill to provide Federal support for the plastic and graphic arts, requiring that 1 percent of funds used for publicly funded buildings be spent on works of art to enhance that building.

This bill follows the lead of several States and cities, including the city of Baltimore in my own State of Maryland, which have mandated the use of art in public structures. While the amount of money varies, it always involves a percentage of the total construction cost. This concept has become known as "1 percent for art" legislation.

Similar bills have been introduced in earlier Congresses, and during the Kennedy administration, guidelines for Government buildings tended to humanize such structures, leading the way for a Federal mandate such as my bill proposes. In compliance with the guidelines established by the Kennedy administration, the GSA, in October 1963, directed that "fine arts as appropriate shall be incorporated in the design of selected new public buildings." In March 1964. the FHA followed suit with a plan allowing up to 1 percent of the estimated cost of the building to be used for sculpture, mosaics, and murals for multifamily housing.

Unfortunately, both policy and directive were dependent upon the whim of administrators, with the result that, until recently, the majority of Federal buildings and federally financed structures incorporated no art at all. In 1972, Arthur Sampson, then Acting Administrator of GSA, reinstated the fine art in architecture policy; since that time several new Federal buildings have been enhanced by a variety of works of art.

My concern is that, while the GSA program is exemplary and is doing many of the things provided for in my bill, the Federal commitment lies at the mercy of the Administrator who can vary the amount allocated for art, and indeed, can dispense with the allocations altogether.

The human need for art in his environment is neither sporadic nor transitory; rather it is constant and enduring. My bill meets this human need.

The cost factor is a major factor in evaluating any legislation, and rightly so. I do not propose to add additional funds, only to require that 1 percent of those funds be set aside for works of art to enhance the building. If 1 percent for art had been spent during 1974 and 1975, it would have averaged $3.1 million per year, or just a bit over a penny per person per year. That seems to me to be a minuscule amount to spend to enhance our physical environment.

This legislation establishes a procedure for the selection of suitable works of art, incorporating the experience of the project's architect and the art community in the area where the building will be erected. A commission appointed by the Administrator of GSA, from nominations by the National Endowment for the Arts, will first select the general type of art work for the building, and then will make artist commission recommendations to the GSA Administrator from applications received within 60 days of the advertisement by GSA for artists and art works for the building. The Commission will cease to exist when the Administrator makes his final selection.

This bill insures a standard procedure for the selection and funding of works of art for Federal buildings, to humanize the otherwise cold edifices which we tend to construct. I urge my colleagues to give this measure careful and positive consideration.

VETERAN HOSPITAL BED CLOSURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

Mr. ROBERTS. Mr. Speaker, I must report to this body a most ominous decision that has been reached by the Carter administration.

Mr. Max Cleland, the Administrator of Veterans' Affairs, has announced after a meeting with President Carter on June 6, 1977, that the VA plans to reduce the number of acute care beds in veterans' hospitals by 5,000 over the next 5-year period. I must warn the Members of this body that this is the equivalent of the closure of 10 average size VA hospitals throughout the country.

This Nation, through the U.S. Congress, has provided the American veteran with a medical treatment and hospital care program as but a small reward for those who gave so much that freedoms we enjoy might be preserved. This health care program is for veterans with service-connected disabilities and those who cannot afford the high cost of medical care in the private sector.

I have written to the administrator regarding his announcement of hospital bed closures but as yet I have not received a reply. The House Committee on Veterans' Affairs deems it urgent and essential that whatever plans there are for the closure of acute care hospital beds or hospitals be brought before it immediately in order that it may perform its oversight and legislative responsibilities. Any unilateral action by the President, the Office of Management and Budget, or the Veterans' Administration to close hospital beds of this order of magnitude would certainly violate the spirit of, if not the actual law. Section 5001(a)(2) of title 38 deals specifically with this matter.

In both the 92d and 93d Congresses, bills were introduced and hearings held that would have specifically required the Veterans' Administration to maintain a hospital census that would average not less than 82,000 in any fiscal year. The present language of title 38 referred to above was a compromise with the executive branch of the Government after the Committees on Veterans' Affairs in both the House and the Senate were assured that all veterans applying for admission and found to be in need of hospital care or medical services would be immediately accepted on a timely basis for such care.

Recognizing that the VA may "manipulate" the reported demands for hospital care and medical services, the Congress might have erred in accepting this compromise. Unless assurances are given in the immediate future that these plans will be laid before the House Committee on Veterans' Affairs, it may be necessary that the Congress return to mandating the maintenance of a certain hospital census for each fiscal year. Not only does the Congress need to be aware of these facts, but the American veteran, veterans organizations, and the American people need to be on guard if the outstanding medical program for veterans is to be maintained and strengthened.

The announcement by the Administrator of Veterans' Affairs, in my judgment, cannot be divorced from the report and recommendations of the National Academy of Sciences on "Health Care for American Veterans"—the aims and objectives of which coincide with the Administrator's announcement. Also I want to recall and particularly remind the newer Members of this body that the Office of Management and Budget has had within it for many years staff members who have been successful in influencing successive Directors to place serious obstacles and roadblocks in the successful operation of the Department of Medicine and Surgery of the Veterans' Administration.

Further there are people within the Department of Health, Education, and Welfare—individuals who strongly advocate the transfer of the operations of the veterans' medical program to HEW. Does anyone who has ever had any experience with hospitals operated by HEW believe that veterans would receive the priority to which they are entitled for care for their disabilities if VA medical functions were operated by HEW? Lastly, such proposals as those of the Administrator of Veterans' Affairs and the National Academy of Sciences will be touted as "cost-saving" and an effort toward achieving the President's hope and plan of balancing the budget. I hope someone will explain to me, in simple detail, how transferring a VA hospital to a community, HEW, or a medical school will result in a saving of Federal tax dollars.

HAPPY BIRTHDAY, RICHARD RODGERS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, next Tuesday, June 28, marks the birthday of one of our country's most popular composers. Richard Rodgers, that celebrated creator of all that is memorable in music, will reach his 75th year. The calendar is no indication of his boundless energy, however, for as the following article from the New York Times states, Mr. Rodgers is contemplating yet another new venture.

It is not simply because Richard Rodgers is a valued friend that I mark his birthday for the benefit of my colleagues. No doubt repercussions will resound from the musical world for what I am about to say, but I am convinced that there are in one's lifetime only a few composers whose musical zest for life with its range of emotions will be felt so keenly by so many grateful listeners. I am a member of that ever-increasing audience and I am constantly reminded of his lasting musical accomplishments. Such wonderful shows as "Carousel," "South Pacific," "The Sound of Music," "The King and I," "Flower Drum Song," and "Oklahoma" have kindled the spirits of millions of Americans. Though some of his songs are years old, they are nevertheless hummed and loved still by those of us who "grew up" with Richard Rodgers and now by a new generation of theater-goers and music lovers who are applauding anew the tilt, the special feeling, and the enormous talent of this ageless man. Happy birthday, Richard Rodgers.

The New York Times article follows:

[From the New York Times, June 22, 1977]

RODGERS NEARS 75 YEARS IN A LIFE OF MUSIC

It is probably bad form to ask a major composer who has spent more than half a century creating 39 stage scores, nine film scores, four television scores and assorted other works what he does in his spare time—but someone did just that the other day to Richard Rodgers.

"When you get to be my age," Mr. Rodgers replied, "you're pretty busy reading books that friends of yours have written."

Mr. Rodgers will take time out from reading his friends' books to attend his own birthday party at noon today, given for him by Yul Brynner, Constance Towers and the cast of "The King and I," which Mr. Rodgers wrote with Oscar Hammerstein 2d in 1951 and which is currently being revived at the Uris Theatre. The party will be held at the theater; Mr. Rodgers will be 75 years old next Tuesday.

If Mr. Rodgers has his way, he will be spending even less time reading in the near future. He disclosed that he has a "project" under discussion—if it's a musical would be his 40th—and even has a lyricist in mind, but he declined to say anything more about the project or who the lyricist might be.

He was more forthcoming about some of the other things that concern him, however, such as the sale last week of Tom Seaver by the Mets.

"An outrage," Mr. Rodgers said. "They sold a Cadillac for three roller skates."

Mr. Rodgers has also been rather modest in describing his contributions to American music, insisting that his inspiration is outside the abstraction that is music and lies with "the actors who will sing it, the orchestra that will play it and the audiences who will hear it."

And yet, his sense of harmonics and voicing has given his music an open, powerful quality that has won the acclaim of a tremendous cross-section of people—including those who regard themselves as knowledgeable about music and those who say they know nothing about it technically—only what they like.

Mr. Rodgers, who acknowledged a special fondness for Brahms, Jerome Kern and George Gershwin, reflected the reserve composers frequently have about their own creative processes.

For example, he regards "I could Write a Book" from "Pal Joey" as a relatively modest, unsophisticated effort, although it has been a standard since it was written 37 years ago. This, despite the fact that a closer look at what seems to be a simple ballad shows that classical techniques were used in its composition.

For one thing, although its key signature is C, its verse is spiritually in G. This establishes what in composition is called a "false dominance," and enhances the song's gentleness when the chorus begins. The gossamer quality is further aided by the fact that in the refrain, the composer has skillfully avoided using the subdominant step, which in this case would have been a simple F major chord. Confronted with the evidence, Mr. Rodgers shrugged, confessed there was, indeed, no subdominant step, and the look on his face made it clear that this sort of dissection was consummately unimportant to him.

"I THINK ORCHESTRALLY"

"I think orchestrally," he said, sitting at the piano and effortlessly playing a rather attractive chord progression from "I Could Write a Book."

"I just felt it. I never would think about such things in advance." So much for Rodgers buffs who would cross-examine him on false dominance and what happens when you don't use the subdominant step.

What, then, to ask Richard Rodgers about the music of Richard Rodgers? Is he happy with the way artists like Frank Sinatra, Ella Fitzgerald, Andre Kostelanetz, Mel Torme and Peggy Lee had rendered the tunes originally written for the Broadway stage?

"I'm delighted," he said, "although I can remember once, 20 or 25 years ago, that somebody suggested I sue Peggy Lee for her recording of "Lover." The recording was then regarded as wildly unorthodox and rather sexy, but it was made in the 50's, when it was relatively easy to be wildly unorthodox and sexy.

"Anyhow," Mr. Rodgers continued, "I told whoever it was that Peggy Lee is too pretty to take to court and besides, I enjoyed that recording very much."

Cole Porter, who admired Mr. Rodgers's work, once said he thought the compositions had an almost "holy" quality about them. If the total impression of his music is wholesome, it is also awesome, both in output and range.

For the man who wrote "Surrey With the Fringe On Top" also wrote the film score for "Victory at Sea," ballet music for "Slaughter on Tenth Avenue" and some of the best ballads anyone has written.

Mr. Rodgers is always rather perplexed that clergymen and others concerned with the human condition regard songs like "You'll Never Walk Alone" and "Climb Every Mountain" as inspirational. He insists he writes only for the demands of the theater.

THE MUSIC WOMEN

In any event, if there has been an inspirational quality in Rodgers tunes, there has been an earthiness, too. If, in the American national daydream, the women in Cole Porter's music are best represented by Garbo and Dietrich, who never appeared in Porter's musicals, then perhaps Julie Andrews and Shirley Jones might be most evocative of Rodgers and not just symbolically, for they actually appeared in his productions.

The women who emerge from Rodgers's music—be they delineated by Hart or Hammerstein—are disarming in their apparent innocence and more apt to be found in a state fair in Iowa than at the bar of the best hotel in Venice. Porterian women might be more concerned about a man's inhibitions than his intentions; with Rodgers's women, a man had better be sincere or face the wrath of "I'm Gonna Wash That Man Right Outa My Hair."

But to suggest that Rodgers's people are overly prim or all as soft and as pink as a nursery is grossly inaccurate. After all, The Lady Is a Tramp and The Gentleman Is a Dope and with luck. There's a Small Hotel they might share.

Richard Rodgers relaxed in his Madison

Avenue office and he talked lovingly about the age that gave us Kern, Porter, Gershwin, Berlin and all the others who wrote ballads when America was younger than springtime but when its musical tastes were not so influenced by that part of the populace preoccupied, occupied or postoccupied with its own pubescence.

"When I studied music," Mr. Rogers said, "we were taught that there were three components—melody, harmony and rhythm. With some of the more recent developments, they seem to have left out the melody, most of the harmony and you've only got a third left."

Mr. Rodgers, who got most of his words from Lorenz Hart and later Hammerstein, was asked what he thought about the lyrics of rock music.

"As far as I can determine," he said, "all the lyrics consist of the word 'baby.' It's all rhythm and that word."

CONSUMER PROTECTION ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, legislation creating a Consumer Protection Agency to represent the interest of consumers before Government agencies has been the subject of an extensive nationwide public debate since it was reported favorably by the Government Operations Committee last month. One of the issues that has been frequently raised is the "constitutionality" of the bill and whether the Agency would legally fit within our traditional governmental system.

I have asked Attorney General Griffin Bell to comment upon these concerns, with specific reference to the constitutionality of the proposed Consumer Protection Agency and its potential for disrupting Government activities. I would like to bring the Attorney General's opinion to the attention of my colleagues.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., June 21, 1977.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of the Department of Justice on H.R. 6805, the Consumer Protection Act of 1977. The bill would establish in the executive branch an independent Agency for Consumer Protection to be headed by an Administrator appointed by the President with the advice and consent of the Senate. The central thrust of the bill is to authorize the Administrator to intervene or participate in ongoing federal agency proceedings or activities that may "substantially affect" an interest of consumers and—to the extent that any person would by law have the right—to initiate or intervene in a federal court action involving the review of agency action that, again, may affect an interest of consumers. At issue is whether reposing this authority in an executive branch agency creates constitutional problems and whether an agency with this authority would disrupt or adversely affect the functions of other governmental agencies or departments.

First, it is argued that the provision allowing the agency to sue other federal agencies somehow violates the constitutional requirement of a "case or controversy" before the jurisdiction of a federal court can be invoked. However, the fact that a dispute involves two components of the executive branch is not enough in and of itself to preclude a federal court from exercising jurisdiction. *See United States* v. *Nixon*, 418 U.S. 638, 693 (1974); *Chapman* v. *Federal Power Commission*, 345 U.S. 153, 156 (1953). Because the Administrator is to represent the interests of consumers there will be, in our opinion, sufficient adversariness to satisfy the requirements of Article III under the holdings in *Nixon and Chapman*; put a little differently, in exercising his authority under the Act the Administrator would not be engaged in an "intra-branch" dispute.

The second constitutionally related question is raised by charges that the new Agency would not be subject to the normal checks that govern executive branch operations. The Administrator is appointed by the President with the advice and consent of the Senate. The Agency's authority will be grounded in an Act passed by Congress and will have been subjected to standards and restrictions expressly approved by the legislative branch. This process follows the constitutionally acceptable manner of creating, selecting and controlling executive branch agencies and the heads thereof. Mention must also be made, of course, of the continuing congressional involvement in the agency's affairs through the appropriation process.

To put the powers and responsibilities of the proposed agency in perspective one has only to refer to what the Agency could and could not do under the Act. Most importantly, it would have no regulatory power. No new rules, regulations or standards of conduct will be promulgated by the Agency. Its role in the administrative and judicial process is generally limited to participating—in the same manner, to the same extent and under the same rules as apply to a private party—in the rulemaking and adjudicatory actions of other agencies and the review of those actions by the courts. The Agency could not issue cease and desist or other adjudicatory orders. Its power to affect the decision making or regulatory process of other federal agencies is thus limited to an advocacy role on behalf of consumers. Contrast this role to the vast regulatory powers of other executive branch departments and agencies and it is apparent that H.R. 6805 does not raise constitutional problems of separation of powers or the unlawful delegation of authority.

Next, as the foregoing discussion illustratrates, the proposed Agency would not unduly disrupt or adversely affect other government departments or agencies. It is nothing new for one agency to formally intervene in the proceedings of another. For example, the Antitrust Division of the Department of Justice regularly intervenes in other agency proceedings in furtherance of its congressional mandate to promote competition. Suffice to say that the creation of an agency to assert the consumer perspective in agency or court proceedings is not extraordinary or out of line with governmental initiatives on behalf of other constituencies such as labor, businessmen or farmers.

It also seems appropriate to respond to the questions that have been raised concerning how the consumer interest will be determined. The bill defines "consumer" as a user (for personal, family or household purposes) of goods or services. This is a common sense definition that establishes a sufficient standard, in my opinion, to indicate the nature of the proceedings with which the Agency will be concerned as well as the positions it will advocate. That the Agency may on occasion be faced with arguably conflicting "consumer interests" and be forced to make what may be difficult choices or refrain from participating at all is not a troublesome prospect. Other executive branch agencies must make similar decisions and determinations on an almost daily basis.

I appreciate the opportunity to present this Department's views in support of H.R. 6805.

Yours sincerely,

GRIFFIN B. BELL,
Attorney General.

ADMINISTRATION PROGRAM OF WITHDRAWAL OF AMERICAN TROOPS FROM SOUTH KOREA, JUNE 23, 1977

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 15 minutes.

Mr. MURPHY of New York. Mr. Speaker, I believe the resolution which Mr. EDWARDS and I have introduced today speaks for itself. President Carter's announced plans to withdraw U.S. forces from the Korean peninsula are the result of ill-advised counseling to the President at best, and at worst, an almost certain open invitation to war and/or a rapid demise of the Asian continent's economic and military stability. There is unfortunately a growing naivety that presumes an American withdrawal from South Korea will have the singular result of lowering our military costs, and that all will be well again in the "Land of the Morning Calm."

The United States presence in South Korea for the past 25 years has existed for a very specific purpose: If we were not there, North Korea would, as it has publicly announced on countless occasions, try to take over the South by armed aggression once again. It is that simple: When we leave, Kim Il Sung marches south.

What happens then? Quite a bit, and then we see it is not quite so simple.

The author of the defeated, administration-inspired Senate amendment on U.S. troop withdrawal from Korea—after the defeat—finally put his finger on one of the most vital arguments against such a move—a small piece of paper known as the United States-Korea Mutual Defense Treaty. He said in effect it does not make any real difference that the amendment lost, we are bound by agreement to fight in Korea if hostilities resume.

We have an agreement with South Korea to come to the aid and support of that nation in the event of armed aggression from the north.

So the proposition is very simple.

Do we keep 42,000 troops, in place, on position, where they are preventing a new war or do we pull them out, chance an invasion by a half million man well-equipped army, and put our army in the position of fighting its way back up the peninsula as we did in 1950–51.

The cost in American lives would be enormous.

The cost to America's defensive perimeter in Asia would be disastrous.

Would Kim Il Sung entertain such an adventure?

General Singlaub said he would.

But then so has the majority of senior military commanders the United States has had in Korea.

More importantly, Kim Il Sung has said it thusly:

The occupation of South Korea by U.S. troops is the main obstacle to our national reunification.

That is what Kim said on November 7, 1975, and he still means it. But U.S. troops do not "occupy" South Korea. Our 42,000 troops are a symbol representing the U.S. commitment to maintain its own interests in and keep military stability in that part of the world. The U.S. Army is not there to save Korea, it is there to sustain our whole goal of keeping the Far Pacific from Communist domination.

In short, the United States has a commitment not only to South Korea, but to the rest of the world, to maintain a certain level of stability and peace in that part of Asia. Withdrawal means that we are telling the rest of the world that we are no longer interested in maintaining our commitments and agreements. The strongest nation on the face of the earth begins to turn inward by ignoring its widespread influence on virtually every government's actions, positions, and long-range planning. And each will, in turn, begin to compensate for the loss of the American presence.

North Korea, as I have said, will march on the south to "liberate" it back into the Communist fold. Japan has already indicated it will consider nuclear armaments to bring back into balance the anti-Communist void left by our departure; and virtually every other nation of the world would be forced to reevaluate its foreign policy in light of the perceived about-face of the U.S. Government.

We have already lost a great deal of the respect once held for our foreign relations with our rather undecorous panic withdrawal from Vietnam, and the accompanying problems engendered in Cambodia and Laos.

Korea is the keystone of Western interests in Asia. We are not speaking of just a war/no-war situation, but of the entire concept of economic, political and military stability throughout the Far East. The 1950 war began shortly after the completion of a military withdrawal from the peninsula, and another similar withdrawal is likely to precipitate similar chaos—this time throughout the entire world.

I am no stranger to Korea. I served as a combat infantry commander there during the war, and I have maintained a continuing dialog throughout the past 25 years, including a number of factfinding trips during my eight congressional terms. After my trip in 1975 as head of the Congressional Korean War Veterans Delegation, I prepared a comprehensive report for the then Speaker of the House, Carl Albert, on the military, economic, and political realities of today's Korea, significant parts of which I now offer for the record.

The conclusions reached in that report are as current today as they were when it was written. A careful reading of the report, and careful attention to the dialog presented here today, will make clear to the House of Representatives that our resolution is worthy of your support. It is the proper role of Congress to "fully examine and consider to its satisfaction the question of the American security commitment to South Korea and the effects which such a withdrawal would have on the stability of the Korean Peninsula and American relationships with concerned allied powers." Such a full examination as is called for in the resolution has not yet been accomplished.

While I commend the entire report to Members and suggest they read it, I would state several passages today that are of significance. In terms of the strategic importance of the Republic of Korea the report states in part:

The Congress should make no mistake that the relatively symbolic forces of the United States in South Korea are maintaining peace and security not only on the peninsula, but ultimately in the Western Pacific.

U.S. officials—who briefed the U.S. delegation—in Hawaii felt that the historic future lies in the Great Pacific Basin where most of mankind lives. The question facing the U.S. Government and the Congress is, will the United States be there and will we defend South Korea which is a key to our continued presence in that part of the world. Not only is our presence there one of deterring war, but in part, guaranteeing our access to the peaceful use of sealanes vital to America's economy.

Adm. Noel Gayler—then commander in chief of the Pacific Command—stated that:

We have got to secure free access to the sea and air lines of communications that are vital to the United States, vital to Japan, and to all the independent countries of Asia.

The heart of the question is the future role of the Japanese. One member of the delegation asked if there were not strong feelings in Japan against the U.S. military presence. We were informed that the opposite is true; their major concern is the Communist threat from the mainland. The Japanese have had several options over the past few years including, one, an official move to get us out of our Japanese bases or two, they could have rearmed in earnest. They opted for a third position, which was to improve and mature the security relationships between themselves and the United States.

Japan has apparently settled for contributing what best they can, that is, bases and accessibility to the great Japanese economy. We, in turn, offer them the protection of a nuclear deterrent and cooperation in the development of defensive military technology. Our goal is to build the Japanese defense forces to the point where they can gradually assume full defense of the Japanese islands. Their greatest needs—for which they have little or no capability at this time—are in antisubmarine warfare capabilities and air defensive capabilities.

The development of a self-sufficient totally Japanese defense capability will be of benefit to both the United States and Japan. It will be consistent with Japan's constitutional restrictions, but most important, it will relieve any fears on the part of the countries on the mainland of Asia which would result from the development of a superior Japanese offensive capability.

Thus, the maintenance of the integrity of South Korea is of global significance in that it removes the threat of a rearmed Japan and proves to the Communist countries of Asia as well as the nonalined, that the will and the resolve of the United States to maintain its current role and rights in the Pacific have not been weakened by the events of last spring. We know we have lost credibility in the debacle of Vietnam and if we do the same in Korea, we will in all likelihood have lost totally the ability to influence events in Asia.

The Asian perception of U.S. policy is based in large part on the particular reaction of the U.S. Congress to a given situation. If the Congress is strong and willing to support what the United States has committed itself to do under the terms of the armistice agreement; that is, to prevent the North Korean takeover of the South, such action, in the judgment of our people in the Pacific, would be more of a deterrent to aggressive Communist acts than U.S. military might.

In the words of one of the most knowledgeable civilian advisers in CINCPAC:

It all hangs on what we do in Korea—if we chicken out there, we have had it.

The selected sections of my report to Speaker Albert are as follows:

REPORT OF CONGRESSMAN JOHN M. MURPHY, CHAIRMAN, U.S. CONGRESSIONAL DELEGATION OF KOREAN WAR VETERANS TO SPEAKER OF THE HOUSE OF REPRESENTATIVES CARL ALBERT

(Inspection of the military preparedness and economic progress of the Republic of Korea, October 23–30, 1975)

. . . the occupation of South Korea by U.S. troops is the main obstacle to our national reunification."—Chairman Kim Il Sung of North Korea, November 7, 1975.

* * * * *

"I think the Eighth Army and the Second Division and the missile control outfits, as well as the Air Force, are very much needed (in South Korea) . . . I must say that my estimate of Kim Il Sung is that he will go anytime that he thinks he can do it and the reason he doesn't go is because he does not think he can do it. That's it."—Admiral Noel Gayler, U.S.N., Commander in Chief Pacific, October 10, 1975.

* * * * *

"Now, in this (the 1976 Presidential) campaign the Democratic party and its candidates must demand an orderly withdrawal of American forces from Korea within a specified time. It would take not more than a year to leave; it might take as long as the decade of Vietnam to stay and bleed and die and lose."—Senator George McGovern, October 25, 1975.

* * * * *

Mr. Speaker, the above three quotes succinctly states the problem faced by the Re-

public of Korea and the United States. Chairman Kim Il Sung is only half right. The United States, of course, does not "occupy" South Korea with its 42,000 troops. However, the significance of their presence north of the Han River is the psychological and military obstacle that prevents North Korea from attempting an invasion of the South. Everyone seems to agree—even Kim Il Sung—that the very presence of American troops is maintaining the peace on the Korean Peninsula. By his own words, Kim promises to violate the truce *and start a new war if the United States pulls out of Korea.* If you accept what I have just said, the third quote needs no comment.

* * * * *

This report will be divided into four major sections and will include, in the main, my own observations. In a summary section I will identify consensus feelings on the part of the delegation.

The report will cover:

(1) General observations, including the current atmosphere and psychology in the Republic of Korea;

(2) The military situation vis-a-vis North Korea, and the geo-political situation in terms of the major powers involved, i.e., Russia, China, the United States, the Republic of Korea and North Korea;

(3) CINCPAC's (Headquarters of the Commander in Chief Pacific) estimate of Korea's role in the Western Pacific;

(4) A review of the current economic situation in the Republic of Korea and an indication of the country's economic future.

CURRENT ATMOSPHERE AND PSYCHOLOGY IN THE REPUBLIC OF KOREA

Despite the fact that this part of the world is the last remnant of the Cold War and is in a potentially explosive situation due to the desire of North Korean Chairman, Kim Il Sung, to annex the Republic of Korea, the dynamism of the people and the government of the South is readily apparent.

Of its 33.5 million South Korean people, 98% are literate. The people are hard working, and the Korean industries are expanding and changing to meet the needs of a modern industrial nation.

This is all being done, however, under the protective umbrella of a massive ROK military establishment and U.S. military assistance spanning the peninsula south of the Demilitarized Zone. There is no normalization and no detente on the peninsula. It is a military standoff pure and simple, with the North building to an invasion and the South shoring up its defenses to prevent it.

In an area where abnormal conditions are normal, the standoff is working because of the following:

The presence of U.S. armed forces and the perception by North Korean communists that we are there to stay and that we mean business; (The U.S. withdrawal in 1950 was the green light for that invasion).

The inner strength, devotion and motivation of the superb ROK armed forces; and,

The realization by Moscow and Peking that the United States intends to remain on the peninsula as long as necessary to sustain the Republic.

The objective of U.S. foreign policy in South Korea should be for the present to sustain the above three conditions. (Further, we should reaffirm our commitment in the Western Pacific to the containment of Mainland communism by the use of strategic air power and U.S. Naval forces to reinforce South Korea, Japan, Taiwan, the Phillipines, Indonesia, Malasia and Thailand.)

The problem as seen by both American and Korean experts is that North Korea continues to build up its forces and its military posture. They are waiting for the creation of a decisive moment—they are, in the words of a senior U.S. official, "ready to pounce when the time is ripe."

One of the major goals of the North—which the government of the Republic of Korea and our people agree could create just such a decisive moment—is to get the United States out of the peninsula.

In this context, the position taken by the U.S. in the United Nations debate over Korea is critical. A weak U.S. response in the U.N. at any time now or in the future, would only serve to embolden Pyong Yang. Our people are convinced that Russia would be willing to settle for the same stabilization that exists in Berlin. Only by continuing our presence and our stabilizing influence on the peninsula will the Chinese and Russians accept a "Two-Korea" situation, which will admitttedly take years.

Unlike South Vietnam, Korea is considered by U.S. officials to be willing and able to bear the burden of its own defense and economy. In order to do this, however, it needs—both psychologically and militarily—the United States to keep its commitment. It needs our support in order to restore its balance of payments which were ruptured by the 1973 oil embargo. The 1973 embargo was a severe setback to South Korea, causing a deficit of $900 million in oil and $600 million in grain payments. Just as with other industrialized nations, the oil crisis must be brought under control there to enable the Koreans to handle their balance of payments.

If the South Korean nation survives into the 1980's, it will be a major friendly force in Asia with the third largest Asian economy. It will also have built, with the help of the United States, a major military force on the "last frontier of freedom." Our inspection of Panmunjom under the icy stares of jack booted North Korean officers and standing on the southern side of the DMZ listening to the propaganda spew forth from loudspeakers just a few hundred yards away is a chilling reminder of the significant fact that South Korea is indeed, the "last frontier of freedom."

From a purely economic (and self-interest) point of view, there is currently $2 billion in trade between the United States and Korea which could treble in the next decade. Korea is, in that sense, a "big customer" and a major market for American goods.

As I indicated above, the Republic of Korea is no South Vietnam. Its internal strength, the will of its people and its evolving internal policies are key factors here.

President Park Chung Hee is the spark behind Korea's socio-political revolution. But some of the strong positive actions Park has taken in his leadership have drawn criticism from students, intellectuals and journalists. Park has tried to alter thousands of years of habit and custom in a very short time. His basic change outside of the major urban areas was in the towns and villages where the system of Confucianism existed, replacing the elders—and the ancient—as leaders with community leadership being handed over to younger, university-trained individuals. It is the university-educated younger leaders who are the basic factor in the political modernization of Korea. Yet it is the embryo graduates, the students, who cause much of the agitation, *but often for reasons other than those played up in the Western press.*

As you know, Park's handling of dissension became aggressive in late 1973 and 1974 when he imposed what appeared to be extreme or repressive controls over the people and dissidents. Our officials in Seoul have indicated that Park's strength lies in his perception of "areas of discontent." They also indicate his reaction is to quickly impose a clamp down, such as the much publicized Emergency Order Number Nine. After such a reaction, however, he usually withdraws immediately and, as in the case of Emergency Order Number Nine, simply does not fully implement the order. It is unfortunate that the first half of his actions are copiously reported in the United States press, but not the last half.

The Korean CIA does not sit in editorial rooms, on university campuses, nor does it knock on church doors. As a matter of fact, there is a substantial amount of freedom of expression in the press and complete freedom of religion.

The notable cases that brought about Park's disfavor with certain U.S. elements involved the case of Kim Chi Ha. Kim is a Catholic poet now in jail on criminal charges that antedate his public embroglio with Park. All subsequent criminal charges that grew out of the Park actions have been dropped.

The other celebrated case is the Kim Dae Jung case. Kim Dae Jung unsuccessfully opposed President Park during the 1971 presidential election. Because of his increased opposition to Park after the election, particularly in foreign countries, Kim was seriously hampering the Park government's ability to function. Kim was kidnapped from his hotel in Tokyo on August 8, 1973 and taken to South Korea to be held under House Arrest. According to U.S. officials, Park was acutely sensitive to the U.S. reactions to the Kim kidnapping and similar incidents. Being "an extremely capable and shrewd political leader, he intuitively knew when to back off."

The situation over the past months has developed to the point that the U.S. Ambassador has established a relationship with Park that is such that he can go to Park and speak frankly *and with good effect.* Earlier I commented that Park himself may have sown some of the seeds of the country's discontent. To expand on this, I point out that the Korean student's release from traditional family control which Park fostered, is considered a factor leading to their demonstrations—but this is only a partial explanation. The students objected in 1973 and 1974 to a centralization of authority and to restrictions on freedom of speech. In the words of American officials, the students "got up and said what they were *not* historically supposed to do in Korea." The point here is that student dissent is more a fact of historical significance than current events, behavior which has characterized Korea, Japan and China for decades.

The strong basic support for President Park can be interpreted from the 1971 election, wherein he received 51% of the vote, compared to the recent vote of confidence, which was at the 68% level. Significantly, his strongest support comes from the people, the peasants, if you will, in the countryside.

On the whole, the delegation found a great reservoir of confidence on the part of the people of Korea in the current government of the Republic.

In an hour-long conference with the seven member Congressional delegation, President Park responded to the questions of the curtailment of civil liberties and political prisoners in the Republic of Korea at great length and assured the members that the Korean law and constitution was upheld in all instances, that all prisoners detained were tried and convicted and in most cases, pardoned or had their sentence suspended.

He expressed the opinion that if the Russians had a million-man Army 60 miles from Washington, D.C., Americans rights and privileges to demonstrate against their government would be curtailed, as they were in less severe circumstances by Presidents Abraham

Lincoln, Woodrow Wilson, and Franklin Roosevelt. President Park further asked the delegation that a comparison be made with the virtual total freedom in South Korea as against the totally repressive society that exists in North Korea. Further, he asked that Americans realize that the tensions in the peninsula have been created solely by North Korea, that his desire is for a relaxation of tensions on the peninsula so that, hopefully, security requirements as they now exist in South Korea can be relaxed.

In my judgment, notwithstanding the problems facing South Korea, the government is making substantial progress under the ever present threat of invasion and war and I am convinced President Park is aware of human rights issues and is attempting to be fair under the most trying conditions.

REPUBLIC OF KOREA MILITARY SITUATION

Given the current set of conditions militarily and politically, I do not believe there is an immediate danger of open conflict between North and South Korea except for the following caveat.

The problem in the near future is that Kim Il Sung is essentially irrational and could spark a deliberate attack with a resultant massive military response from South Korea.[1]

I point out here that one of the best assets of the Republic of Korea is the fact that Kim is looked upon as unstable by his former ally, the Republic of China. I do not believe that China is interested in a new war on the Korean Peninsula, but we must face one constant. In the event Kim unilaterally invades the Republic of Korea, China or Russia would not let North Korea be extinguished.

And that is the danger we face.

Kim appears to have developed a personality cult that is at its zenith. He has complete control over the government and people of the North. He has expended huge sums—15% of his Gross National Product—on arming the North. Overall, his GNP is not growing and, being $1 billion in debt, economically his time is running out. In the words of U.S. officials, "Kim may think this winter is 'now or never' and he may go broke trying to reach Seoul."

The significance of "this winter" is that the invasion route predicted by the U.S. military to be optimal must have the rice paddies in the Northwest frozen over to support Kim's armor.

It is generally known that since the "shocks of Spring," the fall of Saigon and Phnom Penh, Kim has attempted to exploit what he perceived as a weakening U.S. stance in Asia. He went to Peking to ask for help, but his adventure was not encouraged there.

With a longstanding invitation to visit Moscow, he has attempted to visit Soviet leaders, ostensibly to persuade them to support a move south whereupon the longstanding invitation was withdrawn.

It should be mentioned here that China does tacitly support North Korea's international campaign to isolate the Republic of Korea. North Korea is accomplishing this by realigning itself with the non-aligned countries and attempting to make South Korea the underdog in world opinion. This is why the North so avidly seeks to eliminate the imprimatur of the United Nations from South Korea. They would rewrite history to the extent that South Korea and the United States were the aggressors in the past and that Kim wishes to peacefully unite the North with the Republic of South Korea.

In advertising in U.S. newspapers recently, Kim conveniently neglects the facts and the history of the 1950's.

It was the North Koreans who, without provocation, invaded the South.

It was the North Koreans who, without warning, visited terror and violence on the South.

It was the North Koreans who tried to exert their will over the South Korean people by armed force.

Suffice it to say we found that a basis of trust does not now exist and will not develop into the foreseeable future. The North's goal is the unification of Korea under its terms and it is prepared to fight an offensive war to achieve this. The primary goal of the Republic of Korea is a reduction of tensions. However, it is prepared to fight to preserve its right to self determination if attacked.

THE MILITARY IMBALANCE

The armed forces of the opposing sides are generally itemized as follows:

North Korea: 467,000.
South Korea: 625,000.
United States: 42,000.

Numbers are only part of the picture. Despite its numerical inferiority in manpower, North Korea is, on a scale, vastly superior because they have the initiative and large numbers of up-to-date aircraft, tanks, artillery, missile systems, etc.

On the other hand, the Republic of Korea Army, although of excellent quality is essentially an "M–1 Army," with much equipment that still dates back to World War II and the 1950 war.

There are two aspects to the defense of the Republic of Korea; the immediate threat and the long term modernization and self sustenance of the Republic of Korea armed forces.

In the case of an immediate attack, the Republic of Korea forces would be aided by the United States Forces, Korea, the primary combat forces of which are the U.S. Second Division, and the 314th Air Division, comprised of 7,300 people and their aircraft.[2] Because of the propinquity of the two opposing forces, and the fact that U.S. bases are only minutes away from the MIGs of North Korea, all firstline U.S. aircraft are protected under the so-called "Window Arc."[3] Our Surface to Air missile units, for example, have three minutes to respond to MIG 19's over Seoul, the flight time from the North's bases to the South's Capital City. The U.N. Commander, General Richard Stilwell, commands the ROK Army and in the case of an attack, his plans are for an immediate, violent and successful response. He sees the ROK Army as well trained and fit, an army in which he has supreme confidence.

Because of the continued military buildup of the North, the South is, to all intents and purposes, in a suspended state of belligerency. As in the 1950 war, the North has an immutable advantage of geography. If the North wants to cause mischief, according to General Stilwell, and if they make a determined assault, they can sustain a lightening war for five days—which would probably put them in the City of Seoul.

As opposed to South Korea, North Korea has most of the ships for coastal operations, including fast patrol and motor torpedo boats (See photos No. 1, No. 2, No. 3) and better supplies. They have 15 divisions just north of the DMZ, and superior armored and artillery forces.

The North has 1,650 modern tanks as compared to 801 for the South. (See photo No. 4 of T–54 Medium Tank).

The North has 2,800 artillery pieces with greater range than the South's 2,200 pieces.

The North has 625 combat aircraft, including MIG 19's and 120 MG 21's, compared to 237 older ROK Air Force planes supplemented by 68 U.S. aircraft.[4] (See photo No. 5.)

The North has 2,800 surface-to-air missiles compared to none for the ROK armed forces.

The North has 19 guided missile patrol boats of the OSA and KOMAR class compared to none for the South Korean Navy.

Of great significance in any assault from the North are approximately 50 "Y" shaped tunnels. These heavily fortified tunnels have at both aperatures of the "Y", mobile artillery emplacements or missile launchers. Some of the artillery fire fans reach just north of Seoul, however, the North Koreans have FROG–5 missiles (Free Rocket Over Ground) which deployed in the "Y"-emplacements could easily reach Seoul and beyond with its 155 mile range. According to the International Institute for Strategic Studies, the North Korean's also have in their inventory the FROG–7 which is the latest in the free rocket series. In addition to improvements in the rocket, it has an even greater range than the FROG–5.

These "Y" shaped emplacements have been subjected to "hardening", that is, massive concrete walls and earth cover that, according to U.S. officials, have cost the North Korean Communists $200 million each to build. This would total $10 billion, and is probably a high estimate not taking into account the cheap labor available in the North. However, it still represents a sizeable commitment of resources on the part of the North Koreans.

Inasmuch as the South Korean Army has not assumed an offensive posture, I seriously doubt that those emplacements were built for defensive purposes.

Artillery is the greatest destroyer of troops and inflicts the greatest casualties of any military weapon. The first claim on General Stilwell's resources, then, is to "get the North Korean artillery off our backs." He would accomplish this with the use of "smart bombs" including laser guided bombs to destroy the entrances to the "Y" tunnels.

He would then use ROK troops as the main defensive force in the event he was successful in eliminating the North Korean artillery.

Lt. Gen. James F. Hollingsworth, then Commander of the I Corps Group, told the delegation that he inherited a command that would have probably lost heavily in any impending "Blitzkrieg" from the North. By playing "computerized wargames" General Hollingsworth developed a strategy that he is convinced would bring, if not victory to the U.N. command, at least a smashing defeat to any first thrust by the North Koreans.

Using known North Korean military strengths and their superiority in air, armor, artillery, and other sophisticated weapons, General Hollingsworth's computers initially coughed up the following as a result of an enemy thrust down the traditional central invasion routes around Chorwon. (See arrows 1 and 2 on following map.)

[1] In commenting on the observation that Kim is irrational, the Intelligence Directorate of CINCPAC took issue with my statement. Their opinion is that "Kim is just a zealous nationalist and a dedicated Communist wholly capable of executing faulty judgments based on misconception. He also suffers from tunnel vision where the Korean Peninsula is concerned and he is not interested in global detente, which can only hinder his goal of reunification by force of arms." On reflection, I would consider substituting the CINCPAC evaluation of Kim's mental condition for mine inasmuch as the end result could be the same.

[2] U.S. plans call for subsequent support to come from the 3rd Marine Division currently on Okinawa and the 25th Infantry Division located in Hawaii.

[3] U.S. airfields are located south of the 36th parallel at Osan, Kunsan, Taegu, and Kwangju.

[4] Half of the ROK Air Force is made up of U.S. Sabre F86–F Fighter Bombers. One American official stated the only other place you can find such aircraft is in a museum.

According to the computers, such a thrust would have ended five days from its onset with (*classified*) enemy tanks and (*classified*) thousand troops in Seoul. However, given the shorter, nothwestern route, and, according to Hollingsworth, the more logical route, under the multi-million dollar artillery fire fans (of the known concrete artillery tunnels built north of the DMZ, 30 are positioned to fire directly at Seoul), the enemy would enter Seoul again in five days, but with a vastly superior army comprised of (*classified*) tanks, and (*classified*) troops. Hollingsworth identified this as the Kaesong Munson approach. (See arrow 3 on the following map.)

While the figures cited by General Hollingsworth are secret, I will report that the former figures constituted a relatively spent army incapable of a further drive south without resupply and replacements, while the latter figures constituted a sizeable army capable of continuing the war south.

General Hollingsworth inherited a defensive system that was based on the assumption that the 1950 invasion route would be used in any new assault. But that invasion was from the 38th parallel, not the DMZ. Thus, an enemy thrust down the old routes would subject U.S. armor and infantry to a greater punishment because of the increased terrain in which we would have to operate. Hollingsworth concluded that the only logical route would be from the northwest which is shorter and under massive artillery cover.

In order to meet what he considered to be the obvious thrust from the northwest, General Hollingsworth once again went to his computers to determine the fire power necessary to make any thrust from the north so costly the enemy would never recover. His computation was based on three major factors: artillery fire power, tactical air support, and strategic bombing by B–52 strikes out of Guam. His goal was to bring overwhelming "lethality" and violence down upon the enemy. (In his words, "God help the S.O.B. (Kim) if he tries.") While not in exactly optimum position with regard to his artillery, Hollingsworth's 105 mm guns were available, closer and more manipulable than existent and hoped for tactical air support. The B–52's appeared as a relative constant factor on his charts. By redeployment of and assignment of additional manpower and stores of ammunition to his artillery, he reduced his previously overwhelming dependence on tactical air and brought that factor into reasonable proportions that could realistically be expected.

Thus, by making optimum use of available resources and what reasonably could be expected in the initial hours and days of an attack from the North, General Hollingsworth, assuming the neutralization of the "Y" emplacements, felt he temporarily had the capability of stopping the North Koreans "in their tracks." Accomplishing this, the Command assumes North Korea could only last from 30 to 60 days without massive aid from their Russian and Chinese allies.

THE TUNNELS

A factor of major significance to U.S. and Korean officials, and especially the military commanders south of the DMZ, were the tunnels being dug from north to south at tactical locations under the Zone. The tunnels are positioned to exit, according to General Hollingsworth, in advantageous areas in relation to known ROK military positions. The first tunnel was discovered on November 15, 1974, by a young U.S. Sergeant who was on patrol. Mistaking steam rising from a crack in the earth for a spring, he and his troops began to dig and were subjected to small arms fire from North Korean troops. Subsequent investigations indicated a massive tunnelling project had been undertaken by the North Koreans beneath the DMZ. Five days after the discovery, while investigating the tunnel, one U.S. Navy officer and one ROK Marine officer were killed by a North Korean explosive device. Several others were injured.

As a result of the initial find by the Sergeant, a second tunnel, the Chorwon tunnel was found. It is ironic that the discovery of the tunnels came at a time when the North had, again, fleetingly agreed to a dialogue with the South to resolve differences and ease tensions.

The following information is of extreme significance had the tunnels remained undetected.

Since November 15, 1974, there have been two tunnels detected, twelve thought highly probable, and three suspected.

They are of two types. The first is a relatively small infiltration tunnel 39 inches below the surface at some points that was built for use by agents, troops trained in guerilla warfare, and the like.

The second type of tunnel was much deeper and larger and was capable of being transversed by troops in full field pack three abreast. (See photos No. 9 and No. 10.) It is significant that the suspected and known-tunnel exits were in important areas relative to allied forces which provided cover for large numbers of troops.

Since the discovery of the tunnels, highly sensitive listening devices and other forms of seismic equipment have been used to detect underground explosions and similar indications of continued North Korean activity in this area.

The major tunnel detected by the U.N. Command was 1,200 meters south of the Military Demarcation Line. By using drilling equipment to take core samples, the U.N. Command discovered an area where foreign matter was located in the solid granite. By lowering miniaturized cameras, photographs were actually taken of the tunnel cavity. At a cost of One-Half million dollars, a tunnel was dug from the south, diagonally, which interdicted the communist tunnel, only missing the tunnel floor by six inches. At some points, this larger tunnel was 173 feet deep in the granite. The tunnel had been shored up by prefabricated cement slabs and contained small railroad tracks. In addition to allowing passage of 350 small artillery pieces per hour, the following results were arrived at by the U.S. and Korean Commands:

The four kilometer long tunnel would allow for the passage in one hour of 8,000 troops in full combat gear at conventional march rates and 10,000 such troops in a forced march.

The tunnel would accommodate 12,000 troops, with rifle only, at normal speed and 15,000 in a forced march.

The significance of the above becomes obvious. Using the element of surprise, the North Koreans quickly could have infiltrated several divisions behind or within our lines, in addition to hundreds of agents and operatives, to harass, disrupt communications and generally cause confusion within our forces.

Aside from their importance militarily, they are of great political significance because they prove the tenacity and complete dedication to move aggressively against the South by whatever means possible.

The tunnels leave no doubt of the intentions of Kim Il Sung and the North Korean leaders. Intelligence indicates North Korean Chairman Kim Il Sung ordered the construction of the tunnels in late 1971, and some, if not all, were to be completed by late 1975.

In the words of one military commander, "The preponderance of the evidence indicates he (the North Koreans) had planned to introduce huge numbers of troops through these tunnels in order to achieve shock and surprise."

For those who take the aggressive activities of the North lightly, I say to them, that the tunnels are further evidence of the malevolence and true motivation of the leadership of the North.

They are built for an aggressive war and the tunnels facilitate the Communist doctrine of "hugging the enemy to avoid his fire."

MODERNIZATION OF THE REPUBLIC OF KOREA ARMED FORCES

President Park is currently completing a five-year modernization plan of the armed forces of the Republic of Korea. His goal is to eliminate the vulnerability of his armed forces relative to the North Korean Army and will make the ROK Army capable, weaponwise, to handle an initial North Korean assault. However, any resupply after the first engagements would still have to come from the United States.

Quantitatively, only the ROK Army is on a level with the North. Its Air Force and Navy are far behind. The North has significant capability, in fact, "a tremendous capability" to produce its own military basics. They have the capability to produce their own submarines, and they now have approximately eight undersea craft in their fleet. Qualitatively, while numerically superior, the ROK Army is comparatively substandard in terms of equipment.

Part of the weapons deficit is due to the fact that the North Koreans have put 15 percent of their gross national product into their military machine. Further, one-half of the monies expended by Pyongyang was to purchase new military equipment. Consequently, while the North Korean Army is equipped with fully automatic AK 47 rifles, large units of the ROK forces, including the reserves, are still equipped with the old M–1 rifles—or no rifles at all.

The need for modernization of the ROK forces was brought about by the following factors:

a. Only 6 percent of the South's GNP went into maintaining the ROK Army. Under President Park's plan, however, the FY 76 budget for the armed forces will double and the cost of maintaining their forces will increasingly be taken over by the Republic of Korea. For example, in 1973, 50 percent of the cost of the ROK forces was borne by the United States. In 1975, 90 percent of these costs were taken over by the Korean government.

b. After the 1950 war, the United States left substantial quantities of equipment, most of which was of World War II vintage and which is now woefully obsolete.

c. Eighty percent of the money spent since the 1950 war has been used to maintain the old equipment originally left by the U.S. forces.

d. The U.S. purposefully constrained the modernization of the ROK forces in certain fields out of the fear that with an up-to-date army, the chance of an attack to the North, if the South were provoked, would be greatly increased.

Significant progress will be made in the years ahead by the South Korean government to make its army dependent of foreign hardware. For example, a Colt M–16 plant currently being completed in Pusan will have the capability of producing 120,000 rifles per year on a one-shift basis. In the short term, however, the Korean government is presently pressing the United States for advanced weapons technology. Their wants are mainly in the areas of advanced radar systems, guided missiles and aircraft. They have specifically asked for a squadron of F–4's and 60 F–5–Es. (See photos and specs No. 10 and No. 11.) In determining whether to provide Korea with advanced weapons systems, the U.S. must consider the possibility that the South Korean government may go to Eng-

land and France, to buy such weapons systems.

The Russians, meanwhile, are playing a relatively conservative game having supplied the North Koreans, in the fighter plane category, for example, with Model 21 of the MIG series. Kim Il Sung, according to our intelligence, has "complained bitterly" over this practice and has been refused access to the much more advanced MIG 23, the so-called FOX-BAT, which the Russians provided the Arab nations during the 1973 Yom Kippur War.

China has followed the same pattern as Russia and has provided the North Koreans with a lower level of military technology than it currently possesses. For example, China has only provided MIG 19's to the North Koreans. (It is of interest here that the Chinese developed the capability to produce the MIG-19 and in 1971 they reportedly over-produced them "like waffles. They were all over the airfields in China," according to our intelligence. Of no small significance, is the determination that they were of inferior quality—the engines reportedly lasted for 50 hours of flying time.)

As maintained earlier, the result of the North Korean's relatively huge expenditures has resulted in their being in an economic condition that one senior U.S. official characterized as "dead broke", having accrued one billion dollars in long term debt, with their current debt running at the $200 million level. The countries of Eastern Europe are disturbed over North Korea's lack of credit which has resulted in a 1% increase in interest on loans for them in the world money markets, an increase directly related to the North's indebtedness.

North Korea's poor cash position is a cause of pain for both Russian and China. However, if the United States should withdraw its troops from Korea, or upset the balance of power significantly by moving the Second Division south of the Han River, in the judgment of experts in the area, China and Russia would compete for assistance to North Korea.

It should be remembered that during the 1950 conflict, Russia gave $1.7 billion worth of assistance to the North, while the Chinese provided $300 million in such assistance in addition to 5 Chinese army groups totalling 600,000 troops.

In the opinion of both Korean and U.S. officials, any sign of retrenchment by the U.S. would give China cause to use North Korea to pursue its expansion and influence in the Asian world. In this equation, the age-old fears in this part of the world still exist. The Japanese still consider the Korean peninsula "a dagger pointed at its heart" and a stepping stone for a Chinese invasion of Japan, while China has historically looked upon the Korean peninsula in the reverse—a stepping stone for the invasion of China by Japan. (This is not a far-fetched idea. If the United States pulls out of Asia, the Japanese could re-arm in earnest, a development that would be looked upon as a "first-class disaster" by Asian countries. Of significance is the fact that our analysis feel it would disturb and frighten China to an alarming degree.)

Detente with Russia and China and/or a diminution of the Chinese-Russian confrontations should not be used as excuses by the United States for a lack of commitment or decreased vigilance or concern in that part of the world around the 38th parallel.

The Congress should make no mistake that the relatively symbolic forces of the United States in South Korea are maintaining peace and security not only on the Peninsula, but ultimately in the Western Pacific.

STRATEGIC IMPORTANCE OF THE REPUBLIC OF KOREA

As opposed to the nation-to-nation aspect of the delegation's visit and inspections in Korea, the briefings by the Headquarters of the Commander in Chief Pacific focused on the strategic importance of Korea to the maintenance of peace and to the defense of U.S. interests in the Pacific. The Pacific Command, then under Admiral Noel Gayler, covers 94 million square miles—one half of the earth's surface. His concern was not only the freedom of the Korean people, but the importance of Korea in terms of U.S. credibility and U.S. determination in the Pacific. The integrity of the Republic of Korea is directly related to the stability of one of our most important allies in the Pacific, Japan. If the Communists were to take over South Korea, it would give the Japanese reason to re-arm in earnest, including the development of a nuclear capability.

Admiral Gayler and his staff presented to the delegation a political and military assessment of Korea's impact and potential impact on U.S. foreign policies in the Asian area.

After having been an international trouble spot for over 20 years, in 1972 the two Korea's tentatively agreed to a "new era" of detente. Movement toward reunification ground to a halt before it really started and in late 1973, acts of aggression began anew. In 1974, the North sank two South Korean vessels and otherwise created a high state of tension around the United Nations command islands in the Yellow Sea. In February of this year, the South Koreans destroyed a North Korean patrol boat in South Korean waters off the East Coast. The North has continued to infiltrate agents into the South with as many as 600 estimated to be in South Korea as of the time of the delegation's visit.

Another part of this report discusses another of the aggressive acts of the North, the tunnels that were found in the DMZ area in November of 1974 and March of 1975.

This change on the part of the North was raised to a new crescendo brought about by the Communist successes in Indo-China. These events also marked the beginning of an accelerated erosion of American influence in the Western Pacific and Asia.

The U.S. military withdrawal from the Republic of Vietnam shattered the idea on the part of non-Communist nations in that part of the world that the United States could prevent a Communist military victory. The suddenness of Communist advances "coupled with U.S. Congressional refusal to provide additional military assistance to Cambodia and the Republic of Vietnam dramatically increased fears that the United States may not live up to its commitments," according to officials (then) at CINCPAC.

Admiral Gayler told members of the delegation that "the fall of Phnom Penh and Saigon have also intensified fears of higher levels of insurgent activity in Thailand and Malaysia. Although the Thai insurgency is presently manageable, the infusion of large-scale North Vietnamese military aid may create serious problems. Malaysia fears internal subversion and the possibility that neighboring Thailand will become an active target for Communist expansion. Although the relatively weak and splintered Malaysian Communist movement does not now pose a threat to the government, large-scale external Communist arms and training assistance would significantly alter the situation. In addition, the potential impact of Communist successes in Indochina upon Malaysia's large ethnic Chinese population is a source of serious concern to Kuala Lumpur.

"The lessening of the United States' role, coupled with growing Communist influence in Asia, have prompted the non-Communist nations in the region to make policy adjustments. The trend appears to be to continue close association with the United States, while at the same time, emphasizing the need for greater self-reliance, working to strengthen regional associations, and seeking accomodation with Communist states. This accommodation/recognition will apparently involve not only the long established Communist governments of the People's Republic of China, North Vietnam, and North Korea; but also *GRUNK*[5] (the Communist Government) in Cambodia and the Provisionary Revolutionary Government (PRG) in South Vietnam. In fact, seventy-five nations, to include 14 non-Communist PACOM countries have already recognized GRUNK, while over seventy other nations have established diplomatic relations with the PRG."

U.S. officials in Hawaii felt that the historic future lies in the Great Pacific Basin where most of mankind lives. *The question facing the U.S. government and the Congress is, will the United States be there and will we defend South Korea which is a key to our continued presence in that part of the world.* Not only is our presence there one of deterring war, but in part, guaranteeing our access to the peaceful use of sealanes vital to America's economy.

Admiral Gayler stated that; "we have got to secure free access to the sea and air lines of communications that are vital to the United States, vital to Japan, and to all the independent countries of Asia."

The heart of the question is the future role of the Japanese. One member of the delegation asked if there were not strong feelings in Japan against the U.S. military presence. We were informed that the opposite is true; their major concern is the Communist threat from the mainland. The Japanese have had several options over the past few years including, one, an official move to get us out of our Japanese bases or two, they could have re-armed in earnest. They opted for a third position, which was to improve and mature the security relationships between themselves and the United States.

Japan has apparently settled for contributing what best they can, that is, bases and accessability to the great Japanese economy. We in turn, offer them the protection of a nuclear deterrent and cooperation in the development of defensive military technology. Our goal is to build the Japanese defense forces to the point where they can gradually assume full defense of the Japanese Islands. Their greatest needs—for which they have little or no capability at this time—are in anti-submarine warfare capabilities and air defense capabilities.

The development of a self-sufficient totally Japanese defense capability will be of benefit to both the United States and Japan. It will be consistent with Japan's constitutional restrictions, but most important, *it will relieve any fears on the part of the countries on the mainland of Asia which would result from the development of a superior Japanese offensive capability.*

Thus, the maintenance of the integrity of South Korea is of global significance in that it removes the threat of a re-armed Japan and proves to the Communist countries of Asia as well as the non-aligned, that the will and the resolve of the United States to maintain its current role and rights in the Pacific have not been weakened by the events of last spring. We know we have lost credibility in the debacle of Vietnam and if we do the same in Korea, we will in all likelihood have lost totally the ability to influence events in Asia.

The Asian perception of U.S. policy is based in large part on the particular reaction of the United States Congress to a given situation. If the Congress is strong and willing to support what the United States has committed itself to do under the terms of the Armistice Agreement, i.e., to prevent the North

[5] "Khmer Royal Government of National Union."

Korean takeover of the South, such action, in the judgment of our people in the Pacific, would be more of a deterrent to aggressive Communist acts than U.S. military might.

In the words of one of the most knowledgeable civilian advisors in CINCPAC, "It all hangs on what we do in Korea—if we chicken out there, we have had it."

* * * * *

SUMMARY AND CONCLUSIONS

I have concluded, and my colleagues on the delegation agreed with me during our meeting with President Park, that the following conditions can and will be met by the United States of America:

The United States is not leaving and will not leave the Republic of Korea under existing conditions;

The United States must bring the Republic of Korea Army to parity with the North Korean Armed Forces in terms of sophisticated weapons and weapons systems;

When parity is reached, the United States will carefully watch and react appropriately to any further escalation of arms in the North, either internally or from outside sources;

Finally, only by keeping the Second Division north of the Han River will we keep Kim Il Sung north of the DMZ.

While the recent world recession has not left the Korean economy untouched, on balance the delegation is satisfied in the knowledge that 25 years ago they contributed to saving a country and a people that was well worth saving, and they are now firmly convinced that the United States must fulfill its commitment to the Republic of Korea to whatever limit is needed to sustain that nation.

In addition to this report I further commend the following statements to Members. They were presented to a symposium on Northeast Asia security June 20–22, 1977, by the Strategic Studies Center here in Washington. I was a member of the panel and was deeply impressed by the high quality and intelligence of the panelists who discussed in great detail the problems faced by the free world in Eastern Asia and the difficulties and dangers posed by the administration's plan to withdraw U.S. troops from South Korea by 1981. I would refer at this point to statements which I listened to in the sessions in which I participated. The conclusions reached by these experts on Monday and Tuesday of this week support the findings and the report of the U.S. congressional delegation of Korean war veterans that I presented to Speaker Albert on November 1975.

I would begin this portion of my statement with the conclusion of the paper presented by Richard B. Foster, the Director of the Strategic Studies Center:

Conclusions

It may be more than coincidence that the Eastern and Western anchors—NATO/West Germany in the East, and Korea/Japan in the West—of the free world's security alliance framework are the shining examples of international free market industrial and economic growth. Both West Germany and South Korea are in direct competition with the totalitarian rule and command economies of Communist regimes, militarily supported by the Soviet Union. Without the stability made possible by U.S. security guarantees to these dynamic economies, it may be doubted that the world would be as we now know it. We are still in midstream in this pattern of global political-economic-strategic evolution in competition with the Communist world. The future in large measure rests in U.S. hands and in the degree of true partnership we can achieve with our allies.

Finally, I should like to quote from my January paper.

"The United States is not a lone symbol. The age of global interdependence has arrived. The United States occupies the apex of the U.S.-Western European-Japanese triangle. It is within these three areas that the greatest potential exists for the underpinnings of a stable community of nations with like goals and economic systems that comprise the international free market area. As Zbigniew Brzezinski has said, 'Western Europe and Japan offer greater possibilities for initiatives designed to weave a new fabric in international relations, and because, like America, they art in the forefront of scientific and technological innovation, they represent the most vital regions of the globe.

It is no accident therefore that the U.S. ground forces have been deployed on a long-term basis in these two vital regions, eastern Europe and northeast Asia, in two countries divided after WW II—Germany and Korea. They symbolize America's intention to retain its vital interests, its nevertheless interdependent roles, recognizing that "the United States cannot shape the world singlehanded, even though it may be the only force capable of stimulating common efforts to do so".

The statements include:

"Northeast Asian Security: A View From Japan" presented by Mr. Hideaki Kase, Center for Study of Security Issues; "The Synthesis of Political, Economic and Strategic Factors in Northeast Asia" presented by Richard B. Foster, director, Strategic Studies Center; "Soviet Asian Policy" presented by Gen. H. Matsukane (retired), Japanese Self-Defense Force; "Chinese Policy and the Korean Peninsula" presented by Dr. Harold C. Hinton, George Washington University; Japanese Perspectives on Security Concerns" presented by Gen-I. Sugita (retired), Japanese Self-Defense Force; "The Military Balance and Threat: Korean Perspective" presented by Dr. C. W. Kim, National Defense College of Korea. Dr. Kim received his Ph. D. from Columbia University, and, "Challenge and Response in the Northeast Asia of 1985" presented by Gen. R. E. Stillwell, (USA, retired), senior advisory consultant, Strategic Studies Center:

NORTHEAST ASIAN SECURITY: A VIEW FROM JAPAN

(Strategic Studies Center, Symposium on Northeast Asia Security, June 20–22, 1977)

(By Mr. Hideaki Kase, Center for Study of Security Issues)

Throughout the postwar period the security of Japan and Northeast Asia has been based almost entirely on the dominating presence of the United States. The U.S. presence in this area has reflected in turn its own perceptions of its world role and its evaluation of the potential threat to its interests both in the area and worldwide. Generally, the postwar period is divided into the cold war era of direct confrontation with monolithic communism and era of detante reflecting a belief in the possibility for other importance of lessening tensions and a more complex appraisal of the communist threat. In the last years or so, the initial optimism over detante has significantly eroded. The continued massive buildup of Russian forces, to include for the first time an international offensive capability, to rough equivalence with those of the United States. The failure to achieve a meaningful SALT agreement; the "betrayal" of the Helsinki agreement; Soviet adventurism in Africa; and continuing tensions in the Middle East all have given rise to an increasing concern that we may be returning to the cold war era of dangerous direct confrontation.

Our perception in Japan is quite different. Rather than a return to the cold war, we see these events as the likely harbingers of a new era; an era likely to be characterized by the most profound changes in the international structure since World War Two. It is a prospect which profoundly disturbs us and is forcing us to face unpleasant realities and choices that we would much prefer to ignore. This new era might be described as the era of American retrenchment and reappraisal of international commitment in the face of the reemergence of a multipolar balance of power. Before discussing this new era, I wish to emphasize that we in Japan do not criticize America's new policy direction. On the contrary, and perhaps because we ourselves have deliberately sought to minimize our international involvement and role for more than a generation we sympathize, and consider it probably inevitable given the changing world situation. But we are indeed disturbed by it and only very recently, even in the last few months, beginning to recognize fully the hard choices that lie before us. What are these basic changes? I would single out three:

1. The decline of absolute military superiority on the part of the U.S. and the concomitant development of Russian military power, including its new offensive capability, and particularly from our point of view its new naval capabilities, to parity with the U.S. and potential superiority.

2. The decline of relative U.S. economic power (from about 50 percent to about 30 percent of the world's GNP) and the recovery of Western Europe and Japan. From our point of view nothing so epitomizes the difference between the cold war years and today as the change in the size of our own economy and our expanded technological capabilities. In the fifties we were a small economic power, producing for export principally labor-intensive low technology goods. We are now the third-largest economy in the world and even at the significantly lower growth rates likely to surpass the USSR in total GNP in the next decade and our technology, except in purely military areas, is equivalent to that of the most advanced countries. Our trade flow is now enormous. Our international direct investment is growing very rapidly. However much we wish to avoid major international responsibilities it is becoming painfully obvious that we can no longer do so. We are no longer the "Switzerland of the Orient"; we are a sleeping giant, absolutely dependent upon and committed to the international economic and political system and its preservation.

3. The regrettable but understandable decline in American determination and willingness to take a direct role in preserving peace and maintaining the status quo within its sphere of interest. Given the two changes in the world situation outlined above, this is perhaps inevitable. And we in Japan rather than being critical of it are all deeply grateful for everything that the U.S. has done in carrying such a heavy burden for so long. But we are very concerned that in their anxiousness to disengage, the Americans may be too precipitant and not allow us sufficient time to adjust to the new environment.

We have also not failed to notice that the focus of the new American retrenchment initiatives has been in Asia. And if I were to attempt to date the beginning of this policy I would pick the announcement of the Nixon Doctrine in Guam in 1969. At the time it was widely heralded as marking the beginning of a withdrawal from Asia in general and from Vietnam in particular by, in fact, many of the people who now hold senior positions in the new Carter adminis-

tration and because of this we recognize that the recent announcement of Korean troop withdrawals clearly has a precedence whether or not one cares to view it as a continuation of the Nixon doctrine policy. But any main foreign policy doctrine is really a flexible context within which specific policy decisions are made which in turn determine the nature of the doctrine over time. And it is the specific events and decisions which have led to our growing concerns. The most important of these was, of course, the American decision to abandon Vietnam. From our point of view in Asia we would not have been so concerned had America lived up to its commitment to the end even though it might have been a futile effort. An American defeat militarily would not have bothered us so much since it would have been clearly attributable to the inadequacies of the South Vietnamese regime.

What bothers us (and here I think the concerns are even greater in Sotheast Asia than in Japan) is that the United States, confronted by the flagrant violations of the peace treaty that it had urged upon the South Vietnamese and a quadrupling of Russian aid to North Vietnam, reduced and in the last year severed completely its aid to South Vietnam, and even when the South Vietnamese continued to fight on against overwhelming odds refused to come to their assistance. Although our press and mass media generally followed yours in explaining this away by focusing on how much America had done in the past and viewing this as an isolated instance where America had finally become disillusioned and gave up, I can assure you that the reaction of the political leaderhip of all parties in Japan (whether they were pleased or saddened by the outcome) of business and academic leader, was one of real shock. The lesson was obvious.

If America could abandon them, can we really count on its living up to its commitments to us obviously not in the short run but over time? I want to just make the point here that I am not in any way criticizing the American decision to give up. All of us in Japan were well aware of the endless frustrations of your involvement and at least we think we understood and certainly sympathized with the domestic political pressures that brought it about. What I am saying is that for us in Asia it was a rude awakening to the emergence of the era of American retrenchment. Thus it is not surprising that it was in the months immediately following the fall of Saigon that we began in Japan our first serious policy level discussions of defense and international security issues since the war

Since then much of our initial concern has abated and been overshadowed by other pressing international and domestic issues and problems. In the last year, however, this concern has gradually become stronger again as we have witnessed the greatly expanded and increasingly ominous presence of the Russian Pacific Fleet maneuvering directly off our coast. The Russian Pacific Fleet is now 1.2 million tons, twice that of the American Seventh Fleet and in the last year or so has stepped up its operations off our shores.

Although this is not reported in the American press it has become a big issue in Japan particularly as tensions between the USSR and Japan have increased over specific issues such as Russian intransigence and belligerence over the landing of the Mig-25, the bitter and from our point of view the unreasonable negotiating posture taken by the Russians over territorial fishing rights, and their continued unwillingness to even discuss the return of our Northern islands which are an integral part of our national territory which is still occupied by the USSR. I think it is important for Americans to realize just how strongly we Japanese feel about those issues. For the first time in post-war history, for example, all Japanese political parties, including the Socialists and Communists, were unanimous in publicly expressing their opposition to the high-handed Russian position on these three issues.

Thus, it was in this context we received the sudden news that America had decided to withdraw all of its ground forces from Korea by 1981. Since this marked a radical change in the U.S. policy towards our nearest neighbor and since our government had received no indication that such a decision was forthcoming (despite President Carter's campaign statement which we think of as normally not necessarily binding on an American President-elect) we were, to say the least, surprised and worried. The Republic of Korea is, of course, of the utmost importance to our national security and we had confidently expected that we would be consulted prior to any major decision of this sort. As our Prime Minister, Mr. Fukuda, has stated, the U.S. decision to withdraw from Korea is not directly our business, and we feel it improper for us to either criticize or praise it. Our problem, and the source of our concern, is that the impact of such a decision is very much our business and to be taken by surprise in this way is very disconcerting.

The problem we have to face is how to adjust to the new situation. And our fundamental concern is whether we will have to do this alone or whether we can look forward to doing this in close and careful coordination and collaboration with our most important and closest ally. For Japan this problem is quite probably more difficult than it is for any other country. Not only are we an economic and technological giant which means we must act with great care but we are also psychologically and physically the least prepared of any major nation to deal with serious defense issues. Particularly because of our unpreparedness it seems to me that the United State has an obligation to ensure that the development of our defense establishment be carried out in close collaboration with America not only because it is clearly in your own national self-interests, but because our current situation is due in no little part to post-war American policy in Japan.

The extreme pacifist sentiment which endures in Japan to this day was embraced gladly by the overwhelming majority of the Japanese people after the war who were thoroughly sickened and disillusioned by our traumatic defeat. As a result not only is there no possibility that Japan would ever go back to the extremist militarism of the past, but there is no serious movement in Japan, no serious desire on the part of the Japanese people, to even rearm. Even the Self Defense Forces which we have are based upon the National Police Reserve which America created at the outbreak of the Korean War while we were still under the occupation. Our pacifist sentiment is not just unusual, it is unique in world history.

But we can hardly argue that it is based on historical precedent, that the Japanese possess some special indigenous trait. It has rather been made possible by continued and repeated encouragement from abroad and by our abiding confidence in the ability and willingness of America to defend us. As any Japanese will tell you, we would much prefer that this situation continue forever. But it would be hardly fair for us to insist on America doing this any more than it would be reasonable for us to depend on it over the long term.

We are thus only now, confronted by a changing world situation and the emergence of a new American foreign policy, beginning to realize just how difficult our situation is likely to become and how little prepared we are to cope with it. Above all we will need time. Time to gradually adjust psychologically and to prepare physically. And secondly we will need help, and the good will and the close cooperation of the United States in particular, to ensure the successful development of a reasonable and sensible new international role for Japan. My great fear, one which is shared by a large number, perhaps the majority, of the public and private individuals who are concerned with these issues, is that our own unwillingness to face reality, coupled with an American failure to fully understand our problems and because of this to effectively help us, could lead to a sudden and destabilizing overreaction in Japan some years hence.

One of the problems on the American side is that your most distinguished experts on Japan are quite naturally greatly influenced by their past experience with Japan and by Japanese sentiment formulated in the early post-war era. It is a problem complicated by the fact that these views (even to the terminology used to discuss Japanese pacifist sentiments) are shared by the majority of the older generation of Japan who have schooled themselves not to even think of the possibility of rearmament but also are otherwise practical men and quite capable of taking action should a real need arise. It is thus all too easy for both sides to fail to recognize profound changes in the sentiment of the post-war generation of Japanese and even overlook simple truths. The reality is that if Japan is threatened, or if Japan feels that there is a possibility of imminent threat to its national security, she will react, whether the government is one of the left or one of the right, to ensure to the best of her ability her survival just as would any other nation.

Besides our concern over the continuing Russian buildup and danger of mounting tensions, our nascent interest with defense issues is currently focused on three areas; concern over any possible threat to our vital sea lanes, particularly through Southeast Asia, concern over the future of Taiwan which is economically and strategically very important to us, and concern over the future of Korea which is of central importance to our defense. Should the American decision to withdraw its ground forces be as destabilizing as at least some American military officers believe, the impact on Japan would be enormous. Should it actually lead to war the impact would be traumatic. Should North Korea win, I feel confident in predicting that Japan would feel forced to react decisively—either by quickly trying to accommodate to the communist powers, bringing a pro-communist government with a mandate to seek rapid "Finalization" or a rightist government. Either would be committed to a very major rearmament policy where the question of acquisition of nuclear weapons would be based solely on our perceptives of what would be in our own self interest at the time. The reasoning behind my case for why our reaction would be so strong is complicated and although it is a common position in Japan, I find it is often not understood by Americans. Since there is not time now to go into it in detail, I have also distributed a recent paper in which I have developed it in a reasonably elaborate scenario.

I want to make clear that our concern in Japan is not extreme at this time. We are fully confident that America will continue to act responsively in its foreign policy, that it will meet its commitments to us, to the Republic of Korea, and to its other allies. We are, however, increasingly concerned, as we face this new world situation, with the fact that we really are not prepared to cope with it. We are waking up to the fact that we will have to play a larger role but we are not sure of what this should be or what you think this should be. What is clear is that

a reasonable and gradual evolution will require major new initiatives on both the Japanese and Hawaiian side to provide for closer collaboration and cooperation than we have had in the past. In the past close consultation was not so important whereas in the future it is likely to become essential.

Prehaps the greatest problem we in Japan face in this respect is that we lack the appropriate mechanisms to deal with these issues. We do not do any long range strategic planning, for example, our anticipated restrictions on our military establishment are such that our government cannot even postulate the existence of a possible threat among other things and even our leading military experts do not really understand terms such as "complementarity" of weapons systems or what Japan might do in terms of "burden sharing." We will need time, and we will need help, and I sincerely hope we can count on your great country for continued full cooperation on both counts.

The Synthesis of Political, Economic and Strategic Factors in Northeast Asia

(Strategic Studies Center, Symposium on Northeast Asia Security, June 20–22, 1977)

(By Richard B. Foster, director, Strategic Studies Center)

INTRODUCTION

First I wish to welcome our distinguished visitors from Japan and South Keorea together with their American counterparts. Together we are participants in the continuing research dialogue began in January of this year in Seoul and Tokyo, on the changing strategic equilibrium and the long term significance of U.S. military, political and economic policies and actions in Northeast Asia. We also welcome the many U.S. participants from the government, including the Congress, as well as from the private sector and academia. As both direct participants and observers you enrich our program for the next three days, and I hope that you will take advantage of the occasion to get better acquainted with our Korean and Japanese visitors during and outside the scheduled program. Finally, I wish to thank the Cosmos Club and its staff for the warm reception we have received. I hope we can in some way repay the gracious hospitality that Dr. Min and the AIPP showed us in Seoul and that Mr. Kase and his Committee for Defense Analysis extended to us in Tokyo.

OUR INCREASING INTERDEPENDENCE

We meet in the midst of an ongoing American debate occasioned by President Carter's decision to withdraw U.S. ground forces from Korea in the next four to five years. Therefore, we meet in the most propitious time to give consideration to the factors affecting the future security and prosperity of the Northeast Asian nations, and the security and interests of the United States. Certainly we could not predict this historical milieu when we initiated the symposia with our Korean counterparts in early 1976. And in the five months since we met in January in the first symposia in Seoul and Tokyo to examine the interaction of these political, economic and military factors affecting the strategic equilibrium in Northeast Asia, there have been many momentous events and changes in that brief passage of time.

The pace of change is increasing and the effects are rippling through Northeast Asia and through a world interdependent as never before. Every change of U.S. (or USSR) strategic policy and action in any region of the globe has an impact on the sense of security and confidence in economic development in regions half a globe away. To a strategist Northeast Asian nations are not a regional entity unto themselves but are part of an inseparable continuum of the global interests and values of the United States and its free world partners. There is, therefore, a methodological challenge confronting national strategic planners and policy makers. We must look at Northeast Asia in a holostic approach, in a global context. Anaxogras, the Greek philosopher, held that "Things that are in one world are not divided nor cut off from one another with a hatchet." While we are examining the interests of various nations and strategic factors separately, please keep in mind that not only are the nations of the globe interdependent, but the political, economic and military factors also are mutually interdependent.

THE SYMPOSIA AS A STRATEGIC RESEARCH FORUM

The three symposia—this one, and the preceding ones in Seoul and Tokyo last January—together constitute a strategic research forum, through the medium of a multinational, interdisciplinary study team. SRI and its publisher, Crane Russak, have made preparations for publishing a book incorporating the papers and the proceedings of the three symposia. In addition, the first issue of SRI's Strategic Studies Center's new journal, "Comparative Strategy", will contain articles derived from the scholars' research done in preparing the papers for these symposia.

The symposium has been designed to analyze in detail the salient political, economic and strategic factors which bear upon and affect the future of Northeast Asia, and to synthesize the findings of the detailed analyses into a coherent description of the Northeast Asia region as it relates to the global environment. This is a formidable task. I believe that we all agree, however, that it is an important and timely task to undertake. We deal with a critically important focal point in the international system where the vital interests of four of the five major power centers of the world intersect. Even the fifth power center (Western Europe) is indirectly involved and affected by what happens in Northeast Asia. Interdependency is already a reality in today's international military and economic environment and increasingly will be a basic characteristic of the future global political order.

BACKGROUND

As is evidenced from the current debates in Congress and elsewhere in the United States, as well as the deep interest and concern expressed in Japan and Korea, President Carter's decision to withdraw U.S. ground troops from Korea in the next four to five years is having a profound impact on both the reality and preceptions of the changes in the strategic equilibrium in Northeast Asia and the entire Pacific basin, and on the global strategic balance as well. In earlier studies, SRI has examined some of the implications of maintaining or withdrawing US ground forces from South Korea. The earliest study, completed in early 1975,[1] made an extensive analysis of the many factors affecting US decisions to maintain or to withdrawing in whole or in part Korean-based US ground forces. One study prepared for the January 1977 Symposium reviewed the changing role and importance of South Korea in U.S.-Asian relations.[2]

Another study analyzed the competing and conflicting interests of the principal great powers in Northeast Asia, in the historical, political, military and economic dimensions.[3] More recently, the American Enterprise Institute, in its AEI Defense Review,[4] published two views on the question, "Withdrawal of U.S. Troops from Korea?", by Sen. George McGovern (pro) and General Richard G. Stilwell, U.S. Army (Ret.), (con). I will not attempt to summarize these studies in this present paper. Copies of these four studies can be made available to those interested.

Footnotes at end of article.

THE CHANGES IN U.S.-KOREAN POLICY

President Carter has made clear a change in U.S. policy—in statements made on March 9 and again on May 26—to withdraw all U.S. ground forces from Korea within the next four to five years. He has said, "The decision has been made" and cited changes in the overall strategic situation in the world since the 1940's and early 1950's, and changes on the Peninsula itself as justification of the change in U.S. policy. He stated that it had "never been a policy of our Government for permanent placement of ground troops in South Korea" and reiterated that the U.S. commitment to the security of South Korea was "undeviating," "staunch" and "firm". The President promised close consultation with our South Koreans and Japanese allies in effecting this gradual withdrawal. He first dispatched the Army Chief of Staff, General Rogers, and later sent the Chairman of the Joint Chiefs, General Brown, and the Under Secretary of State, Philip Habib, to explain the policy in talks with our allies.

While President Carter's policy of withdrawing ground troops has caused considerable stir of late, it is consistent with his views prior to taking office. Soon after the New Hampshire primary, Mr. Carter announced his intention to remove the troops. In a May 10, 1976, Newsweek interview, he associate this policy with a human rights question, calling President Park "much too autocratic" with "very little concern about human freedoms and human rights." Troop withdrawals will be possible because "South Koreans would have a competitive force with that of the North."

Therefore, current U.S. policy in Korea is derived from three considerations: (1) the U.S. concern as the world leader of democratic values with human rights; (2) the changed world strategic situation; and (3) the increased ability of the South Koreans to maintain the overall military balance without U.S. ground troops. All three are relevant to U.S. strategic planning and policies not only in Northeast Asia but to other critical regions in the world.

HUMAN RIGHTS

On the matter of human rights, here clearly is a factor that imparts on all U.S. policies regardless of region. To consider human rights in South Korea—which I feel properly deserves consideration—requires the development of a perspective. Several Confucian-style imperial rule on the Korean Peninsula—followed by forty years of Japanese colonial rule—does not provide a basis for direct comparison with current U.S. political values and institutions, Korean lack of experience in parliamentary government as well as in divided but equal government consistent of co-equal executive, legislative and judicial parts—and the independent role of the press—reduces the likelihood in the near-term of achieving political institutions and values in the Republic of Korea comparable to those currently found in Western democracies. Thus South Korea's attempt to make parliamentary democracy work in the years between 1948 and 1960, while not inconsequential, did not achieve a stable government.

We must also remember that Korea was divided along the Fortieth Parallel after World War II as a result of U.S.-Soviet arrangements, reflecting the military realities of that time. This division of an ancient nation with a cohesive culture, traditions, language, and people has a parallel only in the divided Germany. Vietnam had an historical division between North and South, and is thus not a relevant model for analysis of the two Koreas. Rather, in Korea, the South struggles with the problems and rewards of the free enterprise system and an imperfect democratic political order. The

North has reverted to a form of imperial one-man rule under Kim Il Sung, with a totally controlled command economy.

The Korean War of 1950 put an enormous strain on the young Republic of Korea. It left the nation devastated economically, and exhausted and confused politically. During the months of maneuvering and disorganization within the National Assembly in the crisis associated with the overthrow of President Syngman Rhee, the crime rate doubled, GNP growth rate halved, and the economy stagnated. Political order, national defense, and economic progress were obvious priorities and have substantially improved since General Park Chung Hee took over in May of 1961.

Restrictions on human rights are not unprecedented in a wartime situation.[5] During our own Civil War, President Lincoln restricted the writ of habeas corpus. President Roosevelt found it necessary to place our citizens of Japanese origin in interment camps in World War II. Political curbs in South Korea have coincided with crises in national security. Martial law was declared in October 1972, after the dialogue with the North presented wider opportunities for internal subversion. Controls stiffened in 1975 after Indochina fell and North Korean President Kim Il-Sung journeyed abroad to drum up support for his own "liberation of the South." Thus, at least, one should ask the question whether withdrawal of U.S. ground troops will advance the cause of human rights in South Korea.

This leads to the broader question: How can the issue of human rights be invoked properly and evenhandedly in dealing with allies, neutrals and adversaries? Yet, Americans cannot afford to be cynical or indifferent to the importance of democratic political and social values as an important force in the development of U.S. foreign policy.

THE CHANGED STRATEGIC SITUATION AND CONSULTATION

The second consideration in President Carter's policy for force withdrawal is that the international strategic situation has changed. At his May 26 news conference the President noted that better U.S. relations with China and the Soviet Union had changed the "overall strategic situation" from the Cold War era of the 1950s when South Korea was involved. He also cited the great economic progress made by South Korea in recent years, and the "deep purpose of the South Koreans to defend their own country." These factors deserve the most careful consideration, and in fact, they represent in part a continuity of the Nixon-Ford-Kissinger outlook.

We are all familiar with the concept of "detente" which emerged in the Nixon-Kissinger years; that is, that the Soviet Union is no longer a revolutionary expansionist power, thus making possible an "era of negotiations" in an "atmosphere of detente." That policy was also driven by the Vietnam experience, leading to the belief by the policymakers that the American people would no longer support an activist role in international affairs, especially if such activism might lead to another land war in Asia. The Nixon Doctrine was specific in laying upon American's Asian friends and allies the burden of fighting the Asian ground wars—with U.S. help from the air and sea forces expected. Thus President Carter's plan to leave the U.S. air forces and an offshore naval presence to defend Korea is at least partially consistent with the previous administration's policy.

In March 1977, Prime Minister Fukuda of Japan paid a State visit to Washington. After his sessions with President Carter, the Prime Minister expressed satisfaction that the U.S. withdrawal would be conducted "in a phased-out fashion, so as not to upset any balance." He mentioned that the President may increase U.S. air power in South Korea. Finally, the Prime Minister explained that "peace on the Peninsula . . . affects, naturally, Japan and the whole of Asia" including the ASEAN nations whose leaders specifically asked him "to communicate to President Carter their concern" over the planned U.S. withdrawals. The Nixon-Sato Communique (November 11, 1969) stated simply that the security of the Republic of Korea was essential to Japan's own security." The Ford-Miki Communique of 1975 stated more vaguely that "the security of the Republic of Korea is essential to the maintenance of peace on the Korean Peninsula, which in turn is necessary for peace and security in East Asia, including Japan." The Fukuda-Carter Joint Communique (March 22, 1977) noted "the continuing importance of the maintenance of peace and stability on the Korean Peninsula for the security of Japan and East Asia as a whole."

The government of South Korea has been even more concerned about the possible long-term effects of American troop withdrawal. Their concern has an historical basis. The U.S. government has recently declassified certain historical documents relating to our role in Northeast Asia. The material shows South Korea's sharp reaction to U.S. troop withdrawals in 1949. Seoul then used direct diplomatic protests and urged third countries such as the Philippines to have the decision reversed in Washington. The U.S. Ambassador in South Korea reported at that time that "the clamor and fear aroused by troop withdrawals have far exceeded" his expectations. It now appears a sense of crisis bordering on panic has enveloped higher circles of the Korean Government which in turn spread to the people at large." This reaction may have seemed extreme at the time, but the Korean Government realized the threat more accurately than our government. One year after our 7,500 troops departed, 60,000 North Korean troops launched the Korean War, which ended only after 33,000 American deaths, and the deaths of many soldiers of our allies. The greatest casualties by far were of course suffered by the South Koreans: 415,000 military deaths, not counting many missing, nor the enormous civilian death toll and economic dislocation and destruction.

The basic question regarding the President's decision is: Has the international strategic situation really changed in the ways he and his advisors perceive the changes—particularly in the USSR—that would undergird his view that the removal of the U.S. ground forces from Korea would not be strategically destabilizing? This question in turn leads to other specific questions our speakers and panelists will addres in this symposium:

(1) What will the impact of the troop withdrawal have on Japan's domestic politics, its international role, and probable rearmament beyond its current 1% of GNP for defense?

(2) How will this action affect the perception of the validity of U.S. commitments to our allies and the creditability of our strategic and tactical nuclear deterrent to allies and adversaries alike?

(3) What is the impact on possible nuclear proliferation in Asian nations?

(4) What does this step do to the triangular relationship among the United States, China and the Soviet Union?

(5) Are we unilaterally throwing away our most valuable bargaining chip for obtaining a stable solution to the Korean situation?

(6) What will be the effect on the regional military balance, particularly as it affects Japanese-Korean security arrangements and policies?

(7) What will this move do to the free market economies of South Korea and Japan, and will there be a major economic impact on ASEAN nations in the Pacific Basin?

In my subsequent remarks I shall allude to but will not attempt to answer these questions; these and others will be examined in detail over the next three days as we proceed with the symposium.

THE MILITARY BALANCE ON THE KOREAN PENINSULA AND SOUTH KOREAN ECONOMIC CAPABILITIES TO SUPPORT A LARGER FORCE

This topic will be discussed more fully tomorrow morning, but a few major strategic military-economic factors are worth considering.

First, then is a strategic asymmetry in geography between North and South Korea. Geographically, the North has the military advantage of bordering on its two primary allies—Russia and China—which facilitates the resupply of arms. North Korea's capital is 90 miles from the DMZ, while Seoul—with 20 percent of the South's entire population—is only 30 miles from the DMA. The North—with its offensive arms and strategy—could launch a blitz krieg attack with the limited objective of seizing Seoul before the Americans could react in force.

Second, it is to be expected that Pyongyang will continue its own military buildup. Presently spending about $878 million (versus $1.5 billion for Seoul) yearly for its military, the North operates off a smaller economic and population base. In the past it has spent up to one-third of its GNP for military while receiving USSR and PRC military aid (estimated at least $100 million per year).

Third, we must consider the nature of the regime in the North which possesses this military force. By all indications, the aging Stalinist ruler Kim Il-Sung of North Korea seems determined to unify the Peninsula under his leadership before he dies. Tensions persist along the De-Militarized Zone, where two American officers were brutally slaughtered by picks and axes last August, where two major tunnels have been uncovered, and where South Korean soldiers were ambushed just last month. In this tightly regimented society, such actions most likely come from orders given at the top.

Indeed, North Korea remains the most tightly centralized society on earth. Since the Fifth Party Congress in 1970 consolidated his personal power, Kim Il-Sung heads the Korean Workers Party as Secretary-General, leads the Party's Central Committee, Political Committee, and Military Affairs Committee; serves as Chief of State, head of the Central People's Committee, State Administrator's Council, Supreme Commander of the Armed Forces, Chairman of the National Defense Commission, and more. In the 1950s the party propaganda spoke of "collective leadership," but this line has long since been dropped. There remains no collectivity—only one supreme and semi-divine leader.

The advisors around Kim are either members of his immediate family—his younger brother, wife, and son have all amassed high positions—or those proving strict loyalty over twenty five years. All but one full Political Committee member served with Kim in Manchuria before the Soviets sent him home to rule. These elements of the ruling clique are strictly military—fighting as guerillas against the Japanese and then as regulars against the South Koreans and Americans. There are no party theorists or technocrats who usually round out Communist ruling regimes. By any account, the North Korean leaders are poorly educated, with few if any of them having more than a primary education.

As a result, it is difficult to assess the leadership's perceptions or intentions with great accuracy. In Kim's mind, withdrawal of U.S. ground troops may be interpreted as a simple U.S. retreat, one upsetting the military balance. To him, it may indicate the end of the American commitment to South Korea—re-

Footnotes at end of article.

gardless of U.S. statements to the contrary. If he believes that the U.S. is no longer willing to stand "in harm's way," the effectiveness of deterence cannot be lowered.

Fourth, the South Korean Government regards as genuine the threat from the North and is committed to make the necessary investment for its own security. Over the years, Seoul has gradually increased defense spending as the overall economy has expanded. In 1975, defense spending of $921.2 million comprised nearly 5% of its GNP and nearly 30% of the government budget. This increased to $1.5 billion in 1976—6% of GNP and nearly one third of the government budget—and $1.9 billion for this year—6.2% of GNP and 35% of government spending. This upward trend will undoubtedly continue.

The United States has contributed to the South Korean defense effort through the $1.5 billion force modernization program of 1971, when the Nixon Administration withdrew some 20,000 U.S. ground troops from South Korea. The U.S. has provided missiles, tanks, planes, jeeps, and ammunition; unfortunately this program's original target date of 1975 could not be met because of Congress' reluctance to provide the necessary appropriations. However, since our last symposium, the Carter Administration has asked the Congress for $275 million in military credits and plans an additional $100 million in arms sales for South Korea in the current fiscal year. Seoul must receive over $3 billion of foreign exchange earnings in the next five years, which seems entirely feasible if its economy continues to prosper, and, importantly, if Korea's foreign trade and investment partners continue to have confidence in the strategic stability of Northeast Asia.

THE SOUTH KOREA ECONOMY

The South's "economic miracle" which has borne well its military burden, has taken place without government curtailment of freedom of property, consumer choice, occupational choice, or leisure. The economy is free-market oriented, even though the government does exercise extensive control over the allocation of resources and capital, price structure, import and export procedures, and capital inflow.

South Korea's economic miracle is phenomenal considering the economy's starting point in the 1950's. The Korean War destroyed most industrial structures, with property losses estimated at $3 billion, 800,000 civilian and military casualties, and one quarter of the entire population homeless. Inflation was running wild with prices increasing eighteen fold from 1950–53.

With a nice mix of government limitations and free-enterprise flexibility—aided by political stability and vigorous encouragement of foreign investment—the South Koreans are prospering. Their per capita GNP has nearly doubled since 1973, and overall economic performance is exceeding expectation. Last year was Seoul's second best in history, following only 1973 when the world economy was booming. 1976 exports grew a phenomenal 56%, industrial production rose by a third, and inflation dropped considerably. Real growth for 1977 is estimated around 10%, exceeding the Fourth Five-Year Plan (begun January 1, 1977) goal of an average 9% annual real growth through 1981.

JAPAN'S ECONOMIC MIRACLE AND THE "SENSE OF SECURITY"

Japan is economically vital to South Korea. Tokyo is Seoul's main trading partner, with approximately 40% of both imports and exports to and from Japan. South Korea is Japan's second largest importer and the sixth largest supplier of goods to Japan. Over the past decade, Japan has provided nearly 60% of the direct foreign investment into South Korea ($498.2 million) vs. approximately 25% for the U.S. (201.2 million).

Japan has played a key economic role in South Korean economic development since the normalization of relations in 1965. At that time, the Japanese government agreed to provide $500 million—$300 million in grants and $200 million in loans—and the private sector pledged another $300 million in soft credit. These pledges have been met and even exceeded, bringing capital, technology, expertise, and raw materials to Korea.

Since the 1950's, Japan has doubled its GNP nearly every seven years, which now nearly equals that of the Soviet Union. By 1975, Japan's GNP may be two-thirds that of the United States and even surpass ours in terms of per capita GNP. Japan would then become the major trading nation in the world.

Both Japan and South Korea have become prosperous primarily because of the hard work of their people and the favorable policies of their governments. They also have prospered because of the confidence that American security ties have provided. Without this underpinning "sense of security," the tremendous advances in Northeast Asia surely could not have taken place. With changes in the security situation, primarily U.S. troop withdrawals from Vietnam, Thailand and now Korea, both Japan and Korea are deeply affected. As the Economist stated earlier this year, "International bankers are holding their collective breath while President Carter decides how soon and how fast he will withdraw American troops from Korea." Few individuals in South Korea, Japan, or the United States appreciate the degree to which political, economic, and security affairs are intertwined and mutually dependent.

U.S. INTERESTS AND RELATIONS WITH JAPAN

The United States has its own security as well as economic and political interests in Northeast Asia. We must continue to protect our political and economic interests in the world, particularly as we find ourselves in overall strategic nuclear parity with the Soviet Union, inferiority in conventional ground forces, and approaching a balance in global naval forces, even though the U.S. is still superior in the mix of forces at sea.

Since 1972, the U.S. economic stake in East Asia has surpassed that of any other region, with our trade exceeding that with the European Community since 1972, and now standing above the $50 billion mark annually. U.S. investment in the region is over $12 billion and growing at a rate of over $1 billion per year. Nearly all our natural rubber, tin, coconut oil, and about 8% of our petroleum imports come from the area.

South Korea's international economic dealings—like its primary political and security ties—lie with the United States and Japan. Together they buy almost 75% of South Korea's exports and sell over 60% of its imports. The nearly $2.5 billion of U.S. public and commercial loans from 1959 to 1975 has enabled Korea to take off economically. Currently there are more than 1,700 American companies operating in Korea. In 1976, the U.S. bought nearly a third of all South Korea's exports. The trends in U.S.-Korean trade are clearly upward, increasing over 60% between 1975 and 1976.

The United States Government, recognizing the increased importance of the region, has bolstered South Korean defense and attempted to further security cooperation with the Japanese. After the fall of Indochina, Secretary of Defense Schlesinger visited Japan (August 1975) and agreed with the Prime Minister and others to form a new consultative mechanism on defense. This was to include yearly meetings between the two defense ministers and more extensive consultations between military and civilian officials on a joint-committee basis. Unfortunately, these mechanisms have never been utilized and joint Japanese-American consultation on security matters remains on a very limited and sporadic basis.

Most Japanese recognize their stake in the security of the Korean Peninsula, which they have traditionally regarded as essential to their own security. The Peninsula has been commonly referred to as the dagger pointing at the heart of Japan. In the Thirteenth Century, two large Mongol forces backed by the Korean Kingdom of Koryo attempted to invade Japan. At the turn of this century Japanese wars with China and Russia were fought largely for control of the Peninsula, which Japan gained in 1910 and held until the end of World War II.

The Japanese are increasingly aware of the economic and political stakes in assuring its security. The government desires to increase joint U.S.-Japanese security cooperation, to parallel the U.S.-Japanese cooperation in economic development in South Korea and as major trading partners. Certainly such increased cooperation and collaboration is needed given the contradictions in Japanese attitudes. A recent U.S.I.S. study found that, despite the 1975 debacle in Indochina, most Japanese fully expect the U.S. to come to the defense of an attacked South Korea. At the same time, two-thirds of the Japanese said they were opposed to the use of U.S. bases in Japan to defend South Korea—an opposition which seems on the rise since only 40 percent opposed such use five years earlier. This position seems inconsistent with the other position described—that most Japanese consider the security of South Korea important to their own security—but both contradictory sentiments seem strong today in the Japanese psyche. Such conflictions, beliefs and political positions would become crucial in the event of hostilities where, under the terms of the U.S.-Japanese Mutual Security Treaty, Japan must decide whether or not to grant the U.S. permission for "use by its land, air, and naval forces of facilities and areas in Japan" for the purpose of "contributing to . . . the maintenance of peace and security in the Far East.

CHINA AND THE SOVIET UNION

The major Communist powers are inclined to be wary of a North Korean "War of Liberation," and are concerned whether or not such a war could be confined to the Korean Peninsula. The Chinese have an established strategic stake in Korea, carrying over from their participation in the Korean War and their continuing ideological affinity, but a new Korean conflict would take place near the long border between China and Korea which is close to the Chinese industrial heartland and also very near to massed Soviet forces across their common border. A North-South war on the Peninsula would be intense and very destructive, with great use of firepower. The North Koreans—like the North Vietnamese before them—would have to rely primarily upon the Soviet Union for resupply, because China is simply not capable of providing such sophisticated arms in the quantities needed. Conflict would therefore provide the Soviets with the strategic edge in supporting North Korea, an unwelcome situation to the Chinese. China might find a more powerful and unified Korea under the North as hostile as the powerful and unified pro-Soviet Vietnam under the North.

The pragmatic leaders of the People's Republic have thus let their position be known. Chinese diplomats in Tokyo, Washington and elsewhere have indicated "concern" over U.S troop withdrawals, which translated from diplomatese means that they oppose the American policy of withdrawals. Their overriding concern is to contain Soviet power; thus they tend to oppose the U.S. withdrawals anywhere in the world (except Taiwan).

The Soviet Union, for its part, seems intent

upon checking the Chinese influence in Korea and seizing opportunities elsewhere, notably in Africa. They may be a bit wary of Kim Il-Sung, who, in temperament and outlook is more inclined to the Chinese than the Soviets. Soviet leaders have expressed some restraint in their relations with Kim; they have not offered him the most sophisticated equipment, such as MIG–23s, which they provide to the Arabs and other allies. On balance, however, as between the attitudes of China and the Soviet Union regarding a "unification war" launched by North Korea, the Soviets would show less restraint. Both Asian Communist powers may be concerned with possible Japanese re-armament, should American influence in the area gradually diminish.

LONG-RANGE PERSPECTIVE

The future provides both reasons for confidence and increased cause of concern. On the Peninsula itself, South Korea's future looks bright, far brighter than that of North Korea. The North's economy is tied even closer to its two allies—China and Russia—than the South is to its two principle allies—the U.S. and Japan. Almost 85% of the North's trade has been with these Communist nations, two-thirds with the Soviet Union alone. Japan is the North's only other significant trading partner, but this involves less than 10% of Pyongyang's trade.

The long term economic advantage clearly lies with the South, whose foreign trade, exports, and growth rate far exceed the North. Seoul's growth rate averaged over 10% annually from 1963 to 1973 while Pyongyang's averaged 6.5%. The North devoted more than 15% of its GNP on defense to the South's 4–5%. The North is currently in economic and financial trouble due to food shortages and its defaulting on some $2 billion in foreign debts. Pyongyang cannot even meet already deferred payments on huge loans.

Such dismal economic prospects in the North are not, however, an unmitigated blessing for South Korea and its allies. His dim economic prospects might just encourage Kim Il-Sung—already desperate for unification before he dies—to launch an attack soon before his economic imbalance with the South becomes more pronounced.

Diplomatically, the North is in a stronger position. Since 1971, North Korea has made substantial progress, in part by expanding diplomatic relations from 45 nations in 1972 to around ninety today. Kim has made a concerted effort to win the hearts and minds of the Non-Aligned Nations, of which North Korea is a member—despite security treaties with both China and Russia—from which South Korea has been totally isolated.

Meeting in Sri Lanka in August 1976, the so-called non-aligned states declared their "firm solidarity with the Government of the Democratic People's Republic of Korea" for reunification of the country. The Conference stated that "the imperialists have turned South Korea into a military base for aggression against the North." South Korea, according to these "nonaligned" is "under the foreign troops' occupation, fascist oppression prevails and the elementary democratic rights and freedom of people are ruthlessly trampled underfoot"—presumably these rights are claimed to be upheld in the "liberal democracy of the North! The Conference finally called for a halt to the "imperialistic maneuvers" of the South, the importation of weapons and equipment into the South (while not mentioning such practice by the North), the removal of all U.S. troops, and the replacement of the Armistice Agreement by a peace agreement.

The last issue raised in this document refers to an important and often ignored question. While it will be discussed more fully by General Stilwell tomorrow morning, I want to stress its importance by mentioning here the problems of the replacement of the U.N. Command structure, and with it the future status of the Armistice Agreement when the U.S. ground forces are withdrawn. In June 1975, the United States announced that it would be willing to terminate the U.N. Command rather quickly, provided that Pyongyang and Peking's armies, as signatories to the Armistice Agreement, affirmed the continuation of that Agreement and accepted the South as a party to it. No progress has been made on this issue. With the announced U.S. policy of troop withdrawals, we are in danger of losing the opportunity for achieving such an agreement.

An important element of the withdrawal question is the value of the forces as a bargaining chip in seeking a stable solution to the presently anomalous legal situation of a divided Korean Peninsula. If there is to be any hope for settling upon some agreed "two-Korea" arrangement, the ground force (i.e., the quid pro quo for its removal) would seem to be a valuable bargaining chip. North Korea has long clamored for the U.S. troops to leave. If the U.S. fails to extract some concession, e.g., the North's recognition of the South, the North will have gained a major objective at no cost.

The presence of U.S. forces in Korea must be viewed as an arms control measure. The prospect of their withdrawal therefore raises the question of nuclear proliferation, another vital matter to be addressed during the Symposium. The Republic of Korea has signed but not ratified the Non-proliferation Treaty and has publicly disavowed any intention to develop nuclear weapons. However, the changed strategic situation may bring about a changed nuclear picture. Just last month, President Park stated that South Korea "should have the freedom to take necessary actions within our ability to ensure our own survival" and that "the question of nuclear weapons development" would be considered on that basis. Should the political commitment be there, the South should have the technical ability to make a nuclear device in the next decade. It is possible that, in the long run, Japanese rearmament strategy may possibly include a national nuclear capability.

This last issue—that of the nature and direction of Japanese rearmament—may in the long run be the most important strategic issue for American foreign policy. Through the "Trilateral" concept, the U.S. is counting on Japan (and largely on West Germany) to help erect a stable free-world economic order that can cope with the North-South disparity of wealth. Japan of course is the most fragile element in the free world a nation without strategic depth or adequate defense itself and yet totally reliant upon imports for economic survival and on U.S. security guarantees for national survival. Japan is quickly assuming the role of primary economic power and provider in the region. By 1985, it may become one of the major aid-giving countries in the world, perhaps accounting for a third of the developed nations capital flow to developing nations. If true, it may assume the bulk of the economic burden while the US provides the security for friendly regimes in the Pacific Basin.

Japan's economic dealings with Seoul are likely to change from aid-giving sponsor, to joint-venturer, to economic competitor as South Korea develops and expands. The current South Korean Five Year Plan lays emphasis upon heavy and chemical industries, which means that Seoul will have to export most of its product and consequently compete with Tokyo for markets around the world. Thus our twin successes—the "economic miracles" in the Republic of Korea as the leading developing nation and in Japan as the leading developed nation (measured in terms of overall sustained GNP growth rates) lead to new problems requiring new international institutions and economic arrangements.

CONCLUSIONS

It may be more than coincidence that the eastern and western anchors—NATO/West Germany in the east, and Korea/Japan in the west—of the free world's security alliance framework are the shining examples of international free market industrial and economic growth. Both West Germany and South Korea are in direct competition with the totalitarian rule and command economies of Communist regimes, militarily supported by the Soviet Union. Without the stability made possible by U.S. security guarantees to these dynamic economies, it may be doubted that the world would be as we now know it. We are still in midstream in this pattern of global political-economic-strategic evolution in competition with the Communist world. The future in large measure rests in U.S. hands and in the degree of true partnership we can achieve with our allies.

Finally, I should like to quote from my January paper.[6]

"The United States is not a lone symbol. The age of global interdependence has arrived. The United States occupies the apex of the U.S.-Western European-Japanese triangle. It is within these three areas that the greatest potential exists for the underpinnings of a stable community of nations with like goals and economic systems that comprise the international free market area. As Zbigniew Brzezinski has said, 'Western Europe and Japan offer greater possibilities for initiatives designed to weave a new fabric in international relations, and because, like America, they are in the forefront of scientific and technological innovation, they represent the most vital regions of the globe.'[7] It is no accident therefore that the U.S. ground forces have been deployed on a long-term basis in these two vital regions, Western Europe and Northeast Asia, in two countries divided after WWII—Germany and Korea. They symbolize America's intention to retain its vital interests, its nevertheless interdependent roles, recognizing that 'the United States cannot shape the world single-handed, even though it may be the only force capable of stimulating common efforts to do so.'[8]"

FOOTNOTES

[1] William M. Carpenter and Young C. Kim, "The Maintenance of U.S. Forces in Korea," Executive Summary, SSC–TN–3115–12, SRI/Strategic Studies Center (June 1975).

[2] Stephen P. Gilbert and William M. Carpenter, "Korea in U.S.-Asian Relations," SRI/Strategic Studies Center (18 January 1977).

[3] Richard B. Foster and William M. Carpenter, "Great Power Interactions in Northeast Asia," SRI/Strategic Studies Center (18 June 1977).

[4] Richard G. Stilwell, "The Need for U.S. Ground Forces in Korea," AEI Defense Review Number II, pp. 14–28.

[5] It should be remembered that South Korea does not have a peace treaty with North Korea. Rather, the current situation is based on a "cease fire" in a war which Kim Il Sung considers a "to be continued" operation when conditions are propitious. Thus there is a similarity between the Arab-Israeli cease fire without a peace treaty, in which a "state of suspended war" is considered by the Arab nations to preclude an agreed "state of peace" between Israel and its Arab neighbors.

[6] Richard B. Foster, Op. cit., pages 2 and 3.

[7] Z. Brzezinski, *Between Two Ages*, p. 294, Viking Press, New York (1970).

[8] Ibid., p. 304.

NOTE.—The views expressed in the SRI studies reflect those of the authors alone, and are not necessarily the views of either SRI or its clients.

THE SOVIET'S LONG RANGE STRATEGY IN NORTHEAST ASIA

(Strategic Studies Center, Symposium on Northeast Asia Security, June 20–22, 1977)

(By LTG H. Matsukane (Retired))

FOREWORD

Recently, the Soviet has been positive in her military activities to foreign countries, particularly her military support to racial liberation struggles in African countries. This I believe, is greatly due the change on her views of war, military role and increase of military functions with the rise of strength especially her military capabilities. Now, I wish to briefly give my historical observation on the relations between the Soviet's military buildup situation and her foreign military policy.

Firstly, in the Khrushchev regime during '56 to '64, the Soviet was absolutely inferior in nuclear strength, and was forced to adopt a detente policy to avoid confrontation with the U.S. The Soviet changed her national policy to nonwar, which denies her previous claim of war for revolution. She made efforts to buildup her military strength, giving priority to production of nuclear missile weapons from the anxiety that any conflict might lead to a total war of massive retaliation. Consequently, the military function at that time was extremely defensive knowing the inferiority on nuclear power compared with the U.S. This nuclear inferiority was decisively damaged by the Cuban incident in '62.

After the collapse of the Khrushchev regime in '64, Brezhnev, who succeeded the regime, recognized that it was necessary to have a military power to cope with any type of hostility, a flexible reaction strategy, under the judgment that though they could suppress foreign evasion against the Soviet by nuclear defense only, they would not be able to protect her interests in far off areas from the Soviet. Therefore, at the early age of Brezhnev regime during '64 to '70, from strategic conceptions that they could gain victory by quantitative superiority of military strength and as a result of efforts to strengthen their nuclear and conventional power comparable to the U.S. by the end of the 60s, they have reached an equal status of 1050 ICBM launchers by 1969. With the buildup of military power, the Soviet's war concept has changed from non-war, to selective non-war, and also, her support for racial liberation has become more practical.

At the later period of Brezhnev, from 1970 up to now, the area of selective non-war was further expanded, and consequently, the military functional role against foreign countries was further advanced. That is, the military policies which the Soviet is undertaking, are viewed as follows:

1. Deterrence and counteraction
2. All purpose, all directions and areas
3. Continued superiority

Among these policies, the notable point except for nuclear is the development of naval power. Naval Commander Gorshkov has emphasized in his publication titled "the Soviet's Naval Power," that the increase of naval power is absolutely required to open the most effective way for global communization and the powerful way for executing the national policies, together with her own naval prosperity. Thus, Brezhnev put greater emphasis upon naval buildup as an effective political and diplomatic measure.

As a result, the Soviet has built up a comparably well-balanced naval fleet centered on the submarine and her activities are directed to control the main oceans of the world. The present Soviet military functions are not only to maintain her own national security but to positively extend her support to areas outside of her territory such as to maintain security of the socialist countries, support racial liberation and combat imperialistic invasions and it is believed that the emphasis is the area of Africa and the Middle East. Now, I wish to turn to the observation on "What the Soviet intentions are toward Japan, and Northeast Asian countries, and what kind of strategy they will use to attain their aims in the foreseeable future?" and "What would be interrelation with the U.S., China and South Korea in this respect."

I. PRESENT POSTURE

1. Soviet strategy

A. Global Strategy

The Soviet final goal remains in winning the battle with capitalist country structures and on global communization.

For the purpose of attaining this long range object, it is believed that the present objective is mainly to acquire military and structural superiority against the western block or the U.S.

For this purpose, Soviet is presently undertaking the detente strategy and it is believed that the Soviet will require this detente strategy until the early part of '80s, at which time she expects to attain superiority over the U.S.

The current strategy pursued by the Soviet under the detente policy is believed to be as follows:

Soviet domination of Europe—For this purpose, the Soviet is endeavoring to strengthen the unity with the eastern European bloc, and to arouse differences between the U.S. and the western European bloc, and finally to eliminate the U.S presence from Europe.

Weaken western allies—For this purpose, the Soviet is intending to decrease the defense efforts of the western bloc, and to split the economical and political relations between the U.S. and the allies.

Attain military superiority over the U.S.—Particularly, the Soviet is aiming at qualitative superiority of nuclear power, and overwhelming superiority of conventional weapons.

Expansion of Soviet influence over the Third World—For this purpose, the Soviet is building bases for expansion by military and economical assistance.

In the case of any disputes, the Soviet is endeavoring to extend her influence by substitution wars, etc.

Isolation of China—By a complete confinement policy towards China, prevent Chinese influence to the Third World.

B. Northeast Asia Strategy

The present goal is to complete the 2nd Siberian Railroad, the BAM Railroad by the midst of '80s, and constructing one of the largest strategic bases in Siberia by promoting Siberian development.

This is to establish a land, sea and air strategic logistical base against the U.S., Japan and the Northeast Asian countries, and also aimed at establishing a second logistic base against Europe.

The Soviet has considered Northeast Asia as a vital front next to the European front because the interests of the U.S., Japan, China and the Soviet in this area are complicatedly intermingled.

The Soviet strategic goal towards Northeast Asian countrys are as follows:

Against Japan—Check its approach to China, separate from the U.S., weaken its military power, expand revolutionary activities in Japan, and to import the high degree industrial technology and capital from Japan.

Against China—Split China by hard and soft strategy, and to strengthen the enclosing net of Mongolia, North-Korea, Vietnam, and Laos.

Against N-Korea—Continue to strengthen the ties as a base for revolution.

2. Strategy of the U.S.

The national goal of the U.S is to maintain the liberalistic structure with the allied countries and for this purpose prevent global communization by Soviet or China. Also, the U.S., generally on the basis of defensive strategy, is aiming for peace and stability by power balance with the Soviet.

On the national defense object of the U.S., the newly assigned Secretary of Defense, Mr. Brown has emphasized as follows:

(1) Deter nuclear attacks against the U.S. and her allies;

(2) Deter Warsaw-pact forces attacks against European countries and deter N-Korean attacks with conventional weapons against S-Korea;

(3) Deter small scale conflicts; and

(4) Prevent obstruction of main air and sea routes.

The vital strategic areas are as follows:

(1) The most vital area is the European front. Deploy the U.S. Forces as a defensive power and maintain a position to deter the invasion of Warsaw Pact forces;

(2) Next, Asia, particularly N-E Asia is important. Deploy the U.S. Forces as a deterrent power, provide a nuclear umbrella to the allied countries and at the same time reject the threat of Soviet military forces, and especially eliminate domination of Asia by any hostile country;

(3) The Middle-East and Africa are the third important areas.

Prevent the expansion of Soviet influences mainly through military and economical assistants. Under the above comprehensive U.S. strategy I believe that the following actual military strategy is being taken.

First of all, I must mention the so called "Flexible Counteraction Strategy" which would counteract flexibly and by steps against all challenges from any military threats of hostile countries to nuclear wars.

There is the so called "One and One-half Strategy" in which the U.S. Forces would be deployed in the overseas allied countries as a tangible proof of their security promise in times of peace as well as attach importance on the initial action with the allied country forces until reinforcement arrives from the mainland in case of emergency. Because of this, the U.S. Forces are stationed and maintained so that they can cope with either a big scale or a small scale conflict. In this case, the U.S. Forces would mainly take charge of nuclear power and while attach importance to the allied countries themselves striving to cope with the conventional type of wars.

These I believe, are the basic strategies and the actual national defense policies being taken by the U.S.

3. Military balance between the U.S. and the Soviet

As a result of Soviet rapidly strengthening her military power since the Cuban Crisis in '62, the U.S. is at present losing their overwhelming military superiority. The U.S who has awakened to this unbalance, has been trying to check the decrease of the defense budget and recover this balance since 1974. Now, I wish to introduce a few main characteristics on this balance.

A. Total Military Force

There is a great difference of approximately 2.1 million for the U.S. as against approximately 3.6 million for the Soviet.

The Soviet is required to keep a large forced due to her geography and strategic requirements. This increasing trend will continue in the future, I believe.

B. Strategic Nuclear

Recently, with greater efforts being paid to develop nuclear, the Soviet has surpassed the U.S. on the number of launchers and total weight of ICBM war heads.

However, the U.S. has a large number MIRV war heads which are superior in striking accuracy. Consequently, destruction power of U.S. nuclear remains superior to the Soviet.

C. Tactical Nuclear

On the number of tactical nuclear war heads and transportation methods, the U.S. remains superior to the Soviet. However, the Soviet is superior in nuclear defensive measures.

D. Ground Forces

Against a U.S. force of 960 thousand, the Soviet has a large force of approx. 1.8 million. However, the U.S. has transoceanic ability, air mobility and logistic supporting capability.

The Soviet, which has a character of decisive combat in her mainland, remains superior on heavy combat forces, counter-nuclear, counter-chemical, with 7 Airborne Divisions capable of conducting flexible combat operations.

I have mentioned on the military balance of the U.S. and Soviet, but the qualitative and quantitative advancement of Soviet nuclear has been rapid and especially the conventional forces of the European front are being greatly enforced by modern weapons. If the U.S. should delay to enforce their military power, there is apprehension that the military balance between the U.S. and Soviet will decay in the comparatively early period of the 1980's.

4. Current status and future prospects of Japan and neighboring countries

Northeast Asia is an area where the strategy based on national interests of the principal countries of the world are intermixed. A conflict in this area though it may be of small scale at first, contains the possibility of developing into a large scale war depending on the interests of the main powers.

The current military situation in the Northeast Asia is that with the mutual nuclear deterrance action of the U.S. and the Soviet, together with the relative military balance of the Northeast Asian countries, military actions are being restrained and stability is tentatively being maintained at present.

Now, I wish to mention on the present situations and future prospects of each country.

A. Japan

Like the U.S. has assessed Japan "As a vital allied country and the U.S.-Japan Security Treaty being an indispensable key to the peace and stability of Northeast Asia", Japan is a good partner of the U.S. ideologically, culturally and economically.

However, due to the peculiar circumstances of Japan after the war, it is well known that Japan is in a very insufficient state on national security.

Therefore, without U.S. military support the security of Japan under liberalistic structure could not exist and the U.S.-Japan Security Treaty is indispensible for the defense of Japan. This also is vital for the stability of Northeast Asia.

The object of our defense policy is to maintain its own security and contribute to the maintenance of peace of Asia and the world under the complicated involvement in Northeast Asia.

As the national defense policy, Japan has constantly maintained the three non-nuclear principles after the war of not having, not making and not let bringing in nuclear weapons and is dependent on the nuclear deterrent power of the U.S. through the U.S.-Japan security arrangement for the threats of nuclear. Our defense policy is not directed to equipping nuclear but to equip a reliable defense power by conventional weapons.

So far, the Japan defense buildup has been done in steps with most effective conventional weapons to cope effectively with invasion of local conflicts and smaller but has only limited capability even against the level of local war. In the near future, it is judged that it would be difficult for Japan to rapidly change this due to peculiar circumstances within Japan after the war.

In other words, it would be most unlikely for Japan to make a drastic change in enforcing her defense power unless it receives a very great shock from domestic or foreign conditions though she may enforce her self-defense to some extent.

For the long range, Japan would continue to exist as a "Fragile Blossom."

If Japan were to enforce her defense power rapidly, it would arouse non-confidence of Japan from related countries and jeopardize the security of not only Northeast Asia but also Japan itself.

B. China

National goal of China is the communization of the world under her own leadership.

For this purpose, China is aiming to enforce unity with developing countries of the Third World.

Also, as to her strategy against the Soviet, China is pursuing a "deterrent strategy" of first ruining the Soviet Forces within her mainland by overwhelming human force tactics against Soviet invasions and prevent nuclear attacks by possessing a nuclear power capable of counterattack.

In the present and future, I believe, she will endeavor to modernize her military forces but due to domestic circumstance, the constructing of domestic economy would have priority and they would not be able to have sufficient power against the Soviet.

Therefore, the military power would merely be an extension of the present and remain in a defensive stage against Soviet. On the other hand, with the stabilization of the new structure, China would become more active ideologically and psychologically. As to the relations with Formosa she may pursue a direction of approach.

C. Korean Peninsula

With the withdrawal of the U.S. Forces from Korea, the balance between North and South Korea in the 1980's would look as though being maintained not much different from the present but actually, it is believed that more unstable confrontation will continue.

II. THE LONG RANGE SOVIET INTENTIONS AND CAPABILITIES IN NE ASIA

From a long range view, I wish to comment on what her real aims are in Northeast Asia and what capabilities (threats) Soviet has for performing this purpose. I would first like to reason on how the Soviet evaluates Northeast Asia and especially Japan.

1. Value of NE Asia to the Soviet

A. An Importance Area to Maintain Political, Economical and Military Stability in the Soviet—Europe

(A) Promotion of Siberian development and expansion of the economic complex;

(B) Rear stability as against NATO;

B. One Who Controls NE Asia, Will Control All Asia

C. Securing Free Action of the Naval and Air Force in the Western Pacific

2. Value of Japan proper

Because of the geographical location of the Japanese Islands and the political and economic power, technological and industrial power Japan has, Soviet has evaluated Japan as follows:

A. Political

Decisively change the power balance in favor of Soviet on a world scale. Possibly on a same level with NATO front.

Acquiring of a main stay for the surrounding net against China. (Possible to split the relation of U.S., Japan and China).

Eliminate the potential threats against Soviet that Japan has.

B. Military

Key stone for Soviet to seize hegemony in the Asian front.

Retracting of the U.S. defense line in the Pacific and acquire military predominance in the West Pacific.

Securing of a Pacific naval and the air tactical base against the U.S.

Promotion of sea blockade against China (Expansion of the surrounding net).

Easy blockade of South-Korea.

3. The Soviet Strategy Against Japan

The strategy against Japan to be undertaken by the Soviet, are as follows;

A. Political (Diplomatic)

Prevent the alliance of the U.S., Japan and China, isolate Japan. For this purpose, intrigue to destroy or nullify the U.S.-Japan Security Treaty arrangement and prevent the conclusion of the Sino-Japan Friendship Treaty.

By promoting the conclusion of the Soviet-Japan Friendship Treaty, make sure of Japanese inclination towards Soviet. However, shelve the problem of the northern territory.

B. Military

Intensify military threat against Japan and promote neutralization of Japan.

By involving Japan as a friendly nation, surround China from the sea.

Expansion and safety of sea lanes to the Indian Ocean, with U.S. and Soviet being at least on parity in the western Pacific.

C. Economical

Draw overall cooperation from Japan on Siberian development. Particularly, request cooperation on the BAM railway.

(Material and labor)

Employ the tactics of weighing the balance between fishery negotiation, and economical and technological cooperation.

Expansion of the Soviet Asian market.

CONCLUSION

The military oppositions existing on the Sino-Soviet border and the Korean Peninsula for over the past 10 years, have been the cause of tension and unstability in Northeast Asia, and this circumstances contains the possibility of further fluidity.

Especially, enforcing of the Soviet military forces is steadily and continuously expanding and is not only intensifying the security position of the Soviet but exerting a change on the power frame among the U.S., China and Soviet.

Under the tendency of Soviet enforcing their military power, I believe that the time will come when Japan will have to consider seriously. Now, from the standpoint of Japan, I wish to emphasize the following points on security problems in the Northeast Asia.

First, it is necessary to further strengthen the armament of Japan. For this purpose, I believe the sea and air power should be enforced and it is also necessary to modernize the fire power and mobility of the ground forces.

Second, a concrete plan is necessary for closer association of the U.S.-Japan security. The following should be considered for this purpose:

Stable use of the U.S. bases, especially the air bases in the Japan mainland, Okinawa and Korea, is necessary;

Thorough sea patrol of the western Pacific area to attain effective Hunter-Killer results. For this, it should be made so that it will gradually be shifted to the JMSDF.

For this, realizing of U.S.-Japan joint operations is necessary:

(1) Prepare plans for joint operations;

(2) Train for joint operations; and

(3) Have common logistics, joint production and standardization of weapons.

Third, a positive assistance to South Korea is necessary. Particularly, assistance to the national power and indirect cooperation to equipping of military power. Forth, intimate relation with China is necessary. Parallel to the improvement of the Sino-U.S. relations, intensify the Sino-Japan economic relations,

also contribute to the domestic construction and the promotion of national power of China. I believe that the three countries of U.S., Japan and South Korea should have a conference on the above points.

Further, I believe that it is necessary for the U.S. and Japan to be prepared to continue dialogue and cooperation on defense, intensify the ties between the two countries and prevent the intentions of the Soviet.

However, it can be predicted that the Soviet will approach Japan with clever strategy and so the conclusive means to block their intention would be for Japan to strengthen itself and show a firm attitude to use the strength in case of emergency.

No doubt, the Soviet will come out with a positive action against Japan in the future and so I believe it is necessary for the Japanese to face the clever Soviet strategy with hard and soft strategy, and block Soviet intentions in advance. Thank you.

Chinese Policy Toward the Korean Peninsula

(Strategic Studies Center, Symposium on Northeast Asia Security, June 20–22, 1977)

(By Harold C. Hinton, professor of political science and international affairs, George Washington University)

The interests and objectives of the People's Republic of China (PRC) with respect to the Korean peninsula are concerned, logically enough, with the enhancement of its own security and influence.

The specifics are largely determined by the PRC's varying interactions with the other major powers in the region: the United States, Japan, and the Soviet Union. Broadly speaking, the better the relations Peking enjoys at any given time with the other powers, the less need it has to cultivate its relationship with North Korea. At present its relatively good relations with the United States and Japan are more or less balanced by its decidedly bad relations with the Soviet Union; accordingly, its current cultivation of Pyongyang is at a middling level of intensity.

Peking's main security concern with respect to Korea is that there not be another war, an objective that fortunately the other major powers share with it. The most obvious and most important reason for this concern is the strong possibility that another war in Korea might involve the PRC, as the one of 1950–53 of course did. Another of Peking's considerations is that such a war might also involve, in one way or another, the Soviet Union, which would be in a stronger position than the PRC to gain whatever benefits might be derivable. Furthermore, it is possible that another Korean war might lead to an American setback, direct or by proxy, comparable to the one suffered in Indochina in 1975; as Mao Tse-tung made clear to Kissinger, the fall of South Vietnam damaged American credibility in Chinese as well as in other eyes, and for the past several years Peking has wanted to see the United States play an active and effective role in Asia (except for Taiwan) as a counterweight to the Soviet Union.

Peking withdrew its own troops, whom it insisted on calling volunteers, from Korea in 1958, mainly in order to reduce its risk and liabilities. Similarly, it rather seldom refers in public to its own role in the Korean war, and only on ceremonial occasions (normally anniversaries) to the existence of its defensive alliance with North Korea dating from 1961. It apparently refused to give Kim Il Sung, who was then buoyed up by the collapse of South Vietnam, anything resembling an offensive commitment when he visited the PRC in April 1975.

From Peking's point of view, the continuing American military presence and role in South Korea cannot only serve to deter North Korea from attacking the South but to divert some of the Soviet Union's formidable military energies away from the PRC and to constrain Japanese influence in South Korea. Informally and in private, accordingly, Peking has made it clear to some foreign officials and diplomats, including Americans, that it not only does not object to but actually welcomes a continuing American military presence in South Korea—especially ground forces and nuclear missiles, it appears—and by the same logic it presumably opposes the idea of an American military withdrawal from the peninsula. Peking can therefore be assumed to have no real objection to the Japanese government's allowing the United States to use bases in Japan (including Okinawa) for the defense of South Korea, to the extent necessary.

From Peking's point of view, war is not only the only desirable state of affairs in the Korean peninsula. Serious tension is another, obviously for the main reason that it could lead to war. For another thing, it might tend to increase Soviet influence by encouraging Pyongyang to look to Moscow for heavy weapons and possible protection. Thirdly, it might delay the withdrawal of the remaining American military personnel from Taiwan, whom the United States promised in the Shanghai Communique to remove" as the tension in the area diminishes;" Peking knows that the United States considers "the area" to include the whole of the Far East. Accordingly, although Peking, for political reasons to be considered shortly, generally gives propaganda support to the North Korean position whenever some incident, crisis, etc., occurs in Korea, that support is usually held at the minimum level necessary to avoid being perceived as withholding support. A good example is Peking's public behavior during the crisis of August 1976, when it kept a low profile, even in public. Its role behind the scenes is a matter of some uncertainty and disagreement; it is possible that Peking encouraged Kim Il Song to back away and issue his semi-apology to the United States for the killing of two American officers, but if so then characteristically not as an admitted response to any American request—if there was one—for Chinese good offices. Peking appears to have behaved in this way during the *Mayaguez* crisis of May 1975.

For the sake of maintaining at least the appearance of solidarity with North Korea on an issue of the greatest importance to the latter, Peking publicly endorses the goal of Korean unification and Pyongyang's various proposals toward that end. Peking's desire for stability remains paramount in its mind, however; must be peaceful. It is very likely that in the interests of the emerging détente with the United States Peking contributed through private encouragement to Kim Il Song's shift around 1970 from a violent to a more political approach to unification. In reality, Peking probably does not attach a very high value to Korean unification and would agree privately with Moscow on the acceptability of a "German" solution ("one nation, two states"), or in words a formalization of the existing division of the peninsula, provided such an outcome were agreed to by the two Koreas rather than being imposed from outside.

Chinese, like all other foreign, influence on North Korea has been seriously limited by Kim Il Song's personal control and forceful insistence on freedom of action. He eliminated any semblance of a pro-Chinese (or pro-Soviet) faction within the North Korean leadership during the 1950s and since then has been very much his own boss with respect to the outside world, rather than running a "puppet regime" (of whom)? as the South Korean propaganda phrase goes. Although Peking consciously refrained during the Korean War from trying to parlay its military presence in North Korea into political domination, it has probably wished many times since then that its influence on Pyongyang were greater than is actually the case.

It is important for Peking to cultivate its political ties and alleged friendship with Pyogyang for one compelling reason. If Peking were to alienate the North Koreans to the point of causing them to tilt clearly toward Moscow in the Sino-Soviet confrontation, as has not happened to date, Chinese interests might be very adversely affected. For example, North Korea might allow the Soviet Union to use its territory as an additional base from which to attack, or at least threaten, Manchuria. Even short of a scenario such as this, an increase of Soviet influence on North Korea, which to date has been largely on obvious material factors and is roughly counterbalanced by the greater congeniality of the Chinese, on various grounds, to the North Koreans, could be a serious matter for Peking.

Accordingly, Peking has to and does endorse in public the constant North Korean demand for the withdrawal of the American military presence from South Korea. Even in public, however, Peking usually pulls its punches by expressing support for Pyongyang's position on this question rather than by formulating an independent demand of its own. There is another reason worth noting why Peking claims to want an American military withdrawal from South Korea; Peking also demands, with much greater seriousness, a Soviet military withdrawal from the Mongolian People's Republic, and it is important to appear consistent, and therefore principled rather than merely selfserving.

It costs nothing for Peking to support Pyongyang in demanding, at the United Nations and elsewhere, the abolition of the already tenuous United Nations presence and role in Korea, and Chinese demands to this effect have therefore been frequent and loud in recent years. Peking knows very well that for practical purposes the American military presence in South Korea, which is the important thing, rests on bilateral arrangements with Seoul and would not be seriously affected by any action taken at the United Nations.

Similarly, it costs nothing, or almost nothing, for Peking to refrain, as it does, from having any sort of ties with Seoul and to recognize Pyongyang, as it did for the first time in public in the joint communique issued at the close of Kim Il Song's visit to the PRC (April 28, 1975), as the "sole legal sovereign state of the Korean nation". Conversely, for Peking to have any relations with Seoul would infuriate the touchy North Koreans, possibly with serious results of a kind already suggested.

Since the death of Mao Tse-tung in September 1976 and the purge of the leading Shanghai radicals (the "gang of four") a month later, Chinese foreign policy, although not always Peking's foreign propaganda, has tended to follow a relatively moderate and responsible course consistent with the patter established by the late Chou En-lai. There is no reason to believe that this generalization will not continue to apply to Korea. In other words, Peking is likely to continue discouraging Kim Il Sung from undertaking any adventures, to continue favoring in private the retention of a strong American military presence in the region (including South Korea), and to continue encouraging Japan to maintain its ties with the United States and vigilantly safeguard its security against the Soviet Union. In the last of these connections, Peking has recently begun to support, in its conversations with its Japanese contacts (some of whom are now individuals having ties with the Self-Defense Forces), not merely the currently projected buildup of the Self-Defense Forces but something considerably greater.

Peking of course continues to demand the withdrawal of the few remaining American military personnel from Taiwan, and as we

have seen a desire to promote this result is one of the reasons—although not necessarily the most important one—for the PRC's relatively subdued recent behavior in Asia. On the other hand, it does not follow that if the United States fails to withdraw from Taiwan the PRC will begin to engage in aggressive behavior elsewhere in Asia, in Korea for example; the other basic arguments against such a course of action, including the need for at least a reasonably good relationship with the United States as a counterweight to the Soviet Union, will still be valid. In fact, it can be argued that one of the reasons why Chinese sources sometimes threaten the use of force against Taiwan, where the PRC's moral and political position is strong at least in its own eyes, is to indicate and rationalize an intent to continue refraining from active violence elsewhere in Asia, where Peking has no comparable claim or position.

Similarly, an American withdrawal (whether partial or complete) from South Korea, although actually undesired by Peking, would not by itself have the effect of increasing Chinese belligerency either toward Korea or toward other areas including Taiwan, any more than the American military withdrawal from Indochina did. American credibility would be further harmed in Chinese eyes, however, and Peking would probably be concerned that it would also be harmed in the eyes of other Asian countries, notably Japan.

There is of course a logical possibility that if for some combination of reasons American credibility in Chinese eyes fell so low that Peking no longer regarded the United States either as a useful counterweight to the Soviet Union or as an effective deterrent to Chinese expansion, the PRC might then become genuinely aggressive in Asia, conceivably including Korea. But such a situation is still a long way from coming into being, and the United States obviously has the power to ensure that it never does.

Japanese Perspectives on Security Concerns

(Strategic Studies Center, Symposium on Northeast Asia Security, June 20–22, 1977)

(By Gen. Ichiji Sugita (Retired), Japanese Self-Defense Force)

JAPANESE PERSPECTIVE

I am happy and highly honoured to be here and to have the opportunity and privilege to speak to you distinguished experts on military affairs assembled here to-day from various parts of the Free World.

I have been asked to say a few words about national defense of Japan in general and I beg your indulgence if, in doing so, I present some factual information based on my own limited experience and knowledge but which, I hope, may contribute, however modestly, to the basic current thinking on this subject.

To begin with, I would like to draw your attention to the fact that President Carter, in his message to Congress at his inauguration, made reference to Japan as one of the partners of the United States of American and a nation of major importance in The Pacific.

Such a reference . . . on such an occasion . . by such a man of eminence was more than enough to give us Japanese a profound impression and opportunity to introspect about our own country as it is now and to try and examine the country as it ought to be in its right perspective.

Admitedly, we have been aware of the U.S. expectation of Japan for the maintenance of world peace. But now, we feel the weight of it far heavily than we felt in the past. How Japan can respond to that expectation and contribute itself towards peace of the world at large and of Asia, in particular, is a big subject given us and Japan is now striving hard to grope about for the best possible way to perform its part.

Obviously to the United States, somewhat dubious behaviour of Japan may be causing the feeling of impatience. But when viewed from the point of our national security, particularly from the point of military phase, it is quite clear that Japan's present status has in no way attained a stage where it can respond to that expectation. Therein lies a big problem which I hope to speak about to-day as best as I can.

I am sure there must be number of members among you who have already discerned the points I am about to mention. I am equally sure there must be a great many in the world who are amazed at Japan's extraordinary rapid economic growth, but only few . . . surprisingly few who are aware as to the extent and substances of Japan's national defense structure and its military strength.

It is not confined to the people of foreign countries only, but, strange as it may sound to you, I know I am not exaggerating when I say that the most of my own countrymen know very little about these vital questions. Among them, there may be quite a number of politicians, businessmen and learned people, let alone the ordinary people which proves that national defense has not been taken by most of the people of Japan as important enough question to take seriously and it remains the same more or less to-day.

With regard to Korea, I myself have a great hope and expectation on the future of its national defense capabilities. Needless to say, Korea is an essential element for the defense of Japan as Japan is for Korea for that matter. On this particular point, we are just the two wheels of a cart . . . we are bound to stand and fall together. The pity of it is that not all our people are conscious about it. I for one as a Japanese and a soldier note with deep gratitude in regard to a great effort being made by the U.S. and Korea for security of the region.

I am afraid the pressure of time does not permit me to refer to-day to the question of Taiwan, the Republic of China, but we must bear in mind when we think of the situation of North East Asia that we cannot consider Japan, Korea and Taiwan separately from one another not only because of natural geographical disposition allowing no artificial change but we are, after all, in the era of collective security of nations to-day.

Therefore, if unfortunately one of the three nations were to break down, the result is obvious. North East Asia would easily be thrown into a state of uncontrollable confusion . . . even with the help of the United States.

Even more so, as the Soviet, as a part of its ambitious global politics with power for a background, is carrying out a ceaseless reinforcement of armed forces and modernization of its Pacific Fleet, while its all-round positive and forceful action is decidedly on the increase even more.

Only recently, we have seen a characteristic attitude of its own at the fishery conference held in Moscow between Japan and the Soviet. I am afraid it is not difficult to anticipate that Soviet will do its utmost to ensure collapse of Japan's defense foundation by any means, particularly by an indirect aggression.

Such being the case, both Korea and Taiwan are very much concerned about the trend of Japan in future and both are closely watching an extent of Japan's communization. I am often cautioned about this point by my friends of both countries.

However, in spite of all, both Korea and Taiwan as well as other Asia nations, while are all counting much on Japan's economic strength, nevertheless do not want to see it becoming a powerful nation both nominally and virtually which is understandable. Perhaps it can be said that expectation and precaution are stuck side by side in their minds, so far as the present situation of Japan is concerned. On this point, I suppose both the U.S. and Australia, too, may be no exception. These incompatible phenomenons place us in a very difficult position in determining our defense problem.

There is another important matter from military viewpoint that must not be ignored and it is Japan's relations with various countries of South East Asia and Indian Ocean as well as Middle and Near East.

The formers, not only are they closely related to Japan historically, geographically, culturally and economically, but those countries are situated right along the trade routes of essential raw materials to Japan . . . imported from the latter, particularly, oil and minerals.

Therefore, the tendencies of various countries in those regions reverberate on our national security directly and acutely representing clearly how sensitively we have to react, how vitally important it is for Japan to shoulder a greater portion of burden in protection of the sea transportation. In view of this fact and to discharge its task adequately, Japan is required to keep maintaining good relations with the U.S., Canada, Australia, New Zealand and South East Asia countries.

Such being the case, when emergency is taken into consideration, Japan ought just as well to make necessary preparation even in time of peace. It ought to equip itself with all necessary arrangements and mental attitude, also, to dispatch at least its naval vessels to those regions, when necessary.

Considering that Japan's national security is assured, thanks to the U.S.-Japan Security Pact, Japan, as a good partner of the U.S. ought to possess positiveness so much as to take charge of a portion of defense of the sea surrounding Japan, Korea and Taiwan and provides the U.S. 7th Fleet with the freedom of action.

This is very likely what the U.S. expects of Japan and whereabout of the sentiment of general public of America is not difficult to comprehend. However, the actual circumstances of Japan as it is now is fairly away out of the point where it can comply with the requirement of the U.S.

So, in order to try and observe a probable development of Japan's future defense, I would like to reflect briefly on the recent history of national defense of my country for your information

When 30 odd years of post-war Japan is divided into 3 periods from the point of national defense, not, of course, forgetting that the basis of it all rests with the post-war Constitution, I think it can summarily be said as follows;

(1) The 1st period . . . that is between the year 1945 to 1955 . . . there were several notable occurrences such as the outbreak of Korean War, the reestablishment of Japan's independence and the organization of Police Reserve Force.

So far as Japan's national defense was concerned, it was entirely left in the hand of the U.S. armed forces. There was, therefore, no need at all for leaders of the country to give any sort of consideration to the problem of national defense nor to military affairs.

The propagation of Japan as a nation of militarism was then complete, while in the country the spirit of anti-war and anti-military run amuck like a wild fire. Anything that had any connection with military was tabooed, resulting in total negligence of the matters pertaining to defense and military of the country. The prohibition of an overseas deployment of armed force was proclaimed from the beginning.

(2) Next, the 2nd period begins from the year 1956 to 1966.

During this period, the Self-Defense Force was organized, equipped with arms of the type of the 2nd World War and had gradually taken over duties of national defense

from the U.S. forces. Strange as it may sound to you, but during this period the country was involved in fierce arguments as to whether the Self-Defense Force was a military force or not, whether there was or there was not an infringement of Constitutional Law. A construction of the foundation of national defense organization was as a matter of course totally disregarded.

It was during this period, too, a fierce struggle was taken place in the streets of Tokyo over the U.S.-Japan Security Pact. The concept of national defense was limited to 4 islands only that constitutes Japan.

However, towards the end of this period, that is in 1965, the normalization of Japan-Korea was materialized and with it, Japan began to consider its national defense as a part of the link of North East Asia. The fear for revival of Japan's militarism was still actively argued about among the 3rd powers during this period.

(3) The time between 1967 to 1977 is the 3rd period.

During this period, the return of Okinawa by the U.S. and Japan's recognition of Communist China came to be realized. It was then that Japan started to reconsider its national defense system and concept on the basis of North East Asia as a whole.

However, in spite of its broadened outlook on the matter of defense, equipment and military thought of its Self-Defense Force are no longer up-to-date and defense system of the country remains unchanged. In fact, the capacity as the armed force is deteriorating.

It stands to reason that the nation's defense system has no other way to tread than downward, especially when the very man, the Chief of Defense Agency . . . equivalent to the Secretary of Defense . . . says that 1 percent of Gross National Products would be enough for defense expenditure.

The nuclear allergy is very strongly permeated into the minds of the people of Japan. An overseas deployment of armed forces and export of arms are strictly prohibited. And while opposition parties loudly advocate cancellation of the U.S.-Japan Security Pact, no refutation, however, comes from the Government or the Ministerial party. The discussion on the national defense is still looked upon as something to be put under taboo.

Keeping step with an intensification of confrontation between Communist China and the Soviet, the argument in respect of the revival of Japan's militarism has since been calmed down. On the contrary, Communist China is now recommending Japan's strengthening of defense, also maintenance of Security Pact.

Nevertheless, our general public are still of opinion that not the people but the Self-Defense Force alone should take charge of the duty of national defense. This anachronistic concept is a legacy of bitter experiences of war. Indispensable though national defense is, it will be no easy task to convince them of futility of building it on the foundation of misconception.

In the meantime, the man until a short time ago was the Prime Minister concurrently the Commander-in-Chief of the armed forces was taken into custody on the ground of an implication in the Lockheed payoff scandal during his tenure of office. A bad effect given to the officers and men of the forces was far from small.

The 3 periods of Japan's national defense outlined just now is the course our country, as I see it, had to trodden thus far during this past 3 decades. In the meantime, there has been a change of a generation . . . the new generation that has grown up practically, if not wholly, irrelevant to war came to wedge itself in forefront in every line of national life. During past few years, we have witnessed a gradual decrease of power of the Government Party, and now, a rumor has it that there might even be a possible reverse of power between conservatives and leftist parties in the coming election in July. Thus the year 1977 found the Fukuda Cabinet at the helm of state.

With the formation of the Carter Administration just then, came an announcement of an intended withdrawal of the U.S. Forces from Korea. The Prime Minister Fukuda evaded to intervene stating that it is a matter solely concerned between the U.S. and Korea. However, there is no doubt at all that it is a matter of vital importance upon the issue of which hangs the very fates of both Japan and Korea.

Last September, there was an incident of MIG–25 in which the Soviet Flight Lieutenant Berenco grounded his plane in north of Japan seeking refuge in the United States. And only recently, Japan had seen more than enough of a high-handed attitude of the Soviet toward us in connection with the fishery problem. There is no doubt that Japan, as the very other party to the power-politics of the Soviet has again been given a nutritious mental pablum in which to appraise anew a true merit of the U.S.-Japan Security Pact, also the importance of national defense.

Hitherto, the leftist parties in the Diet have been loudly emphasizing a principle of demilitarized neutrality on the country and cancellation or abrogation of the Pact. But now, they look very much perplexed and are at a loss what to do.

The election of House of Councillors is going to be held in coming July. It is looked upon in the country as one of barometers to divine the future course of Japan. Indeed, Japan is about to face a very serious turning-point in its history in near future.

What I have outlined so far, I hope, have given you some ideas to conceive the future of Japan's national defense. Now, I hope to end my report by stating my own opinion concerning the subject.

I believe there are 2 ways of looking at the course that Japan is likely to tread from now on. As the undercurrent, skeptic feeling seems to be flowing in the minds of the people as to whether the state prevailing in Japan today would serve as just and proper in carrying the country forward to the future or not.

(1) One way of looking at the futue course is that Japan, in fear of external criticism on the possible revival of militarism, has spent this last 3 decades making very light of vital problem of national defense and military affairs. Now, that the political situation no longer is as stable as it used to be, not only will Japan's national defense be not improved but the probability of treading towards the path of weakening is, I feel very sad to say, none too small. There is, I think, even a danger of weakening of ties between the U.S. and Japan resulting in invalidity of Security Pact.

(2) The 2nd outlook is that the nation that fought for nearly 4 years against Allied Forces in the 2nd World War while achieving a surprising development in the post-war would, according to a change of situation, inevitably become a powerful nation militarily. For the nation such as this, Korea could not be a decisive factor. In fact, Japan can and ought to be able to defend itself whether Korea or no Korea.

The 1st outlook is that of the Soviet. There are quite a number of retired senior army and naval officers and a section of intellectuals in Japan who are in agreement with this outlook and think it necessary to strengthen defense of the country. Generally, those people are looked upon as if they were the rightists in Japan which, in the strict sense, is not correct as one can love one's own country without being a rightest oneself.

The 2nd outlook seems to me to be the one generally entertained in the U.S. and other democratic nations. It is also the outlook vaguely entertained among large numbers of our civilians mostly influenced by mass media . . . leaders of the country not excepted. I see Mr. Brzezinski of White House seems to be of the same opinion as the 2nd outlook if my interpretation of his book entitled "Fragil blossom" were correct. It seems to me that the basis of the decision to withdraw troops from Korea may also be found in the same thinking as that of the 2nd outlook.

The defense-conscious view of so-called rightists referred to in the 1st outlook are generally considered in Japan by those who entertain the 2nd outlook as a primary factor to create doubt and suspicion among the 3rd powers. But what West Germany did succeed in providing a means to dispel doubt and suspicion of friendly nations I don't see why Japan can not, especially if Japan really determined to respond to the U.S. expectation and amply discharge its responsibility as a good partner should.

However in order to elevate the country to that capacity, there is, in my opinion, far more important issues than mere increase of armed strength and modernize equipment of our Self-Defense Forces . . . not that I am thinking lightly of those points . . . the pressing need of the hour among all needs now is to consolidate the foundation of our national defense . . . the foundation worked out as an independent country in substance and defense concept on the basis of Northeast Asia as a whole. So far, no attention has even been given to it and not likely to be given in near future either, because the problem of national defense almost entirely under responsibilities of national leaders and politicians and hardly any room for the military to share it.

I would like to add a few more words before I finish my report. Japan is, as you are well aware, interposed between 3 great nuclear powers, the U.S., Communist China and the Soviet Union with an awkward North Korea nearby. Japan shall become neither a great nation militarily nor a nuclear power. This is out of the question as the people of Japan are thoroughly consistent in this point.

Therefore, in the forseeable future, the primary importance for us is to try and maintain a close alliance with the U.S. and in concert with Korea and other free countries of Asia make every effort to prevent occurrence of war in Asia, Northeast Asia, in particular.

In conclusion, I would like to repeat once again that the withdrawal of the U.S. Troops from Korea, if I may say so, without due consideration to the true state of national defense of Japan is bound to bring about a tremendous effect on the future of Asia. Already, the Soviet who seems to know correctly every inch of Japan's weakness is out to make full use of it in order to create a climate that would help to achieve its end. Frankly speaking, I can see no sign that makes me entertain an optimistic future for Asia in general.

Under the circumstances, I appeal to politicians and military authorities of the U.S., Australia, Korea and other democrats nations of Asia to inquire once again into the ways to establish and maintain peace and security of West Pacific by affirming the actual state of defense setup of Japan.

WITHDRAWAL OF U.S. GROUND TROOPS AND SECURITY OF NORTHEAST ASIA: A KOREAN VIEW

(Strategic Studies Center, Symposium on Northeast Asia Security, June 20–22, 1977)

(By Chongwhi Kim, Research Institute on National Security Affairs, National Defense College)

With détente and rapproachment between the great powers, the central balance is now more or less stabilized, and they have con-

firmed, through several agreements, their will to avoid thermonuclear war. But among them, little understanding has been reached over regional conflicts. The situation in Korea is a case in point.

Unlike the case of the two Germanys, virtually no improvement toward better relations has taken place between the two Koreas. To begin with, North Korea is neither satisfied with the status quo nor resigned to it With over one million of its fifty million people under arms, the Korean peninsula is one of the most heavily armed areas in the world. Therefore, one cannot rule out the possibility of another outbreak of war in Korea.

For nearly a quarter of century, the presence of the U.S. 2nd Division between Seoul and the DMZ has been an effective deterrent to a possible renewed aggression from the north. But the division's days in Korea seem to be quite numbered. In the course of the presidential campaign, President Carter pledged himself to withdraw the American ground forces from Korea, and now he has decided to remove them in 1982.

When questioned about his decision at a recent press conference in Washington, President Carter explained his position: "Time has come for a very careful, very orderly withdrawal over a period of four or five years." If the United States is to leave behind "adequate intelligence forces, air forces, naval forces and a firm commitment," he insisted, "there need not be any doubt about potential adversaries concerning our support of South Korea."

Despite President Carter's reassurance over the American commitment to defend Korea, his decision of a phased withdrawal of some 30,000 ground troops stationed in Korea has increased anxiety on the part of the Korean people concerning their security. This has been one matter on which the Korean Government and the opposition completely agree. In capital after capital, Asian leaders including the Japanese are asking what will happen in the area when U.S. forces are gone. And privately, many American military leaders say their worries are even deeper. Major General John K. Singlaub, whom President Carter ousted as the Chief of Staff of U.S. Forces in Korea, was quoted as saying: "If we withdraw our ground troops on the schedule suggested, it will lead to war."

II

As stated at the outset, North Korea is clearly neither satisfied with the status quo on the peninsula nor resigned to it. The North Korean Labor Party platform and Kim Il Sung's statements have made all too clear their intentions. The platform states that the party will struggle for the completion of the "South Korean revoluton" for the construction of a Communist society on a national scale. In February 1968, Kim declared that "only when we use the force of arms we gain the regime. In order to acquire the power, we have to launch a struggle with arms. We cannot gain simply by holding elections. The most decisive and positive of all forms of struggle are the struggle with violence, struggle with arms, and the war for the liberation of our people." Moreover, he has insisted that Pyongyang would continue to "actively support the revolutionary struggle of the South Korean people" and that unification could not be separated from liberation.

Following these declared intentions, North Korea has steadily built up its armed forces and continued to pursue the policy of militancy and subversion. Year after year, Pyongyang has spent approximately 20% of its Gross National Product on its war machine; an abnormally high amount. Frequent provocations along the DMZ, dispatchments of guerrilla forces into the south, the attempted assassination of President Park, the seizure of the USS *Pueblo*, the shooting down of a US EC-121 reconnaissance aircraft over international waters, the construction of tunnels into South Korean territory for either subversive or conventional military operations, and the outrageous Panmunjom incident of August 1976 can be cited as examples of its policy.

After having failed to incite a Vietnam type of war of liberation in the south, and shocked by Peking's decision to hold a summit with the United States, Kim Il Sung changed his tactics. In order to induce a more rapid withdrawal of the American forces in Korea, to create political chaos and unrest in the south, and finally to gain an improved position in diplomatic competition with South Korea, North Korea in 1971 agreed to the South-North dialogues proposed by President Park Chung Hee. However, Pyongyang's unilateral suspension announced in August 1973 brought the talks to a virtual standstill. One reason behind North Korea's rejection seems to be that the north was afraid its economic difficulties may be exposed through open contact. Also they realized that the dialogues did not serve their motive to agitate social unrest in the south, and feared instead that the talks might awaken the dormant consciousness of the people of the north for freedom and better living conditions. Since then, Pyongyang has again stressed the theme that the overthrow of the present Government of the Republic of Korea is a necessary precondition to reunification.

An important question then is: does North Korea possess the military means to achieve its declared and ultimate goal of unification by arms. Various analyses of the size and equipment of opposing forces indicate that the north is more powerful. Although the Republic of Korea's 625,000-man forces are larger than those of North Korea's 495,000, Pyongyang has much more equipment. The disparity is most significant in artillery (3,000 to 2,000) tank (1,950 to 1,000), combat aircraft (655 to 216) and naval vessel (450 to 175). Moreover, according to General Singlaub's testimony before the House Armed Services Subcommittee, new intelligence reports indicate that Pyongyang's military buildup—especially of tanks and other offensive weapons—is moving fast and is "far out of proportion to what we thought they had."

Several additional factors place the Republic of Korea in disadvantage. One is geography which influences the military disposition and capability of both sides. The proximity of Seoul to the DMZ poses a special problem for the south. Although efforts have been made to encourage a more even distribution of population, the city has a population which now exceeds seven million and produces nearly half of the GNP of the Republic of Korea. The short distance of 30 miles (Pyongyang is 90 miles from the DMZ) precludes defense in depth and Seoul itself could be hit by FROG surface-to-surface missiles and by aircraft which could attack from the north with almost no warning. The range of mountains that runs through the east central part of the peninsula tends to separate the east from the west making both communications and mobility across the width of the country difficult for the defender. Moreover, the south can be supplied only by sea or air, whereas North Korea has a land border with both China and the Soviet Union.

Consideration should be given to the North Korean military doctrine and the deployment of its armed forces. North Korean forces are very much a derivative of their modern sponsor, the Soviet Union, with only a few modifications for local conditions. Therefore, the North Korean armed forces are organized for preemptive surprise attack, massive artillery and missile fire, and high-speed mechanized warfare combined with commando operations. No doubt this idea accounts for the large increase in prepositioning of men and equipment in forward areas by the North Koreans. In this connection, the lack of adequate warning time is becoming quite a concern for the defender.

Other factors can briefly be mentioned. Because of the nature of its highly regimented society, North Korea's reserves and militia are better trained and in a better state of readiness. Also they are much better equiped. Pyongyang has a substantial lead over Seoul in producing military supplies and equipped. Pyongyang has a substantial lead ties of war materials.

With a clearly more viable and larger economy, the future trends of balance may favor the south. The Republic of Korea is now in the midst of a $5 billion military modernization program that will be completed by 1981. However, it should be noted that the drive for military self-reliance sought by South Korea is a rather narrowly defined one. It strives to acquire a capability to defend against North Korean aggression without intervention by the Communist giants, not an independence whereby it could produce all the military equipment and supplies required to maintain modern forces or to fight a sustained conflict. Moreover, North Korea definitely will not stay idle.

III

By ordering the 2nd Division home, President Carter might feel he has reduced the risk that the United States will suddenly find itself embroiled in another Asian land war—a political disaster for any President. But that premise is entirely wrong. Should another war break out in Korea, the United States will be militarily involved, if President Carter's defense commitment is made in earnest and the U.S.-Korea Mutual Defense Treaty is real.

Moreover, the withdrawal of the U.S. ground forces in Korea will not save money. Over the next few years, great pressure on the defense budget will continue given the competition from the domestic claims on resources in the United States. But a congressional study projects that the cost of posting the 2nd Division in the United States will run $150 million more over five years than the cost of keeping the unit on the peninsula.

On the other hand, advantages for the continued presence of U.S. combat ground forces in Korea are numerous. Its foremost value is deterrence. Kim Il Sung, who has ceaselessly demanded the unification of Korea under Communist rule, might well invade the south if he thought the United States would not come to Seoul's aid. The departure of U.S. ground units could very well prompt North Korea to miscalculate and unleash another Korean War. However, as long as American troops are deployed along the main invasion route, deterrence is much higher, for the North Koreans will certainly not wish to become involved once again with the United States in a full-scale war. The Republic of Korea's ground troops can be a substitute for U.S. ground forces in defending against a North Korean attack, but certainly not in deterring it. Pyongyang's unflagging efforts to force their withdrawal attest to that. It is therefore very essential that the North Korean perception not change, if we want to maintain peace and stability on the peninsula.

In earlier years, the Soviets and Chinese also have persisted in denouncing the deployment of U.S. forces in Korea and calling for its removal. But in the more recent past, it has often been stated that both Moscow and Peking have shown no indication of encouraging Kim Il Sung to undertake offensive military action, for they do not wish to have their relations with Washington and Tokyo worsened over the disturbance

in Korea. However, it is doubtful that either or both of these powers will continue to do so after the United States withdraws its combat ground troops from Korea.

Moreover, it should be pointed out that the Sino-Soviet conflict has led to the independence of the Pyongyang regime, giving Kim Il Sung a type of latitude in action that he would not otherwise have achieved. His ability to pursue independent action—action that neither of his allies would like—constitutes one of the prime dangers to peace and security in Northeast Asia today. The dispute has also somewhat enhanced North Korea's ability to obtain military assistance from both China and the Soviet Union.

But Korea cannot be treated in isolation, for it is the only place in the world where the four major powers come intimately into play. The Korean peninsula is strategically located across a narrow body of water from Japan and shares a common border with the Soviet Union and China. Since around the turn of the century, each of the four powers have been involved in war fought in or over Korea.

Japan is the power which has probably the greatest stake in Korea. The changing nature and composition of U.S. military involvement in Korea and another outbreak of war in Korea would have important effects on the Japanese perception of Japanese foreign, domestic, and defense policies. Coupled with the growing Soviet navy presence around the Japanese islands, Washington's Korea policy might initally coax Tokyo toward a neutralist stance or even accommodation with the Soviets, out of fear for its own security. But a country as rich and important as Japan would almost certainly turn before long to strengthening its own military power, including acquiring a nuclear weapon capability. A rearmed Japan, no longer closely linked to the United States would compel China and the Soviet Union to strengthen their military power, and increase tension and the danger of war in Northeast Asia.

Also, a major disturbance in Korea would destabilize the existing big power relations. As pointed out earlier, the United States will be militarily involved in case of a North Korean atttack, even if the extent of American involvement is limited to air coverage and logistic support. The existing Mutual Defense Treaty and international credibility all assure that. The Soviet Union and China also somehow will be drawn into the war, even if it is against their will. Both Peking and Moscow are not only bound by the defense pacts signed with Pyongyang, but also have a clear security interest in preventing an unfriendly major power from gaining a predominant position in neighboring Korea. They both will want to ensure North Korean survival as a Communist state. Consequently, another outbreak of war on the peninsula will seriously setback the existing Washington-Moscow détente and Washington-Peking rapproachement.

The United States force presence in Korea and elsewhere in the region have played an important role in deterring Soviet and Chinese pressure in Northeast Asia. This is especially true in the case of the Soviet Union, which has been maintaining a sustained drive to gain ascendancy over the United States and the West. But Moscow's successes have been so far negligible in the two key regions where the United States has maintained forward deployed arms—Northeast Asia and Western Europe. At the same time, it is safe to say that the American trooys in Korea and Western Europe are two pillars in deterring Moscow from any adventures either eastward or westward. As long as both pillars stand firmly, the Soviet Union has to be very cautious.

The sudden collapse of the South Vietnamese Government which had been actively supported by the United States for over twenty years has demonstrated to Southeast Asian nations that the United States is unlikely to intervene again militarily in their region. Immediately following the fall of Saigon, the United States strongly declared that Vietnam was an aberration and that the United States would remain a Pacific power, steadfast to its defense commitment. The continued presence of American combat ground forces has been visible proof of Washington's commitment to honor its obligations to all its regional allies. Withdrawal of the ground troops from Korea may not abrogate the treaty commitment, but in the light of recent trends, it would well be interpreted by the treaty partners and others in the region, as the beginning of an American military disengagement from Asia. No manner how vigorously the United States argued that the pullout did not significantly affect the military balance in Korea, it would be impossible to blunt the political impact and may even cause the traditional partners and other friendly nations in Asia to seriously consider alternatives to reliance on the United States.

Several other questions should be mentioned here. The Soviet Union's rapid military build-up in Asia is apparent not only in the forces along the Sino-Soviet border, but also in the strengthening of its Pacific fleet. At the same time, continued reduction of the deployed force level of the United States in the region is rather striking. What will happen to the regional power balance? Curtailment of an arms race, conventional as well as nuclear, has been one of President Carter's important concerns. Will the withdrawal of U.S. ground combat forces prompt an arms race in the region which Washington is striving very hard to avoid? Also, the U.S. forces stationed in Korea have been regarded as available as deployable forces for response to military contingencies elsewhere in the Asia-Pacific region. If the 2nd Division is to be demobilized and removed from the U.S. force structure or moved to Western Europe, how can such a loss be recouped?

IV

In recent years, the power relations between the great powers surrounding Korea and the nature and extent of outside involvement have been undergoing rapid changes. The credibility of the United States commitment to Korea and deterrence are being eroded by President Carter's decision to withdraw U.S. combat ground forces. Japan is still simply neither willing nor able to contribute politically and militarily to the stability of the peninsula. And the continuing bitter Sino-Soviet dispute has enhanced Pyongyang's ability to obtain military assistance from its allies and at the same time provided Kim Il Sung with a higher degree of latitude in provoking a dangerous course of action.

What has remained unchanged is North Korea's perception and policy. Kim Il Sung's all-consuming ambition has been clearly to unite north and south under his rule. He began one war in pursuit of this end and in the past has shown a willingness to engage in the most provocative conduct to help bring it about. He probably reasons that once the United States military presence has significantly terminated, the American people would be quite unlikely to endorse their return to another land war in Asia, and both Peking and Moscow might be more willing to lend political and material support to his military action against the south. Doubting that time is on his side since the Republic of Korea has an advantage in manpower and is growing in economic and military strength, he may very well become impatient. On the other hand, believing his own propaganda, Kim may decide the Republic of Korea is not a viable state—politically, economically as well as militarily. None of the foregoing is meant to argue for the inevitability of war in Korea. But one must and should recognize the existence of uncertainties and the danger of war on the peninsula.

Because the consequence of renewed war in Korea would be so serious in every respect, the United States should avoid taking actions that would weaken the deterrent to a North Korean attack. Kim Il Sung's belligerence, the inevitable uncertainty about his intentions, and the difficulty of predicting with assurance the outcome of a conflict make it wiser to over-insure than to under-insure. Therefore, the continued presence of U.S. ground forces in Korea is a safe, modest, and sure investment for the United States for keeping peace and stability in Korea, Northeast Asia and the world as well.

However, if the United States is to withdraw its ground forces from Korea, corresponding compensatory measures should be completed prior to its final removal. The measures should at least include a more visible air presence than some 60 U.S. warplanes now stationed in Korea and modernization of the Republic of Korea armed forces to the degree that the existing disparity could be overcome.

Also, President Carter's withdrawal plan should include a new set of conditions; the withdrawal of the U.S. 2nd Division and its ground support troops should not be completed until North Korea changes its present policy of belligerency and tangible evidence of peace has emerged on the peninsula. Significant reduction of tension between the two Koreas, conclusion of a non-aggression pact between the two Koreas, and simultaneous admission of the two Koreas to the United Nations could be considered as evidence. To this end, the United States can effectively utilize the force withdrawal as the leverage to force North Korea and to persuade the Soviet Union and China on this vital issue of peace.

CHALLENGE AND RESPONSE IN THE NORTHEAST ASIA OF 1985

(Strategic Studies Center, Symposium on Northeast Asia Security, June 20–22, 1977)

(By Gen. R. E. Stilwell, (USA, retired), senior advisory consultant, Strategic Studies Center)

My assigned topic—an appropriate one for a soldier—is the military balance in Northeast Asia. To elaborate on the current situation would be unproductive—for three reasons.

In the first place, it is universally recognized that a power equilibrium, persisting to this day, has existed in that strategic region since the wake of the 1950–53 Korean conflict. That equilibrium, maintained in large part by the US force presence, has blocked Soviet expansion in the East Asia; has provided the climate of confidence so indispensible for the dramatic forward economic momentum of Japan, the Republic of Korea, and the Republic of China; and has ensured regional stability.

In the second place, my views are already well documented on the military specifics of the tense confrontation astride the demilitarized zone on the Korean Peninsula—where change lurks constantly and where the US ground force presence has been the sine qua non of effective deterrence.

Finally, this Symposium has relevance only to the extent that it looks to the future—as Dr. Foster put it so aptly at the opening session. By consequence I shall attempt to project into the mid 1980's, hypothesizing the nature of the several threats in that time frame and providing one man's view of the major actions necessary to contain those threats and thus assure maintenance of an acceptable military balance. To be sure, mine is a risky gambit, for history demonstrates that our ability to forecast developments is

abysmally poor. Nonetheless, we must continue to try—and hopefully improve our insights and our methodology—for our collective survival depends thereon.

A. PROJECTED CHANGES IN THE MILITARY CHESSBOARD

Let me begin with some brief comments upon the reasonably predictable trends in the military posture of the principal players on the Northeast Asian scene.

1. Soviet Union

Since 1965, there has been an extraordinary buildup of Soviet military forces in East Asia. Over 40 first line Red Army Divisions, with impressive tactical aviation and nuclear support, are arrayed on or proximate to the Chinese border. For reasons only partially related to the multi-faceted conflict between the Communist superpowers, there has been a very substantial augmentation of the size and capabilities of the Soviet Far Eastern fleet. That fleet, as our Japanese colleagues well know, has both military and political significance in Moscow's eyes. While currently most notable for its submarine component, it is intended to become an instrument for the projection of the Soviet power and influence.

Unless one hypothesizes some Sino-Soviet détente over the next decade—and I, for one, don't—the expectation is for continued growth in Soviet military capabilities in Asia. Soviet army and air forces will maintain their clear superiority over the Chinese forces; logistic readiness and sustainability will be enhanced by the completion of the enormous, ongoing hardening program will make those forces virtually invulnerable to conventional interdiction. By the same token, the Soviet Far Eastern fleet will be more menacing and can be expected to steadily increase its range and its number of out-of-area operations. Debouching from hardened bases, that fleet will have excellent capability to protect the Soviet Coast; good capability to conduct sea denial operations throughout the Western Pacific; and fair (albeit steadily growing) capability, with long-range aviation support, to project Soviet power and to protect Russian fishing fleets. We must not overlook the 7 or 8 Soviet airborne divisions—elite and very ready formation—two of which can be airlifted simultaneously.

2. China

The military power of the PRC will also continue to augment, in both the strategic nuclear dimension and the conventional. The pace will be slow but inexorable. Peking will continue to be motivated by twin concerns: the security of the long, common land boundary with the Soviet Union and the danger of being outflanked from the East. The latter concern will probably translate into substantial modernization of their naval forces and expansion of operating radius of naval combatants.

3. North Korea

As the chart distributed earlier clearly depicts, North Korea now has a decided quantitative advantage over the ROK in all measurements of ready military power. There are no indications that North Korea intends to level off. To the contrary, the evidence is of intent to achieve a dominant military position vis-a-vis South Korea. This, of course, is consistent with the primary North Korean national goal of achieving peninsular hegemony by any means. We can thus expect that, over the next decade, North Korea will take whatever steps are necessary to maintain its edge over a burgeoning South Korea military establishment. We can likewise expect that North Korea will achieve an even greater capability to undertake major, sustained military operations without the tacit concurrence of or support from the Soviet Union or China.

In short, the Communist side of the chessboard will be dynamic, with the military capabilities of all three nations increasing.

Let me add two footnotes at this juncture:

a. The first has to do with the implications of the extraordinary hardening of military facilities in the three Communist countries concerned. Predominant attention has been given to the heavy expenditures of the Soviet Union in placing underground, or otherwise protecting, command and control, operations, logistic, and industrial facilities. The efforts of the North Korean regime have been more spectacular. To the best of my knowledge, we have yet to develop the types of conventional munitions—precision guided or not—to deal with targets so protected.

b. The second is a reminder that we would be ill-advised to assess the threat in traditional military terms only. Asian communist military doctrine is not a carbon copy of the Sokolovsky dicta. The Soviets support wars of national liberation; Asian communists conduct them. To the latter—as we saw in Vietnam—war is total; involves total mobilization of all sectors of national life; is pursued by means both conventional and unconventional; and may be short, protracted, or perpetual as the staying power of the adversary demands. I say this, deferentially, to this sophisticated audience to underscore again that Kim-Il Sung's preferred option for the use of force may not be a blitzkrieg attack southward along the historic invasion corridors to Seoul even though that contingency must continue to command priority attention of those charged with the external defense of the ROK.

4. United States

Still looking ahead to 1985, the U.S., pursuant to recent decision, will have withdrawn all combat forces from the Asian mainland with the exception of highly mobile tactical air elements in the Republic of Korea. It can be expected that the U.S. Seventh Fleet will have the capability to conduct its primary tasks vis-a-vis the Soviet fleet, but its ability to protect sea lines of communications will be marginal. It is to be hoped that the Third Marine Amphibious Force will still be positioned on Okinawa although the rationale for the forward deployment of that fine fighting force will be under serious debate. The opponents of that division's deployment will argue that, if we are not going to fight side by side on the Asian mainland with an ally under duress, we cannot justify the maintenance of a force for the conduct of a unilateral U.S. ground operation against a hostile Asian coastline. No major change is envisioned in the U.S. Air Force deployment in Japan or Philippines.

5. Republic of Korea

The most marked change will have occurred in the Republic of Korea. Withdrawal of U.S. ground forces will have largely invalidated the premise under which the ROK military establishment has heretofore been structured. That premise, in vogue since 1953, has been that the military requirements of deterrence were met when the sum of ROK capabilities, the in-place U.S. military forces and deployable off-shore U.S. forces were equal to or greater than North Korean capabilities. (In other words, $A+B_1+B_2 \geqq C$). Given the linkage explicit in this equation, and the high value assigned to B_2 (the offshore forces), it was never necessary for the ROK and U.S. forces on the Peninsula to match North Korean capabilities. The withdrawal of U.S. forces perforce requires the ROKs to materially revise their assumption with respect to the timing and scope of U.S. combat assistance, and consequently, to press forward to develop the capability to fight at least the first battle unaided. The Five-Year ROK Force Improvement Plan—ambitious though it was—will have proved to be totally inadequate as will a 7% of GNP defense allocation.

6. Japan

One can defend, with some confidence, the foregoing extrapolations which point to four nations with greater military capabilities in the area and one with reduced. Estimating the Japanese military establishment in the mid-1980's is another story. General Sugita's very thoughtful paper points up the difficulty of assessing what consensus will form in Japan on defense requirements and what decisions will follow. Will the 1% of GNP upper threshold on defense spending (at least 80% devoted to personnel costs) continue in effect? Will the Self-Defense Forces continue to be without mandate and institutional underpinnings, to lack resources for sustained combat, to be constrained by law from external deployment?

Will this economic colossus, totally dependent on Sealines of communication for its national life and coveted by both the USSR and China, continue to be militarally defenseless? For reasons that we Americans perceive only dimly and understand even less, the choice for the Japanese will be extraordinarly difficult. But, in the end, any nation worth its salt will do what it must do to pursue its destiny. Thus I predict that in the next few years the Japanese will form the concensus, make the decisions, and undertake the implementing actions that will raise Japan to the status of a major military power in the 1990's. Unless Japan moves in that direction, there is scant prospect for maintaining the stability and forward progress of Northeast Asia in the future.

B. MEETING THE CHALLENGES AHEAD

From a U.S. perspective, the record of the past quarter century in Northeast Asia has been conspicuously successful. American military power projected to and maintained in the region has contributed much to that success. In opting to remove U.S. ground forces from Korea, the United States is offering the fundamental character—both in fact and perception—of her investment in Northeast Asia. Yet the United States, the "Europe first" orientation of foreign policy notwithstanding, remains no less committed to the objectives of insuring peace and stability in Northeast Asia and enhancing the vitality of the Japan-Republic of Korea-Republic of China triangle. The challenge is to meet these objectives in light of the changes in the military equation postulated for the mid-1980's. Ability to do so will require the concurrent execution of manifold tasks in the diplomatic, military and economic areas. Most are wholly within the purview of the United States; some will be responsibilities shared with our Asian allies. They fall into three general categories:

To maintain the credibility of the U.S. security guarantees.

To enhance the military capabilities of our allies—both for deterrants and war fighting.

To defuse the situation on the Korean peninsula.

To begin with the last. We must work, assiduously and unrelentingly, to achieve international recognition of the reality of a North Korea and a South Korea as national entities and of a boundary demarcating their territorial limits. Over the last twenty years, we have been remarkably lax in this regard, subordinating this imperative to talk of an illusory, wistful reunification. By contrast, the U.S. gave its support to the efforts of the FRG to secure formal recognition of its existence by the USSR and its European satellites. The U.S. was a full participant in the Helsinki Conference which gave further authenticity to the boundary between East and West Germany. The center line of U.S. policy in the Middle East is to achieve universal recognition of the boundaries of Israel and

its right to exist as a nation. We can do no less for the Republic of Korea than for Germany and Israel. Agreement of an American President at Yalta led to the administrative partition of Korea in 1945; and the continuation of that division was confirmed by the Armistice Agreement signed by an American officer in 1953. Communist rule is firmly established in North Korea; but Communist appetites are insatiable.

The basic source of tension on the Korean Peninsula is the claim of North Korea to all of the Peninsula and its 50 million inhabitants and its concomitant refusal to acknowledge the existence of the Republic of Korea government, let alone negotiate with it. A mounting arms race on the Peninsula will not defuse tensions—quite the reverse. One essential precondition for amelioration of tensions—which must be our goal in NEA as it is elsewhere—is the establishment of a boundary, recognized by the world comity. That recognition would be evidenced by cross recognition of the two Korean nations by the Communist and Free Worlds and by admission of the two states into the United Nations. These steps need not prejudice ultimate unification of the one Korean nation by agreement of the two Korean States. I don't suggest that this can be achieved in the next few years. It will be most difficult even if those U.S. troop withdrawals not yet announced could be made conditional on demonstrable progress on these matters. It will be far more difficult without this leverage. But try we must, beginning now, in a full blown campaign concentrating mainly on the Soviet Union—bearing in mind that Peking will have great difficulty assenting to a two Korea formula whilst the Taiwan question is unresolved. Bringing the essentiality of juridically established boundaries center stage in world forums—and maintaining the issue in prominent view—will go far to demonstrate the U.S. enduring commitment to the security of South Korea and all of NEA.

These actions should be the backdrop for all other activities.

1 Maintaining credibility

We must convince literally all parties—allies and adversaries, publics and parliament, European as well as Asian—that the United States is as firmly committed as ever to share in the defense of Northeast Asia that it will not abandon its allies and that it has not lost its nerve for an Asian war:

a. The Mutual Security Treaty with Japan, the Republic of Korea and the Republic of China must remain intact and viable. It would be highly desirable for the U.S. Executive Branch to secure Senate reaffirmation of the validity of each of the three treaties. It is particularly important that there be no concession to Peking on our commitment to the government and people on Taiwan.

b. It is essential that the Second Division can be retained in the U.S. Army force structure subsequent to its removal from Korea. No explanation could counter the Asian conviction that the U.S. had indeed determined on a policy of "no return" were this Division to disappear from the active roles.

c. Some form of major, repetitive, trans-Pacific force deployment exercises, concerted at government-to-government level and analogous to the annual NATO exercises (REFORGER/CRESTED CLP) must be instituted, preferably buttressed by pre-position dockets.

2. Enhancing ROK miltary capability

With the rules of the game changed, the inclination of the Republic of Korea may well be to do too much too fast. After all, the U.S. withdrawal decision confronts the RKOs with a whole new order of financial, procurement, force structure, training and logistic requirements not foreseen (and therefore unprogrammed) in the current Force Improvement Plan. The United States by demonstrated interest and action, will have a key role in ensuring that the ROK Armed Forces move closer to self-sufficiency in an orderly manner, thus avoiding the very destabilizing political and economic consequences so well articulated in Dr. Sang-Woo Rhee's paper. The Republic of Korea will have urgent need of:

a. Annual dollar credits far in excess of the $275 million for FY 78 currently under consideration by this Congress.

b. Wholesale exceptions to the policies enunciated by the U.S. government as regards arms sales, joint ventures and co-production, as well as liberalization of the technology transfer restrictions heretofore applied to South Korea.

c. Concessional pricing for the equipment left behind by the departing U.S. Ground Forces, despite the difficulty this may engender in negotiations with other arms customers.

d. Maximum U.S. assistance in the development and production of weapons systems, to include munitions, to counter more effectively the hostile target arrays in the Korean environment. Such systems are not now in the inventory of either the U.S. or ROK forces, but are well within the "state of the art" and not overly sophisticated. They can easily be produced in South Korea, with U.S. technical help. And such Korean produced equipment would have utility for other allies.

e. Assurance of the availability of prepacked legislation that will facilitate expeditious Congressional appropriation of the funds without which no U.S. logistic support can be provided, war or no war.

3. The matter of command arrangements for the defense of Korea is germane to both "1" and "2" above. It deserves special mention.

For the foreseeable future, the Commander-in-Chief, United Nations Command, an American officer acting as agent of the United States, is charged with responsibility for the enforcement of the Armistice Agreement (sharing that responsibility with Kim Il Sung). That Agreement is still the only legal basis for defining what is North Korea and what is South Korea. Given the close confrontation along the DMZ, the distinction between Armistice and defense responsibilities is theoretic rather than real; and with massive North Korean forces capable of attacking without warning, unity of command and in being command structures are a must. Thus, in the most remarkable concession of sovereignty is the entire world, that same American officer is entrusted with operational command of all ROK combat forces. Equally remarkable, although the sinews of defense are overwhelmingly Korean, that officer reports only to U.S. higher authority.

It seems inevitable that the ROK government will wish to see the current command arrangements altered before the U.S. presence is reduced to a tactical fighter wing equivalent. Several considerations will come into play. Unity of command must be preserved. The ROK government has to have a major voice in the strategic direction of any war effort. A very senior American officer must remain in Korea to discharge Armistice responsibilities. A single combined ROK/U.S. headquarters is the optimum mechanism for handling Armistice matters, defense planning, U.S. air and logistic reinforcement in war and significantly for transition to a fully competent, wholly Korean national command structure at a later date. U.S. agreement to concert modified command arrangements, meeting clearly valid ROK military and political requirements, will give further substance to the undiluted U.S. commitment to the security of the Republic of Korea.

4. Enhancing U.S./Japanese military collaboration

The Japanese military establishment will be the swing force on Northeast Asia from the mid-1980s onward—and therefore crucial to the resultant military balance. I base what follows on the premise, advanced earlier, that Japan will decide, after soul searching consideration. to develop armed forces more commensurate with its economic stature and growing political influence in the world at large. Eight years hence—a short period indeed—the major change in the Japanese Armed Forces will be qualitative: endowed with legislation which defines both responsibilities and authorities for national defense and provides the framework for mobilization; properly organized for planning and direction of joint operations; and allocated adequate resources for fleshing out strength and an efficient pace of moderinzation and expansion.

With that solid base, the U.S. and Japan must then proceed to give meaning to complementarity and hopefully to achieve a synergistic effect from their respective contributions to the security of Northeast Asia.

a. Together, we must get serious about the contingent defense of Japan from direct or indirect attack. This must include the development of combined command structures, with carefully honed procedures, for full activation in emergency. General Matsukane cited other relevant matters for combined attention. I agree with them all and incorporate them by reference.

b. Together we must exploit the Japanese base on behalf of the Republic of Korea and, indeed, Taiwan.

(1) For the U.S., this means and maintenance in Japan (main islands and Okinawa) of an adequate, responsive logistics apparatus, plus air facilities, which can assume prompt support of embattled allies.

(2) For Japan, this means initiation of programs to supply the ROK Armed Forces at least non-lethal equipment and supplies from the Japanese defense industrial base; and Japanese economic assistance, as needed, to the Republic of Korea.

(3) Given the close interrelationship between the security of the Korean Peninsula and that of Japan, the requirement for trilateral planning has always been pressing but heretofore precluded by political sensitivities and by Japanese law. Such planning can and must go forward.

5. The Chinese connection

Just how—if at all—military relationships with the Peoples' Republic of China will develop is conjectural. There could well be overtures from Peking, geared to temperature changes in Sino-Soviet contretemps. They will require the most careful assessment in the light of a controlling principle: that it is not in our collective interest for the dispute between the two Communist superpowers to heal or aggravate. This most complex subject deserves searching research.

C. BY WAY OF SUMMATION

Can we get from here to there, preserving in the mid-1980's the vitality of the Japan-ROK-ROC triangle? It will be inordinately difficult, even if the Free World nations make a maximum effort and a minimum of mistakes. Certainly the costs will be much higher and the margin narrower without US ground deterrent forces north of Seoul—underscoring the inordinate value of the Second Division as currently deployed. Above all, we must "hang together," forging the closest possible partnership built on mutual understanding, unflagging determination and optimal cooperation.

Mr. DELLUMS. Mr. Speaker, I have argued in the past and will continue to argue that we do not need U.S. troops in South Korea. Their continued presence

will merely insure that the United States will be drawn into another land war to protect the corrupt regime of President Park. An action I do not believe the American people will support.

Tuesday I received petitions from thousands of people around the country calling for an end to the continued U.S. military presence in South Korea, a withdrawal of all nuclear weapons, and an end to all U.S. aid to the Park government. I now wish to bring your attention to a statement made by the National Petition for a New U.S.-Korea Policy. It reads as follows:

Today, the National Petition For A New U.S.-Korea policy presents over 6,000 signatures from 39 states, the District of Columbia and five other countries to Congress demanding: 1. The immediate withdrawal of all U.S. troops and nuclear weapons from South Korea, 2. The immediate end to all U.S. aid to the Park Chung Hee regime.

The National Petition campaign began nine months ago in the midst of the fall presidential campaign. The "tree-trimming incident" at Panmunjom was only six weeks old, and U.S. presence in South Korea had become an election issue. At our initial meeting religious, community, and anti-war representatives concluded that even if Jimmy Carter were elected president we probably still faced a long and difficult fight to help realize peace, democracy and independence in South Korea. In our opinion even if Carter were elected and he genuinely intended to reverse the long standing cold war policy of military confrontation with North Korea and aid to successive dictatorships in South Korea, the very longevity of this policy carries much political weight among its many supporters. Consequently, we thought it necessary to mobilize the U.S. people to demand the termination of U.S. military and economic support of South Korean dictator Park Chung Hee. With this determination in mind, we initiated the Petition Campaign which culminates today in the midst of Congressional discussion of U.S. troop withdrawal and aid appropriations for South Korea.

These petitions are evidence the Americans are sickened by the spectacle of continuing U.S. aid to a dictatorship so ruthless that it resorts to executions, torture, and mass imprisonment of the South Korean people. We are shocked that the U.S. continues to send dollars to a regime which bribes Congress, and intimidates Koreans abroad in an attempt to secure further support from the U.S. and silence any opposition to Park's dictatorship.

We question President Carter's sincerity on the human rights question when he places U.S. security interests above the rights of the South Korean people. It is a tired refrain sung by every administration since the end of the Korean war.

At this moment, in the face of mounting human rights violations in South Korea and exposure of South Korean bribery in Congress, Congress is still seriously considering increasing military aid to South Korea from $347.2 million to $1221.9 million. We appeal to the members of Congress to expunge from their record the shameful bribe-taking and influence-selling which binds them to such a ruthless dictatorship. We appeal to Congress to turn away from the cold war cliches of decades past and embrace a new U.S.-Korea policy which would support the South Korean people's cherished hopes and struggles for democracy and independence. We appeal to Congress to end all aid to Park and to pass a resolution supporting the withdrawal of all U.S. troops from South Korea so that Koreans may proceed with the reunification of their beloved homeland. We appeal to President Carter to move immediately on his campaign promises to withdraw U.S. troops from South Korea and to make human rights a key word in his foreign policy by terminating U.S. aid to dictator Park.

All of us in the National Petition For A New U.S.-Korea Policy express our gratitude to the thousands who supported this campaign. We especially express our gratitude to Congressman Dellums and the other members of Congress who have taken public stands in favor of troop withdrawal and aid cuts to Park. We look forward to the day when the majority of Congress will hear the voice of the U.S. and Korean peoples and will vote to terminate all aid to Park and withdraw all U.S. military forces from South Korea.

Following is a copy of the petition and a listing of the number of signatures by State:

In 1976, and likewise for the past 30 years, "national security" has served as the rationale for the U.S. to commit its financial and military resources in order to sustain the repressive government of the Republic of Korea (South Korea).

Although ROK president Park Chung Hee has suppressed all demands for democracy, violated fundamental human rights and refused to resume reunification negotiations with North Korea, the U.S. Congress increased military assistance alone by $200 million to almost $500 million. This aid has been used to imprison more than 55,000 South Koreans who oppose the policies of the South Korean government. Included among the prisoners are:

Yun Po Sun, 79-year-old former ROK president.

Kim Dae Jung, former candidate for president.

Lee Tae Young, South Korea's first woman lawyer.

Kim Chi Ha, South Korea's most renowned poet.

Lee Oo Chung, President of Church Women United.

Ham Suk Hon, Quaker leader.

Indeed, U.S. aid and President Park's repression go hand in hand to maintain Park's regime in the absence of popular support from the South Korean people.

As further evidence of a continued determination to preserve its interests in Korea, the U.S. has kept over 40,000 U.S. troops stationed in South Korea even though nearly a quarter of a century has passed since the end of the Korean War. Armed with hundreds of nuclear weapons and poised at the Demilitarized Zone in Korea, these U.S. troops constitute a potential tripwire for nuclear world war even as they serve to demonstrate U.S. support for the Park dictatorship.

Furthermore, the U.S., against the desires of the South Korean people for economic justice and independent national development, has encouraged Park to create an economy heavily dependent upon foreign capital and based on the exploitation of South Korea's underpaid workers. The results have been a $5.78 billion foreign debt, millions of peasants driven into the cities, often to become part of the mass of unemployed, and wages kept as low as 22 cents an hour for a 66-hour week. Only the foreign corporations and a few wealthy South Koreans profit from the U.S.-backed "economic miracle" of the ROK.

Lacking popular support and surrounded by economic crisis, Park has had to stifle widespread opposition from workers, peasants, students, religious groups and others with a huge repressive apparatus maintained by U.S. aid. In fact, the KCIA has even extended its activities into the U.S. where it has tried to stifle anti-Park sentiment in the Korean immigrant communities and has secretly spent millions of dollars to bribe Congressmen so as to assure the continued vital flow of aid from the U.S. government.

We therefore call for an end to the U.S. government's effort to prop up the Park Chung Hee dictatorship. We demand that the U.S. government stop sending our tax dollars to the ROK where they contribute to the repression of the South Korean people. We call for the withdrawal of all U.S. troops and nuclear weapons from South Korea to prevent U.S. involvement in another Vietnam-type war of intervention in Asia. We urge the U.S. government to permit the Korean people to resolve their own problems, especially the reunification of their homeland, peacefully, independently and democratically.

A PETITION TO CONGRESS FOR DEMOCRACY AND PEACE IN SOUTH KOREA

We, the undersigned, call for an end to the U.S. government's support of the repressive regime in South Korea.

We urge Congress to implement the "Human Rights" amendment (U.S. Public Law 94-329, Sec. 502B) which states that *"no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."*

We call on the U.S. government to terminate its dangerous military involvement in Korea and allow the Korean people to determine their national affairs without foreign interference.

We therefore demand:

1. The immediate withdrawal of all U.S. troops and nuclear weapons from South Korea.

2. The immediate end to all U.S. aid to the Park Chung Hee regime.

NUMERICAL BREAKDOWN OF NATIONAL PETITION CAMPAIGN RESULTS

State:	*Signatures*
Alabama	1
Alaska	1
Arizona	4
California	2,448
Colorado	75
Connecticut	106
Delaware	11
Florida	26
Georgia	5
Hawaii	27
Illinois	73
Indiana	25
Iowa	11
Kansas	20
Kentucky	47
Maine	2
Maryland	43
Michigan	103
Massachusetts	221
Minnesota	178
Missouri	55
Montana	22
New Hampshire	19
New Jersey	50
New Mexico	27
New York	775
North Carolina	15
Ohio	83
Oklahoma	2
Oregon	1,095
Pennsylvania	151
Tennessee	2
Texas	16
Utah	12
Vermont	37
Virginia	54
Washington	145
West Virginia	13
Wisconsin	77
Washington, D.C.	31
Japan	8
Thailand	1
Canada	14
Switzerland	1
England	1
Total*	6,133

* This figure includes signatures that came in after the petitions had been shipped from California and Oregon. Hence the numbers here stated and the signatures on the petitions are slightly different.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may be permitted to have 5 legislative days in which to extend their remarks and to include therein extraneous material on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

"THE END OF AN ERA"

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, too often we become so intent with daily matters that we fail to pay tribute to the passing into history of some of our national assets which played such an important role in maintaining American presence and prestige around the world.

After 32 years, the attack aircraft carrier, *Franklin D. Roosevelt*, returned to her home port for the last time. In her 32 years, she represented our country well in peace and war. She had the distinction of impressing our enemies, delighting our friends, and assuring the rest of the world that saw or heard of her presence.

Mr. John T. Hayward has written the perspective entitled "The End of an Era" which appears in the June 1977 issue of Government Executive and I wish to share this article with my colleagues. I feel it most important that we reflect on his views regarding the role the Congress has maintained to insure that this Nation has a Navy second to none.

The article follows:

THE END OF AN ERA

(By John T. Hayward)

On the 22nd of April the attack aircraft carrier, *Franklin D. Roosevelt* sailed into her homeport, Mayport, Florida, for the last time. She is headed for the scrap heap. She operated over 32 years of our nation's history. They were important and exciting years.

She came into being as a CVB while the largest sea war in history was drawing to a close. Japan was defeated and she never saw action in that war. As her name disappears from the rolls of the active Navy ships it will mark the end of an era.

She acquired that name with a letter written in April 1945, shortly after the death of President Roosevelt. It stated "My dear Mr. President—I would like to propose for your consideration that the new aircraft carrier, CVB–42, be christened *Franklin D. Roosevelt*. The ship is scheduled for christening on 29 April. It had been proposed to name the ship *Coral Sea*, in line with general policy of having carriers named after battles, but I am sure the county will approve of the variation.

Respectfully yours,

JAMES FORRESTAL."

Three days later the letter was returned and on the bottom was scrawled the terse reply "Meets my hearty approval—signed, Harry Truman."

Different Role—She was the second of a new class of carriers of which there were to be three. A new concept in warships at the time, she was to be able to operate almost one hundred aircraft plus be adequately gunned with 18 five-inch and fifty-four heavy caliber guns. She was to serve as the vanguard of the carrier task force, a concept that would typify the modern naval striking group of the fifties and the sixties.

She was christened and launched on April 29, 1945. On Navy day, October 27th, 1945, she was commissioned. President Truman gave the commissioning address. He remarked that "this ship is a symbol of our commitment to the United Nations organization to reach out anywhere in the world, to help peace-loving nations of the world and stop any international gangster.

"A hundred hours after leaving New York this ship could be off the coast of Africa. In five days she could cross the western Pacific from Pearl Harbor to the Philippines. This vessel alone could put more than one hundred fighting planes over a target . . . These then are two huge tasks before us—realizing for our own people the full life which our resources make possible and helping to achieve for people everywhere an era of peace . . . We approach them with the spirit of Franklin D. Roosevelt, whose words are inscribed in bronze on this vessel: 'We can, we will, we must!' "

Thirty two years have gone by and this ship has performed the task that President Truman set out for her. Most of years of service have seen her occupied in a good will role. With the exception of one combat tour in the Western Pacific during the Vietnam conflict, the Roosevelt has deployed to the Mediterranean so often she has earned the nickname of the "Mediterranean Carrier." Since 1946 she has spent a total of a bit over nine years in the Mediterranean, more than 17 tours—an accomplishment no other carrier can claim.

She has many firsts to her credit. The first jet flew off her deck, as did the first helicopters. Her record is an outstanding one from all angles and one can't help but wonder of the future of such ships in the years to come.

Changing Order—We have just witnessed the new President and his Secretary of Defense claim that they would not build a fourth Nimitz class CVAN. They say it is too big and too expensive! They are going to build a small carrier and have VSTOL aircraft perform all the tasks required.

I do not believe in the face of facts that it makes good sense for the U.S. to do this. This ship and its weapon systems have been a major controversy.

I believe it comes from not really understanding the problems that face the U.S. We have billions of dollars in capital assets in such aircraft as the F–14, A6, A7 and the coming F–18. It just makes sense to be sure they can operate from any flight deck that we build. The capability of the Nimitz class carrier is unsurpassed.

The coming energy shortage and associated problems just emphasize the requirement to make it a nuclear-powered ship. It would operate into the next century. As it is a follow-on ship it would be cheaper than starting a new class of "small carriers."

The analysis on costs demonstrated this to the Navy's satisfaction and they so stated before Congress. The strategic situation calls for the U.S. to be able to do just what President Truman demanded from the Roosevelt. The U.S. is coming home! Whether it be Korea or the Philippines we are on our way back. One only has to look at the numbers of our deployed forces and how they have decreased in units and personnel.

Carrier Keystone—This makes the ability to control the sea more vital than ever. The aircraft carrier is still the key to this success on the oceans of the world. Precision guided weapons have made the role of the aircraft at sea even more vital for success. What the outcome of the struggle for this ship will be is not known but it looks very dim at the moment. The only hope is Congress.

Contrary to popular belief our Congress has been very farsighted where the Navy is concerned. It was Congress, not the President or the Navy that pushed the Polaris program. If they had followed the President's recommendations it would have been years before we had the system operational. It was the good fortune of the U.S. to have a Congress that understood the problem and provided the funds for its rapid implementation.

An awful lot of very serious thought and work went into the original authorization for this CVAN, prior to President Carter's taking office. There has been nothing that has happened in world events that would make this prior decision wrong. It may have been strengthened by the new administration's assertion that we were coming home from Korea. The recent secret report by our Ambassador in the Philippines, that recommended we leave all the U.S. bases in those islands, is another sign of the times.

The carrier has been a unique system. It should not be compared to the battleship as a capital ship, like so many uninformed people have done. It, in fact, was the beginning, at sea, of the use of the synergism of all vehicles. It brought the airplane to the sea battle along with all the other ships.

Today there is no capital ship in the Navy rather it is the use of all ships and their strengths and weaknesses that make a Navy strong. The nuclear submarine, carrier, aircraft and associated ships should be welded into a team that would be unbeatable at sea. Modern advances in communication and electronics make this a possibility today where years ago it was not practical.

So here is the end of a career for a ship that has served her nation well. She has sailed all the oceans of the world in those thirty two years. There have been 250,000 carrier landings on her flight deck. She fired the first cruise missile from her deck and saluted many a head of state around the world.

Does the hauling down of her flag mark the inevitable demise of the aircraft carrier? Will she be followed to the scrap heap by the remaining ships, including the *Nimitz* class? If this does happen it will be a sad day for the U.S. and our ability to control the sea and the uses of the oceans to enhance the freedoms we so loudly advertise to the world. The many critics of this system have never really come up with a viable substitute to answer the problems of the U.S. at sea.

It is nice to report our President sent a letter to the Captain and crew of the ship on its final return to the U.S. I sincerely hope he meant the words he said and ponders them well with respect to our future on the seas of the world . . . "Your officers and men who now serve in this fine ship may be proud of your services just as you are prideful of the work of those who have sailed before you in her during the past 32 years. As President Franklin D. Roosevelt meant leadership and hope to the people the world over. The ship *Franklin D. Roosevelt* has stood for excellence and strength as America has sought to keep the peace which that President worked so hard to achieve . . . On behalf of a grateful nation, ' well done.' Sincerely, Jimmy Carter"

I would hope that during his time in office the President really evaluates the situation and goes ahead with the authorization of the fourth *Nimitz* class ship and gives her the proud name of *Franklin D. Roosevelt*. It would be a significant step forward for the U.S. and the future of the Navy.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, a meeting on trade matters given by the Secretary of Commerce yesterday afternoon forced me to miss roll No. 361, the Young amendment that sought to reduce funds appropriated for international programs of the United Nations. Had I been present, I would have voted "no." I also would have voted "no" on rollcall No. 372, the Moore amendment relating to palm oil.

CONFERENCE REPORT

Mr. YATES submitted the following conference report and statement on the bill (H.R. 7636) making appropriations for the Department of the Interior and related agencies, for the fiscal year ending September 30, 1978:

CONFERENCE REPORT (H. REPT. No. 95-461)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7636) "making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1978, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 14, 23, 31, 32, 36, 52, 55, 56, 57, and 58.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 15, 17, 18, 20, 25, 27, 28, 33, 35, 39, 43, 44, 45, 49, 51, 53, 61, and 64, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$246,938,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$169,279,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$323,105,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$45,000,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$361,547,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$107,656,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$203,040,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,488,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$533,918,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert $53,059,000; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert $40,630,000; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$748,127,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,798,933,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$428,891,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,000,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$88,238,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$14,509,000"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$17,500,000"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,294,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 5, 7, 9, 16, 19, 21, 22, 37, 41, 46, 48, 50, and 63.

SIDNEY R. YATES,
GUNN MCKAY,
CLARENCE D. LONG,
FRANK E. EVANS,
JOHN P. MURTHA,
ROBERT DUNCAN,
NORMAN D. DICKS,
JAMIE L. WHITTEN,
GEORGE H. MAHON,
JOSEPH M. MCDADE,
RALPH S. REGULA,
WILLIAM L. ARMSTRONG,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

ROBERT C. BYRD,
JOHN L. MCCLELLAN,
ERNEST F. HOLLINGS,
BIRCH BAYH,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
DENNIS DECONCINI,
TED STEVENS,
MILTON R. YOUNG,
MARK O. HATFIELD,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7636), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Amendment No. 1: Appropriates $246,938,000 for management of lands and resources instead of $250,289,000 as proposed by the House and $245,808,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of the following decreases: Onshore oil and gas leasing, $660,000; coal leasing, $1,000,000; visual resource management, $200,000; data management, $840,000; enforcement, $51,000; and travel, $600,000. The allowance for cadastral survey includes $270,000 to duplicate survey records of the State of Oklahoma and make them available to the Oklahoma State archives.

Amendment No. 2: Appropriates $18,707,000 for acquisition, construction, and maintenance as proposed by the Senate, instead of $16,827,000 as proposed by the House.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

Amendment No. 3: Deletes House language that provided that certain funds for the Water Resources Research Act of 1964 and the Saline Water Conversion Act of 1971 shall become available only upon enactment of authorizing legislation and adds the word "and" as proposed by the Senate.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to salaries and expenses with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following: "$25,307,000, of which $7,975,000 shall remain available until September 30, 1979".

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the Senate consists of the following increases and decreases: Increases of $300,000 for water conversion process research; $375,000 for electrodialysis process research; $600,000 for water reuse technology; and $400,000 for seawater desalting research; and a decrease of $795,000 for assistance to state water resource institutes.

Conferees agree that the Wrightsville Beach, N.C., facility be closed and research that would have been conducted there be done on the West Coast. In the event the Secretary of Interior determines that the Wrightsville Beach site should be retained, saline water research funds may be used to maintain and operate the facility.

BUREAU OF OUTDOOR RECREATION

Amendment No 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $11,574,000 for salaries and expenses instead of $11,719,000 as proposed by the House and $12,499,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The decrease below the House allowance consists of reductions of $100,000 for additional water resource studies and $45,000 to accelerate wild and scenic river studies. The conferees agree that these activities should be performed on a reimbursable basis.

The conferees are in agreement that the existing duplication in technical and cooperative outdoor recreation assistance to federal, state, local and private entities should be terminated. These activities should be consolidated in one agency, and the Secretary is urged to develop the program changes necessary to accomplish this goal. The conferees expect these changes to be reflected in the fiscal year 1979 budget estimates.

The conferees are in agreement with the distribution of federal programs funds under the Land and Water Conservation Fund as shown in the Senate report.

UNITED STATES FISH AND WILDLIFE SERVICE

Amendment No. 6: Appropriates $169,279,000 for resource management instead of $172,796,000 as proposed by the House and $165,434,000 as proposed by the Senate. The net decrease below the House allowance consists of the following increases and decreases: Increases of $100,000 for helicopter rental, Louisiana; $100,000 for farming operations, White River NWR, Arkansas; $248,000 for the fishery training center, Leetown, West Virginia; and $400,000 for cooperative wildlife and fishery units in Alaska, Mississippi and Florida; and decreases of $1,500,000 for environmental contaminant evaluation; $1,100,000 for land and water resource development planning; $165,000 for project investigations; $350,000 for biological services; $750,000 and 50 positions for refuge management; and $500,000 for travel.

Within available funds, the conferees are in agreement that $8,000 shall be available for the White Sulphur Springs NFH and $16,000 for the Bowden NFH, West Virginia, and $75,000 for blackbird research.

The conferees are in agreement that it is essential to ensure full and timely consideration of fish and wildlife values in the development of environmental impact statements and in the formation of plans and policies affecting the environment. The mechanism for this procedure is already in place and the implementation should be carried out without duplicative programs and funding. The conferees expect the Secretary to develop policies and procedures to ensure that fish and wildlife considerations are given proper emphasis in the early stages of project planning and development and in the formation of environmental impact statements. This can be accomplished for the most part by more effective application of environmental laws and improved federal and state coordination reducing the need for establishing separate programs that are costly and redundant.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $65,060,000 for construction and anadromous fish, instead of $62,903,000 as proposed by the House and $52,694,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase above the House allowance includes the following additions: $638,000 for Wolf Creek NFH, Kentucky; $122,000 for White Sulphur Springs NFH, $90,000 for Bowden NFH, and $250,000 for Leetown Fishery Training Center, West Virginia; and $1,075,000 for White River NFH, Vermont.

Within available funds, $80,000 shall be available for planning an interpretive center at Cuba Landing, Tennessee NWR, and $18,000 shall be for the Miles City NFH, Montana.

NATIONAL PARK SERVICE

Amendment No. 8: Appropriates $323,105,000 for operation of the national park system, instead of $324,515,000 as proposed by the House and $321,130,000 as proposed by the Senate. The decrease of $1,410,000 below the House allowance consists of an increase of $575,000 for interpretive services and the following reductions: $575,000 in maintenance; $500,000 in resource management; $250,000 in new area studies and landmark monitoring; $560,000 in travel; and $100,000 in executive direction.

The conferees agree that the National Symphony should rely for support on the National Endowment for the Arts and not the Park Service. Accordingly, the Park Service should submit a reprogramming of any funds intended to assist the National Symphony.

None of the funds provided for new area studies shall be used to promote public acceptance or rejection of park legislation.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $161,442,000 for construction, instead of $149,397,000 as proposed by the House and $155,706,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase of $12,045,000 above the House allowance consists of a general reduction of $125,000 in roads and trails and the following increases: $996,000 for Harpers Ferry NHS; $1,037,000 for Biscayne NM; $250,000 for the Franklin Delano Roosevelt National Memorial; $1,500,000 for the Jefferson Expansion Memorial; $8,000,000 for the Natchez Trace Parkway, Section 1-D, Tennessee; $187,000 for Arkansas Post NHS; $100,000 for the Sewall-Belmont NHS; and $100,000 for Mount McKinley NP road paving planning.

The conferees have deferred funding proposed by the Senate for Cowpens NB, South Carolina, pending completion of an investigative report on Park Service construction policies.

As a result of changing circumstances involving a concession contract, the conferees have also deferred funding proposed by the Senate for a golf clubhouse at Oxon Cove, Maryland.

Amendment No. 10: Appropriates $45,000,000 for preservation of historic properties, instead of $40,000,000 as proposed by the House and $80,000,000 as proposed by the Senate. The additional funding is for historic preservation grants. The Senate receded from its proposal that an additional $150,000 be used for administration of the program.

GEOLOGICAL SURVEY

Amendment No. 11: Appropriates $361,547,000 for surveys, investigations, and research, instead of $367,524,000 as proposed by the House and $355,247,000 as proposed by the Senate. The decrease below the House allowance consists of an increase of $2,173,000 for flood plain mapping for the federal flood insurance program and the following reductions: $2,300,000 for earthquake research; $1,000,000 for energy resource surveys; $3,400,000 for OCS lands; $150,000 for Federal and Indian lands; and $1,300,000 for travel.

The conferees are in agreement that $3,400,000 for production diligence reviews and oil and gas reserve inventories on OCS lands, as proposed by the House, shall be provided within available funds.

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Amendment No. 12: Appropriate $107,656,000 for salaries and expenses instead of $107,116,000 as proposed by the House and $107,806,000 as proposed by the Senate. The increase in the House allowance consists of additions of $140,000 for design of a publications distribution center at the Beckley, West Virginia, academy; $150,000 to accelerate mine waste application processing; and $250,000 for planning an extension of the Dallas Pike facility, Wheeling, West Virginia.

BUREAU OF MINES

Amendment No. 13: Appropriates $203,040,000 for mines and minerals, instead of $203,300,000 as proposed by the House and $190,559,000 as proposed by the Senate.

The net decrease under the amount proposed by the House consists of the following increase and decreases: An increase of $2,150,000 for subsidence control in Rock Springs, Wyoming; and decreases of $1,350,000 for metal and nonmetal health and safety research; $500,000 for mined land demonstrations in bituminous areas; $300,000 for employee work place health and safety; and $260,000 for travel.

The managers are in agreement that the $4,500,000 for mined land demonstrations in bituminous areas contains $2,000,000 for projects in West Virginia, $2,000,000 for projects in Illinois, and $500,000 for projects in Pennsylvania.

The managers agree that the total number of permanent positions for the Bureau of Mines is 3,030, excluding personnel at the Carbondale facility.

Amendment No. 14: Provides that $120,858,000 shall remain available until expended as proposed by the House instead of $116,088,000 as proposed by the Senate.

Amendment No. 15: Strikes House language which provided that $10,000,000 for coal mine health and safety research shall become available only upon enactment of authorizing legislation.

BUREAU OF INDIAN AFFAIRS

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $677,181,000 for operation of Indian programs, instead of $672,096,000 as proposed by the House and $675,175,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The $5,085,000 net increase in the House allowance consists of the following increases and decreases: Increases of $650,000 for assistance to previously private schools; $1,200,000 for costs associated with the transfer of BIA schools in Alaska to local control; $3,000,000 for the housing improvement program; $160,000 for Northern Cheyenne legal fees; and $870,000 to initiate services to the

Passamaquoddy and Penobscot Tribes; and decreases of $750,000 for administrative travel, and $45,000 for a dam safety study on the Lower Elwha Indian Reservation.

The conferees are in agreement on the following:

That additional funds for previously private schools shall include assistance to the Ojibwa, Duckwater, Crow, and St. Francis schools as provided by the Senate:

That $3,800,000 shall be available from social services to establish ongoing child welfare programs;

That the increase provided for housing shall include assistance to the Quileute and Minnesota Chippewa Tribes and for relocation of eight homes at Venetie, Alaska;

That $2,000,000 of funds available for school operations shall be used for special education, including support for the Pierre Learning Center, and that the Bureau shall submit a report on the unmet special education needs by December, 1977;

That the increase provided for Indian Action Teams shall include funding for the San Carlos Apache Tribe, Arizona, and $250,000 for the Miccosukee Tribe, Florida;

That $200,000 shall be available from existing funds to study the proposed Sisseton-Wahpeton farm development project; but that $200,000 proposed to study the feasibility of a rangeland transfer to the Duckwater Tribe should be deferred;

And that Johnson-O'Malley funds should be distributed in accordance with the existing formula, with the exception of specific increases provided above the budget request, and that any planned revisions in the existing distribution formula should be submitted for prior approval to the House and Senate Appropriations Committees.

The managers are in agreement with the House reduction of $4,028,300 for Central and Area Office program and administrative staff.

Amendment No. 17: Earmarks $34,642,000 for assistance to public schools as proposed by the Senate, instead of $33,442,000 as proposed by the House.

Amendment No. 18: Appropriates $64,153,000 for construction as proposed by the Senate, instead of $94,103,000 as proposed by the House.

The conferees are in agreement that the extensive reduction in new construction is necessary to underscore their continuing concern over the serious BIA management problems that have undermined progress on fulfilling the needs of the Indian people. Deferred projects will be considered for funding when these problems have been corrected. Meanwhile, the conferees will expect the BIA to develop acceptable plans for the effective obligation of the estimated $62,000,000 in funds already available for construction as provided in the following amendment.

The conferees are in agreement that the $100,000 provided for Coushatta Tribe land acquisition shall in no way be considered as establishing a precedent for such acquisitions.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That the Secretary shall engage the General Services Administration to supervise the planning, design, construction, and maintenance of school facilities; and that within 90 days following enactment of this bill, the Secretary of the Interior shall submit to the Congress a plan for expenditure of planning and construction funds available to the Bureau of Indian Affairs and shall advise during the year on achievement of plans and construction."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It is the intent of the conferees, in agreeing to this amendment, to ensure the timely and effective obligation of construction funds by requiring supervision by an agency outside of the Interior Department. This reflects the conferees' concern that efforts to correct BIA management problems within the Department have to date failed to produce any significant results. It is hoped that this outside assistance will expedite the required construction program plan to be submitted to Congress.

Amendment No. 20: Appropriates $75,335,000 for road construction as proposed by the Senate instead of $70,335,000 as proposed by the House. The increase of $5,000,000 above the House allowance is for road and bridge construction in the Four-Corners area.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language that should the State of Alaska wish to make payments to the Alaska Native Fund from sources other than oil royalties, any funds so deposited shall reduce the obligation of the State by a like amount.

OFFICE OF TERRITORIAL AFFAIRS

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: "$110,444,000, including $900,000 for a human development project in the Marshall Islands, to become available for obligation only in such amounts as may be equal to funds provided by the Marshalls District Legislature and the District Administrator, Marshalls, in amounts not to exceed $450,000 each and none of these funds may be used to pay the salaries and travel expenses of volunteers engaged in the project."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase over the House amount is $900,000 for a human development project in the Marshall Islands. The managers agree that the Department must use great care in determining how these funds will be used and expects the Department to closely monitor the progress of the program. The managers further agree that none of the funds appropriated for this program may be used for private business ventures of the organization administering the program. Because there have been arguments both in support of and in opposition to this project, the managers have added bill language which makes this appropriation available only to the extent that funds are made available from local sources as evidence of local support.

Amendment No. 23: Provides $13,515,000 for expenses necessary for the administration of the Government of the Northern Marianas as proposed by the House, instead of $13,115,000 as proposed by the Senate.

OFFICE OF THE SECRETARY

Amendment No. 24: Appropriates $22,488,000 for salaries and expenses, instead of $22,443,000 as proposed by the House and $22,821,000 as proposed by the Senate. The increase of $45,000 over the amount proposed by the House is for the Office of Congressional and Legislative Affairs.

The conferees agree that if the Secretary cannot conduct his responsibilities within the funding level provided for this office, he may use his authority under the reorganization act to transfer additional personnel and funding from congressional and legislative affairs units within the Department. Such a transfer would follow normal reprograming procedures.

Amendment No. 25: Appropriates $1,000,000 for salaries and expenses (special foreign currency program) as proposed by the Senate instead of $285,000 as proposed by the House.

TITLE II—RELATED AGENCIES

FOREST SERVICE

Amendment No. 26: Appropriates $533,918,000 for forest land management instead of $550,035,000 as proposed by the House and $531,054,000 as proposed by the Senate.

The increase above the amount proposed by the Senate consists of the following increases: $1,864,000 for soil and water management, and $1,000,000 for forest fire protection. The reduction for travel applies only to the budgeted program level.

The following projects have been included within the additional amounts appropriated for forest land management: $327,000 for wildlife management program on the Mark Twain National Forest; $1,000,000 for fuel breaks; $600,000 for forest protection and management, Gifford-Pinchot National Forest; $250,000 for operation of Blanchard Springs Caverns, Arkansas; and $600,000 for a fishways program in Alaska.

Amendment No. 27: Provides $5,865,000 for the cooperative law enforcement program as proposed by the Senate, instead of $6,982,000 as proposed by the House.

Amendment No. 28: Appropriates $101,488,000 for forest research as proposed by the Senate, instead of $102,899,000 as proposed by the House.

The following projects have been included within the additional amounts appropriated for forest research: $100,000 for establishing economic guidelines for multiple use management in connection with Blue Mountain validation project; $200,000 for international trade of logs and forest products economic research, Portland, Oregon; $200,000 for Scleroderris canker research, North Central Experiment Station, St. Paul, Minnesota; $150,000 for acceleration of genetics research at the Pacific Northwest Station, Oregon; $50,000 for completion of acute bovine pulmonary emphysema research; $450,000 for uneven-aged timber management research, Monticello, Arkansas; $100,000 for wildlife, range, and fish habitat research, Columbia, Mo.; $300,000 for urban forestry research; $300,000 for acceleration of research on wildlife, range, and fish habitat, Alexandria, Louisiana; $300,000 for trees and timber management research at Rhinelander, Wisconsin, Institute of Forest Genetics; $100,000 for wildlife, range, and fish habitat research, Lubbock, Texas; $100,000 for trees and timber management research, Black Hills, Rapid City, South Dakota; $150,000 for hardwoods culture research, Parsons, West Virginia; $100,000 for endangered species research, Hawaii; $250,000 for anadromous fish research, Alaska; $100,000 for Chestnut blight research, Morgantown, West Virginia; $220,000 for hardwoods utilization research, Princeton, West Virginia; $200,000 for timber harvesting research, Morgantown, West Virginia; $200,000 for the Eisenhower Consortium; $100,000 for pitch canker research, Athens, Georgia; and $150,000 for Eucalyptus research, Florida.

Amendment No. 29: Appropriates $53,059,000 for state and private forestry cooperation, instead of $55,559,000 as proposed by the House and $47,551,000 as proposed by the Senate.

The net decrease below the amount proposed by the House consists of the following increase and decreases: An increase of $1,000,000 for Dutch elm disease control and tree utilization (providing a total of $2,500,000); and decreases of $2,000,000 for cooperation in forest fire control and $1,500,000 for cooperation in forest management and processing.

The following projects have been included within the additional amounts appropriated for state and private forestry cooperation: $3,500,000 for urban and community forestry

program; $1,200,000 for Firescope program in Southern California; and $522,000 for expanded program for Pinchot Institute for conservation studies, Grey Towers.

The managers are in agreement that the $2,500,000 provided for Dutch elm disease control and tree utilization shall be limited to technical assistance and a public information outreach program.

Amendment No. 30: Appropriates $40,630,000 for construction and land acquisition, instead of $45,141,000 as proposed by the House and $34,630,000 as proposed by the Senate.

The increase above the amount proposed by the Senate includes the following increases: $4,000,000 for recreation use areas, and $2,000,000 for construction for fire, administration and other purposes.

The following projects have been included within the additional amounts appropriated for construction and land acquisition: $825,000 for phase III construction, George W. Andrews Laboratory; $630,000 for Hawthorn Recreation Site for the Handicapped, Wasatch National Forest; $438,000 for Spruces Campground, Wasatch National Forest; $330,000 for Flaming Gorge Water System, Ashley National Forest; $2,740,000 for Council Bluff project, Mark Twain National Forest; $3,148,000 to complete construction. Timberline Lodge, Mt. Hood National Forest; $250,000 for planning, Southeastern Station Headquarters/Laboratory, Asheville, North Carolina; $145,000 for Provo Shrub Laboratory greenhouse; $110,000 for Angeles High Country recreation program (site planning); $183,000 for Monongahela National Forest recreation, West Virginia; $170,000 for Kincaid Reservoir recreation; $192,000 for Portage Glacier visitor center, Alaska; $199,000 for Pactola visitor center, South Dakota; $297,000 for laboratory wing, Parsons, West Virginia; and $110,000 for Crabtree Falls Area, George Washington National Forest, Virginia.

Amendment No. 31: Deletes language proposed by the Senate providing that $60,000,000 for the Youth Conservation Corps remain available until the end of the fiscal year following the fiscal year for which appropriated.

Amendment No. 32: Appropriates $175,833,000 for forest roads and trails as proposed by the House, instead of $165,833,000 as proposed by the Senate.

The following projects are included within the additional amounts appropriated for forest roads and trails: $700,000 for LaSal Loop Road, Manti-LaSal National Forest; $50,000 for a Skyline Drive transportation feasibility study, Manti-LaSal National Forest; $100,000 for trail maintenance and reconstruction, Big Horn National Forest; $100,000 for Cheyenne River Bridge, Thunder Basin National Grassland, Wyoming; $183,000 for Spruces Campground, Wasatch National Forest; $240,000 for Kincaid Reservoir, Louisiana; and $135,000 for Monongahela National Forest, West Virginia.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Amendment No. 33: Adds the words "Fossil Fuels" to the title of the operating expenses account of the Energy Research and Development Administration as proposed by the Senate.

Amendment No. 34: Appropriates $748,127,000 for operating expenses, fossil fuels, instead of $710,927,000 as proposed by the House and $797,757,000 as proposed by the Senate.

The net increase over the amount proposed by the House consists of the following increases and decreases: Increases of $8,000,000 for continued construction of a fluidized-bed test unit in Morgantown, West Virginia; $1,000,000 for direct firing coal conversion for ceramic kilns; $3,000,000 for design of a low-Btu gas demonstration plant for utility uses (ERDA project 77-1-C); $1,000,000 for support of the design of an industrial low-Btu gasification plant; $20,000,000 for magnetohydrodynamics (MHD); $3,400,000 for horizontal deviation drilling in Pricetown, West Virginia; $1,500,000 for methane recovery from deep coal seams; $200,000 for travel; $2,000,000 for industrial cogeneration; $1,000,000 for high efficiency gas furnaces; $100,000 for consumer motivation and behavior studies; $4,000,000 for fuel cells; and $500,000 for improved heat conversion efficiency; and decreases of $2,000,000 for appropriate technology; $500,000 for buildings design and structure; $2,500,000 in cogeneration in community systems; $2,000,000 in urban waste utilization; and $1,500,000 general reduction in buildings and community systems.

The managers are in agreement that the $1,000,000 added for support of the design of an industrial low-Btu gasification plant will be based on 50–50 cost-sharing, and is intended to stimulate plans being developed in the State of Indiana to construct a plant capable of providing gasified coal as an alternative fuel for the steel industry.

The managers agree that the expanded ERDA MHD program should fully utilize the expertise developed at such universities as Mississippi State University, Massachusetts Institute of Technology, the Montana State University System, and the University of Tennessee.

The managers are in agreement with the Senate Committee position that ERDA take the necessary steps to insure that all methane production research is consolidated within fossil energy programs.

The managers are in agreement with the Senate Committee position that directs ERDA to make a greater effort in the research, development, and demonstration for electric and hybrid agricultural and personal use rural vehicles.

Amendment No. 35: Adds the words "Fossil Fuels" to the title of the plant and capital equipment account of the Energy Research and Development Administration as proposed by the Senate.

Amendment No. 36: Appropriates $90,970,000 for plant and capital equipment, fossil fuels, as proposed by the House instead of $96,970,000 as proposed by the Senate.

FEDERAL ENERGY ADMINISTRATION

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $289,123,000 for salaries and expenses, instead of $290,326,000 as proposed by the House and $291,623,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net decrease under the amount proposed by the House consists of a reduction of $300,000 in Executive Direction and Administration earmarked for contractual services and $903,000 in Energy Resource Development.

The managers are in agreement that the total number of positions funded by this appropriation is 3,716.

Amendment No. 38: Appropriates $2,798,933,000 for strategic petroleum reserve, instead of $2,309,033,000 as proposed by the House and $3,018,933,000 as proposed by the Senate.

The increase of $489,900,000 above the amount proposed by the House is to be applied to the purchase of oil for the reserve.

The managers are in agreement that filling the strategic petroleum reserve in the most expeditious manner possible is a national priority goal. The managers urge FEA to proceed in the most rapid fashion toward achieving this goal as outlined in the current revision to the Strategic Petroleum Reserve Plan now pending before Congress. If additional funds are needed in the future to meet this schedule, a supplemental appropriation will be considered.

Amendment No. 39: Deletes language proposed by the House which provided that $500,000,000 for the strategic petroleum reserve shall become available only upon enactment of authorizing legislation.

HEALTH SERVICES ADMINISTRATION

Amendment No. 40: Appropriates $428,891,000 for Indian health services, instead of $429,901,000 as proposed by the House and $413,987,000 as proposed by the Senate. The net decrease below the amount proposed by the House consists of the following increases and decreases: Increases of $430,000 for expansion of the Fairbanks, Alaska, clinic; $1,600,000 for special pay rates for certain government employees, Alaska; $1,737,000 for operating costs of the Creek Nation Community Hospital, Okfuskee, Oklahoma; and decreases of $1,750,000 for urban health projects; $2,327,000 for Title II—Indian health services; and $700,000 for travel costs.

The managers are in agreement that the following projects are included within the additional amounts provided for contract care: $370,000 for the Nome Community Hospital, and $600,000 for emergency room services in the Cook Inlet Native Association area of Alaska.

The managers agree that if the $1,737,000 provided for the operation of the Creek Nation Community Hospital, Oklahoma, is insufficient to effectively operate the hospital, an additional amount of up to $413,000 may be provided from the appropriation for contract care.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $71,257,000 for Indian health facilities, instead of $79,057,000 as proposed by the House and $72,107,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net decrease below the amount proposed by the Senate consists of the following: A decrease of $1,000,000 for site development work, Chinle hospital, Arizona; and an increase of $150,000 for hospital planning for Fort MacArthur, California.

The managers agree that $250,000 is provided for a feasibility study of a Winslow hospital replacement facility.

Indian education

The managers approve a pending fiscal year 1977 reprogramming of $37,500 for support for the Advisory Council on Indian Education. The managers also recommend that $150,000 be provided for the operation of the Council in fiscal year 1978.

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

Amendment No. 42: Appropriates $4,000,000 for the Institute of Museum Services, instead of $3,000,000 as proposed by the House and $5,000,000 as proposed by the Senate. The amount includes $3,700,000 for grants to museums.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Amendment No. 43: Appropriates $2,050,000 for salaries and expenses as proposed by the Senate instead of $1,950,000 as proposed by the House.

Amendment No. 44: Provides $500,000 for operating expenses of the Commission as proposed by the Senate instead of $400,000 as proposed by the House.

SMITHSONIAN INSTITUTION

Amendment No. 45: Deletes language that provides for the purchase or rental of 2 passenger motor vehicles as proposed by the Senate.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter stricken, insert the following: "passenger".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 47: Appropriates $88,238,000 for salaries and expenses, instead of $88,243,000 as proposed by the House and $88,108,000 as proposed by the Senate.

Reductions below the House amount include $100,000 in travel costs and $15,000 in the Office of the General Counsel.

An increase of $110,000 is provided for the Smithsonian Research Awards Program, as recommended by the Senate. The conferees are in agreement that funding must be provided to conclude ongoing research efforts being conducted by Smithsonian employees. None of the funding provided is to be used to initiate new research programs, or to expand existing programs.

The conferees are in agreement that the Smithsonian Research Foundation should be terminated and that the Smithsonian establish procedures for direct administration of federal grant funds.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter stricken, insert the following: ": *Provided further*, That not to exceed $110,000 may be used to make grant awards to employees of the Smithsonian Institution: *Provided further*, That none of these funds shall be available to the Smithsonian Research Foundation".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 49: Deletes language that provides that none of these funds may be used to make grant awards to employees of the Smithsonian Institution as proposed by the House and inserts language that provides that not to exceed $500,000 of these funds may be used to make grant awards to employees of the Smithsonian Institution as proposed by the Senate.

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That none of these funds shall be available to the Smithsonian Research Foundation".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 51: Appropriates $1,777,000 for Science Information Exchange as proposed by the Senate, instead of $1,977,000 as proposed by the House. The reduction of $200,000 below the House amount is based on the belief that user fees should bear a greater share of the operating costs of the Exchange.

Amendment No. 52: Appropriates $2,500,000 for construction and improvements, National Zological Park, as proposed by the House, instead of $1,750,000 as proposed by the Senate.

Amendment No. 53: Appropriates $2,425,000 for restoration and renovation of buildings as proposed by the Senate, instead of $2,210,000 as proposed by the House.

NATIONAL GALLERY OF ART

Amendment No. 54: Appropriates $41,509,000 for salaries and expenses, instead of $14,717,000 as proposed by the House and $14,419,000 as proposed by the Senate.

Reductions below the House amount include $20,000 for exhibit shop equipment; $97,500 for instruction and orientation center equipment; $58,000 and 6 positions related to ongoing program activities; and $32,500 related to reduced funding for 5 positions for the East Building.

NATIONAL ENDOWMENT FOR THE ARTS

Amendment No. 55: Deletes language proposed by the Senate to make salaries and expenses available for obligation until September 30, 1979. Conferees agree that not less than $3,600,000 shall be provided to small, high quality, professional organizations not previously eligible for funding.

The conferees note the progress of the American Film Institute in enlarging its private fund raising to a point where it exceeds the matching requirements of the Arts Endowment. While the conferees agree that future AFI grant levels should be determined by the NEA, it is expected that significant grant increases will not be made. The AFI receives more funds from the NEA than any other organization and this disparity should not be continued at the expense of the many other fine organizations funded by the NEA.

NATIONAL ENDOWMENT FOR THE HUMANITIES

Amendment No. 56: Appropriates $96,000,000 for salaries and expenses as proposed by the House, instead of $93,200,000 as proposed by the Senate. The conferees agree with the $500,000 reduction in evaluation studies as proposed by the Senate.

Amendment No. 57: Earmarks $87,800,000 for program funds as proposed by the House, instead of $85,000,000 as proposed by the Senate. Conferees agree that not less than $2,800,000 shall be provided for programs at the Community level to support a wide variety of grassroots humanities projects.

Amendment No. 58: Deletes language proposed by the Senate to make funds available for obligation until September 30, 1979.

Amendment No. 59: Appropriates $25,000,000 for matching grants, instead of $25,500,000 as proposed by the House and $22,500,000 as proposed by the Senate.

Amendment No. 60: Earmarks $17,500,000 for challenge grants, instead of $18,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

The conferees agree that neither of the Endowments should make grants to federal agencies or organizations which rely primarily on federal appropriations, such as the National Park Service, the Smithsonian Institution, or the Library of Congress. These organizations should budget directly for programs that have received support from the Endowments. The amounts provided fund 446 permanent positions, 223 for each Endowment.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Amendment No. 61: Appropriates $1,080,000 for salaries and expenses as proposed by the Senate, instead of $1,100,000 as proposed by the House. The $20,000 reduction below the House amount is based on savings effected by closing of the Denver field office and a reduced level required to maintain the fiscal year 1977 program.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Amendment No. 62: Appropriates $1,294,000 for salaries and expenses, instead of $1,271,000 as proposed by the House and $1,317,000 as proposed by the Senate.

The increase of $23,000 over the House amount is for hiring experts and consultants on a temporary basis to augment existing permanent staff.

TITLE III—GENERAL PROVISIONS

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 304. No part of any appropriation contained in this act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete, in accordance with the Act of June 25, 1948 (18 U.S.C. 1913).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 64: Changes section 304 to section 305 as proposed by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 amount, the 1978 budget estimates, and the House and Senate bills for 1978 follow:

New budget (obligational) authority, fiscal year 1977	$6, 769, 724, 057
Budget estimates of new (obligational) authority, fiscal year 1978	[1] 10, 031, 770, 000
House bill, fiscal year 1978	9, 545, 741, 000
Senate bill, fiscal year 1978	10, 238, 903, 000
Conference agreement	10, 026, 349, 000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1977	+3, 256, 624, 943
Budget estimates of new (obligational) authority, fiscal year 1978	−5, 421, 000
House bill, fiscal year 1978	+480, 608, 000
Senate bill, fiscal year 1978	−212, 554, 000

[1] Includes $916,000 of budget estimates not considered by the House, contained in House Document 95–161.

SIDNEY R. YATES,
GUNN MCKAY,
CLARENCE D. LONG,
FRANK E. EVANS,
JOHN P. MURTHA,
ROBERT DUNCAN,
NORMAN D. DICKS,
JAMIE L. WHITTEN,
GEORGE H. MAHON,
JOSEPH M. MCDADE,
RALPH S. REGULA,
WILLIAM L. ARMSTRONG,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

ROBERT C. BYRD,
JOHN L. MCCLELLAN,
ERNEST F. HOLLINGS,
BIRCH BAYH,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
DENNIS DECONCINI,
TED STEVENS,
MILTON R. YOUNG,
MARK O. HATFIELD,
HENRY BELLMON,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ADDABBO, on June 23, on account of official business.

Mr. BROWN of California, for today, on account of official business.

Mr. AKAKA (at the request of Mr. WRIGHT), for June 23 and 24, on account of official business.

Mr. STANGELAND (at the request of Mr. RHODES), after 1 p.m. today and the balance of the week, on account of official business.

Mr. MARRIOTT (at the request of Mr. RHODES), after 5 p.m. today, on account of official business.

Mr. RHODES, for June 24, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. DORNAN) to revise and extend their remarks and include extraneous material:

Mr. BURGENER for 10 minutes today.

Mr. GARY A. MYERS for 15 minutes today.

Mr. DORNAN for 5 minutes today.

Mr. KEMP for 10 minutes today.

Mr. YOUNG of Alaska for 5 minutes today.

Mr. SKUBITZ for 10 minutes today.

(The following Members (at the request of Mr. EVANS of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. BALDUS for 5 minutes today.

Mr. ANNUNZIO for 5 minutes today.

Mr. GONZALEZ for 5 minutes today.

Mr. MCDONALD for 5 minutes today.

Mr. BYRON for 5 minutes today.

Mr. CHARLES H. WILSON of California for 5 minutes today.

Mr. ROSTENKOWSKI for 5 minutes today.

Mrs. SPELLMAN for 5 minutes today.

Mr. ROBERTS for 5 minutes today.

Mr. KOCH for 5 minutes today.

Mr. DODD for 15 minutes today.

Mr. BROOKS for 5 minutes today.

Mr. CARR for 15 minutes today.

Ms. HOLTZMAN for 30 minutes today.

Mr. MURPHY of New York for 15 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MURPHY of New York, to extend his remarks in the body of the RECORD notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $5,716.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:

Mr. GILMAN.

Mr. RHODES.

Mrs. HOLT.

Mr. ASHBROOK in three instances.

Mr. GARY A. MYERS.

Mr. FINDLEY.

Mr. KETCHUM.

Mr. DORNAN in two instances.

Mr. CRANE.

Mr. PRESSLER.

Mr. KINDNESS.

Mr. FRENZEL in three instances.

Mr. EDWARDS of Oklahoma in two instances.

Mr. HILLIS.

Mr. SYMMS.

Mr. LAGOMARSINO.

Mr. CARTER.

Mr. KEMP in two instances.

Mr. ABDNOR.

Mr. HANSEN in two instances.

(The following Members (at the request of Mr. EVANS of Georgia) and to include extraneous matter:)

Mr. VENTO in two instances.

Mr. CLAY.

Mr. MCDONALD in four instances.

Mr. FRASER in three instances.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. SOLARZ.

Mr. MURTHA.

Mrs. COLLINS of Illinois.

Mr. HAWKINS.

Mr. BAUCUS.

Mrs. SCHROEDER.

Mr. JONES of Oklahoma.

Mr. NOLAN.

Mr. BONKER.

Mr. TEAGUE in two instances.

Mr. LLOYD of California in two instances.

Mr. STUDDS.

Mr. RICHMOND.

Mrs. MEYNER.

Mr. BEILENSON.

Mr. MOORHEAD of Pennsylvania in 10 instances.

Mr. JACOBS.

Mr. BADILLO in two instances.

Mr. UDALL.

Mr. EILBERG in three instances

Mrs. LLOYD of Tennessee.

Mr. LEGGETT.

Mr. BRECKINRIDGE.

Mr. DELLUMS.

Mr. KOSTMAYER in two instances.

Mr. ECKHARDT.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 583. An act to amend chapter 5 of title 37, United States Code, to extend the special pay provisions for reenlistment and enlistment bonuses, and for other purposes;

H.R. 3695. An act to amend title 38 of the United States Code in order to revise and improve the program of making grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes; and

H.R. 3849. An act to establish qualifications for individuals appointed to the National Advisory Committee on Oceans and Atmosphere and to authorize appropriations for the Committee for fiscal year 1978.

ADJOURNMENT

Mr. EVANS of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 42 minutes p.m.), the House adjourned until Friday, June 24, 1977, at 10 o'clock a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. Report on Allocation of Budget Totals for Fiscal Year 1978 (Rept. No. 95-457). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLARZ: Committee on Post Office and Civil Service. S. 964. An act to provide that the salaries of certain positions and individuals which were increased as a result of the operation of the Federal Salary Act of 1967 shall not be increased by the first comparability pay adjustment occurring after the date of the enactment of this act (Rept. No. 95-458). Referred to the Committee of the Whole House on the State of the Union.

Mr. BINGHAM: Committee on International Relations. H.R. 7738. A bill with respect to the powers of the President in time of war or national emergency; with amendment (Rept. No. 95-459). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 655. Resolution waiving certain points of order against H.R. 7933. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-460). Referred to the House Calendar.

Mr. YATES: Committee of Conference. Conference report on H.R. 7636 (Rept. No. 95-461). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BONKER (for himself, Mr. MEEDS, and Mr. WEAVER):

H.R. 7972. A bill to promote the export of processed timber products by progressively limiting the export or sale for export of unprocessed timber from public lands in the Western United States, and of substitutes for such timber, and for other purposes; jointly, to the Committees on International Relations and Interior and Insular Affairs.

By Mr. CONTE (for himself and Mr. BINGHAM):

H.R. 7973. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurses under medicare and medicaid; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. DIGGS (by request):

H.R. 7974. A bill to allow persons in the custody under sentence of the Superior Court of the District of Columbia to apply for writs of habeas corpus in Federal courts on the same basis as persons in custody pursuant to the judgment of a State court; to the Committee on the District of Columbia.

By Mr. ERLENBORN:

H.R. 7975. A bill to amend the National Labor Relations Act to provide for trial of unfair labor practices in the United States district court, and for other purposes; to the Committee on Education and Labor.

By Mr. ERLENBORN (for himself, Mr. DON H. CLAUSEN, and Mrs. PETTIS):

H.R. 7976. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor

organization shall not be required to do so; to the Committee on Education and Labor.

By Mr. GEPHARDT:

H.R. 7977. A bill to prohibit use of Federal funds to pay for, promote or encourage abortions except where necessary to save the life of the mother; to the Committee on Interstate and Foreign Commerce.

By Mr. HALL:

H.R. 7978. A bill to amend title XVI of the Social Security Act to provide that an alien is not qualified for supplemental security income benefits unless he has a permanent resident status in the United States for at least 6 years, and to provide for the establishment of procedures which will more effectively prevent the payment of such benefits to individuals who become ineligible because of their departure from the United States; to the Committee on Ways and Means.

By Mr. SARASIN:

H.R. 7979. A bill to promote safety and health in the mining industry, to prevent recurrent disasters in the mining industry, and for other purposes; to the Committee on Education and Labor.

By Mr. HALL:

H.R. 7980. A bill to amend the Internal Revenue Code of 1954 to exclude from unrelated business taxable income amounts derived by any college or university from the broadcasting of any sporting event; to the Committee on Ways and Means.

By Mr. KOSTMAYER (for himself, Mr. PHILIP BURTON, Mrs. MEYNER, Mrs. FENWICK, Mr. ERTEL, Mr. BEILENSON, Mr. SIMON, Mr. STARK, Mr. MCCLOSKEY, Ms. HOLTZMAN, Mr. KREBS, Mr. FRASER, Mr. MURPHY of Pennsylvania, Mr. SEIBERLING, Mr. OTTINGER, Mr. EDGAR, Mr. BADILLO, Mr. WAXMAN, Mr. WEISS, Mr. BINGHAM, Mr. MILLER of California, Mr. BRODHEAD, Mr. LUKEN, Mr. CARR, and Mr. CAVANAUGH):

H.R. 7981. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Delaware River as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. NOLAN:

H.R. 7982. A bill to amend the Rehabilittaion Act of 1973 to provide for a program of wage supplements for handicapped individuals; to the Committee on Education and Labor.

By Ms. OAKAR (for herself, Mr. NOWAK, Mr. HORTON, Mr. ANDERSON of Illinois, Mr. DERWINSKI, Mr. DORNAN, Mr. HUGHES, Mr. HYDE, Mr. KEMP, Mr. LAGOMARSINO, Mr. LE FANTE, Mr. MCDONALD, Ms. MIKULSKI, Mr. MURPHY of Pennsylvania, Mr. PANETTA, Mr. RINALDO, Mr. ROUSSELOT, Mr. STRATTON, and Mr. VENTO):

H.R. 7983. A bill to require that the Hungarian Crown of Saint Stephen and other relics of the Hungarian royalty remain in the custody of the U.S. Government and that they not be transported out of the United States, unless the Congress provides otherwise by legislation; to the Committee on International Relations.

By Mr. PERKINS (for himself and Mr. PRESSLER):

H.R. 7984. A bill to extend the Emergency School Aid Act for 5 fiscal years; to the Committee on Education and Labor.

By Mr. RAILSBACK (for himself, Mr. KASTENMEIER, and Mr. COUGHLIN):

H.R. 7985. A bill to regulate lobbying and related activities; to the Committee on the Judiciary.

By Mr. RODINO (for himself and Mr. ZABLOCKI):

H.R. 7986. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

By Mr. SIMON (for himself and Mr. LEACH):

H.R. 7987. A bill to amend title 39, United States Code, to provide that, with respect to the appointment of postmasters in small communities, the U.S. Postal Service shall give preference to applicants for such appointment who reside in such communities; to the Committee on Post Office and Civil Service.

By Mrs. SPELLMAN:

H.R. 7988. A bill to require that 1 percent of any funds appropriated for the construction of certain public buildings be used for artwork for such buildings: to the Committee on Public Works and Transportation.

By Mr. WAXMAN (for himself, Mr. BONIOR, Mr. DOWNEY, Mr. EDWARDS of California, Mr. EILBERG, Mr. FORD of Tennessee, Mr. HARRINGTON, Mr. LEDERER, Mr. LEHMAN, Mr. MOAKLEY, Ms. OAKAR, and Mr. THOMPSON):

H.R. 7989. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. BIAGGI:

H.R. 7990. A bill to amend the Clean Air Act to permit the revision of certain transportation control plans, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 7991. A bill to amend the Clean Air Act to permit the revision of certain transportation control plans, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CONTE (for himself and Mr. SIMON):

H.R. 7992. A bill to amend the National Trails System Act to authorize a feasibility study for the establishment of certain bicycle trails; to the Committee on Interior and Insular Affairs.

By Mr. CARTER:

H.R. 7993. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation amounts received under certain scholarship programs; to the Committee on Ways and Means.

By Mr. PREYER:

H.R. 7994. A bill to reaffirm national policy with respect to the regulation of telecommunications services in interstate and foreign commerce; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI (for himself, Mr. ABDNOR, Mr. ADDABBO, Mr. ANDERSON of Illinois, Mr. ARCHER, Mr. BADILLO, Mr. BENJAMIN, Mr. BEVILL, Mr. BOLAND, Mr. BROWN of Ohio, Mr. BURGENER, Ms. BURKE of California, Mr. PHILLIP BURTON, Mr. CARNEY, Mr. DEL CLAWSON, Mr. COHEN, Mr. CONTE, Mr. CORCORAN of Illinois, Mr CORMAN, Mr. CORRADA, Mr. COTTE/ Mr. DANIELSON, Mr. DERWINSKI, Mr DUNCAN of Tennessee, and Mr. ERLENBORN):

H.R. 7995. A bill to declare a national policy on investment in the private sector of the U.S. economy; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSTENKOWSKI (for himself, Mr. ERTEL, Mr. FARY, Mr. FASCELL, Ms. FENWICK, Mr. FISHER, Mr. FORD of Michigan, Mr. FRENZEL, Mr. GAYDOS, Mr. GLICKMAN, Mr. GOLDWATER, Mr. HANLEY, Mr. HEFNER, Mr. HOLLAND, Mr. HOWARD, Mr. HUGHES, Mr. HYDE, Mr. JENRETTE, Mr. KAZEN, Mr. KEMP, Mr. KINDNESS, Mr. LEHMAN, Mr. LEVITAS, Mr. LUNDINE, and Mr. MCEWEN):

H.R. 7996. A bill to declare a national policy on investment in the private sector of the U.S. economy; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSTENKOWSKI (for himself, Mr. MANN, Mr. MIKVA, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MOTTL, Mr. MURPHY of Pennsylvania, Mr. NIX, Mr. NOLAN, Mr. PATTISON of New York, Mr. PEASE, Mr. PEPPER, Mr. PICKLE, Mr. PRITCHARD, Mr. RAILSBACK, Mr. RISENHOOVER, Mr. RUDD, Mr. RUSSO, Mr. RYAN, Mr. SANTINI, Mr. SEIBERLING, Mr. SIMON, and Mr. STANTON):

H.R. 7997. A bill to declare a national policy on investment in the private sector of the U.S. economy; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSTENKOWSKI (for himself, Mr. STEIGER, Mr. STOCKMAN, Mr. TRIBLE, Mr. UDALL, Mr. VENTO, Mr. WHITEHURST, and Mr. CHARLES WILSON of Texas):

H.R. 7998. A bill to declare a national policy on investment in the private sector of the U.S. economy; to the Committee on Banking, Finance and Urban Affairs.

By Mr. YOUNG of Alaska (for himself, Mr. AUCOIN, Mr. BADHAM, Mr. BREAUX, and Mr. SYMMS):

H.R. 7999. A bill to amend the Federal Water Pollution Control Act relating to the definition of the term "pollutant"; to the Committee on Public Works and Transportation.

By Mr. MOLLOHAN:

H.J. Res. 531. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as National Grandparents Day; to the Committee on Post Office and Civil Service.

By Mr. SCHEUER (for himself, Mr. HORTON, Mr. BEILENSON, Ms. MEYNER, Mr. SOLARZ, Mr. RICHMOND, Mr. SEIBERLING, Mr. AKAKA, Mr. LONG of Maryland, and Mr. DELLUMS):

H.J. Res. 532. Joint resolution to declare a U.S. policy of stabilizing its population by voluntary means which respect human dignity within a reasonable period of time; jointly, to the Committees on Interstate and Foreign Commerce, and Post Office and Civil Service.

By Mr. EDWARDS of Oklahoma (for himself, Mr. MURPHY of New York, Mr. ARCHER, Mr. BIAGGI, Mr. BOWEN, Mr. CORCORAN of Illinois, Mr. DERWINSKI, Mr. DICKINSON, Mr. DORNAN, Mr. HANSEN, Mr. KETCHUM, Ms. LLOYD of Tennessee, Mr. MARRIOTT, Mr. JOHN T. MYERS, Ms. OAKAR, Mr. STUMP, Mr. TREEN, and Mr. TRIBLE):

H. Con. Res. 260. Concurrent resolution expressing the sense of the Congress that the United States take no action to withdraw U.S. ground forces from South Korea until the Congress has had an opportunity to examine the American security committment to South Korea and the effects such a withdrawal would have on the stability of the Korean peninsula; to the Committee on International Relations.

By Mr. CHARLES H. WILSON of California (for himself, Mr. HOWARD, Mr. LOTT, Mr. ALLEN, Mr. BOWEN, Mr. JOHN L. BURTON, Mr. CARR, Mr. COHEN, Mr. HOLLAND, Mrs. HOLT, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LONG of Louisiana, Mr. MCEWEN, Mr. MIKVA, Mr. O'BRIEN, Mr. PERKINS, Mr. PRICE, Mr. REUSS, Mr. RODINO, Mr. RUPPE, Mr. STEERS, Mr. STOKES, Mr. WYDLER, and Mr. YATES):

H. Con. Res. 261. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Post Office and Civil Service.

By Mr. REUSS:

H. Res. 654. Resolution authorizing the printing, as a House document, of a certain

committee print of the Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs; to the Committee on House Administration.

By Mr. WRIGHT:

H. Res. 656. Resolution to amend the Rules of the House of Representatives and establish a Permanent Select Committee on Intelligence; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

198. By the SPEAKER: Memorial of the Legislature of the State of New York, relative to medicaid hospital expenses; to the Committee on Interstate and Foreign Commerce.

199. Also, memorial of the Legislature of the Commonwealth of Massachusetts, relative to proposing an amendment to the Constitution of the United States regarding abortion; to the Committee on the Judiciary.

200. Also, memorial of the Legislature of the State of New Hampshire, relative to proposing an amendment to the Constitution of the United States to require zero-base budgeting; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BONIOR:

H.R. 8000. A bill for the relief of S. Leon Levy; to the Committee on the Judiciary.

By Mr. BROWN of Michigan:

H.R. 8001. A bill for the relief of the Federal Life and Casualty Co. of Battle Creek, Mich.; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 8002. A bill for the relief of Maria Auxillio Arrieta Davila; to the Committee on the Judiciary.

By Mr. HEFNER:

H.R. 8003. A bill for the relief of Drs. Felizardo Hocbo Mangundayao and Florita Castar Mangundayao; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.R. 8004. A bill for the relief of Aksel George Epik; to the Committee on the Judiciary.

By Mr. TRAXLER:

H.R. 8005. A bill for the relief of the Federal Life and Casualty Co. of Battle Creek, Mich.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

133. The SPEAKER presented a petition of the National Association of State Mine Inspection Agencies, Big Stone Gap, Va., relative to mine safety and health legislation pending in the Congress, which was referred to the Committee on Education and Labor.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7933

By Mr. BURLISON of Missouri:

"Other procurement, Air Force": Delete the amount $2,318,986,000 and insert in lieu thereof the following sum, $2,283,998,000."

General Provision 862: Add a new General Provision numbered 862, and worded as follows: "SEC. 862. None of the funds appropriated in this Act may be used to fund a Reserve for Contingencies for the Central Intelligence Agency."

General Provision 863: Add a new General Provision numbered 864, and worded as follows: "SEC. 863. None of the funds appropriated in this act may be obligated for the purpose of planning or executing any assassinations plots against any officials of any foreign governments or political parties of countries not at war with the United States."

General Provision 864: Add a new General Provision numbered 865, and worded as follows: "SEC. 864. None of the funds appropriated in this Act may be provided to officials of foreign governments or political parties for the purpose of influencing elections or the deliberations or actions of foreign legislatures or executive agencies."

By Mr. GILMAN:

Page 58, immediately after line 7, insert the following new section:

"SEC. 862. None of the funds appropriated by this Act may be obligated or expended to conduct any review of the status of United States military personnel listed as missing-in-action in Southeast Asia other than any such review requested by the appropriate dependent."

By Mrs. HECKLER:

Page 25, line 16, strike out "$2,394,108,000" and insert in lieu thereof "$2,398,108,000".

By Mr. LLOYD of California:

Aircraft Procurement, Air Force: Page 22, line 21, is amended as follows: change $7,417,705,000 to $7,178,005,000.

By Mr. SKUBITZ:

Department of Defense Appropriation for 1978:

On page 55 strike lines 3 through 15 and redesignate the following sections accordingly.

By Mr. BOB WILSON:

Page 55, strike out line 16 and all that follows through line 10 on page 56, and redesignate the following sections accordingly.

EXTENSIONS OF REMARKS

LABOR-HEW APPROPRIATION BILL

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. FRENZEL. Mr. Speaker, last Friday it was necessary for me to be absent when the HEW appropriation was passed. The following remarks were prepared for insertion at that time.

LABOR-HEW APPROPRIATION BILL FOR FISCAL YEAR 1978—H.R. 7555

The fiscal year 1978 Labor-HEW appropriation bill represents another attempt to spend our way toward greater debt and rising inflation. Again this year, I will be obliged to vote against an appropriation bill which is some $2.1 billion over President Carter's fiscal year 78 budget and more than twice that amount over President Ford's recommendations. When we add in the totals for the various trust funds for these two Departments it mounts up to a whopping $190 billion, or some $5.1 billion over last year's total appropriation

Already this year, we are facing a deficit of about $65 billion and a gross national debt of over $700 billion. Our interest charges alone will be around $43 billion for this fiscal year. It seems to me that the $43 billion could go a long way toward supporting and promoting quality education, health research, improving health care, expanding opportunities for the handicapped, job training and placement, and a better life for the elderly.

The people in my congressional district want a balanced budget and I don't believe they're unusual in this respect. We can't ever get to a balanced budget, until we exercise some spending controls. The sad hallmark of this Congress is its continuing insistence on spending extravagantly while facing ever growing deficits.

This bill is a perfect example of Congress' ignoring the public outcry in rightfully demanding change in the form of a less bureaucratized, and a more responsive and efficient governmental system. We can't continue our present policy of refunding the same old categorical programs with little regard to the effectiveness in reaching their promised goals. State and local officials, school officials, and health administrators are sick and tired of the strangling bureaucratic regulations which accompany these programs.

I am not against every program which this bill represents, but I am against the policy of pouring tax dollars into old programs as a cure-all for all problems. I am not opposed to the purposes of this bill but I do oppose programs that have not, and can not achieve those purposes.

Within the Department of HEW, impact aid is one example of a $405 million increase which I do not support. Category B, Impact Aid, probably does some accidental good, but it is basically a program designed to attract votes, rather than to improve education. Of that increase, a large portion will go for category "B" children whose parents work on Federal property, but live in the community and pay taxes to the local school district. Since most local real property taxes are based on residential, rather than on industrial or commercial property taxes, the loss of local taxes to the local school district due to Federal employment is almost non-existent. I cannot in good conscience support increases for this antiquated, inequitable program.

The Department of Labor's appropriations seem to be held at approximately the same levels as last year. Yet, the programs that were considered riddled with economic excesses last year have the same appropriations this year. Stopping excesses in the budget is one thing—reducing the budget is another.

I will support the amendment offered by Mr. Michel which will reduce the total spending level in this bill by $563.5 million. While I would prefer to have a larger reduction, and an elimination of the impact aid increase, I believe the passage of the amendment would be a step in the right direction.

I am pleased that Mr. Ketchum will introduce an amendment which will deny the Office of Civil Rights funding to conduct their school surveys. The average school in my district spends 700 hours compiling this ridiculous information. Without the burden of completing the OCR forms, all school districts would be able to spend a little more time educating. In addition, teachers, who have a deep commitment to human rights, are offended by the reporting requirements of OCR. I will enthusiastically support the amendment.

As I am forced to consider the grand total of the bill on final passage, I will have to vote against an increase of $5.1 billion over last year's total appropriation.

FOR DEATH, NO VISA IS NECESSARY

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. EDWARDS of Oklahoma. Mr. Speaker, I bring before the House the case of Isaac and Dina Zlotver, two Russian refuseniks. Their case is particularly tragic in light of their age and ill health.

Isaac Zlotver is a 57-year old engineer from Sverdlovsk. His wife, Dina, aged 53, was a pathologist. They have one son and one daughter in Israel. In December 1974, they applied for a visa to travel to Israel. In March 1976, they received their fourth visa refusal.

Their struggle has been a desperate race against time. Isaac had surgery for cancer of the bladder last year and was deathly ill from postoperative complications for many months. Dina is now dying of cancer. She has been ill for some time, but is now terminal. She had surgery a few years ago but is now confined to her bed.

In March, 1976, an appeal was received from a former prisoner and was signed by 33 Soviet Jews now living in Israel. It read as follows:

They have two children: one daughter and one son, but have not seen them for several years. Now they also have a grandchild whom they have never seen nor carried in their arms. They have no one else in the whole world who is so close and dear to them. They are alone in the city of millions in a country of millions. They have given this country everything: their creativity, their strength, their courage, their years.

He fought in the battle for Berlin, a former Colonel in the Red Army, decorated many times. Now he is ill, trying to recover from a heart attack. She is a pathologist; the author of many scientific articles. He has taken part in saving the world from the brown plague of fascism. She has devoted her life to the saving of lives. What could be more noble?

Now they are old and their only wish is to see their children and embrace their grandchild. What could be more natural? Yet these simple desires are systematically and inhumanly thwarted. She has learned that she has cancer. Despite an operation, her health continues to fail. Her husband, ill himself, comforts his dying wife. They do not speak about life and death . . . They only talk about their children and the grandchild whom they probably will never see. Life and death are in the hands of God but the possibility of their seeing their children is in the hands of human beings. Human beings who refuse them with inhuman consistency.

FOR DEATH, NO VISA IS NECESSARY

We, the undersigned, know this family and we weep for them. They are generous people who have devoted their lives to helping and giving. Today it is they who need help and they need it at once. In the name of God; in the name of humanity . . . please help them!

This plea, of course, went unanswered.

The Belgrade Conference will soon convene to review the manner in which the Helsinki agreement is being carried out. There will be much rhetoric and little action. But the case of Isaac and Dina Zlotver will be one that the Soviet government will not be able to talk away. It is the epitome of repression, of the denial of the most basic of human rights, the pursuit of happiness.

The obvious channels have been used and found useless. The Zlotvers remain in Russia. But I will use one avenue that has not been used. My appeal to Chairman Brezhnev is directed through that nameless, faceless gnome in the Russian intelligence community who reads American publications for bits of juicy "intelligence" material. I ask that you include my appeal to Mr. Brezhnev in your report and forward it on to your superiors. Perhaps this method will produce their exit visas

The Chinese built a great wall of stone and mortar to keep the barbarians out. The Russians have built a great wall of fear and repression to keep their people in. No matter what rhetoric is expounded at Belgrade, history will record what has happened to the Zlotvers, and others like them, and generations of Russians to follow will be ashamed

A TRIBUTE TO THE LATE SENATOR FRANCIS CASE

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. PRESSLER. Mr. Speaker, today is the 15th anniversary of the death of Senator Francis Case from South Dakota. Francis Case came to the House of Representatives as a Member of the 75th Congress and served in this body until January 3, 1951, when he went over to the Senate where he served until he died on June 22, 1962.

The New York Times commented on the kind of man Senator Case was in its obituary. It said:

He was one of the quietest and most unobtrusive men in Washington politics. But when his sense of values was offended or his personal honesty was impugned in any way he became a tough, stubborn, and fearless fighter.

In Senator Francis Case's passing, South Dakota lost one of its most competent and dedicated leaders. His concern for the District of Columbia and its citizens was another manifestation of his greatness. He served on the District Committee of both the House and the Senate, serving as chairman in 1953–54, and he cosponsored the 23d amendment which gave the citizens of the District the right to vote in Presidential elections.

Many pieces of legislation which he worked on have shown that he was a man ahead of his time. He began his work early on the development of natural resources in the upper Midwest. He contributed to the development of the national highway system, weather modification, desalinization of water, synthetic liquid fuels including development of oil from shale, and countless public works projects throughout the country. His efforts earned him the respect and admiration of his colleagues on both sides of the aisle.

Francis Case, the son of a Methodist preacher, was a man of integrity and high ethical standards. He was a worker who found nothing too small or too great to tackle for he doggedly worked until he got the job completed. His life has been an inspiration to me as I have served this body. He served his State and the Nation well. His example should inspire us to carry out our jobs with courage and conviction.

A CENTURY OF CARING

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. RUSSO. Mr. Speaker, 100 years ago next month a religious order was founded in a small town in England that was to eventually reach around the world and touch the lives and hearts of countless people in need of hope and healing.

The Sisters of Little Company of Mary are this year observing their 100th anniversary celebration, "A Century of Caring." Today I want to share with my colleagues my special pride that this humanitarian group has a hospital within my district, a hospital that was built nearly 50 years ago in Evergreen Park, Ill., and that has always exemplified the ideals of the Sisters of Little Company and is synonymous with quality health care. Sister M. John Schlax, provincial superior, LCM, and Mr. Paul R. Wozniak, executive vice president of the hospital are to be commended along with the excellent staff.

There are 41 such hospitals and nursing homes throughout the world. From Korea to Ireland, from Australia to Italy, these dedicated sisters have continued the work of Mother Mary Potter.

It was July 2, 1877 when Mother Potter founded the order in Nottingham, England. There, in a remodeled factory, five sisters began their apostolate of praying and caring for the sick and especially the dying.

The apostolate of these sisters centers on the spiritual and physical care of the sick and dying which is witnessed by engaging in professions within the health field such as nursing, social work, pastoral care, gerontology, laboratory, radiology, physical therapy, pharmacy, business, and other allied services.

In 1893 six sisters came to the United States to establish a house in Chicago at 4130 Indiana Avenue. The sisters ministered to the sick in their homes until the present Little Company of Mary Hospital was built in 1930 in Evergreen Park. There are now three other hospitals and nursing homes in the province that are owned and/or operated by the congregation, in Torrance, Calif., and San Pierre and Jasper, Ind.

The name of the congregation derives from a particular devotion to Mary, the Mother of Christ, who stood at the foot of the cross on Calvary with a "little company" of faithful followers. A light blue veil is the distinguishing mark of a Sister of the Little Company of Mary throughout the world.

I know my colleagues join with me in commending and congratulating the Sisters of Little Company of Mary on the occasion of their 100th anniversary.

U.S. POPULATION POLICY AND POPULATION PLANNING ASSISTANCE TO DEVELOPING COUNTRIES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. SOLARZ. Mr. Speaker, the need for limitations on world population growth has become increasingly evident in recent years. Neglect of this issue will undoubtedly inhibit economic progress throughout the developing world, obstruct international relations in general, and create a threat to world peace and the quality of life on this planet. However, the battle for population stabilization must not be limited only to developing nations. It is of paramount importance that the United States construct and implement such a domestic policy as a paradigm for the rest of the world to follow. Indeed, our ability to persuade the less developed countries of the world to adopt an effective population planning program depends, to a significant extent, on our ability to point to the successful establishment and implementation of such programs here at home.

Presently the world's population is about 4 billion people. This figure will jump to 6 billion by the end of the century, and may double in the second decade of the next century. The number of young adults in their peak reproductive years (aged 15–30) in developing nations is increasing each year, and will double between now and 1990. It is essential that family planning, education, and services reach these people before and not after they have had six children.

There is increasing evidence that family planning programs work and that birth rates in developing countries are declining in part because of programs directly or indirectly sponsored by our Government.

The United States has been a pioneer in the world population and family planning movement; a movement that has had a fair amount of success. Since 1965, the Agency for International Development (AID) has provided 60 percent of all international population assistance. From AID's beginnings, the world birth rate has declined by 5.9 percent. This trend, partially offset by a decreasing death rate, has led to a decline in the world population growth rate from 2 percent in 1965 to 1.63 percent in 1974, reversing an historical upward trend.

The United States confronts a population problem of its own. The high and rising prevalence of teenage pregnancy and venereal disease is indicative of this. To deal with the domestic aspect of this issue the development and implementation of a national population planning policy is a necessity. Programs concerning population and sex education in formal as well as informal settings should be set up while support is increased for National, State, and regional planning efforts.

In addition, by helping the world's less developed nations devise programs dealing with their own population problems, the United States would in effect be aiding itself. If such programs were successful the "push" factors which encourage people from such countries as Mexico to illegally immigrate to this country would be mitigated thus, in part, alleviating our own population growth problems.

In 1974, the United States joined with other countries in endorsing the World Population Plan of Action, a formal agreement calling for each nation to construct its own population policy. It is essential for the well-being of humanity that the United States further develop its domestic population planning programs as well as continuing its foreign assistance programs. In this way, the disastrous effects of an uncontrollable growth rate can be averted.

RECTIFYING ARTISTS' ESTATE TAXES

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. RICHMOND. Mr. Speaker, on Monday, June 20, 1977, I introduced H.R. 7869, which, when signed into law, will significantly aid the heirs and estates of creative artists.

This bill provides that when an artist dies, his art work, manuscripts, compositions, and similar material will, for estate tax purposes only, be valued at the cost of the materials in the work and not its market value.

If during his lifetime an artist gives his work to a nonprofit, tax-exempt organization, such as a museum or library, his only tax deduction is the cost of materials in the work. Hence, it is only fair to tax his estate accordingly.

Unfortunately, because of the unfairness of the present law, the family of an artist is often forced to sell a majority of the deceased person's work on the open market, the value of the work is drastically deflated. In addition, the estate is then forced to pay income tax on the sale of the work, thus paying a double tax.

Under present tax laws a maximum of 15 percent tax on earned income, goes up to 70 percent on "passive" income. Passive income consists of earnings from such sources as dividends, royalties and interest, where no physical effort produced the income. Therefore, the heirs of the artist receive income from a source they did not help create and which may be subject to a 70 percent tax rate.

It is clear from the legislative history of both the 1950 enactment of the Internal Revenue Code and the 1969 amendments that it was never legislative intent to penalize the estates and heirs of qualified creative artists.

Naturally, under the proposed revision, if the heirs sell the art work they will still pay an ordinary income tax on the total sales price over the cost of materials.

America is losing thousands of valuable art works each year as artists destroy their unsold work rather than place an untold financial burden on their families.

I hope that all of us in Congress will act swiftly to pass this legislation and put an end to this oversight in the current tax law before an entire era of American art and reflective history is lost forever.

ALASKAN NATURAL GAS—NATIVE CLAIMS/HUMAN RIGHTS—PART III

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. MURTHA. Mr. Speaker, a key element of the final decision by the U.S. Congress on transportation of Alaskan natural gas reserves involves native claims in Canada.

I want to insert into the RECORD a "Dear Colleague" letter prepared by Sen. MILTON R. YOUNG and Sen. TED STEVENS that outlines this issue.

As I have stressed in this series of remarks in the CONGRESSIONAL RECORD, this is another issue that must be dealt with as the Congress considers alternatives to getting this gas to the United States. The excellent presentation by these Senators presents the issue as it affects all three competing lines.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 9, 1977.

DEAR COLLEAGUE: The recommendation of Canadian Justice Thomas Berger that no pipeline ever be built across the northern Yukon and a delay of ten (10) years for construction in the Mackinzie Delta, has focused attention on one of the most important human rights dilemmas facing Canada in its history. It is an issue which should not be ignored by the United States, especially in light of President Carter's eloquently expressed policy of human rights for all the peoples of the world.

The Berger Commission created by the Canadian Government to investigate the social and economic impacts that a gas line would have on the Native communities in Canada's Arctic, speaks of the plaintive helplessness of a Native people who are determined to create their own destiny, who are determined to prevent either the Canadian or the American Governments from running roughshod over their lifestyle for the sake of extracting natural gas. In view of the widespread support of Mr. Berger's recommendations in Canada, including the Anglican Church, the Lutheran Church, the Presbyterian Church, the Canadian Conference of Catholic Bishops and the United Church of Canada, all representing some 80 percent of the Canadian population, the Canadian Labor Congress, the Canadian Wildlife Federation and elected members from every Canadian political party, a pipeline through the Delta and across the northern Yukon as proposed by Arctic Gas may not now be a viable political option.

Equally important to the human rights question but less well known and defined in the U.S. are the unsettled Native claims in the southern Yukon through which the proposed Alcan route would traverse. On August 1, another commission, similar to the Berger Commission, will make its recommendations on building a pipeline through this area and there is every indication that it, too, will recommend a delay until after a land claims settlement is achieved.

In recent testimony before the President's Council of Environmental Quality, Daniel

Johnson, chairman of the Council for Yukon Indians, said Yukon Indians are "100 percent opposed" to a pipeline until their land claims are settled.

"This means we are opposed to the Arctic Gas route forever and the Alcan route until after our land claims have been implemented to a reasonable degree. We estimate that this will take seven to ten years from now. Only then will we consider the Alcan route or and other route through the southern Yukon."

Mr. Johnson then told the CEQ that Yukon routes are not the only routes available for the transportation of Alaska's natural gas.

"You now have the El Paso proposal before you. It would provide more jobs for Americans. If environmental standards and shipbuilding requirements are very strict, then the seas will not be unduly endangered. It would not require you to depend upon a foreign country.

"We are convinced that a Yukon route would devastate the physical, social and economic environment which Yukon Indian people require. We are not prepared to compromise our future on this issue.

"In blunt terms, Yukon Indians are suggesting to you that you have only one viable alternative—the American route, the El Paso route. It is the only route of the three proposed which will not be totally opposed by Yukon Indians."

The impact of a seven to ten year delay, mentioned by Mr. Johnson and possibly endorsed by the new commission, would have a staggering impact on the American consumer. The economic impact of the extended delays which now confront both trans-Canadian gas pipelines is clearly unacceptable to the American national interest. It may not be within the power of the Canadian Government—no matter how well-intentioned it may be—to eliminate those delays. Nor is it in Canada's interest to do so even if that government could sweep the Native claims issue aside.

It should also be recognized that financing either trans-Canadian project would be virtually impossible in the face of such strident opposition by the Canadian Natives (including threats of physical violence if construction is attempted.)

The realities of Canada's problems in the Northwest Territories and the Yukon have been clearly set forth by Justice Berger. If the U.S. accepts these realities, it will choose the all-American proposal as the only certain method of getting Alaskan natural gas to the market at the earliest possible date without delay.

We are enclosing a few Canadian newspaper reports which I believe convey the current situation and sentiment in Canada. It is not in either nation's interest to aggravate the already serious dilemma of human rights.

Sincerely,

MILTON R. YOUNG.
TED STEVENS.

CARRYOVER BASIS PROVISION SHOULD BE REPEALED

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. ASHBROOK. Mr. Speaker, last year the Congress approved a major reform of the estate tax laws. I strongly supported reform in this area. Despite inflation and a huge increase in land valuation, the basic $60,000 exemption had remained unchanged for over three decades.

This limit had placed a severe strain on the families of farmers and small businessmen. Many families were forced to sell their farm or their business in order to pay the estate taxes. The 1976 legislation eased the burden by substantially increasing the exemption.

Unfortunately the Congress also included as a part of the reform package a carryover basis provision. This provision negates much of the gains made by farmers and small businessmen.

Prior to the 1976 estate tax reform, a beneficiary received a stepped-up tax basis. The new basis was the fair market value of the estate when the decedent died. Consequently each new generation received a new basis for capital gains taxes.

The carryover basis provision, however, radically changes this situation. The heir is forced to use as the basis for the capital gains tax either the decedent's base or the value of the estate as of December 31, 1976. In future years this could result in the imposition of a heavy tax burden, particularly on the family farm or business which is passed from generation to generation.

I believe Congress should rectify its mistake and repeal the onerous carryover basis provision.

AMERICANS OVERWHELMINGLY FAVOR CONTINUING DIPLOMATIC RELATIONS WITH FREE CHINA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. McDONALD. Mr. Speaker, the Committee for a Free China, recently released the results of a poll taken by Decision Making Information of Santa Ana, Calif. which shows that support for continuing diplomatic relations with Free China is higher than it was when a similar poll was taken in 1975 and that the number of people who feel that we should not break off diplomatic relations with Red China is up to 7 percent over a Gallup poll taken in November 1975. So the import of all this is that anyone in the Carter administration or the State Department who thinks they are carrying out the will of the American electorate is quite out of step in taking any further steps to establish full diplomatic recognition with Red China at the expense of Free China. The press release on the poll results follows:

AMERICANS OVERWHELMINGLY FAVOR CONTINUING DIPLOMATIC RELATIONS WITH FREE CHINA

WASHINGTON, D.C.—A national issues survey has found a net increase in the already overwhelming public opposition to any policy of "normalizing relations" with the Peking regime at the expense of the Republic of China on Taiwan and its 16 million people.

Recently President Carter was quoted as telling Democratic Party leaders that he will continue to consult with the American people and rely on their "sound judgment" in debates over foreign policy.

In announcing the complete results of the national opinion survey, Dr. Walter H. Judd, Chairman of the Committee for a Free China, said the "sound judgment" of the American people on this China issue is clear and cannot be lost on the President.

"For how could the President," asked Dr. Judd, "keep talking about defending human rights around the world and then sacrifice our long-standing relations with the free Chinese on Taiwan which the People's Republic of China demands as its price for 'normalization'?"

The public opinion survey was conducted between March 26 and April 3, 1977, by Decision Making Information (DMI) of Santa Ana, California, and commissioned by the Committee For A Free China.

According to the survey, 77 percent of the respondents—7 percent over the results of a Gallup study released in November 1975—think that the United States should not break off relations with the Republic of China in order to establish diplomatic relations with Peking.

Other results of the DMI survey were:

84 percent of the respondents favor continuing full diplomatic ties with the Republic of China (as compared with 70 percent in 1975)

74 percent favor continuing the U.S. mutual defense treaty with the Republic of China (as compared with 47 percent in 1975)

Young respondents (between 18 and 34 years of age) and those with better educational backgrounds were the ones most inclined to favor maintaining present U.S.-Republic of China relations.

The national probability survey contains the results of 1,201 telephone interviews with adults (18 years and over) within the continental United States. The sample was drawn from the universe of households with telephones. All 48 states in the continental U.S. were included in the randomly selected sample. In general, random samples such as this yield results projectable to the entire universe of the adult population in the United States within 2.9 (plus or minus) percentage points in 95 out of 100 cases.

The questions on China and the results, as tabulated, were as follows:

1. Do you favor or oppose our continuing full diplomatic relations with the Republic of China on Taiwan?

Favor, 84 percent; oppose, 9 percent; don't know, 7 percent.

2. We now have a mutual defense treaty with the Republic of China on the island of Taiwan. This treaty was approved by the U.S. Senate in 1954. Do you think the U.S. should continue this treaty, or not?

Yes, continue, 74 percent; no, do not continue, 14 percent; don't know, 13 percent.

3. There has been much discussion of the United States establishing diplomatic relations with the People's Republic of China—Mainland China. Would you favor or oppose our establishing full diplomatic relations with the People's Republic of China/Mainland China?

Favor, 79 percent; oppose, 14 percent; don't know, 7 percent.

4. The People's Republic of China—Mainland China—requires that before the U.S. can establish diplomatic relations with it that we must first break off formal relations with the Republic of China on Taiwan. Do you think the U.S. should or should not withdraw recognition from the Republic of China on Taiwan in order to establish relations with the People's Republic of Mainland China?

Should withdraw recognition, 12 percent; should not withdraw recognition, 77 percent; don't know, 11 percent.

R. W. "BILL" RECKNOR: OUTSTANDING CALIFORNIAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. DORNAN. Mr. Speaker, I would like to bring to the attention of my colleagues an outstanding resident of my district and of the city of Redondo Beach, Mr. R. W. "Bill" Recknor. Bill will be honored on July 7 for his exemplary performance as president of the Redondo Beach Chamber of Commerce. I would like to take this opportunity to pay tribute to his fine record of service to the community.

As a graduate of John Muir High School in Pasadena and later of the University of California at Berkeley, Bill has directed his energies in the fields of real estate and business management and administration. He demonstrated his good business sense and his appreciation for beauty by settling in the lovely coastal city of Redondo Beach where he presently serves as executive vice president and general manager of the Brody Management Co.

Bill has played an active role in community service programs in addition to his long and close association with the chamber of commerce. He has been actively involved in the South Bay YMCA, and the Round Table. He was also Rotary-regional campaign chairman for the United Crusade and publicity chairman (South Bay Harbor) for the reelection of the President. He is also a member of the Los Angeles County District Attorney's Advisory Council, and a "highly successful" coach for the AYSO and Pacific Soccer League. I am sure that my colleagues would agree that this is a man who keeps a pace similar to ours—hectic.

Bill has won the affection and admiration of his colleagues, friends, and associates. And rightly so, because in Bill's own way, he has contributed to that force which has kept the community spirit alive in America in spite of some formidable odds.

In the past decade the importance of our communities has been grossly overshadowed by the events in Sacramento, and here in Washington, D.C. But now, more and more people are wondering why their local autonomy has diminished, why they no longer control where their children go to school, why their taxes are rising, and why everything is so expensive, but most importantly, why they no longer seem to have a meaningful part in the design of their own and their children's future. Quite simply, it is because too many community leaders were persuaded by vague promises of greener pastures if only they let Sacramento or Washington handle all our problems for their communities.

Today, we are witnessing a groundswell of resentment against this bankrupt notion and a reassertion of the virtues of community self-government. But we need more men like Bill Recknor who are willing to contribute so much more than just subscribing to the local town paper and buying raffle tickets from local children. We need more active participation to convert this community action groundswell into an erupting powerful voice which will demand a return of real control to the people.

For this reason I take special pleasure in complimenting the relentless work of Bill Recknor. His citizenship is an example to his peers, and especially to our children, of so basic an American tradition—community involvement.

RESUMÉ OF R. W. "BILL" RECKNOR

EDUCATION

Graduate B.A. Degree University of California, Berkeley; Post Graduate Certificate in Real Estate, U.C.L.A.; California Real Estate Broker's License; "ASPD" Shopping Center Industry Accreditation (One of three initial Californians to receive accreditation); Graduate John Muir High School, Pasadena.

BUSINESS RESPONSIBILITIES

Management responsibilities for regional shopping center. Prime responsibilities in administration of the Shopping Center, which includes leasing, operations, tenant and public relations, insurance and legal.

COMMUNITY

Director on Redondo Beach Chamber of Commerce, South Bay Y.M.C.A.; Round Table and Rotary—Regional Campaign Chairman United Crusade; Publicity Chairman (South Bay Harbor) Re-election of the President; Los Angeles County District Attorney's Advisory Council, "highly successful" AYSO and Pacific Soccer League Coach.

HONORS

President, International Council of Shopping Centers Southern California; Public Relations Committee; President, Beta Theta Pi. Awards—Among others, the highlights would be 1971 International Newspaper Advertising Association "Five Best Advertising Ideas" in the United States and International Council of Shopping Centers Promotion Directors Sweepstakes Award for the Best Shopping Center Promotion.

RURAL GROUPS SUPPORT H.R. 50

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. HAWKINS. Mr. Speaker, on Wednesday, June 22, the Subcommittee on Employment Opportunities held an extremely interesting and informative hearing on H.R. 50, the Full Employment and Balanced Growth Act of 1977. Witnesses included representatives from the small business community and spokespersons from the rural sector. The members of the subcommittee found all of the testimony to be of special importance because small business and rural interests have a large impact on our economy, and their views and opinions of the provisions of H.R. 50 should be of interest to all of us.

It is for this reason that I am inserting in the RECORD copies of the statements of two of our witnesses: the National Rural Electric Cooperative Assn., and the National Farmers Union. These two groups heightened the awareness of the members of the subcommittee to the plight of rural America and provided us with practical and informative facts about the rural sector. Both groups strongly support H.R. 50 and feel that once enacted, rural America will benefit from the bill's provisions.

I urge my colleagues to take a few minutes to read these most interesting statements:

TESTIMONY OF THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

Mr. Chairman and members of the subcommittee:

My name is Donald E. Smith. I am Staff Economist for the National Rural Electric Cooperative Association.

Rural electric systems provide electricity to approximately 25 million rural people in 2,600 of the nation's 3,100 counties. They are non-profit and are member-owned systems.

Employment opportunities and levels of economic activity are of major concern to rural electric cooperatives. We have long been committed to the development of policies designed to promote job opportunities and thus to improve the overall standard of living in the rural areas.

Therefore, legislation intended to promote balanced economic growth and employment opportunities, such as H.R. 50, is of vital interest to the rural electric program. The "Full Employment and Balanced Growth Act of 1977" establishes national economic priorities to reduce the present excessive rate of unemployment to acceptable levels, and thereby increase national levels of production, income, purchasing power, and government revenue. Reducing unemployment would also prove the most effective and desirable method of reducing the rate of inflation in our economy as well.

However, we believe that there are a number of particular employment problems present in the rural areas of the country. Contributing to the misunderstanding of the nature and scope of employment problems in rural areas is the misconception of the role of agriculture. Although agriculture and related industries represent the dominant source of employment and income in many areas, it directly accounts for only 16.7 percent of the total labor force in the non-metropolitan areas of the United States. In addition, approximately one-half of the farm operators and workers are also employed in nonagricultural industries which provide more than 50 percent of their total income. Thus, agriculture has a limited albeit important role in providing rural employment.

Aggravating the rural employment problems has been the decline in agricultural employment due to the mechanization that has occurred. This displacement in employment has been particularly disruptive in rural areas where the loss in agricultural employment opportunities has not been largely offset by development of alternative industries providing employment.

The dislocation in job opportunities resulting from changes in agriculture has in many rural areas created a considerable surplus pool of labor who are either unemployed, working part-time involuntarily, or are discouraged from actively seeking employment. Low labor participation rates present in most rural areas provide one indication of these employment problems. Additionally, rural persons are likely to be less knowledgeable about employment possibilities in other areas and less able or willing to relocate. Family and other institutional and social influences, restricting mobility, are stronger in rural than in urban areas.

Unemployment rates, the most widely used labor market indicator, are a poor measure of labor availability in rural areas. Despite the evidence of serious employment problems in

rural areas, the official unemployment data of the U.S. Department of Labor indicate consistently lower rates in rural vs. urban areas. In fact, the very lowest figures are those representing "farm areas" which largely reflect the extreme improbability of a farm operator or worker being considered as unemployed. For example, most migratory farm workers realize it is pointless to actively seek employment in off-season and are thus not included in the unemployment data.

A better measure of employment problems would be a "subemployment index" computed on the basis of an area's number of involuntary part-time employed and discouraged workers, and taking into consideration structural, disguised, and all other types of unemployment. Although the results of such a subemployment index can only be estimated at this time, we know that it is significantly higher in rural than in urban areas. Clearly, such an index would represent a much better indicator of rural employment problems than those presently computed and published.

A number of other employment deficiencies exist in rural areas that we would like to identify briefly.

The scarcity of employment training programs, both governmental and private, provide no opportunity to overcome the low levels of educational attainment and shortage of work experience. Training programs to alleviate these deficiencies should be made available in rural as well as in urban areas. Training programs should include skill training, work experience programs, and improved delivery systems. Equity in funding formulas between urban and rural areas is needed.

Health problems are also more acute in rural areas, which tend to be a significant factor in limiting the ability of many persons in rural areas to obtain employment and remain employed. The lack of adequate medical facilities and personnel in rural areas contributes to this problem.

The quality of jobs is lower in rural areas with respect to wage rates, fringe benefits, job rights and discrimination. The industrial structure is often narrow, offering little variety of occupational opportunities.

We share the concern of members of this Subcommittee and its distinguished Chairman regarding the excessive rates of unemployment and inflation, and the need for national economic objectives and priorities which could serve to dictate appropriate economic policies and programs. However, we believe that the unique employment problems in rural areas warrant particular concern and consideration in developing legislation which will be effective in alleviating them. First, the legislation should recognize the nature, scope, and complexity of the employment problems in rural areas. Present employment data and measures do not reflect the magnitude of these problems. Second, the legislation should insure that rural problems will be adequately addressed, by such means as the provision of urban-rural equity funding ratios. Third, present programs designed to improve rural conditions, such as the providing of low-cost capital for housing, businesses, and electrification, should be expanded and new programs developed. For example, fully utilizing the various programs authorized by the Rural Development Act of 1972 and other legislation would provide for a broad range of job-creating enterprises throughout rural America.

We have attached for your information resolutions on the subjects of Rural Jobs Creation, Equitable Treatment for Rural America, and Upgrading Rural America which were adopted by rural electric cooperatives at our latest Annual Meeting. These resolutions reflect the strong expression of support of our membership for renewed governmental programs to enhance rural development and to increase rural employment.

We appreciate the opportunity to make our views known on this matter.

UPGRADING RURAL DEVELOPMENT

It generally is accepted in government that priority determines to a large extent the attention and action that programs receive. Therefore, we urge that the USDA assign high priority to rural development in keeping with the congressional commitment of 1970.

We are encouraged by Secretary of Agriculture Bob Bergland's recent statement that he intends to "make the rural development mission of the department an active, ongoing function that means business" and that rural electric systems will be involved.

Besides helping to achieve a sounder rural-urban balance, the vast rural development potential of USDA authorities under the Rural Development Act and other legislation, could reduce substantially unemployment in rural areas and thereby strengthen the economy of the entire nation.

To upgrade the status of rural development in the department, we recommend the Secretary take the following actions:

Announce concurrence in the Congressional commitment of 1970, and of his intention to fully implement the Rural Development Act of 1972 including the responsibilities assigned him by Congress for leadership and coordination of all federal rural development efforts.

Relocation of the leadership and coordination responsibilities in the Secretary's office from the Rural Development Service directly under the Assistant Secretary for Rural Development.

Elevation of the position of Assistant Secretary for Rural Development to Under Secretary.

Request loan authorizations and grants for fiscal 1978 commensurate with the needs of rural areas for jobs, for community facilities of all kinds, for housing and for essential services.

Develop a national rural development plan as Congress directed USDA to do to be undertaken over a ten-year period, reflecting the realistic dimensions of the task.

Restructure the Farmers Home Administration, the agency to which most of the rural development authorities have been delegated, to enable it to more efficiently discharge these responsibilities.

Reactivate REA's technical assistance program as a means of maximizing the leadership potential of its borrowers in assisting community development projects.

Establish a public advisory committee on rural development in USDA as a means of obtaining advice and recommendations from rural-oriented groups and individuals relating to USDA programs and policies, as well as a means of keeping rural public informed as to the department's progress and problems.

RURAL JOBS CREATION

The President has assigned top priority to the critical national problem of unemployment which will require millions of new jobs.

We believe that the rural development authorities of the U.S. Department of Agriculture could contribute significantly to reducing unemployment and underemployment in rural areas and thereby help the President achieve his goal.

USDA's rural development authorities, which have been successfully directed to halting rural outmigration, now could be focused on the creation of hundreds of thousands of jobs in rural areas where the unemployment rate often exceeds the national average. This could benefit urban areas as well since many rural people in search of employment migrate to the cities.

Under the Rural Development Act of 1972 and other legislation, USDA has the potential for unlimited financing of a broad range of job-creating enterprises including housing, community facilities of all kinds, business and industry, farming, electrification, telephony, health centers, telecommunications, conservation and others. Most of this financing would be in the form of guaranteed or insured loans with minimal impact on the federal budget. This appears to us as the most cost-effective manner of stimulating the economy which the government could choose.

We urge the President and Secretary of Agriculture to develop a plan to mobilize and coordinate the resources of the USDA and its constituencies in a national effort aimed toward substantial reduction of unemployment. Moreover, USDA could enlist the assistance of other federal agencies under its authorities to provide leadership and coordination for all federal rural development.

The rural electric systems pledge their full cooperation in such an undertaking recognizing as they do its importance to the lives of millions of Americans and to our nation's future.

EQUITABLE TREATMENT FOR RURAL AREAS

Because of the increasing volume and complexity of legislation dealing with major national problems—as for example, transportation, health, manpower, and the economy—the effect on rural areas is often difficult to determine. Furthermore, much of the legislation is designed to deal mainly with urban aspects of problems. So that the interests of rural areas are considered in such legislation, we recommend measures be adopted to develop a procedure which will achieve this end.

We would recommend that Congress adopt as a policy that all major legislation of national scope insure equitable treatment for rural areas in recognition that what might assist urban areas, might be impractical, unworkable or unjust for rural sections of the country.

The Effects of Full Employment on Food Consumption and Prices

(By C. Edward Pike, consultant, international agricultural economist)

THE FULL EMPLOYMENT AND BALANCED GROWTH ACT WOULD BENEFIT FARMERS

The attainment of the objectives of the proposed Full Employment and Balanced Growth Act would almost certainly result in a modest strengthening in the demand for and prices of farm products. Historical data substantiate this conclusion as do several recent food consumption studies. There would also be other beneficial side effects for the nation's rural population.

OBJECTIVES OF THE ACT—FULL EMPLOYMENT AND REDUCED INFLATION

The proposed legislation would establish the right of all adult Americans able, willing, and seeking to work to opportunities for useful paid employment at fair rates of compensation. To support that right, the act would commit the U.S. Government to fundamental reform in the management of the economy so that full employment and balanced economic growth are achieved and sustained.

The main goal of the act would be the achievement of three percent unemployment (considered full employment under official U.S. definitions of employment and unemployment) as promptly as possible, but within not more than four years after the date of the enactment of the act. The act would also require a strengthening of the government's anti-inflation policies.

CURRENT PROGRAMS HELP STABILIZE FOOD CONSUMPTION

The Food Stamp Program, School Lunch Program, Unemployment Benefits Program, and other programs that assist low-income persons have kept food consumption from dropping as sharply as would otherwise have occurred in a period of high unemployment. The attainment of full employment in the U.S. will, therefore, not result is as sharp a rise in food consumption as would have occurred in the absence of such programs.

Nevertheless, a significant increase in food purchases can be anticipated.

CONSUMPTION STUDIES INDICATE THAT FOOD BUYING WILL EXPAND

Food consumption studies provide evidence that food purchases will increase in response to a decline in unemployment. For instance, Economic Research Service analyses of data obtained by a Bureau of Labor Statistics survey covering 10,000 families during 1972–73 show that food expenditures increased rapidly as family income rose.

And an Office of Management and Budget task force evaluation of several USDA household-food-consumption surveys and food stamp program studies indicates that low-income families spend about 20 cents out of each additional dollar of income for food. The task force also concluded that as incomes increase among low-income families, average food expenditures rise toward levels which provide nutritionally adequate diets.

DIETS WILL BE UPGRADED

As far as food consumption is concerned, the principal impact of full employment and consequent increased incomes for millions of workers will be in a significant upgrading of diets rather than in a substantial increase in per capita intake of calories.

For example, the Economic Research Service study found beef to be highly income-elastic. In consequence, as incomes rose beef became a larger proportion of total meat consumption. It was also found that spending for foods away from home gained more than for foods at home.

A recently-published University of Tennessee study, using data from 6,950 households in the 48 contiguous states, found that income was a significant positive factor affecting the consumption of all nutrients except carbohydrates. The greatest responsiveness was recorded in the $8,000 to $12,000 income range. The most rapid rise was noted for fat (soybeans, cottonseed, butter, etc.), followed by vitamin C (citrus fruits), vitamin A (green leafy vegetables, carrots, etc.), protein (meats), and calcium (milk products). As incomes rose, carbohydrate (green and potatoes) consumption declined.

FARM PRICES SHOULD STRENGTHEN

An analysis of applicable data reveal a strong positive relationship between the rate of unemployment and the farm parity price ratio (see attached table). When the rate of unemployment goes down, the parity ratio goes up and vice versa. In only two of the past 15 years have these two key indicators of the health of the nation's economy failed to move in opposite directions, and in one of those years (1967) the rate of unemployment registered no change.

The greatest price strengthening from full employment can, in general, be anticipated for those farm commodities that contribute most to an improved diet, i.e., meats, dairy products, and fruits and vegetables.

FARM FAMILIES WILL BENEFIT FROM REDUCED INFLATION

Spiralling costs of farm production and family living have been among the heaviest burdens that American farm families have had to bear. In 1975 prices paid by farmers were up by two-thirds from the level of only five years earlier and were double the level of a decade ago (see attached table). Therefore, the attainment of reasonable price stability, one of the major objectives of the Full Employment and Balanced Growth Act, would contribute significantly to the well-being of farmers and their families.

THE NUMBER OF FOOD STAMP RECIPIENTS WOULD DECLINE

Full employment would have the beneficial side effect of making regular cash buyers of millions of food stamp recipients.

A 1975 University of Minnesota study found that for each 100 additional persons who become unemployed, the utilization of food stamps increased by some 60 people. The study, therefore, concluded that an improved economy could produce a considerable drop in the number of food stamp recipients.

USDA estimates reinforce the conclusions of the Minnesota study. Food and Nutrition Service (the USDA agency responsible for administering the food stamp program) analyses indicate that the attainment of full employment would result in a reduction of six million from the current 19 million food stamp recipients. The remaining 13 million are persons outside the work force, i.e., over 65, physically or mentally incapacitated for work, etc.

MORE JOB OPPORTUNITIES FOR RURAL PEOPLE

Full employment would provide off-farm jobs for all able and willing rural youths seeking non-farming careers. It would also open up off-farm employment opportunities for those farmers wishing to switch to other occupations.

STATEMENT OF REUBEN L. JOHNSON DIRECTOR OF LEGISLATIVE SERVICES NATIONAL FARMERS UNION

Mr. Chairman and Members of the Committee: I am Reuben L. Johnson, Director of Legislative Services for National Farmers Union, 1012—14th Street, NW., Washington, D.C. Our organization represents some 250,000 farm families who work on their farms to produce the food and fiber needed by consumers in our country and around the world.

National Farmers Union has been in the forefront of support for full employment legislation since we took a leading role in support and promotion of the Employment Act of 1946.

Farmers Union delegates to our 75th national convention held in San Antonio, Texas in March of this year adopted the following policy statement:

FULL-EMPLOYMENT ECONOMY

"The Employment Act of 1946, which sets forth the national policy directed toward a goal of a full-employment economy, should be implemented and the President's Council of Economic Advisors should utilize existing authority to achieve the purposes of the Act."

National Farmers Union has long recognized that the consumer is the market for the food and fiber which our farmers and ranchers produce, and we also recognize that those consumers cannot buy an adequate and nutritious diet for their families, nor clothes for their backs without the opportunity to work at productive jobs and receive fair returns for their labor.

I am glad to note that H.R. 50 also speaks to the needs of farm families for a fair return for their labor, management and investment reflected in prices for their production that will result in a parity of income. The bill calls for "(2) development of policies and programs related to (a) food and fiber requirements for full employment and balanced growth and to help combat inflation, (b) the needed labor force and capital in agriculture to meet food and fiber requirements, (c) the income needs of farmers to encourage production of food and fiber in accord with the above requirements and moving farm families toward parity of income, this including recognizing the economically disadvantaged segments of the agricultural economy which suffer more from underemployment due to seasonal or disaster-related factors than unemployment, (d) measures to discourage the excessive migration of farm families to urban areas, including encouragement of supplementary nonfarm work and income for farm families, and (e) improved equalization of necessary public facilities and services for farm families with those provided for other families."

Last year we asked International Agricultural Economist C. Edward Pike to review the effects of full employment on food consumption and prices. This study concluded that the Full Employment and Balanced Growth Act would benefit farmers, that food buying would expand, diets would be upgraded, farm prices should be strengthened and the number of food stamp recipients would decline. I am attaching a copy of this study to my statement for the record.

In addition to securing a parity of prices and income for farm families, we need special attention to the employment opportunities in rural areas. Too often these areas have not gotten a fair share of Federal programs designed to upgrade and increase employment opportunities. The increasing evidence of an outmigration of population from urban to rural areas emphasizes the need for improved employment opportunities and services.

National Farmers Union took the lead some dozen years ago in sponsoring the Green Thumb program which provides public service employment under Title IX of the Older Americans Act to older economically disadvantaged women and men in rural areas to use their skills and provide many of the services needed for community improvement and enrichment.

Much more needs to be done particularly in rural areas to upgrade employment, health care transportation and educational opportunities, which could be part of the balanced growth program of H.R. 50.

Mr. Chairman, we believe that our nation needs a sound farm and food policy, an equitable energy policy and a full employment and balanced growth policy to recover from the high unemployment and double digit inflation that took such a terrible toll of our citizens' strength and our national well being. We are happy to join in a broad coalition of farmers, workers and consumers, Congress, The President in developing a national policy of full employment and balanced national growth. Thank you.

UNEMPLOYMENT, FOOD CONSUMPTION, AND PRICES PAID AND RECEIVED BY FARMERS, 1960–75

Year	Unemployment rate (percent of the civilian labor force)	Per-capita food consumption (calories per day)[1]	Prices received by farmers (indexes, 1910–14=100)	Prices paid by farmers (indexes, 1910–14=100)	Parity ratio[2]	Year	Unemployment rate (percent of the civilian labor force)	Per-capita food consumption (calories per day)[1]	Prices received by farmers (indexes, 1910–14=100)	Prices paid by farmers (indexes, 1910–14=100)	Parity ratio[2]
1960	5.5	3,130	239	300	80	1968	3.6	3,270	261	355	73
1961	6.7	3,120	240	302	79	1969	3.5	3,270	275	373	74
1962	5.5	3,120	244	307	80	1970	4.9	3,300	280	390	72
1963	5.7	3,140	243	312	78	1971	5.9	3,320	284	409	69
1964	5.2	3,170	237	313	76	1972	5.6	3,320	320	432	74
1965	4.5	3,140	248	321	77	1973	4.9	3,300	438	496	88
1966	3.8	3,180	266	334	80	1974	5.6	3,290	467	578	81
1967	3.8	3,210	254	341	74	1975	8.5	3,250	459	632	73

[1] Nutrients available for consumption per capita in the United States.

[2] Percentage ratio of index of prices received by farmers to index of prices paid, interest, taxes, and wage rates on a 1910–14=100 base.

Sources: Unemployment data are from the U.S. Department of Labor; all other data are from the U.S. Department of Agriculture.

CLINCH RIVER ARCHITECT/ENGINEER PREDICTS GRAVE PROBLEMS FOR PROJECT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. BINGHAM. Mr. Speaker, there are a great number of reasons for supporting the President's decision to cancel construction of the Clinch River breeder reactor. Indeed, as a recent New York Times editorial noted: "Clinch River is an unnecessary project combining poor economics, bad foreign policy and unneeded technology."

Yesterday's Washington Star and this morning's New York Times carried illuminating news articles further substantiating some of these points based upon the files of the project's chief architect/engineer, the firm of Burns and Roe. Critics of the Clinch River project, who have in the past been dismissed by industry backers of the breeder as anti-nuclear, can take heart that our belief that Clinch River is "a nuclear lemon" and "a technological turkey" is shared by Burns and Roe. As the Times and Star stories have documented, Clinch River's builders knew long ago that the planned location of the project was "one of the worst sites ever selected for a nuclear power plant." The engineering company also noted in its internal memoranda that it was already clear—as far back as 1973—that "the project results will be poor" and that one key official outside the company had privately recommended abandoning the Clinch River breeder reactor "since it does not have a chance of success and could harm us badly". The memo went on to predict mammoth cost overruns—which have in fact materialized. Since the writing of the 1973 memo, the price tag for Clinch River has soared from an estimated $600 million to the current estimate of at least $2.2 billion.

I insert herewith the Star and Times articles which I commend to my colleagues' attention:

[From the Washington Star]

SECRET MEMO HITS CLINCH RIVER BREEDER PROJECT

(By John Fialka)

A secret corporate memorandum for officials within the engineering firm that holds the $175 million government contract to design the controversial Clinch River Breeder Reactor predicted four years ago that because of the mismanagement, confusion, design mistakes and politics surrounding it "the project results will be extremely poor."

Among other things, the memo states that a former commissioner of the Atomic Energy Commission was the source of "inside information" for the engineering firm, which is both architect and engineer for the Clinch River breeder.

Construction of the $2.2 billion breeder, a demonstration plant for what was once thought to be the nation's primary energy source for the future, was to have begun this year at a site near Oak Ridge, Tenn. President Carter has asked Congress to terminate the project for the foreseeable future, however, as part of his nuclear nonproliferation initiative overseas. Introduction of the breeder would result in widespread use of plutonium, an atomic bomb material, as fuel.

The memorandum on Burns & Roe letterhead, a copy of which was obtained by The Washington Star, states that "The Clinch River site selected for the LMFBR (breeder) demonstration plant is one of the worst sites ever selected for a nuclear power plant based on its topography and rock conditions" and predicts delays and mounting costs as a result.

It states that James T. Ramey, who resigned as an AEC commissioner and the agency's chief expert for the breeder program in 1973, "was our highest level contact in the AEC and source of inside information."

The memo adds that although Burns and Roe was "told orally" by unnamed AEC officials that "we should not comply with" certain AEC safety regulations, there were many other serious problems involved with the breeder.

Clinch River's overall management is called the Project Management Corp. (PMC), which is a joint effort, controlled by the AEC's successor, the Energy Research and Development Administration with help from private utilities.

The memo, written by W. H. Young, vice president and deputy director of the company's breeder reactor division in July 1973, states: "The PMC general manager has privately advised Burns and Roe to get out of the LMFBR (which stands for liquid metal fast breeder reactor) job now, since it does not have a chance of success and could harm us badly."

Nevertheless, the memo, sent to a number of the engineering firm's highest officials, suggests the firm should go ahead with its contract for the project because of "that project's key position relative to our future growth." Noting that the firm's fees would be based on a percentage and could go up or down depending on an estimate of the project's overall costs, the memo adds, "A firm, well handled fee negotiation could mean $1 million to us."

A spokesman for ERDA said that while the Burns and Roe contract was signed in January 1973, it did not go into effect until January 1974. So far, he said, the company has drawn $51 million from the government.

Asked for a comment, Ramey, currently vice president for Stone and Webster, a company which has the $500 million contract to construct Clinch River, denied that he had given Burns and Roe any inside information which would have aided their efforts to win the design contract.

"There were a lot of what you would call informal discussions all the time," said Ramey, who was an AEC commissioner for 11 years. However, he denied any disclosure of information to Burns and Roe which would have violated the agency's disclosure regulations.

Ramey said he was not sure whether he had any dealings with Young, the author of the memo. Ramey added: "Some guys who haven't been around very much would want to imply that they had a relationship with a high office. It would give them a leg up, so to speak."

Young did not respond to The Star's efforts to reach him yesterday and today. Instead, Francis J. Browning, the company's manager of public relations, read a written statement which said that "an appraisal of the CRBR (Clinch River Breeder Reactor) was made in mid-1973 in a Burns and Roe internal memorandum which may be the document to which you refer."

However, the Star's copy of the memo, he added, might be "abridged, doctored or otherwise incomplete," so the corporation could not be certain of its authenticity. Asked for a point by point comparison of specific passages of the 30-page memo over the telephone, Browning, repeatedly refused, saying that the "statement we have read you over the telephone is the only one we are prepared to make at this time."

"In any event," the company's statement to the Star concluded, "under no circumstances does Burns and Roe authorize you to publish or use in any way any confidential document purporting to have been prepared by Burns and Roe or any of its officials, and any attribution to Burns and Roe or such officials is expressly prohibited."

The Clinch River breeder was intended to be the first commercial-sized demonstration that a nuclear reactor could "breed," or create more plutonium fuel than it consumed at the same time it generated electricity.

In the early 1970s the breeder concept was absorbing most of the nation's energy research funds. A forerunner to the Clinch River plant, a test facility known as the "Fast Flux Test Facility" (FFTF) at Hanford, Wash., which is now completed, had huge cost overruns, and the estimates for Clinch River, which was supposed to be a much more sophisticated facility, began to balloon from $700 million to the present $2.2 billion.

Critics of the breeder, including some Carter administration officials, have argued that the Clinch River was not really much of an advance over FFTF and was being championed by the AEC and the nuclear power industry only as a way to preserve the "momentum" for the breeder concept.

The Burns and Roe internal memo appears to bear them out. It states that the AEC was forcing project managers to use many FFTF design concepts in the Clinch River design. "We know that some aspects of the FFTF design are abortions," the memo adds, alleging design mistakes and "distortions in project efforts because of inadequate estimates and funding problems."

Suggesting that, in the end, the Clinch River plant might not be an advance over the FFTF test facility, the memo adds, "There are indicators that utility representatives are starting to question why they should contribute $250M to add a balance of plant and steam generator to an FFTF."

Under the initial concept of the Clinch River breeder, the electric utility industry was expected to share about half of the project's costs. As the cost estimates of the facility soared, however, the federal government absorbed all of the increase. Despite some prodding from ERDA, the industry has refused to contribute more than its initial promise of $250 million.

The memo blamed some of the project's problems on Westinghouse, the designer of the breeder hardware. "Westinghouse also is more interested in playing politics with the AEC and the schedule than in taking on the hard issues necessary and being straightforward with the utilities regarding the status of the project."

The cover sheet of the memorandum, listing a number of high Brown and Roe officials who were to receive copies, states: "Because of the sensitivity of the information contained herein you are requested not to discuss its contents with anyone other than those on the distribution list for this memo, nor to leave this paper any place where it might be sighted by others." The memo is stamped "company controlled information."

As part of his company's prepared statement to The Star, Browning asserted that many of the problems surrounding the design of Clinch River "were subsequently aired and resolved" through design changes and management reorganizations since the memo was written.

James Schlesinger, President Carter's top energy adviser, has recently disputed this.

[From the New York Times]

SITE OF TENNESSEE REACTOR CALLED "ONE OF WORST" IN ENGINEERS' REPORT

(By David Burnham)

WASHINGTON—The engineering company in charge of building the Clinch River breeder reactor concluded four years ago that the planned location of the project was "one of the worst sites ever selected for a nuclear power plant based on topography and rock conditions."

The engineering company also said in a confidential 1973 position paper that it was "already clear the project results will be poor," and that one key official outside the company had privately recommended abandoning the Clinch River reactor "since it does not have a chance of success and could harm us badly."

Copies of the paper prepared by a vice president of Burns and Roe Inc., a New Jersey-based engineering concern, began circulating on Capitol Hill today as lobbyists both opposing and supporting the reactor, situated on the Clinch River in Oak Ridge, Tenn., sought to persuade Congress of their views.

CONCERN OVER PLUTONIUM

Opponents, led by President Carter, view ending the project as a key signal to the world that the United States opposes the development of reactors fueled by plutonium, because plutonium also can be readily fashioned into atomic bombs.

Proponents, led by Senators Henry M. Jackson, Democrat of Washington, and Frank Church, Democrat of Idaho, have contended that the eventual shortage of uranium means that the plutonium-powered breeder reactor is essential to the future growth of the United States and other industrialized nations.

The battle is over how much the Federal Government will spend in the next fiscal year on the Clinch River reactor, which for the last few years was the major single energy research and development project of both the Nixon and Ford Administrations. Mr. Carter has recommended spending $33 million to terminate the project. Supporters have sought $150 million to keep it alive for at least one more year.

A vote on this issue is scheduled tomorrow by the Senate Energy and Natural Resources Committee, which now seems almost evenly divided. The House of Representatives is expected to consider an authorization bill containing $150 million for the project either next week or immediately after July 4.

In another development, the Senate Appropriations Committee today approved legislation including $13 million to pay the salaries for one year of the employees operating a $250 million plutonium reprocessing plant that the Carter Administration strongly opposes because of its implications concerning nonproliferation. The processing plant, situated in Barnwell, S.C., was built by a consortium established by the Allied Chemical Corporation and the Gulf Oil Corporation.

Senator Dale Bumpers, Democrat of Arkansas, one of those leading the campaign to block continued funding for the Clinch River project, was one of those who obtained a copy of the Burns and Roe document.

"Completely aside from the arguments being made today about the problems of nuclear proliferation, the position paper show that Clinch River has been a technological turkey from the very beginning," Mr. Bumpers said.

According to the notations on the Burns and Roe document, the company position paper on the liquid metal fast breeder reactor was prepared by W. H. Young, the vice president in charge of the concern's breeder reactor division, and distributed to six top executives on July 6, 1973.

A cover letter said that the document would be presented to Mr. Roe, presumably Kenneth A. Roe, the concern's president, on the afternoon of July 17, 1973. "Because of the sensitivity of the information contained herein, you are requested not to discuss its contents with anyone other than those on the distribution list for this memo, nor to leave this paper any place where it might be sighted by others," the letter warned.

A spokesman for the company, in response to an inquiry, said Burns and Roe could not be sure "what document you have in your possession." After noting that all the problems raised in one mid-1973 company document had been resolved in the normal give and take of government, the spokesman read the following statement:

"In any event, under no circumstance does Burns and Roe authorize you to publish or use in any way confidential documents purporting to be prepared by Burns and Roe or any of its officials and an attribution to Burns and Roe or such officials is expressly prohibited."

The position paper, bearing the words "company controlled information" and "strictly private," said that no matter what Burns and Roe did, "most actions on the project are out of our control, and it is clear the project results will be extremely poor."

The paper said that one of the prime considerations of Burns and Roe "is that the corporate reputation not be damaged by the results of the project since it is in large measure a key to our future growth."

QUESTIONABLE LEADERSHIP CITED

The company document further said the Project Management Corporation, a nonprofit organization established to operate the reactor, was led by "naive individuals who fear and accede [to] the Atomic Energy Commission" and who in the foreseeable future would provide "hesitant and questionable" leadership.

One key statement of the position paper was the assertion that Burns and Roe and Westinghouse, the prime contractor for the reactor, had been told orally by unnamed Government officials not to comply with requirements that arise "from theoretical Division of Reactor Research safety considerations and would not necessarily provide a simple, reliable plant."

One specific problem identified by the Burns and Roe document was the diameter of the reinforced concrete containment wall around the demonstration reactor, which has had to be increased from 155 feet to 200 feet because of specification changes and would have to be enlarged to approximately 300 feet in the full-scale reactor contemplated for the future.

"It is not clear that the sheer physical size of the future commercial scale liquid metal fast breeder reactor will not make it unattractive," the Burns and Roe document said.

The document recommended several possible options that Burns and Roe might take, including a proposal to "obfuscate overall positions until later. This last suggestion was not recommended.

A spokesman for the Energy Research and Development Administration, which has already spent more than $226 million on the Clinch River project, said Burns and Roe had been paid $37.4 million in engineering fees for the development of the experimental reactor as of Sept. 30, 1976.

A CASE OF OVERKILL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. CRANE. Mr. Chairman, most Americans do not realize it, but there are over 63,000 regulators within the Federal bureaucracy. It costs an estimated $4 billion in tax dollars to underwrite their activities and those activities wind up costing business and the American consumer at least $125 billion a year. The paperwork alone generated by the multiplicity of rules and regulations has been estimated by the Commission on Federal Paperwork to cost $40 billion a year—which is reflected in either higher prices or higher taxes.

The ridiculousness of these rules and regulations is now beginning to surface. The Occupational Safety and Health Administration has announced it will stop nitpicking and concentrate on health hazards. The Administration as a whole has stated many times that it will decrease the size of the bureaucracy and slim down the number of regulatory agencies. The crackdown could not have come at a better time, especially when we look at how close we have come to complete Government control of our economy.

I believe the enclosed editorial by James J. Kilpartrick is a perfect example of just how ridiculous our bureaucracy has become.

A CASE OF OVERKILL IN FEDERAL REGULATION

The Consumer Product Safety Commission, created by act of Congress in the fall of 1972, got organized and down to work in the spring of 1973. Shortly thereafter, in August, the Outdoor Power Equipment Institute filed a formal request for standards to govern the manufacture of power mowers. Perhaps it seemed a good idea to the institute at the time. Now, nearly four years later, a set of standards has come forth. Let us inquire, if you please: What hath bureaucracy wrought?

This should be said at the outset, right up top, lest it be overlooked: There is nothing funny—nothing at all—in the accidents that accompany the use of power mowers. Severed fingers, mutilated toes, an eye blinded by a thrown rock—these are tragedies not to be minimized. In fiscal 1976 an estimated 56,000 persons went to hospitals for treatment of mower injuries. The bureaucracy at work may have its ludicrous aspects. That bloody procession has none.

Very well. In November of 1973 the commission granted the request of the Outdoor Power Equipment Institute. Mandatory standards, rather than voluntary guidelines, would be required. The institute offered to prepare a draft regulation, but the offer was declined. Instead, the commission "accepted the offer" of Consumers Union to do the job. This was rather like asking a pack of foxes to draw up security specifications for a henhouse, but no matter. Consumers Union set to work, and for a $250,000 fee delivered a proposed set of standards in July of 1975.

The commission's staff then fell to work on the Consumers Union draft. Various public meetings were held. Comments were solicited. Additional tests were undertaken. Independent experts were consulted. It all took

time—time and a mountain of paperwork. On April 8, 1977, the commission at last released its proposed final version. It is, to say the least, an impressive package.

Getting at once to the heart of the matter, the commission's principal proposal is for a kind of dead man's control on the handles of the familiar walk-behind mower. Once the rule became fully effective, every mower would have to be so equipped. Within three seconds after the operator released the control, the engine would stop. It would then have to be restarted. The rules mandate an "easy restart" mechanism to facilitate the task. A number of less obnoxious safety features also would be required.

To the fellow who cuts grass regularly, the principal requirement is likely to be viewed as a proposal from the dream world. On the neat green lawns of the testing laboratories, perhaps nothing ever intrudes upon the orderly progress of the power mower at work. The perfectly tuned engines start and restart with the merest flick of the wrist. The operator mows methodically back and forth, leaving a ribboned fairway behind.

In the real world, the commission doubtless will be told, things are not that way at all. The typical power mower is a temperamental little beast. It starts when it pleases, and it quits when it feels so disposed. In the real world, an operator is subject to incessant interruptions. There is a tricycle in the way, or a tennis ball, or a rock, or a fallen limb, or an old collie who refuses to budge. The afternoon mowing is interrupted by brief pauses for talking with a neighbor, for lighting a cigarette, for wiping away honest sweat, for scratching one's nose. Under the commission's mandatory standard, every such pause would kill the engine. By the commission's own estimate, "it may be necessary to start the engine 250 to 300 times more during a mowing season than is presently done."

The dead man's control was recommended by Consumers Union and was accepted from the outset by most members of the commission. Dr. R. David Pittle held out for a clutch that would disengage the blades while leaving the engine running, but he was outvoted on grounds of cost. At the press briefing in April correspondents were told that several manufacturers doubtless would offer a clutch device willy-nilly, intended for customers able to pay a substantially higher price.

On this business of cost: Early on, the commission directed its Bureau of Economic Analysis to make an assessment of the economic impact of the proposed safety standard. The bureau contracted with the Battelle Columbus Laboratories to assist in the task. One of Battelle's first assignments was to determine if a full-blown environmental impact statement would be required. It is interesting to learn how these things are done. The Battelle people put together four hypothetical "matrixes," in which 30 or 40 conceivable environmental consequences could be examined. These were defined as the "magnitudes of possible impacts." After careful study, Battelle concluded that the adverse environmental impacts would be too insignificant to warrant a full-blown environmental impact statement. This was a great relief for everyone concerned.

The four matrixes also were used in determining economic impact. What would the standard mean to the consumer? To the manufacturer? Would the standard produce a net gain or a net loss?

This is how these things are done. The commission assigned a cost of $93 million to the 56,000 injuries suffered annually in mower accidents. It assigned a value ranging from $6 million to $43 million for the 24 deaths experienced. Then the commission doubled the calculated economic costs of the injuries "as a moderate estimate for pain and suffering" and came up with total costs of power mower-related accidents amounting to $285 million to $327 million a year.

The proposed safety features would increase by an estimated $36 the retail price of a walk-behind power mower that now sells for $100 to $150. Riding mowers would go up by an estimated $69. By projecting a sales curve two years after the effective date of the safety standard, the commission was able to predict an increased cost to consumers of $240 million to $330 million. The benefits and the costs to the consumer thus neatly balance.

Also, the commission's Bureau of Economic Analysis examined the prospective consequences in terms of manufacturers. More than 100 companies manufacture power mowers. These firms employ 20,000 persons. Retail sales of power mowers "were probably over $1.5 billion in 1976." That may seem a startling figure, but the commission estimates that 33 million households use walk-behind mowers and another three million use riding mowers. Roughly five million new units are sold annually.

The safety standard would mean hard lines for the smaller manufacturers. The commission acknowledges that "a major redesign and retooling effort will be required in order to modify existing mowers to comply with these more stringent requirements." The 20 largest manufacturing firms may not encounter great difficulty, but the little fellows will have trouble both with engineering and with capital financing. Because sales are expected to drop by 20 percent for walk-behinds and ten percent for riding mowers, owing to the higher retail prices, some small companies may be forced to the wall. "A maximum of 1,000 to 1,800 employees could lose their jobs."

After circulating through eight offices and five bureaus, the proposed safety standard at last emerged from the Office of Standards Coordination and Appraisal as a package of precisely 100 pages. The standard's 15 sections begin with a series of definitions and wind up with a series of findings. In between are rules that would govern a series of tests. All mowers, for example, must pass a "foot probe test," in which an object simulating a human foot is thrust under the spinning blades. The foot probe test is to be coordinated with the "terrace test." There is also an "obstruction test," which has to do with raising one wheel at a time. The rules require a shield strength test and a handle test. "Mower handles are required to be provided with an upstop to prevent the rearmost part of the handle from moving closer than 430 mm. (16.93 in.) to the vertical line through the nearest point on the blade tip circle. However, it is permissible to provide a means to temporarily disable the upstop." All clear

Manufacturers must also test their machines in terms of thrown objects. The thrown object test has been devised by the Research Triangle Institute of North Carolina. An octagonal target enclosure surrounds an artificial turf surface which supports the mower to be tested. Sixpenny nails are injected from three positions into the blade of the mower while it is operating, "and the number and location of the hits of the nails that are propelled against the walls of the enclosure are recorded."

Still another test deals with the "easy restart" mechanism. The reason for this requirement is that the commission, with good reason, fears many purchasers will tinker with the dead-man control and effectively disable it. In the Consumer Union draft, a couple of ingenious interlock mechanisms had been proposed to thwart the wily purchaser. The commission turned these down. In the commission's view, no device, no matter how ingenious, would discourage the user who was determined to outwit the thing. "Accordingly, the commission conducted human factors research to determine starting effort levels which most consumers will consider to be 'easy.'" The test of an easy start is whether the mower can be started "by a 23 kg. (50 lb.) weight dropping 61 cm. (24 in.)."

There is more—much more. The standard goes into blade stopping times, fuel ignition hazards, riding mower stability, steering requirements, brake requirements, shield requirements, and warning labels. The nature of the warning labels finally provoked some audible dissent within the commission's ranks. As originally proposed, the safety standard called for a warning label in the form of a hand with four severed fingers. The dripping blood was to be depicted in bright red. It was too much for William V. White in the Bureau of Information and Education.

"My vote for disapproval," he wrote, "is based primarily on the continuing inclusion of the ridiculous CU warning symbol, generally referred to as the 'bloody stump.' . . . It is a poor communication device that will be offensive to sensitive consumers."

But the more Mr. White thought about the standard as a whole, the more he was disenchanted by the entire proposition. "Having been personally involved in many lawn mower safety demonstration projects and research studies since 1961," he commented, "my general conclusion is that this proposed standard is an overkill. We will be mandating a product that most consumers do not want at a price they cannot afford to pay."

Perhaps impressed by this objection, the full commission backed away from the bloody stump and endorsed a milder warning label. As for the rest—it all remains.

KOREAN INFLUENCE INVESTIGATION

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. KETCHUM. Mr. Speaker, at this time I would like to share with my colleagues in the House my response to an inquiry from the Committee on Standards of Official Conduct in regard to the Korean influence investigation.

The response follows:

Since January 1, 1970:

1. Have you or to your knowledge has a member of your official staff, visited the Republic of Korea while you were a Member of Congress? Yes.

2. Have you or any member of your immediate family (spouse, parent, sibling, or child), or to your knowledge has any member of your official staff or any person with whom you are a business partner or co-venturer been offered anything of value in excess of $100 by, or received anything of value in excess of $100 from:

(a) Any person known by you to have been a representative of the Government of the Republic of Korea at the time of the offer or receipt, or (b) Any person now suspected by you to have been a representative of or affiliated with the Government of the Republic of Korea at that time? No.

3. Have you or any member of your immediate family, or to your knowledge has any member of your official staff or any person with whom you are a business partner or co-venturer

(a) been offered anything of value in excess of $100 by,

(b) received anything of value in excess of $100 from,

(c) attended a function (other than at an Embassy or official residence) given by, or
(d) had any commercial business dealings with
(i) Tongsun Park,
(ii) Kim Dong Jo,
(iii) Suzi Park Thomson,
(iv) Hancho Kim, or
(v) Kim Sang Keun
Yes (iii).

If your answer to any of these questions is yes, please furnish complete details.

BILL KETCHUM.

Date: June 22, 1977.

(If you would prefer to discuss your answers to these questions directly, rather than complete this questionnaire, please telephone the Committee's offices (225–7984) to arrange for members of the special staff to meet with you.)

My wife and I visited South Korea during the period of October 23 to October 28, 1975, as members of a delegation appointed by the Speaker to dedicate a memorial to American dead of the Korean war.

I attended a small dinner party about a year ago from 6 to 9:30 p.m. at Suzi Thomson's apartment with mostly Senate and House staff members. No other Koreans were present.

THE MEDICAL PROFESSION

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. FRASER. Mr. Speaker, we are all concerned with the rising cost of medical care and have been asked to address the issue of cost containment. I would like to bring to the attention of my colleagues a cogent article that examines some aspects of the medical profession. The article, which appeared in the Christian Science Monitor June 17, follows:

THE MEDICAL PROFESSION

(The quality of medical care in the United States depends to a major extent on the stiff examinations required of those desiring entry into the medical profession. That's the view of the American Medical Association and the profession in general. It also holds that the same high standards require strict control over the entry of foreign medical students into the country.

However, the Federal Trade Commission and some academicians wonder if some restrictions on entry into the medical profession are not based in part on a desire to limit the number of doctors and thus keep the price of their services high. Whatever the case, the cost of medical care has been soaring, with physicians now earning a median income of $50,000.

This article, the fourth and last in a series on the professions examines this dispute.)

(By Ron Scherer)

A resident of Louisville, Kentucky, could have a set of dentures made by Dan Hauner for $175. The same set, if purchased from a dentist (and still made by Mr. Hauner), would cost $450.

Unfortunately, the residents of Kentucky cannot buy their dentures directly from Mr. Hauner, who makes the dentures for a dentist. Mr. Hauner, who is secretary of the Kentucky Association of Denturists, would like to help the consumer save money on the purchase of false teeth. However, he and his organization have run into a legal stone wall because of what his organization calls the "greed of the American Dental Association" (ADA). His story, briefly, is an excellent example of how the dental and medical associations hold down competition and keep prices high.

To be fair to the doctors, it must be said that the quality of health care in the United States is generally considered excellent. Since the cost of health care has skyrocketed, however, the tough questions about a profession that controls access, prices, and information must be asked. And the government, for one, is doing that.

Specifically, Mr. Hauner says he could and does illegally sell false teeth at prices lower than Louisville's dentists charge. He risks a relatively light penalty of $25 per violation for supplying dental supplies directly to the public. Yet, in the state of Florida a denturist risks going to jail and being charged with committing a felony for doing the same thing.

"FALSE-TEETH" WAR

For their part, the dental associations of each state say they are only trying to protect the public from individuals who are not qualified to do dental work. However, as in Oregon, where there is a drive to legalize the direct sale of dentures, big money is flowing into the "false-teeth war." Mr. Hauner says his organization has sent $7,000 to Oregon to promote its cause, but "that's small compared with the $56,000 the American Dental Association has spent in Oregon."

Says Bernard Conway, a spokesman for the ADA:

"We completely oppose having anyone with less than a professional education and training working on oral anatomy in a treatment sense. Working with a mouth requires the training and background of a dentist."

The ADA also questions whether prices would come down with the legislation of direct selling of dentures. In parts of Canada, it notes, such legislation only resulted in denturists raising their prices to about what the dentists charge for fitting dentures.

What has happened in Kentucky with false teeth is not unique. Anti-competitive practices in the medical professions abound. Michael Pertschuk, new chairman of the Federal Trade Commission (FTC), says, "There is reasonable doubt that the medical profession, by itself or though friendly state governments, is completely open to innovation, competitive quality control, or consumer choice."

"TAXPAYERS DESERVE ANSWERS"

Mr. Pertschuk says, "Health care has become our business. I have no apologies for that; in fact, one might ask, 'What took the FTC this long?'" Furthermore, he says, since the government has supplied the medical profession with millions of dollars in profits—through medicare and medicaid—the taxpayers of the country deserve some answers to many of the restrictive questions surrounding the profession. Among those concerns are:

Doctors, dentists, and others in the medical profession are forbidden to advertise by local medical societies. As a result, the consumer of medical services learns little about what he or she can get in the way of services.

Already the courts have ruled that lawyer associations cannot set minimum fees and lawyers must compete in price. The Supreme Court is due to rule soon whether lawyers can advertise. Mark T. Scheehan, assistant director of public information for the Department of Justice, notes that "little in this area seems to differentiate the practice of law from that of medicine. Restraints on advertising, whether imposed by codes of ethics or conduct, or by simple agreements among competing practitioners, seem unlikely to stand in the face of a Sherman Act [anti-trust] challenge."

Medical associations argue that advertising will only confuse the consumer, who will be a neasy target for deceptive ads.

In California, for example, ads for cosmetic surgery have resulted in some suits for "false and misleading" claims. Nationally, says Betty J. Anderson, a spokeswoman for the American Medical Association, the AMA has no restrictions on physicians advertising so long as the ads are not "misleading, deceptive, or fraudulent." In practice, however, doctors do not advertise. Asks Miss Anderson, "What good would it do? Advertising normally stimulates demand, and most doctors have more patients than they know what to do with." However, Miss Anderson, a lawyer at the AMA, notes that "the FTC believes if physicians advertise it will result in price competition. This may not necessarily be true."

As an example of what happens when advertising is permitted, economists point to the role of advertising in bringing down the cost of eyeglasses. Sen. Charles H. Percy (R) of Illinois found in 1975 that a set of lenses and frames cost $32 in Baton Rouge, Louisiana, where advertising was barred. However, across the Sabine River in Texas, where advertising is permitted, the same glasses sold for $18.90.

The FTC is investigating the advertising restrictions imposed by the American Medical Association, ADA, and various ophthalmic (eyesight) associations.

EYEGLASS ADS NEXT FALL

Specifically, the FTC has proposed a rule that would permit advertising of prescription eyeglasses by this fall. The FTC proposal would pre-empt laws against price advertising imposed by 24 states against opticians and by 40 states against advertising by optometrists.

Another important question concerns pricing. Medical profession groups and associations virtually tell their members what they should charge. This is done by means of a "relative-value scale." This scale lists comparative numerical values on surgical and medical procedures and services. The values are usually stated in non-monetary units but can be converted to a fee schedule by applying a dollar conversion factor to them.

The AMA does not endorse the scales, but Miss Anderson says state insurance commissioners and other public officials sometimes have a use for them.

The anti-competitive nature of this practice has already been challenged by the Justice Department and the FTC. The FTC has signed four consent decrees from medical associations that have agreed not to continue publication of their scales. However, the Justice Department, in trying a case against the American Society of Anesthesiologists, has been hung up for two years in "pre-trial" discovery. It is expected this case will be tried sometime this year. More actions by the FTC and the Justice Department can be expected against other associations that continue to publish relative-value scales.

Also, there are indications that some groups in the medical profession have tried to "freeze out" insurance companies that have been too strict in controlling costs. A good example of this, says Prof. Roger Feldman of the University of North Carolina, is the emergence of the Oregon Physicians Service.

Prior to the establishment of OPS, the Oregon doctors had to bargain with several private, profit associations. Mr. Feldman says, "In the interest of profitmaking, the associations made serious attempts to control benefit payments to physicians and hospitals. . . . Although the cost-control feature

was viewed by many practicing physicians as undesirable, associations' coverage did have the advantage of certainty of payment." At any rate, the Oregon physicians created an alternative, OPS, which eventually became a Blue Cross-Blue Shield agency. Concluded Mr. Feldman, "The emergence of OPS literally drove the associations out of the Oregon health insurance market."

In reply, Roderick Bunnell, senior vice-president of OPS says that "OPS has never driven anyone out of business and has never dominated the business." He says Mr. Feldman has used information that was applicable in the 1930s and '40s, but not today. Mr. Bunnell admits OPS costs more than the private plans, but says it has broader benefits. It has turned over a large amount of information to the FTC, which is investigating various Blue Cross plans, of which OPS is one.

The medical profession has controlled entry into the field. Last year the medical profession was successful in getting Congress to pass the 1976 Health Professions Educational Act, which, among other things, restrained entry into the United States of foreign medical school graduates. This fact becomes relevant when viewed against the trend of increasing numbers of foreign medical school graduates who come to the U.S. to practice medicine. In some years since 1965, the new foreign medical school graduates entering the country exceed the number of graduates of domestic medical schools. Medical associations defend their policies by noting that foreign medical school graduates sometimes do not enter this country as well qualified as U.S. graduates.

ENTRANCE EXAM TO BE LONGER

Even U.S. citizens are finding it more difficult to gain entry into medical schools in this country. The Association of American Medical Colleges (AAMC), sponsor of the medical school entrance examination, has decided to extend the exam from three hours to six hours. The longer test, combined with college records, is designed to help medical schools better evaluate which of the 60,000 students who take the test will be granted one of the 15,700 positions available.

However, the FTC is looking into the AMA's control of this process as well. For example, a doctor cannot work at most hospitals without either graduating from an AMA-accredited medical school or passing a stiff exam (not given graduates of AMA-accredited schools). Since the AMA controls the accreditation process and there is such a demand to go to medical school, the FTC is considering whether a broader, more public-oriented group should control the accreditation process.

Miss Anderson of the AMA points out that most professional accreditation boards are similar to the one that governs medical schools. The current medical school accreditation board consists of six AMA members, six AAMC members, one member of the Federal Department of Health, Education, and Welfare, and two individual consumers of medical services.

The FTC is investigating the "blues," that is, Blue Cross and Blue Shield, the comprehensive health and hospitalization insurance plans. Specifically, says Mr. Palmer, there is concern that the insurance plans have come under physical control and exercise little restraint over cost. Complains Richard Shoemaker, an assistant director at the AFL–CIO, "The power lies with the doctors, who only act to stimulate demand for their own gain."

Replies Miss Anderson, "I believe Mr. Shoemaker underestimates the sophistication of the consuming public. The public knows more about what it wants than he thinks. Also I believe he doesn't have any conception of how a doctor must gain information. It is easy to sit on the sidelines and complain, but it's harder when people's health is at stake."

The extensive screening and anti-competitive processes seem ironic when contrasted with other aspects of the medical society. For example, once licensed, in many states the physicians are not re-examined.

Finally, concludes Professor Feldman, hospitals are expected to regulate the quality of physicians in their corridors. But, asks the professor, "Who regulates the hospitals?" This question is the subject of another FTC investigation.

DOUBLE DIPPERS

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. LLOYD of California. Mr. Speaker, I urge my colleagues to read the following letter to the editor which appeared in the June 22, 1977, Washington Star. Before voting to prohibit "double dippers" when considering defense appropriations, I would suggest that we consider commitments made to servicemen 20 years ago:

Although as a retired naval officer I am not the most detached of observers on the question of retired officer employment and compensation, I can speak with personal knowledge of some aspects of retired officerhood which seem to have eluded many who speak out on this subject, notably the President and—incredibly—Admiral Stansfield Turner.

First, the term "retired" as applied to such officers is imprecise and misleading. A military officer who finds himself in this status did not, in the majority of cases, arrive there voluntarily.

The military service is, quite rightly, a young man's game, and there are strict limitations imposed by Congress on the number of officers who can be retained on active duty in each grade. From a total of over 60,000 naval officers on active duty, the numbers dwindle in the higher grades to about 50 flag officers. Except for those selected to be one of these 50, everyone else of comparable longevity has to go. In the Navy, it's "up or out"—there are no long-term, paper-pushing jobs wherein one can sit collecting pay (and obstructing progress) until some magical age is attained. A naval officer either gets promoted when he is due, or he goes.

Due to proportionately greater grade restrictions in the grades of captain (bird colonel) and rear admiral (two-star), most compulsory severances occur to commanders not selected for captain, and to captains not selected for rear admiral.

Their non-selection is not indicative of egregious incompetence, since no incompetent would have made it to the selection point; it is primarily due to the statutory restrictions on numbers who may be selected. There may, for example, be a group of 400 military and managerial geniuses available for selection; nevertheless, only 50 of them can be selected for flag rank—the rest have to go.

By this point in their lives, these gents have spent over 20 years in the Navy and are in their mid-40s. They are energetic and accomplishment oriented, and they are on the street, many without a marketable skill other than a knowledge of military affairs and the ability to manage and make decisions. Their general competence is indicated by the large numbers who are successful in second careers, even in the face of economic and social prejudice.

It is, I assume, in recognition of the possibility of early and involuntary career termination that Congress saw fit to provide a guaranteed income to severed officers. Partly, this income is designed to offset relatively low active-duty pay over the years and partly as a retainer, because the officer is subject to immediate recall to active duty if he is needed.

Whether military officers services are worth such pay is, of course, for Congress to decide—as well as for the officer. If he perceives it as a ripoff, he will from economic necessity forego the service early on and won't stay around to be possibly non-selected at age 45.

Or, as now seems likely, the military officer will emulate his fellow citizens, form a political power bloc, and simply demand the wages he feels he deserves. If either of these eventualities come to pass, the service, and the country, will be the worse for it.

Second, in the present context, the important thing about so-called "retired pay" is that it has been earned fairly and squarely. The amount and the terms were part of the deal between the officer and the government from the outset—a deal made with full public knowledge and a deal in which the severed officer fulfilled his part under constant scrutiny and examination. Entitlement to this pay should in justice have absolutely no effect on an officer's subsequent employment, whether with the government or in the private sector. His fitness for a job is in no way affected by his financial status, whether it is based on previously invested income or its equivalent. To characterize such earned pay as vaguely dishonest and somehow a clever fleecing of the public is manifestly unjust.

Yet the President himself unfairly stigmatizes retired officers by implying that they are somehow hoodwinking the good people of America by "double-dipping, triple-dipping, sometimes quadruple-dipping"—into the public till, one is encouraged to assume. This interpretation of the President's attitude is no fantasy, for many years retired officers, regardless of their skills and energy, have been discouraged from accepting federal employment by mandatory, legislated salary penalties based not on the abilities of the applicant but on something else.

Worse, Admiral Stansfield Turner, himself an active-duty naval officer who certainly understands better than I the issues involved, has reportedly announced that in the future he will allow no retired military officer to be hired by the CIA. Not even, one must suppose, if it turns out that the only living expert on a certain facet of intelligence information happens to be a retired officer.

Hoist then by his own petard, Admiral Turner would be forced to acquire the services of the retiree-expert not by normal means, but by recalling him to active duty and ordering him to work at CIA. Very clever, and very economical.

Speaking only for myself, I resent having my honestly earned retired pay referred to by anybody—and especially by the Commander-in-Chief—as "dipping." It ill-becomes the members of Congress and the Executive to disparage the earnings of anyone whose salary is a result of their own lawmaking. In a society where competence is penalized, whether for reasons of race or sex or former occupation, the drones will inevitably rise to the top.

P. M. PRESTON,
Commander, U.S.N. (Ret.).

Springfield, Va.

TO ESTABLISH A SELECT COMMITTEE ON POPULATION

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mrs. MEYNER. Mr. Speaker, on the opening day of this Congress, I had the pleasure of joining many of my colleagues from both sides of the aisle in the cosponsorship of a resolution to establish a Select Committee on Population. That resolution showed our commitment to addressing the critical problems surrounding population growth. Today, I have the privilege of joining our distinguished colleague, Mr. SCHEUER, in cosponsoring a resolution calling for the development and implementation of a national policy to stabilize the U.S. population by voluntary means. The introduction of this resolution coincides with the release of zero population growth's recommendations for a national population policy. I have endorsed the aims of ZPG and I urge my colleagues to lend their support to this important program. I am submitting for the benefit of my colleagues and my constituents my statement in support of the concepts embodied in ZPG's recommendations.

The article follows:

STATEMENT OF CONGRESSWOMAN HELEN S. MEYNER

I support the aims of Zero Population Growth.

Increasing population is a vital concern for every country in the world, and it is a problem we must begin to deal with immediately.

The reasons ought to be obvious. A cursory examination of available data reflects trends and developments that should awaken anyone to the reality of the problem and the necessity for quick action to respond to it.

This is a finite world. The demand for limited resources continues to rise, and unless we manage to curb the present rate of growth, we will be forced to radically alter our lifestyles. In 1951 the United Nations projected that the 1980 world population would be 3.636 billion. We reached that population in 1970. Twenty-five years ago, only eight nations imported more than one million tons of grain annually. Today, thirty-one nations do so. World food production is falling to keep pace with world population.

Food production is not the sole item for concern. The pressures of a burgeoning population on the free nations of the world read like a new "Four Horsemen of the Apocalypse"—increased unemployment, inflation, rising taxes, and overall economic instability. Clearly, this alone should prompt lawmakers and the law-abiding to work for the implementation of ZPG's goals.

There has been some action in the past on the part of the U S. Congress to work for population growth control, but these initiatives have had limited effect.

In 1970 the Family Planning Services and Population Research Act was made into law (P.L. 91–572) and in 1972, the Commission on Population Growth and the American Future recommended that a Congressional committee on population growth be created. Only last January, a number of us in the House of Representatives sponsored a bill (H.R. 70) calling for the establishment of a Select Committee on Population.

Still, the concrete results are few, and a national population policy is all but absent.

There are, obviously, many problems inherent in developing a policy—ethical and practical—but these problems simply must be overcome. Indeed, they have to be overcome soon if we're even going to have a chance at structuring long-term goals. That's why I'm glad to do what I can to help ZPG in its efforts to control immigration sensibly, and to limit population growth through education and family-planning service. We must all work hard to attain these goals, for in the end, each and every one of us will be affected by the outcome.

THE BOUNDARY WATERS CANOE AREA: A UNIQUE WILDERNESS' UNCERTAIN FATE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. FRASER. Mr. Speaker, one of the least concrete, but most important, considerations that must be weighed in deciding the fate of the boundary waters canoe area in northern Minnesota is the need to set aside areas in which people can experience the solitude and tranquility of a natural setting undisturbed by human manipulation. The national wilderness preservation system was established to protect areas in which "the Earth and its community of life retains its primeval character and where the imprint of man's work is substantially unnoticeable." In these areas, one might observe nature's community as it was before humans entered the balance.

Margot Hornblower of the Washington Post recently traveled to the BWCA in an attempt to capture the flavor of the controversies that have surrounded the area since enactment of the 1964 Wilderness Act. She filed two articles; both draw attention to the basic struggle between the "wilderness ethic" and the feeling that multiple economic and recreational uses best serve the interests of the majority of the people. One hand, she records the strong anti-wilderness feelings of many local residents. On the other hand, she quotes two of the most eloquent spokesmen for wilderness preservation, Miron Heinselman and Sigurd Olsen. Heinselman, a retired forester, observes:

People who live in an urban society have no idea how drastically man has changed the world. We are just beginning to understand life systems—from plants to man. We ought not to destroy the last remnants of the natural world until we know more about it.

Olsen, a writer, says:

The average urbanite thinks wilderness is a place to go fishing. But once you've been there a few days, you start noticing the sunsets and the calling of the loons.

A certain calm descends on you.

The preservation of wilderness is more than rocks, trees, beautiful lakes and rivers—it's the salvation of the human soul. It satisfies our hunger to experience the primitive, the natural world.

It is all too easy to lose sight of these values when confronted with a problem as complex and long standing as the fate of the boundary waters. The Hornblower articles help keep these values in perspective. I commend them to my colleagues' attention:

[From the Washington Post, June 19, 1977]

FATE OF A WILDERNESS ABOUT TO BE DETERMINED

(By Margot Hornblower)

ELY, MINN.—In these wild border lands of the north country, the territorial imperative is the law. Wolves, bears, even migratory birds, fiercely defend their turf from outsiders.

Now man, a relative newcomer, has entered the primeval struggle. Though encumbered by courts and legislatures, he, too, is staking out competing claims to the wilderness.

The territory in question is a million acres of northern Minnesota called the Boundary Waters Cance Area. The largest federally protected wilderness east of the Rockies, it is a picture-postcard land of pine forests where urban environmentalists can escape the mechanized world.

But in small towns like Ely, the economy depends on mining and logging. Long winter boredom is relieved by snowmobiles. Summer power boating to trout streams is considered a constitutional right. So citizens here claim environmentalists are out to destroy their way of life by creating a "rich man's preserve" in their own back yard.

Thus the struggle over the territory is a conflict of class, of geography, of culture and philosophy which goes to the heart of the environmental movement.

After five years of court battles between the environmentalists, recreation groups and commercial interests, the fate of this unique wilderness is about to be determined in Congress. Hearings will be held shortly on competing bills sponsored by two Minnesota Democrats.

Rep. James L. Oberstar, who represents northeastern Minnesota, including the wilderness area, would allow logging, motorboats and snowmobiles in 40 per cent of the area.

Rep. Donald M. Fraser of Minneapolis, 200 miles downstate, backed by 50 co-sponsors, would allow access only to backpackers and canoeists.

The conflict has galvanized such national environmental groups as the Sierra Club, National Wildlife Federation and Izaak Walton League, which say the Oberstar bill would set a dangerous precedent.

The leader of the environmental coalition, Friends of the Boundary Waters Canoe Area, is Miron Heinselman, 57, a retired scientist who specialized in forest ecology. A mild-mannered man with single-minded dedication, Heinselman is now a full-time activist.

"People who live in an urban society have no idea how drastically man has changed the world," Heinselman said, adding that wilderness—land undisturbed by timbering, farming, roads or human settlement—is a living laboratory.

"We're just beginning to understand life systems—from plants to man. We ought not to destroy the last remnants of the natural world until we know more about it."

Sigurd Olsen, 78, a writer who lives in Ely, has also joined the Boundary Waters fight. "The average urbanite thinks wilderness is a place to go fishing," Olsen said. "But once you've been there a few days, you start noticing the sunsets and the calling of the loons. A certain calm descends on you.

"The preservations of wilderness is more than rocks, trees, beautiful lakes and rivers—it's the salvation of the human soul. It satisfies our hunger to experience the primitive, the natural world."

For environmentalists, silence is an essential part of the wilderness. "I've been canoeing when the motorboats zoom by," said Janet Green, head of the Friends in Duluth. "It's obscene."

Ely natives, most of whom seem to oppose the environmentalists, are equally fervent in defending their territory. At Jerry Bibeau's

barber shop last week, a random sampling of customers viewed wilderness advocates with unanimous hostility.

"These people want to go back to the way the Indian lived", said Bibeau, who doubles as a city councilman. "But we're civilized here in Ely. It's like yelling in church."

"There's no way I'm going to paddle a canoe."

Chet Jahnke, 44, a iron ore miner, spends his day off fishing. With his motorboat, it takes 45 minutes to get to his favorite spot. If he had to go by canoe, "it would take three hours out of my day" he said.

Ernest Earjes, 69, a retired tax assessor, said the Fraser bill would discriminate against the elderly. "The only people who'll go in [to the Boundary Waters] will be the young people who can paddle," he said. "Punching holes in water is hard work."

Controversy over the Boundary Waters is nothing new. Since it was first set aside in 1902, battles have been fought over logging, roads, fly-in resorts, motor vehicles, dams and mines.

The current controversy stems from a unique exception Sen. Hubert H. Humphrey (D-Minn.) wrote into the 1964 Wilderness Act. Although wilderness was defined as an area "untrammeled by man . . . retaining its primeval character," timber cutting and motorboats were specifically permitted in the Boundary Waters Canoe Area.

Thus, the Forest Service allows motorboats along 21 designated routes which cover 60 percent of the water area. Snowmobiles were banned last year after a Sierra Club suit. Logging is permitted in 40 per cent of the Boundary Waters, although only 10,000 acres are under lease.

In 1972, environmentalists filed suit to stop the logging of virgin timber in the area. They won a ban, but it was overturned last year on appeal. At Oberstar's request, timber companies agreed to wait until this summer for Congress to resolve the issue.

Boundary Waters has the largest virgin forests in the East. Colonnades of 90-foot pines have stood there untouched for centuries.

In the 540,000 acres of virgin forest where only fire, wind and insects have taken their toll, "the entire vegetation is the result of natural processes," Green said. "There's an aesthetic, as well as a scientific value, to know you're not looking at a tree farm."

However, local residents—who sport bumper stickers reading "Sierra Club, Kiss My Axe" —claim that if no cutting is allowed, the trees will grow old and die, creating vast acreages of "cellulose cemeteries," vulnerable to forest fires.

While Oberstar would exempt virgin timber from logging, he would allow cutting in a 405,000-acre area. The nearby 2-million-acre Superior National is a patchwork where economically feasible lumber sales are hard to assemble, he said. "The Boundary Waters area is important for the future growth of the timber industry," he added.

Whether it's timber, motorboating or another issue, the argument on both sides is over how much is enough. Environmentalists say 14,000 lakes and 16 million acres of National Forest timberland in Minnesota, outside the wilderness area, are more than enough for motorboat enthusiasts and timber companies, the latter argue that the 600,000 acres proposed for complete wilderness under the Oberstar bill—and 14 million acres in the federal wilderness system—are more than enough for canoeists and ecologists.

"What's the use of wilderness, if everybody can't use it?" asks Jerry Bibeau.

Green counters, "If everybody could use it, it wouldn't be a wilderness."

Turning Back the Clock To Primeval America

Ely, Minn.—Eleven thousand years ago, a glacier rolled over what is now the Canadian border, strewing great granite boulders over the landscape carving a thousand crystal lakes in the wilderness. Later, the Chippewa Indians came and went, leaving red pictographs on the rock ledges. French voyageurs, their canoes laden with furs from the Northwest, glided through on their way to Montreal.

Today, it is still possible to slip into northern Minnesota's Boundary Waters Canoe Area for 24 hours, turning back the clock to primeval America.

At first, city eyes, accustomed to the glare of pavement and the fine print of documents, see only a mass of green and a mass of blue. Slowly, within the green, dense forests spread out from open bogs. Within the forest, the narrow silver trunks of aspen and birch shine through the pine trees.

There are differences, it soon becomes apparent, between spruces and balsams, between red pines and white pines and jack pines. The needles are long or short, light or dark, feathery or spindly. Each cone, bark, root is distinct. Some trees are dead from last year's drought.

The lake that glides under the canoe isn't really blue, except under the midday sun. In the morning it mirrors the white mist. It shines copper under the sunset. When the shadows fall a polished obsidian comes to mind.

City ears, dulled by the rush-hour din, hear nothing at first. There are no voices, no clacking typewriters, no honking horns, so it must be quiet. It takes a while, but soon the silence isn't silent at all. Water splashes against the rocks, mosquitoes whine, trees rustle. And, from every direction, an incomprehensible polyphony of birdsongs.

More than 100 species fly here from the tropics, covering 300 miles a day in their rush toward summer nesting grounds. People who care about such things have counted 22 species of warbler in the Boundary Waters, each one a freak of evolution. They can be told apart, not only by the different colors that camouflage them from predators and the various sounds they make but by the fact that one feeds only in the top third of a certain tree, another, only in the bottom third for reasons man has yet to discover.

The wilderness seems immobile at first. It is, on a grand scale. But movement is everywhere if one looks for it. On the smooth surface of the lake, a centimeter-long whirlygig beetle waltzes from side to side, leaving a swooping pattern in his wake. Sunlight glimmers silver-green in the grooves of the ripples. A black spider crawls up the side of a pink granite boulder.

Except for a great blue heron feeding by the shore, and a turkey buzzard circling overhead, the animals and birds are in hiding. "Quick—three beers," as Minnesotans have labeled the song of the olive-sided flycatcher, peals out of the trees, but the bird is nowhere in sight. The wolves and bears don't come out until nightfall and the moose are shy of hunters. Even the beaver huts, carefully assembled with twigs and mud, show no sign of life.

After a mile-long portage, the back is bruised from a heavy load. A swim at dusk is in order before setting up camp. A quarter mile out, the water is cool enough to absorb the stress of the day. A hundred feet away, a striped loon looks up and glides over with obvious curiosity. As we swim closer, curious, too, the bird shrieks with giddy laughter, a cry that has haunted many a camper in the wilderness. Bottom up, it pops quickly beneath the water and disappears.

—Margot Hornblower.

AMBASSADOR YOUNG

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. STUDDS. Mr. Speaker, our Ambassador to the United Nations, Andrew Young, has been the subject of a great deal of controversy during his first months on the job. The following article from the Quincy, Mass., Patriot-Ledger does a superb job of summing up Mr. Young's performance thus far, and I expect that it will be of considerable interest to my colleagues:

Andy Young's Chief Asset

(By William R. Frye)

United Nations, N.Y.—One thing is indisputable after four months of Andrew Young: the United States has another unconventional U.N. delegate. The Moynihan era has been followed by an Andy Young festival.

MAJOR ASSET

It is not enough, however, to focus on Young's eccentricities—his habit of shooting from the hip, his sweeping generalities, the strong personal predelictions which sometimes make him a distorting mirror of government policy.

There is another side to the Young phenomenon, and it deserves to be recorded. He has advanced the United States' national interest in important ways, and contributed to the achievement of at least one major goal: repairing the breach between Washington and the Third World.

Young has established a deep rapport with many influential Africans. He may, in fact, be the only American diplomat who could have done it. They call him "brother," and not just because he is black. He has shared many of their feelings and experiences.

The very qualities which make Young unconventional also give him ready access to people and situations where a proper diplomat might not dare to tread.

He can chat easily with Sam Nujoma, the leader of the Namibian (South-West African) guerrilla forces, throwing his arm across Nujoma's shoulder, without implying an official embrace of Swapo, the guerrilla organization. He is "just being Andy Young."

DAMAGING BLOOPERS

This can be awkward in some circumstances. For him to say repeatedly that the Cubans may be a "stabilizing" factor in Angola or Ethiopia implies acceptance of a disheartening definition of "stability." It also suggests, contrary to fact, that secure tenure for a Marxist regime is necessarily desirable and in accord with the American national interest.

Such bloopers tend to undercut Young's credibility at home and in allied capitals. Being disavowed by the State Department, as he sometimes is, weakens his impact with the audience he most wishes to influence: the Third World. He cannot assure the credibility of American policy if he is not seen to be an authentic spokesman for it.

Yet Young clearly does retain much credibility with the Third World in his perceived role as advocate. At the Maputo conference on Rhodesia and Namibia last month, he stood up against a formidable tide of African opinion demanding holy war. No other Western voice of moderation would have been likely to obtain a hearing, much less succeed, even in part, as Young did, in dampening the Maputo fires.

To have done this while still persuading black Africa of the sincerity and authenticity

of American support for majority rule and racial reform in southern Africa was no small accomplishment. Young did not do it alone; the simultaneous Mondale-Vorster confrontation in Vienna also contributed importantly. But he clearly helped.

PEACEFUL CHANGE

The message Young is bringing to the Third World is in the finest American tradition: Let's insist on the equality of man, but achieve it in practice through peaceful means.

"We (in the United States) are not immune to the struggles which Africa faces," Young said at Maputo, "for we have known those struggles ourselves, and somehow we have been able to come through them.

"It is because of this that you see a determination on the part of this administration to bring about changes around the world that are consistent with the new spirit of America that was brought on, in fact, by a silent and non-violent revolution in our country."

Changes "around the world" may have been an overstatement, but "changes in southern Africa" would certainly have been correct; and "non-violent" was the operative word.

"The history of freedom in Africa," he reminded the Maputo conference, "has not been just a history of victory through armed struggle. The majority of the nations of Africa achieved independence through negotiated settlement. . . ." He pleaded for a similar route in southern Africa—"without the massive destruction of person and property" which would come from race war.

UNPOPULAR MESSAGE

This was not what crusading Africa nationalists wanted to hear. Many of them came to Maputo to sound the trumpets and raise the banners of race conflict. Young not only stood up against this call to violence, but offered a practical alternative: economic pressures, after the fashion of the Montgomery bus boycott.

Resisting race war is no small undertaking, and to attempt it in the face of massive peer pressure takes courage.

Young has been accused of being a "one-subject" ambassador, concerned only with racism; but it is a subject of great urgency and importance in many parts of the world. There will be plenty of time for speeches in the U.N. on disarmament, outer space and a "zone of peace" in the Indian Ocean.

PERSONAL EXPLANATION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. KOSTMAYER. Mr. Speaker, on Wednesday, June 15, 1977, I was the commencement speaker at the Central Bucks High School—West in Doylestown, Pa. My presence at the graduation exercises required that I miss two recorded votes during consideration of H.R. 7554, the HUD and Independent Agencies Appropriations bill for fiscal year 1978.

Had I been present, I would have voted "no" on roll 345, the Miller of Ohio amendment. On final passage of that same bill, roll 346, I would have voted "yes."

PACIFIC PALISADES WOMEN RIGHT ON TARGET

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. DORNAN. Due to the late hour yesterday the following was not placed properly in the June 22 extension of remarks relating to my statement prior to roll call No. 366.

There has been much talk from the administration and from some elements in the Congress about "normalizing" our relations with the Socialist Republic of Vietnam or even worse the asinine cry of "reparations." In my opinion, this is neither morally proper nor is it in the best interest of the United States. It is, of course, in the best interests of the Vietnamese who are desirous of American trade and need American aid.

This is the same Vietnam which has consistently refused to give us a full accounting of our missing in action. It is the same Vietnam which practices wholesale carnage on its own population. It is the same Vietnam whose people live under constant fear and suspicion, whose people are dying every day from starvation and brutal mistreatment, and whose people do not even enjoy the most basic of human rights. I, personally, find it incredibly abhorrent that anyone could consider it our duty or our responsibility to recognize this oppressive regime.

On May 4 the House of Representatives made it clear that there would be no aid for Vietnam. As my colleagues can proudly recall, by a vote of 266 to 131 the House passed an amendment to the Foreign Relations Appropriations Act which prohibits the use of any funds for aid or reparations to Vietnam. This body, which reflects the opinion of the American public, has sent its message to the Senate, to the State Department, and to Ho Chi Ming City—no aid and no recognition.

My office has been besieged with letters, petitions, and telegrams voicing opposition to aid and recognition. Among this mail was a particularly notable resolution adopted by the Pacific Palisades Republican Women's Club Federated, under the authorship of an outstanding citizen, Mrs. Forrest Nance, protesting any move toward "normalization" of relations between the United States and Vietnam. These fine women have offered the Congress some accurate observations and a sound conclusion. I submit it for the RECORD, and I commend it to my colleagues' attention.

RESOLUTION

Whereas, in the 1960s, a ruthless dictatorship, North Vietnam, sought to annex the South by naked armed aggression to achieve unification, and

Whereas, the United States went in to assist its South Vietnamese ally and by adopting a no-win policy sacrificed 55,000 American lives, plus the hundreds of thousands of wounded, were forced out, and were double-crossed by the communists in the Paris accords, and

Whereas, the people in South Vietnam, and also Laos and Cambodia, are dying from starvation, lack of medical attention, or before red firing squads, and just this week, six million of them were taken from the cities in South Vietnam and were sent out on to the land for re-education, and

Whereas, North Vietnam has consistantly refused to give a complete accounting of U.S. POWs and Missing in Action, and now claims it has no further information, despite very recent reports from defectors that there are still U.S. servicemen alive as prisoners, and

Whereas, North Vietnam is now demanding reparations for aggression, when the North Vietnamese were the sole aggressors, then

Therefore be it resolved, that the *Pacific Palisades Republican Women's Club Federated,* finds it incredible that the United States government is making plans to resume "normal" relations with North Vietnam, and hereby makes every protest against this complete lack of morality; against this final humiliation of a once proud nation and the ultimate desecration of the valiant sacrifice of scores of thousands of patriotic young Americans who neither resisted nor deserted, but gave in defense of freedom their last full measure of devotion.

UNSUNG HEROES OF PUBLIC SERVICE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. ASHBROOK. Mr. Speaker, policemen and firemen are the unsung heroes of our Nation. They put their lives on the line to protect our society.

I have long supported legislation that would give a measure of financial security to the families of policemen and firemen in the event of their death. Last year I was pleased that the Congress finally adopted such a bill. This bill provides a $50,000 death benefit to the surviving dependents of policemen and firemen who are killed in the line of duty.

Frankly, I think $50,000 is small compensation for the loss they have suffered. Nevertheless, the award does provide some needed assistance to the survivors so that they can adjust economically to the loss of the family's bread winner.

At this point in the RECORD I am including an article by nationally syndicated columnist James J. Kilpatrick that discusses the first awards made under the new legislation:

[From the Washington Star, June 4, 1977]

UNSUNG HEROES OF PUBLIC SERVICE

(By James J. Kilpatrick)

Their names tell us something of the essence of America: McLeod, La Fromboise, Watroba, Van Barber, Sheridan, Schmidt, Dacyczyn, Murray. Beyond their own communities, the men who bore these names were little known. You ought to know them, for they are among the unsung heroes of the dangerous and violent world we live in.

Allen Bruce McLeod and the others were law enforcement officers or firefighters. They died in the line of duty. Their names now have bobbed briefly into the news, as the Law Enforcement Assistance Administration

announces the first 25 awards under a little-noticed act of Congress.

This is the Public Safety Officers' Benefits Act of 1976, signed into law by Gerald Ford last fall. It authorizes the payment of a $50,000 award to the families of officers and firemen who have died since Sept. 29 "as the direct and proximate result of a personal injury sustained in the line of duty."

If the act were viewed solely from the standpoint of strict construction of the Constitution, a valid objection might be heard: The law probably exceeds the legislative powers vested in Congress. I am not minded in arg the point just now. If the power exists, surely it has been commendably exercised here.

In recent years, thanks in part to television, the public perception of police and firemen probably has improved. Even so, it is no great task to recall the scornful and contemptuous epithets that go with law enforcement: pigs, flatfeet, gumshoes, fuzz, Smokeys.

Not so long ago, firemen had to defend themselves from bricks and bullets when they answered calls in the inner cities. Their jobs historically have been underpaid and underpraised. We too seldom reflect on the debt that is owed.

The dry language of the law and the LEAA's brief summaries cannot convey the substance of the fatal events themselves. At random:

Allen Bruce McLeod was a police officer in New Rochelle, N.Y. On Feb. 14, he responded to a shooting disturbance. A sniper killed him.

Gabriel Cecil La Fromboise, a police officer in La Porte City, Iowa, was involved in a high-speed chase last December. A tractor-trailer went out of control. La Fromboise died in the collision.

Walter Edward Watroba, a Chicago fireman, was fighting a fire Nov. 22. The LEAA citation reads: "During the course of the fire a conveyor belt and chute collapsed, trapping Firefighter Watroba under a beam. A seven-hour effort to free him ended with the amputation of his leg. Firefighter Watroba died en route to the hospital."

Jerry Van Barber, a deputy sheriff in Jacksonville, N.C., was working a traffic violation when he was struck and killed by a truck. Richard Philip Sheridan, a Boston fireman, died when a wall collapsed. John Edward Schmidt, a Dayton police officer set up a roadblock to halt a fleeing suspect; the suspect ran the roadblock and killed him. Walter Roger Dacyczyn, a police officer in Deerfield, Mass., died last October while assisting a disabled motorist; he was struck by a passing car.

These men emerge from the fact sheets as husbands, fathers, ordinary men.

Ronald Edward Murray, a Birmingham fire lieutenant, died last December when the roof of a burning office building collapsed. The award went to his wife Doris, and to his two daughters, 8-year-old Heather Elaine and 3-year-old Kristie Dawn. Jerry Lee Wyant, a Seattle policeman, left a wife and three children—Wendie, John and Steven. Garland West Fisher, a Virginia state trooper, was murdered by a man who had kidnaped him; his wife Sandra and his 7-year-old daughter Alicia survive.

As the LEAA says in its official letter of notification, the $50,000 awards can never replace the loss of a loved one, but the awards can serve a dual purpose. They lessen the sudden economic burdens on the families, and they constitute a grateful memorial to brave public servants whose dedication is too often taken for granted.

As a constitutionalist, I reserve an objection to the law. As a citizen, I thank Congress for passing it.

"HIGH NOON ON THE HIGH SEAS"

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. FRASER. Mr. Speaker, the Third U.N. Law of the Sea Conference has been meeting at U.N. Headquarters since the last week in May. Representatives of 156 countries are considering a range of important issues: The nature of an International Seabed Authority to govern the exploitation of mineral resources beyond the limits of national jurisdiction, the nature of the economic resource zone, dispute settlement, marine pollution control, and scientific research. Ambassador Richardson and the U.S. delegation are intent on reaching agreement in principle on various issues by the end of the session in mid-July.

Legislation has been introduced in Congress that would adversely affect the proceedings and work of the Law of the Sea Conference. Congressman BERKLEY BEDELL, a congressional adviser to the U.S. delegation has pointed out very clearly the relationship between the issue of deep seabed mining legislation and the Conference going on in New York in his letter to the Washington Post published Tuesday, June 21. This letter contains several pertinent paragraphs that were omitted from Congressman BEDELL's initial letter printed in last Sunday's Post. Because of the great importance of this issue in the days ahead, I wish to submit for the RECORD a copy of Mr. BEDELL's original letter, and his two letters as they appeared in the Post.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 6, 1977.

Mr. PHILIP L. GEYELIN,
Editorial Page Editor,
The Washington Post,
Washington, D.C.

DEAR MR. GEYELIN: I want to commend you for your editorial "High Noon on the High Seas", and for printing the reply by my colleague, Representative John Breaux. It is important that the American people consider this significant issue and I hope that the dialogue engendered by your paper will contribute toward that end.

The Law of the Sea Conference in New York is considering a variety of important issues. However, the greatest controversy surrounds the question of deepsea mining. In his letter, Rep. Breaux addresses this matter by expressing concern that "the rights companies presently enjoy under international law are being negotiated away" In my judgment, the real issue transcends the self-interest of a select group of mining companies. It involves the question of who will prevail when the interests of world harmony and order conflict with those of four mining consortiums.

The United States has already agreed with other members of the international community that the minerals in the mid-ocean floor are the "common heritage of mankind". The developing nations believe that such an agreement means that those minerals belong to all nations jointly, and for any country to unilaterally claim and develop them for itself would be tantamount to stealing from the rest of the world. While some might question the validity of the common heritage concept, the fact remains that the U.S. has already endorsed it.

It is understandable in the present situation that the four mining consortiums would want the opportunity to maximize profits. And they have a formidable forum from which to push their case. They sit in on the deliberations in New York. They participate in the discussion at briefings. They are very active in lobbying Congress. In fact, one of them, Kennecott Copper, has hired the previous U.S. Chief Negotiator for deepsea mining as legal counsel. In view of the potential of deepsea mining operations, it makes sense for them to spend the money and effort to implement legislation and a treaty which are favorable to them. That is what the Murphy-Breaux bill, H.R. 3350, is designed to do by requiring that taxpayers compensate the mining companies for any loss suffered in investment as a result of the ratification of an ocean treaty. The Carter Administration is on record in opposition to such investment guarantees and unilateral mining legislation.

The deepsea mining issue goes beyond the Law of the Sea negotiations. It involves the standing of our nation in the eyes of the world, the responsibility of the Congress to the American citizen, and the need for balance in the decision-making process of democratic government. The real issue is what should have top priority, world peace and order and the reputation of the United States as a responsible international citizen or the profits of four mining consortiums; and who is to be represented in the U.S. Congress, the American people or mining consortiums and their stockholders?

Sincerely,

BERKLEY BEDELL,
Member of Congress and Member of U.S. Delegation to Law of the Sea Conference.

[From the Washington Post, June 19, 1977]

(Letters to the Editor)

"HIGH NOON ON THE HIGH SEAS" (CONT.)

The Law of the Sea Conference in New York is considering a variety of important issues. The greatest controversy surrounds the question of deep-sea mining. In his June 2 letter, Rep. John Breaux (D-La.) addresses this matter by expressing concern that "the rights companies presently enjoy under international law are being negotiated away." In my judgment, the real issue transcends the self-interest of a select group of mining companies. It involves the question of who will prevail when the interests of world harmony and order conflict with those of four mining consortiums.

The United States has already agreed with other members of the international community that the minerals in the mid-ocean floor are the "common heritage of mankind." The developing nations believe that such an agreement means that those minerals belong to all nations jointly and for any country to unilaterally claim and develop them for itself would be tantamount to stealing from the rest of the world. While some might question the validity of the common heritage concept, the fact remains that the U.S. has already endorsed it.

It is understandable in the present situation that the four mining consortiums would want the opportunity to maximize profits. And they have a formidable forum from which to push their case. They sit in on the deliberations in New York. They participate in the discussion at briefings. They are very active in lobbying Congress. In fact, one of them, Kennecott Copper, has hired the previous U.S. chief negotiator for deep-sea min-

ing as legal counsel. In view of the potential of deep-sea mining operations, it makes sense for them to spend the money and effort to implement legislation and a treaty that are favorable to them.

BERKLEY BEDELL,
U.S. Representative; Member, U.S. Delegation, Law of the Sea Conference.
WASHINGTON.

[From the Washington Post, June 21, 1977]

MISSING PARAGRAPHS ALTERED LETTER'S MEANING

It was most unfortunate that in Sunday's Letters to the Editor, my letter regarding the Law of the Sea Conference appeared with the final two paragraphs missing. The point I was attempting to make seemed badly distorted, and I would like to clarify my stand.

The concern I have is with the influence the mining companies wield, both now in the negotiating sessions at the conference in New York and later, should Congress consider deepsea mining legislation. I do not believe that legislation such as the Breaux-Murphy bill is in the best interest of the American people. This proposal is designed to require that taxpayers compensate the mining companies for any loss suffered in investment as a result of the ratification of an ocean treaty. The Carter administration is on record in opposition to such investment guarantees and unilateral mining legislation.

The deep-sea mining issue goes beyond the Law of the Sea negotiations. It involves the standing of our nation in the eyes of the world, the responsibility of the Congress to the American citizen and the need for balance in the decision-making process of democratic government. The real issue is what should have top priority—world peace and order and the reputation of the United States as a responsible international citizen, or the profits of four mining consortiums?; and who is to be represented in the U.S. Congress—the American people or mining consortiums and their stockholders?

BERKLEY BEDELL,
U.S. Representative; Member, U.S. Delegation, Law of the Sea Conference.
WASHINGTON.

Editor's note: We regret that the final portion of Rep. Bedell's letter was inadvertently omitted.

MILITARY STRATEGY OF NEW IMPORTANCE IN NORTH NORWAY, NEAR SOVIET BORDER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. McDONALD. Mr. Speaker, the war of nerves continues on NATO's northern flank as Drew Middleton recently reported in the New York Times for June 20, 1977. In a fashion similar to the school ground bully, the Soviet Union is attempting to browbeat and cow one of the small boys on the NATO block—Norway. Using the form of psychological warfare at which the Soviets are very adept, Soviet planes test the Norwegian borders, Soviet submarines prowl the Norwegian fjords, and the Soviets remain pushy and overbearing in current negotiations over the boundaries of the Continental Shelf and fishing rights. With the North Sea oil finds already substantial and a steadily diminishing supply of fish in the world's oceans, the last two items are crucial to the future of Norway's economy. To date, Norway has stood up to the bully, and to the extent it is possible the free world, and in particular the NATO nations, should back Norway to the limit. The item follows:

[From the New York Times, June 20, 1977]

MILITARY STRATEGY OF NEW IMPORTANCE IN NORTH NORWAY NEAR SOVIET BORDERS

(By Drew Middleton)

BODO, NORWAY, June 15.—Recently the Russians, only a short distance from this area of northern Norway, fired two unarmed ballistic missiles into an area of the Barents Sea where fishing rights are claimed by both Norway and the Soviet Union.

The Russians were not very subtle about their purpose in the missile firing, although for the public record they chose to explain that they had merely been clearing missile silos in Siberia.

The Norwegians, who are negotiating with Moscow over the boundaries of the continental shelf, where there may be oil, and a vast area of fishing waters, got the message—their political responsibilities and military vulnerability were growing in pace with their expanding economy.

Finnmark, the northern district jutting into the Arctic Ocean between the Barents and Norwegian Seas, has assumed increased strategic importance to Norway and the North Atlantic alliance on one hand and to the Soviet Union on the other.

In war, if Finnmark's surveillance and early-warning systems were neutralized and its airfields destroyed or occupied, the Soviet Union's Northern Fleet, based at Murmansk in the Kola Peninsula, might be able to pass Iceland and reach the Atlantic before being detected.

SOVIET SHOWING MORE BOLDNESS

Each year, Norwegian officers report, the Soviet Union shows more military boldness in this area. Naval and air exercises move westward into the Norwegian Sea. The number of reconnaissance flights over Finnmark and adjacent districts increases. Unidentified submarines are detected in the fjords.

The Northern Fleet at Murmansk is the largest of the Soviet Union's four major fleets. It includes 126 submarines, of which approximately 54 are nuclear—most of them armed with ballistic missiles—and 51 major surface combat ships.

The ground forces facing Norway in the immediate frontier area are two mechanized infantry divisions and one marine infantry regiment. These are supported by a brigade of surface-to-surface missiles known in the West as Scud, and a brigade of SAM-4 antiaircraft missiles.

Supported by the 31st Tactical Air Army, this force constitutes the largest concentration of military force in the world, Norwegian officers say.

At his headquarters near here, Lieut Gen. Tonne Huitfeldt, chief of the Defense command for North Norway, estimates his immediate resources in the event of attack at one brigade group of three infantry battalions, four squadrons of fighters and a frigate, some submarines and fast missile boats.

Norway's mission in the event of attack, the general said, would be to provide surveillance and early warning, to meet and delay the invading forces and to destroy bridges and communications.

Hopes for an effective resistance would rest on the speed with which Norway and the NATO allies could reinforce the northern area.

The Norwegians would move forces from the south by air, a Canadian brigade would come by sea, and an airborne brigade would arrive from Britain.

Norway has dug hangars and what they call "hangarettes" into the hills around most key military airfields to accommodate fighters. The runways would likely be the focus of Soviet air attack and, in consequence, General Huitfeldt is establishing a new organization for the quick repair of air strips.

The air defense of the north is based on the fighter squadrons, which would be reinforced from the south, a large number of antiaircraft guns and, when they are delivered, Roland surface-to-air missiles.

As in other NATO countries, the essential question is whether Norway would be granted time to mobilize its reserves. The general reckoned that army, navy and air force reserves would increase the present strength from approximately 39,000 to 175,000, excluding the home guard of 80,000. All of the reservists have done military service.

The basic strategic problems, however, remain. Would Norway be able to fly its troops and aircraft into a northern battle against superior number of Soviet fighters? Would the designated NATO reinforcements be able to come by sea in the face of Soviet submarine and bomber attack?

SOVIET STEADILY INCREASES POWER

These considerations have become more urgent, in the view of the Norwegian Government, with the steady increase in Soviet conventional military power and a widening of Norway's interests.

Negotiations over the boundaries of the continental shelf in the Barents Sea are now stalemated. The debate with Moscow over fishing rights in the same sea is at a standstill.

Oslo has felt it necessary to bolster its sovereignty in Spitzbergen by enforcing helicopter landing rights in the archipelago.

Norway's military weakness in part is the result of its own choosing. When the country joined NATO it was made clear to the Soviet Union that Norway would not make bases available to foreign countries "as long as Norway is not attacked or subject to the threat of attack."

Norwegian and NATO officers regard this as inhibiting defense.

The prospect is that while no foreign troops or aircraft will be based in Norway, more attention will be paid to building up caches of supplies for those that would come in the event of war, and regular winter and summer exercises involving allied troops will probably be expanded.

A-10 AIRCRAFT FUTURE IN DOUBT

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. LLOYD of California. Mr. Speaker, the A-10 aircraft is a central point in any discussion of the close air support mission of the Air Force. It is an aircraft whose survivability and cost-effectiveness are in doubt. When we consider the Department of Defense appropriation bill tomorrow, I will offer an amendment to strike funds for the procurement of the A-10.

AMERICA, YOUR HOMES ARE NEXT

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. HANSEN. Mr. Speaker, American citizens are facing a new threat to their privacy by the Occupational Safety and Health Administration. The groundwork has already been laid by the agency. OSHA has claimed the authority to extend their warrantless searches into private homes.

The fact is that I am aware already of one instance where the agency has attempted to enter a private residence on the pretense of a random inspection. The case in question is Hertzler Enterprises, Inc. versus Marshall, presently in the 10th Circuit Court of Appeals. Hertzler employs approximately five employees and his factory is adjacent to his home. Out of courtesy to his employees Mr. Hertzler was keeping their lunches in his refrigerator in his house. Solely on the basis of the fact that employee lunches were being kept in a refrigerator in the Hertzler home, OSHA was planning on entering the home for the purpose of an inspection. Hertzler refused entry, which is why he must now bear the legal costs required to defend his actions.

Mr. Speaker, I am appalled by the implications of such actions by a Federal agency. This violates the very principles upon which our country was founded over 200 years ago. I was shocked even further when upon contacting the Solicitor's office in the Department of Labor I was informed quite blatantly by Mr. Mike Levine that the OSHA Act gave the Labor Department the authority to conduct such inspections of private homes under section 8(a) of Public Law 91-596.

The consequences of such a statement are staggering. A private home would be subject to search in such instances as when you hire a gardener, when you have that new carpeting installed, or that extra room added to your house, or when you have that recreation room finished, or perhaps even when you have that kitchen remodeled.

Mr. Speaker, the situation is serious and the Congress must act immediately to prevent further bureaucratic abuses of authority. I implore my colleagues to act with the utmost speed to correct this situation.

For the benefit of my colleagues I would like to offer for the record a copy of section 8(a) of Public Law 91-596, the OSHA Act:

(Public Law 91-596—Dec. 29, 1970)

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

SEC. 8. (a) In order to carry out the purposes of this Act, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

(1) to enter without delay and at reasonable times any factory, plant, "establishment, construction site, or other area, workplace or environment where work is performed" by an employee of an employer; and

(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

DECISION ON THE CLINCH RIVER BREEDER REACTOR

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. BEILENSON. Mr. Speaker, we will soon be asked to make a difficult decision on authorizing funds for the Clinch River breeder reactor—a 380-megawatt demonstration breeder reactor which is the first stage of commercialization of breeder technology. The President has asked us to forgo the Clinch River plant in order to indicate to other nations that our nuclear nonproliferation efforts are not fraught with selfish motives to corner the nuclear export market.

I would like to bring to the attention of my colleagues the following editorial which appeared in the Los Angeles Times on May 23, 1977:

BLOWING APART OUR NUCLEAR POLICY

When the House Science Committee voted the other day to ignore President Carter's call for an indefinite delay of a nuclear fast-breeder reactor project at Clinch River, Tenn., it was understood that the committee might change its mind after further hearings.

We hope the decision is reversed, either in committee or on the House floor. For if it isn't, the Administration's global effort to head off the spread of nuclear weapons will be grievously undermined.

The Carter energy policy recognizes that nuclear plants are necessary to meet the energy needs of the United States and other countries in the years ahead. But the President, building on a policy initiated by the Ford administration, is trying strenuously to persuade other nuclear-exporting nations—especially France and West Germany—to join the United States in forgoing the sales of nuclear materials or technology that can easily be used to make nuclear explosives.

The President is urging what amounts to an international commitment to refrain from building or operating reprocessing plants that extract plutonium from spent reactor fuel. This plutonium, ostensibly separated for reuse as reactor fuel, can be easily diverted to weapons production.

To make it clear that the United States is not asking others to do what it is unwilling to do itself, Carter has proposed that this country build no plutonium-separation plants and indefinitely delay work on the fast-breeder demonstration project, which would use plutonium, at Clinch River.

Actually, in the opinion of a growing body of experts, the Carter policy makes good sense economically. There are alternative fuel cycles, they say, that could stretch world supplies of energy-producing fissionable materials without going through the expensive and dangerous business of separating and reusing plutonium.

Other nations are not convinced, however, and the job of persuading them that they can follow the American lead without jeopardizing their economic futures is a decidedly uphill battle. The issue is so sensitive, in fact, that it was largely sidestepped at the recent London summit meeting.

However, the President did win agreement for an international study of the feasibility of alternative, nonplutonium fuel cycles. And Europeans who interpret this as a retreat on Carter's part are almost certainly underestimating the seriousness with which the American side will pursue the matter.

Washington is not entirely without allies in the controversy.

Canada has already adopted tough export controls on nuclear materials and technology. Opposition to breeder reactors is growing in West Germany, where public pressure has in fact forced a slowdown in breeder development. Important sectors of public opinion in Japan and Britain support the American view. And the French are working on an alternative fuel cycle of their own.

All this effort will be seriously undermined, however, if Congress insists on voting funds to proceed with the Clinch River breeder demonstration project, thus suggesting to foreigners that the Carter policy is a sham.

ARTS IN TROUBLE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. RHODES. Mr. Speaker, Mr. William Arnold, chairman of the speech and theater department at Arizona State University, gave a commencement address last year spelling out the problems of the fine arts. I think it would be of interest to my colleagues, so I insert it at this point in the RECORD:

ARTS IN TROUBLE

As many of you know I have served as Acting Dean of the College of Fine Arts at Arizona State for the past academic year. Therefore it is not surprising that at the last minute due to a cancellation, that I serve as the acting commencement speaker. Usually in a commencement address the speaker gives a charge to the graduating class. With the current employment prospects for students, not only in the Fine Arts, but in many disciplines, you may choose to charge us. However, I am sure that you will look back on the many years that you have had here as good years and recognize that some of us, particularly those on the faculty, like it so much that we stay on forever. In fact it's suggested that we may never graduate.

Except for some of the basic skills you have developed, you will not remember all of the specific information given to you in the forty-two courses that you have taken at this institution. You will not remember the year of the Franco-Prussian War. You will not remember Mathematical Set Theory. You will not remember the five themes of the novel "The Red Badges of Courage." You will not even have memories of the local hang out, art store, the theatre, and even your memory of dorm food will fade. While these memories fade, let us hope that you will not forget everything that you have learned.

Let us hope that you will remember at least three basic skills that you have or will learn as you go through life. First, let us hope that you have learned what you need to know with regard to basic information. As you look around society today, you will soon see that there is too much information. There are too many magazines, too many newspapers, and too much information coming through other forms of the mass media. None of us have enough time in any one day to absorb all of the information that is being directed toward us. Within all of this information, you have the right to know

just about anything that you want to know. Although the issue of National Security is being debated right now, an informed electorate is the best. Coupled with your right to know, you have the right not to know. You have the right to select the information that you want to receive and leave other information on the wayside. You may already know too much about the Patty Hearst trial or Watergate. You have the right to select what information you want to be exposed to.

The second basic skill that I hope that you have developed is that you have learned how to find out what you need. Let us hope that the University has given you the skills necessary to discovery. With all of the information that is around, you need to know how to select, analyze, and discover. Hopefully you will have also developed skills in critical analysis.

Finally, let us hope that you have learned how to cope with the rapid changes that our society is undergoing. Toffler has talked about "future shock" and what happens when society moves too rapidly. Although a few people are tuning out as the world is moving too fast, this doesn't look like a viable option for many of us. Hopefully you will be able to cope with the change that you will be facing in your lifetime.

With these basic skills in mind, let me be more specific as to where you are right now, and where I hope that you will go. Each of you should be proud of the accomplishments that you have made this year. I could spend all of my remaining time just listing these accomplishments, but I won't. I won't because I am worried that while we are being creative in the arts, our environment to express this creativity is in danger. Why do I feel this way? Let us look briefly at the national picture for fine arts.

It was quoted that "The arts are not only intrinsical and basically enjoyable, but they serve purpose beyond themselves. They are not luxuries of education but experiences which make education worthwhile." Later "There is a general awakening to the importance of the arts; their value is being realized industrially, educationally, commercially, artistically as never before . . . With this awakening of interest it becomes increasingly clear that the arts are soon to be accorded the importance they deserve as instruments of education and that they will have their definite values not as ends in themselves so much as means in fitting for life." These sound like statements that have been made in the press recently about the arts. Unfortunately, these statements were made in 1899 by John Dewey and in 1906 by the President of the Western Drawing and Manual Training Association, respectively. Similar feelings are still being expressed today and these feelings are in the same hopeful tones. Recently, the New York State Commission on Cultural Resources declared, "The arts not only belong in the schools but the schools and curriculum are incomplete without them." It is frightening to believe that we have made so little progress on integrating the arts in education.

In a survey conducted by Louis Harris in 1973 and then another survey in 1975, we get a feeling for how the general American public deals with the arts. The American people are looking for quality of experience to fit the quality of life. In this they have used the arts as the central part of that quality. In the Harris national survey that was conducted in 1973, 89% of the people felt it important to the quality of life in their communities to have access to facilities like museums, theatres, and concert halls. When the study was updated by the National Committee for Cultural Resources, they found 93% felt that the facilities were important. Looking at those individuals who gave the facilities top rating of very important, the quality of life rose from 57% in 1973 to 69% in 1975.

Americans not only view the arts as important to their quality of life, but to the healthy economic environment. In 1973, 80% of the public felt that the facilities were important to the business and to the community. Two years later that proportion increased to 85%.

In the April 10, 1976, issue of the San Antonio Light, the editorial writer suggested as did the representative in state government, that "unless drastic action is taken, hundreds of college and thousands of community theatre groups, school music and art programs, museums, symphony orchestras and dance companies will be forced to shut down." They went on to suggest that in San Antonio many of the community arts projects face financial difficulty. Their conclusion was that they hoped that in a short period of time that they will hear the residents of their community saying, "Pay your taxes and support the arts." Thus on a local level, the concern is there for the arts, but the funds have not yet been forthcoming.

Obviously, the pictures indicate that on one hand we feel that the arts are important but on the other hand, we are not willing to support them financially. A brief look at the federal level of expenditure is also revealing. The current federal appropriation of 189 million represents an outlay of 29 cents per capita spent on the arts and humanities. This is a meager sum when compared with the per capita outlay of $380 for defense, $110 for health, $50 for education and $4 for public transportation. We have a long way to go at the federal level.

While we at the university do not accept the plight of the arts, we are now forced to work with restricted budgets, crowded studio space, potential limited enrollment in many of our courses, and restricted travel funds for our bands and choirs. The situation does not look promising for the arts.

The situation is not going to change unless we, each and every one of us, are willing to do something that we have generally considered distasteful, become political. If we are wanting support for the arts, we are going to have to go out and politic for them. This is essential for our survival.

Attitudinally, we can see that we all support the arts and feel that they are worthwhile. Behaviorally, we are attending arts related activities in record number. The question then becomes: would we support the arts financially? In a poll taken by Harris, he indicated that 64% of the American tax paying public would be willing to pay $5 a year to support the arts, while 47% would pay $25 a year and 36% would pay $50 a year. It is very apparent that Americans are ready to support the arts and humanities in this way.

Fortunately, we have an opportunity at the national level to do something about our desires to contribute to the arts. Representative Frederick Richmond, Congressman from New York, has introduced House Resolution 8274. This bill would provide an opportunity for individuals to make financial contributions, in connection with the payment of their federal income tax, for the advancement of the arts and humanities. Believe it or not, he introduced this bill in June 1975. This would be similar to the funding check off box on the IRS form where taxpayers can indicate willingness to make a contribution to the endowments, member organization of the National Council for Arts and Humanities, a federal agency. Taxpayers could have a portion of their tax overpayment contributed to the endowment or could make an outright contribution. In either way the funds would be tax deductible and would go directly to endowment projects rather than to federal administrative budgets. Obviously, such a bill cannot be passed without enthusiastic support from across the country. Representative Richmond feels that the bill could raise 1.8 billion dollars annually for the arts. However, he needs our support for the bill and endorsements from local arts and educational organizations and prominent individuals. He would also like names and addresses of supporters to be sent for a national mailing list. He would like events and meetings organized to discuss the bill. He would like media used to highlight the bill's unique funding concept.

Frankly, that's only a beginning. I would like to go a step further. I plan to seek through our local legislature a similar bill to be amended to our State income tax provisions. We need to act now.

Each of us needs to create, communicate, and cultivate. We need to create new friends and supporters for the arts. We need to communicate our needs and our concerns for the arts to our constituents and to our legislators. And finally, we need to cultivate financial support so that the arts can serve in America. I ask that you join in and take part and support your arts.

Let me thank each of you for being our students and sharing your ideas and information. Let me thank each of your parents in the audience for trusting us with your children who are now adults.

As you leave the university look on your departure not as an end, but as a beginning. Represent and support your disciplines of art, communication, dance, humanities, music, and theatre. We will prosper from your support.

HONORS TO REV. WILLIE J. ELLIS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. CLAY. Mr. Speaker, I want to take this opportunity to join my fellow St. Louisans of the Northside Baptist Church in honoring my good friend, Rev. Willie J. Ellis, for his 13 years of service.

Reverend Ellis is one of our more outstanding leaders whose contributions have been immeasurable in terms of the humanitarian effect on the total community. His involvement with activities outside the church has made him a most valuable member of society.

I deeply regret that I could not have been with Reverend Ellis and my many friends to fellowship with them on this momentous occasion, but I am happy to share with my colleagues this article which appeared in the June 6, 1977, edition of the St. Louis Argus:

CELEBRATING PASTOR'S 13TH ANNIVERSARY

Rev. Dr. Willie J. Ellis, the proud pastor of the New Northside Baptist Church at 8645 Goodfellow is being honored by his members, friends, and well wishers for 13 years of devoted and spiritual service.

Members of the New Northside Baptist Church, 8645 Goodfellow, are celebrating their Pastor's 13th Anniversary, commencing at 7:30 p.m. each night, Tuesday, June 14 through Sunday, June 19—3:30 p.m.

Pastor Ellis is a man of faith; one who has strong convictions that God will bless his continuing efforts to provide a spiritual ministry for the church and community.

He acquired his education through the St. Louis Public School System, Harris-Stowe Teachers' College, St. Louis Baptist Bible College, Western Baptist College, and the Universal Bible Institute (where he received his Doctor of Divinity, D.D. degree). And; of course, he gives credit to his family.

He has made many accomplishments. He led us (New Northside) out of spiritual darkness into marvelous spiritual light with fi-

nancial blessings. After 11 years of spiritual growth and improvement at 3033 Semple, Rev. Ellis was spiritually prepared and stimulated to render broader religious services to the metropolitan community which inspired him to move to larger and better facilities where even broader programs dealing especially with youths and senior citizens could be put into operation.

Pastor Ellis is involved in other activities which evolve from the philosophy of the church participating in the total community. He is a Board Member of the Pine Village Development Corporation, First Vice-President of the Metropolitan Ministerial Alliance, Board Member of the Homer G. Phillips' Chaplaincy, Co-Chairman of Public Relations at St. Louis Baptist Ministers' Union, and Chairman of Public Relations at St. Louis Baptist Fellowship. He is active in these capacities because he believes in serving humanity.

We have invited special guests to help us in the celebrating of our Pastor's 13th Anniversary: Tuesday night—Elder R. J. Ward (Speaker) Kennerly Temple C.O.G.I.C., Wednesday—Rev. Hosea Gales (Speaker) New Bethlehem, Christ Pilgrim Rest and Midwestern Baptist, Thursday—Rev. Cleophus Robinson (Speaker) Greater Bethlehem, True Light and Olivett Baptist Church, Friday—Rev. George McFoulon (Speaker) Hopewell Baptist Church, Original Friendship and St. Joseph Baptist Church, Sunday morning—Rev. Robert Johnson (Speaker) First Baptist of Robertson, Sunday afternoon—Rev. Moses Javis (Speaker) West Side Baptist Church, Galilee Baptist, Fifth Baptist and First Baptist of Robertson. Other guests will be Mr. Charles S. Wilson, Jr. of A. L. Beal Undertaking and Mr. Theodore Foster of Ellis Funeral Home, Inc.

AMERICAN MANAGEMENT ASSOCIATION ENCOURAGES VIOLATION OF CUBAN TRADE EMBARGO LAWS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. KEMP. Mr. Speaker, it remains national policy that the United States maintain an embargo on commercial trade with Cuba. This obviously implies that American businessmen not solicit trade with the Cuban regime; to do so simply constitutes a crude form of "lobbying" by attempting to build up a constituency of traffickers in Cuban trade to bring pressure on the administration and the Congress in spite of explicit feelings to the Congress to the contrary.

Therefore, I would like to bring to your attention a promotion piece which was recently sent out by the American Management Association.

The title of this piece is "Coming Trade and Investment Opportunities in Cuba" and its purpose is to promote the attendance of U.S. businessmen in an all-day seminar in New York on July 18.

According to the text of this flier, the cochairmen of this seminar are Mr. Burton M. Josephs of I. S. Josephs, Co., Minneapolis, and a Mr. Kirby Jones, president of Alamar Associates of Washington, D.C.

Among the speakers on the panel are Mr. Robert Dockery, executive assistant to the Chief of Staff, Senate Foreign Relations Committee and Mr. Lawrence Theriot, Policy Analyst for Cuba in the Commerce Department's Bureau of East-West Trade.

According to this flier, some of the subjects to be covered include:

"What are U.S. Foreign Policy Objectives?" (toward Cuba)

"How Does Cuba's Foreign Trade Apparatus Work?"

"Selling to Cuba: Case Histories"

"Buying from Cuba: Case Histories"

"Business Travel to Cuba"

"The Best Ways to Deal with the Cuban Bureaucracy"

"The Steps Involved in Getting a Project Approved"

"How Much You Can Reasonably Expect to Accomplish on a Trip to Cuba"

"How to Make Sure You See the Right People"

"Case Histories Will Highlight What the Cubans Want from U.S. Companies and What the Cubans are Willing to Give in Return"

And so on.

Now, Mr. Speaker, I must tell you that I am very disturbed about this.

I am disturbed about it because it is my understanding that the United States has a trade embargo against Cuba, and because—so far as I am aware—direct trade with Cuba is prohibited under the law.

And despite a recent proposal by Senator GEORGE MCGOVERN that the trade embargo against Cuba be lifted, the Congress recently has reaffirmed its position that the trade embargo should be continued.

As you will recall, the House approved on May 12 an amendment to the foreign aid bill by my distinguished colleague from Ohio, Congressman JOHN ASHBROOK, which specially reaffirmed the will of the House that no U.S. funds should be used to aid Cuba or to promote trade with Cuba. As you will recall, the vote on that amendment was 288 to 119.

And only last week, Senator MCGOVERN withdrew his amendment to the State Department authorization bill, H.R. 6689, which would have authorized a partial lifting of the trade embargo against Cuba with respect to medicine, food and agricultural commodities.

I do not know, Mr. Speaker, the precise reasons why the distinguished Senator from South Dakota requested that his amendment be withdrawn from the State Department authorization bill. But I would gather that he did so because he knew that there was no way that the Senate would pass such an amendment, and because the House had already spoken on this issue reaffirming its opposition to a lifting of the trade embargo.

So, it seems to me that we have recently had expressions from both houses that the trade embargo against Cuba should be continued.

I would also like to note, Mr. Speaker, that despite the fact that the administration has announced the exchange of "interest sections" with the Cuban Government, the administration has not taken any steps toward a lifting of the trade embargo.

In other words, Mr. Speaker, neither the administration nor the Congress has indicated that a lifting of the trade embargo against Cuba is advisable under the present circumstances.

And in my humble opinion, Mr. Speaker, this is as it should be.

Certainly, a great many problems remain to be resolved before such a step is taken.

One of the key issues that remains to be resolved is the matter of some $1.8 billion in American claims against Cuba for private properties which the current Cuban regime confiscated when Mr. Castro came to power and for which not one penny of compensation has ever been paid.

I would also like to point out, Mr. Speaker, that the U.S. trade embargo was not imposed merely as a reaction to human rights violations in Cuba. Nor was it imposed because the revolutionary government in Cuba was Communist. It was imposed as a direct result of the fact that the revolutionary government of Fidel Castro confiscated all American private property in Cuba.

Now it has long been the enunciated policy of the State Department that just and adequate compensation for these properties must be obtained from Cuba before relations between the United States and Cuba can be normalized. And I am sure that the State Department would agree today that compensation for U.S. properties remains one of the key issues to be resolved.

And I would like to say, Mr. Speaker, that I agree with this.

Certainly, it is the responsibility of our Government to protect the rights and properties of U.S. citizens abroad, and a very important part of this responsibility, it seems to me, is to protect U.S. citizens and businesses who list their properties in Cuba.

So far, the only steps that the U.S. Government has taken to protect U.S. citizens with respect to the confiscation of their Cuban properties was the establishment of the trade embargo against Cuba and the subsequent certification of the amount of their claims for such properties by the Foreign Claims Settlement Commission so that just and adequate compensation for such claims could be arranged at some future date.

Now in recent letters to me and to some of my colleagues, the State Department has noted that compensation for U.S. properties in Cuba is one of the "thorniest" problems that remains to be resolved. And I would agree with this also.

But despite the fact that the compensation issue is a thorny problem, it seems to me that it is a problem that must be resolved before the United States takes further steps toward normalization of relations with Cuba.

For I would like to submit, Mr. Speaker, that if the trade embargo is lifted before a just and adequate settlement of claims has been reached, then a dangerous precedent will be set which would encourage other foreign nations to believe that they, too, could confiscate U.S. private properties without compensation.

Now in view of all this, Mr. Speaker, it seems to me that discussions of coming trade and investment opportunities in Cuba are not only premature, but contrary to present U.S. policy, and I would like some clarification as to why the

American Management Association has scheduled such a conference.

If it is true that trade and investment opportunities are coming, I would like to know how they are coming.

Will they be forthcoming as a result of the lifting of the trade embargo?

If so, it is news to me that the trade embargo is going to be lifted.

If the embargo is going to be lifted, under what conditions is this going to happen, and when?

Mr. Speaker, if you and I do not know that the trade embargo is going to be lifted and when, I would like to know how someone else knows this.

Now there is also another aspect of this that disturbs me and that is this.

As we all know, the administration has lifted travel restrictions against Cuba. U.S. citizens—so long as they are not former Cuban citizens—may travel to Cuba to get some sun, or to take a look at Mr. Castro's Communist paradise. And they can even spend up to $100 of U.S. currency in Cuba while they are there. And I would guess that this has been a real treat for lovers of Cuban cigars.

But so far as I am aware, it is still illegal for U.S. businessmen to negotiate business deals with the Cuban Government. In fact, even though foreign subsidiaries of U.S. companies are allowed to sell certain things to Cuba under special license from the Treasury Department, it is still illegal for executives of U.S. parent companies to participate in discussions of such deals with the Cuban Government.

Now in view of those restrictions, I would like to know why such seminars as this one being promoted by the American Management Association are being held.

Are they designed to promote travel by U.S. businessmen to Cuba for the purpose of discussing business deals with the Cuban Government?

If they are not, then why all the discussion about how to deal with the Cuban bureaucracy?

If they are not, then what is all this business about the steps involved in getting a project approved?

And what kind of project can be approved in view of the current law which prohibits business transactions between the United States and Cuba?

I would also like to know who it is on the AMA panel that is going to enunciate U.S. policy objectives with respect to Cuba?

Is Mr. Dockery, a staff assistant to the Senate Foreign Relations Committee, going to do this?

Is Mr. Theriot of the Commerce Department's Bureau of East-West Trade going to do this?

If they are, I should think this extraordinary indeed.

So far as I know, the President has not enunciated what his objectives are with respect to any possible future trade with Cuba.

Now, Mr. Speaker, I would guess that it is fairly well known that Mr. Kirby Jones, one of the co-chairmen of this upcoming conference, was a former aide to Senator MCGOVERN and that Mr. Jones accompanied Senator MCGOVERN to Cuba and that some time after that Mr. Jones left Mr. MCGOVERN's staff and set up this private consulting firm of his called Alamar Associates.

And I would guess that it is also fairly well known, since it has been reported in the press, that Mr. Jones has accompanied a number of contingents of U.S. businessmen to Cuba in recent months.

And I would also understand that Mr. Jones is continuing to organize such trips to Cuba by U.S. businessmen.

And I would guess, although I may be wrong, that Mr. Jones is not doing this for free.

What I would like to know Mr. Speaker is this:

Are Mr. Jones' activities in promoting business excursions to Cuba by executives of U.S. companies sanctioned by the U.S. Government?

If they are not, and it remains the policy of the U.S. Government that U.S. businessmen may not negotiate business deals with the Castro government, then why are such excursions allowed to go on?

I recognize, Mr. Speaker, that this is a free country and that U.S. citizens are now allowed by law to travel to Cuba. But is not such overt promotion of business deals with Cuba in direct conflict with the intent if not the letter of the law?

Certainly, the promotion of trade discussions between the United States and Cuba is not the kind of activity that is sanctioned by the law. And, it would seem to me that the very fact that such discussions are going on can only hamper the efforts of the administration to seek a resolution before we can move toward a possible future normalization of relations with Cuba.

It seems to me, Mr. Speaker, that we have a responsibility to look into this matter more carefully and determine what is going on here. And it seems to me that if such activities as those are contrary to U.S. policy then such activities should be discouraged.

I include, Mr. Speaker, the text of this flier, entitled "Coming Trade and Investment Opportunities in Cuba," published by the American Management Association, in the RECORD:

COMING TRADE AND INVESTMENT OPPORTUNITIES IN CUBA

How to stand out in the crowd of U.S. companies lining up for business with Cuba

Virtually every industry is interested in doing business with Cuba. But few have the hard data they need to evaluate the potential.

Americans going to Cuba on business are confronted with the problem of who to see . . . and when.

There's also a problem in getting the Cuban bureaucracy to respond to your inquiries.

To help you over some of the hurdles . . . and give you guidelines that are working for other organizations . . . we've scheduled this information-filled briefing

You'll hear from an outstanding group of speakers. These are people with on-the-scene experience and plenty of business savvy.

They'll cover the kind of facts you need in order to make the most profitable decisions for your company.

For example:

The best ways to deal with the Cuban bureaucracy;

The steps involved in getting a project approved;

How much you can reasonably expect to accomplish on a trip to Cuba;

How to make sure you see the right people—and the importance of timing;

What happens to any letters you write—and why it often takes months to get a response;

And more.

Case histories will highlight what the Cubans want from U.S. companies—and what the Cubans are willing to give in return

In addition—a get-acquainted reception at the conclusion of the program will let you meet and chat with the speakers on an informal, off-the-cuff basis.

You're urged to register early for this important briefing

You can use the registration card provided on this announcement. Or, wire or phone the Registrar in New York City. Either way—act now to assure places for yourself and a team of your key people.

If you'd like further information on this important program, please contact John T. Cunningham at AMA Headquarters in New York City (212–586–8100)

CO-CHAIRMEN

Burton M. Joseph, President, I. S. Joseph Co., Minneapolis, Minn., and Kirby Jones, President, Alamar Assolcates, Inc., Washington, D.C.

GUEST SPEAKER

Robert Dockery, Executive Assistant to the Chief of Staff; Senate Foreign Relations Committee, Washington, D.C.

John H. Keller, President, Caribbean Holidays, Inc., New York, N.Y.

Lawrence H. Theriot, Policy Analyst for Cuba, Bureau of East-West Trade, Department of Commerce, Washington, D.C.

Robert C. Chinn, Senior Vice President, Control Data Corp., Minneapolis, Minn.

Mira Berman, Principal, Gemini Images, Inc., New York, N.Y.

Eugene A. Theroux, Esq., Partner, Baker & McKenzie, Washington, D.C.

BRIEFING AGENDA

Economic and political overview

What products went into pre-1959 U.S.-Cuba trade? What are U.S. foreign policy objectives? What is the current pattern of Cuba's foreign trade? What are the prospects for U.S.-Cuba trade?

How does Cuba's foreign trade apparatus work?

What is its function? How is it organized?

Selling to Cuba: Case histories

What are prospects for direct U.S.-Cuba transactions? What is the status of indirect U.S.-Cuba transactions? What does Cuba want to buy?

Buying from Cuba: Case histories

What does Cuba have to sell? What procedures will be involved?

Negotiations

What special techniques are involved? How do you handle arbitration and dispute settlements?

Current legal framework for U.S. business with Cuba

How would U.S. Export Licensing work? What is the status and prospects for payment of claims against Cuba? What financing and payment practices can be expected?

Business travel to Cuba

Who can travel to Cuba now? How to approach travel? What are the prospects for increased travel?

Group discussions

What are other companies doing? How should a company be planning with regard to Cuba?

THE UTILITIES AND THE CLINCH RIVER PROJECT

HON. GARY A. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. GARY A. MYERS. Mr. Speaker, one of the questions raised in recent months concerning the Clinch River breeder reactor project has been whether the private utilities, which have already committed more than $257 million, should be asked to make a larger financial contribution to the project as its costs continue to mount.

The Science and Technology Subcommittee on Fossil and Nuclear Energy recently held hearings on the Clinch River project. Following his testimony June 8, Wallace B. Behnke, Jr., of Project Management Corp., the group which is supervising the breeder reactor project, was asked to provide a statement on the background of the private utility companies' financial participation in Clinch River.

Mr. Behnke has responded to this request and I believe he makes a convincing argument against demanding greater financial participation by the utilities in the early research and development phase of nuclear breeder technology. I am inserting the text of Mr. Behnke's letter for the benefit of my colleagues in Congress:

DEAR CONGRESSMAN MYERS: Following my June 8 testimony before the Subcommittee which I presented on behalf of Project Management Corporation I was asked to provide a statement on the background of the utilities' financial participation in the Clinch River Breeder Reactor Project, and on the prospects of persuading the utilities which are presently contributing to the project to increase the amount of their contributions or to assume a portion of the project's open-end financial risks.

As indicated in my prepared testimony of June 8th, the record is quite extensive regarding the deliberations which have been held over the years within and among the industry, the Atomic Energy Commission, the Energy Research and Development Administration and the Congress concerning the utility industry's role in financing the CRBRP.[1] All of these deliberations have revolved around the concept of a fixed, legally enforceable industry commitment which would be solicited from participating utilities. It was recognized from the very outset that project costs undoubtedly would exceed original estimates, and that as a practical matter the only alternative available was for the government to accept the attendant open-end financial risk.[2] It was never contemplated that the utilities' contribution would be flexible, or that it would vary as a stated percentage of project cost.

The concept of fixed utility contributions was incorporated in the Commonwealth-TVA proposal of December 30, 1971, which was accepted by the AEC in January, 1972, as a basis for negotiation of definitive project arrangements. On the basis of this proposal, provisional commitments were obtained from electric systems in the public power, rural electric cooperative, and investor-owned segments of the industry. A Memorandum of Understanding incorporating the concept of limited industry liability was negotiated by the parties and submitted to Congress for approval. Following Congressional approval, the provisional utility pledges were converted into legally enforceable contribution agreements totaling over $257 million, and these agreements were incorporated in project arrangements which were approved by Congress in 1973,[3] and preserved in Modification No. 1, approved by Congress in April, 1976. The commitment thus obtained represents by far the greatest financial support ever extended by the utility industry to a single R&D effort.

The 753 participating electric systems who are supporting the project made their financial commitments based upon the express understanding that their respective obligations would be strictly limited to the amount called for in the contribution agreements.[4] Any effort to change this basis of financial support would require the resolicitation of each contributing utility. We do not believe that the prospects for a successful resolicitation would be very good for the following reasons:

First, it is unrealistic to expect utility ratepayers and shareholders to accept the open-end financial risks of a complex project such as this over which the government has absolutely full control. The understanding from the outset on the CRBRP was that the government would supply the fuel and R&D, provide technical direction for the design and construction of the nuclear portion of the plant, and have a right of review and veto over all significant project decisions.[5] Title to the plant was to be held in the name of the United States. The government's commitment of funds has always been subject to Congressional appropriations. Thus, in a very real sense, the fate of the project has been in the government's hands from the outset.

Indeed, it was the principle of aligning the government's managerial authority with its financial responsibility which led the utilities to relinquish to the government their role in project management decisions when the project was renegotiated and reauthorized last year. Furthermore, it was clear from the outset of discussions between government and industry that the demonstration plant at Clinch River necessarily would be an integral part of the government's overall LMFBR research and development program.[6] As such, the project has been and remains extremely dependent upon the timing and outcome of the government's base R&D programs, and one of its major purposes has been to help define the scope of future base program R&D. The Clinch River plant was never intended to represent the final step in commercialization of the LMFBR technology. It would be at this latter stage that the very substantial open-end financial risks of utilizing the LMFBR technology necessarily would shift to those utilities that undertook the construction and operation of breeder plants as an integral part of their power-generating facilities.

Second, it has been recognized from the beginning that investor-owned utilities, being subject as they are to comprehensive regulation, would not be free to pass undetermined cost increases of an R&D project on to their ratepayers. To saddle the companies themselves with this burden would depress earnings and interest coverages, thereby exacerbating the difficulties utilities currently have in financing their existing construction programs. Indeed, most utilities would have to obtain approval from their respective regulatory commissions before agreeing to any increase in their contributions. Faced with growing opposition to higher charges for electricity, these same commissions are finding it increasingly difficult to allow utilities the timely and adequate rate relief they need.

Third, it would be patently unfair to increase the financial burden on those utilities which have voluntarily agreed to support this project in accordance with the provisions of presently executed utility contribution agreements. Development of the breeder is clearly a national undertaking. The benefits will flow to both contributing and non-contributing utilities, as well as to the general public through lower electricity costs. Contributing utilities gain no competitive advantage through contributing to the project; and all information generated by the project will be made available to all utilities, the government and the general public on the same basis.

Finally, the utilities are being asked to expand their research and development spending in many new areas, i.e., synthetic fuels, renewable energy resources, energy conservation, and the like. Much of this effort is being funded through the utility financed Electric Power Research Institute. In addition, the utility industry undoubtedly would be asked to carry a very substantial share of the cost of any subsequent, more advanced LMFBR demonstration plants which might be called for in the future. Faced with other R&D priorities, and the limited funds available to the industry, the inevitable result of any increased commitment to Clinch River would be to divert funds from other important R&D projects at the very time the Administration is urging utilities to explore alternate energy sources.

In summary, the concept of a fixed and binding utility commitment to the CRBRP has been embodied in project arrangements from the beginning.[7] For the reasons stated above, it would be unrealistic and unwise for the government to suggest a change in these commitments as a condition for continuing this vital national energy research and development project.

Sincerely,

W. B. BEHNKE,
Chairman of the Board.

[1] Testimony of Wallace B. Behnke, Jr., to the House of Representatives Subcommittee on Fossil and Nuclear Energy, Research Development and Demonstration—June 8, 1977.

[2] Hearings before the Joint Committee on Atomic Energy, Congress of the United States, 92nd Congress, Second Session, on basis for the proposed arrangement for Liquid Metal Fast Breeders Reactor Demonstration Plant, September 7, 8, and 12, 1972; pages vi and 16; also, Hearings before the Joint Committee on Atomic Energy, Congress of the United States, 93rd Congress, First Session, to consider Proposed Changes in the Basis for the Cooperative Arrangements for the Design, Construction and Operation of the Liquid Metal Fast Breeder Reactor Demonstration Plant, February 28 and May 4, 1973; page v.

[3] *Ibid.* at page vi.

[4] Memorandum of Understanding among United States Atomic Energy Commission, Tennessee Valley Authority, Commonwealth Edison Company, Project Management Corporation, and Breeder Reactor Corporation dated August 7, 1972; Paragraph 7(n).

[5] *Ibid.* Paragraph 3(c)(8).

[6] Program Justification Data Arrangement No. 72-106; Section B, Paragraph 1.

[7] Hearings before the Joint Committee on Atomic Energy Congress of the United States—94th Congress, Second Session, on Consideration of Matters which Relate to Modifications in the Proposed Arrangements for the Clinch River Breeder Reactor Demonstration Project—April 14 and 29, 1976; page 59.

MASSACHUSETTS NO-FAULT HEARING

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. ECKHARDT. Mr. Speaker, on March 18, 1977, the Subcommittee on

Consumer Protection and Finance of the Interstate and Foreign Commerce Committee held the first of several hearings designed to assess the experience of no-fault automobile insurance law in certain key States.

Legislation to mandate no-fault insurance standards nationwide has been considered by this subcommittee and the Congress for 6 years. In the 95th Congress, identical bills (H.R. 6601 and S. 1381) have been introduced in the House and Senate. The House bill has a number of cosponsors, including the past three chairmen of this subcommittee and two present members of the subcommittee. In addition, two other members of the subcommittee have introduced their own no-fault bills.

During this same time frame, 24 States have revised their auto reparations laws in ways which incorporate elements of the no-fault concept. No two of these laws are alike and a number appear to be less than successful. Further, the momentum of no-fault has ground to a halt in the States. Only one State adopted a no-fault law in 1975 and none did in 1976. It is, therefore, appropriate and essential that this subcommittee carefully scrutinize pertinent State experience with no-fault to determine which laws have worked and which have failed. It is only with this information in hand that the subcommittee will be able to make an informed decision about the need for Federal legislation. If the subcommittee determines that Federal standards legislation is necessary, these hearings will provide us with the knowledge to determine the proper form and content that any such legislation should take.

The initial 1-day hearing was conducted in Boston to learn about the experience of Massachusetts, the first State to enact a no-fault insurance law. The subcommittee heard from many highly knowledgeable witnesses, including Gov. Michael S. Dukakis, who introduced the first no-fault bill in the country in Massachusetts in 1966 and was the prime author of the Massachusetts law when it was enacted in 1970, and Prof. Robert E. Keeton who, along with Prof. Jeffrey O'Connell, first proposed the no-fault concept in 1965. The subcommittee also received testimony from Senator EDWARD M. KENNEDY, a cosponsor of S. 1381; James Hunt, director, State Rating Board, Massachusetts Insurance Department; Prof. Alan I. Widiss, author of a major study of the Massachusetts no-fault experience; Paul R. Sugarman, president, Massachusetts Bar Association; Lemuel H. Devers, president, Massachusetts Automobile Rating Bureau and Accident Prevention Bureau; Joseph I. Quinn, past president, Massachusetts Association of Independent Insurance Agents and Brokers; Russell A. Howard, director and chairman, Legislative Committee, Independent Mutual Agents of New England; and William Bright, senior vice president, Commercial Union Insurance Co.

Evidence received at the Massachusetts hearing strongly suggests that the Massachusetts bodily injury no-fault law is working extremely well. Governor Dukakis' judgment that "bodily injury no-fault is a resounding success in Massachusetts" was repeated time and again by the other witnesses, with the only dissenting note being sounded by the Massachusetts Bar Association.

Testimony revealed that Massachusetts auto accident victims are being compensated promptly; that a large percentage of the premium dollar is being used to compensate victims; that most of the phony bodily injury claims that swamped the prior fault system have disappeared under no-fault; that Massachusetts motorists are paying far less for their no-fault bodily injury coverage today than they were paying for fault insurance coverage 7 years ago; and that there has been a dramatic reduction in the burden of motor vehicle accident cases on the courts. Governor Dukakis summarized the Massachusetts experience by saying that its no-fault bodily injury law is "fairer, more efficient, more humane, and more sensible" than automobile insurance based upon the traditional fault system.

PROVISIONS OF THE MASSACHUSETTS LAW

The Massachusetts no-fault law, which became effective January 1, 1971, requires all automobile owners to buy a no-fault package, known as personal injury protection—PIP, which provides up to $2.000 of benefits for medical loss, work loss, and replacement services loss. These benefits are available to the named insured, members of the insured's household, any authorized passenger in the insured's car, and any pedestrian struck by the insured's car.

While the law does not restrict a person's right to sue for any economic losses not compensated by the PIP coverage, it does restrict the right to sue for general damages—commonly known as pain and suffering—to the following situations: where medical expenses exceed $500, or where the accident results in a fracture, loss of sight or hearing, permanent and serious disfigurement, loss of a body member, or death.

PERFORMANCE UNDER THE MASSACHUSETTS LAW

Professor Widiss, who directed an empirical study of the Massachusetts experience under the sponsorship of the Council on Law-Related Studies, testified that over 80 percent of claimants received reimbursement from their insurance company for medical expenses within 30 days. By contrast, a Massachusetts victim under the old tort system had to wait an average of 16 months until he or she was reimbursed. Not surprisingly, more than 84 percent of paid claimants were either very satisfied or fairly satisfied with the speed of payment. Further, Professor Widiss testified that more than 87 percent of paid claimants expressed satisfaction with the amount of payment.

Second, with respect to the amount of the premium dollar being used to compensate accident victims, Governor Dukakis testified that under the tort system, only 44 cents of each premium dollar was retained by accident victims, with the remainder going to lawyers and insurance companies. Since the advent of no-fault, the Governor testified that 65 cents of the no-fault portion of the premium dollar now goes to compensate accident victims.

Third, contrary to the experience in all other no-fault States, the number of bodily injury claims in Massachusetts has declined dramatically since the introduction of its no-fault law. Normally, a no-fault system compensates about twice as many victims as the tort system because it pays benefits to all accident victims, whereas the tort system denies recovery to more than half of all accident victims. Since the Massachusetts no-fault law provides for reimbursement for all legitimate injuries, the question naturally arose as to why fewer people are making claims now. Professor Widiss noted that the number of claims had been declining prior to the introduction of no-fault, most likely as the result of Federal auto safety laws, such as the mandatory seatbelt law and a Massachusetts highway design program. The major reason appears to be that people had been using their bodily injury insurance—a mandatory coverage—to recover for damage to their cars—a nonmandatory coverage. As Professor Keeton testified:

(A) lot of the bodily injury claims that were being made before were not genuine bodily injury claims for injury of anything more than minor bruises. . . . (T)hose kinds of claim . . . (were) being used as a technique of getting enough recovery to repair vehicles. . . .

Professor Keeton's views are supported by the data provided by the Massachusetts Automobile Rating and Accident Prevention Bureau. It reveals that between 1970 and 1975, the number of persons reporting "nonvisible" injuries dropped from 84,461 to 30,570, while the number of "minor visible" injuries declined from 43,990 to 26,427. The number of "fatal" and "serious visible" injuries, which cannot be faked, has remained about the same. It is obvious from these figures that the Massachusetts no-fault law has had the surprising and unique side effect of eliminating a huge number of fraudulent claims.

The Massachusetts Association of Independent Insurance Agents and Brokers summarized the State's no-fault bodily injury law as a delivery system in the following way:

First, "losses . . . are being paid merely on presentation of bills and verification of lost wages"; second, "payments to (hospitals and physicians) resulting from services rendered from an automobile accident are quick and fair, reducing their expense of collections and processing of these bills"; third, the "consumer is free from worry and harassment due to unpaid bills that often resulted when companies refused to pay while they disputed their 'liability' under the tort system"; and fourth, the "expenses of handling bodily injury automobile losses are certainly reduced as insurance companies have been able to reduce their investigative staffs and the personnel necessary to maintain the claim files under a tort system.

The association stated that—

It is fair to conclude that No-Fault Bodily Injury as a delivery system for paying the injured as a result of an automobile accident is the best there is at this time and it is hard to conceive a better system.

BODILY INJURY INSURANCE RATES DECREASED

Data presented during the hearing reflect a dramatic reduction in bodily injury insurance rates during the no-fault experience in Massachusetts.

In 1970, prior to adoption of no-fault, the average statewide rate for coverage A—basic compulsory bodily injury coverage—was $68.03. In 1971, when the no-fault law went into effect, logic would have indicated an increase in rates to reflect the fact that they had been frozen for 3 years. In fact, the chief actuary of the Massachusetts Insurance Department stated at the time that the rates would have gone up 30 percent if the tort system had remained in effect. Instead, the rates dropped and then continued downward in the following years. By 1975, the rate had fallen to $36.50, a decrease of 46 percent from the pre-no-fault rate. The figure is even more impressive and meaningful if the inflation rise in medical costs and wages between 1970 and 1976 is taken into consideration. The Massachusetts Insurance Department projected, based on charges in the relevant consumer price indices, what coverage A would have cost in 1976 if no-fault bodily injury legislation had not been enacted. They estimate that it would have cost $100 in 1976, compared to an actual cost of $37, or almost three times as much as the actual cost.

Similarly, in Boston, the highest rated territory, the 1970 rate of $117 had dropped 61 percent to $46 in 1976. Allowing for inflation, coverage A would have cost $179. Thus, the actual cost was only about one-fourth of the projected cost.

Even in the lowest rated territory, in rural Massachusetts, the rate decrease was significant. The rate in 1970 was $31 and it dropped to $24 in 1976 for a 23-percent decrease. The projected cost for coverage A, with the inflation factor computed in, would have been $47. In short, the actual cost was about one-half of the projected cost.

Overall, one would have to go back to 1973 to find a year where the average cost of compulsory bodily injury was as low as it was in 1975 and 1976.

Finally, the State rating bureau submitted a chart which shows that Massachusetts drivers now enjoy lower bodily injury rates than do drivers in comparable territories in New Hampshire.

PROPERTY DAMAGE EXPERIENCE

While no-fault bodily injury rates have decreased dramatically, increases in property damage rates have more than eaten up the savings. One of the main focuses of the hearing was on the Massachusetts property damage experience and whether it is related to the bodily injury experience.

Massachusetts property damage rates were frozen from 1968 through 1970. Not surprisingly, when the freeze was lifted in 1971, property damage rates rose an average of 38 percent. A similar thing happened to the collision rates. In 1969 and 1970, they had risen 20 percent and 50 percent, respectively. They were frozen in 1971, but rose about 20 percent on January 1, 1972, when the freeze came off. Both of these increases reflect the kind of experience one would have anticipated had there been no freeze.

Massachusetts put a property damage no-fault law into effect on January 1, 1972. From 1972 through 1974, the rates remained steady. However, in 1975, Massachusetts revised its property damage law in such a way as to effectively return to the old system. The result was a significant increase in rates. When Massachusetts abandoned its property damage no-fault—January 1, 1977—property damage experience is similar to that of all other States during the time. One of the principal reasons for the rate increases has been the startling rise in the cost of crash parts, which increased by 119.8 percent between 1970 and 1977.

Despite the dramatic increases in property damage rates, the worst single source of rate increases has been in the area of comprehensive coverage. These rates—which protect against such hazards as fire and theft—have more than doubled in the last 6 years. One of the major reasons for the increase is that during this time, Massachusetts law required insurers to pay a person whose car was stolen and destroyed or never recovered the average book value of such a car, regardless of its actual value prior to the loss. Not surprisingly, Massachusetts has the highest theft rate in the country, particularly among people whose cars were not worth much when they were stolen. This quirk in the law was changed in 1977 and comprehensive rates are now on the decline. Needless to say, the level of these rates has nothing to do with whether or not one has a no-fault system of bodily injury.

In sum, the Massachusetts experience with property damage no-fault was too short to come to any firm conclusions, although it does appear that the system worked to keep down rates when it was being run properly. Of greater importance to the subcommittee is the fact that the Massachusetts total rate experience shows that the claims that disappeared from the bodily injury side under no-fault did not merely become property damage claims. It is clear that Massachusetts rates, as high as they are, would have been far higher, maybe 25 percent higher, had not the Massachusetts bodily injury no-fault law been put into effect.

It is important to note that the Federal standards legislation being considered by this subcommittee would apply a no-fault system to bodily injury claims only and not to property damage claims.

The following charts for the predominant class of drivers in Massachusetts rating territories that range from the highest to the lowest in the State show what the Massachusetts rate experience has been since 1968:

EAST BOSTON—HIGHEST RATED CITY IN STATE

	1977	1976	1975	1974	1973	1972	1971	1970	1969
Compulsory 5/10	41	46	45	61.30	61.30	73.80	99.50	117.00	117.00
P.I.P	20	(1)	(1)	(1)	(1)	(1)	(1)	NA	NA
20/40 B.I	51	50	46	36.82	36.82	44.90	38.24	47.34	48.66
20/40 U.M	5	5	4	4.00	4.50	5.00	[3] 3.00	[2] 2.00	[2] 2.00
Total B.I	117	101	95	102.12	106.62	123.70	140.74	166.34	167.66
10,000 P.D	93	61	55	22.69	22.69	23.94	74.58	53.90	53.90
100 deductible collision	581	[3] 423	[3] 286	[3] 270.00	[3] 300.00	[3] 281.00	196.00	196.00	131.00
Comprehensive	428	386	233	152.00	152.00	138.00	126.00	126.00	81.00
Total	1,219	971	669	546.81	577.31	566.64	537.32	542.24	433.56

WORCESTER—ABOVE AVERAGE CITY

Compulsory 5/10	25	36	34	38.40	38.40	40.30	57.80	68.00	68.00
P.I.P	12	(1)	(1)	(1)	(1)	(1)	(1)	NA	NA
20/40 B.I	38	41	38	25.83	25.83	28.82	26.94	31.66	32.98
20/40 U.M	5	5	4	4.00	4.50	5.00	[3] 3.00	[2] 2.00	[2] 2.00
Total B.I	80	82	76	68.23	68.73	74.12	87.74	101.66	102.98
10,000 P.D	80	48	44	19.04	19.04	21.66	65.45	47.30	47.30
100 deductible-collision	251	[3] 242	[3] 191	[3] 158.00	[3] 175.00	[3] 171.00	132.00	132.00	97.00
Comprehensive	172	191	115	72.00	72.00	68.00	64.00	64.00	41.00
Total	583	563	426	317.27	334.77	334.78	349.19	344.96	288.28

[1] Inclusive.
[2] $5,000/$10,000.
[3] Option 1.

NEW BEDFORD—LOW TO MIDDLE RATED CITY IN STATE

	1977	1976	1975	1974	1973	1972	1971	1970	1969
Compulsory 5/10	23	30	30	31.80	31.80	34.30	41.70	49.00	49.00
P.I.P.	12	(1)	(1)	(1)	(1)	(1)	(1)	NA	NA
20/40 B.I.	36	36	35	23.40	23.40	25.94	21.79	25.58	26.90
20/40 U.M.	5	5	4	4.00	4.50	5.00	[2] 3.00	[2] 2.00	[2] 2.00
Total B.I.	76	71	69	59.20	59.70	65.24	66.49	76.58	77.90
10,000 P.D.	74	44	40	18.13	18.13	19.38	54.78	39.60	39.60
100 deductible collision	225	[2] 210	[2] 159	[2] 165.00	[2] 183.00	[2] 187.00	125.00	125.00	84.00
Comprehensive	135	97	68	58.00	58.00	59.00	54.00	54.00	32.00
Total	510	422	336	300.33	318.83	330.62	300.27	295.18	233.50

WILLIAMSBURG—LOWEST RATED CITY

Compulsory 5/10	15	24	21	25.10	25.10	16.80	24.00	24.00	24.00
P.I.P.	8	(1)	(1)	(1)	(1)	(1)	(1)	NA	NA
20/40 B.I.	29	32	29	19.45	19.45	17.54	12.94	17.58	18.90
20/40 U.M.	5	5	4	4.00	4.50	5.00	[2] 3.00	[2] 2.00	[2] 2.00
Total B.I.	57	61	54	48.55	49.05	39.34	36.34	43.58	44.90
10,000 P.D.	52	37	33	13.68	13.68	14.82	44.88	32.45	32.45
100 deductible-collision	143	[2] 160	[2] 111	[2] 122.00	[2] 135.00	[2] 134.00	112.00	112.00	75.00
Comprehensive	60	66	49	42.00	42.00	37.00	37.00	37.00	23.00
Total	312	324	247	226.23	239.73	225.16	230.22	225.03	175.35

[1] Inclusive.
[2] $5,000/$10,000.
[3] Option 1.

COURT BURDEN RELIEVED

The limitation on tort actions under the Massachusetts no-fault law has led to a precipitous drop in the number of automobile civil litigations filed in the State courts, cases which have been a significant part of their overall caseload. The CLRS survey conducted by Professor Widiss included an examination of court records in 5 of Massachusetts' 14 counties. The records of the various district courts revealed that, after no-fault went into effect in January 1971, bodily injury suits from accidents occurring after that date virtually disappeared from the dockets. For example, the court dockets for the three largest districts in Middlesex, which extends from Boston to the New Hampshire border, showed a post-no-fault drop of 92.9 percent in the number of bodily injury motor vehicle negligence suits. On a statewide basis, the number of motor vehicle tort entries has declined 86.9 percent since 1971.

The district courts generally handle smaller claims so it might be expected that their caseloads would be reduced by the elimination of certain bodily injury automobile accident tort suits. However, the impact upon the State's superior courts has also been significant. Lawsuits involving larger claims normally brought in the superior courts have been reduced by 68.4 percent.

The following charts from the 1976 Annual Report to the Justices of the Supreme Court of Massachusetts demonstrate the decline in the number of court filings since the enactment of the Massachusetts no-fault law:

MASSACHUSETTS DISTRICT COURT CASES: TOTAL CIVIL CASES ENTERED AND MOTOR VEHICLE TORT ENTRIES

	All civil cases	Motor vehicle torts
Fiscal year:		
1964	97,278	26,631
1965	95,709	28,644
1966	93,829	29,212
1967	95,518	30,807
1968	93,827	29,770
1969	94,242	32,962
1970	97,994	33,861
1971 [1]	101,068	32,856
1972	92,331	24,225
1973	76,155	12,934
1974	67,817	6,485
1975	73,551	4,277

MASSACHUSETTS SUPERIOR COURT CIVIL CASES: MOTOR VEHICLE TORT AND OTHER CASES

Calendar year:		
1964	35,518	25,729
1965	37,442	25,216
1966	34,826	23,297
1967	33,570	23,006
1968	33,849	22,931
1969	33,784	23,022
1970	35,726	23,597
1971 [1]	34,422	21,194
1972	27,649	14,507
1973	23,587	9,308
1974	24,829	7,616
1975	26,586	6,706

[1] The no-fault bodily injury law became effective Jan. 1, 1971.

ECONOMIC IMPACT UPON MASSACHUSETTS

The advent of no-fault insurance in Massachusetts appears to have substantially reduced the role of attorneys in the claims process because most PIP claimants are not—and have no need to be—represented by lawyers. The segment of the bar, therefore, that formerly concentrated in personal injury litigation, has felt the effects of the no-fault system.

The CLRS study disclosed that approximately 65 percent of the attorneys surveyed stated that they felt little or no impact on their practice as a result of no-fault. Almost 17 percent, however, responded that they had experienced a substantial impact. This particular segment was predominated by attorneys who stated that over half of their income from the practice of law prior to the adoption of no-fault was derived from that type of personal injury work.

The study disclosed that a number of attorneys were engaging in other fields of practice to offset the actual or prospective impact of the new reparations system and there were indications that they were being successful. Almost half of these attorneys stated that their income in 1971 exceeded their 1970 income. Another 24 percent estimated that their income was about the same in both years. In short, many of the attorneys whose practices were substantially affected appear to have offset the prospective adverse economic impact by increasingly engaging in other fields of practice.

The Massachusetts hearing revealed remarkable agreement among the different segments of the community as to the success of the State's no-fault bodily injury law. It has fulfilled many of the promises of no-fault. It is providing prompt payment to all automobile accident victims. It has achieved a stunning reduction in the burden of motor vehicle accident cases on the courts. It has also reduced bodily injury premiums significantly.

There are also some negative lessons to be drawn from the Massachusetts experience with no-fault, but these stem from the fact that Massachusetts did not go far enough with its no-fault law. This is not surprising in light of the fact that it was the pioneer of the no-fault effort in this country. Specifically, first, the $2,000 level of benefits is the lowest benefit package of any no-fault system in the country. While $2,000 compensates fully the losses of about 85 percent of Massachusetts auto accident victims, it is the other 15 percent whose losses account from more than 50 percent of the economic losses of auto accident victims. While many people can afford to pay for $2,000 of losses, very few can afford to pay for more catastrophic losses and a good no-fault system should provide benefits for these people.

Second, Massachusetts $500 threshold—the amount of medical expenses a victim must incur before he or she can sue for general damages—is undoubtedly the most successful dollar threshold

among the no-fault laws. For some reason it has not been subject to the fraudulent collusion of doctors and lawyers that has imperiled the dollar thresholds of most other States. However, the threshold would undoubtedly have to be tightened significantly in order to support a higher no-fault benefit package without any increases in premiums. The question of the proper threshold to achieve that purpose is one that the subcommittee is focusing on as it continues to examine State no-fault experience.

I hope to be able to give the Members similar summaries of the subcommittee's findings on how other State no-fault laws are working, as time permits.

BENEATH THAT OLD-SHOE STYLE, EULA BINGHAM IS TOUGH AS NAILS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. VENTO. Mr. Speaker, the Congress recently voted down a $6 million slash in the budget for the Occupational Safety and Health Administration. A few years ago such action would have been unheard of. Much of the credit for OSHA's new posture belongs to Dr. Eula Bingham.

The Knight-Ridder newspapers correspondent, Vera Glaser, has described Dr. Bingham:

She's deceptive, this Kentucky farm girl with the engaging, gap-toothed grin who was chosen by Jimmy Carter to manage one of the most messed-up, controversial agencies in town.

The article continues to discuss the policy and style of OSHA's new director in ways which give much-needed insight to the workings of any bureaucracy.

I commend this article to my colleagues because it shows that Government can be responsive to people, that sensitive agencies can move into adversary positions without violating commonsense approaches.

The latest issue of Occupational Safety and Health Letter also explains Dr. Bingham's vigorous moves to protect worker health in connection with a Chicago plant where exposure to cancer-causing substances was causing serious injury.

Both of these articles show that the will of Congress has at last been fulfilled and that the public interest is again paramount:

[From the Detroit Free Press, June 21, 1977]

OSHA's Tough-as-Nails Boss—Eula Bingham: Un-Stuffy Bureaucrat

(By Vera Glaser)

WASHINGTON.—She's deceptive, this Kentucky farm girl with the engaging, gap-toothed grin who was chosen by Jimmy Carter to manage one of the most messed-up, controversial agencies in town.

Assistant Secretary of Labor Eula Bingham, beneath that old-shoe style, is tough as nails. In pursuing her goals, she has taken on the steel and oil industries. She's not overly impressed with Washington VIPs, including herself.

Bingham will need all that and more to straighten out the Occupational Safety and Health Administration (OSHA). The agency she heads in the Labor Department has been under fire since Congress created it six years ago.

No one argues that standards aren't needed for the safety and health of America's 65 million workers.

But Bingham concedes that the way OSHA has gone about it in the past has riled a lot of important people. Politicians like Jerry Ford and Ronald Reagan made hay on the campaign trail by ridiculing the agency's nit-picking rules on water coolers and toilet seats.

Industry raged at surprise visits and high-handed demands of OSHA inspectors. Labor claimed the agency hasn't done enough.

Even President Carter's brother Billy got publicity by beating on OSHA.

"They're after me to put a couch in the women's washroom (at his new peanut-shelling plant) in case some one gets sick. Hell, I don't have room to put in any couches, so I told 'em to go to hell, and I haven't done it yet."

Bingham says Billy may have a point when he complains that "90 percent of the people who inspect us don't know anything" and tags OSHA's rules "ridiculous."

So why did this middle-aged matron, who had it made at the University of Cincinnati, take over such a can of worms?

"I wonder why myself!" exclaimed Bingham with a laugh, then added seriously:

"I suppose it was the challenge. I have been involved with issues dealing with the health and safety of workers for a long time. When will an opportunity like this ever come in my life again?"

Besides, she was impressed by Jimmy Carter's promise to "enforce the law rigidly," something the outspoken Bingham says the Ford Administration did not do.

Bingham is one of those rare creatures, an un-stuffy bureaucrat. The trappings of big government surround her—the huge, cluttered office from which she directs 2,500 employes in Washington and the field, the picture of Carter and Bingham on the wall. But her informality and frequent, high-pitched chuckle warm the place.

Since coming on the job three months ago, Bingham has moved fast to reverse OSHA's negative image and build the agency's morale.

The focus has shifted from picayune safety rules to crucial areas of worker health. High-risk industries like construction, manufacturing, transportation, and petrochemicals are targeted.

Within the year, Bingham promises, limits will be set on workers' exposure to arsenic, cotton dust, lead, and cancer-causing agents. She already has issued an emergency standard on benzine.

Recently, on a trip to New Orleans to recruit industrial hygienists, who had not been enthusiastic about working for OSHA in the past, Bingham appeared in a T-shirt reading, "OSHA needs you. Enlist today." She also decked out her staff in recruiting buttons.

The AFL–CIO backed Bingham for the OSHA job. Some praised her as a born leader. But industry doubted that her background equips her to be a big-time administrator.

She hopes to mollify business critics by proving she is fair. At internal meetings Bingham performs, she says, as devil's advocate, taking industry's point of view.

To her, "management" is too impersonal a word. She junks it in favor of "working with people."

"That spark, where you motivate them to get together and produce something, and the satisfaction that comes with it, is missing in a lot of government agencies. I think that's why bureaucracy has become a bad word," she said.

Bingham's colleagues describe her as "tremendous at motivating people" and a glutton for work. Her almost non-existent spare time is used, she says, for "catching up on sleep," and she confesses she is "exhausted and depressed at times."

Despite her independence, Bingham is not as freewheeling as she'd like to be. She recalled wistfully that, "In academic life you can say anything you want to. I can't quite do that now."

If Bingham doesn't bring OSHA up to its potential, 95 bills to change or abolish the agency rest in the congressional hopper. But, for the time being at least, Congress appears willing to give Eula Bingham a chance to perform.

OSHA Shows It Means Business, Fines Company $34,100

OSHA is continuing to demonstrate, by word and deed, that a new policy of toughness has taken over in the Labor Department and that it has substance, not just form.

If it had deliberately sought a target to demonstrate that policy, it could not have selected a more inviting one than Dawes Laboratories of Chicago Heights, Ill., a manufacturer of hormones. The company has apparently disregarded its own industrial hygiene survey results, has remained silent since the fine.

OSHA assessed a record penalty of $34,100 on the company for willful and serious violations of health standards, specifically permitting the over-exposure of male employees to diethylstilbestrol (DES), a demonstrable carcinogen used in cattle feed.

In addition, the company has been ordered to abate all violations immediately except for engineering controls' violations, which must be corrected by July 28.

It was the second case of alleged over-exposure to synthetic sex hormones and related compounds to come to OSHA's attention. A Puerto Rico plant operated by Ortho Pharmaceutical Corp. had previously been under investigation for over-exposure to estrogens (Occupational Health & Safety Letter, April 8). At that time, OSHA praised the cooperation of the company. It made no such defense of Dawe's, which apparently has chosen not to talk to anybody, a policy which can only compound its problems.

OSHA responded to a complaint of imminent danger filed by the Oil, Chemical and Atomic Workers Union, which on April 28 wrote to OSHA's Chicago regional office:

"Workers at this facility are over-exposed to diethylstilbestrol (DES). Exhaust ventilation is nonexistent or inadequate at several open processes where DES is handled. Personal protective equipment and clothing is not provided to the exposed workers at the chemical plant.

"In March, 1977, nine of 17 male workers exposed to DES complained that their breasts had become enlarged. In addition, two of these workers complained of impotence. One worker was forced to seek surgical removal of his enlarged breasts in 1972. Both breast enlargement and impotence in males are known effects of over-exposure to DES.

"Also, these workers face a high risk of developing cancer as DES is on the NIOSH List off Suspected Carcinogens.

"Furthermore, the National Loss Control Service Corporation (NATLSCO) conducted an industrial hygiene survey of the DES operation at this plant on August 26, 1976 (at the company's expense). NATLSCO also found considerable exposure to DES and made sepcific recommendations for abatement of this hazardous condition in a re-

port to the employer dated September 7, 1976. The employer has failed to implement these recommendations . . .

"We also seek an inspection of all the other hazards in the plant, including exposposure to mercury, vapor, acids and a safety hazard from metallic sodium. . .

"We further request that a copy of all citations, notice of proposed penalties and the inspector's report, including the results of air sampling issued pursant to this inspection be forwarded to us. Release of all this information to us is guaranteed by the Freedom of Information Act.

"Lastly, we request that absolutely no advance notice be given to the employer."

The OSHA inspection requested by the union began May 5 and found widespread exposure to DES. For example, OSHA said, housekeeping procedures were so inadequate that DES was permitted to accumulate in such places as telephone mouthpieces, desk clocks and lamps, towel racks and sprinklers in the washroom.

Dr. Eula Bingham, Assistant Secretary of Labor for OSHA, said:

"The situation at the Dawe's Laboratories is extremely serious. DES is a carcinogen. The evidence indicates that workers exposed to DES at this plant have suffered physically. Protective procedures must be put into effect immediately.

"In the past, OSHA has not always moved quickly enough when it received workers' complaints of imminent danger. I hope our action in this case signals a new day. We are going to place the highest priority on stopping and preventing health hazards of this nature. I intend that action, not procrastination, will be our course."

WILL LEONARD LEAVES TRADE COMMISSION

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. JONES of Oklahoma. Mr. Speaker, it is with regret that I note the recent departure from Government service of a dedicated public servant and personal friend. On June 10, Will E. Leonard resigned as a Commissioner of the United States International Trade Commission to enter private law practice.

Bill Leonard received his undergraduate and law degrees from Tulane University and, in 1960, came to Washington to join the staff of Senator RUSSELL B. LONG as a legislative assistant. In 1965, he was awarded a congressional staff fellowship and subsequently earned a master's degree in law from Harvard. He then returned to the Senate to become a professional staff member of the Senate Finance Committee. In 1968 he was appointed by then President Lyndon B. Johnson to the U.S. Tariff Commission—at 33, the youngest appointee in the history of that agency.

In addition to youth, Bill Leonard brought with him to that commission a sense of responsibility to the public and a dedication to hard work that remained hallmarks of his more than 8 years of service as a commissioner. When, in 1975, the commission became the United States International Trade Commission and the procedures for the selection of the chairman were changed, Bill assumed that position with an outstanding knowledge of international trade and a personal commitment to lead that agency to greater heights of public service. Under his leadership, the commission took its public hearings out of Washington to the people and areas most affected by the trade problems under investigation. A major reorganization of the staff was instituted which aimed at making the commission more effective and efficient in terms of its expanded responsibilities under the Trade Act of 1974. The USITC led other Federal agencies in opening its deliberations under the "Government-in-the-Sunshine" Act.

I wish to recognize Bill Leonard's distinguished record here today because I believe it exemplifies the kind of public service that our Government, and indeed our Nation, must strive to maintain. His contributions have been significant and the spirit and dedication which he has demonstrated during his Government career will not easily be replaced.

MOBILE HOMES ARE FAST BECOMING THE MOST AFFORDABLE HOUSING

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. UDALL. Mr. Speaker, a recent article in the Tucson Woman reminds us that mobile homes are fast becoming the most affordable housing.

It is estimated that more than 90 percent of single family units under $25,000 will be such homes.

One of my constituents, James C. Hughes, publisher-writer, recently furnished me with some statistics on the percentage of Arizona's population living in mobile homes: 21 percent on a statewide basis, 25 percent in Pima County, the State's second most populous.

The Tucson Woman article follows:

[From the Tucson Woman, June 1, 1977]

CHOOSING A MOBILE HOME SITE

As the price of new conventionally-built single family homes increases (the median price is now up to $49,000), more families are turning to manufactured homes (mobile homes—whose median price is only $14,000).

In 1977, it is estimated that over 90% of single family units priced under $25,000 will be manufactured (mobile homes).

Since the new Federal Code (H.U.D.) for mobile homes went into effect on June 15, 1976, there has been an increased consumer confidence in the quality of mobile home construction. This code means that all mobile home manufacturers must build their homes to stringent Federal Safety and Quality Regulations. Otherwise, Federal Inspectors won't issue Government Seals of Approval which are necessary for the new completed mobile homes to be sold to consumers.

Even with increased costs in meeting the new code, mobile home manufacturers have welcomed it. For it means that mobile homes are now safer, attractive, comfortable and still more affordable (median price of only $14,000).

Yet there is a major question of where to put a new mobile home: Because there is a scarcity of available mobile home parks and mobile home sites in some areas of the country. It is recommended that the purchaser discuss this problem with his mobile home dealer. He is in a good position to assist in making certain that there are available sites which will accommodate the size of the mobile home and other particular requirements.

When choosing a mobile home park: Select one that—caters to the kind of people who share your interests—is near the things that can make your living more convenient, pleasant, and less expensive (near your place of employment, schools, shopping centers, recreation, etc.)—has rules and fees which are satisfactory to you.

When choosing your own developed or undeveloped acreage or lot: Select one that meets zoning regulations, building codes, and requirements—is near the things that are most important to you—is priced to meet your budget.

THE CARTER ELECTION REFORMS: A REALISTIC EVALUATION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. SYMMS. Mr. Speaker, California State Senator H. L. "Bill" Richardson—25th District—is one of those public officials who speaks his mind. He is also a State legislator who has had personal experience with the question of election laws and election procedures through his service on the California Senate's Elections and Reapportionment Committee. He devoted his April 1, 1977, newsletter to the Carter election package. I would like to bring to the attention of my colleagues one paragraph of this informative newsletter which cites some of the special problems in California:

As a member of the Senate's Elections and Reapportionment Committee, I have heard testimony regarding the now infamous 1972 Berkeley elections and the more recent 1975 municipal election in San Francisco. These elections were prime examples of what can take place when you have transient voting coupled with an inability to verify voter registrations. In November, 1972, there were approximately 91,000 Berkeley citizens eligible to register. The actual number of registered voters totaled 93,057—that's a registration of 102 percent of those eligible. The next highest city registration was Palo Alto with 53 percent; the statewide average was 45 percent. Investigation showed that there were thousands of transient voters—many registered to vacant lots. The 1975 municipal election in San Francisco was riddled with voter fraud of several types, including illegal registrars, transient, non-resident voters, over a thousand missing registration books, and people registered at vacant lots, office buildings and garages.

If we have these problems under our present electoral system, we can imagine what additional problems we will have if we remove the major protection we have against vote fraud—registration of voters prior to election day. The integrity of the vote is too important to risk by an ill-conceived measure such as universal voter registration bill. Same-day registration must be defeated.

BREEDER FACTS MISREPRESENTED

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Ms. LLOYD of Tennessee. Mr. Speaker, after lengthy hearings the Science and Technology Committee voted 38 to 0 to report H.R. 6796 with a recommendation to sustain President Carter's February budget proposal on the breeder program. His proposal not only delayed the Clinch River project and added additional cost, but also indefinitely deferred the potential for commercial use of the breeder by canceling funds for the prototype large breeder reactor. This often overlooked reality has been misunderstood by many, including the Washington Post editorial staff.

In an editorial that appeared in the Washington Post today, a number of facts regarding the current breeder program discussion were misrepresented. While I am not confident that the Post will print my reaction to this editorial in a timely manner, I am submitting the text of my letter to the editor so that my colleagues may be given an opportunity to judge balance in this editorial:

HOUSE OF REPRESENTATIVES,
Washington, D.C. June 22, 1977.

EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIR: Your editorial, "The Clinch River Votes", has grossly distorted not only the facts but also the issues which this Congress faces in dealing with support for preserving a vital domestic energy option—the U.S. breeder. Had you been exposed to the lengthy testimony on both sides of the issue as I have, as a Member of the House Science and Technology Committee, I am certain that your editorial would have read differently.

First, to clarify the errors in your assumptions, the Clinch River plant was originally, and is still, an intermediate scale demonstration plant. It is not a commercial plant as you stated, nor is it a commitment to commercialization as you have wrongly concluded. As even Dr. Schlesinger knows, the original plan for development of the breeder called for a government decision in 1986 on whether or not breeder technology would be an acceptable power producing option in terms of safety, environmental impact and economics.

Our inability to predict both future energy demand and domestic supply potential strongly argues for continuing with this important demonstration. As the GAO put it in a recent letter to Congressman Olin Teague, Chairman of the House Science and Technology Committee, "In our view, the most important disadvantage in slowing the present program is that we run the risk of not knowing enough about the LMFBR to make intelligent decisions on it in the near future."

Answers to many of the real world questions such as safety, licensability and safeguard requirements are real benefits to be derived from building and operating Clinch River. In addition, some $10 billion in gross revenues will be returned to the Treasury from the sale of by-product electricity to TVA. In contrast, cancellation of the project would cost the taxpayers over a half billion dollars outright—costs that the Administration has not openly discussed. If we started over again, building a comparable demonstration plant will cost at least an additional billion dollars. How does this impact the cost/benefit analysis of maintaining a viable option?

Given the recent experience of the Members of the Science and Technology Committee who recently visited Europe, it is clear that other industrialized nations are committed to pursuing their programs out of a real need. The same reality that President Carter has faced in proposing his national energy plan faces them. Can the United States really afford to be so insensitive to the difficult decisions facing the leaders of these countries—our allies? Can we really expect these nations to move from one depletable, foreign controlled resource to another?

An important issue missed in your editorial was that in February, the President not only cut over 30% of the funds for Clinch River, but he also terminated the funds for the commercial scale prototype. These actions were consistent with his April 7th commitment "to defer the date when breeder reactors would be put into commercial use." Our Committee has recommended that the Congress choose to support this proposal by the President as a proper balance between international posture and genuine concerns over long-term U.S. energy security.

Your statement of the case for the breeder slighted a significant reality: both government and independent geologists have recommended a prudent planning base of approximately 2 million tons of domestic uranium. My Committee questioned Dr. Schlesinger's reluctance to accept this wisdom as a basis for sound national planning. His only response was that we have time—a commodity President Carter acknowledged on April 20 we have failed to use wisely.

In short, Mr. Editor, the Congress is being asked to preserve an option—to develop a technology that will give us access to an inexhaustible resource if and when we need it. The equivalent of some 400 billion tons of coal (the government's depleted uranium stockpile) lies above ground—without the breeder this vast, environmentally acceptable resource will be denied Americans. Your support, Mr. Editor, of the need to add balance to this discussion is urged.

Sincerely,

MARILYN LLOYD,
Member of Congress.

PUBLIC LANDS TIMBER EXPORT ACT OF 1977

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. BONKER. Mr. Speaker, the record volumes of unprocessed logs now being exported from the United States are robbing American workers of more and more jobs and weakening the competitiveness that has historically characterized the Northwest wood products industry.

I am introducing today legislation aimed at keeping those jobs at home and promoting a diversified industry that can support small mills and large, and integrated corporations. The time has come to take this step to promote the greatest good for all even if it is at the expense of some special interests.

My bill would permanently ban the export of unprocessed logs cut on Federal lands in the West and close over a 5-year period a loophole in existing log export restrictions. I want to replace log exports with lumber and plywood exports. Accordingly, the export phase-out is gradual so that foreign markets for our finished products can develop with minimum disruption to existing operations.

Log exports diminish the available wood fiber supply in the United States, and last year total exports rose an alarming 22.7 percent enroute to a record volume of 2.9 billion board feet. The increase in housing starts that appears to lie ahead will bring welcome general economic benefits, but it also guarantees that many domestic processors face increasingly stiff competition from Japanese buyers for U.S. logs. The result will be higher prices for domestic wood products.

The prospects are particularly dire for the Federal timber supply and those who depend upon it.

Study after study has concluded that current harvest levels on private timberlands cannot be sustained. The surplus inventory of large old-growth trees that has always blessed the Pacific Northwest is being rapidly liquidated in the process. Once that occurs, there will be increasing pressure on public, especially Federal, timberlands. The Forest Service simply is not sufficiently advanced in forest management to meet the new challenge.

Recent developments suggest that the large integrated forest products corporations are, as a result, drawing more heavily on Federal timber. The larger firms come into the competition for these timber sales with significant advantages. They retain extensive timber holdings that were purchased years ago at a fraction of its present worth and can now be mixed with high-priced Federal logs to hold down raw material costs. These holdings also afford substantial tax advantages and are useful in stabilizing and guaranteeing a flow of wood to the processing plants.

None of these options exists for many smaller and medium-sized companies. They are completely dependent upon Federal timber. They must pay the price increases stimulated by log exports and the large corporation bids, or they must—as many have already done—shut down or sell out.

The big firms will benefit from less competition. There will be fewer companies selling lumber and plywood, and there will be fewer firms bidding on Federal timber.

There are also job considerations on the other side of the issue that should not be overlooked. Opponents of a log export ban mention that these restrictions will cause job losses among loggers, truckers, and longshoremen. My bill addresses that problem by placing emphasis on exporting finished products which would continue, if not increase, present levels of the export market.

The issue is not whether we should limit or ban exports, but that we should be exporting wood products instead of unprocessed logs. My bill attempts to accomplish the latter and would preserve existing jobs as well as create new employment in local processing mills.

Opponents will say that Japan is not prepared to buy our dimension lumber.

But everything I have seen to date indicates that Japan is now buying U.S. lumber and is prepared to increase their purchases if necessary. Japanese officials revealed several years ago their plans to convert to U.S. building standards and willingness to buy American lumber. However, with 26,000 mills busy buying our logs, Japan will not move in this direction unless forced to do so. The marketplace is most ideally suited to bring this about, but unfortunately those who engage in log exports find the practice too profitable. Only legislation to impose restrictions, at least on Federal timberlands, will spur Japan to purchase our finished products.

Key features of my bill include:

1. Make permanent the ban on the export of unprocessed logs from federal timber lands in the west.

2. Ban the export of "cants" made from federal logs, except from the state of Alaska.

3. Phase out the substitution of federal timber for private timber destined for export. The substitution ban is gradual over a 5-year period.

4. Ban substitution in "tributary" areas; e.g. a person or firm may buy Lodgepole pine in Idaho and export logs from the Northwest coastal areas, but could not export private logs from Longview, Washington or Astoria, Oregon and then purchase Gifford Pinchot or Mount Hood National Forest timber for local mills.

5. Ban substitution through third parties. An exporter could not replace private timber with federal timber purchased from another firm which had purchased it previously.

6. Exclude state owned land in defining "substitution" for export. Existing laws would apply in each state.

7. Permit export or sale to exporters of all utility grade logs.

8. Impower the U.S. Forest Service and the Bureau of Land Management to obtain adequate information on exports and substitutions, and provide penalties for those who knowingly violate the law.

CHANGE IN POLICY ON WHITE HOUSE TOURS?

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. HILLIS. Mr. Speaker, my office has noted in recent months an apparent change in policy at the White House, with a curtailment of accommodations for tours of the home of the First Family. We are all aware of the dual role of the White House as the residence of the President's family, and as a national monument belonging to all Americans.

I have set out my thoughts on this matter in a letter to the President. At this time I would like to present the text of this letter, which is self-explanatory:

DEAR MR. PRESIDENT: This to discuss an apparent change in policy at the White House regarding the many Americans who come to Washington and are hopeful of touring the President's Home.

I can inform you that there is a recurring number of complaints and expressions of disappointment by visitors to our Capital, who have sought to tour the White House either on the early-morning special program or the mid-morning public tour. The complaints indicate there has been a vast curtailment in the number of visitors. There have been reports that your staff has alluded to a desire of the first family for more privacy as one reason for this curtailment. The readiness of the White House to open its doors to the multitudes of visitors was a memorable facet of last year's Bicentennial observance.

Respectfully, I would point out that my office is ready and willing to cooperate if there is good reason to curtail the number of visitors. I do wish to point out that to the American people the White House is a great deal more than a residence for the first family. Historically, it is a working seat of the government; it belongs to our people. Let me quote to you from a chapter in the White House tour publication: "The White House is part of every American's national inheritance. As the office and the home of the President, it is the one place toward which citizens look for leadership from the man they themselves have chosen to act for all. No other elected official is so directly accountable to them. Their problems are his problems; his home is theirs."

I am aware that there must be a balancing of interest, in viewing the White House as a residence and as a national monument. A reading of this situation at this time indicates the balance is moving out of alignment, with the people being shortchanged.

PENN-DEL TYPOGRAPHICAL UNION CHARGES "RIGHT-TO-WORK" LAWS USED TO LURE INDUSTRY FROM INDUSTRIALIZED STATES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. EILBERG. Mr. Speaker, as a Member of Congress from one of the States associated with the Northeast-Midwest Economic Coalition, I have long been concerned about the flight of industry to the low-wage Sunbelt States. These low wages are possible, of course, because of the existence in these States of so-called "right-to-work" laws—laws which seriously inhibit the ability of workers to organize into unions.

The Eastern Pennsylvania-Delaware Typographical Conference, an organization representing 4,000 trade unionists in that area, recently adopted a resolution dealing with this problem of runaway industry and calling for repeal of section 14b of the Taft-Hartley Act, which permits State "right-to-work" laws.

For the information and enlightment of my colleagues, I am placing the text of that resolution in the RECORD at this point:

Whereas, Section 14b of the Taft-Hartley act has been a detriment to the blue collar worker for 30 years, causing depression of wages, benefits and working conditions, and,

Whereas, the twenty states who have adopted 14b are using sub-standard wages and working conditions to lure industry away from established communities resulting in mass unemployment, and,

Whereas, adoption of 14b denies the right of unions to bargain for their security and gives the free-loader all the hard-fought and hard-earned benefits paid for by the organized worker, and

Whereas, 14b has never been an asset to the worker, but has been an asset and a weapon only benefitting the employer,

Be it Resolved, that this Penn-Del Conference urge its legislators to support repeal of 14b of Taft-Hartley by vote and action.

BREEDER REACTOR PROJECT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. FINDLEY. Mr. Speaker, I have recently urged my colleagues to take a closer look at the Clinch River breeder reactor project, not only from the standpoint of its implications for the spread of nuclear weaponry, but with regard to its technical characteristics and economic viability as well. In my view, there is sufficient doubt on these latter two points alone to make prudent a vote in support of the administration's approach. At this point, what is needed is open-mindedness and a willingness to resolve uncertainties and explore the numerous alternatives that exist.

The attached editorial from the Washington Star sheds important light on this critical question:

FOR A PLUTONIUM PAUSE

The Clinch River fast-breeder reactor project near Oak Ridge, Tennessee—the project President Carter wants to postpone as an earnest of U.S. determination to avoid a plutonium-haunted world—has become the focus of one of the biggest nuclear policy fights of our time.

At stake now is the appropriation to the Energy Research and Development Administration (ERDA) to fund Clinch River—an appropriation that House backers of Mr. Carter's policy will seek to stop when the vote comes.

In fact, the battle may yet come down to a clash between the two chambers of Congress. The Senate, where ERDA committee chairman Frank Church has emerged as an unexpectedly vocal champion of Clinch River, is now thought likely to vote for funding. If so, it may be up to the House to say no.

In a speech prepared for delivery last night at Wroxton College, in England, Senator Church emerges again as a four-square foe of the Carter anti-proliferation strategy, insisting that the world is now irretrievably launched into the "plutonium era"; that the President's plea for restraint in the commercial development and sale of fast-breeder technology has "fallen on deaf ears" abroad; and that "unilateral acts of abnegation are unlikely to be emulated."

Is Senator Church right? The supporters of President Carter's initiative think not. They sharply dispute Senator Church's fatalism, or at least his sense of timing. We believe they have a strong case, a case that in any event deserves consideration before Congress caves in to the Clinch River lobby.

They argue, for instance, that it is a misconception to view the Clinch River vote as a final showdown over fast-breeder technology per se—the technology whose allure lies in its capacity to offer a near-miraculous answer to the depletion of fossil fuels.

(A fast-breeder plutonium-producing reactor can multiply some 60-fold the energy potential of its original fuel. The drawback is that high-grade plutonium is a stuff of which nuclear weapons can be made, so that

the proliferation of fast-breeder technology increases the risk of weapons proliferation as well.)

The President's supporters insist that even if the Clinch River project is deferred, and its funding knocked from the ERDA budget, that budget will anyway contain over $500 million in support of other experimental projects in fast-breeder technology—notably at Hanford, Washington.

They argue that the Clinch River project could, if deferred, benefit from refinements discovered at the Hanford facility. And in any case, they say, the timetable for fast-breeder technology is not so urgent today as it was thought to be a few years ago. The projected need for nuclear power facilities by the year 2000 has drastically fallen off since Dr. James Schlesinger, as head of the Atomic Energy Commission, supported the planning for Clinch River several years back. He has now receded from that support and backs President Carter's view.

Finally, we are told that Mr. Carter's initiative is by no means falling "on deaf ears" abroad: that recent talks with other nations interested in fast-breeder technology (notably France, West Germany and Great Britain) have been far from unavailing.

If these claims are accurate, we believe Congress owes itself—and the tranquillity of the world—a close look at the case against Clinch River funding. Senator Church starts with the premise that "the plutonium genie is out of the bottle," but that view is by no means universally accepted.

Of course, President Carter's plea for a plutonium pause will depend very considerably on a credible promise of U.S.-supplied enriched uranium, the only real substitute for plutonium. And making that pledge believable, quieting the fears that American motives are self-interested or that uranium prices may be cartelized as the price of oil has been, will not be easy.

In early April, when President Carter announced his initiative to defer the plutonium era, we observed that "one doesn't have to look very far into the baffling complexities of the nuclear 'dilemma' to wonder how fruitful Mr. Carter's initiative will be. . . . Yet to surrender to the despondent fatalism that is so tempting in this matter is not Mr. Carter's style, nor this country's style either. It is always more rational to assume that a tough problem is soluble than to throw up one's hands and wish it would go away."

Since April, despondent fatalism seems to have increased—Senator Church's view is an example of it. But it is no more acceptable now than it was before.

EMMETT SMITH AND HARVEY JOHNSON RETIRE FROM THE HOUSE GYMNASIUM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. TEAGUE. Mr. Speaker, when I was elected to the Congress of the United States in 1946, I was recovering from severe wounds of my left foot and ankle suffered during World War II, and was discharged from Walter Reed Hospital to accept my seat in the House. Upon discharge, my doctors told me that the best physical therapy I could get would be to treat it as rough as possible. Consequently, I presented myself to the staff of the House gymnasium and explained my problem.

Several members of that staff who have retired in the past year were Mr. Emmett Smith and Mr. Harvey Johnson. "Smitty" as he was affectionately known by the many Members who used the gym came here to the Hill in August of 1945 as a laborer under the patronage of former Congressman Riley and just retired after 32 years of service, his past number of years as a masseuse in the gym.

Harvey started work on March 16, 1946, after having served in the U.S. Artillery for a period of 4 years during World War II. He spent 27 years in the House gymnasium taking care of the many Members who habituated this facility in any number of ways.

Mr. Speaker, I just want to take the time and space to recognize these two men who devoted their entire lives to service on Capitol Hill.

MONTANA WILDERNESS PROPOSALS

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. BAUCUS. Mr. Speaker, after nearly 2½ years of serious deliberation I submitted to the House Subcommittee on Indian Affairs and Public Lands my recommendations regarding various wilderness study proposals in my district. A copy of my statement follows:

RECOMMENDATIONS BY CONGRESSMAN MAX BAUCUS FOR MONTANA WILDERNESS STUDY AREAS

Mr. Chairman, in Congress legislation is pending to designate up to 2¼ million acres in Montana for either wilderness study or instant wilderness. Today, your subcommittee is marking-up the National Endangered Wilderness Bill, H.R. 3454, which includes three Montana areas totaling roughly 140,000 acres.

When I testified before your Subcommittee earlier this year, I indicated that I would first examine all of the proposed wilderness areas in Montana, including the three in the Endangered bill, and then submit my recommendations to the subcommittee. I have completed my examination, and I would like today to provide to you my recommendations for the disposition of 13 proposed wilderness areas in Montana.[1]

I would like now to recommend to the Subcommittee the deletion of the three Montana areas, which are the subject of your deliberation this morning, from the National Endangered Wilderness Bill. Secondly, I recommend that the Subcommittee move expeditiously to enact S. 393, the Montana Wilderness Study Bill, which contains nine proposed wilderness areas, including one of the areas I propose to be dropped from the Endangered bill.

At the end of this statement I will make several other recommendations on Montana-related wilderness proposals. But first, I would like to discuss the process I followed in formulating the two recommendations made above.

[1] A list of all relevant wilderness legislation, including names of the proposed wilderness areas and their acreage is attached as an appendix. Also attached is a list of the trips I have taken to study those areas.

Announcing these two recommendations this morning is a comparatively simple exercise. What was difficult for me was the task of collecting and analyzing enough information to ensure that my recommendation would strike a proper balance between maintaining the economic stability of my State and retaining some of its beautiful, untouched lands from further development. Certainly in seeking that balance, I sought to avoid either extreme.

ECONOMICS VERSUS AESTHETICS

This issue, "jobs versus wilderness," is of too great significance to the citizens of Montana and the nation to be decided on emotion or ideology. The recommendations I make this morning will likely play a major role in the eventual outcome of the Montana-related wilderness legislation now pending before Congress. I do not take this responsibility lightly, for Federal land use decisions made over the coming months will have a far reaching and long-lasting effect upon Montana and our national public land policies.

Over the past two and one-half years I devoted considerable time and thought to studying the wilderness proposals affecting Montana—a state, incidentally, which is blessed with unusually abundant natural resources. Since nearly one third of the area in my state is federally owned, Montanans depend greatly upon public lands for a major portion of their economic well-being. Yet, Montana is one of the most wild and beautiful areas left in our nation. Indeed, many areas in the Western Congressional District are still virtually untouched by the hand of man.

Montana possesses at least five resources which in the decades ahead will become more precious and scarce—food, trees, energy-potential, minerals, and space. The decisions which we make now regarding these resources will determine to a great extent whether a stable and productive economy can be maintained in Montana without developing all its remaining undeveloped public lands.

INTENSIVE FOREST MANAGEMENT CONSIDERATIONS

I approached the wilderness proposals with no preconceptions. I did not cosponsor any of the Montana wilderness proposals because I wanted to study objectively each area. To this end, I conducted over twenty-town meetings in affected areas. Additionally, I conducted on-site wilderness area inspections together with representatives of industry, environmental and other interested parties. Also, I sought the advice and counsel of many other wilderness proponents and opponents. Finally, I requested numerous studies regarding the various wilderness proposals from the Forest Service, and the Congressional Research Service (CRS).[2]

In past months, I received more mail on wilderness issues than virtually any other subject since my election to Congress. Feelings on the wilderness issue are, to say the least, intense. This was demonstrated to me once again last weekend when this Subcommittee held field hearings in Montana. On a few days notice, more than 300 Montanans, representing scores of organizations and dozens of viewpoints, travelled for hours to the State Capitol to offer in a few minutes their views on what should be done with the various Montana-related wilderness proposals now pending before Congress.

This is a controversial issue in Montana. A shrinking timber base, higher costs and slackened demand for wood products in the past few years underlie the grave concern that the Montana forest products' employers and employees have about additional pro-

[2] Copies of selected data submissions are attached in an appendix to this statement.

posals. As new roads are punched into a previously undeveloped roadless areas, wilderness proponents are concerned that too little is being done to protect any of the state's remaining undesignated wilderness land. Yes, Mr. Chairman, this is indeed a controversial issue.

We are at a policy crossroads as a result of the wilderness land controversy. Yet, I am convinced, after careful analysis, that we can have a stable forest economy and at the same time study more of the areas in question for possible inclusion into the National Wilderness System.

In making this decision, the principal issue I have been concerned with over these past months is whether proposed wilderness areas can be studied without unduly affecting timber production and other recreational uses. The timber harvest potential for the proposed areas—except for the McGregor-Thompson, is not substantial.

This comes as no great surprise to me. I remember last year when an independent study of the S. 393 areas estimated that the annual potential harvest of these areas was less than seventeen million board feet. I also learned from the Forest Service that, with increased funding for intensive timber management, by 1980 Montana's forests should produce substantially more than the amount of potential harvest lost through wilderness study.

According to USFA, with $14.4 million in additional timber management funds, Region I could produce more than 100 million additional board feet each year. The increased 1978 appropriation for USFS (H.R. 7636, H. Rept. 93-392) would provide Region I with substantially more funds than $14.4 million. Estimates vary, but I expect that the FY 78 Regional figure for timber management alone will be at least $20 million.[3]

Additionally, the USFS estimates of increased yield through more intensive forestry management of roaded areas is based on the assumption that the Region will contain at least 10.8 million acres of Commercial Forest Land in 1980. Currently, the region contains 12.5 million acres (CFL) and, if all of the proposed areas in Montana were managed as wilderness in 1980, the Regional total for commercial forest land would be reduced only by about 400,000 acres of commercial forest land, leaving a 1980 Regional total of more than 12 million acres CFL.

Mr. Chairman, in light of the above, I believe my recommendations, if followed, would permit the addition of substantial Montana land in the National Wilderness System without reducing Montana harvests, provided, of course, that Congress continues to support intensive forest management practices. At the risk of repeating myself, Mr. Chairman, I must emphasize here that intensive management is the key to providing a balance between jobs and wilderness. Without continued federal support in this area, the balance is tipped.

ADDITIONAL PROPOSALS

I would like now to make five additional proposals. First, I respectfully request the Committee to reduce the total study and recommendation period on S. 393 from seven to three years.

Second, if the Subcommittee approves for study all nine areas now included in S. 393, which I trust it will see fit to do before the August recess, I respectfully request that the Subcommittee urge the Forest Service to place the highest priority on studying the Mt. Henry and West Pioneer areas. If after this expedited study period, the Forest Service finds that any portion of those two study areas should not be wilderness, I further request the Subcommittee to permit the Forest Service to make separate and expedited legislative recommendations on those two areas.

Third, I respectfully request the Subcommittee to move expeditiously in reporting out a wilderness bill for the Absaroka-Beartooth Primitive Areas. This legislation is pending in both Houses of Congress, and in light of its broad-based support in Montana, I think the Subcommittee can move quickly to report it favorably.

My fourth proposal relates to Spanish Peaks, another primitive area in the Gallatin National Forest. A significant obstacle with the wilderness proposals for this area concerns private land holdings. Therefore, I respectfully request the Subcommittee to urge the Forest Service to move expeditiously to effect an exchange of the private lands for other National Forest land. Additional information on this issue is attached as an appendix to my statement.

My fifth and final proposal concerns the Forest Service studies of the Great Bear and Elkhorn studies mandated by the 94th Congress. Those studies will be completed soon and whatever the outcome of the studies, I respectfully urge the Subcommittee to move promptly on this matter in order for Congressional action to be taken on it during the 95th Congress.

I would like to end my statement by noting that my last recommendations, as with nearly all of my previous proposals, concerns the question of time. Put simply, it is running out. So Congress must move expeditiously to eliminate the uncertainty on the part of resource extraction industries and wilderness proponents regarding the eventual size of the National Wilderness System.

If all parties work cooperatively and quickly, these National Wilderness System decisions can be made without impairing the immediate resource productivity of roadless lands ultimately excluded from this system.

Mr. Chairman, and members of the Subcommittee, thank you for the opportunity to present my recommendations this morning. I appreciate the sensitivity you have shown me and my fellow Montanans on issues of such vital concern to our state.

[3] Significantly, a similar amount of funds will be available to protect watershed, wildlife and other wilderness qualities.

NO ON CONSUMER BILL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Santa Maria Times opposing the Consumer Protection Agency:

NO ON CONSUMER BILL

Congress, it seems, has decided against passing a bill that would have created a consumer agency, one to look out for the best interests of the nation's consumers against, presumably, business.

We are glad to see this particular bill die. It would have cost taxpayers millions and would have achieved dubious results.

The rationale behind the bill was that since big business was able to spend thousands of dollars sending executives and attorneys to lobby for bills and to appear before governmental agencies that the consumers should be able to do the same. Only the new federal agency would bankroll the appearances of the opposition.

Contracts would be awarded consumer groups to act on behalf of the majority.

Sounds just like a governmental proposal.

Who would set the standards for selection of consumer groups to appear on behalf of the public? Would Ralph Nader and his Raiders be chosen to monitor the auto industry? Would the Sierra Club be hired to look out for our interests in matters dealing with the rivers and mountains? Would the Mothers for Peace become our nuclear advocates?

It seems to us that these groups have been doing quite an effective job of voicing their opinions—not necessarily the opinions of the majority—without federal funding.

The Times believes the safeguards are sufficient as they now stand to protect the public interests, if only the public would exercise the prerogative. We don't feel that we need surrogates to speak for us.

THE CONSUMER COMMUNICATION REFORM ACT OF 1976

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, our present problems with communication resources are at best burdensome and at worst intolerable.

Phone rates, for example, are steadily rising, and the costs of installation, service, and maintenance are exorbitantly high.

Perhaps it is time that we take a long hard look at the communication field with particular emphasis on the benefits of competition versus regulation in the phone industry. What is needed is a thorough investigation into all aspects of deregulation. We must uncover as many viable alternatives as possible if we are to beat this very serious problem.

The Consumer Communications Reform Act of 1976 stands as one possible remedy. With regard to this act, I would like to call my colleagues attention to the following resolution which was unanimously adopted by the council of the city of Pittsburgh on February 22, 1977. As the members of the Pittsburgh City Council emphatically point out, we need to get this complex issue out into the open so that positive action may be swiftly undertaken.

The council's resolution follows:

RESOLUTION

Whereas, recent decisions by the Federal Communications Commission with respect to regulation in the telephone industry have raised serious questions relative to the long-term effect of increased competition on the cost of private telephone service for homeowners; and

Whereas, some industry officials predict that monthly rates for home phones could increase by as much as 75% because of the loss of higher revenue producing telephone services to independent equipment manufacturers and service companies; and

Whereas, at the same time, independent equipment manufacturers and service companies maintain that increased competition can result in lower cost and improved service to the consumer; and

Whereas, a Bill dealing with the question of competition versus regulation in the telephone industry known as the "Consumer Communications Reform Act of 1976" has been introduced recently in the Congress of the United States; and

Whereas, the question of competition versus regulation in the telephone industry is an admittedly complex one and deserves a full public hearing before decisions are made which can affect the cost and quality of phone service for all Americans; and

Whereas, numerous organizations and agencies across the nation, such as the Pennsylvania General Assembly, Philadelphia City Council, Pennsylvania Federation of Women's Clubs, International Brotherhood of Electrical Workers, Communications Workers of America and Pennsylvania Association of Older Persons, have called upon Congress to address this complicated and far-reaching issue.

Therefore, be it resolved

That this Council hereby requests the Congress of the United States to hold public hearings on the proposed "Consumer Communications Reform Act of 1976" as quickly as possible so all interested parties will have the opportunity to present their views; and

Be it further resolved

That certified copies of this Resolution be sent to the President pro tempore of the Senate, the Senators from Pennsylvania, the Speaker of the House of Representatives and the Members of the House from Pittsburgh.

CURING THE CAUSE AND NOT THE SYMPTOM—ILLEGAL ALIENS

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. LEGGETT. Mr. Speaker, Mexico's high birth rate and low standard of living have led to the illegal immigration of 24,000 aliens per day. Because malnutrition is as widespread in Mexico as it was 100 years ago, it is hard to blame the impoverished Mexicans for wanting to improve their lot according to Mr. Thomas W. Laughlin, a 20-year member of the Immigration and Naturalization Service and the Officer-in-Charge of its Sacramento office. Mr. Laughlin concedes that the agency is helpless to prevent this mass immigration for financial reasons. In Mr. Laughlin's opinion, with Mexico's economy in its present condition, any attempt to return the 8 million illegal aliens would only compound the entire situation.

While the inscription on the Statute of Liberty begins with "Give me your tired, your poor . . .", our country is no longer at its old level of economic growth and expansion. Thus, while speaking before the Kiwanis Club of Sacramento, Mr. Laughlin stated that even though most of this country's population was selfsufficient in 1880, "living in the past is the surest way of forfeiting the future."

It is Mr. Laughlin's opinion that the best, and indeed the only lasting solution to the immigration problem is to grant large amounts of financial assistance to improve Mexican industry. I am in full agreement with him since by so doing, we would aid our neighbors in providing jobs for their citizens while relieving the strain on our own employment market. By helping Mexico, we would be helping ourselves.

Mr. Laughlin's speech was cited in the following article which appeared in the Sacramento Union on June 9, 1977:

AID SUGGESTED—A WAY TO CUT FLOW OF ALIENS

(By Mel Zikes)

One thousand people an hour are entering this country illegally, and the Immigration and Naturalization Service is helpless to stop the onslaught.

Huge amounts of financial aid to Mexican industry would furnish the only lasting solution.

So says Thomas W. Laughlin, a 20-year member of the Immigration and Naturalization Service in charge of the Sacramento office.

Laughlin admits that the reason his service doesn't do a better job of keeping the illegals out is also money, rather, the lack of it.

Speaking before the Kiwanis Club of Sacramento Suburban Wednesday in the Palomino Room, Laughlin cited Mexico's high birth rate and low standard of living as the causes of the problem.

A huge influx of foreign aid to our neighbor would provide jobs, the major reason they are crossing the border, he said.

Amnesty and the granting of citizenship to those now in this country illegally would not slow the present tide, according to Laughlin.

"Then Mexico would enjoy a monopoly on the number of people in the Western Hemisphere allowed to immigrate each year. And we would still have those coming in illegally too," he said.

"Mexico is bad off right now. Can you imagine the impact on their economy if we were able to round up the eight million illegals in this country and ship them back?

"There is an inscription on the Statue of Liberty which starts off with 'Give me your tired, your poor.' This expresses our heritage, which can't be abandoned completely, but those thoughts were great in 1880 and we are starting to get a bit crowded now.

"The welfare of our nation is at stake and living in the past is the surest way of forfeiting the future.

"In 1880 most of the population of this country was self sufficient—no more—now we are all interdependent for almost everything.

"It takes 5½ acres to produce the food for each American. Those 24,000 immigrants entering illegally every day have to eat too.

"One of every 26 people in this country is here illegally, probably 2 million in California alone, and you can't blame those people living in poverty and starvation for wanting to improve their lot. Malnutrition is as widespread in Mexico as it was a hundred years ago.

"And things are not going to get any better unless we help them. Their population continues to grow. There are over 60 million people in Mexico, half of them under age 15.

"By helping Mexico we would be helping ourselves," said the veteran immigration officer.

OPPOSES CREATION OF CONSUMER PROTECTION AGENCY

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mrs. HOLT. Mr. Speaker, when dealing with the issues of consumer interest, I believe women have the keener perception. They do most of the shopping.

It is noteworthy, therefore, that the General Federation of Women's Clubs, the largest women's organization in the world, has adopted a resolution opposing creation of a new Federal Consumer Protection Agency.

At its annual convention in Seattle, the organization adopted a resolution stating that a new Federal bureaucracy would only heap new burdens on the consumer, because more Government regulation translates into higher production costs and higher consumer prices.

Mrs. Harry Wagner, Jr., president of the General Federation of Women's Clubs, warned against adding still "another layer of Federal bureaucracy." She said "a free market is the best protection we have," because producers must respond to consumer interests to stay in business.

Mr. Speaker, I commend Mrs. Wagner and the General Federation of Women's Clubs for their sharp insight in this issue.

KEEGAN ON KOREA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. McDONALD. Mr. Speaker, in the continuing debate over withdrawal of U.S. troops from South Korea, the proponents of withdrawal keep pointing out that our naval and air forces can still quickly come to the aid of South Korea. General Keegan, former head of Air Force Intelligence, strongly asserted in a letter-to-the-editor of the Christian Science Monitor on June 22, 1977, that contrary to the situation in 1950, North Korea has placed underground all significant military targets to the extent that conventional weapons would be of little use in attacking them. Thus, our naval and air forces would be limited to merely bombing those North Koreans who moved south and our naval and air forces would be unable to significantly slow a North Korean invasion by bombing in North Korea. Also, contrary to 1950, North Korea now has its own arms industry, and thus, it would make little difference, initially, whether Communist China or the Soviet Union supported North Korea in her attempt.

Therefore, if we have no troops on the ground, the remaining effective U.S. option would be the use of nuclear weapons on everything above ground in North Korea, which the people who advocate our withdrawal from Korea would find unthinkable. We cannot have our cake and eat it, too. It is time for common sense to prevail and for the Carter administration to rethink its position.

The article follows:

KEEGAN ON KOREA

On May 26 the Monitor published an article entitled "The Korean equation" by Joseph C. Harsch, There are a number of propositions about that article which disturb me.

Mr. Harsch cites two premises under which the withdrawal of ground forces can be rationalized. The first is that American air and sea support should be sufficient to protect South Korea against any new dangers from North Korea. The second is a surmise that the administration may possibly have received assurance from Peking that another North Korean venture against the South would not be supported. Both of these premises are subject to question.

Reinforcing air and sea support can no longer fill the gap which would be created by the withdrawal of ground forces defending South Korea and its capital at Seoul. As a consequence of the near devastation of North Korea down to the demilitarized zone itself is the U.S.S.R.'s own undertakings in the

area of wartime survivability, military hardening and civil defense. The North Koreans have placed virtually the entire country underground. Every important military installation in North Korea down to the demilitarized zone itself is now protected by massive underground bunkers and shelters.

The hardening of North Korea's targets has proceeded to such an extent that today there is no conventional weapon possessed either by the United States Air Force or the Republic of Korea Air Force that is capable of striking such targets with the accuracies and yields necessary to cripple them. There are no conventional weapons possessed by either force capable of neutralizing the important targets in North Korea. In fact, the bulk of the North Korean armed forces are protected by shelters that render them largely invulnerable to attack by nuclear weapons—at least those with the present accuracy and yields available for tactical forces.

The shocking situation depicted above was uncovered by a number of young Air Force targeting officers stationed in the Pacific during the past five years. Their findings and facts have been reported through the chain of command but in all probability are not appreciated by President Carter, the State Department, and his National Security Council advisers.

The fact of the matter is that airpower today is of little consequence in defense against a North Korean attack, except possibly in the rendering of close air support to retreating forces and in protecting those forces from air attack. The air battle remains all-important and must be won from the outset—although such a task is now rendered inordinately difficult by the nature of North Korean passive and active defense.

As to our naval forces, I am at a total loss to understand what they could contribute, given the changed facts of life in North Korea and the build-up of a substantial North Korean submarine force.

North Korea receives its support from the U.S.S.R., not from Peking. Consequently, I am unaware of what support Red China would render or what leverage it might have in inducing Pyongyang to restrain itself in the future. Also, North Korea has made remarkable progress in developing a native arms industry of its own. Hence it remains largely dependent of either the U.S.S.R. or China in meeting its basic ammunition requirements. SAMs and fighters, of course, come from the U.S.S.R.

In view of the above, I doubt very much that Peking is in a position to give any assurances such as described by Mr. Harsch.

Maj. Gen. John Singlaub knew whereof he was speaking when he reflected the studied judgments and opinion of many military experts who are informed at all about Korea, its defenses and the irrationality-paranoia of Kim Il Sung and his minions. The withdrawal of troops from South Korea is part of the politics of retreat which we now see being carried out in virtually all areas of our commitments abroad, save possibly in NATO.

FATHER DEAR

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. TEAGUE. Mr. Speaker, Ms. Thelma M. Jeffers, a constituent of mine from Ferris, Tex. has sent to me a poem which she wrote in 1939 to commemorate Father's Day.

Under leave to extend my remarks in the RECORD I insert this poem:

FATHER DEAR

They always speak of mother
With the heart of love so true,
And I think of you as often,
That your love is just as true.
Once more our privilege to honor you,
And our Heavenly Father above
With his tender care and protection
We still have you to love.
Happy years we've spent thus far, Daddy,
And if selfish I still must be
To humbly ask God our father
To watch over, and keep you for me.

F—is for Faith, that keeps his soul sublime.
A—is for After, the happy years left behind.
T—is for Truth, that has always been told.
H—is for Heart, as pure as gold.
E—is for Ever-ready, his hands are for me.
R—stands for Right, and right he will always be.

Put them all together, they spell Father,
And One that means the world to me.

SOLVING THE PROBLEMS OF THE PUERTO RICAN COMMUNITY

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. BADILLO. Mr. Speaker, as you know, I have long felt a special responsibility toward the Puerto Rican community of both the mainland and the island. In my testimony today before the Subcommittee on Civil and Constitutional Rights, of the House Judiciary Committee, I spoke of the need for specific bilingual community and economic development legislation which would be directed toward the particular problems of Puerto Ricans.

In order that my colleagues may be aware of my proposals and begin to take positive action in this critical area, I am introducing into the RECORD a copy of my testimony:

PUERTO RICANS IN THE UNITED STATES: AN UNCERTAIN FUTURE

Mr. Chairman, able colleagues: I am delighted to be here this morning in these familiar and comfortable surroundings with my old colleagues. And I am equally delighted that you have decided to take up the critical problems that are raised by the Civil Rights Commission Report on *Puerto Ricans in the Continental United States: An Uncertain Future.*

Let me state at the outset that all the findings in the report are accurate—as far as they go, and action should be taken immediately to put the report's recommendations into effect at the earliest possible time.

I must particularly praise the Commission's recommendations on improving the collection of data within the Puerto Rican community. Last year, I requested the Bureau of Labor Statistics to compile a study of the economic status of Puerto Ricans in New York, and although the results were as comprehensive as they could be, they were based on 1970 census statistics, the most current available. That to me is outrageous. We cannot really begin to identify not only our weaknesses, but our strengths as well, until the methods and programs of data collection are regularized and institutionalized. I see the implementation of that recommendation as a first priority.

However, what I would particularly like to address this morning is a problem that is only touched on in this report, and which causes the report to paint an unnecessarily bleak and demoralizing picture of the Puerto Rican community. To the Puerto Rican reading this report—and I must add that it created a great deal of anger and frustration within the Puerto Rican community when it was released—there is a picture that he or she does not understand. It is a picture of a community that has made no progress during the entire period it has existed on the mainland, a group that has nothing to show for a long life as a mainland community, as other migrant groups do. That is a very incorrect picture.

By studying the report, a simple fact emerges. We learn that prior to 1940, there was minimal migration to the mainland. Subsequently, for the past 35 years, a dramatic increase occurred. If we look at the chart on page 33, we discover that the median age of the Puerto Rican on the mainland is 19.8 years old. What happened to all those people who ostensibly have been here for 35 years without making any social or economic progress? Is it simply that the Puerto Ricans who came to the United States were luckier than Ponce de Leon, and discovered the fountain of youth? How else could people be here for 35 years and still be only 19.8 years old? The answer, simply, is reverse migration. This is an area that has only been touched on in the report. And that is its great failing.

To deal with the Puerto Rican community on the mainland as one with an "uncertain future" is like doing a study of Cleveland and calling it "America: An Uncertain Future". The Puerto Rican community is one community, on the island and on the mainland. Unlike other migrant groups, Puerto Ricans can travel between the two with ease—and they do. On the mainland, the Puerto Rican is an oppressed minority. On the island, the Puerto Rican is not.

The average tourist travelling to the island for the first time is always surprised to find a society structured much like any other state in the country. Yes, there are poor, and some of the worst slums do exist in San Juan. But there are middle class business people, and shopkeepers, and suburbs, and condominiums—in short, all the trappings of multi-economic class structure. And who lives in those buildings, and owns those businesses? Puerto Ricans, some of whom have graduated from the University of Puerto Rico, which has an undergraduate student body of well over 10,000 students. And some of whom have graduated from Columbia, and New York University, and Harvard and Yale—and have returned to the island.

But it is the poor who migrate to the mainland, looking for work, and only the poor. The migration from Puerto Rico was not a political migration, as in the case of the Cubans. It was not a religious migration, as in the case of the Jews who were expelled from Russia at the turn of the century. The migration of Puerto Ricans is purely economic. It is the poor with no marketable skills, no knowledge of English, and little and totally inadequate education who come to the cities of the United States from the rural areas of Puerto Rico. Accordingly, it follows that they would appear to be the most disadvantaged in any study of census statistics that includes only the Puerto Ricans on the mainland.

Let me give you a few examples: The last time I was in San Juan, I got into a taxi, and the driver said to me: 'Hey, Badillo, I voted for you last year." So I said "If you voted for me last year, what are you doing driving a cab in San Juan this year? His answer was that he had been driving a cab in New York, and since he spoke English and knew Americans, he got himself put on a list to be a cab driver in San Juan, where he has a little house in the suburbs, and there's a value put on his work. During the same trip, a water

at the El San Juan Hotel came up to me and said "Badillo, I voted for you last year." So I asked him the same question, and was told much the same thing. He had been doing the identical job in New York—waiting at the American Hotel—and that gave him the experience to make him a more valuable employee in San Juan. An even more telling incident happened in a class that I teach at the Graduate School of Education at Fordham University. One of my students, a Ph.D. candidate told me in no uncertain terms why he was going back to Puerto Rico to teach when he had his degree: "There," he said, "teachers are treated with respect, they call you Doctor, and the kids don't throw rocks at your head or use foul language."

So, given the reality that Puerto Ricans who come to the mainland are all poor, we must deal with their problems as with the poverty problems of every poor group in our society, and that, as we all know, is one problem that the Federal government has not really begun to come to grips with. All poor Americans are lacking in access to quality education, and all poor Americans lack the job training and social programs in the kind of quantity that can effectively begin to create some mobility for the poor. So, on one level, although it sounds simplistic, it is only too true that there will be no improvement in the lives of Puerto Ricans in this country until we begin to realistically deal with the severity of the problems facing all this country's poor.

At the same time, we must recognize the uniqueness of the Puerto Rican community, and its special needs and problems must be taken into account by Federal, state and local agencies. The Puerto Rican community has made very specific proposals to lift itself out of poverty and groups like Aspira, the Puerto Rican Forum, and others have been instrumental in developing programs that have helped. But private agencies, even with some government funding, cannot begin to do the job. What is needed is legislation for bi-lingual community and economic development programs. I propose that economic development programs, developed and formulated by Puerto Ricans to meet the particular needs of Puerto Ricans—be separately and directly funded by the Federal government. Included in such efforts would be the whole range of economic opportunity programs, assistance for small businesses, bilingual education and economic development.

There are several good reasons for this proposal. First, too often Puerto Rican projects have been shunted aside in the funding pipeline, and it is the entire community that has lost out. Second, Puerto Ricans are not concentrated in one specific area, and often do not benefit from various programs aimed at assisting one neighborhood or geographical area. For example, there are a large number of Puerto Ricans who do not live in one of the 26 poverty areas of New York City and accordingly, they are not benefiting from urgently needed assistance in housing, education, welfare, and other critical areas.

With respect to future migration, there is only one solution for dealing with the problems of Puerto Rico. And that is to begin treating the island as a reality in the life of this country. We must begin to include American citizens from Puerto Rico in legislation designed to benefit other Americans. I have fought for every penny of aid that Puerto Rico has received. There are limitations on the amount of Title I education aid the island receives. Although food stamp benefits are available, after a terrible struggle, may I add, other programs like SSI have not been. The only result of that is to make the island's proportion of food stamps astronomical. In New York City, Puerto Ricans may face language discrimination, but on the island discrimination has been institutionalized by the Federal government. Puerto Rico sent more than 25,000 men to fight in Vietnam, and yet its old and handicapped people can get no assistance on the island. However, if they can scrape up the plane fare to New York, those benefits are immediately available. I only believe that the citizens on the island should receive the same benefits as those on the mainland.

Secondly, the study points out that migration patterns have depended on economic conditions on the island, as well as the mainland. During the time of Operation Bootstrap, when increasing numbers of jobs were available, people remained in Puerto Rico. We must create an environment where people can remain on the island if they wish. That is a most constructive way of beginning to solve the problems of the Puerto Ricans on the mainland. Therefore I propose the establishment of an economic development plan for Puerto Rico.

I urge that the Federal government and the Commonwealth administration immediately undertake a thorough study of the island's current and future economic status with a view toward developing and presenting to the Congress a comprehensive economic development program which will close the current gap between the number of people who want to work and the number of jobs that are available for them. I envision such a program to be developed along the lines of the Appalachian Regional Development Act, designed to assist the Commonwealth in meeting its special problems, particularly in preventing another mass exodus to the mainland; in promoting and encouraging the island's economic development; and in establishing a framework for joint Federal and Commonwealth efforts in the area. The Congress should not be responsible for developing such a program, but the initiatives should be taken, and taken immediately, by the Carter and Romero Barcelo administrations. I want to make it clear that I do not intend that the Congress should impose a program for economic development on the people of Puerto Rico, but merely that it would provide such assistance as might be needed and requested to achieve a higher level of development. That is certainly a constructive direction for a more certain future for Puerto Ricans.

Mr. Chairman, colleagues, because I am Puerto Rican I feel a special responsibility for my people, whether they are on the island or the mainland. If that certain future is to become a reality, we must begin immediately and actively to implement the programs I have suggested. For only when Puerto Ricans share equally in the benefits of this country, will they become successful participants and contributors to our society.

AN APOLOGY TO OSHA

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. JACOBS. Mr. Speaker, Lincoln said:

If I have ever made an assertion not warranted by fact and it is pointed out to me, I shall withdraw it cheerfully.

The editorial referred to in the following was placed by me in the CONGRESSIONAL RECORD on June 3, 1977. When the Indianapolis News discovered its error, it published the following editorial. Since it just as easily could have simply let the matter pass, it has proved its superior quality by voluntarily correcting the record.

I herewith follow that good example. Fiorello LaGuardia said:

When I make a mistake, it's a beaut.

They put erasers on pencils because the other end can be dangerous.

AN APOLOGY TO OSHA

An editorial on this page late last month was sharply critical of OSHA for "telling us to clean off our desk tops."

The criticism was deserved if true. Unfortunately, due to a misunderstanding, it was not true. OSHA did not order any desk tops cleaned in our city room. The order came from editors who had been told the customary clutter in a news room probably wouldn't pass OSHA inspection.

We've been critical of OSHA in the past and may be in the future. But in this instance we were wrong and we apologize to the local OSHA office which has been fair and considerate in the other dealings we've had with it.

BUSINESS COMMUNITY JOINS EFFORT TO REFORM GRAND JURIES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. EILBERG. Mr. Speaker, in the June 23, 1977, issue of the Wall Street Journal we read of the growing number of businessmen, attorneys, and politicians who have urged reform of the Federal grand jury system.

This article, I believe, is a valuable contribution to the discussion now centering on H.R. 94. The House Judiciary Subcommittee which I chair is now considering this legislation to make the first comprehensive reform of Federal grand juries in our Nation's history.

I commend today's article from the Wall Street Journal to the attention of my colleagues:

[From the Wall Street Journal, June 23, 1977]

UNDER INDICTMENT: GM, OTHER UNLIKELY CRITICS ACCUSE GRAND JURIES OF ABUSING RIGHTS THEY ARE SUPPOSED TO PROTECT

(By Carol H. Falk)

WASHINGTON.—For years, complaints of abuse by grand juries came mostly from antiwar activists or other dissenters. Now some unlikely and powerful allies are joining this "minority" cause.

Businessmen, attorneys and politicians who have had personal experience as grand-jury witnesses in the post-Watergate era are throwing their influential weight behind legislation that would provide more protection for potential defendants called before grand juries. With this backing, sponsors are optimistic that such a bill can be adopted by the current Congress.

The old and the new critics contend that a grand jury seldom, in practice, serves its historic function as an independent shield to protect citizens against unjustified prosecutions by the government. Rather, they say, it usually does the prosecutor's bidding and, in the hands of a ruthless or ambitious government attorney, can be a sword to harass, intimidate or indict for political or publicity reasons.

SOME RECENT RECRUITS

The latest recruits to the cause range from the American Bar Association, which has endorsed a number of legislative restraints on grand juries and is due in August to vote on further recommendations, to Gen-

eral Motors Corp., which is resisting subpoenas from a grand jury investigating its taxes. A GM lawyer complained this week that the government was treating the matter like a "gangster case."

"Now we hear the hue and cry we should have heard when poor folks were objecting to grand-jury tactics," says Oscar Goodman, a Las Vegas defense attorney. The lesson that is hitting home, in effect, is one cited by Irving Younger, a professor at Cornell University Law School and himself a former federal prosecutor: "You protect the rights of the miserable and friendless precisely so that you have rights when it's your turn."

This doesn't mean, of course, that support for protective legislation is unanimous. Attorney General Griffin Bell says he is opposed to one key change: a provision that would permit grand-jury witnesses to be accompanies by their attorneys. He says he worries about creating a system of "two trials" because lawyers could raise or get their clients to raise the same kind of objections that can be raised in a courtroom.

MANY RIGHTS DON'T APPLY

The Fifth Amendment to the Constitution provides that a suspect can't be "held to answer" for a serious federal crime unless he is first indicted by a grand jury. The grand jury, a panel of citizens to whom the prosecutor presents evidence, operates in secret, theoretically for the protection of those who testify but who aren't themselves charged with any crime. Yet over the years, courts have held that many of the protections guaranteed a suspect by the Bill of Rights don't apply when he is called before a grand judy.

For example, besides having to face the grand jury without his lawyer present, a grand-jury witness can be forced to testify in exchange for a grant of immunity—a guarantee that his testimony won't be used to prosecute him. If he rejects immunity and insists on his Fifth Amendment right to remain silent, a witness can be cited for contempt and jailed. Plainly, abuses by grand juries can cost individual witnesses heavily in time, money and reputation.

While complaints about overreaching by grand juries have been raised for years, the outcry from dissidents intensified after passage of the 1970 Crime Control Act, which gave federal prosecutors additional power to use grand juries against organized crime, as well as against political leftists. Ironically, some of the law-and-order Nixon administration officials who were accused of encouraging the use of grand juries against dissenters in the early 1970s found they don't like the system much when they themselves had to face grand juries on Watergate-related charges.

ISSUE CONCERNING ATTORNEYS

Former Nixon Treasury Secretary John Connally has urged that grand-jury witnesses be given the right to be accompanied by their attorneys. He and other high officials who were accused of wrongdoing have also complained that promises of lenient treatment can be used to coerce a potential defendant into false implication of higherups. Mr. Connally was acquitted in a 1975 trial of charges that he accepted bribes from a giant dairy co-op. The trial jury apparently didn't believe the story of his chief accuser, Jack Jacobsen, who had been allowed to plead guilty to reduced charges in return for the testimony on which the Connally indictment was based.

General Motors is raising an increasingly discussed issue: the extent to which supposedly secret grand-jury material can be shared with Executive Branch agencies, such as the Internal Revenue Service, that provide technical assistance to the grand jury. GM contends, in court papers filed in April, that the IRS is using a grand jury's subpoena powers to conduct a tax investigation that the agency should be handling on its own.

In moving to quash the subpoenas or else to restrict the use of the data, GM cited a ruling last November by a federal appeals court in San Francisco. The appeals court found that a lower court had gone too far in granting 24 IRS employes access to materials turned over to a grand jury by J. R. Simplot Co. and Simplot Industries Inc. of Boise, Idaho; John Simplot, who controls the companies, made headlines last year with a huge default on potato futures.

Noting that the grand jury has powers justified by its function "in accusing individuals of criminal acts," the court said that justification doesn't apply "when grand-jury material is used for civil tax liability."

The government, for its part, says it hasn't any intention of using the information sought from GM for civil tax purposes. Rather, the Justice Department maintains it is investigating allegations of criminal activity and needs the tax agency's expertise. As for the Simplot case, the government has asked the appeals court to withdraw its opinion, suggesting that the issue is moot because Mr. Simplot and his two companies last month pleaded "no contest" to charges of criminal tax violations.

Antitrust cases also are providing recruits for the cause of grand-jury restraint. William Lurie, general counsel of International Paper Co., which has been a target in several industry-wide grand-jury investigations, complains of "extremely vague and broad" subpoenas covering as much as 15 years of company records. A particular frustration, he adds, is that "there is no mechanism to insure that anything . . . that would tend to negate guilt is brought to the attention of the grand jury."

Mr. Lurie asserts that "you need due-process protections in grand-jury proceedings just as much as in a trial—or more," because "sometimes the economic risks are so great you can't afford to go to trial and bet your company."

He explains that "unless your case is 100% pure," there is a strong incentive to settle a broad antitrust indictment with a "no-contest" plea. That's because, if the company risks a trial and is convicted on government antitrust charges, the verdict can be used as the basis for costly treble-damage claims by private plaintiffs.

UNHAPPY ATTORNEYS

Attorneys, as well as their clients, have been complaining of grand-jury harassments. Mr. Goodman of Las Vegas heads a committee of criminal defense lawyers that aids attorneys subpoenaed by grand juries seeking information about their clients. An attorney who himself is being pressured by a grand jury isn't likely to be effective in representing his client, Mr. Goodman asserts.

He cites examples of defense attorneys subpoenaed to testify about relations with their clients, including the amount and the source of their fees. Federal appeals courts have differed on whether this is a proper area of inquiry, but at least some lawyers have been cited for contempt and jailed for refusing to provide the information.

Charles Berry, an Albuquerque attorney, was subpoenaed to deliver five years' worth of his law firm's financial records to a grand jury looking into allegations of illegal campaign contributions and bribery of former state officials. He explains that records of over 5,000 clients were involved and that some of the records dealt with cases not yet resolved. The financial records included the names of clients and, in certain instances, references to witnesses interviewed.

A LAWYER JAILED

Mr. Berry refused to yield the documents, was cited for contempt and "sat in jail six months." After losing all his appeals, he turned over the records and was released last December. A government attorney says that Mr. Berry himself was never a target of the inquiry and that the grand jury wasn't interested in the names of his clients. Rather, the law firm was thought to have had "some business relationships" with a former state official who was being investigated. The man was indicted but was acquitted in a trial.

Some critics, contending that grand juries don't serve their constitutional "shield" role and are a waste of taxpayers' money, argue that they should be abolished. Most critics, however, are willing to settle for changes intended to protect witnesses better. They note that many prosecutors, including Richard Gerstein, the state attorney in Miami who is leading the ABA drive for grand-jury legislation, have operated successfully for years with self-imposed restraints.

In Congress, several lawmakers are promoting legislative treatments for the most common complaints. Rep. Joshua Eilberg, a Pennsylvania Democrat, has introduced a measure that would allow lawyers in grand-jury rooms to advise witnesses, though it wouldn't let them raise formal objections or address the jury.

"USE" IMMUNITY PROVISION

The Eilberg bill, cosponsored by Rep. Hamilton Fish, a New York Republican, would also eliminate the so-called use immunity permitted by the 1970 crime law. A grand-jury witness granted use immunity can't be prosecuted on the basis of his own testimony but can be charged if prosecutors show they are relying on evidence from other sources. The Eilberg bill would provide that someone testifying under immunity couldn't be prosecuted under any circumstances for the action involved.

The bill also provides that a witness who refused to testify after being granted immunity couldn't be jailed for contempt for more than six months. Currently a balky witness can be jailed for the full 18-month life of a federal grand jury and then can be called before new grand juries and jailed repeatedly.

The Eilberg bill would also give the grand jurors more independence from the prosecutor by empowering them to hire their own lawyer. Attorney General Bell says he might go along with the idea of having a judge appoint such a lawyer for the grand jury, if the judge felt it necessary.

A somewhat similar measure has been introduced in the Senate by James Abourezk, a South Dakota Democrat, and a bill sponsored by Rep. John Conyers, a Michigan Democrat, would go further—letting a witness remain silent without being cited for contempt.

Thus far, a House Judiciary subcommittee led by Mr. Eilberg has held several days of hearings on grand-jury legislation, and it has scheduled more this month. The aim is to get a bill set for floor action by year-end.

HIGH MEDICAL COSTS

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. KINDNESS. Mr. Speaker, last year the total cost of health care to our citizens represented more than 8 percent of our gross national product. Many experts are indicating that this cost will exceed 10 percent within a few short years.

It is obvious that medical care costs will continue to rise until we as a nation become ready and willing to deal with the root causes of inflation, duplication

of hardware and services, the environment which produces illness and, perhaps, most importantly, our own unhealthy lifestyles.

Beyond all those kinds of things we must do to make more efficient our health care delivery and financing system, we must also attack the cost problems caused by decades during which the American people have become far too reliant on the professional health care system to cure their every ache and pain.

At the first sign of a cold, we call a doctor when we know he cannot cure a cold. He tells us to take two aspirin and go to bed. We do it because he said so and then we are mad because he sends us a bill. The unnecessary use of the medical care system costs us billions yearly. And mostly we are content to just complain about the cost.

Blue Cross and Blue Shield companies in Ohio have recognized that people, in many instances, increase the cost of health care needlessly. They feel that people should be better abie to make health care decisions for themselves before seeking unnecessary and expensive professional care.

As part of a massive public education program in Ohio, Blue Cross and Blue Shield are providing a low-cost way to help our citizens react to illnesses and accidents in a logical step-by-step manner.

They are making available to hundreds of thousands of Ohioans a family health and medical guide written by two doctors, Donald M. Vickery and James F. Fries, entitled "Take Care of Yourself—A Consumer's Guide to Medical Care."

Written in nonmedical terms, one prominent medical writer said this about "Take Care of Yourself * * *":

It reminds us that the proper way to health is the personal responsibility of each of us. This medical guide provides enough accurate information regarding common ills and emergency treatments to enable the average layman to eliminate many visits to doctors' offices, or trips to hospitals, saving them many hours of time and vast sums of money each year. It provides the reader with some rational method of deciding when to avail himself of the vast array of medical services currently available to him.

Mr. Speaker, at this time I would like to commend Medical Mutual of Cleveland, Inc., Blue Shield, Ohio Medical Indemnity, Inc., Blue Shield, Blue Cross of Northeast Ohio, Blue Cross of Northwest Ohio, Blue Cross of Central Ohio and Hospital Care Corp., which includes Southwest Ohio, Blue Cross of Lima and Blue Cross of eastern Ohio, for this outstanding example of private enterprise dealing with one of our country's most pressing problems.

BAD AFRICAN POLICY

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. EDWARDS of Oklahoma. Mr. Speaker, the U.S. policy in Africa leaves many questions to be answered. Our Government seems eager to recognize such Marxist dictatorships as those which have been imposed by force upon Angola and Mozambique. These, in fact, have been imposed with the outside intervention of Cuban troops and Soviet supplies. Yet, when an anti-Communist black African state achieves independence peacefully, we refuse to recognize it.

On October 26, 1976, Transkei declared its independence from the Republic of South Africa. The interesting historical fact is that Transkei is, in reality, older than South Africa itself. It was a colony of Great Britain prior to being added to the Union of South Africa by Great Britain in 1910—without consultation or a public referendum. Prior to 1854, the people of Transkei lived in complete independence. The historical legitimacy of this nation is very clear.

While the United Nations passed a resolution rejecting it, it must be remembered that the U.N. is the same body which, while opposing the legitimacy of Transkei, has gone on record repeatedly in support of the legitimacy of such terrorist groups as the Palestine Liberation Organization. In its 1977 Comparative Survey of Freedom, the respected organization, Freedom House, declared that—

We do not accept the argument that Transkei should not be accepted as an independent state.

The United States has not recognized Transkei. According to contemporary moral standards, columnist John Chamberlain notes, "Transkei's crime" is that "it got its freedom without bloodshed. A terrible thing in this year of 1977 of the Christian area." Transkei does not practice apartheid and follows a free enterprise philosophy.

Traditionally, there are four criteria regarded as constituting grounds for recognition of statehood. These are: First, the existence of a permanent population; second, the occupation of a defined territory; third, evidence of a capacity to exercise stable and effective government; and fourth, possession of a sovereign independence.

By these standards, Transkei is entitled to the world's recognition.

I wish to share with my colleagues the thoughtful column on this subject by John Chamberlain.

BAD AFRICAN POLICY

John Davenport, in a notable editorial in Barron's Weekly, makes the incontestable point that our African policy supports guerrilla warfare and utterly subverts the rule of law upon which the UN is supposedly based.

The deal made between Rhodesia's Ian Smith and Henry Kissinger supposedly guaranteed a two-year period for hammering out a majority rule constitution that would be acceptable to Rhodesia's six million blacks and 270,000 whites. But the agreement went into the waste basket at Geneva because of the intransigence of extremist leaders who certainly control no more than a minority of the Rhodesians. These leaders want instantaneous control of the constitution-making process and are prepared to use murder, even the murder of other blacks, to get their way.

The U.S. Congress, in using the ban on Rhodesian chrome to curry favor with the intransigents and to pressure Ian Smith into immediate capitulation, has, in effect, told the guerrillas to go right ahead with their cross-border raids from foreign bases in the so-called front-line stages of Mozambique and Zambia. It is an ancient axiom in international law that it is banditry or aggressive warfare to use foreign bases to support civil strife inside a country. The fact that anti-Castro Cubans trained for the Bay of Pigs in Florida and Central America does not excuse similar practices on the soil of Mozambique.

Our moralism, directed at the CIA for its role in the Cuban crisis, does not carry over in the present double-standard situation which has witnessed UN endorsement of what has been going on in Mozambique to subvert Rhodesia. One can only conclude that nobody in power cares what atrocities are committed in the name of guerrilla justice.

The irony is underscored by the U.N. treatment of the new South African Republic of the Transkei, which recently achieved its independence from South Africa. As far as one can see the Transkei possesses all the attributes of a sovereign state.

It is infinitely freer than East Germany or Hungary. It has elected its own leader, Paramount Chief Minister Kaiser D. Mantanzima. Unlike South Africa it does not practice apartheid. Whites are welcome to own their own businesses, the schools are integrated, mixed bathing at the public swimming pools is accepted as common practice. It is Chief Mantanzima's proud claim that he has pioneered the breakup of South Africa in its present apartheid-loving form.

The Transkei has its own army. It would hardly dare attack South Africa, but in this it does not differ from Botswana, Lesotho and Swaziland, the other free enclaves in the territory south of Rhodesia. Botswana and Lesotho are accepted by the world community as legitimate nations. They had the good luck to be freed by Britain directly.

The Transkei, by some freak, was handed over by the British to the South African Union without consultation. But being freed by South Africa is apparently different from being freed by Britain, though one can hardly see why. It isn't as if the South Africans had limited the independent Transkei to a territory insufficient to support two million Xhosa-speaking tribesmen. The land is lush enough to become, in some expert opinion, the breadbasket of the whole southern tip of Africa.

The U.N. may frown on the Transkei, but investors from U.N. countries keep offering more investment capital than the Transkei economy can absorb. The West Germans are there with heavy sawmills, furniture factories and textile establishments. The Italians provide leather goods, wool textiles, and the industrial gloves as well as housing.

DALE ENGLISH OF THE COURIER-EXPRESS SUGGESTS REFORMS OF COSTLY WELFARE ABUSES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. KEMP. Mr. Speaker, true reform of welfare—by this I mean reform which would result in more cost-efficient delivery of assistance to the truly disadvantaged and at the same time be much less burdensome to American taxpayers—remains an urgent goal for us in Congress.

At the same time, it sometimes seems to me that there are almost as many recommended approaches toward the goal of reform as there are so-called welfare experts.

As the veteran and articulate staff writer for the Buffalo Courier-Express,

Mr. Dale English, points out in a recent article, many reform advocates simply continue to urge changes with labels of "new", "improved", or "more."

Mr. English reports that Richard V. Horan, welfare inspector general for the State of New York, has disclosed that new welfare systems which were supposed to make welfare cheaper and more efficient have, in fact, resulted in a caseload error rate of 37 percent.

Put another way, Mr. Horan found that more than one-third of the welfare recipients are either ineligible for benefits or are improperly paid.

To counter this high rate of abuse and error, this public official urges a return to discarded case management systems which required home visits by case workers and other eligibility determination methods.

Mr. Speaker, I am convinced that Mr. English's account has portent for every community and every State in our Nation. I believe it adds perspective to our deliberations.

With permission, I would like to include his story in the RECORD for the benefit of our colleagues:

"OLD" WELFARE SYSTEM WORTH ANOTHER TRY

(By Dale C. English)

Probably the rarest breed of all public officials are the ones who claim the modern way of running a program is all wet and urge a return to the good old days.

Most officials are like the people selling laundry detergent or paper towels—everything we do has got to be new, improved, bigger, or more something-or-other.

The difference is there are a million guys selling soap or towels, but almost nobody in public life will admit that "older is better" when it comes to serving the public.

And once you make such a sweeping statement, there's always an oddball coming down the pike to kick your generalization right in the head.

Take welfare, for instance.

For several years now, the officials have been telling us it's no good for caseworkers to drop in on recipients' homes, and that it's a no-no for the caseworkers to help determine whether their clients are eligible for welfare and if so, how much welfare they need.

Much better, they said, for the client to fill out a form and hand it to a clerk, who would give it to an "income maintenance" person. The "income maintenance" person, without ever meeting the poor (or not so poor) applicant, would decide what the person was entitled to.

He took the numbers the client wrote on a piece of computer paper and computed, using regulations about as intelligible as those things insurance agents use in saying how much more protection you need.

Nobody bothered to see if the applicant had three color TVs, a couple of jobs, a live-in girl friend with a red sports car or whatever.

Somehow that would streamline the process of handing out public funds to the needy, who after all were scrupulously honest people down on their luck.

Now for the kick in the head.

Along comes Richard V. Horan, New York welfare inspector general, who says that the very system which was supposed to make welfare cheap, efficient and nondegradable is no good.

Horan got what he called a "statistically valid sample" of welfare recipients in New York City from the U.S. Dept. of Health, Education, and Welfare's Audit Agency and studied them.

When he was through Horan said the error rate was 37 per cent—that more than one third of those in the sample were either totally ineligible for assistance or were improperly paid.

"This over-all error rate of 37 per cent translates to an estimated loss of $244 million in public assist..nce alone. It is exclusive of losses for other related services to welfare recipients and such as medicaid and day care," Horan declared.

Those funds, actually $243.6 million come from federal, state and New York City taxes. They represent $78 million in federal money and $82.8 million each from the state and the city.

"The highest rate of ineligibility and overpayments . . . adds further weight to my position that the present system of welfare administration is seriously in need of substantive reform," Horan said.

"This calls for a return to the case management system associated with home visits and the reinvolvement of caseworkers in the eligibility determination process," he added.

Granted, New York City probably has the biggest welfare load in the country but the same system used there to process clients is used throughout the state.

Horan' comments presuppose that caseworkers would catch every actual or potential cheat—something which probably would not happen—but might not it be worth a try, at least on a "pilot" basis? The officials seem to come up with pilot programs for everything else when the spirit moves them.

But given the present chaotic state of welfare and the prospects (zero) for reform by the State Legislature this year might not we try something new (oops, old)? It just might help.

FIFTY-NINE FROM NORTHEAST PHILADELPHIA AWARDED CITY SCHOLARSHIPS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. EILBERG. Mr. Speaker, it gives me a great deal of pleasure to be able to announce that 59 high school graduates from Northeast Philadelphia, which I have the privilege to represent in the U.S. Congress, have been awarded city scholarships for the academic year 1977–78.

These 59 fine young students from my congressional district are among 200 high school graduates in Philadelphia who have been notified of these scholarship awards by Mayor Frank L. Rizzo.

The scholarships can be used only in accredited colleges and universities in Philadelphia, Montgomery, Bucks, Delaware, and Chester Counties, and in those institutions which offer baccalaureate programs. The city scholarships are administered by the mayor's Office of Education, and are awarded to students whose parents are bona fide residents of Philadelphia and who meet the requirements of leadership potential and academic performance.

I want to extend my heartiest congratulations to these fine young people, and to extend my best wishes to them as they prepare to embark on their postsecondary education. Their achievements in winning these scholarships indicate that they are marked for success in the years ahead. They are a credit to their parents, their teachers, and their schools.

It gives me great pleasure, Mr. Speaker, to inscribe on the RECORD the names, addresses, and high schools of these scholarship winners from the Fourth Congressional District of Pennsylvania:

LIST OF SCHOLARSHIP WINNERS

Rosemarie Anne Arnold, 9310 Cloverly Rd., Archbishop Ryan High.

Jill Marcy Bellak, 9717 Chapel Rd., George Washington High.

Kathleen Marie Bender, 7030 Old York Rd., Cardinal Dougherty High.

Adrienne Irish Berger, 611 Avon St., George Washington High.

Donald S. Burak, 936 Princeton Ave., Northeast High.

Mayra Canales, 8745 Jackson St., St. Hubert's High.

Debra Frances Charles, 1006 66th Ave., High School for Girls.

Linda Ellen Cohen, 1132 Bloomdale Rd., George Washington High.

Jodi Helene Cooper, 2156 Hoffnagle St., Northeast High.

Joanne Esther Crespy, 134 Nandina St., George Washington High.

Sharon Marcie Dabrow, 6624 Souder St., Northeast High.

Margaret M. Donaher, 140 W. Olney Ave., Cardinal Dougherty High.

Gerald M. Doughterty, 7700 Oxford Ave., Cardinal Dougherty High.

James Coy Driscoll, 105 W. Luray St., Parkway Program.

Alyce B. Fishman, 1131 Englewood St., Northeast High.

Helene Caron Freeman, 166 E. Farison Dr., High School for Girls.

Steven B. Freilich, 607 Brighton St., Northeast High.

Lori A. Gagajewski, 7136 Bustleton Ave., St. Hubert's High.

Ellen A. Gaston, 303 Claremont Rd., High School for Girls.

Janet M. Gibson, 3034 Windish St., St. Hubert's High.

Sherin R. Gobran, 5909 Castor Ave., Nazareth Academy.

Julie F. Goldberg, 1219 Stirling St., Northeast High.

David Goldstein, 1112 Hellerman St., Girard College.

Margaret M. Haag, 3235 Unruh Ave., St. Hubert's High.

Joanne B. Hannah, 5427 Akron St., Nazareth Academy.

Mary M. Harrigan, 9233 Wooden Bridge Rd., Archbishop Ryan High.

Thomas J. Holmes, 6712 N. Lawrence St., St. Joseph's Preparatory.

Patricia C. Insall, 4619 Whitaker Ave., Cardinal Dougherty High.

Vanessa M. James, 6509 N. Woodstock St., Martin Luther King High.

Vicki A. Kern, 5434 Large St., Frankford High.

Charles L. Klecha, 9336 Annapolis Rd., Abraham Lincoln High.

Mitchel Kruger, 915 Glenview St., Northeast High.

Lynne Lieberman, 1990 Merlin Rd., George Washington High.

Gerard F. Lipski, 5343 Akron St., Father Judge High.

Gail Litz, 6806 N. 12th St., High School for Girls.

Daniel W. Malloy, 514 Larkspur St., Archbishop Ryan High.

John F. Maloney, 1121 Chesworth Rd., Archbishop Ryan High.

Linda McCaffrey, 151 W. Albanus St., High School for Girls.

Joan C. McCracken, 528 66th Ave., Cardinal Dougherty High.

Joanne E. McGrother, 6326 Hasbrook Ave., Northeast High.
Margaret A. McKaig, 4410 Carwithan Rd., St. Hubert's High.
Patricia A McKenzie, 2877 Stamford St., Archbishop Ryan High.
Patrick J. McLoone, 255 W. Lindley Ave., LaSalle College High.
Susan M. Memberg, 1125 Plane Rd., George Washington High.
Cory F. Newman, 1310 Glenview St., Northeast High.
Antonio W. Nicosia, 654 Atwood Rd., St. Joseph's Preparatory.
Annamarie F. Organ, 3602 Morrell Ave., Archbishop Ryan High.
Emilia Ann Puma, 3125 Magee Ave., St. Hubert's High.
Anne M. Roy, 3322 Friendship St., St. Hubert's High.
Kathleen M. Sandman, 4502 Strahle St., St. Hubert's High.
Rosanne Sarkissian, 7905 Anita Dr., Melrose Academy.
Michael L. Seigel, 1206 Magee Ave., Northeast High.
Susan I. Shulman, 6063 Roosevelt Blvd., Northeast High.
Mark A. Swartz, 140 W. Spencer St., Olney High.
Matthew J. Toth, 2825 A. Walnut Hill Rd., Father Judge High.
Joseph X. Vazquez, 156 W. Olney Ave., Cardinal Dougherty High.
Patricia Ann Witkowski, 218 W. Nedro Ave., Cardinal Dougherty High.
John J. Wong, 638 Mayfair St., Cardinal Dougherty High.
Robert Marc Zeidman, 9801 Clark St., George Washington High.

PETER KOSTMAYER OPPOSES B–1

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. KOSTMAYER. Mr. Speaker, to further underscore the apprehension many of us who oppose the B–1 bomber have as we await a decision by President Carter on this issue, I wish to share with my colleagues a news article from this morning's Washington Post detailing the excessive, newly projected cost estimates for the B–1.

The article points out that a recent General Accounting Office study now estimates the cost of one bomber at $112 million, instead of the $93 million previously stated by the Pentagon. Senator JOHN CULVER of Iowa is quoted in the story as having received data actually pushing the price of the bomber up to $117 million.

Also, today, the Post's award-winning cartoonist Herblock illustrates on the editorial page the inconsistency of a possible Presidential go-ahead on the B–1 with the Presidential goal of balancing the budget by 1981, a goal many of us in the House want to help him achieve.

The article provides yet another example of how Pentagon estimates are shaded to favor their objective of building these excessive and wasteful weapons systems no matter how great the cost to the taxpayers or how questionable the strategic values of the system.

The cartoon reminds President Carter of his own opposition last year during the campaign to what Herblock aptly terms a "multibillion dollar flying gravy boat" pushed more in the interest of the Pentagon contractors, than national defense needs.

B–1 JETS MAY COST $112 MILLION EACH, GAO SAYS

(By George C. Wilson)

A Pentagon estimate withheld from the public in the last days of the Ford administration put the cost of the B–1 bomber at $112 million a copy instead of the advertised figure of $93 million, according to a General Accounting Office analysis released yesterday.

Sen. John C. Culver (D-Iowa) said in releasing the GAO summary that other data he has received actually pushes the price of the bomber up to $117 million.

The climbing cost estimates of the B–1 come as President Carter nears his decision on whether to put the bomber, the most expensive combat plane ever built, into full production.

He said during his election campaign that it would be "wasteful" to produce the bomber but lately has been showing signs of reversing himself.

Elmer B. Staats, head of the GAO, which serves as Congress' cost accountant, wrote Culver that his agency had been denied access to the higher Pentagon cost estimates until recently.

The GAO discovered that in addition to the Air Force cost report that then Defense Secretary Donald H. Rumsfeld had accepted—that 244 B–1 bombers could be bought for $22.8 billion or $93 million each—there were two independent analyses casting doubts on the estimate.

Rumsfeld's own cost review team, Staats said, considered as "most reasonable" the analysis that argued $22.8 billion was 20 per cent below the most likely cost of developing and building 244 B–1 bombers.

Adding that 20 per cent increase, or $4.56 billion, raised the $22.8 billion estimate Rumsfeld publicized to $27.36 billion, or $112 million a plane.

Culver said yesterday that the Ford Administration "obviously" put out the lowest figure for fear of jeopardizing "this unnecessary and wasteful program."

Since Carter became President, the Pentagon has acknowledged that the B–1 is likely to cost $101.7 million a copy but has yet to endorse Culver's estimate of $117 million each.

Both the House and Senate have authorized the Air Force to spend $1,261 billion in fiscal 1978 to produce five more B–1 bombers. Three were authorized last fiscal year.

Carter, if he does keep the B–1 in production, is expected to recommend building fewer than the 244 planes the Air Force wants.

Pentagon sources predict there will be a mixture of B–1 and older B–52 bombers until Carter assesses the prospects for reaching a strategic arms control agreement with the Soviets.

Lt. Gen. Alton D. Slay, Air Force research chief, said in recently released testimony before the Senate Armed Services Committee that although the B–1 would be harder than the B–52 to shoot down, "we have never said that it is going to be an easy task to shoot that B–52 down in 1985."

NICARAGUA AND THE HUMAN RIGHTS ADVOCATES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. McDONALD. Mr. Speaker, although its most cunning and astute organizer and spokesman has been lost—murdered Soviet agent of influence Orlando Letelier—the so-called human rights activists concerned with protecting the "right" of Marxist terrorists to impose cruel systematic totalitarianism in Latin America and the Caribbean persist in their efforts.

Central America is as much a target, if not more of one, for Cuban and Soviet-backed revolutionary terrorists and subversives as are the nations of the southern cone—Argentina, Chile, Brazil, and so forth. Some Marxist analysts believe it would be much easier to subvert the smaller, nonindustrial Central American countries and to use them as bases for future aggression. Nicaragua, strategically situated so as to provide a possible location for a sea-level Caribbean-Pacific Canal, is the prime Central American target for Soviet and Cuban-sponsored terrorist and slander operations.

Among the groups leading the attacks on Nicaragua are the North American Congress on Latin America (NACLA), described by SDS as its founding as the "intelligence gathering arm of the movement;" the Washington Office on Latin America (WOLA); Non-Intervention in Chile (NICH), a support group for the MIR terrorists which was in liaison with Letelier; the Castroite Communist Puerto Rican Socialist Party (PSP); and Non-Intervention in Nicaragua (NIN), which supports the FSLN terrorist group whose founder and leader was trained in Moscow and whose initial recruits were sent to Havana for terrorist training with the aid of the Soviet Ambassador.

NIN operates from three addresses: P.O. Box 28568, Washington, D.C. 20005; P.O. Box 1959, San Francisco, Calif. 94101; and from P.O. Box 2114, Los Angeles, Calif. 90021 (213/487–0286). The Los Angeles box is also used by "Gaceta Sandinista," a publication whose Washington address, P.O. Box 32308, Washington, D.C. 32308, is shared by the Latin American Civic Committee. NIN lists one Gregorio Gomez as coordinating secretary of the Los Angeles chapter, and its sponsors as Timothy Harding, professor of history, California State University, Los Angeles; Norma Chinchilla, professor of comparative culture, University of California, Irvine; and Blase A. Bonpane, a professor of political science at the Northridge campus of Cal State.

Bonpane, when a priest of the Maryknoll order, was expelled from Guatemala along with a small group of other American Maryknoll priests and nuns because they were working in and with the terrorist FAR—Fuerzas Armadas Revolucionarias. Bopane, a guest of the Central Committee of the Cuban Communist Party in Havana in 1969, eventually left his religious order. He now appears to devote his full time to promoting Leninism in Latin America with the Los Angeles Group for Latin American Solidarity (LAGLAS) in which Timothy Harding is also active. It should be noted that the activists of the Latin American "solidarity" groups do not generally specialize in just one country. Harding, for example, has supported a number of anti-Chile and anti-Brazilian groups prior to and concurrent with his anti-Nicaraguan work.

NIN, which is a group composed mostly of American citizens, works closely with the Latin-American Civic Committee (LACC) whose membership is mostly Nicaraguan radicals resident in this country. LACC has chapters in Washington, D.C., Los Angeles, San Francisco, and San Jose; it was formed early in 1975 when the Nicaraguan government commenced an all out drive against the FSLN terrorists. LACC also has overseas groups in Mexico, Costa Rica, Honduras, and Venezuela.

NIN describes itself as a "national support committee with a broad representation of women and men who recognize our responsibility to oppose U.S. imperialism everywhere, and in particular, Nicaragua." "Anti-imperialism," of course, is the key cry of contemporary Marxist-Leninists, after Lenin's "imperialism is the highest form of capitalism."

NIN states that—

> We understand that through organized support we can complement and advance the work of Nicaraguan solidarity committees such as those in Costa Rica, Panama, Honduras, Mexico, L.A. (Los Angeles), S.F. (San Francisco), Washington, etc.

In other words, those who are working in NIN are under the direction of the FSLN and its sympathizers. Other NIN chapters are being formed in San Diego, at the University of Massachusetts at Amherst, and at the University of Minnesota where Venceremos Brigade veterans, anti-Chile activists and others are adding anti-Nicaraguan work to their existing assignments.

NIN described its initial goals as:

1. To create a strong base of support in the U.S. for the Nicaraguan People's struggle for self-determination;
2. To end U.S. and corporate aid, both military and economic, to the Somoza regime.
3. Call for the observation of human rights in Nicaragua.
4. Demand freedom for all political prisoners and an end to the torture in Nicaragua.

Among those active with the NIN/LACC are Roberto Vargas; Robert Cohen; Veronica Hayes; Martha Cline and Alejandro Murguia.

In Washington, NIN works closely with the Washington Office on Latin America (WOLA), 110 Maryland Avenue NE., Washington, D.C. 20002. WOLA is a member of the coalition for a new foreign and military policy (CNFMP), the antidefense lobby which works with the Soviet Union's World Peace Council in Helsinki. It will be recalled that a WCP subsidiary in Helsinki was one way Soviet money was being channeled to Orlando Leterlier to subsidize his operations.

WOLA has been active in aiding NIN's Marxist Nicaraguan comrades in setting up U.S. tours and public appearances.

In February of this year a priest named Ernesto Cardenal spoke at several Washington press conferences arraigned by WOLA. Cardenal is a leader of the Marxists within the church in Nicaragua. It is a fact of life that in a number of Latin American countries, the church is the leading organization except for the government or the military; thus the churches were targeted for subversion and infiltration. Ernesto Cardenal, who appears about 60 years old, was not ordained until 1965. In 1970 he was a "literary judge" at the Cuban Casa de las Americas in Havana, a huge complex of buildings which provides a "cultural cover" for activities of the Cuban DGI.

Cardenal denounced Nicaraguan-United States relations as "another Vietnam," a phrase used repeatedly by NIN, admitted that he was an FSLN sympathizer, and bragged about the support given to his "human rights movement" by the Bishop of Managua. As for his claim to being a poet, Cardenal described his "poetry" as a "means of prophetic denunciation" that he "uses."

When asked whether he intended to take up arms himself as a terrorist in the manner of the Spanish priest in Colombia, Camilo Torres killed in 1966, Cardenal stated:

> No, my battle is with other arms. * * * I can do more by writing.

When asked he considered that Cuba was also a totalitarian state, Cardenal replied that Nicaragua and Cuba were different cases, "Cuba is a dictatorship of the proletariat." He brushed off questions about the long imprisonment of Huber Matos in Cuba stating that he had asked the Cuban Government about Matos and that they gave him the reasons Matos was jailed. This satisfied him.

Cardenal went on to conclude with the statement that—

> There must be an integration of the Church and Marxism.

He concluded the conference without answering the followup question:

> Isn't this like saying that evil can assimilate virtue and virtue can assimilate evil?

After leading activist in the anti-Nicaraguan campaign is Father Miguel d'Escoto, director of communications for the Maryknoll Order in New York. d'Escoto rivals Cardenal for inflamed rhetoric unsubstantiated by documentation.

Father d'Escoto testified on April 21, 1977, before an Appropriations subcommittee against U.S. military assistance to Nicaragua. After citing various statements of Father Cardenal denouncing the Nicaraguan Government, d'Escoto offered a number of exhibits as evidence to back up his statements. These included a book on the Nicaraguan National Guard by Richard Millet. Father d'Escoto wrote the introduction to that book, and it is heavy with Marxist rhetoric and calls for revolution.

Also significant was what he called "a just finished and as yet unpublished article by Penny Lernoux who visited Nicaragua within the last month and held over 30 interviews with people all over the country." He described her credits as writing or contributing to The Nation, Newsweek, Newsday, and the Washington Post. He did not mention that Miss Lernoux is far better known as a contributor to Pacific-News Service (PNS), a Marxist propaganda distribution network set up by the Institute for Policy Studies' California offshoot, the Bay Area Institute. PNS material can be most accurately described as the most degenerate form of advocacy journalism currently being republished by the mass media.

The hearing record reprinted Miss Lernoux's lengthy article. Clearly it was not coincidental that on June 13, 1977, 2 months after the hearing, the Washington Post chose to publish a considerable selection from that article on the day before the vote on military assistance to Nicaragua was due.

The anti-Nicaraguan campaign is being highly instructive. We see that irresponsible opponents of the Nicaraguan Government headed by President Somoza apparently would prefer to see the Nicaraguan people delivered into the hands of Marxist-Leninists who allow no human rights at all, rather than accept a system where some political rights are restricted under a condition of martial law declared after the FSLN resurgence in December 1974. Let us hope that the people of Nicaragua and their leaders have the wisdom and courage needed to wage the necessary protracted struggle against Communist aggression in Central America.

WHISTLE-BLOWERS HALL OF FAME: ROBERT D. BARNES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mrs. SCHROEDER. Mr. Speaker, I would like to call my colleagues' attention to the case of Robert D. Barnes, a former attorney of the Navy's Aviation Supply Office, who exposed an equipment contract boondoggle and was repaid with 6 years of unemployment and harassment.

The article on Mr. Barnes was done by the Project on Official Illegality of the Institute for Policy Studies, 1901 Q Street NW., Washington, D.C.:

ROBERT D. BARNES

Robert D. Barnes, a former attorney for the Navy's Aviation Supply Office, advised agency procurement personnel on legal aspects of making and administering government contracts for military hardware until he was fired in 1971. He lost his job because he questioned the handling of certain government contracts which he believed represented probable fraud and unlawful preferential treatment resulting in considerable waste to the taxpayer.

Mr. Barnes' problems arose when he began to review the Navy's contracts with the Decitron Corporation, a firm which produces sophisticated radar equipment for the military. He saw that they were receiving up to 90% in progress payments for equipment which wasn't being delivered. As he looked into the matter more closely, he saw that the Army was also granting them favored treatment, in spite of the fact that the corporation had not delivered enough equipment to demonstrate its reliability. When Mr. Barnes commented on the situation to one Army procurement officer, he was told, "You don't understand the politics involved." He was referring to the fact that a senator had a brother and nephew who were financially and administratively involved with the corporation.

Mr. Barnes believed that the government was propping up a financially unsound corporation for political reasons and felt it was his duty to bring the matter to the attention of Navy officials. They consistently told him nothing was wrong. However, no one

gave him sufficient off-setting evidence explaining where his analysis of probable fraud was incorrect; nor did they show him why no further investigation was necessary. They took the Decitron contracts away from him and ordered him to take no further action on the case.

The Navy's orders to do nothing more on the case appeared to be acts of cover-up, prompting Mr. Barnes to seek an outside investigation of the matter. He wrote letters to the Justice Department, asking that they look into the situation. Many of his letters were referred back to the Navy's Office of General Counsel for reply. This created an increasingly tense situation for Mr. Barnes within the agency, as his persistence was directly disobeying orders. After receiving a letter of caution that this behavior would not be tolerated, the Navy fired him on a multitude of charges, including misconduct and insubordination.

A lengthy administrative appeal began in September, 1971, after Mr. Barnes was removed from his job. The government appears to have taken every opportunity to delay issuing a final decision in this case, dragging it out for five years. The final decision from the Civil Service Commission's Appeals Review Board was issued in November, 1976.

Evidence pertaining to possible wrongdoing relating to the contracts with the Decitron Corporation was ruled irrelevant to the case by the hearing officer. Mr. Barnes was not given the chance to document that his actions in the Decitron matter were based on the reasonable belief that the government was suppressing evidence of wrongdoing.

In 1975, one month after the formal hearing ended, Mr. Barnes found a document describing the financial situation of the Decitron Corporation which had been withheld from him while he was working on the contracts. He believes that the government deliberately withheld that information from him so that the exact financial status of the corporation would remain hidden. This report, entitled the Kalish Report, demonstrated that the corporation was in worse financial condition than Mr. Barnes had initially suspected.

Mr. Barnes wrote letters to the hearing examiner explaining the importance of the Kalish Report to his defense, asking that it be included in the record. His request was denied. The Appeals decision that was issued did not even mention the existence of this report. Mr. Barnes lost all stages of the Civil Service appeal.

Having exhausted his administrative remedies, Mr. Barnes is now eligible to go to court. However, he has been without a job for the past six years while he has been involved in the appeals process. His financial resources are virtually depleted. He hopes to find an attorney to handle the case on a pro bono basis.

The Decitron Corporation delivered on approximately one half of its government contracts before it went bankrupt.

OPERATION: BACK HOME AGAIN

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. NOLAN. Mr. Speaker, many of our smaller communities are facing a severe problem today: that of not having a large enough labor supply to attract and retain business and industry. "Operation: Back Home Again," is a fine proposal by the Windom Area Chamber of Commerce in Minnesota to resolve this problem.

This highly innovative program will consist of sending out surveys to all graduates from local high schools over the past several years. The graduates will be asked such questions which will indicate what is needed to encourage them to return to Cottonwood County. These surveys would then be processed and referred to present and prospective employers, thereby forming a plentiful labor pool with increased availability to business and industry. These surveys represent a well thought out plan which will eventually match employee's needs to those of the employers.

This proposal set forth by the Windom Area Chamber of Commerce will be quite effective in several respects. First and foremost, the program will provide a greater understanding of what is needed in the rural environment to keep young residents at home, thereby reversing the present trend of rural communities declining in population with eroding tax bases. Second, the program will establish an easy method for business and industry to find qualified employees who are promising prospects to come "back home," since these graduates are products of the rural environment and education. Third, this program will enhance the development of new and innovative business and industry in the rural economy and add new vigor to life in the rural community.

Mr. Speaker, it is with great pleasure that I submit this proposal for "Operation: Back Home Again," into the CONGRESSIONAL RECORD. It is my sincere hope the merits of such a project may be recognized by my colleagues in Congress as a positive step in revitalizing the small community both economically and culturally. I applaud the Windom Area Chamber of Commerce for its efforts in creating and implementing such a program.

The material follows:

PROBLEM STATEMENT

A major problem affecting the future growth and development of Cottonwood County is the lack of skilled and semi-skilled workers. The problem is twofold: (1) replacement of personnel due to retirement, transfer and moving, and (2) an inability to meet the demands for workers by prospective business and industrial enterprises.

Interrelated problems are a lack of monetary incentives, employment alternatives for both principal and secondary family wage earners, leisure and recereational activities, educational opportunities, and centralized coordination of housing and working opportunities.

"Operation: Back Home Again", by expanding the labor pool of Cottonwood County, would improve the employment potential for current business and industry; more importantly, it would create a good bargaining position with respect to employment needs of future business and industry. Such a negotiating posture is not now possible.

Even if only 10 percent of the 5,500 Cottonwood County (1950–1970) high school graduates to be surveyed indicated an interest in returning, it would be feasible to increase our current labor market by an estimated 800 persons within the next decade, taking into consideration working spouses and eldest offspring eligible for employment.

Since these persons are products of our rural environment and education system, they are the most probable and promising prospects, "to return to their roots", if employment opportunities existed or were created. It is expected that the population increase resulting from "Operation: Back Home Again", will substantially offset the out migration experienced by rural areas.

The only thing that remains the same . . . is change. We will either grow . . . or we will atrophy. The answer to the alternatives is clear . . . we choose to grow!

DOCUMENTATION OF NEED

In mid 1976, the Windom Area Chamber of Commerce undertook a seven county analysis (see enclosed map) to determine the availability of employees within commuting distance of Windom, and a more in-depth study of Cottonwood County itself to ascertain the availability of workers, for current and/or future business and industry requirements.

Two of our communities' largest employers have periodically researched the feasibility of expanding their operations in Windom, but their efforts met with little or no success in acquiring sufficient additional full-time or seasonal workers. This situation contributed in part to the abandonment of one's plans for adding a second shift, and the other's ultimate expansion in another state. Presently, the need for additional employees still exists and, in all probability, will continue to exist unless the labor pool is expanded.

Smaller employers in the service, professional, commercial, as well as industrial sectors, hold the key to our communities and counties future growth and development. But they have, to a lesser extent, experienced many of the same labor availability problems which larger employers have encountered.

Because of this perplexing problem, prospective enterprises are repeatedly by-passing Southwestern Minnesota to the extent that a regional consortium of rural Chambers of Commerce have declared labor shortage to be our top priority problem.

PREVIOUSLY EXPLORED FUNDING

STATE OF MINNESOTA.

Department of Economic Development:
Governors Office on Manpower:
Department of Employment Service:
Governors Office on Rural-Urban Affairs:

Each year, departments and divisions of state government are allocated "discretionary funds" by the Minnesota legislature to use for programs peculiar to their specified functions, but not defined within their constitutionally determined purposes and responsibilities.

Although the cumulative funding of the aforementioned entities annually exceeds one-half million dollars, previously proposed programs were approved, and allocated "discretionary funding" without foreknowledge of our prototype program. Subsequently, it was officially acknowledged to be within their purview, but beyond the deadline for underwriting consideration within the current fiscal year.

Governor's Rural Development Council: State of Minnesota. Annually, amount of grant funds, appropriated by the state legislature, totals nearly one-half million dollars. The prerequisite local match of 20% could not be adequately met, and no appreciable impact on farm-related families could be sufficiently determined to justify funding.

Rural Development Finance Authority Act: State of Minnesota. Chapter 362–A. Exploratory and definitive research for ongoing funding is currently underway. Prognosis is not encouraging according to officially interpreted limitations and requirements.

Bureau of Labor Statistics: United States Department of Labor. 29 U.S.C. 2. Exploratory and definitive research for ongoing funding is currently underway. Prognosis is not encour-

aging according to interpreted limitations and requirements.

Economic Research Service: United States Department of Agriculture. 7 U.S.C. 1621–1627 and 7 U.S.C. 1761. Exploratory and definitive research for ongoing funding is currently underway. Prognosis is not encouraging according to officially interpreted limitations and requirements.

SUPPLEMENTARY FUNDING

City Council of Windom, Minnesota: By official action, agreed to provide, in fiscal year 1977, a specified amount of "seed" money for underwriting "starter" costs of proposed program, contingent upon procurement of continued annualized funding.

Cottonwood County Board of Commissioners: By official action, agreed to provide, in fiscal year 1977, a specified amount of "seed" money for underwriting "starter" costs of proposed program, contingent upon procurement of continued annualized funding.

Toro Company and Fingerhut Corporation: Windom, Minnesota: Preliminary agreement to provide, specified amounts of "seed" money to underwrite "starter" costs of the proposed program, contingent upon procurement of continued annualized funding.

PROJECT GOALS

(1) To identify and survey high school graduates from Cottonwood County from 1950 through 1970; determining employment history and status, education and training required, desire and ability to return, hourly wage or annual salary requirements, and housing-leisure priorities.

(2) To process and classify data from respondents for referral to *present* employers, and presentation to *perspective* employers, with intensive followup to maximize placement of employees.

(3) To establish and expand a predetermined, and plentiful labor pool, resident and non-resident, from which we can readily supply, in measurable and manageable quantities, the existing and envisioned employment needs of business and industry.

(4) To increase the potential accessibility and availability of skilled and semi-skilled workers for engagement by present and prospective employers by not less than 475 * percent within Cottonwood County over a two year time period.

Necessary supervision and direction will be provided by the staff of the Windom Area Chamber of Commerce to supplement the efforts of full-time program coordinator. The ultimate responsibility for the program will rest with the Board of Directors.

Funds for underwriting the program will be received and disbursed by the Chamber of Commerce Foundation at monthly intervals, or in the interim as requested by the Board of Directors.

Supportive services from governmental, educational and professional agencies at local, regional and state levels will be requested and utilized as needed by the Board of Directors.

The program will identify and locate graduates, survey and follow-up by mailings and telephone, process and classify accumulated data from respondents, refer and recommend coded applications to appropriate enterprises, and cross-check to ascertain employee-employer engagement.

The actual survey of graduates will determine interest in returning to Cottonwood County, employment status, personal and family profile, job interests and proficiencies, educational achievements, housing requirements, desired hourly wage or annual salary, and immediacy of availability. It will ascertain similar data for spouse and eldest offspring of potentially employable age.

Primarily, accumulated information will be utilized in acquiring new business and industry for Cottonwood County, and secondarily to supplement permanent and/or seasonal labor demands of existing business and industry.

While the funding requested for the program is for one year, the actual implementation of it is expected to be nearly two years before the survey is completed and the data acquired is processed. Value and use of the accumulated information is anticipated to extend well beyond the implementation period. This program will attempt to secure a part, but not the whole, of its funding from outside sources in the second year of operation. A substantial portion of second year funding will be sought from governmental and corporate sources.

MAJOR ACTIVITIES

An eight member Board of Directors, consisting of at least one representative from each of seven municipalities—Bingham Lake, Storden, Jeffers, Mountain Lake, Westbrook, Delft and Windom (two)—will be the governing and implementing agency. Their specified responsibilities will be to establish guidelines, set up procedures, review progress and operations, staff, equip and supply office, approve and audit expenses, assess results, and recommend action to attain desired program objectives.

TASK FORCE PROFILE

The six member task force that developed and drafted this proposal, was made up entirely of business and professional people; four male and two female, 25 to 44 years, with a median age of 33. Their official job designations include: women's apparel store partner, office supply firm representative, industrial plant manager, real estate firm partner, hardware store partner, and industrial plant engineer. They have resided in Cottonwood County from two to thirty-two years, with an average residence of sixten years. Three are graduates of area high schools who left here, and years later, came "back home again". The task force met twice weekly for one and a half hours of each occasion over a four week period to complete their assigned objective. Their efforts, as represented in this proposal, have received the unanimous and unqualified endorsement of the Board of Directors for the Windom Area Chamber of Commerce.

OPERATION BACK HOME AGAIN

(Survey Procedure)

The survey will be implemented in increments of not more than 500 and not less than 250, with four to six weeks between each increment to allow sufficient time for response return, processing and follow-up. The survey will be sent out by year of graduation and high school graduated from.

Each person to be surveyed will be mailed (first class) a questionnaire, cover letter, promotional brochure and reply envelope. Two to three weeks will be allowed for response to initial contact.

If no reply is forthcoming within that time period, a second letter (first class) and reply envelope will be mailed as a reminder requesting a response. Again, two to three weeks will be allowed for the person surveyed to answer.

If there is no response to the second letter within that time period, the name will be filed for further follow-up within six months, again by class and school.

All negative responses will be filed for further follow-up within one year from initial contact. A letter will be issued verifying receipt of that response.

All affirmative responses will be photocopied, coded and forwarded to a computer service for processing. Original response will be coded and filed by class and school.

Persons indicating an affirmative response will be contacted by telephone to acknowledge receipt of response, to secure and additional information relevant to potential job placement, and to advise respondent of procedure to be followed in ultimately linking the employee and the employer in the weeks and months to come. A confirmation letter will subsequently be mailed to the respondent documenting the telephone conversation.

Affirmative responses will be printed out by computer, identifying specific employment classifications. Data print-outs will be accumulated in manuals for eventual presentation to employers.

Computer programing will be structured so as to retrieve data as may ultimately be requested by employers, such as by zip code, salary and/or wages, work experience, educational achievements, etc., in as readily accessible and accurate a form as possible.

Letters, surveys, procedures and systems will be continuously reviewed in an effort to maximize efficiency and effectiveness in program administration. More importantly, this will aid in realizing the objective of more employees, more employers and more payrolls within Cottonwood County.

APPLICATION OF ACQUIRED DATA

Accumulated responses to the survey will be remitted to the computer processing base on not less than a weekly basis. That information will be key punched and printed out in job skill categories.

Computerized data will be bound in hard cover and returned, as processed, in multiple quantities to project headquarters for analysis. Information will be prioritized in terms of value to present or potential employers.

With respect to present Cottonwood County employers, notification will be properly given that accumulated profiles of workers qualified to hold positions in their respective enterprises, have been identified. This information will be personally presented for evaluation at their place of business or at the program's headquarters. Reciprocal communication will be initiated between prospective employer and employee.

The data accumulated and categorized by job skills will determine the types of prospective businesses potentially available. This information will be provided to the Minnesota Department of Development who will, in turn, advise us of those types of enterprises with plans for expansion or relocation.

The Windom Area Chamber of Commerce and the Windom Area Development Corporation would implement a plan to establish communications with those firms interested in exploring the feasibility and profitability of expanding or locating in Cottonwood County. Preliminary information will be forwarded to prospective firms prior to meeting with them. More detailed data would be presented when prospective firms actually meet with the Chamber of Commerce and Development Corporation. The data would be presented in the form of a bound, personalized copy of our computerized labor analysis and its applicability to the individual firm. Such meetings would most likely be held at the corporate headquarters of the prospective firms, necessitating significant amounts of travel.

Current and accurate information would give Cottonwood County a valuable and highly unique advantage over other communities in providing a thoroughly professional and documented presentation of the labor needs and potential work force of the area.

Once the conditions in Cottonwood County were found to be favorable and an agreement

---

* Calculated by estimating a 10 percent affirmative response (550) from total number surveyed (5,500), estimating 35 percent of those responding with working spouses (192) and estimating 10 percent of those responding with eldest offspring as employment eligible (28). Estimated total of calculation would approximate an additional 795 potential workers injected into the labor pool. Comparing that estimate with the nearly seven year annual average of unemployed of 162, would figure out the projected 475 percent.

to expand or relocate in the County is reached we would serve as an intermediary between the particular business enterprise and those survey respondents whom they are interested in employing. We would serve to facilitate in whatever way possible the reciprocal communication between the employer and potential employees.

Once an employer-employee agreement was reached, realtors, contractors and financiers would be notified of impending housing needs. All relevant data would be presented in the same manner as was the labor analysis. Reciprocal communication would be maintained between those families returning to Cottonwood County and the institutions in the County in a position to expedite the fulfillment of housing requirements.

Identifying, documenting and presenting labor and housing data in the previously prescribed manner, would be an overwhelming advantage in supplying present and future business enterprises with sufficient workers who meet their employment criteria. It would reduce or eliminate an otherwise lengthy and costly search.

1977 operating budget

Personnel* one full-time director and one full-time secretary	$12,500
Quarters* (see addendum number 5) office space, utilities, and maintenance	3,000
Telephone, local service and long distance charges	2,400
Postage, bulk rate, return rate and first class	1,800
Printing, stationery, surveys and envelopes (original and return)	1,800
Supplies, miscellaneous and accessory office items	900
Equipment, photocopier, paper folder, electric typewriter, electric calculator, postage meter, five-drawer file cabinet, eight bin collator, electric letter opener, L-unit desk, (all items leased)	2,100
Insurance, health, life and disability coverage for director and secretary	600
Meals, in-town and out-of-town meetings for director	900
Travel, auto mileage, per diem, air fare, and lodging for director	1,500
Withholding*, Social security, unemployment and workmen's compensation	600
Publication*, Countywide promotional brochure and program information pamphlet	2,400
Consultants*, legal, personnel, research, accounting, advertising, planning, et al	900
Computer, leased time for processing data received for future presentation to prospective business enterprises	1,200
Total project cost	32,600
20% local match (funds and in-kind)	6,520
Grant monies requested	24,880

* Budget items will be significantly reduced via "in-kind" contribution as described in addendum.

ADDENDUM

20 percent Local Match

(Funded & In-Kind)

1. Distributive Education. Researching, developing and compiling up-to-date mailing listr of graduates of four area high schools (1950-1970).

2. Comprehensive Employment Training. Offset personnel costs through Title I and Title VI funding, in addition to workmen's compensation.

3. City of Windom. Outright "seed money" grant to initiate project implementation, temporary equipment and personnel in peak load periods.

4. Cottonwood County. Outright "seed money" grant to initiate project implementation, temporary equipment and personnel in peak load periods.

5. Windom Area Chamber of Commerce. Organize and direct necessary volunteer task forces, secure needed volunteer consultants, contribute 80% of quarters expense, offer bookkeeping, accounting, auditing, and additional secretarial services.

6. Toro Manufacturing. Outright "seed money" grant to initiate project implementation.

7. Southwest State University. Develop survey, systems and procedures, as well as advisory assistance.

8. Fingerhut Corporation. Outright "seed money" grant to initiate project implementation.

9. Windom Area Development Corporation. Identify prospective enterprises utilizing project results, work with appropriate state agencies to locate and contact aforementioned prospects, underwrite publication of economic development marketing booklet for use with same.

10. Corporate Subsidiaries. Offer technical and management services to project from either local office or headquarters.

PITTSBURGH'S DEAN OF RESTAURATEURS RETIRES

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, after 60 years of service to local diners, Pittsburgh restaurateur James Petrolias has chosen to begin a well deserved retirement.

Mr. Petrolias came to the United States from his native Greece in 1915 and has diligently worked his way to the top of the Pittsburgh restaurant scene. Always interested in advancing the restaurant business, Mr. Petrolias played a key role in the forming of both the Western Pennsylvania and Pennsylvania State Restaurant Associations.

During the Second World War, Mr. Petrolias was appointed by President Roosevelt to the Office of Price Administration Advisory Board.

During his 60 years in the Pittsburgh restaurant business, Mr. Petrolias has been active in civic and community organizations, serving as chairman of the board of trustees of the American Hellenic Educational Political Alliance and as a board member of the St. Nicholas Cathedral.

I take great pleasure in wishing Jim Petrolias good luck and many happy, healthy years of retirement.

I want to include in the RECORD an article from the January 31 Pittsburgh Press, telling of Mr. Petrolias' retirement:

RETIRING AFTER 60 YEARS: "RESTAURANT DEAN" CALLING IT QUITS

(By Jerry Vondas)

After 60 years in the restaurant business, James Petrolias is calling it quits.

The retiring dean of city restaurateurs is looking forward to spending more time with his wife, children and grandchildren.

In 1915, armed with a grammar school education, he left his native Greece and came to the United States—the land of opportunity.

As he recalls the past six decades, he has no regrets of the decision he made when he arrived in Pittsburgh.

"I knew I would either have to get an education or go into business for myself.

"I had brothers, sisters and parents who were depending on me, so I put aside personal ambitions and went to work."

Petrolias' first job was as a dishwasher in an East Liberty restaurant: "I couldn't speak a word of English, so I washed dishes and mopped floors."

However, once he had acquired a basic knowledge of the language, he went to work as a bus boy at the old Schenley Hotel and attended Schenley Evening School.

To get additional income to aid his family, he would go to Forbes Field during the afternoon break and sell hot dogs and soft drinks.

By the time he left the Schenley to open his first lunchroom, he had been promoted to captain. "I'll never forget my first lunchroom," he says. "My customers were students from Peabody.'

After operating another restaurant at the corner of Center and Craig, he bought his present location on Smithfield Street.

He remembers the early days on Smithfield Street and likes to compare prices: "We sold chicken ala king and coffee and homemade pie for 25 cents.

"If you wanted the blueplate special, it was roast turkey with all the trimmings and coffee and homemade pie for 35 cents.'

In the early 1930s, he met Stella Miliakos of Parkersburg, W. Va., who also had emigrated from Greece.

"It was at a formal dance at St. Nicholas Church," he recalls. "I was still working at the Schenley and didn't have a tuxedo.

"So I went to the dance wearing my waiter's tux," he laughs. "Years later my wife told me she thought I was the best dressed man at the dance."

In true Greek fashion after dancing with Miss Miliakos, her friends tried to pair them off; "But I was determined to go back to Greece and marry.

"But I gave my word I would see her again when she returned at Easter and it wasn't long after that we decided to get married.

"Her family, determined she should marry right, had two of her brothers-in-law drop in unannounced to size me up.

"After 44 years of marriage, I think her family will admit that I was a good prospect."

Always interested in advancing the restaurant business, Petrolias was instrumental in forming both the Western Pennsylvania and State restaurant associations.

In 1937, he returned to Greece and was asked to stay: "My brother had done very well and wanted to share his good fortune with my family, but I could see Hitler sharpening his bayonets and I felt Greece would be one of his targets.

"I still haven't forgotten how the German subs stalked the ship bringing me to the United States during World War I and how we had to detour by way of South America.

"The people in the old country think we have it easy, they don't know how many immigrants put 17 hours, seven days a week in the restaurants to get along.

"The streets of America are not paved with gold."

Petrolias was to once again prove his mettle when President Franklin D. Roosevelt appointed him to the advisory board of the Office of Price Administration (OPA) during World War II.

For many years, he served in various capacities on the board of St. Nicholas Cathedral including the office of president.

As a member of the American Hellenic Educational Political Alliance, he has been a chief fund raiser and chairman of the board of trustees.

Besides his wife, he is devoted to his children, Electra Agras and John.

"Both of my children are a blessing. They have never caused me any grief and I'm proud of them."

His son and nephew, Peter Copetas, are his partners in the Smithfield Cafe and John likes to tell this story on his dad: "The night of my graduation from Pitt, I was celebrating with my friends.

"He took me by the arm and said: 'Have a nice time, but I want you at work early tomorrow morning.'

"When I walked in the next morning, he handed me a mop and told me to go to work. After I was through, he took me in the kitchen and added: 'Never be afraid of physical work.

" 'Do two things and you will always be successful in the restaurant business. First, look at your customer's face and then look at the plate.

" 'If they have a satisfied look and their plate is clean, you'll make it in this business.' "

Petrollas has this to say about his adopted country: "This country is only 200 years old, yet in this short time they've been able to do what Europe hasn't been able to do in 2,000 years.

"America is the land of opportunity. I would've never done as well in Greece.

"The United States was built on principle. The immigrants who came here were determined to make it and didn't mind working long hours to succeed.

"Free enterprise made this country and it saddens me to see people going to college and getting degrees and only wanting to work five hours a day. And when they get old, expect the government to take care of them.

"If the people who founded this country operated on the same principle, we would still be driving horses and buggies."

TAX EXEMPTION TO ATTRACT HEALTH PROFESSIONALS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. CARTER. Mr. Speaker, today I am introducing legislation to exempt from taxation amounts received under the Public Health Service/National Health Service Corps scholarship program and the Armed Forces health professions scholarship program—or any other similar program as determined by the Secretary of HEW.

This legislation is needed to assure that public service objectives of these programs are achieved: Namely, to attract health professionals to medically underserved areas, and to serve in the Armed Forces.

However, realization of these goals is now threatened because of expiration of prior tax-exempting legislative provisions, and the resultant dampening effect that taxation of these scholarships is likely to have on program participation.

I would like to share with you a little background on this situation to illustrate why I believe this tax exemption proposal is necessary and important.

In 1972, Congress recognized two significant problems regarding the distribution of health personnel: The need to provide health services to medically underserved populations in our country, and the need to attract more health professionals to the Armed Forces.

Congressional response was in the form of two significant pieces of legislation: The Emergency Health Personnel Act amendments (P.L. 92–585) and the Uniformed Services Health Professions Revitalization Act of 1972 (P.L. 92–426). These laws created two scholarship programs to support the training of health professions students in return for certain public service commitments. Specifically, the programs authorized were: The National Health Service Corps (NHSC) scholarship program and the Armed Forces health professions (AFHP) scholarship program.

As ranking minority member of the Health and Environment Subcommittee which is responsible for overseeing the NHSC program, and as a representative of a rural district in southeastern Kentucky, I am acutely aware of the problem of maldistribution of health personnel in this country. I view the NHSC scholarship program as an essential vehicle for providing needed health care to our people in underserved areas. Moreover, our subcommittee and the Congress recently reaffirmed our support for this program with passage of Public Law 94–484, the health manpower legislation, which included significantly increased authorizations for the NHSC scholarship program. In fact, our conference report stated that—

> The principal purpose of awarding NHSC scholarships is to provide health services to medically underserved areas, not simply to provide financial support for health professions students. House conference report 94–1612, page 106.

Yet this service objective cannot be achieved without substantial enrollment in the scholarship program.

The Armed Forces health professions scholarship program was also created to fulfill an important public service goal—that of insuring a sufficient supply of health professionals in the Armed Forces to meet the health care needs of our military and their families. Yet this objective is currently in jeopardy. According to a June 6 Washington Post article, the military is now facing a severe doctor shortage. Additional efforts must be undertaken to increase enrollment of health professions students in the AFHP scholarship program. If the tax-free scholarships are not restored, the Armed Forces will have lost one of the more successful incentives previously available for attracting physicians.

Thus, both the NHSC and AFHP scholarship programs are publicly funded programs which have vital social goals. The principal beneficiaries of these programs are intended to be the American people—the taxpayers themselves who will receive the benefit of needed health services. It is essential that these programs remain viable and attractive to students entering health careers so that the public service goals can be achieved.

Having briefly summarized the origin and objectives of these two scholarship programs, let me now review the situation with respect to taxation of their scholarships.

Generally, in tax law, amounts received by an individual as a scholarship are excluded from gross income, and thus taxation. However, such amounts are not excludible from gross income if they represent compensation for past, present, or future employment services. Because of the service quid pro quo provided in these scholarship programs, the amounts received have been classified as income for tax purposes. Thus, without specific exempting legislation, the Internal Revenue Service has ruled that the corps scholarships and the Armed Forces scholarships would be considered taxable income.

Recognizing the situation, Congress passed legislation which contained a special exclusion for amounts received under these programs from gross income (Public Law 93–483). Though this legislation expired in 1975, the Tax Reform Act of 1976 contained a limited extension of the tax exclusion for those students who were participating in the program in calendar year 1976. However, without additional exempting legislation, students entering these scholarship programs in 1977 or any year thereafter, will be taxed on all amounts received under these programs. Even now, there exist situations where two roommates receive different "net" amounts under the same program simply because one person began participating before December 31, 1976, and the other was not selected until 1977.

Mr. Speaker, I believe we need to reinstate the tax exemption policy for at least two reasons.

The first concerns the detrimental effect of taxation on participation in these programs in general, and the second concerns the disproportionate burden that taxation would have on low-income/minority students who are most likely to be in need of scholarship assistance for health professions training.

In both instances, taxation of scholarship funds would tend to reduce participation in these programs, thereby undermining the congressional intent to realize the public service objectives of these two programs.

For example, on the first point, a constituent of mine has already told me she is not going to apply for a NHSC scholarship because of the new tax requirement. She feels she can do better by taking out a loan, and applying for other sources of assistance. Several other students have also contacted my office expressing concern about the burden of paying taxes on scholarships received under these programs. Moreover, in addition to paying Federal tax on these scholarships, it is reasonable to assume that most states will follow the lead of the Federal Government, and tax these moneys at the State level as well. Thus, students will probably be faced with two unexpected tax payments out of the funds originally prescribed to cover the costs of their health professions education.

Based on cost estimates I have seen, some students will not have enough money to cover costs of living after paying taxes, and they will probably have to borrow money just to break even. Clearly this was not the intent of Congress. Rather, Congress intended that these scholarships provide for educational and living expenses, as evidenced by the stipulation that the stipend keep pace with inflation through increases commensurate with general schedule cost-of-living adjustments (section 751(g)(3) of Public

Law 94-484). While the size and burden of the taxation requirement will, of course, vary from individual to individual, depending on the State, the medical school, and the financial status of the student, it is clear to me that participation in both programs will be jeopardized.

In addition to the general impact of taxation on program participation, the disproportionate impact on low-income/minority students must also be considered. While only about 1 in 10 medical students is of minority/low-income status, about 1 of every 4 scholarship recipients falls into that category. If taxation consumes all of their scholarship stipends, these students may not even be able to borrow enough funds to cover living expenses, since their sources of loans are often limited. These individuals may find that they cannot "afford" to apply for a scholarship at all. Thus, taxation would impact most severely on those who medical schools and the Congress have recognized should have every opportunity to obtain a health professions education.

Therefore, Mr. Speaker, I believe it is in the public interest for the National Health Service Corps and the Armed Forces health professions scholarship programs to be accorded the tax-exempt status which they previously had. Thus, success of these programs in reaching the public service goals which they were created to achieve, depends on their ability to attract students into the scholarship programs. By removing the onus of taxation, this legislation will go a long way toward meeting those objectives. I hope my colleagues will give this proposal careful consideration. Thank you.

THE BROADER CONTEXT

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. ABDNOR. Mr. Speaker, I join my distinguished colleagues, TRENT LOTT and TOM HAGEDORN, in continuing the presentation of the text of General Stilwell's essay on the Korean troop withdrawal. The dangers of a withdrawal at this time have been pointed out by many authoritative observers, not the least of whom is General Stilwell. I share my colleagues' concern that the effects of this withdrawal have not been adequately studied, and that any significant alteration of the balance of forces in Korea at this time may, in the absence of hard evidence to the contrary, lead to a destabilization of the peninsula and to serious damage to the structure of peace in that area. I commend General Stilwell's analysis, which speaks clearly to these points, to the Members.

The balance of the text follows:

THE BROADER CONTEXT

The immense importance of Northeast Asia needs no underscoring.

Economically, the forward momentum of the free nations of the region has been dramatic and sustained. Overall U.S. trade with the Pacific basin—most of it concentrated in Northeast Asia—exceeds that with Europe. Japan has become an industrial giant and America's principal overseas trading partner (the total U.S.-Japan trade exceeding U.S. trade with West Germany and the United Kingdom combined). The dynamism and potential of the Japanese-South Korean-Taiwanese entrepreneurial sectors make the three-nation complex an increasingly key segment of the international free-trade market area and give meaning to the concept of trilateralism.

Strategically, Northeast Asia is the locus of direct confrontation between the Soviet Union and the United States on a scale second only to Western Europe. The Soviet Union has assayed unrelentingly to extend its power southward to intimidate Japan, encircle China, and achieve dominance in East Asia. Conversely, the main United States objectives have been to maintain and strengthen the alliance with Japan and to block the Soviet Union's drive for hegemony. This latter determination provided a key motive for the growing rapprochement with Peking.

In retrospect, the free world has done very well in Northeast Asia over the past two decades. Much of that success must be attributed to the American military power projected to and maintained in the region. The Seventh Fleet, the Fifth Air Force, the III Marine Amphibious Force, and the Eighth Army—all backed by the strategic nuclear forces—have had important political as well as military roles. Their capabilities and the substance they have given to the collective security arrangements have assured a military equilibrium and stayed Soviet expansion. They have provided the blanket of security which has been the essential underpinning for the remarkable growth and vitality of the Northeast Asian free economies. Most notably, the long-term deployment of U.S. ground combat forces in Korea as a bulwark against renewed North Korean attack—unilateral or externally supported—has assured Asian allies of America's firm commitment to peace and stability in Northeast Asia.

Unhappily, the confrontation continues. There is no sign of abatement of the Soviet outward drive; in fact, its military capabilities in the region continue to augment. The North Korean posture is more menacing than at any time in the past. For ally and adversary alike, then, the central question is the continuing American resolve, which, because the United States is not present in Asia by reason of geography, is gauged by its military deployments in the area. Significant changes in those deployments will be perceived as a measure of the value that the United States attaches to what happens in this strategically important area, and what that entails for the major players concerned. Inevitably, attention will be focused on the forward-most of these deployments, the only ones on the Asia mainland—the U.S. forces in Korea.

JAPAN

Historically, Korea and the power extant thereon have always been critical factors in the Japanese security environment. However one interprets the hackneyed phrase, "a dagger pointed at the heart," the stark fact is that Korea has been the bridge to and from the Asian mainland, the path by which power has flowed into and out of Japan.

Modern-day Japan is particularly sensitive to the Korean situation. With a very modest self-defense establishment and a constitution which restrains the employment of its military forces, Japan has depended heavily on the U.S. security guarantee for the protection of the homeland and for the uninterrupted flow of seaborne commerce. Soviet military power based to the north and northwest of the Japanese islands is more than enough to be concerned about. Therefore, it is an essential that the Korean flank be secure. Though there have been minor variations (for domestic political reasons) in the wording of their statements, every Japanese prime minister from Sato onward has affirmed the inseparability of the security of Japan and Korea.[1] In Japanese eyes, the U.S. forces in Korea, especially the ground units and the array of nuclear delivery systems, are indispensable elements of the U.S. military umbrella covering Japan. Understandably, then, the Japanese government would expect to be consulted *prior* to any decision to reduce U.S. deployments in Korea materially. This expectation derives less from Japan's status as America's major ally in the Pacific basin than from the premise that the two parties should first reach a common appreciation of the threat and a common judgment that any such drawdowns will have no deleterious political or military effect. After all, Tokyo reasons, the U.S. forces in Korea are integral to the Japanese shield.

Any action seen as eroding the deterrent posture sends immediate alarms through Japan, for, given the vulnerability of the nation, the constitutional strictures against external deployments of armed forces, and the prevailing public sentiment, that nation is quite unprepared to cope with the consequences of war. The prospect of being involved, willy-nilly, in renewed hostilities in Korea is no less abhorrent than having to gear for defense of the homeland from direct attack. Japan has thus been motivated to help ensure effective deterrence on the peninsula by fueling the forward thrust of the South Korean economy,[2] by strong endorsement of South Korea in international forums and by granting base rights which have, *inter alia*, facilitated the support of the U.S. and UN Command forces in South Korea. Within the framework of deterrence and the limitations imposed by the constitution and the domestic political balance, Japan has the potential to do even more, economically and militarily, to complement U.S. and South Korean efforts. It can, for example, assume responsibility for a larger share of the regional naval and air tasks. But for a greater degree of "complementarity" to eventuate, there must be confidence that the United States will continue to make its unique and essential contributions to the overall deterrent structure. In the Japanese calculus, the U.S. ground forces in South Korea meet those criteria exactly for the following reasons:

They give requisite depth to the external defense of Japan and attest to the viability of the U.S. security commitment.

They virtually guarantee that there will be no renewal of armed aggression on the Korean peninsula.

They assure, therefore, that an explicit decision on use of Japanese bases for support of U.S. and UN Command forces in war will not be required. (The Japanese government well knows that the wartime availability of these bases is an article of faith in U.S./Japan relations; yet to honor the commitment is to involve Japan directly in the conflict.)

---

[1] Most recently, for example, Prime Minister Fukuda said he told President Carter that the 40,000 U.S. ground forces in South Korea are considered both a barrier to attack from the Communist North and a shield for Japan and other democratic countries in Asia. (Reported in "No Precipitous Korea Pullout, Fukuda Is Told," Washington Post, March 28, 1977.

[2] Through a program of reparations, loans, and private investments leading to commercial interests, Japan has played a major role in the economic development of South Korea. At present, South Korea's largest export market behind the United States is Japan, or viewed from Japan's vantage, South Korea ranks sixth in imports to Japan. In turn, 40 percent of all imports to South Korea derive from Japan.

They greatly reduce the likelihood that the base rights question will become a subject of major political debate and controversy.

Overall, they provide evidence that the basic tenet of Japanese foreign policy—political/economic/military partnership with the United States—has been well conceived and holds the brightest promise for Japan's orderly evolution as a world power.

It follows that the withdrawal of U.S. ground forces—and most particularly the Second Division—would occasion major review of Japanese domestic and foreign policy. Reasoning from the logical premise that the United States was more interested in reducing its investment and risks than in the efficacy of peninsular and regional deterrence, an equally logical conclusion would be that the United States commitments to Japan were in question. Its confidence in the U.S. shield dissipated, Japan would have to chart a new course. One extreme policy alternative would be major expansion of its military capabilities to include development of a Japanese *force de frappe*—sounding the death knell on U.S. efforts to control nuclear proliferation. At the other extreme would be an accommodation with the Soviet Union. Even if one assesses as low the probability that Japan would opt for either extreme, the very fact that circumstances dictated their serious consideration is perilous for stability and progress in Northeast Asia. And whatever Japan's reordered course, one concomitant will be considerably less cooperation with the United States in solving the large economic problems now confronting not only the Western free market area but most of the remainder of the world as well.

THE VIEW FROM MOSCOW AND PEKING

The U.S. combat forces in South Korea must loom large in Soviet analyses:

From the perspective of its military planners, that air/ground team of not inconsiderable capability—a reinforced division, powerful air squadrons, and versatile nuclear delivery means—is positioned only a few hundred miles from vital Soviet installations, closer to the homeland than any other U.S. combat formation. So long as it remains in South Korea, that force will affect Soviet calculations of the course and outcomes of military initiatives, whether along the Sino-Soviet border or in Central Europe. In the latter instance, the Soviets must face the nightmarish prospect of two fronts, 4,000 miles apart.

In the context of its objective of obtaining hegemonial influence in East Asia, a Korea unified under Soviet style communism would be an even more important advance now than in 1950, when success was but a whisker away. Control of the southern half of the peninsula would extend the reach of the Soviet Far Eastern fleet, bring enormous pressure to bear on Japan, and impel a major policy reassessment in Peking. With 40,000 U.S. troops in South Korea, none of that can occur except by force of arms, and another war on the peninsula embodies too many risks of escalation to be contemplated as a Soviet option.

There is a countervailing consideration. The Soviets must be concerned with North Korea's continued belligerence and provocations and its growing capability to undertake independent military action. Should North Korea, on its own, resort to force to exploit U.S. troop withdrawal, the Soviet Union could be drawn in against its will—at the minimum, to balance Chinese support, and, at the maximum, to ensure North Korean survival as a Communist state if things went awry. Consequently, the Soviet view on U.S. troop presence is probably ambivalent. On the one hand, the withdrawal of U.S. ground forces from South Korea would further Soviet strategy. But the Soviets are geared for a long struggle in Asia, reckon time to be on their side, and prefer to win without war. Thus, the timing of a U.S. withdrawal is secondary to the consideration that the vacuum created not occasion a degree of destability beyond the Soviet ability to manage.

The People's Republic of China has underscored through diplomatic and unofficial channels that a strong U.S. military presence in Asia (except on Taiwan) is a key assumption in its national security policy. What is a thorn for the Soviet Union is a rose for China—except in one particular. The Communist archenemies have common concern over the growing military capability of North Korea, the limited influence they exercise on Kim Il Sung's decisions, and the implications of any North Korean resort to force of arms.

Confronting 25 percent of the Red Army along the extensive Sino-Soviet border, China considers it essential that the Korean flank remain stable and secure. Consequently, although China must perforce provide official political support for Pyongyang on the U.S. troop withdrawal issue, China has a special interest that those forces in fact remain. Moreover, in Peking's eyes, those forces have added values, actual and symbolic. The U.S. air/ground team serves the Chinese interest in the same way that the NATO military machine in Europe does. Further, its presence in Korea inhibits Soviet expansion and facilitates Sino-Japanese relations.

China could draw but one conclusion from a U.S. decision to withdraw upwards of 30,000 troops from Korea at this juncture: namely, that all assertions to the contrary notwithstanding, the United States no longer intended to exercise major influence on the evolution of East Asia, no longer was dedicated to opposing the extension of Soviet influence in the Asian nations on the periphery of China. The recent moves toward normalization of U.S.-Sino relations have proceeded from a wholly different premise. No less than in Japan, China's confidence in the dependability and staying power of the United States would erode.

WORLD PERCEPTIONS

The American soldier in Korea—deployed on a critical frontier where the issues are still unsettled—is thus woven into a complex matrix formed by the interactions of the major powers that compete in Northeast Asia. Moreover, what happens to that soldier is of great moment to the entire international community, for it will be construed as a harbinger of future U.S. policy. Two guideposts will shape evaluations.

Immediately following the collapse of the Indochina states, strong U.S. administration statements reaffirmed that Vietnam was an aberration and that the United States would remain a Pacific power, steadfast to its commitments. For our Asian allies, the U.S. force posture in Korea has been the earnest of those statements. What conclusions will these allies draw from a withdrawal of ground forces except that the United States wants to avoid entanglement in a possible conflict? And how does that correlate with the U.S. commitment to come to the defense of the countries with which it is linked by mutual security treaties?

In recent years, the world has been witness to the sustained drive of the Soviet Union to achieve ascendancy over the United States. Soviet efforts have led to notable successes in many areas; and the general estimate is that the balance of power has begun to tilt in its direction. But Soviet gains have been nil in the two key regions where forward deployed American arms have been linked with the military forces and the national will of allies. One of these areas is Northeast Asia. Our actions there—to stay or to retrograde—will be carefully weighed around the world and will profoundly influence the judgment on whether the United States is gradually retreating from its world power responsibilities or intends to stand fast against Soviet imperialism.

CONCLUSION

To sum up, there is compelling rationale for the continued deployment of U.S. combat ground forces on the Korean peninsula. They are key to the security and wellbeing of 36 million human beings and to the protection of U.S. interests, in the face of a very real and growing threat; Kim Il Sung's unflagging efforts to force their removal attest to that. Their presence provides the only lever that might force the North to accept the reality of two Korean states, a precondition for amelioration of tensions. They are valuable—indeed essential—assets in furthering our major objectives in Northeast Asia: strengthening the partnership with Japan; minimizing the Soviet presence; improving relations with the People's Republic of China; sustaining the region's economic momentum; fostering a climate in which the kind of democratic institutions we espouse can take root; and preventing nuclear proliferation. This last role—arms control—merits underscoring. Finally, that band of 30,000 is the symbol that the United States is no less concerned with the future of the free societies of Northeast Asia than those of the Atlantic Community.

I submit that these enormous returns on a modest investment of men and resources accrue precisely because that investment manifests the staying power of the United States. It follows that alteration of the fundamental character of that investment, the disengagement of the American soldier from ongoing tasks, entails the gravest of risks, not only on the peninsula but also in Northeast Asia and far beyond. Not the least of these risks would be the greatly increased likelihood of conflict in which the United States would be immediately and deeply involved.

BALANCE OF POWER SERIES: PART VI (iii) NAVAL BALANCE: STRATEGIC ASYMMETRIES

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1977

Mr. BRECKINRIDGE. Mr. Speaker, essential to an understanding of developments in the United States-Soviet naval balance is an appreciation for the differences in strategic approaches and geopolitical considerations on each side. Today, I would like to continue my "Balance(s) of Power" series with an excellent article entitled, "American Maritime Strategy and Soviet Naval Expansion," by the Honorable J. William Middendorf II, former Acting Secretary of the Navy from August 1973 to June 1974, and presently chairman of the Financial General Bank Shares. The article appeared in the winter 1976, issue of the Strategic Review.

Mr. Middendorf succinctly outlines developments in the Soviet Navy since 1960, including the doctrinal changes which appear to have accompanied the Soviet Union's growth from a land power alone to a sea power as well. The growing number of strategic options available to the Soviet Navy imposes ever increasing demands and limitations on the flexibility and capabilities of the U.S. Navy.

Selections from the Secretary's article follow:

In 1962, after the United States successfully enforced the Cuban quarantine, the Soviets initiated an aggressive maritime building program (a program exceeded only by our own World War II expansion) and in the ensuing twelve years produced a Navy with worldwide competitive capability. During this period the Soviet Union built a total of 1,323 ships of all classes as compared with 302 for the U.S. Specific ship types include:

Ship type:	U.S.S.R.	U.S.
Major Surface Combatants	120	105
Submarines (Ballistic Missile)	46	35
Submarines (Cruise Missile)	57	0
Submarines (Attack)	85	51

In 1963 Admiral Gorshkov began the oversea deployment of the Soviet Navy. Gradually at first, the Soviet Navy moved away from the defense-oriented, anticarrier, antisubmarine role and began adopting some of the missions traditionally associated with sea power—the interdiction of enemy sea lines of communication and the support of Soviet foreign policy.

In addition, the Soviet naval presence in peacetime became a very significant factor throughout the world. Nowhere has the new direction of the Soviet Navy more clearly been seen than in the Mediterranean. Prior to 1964 there was no continual Soviet presence in the Mediterranean. In that year the Soviet force there averaged five ships. The present Soviet average is between fifty and sixty. In the 1973 Middle East crisis the Soviet Mediterranean squadron reached some ninety-five units compared to only sixty for the U.S. Sixth Fleet. The new Soviet Navy has been adopting a shape much more consistent with its new missions. The first Soviet VSTOL (vertical take-off and landing) aircraft carrier is undergoing sea trials, work continues on a second carrier, and a third is apparently being readied for construction. The Soviets also are strengthening the naval infantry (marine) forces. Both of these factors significantly enhance Soviet naval capabilities. Sea denial has been enhanced through the addition of powerful new surface combatants, such as the new Kara-class cruisers.

Strategic deterrence in the Soviet Navy came into its own in 1968 with the addition of the first Yankee-class ballistic missile submarine to the fleet. Yankee, roughly the equivalent of the American Polaris/Poseidon submarines, has since been followed by the powerful new Delta-class strategic missile submarines, whose missiles have a range in excess of 4,000 nautical miles. Indeed, this class of submarine is capable of targeting a vast majority of U.S. industrial centers from its home ports.

II

The comparative historical development of the American and Soviet navies reveals that there have always been significant differences between the naval requirements of the two nations and the structure of the naval forces these nations need to fulfill these requirements. A more detailed consideration of how strategy is affected by geographic, economic/trade, and alliance relationships in the present era shows that the divergence is even greater today.

Strategy and Geography

The United States Navy and Marine Corps have historically fulfilled three missions with success:

1. Sea control—primarily in antisubmarine warfare and principally in the North Atlantic, the Navy insured the unimpeded flow of men and material to Europe.

2. Projection of power ashore—primarily in the Pacific theater, U.S. Marines and tactical aircraft effectively wrested strategic chains of islands from the Japanese.

3. Political presence—the end of World War II saw a burgeoning of the Navy's mission of global visibility, particularly through the continuous deployment of aircraft carriers to the Mediterranean and western Pacific.

American—and four years later, Soviet—development of nuclear weapons brought an entirely new factor into the broad spectrum of world affairs. By the 1950s, the two superpowers had the capability to reap massive destruction on the other, whence the development of the military and political strategy of deterrence

For the U.S. Navy, this fourth mission took practical shape from 1950, when its first nuclear-capable carrier aircraft, the AJ–1/*Savage*, was delivered. The Navy's strategic deterrence mission became more sophisticated in December 1960, when the submarine USS *George Washington* went to sea with sixteen Polaris missiles.

Today, the United States Navy has clarified the interrelationship between these four missions. Throughout the historical evolution of our Navy, or of any great navy for that matter, the capability to *control the seas* is absolutely essential in carrying out *any* naval mission. Sea control is both defensive and offensive, strategic and tactical. U.S. control of the oceans prevents the interdiction of its sea lines of communication and denies a potential adversary his capability to use those oceans. Sea control also provides the Navy with secure operating areas to effect any of its strategic or tactical objectives. Further, protracted overseas operations by Army and Air Force units require resupply operations whose magnitude can only be sustained through sealift. Sea control is, therefore, a fundamental prerequisite to all other military tasks.

From sea control the second function of the Navy is derived—*projection of power*. Projection of power covers a broad spectrum of naval operations—from strategic nuclear response by our Fleet Ballistic Missile Submarines, to the tactical employment of our carrier-based aircraft, amphibious assault forces, and surface warfare ships. The unquestioned capability of the United States Navy to control the seas and to project power ashore are the basis for deterrence. U.S. naval forces, furthermore, which are clearly perceived as capable of carrying out these two functions, fulfill the concept of peacetime presence.

A direct comparison of geography sharply contrasts the differences in American and Soviet naval missions. The Soviet Union is essentially a land power. Occupying one-sixth of the earth's land surface, the Soviet Union is by area the largest country in the world. Its thousands of miles of land borders stretch across two continents and are contiguous with nations which have been hostile in the past or which are perceived to be potentially hostile. Indeed, Soviet history, dating as far back as the Mongol invasion in the thirteenth century, is marked by a series of invasions across these borders from both east and west. Geography further limits Soviet freedom of access to the oceans of the world, with ice and potentially strategic geographic choke points acting as encumbrances to oceanic trade and military deployments.

In contrast, the land borders of the United States adjoin nations with which it has enjoyed open and friendly relations for more than one hundred years. Since the British invasion during the War of 1812, the United States has been free from foreign invasion. Having a shoreline exceeding 88,000 miles in predominantly temperate climates, the United States enjoys free and unlimited access to the two major oceans of the world.

These historical experiences and geographical considerations have resulted in the development of the international political, economic and military structures of the two nations. Specifically, the foreign trade patterns, alliance structures and military forces of the United States and the Soviet Union are most significantly different.

Some Comparisons

Whether the comparison criterion is numbers of combatant ships, tonnage, ship class, or deployment patterns, there are significant differences between the U.S. and Soviet fleets.

The U.S. Navy has a substantial lead in aggregate tonnage, while the Soviet Navy numbers many more ships. While certain classes of ships are common to both fleets—such as destroyers (DD) and nuclear-powered attack submarines (SSN)—the U.S. Navy has no cruise missile-equipped submarines, nor does the Soviet Navy have attack aircraft carriers with catapults and arresting gear to handle high performance fixed wing aircraft. The existing deployment patterns of the two fleets are different. U.S. deployments may best be characterized as a continuous maintenance of unilateral and multilateral commitments to defeat potentially hostile forces routinely present in a theater of operations. Soviet deployments vary radically in size, and appear to be directed toward developing the capability of concentrating the naval forces necessary to achieve a particular goal for a limited period of time.

Comparing individual ships is no less difficult than comparing the fleets as a whole. Aside from the readily apparent difficulty in comparing different ship classes—for example, a U.S. attack aircraft carrier versus a Soviet cruise missile submarine—a wide variance of capabilities and characteristics is found within common ship classes. Different design philosophies result in trade-offs among the various uses to which a ship's internal volume and topside weight might be put. In general, Soviet designs emphasize light weight, high maneuverability and great offensive firepower—all characteristics of a fleet intended to be deployed to deny control of the seas. U.S. designs stress endurance, survivability and habitability—the characteristics of a fleet intended to exert control of the seas for extended periods.

III

Soviet Naval Strategy

The commonly projected employment of Soviet forces can be seen in terms of their historic objectives of defending the homeland, and is one favored by the Red Army. There is much by instinct to support such an option, given the number of her sons that Mother Russia has lost to invaders. The option does minimize naval forces, shipping, and the maritime role in general.

A second increasingly attractive Soviet option available is to isolate the U.S. from a land war in Europe. Knowing full well that any conflict involving NATO and the Warsaw Pact will require extensive resupply from the U.S., Soviet strategists would obviously wish to sever that link. This option, representing a somewhat forward extension of Soviet power, is growing in favor with their Navy, and is based on their view of a short siege, short war theory. The option also represents a concentration of efforts in the area and thus provides no real threat to remote shipping.

Another strategic option is for the Soviets to strive to defeat U.S. naval forces, then attack commercial shipping in selective areas. Such a strategy implies a longer war than Soviet forces appear to be configured for. I am suggesting, of course, that their Navy would be designed for a one shot, short war strategy, to the extent that no evidence exists that the Soviets advocate extended conflict at sea with U.S. forces.

Another realistic option available to the Soviet Navy, as I see it, is to concentrate on

attacking commerce. However, it is difficult to envisage a scenario where this strategy could be implemented without bringing U.S. naval forces to bear against Soviet forces; it would be the equivalent of a worldwide submarine campaign, the mining of choke points and terminals, and air and surface attacks on forces in the vicinity of Soviet bases. Again, this strategy implies a long war scenario, of which no evidence of Soviet advocacy exists.

Soviet naval strategy would therefore appear to be deployment and employment of forces to defend their homeland and to isolate U.S. forces, which, in a word, constitutes *sea denial*. Indeed this strategy has been articulated by the Soviets themselves in the recent Okean 75 exercises. In this exercise, observed by NATO units, more than two hundred ships were deployed in coordinated operations. Soviet naval task forces operated simultaneously in the North Atlantic, the Mediterranean, the western Pacific, the Indian Ocean and elsewhere. Soviet aircraft operated from bases not only in the Soviet Union, but also from air facilities made available to them in Cuba, Guinea, and Berberra in the Somali Republic. The exercise provided an excellent summary of the Soviet Naval strategy today. The USSR has reached a position as a leading sea power, with missions and capabilities unprecedented in Soviet naval history.

An American Maritime Strategy for the 1980s

As a component of national strategy, the function of military strategy is to support the national interests by:

1. Deterring the outbreak of war and other infringements on U.S. interests;

2. Contributing to international stability through the maintenance of a balance of military power;

3. Maintaining a war-fighting capability to respond to a crisis ranging from a minor confrontation to global war.

Oceanic factors contribute to the development of our national strategy. U.S. military forces implementing this strategy therefore must not only be optimized to meet the challenge of our geography, but must also be adapted to the functional concerns associated with the expansion of the military capabilities of our potential adversaries, the vulnerability of our critical imports, the continued viability of unilateral U.S. interests outside our alliance areas, and the fragility of regional power balances.

In Europe, substantial forward-based air and ground forces, together with naval forces will continue to preserve the credibility of NATO, provided there is a demonstrable link to the capability of the U.S. to augment these forces, resupply them, and provide reinforcement.

Elsewhere in the world, forward-deployed forces, supported by a quick-reaction strategic reserve, can fulfill most U.S. defense commitments, including the projection of power when necessary.

Therefore, U.S. national and military strategy is intimately tied to the ready availability of naval forces, structured to support the basic concept that control of the sea is absolutely vital to our national interests.

The Navy is, then, a forward-deployed arm of the United States. It functions as a protective buffer to keep the threat as far away from our shores as possible, as a shield to guard the arteries of commerce of this nation and our allies, and as a visible manifestation of the presence of the United States protecting its interests around the world.

However, from a naval point of view, the coincident reduction of the size of our fleet and the impressive build-up of the Soviet Navy pose a significant threat to this maritime strategy. Our nation is no longer in the dominant position at sea that it enjoyed until recently. There are now two powerful navies on the high seas instead of one.

In view of these strategic considerations, the threat posed by potential adversaries and the shrinking size of the U.S. Navy, a critical national security issue we face is the size and structure of the U.S. Navy.

The Navy's solution to this critical issue is a balanced objective force level of 600 active ships in the U.S. Navy by the mid-1980s. This active fleet is built around 13 to 15 aircraft carriers and 190 to 220 surface combatants.

The following considerations are relevant in determining the composition of a 600-ship force level:

1. With a balanced fleet of 600 active ships and their aircraft, supplemented by reserve forces, the U.S. Navy can with greater confidence carry out its most important tasks in the event of conflict with any potential adversary.

2. The U.S. Navy presently maintains four to five continually deployed task groups and Marine Amphibious Units required to support our overseas national policy. With the reduction of overseas base structures coupled with regional uncertainties, it is unlikely that the Navy's forward-deployment responsibilities will diminish.

3. The Navy must have the flexibility for operational fleet response to reinforce deployed ships and have the capability to meet—simultaneously—more than one situation of potential conflict.

The key element in this naval strategy remains the aircraft carrier. As a mobile, forward-deployed base, the aircraft carrier remains today that single platform which is capable of carrying out all the missions of the U.S. Navy.

Aircraft carriers, along with a mix of very sophisticated ships and less expensive ships will continue to be a key element in the Navy in the future. The importance of this fleet of the future, which will include strategic missile submarines that provide a credible deterrent to nuclear war, cannot be exaggerated. Yet we have reached a critical juncture in the history of the U.S. Navy and our nation.

On the one hand, as a result of the Vietnam War and a reordering of fiscal priorities, the Navy has since 1968 undertaken the construction of 119 new ships—an average of only 13 ships per year. Were this trend to continue, it would result in a Navy of substantially less than 450 ships by 1980.

On the other hand, the President and the Congress have recognized the need for more ships to modernize the Navy. In fiscal year 1975, 23 new ships were approved. However, in order to reach the Navy's objective of a 600-ship fleet, the United States would have to build an average of at least 35 new ships a year starting next year.

In my judgment, it is critical that we preserve our shipbuilding momentum in order to insure maritime superiority and national survival. When historians look back on this era, as we now look back on the period of the 1930s and the Vinson-Trammel Act, perhaps the quintessence of the whole period will be whether we rebuilt our fleet in time during the few precious moments of freedom still allotted to us.

HOUSE OF REPRESENTATIVES—*Friday, June 24, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*I have fought a good fight. * * * I have kept the faith.*—II Timothy 4: 7.

Eternal God, who commitest to us the swift and solemn trust of life; since we know not what a day may bring forth, but only that the hour for serving Thee is always present, may we wake to the instant claims of Thy holy will, not waiting for tomorrow, but yielding today. Consecrate with Thy Presence the way our feet may go that the humblest work may shine and the roughest places be made smooth. Lift us above unrighteous anger and mistrust into faith and hope and love by a simple and steadfast reliance on Thy sure will.

Along the path of this day may we walk with Thee in the fulfilling fellowship of those who can say at the last, "I have fought a good fight, I have kept the faith." Glory be to Thee, O Lord, the Most High. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 254. Concurrent resolution authorizing a correction in the engrossment of H.R. 6161.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7557. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7557) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. JOHNSTON, Mr. CASE, Mr. YOUNG, Mr. MATHIAS, and Mr. WEICKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 717. An act to promote safety and health in the mining industry, to prevent recurring

disasters in the mining industry, and for other purposes.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that on the defense appropriation bill today all Members may have permission to revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 7933, DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1978

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 655 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 655

Resolved, That during the consideration of the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 13, line 14 through page 16, line 9; beginning on page 17, line 17 through page 20, line 19; beginning on page 21, line 15 through page 23, line 21; beginning on page 25, line 8 through page 27, line 25; and beginning on page 40, line 25 through page 42, line 16; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 15, line 13 through page 24, line 15, except with respect to the language on page 19 beginning with the word "and" on line 17 and all that follows up to the semicolon on line 21: *Provided, however*, That a point of order if sustained against the language falling within the exception in the preceding sentence shall apply only to that language and not to the entire paragraph in which it appears.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 460 provides that during the consideration of H.R. 7933, certain points of order shall be waived against specific provisions of the bill.

The bill makes appropriations for most military functions of the Department of Defense. Appropriations for foreign military assistance, military construction, military family housing, and civil defense are made in other appropriations bills. The bill provides $110.6 billion for fiscal year 1978 for the Department of Defense. The total includes $110.1 billion in new budget authority and $477.6 million in transfers from other accounts. The amount is $3.3 billion less than the administration's request.

Appropriations bills are privileged and ordinarily come to the floor for immediate consideration without a rule. In this case, however, the Appropriations Committee has sought a rule granting waivers of points of order which could be raised against the bill because sections of the bill do not comply with clause 2 and clause 6 of rule XXI. These clauses in rule XXI prohibit appropriation of funds for expenditures not yet authorized by law and prohibit reappropriations of unexpended balances.

Waivers are granted to the following paragraphs of the bill due to lack of authorizations and thus a failure to comply with clause 2 of rule XXI of the Rules of the House of Representatives:

In title IV of the bill dealing with military procurement the following areas are not yet authorized: Aircraft Procurement—Army, Missile Procurement—Army, Procurement of Weapons and Tracked Combat Vehicles—Army, and Procurement of Ammunition—Army (page 13, line 14 through page 16, line 9); Aircraft Procurement—Navy, Weapons Procurement—Navy, Weapons Procurement—Navy, and Shipbuilding and Conversion—Navy (page 17, line 17 through page 20, line 19); Procurement—Marine Corps, Aircraft Procurement—Air Force, and Missile Procurement, Air Force (page 21, line 15 through page 23, line 21).

In title V of the bill, Research, Development, Test and Evaluation for the Army, Navy and Air Force, and Director of Test and Evaluation, Defense (page 25, line 8 through page 27, line 15) have not been authorized.

Under title VI of the bill, the Special Foreign Currency Program (page 27, lines 16–25) has not been authorized.

Section 823 which contains language proposed by the Office of Management and Budget giving certain discretionary authority to the executive branch to waive the limitation on foreign purchases when necessary to comply with agreements with foreign governments requiring the offsetting of rules made by the United States Government or United States firms (page 40, line 25 through page 42, line 16) has not been authorized.

The committee also requested a waiver of all points of order under clause 6 of rule XXI which is necessary because of certain language in title IV, which is the military procurement title of the bill. The waiver is necessary because of certain language in this title transferring unobligated balances for prior years' appropriations into fiscal year 1978. This requested waiver (page 15, line 13 through page 24, line 15) was granted by the Rules Committee except for certain language which would appropriate $231.7 million for the Trident submarine program, of which $87.2 million would be derived by transfer from the Navy shipbuilding and conversion program, 1975–79, and $144.5 million would be derived from the Navy shipbuilding and conversion program, 1976–80 (page 19, lines 17–21).

The Rules Committee refused to grant this waiver of clause 6, rule XXI because the transferring of these funds amounted to reappropriation—and not reprogramming—as argued by the Appropriation Committee and the notation following rule X(1)(b)(4) indicates that the Appropriations Committee's transferring power does not allow them to reappropriate.

Mr. Speaker, I urge the adoption of this rule granting the waivers requested by the Committee on Appropriations so we can proceed to debate and vote on this important matter.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statements that were just made by the gentleman from Louisiana (Mr. LONG).

I would like to point out that there is a proviso in this rule which would seem to set a new precedent. I have reference to line 5, page 2 of the rule where the following proviso appears:

Provided, however, That a point of order if sustained against the language falling within the exception in the preceding sentence shall apply only to that language and not to the entire paragraph in which it appears.

Mr. Speaker, this unusual provision was included in the rule as a result of an amendment offered in the Rules Committee. A member objected to the waiver of clause 6, rule XXI as it applied to language transferring funds for the hydrofoil missile ship program to other purposes. He strongly favored the hydrofoil ship program and did not favor transferring the funds from the hydrofoil ship program to other purposes. Therefore, he moved to amend the rule so that the waiver of clause 6, rule XXI, would not apply to the language transferring funds from the hydrofoil ship program to other purposes.

The Rules Committee adopted his amendment excepting from the waiver of clause 6, rule XXI, the language in the bill on page 19, beginning with the word "and" in line 17 and all that follows up to the semicolon on line 21.

Once part of the paragraph was exempted from the waiver, it was then necessary to add the proviso clause, insuring that the rest of the paragraph would still stand. This was necessary because the House precedents state that an entire appropriating paragraph is subject to a point of order when a part of that paragraph is subject to a point of order.

Mr. Speaker, I would like to point out that this bill provides for $110,097,296,000 in new appropriations and for $477,612,000 in transfer authority for a total availability of $110,574,908,000 for fiscal year 1978.

The comparable figure for 1977 is $105,188,925,000.

So this bill is $5,385,983,000 above last year's amount, but some $3,302,372,000 less than the amount requested.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 337, nays 1, not voting 95, as follows:

[Roll No. 376]

YEAS—337

Alexander	Edwards, Calif.	Long, Md.
Allen	Eilberg	Lujan
Ammerman	Emery	Luken
Anderson, Calif.	English	McClory
	Erlenborn	McDonald
Anderson, Ill.	Ertel	McFall
Andrews, N. Dak.	Evans, Colo.	McHugh
	Evans, Del.	McKay
Annunzio	Evans, Ga.	Madigan
Applegate	Evans, Ind.	Maguire
Archer	Fary	Mahon
Armstrong	Fascell	Mann
Ashbrook	Fenwick	Markey
Ashley	Findley	Marks
Aspin	Fish	Marlenee
Badham	Fisher	Martin
Bafalis	Fithian	Mathis
Barnard	Flood	Mattox
Baucus	Florio	Meeds
Beard, R.I.	Flowers	Meyner
Beard, Tenn.	Flynt	Michel
Bellenson	Foley	Mikulski
Benjamin	Ford, Mich.	Milford
Bennett	Ford, Tenn.	Miller, Ohio
Bevill	Forsythe	Mineta
Biaggi	Fountain	Minish
Bingham	Fowler	Mitchell, N.Y.
Blanchard	Frenzel	Moakley
Blouin	Fuqua	Moffett
Boiling	Gammage	Montgomery
Bonior	Gephardt	Moore
Bonker	Giaimo	Moorhead, Calif.
Bowen	Gibbons	
Brademas	Gilman	Moorhead, Pa.
Breaux	Ginn	Moss
Breckinridge	Glickman	Murphy, Ill.
Brinkley	Gonzalez	Murphy, N.Y.
Brodhead	Goodling	Murphy, Pa.
Brooks	Gore	Murtha
Broomfield	Gradison	Myers, Gary
Brown, Calif.	Grassley	Myers, Ind.
Brown, Ohio	Gudger	Natcher
Brovhill	Guyer	Neal
Buchanan	Hagedorn	Nedzi
Burke, Calif.	Hall	Nichols
Burke, Fla.	Hamilton	Nix
Burleson, Tex.	Hammer-schmidt	Nowak
Burlison, Mo.		Oakar
Burton, Phillip	Hannaford	Oberstar
Byron	Hansen	Obey
Caputo	Harkin	Panetta
Carr	Harris	Patten
Carter	Harsha	Patterson
Cavanaugh	Heckler	Pattison
Cederberg	Hefner	Pease
Chappell	Heftel	Pepper
Clausen, Don H.	Hightower	Perkins
	Hillis	Pettis
Clawson, Del	Hollenbeck	Pickle
Cochran	Holt	Pike
Cohen	Holtzman	Pressler
Coleman	Howard	Preyer
Collins, Tex.	Hubbard	Price
Conable	Huckaby	Pritchard
Conte	Hughes	Pursell
Conyers	Ichord	Quayle
Corcoran	Ireland	Quie
Corman	Jacobs	Rahall
Cornell	Jeffords	Railsback
Coughlin	Jenkins	Rangel
Crane	Johnson, Calif.	Regula
Cunningham	Jones, N.C.	Reuss
D'Amours	Jones, Okla.	Rinaldo
Daniel, Dan	Jones, Tenn.	Risenhoover
Daniel, R. W.	Jordan	Robinson
Danielson	Kasten	Rodino
Davis	Kastenmeier	Roe
de la Garza	Kazen	Rogers
Delaney	Kelly	Roncalio
Dellums	Kemp	Rooney
Derrick	Keys	Rosenthal
Derwinski	Kildee	Rostenkowski
Devine	Kindness	Rousselot
Dickinson	Kostmayer	Roybal
Dicks	Krebs	Rudd
Dingell	Krueger	Runnels
Dodd	LaFalce	Ruppe
Dornan	Lagomarsino	Santini
Downey	Latta	Sarasin
Drinan	Lederer	Satterfield
Duncan, Oreg.	Lehman	Scheuer
Duncan, Tenn.	Levitas	Schroeder
Early	Lloyd, Calif.	Schulze
Eckhardt	Lloyd, Tenn.	Sebelius
Edwards, Ala.	Long, La.	Selberling
Sharp	Studds	Walker
Shuster	Stump	Watkins
Sikes	Symms	Waxman
Simon	Taylor	Weaver
Sisk	Thompson	Weiss
Skelton	Thone	Whalen
Skubitz	Thornton	White
Slack	Treen	Whitten
Smith, Nebr.	Trible	Wilson, Bob
Snyder	Tsongas	Wilson, C. H.
Spellman	Tucker	Wilson, Tex.
Spence	Udall	Winn
Staggers	Ullman	Wolff
Stanton	Van Deerlin	Wright
Stark	Vanik	Yates
Steed	Vento	Yatron
Steers	Volkmer	Young, Mo.
Stockman	Waggonner	Young, Tex.
Stokes	Walgren	Zablocki

NAYS—1

Ottinger

NOT VOTING—95

Abdnor	Goldwater	O'Brien
Addabbo	Hanley	Poage
Akaka	Harrington	Quillen
Ambro	Hawkins	Rhodes
Andrews, N.C.	Holland	Richmond
AuCoin	Horton	Roberts
Badillo	Hyde	Rose
Baldus	Jenrette	Russo
Bauman	Johnson, Colo.	Ryan
Bedell	Ketchum	Sawyer
Boggs	Koch	Shipley
Boland	Le Fante	Smith, Iowa
Brown, Mich.	Leach	Solarz
Burgener	Leggett	St Germain
Burke, Mass.	Lent	Stangeland
Burton, John	Lott	Steiger
Butler	Lundine	Stratton
Carney	McCloskey	Teague
Chisholm	McCormack	Traxler
Clay	McDade	Vander Jagt
Cleveland	McEwen	Walsh
Collins, Ill.	McKinney	Wampler
Cornwell	Marriott	Whitehurst
Cotter	Mazzoli	Whitley
Dent	Metcalfe	Wiggins
Diggs	Mikva	Wirth
Edgar	Miller, Calif.	Wydler
Edwards, Okla.	Mitchell, Md.	Wylie
Flippo	Mollohan	Young, Alaska
Fraser	Motti	Young, Fla.
Frey	Myers, Michael	Zeferetti
Gaydos	Nolan	

The Clerk announced the following pairs:

Mr. Akaka with Mr. Abdnor.
Mr. Addabbo with Mr. Jenrette.
Ms. Boggs with Mr. John L. Burton.
Mr. Burke of Massachusetts with Mr. Andrews of North Carolina.
Mr. Le Fante with Mr. Leach.
Mr. Baldus with Mr. Goldwater.
Mr. Hawkins with Mr. Badillo.
Mr. Hanley with Mr. Carney.
Mr. Shipley with Mr. Edwards of Oklahoma.
Mr. Roberts with Mr. Ambro.
Mr. Teague with Mr. Bedell.
Mr. Zeferetti with Ms. Collins of Illinois.
Mr. Mitchell of Maryland with Mr. Harrington.
Mr. Cotter with Mr. Ketchum.
Mr. Boland with Mr. Cornwell.
Mr. AuCoin with Mr. Butler.
Mr. Metcalfe with Mr. Hyde.
Mr. Diggs with Mr. Lent.
Ms. Chisholm with Mr. Bauman.
Mr. Dent with Mr. Clay.
Mr. Mazzoli with Mr. Koch.
Mr. McCormack with Mr. Edgar.
Mr. St Germain with Mr. Lott.
Mr. Russo with Mr. Marriott.
Mr. Richmond with Mr. Holland.
Mr. Stratton with Mr. Burgener.
Mr. Wirth with Mr. McCloskey.
Mr. Nolan with Mr. Cleveland.
Mr. Mollohan with Mr. Miller of California.
Mr. Flippo with Mr. McDade.
Mr. Fraser with Mr. Motti.
Mr. Mikva with Mr. Brown of Michigan.
Mr. Lundine with Mr. Horton.
Mr. Leggett with Mr. McEwen.
Mr. Ryan with Mr. Wylie.
Mr. Rose with Mr. Young of Alaska.
Mr. Smith of Iowa with Mr. O'Brien.
Mr. Solarz with Mr. Quillen.
Mr. Traxler with Mr. Sawyer.
Mr. Michael O. Myers with Mr. Stangeland.
Mr. Vander Jagt with Mr. Walsh.
Mr. Steiger with Mr. Whitehurst.
Mr. Young of Florida with Mr. Wiggins.
Mr. Whitley with Mr. Wydler.
Mr. Young of Alaska with Mr. Wampler.
Mr. Frey with Mr. Johnson of Colorado.

Mr. PRITCHARD changed his vote from "nay" to "yea."

So the resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR WEEK OF JUNE 27

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader the program for the balance of the day and for next week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to my friend, the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, the program for the remainder of today will be the consideration of the Defense Department appropriation bill for fiscal year 1978. It is our plan to adjourn at 3 o'clock today. We do not anticipate that we will be able to finish the appropriation bill, but we hope to get as far as we can and then carry over the remainder of that action until next week.

On Monday next the House will meet at noon. We will consider the bill (H.R. 6666), Legal Services Corporation Act amendments. We will try to complete consideration of that bill. As the gentleman knows, we have already gotten well into the 5-minute rule on that bill and we would hope to complete consideration to it.

There may be one or more conference reports brought up, but we would hope to get to the bill (H.R. 5023), Indian claims statute of limitation provisions, under an open rule, with 1 hour of debate.

On Tuesday the House will meet at noon. There is one bill scheduled on the Suspension Calendar, S. 964, eliminating October pay increases for senior officials of executive, legislative, and judicial branches.

Then we will come back to the Department of Defense appropriation bill (H.R. 7933). We would hope to conclude consideration of that measure prior to our usual closing time.

On Wednesday the House will meet at 10 o'clock a.m. The first bill to be considered will be H.R. 7932, Legislative Appropriations Act for fiscal year 1978, subject to a rule being granted.

Then we will consider House Resolution 656, creation of Select Committee on Intelligence.

On Thursday, the House will meet at 10 o'clock a.m. The plan is to consider two bills and such other measures as

may not have been completed. The specific bills scheduled are H.R. 7010, compensation for victims of crime, for which an open rule with 1 hour of debate has already been granted, and H.R. 6683, Earthquake Hazards Reduction Act of 1977, under an open rule, with 1½ hours of debate.

At the close of business Thursday, the House will adjourn until noon, Monday, July 11, for the Independence Day district work period.

The House will adjourn by 3 o'clock on Friday, today, and by 5:30 p.m. on all other days, except Wednesdays. Any other program will be announced later.

Mr. MICHEL. Mr. Speaker, may I inquire further of the distinguished majority leader? Would it appear then that we get out at what time on Thursday, the day we will be concluding next week?

Mr. WRIGHT. Five-thirty p.m.

Mr. MICHEL. Is the reason for that 1½-hour rule the fact that there are two committees involved in that legislation?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, the gentleman is correct. That was a bill which was sequentially referred, and inasmuch as there are two committees involved it was thought necessary to have that much time.

Mr. MICHEL. Mr. Speaker, one further question. On the Wednesday order of business, is that concrete to take up the legislative appropriations bill first, or would that order be reversed if any purpose was served to reverse it?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, it is planned to take up the legislative appropriations bill first on Wednesday.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman.

ADJOURNMENT TO MONDAY, JUNE 27, 1977

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REFERRAL OF EXECUTIVE COMMUNICATION NUMBER 1461 TO COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that Executive Communication No. 1461 from the Secretary of Transportation transmitting a draft of proposed legislation, which was jointly referred to the Committees on Interstate and Foreign Commerce and International Relations, be also referred to the Committee on Merchant Marine and Fisheries.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

JOINT REFERRAL OF EXECUTIVE COMMUNICATION NUMBER 1655 TO COMMITTEES ON INTERSTATE AND FOREIGN COMMERCE AND PUBLIC WORKS AND TRANSPORTATION

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that Executive Communication No. 1655 from the Secretary of Transportation transmitting a draft of proposed legislation, which was referred to the Committee on Interstate and Foreign Commerce, be jointly referred to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 7940, FOOD STAMP ACT OF 1977

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a report on the bill H.R. 7940, the Food Stamp Act of 1977.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERSONAL EXPLANATION

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I was compelled to be absent on Monday, June 20, 1977. I missed rollcall votes No. 353 and No. 354, and would like to announce how I would have voted had I been present.

Rollcall No. 353. House Resolution 634, the rule waiving points of order against certain provisions in H.R. 7558, Agriculture and related agencies appropriations bill for fiscal year ending September 30, 1978. 352 yeas to 5 nays. I would have voted "yea."

Rollcall No. 354. An amendment to H.R. 7558 that sought to prohibit the use of any funds for a Government program of subsidy payments to sugar processors. 119 ayes to 272 noes. I would have voted "No."

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1978

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Alabama (Mr. EDWARDS) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7933, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Texas (Mr. MAHON) will be recognized for 1 hour, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before we went into the Committee of the Whole, I secured unanimous consent for all Members to revise and extend their remarks on the defense appropriation bill for fiscal year 1978.

I think the House is deserving of a lot of credit for the way the House of Representatives has handled the appropriation bills in this session. We have made, in my opinion, a remarkably good record from the standpoint of expediting our work.

Everyone will not be satisfied with all the decisions that have been made, but we have moved along, and this has been made possible through the cooperation of the Speaker, the Honorable THOMAS P. O'NEILL, JR., and the majority leader, the gentleman from Texas (Mr. WRIGHT). They have given us the right of way during this month to bring up appropriation bills, and we have taken advantage of the right of way and we have presented many measures to the membership.

We could not have succeeded in bringing these bills to the Members and complying with the Budget Act had it not been for the cooperation of the Committee on Rules. The Committee on Rules, headed by the gentleman from New York (Mr. DELANEY), has been most cooperative and has made it possible for us to bring before the Members this bill, as well as many other bills on which rules were required.

Of course, our progress with the appropriation bills would have been impossible without the able and dedicated service of the staff of the Appropriations Committee.

The authorizing committee to which reference was made a few moments ago

has been most cooperative. The authorizing committee for research, for personnel, and for procurement, the Committee on Armed Services, has worked diligently and is ready now to bring the authorization conference report to the House. We have moved more or less in tandem with respect to that matter.

So I think the House deserves some considerable credit for what we have been able to accomplish thus far.

Each year it is required that we enact 13 general appropriation bills, such as appropriations for Interior, appropriations for State-Justice, appropriations for foreign aid, and defense appropriations. At the end of next week, by the time we recess, we will have disposed of all those measures insofar as original passage is concerned, with the exception of the District of Columbia appropriation bill. It has not been possible to bring that bill before the Members because there are some technical factors involved that I will not get into at this time.

Mr. Chairman, we tend in this country to sell ourselves short. We tend to emphasize and spotlight our shortcomings. We fail to take note of the remarkable progress that this country is making and has made. The progress of this country in recent decades has been miraculous. No dreamer could have predicted the progress that has been made in recent decades. The world, too, has made considerable progress.

It seems to me that if we want to be men of vision who dream dreams, we can look forward with a great deal of enthusiasm and confidence to the remaining 23 years of this century. This period of our history is really going to be big. During that time we can go a long way toward solving the energy problem which troubles us so much. During those 23 years we can go a long way toward solving our problems of water and food and fiber. During the remaining 23 years of this century miracles can be wrought as they have been wrought in the past decades when we have sent men to the Moon and accomplished all the things that have been done.

We live in a very great era. No one can predict just what may develop after these 23 years have elapsed and we move into the 21st century.

Mr. Chairman, it is true that the population is growing from about 4 billion-plus to about 6 billion-plus by the end of this century; but with additional improved education and understanding, the world population problem may be largely resolved, in my opinion, in the coming decades.

Therefore, it is a great big beautiful tomorrow. It is a great big beautiful remainder of this century. It is a great big beautiful new century that we look forward to; but there is one problem which confronts us, which could destroy all our dreams and make this progress impossible. What is that? That is world war III.

Mr. Chairman, that could shatter our hopes. That could destroy our dreams. That could annihilate civilization. So the future progress of mankind and the world depend, undoubtedly, in large measure upon our ability to prevent world war III.

Mr. Chairman, preventing world war III is what this bill is all about. I make no apologies for the magnitude of the bill because the aims we seek are worthy of any expenditure necessary to accomplish our goal.

This bill, of course, is a big one. It is the biggest bill ever presented to a legislative body in the history of the world, as far as that is concerned. We said that last year, and it was true. We say it again this year. It is regrettable that it is true.

What are some of the elements of this big bill? It will provide $110 billion roughly in new spending authority. In the current bill we are about $5 billion above the defense bill of last year; and when we add on the supplemental appropriation for next year, it will be about $7.5 billion above the current fiscal year.

We have made a cut in the budget. We do not hesitate to cut the budget. We do not hesitate to go above the budget. What we are interested in is preventing world war III and having an adequate defense. That was the job we undertook, so the net budget cut was about $3.3 billion.

Under leave granted, I insert tabulations reflecting the committee's actions in the bill:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEA 1978

Agency and item	New budget (obligational) authority, fiscal year 1977 [1]	Revised budget estimates of new (obligational) authority, fiscal year 1978 [2]	New budget (obligational) authority recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1977	Bill compared with— Budget estimates of new (obligational) authority, fiscal year 1978
(1)	(2)	(3)	(4)	(5)	(6)
RECAPITULATION					
Title I—Military personnel	$26,161,090,000	$26,140,055,000	$26,047,364,000	−$113,726,000	−$92,691,000
Title II—Retired military personnel	8,238,100,000	9,036,000,000	9,010,000,000	+771,900,000	−26,000,000
Title III—Operation and maintenance	32,062,854,000	34,357,545,000	33,863,149,000	+1,800,295,000	−494,396,000
Title IV—Procurement	27,949,350,000	32,394,000,000	30,059,742,000	+2,110,392,000	−2,334,258,000
Transfer from other accounts	(82,600,000)		(447,612,000)	(+395,012,000)	(+477,612,000)
Liquidation of deficiency		(21,000,000)	(21,000,000)	(+21,000,000)	
Title V—Research, development, test, and evaluation	10,434,418,000	11,730,800,000	10,899,711,000	+465,293,000	−831,089,000
Title VI—Special foreign currency program	3,665,000	2,480,000	2,480,000	−1,185,000	
Title VII—Working capital fund	219,800,000	170,800,000	170,800,000	−49,000,000	
Title VIII—General provisions (additional transfer authority, sec. 833)	(750,000,000)	(750,000,000)	(750,000,000)		
Title IX—Related agencies	37,048,000	45,600,000	44,050,000	+7,002,000	−1,550,000
Total, Department of Defense NOA	105,106,325,000	113,877,280,000	110,097,296,000	+4,990,971,000	−3,779,984,000
Transfer from other accounts	(82,600,000)		(477,612,000)	(+395,012,000)	(+477,612,000)
Total funding available	105,188,925,000	113,877,280,000	110,574,908,000	+5,385,983,000	−3,302,372,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)		
Liquidation of deficiency		(21,000,000)	(21,000,000)	(+21,000,000)	
Distribution by organizational component:					
Army	26,028,192,000	28,010,877,000	27,125,920,000	+1,097,728,000	−884,957,000
Transfer from other accounts	(27,800,000)		(63,800,000)	(+36,000,000)	(+63,800,000)
Liquidation of deficiency		(21,000,000)	(21,000,000)	(+21,000,000)	
Navy	35,807,629,000	39,000,974,000	37,514,128,000	+1,706,499,000	−1,486,846,000
Transfer from other accounts			(346,212,000)	(+346,212,000)	(+346,212,000)
Air Force	31,147,225,000	33,566,714,000	32,351,488,000	+1,204,263,000	−1,215,226,000
Transfer from other accounts	(54,800,000)		(64,600,000)	(+9,800,000)	(+64,600,000)
Defense agencies/OSD	3,848,131,000	4,217,115,000	4,051,710,000	+203,579,000	−165,405,000
Retired military personnel	8,238,100,000	9,036,000,000	9,010,000,000	+771,900,000	−26,000,000
Related agencies	37,048,000	45,600,000	44,050,000	+7,002,000	−1,550,000
Total, Department of Defense (NOA)	105,106,325,000	113,877,280,000	110,097,296,000	+4,990,971,000	−3,779,984,000
Transfer from other accounts	(82,600,000)		(477,612,000)	(+395,012,000)	(+477,612,000)
Total funding available	105,188,925,000	113,877,280,000	110,574,908,000	+5,385,983,000	−3,302,372,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)		
Liquidation of deficiency		(21,000,000)	(21,000,000)	(+21,000,000)	

[1] Includes amounts in Supplemental Appropriations Act, 1977, and Second Budget Rescission, 1977.

[2] Includes changes proposed in House Documents Nos. 95-93, 95-137, 95-145, and 95-161.

Mr. Chairman, this bill will support about 2.1 million military personnel. It will support about 1 million civilians. It will support a reserve strength of about 820,000. There has been some controversy about reserve matters. This bill goes a

long way toward providing more adequately for the reserve.

Mr. Chairman, I say again, Why is this bill so big? We live in a dangerous and an uncertain world; and complete security is impossible, absolutely, utterly impossible. However, one of the reasons that we are having to provide these large sums for airplanes, men, ammunition, and bombs and other material is the determined continued drive in the Soviet Union for military expansion. That is the problem.

I would like to make a brief comparison of the military strength of the United States and that of the Soviet Union, which is enlightening, although we know it may be a bit repetitious.

In tanks, the United States military forces have about 10,000. The U.S.S.R. has about 45,000. They have a different military problem. There is quite a disparity there.

In armored personnel carriers, we have 22,000; the Soviet Union has about 50,000.

In artillery, we are outnumbered by about 5,000 to 19,000.

In heavy mortars, we are outnumbered by 3,000 to 7,000.

In land-based intercontinental ballistic missiles—and this element is an important one in the defense picture in the world today—according to the agreements which this Nation has entered into with the Soviet Union, the United States has 1,050 land-based intercontinental ballistic missiles. The Soviet Union does not have 1,050; the Soviet Union has 1,500. We have to take note of that fact. However, we have more warheads, and we have more sophistication in many ways.

In submarine-launched ballistic missiles, when we developed the Polaris, we were preeminent in the field of ship-based ballistic missiles. However, today under our arms central agreements, the United States has 656 and the Soviet Union has 800 of those missiles.

In military personnel we have about 2 million plus, and the Soviet Union has 4.4 million in uniform. In reserves we have 1.6 million. The Soviet Union has 6.8 million.

I could go on down the line. I do not say that to indicate that the United States is in a precarious position of inferiority. To say that would be, of course, totally incorrect.

When it comes to helicopters, the United States leads the Soviets, 9,000 to 3,800.

In the field of bombers we are far ahead and are moving ahead with the B-1; 490 U.S., 140 Soviet Union.

In fighter aircraft we are decidedly ahead, 5,200 to 2,600 for the Soviet Union.

The question is raised from time to time as to whether or not the Soviet Union or the United States is superior militarily. I am always inclined to say that the United States is superior to the Soviet Union. There are qualified people who have listened to as much testimony as I have who would take, perhaps, a contary view.

Yes, the question is often asked whether the United States or the Soviet Union is No. 1 militarily. Those who ask usually want a very simple answer to a most complex question. There are no simple answers. There are many components of modern military might, as I have pointed out in the comparisons which I have made. I believe, from the evidence presented to the committee by our military and civilian defense leaders, and from information presented by our intelligence agencies, that the United States and the U.S.S.R. are roughly equal militarily. We are ahead in some areas and they are ahead in others. They have more manpower but we have more advanced technology in most areas. They are ahead in intercontinental ballistic missiles and we are ahead in strategic bombers. They have more megatons of nuclear weapons, but we have more warheads. But, let me say this, we are both mighty from the standpoint of the capacity to destroy the other. We each have the power to destroy the other, to destroy the viable society of the other.

We must not ask our Representatives and we must not ask the President of the United States to negotiate from a standpoint of weakness. We must give him the support that the Constitution requires of the Congress to provide for the defense of the country, and that is what this bill is designed to do.

It is unfortunate that we have not been successful in bringing about an agreement with the Soviet Union on slowing down the arms race. I have not lost hope. I am sure the President has not lost hope. I think some progress has been made and more progress must be made. Until that progress is made, we cannot relax our defense efforts.

I can speak now of the weapons that this bill provides, the ships, the guns. We are not shooting in anger these days. We are not engaged in any war, but we have $1½ billion in this bill for ammunition and armaments. We provide in this bill for 525 additional aircraft of one kind or another, for 17 new ships. Billions of dollars are involved in these procurement programs.

I could go on at length, but it has been my observation that Members are so busy they tend not to be enthusiastic about listening to general debate. They tend to want to spend their time on the House floor when we are on the 5-minute rule in the amendment period. So having received permission from the House to revise and extend my remarks, I will expand these remarks for the RECORD in order to give the readers of the CONGRESSIONAL RECORD a more adequate overall view what we are doing here.

In my opinion, this bill will be reasonably acceptable to the Members of Congress generally, to the country generally, to the President, to the Secretary of Defense—reasonably acceptable. Nobody on the Committee on Appropriations agrees with all of the provisions of this bill. There are certain provisions in here that ought not to be in here, I think, and there are certain changes that I would like to have seen made, but I could not exercise arbitrary power. I say again what we have done is to bring to the Members a bill in which I think we can have confidence and which, I think, can be widely supported and which, I believe, will be widely supported.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the chairman of the full committee has made a rather complete statement, and he will put in the RECORD certain additional information. I will also put in some comments on various items in this bill that I think will be helpful to the Members and generally limit my views today, on the floor, to just a few items and a few thoughts.

Mr. Chairman, at the outset I would like to thank our very distinguished chairman of the subcommittee and the chairman of the full Committee on Appropriations, the gentleman from Texas, for his able leadership through our review of the bill. I would also like to thank the other members of the subcommittee for the interest and concern they have shown in the often complex issues we had to delve into. Above all, though, I would like to extend my appreciation to the committee staff for the outstanding work that they did this year. They are truly professional. They are dedicated, and they are about as knowledgeable on these subjects as anybody around. They are the best, and we could not have done it without their help.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I will be happy to yield to the Chairman.

Mr. MAHON. I thank the gentleman for yielding.

I want to say to the gentleman in light of the statement he just made that the subcommittee had not been in agreement on all matters, of course, but we worked together as a team, and I must say that the gentleman from Alabama has done a magnificent job as the top man of the minority among the 13 members of the subcommittee. All members of the subcommittee made significant contributions. While the 5 months that we put into the study and work on this bill may go unnoticed generally, it is a great relief to join with the gentleman from Alabama today in bringing our product to the floor and in presenting it to this body with a considerable degree of confidence.

Mr. EDWARDS of Alabama. I thank the Chairman.

This is when we get right down to it—the day we all work toward—and that is to prepare ourselves and our bill for the day that it will be presented to the House for its consideration and to pass judgment on our work.

U.S.-SOVIET MILITARY BALANCE

Mr. Chairman, our deliberations over the items in this bill and over what is needed in the way of defense money this year were undertaken against a background of some ominous trends in Soviet military capabilities. All of the intelligence reports presented to the committee in testimony indicate that the Soviet Union is continuing to expand and modernize its armed forces—ground, air, and naval—across-the-board. This trend poses a serious national defense problem for the United States.

Now, we all know that there are many things that the Defense Department would like to have, but given the budgetary constraints that we have imposed on military spending, we can fund only

those activities and programs that are essential. We must set priorities. We must find ways to get more defense—more muscle—for fewer dollars. This can be done by eliminating waste, concurrency, and duplication from weapons acquisition from weapons acquisition programs and training activities, improving management procedures, and above all, by fostering competition in the development and production of new weapons. If we could really do just a few of these things, there would be more money available for the essentials.

COMMITTEE REVIEW

Mr. Chairman, we spent many, many hours poring over hundreds of controversial items in the bill. In all, we spent some 36 days in hearings and 9 days in markup. Due to the time constraints imposed by the Budget Control Act, we did not hold detailed hearings on each account as we have in the past. Instead we focused on key issues and problem areas such as tanks, shipbuilding, and strategic programs. Although I feel that we did the best we could under the circumstances, I would have preferred to spend more time on some of the more complex issues.

ADEQUACY OF PROPOSED FUNDING

Mr. Chairman, I believe that the funds provided in this bill are adequate to fulfill our military commitments around the world and to meet our fundamental need for a strong natural defense posture. If we had more I guess we could spend more, but the truth is we have funded just about everything that needs funding.

We are recommending a total of $41 billion for the acquisition of advanced weapons systems—$10.9 billion for research and development and $30.1 billion in procurement. We have recommended full funding for most of the major weapons programs as follows:

MAJOR WEAPONS PROGRAMS

PROCUREMENT

759 M60A1 tanks—$480.3 million.
17 ships—$5.5 billion.
40 F-14 aircraft—$623.4 million.
96 Trident I missiles—$889.1 million.
5 B-1 bombers—$1.2 billion.
144 A-10 aircraft—$741.8 million.
78 F-15 aircraft—$1.3 billion.
105 F-16 aircraft—$1.3 billion.

RESEARCH AND DEVELOPMENT

Advanced Attack Helicopter—$165 million.
Patriot (SAM-D)—$214.6 million.
Ballistic Missile Defense—$213.5 million.
XM-1 Tank—$117.7 million.
Trident Missile—$332.7 million.
Strategic Cruise Missile (Navy)—$210.3 million.
F-18 aircraft—$626.4 million.
Advanced ICBM Technology (MX)—$134.4 million.
B-1 Bomber—$442.5 million.
Air Launched Cruise Missile—$120 million.
F-16 aircraft—$192.8 million.

The funding recommended for these programs will insure that modern and capable weapons will be in the hands of our troops for many years to come.

The committee is also recommending additional funds over and above the budget request to eliminate the backlog of weapons and equipment and ships awaiting overhaul and repair. These funds, in combination with the $4.3 billion provided for flying and steaming hours and full funding for all manpower levels and forces, will support a higher level of combat readiness than in years past.

OVERALL BUDGET REQUEST

For fiscal year 1978, the Department of Defense requested $113.9 billion in this bill. The committee is recommending new appropriations in the amount of $110.1 billion. The funds provided would be distributed among the various accounts as follows:

Military Personnel—$26 billion.
Retired Military Personnel—$9 billion.
Operation and Maintenance—$33.9 billion.
Procurements—$30.1 billion.
RDT&E—$10.9 billion.
Special Foreign Currency—$2.5 million.
Working Capital Funds—$170.8 million.
Related Agencies—$44.1 million.

The proposed appropriation of $110.1 billion would constitute a net $3.8 billion reduction in new appropriations and include in excess of about $900 million in add-ons over and above the budget request recommended by the committee. The reductions in new appropriations are distributed among the various accounts as follows:

Military Personnel—$92.7 million.
Retired Military Personnel—$26 million.
Operation and Maintenance—$494.4 million.
Procurement—$2.3 billion.[1]
RDT&E—$831.1 million.
Related Agencies—$1.6 million.

The total amount recommended for fiscal year 1978—$110.1 billion—exceeds last year's appropriation by $5 billion. The major increases as compared to last year are as follows:

Retired Military Personnel—$771.9 million.
Operation and Maintenance—$1.8 million.
Procurement—$2.1 billion.
RDT&E—$465.3 million.

The budget resolution established a ceiling of $112.1 billion for this bill. This target figure excludes a $2.2 to $2.4 billion fiscal year 1978 pay increase supplemental bill expected early next year. The $110.1 billion recommended in this bill together with the pay increase supplemental that will be adopted in the future will still be under the budget resolution by some $2 billion. We are in good shape in that respect.

MAJOR ACTIONS

MILITARY PERSONNEL (ACTIVE, RESERVE, RETIRED)

DOUBLE DIPPING

The committee has included a new general provision—section 858—in the bill, prohibiting the payment of retired pay to any military retiree who begins work in the Federal Government after October 1, 1977. This restriction allows a $26 million reduction in the request for military personnel.

RESERVE STRENGTH ADJUSTMENTS

The committee is recommending the transfer of reservists in the fields of public affairs, civil affairs, law/legal, chaplains, and research and development for pay categories A and B to D. In our view, these specialties equate very closely to civilian jobs, and 2 weeks of training would be adequate to meet all requirements. If these specialties were not available in adequate numbers, they could be obtained quickly. Furthermore, these reservists are not needed until 90 days after mobilization. These adjustments permit a reduction of $20.2 million.

NATIONAL GUARD AND RESERVE TECHNICIANS

The committee has included a general provision—section 856—in the bill that prohibits the employment or replacement of any civilian technician after October 1, 1977. This would not affect current technicians and would result in a gradual phase out of technicians through attrition. Technicians would be replaced on a 1:1 basis with active duty personnel. This proposal would require no funding adjustments.

These are three really thorny issues, and I know we are going to take a lot of heat for what we have done. We feel that these problems should more properly be handled by other committees. However, since no one else would face up to the issues involved, we felt we had to. We feel that this money is not buying us much real defense—muscle—is not essential to our defense effort, and should be eliminated from the bill.

OPERATION AND MAINTENANCE

PERIMETER ACQUISITION RADAR

The committee recommends that no funds be provided for this program and that the PAR be deactivated. As you all probably know, the PAR is one of the remnants of the ABM system in North Dakota. The committee's recommendation in this regard is based on the position of the Chief of Staff of the Air Force, who says that this radar is not needed because its coverage is duplicative and its operation is costly. The committee was somewhat divided on this issue, and this is something we will have to face up to in conference. Personally, I feel PAR has some value and I would have preferred to continue it.

AUTOMATIC DATA PROCESSING SYSTEMS OF THE AIR FORCE

The committee is in receipt of information that suggests that the advanced logistics system—ALS—may not have been terminated in full compliance with our conference report of 2 years ago. We have an investigation underway, and we intend to get to the bottom of this matter. In the meantime the committee is most relucant to fund Air Force computer programs related to ALS, and there is a request for the interim ALS. We are proposing to withhold all such funds until we are satisfied that the Air Force is in full compliance with our directive of 2 years ago.

DEPOT MAINTENANCE ACTIVITIES

The committee is recommending the addition of $146.1 million to reduce the increasing backlog of weapons, equipment, ships, and aircraft awaiting overhaul and repair.

CONTRACTING PROCEDURES

The committee has included a general provision—section 852—in the bill to curtail the practice of placing more and more work on commercial contracts that was previously performed at defense installations by Government workers. Although commercial contracts are cheaper in most instances, the committee

[1] Excludes transfer forward of $477.6 million in prior year funds.

believes that the overall implications of this trend needs more systematic analysis and that the means for allocating work between commercial contracts and in-house need to be worked out in a more systematic manner. This could save money.

CONSOLIDATION OF UNDERGRADUATE HELICOPTER PILOT TRAINING

The committee has made a wise decision in approving this proposal. This action will save up to $150 million over the next 5 years and will provide equally good or better training for the four services. My views on this issue are laid out in some detail on pages 359–61 of the report.

PROCUREMENT

TANK PROGRAMS

During this year's review, we identified two areas of major concern: First, the cost and outdated technology of the M60A3 tank fire control system; and second, the ability of the Army to meet tank production goals in calendar years 1977 and 1978. Based on these considerations, we are recommending a reduction in tank production programs of $194.8 million, deleting all funds for the ruby laser rangefinder and solid state ballistic computer and 100 tanks. We have added funds to the bill in the amount of $6.3 million to initiate development of a more advanced fire control system based on XM–1 technology. This approach should yield a cheaper more effective system. The committee report also contains language urging the Army to use available funds to complete development of the diesel engine—AVCR 1360—used in one of the XM–1 prototypes. The committee recognizes the need to have a backup engine in case the turbine engine fails and the potential application of the diesel in other tracked vehicles, such as the light tank for which we have provided R. & D. funds.

NONNUCLEAR LANCE

The committee has added $65 million over and above the budget request for this program. The President has recommended that this program be terminated. It is too difficult to precisely locate targets on the battlefield at Lance ranges. Lance is too costly at $230,000 each to be used as a long-range artillery piece. Other systems, such as attack aircraft, can do this job better and cheaper. In my view it was a mistake to go forward with the nonnuclear Lance.

A–7E AIRCRAFT

The committee is recommending the addition of $71.5 million over and above the budget request to produce 12 A–7E aircraft at the rate of 2 per month from April to September 1979. Because of a lack of a firm production schedule for the A–18—its replacement—the committee felt that this program was being terminated prematurely.

SHIPBUILDING

The committee is recommending $5.5 billion in new appropriations for 17 ships as follows:

Two Tridents—$1.5 billion.

One SSN–688 Submarine—$278.5 million.

One DDG–47 Aegis Destroyer—$930 million.

Eight FFG–7 Guided Missile Frigates—$13 billion.

Two AO Fleet Oilers—$322.7 million.

Three Fleet Tugs—$52.7 million.

CVV AIRCRAFT CARRIER

The Defense Department requested $21 million for design work on the CVV, $15 million in ship development—engineering—and $6 million in ship development advanced. Our committee approved these requests in full, allowing a total of $21 million for CVV design work. The authorizing legislation was provided R. & D. funds in the amount of $21.5 million for the CVV in ship development—advanced—but not for design work. Those funds are provided for studies to look into the question of whether or not the CVV is feasible and desirable. Well, I thought we settled that question decisively back in March when the rescission measure was approved overwhelmingly. I am disturbed by the authorizing legislation in this regard and will have more to say about it at the appropriate time.

We have also included $566.1 million for cost growth and claims, $180 million for advance procurement of a nuclear-powered *Virginia* class Aegis-equipped cruiser, and funding adjustments to terminate the PHM program as proposed by the President. We have, in effect, approved the shipbuilding program requested by the President.

C–130 AIRCRAFT

The committee has added $62 million over and above the budget request to buy eight C–130 aircraft for the Air National Guard to enhance shortcomings in its airlift capability.

AIR LAUNCHED CRUISE MISSILE PROGRAM

The committee fully supports this program and recognizes its importance vis-a-vis the strategic nuclear balance and ongoing negotiations on related issues. However, because of technical problems encountered in the test program and recent design changes in the vehicle itself, the committee does not believe that the $40.6 million in advance procurement can be fully justified. We have therefore approved funding in the amount of $20.3 million for the program.

RESEARCH AND DEVELOPMENT

ADVANCED ATTACK HELICOPTER

The committee is recommending an addition $65 million over and above the budget request to keep this program on a more efficient schedule. The President has proposed significant cutbacks in this program.

SURFACE EFFECT SHIP

The committee recommends the deletion of $37.9 million of the $43.9 million requested for this program because it does not seem to offer a viable solution to future naval requirements. The Secretary of the Navy has taken a strong stand on this issue. He wants the funds restored so that a large, oceangoing SES could be put to sea to test out the validity of the concept once and for all. I still do not understand why it is not possible to determine the validity of the concept with the smaller craft in existence today.

F–14 RE-ENGINE

Comparing the two approaches—reengine versus uprating the current engine—I find that a new engine might provide only 5 percent more thrust for an additional $2.8 billion. The very marginal improvement in performance offered by this approach is not worth the additional cost. By uprating the current F–14 engine, it would be possible to improve thrust by 10 to 15 percent for $100 to $200 million, and any shortfall in the air combat capabilities of the F–14 could be made up by the F–18.

In the past, I have opposed the F–18. From what I hear now, the program is coming along, so I think we need to move on with it. We should uprate the current F–14 engine, and move out with VSTOL at the fastest pace possible. The uprated F–14, F–18, A–18, and VSTOL mated with a mix of large and small carriers will provide the Navy with the carrier attack force it needs.

ADVANCED MEDIUM STOL TRANSPORT

The committee is recommending a reduction of $17.5 million from the $25 million requested for this program because the engineering development phase of the program has not yet been adequately defined.

COMMUNICATIONS PROGRAMS

The committee is recommending a $326.2 million reduction in the $4 billion request for defense communications programs. Major reductions are as follows: Fleet satellite communications system, $47.4 million, requiring cancellation and a changeover to a lease arrangement; satellite data system, $44.1 million, associated with a decision to delay the procurement of a fifth space vehicle; defense satellite communications system, $60.1 million, requiring cancellation and changeover to a leasing arrangement; and Seafarer, $23.7 million, to terminate the program as better alternatives exist.

INTELLIGENCE PROGRAMS

A reduction of $179 million in intelligence programs and $214 million in intelligence-related activities. These programs are discussed in much greater detail in the committee report than in past years.

Mr. Chairman, we have worked hard on this subcommittee. May I repeat that we are blessed, in my opinion, with a very capable staff. I think when we get right down to it the members of the subcommittee could not do an adequate job without the fine staff that we have.

The reason that we are here talking in terms of $110 billion for 1 year is that the Russians are talking in big terms about big weapons. And until we can bring some peace and order to the world, and until the Russian bear changes its approach to the world, I think we are going to have to continue to come to this House and ask for sufficient money to make sure that we have an adequate defense.

I wish it were otherwise. I wish we could take a lot of this money and spend it on more programs for the benefit of our own people. I wish we could take some of this money and reduce our Federal deficit. But we have to live in the real world and when we live in the real world we have to assess our situation vis-a-vis other countries. This real world tells me that we have got to be strong if we are going to defend our Nation. We

have got to be strong so that perhaps we do not really have to defend our Nation. And yet if we should let down our guard, I think that our defenses would be chipped away to the point where we would be in great danger.

We can argue all day long as to whether this is enough, whether we ought to spend more than $110 billion, whether we ought to spend less, and I am quite sure if, in the scheme of things, we had more money, we would have spent more money, but I think, considering the priorities and considering the resources, that we have come to the floor with a bill that we can justify and that we can support.

There are a few areas that give me some concern, and I would like to chat about them now. There seems to be a tendency on the part of the Defense Department, and shipbuilding is a good example, of starting to build ships before the design is completed or before it has even gone very far in the design stage, and we have seen studies, which show where construction is started before design is far enough along, the average ship is completed at a cost of about 20 percent greater than the original estimates. We have seen that where ships are constructed after the design had gone far enough so that everybody knew where we were going, the price of the ship came in equal to or perhaps sometimes less than the original estimate.

So our committee has spent considerable time on this issue and has come to the conclusion that we ought to proceed with design and research and development and get this work far enough along before we open the door and let construction start or procurement start. This is a problem of concurrency. It is an all too common phenomenon, and it must be stopped.

We believe in the final analysis that from a taxpayer standpoint and from a defense standpoint it makes a lot of sense, it makes a lot of sense.

There are three hot items in this bill. If Members have not gotten a lot of mail on those items, probably they will. If they have not gotten a lot of telephone calls on those items yet, probably they will. They are generally referred to as double dipping and reserve strength adjustments and National Guard technicians.

We have found that there are many, many retired military people who the day after they retire take the same or similar jobs in the Defense Department. They keep their retirement or most of it and they get paid for the job they take. Frequently it is the same job they had when they were in the military. We have tried to tackle that problem. That is what is called double-dipping.

We have looked at the Reserve strength of this Nation.

We feel very strongly that we have got to upgrade the muscle of our Reserve forces. We have got to upgrade the combat readiness of our Reserve units. We have put a lot of money in this bill to do that.

We have also put money in to increase the recruiting effort to enhance the Reserve strength of this country.

We also believe there are certain Reserve categories that are spending too much time in training that is not needed. We have shifted those Reserves from categories A and B to category D. This includes those in civil affairs, public affairs, legal, chaplain and R. & D. There are many reasons why this was done, but one of the reasons is that these categories do not have to go until 90 days after mobilization. We feel, or the committee feels, and I have to say this is certainly not a unanimous decision on the part of the committee, that those categories just do not need to train 48 drill periods a year or 24 drill periods a year, that they can get all training they need for those particular categories in the 2-week summer camps.

The technicians are another category that we have heard about already, or will hear about. We believe that the technicians in the National Guard and the Reserves ought to be on active duty, rather than civilian employees assigned to a unit. We think that this is the way to go. This is the way to have a better Reserve unit. I hope that the Members will support that.

The thing that bothers me is that these really are not items that ought to be in an appropriations bill in the way they come to us today. It seems that nobody really has faced up to these problems. The authorizing committees ought to be doing this. I guess, in a way, it is out of a sense of frustration that the Committee on Appropriations has finally taken some action on it. It would please me greatly if the authorization committee would look into this whole thing and would come up with legislation that would resolve some of these problems, rather than with a general limitation approach in an appropriation bill.

We have heard considerable discussion about shipbuilding and ship claims. We spent most of a week listening to shipbuilding company witnesses and Navy witnesses and Admiral Rickover on the problems inherent in trying to get Navy ships built. Much of it seems to go back to the question of the type of contract that it is entered into between the Navy and the shipyards. We are hoping that we have found ways, or that ways will be found to get to the bottom of this problem to get our Navy ships built in an expeditious manner at the cheapest cost. The shipyards should not have to file such large claims, and they would not have to if we had better contracting procedures.

There is another matter that concerns me.

Earlier this year there was a lengthy debate over the CVN-71, the nuclear aircraft carrier. The House voted by a rather substantial margin to rescind the funds for the nuclear carrier, the Nimitz-class carrier. It was stated during debate at that time that it was preferable to go to the smaller conventionally-powered carriers, that we could put more in the ocean in more parts of the world.

The National Security Council had concluded that this was the way to go. President Ford and President Carter concluded that this was the way to go. We have the money in our bill to start design and engineering development of the CVN, the small carrier.

I was surprised to see, and disappointed, that the Committee on Armed Services conference report has in effect frustrated the effort to start with the design and the development of the small carrier, by placing language in the conference report and bill which calls for further studies of the subject which has been studied rather well.

Mr. BENNETT. Mr. Chairman, will the gentleman yield at that point?

Mr. EDWARDS of Alabama. I will yield briefly to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. I thank the gentleman for yielding.

Mr. Chairman, I do not want to be controversial about the language. The language which is in the conference report, which was worked out between the Senate and the House, I think is good language. I think if we read it carefully we can be happy with it. It did not emanate from the House. It really came out of conference, with sufficient information before us so we could do that. Forty million dollars was allowed to study the various alternatives with regard to the carrier. There was some reluctance on the part of the House conferees, to be very frank, to even study the small carrier, a rather substantial reluctance.

Mr. EDWARDS of Alabama. May I say to the gentleman that part is not surprising.

Mr. BENNETT. But I am happy to tell the Members, whether I am right or wrong, I did the very best I could to see to it that we had studied all types of carriers, and the language which is in this conference report is designed to have a definitive report to Congress so that the next authorization bill can contain a carrier of either nuclear, nonnuclear, a revision of the *Midway* class, or what have you. The design of that language, which Senator HART was very anxious to have in that conference report, will bring us not slowly to a decision but as promptly as we possibly could to a decision as to whether or not we should have the type of carrier and provide a full study for all of these types of carriers and the alternatives. The only reason I take this time is to encourage the Members that we should be happy with the language of the conference report. It was not the language that some of the diehards and nuclear carrier supporters wanted. I probably would vote for the nuclear carrier over any other type of carrier myself, but I did want to say that we had before us all of the alternatives.

I did not take this time here in this debate just to usurp the gentleman's time, but I did want to ask, does the gentleman think that language in the conference report which provides $40 million for a complete study of all alternatives and plans should be before us, so that we can choose when we have the next authorization bill? Does the gentleman think there are funds in this bill which will allow us to do that? I hope so, but I am not sure.

Mr. EDWARDS of Alabama. I am not sure either. I will say that to the gentleman. I have my doubts as to whether funds we have provided will be used for

the purpose intended, that is, for the design of a CVV. I think that is somethink that we need to study.

Mr. BENNETT. Then the House ought to be a part of the Appropriations Committee not making available this alternative choice. It should not be on the part of the authorizing committee. If we can fund this study, we can have a carrier in our next authorization bill, if we do not have funds for the study, we cannot do it.

Mr. EDWARDS of Alabama. I thank the gentleman.

Mr. Speaker, I want to say that the Committee on Appropriations took the House of Representatives at its word, and the House of Representatives voted by a rather sizable margin to rescind the funds on the nuclear carrier. That, to us, was a rather substantial mandate, we felt, to get on with the smaller carriers.

I would also like to talk for just a minute about the F–14, the Navy airplane, which has been doing very well. There is a debate going on, and perhaps will go on later today and into Tuesday, over the question of reengining the F–14.

We find in this bill there is some $26 million aimed at putting new engines in the F–14. This is an engine that has not yet been fully developed; it has been plagued with problems. To reengine the F–14 will cost close to $3 billion.

We can uprate the present engine in the F–14 for $100 million to $200 million. If we uprate the present F–14 engine, we are told that we will get between 10 and 15 percent increase in thrust. If we reengine the F–14, we are told that we will get between 10 and 20 percent additional thrust.

So we have a potential progress started in this bill of providing $3 billion for 10 to 20 percent additional thrust, as opposed to uprating the engine for around $200 million and getting 10 to 15 percent additional thrust. We just cannot justify the program to reengine the F–14.

We are building the F–18. We are going forward with the V/STOL. We are talking in terms of nuclear carriers and smaller conventional carriers. I have not seen the wisdom of spending $3 billion to reengine the F–14. I will talk about that later.

Mr. Chairman, many Members of Congress have expressed concerns over the relative strength of our strategic forces vis-a-vis the Soviet Union. And I am sure most Americans view with a great deal of skepticism the significant improvements the Soviet Union has made in its strategic forces in recent years. Therefore, I feel compelled to address this issue head-on. I, too, am concerned about where we stand with respect to this threat. But I temper my concerns with guarded optimism. I do not believe that our national leaders, both civilian and military, will ever permit this country to become inferior to the Soviet Union either in a strategic or conventional sense.

I tend to agree with this administration and with previous administrations that it can be very misleading to compare U.S. and U.S.S.R. weapons based on numbers alone. We have all been informed the last several years by a number of Secretaries of Defense that something like rough equivalence in strategic weapons is enough to provide ourselves with sufficient deterrence so that a preemptive strike against this country by the Soviet Union would be an unacceptable risk.

While the Soviet Union has improved its strategic posture in recent years, we have not been standing idly by merely observing their moves and trying to figure out their motives. We, too, have continued to improve our position in the strategic weapons area. We have deployed Minuteman II ICBM's, and followed that with deployment of the more advanced Minuteman III's. Last year we initiated production of the MK–12A reentry vehicle which will provide greater yields and increased accuracy for our Minuteman III missiles. There are funds in this bill to develop the MX mobile ICBM that will provide more survivability, more throw-weight, and be more accurate than our current land-based ICBM forces.

In the sea-based area, we first deployed the Polaris submarines with their Polaris submarines-launched ballistic missiles—SLBM's. Later, we improved our SLBM forces by deploying the Poseidon missile with MIRV'd warheads and with longer ranges than Polaris. Subsequently, we initiated development of a new generation of Trident missiles and submarines. We are already in production on the Trident I missile which has far greater ranges and more throw-weight than its predecessors. Funds for the construction of Trident submarine numbers 6 and 7 are contained in this bill, as well as funds for the continued production of the Trident I missile. Furthermore, we will equip 10 Poseidon submarines with the new Trident I missile, and funds to build missiles for that purpose are in this bill. Plans are also underway to initiate development of the longer range Trident II missile that can be carried by our Trident submarine.

The other leg of the Triad—our bomber force—has been continually upgraded and improved over the years. We have redesigned and modified our B–52's so that they are now capable of low-altitude penetration to their assigned targets. We have provided them with improved avionics and with SRAM missiles in order to enhance their survivability. A new generation of air-launched cruise missiles are funded in this bill to further increase their capability. At the same time, we are in production with the B–1 bomber that will carry larger payloads and have greater survivability and penetrability than the B–52.

In addition, we are developing a whole family of strategic cruise missiles that can be fired from submarines and surface ships, as well as from land-based sites. And the Soviet Union has already voiced its concern over this new generation of strategic weaponry during the course of the SALT discussions. They are genuinely concerned and they well might be.

It is perhaps noteworthy to mention that this bill carries funds in the total amount of approximately $12 billion to improve our strategic forces. I do not mean to infer that we should be complacent with that dollar level, but it does provide me with a certain degree of assurance that we are not entirely neglecting our strategic posture as a world power. It also serves the purpose of sending a message to the other side that we fully intend to negotiate from a position of strength, and that we will not let down our guard during those all-important discussions.

And let me conclude by pointing out that the industrial capacity and technological capability of this country is well known in the Soviet Union. That has been clearly demonstrated for decades since World War I. In fact the U.S.S.R. benefited from this capability during World War II. And they know that when called upon to do so, American industry has responded. We caught up with the Soviets in the space program and surpassed them in a few short years later. They have not yet been able to land men on the Moon while we have done so many times several years ago. I have enough faith in this country and in our leaders that if the need is demonstrated, we can surge our industry to respond rapidly to meet and surpass any determined effort by the Soviet Union to place us in an inferior position of strength in either strategic or conventional forces. Mr. Chairman, we do not have everything we want, but let us do not underestimate our readiness and our ability to respond.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for yielding.

Let me ask this question: With all this nuclear might that we have in submarines, nuclear-powered carriers, Minuteman missiles, and so on, does this give the United States a first-strike capability?

Mr. EDWARDS of Alabama. In my opinion, it does in the sense that we could get off the first round of ICBM's. We do not intend, of course, to make use of a first-strike capability, but we have it if we need to use it. I do not mean by this that we could prevent the Soviets from responding. In my opinion they could respond.

Mr. CARTER. I would hope we would not use it. But at the same time, does Russia have a first-strike capability?

Mr. EDWARDS of Alabama. I think the answer to that is also yes, again in the sense that they could get off the first round of ICBM's, but we could certainly respond.

Mr. CARTER. If they attempted to do so in the case of war, how many Americans would be killed?

Mr. EDWARDS of Alabama. The gentleman has asked this gentleman a question that he cannot readily answer.

Mr. CARTER. It has been estimated to be about 90 million people; is that correct?

Mr. EDWARDS of Alabama. The gentleman could be corrected. I would doubt that, however.

The answer to the gentleman's question, in general, is that if either side institutes a first strike, there is going to be nothing but a holocaust in both countries.

As to how many millions of people are killed in each country, I do not think

anybody can rightly answer that question. However, the point is that whoever starts a war of that type can, in great part, obliterate the other country. If one starts it, the other is going to retaliate. That is the thing we are trying to guard against by being as strong as we possibly can.

Mr. CARTER. If the gentleman will yield further, what would be our retaliatory capability after a first strike by Russia?

Mr. EDWARDS of Alabama. That is, in part, what I am in the process of talking about now. We have the Triad. We have our submarine-launched ballistic missiles. We have our missiles on the B–52's and the B–1 is coming. We also have our ICBM's, and we are trying, through the Triad, to be totally prepared to respond to any strike that should come from the other side.

Mr. CARTER. I certainly pray that that never happens, that we never have to use those weapons, and certainly that the Russians are not so inhumane as to attempt a first strike because it would result, as the gentleman has said, in a holocaust.

There is one other question I have, if the gentleman will yield a little further, and I trust he will with respect to this question: Suppose, then, a missile such as the SM–3 from a Russian vessel—they are usually carried, I believe, by cruisers or by smaller Bomar-type vessels—struck one of our nuclear carriers. What would be the effect of that in that area? Suppose it hit the nuclear mechanism of a carrier or ship.

Mr. EDWARD of Alabama. I am not sure what the gentleman is getting at. If such a thing happened, we would be at war. Is the gentleman trying to raise a question as to what damage would be done to the environment?

Mr. CARTER. I mean right at the particular place. Suppose it hit a nuclear reactor. What would be the effect in that area?

Mr. EDWARDS of Alabama. I think the effect would be deadly.

Mr. CARTER. Deadly over what range?

Mr. EDWARDS of Alabama. I cannot answer the gentleman.

Mr. CARTER. It would be tremendous, would it not?

Mr. EDWARDS of Alabama. I would think so.

Mr. CARTER. If the gentleman will yield further, due to our scarcity of oil, perhaps it behooves us to go ahead with nuclear carriers so that we will not be faced with that scarcity and can extend our strength over the world. Still, there is deadly danger lurking in the use of nuclear weapons anywhere; is that not true?

Mr. EDWARDS of Alabama. That is obviously always true.

We are trying through this bill and have done so with previous bills and we will be trying in the future to get ourselves in a position where such an attack on our forces would be at such a risk to the other side that that attack will never come.

If we ever let down our guard, if we ever fail to provide the necessary weapons systems and defenses, then that day may very well come. That is why we come here today with a bill of this magnitude.

Mr. CARTER. Will the gentleman yield further?

Mr. EDWARDS of Alabama. I will yield briefly for one more question because we have others who want to speak, and we have limited time.

Mr. CARTER. All right. I regret taking all this time.

I do not mean to disturb the gentleman from Alabama, and forgive me if I do, but I just hope that in the future it will be possible for the great powers of the world to ban nuclear war or the possibility of a nuclear war. It would be such a tragedy if this ever came about, if war ever came to pass.

Mr. EDWARDS of Alabama. Mr. Chairman, I thank the gentleman from Kentucky. I would say to the gentleman that if that day ever comes, this bill in its magnitude would be materially increased. But until that day comes we have to do our best to keep our Nation strong. This is at the heart of the $110 billion bill that we bring to the Members of the House today.

Mr. MAHON. Mr. Chairman, I yield 15 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON) is a very capable, very highly respected and an outstanding Member of the House of Representatives. The gentleman from Texas is a very articulate speaker. Now, Mr. Chairman, if the gentleman seemed a little nervous today there was a reason for it. His granddaughter was in the gallery and it was very important that grandpapa impress his granddaughter. I am sure he did.

Mr. Chairman, the House will hear it said today we are providing appropriations which are adequate for the defense requirements of our country. That is not the case. The committee has made improvements in some areas by additions in funding. The committee has made some reductions which are justified, and some that are not. More significantly, we are providing a substantially smaller appropriation $3 billion lower than the budget calls for. In fact, the committee is making a double cut. The Carter administration budget is lower by $3 billion than the one offered by the Ford administration. The Ford budget was considered essential to partially offset a growing Russian threat. What is before us is a stretchout budget. We will buy fewer weapons over a longer period. This assumes we know the Russian timetable for conquest—that we have all the time we need—I want it understood I do not question the sincerity of the committee or the staff but I regret the action that is being taken to cut this bill.

There are many pressures for funding from many agencies. None of them ever seem to have enough money. We constantly seek to do more for more people and, year after year, that is what has been happening. Defense is always the target for cuts.

It is true we are doing more for military personnel than ever before. But their numbers are being whittled down and first-line equipment is very scarce because it is so costly.

When a Defense budget comes to Congress, the military chiefs have been instructed to support the figures given them. They put the best face on the situation that they can. They have to say that they consider the budget adequate for the essential needs of the Nation—that it provides a deterrent posture sufficient to discourage aggression from abroad. In their public statements, military leaders have no choice but to support the budget, even when it is inadequate. Consequently, their statements are commonly accepted to mean that we do, in fact, have an adequate defense. In private conversations, most military leaders tell a different story. They know that our military posture is improving only slightly while the Russian strength is moving forward at an alarming rate. If I were to dwell on numbers of tanks, armored personnel carriers, aircraft, ships, submarines, cruise missiles, et cetera, et cetera, the figures would show the Russians are far superior in nearly every category in numbers, both of weapons and personnel.

But then we are told that strength comparisons must include Warsaw Pact and NATO nations, and that this makes the score more nearly equal. This is true in some categories of weapons, but not all of them. The contributions of the NATO countries to the common defense have been shrinking year by year. The countries involved are confronted with the same pressures that trouble us—demands for more creature comforts by the citizenry. That problem has not seriously affected Russia and the Warsaw Pact countries. They are spending a larger portion of their gross national product for defense and, since wages and prices are controlled, they get more bang for a buck.

America is the principal prop of the NATO alliance. Yet there are some who question whether America's forces are sufficiently disciplined under the All-Volunteer Force concept to withstand the kind of onslaught the Russians and their allies are capable of launching. It takes men of iron to stand up against superior odds during a sustained attack. Let us hope these fears are groundless. The fact remains that discipline and training standards have been relaxed in an effort to make the All-Volunteer concept workable.

I believe the people of America want the facts, not a glossed-over picture that does not tell the real story of America's comparative military weakness. I do not think there are many in our country who willingly would accept an inferior security status. They do not know that is what they are getting. For a long time it was almost impossible to get facts printed which told the real story of Russia's growing military power. Too many publications called it "scare tactics" to get more money for the Department of Defense. Some still do.

Today the true situation is better known. There should be equal awareness of the dangerous growth of Russian-type colonialism. Africa is a prime example. Whether it comes from terrorist activities which eventually result in an over-

throw of governments and a takeover by Russian stooges, or whether it is through Cuban advisers who are replacing Americans, or whether it is through downright aggression by Cuban military forces, the result is the same. Russia is dominating more and more of the world.

We have been told to vacate our only base in the Persian Gulf/Red Sea area, in Bahrain. Now there is an effort to get that country to change its mind. Our presence there is small. In nearby Iraq there is a large Russian presence. There is one in Yemen. There is a major Russian military operation in Somalia. The Ethiopians have told us to give up Asmara. Presumably, the Cubans will move in. In the perimeter of the Indian Ocean, there is country after country in which the Russians have some type of fleet operation. We have only Diego Garcia—which many Congressmen have fought from its beginning. On Wednesday, the House insisted on providing $100 million which some have called a thinly disguised fund for the conquest through terrorism of Rhodesia and South Africa. Russia is preparing to reap the benefits.

The Russians have lost some of their clout in the Mediterranean thanks to Egypt and Saudi Arabia. But Libya now is a stronghold for Russia and Wheelus Air Base, formerly an important U.S. installation, sees daily air cargoes of Russian weapons flowing through to African nations—28 of them altogether. Angola is a Russian colony. Mozambique is Russian-oriented.

Turkey has just been rebuffed again by Congress and, understandably, is looking carefully at Russian overtures. Turkey could provide Russia with direct access to the Mediterranean and to the Arab oil countries. Greece has cut back on our base rights because of the nonsolution of the Cyprus problem. Spain and Portugal are not as strongly anti-Communist as they were a few short years ago. Italy barely avoided a Communist government in the last election.

For a short time, there was concern about the Russian civil defense program. Now we seem willing to forget that billions of dollars have been spent in that country to develop a civil defense program with huge underground shelters, underground industries, and facilities to sustain life during a nuclear attack. This may be the Russian "ace in the hole." If a nuclear exchange should leave Russia capable of conducting a major war and sustaining her populace, a new dimension to the Russian threat would be added. We have no such capability. Despite the dedicated efforts of some hard-working people, our civil defense program is small and ineffective.

Russian power—diplomatic and military—is growing. In comparison, there is no way to see substantial improvements in either field for the United States. In the United States both should be strengthened now. Obviously, this is not a pollyanna speech. The situation does not invite a pollyanna attitude. There is far too much complacancy. It is unfortunate that a majority feels this bill must be cut some $3 billion below an already reduced budget request.

Mr. ROBINSON. Mr. Chairman, in examining this bill it is important that we look behind the grand totals of the biggest bill that the Defense Subcommittee has ever brought to this Congress and consider some of the small print that is of concern to all of us.

I want initially to express my personal appreciation to our chairman, our ranking minority member, and our staff for their unfailing courtesy and consideration and impartial treatment with respect to unfailing consideration under the long months of time when we were working on this bill. I think that this makes it possible, because of the climate that it creates within the committee, to bring to the Members the best possible bill today.

Mention has already been made that it is regrettable that the authorization bill was not taken into consideration by this body before the time that we bring this appropriation bill to the Members. I think it is appropriate to state at this point that the authorization bill has been taken into consideration by the Appropriations Subcommittee and that we feel that the bill has been conformed to that which came out of the conference between the House and the Senate. I say to the Members that it resulted in deleting from the bill an amount of almost $700 million, including items that lacked authorization after the conference was finished. This included $296 million in R. & D. and $368 million in procurement.

That being said, why is it necessary to bring to the House floor a bill that adds up to $110 billion-plus?

Our chairman has mentioned the appropriate action that we must take as a nation respecting the possibility of world war III and the necessity to have an adequate defense and deterrence when those who are inclined to be mischievous look at such prospects. Our ranking minority member, the gentleman from Alabama, mentioned the necessity to examine the "real world" of today and the threat that it poses in terms of what we know our potential enemies are doing in so many areas.

The gentleman from Florida (Mr. SIKES) delineated in even more detail the threat that exists in so many parts of the world that make it necessary that we bring to the Members once more the biggest appropriation defense bill that has been brought before this Congress in its history.

Mr. Chairman, as I did last year, I would like to discuss the bill in terms of two separate breakdowns. The first has to do with the breakdowns with regard to the category of spending and the comparison with last year. Now, these, of course, involve the categories of personnel, both active and retired, operation and maintenance, procurement and research development, test and evaluation. Most of the money in the bill is included in those categories. In each instance, the bill represents an increase over the bill for last year; however, in the case of personnel, that increase exists only because of the growth in the spending that is necessary for the retirement program. It is high time that we looked carefully at the retirement program, because it is growing at an extent that is going to make it unaffordable if we continue to function as we are now. That retirement program is costing us at the present time 20 percent of our total personnel costs, and personnel costs in this budget add up to about 55 percent of the total spending; so if we want to know where the bulk of the money is, it goes to pay people in one way or another.

Now, in terms of operation and maintenance, the committee has added $1.8 billion less the amount that was deleted after we considered conference results, but that it still, is under the budget. In terms of procurement the bill just about splits the difference between the budget and last year's spending level. It is a little over $2 billion over the amount of last year and a litle under $2 billion less than the budget; but that does not represent a broad-base cut to any specific important program. It rather represents a cutting back on literally hundreds of programs.

That brings us, of course, to research and development, which this bill brings to us, recommending $10.9 billion and which gives me some concern because it is an area where we are acknowledged to be ahead of our potential enemies but where we have made significant reductions. Yet we have this difficulty with the Department of Defense: It is that the Department of Defense continues to bring to our committee programs which have not been fully developed and yet for which they want procurement money. We think that it is necessary to prove the case for a new weapons system before we begin to fund it.

The other breakdown is one by service-oriented areas. I call your attention to the table on page 3 of the report reflecting an allocation of $26 billion to the Army, $35.8 billion to Navy and Marines, and $31 billion to Air Force. This is about the average proportion for each. The larger amount for Navy is mainly due to very expensive ship procurement.

Regarding specific items: The Members will not find in the report any long dissertation with regard to the B–1 bomber. We feel that the case for the B–1 has been well documented, was supported by the action on the floor of this House when we brought the bill before us last year. The last 12 months have only served to increase and to build support for the B–1. We again bring to the Members the proposal to full fund the amount that was in the budget.

It is interesting to note that the Russian Backfire bomber which, regardless of what the Members might have been told, does have intercontinental capacity, is now up to a production level of about 12 per month. All we are asking for in this budget is for five per year in the next fiscal year.

We have had some concern and comment and criticism regarding our missile

program. But I want to tell the Members that this committee is not insensitive to the importance of missiles, and particularly cruise missiles. There is adequate money in here to fund the program, in terms of keeping us ahead of those who are also concerned about the cruise missiles.

As earlier stated, one of the reasons that the Navy comes out ahead of the Army and the Air Force in this budget is because of the shipbuilding program. We have been getting far behind here, in terms of keeping up with the Russians, because they are now developing a capacity of an all-ocean navy instead of a navy intended to protect their closed-in boundaries. We have funded 18 new ships in this budget. That is not enough to keep up with what the Navy thinks we are going to require in the future, because they think we are going to have to build a total of 31 in the years just ahead of us. We are not doing that in this budget. We are going to have to make further strides in this regard.

Mention has been made in the colloquy between the gentleman from Alabama (Mr. EDWARDS) and the gentleman from Florida (Mr. BENNETT) regarding which direction we go, the small carrier or the large carrier. This colloquy, I think, is valuable, in terms of leading us into the debate which will occur when it comes to the overall shipbuilding program.

Mention was also made of our concern about the fact that we have so many claims against the Navy as a result of the delays in our shipbuilding program. Many of these come from the Newport News Shipbuilding & Dry Dock Co. in my own State, and with good reason, because the claims are astronomical. But the committee has been somewhat encouraged by the Navy Department's testimony that it intends to get a better handle on this in the future, and they are reviewing and reworking their contract process to the extent that we hope much of this controversy will subside in the next year.

The Trident program remains one of the legs of our three-leg defensive stool. It is an expensive element of it, if we are to keep up with our potential adversaries. Our first Trident—remember this—is still not to be delivered to the fleet until late next year or early 1979. So in spite of the fact that we have spent much money on the program, we are a long way from having it available to us.

We are going to hear a lot about the Reserves today. This committee has done a great deal as far as upgrading the ability of the Reserves to respond to an emergency should it occur, in terms of increasing the numbers, particularly in the Navy, and increasing the incentive for the Reserves to be able to bring in recruits and keep them in the service.

Nevertheless, there are some problems with regard to certain areas, as pointed out by the gentleman from Alabama (Mr. EDWARDS). We think there are areas where we can cut back on the suggested program regarding those individuals who are not absolutely necessary to the Reserve program who will not be required until at least M-plus 90.

We hear a great deal today about the subject of intelligence, including the CIA. We are going to find that this matter is very well addressed with regard to the consideration that the committee has given it, and that there are very substantial reductions that have occurred in the instance of both communications and intelligence as a result of the indepth hearings we have had on those subjects.

All in all, in the time that we had, which is certainly not sufficient in order to give the detailed study to each of these items it deserves, the committee has done a thorough job and brought us a bill which I think can be sustained in every sense of the word.

Mr. Chairman, I look forward to assisting my colleagues on the subcommittee in defending the bill as we get into it further during general debate and in the amendment stage.

Mr. SIKES. Mr. Chairman, I yield 15 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I rise in support of H.R. 7933, the defense appropriation bill for fiscal year 1978. This bill like all other bills reported out of the Appropriations Committee for the function national defense (050) is consistent with the budget target established by the Congress in the first budget resolution.

This bill provides $110.1 billion in budget authority and $102.1 billion in outlays will be below the subdivision levels of $114.5 billion in budget authority and $104.7 billion in outlays the committee established under section 302(b) of the Budget Act. Even considering currently anticipated supplementals the subcommittee is well within its subdivision levels. All of these funds are in the function 050 national defense.

Action is well along on the defense function in the House and I am happy to report that the prospects are excellent for achieving budget totals in this enormously important function that are consistent with the budget resolution.

The House has already passed the military construction foreign assistance and public works (ERDA) appropriation bills which impact on this function. All of these bills have been consistent with the budget resolution target for national defense. The only outstanding appropriation action is the pay raise supplemental bill which will be acted on in the spring. The budget resolution assumed that the supplemental would be $2.4 billion. It now appears that actual requirements will be less. As a result of appropriation action taken to date, and providing for the supplemental, the defense function will be $2.5 billion below the first budget resolution target in budget authority and $500 million below in outlays.

I know the total for this function may increase because of conference agreements; however, the Senate defense appropriation bill as reported by its subcommittee is at $111 billion in budget authority only $900 million higher than the House bill, so there will be limited change in final conference action.

You may recall, Mr. Chairman, that the Budget Committee originally recommended $116 billion in budget authority in the first budget resolution which failed to pass in the House primarily because the Defense function was amended and increased to $120.1 billion in budget authority. I say this only to indicate, Mr. Chairman, that your Budget Committee did have a reasonable sense of what the House desired for this function when it reported out the first budget resolution.

The distinguished chairman of the Appropriations Committee, Mr. MAHON, who is also my chairman on the Defense Subcommittee on Appropriations, deserves our utmost respect and thanks for meeting the tight timetable that the budget act requires and also for reporting out appropriations bills consistent with the first budget resolution targets. In fact, all the members and staff of the Appropriations Committee should be congratulated for doing an outstanding job under severe pressure.

Mr. Chairman, this bill is consistent with the first budget resolution, it is a bill responsive to our national defense needs, it is a bill that merits our support.

The following table summarizes the status of this function:

050: NATIONAL DEFENSE

[In billions of dollars]

Appropriation subcommittees	Subdivision	Current status	Over/under target
Defense (excluding pay supplemental)	112.1	110.1	−2.0
Military construction	3.0	2.8	−.2
Foreign assistance	1.0	.9	−.1
Public works (ERDA)	2.4	2.2	−.2
Other bills	.1	.1	
Subtotal appropriation bills	118.6	116.1	−2.5
Defense supplemental (pay raise)	2.4	2.4	
Foreign military sales trust fund receipts from military credit sales and miscellaneous receipts	−2.5	−2.5	
Total, budget authority	118.5	116.0	−2.5

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I thank my friend and colleague, the gentleman from Alabama (Mr. EDWARDS), the ranking minority member of the Subcommittee on Defense, for yielding to me.

It is my privilege to sit with him as a member of the Subcommittee on Defense Appropriations.

I would like to take this opportunity to thank and congratulate our chairman, the gentleman from Texas (Mr. MAHON), for his distinguished leadership as well as the gentleman from Alabama (Mr. EDWARDS) for the tremendous dedication that they have shown in leading this

vital subcommittee in its deliberations. I likewise congratulate our very able staff and my colleagues on that subcommittee for their efforts and devotion to responsibility.

Mr. Chairman, while I have some differences with some of the decisions that have been taken by the subcommittee, I can say without reservation that I share their views on about 95 percent of the decisions that were made. I believe that the subcommittee has acted in a most responsible way in approving the major portion of the requests for strategic forces and the associated research and development programs, for these elements form the backbone of our long-term security interests.

Mr. Chairman, I can say with confidence that the subcommittee has made important strides toward assuring the security of the United States and of our allies during the decade ahead, but I believe more needs to be done, as I will get to in a few minutes.

I believe the bill, as reported, deserves the strong support of the House. It is the product of very careful review by the subcommittee, the members of that committee, and our staff, and represents the best compromise available at this time.

Mr. Chairman, the other members of the committee have reviewed many of the programs and much of the rationale behind the defense appropriations bill so I will not repeat their important remarks.

However, I would like to speak with relation to other issues facing this country. Mr. Chairman, $110 billion does, indeed, represent a significant amount of money. It is a lot of money, a lot of taxpayers' money; but it needs to be put in perspective. It represents 5.4 percent of our gross national product, whereas a relatively few short years ago we were spending 9 to 10 percent of our GNP on defense. It represents 16 percent of our total national spending; that is, spending at the Federal, State, and local level, whereas a relatively few short years ago, in the 1960's, it represented about 25 percent of our national spending resources, it represents in this fiscal year 1978 budget 25 percent of our Federal budget, whereas under President Kennedy, in 1961, defense consumed about 49 percent of our total national budget.

All of these figures, Mr. Chairman, represent a decline in spending both in relative terms and in real terms in the dollars that we are spending for the defense of our Nation. But, I want to add a very important point, I do not believe that we can put a price on freedom or on peace or on the security of the American people. We have to do what is necessary to defend the independence and liberty of our people and like an insurance policy, in hope it never needs to be used.

As the gentleman from Florida (Mr. SIKES), the gentleman from Virginia (Mr. ROBINSON), and the gentleman from Alabama (Mr. EDWARDS) have pointed out, we must do what is necessary to preserve our freedom.

Mr. Chairman, again I want to point out that the sole purpose of these weapons and the purpose of our defense spending is to prevent war, to preclude their ever being used. The weapons will be successful in helping prevent their ever having to be used: in this debate over how much is enough and whether or not we can compare rubles to dollars, and so forth, I want to say that I believe that, in the final analysis, the level of the U.S. defense spending must not be decided on that basis.

This debate cannot be decided on the basis of a dollar-ruble comparison or upon the desire to create jobs in some Member's district. It should not be decided by a comparison with the level of spending on domestic programs, as helpful as that might be in putting our defense spending in perspective. Further, it cannot be decided on what we would think it would be nice to have.

The only rational index by which you can judge spending on our national defense today is on the basis of the actual Soviet military capability, regardless of the cost of that capability to the Soviet Union.

In that regard, Mr. Chairman, I have some serious questions about our defense priorities and about our spending levels for certain items both strategic and conventional in this budget.

I am seriously concerned that the resources allocated to Defense for fiscal year 1978 are not adequate to meet the projected military threat posed by the Soviet Union. Fiscal year 1978 budget outlays are nearly 10 percent less than constant fiscal year 1978 dollar outlays in fiscal year 1964—a year when military compensation and related personnel costs accounted for only 42 percent of the defense budget compared to over 50 percent today. Moreover, the character of the threat has changed dramatically in the intervening years. In fiscal year 1964 for example, the Soviet Union had fewer than 200 ICBM's and 50 SLBM's, today they have eight times that number.

A weakness in congressional action on defense budget issues is an extensive focus on year-to-year changes in expenditures for particular defense programs, without any substantial reference to the threat against which the adequacy of defense programs must be measured. The long-lead times associated with budget formulation in the Department of Defense—as much as 18 months between formulation and execution—makes it particularly important for the Congress to make the current and projected threat an integral component of its deliberations, not merely a concern about the annual increase in a particular program account.

The United States today is faced with the most serious direct threat to its survival since the War of 1812. The Soviet Union has made massive efforts in offensive, strategic, and conventional military forces since the United States initiated the policy of détente, as well as the talks at SALT I and II. Indeed, their buildup militarily, is the most massive in history, during peacetime, of any nation since Nazi Germany in the 1930's.

The Soviets have initiated a program to improve their strategic nuclear posture which will cause the payload capacity of their strategic forces to double by the early 1980's over the level which they obtained in the early 1970's.

The Soviets by the early 1980's will have tested 11 new intercontinental ballistic missiles over the number that they had in the early 1970's where the United States will have tested only one and we are closing down the only free world land-based intercontinental ballistic missile line in the world, that is the Minuteman III.

Whereas the United States had a commanding lead in the number of ICBM and sub-launched ballistic missile warheads in the early 1970's; by the early 1980's, the Soviets will increase their number of deployed warheads sixfold as they MIRV all of their weapons, more than one-third over that of the United States.

The vacillation of the administration on the deployment of the B–1 and the MX ICBM, will delay the earliest date at which militarily significant numbers of these defense items can be deployed, until well into the 1980's.

Rather than offset the delays in the B–1 and MX programs proposed by the administration by deploying additional Minuteman III missiles to replace the Minuteman II missiles, the administration has proposed to terminate the Minuteman program, our only strategic program in production. It is essential that the Minuteman program be kept in production until another land-based strategic missile program is ready to replace it to provide the Nation with a production base to rapidly increase the number of ICBM's available if international conditions should warrant it.

Important as these developments in strategic programs are, one cannot overlook the erosion in our relative strength in our capability for theater warfare as well:

The Soviet Union has doubled the number of artillery tubes in Eastern Europe since the early 1970's;

The Soviets have added 1 tank battalion per motorized rifle division in Eastern Europe since 1972 with a parallel increase in artillery strength and personnel giving them an equivalent of 38 divisions of the size that existed prior to the Czech invasion when they had only 26;

The Soviet Union has increased its number of tactical aircraft per air division by 25 percent even though the number of air divisions has not been increased;

The United States, on the other hand suffers from extraordinary shortages in almost every important area of theater warfare capability. Security regulations inhibit me from providing you with the details, but the extent of the shortages is nothing less than scandalous. To give you some idea of the character of the problem, the few tanks we shipped to Israel in 1973 from our depots in Europe cannot be replaced out of new production until 1979;

The Soviets have improved their posture in Europe to the point where they have organic logistics to support 40 days of combat operations where they had only sufficient ammunition, fuel, and

spare parts for a few days in the late 1960's; and

The Soviet Union has redeployed river-crossing equipment from the western U.S.S.R. to forward areas near the West German border, thereby drastically reducing the warning time our intelligence services would have of an impending attack from that source of mobilization. You may recall, that the final warning the Israeli's had of an impending attack in 1973 was the Egyptian's redeployment—clandestine—of its water crossing units from rear areas to the Suez Canal hours before the attack.

What can be done about it:

First, we have to make sure that adequate resources are provided to the DOD. This does not mean that every single program merits support; indeed, low priority programs should be set aside. However, we are spending $10 billion less in current dollars on defense now than we spent in 1964, the last pre-Vietnam war year;

Second, we must modernize our strategic force posture to make it clear to the Soviets that we will be able to threaten the survival of their most threatening systems—the SS-18 and SS-19—if they do not negotiate an equitable agreement on strategic arms. This means we have to deploy the B-1, modernize the Minuteman R. & D. on the MX and cruise missile systems; and

Third, our tactical warfare posture must be improved; a higher level of readiness is needed to deal with a situation where there is reduced warning of a Soviet attack; we must eliminate the enormous deficiencies in equipment of our forces, the performance, safety, and reliability of our tactical nuclear weapons must be improved to sustain the credibility of our posture in Europe; the quality of our tactical Air Force in Europe needs to be improved by modernizing the existing force of aircraft for both defense and ground attack roles.

The aforementioned "list" is not intended to be alarmist. Rather, it is intended to suggest some of the important developments now taking place in both strategic and general purpose forces maintained by our principal adversary, the Soviet Union. It is possible to reprimand an officer for calling attention to these issues in the public domain, but that will not make them go away. Two decades ago when American military superiority was stark and overwhelming, it was reasonable to overlook details of the Soviet military posture on the grounds that no small changes could make any significant impact on the balance of military power. Today, we no longer enjoy this luxury, and congressional deliberations should reflect this fact.

In the foregoing discussion, I do not argue that the United States should make an effort comparable in every respect to the Soviet Union whether in expenditure, manpower, inventories of equipment, or deployment patterns. All of these statistics are merely aspects of military capability, but do not necessarily measure military capability. Nevertheless, in many important elements of national military power, under virtually any plausible scenario of conflict the United States faces serious shortcomings. In many cases, meeting these problems is a question of providing additional resources, but in others, one must focus on other factors such as efficiency, military doctrine, et cetera.

What is particularly disturbing to me is that the administration has proposed to terminate the Minuteman III production line, our only strategic ICBM program in production at this time.

It is essential, I believe, that the Minuteman program be kept in production until another land-based strategic missile program is ready to replace it so as to provide the Nation with a production line, capable of rapidly increasing the number of ICBM's available if international conditions should warrant.

We are without an agreement in SALT II. We are without a formalization of the Vladivostok agreement. It would seem to me it does not make any sense at all, at this point in our negotiations with the Soviets to bring our Minuteman III production line to a total halt as the administration proposes.

Mr. Chairman, I see my friend the gentleman from New York (Mr. DOWNEY) standing up. I know the gentleman would like to ask me a question. So I will yield to the gentleman at this point, hopefully for a short time since I only have a limited amount of time.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding to me. I appreciate his concern over the limitation of time that the gentleman is under. I know the gentleman is a student of these matters and is very knowledgeable and I would like to ask him a question.

We have had this discussion about the Minuteman program before.

My question is what difference does it make whether we have these additional Minuteman missiles in terms of hard target capability, the additional Minutemen are not going to gives us that much more capability, and the Soviets would look at the additional 50 Minutemen and say, "Well, the United States, I guess, is interested in influencing somebody." But it does not mean very much in terms of a threat to us.

Mr. KEMP. One reason why I think we should continue the production line on Minuteman III, and why it is so important, is our need to upgrade our Minuteman II force. Some feel that the shelf life of the Minuteman II is so dangerously deteriorating that it compromises our Nation's credibility in this area. Further, I believe, keeping the line open does help to show our Nation's resolve to do whatever is necessary to come to the negotiation table from a position of strength rather than weakness.

One other point. The gentleman is correct insofar as, perhaps, the 1980's are concerned, but I would strongly dispute whether or not his remarks apply right now. In the next 4 or 5 years before our MX is deployed and before the B-1 is going to be produced in numbers sufficient, I think, to offset what the gentleman from Virginia talked vis-a-vis the Soviets deployment of the intercontinental bomber, the Backfire, it does not make sense to stop our Minuteman III production, especially in lieu of a SALT II agreement.

Current policy embodied in the proposed fiscal year 1978 budget will result in the atrophy of the ICBM force in the next decade unless there is a change of mind in the administration and the Congress. Specifically:

The upgrade of Wing II of the Minuteman II force should be completed to be compatible with the balance of the force including installation of the Command Data Buffer for flexible command and control capabilities and increases in silo hardness; failure to do so will make the wing vulnerable to Soviet SLBM attack in the 1980's;

Minuteman II modernization with either Minuteman III components or more advanced components; for example, the Advanced Inertial Reference Sphere, to improve the capability of the missile to give the United States the greatest deterrent capability possible within the limits of our existing payload disadvantage;

Accelerate MX development by taking advantage of basing studies carried out over the past 6 years, and channeling additional funds into development of the missile itself. Merely by replacing existing Minuteman II missiles with the MX, survivability would be increased because the number of surviving reentry vehicles remaining after an attack would be greater with the MX than with the existing Minuteman III. Moreover, the MX will be compatible with a mobile basing scheme if a suitable one can be identified.

Any or all of the aforementioned steps would be appropriate steps for the administration to take in light of current Soviet strategic nuclear deployments. Regrettably, neither (a) nor (b) are mentioned in the fiscal year 1978 defense budget even though the testimony of DOD witnesses supports such an effort, and the administration reduced the Ford administration's request for the MX program by $160 million—from $294 to $134 million.

Mr. Chairman, beyond this debate over the Minuteman III production line being closed down we are faced with, as I have stated earlier, a massive development and deployment of Soviet strategic and conventional forces.

The Soviet Union has made substantial improvements in its forces, both strategic and general purpose in the past year, and the impact has been even more dramatic since 1968. Most of these changes have not been adequately addressed by the Congress, and consequently, there has been a relative attrition in the capability of U.S. military forces to deal with a direct Soviet military challenge. Although the list is long, a sample of some of the important changes which have been observed in the Soviet military posture in the time since the Congress acted on the fiscal year 1976 defense budget is instructive.

First. The Soviet Union has initiated deployment of the SS–20, a two stage mobile missile equipped with multiple independently targeted reentry vehicles (MIRV) with an order of magnitude improvement in the delivery accuracy over its predecessor systems (the SS–4/5 and the variable range SS–11). Moreover, if the SS–20 is loaded with a single warhead of the size of the U.S. Poseidon type, the SS–20 is capable of intercontinental range when deployed from either the Kola or Kamchatka Peninsulas. Thus, a substantial fraction of the United States could be brought under attack from a system which can neither be counted (due to its ease of concealment) nor reliably located. If the SS–20 is mated to its SS–16 first stage, a procedure which cannot reliably be verified by national technical means of verification, the United States could be faced with a mobile MIRV threat of more than 1,000 launchers.

The United States will not have a mobile ICBM system available for deployment until the mid-1980's at the earliest, because the administration has elected to slow down the MX (Advanced ICBM) program.

Second. The Soviet Union is proceeding with the deployment of ICBM's with a hard-target kill capability; a predominant character of their land-based ICBM program since the late 1960's. Their new generation of ICBM's have an accuracy which exceeds all but the most advanced American designs. However, because the explosive yield of the new generation of Soviet warheads is 5 to 10 times their American counterparts on so-called "light missiles" (SS–16–19's), and up to 250 times the Minuteman III yield on their largest missiles, the Soviet Union will have a first strike threat against U.S. fixed point installations by the early 1980's unless deterred or reduced by negotiation.

Three. The Soviet Union has initiated deployment of the Delta III submarine capable of launching multiple warhead (MIRV) payloads comparable to the proposed U.S. Trident II in range if not in sophistication. The deployment of the Delta II with a single 4,200-nautical mile range missile is continuing.

The Soviet Union has stepped up production of the Backfire-B (Tu–26) strategic bomber to a rate of five aircraft per month. While there is some dispute about the circumstances in which the Backfire can conduct two-way unrefueled missions, there is no controversy that the Backfire armed with a modified AS–6 air-to-surface missile can reach American targets on a refueled basis reliably, and can hit all targets of military significance on a one-way mission with reconstitution in territory adjacent to the United States; that is, Mexico, Cuba, the Bahamas, et cetera, similar to American practice with current B–52 mission profiles.

It is unfortunate that the Congress will elect to produce only 5 B–1 bombers in fiscal year 1978 at a time when the Soviet Union is turning out Backfires at a rate of five per month. From a perspective of the threat, arms control objectives, and the cost of alternative means of performing the mission, the B–1 is clearly the best choice.

Four. The Soviet Union has conducted a probably vigorous series of underground nuclear experiments, several with yields exceeding the 150-kiloton threshold, apparently consistent with the rapid pace of the modernization of Soviet theater nuclear and strategic nuclear forces.

Despite testimony before the Defense subcommittee by Department of Defense witnesses to the effect that continued nuclear testing was essential to American foreign and defense policy objectives, the U.S. test program has not been funded to permit adequate development of advanced nuclear explosives.

Five. Evidence continues to mount that the Soviet Union is maintaining a reload capability for some of its intercontinental and intermediate range ballistic missiles. While this problem is not addressed in the existing Strategic Arms Limitation Agreement—only silos for intercontinental range missiles are limited—the potential threat to the United States should a reload capability become widespread is apparent.

(6) Since the mid-1950's, the Soviet Union has deployed more than 5,000 cruise missiles of all types. When the United States possessed a vast preponderance in ICBM's, bombers, and SLBM's, the Soviet cruise missile advantage mattered little in the strategic balance. However with the development of modern missile guidance systems, miniature propulsion systems, the potential of cruise missiles has become particularly for tactical as well as strategic warfare. The large volume (cubic meters) of Soviet cruise missiles makes the potential threat from Soviet cruise missiles severe because of the large range and payload capability inherent in Soviet designs should they catch up to American technology—as they now have in MIRV technology—in guidance systems, propulsion, and warhead size and weight reduction.

Faced with a vast increase in the Soviet target complex, it is particularly unfortunate that the committee has elected to reduce by one-half, the procurement funds for the most advanced cruise missile now being developed by the United States, the air-launched cruise missile.

The CHAIRMAN. The time of the gentleman from New York (Mr. KEMP) has expired.

Mr. KEMP. Mr. Chairman, the present argument over who is No. 1 today is both confusing and misleading. The important point is not how each side stands today, but what have been the trends of the past 5 to 10 years and what are the trends 5 and 10 years into the future. The relevant point is not what each side has in its nuclear arsenal but what it can do with what it has. Since our national security is based on the policy of deterrence, the question we must face is whether Soviet strategic forces in their eyes can render ours ineffective. Our deterrent loses its credibility the day the Soviet Union believes it can attack our strategic forces and emerge from a counterforce exchange with strategic superiority and the ability to hold our urban population hostage.

ADVERSE TRENDS IN THE MILITARY BALANCE

What have been the trends in the military balance? Secretary Rumsfeld testified before the Appropriations Subcommittee on Defense last year, that, the trends of the past 5 to 10 years are adverse with respect to the military balances.

Some Members of Congress disagree with him. More importantly, however, Andrei Gromyko, Foreign Minister of the Soviet Union, agrees with Secretary Rumsfeld's assessment. Interpreting the same trends, Mr. Gromyko stated last September that the forces of international communism now have a "visibly increased preponderance" and may now be in a position "to lay down the direction of international politics." Whether they are or are not in that position at this time, there is every indication that they intend to be in that position soon.

It is certainly in the interests of the American people, and in the interests of peace and freedom in the world, for us in the Congress to do our part to help prevent the Soviets from achieving the position toward which they are driving, and to make it useless for them to try.

Mr. SIKES. Mr. Chairman, I am glad to yield 10 minutes to the distinguished gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, it should be obvious that an enormous amount of work has gone into the preparation of this bill. Chairman MAHON, ranking minority member JACK EDWARDS and our highly capable staff members as well as the full membership of the Defense Appropriations Subcommittee have devoted 5 full months of consideration to this measure. I commend them for their diligent efforts.

We are talking about very serious business in this bill since in it we provide the dollars to maintain our national defense system which is the heart of protecting our way of life. Not one of us who serves on the subcommittee or the full committee would be willing to take any action that would jeopardize our Nation and our citizens.

Yet if you will read my separate views which are contained in the committee report, you will find that we have disagreed amongst ourselves about various weapons systems. The disagreements can be as simple as whether a weapon system should be hurried along or developed more slowly, or our disagreements can be as complex as opposing or supporting approval of a specific weapons system.

These are serious arguments and we make them with the full understanding that we cannot ever be entirely certain that we are totally correct when we make these judgments. We rely on intelligence data about potential enemies, lessons learned and gleaned from exhaustive re-

search programs, the best consideration of military leaders, who do not always agree either, and we rely on our staff investigations, our hearings, our reading on the subject and all that we can gather in from outside sources. In the end, we show ourselves to be imperfect human beings who seek as seriously as we can to use whatever good commonsense has been allotted to us. But we make our decisions and bring them to you for your best consideration.

Obviously, we talk big money when we consider this bill. Defense of a large nation involves big spending, and that is justifiable. But that does not mean that the Congress ought to give the military services all that they request, for if you left it to the services, there would never be an end to spending.

My complaint with this bill is that we have not cut out the programs that are of dubious value. We have funded bad programs like the nonnuclear Lance missile which not only is not needed but whose performance is highly suspect. We fund the B–1 bomber which is far too expensive and very likely cannot perform the mission for which it was conceived. We fund the air launch cruise missile and the Navy's Tomahawk missile when the missions and capabilities are nearly interchangeable and one missile could do the work of two.

We fund thousands of research and development programs, a number of which are obsolete even as they are tested, and others which are duplications of efforts being made elsewhere by the same government. We fund the purchase of nearly $1 billion of materials and weapons systems that the Pentagon has not asked for and possibly will not use if we approve it. We continue to allow the Pentagon to maintain bank accounts totaling billions in unobligated balances, a practice that ought to be stopped because it is expensive and can lead to mischief.

These practices continue because the House has failed to exercise true judgment on the defense bill. The Members find themselves bewildered by the complexity of the bill—an understandable reaction for it is complex—and tend to rely on the decisions of the subcommittee. If the subcommittee were not so prone to provide the services with what they ask for, and even what they do not ask for, this might be permissible. But the time has long since passed when the need for fiscal management outweighs the demands of the generals. Let me be explicit: If we cut all of the items I have discussed earlier, national defense would not be endangered in the slightest. These programs are fat, plain fat, and can be cut without penalty. It ought to happen but I have no real feeling that it will happen, at least not this year.

In the subcommittee markup and full committee markup, we cut $3.7 billion from the bill, and billions more could be cut without harming national defense. We ought to cut that money and either put it to better use or return it to the Treasury. If we do not do it this year, as we should, then let us begin to change our ways of doing business so that we can be more efficient next year. Our taxpayers are straining under the spending burdens imposed by the Congress now. They have a perfect right to demand that we spend their money judiciously.

I remind the Members that the United States is at peace and there is every expectation that it will stay at peace in the foreseeable future. We must always stand ready to repel attack, should it come, but we do not need to be prepared for every international contingency that the planners over at the Pentagon can dream up.

We do not render ourselves helpless militarily if we do not develop missiles which tend to go astray, or if we halt development of a bomber that is obsolete for its task before it is built. We do not make ourselves a sitting duck because we tell generals they will have to do with 13 divisions instead of the 16 they want. We do not render the Nation vulnerable to attack if we halt the purchase of airplanes which are required by the Pentagon only because they are built in a strategic location.

It is my viewpoint that in a bill as large as this one, each Member must make his decision on its worthiness by the total of what is contained in the bill. I will support this bill, despite the objections I have noted and after attempts to amend it are conducted. I will support the bill because, even with its defects, it is a bill we must enact. I urge the Members of the House to support the perfecting amendments that will be offered at a later time, but to vote to pass the bill even if it is not as good as it could be, remembering that the largest Vietnam war period budget was $80 billion and today at peace we have a budget of over $110 billion.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I think the gentleman from New York (Mr. ADDABBO) deserves a debt of gratitude from this entire House for the very cogent and searching study he has made and for his remarks. In the report which accompanies the bill we find his separate views beginning on page 348 and subsequently, giving his views in more detail. As for the Military Establishment, he provides detailed specification of billions and billions of unobligated funding as well as unexpended billions in this appropriations measure. We are considering these unnecessary billions for the military at the same time that we allow domestic needs in this country to go begging for necessary money.

So again I compliment the gentleman for his very stirring address before the House and I wish the Appropriations Committee and the House would pay greater heed to the remarks he has made.

Mr. ADDABBO. I thank the gentleman from New York for his remarks.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I thank my colleague, the gentleman from Alabama, for yielding. I will try not to take all the time if possible.

At the beginning of my remarks I would like to compliment the Defense Subcommittee and the Appropriations Committee for the job they have done on this bill.

Mr. Chairman, in reviewing the Appropriations Committee report, I note that the budget request for 859 M60A3 tanks has been reduced in this bill to 759 M60A3 tanks.

Given our critical shortage of tanks vis-a-vis the Soviet Union, and given that the M60A3 represents a substantial increase in capability over the M60A, I find myself in the unaccustomed position of opposing the Appropriations Committee's action in this instance.

The rationale for this cut—as I undersand it—is twofold. On the numbers of tanks, the argument is that the Army is behind schedule on the fiscal year 1977 program owing to problems with the startup of the Wheeling plant. The Appropriations Committee thus concludes that the 1977 shortfall will be pushed back into the 1978 program making it impossible to produce more than 759 tanks in the fiscal year 1978 funded delivery period.

This, I suggest, is a judgment call that might well be wrong. The Army has a comprehensive plan to catch up and produce all of the fiscal year 1977 tanks on schedule, and I do not think it is reasonable to foreclose the 1978 production without giving them the chance to produce them.

In the authorization conference, we agreed to authorize 800 tanks. That is a reduction of 59. One of the major reasons why we settled on this figure is that that is the minimum economic production rate required to keep the Wheeling plant open as a second source for hull and turret castings. We spent $125 million in the last 4 years to develop this surge capability and it just makes no sense to close it down at this stage.

The Appropriations rationale for cutting the laser rangefinder and the solid state computer—the key fire control systems components that make the difference between the M60A1 and the M60A3—is that if we just wait a little while we can adapt XM–1 technology to the M60 and have a better tank.

No one would argue that if the Army were to start today it would use the Yag laser and digital computer instead of the ruby laser and the analog computer that comprise today's M60A3 fire control system. The Yag is a more efficient and later technology laser. But the Ruby laser is not obsolete. It can do everything the Yag can do. The key difference is that the Ruby can do it now. The present A3 fire control system is in production and virtually every M60A3 we fund in fiscal year 1978 will be in Europe in the hands of troops by July or August 1979. This improved capability will make the M60's equivalent to the Russian T72 which is already in the field.

If we wait until XM–1 technology is adapted to the M60, we face a 38-month period before the first improved fire control system would be available—Decem-

ber 1980. That means a minimum delay of 21 months in getting a tank to the field which is the equal of what the Russians already have in Eastern Europe. Given the preponderance of Russian tank assets, it does not seem prudent to fund an inferior tank at this time instead of funding the best tank we can produce.

The House and Senate Armed Services Committees have just concluded a very crucial debate on the issue of how many and what kind of tanks we should produce in fiscal year 1978 and the conferees agreed that—for now—we should go with the best we have—the M60A3. The conferees agreed to authorize 800 M60A3 tanks.

It is my understanding that the Senate Appropriations Committee is going to adopt the results of the authorization conference by funding the 800 M60A3 tanks. And for that reason, I do not intend to offer an amendment to this bill since it will be an issue in the appropriations conference. I would hope that the House Appropriations Committee would reexamine its position on this important matter and recede to the Senate.

I think it would set an unfortunate precedent if the considered judgment of the authorizing committees were ignored and the House Appropriations Committee position on funding 759 M60A1 tanks was sustained in conference, a precedent with far-reaching implications about the whole authorization appropriations process. But more than that, it would create an unfortunate impression in the minds of our armored troops in Europe. We would be telling them: "We're going to give you less than the best system we can produce today, but if you just wait another 2 or 3 years, we'll fix it up with some product improvements." It is the same old story to them—promises instead of fielded hardware. And their view is that you cannot fight a war with promises.

Mr. MAHON. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, one does not have to be on Capitol Hill for very long to learn that the Defense Subcommittee on Appropriations is led by the distinguished gentleman from Texas (Mr. MAHON) and the hard working minority member (Mr. EDWARDS of Alabama). As a new member of the Appropriations Committee, I had the opportunity to confirm this judgment first hand when dealing with the fiscal year 1978 appropriations bill. All one has to do is read through the committee's report to understand why this is so. And I think the professional staff deserves our special thanks in helping to put together the committee report under such severe time constraints.

Of course, any time a committee of this Congress publishes a report over 300 pages, there are going to be some programs on which the Members will disagree. I do not agree with a number of the actions taken by the committee and spelled out in the committee's report—and I will expand on this shortly. But I most emphatically do agree with the vast majority of the actions taken by the committee, and I hope that whatever critical comments I might make do not detract from my overriding feeling of respect for the members of the Subcommittee and admiration for the monumental job they have done on this bill.

I am particularly grateful for the committee's detailed analysis of the shipbuilding claims situation, and suggestions for resolving this Gordian knot. I urge every Member who is deeply concerned about shipbuilding issues to read pages 24–40 of the committee's report. In my view, the committee has synthesized volumes of testimony in these 16 pages in extraordinary fashion, and I am deeply grateful for the committee's work in this area. I also strongly support the committee's general provision on contracting out, and I especially want to thank all the members of the Defense Subcommittee for their strong stand on this matter. I note where section 852 would set a prohibition on further contracting out of service contracts. Perhaps one short anecdote will convey to the Members why I believe this provision is necessary.

McChord Air Force Base is located in the district I represent. It has tried to contract out the food service on two separate occasions, and both times, the contractor defaulted without back pay and without conveying work-related benefits. Now, contracting officials at McChord are about to contract out the food service operation for a third time—to a relative of the owner of the firm that defaulted on the previous contract. Clearly, until the Defense Department straightens out its contracting-out procedures, some form of congressional intervention in this field is needed.

I have already discussed my views on the patrol hydrofoil missile program in my additional views attached to the committee report, so I will not take the Members' time to go over them again here. Suffice it to say that I believe this program has the potential to help the U.S. Navy in two areas where it is the most vulnerable: in antisubmarine warfare and in the Mediterranean. I sincerely hope that in time, the longstanding opposition to this program by some segments of the Navy and the Office of the Secretary of Defense will be overturned.

One aspect of this bill causes me a great deal of concern, and it is in an area which has received almost no attention to date: And that is the question of placing Aegis at sea. Aegis is the air defense system we are counting on to protect out high value forces against the cruise missile and backfire bomber threat. Every Navy and Defense Department official who has testified on this subject has stated that this is an urgent priority.

In my view, the conferees on the authorization bill have struck a bad bargain on the Aegis system, and the Defense appropriations bill we have before us today ratifies that bad bargain.

The conferees decided not to place Aegis on the CGN–41 *Virginia*-class cruiser which is 30 percent completed, and instead, decided to put the Tartar air defense system on board. Funds were added to the authorization bill to begin work on CGN–42 with Aegis on board.

There are two problems with this "compromise"—first, the Tartar system is already obsolete, and second, it will result in the purchase of one additional $1 billion nuclear-powered escort ship. Let me explain.

There is little debate among knowledgeable naval observers that the Tartar air-defense system is past its prime—this indeed is the reason why the Navy Department keeps telling us why it is so vital to get Aegis to sea. Tartar was developed back in the late 1950's—and the Soviet Union has developed many new and improved cruise missiles since then.

The Tartar system has been redesigned and modified to make it effective against some antishipping threats. But not much more can be done. Former Secretary of Defense Donald Rumsfeld put it this way:

> Present U.S. surface-to-air missile systems are not effective against the newer generation Soviet anti-ship missiles. This is especially the case in a high density attack—the type of attack in which Soviets would employ their BACKFIRE bombers. The time from detection until target engagement is excessive, and coordination among missile batteries on different ships in the task force is poor. These difficulties are compounded by system vulnerability to electronic countermeasures. For these reasons the development of the AEGIS system with its high-power, narrow-beam, high-date-rate radar was started more than ten years ago. The AEGIS system would not only be far superior to the present systems, but it would also supply tactical information to the current TERRIER and TARTAR systems, making them more effective. Thus, deployment of the AEGIS system would offset a primary deficiency in fleet capabilities.

The 1976 National Security Council study on U.S. Maritime Strategy and Naval Force Requirements came to the same conclusion. As Secretary Rumsfeld stated:

> One of the major conclusions of the recent in-depth review of U.S. Naval forces has been that the U.S. Navy is vulnerable to the Soviet antiship cruise missile threat.

Today, the most demanding cruise missile scenarios call for a reaction time on the order of 8 seconds, according to the last Assistant Secretary for the Navy for Research and Development.

Given this situation, it makes no sense whatsoever to me to build a brand new nuclear-powered air-defense escort with an obsolete air defense system on board. The other body made this determination over 2 years ago. In its fiscal year 1976 report on the defense authorization bill, the Senate Armed Services Committee stated that it:

> believes it inappropriate to build any ship, and especially a nuclear ship, with a weapons system that is clearly inadequate to meet the projected threat within a relatively short period of time after delivery of the ship.

The House ultimately agreed to this position when it agreed to accept the conference report on the fiscal year 1976 defense authorization bill. In this conference 2 years ago, funds for CGN–42 with Tartar on board were deleted. And

if this ship was inadequate over 2 years ago, it certainly must be obsolete today.

My second point is that funding CGN–41 with Tartar will result in the acquisition of one additional Aegis escort. This is because the Navy has a set requirement for four nuclear-powered Aegis ships. If we buy CGN–41 with Tartar, we will still have to buy four additional nuclear escorts; if we go with Aegis on CGN–41, then we will only have an immediate requirement for three more Aegis ships.

One final point: Getting Aegis to sea is an absolutely urgent requirment. By failing to place Aegis on the CGN–41 and waiting for the CGN–42, we will be delaying the introduction of a nuclear-powered Aegis ship by 2 whole years. The Navy advises me that the initial operational date for a CGN–41 with Aegis would be April 1982; the same date for CGN–42 with Aegis would be April 1984.

In summation, I believe the conference report and the appropriation bill's position on CGN–41 is ill-advised, and I would hope that my colleagues will give this matter further thought. The defense appropriations budget cycle is still far from over, and I hope that eventually, reason will prevail on this issue.

Mr. Chairman, I think the Subcommittee on Defense of the Committee on Appropriations has done an outstanding job.

Mr. EDWARDS of Alabama. Mr. Chairman, in my remaining time I would just simply like to urge the Members to support this bill. There will be amendments and they should be considered carefully. I perhaps will have a few amendments of my own. I ask the Members to give careful consideration to the amendments. Mr. Chairman, I must say that the bill basically is a good bill, it is a supportable bill, and I would urge the Members to give it their support.

Mr. MONTGOMERY. Mr. Chairman, in my opinion the role and need of civil affairs units is not properly understood by many in Congress. They are not Government units or anything like that. They do, however, among other things, assist civilian governments to restore order when needed.

Former Army Chief of Staff, Gen. Fred C. Weyand, on May 14, 1977, in an address, emphatically pointed out that "our civil affairs programs are inadequate." The role of civil affairs has been vital in every major conflict. Modern war totally involves the civilian as well as the military. It requires mobilization of the economic, political, technical and sociological capabilities of the civilian population in a way that they support and reinforce the combat effort—that is we expect to win. Civil affairs is a profession that demands a breadth of knowledge and experience usually not found in normal pursuits in our society. On the other side, the Communists make extensive use in their programs by to them as "peoples' liberation" or as the "people's revolution" or as the "popular front." In so doing, they reap the credibly powerful motivational strength that comes when a people feel that they are part of, and personally involved in, a "cause"—in a great national team effort, as they view it, to further the progress of mankind.

Relative to us and the Free World, the Communists are much more cognizant of the decisive role that civil affairs—the civilian populace of any nation will play in any armed conflict.

As for us, we have at worst, ignored—and should not permit any reduction of the decisive importance, even vital potential of civil affairs units to contribute to the defense of our democratic system. We have never, in past conflicts, been adequately prepared in the area of civil affairs. We have never adequately recognized that people—not equipment—win wars.

To say that the proposed action to wipe out the civil affairs units or reduce them in number is justified by saying that we can quickly respond by drawing the people from common civil pursuits is untrue. Don't you believe it.

General Weyand's remarks on that account is, as he observed, based on bitter experience.

The civil affairs role must not be considered defensive coming late in an operation. It is positive, necessary, offensively oriented action essential to mobilize the civil populaton to support our operations and is a focus necessary to assure success of our national objectives. It is an incredibly effective "force multiplier," superbly provided in our Reserve Forces. All concerned should understand that we cannot win without it.

We must, as General Weyand suggested, elevate civil affairs to the primary position in our overall military program that it merits.

Now, as to the other issues involved in the proposal to transfer civil affairs and other Reserve individuals and units to pay group D, here are a few facts:

I. PAY GROUP D—INDIVIDUAL READY RESERVE

Issue: To direct Reserve components to place in pay group D—individual Ready Reserve—all individuals performing public affairs, civil affairs, law/legal, chaplain and research and development functions.

Fact: Pay group D is the individual Ready Reserve with up to 14 days of annual training only.

Impact: Loss of about 8,475 personnel from unit structure of Army Reserve plus additional losses from National Guard units—unit manning of Army Reserve is already 86,000 below wartime requirements—there are 5,975 personnel in 177 units performing the above functions and 2,500 additional personnel in other units performing these same functions. This would place 177 units in the unmanned structure and over 8,500 personnel in the IRR. Navy experience shows that over 80 percent of personnel placed in pay group B or D have made the choice to leave the Reserve program; severe curtailment of new Army program to counsel and prepare reservists for very early deployment/employment requirements—that is power of attorney, wills and arrangement of personal affairs. Legal personnel in units are now becoming engaged in this highly important program and are needed in units to meet deployability goals set by Congress for the Reserve; further impact will be elimination of essential services now being performed such as legal, chaplain, and public affairs that are necessary to support of Reserve units day-to-day business, church services during weekend drills, support of vital publicity programs related to recruiting programs of units.

II. TECHNICIANS

Issue: To require that as of October 1, 1977, technicians positions becoming vacant will be filled with active duty personnel.

Fact: Turnover of technician personnel with the USAR program is approximately 1,300 personnel annually. Current D/D and D/A studies are being conducted based on full-time manning to determine requirements and procedures necessary to undertake such a program. Results of these studies will not be available until at least July of 1978 and will take at least 1 year to implement. Until full-time manpower requirements, both military and civilian, are known and validated, action proposed at this time is premature.

Impact: First, place hiring freeze on program already understrength and inadequate in numbers to meet readiness requirements of the Army Reserve. Two, active Army end strength will need to be increased to account for additional personnel under current recommendations and places Reserve in competition with active Army for spaces paid for under Reserve funding. Three, career management program for Reservists on AD will be needed. Fourth, management structure for Reservists on active duty will need to be established. Fifth, study will have to be conducted in order to establish grade structure, active duty personnel, replacing technicians. This has not been done and cost and savings, if any, not determined. Sixth, continuous reprograming action for 3 years will be necessary in order to accommodate change-over of personnel from civilian to military. Seventh, total conversion to military—Reservists and active duty—is not practicable and some civilian employees to support Reserve units will be needed in lower pay grades clerical/administrative functions.

Mr. FLOOD. Mr. Chairman, once again this august body is giving consideration to the appropriation of funds for the defense of our country. I have stood here on many, many occasions in the past and discussed with you the funding for defense operations. This year again we are really hitting the high notes. What a request the committee considered—over $113 billion. And what an appropriation bill—over $110 billion. Boy, if that is not saying a mouthful in one breath. Sometimes I get confused trying to think of such huge amounts. As the chairman of the committee, Mr. MAHON, has pointed out, this is the largest single appropriation bill ever brought before this House. Each year we keep making that statement and repeat it again the next year. The way things are going, it does not look at this time that any change is in the making.

While I talk about the large amount for defense, I should point out that I manage another appropriation bill which receives considerable consideration in

this body. I stood here a couple of weeks ago and discussed with you the second largest funding bill to be reported by the Committee on Appropriations. That was the HEW appropriation for fiscal year 1978. Getting that bill through this House took the wind out of me for a while. But I am back again to support, with my chairman, the defense bill before you. I will not take long. I just wanted to let you Members know my support for the funds included in the bill. I may not agree with all the actions taken by the committee but I do in general support the intent for which the funds were requested and included in the bill.

One of the major items I take strong exception to is the committee's action regarding the transferring of various members of our Reserve Forces from pay category A and B to D. The committee states that it supports a strong Reserve Force and included additional funds to beef them up. Yes, we did that alright, but we need every reservist we have in the force today. We need them ready for action if it comes, regardless of the type of units they are in. Civil affairs units are just as important as any other unit.

Our Reserve Forces are understrength today. What an example the committee is setting. If you can knock these units down today, then you can do the same in the future. What a recruiting incentive the committee gave to the Reserves. We gave them lots of money to go out and recruit, and at the same time told them to be sure to tell everyone you recruit that the unit they join may be put in a category D status sometime in the future.

Why at this time you should start driving more personnel out of the Reserve Forces by such action as we took I cannot understand. When we need more and more enlistments in the Reserves and to do a thing like this is beyond me. I for one do not believe the committee gave this matter sufficient thought. We talk about waste. I believe this action is going to turn out to be a complete waste of manpower caused by the committee.

I want to conclude by stating that there is, in my opinion, sufficient funds in this bill to maintain a strong military posture in this country. We funded practically everything that was requested and then added substantially more. Sure, we reduced the President's request by about 3 billion but for good and sufficient reasons in most instances. I only take strong objection to the reserve reductions.

I believe every Member should support this bill.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has expired.

Mr. MAHON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere); $8,746,573,000.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under section 265, 3019, and 3033 of title 10, United States Code, or while undergoing reserve training or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, as authorized by law; $546,249,000.

Mr. SIKES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the committee has recommended the transfer of all reservists performing public affairs, civil affairs, law/legal, chaplain, and research and development functions from a paid drill status to a nonpaid drill status. The effect would be to eliminate "A" and "B" units for reservists in these categories and to transfer them to "D" category units. Affected are membres of the U.S. Army Reserve, the Marine Corps Reserve, the Air Force Reserve, the Army National Guard and the Air National Guard.

As the members of the committee well know, those serving in "A" type units have 48 drill periods per year plus 12 days in summer camp. "B" type units receive 24 paid drill periods per year plus 12 days in summer camp. Type "D" units have only 12 days in summer camp. In effect, the subcommittee is proposing to relegate these reservists to a very low priority by withholding funding for paid drill programs. This is a "stepchild" attitude toward reserve personnel which almost certainly will result in wholesale abandonment of the reserve program in these categories. When we are concerned with the steady buildup of Russian forces, particularly conventional forces, it is not a time to deliberately push aside these trained people.

It will be argued that these are not combat units; that civilians can readily be incorporated into the banks during a period of emergency. This is not a realistic attitude and not true at all for the National Guard. The individuals affected by this cutback provide a very useful service during peacetime and, in a period of mobilization in today's type of warfare, there would not be time to train individuals to perform the duties that are needed for the positions which are involved.

Legal officers assist in real estate acquisition, disposal, leases, and licenses. They also are instrumental in developing environmental impact statements, leases, O. & M. agreements, and in addition, give personal guidance to unit personnel. The public affairs/public information personnel in units are the keystone in developing community relations and recruiting support. The chaplains and their assistants in Reserve component units conduct services during drill weekends, provide personal guidance to personnel, and are invaluable in providing comfort to those affected by natural disasters. The civil affairs personnel form an essential staff section in division headquarters. They are trained to take over civil responsibilities in occupied areas during wartime or in disaster areas. The conduct of drills plus annual field training is considered essential for these units if they are to maintain readiness to perform their missions.

There is a legal question of whether the proposed cut is within the law for the National Guard, section 2001, title 10, prescribes that the National Guard shall not be divided into training categories according to the kinds and degrees of training, and further that the National Guard shall conduct at least 43 drill periods and 15 days of annual field training. This is in recognition of the fact that title 32 also prescribes the National Guard as part of the first line of defense of this Nation.

The Army and Air National Guard structure is predominantly a combat unit structure. Those support units and headquarters that are found in the Guard structure are there because they are needed to support combat units.

Strong protests have been received from all of the military departments concerned with this type of training. It is estimated that over two-thirds of the individuals would drop out of units if the Congress restricts their participation in the manner recommended by the subcommittee. Many units would not have enough personnel left for their continued existence. They do perform important peacetime functions. They save substantial sums for the Active Forces by eliminating the necessity for active duty personnel for outside contract services. The loss of community support for the Reserve programs through eliminating paid drills and decimating the units is also a matter to be considered.

I feel that the subcommitee has been overzealous in its attempts to save money in this area and I strongly recommend that the units be maintained in their present training station categories. The Reserves are finding it very difficult to obtain needed enlistments. They are a very necessary part of the military structure. The proposed cuts would compound the problem. I do not propose to offer an amendment at this time. I am informed that the appropriate committee of the other body is recommending full funding in these categories and I trust we can agree in conference to the desired level for these funds.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor,

without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $524,183,000, to remain available for obligation until September 30, 1980.

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment:

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: On page 14, line 20, strike "$524,183,000" and insert in lieu thereof "$459,183,000".

Mr. ADDABBO. Mr. Chairman, after listening to the various members of the Defense Appropriations Subcommittee, it should be obvious that an enormous amount of work has gone into the preparation of this bill. The gentleman from Texas (Mr. MAHON), our chairman, the ranking minority member, the gentleman from Alabama (Mr. EDWARDS) and our highly capable staff members, as well as the full membership of the Defense Appropriations Subcommittee, have devoted 5 full months of consideration to this measure. I commend them for their diligent efforts.

I offer the amendment to strike funds for the nonnuclear lance missile because this item is just another example of unnecessary spending that the committee has put in this bill this year.

My amendment would strike $65 million which has been slated for procurement of this missile which has yet to prove its value. The proponents of this program have been trying unsuccessfully since 1970 to find a reason why the Congress should support this program. Last year, in a burst of heavy lobbying by President Ford and his Pentagon leaders, Congress funded the Lance. As soon as President Carter came to office, he removed it out of the 1978 budget which had already been submitted by President Ford. The committee saw fit to restore the money, even though the President does not want it.

We have found that the nonnuclear Lance missile is not effective against armor, revetments or bunkers. It is not effective in foliated areas and at a cost of $220,000 each, we have found it takes two of them to inflict 40 percent damage of light material and personnel targets. That is if they do not move. If they move, forget it.

Additionally, we have found that the time required to fire and reload is far too long as to be effective on a battlefield situation. Darkness and wet weather prohibit the use of the Lance.

There are other missile systems which are under development which are far better buys than is the Lance and they are far less expensive and can do the job as well, or better, than can the Lance. I submit that the Army will do better if we fund those programs, and the taxpayers of the Nation will be far better off if we set this program aside.

Had the Lance not been built in Michigan and had President Ford not wanted to stress his ability to do well for the home State, this program would have never gotten its foot in the door last year. But it did, and now its proponents want to keep the foot in the door. I say that this is as good an example as we need to show the fat in this year's defense budget.

This program ought to be killed dead right now. It ought to be ended right now, because the $65 million will simply be wasted if we approve the procurement of this missile.

We can delete the Lance from the budget and save $65 million in doing so. At the same time, we have a missile system which can deliver six times the ordnance at one time at an estimated cost of less than $60,000 as opposed to what a single nonnuclear Lance can deliver at the cost of $220,000.

This missile program has spent nearly a decade in search of a mission. It has not found one for the simple reason that it is not capable of providing what soldiers on the field need. Our national resources are not so great that we can continue to play with programs of little value such as the nonnuclear Lance. We have a shortage of dollars and we ought to put them where we get the best buy for the money. The Lance does not qualify under those restrictions.

I think the case for ending this program is so apparent that I am still amazed that the committee saw fit to include this dubious program in this bill. For that reason, I ask you to join with me and delete all funds for the nonnuclear Lance missile.

Mr. STRATTON. Mr. Chairman, I rise in opposition to the amendment.

This amendment is an attempt to knock out the nonnuclear Lance, which has been a matter of some controversy within the defense establishment and also in the Congress for some time.

Essentially, what is involved in this case, Mr. Chairman, is that we have already provided the nonnuclear Lance for Israel forces. The only remaining question is whether, since that particular weapon is already in operation, it should not also be produced and made available to our own forces in NATO.

Mr. Chairman, there is no reason that we should have to limit the Lance to a strictly nuclear capacity. Obviously, it would have a very disruptive impact if a nuclear Lance were to be introduced into the Middle East; and for that reason, we have required that it not be introduced in the Middle East and have provided only the nonnuclear Lance for Israel forces.

However, Mr. Chairman, there are a number of military tasks that the nonnuclear Lance can do and do better than other ways. It really amounts to extra artillery, and we desperately need more artillery in Europe.

It seems to me a complete waste for us to activate a production line for nonnuclear Lance for our aid program to Israel and then to deny that same weapon to our allies and to our own troops in Europe. They want it. But this is another case where some of those budget experts in the Pentagon would rather play with nuclear weapons and even with a neutron warhead that we have heard a great deal about and completely eliminate the possibility of using this missile, with a range of something on the order of 50 to 100 miles, in a conventional mode for the defense of our troops in Europe.

Mr. Chairman, the Lance is essentially artillery. It can do the same job as artillery, and it can fire behind some of the rough terrain that would be involved in the Fulda Gap and elsewhere. With all our present problems in NATO and for a relatively minor amount of money, we can and we should provide this nonnuclear option for our troops in NATO.

Mr. Chairman, I would think that those who have been complaining most stridently about the inhumanity of our nuclear weapons and especially this latest neutron warhead would certainly want a weapon available in our inventory that would not have to go nuclear. But this amendment would strike out that nonnuclear option.

Mr. Chairman, I think it is not only being penny wise and pound foolish, but I think we are unnecessarily restricting our options in Europe, and in so doing we are lowering the threshold of nuclear warfare in Europe. And that is the last thing we want to do.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 377]

Akaka	Burke, Mass.	Dent
Alexander	Burton, John	Diggs
Ambro	Burton, Phillip	Drinan
Andrews, N.C.	Butler	Edwards, Calif.
AuCoin	Carney	Edwards, Okla.
Badillo	Cederberg	Evans, Colo.
Baldus	Chisholm	Flippo
Baucus	Clausen,	Ford, Mich.
Bauman	Don H.	Fraser
Beard, R.I.	Clay	Frey
Bedell	Cleveland	Gaydos
Boggs	Collins, Ill.	Hanley
Boland	Conyers	Harsha
Bolling	Cornwell	Hawkins
Brown, Mich.	Cotter	Holland
Burgener	Davis	Horton

Hyde	Mottl	Spellman
Ichord	Murphy, N.Y.	St Germain
Jeffords	Murtha	Stangeland
Ketchum	Myers, Michael	Stanton
Koch	Nolan	Steers
Le Fante	Obey	Steiger
Leach	Poage	Stokes
Lehman	Quayle	Teague
Lott	Quillen	Traxler
Lundine	Railsback	Udall
McCloskey	Rhodes	Ullman
McDade	Richmond	Vander Jagt
McDonald	Roberts	Walker
McEwen	Rosenthal	Walsh
McKinney	Russo	Whitehurst
Marriott	Ryan	Wiggins
Martin	Santini	Winn
Mathis	Sawyer	Wirth
Metcalfe	Scheuer	Wolff
Miller, Calif.	Sharp	Wright
Minish	Shipley	Wydler
Mitchell, Md.	Shuster	Wylie
Mollohan	Smith, Iowa	Young, Fla.
Moorhead, Pa.	Solarz	Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill H.R. 7933, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 314 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think we make a serious mistake to cut out the funds for the nonnuclear Lance program. Let me state, first, the purpose of the nonnuclear Lance.

Mr. Chairman, the mission of the nonnuclear Lance, first of all, is to provide instant all-weather day or night firepower. Secondly, it is to support cannon firepower across lateral boundaries; third, to attack high-priority targets beyond cannon range; and fourth, to supplement tac-air against critical targets not attacked by air because of enemy numerical superiority or limited resources.

There is one thing certain, and that is that the Warsaw Pact forces currently hold significant advantages in conventional firepower; 2,500 personnel and 6 battalions of equipment dedicated to the nuclear Lance presently have no role to play in conventional war in Europe. For only a 10-percent increase in program investment, Lance battalions can be provided with a nonnuclear capacity, with no increase in force structure.

That is to say, we have the people there currently with nothing to do in the event of a conventional war. I believe most of us agree that if war begins in Europe, it will be a conventional one. We ought to have the opportunity to use these forces, and we can have them available in a nonnuclear war for a simple 10-percent increase in investment.

I think we would make a great mistake if we were not to give ourselves that capability at a minimal cost.

We have heard a lot of reasons given in arguments against the nonnuclear Lance. Let me respond to some of them. First of all, it was not designed to attack heavy armor; it is designed to get to personnel, to reach masses of personel, to disrupt communications, and to harass, and to destroy soft hardware.

The GAO, the Research Analysis Corporation, and the Institute for Defense Analyses study objections were all more than satisfactorily answered during the hearing and committee debates during fiscal year 1977 budget proceedings.

The House and the Senate both have already approved this nonnuclear program.

The cited Appropriations Committee survey and investigative staff study satisfactorily answered and suspected nonnuclear Lance system deficiencies prior to budget review last year.

Mr. Chairman, there is one thing we get in addition to giving these forces something to do over there, and that is that we would have the capability to take the nonnuclear side of this equipment and, with the increased ability in targeting, we could not only tremendously increase its advantage for nonnuclear but for the nuclear capacity also.

I believe we would be making a serious mistake if we were to cut out these funds, and we ought to vote no on this amendment.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Chairman, I support the statements of the gentleman from Florida (Mr. CHAPPELL).

Historically, the Russians have depended greatly on artillery in warfare. During World War II they were able to mass artillery on the battlefields wheel to wheel over great distance for overwhelming effect. They still have a very substantial superiority in numbers of pieces of artillery.

If we have additional artillery—and we do—deployed in Europe, we should utilize every possible weapon that will help to provide a better balance for our forces. The nuclear Lance is deployed in Europe. By giving this weapon's system a conventional capability, we simply are proposing to utilize more effectively the artillery pieces which already are in position.

Mr. CHAPPELL. Mr. Chairman, I thank the gentleman from Florida (Mr. SIKES).

Mr. Chairman, I will pose this one thought, and that is that the nonnuclear Lance is immediately available, and there is no other Army system available to do this vital job, and there will not be for at least 10 to 15 years.

Mr. Chairman, I urge the defeat of the amendment.

Mr. CEDERBERG. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the minority report of Mr. ADDABBO leans heavily on the studies of various civilian "think tanks" that criticize nonnuclear Lance. The report refers to a Research Analysis Corp., and to "IDA," the Institute for Defense Analysis.

What this minority report does not refer to is the strong, straight, and candid testimony of the military officers who know what a battle is and what the U.S. fighting men need to fight the battle.

What we are not told is who in uniform testified that nonnuclear Lance is a weapon our troops need and should have. Who so testified for nonnuclear Lance?

Well, one who courageously said so is the senior military officer of the U.S. Armed Forces—Gen. George Brown, the Chairman of the U.S. Joint Chiefs of Staff.

Another distinguished fighting man who testified as to the need for nonnuclear Lance is Gen. Bernie Rogers, Chief of Staff of the U.S. Army. His Army troops will, in event of war, have to fight the ground battle. He wants his troops to have nonnuclear Lance.

We have heard a lot about interservice rivalry, but not on nonnuclear Lance. Gen. David C. Jones, U.S. Air Force Chief of Staff has stated in writing—to Senator MCCLELLAN, August 6, 1976—that nonnuclear Lance is not duplicative of Air Force effort; that it would be a "highly valuable complementary capability which will benefit both Air Force and Army forces." General Jones stated plainly that the Air Force supports introduction of nonnuclear Lance.

Here is some more expert opinion: Gen. Walter Kerwin, when acting Chief of Staff of the U.S. Army—in August 1976—said that it would take 72 Howitzers and over 2,000 more troops per division to provide the same increase in conventional firepower provided by giving existing Lance units the nonnuclear Lance.

And, in spite of this, the critics say nonnuclear Lance is not cost effective By any practical measure, it is very cost effective.

Then there is the man who is responsible for commanding the defense of Western Europe. Gen. Alexander Haig, Supreme Allied Commander, Europe. He is squarely on the record on this issue. He wants us to provide nonnuclear Lance for his troops.

When you take all this plain-spoken strong support of nonnuclear Lance by combat officers who know battle, and would be responsible for directing our battle effort, and when you put it beside the theoretical "think tank" studies, something comes through loud and clear.

It is this: The further you get away from the armchair studies and the closer you listen to those who will fight the battle, the more clearly you can hear the fighting man's plea for nonnuclear Lance.

We have given hour troops a battlefield job. Let us give them the weapons they need—and that includes nonnuclear Lance.

I intend to demonstrate that I hear their plea by voting against this amendment.

Mr. Chairman, I hope the Members will not vote for this amendment. Having been in Europe and having talked to military commanders of ground forces, I know they support the nonnuclear Lance.

Mr. NEDZI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is not often that I take the well of the House, particularly in defense of a weapons system. Call it parochialism or call it what you will, but I have been inspired to review with some thoroughness this particular weapons system.

Mr. Chairman, Secretary of Defense Brown happens to be a good personal friend of mine. I have high regard for him. I support him almost across the board, but on this one issue we do differ.

We have had all kinds of testimony before the Committee on Armed Services; and from my personal contacts with men in the military, I am convinced that the nonnuclear Lance is a weapon which is absolutely essential and desirable in the arsenal of our NATO forces.

Mr. Chairman, one of the most critical elements which appealed to me in behalf of the nonnuclear Lance—and I hope not to take the 5 minutes; others have gone into some of the technical aspects—but, again, one of the most telling arguments to me as far as the nonnuclear Lance is concerned is the fact that at the present time we have some six battalions of nuclear Lance missiles on the European Continent. These individuals, in the event a war starts, are just going to have to be sitting on their hands because the only thing they can throw at the enemy is nuclear weapons. They are going to have to await the order of the President in order to do that.

With the nonnuclear Lance they can go either way; and in my judgment, this lowers substantially the nuclear threshold.

Mr. Chairman, it seems to me that any conflict which may erupt on the European Continent is apt to escalate so much more rapidly into a nuclear confrontation if we do not have a substantial nonnuclear capability with which to fight.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I thank the gentleman for yielding.

I should mention for the record that the nonnuclear Lance is made in my congressional district, so everyone understands my situation.

However, I want to direct one comment at the nuclear aspect. I, as a member of the Committee on Science and Technology along with others, have been agonizing for quite some time over the policy of nonnuclear proliferation with regard to the Clinch River breeder reactor. This Congress is going to continue to face issues like that, not only in the defense sector, but in the technology sector.

I think it would be unwise, on the one hand, for a number of us to worry about arms negotiations and arms proliferation in the scientific area and then in the military area continually limit the options of our conventional forces.

Mr. Chairman, I thank the gentleman for supplying his technical expertise.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I think the point the gentleman has made is a very good one. We have these battalions sitting there that ought to be used in conventional warfare. The gentleman from Florida (Mr. SIKES) pointed out that the Soviets have us very greatly outnumbered in Europe in artillery. One of our major shortages is artillery. The U.S. commanders in NATO are in favor of the nonnuclear Lance because they can use it as artillery. It may not be as accurate as other weapons, but it can be used particularly to provide saturation coverage, going down the lines, harassing the enemy, something that might be particularly important in the areas where there are likely to be heavy Soviet troop concentrations. That is the reason they have requested nonnuclear Lance warheads.

As the gentleman says, it makes little sense to have this capability and not use it in a nonnuclear role.

Of course the Defense Department says that with close air support you can do the job better, you can use an A–10, or some plane of that kind in the close support role. But there are a great number of days when they do not have clear weather in Europe and our A–10 does not have all-weather capability. The only plane we have that does is the F–111.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. STRATTON and by unanimous consent, Mr. NEDZI was allowed to proceed for 3 additional minutes.)

Mr. STRATTON. Mr. Chairman, if the gentleman will yield further, as I was saying, the only plane that we have that has the all-weather capability is the F–111 and that is a very expensive plane. So it makes a great deal more sense, rather than trying to use the F–111 on these cloudy days to provide close air support in such areas, to utilize instead the nonnuclear Lance. The House and the Senate Committees on Armed Services had no disagreement on this; the item was not even in conference. We both provided $77 million for the nonnuclear Lance. Both committees unanimously recognized its importance. It seems to me it would be a very serious mistake to strike it out now, thus lowering the nuclear threshold, and increasing the danger of escalating to nuclear war in Europe.

Mr. NEDZI. The gentleman from New York (Mr. STRATTON) has stated the issue well. I would like to underscore that we have not had contact with a single military type who found fault with the nonnuclear Lance in terms of being a supplementary system to the nuclear Lance.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague, the gentleman from Michigan (Mr. NEDZI) for yielding to me.

Mr. Chairman, there has been a great deal of talk on the floor today, including the distinguished gentleman in the well in attempting to distinguish nuclear and nonnuclear war. I would like the gentleman to comment on the body of thought in this Government that no matter how a war starts in Europe that within a relatively short period of time it would escalate with great rapidity into a nuclear war, so that the possibility that continuing discussion here about a dichotomy between what is nuclear and what is nonnuclear is rather absurd.

Would the gentleman from Michigan comment on that?

Mr. NEDZI. Yes. I cannot fault the general pattern of logic of the gentleman from California (Mr. DELLUMS). I tend to agree with it in general terms. However, we have to have a nonnuclear capability, a conventional capability in order to deter, in my judgment, conventional adventurism. That is one of the problems we are confronted with. If we have conventional artillery pieces on the ground over there, I think it contributes significantly to that kind of deterrent. In the final analysis, I think the gentleman from California makes a very valid point. I think at all costs we have to stop that conflict from ever beginning.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, does it make sense to the gentleman for us to put six battalions of men and equipment there are not give them any capability of defending themselves except through nuclear force which could not be used except in a nuclear strike?

Mr. NEDZI. No. That is the problem.

Mr. ROBINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, no one should have the false impression that the action of your Appropriations Committee on nonnuclear Lance is any isolated legislative fluke. It is not.

Our support of nonnuclear Lance, although not unanimous in the subcommittee, fits into one of the most deliberate and broad legislative patterns I have ever seen. Authorization and funding for nonnuclear Lance was voted by Congress and approved by the president last year. In the current session of this Congress here is the record to date:

The House Committee on Armed Services authorized the continued procurement of nonnuclear Lance. The House approved. The Senate Committee on Armed Services fully authorized the continued procurement. The Senate voted the authorization; your Committee on Appropriations voted the funding we are now being asked to reject, and if the Members support this amendment, it is going to deprive our troops of an additional weapon that they are going to need very badly in the early days of any conflict in Europe.

To follow on, the Defense Subcommittee of the Senate Committee on Appropriations has fully funded the continued

procurement of nonnuclear Lance, and so it has come right up to this point, including the approval in conference of the authorizing bill.

Both the gentleman from Illinois (Mr. PRICE) of the House Committee on Armed Services and Senator MCCLELLAN of the Senate Committee on Armed Services wrote to Secretary of Defense Brown questioning his recommendation for the termination of nonnuclear Lance, and following receipt of replies, both of them approved the authorization which passed on floor votes. In the Senate an amendment to delete nonnuclear Lance only received 15 votes.

The comment is made and the criticism is made that there are not enough real time, target-acquisition systems available to determine targets for nonnuclear Lance. If we cannot determine targets for them, we cannot determine targets for our artillery, and we certainly are short of the ability to respond with adequate artillery based on what the Russians have, as has already been pointed out.

Further than that, nonnuclear Lance will fill a gap that no other Army system can for the next 10 to 15 years because we simply do not have that gap-filler weapon on line at the present, and it would supplement our allies effort in terms of Israel, The Netherlands, Belgium, and Italy, because they have all purchased it.

Last year in August General Kerwin, the acting chief of staff in the absence of General Weyand, wrote a letter which makes several comments on nonnuclear Lance. He talks about its cost-effectiveness and says it has been debated for years. He says that it would take 72 additional howitzers and over 2,000 combat personnel to take its place, and it is there now. We do not have to buy anything extra.

There have also been challenges, he says, that the use of Lance in a conventional mode will increase losses and inhibit Lance's availability to fire in its nuclear role. I would point out that vast Soviet target acquisitioning resources will be devoted to locating Lance as well as other nuclear-capable units, and that survivability is contingent upon mobility and is not measurably affected by whether or not Lance units participate in the conventional battle. Proper training and tactical employment further enhance this survivability.

In summary he says:

I reiterate the urgent need for NNL, and the fact that the Army can ill afford the luxury of 2,500 nonparticipants during the critical first days of war. Let me assure you that General Weyand believes so strongly in this issue that he would have personally signed this letter had he been in town.

In response to the letters that were directed to him by the Chairman of the House Committee on Armed Services and the Senate Committee on Armed Services, Secretary Brown responded on February 4 as follows:

With regard to your specific questions on accuracy: seven flight tests conducted since the Deputy Secretary of Defense letter of May 12, 1976 to which you referred, have confirmed that the missile and warhead have met or exceeded all stated accuracy and lethality goals. Consequently, the Department of Defense has not brought to the attention of the Congress any inaccuracy problems.

Mr. Chairman, I urge the defeat of the amendment.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I fully recognize that Members of Congress who have not listened to voluminous testimony on this subject over the years may be confused and disturbed as to what action to take. I would like to try to put this in the best perspective possible, and here it is.

We have the nuclear Lance deployed now. It has already been bought out. We have the numbers we need. That is the nuclear Lance. It is a great weapon to discourage or deter any attack on Western Europe because of the fact that it is a very capable nuclear weapon. But we have bought what we need.

Some would like to keep the Lance production line open, I assume, and have the nonnuclear Lance. But Lance was developed as a nuclear weapon. There is no budget request for the nonnuclear Lance, the funds for which the gentleman from New York seeks to strike, and I am in support of his position. Removing the $65 million here is $65 million that we can save.

The nonnuclear Lance is impractical. What we need the Lance for is to deter war in Western Europe and we cannot convert from the nuclear capability to the nonnuclear version very rapidly. It takes quite a bit of time to do so, and that is a very difficult problem to overcome when time is of the essence.

So there we are.

The Committee on Appropriations has never before recommended funding of the nonnuclear Lance, not once. It has been recommended for funding in the other body, and had been carried in the conference report last year for the first time.

Here is a statement from the Department of Defense. The Department supports this amendment. The nonnuclear Lance money was put in the bill by one vote in the subcommittee. The Department had specified in the amended budget of February 22, 1977, which did not include the nonnuclear Lance, that the nonnuclear Lance, in light of other capabilities to perform the same missions, is of questionable value and could contribute only marginally to our security.

Here is a further statement from the Defense people, and we do not always agree with them and they do not always know the answers, but this I think Members will find impressive.

The Office of the Secretary of Defense advises us:

The decision to terminate Nonnuclear Lance was based on several related reasons: (1) it is a very costly system for the level of damage achieved; (2) deeper battlefield targets worth attacking with Lance cannot be reliably located with sufficient accuracy; (3) firing of Nonnuclear Lance missiles would decrease the survivability of the launchers for nuclear fire; and (4) there are other systems, such as tactical aircraft at present and the General Support Rocket System in the future, that can adequately perform the Nonnuclear Lance mission.

Of course I recognize we are all alike. If I were from Michigan, I would perhaps see more virtue in the nonnuclear Lance than I can see in the present circumstances, but I believe this is an amendment which should be adopted. The Lance money in the bill was put in by the Subcommittee on Defense on a one-vote margin.

I appeal to the House to support the amendment offered by the gentleman from New York (Mr. ADDABBO).

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield for a question.

Mr. STRATTON. Mr. Chairman, how does the distinguished chairman of the committee propose to fill the gap we presently have with our artillery weakness in NATO if we do not utilize the nonnuclear Lance, which the commanders in the field have all pointed out to us can substitute for artillery, particularly when we cannot afford close air support?

Mr. MAHON. I would assume that the Joint Chiefs of Staff and the Secretary of Defense have conferred about these matters and have tried to war-game the demands and the requirements of the battlefield in Europe.

They have considered the demands and requirements of the defense of Western Europe. I am not a strategist myself, but in view of the recommendation of the Secretary of Defense and in view of all the facts and circumstances, I think it is most appropriate that they use Lance for the purpose for which it was originally developed, and that is for the nuclear role.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, I want to join the gentleman in his statement. As the gentleman points out, this was a very close vote in the subcommittee.

I urge adoption of the amendment.

Mr. HILLIS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I oppose the amendment, mainly for the same reasons stated by my colleagues, the gentleman from Florida (Mr. CHAPPELL) and the gentleman from New York (Mr. STRATTON) on the floor.

Also, I have had the opportunity to visit many of the NATO units in the F.R.G. On the occasion of my visit with General Blanchard, the Commander in U.S. Army Europe, I put the question to him whether he felt it was essential and necessary to have the nonnuclear Lance and his answer was an unequivocal yes, it is necessary, for several of the reasons given, that have already been given on the floor, such as flexibility, ability to strike deep targets when weather prevents aircraft from striking, when aircraft could not provide close tactical support. Because of other highly important missions, to have this ability, the ability

to fire up and down the battlefield, so that if we have to support in the North AG, which is very vulnerable in the northern region of NATO defense, our support by means of nonnuclear lance could be mounted from the central region. It just does not seem to make sense to have this fine weapons system in our arsenal and then tie our hands and say it can only be used for nuclear strikes. The last thing we want in Europe is to fire a nuclear shot. I think we all know that if we have a conventional capacity to use the weapons system, it will give us an important added deterrent.

To me the facts are clear: By spending a little bit more money we can get a dual purpose system and one that will give us a great deal more flexibility and one which our commanders of the troops in Europe need badly.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding. Has the gentleman ever heard of one general in the field who is not willing to accept any weapon we will give him, even if it is a slingshot. Every weapon absolutely necessary to them even though it means a $220,000 missile which cannot reach its target.

Mr. HILLIS. Mr. Chairman, the gentleman and I can take issue on this. I understand the system is very accurate. Of course, any general is going to ask for the system; but I would say in response to the general, because it is in support of American troops, if the system provides survivability and holds down casualties, I would ask for that system, too.

We have a shortage of artillery, there is no doubt about it. We are out-gunned heavily by the other side. I would a lot rather challenge the other side with bombs and shells than I would with American soldiers holding rifles and bayonets.

Mr. ADDABBO. Mr. Chairman, if the gentleman will yield further, I bring to the gentleman's attention a secret internal report and the only reason it was secret was it showed the missiles were so bad. One of the facts in it is that they would have to be very careful in its use, because if they were not careful in targeting, they would be hitting our own American forces.

Mr. HILLIS. I have not had the advantage of reading the report; but as a member of the Armed Services Procurement Committee, I have never heard of the report.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I have had an opportunity, like the gentleman who just spoke, I have had the opportunity to visit Western Europe and talk with the commanders and patrol leaders in their posts and I have talked with General Haig and many of the field soldiers.

I can assure the Members that not only were the generals there saying, "We will accept it if you will give it to us," but they were pleading with us to give them the capability that goes with the nuclear Lance. It is a far cry going from no acceptance to saying, "Give it to us." They have stated and delineated their needs in Europe. We know what kind of problems there are if war breaks out over there. I cannot perceive why we would not want this small expenditure which gives this extra capability.

One last thought. Certainly it is true that the nuclear weapons have not been designated to have the accuracy that the nonnuclear weapons have. But we have the capacity and the technology in this to provide the accuracy for both the nonnuclear and nuclear, which means then that you upgrade the capability of nuclear as well.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

(By unanimous consent, Mr. CHAPPELL and Mr. LLOYD of California yielded their time to Mr. BENNETT.)

The Chairman. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I believe we should have a nonnuclear Lance, for the very good reason that it is a good weapon. But the thing which makes me wish more to have it than any other thing is that I think we are in a dangerous situation in Europe with not adequate artillery and with the possibility that we might be edged into nuclear war, which nobody really wants to go into.

It seems to me that those of us who would desire not to have a nuclear war—and I suspect that is most of the American people—would want to see the option kept where we could defend ourselves and protect American assisted territory in a way that we would not precipitate a nuclear war.

I think the purpose of having a nonnuclear warhead on this weapon is to assure us that we can defend ourselves, with weapons which have already been established and developed in a way which will not precipitate unnecessarily a nuclear war. That is the reason why I am myself very much for this particular weapon.

Mr. Chairman, I appreciate the additional time. Really, I have said what is in my heart. I do not want to get into things which are classified but I think it is no mystery to most of us that there is not a firm decision as to when a nuclear war would start. A lot of people think a nuclear war of the most horrible type would not start simply because we use only tactical weapons which are nuclear. I think that is an awfully big gamble, and that is the reason why I think this particular vote is so important. It is a thing which we can do in our time to make a real closing of a door on a thing which would be very dangerous to mankind.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, one very significant point which has not been made with regard to the importance of this weapons system is that it is generally acknowledged that we are outranged by Russian artillery. This is a weapons system, in place, which gives the ability to reach out even beyond the ranges which they can reach. The nonnuclear Lance can do this and reach targets which we would not be able to reach other than with air power. Further than that, it gives us an additional alternative to the use of nuclear weapons.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, I hate to rise in opposition to the position of my good friend, the gentleman from Virginia, KEN ROBINSON, on this matter.

It is true the weapons system would be in place, but the problem is that it compromises the readiness and effectiveness of the nuclear deterrence of the nuclear Lance, and this is one of the big problems, I think, with the nonnuclear Lance.

The location of the target is a very great problem as far as the nonnuclear Lance is concerned.

Finally, with the price of $230,000 per missile, I think it ought to be a better system than that. We need to locate targets better than that, and I think until those matters are resolved and until we can resolve the problem of launchers made for the nuclear Lance, it would be a mistake to go in this direction.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, we have heard much about the all-weather capability of the nonnuclear Lance, but there is a serious question as to whether it has an all-weather capability. There is a needed capability for locating a target within the Army.

We had sufficient testimony from the Army that the nonnuclear Lance is very deficient in location, and the testimony was that they could not use this as an all-weather weapon.

Further, the report to which I alluded before and which is here at the desk came from the Army, and it is a very damaging report. It was not made from an outside investigation: it was from an investigation made by the Army, and it shows a complete deficiency as far as this nonnuclear Lance is concerned.

This is not a question of the nuclear Lance versus the nonnuclear Lance; it is a question of its being an unusable and inefficient weapon.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I have great affection for the distinguished chairman of the committee, the gentleman from Texas (Mr. MAHON), and I

am sorry to have to oppose him on this score. However, I think at this point he is simply wrong.

He says that the Pentagon has not asked for this. Well, of course, the budget people have not asked for it, and the chairborne commandos in the Pentagon have not asked for it. But the commanders in the field certainly do want it; and they ought to know best.

In fact, if it had not been for the leadership of the gentleman from Texas (Mr. MAHON) and other congressional leaders who stood up to a very obtuse, stubborn Pentagon many years ago, we would not have our Polaris fleet and many of our other very valuable weapons.

Those were occasions when Congress told the Pentagon what weapons systems we were going to have. Mr. Chairman, I believe the Congress once again should tell the Army what they should use, and in this case we ought to listen to the field commanders, not the chairborne commandos in the Pentagon, in making our recommendations.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I have no further comment to make. I simply ask that the Members support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ADDABBO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 123, noes 226, not voting 84, as follows:

[Roll No. 378]

AYES—123

Addabbo	Evans, Colo.	Oakar
Ambro	Fary	Oberstar
Ammerman	Fenwick	Obey
Anderson, Calif.	Fisher	Ottinger
	Florio	Panetta
Anderson, Ill.	Ford, Tenn.	Patten
Applegate	Forsythe	Patterson
Ashley	Gialmo	Pattison
Aspin	Hannaford	Pease
Bellenson	Harkin	Pressler
Benjamin	Harrington	Pritchard
Biaggi	Heckler	Rangel
Bingham	Hightower	Reuss
Blouin	Holtzman	Rinaldo
Brademas	Hughes	Rodino
Brodhead	Jacobs	Rooney
Brown, Calif.	Jordan	Rose
Broyhill	Kastenmeier	Rosenthal
Burke, Calif.	Keys	Rostenkowski
Burlison, Mo.	Kildee	Roybal
Burton, John	Kostmayer	Scheuer
Burton, Phillip	Krebs	Schroeder
Caputo	Lederer	Seiberling
Carr	Lehman	Sharp
Cohen	Long, Md.	Simon
Conte	McHugh	Slack
Conyers	McKay	Solarz
Corman	Maguire	Spellman
Cornell	Mahon	Stark
Coughlin	Markey	Stokes
Danielson	Meeds	Studds
Delaney	Meyner	Thompson
Dellums	Mikulski	Udall
Downey	Mikva	Van Deerlin
Drinan	Mineta	Vento
Duncan, Oreg.	Moakley	Walgren
Early	Moffett	Waxman
Eckhardt	Moorhead, Pa.	Weaver
Edgar	Murphy, Pa.	Wolff
Edwards, Ala.	Nix	Yates
Edwards, Calif.	Nowak	
Eilberg	O'Brien	

NOES—226

Abdnor	Gammage	Myers, Gary
Alexander	Gephardt	Myers, Ind.
Allen	Gibbons	Natcher
Andrews, N.C.	Gilman	Neal
Andrews, N. Dak.	Ginn	Nedzi
	Glickman	Nichols
Annunzio	Goldwater	Pepper
Archer	Gonzalez	Perkins
Armstrong	Goodling	Pettis
Ashbrook	Gore	Pickle
Badham	Gradison	Pike
Bafalis	Grassley	Preyer
Barnard	Gudger	Price
Beard, R.I.	Guyer	Pursell
Beard, Tenn.	Hagedorn	Quie
Bennett	Hall	Rahall
Bevill	Hamilton	Railsback
Blanchard	Hammer-schmidt	Regula
Bolling		Risenhoover
Bonior	Harris	Robinson
Bowen	Harsha	Roe
Breaux	Hefner	Rogers
Breckinridge	Heftel	Roncalio
Brinkley	Hillis	Rousselot
Brooks	Holt	Rudd
Broomfield	Howard	Runnels
Brown, Ohio	Hubbard	Ruppe
Buchanan	Huckaby	Santini
Burke, Fla.	Ichord	Sarasin
Burleson, Tex.	Ireland	Satterfield
Byron	Jeffords	Schulze
Carter	Jenkins	Sebelius
Cavanaugh	Jenrette	Shuster
Cederberg	Johnson, Calif.	Sikes
Chappell	Johnson, Colo.	Sisk
Clausen, Don H.	Jones, N.C.	Skelton
	Jones, Okla.	Skubitz
Clawson, Del	Jones, Tenn.	Smith, Nebr.
Cochran	Kasten	Snyder
Coleman	Kazen	Spence
Collins, Tex.	Kelly	Staggers
Conable	Kemp	Steed
Corcoran	Kindness	Steers
Crane	Krueger	Stockman
Cunningham	LaFalce	Stratton
D'Amours	Lagomarsino	Stump
Daniel, Dan	Latta	Symms
Daniel, R. W.	Leggett	Taylor
Davis	Lent	Thone
de la Garza	Levitas	Thornton
Derrick	Lloyd, Calif.	Treen
Derwinski	Lloyd, Tenn.	Trible
Devine	Long, La.	Tucker
Dickinson	Lujan	Vanik
Dicks	Luken	Volkmer
Dingell	McClory	Waggonner
Dodd	McCormack	Walker
Dornan	McDade	Wampler
Duncan, Tenn.	McDonald	Watkins
Emery	McFall	Weiss
English	Madigan	Whalen
Erlenborn	Mann	White
Ertel	Marks	Whitley
Evans, Del.	Marlenee	Whitten
Evans, Ga.	Martin	Wilson, Bob
Evans, Ind.	Mathis	Wilson, C. H.
Fascell	Mattox	Wilson, Tex.
Findley	Mazzoli	Winn
Fithian	Michel	Wright
Flood	Milford	Yatron
Flowers	Miller, Ohio	Young, Alaska
Flynt	Mitchell, N.Y.	Young, Mo.
Foley	Mollohan	Young, Tex.
Ford, Mich.	Montgomery	Zablocki
Fountain	Moore	
Fowler	Moorhead, Calif.	
Frenzel		
Fuqua	Murphy, Ill.	

NOT VOTING—84

Akaka	Flippo	Moss
AuCoin	Fraser	Mottl
Badillo	Frey	Murphy, N.Y.
Baldus	Gaydos	Murtha
Baucus	Hanley	Myers, Michael
Bauman	Hansen	Nolan
Bedell	Hawkins	Poage
Boggs	Holland	Quayle
Boland	Hollenbeck	Quillen
Bonker	Horton	Rhodes
Brown, Mich.	Hyde	Richmond
Burgener	Ketchum	Roberts
Burke, Mass.	Koch	Russo
Butler	Le Fante	Ryan
Carney	Leach	Sawyer
Chisholm	Lott	Shipley
Clay	Lundine	Smith, Iowa
Cleveland	McCloskey	St Germain
Collins, Ill.	McEwen	Stangeland
Cornwell	McKinney	Stanton
Cotter	Marriott	Steiger
Dent	Metcalfe	Teague
Diggs	Miller, Calif.	Traxler
Edwards, Okla.	Minish	Tsongas
Fish	Mitchell, Md.	Ullman
Vander Jagt	Wiggins	Wylie
Walsh	Wirth	Young, Fla.
Whitehurst	Wydler	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Zeferetti for, with Mr. Akaka against.

Mr. AuCoin for, with Ms. Boggs against.

Mr. Diggs for, with Mr. Burke of Massachusetts against.

Mr. Baldus for, with Mr. Cornwell against.

Ms. Collins of Illinois for, with Mr. Teague against.

Mr. Baucus for, with Mr. St Germain against.

Mr. Russo for, with Mr. Carney against.

Mr. Koch for, with Mr. Roberts against.

Ms. Chisholm for, with Mr. Hyde against.

Mr. Wirth for, with Mr. Rhodes against.

Mr. Moss for, with Mr. Bauman against.

Mr. Hawkins for, with Mr. Young of Florida against.

Mr. Le Fante for, with Mr. Wydler against.

Mr. Metcalfe for, with Mr. Marriott against.

Mr. Mitchell of Maryland for, with Mr. Whitehurst against.

Mr. Shipley for, with Mr. Stangeland against.

Mr. Miller of California for, with Mr. Cleveland against.

Mr. Richmond for, with Mr. Lott against.

Mr. MURPHY of Illinois changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as the chairwoman of the subcommittee of the Post Office and Civil Service Committee concerned with employee benefits and compensation, I would like to have the record reflect that members of my subcommittee believe that there should be an amendment on page 6, beginning on line 13, to delete the $10,832,191,000 and to insert in lieu thereof $10,834,191,000. That would have enabled us to keep a program which is currently sponsored by the Navy in which personnel attend school and work for the Navy in alternating periods of study and work. The program provides for noncompetitive conversion to career employment upon completion of education.

The Civil Service Commission is most anxious to retain this program. It feels that it makes it possible to bring some very highly qualified and intelligent young people into the Federal service.

We would hope very much that the Senate will pick up this provision and that the conferees of the House will agree to accept those provisions.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Gov-

ernment and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,378,100,000, to remain available for obligation until September 30, 1980.

Mr. STRATTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to raise a point with respect to the procurement of M60 tanks which are covered in this particular section. It is a point that I think has been made earlier in general debate by my colleague, the gentleman from Indiana (Mr. HILLIS), but I would like to raise it again because it presents some problems unless we understand exactly what is involved.

The conference report on the defense procurement bill between the House and the Senate, which has not yet been considered here on the floor, provides $500 million for the production of 800 of the M60–A3 tanks. These are the latest, most modern tanks we have now in production, with the best equipment until we get the XM–1 into production.

The bill that is before us here today, if I understand it correctly, provides funds or only 759 of M60 tanks and it also requires—again if I understand it correctly; and if I am wrong I hope the chairman of the committee will correct me—the production only of M60–A1 tanks which do not include all of the improvements that are now available on the production line in the latest version of the M60 tank.

Mr. Chairman, we are committed now of course to the new XM–1 tank. When that is finally in production, it will be better than anything that the Russians have in the field at the present time, the T–72. But in the interim the T–72 is being produced in great numbers in the Soviet Union. It is a better tank than the M60–A1 and the experts tell us it can just barely be matched by the M60–A3. Yet the proposal that the Committee on Appropriations is suggesting here in this funding bill would be to stop the production of our best and latest model M60's that we have, and go back to producing the old-fashioned inferior M60–A1 model, which is admittedly no match for the tanks that the Soviets now have.

The reason for this strange requirement is that there are some individuals in the Pentagon who think that we ought to wait until we have perfected the new XM–1 fire control system and then adapt that to the M60, so that we will be completely up-to-date. The trouble with that idea is that if we take off the improved fire control system that we have now on the M60, the ruby laser rangefinder, and go back to the old model and wait until the new XM–1 fire control system is developed, all of the M60's will be off the production line before we have developed that new rangefinder and are ready to fit it to the M60. And it will have to be retrofitted to the M60 at a very great cost, and at a great reduction in interim M60 capability. So the conferees on the authorization bill agreed that this would be a serious mistake. We agreed to provide instead that the construction lines for the M60 continue in the A–3 mode so that we can continue to get the best M60 tank off the assembly line that we can get.

In addition, the Committee on Appropriations is recommending something that is likely to be very costly. They are suggesting that our production ratio on these M60 tanks go down to 759 tanks. Well, when the Committee on Armed Services came back from inspecting the Israeli-Arab battlefields after the Yom Kippur War and having seen the tremendous damage that was done to tanks on those battlefields and the terrific attrition that took place, we told the Army they better get cracking and produce more tanks.

The Soviets are making 3,000 or 4,000 tanks a year these days. At that time we were turning out about 400 a year; so the Army began to step up its production. We are now up to 1,200 tanks a year, but in order to do it, the Army had to go back and reestablish a new line for the production of turret castings for the M60 tanks.

That cost us an extra $125.5 million, although we had sold the previous casting plant a few years earlier for $3 million as surplus equipment. But if we go below the production of 800 tanks a year, the new Wheeling, W. Va., production line for these castings is no longer cost-efficient. We would have to close it down. That would be very wasteful and very costly.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for an additional 2 minutes.)

Mr. STRATTON. Mr. Chairman, it seems to me that it would be very foolish of us, at a time when we are still grossly outnumbered by the Russians in tanks, and when we are trying desperately to catch up, to shut down this second production line that we went to so much trouble to create. It would only make it all the more difficult for us in any future clash with the Soviet Union.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New York.

I would like to ask one question of the gentleman. What is the gentleman's thought on the war reserve tank stock in Europe; is it up to what we should have?

Mr. STRATTON. The state of our war reserve stock in Europe is virtually nil. We have on hand, or will have later this year, the minimum requirement that we need for active duty tanks.

Actually, I think this is an unrealistically low requirement in the light of the Nunn-Bartlett report. But we have nothing at all in war reserves, and these M60A3 tanks are needed to bring up our war reserves. We certainly ought to have the best tanks, the A3's.

Mr. HILLIS. If the gentleman will yield further, I was recently visiting the troops, and the cavalry troops equipped with the Sheridan asked that that unit be replaced by the M60A3.

Would the gentleman believe this would be a prudent move?

Mr. STRATTON. Yes. The Army would not admit it, but they are still riding around in these little tin jalopies which have no real defensive capability in meeting the Soviet threat.

I do hope that, when this matter goes to conference, that the views of the two committees on Armed Services will be taken seriously into account, and that the House conferees will yield to the Senate Appropriations Committee so that we can get the best possible tanks for our men in Europe.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to leave any mistaken impressions here today. The Committee on Appropriations is certainly not in favor of curtailing tank programs. It is certainly not in favor of encouraging the production of fewer tanks. Our problem is that after a thorough study, we find that because of the natural gas shortages and other occurrences over the last year, that there is simply going to be a shortfall in the number of tanks which can be produced during the fiscal year. And in an effort to provide only the money that was needed and not to provide extra money to sit around the Pentagon, we provided the funds which can cover the tanks which can be produced at the factories available for the production of tanks. We have no desire to cut back on tank production. If anybody has been encouraging the program of getting on with tank production, it has been the Committee on Appropriations.

On the question of laser rangefinders, the neodymium YAG laser rangefinder is far superior to the ruby laser rangefinder. It would have been desirable to continue the production of the ruby laser rangefinder until the YAG is ready to be put on the M–60A3. The problem which we have run into time after time after time is that once you have something in production you can never get anybody to change over to the new. You have to force this by cutting off production of the old one and going into the new. That is why the subcommittee finds itself in this position. We are not trying to degrade the quality of our tanks. We are trying to cut out a bulky, expensive, less effective rangefinder than we can now produce and come in with a YAG rangefinder on all of the M–60A3's.

What we have done is to delete all funds for the ruby laser rangefinder and solid state ballistic computer. We have added $6.3 million to develop a more advanced fire control system based on available XM–1 technology. This fire control system will be cheaper and more effective.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Alabama (Mr. EDWARDS).

I note that the House report on the authorization bill indicated the M60A3 tank is obsolete. Therefore, the gentleman should support the fact that the Committee recommended that the Army improve and increase the survivability of the M60A3 tank by development of a better fire control system. We can retro-

fit the new system into M60 tanks when it is ready in about 30 months after an October 1, 1977, go-ahead. This proposal will save over $300 million in modification costs alone, according to Army officials.

House report No. 94–451 is very clear with respect to the position of the committee on this matter. I suggest a careful reading of pages 219 to 224 which set forth a very detailed explanation of the recommendations of the committee on the Army's tank program.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. I thank the gentleman for yielding.

Mr. Chairman, I respect the gentleman's statement and position on this matter, but in moving ahead to produce the so-called M60A1 is the plan in the future to retrofit these 759 tanks and others which will come after, if we stay in this mode with the new technology?

Mr. EDWARDS of Alabama. The plan is that as soon as the new fire control system is available for the M60A3, we can put it in there. That is correct. As I said earlier, we wish we felt confident enough to go ahead with the ruby laser rangefinder until the YAG is ready, but if we do that, we will never get the YAG in production and in the M60A3, but we are trying to get that technology in the M60A3 just as soon as we can.

Mr. Chairman, we believe this is the best way to do it.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, do I understand that the gentleman is assuring us that until the new rangefinder, the YAG rangefinder, is available, the committee will support the continued production of A3's?

Mr. EDWARDS of Alabama. We have no intention of trying to stop production of the M60 tank. We think it is a good tank, and it is going to serve us for a long time in this country. The new fire control system will go into the M60 series tanks as soon as it is ready for production.

Mr. STRATTON. The A3's are the ones that are now on the production line. So the gentleman's intention would be that we would continue their production until such time as the new rangefinder is available?

Mr. EDWARDS of Alabama. Yes. The M60A1 is the tank we are producing now.

Mr. STRATTON. No; they are A3's, the ones now on the production line are A3's, I will say to the gentleman. Those are the ones we are talking about now.

This is the key to the whole argument we had in the conference on the procurement bill, and the House finally persuaded the Senate, with the logic that the gentleman from Indiana (Mr. HILLIS) has displayed so brilliantly on the floor here today, that there was no point in going back to the A1, that indeed we should continue the present production of A3's, and then when the new rangefinder comes along, we can install that at that time; but not retrofit. We ought not have a big gap in combat-capable tanks, that would occur if we were to go back to the old A1's.

Mr. EDWARDS of Alabama. The first M60A3 tank does not come off the production line until the calendar year 1978. The M60A3's are not coming of the production line now.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield further, the last M60 that is on the line now will be off in March of 1981. The new XM–1 rangefinder will not be available for retrofit until December 1980. So we would have to retrofit virtually all of these hundreds of tanks, a foolish and very expensive procedure.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has expired.

(By unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 1 additional minute.)

Mr. STRATTON. Mr. Chairman, will the gentleman yield further?

Mr. EDWARDS of Alabama. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, that was my understanding, and I am trying to recall these dates. As I said, I believe it is March of 1981 when the entire M60 production will be completed; and the new XM–1 rangefinder will not be available to be put on the M60 until December 1980, just 3 months before the final model comes of the line.

Mr. EDWARDS of Alabama. Mr. Chairman, I think the new fire control system would be available much sooner than that if we can stop production of the present system now. In any case, the first M60A3's will not be coming off the production line until the calendar year 1978.

Mr. STRATTON. If we can continue the A3 production until an improved rangefinder is dcveloped I would be satisfied with that, and that is what the Committee on Armed Services is supporting in conference. I do hope that will be what this Committee supports when it gets to conference with the Senate. Certainly we don't want to hold up steady production of our best tank in the hope of some better one a year or two down the line.

Mr. EDWARDS of Alabama. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; as follows: for the Trident submarine program, $1,471,488,000, and in addition, $231,712,000, of which $87,212,000 shall be derived by transfer from "Shipbuilding and Conversion, Navy, 1975/1979", and $144,500,000 shall be derived by transfer from "Shipbuilding and Conversion, Navy, 1976/1980"; for the SSN–688 nuclear attack submarine program, $278,500,000; for the CGN–42 nuclear-powered AEGIS cruiser program, $180,000,000; for the aricraft carrier service life extension program, $30,000,000; for the DDG–47 guided missile destroyer program, $930,000,000; for the DDG–2 guided missile destroyer modernization program, $94,500,000; for the FFG–7 guided missile frigate program, $1,163,300,000, and in addition, $42,000,000 to be derived by transfer from "Shipbuilding and Conversion, Navy, 1977/1981"; for the AO fleet oiler program, $322,700,000; for the T–ATF fleet ocean tug program, $52,700,000; for craft, $39,700,000; for outfitting and post delivery, $89,800,000; and for cost growth, $566,100,000, in all: $5,218,788,000, and in addition, $273,712,000 in transfers as hereinbefore provided to remain available for obligation until September 30, 1982: *Provided*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

POINT OF ORDER

Mr. MEEDS. Mr. Chairman, I make a point of order against the language on page 19 of the bill, beginning with the words, "and," in line 17 and all that follows up to the semicolon on line 21.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MEEDS. Mr. Chairman, the point of order is that the language which I have cited and which is encompassed by the lines I cited is a reappropriation of unexpended balances and, as such, is a violation of the prohibition of clause 6. rule XXI, of the Rules of the House.

The CHAIRMAN. Does the gentleman from Texas (Mr. MAHON) wish to be heard on the point of order?

Mr. MAHON. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded. Therefore, the point of order is sustained.

The Clerk will read.

The Clerk read as follows:

AIRCRAFT PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,417,705,000, of which $62,-

000,000 shall be available only for the procurement of C–130H aircraft for the Air National Guard, and in addition, $34,400,000, of which $15,100,000 shall be derived by transfer from "Aircraft Procurement, Air Force, 1976/1978", and $19,300,000 shall be derived by transfer from "Other Procurement, Air Force, 1977/1979", to remain available for obligation until September 30, 1980.

Mr. ADDABBO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it would have been my intention to offer an amendment at this point to cut the B–1. I will not offer it today. If we have not completed the bill on Tuesday, it will be offered at that point.

In view of the fact that there have only been a very few Members here today, in view of the fact that his is a very important issue, and in view of the fact that this matter is still pending before the White House and the President is debating whether to cut the B–1 or not, I will not offer the amendment until a later time.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the chairman of the committee.

Mr. MAHON. Of course, Mr. Chairman, if we pass up this part of the bill, we could not return to it except by unanimous consent. So I would hope that the gentleman would offer his amendment now if it is going to be offered.

Mr. ADDABBO. Mr. Chairman, I understand or it is my belief that the gentleman from California (Mr. LLOYD) will be offering an amendment.

Mr. GIAIMO. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will state that the Chair will not entertain that motion. The gentleman makes a point of order that is not in order. There has already been one quorum call in the Committee today.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. DOWNEY. Is it my understanding—and possibly the gentleman from Texas (Mr. MAHON) could tell us—that if the B–1 amendment is not offered at this point, we will not be able to resurrect it subsequently and offer the amendment at a later point?

Mr. ADDABBO. If all debate on this section is completed and if all votes on this section are had today and we pass that section, then we could not go back to it.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: On page 22, line 21, strike "$7,417,705,000" and insert in lieu thereof "$5,986,305,000"

Mr. ADDABBO. Mr. Chairman, in the last few days as we have grown closer to this amendment, I have watched the flexing of Pentagon and industry muscles against this amendment in an effort to keep the B–1 program alive. And I do not blame the gentlemen from the Pentagon or the officers of the corporations for doing their best to save this plane, for on the one hand its development means projects and promotions for some and big dividends for the others. But we are not sent to this Chamber to enhance the careers of officers, be they military men or men of industry. We are sent here to do our best on behalf of the American people who pay the bills for what we allow to be spent by the Federal Government.

And no amount of rhetoric will deny the basic contention that we make, that the B–1 bomber is the most expensive white elephant ever proposed by industry and the services. It will, according to a story in the Washington Post last week, very likely cost $112 million to build each and every one of those, unless we have cost overruns at which point the cost would go even higher. Then we have to equip them and man them and keep them in the air. By the time we are done with all of this, the taxpayers may well have shelled out up to $100 billion for these planes. And as the House stands here today, poised to push the spending button on this white elephane, we cannot even say with certainty that the thing will do the job it is supposed to do.

If we approve funding for this plane as matters now stand, we deserve to be known as the "highest rollers" since Nick the Greek. But where Nick the Greek at least knew the odds he was facing, we are asked to simply forge blindly ahead trusting in the good faith of the Air Force and industry to produce a workable weapons system for us at the lowest cost possible.

Well, my friends, it does not work that way and the developments of this program to date are living proof that it does not work that way. This entire program was supposed to cost about $35 billion, start to finish, when it was conceived. Those days are long gone, let me tell you. As sure as we are here today, if we approve procurement of this plane, we will eventually sit here another day some years from now and yearn for the days when this plane was only considered to be $100 million each. It cannot possibly keep even to that price tag, and the people who will talk the loudest on its behalf know full well it cannot.

And so we are subjected to the old Defense bill flim-flam routine. The less justification for a dubious project, the louder the cries that to kill it is an unpatriotic act that will somehow render this Nation vulnerable to the Communist menace. My friends, do not be misled by that kind of talk. Our Nation is strong enough to protect itself without the B–1 bomber and it can be argued very well that the B–1 bomber will cost so much and do so little to improve our bomber capability that its development would seriously harm other areas of national defense.

I only ask the Members of the House to consider for themselves whether it is reasonable to spend between $100 and $150 million to build a plane that is highly vulnerable to destruction by low-cost and easily produced missiles.

I ask the Members to consider what happens to the Air Force inventory when the B–1 begins to absorb more and more of the annual budget. In this year's budget alone, this very limited buy takes up over 5 percent of the total Air Force dollars, and we would just be beginning. It would get worse, far worse.

I ask the Members to consider just what the B–1 is supposed to be able to do that the existing modernized B–52 fleet cannot do, except fly faster which in case of attack would be of little importance, and lower, which in 10 years time will be no asset whatsoever.

The primary goal of those who originated the concept of the B–1 was to build a manned bomber that could penetrate Soviet defenses and fire missiles at undefended or lightly defended targets. The B–1 is not going to be able to do that. If we started construction of the B–1 tomorrow, with 24–36 months the Soviet Union can defend against the B–1 so well that it would be suicidal to send the plane through those defenses. The only possible means of attack for the B–1 would be to stand off outside those defenses and fire its missiles from there. We have that capability now, so why in the world should we spend ourselves into near bankruptcy without hope of improving our odds substantially? I know of no sound rationale for doing so.

There are many options available to the Air Force other than the B–1. The modernization program of the B–52 is a sensible and, by comparison, cheap way of accomplishing the same thing. Should the Air Force want a larger striking capability, the 747 can easily be adapted for this use, and would cost about 50 percent less to develop. Providing, I might add, a lengthier cruise capability.

My colleagues, there are literally dozens of reasons why the B–1 program ought to be ended. They are valid reasons, and depite everything that you will hear from the proponents of the plane, they cannot be refuted.

As we get to the point where the Members must make a decision on this, let me address the question that has bothered some of the Members who support my position, but who believe that the possibility of a defeat on the floor of the House would encourage President Carter to come out on behalf of the B–1 bomber.

I believe the President has more at stake on the B–1 bomber than the question of whether or not to build this plane. He has told the American people to trust him because he will not ever lie to them. He has said flatly that the B–1 is a bad weapons system that ought not to be built. He is deliberating the final decision now because as President of this Nation, he must consider every option before making a final decision. But I believe that in the lack of new information—and there is none—he will have to reaffirm his earlier decision. He has no choice.

I believe that even if this House votes against halting the B–1 program now, his decision will be made only on the basis of what the President knows to be right. Therefore, should my amendment lose, and I would hope that it will not, the President's decision not to support the

B–1 can be ratified in the Senate. We can have another chance to vote, should that happen.

But I would rather that the House stood up tall today and faced this issue openly. We are elected by the Congress to exercise our best judgment on these important issues. To refuse to act today because the President has not yet decided is to openly admit that the Congress is unwilling or unable to exercise its own judgment on difficult issues.

I do not believe that is true or it is accurate. I respect the office of the President and I acknowledge the political punch that that office carries. But our responsibility is to do the job that faces us, and not to wait for a way to get off the hook somehow by having the President make the decision for us.

Mr. Chairman, I urge the Members to support my amendment.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. ADDABBO was allowed to proceed for 3 additional minutes.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, the gentleman in the well has made a number of interesting points in his argument. The one I would like to explore is the B–1 argument. Could the gentleman from New York go over once again what we will be dealing with in the B–1, and what this will mean in terms of other aircraft systems? Will it take money away from the Air Force needs for the F–15 and the F–16 and the A–10?

Mr. ADDABBO. What it means is that we will have to reduce those buys. When you consider the money available for procurement of aircraft, there is not so much for this plane or that plane, there is a total figure. Once you allocate 5 percent of that total figure for the B–1 it means that you only have four-fifths of the money left to spend for everything else so that all the other weapon systems, all the other planes must suffer and our national defense posture must suffer.

Mr. DOWNEY. Is it not true that at some later point down the road, after the B–1 becomes increasingly more expensive, as has been its past history, that the Air Force will have to make a decision about the F–15, F–16, and the A–10; is that correct?

Mr. ADDABBO. That is certainly correct if President Carter ever hopes to balance the budget as he has said he wants to do.

Mr. DOWNEY. I thank the gentleman.

Mr. LLOYD of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. ADDABBO).

Mr. Chairman, I do not think it is very surprising that I am standing in the well of the House again saying that I believe this is a weapon system that we need. I believe the B–1 bomber is an excellent weapon system. It is the next progression from the B–52.

It must be remembered that the Russians are building the Backfire bomber. This suggests aircraft are not obsolete, and that they are still functioning weapon systems.

The B–1 is a weapon system which adequately meets today's requirements at this point in time and space.

There is no question as the cruise missile comes into being and as other missiles or other weapon systems come into being that flying aircraft will no longer be viable in our weapon systems arsenal. There is no question about that at all. But that is not what we are dealing with here. We are dealing with the here and now. We have had terribly expensive aircraft. There is no question about the fact that the B–1 is a very, very expensive aircraft. It costs over $100 million. But it did not get to be over $100 million because of any problem in the development of the aircraft. It got to be over $100 million because a decision was made to cut the initial buy from 8 to 5. I did not believe that was a wise decision. I thought it was a poor decision. It had no bearing on wehther or not we should have a B–1. That is really what the issue is today. I am delighted it is on the floor at this time because I believe we should address this problem and settle it once and for all. The question is very simple, and that is: Do we want an adequate weapon system which poses a sufficient threat to hold our potential enemies in abeyance?

I think the answer is "Yes." I think the B–1 is that program. However, I think we have to look at the weapon system itself—the B–1. I have heard all kinds of things as to what the problem is. Let me tell the Members that as an aviator, the B–1 has engines which are really very good, considering the complexities that are presented in any weapon system today. We have used the core of that engine, for instance, to throw it back into the F–18, into the 404 engine. There is some consideration, if we have to reengine the F–14, that we will replace the TF–30 engines with an engine which could, indeed, come from the F–101, which currently is in the B–1, which I think attests to the fact that it is a fundamentally sound engine. That is very important to aircraft today.

We have plenty of aircraft where we have great difficulty because of engines.

Regarding the airframe, the airframe has to perform every test adequately as to meeting specifications. Surely, we are going through a process of development; there is no argument about it. No weapon system when it first arrives does all the things it is supposed to do instantaneously. If that were so, we would not be worrying about a retrofit of the F–14. We would not be worrying about the underpowering of the A–10. We would not be worrying about stagnation stalls in the F–100 engine which powers the 15 and the 16. But that is not the way aircraft are.

I myself have participated in testing aircraft, and this testing is ongoing in these highly sophisticated systems. I think that we are well served in our defense needs by this weapon system. The B–1 is a good weapon system. It adequately meets the demands of the application of this weapon system, and I think that to in any way delete this weapon system materially reduces what advantage—and I put a question mark after that—exists in the world today for us with regard to any potential enemy.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from New York.

Mr. DOWNEY. I thank my friend for yielding.

I know the gentleman is more than a capable Member of Congress; he is a distinguished aviator. He flew the Mirage in Israel, and he is quite capable in that respect. One of the things the gentleman mentioned I think needs to be looked at and examined a little more closely.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DOWNEY, and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 2 additional minutes.)

Mr. DOWNEY. If the gentleman will yield further, the gentleman made the point that the airplane's cost, which is anywhere between $103 and $117 million—depending on whom one listens to—has increased as a result of going back from eight airplanes this year to five airplanes. I would submit to the gentleman that the cost of the airplane at its present estimate of $103 or $104 million has been that cost for the last year or so, and that it is not the result of a reduction in the number.

Mr. LLOYD of California. I do not agree with the gentleman. The figure I had before this decision was $94.7 million, and as a result of this decision it went up to $102 million-plus, or $103 million.

Mr. DOWNEY. If the gentleman will yield further, is the gentleman willing to concede the fact that if we do not build 244 B–1 bombers that the unit cost of the airplane will go up even further?

Mr. LLOYD of California. I concede that. The gentleman is absolutely right.

Mr. DOWNEY. It is conceivable, then, that the airplane will reach $116, $117, or $118 million per plane?

Mr. LLOYD of California. As the gentleman has stated—and he is correct—if we make a decision to buy a certain number of aircraft and we program that aircraft in the production line, then if we make any changes in the total number, in the rate per month that we are building, if we make any major changes in any of the equipment, obviously the cost will go up.

Mr. DOWNEY. If the gentleman will yield further, one of the major points, it would seem to me that the gentleman has made, and the House needs to decide, is whether or not this weapon system, at $103 million, or $94.7 million, or $117 million buys that much additional security for our country. It would seem to me that is what we are going to have to decide.

Mr. LLOYD of California. I think that is really the question. I happen to agree that it would, and I think it does buy that much additional security.

Mr. SIKES. Mr. Chairman, I rise in opposition to the Addabbo amendment.

Mr. Chairman, the Triad concept gives our defense program an essential versatility. We have land- and sea-launched ballistic missiles and strategic bombers. No single program of this deterrent force can satisfy all of the needed strategic task.

The strategic bomber provides unique capabilities not available from other forces. The present strategic bomber is the B–52. By the time the B–1 initial operational capability is attained, the average age of the B–52 aircraft will be 24 years. Current intelligence estimates show clearly that Soviet offensive and defensive weapons have improved to the point that it would be increasingly difficult for the B–52 to penetrate Soviet air defenses to the extent which we must have.

The B–1 represents a 10-year development effort. It has been studied, restudied, designed, redesigned, and honed to produce a truly modern, fully effective aircraft. No other aircraft offers such needed characteristics as penetration speed, resistance to nuclear effects, radar cross section, and terrain following maneuverability. All possible alternatives have been considered. It is the B–1 or nothing in our time. The B–52 has been modernized to the full limit of its capabilities. It is not possible to depend upon the B–52 in the years ahead. It is a great aircraft which has just about outlived its usefulness. The B–1, by contrast, can be improved and modernized and utilized into the 21st century.

The B–1 can deliver large payloads to major areas while operating from U.S. bases. It will utilize, among other weapons, the cruise missile, and this should make it one of the most effective weapons in history.

The B–1 would not violate the provisions of current or foreseeable international agreements. It would greatly modernize our strategic force. It would show national resolve and determination, and it would keep pressure on the Soviets to continue negotiations for a more stable peace.

It would be folly to cancel a program which is so important to America's security. It would be extremely wasteful not to take advantage of the investment already made. It would be poor judgment to weaken our forces by denying them a truly modern, sophisticated weapon such as the B–1.

The amendment should be defeated.

Some critics say we just cannot afford the B–1.

Quite the opposite is true, the world situation and realities dictate we cannot afford not to buy it.

We must retain our strategic posture vis-a-vis the Soviet Union.

Program opponents decry the B–1 cost growth pointing to a $9.9 billion program total in 1970 compared to the current $24.8 billion that includes inflationary effects through the mid-1980's.

They purposely forget the cost of everything we buy has risen.

Today's milk costs more than 1970 milk.

Today's $6,000 car cost far less in 1970, and will cost $11,000 in 1990.

Neither the Air Force nor the contractors are the culprits—inflation is the real villian.

The $24.8 billion cost estimate for B–1 development and procurement includes $13 billion for inflation.

The real cost growth has been less than 20 percent over a 7-year period.

A better way to look at B–1 cost is to compare it to previous Air Force aircraft.

When compared in today's 1977 dollars the Air Force will spend less to acquire the B–1 force than was spent on the current B–52 force.

In 1977 dollars the B–52 force would cost 35 percent more than the planned B–1 force.

Even the B–17 force of World War II would cost nearly 90 percent more than the planned B–1 force today.

Aircraft of the past were expensive to build and operate.

Because many were required to do the job. They did not last as long operationally.

Over the planned 30-year operational life of the B–1 about $36 billion of today's dollars will be expended for development, procurement, training, operations, maintenance, and base support.

Far less than for the B–52 fleet.

No new air refueling tankers will be needed for the B–1 role.

No new airfields will be required, since the B–1 can operate from nearly 300 U.S. runways.

When considering costs, remember a large amount has been spent on the B–1 program.

Almost $5.3 billion in 1977 equivalent dollars has been authorized and appropriated by the Congress for the B–1.

Twenty-five percent of the cost in today's dollars having already been spent.

B–1 costs are actually low when the aircraft's capabilities are taken into account.

B–1 remains the most cost-effective alternative for maintaining a penetrating bomber capability.

The only thing gained by denying production funding now, recognizing the strategic need for bomber modernization is a higher price tag later for a system whose cost has already been doubled by inflation.

Orderly pace of the program would be disrupted and expensive inefficiencies introduced.

Program costs, which are under control in one of DOD's best managed major programs, would unnecessarily increase.

Not justified in view of the world situation, SALT considerations and the wealth of data available to judge the aircraft's capabilities.

Procurement and deployment of the B–1 will entail a sizable investment but there is no substitute on the horizon for the contribution the B–1 will make to continued deterrence through the end of the century.

Without the B–1 our ability to deter nuclear war will be in question.

The need for the B–1 and the ability of the B–1 to fulfill that need clearly show that continued production funding is necessary.

Mr. MAHON. Mr. Chairman, I rise to state that it is my intention to move that the Committee rise at 2:30. It is approximately that time now.

I yield to the gentleman from Florida (Mr. SIKES).

Mr. MAHON. Mr. Chairman, I yield to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Chairman, may I please make just a brief statement now before we rise and then on Tuesday I will ask to address the House in defense of the B–1 Peacekeeper. I would like to alert the Members to inspect the two models of aircraft that I have in front of me. They are both to equal scale. One is the Soviet Tupolev Backfire, production of which they just raised from 5 to 12 per month. Its refueling probe is blatantly observable. Members can compare this with a model of our B–1 which we still do not have in service and will not have until May of 1982 barring any further cutbacks. The Soviets already have over 100 Backfire bombers in service. If Members will please come and inspect these models, it will clarify for them many of the critical points I will be making in my B–1 defense on Tuesday, June 28. Thank you very much.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, unanimous consent has already been granted to Members to revise and extend their remarks in regard to the defense appropriation bill.

Mr. Speaker, I ask unanimous consent that I may be permitted to include tables and extraneous material in my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6796, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION

Mr. DODD, from the Committee on Rules, submitted a privileged report (Rept. No. 95–463) on the resolution (H. Res. 657) providing for consideration of (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorga-

nization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ORDERLY CONSIDERATION OF LEGISLATION

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I note that I was the sole dissenting vote against the rule waiving points of order for consideration of defense appropriations which was just passed. This is not the first time I have found myself in lone dissent against what I consider a grave distortion of our process; I hope I will be joined in the future by many of my other colleagues whom I know share my concerns.

Mr. Speaker, I think this whole question of taking up appropriations before the authorization has been passed deserves the very serious consideration of this body. In the Committee on Science and Technology we labored long and hard on conservation, solar energy, and revisions in the entire energy package for consideration by the House. The appropriation bill came up before we even had a chance to have our work in the authorization committee considered. As a result, we might as well not have had an authorizing committee at all. Its work was completely ignored. I think we have to change our procedures to make it possible for the work of the authorizing committees to be considered in an orderly manner.

It is the authorizing committees that are supposed to set policy and conduct oversight over the Federal departments and agencies. We undercut their work at the peril of sound legislation and oversight.

There is another grave problem with the manner in which this legislation is being considered, however. I understand that a copy of the bill and of the committee report was not available to Members until last night, violating the 3-day layover rule.

This is the largest bill we consider, appropriating billions of dollars for defense including many controversial matters. The rule waives a point of order for failure to have had the bill before us a sufficient time to permit informed and intelligent consideration. This is a gross abuse of process for which there appears to be no adequate justification.

Mr. Speaker, I have voted against all the rules waiving vital points of order on the appropriations bills we have been asked to consider in advance of authorizations and in some cases without adequate opportunity to examine the legislation as well. I hope the leadership will take priority action to prepare changes in our procedures and the Budget Act time schedules to permit orderly, considered deliberation on legislation.

ACTUARIAL INCREASE IN SOCIAL SECURITY BENEFITS FOR PERSONS RETIRING AFTER AGE 65

The SPEAKER. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 5 minutes.

Mr. COHEN. Mr. Speaker, I am introducing legislation today providing for an annual 7-percent increase in social security benefits for those persons between the ages of 65 and 72 who voluntarily choose to delay their receipt of such benefits.

Under present law, social security benefits are calculated on the assumption that retirement will take place at age 65. Nevertheless, individuals may elect to retire as early as 62 by having their benefits reduced by 6⅔ per year or 20 percent over the 3-year period. For those who delay retirement past the age of 65, benefits are increased at the rate of 1 percent per year until age 72 when benefits are paid regardless of employment status.

It is to the equity of this 1-percent increase in present law that my legislation addresses itself. This measure would give individuals the flexibility to retire under the Social Security Act when they want to after the age of 65 with the assurance that they have the opportunity to recoup the same percentage of benefits if they had retired earlier.

The Social Security Administration has estimated that the total annual delayed retirement increment must increase at 7 percent per year to be actuarially equivalent to those drawing benefits at age 65. The estimate was based on a 6½-percent interest rate and on an assumption that workers who delay their retirement past age 65 are usually in better health and their life expectancy is generally 20 percent higher than the life expectancy of the general population aged 65 and over.

This legislation would end the bias toward retirement that the present system possesses. It is apparent that individuals are literally forced into retirement in order to receive the maximum benefit from their social security contributions, regardless of whether the beneficiary desires to or is capable of continuing work.

The experience and ability of older Americans is a resource that our Nation cannot allow to go untapped. Age 65 must not be an arbitrary test of whether an individual can still contribute to society. Since that limit was set in 1935, health and life expectancy have improved significantly. As a result, the number of people who are both able and eager to pursue careers past the age of 65 has increased dramatically. Yet, in many cases, individuals who would have preferred to stay on the job have retired because they have little hope in seeing an actual return for their continuing work. Not only do full-time elderly workers forego the immediate benefit of their social society pensions, but they also pay income taxes and social security taxes on their earnings. When these costs are added to the expenses incurred in traveling to and from a job, little if any incentive remains to encourage one to stay at work.

The Social Security Administration has estimated the costs of this bill at about $211 million per year, or 0.31 percent more in payroll taxes. However, this estimate does not take into account the fact that older workers are paying Federal and social security taxes while they work. Nor does it include the savings to such programs as SSI, food stamps, medicare, medicaid, and public assistance programs which will undoubtedly accrue when individuals are once again productive.

This measure does not affect current law regarding early retirement, or retirement on schedule at 65. All it does is remove an economic barrier which stands in the way of older Americans desiring to remain in the working mainstream of our society.

THE ADMINISTRATION'S TAX PROPOSALS ARE SEEKING TO EXPAND THE ECONOMY THROUGH RHETORIC—IT'S NOT ENOUGH!

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, last Sunday's Washington Star carried an interview with Treasury Secretary Blumenthal outlining some more of the administration's proposed tax reforms. We have become accustomed to hearing such hints for some time, as an outgrowth of President Carter's campaign promise of substantial tax reform. Although I certainly welcome genuine tax reform and have talked about the need for it many times, I must confess a certain concern about the kinds of reforms we can expect from this administration. It seems to me that we may end up with reforms that are more rhetorical than substantive especially in view of the President's threat to veto our Republican attempts to reduce the personal income tax rates of all American taxpayers.

The following is a list of President Carter's campaign promises regarding tax reform, as taken from a memorandum by Stu Eizenstat and David Rubenstein to President-Elect Carter dated November 30, 1976:

TAX REFORM

GOALS AND PRIORITIES

(1) Using tax reform to help the working poor whose incomes are below the poverty level. (Economic Press Briefing, 8–16–76)

(2) Simplifying drastically the income tax system so that taxes on middle and low income families can be reduced. (Tax Reform Statement, Pre-Convention No. 85)

(3) Treating all income the same, subject to some exceptions. (Ibid)

(4) Changing the tax laws in a way to discourage corporations from locating plants abroad. (Ibid)

(5) Constructing a tax system which will tax all income only once and be more progressive than the present system. (Platform presentation, 6–16–76)

(6) Lowering taxes for lower and middle income families who live on wages and shifting the tax load to wealthy individuals and

corporations. (Economic Position Paper, 4-22-76)

Shortly afterward, in a memorandum dated December 10, 1976, chief pollster Pat Caddell told the President how to handle his tax reform promise:

Tax reform encompasses the whole question of basic, equal justice efforts, even if they are small ones, must be begun to convince the public that the President and the Administration are concerned with solving the current injustice. The public has been promised tax reform time and time again, but now feels it only results in more and more advantages to the rich and to corporations. Quick symbolic action is needed.

Apparently the President has decided to follow his pollster's advice, because since he took office we have had only symbolic efforts toward real tax reform. There was the rebate, of course, but its absurdity was so great that President Carter was ultimately forced to completely withdraw the proposal. I think it had been justifiably likened to throwing money out of an airplane, and apparently most Americans felt the same.

The remaining provisions of the Tax Reduction and Simplification Act which eventually passed Congress and were signed into law, cannot really be called tax reduction or tax reform. These include: an increase in the standard deduction, introduction of an employment tax credit, and extension of various tax changes implemented in 1975. Although these measures certainly cut taxes for some individuals, taxes are raised on others, and the cuts themselves will not achieve their stated goal, that is, economic stimulus and relief for the taxpayer.

In the case of the standard deduction increase, all of the benefits will go to those in lower income brackets, since these people rarely have enough deductions to itemize. The bill also substitutes a flat amount standard deduction for the former method based on a percentage of income. The effect is to increase taxes on single people who earn more than $13,750. And because the marginal tax rates themselves are left unchanged, there will be no incentive effects on those people whose taxes are reduced. People will not alter their work or investment behavior on the basis of this legislation, but will see the additional income as a windfall at tax time. This is the same criticism which was effectively made against the rebate proposal and the reason why no economic growth will result. Indeed, insofar as this legislation is concerned it may actually reduce economic growth by increasing the progressivity of the tax rates still further, by shifting the burden of taxation upward.

In the case of the employment tax credit, the Treasury is expected to lose more than $2.5 billion in revenue in the next fiscal year in order to create jobs, primarily in small, labor-intensive businesses. Unfortunately, there is very little likelihood that any new jobs at all will be created. As the New York Times noted in an editorial on February 13:

A credit restricted to new hiring would reward only companies that are expending. Growing regions of the country would receive subsidy infusions denied to the most troubled regions. Is it in the public interest to reduce taxes paid by, say, General Motors but not to American Motors? Or send money to Texas but not to Pennsylvania?

If the program were likely to put tens of thousands of the hard-core unemployed on private payrolls, these questions might, in conscience, be overlooked. But economic research provides no reason to be optimistic. On the contrary, creation of so many jobs for such potential workers requires industries to use workers instead of machines. Heavy industries, it appears, need powerful incentives to make this trade, in part because the requirements of modern technology are rigid and probably also because dealing with organized workers is troublesome. Thus the job tax credit is not likely to provide enough incentive to induce many industries to add workers to their assembly lines.

What is more, if the tax credit expands the labor force without expanding the Nation's capital stock we will have more workers with less effective and productive machines. This will lead to a decline in output per capita, as is so evident in Great Britain today.

Finally, the extension of 1975 tax cuts is largely confined to retention of the $35 general tax credit. Once again, the benefits fall almost entirely on those in lower income categories and will only increase demand without increasing supply. The result is likely to be inflation, rather than more production.

A tax cut which would really do the economy some good would be an across-the-board reduction in tax rates. This would increase the after-tax income of all Americans, and thereby increase the incentive to work, produce, and invest, which is so necessary to get this Nation moving again and make it competitive with foreign countries.

At present, steeply graduated tax rates discourage people from earning additional income. As the rate on each additional dollar earned goes up, the tradeoff between work and leisure goes down. Thus, you find many workers refusing overtime pay because it pushes them up into higher tax brackets, and professional people like doctors simply taking off the last several months each year because taxes take such a high proportion of their income. And because inflation is continually increasing nominal incomes—even though real incomes may be unchanged, or even reduced—more and more people are being pushed up into confiscatory tax brackets.

President Carter has yet to suggest any measures which will fundamentally deal with the general overtaxation of the American people resulting from inflation—which has been raising taxes close to $20 billion per year without any votes by the Congress.

This is the rhetorical scorecard of promises the administration has made so far:

First. Replace the personal exemption and replace it with a credit of about $250 per person.

Second. Eliminate the double taxation of dividends.

Third. Reduce the top tax rate from 70 to 50 percent.

Fourth. Treat capital gains as ordinary income.

Fifth. Eliminate various other deductions and exemptions.

Presumably, the replacement of a flat credit for the $750 personal exemption will achieve President Carter's goal of making the tax system more progressive, since those earning more income would pay more tax than they do now. It is interesting to note the Wall Street Journal's reaction to the idea, in an editorial on February 14:

So the first peek at President Carter's tax "reform" ideas discloses a proposal to substitute tax credits for tax exemptions, a change with the sole purpose of making taxes more progressive. Taxes will go up for the productive and higher paid workers, and down for the lower paid, less productive ones. Or in short, Mr. Carter's notion of tax reform is to make the U.S. tax system more like the one that has helped make Great Britain what it is today.

Although one cannot quarrel with the President's desire to eliminate double taxation of dividends, one must be concerned with how this may be accomplished.

In March there were various reports from Laurence Woodworth, Assistant Secretary of the Treasury for Tax Policy, which indicated tnat perhaps the double taxation of dividends would not be eliminated after all. The concern was that too much revenue might be lost as a result.

Again in May there were indications that double taxation of dividends might not be eliminated when President Carter said that his tax reforms would involve no net loss in tax revenues to the Government.

In spite of this, President Carter repeated his goal of eliminating double taxation on dividends in an interview with U.S. News & World Report on June 6. Where this leaves the situation it is difficult to say.

Subsequently, Charles Schultze, Chairman of the Council of Economic Advisers, said that the administration was now prepared to accept a net loss in tax revenue, during questioning by the Joint Economic Committee on June 10.

More recently still, Treasury Secretary Blumenthal told the Washington Star that reduction of the top tax rate from 70 to 50 percent was a definite administration goal. This could be accomplished, he said, by eliminating the special treatment of capital gains at the same time. Since the average tax rate on capital gains is already about 40 percent, the combined package would not be overly harmful to investment. Blumenthal also said that there were other plans to stimulate investment, including an increase in the investment tax credit or a reduction in the corporate tax rate.

In sum, therefore, we still have very little to go on concerning specific provisions of President Carter's tax reform package. Nor is it possible to assess the probable impact of the reforms which are likely to be proposed without knowing exactly how they will be implement-

ed. For example, though it would clearly be beneficial to reduce the top tax rate to 50 percent, if you combine this with elimination of capital gains and other deductions, the net effect may be to shift the tax burden in such a way that the results are negative.

Secretary Blumenthal has often said that he believes it is possible to cut taxes in such a way that Government revenues are increased. Back in January he told the Washington Post:

The simple-minded notion underlying all of this is that, if it works, I would hope that there would be a bigger pie, and higher levels of activity producing more revenue.

He said much the same thing to the Washington Star on June 19, and added that the administration was attempting to calculate the "feedback" effects of its tax policies on revenues. This is interesting because President Carter has steadfastly opposed our Republican efforts to pass a general tax rate reduction on the grounds that it would sacrifice future revenues and be inflationary. As he told a press conference on April 15:

If the Congress should pass the Republican alternative, which is a permanent tax cut, I would veto it. I don't think the Congress is going to take that action, which would be irresponsible. It would mean that over a long period of time we would have an inability to have comprehensive tax reform and it would be permanently inflationary in nature and it is not necessary.

Not only has Treasury Secretary Blumenthal refuted this notion, but Office of Management and Budget Director Bert Lance has also. During hearings before the Joint Economic Committee on February 24 he said:

My personal observation is that as you go through the process of permanent tax reduction, that there is an awfully good argument to be made for the fact that the revenues of the government actually increase at a given time. I think that has been proven in previous circumstances. I have no problem in following that sort of thing.

Lance's reference is to the Kennedy administration, in which the highest tax rate was reduced from 91 to 70 percent, the lowest rate from 20 to 14 percent, and the corporate tax rate cut from 52 to 48 percent. As the following table shows, even these very large tax rate reductions did not cause Government revenues to drop. In fact, they went up:

[In billions]

	1963	1964	1965	1966	1967	1968	Total
Treasury-estimated revenue losses (minus)	2.4	5.2	13.3	20.0	23.7	24.4	89.0
Actual revenue gains (plus)	7.0	6.0	4.0	14.0	19.0	4.0	54.0

I personally believe that the real tax reform that is needed is tax reduction. The American people simply pay too much tax, and playing games with the tax code only shift the tax burden away from those with political influence on to those who have none. This is why I constantly stress the need for across the board rate reductions. This will increase the net income of all Americans, increase their incentive to earn additional income through work or investment, and produce the capital America needs to create jobs and to expand plant capacity and productivity.

Of course, it is important to eliminate gross inequities in the tax code, whether it is a matter of giving unjustified tax breaks to some or too heavily taxing others. This is why I generally favor the elimination of so-called loopholes in return for rate reductions, both for individuals and business. Though President Carter seems to be taking the same direction, I have serious doubts. Unless there is tax reduction across the board somewhere in his tax reform package there is no way it can really justify the word reform.

AMENDMENT TO WAYS AND MEANS ENERGY BILL TO PROVIDE QUOTA SYSTEM, LICENSING, AND TARIFFS ON OIL IMPORTS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, during the Ways and Means Committee's considera- of the President's energy proposals, I intend to offer an amendment designed to reduce our dependence on foreign oil and insure that the oil conservation which is obtained under the various energy programs results in a reduction in oil imports and not a reduction in domestic production.

For the use of Members, I would like to include in the RECORD at this point a copy of the proposed amendment and remarks explaining the purpose of and need for the amendment:

AMENDMENT TO PROVIDE QUOTAS, LICENSING, AND TARIFFS ON OIL IMPORTS

(Remarks of Representative CHARLES A. VANIK)

The Oil Import Control amendment I am offering is similar to Title I of H.R. 6860 which was reported by the Ways and Means Committee in 1975 and retained on the floor of the House.

The amendment is designed to reduce our dependence on foreign oil and ensure that the oil conservation which is obtained under the various energy programs results in a reduction in oil imports and *not* a reduction in domestic oil production.

Basically, it requires the President to submit a yearly projection of oil production and oil demand adjusted for conservation. He is then directed to limit imports to no more than the difference between planned demand and planned production. The amendment does give him discretion to force energy conservation by setting lower levels of imports. The yearly level of imports set by the President could be modified if necessary because of weather conditions or national emergencies. Any level set by the President may be modified by the Congress through the regular legislative process.

This is significantly different from the wording of the 1975 language. Instead of setting specific barrel per day figures in concrete now, we allow more flexibility. The 1975 language set a level of imports of 6 million barrels per day for 1976 and 6.5 million per day for 1977. In recent months, we were importing an average of 9.3 million barrels per day. The 1975 Act was unrealistic and too inflexible, but it also reflects our failure to moderate the increase in imports and the growth of our dependency on oil imports. Developments since 1975 strongly demonstrate the need for limits on imports, thus, while more flexible, this new language would keep the presure on. It would serve as a year by year measure of how well our energy production and demand plans are being fulfilled. It would allow the President—presumably if all else fails—to begin to force conservation through reduced imports.

To control the level of imports and to have a system for allocating imports through the free market system, the amendment provides for a licensing system similar to the one we approved in 1975. This licensing system distributes the "right" to buy and import oil through a bidding process. To the extent that the quota set by the President accurately reflects the difference between demand and supply, the value of the license "tickets" will be nominal. If, however, the quota is set lower so as to create a gap between demand and supply, the value of the license tickets will be bid up in the traditional market system—there will be no government bureaucracy set up to allocate imports among users.

As in the 1975 bill, there is provision for the government to ensure that imports are fairly distributed throughout the Nation—and that no region, such as New England, is discriminated against.

The 1975 bill also provided for a 2 percent ad valorem tariff on crude and a 5 percent tariff on refined petroleum—tariffs which would have raised some $2 to $3 billion per year. The amendment I am offering provides tariffs designed to force the adequate monitoring of imports by the Customs Service. I have not proposed specific rates of tariffs, since I understand others would like to discuss the tariff level question, and the need for a tariff differential between petroleum product and crude.

Finally, this amendment is not effective until January 1, 1979. This will give the government time to put into place the administrative structure for controlling oil imports. Adequate lead-time will avoid administrative confusion.

The staff has provided a table comparing the language I am offering to the 1975 Title I.

I hope that this amendment will be adopted. I believe that it is necessary. It will help us monitor imports and measure our success or failure in meeting conservation and production goals. The language allowing the President to limit imports may be the only really strong conservation tool which the final energy bill contains. If it is felt that this is giving the President too much authority, an amendment could be offered limiting the President's authority to setting imports at, say, no less than 80 percent of the difference between production and demand.

This language is more realistic than the 1975 language—but it is still a powerful tool for helping us reduce our dependence on foreign oil.

TITLE —IMPORT TREATMENT OF OIL

SEC. 1 STATEMENT OF PURPOSE

The purpose of this title is—

(1) to reduce the dependence of the United States on foreign oil by imposing restrictions on imports of oil so as to reduce such imports as rapidly as practicable without contributing to serious economic dislocation,

(2) to ensure that oil conservation which is obtained under this and other Acts results in the reduction of oil imports and not in the reduction of domestic oil production.

PART I

SEC. —. IMPOSITION OF QUANTITATIVE RESTRICTIONS

(a) In General.—Except as otherwise provided in this section, the maximum quantity

of petroleum and petroleum products which may be imported into the United States in calendar year 1979 and each calendar year thereafter shall be determined by the President.

(b) National Oil Plan.—

(1) On or before December 1, 1978, and each December 1st thereafter, the President shall transmit to the Congress a National Oil Plan which shall provide data (and the basis for such data) on planned oil production and planned oil demand (adjusted for conservation) for each of the following seven calendar years.

(2) Each report subsequent to 1978 shall contain a detailed explanation of any failure to achieve previously planned production or previously planned reduction in demand.

(c) Determination of Quantitative Restrictions.—On or before December 1, 1978 and on or before each December 1 thereafter the President shall determine for the following calendar year quantitative restrictions (expressed as aggregate quantities of petroleum and petroleum products which are authorized to be imported into the United States during each calendar quarter of such year) based on the "National Oil Plan" which shall not exceed but may be equal to or less than the difference between planned oil production minus planned oil demand (adjusted for conservation).

(d) Authority to Vary Schedule.—

Whenever the President determines that, by reason of variations in domestic consumption caused by economic factors or the weather, or for reasons of national security, it is in the national interest to vary the quantity of oil which may be imported during the calendar year, he shall appropriately modify the determination set forth in subsection (c) applicable to such period.

(e) Congressional Review and Adjustment.—[Language that the Congress has 60 days to review the determination in (c) or the adjustment in (d), reject the President's figure and set a revised figure.]

(f) Needs of Geographical Areas and Industries for Particular Products To Be Taken Into Account.—The President shall divide any quantitative restrictions imposed pursuant to this section for any period among petroleum and petroleum products where such division is necessary to avoid substantial adverse impact on the various economic and health needs of geographical areas and industries within the United States.

(g) Application of Quantitative Restrictions.—No quantitative restriction imposed pursuant to this section shall apply with respect to any quantity of oil which is imported into the United States during any period for storage in any strategic reserve for oil which may be provided by law.

(h) Quarterly Review of Quantitative Restrictions.—Not less frequently than once each calendar quarter, the President shall review the quantitative restrictions established by subsection (c) and any modifications made pursuant to subsections (d) and (e).

(i) Proclaiming of Quantitative Restrictions; Certifications.—

(1) Quarterly Proclamation of Quantitative Restrictions.—Before the beginning of each calendar quarter, the President shall proclaim the aggregate quantities of petroleum and petroleum products which under subsection (c) may be imported into the United States during such calendar quarter (as modified pursuant to subsections (d) and (e)).

(2) Certification.—The President shall certify any modification made under subsection (d) or (e) to the Secretary of the Treasury and to the Deputy Administrator for Petroleum Imports.

(j) Administration.—The Secretary of the Treasury shall take such actions under the customs laws of the United States as may be necessary and appropriate to ensure that the aggregate quantities of oil imported into the United States during any period do not exceed the quantities established by subsection (c) as modified pursuant to subsections (d) and (e).

PART II—OFFICE OF PETROLEUM IMPORTS

SEC. —. ESTABLISHMENT OF OFFICE.

(a) In General.—There is hereby established within the Department of Energy the Office of Petroleum Imports (hereinafter in this title referred to as the "Office").

(b) Administration.—The Office shall be headed by an Administrator for Petroleum Imports (hereinafter in this title referred to as the "Administrator") who, in the performance of his duties under this title, shall be under the supervision of the Secretary of the Department of Energy.

SEC. —. FUNCTIONS OF THE ADMINISTRATOR.

The Administrator shall administer the import licensing system established under section 1.

SEC. —. ESTABLISHMENT OF IMPORT LICENSING SYSTEM.

(a) In General.—Before December 1, 1978, the President shall establish an import licensing system for petroleum and petroleum products which are imported into the United States. Import licenses issued under this subsection shall be distributed on the basis of public auctions in which bidding is by sealed bids, and such licenses shall be fully marketable.

(b) Separate Licenses for Small Refiners and Independent Marketers.—

(1) Establishment of Separate Licensing System.—

(A) The President shall establish a separate import licensing system for small refiners and independent marketers of petroleum or petroleum products. Except as provided in subparagraph (B), import licenses issued under this subsection shall be distributed on the basis of public auctions in which bidding is by sealed bids. Import licenses issued under this subsection shall not be marketable; except that, under the circumstances and to the extent provided by regulations, they may be resold to the Administrator for Petroleum Imports.

(B) In any case in which any small refiner or independent marketer establishes to the satisfaction of the Administrator for Petroleum Imports—

(i) that he has made reasonable efforts to secure the import licenses necessary to carry out his business at its regular level of operation but has not been able to secure such licenses, or

(ii) that the destruction of, or damage to, any of his business facilities or any other emergency situation requires that he be issued import licenses in order to continue his business operation,

the Administrator may issue one or more import licenses to such refiner or marketer. The price for import licenses issued under this subparagraph shall be the average price for import licenses established at public auctions conducted pursuant to subsection (a).

(2) SMALL REFINER AND INDEPENDENT MARKETER DEFINED.—For purposes of the section—

(A) SMALL REFINER.—The term "small refiner" means a refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 50,000 barrels per day.

(B) INDEPENDENT MARKETER.—The term "independent marketer" means a person who is engaged in the marketing or distributing of refined petroleum products, but who (i) is not a refiner, and (ii) is not a person who controls, is controlled by, is under common control with, or is affiliated with a refiner (other than by means of a supply contract).

(c) PROCEDURES FOR LICENSING SYSTEM.—

(1) IN GENERAL.—The Secretary of the Department of Energy shall establish procedures for the administration of this section through the promulgation of regulations.

(2) REGULATIONS FOR SUBSECTIONS (a) AND (b).—The regulations promulgated under this section with respect to subsections (a) and (b) shall include provisions authorizing the Administrator for Petroleum Imports—

(A) to schedule frequent auctions during each calendar quarter;

(B) to require that the bidding be for small units, but to permit persons to bid for a number of units;

(C) to establish a maximum limit on the number of units which may be acquired by related persons during any period;

(D) to establish a time limit on the period during which the rights under any import license may be exercised;

(E) to reject bids—

(i) where there is evidence of collusion as to the bidding or as to failure to bid, or

(ii) where such bids are substantially below the market price which exists for the resale of import license;

(F) to deal with identical high bids for any unit by rejecting all bids, by awarding the unit to the high bidder who has acquired fewer units during a specified period than any other high bidder, or otherwise; and

(G) to bar from acquiring or using import license issued pursuant to subsection (a) or (b) persons convicted of committing any felony or misdemeanor under the laws of the United States governing oil imports, oil allocations, or price controls on oil, and to provide procedures for removing such bar in appropriate cases.

(3) ADDITIONAL REGULATIONS FOR SUBSECTION (b).—In addition to the regulations referred to in paragraph (2), the regulations promulgated under this section shall include provisions—

(A) to ensure that small refiners and independent marketers applying for import licenses under subsection (b) are bona fide refiners or bona fide marketers who have established distribution channels, and

(B) to limit import licenses under subsection (b) to such additional amounts of petroleum or any petroleum product as may be necessary to ensure that—

(i) any small refiner can operate his refineries at capacity; and

(ii) any independent marketer can adequately supply his regular distribution channels.

(d) PRESIDENT MAY REQUIRE USER OF IMPORT LICENSES TO REPORT COUNTRY OF ORIGIN.—If the President finds such action to be necessary or appropriate to the national interest, the President may require each person importing petroleum or a petroleum product into the United States under an import license issued pursuant to this section to report to the Administrator for Petroleum Imports the foreign country of which such petroleum or petroleum product is a product.

(e) REFINERS LOCATED IN THE POSSESSIONS, ETC.—The President shall take such steps as may be necessary to ensure that refineries located in the territories and possessions of the United States and foreign trade zones of the United States will participate in all appropriate aspects of the provisions of this title upon terms not less favorable than those accorded to refineries and importers of petroleum products located in the customs territory of the United States. Nothing in this subsection shall be treated as removing any quantitative restriction or duty imposed by or pursuant to this title.

PART III—DUTIES

SEC. —. RATES OF DUTY ON OIL.

(a)(1) STATUTORY RATES OF DUTY.—Effective with respect to articles entered or withdrawn from warehouse for consumption on or after January 1, 1979, the rate of duty with respect to petroleum described in section — shall be — percent ad valorem and

petroleum product described in section — shall be — percent ad valorem.

Such rates of duty shall replace the rates of duty heretofore provided by, or pursuant to, law.

(2) AUTHORITY TO ADJUST RATES OF DUTY.—Subject to the limitations set forth in subsections (3) and (4), the President may make, from time to time, such adjustments in the rates of duty established by subsection (1), and in the rates of duty resulting from adjustment under this subsection, as he finds are necessary to carry out the purposes of this Act in the light of overall considerations of the national interest.

(3) LIMITATIONS ON ADJUSTMENTS.—No adjustment made under subsection (2) to any rate of duty may result in a rate of duty which—

(a) is more than the higher of — percent ad valorem or — a barrel; or

(b) is less than — percent ad valorem.

(4) ADJUSTMENTS INCREASING RATES OF DUTY.—

(a) SUBMISSION OF ANY PROPOSED INCREASE IN DUTY TO THE CONGRESS.—The President shall transmit to the House of Representatives and to the Senate on the same day, and to each House while it is in session, a document setting forth any adjustment which he proposes to make under subsection (2) which increases any rate of duty.

(b) TAKING EFFECT OF ANY SUCH INCREASE.—No adjustment proposed to be made under subsection 12, which increases any rate of duty may take effect sooner than the close of the 60th day after the day on which the document relating to such adjustment is delivered to Congress under subparagraph (a).

(5) PROCLAIMING OF ADJUSTMENTS TO RATES OF DUTY.—Subject to the provisions of section (4), the President shall proclaim any adjustment to any rate of duty made by him under subsection (2).

(b) Coordination With Other Laws.—(1) (A) Section 232(b) of the Trade Expansion Act of 1962 (relating to national security) is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall be deemed to authorize the President, after the date of the enactment of this sentence, to adjust imports of petroleum and petroleum products; except that the President may adjust imports of petroleum and petroleum products during any period in which—

"(1) The Congress declares war,

"(2) United States Armed Forces are introduced into hostilities pursuant to specific statutory authorization,

"(3) a national emergency is created by attack upon the United States, its territories or possession, or its Armed Forces, or

"(4) United States Armed Forces are introduced into such hostilities, situations, or places, or are enlarged in any foreign nation, under circumstances which require a report by the President to the Congress pursuant to section 4 (a) of the War Powers Resolution (50 U.S.C. 1453(a)),

but any adjustment made pursuant to this exception shall not apply with respect to articles entered or withdrawn from warehouse for consumption on or after the 60th day after the closing date of the hostilities concerned."

(B) Effective with respect to articles entered or withdrawn from warehouse for consumption on or after January 1, 1979, no adjustment action taken under section 232 (b) of the Trade Expansion Act of 1962 before such date of enactment shall have any force or effect with respect to petroleum or any petroleum product.

(2) Section 101 of the Trade Act of 1974 shall not apply to any rate of duty established by, or to any adjustment of any rate of duty made under, this section.

(3) Petroleum and petroleum products shall not be designated by the President as eligible articles for purposes of Title V of the Trade Act of 1974.

PART IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

"SEC. —. IMPORT RESTRICTIONS AND RATES OF DUTY TO BE REFLECTED IN THE TARIFF SCHEDULES OF THE UNITED STATES.

The President shall by proclamation establish a new part 4 in the Appendix of the Tariff Schedules of the United States (19 U.S.C. 1202) and shall reflect therein any quantitative restriction established by part I and the rate of duty established by part II and any modification of any quantitative restriction made under part I.

SEC. —. DEFINITIONS.

(a) In General. For purposes of this title—

(1) the term "oil" means petroleum and petroleum products.

(2) The term "petroleum" means crude petroleum provided for in item 475.05 or 475.10 of the Tariff Schedules of the United States.

(3) The term "petroleum product" means any article provided for in part 10 of schedule 4 of the Tariff Schedules of the United States, other than petroleum, natural gas provided for under item 475.15, greases provided for under item 475.55 or 475.60, and mixtures of hydrocarbons in other than liquid form provided for under item 475.70.

(b) Additional Articles May Be Treated As Petroleum Products For Purposes of Quantitative Restrictions.—For purposes of this title (other than section —), the term "petroleum products" may include, but only if the President proclaims such inclusion to be necessary to carry out the purposes of this Act, one or more of the following articles:

(1) Coal tar articles (benzene, cumene, toluene, and xylene) provided for under item 401.10, 401.26, 401.72, or 401.74 of such Schedules.

(2) Mixtures, consisting wholly of two or more of the coal tar articles referred to in paragraph (1), provided for under item 401.80.

(3) Hydrocarbons provided for under item 429.50 or 429.52.

INTRODUCING THE FOREST AND RANGELAND RENEWABLE RESOURCES COOPERATIVE ASSISTANCE ACT, THE FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT, AND THE FOREST RESOURCES EXTENSION ACT

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 15 minutes.

Mr. WEAVER. Mr. Speaker, I wish to introduce three bills known as: First, the Forest and Rangeland Renewable Resources Cooperative Assistance Act; second, the Forest and Rangeland Renewable Resources Research Act; and third, the Forest Resources Extension Act. The first two bills amend the Forest and Rangeland Renewable Resources Planning Act of 1974 to strengthen Federal cooperative assistance programs in forestry and forest research. The third bill amends the Smith-Lever Act to expand and strengthen the extension program in forestry. There is some important background information to the bills I am introducing and the laws they amend.

The Forest and Rangeland Renewable Resources Planning Act, known as RPA, was authored by the distinguished Senator from Minnesota, HUBERT HUMPHREY, and is one of the outstanding pieces of conservation legislation ever passed by Congress. RPA sets forth the process by which Forest Service alternatives regarding our Nation's 1.6 billion acres of forest and rangeland are defined, examined, selected and finally, funded. The act calls for the Forest Service to periodically prepare an assessment of the demand and supply of the Nation's forest and range resources and a program for the management of the national forests, forest research, and Federal cooperative assistance to States and private landowners.

The assessment and program are to be sent to the President, who is to forward them to each House of Congress, along with a "statement of policy" which provides the basis for implementing the program and to frame budget requests. The statement of policy is approved by Congress either by a resolution modifying the statement of policy or by Congress taking no action at all. Each subsequent budget request by the President must express to Congress how the proposed budget conforms to the approved statement of policy. Where the proposed budget does not conform, the President must explain why. This feature of the act has force, because it makes public the reason why the program is or is not being fully funded in the President's budget.

Today, a program exists, but one on which Congress did not comment. In March 1976, the assessment and program prepared by the Forest Service, together with a statement of policy, were transmitted by the President to Congress. Congress took no action. And, since the President's statement of policy was neither modified nor rejected by the Congress, the direction it contained became operating policy, as it remains today. Presently, the Forest Service is in the early stages of preparing the assessment for 1979–89 and the program for 1980–84. Thus, the Agency is forced to proceed in developing a second program without the benefit of congressional direction with respect to the first assessment and program.

Mr. Speaker, if the promise of RPA is to be realized, Congress must get much more involved. Our involvement must include oversight to guide the direction and balance of RPA programs for the use and management of our Nation's forest and range renewable resources.

As chairman of the House Subcommittee on Forests, I intend to hold oversight hearings on the current RPA assessment and program in order to give added congressional direction to the Forest Service in its preparation of the 1980 assessment and program. These hearings will be an important activity for the Subcommittee on Forests. They will involve Congress, the Forest Service and other Government agencies, conservation groups, the wood products industries, and a broad spectrum of affected citizens, in a discussion of our Nation's forest and range renewable resources. I also anticipate that the hearings will highlight the need for legisla-

tion to strengthen Federal cooperative assistance programs in forestry, forest research, and forestry extension.

The need for legislation in these three areas and the basic content of the bills I am introducing, emerged from several months of discussion among forestry and environmental leaders under the auspices of the "Areas of Agreement Committee" chaired by Mr. William E. Towel, executive vice president of the American Forestry Association. The discussions were stimulated by a request from the distinguished Senator HERMAN TALMADGE, chairman of the Senate Agriculture, Nutrition, and Forestry Committee.

The following organizations participated in the "areas of agreement" work on the bills, and all support the need for strengthened forestry programs in Federal cooperative assistance, research and extension—if not the precise wording of the three bills:

American Association of Nurserymen
American Forestry Association
American Pulpwood Association
American Society of College and University Forest Research Organizations
Conservation Foundation
Council of Forestry School Executives
Extension Committee on Policy
Forest Farmers Association
Industrial Forestry Association
Isaac Walton League of America
National Association of Conservation Districts
National Association of State Foresters
National Forest Products Association
National Wildlife Federation
Natural Resources Defense Council
Resources for the Future
Society of American Foresters
Wildlife Management Institute

The bills were developed to address three areas in our Nation's forest policy which need an updating in some instances and new direction in other. In essence, the bills take up unfinished business—business concerning issues left unresolved by the Forest and Rangeland Renewable Resources Planning Act of 1974 and the National Forest Management Act of 1976.

None of the three bills is to be regarded as the last word in their respective areas. I am introducing the bills just prior to holding RPA oversight hearings so that, if witnesses desire, testimony can be related to the bills. This will result in a much sounder basis for amending the bills in the future or for introducting new legislation to provide the full and balanced forest and range renewable resources program that our country needs.

The need for expanded Federal cooperative assistance programs in forestry, forest research, and forestry extension is clear when one looks at the opportunities for increased yields of forest and range renewable resources. For example, by the year 2000, timber production from nonindustrial private forest lands could be increased by 25 to 30 billion board feet per year with expanded cooperative assistance and extension programs showing private landowners how to manage their lands better and providing incentives encouraging them. Likewise, increased yields of fish and wildlife, forage, recreational opportunities, timber, and water are possible from both public and private lands but they depend, at least in part, on the application of new technology and a continuing and expanded research program.

Mr. Speaker, insofar as our Nation's forest and range renewable resources are concerned, we can have more, both qualitatively and quantitatively. For example, on the national forests, as the RPA program points out, we can increase timber production by at least 3.5 billion board feet per year through more intensive management. It is also possible to expand wilderness, strengthen environmental standards and increase other multiple uses. We only need the will to put such programs into effect.

Mr. Speaker, let me turn to a brief description of the content of each of the three bills.

I. FOREST AND RANGELAND RENEWABLE RESOURCES ASSISTANCE ACT

This bill begins with a comprehensive statement of policy and purpose for Federal cooperative programs in forest and rangeland protection and management. Generally, the Secretary of Agriculture is to cooperate and provide assistance, including financial assistance, to State and local governments and private landowners for the management, protection, and utilization of forest and rangeland resources.

The bill would combine the authorities given in section 4 of the Clarke-McNary Act, the Cooperative Forest Management Act, and title IV of the Agriculture Act of 1956 to provide technical and financial assistance to: First, develop genetically improved tree seeds; second, provide tree seeds and plants for establishing forests, windbreaks, shelterbelts, woodlots and other plantings; third, plant tree seeds and trees for the reforestation of forest lands and the afforestation of other lands; fourth, perform timber stand improvement on non-Federal lands; and fifth, provide technical assistance to private landowners, vendors, forest operators, wood processors, and public agencies.

This part of the bill would greatly improve coordination of the tree seed and plant, cooperative forest management, and cooperative tree improvement and reforestation programs. For the first time, one statutory authority and policy would exist instead of three. Forest Service assistance to States for the development of genetically improved tree seeds is specifically authorized; previously such authority was ambiguous at best. Further, financial assistance for timber stand improvement is allowed on non-Federal lands. Title IV of the Agricultural Act of 1965 allowed only cooperative assistance for tree planting on non-Federal lands.

The bill addresses the forestry incentive program, FIP, principally by making clear the role of the State forester with respect to FIP and its coordination with State programs, especially those involving technical assistance. The acreage limitation for FIP is removed and the appropriations authorization limit increased from $25 million to $50 million. The present acreage limitations have often been criticized and the financial limitation is inadequate when compared to need.

For the cooperative insect and disease control program, the bill would make a subtle but important change by expanding the scope of the program from "forest lands" and "forest resources" to "tree, shrub, forest, and wood resources." Such expansion would complement the Forest Service's urban forestry activities initiated by the act of May 5, 1972 (Public Law 92–288).

The bill would make permanent the rural community fire protection program first established by title IV of the Rural Development Act of 1972. In addition, the bill would integrate the aforementioned program with the cooperative forest fire control program provided by section 2 of the Clarke-McNary Act. The combination of these two programs would enhance rural community and forest and range fire control and perhaps offer some efficiencies through the common use of equipment and personnel.

In lieu of the present functional cost-sharing approach, the bill would allow combining cooperative financial assistance to the States into a consolidated grant. The total dollar amount of the assistance would remain unchanged. This feature would give the State forester some flexibility in determining how the Federal funds would be spent.

II. FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT

Mr. Speaker, the same version of this bill was introduced in the Senate by Senator HUMPHREY with the cosponsorship of Senator STENNIS. I might add that their introduction of this bill is just another example of the leadership and initiative these distinguished gentlemen have provided in developing the Nation's forest policy for so many years.

This bill will authorize Forest Service research on "forest and rangeland renewable resources in rural, suburban, and urban areas." This complements the Agency's assistance program in urban forestry, provided by the act of May 5, 1972 (Public Law 92–288). Also authorized would be research on "managing vegetation on forests and rangelands for * * * esthetics, recreation, wilderness, and other products and purposes." The McSweeney-McNary Act does not specifically authorize Forest Service research in any of these areas.

The bill would permit Forest Service research units to cooperate with individuals, agencies, organizations, and institutions in foreign countries for forest research as defined in the bill. Current authority under the McSweeney-McNary Act restricts foreign cooperative research only to the "collection, investigation, and tests of foreign woods."

The bill would establish a competitive research grant program whereby the Secretary of Agriculture could make competitive grants for forestry research to "Federal, State, and other Government agencies, to public or private agencies, institutions, universities, and organizations, and to businesses and individuals."

This authority would be in addition to any other authority including the general research-granting authority given to each Federal agency by the act of September 6, 1958 (Public Law 85–934), and

the Secretary of Agriculture's general research-granting authority under the act of August 4, 1965 (Public Law 89–106). The program would give the Forest Service access to some U.S. researchers who are not available under existing grant programs. The Secretary would consider qualitative and administrative factors as well as cost in making the grants.

III. FOREST RESOURCES EXTENSION ACT

The proposed Forest Resources Extension Act defines the role of forestry extension and provides an earmarked fund for the financing of the program. Forestry extension has not been—even remotely—as successful as the extension effort in agriculture. The reason for this failure is the lack of funding committed to forestry extension purposes. Forestry extension has had to compete with agricultural extension for funds, and it has been unsuccessful.

The result has been—in many cases—a disaster for forestry extension. Various Federal and State agencies have tried to fill the void, but with only limited success.

The legislation which I propose would provide forestry extension with its own funding authority, and thus eliminate the competition between forestry and agricultural interests for extension program funds. In addition, this legislation would reestablish the boundaries of the forestry extension program which have been eroded through years and years of financial neglect.

Mr. Speaker, I am pleased to report that several of my colleagues are joining with me in cosponsoring these three pieces of legislation. I am joined by Mr. AMMERMAN, of Pennsylvania, Mr. AUCOIN, of Oregon, Mr. BAUCUS, of Montana, Mr. BOWEN, of Mississippi, Mr. BROWN of California, Mrs. BURKE of California, Mr. DUNCAN of Oregon, Mr. FRASER, of Minnesota, Mr. ICHORD, of Missouri, Mr. OBERSTAR, of Minnesota, and Mr. UDALL, of Arizona.

Before closing, I want to make clear that I am introducing these bills primarily for discussion purposes. By introducing them now, just prior to oversight hearings on the implementation of the Resources Planning Act, testimony will be stimulated on legislation which I believe is necessary if we are to meet current needs and provide for the anticipated demand for forest and range resources of future generations.

PROVIDING ORDERLY PHASEOUT OF SACCHARIN

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I am today introducing legislation to provide for the orderly phaseout of saccharin. It permits the FDA to proceed with its proposed rulemaking as published in the Federal Register of April 15, 1977, but provides that such regulations shall not take effect for 2 years from the date of their promulgation unless a substitute is certified as safe by the FDA at an earlier date or new evidence within that period indicates that saccharin poses a serious threat to public health.

The bill also provides that during this period, the Secretary of HEW shall require a label warning of the health risk of saccharin on all products containing saccharin and that all advertising of such products include such a warning. Last, the bill includes the provision of the legislation introduced by the gentleman from Florida (Mr. ROGERS) providing for a 1-year study of the health risks and benefits of saccharin by the National Academy of Sciences.

Mr. Speaker, this legislation reaffirms the action taken by the FDA with respect to saccharin, carrying out the mandate we gave it to keep carcinogens out of our food supply. It puts the manufactures of products which use saccharin on notice that the use of saccharin will be banned 2 years from the date such ban is instituted, giving them ample time and incentive to develop a substitute. But it recognizes the unusual situation that arises because there presently is no substitute for saccharin certified as safe by the FDA and that millions of Americans enjoy the availability of products that employ this artificial sweetner. It therefore strikes a good balance between the concern of the public at the prospect of being denied artificially sweetened foods and the integrity of the FDA studies that demonstrate that saccharin is a carcinogen, requiring that during the 2-year period or until a safe substitute is found, the health risks of saccharin products must appear on labels and in advertising for the products.

Mr. Speaker. I continue to be disturbed by the attacks on the Food and Drug Administration for doing the job we directed them to do, to assure that all chemicals added to the food supply must be safe and that carcinogens be excluded altogether.

I am particularly upset by the action that was taken earlier this week when the House adopted the Volkmer amendment to the Agriculture appropriations bill to prohibit the FDA from promulgation or enforcement of any prohibition on sale of saccharin in interstate commerce. This placed Congress in the position of taking scientific responsibility upon itself and second-guessing the qualified experts and agencies we set up to do this job.

In March, the Health and Environment Subcommittee, of which I am a member, held extensive hearings on the proposed ban on saccharin. Every scientist who came before us said that the Canadian tests employed valid methods and the same standards that are used for the evaluation of other substances classified as food additives.

What makes the FDA's saccharin decision particularly difficult is saccharin's widespread use by diabetics and weight watchers and the absence of a safe substitute for this sweetener. Nutritionists know that a strong craving for sweets is a product of cultural conditioning. Most Americans consume more sugar or other sweetener per person than do people in other countries. This is a habit that will be hard to change and impossible to change in 60 or 90 days if saccharin were banned now and no adequate substitute available.

After listening to the various interested individuals and organizations I am convinced that if we had a safe substitute, we would not have the strong public outcry we have now. In 1969, when FDA totally banned the use of cyclamates, we still had another nonnutritive, nonocaloric, artificial sweetener available on the market and the public response to the ban was minimal.

Therefore, the bill I am introducing today provides for an orderly 2-year phaseout of saccharin from our food supply. The FDA can still issue its final regulations this fall; however, these regulations would not go into effect for 2 years. The purpose of this grace period is to allow industry to develop and market a safe substitute. I am convinced that it can be done in this time.

Alternatives are near. Since FDA's removal of saccharin from the list of food chemicals "generally recognized as safe" in 1972, industry has been working on alternatives. Both the Coca Cola Co. and Pepsi Co. have announced their readiness to shift to standby diet drink products. Soft drinks account for almost 75 percent of the saccharin used annually. In addition, two California firms are now seeking approval for a sweetener known as Neo-DHA—neohesperidin dihydrochalcone—derived from grapefruit and orange rinds. This product is five times as sweet as saccharin but there are technical difficulties involving its use in soft drinks. Other substitutes are in the process of being developed and reports are encouraging on the development of a convenient artificial sweetener which does not cause cancer or other disease.

In conclusion, I do not think we should have a moratorium on FDA's action banning saccharin while we mandate studies to second guess its decision, leaving the final disposition of saccharin totally in the air. This would in effect be a slap at the FDA's work and usurpation by Congress of the scientific decisionmaking we ordered the FDA to undertake. I think we should back FDA's decision, and provide only for a delay in the effective date of its regulation to permit a safe substitute to be marketed. That is the effect of the legislation I have introduced today. The text of the bill follows:

A bill respecting the continued use of saccharin as a food, food additive, drug, and cosmetic, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health, Education, and Welfare may take such action as may be necessary to promulgate the regulations proposed in the notice of the proposed rule making published in part III of the Federal Register for April 15, 1977, but such regulations may not, except as provided in subsection (b) or (c), take effect before the expiration of two years from the date of their promulgation.

(b) If before the expiration of the two-year period referred to in subsection (a) a substitute for saccharin is developed and a regulation for the use of such substitute is issued under section 409 of the Federal Food,

Drug, and Cosmetic Act, the regulations referred to in subsection (a) may take effect upon the issuance of the regulation under such section 409.

(c) The Secretary may place the regulations referred to in subsection (a) in effect before the expiration of the two-year period referred to in such subsection on the basis of evidence of the carcinogenic effect of saccharin provided by tests appropriate for the evaluation of the safety of food additives conducted after the date of the enactment of this Act.

SEC. 2. The Secretary shall, by regulation, require (1) any product containing saccharin to bear until regulations described in subsection (a) of the first section take effect a label warning of the health risk presented by saccharin, and (2) all advertising of such products to include such a warning until such regulations take effect. Any product which does not bear a label required by this section or the advertising of which does not include a warning required by this section shall, for purposes of the Federal Food, Drug, and Cosmetic Act, be considered to be a misbranded food, drug, or cosmetic, or to be an unsafe food additive, as the case may be.

SEC. 3. (a) The Institute of Medicine of the National Academy of Sciences shall conduct, on the basis of case studies, an assessment of—

(1) current technical capabilities to predict the direct or secondary toxicity or carcinogenicity in humans of substances which are added to or naturally occur in food, and which have been found to cause cancer in animals;

(2) the direct and indirect health benefits and risks to individuals from foods which contain toxic or carcinogenic substances;

(3) the existing means of evaluating the risks to health from the toxicity and carcinogenicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing authority and need for weighing such risks against such benefits;

(4) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

(b) Within one year of the date of the enactment of this Act, the Institute of Medicine (1) shall complete the assessment required by subsection (a), (2) shall, on the basis of such assessment, make such recommendations for legislation and administrative action as it deems necessary, and (3) shall report to the Congress and the Secretary of Health, Education, and Welfare (A) the results of such assessment, and (B) such recommendations.

FINANCIAL DISCLOSURE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, as I have done every year since my first election to Congress, I am today disclosing my wife's and my own statement of assets and liabilities, schedule of the securities we own, schedule of other securities of which we are income beneficiaries, and schedule of the taxes we paid in calendar year 1976. While this disclosure is not required by law at the present time, I believe it should be. I am the sponsor of legislation requiring full financial disclosure, believing this to be the best protection of the public against possible conflicts of interest. The statement and schedule are follows:

RICHARD L. AND BETTY ANN OTTINGER STATEMENT OF ASSETS, LIABILITIES, AND CAPITAL AS OF MARCH 31, 1977

Assets

Cash (on hand or uninvested)	$64,907
Marketable securities, Betty Ann Ottinger (cost $56,931), at market value (schedule 1)	210,137
Marketable securities, Richard L. Ottinger Trust dated March 19, 1969 (cost $539,750), at market value (schedule 1)	1,689,209
Real estate: Residence in Pleasantville, N.Y., and Washington, D.C., at estimated market value	400,000
Total	2,364,253

Liabilities and capital

Liabilities—Notes and loans payable:	
Testamentary Trust u/w/o Lawrence Ottinger f/b/o Richard L. Ottinger	$301,912
Patricia L. Chernoff	150,000
Trust u/a dated 10/30/57 f/b/o Richard L. Ottinger	50,000
Other loans payable	40,000
Total	541,912
Income taxes payable on unrealized gain on marketable securities	586,199
Total liabilities	1,128,111
Capital	1,236,142
Total	2,364,253
Summary:	
Total assets	2,364,253
Total liabilities	1,128,111
Net worth	1,236,142

Schedule 1, Richard L. and Betty Ann Ottinger, Schedule of Securities as of March 31, 1977:

Betty Ann Ottinger

Corporation, number of shares and current market value:	
Champion International Corp., 2,175	$51,656
Gulf Oil Corp., 200	5,650
International Business Machines Corp., 175	48,388
Sears Roebuck & Co., 40	2,410
Simplicity Pattern Co., Inc., 184	2,185
Travelers Corp., 160	5,040
Weyerhaeuser Co., 1,500	57,750
Par value: U.S. of America Treasury Note 6%, November 15, 1978	37,058
Total	210,137

Richard L. Ottinger

Corporation, number of shares, and current market value:	
American Telephone & Telegraph Co., 500	31,375
Anheuser Busch, Inc., 2,850	61,988
Campbell Soup Co., 700	26,162
Champion International Corp., 645	15,319
Connecticut General Insurance Co., 1,800	85,275
International Business Machines Corp., 1,038	287,007
Merck & Co., Inc., 200	11,025
Sears Roebuck & Co., 40	2,410
Simplicity Pattern Co., Inc., 11,898	141,289
Texaco, Inc., 1,234	32,701
Travelers Corp., 1,200	37,800
Weyerhaeuser Co., 7,494	288,519
Xerox, 8,100	387,788
Par Value	
Ascension, St. James Bridge and Ferry, Authority Louisiana, 4.45%, November 1, 20,001, $50,000	$37,250
Federal Land Banks, 8.15%, April 20, 1982, 30,000	31,312
Honeywell Finance, Inc., 7%, November 1, 1978, 50,000	50,188
New York State Mortgage Finance Agency, 6.9%, April 1, 1983, 50,000	52,755
P/H/A Poughkeepsie, N.Y., 2.84%, December 16, 1977, 25,000	24,994
U.S. of America, Treasury bill, due April 21, 1977, 15,000	14,832
U.S. of America, Treasury bill, due April 7, 1977, 70,000	69,220
Total	1,689,209

Schedule 2, Richard L. and Betty Ann Ottinger, Schedule of Assets of Various Trusts of Which Richard L. Ottinger Is Income Beneficiary as at March 31, 1977:

Corporation, number of shares and current market value:	
American Telephone & Telegraph Co., 400	25,100
Anheuser Busch, Inc., 3,000	65,250
Atlantic Richfield Co., 400	20,800
International Business Machines Corp., 280.60	77,586
Perkin Elmer Corp., 3,600	63,900
Sears Roebuck & Co., 900	54,225
Total	306,861
Par Value	
Xerox Corp. 8.2%, November 1, 1982, $40,000	41,500
Sears Roebuck Accept. Corp. 4.625%, May 1, 1977, $30,000	26,906
Pennsylvania, 4½%, July 1, 2000, $25,000	20,089
New York, N.Y., 5%, May 1, 1991, $15,000	9,807
Federal Land Banks 8.15%, April 20, 1982, $15,000	15,656
Puerto Rico Commonwealth, 4.5%, July 1, 1997, $30,000	19,204
Ascension, St. James Bridge and Ferry Authority, La., 4.45%, November 1, 2001, $25,000	18,625
P/H/A Peekskill, N.Y., 2.84%, December 16, 1977, $25,000	24,994
New York State Mortgage Finance Agency, 6.9%, April 1, 1983, $15,250	16,090
New Jersey Turnpike Authority, 5.2%, January 1, 2008, $9.150	8,189
P/H/A New York City, N.Y., 3.28%, September 16, 1977, $6,100	6,115
P/H/A Mechanicsville, N.Y., 2.87%, December 16, 1977, $21,350	21,350
P/H/A Washington, D.C., 2.5%, May 1, 1991, $9,150	6,174
Bedford, New Castle, etc., N.Y., 3%, June 1, 1983, $9,150	7,498
Baltimore City, Md., 4%, August 1, 1986, $9,150	7,957
Chelan Co., Wash., 3.4%, December 1, 2003, $9,150	6,680
South San Joaquin, Calif., 3.05%, July 1, 2004, $9,150	6,954
Total	266,788
Cash	4,173
Total	577,822

(NOTE.—The above securities are not reflected as assets of Richard L. Ottinger since he is only an income beneficiary of the trusts. The schedule is prepared for informational purposes.)

Corporation, number of shares, and current market value:	
Anheuser Busch, Inc., 150	$3,263
Eastman Kodak Co., 200	13,600
Johnson & Johnson, 150	10,050
Proctor & Gamble Co., 200	15,800
Weyerhaeuser Co., 306	11,781
Total	54,494
Par value: U.S. of America Treasury Note 6%, November 15, 1978	55,086
Cash (overdrawn)	536
Total	109,044

NOTE.—The above securities are not reflected as assets of Betty Ann Ottinger since she is only an income beneficiary of the trust. This schedule is prepared for informational purposes.

Schedule 3, Richard L. and Betty Ann Ottinger schedule of taxes paid in 1976:	
Federal income tax	$29,428
State and local income tax	10,310
Total income taxes	39,738
New York property and school taxes	10,045
District of Columbia property tax	4,293
Total taxes paid	54,076

ADDRESS BY THE HONOURABLE R. F. BOTHA, MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF SOUTH AFRICA: SEMINAR: "WHY INVEST IN SOUTH AFRICA," NEW YORK, 20 JUNE 1977

(Mr. SYMMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SYMMS. Mr. Speaker, with 80 percent of the people in the world living under tyranny, it is high time we take a look at the double standards the Carter administration has on the question of human rights in South Africa.

With just a moment's thought, it is crystal clear that the greatest violence and most cruel and vicious treatment of individuals and political prisoners is taking place in areas such as Cambodia, Vietnam, Soviet Union, and many countries in Africa.

In Africa alone, there are many nations which are total dictatorships, and others have one-party elections, such as Rhodesia. It is tragic that the current administration is turning a blind eye by allowing Andrew Young to continue his course of action which will lead to the needless slaughter of innocent people in South Africa.

It is also incredible to note that the United States is willing to allow the Soviet Union to dominate all of Africa when we depend on the Cape of Good Hope Sea to be the lifeline of 60 percent of all known oil reserves in the free world. Moscow's great strategic plan is aimed at nothing less than control of all southern Africa right to the Cape. Even now the Soviets and their proxy soldiers, the Cubans, are engaged in takeover bids for Namibia, Rhodesia, and South Africa itself under the guise of "majority rule."

Is the United States going to allow her oil lifeline, and that of Western Europe, to remain in peril until Russia decides the moment is right to strike?

Recently, I had the privilege of having lunch with the Honorable R. F. Botha, Minister of Foreign Affairs of the Republic of South Africa. On June 20, 1977, Mr. Botha spoke at a seminar in New York, and I would like to share his remarks with my colleagues.

SEMINARS "WHY INVEST IN SOUTH AFRICA"

(Address by the Honourable R. F. Botha, Minister of Foreign Affairs of the Republic of South Africa)

The subject which you are to examine is of vital importance to my country and to the United States.

Before discussing the political dimensions of the subject before you, first, a few words on the economic climate in South Africa.

South Africa has been experiencing balance of payment problems just as most other countries have for the past three years. The South African economy is a wide open economy: Our imports and exports constitute a substantial portion of our total domestic activity and we are accordingly subject to the cold and hot winds blowing from abroad. Many other countries including industrialised countries are of course in a similar position, especially since the beginning of the energy crisis. The tripling and even quadrupling of crude oil prices played havoc with normal balance-of-payment equilibriating forces. Severe measures had to be taken in South Africa as in other countries in order to counter the aggravating results. South Africa felt the high cost of oil imports a few months later than others since we were at the time benefiting from the increasing merchandise export earnings, the big rise in the gold price and the large capital inflows experienced in 1974 and early 1975. So we were doubly hard hit in late 1975 and 1976 when the oil price increases combined with an unfavourable economic climate in Southern Africa caused by poltical events both within and without our borders. We are now embarked on a programme to convince foreign investors that South Africa is determined to and will maintain a stable economic system, that we will remain financially and fiscally responsible, and that we have a programme to cut our pattern according to the available cloth.

Taking a realistic view of developments in Southern Africa, I think one can reasonably come to the conclusion that we are now in the midst of a structural readjustment period in regard to our balance of payments. Whereas during most of the postwar period South Africa had run rather large current account deficits, averaging some 3 per cent of GDP, which enabled us to maintain a growth rate higher than we would have been able to achieve otherwise, this was made possible only by similarly large net capital inflows.

As we see it now, this honeymoon is over for the foreseeable future. I believe we have now entered a time where South Africa will have to learn to live with small average current account deficits, much less than 3 per cent of GDP (and even surplusses in some years) in order to compensate for the expected scarcity of foreign funds. This is lower than the average for developing countries, which because of large capital injections from multinational institutions and individual friendly governments have averaged about 4 per cent of their GDP over the past 10 years, but it is higher than that achieved by most industrialised countries. If we compare South Africa's position, i.e. the average of 13 per cent foreign financing of Gross Domestic Investment over the last few years with those of other developed countries, it is apparent that we have enjoyed a privileged but non-maintainable position:

Australia averaged −6.3 percent, France 1 percent, Canada 8 percent, U.S.A. −2 percent, West Germany −1.3 per cent and Japan ½ per cent. However, as it is, we are already generating about $9 out of every $10 in capital investment required by us. The other $1 has in the past been provided by foreign investors and was usually directed toward the more risky higher return types of investments.

It is this last $1 which has enabled South Africa to grow at a faster clip, a higher average than most other comparable countries, and it is this extra $1 that South Africa needs today to provide the jobs, the growth, and thus the ability to move faster on the road of development of her lesser developed peoples. We may not be able, over the next year or so, to obtain the full 100 cents of this $1 but even if only 90 cents could be added to our own efforts it is not unlikely that we will soon be able to resume our higher growth rate pattern of the past, in this way assisting ourselves and our friends to accomplish adjustments in other fields which we feel should be made.

Ten years hence we will look at the present situation as but a phase in our development progress. In South Africa investment opportunities to the wise and farsighted today are unlimited. It has always been, and still is, our policy to encourage foreign investors to become involved in South African industrial and other enterprises preferably on a partnership basis. We have never believed in nationalization. Up to 1974, the average return on American investment in South Africa had been amongst the most rewarding obtainable anywhere abroad.

It is a well-known fact that more than 360 U.S. enterprises have an investment now exceeding $1.5 billion in South Africa which means that at least a doubling has occurred over the last few years. The U.S. has been South Africa's second largest trading partner thus far and American investments in South Africa are increasing at a rate of about 13 per cent per annum. In fact South Africa is one of only a score of countries with more than $1-billion in direct American investments. The rate of increase of the American stake in the South African economy is such that by the mid- '80's the value of American investment will have doubled, in spite of restrictions and stringent U.S. government controls on certain exports, and in spite of an American so-called neutral, but what is in effect a negative attitude towards the expansion of trade with South Africa.

Despite all the adverse publicity concerning South Africa which we consider to be unbelieveably distorted and one-sided South Africa rates high on the list of stable and superior business environments for foreign investors. Those countries that have a better rate or higher developed industrial countries and with South Africa only being partly developed, she offers today in the lesser industrialized world the best investment opportunities. Thus my contention that if Americans are really sincere in wishing to promote constructive change in South Africa to the benefit of the Black peoples, they should invest more, not less, in South Africa, for it is only when a country is prosperous and offers abundant employment opportunities that higher wage structures and standards of living can be achieved.

The enemies of peace in South and Southern Africa have one purpose in mind: they wish to reduce South Africa's economy to a shambles, to set the scene for violent revolution and so, they hope, establish a new political order to suit their own aggressive interests—not those of the people living there. It is precisely the Blacks whose interests are allegedly to be advanced who will be the worst losers. Our enemies who do not really care about the welfare of our Black peoples stand to lose nothing. They feel that to risk economic collapse and push for violent revolution is a cheap price to pay to achieve their own ends.

Turning to the main theme of my address, the three areas which have been most top-

ical are Rhodesia, South West Africa and the Republic of South Africa.

South Africa has from the outset recognized the important role which the situation in Rhodesia plays in stabilizing the situation in Southern Africa. South Africa has therefore sought to facilitate the creation of an atmosphere conducive to black and white Rhodesians agreeing amongst themselves about their own future.

South Africa has not recognized the present Rhodesian government de jure, but has consistently preserved its longstanding trading and other ties on the basis of the de facto position in the interest of both Black and White Rhodesians. South Africa has consistently declined to participate in economic boycotts and sanctions against Rhodesia or against other countries in the region. We believe neither in the practical efficacy of economic sanctions nor in the political motivation underlying their application. South Africa has sought to encourage Rhodesian leaders both White and Black to get together to work out their own solutions, but we do not believe that threats of any kind have a salutory effect. Indeed the reverse. And we do not prescribe to them the constitutional solutions they should adopt.

Regarding the present initiative the South African Government has agreed to support the British/American efforts to get the directly interested parties to agree to an independence constitution and the necessary transitional arrangements, including the holding of elections in which all can take part equally so that Rhodesia can achieve independence during 1978 and peace. It is also agreed that the negotiating process offers the best hope of a reduction of violence and that efforts should be made to this end.

But the question remains: Can the Rhodesian question ever be settled peacefully and reasonably? I believe so provided the British and American Governments are prepared to hold fast to the principles they themselves have enunciated. I assume that they will, but they must do so not only with the weight of their moral authority but also with a physical commitment.

Broadly speaking these principles are—

A government elected by the majority of the people;

Security and integrity of the electoral process;

Freedom of speech;

Freedom of assembly;

Freedom of religion;

Full protection of property by due process of law;

Equal protection before the law;

Independence of the judiciary;

Safeguards for the maintenance of minority rights;

Implementation of economic, financial and technological assistance.

The British/American initiative on Rhodesia may, however, be faced with a dilemma whether or not to proceed with a constitution, and with subsequent elections based thereon which has enjoyed the endorsement of the supporters of the major Black and White parties who support a peaceful negotiating process towards independence, as against the implacable opposition of the Patriotic Front which believes that power stems from the barrel of a gun.

The decisions to be made in this context will prove as good a test case as any of the genuineness of the commitments of the United States and British Governments to the list of principles—which particularly the United States Government—has propounded with such forthrightness, indeed with such dogmatism, in the last few weeks. It is said all too often that Mr. Ian Smith is the obstacle to a solution. I do not wish to plead Mr. Smith's case, but I want to stress that in the opinion of the South African Government Mr. Smith is not the problem. Mr. Smith accepts majority rule, he accepts that the transfer of power to majority rule is irrevocable and that majority rule means that Black Rhodesians would have a predominant voice in the election of future governments. The question of instituting Black majority rule is therefore not an issue. Objectively all the prerequisites for a peaceful solution are there, if only the necessary resolution can be applied to move forward on the basis of the principles which Britain and the United States themselves insisted upon.

The quetsion of South West Africa has been on the agenda of various United Nations bodies since the inception of the United Nations in 1946. For more than three decades, South West Africa has been the subject of a number of World Court decisions and many acrimonious debates inside and outside the United Nations. Canvassing the right and wrongs in the history of this long dispute will require a lengthy exposition for which there is no time this evening.

While the debate concerning South West Africa was continuing unabatedly in the United Nations during the past two years the representatives of the various population groups inside the Territory, Blacks, Whites and Coloureds, were meeting in an open and honest attempt to work out their constitutional future in a peaceful way. They assembled in a building in Windhoek known as the Turnhalle. Recently they agreed on a constitution for the Territory to which the United Nations took exception. The South African Government was committed to instituting an interim authority based on the Turnhalle constitution. However, as a result of views expressed by the 5 Western countries represented in the Security Council of the United Nations, the Turnhalle delegates decided on 10 June 1977 to request the South African Government not to proceed with its undertaking to institute such an authority but instead to appoint an Administrator-General to carry on the administration of the Territory until elections were held and a Government constituted in terms of a constitution decided upon by a constituent assembly to be elected as the first step in the process towards independence.

A bill was passed by the South African parliament last week which will empower the State President to appoint an Administrator-General for the Territory who will be responsible, inter alia, for the drawing up of election regulations.

The inhabitants of South West Africa are now exercising their right to self-determination and they have moved to a position where they are substantially in accord with most, if not all, of the requirements which in the view of reasonable minds in the outside world are necessary to a settlement of the question of the political and constitutional future of the Territory.

What are these requirements:

Every person to have the right to the free development of his personality in so far as this does not violate the rights of others or offend against the public order and moral code.

The life, the freedom and the inviolability of the person of every one to be unassailable and only to be encroached upon pursuant to a law.

All persons to be equal before the law. No person to be favoured or prejudiced by reason of his origin, sex, language, race, colour, creed or political convictions.

Freedom of faith to be guaranteed.

Freedom of movement to be guaranteed.

Every person to have the right to express his opinion in speech, writing or pictures in so far as it does not infringe the rights of others or is not harmful to the state.

Freedom of the press to be guaranteed; this right to be limited by the general laws, the protection of the constitutional order of youth and of personal honour and dignity.

The right to ownership, whether individually or collectively, of movable or immovable property to be guaranteed.

South West Africa to be an independent country before 31 December 1978.

A special representative of the Secretary-General to be involved in the elections to ensure that elections are held on a free and fair basis.

A panel of jurists to settle disputes which might arise in the electoral process.

Persons in exile to be free to return to participate peacefully in the political process; Indeed a number have already returned.

Persons detained on political grounds inside and outside South West Africa to be released. In other words, South West Africans presently being detained in certain African countries must be released together with those detained by the South African authorities.

The panel of jurists to decide on whether persons who claim to be "political prisoners" have in fact been imprisoned because of their political beliefs or actions or whether they were sentenced after having been found guilty of common-law crimes.

The South African Government accepts these principles because they are acceptable to the inhabitants of South West Africa. It is for the peoples of South West Africa to decide their own internal arrangements and external relations. They will elect a Constitutional Assembly and that Assembly will decide upon a Constitution which in turn will form the basis for elections to constitute a Government for the Territory. It will be the responsibility of this Government, in advance of independence, to conduct negotiations with the South African Government on a large number of complicated issues such as the South African Railways, use of the port of Walvis Bay, debts incurred in respect of developmental plans and projects, communications, trade, finance, administrative, health, social, technical and security services.

All the basic ingredients necessary to bring this long dispute to an and, are now in existence. The basis for an internationally acceptable solution has been established.

Now I want to come to the Republic of South Africa itself.

In recent weeks we have heard a great deal about majority rule, full participation by all in the political process and one-man-one-vote. The proponents of these concepts totally ignore the vital and basic facts of South African history and conveniently compare the incomparable; namely a multi-racial society in the United States and a multinational situation in South Africa where several and distinct nationalisms exist. In the United States the situation and position of the American Black are equated with that of the South African Black. I reject that equation. The American Black is an American who was divested of his African personality, language, culture and traditions. As a result he is an American. The South African Black had never been a slave and had not been uprooted. He has always been a member of a nation with its own language, its own culture, its own traditions and its own way of life living in the African continent. Whereas your problem is truly one of race and minority rights, ours is that of accommodating the demands of differing nationalisms.

South Africa is roughly two and one-half times the size of Texas, populated by about 25 million people, of whom 18 million are Black, four-and-a-half million White, two million Coloured and almost a million Asian. Of these 25 million, three million Blacks recently became independent, in Transkei. This country democratically opted to become independent, separately from the rest of South Africa. This was agreed to by the South African Parliament. This process took place peacefully inside the South African context, but the U.S. government does not recognize Transkei because it is afraid of what the rest of the world would say or what Africa would say. Transkei is the type of pattern for which

the other Black nations of South Africa are free to opt if they so wish.

Now, before I say more about this pattern, let me say to you that White South Africans have been in South Africa for 300 years, which is as long as Americans have been in this country. In 1652, at about the same time that New York (then called New Amsterdam) was founded by the Dutch, the Cape of Good Hope was settled. Like Americans intend to stay in America, we intend to stay in our country.

We in our part of the world have never shared political power in any meaningful sense with others: not with the British; not with the Americans; not with the Germans, not with the Black peoples. So I don't want to be told that the basic premise of my government's policy is a racial one. The basic premise is in fact one of nationalism. There is a White nationalism in South Africa, and there are various Black nationalisms, not just one homogeneous Black unit or entity. These are the facts as they exist.

If we look at the position of the Black nations, to start with, you already have within the geographical entity called South Africa (from a geographical point of view, not a constitutional point of view) three independent states that are recognized—you actually have four, but one is not recognized—Transkei—the three are Botswana, Lesotho and Swaziland. These are nation-states: All the people of Botswana are Tswanas, and they call themselves Tswanas. They don't call themselves Black. The same applies to Lesotho and Swaziland.

If you go to South Africa and you ask a black man "what are you?", he won't tell you that he's Black. He will tell you he is a Zulu or a Tswana or a Venda or whatever is the nation of which that particular person is a member.

What is of importance in this respect is that if you could remove every White man from South Africa, you would be no nearer a solution, you would be no nearer majority rule, you would have no nearer one-man-one-vote in South Africa:

For example, you would still have the Zulu nation basically wishing to be the Zulu nation and people, as they have been since time immemorial. That is not tribalism, this is nationalism consisting of several tribes forming a people. Mr. Vorster did not create the Zulu nation. We didn't create Lesotho, Swaziland, or Botswana. And the peoples of these states said they wanted to be governed by their particular systems; not by the American system. You recognize them. You recognize Swaziland, Botswana, and Lesotho. They have ambassadors in Washington and they are members of the United Nations. But you apply different standards to Transkei. Why?

South Africa is in the position today where it experiences coordinated and sustained condemnation because of its domestic, political and social order. Over many years our country has become the object of an emotional vendetta. The scope and intensity of the campaign have assumed hysterical proportions and the hypocrisy and duplicity practised by South Africa's detractors and enemies are without precedent. We view with scepticism the moral justification of our critics who denounce restrictions on political and civil rights in South Africa, but ignore the total absence of such rights and liberties in virtually all Black Africa, much of Asia, the Soviet Union and the latter's satellites in Eastern Europe. Some of our detractors in the U.N. who cry to heaven about alleged conditions of oppression in South Africa do so while the blood of thousands of their citizens drip from their hands. The morality practised by so many of South Africa's critics has become manifestly selective and discriminatory when they insist on majority rule in South Africa while they are utterly unconcerned about the political and social systems of scores of countries whose records show no respect for any fundamental human right of liberty whatsoever.

Take, for instance, the fashionable concept of majority rule, which I have mentioned earlier and which according to many commentators on the South African situation, will miraculously cure all the ills of South Africa. In how many of the countries of the world does one find majority rule in the sense in which the Americans understand that concept? I believe that most Americans, Black and White, will agree that one of the most important principles of morality is that the same standards should be applied equally to all. Morality by its very nature cannot be selective.

How many Americans, who propose majority rule for South Africa, are willing to guarantee to South Africans the same rights Americans enjoy in terms of America's system of majority rule? I say: they cannot do that and that they will not give such a guarantee and yet they keep on suggesting that majority rule should be accepted by us. They give advice and apply pressure without being willing to accept responsibility for the probable consequences of conflict which a policy of forcing diverse peoples into one entity may bring about. Furthermore, the U.S. Government is not prepared to accept for the U.S. any of the African governmental systems but urges my country to accept a formula which will inevitably lead to authoritarian rule.

I do not say that we do not have problems or that there is no need for change in South Africa. But I do say that much of the information on our country is completely unsubstantiated and unbelievably one-sided and distorted. The picture which more often emerges of South Africa in the outside world, and also in the U.S.A., is one of unmitigated racism and inhumanity against Black South Africans. The impression is being created that everything the South African Government does in inherently evil. The South African Government degrades the Black man. The Black South African has no political rights and the object of the South African Government is the perpetual entrenchment of White supericrity. This is just no so. Our policy is not based on any notion of racial superiority.

In South Africa the disparities which existed 300 years ago did not come about as a result of Mr. Vorster's policies. They existed as historical realities in exactly the same way that Americans 300 years ago were at a stage of development that differed from the stages of development of many other nations of the world, a fact which subsists to the present day.

The divisions in South African society are of a natural and historical origin of sociological affinity. The choice lay between the relative merits of recognizing these divisions or attempting to eliminate them and establish an artificial, unitary, societal structure.

The second half of the twentieth century has demonstrated that the major fact in contemporary Africa is the emergence of a deeply felt African nationalism of which any solution in South Africa must take account or accommodate. The mere fact that White South Africa is aware of this phenomenon and is reacting to it positively and understandingly is indicative of the fundamental change in thinking in recent years. It must, however, not be forgotten that over a period of three hundred years of constant struggle towards untrammelled independence, the Whites of South Africa have evolved their own nationalism which they will not abdicate. Any just solution must therefore accommodate both Black and White nationalisms. Attempts by either nationalism to dominate or overthrow the other will be resisted and could, if alternatives are not found, lead to a conflict with awesome consequences not only for Black and White in South Africa, but further afield.

The policy of multi-national development cannot be static. It adapts as it must to changing internal circumstances, taking into account the national political aspirations, the rising wages and standards of living of its Black peoples, the improving levels and extent of education and their own changing needs and interests as they evolve from a pastoral to a modern economy.

Important changes have been introduced in South Africa to improve relations between Black and White. More will be introduced. The significance of these changes is seldom correctly assessed. Indeed they are often rejected by our critics on the grounds that they have no direct bearing on the political power structure.

This is precisely where the greatest misunderstanding arises. Critics of the South African Government refuse to admit that a just political dispensation can be achieved in South Africa by a division of political power which can accommodate Black and White nationalisms while at the same time introducing significant changes in discriminatory measures based on colour.

White South Africans are not racists. White South Africans are not haters of Black people, but we do find ourselves in a dilemma. We find ourselves on a continent populated by a vast majority of Black people. We realise it is in our interest to co-operate with all the peoples of our continent, to move away from obsolete and harmful forms of discrimination based on colour alone. We will do so, we have done so to some extent, though not as fast or as much as others wish us to do. We have opened up certain theatres, hotels, restaurants, sporting events, trains, transport systems; to some extent, not completely, but we have done so.

Our critics and detractors scoff at these changes, laugh at them, say they are whitewash, cosmetics, we're trying to bluff the world, we're trying to maintain an absolute, white-superiority grip on the Black people, denigrating them further, disregarding their human dignity; and therefore we are heading for a racial clash. I say that these changes are significant and that White South Africans ought to be commended for the way in which they accepted them.

We in South Africa can accept criticism. We can even consider from Americans suggestions as to how to deal with various kinds of situations involving potential racial friction provided these suggestions are offered with a view to achieving peaceful progress for all. But there is one thing we cannot accept from Washington or any other quarter, and I must be emphatic about it: We are not going to negotiate our own suicide. We are a nation in Africa; we are white Africans. We have earned the right to live and survive here and govern ourselves, through hard work and toil. I don't know how much more a nation must do to prove it is a nation and has a right to live and survive and maintain its identity, and not just because we are white, but because we ought to be entitled to enjoy and preserve that which is justly ours. We will not abdicate our sovereignty over ourselves, not now and not tomorrow. It is my sincere belief that an overwhelming majority of the American people although highly critical of many aspects of the application of the policies of the South African Government, do support our right to survive and exist as a nation. I do not believe that the U.S. Government has received a mandate from the American people to follow a policy which will lead to the extinction of our nation as a nation.

It is claimed for United States policy by its exponents that it is intended to avert a racial conflict in Southern Africa. In practice, instead of bring people together, this policy, however well intentioned, is producing a far greater degree of polarisation and

thus rendering infinitely more difficult the process of achieving a modus vivendi based on evolution by peaceful change. Press reports of United States pressure on South Africa, prior and subsequent to the Vorster/Mondale meeting in Vienna, have the effect of encouraging the radical militants in Southern Africa with the danger that what is seen to be American policy could in circumstances that are conceivable cost the lives of many thousands of non-Americans, Black and White alike.

As far as the Black peoples of our country are concerned we are talking to one another frankly and openly. Like them we also have our roots deep in the soil of Africa. We do not want to rule over them and we do not want to be ruled by them. Indeed we are committed to divest ourselves of the political power to govern Blacks. Knowing our continent and its problems we know that the Black nations all over Africa have rejected systems considered to be inappropriate to the needs of the Black African Nations. In particular they have rejected the whole Governmental system which we believe in and in which Americans believe. It is their right to do so. But then it is our right to be governed according to our system as it is the right of Americans to be governed by the American system. Those who deny us this basic right are in effect the racists—not us who merely wish to preserve that which is justly ours. The Blacks and the Whites of South Africa must co-operate in sorting out their respective political rights, so that the one need not ever fight the other over domination—such as you find in Northern Ireland on the basis of both religion, Cyprus on the basis of nationalism and in Lebanon on the basis of both religion and nationalism. I can go through Africa: Biafra and Uganda, where whole tribes were destroyed because they were not trusted; Pakistan, Bangladesh; and so I can go on and on, not quoting examples from Roman times, but from contemporary times. By forcing people together politically against their choice, you only create conflict, you only create a new struggle for domination. That is exactly what we want to avoid.

We have no illusions about the aims of the Soviet Union. They want to achieve hegemony. And we have no illusions that what they are attempting in Africa is to block off the oceans of the world to the free world, to close the gate of the world's greatest sea passage, the one around the Cape of Good Hope.

The United States is actually the main target. Not us. We are regarded as a stepping stone, but we are not prepared to be used as a stepping stone. We are not prepared to be used that way. We will be ready, and we'll be prepared to deal with Soviet aggression even if we have to do so alone. We intend to stay in Africa for as long as Americans intend to stay in America.

The Southern Africa position is due to stabilise sooner or later because irrespective of the possibility of an escalation of unrest in the short term, we have the means and the will to achieve a political dispensation which can accommodate the aspirations of our diverse peoples and to resist the threats of Russian aggression in our region. We are all acquainted with the Soviet Union's tactic of making "probes"—to test the degree of resistance.

If the resistance is there, the reaction is carefully to retreat with as little loss of face as possible. If the resistance is not there, the reaction is to consolidate and prepare the ground for the next probe. You will be familiar with some examples of this kind of thing on a world scale—the probe with respect to the Berlin blockade, effectively countered by the institution of the air bridge, the probe with respect to the missiles in in Cuba, effectively countered by the determination shown by President Kennedy, the probe with respect to the erection of the Berlin Wall which failed to elicit an effective counter and timeous resistance, which resulted in a consolidation of the division of the city between East and West.

Following the Soviet/Cuban success in Angola, we had an example of a further probe, utilising the tools and instruments which were at hand in terms of the local political and social environment—the Katangan gendarmerie. If there is determination to resist, these probes can be stopped as the course of recent developments in Zaire has demonstrated. Because the President of France stood firm, because he provided the requisite air transport enabling 1,500 Moroccan troops to be flown to Zaire, the probe was effectively countered. The Government of President Mobutu was regarded as vulnerable. By the demonstration of a little bit of resolution, the danger to that Government was averted. However, that there will be another probe in other parts of Africa I have not the least doubt. The question mark is where the next attempt will be made, which other area is regarded as sufficiently vulnerable to offer opportunities for a successful probe. My point is that these probes can be effectively resisted provided always there is a sufficient degree of resolution in facing up to the issues involved.

The attainment of control over the vital material and strategic resources of Southern Africa is part of the strategy against South Africa.

What are these resources?

South Africa possesses over 90% of the known platinum resources of the world, over two-thirds of the chrome reserves, about one-fifth of the Western reserves of uranium oxide as well as major deposits of asbestos, copper, manganese, vanadium and other non-ferrous metals.

In essence, if you exclude oil, South Africa can be accounted one of the four leading mineral producers in the world. Although South Africa covers only 0.8 per cent of the world's surface and has only 0.5 per cent of the world's population, its production of raw materials is exceeded only by the U.S.A. and the U.S.S.R. Apart from these two great powers, only Australia is in a position to compete with South Africa. The rest of the world—leaving aside the two great world powers—but in particular Western Europe and Japan, may in certain circumstances be compelled to rely for its mineral resources on only four major countries, South Africa, Australia, Canada and Brazil. In this context, if you add to South Africa's mineral riches the tremendous potential existing in Zaire, Zambia, Rhodesia and Angola, it becomes apparent how important the whole Southern African mineral complex is in relation to the needs of the industrialized countries, both in the East and in the West.

I do not want to burden you with statistics but if the Soviet Union could control the mineral resources of the area in question, together with their own resources, the Russians would have available 80 per cent of the world's gold production, 76 per cent of its chrome production, 90 per cent of its production of metals of the platinum group, 75 per cent of the production of manganese, 80 per cent of the production of vanadium and between 40 and 50 per cent of the production of uranium. As I see it, by its support of the National Liberation Movements in Southern Africa, the Soviet Union is seeking to achieve the objective to which I have just referred.

The question has been put to me: What do I want from the Americans and their Government. My response is:

Do not weaken friends and strengthen and aid our mutual enemies directly or indirectly;

Evaluate the progress made in South Africa in the African context and give us credit for our achievements.

Appreciate the role we can play in African development.

Do not discriminate against South Africa in demanding norms of human rights which are not demanded from scores of other countries, e.g. limiting Export/Import Bank facilities for trade with South Africa while financing projects in the Soviet Union.

Do not threaten or restrain United States companies trading with or investing in South Africa contrary to United States active promotional activities elsewhere.

Do not embargo the sale of equipment required for securing the sea lanes around the Cape of Good Hope which carry strategic traffic to Western Europe and the United States.

Do not push aside the hand of friendship extended by South Africa: my country has fought at America's side in Two World Wars and Korea and assisted in the Berlin Air Bridge. We do not owe America a cent. Never in our history have we appealed to the American taxpayer for a single penny. We have paid all our debts. We have never embarrassed the United States in international affairs or world forums.

Do not compare the incomparable by suggesting that the position of the Black American can be equated with that of the Black South African.

Accept our sincerity in searching for a political dispensation which could accommodate the interests and aspirations of all our peoples without the threat of conflict and domination.

Accept our sincerity in wishing to remove unjust and harmful forms of discrimination.

Give us credit for constructive roles played to bring about peaceful solutions to the problems of Rhodesia and South West Africa.

Support the voices of reason in Southern Africa and oppose those who propagate violence and revolution.

Assume a leadership role in encouraging the efforts of the peoples of southern Africa towards peaceful settlement in a way which will take into account the historical rights of all the nations of the region.

Attempt sincerely to understand the complexities of our history and the realities of our situation.

I have no illusions about the enormous dimensions of the problems confronting us. But I know that we can overcome them because we have the firm and resolute intention and the inherent strength to solve them in a way which will ensure to all enjoyment of the material benefits of our country, based upon a political dispensation which accommodates the national aspirations of our peoples, and which will avoid the tragedy of a violent struggle for domination such as we have so often seen elsewhere in Africa and the rest of the world. I believe in the common sense of our nation. I believe that we are motivated and will be guided to make the right decisions on the journey ahead, however turbulent that journey may be. I believe in the determination of our youth to survive any vicissitudes. I believe that our dream can come true—a Southern Africa liberated from the shackles of suspicion and fear, whose peoples co-operate with one another, rather than confront one another.

I have earlier referred to South Africa's enormous mineral resources and importance as a trading partner. To the American investor let me say in conclusion, retain your perspective. You know our mineral potential; you know our importance as a trading partner. We can assure you of political stability. Where changes are required they will be made.

Plan accordingly.

COMMITTEE PRINT RELATING TO SECTIONS OF ADMINISTRATION'S ENERGY BILL

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, I am submitting the provisions of the committee print relating to sections of the administration's energy bill which will be under consideration by the Subcommittee on Energy and Power on Monday next for insertion in the RECORD:

[COMMITTEE PRINT]

JUNE 24, 1977

Showing the following provisions of H.R. 6831 as proposed by the Staff of the Subcommittee on Energy and Power:

1. Sections 2, 3, and 4,
2. Subpart 2 of part B of title I, and
3. Subpart 3 of part B of title I.

TABLE OF CONTENTS

Sec. 2. Findings and statement of purposes.
Sec. 3. National energy goals.
Sec. 4. References to Federal Power Commission and Federal Energy Administration.

* * * * *

PART B—ENERGY EFFICIENCY OF CONSUMER PRODUCTS AND CERTAIN INDUSTRIAL EQUIPMENT

* * * * *

Subpart 2—Disclosure of Automobile Fuel Inefficiency Tax and Disclosure of Automobile Fuel Efficiency Rebate

Sec. 221. Disclosure in labeling.
Sec. 222. Disclosure in advertising.

Subpart 3—Energy Efficiency of Certain Industrial Equipment

Sec. 240. Energy efficiency of certain industrial equipment

* * * * *

FINDINGS AND STATEMENT OF PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient supplies of oil and natural gas to satisfy that demand;

(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs;

(3) all sectors of our Nation's economy must begin immediately to significantly reduce the demand for exhaustible energy resources of oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources; and

(4) the United States must promptly develop renewable and essentially inexhaustible energy sources and convert the Nation's economy to greater utilization of coal, biomass, and other domestic alternative fuel resources in order to ensure sustained, long-term economic growth, protect the public health and welfare and preserve national security.

(b) The purposes of this Act are—

(1) to reduce the growth in demand for energy in the United States through carefully considered institutional and technological changes to conserve exhaustible energy resources produced in this Nation and elsewhere, while not significantly inhibiting beneficial economic growth;

(2) to reduce significantly this Nation's demand for oil (particularly imported oil), and natural gas, to discourage the use of oil and natural gas while assuring, to the greatest extent possible, that such fuels will be available for essential needs, and to encourage the use of coal and other fuels and renewable energy sources to the greatest extent possible, for the benefit of present and future generations;

(3) to establish, through regulation of interstate commerce, taxation, reform of electric utility rate structures, and other measures, a comprehensive energy conservation program applicable to all persons and Federal agencies, and a program to develop this Nation's indigenous energy resources to achieve the national energy goals established by this Act;

(4) to ensure that all actions taken under or pursuant to this Act are carried out in accordance with applicable environmental requirements;

(5) to ensure that all Federal agencies fully utilize their authorities in furtherance of the purposes of this Act by carrying out programs designed to prohibit or discourage the use of natural gas and oil as a primary energy source and by maximizing the efficient use of energy of all forms in programs funded or administered by such agencies;

(6) to educate all users of energy to insist that all goods and services are energy efficient and to consider lifetime costs in purchasing decisions respecting goods and services of every kind and description;

(7) to prevent unemployment due to temporary or long-term shortages in supplies of natural gas and oil; and

(8) to protect the security of the United States.

NATIONAL ENERGY GOALS

SEC. 3. The Congress hereby establishes the following national energy goals for 1985:

(1) Reduction of the compounded average rate of energy growth in the United States to not more than 2 percent annually and maintenance of that rate thereafter.

(2) Reduction of the level of oil imports to less than six million barrels per day.

(3) Achievement of a 10 percent reduction in gasoline consumption from the 1977 level.

(4) Improvement of the efficiency in the energy use of heating and cooling systems in 90 percent of residential buildings, schools, and hospitals.

(5) An increase in annual coal production to at least 400 million tons above 1976 production levels.

(6) Use or solar energy in more than 2½ million homes.

REFERENCES TO FEDERAL POWER COMMISSION AND FEDERAL ENERGY ADMINISTRATION

SEC. 4. If the Federal Power Commission or the Federal Energy Administration is terminated, any reference in this Act (or any amendment made thereby) to the Federal Power Commission or the Federal Energy Administration shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of such Commission or Administration (as the case may be) are vested, transferred, or delegated pursuant to law.

* * * * *

PART B—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS AND CERTAIN INDUSTRIAL EQUIPMENT

* * * * *

Subpart 2—Disclosure of Automobile Fuel Inefficiency Tax and Disclosure of Automobile Fuel Efficiency Rebate

DISCLOSURE IN LABELING

SEC. 221. Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)) is amended by striking out "and" at the end of subparagraph (B) and by redesignating subparagraph (C) as subparagraph (E) and by inserting after subparagraph (B) the following new subparagraphs:

"(C) containing, in the case of any automobile the sale of which is subject to the tax imposed pursuant to section 4064 of the Internal Revenue Code of 1954, a statement indicating the amount of such tax,

["(D) containing, in the case of any automobile with respect to the sale of which an amount is paid or credited pursuant to section 6429 of the Internal Revenue Code of 1954, a statement indicating the amount of such payment or credit, and".]

DISCLOSURE IN ADVERTISING

SEC. 222. (a) The Federal Trade Commission may prescribe rules requiring disclosure of any tax imposed under section 4064 of the Internal Revenue Code of 1954 with respect to any automobile advertised in any television broadcast or advertisement in writing which states the price or fuel economy of an automobile or which advertises an identifiable model type of automobile. In prescribing any such rule, the Federal Trade Commission shall take into account any special circumstances or characteristics of persons subject to such rule.

(b) A violation of a rule under subsection (a) shall be deemed an unfair or deceptive act or practice affecting commerce, for purposes of the Federal Trade Commission Act.

(c) Nothing in this section shall be construed as restricting any authority of the Commission under any other law.

* * * * *

Subpart 3—Energy Efficiency of Certain Industrial Equipment

ENERGY EFFICIENCY OF CERTAIN INDUSTRIAL EQUIPMENT

SEC. 240. (a) Title III of the Energy Policy and Conservation Act, relating to improving energy efficiency, is amended by redesignating parts C, D, and E as parts D, E, and F, respectively, and by inserting after part B the following new part:

"PART C—CERTAIN INDUSTRIAL EQUIPMENT

DEFINITIONS

"SEC. 340. For purposes of this part—

"(1) The term 'industrial equipment' means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type—

"(A) which in operation consumes, or is designed to consume, energy;

"(B) which to any significant extent, is distributed in commerce for industrial or commercial use; and

"(C) which is not a 'covered product' as defined in section 321(a)(2), other than a component of a covered product with respect to which there is in effect a determination under section 341(c) or 342(c);

without regard to whether such article of such type is in fact distributed in commerce for industrial or commercial use.

"(2) The term 'covered equipment' means one of the following types of industrial equipment:

"(A) electric motors;
"(B) pumps;
"(C) motors (other than electric motors);
"(D) compressors;
"(E) fans and blowers;
"(F) refrigeration equipment;
"(G) air conditioning equipment;
"(H) electric lighting equipment (including bulbs, fluorescent tubes, or other component parts thereof);
"(I) welding equipment;
"(J) ovens, furnaces, and kilns; and
"(K) evaporators and dryers.

"(2) The term 'energy efficiency' means the ratio of the useful output of services from an article of covered equipment to the energy used by such article, determined in accordance with test procedures under section 343.

"(3) The term 'energy use' means the quantity of energy directly consumed by an article of covered equipment at point of use,

determined in accordance with test procedures under section 343.

"(4) The term 'energy efficiency standard' means a performance standard prescribed under section 345 which sets forth a minimum level of energy efficiency for a type (or class) of covered equipment.

"(5) The term 'manufacturer' means any person who manufactures covered equipment.

"(6) The terms 'energy', 'manufacture', 'import', 'importation', 'distribute in commerce', distribution in commerce', and 'commerce' have the same meaning as is given such terms in section 321.

"REQUIREMENTS FOR ELECTRIC MOTORS AND PUMPS

"SEC. 341. (a) Not later than 3 years after the date of the enactment of this section, the Administrator shall prescribe, by rule, for electric motors and pumps (or classes thereof)—

"(1) test procedures, in accordance with section 343,

"(2) labeling requirements, in accordance with section 344, and

"(3) energy efficiency standards, in accordance with section 345.

"(b) The Administrator may, by rule, establish classes of electric motors and pumps, taking into account the size, function, type of energy consumed, method of manufacture, energy efficiency, methods and procedures, if any, for determining energy efficiency, and other factors which he determines appropriate.

"(c) The Administrator may, by rule, include within the meaning of electric motors or pumps, as the case may be, any class of electric motors or pumps which are component parts of consumer products, if he determines that a significant portion of such class is manufactured and sold in interstate commerce other than as component parts for consumer products.

"(d) The Administrator may, by rule, exclude from the application of any of the requirements of subsection (a), any class of electric motors or pumps, if he determines that—

"(A) significant energy savings will not be likely to result from the imposition of such requirements, or

"(B) a test procedure which meets the requirements of section 343 cannot be developed.

"REQUIREMENTS FOR OTHER INDUSTRIAL EQUIPMENT

"SEC. 342. (a) For types of covered equipment other than electric motors and pumps (or classes thereof), the Administrator may, after completion of the study described in subsection (b), prescribe, by rule—

"(1) test procedures, in accordance with section 343,

"(2) labeling requirements, in accordance with section 344, and

"(3) energy efficiency standards, in accordance with section 345.

"(b)(1) Not later than 3 years after the date of the enactment of this part, the Administrator shall—

"(A) conduct a study of the size, function, type of energy consumed, method of manufacture, energy efficiency, methods and procedures, if any, for determining energy efficiency, and other factors relating to each type of covered equipment described in section 340(1) (C) through (K); and

"(B) submit a report to the Congress on the results of the study undertaken under subparagraph (A).

In conducting the study described in subparagraph (A), the Administrator shall provide an opportunity for interested persons (including manufacturers and users of such covered equipment) to present written data, comments, and views and, if and to the extent the Administrator deems appropriate, to present oral views.

"(2) The Administrator may, by rule, establish classes within each type of covered equipment (other than electric motors and pumps), taking into account factors described in paragraph (1). The Administrator may so establish any such class before the completion of the study required under paragraph (1)(A) only if he determines that sufficient information is available to him for purposes of establishing such class.

"(c) The Administrator may, by rule, include within the meaning of any type of covered equipment (other than electric motors or pumps) described in section 340 (1) (C) through (K) any class of such equipment which are component parts of consumer products, if he determines that a significant portion of such class are manufactured and sold other than as component parts for consumer products.

"TEST PROCEDURES

"SEC. 343. (a) A test procedure prescribed in accordance with this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use and estimated operating costs of a type of industrial equipment (or class thereof) during a representative average use cycle (as determined by the Administrator), and shall not be unduly burdensome to conduct.

"(b) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator), and from representative average unit costs of the energy needed to operate such equipment during such cycle. The Administrator shall provide information to manufacturers respecting representative average unit costs of energy.

"LABELING REQUIREMENTS

"SEC. 344. (a) A labeling rule prescribed in accordance with this section shall require that each article of covered equipment which is in the type (or class) of industrial equipment to which such rule applies, discloses, by label or other method determined appropriate by the Administrator, the energy efficiency of such article, determined in accordance with test procedures under section 343. Such rule may also require that such disclosure include the estimated operating costs and energy use, determined in accordance with test procedures under section 343.

"(b) A rule prescribed in accordance with this section may include such requirements as the Administrator determines are likely to assist purchasers in making purchasing decisions, including—

"(1) requirements and directions for display of any label,

"(2) requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such additional information relating to energy efficiency, energy use, and other measures of energy consumption, including instructions for the maintenance, use, or repair of the covered product, as the Administrator determines necessary to provide adequate information to purchasers, and

"(3) requirements that printed matter which is displayed or distributed at the point of sale of such equipment shall disclose such information as may be required under this section to be disclosed on the label of such equipment.

"(d) Before prescribing any labeling rules for a type (or class) of covered equipment, the Administrator shall consult with, and obtain the written views of, the Federal Trade Commission with respect to such rules. The Federal Trade Commission shall promptly provide such written views upon the request of the Administrator.

"(e) When requested by the Administrator, the manufacturer of industrial equipment to which a rule under this section applies shall supply at his expense a reasonable number of articles of such covered equipment to any laboratory or testing facility designated by the Administrator, or permit representatives of such laboratory or facility to test such equipment at the site where it is located, for purposes of ascertaining whether the information set out on the label, or otherwise required to be disclosed, as required under this section, is accurate. Any reasonable charge levied by the laboratory or facility for such testing shall be borne by the United States.

"(f) a labeling rule under this section shall not apply to any article of covered equipment the manufacture of which was completed before the effective date of such rule.

"(g) Until such time as labeling rules under this section take effect with respect to a type (or class) of covered equipment, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type (or class) of covered equipment.

"ENERGY EFFICIENCY STANDARDS

"SEC. 345. (a) Energy efficiency standards for a type (or class) of covered equipment prescribed in accordance with this section shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is technologically feasible and economically justified. Such standards may be phased in over a period not to exceed 5 years through the use of interim standards.

"(b) In determining whether a standard is economically justified under subsection (a), the Administrator shall consider, after receiving any views and comments furnished with respect to the proposed standard—

"(1) the economic impact of the standard on the manufacturers and on the purchasers of the covered equipment subject to such standard,

"(2) the savings in operating costs throughout the estimated average life of the type (or class) of covered equipment subject to such standard which is likely to result from the imposition of such standard,

"(3) the total energy savings likely to result directly from the imposition of the standard,

"(4) any increase in the initial charge for, and the expenses of maintenance, repair, or use, of such covered equipment which is likely to result from the imposition of the standard,

"(5) any lessening of the utility or the performance of the covered equipment likely to result from the imposition of the standard,

"(6) the impact of any lessening of competition determined in writing by the Attorney General to be likely to result from the imposition of the standard, and

"(7) any other factor the Administrator considers relevant.

For purposes of paragraph (6), the Attorney General shall, not later than 120 days after the publication of a proposed rule prescribing an energy efficiency standard, make an estimate of the impact, if any, from any lessening of competition which would be likely to result from such standard and transmit such determination in writing to the Administrator, together with an analysis of the nature and extent of such impact. Any such estimate and analysis shall be published in the Federal Register.

"(c) A rule pursuant to subsection (a) may exempt from its requirements manufacturers of covered equipment—

"(1) who are small businesses, as determined by the Administrator after consultation with the Small Business Administration, and

"(2) with respect to whom the Administrator determines imposition of the require-

ments may cause a serious economic hardship.

"(d) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 343, and may include any requirement which the Administrator determines is necessary to assure that each article of covered equipment to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

"ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

"SEC. 346. (a) Except to the extent otherwise provided rules under this part shall be prescribed in accordance with section 553 of title 5, United States Code, except that interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule.

"(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Administrator shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

"(A) other interested persons who have made oral presentations with respect to the proposed standard, and

"(B) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Administrator determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues. A transcript shall be kept of any oral presentation made under this part.

"(2) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies the type (or class) of covered equipment to which the rule will apply, and (B) invite interested persons to submit, within 45 days after the date of publication of such advance notice, written presentations of data, views, and arguments relevant to the establishing of such an energy efficiency standard.

"(3) A proposed rule which prescribes an energy efficiency standard for a type (or class) of covered equipment may not be published earlier than 60 days after the date of publication of advance notice of proposed rulemaking for such type (or class). The Administrator shall determine the maximum improvement in energy efficiency which is technologically feasible for each type (or class) of covered equipment in prescribing such standard and if such standard is not designed to achieve such efficiency, the Administrator shall state in the proposed rule the reasons therefor. After the publication of such proposed rulemaking, the Administrator shall afford interested persons, during a period of not less than 45 days, an opportunity to present oral and written comments (including an opportunity to question those who make such presentations, as provided in paragraph (1)) on matters relating to such proposed rule, including—

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Administrator must consider under section 345);

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible; and

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate.

"(4) A rule prescribing an energy efficiency standard for a type (or class) of covered equipment may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type (or class), except that such rule shall be published as soon as practicable after publication of the advanced notice. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered equipment the manufacture of which was completed before the effective date of the rule or amendment as the case may be.

"(c)(1) It shall be unlawful for any manufacturer to distribute in commerce any new covered equipment which is not in conformity with a rule promulgated under this part. For purposes of this paragraph, the term 'new covered equipment' means covered equipment the title to which has not passed to a purchaser who buys such equipment for purposes other than (A) reselling such equipment, or (B) leasing such equipment for a period in excess of one year.

"(2) Effective 90 days after a test procedure applicable to a type (or class) of covered equipment is prescribed under this part, no manufacturer, distributor, or retailer, may make any representation—

"(A) in writing (including a representation on a label), or

"(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

"(d) Any person who violates subsection (c) shall be subject to a civil penalty of not more than $1,000 for each violation. Such penalties shall be assessed by the Administrator. Civil penalties assessed under this part may be compromised by the Administrator, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent.

"(e) The United States district courts shall have jurisdiction to restrain (1) any violation of subsection (c) and (2) any person from distributing in commerce any covered equipment which does not comply with an applicable rule under this part. Any such action may be brought by the Administrator in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

"(f) The requirements of this part with respect to standards or labeling shall not apply to an article of covered equipment if—

"(1) such article is manufactured, sold, or held for sale for export from the United States (or such article was imported for export), unless such article is in fact distributed in commerce for use in the United States, and

"(2) such article when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such article is intended for export.

"(g) Any article of covered equipment offered for importation in violation of subsection (c) shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered equipment on such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to insure that such covered equipment will not be in violation of subsection (c) or will be exported from or abandoned to the United States. The Secretary of the Treasury shall prescribe rules to implement this section within 180 days after the date of the enactment of this Act.

"(h) For purposes of carrying out his responsibilities under this section, the Administrator may require, by rule or order or such other means as is available to him, each manufacturer of covered equipment to submit such information or reports of any kind or nature directly to the Administrator with respect to energy efficiency of such covered equipment, and with respect to the economic impact of any proposed energy efficiency standard, as the Administrator determines may be necessary to establish test procedures and energy efficiency standards for such equipment and to insure compliance with the requirements of this part. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.

"(i) The National Bureau of Standards shall provide, to the maximum extent practicable, whatever assistance may be requested by the Administrator to carry out his responsibilities under this part, including developing and recommending test procedures to the Administrator.

"(j)(1) Any person who will be adversely affected by a rule prescribed under this part when it is effective may, at any time before the 60th day of the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review thereof. A copy of the petition should be forthwith transmitted by the clerk of the court to the Administrator. Upon receipt of such petition, the Administrator shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code.

"(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

"REPORT TO CONGRESS

"SEC. 347. The Administrator shall submit to the Congress, within 2 years after the date of enactment of this section, a report on improvements in energy efficiency of industrial equipment. The report shall include information developed pursuant to section 343(b), information on the energy conservation potential and achievement with respect to industrial equipment, and any recommendations for additional legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 348. There are hereby authorized to be appropriated to carry out the purposes of this part—

"(a) with respect to electric motors and pumps, $3,000,000 for fiscal year 1978; and

"(b) with respect to all other types of industrial equipment, $4,000,000 for fiscal year 1978.".

(b) The table of contents for the Energy Policy and Conservation Act is amended—

(1) by striking out "PART C" and "PART D" in the items relating to parts C and D of title III of such Act and inserting in lieu thereof "PART D" and "PART E", respectively, and

(2) by inserting after the item relating to section 339 the following:

"PART C—CERTAIN INDUSTRIAL EQUIPMENT
"Sec. 340. Definitions.
"Sec. 341. Requirements for electric motors and pumps.
"Sec. 342. Requirements for other industrial equipment.
"Sec. 343. Test procedures.
"Sec. 344. Labeling requirements
"Sec. 345. Energy efficiency standards.
"Sec. 346. Administrative procedure, enforcement, and judicial review.
"Sec. 347. Report to Congress.
"Sec. 348. Authorization of appropriations."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. YOUNG of Florida, (at the request of Mr. MICHEL), for today, on account of official business.

Messrs. GAYDOS, MYERS of Pennsylvania, ZEFFERETTI, LE FANTE, and MILLER of California (at the request of Mr. WRIGHT), for today, on account of oversight hearings on the Longshoremen's and Harbor Workers Act of the Subcommittee on Compensation, Health and Safety of the Committee on Education and Labor.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN) to revise and extend their remarks and include extraneous material:)

Mr. COHEN for 5 minutes today.

Mr. KEMP for 10 minutes today.

(The following Members (at the request of Mr. GUDGER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO for 5 minutes today.

Mr. GONZALEZ for 5 minutes today.

Mr. VANIK for 5 minutes today.

Mr. DODD for 15 minutes today.

Mr. WEAVER for 15 minutes today.

Mr. GUDGER for 15 minutes today.

Mr. CARR for 60 minutes, June 27, 1977.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES to revise and extend his remarks on the Addabbo amendment immediately following Mr. LLOYD of California.

Mr. SYMMS and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,208.

Mr. DINGELL and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,047.

(The following Members (at the request of Mr. DORNAN) and to include extraneous material:)

Mr. CRANE.

Mr. RUPPE.

Mr. COLLINS of Texas in two instances.

Mr. YOUNG of Alaska.

Mr. ANDREWS of North Dakota.

Mr. FINDLEY.

Mr. KEMP in two instances.

Mr. GILMAN.

Mr. BROYHILL.

Mr. DICKINSON.

Mr. STEERS.

(The following Members (at the request of Mr. GUDGER) and to include extraneous matter:)

Mr. ZABLOCKI in two instances.

Mr. FARY.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. FRASER in five instances.

Mr. RUSSO.

Mr. BYRON.

Mr. DOWNEY.

Mr. BAUCUS.

Mr. EILBERG.

Mr. ICHORD.

Mr. CARR.

Mr. MURPHY of Illinois.

Mr. WEAVER.

Mrs. SPELLMAN in two instances.

Mr. ROGERS in five instances.

Mr. EDGAR.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles.

On June 22, 1977:

H.R. 6823. To authorize appropriations for the United States Coast Guard for fiscal year 1978, and for other purposes; and

On June 23, 1977:

H.R. 583. To amend chapter 5 of title 37, United States Code, to extend the special pay provisions for reenlistment bonuses, and for other purposes.

ADJOURNMENT

Mr. GUDGER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 36 minutes p.m.), under its previous order, the House adjorned until Monday, June 27, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of June 23, 1977]

1756. A letter from the Acting Director, Legislative Division, Department of the Navy, transmitting notice of the intention of the Department of the Navy to sell certain naval vessels to Ecuador, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

1757. A letter from the Acting Director, Legislative Division, Department of the Navy, transmitting notice of the intention of the Department of the Navy to sell certain naval vessels to Colombia, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

1758. A letter from the Acting Director, Legislative Division, Department of the Navy, transmitting notice of the intention of the Department of the Navy to sell certain naval vessels to Colombia, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

1759. A letter from the Acting Director, Legislative Division, Department of the Navy, transmitting notice of the intention of the Department of the Navy to sell certain naval vessels to Guatemala, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

1760. A letter from the Mayor of the District of Columbia, transmitting the annual report of the Office of Emergency Preparedness of the District of Columbia for fiscal year 1976, pursuant to section 6 of Public Law 81–686; to the Committee on the District of Columbia.

1761. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during May 1977, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

1762. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the period January–March 1977, on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; production of crude oil, natural gas, and coal; refinery activities; and inventories, pursuant to section 11(c)(2) of Public Law 93–319; to the Committee on Interstate and Foreign Commerce.

1763. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended (79 Stat. 915); to the Committee on the Judiciary.

1764. A letter from the Comptroller General of the United States, transmitting a report on ground water management, conservation, and use (CED–77–69, June 21, 1977); jointly, to the Committee on Government Operations, Agriculture, and Interior and Insular Affairs.

[Submitted June 24, 1977]

1765. A letter from the Director, Legislative Division, Department of the Navy, transmitting notice of the intention of the Department of the Navy to sell certain naval vessels to Ecuador, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

1766. A letter from the director, Office of Personnel and Manpower, Department of State, transmitting notice of a proposed new records system for the Agency for International Development, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1767. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-Designate Philip M. Kaiser and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

1768. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-Designate William Vincent Shannon and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

1769. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1770. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration; to the Committee on Science and Technology.

1771. A letter from the Comptroller General of the United States, transmitting the second in a series of reports on world population growth, its impact on the quality of life, and programs designed to slow growth rates (ID–77–3, June 23, 1977); to the Committee on Government Operations, and International Relations.

1772. A letter from the Comptroller General of the United States, transmitting a report on recommendations to make the Foreign Gifts and Decorations Act more effective (ID–77–31, June 23, 1977); jointly, to the Committee on Government Operations, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NEDZI: Committee on House Administration. H.R. 2960. A bill to authorize the Secretary of the Interior to erect a memorial in honor of the 56 signers of the Declaration of Independence in Constitution Gardens in the District of Columbia, with amendment (Rept. No. 95–462). Ordered to be printed.

Mr. PEPPER: Committee on Rules. House Resolution 657. Resolution providing for the consideration of H.R. 6796. A bill to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes. (Rept. No. 95–463). Referred to the House Calendar).

Mr. FOLEY: Committee on Agriculture. H.R. 7940. A bill to amend the Food Stamp Act of 1964, as amended, by simplifying administration, encouraging participation, and eliminating fraud, and for other purposes (Rept. No. 95–464). Referred to the Committee of the Whole House on the State of the Union.

Mr. PREYER: Select Committee on Ethics. H.R. 7792. A bill to amend title 39, United States Code, to establish certain limitations on the use of the frank, and for other purposes, with amendment (Rept. No. 95–465). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COHEN:

H.R. 8006. A bill to amend title II of the Social Security Act to raise (to 7 percent for each year of delayed retirement) the amount by which old-age insurance benefits are increased in the case of individuals who delay their retirement beyond age 65; to the Committee on Ways and Means.

By Mr. DOWNEY (for himself, Mr. BEARD of Rhode Island, Mr. O'BRIEN, Mrs. HECKLER, and Mr. WINN):

H.R. 8007. A bill to amend section 226 of the Social Security Act to make inapplicable, in the case of individuals suffering from multiple sclerosis, the present requirement that an individual under age 65 must have been entitled to benefits based on disability for at least 24 consecutive months in order to qualify for medicare benefits; to the Committee on Ways and Means.

By Mr. HANNAFORD (for himself, Mr. PRITCHARD, Mr. BAUCUS, Mr. JOHN L. BURTON, Mr. CORNWELL, Mr. COUGHLIN, Mr. EDGAR, Mr. LAGOMARSINO, Mr. LUKEN, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, and Mr. WAXMAN):

H.R. 8008. A bill to allow service performed by women as members of telephone operating units of the Army Signal Corps during World War I to be considered active duty in the Army for purposes of all laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. MARKS:

H.R. 8009. A bill to amend the Child Abuse Prevention and Treatment Act to prohibit the sexual exploitation of children and the transportation and dissemination of photographs or films depicting such exploitation; to the Committee on Education and Labor.

By Mr. MARLENEE:

H.R. 8010. A bill to amend section 404 of the Federal Water Pollution Control Act relating to permits for dredged or fill material; to the Committee on Public Works and Transportation.

By Mr. NICHOLS (for himself, Mr. MITCHELL of New York, Mr. BEARD of Tennessee, and Mr. TRIBLE):

H.R. 8011. A bill to extend for 1 year the special pay provisions for physicians and dentists in the uniformed services and to reinstate the special pay provisions for optometrists and veterinarians in the uniformed services; to the Committee on Armed Services.

By Mr. OTTINGER:

H.R. 8012. A bill respecting the continued use of saccharin as a food, food additive, drug, and cosmetic, and for other purposes; to the Commtitee on Interstate and Foreign Commerce.

By Mr. RINALDO:

H.R. 8013. A bill to amend the Tariff Schedules of the United States by repealing item 807.00 of schedule 8, part 1, subpart B; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 8014. A bill to provide that a portion of the savings which are realized by the Department of Defense as a result of the closure or realinement of a military base in a community shall be returned to the community for economic recovery and adjustment; to the Committee on Armed Services.

By Mr. SANTINI:

H.R. 8015. A bill to amend the Internal Revenue Code of 1954 to increase the limitation on the credit for certain State-imposed gaming taxes under section 4464; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself and Mr. CLAY):

H.R. 8016. A bill to provide that a former spouse of a Federal employee who is married to such employee for 20 years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse of such employee; to the Committee on Post Office and Civil Service.

By Mr. SIMON:

H.R. 8017. A bill to amend the Federal Railroad Safety Act of 1970 to require the locomotive of all trains to be equipped with strobe lights; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON:

H.R. 8018. A bill to amend the National Labor Relations Act, as amended, to include supervisors; to the Committee on Education and Labor.

H.R. 8019. A bill to amend section 302(c) of the National Labor Relations Act; to the Committee on Education and Labor.

By Mr. WEAVER (for himself, Mr. AMMERMAN, Mr. AUCOIN, Mr. BAUCUS, Mr. BOWEN, Mr. BROWN of California, Mrs. BURKE of California, Mr. PHILLIP BURTON, Mr. DUNCAN of Oregon, Mr. FRASER, Mr. ICHORD, Mr. OBERSTAR, and Mr. UDALL):

H.R. 8020. A bill to authorize and direct the Secretary of Agriculture to provide cooperative forest resources assistance to States and others, and for other purposes; to the Committee on Agriculture.

H.R. 8021. A bill to authorize and direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, to provide cooperative forest resources assistance to States and others, and for other purposes; to the Committee on Agriculture.

H.R. 8022. A bill to provide for an expanded forest resources extension program; to the Committee on Agriculture.

By Mr. WHALEN (for himself, Mr. ANDERSON of Illinois, Mr. AUCOIN, Mr. CEDERBERG, Mr. CONTE, Mr. CUNNINGHAM, Mr. EDGAR, Mr. ERTEL, Mrs. FENWICK, Mr. FRASER, Mr. GUYER, Mr. HARRINGTON, Mr. HUGHES, Mr. JENRETTE, Mr. KEMP, and Mr. KINDNESS):

H.R. 8023. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, and that a deduction shall be allowed for contributions to such trusts; to the Committee on Ways and Means.

By Mr. WHALEN (for himself, Mr. LE FANTE, Mr. LENT, Mrs. LLOYD of Tennessee, Mr. LUKEN, Mr. MANN, Mr. MAZZOLI, Mr. MOLLOHAN, Mr. PREYER, Mr. RUSSO, Mr. SARASIN, Mr. TRAXLER, Mr. VENTO, Mr. WALKER, Mr. WALSH, and Mr. CHARLES WILSON of Texas):

H.R. 8024. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, and that a deduction shall be allowed for contributions to such trusts; to the Committee on Ways and Means.

By Mr. EDGAR:

H.R. 8025. A bill to finance the acceleration of energy-related research, development, and demonstration by establishing an energy research and development savings bond program, and by establishing an Energy Research and Development Trust Fund, and for other purposes; jointly, to the Committees on Science and Technology, and Ways and Means.

By Mr. EDGAR (for himself, Ms. FENWICK, Mr. GORE, and Mr. BINGHAM):

H.R. 8026. A bill to amend title 39, United States Code, to establish a special rate of postage for postal cards mailed to Members of the Congress by their constituents; to the Committee on Post Office and Civil Service.

By Mr. FLORIO (for himself and Mr. HUGHES):

H.J. Res. 533. Joint resolution to authorize the President to proclaim the last Friday of April each year as National Arbor Day; to the Committee on Post Office and Civil Service

By Mr. KEMP (for himself, Mr. BAUCUS, Mr. BOWEN, Mr. CARTER, Mr. CEDERBERG, Mr. CORCORAN of Illinois, Mr. ERTEL, Mrs. FENWICK, Mr. FLORIO, Mr. GONZALEZ, Mr. GUYER, Mr. ICHORD, Mr. LAGOMARSINO, Mr. LATTA, Mrs. LLOYD of Tennessee, Mr. MAZZOLI, Mr. MONTGOMERY, Mr. JOHN T. MYERS, Mr. NIX, Mr. RAHALL, Mr. RAILSBACK, Mr. RINALDO, Mr. ROSE, Mr. SNYDER, and Mr. STAGGERS):

H.J. Res. 534. Joint resolution designating the week during which Veterans Day is observed as Love America Week; to the Committee on Post Office and Civil Service.

By Mr. ERTEL:

H. Con. Res. 262. Concurrent resolution to express the sense of Congress that the President and the United States delegation to the 1977 Belgrade Review Conference should urge the Government of the Union of So-

viet Socialist Republics to grant exit visas to each member of the Smeliansky family; to the Committee on International Relations.

By Mr. FOLEY (for himself and Mr. RICHMOND):

H. Con. Res. 263. Concurrent resolution provide for the printing of 3,000 additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture entitled "The Role of the Federal Government in Nutrition Education"; to the Committee on House Administration.

By Mr. MINISH:

H. Con. Res. 264. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

201. The SPEAKER presented a memorial of the Legislature of the State of Oklahoma, relative to the transportation of natural gas from Alaska; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

134. By the SPEAKER: Petition of the City Council, Cambridge, Mass., relative to funds for the control of alcoholism; to the Committee on Interstate and Foreign Commerce.

135. Also, petition of the Idaho State AFL–CIO, Boise, Idaho, relative to its support of H.R. 21 and S. 3 (national health insurance); jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

SENATE—*Friday, June 24, 1977*

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God our Father, who has given us the gift of life with rest at night and work for the day, guide and direct us through this new day.

We thank Thee for the skills of mind and hand with which Thou hast endowed us. Help us to think right, to speak right, to work right, and to live right that we may be a credit to this institution and to the Nation we love and serve. We thank Thee for colleagues, comrades, and friends who enrich each day, who make the burdens lighter, and the pathway brighter. Be with us every moment until evening comes. Then grant us to sleep in peace and to wake in strength. Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, June 23, 1977, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The distinguished minority leader is recognized.

CLINCH RIVER BREEDER REACTOR PROJECT

Mr. BAKER. Mr. President, I wish to bring to the attention of my colleagues in the Senate a matter of grave concern. This morning I received a letter from Comptroller General Elmer Staats, dated June 23, 1977. The letter responds to a request which I made, with Senator Jackson, on May 26 for an immediate GAO review of the administration's plan to terminate the Clinch River breeder reactor project on July 26, 1977. We specifically requested a GAO opinion on the legality of the termination plan under the various applicable statutes.

Comptroller General Staat's response is, in a word, devastating. The GAO opinion concludes that "the Energy Research and Development Administration (ERDA) lacks the legal authority to implement the President's plan." And, further, "expenditures of Federal funds to fully implement the plan would be improper unless ERDA first obtains the necessary authority." The opinion clearly and categorically summarizes the legal situation as follows, "to implement the President's plan without such authority would be in violation of law."

The Comptroller General also comments at length on the impact of the planned termination on the congressional prerogative under the Constitution of the United States and the applicable governing statutes to participate in the decision on Clinch River. As we all know, a major debate over the project is now in progress within the Congress in the context of the authorization and appropriation for fiscal year 1978. So far, two committees, one in the Senate and one in the other body, have voted to continue the project. And, we will be taking up the matter in this very Chamber next week in considering the public works appropriation.

The GAO letter states that the President's plan could result in a 5- to 6-year delay in the project and a cost penalty of $1.3 billion, if the Congress was successful in saving the project. GAO points out that the delay and additional cost required could make restarting the project so costly as to outweigh its benefit. GAO concludes:

> Thus, in effect, the executive branch if it is successful in promptly implementing its present plan, may well have made a major policy decision unilaterally through administrative procedures which should have been made through the legislative process.

It is clear, then, that these actions could effectively preempt the Senate and congressional prerogatives in this critical national decision.

Mr. President, I urge the administration to immediately cancel its plan to terminate Clinch River before the Congress and the American people have had a full opportunity to complete the consideration now in progress. The legislative process for fiscal year 1978 now in progress should be allowed to run its normal course. I sincerely hope that the President will see the compelling wisdom of the Comptroller General's opinion and thereby avoid any further legal or constitutional confrontation on this critical national issue.

Mr. President, I ask unanimous consent that the GAO letter and related correspondence be entered in the RECORD at this point.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., June 23, 1977.

Hon. HENRY M. JACKSON,
Vice Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. VICE CHAIRMAN: This replies to your letter of May 26, 1977, in which you and Senator Baker asked that we review deferral number D77–58 transmitted by the President to the Congress on May 18, 1977. By this action the President proposed to defer $31.8 million in budget authority appropriated for the Clinch River Breeder Reactor Project (CRBRP). Because you believe the action taken by the President should have been proposed as a rescission rather than a deferral of budget authority, you asked that we review this matter to see if it has been correctly classified. You also asked if any action currently undertaken or proposed by the executive branch toward significant curtailment of the CRBRP exceed or will exceed controlling statutory authorities.

Based on the facts currently available, we conclude that the action proposed to the Congress was correctly classified—it is a deferral of budget authority. However, we will monitor the situation and will promptly report to the Congress any future actions constituting a rescission or deferral under the Impoundment Control Act of 1974.

With respect to the second question, we believe that the Administration's proposed curtailment of CRBRP objective is substantially inconsistent with that set forth in the CRBRP program criteria that were approved, as required by law, by the Joint Committee on Atomic Energy (JCAE). We also believe the curtailed program is not in accord with the statute authorizing the CRBRP. In our view, for these reasons the Energy Re-

search and Development Administration (ERDA) lacks the legal authority to implement the President's plan.

Accordingly, expenditures of Federal funds to fully implement the revised CRBRP program would be improper unless ERDA first obtains the necessary authority to undertake such actions. Should ERDA proceed to use CRBRP funds to implement the President's proposed plan without having secured such authority, this Office will review the specific actions taken with the objective of taking formal exception to such expenditures.

There follows a detailed discussion of our findings and conclusions.

I. BACKGROUND

A. Progress to date

Before discussing the legal issues raised by your letter, it is appropriate to discuss the history and facts surrounding the project and the effects of the most recent executive branch actions on the CRBRP. In reviewing the President's action, we met with ERDA and contractor officials both at headquarters and at the project office site.

Prior to the recent executive branch actions, the Clinch River Breeder Reactor Demonstration Plant was scheduled to be operational by early 1984 and was to be the nation's first large-scale liquid metal fast breeder reactor (LMFBR) demonstration plant with a 380 megawatt capacity. Presently, design, procurement, and component fabrication for the project are about 25 percent complete, although no site preparation or actual plant construction has yet begun. According to ERDA estimates, the project, if completed, will cost about $2 billion, $270 million of which will be contributed by industry participants. As of May 31, 1977, ERDA had spent about $254 million and industry participants a little over $99 million.

B. Origins and statutory basis of the CRBRP

The CRBRP had its origins in 1969. In that year the Atomic Energy Commission (AEC) was specifically authorized to study the ways in which an LMFBR demonstration project could be designed. Section 106 of Public Law 91–44, approved July 11, 1969, stated:

"SEC. 106: Liquid Metal Fast Breeder Reactor Demonstration Program—Project Definition Phase.—(a) The Commission is hereby authorized to conduct the Project Definition Phase of a Liquid Metal Fast Breeder Reactor Demonstration Program under cooperative arrangements with reactor manufacturers and others, in accordance with the criteria heretofore submitted to the Joint Committee on Atomic Energy without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended, and authorization of appropriations therefor in the amount of $7,000,000 is included in section 101 of this Act."

One year later the Congress went further in the area of an LMFBR demonstration project and specifically authorized the design, construction, and operation of such a reactor. Section 106 of Public Law 91–273, June 7, 1970, stated:

"SEC. 106. Liquid Metal Fast Breeder Reactor Demonstration Program—Fourth Round.—(a) *The Commission is hereby authorized to enter into a cooperative arrangement with a reactor manufacturer and others for participation in the research and development, design, construction, and operation of a Liquid Metal Fast Breeder Reactor powerplant, in accordance with the criteria heretofore submitted to the Joint Committee on Atomic Energy and referred to in section 106 of Public Law 91–44,* without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended, and the Commission is further authorized to continue to conduct the Project Definition Phase subsequent to the aforementioned cooperative arrangement. * * *

"(b) Before the Commission enters into any arrangement or amendment thereto under the authority of subsection (a) of this section, the basis for the arrangement or amendment thereto which the Commission proposes to execute (including the name of the proposed participating party or parties with whom the arrangement is to be made, a general description of the proposed powerplant, the estimated amount of cost to be incurred by the Commission and by the participating parties, and the general features of the proposed arrangement or amendment) shall be submitted to the Joint Committee on Atomic Energy, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Joint Committee, after having received the basis for a proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five day period: *Provided further,* That such arrangement or amendment shall be entered into in accordance with the basis for the arrangement or amendment submitted as provided herein * * *." [Emphasis added.]

This basic scheme was retained in 1975 when section 106 of the 1970 act was amended by section 103(d) of Public Law 94–187, December 31, 1975:

"Sec. 106. Liquid Metal Fast Breeder Reactor Demonstration Program—Fourth Round.—(a) The *Energy Research and Development Administration (ERDA) is hereby authorized to enter into cooperative arrangements with reactor manufacturers and others for participation in the research and development, design, construction; and operation of a Liquid Metal Fast Breeder Reactor powerplant, in accordance with criteria approved by the Joint Committee on Atomic Energy,* without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended. Appropriations are hereby authorized * * * for the aforementioned cooperative arrangements as shown in the basis for arrangements as submitted in accordance with subsection (b) hereof. * * *

"(b) *Before ERDA enters into any arrangement or amendment thereto under the authority of subsection (a) of this section, the basis for the arrangement or amendment thereto which ERDA proposes to execute (including the name of the proposed participating party or parties with which the arrangement is to be made, a general description of the proposed powerplant, the estimated amount of cost to be incurred by ERDA and by the participating parties, and the general features of the proposed arrangement or amendment) shall be submitted to the Joint Committee on Atomic Energy,* and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Joint Committee, after having received the basis for a proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of all, or any portion of, such forty-five-day period: *Provided, further,* That such arrangement or amendment shall be entered into in accordance with the basis for the arrangement or amendment submitted as provided herein: * * *" (Emphasis added.)

Pursuant to the 1975 law, ERDA proposed criteria to the JCAE for its approval. On April 29, 1976, the JCAE approved the most recently submitted criteria. Those project criteria appear at page 63 of *Modifications in the Proposed Arrangements for the Clinch River Breeder Reactor Demonstration Project.* Hearings Before the Joint Committee on Atomic Energy, 94th Cong., 2d Sess., April 14 and 29, 1976 (1976 Hearings).

C. The present CRBRP criteria and contract

As a result of the JCAE's action of April 29, 1976 (a rollcall vote), the LMFBR demonstration program at the Clinch River site is governed by criteria that call for the design, construction, and operation of an LMFBR plant. These program criteria state that the CRBRP's major objectives are to demonstrate the technology pertaining to, and the reliability, safety, and economics of, LMFBR powerplants in the utility environment. Other objectives are to:

Provide for meaningful identification of areas requiring emphasis in the LMFBR research and development program;

Validate, to the extent practicable, technical and economic data and information pertinent to the total LMFBR program;

Assist in developing an adequate industrial base;

Provide for meaningful utility participation and experience in developing, acquiring, and operating LMFBR plants;

Help assure overall program success; and

Demonstrate and maintain U.S. technological leadership.

The criteria also specifically set forth design requirements and plant objectives stating, among other things, that the plant's first core is to use mixed oxide fuel consisting of uranium and plutonium and that it be designed, fabricated, constructed, tested, operated, and maintained in conformance with established engineering standards and high quality assurance practices.

Pursuant to the JCAE-approved criteria, ERDA entered into a cooperative arrangement with the Project Management Corporation (PMC), the Commonwealth Edison Company, and the Tennessee Valley Authority (TVA) on May 4, 1976. That contract recognizes the controlling statutory criteria for the LMFBR. For example, the contract states, pertinently:

A. Para. 1.1.9: "'Project' means the cooperative effort to *design, develop, construct, test and operate the LMFBR Demonstration Plant* provided for in the Principal Project Agreements." [See. para. 3.1] (Emphasis added.)

B. Para. 3.1: [Principal Project Agreements] "* * * TVA and ERDA will enter into an agreement *for the operation of the Demonstration Plant* * * *" (Emphasis added.)

C. Para. 4.1: "* * * ERDA shall, pursuant to this contract, manage and carry out the Project [see Para. 1.1.9, above] in an efficient, effective and timely manner consistent with the Principal Project Objectives, and shall use its best efforts to design and build the Demonstration Plant substantially in conformance with the Reference Design. * * *"

D. Recent ERDA plans and GAO evaluation

On May 19, 1977, Mr. Robert W. Fri, Acting Administrator, ERDA, sent to the JCAE notice of ERDA's plans to revise the CRBRP. Mr. Fri stated, *inter alia,* ERDA's plans for the "cancellation of construction, component construction, licensing and commercialization efforts for CRBRP, but completion of systems design;"

This letter clearly recognized that the plan proposed by the President and reflected in the May 18, 1977, deferral message would necessitate revision to the present JCAE-approved CRBRP criteria, and acknowledged that an amendment to the statutory authorization may be in order if the President's program revision is to be implemented. Mr. Fri stated:

"At the direction of the President, and in compliance with Section 106(b) of Public Law 91–273, as amended, ERDA herewith submits the enclosed amended program justification data *reflecting discontinuance of the CRBRP Project, except for completion of systems design* so as to help identify engi-

neering problems that will have to be solved in developing alternative types of reactors. *The statutory criteria will likewise require commensurate revision.*

"Appropriate negotiations will, of course, have to be undertaken and concluded with the other Project participants, with the objective of implementing the proposed action concerning the Project, and the cooperative arrangment amended accordingly. In addition, amendatory legislation with respect to the basic enabling authorization for the CRBRP Project may be in order.

"For the prescribed statutory period during which this revised basis of arrangement is required to lie before the Joint Committee, new obligations for the Project will be kept to a minimum consistent with prudent Project management. A deferral (No. D77–58) is being reported for the $31.8 million of CRBRP Project budget authority that will not be available during this period. *Following such period ERDA will proceed with appropriate implementing actions."* (Emphasis added.)

In an attachment to his letter, Mr. Fri discussed the existing four-party contractual agreement and those contract amendments that would have to be made in order to limit LMFBR activities to systems design efforts. Systems design (roughly 60 percent of the total design work) would, under the President's proposal, be completed. Pursuant to this proposal, ERDA has reduced its fiscal year 1978 budget request from $208.7 million to $162 million. The funds requested would be used to continue systems design activities; to terminate detailed design, licensing, procurement, and construction activities; and to settle claims, primarily those anticipated from the termination actions.

Thus far, we have found no evidence indicating that project activity has been significantly slowed down as a result of the executive branch's proposed change in program objectives. To date, we have found no procurement actions that have been delayed or cancelled and ERDA officials told us there were none. However, the project office in Tennessee, at the direction of ERDA headquarters, recently submitted a list of 10 scheduled procurements to ERDA headquarters for approval. According to an ERDA procurement official, the proposed procurement actions involve contracts by Westinghouse, the lead reactor manufacturer, with its subcontractors. The amount involved in these procurements is about $9.8 million. (Should ERDA decide to prevent award of any of the subcontracts it may develop that further questions will exist regarding such actions in light of the Impoundment Control Act of 1974, discussed below.)

We compared the proposed changes on the Clinch River LMFBR project as submitted by ERDA to the JCAE on May 19, 1977, with the existing criteria. As part of this comparison, we discussed the criteria with the General Manager of PMC (the contract party that represents the utility participants in the project) on a line-by-line basis to pinpoint the specific program changes, that would result from the President's actions. Based on our examination, we confirm that ERDA's proposal of May 19, 1977, represents a notice of its intention to proceed with the CRBRP in a way that will result in a program that does not fulfill major objectives of the existing JCAE-approved statutory criteria; nor the object of the authorization itself—to operate an LMFBR demonstration plant.

We asked ERDA officials to give us their estimate of the additional costs that would be incurred assuming ERDA terminated the project, except for systems design, on or about July 26, 1977, and the Congress subsequently provided the funds to continue the project on December 1, 1977. We chose a December 1, 1977, date because it allows the Congress an opportunity to consider fully whether to go ahead with LMFBR efforts and the associated funding. Although it is uncertain when the Congress will make its decision on the project, and how quickly or completely ERDA may implement the proposed discontinuance of the program, we believe that the December date provides a good indication of the impact a project termination will have prior to Congress having an opportunity to fully consider the matter.

ERDA provided us with cost and schedule information using three assumptions:

1. Assuming the licensing process could begin where it was stopped, project costs would increase by about $345 million and plant operations would be delayed between 1 and 1½ years. To restart the project where it was terminated in the licensing process, however, probably would require legislation that would, in effect, circumvent some of the normal licensing processes.

2. Assuming the licensing process would have to begin with a new application, project costs would increase by about $546 million and plant operation would be delayed over 3 years. Neither this assumption nor the first account for the possibility that ERDA may be required by the Nuclear Regulatory Commission (NRC) to locate the plant at a different site if projected plant operation is delayed. Such a relocation appears to be a distinct possibility based on past NRC proceedings on the Clinch River Project. In fact, the Deputy Director, Division of Site Safety and Environmental Analysis, NRC, told us that if the CRBRP is delayed for 2 years or more, it would be very difficult, if not impossible, for the NRC staff, in its analysis, to conclude that it is cost beneficial to locate the demonstration reactor at the Clinch River site.

3. Assuming the plant would have to be relocated, project costs would increase by about $1.1 to $1.3 billion and plant operation would be delayed 5 to 6 years.

Although we did not have the opportunity to evaluate ERDA's estimates in detail, we believe they provide a reasonable indication of the magnitude of the costs and extent of schedule slippages that might occur if the project were terminated on July 26, 1977, and the Congress decided to restart it at a later date. By comparison, if ERDA were to delay project termination until December 1, 1977, by honoring ongoing contracts but not entering into additional contracts not essential to ongoing work, the estimated costs would be increased by about $61 million.

Based on the information set out above, it would seem that terminating the project prior to congressional deliberations could make restarting the project so costly as to outweigh its benefit. Thus, in effect, the executive branch, if it is successful in promptly implementing its present plan, may well have made a major policy decision unilaterally through administrative procedures which should have been made through the legislative process. The documentation we have examined discloses no intention on the part of the executive branch to proceed with completion of an LMFBR demonstration plant at Clinch River in the future.

II. THE IMPOUNDMENT CONTROL ACT OF 1974

Under the Impoundment Control Act of 1974 (Act), title X of Public Law 93–344, 88 Stat. 332, July 12, 1974, 31 U.S.C. 1400, *et seq.*, there are two types of impoundments—deferrals and rescissions. The distinction between the two categories is the duration of a proposed withholding of budget authority: a deferral is a proposal to withdraw temporarily budget authority from availability for obligation; a rescission is a request to cancel, i.e., rescind, previously appropriated funds—in other words, a permanent withdrawal of budget authority.

In both categories of withholdings there exists a common characteristic—impoundment. While the term "impoundment" is not defined by the Act, we have operated under the view that an impoundment is any type of executive action or inaction that effectively thwarts the obligation or expenditure of budget authority. This does not mean, however, that impoundments always exist when budget authority is not used to implement all authorized activities.

The Act is concerned with the rescission or deferral of budget authority, not the rescission or deferral of programs. Thus, a lump-sum appropriation for programs A, B, and C used to carry out only program C would not necessarily indicate the existence of impoundments regarding programs A and B. So long as all budgetary resources were used for program C, no impoundment would occur even though activities A and B remained unfunded.

Consistent with this construction of the Act, sections 1012(b) and 1013(b) of the Act, 31 U.S.C. 1402(b) and 1403(b), respectively, provide that when proposed rescissions and deferrals are rejected the impounded budget authority must be "made available for obligation." If this is not done the Comptroller General is authorized to bring suit to compel the cessation of the withholding, 31 U.S.C. 1406. In this connection, the requirements of the Act clearly are to mandate the release of withheld funds. Significantly, no mention is made in the Act with respect to the uses to which the released funds are put. The Comptroller General can only seek, and the court can only grant, an order compelling the President to release the funds. Neither the Comptroller General nor the courts are authorized under the Act to constrain the executive branch in the way the funds are to be used once released.

Concerning the CRBRP, we have determined that, except for the $31.8 million held in reserve for deferral D77–58, all funds have been made available for obligation for either incurring or liquidating obligations associated with the project. Regarding the $31.8 million proposed for deferral, these funds also are planned for use. That available funding is being and will be used is the critical determination under the Act. In this light, we must presently conclude that no evidence suggests an intention not to utilize (i.e., a rescission) the $31.8 million in the future. Thus, we are satisfied that the deferral has been properly classified. However, should we later determine that the executive branch has altered its plans for the use of the $31.8 million and has decided that a portion of the funds will not be used at all, we will, at that time, take the necessary action to reclassify the impoundment to a rescission.

In addition we are monitoring the executive branch's handling of the $9.8 million involved in the award of subcontracts currently being reviewed by ERDA. If we decide that ERDA's actions regarding the use of these funds or any other CRBRP funds indicate the existence of further budgetary withholdings, we will promptly report the matter to the Congress.

III. PROPRIETY OF THE REVISED CRBRP PLANS

The President's plans to curtail substantially the scope of the LMFBR program at the Clinch River site raise a number of questions that focus upon the legislation that authorized the project. Our analysis of the statutes setting forth the LMFBR activities of AEC and later ERDA is that they authorize the AEC (ERDA) to embark only on clearly delineated lines of effort. In 1969 the effort was to define what ultimately might comprise an LMFBR demonstration project cooperative arrangement. With enactment of the 1970 and 1975 legislation, AEC (ERDA) was authorized to enter into agreements for the research and development, design, construction, and operation of such a reactor.

We conclude that ERDA's proposed expenditure of funds for the curtailed LMFBR program is an intention to expend funds for unauthorized purposes. The most recent (1975) revisions of section 106 of the CRBRP authorization, quoted above, introduced the requirement of JCAE approval of LMFBR program criteria. We believe subsection 106 (a) incorporates by reference into the statute itself the program criteria submitted to and approved by the JCAE. In our view, and we know of no other that contradicts it, the approved program criteria and the major objectives set forth therein are as much a part of subsection 106(a) as if they were explicitly stated in the statutory language itself. Thus, the currently approved program criteria, and of course the statute itself, establish the CRBRP's ultimate objective—to successfully complete, operate, and demonstrate the usefulness of an LMFBR powerplant.

Subsection 106(b) provides for a 45-day period of waiting during which time the basis or description of a proposed amendment to the cooperative arrangement must lie before the JCAE. This delay, prior to ERDA's executing the amendment it proposes, affords the JCAE and others time to express views on the specific means by which ERDA would accomplish the statutory objective of the program. We believe the proposed amendments contemplated by subsection 106 (b) are only those the execution of which lead to fulfilling this goal.

This construction of section 106 is supported both by the language of the statute and by its legislative history. Subsection (b) of section 106 provides not only that the basis or description of the amendment shall lie before the JCAE for 45 days, but also that the amended cooperative agreement ERDA is authorized to execute after the 45-day period is to be entered into "under the authority of subsection (a) of this section." Subsection (a) authorized ERDA to enter into cooperative agreements only in accordance with the statutorily approved program criteria. Those criteria, effectively a part of the statute itself, contemplate the eventual operation of an LMFBR powerolant. Therefore, ERDA's authority to initiate the running of the 45-day period after which it may proceed to implement its plans to amend the cooperative agreement, is constrained to offering to the JCAE a basis or description of amendments that are compatible with the objectives of the program criteria and of course the harmonious objective of the authorization act—operating an LMFBR demonstration plant.

Our construction of section 106 is supported as well by discussions of the JCAE. For example, during debate on the most recently submitted project criteria, the following exchange took place between Representative Moss and Mr. William Parler. Committee Counsel, JCAE:

"Representative Moss. If there is a conflict between the contract [the cooperative arrangement] provisions and the criteria, which controls?

"Mr. PARLER. The criteria and the justification data which the committee [JCAE] approved.

"Representative Moss. In other words, at all times that becomes the dominant factor in interpreting any contract [for the CRBRP]? It must be consistent at all times with the criteria?

"Mr. PARLER. That is my opinion, Mr. Moss; yes, sir." 1976 hearings, page 4.

Moreover, on April 29, 1976, Mr. Parler said: "* * * If the Committee [JCAE] disapproves the criteria, ERDA cannot proceed with implementation of the modification to the contract." 1976 Hearings, page 521.

In meeting with ERDA representatives on the President's plans to revise the CRBRP objective, we discussed the agency's reading of section 106. ERDA views subsection 106(b) as a requirement that it begin to implement its plans for proposed amendments, after the expiration of the 45-day period during which the bases for those amendments will have laid before the JCAE, irrespective of whether such action supports or destroys the objective of the authorization act. And, because subsection (a) of section 106 does not provide explicit time periods for either ERDA's submitting or the JCAE's approving new program criteria, subsection (a) "defers" to subsection (b). Thus, ERDA believes that its letter of May 19, 1977, was in compliance with the statutory mechanism of subsection (b) and it will, at the end of the 45-day period that began May 19, 1977, trigger both the necessary authority and the obligation to implement its revised plans to curtail the CRBRP. ERDA officials did not disagree that ERDA presently has no authority to revise the document representing the cooperative arrangement in ways that are inconsistent with existing statutory criteria, but apparently believe ERDA may effectively implement its plans without at the same time constructively revising the cooperative arrangement, an arrangement that calls for accomplishment, not termination, of the CRBRP.

In sum, ERDA views section 106 as conferring authority to begin implementing the cancellation of portions of the CRBRP 45 days after appropriate notice to the JCAE, but also requires that before ERDA formally modifies its contractual document it obtain from the JCAE approval of ERDA's proposed new program.

The practical consequences of ERDA's construction of the law deny the JCAE oversight of the LMFBR so long as the agency does not enter into a fully executed amendment of the formal contractual document. Such construction disregards the wideranging and very concrete changes that must be wrought upon the operation of the approved LMFBR program before implementation of the President's plan. ERDA apparently professes to read the relevant statutory language as indicative of congressional disinterest in whether ERDA unilaterally proceeds to change the statutory objective of the program.

The simplest reading of that language is to the contrary—that Congress has a strong interest in maintaining the program objective fully in accord with criteria approved by a committee of Congress. ERDA assumes, we think without a sound basis, that the actions it takes preparatory to abandoning the program it has commenced will not be tantamount to an amendment of the cooperative agreement that represents the commitment to go forward with the original program, and therefore that the actual changes, however dramatic, need not be of concern to the JCAE. This view limits the Committee's role to deciding whether to acquiesce in ERDA's subsequent recommendation to change the statutory criteria after ERDA's actions to change the statutory objective are already effectively accomplished, and appropriated funds are already obligated for the purpose of discontinuing instead of fulfilling the program objective of the statutory criteria.

We cannot agree the law was intended to so operate. Our view, as we have stated, is that before ERDA can invoke the authority of subsection (b) to implement new plans that depart in any significant way from the major program objectives of the statutorily approved criteria, it must first, under subsection (a) secure JCAE approval of new criteria. Since we believe section 106(b) contemplates amendments the thrust of which is to fulfill the major objectives of the statutory criteria, we must also conclude that, because the May 19, 1977, proposal does not so accord with the criteria, it did not trigger the 45-day mechanism of section 106(b).

Moreover, while the JCAE's authority to approve criteria is broad, the statute under which the President is acting authorizes only efforts leading to the construction and operation of a reactor. Thus, the President would be compelled to obtain amendatory legislation to section 106 to authorize only the limited and different objective of LMFBR systems design, and to repeal those parts of the statute that speak to efforts beyond such activities.

The legal effect of this conclusion is that the status of the CRBRP remains unchanged, except for the current $31.8 million deferral now before the Congress. Federal funds may not be expended to implement the President's plan of curtailing the program, without appropriate change in the authorization statute and the program criteria.

To implement the President's plan without such necessary authority would be in violation of law since such expenditures would be for purposes inconsistent with those for which the appropriations were made. In this regard, 31 U.S.C. 628 provides:

"Except as otherwise provided by law, *sums appropriated* for the various branches of expenditure in the public service *shall be applied solely to the objects for which they are respectively made, and for no others.*" (Emphasis added.)

We hope the foregoing responds to your questions. A similar letter today is being sent to Senator Baker.

Sincerely yours,

(Signed) ELMER B. STAATS,
Comptroller General of the United States.

JOINT COMMITTEE ON ATOMIC ENERGY,
Washington, D.C., May 26, 1977.

MR. ROBERT W. FRI,
Acting Administrator, Energy Research and Development Administration, Washington, D.C.

DEAR MR. FRI: Thank you for your letter of May 19, 1977 responding to the request of April 25, 1977 regarding the Clinch River Breeder Reactor Project (CRBRP). The letter apparently is intended to satisfy the statutory requirements contained in Section 106 of Public Law 91–273, as amended by Section 103 of Public Law 94–187.

We have thoroughly reviewed your letter and have found it to be insufficient and unacceptable to satisfy the Section 106 requirements. Consequently, we do not consider that the letter initiates the 45 day statutory layover period provided by Subsection 106(b). You, therefore, should not proceed to implement the CRBRP changes proposed in the letter after 45 days, as you suggest on page 6 of the letter.

The letter is insufficient and unacceptable because the entire "Revised Program Justification Data Arrangement No. 72–106 (May 1977)" in the enclosure is premised on the President's proposed Fiscal Year 1978 redirection of the LMFBR program, rather than the current program. Section I. of the letter, "Changes to the LMFBR Program", makes it clear the program in which the proposed modified CRBRP would fit is not the currently authorized LMFBR program, but rather the proposed and, as yet, unauthorized redirection in the FY 1978 program. And, in fact, the Administration's detailed jutsification for the proposed changes have not yet been provided to the appropriate Committees of the Congress.

Both Houses are actively considering the proposed redirection in the context of the FY 1978 ERDA authorization. Your letter acknowledges this fact on page 2, in stating, "A statement of appropriate substitute objectives (for the LMFBR program), from which to restructure the long-range breeder development plan must await further definitive Executive Department and Congressional guidance." Furthermore, there is no pending reprogramming, deferral or rescission for the Fiscal Year 1977 LMFBR program, other than the CRBRP.

There, as a result, is no basis in fact today for the discussions in Section A.2., B.1. and

B.2, among others, of the enclosure for, respectively, the ERDA role, the principal underlying aim, or the technical design. And, in any event, there is no way to judge whether the proposed system design, the completed components "for developmental items selected for completion and testing as part of the base R&D program" (page 5, paragraph 1) and the supporting R&D program (enclosure, page 4, paragraph 2) will support the objectives of any future redirection in the LMFBR program.

The letter acknowledges in Section III, page 5, that new statutory criteria will be required and, in addition, amendatory legislation for the authorization may be required. The Administration has not proposed any such legislation. The mere requirement for such legislation before the proposed changes can be effected demonstrates the need for new authorizing legislation.

Also, as Section III states, negotiations with other participants are required. Significant changes in the current arrangements would be likely to result, notwithstanding the discussion in the enclosure. And, the new "CRBRP Project Cost Estimate", Attachment A to the enclosure, clearly indicates that the included costs do not include the termination costs which may be required as a result of those negotiations. Since we understand those costs could approach $100 million, the cost estimates are not satisfactory for further consideration.

In summary, your letter does not provide a sufficient basis for the Congressional review which was intended by Subsection 106(b). Further, it is our conclusion that the Section 106 procedures were intended to cover changes in arrangements, criteria and objectives in a continuing CRBRP, but not the effective termination proposed in your letter. We, therefore, do not accept the letter as satisfaction of the requirements of the Subsection, and do not consider it as initiating the 45 day layover.

Also, we would remind you that Subsection 106(a) requires that the Joint Committee on Atomic Energy must approve any criteria for CRBRP. You have acknowledged (page 5, third paragraph) that the statutory criteria, in fact, will require revision. While it is true that Congress is currently considering legislation to reassign the authorities of the Joint Committee on Atomic Energy to standing committees in each House, the intent and spirit of Subsection 106(a) that Congress affirmatively approve (authorize) the CRBRP criteria is clear. It would be prudent, therefore, not to plan on proceeding with "appropriate implementing action" (page 6) unless and until the new criteria have been approved by Congress.

The President has proposed a profound change in direction in the LMFBR program and the CRBRP Project. That change has been in the context of the FY 1978 authorization, which now is being actively considered by Congress. Any FY 1977 CRBRP termination action, as you have proposed, might effectively pre-empt Congressional participation in that major policy decision or constrain the policy choices open to the Congress. In order to preserve the inherent and statutory Congressional prerogative to participate in this major decision, we firmly believe, therefore, that you should not initiate any termination action at this time. CRBRP and the LMFBR program should proceed as previously authorized and as funded by appropriations for FY 1977 pending affirmative Congressional action in response to the President's proposals.

If, however, the Administration chooses to propose the effective termination of CRBRP in FY 1977, as your letter indicates is the case (notwithstanding the proposed substitute "systems design"), the rescission procedures of the Budget Control and Impoundment Act should be utilized. Because the existing authorization and the FY 1977 appropriations provide for the continued commitment to CRBRP for this fiscal year, your proposed action would be a rescission under the Budget Act. In that regard, we are by separate correspondence requesting the Comptroller General to review the CRBRP deferral, D77-58, associated with your letter to determine if, pursuant to the Budget Act, it constitutes a rescission rather than a deferral.

Our rejection of your letter under Section 106 and our related comments should not be interpreted as reflecting any prejudgment of the ultimate Congressional conclusion on CRBRP and the LMFBR. We are acting to preserve the prerogatives of the appropriate Congressional committees and of the Congress at large to participate in these major decisions and to preclude any practical pre-emption of that statutory right. The Budget Act producers are the only appropriate vehicle for such unilateral Administration budgetary changes pending full Congressional action on the President's proposals for next year.

Sincerely,

HOWARD H. BAKER, Jr.,
HENRY M. JACKSON.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., May 19, 1977.

Hon. HENRY M. JACKSON,
Vice Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. VICE-CHAIRMAN: This is in response to your letter of April 25, 1977, concerning proposed changes in the Liquid Metal Fast Breeder Reactor (LMFBR) Program, particularly the Clinch River Breeder Reactor Plant (CRBRP), and amendments to the CRBRP justification data, resulting from the President's Energy message of April 20, 1977. Your questions regarding enrichment plans have already been covered in separate correspondence.

I. CHANGES TO THE LMFBR PROGRAM

A. Cause of change

The Administration has reduced the overall LMFBR program FY 1978 budget request, including CRBRP, from $855 million to $483 in obligational authority. Along with this budget reduction, changes have been directed to the program plan, including:

Elimination of Large Plant Design work leading to a demonstration project (PLBR) beyond CRBRP;

Cancellation of construction, component construction, licensing and commercialization efforts for CRBRP, but completion of systems design;

Redirection of base technology support programs; and

Delay in modifications of existing facilities and new construction projects associated with fuels, safety and component systems testing and R&D.

The basis for these changes derive from:

An increased concern regarding the potential for proliferation of nuclear weapons capability through the deployment of fission energy systems in nonweapons states;

A substantial reduction in the estimate of the future contribution that will be required from nuclear power;

An associated policy aimed at encouraging other nations to pause in their development of plutonium-based technology, by deferring U.S. commitment to such technologies and by adopting legislation to guarantee the delivery of enrichment services to any country that shares U.S. nonproliferation objectives and accepts conditions consistent with those objectives;

An aggressive energy conservation policy;

A policy of increased reliance on coal for electrical energy production; and

An increased emphasis on the development of renewable and inexhaustible energy options other than breeders, to sustain economic growth beyond the year 2000, e.g., solar energy, geothermal energy, and biomass.

B. Program objectives

Previous program objectives were to:

Demonstrate the LMFBR option on a time table consistent with an assumed introduction date of 1993; and

Resolve outstanding environmental and safety issues by 1986 or prior to an irreversible commitment to commercial deployment.

It is now planned that these objectives will be deferred indefinitely, particularly the schedule for making a decision on breeder deployment. A statement of appropriate substitute objectives, from which to restructure the long-range breeder development plan, must await further definitive Executive Department and Congressional guidance.

In the meantime, the program for fiscal year 1978 will be directed toward:

Initiating research and development work on fuels which may offer nonproliferation advantages, e.g., Thorium-232/Uranium-233;

A comprehensive reevaluation of alternate breeder concepts and advanced converters, leading ultimately to a redefinition of nuclear power development goals;

Maintaining a technology program baseline from which to reinstitute an LMFBR development and demonstration program should this be deemed necessary or desirable at a future date;

Encouraging, on a quid pro quo basis, foreign involvement in the U.S. program, taking maximum advantage of the unique strengths of the U.S. base technology program; and

Utilizing as much useful information as possible from prior development and demonstration project activities, i.e., CRBRP and PLBR.

C. Scope of the revised FY 1978 program

Operating expenses (dollars in millions)

Large plants: budget authorization, 0; budget obligations, 0.

The ERDA/EPRI target plant design studies will be closed out at the end of FY 1977.

CRBRP: BA, $33 billion; BO, $162 million.

Continuation of systems design activities.

Termination of detailed design, licensing, procurement and construction activities.

Financial, legal, and managerial activities to settle claims. (See Sections II and III)

FETF: BA, $52 milion; BO, $53 million.

Continuation of construction and preparation for scheduled startup in FY 1979.

Test facilities: BA, $62.5 million; BO, $64 million.

Continuation of operational support for fuel, safety, and component R&D programs.

Safety: BA, $56.9 million; BO, $54.9 million.

Continuation of ongoing safety activities at a reduced level with redirection toward safety issues associated with alternate fuel technologies and advanced converters.

Engineered systems and components: BA, $51.4 million; BO, $49.6 million.

Perform heat transport component research, development and testing at reduced levels.

Physics: BA, $9.9 million; BO, $10 million.

Continuation of ongoing physics activities with a redirection toward analysis and experimentation on alternate fuels (Thorium-232/Uranium-233) and core designs.

Materials and chemistry: BA, $10.4 million; BO, $10.4 million.

No significant change.

Fuels: BA, $41.2 million; BO, $41.8 million.

Continuation of reference and advanced fuels and process development at a reduced scope, i.e., dropping two advanced fuel systems; and initiation of new work on alternate fuel systems (Thorium-232/Uranium-233).

Reactor core components: BA, $19.9 million; BO, $16.4 million.

Continuation of activities directed at fabrication and assembly of FFTF experiments; and continuation of fuel shipping cask development, at a slower pace.

Total Operating Expenses: BA, $337.2 million; BO $462.1 million.

Capital equipment: BA, $30 million; BO, $43.2 million.

Continuing procurements of support and laboratory equipment, at minimum levels, to sustain operations and restrain rising operating and maintenance costs.

Construction projects: BA, $115.8 million; BO, $83.7 million.

Provides for architect-engineer services only in FL 1978 for SAREF, ERB–II mods, LMEC mods, HPFL and FMEF consistent with a two-year delay in startup of these facilities. FFTF is continued.

Total Breeder Reactor Program: BA, $483 million; BO, 589 million.

II. CHANGES IN CRBRP DEMONSTRATION PROGRAM

Following Congressional consideration of the proposed amendments to the basis of arrangement for the CRBRP Project, the construction contract will be terminated. All contracts for equipment will be terminated or completed if that is in the best interest of the government, e.g., lower cost, except for developmental items selected for completion and testing as part of the base R&D program. The developmental components to be selected for transfer to the base program will be limited by the availability of funds. Licensing efforts will be discontinued. Engineering and design efforts will be significantly reduced. Financial, legal and managerial activities will be conducted as required to settle claims, to negotiate open change orders, to inventory materials, work-in-process, and complete equipment and to complete other actions required as a result of the termination activities. Personnel not essential to conducting these termination activities or the systems design activities described below will no longer be supported by the Project. Personnel termination and relocation costs will be paid in accordance with contractual provisions.

Under the proposed plan, systems design will continue at a reduced pace. The effort will include 1) a review of the design of the major systems to determine what simplifications would be feasible and useful to future plant design activities; 2) identification and resolution of outstanding design issues on selected major systems; and 3) evaluation of existing designs and the development of required changes to accommodate the most propitious alternate fuel systems.

III. AMENDMENTS TO CRBRP COOPERATIVE ARRANGEMENT AND JUSTIFICATION DATA

At the direction of the President, and in compliance with Section 106(b) of Public Law 91–273, as amended, ERDA herewith submits the enclosed amended program justification data reflecting discontinuance of the CRBRP Project, except for completion of systems design so as to help identify engineering problems that will have to be solved in developing alternative types of reactors. The statutory criteria will likewise require commensurate revision.

Appropriate negotiations will, of course, have to be undertaken and concluded with the other Project participants, with the objective of implementing the proposed action concerning the Project, and the cooperative arrangement amended accordingly. In addition, amendatory legislation with respect to the basic enabling authorization for the CRBRP Project may be in order.

For the prescribed statutory period during which this revised basis of arrangement is required to lie before the Joint Committee, new obligations for the Project will be kept to a minimum consistent with prudent Project management. A deferral (No. D77–58) is being reported for the $31.8 million of CRBRP Project budget authority that will not be available during this period. Following such period ERDA will proceed with appropriate implementing actions.

Should you desire any further information at this time, please let me know.

Sincerely,

ROBERT W. FRI,
Acting Administrator.

Revised Program Justification Data Arrangement No. 72–106 (May 1977)

A. Names of Participating Parties:

1. Prime Contracting Parties—Energy Research and Development Administration (ERDA); Tennessee Valley Authority (TVA); Commonwealth Edison Company (CE); Project Management Corporation (PMC); Breeder Reactor Corporation (BRC).

2. Prime Contractual Relation—

(a)(1) BRC and PMC have entered into a contract under which BRC has agreed (i) to use its best efforts, working in cooperation with the Edison Electric Institute, the American Public Power Association, and the National Rural Electric Cooperative Association, to collect contributions to the project from various electric utilities and remit the collected funds (less BRC's costs) to PMC; (ii) that BRC will be reasonably available, through its directors, officers, and committees, for senior counsel in the interest of the success of the project; (iii) that BRC will keep ERDA generally informed of BRC's activities and give ERDA the opportunity to attend its Directors meetings as an observer. PMC has agreed to keep BRC informed regarding project activities and to make regular reports to BRC concerning the project.

(2) PMC, ERDA, CE and TVA will enter into a contract which generally will provide as follows:

ERDA shall manage the project commensurate with the degree of ERDA's financial participation and risk, and PMC's role will be utility liaison and general project overview. The Project Steering Committee (PSC) will be a management review mechanism and will be responsible for keeping the PMC Board fully and currently informed. The Board and ERDA will constitute and support the PSC (composed of one PMC Director acceptable to TVA, one PMC Director acceptable to CE, and one member designated by and representing ERDA) so that PSC can effectively implement its responsibilities. Disagreement by PSC or the PMC Board with major project decisions may be appealed to the heads of ERDA, CE and TVA for final resolution pursuant to procedures set forth in the contract.

Among other things PMC will maintain general project oversight and liaison with the utility industry.

CE will undertake upon request to make available for the project individuals qualified to serve in managerial, administrative and technical capacities, and possibly additional assistance. CE will also make its senior management reasonably available for assistance in program guidance. CE's costs for the project (except the time of its senior management) will be reimbursed, subject to the credit referred to in 4.d. below.

TVA will undertake upon request to make available for the project individuals qualified to serve in managerial, administrative and technical capacities to provide services and procedures necessary to keep the project books of account and financial records, and to provide certain other services to the project, and possibly additional assistance. TVA will also make its senior management reasonably available for assistance in program guidance. TVA's costs for the project (except the time of its senior management) will be reimbursed, subject to the monetary credit referred to in 4.d. below.

ERDA will agree:

(i) to participate in the project as contemplated by Sec. 106 of Public Law 21–273, as amended; and

(ii) to provide technical supervision of the reactor manufacturer(s) and architect-engineer(s) regarding their nuclear steam supply system.

3. Principal Subcontractual Relationships—The commitments with one or more of the Project Definition Phase reactor manufacturer contractors for the design of the nuclear steam supply system and with the architect-engineer for other plant systems design will constitute the principal project subcontracts.

(4) Other General Features of the Prime Contractual Relationship—

(a) The term of the cooperative arrangement will end shortly following the completion of systems design (estimated to be within three years).

(b) The effective date of the PMC, ERDA, CE, TVA contract will permit PMC's costs and certain early costs of TVA and CE to be recognized as allowable costs.

(c) EDRA's policy with respect to inventions, discoveries, patents, and data and information will apply.

(d) The respective obligations of the utility contributors will be limited to the amounts provided for in the utility contribution agreements, provided, that upon completion of systems design, their liability shall be limited to the total amount of contributed cash on hand plus accrued interest if any (plus pledges due but unpaid), less PMC close-out (settlement) costs. The respective contributions of TVA and CE, aside from their commitments under their utility contribution agreements, will be limited to a monetary credit against reimbursable costs for services of $2 million less its expenses in preparing for the project.

(e) The bases for termination will include (i) insufficiency of project funds to permit the effective conduct of the project, including anticipated commitments and contingencies, (ii) prevention of proceeding to conclusion with the project by a final court injunction or administrative order, or (iii) failure to reach agreement on significant changes in approved reference design.

(f) All applicable laws and regulations will be complied with.

(g) A mutually agreeable procedure for resolving disagreements will be specified in the PMC–ERDA contract.

(h) The present preliminary estimated cost of the project, through completion of systems design (*excluding* termination costs of the quadrapartite contract) is shown in Attachment A hereto. This estimate will be subject to revision from time to time to the extent additional information indicates that such revisions are appropriate.

B. Description of Proposed Project:

1. Principal Underlying Aim—This project is a part of ERDA's overall, long-range research and development program for development of alternative types of reactors.

2. Technical Description—

The systems design will be of an integrated electric power plant and will include: (a) a reactor and steam generation system; (b) a steam turbine driven electric generation system; (c) heat rejection system; (d) electrical switch yard; and (e) related auxiliaries and supporting structures and facilities.

Maximum use of existing technology will be stressed in the design activity to reduce technical risks and assure a safe, reliable design which would have minimum environmental effects. The design effort will be supported by a research and development program.

The following several approximate design parameters will be included:

Reactor Power (MWt)	975
Electric Power (MWe Gross)	375

Primary System Type	Loop
Number of Primary Loops	3
Reactor Outlet Temperature (°F)	1,000
Reactor Vessel Boundary Temperature (°F)	900

Attachment A. CRBRP Project Cost Estimate

(Through completion of systems design)

Preliminary Estimated Project Costs—Total Estimated Costs Thru June 30, 1977	
ERDA Funds	$277,992,000
Utility Contributions	101,700,000
Reactor Manufacturers' Contributions	408,000
Total Estimated Costs Thru June 30, 1977	$380,100,000
Estimated Cost to Complete Systems Design	58,500,000
Preliminary Estimated Project Termination Costs[1]	147,100,000
Preliminary Estimated Project Costs	$585,700,000

[1] Excluding termination costs of the quadrapartite contract.

JOINT COMMITTEE ON ATOMIC ENERGY,
Washington, D.C., April 25, 1977.

Mr. ROBERT W. FRI,
Acting Administrator, Energy Research and Development Administration, Washington, D.C.

DEAR MR. FRI: In his energy message to the Joint Session of Congress on April 20, 1977, the President indicated that he was going to take certain actions concerning the fast breeder program and specifically the Clinch River Breeder Reactor project.

As you are aware, review procedures have been enacted to insure careful Congressional scrutiny of developments in the Liquid Metal Fast Breeder Reactor Demonstration Program. In that regard Section 106 of Public Law 91-273, as amended by Section 103 of Public Law 94-187, requires that ERDA inform the Joint Committee on Atomic Energy of any proposed amendments to the cooperative arrangements which ERDA has entered into for research and development, design, construction and operation of the Clinch River Breeder Reactor Project, as well as any proposed changes to the criteria and justification data which have been submitted to the Joint Committee for that project. Any such proposed amendments or changes must lie before the Joint Committee for a period of 45 days while the Congress is in session.

In this connection, please provide me with a detailed description of the proposed changes to the Liquid Metal Fast Breeder Reactor Program, and specifically the Clinch River Breeder Reactor Project, which are to be made as a result of the President's announced energy plan. Please tell me what amendments to the CRBR cooperative arrangement, or changes in the CRBR criteria or justification data, will be required as a result of the President's announced energy plan.

The President's April 20th statement also indicated that the Administration plans to re-open the order books for uranium enrichment. Review procedures also have been enacted in the Atomic Energy Act to insure careful Congressional scrutiny of any criteria for the contracting of enrichment services. Pursuant to those provisions, I request that you provide the Joint Committee with the full details on ERDA's plans in the appropriate form and with the appropriate procedures prior to any final action.

I understand, of course, that the Joint Committee on Atomic Energy is about to be terminated and its functions in the Senate would be transferred to, among others, the Energy and Natural Resources Committee. I believe, however, that it is the responsibility of the Senate to fully consider the gamut of actions which could result from the overall policy stated by the President in his April 20th message to the Congress.

It is my intention to make this information available to each of the Senate committees currently concerned with nuclear matters.

Sincerely yours,

HENRY M. JACKSON,
Vice Chairman.

JOINT COMMITTEE ON ATOMIC ENERGY,
Washington, D.C., May 26, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States, Washington, D.C.

DEAR MR. STAATS: The President has submitted Deferral No. D77-58, dated May 18, 1977, which defers $31.8 million of the funds appropriated for the Clinch River Breeder Reactor Project (CRBRP) in FY 1977. The Administration, in a letter of May 19, 1977, from ERDA Acting Administrator Robert Fri, has proposed changes to the project objectives pursuant to Section 106 of Public Law 91-273, as amended by Section 103 of Public Law 94-187. The deferral justification indicates that the Administration is deferring funds for obligations to new contracts during the 45 day statutory layover specified in Section 106 (b), as amended.

We have reviewed thoroughly the May 19, 1977, submission by ERDA and have concluded that the actual intention of the Administration is effectively a budgetary termination of CRBRP in FY 1977, rather than a mere change in project objectives for which the Section 106 procedures were designed. Also, the President's proposed major redirection in the Liquid Metal Fast Breeder Reactor (LMFBR) program, including effective termination of CRBRP, is currently under active consideration in both Houses of Congress in connection with the FY 1978 authorization and appropriation processes.

Action under Section 106, as proposed by ERDA, would effectively preempt Congressional participation in that major policy decision. Accordingly, we are notifying ERDA that the submission under Section 106 is unacceptable.

Based upon the same judgment regarding the termination nature of the proposed changes in project objectives, we also belive that Deferral No. D77-58 may be a rescission action under the Impoundment Control Act of 1974, P. L. 93-344. Accordingly, we request you to immediately initiate a review of the deferral and all related information regarding CRBRP, including the Section 106 submission, pursuant to Subsection 1015 (b) of P. L. 93-344, to determine if there has been an incorrect classification of this budget action or if any actions currently undertaken by ERDA exceed the agency's authority.

Please advise us as soon as possible regarding your conclusions and, in any event, please provide a status report of your review no later than June 8, 1977. If the budget action is, in fact, a rescission, we would expect submission of the report required by Subsection 1015(b) as soon as possible. We consider this a matter of urgency to ensure that the Congressional prerogative in the FY 1978 CRBRP decision is preserved and is not preempted by an unauthorized budget action in FY 1977.

Sincerely,

HOWARD H. BAKER, Jr.,
HENRY M. JACKSON,

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., May 26, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States, Washington, D.C.

DEAR MR. STAATS: We have received information that the Energy Research and Development Administration has initiated a major redirection of the FY 1977 nuclear research program. Major changes, including terminations of ongoing subprograms, apparently are underway in the uranium enrichment program, the fuel cycle program, the Liquid Metal Fast Breeder Reactor, and the waste management program, among others, to redirect them consistent with the President's proposed FY 1978 ERDA authorization. Thus far, we have only been advised of a proposed change in the Clinch River Breeder Reactor Project (CRBRP) by Deferral No. D77-58 and a May 18, 1975, ERDA submission under Section 106 of P.L. 91-273, as amended. There has been no notification of any reprogramming under appropriate authorization and appropriation procedures, deferral or rescission messages under the Impoundment Control Act of 1974, or other required notification under Section 202 of the Atomic Energy Act, as amended, regarding any changes in other nuclear research programs. We consider that any such program changes, therefore, are unauthorized under existing law.

We are concerned that any such changes in FY 1977 will effectively preempt Congressional participation in these major nuclear research decisions. Both Houses are now actively considering the President's FY 1978 proposals in the authorization and appropriation processes. Accordingly, to preserve the Congressional prerogative to participate in those decisions, we request that you immediately initiate audit of the ERDA nuclear research program.

The audit should review any changes in the FY 1977 program which should be the subject of authorization or appropriation reprogramming notifications, Section 202 notifications, or Impoundment Control Act special messages. If a determination that any special message is required, we would expect that a report to Congress under Subsection 1015(a) of the Impoundment Control Act will be made as soon as possible. In any event, we request a status report on the audit no later than June 8, 1977.

We consider this a matter of urgency to ensure that the Congressional prerogative in the FY 1978 nuclear decisions is preserved and is not preempted by an unauthorized budget action in FY 1977.

Sincerely,

CLIFFORD P. HANSEN,
Ranking Minority Member.
HENRY M. JACKSON,
Chairman.

Mr. BAKER. Mr. President, I yield back the remainder of my time under the standing order.

Mr. ROBERT C. BYRD. Mr. President, I would like to use just a little of my time.

The PRESIDENT pro tempore. The majority leader is recognized.

SENATOR HOWARD CANNON—OPERATION MARKET-GARDEN

Mr. ROBERT C. BYRD. Mr. President, I would like to call attention this morning to the United Artists film, "A Bridge Too Far," that recently premiered here at the Kennedy Center in Washington, with Britain's Princess Anne as the guest of honor representing Queen Elizabeth.

In the book on which this film is based, Cornelius Ryan's remarkable story of Operation Market-Garden in World War II, the author had this to say—and it aptly describes both the historic events of a magnificent Allied operation in that war and their depiction in the film "A Bridge Too Far":

Shortly after 10 a.m. on Sunday, September 17, 1944, from airfields all over southern England, the greatest armada of troop-carrying aircraft ever assembled for a single opera-

tion took to the air. In this, the 263rd week of World War II, the Supreme Allied Commander, General Dwight David Eisenhower, unleashed Market-Garden, one of the most daring and imaginative operations of the war . . .

Market, the airborne phase of the operation, was monumental: it involved almost five thousand fighters, bombers, transports and more than 2,500 gliders. That Sunday afternoon, at exactly 1:30 p.m., in an unprecedented daylight assault, an entire Allied airborne army, complete with vehicles and equipment, began dropping behind the German lines. The target for this bold and historic invasion from the sky: Nazi-occupied Holland.

It was, said the New York Times, reviewing the story, "one of mankind's most momentous days".

"With astonishing precision", Ryan writes, "the planes of the IX Troop Carrier Command left the ground at 5- to 20-second intervals," that day. "In wave after wave they rendezvoused above the town of March, Cambridgeshire, and from there set out in three parallel streams to cross the coast at Aldeburgh."

Once over the target, Ryan reports:

Despite the bursting shells that engulfed the planes, the formations did not waiver. The pilots of the IX Troop Carrier Command held to their courses without deviating . . . In total disregard for their own safety, troop carrier pilots brought their planes through the flak and over the drop zones . . . Only two planes failed to reach the drop zone, and the IX Troop Carrier Command took the brunt of all the casualties by their heroic determination to get the troopers to their targets. Of the 424 C–47's carrying the 82nd (Airborne Division), every fourth plane was damaged and sixteen went down, killing their crews.

Piloting one of those planes shot down was Maj. Howard Cannon, now the distinguished Senator from Nevada and a colleague with whom I am proud and honored to have served during the 19 years since we were both first elected to the Senate in 1958.

Senator CANNON, on that momentous day in history, September 17, 1944, delivered the paratroopers aboard his plane to the drop zone over Neimagen. Leaving the drop zone, at 2 o'clock that afternoon, his aircraft was shot down. He and Lt. Col. Frank Krebs, now the Senator's staff assistant, bailed out and parachuted to the ground.

For 42 harrowing days they were able to evade the enemy and finally escaped, returning through Allied lines to rejoin their unit, the 440th Troop Carrier Group in the IX Troop Carrier Command, to then take part in subsequent battles for Bastogne, the crossing of the Rhine and the final penetration of Germany.

We are a long way from the events of those days 33 years ago when the courage and determination of so many Americans were so clearly shown. But we are not so far removed in time from later examples of that same courage and determination. During the more than 18 years HOWARD CANNON has served with us here in the Senate, he has almost daily displayed the same fortitude, the same refusal to deviate from a clearly set course of duty, the same sense of high obligation to his country, to the people of his State, to all his fellow citizens. And I take this occasion to note for the record not only the personal courage he displayed in combat in World War II, but the long and distinguished service in this Senate of a colleague with whom I am indeed, as we all are, proud and privileged to serve.

The PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. HATCH) is recognized for not to exceed 15 minutes.

CALL FOR HEARINGS INVESTIGATING THE FTC DIVESTITURE OF KENNECOTT/PEABODY

Mr. HATCH. Mr. President, may I call the Senate's attention to a misuse of Government power by a Federal agency; a misuse which may soon affect every American.

I refer to a greatly criticized and progressively suspicious move by the Federal Trade Commission to divest Kennecott Copper Corp. of its subsidiary, Peabody Coal Co.

What, appears to be a legitimate action by the FTC to increase competition may actually be something very different indeed.

First I shall sketch a bit of background. Under current antitrust laws, the Federal Trade Commission, along with the Justice Department, is mandated to see that no unfair competition or monopolization occurs in U.S. industry. The FTC watches over mergers of companies, and purchases of smaller companies by larger ones, to assure the public that such mergers and purchases do not lessen competition. In industries where only a few independent companies exist, that is, "concentrated" industries when two companies merge, fewer companies remain to compete with each other. Likewise, if a large company, which intended to enter an industry itself, instead of entering, buys a smaller company already in the concentrated field and then gives it extensive financial backing, there is a loss in potential competition; that is, the FTC feels the large company would have enhanced competition had it entered the field itself but, instead, it chose a less competitive route.

Whatever the method, if competition is diminished, the remaining companies are freer to raise prices or cut production. The public suffers.

The FTC has been given the power to restore competition by ordering a separation of the merging companies or the divestiture of the newly bought company from its acquirer. It may order divestiture either if these companies are both in the same concentrated industry or if one is a "potential entrant" into the industry. The size of the merging companies and the amount of concentration in the industry are critical factors determining competition. The FTC continually monitors these factors.

But that is not all. The FTC must be careful. A merger or acquisition of a firm, especially across diversified industries or within nonconcentrated areas, may be a good thing. If the companies are small, their merger may help them compete against the larger firms in that same field. If one firm is a potential entrant into a nonconcentrated area, which instead of entering, buys up a firm and adds financial backing to its activity, this boost helps strengthen the already wide-open competition. Also, if these companies come from two different lines of business outside of each other's industry, their joining may help balance each other's ups and downs and actually allow each to compete more effectively within its separate area. If the FTC divests these kinds of mergers, the companies are weakened.

Their competitive ability within their respective industries is impaired, and competition is actually damaged. Detrimental divestiture may occur if the FTC inaccurately analyzes a merger's outcome or if it misjudges the actual nature of the affected industry. The FTC ends up harming, not helping, the public.

Such a case of harming the public is now occurring. But this time, it appears not just a simple case of inaccuracy or misjudgment. It may be something patently intentional. Let me explain.

Back in 1966, Kennecott Copper, the Nation's No. 1 copper producer, found it needed to diversify its business. It had to compete against foreign multimetal conglomerates, as well as to buffer itself against the rises and falls of the copper industry. Kennecott hunted and found Peabody Coal, the Nation's No. 1 coal producer, up for sale. It hoped that since Peabody was in a different industry, the ups and downs in its own industry would not coincide. Instead, Kennecott hoped the merger would balance or stabilize each company.

Although someone might argue that the merger of the two companies which are No. 1 in their respective fields could be anticompetitive, the merger, in fact, helped competition, in the copper and in the coal industries. Without the merger, Peabody's flexibility was especially hampered in long-term fixed contracts that undercut any profit. This kept Peabody from obtaining the bank financing required to open today's large and costly coal mines. Kennecott could provide the vitally needed influx of funds required by Peabody to expand and develop its coal mining properties. Also, Peabody was not alone in its field. Its strong competitors included many other coal companies, but also giant international energy combines like Shell and Standard Oil of New Jersey, whose assets dwarf even the biggest coal producers.

Since 1963, oil companies themselves had expanded into coal by acquiring major coal companies and vast coal reserves. It is interesting that the FTC had not brought antimerger actions against any of these acquisitions. Needless to say, Peabody was not a star front runner. Both Kennecott and Peabody needed the merger in order to compete effectively in their own areas. But instead of fewer problems, their merger brought more.

A day or so after the sale of Peabody to Kennecott was announced, Kennecott went to the Justice Department to get an OK on the purchase. The word came that the Department was about to give the merger a clean bill of health when the Federal Trade Commission, instead,

decided to investigate. But when Kennecott went to the FTC, the agency was not sure whether to prosecute or not. After 2 years of talks and agency stalling, Kennecott finally went ahead with the merger. Only then did the FTC move, charging on August 5, 1968, that Kennecott could not acquire Peabody because, though Kenncott was in the copper business, it actually was a potential entrant itself in the coal industry.

Everyone with any real knowledge of the situation was confident Kennecott would win. Sure enough, a full year and a half later, on March 9, 1970, the FTC hearing examiner, Mr. Donald R. Moore, came down on Kennecott's side. He submitted a well-reasoned judgment that withdrew the foundation right out from under the "potential entrant" theory.

Mr. Moore declared that the coal industry was in no danger of losing competition, whether or not potential entrants bought up some existing companies, because there remained a hoard of companies still competing. Further, the coal industry itself competed against other forms of fuels such as oil, natural gas, and nuclear energy. As far as the FTC's hearing examiner was concerned, the merger could stand.

But this was only the first round. The Agency's prosecutor was not satisfied. He decided to appeal this examiner's judgment to the full five-man Commission.

Here is where my questions begin to arise. For 9 years, it had never once upheld an examiner's decision if he ruled against an FTC's antitrust complaint. But this particular Commission was especially prejudiced. A full 18 months before the FTC received the case for judgment, in a magazine interview, Mary Gardiner Jones, one of the five Commissioners, cited Kennecott as a particularly clear-cut example of a potential entrant who should be barred from an acquisition. This comment, and others made before and during the hearing, makes one seriously wonder why such bias collected against this case. I have a copy of an article dealing with this case from the September 1971 Fortune magazine entitled, "How Kennecott Got Hooked With Catch-22." I ask unanimous consent that it be printed in the RECORD at the end of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Mr. President, as I was saying, when Kennecott went into the first hearing, almost everyone with a thorough understanding of the case expected Kennecott to win. This feeling continued throughout the full Commission's review. It goes without saying that, when the final review decision came down and ordered Kennecott to divest of Peabody, the entire U.S. business world felt the shock.

Even Ralph Nader's raiders, who usually complain that antitrust is far too weak, in a report on the coal industry suggested that the FTC picked the wrong target, that Kennecott's entry into the coal business actually added "an element of independence sorely lacking."

How did the Commission justify its decison? It invented new law. The FTC broadened its view from concentrated industries to industries that show merely a "trend" toward concentration. That is, it decided it could divest all potential entrants not only in concentrated industries but in areas which only exhibited a tendency toward larger and fewer firms. There are few areas, if you construct your figures appropriately, that are not vulnerable to this kind of attack.

Thus, although the FTC admitted that the coal industry was not concentrated, the Commissioners calculated it was tending that direction and therefore justified antitrust action. They further decided that Kennecott was in fact a potential entrant into coal because, they reasoned, it had to have been interested in coal or it would not have acquired Peabody.

I refer anyone interested in this tortured legal reasoning to the Fortune article I have just submitted. The absurd bottom line is this:

> The only large corporation eligible to acquire a big coal company would be one that does not want to be in the coal business at all.

Of course, if it does not want to be in the business, why would it ever buy a coal company? This question somehow evaded the Commissioners. Kennecott was ordered to divest.

But this is not the real Catch-22. After Kennecott had unsuccessfully appealed all the way to the door of the Supreme Court; after it had continually been denied a reopening of its case; after it had pointed out that during the interim the coal industry had not actually concentrated but, on the contrary, had been glutted with new competitors since the energy embargo; and after it had tried to find buyers for a troubled billion dollar coal company who understandably are reluctant to appear; what company has the FTC now approved as the final purchaser of Peabody from Kennecott? To answer that question I ask unanimous consent to have printed in the RECORD after my remarks a followup article appearing in last month's Fortune entitled "Down the Chute With Peabody Coal."

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HATCH. Mr. President, the final decision has been made. The new owner of Peabody Coal will be a consortium of investors which includes no less than four potential entrants into the coal industry: Newmont Mining Co., Flour Corp., Bechtel Corp., and Williams Co. Under the FTC's doctrine, if Kennecott must be divested because it is a "potential entrant," the FTC should have no business allowing these four companies to take Kennecott's place.

But further, Newmont Mining, the admitted leader of the group, is a twin brother to Kennecott. It is the fourth largest copper producer in America and has many other mining interests. Most surprisingly, Newmont already has a substantial interest in Continental Oil, who owns Consolidated Coal, America's second largest coal producer, right behind Peabody itself. It also owns 8 percent of the world's largest lead producer, St. Joe Minerals, who in turn owns Massey Coal, the 11th largest coal producer.

If Kennecott has no business merging with Peabody, the FTC has no business at all allowing Peabody to go to the Newmont group, because Newmont is actually not only a potential entrant but already in the coal business. With Kennecott's divestiture Newmont will be well on the way to becoming a coal monolith.

But the greatest Catch-22 is what will happen to Kennecott itself.

For the divesting of Peabody, Kennecott will receive $1.2 billion, with a present value of $925 million in cash, securities and notes. This immediately makes the corporation a prime target itself for a takeover. And what business interests will likely take it over? The best guesses in the business community have fingered either a cash-hungry oil company, or an Arab state.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a short clipping from this month's Forbes magazine which targets Kennecott as now prime for such a takeover.

There being no objection, the clipping was ordered to be printed in the RECORD, as follows:

> EVANS: Kennecott is a great buy. They may sell the coal company for much more than what the parent company is selling for. Zero is what the public thinks the management is worth—that they'll just blow the coal company money on a hole in the ground or something.
>
> (Interview with Thomas Mellon Evans, "Is History Repeating?" Forbes, June 15, 1977, page 104, 109)

Mr. HATCH. Finally, Mr. President, what has the FTC to say to justify handing Peabody to Kennecott's competitor, as well as allowing these potential entrants to simply acquire their way into the coal business and placing Kennecott precariously close to a takeover? The FTC is stonewalling. Time and again it has refused a rehearing of the Kennecott case. Worse, it is pushing through the Newmont acquisition as fast as possible.

Mr. President, Newmont, which stands to gain everything, is understandably moving just as quickly. Immediately after the FTC announced permission for Kennecott to sell the coal company the Newmont group announced the managers who will run it. Within the next few days, the transfer will be consummated.

As I watch these events unfold, truly I cannot understand what the FTC is up to. What could possibly have brought the agency to this extreme dementia?

Here we observe a productive American copper company which legitimately decides to acquire diverse interests. Next we see an acquisition of Peabody that shows every sign of substantially helping competition and stabilizing both companies. But we discover there is opposition from the FTC for its own reasons. A first round hearing, however, justifies the acquisition on sound legal and economic grounds. Once spurned the bureaucrats at the FTC conduct a second hearing, twist the legal doctrine into an enigma and establishes a treacherous prec-

edent. Then we witness a period of exhausting litigation and continued criticism for the FTC's decision from many quarters, as witnessed in my submissions into the RECORD. Then we are startled by an unjustified OK from the FTC allowing the transfer of Peabody to a consortium of potential entrants into the coal market, led by one of Kennecott's major competitors which among other things, already owns a piece of the second largest American coal company. Finally, we hear believable predictions of the actual loss of Kennecott to what—to oil interests. A more masterful demise of a viable corporation could not have been better brought off even if it had been planned. I have to ask, what is going on?

Perhaps the FTC argues that the coal industry has changed since its Kennecott decision and the potential doctrine does not apply. But if this is true, why divest Kennecott at all?

Either the FTC is wrong and no potential entrant should be barred from acquiring a coal company, in which case Kennecott should not be divested, or it is right. But in either case why give Peabody to new "potential entrants?"

Mr. President, I call upon the FTC to back up and admit its errors:

First. The FTC was overzealous in considering prosecution when the Justice Department was deciding otherwise;

Second. The FTC was wrong not accepting the well-founded decision of its own hearing examiner;

Third. The FTC was wrong to bow to obvious pressures and public sentiment, and to its own clear bias, when it decided to divest Kennecott;

Fourth. The FTC was wrong to create a vicious legal doctrine that in effect makes it able to expand antitrust prosecution almost anywhere it chooses on evidence as flimsy as trends toward concentration, impossible actually to prove or disprove;

Fifth. The FTC was wrong in its assessment that the coal industry was concentrating;

Sixth. The FTC was wrong in not giving Kennecott a rehearing when the commission's prediction allegedly supporting its decision to divest Kennecott in the first place had proven false;

Seventh. The FTC is now blatantly wrong, even under its own new-founded rules, to permit the Newmont group to obtain Peabody when the sale will simply remove "potential entrants" from the field and help consolidate Newmont's hold on the two largest coal producers in this country; and finally

Eighth. The FTC must now admit its actions in the Kennecott case have not led to enhancing competition. On quite the contrary, the FTC has increased concentration, weakened the health of both the No. 1 copper and No. 1 coal producer, and perhaps actually primed a takeover of Kennecott.

I say again, a more masterful demise of a viable corporation could not have been better brought off.

And that, Mr. President, brings me to my last issue. I ask: Could the demise of Kennecott actually have been intentional?

We do not know, but we have been led to believe that a well-known Nixon campaign fundraiser allegedly approached the Kennecott management for a campaign contribution while the Peabody merger was under FTC consideration. Kennecott refused to contribute to the campaign. The fundraiser allegedly retaliated by directing administration pressure upon the Federal Trade Commission and influenced the decision against Kennecott. Put simply, the FTC allegedly became the instrument of a political reprisal. This political reprisal may well mean the destruction of Kennecott.

Mr. President, as I said, this is little more than a rumor. I want the truth. I want to know what really has gone on here and to see if these rumors are justified.

I call for hearings by the Judiciary Committee to investigate this entire affair. I am sending a letter today to Senator KENNEDY, chairman of Antitrust and Monopoly Subcommittee, requesting that these hearings begin as soon as possible. All FTC documents in this case, the examiners' opinions, the Commission's findings, and any intraoffice communications must be brought forth. All the FTC officials involved should be called to testify. The managers of Kennecott, the pertinent Newmont executives, and that well known Nixon fundraiser should all be questioned before the committee.

This is not just a blow to a perfectly law-abiding company. This divestiture means the disruption of jobs, the curtailment of copper and coal production, more concentration in the mining industry and less competition as well as higher prices for coal—a valuable energy supply—one which over the next decade is marked as this Nation's most important natural resource for self-sufficiency.

Finally, and of equally critical importance, we must control the tyranny of a nonelected Government agency. The hearings will pin down the FTC, require it to explain its actions, reveal impropriety if it exists, and open up the entire issue to public review. If a former Nixon campaign fundraiser actually pressured the FTC move, we will find out. And subsequent court action if warranted, may proceed. This divestiture must be completely justified or immediately be terminated.

Mr. President, I believe that opinions have been written by FTC workers and experts that indicate that this divestiture never should have taken place. I believe that a thorough investigation will show that.

It is about time that we quit allowing these governmental agencies to interfere with competition and in some ways to foster anticompetitive practices, instead of working to create and foment competition, especially in the coal business, where it seems to me we have to put forth greater effort in order to save this country from its energy dilemma.

I probably will put my letter to Senator KENNEDY in the RECORD on Monday or Tuesday.

As a member of the Judiciary Committee, I would like to be invited to sit with the Antitrust and Monopoly Subcommittee during these hearings and ask questions that I desire.

I, for one, hope that some of the charges that have been made known to me—and that I am now making—will be disproved. The law is the law, and the FTC must apply the existing law and not create new law in its misapplication. I think it is wrong. I cannot stand still and allow this to happen.

I should like these proceedings to proceed expeditiously; because if there are some justifications that I do not see, I would not want to hold up anybody in this matter. I have some questions, and I think every antitrust lawyer in the country has some questions. Certainly, the FTC ordinarily would not have acted in this fashion.

I ask that my statement be considered, that my letter be complied with, and that we hold hearings in this matter and resolve the difficulties that I see have been created.

EXHIBIT 1

HOW KENNECOTT GOT HOOKED WITH CATCH-22

(By Rush Loving Jr.)

Ambiguity is a word used to describe several of the Nixon Administration's domestic policies, but never is it used so aptly as in the case of antitrust. Corporate planners considering mergers or acquisitions might have been heartened to hear George P. Shultz, President Nixon's top economic adviser, in a recent speech in Chicago, challenge the theory that bigness is bad, declaring that he sees no growth of monopoly power in the U.S. today. The President himself is known to feel that too strict enforcement of antitrust may inhibit U.S. corporations as they try to compete with giant foreign cartels. The badly fragmented textile companies, for example, are corseted by antimerger guidelines while competing against much larger chemical-textile combines abroad. Some economists, including those advising the White House, believe that, if the U.S. is to raise its productivity and continue to compete with other nations, it must tolerate large-scale consolidations in industry, because mass markets and modern technology demand such huge quantities of capital.

But the Federal Trade Commission and the Antitrust Division of the Justice Department do not seem to have got the message. With a misplaced fervor that would be downright quaint were it not so dangerous officials at both the FTC and Justice—many of them Nixon appointees—are working to set trust-busting records. A month ago International Telephone & Telegraph Co., one of the most efficient and aggressive of the multinational companies, came to terms with Justice by agreeing to sell off six subsidiaries with annual sales totaling $1 billion (see Businessmen in the News, page 33). Three months earlier, in a highly significant case that has attracted little public notice, the FTC reversed the findings of its own examiner and ruled unanimously that Kennecott Copper Corp. must divest itself of Peabody Coal Co. Kennecott has appealed the ruling to the federal courts, where the case could bring forth a landmark decision.

TWO VULNERABLE GIANTS

What makes the Kennecott case worth study is that it is a particularly barefaced example of antitrust for its own sake, without a shred of justification in any valid public policy. On the surface, of course, it looked as if two giants were linking arms to dominate U.S. basic industry. When Kennecott, the nation's largest domestic copper producer, bought Peabody in 1968, it thereby

became in one stroke the biggest U.S. coal miner as well. Actually, however, the merger had the effect of promoting more vigorous competition. Kennecott needed to diversify in order to provide itself with a buffer against the ups and downs of the copper industry, from which it derived more than 80 percent of its business. Not only is Kennecott losing its only foreign source of copper—its rich Chilean mine is being nationalized—but along with the rest of the copper industry it has been plagued for years by devastating strikes in the U.S. and by sharply fluctuating demand and prices. The dependable income from Peabody gives Kennecott a flow of cash when times are hard for the copper industry, and it allows Kennecott to compete more effectively against the international multimetal combines, which have acquired control of two U.S. mineral companies, Engelhard and U.S. Borax.

On its side, Peabody gained needed additions of capital and competitive strength by merging into Kennecott, which can provide the outside financing that is required to open today's large and costly coal mines. Peabody's important competitors include not just the other coal companies but also the giant international energy combines, like Shell and Standard Oil of New Jersey, whose assets dwarf those of even the biggest coal producers. Peabody's major product, steam coal for power companies, must compete against the nuclear fuel, oil, and gas that the petroleum companies sell.

Furthermore, since 1963 the oil companies have expanded into coal itself by acquiring major coal companies and vast hoards of coal reserves. And the oil companies may soon become coal consumers as well, by producing gas from coal, a process that is still in the experimental stage. While the Kennecott case has undergone three years of litigation, none of these oil-company acquisitions has been challenged, and only now is the government considering a case against them. This anomaly was not lost on Ralph Nader's raiders, who ordinarily complain that antitrust is far too weak. In a report on the coal industry, two of Nader's investigators suggested that the FTC had picked the wrong target and that Kennecott's entry into the coal business added "an element of independence sorely lacking."

THE "POTENTIAL COMPETITOR"

The FTC boldly disregarded the true state of competition in coal. The agency rather saw the case as the perfect opportunity for a sweeping expansion of that doubious antitrust doctrine known as the "potential-competition" theory. The commission ruled that Kennecott, with 1966 assets of $1.1 billion, had the mining experience and the resources to go into the coal business on its own, either by acquiring a smaller coal company or by building one up from scratch. Thus, the FTC reasoned, Kennecott was a potential competitor in the coal industry before the merger, and it abandoned that potential when it bought Peabody, the largest coal producer of them all. Moreover, the FTC declared that it knew of no potential entrants other than Kennecott, quite a statement to make in view of the acquisitions by the oil companies.

The potential-competition theory gained force with Justice William O. Douglas' 1967 opinion, disallowing the Procter & Gamble-Clorox merger (see "The Supreme Court Versus Corporate Efficiency," FORTUNE, August, 1967). Until now, however, the courts have applied the theory only when a company makes an acquisition in an industry that is "highly concentrated," meaning one in which the top eight companies command 50 percent or more of the market and the largest single company controls at least 20 percent. Since the coal industry fits no such description, the FTC broadened the ground rules. It held that because the larger coal companies had increased their market shares in the past fifteen years, the coal industry was showing a "trend" toward concentration.

Moreover, in a bit of reasoning right out of Catch 22, the commission declared that Kennecott had admitted it was a potential entrant into the coal industry by the very fact that it had been interested in acquiring a coal company. To carry this theory to its illogical conclusion, the only large corporation eligible to buy a big coal company would be one that didn't want to enter the business. Since by FTC standards there is a long list of major industries showing a "trend" toward concentration, the commission in effect has declared open season on any large company that makes a sizable acquisition, whatever the effects of the merger on corporate efficiency and competitiveness.

THE CUSTOMERS DO NOT COMPLAIN

The avowed purpose of the Clayton Act is to protect customers and competitors from injury. But no competitor has raised complaints against the Kennecott-Peabody merger, and, in fact, the larger coal companies generally favor it. And the utilities that purchase the bulk of Peabody's output say they have seen no ill effects. Aubrey J. Wagner, chairman of Peabody's biggest customer, the Tennessee Valley Authority, says he doesn't know of any problems. TVA suffered a sharp rise in prices from other suppliers-during a severe coal shortage last year, but Wagner notes, "Peabody was one company helpful to us in getting coal during the shortage." Though the FTC professes to be concerned about growing concentration in the coal industry, most utilities actually prefer to deal with larger mining companies. Says George Rifakes, who buys coal for Commonwealth Edison, "The big companies have the financial capability back of their commitments. They have longer-term reserves and plans, whereas the small man may not want to be tied up."

The FTC's decision flies in the face of a 1969 task force report on antitrust, which was commissioned by the White House but has never been officially released. Among other things, the task force, which was headed by Professor George Stigler of the University of Chicago, recommended drastic revision of the Justice Department's 1968 merger guidelines, some of which were described as "so loose and unprofessional as to be postively embarrassing." And, as if it had a forewarning of the Kennecott decision, the Stigler report argued against indiscriminate use of the potential-competition theory. "The identity of potential entrants should not be established by introspection," said the report. "If the producer of X is truly a likely entrant into the manufacture of Y, the likelihood will have been revealed and confirmed by entrance into Y of other producers of X (here and abroad), or by the entrance of the firm into markets very similar to Y in numerable respects." In other words, if a number of copper companies had been moving into coal, Kennecott could have been considered a potential competitor of Peabody. Such was not the case.

IN SEARCH OF THE FUTURE

If Kennecott was a likely entrant into the coal business, that fact escaped Kennecott's management for years. When Frank R. Milliken, a precise and strong-willed mining engineer, became president in 1961 at the age of forty-seven, the company's major problem was obvious, but the solution was far from clear. Kennecott was a cash-rich company living off its past. Although its domestic copper reserves would last well into the twenty-first century, it had not made a major new strike in fifty years. Because of rising nationalism, large new investments in such copper-rich areas as Africa and Latin America seemed highly risky. Urged on by two peppery letters from Edmond Guggenheim, a former director and member of one of Kennecott's founding families, Milliken began looking about for some way to diversify.

Company documents, produced for the antitrust proceedings, depict a large and deliberate corporation fumbling its way toward the Peabody merger by a process of trial and error. Coal was not even Kennecott's first choice. In 1963, Milliken hired Booz Allen & Hamilton Inc., the management consultant, to find him an expert who could make a study and advise whether Kennecott should enter the oil industry. That November, on Booz Allen's recommendation, Milliken hired Gordon Fisher, a wavy-haired, drawling Texan who had been vice president of Plymouth Oil Co. In July, 1964, Fisher turned in an affirmative report, recomending investing as much as $700 million to buy an oil company. He spent the next year looking at all oil companies worth from $200 million to $1 billion. He and Milliken talked with representatives of three, Skelly Oil, Shamrock Oil & Gas, and Sunray DX, but none seemed particularly interested, and Fisher never even reached the bargaining stage with any of them. By the fall of 1965 he and Milliken had pretty well given up hope of ever finding a suitable partner in oil.

Meanwhile, Kennecott took a step that was to prove fateful. As a hedge against rising fuel prices, its Western Mining Division in Salt Lake City paid $750,000 to acquire the coal reserves of the Knight-Ideal Coal Co., which operated a small mine up in the mountains of central Utah. It was such an insignificant transaction that it took up only fifteen minutes of Kennecott's June, 1965, board meeting. For C. D. Michaelson, then Kennecott's mining vice president (now president, Metal Mining Division), it represented a disappointing conclusion to a protracted disagreement with one of his subordinates.

Beginning in 1963, Michaelson had been urging John C. Kinnear Jr., the general manager of Western Mining, to study the possibilities of entering the coal business on a broad scale. In a series of letters, telephone calls, and monthly reports, Kinnear fended off his boss, insisting that he had neither the staff nor the expertise to take on such a study.

What Kinnear did want, however, was cheaper fuel for the generating plants that power the refineries and the electrified railways at Kennecott's Nevada and Utah mines. The generators in Nevada burned coal, and those in Utah used gas but could be converted to coal in an emergency. While dickering for a lower rate from the gas company that supplied the Utah complex, Kinnear began searching for a source of coal to use as a hedge and bargaining tool. In 1964 he took an option on tiny Knight-Ideal, which was producing about 180,000 tons of steam coal a year. This was far from the kind of coal deal Michaelson had in mind, but he raised no objection. Not long after the sale was concluded, Kinnear worked out a satisfactory gas contract, and Kennecott never did mine any of the Knight-Ideal coal. "The only thing they ever spent any money on was padlocks," says the caretaker, Tom Larsen, who visits the abandoned shaft every two weeks from his home in Wellington fifteen miles away.

While Kinnear had been buying the Knight-Ideal reserves, Milliken had been worrying about the diversification program. As oil began to look less and less likely, he was attracted to coal, an industry then beginning to show a growing return on investment. In September, 1965, Michaelson met in his New York office with two repre-

sentatives from Booz Allen and told them that Kennecott needed a coal expert, someone who would be what Gordon Fisher was for oil. He wanted a man who could help Kennecott get into coal and then run that business, if need be. From their office later, the two Booz Allen men dispatched a letter back to Michaelson confirming his instructions. The letter was to have serious consequences for Kennecott during the FTC hearing.

Booz Allen soon found that executives were hard to come by in the coal industry. Most, if not all, good executives either owned their own companies or held equity positions so large that they would find it virtually impossible to leave. Thus Booz Allen finally suggested Kennecott buy a coal company that had a capable senior executive. "If that's the only way you can get a man, maybe that's where we ought to look," Michaelson replied.

Booz Allen eventually came up with several acquisition possibilities, including North American Coal Corp. of Cleveland, but none sparked Michaelson's interest. Then, on St. Patrick's Day, 1966, a Kennecott officer told the country's leading coal consultant, Paul Weir, chairman of Paul Weir Co. in Chicago, of Kennecott's interest in coal. Weir replied that Peabody Coal Co. might be up for sale.

A COAL GENIUS FROM KANSAS

Peabody Coal was the handiwork of two brothers from Pittsburg, Kansas, Merl C. Kelce and his brother Russell. Over the years the Kelces, with three or four other investors, had built up a small group of strip mines in Oklahoma, Kansas, and Missouri, selling mostly to power companies. By the early 1950's their group, called the Sinclair Coal Co., was expanding rapidly, with Russell as president and Merl heading operations. In 1955 they merged Sinclair into the ailing Peabody Coal Co., whose only major assets at that point were two large mines in southern Illinois. The deal gave them control of Peabody and a base to build on. Two years later, when Russell died, Merl Kelce became president.

Descended from two generations of miners, Merl Kelce was a coal genius. He had a trained intuition for assessing coal reserves, and he methodically bought up both coal lands and operating coal companies. He got long-term contracts from the utilities without having the coal for delivery, and then, pioneering a new kind of financing for the industry, he used the contracts as collateral for bank loans to finance new mines.

Under Kelce, Peabody more than doubled its reserves within ten years, taking drilling rights in such remote spots as the desolate Black Mesa in northeast Arizona and even in Australia, where it developed a mine to supply Japanese steel mills. The company's output jumped from 23 million tons in 1957 to 54 million in 1966, making it the largest U.S. coal producer of them all. Earnings jumped with production, from $8,670,000, or 96 cents per share, in 1957, to $26,300,000, or $2.64 a share, in 1966.

Tall, with a long rounded nose and glittering blue eyes, Kelce was a demanding perfectionist, and he put together one of the best managements in the industry. But by 1966 he had concluded that running the biggest coal company was not nearly as much fun as building it, and he was thinking about selling Peabody. He talked with several possible purchasers. Cerro and Atlantic Richfield among them, but nothing happened. Then Paul Weir called to tell him about his talk with the Kennecott official, and in April, 1966, Kelce flew to New York for his first meeting with Kennecott.

He and Frank Milliken quickly hit it off, and after several more meetings over the next few months, Milliken agreed to Kelce's price of $585 million in cash, or $47.50 a share, plus the assumption of $37 million of Peabody liabilities. It was a handsome settlement—Peabody shares had hit a record high of $47 two years earlier, but the price had fallen since to about $30. At the price agreed upon, the Kelce family's holdings were worth about $58 million.

DEAN GOES TO WASHINGTON

On July 15, Kennecott's board approved the deal, and four days later Kelce and Milliken signed an agreement in principle. A day or so after the merger was announced, Arthur Dean, senior partner of Sullivan & Cromwell, the prestigious Wall Street firm that represents Kennecott, visited Donald Turner, then the head of the Justice Department's Antitrust Division. The puckish, scholarly Dean is no stranger to Washington. He has taken on special jobs for Presidents since Franklin Roosevelt, including negotiating the prisoner releases at the end of the Korean War. Dean asked Turner for an antitrust clearance from Justice for the proposed acquisition. Turner had recently given his blessing to Continental Oil's acquisition of Consolidation Coal—Peabody's biggest competitor—and Dean expected the same treatment for Kennecott.

But over at the FTC, some of the staff were urging the commission to act against the merger. The two most powerful and influential opponents of the deal were William Boyd, a highly respected lawyer who headed the merger division, and Dr. Willard Mueller, the FTC's chief economist. Apparently their pleas were not lost on Paul Rand Dixon, then Chairman of the FTC, who was beginning to come under fire for the commission's sluggish performance on antitrust. Before Turner could decide on Dean's request, the FTC notified Justice that it was investigating the merger as a possible antitrust violation. Actually no serious investigation had yet begun. But FTC and Justice have a working arrangement to prevent duplications. The agency that first declares its interest gets the case. Thus Turner felt obliged to hand the Peabody merger over to Dixon, and Kennecott never got its clearance. Dean fought to keep the case at Justice, and it is said he even considered a personal plea to President Johnson, but he got nowhere.

Over the following year the FTC investigated, and Dean made trip after trip to Washington to meet with the lawyers and economists working on the case. In July, August, and September, 1967, Dean met no less than fifteen times with Boyd, Mueller and other members of the staff. In November he met with two commissioners and in January, 1968, he saw the full commission, which still had come to no decision on the merger.

By that time, Kennecott and Peabody had finished all the legal preparations for the merger. On the morning of February 8, Gordon Fisher, the oil expert, led a small delegation from Kennecott aboard a train for Wilmington. Fisher and about fifty lawyers, lenders, notaries, and Peabody and Kennecott representatives were to spend two days at a 100-foot chain of folding tables at the Corporation Trust Co. in Wilmington signing 2,500 deeds, contracts, and leases. Fisher had signed nearly a thousand of the documents when a phone call came in late afternoon. It was Milliken in New York. The FTC had just telephoned Dean the text of a letter it had drafted, warning that the commission would take action if the sale were completed.

Fisher spent the rest of the afternoon putting his name to another 500 documents while the rumor of the phone call began to trickle through the hallway outside, where the bankers and lawyers waited between signatures. Eight insurance companies, which were advancing nearly $150 million of the purchase price against Peabody's future coal production, began to reconsider, and next morning it became apparent that they would back out of the deal. Fisher drove glumly back to New York in a rented car.

In the next six weeks new financing was arranged. The banks now advanced $300 million against production payments, and Kennecott put up the rest, $285 million. On March 28 everybody went back to Wilmington, and Fisher led them in signing a new set of documents.

THE BATTLE OF THE LAWYERS

A week later the FTC issued a proposed complaint that, to the amazement of Kennecott's management, charged that Kennecott had entered the coal business (and become a competitor of Peabody) when it acquired Knight-Ideal, even though not a ton of coal had ever been mined. As is usually done in such cases, Dean went to Washington to see whether any sort of bargain might be reached via a consent order. In a session with Mueller and Boyd, Dean offered to get rid of the Knight-Ideal mine and Peabody holdings in Utah, Colorado, New Mexico, and Wyoming. But Mueller insisted that Kennecott sell every Peabody asset west of the Mississippi, which would have meant losing some of the company's richest reserves, in Arizona and Montana. This Dean rejected, and nothing came of the negotiations. Later a friend asked Dean whether he had not found it easier to bargain with the North Koreans.

On August 5, 1968, the commission issued its formal complaint against the merger, and the case went to Donald R. Moore, a thoughtful, careful hearing examiner who has been with the commission for twenty-three years. Heading the prosecution was Joseph J. O'Malley, who is considered one of the FTC's best trial lawyers. A tall, slim man with neatly trimmed, curling brown hair, O'Malley is an ardent advocate who was well acquainted with his subject: he had been raised in the coal fields of Pennsylvania.

To help defend Kennecott, Dean brought in Howery, Simon, Murchison & Baker, a large Washington law firm that specializes in FTC cases. The chief trial advocate for the defense was William Simon, a man of quick mind and tongue, a veteran trial lawyer. In all, Kennecott pitted as many as seven highly paid Wall Street and Washington lawyers against O'Malley and his two assistants. By FORTUNE's estimate, Kennecott's legal bill for the battle has run to $1 million thus far, ten times the estimated cost to the FTC.

O'Malley based his case primarily on the letters, memos, and reports that passed back and forth at Kennecott at the time of the Knight-Ideal purchase. He introduced Kennecott records showing that the company had tried to acquire three additional tracts of coal land in Utah soon after buying Knight-Ideal. But the most damaging document of all was that letter from Booz Allen, confirming the instructions from Michaelson. In summing up Kennecott's reasons for wanting a coal expert, the letter said: "Kennecott has acquired some coal properties and it is anticipated you will enter the coal industry with a major effort. . . Your general goal is to build a business with $100 million to $200 million sales a year." This was indeed a damaging way of describing Kennecott's intentions, and, being the good lawyer that he is, O'Malley made the most of it.

FIRST ROUND TO KENNECOTT

In turn, the Kennecott lawyers leaned heavily on the testimony of the men who wrote these documents, arguing that only through their explanations could be documents be read with any perspective. Kennecott witnesses testified that the coal parcels the company had tried to buy in Utah had been sought as an additional source of fuel

and not with any idea of building Knight-Ideal into a large coal company. The official who had drafted the Booz Allen letter took the stand and swore that the $100-million coal operation had referred to the size of the coal company Kennecott wanted to acquire and had had nothing at all to do with Knight-Ideal.

The facts of the matter overshadowed O'Malley's skillful prosecution. On March 9, 1970, in a searching opinion that carefully dissected every aspect of the case, examiner Moore held that it made no difference whether Kennecott was a potential competitor of Peabody, because even after the merger there was no lack of competition in coal. "The complaint should be dismissed for failure of proof," he declared. "The record fails to establish that a high degree of concentration exists in the production and sale of coal or that there is any dearth of potential entrants. The record affirmatively establishes the contrary, so that the elimination of a single potential competitor lacks competitive significance." Coal, Moore concluded, "is produced and sold in competition with other fuels, and this interfuel competition is another factor that minimizes the competitive significance of the elimination of a single potential competitor in coal."

But that was just the first round. O'Malley appealed Moore's decision to the full commission, which had every appearance of a hanging jury. Not since 1961 had the commission failed to overturn the decision of any examiner who ruled against an FTC antitrust complaint. And in a magazine interview eighteen months before the FTC received the Kennecott case for its judgment, one of the five commissioners, Mary Gardiner Jones, had cited Kennecott as a particularly clear-cut example of the potential competitor who should be barred from an acquisition.

A LETTER FROM THE HILL

Against this background, in October, 1970, there came a letter to the FTC from Representative Joe L. Evins of Tennessee. The TVA, which serves Evins' constituents, had just raised its electricity rates 25 percent. One of the reasons given was an increase in coal costs. TVA had written Evins and other Tennessee Congressmen complaining that coal prices had increased and the supply of coal had dwindled almost immediately after the oil companies and other large corporations had bought coal companies. TVA's Aubrey Wagner said he didn't know for sure whether there was any connection, and he did not mention TVA's own fondness for bargain-priced, short-term coal purchases, a policy that works well when coal demand is down but backfired in 1970's tight market.

Evins, who was chairman of the House appropriations subcommittee that controlled the FTC's appropriations, informed Miles W. Kirkpatrick, the FTC's Chairman, that he was "deeply concerned over the monopolistic concentration of ownership in these vital and important areas of our economy—such as the reported acquisition of a number of major coal companies by oil combines. This is a proper and appropriate matter for the Federal Trade Commission to look into and investigate, and I strongly urge that such an investigation be made." One week later, Kirkpatrick wrote Evins back, saying that the commission was already looking into the matter and would give it "high priority."

Although neither Evins nor Kirkpatrick ever mentioned the Kennecott-Peabody case, the Congressman had obviously made his point. Two weeks later, when the five FTC commissioners met for oral arguments on the merger, Commissioner Dixon, a Tennessean, noted pointedly in the middle of the hearing that TVA was a customer of Peabody and was having trouble with rising coal prices. Dixon made no attempt to connect the price rise with the merger, and in fact TVA records show that Peabody's prices to TVA were below those of other coal companies.

In this atmosphere the commission voted unanimously to overturn the findings of the examiner and dissolve the merger. The opinion was written by Commissioner Everett MacIntyre, a former staff member of the House small-business subcommittee and an ardent foe of big corporations. The FTC's findings bluntly struck down examiner Moore's conclusions. The commission disavowed Moore's finding that coal should be considered in light of its competition with oil and nuclear fuel. In the Kennecott case at least, the commission said, coal companies should be considered solely as competitors with each other.

The FTC agreed with its prosecutor that, prior to buying Peabody, Kennecott had intended to build a large coal operation around Knight-Ideal. But, said the commission, that plan was irrelevant to the case. Kennecott had proved it was a potential competitor by its very interest in acquiring Peabody. The FTC noted that Moore had found for the defense on the grounds that coal was not a highly concentrated industry and hence the potential-competition doctrine did not apply. In a singular show of freedom from both the letter of the law and all precedent, the FTC simply expanded the doctrine to fit the case, ruling that only a "trend" toward concentration was required.

If the courts uphold the FTC, Kennecott will have something of a problem just getting rid of Peabody gracefully. It will be impossible to sell Peabody to another large corporation because under the new FTC doctrine that corporation, too, whatever its line of business, would automatically qualify as a potential competitor in coal. Recognizing this neat dilemma of its own creation, the FTC order said that Peabody could be disposed of by spinning it off to Kennecott's shareholders or through a public offering. But most of Peabody's sales have been pledged in production payments to the banks that financed the merger, and these lenders might be able to hinder divestiture in the courts.

A MISCHIEVOUS PRECEDENT

As a sort of odd-lotters' coal company, without a parent corporation, Peabody could find life quite precarious. Both the Kelce brothers are now dead, and the coal industry has been changing rapidly in the years since the merger. Peabody's new commitments have been made from the vantage point of a large and wealthy corporation. It hopes, for instance, nearly to double its production in the next decade and will be spending $86 million this year alone for mine development and expansion. If Peabody were independent, its internal cash flow would provide less than half that amount for investment. On its own once again, Peabody would have to compete and match investment funds with Consolidation and other coal companies that are owned and financed by petroleum combines. It is difficult to see how a weakened Peabody will improve competition in coal, or help solve the "energy crisis" about which bureaucrats and Congressmen profess to be concerned. The bulk of new coal production is coming from mines financed by the large outside corporations, like Kennecott and Continental, that have recently entered the industry.

The precedent set by the Kennecott decision could hardly be more michievous. It relieves the FTC of any necessity to prove that a merger threatens substantially to restrain competition. "Proof" of antitrust violations could in future consist merely of arbitrary sets of numbers of the commission's own devising. A panel of bureaucrats would substitute its own judgment for the market's as to the proper size of U.S. corporations.

The federal courts will have the final word. After vainly seeking reconsideration from the FTC, the Kennecott lawyers took the case into the U.S. Court of Appeals in Denver. From there it will doubtless make its way to the Supreme Court, where a decision could not be expected before late 1973. In recent years the Supreme Court has been quite willing to accept almost any rationale from the Justice Department and the FTC, so long as the purpose was to keep big corporations from getting bigger.

But that pattern was set in the days of the Warren Court. Since the appointment of Chief Justice Burger, the Court has shifted its position on a number of important public issues. It has had no opportunity to issue a major antitrust decision, and Catch-22 may well fail to meet the Court's standards of logic and proof. In the meantime, the FTC could do some explaining about its own policies, its attitudes, and its conduct of antitrust prosecutions.

EXHIBIT 2

DOWN THE CHUTE WITH PEABODY COAL

Q. What's big and black and makes the Federal Trade Commission red all over?

A. Peabody Coal Co.

That joke is no worse that the FTC's current dilemma concerning Peabody, the nation's largest producer of coal. The commission, you see, in its rule as an enforcer of the antitrust laws, has been trying for nearly a decade to make Kennecott Copper Co. divest itself of Peabody, and it has finally wrung from Kennecott a plan for doing that. The plan contemplates that Peabody's domestic operations will be sold to a group that might have been put together for a business Noah's ark: it is headed by Newmont Mining Co., and also includes Williams Companies, Bechtel Corp., Boeing Co., Fluor Corp., and Equitable Life Assurance Co. Peabody's Australian operations are slated to go to Broken Hill Proprietary. For it all, Kennecott is to get cash and securities having a present value of $925 million.

The FTC, which is obliged to see Peabody restored to the world as "a going concern and effective competitor," must now approve or disapprove the deal, and on that matter, have no doubt, it has its problems. There is no question about the commission's druthers. Over the years it has been widely and roughly criticized for its original ruling requiring Kennecott to divest itself of Peabody, and for its refusal ever since to reconsider that ruling. (For one piece of criticism, see "How Kennecott Got Hooked with Catch-22," FORTUNE, September, 1971.) The commission is by now sick of this case. Presented with the chance to bestow Peabody on Newmont and five other substantial companies, the commission would clearly like to say yes, yes, yes, and shove the whole collection out the door.

The condition of Peabody, furthermore, makes some kind of decisive action urgent. The company's health has been clobbered by the uncertainties of the divestiture process, by the general problems of the coal industry, and by some special problems of Peabody's own—one of them being some rather dubious stewardship on the part of Kennecott. Peabody is today so weak, in fact, that certain alternatives to approval of the Newmont plan may be impractical. Were the commission, for example, to reject the plan and instead try somehow to force a spin-off of Peabody to Kennecott's shareholders, it is not clear at all that Peabody could make it on its own—or not clear, at least, that it could finance the expansion that the U.S. would like to see materializing at its largest coal company.

There is a strong wind, therefore, pushing the FTC toward approval. Barring the way, however, are all manner of hard-to-handle facts. For instance, the Newmont group, whose plan for buying Peabody involves very

heavy leverage, could itself encounter problems in financing expansion. On the face of it, also, Newmont, though it has but a 27.5 percent interest in its consortium, has got to be considered a rather strange troop leader in this affair. Newmont bears unmistakable resemblances to Kennecott—it is the fourth-largest copper producer domestically, Kennecott is No. 1—and many people have wondered just what is to be gained by the transfer of Peabody from one large metal-mining company to a group run by another. Newmont, moreover, already has some fairly major indirect interests in coal. Once a closed-end investment company and still a major investor in a handful of other corporations, Newmont owns more than 3 percent of Continental Oil, the nation's second-largest coal producer, and nearly 8 percent of St. Joe Minerals, the eleventh largest.

Substantial though these facts are, they are clearly bothering the FTC less than another antitrust angle, which is hinged to its original decision, in 1971, that Kennecott was an unfit parent for Peabody. In one of its key findings, the FTC held that Kennecott was a "potential entrant" into the coal industry. Its acquisition of Peabody, the FTC said, was anticompetitive because it put Kennecott's financial strength (its "deep pockets") behind the leading company in the industry and eliminated the possibility of entry by other, more competitive means—on a *de novo* basis, or by purchase of a much smaller company.

In another key finding, the FTC held that the coal industry was showing an alarming tendency to become highly concentrated and was distinguished by high barriers to entry (in the form of large capital costs). The market, you should understand, was not at the time already highly concentrated, a condition that would normally be required if a conglomerate merger were to be successfully challenged. The FTC, looking at past trends, simply thought the market was headed in that direction.

So where does the FTC stand on these two points as it prepares to decide on the Newmont proposal? Well, it stands, first of all, looking at four "potential entrants": Newmont, Williams, Fluor, and Bechtel. Each of these companies has nosed around the coal industry in the last few years studying ways to get into it. Each has plainly now found a way that does not involve *de novo* entry or acquisition of a small company. With one fell swoop, given a favorable FTC decision, the coal industry is going to lose not one but four "potential entrants."

The embarrassment of that fact to the FTC is nothing to its embarrassment about concentration levels. The commission turned out to be wrong—dead wrong—in anticipating a move toward much higher levels of concentration. The energy crunch came along and propelled all sorts of companies into the coal business, among them many oil companies and others with "deep pockets." In 1970, the market share of the eight largest coal producers was 40.1 percent. Last year it was under 35 percent.

VICTIM OF A RAW DEAL

The commission is naturally aware of its errors in judgment. For several years now, Kennecott, trying to get its case reopened, trying to argue that perhaps fairness would suggest a different ending to this case than divestiture of Peabody, has been pushing facts upon the FTC about the crowd of new entrants and about concentration levels. The commission has stonewalled it, never giving an inch—never, in fact, publicly conceding that its notions about the trend of things were wrong. But in coming to a decision about the Newmont bid, the commission must inevitably consider the current state of competition in the coal industry and address the question of concentration levels. That these levels are low today will support the commission's approval of the Newmont plan, if approval it is to be. But any discussion of where the industry stands today must resurrect the thought that Kennecott has been the victim of a raw deal.

The commission, furthermore, cannot necessarily expect by approving the Newmont deal to get Kennecott out of its sight forever. It is widely assumed that if the sale goes through and Kennecott gets its $925 million, much of it to be paid in cash, that company itself will be a very logical takeover candidate. Some takeover rumors have starred the Arabs. Others have starred the major oil companies, a prospect to make the FTC shudder. The commission has already tried to keep Atlantic Richfield from acquiring Anaconda (on the grounds that Atlantic Richfield was a "potential entrant" into the copper business) and failed. What is the FTC to do if and when Kennecott gets its money and some major oil company tries to take it over? Sit there on the sidelines and let it happen?

A WAY TO MAKE US YELL

This affair, plainly, is a mess. You might say, of course, that it couldn't happen to a more deserving agency. You might also say it borders on the comic. The problem with such an interpretation, however, is that too much is at stake here for too many companies and in particular for Peabody, which is in a sense a national asset.

Based in St. Louis and predominantly a steam-coal producer supplying electric utilities, Peabody owns or controls nine billion tons of coal reserves, and through "checkerboard" leases and the like has an inside track on an additional two billion tons. Anyone not quite ready to size up such a company as a national asset might consider just one more twist to events: Suppose that the FTC does insist that Peabody be spun off to Kennecott's shareholders as an independent company and that foreign interests then come along and try to take it over. A lot of people in this country, bet on it, would be yelling.

Among those classing Peabody as a national asset, it appears, are the buyers appraising it at $925 million. By stock-market standards, that price is way out of line on the high side. Coal companies are perceived by the market to have problems, which indeed they do. Coal prices, following a bulge upward after the Arab oil embargo, have flattened out. The capital costs of expanding production are enormous. Productivity, under the impact of 1969's Mine Health and Safety Act, has dropped drastically. Environmentalists are on the attack—against strip mining, against the pollution arising from the burning of high-sulfur coal, against the opening of government lands to mining. Even Indians are on the attack, disputing the coal companies' right to mine certain lands.

For these reasons and others, coal companies have not lately been valued much above eight to ten times earnings, and as an earner, Peabody is no $925-million company. It lost money on operations in two out of the last ten years (1971 and 1973), made only $41 million in its best year (1975), and only $31 million last year, with both figures in a sense inflated—first, because Kennecott allocates none of its corporate overhead or interest expenses to Peabody, and second, because the 1976 earnings were pushed up by large profits on land sales. On this record, the Wall Street consensus seems to say, Peabody could not sell today in the public market (assuming the absence of a takeover bid) for more than $400 million, putting the case generously.

The private market obviously views the proposition differently. Kennecott put Peabody up for sale in the spring of 1974 (having by then exhausted all legal excuses for not doing so) and in the next two and a half years negotiated intensively with seven different bidders, the Newmont group included. All, sooner or later, talked prices far above $400 million. One bidder, Energy Resources, a group for a while in terms of paying $1,250,000,000 for Peabody's domestic business; the assumption was that its Australian properties would be picked up by somebody else for around $100 million (which is indeed what Broken Hill Proprietary is today paying). The Energy Resources deal never quite jelled. Even so, at the upper limits, Peabody appeared to someone to be worth $1,350,000,000.

IN THE EYES OF THE BEHOLDER

The vast disparity between the private-market price for Peabody and the presumed public-market prices raises a question as to whether somebody's opinion about values is not cockeyed. The private bidders tend to fight that idea, defending the stock market along with themselves. The stock market, they claim, must necessarily concern itself with the short-term outlook for earnings. Their own horizons, they say, can stretch out a lot further—to the point at which, as they see things, the great potential of coal begins to be realized.

Some private bidders also believe their own understanding of Peabody's future, gained through exhaustive investigations, to be far superior to the stock market's. Says Plato Malozemoff, Newmont's chairman and the mastermind of its winning (maybe) bid: "Not even the best analysts could have the same cognizance and information that we do." His own analysis: "Peabody will do a great deal better than in the past."

To see why Malozemoff thinks that, it is necessary to understand Peabody's special problems over the last decade. The company was not, in the early and middle 1960's, a troubled operation, though neither was it the fairest flower around. Nuclear power was then in a period of strong growth, oil was plentiful, and coal—dirty old coal—was not among the utilities' favorite things. Peabody's response to this selling environment—specifically, the response of Merl C. Kelce, the brilliant, hard-driving man who had built Peabody from a small company to an industry giant—was to offer the utilities long-term contracts at attractive terms. Peabody pushed this strategy further and harder than any other coal company, and at the time, was given great credit for having stabilized its future.

THE ESCALATORS WERE POKY

The contracts, however, contained the seeds of terrible trouble. Most were virtually dictated by the utilities, with Peabody merely standing by to sign on the dotted line. The terms specified were the kind that any buyer would like when high inflation came along: low prices and long contracts, with escalator provisions, to the extent these existed at all, that responded slowly, lent themselves to interpretation and nitpicking, and in all respects allowed Peabody as little running room as possible. For example, the escalators typically did not cover productivity declines; if Peabody, in other words, came to need thirteen men to do the work that ten once did, that was the company's own tough luck.

They were a potential nightmare, those contracts—though Merl Kelce obviously did not see it that way. But he did arrive at the mid-1960's none too happy about the state of his world. Then about sixty years of age, he feared the competition from nuclear energy and the growing importance of environmental issues. It bothered him that Peabody had grown so big that he could no longer personally make every management decision—though he for sure still tried—

and it bothered him also that he had a fortune tied up in Peabody stock, which had weakened. He determined to sell out.

Ironically, one company he dickered with was Newmont, then as now headed by "P.M.," as Malozemoff is sometimes referred to around the company, often reverentially. But Malozemoff at the time liked the near-term growth prospects of his empire (besides copper, the company's interests include zinc, lead, lithium, gold, uranium, oil, and gas) and did not like coal's. So he said no.

Frank Milliken, then and now president and monarch of Kennecott, had reasons to see things differently. Kennecott was at that time basically a one-product company, and that product—copper—is about as cyclical as they come. The company's position in Chile was tenuous (and its assets there have since been expropriated). In the U.S., a worrisome problem was the difficulty of finding new copper deposits; Kennecott had not found any of size in fifty years. Milliken, furthermore, expected several hundred million dollars of excess cash flow to materialize in the next decade or so. Needing a place to put it—needing an answer to all his problems—Milliken decided to diversify. Kennecott first studied, and then gave up on, the oil industry. Milliken's next choice was coal, and in time, he found Merl Kelce.

In July, 1966, the two men signed an agreement in principle, setting a price that remained firm for the nearly two years that it took to complete the deal. The price was very high by the standards prevailing in the stock market, which had in previous months been valuing Peabody at about $330 million, or fifteen times 1965 earnings. Kennecott agreed to pay what Kelce wanted—close to double the market value.

To raise that, however, Kennecott needed help, which was almost frightened off by a lot of menacing noises coming out of the FTC. These threats impeded a financing plan that was to be built partly on bank and insurance-company money and a round a so-called "production payment." That kind of arrangement, no longer attractive under the tax laws, envisions that the lenders in a deal will be paid back out of revenues generated from the properties being bought—in this case, coal mines.

The problem in this deal, as the prospective lenders began to see it, was that the FTC might somehow snatch Peabody from Kennecott after they had put up the money, and Kennecott would no longer be around to provide security. The insurance companies bowed out. The banks that remained were soothed by Arthur Dean, senior partner of Sullivan & Cromwell, the prestigious law firm that has long served as Kennecott's counsel. Dean said he did not believe the FTC could win its case, were it to bring one, and that, in any event, he felt it likely that litigation would keep the case in the courts for many years—quite possibly until the production payment was completed, in an estimated eight years. With such assurances in the air, the final deal was signed on March 29, 1968, with the production-payment lenders putting up $300 million. Kennecott came up with another $285 million, assumed $37 million of Peabody's liabilities, and advised its stockholders of Peabody's "great potential." A week later the FTC issued a proposed complaint against the acquisition.

"I'VE LOST ALL INTEREST

About that, and the formal complaint that followed in August, the participants were at least forewarned. About the next piece of big news—the resignation of Merl Kelce from Peabody a few months later—some were not. One man involved tells the story, surely one of the great tales about what can go wrong in a merger. "Merl Kelce was a real hotshot—a man's man. Guys liked to be around him, liked to work for him. He had a fellow under him named Tom Mullins and Tom was a nifty guy, too. Knew a lot about coal. And Merl had Dick Conerly [as executive vice president] and Guy Heckman [as vice president for finance]. Well, along came Kennecott and took the damn thing over and Merl said I'm going to stay with this company forever. I'll just keep running it.

"Then Merl called Frank Milliken up one day—Frank, who really liked and respected Merl—and said I'm getting out, I've lost all interest in Peabody since I don't own it. Maybe some people weren't surprised. I was.

"Well, Frank had Tom Mullins coming on strong—Tom was forty-six then—and he had Guy Heckman working as treasurer at Kennecott in New York and he had Conerly, a tremendous businessman. Then Conerly left for another job. And then Heckman went back to St. Louis, and he and Merl Kelce forced Arch Minerals. *In the coal business.* After that, some of the Peabody people went to work for Arch. Merl and Guy would say they didn't try to make that happen and say those guys just happened to wander in our doors. But anyway, they ended up with a big chunk of the Peabody management over there." (The Arch management does not include Kelce today; he died in 1970.)

"Meanwhile, Tom Mullins was still doing all right, and I think he would have held this thing together. And then one day in 1971, Tom has a heart attack. Dies. Only forty-eight years old.

"So the four top people were gone, and others, too, and it all happened so fast you could hardly bring people in from the outside. And Frank was left with Ed Phelps." Edwin R. Phelps, then fifty-six years old, a mining engineer who was senior vice president for operations when Mullins died, and who then became president. "Ed's a nice guy, but he never envisioned himself running that place—he was down the line."

THE NIGHTMARES GALLOP HOME

After Mullins' death, the bad news mounted. In May, 1971, came the announcement that the FTC had ruled against Kennecott and was ordering the divestiture of Peabody. The decision was a stunner; the commission had overturned the ruling of its own hearing examiner, who a year earlier had held that Kennecott had *not* acted in violation of the antitrust laws. To Kennecott, the commission's ruling seemed a great injustice—and perhaps one that would not have to be accepted. The company moved on to the Court of Appeals, feeling some optimism about its chances there.

That was more than could be felt about operations at Peabody, which was beginning to experience the nightmares that Kelce had unwittingly programmed for it many years earlier. The company had come into the 1970's with about 90 percent of its production committed to long-term contracts, most of these even then carrying prices that were well below the level of spot prices for coal. The bulk of these contracts had been only modest moneymakers in the 1960's; under the weight of accelerating inflation and the Mine Health and Safety Act, many quickly turned into losers.

Spot prices for coal, furthermore, boomed after the Arab embargo, rising from about $10 per ton to more than $50. Because of its contracts, Peabody was able to benefit very little from this action. Indeed, many of the utilities that had been taking the minimum amounts of coal allowed under their contracts suddenly decided it would be nice to have the maximum amounts; in one case, Peabody was forced to increase its annual delivery from 800,000 tons to 1.2 million tons, with old tons and new alike carrying a totally inadequate price. In general, the prices that Peabody got on its long-term contracts during the 1973–74 period were almost unbelievably low: an average of $5.85 per ton in 1973, $7.55 in 1974.

Not willing to take this lying down, Peabody has over the years asked many utilities to renegotiate—a request typically met with the kind of enthusiasm, say, that President Carter might display were he today asked to vacate the White House. In some cases, it is true, Peabody has been able to gain cooperation by offering a quid pro quo: for example, in exchange for a better price, it would agree to extend a contract for a few years, or upgrade the quality of coal delivered. Some contracts also contain "gross inequity" clauses, and Peabody has played these for all they are worth.

But these clauses, says Ed Phelps, are "nebulous" in meaning, and may produce less satisfaction than good, old-fashioned straight talk. "Sometimes," says Phelps, a man of grandfatherly appearance, "we'd simply say, 'Look, you have to have coal and Peabody is the largest supplier you have. We can't keep shipping to you if we lose money on every ton.' Once in a while that works."

By now, enough has worked to add up to some progress. For example, Peabody and its largest customer, the Tennessee Valley Authority, are party to four separate contracts (one running to 1978, one to 1980, one to 1986, and one to 1996), each of which has been renegotiated in the last couple of years. The average price per ton for the contracts in 1974 was $6.42 and today it is $14.47, and that's plainly an improvement. But $14.47 is still well below today's spot price of around $20.

IT'S GOOD TO KNOW YOUR COSTS

Could stronger management have done better? Many outsiders, including some of the private bidders for Peabody, believe it could have. The basic fault, some add, is not Peabody's, but Kennecott's. Why, they ask, did not Kennecott do more to build up Peabody's management?

The question is a good one. Kennecott clearly has done very little; the management at Peabody today is essentially the same management that moved into place after Mullins died. True, the lineup includes a chairman of the board supplied by Kennecott: Byron E. "Buck" Grant. But Grant's background is in metals, not coal; he was general manager of Kennecott's Chilean operations until their expropriation. Today, Grant mainly serves as Kennecott's liaison with Peabody.

In another move, Kennecott sent McKinsey & Co., the management consultant, into Peabody in 1974. McKinsey seems to have worked mainly at systematizing Peabody's contract data and at identifying contract costs. As Phelps says, if you are going to tell a utility that your costs require renegotiation of the contract or large-scale escalation, it's handy to know exactly what those costs are. Peabody, it appears, didn't always know. McKinsey, it appears, helped.

It can also be said in Kennecott's defense that it may have tried to hire executives and failed. Good coal people are terribly hard to find, in part because the industry does not tend to attract many college graduates. A company hanging on the edge of divestiture, furthermore, does not necessarily look like an ideal employer. One man close to Kennecott says that he personally lined up an executive—"a really good man"—to go to Peabody as backup for Phelps. But the bidding contest for Peabody was getting under way and the man decided that prospects were just too uncertain; he turned down the job.

With all this said, the fact still remains that Kennecott did almost nothing to beef up the management of a company that seems desperately to have needed help. In the end, the explanation may lie in Kennecott's character, and in Milliken's. People are seldom fired at Kennecott, and Milliken, strong-willed though he is, believes in running a decentralized operation, in which each division is left to handle its own problems. He may have overdone it with Peabody.

MONEY IN TO GET MONEY OUT

In another area—financing—Kennecott can in no way be charged with neglect of its ward. Peabody has been a company beset by expensive commitments; its contracts, for example, could not have been fulfilled had it not spent money to open up new reserves as old ones were depleted. More important, the company was saddled for many years with that production payment, which was scheduled to be paid off at a certain speed out of "net mine revenues"—a term basically meaning profit before taxes—generated from certain mines. This meant production at those mines had to be kept high, an expensive proposition in itself. Then, as costs rose and as coal prices failed to keep pace, Peabody's net mine revenue per ton fell. That circumstance imposed on the company a need to expand capacity (by one-third overall) and to mine more tons. In all, this effort required capital expenditures of $536 million during the period from 1968 to 1978, the year the production payment was completed (with Kennecott still in the picture, just as Arthur Dean had predicted). Peabody did not have that money. Kennecott supplied almost all of it—$532 million.

In the meantime, Kennecott also had other mine mouths to feed—mainly those of its metal-mining division, whose capital expenditures in the same period totaled $437 million. But much of that money went for pollution-control projects and, in the end, produced no gains in capacity. Wall Street's analysts, who tend to be highly critical of Kennecott, say that the company has clearly not kept up its copper mines as it should have. The reason is surely money. Those predictions of excess cash flow did not come true. On the contrary, Kennecott has for the last two years had only meager profits and over the last decade has been transformed from a company with almost no debt to a heavy borrower. At the end of last year, it had long-term debt of $540 million, up from $16 million in 1967.

A JOB FOR FISHER AND "FAV"

Considering all the probems, there have surely been moments when Kennecott would have liked to chuck it all and say to the FTC, "Here, you take Peabody. Who wants it anyway?" But that course of action, besides being totally impractical, never seems to have been in tune with Kennecott's deep-down feelings. It has wanted Peabody all the way and has struggled furiously to keep it. Kennecott lost in the Court of Appeals in 1972—and moved on to the Supreme Court. When the Supreme Court wouldn't hear the case, Kennecott went back to the FTC, trying for a reopening. It took that route twice, in 1974 and again in 1975. Failing both times, it found an excuse to go back to the Court of Appeals. That didn't work either.

Long before then, however, Kennecott was forced to get down to the hateful matter of planning a divestiture. The project was put in the hands of Gordon Fisher, who left an independent oil company in Texas in 1963 to join Kennecott and direct its diversification studies. Now concentrating on "undiversification," Fisher has had an opposite number at the FTC: F. P. ("Fav") Favarella, a lawyer assigned the job of overseeing Kennecott's divestiture efforts and of moving these along. Favarella is small and peppery and disinclined to express an opinion about the FTC's decision to make Kennecott divest itself of Peabody. His job is to enforce the divestiture order—and that, it would seem, is enough to think about.

Enforcing the order, in this case, has in part meant looking over Fisher's shoulder as he, Milliken, and Kennecott's board, working with the help of First Boston Corp. and Kuhn, Loeb & Co., contemplated various methods of divestiture. Basically, the question before them boiled down to this: Would Kennecott do better for its shareholders by making a private sale of Peabody or by entrusting the company to the public market in some fashion—e.g., by selling it through a public offering, or by spinning it off to Kennecott's shareholders (leaving them to make their own individual decisions about the sale or retention of their shares)?

There can be little doubt that Kennecott's shareholders would be better off getting $925 million for Peabody from private buyer than getting $400 million, or less, in the public market. At least, there can be little doubt about that as long as one assumes that Kennecott's management will use the $925 million wisely. Some shareholders, alas, their minds perhaps jaded by past experience, do not assume that, and two have recently sued Kennecott, trying, in effect, to force the company to distribute some of the sale proceeds to the shareholders. The suits have not so far been notably successful. One has been withdrawn from federal court and refiled in the New York state courts, and in the other, a New York judge has ruled against the plaintiff (who is planning to appeal).

PSST! VERY LARGE COAL COMPANY FOR SALE

Naturally, Kennecott's management does not share these doubts about its skills, and from the beginning seems to have seen the economics of this matter as almost inevitably favoring a private sale. The first major action that Fisher took after the divestiture order became final was to send letters to about 200 large companies advising them that Peabody was available. The companies included just about anybody Kennecott thought might have an interest in a very large coal company, short of parties known to have coal operations. Few questions were being raised then, in contrast to now, about the propriety of oil companies' owning operations that produce competitive energy products, such as coal or uranium. So when Kennecott identified an oil company that did not already have coal interests, such as Cities Service or Standard Oil (Indiana), it put them on its invitation list. The FTC, it appears, might have done things differently. There are indications that Favarella and others at the commission have always believed a large oil company to be an unsuitable owner for Peabody.

Kennecott's letter did not name a price for Peabody. But prospective buyers showing an interest—and there were lots of these—soon learned that Kennecott was thinking in terms of $1 billion or more. (Or, at least, that's the price it *appeared* to be thinking of; in reality, says one man closely involved, Kennecott always expected to get just about what it has today been offered: $900 million or so.) Talk of $1 billion, an enormous sum, was enough to discourage a lot of lookers. Indeed, one company that was mildly discouraged, though by no means to the point of giving up, was Newmont, which had received one of Kennecott's letters and had immediately shot back an answer indicating interest. But Newmont was at the time talking a price of less than $400 million. That will not, Kennecott told Newmont, even get you in the door.

Kennecott meant that literally, as well as figuratively. Serious bidders, Kennecott believed, would need to spend a lot of time at Peabody's offices, and in the field, studying the company's operations. But Kennecott did not see how it could allow just anyone to go through that routine; the process, it reasoned, would expose too much confidential information to outsiders and be too disruptive for Peabody. (In fact, the process *was* disruptive, even after Kennecott had sharply winnowed down the contenders.) Furthermore, Kennecott did not wish to offer encouragement to any bidder talking a low price.

So in the end, the rules went like this: If you were regarded as a serious bidder and were willing to sign a letter of intent indicating a tentative willingness to pay more than $1 billion, you got in the door at Peabody. Otherwise, you didn't. (At least, you didn't unless you were Newmont, which in late 1975, having raised its bid substantially, complained to the FTC about Kennecott's "denial of access." After that, Newmont got in without signing one of those $1-billion letters.)

Five bidders signed letters of intent—Energy Resources, the Tennessee Valley Authority, Cities Service, ICM-Carbomin (see "The Rise of John Samuels," Fortune, October, 1975), and the so-called Utilities Group, which stayed in the bidding until the bitter end and was then composed, after many changes, of six electric utilities, one pipeline (Transco), and Martin-Marietta. Besides Newmont there was one other bidder with whom Kennecott did not sign a letter of intent: Anaconda, whose interest in Peabody was relatively fleeting.

Perhaps the main point to be made about these seven is that none was by antitrust standards free of warts. Purchase of Peabody by any of the three bidders associated with the utility industry—TVA, Energy Resources, and the Utilities Group—would have raised antitrust questions about vertical integration. ICM-Carbomin stacked up as a horizontal-integration problem; it is a major producer of metallurgical coal. Cities Service would have raised that question about oil companies getting into coal. Newmont's antitrust problems we have considered, and that leaves Anaconda, which no doubt could be labeled a "potential entrant." Even so, of the lot, Anaconda might have rated as the most trouble-free from an antitrust standpoint. The irony will be apparent: "Mr. Clean" among the bidders turns out to be the one who looks like Kennecott's kid brother.

AND THEN FRANK SAID TO PLATO . . .

Conversely, the prize for most warts, of all kinds, should probably go to TVA, whose purchase of Peabody could have been construed as nationalization of the company. Worrying about that, some Senators on the Public Works Committee called hearings to discover just what TVA was up to. They learned that TVA was mainly interested in acquiring coal reserves in its area, and was otherwise rather muddled up about its plans for handling Peabody. Whereupon Senator Wendell Ford of Kentucky ventured an opinion that TVA was getting itself "into the middle of the blackberry pie." That's a place, he explained, "kind of dark and hard to find your way out of." TVA apparently came to agree; soon after the hearings, it withdrew from the bidding. In a postscript, six Senators on the committee wrote to the FTC about its own blackberry pie, suggesting that the commission might perhaps reconsider its decision requiring Kennecott to give up Peabody. The suggestion was not accepted.

As bidders entered the fray and left it, time rolled on and on and on. Newmont, in the meantime, was always behind the

scenes—never acknowledged by Kennecott as a bidder, but a strong presence in the proceedings nevertheless. Newmont's opinions about Peabody's worth, furthermore, were going up and it more than once raised its bid—but still not high enough. Malozemoff and Milliken would sometimes run into each other socially. "Plato," Milliken would say, "you're not even in the ball park." "Frank," Malozemoff would reply, "you're never going to get what you're asking for that company."

IN THE BUSHES, A BUYER

In the end, it took the FTC to cut through such repartee and force matters to a head. In July, 1976, with Kennecott still shy of a divestiture plan, the FTC, engaging in a bit of legal hardball, went to the Court of Appeals to ask that the company and its directors be declared in contempt for not having complied with the divestiture order. The fines requested were huge: $100,000 per day for Kennecott, $1,000 a day for each director—and the directors' fines could not be reimbursed from company funds.

Kennecott howled with indignation, protesting that the FTC had underestimated the problems of selling a monster such as Peabody and had failed to give Kennecott credit for its unremitting efforts to find a buyer. While the court thought about that, Kennecott called a special directors' meeting and suddenly found a buyer. "Newmont?" many Kennecott stockholders must have asked themselves, as they read the announcement. "Where'd this guy come from?"

Newmont and its partners—one of which, Williams, is to have an interest in the deal equal to Newmont's 27.5 percent—plan to make their investment through a company called Peabody Holding Inc. The partners will endow it with $200 million in equity and it will borrow the other $625 million needed for the purchase. Of the borrowed funds, $125 million will be in the form of notes held by Kennecott, with these to become payable at a speed influenced by the level of Peabody Holding's future earnings. So however the FTC decides in this matter, Kennecott is to have some kind of continuing stake in Peabody.

The FTC's decision can be expected soon and will come out under the name of a brand-new commission chairman: Michael Pertschuk, formerly chief counsel of the Senate Commerce Committee. In a written statement submitted at his confirmation hearings in March, Pertschuk deplored antitrust litigation "which takes decades and absorbs vast resources, both in government and the public sector, resulting eventually in exhaustion of one or both parties and questionable relief." Maybe Pertschuk had the Peabody case in mind when he wrote that, and maybe he didn't. In any event, the description fits.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:43 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 3695. An act to amend title 38 of the United States Code in order to revise and improve the program of making grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes.

H.R. 3849. An act to establish qualifications for individuals appointed to the National Advisory Committee on Oceans and Atmosphere and to authorize appropriations for the Committee for fiscal year 1978.

The enrolled bills were subsequently signed by the President pro tempore.

At 3:13 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The SPEAKER has appointed Mr. Wydler as a member of the Technology Assessment Board.

The House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 7797. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1553. A letter from the Secretary of Commerce transmitting a draft of proposed legislation to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–1554. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Actions Recommended To Make the Foreign Gifts and Decorations Act More Effective" (ID–77–31) (with an accompanying report); to the Committee on Foreign Relations.

EC–1555. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report of the list of reports of the General Accounting Office for the month of May 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–1556. A letter from the Comptroller General of the United States transmitting, pusuant to law, a report entitled "Impact of Population Assistance to an African Country" (ID–77–3) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1557. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a report on a document concerning emergency school aid, waivers of ineligibility for discriminatory assignments of students to classes which has been transmitted to the Federal Register for scheduled publication (with an accompanying report); to the Committee on Human Resources.

EC–1558. A letter from the Executive Officer for the Office of the Special Representative for Trade Negotiations, Executive Office of the President, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for the calendar year 1976 (with an accompanying report); to the Committee on the Judiciary.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred to the Committee on Appropriations:

H.R. 7797. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committeee on Rules and Administration:

With an amendment:

S. 244. A bill to authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, District of Columbia, in recognition of the role he played in saving the lives of approximately five hundred United States airmen in Yugoslavia during World War II (Rept. No. 95–297).

By Mr. LONG, from the Committee on Finance:

With an amendment:

H.R. 1404. An act for the relief of Smith College, Northampton, Massachusetts (title amendment) (Rept. No. 95–298).

By Mr. LONG, from the Committee on Finance:

Special Report entitled "Allocation of Budget totals for Fiscal Years 1977 and 1978—Third Concurrent Resolution on the Budget for 1978" (Rept. No. 95–299).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DECONCINI, from the Committee on the Judiciary:

J. Jerome Bullock, of Georgia, to be U.S. marshal for the District of Columbia.

Lee A. Limbs, Jr., of Arizona, to be U.S. marshal for the district of Arizona.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent the second time, and referred as indicated:

By Mr. EAGLETON:

S. 1751. A bill to authorize the Mayor of the District of Columbia to enter into an agreement with the United States Postal Service relating to the use of certain air space in the District of Columbia for postal purposes; to the Committee on Government Affairs.

By Mr. PELL:

S. 1752. A bill to extend certain programs under the Elementary and Secondary Education Act of 1965 for one year, and for other purposes; and

S. 1753. A bill to extend the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Human Resources.

By Mr. THURMOND:

S. 1754. A bill for the relief of Gert Richard Haber; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 1755. A bill for the relief of Tony Yan, M.D.; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 1756. A bill for the relief of Mr. Thomas M. Gibson, of National City, California; to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 1757. A bill to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAVEL:

S. 1758. A bill entitled "Energy Development Act of 1977"; to the Committee on Energy and Natural Resources, and the Committee on Finance, jointly, by unanimous consent.

By Mr. CLARK:

S. 1759. A bill to amend the Wilderness Act of 1964, and for other puropses; to the Committee on Energy and Natural Resources.

By Mr. McINTYRE:

S. 1760. A bill to amend certain Federal laws for the purpose of providing financial assistance with respect to the weatherization of dwelling units and for the installation of solar energy systems in dwelling units, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. SASSER (for himself and Mr. BAKER):

S.J. Res. 66. A joint resolution authorizaing and requesting the President to issue a proclamation designating July 1 of each year as "National Free Enterprise Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 1752. A bill to extend certain programs under the Elementary and Secondary Education Act of 1965 for 1 year, and for other purposes; and

S. 1753. A bill to extend the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Human Resources.

Mr. PELL. Mr. President, today I am introducing, on behalf of the administration, legislation to extend certain programs of Federal aid to elementary and secondary education. These programs include the following titles of the Elementary and Secondary Education Act:

Title I (Compensatory Education for the Disadvantaged),

Title II (School Library Resources),

Title III (Guidance, Counseling, and Testing; Supplemental Education Centers),

Title IV (Consolidation of Certain Education Programs),

Title V (Strengthening State and Local Educational Agencies),

Section 807 (Dropout Prevention Projects),

Section 808 (School Nutrition and Health Services), and

Section 811 (Consumers' Education Program).

In addition, the bill would extend the Adult Education Act, the carry-over authority contained in the General Education Provisions Act, and title III of the National Defense Education Act—instructional equipment.

These programs expire at the end of fiscal year 1978. Under section 414 of the General Education Provisions Act, if the Congress fails to act on their extension prior to their expiration date, the authorization is contingently extended for 1 additional fiscal year. At first glance, it would appear that the Congress has ample time to act.

However, the programs included in this legislation are all advance-funded. The appropriations currently under consideration by the Appropriations Committees are being made for fiscal year 1979 pursuant to the contingent extension authority. Unless this 1-year extension is acted upon quickly, there will be no authorization of appropriations for these titles for the Congress to act on next year.

I fear that the result would be the loss of advance funding for these programs. As my colleagues are aware, we achieved advance funding only with great difficulty. It has proved invaluable to educators, as they have been able to plan on a set amount of money sufficiently early in the school year to hire personnel and develop programs. To jeopardize this process would be catastrophic to school districts across the country.

It is my hope that my Subcommittee on Education, Arts, and Humanities can move quickly to report this legislation to the Senate, so that we can assure that advance funding will not be lost. We will then undertake a series of hearings on all expiring elementary and secondary education programs including not only those affected by this legislation, but also those contained in the Emergency School Aid Act, the Bilingual Education Act, the impact aid program, and the Special Projects Act, with the intention of reporting omnibus legislation to the Senate as expeditiously as possible. I am today also introducing legislation extending for a 5-year period all such expiring legislation which will serve as the basis for our hearings and deliberation.

However, I cannot underscore too strongly the need for action on the 1-year extension of the advance-funded programs, so that the budget and appropriations process are not jeopardized. I ask unanimous consent that the letter from the Department of Health, Education, and Welfare requesting such action be inserted in the RECORD at this point.

I also ask unanimous consent that a letter from the six maior educational organizations, urging expeditious passage of such a 1-year extension, be inserted in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., May 6, 1977.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Administration is in the process of reviewing existing education authorities with a view towards making recommendations for possible legislative changes. We have therefore sought a one-year extension of expiring authorities to allow us time to make our recommendations.

In our review of expiring authorities, we have determined that certain education programs which are forward-funded risk losing forward funding if action by at least one of the authorizing committees is not taken by May 15, 1978. Since there appears to be some question whether either the House Education and Labor or Senate Human Resources Committee will be able to act by May 15th on reauthorization of ESEA, we are requesting that a one-year extension of those programs which are forward-funded be introduced.

We have worked with your staff in compiling a list of those authorities which authorize programs which are either forward-funded or affect the forward-funding aspect of those programs. It is my understanding that a bill is being drafted by your staff which would include the following agreed upon elements:

ESEA

Title I—Disadvantaged

Title II—School Library Resources, Textbooks & Other Instructional Materials

Title III—Guidance, Counseling, & Testing; Supplemental Education Centers

Title IV—Consolidation

Title V—Strengthening State & Local Educational Agencies Part A, B, C, D

Section 807—Dropout Prevention Projects

Section 808—School Nutrition & Health Services

Section 811—Consumers' Education Program

Adult Education Act

General Education Provisions Act

Sec. 412(b)—Carry over authority for obligations & expenditures for additional fiscal year and educational institutions & agencies.

NDEA

Title III financial assistance for strengthening instruction in certain critical subjects.

We feel that such a bill would be in keeping with the Administration's policy of seeking one-year extensions on expiring legislation and would prevent jeopardizing forward funding for these programs.

Sincerely,

DICK WARDEN,
Assistant Secretary for Legislation.

MAY 31, 1977.

Hon. CLAIBORNE PELL,
Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: The Big Six education organizations—the American Association of School Administrators, the Council of Chief State School Officers, the National Association of State Boards of Education, the National Education Association, the National Parent Teachers Association, and the National School Boards Association—strongly endorse the educational programs of the Elementary and Secondary Education Act. We agree it is imperative that attention be focused upon ESEA in order for it to continue to deliver quality educational services as it has done in the past. Our concern is focused upon the priority given to this necessary educational program.

Seldom has there been more unanimity among educators than the consensus over the need for forward funding of federal educational programs. The fairly recent accomplishment of this milestone was widely applauded by various educational constituents. And yet, despite the widespread support of this concept, forward funding may very well be lost in the upcoming reauthorization of the Elementary and Secondary Education Act.

Both House and Senate will hold extensive hearings on ESEA. No one expects passage before mid-1978 with numerous attempts to revise various programs. With such controversial subjects as the Title I formula, floor fights are likely.

Unfortunately, budget and appropriations

committees cannot wait on reauthorization but most proceed according to rather strict time deadlines with budget ceilings and funding for programs which are authorized.

Consequently, with no programs authorized for 1980 under ESEA, advanced funding cannot be provided during the regular 1979 appropriation process.

The only possible solution other than completion of reauthorization during 1977 (which is improbable) is a simple one-year extension of forward funded programs with absolutely no changes in any of them. Such a procedure will allow for advanced funding for 1980 with plenty of opportunity for debate of all substantive issues on ESEA during late 1977 and early 1978. Regional and philosophical differences can be aired after a one-year extension is authorized without jeopardizing forward funding.

Therefore, the member organizations of the Big Six endorse and support a one-year extension of forward funded programs of the Elementary and Secondary Education Act. We look forward to working with you to move a bill through the legislative process.

Sincerely,

Dana P. Whitman, President, AASA; John Whorton, President, CCSSO; Grant L. Anderson, President, NASBE; John Ryan, President, NEA; Grace C. Boisinger, President, NPTA; Will D. Davis, President, NSBA.

By Mr. CRANSTON:

S. 1756. A bill for the relief of Mr. Thomas M. Gibson, of National City, Calif.; to the Committee on the Judiciary.

Mr. CRANSTON. Mr. President, I have introduced today a private bill to provide for the payment of treble damages to Mr. Thomas M. Gibson of National City, Calif., as repayment for the loss of a Harrington & Richardson .410 gage "handy-gun" firearm which was confiscated by agents of the Bureau of Alcohol, Tobacco and Firearms on February 16 at San Diego and which was subsequently destroyed by BATF agents.

I have no objections to the National Firearms Act section which required the confiscation of Mr. Gibson's gun. I object very much, however, to the manner in which the confiscation was done.

Mr. Gibson, according to both his account and that of Mr. Rex D. Davis, Director of BATF, learned through a friend that the gun should have been registered. He called the San Diego Office of BATF and was told to bring in the gun to see if it had been registered. He did so. The gun was taken from him to determine whether it had been registered and subsequently confiscated.

Mr. Gibson wrote to me saying—

I believe I was told a half-truth by the revenue agent. I feel very deeply that I have been wronged. I respect the Government and its laws but feel that the firearms official obtained this keepsake, which I treasured, by a ruse. I don't think this is fair and it should not be the way the Government acts.

I agree with Mr. Gibson.

Mr. Rex Davis, Director of the Bureau of Alcohol, Tobacco and Firearms, apparently agrees, too. In his letter to me of June 17 he has written as follows:

Because there are numerous occasions similar to Mr. Gibson's, we are currently drafting field instructions which will enable our special agents to advise the person possessing an unregistered firearm as to those courses of action open under the National Firearms Act. This will include the opportunity to identify a Federal, State or local government agency who would accept the weapon and have it registered to that agency for official use in a display, as well as the means by which a firearm may be altered to remove it from the provisions of the Act. We expect to have those instructions ready in approximately 30 days.

I warmly approve of Mr. Davis' remedial action. Nevertheless, I think it appropriate to follow through with Mr. Gibson's case by asking on his behalf for treble damages in the amount of the fair market value of a firearm similar to his. My staff has discussed this with Mr. Gibson. He wishes it known that the monetary value of the gun is not his objective but that he supports the principle of my bill and approves of my action in pursuing this avenue of redress on his behalf.

Underlying this bill, is an important principle which ought to be vindicated by Congress: Law enforcement agencies should deal in a straightforward manner with citizens who request advice about their situation. The law-abiding citizen who makes an honest inquiry should be answered with openness and candor. In the long run, law enforcement will benefit greatly from such a policy in ways far outweighing the short-run risk that a contraband weapon may not be turned in.

I ask unanimous consent that a copy of the bill and the correspondence between Mr. Gibson and me and the Bureau of Alcohol, Tobacco and Firearms be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay to Mr. Thomas M. Gibson of National City, California, a sum equal to three times the appraised value (as determined under subsection (b)) of a Harrington & Richardson .410 guage "handy-gun" firearm, as repayment to the said Mr. Gibson for the loss of such a firearm which was confiscated by agents of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, on February 16, 1977, at San Diego, California, and which was subsequently destroyed by agents of such Department.

(b) For purposes of this Act, the appraised value of such a firearm shall be determined by an independent appraiser selected by the Secretary of the Treasury and acceptable to the said Mr. Gibson. The appraised value of such a firearm shall be based upon the value of similar legally registered firearms. The Secretary is authorized and directed to pay all reasonable costs of the appraisal of such firearm.

NATIONAL CITY, CALIF.,
April 6, 1977.

Hon. ALAN CRANSTON,
U.S. Senator,
San Diego, Calif.

DEAR MR. CRANSTON: Let me introduce myself—Tom Gibson. I have a small business in National City—a shoe repair and retail shoe store. I am a veteran and consider myself a law-abiding citizen. For the first time in my life, I am asking for some help. I had a gun that was given to me. This gun was taken from me by a representative of the United States Government. The gun is known as a "handy-gun", a Harrington & Richardson .410 gauge, having a barrel length of only 12 inches.

This gun was a keepsake given to me by the family of a very dear friend—a man who was like a father to me. He passed away in 1967 and his wife passed away in 1971. The gun in question was found in a dresser drawer by the family after Mrs. Smith passed away.

I had the gun in my possession until February 16, 1977. In February, 1977, a friend advised me that the gun should have been registered in 1968. Mrs. Smith was probably not aware that the gun was in her house and, due to her mental and physical condition, probably would not have registered the gun in any event.

When I was advised that the gun should have been registered, I immediately called the San Diego office of the Bureau of Alcohol, Tobacco and Firearms, to see if I could register the gun. I was told to bring the gun in to see if it had already been registered. I went down to the Bureau and talked to Special Agent Robert B. McDermott. When I came in, he took the gun and gave it to a girl in the office and asked her to check to see if the gun was registered. He then advised me that the gun had not been registered and told me that I could not have it back. He told me that I was required to sign the Notice of Abandonment of Property which is enclosed.

I believe I was told a half-truth by the revenue agent. I feel very deeply that I have been wronged. I respect the Government and its laws but feel that the firearms official obtained this keepsake, which I treasured, by a ruse. I don't think this is fair and it should not be the way the Government acts.

If it is at all possible, I would like the return of the gun. Further, I think this Agency needs an investigation to see what in the heck they do. I sure do not like to think that my tax money pays McDermott's salary.

Sincerely,

TOM GIBSON.

DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,
Washington, D.C., May 16, 1977.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: This is in response to your request of April 20, 1977, for our comments on a letter you had received from Mr. Tom Gibson who voiced a complaint on the manner in which ATF acquired an illegal firearm from him.

The National Firearms Act, as amended by Title II of the Gun Control Act of 1968, requires that certain types of firearms must be registered with the Federal Government in order to be legally possessed. One of the firearms which must be registered under the Act is a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell. The Harrington & Richardson firearm referred to by Mr. Gibson in his letter is such a gun, and must be registered.

However, the National Firearms Act does not provide for the registration of such firearms which were not registered prior to the enactment of the Gun Control Act of 1968 or during the amnesty period of November 1968, when such guns could be registered with no questions asked. As a result, when Mr. Gibson brought the gun into our San Diego office to determine its registration status, the agent had no other course of

action to follow except to retain it since its possession by Mr. Gibson was illegal. Mr. Gibson, in his opening paragraph, identifies himself as a law-abiding citizen. We are sure, as such, that he would have turned the firearm in voluntarily had he been advised by our agent on the telephone that the gun was unregistered. We do not, therefore, feel that Mr. Gibson's charge that the firearm was obtained by ATF as the result of a "ruse" is justified. The firearm cannot be returned to Mr. Gibson.

We are returning Mr. Gibson's letter as requested. If we can be of further help in any way, please let us know.

Sincerely yours,

REX D. DAVIS,
Director.

U.S. SENATE,
Washington, D.C., May 27, 1977.

Mr. REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C.

DEAR MR. DAVIS: Thank you for your reply of May 16 to my request of April 20 for comments on a letter written by Mr. Tom Gibson of National City, California.

I have reviewed both your letter and that of Mr. Gibson. While I agree with you that the agent probably had no choice under the law but to confiscate the weapon, I am not satisfied that he made a complete disclosure to Mr. Gibson that possession of the weapon was illegal, that registration of a previously unregistered weapon was impossible and that the weapon should be surrendered to BATF, and if presented to BATF would be confiscated, if not previously registered. As you've acknowledged in your letter, Mr. Gibson being a law-abiding citizen would have done the right thing upon being fully informed.

I am very concerned that law enforcement agencies deal in a straightforward manner with citizens who request advice about their situation. The law-abiding citizen who makes an honest inquiry should be answered with openness and candor. In the long-run, law enforcement will benefit greatly from such a policy in ways far outweighing the short-run risk that a contraband weapon may not be turned in.

Therefore, I request that BATF reconsider its position on how inquiries from citizens should be answered in such situations as that of Mr. Gibson's. I am looking forward to your response.

Sincerely,

ALAN CRANSTON.

DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,
Washington, D.C., June 17, 1977.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: In response to your letter of May 27, 1977, we are in complete agreement with your statement that law enforcement officers should deal in a straightforward manner with citizens.

However, in matters involving firearms required to be registered under the National Firearms Act, such as the one surrendered by Mr. Tom Gibson, our agents are forbidden by the Act to release any information as to the registration status of a firearm to persons outside the Bureau except under certain specific conditions. This is particularly true in terms of telephone conversations, and it was for this reason that the agent asked Mr. Gibson to bring the firearm to the office where the registration status of the gun could be determined. We assure you that this was not a trick to get the gun out in the open so it could be seized.

Because there are numerous occasions similar to Mr. Gibson's, we are currently drafting field instructions which will enable our special agents to advise the person possessing an unregistered firearm as to those courses of action open under the National Firearms Act. This will include the opportunity to identify a Federal, State or local government agency who would accept the weapon and have it registered to that agency for official use in a display, as well as the means by which a firearm may be altered to remove it from the provisions of the Act. We expect to have those instructions ready in approximately 30 days.

Sincerely yours,

REX D. DAVIS,
Director.

By Mr. MAGNUSON:

S. 1757. A bill to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce today a bill to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972.

The purpose of the proposed legislation is to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972, making those regulations applicable to all U.S. vessels while operating on the high seas or in certain U.S. waters connected therewith and applicable to all other vessels when on certain waters subject to the jurisdiction of the United States.

On October 31, 1975, the Senate, by a unanimous vote of 94 to 0, gave its advice and consent to the ratification of the Convention by the United States. By depositing its ratification, the United States became bound by the general obligations contained in the Convention, such obligations enter into force on July 15, 1977. This bill will meet our assumed international obligation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Navigational Rules Act of 1977".

SEC. 2. For the purposes of this Act—

(1) "vessel" means every description of watercraft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water; and

(2) "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of any nation.

SEC. 3. (a) The President is authorized to proclaim the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the "International Regulations"). The effective date of the International Regulations for the United States shall be specified in the proclamation and shall be the date as near as possible to, but no earlier than, the date on which the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the "Convention"), signed at London, England, under date of October 20, 1972, enters into force for the United States. The International Regulations proclaimed shall consist of the rules and other annexes attached to the Convention.

(b) The proclamation shall include the International Regulations and shall be published in the Federal Regiser. On the date specified in the proclamation, the International Regulations shall enter into force for the United States and shall have effect as if enacted by statute.

(c) Subject to the provisions of subsection (d) hereof, the President is also authorized to proclaim any amendment to the International Regulations hereafter adopted in accordance with the provisions of article VI of the Convention, and to which the United States does not object. The effective date of the amendment shall be specified in the proclamation and shall be in accordance with the provisions of the said article VI. The proclamation shall include the adopted amendment and shall be published in the Federal Register. On the date specified in the proclamation, the amendment shall enter into force for the United States as a constituent part of the International Regulations, as amended, and shall have effect as if enacted by statute.

(d) (1) Upon receiving a proposed amendment to the International Regulations, communicated to the United States pursuant to clause 3 of article VI of the Convention, the President shall promptly notify the Congress of the proposed amendment. If, within sixty days after receipt of such notification by the Congress, or ten days prior to the date under clause 4 of article VI for registering an objection, whichever comes first, the Congress adopts a resolution of disapproval, such resolution shall be transmitted to the President and shall constitute an objection by the United States to the proposed amendment. If, upon receiving notification of the resolution of disapproval, the President has not already notified the Inter-Governmental Maritime Consultative Organization of an objection to the United States to the proposed amendment, he shall promptly do so.

(2) For the purposes of this subsection, "resolution of disapproval" means a concurrent resolution initiated by either House of the Congress, the matter after the resolving clause of which is to read as follows: "That the (the concurring) does not favor the proposed amendment to the International Regulations for Preventing Collisions at Sea, 1972, relating to , and forwarded to the Congress by the President on .", the first blank space therein to be filled with the name of the resolving House, the second blank space therein to be filled with the name of the concurring House, the third blank space therein to be filled with the subject matter of the proposed amendment, and the fourth blank space therein to be filled with the day, month, and year.

(3) Any proposed amendment transmitted to the Congress by the President and any resolution of disapproval pertaining thereto shall be referred, in the House of Representatives, to the Committee on Merchant Marine and Fisheries, and shall be referred, in the Senate, to the Committee on Commerce, Science, and Transportation.

SEC. 4. Except as provided in section 5 and subject to the provisions of section 6, the International Regulations, as proclaimed under section 3, shall be applicable to, and shall be complied with by—

(1) all vessels, public and private, subject to the jurisdiction of the United States, while upon the high seas or in waters connected therewith navigable by seagoing vessels, and

(2) all other vessels when on waters subject to the jurisdiction of the United States.

SEC. 5. (a) The International Regulations shall not be applicable to vessels while—

(1) in the harbors, rivers, and other inland waters of the United States, as defined in section 1 of the Act of June 7, 1897 (30 Stat. 96), as amended (33 U.S.C. 154),

(2) in the Great Lakes of North America and their connecting and tributary waters, as defined in section 1 of the Act of February 8, 1895 (28 Stat. 645), as amended (33 U.S.C. 241), nor while

(3) in the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, as defined in section 4233 of the Revised Statutes of the United States, as amended (33 U.S.C. 301).

(b) Whenever a vessel subject to the jurisdiction of the United States is in the territorial waters of a foreign state the International Regulations shall be applicable to and shall be complied with by, that vessel to the extent that the laws and regulations of the foreign state are not in conflict therewith.

SEC. 6. (a) Any requirement of the International Regulations with respect to the number, position, range, or arc of visibility of lights, with respect to shapes, or with respect to the disposition and characteristics of sound-signaling appliances, shall not be applicable to a vessel of special construction or purpose, whenever the Secretary of the Navy, for any vessel of the Navy, or the Secretary of the department in which the Coast Guard is operating, for any other vessel of the United States, shall certify that the vessel cannot comply fully with that requirement without interfering with the special function of the vessel.

(b) Whenever a certification is issued under the authority of subsection (a) hereof, the vessel involved shall comply with the requirement as to which the certification is made to the extent that the Secretary issuing the certification shall certify as the closest possible compliance by that vessel.

(c) Notice of the certifications issued pursuant to subsections (a) and (b) hereof shall be published in the Federal Register.

SEC. 7. (a) The Secretary of the Navy is authorized to promulgate special rules with respect to additional station or signal lights or whistle signals for ships of war or vessels proceeding under convoy, and the Secretary of the department in which the Coast Guard is operating is authorized to promulgate special rules with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet.

(b) The additional station or signal lights or whistle signals contained in the special rules authorized under subsection (a) hereof shall be, as far as possible, such that they cannot be mistaken for any light or signal authorized by the International Regulations. Notice of such special rules shall be published in the Federal Register and, after the effective date specified in such notice, they shall have effect as if they were a part of the International Regulations.

SEC. 8. The Secretary of the department in which the Coast Guard is operating is authorized to promulgate such reasonable rules and regulations as are necessary to implement the provisions of this Act and the International Regulations proclaimed hereunder.

SEC. 9. (a) Whoever operates a vessel, subject to the provisions of this Act, in violation of this Act or of any regulation promulgated pursuant to section 8, shall be liable to a civil penalty of not more than $500 for each such violation.

(b) Every vessel subject to the provisions of this Act, other than a public vessel being used for noncommercial purposes, which is operated in violation of this Act or of any regulation promulgated pursuant to section 8, shall be liable to a civil penalty of $500 for each such violation, for which penalty the vessel may be seized and proceeded against in the district court of the United States of any district within which such vessel may be found.

(c) The Secretary of the department in which the Coast Guard is operating may assess any civil penalty authorized by this section. No such penalty may be assessed until the person charged, or the owner of the vessel charged, as appropriate, shall have been given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit, mitigate, or compromise any penalty assessed. Upon the failure of the person charged, or the owner of the vessel charged, to pay an assessed penalty, as it may have been mitigated or compromised, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty as assessed, without regard to the amount involved, together with such other relief as may be appropriate.

SEC. 10. Public Law 88-131 (77 Stat. 194) is repealed, effective on the date on which the International Regulations enter into force for the United States. The reference in any other law to Public Law 88-131, or to the regulations set forth in section 4 of that Act, shall be considered a reference, respectively to this Act, or to the International Regulations proclaimed hereunder.

By Mr. GRAVEL:

S. 1758. A bill entitled "Energy Development Act of 1977"; to the Committee on Energy and Natural Resources, and the Committee on Finance; jointly by unanimous consent.

Mr. GRAVEL. Mr. President, we are, without a doubt, in the midst of an energy dilemma. The President says that there is not enough oil and gas available to meet our global needs through the near future. Others say that all we need do is provide sufficient incentives for production to assure supplies of all the oil and gas we want—in conventional forms as well as oil shale, methanol, methane from geopressurized zones and the like. We are told that the answer is to expand our production of coal and our problems will be solved. On the other hand, what are the environmental consequences of such a shift at a time when in many areas our air is only just becoming somewhat cleaner? How much coal will we be able to mine and transport—enough to meet our long-range energy needs? What are we in the Congress to do? What is our constituency to think?

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by the Senator from Alaska (Mr. GRAVEL), to deregulate the prices of oil and natural gas and to establish a tax on the excess profits from the production of fossil fuels, and for other purposes, be jointly referred to the Committees on Energy and Natural Resources and Finance, provided that the Committee on Energy and Natural Resources shall consider only title I and the Committee on Finance shall consider only title II.

It is my understanding that this has been cleared with the minority, with Mr. LONG, with Mr. JACKSON, and with Mr. HANSEN, and with Mr. CURTIS, for the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

I happen to believe that we are resourceful enough, in both mind and matter, to solve our short-term energy needs while we pursue the true long-term answer of developing clean, renewable sources of energy in the form of solar and hydroelectric power. Any long-term commitment to rapid development of coal and nuclear power without serious study of the environmental costs is irresponsible and unnecessary. There is a great deal of evidence of the availability of fossil fuels in the form of conventional oil and gas, geopressurized gas, oil shale, coal gas, and tertiary oil, that we can meet our present and near-term energy needs, if we provide sufficient incentives. The President is correct—we should pay the replacement cost of fuel. The only problem with the President's plan in this regard is that the consumer pays the replacement cost but the producer does not receive the proceeds to finance replacement. The President's plan taxes away the funds which oil and gas producers could use to finance replacement of reserves and development of new energy sources. What we need to do is to deregulate oil and gas and enact an excess profits tax to assure that additional revenues generated from increased prices will be used for exploration and development of additional sources of energy. Therefore, today I introduce a bill to accomplish this.

The tax provisions of this bill insure that deregulation will not result in unwarranted profits to oil and gas producers. The bill creates a tax on the excess fossil fuel profit of every corporation and individual. The tax reaches not only the giant oil companies involved in the development of fossil resources, but the small independent individual and corporate operators as well. A tax of 80 percent of the excess fossil fuel profits income is levied on all taxpayers involved in oil and gas production for tax years ending after December 31, 1977. In order to encourage the reinvestment of fossil fuel profits, the bill allows a tax credit against the excess fossil fuel profits tax equal to the taxpayer's investment in energy development. The credit is allowed for intangible drilling and development costs, costs of construction and reconstruction, and costs for acquisition of new depreciable assets used for exploration, conversion and refining of oil, gas, and oil shale. The credit is also allowed for expenses incurred in the exploration, discovery, production, and development of any other energy source. While the taxpayer receives a credit against the excess profits tax for investment in energy production activities, the taxpayer will still pay the normal corporate or individual tax on income.

By Mr. CLARK:

S. 1759. A bill to amend the Wilderness Act of 1964, and for other purposes; to the Committee on Energy and Natural Resources.

THE BOUNDARY WATERS CANOE AREA

Mr. CLARK. Mr. President, today I am introducing a bill which will provide full wilderness protection to the Boundary Waters Canoe Area.

The Boundary Waters Canoe Area is

unique among the wilderness areas of this country: east of the Rockies, it is the largest wilderness area with the most virgin timber, and it is the only lakeland area.

In the BWCA are 1,000 lakes, 1,200 miles of streams, portages and foot trails, and 540,000 acres of virgin forest, including some trees nearly 400 years old. The area offers experiences available in no other part of the wilderness system. They are experiences appreciated by many Americans—the BWCA receives more visitors than any other wilderness area in the United States. But it is the only wilderness area in the Nation where special exceptions have been made in logging, mining, and motorized vehicles.

I feel strong that the BWCA should be protected to the maximum extent possible, not only because it is a unique national recreational, educational, and scientific resource, but because it is of special interest to Iowans. It is the wilderness area closest to Iowa and Iowans visit it far more than they do any other similar area.

My bill will be a companion measure to legislation introduced in the House by Representative DON FRASER of Minnesota. Specifically, the bill would:

First, protect and enhance the wilderness status of the BWCA by prohibiting logging, mining, and motorized recreational activity in the area;

Second, add 35,000 acres of adjacent wilderness land to the area;

Third, emphasize the full wilderness status of the BWCA by changing its name to the boundary waters wilderness area; and

Fourth, increase the Federal payments made in lieu of taxes to the Minnesota counties in which the area is located.

The controversy over the status of the BWCA is over 70 years old. It is a complicated history involving Congress, the President, the State of Minnesota, and Federal and State courts. In 1964—in action that could have ended the controversy for good—the BWCA was designated as a wilderness area, but it was the one wilderness area where motorized vehicles, logging, and mining were permitted. After passage of the Wilderness Act, the Forest Service divided the BWCA into an interior zone of 600,000 acres, where logging and mining were prohibited and a portal zone of 400,000 acres where logging and mining were permitted.

Mining is unlikely in any case because of Minnesota law, but the logging threat is imminent and must be dealt with immediately.

The BWCA has already been logged extensively, but 52 percent—540,000 acres—is still virgin forest. Of that, approximately 160,000 acres is in the portal zone and, under the Forest Service plan, could be opened to logging. There had been considerable logging in the BWCA before passage of the 1964 Wilderness Act and it continued until it was halted by court action in 1975. In 1976 that court decision was overturned, but the logging companies agreed not to resume activity until September 15, 1977, to give Congress the opportunity to deal with the controversy over future use of the BWCA. But they will be ready to go to work this fall—and they will be working in areas which include 10,000 acres of virgin timber.

Minnesota has 16 million acres of commercial forest outside the BWCA. Only 2 percent of the State's softwood acreage is located there. The BWCA, under any circumstances, deserves to be protected because of its special character, but the availability of timber elsewhere makes protection even more justifiable.

The exceptions written into the Wilderness Act also have permitted snowmobiling and motorboating within the BWCA in areas covering 60 percent of the water surface. Snowmobiling has now been banned, but motorboating continues. Just as there are alternative places for logging, there are also alternatives for people who want to use motorboats. Outside the BWCA, in Minnesota, Wisconsin, and Michigan, there are 40,000 lakes open to motorboats and other forms of motorized travel.

The boundary waters—without motorized travel—offers a unique experience, one that cannot be found in those other 40,000 lakes. There are many people looking for that kind of experience—70 percent of visitor use is by those who travel by canoe, ski, or foot.

I know that Minnesotans are by no means in agreement on how the future of the BWCA should be handled. The people who live around the BWCA have special and understandable concerns about it. This bill recognizes one of those concerns by increasing payments in lieu of taxes for Federal lands within the BWCA. In addition, by enhancing the wilderness status of the area, this bill will guarantee long-term tourism there. If further accommodations can and should be made, without harm to the wilderness status of the BWCA, I would certainly be open to their inclusion in the bill.

However, it seems to me that it is now time for Congress to clarify the situation in the BWCA for good. The bill I am introducing today would maintain the special wilderness characteristics of the BWCA. There are many kinds of recreation and, in our national parks and recreation system, we must try to accommodate as many of them as we can. In the BWCA we have a special opportunity and a special responsibility to preserve wilderness and to return logged-over areas to wilderness status.

If we do not take care of the BWCA, Minnesotans, Iowans, and others from all over the country will not be able to find the special experience the boundary waters offer—and they will have to go a long way to find anything similar. I hope we can keep the BWCA for the uses which are uniquely its own.

By Mr. SASSER (for himself and Mr. BAKER):

Senate Joint Resolution 66. A joint resolution authorizing and requesting the President to issue a proclamation designating July 1 of each year as "National Free Enterprise Day"; to the Committee on the Judiciary.

Mr. SASSER. Mr. President, today Senator BAKER and I introduce a joint resolution to proclaim July 1 of each year "Free Enterprise Day."

It is important that we set aside time to reflect upon the strength of our economic system. It has worked well and we too often overlook its greatness. The time has come to call attention to the cornerstone of our economic system.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 66

Whereas, the free enterprise system is and has been the basis for the strength of the American economic system;

Whereas, the market system of this country contributes to the strength of the American political system;

Whereas, the free enterprise system offers the best hope for the solution to the problems facing the country today;

Whereas, the free enterprise system promotes economic and political stability through the protection of property rights and managerial authority; and

Whereas, the free enterprise system protects and secures the political freedom and personal liberty necessary for full economic growth: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating July 1 of each year as "National Free Enterprise Day" and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

Mr. BAKER. Mr. President, today my good friend and colleague from Tennessee, Senator SASSER and I, are introducing a resolution asking the President to declare July 1 of each year "National Free Enterprise Day."

Senator SASSER and I have a very special interest in this proposal because it is an idea borne in the mind of a fellow Tennessean, Mr. John G. Hutchens, president of the U.S. Industrial Council which is headquartered in Nashville. It is an idea that Mr. Hutchens has been fostering for some time, and in recognition of his efforts, Mr. Hutchens last year received a telegram from President Ford noting the vital link between free enterprise and the preservation of a free society.

It is no accident, Mr. President, that the citizens of the United States enjoy a standard of living unmatched in any other society. We are fed, clothed, transported, educated with a sufficiency unequaled in history—partially because of the blessings of a temperate climate and abundant resources, but primarily because of our free market economy. It is the ingenuity of free enterprise that has brought us to our present stature and it is the ingenuity of free enterprise that will solve the problems of our future.

I would be remiss if in introducing this resolution, I did not pay particular at-

tention to the importance of small business to the free enterprise system. The small businessman is the unsung hero of our continued prosperity and he will be a major factor in our ability to maintain it. Provided the proper incentives, allowed to retain and reinvest his capital, small business will be a major factor in reducing the Nation's unemployment, particularly among minorities and the untrained young people of the Nation.

I believe it entirely proper, therefore, that we set aside 1 day each year to recognize the vital importance of free enterprise—its contributions to the past and its promise for the future. Therefore, I join with pleasure my colleague from Tennessee in introducing this resolution, and I urge all my colleagues to join in the support of it.

ADDITIONAL COSPONSORS

S. 196

At the request of Mr. BURDICK, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 196, to amend the Internal Revenue Code.

S. 708

At the request of Mr. CLARK, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 708, to amend title XVIII of the Social Security Act to provide payment for rural health clinic services.

S. 856

At the request of Mr. STONE, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 856, to amend the Internal Revenue Code.

S. 1320

At the request of Mr. STONE, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 1320, a bill to amend the Federal Election Campaign Act of 1971 with respect to the filing of reports with State officers.

S. 1675

At the request of Mr. HATHAWAY, the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Jersey (Mr. CASE) and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1675, the Social Security Act Amendments of 1977.

SENATE JOINT RESOLUTION 29

At the request of Mr. BURDICK, the Senator from Rhode Island (Mr. CHAFEE), the Senator from Wyoming (Mr. HANSEN), the Senators from Minnesota (Mr. HUMPHREY and Mr. ANDERSON), the Senator from Alabama (Mr. ALLEN), the Senator from Kentucky (Mr. FORD), the Senator from Nevada (Mr. CANNON), the Senator from Virginia (Mr. SCOTT), the Senator from North Dakota (Mr. YOUNG), the Senator from New York (Mr. MOYNIHAN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. McGOVERN), the Senator from Missouri (Mr. DANFORTH), the Senator from Texas (Mr. BENTSEN), the Senator from New Mexico (Mr. SCHMITT), the Senator from South Carolina (Mr. THURMOND), the Senator from Arizona (Mr. DECONCINI), the Senator from Montana (Mr. MELCHER), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Idaho (Mr. CHURCH), and the Senator from Utah (Mr. GARN) were added as cosponsors of Senate Joint Resolution 29, designating National Family Week.

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from New York (Mr. JAVITS) was added as a cosponsor of Senate Joint Resolution 65, providing representation in Congress of the District of Columbia.

AMENDMENT NO. 284

At the request of Mr. STONE, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of amendment No. 284 to be proposed to the bill S. 1344, to amend the Federal Election Campaign Act of 1971.

AMENDMENTS SUBMITTED FOR PRINTING

ENDANGERED AMERICAN WILDERNESS ACT—S. 1180

AMENDMENT NO. 464

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. DECONCINI. Mr. President, I am proposing an amendment which will include in the Endangered American Wilderness Act of 1977—S. 1180—a portion of the Coronado National Forest known as the Pusch Ridge area. This area comprises most of the western segment of the Santa Catalina mountain range immediately north of the city of Tucson, Ariz.

Pusch Ridge encompasses a remarkable variety of vegetation zones. Saguaros cholla, and a wide variety of unique cacti that are exclusive to the Sonoran Desert are found in the lower mountain canyons. At higher elevations there are large stands of junipers and pinyon and ponderosa pines. These varied vegetation zones provide habitats for large numbers of desert animals, including one of the last remaining populations of bighorn sheep in the Southwest.

There are also purely aesthetic reasons for designating this area as a wilderness. The beautiful desert canyons and mountains directly north of Tucson have become visually symbolic of the city, instantly recognizable to many people around the country. Indeed this area acts as a magnet to tourists and retirees, by contributing to the distinctive environment of the city. Designation of Pusch Ridge as a wilderness cannot fail to enhance the attractiveness of the entire region.

The proposed Pusch Ridge Wilderness contains no roads. However, because of a well-developed trail system, and due to its proximity to Tucson and some popular recreation areas, it will remain readily accessible to hikers and all others who wish to enjoy its outstanding natural beauty. Since there are currently no mining activities, timber cutting, or livestock grazing on Pusch Ridge, wilderness designation will not affect the cost of maintaining or managing the area.

By including the Pusch Ridge area in this bill we will further the goals of the Wilderness Act of 1964. We will preserve endangered national forest lands that exhibit unique natural characteristics and contribute an enduring resource for the benefit of all the American people.

FEDERAL GOVERNMENT REFORMS—S. 555

AMENDMENT NO. 465

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. NUNN, and Mr. CRANSTON) submitted an amendment intended to be proposed by them jointly to the bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institution, and for other purposes.

AMENDMENT NO. 466

(Ordered to be printed and to lie on the table.)

AMENDMENT TO S. 555

Mr. JAVITS. Mr. President, on March 24 the Senate adopted an amendment which was offered by the distinguished Senator from New Mexico (Mr. SCHMITT) and cosponsored by me during its consideration of Senate Resolution 110, legislation to establish a code of official conduct for Members, officers and employees of the U.S. Senate and for other purposes. The purpose of that amendment which was adopted by an overwhelming vote of 93 to 1 was to protect the basic individual rights of spouses and dependents in reporting assets and income, while at the same time preventing abuse by the transfer of assets through which a Member might receive financial or economic benefit.

The language which we adopted was chosen because it ultilized the concept of constructive control used in the code of conduct adopted by the House of Representatives while also incorporating the interpretation given to the term "constructive control" by the House. There was extensive debate on this issue in the Senate during its sessions on March 23 and 24 and may be found at pages 8844 through 8972.

In considering S. 555 the Governmental Affairs Committee voted 7 to 4 to delete two separate provisions which go to the question of reporting spouses interests. The amendment Senator SCHMITT and I submit today, which will be taken up on Monday would restore the language which the Senate agreed to when it adopted the code of ethics.

AMENDMENT NO. 466

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT (for himself and Mr. JAVITS) submitted an amendment intended to be proposed by them jointly to the bill (S. 555), supra.

NOTICES OF HEARINGS

MARKUP ON SUNSET LEGISLATION

Mr. PERCY. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold a markup on S. 2, the Sunset Act of 1977, on Tuesday, June 28, 1977, at 10 a.m. in room 3302 Dirksen Senate Office Building.

ENERGY COSTS ON OLDER AMERICANS

Mr. CHURCH. Mr. President, the Senate Special Committee on Aging will continue its hearings on "the impact of rising energy costs on older Americans" at 10 a.m. in 1318 Dirksen Building. Administration witnesses will discuss implementation of emergency assistance to persons hard hit by last winter's high utility bills, as well as other matters.

CHANGE IN HEARING SCHEDULE

Mr. GLENN. Mr. President, the hearing of the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs scheduled for 10 a.m. on Tuesday, June 28, 1977, has been rescheduled for 1 p.m. on the same date. The hearing, to continue consideration of the report of the Commission on Postal Service, will be held in room 3302 of the Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

DR. WERNHER VON BRAUN

Mr. BAKER. Mr. President, with the death last week of Dr. Wernher von Braun, the United States, a nation that owes its existence and its stature to a multitude of pioneers, lost one of the greatest of them all. His frontier was the universe, and the scope of his imagination was virtually as limitless as his frontier.

Although one of the greatest representatives of America's pioneering spirit, he was certainly not the last, as the presence here in this Chamber of two of our distinguished colleagues bears eloquent testimony. But as we continue to push back the frontiers of space, and as other pioneers follow in the footsteps of Dr. von Braun and JOHN GLENN and JACK SCHMITT and the many others, it will be only because of the vision, the genius and the efforts of this truly remarkable man.

His accomplishments in the field of space technology constitute one of the most incredible success stories in any field of human endeavor. Satellites in space, men on the Moon, orbiting space stations and laboratories, and vehicular travel to the planets were, only a few years ago, the common subjects of science fiction. Today, because of his efforts, they are accomplished and well-known facts. Less well known, and still coming, to light are the many technological advances, directly attributable to Dr. von Braun's space program, in other areas of scientific endeavor, in our everyday standard of living, and in the fund of knowledge of our own terrestrial sphere.

I think it neither ungrateful nor inappropriate that, in remarking on the passing of a national hero, we also remember that products of his genius did not always serve the ennobling interests of mankind. Although we cannot ignore the fact that the technology that led to the Saturn V had its beginnings in the development of the V–2, an editorial that appeared in the June 23 edition of the Washington Post places this paradox in a proper perspective. If I would disagree with any part of the editorial, it would be with the assertion that Dr. von Braun could have "labored as happily with the Russians if, after World War II, he had happened to surrender to them." I would like not to believe that. In fact, it is my understanding that Dr. von Braun very purposely surrendered not only himself but virtually his entire team of scientists to the United States. In any event, we are forever in his debt; and that, I believe, is the most important thing to remember.

I ask unanimous consent, Mr. President, that the Washington Post editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WERNHER VON BRAUN

"He aimed for the stars," Mort Sahl is supposed to have said of Wernher von Braun, "but sometimes he hit England." And that pretty much says it. For most Americans, and others, it has never been possible over the past several decades to hear mention of the name of Wernher von Braun, space pioneer, without thinking, uncomfortably, of Wernher von Braun, rocket-builder by appointment to Adolph Hitler. For this was a man who became an American national hero in the 1960s after being an American national enemy in the 1940s. The transformation was remarkably complete. Yet, even those who most valued his leadership in the space age—and his enormous contributions to this country's accomplishments—found it impossible to forget his contributions to the Nazi war effort, and difficult to reconcile the two.

There is, it seems to us, a simple answer. From his youth, Mr. von Braun wanted to do nothing but build rockets that would reach the moon and the stars. He built them for whomever he could and for whatever immediate purpose was demanded of them. And so it was that he did build the V–2 rockets for Germany, his homeland, and the V–2s *were* the last-ditch weapons the Nazis employed against the British in World War II. But later, some of his other rockets did reach the moon, and those were the ones he built for the United States—the country to which he chose to come when the war ended. Here, his rockets originally formed the base of a defense policy resting on guided missiles. But when the space age arrived with Sputnik I, it was his Jupiter that enabled this country to catch up with that initial Russian advantage and his Saturn that provided the power with which this country's international leadership in space flight was achieved.

Mr. von Braun was, without any doubt, a remarkable scientist, manager and dreamer. No one man could have produced all those rockets alone. But it was his technical ability, experience and uncanny ability to organize others that made him the central figure in the space program. And it was his eloquent expression of that childhood dream of space travel that made him a national figure. The landing on the moon was, to him, only the first step in opening up the universe. We suspect it didn't matter too much to him whose flag that first spaceship planted. What mattered was that mankind had at long last broken free of the grasp of the planet Earth. It is in that context—as one of the new breed of international scientists—that Mr. von Braun's life should be judged. Yes, he labored for Nazi Germany. And yes, he labored for the United States. And he would probably have labored as happily for the Russians if, after World War II, he had happened to surrender to them. You can think of him as a hired gun, if you like. But you can also think of him as he apparently thought of himself—as a man indentured only to a dream. He followed it where it led him. And, unlike most of us, he saw a large part of it come true.

REORGANIZED INTERNATIONAL INFORMATION AND CULTURAL FUNCTIONS

Mr. PELL. Mr. President, for some time now a reorganization of the educational, cultural, and informational functions of the Department of State and the United States Information Agency, USIA, has been under consideration.

The basic options seem to be:

Merging USIA into the Department under a new Under Secretary of State.

Removing the Bureau of Educational and Cultural Affairs, CU, from the Department of State and placing it in USIA.

Combining CU and USIA into a new agency—much the same as above option.

Combining CU with USIA's Bureaus of Information Centers and Motion Pictures and Television, AID's Office of Training, and the International Division of the Office of Education to create a new, strong international education and cultural agency.

The case against transferring the State cultural activities to USIA as it is presently constituted is well articulated in a paper endorsed by 113 civil servants, Foreign Service and Foreign Service Information personnel now assigned to the State Department's Bureau of Educational and Cultural Affairs, CU. The paper points out the fundamental flaw of merging CU into USIA—the difference of mission. USIA's activities are directed exclusively as influencing other countries—"telling America's story abroad." More crudely it reflects the classic American attitude of "we teach, they learn." On the other hand, CU's mission, as stated in the Fulbright-Hays Act of 1961, is "to increase mutual understanding" between the people of the United States and other countries. It is this mutual nature of the CU program which distinguishes it from USIA, and, as world interdependence has increased, this feature has become more and more important and appropriate because it recognizes that Americans benefit by learning about other countries, peoples and cultures.

The need for increased U.S. understanding of the rest of the world is obvious, and it has most recently been documented by the Helsinki Commission, the Linowitz Commission and the Aspen Institute.

The incompatibility of USIA administration of Fulbright and similar educational programs with the fundamental objectives of those programs is well stated in the December 1976 report of the Commission on United States-Latin

American Relations—the Linowitz Commission—entitled, "The United States and Latin America, Next Steps":

Not only too small, the official cultural program also is poorly positioned in our overall foreign relations structure. International cultural exchanges under the Mutual Educational and Cultural Exchange Act of 1961 (the Fulbright-Hays Act) are managed by the State Department's Bureau of Educational and Cultural Affairs. Responsibility for informational materials and U.S. policy advocacy (propaganda) is assigned to the United States Information Agency. Yet cultural attaches in U.S. Embassies around the world are too often subordinated to Public Affairs Officers who are representatives of the United States Information Agency.

Cultural relations can not flourish under these conditions. The ability of cultural attaches to win credibility in intellectual communities abroad—and bring about cultural interchanges which would favorably affect relations over the long-term—is critically impaired by their divided responsibilities and their association with an agency of government whose mission is predominantly propagandistic and political.

Mr. President, the issue of reorganizing the international educational, cultural and informational programs of the U.S. Government is important and complex. Both the Senate and the House of Representatives have a great interest in these programs, and any proposals to change the existing institutions for furthering our Nation's educational and cultural exchange objectives with other countries should be the subject of full and close consultation with the Congress.

Mr. President, I commend the perceptive statement of CU personnel on this subject to the attention of my colleagues in the Senate and ask unanimous consent that their statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A STATEMENT ON REORGANIZATION BY PERSONNEL OF THE BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS, DEPARTMENT OF STATE

Consideration is now being given within the Executive Branch and the Congress to the reorganization of various international information and cultural functions of the Department of State and the U.S. Information Agency. A number of useful reports and public statements on this question have been issued by the Stanton Commission, the Murphy Commission, Congressional Committees, the GAO, the American Foreign Service Association and several groups of USIA employees.

The statement below is the first broadly organized effort to reflect the views and concerns of those now assigned to the Department of State's Bureau of Educational and Cultural Affairs. We believe that decision makers should have the views of this group of personnel, whose work and careers will be directly affected by any reorganization.

The Congress and the Executive Branch have a rare opportunity at this juncture to establish conceptually and organizationally that the international information and cultural affairs efforts of the U.S. Government are central to the conduct of our public diplomacy and to the promotion of international understanding at home and abroad.

The Bureau of Educational and Cultural Affairs is one of fourteen Bureaus in the Department of State. In recent years, its importance has been increasingly recognized by other Department elements, by our Ambassadors abroad and by the Congress. The fact that government-funded educational exchanges (the Fulbright-Hays program) and other international cultural activities are carried out by a unit which is totally part of the Department of State has not jeopardized the integrity of these programs; in fact, close association with our other, principal diplomatic arms—political, economic, scientific and consular—has been mutually beneficial to all concerned.

One reorganization proposal would place responsibility for carrying out international educational and cultural exchange programs in a new, semi-autonomous agency (similar to AID or perhaps, ACDA), together with functions now carried on by USIA. It would be indirectly under the Department of State, but organizationally separate from the rest of the Department. Such a plan would inevitably place the programs, activities and personnel of the Bureau of Educational and Cultural Affairs further from other principal Department elements responsible for the conduct of diplomacy. This would not be in the best interests of our foreign policy. We strongly oppose any reorganization which would remove legitimate functions of public diplomacy from the main stream of the total diplomatic effort of the Department of State. Such a step would cause these programs to receive not greater attention, support and cooperation from other Department elements, but less.

The proposal for a semi-autonomous agency would essentially incorporate the present Educational and Cultural Affairs Bureau and its 246 persons into a 3900-person USIA whose mission has always been primarily to explain the United States and its foreign policies to people in other countries. We fear that the integrity of essentially long-range, educational and cultural programs—including academic exchanges under the Fulbright Program—would be seriously jeopardized if they are simply folded into a USIA (with a new name) which tends to give priority to support of short-range USG foreign policy objectives. The Fulbright-Hays Act of 1961, the basis for the work of the Educational and Cultural Affairs Bureau, authorizes Department programs to: "increase mutual understanding" between the people of the US and of other countries, "strengthen ties which unite us with other nations" and "promote international cooperation for educational and cultural advancement". In contrast, the inscription on the cornerstone of the USIA Washington headquarter building reads: "Telling America's Story to the World"; and USIA officers understand that their audiences are only in foreign countries, not in the United States. By law, the activities of the Bureau of Educational and Cultural Affairs are abroad and in the United States.

We are concerned that an amalgamation of the Department of State's two-way, educational and cultural exchange programs with the essentially one-way activities of the USIA may take place without resolving deep conceptual and programmatic differences in the purposes of both organizations.

We see little advantage to the effective conduct of our international relations in transferring the Bureau of Educational and Cultural Affairs of the Department of State to a new, semi-autonomous agency. It may be that such a proposal solves the problem of what to do with the Voice of America—whose personnel oppose integration into the Department of State but probably cannot be set up totally outside the Government either. But one Bureau of the Department of State should not be separated from the rest of the Department primarily to find a compromise solution for the Voice of America.

Many of us are only temporarily part of the Department's Bureau of Educational and Cultural Affairs and will move on to other assignments in State or USIA. Others of us are not in the Foreign-Service, and expect to continue our careers in this Bureau. Our common purpose is to prevent the weakening of these important functions of diplomacy in which we all deeply believe.

A much better solution would be to establish a new Under Secretary of State for Public and Cultural Affairs, responsible for three Bureaus, dealing with overseas information, domestic public affairs and international exchanges. If the Voice of America needs to be placed at a greater distance from the Department, it might be assigned a separate, special status with a presidentially-appointed board of overseers, including the proposed Under Secretary for Public and Cultural Affairs.

We urge that whatever the final decision, it not jeopardize the integrity of increasingly important functions of the Department of State dealing with educational and cultural affairs, nor place responsibility for carrying out these functions in semi-autonomous limbo.

JOBS AND A CLEAN ENVIRONMENT ARE NOT INCOMPATIBLE

Mr. HEINZ. Mr. President, it often seems that when we are discussing environmental matters, positions are characterized as "pro-industry" or "pro-environment" with the assumption that each is exclusive of the other. At the risk of being redundant, I must restate my conviction that the two concerns are not necessarily at opposite ends of the spectrum, and that being "pro" one position does not mean that one is necessarily "anti" the other. On questions of how to safeguard our environment, we should all be pro-environment. And on questions of strengthening our economy, we should all be pro-industry.

This position should not be passed off as mere idealism. Rather, it is an opinion formed on the basis of experience in the worlds of business and politics, and observation that the goals of environment and industry are not necessarily so far apart. Through a thoughtful and practical approach to the problems, compromises can be struck which will allow us to move closer to both goals.

Increasingly, companies are realizing that this is true. They are experiencing actual cost savings and production benefits as a result of their efforts to reduce pollutant emissions. Certain kinds of process changes can result in savings in energy costs, material costs, or both. Certain kinds of effluent, if collected, can be reused within a plant or sold to other industries at a profit. Let me give you a few specific examples of what I mean.

One paper company recently redesigned its paper production process to create less byproduct and to recycle chemicals that could not be eliminated from the process. In addition, it was able to reduce the amount of water used in the process through the development of certain innovative washing techniques. Operating expenses projected to be saved annually are estimated to be $4 million.

An electric utility installed burners which were designed to operate at very low levels of excess air thereby reducing visible emissions from 40 to 10 percent while increasing boiler efficiency and lowering fuel consumption.

One company virtually ended its discharge altogether with a system combining primary treatment of its liquid effluent and spray irrigation. Almost all of the 40,000 pounds of BOD, nutrients and suspended solids have been eliminated from nearby streams and groundwater. Moreover, nutrients in the wastewater are now sprayed on the land to produce high protein forage which is combined with other solid wastes from the plant to feed yearling steers. The waste heat in the effluent which is used for irrigation allows a 10- to 11-month growing season and an annual yield nearly twice that of normal crop lands in the area.

Mr. President, efforts such as these are worthy of note. I hope that we as legislators will do what we can to insure that these kinds of sensible and much needed approaches to environmental control and industrial innovation will continue.

H.R. 5970—DOD AUTHORIZATION CONFERENCE REPORT—CIVILIAN MANPOWER PROVISIONS

Mr. BAYH. Mr. President, I would like to take this opportunity to express my strong support for action taken by the House and Senate conference on the Department of Defense authorization bill for fiscal year 1978 in the area of civilian manpower. This has been of particular interest to me during the years since Congress determined that statutory ceilings should be placed on the Department of Defense authorization bill for fiscal year 1978 in the area of civilian manpower. This has been of particular interest to me during the years since Congress determined that statutory ceilings should be placed on the Department of Defense. As my colleagues know, these ceilings have played a significant role in the management difficulties of Department of Defense industrially funded activities across the country. Accordingly, I sponsored legislation removing IFA's from congressional ceilings.

In my own State of Indiana, the vital work going on at the Naval Avionics Facility in Indianapolis and the Naval Weapons Support Center at Crane has been adversely affected by acute shortages of manpower. Three important actions taken by the conference promise to ease the present problems facing managers at facilities such as these as well as the naval shipyards, air rework facilities, and printing plants. Without going into an involved explanation of the details of industrial funding, I will touch briefly on the three provisions of the conference action which should provide manpower ceiling relief for these facilities. The prospect for greater flexbility within reduced ceiling contracting should enable us to provide additional jobs where there is work to be done and money to do it and also the national defense and our overall economic well-being.

CURTAILMENT OF CONTRACTING OUT

The decision to curtail contracting out of research, commercial, and industrial type services until a full evaluation could be made on the present policy will halt the denigration of the Defense Department's capability to perform vital in-house services on a continuing basis. Like my colleagues, I believe that if the private sector can do the job better than a Government agency and that it is not vital to national security interests that such functions remain in the Department of Defense, then, by all means, let private enterprise perform the work. DOD is already purchasing goods and services from the private sector at about $46 billion per year.

Unfortunately, OMB circular A–76 policy has resulted in cases where contracts have been let not because of the quality or cost of the work but, apparently in order to avoid the manpower ceilings. Needless to say, this does not make good management sense.

The rigid and, until this time, relatively inflexible statutory manpower ceilings complicated the ability of defense managers to provide adequate personnel support to do the work at facilities engaged in maintenance, construction and repair. The moratorium on contracting out until March 15, 1978, when a report from the Secretary of Defense and Director of the Office of Management and Budget will be submitted, combined with the other two elements of the conference action will serve to correct this harmful shortcoming in DOD manpower management policy. It will remove the statutory ceiling as a reason for uneconomic contracting policy. It will take away the "crutch" from those who do not want to manage and will provide support for those who do.

INCREASE IN END STRENGTH FLEXIBILITY

In a move strengthening the integrity of the contracting out moratorium, the conference agreed to increase the end strength flexibility authority of the Secretary of Defense to exceed the statutory ceiling for Department of Defense civilian employees by 1.25 percent. This more than doubles the previous authority of 0.5 percent and is necessary in order to allow the Department of Defense to comply with the moratorium on contracting out. In terms of the number of personnel, this will allow the Secretary of Defense to hire up to 12,500 additional employees in order to support workloads. This added flexibility will also enable the Department to comply with the directive language contained in the joint explanatory statement of the committee of conference requiring that appropriate personnel support be given to industrially funded activities engaged in industrial and commercial type functions.

CONGRESSIONAL DIRECTIVE ON MANAGEMENT OF CERTAIN INDUSTRIALLY FUNDED ACTIVITIES

I was gratified to see that the language of the Senate report on the DOD authorization bill was retained in the conference's explanation and directs the Department of Defense to provide adequate personnel support for industrially funded activities such as NAFI and the NWSC at Crane. Importantly, the Senate committee stressed that the reduction of the overall statutory ceiling should not be applied to industrially funded activities. Further—

> The conferees agreed that particularly in activities engaged in maintenance, construction and repair, including Naval Air Rework Facilities (NARF) the Department of Defense must manage manpower resources in a manner that will insure these activities are provided sufficient civilian manpower to fulfill work requirements for which funds have been appropriated. The recommended reductions are not directed at these activities, many of which are industrially funded.

Overall, I think it is clear that the combination of these actions will yield sufficient flexibility for the Department of Defense to operate and maintain facilities vital to the national defense in an efficient manner, more so than has been the case in the past. During the consideration of next year's authorization request we will be able to judge whether the dual concerns of efficiency and accountability—maintained through preserving the statutory ceiling—can be accommodated in a manner conforming to the best interests of this country.

Manpower management is a complex business. It challenges us as much as the considerations of the more "glamorous" issue involved in weapons procurement and arms control. Still, the very best weapons system that money can buy is useless unless it is properly operated and maintained, though the maintenance side of the defense establishment rarely receives attention in terms of its role in our security policy. In the report of the committee of conference on the fiscal year 1978 authorization bill for defense we have at last taken a significant and meaningful step in the right direction.

FISCAL YEAR 1978 MILITARY PROCUREMENT AUTHORIZATION CONFERENCE REPORT (H.R. 5970)

Mr. BELLMON. Mr. President, I support the military procurement authorization conference report, H.R. 5970. Including the full cost of the manpower ceilings authorized in this report, the conferees agreed to a budget authority figure of $77.2 billion and to an outlay figure of $50.3 billion. These figures are consistent with the targets the Congress set for the national defense function in the first concurrent budget resolution.

Those budget targets did assume some cuts from the spending levels in the President's request, but the cuts were to come from low priority items and financial adjustments. It was never expected that the military procurement authorization bill would produce major cuts below the President's request. The conference report before us is certainly consistent with these assumptions in budget authority, and the report even achieves a $0.3 billion cut in outlays from the President's level.

The balance of the reductions necessary to stay within the targets were an-

ticipated to come during the appropriations process. To date, both Appropriations Committees appear to be preparing legislation which will include the necessary cuts.

Mr. President, it was no easy task for the Senate conferees to achieve this conference report. As was the case last year, the House bill was higher than the Senate version. The House bill was also higher than the President's amended request for budget authority. Finally, the House bill contained an unlimited authorization for payment of shipbuilding claims. It is due to the skill and responsibility of our distinguished chairman of the Armed Services Committee, Senator STENNIS, and the other Senators on his committee that this conference report is consistent with the budget resolution targets.

Senator STENNIS rejected the unwarranted assertions made by Members of the House that this bill was immune from the normal budgetary restraints. He and the other Senate conferees brought back an agreement closer to the Senate budget authority level than to the House level. Finally, they were able to delete the open-ended authorization for payment of shipbuilding claims.

Mr. President, I commend Senator STENNIS and his colleagues on the Armed Services Committee for their diligent effort at this difficult conference. The continued success of the budget process owes much to this kind of steady, dedicated commitment to fiscal responsibility. I am glad to support this conference report, and I urge my colleagues to do likewise.

VETERANS' BENEFITS FOR PERSONS WITH UPGRADED DISCHARGES—S. 1307

Mr. STONE. Mr. President, I would like to express my support for S. 1307 and amendment No. 414 and commend Senator CRANSTON and Senator THURMOND for their honorable and diligent efforts to reach an equitable accord with regard to veterans' benefits for persons who receive upgrading of undesirable discharges under the standards established by the Defense Department's special discharge review program.

The bill, as amended, would deny the granting of veterans' benefits solely by virtue of an upgrading of an undesirable discharge under any standards which are not applied to all service men and women. Thus, no particular period of service would be singled out for special treatment with regard to veterans' benefits.

The bill further provides that at the time the Special Review Board awards an upgraded discharge a separate determination shall be made as to whether an upgrading would have been granted under generally applicable standards. A favorable determination would entitle the individual to veterans' benefits, keeping whatever upgraded discharge that has been given by the Special Review Board. This bill speeds up the process by which these veterans can become eligible for VA benefits by placing the duty on the Government to review the discharge, rather than forcing the individual to reapply.

I feel that the method of review provided by this bill is fair to all veterans. It is not a giveway of Government benefits to individuals who left the service under violent or treasonous conditions. It does, however, provide an orderly and expeditious review procedure for those Vietnam-era veterans with bad paper discharges who would otherwise be entitled to veterans' benefits. This bill as amended is faithful to the spirit of forgiveness and compassion of which the President spoke when the Special Review Board was created. I support it in the same interest of equity in which it was introduced by my distinguished colleagues. I hope that the Senate will act swiftly and favorably on S. 1307 when it is reported by the Veterans' Affairs Committee.

INTERIM STATEMENT OF COMMISSION ON PUBLIC GENERAL HOSPITALS

Mr. JAVITS. Mr. President, I commend to the attention of my colleagues the interim statement of the Commission on Public-General Hospitals which summarizes the contributions, problems and prospects for the future of the 1,900 community hospitals throughout the Nation that are owned by State or local government. These public general hospitals are a substantial portion of our health service resources and valiantly carry out special responsibilities in many communities for providing care to low-income persons.

In our major cities, like New York City, they provide services to all in need of health care, regardless of their economic status. Until we finally achieve universal coverage under national health insurance, these hospitals continue to serve as the basic health care resource for the so-called near poor who fall between the cracks of private health insurance and medicaid. I have long been concerned about the quality and support for this critically important segment of our Nation's health care system and am pleased that the commission is looking to the future of these hospitals.

Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

INTERIM STATEMENT OF COMMISSION ON PUBLIC GENERAL HOSPITALS

Millions of people throughout the United States rely on publicly owned general hospitals for essential health care services. In many cases, however, the public-general hospital is a troubled institution whose services are jeopardized by fiscal crisis and government inaction. Indeed, in some cases, the continued existence of the hospital is in question, quality of care is threatened, and patient access to health care services is at stake.

This statement is offered now, midway in the work of the Commission on Public-General Hospitals, to stress the immediate need for attention to problems of the public-general hospital sector. The urgency arises from our concern that people who rely on a hospital that is in trouble are being shortchanged by the erosion of its capacity to meet patient needs. It arises also from a concern that inattention to the situation of these hospitals may lead to more serious problems affecting the entire health care delivery system.

The public-general hospital is but one component in a highly complex, interdependent health care system. The whole system has problems, not just the public-general hospital. Efforts to resolve these problems that are aimed at just one component invariably affect other components as well. For example, concern for cost has resulted in stricter eligibility requirements and in reduced benefits in the Medicaid programs in several large states. These cutbacks have placed added pressure on public-general hospitals to serve increasing numbers of indigent patients, while financial support for these patients has decreased.

Similarly, decisions made locally that relate to the future of the public-general hospital also have a major effect on other health care institutions. Sudden changes in the types or volume of services provided by a public-general hospital could place new and, in some cases, impossible burdens on other community hospitals in the area.

Thus, decisions about the future of the public-general hospital must be made by the critical and thoughtful examination of public policy rather than by hasty response to the stresses of financial crisis or by inaction. These decisions must go beyond concern solely for such problems at high costs, apparent inefficiencies, and excess beds. They must address the health care needs of all people in a community and the ways to structure a system gradually to meet these needs.

This statement presents the Commission's preliminary findings on factors that should be considered in planning the future of the public-general hospital. These factors have been grouped under two broad categories: (1) the contributions that public-general hospitals make in meeting our present health care needs and (2) the problems that threaten their ability to function as viable, modern hospitals. The statement ends with some observations on the prospects for the future of the public-general hospital.

The Commission recognizes and emphasizes that many of the contributions and problems that will be described for public-general hospitals are equally relevant to other community hospitals.

PUBLIC-GENERAL HOSPITALS: FACILITIES AND SERVICES

For purposes of this study, community hospitals are short-term general and special hospitals, excluding federal, psychiatric, and tuberculosis hospitals. Public-general hospitals are community hospitals that are owned by state and local governments. The accompanying table presents a significant preliminary view of the facilities and services of public-general hospitals relative to those of all community hospitals. The data given for public-general hospitals apply only to those hospitals that are publicly operated. As a result, some community hospitals that are owned by local or state government but that are operated by nonprofit corporations are not included under "Public-General Hospitals" but rather under "All Community Hospitals." The number of publicly owned hospitals is closer to 1,900.

FACILITIES AND SERVICES

	All community hospitals	Public-general hospitals	Public-general hospitals as percentage of community hospitals
Number of hospitals	5,875	1,761	29.9
Number of beds	941,844	210,154	22.3
Admissions	33,434,659	7,067,312	21.1
Inpatient days	257,593,729	53,927,698	20.9
Outpatient visits	190,672,437	51,524,754	27.0
Medical and dental interns and residents (full-time equivalents)	54,064	19,797	36.6

Source: The American Hospital Association's 1975 Annual Survey of Hospitals.

In 1975 public-general hospitals comprised close to 30 percent of all community hospital facilities and delivered more than 20 percent of all community hospital services. Compared to all community hospitals, these hospitals did a proportionately higher amount of teaching (36.6 percent) relative to their inpatient workload (21.1 percent) and to their outpatient workload (27 percent).

THE VARIETY AMONG PUBLIC-GENERAL HOSPITALS

The general hospitals owned by state and local governments differ among themselves as widely as the various types of institutions within the total hospital sector differ from each other. The differences must be understood if an individual hospital's role, problems, and future are to be evaluated accurately. Public-general hospitals can be divided roughly into four categories:

Large hospitals, located in the nation's largest cities, whose main function historically has been to serve the poor. These institutions represent approximately 5 percent of all public-general hospitals but more than 25 percent of all public-general hospital beds.

Medium-sized hospitals, located in smaller cities and suburban areas, which act as community hospitals, serving primarily private patients. These institutions represent approximately 5 percent of all public-general hospitals.*

Hospitals controlled by public universities that have priority commitments to health science education. These institutions represent less than 3 percent of all public-general hospitals but well over half of all university hospitals.

Small hospitals, located predominantly in nonurban areas, which act as community hospitals. The vast majority of public-general hospitals are in this category. They account for approximately 40 percent of all community hospitals in nonurban areas.*

These categories, however, do not depict the full range of variety that exists among public-general hospitals. Based on local circumstances, this variety can be understood in terms of differences in charter and goals; in proximity and relationships to other hospitals; in hospital clientele; in relationship to government owner; in financial position; in services delivered; in educational programs; and in organization of medical staff. When considering the Commission's preliminary findings in a local context, the reader should bear in mind the great variability that exists even among institutions in the same category.

*These data are understated because they apply only to publicly operated hospitals and do not include data from some 200 publicly owned hospitals that are operated by nonprofit corporations.

PRELIMINARY FINDINGS: CONTRIBUTIONS

1. For the nation, public-general hospitals are a major health service resource.

(a) Public-general hospitals provide substantial amounts of primary care services for patients who are unable to obtain these services from private physicians or other community hospitals.

(b) They often offer *costly and highly specialized services*, such as burn centers, some of which are not provided elsewhere in the community.

(c) They provide *services for social/medical problems* that voluntary hospitals find difficult to provide, including alcohol and drug abuse programs, prisoner care, and psychiatric emergency care.

(d) They provide *emergency services* to the entire community. In large cities, they often are the major emergency service for the area. In some small cities and rural areas, they are the only source of emergency care.

2. Public-general hospitals assure access to health care services for residents of a community.

(a) By receiving a direct government appropriation to provide services without charge or at reduced rates, public-general hospitals *break down financial barriers to care* for their patients. For many, there is no other source of financial assistance. These include:

Those who do not receive health insurance coverage through their work and who cannot afford to pay for it themselves.

Those whose health insurance is inadequate—for example, insurance that does not cover outpatient care.

Those who do not qualify for welfare benefits and resulting financial assistance for health care.

Those who no longer are eligible for financial assistance because of cutbacks in Medicaid and other public assistance programs.

Illegal aliens or nonresidents who are not eligible for any financial assistance.

(b) Public-general hospitals *break down geographic and social barriers to care* for their patients.

They provide the only community hospital services in many rural areas.

They provide access to hospital and physician services regardless of the patient's race or social position.

They provide access to physician services for patients unable to obtain these services in their neighborhood.

3. Public-general hospitals are a major resource in the training programs of physicians and other health care professionals.

(a) They are the training site for more than one-third of medical and dental interns and residents and for one-fourth of all students of allied health professions in this country.

(b) The state university hospitals are dedicated to providing the clinical setting for medical and allied health education as well as research.

(c) Large urban public-general hospitals play a significant role in health professions training. Close to one-fifth of the medical interns and residents receiving clinical training in community hospitals are in public-general hospitals. Since the patients who use the large urban public-general hospital often rely on it for emergency care and access to a physician, it is an important resource for teaching in trauma and primary care.

(d) Through affiliation agreements, public-general hospitals provide the clinical settings for training and research programs organized by medical schools.

PRELIMINARY FINDINGS: PROBLEMS

Many public-general hospitals face serious problems. The discussion of issues that follows represents the Commission's preliminary findings on the nature and severity of these problems.

1. Many public-general hospitals have financial problems that compromise the quality and quantity of needed patient care services.

(a) Local governments in many urban areas today are faced with increasing demands on tax revenues. At the same time, they cannot raise or even maintain these revenues because middle-class and business taxpayers have moved to the suburbs. In addition, taxes are often at the highest rates allowed by law or public tolerance. In these areas, demands for the tax dollar place the hospital in competition for adequate operating funds and capital financing with other government services. At the same time, the problems creating many of these demands—poverty, unemployment, poor housing, hunger, crime, and violence—increase the service demands on the hospital. For example, increased unemployment raises the risks of health problems associated with poverty and cancels employer-sponsored health insurance.

(b) Government appropriations to many public-general hospitals have not been meeting the difference between revenues and operating expenses. This has resulted in staff and program cutbacks as well as in the continued use of outdated equipment and facilities.

(c) Medicaid and other public assistance programs now provide financial support for many people who formerly received care from public-general hospitals that was financed through local tax sources. This has given rise to the expectation of some taxpayers and government officials that outside financing sources should be a relief for the local taxpayer rather than a means of shoring up the finances of the hospital. Despite the fact that Medicaid has provided many with the opportunity to choose a hospital and a physician, the public-general hospital continues to serve the poor and near-poor in the traditional way, by financing care through local tax sources. Currently, cutbacks in Medicaid and other public assistance programs are increasing the number of patients relying on public-general hospitals while decreasing the hospital support available from these financing programs.

(d) Large urban public-general hospitals serve a patient population that has more serious problems than the population at large but that often is not covered by any type of insurance or financial assistance. It is difficult for these hospitals to remain financially solvent and, at the same time, to provide high-quality care to these patients.

(e) Small public-general hospitals serving rural areas were established to provide community hospital services where those services were not available. They often cannot achieve financial solvency, not only because they serve indigents but also because their service areas have populations that are too small to provide full caseloads. This inadequate utilization results, in turn, in patient care revenues that do not meet expenses.

(f) State-owned university hospitals have financial difficulty in maintaining their research and development programs. Where they care for the indigent, they have financial problems similar to those of large urban public-general hospitals.

(g) In some areas, third parties reimburse public-general hospitals at rates lower than those paid to voluntary hospitals, a practice that breeds poor-quality patient care. Some third-party payers provide no reimbursement to public-general hospitals for services for which voluntary hospitals are reimbursed. For example, in one major city, Blue Cross reimburses voluntary hospitals, but not public hospitals, for psychiatric

care and also provides special relief to voluntary hospitals for the cost of ambulatory care.

(h) Some public-general hospitals serve large numbers of illegal aliens for whom there is no reimbursement.

(i) Some public-general hospitals serve large numbers of indigent patients who live outside the local jurisdiction. Frequently, the hospital is not reimbursed for the care of these patients.

(j) Some public-general hospitals experience labor costs higher than those of other hospitals because of higher salaries and pensions and additional fringe benefits that are provided for employees, as well as public initiatives for on-the-job training and advancement of employees.

(k) For some small public-general hospitals, compliance with federal and state regulations designed with larger institutions in mind is not financially feasible or operationally practical.

2. Because it is publicly owned, the public-general hospital is subject to political pressures to take on unrealistic and often conflicting responsibilities without adequate financial resources.

(a) Large urban public-general hospitals serve patient groups dictated by social and financial factors rather than by location or by hospital capabilities. Within a general mandate that places no reasonable limits on services, the expectation is open-ended—to provide those services that are not available in voluntary hospitals or that are not provided to certain patients by voluntary hospitals and private physicians.

(b) State-owned university hospitals, long operated and supported as training and referral centers, now are expected to provide services to the local community that they may not be equipped to provide and that may require costly or unwanted adjustments in their training and service programs.

(c) Some small public-general hospitals that cannot attract or support the capital and personnel to provide technical diagnostic and patient care services are nonetheless expected to provide such services.

(d) Because the public-general teaching hospital relies on physicians-in-training to provide much of the care of patients, attempts by government agencies and third-party payers to control or to lower hospital expenditures for education threaten the quality and capacity of patient care programs.

3. The public-general hospital often is faced with problems of outdated and/or outmoded facilities.

(a) Some public-general hospitals have difficulty raising funds for renovation or replacement of hospital facilities. In areas where tax revenues are not rising rapidly enough to meet demands for public services, local government cannot support revenue or general obligation bonds to raise capital for construction. Newly authorized federal funding for public-general hospital renovation is minimal and is available only where facility improvement is required for accreditation or licensure.

(b) Some large urban public-general hospitals have outmoded facilities that are not adaptable to current patient needs—for example, inpatient facilities that cannot be renovated to meet increasing demands for outpatient services without sizable expenditures of money.

(c) When health planning agencies consider the number of beds in their communities, they often do not take into account the public-general hospital's role in providing access to services for patients experiencing barriers to care. As a result, public-general hospitals, in the face of high demand for services, may be forced to close down beds or to stop plans to build or convert beds, even when voluntary hospitals will not serve indigent patients.

4. Some local governments, concerned about public accountability, fail to provide adequate responsibility and authority to the public-general hospital to enable it to form the effective and responsive governing and management organization demanded of a modern hospital.

(a) As a department or agency within a government or university, the public-general hospital often lacks a hospital board or other governing structure that can provide the trustee functions of advocacy and policy guidance.

(b) Some administrative and fiscal practices of local government create constraints that prevent management from having adequate reponsibility, authority, or resources for operating the public-general hospital as effectively as a voluntary hospital.

(c) In some communities, large urban public-general hospitals have difficulty hiring and retaining qualified personnel because of the hospitals' participation in governmentwide civil service systems.

(d) Decisions about public-general hospital financing, program policies, and personnel selection often are affected by volatile local politics.

EQUAL RIGHTS FOR HANDICAPPED INDIVIDUALS

Mr. KENNEDY. Mr. President, many psychological as well as physical barriers continue to deny this Nation's handicapped citizens the opportunity to lead full and fruitful lives. It is their right and our duty to remove these obstacles from their path.

In light of this, I wish to voice my strong support for those initiatives outlined by HUD Secretary Harris in her recent address to the White House Conference on Handicapped Individuals. The plan which she presented marks a positive step toward insuring the rights of all people with disabilities.

Therefore, Mr. President, I ask unanimous consent that Secretary Harris' remarks of May 25, 1977, at the White House Conference on the Handicapped be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SECRETARY PATRICIA ROBERTS HARRIS

"A person who is severely impaired," Helen Keller noted, "never knows his hidden sources of strength until he is treated like a normal human being and encouraged to shape his own life."

I share with the 800 delegates to this conference, the conviction that it is time to ask every part of government to re-examine its programs and policies to determine whether they encourage the handicapped to shape their own lives and to live independently.

Dr. Henry Viscardi, Chairman of the Conference, has stated the case succinctly "the message from handicapped individuals and their families is very clear. They want action. They want follow-through. They want commitment. . ."

As the Secretary of the Department of Housing and Urban Development, I am here new housing options for people with disabilities will get action and follow-through from HUD.

Four months ago HUD began the process of reviewing current programs and exploring new housing options for people wtih disabilities. A group of consumers met with me and then started to meet, on an informal basis, with HUD personnel who share their commitment to the handicapped.

That group of consumers included:

Dr. Frank Bowe and Jan Jacobi of the American Coalition of Citizens with Disabilities;

Ms. Eunice Fiorito from the Mayor's Office for Handicapped in New York;

Clarke Ross from the United Cerebral Palsy Association;

Susan Weis Manes of the National Association of Retarded Citizens;

Cheryl Davis from the Massachusetts State Department of Community Affairs; and

Robert Conklin of the National Association of the Physically Handicapped.

The preliminary recommendations which resulted from this interplay of ideas are being reviewed by the Department.

Today, I would like to announce some immediate decisions that were a product of this dialogue, which have been made to demonstrate HUD's commitment to Americans with disabilities.

First, effective June 6th, 1977, a new Office of Independent Living for the Disabled will be established in the Office of Housing.

This office will be headed by Dave Williamson, a career employee of the Department, and will report directly to Assistant Secretary Simons.

This will be the first time that the concerns for the disabled will be treated separately from those of the elderly.

This will be the first time that the housing concerns of the disabled will have direct attention of HUD's principal production division.

I know Dave Williamson and Larry Simons will produce more housing options for Americans with disabilities.

The new Office of Independent Living will work to make HUD more sensitive to the needs of the disabled both at the central office and in the field offices.

It will also be responsible for the activities of a departmental work-group that will draft HUD's regulatory response to the Rehabilitation Act of 1973. The Carter Administration considers these new "504" regulations to be the "Civil Rights Act" for America's disabled.

Second, HUD is establishing a goal that 5 percent of all new family housing units constructed under the Section 8 and public housing programs will be designed for use by the disabled.

The Department currently assists in the production of specially designed units for the elderly disabled under the Section 202, Section 221(d)(4) and public housing programs as well as other programs. This will be our first major commitment to the non-elderly disabled.

This new housing goal will be the first of a series of steps by HUD to provide properly designed, accessible housing for the non-elderly handicapped.

The Department will soon publish an amendment to the current Section 8 existing program. Small group homes and community residences, with shared kitchen and bathroom facilities will be an eligible and viable housing option under the amendment.

Additionally, I am working with the Counsel to the Secretary to develop other innovative approaches to the Section 8 existing program which will promote the deinstitutionalization of the mentally handicapped.

I would also like to note that we are well aware that housing without services is not adequate housing for people with disabilities. I will work with the Secretaries of Health, Education, and Welfare, Labor and Transportation to develop comprehensive service programs for our housing programs.

Third, the Department will begin immediately a major effort to encourage local communities to spend a greater share of their Community Development Block Grant Funds

for the elimination of architectural barriers, and the construction of rehabilitation facilities for the handicapped.

It is the Department's belief, as recently outlined by Assistant Secretary Embry, that the handicapped represent a significant portion of the population for which the Community Development program was intended.

We believe that local expenditures for the handicapped constitute an expenditure that is beneficial to low and moderate income people.

HUD is committed to an active leadership role to raise the current level of local expenditures to a level consistent with demonstrated need.

Fourth, I will continue the informal dialogue that now exists between the consumer advocates and the Department.

I will also explore the possibility of establishing a consumer advisory committee on independent living to help us make better use of our existing programs and to develop new programs so that there will be continued progress in this area.

Finally, I want all of you to know that I am committed, and the Department is committed to doing all that is in our power to eliminate the barriers which prevent Americans with disabilities from enjoying the fullest possible participation in programs, and in the activities of our society.

CONCLUSION

I have outlined today some immediate steps that the Department of Housing and Urban Development has taken on behalf of persons with disabilities.

We all recognize that these steps are just the beginning of a much larger journey that will lead to the final elimination of the barriers that imprison 10 percent of our population, this lost minority of Americans.

It is up to all of us to work to change this society designed by the able-bodied, primarily for the able-bodied—into a society that encourages and supports satisfying life styles also for people with disabilities.

THE FEDERAL ENERGY POLICY

Mr. WALLOP. Mr. President, I am in receipt of a thoughtful and informative letter from Prof. Donald Stinson, head of the Department of Mineral Engineering at the University of Wyoming.

Dr. Stinson presents an enlightening argument which exemplifies one of the great disparities that exists in current Federal energy policy. The Federal Government considers it perfectly reasonable to sell oil from Federal petroleum reserves at the world price. However, they sanctimoniously regulate the private energy market through complicated price controls.

One of the unfortunate consequences of such a policy is that producing States, such as Wyoming, lose millions of dollars a year in ad valorem taxes, severance taxes, and royalty payments. These revenues are sorely needed to solve the problems of growth impact associated with the production of minerals for an energy-hungry Nation.

I ask unanimous consent that Dr. Stinson's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF WYOMING,
Laramie, Wyo., May 26, 1977.

HON. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: As we discussed earlier this month, the present crude oil price controls and the new system proposed in H.R. 6831 hurt Wyoming more than any other state in the country.

During 1976 the State of Wyoming lost over one third of its total income because of the FEA crude oil price controls. The recent sale of the Teapot oil from the U.S. Naval Reserve by competitive bid established the fair market value of Wyoming's crude oil. The difference between this price of $14.81 per barrel and the average controlled price of $7.57 per barrel for Wyoming's crude oil in 1976 represents a loss of $7.24 per barrel.

Data used in estimation of loss:

120,629,951—1975—Taxable production, Bbls.

$52,011,258—1975—Ad Valorem Taxes.

$34,781,276—1975—Severance Taxes.

$7.41—1975—Average price/Bbl.

135,943,000—1975—U.S.B.M. Total State Production.

130,000,000—1976—U.S.B.M. Total State Production.

84,288,005—Oil from Federal leases.

8,168,670—Oil from State leases.

1976 Ad Valorem Tax Loss:

$52,011,258 (130,000,000/135,943,000) ($14.81 − $7.57/$7.41) = $48,600,000.

1976 Severance Tax Loss:

$34,781,276 (130,000,000/135,943,000) ($14.81 − $7.57/$7.41) = $32,500,000.

1976 Loss on Federal Royalty Return to State:

84,288,005 Bbl ($7.24/Bbl) (⅛ Royalty) (.375) = $28,600,000.

1976 Loss on State Royalty:

8,168,670 Bbl ($7.24/Bbl) (⅛ Royalty) = $7,400,000.

This $117,100,000 loss to the State does not consider the even larger losses to the individual citizens of the State who own operating or royalty interests in producing oil wells.

Individuals counties such as Natrona that derive most of their school income from fields like Salt Creek which is largely classified as old oil have been particularly crippled by these controls. Natrona's 11,054,404 barrels of taxable oil in 1975 were controlled at $6.50 per barrel or more than $8 per barrel under fair market value. At an average school tax levy of 44.8 mills this represents a loss of $3,960,000 out of a county school budget of approximately $17,197,033. Natrona's situation is aggravated by growth induced from other counties with falling income resulting from reduced oil production.

May I urge your continued efforts to attain fair market value for all of Wyoming's crude oil.

Sincerely,

DON STINSON.

ADDRESS OF CHIEF JUSTICE BURGER BEFORE THE AMERICAN LAW INSTITUTE

Mr. EASTLAND. Mr. President, on Tuesday, May 17, 1977, the Chief Justice of the United States, the Honorable Warren E. Burger, addressed the American Law Institute.

I ask unanimous consent that the Chief Justice's remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF WARREN E. BURGER

This is the eighth year that you have given me the pleasure of welcoming you to Washington for the annual meeting of the Institute. With your indulgence I have used this occasion as an opportunity to present some particular problem which seemed to me to be of importance in the administration of justice, and particularly in the operations of the Federal courts. This morning, for a number of reasons, I shall not burden you with any single weighty problem, but rather ask you to reflect with me in a random way on some significant changes taking place in the work coming to the Federal courts.

On some of these occasions over the past eight years, as with my reports to the American Bar Association, I have discussed the problems of the increasing volume of work in the District Courts, the Courts of Appeals, and the Supreme Court. These figures are of interest for my purposes this morning only by way of background, and I will try not to weigh you down with too many figures. To recapitulate briefly, in the eight years from 1969 to the present, the District Court civil caseload has gone from 77,000 to 130,000 and the criminal filings from 35,000 to 41,000. The Courts of Appeals caseload has gone from 10,000 to 18,000. Of course, this becomes particularly important because since 1970 Congress, notwithstanding repeated urgings by major legal organizations in the country—occasionally seconded by me—failed to add a single judgeship to the Federal system. Since 1969 the Congress, as of the last count that I made, had passed 47 statutes which increased the work of the Federal courts—and many of them imposed very substantial increases. However, it appears that the problem of judgeships is about to be remedied. Thanks to Senator McClellan and Senator Kennedy, among others, the Senate recently approved 146 new judgeships. This includes large increases in the Courts of Appeals of the Fifth and Ninth Circuits.

While I am on the painful subject of those two Circuits, you may recall that beginning eight years ago I urged that they each be divided into two administrative units. Congress is now seriously considering that proposition. But with the passage of time and the enormous increase in the work of those two dynamic areas, the division into two units will be entirely inadequate to meet the basic problems. As a result, in my annual report to the American Bar Association in Seattle in February, I urged that these Circuits—that is the Fifth and the Ninth—each be divided for administrative purposes into three divisions. To meet the objections of those who were deeply concerned about tradition and sentiment (and I assure you I do not undervalue tradition or sentiment), I suggested that the Circuits be retained in their present form as the Fifth and Ninth Circuits but with administrative divisions such as we have long had for District Courts.

The Fifth Circuit should be divided into Eastern, Central, and Western Divisions The Ninth Circuit should be divided into Southern, Central, and Northwest Divisions. The imperative need for dividing each of these Circuits into three operating divisions is now demonstrated by the fact that Congress is apparently about to approve the addition of eleven judges to the fifth Circuit and ten judges to the Ninth Circuit, giving them 26 and 23 judges, respectively. Those numbers—26 and 23—will barely be enough to meet current caseloads, and within five years those courts will need yet more judges.[1] It is therefore plain and beyond debate that to have any kind of reasonable judicial administration, the division of these Circuits, for administrative purposes, should be accomplished so that there will not be more

[1] Arguing a case to a court of 26 judges will be like making a speech to a legislature! Twenty-six is the precise number of Senators we had in 1789!

than nine judges in any one Circuit—that means three divisions for each.[2]

Before I leave the subject of the Circuits it is worth mentioning that the entire Circuit structure of the country needs reexamination. It makes no sense to have the First Circuit with a Court of Appeals of three Circuit judges (when it probably needs some additional help) and the Second Circuit with nine Circuit judges (when it probably needs about 14 with its present caseload and in its present form). Only the services of its Senior Judges and unusually strong leadership has kept the Second Circuit "in business."

It no longer makes sense to approach these problems one Circuit at a time. The Congress should reexamine the entire structure of all the Circuits even though all of them may not need this kind of subdivision. It illustrates one of the difficulties in the management of the Federal system that the sound and sensible solutions occur—with good luck—15 to 20 or more years after reasonable and objective analysis demonstrates the need.

However, I think we should not be disheartened. Chief Justice Marshall, as early as 1810 or thereabouts, urged the creation of the Circuit Courts of Appeals and it was not until 1891 that this was accomplished.

Now let me turn to a subject that may be of some interest to you. The problems in caseload or quantitative terms which have engaged a great deal of our attention in the past eight years have led me to give some thought to the qualitative changes, particularly in the cases in the Supreme Court. Of course, we know that any analysis of the nature of the cases before our Court is simply a reflection of the kind of litigation that is being brought in the District Courts and to some extent in the state courts. I have found it interesting to look at the volumes of the United States Reports in the early and middle 1920's. I suggest that you will find it interesting to do, and a great deal can be gleaned in even a half-hour. You will find case after case of opinions one and a half, two pages, or three pages long.[3] You will find in those years an astonishing number of cases that might be classified, not technically, but colloquially as "landlord and tenant cases." I include under that "umbrella" a miscellany of common law and statutory questions, which we often dispose of today by a denial of certiorari, or a summary affirmance or reversal, without opinion.

I have engaged in this interesting exercise several times in the past but recently took a few hours off to analyze the nature of the cases coming before the Court in the eight years of my tenure, as compared with other periods.

Two years ago President Ford created a committee to study the problems of the Federal courts. It was chaired by then Solicitor General Bork and included Attorney General Levi and Deputy Attorney General Tyler.

The conclusion of that report from these lawyers intimately familiar with the system is significant. I will say no more of it than to recite that conclusion:

"The Federal courts now face a crisis of overload, a crisis so serious that it threatens the capacity of the Federal system to function as it should. This is not a crisis for the courts alone. It is a crisis for litigants who seek justice, for claims of human rights, for the rule of law, and it is therefore a crisis for the nation."

While voices are raised from time to time complaining that the Federal courts are closing their doors, we in the system must be excused for noting the reality that since 1969 District Court civil filings have gone from 77,000 to 130,000, as I noted at the outset. The nature of this great increase is more important than the cold number. Claims under the Social Security Act have gone from less than five cases per district to more than 10,000 for the 94 districts. Habeas corpus and section 1983 cases by Federal and State prisoners have gone from 2,000 in 1960 to 19,000 in 1976. Civil Rights cases (not including Civil Rights claims of prisoners) increased 1,000 percent.

These changes in District Court cases are startling for the short-run, but if we look back 50 or 100 years they reflect, in a sense, the changes in our society.

The work of the Supreme Court reflects, of course, both in volume and character the work of other courts. Let me add just one more set of figures.

Analyzed in eight-year segments, and using signed-for-the-Court opinions as a measure of Supreme Court work, the figures are these:

In eight years from 1953 to 1960—average was 90 signed opinions;

In eight years from 1961 to 1968—signed opinions averaged 100 per year; and

In eight years from 1968 to 1977—average of signed opinions was 122. Filings in that eight years nearly doubled.

If we were a growth stock, we would, perhaps, not be a spectacular investment, but we would surely be in the "blue chip" category on the basis of the steadiness of our growth, and all this without any significant plant expansion!

Just as the administration of criminal justice, school segregation, and equal access to the political process were overdue for examination in the late 1950's and 1960's, now other claimants press for remedies. That is as it should be for gradually our system either solves or brings problems under reasonable control and we must then move on to meet other demands. There is nothing new or remarkable about change in the nature of the cases coming into the courts. Fifty years ago state workmen's compensation laws removed many claims from the courts and made way for the great increase in automobile negligence cases. In time no-fault insurance legislation may remove much of the negligence litigation from the courts. Other examples will occur to you.

Courts are thought to be a stabilizing force in society, but they cannot be static instruments. They are tools, not ends in themselves. Their function is to respond to needs. As needs change, courts must change.

The work of the Supreme Court, as I suggested earlier, tends to reflect not only the kind of cases coming into other courts but also the changes in our society as a whole. Here is what I have called—somewhat hastily—from the decided cases of the past eight years (without including all of the cases in the current term). These categories are cases on which full opinions were written by the Court:[4]

On rights of racial minorities (including 24 cases on Indian claims)	99
On rights of prisoners, probationers, and parolees	41
On right to counsel	15
On students' rights	10
On mental patients and mental institutions	5
On rights to welfare recipients	27
On women's rights	21
On rights of nontenured employees	6
On rights of illegitimate children	11
On media rights under the first amendment and statutes	25

The very fact of your presence here and the existence of the Institute attests your continuing concern about the problems of justice. In more than one-half century the Institute has seen that no matter what our progress may be, it never keeps up with new problems. Far from being discouraging, this is a sign of progress. When new problems constantly engage the attention of thoughtful lawyers, judges, and law teachers, it is evidence of a dynamic, not a static society.

Unfortunately judges, like the advocates who bring the cases to the courts, are so busy trying to keep up with their daily work that they have very little time for scholarly reflection beyond the demands of the particular case at hand. Some scholars have already taken note of the changes I have mentioned in describing the categories of our current work. Perhaps their work and yours combined can prepare the system to be ready for its future tasks.

With respect to these categories I have described, we can leave it to scholars who take the long view of these matters to decide whether in any previous comparable period the Court has heard as many claims in these categories as the Court has heard in recent times.

What all this means, or what it portends for the future, I am not prepared to say. Perhaps Benjamin Cardozo said it best in his "Nature of the Judicial Process":

"The greatest tides and currents which engulf the rest of men, do not turn aside in their course, and pass the judges idly by."

---

[2] The Ninth Circuit called in 57 specially assigned judges to assist the 13 regular Circuit judges last year. The expense and administrative cumbersomeness of this process is an obvious flaw.

[3] That is not due to the long or short windedness of Justices but to the relative simplicity of many cases of that period.

[4] This does not include numerous cases under the Religious Clauses or provide First Amendment claims such as the recent case of *Wooley* v. *Maynard*, decided this Term.

ADDRESS BY SENATOR MUSKIE BEFORE THE NATIONAL ENVIRONMENTAL POLICY CONFERENCE

Mr. HART. Mr. President, as the Congress continues to discuss the need for changes in both the Clean Air Act and the Clean Water Act, many of us are reminded anew of the hard work and tireless dedication of our colleague from Maine, Senator MUSKIE, who presided over the creation of these landmark laws.

Significant pressure is being brought on the Congress to relax both air and water quality standards and, unfortunately, the debate often strays from the central issue of our growing public health crisis.

In a speech earlier this week to the National Environmental Policy Conference, Senator MUSKIE pointed out that, in this national debate, the burden of proof ought to be on those who would relax these laws, and that that burden has not yet been met.

Mr. President, in order that all Senators might have an opportunity to read Senator MUSKIE's very important remarks, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE, D-MAINE

This is a difficult time to address, with any certainty, the nature and direction of national environmental policy. We know what has happened in the past five years. We have some sense of where current law will take us.

But basic environmental regulatory policy is under review. The premises of current policy are being challenged. Two basic

statutes, the clean air and clean water laws, are being amended in the Congress. And, a new Administration with new ideas, new commitments and new objectives is beginning to revitalize the environmental regulatory effort.

I cannot tell you today what the Clean Air Act will look like three months from now. The gulf of difference between the House and Senate is such that there may be no change in the Clean Air Act three months from now—or in this session of Congress.

What would be the effect of such a delay on the auto industry? The judicial process under the Clean Air Act could, of course, be utilized. There might be an effort by the Environmental Protection Agency to enter into a consent agreement with the auto manufacturers which would permit them to produce illegal cars and pay an appropriate penalty for their failure to comply with the law. And, there might be a significant effort to get a "quick fix" through Congress to relieve the necessity of such a judicial remedy.

This is not to say that we won't make a maximum effort to complete action in Conference at the earliest possible date. It is intended only to describe the alternatives and to emphasize the great difference between the House and the Senate bill.

I will, in a moment, discuss some of those provisions and some of those differences, and try to indicate why I believe reaching agreement will test the legislative process to its limits.

We have also been trying to deal with needed water pollution amendments since last Congress. There have been seemingly insurmountable differences between the House and the Senate as to what amendments are needed to protect the public interest.

The Senate is now embarked on an effort to consider substantive amendments to the Clean Water law. We have already held field hearings in Maine, Minnesota, Washington, and Colorado, and we may hold three more. We began today with hearings in Washington, and we hope to begin Senate Committee consideration of amendments to that law in three weeks.

The Clean Water law, like the Clean Air Act, has its own built-in sense of urgency. It has deadlines, it has standards, it has penalties. Communities and industries across the country have run out of time to meet national standards. And, at least communities have the defense that the Federal government did not keep its commitment to fund a share of local waste treatment costs.

But there is much more to the Clean Water Act than this. There are vexing and controversial issues which have been generated as a result of effective implementation of a complex and far-reaching law. There have been the usual problems generated by judicial expansion of legislative policy. And there are myriad problems created as result of inadequate or incomplete implementation of the policy the Congress articulated in 1972.

There is an assumption more commonly held in this community than around the country that there is less interest in environmental policy today than existed five, six or seven years ago. I challenge that assumption. There is more organized, thoughtful and articulate commitment to strong environmental initiatives today than at any time in the fourteen years I have been Chairman of the Senate Environment Subcommittee—or the 25 years I have been in public office.

The outpouring of public insistence on participation at our field hearings on water pollution is but one example. It is not, as happened in a field hearing in 1964, witnesses who wanted to build fences along the Mississippi to keep the beer cans out of the river.

It is, rather, citizens who have studied the literature, reviewed the reports, and read the documents, who are prepared to take on the advocates of relaxation, modification and delay on their own terms. No longer are citizens only advocates of beauty, purity and cleanliness. Public witnesses now talk about parts per million—grams per mile—polychlorinated biphenols—and advanced notices of proposed rule making. They are comfortable with professionals, scientists, engineers, and lawyers. But they represent a view which many in this community would ignore.

The environmental ethic in America cannot be ignored. I am satisfied that the compromise that we are asked to make in legislation, and regulation will only provide short-lived relief for the advocates of delay. And I am satisfied that the next round of environmental awareness will generate greater demands, more vigorous controls and greater costs.

People who actively and articulately support stiff environmental regulation today are relying on the empirical evidence which suggests that either our results have not matched our rhetoric or our environmental problems * * * levels of air pollution in more and more cities. And they are told that auto emission standards are adequate to achieve health standards.

A recent story in the Washington Star gave the lie to this assertion. According to the Star, in 1973 EPA projected that total hydrocarbon emissions for Baltimore would go down 65 percent and total carbon monoxide emissions would be reduced 35 percent by 1977. However, actual mid-1977 figures show that the total of hydrocarbons and carbon monoxide from vehicles has actually grown more than 200,000 tons, a combined increase of 35 percent.

Over the past three years, 261 cities have experienced air pollution levels in excess of health standards. And those are cities in which we have monitors.

People know that is not progress. That's not what they paid for. That's not what their elected officials promised. And they are right.

* * * * *

Too many people have lost sight of that basic objective of the Clean Air Act. Too many elected officials have been overwhelmed by red herrings and phony facts.

We must never lose sight of the central issue—even if clean cars cost more dollars—even if clean cars cost a few more barrels of oil—are we really willing to sacrifice the health of people for those savings? How many days of keeping kids off the playgrounds—keeping our parents in air conditioned homes—telling Americans with bronchial or asthmatic conditions that they can't go to work, are we willing to accept?

I think Senator Gary Hart summed it up well the other day on the Senate floor when he said, "Some of us are willing to trade porpoises and redwoods for jobs but we are not willing to trade the lives of our children."

Of course, it isn't death—it isn't even incapacitating illness which is the only concern. It is restriction on activity. It is not being able to move freely in a free society. It is not being able to go out and play. It is not being able to go to work or sit on your porch in the evening. These are the environmental rights which the American people demand.

And these are the basic elements of a satisfactory life. They are minimal demands we ought to be able to afford. They are the physical and psychological manifestations of good health.

In 1967, Surgeon General Bill Stewart defined good health. He said, "The healthy man or woman is not merely free of specific disability and safe from specific hazard. Being healthy is not just being unsick. Good health implies, to me, the full and enthusiastic use by the individual of his powers of self-fulfillment. . . . Therefore, in controlling air pollution for the benefit of health, we are working toward an environment that is not only safe but conducive to good living."

This is as good a definition in 1977 as it was in 1967. It is a fundamentally sound basis for public policy. It is an entirely reasonable objective of national air pollution policy. And I reject the notion that it can be compromised by demagogic politicians who argue against effective pollution controls because they are not convinced that people are dying from auto exhaust.

I am satisfied with the National Academy of Sciences' projections which show that health effects of automobile pollution alone cause 4,000 deaths per year and four million illness restricted days per year. I need no better evidence than this, and the American people don't either.

So, we are about to test the degree to which protection of public health is a legitimate objective of public policy. We are about to enter a conference on clean air—a conference in which two Houses disagree on both how and when public health should be protected—and, as important, who should be charged with the responsibility for accomplishing that purpose—the polluter or the breather?

In the Senate, we have held the line against significant compromise of both direct and indirect health protection. We have made some reasonable, defensible compromises in the objectives of the 1970 Act—forced by the failure of the auto industry to perform to the goals established seven years ago; forced by a lack of leadership on the part of the Federal government—and to a lesser extent, forced by the reality of the limitations on our knowledge and our capability.

The conference will be a test of the capacity of Congress to find a public interest result when that result is the implacable foe of well-organized, well-financed special interests.

The auto industry, its union and its suppliers; the steel industry the aluminum industry; the oil industry; the chemical industry; the real estate industry; are together, balanced against a few representatives of conservation and environmental organizations; a fledgling organization of industries in the business of pollution control equipment; and an Administration united to preserve the basic elements of environmental policy.

Whether from this contest there can emerge a piece of legislation which reflects the general public interest rather than an accumulation of provisions which satisfy the many special interests involved, is a question I cannot answer today.

Working for a public interest solution is the deadline which faces the auto industry. Working against it are the victories for special interests in shaping amendments to one version of the legislation.

It will be interesting to see whether the bill emerges with a provision called prevention of significant deterioration or one which ratifies significant deterioration.

It will be interesting to see whether the bill that emerges has auto emission standards needed to protect public health or standards designed to accommodate the auto industry.

It will be interesting to see whether the bill which emerges establishes a basic principle of equity as the test of full compliance with pollution standards or whether some polluters, because of their political muscle and high priced legal talent, will escape both controls and the associated costs.

Water pollution presents a whole different series of issues, though the political forces are much the same and the public policy questions are nearly identical. Whether or not a policy in the public interest will emerge from our deliberations this year remains an open question.

As I noted, we have begun our hearings on this legislation. We have begun to understand the focus of citizen and special interest attention. And we are already seeing some manifestations of the inconsistencies which arise in the legislative process.

We have had a $17 million investment in a National Commission on Water Quality, the recommendations of which bear no relationship to the test of the study in which the $17 million was invested. We have already heard witnesses cite the recommendations of that Commission as the basis for change in the Clean Water law. And yet the only witness who cited the actual data developed by the Commission showed beyond challenge that no change in vital provisions could be defended by the data.

We had witnesses who testified that Maine's pulp and paper industry, even during a period of the great economic expansion, would be in compliance with the requirements of the 1972 Act, while witnesses in another State from the same companies were asking for relief from deadlines because they did not believe the Act meant what it said.

We had witnesses from the forest products industry, who vigorously opposed the regulatory program to protect wetlands. They argued that the Act's program for planning and regulation of silvicultural activities by the States is an adequate tool for wetlands protection. But these same forest products people joined litigation to exempt their industry from the Statewide planning and regulatory section of the law.

So, as we begin our Washington hearings, little evidence has been presented which justifies relaxation of the current requirements of the 1972 Act.

And the burden is clearly on those who would change the law. In the five days of hearings that have been held thus far, according to the testimony which has been taken, that burden has not been met.

I hasten to add that this may not be the case with respect to the municipal program. Change may be essential. We may not be able to afford the program to which the 1972 Act appears committed. We indeed may need to change not only the objectives of the municipal program, but we may need to change the amount and style of Federal assistance.

We know that our commitment to a 75 percent Federal grant has resulted in demands on communities that some have suggested are not necessary. Some communities argue that the conditions of the Federal grant are not essential to protect the value of the Federal investment. Yet all of these requirements are intended to assure that Federal funds are spent wisely and that projects are operated properly.

We will assess the need for and implications of uniform national treatment standards for communities and the extent to which Federal funds are used to finance future growth.

We will carefully examine the more difficult problems presented by smaller sources of pollution, by agricultural runoff, by mine waste, by the byproducts of construction activities. We must determine how best to eliminate the discharge of toxic chemicals and metals to our water ecosystems, and how to control their ultimate disposal so that they do not pose a long-term threat to man and his life support system.

We must find new and better ways to accelerate enforcement procedures, and we must find means to equalize the costs between those who choose to fight regulation and those who choose in good faith to comply with the law.

These are major challenges. They suggest the need for new and innovative legislative mechanisms. And in these hearings, we hope to build a record which will identify what those legislative mechanisms should be.

I would like to conclude by focusing on a few comments about the relationship between our environmental objectives and the nation's energy dilemma.

This country has been on a technology binge for 40 years. We have convinced ourselves that technology can solve all of our problems—that technology can set us free.

For example, the answer to pollution has not been to waste less, but rather to build bigger and better pollution control facilities. The epitome of our philosophy is found in the argument that we cannot afford to reduce the use of one-way packaging because such a policy will interfere with resource recycling industry.

The President has proclaimed an energy state of emergency. But the public does not appear to share his sense of urgency. There are no gas lines. There is no embargo. There is no apparent need to protect our international security by diminishing our demands for energy. There is only a far off threat that somehow if we don't conserve now, there won't be any more tomorrow.

But there is another threat which is of more immediate concern. For example, some of the Administration advocates of coal conversion appear convinced that the only effective way to achieve significant increase in the use of coal is through massive relaxation of clean air requirements.

I believe we can and must become more reliant on coal—in an orderly, efficient and environmentally safe way. We need not repeat the mistake of our nuclear commitment. We can convert coal to a clean fuel. But it will take time.

And while we proceed on that course, we can educate the public on the real reasons for conservation—reasons they can grasp now. We have an abundance of evidence that the demand for energy in this society—our increased usage—is going to strangle us.

We have learned that our capacity to pollute far exceeds either our institutional or technological capacity to control pollution. Pollution is a function of combustion and high energy technologies. If we are to deal with our pollution problem, we must eliminate our wasteful use of energy. If we reduce that waste sufficiently, we will have the option to burn our abundant supplies of coal.

If, on the other hand, we are not able to achieve the level of conservation that is necessary to reverse the trend of atmospheric and environmental deterioration, we aren't going to burn any coal in this country. We are going to have a worsening energy crisis. And we are going to leave a legacy of filth and degradation to the generations yet to come which will make the infrequent air pollution episodes we suffer in our major metropolitan areas seem appealing respites from the gloom of a polluted society.

THE HATCH ACT REPEAL

Mr. HATCH. Mr. President, as the Senate proceeds to work its will on repeal of the Hatch Act, I believe we should bear in mind that 74 percent of all Americans favor the retention of the law as presently written. Also, 71 percent union members, 81 percent of nonunion public employees and even 61 percent of unionized Government employees oppose any change. These not unsurprising findings have been revealed in a recent nationwide public opinion poll conducted by Decision Making Information of Santa Ana, Calif.

There is no doubt in my mind that the repeal movement is generated by an alliance of organized labor and the Carter administration for narrow partisan and political advantage. It is another in a series of legislative attempts, much in the same view as common situs picketing was and hopefully with the same ending result, to strengthen the political power of big labor.

I trust my colleagues will keep these considerations in mind when and if this legislative atrocity makes its way through the Senate. I am one Hatch who is willing to do whatever he can to preserve the Hatch Act so that the politicization of the Federal buseaucracy with its many undesirable consequences will not result.

Mr. President, I ask unanimous consent that an excellent article entitled "Hands Off the Hatch Act" appearing in the June 27, 1977 edition of U.S. News & Work Report now be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HANDS OFF THE HATCH ACT

(By Marvin Stone)

If the Senate follows the House and votes to dismantle the Hatch Act, the result will be hailed by many as a victory for political rights of federal workers. In reality, it will be something vastly different.

We have short memories. When we forget the whys of past precautions, we step back into trouble. This would be one of those times.

Have we so soon forgotten the reasons why the Hatch Act was adopted in 1939? Have we forgotten the massive scandals over political coercion of Government workers? Have we forgotten how many were ordered to attend partisan rallies, "and no excuses"? How many were transported by their foremen to switch political registration? How many were shamelessly shaken down for contributions?

Remedies adopted then in the Hatch Act were of two kinds: a ban on political coercion of federal workers, and a restriction on employes' own activities in campaigns.

In the House debate just finished, Representative Joseph Fisher of Virginia described the reaction of federal employes:

"I was a civil servant here in Washington when the Hatch Act was originally debated and passed. . . . It was regarded throughout the town by civil servants as a truly landmark piece of legislation, a great event for their protection and betterment. It was no small matter at the time. . . . It is no small matter now, either, and for the same reasons."

Both Fisher and Representative James Abdnor of South Dakota report that the majority of Government workers communicating with them about the new assault on the Hatch Act favor leaving the Act alone. Common Cause, which significantly urged keeping it, cited revelations in a poll by Decision Making Information: 74 per cent of all persons responding were opposed to alterations, as were 71 per cent of union members, 81 per cent of nonunion public employes and 61 per cent of unionized public employes.

So there is good reason to believe that the prospective recipients of the so-called benefit heralded in the current drive do not want it.

But others want to force it on them.

These advocates of change have indeed retained a battery of Hatchlike "protections," penalties against coercion. But they propose to cut the heart out of the Act, the provision barring most federal workers from national political campaigns. In fact, the "reform" bill as approved by the House practically hurls the workers into the arena:

"It is the policy of the Congress that employes should be encouraged to fully exercise, to the extent not expressly prohibited by law, their rights of voluntary participation in the political processes of our nation."

The reformers boast of good intentions. But there will always be those more than glad to help push the federal workers along.

If these helpers happen to be officials of some Administration that wants to remain entrenched, they can find a way around the "protections." Anybody who has worked in the Federal Government or observed it closely knows of the end runs around rules on hiring, firing, promotion, personnel records, various forms of compulsion.

We would be naive to overlook the unions role. In fact, passage of Hatch Act alterations this year has been made a test of strength of union leaders. Naturally the leaders are interested in a compact body of 2.8 million workers who can be added to union potential for political action. Furthermore: Union chiefs probably can do more than Government supervisors to influence workers.

Consider what could happen, and very well may, in some future Administration if unions and a group of aggressive, ruling politicians throw in their lot together.

The Senate should think twice before gutting the Hatch Act, and risking a step back to a seamy side of our history.

WILLIAM F. BUCKLEY'S PRAISE FOR SENATOR JAVITS AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr, President, I would like today to acknowledge the outstanding efforts of my colleague Senator JACOB JAVITS of New York in supporting the Genocide Convention. Mr. JAVITS has devoted much time to explaining the Convention to those who misunderstand that document and defending the Convention against those who would misconstrue it.

I was very pleased to read the column by William F. Buckley, Jr., which complemented Mr. JAVITS on his support for the Genocide Convention. I was particularly impressed with Mr. Buckley's argument that ratifying the Convention is an important moral issue. I agree completely with his statement that "We should officially identify ourselves as approving the proposition that genocide is a violation of international law."

Mr. Buckley's column offers both well-deserved praise for Mr. JAVITS and a forceful argument for ratifying the Genocide Convention. Mr. President, I ask unanimous consent that the text of Mr. Buckley's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Star, June 21, 1977]

THE GENOCIDE CONVENTION

(By William F. Buckley, Jr.)

Senator Jacob Javits of New York has announced his intention to press for the ratification of the Genocide Convention, and although there are abundant reasons to doubt it will save any endangered species, the arguments in favor of its passage outweigh the negative arguments. Here is what one should bear in mind in thinking about any international human rights law:

(1) The ideological enemies of human rights, most conspicuously the Communist states, will not be contained by the legislation. But this does not mean that the legislation cannot be put to useful effect. It wasn't until September, 1973, that the Soviet Union ratified the several conventions on human rights passed by the United Nations in the late 40's; and, while on the same binge, the Soviet Union ratified in 1975 the Helsinki agreements. Add the new Soviet Constitution, and one would think one could go to live in the Soviet Union as to a libertarian paradise. As for China, human rights is regarded as a kind of kinky western habit, to be shunned along with Beethoven and Mozart.

(2) Non-ideological enemies of human rights are much likelier to benefit from stipuplated definitions of human freedom. Evelyn Waugh's prophetic book, *Black Mischief*, describes the state of Azania in which efforts, hilariously clumsy, are made to emulate the manners and morals of the British. The Azanians manage to get things just a little confused, as when a reception is given to two visiting British ladies representing the Royal Society for the Prevention of Cruelty to Animals. The Society's name is misread by the local host, who gives a speech on the earnest efforts being made in Azania to imitate the British by the Cultivation of Cruelty to Animals.

The pasquinade is wonderfully carried off, but the rest of the novel reminds us that norms achieved by the more civilized states after millenia of agonizing experience are a part of the universal patrimony. If and when human rights finally arrive in nations like Iran and Chad, it will be because of the persistent idealism of such people as have fought for universal declarations of human rights.

(3) The Genocide Convention was signed by President Truman in December of 1948, and although three times recommended to the floor of the Senate, to the Foreign Relations Committee has hertofore failed of passage. Probably the main reason for this was the opposition of the American Bar Association. It was widely feared, during the Fifties and Sixties, that Americans might be detained in murky parts of the globe and charged with "genocide" against American Negroes or Vietnamese peasants, tried and imprisoned.

In fact, our passage of the genocide convention or our rejection of it, would not have stood in the way of a state that chose to press such a charge against a U.S. citizen. Available to us in such situations is nothing more than our diplomatic resources, and our atom bombs. If Marshal Amin decides to try a U.S. reporter for complicity in genocide because he carries a check book of the Chase National Bank that has branches in South Africa, he will do so irrespective of any legislation passed by the Senate.

Even so, the recommendation of the Bar Association, which now favors ratification, is based on the attendant protocols. The Genocide Convention's Article V reads: "The contracting parties shall enact the necessary implementing legislation to enforce provisions of the convention." This means that only Congress can pass laws that would give teeth to the Genocide Convention: and Congress is in our hands, not in those of General Amin.

(4) With these qualifications, what is the point of the convention? It is a moral point, but moral points are after all about all we have left. We should officially identify ourselves as approving the proposition that genocide is a violation of international law. The crime of genocide is one of the distinctively hideous crimes of the century: practised against the Armenians, against the Jews, against any number of African tribes, against Asiatics, against Cambodians—and, in less than a systematic way, against Irish. The failure of the Senate to declare itself on the subject is itself arresting, and Senator Javits is right to urge its passage.

PUBLIC WORKS APPROPRIATIONS BILL FOR FISCAL YEAR 1978

Mr. McGOVERN. Mr. President, we will soon have before the Senate the Public Works Appropriations bill for fiscal year 1978.

The Senate Appropriations Public Works Subcommittee under its distinguished chairman, Senator STENNIS, has worked very hard to produce a bill that is realistic and reasonable under the present circumstances. I respectively must take issue, however, with their decision to eliminate a number of water development projects which heretofore have been favored by the Congress.

I am aware of the subtle and covert pressures in relation to the subcommittee consideration of the bill. They were certainly mindful of the relatively close vote in the House of Representatives to delete the water development projects which are under challenge by the President. It is clear that there are not enough votes to override a Presidential veto of the bill.

In a sense, it is not these specific projects that are at issue in this bill, but rather the larger question of whether the Congress will retain its traditional role in the water and power development of the United States. The administration has clearly signaled, by their position on these projects, that the executive branch should determine the criteria for these public works.

Speaking for myself, I frankly do not fear a veto on this bill. I think the Congress has a responsibility to honor its past commitments on water development and to stand firm. If the President subsequently elects to veto that bill, then at the very least we will have indicated to the country that the Congress has responded affirmatively to our historic belief in the kind of development that can best serve the long-term water supply needs of our Nation.

Let there be no misunderstanding on this issue. Many of us from States with challenged water projects believe that if the administration assumes, as they want to, the major role in water development that a number of the projects now approved may subsequently be canceled or substantially downgraded in scope. It will be very difficult, if not impossible, for any project in the future to meet the kind of strict criteria that the administration proposes.

A sample of what we can expect surfaced in an address by Secretary of Interior Cecil Andrus to the National Water Conference in St. Louis. Essentially, the Secretary set out the following guidelines for future water development:

1. "Water Conservation must be a major factor for consideration along with the national economic development and environmental quality objectives." Applying this revised standard to any project would indicate that only the direct benefits derived from water utilization would be a key point in whether or not it was approved by the Administration.

2. "Give equal standing to plans which achieve our environmental, conservation and economic objectives through nonstructural means with explicit consideration of the alternative uses of the waters." This means that resolving water supply problems through construction of dams, reservoirs and water transferal systems will be downgaded by the Administration as one of the options to consider in meeting water needs.

3. "States and other non-Federal entities must be required to share a greater percent-

age of the burden of financing." In this requirement, the Administration is sending a message of the end to the concept of Federal payment for construction costs with payback to be accomplished through project utilization. The Administration would apparently require that state and local governments and their subdivisions financially participate in the initial construction costs, rather than await a long-term return of the Federal investment in the future. It would be very difficult, under this proposed criteria, for a state with limited financial resources to have any major water projects constructed.

4. "Substantial change and reform of laws, regulations and practices governing allocation of water resources." This point suggests that the priorities presently assigned for water utilization could be adjusted away from traditional uses to meet other needs that now may have a lower priority under current law.

5. "Examination of Federal Programs to determine where we can employ wise water use practices." This envisions the establishment of water efficiency requirements for irrigation uses, various types of construction, and special meters, in cases where water is provided through Federal projects, or under Federal funding guarantees.

6. "The recognition of Indian Water Rights in all water allocation from the standpoint of water resources policy development, planning and use."

7. "Evaluation of water quality and waste management planning with conventional water resources allocation and development planning."

8. "Insure the safety of all Federal water project construction."

9. "Affirm that the primary and basic goal is the conservation and more efficient use of water."

I do not quarrel with the idea that we may need to reevaluate the present standards and criteria that are applied to water project development. But it seems to me that such a review should be accomplished through a special commission established for that purpose reporting to the President and the Congress. From such a report appropriate legislative initiatives could be taken to reflect the wishes of the Congress and the administration. This would afford an opportunity for detailed and in-depth review of what is a critical and serious problem, rather than have those decisions made only as a part of our consideration of the Public Works Appropriations bill.

The point at issue here, however, is the recommendations of the Senate Appropriations Committee to delete nine water development projects, which have been approved by the House from the Public Works Appropriations bill for fiscal year 1978.

Included in the subcommittee's recommended deletions is the Oahe Irrigation project in South Dakota.

It is my view that the committee—and perhaps the Congress—may be laboring under a misconception of what the position of the administration actually is in relation to the Oahe project.

In an April 1977 memorandum from the Secretary of the Interior to the Director of the Office of Management and Budget, Secretary Andrus made the following recommendation on Oahe:

As a result of our analysis, I recommend that funding be withheld until assurances of local support are given and, should a request to continue be made, the project should be modified significantly. The basis for this recommendation is as follows:

1. The Board of the Oahe Subdistrict—the contracting entity for the project—has requested that contracting be halted until the Board has had an opportunity to consider alternatives to the project. Funding should not proceed in the absence of firm local commitments to the project by the elected representatives of the contracting entity.

2. Should the Conservancy Board elect to proceed, the project as presently authorized should be modified to eliminate the proposed 65,000 acre East Lake Plain service area and associated supply works, which include the East Main Canal Byron Reservoir and Dam, the James Pumping Plant, the Byron Pumping Plant, the James Canal and the East Lake Plain lateral and drainage system. Construction of the supply works for the West Lake Plain area would be continued to provide ultimate irrigation service to the 125,000 acres presently proposed, plus an additional 25,000 acres along the canal rights-of-way. This plan would allow full use of the present design capacity of the Pierre, Highmore, West Main, Cresbard, and Redfield canals, the Blunt Reservoir and the Oahe Pumping plant. It would substantially reduce water quality impacts on the James River as well as stream alteration requirements by reducing return flows. Wetland losses would be reduced by about one-third. All but two of the 17 municipalities proposed for service by the present project plan would continue to be served by the modified plan. Estimated costs of completion of the Oahe Unit with the recommended modification would be $286 million, resulting in an estimated savings of $128 million.

In a very real sense, the objections of the administration—to which the subcommittee's recommendations respond—is more procedural, a lack of local support and commitment, than substantive as to the merits of the project itself.

The essence of the Secretary's recommendations is that the administration would be willing to accept funding for a modified Oahe project, if there was a sufficient "firm local commitment" to the project by the elected representatives of the contracting entity.

The subcommittee's report follows this lack of local support argument in its reasoning for deleting the Oahe project and for recommending a recision of some $1.3 million in fiscal year 1977 funds already appropriated. In their report, the subcommittee gave the following reason(s) for the elimination of Oahe:

Oahe Unit—South Dakota.—This project was recommended for deletion by the President pending firm local assurances of support for the project. Controversy over the project in the area affected in the state has mounted in recent years to the point where in an election held last Fall, several new members were elected to the governing body holding the master contract for the project. Testimony by the local governing Oahe Board was in firm opposition to fiscal year 1978 funding of the project. After those hearings, the Board adopted a final position that "the project was not acceptable" and was "unworthy of further funding."

I need not recite here the many positive benefits of Oahe, which are already spread on the public record. It should be noted, however, that successive Congresses and national administrations have found merit in the project and have provided funding and guidance for its construction.

It is clear that we do need to set the record straight in relation to the local support element which the administration and the Senate Appropriations Committee finds lacking for the project in South Dakota.

Thirty years ago this September, the Bureau of Reclamation opened an office in Huron, S. Dak., to begin "local investigation and planning" for the Oahe unit of the Pick/Sloan Missouri Basin program as authorized by the Flood Control Act of 1944.

South Dakotans had given up over 500,000 acres of productive land and wildlife habitat in the Missouri River bottoms to accommodate the great dams on the mainstem of the Missouri. These dams, today, continue to provide a viable source of hydroelectric power, protection for those downstream from the ravages of seasonal flood waters and a regulated flow of water for downstream navigation on both the Missouri and Mississippi Rivers.

The 1944 comitment was clear. In exchange for these lands, the State of South Dakota was to obtain irrigation and assistance in the transferal of Missouri River waters to other river basins within our State. South Dakota kept its part of the bargain, but now the Federal Government appears ready to recede from its commitment.

The Oahe project proceeded to develop to the point where it was authorized for construction by the Congress in August of 1968. Actual work began in 1970.

Opposition to the Oahe project came into sharp focus in December of 1973 when the environmental impact statement for the project was made available to the public. At that time, an informal coalition was formed of the United Family Farmers, certain environmental and wildlife interests, and others who felt that their concerns were not reflected in the project's design, construction, and operational features. Project opponents elected some members of the Oahe Conservancy Subdistrict Board in the 1974 election and had a majority on the board following the 1976 general election.

The board and its allies in national organizations opposed to water development lost little time in communicating their position against Oahe to the incoming officials of the Carter administration. This resulted in Oahe being included in a list of projects which were challenged by the President. The board followed up by testifying against funding for Oahe at a March hearing in Pierre conducted by a field team of the President's Water Projects Review Panel, and testifying, again, against Oahe funding before congressional Public Works Appropriations Subcommittees in April. The administration quickly adopted the position that only the board—the principal in-State party to the Oahe master contract—was entitled to "speak for Oahe" in a way that the administration would listen.

Sensing that the Oahe project was in trouble, the 1977 session of the South Dakota State Legislature with the strong and active support of the Governor adopted State Senate Bill 246 which stated, in part:

Section 1. It is hereby declared to be the public policy and in the best interests of the State of South Dakota and its people that the

Oahe Irrigation Project be continued and completed, and that full funding for the project be appropriated by the Congress and the President of the United States.

To carry out its wishes, the legislature created an "Oahe task force" which was to consider modifications to the project under the general framework of the legislative mandate in support of Oahe. This did not, however, appear to alter the contractual responsibilities of the Oahe board.

In an effort to more closely define the authority and responsibilities of the Oahe Conservancy Subdistrict Board as opposed to the Oahe task force, the board chairman requested and received an opinion from the South Dakota attorney general. The opinion makes clear that—

The Oahe Conservancy Subdistrict Board is not in a position to speak officially for South Dakota on the issue of continued funding for the Oahe project. The policy voice for the State is the task force, and it has its mandate to pursue funding pursuant to State Senate Bill 246.

To further define the somewhat unique legal and organizational framework under which South Dakota develops its water resources, the Secretary of the South Dakota Department of Natural Resources Development acting for the State Board of Natural Resources has indicated that the department and the board would "vigorously seek congressional support for amendments to continue forward with the Oahe project."

Simultaneously, some residents of the Oahe Conservancy Subdistrict filed a legal action to force application of the constitutional "one man-one vote" principle on the governing boards of South Dakota Conservancy Subdistricts. In effect, the suit seeks to "weight" the vote in accordance with the number of individuals represented. That case is now in litigation before the State circuit court with an indication through interim rulings that a formula may be adopted that will place the "weighted" vote principle into effect on a temporary basis until the case can be decided on its merits later this summer. If such a mechanism were to receive judicial approval, it would means that urban board members, who favor the Oahe project, could have a controlling voice in the positions taken by the board, which is presently opposed to the project.

As we know, the House has appropriated $16.9 million for the Oahe project for fiscal year 1978. In this regard, it is important to note the present status of the existing contracts and works associated with that project. Responding to that question, long time Oahe board member Bob Hipple of Pierre, wrote to me on June 18, 1977, with the following information:

The present construction contract status is this:

1. A contract for the building shell of the Oahe pumping plant. This contract is funded by existing appropriations and the building will be complete by October 1.

2. A contract for the manufacture of the pumps and electrical motors to be installed in the pumping plant. This is held by a Japanese firm, the work has been in progress for more than a year, but will not be completed this fiscal year. These pumps and motors are specifically designed for the Oahe installation and would be of no use or value anywhere else.

3. A contract for construction of Reach 1–B of the Pierre canal, extending for 1.2 miles. This is a segment extending west from Medicine Creek, about 22 miles east of Pierre, and is the deepest cut on the entire canal system. Work has been in progress since 1975 and it will be complete by October 1.

4. A contract for construction of Reach 1–A of the Pierre canal, extending from the bluff line above the pumping plant eastward for a distance of 21 miles to connect with Reach 1–B. All land required for this reach has been acquired, much of it has been fenced, the two contractors involved in the joint venture moved onto the job in April and already have moved more than 3,000,000 yards of the something more than 8,000,000 yards of dirt covered by their contract. This reach will require the construction of several bridges where the canal crosses highways, including one crossing on Federal highway 14. The contractors already have reached the crossing site on Highway 14 plus two sites on county highways and have constructed detours on these three, plus a 4th on the main county highway north of Pierre which will be reached by the canal quite soon. They have made a deep cut across the first of the county highways and work on this bridge is planned to start during July.

There is no environmental problem involved in any of these four contracts. Neither is there any land acquisition problem as all of the land required has been acquired. Incidentally most of it was acquired from willing sellers, and several of the owners are hoping that they will have an opportunity to enter into contracts for a water service from this first reach of the canal.

The only way that anyone anywhere in eastern South Dakota can hope to obtain a water service from the Missouri River, or more accurately from the Oahe reservoir, is to pump that water up to the bluff line, convey it through a canal, and impound it in the Blunt reservoir. There certainly are numerous possibilities once this is accomplished, including some possible modifications of the plan for the Oahe Irrigation Project. But until that pumping plant is complete and the Pierre canal is complete any use anywhere east of Hughes county cannot be economically possible.

From this report, it is apparent that we cannot simply terminate the Oahe project at this point. We must complete at least enough of the works to utilize some portion of the project facilities in the future—perhaps in the modified version of the project that has been recommended by the administration.

The authority of the Oahe Conservancy Subdistrict Board to speak for the State of South Dakota on the Oahe project is clouded. There is a clear consensus in the State that the project, in some form, must proceed.

With these factors in mind, I want to reserve the option to proceed on an amendment when the bill is actually before us, either unilaterally or in concert with other Senators whose projects are threatened, to ask the Senate for full funding for Oahe in fiscal year 1978.

If full funding is denied by the Senate in relation to the Oahe project, then consideration should be given to partial funding to permit on-going contractual obligations to be honored. Failing in that, it would seem that at least 5 percent of the fiscal year 1978 funding request should be appropriated to permit the Bureau of Reclamation to work with State and local interests in planning project modifications in conjunction with the administration's requests, to bring the project into full compliance with the Secretary of Interior recommendations. Such partial or planning moneys would continue the funding cycle and permit South Dakotans to come back next year with a revised project that would be eligible for inclusions in the President's budget for fiscal year 1979 and subsequent consideration by the Congress.

Mr. President, I ask unanimous consent that the letter from the South Dakota secretary of the Department of Natural Resource Development, the opinion of the South Dakota attorney general and editorials from the Huron Daily Plainsman, Aberdeen American News, and Rapid City Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT,
Pierre, S. Dak., June 12, 1977.

Senator GEORGE MCGOVERN,
2313 Dirksen Senate Building,
Washington, D.C.

DEAR SENATOR MCGOVERN: The actions of the Sub-Committee on Public Works of the Senate Appropriations Committee not to recommend funding for the Oahe Unit in FY 1978 is of deep concern to the Board of Natural Resource Development. While it is understandable that Congress would question South Dakota's desires to continue the project in view of the heavy lobby pressure from the Oahe Conservancy Sub-District Board it should be clearly understood that the Conservancy Sub-District represented, by a 6 to 5 majority, only one faction of non-federal interests in the project.

A brief review of the unique institutional arrangements in South Dakota may shed some light upon this matter. In 1959, the South Dakota Legislature wisely provided for a range of interest to become directly involved in water resources projects. SDCL 46–17–2, the South Dakota Conservancy District Act, provides the basic policy as follows:

"It is the intent of this chapter and chapter 46–18 (South Dakota Conservancy Sub-District) to relate, reasonably and equitably, the financing of water resources project to the degree of benefits received from such water resources projects by:

(1) Provisions whereby state-wide financing will be forthcoming for those phases of water resources development which concern the general welfare of the people in the state and result in state-wide benefits;

(2) Provisions whereby specific areas will finance those phases of water resources development which provide general benefits to the people in such areas;

(3) Provisions whereby water users or direct beneficiaries of water control and regulation will finance those phases of water resources development which provide water for use or which protect or enhance the value of property;

(4) Provisions whereby assignment of administrative jurisdiction and responsibility for the various phases of water resources development are related to such variable degrees of benefits.

I wish to emphasize the assignment of administrative jurisdiction and responsibility for the various phases of water resources development.

The Oahe Unit does have a significant impact upon direct water users and beneficiaries, primarily the irrigators, municipal water users and others for which the project is being planned and developed. These users through the West Brown and Spink County

Irrigation Districts and the various municipal governments, have consistently supported and requested continued construction of the Oahe Unit. Local elected officials have passed motions, adopted resolutions, and worked toward continuation of the project, always looking toward improvements.

These local organizations (the irrigation districts and municipalities) have been largely overlooked, especially by the press, in the conservancy sub-district controversy. The present sub-district board majority claims to "speak for the local people" and to be the "local contracting agency." However, in reality, the sub-districts contractual responsibilities for repayment are minor when compared with the other entities. The irrigation districts and other direct water users must pay back over ninety percent of the local costs.

State-wide interest in continuation of the project is represented by actions of State Executive Agencies, notably the Board of Natural Resource Development and the Game, Fish and Parks Commission, and the Legislature itself. No stronger commitment is possible. Again State-wide spokesmen through their actions recognize the necessity to continuously seek improvement in the project and have committed themselves to do so. Without continued funding to at least seek such improvements there is no way the project can become a reality. This would certainly be adverse to the State of South Dakota and in our opinion to the Nation as a whole.

On February 18, 1977, the Board of Natural Resource Development unanimously adopted a resolution supporting continued development of the Oahe Project. There is no change in that policy. The Board and this Department has also pledged itself to assist the Oahe Unit Task Force in carrying out Legislative policy to seek continuation and completion of the Oahe project and to pursue and assist in pursuing modifications and improvements in the project.

It is believed the Oahe Project has met the tests of economic, environmental and safety standards adopted by the Congress. As opportunities for improvements are presented they will be incorporated into the State's efforts to develop the best project possible.

In view of these local and State-wide commitments, and the area-wide (Conservancy Sub-District's) previous statements to seek improvements in the project, we would vigorously seek Congressional support for amendments to continue forward with the Oahe Project.

Fiscal year 1978 funding to maintain the Bureau of Reclamation's planning and design function is an absolute must if the project is to be developed. Construction could be stopped a year or two without too much lost, although the practicability of diverting large quantities of water from the Missouri River into east-central South Dakota dictates the construction of a set of canals and regulating reservoirs as planned with the Oahe Unit. Continued construction of the present facilities could take place as improvements in the ultimate use of the water are studied and recommended. We, therefore, see no reason to stop FY 1978 funding at this time.

Very truly yours,

VERN W. BUTLER,
Secretary.

STATE OF SOUTH DAKOTA,
OFFICE OF THE ATTORNEY GENERAL,
May 27, 1977.

Official Opinion No. 77-46
Legal authority and duties of the Oahe Task Force.

Mr. JOHN SIEH,
Chairman, Oahe Conservancy Sub-District Board of Directors, Aberdeen, S. Dak.

DEAR MR. SIEH: You have requested an opinion from this office in regard to the following questions:

Questions:

1. Does the creation of the Task Force by the Legislature in Senate Bill 246, in any way strip the Oahe Conservancy Sub-District of any powers or responsibilities granted them by State statute?

2. Can the $50,000.00 appropriated by the Legislature be used to hire a lobbyist? If so, whose responsibility is it to make that determination and authorize the spending of those funds for such purpose?

3. Does the Task Force have any authority to intervene in contractual arrangements between the Oahe Conservancy Sub-District and the U.S. Government?

4. Through the Task Force or any other legislation which passed in the 1977 Legislative Session, did the legislature grant any state agency, the Governor or any other entity of the State of South Dakota the authority to contract with the Bureau of Reclamation for the construction of the Oahe Unit, and for the operation of the Oahe Unit? If so, by what means would revenues be generated or taxed to guarantee repayment and other costs as required by federal reclamation law?

5. It is our understanding that state law concerning the recall of public officials was changed in the last session to include Board members of conservancy sub-districts. Would you please explain the statutes concerning recall and the provisions by which a public official could legally be recalled?

In Re Question No. 1:

Senate Bill 246 created the State Oahe Unit Task Force and provided for the membership of the Task Force, a brief description of duties, and an appropriation of money to fund the Task Force. Nowhere in the language of that legislation do I see terminology which "strips" the Oahe Conservancy Sub-District Board of their powers or responsibilities.

The State Oahe Task Force is a body set up to continuously monitor and examine the Oahe Unit as outlined in the construction schedule of the Bureau of Reclamation, to report annually to the South Dakota Legislature on the progress of the Oahe project, and, where appropriate, to pursue or assist in the pursuit of modification and improvement in the project in certain specified areas. (Section 3 of Senate Bill 246.)

The language in Section 3 of Senate Bill 246 recognizes the State Oahe Task Force has authority not only to monitor the progress of the Oahe project, and to make reports to the Legislature on that progress, but also to pursue or assist in the pursuit of modifications and improvements in the plans for the project. This, for example, means that the Task Force would be authorized to go to Washington, D.C. and pursue or assist in the pursuit of certain modifications and improvements in the project, and in doing so, to speak in behalf of the State of South Dakota in conformity with the public policy of South Dakota as expressed in Section 1 of Senate Bill 246.

The Oahe Task Force is not in a position, in my opinion, to change existing contracts on Oahe or to sign new contracts with the federal government, which would affect the Oahe project. The contracting authority of the Sub-District Board has not been changed by Senate Bill 246. If further implementation is needed for the modifications and improvements in the project which the Task Force "pursues," the changes will need to be effected by the political process through such things as possibly changing existing law or persuasion of the Oahe Conservancy Sub-District to take a particular course of action. The Task Force does, however, have the clear authority to pursue modifications and improvements in the specified areas of the Oahe project as noted in Section 3 of Senate Bill 246.

In summary, the answer to your first question is generally no. The creation of the Oahe Task Force does not "strip" away the powers of the Oahe Conservancy Sub-District. The creation of the Task Force, however, obviously does add an additional public body with independent authority to seek and pursue such things as modifications and improvements to the Oahe Unit. This authority to seek improvements and modifications arises from the language of Section 3 of Senate Bill 246 and is there limited to only certain specific areas.

Thus, although Senate Bill 246 does not "strip" the Oahe Conservancy Sub-District Board of their powers, its provisions not only state what the public policy of South Dakota is with respect to financing the Oahe project, but also establishes a blue ribbon Task Force to monitor the progress of the project, report to the Legislature on this progress, and to pursue or assist in the pursuit of modifications and improvements to the plans for the project, all in accordance and in conformity with the public policy of the State of South Dakota as expressed in Senate Bill 246. This means, in my opinion, that the Oahe Conservancy Sub-District Board is not in a position to speak officially for South Dakota on the issue of continued funding for the Oahe project. The policy voice for the State is the Task Force, and it has its mandate to pursue funding pursuant to Senate Bill 246.

In re question No. 2:

The answer to your second question concerning use of the $50,000.00 appropriated by the Legislature is no. There is no authority, in my judgment, to use the funds appropriated by Senate Bill 246 for the purpose of hiring a lobbyist to promote or to oppose the Oahe project.

In re question No. 3:

In response to your third question, it is apparent that the answer would depend on what meaning is attributed to the term "intervene." If the term is construed to ask a question as to the Task Force's authority to sign contracts which would change or modify existing contracts on Oahe, then the answer to the question is no. If, however, the term "intervene" is viewed as asking the question as to whether or not the Task Force can "intervene" by doing such things as going to Washington, D.C. and attempting to pursue funding or get changes and improvements made in the project, the answer then is yes. The discussion above in regard to question number 1 should provide some additional clarification in regard to my views on this issue.

In re question No. 4:

In regard to your fourth question, it appears to me that further discussion of this matter is not necessary in view of the above analysis relating to the previous questions.

In re question No. 5:

With respect to your last question concerning recall of public officers, I am not aware of any such legislation that was passed by the 1977 Legislative Session. I do know there were proposals introduced in this area (House Bill 840), but they were never passed.

You may also have possibly been thinking of House Bill 806, which concerned removal of officers of local government for certain causes. The statute amended there was SDCL 3-17-6, and in its amended form now provides for removal of any officer of any local unit of government for the enumerated causes. The previous language had restricted the scope of that statute to only certain specific local officials.

As far as general recall of public officers is concerned, there is no such general recall provision. There are specific sections on recall in the municipal law (SDCL 9-13-30), however, no similar statute of general applicability exists as to public officials generally.

Because of the scope of the Oahe Project, I feel compelled to make a few comments in addition to those previously made.

The OAHE master contract has been recognized by our State Supreme Court as being a "valid obligation of the Oahe Conservancy Sub-District," In Re Oahe Conservancy Sub-District, 185 N.Y. 2d 682 (1971). This contract continues to be a valid obligation, requiring repayments through various taxation and user fee assessments, even if the project is not completed. Thus, the contractual obligations imposed by the master contract are not illusory and will not fade away merely because the project is not funded any further. Section 42 of the master contract provides: The expenditures of any money or the performance of any work by the United States herein provided for, which may require appropriation of money by congress or the allotment of funds, shall be contingent on such appropriations or allotments being made. The failure of congress to appropriate funds, or the failure of any allotment of funds, shall not, however, relieve C–D District from any obligations under this contract, nor give C-District the right to terminate this contract as to any of its executory features. No liability shall accrue against the United States in case of such funds not being appropriated or allotted.

This continuing obligation raises questions in my mind as to the authority and propriety of any action calling for a withdrawal of federal funds from the project. Any governmental agency taking such action to unilaterally impair the obligations of the Oahe Master Contract could be acting "ultra vires" and in excess of legal authority. The Master Contract can only be changed by mutual agreement of the parties, and not unilateral action.

The Master Contract was approved and ratified by the people and as such cannot be changed by unilateral action or conduct. This approval was manifested by an affirmative vote at an election by the people in the Sub-District.

Any public official who acts in an "ultra vires" manner could have reason to be concerned about possible personal liability which he might have as a result of such action. I do not believe that any present state or local agency has the unilateral authority to seek to undermine the funding of Oahe and thus place certain landowners in the position of having huge obligations to pay, but not water for irrigation.

Further, I feel it is proper that I caution all elected officials of their immense duty to represent and serve all spectrums of the electorate within their respective jurisdictions. On an issue as highly controversial and emotional as the Oahe project, it is easy for individuals to become polarized and cemented to specific positions, however, every elected official has an absolute duty to represent the interests of persons who voted against him as well as those of persons who voted for him. In carrying out these duties, it is necessary, at times, to put personal feeling aside and make decisions based upon the input and point of view of all of the electorate. This duty includes the elected officials of the current Oahe board as well as the elected state officers appointed to the Task Force. It is only through such action that the true "public policy" of the Oahe Sub-District electorate and the whole state electorate can adequately be served.

Respectfully submitted,

WILLIAM J. JANKLOW,
Attorney General.

[From the Huron, (S. Dak.) Plainsman, June 19, 1977]

LAST CHANCE FOR OAHE!

Last week the United States Senate subcommittee eliminated funding for the Oahe project for the next (1978) fiscal year. Oahe was one of nine projects which the committee dropped from the original list in a move toward a compromise with President Carter who has put a total of 17 water development projects on an administration "hit list" for the purpose of fulfilling a campaign pledge to environmentalists who have supported him.

The Oahe project cleared all of the administration review committee's criteria for economic feasibility, environmental impact and safety. It remains on the President's "hit list" because of lack of local support, meaning the antifunding position of the majority of directors of the Oahe Conservancy Subdistrict.

The project has passed the House Public Works Subcommittee and a floor vote in the House of Representatives. An amendment to delete the project from the House appropriations measure was defeated by Rep. James Abdnor, with support from Rep. Larry Pressler.

Congressional sources tell us there are only two reasons why the Oahe project was deleted from the list of those recommended by the Senate subcommittee:

One was the intransigent antifunding position of the majority of the Oahe board of directors, a position that appears to be in direct opposition to a majority of public opinion in the subdistrict area as well as in defiance of state law.

The second, and possibly more important, was the split in the South Dakota Senate delegation. Senator James Abourezk, who has claimed support of the project, continued to support the majority of the Oahe board and their antifunding position. Senator George McGovern, a long-time outspoken proponent of the project was last in the untenable position of defending an essential appropriation for his home state against the opposition of his colleagues.

There are still two moves left that could restore the Oahe appropriation which is so vital to the future economic welfare of central South Dakota. One would be an amendment on the floor of the Senate to restore Oahe funding, or at least to provide study money to keep the project alive and plan modifications that might be deemed more desirable. The other would be an agreement in the conference committee to restore all or part of the funds. For either to succeed an expression of local support is needed.

The legitimacy of the opinion of the majority of the Oahe board has been challenged in court. The antifunding position was arrived at after a series of contrived hearings that have been characterized as a charade by minority board members and outsiders alike.

Published reports indicate that the courts will reweight the board on a one-man, one-vote basis to conform to the constitution. Such a move would put the voting power in the hands of those board members who want funding for the project and would automatically reverse the position of the board. This procedure is in the courts, with some sort of action indicated on Monday.

As for the split in the Senate delegation, this may provide the last opportunity for an individual to express an opinion. Senator James Abourezk is well aware of the importance of this project to the state. And while he has, in the past, professed support for the project, he has continually supported its opponents. He may still be amenable to the constituents' opinions. At least be should be informed of what the majority of people in the subdistrict area want. Let him know if you want this project funded.

Senator George McGovern is expected to introduce an amendment on the Senate floor to restore funding, or at least to provide study money to keep the project alive for another year.

Let him know that you support this action.

This may be your last opportunity as an individual to voice your support for Oahe, an economically sound project that could be lost this week to political chicanery, misrepresentation and lobbying activity of questionable legality.

[From the Aberdeen (S. Dak.) American News, June 19, 1977]

OAHE PROJECT HAS TOO MUCH POTENTIAL FOR GOOD TO BE DECLARED DEAD

The hopes for completion of the Oahe water diversion project on schedule have obviously been dimmed but that does not mean efforts to revive funding under more favorable circumstances in the future should be abandoned.

The Oahe project has too much potential for good in thirsty South Dakota to be declared dead.

Events in Washington where a new President, having a showdown with a divided Congress, prompted a compromise situation and events in South Dakota, where an active minority against irrigation made its way to a position of influence, combined to eliminate Oahe funds from the water projects bill approved by a Senate subcommittee on appropriations.

But the circumstances that caused the planning and promotion and start of construction of Oahe prevail. Time—only a short time—should further prove the need for extensive water development in South Dakota.

And the diversion of Oahe reservoir water is a key to utilizing the assets of the Missouri River—the river of gold—in South Dakota.

It is encouraging that Sen. Curt Jones, chairman of the special task force created by the legislature to work for the approval of Oahe's completion, wants the task force to remain active in making modifications that will move the majority support to a point nearer unanimity.

South Dakotans with faith in the future of their state have been confronted by adversity many times in many ways and persevered to achieve worthy goals.

[From the Rapid City Journal, June 19, 1977]

LET'S PUT MISSOURI WATER TO BENEFICIAL STATE USE

The Oahe Irrigation Project is about to be sacrificed on the altar of political compromise.

Rather than facing the likely prospect of a presidential veto of the public works appropriations measure, a Senate subcommittee voted to withhold funds for Oahe and seven other water projects which are among the 17 that President Carter opposes.

Although the sub-committee action isn't the last word since the House approved the appropriations bill with all the projects included, prospects for continued funding appear dim.

The measure did not pass the House by a sufficient margin to override a veto and the Senate obviously wants to avoid a veto showdown between a Democratic president and a Democratically-controlled Congress.

Although the Oahe project meets the administration criteria on environmental, safety and cost-benefit ratio grounds, it was a prime target to be cut because it lacks unanimous support within the state and within the congressional delegation itself.

Whatever the result of the political infighting, the fact remains that South Dakota gave up a lot of valuable land when dams were constructed on the Missouri River to prevent downstream flooding. The state has yet to realize the benefit potential from the water stored behind those dams.

The Oahe Sub-District board, which opposes the irrigation project in its present form, says it will accept a modified plan. The chairman of the Oahe Task Force says that group will also work for changes in the plan to make it more acceptable. Sen.

George McGovern will seek funds for modification planning when the bill reaches the Senate floor.

Whether these efforts ever result in the use of Missouri River water for irrigation, the fact remains that South Dakota is a semi-arid state through which a great amount of water flows on its way to the sea.

If irrigation is not the best use of that water, and it may not be, plans for domestic and industrial use must continue to be developed and implemented. As they are proposed, cost-benefit ratios will be applied to them.

Some may not stand up under such an analysis but then neither will the Postal System, the welfare system, farm price supports, foreign aid or the congressional employment package. But we don't abolish them.

Government programs are rarely profitable but some must be considered in the context of the general public good. Projects to put Missouri River water to beneficial use in South Dakota fall into that category.

ACCOUNTABILITY, PUBLIC POLICY, AND PSYCHIATRY

Mr. JAVITS. Mr. President, I commend to the attention of my colleagues a thoughtful speech by a distinguished health economist, Anne R. Somers, Ph. D., professor in the department of community medicine and department of family medicine of the Rutgers Medical School. Dr. Somers' speech was presented as the Sixth William C. Menninger Convocation Lecture at the 130th annual meeting of the American Psychiatric Association, which was held May 2–6, 1977 in Toronto, Canada.

Dr. Somers speaks with forceful insight on the health care of the American people and the need for the private and public sectors to work together in a dynamic, collaborative manner for the public good.

I support the goal articulated by Dr. Somers—to achieve public accountability through the reshaping of some of our priorities and "public goal setting and private-sector implementation."

In medicine, Dr. Somers asserts, more emphasis must be placed on prevention, primary and long-term care, and the formulation of a national health policy.

She says that psychiatry, because of its pioneering efforts in reducing hospitalization, in prevention of illness, and in treating patients in the community, is in a unique position to lead this type of effort.

I congratulate the American Psychiatric Association for the theme of their annual meeting, "Professional Responsibility and Public Trust." It was most timely.

I ask unanimous consent that the text of Dr. Somers' convocation lecture be printed in the RECORD.

There being no objection, the lecture was ordered to be printed in the RECORD, as follows:

ACCOUNTABILITY, PUBLIC POLICY, AND PSYCHIATRY

(By Anne R. Somers)

The concept of "public accountability" involves, in my view, two essential ingredients: (1) genuine participation by private-sector professions and institutions in the formulation of public goals, and (2) a commitment to work toward such goals in a fiduciary or stewardship role, including an ongoing "accounting" to the public for this stewardship.

Stated a little differently, the concept not only presupposes continued existence of the private sector, but a large degree of professional and institutional independence. The opposite side of the coin is that the professions and the institutions may expect to retain their private status only so long as they act as if they were public.

This may seem a meaningless distinction but, to me, it seems very important. If we, in America, can achieve a combination of public goal-setting and private-sector implementation, avoiding the evils of over-centralization and over-bureaucratization implicit in too much direct government control, we will have made a major contribution to the development of democratic self-government.

"Public accountability," might be likened to the "categorical imperative" propounded some 200 years ago by Immanuel Kant. At a time when philosophers were hotly debating the existence of God and the relevance of competing ethical principles, Kant concluded that, while His excellence could not be proved, it behooved the individual to conduct himself "als ob" or "as if" the universe were ordered in accordance with universally binding moral law.

The concept is particularly relevant and useful in the health field. Considerations of professional responsibility and public trust are deeply imbedded in the health professions and in hospital history. They are implicit in the Oath of Hippocrates and explicit in the state licensing laws. It is obvious that the government cannot take over and run the nation's health care system or even a single hospital without the cooperation of the majority of professionals involved. It is equally obvious, in this day of multi-billion dollar health care costs, that the private professions and institutions cannot function effectively without government participation and without implied acceptance of publicly-defined goals.

I congratulate Dr. Gibson and the other officers of the American Psychiatric Association for their family choice of theme for this meeting, "Professional Responsibility and the Public Trust."[1] Public accountability is an essential aspect of this theme. Moreover, it appears that this is not an ephemeral public relations ploy. After reading Dr. Marmor's 1976 Presidential Address,[2] it is impossible not to conclude that here is an organization, or at least the leadership of an organization, that understood and accepted the implications of "public accountability" long before it became an "in" phrase. Still, the challenge remains to translate these lofty presidential ideals into the everyday thinking and practice of the 22,000 physicians who make up your membership. This, of course, is the real test of leadership as well as a test of the viability of the concept.

Of the two components in my definition of public accountability, the second—procedures for "accounting" to the public with respect to professional performance or stewardship—has evoked the most discussion. PSRO, and other forms of quality control, utilization review, certification and recertification, and continuing education—the crucial implementing procedures—deserve all the attention they are receiving, and more.

However, I intend to focus this evening on the other component—public-private cooperation in the formulation of broad social goals—goals to which the private organizations will consider themselves committed and for whose implementation they will accept responsibility. I have chosen this focus partly because I believe that much of the present public-private antagonism derives from failure to agree on mutually acceptable goals or even to appreciate the necessity therefor.

Let me, for a moment, come to the defense of the bureaucrats. Part of their problem, and hence our problem, is the inconsistency—sometimes to the point of direct contradiction—in the policies which they must carry out. This, in turn, results from two major considerations: (1) the structure of our pluralistic democratic form of government, which strongly favors special group interests as opposed to monolithic or holistic policies, and (2) the rapid changes in U.S. society which mean that policies, appropriate to one period in time, may soon become obsolete, but, having acquired an institutional life of their own, cannot be promptly, and possibly never, fully replaced. New policies and agencies are simply added, resulting in inconsistency, if not outright conflict. Old bureaus never seem to die; sometimes they don't even fade away!

These are serious defects in our form of government and were probably among the conditions that led Winston Churchill to say, "Democracy is the worst possible form of government—except all other!" However, I doubt that any of us are prepared to exchange our often ambiguous pluralism for the clearcut mandates of totalitarian government. We have learned to live with considerable ambiguity and I suspect we will continue to do so.

On the other hand, we could reduce the confusion considerably if we could learn to think about public policy in a dynamic, constantly changing context. Policies must and will change in response to changing scientific, technologic, socioeconomic and demographic conditions. The more rapid the underlying shifts, particularly the scientific which trigger most of the others, the more rapid changes in public policy have to be.

In the balance of this paper, I shall try to do three things: (1) Identify the direction of change in U.S. health policy today—a sort of meteorological forecast of the prevailing socioeconomic and political winds which the professions would be advised to take into account in their dealings with government; (2) Discuss briefly three specific areas where these prevailing winds will probably call for considerable adjustment on the part of the medical profession and major health care institutions; and (3) Some concluding thoughts on the special challenge to psychiatry implicit in these trends. I have deliberately waited until the final section to make any specific references to psychiatry. I suspect, however, that you may recognize some anticipatory allusions.

WHITHER U.S. HEALTH POLICY?

There is no question but that the U.S. is in the midst of a new sociopolitical revolution. No one knows exactly how to define it; much less where it will take us. Some speak nostalgicly of "the end of the American dream" meaning, usually, an end to economic growth, an ever-rising material standard of living, and maximum personal freedom—to do one's own "thing." Others, emphasizing the moral and political bankruptcy associated with Vietnam and Watergate, see our present difficulties as an opportunity for a spiritual renaissance—emergence from a long period of over-emphasis on materialism.

President Carter's energy policy typifies the new mood. While there is no abrupt break with the past, the differences in emphasis are considerable: Gone is the sense of limitless resources, replaced by a sober appraisal of limited resources. Gone is any one-dimensional approach to causation and to cure, replaced by a complex multi-factorial analysis and equally complex prescriptions for management. Gone is any assumption that the situation can be managed either by private enterprise alone or by government alone; replaced by a call for a difficult but essential working relationship. The two knee-jerk reactions that one might have heard in the past—"Nationalize the oil fields!" or "Get the government out of business altogether!"—are both conspicuously missing.

Footnotes at end of article.

Finally, gone also is the idea that the individual consumer has no responsibility, replaced by a call for considerable responsibility; even some sacrifice.

It remains to be seen whether the President will be able to sell this policy to Congress and the American people, many of whom still prefer to attribute our problems to foreign plots, demons, and assorted personal villains, but at least the first reaction suggests a maturer, more sensible public opinion than some pessimists had anticipated.

I mention energy because there are some important analogies to the situation in health. For a quarter-century, following World War II, the health field was characterized by the euphoric view that resources were limitless; all we had to do was design financing programs to remove barriers to access and use public moneys to subsidize the expansion of facilities and personnel. We now know that a national health policy keyed almost exclusively to greater access, will certainly result in vastly increased expenditures but not necessarily in proportionately better health.

For a quarter-century health policy has been dominated by the one-dimensional view of illness and disability as resulting primarily from inadequate medical care, especially somatic care. We now know that good medical care is only one of numerous factors affecting health, including the individual's biological makeup, environmental, and behavioral factors. For a quarter-century, individuals have increasingly been led to believe that some external body—the government, the hospital, the HMO, the neighborhood health center, the AMA—was responsible for their personal health, or the lack of it. We now know that, while responsibility has to be shared by those who can give or withhold information, care, and assistance when needed, the ultimate responsibility rests with the individual.

Whether the new Administration will succeed, or will even try, to translate these parallels into a new health policy more attuned to the realities of the late Seventies than the one-dimensional policy of the recent past, I do not know. A widespread groping for new directions have been evident for some time,[3] even in the Department of Health, Education and Welfare.[4] Some of President Carter's campaign speeches indicated movement in this direction.[5] Certainly the mental health field has reason to welcome establishment of the new President's Commission on Mental Health, with its broad mandate and composition.

The most carefully articulated official statement to this effect has come from the Canadian Government. The Lalonde Report, *A New Perspective on the Health of Canadians*,[6] has provided health care students in the United States, as well as in Canada, with a challenging formulation of national health policy, based on a new concept of the "Health Field."

Herman Somers and I have authored a monograph, *A Proposed Frame-work for U.S. Health Policy*,[7] to be published later as a book,[8] which we hope will also contribute to the formulation of a new American policy. We take our cue from the European epidemiologist, Dr. René Sand, who said:

"Health cannot simply be given to the people; it demands their participation."

Then we go on to say:

"Any new design that will prove effective must be based on two broad asumptions:

"1. Responsibility for personal health rests primarily with the individual; not with government, not with physicians or hospitals, not with any third-party financing program. Meaningful national health policies must be directed to increasing, rather than eroding, the individual's sense of responsibility for his own health and his ability to understand and cope with health problems.

"2. If the individual's responsibility is to be effectively discharged, it must be supported by social policies designed to provide him with essential environmental protection, health information, and access to health care when needed.

"In short, a policy of 'individual responsibility' and a policy of 'social responsibility' are complementary, not antithetical. Neither can be fully effective without the other. The term that seems best to suggest an approach that encompasses both assumptions is 'health promotion.' The overriding goal of such a national health policy may be stated as: The creation and maintenance of conditions under which individual Americans are most able and most likely to optimize their own health potential."

We then go on to classify the major conditions affecting individual and national health under several broad headings: genetic endowment, the environment, behavioral factors, access to good health services, and the scientific "state of the art" in all categories.

This does not reflect official U.S. health policy at the present time. Even the Lalonde Report—which, unlike ours, is official—is not universally accepted throughout Canada, much less generally implemented. However, the leadership of the health professions may wish to consider these new formulations and their implications for emerging public and professional policies. These implications may become clearer if we consider three specific issues: (1) comprehensive care, (2) cost controls, and (3) prevention.

THREE AREAS WHERE POLICIES ARE IN TRANSITION

1. Comprehensive care

In theory, there is widespread agreement that Americans should have access to "comprehensive care," i.e., preventive, diagnostic, therapeutic, rehabilitative, and long-term services, as needed, and with equal attention to physical and mental illness. The spectrum is sometimes defined more simply: primary, secondary, and tertiary care. Long-term care is sometimes subsumed under primary care; sometimes added as a fourth element.

The practice, however, is quite different from the theory. The realities of health care financing—both public and private—which reflect the priorities of the past, prior to the emergence of chronic illness as the major cause of morbidity, strongly bias availability in the direction of the more specialized and expensive modalities, tertiary care. For example, although about 80 percent of the population under 65 had some hospital coverage under private health insurance in 1974, and almost the same number for surgery, only 62 percent had any coverage for physicians' office visits, and only 35 percent for nursing home care.[9] Only 11 percent of the "working poor" had any coverage for out-of-hospital services.[10] A similar pattern is shown in Medicare expenditures. In FY 1975, for example this pattern-setting program paid for 72 percent of hospital expenses for the elderly, 54 percent for physicians' fees, mostly for in-hospital services, 3 percent for skilled nursing care, and 4 percent for all others.[11]

Such financing, as well as other kinds of government subsidy, encourages similar tendencies on the part of many providers, subsumed under the familiar maxims, "the technological imperative" and "the edifice complex." Today, most physicians are not in primary care. They are specialists or super-specialists, generally attuned to tertiary care. Most, sometimes all, of their clinical training takes place in hospitals. Prestige in the profession leans heavily to the accomplished diagnostician, who is greatly dependent on the imposing armamentarium of the tertiary institution. The "battery of tests" syndrome has recently found a new rationalization in "defensive medicine".

Hospitals are driven by similar stimuli. Each wants to be bigger, to offer a broader range of services, to be the "best." Prestige comes from attracting prominent specialists to the staff, and this requires more and better technological equipment and plenty of beds. All of which leads to expanded capitalization, higher operating costs, and pressure to "fill the beds." If money to pay for all this appears virtually assured—over 91 percent of all hospital costs were paid by "third parties" in FY 1977 [12]—there is not much to restrain theso "natural" tendencies.

Such developments led Dr. Alexander Leaf, physician-in-chief, Massachusetts General Hospital, to observe, "We are doing too much for too few, at too great a cost, and with too little benefit." [13] In light of their training, it is often difficult to persuade physicians that postponement of death is not the sole purpose of health care. Matters such as pain, patient preference, medical expense, and social costs are competing considerations and, in some terminal contexts, may outweigh the prolongation of life. At the extreme, we have the appalling extent to which people in hopelessly comatose states are kept indefinitely alive by a panoply of mechanical and chemical interventions, dramatized in the celebrated Karen Quinlan case.[14]

While Medicare, Medicaid, and private health insurance pump dollars, by the tens of billions, into the tertiary institutions, the public demand for adequate primary care and long-term care for the elderly and the chronically ill, including the mentally ill and retarded, remains unanswered. Some progress is being made in these areas. Congress, DHEW, and the Robert Wood Johnson Foundation have all declared that primary care, especially for underserved areas, is a top national health priority.[15] Medical students are being bribed and bludgeoned to go into primary care, at least for a year or two. Medical schools are exhorted to include more primary care in their curricula. The Institute of Medicine has had a Task Force on Primary Care, trying for 18 months to develop a workable definition. The American Board of Medical Specialties has such a committee.

So long as the flow of national resources is so heavily in the direction of tertiary care, it is tempting to dismiss all such statements and activities as meaningless or, at best, peripheral. Peripheral they certainly are at the moment but it is my conviction, based on the underlying demographic and socioeconomic trends, that they will become steadily more important. Just as chronic illness, including mental illness, has moved to center stage in the nation's morbidity and mortality picture, so the health care modalities that are directed as the prevention and management of chronic illness will, almost inevitably, become more important.

For the moment this area constitutes a prime example where the health professions and the industry are receiving conflicting signals from the public. It is also an area where the professions can help the government adjust its policies to the realities of current morbidity and mortality patterns and trends. Only after such adjustments and some agreement on common goals can meaningful public accountability take place.

2. Cost controls

Much as one would prefer to omit discussion of costs and financing, unfortunately we cannot. Money is obviously a key issue, influencing both the direction of public policy and public-private interactions. The APA has put the proposition succinctly, "The dollar flow is not merely a disbursement mechanism. It is a management tool which can be used for good or ill." [16]

Prodigious inflation of health care costs has persisted for three decades, bringing U.S. health expenditures to well over $150 billion this year and moving rapidly toward 10 per-

---

Footnotes at end of article.

cent of GNP.[17] The amount is so staggering that it is difficult to comprehend. Two comparisons may be helpful: (1) We are spending more for health care in this country than the entire GNP of all but half a dozen other nations.[18] (2) In 1973, the last year for which I have comparable data, we spent $95 billion for health care compared to $13 billion for the entire criminal justice system, including police, the judiciary, and prisons.[19] With homicide now our fastest rising cause of death,[20] the question can legitimately be raised whether the health of the American people might not now be better served by putting additional resources into law enforcement rather than health care.

Far from any sign of abatement, however, the rate of health care inflation has accelerated during the past few years. The rate during the past year is three times that of the general cost-of-living.[21] Concern has understandably deepened.

The causes are multi-faceted and deep-rooted in both supply and demand factors. The phenomenon of rising costs prevails, in greater or lesser degree, in most advanced countries, regardless of varying methods of financing, which underscores the difficulty of establishing effective controls, particularly in a democracy.

There is a hen-and-egg relationship between the cost rise and financing mechanisms. The rise in costs led to the development of health insurance, both the public and private varieties, governmental health services and other methods of minimizing the financial barriers to needed services. But the very existence of such programs contributed to further cost rises. Then, more programs were added or existing programs expanded to meet the new hardships.

Most advanced countries have carried this process to the point of universal or near-universal coverage. Ironically, the U.S., the richest of all countries which is devoting the highest percentage of GNP to health, has stopped short of universality—some 25–35 million people short! That is approximately the number estimated to lack any reliable access to health care, either through private insurance, Medicare, or Medicaid, or their coverage is so thin as to be useless except in cases of serious hospitalized illness.[18]

For several years it appeared that this gap would be closed through some form of National Health Insurance, assuring universal access to at least the basic components of comprehensive care.[22] But the level of inflation that has prevailed since 1974, especially in hospital costs, has dashed this expectation. As Dr. Gibson[23] said this morning, "Alarmed by runaway costs, legislators are hedging on the original declaration that health care is a right." This appears to be a bi-partisan judgment on the part of both Congress and two successive Administrations.

It is hard to quarrel with the conclusion in terms of competing demands on national resources from other essential sectors of the economy which also impact on health. Nevertheless, it has to be a matter of acute embarrassment to both public and private leaders of the health care "Establishment" that we in the United States have failed to restrain the rise in costs to dimensions which would have made universal coverage possible. It is, daily scoldings and exhortations to control costs, the periodic release of names of physicians alleged to have profiteered from health care, and proposals to establish "caps" or ceilings on the annual increases. On the other hand, there is the failure to provide adequate support for primary and long-term care. And there is the Medicare blank-check reimbursement policy for inpatient somatic illness. Needless to say in such a situation, most providers will conclude, "What you do speaks so loud, I can't hear what you say."

This is not the place to undertake discussion of all that would be involved in establishing an effective program of cost controls; nor is it germane to my main thesis. Such a program would have to be as multifaceted as the causes of the inflation. Whatever the specifics, however, there are two essential components: (1) It will have to put an end to the current bias in favor of inpatient, technologically-dominated care, and (2) It will have to have input from the leadership of the professions and the industry—input which is not limited to protecting special group interests but which is attuned to broad national needs and concerns and is prepared to think in terms of the public interest and to live with the consequences without being constantly policed. This would be public accountability of the highest order.

3. Prevention

Despite the obvious "commonsense" proposition that preventing illness is good not only for health but also the pocketbook, we have relegated prevention to a very low rank on the national health priority list. Estimates of the proportion of national health care expenditures going for prevention vary from 2 to 5 percent, depending in part on definitions.[24] For health education, the proportion is probably less than half of 1 percent.

There are many reasons for this neglect, some of which have already been suggested: the skewing of resources toward tertiary care and, prevailing pattern of health care financing. The current financial crunch now gives rise to another major irony. For years, advocates of prevention maintained that its neglect would lead to inordinate rises in the cost of curative medicine. They were correct. But now that that has happened, they are told that there is no money—not even a few million dollars—to help finance new preventive programs. This is true at all levels: federal, state, local, and institutional.

Physicians who wish to practice preventive medicine, who want to hold down hospital utilization and expensive therapies are told by the U.S. Government: "Sorry, Doctor, but—Medicare doesn't cover periodic health exams, or refractions, or preventive dental care, or preventive psychiatric counselling. . . . Now, when your patient is hospitalized, that's a different story. We'll pay for whatever you want to do. . . ."

It is easy to make fun of the third parties. They are sitting ducks for such criticism. But what of the profession itself? Are most physicians really concerned with "health" or just with their special disease or condition? Perhaps just with the biomedical facets of that condition? I have already made clear that the individual bears the primary responsibility for his own health. But surely there is also a large role for the physician. While he cannot be a specialist in all of the areas that impact on individual health, he can be expected to have more than a layman's concern and knowledge with respect to this impact on his own patients. Applying the "health field" concept, this would call for some knowledge of genetic, environmental, and behavioral factors in the patient's history, as well as some plan for incorporating preventive services—both primary and secondary—into the patient's ongoing regimen.

The "Lifetime Health Monitoring Program," developed by Dr. Lester Breslow and myself, and described in a recent issue of the New England Journal of Medicine represents an effort to move toward a practical, affordable program which could be incorporated in most primary care practices and in public and private health insurance coverage.[25] Using clinical and epidemiologic criteria, LHMP attempts to define broad health goals and professional preventive services appropriate to 10 different age groups covering the life cycle. For two of these age groups—infancy and older middle age (40–59), we go further and suggest specific screening and counselling procedures intended to help the patient achieve the defined goals.

The response to this article, both from the medical profession and a number of health insurers has been so good that I am led to believe this may indeed be an idea whose time has come. Several groups are considering demonstration and evaluation projects. This is a form of public accountability that goes beyond the current official definition of public policy and takes into account underlying needs and developing trends, and thus helps to mould future policy.

THE CHALLENGE TO PSYCHIATRY

If the concept of public accountability and the general re-direction of U.S. health policy suggested in this paper are correct, then it would seem—at least to an outsider like myself—that psychiatry should be in an exceptionally strong leadership position vis a vis the health professions as a whole. This should be true whether one thinks in terms of individual patient care or national policy direction.

There appears to be a clear affinity between the comprehensive, holistic, biopsychosocial approach to patient care, implicit in the recent articles by Drs. Marmor,[26] Eisenberg,[27] and Engel,[28] and the comprehensive balanced approach to national health policy recommended by Lalonde, Somers, and others. Under a balanced system of comprehensive care, with equal emphasis on primary, long-term and tertiary components, on ambulatory as well as inpatient care, on physical and mental illness, and under effective cost restraints that do not favor one modality over others, those specialties that are less dependent on expensive inpatient facilities and equipment will obviously be in a stronger position than they are now. Those that emphasize individual and community responsibilities, as opposed to expensive technological interventions, will also gain.

I believe this is consistent with the position of psychiatry which, for two decades, has emphasized the importance of "getting out of the hospital and into the community."[29] The national network of community mental health centers, whatever their current shortcomings, stand as a monument to this leadership and represent one essential aspect of primary care.

I am not suggesting any repudiation of scientific medicine, that indispensable storehouse of knowledge that has been so painstakingly, and often painfully, accumulated over the centuries. I am suggesting that the public need for more attention to the psychosocial aspects of health, and the renewed interest in prevention, present psychiatry with a golden, perhaps unprecedented, opportunity in such areas of crucial importance as drug and alcohol addiction, obesity, television and the "culture of violence," human sexuality, the disappearance of the extended—and now possibly even the nuclear—family, the loneliness of the aged and the dying, the grief of survivors, the increase in illegitimate births, and child abuse. Many of your traditional and special concerns are now among the central health concerns of the American people.

Of course, concern is not enough. Again to cite Dr. Gibson, the fact that many existing procedures and therapies are accepted and reimbursed by society, without requirement as to cost-effectiveness, is no excuse for psychiatry to try to play the same game. The ground rules are becoming tougher all around and psychiatry, like somatic medicine, has to face the demand for refinement of standards and criteria, more valid outcome studies, better peer review, and other proofs of efficacy. The emphasis that is being placed on peer review in your recent publications and policy statements and the APA's initiatives in this respect, if actually implemented, seem to me good examples of in-

Footnotes at end of article.

creasing accountability. The new multidisciplinary peer review contracts, currently being negotiated with the Department of Defense for the CHAMPUS program,[30] could be an important precedent for the profession as a whole.

The other side of the coin is fair and adequate funding. Experience in Canada and under the U.S. Federal Employees Health Benefits Program indicates that equal treatment for mental and physical illness need not result in abuse of psychiatric benefits or exhorbitant costs. After some 15 years experience, the portion of total Federal Employee benefit payments (high and low options combined) going for mental illness appears to have levelled off at a little over 7 percent.[31] In Canada, where mental disorders are covered fully and on the same basis as other conditions, the per capita payments, in the early Seventies, varied from 43¢ to $3.15, depending on the province, and from 1.4 to 5.4 percent of total payments.[32]

Despite such evidence, mental illness and psychiatry have been notoriously shortchanged in U.S. health insurance, both public and private. According to the APA, about 20 percent of all persons with hospital coverage and 15 percent of those with physician outpatient coverage still lack any benefits for mental illness.[33] Moreover, where benefits are provided they are generally more restricted than for physical illness. This was true, for example, of 70 percent of the Blue Cross plans. Probably the most egregious example of discrimination is in Medicare: Outpatient psychiatry benefits are limited to a maximum of $250 or 50 percent of "reasonable charges," whichever is less, after a $50 deductible. This, of course, reflects not only Medicare's bias against mental illness but against preventive services in general.

While general tax support has, over the years, helped to compensate for the inadequacies of health insurance, and will, almost certainly, continue to be necessary for certain types of mental illness, the unpredictability of such funds, as presently administered, offers little incentive to consistent professional accountability, including effective resource management. Moreover, it is essential for quality controls that psychiatry be considered part of the mainstream of health care, not separated by some financial iron curtain.

Obviously, there are problems in the coverage of mental illness, starting with the definition, the specificity of diagnoses, and of outcomes. There are special problems in relation to primary care, prevention, and long-term care. There are problems with primary care, prevention, and long-term care for all of medicine. But, I submit, there are even greater problems in trying to ignore them. The $150 billion health care bill is not the result of abuse of prevention and long-term care; it is primarily the result of abuse of secondary and tertiary care. It is, at least in part, the result of neglect of prevention and long-term care.

I shall not attempt to lay out a program of reform of mental health financing. The APA "Principles of Psychiatric Coverage under National Health Insurance" [34] appear a sensible beginning. However, since there now seems little chance of implementing any form of NHI for the next few years, I would strongly suggest that the Association direct its immediate attention and energies to reform of Medicare and existing private insurance. This will mean trying to establish benefit and payment standards at the state, as well as federal, levels, a time-consuming process, but well worth the effort. If you succeed, you will not only improve coverage for millions of patients in the immediate future but help to set the pattern for NHI when it does come. In this respect, I know that you will be working closely with the President's Commission and its special panel on financing.

The challenges facing psychiatry in the next decade are enormous. Much will depend on the basic direction of health care policy, as well as on your own stewardship under that policy. If we persist in following the current high-cost "technological imperative," I see a bleak future for psychiatry, along with prevention, primary and long-term care in general. The inevitable cost controls, when they come, will probably be harsh and arbitrary, and many consumers along with providers will suffer. If, on the other hand, we move gradually to reorient policy and resources toward a less technologic and more people-oriented system, with equitable cost restraints developed and applied in some democratic but unambiguous fashion, and if we can rely on public accountability by a freely cooperating profession and industry, then the future could be bright indeed—not only for psychiatry, but for a revitalized and rehumanized health care system.

In this field, at least, the cherished "American dream" could take on a new meaning. The "limitless frontier" of the future would relate less to geographic, technologic, and financial considerations than to the vast potential of the human spirit, a spirit as bold and free as the astronauts who walked on the moon, but a spirit that is wise enough and humble enough to appreciate the wisdom of Hegel's version of the "categorical imperative," "Freedom is the recognition of necessity."

FOOTNOTES

[1] Robert W. Gibson, M.D., "A Profession Worthy of the Public Trust," Presidential address, American Psychiatric Association, Annual meeting, Toronto, Canada, May 2, 1977.

[2] J. Marmor, M.D., "Psychiatry 1976—The Continuing Revolution," *American Journal of Psychiatry*, vol. 133, July 1976, pp. 739–51.

[3] Victor R. Fuchs, *Who Shall Live? Health, Economics and Social Choice* (New York: Basic Books, 1974); *A Declaration of Interdependence: Developing America's Health Policy*, Proceedings of the 1976 National Health Forum (New York: National Health Council, 1976); The National Leadership Conference on America's Health Policy, Washington, D.C., April 1976, *Proceedings* (Washington: National Journal, 1976); J. H. Knowles, M.D., Ed., *Doing Better and Feeling Worse: Health in the U.S., Daedalus*, vol. 106, Winter 1977.

[4] *Forward Plan for Health FY 1978–82* (Washington, D.C.: Department of Health, Education, and Welfare, Public Health Service, 1976).

[5] E.g., Address to American Public Health Association, Annual meeting, Miami, Florida, Oct. 19, 1976.

[6] Marc Lalonde, *A New Perspective on the Health of Canadians* (Ottawa: Ministry of National Health and Welfare, 1974).

[7] A. R. and H. M. Somers, "A Proposed Framework for U.S. Health Policy," *Inquiry*, vol. XIV, June 1977 (in press).

[8] A. R. and H. M. Somers, *Health and Health Care: Policies in Perspective* (Germantown, Md.: Aspen Systems Corp., 1977, in press).

[9] M. S. Mueller and P. A. Piro, "Private Health Insurance in 1974: A Review of Coverage, Enrollment, and Financial Experience," *Social Security Bull.*, vol. 39, March 1976, p. 4.

[10] Karen Davis, "The Case for National Health Insurance," *Trustee*, March 1976, p. 2.

[11] Marion Gornick, "Ten Years of Medicare: Impact on the Covered Population," *Social Security Bull.*, vol. 39, July 1976, p. 17.

[12] R. M. Gibson and M. S. Mueller, "National Health Expenditures, FY 1976," *Social Security Bull.*, vol. 40, April 1977, p. 10.

[13] Alexander Leaf, M.D., Comment at Duke University Medical Center, Board of Visitors meeting, April 3, 1976.

[14] Matter of Quinlan, 70 N.J. 10 (1976).

[15] E.g., P.L. 93–641, Amendment to Public Health Service Act, Title XV, Sec. 1502, "National Health Priorities, No. 1"; *Forward Plan for Health, op. cit.*, pp. 50–51; The Robert Wood Johnson Foundation, *Annual Report 1975*, p. 28.

[16] *Delivering Mental Health Services: Needs, Priorities, and Strategies* (Washington, D.C.: American Psychiatric Assoc., 1975), p. 57.

[17] The official figure for FY 1976 is $139.3 billion, an increase of 14 percent over 1975 (Gibson and Mueller, *op. sit.*, p. 3). A similar rise in FY 1977 would bring the total to $158.8 billion.

[18] *Statistical Abstract of the U.S. 1975*, p. 845.

[19] Gibson & Mueller, *op. cit.*, p. 4; *Statistical Abstract, op. cit.* p. 160.

[20] National Center for Health Statistics, *Monthly Vital Statistics Report, Annual Summary for the U.S. 1975*, (HRA) 76–1120, June 30, 1976, p. 26.

[21] R. D. Lyons, "White House Studies Imposition of Ceilings on Fees of Physicians," *N.Y. Times*, April 27, 1977.

[22] A. R. and H. M. Somers, "A Proposed Framework for Health and Health Care Policies," *op. cit.*

[23] Gibson, *op. cit.*

[24] E.g., M. S. Koleda, C. Burke, and J. S. Williams, *The Federal Health Dollar: 1969–1976* (Washington, D.C.: National Planning Association, 1977), pp. 58–59; *The Report of the President's Committee on Health Education* (Washington, D.C.: Department of HEW, 1973), p. 25.

[25] L. Breslow and A. R. Somers, "The Lifetime Health Monitoring Program: A Practical Approach to Preventive Medicine," New England Journal of Medicine, vol. 296, March 17, 1977, pp. 601–08.

[26] Marmor, *op. cit.*, p. 742.

[27] L. Eisenberg, "Psychiatry and Society," New England Journal of Medicine, vol. 296, April 21, 1977, p. 909.

E. C. Peck, Jr., M.D., Letter to author, April 7, 1977.

[28] G. L. Engel, M.D., "The Need for a New Medical Model," *Science*, vol. 196, April 8, 1977, pp. 129–136.

[29] Albert Stunkard, M.D., telephone communication, April 30, 1977.

[30] R. W. Gibson, M.D., telephone communication, May 1, 1977.

[31] American Psychiatric Association, *As the Nation Moves Toward National Health Insurance: What About the Mentally Ill?* (Washington, D.C.: The Association, 1977), p. 12.

[32] *Ibid.*, pp. 13–14.

[33] *Ibid.*, p. 11.

[34] *Ibid.*, pp. 4–5.

THE NUCLEAR DILEMMA: ENERGY, THE ATOM AND SURVIVAL

Mr. SASSER. Mr. President, I would like to bring to the attention of the Senate a speech made by the distinguished Senator from Idaho, Mr. CHURCH, at Wroxton College in Banbury, England, last Saturday. Senator CHURCH eloquently expresses the nuclear dilemma in which the United States finds itself today.

We must continue to develop all technologies which may assist us in the present energy predicament. To do otherwise is somewhat shortsighted, as the Senator aptly and succinctly illustrates.

I commend this address to my colleagues' attention.

Mr. President, I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE NUCLEAR DILEMMA: ENERGY, THE ATOM AND SURVIVAL

(By Senator FRANK CHURCH)

Bethine and I are most pleased to be here for this conference. We flew over on the Concorde, and we will fly back on the Concorde. I must confess it is a unique experience, a little like being put through the H. G. Wells time machine in which everything is topsy-turvy. Today is yesterday, night is day, and the internal digestive system is out of whack. But the Concorde is more than an adventure in flying.

It is symptomatic of the political and social currents which swirl around the advance of technology in the modern world. The Concorde now exists and therefore it will be used. Whenever the pollution and noise effects may be, political resistance will give way as the Concorde becomes an accustomed part of the aviation scene. It remains to be seen whether, over time, the economics of this sharp-beaked bird will prove out. What seems clear is that if it is undone, it will not be because of political protest, but because it simply does not pay.

The more I think about it, the more I am struck by the analogy of the Concorde experience to what is now transpiring with respect to nuclear energy and the danger of nuclear weapons proliferation. For here we have the dilemma of man's technological advance carried forward to its ultimate limits. On the one hand, through the plutonium-fueled fast breeder we have the tantalizing prospect of vastly expanding our fuel supply. Other reactors and/or fuel cycles being discussed will provide somewhat more energy than light water reactors from our limited resources of uranium, but only the plutonium-fueled fast reactor will provide a hundred-fold extension of their energy potential. The United States alone already has in storage tons of tailing containing Uranium 238 which, if used in a breeder program, could produce an electrical equivalent five times larger than all the oil in the Middle East.

On the other hand, plutonium is a weapons grade material and thus aggravates the risk of nuclear weapons proliferation. No one has stated the basic dilemma more forcefully than Dr. David Owen in his recent speech before the Royal Institute of International Affairs:

". . . The central problem can be reduced to brutally simple terms. The world is increasingly forced to look to nuclear power, as a means of sustaining life, in the full knowledge that nuclear power, if misused, adds to the danger of destroying life once and for all. The dilemma is unprecedented in human history. None of us—nuclear and nonnuclear states alike—has yet fully come to terms with its implications."

What, then, are we to do, confronted with this Hobson's choice?

It is no good wringing our hands and wishing that it were not so. Like the Concorde, the nuclear age, in all its configurations, is upon us. The conventional wisdom holds that there is no alternative to nuclear power to replace the depleting fossil fuels upon which we now depend. I, myself, am not so certain of this implacable march of events. Economic pressures have a way of confounding the conventional wisdom. I note that, despite all projections, there have been no new orders for nuclear power plants in the United States since March, 1976; indeed, one has been cancelled and several others deferred. And this pattern seems to extend to large generating plants of whatever kind, despite the energy crisis.

The reason for this phenomenon may well be that the cost of large, central plants has become so prohibitive that private utilities have concluded they are too risky. After all, it takes ten years to complete a nuclear plant and in the inflationary environment which has characterized the world economy, over a ten-year period, the costs escalate in a mammoth degree.

So, like the Concorde, the jury may still be out on the economic feasibility of nuclear power plants. But, unlike the Concorde, we cannot wait as passive spectators to see how the drama plays out. There are powerful forces at work which, quite apart from traditional economics, are driving us ever more deeply into the nuclear age, including the plutonium era with all of its beguiling energy advantages and confounding weapons possibilities.

What are these forces? First, and foremost, is the energy import dependency of major nations. Japan, France and Brazil import 90% or more of their energy requirements, primarily oil from the Middle East and from other members of OPEC, the cartel of oil exporting governments which has imposed a 600% increase in the price of international oil in the past four years.

We, in the United States, have tended to underestimate the degree to which the 1973 Arab oil embargo and unprecedented oil price increases changed the geopolitical thinking of the leaders of these import-dependent countries. Their sentiment is perhaps best summed up in the Brazilian Government's white paper on nuclear energy:

"Recent historical developments have demonstrated the dangers of relying heavily on external sources for the satisfaction of the basic input needs of the economy. . . . To avoid what happened in the case of oil—it was imperative that the solution in the case of nuclear energy be one that enabled the country to reach the indispensable autarky in the medium term.

"In other words, it was not acceptable to replace one form of dependence for another—the economic growth of the country or its mere subsistence, cannot be dependent upon third countries' decisions as to prices and supplies of essential fuels."

Whether or not, in pursuing the objective of energy autarky, countries like Brazil may be creating, in economic terms, a white elephant, is largely irrelevant. What is important to Brazil, France and Japan, to take the three most acutely vulnerable advanced energy dependent nations, is the belief that the basic industrial core of their economy must be protected from dependence upon potentially unreliable external sources of vital fuel supplies. And, within the limits of known technology, the plutonium fueled fast breeder reactor is their best bet to achieve this objective, one they consider so vital to the functioning of their industrial society that they will pay virtually any economic premium to achieve even this form of limited energy "independence."

The major European powers have already gone a very long way in their commitment to the development of plutonium breeder reactors. France and Britain have both had demonstration-scale breeders running for years. Germany has an experimental breeder in operation now, and there's another under construction in Italy. As for the larger, commercial breeders, France has now decided to go ahead with the world's first—the 1200 megawatt Superphoenix, while a 1300 megawatt breeder is under design in Britain.

In testimony before the ERDA Subcommittee on Research and Development, which I chair in the U.S. Senate, a State Department spokesman recently conceded that, regardless of what the United States does, other countries, more dependent upon energy imports, have already indicated they will not stop their breeder programs. Thus, the question is no longer whether the world should enter the plutonium era; that era is upon us now.

Given this perspective, it is not surprising that the Carter Administration's proposal to guarantee supplies of enriched uranium as a substitue for the plutonium fueled breeder has fallen on deaf ears. Countries which are now dependent upon one depletable resource, oil, controlled by the OPEC cartel, are unlikely to opt for a new dependence upon a second depletable resource, uranium, controlled by a different, but also foreign, group of nations.

Moreover, recent disclosures have shown that the foreign uranium production market may be susceptible to cartelization by a few producers. Prices have jumped to OPEC-type levels, so much so that the Westinghouse Corporation is now enmeshed in litigation which endangers its solvency, as it was forced to renege on uranium supply contracts which had assumed relatively stable prices. In short, it is unrealistic to believe that other fuel-deficient governments are going to confine themselves to multi-billion dollar conventional reactor programs, while relying upon a future supply of natural uranium which is unsure in quantity and susceptible to drastic price manipulation.

It is equally unrealistic, in my judgment, to expect fuel deficient contries to forego the reprocessing of spent fuel rods from their nuclear reactors. Not only can they squeeze out an extra 30% in energy by recycling the rods, but densely-populated countries like Japan and West Germany see reprocessing as at least a partial answer to the acute problem of storing radio-active wastes.

One must add to this the fact that the oncoming breeder, whether eventually fueled by some new thorium-based cycle, or, as I believe much more likely, by the plutonium-based cycle now underway, will require reprocessing as an integral part of the cycle.

So it is not surprising to find experimental reprocessing plants already operating in France and Great Britain, or to see Japan insisting on opening its own reprocessing facility at Tokai Mura, over which a serious trilateral confrontation is now developing. I quote from a recent account in the New York Times:

"A new and unexpected difficulty has arisen in the Japanese-American negotiations over carrying out President Carter's controversial policy to prevent the spread of nuclear weapons.

"Negotiators from both sides, reportedly eager to reach a settlement in this precedent-setting case that would avoid a major breach in relations betwen the two allies, had agreed that an American team of nuclear experts would tour Japan's nearly completed $200 million Tokai Mura nuclear reprocessing plant and inspect the facility in detail. The visit had been scheduled for next week.

"But now the French, who helped build the plant near here, have placed such severe restrictions on any visit by American experts that State Department officials are considering cancelling or at least postponing the trip. The matter threatens to become a diplomatic issue as well with the French, who are apparently seeking to protect their technical expertise.

"The controversy began after President Carter's policy statement on April 7 that sought to curb the spread of nuclear weapons by opposing the construction of plants in which spent uranium fuel from atomic reactors can be reprocessed into plutonium for nuclear weapons.

"The announcement came only three months before the scheduled opening of the Tokai Mura project. Since the joint American-Japanese nuclear cooperation agreement requires the United States to certify the plant's "safeguardability" against the end product being diverted to weapons use, the project became the initial test case for President Carter's policy. American authorities have told Japan that the Tokai Mura project as now constituted will not be certified, even though the Japanese, the world's only victims of nuclear attack, are acknowledged to

have no intention of seeking nuclear weapons.

"The matter has been the subject of two rounds of closed-door negotiations and was discussed by Mr. Carter and Prime Minister Takeo Fukuda during their recent meetings in Washington and London.

"Japan, a resource-poor island nation that imports 99 percent of its oil, had counted on nuclear energy, particularly the use of domestically produced plutonium, to cut its future reliance on foreign energy sources.

"Japan has built 12 nuclear power stations with a total output of 6.6 million kilowatts, making it the third largest producer, after the United States and Britain. Eleven more plants are under construction, and five more are planned.

"With elections for half of Japan's upper house of Parliament scheduled for next month, Mr. Fukuda's conservative Liberal Democratic Party and Government have felt strong domestic political pressures to resist President Carter's policy. Just today Yoshishige Ashihara, chairman of the Kansai Electric Power Company, met with the Prime Minister to urge him to take a strong stand against any easy compromise in the talks with the United States. Mr. Fukuda replied that he had every intention of doing just that."

This dispute, I submit, was predictable. The unexpected development on the reprocessing front was the decision of the Carter Administration to reject commercial reprocessing in the United States, together with the sale of such services to foreign customers. The American reprocessing plant newly constructed at Barnwell, South Carolina, is not to be opened. Since neither France, Britain, nor Japan are likely to dismantle their plants, it is hard to see what we will accomplish in adopting a policy of self-denial, except forcing countries that wish to purchase reprocessing services to do so at a high economic cost under near monopoly conditions.

Moreover, if we insist that our own foreign customers, to whom we supply enriched uranium, must accept the "throw-way" cycle for their spent fuel rods, we may, in fact, be increasing rather than decreasing the weapons proliferation risk. Without reprocessing, these rods, which contain plutonium, are presently being stored at scores of reactor sites around the world, with the attendant risk that they could be plumbed for weapons purposes. Without reprocessing, and in the absence of agreed-upon international depositories, the rods would have to be returned to the United States for long-term storage, if this risk is to be averted. Thus the United States would become the principal dumping ground for most of the world's radio-active waste, even though we have yet to locate an acceptable permanent depository for our own.

With respect to the proliferation, one other point needs stressing. The fact is that 10–12 countries now have the capability to construct nuclear weapons, entirely aside from the commercial development of reprocessing facilities or the plutonium fueled fast reactor. Where they have done so, as in the case of India, they have utilized conventional research reactors and small chemical separation facilities designed for the specific purpose of bomb-building.

Thus, we are left with the unfortunate but ineluctable conclusion that the nuclear age, in whatever form it takes, brings with it proliferation risks which we must deal with on an international scale. Unilateral acts of abnegation are unlikely to be emulated. That is why I oppose the Carter Administration's abandonment of reprocessing and proposed termination of the U.S. fast breeder program. Instead of advancing the effective control of nuclear weapons proliferation, our self-imposed denial runs the grave risk of leaving an international vacuum, which is an invitation to nuclear anarchy. In short, the plutonium genie is out of the bottle. The better part of wisdom is to recognize this rudimentary truth rather than bemoan it.

I, therefore, believe that we have no alternative but to begin now to build upon the existing international system of safeguards, working with the IAEA member countries to devise a framework for living with plutonium. The IAEA is perhaps the only international institution where the United States and the Soviet Union find that their interests run parallel and where they have been able to work together in relative harmony.

The number of nations which are capable of supplying nuclear plants and technology on a commercial scale is still small—seven or eight. And for the next generation, the number of countries in the developing world that can realistically contemplate a sizeable nuclear energy program is limited—not more than 12 to 16. So if we put our minds to it and apply ourselves at this still early stage to constructing a durable framework for managing the risks inherent in the plutonium era, we have a reasonable chance of success.

The elements of an international framework are discernable. They encompass two basic principles: first, an international system of safeguards and physical security which minimizes the risk of diversion of plutonium to weapons purposes. Second, a system which offers developing countries an assured access to enrichment and reprocessing services.

More specifically, we could advance the first objective by adopting the following proposals suggested by Professor Manson Benedict, Professor of Nuclear Engineering, Emeritus, at the Massachusetts Institute of Technology:

First, fuel reprocessing plants should not be permitted to produce plutonium in pure form, but should produce only a decontaminated mixture of uranium and plutonium. This so-called "coprocessing" operation is technically feasible, and the product, though unsuitable for bombs, can readily be fabricated into new fuel elements.

Second, fabrication of plutonium-enriched fuel should be permitted only at the same well-guarded site as the reprocessing plant, to minimize the number of places at which plutonium is processed and to eliminate unnecessary shipments.

Third, before delivering reprocessed fuel, it should be irradiated to around one percent of the design burnup. This will make the elements so radioactive as to require the same heavy casks for shipment as are now used for spent fuel, and will provide the same kind of deterrence to diversion of reprocessed fuel as we now accept for spent fuel containing plutonium from light water reactors. Recent reports indicate that the Carter Administration is now negotiating with the Japanese precisely such an arrangement to clear the way for them to start operating their reprocessing facility.

The second principle, namely, the terms upon which developing countries should have access to the nuclear fuel cycle while, at the same time, minimizing the risks of nuclear weapons proliferation is the more difficult problem. The IAEA has made a promising beginning with its recently concluded Regional Nuclear Fuel Cycle Study. But it is only a beginning. We should aim toward eventual international ownership and control of the fuel cycle necessary to sustain commercial reactors in all non-weapons states. The IAEA, under its statutes, now has the authority to assume responsibility for plutonium storage and is engaged in a study as to how it might exercise this authority; it is examining as well the feasibility of international management of spent fuel storage. These are initiatives we should encourage.

I would also propose that the U.S. offer to work in conjunction with the IAEA in devising a feasible program of international management of the as yet unborn Barnwell reprocessing facility in South Carolina. Instead of being relegated to the dust bin, Barnwell might become an imaginative pilot program in the globalization of reprocessing.

I do not mean to suggest that what I am proposing is in any way a panacea. Far from it. I see nothing but agonizing choices ahead. Speaking personally, I agree with the observation of Bernard Baruch that the splitting of the atom was the single greatest act of pollution in history. I wish, in a way, it had never happened. I would much prefer to wake up each morning to a world unburdened with nuclear warheads, and free of worry about how to contain nuclear wastes for 20,000 years. But this is the world as it is, not as we would wish it to be. The hard truth is that we are dealing not with a future threat to be avoided by timely action but with conditions that are presently upon us. In designing an effective international system to harness the energy atom to peaceful uses, the United States should take the lead.

The alternatives were starkly suggested by J. Robert Oppenheimer, the American scientist who headed the development of the atomic bomb. Quoting from the ancient Gita, he foresaw the dazzling promise of the atom if only it were confined to peaceful uses: "If the radiance of a thousand suns were to burst forth at once in the sky, that would be like the splendor of the Mighty One." But he also foresaw the dreadful fate awaiting us if the atom were turned to the dark arts of war, and quoted Vishnu: "I am become death, the destroyer of worlds."

It is for us to choose.

THE LANCE TACTICAL MISSILE

Mr. PELL. Mr. President, the Senate will shortly be considering H.R. 7553, the appropriations bill for fiscal year 1978 for public works projects, which includes an appropriation for production funds for a new warhead for the Lance tactical missile. The new warhead is designed to reduce collateral damage to structures, machinery and other objects, while enhancing the radiation effect—or the lethality—upon people.

As chairman of the Subcommittee on Arms Control, Oceans and International Environment of the Committee on Foreign Relations, I have been very interested in making certain that the executive branch submits arms control impact statements on nuclear and significant nonnuclear weapons programs, as has been required by law since 1975. Upon checking, I discovered that the executive branch failed to submit any such statement on this warhead. I believe such a statement could be of considerable value to my fellow Senators in evaluating the Lance missile warhead when H.R. 7553 comes to the floor.

Accordingly, I wrote to the Honorable Paul C. Warnke, Director of the Arms Control and Disarmament Agency, and asked that he coordinate the preparation of such a statement on an urgent basis. I wrote to Mr. Warnke that—

I believe that this proposal raises a number of critically important arms control questions. For instance, would deployment of Lance missiles with the enhanced radiation feature lower the nuclear threshold, which it has been our past policy to keep at a high level? If, as suggested, enhanced radiation makes use of tactical nuclear weapons more credible, would it not follow that use of nuclear weapons could become more likely? If new warheads are to be developed and tested, would the testing programs frustrate the Administration's policy of seeking

a comprehensive test ban? Finally, what would the likely reaction be of the Warsaw Pact to modernization of United States tactical forces in Europe?

Mr. President, I ask unanimous consent that the complete text of my letter to Mr. Warnke be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *June 23, 1977.*

Hon. PAUL C. WARNKE,
Director, Arms Control and Disarmament Agency, Washington, D.C.

DEAR MR. WARNKE: As you know, the Congress is now considering an executive branch request to purchase and deploy Lance missiles with a new warhead featuring an enhanced radiation effect. With enhanced radiation, the effective kill radius of the warhead at specified yields would be considerably increased. I understand that enhanced radiation is a design concept which may be incorporated in other warheads.

I believe that this proposal raises a number of critically important arms control questions. For instance, would deployment of Lance missiles with the enhanced radiation feature lower the nuclear threshold, which it has been our past policy to keep at a high level? If, as suggested, enhanced radiation makes use of tactical nuclear weapons more credible, would it not follow that use of nuclear weapons could become more likely? If new warheads are to be developed and tested, would the testing programs frustrate the Administration's policy of seeking a comprehensive test ban? Finally, what would be the likely reaction of the Warsaw Pact to modernization of United States tactical nuclear forces in Europe?

These and other questions could properly be addressed in an arms control impact statement on the new warhead. I note that the executive branch has not submitted such a statement in regard to this proposed program. I would like to draw your attention to the requirement of Section 36(a)(1) of the Arms Control and Disarmament Act that such statements must be submitted for "any program of research, development, testing, engineering, construction, deployment, or modernization with respect to nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons."

I realize that you had not assumed office when the arms control impact statements were submitted earlier this year and, thus, were not responsible for the failure to comply with the law. I do believe that an arms control impact statement on the Lance missile warhead would be of value in Senate consideration of the proposal. Accordingly, I would appreciate your taking the necessary steps to coordinate the preparation of such a statement on an urgent basis.

Ever sincerely,

CLAIBORNE PELL,
Chairman, Subcommittee on Arms Control, Oceans and International Environment.

JESSE WARR

Mr. MATHIAS. Mr. President, there are across this land many dedicated citizens who help make the American dream a reality for all of our people. Outstanding among them was Jesse Warr who suddenly died on June 16.

Jesse Warr was born in Memphis, Tenn., in 1921. Despite the adversity and discrimination that blacks faced 56 years ago, he secured an education as a chemist. He served with distinction in World War II. He spent over two decades on the staff of the Geological Survey in the Department of the Interior where his work earned special commendations from both Secretary Udall and Secretary Hickel.

But, beyond his contributions through his job, Jesse Warr worked in many other ways to make this a better world. First and foremost, he was a man who practiced his religion in everything he did. As an active member of the Episcopal Church and a lay reader, he participated in all aspects of church activity in the Washington area and his religious faith animated his many contributions to his community.

Jesse Warr gave distinguished service as a long-time active member of the Prince Georges County Board of Education for 9 years. He was its chairman at the time of his death. The positive and significant steps he took to eliminate segregation in the 10th largest school district in the Nation, are important parts of his record. But to dwell on these achievements would be to ignore the great contributions that he made to a better education for all children.

Jesse Warr was noted his quiet determination, his calm demeanor, his strong dedication to basic decency and understanding, his tolerance for all views and his ability to bridge chasms in philosophy. In every endeavor his goal was to light a candle in the darkness, to find a useful way to go. He never was known to curse the conditions or to find fault with others. He had a focus on policy and sound goals. He had a set of guiding principles. He had the patience to succeed. He had the ability to persuade. People who came to oppose Mr. Warr always found after working with him that he had an honest regard for the issues that might separate them. These rare abilities made him a person to be reckoned with on every issue confronting public education. Long before he was elected president of the Prince Georges County Board of Education, he was recognized as a moral leader. His quiet influence was everywhere. Those who would tear down educational values were often dissuaded from trying because they knew they would have to meet him; those who tried found that though they might win some minor skirmishes they never won the main battle.

In a decade of great stress in this metropolitan county, Mr. Warr worked with unswerving dedication to make integrated education succeed and to make sure that the quality of public education rose.

In November 1973, a special election for the board of education was held under a newly enacted State law. Those who wished to maintain existing school patterns won by a bare 5–4 majority. Throughout this period, Jesse Warr never forgot it was the children that counted.

In November 1976 three seats were up for election. The education candidates for this board ran ahead of the winning margins of those running successfully for President, the Senate, and the House of Representatives. The new board members, recognizing that Mr. Warr's policies on educational quality represented what parents and students wanted, announced he would be chairman. Thus this natural leader became the elected leader with the board supporting him.

To me, the great accomplishments that Jesse Warr achieved, are even greater because all the while he was working at his job in the Interior Department 8 full hours a day, raising a family of five children with his wife Lucy, and actively participating in the work of his church. Many of us are born lucky. We expect that the advantages of education, job, and social position will come to us. But Jesse Warr was a man born without any assurance that any of these would be attainable—in fact, he was born with the odds saying they could not be secured. Yet he achieved all of the personal goals that he aspired to and he constantly worked to give these same opportunities to everyone else who would make the effort to succeed. He sought to make ability the test for all. He sought to make it possible for all to earn their due through fair effort.

Jesse Warr will be sorely missed, in Prince Georges County, in Maryland, and in this Nation. His premature death is a great shock and sorrow to all who knew him. But he has left a legacy to the 700,000 people in Prince Georges County, and to the 150,000 children in its schools that will pay dividends for decades to come. Jesse Warr left us rich gifts indeed: tolerance, understanding, dignity, charity, and love.

For me and for my wife Ann it has been an honor to know Jesse Warr. He enriched our lives. To his wonderful wife Lucy and to his five outstanding children, Jesse J. III, MariLynn, Richard, David, and Tricia, we extend our appreciation and thanks that they encouraged Jesse J. Warr, Jr., to the contributions that he made to a better America. We extend our deep sympathy to them in their great loss.

I ask unanimous consent that the account of Jesse Warr's life which appeared in the Washington Post on June 17, 1977, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JESSE J. WARR DIES, LEADER IN COUNTY'S DESEGREGATION

(By Vernon C. Thompson)

Jesse J. Warr Jr., 56, leader of the fight for equal education in Prince George's County during the bitter desegregation era who rose to become the county's first black school board chairman, died yesterday morning after he was stricken at his home with a heart attack.

A chemist by training, Mr. Warr entered the politics of the county school system because he felt the black children of the county were not receiving an equal opportunity in education. His determination to do something about it led him to remain the only black on the school board for nine years.

In his position Mr. Warr was often subjected to subtle and not-so-subtle racial slurs. But his optimism and patience eventually won over his severest critics, and he believed, brought new opportunities to the black youth of the county.

"He was extremely religious . . . and that faith made him the way he was. He never gave up on anyone," school board member Maureen K. Steinecke said yesterday.

County Executive Winfield M. Kelly Jr., who opposed Mr. Warr during the battle that led to the 1972 order to use busing to deseg-

regate the county's schools, said yesterday that Mr. Warr's loss will be an "almost impossible" void to fill.

A Memphis native who never lost his soft Tennessee accent, Mr. Warr came to Washington after graduating from LeMoyne College in his hometown. Until his retirement in 1974, he had worked as a chemist for the U.S. Geological Survey.

He did graduate work at Howard University and earned a master's degree in teaching last year at Trinity College of Washington. He was planning to use those new skills at the Washington Technical Institute, which he joined as a teacher of geosciences after his retirement in 1974.

Mr. Warr's first entry into the explosive desegregation issue came, ironically, in the form of an inquiry as a concerned Prince George's County parent who was hoping to find some way to end the long-distance busing of black children past white schools.

That was in the days when the county still had blacks-only schools despite the 1954 U.S. Supreme Court decision banning segregated schools.

A member of the county's NAACP, as well as a Republican and a leader in the Episcopalian Church of the Atonement in Washington, Mr. Warr was appointed to the county school board in 1968 by then-Gov. Spiro T. Agnew.

Before his first term was over, Mr. Warr had joined other county parents with the NAACP and the ACLU in filing suit against his own county school system in order to bring about equal education.

That produced the 1972 court order that brought busing to the county in 1973. Desegregation was completed in 1975, without the violence that so tarnished other attempts throughout the country.

It was Mr. Warr who received much of the credit for the smooth transition. But it was not until three years later that he felt the bitterness had ended.

At the time of his nomination for school board chairman, Mr. Warr uncharacteristically took a bow for his efforts of a decade: "My nomination as the first black chairman . . . proves, to a degree, that the stand I took on desegregation, my thrust for equal opportunities for all students, has been vindicated."

He won unanimously in the 1976 election, the first chairman to win the votes of all of his or her fellow board members.

Normally, Mr. Warr watched while his opponents on the board grabbed for publicity. During a particularly raucous meeting in which he lost a number of programs dear to his black constituents, Mr. Warr, undaunted, laughed at the proceedings and said he would start charging an admission price to watch the circus.

Later, as chairman, Mr. Warr won the passage of these same programs and brought together a board that previously had been divided by the racial and community fears that clouded the years of busing.

He brought with him as vice chairman Norman Saunders, one of the most vocal opponents of busing and a man won over by what he described as Mr. Warr's "very rare warmth of personality."

All the while, as Mr. Warr kept up his active role in the NAACP, the ACLU and the Coalition for the Handicapped, he was the board member who was most frequently seen visiting local county schools. Fairmont Heights High School, the former black majority school, was the school for which Mr. Warr had a special affection, and he frequently visited it to see that the students were thriving.

As chairman, he consciously spoke of bringing better education to all children, and School Supt. Edward J. Feeney yesterday remembered him as a man whose humanity transcended race, politics or a particular point of view.

Mr. Warr is survived by his wife, Lucy, of the home in Landover, five children, three brothers and a sister.

Contributing to this story was staff writer Elizabeth Becker.

GRIFFIN BELL STILLS SOME CRITICS

Mr. HOLLINGS. Mr. President, yesterday the Washington Star carried an excellent column by Carl T. Rowan on our Attorney General Griffin Bell.

Those of use who knew Griffin Bell before he assumed his present responsibilities knew very well that it would not be long before the whole country was acclaiming his performance. He is a man of outstanding ability and the highest integrity. He says what he means and means what he says, and the candor and straightforwardness which he has brought to his job are exactly the qualities which were, and are, most needed there. Thus far his administration of the Department of Justice has been characterized by fairness and utter credibility. We know that we have at the helm of Justice a leader whose quest is justice. Griffin Bell is a man for the times, and I want to go on record once again to reaffirm my respect and esteem for this fine public servant.

Mr. Rowan's column deserves wide currency. He points out that he refused to join with those who attempted to deny this nomination, and surely the intervening months have demonstrated Mr. Rowan's wisdom just as they have shown Mr. Bell's expertise and sense of fair play. Mr. President, I ask unanimous consent that the text of Mr. Rowan's article be printed in today's edition of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GRIFFIN BELL STILLS SOME CRITICS

(By Carl T. Rowan)

The more I see of Atty. Gen. Griffin Bell, the more I like the man. And the happier I am that I refused to join in efforts to deny him Senate confirmation.

I like the fair-minded way in which he listens to Drew Days III and Solicitor Gen. Wade McCree before the department takes a position on school busing controversies in Dayton, Ohio, Wilmington, Del., and other cities. It is significant that in this regard Bell has won praise from the NAACP, which so vehemently opposed his nomination.

I like the way Bell has pushed to get blacks of unquestioned ability into key slots in the law enforcement machinery. In a long interview with him the other day, he said: "I figure that if I can get some minorities into top slots, they'll see that justice is done in handing out lower jobs."

He confided that he is about to name a black to the second-ranking job in the Law Enforcement Assistance Administration and that he had recommended to President Carter the appointment of a black federal judge in the South and of two black U.S. attorneys, one in the South.

"I think you'll be surprised by at least one of these appointments," he said in his soothing Georgia drawl.

But more than the appointments of blacks, I like the following two things most about Bell:

1. He has moved vigorously to rein in the FBI and other elements of the nation's police network so as to provide reasonable assurances that we will not again have the abuses of the 1960s and early 1970s.

2. He has proposed or endorsed some far-reaching changes in our laws to give the unprivileged something close to equal justice with the privileged.

Judge Bell knows that sentencing procedures in America are so discriminatory as to be a national disgrace. He wants any recodification of federal criminal statutes to include clear guidelines for sentencing, with rights to appeal any sentence where a judge violates those guidelines.

Bell knows, also, that the second level of egregious unfairness relates to the parole system. The wealthy, educated inmate with political clout and powerful friends has a far greater chance of gaining early parole than does the average citizen. Bell has proposed that, once the laws are changed so as to bind judges to give fair sentences, paroles be abolished.

You commit your crime, you get a proper sentence and you serve your time. Period! No matter who or what you are!

That's easier wished for than achieved, but it makes one hell of a lot of difference when an attorney general of the U.S. who has the ear of the President is demanding it.

Griffin Bell is one of the most disarming candid persons ever to hold a powerful post in this town. Ask him a question and he answers—unless it's about a pending court matter where it is obviously inappropriate for him to sound off.

I asked him whether he ever harbored resentment over the efforts to deny him confirmation.

"Yes," he said. He resented them forcing him to give up membership in those lily-white clubs in Atlanta. He figures they were imposing a double standard on him because he is a Southerner.

"But I thought about it," Bell said, "and I knew that an attorney general has no business belonging to clubs that bar blacks or any other Americans. So I stopped being resentful."

My kind of man.

REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Mr. BAYH. Mr. President, it is with a great deal of pleasure that I offer my support for Senate Joint Resolution 65, calling for a constitutional amendment which gives direct representation to the citizens of the District of Columbia. As chairman of the Subcommittee on Constitutional Amendments in the Senate, I have twice presided over hearings on this topic. I have long supported the need to provide complete representation in Congress for the District of Columbia, and am now eager to join with the senior Senator from Massachusetts in supporting this legislation.

We must not forget that the District of Columbia is the seat of the greatest representative democracy the world has ever known. Also, we must not forget that a democracy's foundation is predicated on the importance of each individual voter having an equal voice in the election of his or her representatives.

For too long, the 750,000 citizens of the District of Columbia have been denied that very basic fundamental right. I find it inexcusable that to this day, in the very shadow of the Capitol building, there re-

sides a large segment of the American population which has little to say about the day to day decisions which directly affect their daily lives. District residents are required to pay Federal taxes, to fight for their country, and to fulfill their obligations and responsibilities as citizens of the United States. But this city, which is larger in population than 10 of our States having together 34 representatives in the House and Senate, is unable to elect even one person to vote on the floor of Congress in its behalf. Such a condition makes a mockery out of the one-man-one-vote concept, which is consistent with our democratic principles.

Since I am the primary sponsor of Senate Joint Resolution 1 which calls for direct election of the President and Vice President and is also based on the one-man-one-vote concept, it is only logical that I also support the concept of direct representation for the citizens of the District. I hope that those who support the concept of one man-one vote for the District of Columbia will also lend support to the amendment I have proposed, which extends that concept to all Americans.

TRIBUTE TO ROY WILKINS

Mr. DANFORTH. Mr. President, I would like to take this opportunity to pay tribute to a fine Missourian, Mr. Roy Wilkins.

The National Association for the Advancement of Colored People will hold its convention June 27–29 in St. Louis. With the convention comes the retirement of Mr. Wilkins, who has served as NAACP executive director since 1955.

When Mr. Wilkins first took the position of assistant executive secretary of the association in 1931, lynchings and Jim Crow laws were commonplace in this country. Black people were denied all sorts of political and economic opportunities. Those who had followed the Niagara movement and founded the association in 1910 held visions of an end to discrimination, of free and equal education, of suffrage, and of fair trials by jury. They began with the premise that the best opportunity for the black man to consolidate his rights lay in his free access to the ballot box. Since then the NAACP has sought to achieve its goals through legal channels. The consistency, vigor, and character of the organization has carried it to landmark victories over the last two-thirds of a century.

During the race riots of the 1960's and the criticism that he received from both radical and conservative factions after the violence in Detroit and Newark 10 years ago, Roy Wilkins maintained the compassionate and relentless course of the organization. He worked closely with Presidents Kennedy and Johnson, serving on the National Advisory Commission on Civil Disorders. His courageous leadership kept the NAACP on course, while adversaries and friends alike often fell by the wayside.

There are now more than 3,000 black-elected officials in this country. It is difficult to conceive of the influence commanded by this one man in such achievements. He has continued to struggle for equality in employment and housing in the 1970's. For his long crusade, Mr. Wilkins has been termed a living legend of the civil rights movement. He has cautioned repeatedly against violence and urged responsible discussion to resolve conflict. He has worked through our legal system for the human rights of all people. Roy Wilkins' dedicated contribution to our country is immeasurable, and it is only fitting, Mr. President, that on the occasion of his retirement as executive director of the NAACP he be recognized for his outstanding leadership.

IS GOVERNMENT REGULATION STIFLING COMPETITION?

Mr. PERCY. Mr. President, consumers and producers have accustomed themselves to relying on Government regulation to remedy the harm which may result from imperfections in the market system. The costs of the network of regulatory agencies developed under this assumption have, however, in so many instances come to outweigh the benefits. Indeed it appears as if much of governmental regulation has distorted the market system rather than corrected it.

Direct expenses are well documented, but comprise only a small part of the total costs of regulation. Indirect costs, less readily measured, magnify the problem. Whether by restricting entry into professions or by artificially controlling resource prices, government regulation has distorted the market structure by reducing consumer options and misallocating producer resources. Natural gas regulation is one of the most glaring instances in which regulation in the short run has cost the society at large more in the long run.

Consumers and producers pay dearly for such regulation. Higher prices frequently beset consumers. Lost opportunity often greets the producers. From both perspectives, regulation is squandering precious resources, human and otherwise.

Frequently regulation is sought as a means of assuring high quality. But regulation need not be the only means to provide quality goods and services, and often is not the best. In its May economic newsletter, Citibank of New York, one of the Nation's largest banks, suggested that in many circumstances free competition is far more effective than many forms of regulations. As they point out, competitive pricing and improved information dissemination may be more effective in protecting consumers than a glut of specific rules and regulations which requires a bureaucracy to enforce.

The American system is failing to realize these aims. Public clamor for regulatory reform attests to this. Still, regulation has grown in popularity. Now it appears that rather than promoting competition, regulation is actually stifling it. Rather than equalizing opportunity to serve consumers and producers better, our cumbersome regulatory process has given the competitive edge to some producers at cost to other producers and consumers as well. Clearly, misguided regulation has served far fewer than those who have borne its costs.

We are working in the Senate to correct some of these problems. S. 600, The Regulatory Reform Act of 1977, which I am cosponsoring with Majority Leader BYRD and Senator RIBICOFF, is now moving toward markup in the Governmental Affairs Committee, with hearings having been completed. I think Citibank's article is important to consider as we discuss significant reform of Federal regulation. Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REGULATION: A LOOK AT THE OCTOPUS

[From Citibank's Monthly Economic Newsletter, May 1977]

How anyone feels toward a specific regulatory agency depends, in large part, on how badly his ox is gored. A businessman in a regulated industry or an ordinary citizen relocating in a different state may inveigh against the red tape, paperwork or absence of competition imposed by the regulators. But, outside the area affecting him, he's inclined to feel that other forms of government economic regulation are essential to ensure quality goods and services at prices a good deal short of highway robbery.

The reality of government regulation, however, comes nowhere near that ideal. In fact, regulations dips its hand into everyone's pocket—through higher taxes, higher prices for regulated goods and services, greater waste of resources, human as well as economic, and the irreplaceable loss of the kind of incentive that means economic growth. In short, the costs of regulation far outweigh the advantages.

In that case, it might be asked, why continue to regulate and why keep adding to the economic sectors now regulated? The traditional view of regulation is that it was found necessary to decrease the economic harm that might ensue from imperfections in the marketplace. But serious students of regulation have come to abandon this altruistic theory for what they feel is a more realistic motivation for regulation.

Professor George Stigler of the University of Chicago sums it up as "the view that there is a market for regulatory legislation—a political market, to be sure. Some groups (industries, occupations) stand to gain more than others from boons the state can confer, such as subsidies, control of entry of new firms, and price control. . . . Again, some groups are better able than others to mobilize political power, whether through votes or money. Where high benefits join low costs, there we should expect early and strong public regulation."

Whatever the motivation, there's little doubt about the end result—cost—and the most obvious cost, that of setting up and maintaining the regulatory agencies, has been growing apace. During the current fiscal year, 11 of the largest federal agencies involved in the regulation of economic activity will operate with combined staffs of some 28,000 people and with a budget of about $877 million. Expenditures having been rising of late—by 41% in fiscal 1974 and by about 16% this fiscal year—largely because of the expansion of the Federal Energy Administration, that newest star in the regulatory firmament.

RESTRICTED ENTRY

But this direct burden pales by comparison with the indirect costs of regulation, its effects on the choices available to consumers, and the uses and misuses of resources by producers.

Consider, for example, what happens when state licensing boards or even industry self-regulatory bodies help restrict entry into a particular profession—be it medicine, law, barbering or the building trades. Members of the regulated profession would be quick to point out that licensing has direct benefits—ensuring high quality and protecting the unwary from incompetent practitioners.

The problem is that there is a tradeoff between quality and price. Fewer practitioners in any field mean higher prices to consumers and thus ultimately that some consumers do without some or perhaps all of the services of the professional. And that means economic loss to the consumer.

On the producer side there is a similar loss. The potential entrants being kept out of the regulated profession have to turn to something else. Their talents are being wasted and their remuneration lowered. The only potential gainers from such an arrangement are those who remain in or gain entry into the regulated profession. And even here some of that gain may be lessened, since complying with the dictates of the regulatory body—via increased education, on-the-job training or apprenticeship, not to mention added paperwork—can erode much of the potentially higher returns.

As to the quality argument—it may be more apparent than real. Suppose most professions were not regulated, what safeguards would the consumer have on professional competence? One gain would be in the amount of information available to him. For one thing, prices would be freer to vary, since lower-quality services would have to be priced accordingly, and consumers could take their cue from that. Prices, moreover, could be advertised—something now prohibited in many professions. For another, freer competition would make it possible and profitable for private evaluating organizations to provide information. Self-regulatory practices in many professions now rule that out; in fact, a member of such a profession who attempts to evaluate colleagues—surely a major potential source of information about competence—can endanger his or her membership in the professional association.

What these associations in effect do now is merely to allow a distinction to be made between the licensed, interpreted as the competent, group and the unlicensed, interpreted as the incompetent, group—no distinctions are drawn among license-holders. An end to the protected status of these professions would eliminate impediments to the free flow of information—and high-quality practitioners would be recognized and rewarded.

In addition to limiting entry into many industries, government regulatory agencies have often exercised direct control over the rates charged. One area where such controls have had a particularly noticeable effect recently is in the market for natural gas. Since 1954, the Federal Power Commission has been given the task of setting the field price on natural gas destined for interstate markets.

Initially, the effects were minimal—the ceiling price was well below the price determined in the unregulated competitive market. But then in the late 1960s the situation changed, as environmental considerations increased the demand for cleaner fuels and costs of domestic production of natural gas began to rise. The result was a market price that gradually approached and then exceeded the ceiling price.

By 1971 some astute observers were well aware of what was happening. One—Professor Paul MacAvoy of the Massachusetts Institute of Technology—wrote an article on the subject entitled "The Regulation-Induced Shortage of Natural Gas." Last winter the chickens came home to roost. The controlled price of new natural gas stood at $1.45 per thousand cubic feet while intrastate gas, which was uncontrolled, was selling anywhere from $2.00 to $2.50 per thousand cubic feet.

The result was a stark illustration of the laws of economics. Set prices too low—be it for gas, oil, rental apartments or whatever—and consumers will have increased incentives to use more of the product and producers a decreased incentive to supply it. The end result in anything other than the shortest of periods is to make less of the product available and therefore—when the added costs of such other forms of rationing as shutdowns and queues are added—to raise prices higher than they would have been without the regulations.

The Food and Drug Administration has had its share of headlines in the past few months, most notably following its recent decision to halt the sale of saccharin—now partially reversed. The critics pointed to the hardship that having no sugar substitute would mean to diabetics. In effect, they were saying "Even if there's some small potential danger in the use of saccharin, a greater harm might result from banning it."

Drug regulation is a particularly well-worked field of research—everyone is aware of the example of thalidomide, which even 15 years after its banning can still evoke a shudder. What studies have shown, though, is another tradeoff similar to that of saccharin.

Several years ago, Professor Sam Peltzman of the University of Chicago examined the effects of the 1962 amendments to the Food, Drug and Cosmetics Act that stiffened FDA control over the introduction of new drugs. He found that the rate of innovation in the drug industry had been severely cut back, that 70% fewer completely new drugs were introduced between 1962 and 1970 on a per-year basis than betwen 1950 and 1962. And even the introduction of these new drugs had been substantially delayed—by two years on average. Peltzman concluded that the negative effects on national health of reduced drug innovation had exceeded the FDA's estimates of positive effects.

BRITISH EDGE

Research done by Professor William Wardell of the University of Rochester, who compared the experience of Britain and the United States with new drugs since 1962, supported Peltzman's conclusion. According to Wardell, Britain, which has much less rigid control over the marketing of new drugs, had a clear-cut net gain over the United States. In some cases, this British gain and the implicit American loss were substantial.

In the case of one type of drug available in Britain and unavailable in the United States until five years later, nitrazepam, a hypnotic, he states "there may have been over 3,700 deaths (including 50 children) from sedatives and hypnotics in the United States during this period. The corresponding figures for barbiturates alone are 1,890 deaths, including 45 children. Some of these deaths would have been prevented if a safe sedative had been involved.

"From the New Zealand figures for nitrazepam usage, it would be realistic to assume that one-third of the deaths due to hypnotics would have been preventable if there had been earlier introduction, vigorous promotion, and official endorsement (rather than discouragement) of a benzodiazepine or a comparably safe hypnotic.

"The point is obvious. Introduction of a new drug that produced fatalities anywhere approaching this magnitude would be regarded as a major disaster, but the undoubted occurrence of deaths through failure to introduce a drug has so far gone unremarked. It would not take many examples of this type to show that earlier introduction of some new drugs might more than counterbalance all the new-drug toxicity of the past decade."

The experiences of the industries regulated by the FPC and the FDA are hardly unique. Studies detailing the Federal Communications Commission's effect on the broadcasting industry, of the Interstate Commerce Commission on the railroads and motor carrier industries, the Federal Milk Marketing Board's effect on milk prices and the Federal Deposit Insurance Corporation's effect on entry into banking—to name a few—show a similar pattern.

In every instance, the net effect of the regulation has been to distort the way the market operates. Economic waste—artificial limitation on consumer choice and misdirection of productive resources—has been a direct result.

Perhaps more important—and relatively new in the United States—there is an increasing willingness to be regulated. Businessmen and consumers look around and see other businessmen and consumers who are able to exert political pressure to get laws passed that benefit them at the expense of everyone else. Sometimes it's the larger firms—the 'big business' of popular parlance. But in more and more instances it is the smaller producers, professionals, farmers, trade-union members or organized groups of consumers that have gained advantages from government. And a learning process has set in. More laws are passed and more acronymic government agencies are created.

Only occasionally, when a particularly vocal group's ox is gored, is there an outcry against regulation. And then it generally takes the form of demands for "better" regulations or "better" men to administer them. But regulatory reform isn't the answer and the current crop of regulators are administering the regulations, by and large, in the way they were designed to be administered.

What is wrong—has been from the beginning—is not the design of the regulations but the motivation behind them. There's nothing in free-market philosophy that denies the search for a competitive edge. But inviting the government in to provide that edge is like inviting the fox in to mind the chickens—only the fox gets bigger and stronger; everybody else loses.

FACT AND FICTION ABOUT FOOD STAMPS

Mr. MELCHER. This week one of the Ann Landers columns copyrighted by the Field Enterprises, Inc. referred to food stamps for mothers on welfare which warrants a precise explanation.

Someone who signs the letter to Ann Landers as "a conscientious taxpayer" cites a mother who can earn over $900 a month and receive financial assistance from welfare, food stamps, free medical and dental care and emergency help. I have underlined food stamps because eligibility for this benefit is narrowly set by law in the Food Stamp Act that Congress first passed in 1961. The financial assistance available for mothers on welfare varies in different states depending on the laws and services provided by individual States. But the eligibility for food stamps has been set by Congress to apply uniformly.

That is a big difference in the food stamp program and the impression left by the letter from the "conscientious taxpayer," which was distributed by Field Enterprises, Inc. as being correct. It does not cite the circumstances under which a mother on welfare could participate in the food stamp program. If the mother has a net income of $900 per month, in order to be eligible for food stamps she must have eight dependent children. Then they would be eligible for $78 worth of bonus food stamps per month. Those

are the facts not stated in the Landers column and all of us should recognize that eight dependent children require a lot of groceries for a nutritious diet, and that the mother is hardly likely to be able to raise her children and also have a job. The food stamp program is designed to provide a basic nutritional diet for those who would not otherwise receive it. It is for that reason that it was enacted and its goals are worthy and should not be confused with welfare payments which vary in amount because of various State laws.

Furthermore, the Food Stamp Act as amended requires able-bodied recipients to apply for and accept a job at minimum wage or better, but wisely exempts mothers who are needed at home by their young children. As a matter of public policy Congress tied food stamps to a requirement of seeking and taking a job if the person is not a mother with children in the home that need her there. The amount of food stamps available in a home depends on income and number of children and when a mother has eight children at home and needs some help through food stamps, even that help is limited. These points were not clear in the Ann Landers/Field Enterprises, Inc. column and the public should be given a clear picture of what the Food Stamp Act permits. Certainly they should not be led to believe an ADC mother with just one or two children can have $900 income and get a lot of free food stamps, too.

I ask unanimous consent to have the column printed in the RECORD. It is an example, in my opinion, of misrepresentation of omission of all the facts.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

ANN LANDERS

Dear Ann Landers:

I am writing in response to the welfare mothers who signed themselves "Sick of The Labels In St. Paul." They wanted to "help educate the damn fools" who criticize people on relief.

How about a little education concerning the snow job these women are giving? They didn't say they wanted to work or better themselves by receiving job skills. They just want the taxpayers to pick up the tab so they can stay home.

I am employed by the Public Welfare Division and carry a caseload of 160 ADC families. I encourage employment and training whenever it's feasible, but most ADC mothers do not want to work. Some say they are sick and can't take a job. One woman I see regularly must be at home when her 16-year-old son comes from school so she couldn't possibly work. Another has no car and refuses to take a bus. Still another will not work because the cost of her food stamps would go up. (She doesn't realize she could add $500 to her monthly income.)

An ADC mother can earn over $900 a month and still receive financial assistance from welfare (depending on the amount paid for child care), food stamps, free medical services, free dental services and emergency help if needed. Of course, with high incomes, the cost of the food stamps goes up—but why shouldn't it?

Our community (as do most others) has numerous advantages for ADC mothers who seek training. They can receive through local WIN offices free child care, transportation and meals, plus tuition, books and supplies paid via federal grants. These are all in addition to their full welfare grants.

So you see the advantages are many for the ADC mother who is in training or employed, yet I find very few women who want to acquire the needed skills to get off welfare. Those who use the excuse of "being worse off when working" don't have their facts straight—or they are using this as an excuse for not being self-supporting. If you want to be fair to both sides you will print this, Ann.—A Conscientious Taxpayer.

Dear Taxpayer:

Here's your letter and my thanks for writing. I've checked your facts and they are correct as stated.

CORRESPONDENCE ON S. 1158

Mr. THURMOND. Mr. President, on March 28, 1977, I introduced S. 1158, a bill to extend the tax advantages of section 2124 of the Tax Reform Act to owners of noncommercial historic structures. Senators HEINZ, HUDDLESTON, and STEVENS joined me in cosponsoring this important legislation.

The bill has received widespread attention and support. Articles bringing the public's attention to S. 1158 were recently published in History News, the magazine of the American Association for State and Local History, and in Preservation News, the periodical of the National Trust for Historical Preservation.

Mr. President, in order to provide my colleagues with an indication of the support for this bill especially among professionals in the field of historical preservation, I ask unanimous consent that the attached seven letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, May 12, 1977.

The Honorable STROM THURMOND,
U.S. Senator,
Washington, D.C.

DEAR SENATOR THURMOND: I have recently had the opportunity to review S. 1158, introduced by you on March 29, 1977, which proposes to amend the Internal Revenue Code of 1954 to allow owners of non-commercial properties to claim depreciation allowances for expenditures incurred in approved rehabilitation of certified historic structures. Section 2124 of the Tax Reform Act of 1976 allows these claims for certified commercial historic structures.

I strongly support your bill. Restoration and compatible renovation of historic properties is usually an expensive undertaking. The proposed bill would help offset some of these costs and would serve to enhance the preservation of many of our important noncommercial properties giving a tremendous boost to preservation efforts here in Utah.

Sincerely,

SCOTT M. MATHESON,
Governor.

STATE OF MISSISSIPPI,
DEPARTMENT OF ARCHIVES AND HISTORY,
Jackson, Miss., April 26, 1977.

The Honorable STROM THURMOND,
U.S. Senator,
Washington, D.C.

DEAR SENATOR THURMOND: We appreciate your introducing S. 1158 to amend the Tax Reform Act of 1976 to extend the 60-month amortization benefit to the owners of noncommercial properties that are entered in the National Register of Historic Places. We are writing our Congressmen to encourage them to support this measure.

To move to another subject, I would like to encourage you to present to this Department the correspondence that you had with Governor Fielding L. Wright. Most of Governor Wright's personal papers were lost in the fire that destroyed his law office, and we are, therefore, making a special effort to locate any material pertaining to him.

Your consideration of this request will be deeply appreciated.

Sincerely,

ELBERT R. HILLIARD.

COLLEGE OF LIBERAL ARTS,
May 9, 1977.

Senator STROM THURMOND,
3311 New Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: As an interested citizen of the state I want to thank you for your introduction of S. 1158 to extend certain tax benefits to owners of registered historical properties who are involved in restoration activities.

I read the remarks you made in introducing the bill and you are perfectly right in arguing that such tax benefits will encourage precisely the kind of work we need to preserve our physical heritage.

I would appreciate it if you would keep me informed of the status of this bill; while I own no historic property myself, I am interested in seeing such legislation passed.

Sincerely,

ALAN SCHAFFER,
Professor and Head.

AMERICAN ASSOCIATION FOR STATE AND LOCAL HISTORY,
April 14, 1977.

Senator STROM THURMOND,
209 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: I'm delighted to have your letter and to read the fine bill that you have introduced for the benefit of private owners of historic sites. I heartily approve the bill. It provides the kind of incentive that will, I believe, lead to the preservation of a great many historic sites that in past years have been allowed to deteriorate because of the heavy expense of their rehabilitation.

I am calling this bill to the attention of our Managing Editor of *History News*, the Association's monthly publication which goes to the historical agencies throughout this country and Canada. It will be a pleasure to inform our readers of your meaningful concern for the cause of preserving our heritage.

Very sincerely,

WILLIAM T. ALDERSON,
Director.

WILLIAM MORRIS ASSOCIATES, INC.,
Alexandria, Va., June 19, 1977.

The Honorable STROM THURMOND,
209 Russell Building,
Washington, D.C.

DEAR SENATOR THURMOND: I am an historic preservation consultant with a firm specializing in historic restorations and renovations. I am writing in support of your bill S. 1158 which would extend the provisions in the current Tax Reform Act of 1976 applicable to historic commercial buildings to historic residential property. I feel that this is needed to protect and enhance our historic communities and neighborhoods, and the quality of life they offer. This will also improve housing conditions, particularly in the urban areas of the nation where it has not been economically feasible or possible to preserve historic structures.

Our firm is presently engaged in historic preservation efforts in the Washington, D.C., area and Savannah, Georgia. We are attempting to take advantage of the depreciation/amortization options provided under the present tax laws. Currently, we are in the process of applying for our certifications on several buildings and their respective re-

habilitations. We have found this bill to be a real incentive to preserve historically significant commercial buildings. It makes many projects economically feasible and attractive to private investors. This law benefits private enterprise as well as the community.

I wish you luck and quick passage of your bill. I find it to be a bill worthy of serious consideration, and I hope that all of our lawmakers will realize its true scope and significance. You have my wholehearted support!

Sincerely yours,

CHRISTINE B. BURKE.

KANSAS STATE HISTORICAL SOCIETY,
Topeka, Kans., March 4, 1977.

Senator STROM THURMOND,
U.S. Senate
Washington, D.C.

DEAR SENATOR THURMOND: We have learned of your intention to introduce a bill making private properties eligible for the historic preservation tax incentives of Section 2124 of the Tax Reform Act of 1976. As the State Historic Preservation Officer for Kansas I would endorse such legislation. It has the potential for offering a real incentive to private owners to restore their historic properties.

At the same time I hope that consideration will also be given to correcting the ambiguities and errors in Section 2124. Of concern to those of us in this state who are involved in the historic preservation program are the punitive provisions of this section. We are concerned that the penalty provisions, the negative aspects of the section, could in the long run cause more harm than benefit for the historic preservation movement. The positive benefits of the section offer such inducements that we think the punitive aspects could be deleted.

We welcome and endorse your effort to expand the benefits of Section 2124 and we hope the same amendment can change the provisions which have proved less than satisfactory.

Yours sincerely.

EDGAR LANGSDORF,
Executive Director and State,
Historic Preservation Officer.

ARMISTEAD PETER, 3RD,
Washington, D.C., June 21, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: I would like to heartily applaud your introduction of a bill into the U.S. Senate extending the provisions of the Tax Reform Act of 1976 to private owners of non-commercial certified historic structures.

The problem to which your bill addresses, is one with which I have been dealing over the past fifty odd years, and although I have fortunately been able to maintain this house over that period of time, there are others to whom it has not been so easy and for all of us it is getting more and more difficult.

Some years ago, I had the law governing the preservation of old houses in France translated and I feel sure that you are familiar with their practices. It seems particularly important that the priority, as in France, should be given to the preservation of the building rather than to deriving the last penny in taxes from the owner. This is the attitude that the French have taken and it is by far the most intelligent approach to the preservation of old buildings now existing. In France, it is not necessary to become a member of an organization like The National Trust for your building to receive the benefits that it deserves from the government. All that is necessary is that it should be placed on the list as a Maison Classé. Once this is done, you have the privilege of deducting from your income tax fifty percent of the expenses entailed in the maintenance of the building if you do not allow the public to come in. If you do open the place to the public, you are allowed to deduct seventy-five percent of your expenses. These expenses include repairs, alterations, improvements, the pay of servants, gardeners, guards, and interest on a mortgage, if any. The fact that an entrance fee is charged is no detriment to these benefits. In addition, the French government maintains a corps of expert workmen who are used in special repairs which cannot be as efficiently handled by the owner. For example, if roof tiles need replacement, the government will see that tiles are burned that will exactly match the tiles on your building. The result of all of this is that the French government has made allies of the owners of these houses instead of adversaries. In addition, they have obtained the services in the care of the building of the people who are emotionally attached to it. Another very important point made by the French is they honor the architectural excellence of the building irrespective of who now lives in it or who has lived in it.

Your bill is, I believe, the first step that has ever been taken in this direction, and I cannot commend you too highly for it. May I add here the names of the co-sponsors, Senators Huddleston, Stevens, and Heinz, to whom I am sending a copy of this letter.

Yours most sincerely,

ARMISTEAD PETER, 3RD.

EDDIE STANKY COMES HOME TO ALABAMA

Mr. ALLEN. Mr. President, a few weeks ago I evoked the memory of many Senators by bringing up the name of Eddie Stanky, one of baseballs all time greats. Coach Stanky ended his long professional career in 1968, after having moved from the playing field to the managers bench. He was named head baseball coach at the University of South Alabama in Mobile, Ala., and now, 9 years later he is "Mr. Baseball" of collegiate athletics. Coach Stanky's own talents in baseball soon began to rub off on the young men at the university and his teams have soared to the top of the collegiate baseball list. His teams have a record of 308 victories against 102 losses and have been to the National Collegiate regional playoffs four times. Stanky was inducted into the Alabama Sports Hall of Fame earlier this year. Mr. Stanky and his family are in Alabama to stay and Mr. Stanky made that point quite clear in a statement made yesterday in Mobile.

Earlier this week, Coach Stanky was offered and he accepted the position of manager of the Texas Rangers, of the American League. The Rangers were playing in Minneapolis Wednesday and Stanky flew there to manage the team in a game against the Twins. In storybook fashion, the Rangers won the game 10–8, but even the glory of that victory was not enough to take Eddie Stanky away from Alabama. After the game, his first and last as Ranger manager, Coach Stanky started feeling the pangs of homesickness. In the early morning hours he called his family back in Mobile and told them he was coming home. He arrived in Mobile yesterday, and at a press conference he said that after the excitement of the victory was gone he really wanted to come back home.

Mr. President, Mr. Stanky's decision is a great tribute to the State of Alabama, in general, and to the fine port city of Mobile. Even the promise of glamour and fame of a renewed career in professional baseball coaching could not convince Eddie Stanky to leave his adopted home.

In this morning's New York Times, Friday, June 24, 1977, there appears a United Press International article about Stanky and his very short career with the Texas Rangers. In that article Stanky is quoted as saying that the Rangers have a great ball club, but that he has too many ties and connections in Alabama ever to leave the State. The article, entitled "Homesick Stanky Resigns," gives details of Stanky's career, past and present.

Mr. President, I ask unanimous consent that the New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follow:

[From the New York Times, June 24, 1977]

HOMESICK STANKY RESIGNS

MOBILE, ALA., June 24.—Eddie Stanky returned to Mobile today after a one-day stint as manager of the Texas Rangers and explained that "after the excitement calmed down I started getting lonesome and homesick." So he quit.

Stanky returned from Minneapolis and was greeted by his wife, Dickie, officials of the University of South Alabama and a group of reporters.

Asked if he was back at South Alabama for good, he replied, "You're damn right I am."

Stanky, who was hired by the Rangers yesterday, joined the team for a game against the Minnesota Twins last night. But he unexpectedly resigned today, saying he could not leave his family and 85-year-old father.

IT WAS A GREAT GAME

He said he started to change his mind about the managing job after he got on a plane for Minneapolis yesterday.

Stanky said, however, he enjoyed the one game, which the Rangers won, 10–8. "It was a great ball game," he said. "Doggone, I have a great ball club—I mean they have a great ball club."

After the game, he said he "got to the room and couldn't sleep. I called my wife around 5 after 6 [this morning] and I told her I was coming home."

He said the Rangers showed a lot of enthusiasm following the game and he saw no signs of resentment over the dismissal of Frank Lucchesi as manager of the club.

"The attitude of the ball club was good, and after the ball game we were jumping around just like the South Alabama Jaguars had beaten Auburn; there was so much pep.

"I should have known better, that I have too many other things," he said, his voice cracking with emotion.

Stanky, 60 years old, played second base for the Chicago Cubs, Brooklyn Dodgers, Boston Braves and New York Giants. As a player and later manager of the St. Louis Cardinals and Chicago White Sox in the 1950's and 1960's, he was known for his win-at-any-cost philosophy.

BUILT UP COLLEGE TEAM

After leaving the White Sox in 1968, he came to South Alabama, where he molded the Jaguars into a national baseball power. His teams compiled a record of 308 victories against 102 losses and went to the National Collegiate regional playoffs four times. He was induced into the Alabama Hall of Fame earlier this year.

Mel Lucas, athletic director for South Alabama, said he already had begun review applications for Stanky's job, but "he's our man and it's his job." The university president, Dr. Frederick Whiddon, also greeted Stanky on his return.

Meanwhile, in Bloomington, Minn., Connie Ryan, the Ranger's third-base coach, was named interim manager by Eddie Robinson, executive vice president of the club. Although there was no official announcement, it was expected that Ryan would take over for the remainder of the season. Robinson said no decision would be made on another manager until he discussed the matter with the team owner, Brad Corbett.

Ryan, 57, a former major league second baseman for the Boston Braves, Cincinnati Reds and Philadelphia Phillies, became the Rangers' third manager in three games. Frank Lucchesi dismissed as Texas manager only 24 hours earlier.

Ryan, who last managed in 1968 in the minor leagues, figured in earlier speculation that had him replacing Lucchesi. But Robinson said flatly at that time that Ryan would never replace Lucchesi as Ranger manager.

"Now we have a completely different situation," said Robinson, "I see no reason why Connie couldn't run the ball club until such a time as we needed somebody else."

THE BUSINESS ROUNDTABLE ENDORSES THE REGULATORY REFORM ACT OF 1977

Mr. PERCY. Mr. President, I am pleased to announce that S. 600, the Regulatory Reform Act of 1977, is continuing to attract a broad coalition of enthusiastic support. I believe the strong backing this bill is receiving reflects quite favorably on the comprehensive and systematic approach the bill takes toward reexamining Federal regulatory practices. There are now 41 Senate cosponsors of this far-reaching legislation, along with a wide-range of public support from business and public interest groups, and from the Carter administration.

This rapidly growing coalition in favor of a thorough reevaluation of Federal regulation has just been joined by the Business Roundtable—one of the most prestigious and influential associations of business executives in the Nation.

In a recent statement, Frank T. Cary, president of IBM and chairman of the Business Roundtable Task Force on Regulation, forcefully articulates the significant reasons for the Business Roundtable's active support of the Regulatory Reform Act of 1977.

The members of the Business Roundtable encounter day after day the "hammerlock" excessive regulation has over the efficient workings of our economy. These prominent business leaders have come to realize that, as presently constituted, regulation often ignores the public interest.

The primary aim of S. 600 is to shift the burden from the strained backs of those seeking reform of the marketplace and put it on those industries which have benefited so much from the status quo. The burden of proof should be on those people favoring Government regulation, not the other way around. For too many years, it has been perceived that a sweetheart relationship has been nurtured between regulated industries and their regulators, mainly because the regulatory activities of the Federal Government have avoided consistent and intense scrutiny. But it is time to closely examine the purposes and effectiveness of Federal regulation. Specifically, to what degree have our desired purposes been achieved? That is the underlying goal of S. 600.

The Business Roundtable endorses such a review. It supports S. 600 because of a recognition that regulatory reform is not solely a business problem. Rather, the higher costs incurred by unnecessary, inflationary regulation poignantly affect all Americans. The higher costs businesses have to pay for their raw materials become the higher prices consumers have to pay for their goods. The gears of our economy begin to slowdown as more and more controls are added to our system.

Where open competition can protect the public interest and keep prices reasonable, misguided or excessive regulation serves to restrain industries from their naturally competitive state. The Business Roundtable realizes that if real reform is to begin soon, a disciplined, manageable review process must start now.

I congratulate Frank Cary, together with Irving Shapiro, chairman of the board of E. I. du Pont de Nemours & Co., who is chairman of the Business Roundtable, and Howard Clark, chairman of the American Express Co., who is chairman of the Cost-Benefit Analysis Committee of the Task Force on Regulation, for their assistance in preparing this highly important and useful statement of policy. It is refreshing to see their organization take such a strong, affirmative position on an issue of such pressing concern to our economy and to our society.

Mr. President, because of its timeliness and importance, I ask unanimous consent that the Business Roundtable's statement on S. 600, the Regulatory Reform Act of 1977, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON S. 600, THE REGULATORY REFORM ACT OF 1977

Improving the quality of government must be our underlying concern when approaching regulatory reform, for the quality of government bears on the quality of our life. Regulatory reform is not solely a business issue; nor is it solely a labor issue, nor solely a consumer issue. Rather, it affects each of these sectors and is therefore an issue that concerns all the people. The Business Roundtable now feels it is appropriate for both Congress and the Executive Branch to fully examine this area and to take the necessary actions.

The Business Roundtable has reviewed the various cost/benefit concepts and proposals with special emphasis on those proposals relevant to regulatory agencies, and have noted that regulatory agencies now do relatively little explicit cost/benefit analysis of continuing or proposed regulation. With the dramatic changes that have recently taken place in government regulation in the U.S., it is particularly important that Congress and the Executive Branch review periodically and thoroughly those regulatory functions to see if a regulation's overall benefits still exceed the costs.

In the Executive Branch, zero-base budgeting is now being implemented to provide this needed analysis. In the Congress, "sunset" legislation has been proposed to insure systematic assessment of Federal regulatory programs and laws. The sunset review would be conducted on a statutory timetable with each regulatory agency risking termination only if Congress does not act.

In essence, the zero-base budgeting and sunset approaches primarily are intended to improve the quality of the regulatory process by enhancing Executive and Congressional oversight, rather than mechanisms for termination of major regulatory functions of the government. However, reduced regulation in some areas should result from the more intensive oversight.

The Business Roundtable has already endorse the use of zero-base budgeting in the Executive Branch, and now wishes to go on record in support of S. 600, The Regulatory Reform Act of 1977, introduced by Senators Percy, Byrd and Ribicoff with many cosponsors. That legislation requires the President to submit a reform plan to Congress every two years for an eight-year period, according to a set schedule. Along with each plan, the President would report on the cumulative impact of all the Government regulatory activity on specific industry groupings which had been reviewed. The plans will also include recommendations to improve regulatory performance.

We consider the principles and concepts of S. 600 to be a reasonable and workable approach to improving the quality of governmental regulation. We recognize, of course, that any proposals for change in the principles and quantity of federal regulation necessarily involve conflicts between different groups depending upon which regulatory areas are examined and which specific proposals are presented for consideration. S. 600 in no way decides these fundamental issues; it does however significantly increase the probability that the issues will be presented for decision in a rational manner on an assured timetable. It likewise provides Congress with the analytical base from which to answer the crucial policy questions.

In our opinion, the time schedule and the workload contemplated by S. 600 are more realistic than those contained in other sunset legislation. While we endorse coordinated and systematic reviews of virtually all Federal programs, we think the Congress should approach the "sunset" concept on a pilot-test basis enacting S. 600 promptly, expanding the coverage to other areas of the government later, when and if the sunset methodology is proven.

We prefer S. 600 because we share the hope expressed by others that it will provide the time required for the Executive Branch to furnish Congress with the analyses and data that would be necessary for effective decision-making and for Congress and its committees to digest and act upon the decision packages presented. A shorter timetable or a broader scope would overload the system and Congress would be forced to reenact or eliminate underlying laws without being able to give them extensive examination. As a result, the value and credibility of the sunset procedure would be severely damaged.

It is our hope and belief that the successful application of "sunset" in the regulatory area will lay the groundwork for extension of the concept to many other areas of the government as proposed in S. 2. Indeed, we feel that the lessons learned under S. 600 will make "sunset" a more effective tool when it is applied government-wide.

In addition, we feel that S. 600 takes the right approach by not establishing a reauthorization schedule for all so-called "tax expenditures," as in S. 2. As Treasury Secretary Blumenthal pointed out in March to this Subcommittee, "tax expenditures" is not a clearly defined concept. Furthermore, he said:

"Tax expenditures do not lend themselves to automatic expirations in the same way as a conventional budget outlay . . . beneficiaries are often not specifically identifia-

ble . . . Repeal or revision could usually create unique complications and difficulties which require study and solution to avoid unintended economic effects."

A provision calling for automatic termination of all or nearly all deductions, exclusions and credits in the tax code would create a vast amount of uncertainty that would be bound to have detrimental economic effects. Both individuals and corporations plan their spending based on anticipated income, and it is an unarguable fact that expectations regarding taxes exercise a profound influence on spending patterns. By requiring a positive action of the Congress to confirm existing deductions, exclusions and credits, uncertainty would be created and thus cause considerable disruption to the economy as a whole as well as to the plans of individual and business taxpayers.

The Business Roundtable supports tax simplification and reform both for individuals and businesses. We believe the way to do this, however, is by the submission of proposals to the House Ways and Means Committee and Senate Finance Committee for orderly consideration in the normal manner.

In summary, the Business Roundtable supports S. 600 for the following reasons:

(1) It embodies the sunset concept which should prevent continuation of any programs which have outlived their usefulness,

(2) The bill essentially proposes a pilot test of the sunset approach rather than government-wide application as proposed in other legislation, thus giving it a fair chance to be implemented successfully,

(3) The eight year timetable for agency review does not begin for two years giving the affected agencies time to prepare for implementation,

(4) The examination of the regulatory agencies called for in S. 600 offers an opportunity to have relatively prompt impact on operations and policies that directly affect the private sector and the economic interests of individual citizens.

Systematic review of the regulatory agencies on a periodic basis is essential to the sound operation of the regulatory process. The thoughtful implementation of this review as embodied in the Regulatory Reform Act of 1977 deserves and has our support.

If we can be of any assistance to the committee on this legislation, we would welcome the opportunity.

LIVING IN THE AGE OF SHORTAGES

Mr. NUNN. Mr. President, Lt. Col. Peter Burrows made an excellent patriotic speech recently to the Atlanta Chapter of the Military Order of the World Wars. In my opinion, this fine address is worthy of a careful review by every Member of Congress and I ask that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

LIVING IN THE AGE OF SHORTAGES

(By Lt. Col. Peter Burrows)

Companion Commander, our Honored Guests, our lovely ladies, and my friends and fellow members of this great Order:

My message tonight is not necessarily a pleasant one initially. But like the family black sheep its reality must be faced, and we can no longer bury our heads in the sand like the proverbial ostrich.

It has seemed to me that in the last several years we have spent much time in studying and identifying those things that we feel are wrong about this Country of ours, and a very great deal of time and effort in then trying to remedy those things, and prescribe cures.

This reminds me, however, of the slogan and posters we all recall from World War II which counselled us to "Know Your Enemy." No more meaningful advice has ever been given, for if we really understand our enemy then we know how to effectively deal with him.

We are today dealing with an enemy in our midst which is more insidious and potentially dangerous than any we have ever confronted face to face, because this enemy is invisible, cannot be touched, is growing all the time, and it is something we all psychologically put out of our minds because we cannot stand to acknowledge its presence. I am not talking this time about any political philosophy, but an actual physical fact; one which we must each and all face up to with courage, recognizing its existence and making adjustments to it, or we will assuredly lose all of the freedoms we hold so dear and fought for so long and valiantly. That this can be successfully done is evidenced in many other Nations around the Globe. But for us to combat this enemy will absolutely require certain changes in our own attitudes, and all of us will be better human beings for having done so.

We have already entered a new Age or Era in the history of our Country, many of us without even recognizing it, and the puzzling and distressing changes in manners and morals of sections of our people in the last several years is the direct result of this enemy within. It is only when we make the people of this Nation understand and accept what has happened and is happening, that we will turn many antisocial behavior patterns around, and in doing so create a new sense of brotherhood among our people—something we must all admit is desperately needed if we are to survive as a Nation of free men and women.

The United States of America, together with its great neighbor to the North, Canada, are both very young Nations. Both grew out of geographical areas of enormous natural riches, and they were not created as in the case of some of our neighbors to the South, by rampaging invading armies whose primary objective was to loot the lands they temporarily occupied and send all the riches back to their European monarchs.

Our lovely song, "America the Beautiful", best exemplifies what I am saying. Think of its words (which some psychologists would speak of now as an escape mechanism) which make us feel so good inside when we hear them that many want it to be our National Anthem. They speak of the "fruited plains" of America, its "amber fields of grain", and of God shedding His Grace over all. This plenty is the source of the greatness of this Nation and its people, but it has also spoiled them rotten, and unless they wake up from their sense of false euphoria it may well be their downfall. And this is why we must take a hard objective look at ourselves and face up to realities and facts before our delusions wreck us.

Our national philosophies date back a long way to their origins. Our pioneers and early colonizers mostly came from deprived and poor areas and societies of Europe, and while they responded to advertising that would make the Florida swamp-land promoters of the first half of this century cringe the promises of a horse for every family and several acres all of their own to till and reap were often not too far off for those willing to work for them, and who could never expect such a thing in their native lands. And, for those who came here and then found the local government's rules too repressive even for their liking, all they had to do was move on farther into the wilderness and the riches were once again all there, just for the taking.

Where in Europe could there have been an Oklahoma Land Rush, or a California Gold Rush? It is little wonder then that these Christian forebears of ours looked upon this lush land as being God-given and to equate the fruits of one's labor and ingenuity with the Deity, and consider this to be "God's Country." And in this land of freedom and initiative and plenty, as nowhere else on Earth. These philosophies of gratitude to the Divine were passed down from one generation to the next. And even as late as World War II the biggest complaint of the Europeans, who for hundreds of years had known how to get along with less, and referring to the cocky and smug Americans among them, was that we were "overpaid, overdecorated, oversexed, and over here." And the Americans, revelling in being "better" because they had more, loved it.

But where World War II took its horrible bloody toll in the male citizenry and the city dwelling people of Europe, it almost unnoticed started our own social problems here at home, fostered by our habits of wastefulness that grew out of having a plethora of everything. We have almost forgotten the rationing of our civilian supplies during the World Wars, passing it off as having been due to military needs and the supplying of our Allies, but it was the first, and ignored, symptom.

By the end of World War I there was no real frontier to conquer as it had been known in the 1800s, but the public frame of mind remained, and it had been handed down from the past with all the Horatio Alger philosophy. We gave our children college educations, because the past taught us this was the road to wealth (equated as "success"), but suddenly there were no jobs for them to "succeed" in, if I may again use the word, and the cynicism of a younger generation began, the distrust of the words of promise of their elders, to the point we now even have a movie circulating at the present called "Lies My Father Told Me."

With this automatically came a disrespect for anything or any person in a position of traditional authority, police, military, teachers, and government in general. And the problem has grown and is growing in geometrical proportions. We no longer have the "God-given" plenty, and the frustration of our traditional expectation of having everything has created an unconscious feeling of abandonment and Godlessness in our younger people, who can only analyze not having a Cadillac like Dad had as somehow due to the bad and wasteful habits of the older generation. It is easier to blame them, and riot, than to accept the fact that the inevitable is upon us. We are in the Age of Shortages very suddenly, a condition most of the rest of the World has known and more or less accepted through most of recent history, except that it has hit us suddenly as our land has filled up and the per capita native natural resources of many raw materials and commodities are running low or running out.

It is this hard fact that we must face up to, distasteful as it may be, since it has largely occurred rapidly and in our own generation, and which we must react to positively *and now!* It frankly calls for a thorough rebirth of many Christian ideals. Think back on our recent gasoline shortages and the wild scrambles in the gas station lines to be sure that "I got mine" and if someone else does without, then "that's tough." Can anyone here say that he is totally innocent?

Think back to the remedies proposed to "alleviate" the gasoline shortages and the escalations of costs of living. Then consider that before we shuffle off this mortal coil it is very likely that there will be other shortages, and other "remedies" considered, if not actually imposed upon us. Government interventions, rationalized as proper functions in the interests of the people as a whole during wartime, but put up with then for nationalistic purposes and "to win the

war", could easily lead to the loss of many other things we now look upon as part of our freedoms, because new repressive laws and enforcement bodies will be required to carry them out. And then such controls tend to excite deliberate violations by some, with attendant reactive further controls or penalties, in a snowballing effect.

Whether or not we as a people can mentally accept a sharing of things in short supply, enforced or voluntary, and peaceably, or whether they will be jammed down our throats by dictatorial government edicts as the result of some kind of revolution, will be decided basically by our own approach to this new and different world we are inevitably moving into. It will require some serious changes of habit, but they will not be all bad. When a 180 pound man can complain bitterly because he is unable to climb into his 4000 pound automobile and drive six blocks to the neighborhood grocery store for a one-pound loaf of bread it is time to take a hard look at our real sense of priorities. He should have the mental maturity to acknowledge that it will do him more good to walk or ride a bicycle than to waste all of that energy and material for something so relatively insignificant.

We, you and I, are going to have to reevaluate many things. I submit that it will help all of us to get out from in front of the TV set and turn it off to save electricity, and instead go down to the park or out into the front yard and improve our minds by exchanging ideas with others. A lost art that we are ourselves to blame for. A little such closeness with others can help share troubles and regain the unity this Country once took so much pride in. The well-known cornerstore cracker-barrel gossip center may be gone in most of our areas, but its need exists now more than ever.

If we are to assure keeping of freedoms in the face of adversities we cannot help, then a new sense of tangible experience and personal contact, of sharing ideas, of national unity and purpose is absolutely essential. It is far more a requisite to combat this unseen enemy within than it ever was to carry on a shooting war with a visible armed enemy from without. And it is far tougher in view of the history of this Nation because we will have to not only accept a leaner and lesser existence ourselves, but educate the rest of those around us on why they must all do so, contrary to everything they have been trained to accept from life in these United States, but which is now an unavoidable reality.

Our political leaders must be those who clearly recognize that wasteful consumption will lead to far harsher end-consequences than present moderation, and therefore necessarily be men who know they cannot please everyone. A new sense of self-discipline must infuse the populace as a whole, or of necessity we will all have disciplines enforced upon us in order merely to survive. Civil liberties and the right to gobble up our resources willy-nilly are *not* the same thing. To do nothing now is to surrender to a fate we cannot abide. We are in the Age of Scarcities now, along with the rest of the World, and we either face up to it and accept it squarely, with all of its consequences, or as some famous historians of the past have predicted, we will perish as a nation of freedom through the very institutions and life styles which we have ourselves created.

I submit to you, as the leaders in your communities, that you have a message to broadcast, a message within the vital principles of this Order and for the preservation of this Nation. It is an unpleasant message perhaps, and initially unpopular to many people, but an awakening must take place. Let me never again hear of "preaching to the choir" in this Order of ours. You are *not* the choir. You are instead the leaders of men and the shapers of the minds of others, and hence of the future of this Country. We are at war with our worst enemy ever, ourselves and our attitudes. But this is one war we can win with words and without ever firing a shot. We must go from here and start thinking more of the Nation as a whole and the needs of its people than what movie to see tonight, and in this political year we must lend all support possible to those who have the honesty to say they will do the same, and who are realistic enough to speak no more of a land of milk and honey. The American Dream is not dead or dying. It has just been badly misdirected. It can no longer be thought of as a $200,000 mansion with a Cadillac for every member of the family, and a fine set of stomach ulcers to go with it, but rather the attaining of a peace of mind and internal contentment; a satisfaction with what one has and can reasonably expect to have, and not the envy of the material things others may have—the "keeping up with the—Joneses—and going them one better".

I say to you that one of the best ways we can attain this peace of mind is to help others to have the same goals and purposes. And isn't this basically what real Christianity teaches us anyway? As they say on the football fields: "It is time to go back to fundamentals." It is certainly something to think about.

PART II—PUBLIC OPINION: CRUCIAL ELEMENT IN CONGRESSIONAL LEGISLATIVE DECISIONS

Mr. HUMPHREY. Mr. President, last Wednesday the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee demonstrated the possibilities of a relatively new technique to give Congress a better understanding of what the public wants and how it will respond to proposed policies and programs.

The subcommittee, of which I am cochairman, held a hearing at which representatives of five nationally prominent polling organizations testified on a range of subjects to provide a better understanding of public opinion, attitudes, and expectations concerning Government and the economy.

The hearing, the second one in 2 years held by the subcommittee, provided what I consider to be highly interesting and useful information as to how the people are responding to the Nation's energy crisis and the administration's proposals to meet it, the levels of public esteem for the administration, Congress, business and labor leadership, and anticipated consumer spending patterns.

Out of this came a composite picture of people willing to sacrifice even more than has been asked of them to conserve energy so long as they feel they are being treated equitably, a public which thinks present proposals to bring us closer to energy independence are inadequate, consumers who are inclined to buy now to avoid higher prices later but who anticipate future wage gains will be eaten away by inflation, and a public which thinks wage and price controls should be implemented if inflation reaches double digit figures again.

Mr. President, yesterday, at my request, the statements of two of the five witnesses, namely those of Louis Harris of Louis Harris and Associates; and Arthur H. White of Yankelovich, Skelly & White, were printed in the RECORD. Today I will summarize the statements of the remaining three witnesses, Jay Schmiedeskamp, vice president, the Gallup Organization; Richard Baxter, vice president, the Roper Organization; and Richard Curtin, director, Surveys of Consumer Attitudes, Institute of Social Research, University of Michigan, and request that the texts of their prepared remarks also be printed in the RECORD.

SUMMARY OF STATEMENT BY MR. JAY SCHMIEDESKAMP

Many Americans are poorly informed about the Nation's energy problems, a fact that will take more than a single Presidential speech to be changed. Even after the President's speech only 52 percent of the public knew that America must import oil to meet its energy needs.

The one thing people clearly understand about the energy situation is that energy prices are likely to go up. In the minds of many people, higher energy prices are the energy problem. Many people are puzzled when the President and Congress discuss solving energy problems in terms of rising energy prices, proposals which the public sees as directly contributing to inflation.

A crash program to educate the public to the dimensions of the energy problem is urgently needed.

Due to higher energy prices, anticipated increases in taxes, interest rates, and other costs, inflationary expectations increased from 22 percent in January to 38 percent in April. Concern about future inflation has become intense. People believe they should buy now. The outlook for consumer spending remains favorable but there are signs that the buy-in-advance psychology may soon diminish.

It should be a top priority of Government policy to avoid fulfilling consumers' adverse expectations regarding inflation.

Concerning the levels of esteem with which the public holds the administration and Congress, 64 percent of the public approved the way President Carter is handling his job, and 40 percent registered approval of the performance of Congress in May.

SUMMARY OF STATEMENT BY MR. RICHARD BAXTER

Over half the Nation expects 1977 to be a better year than the previous 12 months. This improved outlook exists for the first time since 1973 when the Roper Organization began polling public expectations on this subject.

In February, 40 percent of those polled believed the country was generally headed in the right direction, twice the percentage that felt this way during the past 3 years.

By percentages of 41 and 42 percent, Republicans as well as Democrats feel a new sense of national purpose.

Currently, 70 percent of those polled now call our political system basically sound, compared to 50 percent 3 years ago. This reflects rising confidence in the Nation's political leaders. Seventy-seven percent indicated great or fair confidence in our political leaders, an increase of 26 percent since 1975.

Nearly two-thirds of the public think the Nation's business and industrial systems are sound.

Crime and lawlessness in the streets is the immediate, personal, and primary

concern of the public, followed by the need to increase the Nation's energy supply.

Inflation overrides concern about unemployment. Of those surveyed, 53 percent would concentrate on stemming inflation, 31 percent would increase spending to stimulate the economy. However, despite the public's stated desire for Government economy, there is substantial criticism to the effect that not enough money is being expended on a long list of public programs.

Strong resentment continues to be expressed concerning foreign aid spending, although concern about this issue has declined from last year. The public's second spending concern is aimed at welfare and the third is the space program.

Since the President's energy address more people believe that the energy shortage is very real and will get worse. For the first time these people out number those who think energy is a phony issue. By a margin of 47 to 39 percent, the public approves the proposed gas guzzler tax. All the President's major energy proposals are approved by the majority except for the standby 5 cents a gallon gasoline tax.

In addition to tax reform and development of a national energy policy, the public wants Congress to make a major effort in the areas of solving ghetto and poverty problems, establishing additional consumer product protection controls and overhauling social security.

The people do not want the Government owning or operating anything in the private sector. This includes establishment of Government-owned oil companies.

SUMMARY OF STATEMENT BY MR. RICHARD CURTAIN

The May survey of consumer attitudes indicates consumer confidence is now at its highest level since 1972, 89.1, a gain of 30 index points since 1975.

In May, 37 percent of all respondents reported they were financially better off than a year ago, 29 percent said they were worse off, and the remainder saw no difference. This nets out to a significant gain over 1976. However, consumers expected less improvement in the future.

Last month there were far fewer respondents who mentioned factors associated with the Carter administration as reasons for expecting business conditions to improve during the next 12 months. In May, 1 in 20 mentioned the administration in this connection, compared to 1 in 10 in February, indicating the "honeymoon" is over.

At present, 27 percent of all families expect good times in the country as a whole during the next 5 years, while 35 percent expect bad times. Most frequently mentioned concerns include the continuing problem of inflation which the public feels will result in a price advance of 5 percent or more during the next 12 months. Inflation, in the view of 61 percent of those polled, will cause more serious economic hardship than unemployment. Unemployment was the top concern of 30 percent of those surveyed. Expectations of increased unemployment were shared by 16 percent of the people, the lowest percentage since 1972.

President Carter's energy program received support from 58 percent of the people. Although 30 percent felt that the energy program would have an unfavorable effect on business during the next 12 months, a clear majority nevertheless thought that it would have a beneficial effect during the next 3 to 5 years.

Mr. President, I ask unanimous consent to have the statements of Mr. Schmiedeskamp, Baxter, and Curtain printed in their entirety in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. JAY SCHMIEDSKAMP

In my prepared remarks, I would like to address just 4 issues:

(1) consumer reaction to the energy situation

(2) the strong rise in inflationary expectations this spring—and its causes.

(3) the strong buy-in-advance psychology which has accompanied this increase in inflationary expectations

(4) the crucial role of government policy at present

I. The single most important fact to understand about the energy situation is that many Americans are very poorly informed about the dimensions of the problem, and it takes more than a speech—even a "sky is falling" speech—to change that basic fact. For example, a Gallup Poll taken in late April, after the President's energy message, asked the American people the following question.

"From what you have heard or read, do you think we produce enough oil in this country to meet our present energy needs, or do we have to import some oil from other countries?"

It is shocking but true that only 52 percent of the public knew that America must import oil to meet its present energy needs.

A poll taken in April, before the President spoke, showed 81 percent believing that the energy situation was at best "fairly serious", but clearly these ideas are rather vague for many people, except from the standpoint of inflation.

The one thing that people understand clearly about the energy situation is that energy prices are likely to go up. Both before and after the President spoke, consumers expected energy prices to rise more quickly than other prices.

It is not too much of an exaggeration to say that in the minds of many people higher energy prices are the energy problem. People think that is what it is all about. Therefore, when the President or Congress talks about solving the energy problem by raising energy prices, many people are simply baffled. Is it any solution to the problem of inflation to raise prices?

Thus, when people were asked in May if they favored raising the federal tax on gasoline, only 14 percent said "yes". And yet when people were asked whether the energy problem is so serious in this country that we need to take stronger measures than the President has proposed, or is the problem not so serious so that the President's proposals go farther than needed, the results serve as follows:

	Percent
Need to take stronger measures	34
Proposals about right	25
Go further than needed	29
Government know	12
	100

Clearly, people want strong action to solve the problem, just so long as high energy prices or increased energy talks can be avoided. Because high prices and/or taxes *are* the problem in the popular view.

Equally clearly, a crash program to educate the public to the true dimensions of the energy problem is urgently needed. The oil industry has not met that responsibility. The government has not met that responsibility. Who else is there?

II. Inflationary expectations increased very substantially between January and April this year. The proportion expecting the rate of inflation to get worse increased from 22 percent in January to 38 percent in April.

Why? There were really four reasons:

(1) Increased awareness of the energy problem, helped along by the gas shortage last winter, tended to increase expectations of inflation for reasons already discussed.

(2) The actual rate of inflation in consumer prices so far this year is nearly equal to the rise for all of last year. Present expense influences expectations for the future.

(3) The proportion of consumers expecting the taxes they pay to go up increased from 40 percent in January to 54 percent in April.

(4) The proportion of consumers expecting interest rates to go up increased from 35 percent in January to 49 percent in April.

With regard to these last two points, it should be understood that from the consumer's vantage point, taxes (the price of Government) and interest rates (the price of borrowing money) are just as much components of inflation as are any other prices which go up. When taxes are expected to rise, or when interest rates are expected to rise, that has the same kind of impact on inflationary expectations as when, for example, meat prices are expected to rise.

The notion that the causation may also run in the other direction, with higher rates of inflation causing higher expectations of interest rates, because of the notion that lenders insist on receiving some real rate of interest after allowing for inflation, does not have much validity for the average consumer. Most ordinary people, when they think of interest rates, think in terms of borrowing, not lending, and they dislike anything which makes it more difficult or expensive to borrow.

The data from the Gallup Economic Service make it possible to calculate that between one-fifth and one-sixth of the increase in inflationary expectations between January and April can be attributed to increased expectations of higher interest rates. (I have a brief description of that calculation for submission for the record.)

III. The climate was ideal this spring for the development of a "buy-in-advance" psychology according to which consumers believe that they should buy now rather than wait until prices go up. The January, February, and March surveys at Gallup showed that to a great extent people had become habituated or accustomed to higher prices. Concern with inflation that had already occurred was not intense.

On the other hand, as discussed already, concern with future inflation became quite intense. And so people believed that one should buy now (when prices were seen as fairly reasonable).

As a result of the buy-in-advance psychology, the increased inflationary expectations did not have too much effect on consumer spending this year, except for housing when the buy-in-advance has been especially pronounced. In general, the buy-in-advance psychology has stimulated spending by about as much as spending has been held back due to the decline in economic expectations caused by the increased inflationary expectations.

Therefore, the basic outlook for consumer spending, in the short run, has not been much affected by changes in attitudes toward inflation and toward the economy. The outlook remains favorable, as it has been consistently in each monthly report of the Gallup Economic Service since it began last November.

There are now some signs that the buy-in-advance psychology may soon diminish which

would make for a somewhat slower, but still satisfactory, growth in consumer spending this fall.

IV. One important conclusion drawn from recent Gallup surveys is that the current pessimistic consumer expectations about prices, about interest rates, and about the economy, may not have much impact on consumer spending, under current circumstances, unless those pessimistic expectations should be fulfilled by actual substantial rises in prices, interest rates, or unemployment this fall. Since the economy is now strongly in an expansion phase, a rise in unemployment seems unlikely A rise in prices or interest rates would seem to be very possible, however.

My point is simply this: If consumers see adverse developments on the price or interest rate fronts, those developments can be expected to have an unusually large adverse impact on both consumer confidence and consumer spending. It is a well-established psychological principle that if an adverse development is expected, then there will be a greater reaction when the first signs of that development are perceived.

To summarize: The outlook for consumer spending remains favorable, as it has for many months. The current combination of a high level of willingness to buy, combined with conservative and pessimistic expectations about the future, is ideal. Consumer spending should continue to grow, but at a somewhat lower pace, and that is desirable. Savings flows should continue heavy into savings institutions, and that is desirable. There is a good chance of achieving sustainable growth in the economy well into 1978.

That is the outlook. But the main message of recent surveys is that the odds have increased that this rosy outlook can be upset by rising inflation or rising interest rates. Increased consumer sensitivity to these things should make it a top priority of government policy to avoid fulfilling consumers' adverse expectations in these areas.

V. As a final note, I would like to urge upon you, as I have many times before, the importance of improving consumer confidence in government, the lack of which has greatly hampered the effectiveness of the government's economic policies in recent years. In that connection, perhaps it is appropriate to note in these halls of Congress that according to a Gallup Poll in late May, 64 percent of Americans approved of the way President Carter is handling his job, but only 40 percent said they approved of the job performance of Congress. The ball would seem to be in your court, gentlemen.

STATEMENT OF RICHARD BAXTER

First, a few notes on the mood of the country. At the end of last year, Americans felt better, personally, about the year they'd just been through than they had for some time (see Table 1, appended). And, for 1977, personal expectations before the year began were on the rise. For the first time since we began asking the question in 1973, over half the nation expected this year to be a better year for them. Personal optimism was up a full 18 percentage points over the depressed—or at least recessed—year of 1974 (see Table 2).

And, 1977 was thought by the public to be a year of great hope for the nation, as well as for personal expectations. Optimism was up 9 points from the year before, and showed a dramatic mood change since the pessimistic years of 1973 and 1974 (see Table 3).

After this auspicious look ahead by the public at the year we're now in, what has happened?

In a burst of newly gained national confidence, by February four in 10 Americans believed that things in this country were generally going in the right direction. This was over twice as many feeling that optimistic as was true during the past three years (see Table 4).

Although a somewhat larger group of over four in 10 retained the conviction that things have pretty seriously gotten off on the wrong track, their numbers had shrunk drastically from the seven in 10 who expressed national discouragement in 1973, '74, and '75.

This new sense of national direction was felt by most subgroups in the population. Although public response to the new Democratic President and his Administration was certainly an important factor in the shift, Republicans (41% of them) as well as Democrats (42%) felt a new sense of national purpose.

By the end of March, the public's optimistic mood extended to the marketplace. More Americans said that "now" is a good time to buy the things they want and need than at any time since the measurements began in November 1973 (see Table 5).

The latest issue of ROPER REPORTS continues to show the optimistic economic mood of the country. The trend measurement on what things people have done in the last month contains ten items that are reflective of consumer spending. Eight of the ten show increases in consumer spending since a year ago, two are unchanged, none show declines. Moreover, the percentages who have deposited money in a checking account or in a savings account, or who have withdrawn money from a savings account—all indications of economic activity—are up from a year ago (see Table 6).

As of March, 24 percent of households had had some kind of employment cutback in the last six months, down from 32 percent a year ago, and down from 38 percent two years ago. We're talking about things like someone in the family losing his or her job, temporary layoffs, pay cuts, reductions in overtime. This drop from 38 percent to 32 percent to 24 percent reporting a reduction in employment means that the households suffering job blows has shrunk by one-quarter since last year, and by over a third from two years ago, a significant economic shift (see Table 7).

In another evidence of restoration of faith, 70 percent now call our political system basically sound. This contrasts with only 50 percent willing to bet on our political system three years ago, though the consensus is that it needs some improvement (see Table 8).

Confidence in the nation's political leaders has risen sharply since 1975. Although only a little over half the electorate voted last fall for the man who is now President, those expressing "great" or "fair" confidence in the nation's political leaders is an impressive 77 percent today—up a dramatic 26 percent from 1975 (see Table 9).

Nearly two-thirds of the public think that our system of business and industry is essentially sound, and confidence in the system has risen 3 points since 1974 (see Table 8).

Confidence in business leaders has also risen a noticeable 10 points. Two years ago 62 percent expressed "great" or "fair" confidence in the ability of business leaders to make real contributions to our society. Currently 72 percent have a positive sense of their capacity for making a social contribution (see Table 9).

However, it is not all up. Confidence in our system of organized labor has dropped. This year only 39 percent call that system basically sound (with room for improvement), contrasted with 52 percent expressing confidence in organized labor in 1974 (see Table 8).

Labor leaders, the low men on the leadership pole two years ago, have slipped even further. Just under half the public have some degree of confidence in labor leaders' ability to make a social contribution; just over half lack that confidence in them (see Table 9). But, all in all, Americans are feeling better about our institutions than they were in recent years.

While things are better, what are the public's concerns?

Earlier this year we asked a national sample to assess the relative importance of various personal problems, and national issues. Respondents were given a list of eleven problems—some of them personal, some social. We asked them to tell us which were of real concern to them, or something of a concern, or something they're not concerned about. Overall, personal concerns strongly overshadowed national social issues. However, the top concern was with crime and lawlessness, a social issue that, for many, has very personal implications regarding the safety of the streets on which they live. 73 percent named it (see Table 10).

The second concern—cited by 69 percent—was with one's children's future, a very personal concern which also implies questions about the future of the society in which they will live.

Nearly two-thirds of the public called the health of other family members a major concern. Another major worry is economic; 6 in 10 call the amount of money they have to live on a real concern.

This raises the broader question of which is people's larger fear as a national problem—inflation or unemployment. We asked the public to choose between two different remedies for the country's economic problems. Was the recession caused by inflation and excessive government spending, and is the solution to cut government spending and check inflation? Or are our economic problems due to high unemployment and lack of purchasing power, and should government spending be increased to stimulate the economy? With this either-or-choice, there is a clear public preference: for fighting inflation with government economy. 53 percent would concentrate on stemming inflation; only 31 percent would increase spending to stimulate the economy (see Table 11).

At the close of each year for the last four years we have asked people whether they think we, as a country, are spending too much money, too little, or about the right amount on each of 12 national problems or programs.

On most problems facing the nation, the public expresses various degrees of discontent with funds now being spent. But most of the time, despite the public's desire for government economy, the criticism is that not enough money is being expended (see Table 12).

The two areas of greatest concern are halting the rising crime rate and increasing the nation's energy supply, both up from 1976. Majorities also want more funds spent on dealing with drug addiction, bettering the nation's health, and improving the environment. Large minorities also think more should be spent on improving the nation's education system, improving public transportation, and solving big city problems.

Strongest resentment continues to be expressed about spending for foreign aid, although fewer want cutbacks in this area than last year. The second spending bugaboo is welfare, which has picked up some critics in the last year. And although fewer this year would cut the space budget, it remains the third major candidate for cutback.

The one shift in public sentiment which goes against the current general attitudes on spending is the rise in protest against welfare spending levels.

Let's look at the energy issue—which had the second highest priority of 12, in the public's view (next to crime).

Going back to October, 1973, as the gasoline shortage approached, people saw the shortage as contrived rather than real by better than a four to one ratio. Anticipating some things that might be done to relieve the energy shortage, we asked at that time about a whole list of energy-increasing or

energy-conserving measures—many of which later found their way into President Carter's energy message.

Between late 1973 and early 1977 there was some increase in both the percentages who felt we faced a real energy problem, and in the acceptance of these and other energy coping measures. Nevertheless, sentiment as of early this year was that the energy shortage is a phony. Accordingly, most energy conserving or increasing measures were opposed (see Table 13).

All that has changed since President Carter's energy address. For the first time more people believe that the energy shortage is "very real" and "will get worse" than believe it is "contrived". Moreover, the same three energy coping measures that trailed the list in late 1973, are now widely approved since Carter proposed them. The gas guzzler tax, rejected three to one in 1973, is now approved 47–39—by the public, if not the House Ways and Means Committee. The appliance efficiency tax, rejected six to one then, is now approved by 51–35. Peak hour/off hour electricity metering, rejected better than six to one, is now approved by better than two to one (see Table 14).

In fact, all of the President's major proposals are more approved than disapproved, except for his standby 5¢ a gallon gasoline tax and removing price controls on oil and gas at the wellhead.

About a year ago we asked the public for each of six issues whether the issue was something they wanted the Congress to give major attention to, or that there were other things more important for Congress to attend to. Of those six issues, two topped the list, both in desire for major attention and in people wanting their Senator or Congressman to vote for it—tax reform and development of a national energy policy. 75% of the public wanted major Congressional attention to tax reform, and 80% said they'd vote for it (see Table 15).

At this point I can't tell you much about what the public means by "tax reform", but within the next couple of months H&R Block will be publicly releasing a major survey we have conducted on their behalf. It is on the public's views as to what's right and wrong with our income tax system. This study specifically deals with a number of issues related to tax reform.

Incidentally, a little over half (53%) of the public feel that President Carter was right in dropping the proposed $50 income tax rebate, while 34% felt he should not have dropped it (see Table 16).

Finally, what do people see as a desirable role of government regarding the economy and business activities? Here are areas in which the public wants major Federal Government efforts in the economic arena: slowing down inflation, developing new energy sources and conserving fuel, solving problems caused by ghettos and poverty, establishing more controls to protect consumers on products and services (particularly in such areas as advertising of consumer goods and the safety of prescription drugs), and overhauling and updating the Social Security Program (see Tables 17, 18 and 19).

While Americans believe in the soundness of our government system and our Government has enjoyed an increase in confidence (both in Congress' performance and in government leadership), there are some areas where the public does not want the Government involved. In general, you can say that people don't want the Government owning or operating anything. Keeping an eye on some business activities, yes, but not carrying out the activities. That's not in the American tradition. For example, we asked for each of four industries—what the best way is to get good quality products or services at reasonable prices. Only 6% to 10% of the public wanted a government-run company to compete with the private companies in those industries. Only 3% to 10% would have the government take over and run the whole industry (see Table 20).

In another survey, at the height of the gasoline shortage, two-thirds of Americans rejected the idea of establishing a government-owned oil company to compete with private companies, angry as they were at the oil industry. Only 11% liked the idea of government representatives sitting on the oil companies' boards of directors (See Table 21). And we have supporting evidence from other ROPER REPORTS surveys that most people are not interested in having government representatives on company boards of directors.

TABLE 1

Q. 1976 is drawing to a close. What kind of year has it been for you—very good, fairly good, not so good, or not at all good?

[In percent]

	December				October 1971 TRO [1]
	1976	1975	1974	1973	
Very good	27	24	20	22	24
Fairly good	51	55	54	58	55
Not so good	13	12	16	12	14
Not at all good	8	10	9	7	6
Don't know	1	1		1	1

[1] From studies sponsored by the Roper organization prior to Roper Reports.

TABLE 2

Q. Do you expect 1977 to be a better year for you than 1976, about the same, or not as good as 1976?

[In percent]

	December				October 1971 TRO [1]
	1976	1975	1974	1973	
Better	52	47	34	35	46
About the same	37	41	39	36	41
Not as good	6	6	23	24	7
Don't know	5	6	5	5	6

[1] From studies sponsored by the Roper organization prior to Roper Reports.

TABLE 3

Q. Now, at the start of this interview I asked you what 1977 looks like to you in personal terms. Thinking about the country as a whole, what kind of year do you think 1977 will be for the nation—better than 1976, about the same, or not as good as 1976?

[In percent]

	December				October 1971 TRO [1]
	1976	1975	1974	1973	
Better	47	38	16	12	38
About the same	40	40	27	23	41
Not as good	10	17	51	62	12
Don't know	4	5	5	3	9

[1] From studies sponsored by the Roper Organization prior to Roper Reports.

TABLE 4

Q. Do you feel things in this country are generally going in the right direction today, or do you feel that things have pretty seriously gotten off on the wrong track?

[In percent]

	Feb.	October—		
	1977	1975	1974	1973
Right direction	41	19	15	16
Wrong track	44	71	75	74
Do not know	14	9	11	10

TABLE 5

Q. Considering both the availability and cost of things today, as well as your present financial circumstances, do you think now is a good time to buy things you want and need, or a good time to wait, or is it someplace in between?

[In percent]

	Mar. 1977	Nov. 1976	Mar. 1976	Apr. 1975	Feb. 1974
Now is a good time to buy	36	30	29	24	26
Now is a good time to wait	30	32	32	44	50
Someplace in between	31	34	36	28	21
Do not know	4	4	3	3	3

TABLE 6

Q. Now here is a list of a number of different things. (Card shown respondent) Would you read down that list and call off each one you personally have done in the last month?

[In percent]

	May 1977	Nov. 1976	May 1976	June 1975
a. Deposited money in a checking account	70	67	65	67
f. Brought clothes for yourself	58	52	51	58
b. Deposited money in a savings account	50	46	47	48
k. Had car serviced or repaired	45	39	34	41
g. Bought clothes for a child or teenager	44	40	36	42
i. Been to a doctor	37	33	37	39
c. Withdrawn money from a savings account	32	27	26	30
p. Bought a paperback book	31	28	25	27
j. Been to a dentist	20	18	19	24
r. Bought a popular record	18	16	15	17
q. Bought a hard cover book	15	16	12	14
e. Stayed at a motel or hotel	15	13	12	16
h. Been sick in bed so that you couldn't work	12	11	13	12
n. Had repairs made on a home appliance (washer, dryer, refrigerator, et cetera)	9	9	7	9
m. Had TV set repaired	8	8	8	9
o. Taken empty cans or bottles to a recycling center	8	7	6	8
l. Had minor car damage (scraped fender, dented bumper, etc.)	7	6	5	9
s. Bought a classical record	5	5	4	6
d. Rented a car (pleasure or business)	2	2	2	2
None	5	7	6	5
Don't know	1		1	1

TABLE 7

Q. There is much talk about how jobs are being affected by the current state of the economy. Have any of these things happened to anyone in your household in the last six months? (Card shown respondent)

[In percent]

	Mar. 1977	Mar. 1976	Feb 1975
b. Been laid off from work temporarily	8	10	13
c. Had overtime cut down or cut out	8	10	11
a. Lost his/her job	7	10	9
d. Been put on a reduced workweek (less than 5 normal length workdays per week)	3	4	7
g. If self-employed, gotten fewer contracts or work assignments	3	4	6
f. Had a pay cut	2	4	3
e. Been retired earlier than expected	2	2	1
None	72	67	61
Don't know	4	1	1

TABLE 8

Q. Now I'd like to ask you about four specific aspects of American life. Our political system, our system of administering justice, our system of business and industry, and our system of organized labor. First, our *political* system. Which of these descriptions do you feel best applies to our political system? (Card shown respondent)

Q. Which of the descriptions on the card do you feel best applies to our system of administering justice?

Q. Which of those descriptions do you feel best applies to our system of business and industry?

Q. And, which of those descriptions do you feel best applies to our system of organized labor?

[In percent]

	Political system		System of justice		System of business and industry		System of organized labor	
	February 1977	June 1974	February 1977	June 1974	February 1977	June 1974	February 1977	June 1974
a. Basically sound and essentially good	13	8	7	9	18	16	9	11
b. Basically sound but needs some improvement	57	42	39	41	47	46	30	41
c. Not too sound, needs many improvements	20	28	36	31	20	22	32	25
d. Basically unsound, needs fundamental overhauling	7	19	16	14	9	9	19	14
Don't know	3	3	3	4	7	7	10	9

TABLE 9

Q. So far as their ability to make real contributions to our society is concerned, would you say you have a great deal of confidence in this nation's political leaders, a fair amount of confidence, or not much confidence in them?

Q. How about our business leaders—do you have a great deal of confidence in their ability to make real contributions to our society, a fair amount of confidence, or not much confidence in them?

Q. And how about our leaders in the field of labor?

[In percent]

	Political leaders, February—		Business leaders, February—		Labor leaders, February—	
	1977	1975	1977	1975	1977	1975
Great confidence	18	6	14	10	6	7
Fair confidence	59	45	58	52	42	43
Not much confidence	19	45	23	32	42	42
Don't know	3	3	5	5	10	8

TABLE 10—(January 1977)

Q. Turning now to another subject. No matter how good a person's life happens to be, everyone has problems from time to time, or things they are concerned about. Here are some things people have told us they are concerned about. (Card shown respondent) Would you read down that list and then tell me for each one whether that happens to be a real concern of yours, or something of a concern, or something you're not concerned about? First "a". (Asked by letter only)

[In percent]

	A real concern	Something of a concern	Not concerned about	Don't know
e. Crime and lawlessness	73	23	3	
h. Your children's future	69	19	10	
d. The health of others in your family	64	24	10	
a. The amount of money you have to live on	60	28	11	
c. Your own health	55	26	18	1
f. How well you and your children get along	54	21	25	1
b. The way the courts are run	51	34	12	2
g. How well you and your spouse get along	51	19	28	
i. Getting into another war	51	29	18	1
j. How well you are doing in your job or career	51	27	22	
k. How interesting your own life is	42	31	25	1

Note: Items f, g, h, and j have been repercentaged on the base of those to whom the issues apply—have children, are married, are employed. Q. Do you happen to have any children or not? This question was used to verify the base for items f and h in the above question.

TABLE 11—(February 1977)

Q. We have been through a bad economic period in this country and we are still not out of it. Some people say inflation and excessive government spending were the causes of our recession, and that the only way to really cure our economic problems is to cut government spending and check inflation. Others say that our economic problems are due to high unemployment and lack of purchasing power, and that we must increase government spending to stimulate the economy. How do you feel—do you think the emphasis should be on economy and stemming inflation, or on spending and stimulating the economy?

	Percent
Economy and stemming inflation	53
Spending and stimulating economy	31
Do not know	16

TABLE 12

Q. Turning now to the business of the country—we are faced with many problems in this country, none of which can be solved easily or inexpensively. I'm going to name some of these problems, and for each one I'd like you to tell me whether you think we're spending too much money on it, too little money, or about the right amount. First, the space exploration program—are we spending too much, too little, or about the right amount on the space exploration program?

[In percent]

	December 1976				Answered "too much"			
	Too much	Too little	About right	Don't know	December 1975	December 1974	December 1973	October 1971[1]
i. Foreign aid	67	3	20	9	75	73	76	69
j. Welfare	59	13	21	7	53	49	48	52
a. The space exploration program	46	11	33	9	55	56	66	66
h. The military, armaments, and defense	22	22	44	12	27	32	32	34
d. Solving the problems of the big cities	18	40	24	17	20	10	10	10
b. Improving and protecting the environment	12	50	31	7	13	11	15	5
g. Improving the Nation's education system	10	48	35	7	8	8	9	9
k. Improving public transportation	10	42	36	13	8	7	7	(1)
c. Improving and protecting the Nation's health	7	55	31	6	6	5	5	4
f. Dealing with drug addiction	7	57	26	9	9	7	5	4
l. Increasing the Nation's energy supply	7	59	22	12	7	7	4	(1)
e. Halting the rising crime rate	5	71	18	6	7	5	5	4

[1] From studies sponsored by the Roper Organization prior to Roper Reports.

TABLE 13

Q. Here is a list of statements about the gasoline and oil shortage. (Card shown respondent) Which one of those statements comes closest to expressing your opinion?

[In percent]

	May 1977	Nov. 1976	June 1975	May 1974
a. There is a very real oil shortage and the problem will get worse during the next 5 to 10 yr	40	26	26	21
b. There is a real oil shortage but it will be solved in the next year or two	15	11	11	12
c. There was a short term problem, but it has been largely solved and there is no real problem any longer	6	8	7	8
d. There never was any real oil shortage—it was contrived for economic and political reasons	33	46	47	53
None	1	2	2	2
Don't know	5	8	7	4

TABLE 14—(May 1977)

Q. The plan calls mostly for steps to conserve energy in the immediate future, since President Carter has said energy conservation can be more quickly achieved than development of new energy sources. We'd like to ask you about the specific steps Carter has proposed. Here are the major steps he has proposed (Card shown respondent). Would you tell me for each one whether you think it is something that should be done, or something that should not be done? First, give the President authority to gradually raise the federal tax on a gallon of gasoline by 5¢ a year if Americans don't voluntarily cut back on their driving?

[In percent]

	Should be done	Should not be done	Have mixed feelings about (volume)	Do not know
Energy taxes:				
(c) Place a similar set of taxes on brands and types of major household appliances that fail to meet Government efficiency standards, with rebates or reductions for very efficient models	51	35	8	6
(b) Over time, place increasing taxes on models of automobiles according to their efficiency in use of gasoline, so as to lower the cost of models that are very efficient, and substantially increase the cost of those that are least efficient	47	39	10	5
(a) Give the President authority to gradually raise the Federal tax on a gallon of gasoline by 5 cents a year if Americans do not voluntarily cut back on their driving	34	52	10	4
Higher prices:				
(e) Order utility companies to change their rate structure over the next 2 yr to cut out discounts to heavier users	63	22	7	8
(d) Gradually raise ceilings on prices of crude fuel supplies (gas, oil, etc.) to get prices closer to the cost of replacing supplies	32	46	12	11
Efficiency incentives:				
(f) Offer tax deductions to homeowners and businessmen who add insulation, install better heating systems, or put in solar power	76	13	6	4
(g) Require utilities to offer customers an insulation plan that they can pay for over time on a monthly basis with their utility bills	70	18	6	6
(h) Require utility companies to establish higher peak hour rates and lower off-hour rates to that people will use less energy during peak hours	57	26	9	7
New energy sources:				
(j) Streamline the licensing and review procedures to that a nuclear powerplant can be approved and built in 3 to 4 yrs instead of 10 to 12 yrs	56	21	11	13
(i) Order large industrial and utility plants to convert from oil and gas to coal as a source of power	55	22	13	10

TABLE 15—(March 1976)

Q. Here are some things people have said Congress should be working on. (Card shown respondent) Obviously, one Congressman or one Senator can give major attention to only a limited number of problems. I'd like you to tell me for each of those things whether it is something you'd like to see your Congressman or Senator give major attention to, or whether you would rather have him devote his attention to more important things. First, the development of a national energy policy.

Q. Regardless of how much time he devotes to it, would you like to see him vote for or against the development of a national energy policy?

[In percent]

	Give major attention to	Rather he gave attention to more important things	Don't know	Want him to vote: For	Against	Don't know
e. Tax reform	75	14	11	80	5	15
a. The development of a national energy policy	74	18	8	81	4	15
d. A program to provide national health insurance for everyone	58	32	9	64	21	15
f. Stricter regulations on the way dangerous chemicals can be transported from one place in the country to another	57	33	11	73	10	17
b. A program to hire the unemployed in Government jobs	51	40	9	58	28	15
c. Stricter labeling regulations for food products	50	42	7	72	13	15

TABLE 16—(May 1977)

Q. President Carter had talked about a plan whereby most taxpayers would get a $50 rebate for themselves and each other person they claimed as a dependent. The argument for the rebate was that it would stimulate the economy. The argument against it was that it would increase inflation.

In early April President Carter announced he was not going through with the $50 rebate plan. Do you think he made the right decision, or the wrong decision when he abandoned the plan?

	Percent
Right decision	53
Wrong decision	34
Do not know	13

TABLE 17

Q. There are many problems facing our nation today. But at certain times some things are more important than others, and need more attention from our Federal Government than others. (Card shown respondent) I'd like to know for each of the things on this list whether you think it is something the government should be making a major effort on now, or something the government should be making some effort on now, or something not needing any particular government effort now. First, trying to slow down inflation in our economy.

[In percent]

	June 1976: Major effort	Some effort	Needs no particular effort now	Don't know	Major effort: June 1975	June 1974
a. Trying to slow down inflation in our economy	83	13	2	2	83	83
i. Trying to solve the problems of crime and drugs	83	12	3	2	82	(1)
j. Trying to develop new energy sources and find better ways to conserve fuel	77	17	2	3	81	(1)
d. Trying to seek agreements with other nations to limit nuclear weapons	62	26	7	5	58	56
h. Trying to solve the problems caused by ghettos, race, and poverty	60	29	8	3	59	60
f. Trying to establish more controls to protect consumers on the products and services they buy	59	30	7	3	62	58
e. Seeking ways to protect the privacy of individuals in our society	56	31	9	4	56	54
g. Trying to establish more controls on the way products and services can be advertised	41	39	16	5	43	38
c. Trying to improve relations between the United States and Russia	37	45	13	6	38	22
b. Trying to help negotiate a peace settlement between Israel and the Arab nations	30	41	21	9	35	36

[1] Not asked.

TABLE 18

Q. Now I'm going to name some things, and for each one would you tell me whether you think there is too much government regulation of it now, or not enough government regulation now, or about t he right amount of government regulation now? First, automobile safety.

[In percent]

	February 1977: Too much	Not enough	About right	Don't know	February: 1975, not enough	1974 not enough
b. Manufacture and sale of barbiturates	7	62	21	10	58	63
c. The honesty and accuracy of claims that are made by advertisers	6	60	26	8	60	60
e. The safety of prescription drugs	5	48	39	8	42	44
f. The price of oil and gas	24	47	21	9	(1)	(1)
d. The interest rates banks can charge for loans, mortgages, etc	17	31	38	14	37	34
a. Automobile safety	23	26	45	6	23	31

[1] Not asked.

Note: Items are ranked according to not enough regulation.

TABLE 19—(NOVEMBER 1977)

Q. Here are some different things being talked about in our country today. (Card shown respondent) Would you tell me for each one whether you think the Federal Government already has a plan for it, or is working on a plan for it, or has done nothing about it. First, a plan to provide national health insurance for all citizens.

Q. Now would you tell me for each of those things whether you think such a plan by the Federal Government is needed or not? First, a plan to provide national health insurance for all citizens.

[In percent]

	Government—				Plan is—			
	Has plan	Working on plan	Done nothing	Don't know	Needed	Not needed	Don't like idea (volunteer)	Don't know
d. A plan to switch over from feet, inches, and pounds to the metric system	32	45	5	18	33	35	20	12
b. A plan to conserve present energy sources and develop new energy sources so we will not be dependent on foreign countries for energy	15	55	16	14	90	2	----	7
a. A plan to provide national health insurance for all citizens	12	49	22	18	70	15	5	9
c. A plan to overhaul and update the social security program	12	41	25	22	85	4	1	10

Note: Items are ranked according to "has plan".

TABLE 20

Q. Here is a card listing 4 different views as to the best way for people to get good quality products at reasonable prices from various large industries in this country. (Card shown respondent) Which one would you agree with for the steel industry?

Q. With which would you agree for the automobile industry?

Q. With which for the oil industry?

Q. And with which for the chemical industry?

[In percent]

	Steel industry			Automobile industry			Oil industry			Chemical industry		
	1976	1975		1976	1975		1976	1975		1976	1975	
	Dec.	Dec.	May	Dec.	Dec.	May	Dec.	Dec.	May	Dec.	Dec.	May
The best way to get good quality products or services at reasonable prices would be:												
a. Break up the large companies into smaller ones	29	31	28	22	26	22	32	37	30	20	21	17
b. Have a Government-run company to compete with the private companies	6	5	6	6	7	7	10	10	10	6	5	6
c. Have the Government take over and run the whole industry	4	3	4	3	3	5	10	12	11	6	5	6
d. Keep the present system as it is	44	47	42	54	52	48	33	27	27	46	48	39
Don't know	17	13	21	15	12	19	16	15	22	23	20	32

TABLE 21—(February 1974)

Q. Which of these things, if any, do you think should be required by law of oil companies? (Card shown respondent)

	Percent
a. There should be government representatives on the boards of directors of each company	11
b. Oil companies should be required to conform to federal standards on prices and profits	37
c. They should be required to get U.S. government approval on major contracts they make with foreign countries	28
d. There should be consumer representatives on the boards of directors of each company	38
Do not know	15

Q. Another suggestion that has been made is that the government should set up and operate a government owned oil company that would operate in competition with the private oil companies. Do you think this is a good idea or not such a good idea?

	Percent
Good idea	23
Not good idea	64
Do not know	13

STATEMENT OF RICHARD T. CURTIN, DIRECTOR, SURVEYS OF CONSUMER ATTITUDES

IMPROVING ECONOMY MAINTAINS OPTIMISM

The just-completed May 1977 Survey of Consumer Attitudes indicates that consumer confidence continues to be maintained at a high overall level. The Index of Consumer Sentiment, a summary measure of trends in consumers' attitudes and expectations, is now at the highest level recorded since 1972, although almost all of this improvement occurred by mid-1976. Consumer confidence has now regained its pre-recession levels, in that all the deterioration in consumer sentiment occurring from late 1972 to late 1975 has now been recovered. Since early 1975, the Index of Consumer Sentiment has gained 30-index points and now stands at 89.1 (see the chart).

Accordingly, this is an appropriate time to ask how the events of the last few years have contributed to our understanding of why consumers' attitudes and expectations change, and how those changes may influence discretionary spending and savings behavior in the future. The May 1977 survey was the 87th in a series of periodic surveys of consumer attitudes and expectations conducted by the Survey Research Center at The University of Michigan. It is the central premise of these surveys, begun more than 25 years ago by George Katona, that discretionary expenditures depend not only on income, price, interest rates, and other traditional market variables, but also on the attitudes and expectations of the decision markers. In other words, both ability and willingness to buy are important. How consumers view past economic developments and what expectations they have reflect their willingness to buy, which—together with their ability to buy—determine effective demand. Attitudes and expectations provide a basis for predictions because they represent predispositions toward action and change prior to the action itself. These surveys are not intended to establish an absolute measure of the state of consumer sentiment at any given time. They are intended to measure change through comparison with previous measurements. More importantly, in-depth surveys can reveal the reasons underlying changes in behavior, and the understanding of these reasons can make an important contribution to short-term forecasts.

Patterns of change in consumer sentiment

The recent patterns of decline and recovery in consumer sentiment was significantly different from previous periods. The decline in the Index of Consumer Sentiment from mid-1972 to the winter of 1974–75 was the longest and sharpest on record (see the chart). Double-digit inflation was primarily responsible for the early period of decline in sentiment, while rising unemployment and a deepening recession accounted for the continued loss in confidence. Yet the decline was interrupted twice by short advances. The recovery in consumer sentiment since early 1975 has likewise been substantial, but has proceeded at an uneven pace. The May 1975 data documented a sharp increase in consumer confidence amounting to 15-index points, as most consumers felt the steep recession had been arrested, only to be followed during the next half year by just a 2–3 point improvement.

The February 1976 survey again measured a sizable increase in consumer confidence, amounting to a 9-point change over the previous 3-month period. By this time inflationary expectations were greatly reduced and opinions about expected trends in unemployment were much improved. This increase was followed by a 2-point index loss in May. The survey conducted in August-September 1976, again showed consumer confidence to have improved by a considerable amount, mainly due to improved expectations for business conditions generally and for buying conditions for durables.

Since mid-1976, the overall high level of consumer confidence has remained roughly unchanged, posting less than a 1-point improvement period overall. This volatile pattern of recovery in consumer sentiment is unlike previous recovery periods. In addition, maintenance of overall confidence during the past 9-months has been accompanied and facilitated by shifting cross currents of opinions—including continued volatility of changes in attitudes among income subgroups, a shift toward more favorable evaluations of current business conditions and less favorable expectations for further improvements, and a changing emphasis on the role of inflation.

Among families with incomes of $15,000 and over, consumer confidence has declined somewhat since early 1977. The small decline in optimistic attitudes among high income families in May followed a larger increase in February of 1977, which followed, in turn, a sizable decline and increase in the preceding quarters. Consumer confidence among high income families has thus followed a particularly volatile pattern during the past year. Because lower income subgroups tended to change in the opposite and offsetting direction during this same period, the continued volatility of changes in the attitudes among

income subgroups acted to partially offset aggregate swings in confidence.

In May 1977 regional differences in the level of consumer sentiment were insignificant. However, during the past 6 months, residents of the Northeast and South posted consecutive gains in confidence, while the residents of the North Central and Western regions remained unchanged. Of the four geographic regions, the largest gains in consumer confidence were posted by the residents of the Northeast over the past 12 months.

Mixed changes in personal financial attitudes

In May 1977, 37 percent of all respondents reported that they were financially better off than a year ago, 29 percent said that they were worse off, and the balance said they had remained the same. This represented a significant net improvement over late 1976. Despite these gains, consumers less frequently expected further improvements in May than in February 1977. This decline in favorable financial expectations was concentrated among high income families, with only 29 percent reporting that they expected to be better off financially in a year, compared to the 42 percent who held the same favorable view just 3 months earlier.

On balance, the trend in personal financial attitudes during the past half year has been favorable, in that the improvement in evaluations of current financial conditions have exceeded the deterioration in personal financial expectations. That the shifting evaluations have acted to maintain optimism rather than offset pessimism is evidenced by the stable or slightly falling proportions of respondents who report either being worse off than a year earlier or expecting to be worse off in a year. Overall, a majority (55 percent) now expect their personal financial situation during the next 12 months to remain just about the same as it was in May 1977.

Increased awareness of improved business conditions

In May 1977, 40 percent of all respondents reported hearing news of favorable developments in business conditions. This proportion was substantially above the 25 percent who reported hearing favorable news in late 1976 and early 1977. Respondents frequently reported hearing of increases in sales across a wide range of consumer goods, and many mentioned improvements in employment. Overall, these favorable developments in business conditions were reflected by the 58 percent who reported that business conditions were better in May than a year earlier, up from 40 percent in early 1977. Although a majority did report an awareness of these improvements, expected changes in business conditions were less optimistic in May than in late 1976. The May 1977 survey represented the first decline in the short-run business expectation since May of 1976. Although business conditions were less frequently expected to further improve in May than earlier in 1977, there was no increase in the proportion (1 in 10) of consumers who expected business conditions to worsen. A majority of all consumers expect business conditions to remain about the same as they were in May 1977 over the next year.

This shifting basis of evaluations of short-run business conditions, however, has not diminished their overall favorable cast. In May 1977, 47 percent of all families reported that they expected good times financially during the next 12 months, while only 29 percent reported expecting bad times. These proportions have remained largely unchanged since early 1976. When asked why they expected business conditions to be worse in a year, advancing prices was mentioned by 1 in 10 respondents, twice as frequently as 3 months earlier. When asked why they expected business conditions to improve during the next 12 months, respondents frequently mentioned that they expected already improved conditions to show continued improvement.

Importantly, many fewer respondents spontaneously mentioned factors associated with the Carter administration as reasons for expecting business conditions to improve during the next 12 months. In May 1977, just 1 in 20 respondents mentioned factors related to public policy issues, down from 1 in 10 respondents who mentioned this in February 1977, and the 1 in 5 respondents who cited similar reasoning in late 1976.

Long-term business expectations were less favorable in May than in February 1977, which in turn were less optimistic than the November–December 1976 reading. Currently, 27 percent of all families expect good times in the country as a whole during the next 5 years, while 35 percent of all families expect bad times. Although there have been only small changes in the proportion that reported expecting good times, 35 percent now report expecting bad times, up from 26 percent in November-December 1976. As with short-term business expectations, respondents frequently mentioned the continuing problems of inflation, both with regard to business conditions generally as well as its impact on consumer budgets. In explaining why they expected business conditions to be good during the next 5 years, respondents also less frequently mentioned the impact of policies or proposals associated with the Carter administration. It appears that the Carter "honeymoon" has now largely ended with regard to its favorable impact on expected changes in both short and long-run business conditions.

Although the heightened expectations which accompanied the incoming Carter administration have now diminished, the renewed sense of confidence in government economic policy has been maintained. In May 1977, 1 in 5 respondents reported that the government was doing a good job in regard to inflation or unemployment, half rating it as fair and with just another 1 in 6 evaluating economic policy as poor. This represents substantial improvement over a year earlier, when just 1 in 10 rated economic policy as good, and fully 1 in 3 rated it as poor.

Heightened concerns over inflation

Little change was noted over the past 3 months in consumers' expectations with regard to unemployment and price inflation. The majority of consumers expect unemployment to remain at about the same level or to decline during the next 12 months. Just 16 percent of all respondents expect unemployment to increase, the lowest proportion to hold this view since 1972. Following a considerable moderation in price expectations during the second half of 1976, inflationary expectations increased sharply in early 1977 and have remained at this heightened level in the recent survey. In May 1977, half of all respondents expected prices to advance by 5 percent or more during the next 12 months, unchanged from the February reading, but up significantly from the 39 percent who held this same view in late 1976. When asked whether inflation or unemployment will cause the more serious economic hardship, 30 percent of all respondents said that unemployment presented a more serious economic hardship as compared to the 61 percent who felt inflation would cause the more serious economic hardship. This shift in emphasis toward inflation was more dramatic among high income families, with 71 percent rating inflation as the more serious problem in May 1977 (up from 58 percent in February) and 23 percent rating unemployment as the more serious (down from 35 percent). As shown below, the relative importance of inflation as compared to unemployment has steadily grown in frequency over the past year and now commands a dominant position.

OPINIONS ABOUT WHETHER UNEMPLOYMENT OR INFLATION WOULD CAUSE MORE SERIOUS ECONOMIC HARDSHIP DURING THE NEXT YEAR OR SO

[In percent]

	February 1976	May 1976	August-September 1976	November-December 1976	February 1977	May 1977
A. All families:						
Unemployment	37	37	39	38	35	30
Both equally serious	17	14	11	10	8	6
Inflation	45	46	48	49	54	61
Not ascertained	1	3	2	3	3	3
Total	100	100	100	100	100	100
B. Families with incomes of $15,000 and over:						
Unemployment	35	34	36	37	35	23
Both equally serious	14	11	7	7	7	5
Inflation	51	54	56	56	58	71
Not ascertained	(1)	1	1	(1)	(1)	1
Total	100	100	100	100	100	100

[1] Less than 0.5 percent.

The question was: "Which of the two problems, unemployment or inflation, do you think will cause the more serious economic hardship for people during the next year or so?"

Favorable buying attitudes

Attitudes toward buying conditions for large household durables, cars, and houses were very favorable in the May 1977 survey. The most substantial improvements were in attitudes toward buying conditions for houses, with 62 percent reporting favorable buying conditions in May 1977 as compared to 48 percent 3-months earlier, making the May figure the most favorable since the 1972 peak value. Underlying this dramatic improvement in attitudes, 1 in 2 respondents expressed the belief that it was a good time to buy because housing prices would only increase in the future, up from the 1 in 4 consumers who held the same view in February 1977. Over the past 2 years, the proportion holding favorable attitudes increased from 20 percent in February 1975 to the current

62 percent, and unfavorable attitudes declined from 64 percent in February 1975 to 29 percent in May 1977.

A majority of all respondents (62 percent) continued to rate market conditions for household durables as good in May 1977. Since late 1976, favorable attitudes toward buying conditions have increased by 10 percentage points and unfavorable attitudes have declined by a similar amount. The role of advancing prices was more frequently cited in May 1977 as a reason why current buying conditions were favorable. Thirty-seven percent of all respondents reported it was a good time to buy because prices would only go higher and not come down in the future, compared to the 27 percent who cited the same reason in February 1977. In addition, the notion that good buys were available at reasonable prices declined in frequency by mid-1977. Although attitudes toward buying conditions for large households goods has followed a volatile path over the past 2 years, its overall trend has continued toward a more favorable outlook.

Attitudes toward buying conditions for automobiles remained unchanged in May 1977 from 3-months earlier. Forty-eight percent of all respondents rated market conditions as good for automobiles, while 31 percent reported it was a bad time to buy. Although these attitudes are unchanged from early 1977, they represent a significant improvement over mid and late 1976.

Although the shifting role of advancing prices played an important part in heightening favorable attitudes toward both houses and household durables, attitudes toward the automobile market were not appreciably affected in the same manner. In May 1977, 27 percent of all respondents reported that it was a good time to buy in advance of rising prices, up slightly from 25 percent who held the same view in February 1977. Similarly, no change in the role of prices was documented among high income families. Fewer respondents reported the availability of good buys at reasonable prices, however, and there was an increasing concern over the energy situation.

Mixed impact of proposed public policies

To assess the impact of recent changes in government economic policy on consumer sentiment, opinions on the elimination of the $50 income tax rebate and the proposed energy program were obtained. By a margin of 49 to 33 percent, respondents thought it was a good idea for President Carter to have dropped the $50 rebate, with as many people saying the amount was too small to be useful as those who mentioned that people needed or were counting on the money. Among high income families, dropping the $50 rebate was more often judged a good idea (61 percent), and less often viewed unfavorably (24 percent).

The general outline of Carter's energy program received the favorable support of 58 percent of all respondents, with high income families reporting similar views. However, 1 in 3 consumers felt that the proposed energy program would have an unfavorable effect on business conditions during the next 12 months, although a clear majority felt that the energy program would benefit business conditions over the next 3–5 years.

When respondents were cross-classified by whether they favored dropping the $50 tax rebate and whether they thought the energy proposals would have a good or a bad effect on business conditions, sharp differences in their overall level of optimism were indicated. Those who favored the elimination of the $50 tax rebate were more optimistic about both short- and long-term prospects, and respondents who favorably judged the impact of the energy program also held much more optimistic business expectations. Nonetheless, since both favorable and unfavorable opinions toward the tax rebate and the near-term impact of the energy program were widespread, this difference tended to cancel in the aggregate.

The questions were: "Do you think that it was a good idea or a bad idea for President Carter to drop the $50 personal income tax rebate program?" "In general, do you favor or oppose President Carter's energy program?" "During the next 12 months, do you think President Carter's energy program will have a good effect or a bad effect on business conditions?" "What about 3–5 years from now, do you think President Carter's energy program will have a good effect or a bad effect on business conditions?"

	Good idea	Pro-con	Bad idea	Don't know	Total
Drop $50 rebate:					
All families	49	6	33	12	100
High income families	61	7	24	8	100
	Favor	Pro-con	Oppose	Don't know	Tota
Carter Energy Program:					
All families	58	9	17	16	100
High income families	59	11	18	12	100
	Good effect	Pro-con	Bad effect	No effect	Don't know	Total
Effect of energy program on short-term business conditions:						
All families	33	8	35	6	18	100
High income families	30	10	37	9	14	100
Effect of energy program on long-term business conditions:						
All families	52	3	19	3	23	100
High income families	53	4	21	4	18	100

SUMMARY OUTLOOK

The implications of these survey findings for consumer spending during the balance of 1977 are relatively optimistic. Consumers have continued to hold a favorable outlook, at a level practically unchanged for the past 9 months, despite widespread concerns that the proposed energy program and elimination of the tax rebate would diminish consumer sentiment.

Opinions about past personal financial progress and current buying conditions improved in May 1977, but expectations for continued improvement in personal finances as well as business conditions were generally less optimistic than 3 months earlier, especially among high income families.

An increasing concern with inflation has both dampened expectations and promoted a favorable opinion toward buying in advance of rising prices. Prior to May 1977, the improved level of confidence was maintained by optimistic expectations rather than past performance.

In sum, consumer confidence at the present time is built more on favorable evaluations of current conditions than on the expectations of further improvements.

Although the outlook is favorable, nothing in these data suggest that consumer spending is likely to rise faster than disposable income this year. The current consumer outlook thus stands in sharp contrast to the forecast made a year earlier, when consumer spending was expected to rise faster than income and to produce a substantial decline in the rate of personal savings. No such presumption applies in 1977, since the first quarter savings rate was below 5 percent and is expected to move toward 6 percent, its long-term average, during the balance of 1977.

Moreover, repeated studies have found that only when changes in consumer attitudes were widespread among all population subgroups, or when changes in attitudes and expectations move in a similar direction rather than diverge, can changes in sentiment be confidently expected to generate new and sustained increases in consumer demand. Although the May Index value was the highest recorded since 1972, the continued volatility and underlying cross-currents temper the favorable spending implications for the period beyond the end of 1977.

DEPARTMENTS OF LABOR-HEW APPROPRIATIONS—AMENDMENT

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have printed in the RECORD an amendment to the Department of Labor and HEW appropriation bill which I intend to propose when that bill is before the Senate.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 2, line 18, strike "$3,644,930,000," and substitute "$3,276,930,000,".

On page 6, line 9, strike "$112,280,000" and substitute "$108,780,000".

On page 7, line 21, strike "$136,640,000" and substitute "$134,640,000".

On page 10, line 19, strike "$1,387,046,000" and substitute "$1,144,315,000".

On page 10, line 20, strike "$2,200,000" and substitute "$1,200,000".

On page 10, lines 22, 23, 24, and 25, strike "leprosy, and $60,000,000, to remain available until expended, shall be for construction and renovation of Public Health Service hospitals and clinics" and substitute "leprosy".

On page 12, lines 15 and 16, strike "$210,255,000" and substitute "$186,926,000".

On page 12, line 23, strike "$920,000,000" and substitute "$818,936,000".

On page 13, line 2, strike "$456,000,000" and substitute "$403,642,000".

On page 13, line 6, strike "$63,000,000" and substitute "$57,981,000".

On page 13, line 12, strike "$273,000,000" and substitute "$216,961,000".

On page 13, line 18, strike "$179,000,000" and substitute "$161,461,000".

On page 13, line 23, strike "$162,000,000" and substitute "$153,422,000".

On page 14, lines 1 and 2, strike "$235,000,000" and substitute "$219,896,000".

On page 14, lines 7 and 8, strike $167,000,000" and substitute "$155,761,000".

On page 14, line 12, strike "$35,000,000" and substitute "$34,500,000".

On page 14, line 16, strike "$74,952,000" and substitute "$64,981,000".

On page 15, line 2, strike "$144,947,000" and substitute "$102,074,000".

On page 16, line 11, strike "$947,745,000" and substitute "$87,656,000".

On page 17, line 8, strike "$2,010,000" and substitute "$810,000".

Beginning on line 14, page 17, strike through line 2 on page 18 and substitute "Social Security Amendments of 1972, $588,-211,000.".

On page 19, line 15, strike "$25,678,000" and substitute "$23,178,000".

On page 20, line 15, strike "$2,798,750,000" and substitute "$2,635,000,000".

On page 20, line 16, strike "$194,000,000" and substitute "$187,000,000".

On page 20, line 24, strike "$3,246,050,000" and substitute "$3,065,550,000".

On page 20, line 25, strike "$22,500,000" and substitute "$15,000,000".

On page 21, line 7, strike "$2,798,750,000" and substitute "$2,635,000,000".

On page 21, line 8, strike "$194,000,000" and substitute "$187,000,000".

On page 21, line 24, strike "$802,500,000" and substitute "$355,500,000".

On page 21, line 25, strike "$744,800,000" and substitute "$297,800,000".

On page 22, line 6, strike "$50,000,000" and substitute "$25,000,000".

On page 22, lines 9 and 10, strike $30,500,-000" and substitute "$10,500,000".

On page 22, line 10, strike "and up to $5,-000,000 for section 9".

On page 23, line 4, strike "$323,950,000" and substitute "$294,700,000".

On page 23, line 4, strike "$55,000,000" and substitute "$48,250,000".

On page 23, line 5, strike "$30,000,000" and substitute "$7,500,000".

On page 23, line 12, strike "$642,425,000" and substitute "$519,925,000".

On page 23, line 13, strike "$485,000,000" and substitute "$365,000,000".

On page 23, line 13, strike "$15,000,000" and substitute "$12,500,000".

On page 23, line 24, strike "$725,750,000" and substitute "$667,412,000".

On page 23, line 24, strike "$28,307,000" and substitute "$25,903,000".

On page 24, line 6, strike "$18,000,000" and substitute "$12,125,000".

On page 24, line 7, strike "$15,000,000" and substitute "$10,750,000".

On page 24, line 8, strike "$9,500,000" and substitute "$7,000,000".

On page 24, line 16, strike "$15,000,000" and substitute "$13,300,000".

On page 24, line 16 and 17, strike "$3,503,-253,000" and substitute "$3,042,509,000".

On page 24, line 17, strike "$325,660,000" and substitute "$15,160,000".

On page 24, line 18, strike "$100,000,000" and substitute "$70,331,000".

On page 24, line 20, strike "$270,093,000" and substitute "$240,093,000".

On page 24, line 21, strike "$63,750,000" and substitute "$44,000,000".

On page 24, line 23, strike "$450,000,000" and substitute "$390,000,000".

On page 26, line 2, strike "$180,000,000" and substitute "$154,330,000".

On page 26, lines 3 and 4, strike "$267,712,-000" and substitute "$233,542,000".

On page 26, line 11, strike "$12,500,000" and substitute "$5,000,000".

On page 26, lines 12 and 13, strike "$105,-841,000" and substitute "$98,908,000".

On page 31, line 2, strike "$76,200,000" and substitute "$67,700,000".

On page 35, line 19, strike "$2,221,678,000" and substitute "$1,950,178,000".

On page 43, line 13, strike "$117,260,000" and substitute "$116,860,000".

On page 43, line 17, strike "$607,353,000" and substitute "$442,500,000".

On page 43, line 24, strike "$155,000,000" and substitute "$120,200,000".

(This concludes additional statements submitted today.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 7554, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. The time for debate on this bill is limited to 1 hour, to be equally divided between and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Maryland (Mr. MATHIAS), with 30 minutes on any amendment and 20 minutes on any debatable motion, appeal, or point of order.

Mr. MATHIAS. Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. On whose time?

Mr. MATHIAS. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three measures on the Unanimous Consent Calendar that were cleared for action by unanimous consent yesterday.

I ask unanimous consent that the Senate proceed to the consideration of those three measures at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPENDIUM OF MATERIALS ON ZERO-BASE BUDGETING IN THE STATES

The resolution (S. Res. 192) authorizing the printing of the committee print entitled "Compendium of Materials on Zero-Base Budgeting in the States" as a Senate document, was considered and agreed to, as follows:

Resolved, That the committee print prepared by the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs entitled "Compendium of Materials on Zero-Base Budgeting in the States" be printed as a Senate document, and that there be printed one thousand two hundred additional copies of such document for the use of that committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–286), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Senate Resolution 192 would provide (1) that the committee print prepared by the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs entitled "Compendium of Materials on Zero-Base Budgeting in the States" be printed as a Senate document, and (2) that there be printed 1,200 additional copies of such document for the use of that committee.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$4,840.70
1,200 additional copies, at $973.33 per thousand	1,168.00
Total estimated cost, Senate Resolution 192	6,008.70

A letter in support of Senate Resolution 192 addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Abraham Ribicoff and Senator Charles H. Percy, chairman and ranking minority member, respectively, of the Committee on Governmental Affairs, and Senator Edmund S. Muskie and Senator William V. Roth, Jr., chairman and ranking minority member, respectively, of the Subcommittee on Intergovernmental Relations, is as follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,
Washington, D.C., June 20, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am forwarding for your consideration Senate Resolution 192, a resolution to provide for the printing of the "Compendium of Materials on Zero-Base Budgeting in the States" as a Senate document.

The Subcommittee on Intergovernmental Relations, Committee on Governmental Affairs, originally compiled this material because of interest in the subject of zero-base budgeting and in the related subject of "sunset" legislation before the committee both in the 94th and 95th Congresses.

The demand for this study by Members of Congress, the executive branch and the public has been overwhelming. We are presently holding 450 unfilled requests and receive both written and telephone requests daily for this publication.

We feel this publication will be useful as a Senate document to all concerned and am therefore hopeful of your favorable consid-

eration of Senate Resolution 192.

With best wishes.

Sincerely,

EDMUND S. MUSKIE,
Subcommittee Chairman.
ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs.
WILLIAM V. ROTH, Jr.,
Subcommittee Ranking Minority Member.
CHARLES H. PERCY,
Ranking Minority Member, Committee on Governmental Affairs.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The resolution (S. Res. 201) authorizing supplemental expenditures by the Committee on Energy and Natural Resources for inquiries and investigations, was considered, and agreed to, as follows:

Resolved, That section 1(a)(3)(E) of Senate Resolution 78, Ninety-fifth Congress, agreed to February 11 (legislative day, February 1), 1977, is amended by striking out the amounts "$240,000" and "$14,000" and inserting in lieu thereof "$265,000" and "$32,000", respectively.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-287), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Senate Resolution 201 would amend Senate Resolution 78, agreed to February 11, 1977 (the expenditure-authorization resolution of Senate committees during the transition period), by increasing by $25,000—from $240,000 to $265,000—funds available to the Committee on Energy and Natural Resources for inquiries and investigations through June 30, 1977. Of the $25,000 increase, $18,000 could be expended for the procurement of consultants, increasing funds available for that purpose from $14,000 to $32,000.

An explanation for the request is expressed in a joint letter addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Henry M. Jackson and Senator Clifford P. Hansen, chairman and ranking minority member, respectively, of the Committee on Energy and Natural Resources, which letter is as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, D.C., June 21, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing in support of a supplementary funding resolution reported to the Senate today by the Committee on Energy and Natural Resources.

The resolution would increase the funds authorized for the committee under Senate Resolution 78 by $25,000. It would also increase the ceiling on the amount of authorized funds which may be expended on consultants by $18,000.

Of the $25,000 in new funds, half would be used to pay the balance due on a contract with Melvin A. Conant approved by your committee. The balance would be used for general expenses of travel, hearings and consultants.

The increase in the ceiling on payments to consultants is necessitated by the Conant contract and other consulting expenses which have been, in the aggregate, larger than expected.

We regret the need for this request for supplementary funds. However, the amount allocated to the committee under Senate Resolution 78 has proved to be inadequate in light of the committee's unprecedented workload, particularly in the energy field. We are making every effort to operate the committee in a prudent and efficient manner. Nonetheless, our new responsibilities have imposed heavier staffing costs and administrative expenses than could have been anticipated when funds were allocated under Senate Resolution 78.

We will be most grateful for the understanding and support of the Rules Committee on this matter.

Sincerely yours,

HENRY M. JACKSON,
Chairman.
CLIFFORD P. HANSEN,
Ranking Minority Member.

KICKBACKS AMONG MEDICAID PROVIDERS

The resolution (S. Res. 183) relating to kickbacks among medicaid providers, was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Special Committee on Aging seven thousand and nine hundred copies of its report to the Senate, "Kickbacks Among Medicaid Providers," June 1977.

The title was amended so as to read:

A resolution authorizing the printing of additional copies of the Senate report entitled "Kickbacks Among Medicaid Providers."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-288), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Senate Resolution 183 would authorize the printing for the use of the Special Committee on Aging of 7,900 additional copies of its report to the Senate entitled "Kickbacks Among Medicaid Providers—June 1977."

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

7,900 additional copies $1,200

A joint letter in support of Senate Resolution 183 addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Frank Church and Senator Pete V. Domenici, chairman and ranking minority member, respectively, of the Special Committee on Aging, is as follows:

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C., June 17, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Senate Resolution 183, pending before your committee, requests printing an additional 7,900 copies of our report to the Senate, "Kickbacks Among Medicaid Providers." This report summarizes evidence collected by the Committee on Aging that kickbacks are rampant and that a 1972 law enacted to make them illegal is not being enforced, with a plea for action to root out fraud and abuse of the Medicaid program.

Enclosed is the GPO cost estimate for the requested additional copies of the report.

Thank you for your consideration of this request and resolution.

With best wishes,

Sincerely,

FRANK CHURCH,
Chairman.
PETE V. DOMENICI,
Ranking Minority Member.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to reconsider the votes by which the three measures were passed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7554.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Gene Lawrimore of the staff of the Senator from South Carolina (Mr. THURMOND) be granted the privileges of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I see the distinguished Senator from Wisconsin (Mr. PROXMIRE) is on the floor and I will yield the floor to him so that he can cover in broad outline the measure we are about to consider.

I yield the floor to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, this is the HUD appropriations bill. It is called the HUD bill because the Department of Housing and Urban Development major department under the jurisdiction of the subcommittee and represents a very large part of this particular budget. However the legislation includes funding for the National Aeronautics and Space Administration, the Veterans' Administration, various consumer agencies, the Environmental Protection Agency, and the National Science Foundation. It used to be called the Independent Offices Appropriation, and I think that is probably a better title.

The appropriations are much too big in my view in every department. I wish we could make sharper reductions in all of them but, unfortunately, we cannot. This is another example of the fact that spending by the Federal Government has been allowed to get out of control.

Mr. President, the HUD-independent agencies appropriations bill for fiscal

year 1978, as reported by the Senate Appropriations Committee, provides total new budget authority of $67,641,480,000—about $1,300 for every family in America. However, it is $1,850,203,000 below the amount contained in the House-passed version of the bill and $2,522,032,000 less than the budget estimate.

This legislation provides funding for the Department of Housing and Urban Development, the Veterans' Administration, the National Aeronautics and Space Administration, the Environmental Protection Agency, the National Science Foundation, the Department of the Treasury's revenue-sharing operations and a number of smaller agencies, offices and councils.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By far the largest portion of the budget authority provided in the bill is devoted to the activities of the Department of Housing and Urban Development. The bill as reported contains $35,655,781,000 for the Department, including the disaster assistance program. The vast bulk of this funding—$30,336,400,000—is for assisted housing due to the fact that we must provide for the funding in 1 year of contracts that extend over periods of as much as 40 years. This principal was affirmed in a vote on the issue during debate on the housing authorization bill earlier this year. I disagreed with that vote because I believe it distorts the budget and puts housing at a disadvantage in competing with other programs for Federal dollars, but of course I will live with the decision.

In any event, the committee has recommended a cut of $2,418,600,000 below the budget estimate for assisted housing. This very large cut results from a reduction below the budget in 1-year contract authority of only $115,500,000, in accordance with the Senate authorization bill. This cut also accounts for all but $103,432,000 of the total amount the committee has reduced the administration's budget request. Thus the assisted housing account is the primary reason why we are below the budget. It should also be noted that the bill we are considering today would provide for an increase of $393,397,000 above the House were it not for our cutback below the House in the assisted housing account.

The committee has made a number of additional changes in the House bill in acting on HUD's budget request. The committee provided $25,800,000 for public housing operating subsidies above the amount contained in the budget request and the House bill for a total operating subsidy appropriation of $690,800,000. This assumes a 7.4-percent rate of inflation in public housing operating costs rather than the 5 percent assumed by the administration.

The committee also deleted House-approved language placing the section 202 housing for the elderly program on budget. Since this is a loan program, with the funds repayable, there is no reason why it should be reflected as a budget add-on. It is an excellent program. It is a program that has a superb repayment record and costs the taxpayer nothing.

The committee bill provides a $12,500,000 increase in the House-approved amount for the section 701 comprehensive planning grant program to the administration's budget request of $62,500,000 and also strikes House language prohibiting the use of these funds by community development block grant recipients.

The committee reached a compromise between the budget request of $60,000,000 for the Department's policy development and research program and the House-approved figure of $51,000,000. The bill before us today contains $55,000,000 for this operation. The committee report indicates that $1,000,000 of this amount is for the National Commission on Neighborhoods, a minimum of $700,000 is to be used for Housing Assistance Council activities, and at least $4,500,000 is for the urban reinvestment task force.

The committee concurred with the House in providing $85,000,000 for flood plain mapping by the Federal Insurance Administration but added a further $6,000,000 for the initiation of work on a space age mapping system that could cut mapping costs substantially.

Incidentally, this is a part of the bill that, in my view, should be carefully considered by the Senate. The action taken on the Eagleton amendment pretty much gutted the flood control program and yet we are proceeding with very high expenditures. I must say the greatest weakness in that program was a weakness in the mapping activities. I think all of us who have talked to our constituents about the program have encountered complaints about the unreality and inaccuracy of the maps. So, this expenditure may be justified.

Finally the committee added $5,000,000 to a House cut of $6,000,000 in HUD's management and administration costs for a total cut of $11,000,000 in recognition of President Carter's decision to reduce staffing at HUD by 800 positions in fiscal 1978 below earlier estimates.

Let me talk for a minute about related agencies.

The bill as reported by the committee reduced funding for the Consumer Product Safety Commission to $960,000 below the House and a little over $1,000,000 below the budget estimate to a total of $39,144,000.

The committee has recommended a budget of $843,203,000 for the Environmental Protection Agency, a reduction of $4,842,000 below the House and $1,122,000 less than the budget request. Although the committee bill provides $12,000,000 less than the House for health and ecological effects research, this cut is partially offset by an additional $3,000,000 and 200 positions for various regional laboratories, an add-on of $5,000,000 for Great Lakes research, an initial $5,000,000 for solid waste planning under the Resource Conservation and Recovery Act and $1,300,000 for an Ohio River Basin study. The report gives a full rundown of the various cuts and increases.

The committee has provided a total of $4,015,929,000 for the National Aeronautics and Space Administration. The amount approved is $18,860,000 below the budget and $67,389,000 over the House request. The increase is made up of two major items—a restoration of $20,700,000 cut by the House for the Jupiter Orbiter/Probe mission and the provision of $56,700,000 for work on space shuttle orbiters 104 and 105.

Incidentally, this is a program, Mr. President, which I think has much too high a priority and costs too much of the taxpayer's money—$4 billion for space. It is a program which will only incidentally provide any real benefit for people on this earth. It is a program in which we are not in competition with anyone else. It is a program which some people have described as a glamorous boondoggle. But it is a program, I must say, that has produced very efficient management. The former director, Dr. Fletcher, was one of the best administrators I think we had in Government. He will be succeeded by Dr. Frosch, who is taking his place next week and who is also an enormously able man. I am sure will do a fine job.

This body includes two of the outstanding astronauts from the space program, indicating that if the agency has produced nothing else, it has produced men of very great ability in JOHN GLENN and HARRISON SCHMITT.

So the space program obviously has its appeal, but it seems to me it is not the kind of a program which should have the kind of priority which the enormous amount of money we provided for this program over the years obviously indicates. The space shuttle is about the best example of a wasteful program I can think of. But we have gone ahead with the shuttle. It is in the bill, and I am sure it will stay in. We will be doing well if we can hold down the future amount to be appropriated for space—a program which I view as already too big.

The House deferred a decision on procuring the two shuttle orbiters until more information regarding technical difficulties is available. Frankly I think the House made the right decision but the committee thought otherwise. The committee's increases were partially offset by some rather minor cuts such as the elimination of two House add-ons of $5,000,000 each for a solar satellite power generating system and work on space industrialization as well as a $2,011,000 reduction in staffing costs because of the newly announced Presidential reduction in personnel ceilings. Incidentally, that reduction in staffing costs was very modest considering the nature of the President's ceiling on personnel and his determination to make it effective. These costs will have to be cut by at least that amount to meet the President's announced goals.

The committee restored a total cut of $43,970,000 in the National Science Foundation's research programs, including a $28,000,000 cut in the RANN program. This increase was partially offset by a deletion of $4,000,000 added by the House to NSF's education budget.

The committee concurred with the House in recommending a deletion of $150,000,000 from the administration's request for antirecession financial assistance—the countercyclical revenue-sharing program. This reduction was

made possible by the projected availability of carryover funds from the current fiscal year as a result of improving economic conditions.

The committee recommended the appropriation of $17,910,882,000 for the Veterans' Administration. The amount provided by the bill is $76,610,000 over the budget estimate due to the committee's decision to provide $112,300,000 for accelerated construction of a replacement hospital at Little Rock, Ark. If the funds are not provided this year they will be included in the President's fiscal 1979 budget. So, in effect, this is not a genuine increase over the budget. By adding $139,100,000 for a replacement hospital and nursing home in the Portland/Vancouver area to the funding for the Little Rock facility the committee has gone over the House approved budget for the VA by $250,826,000. A small number of relatively minor changes have been made in the remainder of the VA's budget, such as the postponement of the procurement of a new computer system by the VA at a savings of $17,000,000.

The committee has added a general provision to the bill which would prohibit the use of Government vehicles to drive Federal officials other than the Secretary of Housing and Urban Developement between home and work. The new administration has by and large halted this lamentable practice but the committee wanted to make sure that there were no abuses. So we do have an antilimousine provision here, and I hope that this will mean that officials will, like other American citizens and taxpayers, drive their own cars, walk, or take the bus to work.

The committee has also adopted language in the bill which would stop the paying of consultants, either directly or through a grant, in excess of the rate paid a GS–18 civil servant. This language is meant to deter certain abuses of existing law that have come to the committee's attention.

The budget authority provided in this legislation is well within the committee's allocation for this legislation as a result of the first concurrent resolution. As indicated on page 79 of the report, the bill is $8,859 million below the amount allocated for fiscal 1978. However the committee can expect a number of budget requests in supplemental legislation that could easily use up the allocation remaining. The distinguished Senator from Oklahoma (Mr. BELLMON), who is very thorough about these things and very helpful to the committee, pointed out that if we are not careful, our outlay in this budget will significantly and substantially exceed the amount allowed by the first budget resolution, and that, therefore, we have to be extremely cautious in our approval of supplementals. For example, increases in veterans benefits could result in a budget add-on of at least $2 billion and a further $4,500 million may well be needed for wastewater treatment facility construction grants in fiscal 1978.

Mr. President, I want to mention three minor technical corrections in the bill itself that are needed because of printing errors and that will be incorporated in the bill as passed by the Senate. On page 7, line 3, the words "impaction allocations and" should be in italics. On page 7, line 5, the word "For" should not be lined through. On page 38, line 18, the reference should read "24 CFR § 812.2(d)(1)" rather than "24 CFR § 812.1(d)(1)".

Once again our colleague from Maryland (Mr. MATHIAS) has worked with great diligence on this bill.

I do not think there is a Member of this body who is more congenial, more cooperative, or more intelligent in working on legislation of this kind than the Senator from Maryland. He is a very fine Senator in every respect. I want to thank him for his willingness to cooperate in reaching mutually agreeable solutions to a number of very difficult and vexing problems that faced the Appropriations Committee over the past 2 weeks as we acted on this legislation.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill, as thus amended, be regarded, for purposes of amendment, as an original text; provided, that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. MATHIAS. Mr. President, the distinguished Senator from Wisconsin, the chairman of the committee and the manager of the bill, I think has very well outlined the important points in the HUD-independent agencies appropriation bill. He is a very thoughtful and thorough committee chairman. He sits for many, many hours in committee, listening to the testimony and assembling the evidence, and I believe his statement on the floor reflects the great care that he dedicates to this appropriations bill. I want, again this year, to thank him for his leadership and assistance during the very lengthy hearings.

I think that he has a quality which is perhaps too rare in political life: the quality of objectivity. He can see his own position prevail, as he usually does; or if, as in some rare instances, a majority of the committee may differ with him, his good humor and good will persist notwithstanding. So he does bring a high level of objectivity to the work of the committee, for which I think all of us on the committee are grateful.

I would add just a few comments on some points of special interest. In title I, the HUD section of the bill, the committee was constrained to work within the confines of the new Housing Authorization Act and I think that on balance we did a good job. I am pleased that we have again supported the full budget request of $750 million for housing for the elderly or handicapped and am especially pleased that we have directed that this appropriation continue to be off-budget. While the committee did not go to the full authorized amount for payments for operation of low-income housing projects, we have added $25,800,000 over the House bill and the budget estimate simply to accommodate intractable the inflation factor. I am pleased that the Senate restored the House cut in the comprehensive planning grants account so that we have brought that up to the full budget estimate.

Moving to the Environmental Protection Agency, I would have preferred a somewhat higher figure for the research and development account because of the important nature of the medical-effects research and other important research being conducted by EPA that I think are distinctly related to current national issues. I think it was wise, however, on the part of Senator BELLMON to move to add up to 200 people to improve staffing at EPA laboratories and other field facilities. I think it is a case of having to make a small additional appropriation to get the full impact of the money we are already spending. It is hard to overestimate the value of the work that is being undertaken in these facilities, and I think that we have maximized the effect that we will get from these facilities by this very small additional investment. And, of course, Mr. President, I do not have to underscore the fact that I am very gratified that the EPA budgeted, and the committee approved funding for, continuation of the very important Chesapeake Bay research program, which deals with the Nation's largest estuary, and will be a pilot program for similar areas in all parts of the country.

The committee has studied very closely the value of funding the Jupiter Orbiter Probe mission by NASA, which is the next major step in a well-developed long-range strategy of conducting a systematic investigation of the solar system. This mission is expected to dramatically enhance our knowledge of phenomena in outer space which I think will very definitely lead to tangible, meaningful results to our own generation and the generations to follow on this planet Earth.

The other body had made very serious cuts in the funds requested by the National Science Foundation for research applied to national needs and to a somewhat lesser extent for basic research. The committee has voted to restore all of these funds and I hope that we will stand firm in conference with the House in supporting this funding for programs, projects and research that are in many cases on the very cutting edge of mankind's search for increased knowledge, and the application of that knowledge to our pressing needs.

We find ourselves today in a situation which a great scientist once described to me as being that the only answer to the problems created by technology was more technology. If we are to find the answers, I think we have to press that search forward, and that is exactly what we have recommended to the Senate that we do.

It is always a stimulating experience to work on this bill and bring it to the floor. I find it very educational; I learn many things each year that I did not know before. I thank the chairman for his continued support to the committee and the members of the committee in trying to find the best solutions to the physical problems we face.

Again, let me say what a pleasure it is to serve with our most effective chairman (Mr. PROXMIRE) who has worked so very

hard over many months on this wide-ranging bill.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Martin Franks, of Senator LEAHY's office, be granted the privileges of the floor during the debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that my administrative assistant, Howard Shuman, also be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I believe I should serve notice that I expect to ask for the yeas and nays and do my best to get them on final passage of this bill. I do so because, as I said, this is $67.6 billion bill. It is of enormous importance. It is a very great burden on the taxpayers. I believe all Senators should have the opportunity to vote yea or nay on the bill. Therefore, I will ask for the yeas and nays at a later time when there are enough Senators in the Chamber for that purpose.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. James Schuyler, of the Committee on Banking, Housing, and Urban Affairs, be granted the privileges of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that Claude Alexander, Morgan Williams, and Ernie Garcia, of the staff of Senator DOLE, be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, various aspects of the budget impact of H.R. 7554 have previously been described, but I wish to summarize and emphasize what I believe to be several key points. This bill itself, when added to anticipated future 1978 requirements, is within the subcommittee allocation as to total budget authority but is not within the allocation as to outlays. The potential overage is estimated at $0.6 billion.

While I have an uneasy concern about the outlay overage in this bill, I do have the reassurance of the distinguished chairman of the Appropriations Committee that the totals for all the appropriation bills taken together—including all anticipated later requirements—will be within the overall budget allocation for the Appropriations Committee. This is an important commitment, but I believe it will require discipline on the part of all of us to meet this commitment.

I believe key points we should all keep in mind as we consider this bill are:

First, this bill adds pressure to what may be a very tight outlay allocation for all appropriations.

Second, the House version of this bill is higher in both budget authority and outlays than the Senate's; thus, there must be a strong resolve by Senate conferees to stay as close as possible to the Senate totals.

Third, it should be noted that we are not leaving ourselves alot of room for possible future requirements, and thus, we are beginning to limit our flexibility on potential supplementals.

I believe our course of action is clear. I intend to vote against floor amendments which add to the spending and I urge my colleagues to do the same. Further, I again urge the conferees on this bill to hold firm against spending increases in conference.

Thus far, we have passed three appropriation bills and in the next several days, we will be passing judgment on at least five more. I urge my colleagues to retain in the days ahead the fiscal discipline so necessary for us to stay inside the budget targets.

UP AMENDMENT NO. 527

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment No. 527.

On page 18, line 10, delete $841,989,000 and insert in lieu thereof $844,489,000.

Mr. MATHIAS. Mr. President, just 2 working days before the full committee markup on this bill, the President announced certain recommended personnel reductions in various agencies, including NASA. NASA was instructed to reduce its personnel by attrition by 500 persons during 1978.

Our chairman, who is very alert to any possibilities for economy in the Federal Government, an effort in which I support him, was, of course, immediately aware of this, and saw the opportunity when we came to the full committee markup to reflect the President's directions in the NASA budget.

Actually, in the short time available, NASA was unable to come up with accurate figures which would reflect the personnel changes the President had directed. The chairman very properly wanted to have this reflected as an economy in the budget, so we rather arbitrarily knocked out $5 million from the NASA budget as a rough estimate of the savings this might involve. I believe we now have more accurate figures. I can very briefly sketch them.

When NASA submitted the budget estimate to the Congress it had already absorbed $2,400,000 in uncontrollable increases in costs for such things as payment to the General Services Administration for rental charges, Government contribution for employee health, insurance, workmen's compensation, and annualization of the October 1976 pay raise. In addition to these constringencies and subsequent to the submission of the budget, NASA was informed that negotiated utility rate increases—which affect Government as each of us as homeowners—of another $2,400,000 over the fiscal year 1977 figures had been identified and that these rate increases were for only 2 of the 10 NASA installations and negotiations were ongoing at the other 8 NASA installations which would probably further increase utility rate costs.

Finally, looking at the overall picture, it is important to note that NASA's full personnel budget for fiscal year 1978 contained funding for 81 less people than in fiscal year 1977. In fact, looking back, NASA is budgeted in fiscal year 1978 for 9,989 less people than they had on board in fiscal year 1967. At the same time, the contractor personnel that NASA must oversee will increase by 8,600 people in fiscal year 1978 over fiscal year 1977. I think it is important to note that NASA's predominant expenditures are for work and people outside of NASA in the private sector and that NASA must maintain the ability to oversee these contracts and the performance under these contracts throughout the country. In fact, NASA contract personnel are projected to grow in numbers from 98,600 in fiscal year 1977 to 107,200 in fiscal year 1978. I think it is important to not tie NASA's hands and deplete their oversight ability.

The "bottom line," Mr. President, is that NASA has asked for full restoration of the $5 million so that they can at least start out the fiscal year with their budget estimate even though with this funding there is a strong likelihood that they will need a supplemental to accommodate increased uncontrollable costs.

I have not gone the full length on that request. The amendment which is now pending is more modest. It merely restores half of what they asked for. By doing that, I believe we will at least fit the budget figures to the personnel position reductions ordered by the President. It does reflect their need without removing from them the very urgent constraint for economy with which the chairman is constantly and properly concerned.

Mr. PROXMIRE. Mr. President, I must resist this amendment. First let me point out that the House provided for $844 million for NASA's salaries and expenses under the research and program management account. That represents a cut of approximately $3 million by the House. But the House did not have before it the announcement by the President, which was made just a week ago today, that he intended to impose a ceiling on all Government agencies, including NASA, a ceiling which would require them to make further reductions. The Mathias amendment would cut the research and program management account by $2.5 million instead of the $5 million the Committee provides. In other words, it would raise by $2.5 million the amount that would be appropriated to NASA under the bill before us.

In appealing the $5 million cut by the Senate, NASA points to two items: First,

they indicate they had to absorb $2.4 million in their 1978 budget, which they say is beyond their control; then, an additional $2.4 million in increased utility costs became known subsequent to the time the budget request was submitted.

Mr. President, what is NASA doing? They are, in effect, bypassing the Office of Management and Budget in asking Congress to provide: First, funds that were initially denied; and second, funds for increased utility costs that would either be absorbed or requested in a supplemental.

Let me point out why the proposal we have in the committee bill is a conservative and modest proposal and should not adversely affect NASA's ability to do its job.

In 1977, the request in the budget was for 23,816 positions. The President's recent announcement will require a reduction of 180 of those positions by the end of fiscal 1977. In fiscal 1978 the request was for 23,737 positions; there will be a reduction of 500 in those positions.

NASA has budgeted in 1978 for the following types and numbers of positions: 21,841 general schedule positions, at an average salary of $24,641; 437 NASA grades, at an average salary of $39,394; 1,459 ungraded jobs, at an average salary of $20,500.

We have computed from this information that the average salary is is at least $25,000. That does not include travel, space rental, equipment, or any of the other associated costs.

Since 180 positions are to come off the rolls in 1977, the 1978 savings for a whole year will be $25,000 times 180 or $4.5 million. They should surely be able to make that $4.5 million saving. The Committee amendment only provides for a cut of $5 million, and that is just a little more than the cost of positions coming off the rolls by the end of the current year.

Assuming an additional 320 positions will come off the rolls during the next fiscal year, only half of the average salary should be used in computing the savings. So $12,500 times 320 equals $4 million. That brings the total savings to $8.5 million.

As I say, we are only cutting $5 million, yet NASA, if they obey the President, and I am sure they will—they must, they have to, they are part of the administration—would make a saving in personnel costs of $8.5 million in fiscal 1978. Since we would simply cut them back by $5 million, they would have $3.5 million to play with.

As to the turnover savings argument, NASA has had a low turnover rate, with the possible exception of secretaries and other lower grade employees. The turnover rate has been lower in the past 4 years because total employment has been declining. Therefore, turnover savings cannot possibly amount to more than a couple of hundred thousand dollars.

The President believes that NASA can operate with 500 fewer employees. The President, of course, has the authority to make that a reality and, I am sure, will do so. All we have done is to take, in our $5 million reduction, not all, but some, of the funds associated with that reduction in positions. NASA still has nearly $850 million to fund the other 23,237 employees. So the committee's action seems to me to be the proper thing to do.

Our action not only represents a larger economy than the Senator from Maryland would permit with his amendment, but it also gives NASA considerable leeway, because it cuts, not the full $8,500,000, which we could justify, but only $5 million, and gives them about $3.5 million that they would not have had absent the reductions in personnel which the President has required.

Mr. MATHIAS. Mr. President, the Senator makes very forceful arguments, but I regret to say that he is not totally persuasive on this.

No. 1, I should like to say a word just in defense of NASA and the question of bypassing OMB. I do not think there is any desire on their part to do that. We are dealing with very rapidly moving events. I think there is nothing wrong in our taking legislative notice of a negotiated utility bill, which OMB is not going to be able to do anything about under any circumstances. When you get the light bill, you have to pay it, and the light bill has just come in and we have to pay it. That is the case in my house and that is the case in NASA's house. We may not like it. It may be painful and we may ask the kids to turn out the bathroom light, but when the bill comes in, it has to be paid. And this is it. I do not think that we are wrong in taking notice of the fact that there is a negotiated utility bill.

The question of compliance with the President's order for reduction of personnel is, I think, more complicated. The President did not say, "Go out and fire 500 people." He said, "Lose 500 people by attrition." The turnover savings consist of the savings achieved by filling a vacant position at a lower salary than the previous incumbent and by leaving the position vacant for an average of 6 weeks. The savings accruing to a reduction by attrition, 500 permanent positions, therefore, has to be calculated based on the average salary of the foregone hires. That, I am advised, comes to $13,200.

When they have done all that, the actual savings for a reduction of 500 positions taken by attrition evenly throughout the year would then be precisely $2.5 million, which is the amount of my amendment. That is the rationale for the amendment.

Mr. PROXMIRE. Will the Senator yield on that?

Mr. MATHIAS. Yes.

Mr. PROXMIRE. I am a little puzzled by that kind of arithmetic. What the Senator seems to be saying is that you divide by two because the number of personnel reduced would be averaged throughout the year. I did that in my arithmetic. But what I did was point out that they will have already lost 180 positions by the end of fiscal 1977, by September 30. The costs of all of those positions will be saved in fiscal 1978. The average salary being $25,000, 180 positions times $25,000 gives us a $4.5 million saving before the year begins even if NASA does not have any attrition in 1978, which they are directed to have.

If they have attrition throughout 1978, at an average rate—that is, if they lose one-twelfth of the 320 positions each month during the 12 months of the year—they would then save an additional $4 million. That $4 million plus the initial $4.5 million equals $8.5 million. The Committee has cut $5 million, which leaves a $3.5 million net gain for NASA. They would have that much more money than they would have had if they had not been required by the President of the United States to make this cut.

I think I could justify an $8.5 million cut, but I am only supporting a $5 million cut, which I think is very generous to NASA.

Mr. MATHIAS. The Senator used $25,000, which he said is the average salary. What I am cutting is based on the average salary of the foregone hires, which I am advised is $13,200. So we are almost 50 percent apart on the basis of our assumptions.

Mr. PROXMIRE. We are not talking about foregone hires, but people NASA loses through attrition. I do not know where the Senator got the $13,000 figure. The average salary for the GS people, not NASA grades, is $24,641. NASA grades are paid over $39,000, on the average, and the ungraded jobs average out at $20,500. There is no group that has a salary as low as $13,000 in NASA. That is a mighty elite corps over there.

Mr. MATHIAS. My figures come from NASA personnel. I have no reason to doubt them. If we take the $13,200 figure, they further advise that the amount of salary has to be reduced from the budgeted figures by leaving the positions vacant for an average of 6 weeks. That is how they come out with the $2.5 million ultimate figure.

We are dealing with two items here. We have apples and oranges here with us for the moment. We are dealing with the question of the light bill, which is $2.4 million. We are dealing with this question, which the Senator and I have some difference about. I am wondering if the Senator would find it a useful compromise to take a figure somewhat lower than that which I have proposed, but one which would make an economy not too far from the figure that the Senator himself has sought to reach. That is simply to adopt the figure which the other body agreed upon.

Mr. PROXMIRE. In the interest of time and in the interest of comity, because I know how strongly the Senator from Maryland feels about this, I shall be willing to accept that compromise. That would mean a reduction of $2,989,000 in NASA's budget request. The figure in the bill then would read $844 million, which is precisely the figure that the House bill provides—$844 million for research and program management.

Mr. MATHIAS. That is correct.

Mr. President, if the Senator is willing to take that figure, I will modify my amendment to read $844 million.

Mr. President, I note that the Senator from New Mexico (Mr. SCHMITT) joins in this amendment.

Mr. President, I move its adoption.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. The amendment is so modified.

The question is on agreeing to the amendment, as modified, of the Senator from Maryland.

The amendment, as modified, was agreed to.

UN AMENDMENT NO. 528

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the desk copy of H.R. 7554 be corrected to reflect a printing error as I mentioned in my opening remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 3, italicize the words "impact allocations and".

On page 7, line 5, strike "for" and insert "for".

On page 38, line 18, strike "24 CFR § 812.1 (d) (1)" and insert in lieu thereof "24 CFR § 812.2(d) (1)".

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 529

Mr. MATHIAS. Mr. President, on behalf of the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from California (Mr. CRANSTON), I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), for himself and Senator RANDOLPH and Senator CRANSTON, proposes an unprinted amendment numbered 529:

On page 27, line 19, insert the following: strike "$10,000,000" and insert in lieu thereof "$15,000,000."

Mr. MATHIAS. Mr. President, I think the reason these two distinguished Senators have requested that this amendment be offered is reflected in the report of the committee on page 73 where it says:

The Committee understands that with this appropriation, there will be adequate funding to accommodate projects expected to be submitted under new legislation which allows funds to be spent on domiciliary construction (H.R. 3695) as well as projects that qualify under present legislation. As this report is written, H.R. 3695 has passed the Senate and House. The Committee will consider a future budget request for up to the $5,000,000 to be authorized under the pending legislation when the VA submits such a request based on additional project needs.

We are advised that this matter is on the President's desk and that the Office of Management and Budget will submit such a request. It is on that basis that the amendment is offered here today.

Mr. PROXMIRE. Mr. President, I have discussed this amendment with the Senator from Maryland.

I have a communication from the distinguished Senator from West Virginia which says that because of an emergency he cannot be here at the present time. He wanted to be here very much. I know he feels very strongly about this amendment.

We discussed this with the Office of Management and Budget. They indicated the President will ask for these funds.

I would normally feel that this should be handled in a supplemental but, under the circumstances, I think it is proper and desirable to accept the amendment, and I am happy to do so.

Mr. MATHIAS. I thank the distinguished Senator and I move the adoption of the amendment.

Mr. RANDOLPH subsequently said: Mr. President, I express appreciation to Senator MATHIAS for introducing on behalf of Senator CRANSTON and myself an amendment to H.R. 7554, the HUD and independent agencies appropriation bill, to appropriate an additional $5 million for the VA State extended care facilities construction grant program. I am grateful also to Senator PROXMIRE for his support of our amendment.

On March 30, with Senators STONE, DURKIN, MATSUNAGA, STAFFORD, THURMOND, and HANSEN, I introduced S. 1189, which if enacted would revise and improve the program of making grants to the States for construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans and other purposes.

With the guidance and leadership of Senator CRANSTON the Senate unanimously approved H.R. 3695, with an amendment in the nature of a substitute instead of S. 1189, on May 24. On Wednesday, June 22, the measure was sent to the President for his signature.

The bill authorizes the use of funds for the construction of new State home domiciliaries in the same manner as is now provided for State nursing home care. Each of these programs is authorized an annual appropriation of $5 million. The authorization of an additional $5 million is included in H.R. 3695, for a total annual authorization of $15 million providing for the consolidated programs through fiscal years 1978 and 1979.

The HUD and Independent Agencies Appropriations Subcommittee recommended an appropriation of $10 million for the grant program for State extended-care facilities construction. In its report the subcommittee said that it will consider a future budget request for up to the $5 million authorized under the legislation, H.R. 3695, when the Veterans' Administration submits such a request.

I feel strongly that the VA domiciliary and nursing home care programs must be expanded and refined through increased Federal support to accommodate a growing number of elderly veterans in the VA health care system. The Office of Management and Budget has indicated it supports the additional $5 million appropriation for the program.

I am gratified that the amendment Senator CRANSTON and I proposed was supported by Senators PROXMIRE and MATHIAS and subsequently adopted by the Senate.

Mr. PROXMIRE. I yield back the remainder of my time on the amendment.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BAYH). The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 530

Mr. MATHIAS. Mr. President, on behalf of the distinguished Senator from Massachusetts (Mr. BROOKE), I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), for the Senator from Massachusetts (Mr. BROOKE), proposed an unprinted amendment numbered 530.

Insert on page 6, line 4, the following:

"EMERGENCY MORTGAGE PURCHASE ASSISTANCE

The aggregate amount of purchases and commitments authorized to be made pursuant to section 313 of the National Housing Act, as amended, out of recaptured Emergency Mortgage Purchase authority may not exceed $2,000,000,000.

SPECIAL ASSISTANCE FUNCTIONS

The aggregate amount of purchases and commitments authorized to be made pursuant to section 305 of the National Housing Act, as amended, out of recaptured Special Assistance Purchase authority may not exceed $2,000,000,000.

Mr. MATHIAS. Mr. President, I offer this amendment on behalf of and at the request of the distinguished Senator from Massachusetts (Mr. BROOKE) who is detained by official business.

I would hesitate to offer an amendment for another Senator on a subject as complex as this and as important as this except for the fact that it is a subject which was discussed in great depth during the meeting of the committee.

It deals, of course, with the mortgage purchase authority, and it would release to the Government National Mortgage Association—GNMA—up to $2 billion of recaptured authority under the section 305 program of the National Housing Act, and up to $2 billion of recaptured authority under the section 313 program of the National Housing Act, to be available in fiscal year 1978. Any commitments which GNMA might wish to au-

thorize above the $4 billion limit for the two programs would require a specific congressional action, as prescribed in title III of this bill.

These recaptured funds would be available as standby authority for GNMA under the special assistance and GNMA tandem programs. This amendment would provide GNMA with the financial capability to respond quickly to various types of housing needs as they develop. The funds released by this amendment would allow GNMA to react promptly to a cyclical downturn in housing or to provide timely support for the implementation of existing or new housing assistance programs for low- and moderate-income families.

Without such a provision, the Government National Mortgage Association would be unable to intervene through the secondary market to prevent a recurrence of the recent housing recession. Moreover, the section 8 rental assistance program would likely be slowed considerably, if below market rate tandem commitments are not available.

Under the GNMA or Brooke-Cranston tandem program, GNMA issues commitments to private lenders to purchase permanent mortgage loans at below market interest rates. By issuing such commitments, GNMA provides the assurances necessary for private lenders to issue their own permanent commitments. These permanent commitments are then used by developers to obtain construction financing. Without such below market rate assistance, many projects either proposed or under construction would not be economically feasible.

So, Mr. President, I am glad to offer this amendment on behalf of the Senator from Massachusetts and to support it very strongly myself. I believe it is a useful amendment and I hope the Senate will approve it.

Mr. PROXMIRE. Mr. President, I am concerned about this amendment, which was discussed in the Appropriations Committee, as the Senator from Maryland has pointed out.

What the amendment really does it to try to achieve a compromise. What HUD wanted to do, and if I were in HUD I would probably want to do it, too, was to keep the authority to use all of the funds it would recapture through sales of mortgage investments without any restraint by Congress. They wanted to take the recaptured money and proceed to spend it as they wished. Of course, that kind of flexibility, that kind of authority to spend money, is one that any self-respecting housing official would want to have. It helps him to achieve his goal.

However, our system works on the basis of the Congress determining whether funds should be spent. We do not know the rate at which funds will be recaptured. We do not know how much recaptured authority will be available in any particular year. There may be other higher priorities. For that reason we resisted efforts to make this authority fully available.

Now, the Senator from Maryland and the Senator from Massachusetts come up with a compromise. They suggest we limit the amount of recovered funds which HUD will be able to expend to a total of $4 billion—$2 billion under each of two programs.

I can understand HUD's reason for wanting this kind of flexibility, and I know, as a matter of fact, that HUD would like much more than we are providing here. This is a compromise.

Under the circumstances, I am willing to accept this amendment.

Mr. MATHIAS. I think the Senator's judgment reflects his own very deep knowledge of the housing conditions in this country and I am glad he will accept it.

I know the Senator from Massachusetts, in offering it, reflects his personal dedication and commitment to solving housing problems and his own wide knowledge on the subject of housing.

Mr. PROXMIRE. Mr. President, will the Senator yield for an observation? I want to make it clear, because this is of fundamental importance, that this amendment does not create new budget authority.

Mr. MATHIAS. I think we are all absolutely agreed on that.

Mr. PROXMIRE. It simply permits GNMA to spend recaptured authority they already have.

Mr. MATHIAS. The legislative record should be totally clear that we are talking only about recaptured funds and not about any new budget authority.

Mr. PROXMIRE. Right.

Mr. MATHIAS. On that basis, Mr. President, I move the adoption of the amendment and I yield back my time.

Mr. PROXMIRE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Gary Crawford and Jon Steinberg, of the Committee on Veterans' Affairs, and Ed Scott, of Senator THURMOND'S office, be accorded the privilege of the floor during proceedings on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

UP AMENDMENT NO. 531

Mr. DOLE. Mr. President, I send to the desk an unprinted amendment for myself, Senator CURTIS and Senator ZORINSKY, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. CURTIS, Mr. ZORINSKY, Mr. HASKELL, Mr. PEARSON, and Mr. HART proposes unprinted amendment No. 531.

On page 9, line 24, before the colon insert the following: "of which not less than $19,370,200 shall be available for damages resulting from the disaster caused by a blizzard in Colorado, Kansas, and Nebraska, on March 10, 11, and 12, 1977".

Mr. DOLE. Mr. President, I have discussed this amendment with the floor manager of the bill and understand that perhaps it could be subject to a point of order, like many other provisions in the bill where points of order have not been raised, and the Senator from Kansas is looking at those at this time.

On March 10, 11, 12, 1977, a very severe blizzard struck northwest Kansas, eastern Colorado, and southwestern Nebraska. One hundred-mile-per-hour wind-driven snow caused great destruction of personal property and human suffering throughout the area. Rural roads were blocked with 15-foot snowdrifts; electric lines were shredded, poles were snapped off, and crossarms were shattered. The facilities to deliver electric energy to consumers in the affected area were completely demolished.

Work to restore electric lines began even before the storm abated. Hundreds of line repairmen along with equipment and supplies were moved into the stricken area, but it was still more than 2 weeks before electric service was restored to all consumers in northwest Kansas, parts of Nebraska, and Colorado. It was even longer, I understand, in parts of eastern Colorado.

Following the devastating storm, the Governors of all three States toured their respective affected areas by air and ground. Each Governor was shocked by the devastation and declared his State to be in need of Federal assistance. Proper and detailed requests were prepared and presented by all three Governors' offices to the Federal Disaster Assistance Administration requesting Federal assistance grants to assist in the restoration of electric service.

Through an act of the U.S. Congress, in 1974, nonprofit utilities became eligible for Federal disaster assistance funds. Rural electric cooperatives are such nonprofit private utilities and are, according to Federal regulations, eligible for Federal disaster assistance grant funds upon being so declared by the Federal Disaster Assistance Administrator.

The respective six Senators from these three States strongly supported the disaster declaration. The Federal Disaster Assistance Administrator turned down the major disaster declaration. They were the only ones I know who did not feel the major disaster declaration was substantiated. The Governors and Senators from the area agree Federal Disaster Assistance Administration was wrong in their conclusion.

We know that in the past few weeks another area in our State and areas in surrounding States have been affected by tornado damage. They have been de-

cleared Federal disasters by the Federal Disaster Assistance Administrator. In fact, because of tornado damage, Federal assistance has recently been granted to a rural electric coop in a nearby State.

In recent years, seven other States and their rural systems have been awarded disaster aid using their eligibility under the law. The precedent for awarding aid had been established several years ago. The disaster declaration action was prompted because we were very much aware of grant assistance to Nebraska systems the previous year for a similar storm.

The electric cooperatives in the three-State area will have to raise electric charges substantially because the Federal Disaster Assistance Administrator would not declare a Federal disaster in the area. One rural electric cooperative will have to charge $5 per month per customer for the next 35 years. This spreads the hardship of the disaster over a long period of time for the victims.

Rural electric cooperatives are very important to the economy of the rural area affected by the storm. They serve a vital and necessary function. Electric bills are already high enough without additional charges being added as a result of the insensitivity of the Federal Disaster Assistance Administrator. Prompt action to relieve the prolonged hardship of the people in the three States and their cooperatives is needed immediately.

The Senator from Kansas is greatly concerned about the financial ability of the hardest hit cooperative to cope with the extensive losses. Rural electric cooperatives have very little reserves and in some cases there were almost none.

The amendment of the Senator from Kansas and Senators from Nebraska would in effect, earmark $19,370,200 of the appropriations for the Federal Disaster Assistance Administration to be used for grants for those loses caused by the storm in these three States.

This is based on estimates in the rural electric cooperatives.

This amendment, of course, is extremely important to many rural residents who are suffering because of disasters, and the Senator from Kansas would urge its adoption.

Mr. President, I might say the distinguished Senator from Colorado, I think, is also interested in this amendment, and I am happy to yield to the Senator from Colorado.

Mr. HART. Mr. President, I appreciate the Senator from Kansas yielding to me to add my support of this amendment, and verify everything the Senator from Kansas has said. The degree of negative impact, the disastrous impact of the storm, was extraordinary. Portions of the State of Colorado are still recovering. The effect on electrification and electric service in the eastern part of Colorado and the other areas affected was enormous, and the costs have been extremely high.

We did join together to try to get normal disaster assistance. That was denied, for reasons that are still unclear to me, and I just want the record to show that, speaking for the people of Colorado, we feel very strongly about this amendment. We think it is a very good amendment, and wholeheartedly support it, and we hope that the Senate will accept it.

Mr. DOLE. Mr. President, I ask the Senator from Colorado if he would like to be made a cosponsor.

Mr. HART. Yes, I would appreciate it.

Mr. DOLE. Mr. President, I ask unanimous consent that the names of the Senator from Colorado (Mr. HART) and my distinguished senior colleague (Mr. PEARSON) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I wonder if we might interpose a quorum call. The Senator from Nebraska (Mr. CURTIS), I believe, would like to speak briefly on this amendment before a point of order or other procedure is raised. Is that agreeable to the Senator from Wisconsin?

Mr. PROXMIRE. Yes.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time for the quorum call not be taken out of the time on either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask recognition on the Dole amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. DOLE. I yield 5 minutes.

Mr. PROXMIRE. Mr. President, I am happy to yield such additional time as the Senator may require.

Mr. CURTIS. I thank both Senators.

Mr. President, this is not a happy situation, to come here and ask for a direct appropriation for a disaster. We are not here by choice. This is a method followed for many years, and then the agency was set up to rule on these things.

I think the agency made a terrible blunder. Once in a while, a very severe snow and ice storm comes along and takes down all the rural electrification lines. A year ago we had such a storm in eastern Nebraska. Milking machines stopped, there was not any light in the country, we could not run the various motors on the farms for grinding corn or anything else, and the Disaster Agency came to the rescue and did what Congress intended. They paid these rural electrification districts for their unusual damage from a storm that was truly a disaster. That is the way it should have happened.

A year goes by, and we have a storm in Colorado and Kansas and parts of Nebraska. It is a severe storm. Again, it destroys the power lines, creates a very difficult delay, and sometimes the individual farmers have to spend hundreds of dollars to get a mobile generator in order to supply their electricity; because if they are pumping water for irrigation with electricity, for example, and the power is off, their crop is gone for that year.

For some reason or other—well, I believe I know the reason—the President did not certify this storm which occurred in Kansas, Colorado, and Nebraska as a disaster of the magnitude set forth in the statute.

It was such a storm. It occurred from March 10 to March 19, this year.

Mr. President, if you will recall what was in the headlines of the paper, this storm was of such magnitude that trains were stopped, many people died, and power lines were damaged. In the State of Nebraska alone, the damage to the Nebraska public power district and the rural electrics was over $8 million.

It is true that if somehow they could get $8 million, they could add it onto the power bill and the consumers would pay it. But the point is this is not the only storm we have had. We have had other storms but not all have been of a magnitude to ask for Federal aid.

Some of these REA districts have one and two outstanding loans they had to make to rebuild the lines of previous storms. That factor was not taken into account.

Another factor that was not taken into account as the Federal agents looked into the books and said, "Aha, you have some money in the bank; you are not a disaster," was that the money there did not belong to the districts, or to the consumers, but was there to meet the oncoming obligations. The Federal Disaster Agency based its recommendations to the President on the fact that many of the rural areas could obtain REA 2-percent loans. They ignored the financial conditions of many of these rural electrics. The savings which do exist, have been accumulated to pay off past REA loans. In other words, we have quasi-public bodies which are heavily in debt to the U.S. Government. They suffer a major disaster and for some reason or other they are treated differently than the victims of floods, of tornadoes, of hurricanes. This has been the pattern over the country.

Mr. President, I stated in the beginning this was an unhappy experience. I believe the Congress made a wise move when they turned away from special appropriations for disasters which occurred. It calls for investigating, and it calls for evaluating the losses, with careful planning. Also, these things sometimes happen when the Congress is not in session. We did set up an agency to take care of them.

The agency failed us, and I believe wrongly so. I believe the President was totally incorrect in his finding that it was not a disaster which qualified. What makes it very difficult is that we have REA's in one end of the State that were taken care of a year ago, and when there was just as severe a storm in the other end of the State, from which Colorado and Kansas, also had substantial losses, those REA's were not taken care of.

It would be my hope, Mr. President, that the committee could accept this amendment. In the meantime, before this bill is settled in conference, this very influential committee could request the Executive to review this matter and, if possible, handle it so that the appropriation would not be necessary. To add the amendment at this time will clarify the situation and bring to a head whatever is wrong—and I do not think it was ever intentional—in making these determinations.

This disaster of 1977 is identical to the one we had in 1976. I think the same Government should give them the same treatment. I thank my distinguished colleague for yielding.

Mr. PROXMIRE. Mr. President, I have great sympathy for the Senators from Nebraska, Kansas, and Colorado. They have made a very strong case. Undoubtedly the March blizzard was a serious problem in each of these States and substantial economic damage was suffered.

There is no escaping the fact, however, Mr. President, that this is special relief legislation. As the Senator from Nebraska has said so well, we have decided, for good reason, not to act on this kind of matter by the legislative route. Instead, we have set up an agency to investigate and make findings of fact so we know just what the situation is on an objective basis.

The fact is that under the present law the declaration of a disaster is up to the President, not the Congress. We have made that decision. The President had an opportunity to consider this particular disaster. He did not decide that it was appropriate to expend the money. If the President and the administration make a mistake, the way to handle this, it seems to me, is to amend the authorizing legislation to eliminate the possibility for error.

I call the attention of the Senator from Kansas to the second item on the calendar. It is entitled "A bill to amend the Small Business Act to authorize the making of economic injury disaster loans in certain extraordinary circumstances without a disaster declaration."

That is in keeping with this particular situation.

I have just talked with the majority leader. He tells me that this bill will be called up after the recess, in just a few weeks. That would seem to me to be the appropriate vehicle. I would hope the Senator from Kansas and his colleagues would consider that route.

The fact is that there is money available. We have appropriated the needed funds. We do not need the $19 million the amendment would provide. The money is there and is ready to be spent in the event the President makes the decision that it should be spent, but he has decided against it.

I submit this is not the right vehicle through which to act in this case. The appropriate vehicle is on the calendar and will be acted upon shortly. I would hope the Senator from Kansas would not press his amendment but would bring it up when that other legislation is before us.

Mr. DOLE. Mr. President, the Senator from Kansas has no quarrel with the distinguished floor manager, the Senator from Wisconsin. I think it is of some interest that the presiding officer at this very moment (Mr. BAYH) is probably the architect of disaster assistance programs and has done a great deal of work in this area. Of course, I only say that to indicate the great effort he has made in this entire area.

It just seems to some of us who have worked with the distinguished Senator from Indiana and others trying to evolve a program, was a mistake, and we are not certain just what approach to take. The Senator from Kansas understands the amendment is subject to a point of order. It is the earmarking of funds and it would be subject to a point of order. It would seem to this Senator that by raising it on the floor perhaps we might attract the attention of the administrator for one more review.

The Senator from Kansas is aware of the bill on the Calendar, that addresses loans. It might be better than nothing, but it was felt that we might have a better mode of relief.

Based on what the Senator from Kansas knows, I do not see any reason to pursue the amendment. If the point of order is raised, it will be sustained; so I could have some assistance, maybe indirect assistance, from the distinguished floor manager and the distinguished Senator from Maryland, attracting attention to this one, specific problem, it would be helpful.

Mr. PROXMIRE. I should be delighted to join the Senator from Maryland, the Senator from Kansas, the Senator from Nebraska, and the Senator from Colorado in asking the administration to take another look at this particular problem. I think the Senators have made an extremely strong case. These are Senators who are very careful about the public money and very concerned with excessive spending.

The Senator from Nebraska made a special point of this. He said that he thinks the route to go is the investigation route. I think that is a reasonable position, so I am happy to join the Senators in that kind of appeal.

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Indiana, also would like to join in that appeal.

(The following proceedings, which occurred later in the day, are printed at this point in the RECORD by unanimous consent.)

Mr. BAYH. Mr. President, I associate myself with the thrust of the remarks on the amendment of the Senator from Kansas.

I have great sympathy for him, having been in a similar situation, as far as the constituents of my State are concerned.

I also realize that the Senator from Wisconsin is in a difficult position. He was in a similar situation on the fiscal year 1977 supplemental when the Senator from Indiana succeeded in having the Senate adopt an amendment that would affect his State, Ohio, Michigan, and Pennsylvania, only to see it fall by the wayside because of, what I thought was, rather arbitrary action in the House.

To show how far FDAA will go, they declared an emergency for those four States due to severe winter weather in late January. FDAA issued an emergency declaration which called for assistance to protect the health and life and safety of the citizens in the affected counties. Unfortunately, it took about a week to get all these papers processed and the declaration announced.

In the meantime, people just did not stand around out there and let other citizens die. There were old people who could not get to the hospital, and who needed fuel and food.

Local government officials moved the snow and used all of their local maintenance money for the entire year.

Now, when the emergency declaration goes into effect, FDAA, a disaster agency which is supposed to help people, refuses to send money back to the States to compensate them for the money they used to keep lives from being lost and to minimize suffering during the week it took FDAA to process the papers. This situation has to change.

I was intimately involved in the writing of the Disaster Act, as the Senator from Kansas observed. Frankly, I am willing to look to any suggestion that might be made as to how we can change this Disaster Act, particularly regarding emergency declarations. However, I have a sinking suspicion that instead of going to the heart of the legislation, we had better go to the heart of the people who are administering it because in the situation to which the Senator from Indiana just referred, there was authority to permit the compensation of moneys that were used in resolving the problems created by an emergency during the time it took to process the declaration. The denial of this compensation makes absolutely no sense.

I associate myself with the Senator from Kansas, the Senator from Nebraska, and others in this regard.

Mr. DOLE. I thank the Senator from Indiana.

His case was worse than ours; in that he had a disaster declaration; we did not have one.

I certainly concur in his comments that we perhaps need not resort to legislation but should, instead visit with the administrator, to see how he interprets what many of us understood was a law to relieve suffering and disaster. I know it is a difficult job. I do not condemn the administrator, but it seems to me that sometimes too much restraint is used when there is an obvious disaster.

Mr. BAYH. I thank the Senator from Kansas. Again, I express understanding of his position.

Sometimes trying to get something through the House is like running into a wall with your eyes shut. The Senator from Wisconsin has been very understanding.

(This concludes the proceedings which occurred later in the day.)

Mr. MATHIAS. Mr. President, I think we all have to take notice of the fact that last winter was the hardest winter in the entire history of the Republic. I do not know why we had to have that particular

kind of finale to the Bicentennial, but we did. So I join with the Senator from Kansas, the Senator from Nebraska, the Senator from Indiana, the Senator from Wisconsin, and the Senator from Colorado. I think that together, perhaps we can underscore what is a fact, that last winter was the hardest winter in our entire history and it did create circumstances so unusual that they demand recognition.

Mr. DOLE. I appreciate the statements of the distinguished Senator from Wisconsin and the distinguished Senator from Maryland. I withdraw the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment was withdrawn.

MODERNIZATION FUNDING ALLOCATION OF RESOURCES

Mr. DOLE. Mr. President, I had intended to offer an amendment in reference to modernization funding allocation of resources, but if I may be allowed some time on the bill, I can discuss it for a few moments to make my point.

May I have 5 minutes?

Mr. PROXMIRE. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mr. PROXMIRE. I am happy to yield 5 of those minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, recently the housing authority in Kansas City, Kan., contacted my office, as they have every right to do looking for help in obtaining badly needed funds for modernizing their public housing facilities. One reason they were having such a difficult time obtaining these funds was the low percentage of modernization funds coming into region VII.

Frankly, this Senator was amazed that region VII, which includes the States of Iowa, Kansas, Missouri, and Nebraska, and which contains 3½ percent of our Nation's public housing only received 1.6 percent of the modernization funds. Likewise, regions 8 and 10 were facing similar low funding. Taken together, these 3 regions include 14 Midwestern and Western States.

This serious anomaly in funding is based on a deceptively simple formula based totally upon the amount of public housing which is at least 15 years old. This senator normally finds simple formulas a refreshing change from the excessively complicated ones which bureaucrats like to hide behind, but is opposed to even a simple formula when it ignores major factors which should be considered.

Factors which should be considered in allocating these funds include the number of units needing modernization which have not reached 15 years of age, the location of the projects, extra work which might be required to keep these housing units attractive to responsible citizens and tenants, and high levels of occupancy which cause a project to depreciate faster.

Of course, simplicity has its virtues, but arbitrary simplicity which ignores local factors bothers this Senator a great deal, especially when it so seriously injures his home State. As mentioned, region 7 has 3.5 percent of all public housing units in the country, but has only 1.6 percent of the modernization funding.

In Kansas City, Kans., the oldest public housing project will see its 15th birthday this December. Yet, there are housing projects there which could benefit greatly from modernization funds. The fact that modernization funds may be needed for projects less than 15 years old is readily accepted by HUD in their modernization handbook—but their formula for fund distribution completely ignores this fact.

Of course, this Senator would not presume to try to present HUD with a detailed, improved formula. My amendment would temporarily bail out those regions within HUD that I believe are being most seriously injured by this allocation. At some future time, when HUD presents Congress with a more reasonable formula, the need for this protection for the smaller regions will possibly evaporate; but now, we need to do something to protect these States, which will suffer from a formula which ignores many important factors.

The amendment would mandate that each region would receive at least 2.5 percent of the modernization funds, unless the percentage of the Nation's conventional public housing within that region is less than 2.5 percent in which case they would receive the lesser amount. I note that the total amount of funds which would be reallocated would be less than 2 percent, an amount which would take major steps toward relieving the problem in these areas while not injuring modernization efforts in other parts of the country.

Mr. President, the regions the Senator from Kansas is discussing, regions 7, 8, and 10, include the States of Iowa, Nebraska, Missouri, Kansas, Utah, Montana, Colorado, Wyoming, North Dakota, South Dakota, Alaska, Washington, Idaho, and Oregon. It seems to me that this is a matter that deserves some attention.

I ask unanimous consent that I may have printed in the RECORD a fact sheet on the modernization fund allocation amendment.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

FACT SHEET ON DOLE MODERNIZATION FUND ALLOCATION AMENDMENT

The amendment would assure that each HUD Region would receive a percentage of funds equal to 2.5% or equal to the percentage of public housing in that Region, whichever was lower. This would increase the percentage of funds going into Regions VII, VIII, and X by an amount which would be quite significant for each of those Regions while decreasing the amount of modernization funding in other regions by less than 2%.

Current HUD formula and Dole amendment

	Percent	Percent
Region VII*	1.6	2.5
Region VIII**	.86	1.48
Region X***	1.53	1.88

*Iowa, Nebraska, Missouri, and Kansas.
**Utah, Montana, Colorado, Wyoming, North Dakota, South Dakota.
***Alaska, Washington, Idaho, Oregon.

The current HUD formula for distribution of these funds is based entirely upon the percentage of the nation's 15-year-old Housing Units within a Region. It ignores other factors such as location, the age of units less than 15 years old, the amount of depreciation caused by a high rate of occupancy, and construction design. For instance, Region VII contains 3.5% of the nation's low-income public housing, but only receives 1.6% of the funds which HUD distributes for the purpose of modernizing public housing. To the extent that units less than 15 years of age need modernization funds, it leaves these regions with a significant unfunded need. While the number of housing units over the age of 15 is certainly significant, it is not the only factor which should be considered.

While the amendment does not propose a new formula, it does assist those regions where the current HUD formula has had the most serious adverse effect.

Mr. DOLE. Mr. President, having made this statement, I hope that HUD will take a look at the formula and, perhaps, at the earliest possible time, make some of the necessary revisions alluded to.

UP AMENDMENT NO. 532

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 532.

On page 30, between lines 11 and 12, insert the following:

None of the funds appropriated by this Act may be used for the adjudication of any claim or the payment of any benefit in the case of any individual who would become entitled to any benefit by virtue of the administrative upgrading, under any program establishing temporarily revised standards for the review and correction of discharges, of a less than honorable discharge issued to such individual during the Vietnam era.

Mr. DOLE. Mr. President, first of all, the Senator from Kansas makes it clear that he has discussed this proposed amendment with the distinguished Senator from California (Mr. CRANSTON) and the distinguished Senator from South Carolina (Mr. THURMOND) and also with the distinguished Member of the House of Representatives, Representative ROBIN BEARD of Tennessee. As one who has had long-time interest in what might result from the Carter program to upgrade discharges and one who strongly feels, on the question of whether someone who failed to serve this country, or deserted, or otherwise ignored his responsibility to this country, should now qualify for veteran's benefits, the Senator from Kansas has had some long-time interest in seeing whether we could prevent this from happening.

First of all, I think it is imperative to make it clear at the outset that the amendment the Senator from Kansas sent to the desk today bars benefits only from those whose discharges are upgraded under the special upgrading program. It does not bar those whose discharges were upgraded through regular existing procedures.

The original authority for establishment of the various discharge review boards was contained in the Servicemen's Readjustment Act of 1944, Public Law 78–346. Current authority is enunciated in 10 U.S.C. 2553.

The correction boards of the various branches of the service were established by Public Law 79–601, the Legislative Reorganization Act of 1946, August 2, 1946. This service is available today.

CARTER'S "QUICK FIX" PROGRAM

The President's new discharge review and upgrading program is underway, and it has been estimated that 117,500 veterans with less-than-honorable discharges will request to have the character of their discharges upgraded to "honorable" or "general under honorable conditions." These veterans could become eligible for veterans' benefits and services as soon as their discharges were reclassified to one of these categories.

The Carter special discharge review program is ostensibly designed as a gesture of compassion, to further bind the wounds of Vietnam, a complementary gesture to the pardon of draft evaders. It creates certain "automatic upgrading" criteria, to be applied to recipients of general and undesirable discharges during the Vietnam era, who apply to have their cases reviewed. If a person meets one of the following criteria, his discharge will be automatically upgraded, absent "compelling reasons" to the contrary, no matter what other factors might be present in his service record.

One. Received a U.S. military decoration other than a service medal;

Two. Was wounded in action;

Three. Satisfactorily completed an assignment in Southeast Asia or in the western Pacific in support of operations in Southeast Asia;

Four. Completed alternative service or was excused therefrom in accordance with Presidential Proclamation 4313 of September 16, 1946;

Five. Received an honorable discharge from a previous tour of military service;

Six. Had a record of satisfactory active military service for 24 months prior to discharge.

UNDERMINING HONORABLE SERVICE

In my opinion, the President's discharge review program has the effect of eliminating the character of discharge, because it makes it so easy to get a less-than-honorable discharge upgraded. It seems to me to automatically grant veteran benefit entitlement to veterans whose discharges have been upgraded under such criteria would definitely undermine the special significance of honorable service.

It is my desire, and hopefully the desire of my distinguished colleagues, to insure that those Vietnam era veterans whose military service was less than honorable are not placed on an equal footing with those men and women who served this Nation faithfully and honorably. Furthermore, I do not believe that less-than-honorable service Vietnam era veterans should receive greater consideration from their Government than did those veterans with similar discharges from prior wars.

Recently, I have become somewhat disillusioned by the inordinate amount of concern which some public officials have shown for the welfare of Vietnam era draft evaders, military deserters and holders of less-than-honorable discharges. It is especially disheartening to have to respond to deserving veterans of past wars, and especially to their dependents and/or survivors that increased benefits are being "considered" and will hopefully be forthcoming, while at the same time, President Carter, in a compassionate and forgiving spirit, "awards" undeserving individuals veterans benefits—benefits that have traditionally been reserved for those who served their country honorably.

It seems to me that, if President Carter insists on extending compassion, he direct such concern at rehabilitating and solving the problems of those veterans and their dependents of past wars and the 8.5 million Vietnam era veterans who served honorably.

EXPECTED APPLICANTS

According to Pentagon figures, there are 421,500 Vietnam servicemen who left the service in either "undesirable" or "general" discharge status. Of the 117,500 expected applicants, an estimated 71,711 would receive upgraded discharges.

ANTICIPATED COSTS

The administration has estimated the cost of this program to be $100 million. The only problem with that figure is that nobody knows what it relates to, that is: How many years, what agency costs are included, et cetera. Even the Department of Defense reports strikingly different figures. They say that the first year costs to DOD alone will be over $45 million. They also estimate that those same costs at the end of 5 years will be $33 million. Assuming that these figures are reasonably accurate, and that the average for 5 years is about $40 million, the cost to the Veterans' Administration in benefits alone will be $200 million for the 5-year period, or double the administration estimate.

In addition to these benefit costs, DOD estimates their administrative costs to be between $4 to $6 million, not including the costs of salaries.

REPRESSIVE MEASURES (?)

The popular notion that special consideration should be given to Vietnam era veterans because of the "unpopularity" of the war does not hold water.

During the Vietnam era, 97.02 percent of the 8½ million discharges awarded were either honorable or general discharges, thus qualifying the recipient for full veterans benefits. And 93.13 percent were honorable. These percentages compare favorably with the pre-Vietnam decade. It seems to me this is a clear indication that there were no general repressive measures for supposed political dissidents, nor was there a higher percentage of people unable to cope with the military as a result of the Vietnam era draft laws.

MEETING THE STANDARDS

Something has to be done before a potential 100,000 plus individuals get automatic entitlement to veterans' benefits and services without substantiating that their service was in fact honorable. And, a review of their applications for benefit entitlement by the Veterans' Administration would provide a forum in which the merits of individual cases could be thoroughly considered. My amendment would allow some measure of assurance that those whose discharges are upgraded under the President's program do not receive benefits unless their service has earned them.

It seems to this Senator that, under these procedures, perhaps benefits should not be denied. But, Mr. President, having discussed this at some length with the distinguished Senator from California and the distinguished Senator from South Carolina, and knowing of their intense interest and the long and arduous work their staff has done, and all the members of the Veterans' Committee, I think that, perhaps, the Senator from Kansas can be assured by the Senator from California to the point that he might be willing to withhold any action on the amendment today.

Mr. CRANSTON. I thank the Senator very much for his willingness to consider a slightly different approach. We did, yesterday, unanimously order reported an amended version of S. 1307 from the Veterans' Committee. It will be dealt with on the Senate floor next week.

I know the Senator is concerned that the Senate would pass in a separate bill an approach encompassing the same thing the Senator from Kansas wishes to accomplish and that our bill may not be acted upon in the House. I think I can assure the Senator that it will be acted on in the House, because the chairman of the Veterans' Affairs Committee in the other body, Representative ROBERTS, and the ranking minority member, Representative HAMMERSCHMIDT, are very sympathetic to this approach. This is a bipartisan approach, including Mr. BEARD, on the one hand, and Mr. DOWNEY, who represents a different viewpoint, on the other. The hard part was agreeing on a fair approach and that we have worked out in the Veterans' Affairs Committee.

However, I recognize that something might cause a delay in action on that.

We have scheduled a meeting on July 12 on H.R. 1862, which is the House-passed compensation bill. If we do not have assurances from the House by the time we act on that bill, which will be very soon in July, that they will act on S. 1307 as reported, I can assure the Senator from Kansas that we in the

Veterans' Committee will attach our version as an amendment to that bill which already passed the House, and that will assure that it will be dealt with, and I think that it will go down to the White House.

The approach that we have worked out in the Veterans' Affairs Committee in the measure we reported last night, S. 1307 as amended, is, we think, preferable to other approaches for a variety of reasons.

I put a full statement in the RECORD yesterday spelling out exactly what we had done, but let me read brief extracts from a "Dear Colleague" letter that Senator THURMOND and I circulated late last night and this morning in regard to our approach.

The letter states, among other things:

We believe that the approach embodied in S. 1307, as reported from committee, is far preferable to the Beard amendment.

I know the Senator from Kansas did not offer the Beard amendment, but a different approach. He has dealt with some of our problems with the Beard amendment, but not all of them. Therefore, I remain convinced that what we brought out of the committee is best.

There is also the point that we would preserve the committee's jurisdiction by proceeding with the legislation emanating from that committee.

Again, quoting from the letter:

In S. 1307 as reported, we have sought to vindicate the principle that veterans' benefits should be afforded to persons with less than honorable discharges only under standards applicable to all such persons, and at the same time to ensure that the enactment of legislation denying benefits to individuals whose undesirable discharges are upgraded under the special standards in the Carter program does not take away any rights of those individuals to obtain benefits under the regular military Discharge Review Board standards or through the regular VA character-of-discharge process.

The Committee bill, in addition to protecting these rights, makes clear how an individual would obtain a determination regarding benefits eligibility—through a determination by the military Discharge Review Board as to whether an upgrading would have been granted under the generally applicable standards. Full recourse to the VA process is also preserved, and the amendment would authorize the VA to provide health care for the service-connected conditions incurred in line of duty by persons with undesirable discharges.

We think that the overall legislative approach in S. 1307 as reported, is a fair and honorable one, preserving, as it does, historical principles governing the award of veterans' benefits and applying appropriate standards of equity and even-handed treatment.

One other quote from that letter:

The bill as reported is cosponsored by all members of the Committee on Veterans' Affairs, and is supported by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, the Paralyzed Veterans of America, and the Blinded Veterans of America.

I would only make one other point to the Senator from Kansas. There is a lot of uncertainty now among veterans and organizations representing them as to exactly what is transpiring in this field, and exactly how they go about getting whatever upgrading may be possible, and how they go about achieving whatever benefits may be appropriate and might be awarded to some and not to others.

The bill which the committee has approved is specifically designed to clear the air on all this and make plain what happens.

I think if we should proceed with any amendment now we would create more confusion.

There would be a House version and there would be a Senate version, which are different in certain respects in addition to the bill reported from the Senate Veterans' Affairs Committee; and the procedures that are spelled out in our amendment are not spelled out in the amendment of the Senator from Kansas.

Therefore, adoption of this amendment would just add to the confusion.

With those assurances, then, let us proceed in the normal fashion through the legislative process.

Mr. PROXMIRE. Mr. President, will the Senator yield for 10 seconds?

Mr. CRANSTON. Yes.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on final passage on the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. I thank the Senator.

Mr. CRANSTON. Mr. President, one other point. The amendment, if done through the appropriation vehicle, would not become effective until October 1.

The bill that comes out of our committee, if enacted soon, and I believe it can and will be, will become effective much earlier, and it can be retroactive, also.

Mr. DOLE. Mr. President, the Senator from Kansas agrees with the distinguished Senator from California, along with the distinguished Senator from South Carolina and other members of that committee, that they probably have the best approach.

I commend Congressman BEARD for focusing on what many of us feel is a very serious problem.

I certainly in no way take away from his efforts. Of course, he will make every effort in conference to keep his language and I wish him success.

But based on the assurances, the Senator from Kansas is concerned about what would happen if we go to conference, drop the Beard amendment, and pass the Cranston-Thurmond bill, but is never passed in the House. Based on the assurances, however, from one who I know to be in a position to give assurances, the Senator from Kansas is satisfied that something will be done.

We are not trying to do an injustice to anyone, our intent is to prevent an injustice from happening.

Based on those assurances, the Senator from Kansas is perfectly willing to let the normal legislative process work and not in any way burden this bill with an amendment.

Mr. CRANSTON. Will the Senator yield for a moment?

Mr. BAYH. Yes.

Mr. CRANSTON. I just want to thank the Senator very much for his cooperation on this matter of the veterans benefits, and I assure him we plan to proceed at once with passage of S. 1307, which we have ordered reported, and, if necessary and advisable, we will proceed with that same measure also as an amendment on the compensation bill, which we are ready to act on in committee on July 12.

I thank the Senator very much.

(Mr. BAYH's remarks made at this point in connection with amendment No. 531 are printed earlier in today's RECORD, by unanimous consent.)

Mr. DOLE. Mr. President, as to the amendment now pending, Senator CRANSTON has given me very strong assurances, and I therefore withdraw the amendment.

Mr. CRANSTON. I thank the Senator from Kansas.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BAYH. Mr. President, the Senate is considering H.R. 7554, the appropriations for the Department of Housing and Urban Development, the Veterans' Administration, the National Aeronautics and Space Administration, the Environmental Protection Agency, the National Science Foundation and other related agencies for fiscal year 1978. The bill totals $67.6 billion, an amount which is $2.5 billion less than the budget request and $1.8 billion below the House figure.

Almost half of the funds in this bill, $30.3 billion, are for the Department of Housing and Urban Development's assisted housing programs. The moneys provided in H.R. 7554 would provide at least 359,320 additional new and existing housing units during the next fiscal year. In addition to providing funding for assisted housing under section 8, the committee also recommends that at least $206 million in contract authority be used only for low income projects which will be owned by public housing agencies and of that amount 15 percent will be earmarked for use in rural areas.

The Senate bill increased the funds available under section 701, comprehensive planning grants, to $62.5 million, an increase of $12.5 million over the House figure and returns this item to the budget request. Under the recommendations of the committee $17.5 million will be available to the States, $23.5 million for metropolitan areawide planning organizations and urban counties; and $10 million for nonmetropolitan areawide planning organizations. The remaining funds will be allocated to other localities. I supported this increase and hope that the Senate will maintain its position in conference with the House.

Funds are also provided in H.R. 7554 for the operation of the Environmental Protection Agency. I am particularly pleased that the committee has included $1.3 million for phase II of the Ohio River basin energy study—ORBES—which is being conducted by EPA under the direction of the committee. ORBES is designed to investigate energy supply and demand in the Ohio River Basin—a highly industrialized area. At the current time, plans are in various stages of completion for up to a dozen new powerplants between Cincinnati and Louisville along the Ohio River. The results of

ORBES will enable rational and environmentally sound decisions to be made regarding the development of these plants. The original study included four States, Illinois, Indiana, Kentucky, and Ohio, and phase I which was begun in August 1976 and will be completed in July, was funded by diverting $760,000 from other projects. Phase II, which will last 2 years, includes the original four States plus West Virginia and the western portions of Pennsylvania. Without the $1.3 million included in this bill, EPA will not be able to continue to fund ORBES at a high enough level to keep the study on schedule and I would hope that the necessary resources for the timely completion of ORBES will be retained in conference.

H.R. 7554, as reported by the committee, restores the cuts made by the House in the budget for the National Science Foundation. This restores cuts made in both basic research and the RANN—research applied to national needs—program. By providing the funding requested in the budget, NSF will be able to continue its work directed toward nitrogen fixation, earthquakes, and productivity research. The committee also recommends that NSF encourage and expand its support of research in the area of small business. I supported the effort to restore the House cuts. Of particular interest to me, is that Indiana institutions, including Indiana University and Purdue, successfully compete for grants from NSF. In fact, Indiana ranks 12th in terms of the number of contracts awarded and ninth in funds received.

The chairman of the Subcommittee on HUD and Independent Agencies, Senator PROXMIRE, the ranking member, Senator MATHIAS, and the majority and minority staffs have all worked hard in putting this bill together. I appreciate their helpfulness and cooperation, and will vote in favor of H.R. 7554.

Mr. MUSKIE. Mr. President, the bill before us today, H.R. 7554, would provide $67.6 billion in fiscal 1978 funding for the Department of Housing and Urban Development, the Veterans' Administration, NASA, EPA, other independent agencies, and revenue sharing for State and local governments. As reported to the Senate, H.R. 7554 is within the spending constraints imposed by the first budget resolution, and I intend to support this bill.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to it under the budget resolution. This bill, as reported, is under the subcommittee's section 302(b) allocation and is generally consistent with the first budget resolution targets.

The HUD-Independent Agencies Subcommittee's allocation under section 302(b) totals $76.5 billion in budget authority and $46.1 billion in outlays. Enactment of H.R. 7554 as reported would leave room within the subcommittee's allocation for further appropriations of $8.9 billion in budget authority and $1.4 billion in outlays.

A number of supplemental claims can be anticipated, however, that will reduce this budget margin in the months ahead. Substantial funding assumed in the budget resolution for EPA has not been included. Additional funding requirements for EPA construction grants and agency operating expenses could total $4.7 billion in budget authority and $200 million in outlays for fiscal 1978. Cost-of-living increases for veterans' benefits allowed for in the budget resolution and other increases for veterans' programs that are expected could require supplementals totaling $1.8 billion in budget authority and $1.5 billion in outlays. Should current economic assumptions prove to be optimistic, another $200 million in budget authority and outlays may be needed for countercyclical revenue sharing. A later supplemental may be needed for disaster relief of $200 million in budget authority and $100 million in outlays.

Taking all these possibilities into account, there is still $2.0 billion of room left in the subcommittee's budget authority allocation. However, outlay estimates are much tighter. If all these supplementals come to pass, total outlays would exceed the subcommittee allocation by $600 million. I urge my colleagues to keep this situation in mind as floor amendments are considered. Also, Senators should be aware that the totals in the House-passed bill are substantially higher than in the Senate-reported bill, by $2.6 billion in budget authority and $0.7 billion in outlays. I hope that Senate conferees will do their best to keep the conference agreement near the Senate figures to preserve necessary flexibility for consideration of future spending requirements.

Mr. President, I ask unanimous consent that a table listing these possible later requirements be inserted in the RECORD at this point.

The HUD-independent agencies bill affects spending in 12 different budget categories. Based on the bill as reported and possible later requirements, potential spending is within the budget authority targets for all these functions.

The distinguished chairman of the full Appropriations Committee has assured me that his committee intends to stay within its overall allocation under the first budget resolution, including supplemental requirements known at this time. I applaud his commitment and encourage the committee and all my colleagues to maintain the discipline exhibited thus far. I greatly appreciate the subcommittee reporting this bill, H.R. 7554, consistent with the congressional budget, and I will gladly vote in favor of the bill.

H.R. 7554—HUD and independent agencies fiscal year 1978 appropriations bill

[Relationship to subcommittee allocation in billions]

Subcommittee section 302 (b) allocation	76.5	46.1
Other actions completed or underway	-----	-----
H.R. 7554	67.6	44.7
Remaining allocation	8.9	1.4
Possible later requirements:		
EPA construction grants	4.5	-----
Supplemental for EPA operating program	0.2	0.2
Disaster relief supplemental	0.2	0.1
Cost of living increases for Veterans' compensation, pension, and G.I. bill beneficiaries	0.9	0.9
Other veterans' entitlement legislation	0.6	0.5
Other veterans' programs	0.1	0.1
Upward reestimate of veterans' entitlement programs	0.2	-----
Countercyclical revenue sharing	0.2	0.2
Total possible later requirements	6.9	2.0
Possible amount over (+) or under (−) subcommittee allocation	−2.0	+0.6

NASA APPROPRIATIONS AND THE JUPITER ORBITER PROBE

Mr. BAYH. Mr. President, the Senate's approval of the NASA appropriations request for the funding of the Jupiter Orbiter Probe will represent an important commitment by this country to continue a budgetarily sound and scientifically promising program of unmanned planetary exploration. By restoring funds for this "new start" the Senate Appropriations Committee has recognized the need for this Nation to maintain present capabilities in the areas of technology which ambitious projects such as the JOP require.

Mr. President, beyond the public policy and "spinoff" arguments attending the Senate committee's approval of JOP and the other NASA new starts—large space telescope and Landsat—there is also a compelling reason for us to make an effort to reach to the stars and planets in order to discover the secrets locked therein. The potential for a better understanding of the universe these endeavors represent can bring better answers to the problems which challenge us here on earth. In addition, I think it is important to consider these efforts as real expressions of the human spirit's desire for discovery, adventure, and knowledge itself. A provocative development of this theme has been provided by Prof. Carl Sagan, the distinguished astronomer and planetologist from Cornell University.

I commend to the attention of my colleagues Dr. Sagan's article appearing in the June 20th issue of Newsweek and ask unanimous consent that it appear in the RECORD at this point. I also believe the Senate has responded constructively to the hopes and allayed somewhat the fears Dr. Sagan discusses in his article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PLANETARY EXPLORATION

Almost without noticing, humanity has passed into an age of exploration, discovery and high scientific adventure unmatched since the 16th through 18th centuries when plucky European caravels uncovered the nature and extent of our planet. Those vessels were manned, the voyages were risky and the cost was high—about 1 percent of the gross national products of Spain, England or Holland. Today's vessels are still small, the voyages still lengthy; the ships are unmanned and the effort costs less than 0.1 percent the gross national product of the US or USSR (or about 0.3 percent of their de-

fense budgets). But the ventures are similar: We are engaged in exploration, in the seeking out of new lands and new worlds and, if we are lucky, new life.

The zest for exploration runs very deep in the human species. Were we to turn our great energies and high technologies entirely inward we would, I think, be turning our backs on our future and on our humanity, and denying the four billion year evolution which has brought us—a thinking, feeling, constructive, curious, and exploratory species—to real if precarious dominance of the planet Earth.

We recognize the glimmerings of intelligence in the delicate, brilliantly constructed machinery of our new exploratory vessels. The Viking mission to Mars—which have found stunning landscapes and either microbes or an exotic chemistry which simulates microbial metabolism astonishingly well—have shown that public attention can be riveted to the exploration of other planets even if no humans are aboard.

The advantages of such voyages go far beyond a resonance with our exploratory instincts, spirit and traditions. We have found planets very different from the Earth, worlds in some sense gone awry, places where one or another factor that has made the Earth the way it is was a little altered—producing an environment profoundly different from our own. By studying these other worlds we can better understand and utilize the Earth, providing an extremely practical rationale for planetary exploration. I believe that its relatively tiny cost will be recovered many times over in the practical insights in comparative planetology which are to be achieved in the earth, atmospheric, and life sciences.

These missions also hold the promise of securing answers to some of the deepest questions ever asked, questions on the origins and destinies of worlds, the nature of our small planet, the possibility of life elsewhere, and the connection of the Earth and its inhabitants with the vast, intricate and subtle universe of which we are one extremely small part. The greatest civilizations have traditionally been known not only for how they provide sustenance for the body but also for how they provide sustenance for the mind and the spirit.

Will the future think kindly of us if we had within our power to continue our exploratory tradition, to provide an extraterrestrial perspective for our planet, to approach these deepest of questions and—when face to face with the decision—we turned back from the Cosmos?

There is a very real possibility that, without fully understanding the consequences, we may be taking irreversible steps away from the planets. These missions are complex. They require great planning and an application of the very highest technology available. (Indeed, the spurring of high technology is yet another justification for planetary exploration.) It is usually five to ten years between their conception and their execution. This means that in the working lifetime of a typical planetary scientist or spacecraft engineer there are only a handful of missions.

A continuity of effort and commitment is required to maintain the critical mass of skilled personnel. The great planetary missions of recent years, which have for the first time opened our eyes to the true nature of the planets from Mercury to Jupiter, were approved and initially funded in the 1960's. Because of the long lead times, we are just now beginning to feel the negative impact of our inaction, including a dramatic decline in interest in non-military space activities by the major aerospace corporatons, and a severe strain on the extremely competent and innovative NASA centers involved in planetary exploration, particularly the Jet Propulsion Laboratory in Pasadena, California, which is without peer on the planet Earth. An encouraging sign was provided by the Carter Administration when ten million dollars—a small amount, but provided constructively early—was added to the proposed NASA budget for studies on the future exploration of Mars, possibly to include a roving vehicle.

There is also in the present NASA budget the first major new start in planetary exploration in many years, called Jupiter Orbiter with probe (JOp). JOp is an historically significant mission, the first long-term observational satellite of a planet of the Jupiter family (and its 13 exotic moons), and the first direct investigation of the atmosphere of such a planet. Organic molecules are almost certainly being produced today in the Jupiter atmospehre, whose study therefore may cast significant light not only on the origin and evolution of the planets but also on the origin of life.

Apart from its immense scientific importance, JOp would provide the additional funds desperately needed to continue the brilliant American effort in planetary exploration. Citing other priorities, the House Appropriations Committee has recommended deleting JOp from the NASA budget. It is possible, but by no means guaranteed, that Senator Proxmire's Appropriations Committee will recommend JOp and that the House/Senate Conference Committee will restore it. Even postponement of the mission will do serious damage; the drought in new starts in the decade of the 1970's has been so severe that a commitment to other missions in the next two years is essential if American exploration of the solar system is not to founder.

Considering the profound benefits which it is likely to provide for mankind, unmanned planetary exploration is a deeply human enterprise and an extraordinary bargain. It is within our power to ensure its continuance.

CONSUMER INFORMATION CENTER

Mr. HASKELL. Mr. President, since 1973, the Public Documents Distribution Center in Pueblo, Colo., has processed mail order requests for more than 50 million publications promoted by the Consumer Information Center. This workload has grown from the distribution of approximately 4 million publications in 1973 to nearly 20 million this year. Despite this phenomenal increase, the Pueblo facility has earned and maintained a reputation for fast and efficient service, processing more than 50,000 orders each week. I would like to take this opportunity to commend the management and employees of the PDDC for this excellent work record.

At this point, I feel I would be remiss if I failed to comment on the worthiness and success of the Consumer Information Center program. The Center is a small unit of 18 employees. It is located in the General Services Administration and operates under the policy guidance of the Special Assistant to the President for Consumer Affairs. The Center is responsible for encouraging Federal departments and agencies to develop and release practical timely information of interest to consumers and for increasing public awareness of this information. I believe that the continuous, substantial growth in consumer use of this program, as mentioned above, is a strong indication that the Center is effectively identifying topics of consumer interest, assisting in the development of appropriate publications, and bringing them to the attention of consumers.

Historically, the total funding for the distribution facility in Pueblo, Colo., has been included in the Government Printing Office budget. However, beginning in fiscal year 1978, funding to support the distribution of free publications promoted by the Consumer Information Center will be included in the Center's budget. This change in funding requires a transfer of funds from the GPO budget for fiscal year 1978 to the Center's budget.

In discussing the amount to be transferred, it was learned that the GPO budget estimate, prepared in August of 1976, did not anticipate the dramatic increase in public interest in consumer information manifested during the past 9 months. Accordingly, the amount projected is not adequate to support this function. Specifically, the GPO budget request included $2.1 million to cover costs involved in the distribution of 11 million free publications, based on an estimated 20-cent cost per publication. Current estimates are that approximately 18.7 million free publications will be distributed during fiscal year 1978. To support the increased number and to provide funds to cover costs of quarterly bulk mailings of the consumer information catalog, an additional $1,500,000 will be required.

Accordingly, I would request that the Senate conferees in discussing this matter with their counterpart from the House of Representatives, be aware of this need and look with favor upon the position of the House of Representatives. I am sure that the amount available in the House version will go for meeting the expenses related to distributing free governmental literature throughout the Nation.

Mr. PROXMIRE. I certainly understand the concerns that the Senator has expressed and I am very sympathetic to what he is trying to do here today. I can say to the Senator from Colorado that we will give every consideration to his request when the matter comes before the conference.

Mr. HASKELL. I thank the Senator for his time and consideration and I appreciate his support.

Mr. SCHMITT. Mr. President, I wish to offer my strong support to the action of the Appropriations Committee in retaining the Jupiter Orbiter Probe—JOP—in the fiscal year 1978 NASA appropriations.

This very important program, the first new planetary mission that has been authorized since Pioneer Venus in 1975, represents a landmark step in this Nation's efforts to explore and understand the solar system. Present and future generations are watching us in this effort.

The Jupiter Orbiter Probe mission consists of a single spacecraft with two major segments: an atmospheric probe carrying 44 to 66 pounds of science experiments and an orbiter equipped with up to 165 pounds of instruments. Included among the experiments is a new camera system with which scientists can gather more information about planets and satellites than ever before because of its greater spectral response.

The JOP spacecraft would be launched in January, 1982, the first planetary mis-

sion to be carried aboard the Space Shuttle. A flight time of 1,000 days to Jupiter is planned, allowing the probe to enter the atmosphere on the sunlit side of the planet.

Fifty-six days before JOP arrives at Jupiter, the probe will be released from the main spacecraft. The instrument-laden probe will provide the first direct sampling of the dense atmosphere of Jupiter. The probe will transmit data for as long as 30 minutes as it plunges through Jupiter's atmosphere.

The orbiter, meanwhile, will burn its rocket engine to settle into a looping, elliptical orbit around Jupiter. For the next 20 months or longer the spacecraft will follow a series of elliptical paths that take it to all regions around Jupiter.

At least 11 near encounters with Jupiter, and 11 close passes by the largest satellites will occur. During at least one orbit, the spacecraft will study Jupiter's magnetotail—that portion of the magnetic region directly opposite the Sun—out to a distance of 150 Jupiter radius, 10,740,000 kilometers—6,673,500 miles—from the planet. Such observations are impossible with flyby spacecraft and from Earth.

As my colleagues are aware, this vital link in the chain of the Nation's planetary exploration program has been thrown into jeopardy by a negative vote of a subcommittee of the House Committee on Appropriations. It is thus critical to the JOP program that we in the Senate strongly support the Appropriations Committee in its decision to retain the program.

Timing of the JOP mission is critical since the orbiter and the probe incorporate several state-of-the-art devices that require reasonably long lead times for design and construction. By launching in January 1982, mission personnel can continue the orderly and progressive exploration of the planets. Viking is still exploring Mars. Pioneer Venus will be launched in 1978 to our nearest planetary neighbor. Pioneer 11 will fly past Saturn in 1979. Voyager 1 and 2 will arrive at Jupiter in 1979 and Saturn in 1980 and 1981.

No further planetary exploration missions however are currently funded; the Nation's planetary exploration program is near stagnation levels.

The benefits that accrue to all citizens as a result of this Nation's planetary exploration program are enormous and far-reaching. Our initial landings on the planet Mars and our closeup photographs of Jupiter have added immensely to our knowledge of basic physical phenomenon on the Earth as well as providing us invaluable knowledge regarding our own solar system. Future planetary exploration activities are certain to yield even greater benefits not only to science, but also to technologies of great importance to mankind.

Mr. PROXMIRE. Mr. President, I understand that there are no further amendments, I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. PROXMIRE. Mr. President, I understand that, under the unanimous-consent agreement, there will be no votes before noon. I also understand that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, Jr.) would like to speak on this bill, so I will yield back the remainder of my time, except for 2 minutes, which I understand the Senator from Virginia would like to use in order to speak on the bill. I yield him 2 minutes to speak before we have the rollcall vote.

The PRESIDING OFFICER. Does the Senator wish him to speak at 12 noon?

Mr. PROXMIRE. If we have the rollcall vote at 12 noon, yes.

The PRESIDING OFFICER. Then, the rollcall vote would occur at 12:02 p.m.

Mr. PROXMIRE. That is fine with me, if it is all right with the Senator from Maryland.

Mr. MATHIAS. It is agreeable to me. We have no further requests for time.

Mr. STEVENS. Mr. President, reserving the right to object, the Senator, I understand, is asking unanimous consent that 2 minutes of his time remain, notwithstanding the fact that we will proceed to the other bill. My understanding is that the order is to take up the other bill, and I want to make sure that we will proceed to it.

Mr. PROXMIRE. It is my understanding that we will take up the State-Justice-Commerce bill now, but that at 12 o'clock, Senator HARRY F. BYRD, Jr., will be permitted to speak on the pending bill, and we will vote on the bill at 12:02.

Mr. STEVENS. I have no objection.

Mr. MATHIAS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I yield back the remainder of my time.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 7556, which will be stated by title.

The assistance legislative clerk read as follows:

A bill (H.R. 7556) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Veneda Carre of the committee staff, Peter Goldfarb and Tim Keeney of Senator WEICKER'S staff be permitted access to the floor during the consideration of this measure. I make the same request for Craig Honeyman of Senator HATFIELD'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, before I go into the amounts recommended for the various activities funded by this act, I wanted to thank my distinguished colleague, the Senator from Connecticut (Mr. WEICKER) for his loyalty and his support and, more than anything else, his valuable advice and assistance. We are both new, in a sense, though, I had the pleasure of conducting the hearings on this bill for our distinguished chairman, Senator MCCLELLAN several years ago.

This is a new responsibility for both the Senator from Connecticut and myself, so we held more extensive hearings than in recent years on this bill. We discussed our foreign policy with the Secretary of State, law enforcement, and justice, and the various other concerns that we have with the Justice Department, with the new Attorney General and the commercial endeavors with the Secretary of Commerce.

We had a good review of the matters, and in each instance the Senator from Connecticut had an educated view of a lot of these things that the Senator from South Carolina did not enjoy. He has been of immeasurable help to me.

Mr. President, the committee recommends a total of $7,703,322,000 in new budget authority for fiscal year 1978, an increase of $40,486,500 over the comparable House amount when consideration is given for the items recommended amounting to $56,716,000 that were not considered by the House. The new budget authority recommended is approximately $97,000,000 less than our allocation in the first concurrent resolution. Since it is unlikely that the Congress will have time to consider another supplemental appropriations bill, the committee also has inserted $11,515,000 to cover certain additional 1977 requirements. The major changes from the House bill are described in the following:

Department of State: A total of $1,215,120,000 is recommended that includes the executive salary increase totaling $6,076,000 that were transmitted too late for consideration for House consideration. Provision has also been made for the establishment of a passport office to be located in Connecticut, as well as the additional passport offices in Detroit and Houston approved by the House. The full request for the Center for Cultural and Technical Interchange between East and West in Hawaii has been restored.

The committee has deleted without prejudice $19,250,000 from the contributions to international organizations as these are the estimated amounts of technical assistance included in the as-

sessed budgets of several United Nations and specialized agencies. The basic U.S. policy has been that United Nations technical assistance be funded by voluntary contributions to the U.N. development program. As recently highlighted in the report of the Committee on Government Operations and the General Accounting Office report on the World Health Organization, increasing amounts for technical assistance are being included under the assessed budgets. Such expenditures for technical assistance in 1976 amounted to more than 21 percent of the amount funded by the United Nations development program. The committee believes that technical assistance expenditures in the assessed budgets ought to be funded in the Foreign Assistance Appropriations Act in order to achieve a comprehensive review of the total technical assistance program.

The committee has also provided sufficient funds to cover the base appropriation requirements of the mutual educational and cultural exchange activities.

Department of Justice: A total of $2,347,068,000 is recommended including the restoration of the full program level budgeted by the Law Enforcement Assistance Administration with an increased emphasis on the new and innovative programs authorized by the Juvenile Justice and Delinquency Prevention Act; an initial appropriation of $10,000,000 to implement grants to the States to improve their antitrust activities; and realigning the responsibilities for the support of U.S. prisoners between the U.S. Marshals Service and the Bureau of Prisons. The realignment will assure a clear definition of the accountability of departmental officials charged with the supervision and support of Federal prisoners held in non-Federal institutions.

The committee did not approve the request to transfer between appropriations available to the Department and has left for the disposition of the Senate the antiamnesty provision that the House added as section 606 of the act.

The amount recommended also provides a total of 245 new positions for the Immigration and Naturalization Service, an increase of 145 over the amount budgeted, for a net reduction of 355 from the number approved by the House. The House approved 455 additional positions for a prevention program designed to control the entry of illegal aliens into the country of which the committee has retained the 100 additional inspectors in that increase to deal with the workload situation throughout the INS. The committee is no less concerned about the illegal alien situation. However, the remedy must be provided through legislation that would impose penalties for employing illegal aliens instead of adding additional enforcement personnel for an unpoliceable border.

Mr. President, I ask unanimous consent to insert in the RECORD at this point an editorial from the Washington Post of June 22, 1977, that supports the committee's position.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BUSY SIGNALS AT IMMIGRATION

The Immigration and Naturalization Service is an agency in trouble. Public attention understandably has focused on the extensive and complex problem of illegal immigration and the horrendous headaches of the understaffed Border Patrol. But those are just the beginning of INS's current woes. Responsibilities that might seem easier, such as processing routine papers and answering public inquiries, have also overwhelmed the agency. According to Rep. Joshua Eilberg (D-Pa.), chairman of the House immigration subcommittee, a legal alien now has to wait more than a year for a decision on a change-of-status request. An applicant for naturalization has to wait more than six months. A person with a simple question has to spend hours standing in line at major offices or days trying to get through by phone.

How did the agency slide into such a state? It's hard to put down the suspicion that inadequate management has been partly to blame. That would help explain, for instance, why INS's records systems are so archaic and clogged that transferring a file within one office may consume three days and shipping a file to another office may take three weeks. INS officials naturally prefer to emphasize that their workload has been outrunning their resources for 10 or 15 years. Last year, for example, applications for naturalization increased 17 per cent over 1975, while legislated changes in immigration policies for the Western Hemisphere piled new burdens on the agency. Congress did provide funds for 750 new positions in fiscal 1976 and 641 more last year. However, because of executive-branch constraints, only about one-third of last year's increase has materialized so far.

The new commissioner, Leonel J. Castillo, seems determined to shake up the agency. He has just launched a crash program to clean up the huge backlog of over 146,000 immigration applications in six major offices. INS says that, at a "normal" pace, some of that work might take four years—which suggests that the agency's notion of "normal" productivity could use an overhaul.

Even if Mr. Castillo can achieve management miracles. IN still needs more resources. The House this month approved the Carter administration's request for 144 more employees for INS—and added 600 on top of that. Around 500 of those 744, however, would be assigned to border inspections, deportations and patrols. The Senate might well consider changing that allocation a bit. The problems on the borders, however important, are so vast that 500 more agents can make only a modest difference. Assigning a few more to office work, on the other hand, could substantially improve service to legal aliens and citizens, and also bolster INS's morale. The effective control of millions of illegal immigrants may be too much to ask of an agency that can't even answer its phones.

Mr. HOLLINGS. The committee's recommendations include the full budget estimates of the Federal Bureau of Investigations, the Drug Enforcement Administration, the Antitrust Division, as well as the full $2,000,000 requested to provide the Department with a Federal justice research capability.

With regard to the Antitrust Division, I must note that the distinguished senior Senator from Indiana (Mr. BAYH) brought to the committee's attention some additional requirements for both fiscal years 1977 and 1978. The distinguished senior Senator from Massachusetts (Mr. KENNEDY) is also interested in this situation and wrote to Chairman MCCLELLAN of his concern.

Mr. President, I insert Senator KENNEDY's letter in the RECORD at this point as well as a letter from the Attorney General to him, and a letter from the Acting Assistant Attorney General, Antitrust Division, to me:

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *June 20, 1977.*

Sen. JOHN L. MCCLELLAN,
Chairman, Senate Appropriations Committee, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that at tomorrow's mark-up in the Senate Appropriations Committee, Senators Bayh and Mathias will be proposing additional supplemental appropriations for the Department of Justice, to be used for the Antitrust Division. Senators Bayh and Mathias are proposing that $5 million dollars be appropriated for F.Y. 1977 to begin to fund the program of grants to states before the start of the next fiscal year. The interest indicated by 48 states, the District of Columbia and Puerto Rico in obtaining this seed-money immediately for establishing antitrust enforcement programs reflects the importance of our expediting availability of these funds. I am enclosing a letter from the National Association of Attorneys General which clearly sets out the need for these funds to be appropriated without delay.

The proposed amendment will also include operating funds for the Antitrust Division for F.Y. 1977 and F.Y. 1978. These should be considered law enforcement resources in the most critical sense: they will allow the Government to pursue vigorous enforcement of the antitrust laws by providing support for ongoing grand juries and continuing major lawsuits. The attached letter from the Justice Department sets out the Division's needs in this regard.

The sums sought in this amendment by Senator Bayh and Mathias are modest but—as five days of Antitrust Subcommittee oversight hearings last month pointed out—will easily be translated into lower prices for consumers and a more healthy marketplace for our nation's businesses. We cannot afford to slacken our vigilance against price fixing and monopolization, and this modest additional support for both the State and Federal efforts is sorely needed if antitrust enforcement is simply to continue at its present pace. I would thus appreciate your support of this amendment.

Sincerely,

EDWARD M. KENNEDY,
Chairman.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., June 20, 1977.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Antitrust and Monopoly, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your recent letter to the Attorney General, seeking certain information concerning efforts by the Antitrust Division to obtain limited additional funding in FY 1977 and FY 1978.

In summary, this Department recently submittted to the Office of Management and Budget (OMB) the following requests for funding specific antitrust activities:

A second supplemental in FY 1977 for the Antitrust Division: $1,617,000.

A supplemental in FY 1977 for the state antitrust grant program: $10,000,000.

An amendment in FY 1978 for the Antitrust Division: $1,893,000.

An amendment in FY 1978 for the state antitrust grant program: $10,000,000.

OMB approved appropriation requests only

for the statutory state antitrust grant program—$1,000,000 in FY 1977; $10,000,000 in FY 1978.

These requests for funding of enforcement efforts by the Antitrust Division were not for new projects. Nor did they result from a change in existing Division policies. Rather, these requests were deemed necessary to enable the Division to continue its *existing* programs, at levels either mandated by law or dictated by sound case management. Basically, the additional funding sought was for direct grand jury or litigation expenses, such as transcript costs, travel expenses, computerized processing and analysis of documents and other evidence, and other nondiscretionary items required for ongoing matters.

For example, to maintain criminal price-fixing investigations started in FY 1975 and FY 1976 will require an additional expenditure of $465,000 in FY 1977 and $798,000 in FY 1978. For the Ocean Shipping grand jury alone, the Division will need $135,000 in FY 1977 and $87,000 in FY 1978. This is a major investigation of the oceanic shipping industry with a potentially significant impact on the economy. Additional funds are needed for grand jury sessions themselves, and to index and cross-reference the vast amount of data being received.

Effective control of the Division's two largest cases (IBM and AT&T), as well as other important grand juries and ongoing cases, requires computer processing of the enormous volume of information received and generated to ensure careful and fair evaluation and litigation of these cases, at an additional cost of $187,000 in FY 1977 and $115,000 in FY 1978. Additional costs are occasioned by recent court-ordered structural changes in the IBM trial process, designed to speed up this large and complex case. The Division will now be required to complete certain discovery substantially sooner than previously planned, requiring an additional $588,000 in FY 1977. Similarly, preparation for careful discovery and litigation control in the AT&T case will require at least an additional $274,000 in FY 1978. OMB denied all of these funding requests.

We also note that in the past three years, the Division has increased its authorized positions some 50 percent and its budget has doubled, but the funding for the administrative services has remained the same. To correct this imbalance, the Division requested an addition of $124,000 in FY 1977 and $197,000 in FY 1978. OMB denied this funding request as well.

Senator Robert Morgan, floor manager for the state antitrust grant program (Section 309 of the Crime Control Act of 1968, as amended 42 U.S.C. 3739), stated that this program "is to add $10 million a year for three years to be used for seed money to help the various states create or build divisions of antitrust enforcement in the various offices of the state attorneys general" (122 Cong. Rec. (daily ed.) S12356 (July 23, 1976)). The legislative history indicates that the program is to be flexibly administered to create a viable, self-sustaining, state-level antitrust enforcement program, and that three years is the minimum time in which such activities could reasonably be expected to take place. The Division fully endorses all possible support to state and local officials seeking to enhance their own antitrust enforcement capabilities. Thus, the Division requested full funding of $10,000,000 for each of FY 1977, and FY 1978. To enable the Division carefully and fairly to administer this program, the Department also requested $118,000 in FY 1977, and $223,000 in FY 1978. OMB cut the FY 1977 request to $1,000,000, and did not allow the Division any funds with which to administer this program.

We believe these funding requests fairly represented the Division's genuine needs and requirements. Thank you for your interest. If we can be of any further service, please let us know.

Yours sincerely,

GRIFFIN B. BELL,
Attorney General.

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, D.C., June 20, 1977.

Re Federal Funding of State Antitrust Enforcement.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Antitrust and Monopoly, Washington, D.C.

DEAR MR. CHAIRMAN: I am glad to respond to your request for information concerning the need for financial assistance for antitrust enforcement at the state level. Following the enactment of legislation authorizing the appropriation of $10 million for each of the years, FY 77, 78 and 79, this office polled each of the 52 jurisdictions affected, the 50 states and Puerto Rico and the District of Columbia, to determine which states would apply for funding. As of this date, only Georgia and Wyoming have stated their intent not to apply for funds.

The purpose of the legislation is to provide "seed money" to the states to demonstrate the importance and benefits of antitrust enforcement at the state level. See Senate Report 94-498 at p. 8. This enforcement effort would include use of state laws whose purpose it is to promote competition in the market place and also include the maintenance of proprietary cases on behalf of the states themselves under § 4 of the Clayton Act and cases under the recently enacted Parens Patriae authority. The states strongly endorse the idea that a 3-year demonstration is necessary, given the complex and protracted nature of antitrust cases. At the conclusion of such a 3-year funding program, it was understood that the individual states would separately determine whether to continue such programs with state funding.

The benefits we expect from antitrust enforcement at the state level are not obvious to state legislators. Considering the vigorous competition for scarce tax dollars at the state level, evidence that an effective antitrust program can be self sustaining as well as promote a free and viable market economy in the legislators' states is needed to persuade decision makers of the importance of continuing the effort with state tax dollars. If FY 77 funds are not appropriated, the grantee states may have an insufficient length of time to create a program healthy enough to prove the point.

We understand that the Department of Justice is prepared for immediate action on applications for funding. The authorizing legislation directed the Attorney General to promulgate regulations to assure the equitable distribution of the funds. We have worked with the Department of Justice over the last several months to develop those regulations and understand that they will become final in a few days. Thus, even though it is late in the fiscal year, the work that has been done in the states and at the Department in anticipation of the full funding of the authorized $10 million for FY 77 assures that the appropriated funds will be promptly and properly allocated pursuant to Congress' intent. The regulations include stringent oversight procedures to assure that the funds are properly accounted for and spent for the purposes intended.

Thank you for your personal interest in following through on the authorizing legislation with efforts on our behalf for FY 77. If there is any further information that I can provide you, please do not hesitate to call.

Respectfully yours,

C. RAYMOND MARVIN.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., June 21, 1977.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: I have been informed of your concern, as expressed to Senator Kennedy, that the Office of Management and Budget has disapproved the Department's request for a second supplemental in FY 1977 for the Antitrust Division and a supplemental for the state antitrust grant program.

These requests for funding of enforcement efforts by the Antitrust Division were not for new projects. Nor did they result from a change in existing Division policies. Rather, these requests were deemed necessary to enable the Division to continue its existing programs, at levels either mandated by law or dictated by sound case management. Basically, the additional funding sought was for direct grand jury or litigation expenses, such as transcript costs, travel expenses, computerized processing and analysis of documents and other evidence, and other nondiscretionary items required for ongoing matters.

The State antitrust grant program, authorized by Congress in section 16 of the Crime Control Act of 1976, was intended as a three-year "seed money" program to assist State attorneys general to develop viable, self-sustaining antitrust enforcement programs. The Division views State antitrust enforcement as an essential complement to its own enforcement efforts. States, using the *parens patriae* authority conferred by Congress in Title I of the Hart-Scott-Rodino Act of 1976, and enforcing their own antitrust statutes, can deal effectively with many locally-based restraints upon trade which are beyond the jurisdiction of Federal law or cannot be effectively policed with the resources available to the Antitrust Division.

Sincerely yours,

JOHN H. SHENEFIELD,
Acting Assistant Attorney General,
Antitrust Division.

Mr. HOLLINGS. Mr. President, in the committee the distinguished Senator from Indiana and I agreed to include a comment in our report about these additional requirements. In the haste to get the report to the printer this section was inadvertently omitted. Therefore, in order to establish the record let me indicate that the committee is concerned about these additional requirements of the Antitrust Division and will entertain a supplemental request for the Antitrust Division in the event the Attorney General determines that sufficient funds are not available to vigorously prosecute major antitrust cases.

Department of Commerce: A total of $1,984,549,000 is recommended, including an increase of $45,200,000 over the House bill for the Economic Development Administration. The EDA increase provides initial funding of $30,000,000 for the new section 204 redevelopment area loan program; the full $6,000,000 authorized for the study of the depletion of the natural resources of the high plains region; and $22,500,000 to increase the House amount for public facility grants and economic research. Also with regard to economic development, a new appropriation of $750,000 has also been inserted for the

1978 White House Conference on Balanced National Growth and Economic Development that has been initiated through reprograming of current EDA funds.

The committee has also added $67,290,000 to the House allowance for the National Oceanic and Atmospheric Administration that makes provision for the full $30,800,000 capability for construction of the western regional NOAA center at Sand Point, Wash. An additional $12,200,000 over the House is recommended for the coastal zone management program in order to carry forward the initiatives in the Supplemental Appropriations Act, 1977, provide the full requirements for the program administration and energy impact formula grants, and maintain the level of the estuarine sanctuary program.

The committee has also added $25,290,000 to the House amount for NOAA's operations, research, and facilities, in order to expand the east coast resource surveys, provide for an east coast whale assessment and continue the southern New England fishery development program. Provision has also been made for an aquaculture research facility at Newport, Oreg., and for the relocation of the Southeast Utilization Research Center to Charleston, S.C. Other major additions include $1,200,000 to expand the fisheries grants to the States in conformance with the new authorizations in the amendments to the Commercial Fisheries Research and Development Act, $2,500,000 but six less positions for the Oceanlab program; $1,000,000 for undersea research; and $3,300,000 for the on-going sea grant programs.

The committee has also provided additional amounts under General Administration for the Bureaus of the Census and Economic Analysis, the Domestic and International Business Administration, and the U.S. Travel Service. We also approved the addition of $2,000,000 to the budget and House allowance for the National Fire Prevention and Control Administration; as well as a $2,400,000 increase for the Maritime Administration's research and development program to develop an ocean-thermal energy conversion plant.

The judiciary: The committee recommends a total of $444,318,000 which is essentially the amended budget estimate and takes into account the reduced requirements for probation officers and clerks, deputy district court clerks and temporary bankruptcy clerks offered by the Judiciary. No provision has been made for any additional circuit and district judgeships that may be authorized by Congress.

Related agencies: The committee recommends $1,712,267,000 including $28,067,000 for items not considered by the House consisting of: $345,000 for executive salary increases for the Arms Control and Disarmament Agency, the full $12,187,000 in the Senate-passed authorization for the International Trade Commission, and the $15,535,000 transmitted after House consideration for additional radio transmitters for the Board for International Broadcasting and the U.S. Information Agency.

Other major increases include provision for the movement of the Denver Litigation Center of the Equal Employment Opportunity Commission to Dallas in order to conform to the workload and reduce travel time and costs; the addition of 26 positions to investigate illegal rebating in the maritime industry by the Federal Maritime Commission; as well as restoration of the full budget estimate of the Securities and Exchange Commission.

The committee recommends the $195,000,000 for the Legal Services Corporation. This is $22,000,000 less than the amount requested by the Corporation and provided by the House, but is 56 percent higher than the current level, and is a sufficient expansion of the program level. I have serious concern about this program as it is difficult to reason the amount of money required in comparison to the number of attorneys employed to help the poor.

The committee has decreased the House allowance for the Small Business Administration by $114,150,000 in order to provide a more modest expansion of the program. However, the administrative expenses have been consolidated into the Salaries, and expenses appropriation to simplify congressional review of the SBA budget. The amount recommended places greater emphasis on the advocacy, economic research and analysis, and procurement to minority and technical assistance areas.

1977 supplementals: It is unlikely that there will be any additional supplemental appropriations bills for fiscal year 1977. The committee, therefore, included supplemental appropriations totaling $11,515,000 to become immediately available upon approval of the act, to cover certain increased pay costs and the foreign currency fluctuations of the Board for International Broadcasting, as well as $1,000,000 to implement the grants to the States to improve their antitrust enforcement activities.

I yield to my distinguished colleague from Connecticut.

Mr. WEICKER. Mr. President, as ranking minority member of this subcommittee which considered H.R. 7556, the appropriations bill for the Departments of State, Justice, and Commerce, the judiciary, and related agencies, I want to endorse the remarks of the chairman of the subcommittee, the distinguished Senator from South Carolina, ERNEST F. HOLLINGS. Furthermore, I want to express my admiration of the chairman's leadership in developing this very difficult and important legislation. The chairman has been most patient and gracious with every member coming before our subcommittee.

The subcommittee held extensive and in depth hearings with the officials and officers of the executive branch to assist in our review of the administration's budget. In my opinion, the committee's recommendation of $7,703,322,000 in new budget authority for fiscal year 1978 will provide sufficient financial resources for the agencies under the subcommittee's jurisdiction. Therefore, I urge my colleagues to indicate their approval of this bill.

The committee is aware of the fact that there is very little chance that there will be any additional supplemental appropriations bills during the current calendar year; therefore, the committee has included supplemental appropriations in this legislation which total $11,515,000. These funds would become immediately available upon approval of this act for the increased cost of executive and judicial salaries already in effect, to cover the foreign currency fluctuations of funds appropriated for the Board for International Broadcasting, to implement grants to the States for antitrust enforcement activities, and to cover certain executive salary increases for the Arms Control and Disarmament Agency which were not considered by the House.

For the Department of State we have recommended an appropriation of $1,215,120,000. These funds will be used for salaries and expenses, representation allowances, foreign building operations, international conference and contingencies, and payment of our membership dues in international organizations.

For the Department of Justice we have recommended an appropriation of $2,347,068,000. These funds included restoration of the full program level budgeted in the Law Enforcement Assistance Administration, new positions for the Immigration and Naturalization Service, full funding for the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Antitrust Division. Additionally, the committee has included funds for new prison facilities. During our consideration of the budget of the Immigration and Naturalization Service, the committee became convinced that the remedy for the alien problem must be provided by legislation which would impose penalties for employing illegal aliens, instead of continually adding additional enforcement personnel for an unpoliceable and unguardable border.

For the Department of Commerce we have recommended $1,984,549,000. This is an increase over the House bill and will provide adequate funding for the Economic Development Administration's redevelopment loan program, the high plains regional study, and the Maritime Administration. It is the committee's opinion that full funding for several of these programs will assist in solving some of our current national problems, as well as effectuating a financial savings several years down the road.

Mr. President, the Department of Commerce appropriations also include increases for NOAA's oceans programs.

The oceans are becoming more and more vital to this Nation. As increasing pressure is put on our already over exploited land resources, we must turn our attention to the sea.

This country is blessed with vast coastlines and abundant living and mineral marine resources. Recently we extended our fisheries jurisdiction 200 miles offshore. If we are to use the oceans and their resources in an intelligent manner we must start now to learn and develop ways to protect this important heritage.

These increases include expanded pro-

grams in geodetic surveys, marine data weather buoys, whale studies on the east and west coasts, aquaculture research and support facilities, undersea research, ocean-lab undersea facility, marine resources assessment and prediction, sea grant programs, coastal zone programs, and construction funds for needed research facilities on the west coast.

The increases reflect the committee's concern that the oceans are used and managed wisely in future years.

For the judiciary, our appropriation total is $44,318,000 which is essentially the amount of the amended budget estimates. We have made no provision for any additional circuit or district judgeships which may be authorized by Congress at a later date.

For the related agencies the committee has provided $1,712,267,000 for support for such agencies as the Arms Control and Disarmament Agency, the International Trade Commission, the U.S. Information Agency, the Securities and Exchange Commission, the Small Business Administration, the Equal Employment Opportunity Commission, and Legal Services Corporation, to name but a few. For the Legal Service Corporation, the committee has recommended $195,000,000. This is $70 million more than was appropriated last year, a 56-percent increase over last year and the committee is convinced that this will provide adequate funding during fiscal year 1978 for this rapidly expanding Agency.

In closing, Mr. President, I once again want to extend my sincere thanks and appreciation to the chairman of our subcommittee, the Honorable ERNEST F. HOLLINGS. It has been a great pleasure for me to serve on this subcommittee.

I yield the floor back to my distinguished colleague who, again, I would like to thank for his patience and his wisdom in what used to be maybe a rather routine appropriations task but which has become exceedingly complex.

I particularly commend him for avoiding something that has become more and more prevalent within this body, and that is a regional approach toward national problems. The Senator from South Carolina made it a point in item after item to bring a national viewpoint to whatever it was that was being requested, and not one of self-interest or parochialism or regionalism, and for that I thank him and, indeed, all my colleagues should, and that is the reason why this is a national appropriations budget for all these agencies and not that of any particular individual.

Mr. HOLLINGS. I thank my distinguished colleague.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, providing that no point of order shall be waived by reason of agreement to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 533

Mr. HOLLINGS. Mr. President, in inserting the supplemental appropriations in the bill as title VI, we changed the title VI covering the general provisions in the House bill to title VII. However, the section numbers for the various general provisions were not altered in conformance with the proposed title change.

Mr. President, I call up my amendment at the desk regarding these technical changes.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes unprinted amendment No. 533 of a technical nature.

The amendment is as follows:

Strike the section numbers "601", "602", "603", "604", "605", and "606", and insert in lieu thereof "701", "702", "703", "704", "705" and "706" respectively.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

UP AMENDMENT NO. 534

Mr. HOLLINGS. Mr. President, we have just received word from the President that they are transmitting a supplemental request for $147,000 for salaries and expenses for general administration for the Department of Justice. This amount is needed to cover the unabsorbable cost of the executive pay raise, and I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment No. 534:

On page 54, after line 12, insert the following:

GENERAL ADMINISTRATION

Salaries and Expenses, General Administration

For an additional amount for "Salaries and expenses, general administration," $147,000, to be derived by transfer from "Salaries and expenses, Community Relations Service."

Mr. HOLLINGS. Mr. President, the Department is absorbing executive pay costs in all appropriations except general administration. The heavy concentration of general administration employees eligible to receive executive pay increases, the unexpected costs associated with furthering the objectives of the new administration, and the high percentage of the general administration's budget dedicated to the support of personnel compensation and benefits make it impossible for this appropriation to absorb these costs.

The funds will be derived from the Community Relations Service, from unobligated balances that will, unless used for this purpose, revert to the treasury at the end of fiscal 1977. We have made similar provisions in the bill for the Department of State and the Arms Control and Disarmament Agency.

With that, Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

UP AMENDMENT NO. 535

Mr. HOLLINGS. Now, Mr. President, we have just received word from the President that they are transmitting a supplemental request for $200 million for the Small Business Administration's disaster loan fund. Incidentally, this is not for fiscal 1978, this is a supplemental for the present fiscal year 1977, as was the previous item.

I have two amendments at the desk that cover this situation consisting of $500,000 for salaries and expenses, and $200 million for the disaster loan fund.

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes unprinted amendment en bloc No. 535.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, after line 21, insert the following:

DISASTER LOAN FUND

For additional capital for the "Disaster Loan Fund," authorized by the Small Business Act, as amended, $200,000,000 to remain available without fiscal year limitation.

On page 55, after line 21, insert the following:

SMALL BUSINESS ADMINISTRATION

Salaries and Expenses

For an additional amount for "Salaries and Expenses," $500,000 to be transferred from the Distaster Loan Fund.

Mr. HOLLINGS. Mr. President, this will enable SBA to continue to provide assistance to victims of disasters throughout the country. The need for additional funds has been necessitated primarily by the heavy rains, flooding in West Virginia, Virginia, Tennessee, and Kentucky. In addition, there are 41 other active disasters in 28 States.

The current projections indicate that without this additional funding the Agency would only be able to provide this needed assistance through this July.

Because of the difficulty in projecting requirements, this program historically has been conservatively funded in the regular fiscal year budget request, relying, of course, on Congress to provide additional funds required to furnish the needed assistance to the victims of these disasters when they occur.

Mr. President, I ask the adoption of the two amendments en bloc.

The amendments were agreed to en bloc.

Mr. HOLLINGS. Mr. President, I yield to the Senator from Oregon.

UP AMENDMENT NO. 536

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes unprinted amendment No. 536.

On page 57, strike out lines 5 through 17.

The PRESIDING OFFICER. On this amendment there is 1 hour to be equally divided.

Mr. HATFIELD. Mr. President, I yield myself such time as is necessary to make my presentation.

Mr. President, the purpose of my amendment is to delete language from the appropriations bill before us which would effectively gut President Carter's pardon program for Vietnam-era draft resisters, and in the process violate the President's constitutional right to grant pardons. I am proposing absolutely no change in total expenditures since these funds will be appropriated regardless of the disposition of this amendment.

As my colleagues will recall, one of President Carter's first official acts after taking his oath of office in January was to issue a proclamation pardoning all Vietnam-era draft resisters—those who fled the country or elected to serve jail sentences rather than face conscription for service in what most of them considered to be an immoral war in Vietnam. This pardon, which is expressly within the authority of the President of the United States under article 2, section 2 of the Constitution, was granted in a spirit of reconciliation as a means of putting one of the most controversial and divisive wars in our history behind us.

The pardon, announced and effective on January 21, 1977, provided for the dismissal of all pending indictments for violations of the Military Selective Service Act which occurred between August 4, 1964 and March 28, 1973. The only exception is for those individuals who were involved in acts of force or violence which, in the determination of the Attorney General, were severe enough to warrant continued prosecution. Also excluded under the terms of the pardon are all agents, employees, or officers of the Selective Service System whose cases involve an alleged violation of the Military Selective Service Act. The Attorney General was also instructed to terminate all ongoing investigations and not initiate any new investigations into alleged violations of the Military Selective Service Act, again except for those cases involving a determination by the Attorney General of serious violence or the involvement of a Selective Service employee or official.

Finally, the pardon provides that any individual previously precluded from entering the United States under title 8 of the United States Code, section 1182 (A) (22)—the Immigration and Nationality Act—or by any other law, by reason of having violated the Military Selective Service Act, is permitted to reenter the country as an alien under normal restrictions.

In short, Mr. President, the pardon applies to all those who chose to leave the country or go to jail rather than serve in Vietnam, except for those who used force or violence or those involved as an employee of the Selective Service. The amendment offered by Congressman JOHN T. MYERS and accepted in the House would effectively terminate this amnesty program.

It is my understanding that the U.S. attorneys around the country were able to quickly process the dropping of indictments and investigations on all outstanding cases. U.S. attorneys have not yet, however, completed the processing of pardons for those already convicted of violations of the Military Selective Service Act. The Myers amendment would force U.S. attorneys in all the judicial districts around the country to complete this work prior to the start of the new fiscal year, beginning on October 1, 1977, a nearly impossible task.

In addition, the Myers amendment would prevent the Immigration and Naturalization Service from processing draft resisters seeking to enter the country as visitors, but who by virtue of having renounced their U.S. citizenship, are now considered aliens and have the same right of entry into the United States as any other alien. Carried to its extreme, immigration officials would be in violation of the law should they begin to process an alien and later learn that he was a Vietnam-era draft resister. It is my understanding that an immigration official does not have the authority to flatly refuse entry to an alien or a person without proof of U.S. citizenship. The person seeking to come into the country must be referred to a special inquiry officer for a hearing so that he may be allowed to present his case for admission to the United States. The special inquiry officer then has the authority to make a decision on admission based on the merits of the evidence presented. Mr. President, the Immigration and Naturalization Service would be precluded from carrying out this function for draft resisters should the House language be retained in this bill.

At this time, Mr. President, let me also stress another very important point with regard to the impact of the amendment I am offering. Neither the House language nor my amendment to strike this language in any way affects military deserters. Deserters were not included in the original pardon proclamation. Only later did the President address the issue of deserters, and then announced that the Defense Department would consider, on a case-by-case basis, the upgrading of discharges for those receiving less than honorable discharges while serving in Vietnam. Therefore, no funds appropriated in this legislation would be used for this purpose. Nor is this a discussion of the rights of young men pardoned by the President to receive veterans benefits. We are talking only of the Justice Department's ability to effectuate the President's pardon proclamation, an order clearly within his constitutional authority.

Mr. President, it is not within Congress authority to limit the effects of a Presidential amnesty program. In United States against Klein in 1872, the Supreme Court overturned an 1870 act passed by Congress which made proof of loyalty necessary in order to recover abandoned property sold by the Government during the Civil War, notwithstanding any executive amnesty. The act was termed unconstitutional by the Supreme Court, which said:

> The legislature cannot change the effect of a pardon any more than the executive can change a law.

The use of executive clemency power involving the military is not unprecedented. Since World War I Presidents have invoked this authority on two occasions. In both cases the clemency was granted in the form of a pardon to draft resisters. The first came in 1933 when President Roosevelt granted amnesty to and restored the citizenship of about 1,500 men who resisted the draft during World War I. Then, in 1947, President Truman established a Presidential Amnesty Board to review the cases of those who had been convicted of violations of the Selective Training and Service Act of 1940. Some 1,523 Korean War draft evaders were granted pardon under this program.

Mr. President, the amnesty issue should not be considered in the context of antiwar ideology. Rather, we are considering a question of social justice. Contrary to what many might believe, the draft and other burdens of the war in Vietnam were not always equitably imposed. Those who were economically or socially disadvantaged and were unable to gain a medical or educational deferment, or who were unable to obtain adequate counsel for the purpose of gaining conscientious objector status, bore the brunt of the combat responsibility in Vietnam.

Regardless of your views on the merits of our involvement in the war itself, we should not deny this opportunity to achieve a reconciliation with draft evaders who also can be considered victims of the war. In a March 16, 1976, interview with the Washington Post, then Presidential candidate Jimmy Carter expressed his sincere concern for those who were unable to in some way avoid military service in Vietnam. He went on to say:

> It is very difficult for me to equate what they did with what the young people did who left the country. So for a long time it was hard for me to address the question in objective fashion, but I think it is time to get the Vietnam war over with.
>
> I don't have the desire to punish anyone. I'd just like to tell the young folks who did defect to come home, with no requirement that you be punished or that you serve in some humanitarian capacity or anything. Just come back home, the whole thing's over.

Mr. President, I have just received a letter from Mr. Robert Lipshutz, counsel to the President, on behalf of the President, indicating his full support of my amendment to strike the language in this bill which cripples the pardon program. I ask unanimous consent that his letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, June 23, 1977.

DEAR SENATOR HATFIELD: I would like to assure you of the Administration's support for your amendment to H.R. 7556, the 1978 Appropriations Bill for the Department of State, Justice, Commerce, the Judiciary and Related Agencies which will delete provisions of that bill known as the "Myers Amendment".

The language of the Myers Amendment would prevent the dismissal of indictments and the termination of investigations in accordance with the Presidential Proclamation. We are particularly concerned that the effect

of the language which would limit the Immigration and Naturalization Service's admission of selective service violators into the United States border poses substantial procedural and legal problems. When an alien or other person without proof of citizenship applies for admission under the present procedure, the inspecting immigration officer, if he does not consider the person clearly admissible, does not have the authority to turn the person back. He must be referred to a special inquiry officer for a hearing, under the provisions of Section 235(b) of the Immigration and Naturalization Act, 8 U.S.C. 1225(b). In the hearing before the special inquiry officer, pursuant to Section 236 of the Act (8 U.S.C. 1226), he must be allowed to present his case that he is admissible to the United States, and the special inquiry officer must decide the case on the basis of the record in accordance with law. The Myers Amendment is, in our view, inconsistently with the spirit, if not flatly contrary to the letter, of the Constitution.

President Carter made a commitment to help bring to a close an unfortunate and tortuous era in our history, and the January 21, 1977, Presidential Proclamation of Pardon was part of that effort.

We strongly support your position on this issue and appreciate your assistance in assuring that President Carter's pardon program is carried out.

Sincerely yours,

ROBERT J. LIPSHUTZ,
Counsel to the President.

Mr. HATFIELD. The President is correct that while none of us should forget the difficult lessons we learned from Vietnam, it is time to put aside our differences with those who chose not to serve in the Armed Forces in Southeast Asia. The President has taken positive action on this matter. It is not for us on this appropriations bill to prevent him from following through on his pledge to heal the wounds of that tragic war.

Mr. President, I urge adoption of my amendment, and withhold the remainder of my time.

Mr. HOLLINGS. Mr. President, with regard to the letter from Robert Lipshutz, special counsel to the President, your Subcommittee on State-Justice-Commerce Appropriations received a similar communication.

We made this known to the full committee in markup. At that particular time, it was felt that the members themselves ought to express themselves on this particular section of the bill. We felt it was something that each member should determine in his own mind, as representing his own constituency and his own conscience, and that is why it was left in. It was not casually treated at all.

It is a serious matter, and yet at the same time, when I understand that there are only 26, I say to the Senator from Oregon, who have taken advantage of President Carter's pardon of the draft evaders—you almost have to weigh your words to select the right word. If you use the word "amnesty," that is a no-no. The Senator says "resisters"; I say "evaders." That, almost in and of itself, expresses the strong feelings we still have.

I know it is divine to forgive and forget, but I cannot forget the 56,000 and some we sent over there who never did get back, plus the 253,000 and some who were maimed for life.

I know they are trying to be realistic, trying to set this behind us and—again another expression—"bind up the Nation's wounds."

I thought that President Ford was pretty well on target, that we were not going to make a Federal case out of it, but not treat it casually, either; that they could work their way back in.

But when there seemed to be almost a feeling that, "Look, until you pardon us, we are not going to come back," Mr. President, when somebody starts along that line, we can really debate this particular measure.

I yield at this point to my minority colleague.

Mr. WEICKER. Mr. President, the distinguished Senator from South Carolina is correct, that the committee felt this was a matter which should be determined by each individual Senator. Indeed, it was not passed over lightly at all, but it was felt that the payroll should not be used to either approve or disapprove this type of amendment. Therefore, it is before the Senate.

Mr. President, while I have the floor, I ask for the yeas and nays on the Hatfield amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. Mr. President, what was the request?

Mr. WEICKER. For the yeas and nays on the Hatfield amendment.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, before I yield to the Senator from Kansas, I have only one additional thought. We all got elected last year. I did campaign, and I am proud of it, for President Carter.

He did not carry South Carolina on this particular pledge. You hear all sorts of things about carrying out his pledges and commitments. When I campaigned, I disagreed with this particular commitment. Of course he got elected, but I still have to add that it is well to interpret carefully what you hear in the media as to reasons for carrying out his commitments. I have no fault to find with the President or what he has said, but I do not think the American people were voting their approval, in November, for this particular issue, that all the draft evaders be pardoned.

I yield the Senator from Kansas such time as he may require.

Mr. DOLE. Mr. President, I appreciate the arguments that have been made by the distinguished Senator from Oregon, but I want to express full support for section 606 of the State-Justice-Commerce Department appropriations bill for 1977, which restricts the use of funding included in this bill from use in implementing the Presidential pardon of draft evaders. I urge my colleagues on both sides of the aisle, who are concerned about the blanket pardon of draft violators, to support this section of the appropriations bill.

I have with me two letters I have received fully endorsing this provision. One is from the American Legion, and the other is from the Veterans of Foreign Wars. Mr. President, I ask unanimous consent that the text of both letters be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibits 1 and 2.)

Mr. DOLE. Mr. President, on January 21 of this year, President Carter issued an executive order requesting the Attorney General to dismiss pending indictments and terminate pending investigations relating to violations of the Selective Service Act between August 4, 1964, and March 28, 1973. At the same time, the President ordered that all persons in actual or apparent violation of Selective Service laws during that period be permitted to reenter the United States. Neither the U.S. Senate nor the House of Representatives has yet had an opportunity to directly express its support or lack of support for that blanket pardon. As an executive order, the pardon required no congressional consent. But it is nevertheless disappointing that we have not had the chance to place this body on record with respect to the executive order. Therefore the Senator from Kansas is pleased that we shall have a rollcall vote on the amendment.

The section in question simply states that no funding in this bill shall be used for salaries or expenses in carrying out the terms of the Executive order. This section does not reverse the pardon, nor does it impose any additional duties upon the executive branch. In effect, however, it will finally place Congress clearly on record as disfavoring the blanket pardon of draft evaders last January.

ATTACHED AS HOUSE AMENDMENT

When the Justice Department appropriations bill was discussed on the floor of the House of Representatives on June 13, Congressman JOHN T. MYERS of Indiana offered this provision as an amendment to the bill. At that time, Congressman MYERS made it clear that the provision does not challenge the constitutional authority of a President to issue a pardon for draft law violations, but instead is a simple exercise of the clear congressional authority to appropriate funds and to stipulate how those funds may or may not be used. The amendment was passed by a division vote, and reported favorably by the Senate Appropriations Committee earlier this week.

TO REGISTER PUBLIC OPINION

The primary purpose of this provision is to register a legitimate congressional opinion about the arbitrary executive action taken by the President in January. I do not want to overstate the practical impact of the provision. At the same time, I would not want to see its symbolic significance diminished. The House of Representatives, on a rollcall vote of 220 in favor to 187 against, adopted a similar provision last March to the Justice Department supplemental appropriations bill, which was subsequently accepted by the Senate. I believe that action, like this, reflects the attitude of the majority of American citizens.

While the restriction and limitation on funding for implementation of the pardon apply only to the appropriations provided by this bill, the intent of the action is much broader. It is not a challenge to the President's authority, but

only to his judgment on this particular matter. It is a legitimate expression of congressional discretion as to how appropriated funds can be used.

Mr. President, I appreciate the Senator from South Carolina having yielded to me. I yield the floor.

EXHIBIT 1

THE AMERICAN LEGION,
Washington, D.C., June 24, 1977.

Hon. ROBERT DOLE,
U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR SENATOR DOLE: The American Legion totally supports that provision of H.R. 7556 which prohibits the use of any funds appropriated by the bill to carry out the President's draft evader pardon program. We believe that any action to provide funding for the program would compound the error already committed by forcing this nation's taxpayers to finance something that the majority of them oppose.

In our opinion this measure supplies the Senate the proper vehicle to express its disagreement with the pardon proclamation. We, therefore, urge you and your colleagues to take advantage of this opportunity on behalf of those Americans who truly appreciate the sacrifices necessary to preserve our way of life.

Sincerely,

WILLIAM J. ROGERS,
National Commander.

EXHIBIT 2

VETERANS OF FOREIGN WARS,
Washington, D.C., June 23, 1977.

Hon. BOB DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: It is my understanding the full Senate will soon vote upon H.R. 7556 making appropriations for the Departments of State, Justice, and Commerce, the Judiciary and related agencies for the Fiscal Year 1978. In addition, the bill in question contains the amendment of the Honorable John T. Myers stipulating none of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses in connection with the dismissal of any impending indictments for violations of the Military Selective Service Act alleged to have occurred between August 4, 1964 and March 28, 1973 or the termination of any investigation now pending alleging such violations.

Rest assured, Senator Dole, the more than 1.8 million members of the Veterans of Foreign Wars of the United States, including 500,000 Vietnam veterans, and the 580,000 members of our Ladies Auxiliary fully support the Myers' Amendment to H.R. 7556. As an outgrowth of resolutions passed by the voting delegates to our 77th National Convention held in New York City, New York last August, one of our current priority legislative and security goals reads as follows:

"We will continue our unalterable position of total opposition to unconditional or conditional 'amnesty' or 'pardon' and, through our membership, inform the Congress and the American people of our total commitment to pursue the 'amnesty never' doctrine. We cannot and will not advocate support for any political party or candidate proposing to grant amnesty or pardon to those who fled at a time when loyal citizens were fighting and dying in conflict with our nation's enemies."

Again, the Veterans of Foreign Wars of the United States fully supports the Myers' Amendment to H.R. 7556 and we urge your colleagues to do likewise.

With best wishes and kind regards, I am,

Sincerely,

DONALD H. SCHWAB,
Director,
National Legislative Service.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1978

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, the Senate will resume the consideration of H.R. 7554.

The Senate continued with the consideration of the bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. The total amount of this appropriation bill is too high.

The manager of the bill himself has stated that the figures are "much too big."

While I am very supportive of many of the programs whose funding will be continued by this bill. I am opposed to continuation of certain funding levels from fiscal year 1977.

This legislation as presented to the Senate would continue funding for low-income housing and the antirecession financial assistance fund at levels, which, inflated by the stimulus program, would increase the size of this bill by 29 percent over fiscal year 1977 with the stimulus appropriations removed.

The stimulus program should be ended—not continued.

Even those who supported a measure of stimulus for the current year ought to have some hesitation about approving an extension of stimulus into the coming fiscal year, which does not end until October of 1978—16 months from now.

By that time, the current recovery, which is coming along well, should be far advanced. Continued stimulus by the Government, reaching that far into the future, is bound to be inflationary.

This legislation incorporates in it an economic policy which is nothing more than a continuation of greater Government deficits.

President Carter has promised the American people a balanced budget. But this bill—deliberately increasing the deficit as a stimulus to the economy—leads away from a balanced budget and toward greater inflation.

We must always bear in mind that inflation is itself a tax: a cruel and hidden tax that hits hardest those on fixed incomes and those in the middle- and lower-income brackets.

Because the figures are too large, and this bill tends to make the stimulus permanent, I cannot support it.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Arkansas (Mr. BUMPERS), the Senator from Rhode Island (Mr. PELL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senators from Hawaii (Mr. INOUYE and Mr. MATSUNAGA), and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I also announce that the Senator from Texas (Mr. BENTSEN) is absent because because of death in the family.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), the Senator from North Carolina (Mr. MORGAN), and the Senator from Iowa (Mr. CULVER) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due illness.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. BELLMON) would vote "yea."

On this vote, the Senator from Arizona (Mr. GOLDWATER) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Arizona would vote "yea" and the Senator from North Carolina would vote "nay".

The result was announced—yeas 78, nays 5, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—78

Allen	Hansen	Muskie
Anderson	Hart	Nelson
Baker	Haskell	Nunn
Bayh	Hatfield	Packwood
Biden	Hathaway	Pearson
Brooke	Hayakawa	Percy
Burdick	Heinz	Proxmire
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Roth
Case	Humphrey	Sarbanes
Chafee	Jackson	Sasser
Chiles	Javits	Schmitt
Church	Johnston	Schweiker
Clark	Kennedy	Sparkman
Cranston	Leahy	Stafford
Curtis	Long	Stevens
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	McClellan	Thurmond
Durkin	McClure	Tower
Eagleton	McGovern	Wallop
Eastland	McIntyre	Weicker
Ford	Melcher	Williams
Glenn	Metzenbaum	Young
Gravel	Moynihan	Zorinsky

NAYS—5

Byrd, Harry F., Jr.	Garn	Laxalt
	Hatch	Scott

NOT VOTING—17

Abourezk	Goldwater	Morgan
Bartlett	Griffin	Pell
Bellmon	Helms	Ribicoff
Bentsen	Inouye	Riegle
Bumpers	Matsunaga	Stennis
Culver	Metcalf	

So the bill (H.R. 7554) was passed.

Mr. PROXMIRE. Mr. President, will the Senator from South Carolina yield to me?

Mr. HOLLINGS. Mr. President, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to H.R. 7554.

The PRESIDING OFFICER (Mr. CHURCH). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PROXMIRE, Mr. STENNIS, Mr. BAYH, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. MCCLELLAN, Mr. MATHIAS, Mr. CASE, Mr. BROOKE, Mr. BELLMON, and Mr. YOUNG conferees on the part of the Senate.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7556.

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 7556. The pending question is on the amendment proposed by the Senator from Oregon (Mr. HATFIELD). The Senator from Oregon has 20 minutes remaining. The Senator from South Carolina (Mr. HOLLINGS) has 22 minutes.

Who yields time?

Mr. HATFIELD. Mr. President, I yield myself such time as I may need.

Mr. ZORINSKY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HATFIELD. I am happy to yield to the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Lewis Ashley, a member of my staff, be granted the privilege of the floor during debate and any rollcalls occurring on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. DOLE. Will the Senator yield to me for a unanimous-consent request?

Mr. HATFIELD. Yes, I am happy to yield.

Mr. DOLE. Mr President, I ask unanimous consent that Robert Downen, of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Senator NELSON of Wisconsin be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Chair requests that the Senators conversing please take their seats and that members of the staff, who have been granted the privilege of the floor, please refrain from conversation.

UP AMENDMENT NO. 536

Mr. HATFIELD. Mr. President, I do not think we need a great deal more time to explain the thrust of this amendment. Basically, I have tried to present the amendment without getting into the emotional issue of the war, because there is strong feeling about the war on both sides. Rather, I have tried to restrict my remarks and the basis of my amendment to a purely constitutional question.

Under article II, section 2, of the Constitution, President Carter exercised his pardon power. It has nothing to do with whether we believe the war was just or whether the war was unjust, but, rather, it is a question of whether the President may proceed to exercise his constitutional authority.

Mr. President, I quoted earlier from the Supreme Court ruling of 1872, when there was an attempt to thwart the President of the United States in the exercise of his amnesty toward the southerners following the Civil War. The Supreme Court said that the Congress of the United States "could not change the effect of such a pardon, any more than the President of the United States can change a law."

Again, I say to my colleagues, I urge them to consider the fact that the President of the United States has undertaken an amnesty program. We may agree or we may disagree with the reasons given, but the fact is that the President has done so under article II, section 2, of the Constitution.

I do not believe that we in Congress can come along and deny him the funds, which, in effect, is denying him the power to exercise his constitutional authority. So, rather than getting into the pros and the cons of the war, I am merely trying to present here a possibility for the Congress of the United States to get out of this role of thwarting the President from exercising his rightful constitutional authority.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, will the Senator from Oregon yield?

Mr. HATFIELD. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Tom Susman be granted privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am going to support the Hatfield amendment.

It seems to me that no matter what our views are on this complex and emotional issue, it is a wise judgment and decision to leave certain discretion to the Executive Office.

I think it is an unwise policy decision to put the kinds of restrictions that have been included in the House legislation and maintain them in the legislation that we are considering here this afternoon.

Mr. President, may we have order?

The PRESIDING OFFICER. Yes, the Senator is entitled to the Chamber being in order.

Mr. KENNEDY. At the time that President Ford granted amnesty to President Nixon, there was not any attempt in this body to put restrictions on any particular proposal to either insure that it could take effect or that it would not take effect.

That was an issue that strongly divided the country, but there was no action from the legislative forum to provide a degree of restriction on that exercise of Executive discretion.

One may differ or agree with the position taken by President Carter as to whether there should be a blanket pardon, an unconditional amnesty, a conditional amnesty, or whether there ought to be a blanket kind of amnesty except to those who violated any criminal code or any criminal statute.

But this kind of language virtually makes it impossible to have any kind of discretion in terms of those particular situations that demand some degree of flexibility, some degree of humaneness, and some degree of ability to deal with all of these particular factors.

What may very well result if the Hatfield amendment is not accepted is that we are handing to the President the alternative of seeking a wholesale blanket amnesty. This is because we cou'd be prohibiting him from recognizing the great number of cases that, for any number of reasons, are justified.

This kind of restriction, it seems to me, denies the kind of flexibility which under the Constitution the President has.

If we are unprepared as a legislative body to make some decision or to make some recommendation about what we are going to do, that is one thing.

The President has taken the responsibility. He has gone to the American people. He did so in the election of last fall. The people have supported the President. The Constitution is clear in terms of his authority and responsibility, and with this kind of language we could be prohibiting this flexibility and, I think, the sense of humanity and compassion which the President has shown on this particular issue.

I think the Hatfield amendment would permit the legitimate processes of either the Immigration Service or the U.S. attorneys to follow the declared policy of the President in an extremely important and vital area of public policy.

Mr. President, I support the Hatfield amendment. It seems to me that no matter what our view about this issue—I have stated mine in basic support of amnesty—we are restricting, in an unfortunate way, the opportunity for the President to carry forward his responsibility in this particular area.

Mr. President, for the reasons I have outlined and the reasons that have been stated by the Senator from Oregon, I am very hopeful his amendment will be accepted.

Mr. HATFIELD. Mr. President, I am grateful to the Senator from Massachusetts for his very eloquent statement.

I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I simply want to express my concurrence with the Senator from Oregon and the Senator

from Massachusetts as to the attitude they have expressed on this amendment.

I think this is a profound question of policy which the President and the Congress should decide as a question of policy, that it should not be decided on an appropriation bill, in respect of restricting an appropriation, that we ought to face the issue and be ready to support it or not support it.

For that reason, I shall support the amendment of the Senator from Oregon.

Mr. HATFIELD. I thank the Senator from New York and I yield a minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the Senator very much.

I ask unanimous consent that Ed Hawley of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Secondly, Mr. President, I rise to support the amendment of the distinguished senior Senator from Oregon. I concur completely with the remarks of the Senator from Massachusetts and the Senator from New York.

I do not think this kind of matter should be handled in an appropriation bill. I think it is a matter that is a prerogative of the President.

If we want to debate it fully on the floor, we should. But it should not be handled in this type of matter.

Therefore, Mr. President, I support completely the amendment of the distinguished Senator from Oregon.

Mr. HATFIELD. I thank the Senator from Rhode Island for his comment.

Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. HATFIELD. I thank the Chair.

Mr. HOLLINGS. Mr. President, we are prepared to vote both as a matter of conscience and constituency. Unless anyone on this side, or anyone else wants to speak on behalf of the amendment, we would be glad to yield back our time.

Mr. BROOKE. Mr. President, I hope the Senate will accept Senator HATFIELD's amendment and reject the vindictive language added by the House.

Well over a year ago, I spoke on this floor on the need for an unconditional amnesty as the best and only way to finally put the bitterness and divisiveness of the Vietnam war behind us. At that time I commended President Ford for initiating his clemency program but concluded that it had failed. Then when President Carter took office and issued his pardon program, I commended him as well. For it was a positive step. And while I favored an unconditional amnesty as well as a universal upgrading of less-than-honorable discharges, I felt the President's plan was on balance a significant step toward healing the wounds of this latest and most tragic war.

Yet now this prohibition threatens to plunge us back into a debate on the war, a debate that can only have a debilitating effect on the Nation.

Mr. President, the Senator from Oregon has covered all the salient points regarding his amendment. I simply want to ask my colleagues to ask themselves if they want to act in a spirit of compassion and forgiveness and put the wounds of this war behind us; or do they want to reopen those wounds by approving this punitive language and in so doing deal a serious blow to the President's pardon program. I cannot believe that the Senate of the United States would even consider this to be any choice at all.

Mr. NELSON. Mr. President, I rise in support of Senator HATFIELD's amendment, which I am cosponsoring.

Two years ago, I joined the late Senator Philip Hart, and Senators McGOVERN and GRAVEL, in cosponsoring legislation which would have granted unconditional amnesty to Vietnam-war draft evaders and resisters. I believed then—as I believe now—that such an amnesty was the best way to bind the wounds of that shattering and divisive conflict. Many, indeed most, of my colleagues disagreed with that judgment, and that was to be expected. Like the war itself, the wisdom of granting amnesty was an issue which divided the country, an issue about which reasonable people, acting from the deepest convictions, could differ passionately.

But in my view, the Hatfield amendment to strike section 606 should be supported by all Senators, regardless of their beliefs about amnesty, indeed, regardless of their beliefs about the Vietnam evaders and resisters. For the question of whether Vietnam evaders and resisters would be pardoned was decided on January 21, when President Carter issued his proclamation of pardon. The Constitution grants the power to pardon to the President; an effort by Congress to amend, modify or undermine that pardon, no matter how sincerely motivated, would, in my judgment, violate the Constitution.

Article II, section 2 cl.1 of the Constitution states that—

> The President . . . shall have power to grant reprieves and pardons for offenses against the United States.

Interpreting that language in 1866, the Supreme Court wrote that—

> This power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon, nor exclude from its exercise any class of offenders. In re Garland, 71 U.S. 333, 380.

More than a century later; the Supreme Court emphatically stated the same principle:

> Any limitation on presidential pardoning power must be found in the Constitution itself. It flows from the Constitution, not from any legislative enactment and it cannot be modified, abridged, or diminished by the Congress. *Schick* v. *Reed*, 419 U.S. 256, 267 (1974).

I recognize, of course, that the Constitution assigns to Congress the power over appropriations, and this "power of the purse" ordinarily carries with it the right to place limitations on the way that funds will be spent by the Executive. In this sense, most of the President's powers depend on Congress; they derive their substance from congressional enactment. However, the President's power to pardon is in a different category; it is one of only two plenary powers granted to the President, and is therefore not subject to conditions which could be attached to other Presidential powers. The unequivocal language of the Supreme Court decisions reflects the plenary nature of this power.

The pardon, announced and effective on January 21, 1977, provided for the dismissal with prejudice of all pending indictments for violations of the Military Selective Service Act which occurred between August 14, 1964, and March 28, 1973. Section 606 provides that—

> None of the funds appropriated or otherwise made available in this act shall be obligated or expended for salaries in connection with the dismissal of any pending indictments for violations of the Military Selective Service Act.

Under that provision, after the effective date of the act, no U.S. attorney could move to dismiss an indictment pending against an alleged selective service violator. That provision flatly contravenes the terms of the pardon and is probably unconstitutional.

The pardon provides for the termination of all ongoing investigations of the Selective Service Act. Section 606 provides that "none of the funds appropriated or otherwise made available in this act" shall be used in connection with the termination of any pending investigation in a selective service case. No U.S. attorney could take action to terminate an ongoing investigation in a selective service case. That provision flatly contravenes the terms of the pardon and is probably unconstitutional.

Finally, the pardon provides that any individual previously precluded from entering the United States under title 8 of the United States Code, section 1182(a)(22) of the Immigration and Nationality Act, or by any other law, by reason of having violated the Military Selective Service Act, is permitted to reenter the country as an alien under normal restrictions. Section 606 provides that "none of the funds appropriated or otherwise made available under this Act," shall be used in connection with permitting any person to enter the United States who is or may be precluded from entry under 8 U.S.C. 1182(a)(22) or under any other law, by reason of having committed or apparently committed any violation of the Military Selective Service Act. That provision flatly contravenes the terms of the pardon and is probably unconstitutional.

In short, section 606 was plainly designed to undermine point by point the President's pardon. It would be difficult in my judgment to imagine a more mischievous and unconstitutional piece of legislation.

In practice, most, if not all of the indictments will be dismissed and investigations terminated prior to October 1, 1977, when this restriction on funds takes effect. But as Senator HATFIELD noted, this section still has a serious practical impact on the rights of Americans presently abroad to visit the country. Under this section, the Immigration and Naturalization Service cannot go through the procedures necessary to permit selective service violators to enter the United States, even though under the pardon these people become lawful aliens with

the same right of entry as other lawful aliens.

The Vietnam war was the major political event of the past 15 years. Those who served the public in Congress were obligated to speak their minds on the war—and the related issue of amnesty. Up to the inauguration, both sides continued to debate the wisdom of a pardon, presenting their views to the public and the President. Senator ALLEN and others introduced a sense of the Senate resolution disapproving of amnesty; Senator BROOKE and I sent a letter to the President urging a broad pardon which would also include the upgrading of "bad" discharges. Even after the pardon, critics have the right, if they wish, to attack the President's judgment. But they violate the Constitution if they succeed, through legislation like section 606, in "modifying, amending or diminishing" the terms of the pardon.

When President Ford pardoned Richard Nixon in September of 1974, his act outraged many Americans, including many Members of Congress. Yet to my knowledge, there was no attempt made in either House of Congress to overrule or undermine the pardon. Those who disagreed with the pardon recognized the President's constitutional authority to grant it. There is no basis in the Constitution or in history for concluding that the President's power is any less exclusive or final in the case of a general pardon given in the aftermath of war. In the last Presidential campaign the debate over the amnesty issue and the position of Gerald Ford and Jimmy Carter were clear. Jimmy Carter's promise to grant an unconditional pardon of draft evaders during the first week of his Presidency assumed importance precisely because of the absolute nature of the President's power to pardon. No serious commentator would have suggested that the Carter's pledge was academic or irrelevant because Congress could nullify a Presidential pardon by placing certain restrictions on a Justice Department appropriations bill. Such an argument would have properly labeled as ridiculous, just as section 606 should be.

Both Vietnam and Watergate were characterized by congressional deference to Executive authority. We are witnessing now a reassertion of congressional power, proper and heartening in most instances, needed to offset the power of the Presidency and maintain the balance of power in our constitutional structure. But the Constitution is also premised on a separation of powers, in which certain enumerated powers are assigned exclusively to each branch of Government. If section 606 remains in this bill, we are infringing impermissibly on a power which the Constitution assigns exclusively to the President. As the Supreme Court observed in United States against Klein—

> The legislature cannot change the effect of such a pardon any more than the executive can change a law.

This action is no more defensible than the Presidential impoundment of funds appropriated by Congress which troubled so many of us several years ago. I am no more enthusiastic about unconstitutional usurpation of power committed by the Congress than by the President.

THE PRESIDENT'S PARDON PROGRAM

Mr. McGOVERN. Mr. President, while we are examining the constitutional questions raised by this amendment—which are serious enough—I think we must also consider its implications as a description of the United States and of the character of the Congress. To me it is still more objectionable in those respects.

I frankly cannot fathom the motivation of those who want to inhibit President Carter's modest program of pardons for some of the young men who resisted or avoided military service during the Vietnam war.

That conflict divided this country more deeply than any issue since the Civil War. I would think that every American would be anxious to put those divisions behind us. Yet some Members of Congress, through language such as that added by the House, are apparently determined to hand onto those divisions for as long as they can, to milk every last drop of sorrow out of this long national travail.

The war turned out to be a stupid and futile exercise for the United States. It diminished our national security and depleted our society. And I think every responsible American is determined that we shall not repeat such a sad venture again. Yet now we near the argument that we must keep hunting down or locking up or exiling those who would not take part, lest we have too few to fight next time. One answer to that is that in most cases these people have already paid for what they did. But we should also contemplate that by far the more dangerous people to our society are those who are plotting similar wars in the future, and who want to have a guaranteed pool of manpower willing to die for the mistakes of their leaders.

I believe—at least I earnestly hope—that this language misrepresents the character and the priorities of the American people. I detect no widespread mood to continue hounding the Vietnam draft resisters. I think most people have more compassion than that, and enough commonsense to understand that we have better and more important things to do with our money and our attention.

Therefore, I hope the Senate will reject this appeal to vindictiveness and spite, and adopt the Hatfield amendment.

Mr. HATFIELD. Mr. President, I am ready to yield back the time on my side and am willing to go to a vote.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

Mr. HATFIELD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Oregon. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Arizona (Mr. DECONCINI), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senators from Hawaii (Mr. INOUYE and Mr. MATSUNAGA), and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I also announce that the Senator from Texas (Mr. BENTSEN) is absent because of death in the family.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI), and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Carolina (Mr. HELMS) would each vote "nay."

The result was announced—yeas 38, nays 44, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—38

Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Brooke	Hatfield	Muskie
Bumpers	Hathaway	Nelson
Burdick	Humphrey	Packwood
Case	Jackson	Pearson
Chafee	Javits	Pell
Church	Kennedy	Percy
Clark	Leahy	Proxmire
Cranston	Magnuson	Sarbanes
Durkin	Mathias	Stevenson
Eagleton	McGovern	Williams
Gravel	Melcher	

NAYS—44

Allen	Garn	Sasser
Baker	Glenn	Schmitt
Bellmon	Hansen	Schweiker
Biden	Hatch	Scott
Byrd, Harry F., Jr.	Heinz	Sparkman
	Hollings	Stafford
Byrd, Robert C.	Huddleston	Stevens
Cannon	Johnston	Stone
Chiles	Laxalt	Talmadge
Curtis	Long	Thurmond
Danforth	Lugar	Tower
Dole	McClure	Wallop
Domenici	Nunn	Weicker
Eastland	Randolph	Young
Ford	Roth	Zorinsky

NOT VOTING—18

Abourezk	Griffin	McIntyre
Bartlett	Hayakawa	Metcalf
Bentsen	Helms	Morgan
Culver	Inouye	Ribicoff
DeConcini	Matsunaga	Riegle
Goldwater	McClellan	Stennis

So the amendment was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 537

Mr. HATHAWAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) on behalf of himself, Mr. MUSKIE, and Mr. KENNEDY, proposes unprinted amendment No. 537:

On page 33, line 23, strike "$53,000,000" and insert "$54,200,000".

The PRESIDING OFFICER. The Chair would like to inquire of the Senator from Maine whether this is the amendment on which there is to be an hour's debate.

Mr. HATHAWAY. An hour has been allotted but I do not believe we will use up the entire hour.

Mr. THURMOND. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. HATHAWAY. I would be happy to yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that Eric Hultman of the Judiciary Committee staff have the privilege of the floor during the consideration of H.R. 7556 and amendments thereto and during the votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Chair can hardly hear the requests of Senators speaking from the floor. The Senate will please be in order. The Senator from Maine is recognized.

Mr. HATHAWAY. Mr. President, on behalf of myself and my distinguished colleague, Senator MUSKIE, I am offering an amendment to the operations and training section of the Maritime Administration appropriations to provide an additional $1.2 million. This increases the appropriations for operations and training from $53 million to $54.2 million, and provides funds adequate to provide a cadet allowance of $1,200 per year to State maritime school students. The increase in the cadet subsidy will affect students who are eligible for the allowance in the State maritime schools which are located in Maine, Michigan, California, New York, Texas, and Massachusetts.

The student cadet allowance was originally authorized in 1958, and has remained at $600 per year since that original authorization. The Senate recently adopted an increase in the student allowance to $1,200 per year which is the same as the allowance for naval contract ROTC students, and that increase was included in the Senate's Maritime Administration authorization bill for fiscal year 1978. The House Merchant Marine and Fisheries Committee has also reported a MARAD authorization bill for fiscal year 1978 with a similar increase in the student allowance to $1,200, and floor action is pending in the House right now. If this authorization is to be implemented with this year's entering students, as has been intended by these increases in the authorization, then funds should be provided in this appropriations bill for the increase.

As background, the State cadet subsidy is a subsistence allowance which is provided to students attending these State maritime academy schools to help defray the cost of uniforms, textbooks, and other expenses. The underlying basis for it is that there is a strong Federal interest in maintaining a well-trained U.S. Merchant Marine, that students attending the maritime schools do not have the same opportunity for outside summer employment as other students because of the need to spend summer training time on board ship, and that they have special expenses such as uniforms which other students do not have to meet.

This rationale for the State school cadet subsidy is still operative today. However, the cadet subsidy has remained at $600 since its enactment in 1958. The impact of inflation in the 19 years since that time is well known. The doubling of the subsidy is justified on the basis of inflationary increases alone.

According to the Congressional Research Service of the Library of Congress, the Consumer Price Index has risen 102.4 percent, resulting in a decrease in purchasing power to $296. If the purchasing power of these payments were to be made equal to their purchasing power when they first began to be made in 1958, they should actually be raised to $1,214.40 per year. Similar payments to Army and Navy ROTC cadets were raised from $600 to $1,200 per year approximately 5 years ago. After a lengthy study of maritime training institutions in the United States, the Ad Hoc Committee on Maritime Education and Training which was appointed during the 93d Congress recommended that these subsistence payments to cadets at State maritime academies be increased from $600 to $1,200 per year. The ad hoc House subcommittee this year also recommended the same increase.

I emphasize at this point, however, that the increase in the individual cadet subsidy itself in no way affects the number of students receiving the subsidy or entering our maritime institutions. There is presently a ceiling on the number of students in each freshman class who may receive the subsidy. This ceiling number is 673 and was set by the Maritime Administration in 1972 on the basis of the pre-Vietnam manpower needs. The subsidies themselves are not transferable from one student to another, and are paid on a monthly prc rata basis and credited to the students' school accounts to cover the necessary expenses.

The estimated cost per year of this amendment, as mentioned in the outset, is $1.2 million. Since the subsidy is nontransferable and is pro rated, based upon attendance, the figure is not precisely a matter of simple mathematics. Approximately $1,200,000 is needed for the cadet subsidy at the $600 rate. A doubling of the basic stipend would, of course, double this figure per year, and the additional amount should permit payment of the $1,200 per year to the number of students set by MARAD as eligible for this particular allowance.

A bit of history on this increase in the cadet subsidy may be instructive. In 1975, the House adopted this increase in the cadet subsidy as an amendment to the Maritime Authorization bill; it was later deleted in conference because a report was due from the House Ad Hoc Committee on Maritime Education and Training. This report was subsequently printed, and recommended a doubling of the subsidy. However, a General Accounting Office report had then been requested on all of the maritime schools—Federal and State.

Hence, an attempt last year to increase the subsidy was defeated on the grounds that it should be deferred pending the GAO report. On the Senate side, a modified increase to $900 per year was adopted as an amendment to the MarAd authorization bill, but was again deleted in conference pending the GAO report.

This history of the past efforts to enact the increase illustrates the problems which have occurred in discussion of the cadet stipend increase. First, the argument has been made that this increase will just provide more trained individuals than there are jobs, and result in further unemployment in the maritime industry. As pointed out above, this is just not so. The two issues are not related to one another; the number of students receiving the stipend is controlled by MarAd and is not affected by an increase in the individual amount.

Second, pending reports have been used as a reason for deferring action on the increase. Yet at least two reports have been done recommending the increase, and the GAO report which appeared on June 15 of this year does not speak to the precise issue of an increase in the individual cadet student allowance.

I feel that it is time to recognize the fact that this increase in the cadet subsidy is a question of simple equity to the student, accounting for the increase in costs since 1958. By ensuring that realistic financial support is available to these State maritime students, the quality of the education and of the students able to attend State maritime schools will be enhanced, with the long-term benefit of upgrading the quality of our merchant marine forces.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. HATHAWAY. I am happy to yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I congratulate the Senator from Maine on a compelling statement of a matter of simple equity, as he puts it, but also of prudent management.

The United States invests considerable resources in the training of maritime merchant marine officers. It is clearly in our interests that we should get the best, and clearly that interest would not be served by depriving potential cadets of the simple level of very modest maintenance which the U.S. Government provides.

Mr. President, I ask unanimous consent to have the honor to have my name added to the sponsors of the amendment by the Senators from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. HATHAWAY. I thank the Senator.

Mr. MUSKIE. Mr. President, I am happy to join again this year with my colleague from Maine in the cosponsorship of this amendment.

I appreciate the interest of the distinguished Senator from New York in joining in that cosponsorship.

Both New York and Maine, and other States, including Massachusetts, Michigan, Texas, and California have these State maritime training schools.

In the case of Maine, the Maine Maritime Military Academy reflects a maritime and shipbuilding tradition in my State that goes back 300 years, and indeed the Maine Maritime Academy is located at Castine, which was the scene of one of the opening battles of the Revolutionary War.

So, there is a great tradition here which is reflected in the existence of the academy. It contributes to the education of young men seeking the seafaring life which their fathers and forebearers knew, and who have moved into the seafaring tradition out of the Maine Maritime Academy with credit to themselves and to their State.

So it is understandable, Mr. President, that we should undertake to protect their interests and to enable not only those with well-off families, but those who come from more austere backgrounds to seek to serve in the same tradition.

All we are asking for is simple equity, as the Senator from New York and my colleague have stated.

The subsidy of $600 was established in 1958, 19 years ago. Well, all of us know what has happened to the value of those dollars as a result of inflation in the years that have passed. That $600 today is worth $296.

Last year the argument was made that this subsidy has the effect of giving these cadets favored treatment over other students who seek higher education. The fact is that that argument misses the point. These cadets are not like other students in three important respects.

First, they are committed to drill time for which the subsidy is intended to compensate them in part.

Second, they must buy uniforms, an expense which students in nonmilitary institutions do not have to meet.

Third, they do not have their summer months as a way of earning outside income as is the case with other students.

So the subsidy was provided, in the first instance, to offset these unusual burdens, and that subsidy simply will not do the job today. Twelve hundred dollars today would be no more than the $600 in 1958.

There are those who argue that we are providing more personnel through these programs than our merchant marine can absorb. The point is that this subsidy does not increase the numbers. If there is a case to be made for terminating the program, let us hear that case made and appropriate legislation introduced to serve this objective.

But to seek to terminate the program by making it so burdensome for those who are now students that they will have to quit and, in effect, deprive the institution of students in an indirect and I think ineffective and inequitable way to achieve that objective.

So long as these students are in schools, serving a defined and accepted national tradition and national need, they should be treated on the same footing with others in like circumstances. Army and Navy ROTC cadets were given the $1,200 subsidy 5 years ago. There is no equity at all to have recognized their burden and deny the same treatment to the students in these maritime academies.

So, Mr. President, on the grounds of equity, on the basis that so long as this program continues we ought to recognize the needs of the people and the students who participate, I urge the adoption of this amendment which my good friend and colleague from Maine has introduced for the second year in a row, and I hope it will have the support of the Senate.

Mr. HOLLINGS. Mr. President, I yield myself sufficient time to reply to the distinguished Senator from Maine.

Mr. President, I think this would be a good time to discuss sunset, and tradition, and the general responsibilities of Congress, when we are confronted with programs that have long since outlived their usefulness.

With respect to tradition, my distinguished friend from Maine can talk of the seafaring nature of his constituency in Maine, which is probably only exceeded in that talent by its ability to manufacture textiles.

I remember when I tried to get my colleague down to South Carolina, to see all his textile mills that had moved out of New England and down to South Carolina, so I could talk about my constituency's tradition of manufacturing textiles. But I told him to hasten, because they were fast moving out of South Carolina to Japan, and from there to Korea, and on to Hong Kong and India.

Time moves along; and just as time moves along, there are many in this body who believe we should have a new system, which we call "sunset," which means you look at a bill and see if it has reached its sunset, when the needs for the program have gone by the board, and there is a need to terminate it. It is rather amusing to me that, when this same party approaches a different problem in Government, they talk about zero based budgeting as a new system. If you had grown up in a poor State, you would have known about that a long time ago. There you were not looking for a new approach, you were looking for the necessary approach, which was minus zero when I took office. We had to go to everyone to start subtracting money.

So it is not wrapped up in a new system or a novel approach, or anything else. It goes back to the fundamentals of how and when, good commonsense, good horse sense, and good basic judgment.

I daresay if the Appropriations Committee had ever carried out its original function of oversight, we would never have had the Budget Committee. It was not a new approach; there was a delinquency, if we may characterize it as such, within the Appropriations Committee process.

One of our former committee chairmen, some time back, did not believe in a staff. I had served with him on the Agriculture Committee, and he felt minimal staffs, with the major problems of this growing, burgeoning bureaucracy, were all that was necessary, that we would just have one man to look at that particular need, as balance against, for example, the whole Department of Defense.

Now we come to the question of a little sunset on the matter of marine needs. My friends from Maine and those who sponsor this amendment say, as a matter of equity, they cannot see how the Army and the Navy ROTC need quite so much money, and theirs quite so little.

Mr. President, they ought to get nothing. Their program is over with. They have not increased the numbers in this program for the last 10 years.

Not one additional candidate will be added to this program with the amendment, if it were agreed to. The truth of the matter is, with the Volunteer Army, Navy, and Air Force, we need ROTC candidates. But here in the merchant marine, we are educating them for what? For other countries or other endeavors, because we can go back to the record we made not very long ago, Mr. President, when we pointed out that the updated record showed that a third of them were out of jobs right now.

We find that between April of 1973 and April of 1975, the number of licensed berths or job openings decreased from 8,347 to 7,140. Since they are at sea an average of 6 months a year, as an average amount of sea time, that means the loss of double that number of jobs or, on the basis of the most recent figures, from 1973 to 1975, more than 2,400 jobs have disappeared.

I regret it, Mr. President. The Senator from Connecticut and I in handling this bill, are trying to put America back into the oceans. With the leadership of the Senator from Washington, we are trying to develop our maritime industry; and it hurts me to put out these stark facts of life, but until there is a need, there is no point to put out this $1.2 million and call it equity.

According to the latest Coast Guard data, more than 50,000 men were licensed from 1973 through 1974, for less than 15,000 available jobs. In 1974, the Maritime Academies graduated 650 additional officers. In 1975, 585 were graduated. The National Counsel of the Maritime Academy Association stated to the U.S. Coast Guard that no shortage of deck and engine officers exists. He declared that there are enough licensed deck officers to meet all the future needs of the industry for at least 10 years.

I could go down the line item by item, if the gentlemen prefer, and argue the same thing. But I have learned from my distinguished leader on the Budget Committee to take "the macro-economic view." That means to look at it all. That is a great word for the Senator from South Carolina to gargle: "macro-economic."

What happens macro-economically? Mr. President, they come first to HUD, and to HEW, to build the schools, then they get the schools built, now there is no one to put in them in Maine, despite that seafaring tradition.

So they increase the moneys in the allocation, and if you look more closely, we find they are pretty well up to snuff on filling the jobs.

As to the Federal aid students, in the State of Maine there are exactly 506, and 91 receive no aid at all, that are going in. If it was so inequitable, why are they going?

If you look at Massachusetts, there are 418 Federal aid students in the Massachusetts Maritime Academy, and—they are exactly even—418 receiving no aid. Even with no Federal aid, they go there. Or in New York, 644 Federal aid students, and 255 students there not receiving any Federal aid.

The problem is that we have built all these buildings there is no need for, but if we have to get down the per capita cost for running these academies, the academies have to go out and bring some kind of program telling about that tradition. So they tell them "everybody come back to the sea"—"back to the sea, my boy"—because the Federal Government, like Kansas City, has gone about as far as it can go, and otherwise they cannot get any more.

Mr. President, this is a $1.2 million amount that ought to be rejected. How are we going to balance the budgets if we just go on and on, the Federal purpose long having been fulfilled and the institution outlived itself?

They say we have to have a sunset; at the same time they say we need a sunset bill to find such things out, they say, "Why have these military service ROTC's received it?"

It is because we have a continuing need for them, the Army, the Navy, and the rest. We do not need to talk about inflation.

We want to talk about the fundamental need in this country of ours to continue to subsidize Maritime Academies at any particular point when we are creating joblessness. Then we will come around and get another program for the unemployed, like countercyclical and otherwise, because we have created capacities for which there are not job availabilities, and, therefore, we have subsidized unemployment. We keep on going around and around and around.

That is why the committee, in all respect, having treated with this on the authorizing committee and looking at the facts and figures and where we were heading, said, "Look, let us stop."

He said, "Well, if that is what you want to do, let us make the argument to stop it. Maybe we will do that."

Maybe we will. We are the ones who want that badge or award for equity. The only way to do it equitably is the way we are presently doing it. It is not to increase the Federal aid but not decrease the Federal aid, and see if it will take its course, and, as a general rule, let these be blended over to Army ROTC or Navy ROTC programs. Maybe we will fill up the buildings that way. Maybe we will not have to worry about the unsuccess of the volunteer Army; we will have enough there.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HUDDLESTON). Who yields time?

The Senator from Maine.

Mr. MUSKIE. I do not really know what this amendment has to do with sunset or countercyclical, or some of the other frustrations which the distinguished floor manager directs toward programs in which I am interested. But if it pleases him to use this amendment to debate some of those concepts, I have no objection.

It also seems to please the Senator to ridicule the ambitions of these young men who are following an honorable profession, who, on the record, are finding opportunities in that profession, and whose government says these programs will continue.

If the distinguished Senator wishes to introduce legislation to terminate these programs so that we send a clearcut signal to these young men that there is no U.S. merchant marine with a future for them, I will be happy to debate that issue when it gets to the floor. But we have this program. We have had it for a number of years. We continue to open up with the taxpayers' dollars—a little stingy but with the taxpayers' dollars—and we seek to attract these young men into this profession. Then we say, "Well, you are performing a useless task, so we are going to make you accept this opportunity under a burden that nobody else in like circumstances is asked to bear."

I just do not see that way of sunset, putting the burden on all of these young men, many of whom cannot go to other schools of higher learning in my State, forcing them to sunset the program.

I say to the Senator if he wants to sunset the program, do it directly in a way that brings the issues to the floor, in a way which enables us to resolve it and decide as a Congress whether national interest is served by a continuation of these academies.

To go through the motions of providing an inadequate subsidy to continue the program and then ridicule these young men for asking for more simply because they want to be put on a par with others in like circumstances, I believe is a rather inhumane way to sunset the program.

I happen to believe we need these schools, but that is not the issue here today.

I happen to believe they serve a national interest, but that is not the issue here today.

It is not for this appropriation bill to terminate this program. That ought to be done through an appropriate legislative vehicle. Then let us have it, if that is the issue which the distinguished floor manager wants us to face.

So long as we have it, then for Heaven's sake these young men are entitled to be treated fairly and equitably. I do not think that is an irrelevant consideration, whatever the Senator from South Carolina has to say on that subject.

Mr. HOLLINGS. Mr. President, if we were going to treat them equitably, it seems to me my distinguished friend would worry about the 91 not receiving aid. I would hate to visit that campus if there were all that need in my heart and mind. I would hate to visit a campus in my State with 506 receiving aid and 91 getting zilch, zero. Wherein has there been an amendment in this Congress to increase that number of 2,692? That is the fundamental and basic number fixed by the Maritime Administration.

That is not the issue.

Who is ridiculing the merchant marine? I served on the Coast Guard Academy Board, as the Senator from Washington knows. I presently serve on the Merchant Marine Academy Board at Kings Point, Long Island. My address is wharf, not street, 2 Voyce's Wharf, in Charleston. Do not tell me about ridiculing maritime. I have the greatest admiration for them.

I am talking good, common horse sense about a program that has outlived itself, and everybody knows it, if we used a sunset proceeding. They do not want to do it here in the U.S. Senate. A good example is the $1.4 billion to the Post Office, but do not look at it. They are the very same people who do not want to have any oversight and have hidden the committee and want a little contest, following that Postal Committee. It is not under the name of Post Office, the one original department of Government. We cannot find it there now. It is hidden under a secret name, I say to the Senator from West Virginia.

The Senator is saying we do not want to hear of it again. We are not going to have oversight. I had the committee for 5 years. I tried to hold a hearing and they forbade it, but they kept voting the money. That is exactly what we are doing. That is why I brought it up. It is certainly to sunset, not the cadets but to sunset this program. It ought to be killed.

It certainly ought to not be given $1.2 million more.

Mr. MUSKIE. If the Senator will yield, why does not the Senator introduce legislation to do just that?

Mr. HOLLINGS. I do not think I can get it passed.

Mr. MUSKIE. So that is a strange reason. He is going to instead force these young men out of the program and force them to sunset it because the Senator does not think he is persuasive enough to do it himself?

Mr. HOLLINGS. Mr. President, the horse in on the other end. People are coming in without any aid. Nobody is being forced out of the program. There are no facts to substantiate that. These schools are convenient to many.

I take it they are pretty good schools. In fact, one of the studies shows that the oil companies are the ones hiring the graduates now, some on the derricks. Maybe we need a school for the big oil of America to take care of those derricks. I do not know. But they are not ending up on ships. They are not ending up for the original maritime purpose. That is what we are trying to point out.

We are trying to hold the line on the budget. When we get in here and listen to the requests and everything else, we get into this debate. The distinguished Senator from Michigan has a school. Ever since I came to the Senate for the past 10 years he has had this amendment. It is a small group, a constituency. That is

another part of the political problem. It is not sunsetting cadets but sunsetting programs so we can balance that budget.

When we look around and try to do it, then they say, "You are ridiculing the cadets." I did not ridicule any Maritime cadet. I just think if we are going to invest tax dollars; if we are going to go into energy, then let us put in some kind of school in geology.

Just the other afternoon we were trying to find out something about radiation and the matter of uranium, plutonium, and everything else. Maybe we ought to have a Federal school for the nuclear age and really know what is the truth on it. There are a lot of things that the Federal Government could probably start paying for in the energy field.

As we well know, less than 5 percent of the imported oil is shipped in American bottoms. Ninety-five percent is shipped in foreign bottoms. We are just not in the Maritime business.

I regret it, but I cannot see, facing the needs of America as they are, putting millions more into a program long since having outlived its usefulness and then start talking about equity, start talking about sunsetting, debts, and the needs of this country.

I do think we ought to have the overall, comprehensive view. Having been given that, one thing concludes in my mind: We certainly should not put in more money after a program has become archaic and extinct, in a sense. It is a sad thing that they cannot find jobs on the other end of the line after they are trained in this particular area.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Mr. Jerry Bonham, of Senator DECONCINI's staff, be granted the privilege of the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I am ready to yield back our time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The Chair is in doubt. Senators in favor of the amendment will please stand until counted.

(After a pause.) Those opposed will rise and stand until counted.

Mr. HATHAWAY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I also announce that the Senator from Texas (Mr. BENTSEN) is absent because of death in the family.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 49, nays 35, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—49

Anderson	Haskell	Melcher
Baker	Hatch	Moynihan
Bayh	Hathaway	Muskie
Biden	Hayakawa	Nelson
Brooke	Heinz	Pearson
Bumpers	Huddleston	Pell
Case	Humphrey	Randolph
Chafee	Jackson	Roth
Chiles	Javits	Sasser
Church	Johnston	Schmitt
Clark	Kennedy	Stafford
Durkin	Laxalt	Stevens
Ford	Leahy	Stone
Garn	Long	Wallop
Glenn	Mathias	Williams
Gravel	McGovern	
Hart	McIntyre	

NAYS—35

Allen	Eastland	Sarbanes
Bellmon	Hansen	Schweiker
Burdick	Hatfield	Scott
Byrd, Harry F., Jr.	Helms	Sparkman
	Hollings	Stennis
Byrd, Robert C.	Lugar	Stevenson
Cannon	Magnuson	Talmadge
Cranston	Metzenbaum	Thurmond
Danforth	Nunn	Tower
Dole	Packwood	Weicker
Domenici	Percy	Young
Eagleton	Proxmire	Zorinsky

NOT VOTING—16

Abourezk	Goldwater	Metcalf
Bartlett	Griffin	Morgan
Bentsen	Inouye	Ribicoff
Culver	Matsunaga	Riegle
Curtis	McClellan	
DeConcini	McClure	

So Mr. HATHAWAY's amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 538

Mr. HATCH. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself, Mr. HAYAKAWA, Mr. EASTLAND, Mr. ALLEN, Mr. DOLE, Mr. THURMOND, Mr. WALLOP, Mr. HANSEN, Mr. ROTH, and Mr. HELMS, proposes unprinted amendment No. 538:

On page 47, line 5, strike the figure $195,000,000 and insert in lieu thereof, $150,000,000.

Mr. HELMS. Will the Senator from Utah yield?

Mr. HATCH. I am glad to yield to the Senator.

Mr. HELMS. Mr. President, I ask unanimous consent that James P. Lucier of my staff be granted privilege of the floor during discussion on the pending bill and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I make the same request for a member of my staff, Terry Lytle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Scott Ginsburg, of the Human Resources Committee staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Mr. Robert Hunter and Mr. Peter Reinfret have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, as manager of the bill, I am not in a position to oppose this amendment, but the majority of the Committee on Appropriations is for the amount recommended in the bill.

Mr. NELSON. Mr. President, may we have order, so that the Members can hear the Senator from South Carolina?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HOLLINGS. Mr. President, I was looking for the Senator from Arizona to take over on this item. May the time be controlled by the Senator from Wisconsin, who is the chairman of this subcommittee?

The PRESIDING OFFICER. The Senator from South Carolina may yield time.

Mr. HOLLINGS. I yield the time to be controlled by the Senator from Wisconsin.

Mr. HATCH. Mr. President, do we have 15 minutes on this matter?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. Mr. President, this amendment would shave $45,000,000 from the committee's appropriations figure for the Legal Services Corporation, leaving the appropriation at $150,000,000. I believe this is an extraordinarily generous figure, for a number of reasons which I will discuss.

First, the Legal Services Corporation bases its funding requests on the assumption that there are 29 million poor people needing legal services and that it is only able to provide service for less than 15 percent of them. The Corporation says that there are roughly 16 million without effective access to legal assistance. Therefore, I conclude that it can reach approximately 13 million poor people under its present funding level of $125 million. In fact, unless the Corporation changes its eligibility rules, it will need to request an annual appropriation of $875 million within a few years to meet

its statutory obligation. If that occurs, we will have another massive Federal bureaucracy on our hands.

Recently, the Congressional Budget Office reported some new analyses of the Federal definition of poverty. Using the same standards as the Bureau of the Census, CBO concluded that only about 9 million people are actually below the poverty line, when all of the income/transfer programs available to the poor are taken into consideration. These programs include medicaid, medicare, food stamps, housing subsidies, and other in-kind benefits worth about $40 billion a year.

If the CBO data is to be believed, and I certainly have no reason to doubt it, the Corporation's existing budget of $125 million is adequate to reach the number of clients to be served. My amendment, however, provides a modest increase of $25 million to allow an expansion of the program and to allow for inflationary facts.

Moreover, section 1007(g) of Public Law 93-355, the Legal Services Corporation Act, requires that the Legal Services Corporation make a study of alternative methods for the delivery of legal services to the poor, including judicare, vouchers, prepaid legal insurance and contracts with law firms. The provision states:

> The Corporation shall provide for comprehensive independent study of the existing staff attorney program under this Act and through the use of appropriate demonstration projects of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and based upon the results of such study shall make recommendations to the President and the Congress not later than two years after the first meeting of the Board concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

The recommendations of the Corporation based on the results of this study are due in July of this year. (Rather than rush to raise the appropriation by almost 60 percent for fiscal year 1978, from $125 million in fiscal year 1977 to $195 million in fiscal year 1978, and to possibly $300 million in fiscal year 1979, this committee and Congress should instead wait until Congress has had an opportunity to study any recommendations contained therein with regard to alternative methods for the delivery of legal services for the poor.)

Mr. President, in addition to the considerations I have raised, developments which have come to my attention since the creation of the Corporation cause me considerable concern. There have been incidents and allegations that the Corporation has been used for the purpose of broad legal reform as well as political and social action, contrary to congressional intent in setting up the Corporation.

In my judgment, it would be a serious mistake to give it the drastic funding increase called for in the committee-reported bill because of the serious weaknesses and deficiencies which have appeared in this program.

I believe that effective oversight by the Human Resources Committee is necessary prior to bulging the legal services budget to the extent provided for in this bill.

I also feel that the Judiciary Committee should have oversight over this matter, because it involves almost purely the practice of law, the ethics of law, and many other aspects and ramifications of law.

When I questioned the leader of the Legal Services Corporation, Mr. Erlich, about the 29 million poor that he cited, I questioned that there were 29 million people in the middle class who could afford attorneys. Yet, they have to pay the freight and the taxes and the increased tax burdens to provide attorneys in this particular area. It seems to me that we are actually providing programs for the lawyers, rather than programs for the poor.

I am not saying that all that the Legal Services Corporation does it wrong, but I am saying that it has been highly criticized all over the country by various organizations, various people, various editorialists, and others who have watched what it has been doing.

In this regard, I ask unanimous consent to have printed in the RECORD the following items, which indicate several abuses by the Legal Services Corporation: An article published in Barron's January 31, 1977, "Bar Sinister—Park II—How the Legal Services Corporation Thwarts the Will of Congress"; an article from The Conservative Advocate, entitled "Lawyers Raid the Public Trough," for release on Friday, June 3, 1977; an article published in the Boston Herald American on December 10, 1976, by Warren T. Brookes, entitled "Economic Policy Board too Vital not to Survive Transition"; an article published in Northeast Agriculture, December of 1976, entitled "Legal Services for Whom?" by C. M. Wilson.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Barron's, Jan. 31, 1977]

BAR SINISTER—PART II—HOW THE LEGAL SERVICES CORP. THWARTS THE WILL OF CONGRESS

(By Shirley Scheibla)

WASHINGTON.—When Congress created the Legal Services Corp. (LSC) in 1974, it "abolished" so-called back-up law centers because they led the push for class action suits and social change. Specializing in areas like welfare and housing, such bodies not only act on their own but also assist other local poverty law centers throughout the country. Yet today 13 of the original 17 are getting more LSC money than ever and still doing business at the same old doctrinaire stand.

Of the remaining four, the corporation has taken over the functions and some of the activist personnel. Indeed, it's spending more than twice as much on them as for the other 13. At least one of the four is getting more federal money than ever before, but now it comes from the Department of Health, Education & Welfare.

LSC is vigorously promoting legal services by other government agencies, notably VISTA and the Community Services Administration. (The latter succeeded the Office of Economic Opportunity.) One reason is that they can engage in activities for which the LSC Act prohibits corporation funding.

LAUNCHED COSTLY STUDY

As noted last week, Congress has been lavish in appropriating money for LSC, but to date has failed to scrutinize its activities. Ultimately, however, the lawmakers will have to take a hard look. As required by the LCS Act, the Corporation has launched a $1.9 million study to explore various ways and means of providing legal services for the poor. They include judicare, prepaid legal insurance, contracts with private law firms and vouchers. By July, it is slated to make recommendations to the President and Congress. The ultimate choice will be a major one.

After passage of the LSC Act in July 1974, President Ford took a year to nominate the members of the board. Then five of his initial choices ran into such virulent opposition that they bowed out. (They included former Representative Edith Green, once head of the Education Subcommittee of the House Education and Labor Committee, a Democrat and no conservative, but a critic of the Legal Services Program.) As a result, the 11-member board has no outspoken critics of the program. It has only two members, who by any stretch of the imagination, could be viewed as tolerably conservative: J. Melville Broughton Jr., a former prosecuting attorney for the City of Raleigh, N.C., and Marlow W. Cook, former Republican Senator from Kentucky.

As part of the act creating the Corporation, Congress approved the Green Amendment. When Representative Green introduced it, she said it outlawed the back-up centers. Right after a Senate-House conference agreed on the bill, Rep. Carl Perkins, manager of the Conference Report in the House, announced that the conference had accepted the Green Amendment "lock, stock and barrel." Congressman Albert Quie, manager of the bill on the Republican side, declared: "This bill cannot be interpreted to permit the Corporation to make any grant or contract for the purposes and programs carried out under the so-called back-up centers. . . . The language of the bill itself will not permit that interpretation."

CONGRESSIONAL INTEREST

Whenever controversy arises involving interpretation of a statute, the custom is to rely on the record prior to passage to determine Congressional intent. The remarks of Green, Perkins and Quie seem to establish that intent without question.

Nevertheless, LSC paid a Chicago attorney, Alexander Polikoff, $134,513 to do a study on back-up centers. Polikoff heads a public interest law firm called Business and Professional Men for the Public Interest. He argued that the LSC Act means that training and technical assistance, research and clearinghouse information must be handled by LSC itself and not by back-up centers. He then concluded that the back-up centers could engage in other activities. In a shorter study, done without charge, the Washington law firm of Hogan and Hartsen reached a similar conclusion.

Thomas Ehrlich, who heads the Corporation, asked Mrs. Green for comment. In February 1976, she wrote that the Hogan and Hartsen interpretation was wrong. She added: "It ignores the entire controversy over back-up centers; it ignores the legislative history; it ignores the Congressional intent."

Mrs. Green subsequently came to Washington to address LSC's board. She emphasized that the Congressional statements which LSC had cited to indicate intent were made after passage of the law. She specifically challenged reliance on statements by Representatives Shirley Chisholm (D., N.Y.) and William A. Steiger (R., Wis.), who, she said, were not even on the floor on July 16, 1974, during

the debate on the LSC Act. Instead, according to Mrs. Green, their remarks were inserted after passage, but appeared as though they had been made on the floor prior to the vote.

Mrs. Green also told the directors about a remarkable occurrence a couple of days earlier, when the Senate voted on the same law. It convened at 1:50 p.m. and balloted at 2 p.m., leaving precisely 10 minutes for debate. But, according to the Congressional Record, the debate covered 30 pages of fine print and included remarks by 10 Senators. Evidently the lawmakers inserted their remarks after passage of the law to make it look as if they had been made beforehand.

The deceptive "debaters" included Senators James Abourezk (D., S.D.), Alan Cranston (D., Calif.), the late Philip A. Hart (D., Mich.), Harold E. Hughes (D., Iowa), Edward M. Kennedy (D., Mass.), Charles McC. Mathias (R., Md.), (now Vice President) Walter Mondale (D., Minn.), John C. Stennis (D., Miss.), John V. Tunney (D., Calif.) and Harrison A. Williams (D., N.J.). Nevertheless, Mrs. Green failed to persuade the majority of the directors.

CONTRACTS OUTSTANDING

The board also defeated a motion by members Rodolfo Montejano and Marshall J. Breger which would have allowed LSC to disapprove any receipt of funds from any source by back-up centers for activities inconsistent with the LSC Act. LSC now has contracts outstanding in the amount of $4,281,963 with 13 back-up centers. On or before July 1, it is expected to renew these for $4,315,326 more.

That accounts for all but four of the original 17 back-up centers. One of these, the National Clearinghouse for Legal Services, still publishes the Clearinghouse Review in Chicago with the same staff, but now it officially comes under LSC supervision.

LSC created the Office of Program Support, budgeted at $7.1 million to take over the activities of the other three. One is the Legal Services Training Program of Catholic University. According to the Polikoff study, the LSC grant for the Program was administered as part of the Law School budget. LSC's official biography of Executive Vice President E. Clinton Bamberger Jr. indicates that his last job before joining LSC was dean of the Law School at Catholic University.

Another is the Management Assistance Project of the National Legal Aid and Defender Association. Bamberger formerly headed the NLADA. So did Revius O. Ortique Jr., a member of LSC's board of directors.

DOING VERY WELL

The last of the quartet of back-up centers is doing very well indeed. William Fry, director of the National Paralegal Institute, told Barron's that it has obtained $388,000 in grants from the Department of Health, Education & Welfare. That's more than the $332,000 it enjoyed from LSC. Moreover, the Institute continues to work with LSC-funded law centers which have access to state money.

Now, according to Fry, the Institute is working with LSC in "a major presentation to the American Bar Association on paralegals." He says that a written report has been submitted to the ABA Committee on Legal Aid and Indigent Defendants and that in February the Institute and LSC will make a verbal presentation. Fry adds that the Institute is working closely with Catherine Day-Jermany, currently director of paralegal affairs at LSC and former director of training for the Institute.

Ehrlich already has estabilshed within LSC the Research Institute on Legal Assistance, with a budget of $250,000 for fiscal 1977. As its head, he named Alan Houseman, former director of the Michigan Legal Services Assistance Program, funded by OEO. In an article in Human Events, published on Dec. 8, 1973. Howard Phillips, former OEO director, called Houseman "a leader of the leftist National Lawyers Guild."

SOLICITING PROPOSALS

LSC is soliciting proposals from prospective fellows for LSC-funded studies in several areas which Houseman wants to explore. They include the effects on the poor of administrative and hearing processes, housing tribunals and small claims courts. What are the other 13 back-up centers doing? Schedule A of the contract for the Legal Action Support Project of the Bureau of Social Science Research Inc., which became effective last July 16, says that, among other things: "The Project will, on behalf of eligible clients, assist Legal Services Program personnel in their participation in administrative proceedings, including rule making, and in legislative proceedngs."

In other words it plans to engage in lobbying. But it said it would do so only upon request of a government agency, legislative body, committee or a member thereof. Still, devoting approximately 20% of its total professional effort to "administrative and legislative representation," seems a far cry from the Congressional aim of obtaining legal services for poor people. The contract stipulated that only 5% of total professional effort would be devoted to "general client counseling and representation."

In its report to LSC for the quarter ended Oct. 15, the Project said it "prepared a report which demonstrated why many able-bodied persons remain unemployed for prolonged periods of time despite diligent efforts to find work." Despite a ban on LSC-funded research, the document was used to assist the Legal Aid Service Multonomah Bar Association of Portland, Ore., an LSC grantee, in a class action seeking welfare for the able-bodied.

The Project also apparently did research to aid an LSC-funded law center, the Appalachian Research and Defense Fund of Kentucky. The Fund went before the Kentucky Public Services Commission to oppose a pending electric utility rate increase. The Project said it "reviewed the Kentucky Power Company's testimony and suggested to the (Fund) attorney specific lines of inquiry appropriate for future interrogatories. With reference to selected counties in the eastern portion of the state, we obtained data on social and economic characteristics of residents, prepared tabulations on mobile home families below the poverty line and furnished reference articles and bibliographies on electric utility rate structures."

In addition, two spokesmen for the Project participated last summer in the Consumer Advocate's Workshop on Electric Utility Rate Proceedings, sponsored by the National Consumer Information Center in Washington. The Center was founded by Howard University law students and is funded by Community Services Administration.

FOOD STAMP PROGRAM

As further evidence of social advocacy, rather than service to individual indigent clients, the Project said it is trying to document inadequate coverage for the food stamp program in order to help Alaska Legal Services (an LSC-funded law center), which "is contemplating a challenge to the Food Stamp Program's allegedly inadequate outreach effort in the state."

The Project argues that such activities are legal, provided they are "directly connected to requests from LSC-funded attorneys who seek our assistance in regard to their representations of specific eligible clients."

This stance squares with what Bamberger told Barron's: "Now back-up centers can only do work for clients; they have to have a client. . . . We can't provide high quality legal service without having specialists."

SCHOOL DESEGREGATION SUITS

The law says that no Corporation funds may be used for school desegregation suits. Yet in a recent report to LSC, the (back-up) Center for Law and Education made clear that it is participating in such cases. For instance, it said that Eric E. Van Loon and Robert Pressman of the Center, along with other attorneys, filed an appeal on Oct. 18, 1976, in a Boston school desegregation case which earlier led to a District Court placing South Boston High School in receivership.

Observing that the unit dated back to 1972, we asked Ehrlich what happens to cases which were pending at the time of passage of the LSC Act. He replied that he has written all law centers that if an LSC-funded attorney is in the midst of a case involving an activity prohibited by the Act, he is obliged to try to transfer it to competent counsel. "If he is not able to do so, then, under the standards of professional responsibility, he has to continue the case but not take any more like it," Ehrlich declared. What about appealing prohibited cases? "Responsibility to the client is the most important consideration of all, and that includes responsibility to appeal."

In a report to LSC dated Oct. 31, 1976, the National Housing Law Project (a back-up center) said it has spent a significant amount of time coordinating more than 40 suits involving operating subsidies by the Department of Housing and Urban Development (HUD). It said it was co-counsel with the (LSC-funded) Western Center on Law and Poverty in the Underwood case, in which the U.S. Supreme Court stayed a District Court order for HUD to pay operating subsidies. (It lost.)

After noting its participation in several other lawsuits involving HUD, the Project reported that its director is vice president of the board of directors of the Housing Assistance Council, funded by HUD. It also said the Project prepared a background paper on redlining and disinvestment under contract to HUD's Office of Fair Housing and Equal Opportunity. We asked Robert Elliott, former HUD general counsel, if this constituted a conflict of interest. He said it might be poor judgment, but was not illegal.

The Native American Rights Fund/Indian Law Support Center is involved in the cases aimed at giving part of the country back to the Indians, discussed last week. In its latest quarterly report to LSC, it said it is helping South Dakota Legal Services (funded by LSC) to prosecute a case involving the rights of prisoners.

The Center also reported that it has helped four attorneys from the (LSC funded) Seattle Legal Services, which keeps them on two Indian reservations to serve as general counsel to the tribe. It didn't explain how a whole tribe qualified for such help.

[From the Conservative Advocate, June 3, 1977]

LAWYERS RAID THE PUBLIC TROUGH

(By William A. Rusher)

NEW YORK.—As the Dean of Yale Law School once pointed out, very few lawyers die in the poorhouse. I was a practicing attorney myself for nine years, before I turned to a life of crime and became a journalist, so I can testify from personal experience that they are a hardy and ingenious breed. Which makes it at once annoying and unsurprising that more and more of them are finding ways these days to make you, gentle taxpayers, cough up their scratch.

In my day, 20 or 30 years ago, the only lawyers with their snouts in the government trough were there more or less legitimately: as judges or prosecutors, or staff attorneys for legislative committees and executive agencies—not forgetting, to be sure, those who had gone to the trouble of getting elected to something. ("The A's become professors," they told us at Harvard Law School. "The B's become judges. The C's make all the money. And the D's go into politics.")

But during the heydey of welfare liberal-

ism in the 1960's a new idea took root in our body politic and spread cancer-like through the federal bureaucracy: the notion that, along with everything else poor people need, they need lawyers, and that it is therefore the manifest obligation of the federal government to provide them with free legal services. By the early 1970's U.S. taxpayers were being squeezed for $60 million every year, most of it going in the form of salaries to 2,200 lawyers employed, in 800 offices all over the country, by the Federal Legal Services Program of the OEO, allegedly for the purpose of giving free legal help to the poor.

Here and there, indigent people did get useful legal assistance from this program. But, as experience with federal charity ought to have led everyone to expect, the lawyers hired by OEO to help the poor quickly came to think of themselves as legal Robin Hoods, commissioned to promote liberal causes with money gouged out of liberal and conservative taxpayers alike. By means of "class actions" against state and local governments and agencies—lawsuits in which the poor are often dragooned into serving as "plaintiffs" without full knowledge and in some cases even against their will—the hired guns of the Federal Legal Services Program have put taxpayer-funded legal services to work for such dubious causes as job and school quotas, student protests, Indian land claims, "gay rights," ERA, rent strikes, food stamps, and no-growth environmentalism.

And naturally the cost of the whole program keeps rising. One of liberalism's noisiest lobbies, Common Cause, spent some $6 million in 1976. Jimmy Carter got himself elected president in that same year for $22 million. Yet the proposed funding level of the Legal Services Program for fiscal 1979 is $300 million—five times what it was in 1970. How many lawyers, do you suppose, that kind of dough will keep out the poorhouse?

Nor is that the legal profession's only scheme for raiding the public treasury. You have probably heard of the so-called "public interest" groups—leftist law firms, "advocacy groups", and out-and-out lobbying organizations—that have sprung up in recent years like weeds after a good rain. Despite the open-handed largesses of such sugar-daddies as the Ford Foundation, which between 1970 and 1975 subsidized these furiously litigious groups with more than $12 million in grants of untaxed money, America's social blemishes, it seems, need still more legal attention. Senator Edward Kennedy, therefore, has proposed a law authorizing federal agencies to hand out $10 million a year of the taxpayers' dough to "public interest" who, in the agencies' opinion, would be able to contribute "substantially" to a "fair" resolution of issues before them but are financially unable to participate. The $10 million, plus an estimated additional $3 million to be ladled out yearly by the courts, would be expended (in case you hadn't guessed) largely in the form of "reasonable" attorneys' fees.

So send your son (or daughter) to law school. At the end of that rainbow lies a pot of taxpayers' gold, and it is getting bigger all the time.

[From the Boston Herald American, December 10, 1976]

ECONOMIC POLICY BOARD TOO VITAL NOT TO SURVIVE TRANSITION

(By Warren T. Brookes)

When it comes to incestuous relationships, big business has nothing on the Federal anti-poverty agencies.

After looking into the intervention by some of these agencies in the recent election-referenda issues, we have discovered an interlocking web that would make Samuel Insull blush.

It all started in October when we uncovered that the Massachusetts Law Reform Institute (MLRI), which acted as the chief lobbyist and legislative expert for H.R. 5030, (the "stalking horse" for the Graduated Income Tax referendum), just happened to be fully funded by your tax dollars coming through the Legal Services Corporation.

Now, the Legal Services Corporation Act passed by Congress in July 1974, specifically forbids all agencies that are funded under this act from either lobbying or legislative activity.

The act (42 USCS No. 2996) states under section F, paragraph a, item 5, that "They (Legal Services Corporation) shall insure that no funds made available to recipients of said corporation shall be used at any time . . . to undertake to influence the passage or defeat of any legislation by the Congress of the United States, by any state or local legislative body, except where representation as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to the client's legal rights and responsibilities . . . which shall not be construed to permit a recipient to solicit a group with respect to matters of general concern to a broad class of persons, as distinguished from acting on behalf of any particular client."

In simple English, the act, in effect, forbids any agency like MLRI from using its federal grant as a "pretext" for doing general lobbying work on broad public social legislation, unless that legislation directly affects the "legal rights and responsibilities of the clients involved.

Since the clients involved are, by law, poverty clients who under Massachusetts state law pay no state income tax, it is clear that MLRI is in direct violation both of the letter and the spirit of the Legal Services Act.

But what makes the story more interesting is that the "client on whose behalf MLRI was working, is also a federally-funded agency: the United Peoples Inc. of Framingham, which is currently operating on a federal grant from the Southern Middlesex Opportunities Council, which, in turn, is a subsidiary of Legal Services Corporation—the same corporation that gives federal money to MLRI!

So, we have come full circle!

What is happening here is that one federally-funded agency is doing lobbying work for another federally-funded agency on behalf of legislation which has absolutely no direct bearing on "the legal rights and responsibilities" of people living below the poverty line.

What makes this whole thing even more startling, though, is that the Articles of Organization filed by United Peoples Inc. of Framingham with the Commonwealth of Massachusetts on June 8, 1971, specifically states in paragraph H that:

"The Corporation (United Peoples Inc.) shall not attempt to influence by propaganda or otherwise."

What makes this especially interesting too is that when we called United Peoples of Framingham they were totally unaware of that provision in their charter.

"I didn't know we had a charter," said Miss Pat Sheehan of the United Peoples Office.

When we pointed out that they might be in violation of the charter as the "client" of MLRI in lobbying on the Grad Tax Issue, Miss Sheehan told us "That must have happened before we came into this office. All of the staff of this office were new in February of 1976—and to the best of my knowledge we never contacted MLRI on the grad tax issue, and we're not a client for lobbying work."

Lovely.

In probing further, we could not find anyone in the United People's Office who knew anything about MLRI's work on the Grad Tax—or knew who had initiated it.

When we pointed out that the MLRI lobbying work on the Grad Tax had taken place between March and October of 1976—after the new staff was there—they still insisted that they knew nothing about this work.

Miss Sheehan said, "They must have approached us on it, because we didn't approach them on this subject—at least to the best of my knowledge."

The federal law, quoted above, of course, strictly forbids MLRI from "soliciting a group with respect to matters of general concerns to a broad class of persons as distinguished from acting on behalf of any particular client."

We would remind you, again, that since the Legal Services Corporation Act is limited to helping people below the poverty line (about 12.5 percent of the public), and since the Massachusetts Income Tax law now exempts the bottom 22 percent of the public from income taxation, the effort by MLRI and United Peoples is not only legally, but ethically beyond both the law and the intent of its charter

If this whole affair is now beginning to strike you as just a little bizarre you are beginning to understand why so many Congressmen and Senators (unfortunately not our own) are beginning to feel that the Anti-poverty legal agencies are nothing more than a "front" for liberal or political causes, using tax money.

That, of course, is exactly what they are.

But, you have not yet heard the end of this story. As you will recall, from the wording of the Act, above, MLRI is specifically enjoined from "lobbying or influencing legislation."

Yet, Secretary of State Paul Guzzi's office now lists as authorized "lobbyists" on Beacon Hill, no less than eight members of MLRI's 17-person staff.

In other words about half of MLRI's staff are now registered as lobbyists on Beacon Hill—an activity they are, by law, forbidden to engage in.

In order for them to justify this otherwise legal action, all they have to do is to find a "client" for whom to do political lobbying work—and since most of their "clients" are also federally-funded agencies, it is all very easy to do!

In other words, all MLRI has to do to engage in lobbying work with your tax dollars, is to find another "front agency," also operating on your tax dollars and then make it "a client."

It is, quite simply, an outrage.

What makes the whole case even more interesting, though, is the fact that at least one member of the MLRI staff is actively engaged in political speechmaking and appearances on behalf of the Grad-Tax Referendum.

MLRI claims that all of these efforts were on "personal time." Even if that were true (which we sincerely doubt), that political activity would still be "illegal" under the terms of the Legal Services Corporation Act.

How so?

Because under Section f, paragraph a, item 6, of the Legal Services Act, it states that "They (Legal Services Corporation) shall insure that all attorneys engaged in legal assistance activities supported in whole or part by the Corporation, shall refrain, while so engaged, from any political activity."

The violation is plain and simple—since Ernest Winsor appeared regularly on the political behalf of this referendum, even while he was an attorney whose whole salary was paid for by LSC funds!

It is abundantly clear that MLRI and United Peoples of Framingham have broken aspects of the Legal Services Act, and of their own charters. They should be immediately investigated.

Furthermore, the Legal Services Corporation of Boston should also be investigated for permitting the kind of "incestuous tangle" of subsidy relationships outlined above.

When one Federally-funded agency can

"represent" another federally-funded agency to pursue broad general ideological legislation and partisan political action there is something very wrong.

What puzzles us is that not a single one of our Congressmen or Senators has apparently looked into this matter. We made two calls to Senator Brooke's office for his interest in this matter—and got no response at all.

[From Northeast Agriculture, December 1976]

LEGAL SERVICES FOR WHOM?

(By C. M. Wilson)

A few years ago the legal services of the Office of Economic Opportunity drew so much fire from the public that Congress was obliged to do something about it.

What the Congress did was to suffocate the OEO with an avalanche of amendments and to give birth to the Legal Services Corporation for the stated purpose "of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance."

The corporation was funded by Congress last year to the tune of $92 million. President Ford recommended that the appropriations be reduced by $45 million for the current fiscal year, but the Congress increased it $35 million, bringing the total up to $125 million.

A report which was issued last April revealed that 776 attorneys are employed by the Legal Services Corporation in the 11 states covered by Northeast Agriculture, plus 90 in Puerto Rico. Here is the breakdown by states. Connecticut, 74, Maine, 21; Massachusetts, 138; New Hampshire, 19; Rhode Island, 16; Vermont, 22; New Jersey, 137; New York 267; Delaware, 14; Maryland, 45; West Virginia, 23; and Puerto Rico, 90.

One of the problems that is being referred to repeatedly in the various reports made by employees of the corporation is the "distribution of services". That seems to imply they're having trouble finding enough poverty level people with noncriminal legal needs to keep the 776 attorneys busy.

Perhaps, at least to some extent, this accounts for the fact that lawsuits have been filed against 88 farmers in New Jersey along with the Garden State Service Cooperative Association, the Glassboro Service Company, and Farmers and Gardners Cooperative, all of which are, or have recently been involved with the employment of seasonal farm workers from Puerto Rico.

The complaints, as registered by the Legal Service Corporation, have ranged from so-called violations of housing standards to minimum wage rates, to errors in record keeping to general health facilities, and various other regulations established and policed by the Department of Labor and Industry of New Jersey or by regulatory agencies of the federal government, such as OSHA.

As of October 6, 52 of the cases had come to trial and 51 of them had been dismissed due to lack of evidence. In one case, it was found that a worker had $21 coming to him because of an error in the employer's calculation of wages due the worker.

Normal administrative procedures are not followed by the Legal Services Corporation, in notifying the employer that he was to be charged for a violation. The farmers were simply "hauled into court" to defend themselves as best they could or to hire a lawyer to do it for them. In every case, the farmer through his organization paid for his defense, while the worker is represented without charge by attorneys paid by the government.

Of the 88 cases, 76 have been filed in Puerto Rico where the Legal Services Corporation maintains another battery of attorneys. So the New Jersey farmers have found it necessary to hire a Puerto Rican law firm to defend them and to take their chances.

This has been going on four years and the results are beginning to show up. Jobs for migrant farm workers are drying up. The Glassboro Service Company, ten years ago, was placing close to 10,000 Puerto Rican workers on farms in New Jersey. This past season the figure was down to about 3,300.

Tomato acreage in New Jersey has dropped dramatically, the asparagus growing business in the Garden State is no longer significant. Farmers in New Jersey are switching to soybeans, wheat, and corn. An important factor in the decline of vegetable acreage has been problems with labor and with agencies of government.

On the one hand, the U.S. Congress concerns itself with providing jobs for everybody. On the other hand, it has created a situation through which thousands of jobs are being eliminated. Thus far the 137 attorneys hired by the Legal Services Corporation in New Jersey and the 90 in Puerto Rico are the ones who seem to have gained most from the project.

Mr. HATCH. Mr. President, I hope that my colleagues will give consideration to the suggestions I have made and will vote for my amendment.

I reiterate that the cosponsors of this amendment are Senators EASTLAND, ALLEN, DOLE, THURMOND, WALLOP, HANSEN, HAYAKAWA, ROTH, and HELMS.

Mr. President, I reserve the remainder of my time.

Mr. NELSON. Mr. President, I yield to the distinguished Senator from Connecticut such time as he desires.

Mr. WEICKER. Mr. President, I oppose the amendment of the distinguished Senator from Utah.

The matter of legal services as discussed at length both in the subcommittee and in the full Committee on Appropriations.

In the subcommittee, the figure of $175 million, which was the administration figure, was agreed upon, as compared to the House figure of $217.5 million.

When the matter came before the full Appropriations Committee and was discussed among all the members, it was agreed that a compromise figure should be arrived at between the administration figure and the House figure, resulting in a figure of $195 million.

All the pros and cons of this particular piece of legislation, all comments running to the effectiveness of Legal Services, were discussed in depth; and it was decided that we would try to balance all the accounts, take into consideration the arguments pro and con that were made, and thus we have before us this figure. I am prepared to defend that figure even though I originally was on the side of the $175 million arrived at by the subcommittee.

There is no question in my mind that this is a very valuable program. There was never any question in the mind of the committee as to the appropriateness of legal services and the job they were doing and that it was a good job. It was merely a matter of trying to bring them along in a more logical way, the figures having increased, as I recall, from $88 million in 1976 to $125 million in 1977 to $175 million requested in 1978. There never was any question whatsoever within the subcommittee or within the full Appropriations Committee that this was a proper program and a good program. It was more the level of funding that was at issue.

There is no question in my mind that the figure we present to the Senate is a proper one. Obviously, any program of this dimension is going to have its shortcomings. But the fact remains that in the previous years, under Republican administrations, quite frankly, there was an effective freeze on this particular piece of legislation. Indeed, many Americans went without the right to legal counsel, good legal counsel. I think the time has come to provide that opportunity.

This is not a lawyer's bill. I do not believe in voting them a nickel. I am only interested in the people who are going to be benefited. I think the amount recommended by the Appropriations Committee does that job, fully understanding that somebody can cite a horror story. I can cite one with any Federal program that is going on.

But I also realize that to be a complete American certainly involves adequate, good legal counsel.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield now to the distinguished Senator from Wisconsin.

Mr. HATCH. Before the Senator yields, just one question with regard to this.

Mr. WEICKER. Of course, I will answer a question but then I yield to the Senator from Wisconsin.

Mr. HATCH. When the distinguished Senator's subcommittee considered this bill, considered all aspects, did you arrive at the number of how many million poor there are in this country?

Mr. WEICKER. All aspects of the ratio of lawyers to individuals as to the varying figures of poor that exist in this country were discussed. The figures do vary.

Mr. HATCH. The question whether there were 29 million poor in this country rather than 9.1 million, did the congressional budget cuts depend on that?

Mr. WEICKER. That question was raised.

Mr. HATCH. Was there any determination made by the subcommittee as to which figure was right because that was the figure they used to base the increase on?

Mr. WEICKER. No final determination.

Mr. NELSON. Mr. President, will the Senator yield on that point?

Mr. WEICKER. I yield.

Mr. NELSON. On that point I would say the confusion involving the 9 million and the 29 million is that there are 9.1 million poor families for a total of 29 million poor people. Individuals in the families are poor, too, and thus they are counted in the total number of poor people extant in this country.

Mr. President, as chairman of the Human Resources Subcommittee with jurisdiction for legal services, I rise in opposition to Senator Hatch's amendment to reduce the appropriation for the Legal Services Corporation.

In 1974, Congress created the Corporation in order to insulate the legal services program from undue political pressures and to establish an entity that would

assure the continuation of the vital program to provide equal access to justice for those who cannot afford a lawyer. The Employment, Poverty, and Migratory Labor Subcommittee has just completed its hearings on legal services and has reported to the Senate a bill to extend the authorizations of the Corporation. Our examination of the work of the Corporation over the past 2 years indicates that the program is operating effectively, that the controversies of the past have been minimized, and that questionable activities of some local legal services lawyers have come to a halt.

The program is providing essential legal assistance to low-income persons in family law, administrative benefits, housing, and consumer problems. The work that local legal services lawyers do seldom makes headlines, but they are dealing with basic survival problems for individual women and men throughout the country. Legal services lawyers do conscientious work, carrying caseloads of 350 and 400 matters a year, at salaries that begin at $10,000 to $12,000 a year and average less than $15,000 a year even after 4 or 5 years of experience.

The subcommittee and the full Human Resources Committee have carefully examined the budget request of the Corporation for fiscal year 1978 and have given it our full support. The Appropriations Committee's decision to provide $195 million for the Corporaton, while somewhat below the Corporation's actual request of $217 million, does provide the opportunity to improve and expand the legal services program and it should be supported by the Senate.

The basis of the Corporation's budget request is the goal of providing the equivalent of two attorneys for 10,000 poor people. That compares with a ratio in the general population of 14 attorneys for 10,000. The goal is not to provide a lawyer for every single poor person, but simply to provide some outside chance that a poor person with a serious legal problem will have some access to an attorney and some opportunity to solve his or her problem within the legal system.

The $195 million represents a significant increase for legal services, but it must be seen in perspective. For 5 years, from 1971 until 1976 funds were frozen at less than $75 million. During that period, existing programs were forced to cut back staff, close offices, or reduce already low salaries, just to keep up with inflation. For large parts of the country where there were no or few legal services programs, there was no chance of getting any money at all.

When the Corporation took over the program 2 years ago, it began to remedy that situation. Through increased appropriations of $92 million in fiscal year 1976 and $125 million in 1977, the first steps were taken to correct some of the most serious imbalances in existing programs and to begin a modest expansion effort. The success of those initial efforts, the enthusiastic support they have received from the organized bar, from client groups, and from the general public, argues for the $7 million increase the committee is recommending today.

The additional funds will be used in several ways:

First. Only 25 percent of the existing programs have the resources to provide even minimum service of 2 attorneys for 10,000 poor. The rest only theoretically serve the low-income persons in their designated areas. This appropriation will permit funding of all existing programs at the minimum level and will thus extend access to approximately 5 million poor people who have none.

Second. At the specific instruction of the Appropriations Committee, on the recommendation of the Senator from Vermont (Mr. LEAHY), the Corporation will be able to make funding adjustments for programs in rural areas to take account of the additional costs of providing service to persons who are widely dispersed.

Third. The Corporation will finally be able to begin to address the problem of salaries that are so low that even the most dedicated attorneys are often forced to leave legal services because it becomes financially impossible to stay.

Fourth. The Corporation can continue the expansion effort started this year by opening new offices and new programs in parts of the country where there has never been a legal services program before. While a $195 million appropriation will force the Corporation to cut back on its initial plans for expansion, it will still provide the opportunity to establish new offices and programs to provide minimum access to at least 2 million poor who now live where there are no services at all.

The total effect of the $195 million will be the addition of 1,500 lawyers and paralegals offering minimum access to over 7 million low-income persons who do not have any chance to use the legal system now.

The legal services program is a model of efficiency and economy. Less than 3 percent of its total budget goes for administrative costs. Over 90 percent goes to direct services and the balance for training, technical assistance and other support activities designed to maintain high quality service. The absence of bureaucracy and waste is remarkable.

The program has the endorsement of the administration, the American Bar Association, the AFL–CIO, the UAW, the National Council of Senior Citizens, the National Legal Aid and Defender Association, the National Clients Council, and State and local bar organizations throughout the country. The $195 million recommended by the Appropriations Committee is essential to carry out its important work. I urge the Senate to reject any amendment to reduce that funding.

Mr. President, how much time do I have?

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from Wisconsin has 10 minutes remaining.

Mr. NELSON. Mr. President, I ask unanimous consent that immediately following my statement a letter written to the chairman of the Appropriations Committee (Mr. MCCLELLAN) by Mr. William Spann, president-elect of the American Bar Association, addressing itself to the legal services for the poor, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., June 17, 1977.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the American Bar Association, I write to urge your Committee to appropriate $217.1 million for the Legal Services Corporation for fiscal year 1978. The Association's Board of Governors on February 11, 1977 voted unanimously to support this amount, which was requested by the Corporation.

Despite the excellent efforts of the Corporation, there still remain 16 million Americans below the poverty line who have no real access to federal legal services programs. Congress demonstrated its intention to provide legal services for the poor and needy of this country by the passage of the Legal Services Corporation Act. Yet it is impossible for the Corporation to provide more than a small portion of the legal services needed by the poor at current budget levels.

Even with the funds requested by the Corporation for FY '78, nearly five and one-half million Americans will still lack minimal access to legal services. There is no question that there are substantial unmet legal needs of the poor and that the funds requested by the Corporation are urgently needed.

The Corporation has demonstrated that it is carrying out its mission efficiently and effectively. Its current administrative overhead rate is a remarkably low 2.9%. The Corporation's Board has developed a sensible, sound plan for guaranteeing at least minimal access to legal services for all those below the poverty line by the end of fiscal year 1979. We urge you to provide the one remaining crucial element—money—to enable the Corporation to carry out its Congressional mandate, and we support the Corporation's request for $217.1 million.

Sincerely,

WILLIAM B. SPANN, JR.,
President-Elect.

Mr. NELSON. Mr. President, I ask unanimous consent that pages 3, 4, and 5 of the report on the Legal Services Corporation Act Amendments of 1977, dated May 16, 1977, Report No. 95–172, be printed in the RECORD immediately following the letter of the president-elect of the American Bar Association.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

LEGAL SERVICES FOR THE POOR

When the Legal Services Corporation came into existence, less than 10 million of the 29 million poor people in this country had even minimum access to legal services. The rest lived in areas where there were no legal services programs at all, or where programs were so seriously underfunded that most poor people had no effective access to them. The capabilities of existing programs had actually declined over the previous five years during which budgets were virtually frozen while costs rose more than 30 percent as a result of inflation.

In fiscal year 1977, Congress appropriated $125 million to the Corporation, a significant increase in funds that permitted, for the first time in this decade, expansion of services to provide minimum access to 3.8 million of these 19 million unserved or underserved persons. Even with this increase, though,

there remain nearly 16 million poor people who have no access to legal assistance.

Questions have been raised, however, as to whether these figures should be adjusted because of the Congressional Budget Office Background Paper (Number 17, issued last January), which suggested that the number of poor families in the U.S. might be reduced somewhat if in-kind transfer payments were counted as income. The Congressional Budget Office paper explains that under the Census Bureau concept of income, which includes all earned income and transfer payments except in-kind benefits such as food stamps, child nutrition programs, housing assistance, medicare and medicaid, there are approximately 9.1 million families with incomes below the poverty level. The Congressional Budget Office has estimated, however, that if in-kind transfer payments are counted as income, except for medicare and medicaid benefits, the number of families living in poverty is reduced to 7.4 million. This represents an 18 percent decrease in the poverty population. But even if the Congressional Budget Office report and the figures presented therein are taken as true, there would still be over 20 million persons in the U.S. poverty population.

In light of the great controversy that characterizes the professional literature on the subject of imputing a cash value to in-kind benefits, and since the inclusion of in-kind payments does not appear to significantly reduce the incidence or burden of poverty in the United States, the Committee does not believe this particular measurement of the poverty population should be used as the basis for estimating the need for the provision of legal services to the poor.

The Corporation uses the 1970 census figures for planning purposes because they are the only available data on the actual geographic distribution of low-income people and thus provide the only basis for allocating Corporation resources equitably among and within the fifty states.

In 1973, Congress mandated the Legal Services Corporation "to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel." This mandate is emphasized by section 1002(3) of the Act, which defines an "eligible client" as "any person unable to afford legal assistance." Neither the Legal Services Corporation Act nor the Corporation suggests that the poverty line is an adequate measure of an individual's ability to afford legal assistance. Indeed, under authority of 1007(a)(2), present regulations establish a maximum eligibility limit at 125 percent of the official poverty threshold as defined by the Office of Management and Budget, that is, $3,713 for an individual or $7,313 for a family of four.

These maximums are substantially lower than the "austere" living standard of $10,041 for an urban family of four recently announced by the Department of Labor, or the median-income test used under Title XX of the Social Security Act. Many would argue that those standards would be a better measure of ability to afford legal assistance. In the absence of adequate resources, however, the Corporation has selected a much more stringent measure that assures services are directed to those least able to afford legal assistance.

Legitimate criticisms are leveled at many alternative definitions of poverty and the methods by which they are derived. The CBO report focuses on only one problem, the question of whether in-kind benefits should be included in determining income, while ignoring a host of other problems that may well result in serious undercounting of the poor. Any serious effort to redefine poverty must take numerous factors into account, besides in-kind income, which could well result in increasing, rather than reducing, the number of poor in the nation as a whole.

Other serious questions have been raised about the assumptions and methodology of the CBO report. Whatever the validity of those questions, it is clear that the report does not affect the standard Congress deemed relevant under the Legal Services Corporation Act: whether an individual or group of individuals has the ability to afford legal assistance. In-kind benefits, the focus of the CBO report, simply cannot be used to pay a lawyer. Moreover, those benefits do not free other resources that an individual or family can use to purchase legal assistance when it is needed.

A substantial portion of the legal problems of the poor grow out of their dependence on public benefit programs. The private bar is generally unwilling and unable to undertake representation in these matters. That representation requires familiarity with a complex body of law and regulations with little chance of generating a fee for services rendered. Consideration of in-kind benefits as income would, under current Corporation regulations, render ineligible for legal services a significant portion of the population that is least able to afford those services, but most in need of such assistance for basic survival.

The Corporation's plans and its fiscal year 1978 budget requests are not designed to provide a lawyer for each of the 29 million poor people identified by the 1970 Census. Only a portion of potentially eligible clients actually need a lawyer during a given year—23 percent of the total according to Corporation estimates—and Corporation planning takes that into account. At the level of two attorneys for 10,000 poor persons, the goal that forms the basis of the current budget request, the Corporation will be able to provide enough funds only to assure that those eligible persons with legal problems will have a reasonable chance of access to an attorney. Even assuming that legal services lawyers can handle as many as 350 to 400 matters a year, a standard far beyond the caseload of most private attorneys, the Corporation's minimum access goal will provide actual services to only a fraction of the eligible population.

The fact that the Corporation's current planning and budget request are designed to achieve the equivalent of only two attorneys per 10,000 potential clients and are based on a projected total program cost of $35,000 per attorney guarantees that resources allocated to a community will not exceed, but indeed will only begin to meet, the actual need for legal services. The CBO report does nothing to call into question those minimum goals or to provide more useful information from which to evaluate the need for legal services.

Mr. NELSON. Mr. President, a couple of Members did desire some time, the Senator from Massachusetts and the Senator from Maryland.

How much time does the Senator wish? I yield 2 minutes to the distinguished Senator from Maryland (Mr. SARBANES).

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in strong opposition to this amendment to reduce the appropriation for the Legal Services Corporation. I am very frank to say that I can think of no program which is more important to developing the confidence and belief of our people in our system of the rule of law than the Legal Services Corporation. It is a program which makes it possible for our people to avail themselves of our courts and our system of justice; people who have previously been shut out and denied that opportunity can, with the assistance of the Corporation's programs, assert their legal rights and obtain appropriate remedies.

Since its inception the Legal Services Corporation has encountered enormous difficulties in obtaining the funding level it ought to have to meet the need for legal services in our country. Those working for and with the Corporation have tried to be responsive, and I think they have done an outstanding job even though I recognize that on occasion and in some places the program has not worked fully up to expectations. But that is true of any program, and I think this program will withstand scrutiny as having really met its purpose and as having responded well to an important need in this country.

I think the time has come, and the recommendation of the committee reflects this, to move the Corporation to a level where it has the resources to meet the existing need and to carry out the kind of careful, sensible planning which inadequate resources precludes.

We are talking here about making legal redress available to people without the financial means to obtain it; about including the American system of justice a reality for a significant part of our population. We ought strongly to oppose the proposed cut and support the committee effort to carry the Legal Services Corporation to a level where it can really begin to carry out its statutory mandate by making the rule of law a meaningful concept for all our people.

Mr. NELSON. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Wisconsin has 7 minutes remaining.

Mr. NELSON. Mr. President, I yield 3 minutes to the distinguished Senator from Arizona (Mr. DECONCINI). Did the Senator from Massachusetts seek time?

Mr. BROOKE. Yes, I would like to have some time.

Mr. NELSON. I yield 3 minutes to Mr. DECONCINI and then——

Mr. BROOKE. I would like at least 3 or 4 minutes.

Mr. NELSON. And the remainder of the time to the Senator from Massachusetts.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Romano Romani, of my staff, be permitted on the floor during the debate and votes on this part of the appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, it should be noted that from 1970 to 1974 the funds for this particular program were frozen. They were at less than $75 million; in 1976 they did go up to $92,330,000; in 1977 to $125 million; and in 1978 we are proposing $195 million.

True, this is slightly more than what President Carter and the administration have offered, but it is important to realize the need for legal services for civil litigants. Not everyone can afford a lawyer. The Legal Services Act defined as eligible clients any person unable to afford legal assistance. The mandate, therefore, is not simply to serve persons below the poverty line but to provide high-quality legal

assistance to those who otherwise would be unable to afford adequate legal counsel. That is what our legal system, our system of jurisprudence, is all about.

If we in this country cannot afford to underwrite legal services for those who lack the financial wherewithal to obtain competent legal counsel in civil litigation, we need to reorganize our priorities. We have come a long way and we now have the Legal Services Coropration Act. Not to fund it properly, as is set forth in this budget tiem, I think would be foolish.

Because the corporation does not have sufficient resources to do otherwise, it has set maximum eligibility at 125 percent of the official poverty threshold as defined by OMB, $3,500 for an individual and $6,800 for a family of four. Such sums are barely sufficient to meet basic living necessities, let alone acquire the services of a decent lawyer.

It seems to me, therefore, that it is not unreasonable to assist the people who fall into this economic category in attending to their legal problems.

Legal problems are just as severe for persons at this income level as they are for those making $10,000, or $10,000,000 for that matter.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Massachusetts has 4 minutes.

Mr. BROOKE. Mr. President, I thank the Senator from Wisconsin for yielding.

In the full committee markup I offered an amendment to increase the subcommittee's appropriation for LEAA to $217.1 million. The subcommittee had been generous. It has already approved an increase from $125 million to $175 million. But, as Senator DECONCINI has just mentioned, there has been a freeze in funding for the Corporation for almost a decade. When we consider the upward inflation spiral which affects all of us, this $175 million appropriation was obviously not sufficient funding. Many of the Corporation's offices have had to be closed, many of the attorneys have had to be laid off, and salaries were so low that they really could not do an adequate job or attract strong legal talent.

So, we proposed to match the House level, which was $217.1 million. But, after much debate, the subcommittee finally arrived at a compromise figure of $195 million. Mr. President, this money is absolutely necessary if we are to meet the congressional mandate of approximately an "adequate level" to provide equal access to the system of justice. And we are not talking about many lawyers; we are talking about 2 for every 10,000.

I hope the distinguished chairman of the subcommittee and floor manager, together with the ranking minority member, will oppose this amendment because this amendment would take it back to, as I understand it, $150 million, which obviously would be inadequate for the job.

Mr. President, the Federal Government currently provides substantial assistance to help moderate income people who need a lawyer. Last year, for example, Congress amended the tax code to encourage the development of group and prepaid legal insurance plans. It is important, Mr. President, that we have this amendment because the poor need legal services more than anyone else in the country. And though we have greater concentrations of legal services in the urban centers, we do not have very much, if any, in some of the rural areas across the country. We need this money for the South, we need it for the Midwest, and we need it for the West.

I am hopeful that the Senate in its wisdom will reject this amendment, offered in all good faith by my distinguished colleague from Utah. If it does not, this amendment will mean still further cutbacks in legal services for the poor. I have heard some of the vague stories and innuendos about the excesses of the Corporation. And, of course, despite our best efforts and vigilance, there always will be some abuses here and there. But in the main, the Legal Services Corporation attorneys have performed above and beyond as advocates for the poor, the disadvantaged and the disenfranchised in this country. I am very, very hopeful that we will at least go to conference with the House of Representatives with $195 million in the Senate bill as opposed to the $217.1 million which the House very wisely put into its appropriations bill.

I can go on, Mr. President, but the distinguished Senator from Wisconsin, and others, have already spoken on this subject. They have given the details. I think they have made a persuasive and compelling case. I hope that the Senate will act accordingly, and overwhelmingly reject this well-intentioned but very devastating amendment which will have starkly negative impact insofar as legal representation for the poor of this Nation is concerned.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Utah has 12 minutes remaining.

Mr. ALLEN. Mr. President, will the Senator yield me 5 minutes?

Mr. HATCH. I yield 5 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from Utah for this amendment. But far from cutting back on the program, his amendment would allow for a $25 million increase in the program. So it is really not a cutback as has been indicated. I point out, too, Mr. President, that there is no authorization for this appropriation. The Appropriations Committee, it would seem to me, would have been interested in having the guidance of the authorizing committees. The bill has not even yet gone to the Judiciary Committee. And the authorizing committee, it would seem to me, would be able to furnish much valuable information to the Appropriations Committee as to the level at which this program should be funded.

Mr. President, this is a program. Despite the fact to say that it has been contained at $71 million in the last 2 or 3 years, we have had an arithmetical progression on the appropriation that is made for this department. I daresay that if this appropriation is not set at the amount provided in the amendment of the Senator from Utah, we are soon going to start seeing the appropriations to this corporation advanced at a geometric progression rate.

The Carter administration has proposed $175 million. That would be an increase of $50 million. The distinguished Senator from Utah would have a midway position and limit the increase to $25 million.

The President has pledged a balanced budget by 1981. How in the world is he going to balance the budget if we raise his recommendation $20 million here, $50 million somewhere else, $5 billion somewhere else? We are not going to be able to do it. So I am hopeful that we will save something on the President's budget. I note here that the budget of the last administration was only $90 million. Mr. Carter goes up to $175 million. But the amendment of the Senator from Utah would provide for $25 million increase.

I think it is significant, Mr. President, that the distinguished manager of the bill who has been supporting the provisions of the bill throughout, just could not find it within himself to support the committee's position on the size of this appropriation. He could not go the $195 million. I understand he supported the President's request. He yielded the time to the distinguished Senator from Wisconsin. He could not stomach this tremendous increase and very wisely yielded his time.

But an increase of $25 million, as proposed by the distinguished Senator from Utah, seems to me to be very fine indeed.

The distinguished Senator from Connecticut said a moment ago the subcommittee set this amount at $175 million and then in the full committee they thought we should come nearer to the House's position and therefore they ended up with an increase of $70 million over the present rate of the appropriation.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator's 5 minutes have expired.

Mr. ALLEN. Mr. President, will the Senator yield me 1 additional minute?

Mr. HATCH. Mr. President, I yield 1 additional minute to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is yielded 1 additional minute.

Mr. ALLEN. Mr. President, I point out that if this amendment should be agreed to it would set the appropriation at $150 million, a $25 million increase. The House's position was $217 million.

Obviously, the committee is for reaching a figure near the $217 million. They will not be handicapped in committee in the conference committee. They can come up with a reasonable figure. If it is set at the $195 million we are going to compromise at a figure over $200 million.

Let us approve the amendment of the Senator from Utah and then give our conferees an opportunity to work something out in the conference committee.

I think it is a sound amendment, and I commend the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I yield myself such time as I may use from my remaining 5 minutes. And I shall make it brief in order to conserve time.

Purely and simply, after listening to the debate here one would think I am trying to do away with the Legal Services Corporation, and that is not what my amendment does.

Honestly, I wish we would not increase the authorization one dime. In the interest of trying to be moderate in the matter and trying to be reasonable about it, my amendment calls for $25 million increase above the $125 million fiscal 1977 budget, instead of the $70 million increase that the committee has desired.

Frankly, purely and simply legal services is not a poor people's program. I think it is a lawyer's program. It is not a program impartially to seek justice but one which uses public funds to seek political and social changes outside the electoral process not just through the courts, but through the grass roots lobbying organizations.

One of the articles printed in the RECORD explained how the legal services money is used to lobby in our society, something that is basically illegal. As pointed out in that article they are grassroots lobbying organizations, paid efforts, political publications, and lobbying agencies. The legal services program is funded with Federal taxpayer dollars, and we may or may not agree with some of these things, depending on our respective points of view, but keep in mind a lot of our constituents may or may not agree also. So why should they have to pay for it?

So why should they have to pay taxpayers' dollars for some of the purposes that legal services programs have funded: Student protests, homosexual rights, graduated income taxes for the States, passage of ERA, voting rights for convicted felons, and many, many other issues, some of which do not belong within their purview?

I think the fact of the matter is that if we reduce the amount from $195 million to $150 million, which would still be an increase of $25 million, that would be a reasonable approach to the subject, at least until we get the report back that I cited in my original remarks, in July: A thorough review of the program and its purposes.

I think that would give an indication to the Legal Services Corporation that, yes, we have faith that they can do some right things, that their future is assured, but we want them to know we are not pleased with the way some of the programs have been going.

Before closing, I want to bring out a Congressional Budget Office report that I think is pretty important. They have based this $217 million demand, and basically a $195-million appropriation, on 29 million poor people. I was right there in the committee when that was the argument that was advanced.

I brought up that the Congressional Budget Office does not agree with them, because it says right here, and I am citing with particularity Background Paper 17, "Poverty Status of Families Under Alternative Definitions of Income," prepared by the Congress of the U.S. Congressional Budget Office:

> The inclusion of other cash assistance, which produces the Census concept of income, results in further reduction to a level of 9.1 million, or 11.4 percent of all families.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. HATCH. If I may make one further point, then I will be happy to yield for a question.

I think it is time that we start considering the taxpayers of America. I raised the question to the leader of the Legal Services Corporation, Professor Ehrlich of Stanford University, "Do you think there are 29 million taxpayers in our society"—I used the term "middle-class taxpayers in our society," who really pay the freight for the big spending efforts we pass here in the Senate—"Do you think there are 29 million of those people who can afford attorneys?"

He pretty well acknowledged there are not.

Yet they have to pay the price for some of the things I have just cited. I think this is a way of being fair and reasonable, but also letting the Legal Services Corporation know we are not pleased, as a Senate, with some of the expenditures they have made, but that we do have some faith that maybe they can bring this around and do with it that for which it was originally intended, and that is to help the poor with the problems of the poor, not the class actions and not the reformation of our social system in America, and a lot of these other things that I have cited, but to help the poor with the mundane legal things that they need help with, that they are not getting, admittedly, from the Legal Services Corporation, because they are spending too much time going around doing some of these social welfare things, seeking legislative action through the judicial system.

Mr. JAVITS. Will the Senator yield?

Mr. HATCH. Yes.

Mr. JAVITS. The reason why I have always supported this program is that I think it will help us end, in many cases, the syndrome of the poor, which is based on failure to understand and accommodate to their own status in society and their own opportunities.

So I would like to ask the Senator this question: Is the Senator not satisfied that, over the years, they have eliminated—and I feel they have—many of the kind of class action and agitation aspects to which he refers, and that we are now down to the hardpan of legal action, and therefore we need——

The PRESIDING OFFICER. All time on the amendment has expired. The yeas and nays have been ordered——

Mr. HOLLINGS. Mr. President, I yield sufficient time from the time on the bill for the Senator to complete his question and the Senator from Utah to answer.

Mr. HATCH. Mr. President, to answer the Senator's question, I think we have made strides in solving the problems of the poor. I think there have been some efforts to get the Legal Services Corporation to do that for which it was originally intended, to help with the legal problems of the poor and not to go out and attempt to get legislative justice through the courts.

But the problems I have cited here today have been written about in editorials all over the country, because the Legal Services Corporation continues to do many of the things about which I am speaking.

Not only do I raise that point, but that the Human Resources Committee added to the Legal Services Corporation the right to engage in all civil rights disputes, as I recall—I think, again, another area for which it was not intended. To require of and impound upon every taxpayer in our society to pay for legal services for that type of litigation, when we have so many legitimate concerns of the poor that are not being taken care of, admittedly, by the Legal Services Corporation, I think is remiss; and I think my amendment will help to be a warning to the Legal Services Corporation that although we are being reasonable in trying to do what is right by them, and we are hopeful that they will live up to a mandate that could really help the poor, we have some concerns and want to see some changes.

Also, most importantly, we have authorized a 2-year study of Legal Services to completely analyze this whole problem. That is not going to be done, admittedly, by the leaders of the Legal Services program until July of this year, and yet here we are, appropriating a $70 million increase, higher than the President of the United States has asked for, in spite of the fact that we do not yet have that report back.

I find that that is, if not reprehensible, at least remiss on our part. So I would like to add some reasonableness to this bill, even though I personally do not think the amount should be more than $125 million, based on what has been done in the past.

Mr. JAVITS. I thank my colleague for his views, and I wish to speak briefly. I am grateful to the Senator from South Carolina for providing the time.

Mr. President, the amendment of the Senator from Utah reminds me of "this is where I came in." We have been struggling with the Legal Services program ever since the beginning of this program. We have revised it, changed it, put professionals in charge of it, and turned it over to the bar associations. We have tried Legal Services public defenders and every other way to try to bring about the furnishing of the services which are such a useful part of an average community for millions of families involved with the poverty syndrome.

The arguments made today are exactly those made when we began this program. You would think we had not changed it at all.

We have constrained the class action concept under section 1006 of the act and use it only with the express approval

of a project director. There used to be lots of complaints about the activities of the lawyers. We have put it under the tight control of the bar associations and other lawyers, and now its most staunch advocates are the leaders of the bar.

They realize the vacuum it fills. The vacuum which it fills is the fact that we should not have poverty in this country. But there is a poverty syndrome. It has been going on for generations. One of the ways to end it is to give the individual a certain sense of dignity when he needs a lawyer that he can have a lawyer, too. That is why this program has been established as it has been.

Mr. HATCH. Will the Senator yield?

Mr. JAVITS. If I may, I would like to complete my remarks.

Mr. President, to sum up my view, we have dealt with the arguments of the kind made by Senator HATCH for years. We have now honed and perfected this legislation to meet all of these arguments. In my judgment, we have effectively met them. Therefore, we should now meet the need without excusing ourselves that the law is imperfect and has to be corrected.

One last word about studies. If studies are going to be used to bury necessary legislation, forget it. There will not be any. But if studies are going to be used to enable us to monitor and evaluate, we have to let the programs go on and live while we study. I thank my colleague.

Mr. HOLLINGS. Mr. President, all time has been yielded back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Montana (Mr. METCALF), the Senator from Vermont (Mr. LEAHY), the Senator from North Carolina (Mr. MORGAN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I also announce that the Senator from Texas (Mr. BENTSEN) is absent because of death in the family.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Iowa (Mr. CULVER) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 26, nays 58, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—26

Allen	Hansen	Roth
Baker	Hatch	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Scott
	Helms	Stennis
Chiles	Hollings	Thurmond
Dole	Laxalt	Tower
Domenici	Long	Wallop
Eastland	Lugar	Young
Garn	McClure	Zorinsky

NAYS—58

Anderson	Gravel	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Heinz	Proxmire
Burdick	Huddleston	Randolph
Byrd, Robert C.	Humphrey	Sarbanes
Cannon	Jackson	Sasser
Case	Javits	Schweiker
Chafee	Johnston	Sparkman
Church	Kennedy	Stafford
Clark	Magnuson	Stevens
Cranston	Mathias	Stevenson
Danforth	McGovern	Stone
DeConcini	McIntyre	Talmadge
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Williams
Ford	Moynihan	
Glenn	Muskie	

NOT VOTING—16

Abourezk	Griffin	Morgan
Bartlett	Inouye	Percy
Bentsen	Leahy	Ribicoff
Culver	Matsunaga	Riegle
Curtis	McClellan	
Goldwater	Metcalf	

So the amendment was rejected.

Mr. KENNEDY addressed the chair.

The PRESIDING OFFICER. I say to the Senator from Massachusetts, by previous agreement, I had agreed to recognize the Senator from Utah.

Mr. HATCH. Mr. President, I call up an unprinted amendment and ask for its immediate consideration.

Mr. GRAVEL. Will the Senator yield for a unanimous-consent request?

Mr. HATCH. Yes.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Terry Lytle be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. HATCH addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Utah allow me to make one unanimous-consent request?

Mr. HATCH. I am delighted to yield to the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

ORDER FOR COMMITTEE TO MEET DURING THE SESSION OF THE SENATE ON TUESDAY, JUNE 28, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs be given leave to sit during the session of the Senate on the afternoon of Tuesday, June 28.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7556.

Mr. HATCH. Mr. President, I ask unanimous consent that Janet Olsen of the staff of Senator HAYAKAWA be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 540

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Utah.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment No. 540:

On page 47, line 5, strike the figure $195,000,000 and insert in lieu thereof, $175,000,000.

Mr. HATCH. Mr. President, I only intend to use about 30 seconds because I think the arguments have been made.

I have increased my amendment to $175 million, which is exactly what the President of the United States, Jimmy Carter, has desired and requested of all of us.

I would like to request and urge my colleagues to support our President and to increase the authorization for legal services only to $175 million, rather than the $195 million asked for.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, as ranking member of the subcommittee, I rise to oppose the amendment for all the reasons that have been stated in the previous debate on this matter.

I am prepared to yield back my time.

Mr. HATCH. I yield back the remainder of my time.

Mr. WEICKER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Hawaii (Mr. INOUYE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Hawaii (Mr. MATSUNAGA) are absent on official business.

I also announce that the Senator from Texas (Mr. BENTSEN) is absent because of death in the family.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Iowa (Mr. CULVER) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 34, nays 49, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—34

Allen	Hayakawa	Roth
Baker	Heinz	Schmitt
Byrd, Harry F., Jr.	Helms	Schweiker
Cannon	Hollings	Scott
Chafee	Laxalt	Sparkman
Dole	Long	Stennis
Domenici	Lugar	Thurmond
Eastland	McClure	Tower
Garn	Nunn	Wallop
Hansen	Pearson	Young
Hatch	Proxmire	Zorinsky
	Randolph	

NAYS—49

Anderson	Glenn	Moynihan
Bayh	Gravel	Muskie
Bellmon	Hart	Nelson
Biden	Haskell	Packwood
Brooke	Hatfield	Pell
Bumpers	Hathaway	Percy
Burdick	Huddleston	Sarbanes
Byrd, Robert C.	Humphrey	Sasser
Case	Jackson	Stafford
Church	Javits	Stevens
Clark	Johnston	Stevenson
Cranston	Kennedy	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Weicker
Durkin	McIntyre	Williams
Eagleton	Melcher	
Ford	Metzenbaum	

NOT VOTING—17

Abourezk	Goldwater	McGovern
Bartlett	Griffin	Metcalf
Bentsen	Inouye	Morgan
Chiles	Leahy	Ribicoff
Culver	Matsunaga	Riegle
Curtis	McClellan	

So Mr. HATCH's amendment was rejected.

UP AMENDMENT NO. 541

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk which I call up.

The PRESIDING OFFICER (Mr. MELCHER). The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 541.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 15, insert immediately before the colon a comma and the following: "of which amount not to exceed $500,000 shall be available only for the purpose of constructing a United States embassy building in Taipei, Republic of China, on property owned by the United States on the date of the enactment of this act".

Mr. HELMS. Mr. President, my amendment would earmark $500,000 of the funds available in this bill for the construction of a new embassy building in Taipei, Republic of China.

Many of my colleagues have been to Taipei, and I am sure that those who have will join with the Senator from North Carolina in agreeing that our present embassy building there must be one of the most disreputable looking of any of our missions throughout the world. The present building, as I understand it, is a relic of the Japanese occupation. It is totally inadequate for the size of our mission. It is not laid out in a functional manner. Even the site is too cramped for the daily traffic of visitors and embassy vehicles.

The State Department is well aware of these problems. Over 10 years ago a site for a new Embassy building was purchased in a prestigious location on one of the main boulevards of Taipei. The site has remained vacant. The Chinese have been wondering why we have allowed it to remain vacant.

There are some observers, perhaps overly cynical in the ways of the world, who say that the reason that we have not built a new Embassy in Taipei is because of the developing relationship with Peking. I do not profess to know whether that is true or not. Surely the American people will never countenance the abandonment of the Republic of China. But I do know that a poll taken last April, by the prestigious firm of Decision Making Information, showed that 84 percent of the American people favor continued full diplomatic relations with the Republic of China on Taiwan.

Moreover, we have a mutual security treaty with the Republic of China, signed in 1954. The DMI poll showed that 74 percent of the American people felt that the mutual security treaty should be continued. This is a highly significant showing of support which goes contrary to those who say the American people will no longer support freedom abroad.

Now it is well known that U.S. Secretary of State Cyrus Vance is planning to go to Peking in August. It is also said that his visit will bring us closer to diplomatic recognition of the People's Republic of China. It is even said that diplomatic recognition of the People's Republic might be announced as a consequence of such a visit. I do not know what will happen.

But in any case, the American people do not believe that we should give up recognition of free China even if we do recognize Communist China. The DMI poll shows that only 12 percent of the American people say we should withdraw recognition from free China, while 77 percent say we should maintain recognition of free China no matter what we do with Communist China.

It is clear, therefore, that no matter what happens in Peking, the American people want us to stay in Taipei. We cannot in good conscience sacrifice Taiwan for the sake of improving relations in Peking. There is no doubt that our policy is to improve relations in Peking; but we must find ways to do so without sacrificing Taiwan or Taiwan's independence. Whatever the outcome of the Peking visit, we are going to need a new embassy building in Taipei.

One has only to look at the record of Taiwan to see why it is a beacon of freedom in the Far East. In 1952, the Republic of China had a GNP of only $1.4 billion. By 1960, the GNP had increased to $2.4 billion. Ten years later it had more than doubled to $5.8 billion. Last year, that is, 1976, the GNP was $8.9 billion despite the worldwide recession.

The story in per capita income is the same. In 1952, per capita income was $146.05. In 1960, it was $180. In 1970, it was $317.75. And in 1976, it was $405.

Mr. President, this kind of development shows what a basically free economy can do, for free enterprise releases the individual incentive and initiative of the people. This is freedom in which the vast majority participate.

The long association of the Republic of China with the United States is also revealed in the pattern of our mutual trade. In 1953, United States-free China trade was $25.9 million. By 1976, it had increased to $4.6 billion. By contrast, our total trade with the People's Republic of China last year was only $330,036.

This same pattern can be seen in U.S. investment in Taiwan. In 1953, it was less than $10 million. By 1960 it had jumped to $30 million. In 1970, it was $250 million. By 1976, it was $500 million.

It is clear that our stakes in the Republic of China are high—both financially and morally. The size of our investment and trade alone make it necessary to have adequate embassy facilities in Taipei. Indeed, even the population of that city has quadrupled since 1952 until it is now a city of 2 million people.

What was once a sleepy and backward provincial town has become a modern city of broad boulevards, modern buildings, and fine facilities. Only our Embassy remains an anachronism, a relic of the past. It is time to upgrade our image, to make our facilities adequate to the demands placed upon them, and to reestablish our commitment to the people of free China. A new Embassy is not only an appropriate gesture; it is a practical necessity.

In the present bill, $45 million is appropriated for the next phase of construction of our new Embassy complex in Moscow. This is only the second phase of $30 million which is currently being spent on the Moscow Embassy. Surely it is not asking too much to take $500,000 of the total sum authorized for acquisition, operation, and maintenance of buildings abroad—a total sum of $103,101,000—and earmark $500,000 so that planning, site preparation, and other initial preparations can begin in Taipei to reaffirm our commitment to our traditional ally, the Republic of China.

Mr. President, I reserve the remainder of my time.

Mr. WEICKER. Mr. President, I wonder if I might direct several comments to the distinguished Senator from North Carolina in relation to his request.

As the distinguished Senator from North Carolina knows, there is a precision-like investigation which goes into

all of the determinations made by this subcommittee in regard to the various requests that come before it and, indeed, those investigations are what form the basis for the subcommittee's decisions.

It would be grossly unfair for the committee to say "no" to a request without having adequate facts to support such a "no." Likewise for an affirmative response to the request.

Quite frankly, I am not aware enough of the circumstances described by the distinguished Senator from North Carolina to pass upon this request, and I would not want to do so either affirmatively or negatively.

I wonder if it might be sufficient for the purposes of the Senator from North Carolina if I give him my assurances that in this year ahead such an investigation will take place, specifically in relation to the matters which he has brought to the attention of the subcommittee at this time?

Mr. HELMS. Mr. President, I understand what the Senator has said and, as always, he makes sense.

Mainly, the Senator from North Carolina wanted to bring this matter to the attention of the Senate in hopes he would receive just such a response from the able Senator as has been received.

In the light of that I am not disposed to have a vote on the amendment. I know the Senator will assist me and work with me in pursuing an investigation of this matter. I am perfectly content with what he has said, and if there is no further comment—Mr. President, I might ask the Senator one question in terms of timing. Could we expedite the investigation of this so that possibly we could have this considered for a supplemental later on?

Mr. WEICKER. I would never want to agree to anything I cannot live up to insofar as the distinguished Senator from North Carolina is concerned. The matter of a supplemental is very much up in the air. I do not think we are going to have one at this time. I wonder if the Senator from North Carolina would allow me flexibility in this regard? I just cannot agree that such an investigation will take place at this time.

Mr. HELMS. I do not want to pin the Senator down. I know the problems in such a request. I repeat I know the Senator will do the best he can and others on the committee as well.

Mr. President, in light of the colloquy between the able Senator from Connecticut and myself I shall withdraw the amendment in just a moment. First, I ask unanimous consent that an article headed "What Price 'Normalization'?" published this morning in the Wall Street Journal be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT PRICE "NORMALIZATION"?

(By Paul Seabury)

A tour of Quemoy is a strange experience for an American traveler these days. This anomalous island is part of a world with which, elsewhere, Washington pursues policies of "normalization" with old adversaries. Here, however, abnormality is frozen in amber.

Together with three other American scholars visiting Taiwan, I was recently allowed a day's visit to this beleaguered offbeat spot, where 19 years ago the fate of world peace hung in the balance briefly and where, as we now know, the Sino-Soviet alliance first began to come apart at the seams.

Foreign visitors nowadays rarely come to Quemoy; there are no commercial flights, and civilian space on military ones is limited. Taiwan's profile in world politics is low, but that of its "offshore islands" now is almost invisible. The profile of our DC6 plane was equally modest: On our approach across the Straits of Taiwan it flew at an altitude of 500 feet, so as to escape detection by Communist Chinese radar.

This tiny island is three miles distant from the mainland at the closest point. Its seaward side has a long, Caribbean-like beach washed by gentle waves; its dunes bear the sparse foliage of scrub pine. But as one proceeds inland, this bleak frontage gives way to a semi-tropical emerald foliage; small ancient villages appear, similar in smell and appearance to those of an old Mediterranean island. The narrow roads between them are lined by wispy pine trees; on each side, in flatlands, are fields of corn, wheat and rice, water buffalo, ancient wells and toiling peasants. In village courtyards, one hears a buzz of cicadas. This is a very old civilization.

But one notices also that this is not merely a traditional Chinese community; it is an Asian Sparta. Soldiers are everywhere; each road is dotted with work platoons and sentries. At crossroads, one comes upon manned antiaircraft-gun emplacements camouflaged by lovely trellises of flowering vines. The island is laced with trenches and redoubts. Hillsides are pocked by tunnel entrances and gun emplacements. Beneath the surface of this green and gentle island is a vast system of underground fortifications—a veritable Verdun. Air force units operate from caves tunneled into hillsides. Even the island's power plant is burrowed in the earth. Everywhere is camouflage and shielding.

ASIAN SPARTA

For years here, both sides have adopted a ritualized posture of symmetrical belligerence. Every other day, at precisely 6:30 p.m., shelling takes place, but with cannisters filled with propaganda rather than explosives. On in-between days, there is a tacitly agreed cease-fire. At the northeast tip of Quemoy, set in a rocky promontory, a giant loudspeaker encased in a concrete bunker blares news toward the mainland, while from far across the water in a Communist loudspeaker replies with loud music.

Near the island's southweast tip, we are led through a long tunnel into a deep bunker, from which we can peer out across the waters through narrow apertures. This is an old command post, its walls festooned with battle maps depicting a long-ago victory over invading Communist troops. As we come out into the daylight we notice that the barbed wire entanglements and iron spikes in ditches along the beaches are well rusted with age. In this strange outpost, one is reminded of Hobbes' famous remark about war: that it "consisteth not in battle only; but in a tract of time, wherein the will to contend by battle is sufficiently know. . . ."

The radio transmissions from Fukien beamed toward Quemoy and Taiwan have a new theme: The Americans are getting ready to abandon you. What happened in Vietnam will soon happen here: why not settle up now, before it is too late?

Here and in Taiwan one senses the slippage of U.S. power and influence in East Asia. In Taiwan the question put to us was how far this influence would recede, not *whether* it would. What price will the Americans now pay for normalization with Peking? How far will the process of derecognition of the Republic of China proceed, as part of the process of the recognition of the People's Republic of China?

Considering its pariah status in world politics, Taiwan today is an astonishing sight. It has been expelled from the international organizations of the world. It has been reduced to the diplomatic status of a basket case. But it has become one of the social and economic marvels of Asia.

Years ago it was written off as a viable political entity, yet it enjoys a political stability that is the envy of most other Asian countries. Its living standards have doubled in a decade. Its industries thrive. Its foreign trade annually exceeds in value that of India. Japan's trade with it exceeds Japanese trade with mainland China. The integration of the mainlanders with the indigenous Chinese population is spurred by the extraordinary mobility that growth inspires. Intermarriages are now common.

The benign authoritarianism of the government, to outward appearances, resembles that of Spain in the last years of Franco's regime. The press prides itself on the degree of freedom which it does enjoy. In the south, the giant shipyards of Kiaosiung produce a new merchant fleet. The island has become one of the principal entrepots of Asia.

What here is being born is a prosperous civil and commercial society filled by people of extraordinary industry, intelligence and skills. Its sophisticated intelligentsia is as committed to the values of free societies as is that of any Western nation. The contrast between conditions here and on the mainland—between two parts of the Han people—is profound.

There can be a cruel logic in a *Realpolitik* that searches for reconciliation with ideological enemies; one obvious price of Washington-Peking normalization could be Taiwan itself. (In announcing recent plans for air force expansion, Peking justified it as necessary not merely to counter Soviet power, but as part of a plan to liberate Taiwan.)

ENSUING DEMORALIZATION

With the wind blowing toward Peking, it well may be imagined that the ensuing demoralization here would entail disinvestment in Taiwan, the flight of capital and an economic crisis which could severely test the morale of any industrial society, much less one so beleaguered as this. These prospects have been anticipated already by some Chinese who have hedged investments in the U.S. They certainly have been anticipated by Peking's functionaries.

Such thoughts inspire other reflections. How much should the *Realpolitik* triangular relationship of Washington-Peking-Moscow be permitted to dominate America's Far Eastern policies? How should that relationship in turn be weighed and valued against the relationship America still enjoys with its non-Communist friends in Asia? What advantages are to be derived even in terms of American security from a search for closer links with Peking? What benefits to American interests have been reaped since the Nixon-Kissinger visit in 1972 commenced this "process of normalization"? (In the year following the Nixon visit, Peking actually stepped up its delivery of aid to Hanoi.) In other parts of the world, Peking still seeks to rally Third World extremists against the West.

If the price America might pay for normalization is to entail derecognition of Taiwan and abrogation of our mutual security treaty, would such a price enhance the security of East Asia? The advantages which America and the West now enjoy from Sino-Soviet rivalry (22 Soviet and 2 East German divisions diverted to Siberia from the European theater), we now enjoy cost-

free with no "normalization." What more can we ask?

Since Peking's leaders already regard America as decadent and cowardly, would the spectacle of U.S. abandonment of Taiwan in order to curry favor with them notably change their estimate of us? As retrenchment of U.S. power further proceeds in Korea, Taiwan and the Philippines, will their estimate of America as a power capable of playing triangular politics increase or diminish?

APPEASING PEKING

In Washington, some who now toy with normalization on Peking's terms may find intricate formulae by which to disguise such appeasement. Could the U.S.-Taiwan security agreement be scrapped and replaced by some new supportive congressional guarantee, such as the Tonkin Gulf Resolution? (Forget it.) Might the United States follow the sly Japanese formula of derecognition, followed by establishing covert commercial missions? (No one more forcefully opposes this than the Japanese themselves.)

Many of these questions may be answered before Secretary Vance flies to Peking later this summer to take up such matters. But in the meantime, the Taiwanese and others wait.

One is left with a question: What form of American *Realpolitik* should take priority in this critical region of the world? Nixon's detente with Peking was a crutch his administration needed when the Vietnam experience crippled domestic support for any American posture in Asia. But that is behind us; an observer might think a new U.S. posture in the Far East should give priority to normalization with friends rather than adversaries.

The disappearance of 16 million Taiwanese into the limbo of totalitarianism might be regarded as a more significant setback for human rights than the arrest of a few Soviet dissidents. But, then, when has Washington recently spoken to the matter of human rights on the Asian mainland?

Mr. HELMS. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOLE. Mr. President, the distinguished Senator from Wyoming I think plans to be next.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the Senator from Massachusetts is next. We sent for him.

The Senator may then go ahead. We may have the language worked out.

Go ahead.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, the Senator from Kansas has an amendment which is now being discussed with a representative of the Department.

I wonder if I might quickly suggest the absence of a quorum and run out and pick up the amendment?

The PRESIDING OFFICER. On whose time is the quorum to be charged?

Mr. HOLLINGS. The time is to be equally divided.

The PRESIDING OFFICER. The time will be equally divided between the managers of the bill charged against the bill.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 542

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself, the Senator from Indiana (Mr. BAYH) and the Senator from Maryland (Mr. MATHIAS), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. BAYH and Mr. MATHIAS, proposes unprinted amendment No. 542.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 17–18, strike "$39,785,000" and insert in lieu thereof "$41,678,000".

On page 54, after line 18, insert the following:

"For salaries and expenses, Antitrust Division, $1,617,000.".

Mr. KENNEDY. Mr. President, I understand there is a time limitation on this amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct. The time limitation is 30 minutes, equally divided between the Senator from Massachusetts and the opponents of the amendment.

Mr. KENNEDY. Mr. President, I yield myself 6 minutes.

I have offered an amendment to H.R. 7556, the 1978 Appropriations Act for the Departments of State, Justice and Commerce. It would increase the 1978 appropriations for the Antitrust Division of the Department of Justice by $1,893,000. It would also increase the 1977 supplemental appropriations included in this act for the Antitrust Division by $1,617,000.

These funds are urgently needed to support and expedite the Division's 100 ongoing criminal grand jury activities which are now uncovering price fixing in such crucial areas as uranium supply and the supply of offshore drilling and pipeline equipment. The funds are also needed to speed up other investigations and cases by providing automated data processing support and other necessary or court required litigation expenses.

On June 20, Attorney General Bell wrote to me about the need for these additional funds stating:

These requests were deemed necessary to enable the Division to continue its existing programs, at levels either mandated by law or dictated by sound case management.

The Antitrust Division's efforts to increase competition are essential if we are to prevent undue concentration of economic power. I recently chaired 5 days of oversight hearings on the effectiveness of antitrust enforcement. These hearings demonstrated that the Antitrust Division cannot enforce the law quickly and effectively without adequate support and resources. The amendment we are offering provides only a modest increase of approximately $3½ million, but the benefits to the business community through providing a market free of competitive restraints and to the consumer in lower prices and increased innovation will be many times greater.

After all, $31½ million is only one-quarter of the amount spent in maintaining military golf courses.

The sum called for by my amendment also seems modest in comparison to the estimated $10 billion that price fixing costs the American consumer each year. Recent price-fixing cases include the tetracycline case where the defendants settled for a sum of over $200 million, the gypsum cases where the settlement was $75 million, and the mint oil cases where the settlement exceeded $13 million.

Mr. President, this is the dimension of the issue that we are talking about, and what we are interested in is providing the resources necessary in the supplemental as well as the other appropriations to permit the Antitrust Division to be able to carry forward its responsibilities.

I know that the request was made by the Justice Department for these funds from OMB, and OMB turned them down.

I know that the Attorney General appeared before the Appropriations Committee in April and indicated that he had sufficient funds to carry forward his responsibility.

The fact of the matter is the Attorney General at that time had not completed his examination of the Antitrust Division and did not have in place the new Assistant Attorney General for the Antitrust Division. John Shenefield has now assumed those responsibilities and the permanent nomination is being sent to the White House, I understand, this very week.

What is important is what the fact situation is today. The fact situation today as indicated in the Attorney General's letter to me indicates that these moneys are essential for carrying forward the responsibility of that particular division.

I cannot come in and testify as to what the needs are in the other divisions, in the Civil Division, the Lands Divison, and in the various other divisions of the Department, but I can say what is necessary for the Antitrust Division.

I will point out, Mr. President, that we can deny the Antitrust Division these particular funds. We can say that you are not going to get them, and the Antitrust Division will not close its shop, but what we will find is further delay in the pursuit of many cases, such as in the IBM case, and perhaps in other important cases. We can continue to see grand juries delayed for 6 or 8 months or so until they get further resources.

But if we are interested in the effective implementation of antitrust policy, with all its implications, particularly in the cases and investigations that involve price fixing, these resources are essential.

We are asking effectively for $3.5 million. That is no small sum, but when we are talking about price fixing costing consumers an estimated $10 billion a year, it seems to be a wise investment of resources.

Mr. President, I withhold the remainder of my time.

Mr. HOLLINGS. Mr. President, "stone walls do not a prison make, nor iron bars a cage."

There is not enough money in America to run down the antitrust laws. There has to be a change in procedure.

In the hearings with respect to the Antitrust Division with the U.S. Attorney General, my distinguished friend from Connecticut and myself went in depth because we, too, have the same concern that the consuming public has in not being bilked with $10 billion worth of price fixing.

I did not have the fact about the cost of golf courses as related to the cost of antitrust lawyers, because it was one and the same cost, probably. That is where I think you find them all—out on the golf course.

The fact remains they have been using over the years procedural machinations to put off, delay, discovery, and so and so on.

I talked with Attorney General Griffin Bell about taking over, and, remembering our good friend the late Robert Kennedy—when Attorney General Kennedy took over, he had 30,000 people down there, and he went from door to door, room to room, and introduced himself to everyone there. I suggested that to Attorney General Bell, because at least the department has grown so big that they would all feel a part of it again, particularly after the traumatic late years of Attorney Generals being caught up with the law rather than enforcing the law. Attorney General Bell responded that it had been his experience that what they really needed was litigators, trial attorneys, those who could handle it.

He said, "There is a difference in judges. Some judges take these antitrust cases"—he went on at length, and I have the hearing transcript to show it, and went into considerable detail in the attention he gave the subject. He stated that he had had one case assigned him that another judge had had 7 years, and he got rid of the case in 6 months, after he set schedules and held hearings. You have to have judges who know how to handle these cases and solve the problem, rather than become a part of the problem.

In addition to the money, the programs, and everything else, he went on and cited the A.T. & T. case. We have that in the committee report, on page 18, where we say:

> This appropriation provides for the salaries and expenses of the Antitrust Division, which is charged with enforcement of antitrust, consumer protection and kindred laws. This amount recommended will enable the Division to employ 13 additional personnel, reduce the lapse in employment, and pay for extraordinary litigation expenses associated with the AT&T case.

I think what our objection is at this particular time is as to the procedure, the question as to really, with all the budgeted amounts and everything else, whether the $3.5 million really solves the problem, or whether the money should be employed, as your Senate subcommittee of the Appropriations Committee recommended, not only the budgeted amount, but an additional $10 million to give the full additional request for the grants to the States for antitrust enforcement activities. We do not know anything better to do than give the man what he asks for, and that is exactly what it would be.

Now when the Senator comes on with this exchange of letters, I rather question it. With his committee staff and the people downtown working on it, all of a sudden we got a letter, a letter I suspect prepared by the other fellow down at the Antitrust Division. That is why we have to maintain the budget process. Let OMB hold them to their request, and us do our part of the process; then there will be orderly development.

There will not be additional funds for Attorney General Griffin Bell, recommended either by the Budget Committee or by your Appropriations Committee, to pursue antitrust cases.

I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, the Senator from South Carolina correctly states the situation. Every request that has come before the subcommittee on any department of the Government which was a request for additional personnel to pursue certain activities, be it antitrust, illegal payoffs in the maritime industry, or whatever, we have tried to provide every cent that was asked for and every individual deemed necessary to pursue the ends of justice in any particular instance.

Apparently the confusion here is not as between the Senator from Massachusetts and the committee's determinations, or on the Appropriations Committee, but rather within the administration itself, in its handling of this matter. Apparently we are operating on two different paths with information we received in the course of our hearings, as related to us by the Attorney General. Apparently there has been a change of positions vis-a-vis the information the administration has furnished to the Senator from Massachusetts.

I would suggest that we do have some time to try to resolve what the facts are. I would suggest that we accept the amendment of the Senator from Massachusetts, with the understanding that there be some additional discussions with the Attorney General between now and the time the bill goes to conference.

Mr. KENNEDY. Mr. President, that seems to me to be an eminently fair recommendation. I understand the State-Justice Department personnel requests were in some disarray, and when the recommendation was made to OMB, there were some serious legitimate questions that were raised by OMB in terms of the allocation of various personnel, the transferral of resources for various programs that were never either authorized by the authorizing committees or the Appropriations Committee, and that there was very significant, as I mentioned, disarray.

I support the Appropriations Committee continuing the attempt to bring the Attorney General to the required state of preparedness, where they are able to indicate to the Appropriations Committee just how those moneys are being allocated and expended. I think that is a desirable and worthwhile approach, and it is one which I support.

I do feel that this was more of a general criticism with regard to the Department as a whole, rather than the Antitrust Division. At least that is my understanding.

What has been recommended by the Senator from Connecticut would certainly be satisfactory to me. It seems to me it would give us the time to obtain the particular details. I think this is a fair adjustment to this particular amendment, and I would recommend that as a way of proceeding.

Mr. HOLLINGS. Mr. President, on that basis we would be prepared to accept the amendment. I want to emphasize that in my opening remarks, in presenting the bill as the floor manager, I have inserted the distinguished Senator's letter, as well as the letter from the Attorney General to him, the Senator from Massachusetts, and a letter also from the Acting Assistant Attorney General for the Antitrust Division to me. As I agreed to on the full committee with Senator BAYH, we did not want to just close the door on it and disregard it. I think we ought to look at it very closely and determine what is needed between now and the time we have the conference.

Mr. KENNEDY. Mr. President, that seems to be fair to me. I would ask Mr. Shenefield, who has now assumed those responsibilities, to work with the particular members and their staffs to indicate how these funds would be used, and if they are not allocated, what would be the implications of it.

I do not question that a case can be made, and I am satisfied that the members of the committee will make every effort to be successful in conference; so I am ready to vote on the amendment.

Mr. HOLLINGS. Mr. President, I am prepared to yield back the remainder of my time, and move the adoption of the amendment.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

UP AMENDMENT NO. 543

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk in behalf of myself and Mr. DECONCINI, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Kansas (Mr. DOLE), for himself and Mr. DECONCINI, offers an unprinted amendment numbered 543:
>
> On page 57, after line 17, insert the following new section:
>
> "SEC. 607. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses in connection with any reparations, aid or credits to Vietnam, Cambodia, or Laos."

The PRESIDING OFFICER. Will the Senator from Kansas advise us if this is one of the amendments he has where

there is a 1-hour time limitation agreed to under the previous order?

Mr. DOLE. Mr. President, I have no intention of taking 1 hour. I will use only a small portion of the hour.

For the past several hours the Senator from Kansas has been trying to negotiate—I guess that would be the proper word—with State Department representatives language which would not be offensive to their efforts and at the same time to indicate what the Senator from Kansas has in mind. Unfortunately, we have not been able to come to a complete agreement because this is an amendment to an appropriation bill.

In order not to be subject to a point of order, the language sent to the desk by the Senator from Kansas is about as far as this Senator can go in accommodating the State Department. Had we used the language they suggested, we are informally advised that the amendment would be subject to a point of order.

It is my understanding that the amendment at the desk is not subject to a point of order. It is being offered; it is short and to the point. It provides that none of the funds appropriated in this act can be used for providing U.S. reparations, credit, or aid to the Socialist Governments of Vietnam, Laos or Cambodia. This is accomplished by barring the use of any of these funds for the salaries of those diplomatic personnel in the State Department who might otherwise agree to provide, extend credit or some reparations during the negotiations with the Vietnamese in Paris or elsewhere.

Mr. President, the language of the amendment is somewhat similar to the amendment offered to a bill last week by my distinguished colleague from Ohio (Mr. GLENN). The amendment was accepted without objection by any Senator. I am not certain that any Senator objects to this amendment. It is much like the one attached to the authorization bill.

It will in no way inhibit or restrain U.S. negotiations with the Government of Vietnam or, for that matter, Laos or Cambodia. It simply prohibits agreement on the part of our Government to extend aid to Vietnam, or to its compatriots, Laos or Cambodia.

It is not necessary to go into great detail as to my reasons for offering this amendment. The facts are well known to all: The Socialist Governments of Vietnam, Laos, and Cambodia have provided next to no cooperation in our demands for a thorough accounting of missing Americans in Southeast Asia. Almost 2,500 Americans are still unaccounted for in Southeast Asia. The majority of these were lost within Vietnam territory.

We know there can never be a full accounting for all of these individuals. We are not expecting that. What the American people do expect, and what we in Congress must insist upon, is a reasonable demonstration of cooperation on this issue. Eleven bodies were returned to the United States earlier this year. The Vietnamese Government says 20 more will be returned within a few months. The Senator from Kansas continues to feel that we can expect much better results than this from a sincere accounting effort undertaken by the Vietnamese. Even 10 percent of the 2,500 who are missing would amout to 250 identities.

The public as a whole understands that the Vietnamese are primarily interested in obtaining U.S. recognition and aid, credit, or reparations. Notwithstanding any statements which may have been made by any former President or any other official of this Government, it is the view of this Senator that if we took a poll among Americans 70 to 80 percent would be against any aid or any credit, particularly any reparations, to Vietnam, Laos or Cambodia.

Mr. President, unless there are questions concerning the amendment, the Senator from Kansas is prepared to yield back the remainder of his time.

Mr. HOLLINGS. Mr. President, the distinguished Senator and staff have been negotiating. It is very interesting to me, Mr. President, that they have been negotiating. That is the very point, as I get it, from reading this note from the State Department. It says:

> Senator Dole now offers the attached language which is totally unacceptable since it is equal to a prohibition on our negotiators. We would prefer the following language and have agreed we are not going to encourage anyone to raise a point of order. It is subject to a point of order.

As I understand the particular note from the Department of State, they are saying:

> Look, fundamentally, you have created us. We are a Department of State and we are going to make all kinds of negotiations. We are not going to make any actual agreements specifically with respect to Vietnam, Cambodia, and Laos. Everyone is well aware of the sensitivity there about making an agreement.

They would readily agree to the language:

> None of the funds appropriated or otherwise made available in this act shall be obligated or expended to make a commitment to provide any reparations, aid, or credits to Vietnam, Cambodia or Laos.

To me, having been on the side of the Senator from Kansas in this struggle, I do not want to make any commitments. I will never forget sitting out here in room S. 207—and I wish the Senator from Virginia was here—when former Secretary of State Henry Kissinger was asked was there any agreement about reparations or paying reparations or giving aid to North Vietnam. The Secretary of State very clearly pointed out there was no such thing envisioned, encompassed, entertained, or a part of.

We were still hesitant. We wanted to be very careful. The Senator from Virginia offered an amendment. It passed at that particular time and no doubt would pass again today. It was that we would not make that commitment. We all have now seen in the Washington Post, in the Times and otherwise, article 21 where there was a representation that there would be some reparations.

I would go along with the Department of State and ask my colleague from Kansas why can he not go along with that? He does not mind them talking. If Sonny Montgomery goes over to find out about MIA's, would we say, "You cannot go." If the former majority leader, Senator Mansfield, goes over and tries to have conferences or negotiations, would we say, "No, Mr. Mansfield, that would be a dangerous thing" or to Mr. Woodcock?

I think what we really want is not any commitments made. But to just put a categorical prohibition against the negotiating is something else.

That is what I was saying, that there is nothing wrong with the Senator and I negotiating with the Department of State. I do not see where that is a danger in and of itself.

We would have expressed ourselves pretty clearly in the language if the Senator would change the language in "salaries or expenses in connection with making" to just "to make."

Mr. DOLE. If the Senator from South Carolina will yield, the Senator from Kansas considered and discussed that but was advised that that would be subject to a point of order because that requires the doing of something which would make it subject to a point of order on an appropriation bill. Of course, if no one raises the point of order, it would not be subject to a point of order here but it may be later on. I do not know what would happen when it gets to conference or goes to the other side. That language was discussed.

To protect the point of order we conferred informally with the Parliamentarian and came up with the language which the Senator from Kansas offered.

Mr. HOLLINGS. If the Senator will yield, I think, Mr. President, the fundamental is there. I believe if any point of order is applicable, it is applicable to both. If we go back to the commitment resolution made with respect to troops and otherwise, to the reaffirmation in act after act, adopted law, the executive just can no longer make commitments for reparations, aid, or credits to these countries.

More than anything else, not just the country but the countries will not say, "You have broken faith." Somehow they do not know how to work with America. Unfortunately, Korea has decided the only way to work with America is with bribes, payoffs, "Send your CIA over." They have decided that is the way to handle the Government of the United States. It is a sad thing, but that is the message they have.

I will go along with the message the Senator from Kansas wants to give: "If you want to work with our Government on the subject of aid, reparations, or credits, Mr. Cambodia, Mr. Vietnam, or Mr. Laos, just remember that those State Department folks, or otherwise, talking to you are not able to make commitments."

It seems that would be plenty. It would have to come back to the Congress.

Mr. DOLE. That is enough for the Senator from Kansas. I might ask, in the event the Senator from Kansas modifies his amendment as suggested, will the language be subject to a point of order?

Mr. HOLLINGS. That will take a parliamentary ruling.

The PRESIDING OFFICER. Is that in the form of a parliamentary inquiry?

Mr. HOLLINGS. Let us make that parliamentary inquiry, please.

The PRESIDING OFFICER. Is the Senator from Kansas putting back the language and making commitments to provide?

Mr. DOLE. It would read then:

None of the funds appropriated or otherwise made available in this Act shall be obligated or expended to make a commitment to provide any reparations, aid, or credits, to Vietnam, Cambodia, or Laos.

It deletes "for salaries or expenses in connection with making" and adds the words "to make."

The Senator from Kansas would modify his amendment if it is not subject to a point of order. May we discuss that possibility?

The PRESIDING OFFICER. The Chair finds that, to the extent that it would require a determination in the executive as to whether or not a commitment had been made, it would be legislation and subject to a point of order.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Would a unanimous-consent request be in order to add that language, to modify the amendment?

The PRESIDING OFFICER. The Senator may modify his amendment. Unanimous consent is not necessary. The Senator has that right to modify his own amendment.

Mr. HOLLINGS. The Senator from Kansas can modify his amendment. We have not ordered any yeas or nays. We are trying to work this out.

Mr. DOLE. I understand that. The Senator from Kansas wants to be certain that if the amendment is modified—I am not suggesting anyone here would raise the point of order, but if the amendment is modified, is there some way, from a parliamentary standpoint, that it will not be made subject to a point of order? May I make a unanimous-consent request to avoid the point of order?

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. WEICKER. The time to be equally divided.

The PRESIDING OFFICER. The time will be equally divided on the bill.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

On page 57, after line 17, insert the following new section:

"SEC. 607. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended to make a commitment to provide any reparations, aid, or credits, to Vietnam, Cambodia, or Laos.

The PRESIDING OFFICER. In retrospect, the Chair will change his first statement. Since there was a specific time limitation ordered on this amendment under a previous order, that is action of the Senate and therefore it would take unanimous consent for the modification.

Is there objection?

Without objection, the amendment is so modified.

Mr. DOLE. Mr. President, I am prepared, based on the discussion we had about the modification, to say I think it is clear. The Senator from Kansas is prepared to yield back his time.

Mr. HOLLINGS. I am prepared to yield back the remainder of my time. I make a commitment to the Senator that I shall do my best to keep it in the bill.

Mr. DOLE. I know a number of Senators and others have commitments. I am not one to delay my colleagues with rollcalls, but I hope that when the conferees go to conference, they do not look it up in the record and say, "There was no rollcall on this, so it was not very important." I think it is important. I think it would carry in this body by about 85 to 0. I hope that it will in the conference, also.

The Senator from Kansas yields back his time.

I ask unanimous consent that the Senator from North Carolina (Mr. HELMS) be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor on the amendment 543.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I yield back my time and urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 544

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. Under the previous order, there is 1 hour on the amendment.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) on behalf of himself, Mr. STONE, Mr. HELMS, and Mr. RANDOLPH proposes unprinted amendment No. 544.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, between lines 17 and 18, insert the following new section:

"SEC. 607. Funds appropriated by this Act may not be used for the purpose of negotiating a settlement of the claims of United States nationals, as certified by the United States Foreign Claims Settlement Commission on July 6, 1972, to private property nationalized, expropriated, or otherwise taken by the Government of Cuba at less than the principal value of such property."

Mr. DOLE. Mr. President, I have discussed this personally with the Department of State representative. I think we have agreed that there is no compromise, that their suggestion does not do anything, and they feel mine does too much. So there is no way we can compromise and still accomplish anything. So the Senator from Kansas had no recourse but to offer an original amendment. I do not see anything wrong with the original amendment. This amendment provides that none of the money in this appropriation bill can be used for settlement of U.S. claims against the Cuban Government at less than the full value of those claims. This relates specifically to private property which was confiscated by the Cuban Government following Castro's rise to power in 1959. This includes claims by private individuals, corporations, churches, and charitable organizations.

On July 6, 1972, the U.S. Foreign Claims Settlement Commission certified that the principal value of all private U.S. claims for expropriated property totaled slightly more than $1.8 billion. This was the sum total of 979 individual corporate claims, 4,896 individual claims, and 36 claims by religious or charitable groups. My amendment would protect the rights and interests of all these American claimants, and insure that they receive full compensation for their property.

AN ISSUE MUST BE SETTLED

In my opinion, this is one issue that must be settled before we complete "normalization" efforts with the Cuban Government. Just last week, when this body considered the State Department's authorization bill, the Senate approved an amendment offered by the distinguished majority leader containing the following language:

That the vital concerns of the United States with respect to the basic rights and interests of U.S. citizens whose persons or property are the subject of such negotiations [should] be protected.

At that time, the Senate clearly went on record with respect to the importance of this issue. What we are doing today would simply reiterate in more specific language that same concept.

My amendment does not require full payment of the $1.8 billion in one lump sum, nor does it rule out negotiation of a repayment schedule over a period of time. But it does insure that American citizens will receive full compensation from the Cuban Government for their property after 17 long years.

While my admendment does not rule out the establishment of diplomatic relations prior to an agreement on this issue, it should be clear in the legislative history that the Senate expects this matter to be resolved as expeditiously as possible. In my opinion, it would be inexcusable for this administration to institute formal relations or trade with Cuba before the claims by our own citizens are resolved. And when they are resolved, it should be at full principal value for their loss.

I might point out that this does not preclude negotiations on the issue itself. It also does not affect any claims for U.S. Government property seized by Castro. Its sole purpose is to protect those Americans who will have no direct input into the negotiations, but whose property is at stake. It protects the principal value of that property but does not necessarily insist upon payment of interest. I firmly believe that the Cuban Government should pay interest on the property, but I realize that that factor could be subject to some negotiation. The principal value is approximately 50 percent of the aggregate amount certified by the Claims Commission, which includes 6 percent annual interest.

Thus, I think my amendment is more than fair. It is an issue that must be resolved, and resolved in the interest of Americans, not Cubans.

In fact, that is not just the opinion of the Senator from Kansas. Eugene R. Black, who is a former president of the International Bank of Reconstruction and Development, recently, in the New York Times of Sunday, June 12, made the same statement, and indicated that Castro had done nothing about the largest expropriation of American property in history, and that he felt that Cuba's creditors in this country have a right to expect our Government to assert those validated claims.

If we look at the entire claim, the amount of $1.8 billion plus interest from that time, the total is really $3.5 billion.

I am willing to discuss it with the distinguished Senator from South Carolina.

I ask unanimous consent to add the name of the distinguished Senator from West Virginia (Mr. RANDOLPH) as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Will the able Senator yield for just a moment?

Mr. DOLE. Yes, I yield.

Mr. RANDOLPH. I appreciate being added as a cosponsor of this amendment.

A few days ago, I spoke in the Senate in reference to the expropriation of property in Cuba under the Castro regime, which came into power in 1959. I shall not repeat the story of Col. James McCauley, whose plant was expropriated. His car was burned before his eyes after he had been thrown into a ditch. But he would come to me—we were friends. He would talk about the hope that the Cuban Government, under Castro, would bring about a settlement, or that this country, for which he had fought as a colonel in the Air Corps in World War I, would help him. But he died a discouraged and disillusioned man, with not a single penny from either this country, through our Government, or from the Castro government.

I recall in 1959, I say to my colleagues, in the Senate when Fidel Castro came into the area where we are. I remember him in the corridors here of the Capitol and he had his arms outstretched. He would say to all the people that were lining these corridors as his entourage walked through, "We're your friends, we come as your friends."

Constantly, those were the words spoken by Fidel Castro in 1959. Those words, of course, were spoken, but those words were not lived.

I think that is very important here from time to time for the Senate of the United States—yes, the people of this country—to realize that there must be a very substantial degree of caution as we move toward negotiations with Cuba.

Mr. DOLE. I thank the distinguished Senator from West Virginia.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from the chairman of the Joint Corporate Committee, along with a partial list of those claimants and the principal amount of the claims, plus the interest for 16 years, at 6 percent.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 24, 1977.

Hon. BOB DOLE,
Dirksen Building,
Washington, D.C.

DEAR SENATOR DOLE: As Chairman of the Joint Corporate Committee on Cuban Claims, a group comprised of 51 corporate corporations and individuals representing certified claims in the aggregate amount of $766 million, I wish to express our Committees support of your proposed amendment to the State-Justice-Commerce Department Appropriations bill for FY 1978 (H.R. 7556).

As you know, the Cuban expropriations were the largest uncompensated seizure of American property by a foreign government in the U.S. history. It is the opinion of our Committee that further negotiations of existing restrictions against trade between the U.S. and Cuba, prior to a negotiated settlement of the claims, would weaken the bargaining position of the U.S. with respect to the future settlement of these claims, and damage the ability of the U.S. government to protect the rights and property of U.S. nationals abroad.

On behalf of the Joint Corporate Committee on Cuban claims, I wish to express our appreciation for your continued efforts to protect the interests of U.S. citizens and corporations whose properties were confiscated in Cuba.

Sincerely yours,

R. W. HUTTON,
Chairman, Joint Corporate Committee on Cuban Claims.

[In millions]

Claimant:	Principal amount of claim	Prin. plus interest [1]
1. John Loeb et al. group	$132.0	$258.72
2. Borden	109.0	213.64
3. United Brands	85.1	166.80
4. Amstar Corp	81.0	158.76
5. Vertientes-Camaguay Sugar Co	67.0	131.42
6. Bangor Punta Corp	53.4	104.66
7. Francisco Sugar Co	53.4	104.66
8. Manati Sugar Co	51.4	100.74
9. Lone Star Industries	24.9	48.80
10. New Tuinucu Sugar Co	23.3	45.67
11. Colgate-Palmolive Co	14.4	28.22
12. Braga Brothers	12.6	24.70
13. Helen A. Claflin (et al.)	12.0	23.52
14. Atlantic Richfield Co	10.2	19.99
15. Burrus Mills, Inc	9.8	19.21
16. Firestone Tire & Rubber Co	9.6	18.82
17. Uniroyal, Inc	9.6	18.82
18. F. W. Woolworth & Co	9.2	18.03
19. Continental Can Co., Inc	$8.9	$17.44
20. Owens-Illinois	8.1	15.88
21. Swift & Company (Esmark, Inc.)	6.0	11.76
22. First National Bank of Boston	5.9	11.56
23. Procter & Gamble Company	5.2	10.19
24. Goodyear Tire & Rubber	5.1	10.00
25. Richard D. Burford (et al.)	3.5	6.86
26. Lykes Brothers, Inc	3.4	6.66
27. Reynolds Metals Company	3.4	6.66
28. Sherwin - Williams Company	3.4	6.66
29. Gillette Japan, Inc	3.3	6.47
30. King Ranch, Inc	2.9	5.68
31. B. F. Goodrich	2.8	5.49
32. Siboney Corporation	2.5	4.90
33. University of Chicago	2.5	4.90
34. Armour (Greyhound Corporation	2.0	3.92
35. Avon Products, Inc	2.0	3.92
36. Duys Liquidation Trust	2.0	3.92
37. Hilton International Company	1.9	3.72
38. Berwind Corporation	1.9	3.72
39. Castle & Cook, Inc	1.9	3.72
40. E. R. Squibb & Sons	1.5	2.94
41. Tecon Corporation	1.4	2.74
42. Standard Brands, Inc	1.3	2.55
43. Allied Chemical Corporation	1.1	2.16
44. International Paper	1.1	2.16
45. General Dynamics Corporation	1.0	1.96
46. Phelps Dodge Corporation	0.9	1.76
47. Protane Corporation	0.9	1.76
48. Alex A. Shuford (Estate of)	0.9	1.76
49. Arnold Industries	0.6	1.18
50. Mathew A. Fryer	1.4	2.74
Total	858.0	1,682.92

[1] Interest through Dec. 31, 1976: 16 years at 6 percent per year.

Mr. DOLE. Mr. President, just one example, the United Brands, the principal claim, $85.1 million. If we add the interest as suggested on the finding in July 1972, $166.8 million.

So all the Senator from Kansas states is that at least we ought to look at the total amount, not suggesting we look at $3.5 million, but look at $1.8 billion.

Mr. HOLLINGS. Mr. President, again, with the attention, please, of my colleague from Kansas, the field is the same. Our negotiators do not want their hands tied, or to defeat the administration from actually getting the top figure, the greatest amount that possibly can be had by the negotiators or for the claimers.

In other words, the figure set by the Foreign Claims Settlement Commission is a 100-percent figure.

If we agree to a 100-percent figure, we do not need negotiators. But if not, they are needed to negotiate.

If we negotiate, we want to keep that top figure in mind, but not tied by law to that top figure, because we will not be able to negotiate.

In other words, we would suggest the word "as" be deleted and insert "taking into account the amounts."

In other words, not as certified. If we take it as certified, I am only trying as a result of negotiations outside, the State Department authorities who are very familiar with this, they, right down the line, want to arrive at a settlement as near the 100-percent value, taking in interest amounts and everything else.

But if we take just the figures certified and only tie them to that type of settlement, then negotiation is out the window.

They say, "Here's our orders, here are the amounts, they're certified and if we don't get those amounts, there's no negotiation."

That ends it. I do not know that is in the best interest of the U.S. claimants.

It would read:

No part of any appropriation contained in this act shall be used for the purpose of negotiating a settlement of the United States claims against private property confiscated by the Cuban Government at less than the principal value, taking into account the amounts certified by the United States Foreign Claims Settlement Commission on July 6, 1972.

We take into consideration that we made the emphasis, but we have not categorically fastened them to that exact amount.

If that is the way the interpretation is to be, then there is no negotiation contained in the amounts and the certification, and the fellow drops it on the desk and says, "When you're ready to give me that amount, I'll see you later, until that time I am not able under the amendment by the United States Senate to negotiate or talk $1 less."

I think that is their position.

Mr. DOLE. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. DOLE. That language appears to be a bit different than that which I have seen earlier. Might I take a quick look at that?

Mr. HOLLINGS. This is what they gave me.

Mr. President, I suggest the absence of a quorum with equally divided time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, since we had a time limitation on the fixed amendment, I ask unanimous consent that the amendment be modified so as to delete the word "as" and insert in lieu the expression, and I quote:

Giving full consideration to the amounts.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HOLLINGS. So that now the amendment would read:

No part of any appropriation contained in this act shall be used for the purpose of negotiating a settlement of U.S. claims against private property confiscated by the Cuban Government at less than the principal value, giving full consideration to the amounts certified by the United States Foreign Claims Settlement Commission on July 6, 1972.

The reason we changed it from "taking into account," it sounded a little offhandish and casual. We wanted full consideration to be kept foremost in mind by the negotiators and every effort should be made to try to get that fully certified amount by the U.S. Foreign Claims Settlement Commission.

The PRESIDING OFFICER. Would the Senator send the modification to the desk?

Mr. HOLLINGS. Mr. President, I understand the Senator will do that.

Mr. DOLE. Very well.

The Senator from Kansas will send that to the desk.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

On page 57, between lines 17 and 18, insert the following new section:

"SEC. 607. No part of any appropriation contained in this Act shall be used for the purpose of negotiating a settlement of U.S. claims against private property confiscated by the Cuban Government at less than the principal value, giving full consideration to the amounts certified by the United States Foreign Claims Settlement Commission on July 6, 1972.

The Chair has heard no objection to the modification. The amendment is so modified.

Mr. DOLE. Mr. President, the Senator from Kansas believes the intent is clear, and I am pleased to have the support of the distinguished Senator from South Carolina. I do not have any quarrel with the language.

What we want to do is to get the message across. I believe the message is there.

I hope that in conference there will be an understanding that there is widespread support for such an amendment.

I do not intend to ask for a rollcall vote, because I do not want to delay my colleagues, but I hope the distinguished floor managers will support the amendment in conference.

Mr. HOLLINGS. I know of no one objecting to it, and the record will so indicate. I will support it vigorously in conference.

With that understanding, I yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 545

Mr. WALLOP. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP), on behalf of himself, and Mr. HANSEN, proposes an unprinted amendment numbered 545.

The amendment is as follows:

On page 24, between lines 2 and 3, insert the following:

Provided, That no part of the foregoing appropriation shall be used under title I of the Omnibus Crime Control and Safe Streets Act of 1968 except in accordance with the declarations and purposes set forth in section 100 of title I of Public Law 90–351; that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively, and that it is therefore the declared policy of Congress to assist State and local governments in strengthening and improving law enforcement at every level by national assistance.

The PRESIDING OFFICER. On this amendment there are 30 minutes, equally divided.

Mr. WALLOP. Mr. President, I have no intention of taking 30 minutes. I have talked with the two distinguished floor managers of this bill about the amendment, and they have agreed to accept it.

Essentially, what the amendment does is to reaffirm the original congressional intent in the establishment of LEAA by stating that no part of the foregoing appropriation shall be used under title I of the Omnibus Crime Control and Safe Streets Act except in accordance with the declaration of purposes set forth in section 10 of title I, Public Law 93–516. It states essentially that crime is a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

This would appear to be window-dressing, but in essence it is not. There is an increasing number of letters coming to my office—and I suspect to other offices—expressing concern that LEAA is attempting to control local police forces or, even worse, to establish a national police force. This is not the truth, for those of us who know the purpose it has been designed for and those of us whose State and local law enforcement agencies have benefited by it.

However, it is more than mere paranoia on the part of these constituents. LEAA and Congress have increasingly categorized grants and thereby taken more and more decisions away from State and local governments. Congress has been partially responsible, but it is time we reaffirm the findings of the original act that created LEAA and go on with the idea that this is Federal funding to assist local law enforcement agencies in increasing their efficiency in the United States.

Mr. HOLLINGS. Mr. President, I was trying to get a copy of the amendment. I have had an opportunity to discuss it with the distinguished Senator. It is a reaffirmation of section 100 of the act. It is a local law enforcement program, and I believe that is the intent of the distinguished Senator.

Mr. WALLOP. That is entirely the intent. It is to reaffirm the original act and that the moneys be spent in accordance with it.

Mr. HOLLINGS. With that understanding, I accept the amendment and yield back the remainder of my time.

Mr. WALLOP. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. WALLOP. Mr. President, I will not

call up my other amendment but will merely express what it involves.

I had expressed the hope that the Justice Department would await the findings of their own study before closing regional offices. I understand that this is a fiscal year 1978 budget and that those offices will be closed prior to the time this amendment would have gone into effect. I think it is a shame. The closing of local offices is a symbolic gesture which will do more harm than good. It sounds nice, but the local decisions we have affirmed in the first amendment, cannot be made in Washington, and the local law enforcement agencies will have more complications. Nevertheless, the amendment would not have been able to be effective, and I withdraw it.

I ask unanimous consent that my additional remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. President. The amendment which I introduce does not seek to halt the efforts of the Law Enforcement Assistance Administration to reorganize, nor do I intend to discourage L.E.A.A.'s efforts to be frugal. What my amendment does seek to insure is that reorganization be rational, and be carried out in an orderly manner.

My amendment would only delay LEAA's announced intentions to close its ten regional offices in short order. I believe that this delay is necessary and proper for several reasons. The Department of Justice itself is in the midst of a thorough study of the L.E.A.A.'s organization and management. This study has not been completed nor have its preliminary findings been made public. Secondly, re-organization of this type, without Congressional consultation is contrary to the spirit of existing agreements between the Congress and the Executive Branch. And finally, I believe that the organization of LEAA is a proper subject for legislative consideration, and that consideration is being undertaken.

The announced intent of the regional office closings is to save money, and to return more decision making authority to state and local governments. With these purposes I cannot disagree. However, I feel that office closings, without accompanying changes in policies and procedures will only ensure that decisions will be made in Washington rather than in the field. Decisions will be made further from the problems and the agencies LEAA is designed to serve. Symbolism of this type will never take the place of substantive change.

Mr. HOLLINGS. Mr. President, I point out that the committee has the same concern. We do not want it to be indiscriminate, that the revisions made to LEAA be done in a deliberate manner. However, the fact is that, rather than the substantial cut given in the House, the Senate provided practically the full amount, $694,500,000.

So we have increased it; and, as the Senator says, we are trying to get to local law enforcement and keep LEAA within the proper confines in that respect.

I ask for the yeas and nays on final passage, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UN AMENDMENT NO. 546

Mr. PELL. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment No. 546.

The amendment is as follows:

On page 14, between lines 5 and 6, insert the following:

SEC. 105. No less than $165,000 of the amount appropriated under this Title for "Salaries and Expenses" shall be available only for the funding of six additional positions in the Bureau of Oceans and International Environmental and Scientific Affairs (OES) in the Department of State so as to support the creation of a policy assessment group to give OES a long-range planning capability.

Mr. PELL. Mr. President, the purpose of this amendment is to make sure that the $165,000 that was in the original authorizing bill to be spent by the Bureau of Oceans and International Environmental and Scientific Affairs is actually spent. This amendment earmarks the money for that purpose. It does not increase the appropriation by one nickel.

I have discussed the amendment with the managers of the bill, and I understand that it might be favorably received, in which event I will yield back the remainder of my time.

Mr. HOLLINGS. Mr. President, we are familiar with the amendment. I have discussed it with the manager on the other side, and we are perfectly agreeable that these six positions continue.

With that understanding, I yield back the remainder of my time and move the adoption of the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

STATE AND LOCAL GOVERNMENT FINANCE AND EMPLOYMENT SURVEY

Mr. HUMPHREY. Mr. President, I would like to commend the chairman and members of the Appropriations Subcommittee on State, Justice, Commerce and the Judiciary for the fine job they have done.

In particular, I am pleased that the subcommittee included in the Commerce Department appropriation an additional $200,000 for the Bureau of the Census to conduct a quarterly survey of State and local government finances. These funds, though a relatively small amount, were requested by the administration for an extremely important function. They would permit the Bureau of the Census to survey a sample of State and local governments concerning finance and employment on a quarterly basis.

This action will improve the national economic accounts and provide more timely information on the financial conditions of individual governments. This data will be invaluable to the Congress and to the administration in determining where the needs are for Federal assistance and the direction of change occurring in local economies. This will, to a large extent, minimize the guesswork involved in providing assistance to local governments.

Unfortunately, however, the House did not include funds for this survey in their legislation. The significance of the data to be conveyed by the survey will, I am confident, compensate for the cost many, many times over in the accuracy and efficiency of Federal transfer payments to local governments. I strongly urge the chairman to insist upon this provision when the bill is considered by the conference committee.

THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES

Mr. KENNEDY. Mr. President, I just wanted to comment briefly on the committee report and its recommended deduction of the technical assistance component in the assessed U.S. contributions to the United Nations and several of its specialized agencies. The deductions total $19,250,000—including $15 million for the World Health Organization.

I am very much concerned over the committee's action—not only because it sharply reduces the amounts needed for us to meet fully our commitments and obligations, but also because it jeopardizes many important humanitarian and developmental efforts by the international community, especially in the field of health. Moreover, the committee's justification for the reductions raises some troubling questions over the effect of their action and over our future relations with the international agencies involved. And I know this concern is fully shared by the Department of State and many of our colleagues in the Senate.

Mr. President, I have expressed my concern in this matter to the distinguished Senator from South Carolina. Because of the widespread congressional and public concern, I feel the record should show that it is not the committee's intention that we default in meeting our obligations of membership to the United Nations and the specialized agencies affected by this bill. I also understand that it is the committee's intention to reconsider the reductions in this bill and to restore our mandatory obligations through subsequent legislation. Hopefully this goal will be accomplished expeditiously.

WE CANNOT IGNORE OUR TREATY OBLIGATIONS

Mr. CLARK. Mr. President, I rise out of concern over the way in which this bill deals with one of the most important accounts in the State Department appropriations. This bill appropriates some $1.2 billion for the Department of State for fiscal year 1978. Of this amount, $307 million would go to pay our assessed dues to 45 international organizations of which we are a member. These international organizations, through which an ever-increasing amount of the world's diplomacy is conducted, range from the tiny International Seed Testing Association, all the way to the United Nations. In each case, as a member of the organization we have agreed to pay our dues, and we rightfully expect every other member to pay its dues.

For most of these international organizations, the obligation to pay our full dues is not simply a moral one; it is a legal obligation. That is, we joined most of these organizations by ratifying their respective charters or constitutions through our constitutional treaty-mak-

ing process. And we are just as bound to execute our treaty obligations to pay our dues to these organizations as we are bound to execute our obligations under a bilateral treaty. In fact, our treaty obligation to pay our assessed dues to these organizations is an obligation to every other dues-paying member nation, and in that respect it is perhaps even more serious an obligation than some of our bilateral obligations.

What disturbs me about this bill is the fact that it ignores these treaty obligations. The Appropriations Committee has decided that it—not the international organizations, or the President or anyone else—has the authority to modify, or adjust the U.S. dues. Such an approach, if accepted by the other member states in these organizations, would lead to the disintegration of the dues structures of each organization.

Take for example the International Atomic Energy Agency, a U.N. agency which I think we all agree is vital to the effort to limit the proliferation of nuclear weapons. The IAEA assesses each of its members a certain amount of dues, roughly based on each country's ability to pay. The amount which the United States was assessed for 1978 comes to $11.7 million. The Appropriations Committee has recommended that we cut this to $10.7 million. If we in the United States can decide that we will lower our assessed dues by $1 million, what is to prevent the French from deciding that they do not like their assessment, and lowering it by say $5 million; or the Soviets, or anyone else for that matter. Obviously, in such a situation, you have financial chaos, and no organization can exist in that environment.

Mr. President, I have read the committee's report on this subject. It is a well-written report. I understand that the committee believes that they have not cut the funding for these organizations. In their words, they have "deleted" some $19 million from the assessed dues "without prejudice," in hopes that they will be taken up as part of the foreign aid appropriations. But, Mr. President, the Appropriations Committee is wrong. If the committee is concerned over the technical assistance activities of international organizations. They should take that concern up with the other committees of the Senate and the House which have jurisdiction over the State Department and foreign assistance benefits. Moreover, they should take up their concerns with the Secretary of State, and the relevant U.S. officials who represent the United States in these organizations. Unilaterally cutting our assessed dues is the last—not the first—step the Appropriations Committee should take if they disagree with the activities of these organizations, or the way in which their budgets are dealt with by the Congress.

In conclusion, Mr. President, let me say that there is a legal way in which we might go about dealing with the concerns of the Appropriations Committee. That is to negotiate with our allies, and the other member nations of these unilateral organizations, to try to get the organizations to change their programs. If that fails, then each and all of the relevant committees of the Congress might take up the proposal to transfer part of our assessed dues to the foreign aid budget. But the approach taken by the Appropriations Committee in this bill contemplates neither of these. It is dangerous, and it is premature, and I hope that our conferees will keep this in mind when they meet with their House counterparts.

Mr. President, I relate the following figures from the Appropriation Committee report which illustrate these cuts:

United Nations and specialized agencies	Request level	Deduction of technical assistance	Approved level
United Nations	$105,000,000	−$1,925,000	$103,075,000
UNESCO	17,000,000	−1,050,000	15,950,000
Intl Civil Aviation Organization	5,994,500	----------	5,994,500
World Health Organization	49,842,583	−15,000,000	34,842,583
Food and Agriculture Organization	22,875,000	−150,000	22,725,000
Intl Telecommunication Union	1,723,600	−25,000	1,698,600
World Meteorological Organization	2,631,260	−50,000	2,581,260
Intergovernmental Mari Cons Org	289,372	----------	289,372
Universal Postal Union	391,000	−50,000	341,000
World Intellectual Property Org	251,139	----------	251,139
International Atomic Energy Agency	11,683,616	−1,000,000	10,683,616
Subtotal	217,682,070	−19,250,000	198,432,070

Mr. MUSKIE. Mr. President, the Senate is now considering H.R. 7556, the fiscal year 1978 appropriation bill for the Departments of State, Justice, and Commerce, the judiciary, and related agencies. I support this bill, but I would like to call the attention of the Senate to the relationship of this bill to the first budget resolution.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to it under the budget resolution. These allocations, together with the functional targets established in the first budget resolution, provide benchmarks so that the Senate's action on individual bills can implement the congressional budget. The totals for this bill are under the subcommittee's section 302(b) allocation for budget authority and only slightly over this allocation in outlays and can generally be accommodated within the first budget resolution targets. However, the Congress must show restraint on items in this bill and on related programs in other bills or both the subcommittee allocation and a functional target will be breached.

The State-Justice Subcommittee's allocation under section 302(b) of the Budget Act is $7.8 billion in budget authority and $10.8 billion in outlays. The reported bill provides $7.7 billion in budget authority and $10.9 billion in outlays, including $5.2 billion from prior year authority. Therefore, if H.R. 7556 is enacted as it has been reported, about $0.1 billion in budget authority would remain available within the subcommittee's allocation. The allocation would be exceeded by $0.1 billion in outlays.

Mr. President, I must point out that in the coming months other claims are likely to be made against this allocation. Supplemental requests may be made to fund additional Federal judges, compensation for victims of crime, expansion of economic development programs, and several other needs. A compelling case can be made for each of them. It is estimated that these requests might require an additional $200 million in budget authority and $100 million in outlays. Together with the amount included in the bill now before the Senate, these later requirements could breach the subcommittee's allocation by $100 million in budget authority and $200 million in outlays.

It is the prerogative of the full Appropriations Committee to exceed its subcommittee allocation by such amounts, as long as the full committee remains within its total allocation. I was gratified to receive a letter recently from the distinguished chairman of the Appropriations Committee, Senator McCLELLAN, stating that he does not expect the full committee's allocation to be breached. Although the State-Justice Subcommittee's action on H.R. 7556 does place pressure on its section 302(b) allocation, there is reason for confidence that the Congress can maintain the priorities established in the first budget resolution.

Mr. President, I ask unanimous consent to have inserted in the RECORD at this point a table that shows the relationship of this bill and possible later requirements to the State-Justice Subcommittees section 302(b) allocation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Relation to subcommittee allocation

[In billion dollars]

	Budget Authority	*Outlays*
Subcommittee section 302 (b) allocation	7.8	10.8
H.R. 7556	7.7	10.9
Amount over (+) or under (−) the subcommittee allocation	−0.1	+0.1
Possible later requirements:		
Economic Development Administration	0.1	(*)
Law enforcement and justice supplemental	0.1	0.1
Total possible later requirements	0.2	0.1
Possible amount over (+) or under (−) subcommittee allocation	+0.1	0.2

*Less than $50 million.

Although this bill is generally consistent with assumptions underlying the first budget resolution, the targets for function 750, law enforcement and justice, would be breached slightly by enactment of the bill before us plus action expected on other appropriations bills now being considered by the Congress. In fact, supplemental requests that are now expected could cause function 750 to exceed the first budget resolution targets by about $0.2 billion in budget authority and about $0.1 billion in outlays. The Congress must seek savings in those programs, or elsewhere in the budget, or the Federal deficit for fiscal year 1978 will rise above the first budget resolution target.

Mr. President, I wish to thank the distinguished chairman, Senator HOLLINGS, for his support of the budget process and his contributions as a member of the Budget Committee. I note that the amounts in the House-passed bill are somewhat lower than those in the bill now before the Senate. So that we can remain within the congressional budget targets, I urge the members of the subcommittee to continue looking carefully at these programs and making real savings as opportunities are presented in conference and on supplemental requests.

THE STATE-JUSTICE APPROPRIATIONS BILL: AN EXERCISE IN BUDGET-BUSTING

Mr. PROXMIRE. Mr. President, I intend to vote against this State-Justice appropriations bill.

The Appropriations Committee should be congratulated for holding the budgets of the State and Justice Departments down below the President's request. But in light of the current fiscal crisis, the committee's failure to hold down the budgets of the Commerce Department and the independent agencies is unconscionable.

The bill before us exceeds the administration's estimate by more than $229 million. It exceeds the House's allowance by more than $100 million. We must bring the appropriations for the Commerce Department and the independent agencies back in line, and we must trim more fat off of the Justice Department budget. This is not a difficult task.

Let us look at the Justice Department appropriations first. Why are we being asked to hand over $10 million more taxpayer dollars than the administration deemed necessary to a boondoggle that calls itself a Law Enforcement Assistance Administration.

Like all Americans, I desperately want to see the staggering increase in crime brought to a halt. But after a study of the Federal anticrime program, a review of GAO reports, and after speaking to law enforcement officials in my home State of Wisconsin, I have come to the conclusion that in 9 years, the Federal crime control effort has done little but waste taxpayers' money. LEAA has shown an appalling lack of priorities, of accountability, and of results. It has funded ongoing programs in defiance of its mandate to develop new programs, and it has financed unproductive research and conferences. I ask my colleagues, is it any wonder that LEAA is unable to effect the crime rate when it is interested, for example, in spending $27,000 to determine why inmates want to escape from prison. Probably the best project LEAA could undertake would be to determine how Congress can phase-out LEAA's own wasteful projects.

Now let us look at the Commerce Department appropriations. We find the same waste of taxpayer money there. We are being asked today to approve a budget appropriation that is a whopping $94.5 million over the President's budget. Well, I certainly will not.

This bill will give four agencies—the Economic Development Administration, the Domestic and International Business Administration, the U.S. Travel Service, and the National Fire Prevention and Control Administration—$5.4 million more than the President requests for staff and administrative expenses. We are asked to do this despite the fact that in some cases agency officials themselves insist that they do not need this additional money. For example, a spokesman in the Economic Development Administration said that 73 new positions proposed at a cost of $2.9 million over budget are unnecessary because the Agency's workload will be tailing off in the next few months. The Agency's workload is dropping and the Senate is adding positions. What sense does that make?

The appropriation for the Economic Development Administration is one of the biggest budget busters. We are being asked to okay a new urban and rural development loan program costing $30 million more than the administration estimate despite the fact that the administration itself never proposed the funding of the program because it was unable to prepare a workable proposal.

The appropriation for the National Oceanic and Atmospheric Administration is still another budget buster. It seems unreasonable to fund the numerous additional projects here if they are going to drive costs $38.5 million above the administration's request.

Mr. President, I could go on and on. We cannot afford to tolerate the overbudgeting which this bill represents. I urge my colleagues to take a careful look at how they are being asked to spend their constituents' dollars in the State-Commerce appropriations bill and to vote against it.

The PRESIDING OFFICER. Is there further amendment?

Mr. HOLLINGS. Mr. President, I understand that the distinguished Senator from Virginia has a statement. I do not mind reserving time for that statement to be received but the Senators are ready willing, and able to go to third reading. I ask for third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HOLLINGS. I yield back my time.

Mr. WEICKER. I yield back my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I also announce that the Senator from Texas (Mr. BENTSEN) is absent because of death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER), the Senator from Vermont (Mr. LEAHY), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Michigan (Mr. RIEGLE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Nevada (Mr. LAXALT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Utah (Mr. HATCH). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 70, nays 9, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—70

Baker	Glenn	Nelson
Bayh	Gravel	Nunn
Bellmon	Hart	Packwood
Biden	Haskell	Pearson
Brooke	Hatfield	Pell
Bumpers	Hathaway	Percy
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Humphrey	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cranston	Long	Stennis
Danforth	Lugar	Stevens
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Domenici	McGovern	Talmadge
Durkin	McIntyre	Tower
Eagleton	Melcher	Weicker
Ford	Metzenbaum	Williams
Garn	Moynihan	Young
	Muskie	

NAYS—9

Allen	Helms	Roth
Hansen	McClure	Wallop
Hayakawa	Proxmire	Zorinsky

NOT VOTING—21

Abourezk	Eastland	Matsunaga
Anderson	Goldwater	McClellan
Bartlett	Griffin	Metcalf
Bentsen	Hatch	Morgan
Chiles	Inouye	Ribicoff
Culver	Laxalt	Riegle
Curtis	Leahy	Thurmond

So the bill (H.R. 7556), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HOLLINGS, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. EAGLETON, Mr. INOUYE, Mr. BURDICK, Mr. LEAHY, Mr. DECONCINI, Mr. WEICKER, Mr. BROOKE, Mr. HATFIELD, Mr. STEVENS, and Mr. YOUNG conferees on the part of the Senate.

CONSTRUCTION, REPAIR, AND PRESERVATION OF CERTAIN PUBLIC WORKS ON RIVERS AND HARBORS

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Chair lay before the Senate H.R. 5885.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5885) authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. RANDOLPH. Mr. President I move that the Senate insist on its amendment, request a conference with the House of Representatives on the disagreeing votes of the two Houses on H.R. 5885, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RANDOLPH, Mr. GRAVEL, Mr. MUSKIE, Mr. CULVER, Mr. ANDERSON, Mr. STAFFORD, Mr. DOMENICI, Mr. MCCLURE, and Mr. WALLOP conferees on the part of the Senate.

Mr. RANDOLPH. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO TRANSFER CERTAIN MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are a number of bills on the calendar that have been cleared for action by unanimous consent.

I ask that the clerk transfer to the Unanimous Consent Calendar the following Calendar Orders Nos. 267, 268, 269, 270, 271, and 272.

The PRESIDING OFFICER. They will be so transferred.

ORDER FOR RECOGNITION OF SENATOR JAVITS AND SENATOR STEVENS MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Mr. JAVITS and Mr. STEVENS be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN SENATORS AND EMPLOYEES TO APPEAR IN DISTRICT COURT IN MASSACHUSETTS

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 205) to authorize certain Senators and employees of the Senate to appear and testify in the United States District Court for the Eastern District of Massachusetts.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 205) was agreed to as follows:

S. RES. 205

Whereas, in the case of *United States of America* v. *Harry Goldberg, et al.* (No. CR-77-33-C) pending in the United States District Court for the Eastern District of Massachusetts, subpoenas have been issued on behalf of defendant Ferdinand Romano to three Senators and three former employees of the Senate Subcommittee on Federal Spending Practices and Open Government; Senators Lawton Chiles, Lowell Weicker, and Sam Nunn; and Lester A. Fettig, Claudia T. Ingram, and Edward Roeder, directing them to appear together with documents relating to the Senate's consideration of Congressional use immunity and to any testimony taken under a grant of such immunity, before the court and give testimony with respect to this case: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no book, paper, or other document under the control and in the possession of the Senate can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by resolution of the Senate.

SEC. 2. That the privileges of the Senate and by Rule XXX of the Standing Rules of the Senate, no officer or employee of the Senate is authorized to produce documents, papers, or records of the Senate but by order of the Senate, and information secured by officers and employees of the Senate pursuant to their official duties may not be revealed without consent of the Senate.

SEC. 3. That when it appears that testimony of any individual who is or was an officer or employee of the Senate is needful for use in any court for the promotion of justice and, further, that such testimony may involve documents, papers, or records under control of or in the possession of the Senate and communications, conversations, and matters related thereto, the Senate may take such action with respect thereto as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 4. That, Senator Lawton Chiles, Senator Lowell Weicker, and Senator Sam Nunn are authorized, in response to subpoenas duces tecum; and Lester A. Fettig, Claudia T. Ingram, and Edward Roeder are authorized, in response to subpoenas ad testificandum; issued on behalf of Ferdinand Romano, defendant in the case of *United States* v. *Harry Goldberg et al.*, (No. CR-77-33-C) pending in the United States District Court District of Massachusetts, to appear together with documents relating to the consideration of Congressional use immunity for said defendant and to testimony taken under a grant of such immunity, and testify to and only to, any alleged proffers of information made by the above named defendant or his counsel to a Senator of the United States or an officer or employee of the United States Senate, any testimony taken under a grant of use immunity to said defendant, the use, if any, of information obtained from any such proffers and to information, if any, turned over to the Department of Justice of the United States as a result of any such proffers or testimony.

SEC. 5. The Secretary of the Senate shall promptly transmit a certified copy of this Resolution to the Chief Judge of the United States District Court for the Eastern District of Massachusetts.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PROCEED TO CONSIDERATION OF S. 555 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the special orders for the recognition of Senators on Monday next the Senate proceed to the consideration of S. 555, a bill to establish certain Federal agencies, effect certain re-

organizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on S. 555, the Official Integrity Act, there be the following time agreement: 4 hours on the bill to be equally divided between Mr. RIBICOFF and Mr. PERCY; that there be a time limitation of 1 hour on any amendment, 30 minutes on any amendment to an amendment, debatable motion, or point of order, if such is submitted to the Senate for its consideration; that there be one exception with respect to time limit on amendments, that being an amendment by Mr. JAVITS on which there be no time limit; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That on Monday, June 27, 1977, after the Special Orders, the Senate proceed to the consideration of S. 555 (Order No. 254), a bill to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes, and that debate on any amendment in the first degree (except an amendment to be offered by the Senator from New York (Mr. JAVITS), on which there will be no time limitation) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment to an amendment, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Illinois (Mr. PERCY): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—H.R. 7589

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 273, H.R. 7589, the military construction appropriation bill, is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour, to be equally divided between the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Alaska (Mr. STEVENS); that there be a time limitation on any amendment of 30 minutes, and a limitation on any debatable motion, appeal, or point of order submitted to the Senate for its decision, of 20 minutes; and that the agreement with respect to the division and control of time be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That when the Senate proceeds to the consideration of H.R. 7589 (Order No. 273), an act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Alaska (Mr. STEVENS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TECHNICAL AND CLERICAL CORRECTIONS—S. 208

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 208.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILING OF FEDERAL ELECTION CAMPAIGN ACT REPORTS

Mr. ROBERT C. BYRD. Mr. President, the Federal Election Campaign Act, as amended, requires that quarterly reports from candidates for Federal office and political committees must be filed on April 10, July 10, October 10, and January 31.

The Secretary of the Senate's Office of Public Records will open Sunday, July 10, 1977, from 12 noon until 3 p.m., to accept the July 10 quarterly filings of reports and statements as required by that act and Federal Regulation of Lobbying Act. The Public Records Office is located in room A–623, 119 D Street NE., Washington, D.C. Reports submitted after 3 p.m. may be placed in a clearly identified depository located in the lobby of that building. Additional information may be obtained from that office at (202) 224–0322.

Mr. President, I ask unanimous consent that a memorandum from the Federal Election Commission dealing with this matter be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

[From the Federal Election Commission, Washington, D.C.]

To: All candidates for Federal office and political committees supporting Federal candidates.

From: The Federal Election Commission.

Re: Second Quarter Report, July 10.

The Federal Election Campaign Act of 1971, as amended, and the regulations of the Federal Election Commission provide that all candidates for Federal office and political committees shall file quarterly reports of receipts and expenditures. Below are sections describing requirements for A) candidates, principal campaign committees, and authorized committees; B) all other political committees, and C) general information pertinent to all filers.

A. CANDIDATES, PRINCIPAL CAMPAIGN COMMITTEES AND AUTHORIZED COMMITTEES

Which Forms To Use—

1. Postcard Form—In any year in which a candidate is not on the ballot for election to Federal office (non-election year), the candidate, principal campaign committee and any authorized committees of the candidate which receive contributions and make expenditures during the calendar quarter, the sum of which when taken together does not exceed $5,000, may file by submitting FEC Form 3a (Postcard Form); or

2. Short Form—If the candidate or principal campaign committee does not qualify to use FEC Form 3a (see above), but does not anticipate financial activity in excess of $50,000 for an election, and the candidate has authorized no other campaign committees and the committee has made no independent expenditures, the report may be filed on FEC Form 6 (Short Form); or

3. Regular Form—Candidates principal campaign committees and authorized committees which do not qualify to use FEC Form 3a (postcard form) or FEC Form 6 (short form) must file on the regular FEC Form 3 (Report of Receipts and Expenditures for a Candidate or Committee) with supporting schedules.

If You Are A Candidate Who Requested A Waiver—

On April 13, 1977, the Federal Election Commission's regulations were prescribed. The Commission now has the authority to grant waivers of candidate reporting under the provisions of § 101.3 of the regulations. Candidates who previously requested and have satisfied the conditions for a waiver from filing candidate reports for 1976 or 1978 have been granted the waiver for that election. These candidates will receive written confirmation at a future date and need not file a July 10 candidate report.

B. POLITICAL COMMITTEES (OTHER THAN AUTHORIZED COMMITTEES OF A CANDIDATE)

Which Form to Use—

1. Postcard Form—Political committees which did not receive contributions or make expenditures in excess of $1,000 during the calendar quarter may file reports on FEC Form 3a (postcard form). (Note: The $5,000 non-election year reporting threshold applies only to candidates and their authorized committees.)

2. Regular Form—Political committees which do not qualify to use FEC Form 3a (postcard form) must file a regular report on FEC Form 3 (Report of Receipts and Expenditures for Candidate or Committee) with supporting schedules as required.

C. GENERAL REQUIREMENTS FOR ALL FILERS

If this report is your First report filed in 1977, it should reflect only those receipts and expenditures for the period covering January 1, 1977, through June 30, 1977.

If this is Not your First report in filed in 1977, it should reflect all receipts and expenditures from the date of the close of books of your last report filed in 1977 through June 30, 1977.

Past Due—

Hand delivered on or before July 10, 1977 (to Office of Public Records). If sent by first class mail prior to July 10, 1977, report must be received no later than close of business July 10, 1977. Since there is no regularly scheduled mail delivery on July 10, reports should be received by close of business July 9.

If deposited as registered or certified mail, report must be postmarked no later than midnight July 10, 1977.

Where to File—

Candidates for the U.S. House of Representatives file ORIGINAL report with the Clerk of the House, 1036 Longworth House Office Building, Washington, D.C. 20515.

Candidates for U.S. Senate or committees supporting only candidates for the U.S. Senate file ORIGINAL reports with the Secretary of the Senate, Room 623, 119 D Street, N.E., Washington, D.C. 20510.

All other Federal candidates and political committees, and persons making independent expenditures file ORIGINAL reports with the Federal Election Commission, 1325 K Street, N.W. Washington, D.C. 20463.

A copy of the original report must be filed with the Secretary of State in the State in which you are a candidate, or in the states in which candidates supported by your committee seek election.

Please Note.—The next report will be the Third Quarter Report. Special Election candidates should refer to their special notice for additional reporting requirements. The closing date of books is September 30, 1977; mailing date, registered or certified mail, and the filing date is October 10, 1977. There will be no mass mailing of forms for this report. Candidates and committees requiring additional copies of reporting forms should contact the Commission at the above address or telephone numbers listed below three to four weeks in advance to allow enough time for mail delivery.

For further information contact: Office of Public Communications, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Telephone: 202/523-4068. Toll Free: 800/424-9530.

ORDER FOR CONSIDERATION OF THE LABOR-HEW APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of the public officials' integrity act, the Senate proceed to the consideration of the Labor-HEW appropriation bill, H.R. 7555.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar, beginning with Calendar Order No. 296 and going through Calendar Order No. 301.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the first nomination.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

The second assistant legislative clerk read the nomination of Alan William Wolff, of the District of Columbia, to be a Deputy Special Representative.

Mr. DOLE. Mr. President, the Senate Finance Committee has reported the nomination of Mr. Alan Wm. Wolff to be Deputy Special Trade Representative.

The position which Mr. Wolff has been nominated for is vitally important to the United States. The phenomenal growth of world trade during the past 10 years, the increase in oil prices, and ensuing world recession are all reflections of the extent to which the welfare of the American people depend on stable and growing world economy.

Agriculture exports compose the largest segment of our international trade. It is an area which concerns not only farmers but all Americans. Agriculture exports were over $23.5 billion last year. One out of every five dollars earned in the export market are the result of agriculture. This is particularly important since the balance of trade deficit is expected to be almost $20 billion this year. Agriculture has consistently returned needed foreign surplus to the economy.

There are a number of critical trade issues facing our negotiators today. One particular is the concern that agricultural items not be segregated and negotiated separately from industrial goods. To do so would be a mistake. I am sure that Mr. Strauss will keep his promise to the Finance Committee that agricultural items will not be negotiated separately.

I am deeply concerned that our Special Trade Representative be intrinsically knowledgeable in all facets of agriculture. Although Mr. Wolff appears to be an astute man, he unfortunately does not have an experienced agriculture background.

I am naturally disappointed with the administration's decision not to nominate someone more attuned to America's biggest business. Traditionally, the Special Trade Representative or his deputy has been such a man. It is critical that we gain greater access to foreign markets for our agricultural products. I am confident that Mr. Wolff recognizes these problems and will deal effectively with them.

I have submitted a number of questions to Mr. Wolff and ask unanimous consent that his answers be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS FOR ALAN WOLFF—NOMINEE FOR DEPUTY SPECIAL TRADE REPRESENTATIVE

(1) The Special Trade Representative has a dual role to report to the Congress and to the President. Since trade is an increasingly important segment to our economy, I am concerned that American economic interests not be specifically linked with foreign policy concerns. I wonder if you would comment on diplomatic concessions as it relates to trade?

The position of the Special Trade Representative, as you know; was created in the Trade Expansion Act of 1962 by the Congress to separate the formulation and implementation of trade policy from undue influence by other interests of the U.S. Government. Specifically, there was concern in Congress that the State Department, which had been charged with responsibility for negotiating trade agreements since the beginning of the program in 1934, allowed foreign policy concerns to dominate trade interests.

I feel very strongly that the Special Trade Representative and his Deputies must represent and be responsible to U.S. trading interests. As Chairman of the Trade Policy Committee structure, STR must be responsible to all the segments of our economy and arrive at negotiating positions that serve the international economic interests of the United States. The final judgment of whether we have succeeded will be whether Congress accepts the agreements we negotiate. In the Kennedy Round the negotiators failed to carry the Congress and failed to satisfy domestic industry and agriculture that balanced arrangements were arrived at from the viewpoint of U.S. economic interests. I intend to do everything in my power to satisfy the Congress and our industrial and agricultural interests that U.S. economic interests have been served in these negotiations.

(2) I am concerned that our Special Trade Representative be knowledgeable in areas of agriculture. The Common Market countries have insisted that agriculture be segregated and negotiated separately from industrial goods. I believe to do so would be a mistake. Would you please tell us the Administration's position? How firm is the commitment that Bob Strauss gave the Committee that agriculture should be negotiated in the same framework as industrial products?

We cannot come home from Geneva without very substantial benefits for U.S. agriculture. In the Kennedy Round, the U.S. negotiators achieved very little for agriculture, allowing agriculture to be separated from the progress in industry, and it got left behind. The Administration's position in this negotiation is unambiguous. Bob Strauss' first statement upon being named STR concerned the importance of the linkage between industry and agriculture in this negotiation. The Trade Act required this link. It would be a grave error if it were not maintained. I would rather that we came back from Geneva and said that we could not reach any results in this negotiation than to limit ourselves to only modest results in agriculture. We will hold all the participants in this negotiation to the pledge they gave at the beginning in Tokyo in September 1973, that these negotiations are to be conducted as a whole, in a comprehensive manner.

Would you please comment on the Secretary of Agriculture's statements on International Commodity Agreements? How do they fit in with the overall trade policy of the United States?

On the question of commodity agreements, the United States has an interest in

curbing the boom and bust cycle that has been so painful, that U.S. agriculture has gone through in recent years. As I understand Secretary Bergland's objectives, through the maintenance of stocks the shorter term price fluctuations could be moderated without interfering with longer term trends. I personally do not see price stabilization, however, as being the principal objective of U.S. trade policy. More important to the United States is our commercial interest in gaining greater access to foreign markets for our agricultural products, and curbing the use of subsidies which deprive us of those markets. To the extent that commodity agreements help us achieve our commercial goals, as well as foster world food security, they will increase the return to U.S. agriculture and serve our objectives.

I would not favor any agreement which placed inequitable burdens on U.S. producers or consumers or which placed U.S. farmers at a competitive disadvantage, vis a vis, their competitors in world markets.

(3) Mr. Wolff, Bob Strauss in his confirmation hearings before this Committee stated that he thought you would be a strong advocate of agriculture. I believe such a person is needed not only to those involved in agriculture, but to the country as well. I wonder if you could elaborate on your specific past experience involving agriculture trade negotiation? What problems regarding agriculture exports do you foresee? How will you go about resolving these problems?

I have been actively involved in the formulation of U.S. trade policy since 1969. I participated in the drafting of the Mills bill in 1970 and spent a good part of 1973 and 1974 with the Ways and Means Committee and the Finance Committee in establishing the guidelines for U.S. trade policy in these negotiations. In that process I spent a good deal of time with a large number of U.S. agricultural representatives, including those representing wheat, feed grains, dairy, beef, tobacco and others. I participated in the negotiations with the European Community in 1974 stemming from the enlargement of the Common Market. The negotiations included the issues of market access for grain, citrus, tobacco, and poultry, as well as products of lesser agricultural interest. We succeeded in getting concessions for tobacco and citrus, arrived at a standstill on grains and were forced eventually to increase U.S. duties on brandy because we could not obtain a sufficiently favorable result with respect to poultry.

In the period following passage of the Trade Act, I was Acting Head of the U.S. delegation to the Multilateral Trade Negotiations, and as such supervised the preparatory work on agriculture in the MTN during the first half of 1975. In this connectio I negotiated, with the assistance of USDA officials, several arrangements to assure that agriculture was negotiated in conjunction with industry in the trade talks. During the first quarter of this year I was Acting Special Trade Representative and since then have been Acting Deputy STR, and have been participating actively in internal deliberations on agricultural policy as well as in talks with other countries. In this connection I have been actively involved in resolving trade problems concerning a number of specialty crops, as well as in formulation of basic policy objectives for agriculture in the MTN.

Our agricultural exports face a number of serious problems. Beef is subject to quotas and health and sanitary regulations, our grains exports face variable levies, as does poultry, our citrus faces high tariffs abroad, our tobacco faces high tariffs, the discrimination inherent in preferential arrangements, and internal tax barriers, our wheat and wheat flour exports compete with foreign subsidies, our fruit and vegetable exports face minimum import prices, our soybean exports have had to compete with foreign subsidies and have been threatened with taxes and mixing requirements, and many of our specialty crops have been faced with health and sanitary regulations as well as competition with foreign subsidization. Agricultural products trade in a world where Government intervention is commonplace.

A wholly adequate answer to your question would require a very extensive reply. In brief, we must reduce foreign tariffs which impede our trade and discriminate against our goods. We must adopt a subsidies code that allows efficient producers like ourselves to compete on fair terms abroad. We must negotiate a standards code that prevents health and sanitary regulations from being used as a pretext to interfere with trade. Remaining quotas must be liberalized. There must be greater market access abroad where other measures are applied that do not fall within the traditional rules regarding trade barriers. In short, governmental intervention in agricultural trade, which has so disadvantaged U.S. exports, must be brought within commonly understood guidelines so that our competitive advantage in agriculture can be fully realized.

(4) The cattle industry over the past few years has taken a severe beating. What can you do as a Special Trade Representative to prevent further deterioration of the cattle and meat markets? Do you favor a policy which would take the negotiation process of agricultural products from the Secretary of State and return them to the Secretary of Agriculture?

I have met with a number of representatives of the livestock industry in recent weeks to discuss what might be done to improve their situation. As you know, imports of meat which are subject to a program of voluntary restraint agreements, amount to about 7 percent of total U.S. beef consumption. I believe that we can make an important contribution to the cattle industry by pressing both in the Multilateral Trade Negotiations and bilaterally for opening up of the beef markets of countries such as the European Community and Japan. This would benefit us in two ways: first, we have a significant and growing market for high quality beef in overseas markets. Our efforts to expand market access will complement the efforts now underway by the Foreign Agricultural Service and the newly formed industry Meat Export Federation to develop these markets. In addition, to the degree that the European and Japanese markets for beef open up, some of the pressure of beef exports, which really have no other outlet at this time other than the U.S. market, will be diminished.

U.S. policy for trade negotiations is presently developed under the leadership and responsibility of the Special Trade Representative, in consultation with the other agencies of government including the Departments of Agriculture and State.

In some specific commodity areas, and in meat, the actual negotiations have been conducted in recent years by the Department of State. It seems to me that what is important is that all of the agencies concerned have an opportunity to make an input into the development of policy and to participate in the negotiating process. I am pretty well satisfied that this is the case at present.

(5) Although I am disappointed that the Administration did not nominate a more experienced person who was familiar with agriculture, I have no doubts that you are a qualified man. Your nomination comes almost five months after Mr. Strauss' confirmation. Are there any reasons for the Administration's procrastination? Has the delay affected the Geneva negotiations? When do you expect them to conclude?

I do not believe that the delays in my nomination and confirmation have adversely affected the Geneva negotiations. As indicated above I have been Acting Deputy STR (and before that Acting Special Trade Representative) over the last several months. The delay in paperwork on my nomination was not exceptional. I am hopeful that the negotiations can conclude in 1978, although no final date can be set. These are the most comprehensive negotiations ever undertaken and it should not have been surprising to us who have been involved in the process that they are taking so long. The timetable has been repeatedly altered by a number of external events, such as the delay in passage of the Trade Act, the slowness of economic recovery, and the elections here and abroad.

(6) Has the concentration on bilateral trade problems by the Administration affected the Geneva negotiations?

No, I do not believe so. As noted above, the pace of the negotiations has been determined primarily by worldwide economic conditions, as well as by elections here and abroad. The failure to solve some of our bilateral problems would have interfered with, and can still adversely affect the negotiations, however.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. STEVENS. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations confirmed en bloc are as follows:

John M. Harmon, of North Carolina, to be an Assistant Attorney General.

George M. Anderson, of North Carolina, to be U.S. attorney for the Eastern District of North Carolina.

Henry M. Michaux, Jr., of North Carolina, to be U.S. attorney for the Middle District of North Carolina.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 12:30 P.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12:30 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to file reports until 5 p.m. tomorrow, Saturday, June 25, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, next week will be a busy week. Of course, the Senate is not unaccustomed to such.

On Monday, the Senate will convene at 12:30 p.m. There will be two special orders for the recognition of Senators, for Mr. JAVITS and Mr. STEVENS, and following the recognition of those two Senators the Senate will proceed to the consideration of S. 555, the Public Officials' Integrity Act, under a time agreement covering motions, amendments, and time on the measure, with the exception of one amendment by Mr. JAVITS on which there is no time limit. There will be rollcall votes on Monday afternoon, but none prior to the hour of 3 o'clock p.m., under an order previously entered.

I fully expect the Senate to complete action on that measure on Monday, even if it takes us into the evening late.

Upon the disposition of that bill, the Senate will proceed to the consideration of the Labor-HEW appropriation bill, H.R. 7555. I would not anticipate any action on the bill, with the possible exception that if the Senate should complete action on S. 555 in time on Monday, there might be some opening statements, but nothing further, on the Labor-HEW bill on Monday.

On Tuesday, the Senate will be on the Labor-HEW appropriation bill all day.

ORDER FOR THE CONVENING OF THE SENATE AT 9 A.M. ON TUESDAY NEXT

Mr. President, I ask unanimous consent at this time that the Senate, when it convenes on Tuesday, convene at the hour of 9 o'clock a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Other measures which the leadership would hope to complete action upon before the July 4 holiday are the following, but not necessarily in the order listed, and the list is not to be considered exclusive: H.R. 7589, the military construction appropriation bill; H.R. 7558, the agriculture appropriation bill; H.R. 6415, the Export-Import Bank bill; H.R. 7553, the public works appropriation bill; H.R. 7797, the foreign assistance appropriation bill; H.R. 7933, the defense appropriation bill; S. 9, the Outer Continental Shelf bill; S. 1420, the child nutrition measure; conference reports, and any other measures which are cleared for action. This means that the Senate will be in early and late daily through the close of business Friday, with rollcalls occurring daily.

Next week will be the last week in which committees will be granted consent to meet. When the Senate returns from the Independence Day holiday, consent will not readily be granted to committees to meet. That will be as of July 11.

There are some committees which do have standing consent, they being Appropriations and Budget. The committees which will be dealing with energy legislation, such as Mr. JACKSON's committee and Mr. LONG's committee, will be given consent, unless there is objection, naturally. It will be my hope that consent can be given to those committees to meet during the sessions of the Senate. From time to time other committees, where justification is clear and a good case can be made, will be able to meet.

With those few exceptions, committees will be permitted to meet only when the Senate is not in session—of course, there would be no consent needed—and during the first 2 hours of a Senate session, in accordance with the provisions of the Stevenson resolution adopted earlier this year.

I would hope that committees would be allowed consent to meet daily next week.

COMMITTEE MEETINGS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent at this time that all committees be allowed to meet during the session on Monday of next week so the committees will have that much advance notice that there will be no problem on Monday.

Mr. STEVENS. We have no objection.

Mr. ROBERT C. BYRD. I thank the distinguished assistant Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I believe the majority leader should be commended, and also the minority leader. This has been a very successful week. Matters before the Senate have been handled with dispatch, and the agreed upon target legislation for the week has been completed without a Saturday session. I believe this demonstrates this is the way to handle the business before the Senate. Both of our leaders deserve great commendation for the manner in which this past week has been handled.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished assistant Republican leader. I have a great affection for him, as he knows. He is always most cooperative. The decision of the leadership not to have a Saturday session was made possible by virtue of the waivers of the 3-day rule which were worked out on both sides of the aisle, but for which it would have been necessary to have a Saturday session.

RECESS UNTIL 12:30 P.M. MONDAY, JUNE 27, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 12:30 p.m. on Monday next.

The motion was agreed to; and at 4:45 p.m. the Senate recessed until Monday, June 27, 1977, at 12:30 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 24, 1977:

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Alan William Wolff, of the District of Columbia, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

DEPARTMENT OF JUSTICE

John M. Harmon, of North Carolina, to be an Assistant Attorney General.

George M. Anderson, of North Carolina, to be U.S. attorney for the eastern district of North Carolina for the term of 4 years.

Henry M. Michaux, Jr., of North Carolina, to be U.S. attorney for the middle district of North Carolina for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

MERRY S. CANAVAN RETIRES, OUTSTANDING EDUCATOR

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mrs. SPELLMAN. Mr. Speaker, just a few weeks ago, it was my privilege to be among a multitude of friends of Merry S. Canavan to wish her well in her retirement after serving 39 years as an outstanding educator. As I sat listening to the warm tribute being given Merry, I was certain that my colleagues in the House would want to know about the love and respect which was shown Mrs. Canavan that night.

Merry Canavan has served the parents and children of our community since 1954, first as a teacher, then as a principal of Montpelier Elementary School. She has been a beloved educator and administrator and has brought a finely honed degree of skill and understanding to her profession. As a former teacher, I know how essential early and proper guidance is to the formulation of a child's character. And I know all too well the frustrations dedicated teachers endure in their pursuit of that goal. Merry Canavan possesses in inordinate amounts those wonderful qualities of patience, understanding, compassion, and love. Her gentle guidance has greatly enriched her students and her faculty.

Merry Canavan has been justifiably honored with recognitions and salutes for her countless achievements during an extraordinary career. But, knowing

her as I do, these accolades will be secondary to her joy of knowing that she has opened the door to learning to thousands and has touched the lives of so many children in a most positive way. These are the rewards that Merry will cherish and these are the achievements for which we are so grateful.

Mr. Speaker, please join me in extending to Merry S. Canavan our deepest gratitude for her strength, her commitment, and her gifts to the future of our children.

RESOLUTIONS OF THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION AND THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN COLONISTS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Friday, June 24, 1977

Mr. HEINZ. Mr. President, this spring the National Society of the Daughters of the American Revolution held its 86th continental congress in Washington, D.C., and the National Society of the Daughters of the American Colonists met for its 56th general assembly. During these meetings, delegates from across the United States convened and discussed important issues which concern us all as Americans today.

In the spirit of their ancestors and the Founding Fathers of our country, the Daughters of the American Revolution and the Daughters of the American Colonists are dedicated to strengthening the principles underlying the Declaration of Independence and the U.S. Constitution. They have been outspoken in support of a strong America and in their advocacy of the principles upon which our Nation was built and has grown. During this year's 86th continental congress and 56th general assembly, many of their principles were given form in resolutions adopted by them. So that my colleagues can be aware of the views of these groups, I ask unanimous consent that the texts of several of the adopted resolutions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ELECTORAL COLLEGE AND VOTER REGISTRATION

Whereas a proposal for electoral reform is under consideration by the United States Congress, including election of the President and Vice President of the United States by popular vote, thus abolishing the electoral college; and

Whereas the abolition of the electoral college would prevent the states from having any voice in presidential elections since such elections could be decided by the voters in the larger cities; and

Whereas, the electoral reform also proposes universal voter registration (instant voter registration at the polling place on election day); and

Whereas, universal voter registration is subject to repetitive voting, bloc voting, error, fraud and the expansion of another federal bureaucracy to administer the program;

Resolved, That the National Society, Daughters of the American Revolution, support the preservation of the electoral college as a vital constitutional provision for the rights of the individual states; and

Resolved, That the National Society, Daughters of the American Revolution, oppose universal voter registration, which expands the power of the federal government, preempts states rights, and enlarges federal control of voter qualifications.

TAX REDUCTION AND SIMPLIFICATION, NOT "TAX REFORM"

Whereas taxpayers are burdened with one complicated tax after another, and are faced with tax increases year after year by local, state and federal governments levied upon property, income and estates; and

Whereas incessant changes in tax laws result in uncertainty in personal and business affairs, and hang ominously over plans for the future; and

Whereas taxes, once levied for the purpose of paying the cost of government, have become distorted by a socialistic philosophy of redistribution of wealth; and

Whereas the Tax Reform Act of 1976 has been referred to as perhaps the worst piece of tax legislation ever enacted by Congress, unbelievably complex, replete with ambiguities, traps and injustices;

Resolved, That the National Society, Daughters of the American Revolution, call for tax reduction and tax simplification rather than so-called "tax reform" at all levels of government in order to restore taxation to its original Constitutional purpose so that citizens may regain some control over their lives and the expenditure of their money.

FREE ENTERPRISE

Whereas the free enterprise system, protected by our constitutional form of government, has provided the citizens of the United States of America with the highest standard of living in the world; and

Whereas a free economy is necessary to maintain the basic liberty of a free society; and

Whereas there is a definite relationship between the availability of energy, National Defense, jobs, the standard of living and the strength of the economy; and

Whereas exaggerated environmental claims, resulting in crippling government regulations, have halted constructive and long-range plans for nuclear and other energy production; and

Whereas nuclear energy is the obvious alternative to power generated by fossil fuels and, contrary to the opinion of a small percentage of American scientists, nuclear fuel is safer, cheaper, and nuclear power plants can neither explode nor cause air pollution;

Resolved, That the individual members of the National Society, Daughters of the American Revolution, advocate conservation of our resources and encourage further exploration and development by private enterprise of oil, gas and coal as well as further development of nuclear, solar, and other energy alternatives;

Resolved, That the members of the National Society, Daughters of the American Revolution, reassert their belief in the merits of the free enterprise system and do everything possible to counteract the widespread socialist philosophy which is contrary to the concepts of free enterprise.

TERRORISM

Whereas terrorism, defined as systematic non-governmental acts of violence committed for international or domestic disruption, or for self-aggrandizment, has a major impact on the current system of order; and

Whereas terrorism is increasing in the world through a logical extension of already existing conditions, involving innocent bystanders, civilians and neutral nations, all subject to deliberate attack; and

Whereas as new weapons are developed to make terrorist warfare more destructive, power to disrupt and destroy will be divided among those groups as military power is diffused; and

Whereas with the political and financial costs of conventional war increasing, some nations will sanction guerrilla warfare as surrogate war; and

Whereas the Federal Bureau of Investigation, the Central Intelligence Agency and the police, which have been a vital defense against terrorism, have been severely curtailed in their ability to investigate terrorist acts;

Resolved, That the National Society, Daughters of the American Revolution, as individuals, urge the government of the United States of America to strengthen and expand law enforcement and intelligence agencies so that they can adequately defend the Nation and its people at home and abroad against terrorism conducted by those who have no boundaries, no capital city, no government.

SOVIET STRENGTH OR AMERICAN FREEDOM?

(Proposed by California, Pennsylvania and Minnesota)

Whereas, in defiance of the SALT agreements, the Soviet Union has been striving for superiority and continues to deploy new and more powerful missiles, and

Whereas, the Soviet Union has constructed a massive civil defense shelter program, civilians are being drilled in evacuation and survival techniques, industries are being shielded or dispersed and food is being stockpiled, making the country almost invulnerable to a counter strike, and

Whereas, the recent loss of United States superiority in some areas of defense is due to basing our strategy on the avoidance of war while that of the Soviets is apparently based on winning a war, resulting in an imbalance of strength which may invite the very situation we had hoped to avoid, that of a global conflict, and

Whereas, the Soviet leadership, because of their strengthened missile position and civil defense capability may now believe that Russia could fight a nuclear war and win, be it

Resolved, that the National Society Daughters of the American Colonists as individuals and concerned citizens write the President and their Congressmen requesting a change in policy and a new and more equitable approach to the SALT negotiations, guaranteeing a strong and independent military force capable of preserving our national sovereignity and serving as a deterrent to war.

TELEVISION VIOLENCE

(Proposed by Illinois)

Whereas, there has been an alarming rise of juvenile crime and violent crime in the United States and recent studies indicate there is a relationship between viewing violence on television and changing attitude towards violence in the real world; and

Whereas, the Parent Teachers Association has launched a series of eight public hearings in major U.S. cities and 6½ million members plan to monitor and evaluate TV programs, to boycott products or programs, to contact local stations, network, sponsors, and legislators; and

Whereas, the American Medical Association declares that "TV violence is a mental health problem and an environmental issue" and has asked 10 major corporations to reconsider

their practice of buying advertising on television shows that feature violence; therefore be it

Resolved, that the National Society Daughters of the American Colonists urge its members to support plans of the P.T.A.

FREEDOM OF RELIGION

Whereas, Madelyn Murray O'Hare, whose efforts eliminated Bible reading and prayer from public schools has been granted a hearing by the Federal Communications Commission on her petition to eliminate the proclamation of the Gospel on radio and television, and

Whereas, many elderly people and those in hospitals depend on radio and television broadcasts to fulfill their desire to participate in workship services and if the O'Hare petition is granted, all Worship services will be stopped, and

Whereas, Religious worship is a fundamental freedom as provided for in our Bill of Rights and television and radio are extensions of communication and of freedom of speech, be it

Resolved, that the National Society Daughters of the American Colonists protest this attempt to deny the freedom of worship in our homes by whatever means available and

Resolved, that the members of the National Society Daughters of the American Colonists make their wishes known to the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C., 20036 in opposition to the O'Hare petition R.M. 2493.

CONTINUATION OF THE BICENTENNIAL

(Proposed by Indiana, Tennessee and Ohio)

Whereas, the members of the National Society Daughters of the American Colonists in this Third Century of our Nation's Independence proudly acknowledge our debt to our Founding Fathers for our splendid heritage, and

Whereas, during our Bicentennial Year much excellent historical material was promoted on television, in the arts and theatre and in magazines and newspapers, resulting in a resurgence of patriotism and pride in our ancestry, and

Whereas, many of these programs encouraged civic efforts to combat crime, to restudy our priorities and to work together in a renewed community spirit for the common good, be it

Resolved, that the National Society encourage the communications media to continue emphasis on historical programs and appreciation of our heritage, and

Resolved, that as citizens we will dedicate ourselves to the continuation of good community programs initiated during the Bicentennial Year, so that as we look back on our goodly heritage of freedom we may look forward as we enter our Third Century to prosperity, the pursuit of happiness and "one Nation under God."

PERSONAL ANNOUNCEMENT

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. CARR. Mr. Speaker, I regret that I was unavoidably absent yesterday during rollcall No. 375, the final passage of the foreign assistance appropriations bill. Had I been present I would have voted "nay."

THE SHIRT OFF YOUR BACK ISN'T ENOUGH

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. CRANE. Mr. Speaker, the tax burdens upon the American people are already staggering. We work nearly 4 months each year just to meet our fiscal responsibilities to local, State, and Federal governments. During his campaign for the Presidency, Mr. Carter repeatedly stated that the current tax laws were a disgrace to the human race. It has now become clear that his formula for correcting this intolerable situation is to raise taxes on virtually everything, from social security through the family car. Tax and tax, spend and spend is our national motto.

Now we are faced with a colossal insult to add to the financial injuries inflicted by Government. Our new IRS Commissioner, Jerome Kurtz, has floated forth the idea that taxpayers themselves identify any deductions which could be construed as spurious, under pain of prosecution. In a speech delivered in Los Angeles on May 24, Commissioner Kurtz suggested that "taxpayers . . . should be required to report 'questionable' deductions." He further stated his belief that the American taxpayer was playing "audit lottery" and burying unlawful deductions deep within his tax return. Mr. Kurtz also complained that it is difficult for revenue agents to spot such dubious deductions, although he did not elaborate on what they are paid to do other than to spot such illegalities.

I have been informed that the Commissioner wishes to have discussions on his proposal and I believe that every American should write the Commissioner and tell him exactly what he can do with his absurd proposal—one which is an assault on our privacy and our constitutional guarantees.

Mr. Nicholas von Hoffman has written a most persuasive column on Mr. Kurtz's threat to our liberties, and I ask that it be reprinted for my colleagues to read:

THE SHIRT OFF YOUR BACK ISN'T ENOUGH

(By Nicholas von Hoffman)

WASHINGTON—Here is a new name to worry you: Jerome Kurtz. Kurtz is the new head of the IRS, succeeding Donald Alexander who fulfilled that function under Nixon-Ford.

But if Kurtz is a different name, his game is the same.

Every outstanding tax commissioner must come up with a new wrinkle to enrich the certified public accountants and the parasitical members of the bar specializing in tax matters. Kurtz, in office barely two months, has proposed a plan truly in the fiendish tradition of the service over which he presides.

Taxpayers would be required under pain of law to disclose any gray-area claims for deductions which the IRS might feel could be legally disputed. Under any sane system, of course, the IRS would be required to write its manual in such clear and simple language that there would be no gray areas.

These "I'm-doing-it-but-I'm-not-sure-I-should" statements which would have to be attached to one's income tax returns are a particularly hellish form of self-incrimination. You are asked to brand everything you do as potentially illegal so that Kurtz and his collaborators in this sad work can paw through these expensively prepared papers and pounce on those which appeal to them.

Kurtz would only require these blind confessions of guilt which will subsequently be asserted to be illegal of the "wealthy, sophisticated" taxpayer—however they may be defined.

The anger, not only over tax rates but the sadistic way taxes are collected and the arrogance of the tax collectors, isn't confined to America. There is such bitterness in Sweden that major national figures like Ingmar Bergman and Bjorn Borg have hied themselves off to places that know the difference between taxing enterprising men and women of accomplishment and dunning them into paralytic fury.

Nor is England, the mother of our own democracy, more able to collect its taxes equitably and amiably. "The revenue of this country is now largely raised by a system of random forays, backed by threats of violence, blackmail and usurpation, inspired by the personal animosities of the Revenue men concerned," writes Auberon Waugh in the London Spectator.

He quotes Cyril Plant, the former head of the Revenue Staff Federation, the union of English tax gatherers, as saying, "with all the means at our disposal we must destroy the capacity to pursue self-employment." Obviously Kurtz and Plant, although separated by an ocean and a common language, are two frighteningly congenial souls.

Waugh believes that neither Plant nor Kurtz nor their subordinates would act in this fashion if they weren't so secure in the knowledge that they are safe in the enjoyment of home, family, and social life. Waugh proposes that delegations of the self-employed and other victims of the tax collectors' malice make home visitations to remonstrate and admonish Revenue agents.

He furthermore proposes that their names and addresses be widely circulated, although he adds, "I can't bear the thought of anything beastly happening to the kiddies at school, but fortunately other children do not suffer from these squeamish inhibitions. . . . Since the law now provides no protection, the time may soon arrive—oh dear—when people may wonder whether the obstinate weeds in certain neighbors' gardens would be cured by a wholesale application of sodium chlorate; whether their fire control systems need testing; whether their wives and daughters need a taste of female liberation; whether their marital bed might be improved by the artistic disembowelment of their pet Sealyham on the pillow. I hope not—oh dear, I do hope not."

I hope not too, don't you?

F–14 AUTHORIZATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. LENT. Mr. Speaker, I wish to call to the attention of the House an inadequacy in the defense authorization bill. I refer to the slowdown in the procurement of the F–14 fighter aircraft. This slowdown will result in a shortage of fighter and reconnaissance aircraft in the 1980's. Such a shortage could have serious consequences for the capability of our military to adequately provide for

the national security and to meet our worldwide defense obligations. In addition to a shortage of airplanes, the reduced production authorized in the legislation now before us will reduce substantially any possibility for production economies of scale with their attendant cost savings. Indeed, there may be cost increases because the service lives of existing aircraft will need to be extended.

In addition to impacting upon the military, this slowdown will impact on the Long Island economy, and particularly the nearly 5,000 employees of Grumman Aerospace who will be directly affected by the conference committee's action. It is, unfortunately, just another instance of shifting jobs out of the hard-pressed Northeast to other regions of the country.

DEFENSE ECONOMIC DEVELOPMENT AND RECOVERY ACT

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. RUPPE. Mr. Speaker, today I am introducing the "Defense Economic Development and Recovery Act," legislation to address the needs of those regions which have been severely impacted by the closure or realinement of major installations.

This bill is born out of an unfortunate, but not unique, situation in Michigan's eastern upper peninsula, a part of my congressional district. There, Kincheloe Air Force Base, a Strategic Air Command facility, has been designated for closure by the Secretary of the Air Force. I would like to share with my colleagues this specific case in order to point out the need for the bill I am introducing, a need that exists not only in northern Michigan, but wherever major military installations are being closed or realined.

The Kincheloe closure, a process due to begin this summer, could devastate the surrounding communities. The Department of the Air Force's own environmental impact statement suggests the grim impacts: The 3,811 servicemen and civilian employees at the base who will be leaving could bring about a 24-percent population loss in the impacted area; there will be a 21-percent loss of school age population; a 13-percent drop in retail sales is expected; payroll in the surrounding region will be cut by 22 percent; the housing market will experience depression levels, specifically a 14-percent vacancy rate; most staggering of all, the Air Force projects an overall unemployment rate of 43.4 percent in the impacted area.

Chippewa County, the area primarily affected by the closure of Kincheloe, presently does not enjoy a robust economy, even with the presence of the base. Beyond a thriving State college and a seasonal tourist economy, the county enjoys very little in the way of an industrial base upon which community leadership can build. In short, the area surrounding Kincheloe Air Force Base will have to undertake a massive and comprehensive redevelopment effort.

The condition I have described in my district is but one example of the social and economic problems posed by major base closures and realinements. In 1977, a total of five major military installations will be closed by the Department of Defense and one base will be realined downward. Furthermore, it has been reported that the Carter administration is looking ahead to another round of base closures in the next few years.

Thus the desperate, immediate need for the legislation I am introducing today. Its purpose is to target a reasonable amount of Federal financial assistance—10 percent of the estimated 10-year savings achieved by the closure of a major military installation—to those communities which bear the brunt of a base closure or realinement. My bill lays down the policy that as Federal Government financially benefits from a decision to close down a base, then it should also help the regions affected meet the terribly expensive social and economic adjustment costs incurred by them.

My bill also provides that the costs should be met in part by a productive, job-creating program, and not solely by the unemployment benefits and welfare payments which inevitably are necessitated by a base closure. Specifically, the act calls upon the Secretary of Defense to make available the 10 percent of 10-year savings in the form of grants, by funding local assistance applications which meet the following criteria:

First. The grants must be used to improve opportunities for the establishment or expansion of industrial or commercial activity in the impacted area.

Second. The grants must be used in the creation of new long term jobs in the impacted area.

Third. The grants must otherwise alleviate specific economic problems in the community which limit the effective economic recovery from the base closure or realinement.

Under this bill, the Secretary of Defense has authority over the fund, but applications for grants are made through existing Federal agencies and departments. This arrangement, for which there is precedent in Public Law 93-552, eliminates unnecessary administrative duplication and paperwork. At the same time, it gives the Secretary the flexibility to use these funds to supplement grants which impacted communities have received independently from other agencies, in those cases where the communities are not able to match the grants with the required local share.

This legislation also provides for local accountability by requiring annual reports on the expenditure of the grant funds. Finally, it encourages the kind of comprehensive planning which is necessary to assist regions recover from the economic dislocation caused by major base closures or realinements.

Mr. Speaker, many of my colleagues—particularly those who have never gone through the loss of a major military installation—may ask if the Government does not already have programs in place which can be of assistance in these situations. Superficially, the answer is "Yes," but a quick review indicates that these programs are entirely inadequate.

In the wake of the announced closure of Kincheloe Air Force Base, I have been in constant contact with the Defense Department's Office of Economic Transition—the Federal office that has been assigned to coordinate the Government's effort to assist impacted communities following base closures. I am impressed with the small OEA staff's interest in providing assistance. However, as these staff members themselves will candidly admit, the aid they can provide is limited to $20,000 to $30,000 for a very general consultant's study and some staff advice, including a local seminar, describing which Federal agencies may be able to provide funding assistance to local communities as they seek to carry out their redevelopment plans. In other words, the Office of Economic Adjustment cannot provide any comprehensive redevelopment planning aid, much less follow up with direct loans or grants to help get an impacted area back on its feet.

Of course, there are a number of categorical grant programs—title IX of the Economic Development Act is one example—which are available to communities hit by the closure of a base. However, these programs are not tailored exclusively for these communities; and, as with nearly all of existing categorical programs, the competition for the funding is fierce, resources are limited, and the application process is depressingly long and unwieldy.

The need for a better Federal response to the closure or realinement of military bases has long been recognized, and my proposal to deal with the problem is nothing new. As a matter of fact, in its April 1976 report, "Defense Manpower: The Keystone of National Security," the President's Manpower Commission reviewed this issue and offered the following recommendation:

Economic adjustment funds should be identified as a percentage of the dollars projected for savings from base closures or other realinements, and used toward the restoration of the economic health of impacted communities.

Recently I have met with a representative of the Carter White House to discuss this lack of adequate Federal response in cases of major base closures. At that meeting, I was assured that the Carter administration also recognizes the problem. In fact a working group attached to the President's Domestic Council currently is assessing what actions should be taken to strengthen the role of the Office of Economic Adjustment in assisting regions such as Michigan's eastern upper peninsula.

In coordinating with the White House effort, my legislation is designed to give the administration the tools it needs to upgrade the status of OEA and make specifically available to communities a reasonable amount of funding with which they can begin to rebuild after loss of a major military installation.

Mr. Speaker, I believe that this legislation makes good sense. Fiscally, it is a bargain. Ten percent of the 10-year savings that a base closure will bring to

the Government is a modest return to the impacted communities. Furthermore, this desperately needed funding will go toward the rebuilding of a productive economy rather than merely maintaining the unemployed victims of a base closure on the unemployment or welfare rolls. Finally, this legislation would, for the first time, signal to areas impacted by base closures that the Government is willing to target a part of its cost savings to the regions which have supported military installations and are now being asked to bear the full burden of their loss.

Mr. Speaker, I would like to close my remarks by inserting into the CONGRESSIONAL RECORD the text of the Defense Economic Development and Recovery Act. I strongly urge my colleagues to review the bill and lend their support to this legislative effort. This bill is long overdue, and yet it addresses a present and future need that will grow as the Defense Department cuts back the number of its base installations.

A bill to provide that a portion of the savings which are realized by the Department of Defense as a result of the closure or realignment of a military base in a community shall be returned to the community for economic recovery and adjustment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Defense Economic Adjustment and Recovery Act".

ESTABLISHMENT OF GRANT PROGRAM

SEC. 2. (a) To assist local communities in recovering from the adverse economic impact of military base closures, the Secretary of Defense (hereinafter in this Act referred to as the "Secretary") shall establish a program to make grants in accordance with this Act to units of local government in any area the economy of which is adversely affected by the closure or major realignment of a military base.

(b) The Secretary shall determine within 180 days after the closure or realignment announcement the unit or units of local government eligible to receive a grant under this Act with respect to the closure or realignment of a particular military base. In making such determination, the Secretary shall take note of areas identified in the final environmental impact statement filed with respect to such base closure under the National Environmental Policy Act of 1969 as being areas the economies of which are adversely affected by such closure.

(c) The Secretary of Defense shall carry out the provisions of this section through existing Federal programs. The Secretary is authorized to supplement funds made available under such Federal programs to the extent necessary to carry out the provisions of this section, and is authorized to provide financial assistance to communities described in subsection (a) of this section to help such communities pay their share of the costs under such programs.

(d) The heads of all departments and agencies concerned shall cooperate fully with the Secretary of Defense in carrying out the provisions of this section. The Federal agencies shall give priority attention to applications from authorized defense impact areas for priority funding within their annual agency appropriations.

APPLICATIONS; ECONOMIC RECOVERY PLAN

SEC. 3. (a) There shall be included as part of any application submitted under subsection (c) of section 2 a comprehensive local economic recovery plan developed by the unit of local government submitting such application. Such plan shall describe the steps being taken or planned to be taken by the local community to recover from the economic impact of the closure and shall include a detailed description of the programs for which the grant will be used. For the application to be approved, the Secretary must find that such use will—

(1) improve opportunities for the establishment or expansion of industrial or commercial activity in the community;

(2) creation of new jobs in the community; or

(3) otherwise alleviate specific economic problems in the community which limit the effective economic recovery from the base closure or realignment.

(b) Eligible units of government may submit an application or applications to the Secretary through the cooperating department and agencies in subsection (c) of section 2 at any time after the final closure announcement.

(c) The Secretary shall review and act upon applications submitted by eligible units of government within 90 days of the date of submission.

AMOUNT OF FUNDS

SEC. 4. (a) The amount of funds made available under this Act with respect to the closure or realignment of a military base shall be ten percent of the total projected savings to be realized by the Department of Defense in the first ten years after the closure or realignment of such military base, as determined by the Secretary at the time of final announcement of such closure. In making such determination, the Secretary shall take note of findings in the final environmental impact statement filed with respect to such closure under the provisions of the National Environmental Policy Act of 1969.

(b) The Secretary of Defense shall submit annually such budgetary requirements for community economic adjustment and recovery, separate from the normal appropriations of the Department of Defense.

(c) The funds authorized to be appropriated shall be available for a period not to exceed 10 years.

ANNUAL REPORTS

SEC. 5. (a) Any unit of local government receiving a grant payment under this Act for any fiscal year shall, not later than 90 days before the end of such fiscal year, submit a report to the Secretary concerning the progress of the local community in recovering from the effects of the base closure and the purposes for which grant money received under this Act was used during such fiscal year. The report shall include—

(1) a revision of the comprehensive local economic recovery plan included in the application submitted under section 3; and

(2) a statement of all expenditures of grant money received under this Act during such fiscal year.

(b) If the Secretary finds that a report submitted under subsection (a) for any fiscal year discloses that the use during such fiscal year of grant money received under this Act by the unit of local government submitting such report was not consistent with the purposes of this Act, the Secretary may suspend any remaining grant payments and terminate grant application eligibility under this Act to such unit of local government until the Secretary receives satisfactory assurances that the use of such grant money in the future will be consistent with the purposes of this Act.

REGULATIONS

SEC. 6. The Secretary shall prescribe general regulations covering the eligibility of units of local government for grants under this Act, the order of priority in approving applications, the terms and conditions for approving applications, determinations of the amounts of grants, and such other regulations as he finds necessary to carry out the provisions of this Act.

DEFINITIONS

SEC. 7. For purposes of this Act: (a) The term "military base" means any camp, post, station, fort, base, yard, facility, or other installation under the authority of the Department of Defense—

(1) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(2) at which there are authorized to be employed not less than 500 direct-hire or contracted permanent civilian employees of the Department of Defense or at which the total military and civilian personnel loss constitutes more than 2 percent of the total military and civilian work force for the impacted area.

(b) The term "unit of local government" means, a general purpose unit of local government or other subdivision of a State designated for the purposes of achieving economic recovery in the area impacted by a base closure or realignment.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated, beginning in this fiscal year 1979, such sums as may be necessary to carry out the purposes of this Act.

EFFECTIVE DATE

SEC. 9. This Act shall apply with respect to the closure or realignment of any military installation which is first officially announced on or after January 1, 1977.

USE OF FEDERAL FUNDS IN ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. YOUNG of Alaska. Mr. Speaker, today's youth are getting involved in Government and learning the working of Congress. In the last Alaskan American Legion Auxiliary's Girls State there were meaningful resolutions passed by these outstanding young women.

Out of deep concern for their home, Alaska, they adopted a resolution concerning the management disposition of the D–2 Federal lands.

I wish to introduce their resolution into the CONGRESSIONAL RECORD. The concern expressed by these young people is a concern shared by all Alaskans for the future of our State lands:

JOINT RESOLUTION No. 5

Be it resolved by the Legislature of Girls' State 1977:

Whereas, the future of Alaska is inexorably tied to the use of Federal lands in Alaska; and

Whereas, Alaska has traditionally used Alaska's Federal lands for a variety of purposes including, but not limited to, recreation, subsistence and sport hunting and fishing, mining, agriculture and timber harvest; and

Whereas, Congress is now considering the future of 80 million acres of land withdrawn from study pursuant to Section 17(d)(2) of the Native Claims Act as potential additions to the National Park, the National Wildlife and Refuge, the National Forest and National Wild and Scenic River Systems; and

Whereas, The Congressional decision on the use of these lands will greatly affect Alaska and Alaskans; now, therefore,

Be it resolved by the Legislature of Girls State 1977 That Alaska Girls State urges the U.S. Congress to place Alaska's D–2 lands in a system or systems which allow and promote flexible management to insure that Alaska's lands are protected but will also provide the opportunity for appropriate development of resources contained in these lands; and be it

Further resolved, That a copy of this resolution be sent by the Secretary of the Alaska Girls State Senate to the Honorable Senator Ted Stevens, the Honorable Senator Mike Gravel, the Honorable Congressman Don Young and the President of the United States.

FEDERAL TRADE COMMISSION ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. BROYHILL. Mr. Speaker, the House will shortly begin consideration of H.R. 3816, amendments to the Federal Trade Commission Act. Frankly, I have grave doubts as to whether this legislation should be passed in its present form. Briefly stated, the bill would cut back on the opportunities a company would have to challenge FTC subpenas, thereby overturning several court cases on point. It would also increase the number of courts in which the FTC could file enforcement actions while cutting back on the number of places in which a company could file an appeal of an FTC order. In other words the FTC could "forum shop" but a private party could not. Further, it would allow the FTC in certain instances to ask a court to appoint a trustee to run a company if the FTC believes that the company is about to violate the FTC Act. Finally, it would give private parties the right to enforce the FTC Act by filing class action lawsuits. These suits could be brought under more relaxed rules than those governing other class action suits as set out in the Federal Rules of Civil Procedure. These additional authorities would be in addition to the rather significant authorities we recently granted the Commission in the Magnuson-Moss Act. I was pleased to see that the prestigious Journal of Commerce shares my concern about this legislation. Some of these concerns were discussed in a June 16, 1977, editorial which I want to share with my colleagues. The editorial follows:

FTC: A SUPERFLUOUS MISSION?

Throughout much of its 63-year history, the Federal Trade Commission shared with the antitrust division of the Department of Justice the assigned task of protecting the smaller forms of business and the public generally against the predatory practices of trusts and monopolies.

A 1914 creation of the Wilson Administration and Congress, it acted largely as an informational clearing house on anticompetitive trends in the economy, producing voluminous studies, but otherwise maintaining a fairly low silhouette until Congress empowered it to move against "deceptive" and "unfair" business practices 14 years later.

Widely known as a safe berth for deserving political figures, FTC annoyed Congress by its glacial slowness and its lack of zeal even after 1938. During the 1950s, Congress tried again, strengthening the commission's authority still further. By 1968, FTC was drawing an intense critical fire from Ralph Nader and his associates, who charged its policymakers were "simply incapable." Then the Nixon Administration moved in and things did change markedly.

Whether they changed for the better is a question that has been under occasional debate on Capitol Hill for the past two years. For starting in 1970, under two chairmen appointed by President Nixon, FTC quickly became an extremely activist force dedicated primarily to the cause of consumerism.

It is by no means the only federal agency dedicated to that particular cause, but its aggressive, youngish staff is determined that it shall not be rated second to any other in terms of its zeal. The old case-by-case approach to the broader problems of concentration in industry, and the reliance on cease-and-desist orders have given way in considerable measure to "affirmative actions" and to mandated refunds or corrective advertising in specific cases.

The 1973 statute, sponsored by Sens. Warren G. Magnuson and Frank E. Moss, gave FTC sharper teeth by formally affirming the commission's authority to issue binding trade regulations. But not all of FTC's policymakers or liberal legislators on Capitol Hill are satisfied that the commission's teeth are sharp enough yet.

Many seem convinced that they're not. Thus, half lost in a wider move to reform all regulatory agencies, are two bills (H.R. 3816 and S. 1288) to prod FTC into a stance that, while seemingly proconsumer, is actually antibusiness. As matters stand today, the commission does not need much prodding in this direction, though its supporters think it needs more authority to crack down on what it considers wrongdoers.

The object of these bills is to stiffen dramatically fines imposed on firms failing to respond to FTC inquiries, restrict the scope of the commission's appeals against court decisions on cease-and-desist orders, and curb "forum shopping," under which the commission can seek out the most lenient court for its appeals.

More significantly, the bills would quash 1974 and 1975 court decisions which, by barring third-party intervention in commission rulings, excluded consumer groups from the picture. Under the proposed legislation, individuals and groups feeling they have been harmed by violations of FTC orders would be authorized to sue for damages via class action suits.

Moreover, FTC would itself be empowered to intervene in such suits. Ordinarily that might not seem too ominous. There would always be a chance the commission might intervene on occasion in behalf of a defendant. But any businessman assuming that the present agency might do so on behalf of his own company would be assuming a lot.

"Citizen access" to FTC and "consumer participation" in it are phrases that sound all well and good in the abstract, and might even sound better if balanced by a congressional dictum that "business access" and "business participation" in the agency ought also to be embodied in any revised law.

But nobody is suggesting that, of course. In fact, the whole tenor of pending legislation is directed at ridding FTC of any vestige of business influence, whether real or imagined. In other words, an agency created for one purpose 63 years ago would be converted into quite another, performing the same consumer protective functions that countless other agencies are now performing, well in advance of the proposed Department of Consumer Affairs.

YOUTHS WITHOUT JOBS

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. MURPHY of Illinois. Mr. Speaker, I have become increasingly concerned about the problem of youth unemployment. This problem is not confined to the United States. Other countries, such as Japan, Canada, Australia, Italy, Germany, and Great Britain have all witnessed a dramatic increase in their youth unemployment rates. The problem is so great among the industrialized nations that they recently decided to "exchange experience and ideas" on youth joblessness at the London economic summit conference.

While there are no simple solutions to the problem of youth unemployment, a number of countries have decided to initiate "job subsidy" programs as a way to create jobs for young people. These programs reimburse employers for the cost of giving young people on-the-job training.

Some people believe the United States should launch a "job subsidy" program of its own. Others suggest that the Government sponsor more job training programs.

While there are several courses of action that can be taken to combat youth unemployment, the best one is to revive our economic growth. Unless an economy can create jobs for new people entering the job market unemployment—particularly among young people—will be high.

Mr. Speaker, I would like to draw my colleagues' attention to an article I have written on the subject of youth unemployment. The article appeared in the Calumet Index on June 15, 1977:

YOUTHS WITHOUT JOBS

(By Representative MORGAN MURPHY)

The "baby boom" of the late 1950s and early 1960s has turned into the job bust of the 1970s.

That is the brutal fact that millions of young Americans are facing today as they hunt for work. For the "baby boom" generation has come of age, and it has entered the job market at a time when our economy is just coming out of its recession. Tragically, America's sluggish economy has not created enough jobs for the "baby boom" generation to fill.

The problem of youth unemployment is not peculiar to the U.S. Japan, Canada, Italy, Germany, and Great Britain have also witnessed a dramatic increase in their youth unemployment rates. According to a recent Time magazine article, millions of unemployed young people in the U.S., Canada, and Europe have taken up the occupation of "hanging out." They drift in and out of poolrooms and bars and aimlessly wander the streets in search of something to do. The problem is so great among the industrialized nations that they recently resolved to "exchange experience and ideas" on youth unemployment at the London economic summit conference.

No wonder. Some 40 percent of the unemployed in the world's 23 richest nations are under 25 years. This figure is all the more disturbing when one realizes that young people comprise only 22 percent of the overall population.

The U.S. situation is as grim as that of many other Western countries. While total employment has been declining in recent months, unemployment among teenagers has actually risen. The Labor Department reported that the teenage jobless rate in March reached 18.8 percent, a figure approaching levels at the peak of the recession. Among teenaged blacks, unemployment increased almost three percentage points—to a distressing 40.1 percent.

Why is it so hard for young people to find jobs? Besides the crucial "baby boom" factor, a number of reasons have been cited: (1) Employers are hesitant to train and hire inexperienced workers. (2) Job training programs for youths are inadequate. (3) Increasing numbers of women are entering the job market. (4) Many college-educated youths will not take jobs they consider to be menial or unchallenging. (5) Governments are reluctant to create public works jobs for fear of heating up inflation.

While there are no simple solutions to the problem of youth unemployment, a number of countries have decided to initiate "job subsidy" programs as a way to boost youth employment. These programs reimburse employers for the cost of giving young people on-the-job training. For instance, Great Britain pays employers $17 per week if they will train young persons over a 26-week period.

Some people believe the U.S. should launch a "job subsidy" program of its own. They feel this would provide the necessary incentive to employers who are reluctant to invest time and money in less experienced workers.

Others suggest that the U.S. sponsor more job training programs. While job training programs are sometimes useful, they are frequently unhelpful because no jobs exist for trainees to fill. This is why public works or "job subsidy" programs are essential if training programs are to succeed.

Training programs, of course, cannot help those young people who find themselves overqualified for most of the available jobs. College graduates in the U.S., Italy, and Britain find it increasingly difficult to land jobs in fields already glutted with applicants. This frustrating situation has touched off violence in Italy, where students have rioted to protest the scarcity of jobs available to college graduates.

Although there are several courses of action that can be taken to combat youth unemployment, the best one is to revive our economic growth. Unless an economy can create jobs for new people entering the job market, unemployment—particularly among young people—will be high. President Carter's economic stimulus package, which contains a $34 billion tax cut and a $4 billion public works program, will play a key role in stimulating our needed economic growth.

Whatever the answers are to youth unemployment, it is clear that the problem cannot be ignored. It is said that "the devil finds work for idle hands"—if so, an attack on unemployment will help our nation avoid social and political disorder. But more than that, America owes its young people the chance to carve out a future of their own with meaningful and productive jobs.

KWANZAA PRESENTS SUMMER CONCERT

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mrs. SPELLMAN. Mr. Speaker, for the past 2½ years, a unique group of individuals in Prince Georges County has devoted a large part of its time and effort to promoting the beauty and richness of the black cultural experience. The name of this organization is "Kwanzaa," a Swahili word meaning "first," and it is composed of approximately 30 enlightened citizens who understand the importance of instilling among their neighbors of all races an awareness of the special heritage of the American black community.

Founded in 1975 by Rosebud Brooks who, incidentally, is a very valuable member of my staff, Kwanzaa is divided into five sections, each representing a specific aspect of black art and history: Music, dance, visual arts, drama, and black historical experience. Kawanzaa has presented concerts throughout the Washington metropolitan area, including the University of Maryland, the Maryland State House, the Capital Centre, D.C. Teacher's College, Lorton Penitentiary and, I am proud to say, at a reception I held at the Cannon House Office Building. These concerts consist of works indigenous to black culture and anyone lucky enough to have been present at a Kwanzaa performance comes away truly amazed by the beauty, variety, and richness of this ethnic art form.

Anyone who has attended one of these concerts is amazed to learn that Kwanzaa is composed entirely of amateur performers. Its members include college students, teachers, business executives, nurses, policemen, chemists, and so forth. Yet, they all share a common bond—a strong belief that the heritage of a people is the key to their future and, a commitment that the heritage must be kept vibrantly alive.

This Sunday evening, June 26, Kwanzaa will be presenting its 1977 summer concert. It will be at the Largo Student Center, Prince Georges County Community College. During this performance, the members of Kwanzaa will be presented with official citations from Maryland State Delegate Decatur Trotter for outstanding community service—well-deserved recognition for their unique efforts to promote better community relations. I am sure my colleagues in this Congress would want to join me at this time in extending our warmest congratulations and deepest gratitude of the members of Kwanzaa for their assistance in restoring to a large number of Americans that sense of pride which they have derived from a growing awareness of their rich and special heritage.

DECONTROL OF NATURAL GAS WILL REDUCE PRICES TO CONSUMERS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. KEMP. Mr. Speaker, the Committee on Interstate and Foreign Commerce is currently considering a proposal to eliminate Government price controls on new natural gas, which have been in existence for the past 23 years. The vote on this proposal is expected to be very close—perhaps within one or two votes either way.

I believe that there are many Members who possibly agree that decontrol will increase supplies of natural gas, but who fear that such a move may result in higher prices for consumers. The following article from the Wall Street Journal, however, points out that this may not necessarily be true.

Because of high amortization costs and lower gas supplies, pipeline companies have been forced to raise gas transmission costs dramatically in recent years. This cost has been passed on to the consumer by utility companies. But if there were increased supplies of natural gas, transmission companies would be able to charge a lower unit price. This saving could then be passed on to consumers.

Of course, in the long run—perhaps 2 to 3 years—the price of natural gas at the wellhead would certainly drop if there were deregulation, as new supplies came into existence and competition increased. This, combined with savings on transportation, will surely reduce retail gas prices, and at the same time eliminate shortages and use of more expensive alternatives, such as synthetic natural gas or imported liquid natural gas.

The article follows:

CHEAP GAS FOR BROOKLYN

We see The Energy Policy Task Force, an umbrella consumer group, was not only "extremely disappointed" but "flabbergasted and stunned" by the U.S. Court of Appeals decision on natural gas. The court last week upheld the Federal Power Commission's decision to lift the regulated price of natural gas on the interstate market to $1.42 from 52 cents.

We're sorry the consumerists are crestfallen; Mr. Nader, no doubt, had a sleepless night, worrying that prices and profits will now jump and the little guy will get stuck with even higher heating bills. But if the consumerists bothered with a little homework, they'd discover that the court decision is the best thing to happen to the natural gas customer in years. Thanks to the decision, customers will have more gas. Not only that, but many of them will pay less for it. Under the deregulation they would pay less still.

Yes, it sounds like a free lunch, having the wellhead price of natural gas rise, yet having the cost to the consumer fall. But a lot happens to a cubic foot of natural gas from the time it enters the pipeline in Texas or Louisiana until it burns under a frying pan in Brooklyn. When the Brooklyn customer pays his gas bill, only 20 percent of it goes to buy gas. With the other 80 percent he buys pipelines. Whether his bill goes up or down depends principally not on the cost of gas but on whether the pipelines operate efficiently.

Consider. The price paid at the wellhead averages 45 cents per thousand cubic feet (mcf). The Brooklyn Union Gas Co. charges its residential customers $3.38 per mcf for heating and cooking and $5.78 for only cooking. Just four years ago, when the average wellhead price was 25 cents, Brooklyn Union was charging $1.72 and $3.42 for comparable services. Thus while the wellhead price went up by only 20 cents, the cost at retail went up by $1.66 and $2.36.

The reason for this lies mostly in pipeline costs. In the U.S. there's about $40 billion worth of pipeline on which principal and in-

terest has not been paid. The pipeline companies, regulated by the FPC, are permitted to charge enough to pay off the debt, along with operating costs and a small profit. Say gas costs 52 cents, and the pipeline is being amortized at 10 percent a year. If only one cubic foot of gas moves through the system, the customer at the end will pay $4,000,000,000.52. If two cubic feet move through the system, the retail price plummets to $2,000,000,000.52.

The point is that if the pipeline is not full, each cubic foot bears a higher transmission burden. In 1973, the pipeline was full. Now, because it was against the law for the pipeline company to pay more than 52 cents and nobody would sell gas at that rate, the pipeline supplying Brooklyn Union runs half empty. The cost goes from 50 cents per mcf to $1.00 per mcf for all the pipeline customers. Brooklyn Union has its own pipeline network to pay off and must, in the same fashion, spread these charges over an underutilized distribution system.

Then too, it gets colder in Brooklyn, and when winter comes and there is no extra gas in the pipeline, Brooklyn Union must kick in its synthetic gas plant. Last year about 12 percent of the gas Brooklyn Union's customers burned was synthetic, which costs $4 per mcf to produce. Some New England utilities paid as high as $6 per mcf for peak-period gas, because the pipeline supplying them was not permitted to pay more than 52 cents. These high costs, of course, are rolled into the price of the gas under the frying pan.

Is it any wonder that Brooklyn Union Gas Co. is passionately in favor of new-gas deregulation, although it knows the wellhead price its supplier pays must rise? It believes, as do we, that higher prices will bring on new supplies of gas to keep the pipelines full, end the wholesale use of $4 synfuel, and other things being equal, provide a lower price at retail.

In 1975 Arthur Young & Co. studied these costs for the state of Oklahoma. It found that without new supplies resulting from higher prices, Brooklyn Union's 1980 price would be $4.45 per mcf. But if the pipeline were kept full with new gas costing $2.50, Brooklyn Union's retail price would be $3.98. If new gas came in at $1.50, the retail price would be $3.31.

Though the whole country will benefit from these efficiencies, the effect on retail prices for each region depends on how much pipeline they must pay for. Higher wellhead prices would probably mean higher retail prices for some sunbelt customers close to the gas, but the Northeast would clearly benefit. Deregulation of new gas would truly be a free lunch for New England, New York and the Atlantic States, and especially for their financial hub, New York City. Why is it, then, that the politicians of this region are against the idea? Only Mr. Nader knows.

ANNIVERSARY OF THE BATTLE OF KOSOVO IN SERBIA

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. ANNUNZIO. Mr. Speaker, June 28 is the anniversary of the Battle of Kosovo, an event of tremendous significance to those of Serbian descent in America and indeed all over the world.

Serbia was one of the first Christian nations to be brought under the influence of Moslem Turkey in its centuries-long expansion into Europe and the Battle of Kosovo in 1389 marks the beginning of the Serb's 500-year struggle to maintain their language, religion, and cultural heritage despite the position of Serbia as a battleground for Turkish, Austrian, and later, the Russian Empires.

While the Battle of Kosovo was fought on June 15, 1389, its anniversary is June 28 under the Gregorian calendar. On this day, the kingdom of Serbia collapsed as Turkish attacks proved to be too strong for the Serbian forces. The battle took the life of the Serbian Czar Lazar I, as well as the flower of the Serb aristocracy. The sultan of Turkey was also killed by the Serbian knight, Milosh Obilich, and these events are memorialized to this day in Serbian national song and folklore.

Since the end of World War I, Serbia has been a part of what is now known as Yugoslavia. However, it was not until 1929 that complete unification took place with such diverse ethnic groups as Croats, Slovenes, and others joining together to form a single nation. After 1945, the monarchy was abolished and Communist domination of Yugoslavia was established. Unfortunately, the official observance of the anniversary of the Battle of Kosovo has been banned by the Yugoslav Government. Nevertheless, this historic date remains alive in the hearts of Serbs everywhere.

I extend my greetings to the Serbian-Americans on this anniversary who live in my 11th District of Illinois and all over this country, and send them my best wishes for the preservation of their culture, their sense of community, and for the achievement of their national aspirations.

Mr. Speaker, the Serbian Democratic Forum, published by the Serbian National Committee, has printed Milan Rakic's poem "Simonida," one of his Kosovo cycle of poems. Milan Rakic was one of the three most loved and best known Serbian poets of the first half of the 20th century, and his poem follows along with an explanation of its background:

"SIMONIDA"

(By Milan Rakic)

They have stabbed out thine eyes, beautiful image;
Once of an evening on a marble slab,
Knowing that no one would witness the pillage,
A heathen with a knife thine eyes did stab.

But neither thy mouth, nor thy noble face
To defile with his hand did he dare,
Nor the golden crown, nor the queenly lace
Under which lay thy luxurious hair.

Today in the church on the tall pilaster
Bearing serenely thy horrible plight,
Dressed in thy robe of mosaic and lustre
I look at thee sad, and solemn, and white.

Like the stars extinguished in a distant past
Which yet send to men their luminous glow
So that men can see the light, color and cast
Of stars lost to sight a long time ago.

So on me today, from thy regal height,
From the antique slab, all covered in grime,
O, said Simonida, shines down the light
Of eyes that were blinded in another time.

(Translated on January 27, 1973 to the glory of Saint Sava.)

Milan Rakic (1876–1938) was one of the three most loved and best known Serbian poets of the first half of the twentieth century. Like many other European poets of the same period he was a diplomat by career. He began his career in 1905 as the Serbian Vice-Consul in Pristina, then still under Turkish occupation, and ended it as the Yugoslav Envoy in Rome in 1933.

During his term of service in Macedonia he wrote his Kosovo cycle of poems including "Simonida."

Simonida, or Simonis, was a daughter of the Byzantine Emperor Andronicus II Paleologus (1282–1328). At a very early age she married Serbian King Milutin of the House of Nemanjic in 1299, who was forty years her senior. Evidently she never remarried after Milutin's death because her fresco was painted in the Church of Gracanica where it can be seen together with those of all other members of the House of Nemanjic.

Most of our churches suffered greatly at the hands of our many foreign invaders and later from the neglect of the faithful Serbs. But in spite of the multilations and the grime of neglect their beauty shines on these who can see it. And so with Simonida.

CRIME AND ITS EFFECT ON SMALL BUSINESS

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. RUSSO. Mr. Speaker, on June 16 the Subcommittee on Special Small Business Problems of the Committee on Small Business held a hearing on crime and its effect on small business, one of many planned on this important subject. At this hearing, an industrial security consultant, Mr. Roy McPoland, of Ridgewood, N.J., testified. His testimony, in my opinion, is one of the most forthright and constructive statements I have ever heard delivered to a congressional committee.

Industrial security is a subject which is ignored by almost everyone. Even the Nation's business schools ignore it. As a result, management trainees know how to earn a dollar, but not much about protecting it. The average retail inventory shrinkage alone is 3.6 percent of sales. That represents about $25 billion a year—an invisible enemy eating away at our economy. Mr. McPoland told us that the answer to the problem is not more bureaucrats, not more Federal dollars. It is simply education. I commend his statement to all of my colleagues.

STATEMENT OF ROY MCPOLAND

My name is Roy McPoland. I am a consultant in industrial security with fourteen years experience in organizing security departments in food, drug, discount and department stores, and in cargo container security. From 1954 to 1963, I was a Special Agent of the FBI.

I have sat through two previous hearings of this committee. I recognize the awesome responsibilities of members of the Congress, and therefore will not waste your time with courtliness or compliment.

I am here because I have a specialized knowledge about a particular problem. It is a privilege to share that with you. But I hope you leave this chamber deeply disturbed at the additional dimensions of a problem which we have largely ignored. I also hope you leave

with a clear realization that you have it within your power to begin the correction of that problem, not with personnel (we already have sufficient personnel), not with money (we are already spending too much), not with unnecessary intrusions upon free enterprise, but with the simple leverage of government leadership.

The economic impact of crime on small business is more deadly than most people know. Let's look at the numbers: 1977's retail volume is projected at 698 billion dollars, almost 40 percent of our Gross National Product. The top national experts in retail security have estimated the average inventory shrinkage in retailing at 3.6 percent of sales. That comes to a loss of 25 billion dollars every year from retailing alone!

That figure represents incoming revenues of from 8 to 10 billion dollars. The Department of Commerce has testified that even more crimes may go unreported. So the real loss may be two or three times higher, representing a 16-to-20 billion dollar figure in now-wasted revenue. You may have a legislative program or two in mind which could use that kind of money.

25 billion dollars is more than it cost this government for a tax rebate a few years ago to stimulate a faltering economy. And taxes are not paid on moneys which are lost. Revenues come from taxes on profits. So it is the nation's revenues which suffer when business is unprofitable. But how many people are aware that for years now, retailing, our country's largest industry, has surrendered more money to unidentified loss—shrinkage, than it has kept in net profit?

This awesome drain on profits and on national revenues, has given us an estimated increase of 15 percent in the cost of what we buy, a direct and crushing input to inflation. No foreign power could have engineered that kind of weakening of our economy. And we perpetuate it by our paralysis of leadership in confronting this problem and solving it.

Perhaps worse, that inflationary 15 percent addition to the costs of everything, amounts to a subsidy of the worst element among us, those for whom stealing is a part of their dealings with their fellow citizens. (At an earlier time in our history, when Americans were asked to pay money to thieves, this nation sent the marines instead—to a place called Tripoli!)

There are other unfortunate consequences of the continued toleration of this national problem. A great percentage of young people in their first jobs, quickly learn that stealing is easy, accepted, and relatively without risk. That is not a good lesson to teach in a country where we preach free enterprise and respect for private property.

One might ask: If the profit damage is so great, where are the associations, agencies, and institutions which represent free enterprise? The answers are enlightening in a human sense and terrifying in an economic sense.

The business associations, for one, are preoccupied with conformity. They are not likely to take any stand which could risk embarrassing the management which funds them. They are not leaders as much as spokesmen for the status quo.

Within the companies themselves, it is dangerous for a security director to risk any disclosure or push for any substantial program in any forthright confronting of the real problem. He is safer in accepting and delivering mediocrity in loss prevention performance. That standard of safety in silence leads inevitably to worsening figures. And the shortage reports indicate a steady and substantial deepening of shrinkage loss. Management, on the other hand, which takes credit for profitable periods, calling that good management, does not take the responsibility for poor profitability because of higher shrinkage. They simply do not disclose the bad shrinkage.

A famous national department store declared a 2½-percent net profit over a year ago. In retailing today, that is a good net profit performance. What was not volunteered to the public or the stockholders was that the shrinkage loss was more than twice as high—near 7 percent.

Another famous department store which does not deliver even a meager one percent profit, has seen its shrinkage more than double since 1972, to over five percent of sales.

The offset, of course, which is readily available, is to simply pass the consequences of poor management off onto the consumer, by increasing the price. That is a poor substitute indeed for the image of efficient industrial management we seek to portray to the rest of the world. And the recent period of recession, which saw the quick crumbling of the retail volume figures, was a grim indication of just how shortsighted a maneuver the endless price increases can be.

There have been pamphlets issued by both agencies and associations on the subject of crime in business. While credit is due for the effort of their production, the treatment has been shallow and passive. They are better than nothing—but just barely. They have no effect that can be measured. It would be a serious mistake to accept this level of activity as anywhere near the action appropriate to reduce this serious economic problem.

The government agencies compile statistics. That is most helpful, of course, but they do not turn those warning indications into correctives. As Thomas Huxley has observed, "The great end of life is not knowledge—but action." We are not getting that connecting linkage from problem to solutions. We have enough information to begin. We need action to correct. The present ritual is like an endless discussion of technical terms while the patient suffers from lack of treatment.

Uniform Crime Statistics, which include rape, homicide, and bank robberies, have little effect upon the economics of this problem. But the FBI does have a great potential at least, for helping in this area. They should have industrial security courses added to their own curriculum (which they do not have now) so that they could assist business with uniform standards of business loss prevention, just as their national Police Academy brought uniform standards to police administration. At present, however, their "crime resistance" program appears to offer little in the way of assistance to the ordinary small business.

And as for the great business schools which educate the future business leaders, they have been mute on this problem—and are content to stay that way. That is ironic. These oracles of business are either unaware of the problem or indifferent to it. It is difficult to decide which would be worse.

This is an incredible philosophy of pussyfoot scholarship. They swallow great sums of government money and yet remain aloof from a national business problem which drains off more money than the profit they are being trained to achieve. One famous business school advised, "I fail to identify any faculty members here who are interested in working or writing in the area of loss prevention."

It is a sad but real fact in this situation, that those organizations which might have been expected to lead the way to the solution to this problem of business, cannot and will not lead. We must construct a way to do it ourselves.

And there is something we can do. It is inexpensive—and effective—and let business correct its own problems—the way business should. That cutting edge for correction is education. We should begin it now. Because it works.

We need to codify the principles of good management, as it relates to profit protection, and to teach those principles to management trainees, just as they have available to them scholastically recognized courses in merchandising, or marketing. They do well in those areas because they have been taught what to do. They do poorly in delivering net profit because they have never been taught what to do to prevent profit drains from theft.

It is almost that simple.

The safety area, pioneered by Liberty Mutual, codified their own principles of good safety management forty years ago. They teach those principles to business. It works. It is time for security to do the same thing. We may be years away from scholastic accreditation of such courses. That is not important. We'll get there. First we need to forge a uniform language of correction, joining economics, accounting and operations. But we can form and teach the practical realities of good security management now. Scholastic recognition will come in time.

Let me give you a rough analogy: In the army, everyone knows what a sergeant is supposed to do. He decides when to march, who takes the first watch, where to set up positions, etc. And because even all the privates know what options, what alternatives a sergeant has to decide—the sergeant is under some pressure to decide them. And his performance can be judged by everyone.

In business today, security has not yet codified its own principles, so no one knows what alternative options management has. And because no one knows what it is management is supposed to do, management is under no pressure to do anything.

There is a reason for this lack of management control. In 1950, when today's management figures were trainees themselves, shortage was less than one percent and not worth learning in detail. Retailing netted three percent then, and lost one percent. In the intervening twenty-five years, however, the figures have reversed themselves. Now they lose three percent and net only one. And they have no one to ask.

We need to begin training lower level business executives so broadly that everyone knows the goals and options.

With a loss of three percent of annual sales this area simply has to become a part of management training. The recent performance of retailers in training their employees about the elements of security has been unbelievably poor. One major department store chain has a twelve week program for management trainees. During that time they devoted to security, only one half of one percent! The trainees get the message: Security is not considered important. Not surprisingly, that company's shrinkage losses are five times greater than its net!

And in a former discount chain, a group of store managers, tested on their knowledge of their own operational procedures, scored an average of 17 out of 100. That was probably a typical situation for that period. That chain did not survive. The important point is that almost everyone would have assumed that training was certainly better than that.

We need to structure education courses in this area in economic terms. Police Science is not at all the same as Industrial Security, though it is broadly believed they are the same.

Security is a business course, with perhaps the greatest single remaining profit leverage available to businessmen. One particular company, ITT, a company famous for its efficiency, did a survey of the profit productivity of its security department and found a productivity ratio of ten to one. For every dollar it took to run that department, ten dollars could be traced to the bottom line.

ITT, of course, is not an average company, but it is interesting to note their utilization of security as a profit contributor while most other businesses do not even recognize

security's application as anything more than an expense.

The only way to overcome this typical view is to explain security's function, goals and contribution in terms of the profit dollar, the business approach to what is essentially a business problem.

So long as security remains identified with the non-executive image of the ex-policeman, second-job moonlighting and continuing adult education, it will likely be denied recognition as a contributing aspect of professional business management.

And we need to get past another naive assumption: That security can be accomplished by security personnel. They are only about one percent of a company's work force. One percent of a company's personnel cannot accomplish anything alone unless he happens to be the company president.

It is that other ninety-nine percent, the regular employees, who must be educated to recognize and prevent loss vulnerabilities in those places where they work every day.

No matter how it is structured, supported or where located, government should see to the creation of an institute to refine these principles and teach them to the beginning management levels of companies.

It would be possible, for example, to set up a first-week-of-every month training session for retailers in New York, Chicago or Los Angeles. Taking ten employees a month from a retailing company would provide that company, in one year, with one hundred department junior executives who knew how to recognize, prevent and correct profit loss problems in their own departments. Profitability is just an adding up of the profit contribution of each department, or store. One hundred executive trainees with forty hours of intense study of the principles of security, would bring a prompt and substantial boost to profit performance.

Up to one hundred could be accommodated at each one-week session.

This would be a repeat session so the next step would be to refine the elements of the teaching plans and convert them to other media forms to reach the small businesses throughout the country.

There are 1,912,300 retail organizations in this country, and 369,800 wholesale organizations. All of them have inventory shrinkage problems and 90 percent of them have no in-house department to ask. The solutions, actually, are not particularly complicated; common sense, some imagination, motivation and reinforcement of good, innovative training techniques are what it takes.

But if ever a solvable problem needed government leadership to point the way to correction, it is their problem—and the time is now.

It is no intrusion upon business to at least set in motion the accomplishment of business efficiency when business has shown itself incapable or unwilling over the years to do it. There is a time when it is in the common good to stop tolerating expensive waste.

I would like to bring the recollection of a past president to these hearings, an activist president. He was crippled, crippled by a disease called polio, which was a national problem in the 30's. He did not suggest that government manufacture a vaccine. But he did organize the search to find that vaccine, through a series of coin boxes around the country which received dimes from private citizens.

They did find the preventive and private industry manufactured it Thanks to Franklin Roosevelt's leadership, this country virtually wiped out the great crippler of polio.

I suggest to this committee that we are now in the midst of an economic disease that has ominous overtones in other areas. This runaway problem of business theft is found in every level of society and has sweeping and dangerous economic, moral and sociological implications. Like polio, it is a crippler, and it is touching, and weakening, all of us.

The problem is solvable. We need your leadership to confront it and conquer it.

NORTH DAKOTANS NAMED "FARM FAMILY OF THE YEAR"

HON. MARK ANDREWS

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. ANDREWS of North Dakota. Mr. Speaker, the Lloyd P. Klabunde family of Emmet, N. Dak., has been selected as the Farm Family of the Year by the Farmers Home Administration.

This was certainly a well deserved honor and is a credit to the entire Klabunde family for a job well done. As a farmer myself, I know how hard they worked to make such a success of their farm. It goes without saying that the entire State of North Dakota is proud of the Klabunde family.

At this time I include the background information on the Lloyd Klabundes and their well deserved honor:

NORTH DAKOTANS NAMED "FARM FAMILY OF THE YEAR"

WASHINGTON, June 24.—The family of Lloyd P. Klabunde, wheat grower of Emmet, N.D., is the 1976 Farmers Home Administration (FmHA) national Farm Family of the Year.

The Klabundes' success in building an award-winning farm proves it is still possible for a capable and industrious family to start and succeed in farming with modest resources in the beginning, Acting Secretary of Agriculture John W. White said today in announcing the award.

Mr. Klabunde started farming on 320 acres of rented land in McLean county, N.D., in 1946. He now farms 1,800 acres and his net worth has increased over the 30-year span from about $7,600 to more than $600,000.

Financing from FmHA, the rural credit agency of the U.S. Department of Agriculture that helps provide opportunity for family-size farms, was one of the main factors in the Klabunde family's success, Secretary White noted. In the earlier years of their farm operation and advancement from tenant to ownership status, the Klabundes made use of FmHA credit, which is available to qualified farmers who cannot get credit from other sources. The Klabundes paid off their last remaining FmHA loan and graduated to non-government credit last year.

The Klabundes were selected for Farm Family of the Year honors by a seven-judge panel in an annual program designed to recognize the achievements of families who have progressed in farming and improved their living with the help of FmHA. Competition in the program starts on the county level and progresses through district and state levels. State winners are entered in the national competition and narrowed down to five finalists, and the winner picked from these five. Judges who selected the 1976 national Farm Family of the Year were:

George E. Bagley of St. Joseph, La., president of the National Association of Conservation Districts.

Tony T. Dechant of Denver, Colo., president of the National Farmers Union.

Russell Jeckel of Delavan, Ill., hog farmer and winner of the American Agricultural Editors Association's 1976 award for outstanding service to agriculture.

Irwin B. Johnson, director of education for the Commodity Futures Trading Commission of Washington, D.C., and former director of information for FmHA.

Rep. Ed Jones, D., Tenn., chairman of the Conservation and Credit Subcommittee of the House Agriculture Committee.

Leslie W. Peterson, president, Farmers State Bank of Trimont, Minn., and chairman of the Agricultural Bankers Division, American Bankers Association.

Dr. Vila M. Rosenfeld, professor of consumer education, East Carolina University, Greenville, N.C.

The Klabunde farm is 16 miles west of Garrison, N.D. Mr. Klabunde, who is 46, and his wife, Lorraine, have three children—Virginia, 25, Wayne, 22, and Jane, 19. Wayne farms with his father and rents additional land on his own. Virginia is assistant director of nursing at a nursing home in Stanley, N.D. Jane is a student nurse in Minot, N.D.

The Klabunde family will receive a trip to Washington, D.C., with expenses paid by Sperry-New Holland, farm machinery manufacturer and cosponsor with FmHA of the program.

Lloyd Klabunde grew up on the family farm two miles west of his present place near Emmet. He rented a half-section of land (320 acres) to start farming on his own in 1946. He rented a third quarter-section in 1951 and a fourth in 1961, and farmed 640 acres of rented land from 1961 to 1964.

Mr. Klabunde first became a FmHA borrower in 1958, with a $20,800 farm operating loan to buy dairy cows, a bull, and machinery. The Klabundes first bought land in 1964, when they got a $48,000 FmHA farm ownership loan to buy 800 acres, including 320 that they previously rented. Mr. Klabunde continued to rent land, and has added to the amount he rents in recent years until he now rents 1,000 acres in addition to the 800 he owns.

Last year, the Klabundes raised durum wheat on 840 acres of dry land and had 250 acres of irrigated hard wheat. The durum produced 40 bushels per acre, the hard wheat 45. Last year was the first time Mr. Klabunde raised wheat under irrigation. The yield was low because of carryover from a weed-killer Mr. Klabunde used the year before for irrigated alfalfa, FmHA County Supervisor Donald W. Streifel explains.

Mr. Klabunde was one of the first farmers in his area to use sprinkler irrigation. He now has two center-pivot systems, each of which irrigates 135 acres with water from an underground aquifer. From 1972 to 1975, his irrigated alfalfa averaged 7 tons per acre. Twenty acres of dryland alfalfa yielded 1½ tons per acre last year. Mr. Klabunde also had 30 acres of dryland flax that produced 20 bushels per acre.

Looking back, Mr. Klabunde thinks 1960 and 1961 "would have to be considered our tougest years." He was severely burned in 1960 when a grain elevator he was helping to move touched a power line. In 1961, Mrs. Klabunde was in a hospital three times and Mr. Klabunde once due to illness, and drought the same year reduced their harvest to 25 bushels from 100 acres of wheat.

Mrs. Klabunde taught rural school from 1949 to 1951, and Mr. Klabunde drove a school bus in 1958 for supplemental income. From 1968 to 1973, Mr. Klabunde and his brother operated a butcher shop on the farm—another source of supplemental income they later gave up because of the time needed for irrigation.

Mr. Klabunde has received awards for soil and water conservation practices including strip cropping, seeding waterways, and tree planting. He was named Outstanding Young Farmer by the Garrison Jaycees in 1966. He is a community committeeman for USDA's Agricultural Stabilization and Conservation Service (ASCS), a director of the McLean County Rural Electric Cooperative, and a member of the McLean County Fair Board. Mr. and Mrs. Klabunde have been volunteer 4-H leaders.

The Klabundes, who lived in a basement for six years before they got their FmHA farm ownership loan, have since built and recently remodeled their house. Mrs. Klabunde cans and freezes food from a large garden. The Klabundes still butcher their own meat.

The Klabundes' FmHA farm operating loan of 1958 was paid off in 1964. They now finance operation needs with short and intermediate term credit through a Production Credit Association. They refinanced their FmHA farm through the Federal Land Bank of St. Paul last year, and thus paid off their FmHA farm ownership loan.

"MR. GEORGE" PASSES

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. BYRON. Mr. Speaker, my hometown of Frederick and all of central and western Maryland lost an outstanding friend and citizen this week with the passing of George Delaplaine, Sr. "Mr. George," as he was known to his many friends, was a lifelong resident of Frederick. He contributed greatly to his city and State, and lived a full and active life for 88 years. He was an inspiration to all whose lives he touched. An editorial in the Frederick Post captured the spirit of "Mr. George" well, saying,

He kept active in body, mind and spirit, and his remarkable awareness of what was going on was matched only by his wit and wisdom and sincere compassion for other people.

I wish to share with my colleagues in the U.S. House of Representatives the Frederick Post eulogy of a great man, my friend, "Mr. George":

GEORGE DELAPLAINE, SR.

At 88, with little intention of slowing down, George B. Delaplaine Sr. was an inspiration to everyone who knew him. He kept active in body, mind and spirit, and his remarkable awareness of what was going on was matched only by his wit and wisdom and sincere compassion for other people.

"Mister George," as he was known by his fellow employes, was president of the Great Southern Printing and Manufacturing Co. which publishes The News and the Frederick Post.

Mr. Delaplaine died suddenly Wednesday morning at Frederick Memorial Hospital, where he had been admitted Tuesday evening after complaining of chest pains. He had been in excellent health, had worked at the newspaper during the day, and later in the afternoon had completed his daily bicycle ride.

Everyone who knew him has been stunned and saddened by his death. He was a man beloved and respected.

Mr. Delaplaine leaves his wife of 56 years, Mrs. Ruth Carty Delaplaine; two children, Mrs. Myron W. (Frances Ann) Randall of Braddock Heights, and George B. Delaplaine Jr., of Central; eight grandchildren; and one brother, Judge Edward S. Delaplaine of Frederick.

Two brothers are deceased William T. Delaplaine and Robert E. Delaplaine, both of whom played prominent leadership roles with the News-Post and in the community.

Funeral services will be held at 2 p.m. Friday from All Saints Episcopal Church which he had served in many capacities during his life of devoted membership.

(Friends may call at Smith Fadeley, Keeney & Basford Funeral Home, 106 E. Church St., this evening from 7 to 9. The family requests that in lieu of flowers, contributions may be sent to the Memorial Fund of All Saints Church).

Mr. Delaplaine, a lineal descendant of John Thomas Schley, who built the first house in Frederick, was a native of Frederick, the son of the founder of The News, the late William Theodore Delaplaine, and Fannie Birely Delaplaine.

Young in spirit and ideas, few people lived to see the changes brought about in the past century and adopted to them as did Mr. Delaplaine.

He was born in the horse and buggy days. The automobile had not been invented. He saw the rise of the automobile, the coming of the telephone, electric light, phonograph, airplane, refrigeration and air conditioning, movies, color photography, rockets to the moon, radar, sonar, the computer sciences, advances in education in both numbers of people educated, and in better facilities and to higher grade levels.

Mr. Delaplaine adapted to change. When the rise of the automobile caused the demise of the horse as a draft animal, the outlet for leather products shrank to where his first business endeavor, a small tanning business, no longer had a market. He readily adapted to change in the newer environment of the newspaper.

When changes came in the newspaper industry, he recognized the advantages of the new and approved the moving to a new plant with an offset newspaper press and cold type composition. In fact, when the News-Post converted to the new offset process, it was one of the 32 largest in terms of circulation to convert. And he approved the entry into the cable television field, with the ownership and development of Frederick Cablevision.

He was an "East Patrick Street kid," and very few days in his 88 years was he not seen on East Patrick Street. As a child, at one time he and his family lived in the second block of East Patrick Street. His first business was with the family run tannery at the location of W and W Poultry, adjacent to the News-Post building. When he became associated full-time with the newspaper, which was then located on North Court Street, he stopped at the Post Office daily for the company mail.

He remembers the building of the Post Office, and its selection as midway between the two railroad terminals—the B&O and the Pennsylvania, which is no longer existing at Patrick and East Streets. He remarked that during the October 9, 1976, flood, which occurred on his 88th birthday, he had never seen Carroll Creek flood so much as it did that day.

He prided himself on the education which he had received at the old Boys High School under the tutelage of the late Professor Amon Burgee. He was living proof that it is the teacher, not the facilities, which makes an education, and often quoted Shakespeare which he learned while in high school.

The brief outline of Mr. Delaplaine's life (in the news account of his death) reflects a rare contribution of business acumen and ability to articulate management problems in plain and simple terms—always with a dash of humor and a generous helping of human kindness, understanding and encouragement. And he worked at this until the end—seven days a week, including holidays.

As his father and brothers before him, he earned a lasting place in Maryland's daily newspaper industry, and was one of the oldest, active practitioners in the Maryland-Delaware-District of Columbia Press Association territory.

His example serves to encourage all of us who strive in this busy life toward our own goals never to forget from whence we come, and that the most sincere kindness is that which we do for others, no matter how small or insignificant it may seem—a card, a letter, a memento, a quiet thank-you, or a word of praise . . . even a cheery hello.

We at the News-Post, and everyone who knew him, will miss that warm hello—mixed in with a comment on the weather or some current event. But we cannot say goodbye to "Mister George," because we shall always be reminded that he—a rare man indeed—lives on through his contributions to our newspapers, our community and ourselves.

COPING WITH NATURE'S FORCES: CLIMATIC CHANGE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. BROWN of California. Mr. Speaker, with legislation to establish a national climate program scheduled for consideration Monday afternoon, it was of special interest I noted yesterday's Christian Science Monitor article, "Coping With Nature's Forces: Climatic Change."

H.R. 6669, the National Climate Program Act of 1977, which Mr. TEAGUE and Mr. WINN cosponsored with me and a number of others, has certainly received wide support for reasons like those described in Robert Cowen's article. The Science and Technology Committee reported the bill unanimously. I am sure committee members feel that the climate legislation will help provide the information base required to address the questions raised in Mr. Cowen's article. It has been our express belief that much can be done to exploit present knowledge while gaining more knowledge.

Sensible precaution is urged, in the article, for developing a comprehensive and unified strategy of meeting potential difficulties. In a Senate hearing June 8, conducted by satellite television between Washington and Springfield, Ill., the potential value of better climate outlooks in lessening certain risks was stressed to Senator STEVENSON, chairman of the Science, Technology and Space Subcommittee of the Senate Commerce, Transportation, and Science, by the Illinois Director of Emergency Preparedness. To paraphrase Socrates, our worst obstacle is ignorance, and it would be wise to set in motion now the kind of coherent climate program embodied in H.R. 6669.

Mr. Cowen's analysis follows and I commend it to my colleagues:

COPING WITH NATURE'S FORCES: CLIMATIC CHANGE

(By Robert C. Cowen)

(According to meteorologists, the greatest climatic threat to the United States is the country's loss of resiliency to withstand expectable extremes of weather. They urge that the full range of possible weather—from drought to deep freeze—be factored into a comprehensive preparedness strategy for coping with all the natural hazards.)

Gilbert White of the Institute of Behavioral Sciences at the University of Colorado says the current Western drought could give the United States a timely and salutary lesson. It could halt what he considers a dangerous trend extension of dry farming into

increasingly marginal areas, relying on irrigation from severely limited groundwater sources. It could make farmers think twice about a correlated trend to remove windbreaks and neglect other dust bowl precautions that grew out of the now largely forgotten drought lesson of the 1930s.

The current drought, which has brought water rationing to parts of California and concerns about crop losses in many parts of the Middle West, is emphasizing the point that large areas of the United States are being developed in ways that ignore foreseeable extremes of weather.

In noting this, Dr. White, a behavioral scientist who studies attitudes toward natural hazards, echoes what seems to be a consensus among scientists who study weather. They warn that the United States (and the world for that matter) has lost its resiliency to respond to expectable extremes of our "normal" climate.

"You don't have to argue that the climate's getting worse; we are becoming more vulnerable to it as it is," observed Don Gilman, chief of the U.S. National Weather Service's long-range forecasting group, during last winter's crippling cold. That winter, which froze 1,800,000 Americans out of their jobs at one stage, was indeed a record-setter. But, as Robert Quayle of the National Climatic Center pointed out, official records only date back a century or so. To judge from stories of earlier times, especially from the 18th century, last winter was no more than a match for what has happened before.

Thus one should not think only in terms of floods, hurricanes, and tornadoes in considering major weather hazards. Some of the normal large-scale weather patterns are equally dangerous to modern society, explains Wayne Decker of the University of Missouri, who headed a National Research Council study of food and climate. "The council study made one point strongly," he notes. "A few decades ago, weather-related disasters were regional and did not have such serious impact. Now, with today's population and development, we have reached a critical point."

FORECASTERS STILL STUMPED

Meteorologists claim no skill in forecasting these weather extremes. They can't foretell now whether or not last winter's cold will be repeated next season or when the drought in the U.S. West will end. However, they do urge the country to face up to the likelihood that what has happened in the past will recur. And since they cannot give definite advance warning, the time to prepare for extreme weather is now.

As Don Gilman put it last winter, "What people should do is to figure it just isn't safe to use the past 10, 20, or even 30 years of weather data as a guide. . . . A much longer record is desirable. . . . This is partly a research problem because in many places those data aren't just sitting there. . . . They will have to be dug out. . . ."

One such record, tracing recurring North American drought back to 1700 is shown in the accompanying illustration. Charles W. Stockton of the University of Arizona produced it from analysis of tree rings. J. Murray Mitchell Jr., senior research climatologist for the Environmental Data Service, finds that Dr. Stockton's drought episodes correlate strongly with the recurring 22-year sunspot cycle. And that correlation suggests that North America now is in the midst of a drought-prone period.

Since he can't explain why sunspots correlate with drought, Dr. Mitchell is cautious in forecasting on the basis of these data. "I'm not predicting that drought will occur this summer," he says, "I am warning that this analysis suggests that, right now, we should be extra cautious."

However, even if the drought broke this year, the Stockton data do indicate that severe drought can and will recur. It is part of the normal North American climate. Noting this, Robert D. Miewald of the University of Nebraska says one of the worst things that could happen would be for people to weather the drought in such a way that they drop back into the old complacency.

THE CHALLENGE AS PEOPLE

A political scientist, Dr. Miewald views the weather challenge in terms of people. "If we regard drought as just so many bad years to be endured, that may be its worst impact of all," he says. Intensive irrigation, special aid, and other emergency measures could tide the West over until more abundant rains come. But if people do not also face up to the real problem of too many people trying to live beyond the carrying capacity of semiarid lands, Dr. Miewald says, the basic problem will continue to intensify to the point of no return.

At base, the challenge of extreme weather is the same challenge that arises with the other natural hazards considered in this series—intensive development of the country in ways that ignore Earth's natural processes. California, which has burgeoned on imported water, finds drought threatening because it has not developed the water-wise life-style needed in an arid land. The great grain lands of the Middle West have expanded in the past decade partly through intense mining of ground-water. Now that drought makes irrigation event more essential, water tables in many places are dropping ominously. A recent survey by the Wall Street Journal shows that even without the drought the growing reliance on shrinking groundwater resources could lead to severe shortages before this century ends.

What's needed, says Robert Kates of Clark University, is a unified national approach to disaster management. Instead of dealing separately with hurricanes, earthquakes, drought, and the like, he urges a coordinated strategy that "emphasizes prevention rather than relief, behavioral change rather than technology."

People, he says, should be given incentives to use foresight. He points out that there is divergence between the needs of society and those of individuals. It's relatively easy to see that communities should prepare for long-term hazards, but he explains it's asking a lot of an individual who expects to stay in an area only five years to prepare for the once-in-50-years flood.

RISKS ENCOURAGED NOW

Right now, says Gilbert White, the system encourages people to take risks at public expense by emphasizing relief rather than prevention. He agrees with Dr. Kates that the incentives should be the other way around. He notes that Congress took a significant small step in that direction when it included a requirement for land-use planning in the flood insurance act. At this writing, that provision of the law was being reassessed under criticism that it is too restrictive. Dr. White says it would be a retrograde step to weaken that provision since the approach it reflects should instead be extended throughout disaster management policy.

UNIFICATION SOUGHT

Another weakness of the present system, Dr. White and others note, is the fact that national disaster planning is fragmented among federal agencies, notably between the Defense Civil Preparedness Agency in the Department of Defense and the Federal Disaster Assistance Administration in the Department of Housing and Urban Development. Not only has this fragmented planning, but critics such as Dr. White says it has emphasized response to enemy attack rather than preparation for the natural hazards that are a more immediate and likely problem for American communities.

To remedy this, Sen. William Proxmire (D) of Wisconsin and Charles H. Percy (R) of Illinois have introduced legislation this year that would unify disaster management in one agency. This would deal with all hazards, including enemy attack and extreme weather. Rep. Paul E. Tsongas (D) of Massachusetts has introduced a companion bill. If enacted, this would launch the unified approach to disaster management that Dr. Kates and other experts are urging. But, since the bill emphasizes response rather than prevention, it still would fall short of the strategy they say is needed.

Changing national attitudes—readapting life-styles and an economy, both of which have become careless of natural hazards—is a complex job that can't be done overnight, acknowledges Dr. White. He typifies expert opinion when he adds, however, that a nation as densely populated and highly developed as the United States can no longer afford to "take its chances" with foreseeable natural hazards, even those that rarely occur.

The biggest part of that challenge can be succinctly stated in the question: "How do you sustain interest in precautions for the once-in-a-century event that, currently, hasn't happened for 150 years?" Surely, he believes, it is within human capacity to exercise the foresight this requires.

WHAT NEEDS TO BE DONE

Although it will take time and complex planning to refocus American disaster management from a policy of relief to one of sensible precaution, that change must begin now. Therefore, this newspaper recommends:

1. Congress should authorize and fund a program to define the full range of extreme weather, rarely as it may occur, for each geographical region of the United States.

2. Because of intense and conflicting demands on water supply—demands that often span state borders—Congress should authorize and fund a project to assess United States water supplies, project future needs to at least the year 2000, and recommend alternative strategies for wise management of the water supply.

3. Working with the findings and recommendations of the water survey, Congress should face up to the historically divisive issues of water supply and define a national water policy.

4. Since water supply is only one aspect of arid zone management, Congress should authorize and fund a comprehensive study of American desert and semiarid lands that would outline what kind of development and how much development (if any) such lands can sustain. Such information is urgently needed to help prevent overdevelopment which these fragile ecological zones cannot sustain.

5. While current legislation before Congress would unify disaster management, it still emphasizes relief rather than precaution. Congress should develop a comprehensive and unified strategy of disaster prevention. A first step would be a national disaster insurance plan (as recommended earlier in this series) that would stress wise land-use planning and sound building codes. Efforts to remove such provisions from the current flood insurance program should be discouraged.

CONGRESSMAN ROSENTHAL WARNS AGAINST IMPOSED PEACE SETTLEMENT IN MID-EAST

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. EILBERG. Mr. Speaker, our colleague from New York (Mr. ROSENTHAL)

has conveyed in a letter to President Carter a most thoughtful analysis of American policy in the Middle East.

Mr. ROSENTHAL, I believe, correctly points to the danger of U.S. efforts to develop a public position on the dimensions of a peace settlement before the parties in that settlement have met face-to-face for direct negotiations.

I commend the following letter from Mr. ROSENTHAL to President Carter to the attention of my colleagues, because I think it is an eloquent statement of the problems posed by intrusion by the United States in the bargaining process:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 22, 1977.

Hon. JIMMY CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Please allow me to share with you some thoughts on American policy in the Middle East.

Your Administration has demonstrated repeatedly its deep commitment to the survival of Israel and peace in the Middle East. It has perceived correctly that a settlement of the many problems in that strife-torn area requires participation from the United States in offering its good offices and extending some measure of moral support to all the disputants.

This commitment on your part has been evident in the meetings you have initiated with leaders of both sides and the numerous public statements you and your close advisers have made expressing a hope for a negotiated settlement. The recent address by Vice President Mondale in San Francisco is the latest indication of this noteworthy and laudable concern for a just and lasting peace.

Permit me, however, to express my feelings about another aspect of United States policy with which I must admit to grave reservations. In addition to offering its good offices for peace, the United States seems also to be developing a public position on the dimensions of a settlement. I note that Vice President Mondale tried to dispel any idea of an American-imposed "timetable or a map." But his protestations are necessarily qualified by the specific recommendations on borders, the Palestinian issue and peace contained elsewhere in his speech and in the remarks of your counsel, Mr. Lipshutz, in a statement to the lawyers division of the Anti-Defamation League on June 14.

I find this approach unwise for several reasons:

First, the elements of this position or plan do not seem to meet many of the legitimate needs of Israel for security and, if implemented, could perpetuate the instability of the region. As outlined by Messers. Mondale and Lipshutz, the plan calls for minor modifications in the pre-1967 borders and the establishment of a Palestinian homeland hopefully, but not necessarily, associated closely with Jordan. It also seems to include the erection of security borders for Israel which diverge from the recognized or legal borders of Israel.

Briefly, my difficulty with the substance of this plan is that it neglects the grave risks to Israeli security posed by any independent Palestinian state which will almost necessarily continue to harbor hopes for expansion at the expense of Israel. It also fails to appreciate the serious problems posed by an attempt at international guarantees of another state's viability. Arrangements of this nature in Cyprus, Berlin, Laos, Vietnam and Czechoslovakia prior to World War II, have almost universally failed to offer comfort to the inhabitants of these countries and have become the focus of continuing disputes and even hostility. I would hope that any eventual settlement would not contain either the element of a separate Palestinian entity not intimately linked with Jordan or any device for divergent security and legal borders.

But I am troubled far less with the substance of any plan which you might deem reasonable than I am with the process of promoting any plan. In my experience, settlements which have had the most enduring success have been those arrived at by the parties themselves in face-to-face negotiations without outside pressures or preconditions. Only the disputants themselves, I have learned, have a clear perception of their own needs and can properly assess the relative importance to them of the matters in dispute. I have never ceased to marvel at the vast differences which have almost always emerged between the terms of final settlements negotiated by the parties and what outsiders and even the parties themselves had earlier predicted those terms would be. Moreover, premature attempts to influence the dimensions of an agreement have often hardened the positions of one or more of the parties and made a settlement significantly harder to reach.

I suggest respectfully that this experience may hold a lesson for American policy in the Middle East. Public pronouncements by the United States on the ultimate dimensions of an agreement could, paradoxically, lessen the prospects for an effective, long-term settlement. As experience with the circulation of the so-called Rogers Plan in the early 1970's suggests, intrusion by the United States into the bargaining process could have three unfortunate consequences.

First, it could shift the terms of any ultimate settlement away from what the parties might otherwise have found to be in their best interests. To such an extent, the terms of the settlement will enjoy less legitimacy, be viewed with greater suspicion by the public in each of the negotiating states and risk receiving less than the full commitment of the region's political leaders. A "dictated" settlement is always subject to the criticism, rightly or wrongly, that its terms are less favorable to the dissatisfied party than they would have been had the party been able to negotiate independently, without restraints or preconditions.

A second possible consequence is the transformation of the United States from a mediator to a principal in the negotiations. There is already evidence of this development in the apparent willingness of Arab leaders to offer more favorable concessions to the United States than they have been prepared to discuss with their Israeli counterparts. Indeed, I have little doubt that the Arabs' perception of the ability of the United States to impose terms on the Israelis encouraged them to appear flexible in their conversations with you earlier this year. Israeli leaders, on the other hand, who unanimously see a greater hope for peace in negotiating directly with their traditional enemies, may have appeared to you to be less forthcoming. I fear that the Arabs might already have concluded that they would enjoy more success in pressing their points in Washington than in Geneva. This development could make it more difficult to convene the Geneva conference and to initiate any meaningful face-to-face negotiations.

A third related consequence of the American posture on the provisions of a settlement is its unfortunate impact on public opinion in the affected states. Far from encouraging a wider debate of possible concessions, the airing of seemingly unacceptable terms has in Israel awakened many of the old fears and hardened some of the old positions. It is limiting the flexibility of the potential negotiators by forcing them to commit themselves in advance to potentially untenable bargaining positions. The terms which these leaders might have been able to sell, in the midst of the negotiations, by pointing to meaningful concessions by the other side, they are being forced to denounce prematurely as unrealistic.

The impact on Arab public opinion is equally dangerous. American policy, whether intended or otherwise, is raising unreasonable hopes as to the results of negotiations. Should these inflated expectations prevent the convening of the Geneva conference or not be met at the conference, negotiations would inevitably break down.

I can appreciate your motivation in making public the terms of what you perceive to be an equitable settlement. There is the hope that each of the parties will see that its legitimate needs can be met short of armed conflict. But this position, I am afraid, overlooks the deep distrust which still divides the region and the fact that the basic issue of survival is at stake.

Vice President Mondale stated that a willingness to go to Geneva is the first proof that the parties "are prepared for peace." I am afraid that he has put the cart before the horse. There is no incentive to go to Geneva if all the important terms have been set. The hope of Geneva is that face-to-face negotiations will, for the first time, temper some of the mutual suspicions and hatreds which now inhibit the preparations for peace. These suspicions and hatreds are a reality in the Middle East. As long as they exist, they ensure that any good faith effort by the United States to suggest the outlines for a settlement will not have the intended effect and might actually undermine the first real opportunity in thirty years for a meaningful peace.

I want you to know that I write this letter to you with great respect, admiration and affection. I would hope that you would seriously consider these views and recognize that I write to you with the genuine conviction that the United Stattes can play a positive role in the making of a peace so urgently needed by all the peoples in the Middle East.

Warm personal regards.

Sincerely,

BENJAMIN S. ROSENTHAL.

DISCRIMINATION AGAINST SLAVIC AMERICANS

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. FARY. Mr. Speaker, the discrimination against people of Balto-Slavic origin throughout our country has gone unnoticed for generations. It is an easy problem to ignore with so little information collected on this ethnic group. Not much is known about the actual number of Balto-Slavic peoples in this country, and less is known about their special problems and needs.

Much of this information vacuum is due to the Census Bureau's methods of collecting data on Balto-Slavic peoples. The Bureau is responsible for collecting data on all ethnic groups. The Balto-Slavics are separated by the Census Bureau into two groups: Polish foreign stock—foreign born or one parent foreign born; and white—a category which absorbs all other Balto-Americans. Thus the bulk of Balto-Slavic Americans are statistically lost in the white category.

The Federal Government has numerous programs to alleviate the hardships of ethnic groups. Allocations for these programs are based on statistical data collected by the Bureau of Census and Balto-Slavic peoples are often simply discounted as numerically insignificant because of the Bureau's deceptive undercount.

Ignorance of the numbers and needs of the Balto-Slavic Americans is reflected in the business community. Slavic Americans are excluded from executive, middle management, and other job levels. Two recent studies of hundreds of Chicago and Detroit based corporations found that there exists a serious absence of persons of Polish descent in any decisionmaking positions.

Many of the problems faced by this ethnic group could be alleviated simply by an honest compilation of their numbers. My colleague, Representative ROSTENKOWSKI, has introduced a proposal which I am actively cosponsoring, House Joint Resolution 333, which would provide for not only an accurate accounting of the number of Slavic Americans but would also provide for affirmative action toward alleviating the many problems discrimination has brought on this ethnic group.

The resolution insures that the Census Bureau will establish Slavic language questionnaires and other appropriate methods to obtain a more accurate count of Balto-Slavic Americans. It also instructs the Departments of Labor and Commerce to improve and expand the methods of compiling accurate demographic knowledge on Balto-Slavic Americans and insures an effective data base upon which affirmative action programs can be instituted. The resolution goes on to involve the Office of Management and Budget, the Department of Commerce, and other Federal agencies in appropriate programs that will aid Balto-Slavic Americans.

It will take many years to balance the inequities weighted against the Slavic Americans and I urge my colleagues to begin the first step toward that balance by supporting this joint resolution which will aid Balto-Slavic Americans now and for many generations in the future.

NORMALIZATION OF RELATIONS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. FINDLEY. Mr. Speaker, for many years now I have argued that it is in U.S. interests to establish diplomatic relations with all nations whose governments appear to be permanent and unchallenged by legitimate rivals. I, therefore, note with great interest the June 11 speech of Deputy Secretary of State Warren Christopher which enunciates the Carter administration's policy on diplomatic recognition.

An abbreviation of his remarks follows:

REMARKS BY WARREN CHRISTOPHER

I want to talk to you today about one of the foreign policy issues presently at the center of my desk: The normalization of United States relations with other governments.

It is an issue that arises in a variety of current and important situations but, before getting down to cases, I think it is important to understand why it is generally in the interest of the United States to exchange diplomats with other governments and, where possible, to exchange ideas, goods and people as well . . .

We live . . . in an interdependent world. And in one way or another we find our fate and our futures tied increasingly to those of other peoples. If we cannot communicate easily with them, we cannot effectively promote our own interests or build new bonds of common interest.

This brings me to my central point: We believe that diplomatic relations help us to discharge our basic duty to protect the interests of our government and our citizens. By keeping open a channel of communication with other countries, we best serve our long-range objective of encouraging the growth of democratic institutions.

We do not look at the normalization of relations as an end in itself. Rather, diplomatic relations, once established and maintained, enable us to communicate with other governments directly, to state our views and listen to theirs, to avoid misunderstandings and to exert influence. In short, they help us to accomplish more than we can without them.

Let me put the American attitude toward diplomatic relations in a historical perspective.

In 1792 the French king was replaced by a popular government. The United States envoy in Paris wrote to Thomas Jefferson, our first secretary of state, to ask how to behave with the new government. He received a straightforward answer:

"It accords with our principles to acknowledge any government to be rightful which is formed by the will of the nation substantially declared. . . . With such a government every kind of business may be done."

Jefferson's answer was interpreted over time to mean that the United States would generally deal with the government effectively in power. This became the policy of our government until late in the 19th century. But in the 20th century our practice became less certain, and exceptions were introduced.

Woodrow Wilson introduced a substantial exception by insisting that the United States should not have normal diplomatic relations with governments that came to power in violation of their own constitutions. Wilson's exception proved too rigid in practice, and it rather quickly succumbed to the stress of reality. But Wilson's was not the last exception.

When the Chinese Communists established the People's Republic of China in 1949, we were again distracted from our earlier policy. During the Chinese Civil War the United States had supported the Nationalist side. After the Communists took power, we were faced with the problem of recognizing rival claims. President Truman reacted in this way:

"We shall refuse to recognize any government imposed upon any nation by the force of any foreign power. In some cases it may be impossible to prevent forceful imposition of such a government. But the United States will not recognize any such government."

The weakness of Truman's exception is that, like Wilson's, it could prevent us from ever establishing relations with a government that we believe came to power wrongfully.

A few years later, when troops from the People's Republic of China entered the Korean War, Secretary of State Dulles stated his own limitation. "It has been the practice of the United States", he declared, "to recognize *de facto* governments when the latter are: (1) in control of the machinery of government; (2) are not confronted with active resistance in the country; and (3) are willing and able to live up to their international commitments." This formulation tends to ignore the reality that we, in our own national interest, may want diplomatic relations with governments precisely to urge them to live up to their international obligations.

Perhaps attractive on their face, these exceptions introduced in the 20th century have not always served the national interest. The premise of our present policy is that diplomatic relations do not constitute a seal of approval. Winston Churchill explained it best: "The reason for having diplomatic relations is not to confer a compliment, but to secure a convenience."

We maintain diplomatic relations with many governments of which we do not necessarily approve. The reality is that, in this day and age, coups and other unscheduled changes of government are not exceptional developments. Withholding diplomatic relations from these regimes after they have obtained effective control penalizes us. It means we forsake much of the chance to influence the attitudes and conduct of a new regime. Without relations we forfeit opportunities to transmit our values and communicate our policies. Isolation may well bring out the worst in the new government.

For the same reasons, we eschew withdrawal of diplomatic relations except in rare instances—for example the outbreak of war or events which make it physically impossible to maintain a diplomatic presence in another capital.

If we continue to withhold diplomatic relations, this hesitancy invites confusion and can become the center of a touchy political issue. Eventual establishment of diplomatic relations then comes wrongly to be considered as a form of approval. In short, it means that someday, when we seek to normalize relations, we will be painting on a dirty canvas.

Indeed, efforts to restore relations once broken often encounter special difficulties. Inevitably, constituencies in both countries develop an emotional investment in the absence of relations. Financial claims and counter-claims pile up, and there is a backlog of issues which might have been resolved if normal relations had existed. Faced with this legacy of problems, the process of restoring relations must be approached with great care and deliberation. . . .

In sum, we believe normal diplomatic relations are an asset to promote other objectives, an asset we cannot deny ourselves without incurring substantial cost. As Churchill put it: "When relations are most difficult, that is the time diplomacy is most needed."

There is no certainty that two nations will be able to resolve their disputes by talking about them. But without effective communications, without some form of dialogue, the odds are high that there will be no progress at all.

This is true, as each of you knows, among individuals. So it is among nations, as well.

SALUTE TO DR. HOWARD L. HURWITZ, CHAMPION OF AMERICAN EDUCATION

HON. MARIO BIAGGI
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. BIAGGI. Mr. Speaker, John Milton, in his renowned work, "Of Education," wrote:

I will point ye out the right path of a virtuous and noble education; laborious indeed at first ascent, but else so smooth, so green, so full of goodly prospect, and melodious sounds on every side, that the harp of Orpheus was not more charming.

His words of wisdom and glorious appreciation give us pause.

And, is not it refreshing and inspirational to reflect, but for one moment, upon the genius of that great English classicist?

We can all share in the wealth of the scholarship of history's literary giants. But when their lessons have application today, and we can draw parallels to educational leaders of our acquaintance, then we are indeed enjoying a rich and rewarding experience.

Today we are paying tribute to a wise, able and extraordinary educational leader, who has given more than half one's lifetime to the education of our youth. Long Island City High School, Queens, N.Y. is losing a principal who, in little more than a decade, established that institution as a bastion of the finest in educational standards. Dr. Howard L. Hurwitz, by occupation and avocation, is a teacher in the most honored and respected sense of the tradition that noble assignment represents. His is the story of a true educational champion who personally advanced, defended, and realized quality educational principles.

A legislator of another time, in another country, spoke to his peers in the House of Commons:

Upon the education of the people of this country, the fate of this country depends.

While saluting Dr. Hurwitz in this Chamber this day, the words of Benjamin Disraeli also have application. For, I believe there is nothing more important to the growth of our country than education. Ever and again, it is the foundation of development. It remains a basis for quality standards in every product and service. Just as importantly, it is a vital means of upward mobility for our populace.

As a Member of this great body and of its Education and Labor Committee, I spare no effort in working on behalf of educational opportunities for all Americans. I have a firm commitment to the advancement of the cause of educational excellence. I stand beside educators who champion true educational principles. I reaffirm Dr. Hurwitz's belief that the youth of our Nation must be taught the basic educational skills within a proper educational framework, in an atmosphere conducive to learning.

Herbert Spencer viewed education as having "for its object the formation of character." I submit to you that Dr. Hurwitz has been primarily instrumental, not only in showing the proper educational way, but also in shaping the character of this Nation's greatest resource, our youth. There is no greater way to emphasize that which is taught than through personal example. What an education his students have received as they have witnessed his leadership and courage.

I could not more enthusiastically commend Dr. Hurwitz for his devotion to our young pepole. It is this highly dedicated official who is also a part of the definition of quality education. It is also not often that we experience his like as a man of principle.

I am gratified that, upon his retirement, Dr. Hurwitz will remain active in the mission he has advanced and principled. I trust other educators have learned from his example, and will work in his like to progress education.

In his farewell message, as presented in the Long Island City High School Newsletter, we are privileged to view the application of the ideals we attribute to this great man. First and primarily, we are reminded that this foremost educator withstood the muscle of the educational leadership in the New York City school system to uphold and promulgate classic instructional ethics. His personal sacrifices during that time of siege and the ultimate martyrdom of his local career in pursuit of his convictions, during an era of expedient and interest-serving educational techniques, will long serve and be remembered in our neighborhoods as one of education's finest hours.

We bear witness as Dr. Hurwitz justly and proudly espouses singular areas of educational excellence and advancement at Long Island City High School, areas which tragically and regretfully are not a foundation or part of the learning process we are most often exposed to. One cannot help but believe that the students at Long Island City High School have been imbued with a very special spirit, as exemplified by a very special man, which spurs them on to the full range of their development.

Finally and significantly, Dr. Hurwitz allows us to share in his personal gratitude to those who helped to make his lesson even more meaningful and rewarding. I take great pride in being among the wealth of Dr. Hurwitz's supporters.

I implore him, on behalf of all his friends and admirers, never to go too far away for he is widely loved and respected in Long Island City. I further ask and trust that he will permit us to partake, in whatever fashion appropriate, of his talents and wisdom for a long time to come.

It is my pleasure to give you the thoughts of Dr. Howard L. Hurwitz on the occasion of his upcoming retirement:

DR. HURWITZ SAYS GOODBYE AFTER 40 YEARS

DEAR FRIENDS: We have stood together for the 11 years that I have been the principal of Long Island City High School. These years have been the most exciting and rewarding in my 40 years in the school system. But, they have not been without their scars.

You have inflicted no scars; but, rather, have worked with me to heal wounds inflicted by a Chancellor who, last year, sought to remove me because I refused to readmit a suspended student with a long record of misbehavior. The wounds—and they are being freshly salted—are inflicted by a Chancellor and Board of Education who have brought our once-great school system to its lowest point. I can no longer remain with employers who are remorseless in their determination to interfere with the effective administration of this school. I have, therefore, decided to start my retirement leave on September 1.

We can look back with pride to a school that has been safe for your children during a decade in which crime in the schools has been the hallmark of education. We have preserved a learning climate as L.I.C. Each year the learning atmosphere is reflected in our school newspaper, literary magazine, publications in mathematics, social studies, science, foreign languages, secretarial studies, and other subjects. Our assembly programs (some 20 a year) are conducted with dignity at a time when most high schools have abandoned assemblies, because they cannot risk the disorder. Our Math team has distinguished itself in interscholastic competition. Our annual Festival of the Arts, modern dance, and gymnastic programs offer opportunities to youngsters with special talents. Our varsity athletic teams, despite budget cuts, continue to compete effectively and demonstrate decency in sports. The majority of our students gain entry into colleges. We maintain a varied scholastic program ranging from Bachelor Pad to modern Greek and 12th-year mathematics.

Our 3,000 students come from 40 different countries. Our non-English speaking children learn to speak English through English and do not become dependent on their native language as is the case with bilinqual programs elsewhere.

We are an integrated neighborhood school, and we have no racial incidents. Our students respect each other and their teachers. They are, in turn, helped by many able teachers.

My sadness at leaving is mixed with the joy of remembering those who shared the L.I.C. experience with me.

First, I want to thank the parents of L.I.C. students for the fantastic support and encouragement they have given me. The high point (there is no low point) was last March when thousands of parents, students, and citizens marched around our school for three days until I was returned as your principal.

Second, I want to thank the political and community leaders who sought at every turn to sustain us in our determination to keep the school safe so that children could learn.

Third. I want to thank those teachers and staff who know what I stand for and who made home away from home for more than a decade

Fourth. I want to thank the thousands throughout the nation who have written and phoned words of encouragement. These, I shared with my wonderful wife who has stood with me through 36 years of good and bad fortune.

My wife is no summer soldier—and neither are you. You have helped me year 'round in the endless battles necessary to survive in a turbulent decade. We have enjoyed some remarkable victories.

Fifth, I want to thank the Fourth Estate—the newspaper, magazine, radio, and TV people, who have covered our story for years. They have been fair.

In the years ahead, I hope to be as active a sever i nthe field of public education. I shall be available to help school boards, except our central board. It is beyond help. And I shall be writing and speaking. So it is not really goodbye. I'm putting on a new suit and I hope never to wear out my welcome in Long Island City, a community I love.

Sincerely,

HOWARD L. HURWITZ.

WE MUST NOT TURN OUR BACKS ON THE HEROIC BALTIC STATES—THE OCCUPATION BY SOVIET UNION IN 1940 CAUSES TRAGIC LOSS OF HUMAN RIGHTS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. KEMP. Mr. Speaker, June 15–17, 1977, marked the 27th anniversary of the invasion of the Baltic States of Estonia, Latvia, and Lithuania by the Soviet Union, the first step in their annexation. One year later, on June 14–15, the Soviets carried out their first mass deportation of the Baltic peoples to Siberia. Since that tragic time, Baltic peoples around the world have commemorated the destruction of their homelands through ceremonies and tributes during the month of June.

I would like now to bring to the attention of my distinguished colleagues here in the Congress, the story of the Soviet takeover of these three courageous countries. The following paper was prepared by the Joint Baltic American Committee, and I urge all Members of Congress to read it carefully in light of the deliberations presently going on in Belgrade that will be affecting the future of human rights in these countries:

THE BALTIC STATES REMEMBERED

This month, Baltic-American communities throughout the United States will be commemorating the two tragic events of the June 15–17, 1940, occupation of the Baltic States by the Soviet Union, and the subsequent mass deportations of Baltic peoples to Siberia on June 14–15, 1941. With the Belgrade Conference imminent, remembrance of such events should serve as apt reference points. So many small nations have been crushed under the Soviet steamroller that there is a tendency to forget that original Soviet military takeover of the three independent countries of Estonia, Latvia and Lithuania.

The Baltic hope for freedom was embodied in President Woodrow Wilson's Fourteen Points and the Baltic nations began their independence following World War One. This was brutally challenged by the newly established Bolshevik regime in the Soviet Union, and the three countries successfully defended their right to national independence against the Red Army. In 1920, the Soviet Union signed treaties recognizing Estonia, Latvia and Lithuania as sovereign nations. Later each of the three countries signed non-aggression pacts with the Soviets.

Nonetheless, in June, 1940, the Baltic States were issued with ultimatums demanding unlimited occupation rights of their lands Within a matter of days, Estonia, Latvia and Lithuania had been conquered by the onrushing Red Army. Their once free governments had been purged, farcical elections were staged, and within fourty days the Baltic nations were forcibly incorporated into the Soviet Union against the bitter opposition of the Baltic people. They were thus placed under the direct control of Moscow. Unlike the Soviet satellite captive nations of Eastern Europe, the Baltics lost even nominal sovereignty. The Baltic economies became subject to the central Soviet plan, and the police, school systems and judiciary came under Soviet ministries. Their people are governed almost exclusively by Soviet Russian overlords. All of the Baltic States rights as once independent nations have been completely eliminated.

The frightful pattern of the early years of Soviet occupation was essentially the same in each of the states: terrible mass deportations and arrests, abrupt and total collectivization of agriculture, nationalization of industry and private property, and the attempt to exterminate the Baltic States as national entities through a program of Russification. To replace those victims deported to the far reaches of the Soviet Union, the Soviet authorities sent in large numbers of non-Baltic peoples, an ever ongoing process. As throughout all of the Soviet Union, a great emphasis was put on the eradication of religion and the strong advocacy of atheism. Despite these crimes against human rights, the spirit and national feeling of the Baltic peoples has not been broken and they have joined with the many other nationalities of the Soviet Union in unrelenting resistance to that unnatural entity.

The Soviet experience in the Baltic States shows that it requires more than physical control of the administrative machinery of a country in order to thoroughly incorporate it A successful incorporation must have its basis in the opinion of the people. Unless this is achieved by the people themselves, foreign intervention can only superimpose a government on the people. Such a government can only endure by means of force, a costly and inefficient form of administration, having no credible base and no credible future. Such was the status in the Baltic States of 1940–1941, and what still remains in the Baltic States today

DOUBTS CAST ON ELECTION DAY REGISTRATION IN MAINE

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. DICKINSON. Mr. Speaker, proponents of election day registration, H.R. 5400, will cite the example of States which have adopted this proposal and they suggest that the fact that it worked well in a few States, then it would work nationally. This claim requires careful examination.

Minnesota and Wisconsin have laws very similar to the proposal of President Carter—voters may register at the polling place and vote immediately. Two other States have a similar system. In Maine and Oregon, the unregistered voter may register on election day but needs to make two separate stops—the first is at a town hall or county clerk's office to register and then a second stop is required at the polling place in order to vote.

Vice President WALTER MONDALE and other supporters of universal voter registration hail the great successes of same-day registration and imply it would have the same effect nationally.

Yet, it has come to my attention that some of the public officials are raising an important question. This is true of the State of Maine. State Senator Walter W. Hickens—District 1—of Maine recently wrote:

At the last Presidential election, utter confusion prevailed at many voting places, especially in rural areas where people stood in line an hour before closing time registering to vote. One town in my district discovered that several people registered in the closing moments of the day who could not be accounted for as residents of the town when a checkup was made after election day. The registrar of deeds just couldn't verify these voters' residency in the short time granted on election day."

In fact, several bills have been introduced in the Maine Legislature to use the experience of the State so far to move away from same-day election registration. A senate measure would prohibit voter registration after 12 noon on election day and establishes a uniform schedule for registrations in different sized municipalities. A similar house version to change election day registration procedure has been cosponsored by two Democrats and two Republicans.

It should interest my colleagues if I quote from the statement of fact from the Maine House of Representatives bill which presents the need for such a change:

Recent experience indicates that the number of persons trying to register on or near election day is increasing. This increase puts a heavy burden on boards of registration and registrars to register a large number of persons in a short, hectic period of time. In addition, a large number of new registration means that local boards of registration or registrars do not have the time to check with other municipalities to ensure that the new registrant is registered to vote in only one place. As a result, it is now possible for persons to register to vote in a number of municipalities without danger of detection, a situation which can lead to a greater incidence of voter fraud.

In order to avoid this heavy burden on municipalities near election time, and to ensure that voter fraud is discouraged, this bill eliminates voter registration on or near election day, except in very limited circumstances.

Can we have a better statement of what is wrong with the Carter election day registration proposal? Some perceptive members of the Maine Legislature have seen the defects of this proposal. Let us heed their warning and stop H.R. 5400 in the House of Representatives. We do not need the problems of inadequate checking on voters, long lines of potential voters on election day, and weak protections against fraud to be adopted for our national voting system.

BACKGROUND PAPER ON PRESIDENT'S DISCHARGE PROGRAM

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. EDGAR. Mr. Speaker, I wish to share with my colleagues an important background paper on the President's Vietnam-era discharge program. This testimony was presented at the opening day of hearings on Monday, June 20, 1977, before the House Veterans Affairs Committee. I believe that this report will make an important contribution to the debate now before Congress. The report follows:

STATEMENT BY PAUL D. PHILLIPS, DEPUTY ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND RESERVE AFFAIRS), BEFORE THE SPECIAL OVERSIGHT SUBCOMMITTEE

Mr. Chairman and distinguished members of the Subcommittee, I am Paul Phillips, Deputy Assistant Secretary of the Army, Manpower and Reserve Affairs.

Colonel Weber is the President of the Army Discharge Review Board and has been for 4 years. He is a Veteran of both WW II and Korea and an airborne combat infantryman with the Silver Star, the Bronze Star for Valor, and of course, the Purple Heart, among his decorations.

Colonel Miller, who works in the personnel staff, developed many of the administrative and procedural concepts under which the special program operates. He is a Vietnam veteran with the Purple Heart. An artilleryman, he has been in the Army since 1951.

I am a retired officer, a WW II veteran, was a Japanese POW and served 26 years in the Army. I have been in my present job for 6 years.

If you have detailed questions beyond those we can answer today, we will be happy to provide them for the record and can do so quickly.

It is a pleasure to appear before the Subcommittee to discuss the Special Discharge Review Program and to comment on the procedures and implementing instructions for this program.

Let us understand what is and what is not special about this program.

It does provide simplified application procedures for those who believe they are eligible.

It does provide a special, short time limit on the administrative and substantive handling of each case—6 months from the applicant's telephone call.

It does provide for *de novo* hearings for any denial by the Review Board, and where denial still leaves an undesirable discharge, it does provide government furnished counsel for the next hearing.

It does enunciate special considerations—six in number—and special mitigating circumstances—nine in number—that are to be applied in the spirit of compassion and forgiveness. The special character of these is simply that they are written down for the first time for all to see. They have been applied and will in future be applied in fact or in philosophy.

It does make mandatory on the Review Boards an upgrading if any one of the six special considerations are met absent compelling reasons to the contrary. And there are four such compelling reasons.

It does limit the period of eligibility for the program to those who were discharged between 4 August 1964 and 28 March 73.

Finally, it also limits the period during which a discharged soldier can apply to the period 5 April 1977 to 4 October 1977. Those are the special features of the program. The 6 special considerations, 9 mitigating factors and 4 compelling reasons are attached to this statement.

The ordinary or traditional features of the program are that:

It is not a blanket upgrade program.

It does not apply to people with bad conduct or dishonorable discharges.

The panels of the Boards are made up of five senior field grade officers with a vast amount of military experience who are rotated among panels frequently to assure uniformity.

Some of the applicants to this program will be individuals who qualify for discharge upgrade, and who simply have not applied before, even though they may have been aware that discharge review boards existed. Unfortunately, many young people are not sophisticated enough to be aware of their rights under law or are not aware of the means by which to take advantage of them. This special program has made it easier for them to be considered.

One other aspect of the President's program for closing out the Vietnam era and healing the wounds is the deserter-at-large program. Deserters who absented themselves during the period 4 August 64 to 28 March 73 and who have no other military offense pending against them except prolonged absence may turn themselves in and be discharged promptly with an undesirable discharge. They may then avail themselves of the Special Discharge Review Program. The time limit for application by deserters for discharge also expires on 4 October 1977.

As the data at the inclosure show, we have had inquiries from about 42,000 people on the Special Discharge Program. Of these, about 26,000 are eligible to participate. Of this 26,000, the review has been completed on about 13,000 of which about 9,500 were Undesirable Discharges and 3,300 were General Discharges. Of the 9,500 Undesirable Discharges, 6,900 were upgraded. Thus far then of an estimated 161,000 eligibles, only 6,900, or about 4% have been upgraded.

The Army has been designated Executive Agent for the Department of Defense for this program. Each military department has established facilities to determine eligibility of deserters and to process and discharge those eligibles.

The Army, in coordination with the other Services, operates a Joint Liaison Office which receives telephonic applications for participation in the Special Discharge Review Program. When record processing is complete, the applicants' files are forwarded to the appropriate Service Discharge Review Board for consideration and possible upgrading.

Enclosed is a short summary of the latest progress data we have on the program, certain cost data, and the DoD plan for the program.

I shall be pleased to address any questions you have.

SUMMARY TO STATEMENT

(By Mr. Paul D. Phillips, Deputy Assistant Secretary of the Army (Manpower and Reserve Affairs))

The following are parameters of the Special Discharge Review Program as published in the Federal Register dated 26 April 1977.

The six "Special Considerations" apply to those with discharges Under Other Than Honorable Conditions who will have their discharges upgraded unless there are compelling reasons to the contrary:

Wounded, a result of military action.

Received a US Military Decoration (Not Svc Medal).

Successfully completed assignment in SEA or West. Pac in spt of Opns in VN.

Completed alternative svc or excused therefrom under Ford program.

Had honorable discharge from previous svc.

Had a record of satisfactory active military svc for 24 mos, prior to discharge.

Mitigating factors which also may qualify for upgrading include:

Age, aptitude, length of svcs at time of discharge.

Educational level at time of discharge.

Whether entered svc from deprived background.

Personal problems which may have contributed.

Whether entered service w/waiver of normal stds.

Whether actions leading to discharge were alleged *at the time* to have been motivated by conscience.

Whether discharged for drug/alcohol abuse & contributing extenuating circumstances.

Record of good citizenship since discharged.

Other factors contended by the individual.

Compelling reasons not to upgrade are as follows:

Desertion or absence in or from the combat zone.

Discharge based on act of violence or violent conduct.

Discharge based on cowardice or misbehavior before the enemy.

Discharge based on act or conduct which would be subject to criminal prosecution if it took place in civilian environment.

TOTAL ELIGIBLE FOR DISCHARGE REVIEW LESS THOSE ALREADY UPGRADED UNDER REGULAR BOARD PROCEDURES

SPECIAL DISCHARGE REVIEW

	Number (thousands)	Percent
Total estimated eligible	420	100
With GD	(259)	62
With UD	(161)	38
Total applicants (as of June 14, 1977)	42.0	
Eligible applicants	26.2	[1] 62
With GD	8.5	[2] 32
With UD	17.4	[2] 66
Total reviewed (as of June 14, 1977)	12.8	[2] 49
GD	3.3	
UD	9.5	
Upgraded	8.2	[3] 64
GD	1.3	[4] 40
UD	6.9	[5] 72

[1] Of all applicants.
[2] Of eligible applicants.
[3] Of all reviewed.
[4] Of GD's reviewed.
[5] Of UD's reviewed.

FORD PROGRAM (SEPTEMBER 1974) (4313)

	Eligible	Applied	Percent
Fugitive deserters	10,115	5,555	55
Fugitive draft evaders	4,522	700	16
Discharge AWOL offenders	83,135	13,589	16
Convicted draft offenders	8,700	1,879	22
Total	106,472	21,723	20

Note: Estimated cost, $910,000.

VIETNAM ERA DESERTERS
(as of 14 June 77)

	Hundreds	*Percent*
Estimated Deserters-at-large	2.6	100
Inquiries	.6	23
Eligibles	.5	83

ACTUAL

Data provided below represents total incremental costs reported by the Services thru 31 May ($ in thousands).

Operation and Maintenance Appropriations:	
Civilian Personnel Compensation	$406
Civilian Personnel Benefits	24
Travel and Transportation of Persons	821
Transportation of Things (Postage, etc.)	2
Rents, Communications, and Utilities	134
Printing and Reproduction	2
Other Contractual Services	92
Supplies and Materiels	43
Equipment	69
Total	1,593
Military Personnel Appropriations:	
Permanent Change of Station Costs	18
Total	18

The funds expended from the Military Personnel Appropriations to settle claims for increased entitlements accruing from the upgraded discharges cannot be provided at this time.

SPECIAL DISCHARGE REVIEW PROGRAM PROJECTED COSTS

	Projected		Other services
	DOD	Army	
TDY	$1,168,520	$784,110	$384,410
Reimburse GSA	79,900	44,700	35,200
Deserter control	283,356	187,015	96,341
Communications support	476,000	266,560	209,440
Miscellaneous overtime and temporary hire	1,568,000	1,411,200	156,800
Records transporation	136,300	76,328	59,972
Pentagon computer support	83,878	46,972	36,906
Other computer requiremets	82,000	45,920	36,080
Postage	52,000	29,120	22,880
GEM building lease and phones	160,000	160,000	N/A
Motel lease	150,000	150,000	N/A
Guard service	39,000	39,000	N/A
Printing/miscellaneous supplies and equipment	104,000	58,240	45,760
TDY trips for management action	8,200	4,592	3,608
Total	4,391,154	3,303,757	1,087,397

Note: Subject program costs will be provided from currently available O. & M. funds within each of the services. The above estimates do not include payments which may be due to discharged members based on an upgraded discharge. Such payments will be absorbed from the military personnel appropriations. No estimate is available as to the amount involved.

FIRST THERE WAS LIGHT—THEN THEY MADE IT CHEAPER

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. ICHORD. Mr. Speaker, the prospect of a life-long energy crisis has turned some of us into doomsayers and most of us into pessimists. The possibilities for renewable energy development are wrought with controversy and the conservation of finite resources requires more discpline and sacrifice, it appears, than many of us are willing to acknowledge or suggest. In all of the commotion surrounding the formulation of energy policy, it would seem that we have left no stone unturned in our search for conservation techniques—tax penalties, tax incentives, and grand scale regulation are debated again and again.

I believe, however, that one very rich and encouraging possibility has been overlooked in all this ado about energy. It is simply the resourcefulness and ingenuity of the American people when it comes to facing a crisis. In my correspondence, I have received hundreds of suggestions for conservation measures from constituents and, while some have been more imaginative than workable, most have been worthy of consideration and a few have been inspired.

As an example of this potential, I would like to share with you today an article from the April 15 Salem News of Salem, Mo., which tells the story of an electronics class and science club at Salem High School. In a 2-year project, a small group of students investigated the unnecessary expenditures and energy waste of high wattage light bulbs and devised changes which could save their school more than $3,500 in 1 year. While their report entitled "First There Was Light—Then We Made It Cheaper" is too technical to be presented here, I will be happy to make it available to anyone interested in reading it.

Mr. Speaker, it is imperative that we not discount the possibilities present in what may first appear to be small-scale efforts. The Salem High School report concluded with this thought: ". . . when you consider the thousands of high schools across the Nation and multiply these seemingly insignificant conservation attitudes times this vast number of schools, you can readily see that to our Nation no energy savings within a school is insignificant." I recommend this article to other schools, families, businesses, and individuals as an example of their potential in the face of this crisis and to my colleagues here as a reminder of one abundant natural resource we have all too often underestimated:

BETTER LIGHT FROM FEWER WATTS—ELECTRONICS CLASS FINDS WAYS TO SAVE ON SHS LIGHT BILL

In the beginning there was light—lots of light from bottom-frosted 500-watt bulbs. Salem High School was new, and energy hadn't been recognized as the problem we know it to be today.

Those 500 watt bulbs, bouncing light from ceilings and walls which aren't as bright as when Salem High was new, use energy—lots of electricity.

Salem High Science Instructor John Hambacker's Electronics class and the Science Club aren't sitting on their hands, letting all those 500 watt silvered bulbs use up all that energy. They've been climbing up and down ladders, changing bulbs, measuring light, checking on student response and, best of all, coming up with a solution that has some dramatic savings—two fifths of the present bill for lighting most areas of the school. And if the school eventually adds fluorescent fixtures, the saving is even more—a saving in school dollars and energy.

But let's look at the story step by step.

A 30-page report tells the electronic class energy story. It's titled "First There Was Light . . . Then We Made It Cheaper." The report begins: "This report is the result of a two year study by students in Mr. Hambacker's basic electronics classes. The origin of the idea for the study has resulted from our country's change in attitude toward energy, an attitude change resulting from the realization that Mother Earth's fossile fuels are finite, not infinite. . . ."

Solutions didn't immediately light up the class experiments. "Our first experiment involving a 300 watt non-frosted bulb. The illumination for this bulb was a little greater at desk level, but then so was the glare and shadows it produced." This attempt to replace the 500 watt silver bottom bulbs failed.

The students weren't content to just measure the light. Two tests were set up—one in Mr. Hambacker's room, where everyone knew of the experiment, and another in Mr. Lawson's class, where the students weren't told of the change. The students weren't satisfied with the "glare," they noticed the change in both rooms.

Custodian Les Gray and Bob Young came to the rescue. Last summer they found a 300 watt frosted bulb. Again the tests were run. The light was measured at desk level and in the shadows. Again the two classrooms were set up—and this time Mr. Lawson's students didn't notice any change in their lighting.

Having found a 300 watt frosted bulb which equalled or surpassed the 500 watt reflecting silvered bulbs, the students started doing some calculations. They figured that the cost of lighting the high school for one year, based on 260 bulbs burning 180 days, came to $7,956. The 300 watt frosted bulb, using the same estimates, would cost $4,427.28 for a year. Less expensive incandescent bulb is recommended for the shop building (which has high ceilings) and above the bleacher seats in the gym, in the cafeteria and on the stage. Students find this bulb less desirable and this is why it is used in high ceiled rooms only.

The students also have looked into the transition to the new bulbs. One alternative is replacement of the old bulbs with new ones as they burn out; the second is an immediate replacement of the old bulbs to take advantage of the lower operating costs.

The electronics students looked at other ways to save and decided "there is a substantial waste of lighting in the classrooms and the hallways in the junior high building. They found that, with all the lights in hallways lit, the intensity ranged from 15 to 40 footcandles; and according to national standards five foot-candles is sufficient in these non-work areas.

The students came up with some "attitude changers" on other energy questions. For instance, the cost of operating a 100 watt light bulb in your home for one full year is approximately $54, they found. A Missouri resident can realize an 18 percent fuel savings on the average by lowering the thermostat from 72 to 65 degrees. And they came up with a warning: "Remember, what we save today in fossil fuel will help provide the time necessary to discover a new way of life with energy."

Armed with enthusiasm and a 30-page carefully prepared report, the students requested a meeting with the school board. The board consented—and were given an hour and a half presentation, including a tour of school rooms and halls. The board was impressed, adopting a plan for replacing the 500 watt energy wasting bulbs and will look into other energy saving suggestions—although these do not have the eye-catching dollar saving features of the light bulb experiment.

The class, and Mr. Hambacker, realize that many surrounding communities with buildings constructed at about the same time as Salem High have the same problems and are sharing their findings.

Science Club President Frank Davis, Vice President Tom Curtis and members David Greenshields, Shelly Stephenson and Jackie Thomas have pushed the work, and enlisted the aid of Debbie Lose and Sally Harvey. All have worked hard—and all acknowledge the great effort of Custodian Les Gray and Bob Young, plus the help of electronics classes.

The students enjoy telling their energy-saving story, just as they enjoyed, after some stage fright, taking an hour and a half of the school board's time to present their findings.

But the Science Club has been in the forefront of many unique projects, from a darkroom for the high school to the incorporation of the club to show the students how businesses operate.

And there's a reward for their good work, as there always should be for such efforts. In return for their electricity-saving study the school board has promised them a float trip on the Buffalo River—a go-with-the-current, energy-saving canoe trip.

THE WAY WE NEGLECT OUR OLD PEOPLE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. ZABLOCKI. Mr. Speaker, I wish to bring to the attention of my colleagues one of the articles by news re-

porter Margo Huston, from a series of articles on problems of the elderly which appeared in the Milwaukee Journal in the fall of 1976. The series won the 1977 Pulitzer prize in the category of general local reporting.

In view of the growing emphasis and awareness of human rights throughout the world, I believe that it is appropriate that we also concern ourselves with the human rights of our Nation's 22.4 million elderly people.

The problems and conditions of aging have always been with us, and even the Bible reminds us to remember God in the days of our youth "before the evil days come and the years draw near when you will say, 'I have no delight in them.'" Indeed, I believe we need to be reminded of the problems many elderly Americans face daily. Problems of adequate retirement income, health care, decent housing, crime, transportation, isolation, and loneliness.

Just as I believe there is a need for a renewed awareness of human rights in order to improve the plight of the repressed people of the world, I firmly believe we should also renew our awareness of the problems of older Americans so that we continue our efforts for better solutions to those problems, individually and at the local and Federal levels. We can make the latter years less evil and should try our utmost to do so.

It is for this reason I am pleased and honored to include in the CONGRESSIONAL RECORD Margo Huston's first article entitled, "This Is the Way We Neglect Our Old People: Inside the House That Bertha Built." This excellent and sensitive article was one of the series regarding problems of the elderly in the Milwaukee area. Certainly these problems are not unique to the Milwaukee area but are typical of many other areas of the Nation. Hopefully, these articles will serve as a further incentive to help the elderly in this country.

The article follows:

INSIDE THE HOUSE BERTHA BUILT

(By Margo Huston)

This is the house that Bertha built: Shabby bungalow, shades drawn, dark. You've seen this house, somewhere. When you were a kid, you called it haunted and raced past, screaming.

This is the woman who lived in the house that Bertha built: Urine soaks through her wheelchair, trickles down her swollen legs, into the open sores, over her bleeding bare feet and lands in a pool on the warped wood floor.

At 91, her blue eyes still twinkle, her smile beckons and she manages, ever so slowly, to raise her saggy arms and motions, come here, with her fingertips.

Her stringy hair matted, she cocks her head coyly and, smiling like a contented but shriveling babe, softly pleads to this stranger, "Come here, lady, and give Bertha a little kiss."

She puts her shaky arms around the reporter, who had only been doing her job: Asking questions, listening and taking notes. She hugs and hugs, hanging on, happily. Her stomach, looking like a soft volleyball, peeks out of her black dress. It quivers some. Then the woman purrs, like the cat she alternately pets and paddles.

But she doesn't budge; for four years she hasn't not under her own power. It was a fall, four years ago, but for 20 years before that arthritis had been crippling her in body and spirit.

Even so, Bertha is some character. A visit, if you let it, can be a trip back in time and deep into all of our human fears and frailties.

Talk is constant; it flows from lively narratives about days in old Milwaukee to latter day parables that are presented, of course, as fact.

One goes like this:

Three suave gentlemen knocked at her door, proposing that if she signed her home over to them, they would take care of her forever in a beautiful new home built by a new church in Chicago. If she got ill, she would move up to fourth floor infirmary.

"So I said, 'Don't you think they'd be forgotten up there?" These boys, they were sharp, they said (now she raises her pitch), 'You are all alone here.'

(Natural, lower-pitch.) "'So, what of it, what if I am? I have my own life to live. You go around like low-down thieves. Don't you know, that's robbing the rights of every human being?' So, they could see I was disgusted and they never came back."

As the story goes, she had a cousin who broke her knees, couldn't stand, couldn't cook, couldn't go to the bathroom, just sat there all day, babbling like a child. Her cousin's husband, Carl, is a man who gets disgusted easily; her cousin's daughter works so soon her cousin was placed in this new church infirmary in Chicago.

"Now what business does a husband have to sign a wife in anywhere—like a dog?" she asks.

As it came to pass, that was the same Chicago nursing home where fire killed 113 patients earlier this year. "So when this fire was, my cousin was burned to death. Now she haunts me, and I say to her husband (now there's venom in her voice), 'You killed her. That fire that burned her is your trick.'

"Why did they make that church place? I call that a murder den. How can a new building burn like that?"

Parable ended, Bertha smiles across the dark stench between her post at the cluttered dining room table and her husband's creaky chair near the broken front door, 10 feet away. She recalls how, in his younger days, he looked exactly like J. Edgar Hoover. He smiles back, fondly, and she says of her husband, "He has a heart. He's a man. He's a human being."

Bertha has been afraid to go to a doctor, so she hasn't gone to one since she came down with pneumonia in the 1920s. But she loves TV's "Medical Center," along with "The Waltons" and "Little House on the Prairie"—programs that depict "the nice life."

Bertha's parable has a lesson, and she states it slowly, softly, but most of all deliberately.

"Leave each one live—you want to live," she says. "I mean, leave each one have their life."

This is the man who married the woman who . . .: Hanging on to the wall, the gas space heater, the wood burning stove, he shuffles, wearily, through this dark, dreary, smelly house that has no bathtub, no refrigerator. Since his wife's fall, he has wiped up her every bowel movement, as best he could.

This man doesn't talk much; his wife doesn't let him. She screams at him, "What are you crabbin' about?" And he replies quietly, "I'm not crabbin'." Then he puffs his pipe.

When he does talk, crabbin' it ain't:

"When you get married, you take a vow for better, for worse, in sickness and in health. So I try to live up to the vow as good as I can."

He speaks in raspy spurts, politely, gentlemanly and, but for his filthy T-shirt and urine soaked trousers, has the classy demeanor of Chief Ironside.

"I was dead in love with her when I married her, and I'm still dead in love with her," he almost shouts. "But I made up my mind, this nagging can't go on. What's the use of her sitting in that chair all night, all day, all night?"

He holds out his sad arms and laments, "They've lost their strength. I can't lift her anymore.

"When the police were here last, she said I deliberately pushed her off the chair."

His wife coughs, sputters, purses her lips, then she shouts, "There you go. Are you going to shut up? Are you going to let me talk to the lady?"

This time, he doesn't let her.

"You know yourself," he explains, "when you're wet, it smarts and burns. She can't stand it, so she wiggles and wiggles and gets on the edge of her chair and then she goes over. That's the God's truth as I swear on a stack of Bibles."

Silence, a rare moment.

His wife looks up with all the dignity she can muster. "I have been all my life a self-standing person."

"And that's the trouble," concludes the husband.

These are the firemen who helped the man who . . .: First the fire truck, then a squad, then another squad, sirens blaring, park in front of this dying house. Some of the men run in, others wait outside.

Inside, there's Bertha, indelicately plopped on the floor at the base of her wheelchair, its sides solid with dusty cobwebs, its seat rotten with human waste. Facing her is a shiny new wheelchair, having a commode instead of a seat and a foam rubber ring to make sitting on a toilet all day comfortable.

"How you doing, Bertha?" asks fireman Gerald Fink in his friendliest, most enthusiastic manner.

"Here I am again," she says, picking up the jovial mood. "I can't help myself, but I'll not complain. You're my boys, You're so good."

Meanwhile, the husband instructs the firemen to put Bertha in the shiny new chair he has just bought.

No, no, no, insists Bertha, alternately friendly to the firemen and ferocious toward her husband.

"I'm not used to that, no, no," she shouts.

Now she screams with pain, two firemen are lifting her, as gently as possible, with pads and practice as cushions. Settling back into the old rancid chair, she whimpers quietly as she slowly regains her composure.

Fireman Fink steps out to the porch, his expression now pained, and asks the reporter, "Can't you do something? Isn't there some kind of social agency that could step in? Why should people live under conditions like that—for crying out loud?"

Sounding exasperated, he adds, "Helping her into her chair, that's as far as we can go.

Turning to a police officer standing outside, Fink asks, "Shouldn't somebody step in and see what can be done?"

With a cocky smile, the officer replies, "Anybody can step in there who wants to."

These are the neighbors who watched the firemen who . . .: Three widowers, in their 70s and 80s, are standing halfway down the block, chatting, watching, one wearing a straw hat, another chewing on a cigar, the third standing still as a statue.

This is what they tell a stranger about the people in the shabby bungalow:

"Ornery. That's what they are. Ornery."

"She's supposed to have 13 kids, but you never see them over there. Maybe her own children can't get along with her either."

"Something could happen to him, then they'd both sit there, who knows how long."

"Haven't seen her in 10, 11 years."

"She ain't got no funds at all. The tax man's always after them."

"The law should get after them."

"It sure don't pay to get old."

The man in the straw hat says Bertha called asking for a can opener in spring, so he took over a beer can opener. That wasn't the kind of opener they needed, Bertha's husband told the neighbor, who then left in a huff, taking his possession with him, never to return, until . . .

After the fire truck leaves, the reporter stays in the shabby bungalow to interview its people. Time passes. Soon, there's a knock. It's that same straw hat.

"Is everything all right?" asks the neighbor.

Smiling sweetly, the old woman soaked with her own urine and caked with her own feces, replies, "Everything's all right; just me sitting in a chair and I can't help myself. You're a nice man."

"Well, I just was getting concerned about the young lady. She was in here so long, I thought something might have happened," replies the neighbor, peeking his head in just far enough to see the reporter sitting there at the dining room table with Bertha.

Out on the sidewalk, a little voice stage-whispers, "Is it spooky in there?"

This is the nurse who criticized the neighbors who . . .: "The neighbors watch everything. They watch the police and the nurse and they start asking us questions," says public health nurse Carol Szymczak. "I get very upset with neighbors like that, with the fact that nobody helped her. Where were the neighbors, like 10 years ago?

"People don't want to get involved. There must have been a time, a time before they dug themselves in there and sealed out the rest of the world."

There are more Berthas, Ms. Szymczak is convinced. Helping, or trying to help, neglected adults is routine work for the bulk of the city's 126 public health nurses, says Carol Graham, superintendent of the Bureau of Public Health Nursing.

"No, this is not unusual, not really," muses nurse Szymczak, a 10 year veteran of public health nursing. "And I'm sure, if there's one case we know about, there's three or four more we don't know about. Behind all those closed shades, what's going on? I know people who haven't stepped outside in 20 years. If only, if only the community could get a little bit involved. If only the family could care a little bit. If."

This is the daughter who ignored the nurse who . . .: A data processor for the Job Service, at 60, she definitely is her mother's daughter. Her house, a small bungalow; her legs, ankles and feet, swollen; her propensity, to talk a lot; her social life, nil; her relationship with her own daughter, sad; her obsession, never to go on welfare; her spending habits, miserly, selfish and greedy; her personality, set in its ways.

But she's determined not to end up like her mother so she bought herself an exercise bike and two books, one on psycho-cybernetics to keep her mind active, the other on charted knitting designs to keep her fingers active. Old people are so sad and lonely; she doesn't want to become one of them.

Usually after work she starts digging in her garden. Then when it gets dark, she sits with a TV tray, eats a meal of all green beans or all of something else she harvested, watches TV without turning on any lights and soon thereafter, goes to bed. On weekends, lately, she paints the trim on her house and putties the windows on her garage. She wears grubbies, T-shirts, tennies.

Though certainly not warm or emotional, she seemed to enjoy talking to a reporter, but when she spoke of her mother it was as if she were talking about someone she had seen on TV long ago.

Does a daughter have some responsibility to help an aging, desperate mother?

"If it's at all possible for a daughter, I think it's a wonderful thing," she replies, sitting back in her living room chair.

What do you mean, if it's possible?

"I mean, if you have a solution on how it can be done, I'd like to hear it," she shoots back, now leaning forward. "I've got all this painting to do; I've already used six gallons of paint and five tubes of caiking and I'm still not through with the garage. And at work, we're being pushed all the time, to do more."

The next question is: What's more important, your painting or your mother?

"You can say that, but if I didn't do my painting, I'd have it up to my ears and in the end I'd have nothing for my investment. I've got my car to take care of. And I have leg problems, too. We've all got problems. Do you want to see me become a county charge?"

There's only 24 hours in a day, she keeps saying, and besides, "My mother won't have any part of being helped because she's afraid. She's afraid of doctors, she's afraid of hospitals, she's afraid of nursing homes, she's afraid of anything she doesn't know about."

A few years ago, she says, she tried to help her mother. She gave her an immersible electric coil for heating a cup of water. "And I'm sorry I ever gave it to her, because she never used it" Her mother's house has no hot water heater.

Besides this, besides that: "Besides, I have trouble breathing over there. I get physically sick . . . She just wants somebody to feel sorry for her, to sympathize for her . . . I don't have any money to throw away.

"Besides, she's still able to make her own choices. Nobody can make decisions about what's right for somebody else. That's the trouble with these welfare workers. There has to be a point where they stop interfering."

This is the social worker who filled in for the daughter who . . .: Her name is Nancy Woedall, but county social workers don't talk to reporters and, anyway, it was her boss' boss who made the decsion that Bertha would be Milwaukee's first person forced to receive emergency services under a new law.

This is the law that prompted the social worker who . . .: Called simply Chapter 55 in the biz, this 1973 protective services law and in particular its 1975 emergency services amendments have the potential of revolutionizing social work in Wisconsin.

The desperate person who refuses to accept help (Bertha) has long frustrated social workers and public health nurses. The new law says emergency services (including hospitalization) may be provided for not more than 72 hours where there is reason to believe that if the services are not provided, the person entitled to the services or others will incur a substantial risk of serious physical harm.

To provide such services, social workers are to get a court order, but they may go ahead without one if "the time required to obtain such an order would result in greater risk of physical harm."

This month, an eight member Adult Protective Services team begins a concerted effort of carrying out this law.

Eugene Paykel, director of the Welfare Department's Adult Services Division, envisions "a great amount of precedent setting starting very quickly as to where are the boundaries of Chapter 55." He sees Chapter 55 as "a whole new tool—not a tool to do to people but to do for them. It's a whole new arsenal."

But, he predicts, this arsenal will not interfere with a person's right to die at home. It will focus, he says, "on people who are not committable, but whose judgment is impaired" (Bertha was Paykel's choice for a first candidate.)

Further, Paykel predicts that the very existence of the team will help the community get a handle on the extent of need—on how many Berthas live in how many dark bungalows in Milwaukee. (The Health Systems Agency speculates that as many as 150,000 persons could be in need of home care. For the sake of comparison, that represents the combined populations of Fond du Lac, Oshkosh and Appleton.)

This is the judge who interpreted the law that . . .: Judge Thomas O'Brien, a reserve judge from Northern Wisconsin, declined to talk to a reporter. He had also declined, in an informal hearing, to hear the case seeking a court order to permit the social worker and nurse, with help from the police or fire departments, to take Bertha to County General Hospital.

Assistant county corporation counsel Frank Putz, who drew up the papers seeking the court order, said the judge explained he would not issue an order for forced entry because he believed it would violate the person's (Bertha's) constitutional rights—since no one ever claimed she was incompetent.

This is the crisis that followed the judge who . . .: First, as Bertha's husband see it. "For 10 days, she wouldn't listen to no reason. She laid back in the wheelchair like this," he drops his head back, way back, as if his neck were broken, and drops his hands, limply, at his sides.

"She was right out of her mind, delirious, hollering do this, do that, weird visions. Finally, the hollering got so bad, I said, 'What the devil am I going to do?'

"So I called Mr. Steve Carner, the police in the district, and he said, 'We can't do nothing for you or your wife unless she consents to go to the hospital.' But she's not about to consent. So he says there's one salvation, call in the board of health and they'll get a court order. And I say, 'For God's sake, do something.'

"So, all right, it was then—to tell you the truth—served fast. I didn't know what was going on. They just picked her up and off with her. They don't monkey around. Oh, and they did a good job of it.'"

Bid Bertha finally consent?

"Oh, no, no, no," he replies. "She didn't give her permission and my permission didn't count. Law is law. That was the court order, that was the judge."

As nurse Szymczak sees it, the husband's permission did count and Bertha's own consent came that afternoon anyway. No court order was ever issued. If Bertha had protested, the nurse had planned to acquiesce—not to evoke the new emergency protective services law. "Nobody's aware of that law—at the hospital or the police department."

Everyone was painfully aware of Bertha's condition. Because her head was hanging back, her husband had been afraid to give her anything to drink, for fear she would choke. She asked the nurse for milk, but no clean glass could be found to even give her a sip of water. They tried to lift her, but her skin had adhered to that foam rubber pad and her body was stuck through the hole in the seat of that new wheelchair she had so feared.

So through all this filth, the police picked up Bertha, once again, this time chair and all. By the time she reached County General, she was quieter.

"Right when we got there, she let Patty (her longtime public health nurse, from whom she previously would accept no help) give her some milk," recalls nurse Szymczak. "It was a moving experience."

Yes the foam rubber ring had to be peeled off. "But just imagine," the nurse says, "how good it must have felt to lie down in a clean bed."

This is the death that ended the crisis
That followed the judge
Who interpreted the law
That moved the social worker
Who filled in for the daughter
Who ignored the nurse
Who criticized the neighbors
Who watched the firemen
Who helped the man

Who married the woman

Who lived in the house that Bertha built.

Because she died within 24 hours of being admitted to County General Hospital, a report was filed with the medical examiner's office telling the basics:

Bertha, seamstress, lived with her husband, born Sept. 15, 1885, died Aug. 12, 1976, of kidney failure brought on by a blood infection, also hardening of the arteries.

At 5:45 p.m. on the afternoon after the crisis, Bertha was found dead in her hospital bed.

Now, her husband sits shirtless, washing himself in a bed at the Veterans Administration—where years ago he met his bride, Bertha. He puts down the washcloth, apologizes for his looks, then recalls how the phone rang for him that day of the Ambassador Hotel, where the social worker had found him a room.

"The doctor said, 'I have bad news for you. Your wife passed on this afternoon.'" The widower winces, his face flushes.

"And there I was all alone. I didn't see it. I didn't know it." He drops his head and raises a single hand to cover his eyes, and he sobs.

"So now here I am. This is the end of it." He shields his eyes again, wincing, holding back. "I loved her too much."

THE B–1: PRO AND CON

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. DOWNEY. Mr. Speaker, during the last month two rather interesting and well written columns on the B–1 bomber have appeared in the Washington press. To assist my colleagues in evaluating the merits and demerits of this aircraft, I am inserting both of them in the RECORD, accompanied by some of my own nondisinterested comments.

One article favoring the B–1, written by George Will in the Washington Post of June 19, 1977, is a good summary of the layman's arguments for the B–1, with all the faults of these arguments evident to anyone who has examined the issue. Mr. Will argues that "U.S. missiles are small in size and number, relative to the Soviet Union's," not mentioning that they are very large in terms of accuracy, reliability, numbers of weapons, and overall capability, and that comparing the strategic offensive arsenals of the two sides is an academic exercise in any case, since they do not engage each other. He points out that the B–52's are old and suffer wear and tear at low altitudes, but does not mention that, without reducing or modifying their usage rates and patterns, they will be perfectly flyable for at least another quarter century. He says a cruise missile program would produce "slow, vulnerable airplanes," but does not mention that, in the midcourse phase to which this description applies, the B–1 is equally slow and vulnerable. Most importantly, he says the B–1 will fly "as low as 200 feet, below Soviet radar," ignoring the fact that when the Soviets put their radar up into airplanes and give it look-down capability, no altitude will be below Soviet radar unless it is underground, and even the Air Force does not claim the B–1 can fly underground.

The other article, written by Robert Denny in the Washington Star of May 23, 1977, points out that while the B–1 is an exciting and glamorous piece of technology, it costs too much for the little it will do. While Mr. Denny does not point out the B–1's vulnerability to advanced Soviet defenses, he does explain that our new cruise missile technology is unstoppable. But then he makes a novel and I believe, valid point: The totally nonglamorous slow and ugly A–10 will do more for our national security than the B–1 would do even if it worked, provided of course that we buy enough A–10's—something we are unlikely to do as long as we are spending billions per year on sleek prestige projects such as the B–1.

I insert both articles in the RECORD at this point:

[From the Washington Post, June 19, 1977]

THE B–1 IS URGENTLY NEEDED

(By George F. Will)

Eleven months ago, when Jimmy Carter's most urgent task was to energize the liberals who energized Democratic campaigns, he said what they wanted to hear: that the B–1 bomber should not be funded.

But two days before the election, he said in Oklahoma (where Tinker Air Base would serve the B–1): "I am not opposed to the B–1." And he wired a California official of the United Auto Workers union (which includes aerospace workers) that "no final decision will be made" until a review of "flight tests and all other factors."

As candidate Carter treated defense issues as cavalierly as candidates usually do. As commander-in-chief, he has acquired responsibilities and information, and he may, and certainly should, decide for B–1 production.

Today, bombers are delivery vehicles for about half the U.S. nuclear force. U.S. missiles are small in size and number, relative to the Soviet Union's. But the B–52 fleet is about a quarter-century old and has been out of production for years. Some flight crews are younger than their planes; one pilot has flown the plane his father flew.

B–52s, originally designed in 1948, were intended for high-altitude operations. But since the development of high-altitude Soviet anti-aircraft missiles (demonstrated in 1960, when the U–2 was shot down), B–52s have been flown frequently at low levels, where wear and tear are worst.

This and improving Soviet air defenses mean that the usefulness of the B–52 is declining. So if Carter killed the B–1, he would be amputating one leg of the "triad"—the mix of land-based missiles, and bombers that has been the basis of the U.S. deterrent. He would be imprudent to restrict himself and his successors to a deterrent based exclusively on ballistic missiles..

The Soviet Union is building a modern bomber ("Backfire"). And the Soviet Union is rapidly increasing the number and accuracy of its missile warheads, thereby approaching the ability to launch a potentially disarming strike against U.S. land-based forces, including B–52s on the ground. Thus the B–1 is urgently needed as a stabilizing weapon.

The B–1 could be dispersed to thousands of airfields. Its acceleration gives it a remarkable "safe escape time"—the time required, after an attack is launched, to fly a safe distance before a nuclear blast destroys its air base. So a B–1 fleet would vastly complicate the problem for Soviet targeters told to design a disarming first strike against the U.S. deterrent.

A strategic weapon must not only be able to survive attack; it also must be able to penetrate enemy defenses. The B–1 is twice as fast and only two-thirds the size of the B–52. It carries twice the B–52 payload and can carry it as low as 200 feet, below Soviet radar.

What makes bombers indispensable is that they are, as one expert says, "slow to take offense." Missiles, with their pre-programmed guidance systems, cannot be tentatively launched or recalled. Bombers can be put in the air to show resolve and thereby influence Soviet behavior in a crisis. They extend a President's control over crises by giving him flexibility of response.

The B–1 is expensive. The American Federation of State, County and Municipal Employees has run ads saying, in effect, that funds for the B–1 should be spent instead on state, county and municipal employees. Unfortunately, Soviet strategic spending has increased four per cent annually since 1964. U.S. strategic spending (measured in constant dollars) declined an average of eight per cent annually between 1961 and fiscal 1975. The B–1 would force the Soviet Union to divert substantial resources from offensive to defensive purposes.

As an alternative to the B–1, some opponents suggest modernizing B–52s so they could stand off from Soviet air defenses and launch cruise missiles. But this would cost a substantial fraction of what a moderate B–1 program would cost, and would produce slow, vulnerable airplanes.

Undoubtedly, Carter is tempted to kill the B–1 in order to rekindle the affection of his critics on the left. As they so often do, they have reduced a complex issue to a symbolic test of virtue. But if strategic rather than political considerations prevail, B–1 production will begin.

[From the Washington Star, May 23, 1977]

DEFENSE NEEDS A PLOWHORSE, NOT B–1

(By Robert R. Denny)

I love the B–1 bomber because it's beautiful. Sitting on the ramp, it is a legitimate, monumental work of art whose design perfectly expresses an exciting function.

As an ex-pilot, I would dearly love to slide the throttles forward, pull the wheel back ever so slightly and let the needle-nosed airplane catapult me into the magic upper world of clouds and stars that grubby groundlings never know.

But as a sane and sober citizen, a taxpayer and a former bomber pilot with a little knowledge of the capacities of airplanes in combat. I have to turn my back on the temptress.

I do not think we should build the B–1 in quantity for four reasons: The cost of such a bomber fleet would be about half the total expense of the Vietnam war. The arguments advanced for the B–1 are flimsy. Its intended function can be performed better by something much cheaper. Finally, we need a totally different kind of aircraft to fill an urgent need.

The fleet of 244 B–1's requested by the Air Force is estimated to cost $25 billion. But that's only the down payment. By the time training, replacement parts and other costs are added in, the figure will rise to more than $100 billion. We can't afford it.

The Air Force says it needs the B–1 because it will take longer than a missile to get to its target. This extra time will provide "high visibility of national resolve" and allow "time for negotiation," the generals said recently in a syndicated news feature sent to thousands of editors. The argument sounds pretty silly when you consider that the B–1 has been designed to provide no visibility at all. Its function is to slip under the enemy radar at treetop level and make a sneak attack on Soviet targets.

(Ironically, the B–1's predecessor, the inglorious B–70, was supposed to fly too high and fast for the enemy to reach. That illusion died when a Russian missile shot down Gary Powers in his high-flying U–2 in 1960. The B–70 promptly joined the B–36 and B–58 in the white-elephant graveyard of Air Force Edsels.)

The B–1 function of streaking to the target underneath the radar can be performed by the cruise missile. Salvos of these little nuclear-tipped jet drones can be fired by any wide-bodied airplane that "stands off" well out of firing range. The Russians have nothing to counter them.

But the Russians do have something else that's giving our strategists nightmares. It's an old nightmare that threatens to turn into solid, fearsome flesh some morning just before dawn.

The specter is a sudden tank invasion of Europe. More than 100 divisions are poised on the Soviet border—far more, as President Carter said after his inspection of NATO, than "defense" requires. A less diplomatic statement was made recently by retired Marine Gen. Lewis Walt. While reasonable men may find it easy to disagree with Walt's fulminations on amnesty, Vietnam and the volunteer army, his expertise on military hardware has to be respected.

He believes that Russian tanks could punch across the border in a dozen places and take Western Europe in two weeks. Other military men nod fearfully in agreement.

What would stop such an onslaught? Tactical nuclear weapons? Not when the enemy has penetrated your allies' cities and towns. Our own tanks and artillery? Our tanks are outnumbered three to one; our artillery by six to one. Fast-flying fighter-bombers? They go too fast to lock onto low-silhouette targets. Helicopter gunships? They're useful but they're terribly vulnerable to the mobile missile-launchers and rapid-firing cannon platforms that accompany the Russian tanks.

What remains? The Air Force has found a near-ideal weapon to stop the tank. A throwback to World War II, it's a slow, highly maneuverable single-seat airplane called the A–10. It's so heavily armored that a Russian cannon shell will bounce off its cockpit.

Sliding along the ground behind hills and buildings, it's an almost impossible target for fast, high-flying fighters. And—shades of the old West—the bulky airplane is, quite literally, built around a 20-foot-long, seven barrel Gatling gun. This monster can fire 70 big rounds of 30mm. cannon shells per second and punch through any tank armor.

We have a handful of these tank-killers now and could usefully spend some of the B–1 money on producing many more.

The B–1 is a racehorse at a time when we need plowhorses. It is time to give up the wild blue yonder for the dim and dubious battle down below.

RETAIL CLERKS LOCAL 400 DOES OUTSTANDING JOB FIGHTING CRIME

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1977

Mr. STEERS. Mr. Speaker, in the June/July 1977 issue of the Retail Clerks Advocate, an interesting article appeared describing the efforts of Local 400 of the Retail Clerks International Association in helping to establish an excellent and effective crime prevention program in Washington, D.C. At the insistence of Local 400, and with the cooperation of the city government and the management of Safeway, the program that was established includes guards in the stores, cameras in the stores to photograph robberies, and attorneys, who are assigned to accompany any Local 400 member who is called on to identify suspects in police lineups. As a direct result of this program, holdups in Safeways have been reduced by 53 percent.

This is a great record and shows what can be done to help reduce crime through cooperation. Local 400 is to be congratulated for their work.

I would like to include the text of the article in the RECORD at this point for the information of my colleagues:

LOCAL 400 INITIATES CRIME PREVENTION PROGRAM: SAFEWAY HOLDUPS ARE CUT 53 PERCENT

Local 400 can proudly take credit for initiating a crime prevention program at Safeway stores in the metropolitan Washington area, which helped reduce armed robberies by 53 percent last year, according to an official police department report.

"The police report justifies our insistence on a better crime prevention program, a demand that management resisted at first," reports Local 400 President Tom McNutt.

Local 400 raised the issue more than two years ago, suggesting that armed guards be put in the stores; that cameras be installed where they could photograph robberies in progress; and that Safeway assign lawyers to accompany any Local 400 member called on to identify suspects in police lineups. At that time, management rejected the suggestions, as well as several others offered by the police.

The issue simmered until finally brought to a boiling point last year when a Local 400 member was shot brutally in the back of the head during a holdup (see separate interview with Clarence Lewis).

A special meeting was arranged thereafter at the Mayor's office. Present were representatives from the Police Department, Safeway, and Local 400, who jointly hammered out an effective crime prevention program. Safeway agreed to overhaul its security system, incorporating suggestions from Local 400 and the Police Department. In turn, the police agreed to step up their surveillance activities and to provide stake-outs at target stores.

In particular, Safeway agreed to put drop safes in the stores which could not be opened by store employees, to install surveillance cameras similar to those in banks, to have armored cars pick up receipts, and to modify the teller booths.

The program was then heavily advertised in the community via radio, TV, and newspaper coverage. In addition, stickers were placed in store windows alerting everyone who entered the stores that the special crime prevention program was in effect there.

One year later, the Criminal investigations Division of the Police Department issued a follow-up memorandum tracking the effectiveness of the program. There was no question that it was extremely successful. The report stated:

"The 53 percent reduction of armed robberies committed against Safeway Stores can be attributed to several meetings between representatives of Safeway, Local 400, representatives of the Mayor's Office, and members of the Metropolitan Police Department. As a result of these meetings Safeway instituted additional security measures as a deterrent to robberies. . . .

"In addition to these security measures, the Metropolitan Police Department increased its surveillance of Safeway Stores and set up a special squad of men to stake out stores from the inside. . . .

"Following a press release which described in detail the additional security measures that Safeway and the police department were going to undertake, only two robberies were committed against Safeway during the next two months compared to nine armed robberies during the same time period in 1975. Also, since the cash pickup has been established, there have been no robberies of bank messengers."

Although this has been an obviously dramatic improvement, the system has not been 100 percent effective.

McNutt reports a number of inoperative cameras, poorly advertised drop safes, and other malfunctions which have hampered the total effectiveness of the crime prevention program. "For example," McNutt said, "we recently had a hold-up in a store which had newly installed a drop safe, but it was concealed in the regular safe. The hold-up men figured there was more money in the tills than was actually there. That's poor planning and poor advertising. As a result, there was another robbery."

With this one qualification—that the program still needs tightening—Local 400 considers the crime prevention program an outstanding success. As McNutt said: "Everyone is better off today than a year ago—members, the employer, and the customers. And we aim to keep it that way."

Ben Segal, special assistant to the Mayor of Washington, was in from the start on the planning of the Safeway Crime Prevention Program. He firmly believes that Local 400 deserves much credit both in helping to initiate the program and for making it work. The following are some of his comments.

Before we started this special crime prevention program, there was a certain amount of acceptance in the community that crime was a way of life. You know, people had a resigned feeling of accepting crime, a feeling of helplessness before hardened criminals.

In one sense, of course, it was a logical and necessary act for a retail clerk local to get involved. After all, it was looking out for the welfare of its members and the community in which these members work. But it is to Local 400's special credit that it was aroused enough and concerned enough to actually get something done. The union just would not accept the view that nothing could be done. And it helped turn the situation around.

But this is only the statistics from one year. No one can afford to rest on these laurels. What must be done is to keep the interest up; don't let it wane! Again, Local 400 can play a pivotal role. And, judging by experience, I think it will measure up to these responsibilities.

Clarence Lewis, age 29, was shot in the back of the head during a holdup at the Safeway Store where he worked as assistant manager. After several days in an intensive care unit, his life was saved. But he has only recovered 70 percent of his vision, and he wears a plate in his head which will remain there for the rest of his life. This shooting precipitated Local 400's insistence that an effective crime prevention program be instituted at once in the stores. Lewis now works as an instructor in the Safeway checker-training program. Here are his recollections about the shooting.

I've had plenty of experience with holdups. In 10 years, I guess I've been involved in about 5 or 6 each year; even saw a checker get killed in one back in 1971. Well, I had learned to be ready. I always kept the key to the office taped so, if I had to reach for it on the key ring, I wouldn't be fumbling around among a bunch of keys. This time the safe was even open because it was old and I was afraid the tumblers might fall if I was even just slightly off the number. The last thing I wanted was an edgy holdup man.

Anyway, when this holdup took place, all I saw was the muzzle of the gun. I got the money easy enough and handed it over. Then the guy yelled at me to lie on my face. As I was lying down, there was a loud noise—bam!—and everything went dark. He had shot me in the back of the head. You know, in all those robberies, you never get used to them. Each time is like the first. And I still have nightmares about that last one.

Larry Monahan works in a store held up since the introduction of the new crime prevention program. However, the drop safe in his store was not well advertised, which may account for the last robbery. In any case Monahan still feels the program is worthwhile. He reports the following.

I've been a frozen-food part-time clerk at Safeway for nine years. Holdups were sort of expected, now and then. My store was held up since the new system was instituted, so we know it's not perfect. But nevertheless the new system is helping; there's been no recent holdup in four months, and in our area that's amazing. What has been an especially good improvement has been the pick-up system. It's just great. The employees aren't sitting ducks any longer.

Sgt. Donald Blake was assigned to the Safeway program at its inception by the Criminal Investigations Division of the District of Columbia Metropolitan Police Department. He has been involved with the program ever since. Here are his comments about the past year and some future plans to improve the program even more.

Each part of the program has played its part in reducing the crime rate. Our stakeouts not only prevented holdups at the stores where they were stationed, but throughout the area because as soon as the word got out on the street, people felt there would be stake-outs in the other stores too. The camera is very important too because it pinpoints the crime and makes conviction that much easier. And messenger robberies have been completely cut out since Safeway began using the armed car pick-ups.

Naturally I'm delighted with the program. Everyone cooperated—Safeway, the union, the Mayor's office, and the police department—and that's what made it so successful.

We're now preparing a training film for new employees which will emphasize how employees should react during a robbery. It includes a mock holdup. It will also try to explain the whole process from the scene of the crime until final prosecution so employees will be more familiar with investigations and know how to proceed during and after the holdup. I think it will become a valuable tool to aid our crime prevention program in the District of Columbia.

HOUSE OF REPRESENTATIVES—*Monday, June 27, 1977*

The House met at 12 o'clock noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
June 27, 1977.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thou shalt keep the Commandments of the Lord thy God, to walk in His ways and to fear Him.—Deuteronomy 8: 6.

O God, our Father, in whose presence our restless spirits find peace and by whose grace we are led in right paths, deepen our faith, quicken our understanding, and stimulate our enthusiasm as we seek to make wise decisions and pass sound laws for the good of our Nation. Grant us a greatness of mind, a goodness of heart, and a genuineness of spirit that in these swiftly moving times we may stand firm in our faith and ready to give nothing but our best.

By Thy spirit may we face the tasks of this day with honest hearts, clear minds, and willing hands in the belief that all worthy service is based on patience, truth, and love. Across the boundaries of color, creed, and culture may we see the glory of the Lord and the coming of a new day of peace and justice and human brotherhood. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5885. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes;

H.R. 7554. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes; and

H.R. 7556. An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5885) entitled "An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. GRAVEL, Mr. MUSKIE, Mr. CULVER, Mr. ANDERSON, Mr. STAFFORD, Mr. DOMENICI, Mr. MCCLURE, and Mr. WALLOP to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7554) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. STENNIS, Mr. BAYH, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. MCCLELLAN, Mr. MATHIAS, Mr. CASE, Mr. BROOKE, Mr. BELLMON, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7556) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. EAGLETON, Mr. INOUYE, Mr. BURDICK, Mr. LEAHY, Mr. DECONCINI, Mr. WEICKER, Mr. BROOKE, Mr. HATFIELD, Mr. STEVENS, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 208. An act to amend the Urban Mass Transportation Act of 1964 to extend the authorization for assistance under such Act, and for other purposes.

REREFERRAL OF H.R. 7201, AMENDING SECTION 2737 OF TITLE X, UNITED STATES CODE, TO THE COMMITTEE ON THE JUDICIARY

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from the further consideration of the bill H.R. 7201, to amend subsection (a) of section 2737 of title 10, United States Code, and for other purposes, and that it be rereferred to the Committee on the Judiciary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7557, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION ACT 1978

Mr. MCFALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies

for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. MCFALL, STEED, KOCH, DUNCAN of Oregon, BENJAMIN, SMITH of Iowa, ADDABBO, EVANS of Colorado, MAHON, CONTE, EDWARDS of Alabama, O'BRIEN, and CEDERBERG.

PROVIDING FOR TEMPORARY EXTENSION OF CERTAIN FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AND RELATED AUTHORITIES AND NATIONAL FLOOD INSURANCE PROGRAM

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the joint resolution (H.J. Res. 525) to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, and I shall not object, would the gentleman explain this joint resolution?

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, this joint resolution would extend to July 31, 1977, the authority of the Secretary of HUD to: First, insure mortgages on loans under certain HUD–FHA mortgage or loan insurance programs contained in the National Housing Act; second, administratively to set interest rates for FHA-insured mortgage loans; third, to enter into new flood insurance contracts; and fourth, to extend certain authorities under title V of the Housing Act of 1949 with respect to the Farmers Home Administration's rural housing program.

Under existing laws, these authorities will remain available only through June 30, 1977. The conferees on H.R. 6655, the Housing and Community Development Act of 1977, will begin meeting tomorrow, but will be unable to complete work prior to the congressional work recess which begins on June 30. There are numerous differences to be resolved in the conference on H.R. 6655, and we will be unable to finish this week. House Joint Resolution 525 is designed to provide for a 30-day extension of these authorities to avoid interruption in the administration of the affected programs.

It is our hope to conclude the conference on H.R. 6655, shortly after we return from the district work period on July 11.

Mr. BROWN of Michigan. Mr. Speaker, further reserving the right to object, I do so only for the purpose of concurring in what the gentleman has already said.

Mr. Speaker, the House has acted on these authorizations already, in the legislation that was passed. To my knowledge, there is no controversy about them either in this body or in the other body. I would like to concur with the gentleman that we will be unable to complete the conference on the Housing and Community Development Act of 1977 which contains the continuation of these authorizations before June 30. Therefore, I would urge the House to grant unanimous consent to this piece of legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 525

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "June 30, 1977" in the first sentence and inserting in lieu thereof "August 1, 1977".

(b) Section 217 of such Act is amended by striking out "June 30, 1977" and inserting in lieu thereof "July 31, 1977".

(c) Section 221(f) of such Act is amended by striking out "June 30, 1977" in the fifth sentence and inserting in lieu thereof "July 31, 1977".

(d) Section 244(d) of such Act is amended by striking out "June 30, 1977" in the second sentence and inserting in lieu thereof "July 31, 1977."

(e) Section 809(f) of such Act is amended by striking out "June 30, 1977" in the second sentence and inserting in lieu thereof "July 31, 1977".

(f) Section 810(k) of such Act is amended by striking out "June 30, 1977" in the second sentence and inserting in lieu thereof "July 31, 1977".

(g) Section 1002(a) of such Act is amended by striking out "June 30, 1977" in the second sentence and inserting in lieu thereof "July 31, 1977".

(h) Section 1101(a) of such Act is amended by striking out "June 30, 1977" in the second sentence and inserting in lieu thereof "July 31, 1977".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "June 30, 1977" and inserting in lieu thereof "August 1, 1977".

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

SEC. 3. Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "June 30, 1977" and inserting in lieu thereof "July 31, 1977".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 4. (a) Section 513 of the Housing Act of 1949 is amended by striking out "June 30, 1977" where it appears in paragraphs (b), (c), and (d) and inserting in lieu thereof "July 31, 1977".

(b) Section 515 of such Act is amended by striking out "June 30, 1977" where it appears in paragraph (b)(5) and inserting in lieu thereof "July 31, 1977".

(c) Section 517 of such Act is amendel by striking out "June 30, 1977" where it appears in paragraph (a)(1) and inserting in lieu thereof "July 31, 1977".

(d) Section 523(f) of such Act is amended by striking out "July 1, 1977" where it appears in paragraph (f) and inserting in lieu thereof "August 1, 1977"; and by striking out "June 30, 1977" where it appears in such paragraph (f) and inserting in lieu thereof "July 31, 1977".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

STATE DEPARTMENT POLITICIZED

(Mr. JOHN T. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN T. MYERS. Mr. Speaker, last Friday the Washington Star reported in the Federal Diary column that the State Department possibly is being politicized by the Carter administration. This politicizing is beyond that which this Congress has been extremely critical of and which the media has been extremely critical of during the last 8 years of the two previous administrations, regarding appointments to high ambassadorial posts because of politics. I think we all recognize this is a custom. I would not be one to be critical of the Carter administration for appointing a Democrat to these high ambassadorial posts throughout the world. But what this article revealed about the Carter administration is the fact that 22 of the top senior 36 positions in the State Department are now filled with political appointments. Our foreign policy is entirely too fragile and too important to us to have diplomacy handled and policy made by inexperienced political types. The article states that many qualified career State Department personnel have been passed by for promotion in order to appoint political types. I am sure that the Committee on International Relations will want to investigate this accusation and find out if this is true. If this is true, it should be stopped.

LEGAL SERVICES CORPORATION AMENDMENTS ACT OF 1977

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6666), to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The SPEAKER pro tempore. The

question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 1, not voting 73, as follows:

[Roll No. 379]

YEAS—359

Abdnor	Coughlin	Holt
Addabbo	Crane	Holtzman
Akaka	D'Amours	Horton
Alexander	Daniel, Dan	Hubbard
Ambro	Daniel, R. W.	Huckaby
Ammerman	Danielson	Hughes
Anderson, Ill.	Davis	Hyde
Andrews, N. Dak.	de la Garza	Ireland
	Delaney	Jacobs
Annunzio	Dellums	Jeffords
Applegate	Derrick	Jenkins
Archer	Derwinski	Jenrette
Armstrong	Devine	Johnson, Calif.
Ashbrook	Dickinson	Johnson, Colo.
Ashley	Dingell	Jones, N.C.
AuCoin	Dodd	Jones, Okla.
Badham	Dornan	Jones, Tenn.
Bafalis	Downey	Jordan
Baldus	Drinan	Kastenmeier
Barnard	Duncan, Oreg.	Kazen
Baucus	Duncan, Tenn.	Kelly
Bauman	Early	Kemp
Beard, R.I.	Edgar	Keys
Beard, Tenn.	Edwards, Ala.	Kildee
Bedell	Edwards, Calif.	Kindness
Beilenson	Edwards, Okla.	Kostmayer
Benjamin	Eilberg	Krebs
Bennett	Emery	LaFalce
Bevill	English	Lagomarsino
Biaggi	Ertel	Latta
Bingham	Evans, Colo.	Le Fante
Blanchard	Evans, Del.	Leach
Blouin	Evans, Ga.	Lederer
Boggs	Evans, Ind.	Lehman
Bolling	Fary	Lent
Bonior	Fascell	Levitas
Bowen	Fenwick	Lloyd, Calif.
Brademas	Findley	Lloyd, Tenn.
Breaux	Fisher	Long, La.
Breckinridge	Flood	Long, Md.
Brinkley	Florio	Lott
Brodhead	Flowers	Lujan
Brooks	Flynt	Luken
Broomfield	Foley	McClory
Brown, Calif.	Ford, Tenn.	McCloskey
Brown, Mich.	Forsythe	McCormack
Brown, Ohio	Fountain	McDonald
Broyhill	Fraser	McEwen
Buchanan	Frenzel	McFall
Burgener	Fuqua	McHugh
Burke, Calif.	Gammage	McKay
Burke, Fla.	Gaydos	Madigan
Burleson, Tex.	Giaimo	Maguire
Burlison, Mo.	Gibbons	Mahon
Burton, John	Ginn	Mann
Burton, Phillip	Glickman	Markey
Butler	Goodling	Marks
Byron	Gore	Marlenee
Caputo	Gradison	Marriott
Carney	Grassley	Martin
Carr	Gudger	Mathis
Carter	Guyer	Mattox
Cavanaugh	Hagedorn	Mazzoli
Cederberg	Hall	Meeds
Chappell	Hamilton	Metcalfe
Clausen, Don H.	Hammer-schmidt	Meyner
		Mikulski
Cleveland	Hanley	Mikva
Cochran	Hannaford	Miller, Calif.
Coleman	Hansen	Miller, Ohio
Collins, Ill.	Harkin	Mineta
Collins, Tex.	Harrington	Minish
Conable	Harris	Mitchell, N.Y.
Corcoran	Heckler	Moakley
Corman	Heftel	Moffett
Cornell	Hightower	Mollohan
Cornwell	Hillis	Montgomery
Cotter	Hollenbeck	Moore
Moorhead, Calif.	Roe	Stump
	Rogers	Symms
Mottl	Roncalio	Taylor
Murphy, Ill.	Rooney	Thone
Murphy, Pa.	Rose	Thornton
Murtha	Rosenthal	Traxler
Myers, Gary	Rousselot	Treen
Myers, Michael	Roybal	Trible
Myers, Ind.	Rudd	Tsongas
Natcher	Runnels	Tucker
Neal	Ruppe	Udall
Nichols	Ryan	Ullman
Nix	Santini	Vanik
Nolan	Satterfield	Vento
O'Brien	Sawyer	Volkmer
Oakar	Scheuer	Waggonner
Oberstar	Schroeder	Walgren
Obey	Schulze	Walker
Ottinger	Sebelius	Walsh
Panetta	Sharp	Wampler
Patten	Shipley	Watkins
Patterson	Shuster	Waxman
Pepper	Sikes	Weaver
Perkins	Simon	Weiss
Pettis	Sisk	Whalen
Pickle	Skelton	White
Poage	Skubitz	Whitley
Pressler	Slack	Whitten
Price	Smith, Iowa	Wilson, Bob
Pritchard	Smith, Nebr.	Wilson, Tex.
Pursell	Snyder	Winn
Quayle	Spellman	Wirth
Quie	Spence	Wolff
Quillen	St Germain	Wright
Rahall	Stangeland	Wydler
Railsback	Stanton	Wylie
Rangel	Stark	Yates
Regula	Steed	Yatron
Reuss	Steers	Young, Alaska
Rinaldo	Steiger	Young, Fla.
Risenhoover	Stockman	Young, Mo.
Roberts	Stratton	Young, Tex.
Robinson	Studds	Zablocki

NAYS—1

Mitchell, Md.

NOT VOTING—73

Allen	Fowler	Nedzi
Anderson, Calif.	Frey	Nowak
	Gephardt	Pattison
Andrews, N.C.	Gilman	Pease
Aspin	Goldwater	Pike
Badillo	Gonzalez	Preyer
Boland	Harsha	Rhodes
Bonker	Hawkins	Richmond
Burke, Mass.	Hefner	Rodino
Chisholm	Holland	Rostenkowski
Clawson, Del	Howard	Russo
Clay	Ichord	Sarasin
Cohen	Kasten	Seiberling
Conte	Ketchum	Solarz
Conyers	Koch	Staggers
Cunningham	Krueger	Stokes
Dent	Leggett	Teague
Dicks	Lundine	Thompson
Diggs	McDade	Van Deerlin
Eckhardt	McKinney	Vander Jagt
Erlenborn	Michel	Whitehurst
Fish	Milford	Wiggins
Fithian	Moorhead, Pa.	Wilson, C. H.
Flippo	Moss	Zeferetti
Ford, Mich.	Murphy, N.Y.	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6666, with Mr. BURLISON of Missouri in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 9, 1977, the bill had been considered as having been read and open to amendment at any point.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to inform the membership of the Committee about the present status of the bill before them. I say this because on June 9 when the bill was first taken up, we were interrupted, and this being June 27, 18 days later, it is well that the House be informed.

H.R. 6666, which is a bill to extend for 2 years the authorization for the Legal Services Corporation with increased amounts of funding and certain other amendments, was completed in terms of general debate. The rule was adopted, general debate was had, and the bill was open to amendment at any point, as the Chair has already suggested.

We took up three amendments at that time. One was a so-called support center amendment, or the Green amendment, offered by the gentleman from Ohio (Mr. KINDNESS). The amendment was rejected in the Committee of the Whole.

Then the gentleman from Virginia (Mr. BUTLER) was recognized to offer an amendment with respect to the political activities of program attorneys, and his amendment on a recorded vote was rejected. However, a subsequent amendment by the gentleman from Virginia (Mr. BUTLER) was agreed to, namely, an amendment which forbade partisan political activities such as running for partisan political office on the part of program attorneys. At that point the Committee rose.

Mr. Chairman, we have in front of us today perhaps as many as 10 amendments. Some of these in the intervening weeks have been, I think, agreed to or disposed of in other ways and, of course, as is often the case when we get an interrupted bill, we will have additional amendments which were not perhaps even dreamed of on June 9, but they exist today.

It is my intention as the manager of the bill for the majority that we move reasonably swiftly. I know that the House has had to consider a series of appropriations bills with prolonged debate on these measures; to the extent possible, we will try from our standpoint to limit debate. Some of the issues involved are old issues, issues which have been debated at great length in other bills. Some of them are highly emotional issues, and one could spend 1 full day at least debating these issues. From my standpoint I will not attempt to prolong debate on such questions.

As soon as the issue is determined in terms of the amendment and discussion, I would hope that we can have early votes on these so that the House will not be occupied with this bill for an inordinately long time today.

Some amendments of course will be crucial to the bill. The funding period and the level of authorization are very important and related amendments to H.R. 6666 would be detrimental to Corporation goals. There is an attorneys' fees amendment which in my view would be highly destructive to the bill although there may be a less severe substitute amendment to that. There may be an amendment requiring that OMB determine the funding rather than, as is presently the case, the independent Corporation. I strongly oppose this.

These are several very important amendments. There may be others. Some may relate to discrimination and desegregation, which are very highly contro-

versial issues, but, insofar as this bill is concerned, I think the issue can be framed rather simply.

Having said that, Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 10, beginning on line 8, strike the following language: "pursuant to Section 3105 of title 5 of the United States Code." and insert in lieu thereof the following new language: "by the Corporation in accordance with procedures established in regulations promulgated by the Corporation."

The CHAIRMAN. The gentleman from Virginia (Mr. BUTLER) is recognized for 5 minutes in support of his amendment.

Mr. BUTLER. Mr. Chairman, this amendment would permit the use of an independent hearing examiner selected by the Corporation. The Corporation would organize and supervise such a hearing under rules and regulations promulgated by it.

Most refunding decisions require the exercise of discretion and policy judgments, matters that may be better settled by discussion rather than adversarial confrontation. However, there are instances when an outside hearing examiner may be appropriate; for example, if the denial of refunding is proposed on the ground that a program has substantially violated the act or failed to meet minimally adequate standards of legal assistance. The Corporation's proposed regulation imposes the burden upon the Corporation of proving the facts charged by a preponderance of the evidence. In such cases an independent hearing examiner, not employed by the Corporation, may preside as hearing officer in such hearings. But when the issues presented require judgments about the effective use of the Corporation resources, the hearing should be conducted by a person familiar with the overall development of Corporation policy.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, as the gentleman from Virginia knows, during the last few days we have discussed this amendment. It is a variation of an amendment he had earlier proposed to offer relating to an independent hearing examiner. I have examined his amendment and I find no objection to it. I, therefore, accept the amendment on behalf of the majority of the committee.

I might somewhat gratuitously add that in checking with the White House as to its support of the bill, H.R. 6666, it was indicated to me that the President supports the bill in its present form except with respect to the independent hearing examiner. The gentleman's amendment meets the preferences of the White House on this matter.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, do I understand this is a back-up amendment to an amendment which the gentleman had intended to offer, which I think would permit the use of independent hearing examiners, but pursuant to regulations promulgated by the corporation; is that correct?

Mr. BUTLER. That is entirely accurate.

Mr. RAILSBACK. Mr. Chairman, I certainly have no objection to this amendment and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: On page 5, line 24, strike the following words: "eligible clients or".

Mr. McCLORY. Mr. Chairman, this bill would permit lobbying of a Government agency or of a legislature or a member thereof if the governmental entity is considering a measure affecting eligible clients. In other words, as the bill is written, a legal services attorney need not have a specific eligible client in mind when he appears before a legislative body to lobby. The legislation under consideration need only affect eligible clients. An eligible client is defined in the act as any person financially unable to afford legal assistance.

In my opinion, the requirement for an eligible client provides little, if any, limitation. It may well be an invitation to a legal services attorney to develop an all-purpose client and he would spend more time in the legislature than in helping some more pressing or more immediate problem of the person.

We have endeavored in this legislation to restrict lobbying by these counsels that work for legal aid bureaus. We have provided several exceptions. Of course, one exception is where they are invited by the legislative body to appear and provide advice on assistance there. Then, of course, there is an exception where an actual client has some matter that needs attention before a governmental body, such as a city council or State legislative body; but it seems to me this exception granting the right to the counsel to appear where there is an eligible client just leaves the subject wide open and would grant a blanket authority to appear before a legislative body for the purpose of lobbying.

Now, I am in strong support of this legislation. I was very impressed by the statement made by the majority leader at the time we postponed consideraton of this legislation several days ago; but if there is one argument that raises objections to this program, it is the argument that we have some activities among our legal aid counsel, who decide that they want to lobby for some worthy cause in which they individually are interested and if they merely have an eligible client, there is no problem at all. They can just involve themselves in any problem they want to before any kind of legislative body and take part in this lobbying activity. That is not the purpose of this legislation, and we ought to spell out that we do not want that kind of lobbying activity to take place. That is the only purpose of this amendment.

I think we did a good job in the committee on this legislation. We had a vote on this. It was a close vote, as I recall, rejecting this amendment because there had been a sort of agreed upon amendment covering such lobbying; but I think the language that I am offering is consistent with what the committee intends to do. I think it is consistent with the best interest of having a successful legal service program in operation.

AMENDMENT OFFERED BY MR. RAILSBACK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. M'CLORY

Mr. RAILSBACK. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK as a substitute for the amendment offered by Mr. McCLORY: On page 5, line 24, after the word "clients" add the following parenthetical phrase: "(when the measure involves a subject on which the board of the local program, in consultation with the client community, has voted to take a position)".

Mr. RAILSBACK. Mr. Chairman, I happen to agree with some of the remarks of my friend from Illinois (Mr. McCLORY) relating to the language that he sought to amend. Specifically, I am a little bit worried that, without some kind of refinement or further perfection of the language in the bill as introduced, there may be a little bit too much latitude.

My amendment, which is meant to be clarifying only, would reflect the intent of the Judiciary Committee which is spelled out on page 12 of our report. I do not believe that any report language, no matter how clear, consoling and assuring, can, as a matter of law, limit an authority expressly spelled out in a statute.

I would like to emphasize further the intent of the committee, and I believe my good friend from Wisconsin will agree, that this relatively slight expansion is not carte blanche for legal service employees to lobby on any issue which may affect the poor. The Judiciary Committee, in its oversight capacity, will not tolerate abuses of this provision.

Let me just reiterate that what my substitute amendment would do. Its effect would be to limit the activities of a Legal Aid recipient attorney by adding the further condition or proviso that when the measure involves a subject on which support of the local program, in consultation with the client community, has voted to take a position, that this will be a precondition before that particular effect can become operative.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Illinois.

Mr. McCLORY. I appreciate the gentleman yielding to me, and I congratulate the gentleman from Minnesota (Mr. HAGEDORN) for offering this substitute amendment. As I understand the

substitute, there would have to be some interest of a client or of the Legal Aid Bureau involved in order for the local Legal Aid Bureau to participate in a lobbying activity. If there was such an interest, then the board which is in control of the Legal Aid Bureau would have to designate or authorize one of its counsel to appear before a city council or State legislative body in behalf of such an interest which was directly involved in so far as the community's Legal Aid Bureau is concerned.

Mr. RAILSBACK. The gentleman is correct. Perhaps even more than that, it requires an affirmative vote of the board. So, the board has to take it up and approve it.

Mr. McCLORY. The thing I was trying to get at was to prevent this Legal Aid Bureau, this counsel, from volunteering on an issue in which he or they might be interested, but which did not have any direct bearing upon any interest of a specific client. But, I assume that there would necessarily be some direct interest in the local Legal Aid Bureau which would motivate the board to act and to authorize counsel to appear before the legislative body.

Mr. RAILSBACK. That is certainly my understanding, and I believe that should be the intent. I think we both are trying to do the same thing, that is, tighten it up to make that very clear.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding to me. I would like to ask, in reference to the report or the remark that the subcommittee having jurisdiction by way of oversight would not tolerate an undue expansion of this, what sanctions can be applied if it appears that a local board is beyond the bounds of what the subcommittee considers to be proper action? Is there any action that can be taken?

Mr. RAILSBACK. If I may, I will just give my feelings about that. My belief is that we do control the appropriations for the Legal Aid Corporation. I believe it is our intent to exercise very carefully the oversight.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(By unanimous consent, Mr. RAILSBACK was allowed to proceed for 1 additional minute.)

Mr. RAILSBACK. Mr. Chairman, I would further suggest to the gentleman that, in the event we believe the Corporation was not operating properly within the congressional intent that we have expressed, I personally would either support an amendment which would change their authority or further limit their authority. I personally would consider what to do about their funding. In other words, I may not be willing to support the funding for the Corporation if they did not carry out what we believe to be their lawful purpose.

Mr. KINDNESS. If the gentleman will yield further, I would indicate that the bill we have before us loosens the boundaries so much that I would support the amendment offered by the gentleman from Illinois (Mr. McCLORY) in order to tighten that up a little bit. This funding function is not very tightly exercised by the Congress. I know the difficulties encountered in trying to reduce the funding or cut it back because of the misapplication of one local board.

Mr. RAILSBACK. I would say to the gentleman that he and I have a basic difference of opinion.

Mr. KASTENMEIER. Mr. Chairman, I rise in support of the Railsback substitute to the McClory amendment.

Mr. Chairman, the reason this is in here is because in testimony before our committee it appeared to be so often the case, concerning legal services program attorneys, that their research and their efforts were sometimes thwarted because they could not on their own appear before some sort of legislative body, local or otherwise. There has been, throughout, concern that there might be abuses if we loosened up the existing restriction. The subcommittee and the full committee went back and forth on that question. The original bill on legal services before us this year contained the language that would allow employees of recipients to make appearances where such a legislative or administrative body permitted the general public to participate by comment or otherwise.

The full committee felt that such language went a little too far. The full committee struck that, and agreed to the present language, which includes the Volkmer amendment and allows comment and testimony when a legislative or administrative body is considering a measure directly affecting eligible clients or the activities of the recipient or the Corporation.

The full Committee on the Judiciary agreed to that, believing that that was a release; one could not, merely with some hypothetical situation, then justify an appearance before a legislative body. The matter at issue would have to directly affect eligible clients. The committee, in writing the report, mindful of whatever doubt still remained, observed in the language that the gentleman from Illinois (Mr. RAILSBACK) has just cited:

> . . . "directly affecting eligible clients" . . . not be a carte blanche for legal services employees to lobby on any issue which may affect the poor. The Committee, in its oversight capacity, will not tolerate abuses of this provision. The language is meant to allow comment and testimony on issues which directly affect eligible clients to the degree that the Board of the local program involved has voted, in consultation with the client community, to support and comment on the issue.

This language was determined to be a restrictive characterization of what could be done.

To insure that that be done, not only in report language but as it is written into the statute, my friend, the gentleman from Illinois (Mr. RAILSBACK), has offered this amendment as a substitute for the McClory amendment.

Mr. Chairman, I accept the substitute amendment, and I hope it carries.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute amendment.

Mr. Chairman, I do not want to oppose this substitute amendment too vigorously. I understand the intent of the gentleman from Illinois (Mr. RAILSBACK) in offering his substitute, and I appreciate the fact that we have language in the report which tends to restrict the kinds of voluntary activities of those activists who might want to involve themselves in lobbying activities in instances where they are not serving the interests of any specific client of the Legal Aid Bureau.

On the other hand, it seems to me that we should have that spelled out in the law. If the words, "eligible client," are omitted, it would still provide an exception in that this lobbying activity would be permitted where a measure was directly affecting the activities of the Legal Aid Bureau. So it seems to me that it is already broad enough. But I am confident or I would be hopeful at least that if the Members see fit to adopt the substitute, the boards will act responsibly. As has been brought out here, if they do not, I suppose we would have a right to cut off their funds.

We certainly want to make it perfectly clear here that we want counsels for legal aid bureaus to avoid voluntarily involving themselves in legislative matters as lobbyists just because they happen to be individually interested in a legislative matter which might be pending before a city council or a State legislative body.

Mr. Chairman, I would prefer that the Railsback substitute be defeated, but with the acceptance of his substitute by the majority, it appears to me that the die is pretty well cast.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK) as a substitute for the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. KINDNESS: On page 9, line 7, delete the amount "$238,700,000" and insert instead the amount "$175,000,000".
>
> On page 9, line 8, delete the amount $300,000,000" and insert instead the amount "$175,000,000".

Mr. KINDNESS. Mr. Chairman, I wish to bring to the attention of the Committee the fact that the 93d Congress, when it established the Legal Services Corporation required that the Legal Services Corporation make a study of alternative methods for the delivery of legal services to the poor, including judicare, vouchers, prepaid legal insurance, and contracts with law firms, among other potential ways of delivering such services.

As set forth in the supplemental view of the gentleman from California (Mr. MOORHEAD), the gentleman from Illinois (Mr. HYDE), and myself in the committee report, this gives what the provision states, which is as follows:

The Corporation shall provide for comprehensive independent study of the existing staff attorney program under this Act and through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms. . . .

It goes on from there and says that the recommendations based on the results of this study are to be reported to the Congress this July, next month; and then it says that rather than rush to almost double the funding of the Legal Services Corporation for another fiscal year and for fiscal year 1978, as we already attempted to do in the appropriation measure, we ought to await the result of that study.

Mr. Chairman, there might very well be a better way; indeed, it would appear to me that there must be a better way to deliver legal services directly to the poor people who need those legal services, as compared to what is going on today under the Legal Services Corporation Act.

This committee, it seems to me, ought to act right now on the authorization level so as to leave it at least at the level that the administration has requested, $175 million. That is compared to $125 million for the current fiscal year, and that is a jump of $50 million.

Mr. Chairman, the appropriation measure covering this matter passed the House the week before last with a regrettable slip whereby there was not an amendment offered at the right time to cut the appropriation of $217 million. The authorization still has the qualifying effect, I believe, on the appropriation measure, however, that would bring it back to $175 million, a reasonable level sought by the administration originally.

Mr. Chairman, I would strongly urge the adoption of this amendment that would bring this amount into line until such time as we at least get the report of the Legal Services Corporation as to what ways are the best ways for legal services to be provided to the poor people of this country. I seriously doubt that it can be a completely unprejudiced report; still, it may point up some advantages with respect to other methods of approach to this problem; and we have no business—I repeat, we have no business—to authorize the expenditure of funds at such exceedingly large increased levels until we at least get that report requested by the 93d Congress, which is to be made to this Congress next month.

Again, Mr. Chairman, I would urge support for the amendment on that basis.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment, of course, flies in the face of House action taken exactly 2 weeks ago today, when we approved the State-Justice-Commerce-judiciary appropriation bill which called for $217 million for this purpose. We all voted for that bill; we supported it, and if it was anyone's fault for not raising the question then, it was certainly not this committee's fault.

When hearings were held last winter, all the testimony before the subcommittee dealing with this subject was that between $217 million and $265 million was necessary to achieve the objectives and goals of this Corporation.

The subcommittee decided on the more conservative amount of $217 million, and the Danielson amendment added 10 percent to cover a number of contingencies such as any outreach programs for the elderly; or an upgrading in terms of salary structure, which is very, very low for this Corporation; or for any other contingency. In short, the authorization of the extra 10 percent would permit our Committee on Appropriations to entertain such additions without the need for additional authorizing legislation.

Mr. Chairman, it is noteworthy that the full committee approved this provision. The Subcommittee on Appropriations agreed to provide for the $217 million requested. We did what we did after hearing exhaustive testimony on the subject and because we felt that this is reasonable. Moreover, we felt that the $217 million plus 10 percent was an attempt to satisfy the minimal funding needs of the Corporation for at least another year.

The suggestion by the gentleman from Ohio (Mr. KINDNESS) that $175 million is a creature of the administration is inaccurate. It is only as a result of the cursory review and comment of OMB that this figure has any relevance whatsoever. An earlier figure of $125 million also has no particular relevance to what is required for the next fiscal year.

I say to the Committee that this House has already, appropriately, made the judgment that $217 million be appropriated for fiscal year 1978. We ought to authorize at least that much to insure that this corporation move forward and that it satisfy the objectives which were discussed when we set up this Corporation 3 years ago. This is not a new endeavor; legal services is something which has been in one way or another considered by the Congress since 1965. Nor do any of us understand that even $217 million would satisfy the needs of the 29 million poor people in this country.

So, Mr. Chairman, I ask the Members to please reject the amendment offered by the gentleman from Ohio (Mr. KINDNESS) and to retain the amount provided in the bill.

Mr. RAILSBACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman and Members of the House, the Legal Services Corporation has set a goal of providing so-called minimum access for poor people to having legal assistance. Right now, with the money that has been already appropriated, there are something like 13 million people that have not even any access to any legal services at all. At a level of 2 attorneys for every 10,000 poor people, that is substantially less than the access enjoyed now by the private sector which is something like 10½ to 11 attorneys for every 10,000 persons. The best estimates are that 23 percent of the 10,000 poor people in this country will need a lawyer during a given year. The minimum access plan, even if you assume caseloads of as much as 350 to 400 per lawyer, would only meet a fraction of the needs of the situations that poor people have access to and the need for assistance in meeting their most critical legal problems.

The bill before us at the level of $217.1 million, which was what the appropriation bill came out with, would provide for about 10½ million low-income people who now have no access if they were going to have what we would refer to as a minimum access.

My feeling is that we would be making a very bad mistake to cut the level all the way down to $175 million when, most obviously, so many poor people right now have no access at all, not even a minimum access.

Mr. DRINAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the budget is designed to meet the congressional mandate "to provide equal access to the system of justice." At $217.1 million, 10.5 million low-income persons who have no access now would have minimum access to legal assistance.

The budget is the absolute minimum necessary to meet that mandate. At a level of 2 attorneys for 10,000 poor persons—the Corporation's goal—every poor person will not have a lawyer. In fact, best estimates are that 23 percent of the 10,000—2,300—poor will need a lawyer during a given year. The minimum plan, even if you assume caseloads of as much as 350 to 400 per lawyer, would only meet a fraction of need. The goal is to assure that poor people have access to an attorney for assistance in meeting their most critical legal problems.

The Federal Government does provide substantial assistance to help moderate-income people who need a lawyer. Last year, Congress amended the tax code to encourage the development of group and prepaid legal insurance plans—the most promising prospect for middle income persons. Already, 3,000 to 5,000 plans have been created, covering 1½ to 2 million persons. Most of those emerged over the last 15 months. It is estimated that the change in the tax law to encourage these plans will result in a net loss of Federal tax revenue of $50 to $80 million, when the plans are extended to 10 million people—a Federal subsidy of from $5 to $8 per person, not that much different from the Corporation's minimum access plan—$7 per poor person.

The 1978 budget represents a significant increase only because funds for legal services were frozen for most of the decade. If there had been natural, incremental growth in the program during the seventies, we would be at the $217 million mark now. This request simply makes up for lost time.

The need for legal services for the poor and the capability of the Corporation to respond to that need have both been persuasively demonstrated. Groups as diverse as the National Clients Council, the

AFL–CIO, and the American Bar Association support the budget request, and many have urged even higher funding.

Mr. ASHBROOK. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we hear a lot of rhetoric, but I sometimes think we have gotten to the place where figures do not really seem to mean that much. With all the talk that we have heard, we have got to recognize the taxpayers are paying for this. Who remembers that simple fact?

My friend, the gentleman from Massachusetts (Mr. DRINAN) would compare free legal services with those who have prepaid legal services. The Congress did make prepaid services easier but that has no relation to what the sponsors are asking of the taxpayers at a time when we have $40 to $60 billion in red ink, just to pay in the way of free legal services.

First of all, we are talking about a very questionable program. If you would refer to the legislative history, as my friend, the gentleman from Wisconsin, has pointed out, that we debated June 21, 1973, it can be noted that the House even adopted an amendment which called for the termination of this program in 1978. We have mandated a report to indicate whether or not the legal services program is the proper way to meet the alleged need. As I understand in my conversation with the Legal Services Corporation, it will be July 14 of this year when we receive that report. Maybe at that time we will be in a position of thinking we should maybe go in another direction; yet now we are talking about piling on appropriations on top of appropriations.

When the Corporation was created, it was authorized for 3 years at levels of $90 million for the fiscal year 1975, $100 million for 1976, and an open-ended authorization for the current fiscal year. Between July 1975 and September 30, 1976, the Corporation received appropriations of $116,960,000. That is a long way from $217 million.

For the fiscal year 1977 the Corporation has received an appropriation of $125 million; yet we are talking now about $217 million being necessary 1 year later to fund the operations of this particular program, which to my way of thinking is questionable at best.

I strongly support the amendment. I think the gentleman from Ohio, my colleague, Mr. KINDNESS, properly calls to the attention of this body the need for reducing what would be called runaway expenditures for this Corporation. I heartily support him, and I yield to him at this point.

Mr. KINDNESS. I thank the gentleman for yielding.

I think it is necessary to point out that we are not talking about money that is going to poor people; we are talking about money that is going to lawyers by way of an annuity program, practically speaking.

The gentleman from Ohio (Mr. GUYER) just pointed out to me a program that is being proposed for extension in his district and that of the other gentleman from Ohio (Mr. LATTA) in which there would be four new offices established in an 11-county area. There would be a project director at $23,000 a year, and a managing attorney at $18,000 a year, and a senior staff attorney at $16,000 a year, and on down the line. That is where the money is going; it is not going to poor people.

Let us find a better way to get the services to poor people without expensive ideas about how this program is going to be expanded. People who live in this area can tell you that that is a rather far-reaching concept, to set up four offices in that area for the sparse population, with all the cost that is involved. That is what we would be affording by $217 million a year in expansion. That is almost, and comes very close to, doubling over the previous fiscal year.

Mr. ASHBROOK. I thank the gentleman. He has made a very valid point and he is right. I could indicate that my files, if they were to be poured into the CONGRESSIONAL RECORD, would probably take 30 pages to substantiate what he has said. I have in my hand, for example, an amicus curiae of 37 pages that was filed on June 7, 1977, in the U.S. Supreme Court prepared by the Legal Services Corporation. Was it on behalf of a poor person? No; it was not. It was on behalf of reverse discrimination in law school—professional people, not exactly the poor people of this country.

Indeed we want as many members in the professions as possible, and the poorest of the poor should be able to go into law school and into dental school and into medical school, but are we really helping the poor people when some Government paid lawyer files a 37-page amicus curiae paid for by the Corporation regarding applicants for law school, before the Supreme Court?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and on a division (demanded by Mr. KINDNESS) there were—ayes 18, noes 31.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, pending which I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 221, not voting 54, as follows:

[Roll No. 380]

AYES—158

Abdnor	Fountain	Myers, Ind.
Ambro	Fuqua	Natcher
Andrews, N.C.	Gammage	Nichols
Andrews, N. Dak.	Gaydos	O'Brien
	Ginn	Pettis
Annunzio	Goldwater	Poage
Archer	Goodling	Quayle
Armstrong	Gradison	Quie
Ashbrook	Grassley	Quillen
Badham	Gudger	Regula
Bafalis	Guyer	Risenhoover
Barnard	Hagedorn	Roberts
Bauman	Hall	Robinson
Beard, Tenn.	Hammer-schmidt	Rogers
Bennett		Rousselot
Bevill	Hansen	Rudd
Bowen	Hillis	Runnels
Brinkley	Holt	Ruppe
Broomfield	Huckaby	Sarasin
Brown, Mich.	Hyde	Satterfield
Brown, Ohio	Ireland	Schulze
Broyhill	Jenkins	Sebelius
Burgener	Johnson, Colo.	Shuster
Burke, Fla.	Jones, N.C.	Sikes
Burleson, Tex.	Jones, Okla.	Sisk
Byron	Jones, Tenn.	Skelton
Caputo	Kazen	Skubitz
Carter	Kelly	Smith, Nebr.
Cederberg	Kemp	Snyder
Chappell	Kindness	Spence
Clausen, Don H.	Lagomarsino	Stangeland
	Latta	Stanton
Cleveland	Lent	Steed
Cochran	Lloyd, Tenn.	Stockman
Coleman	Lott	Stump
Collins, Tex.	Lujan	Symms
Conable	McDonald	Taylor
Corcoran	McEwen	Thone
Crane	McKay	Treen
Daniel, Dan	Mahon	Trible
Daniel, R. W.	Marlenee	Waggonner
de la Garza	Marriott	Walker
Derwinski	Martin	Walsh
Devine	Mathis	Watkins
Dickinson	Milford	Whitehurst
Dornan	Miller, Ohio	Whitley
Duncan, Tenn.	Mitchell, N.Y.	Whitten
Edwards, Ala.	Mollohan	Wilson, Bob
Edwards, Okla.	Montgomery	Winn
English	Moore	Wydler
Erlenborn	Moorhead, Calif.	Wylie
Evans, Ind.		Yatron
Fish	Motti	Young, Fla.
Flynt	Murtha	Young, Tex.

NOES—221

Addabbo	Danielson	Harris
Akaka	Davis	Heckler
Alexander	Delaney	Heftel
Ammerman	Dellums	Hightower
Applegate	Derrick	Hollenbeck
Ashley	Dingell	Holtzman
AuCoin	Dodd	Horton
Baldus	Downey	Hubbard
Baucus	Drinan	Hughes
Beard, R.I.	Duncan, Oreg.	Jacobs
Bedell	Early	Jeffords
Bellenson	Eckhardt	Jenrette
Benjamin	Edgar	Johnson, Calif.
Biaggi	Edwards, Calif.	Jordan
Bingham	Eilberg	Kastenmeier
Blanchard	Emery	Keys
Blouin	Ertel	Kildee
Boggs	Evans, Colo.	Kostmayer
Boland	Evans, Ga.	Krebs
Bolling	Fary	Krueger
Bonior	Fascell	LaFalce
Brademas	Fenwick	Le Fante
Breckinridge	Findley	Leach
Brodhead	Fisher	Lederer
Brown, Calif.	Flood	Leggett
Buchanan	Florio	Lehman
Burke, Calif.	Flowers	Levitas
Burlison, Mo.	Foley	Lloyd, Calif.
Burton, John	Ford, Tenn.	Long, La.
Burton, Phillip	Fraser	Long, Md.
Butler	Frenzel	Luken
Carney	Gephardt	McClory
Carr	Giaimo	McCloskey
Cavanaugh	Gibbons	McCormack
Chisholm	Gilman	McFall
Cohen	Glickman	McHugh
Collins, Ill.	Gonzalez	Madigan
Corman	Gore	Maguire
Cornell	Hamilton	Mann
Cornwell	Hanley	Markey
Cotter	Hannaford	Marks
Coughlin	Harkin	Mattox
D'Amours	Harrington	Mazzoli

Meeds	Pressler	Steers
Metcalfe	Price	Steiger
Meyner	Pritchard	Stokes
Mikulski	Pursell	Stratton
Mikva	Rahall	Studds
Miller, Calif.	Railsback	Thornton
Mineta	Rangel	Traxler
Minish	Reuss	Tsongas
Mitchell, Md.	Richmond	Tucker
Moakley	Rinaldo	Udall
Moffett	Rodino	Ullman
Murphy, Ill.	Roe	Vanik
Murphy, Pa.	Roncallo	Vento
Myers, Gary	Rooney	Volkmer
Myers, Michael	Rose	Walgren
Neal	Rosenthal	Wampler
Nix	Roybal	Waxman
Nolan	Ryan	Weaver
Nowak	Santini	Weiss
Oakar	Sawyer	Whalen
Oberstar	Schroeder	White
Obey	Seiberling	Wilson, C. H.
Ottinger	Sharp	Wilson, Tex.
Panetta	Shipley	Wirth
Patten	Simon	Wolff
Patterson	Slack	Wright
Pease	Smith, Iowa	Yates
Pepper	Solarz	Young, Alaska
Perkins	Spellman	Young, Mo.
Pickle	St Germain	Zablocki
Pike	Stark	

NOT VOTING—54

Allen	Fithian	Moorhead, Pa.
Anderson, Calif.	Flippo	Moss
	Ford, Mich.	Murphy, N.Y.
Anderson, Ill.	Forsythe	Nedzi
Aspin	Fowler	Pattison
Badillo	Frey	Preyer
Bonker	Harsha	Rhodes
Breaux	Hawkins	Rostenkowski
Brooks	Hefner	Russo
Burke, Mass.	Holland	Scheuer
Clawson, Del	Howard	Staggers
Clay	Ichord	Teague
Conte	Kasten	Thompson
Conyers	Ketchum	Van Deerlin
Cunningham	Koch	Vander Jagt
Dent	Lundine	Wiggins
Dicks	McDade	Zeferetti
Diggs	McKinney	
Evans, Del.	Michel	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Thompson against.

Mr. Breaux for, with Mr. Zeferetti against.

Mr. Del Clawson for, with Mr. Burke of Massachusetts against.

Mr. Cunningham for, with Mr. Conte against.

Mr. Frey for, with Mr. Forsythe against.

Mr. Michel for, with Mr. Moorhead of Pennsylvania against.

Mr. Wiggins for, with Mr. Rostenkowski against.

Mr. BONIOR changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS: On page 6, beginning on line 12, strike out line 12 through line 19 and insert:

"(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with a misdemeanor or lesser offense, or its equivalent, in an Indian tribal court;".

Mr. MEEDS. Mr. Chairman, I would like to point out at the outset that I am one of the original sponsors of the Legal Services Corporation. I am a very strong supporter of the Legal Services Corporation concept. I think it has done more than any single thing to bring and to make reasonable and responsible to the poor of this country the judiciary branch of Government. In effect, it has done for the judiciary by providing access to the courts what Baker against Carr did for people in the legislative field; and I will vote for this legislation whether or not this amendment passes.

However, Mr. Chairman, I also want to point out that the purpose of the amendment is to retain inviolate one of the original concepts of the Legal Services Corporation, and that was to provide counsel in civil litigation when that litigant could not afford counsel.

The legislation as it is presently before us would allow the breaching of that by making possible representation in certain cases of persons who are charged with offenses involving hunting, fishing, trapping, or the gathering of fruits of the land.

I submit to the Members that this is not necessary because in those instances criminal counsel will be made available under the provisions of the sixth amendment of the U.S. Constitution where, under longstanding interpretations of the sixth amendment, counsel will be provided for persons charged with crimes. It is required by the Constitution and by State laws. It is only in those instances where counsel will not be provided by law or by interpretation of the law that we should make an exception. The amendment is crafted to do precisely that. It will prevent legal representation in any criminal proceeding except those persons charged with a misdemeanor or lesser offense in an Indian tribal court. In those instances, the Court has ruled that the tribe is not required to provide counsel.

Therefore, with the exception here, and the language of the amendment, we still find those are the only instances where legal counsel will be provided under this legislation under the Legal Services Corporation, in instances, then, where they would not otherwise be entitled to counsel.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I would be delighted to yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I thank the gentleman from Washington for yielding to me.

Mr. Chairman, as I understand the amendment offered by the gentleman from Washington (Mr. MEEDS), it would confine this bill to its original intent, to apply legal services for civil matters, and that the burden of providing legal counsel in criminal cases would be through some form of public defender, or defense system, or by the bar association, and so forth, is that correct?

Mr. MEEDS. That is correct, the public defenders and the defense systems and the bar association will provide counsel which, incidentally, are required by law.

Mr. COHEN. With the exception of tribal court cases involving misdemeanors?

Mr. MEEDS. That is correct, which is not required by law.

So, in other words, it applies itself to the single exception where counsel would not be furnished under presently existing criminal statutes or interpretations of the Constitution.

Mr. COHEN. Mr. Chairman, I support the amendment offered by the gentleman from Washington (Mr. MEEDS) and hope that the amendment is agreed to.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I thank the gentleman from Washington for yielding to me.

As the gentleman from Washington knows, I have been in consultation with the gentleman, and am well aware of his views and concerns, particularly as they related to the State of Washington. I have been impressed with the fact that that State has a problem with the language in the bill. In its present form, I would have to concede, the proposed language "charged with an offense" seems overly broad and applies to matters which cause the gentleman from Washington, who has made enormous contributions both in this House as to the Legal Services Corporation and as to Indian affairs, in his various capacities, considerable concern. I am, therefore, reluctantly constrained to go along with the gentleman's amendment. But I do say to the gentleman, and others who are interested, that this may not be the end of the matter down the line, and that there still may be a problem for future discussion.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. KASTENMEIER, and by unanimous consent, Mr. MEEDS was allowed to proceed for 2 additional minutes.)

Mr. MEEDS. Mr. Chairman, I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, as I started to say, somewhere down the road it may be possible to accommodate those infractions which are in the nature of civil actions in peculiar circumstances like this. However, I concede that for the purpose of the present debate, the language which the gentleman seeks to strike should be deleted. For that reason I do go along with the gentleman from Washington.

For purposes of legislative history, to those Members who are interested, when we use the term "person", we consider this preemptive. It is not exclusively Indian persons who may use this recourse in terms of Indian tribal courts; that person may be a non-Indian and would also have access to legal services.

Mr. MEEDS. I thank the gentleman for pointing that out. That is precisely what we mean because counsel would not be furnished in those courts to either Indians or non-Indians. So the gentleman is exactly right.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield further?

Mr. MEEDS. I yield to the gentleman further.

Mr. KASTENMEIER. Furthermore, this bill does not confer any jurisdiction or any expansion on Indian property rights to the extent that there may be any challenge to their standing. This bill does nothing with respect to that.

Mr. MEEDS. I agree with the gentleman. Nor does the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I know of no objection to the gentleman's amendment on this side.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

I rise in support of the gentleman's amendment. I wish also to express my appreciation to the distinguished chairman of the subcommittee for his consideration and comment and add one further point with respect to the legislative intent. The gentleman from Wisconsin states that it is the committee's intent for the word "person" in the second part of the section dealing with Indian tribal courts to cover non-Indian as well as Indian persons. Is it also the intent that such persons must meet all the other qualifications for eligibility under the act.

Mr. KASTENMEIER. Yes. A person must be an eligible person to qualify.

Mr. FOLEY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LOTT

Mr. LOTT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOTT: Page 9, line 7, strike out "$238,700,000" and insert in lieu thereof "$217,000,000"; and immediately following on line 8 strike out "$300,000,000" and insert in lieu thereof "$275,000,000".

Mr. LOTT. Mr. Chairman, section 9 of the bill before us proposes to authorize the Legal Services Corporation $238,700,000 in fiscal year 1978 and $300,000,000 in fiscal year 1979. My amendment would reduce these amounts to $217,000,000 and $275,000,000, respectively. This would constitute a total savings of $46,700,000 over the next 2 fiscal years.

Existing law in the Legal Services Corporation Act authorizes the Corporation to submit its annual budget requests directly to the Congress. But the law also provides that these Corporation requests are subject to review and comment by the Office of Management and Budget.

For fiscal year 1978 the Corporation has asked Congress for $217,100,000. OMB has recommended $175,000,000. This legislation, however, proposes $238,700,000, or a 48-percent increase over what the executive branch recommends.

For use in fiscal year 1979 the Legal Services Corporation has asked Congress to authorize $275,000,000. Obviously, there is no administration recommendation for fiscal year 1979 with which to make a comparison. For this reason it appears logical to me that the Corporation request for fiscal year 1979 is the proper authorization for that year.

Mr. Chairman, I share the views of many that the purpose of the Legal Services Corporation, to make legal assistance available to those who need it and cannot afford to hire it, is a good one. I applaud the Corporation's goal of finding ways to deliver legal aid to the poor in all parts of our country in the most cost-effective manner possible. I do not, however, feel that the publicly funded Legal Services Corporation should be given the opportunity and the wherewithal to seek political change outside the electoral process.

This is why I am offering my amendment today. The Corporation, in my opinion, should confine itself to its originally chartered objective—providing ways to obtain legal assistance to those who cannot afford it. For this purpose the House and the Corporation feel $217,000,000 in fiscal year 1978 is enough.

I agree.

I and the Legal Services Corporation also believe that $275,000,000 in fiscal year 1979 is enough.

We have an opportunity and a responsibility here today to help assure that the Legal Services Corporation confines its activities to assisting in seeing that the legal rights of the poor are represented without engaging in extraneous political activities. Reducing the authorization levels for the upcoming 2 fiscal years will assist in accomplishing this goal.

So, Mr. Chairman, I urge the adoption of my amendment, which will result in a 2-year cost savings of $46,700,000.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I rise in commendation of the amendment offered by the gentleman from Mississippi although I do not think it cuts enough, but certainly it exemplifies the only reasonable level of restraint that could possibly be suggested at the moment. The amendment at least holds the increase in spending to the level the Legal Services Corporation itself would be satisfied with and does not require the level to be bumped up to $300 million in the following fiscal year.

Mr. Chairman, I support the amendment.

Mr. LOTT. Mr. Chairman, after all we are going to allow a $58 million increase in 1979 even if this passes, so it is not as if we would not allow some increase.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I associate myself with the amendment offered by the gentleman from Mississippi.

In line with what the gentleman from Ohio (Mr. KINDNESS) said and the vote on his amendment, I think that makes the gentleman's amendment overwhelmingly proper at this time and I hope the amendment passes. We only got 160 votes to make a much deeper cut which I, of course, favor. I will vote to cut anywhere we can and circumscribe the Corporation's activities in any way we can. Whatever we come up with, amended or not, will be bad because the program is bad.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am realistic. I would describe as irresponsible the amendment offered by the gentleman from Ohio (Mr. KINDNESS) in terms of cutting the authorization level as low as possible; in contrast, I cannot say that this amendment is irresponsible. These are in fact the funding levels recommended by the Corporation for appropriations purposes. Nonetheless, the Committee should know why we adopted the Danielson amendment in this authorization bill.

The levels of funding of authorization in the bill are 10 percent above the Corporation's appropriations request for fiscal year 1978, and their projected request for fiscal year 1979. We did that for flexibility. We did that to accommodate contingencies so that if it came to pass for any reason, let us say, on outreach for the elderly or increases of the very low attorneys' salaries, or equalization in programs, that the Corporation could seek any additional funding from the subcommittee chaired by the gentleman from West Virginia (Mr. SLACK). Thus they would not have to come back to Congress and get an authorizing bill as well as a supplemental appropriations bill. I do not know that any of these contingencies will come to pass in fiscal years 1978 or 1979, but that is why we put it in the bill. Simply stated, we wanted to give the Corporation some flexibility for the next fiscal year and the fiscal year following.

As of this moment in the bill, $217 million has been appropriated by the House; this is a plausible figure and no one really debates that. So what we are talking about actually are the contingencies for the future. That is why I wish the Committee would reject the amendment offered by my friend, the gentleman from Mississippi, even though I must say those levels are those requested by the Corporation in its appropriations request for fiscal year 1978, and projected as a minimum budget request for fiscal year 1979.

Mr. DRINAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we should know that this program had a very rocky history under the old OEO for fiscal years 1970 through fiscal year 1975. During that time the average appropriation was only $70 or $80 million. There was during that period a serious question of whether or not any legal services program for the poor would, in fact, survive.

It was in fiscal year 1976 that this Congress gave birth to the Legal Services Corporation and a modest increase of funding was granted. But 1 year ago, Mr. Chairman, of the 29 million poor persons in America, only 9.2 million, less than one-third of these poor persons, had any minimum access to legal services programs. This has been particularly true in the rural areas. Poor persons living in those areas with no access to legal services numbered 11.7 million. They were without any minimum access. With the increase that was given last year, the Legal Services Corporation was able to expand minimum access by an additional 3.8 mil-

lion, so that the LSC now reaches a total of 13 million.

The fact is, Mr. Chairman, even if we put this bill through for next year, 16 million poor persons are still without minimum access to legal services.

The authorization that is in the bill before the House today for fiscal year 1979 gives funding for an attempt for the legal services program to close the gap, so that the 16 million poor persons without access to legal services will be diminished to hopefully 12 million or 11 million poor persons.

The amounts in H.R. 6666 are deliberate figures arrived at after careful calculation and abundant evidence with graphic testimony of what each million dollars could do by way of providing legal services to the poor.

I urge, therefore, that the amendment be defeated and that both figures now in the bill for fiscal year 1978 and fiscal year 1979 be retained, because only by retaining them can we begin to make even the smallest advancement toward giving adequate legal services to the poor of America.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I would offer in supplement only these comments. I think the chairman has well addressed the specific objections, as has the gentleman from Massachusetts.

I think the Corporation has set a goal of providing minimum access of 2 attorneys for every 10,000 poor to all persons in fiscal year 1979.

In the general population goal, there are over 11 attorneys for 10,000 persons. There are those callous souls that suggest we should eradicate the 2 attorneys for 10,000 souls; but the poor people need the help. If we are sincere and honest in our effort to provide legal help for those who cannot pay big fees, then support of the appropriation level in the bill is compelled to create an equity that is long overdue.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I urge that we vote no on this proposed amendment. I certainly understand, and commend the gentleman from Mississippi, for the gentleman's efforts to economize and the gentleman's desire to hold our budget down within reasonable bounds; but I want, first of all, to assure the gentleman that in the subcommittee and in the committee we bore those concerns in mind and did everything reasonably possible to hold down appropriations as much as we possibly could.

I think, though, that we must realize that on a program like this, we cannot just assume that everything is fat. There is some muscle and some bone, and that is about all we have left here. We simply cannot afford to cut this Corporation back beyond these rather minimal figures that we have set up. It is true, we have made some provision for expansion, because we do have a 2-year authorization here and any of us would be blind if we did not realize that with inflation, with the growth of our country and our more responsive answers to meeting people's needs, there is an acceleration and an increase in the amount of appropriations; but we have been very modest. We have only increased the authorization by 10 percent.

Do not forget, this is only an authorization. It is still up to the Appropriations Committee, in its wisdom, to appropriate.

I know that the members of the Appropriations Committee are very sincere in their efforts to hold down on expenditures, but they will be operating under a ceiling we are setting under the language of the bill. That does not mandate the appropriation. If the Appropriations Committee can see fit to cut it a little bit, they will, but we should put the authorization at a figure that the Appropriations Committee can live with.

Mr. Chairman, I strongly urge a "No" vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. LOTT).

The question was taken; and on a division (demanded by Mr. LOTT) there were—ayes 37; noes 32.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: On page 4, line 17, strike section 6(b) in its entirety and insert the following:

(b)(1) paragraph (2)(C) of section 1007 (a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)) is amended to read as follows:

"(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;".

Mr. BIAGGI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, I rise to offer this amendment to H.R. 6666. The Legal Services Corporation was created to help the poor of the Nation obtain legal services. Despite its many accomplishments, there remain large groups of people, totaling better than 25 percent of our population, who continue to have difficulty in gaining access to legal services.

My amendment simply identifies two of these groups and emphasizes their need for accessibility in receiving legal services. They are the elderly and handicapped of this Nation. A similar provision for these two groups is contained in S. 1303, the companion bill to H.R. 6666. It should be emphasized that the intention of my amendment does not, in any way, suggest a shift in emphasis in the legal services program. Neither does it attempt to dictate to local programs.

Rather, this amendment recognizes the problems which local, Legal Services Corporation programs have encountered in applying their resources to meet all the legal needs of their poorer groups. According to the Senate report on S. 1303:

> Thus far, every (local) program has found it necessary to control its caseload, and the most appropriate way of doing this is by determining important categories or kinds of cases which the office will undertake.

My amendment simply adds language embodying this concept to the legislation which sets policy for the Legal Services Corporation over the next 2 years.

The amendment improves accessibility for the elderly and handicapped to all aspects of legal services, especially outreach and training services. These, and other support services, are fundamental to effective legal services programs.

It should be stressed that my amendment provides nothing more than direction for local, legal service programs. It does not impose the will of Congress over these programs. Instead, it provides a vehicle which will allow local programs to respond more adequately to those groups traditionally lacking full access to legal services.

I consider the amendment complementary to the bill and to the legal services program. It is meant to be suggestive only and should not be construed to give an undue preference to these groups over other identifiable groups of low income persons. Rather, it is designed to both recognize the fact that these groups have had traditional problems gaining access to legal services, and that local programs should attempt to respond to this problem.

As chairman of the Federal, State, and Community Services Subcommittee of the House Select Committee on Aging, I am deeply concerned with the effective delivery of important services to our elderly. Certainly, one of the most important of these services are legal services. While the programs of the Legal Services Corporation are developed with good intentions, they can fall short of delivering vital assistance to those who need it the most.

The susceptibility of elderly to legal problems is high. Oftentimes their access to legal services is limited. A survey conducted by the legal research and services for the elderly, a research arm of the national council of senior citizens, showed that of 10 States surveyed, persons over 65 comprised 21.7 percent of their poor population yet represented only 7.2 of the LSC caseload in these States. Legal services are needed to protect and guarantee elderly citizens their rights under law.

The elderly are especially vulnerable to consumer fraud. In 1976, I conducted a hearing on one of the most prevalent

of these frauds—confidence games schemes. Legal services are needed not only to help those victimized, but also as a means of prevention.

In addition, our elderly are victims of a growing percentage of violent crimes, a point confirmed during my subcommittee's hearing on crime and elderly held earlier this year. In many cases, legal assistance is vitally needed to determine eligibility for compensation. Landlord-tenant disputes is another area where the elderly are so often short-changed.

The net result of these situations is that the elderly are often deprived of equal protection under the law, a right guaranteed to every American, adequate legal services could alleviate this problem.

This amendment I am offering today is the first step in my efforts to guarantee greater legal service programs to the elderly poor. I have also introduced H.R. 6913, the Legal Services for the Elderly Act. This measure would amend the Older Americans Act, and would fund specific programs to provide legal services to the elderly.

The other group provided for in my amendment, the handicapped, share similar problems with respect to legal services. Limited mobility restricts their access to legal services. In addition, the handicapped are economically disadvantaged. This serves to further increase their need for legal services, the last census shows us that, when compared to nonhandicapped males, 14 percent fewer handicapped males earn over $7,000 per year. In terms of their poor population, they are clearly underrepresented. Their legal service needs are unique and worthy of specialized attention. The handicapped often find themselves the objects of discrimination in employment, housing, and higher education. For the handicapped to protect their rights, legal services are often required, consequently, they certainly merit priority consideration in the local programs of the Legal Services Corporation.

It is estimated that some 6 million legal problems went unserved last year. Another 23 million poor persons either lived in areas where there is, at best, token access to legal service programs. My amendment addresses itself to many of these individuals while also recognizing their special and unique legal service needs. My amendment will not remove all the barriers but it will represent a first and significant step in the right direction.

In 1970, I sponsored an amendment which later became law aimed at removing the barriers which denied elderly and handicapped persons full access to transportation facilities. As a result we have new regulations requiring all new buses purchased with Federal money to have specific features for the elderly and handicapped. I see a great parallel between that effort in 1970 and mine today. Our Constitution provides for equal justice under law for all. Yet equal justice for all can never be achieved if some are denied access to legal services. My amendment recognizes this and deserves your support.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield.

Mr. RAILSBACK. Mr. Chairman, on this side we have had a chance to look at the gentleman's amendment, and it is acceptable to us.

Mr. BIAGGI. I thank the gentleman.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I would be delighted to yield.

Mr. KASTENMEIER. Mr. Chairman, I have discussed the gentleman's amendment with him. I know he has the support of the gentleman from Florida (Mr. PEPPER) and others. The concerns that I had originally have been cured by the present form of this amendment. We were originally concerned that one group of poor people would be forced to compete with another through some set of priorities as to division of the limited resources for legal assistance; now I understand that the purpose of this amendment is not to provide preferences, but to insure that the elderly and the handicapped, as well as any other group of clients who may have particular problems of access or who may have special legal needs, have those needs fully considered when the local legal services program sets its priorities.

Certainly, with that in view, I am willing to accept this amendment. We did have testimony that the elderly had peculiar problems of access, and that would be true of the handicapped.

Mr. BIAGGI. I thank the gentleman.

Mr. PERKINS. Mr. Chairman, will the gentleman yield.

Mr. BIAGGI. I yield to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Chairman, before the amendment is accepted—and I think we are all for this amendment—I would like to ask the gentleman from Wisconsin (Mr. KASTENMEIER) and perhaps the gentleman from Illinois (Mr. RAILSBACK) in what way the jurisdiction of the attorneys who are employed by the Corporation, insofar as representing the poor, has been changed since we set up the Legal Services Corporation, before the jurisdiction was transferred to the Committee on the Judiciary.

I would like to know whether we have enlarged the duties of the attorneys who are going to be employed, and what are some of those responsibilities. I know what they were under the old poverty law and what they were when we transferred them, but I do not know what has taken place since that time. I think that would be something the Members of this body would like to know.

Mr. KASTENMEIER. If the gentleman from New York (Mr. BIAGGI) will yield, I would say to the distinguished chairman of the Education and Labor Committee that we have not enlarged the responsibilities of the attorneys for the legal services programs.

Mr. PERKINS. If the gentleman will yield, I know what this particular amendment does, but I am asking what, in general, are their duties.

Mr. KASTENMEIER. We have not changed the duties of the program officers. What we did during the June 9 session, when the Committee of the Whole was convened, was that we subjected the legal program attorneys to a less strenuous disqualification, in terms of engaging in political activity. But we said they still may not run for partisan political office. That is a somewhat less restraint which we put on the program attorneys, but we have not reduced their duties.

Mr. PERKINS. If the gentleman will yield further, I have one further question. When we set up the Corporation we gave priority if there are attorneys in a certain locality to that locality. Is that provision in the bill presently, or has that provision been removed?

The CHAIRMAN. The time of the gentleman from New York (Mr. BIAGGI) has expired.

(On request of Mr. PERKINS and by unanimous consent, Mr. BIAGGI was allowed to proceed for 1 additional minute.)

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Illinois (Mr. RAILSBACK) to answer the gentleman's question.

Mr. RAILSBACK. The answer to the gentleman's question is "yes," but I might just reply more generally to what I believe was the thrust of the gentleman's question. My personal opinion is that since we have had the Corporation, despite certain guidance and direction given to it by Congress, the Corporation has done a very good job in exercising oversight over all of the various so-called legal aid recipients. The other great benefit which I see performed by the Corporation has been an area of making it more independent, taking politics out of it.

As the gentleman knows, a very well-intentioned program back in the 1960's was sometimes a little bit controversial, sometimes a little bit frustrated because there was really not enough direction and not enough guidance. I think the Corporation has provided that direction and guidance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 3, following line 19, add the following new paragraph:

(C) Section 1006 of the Legal Services Corporation Act (42 U.S.C. 2996e) is amended by adding at the end thereof the following new paragraph:

"(g) The Corporation shall not provide legal assistance, including the filing of amicus curiae briefs, with respect to any proceeding or litigation involving any program of affirmative action or any other system of quotas or goals in regard to admission policies or employment practices which encourage or require any discrimination on the basis of race, creed, religion, sex, or age. Nor shall any funds be made available by the Corporation, either by grant or contract, be used for such purposes."

Mr. ASHBROOK. Mr. Chairman, my amendment is intended to prohibit the Legal Services Corporation from becom-

ing involved in litigation relating to affirmative action programs or any other system of quotas or goals in regard to admission policies or employment practices.

I believe this amendment is necessary because of irresponsible actions by the Legal Services Corporation. Specifically, the corporation has filed an amicus curiae brief in the case of The Regents of the University of California versus Allan Bakke. This brief argues in behalf of the university's special admissions programs for minority students.

Among other propositions, the Legal Services Corporation argues in its brief that "race conscious special admissions programs" are the only means of achieving a racially integrated legal profession.

During consideration of the Labor-HEW appropriations bill the House voted to get the Government out of the business of requiring schools to use race or sex quotas in admitting students. At the same time the taxpayer-financed Legal Services Corporation is arguing in court to uphold "race conscious special admissions programs."

I will point out merely that during consideration of the Labor-HEW appropriation bill the House voted to get the Government out of the business of requiring schools and employers to use race or sex quotas in admitting students. At the time this is happening, however, with the House taking this action, the Legal Services Corporation on its own is going forward in the Supreme Court and in other areas to promote affirmative action programs and programs that would be based on discrimination, discrimination on the basis of race, creed, or sex.

I think it is time to bring this activity to a halt. It is time that we give the Legal Service Corporation a clear guideline and a clear signal from this body.

Earlier it was pointed out by Members in opposing the amendment offered by the gentleman from Ohio (Mr. KINDNESS) that the amendment would reduce the appropriation, and it was urged that we not follow the recommendation of the gentleman from Ohio (Mr. KINDNESS) because the House had already voted a higher appropriation amount in the Labor-HEW bill. That is accurate. The House also at that time voted for what might be called the substance of this amendment.

So, Mr. Chairman, I hope that the same advice will be given by the Members who opposed the Kindness amendment, and that the Members will support this amendment.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I only wish to inform the gentleman from Ohio (Mr. ASHBROOK) that I intend at the proper time to offer a substitute for his amendment.

Mr. ASHBROOK. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. HAGEDORN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. HAGEDORN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEDORN as a substitute for the amendment offered by Mr. ASHBROOK: Page 3, immediately after line 10, insert the following new subsection:

(b) Paragraph (1) of section 1006(c) of the Legal Services Corporation Act (42 U.S.C. 2996e (c)(1)) is amended by inserting immediately after "Corporation" the following: "(1) or participate in any litigation unless the Corporation or a recipient of the Corporation is a party to such litigation".

Page 3, line 11, strike out "(b)" and insert in lieu thereof "(c)".

Mr. HAGEDORN. Mr. Chairman, section 1006(c)(1) of the Legal Services Corporation Act states that:

The Corporation shall not itself participate in litigation on behalf of clients other than the Corporation.

Yet, earlier this month, in the case of the Regents of California versus Bakke, before the U.S. Supreme Court, the Corporation filed an extensive amicus brief on behalf of the petitioner, the University.

As I think most of my colleagues know, this is the extremely controversial case in which the so-called affirmative action admission policies of the university's law school are being challenged. Mr. Bakke, it has been conceded by the university, was denied a place in the law school solely because a minimum number of places were reserved for minority students admitted under a special admissions program.

In their brief, the Corporation contends that the decision of the California State Supreme Court, in opposition to quotas and affirmative action, will seriously impair the Legal Services Corporation's ability to carry out its mandate. The Corporation, it seems, has determined that only minority attorneys are effectively able to represent minority clients. The brief states.

A racial mix of lawyers is essential for legal services programs to be effective in minority communities . . . The Corporation's experience has convinced it that a significant number of legal services attorneys—like legal services clients—must be members of minority groups for the program to operate effectively.

Whatever the merits of affirmative action, however—and this is an issue that will be addressed by the distinguished gentleman from Ohio (Mr. ASHBROOK)—I believe that it is a violation of the Corporation's charter for it to appear as an amicus on either side of this issue. The act reads clearly that the Corporation itself is not to participate in litigation on behalf of clients other than the Corporation. The brief in the Bakke case was filed on behalf of the University of California which, everything else aside, is hardly an indigent institution in need of the Corporation's assistance.

The Corporation makes at least a perfunctory attempt to justify their participation in this case. As best as I can decipher the argument—and please follow with me closely—it is that unless law schools are free to engage in "racially conscious" admissions policies, insufficient numbers of minority students will be admitted as a result of biased testing and past discrimination. This, in turn, will make it difficult for the Corporation itself to increase its own staffing of minority attorneys above its present 15 percent level which, in turn, will frustrate the Corporation's efforts to provide legal assistance to poor, minority clients. Through this somewhat tortuous reasoning, the Corporation justifies their involvement in the Bakke case as being in "behalf" of the Corporation.

If this argument is permitted to stand up, we can just as well strike the entire section 1006(c)(1) which purports to limit the Corporation's own involvement in litigation. To defend participation in the Bakke case on the basis of this extremely indirect and highly dubious interest is to open up the floodgates and allow them to participate in virtually any suit that they want to. So long as the Corporation can show some connection, however remote, between a proceeding and an alleged interest of the Corporation, they will be able to circumvent the clear language of the act. Involvement in virtually any criminal justice case could be defended on the grounds that unless suspects are accorded whatever supposed "right" happens to be at issue, more individuals, particularly poor ones, will face court proceedings which, in turn, will limit the Corporation's ability to provide assistance to all the poor that need it. I am confident that the skillful and creative lawyers at the Corporation will be able to establish a relationship between the Corporation's goals and virtually any proceeding if the amendment that I will now offer is not passed.

My amendment would simply clarify the original intention of the language in section 1006(c)(1), and require that, before the Corporation itself is to participate directly in litigation, their participation must be on "behalf" of the Corporation and they or a recipient of the Corporation must actually be a party to the suit. I do not believe that this section was intended to authorize the growing number of amicus briefs that the Corporation might choose to involve itself on behalf of its own ideological crusades. The Corporation, in far too many instances, has circumvented the clear limitations that this body has placed on their operations, and will undoubtedly do its best to avoid the limitations that this amendment would impose. I am convinced, however, that the amendment will clarify Congress' original intentions to the satisfaction of even the Legal Services Corporation and insure that the actions of this body have some meaning.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield

Mr. HAGEDORN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, as I understand the gentleman's amendment, in a case where the Corporation itself would be a party or even in a case where a legal aid recipient would be a party, the gentleman would not exclude the Corporation from participating even as amicus curiae; is that correct?

The gentleman is concerned about such cases as he just cited, the Bakke case, as to which I must say that I share the gentleman's concern. I believe that the Corporation went further than it was ever our intent for them to go.

Therefore, I would just say, speaking for myself, that I think the gentleman's substitute amendment deals with what was an abuse by the Corporation.

Therefore, I intend to support the substitute amendment as contrasted with the Ashbrook amendment.

Mr. HAGEDORN. The gentleman's understanding is exactly correct, I say to the gentleman from Illinois (Mr. RAILSBACK); and I appreciate his support.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, it is my understanding that the gentleman's substitute amendment would not in any way get at the problem that I am trying to address in my amendment.

The gentleman is merely talking about appeals and the Bakke amicus curiae. Would that be a correct interpretation of the gentleman's amendment?

Mr. HAGEDORN. It would be any challenge of the Corporation or of the recipient. If either were challenged, either would have a right at that time to intervene; but other than that, they would be prohibited, as in the Bakke case already mentioned.

Mr. ASHBROOK. However, the Legal Services Corporation, as I understand the gentleman's amendment, would become involved or could become involved in the filing of cases and amicus curiae briefs and so forth with respect to litigation or affirmative actions if, indeed, the plaintiffs are the clients of the Legal Services Corporation or the corporation judges that the interest of the poor require their intercession; is that not correct?

Mr. HAGEDORN. Yes.

Mr. ASHBROOK. That would constitute a great distinction, I would say to my friend, the gentleman from Minnesota (Mr. HAGEDORN), between the gentleman's amendment and my amendment. I would just flatly bar the Corporation from getting into affirmative action or legal assistance cases in any respect, whether it be litigation, amicus curiae situations, and so forth. The gentleman from Minnesota would allow a broad area of legal service actions in the field of affirmative action cases.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. HAGEDORN) has expired.

(On request of Mr. RAILSBACK and by unanimous consent, Mr. HAGEDORN was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, as I understand it, there have only been three cases in the last year, three filings of amicus curiae briefs. Two of those involved legal aid recipients directly, and one of those two involved a regulation promulgated by the Corporation itself, which was questioned.

The gentleman is concerned and has expressed his concern about that third case, the so-called Bakke case, where the Corporation was not a party nor were any legal aid recipents, but the Corporation saw fit to get involved by filing as a friend of the court.

The gentleman is concerned about that, as am I.

My feeling is, with the restriction on the corporation they will be fulfilling what I believe to be its intent, and which I support, and this would prevent a recurrence of the Bakke case.

Mr. HAGEDORN. That is correct, or anything occurring in the future. We are putting a strict restriction on them that they shall not become involved in any litigation or in any legal proceedings in which they were not originally involved.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, I would inquire of the gentleman from Minnesota as to whether it would not be true that the gentleman's substitute and the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), both serve to restrict the attorneys in the corporation from representing any group, or individuals seeking to protect their equal rights protection under the law?

Mr. HAGEDORN. No, I do not believe that. We are just trying to prohibit the corporation or its recipients from becoming involved in any litigation that they were not directly involved with to begin with. That is the intent of the amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ASHBROOK. Mr. Chairman, I rise in opposition to the amendment offered as a substitute for my amendment.

Mr. Chairman, I would like to direct a question to my friend, the gentleman from Illinois (Mr. RAILSBACK), who has indicated support for this substitute amendment. Concerning the amicus curiae brief that we are discussing in the case of the Regents of the University of California against Allan Bakke, as I understand it, the main concern at this point is because the Legal Services Corporation became involved in the action with an amicus curiae representing what they thought to be a general class interest for the people they are endeavoring to give legal aid. Now, given a hypothetical situation that is a little bit different, assume that a young man came into one of their legal service clinics in California and said he wanted to go to the University of California. He is afraid that if the Bakke case is decided by the Supreme Court so as to prevent these programs of minority admissions in the University of California, he would not be able to go to that university law school. He asks "therefore will you represent me and write an amicus curiae brief before the Supreme Court of the United States?"

As I understand it, in that situation, even with the Hagedorn amendment, this same 37 page brief could be written because it would be on behalf of a specific person who had gone into a legal service office in California and said, "Unless you attack the Bakke case, the effect will be such that I cannot get into law school."

Mr. RAILSBACK. Mr. Chairman, as I understand the Hagedorn amendment, it would deal with the corporation and prevent the corporation itself from becoming involved in that kind of a case, I believe the gentleman from Ohio (Mr. ASHBROOK) is probably accurate.

I might just add that it is my belief that this committee must and will in the future exercise very close oversight over whatever activities are formulated either by the corporation or by any legal aid recipients. When one looks at their history, not going back 3 or 4 years, but after the corporation itself was formulated, the history of the corporation and its conduct has been exemplary. In other words, I think that those of us who sit on the subcommittee believe the Legal Services Corporation has done and is doing a very, very good job. They are not involved with politics and, with the exception of the Bakke case, my feeling is that they have handled themselves in an exemplary way but I believe it is something that we will have to continue to watch.

Mr. ASHBROOK. I would not agree with the gentleman's statement regarding the way we would rate the legal services program but I will not bring out all of the diverse views on that subject. The question we are involved with is not on the matter of involvement in politics or not being involved in politics, but rather on the pending amendment and I agree with your response to my hypothetical case. The Hagedorn amendment completely undercuts my amendment. If it passes, reverse discrimination can be effectively founded by the Legal Services Corporation contrary to the will of this House as evidenced in our vote last week on Labor-HEW appropriations.

The people working on Legal Services are still involved in politics; I will say that. I am not going to expand the record. It would be easy to do, but I am still trying to point out and get a response from the gentleman from Illinois regarding the Hagedorn amendment. I think we are all realistic, particularly those of us who have watched civil rights litigation over the years. It is possible to get a plaintiff for anything—probusing, antibusing, proabortion, antiabortion. It is a figment of the imagination for us to legislate and not think that if the Legal Services Corporation wants to propound any issue, they can find a client somewhere, someplace, to make it legitimate for them to proceed on some circuitous device. I am saying that the Hagedorn amendment is no way will prevent that type of situation. That is why my amendment clearly on the face of it says "no assistance."

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman.

Mr. RAILSBACK. I thank the gentleman for yielding.

I would simply say in response to what the gentleman has said that the Hagedorn amendment is meant to deal with an abuse which we came across, and which I recognized, at least in my opinion, as an abuse, and I think it does deal with that particular problem. I am the first one to concede it does not go as far, in my opinion it should not go as far, as

the gentleman is trying to do with his amendment.

Mr. ASHBROOK. I understand my colleague's and my friend's position. I am merely saying that what he is talking about is an abuse where the Legal Services Corporation on its own came forward and filed an amicus curiae brief in the sensitive area of affirmative action on campus.

What I happen to think we would end up with is a situation where the corporation could involve themselves in an abuse, but the difference would be an abuse with a client. We are talking about whether or not they can do it with a client or without a client. In the Hagedorn amendment it can be done with a client; in my amendment it cannot be done in any situation. We both seem to consider it an abuse.

Mr. RAILSBACK. Will the gentleman yield further?

Mr. ASHBROOK. I will be glad to yield to the gentleman.

Mr. RAILSBACK. As I understand the powers of separating the Corporation from the legal aid programs, the legal aid recipients, my belief is that the corporation does not under existing law right now have a right to represent a client, an eligible client. It can represent itself in court. I will refer the gentleman to section 1006(c).

Mr. ASHBROOK. I would say to my friend, the gentleman from Illinois, in the situation I propounded of a young man coming in and saying, "The outcome of the University of California Regents against Bakke is very important to me whether I can get into law school or not. Will you represent me?"

The gentleman indicated yes, he probably could be represented by the Legal Services Corporation before the Supreme Court.

Mr. RAILSBACK. Will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman.

Mr. RAILSBACK. The language that I am specifically referring to says this in section 1006(c)(1):

> The Corporation shall not itself (1) participate in litigation on behalf of clients other than the Corporation.

Mr. ASHBROOK. If it worked that way, I do not think many of us would be quite as concerned as we are now.

Mr. Chairman, I yield back the remainder of my time.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the discussion really revolves around criticism to an amicus curiae brief of the Legal Services Corporation. The Corporation, as we know, by law is empowered to participate in litigation only on behalf of the Corporation and not on behalf of clients. In three amicus curiae briefs this year they have so participated. Two of them, I think, are not controversial. Everyone would agree that the Corporation should have been involved. Recipients of Corporation funds were parties in two of the cases.

In the third case, the Bakke case, I might add after reflection, the Corporation filed an amicus brief. It took the same side as the American Bar Association, and it felt that the Corporation, not any particular client, should have the benefit of minority lawyers. Since the system of education generates lawyers, and since the Corporation represents the poor and minorities, who are some 40 percent of the poor, that issue was within the Corporation's responsibility.

In a brief of this sort—and it is not by normal standards a lengthy brief as are those filed in the Supreme Court—the Corporation had to have the permission of the Court and indeed the permission of the parties, including Mr. Bakke. Thus, it was not an imposition of any great moment on anybody. It was merely the Legal Services Corporation as an entity having an interest and viewpoint to reflect in this litigation.

I really think the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN) is unnecessary. To the extent that Members of this Committee or this House have reservations about participating in a case of this sort, I would prefer to deal with this in other ways.

The Hagedorn amendment is not of great moment in terms of changing very much. I do think we are making a great deal of very little. I would personally have liked, as observed by the gentleman from Illinois (Mr. RAILSBACK), to encourage the Corporation not to file a brief in cases of this nature. In any event, I do not think it was decisive and I think much too much has been made of it.

If it is the will of this body to support the Hagedorn amendment, it will not do that much damage.

However, in respect to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), I say it does a great deal of damage. The purpose of law suits, and we are talking about 1,250,000 matters filed last year nationally by the Legal Services Corporation, is to freely help poor people. For us to limit, for example, the authority of the public defender by circumscribing the type of case he could take or by specifically stating that since we do not like rape cases or murder cases the public defender cannot take these cases, would be inconceivable.

Of course, the Legal Services Corporation really offers free access to justice for the potential poor eligible clients. If we accepted this amendment, we would be stating that the Corporation may do some things for the poor but not others. They may be represented in some matters but not in others. Such limitations are artificial. We hope that some day all the bars may be removed so that the poor can be represented as all other persons in our society. That is why such artificial limitations as proposed by the amendment offered by the gentleman from Ohio are inately contrary to the act. I hope eventually we can get away from them entirely.

Mr. ASHBROOK. Mr. Chairman, I think when I read the debate tomorrow I may find myself, as I often do, getting caught in a Catch-22 situation. Maybe the gentleman from Wisconsin can help me out.

The gentleman from Illinois (Mr. RAILSBACK) says we do not need my amendment because the Corporation cannot do what I want to prohibit it from doing. The gentleman from Wisconsin says my amendment is bad because the Legal Services Corporation really is needed to do the things I am trying to prevent in my amendment. Which way is it? As I read paragraph (C), it says:

> The Corporation shall not itself (1) participate in litigation on behalf of the clients other than the Corporation.

That is a quotation from the 1974 act, as we know. Does the gentleman from Wisconsin think under that supposed limitation the Legal Services Corporation can become involved in litigation related to affirmative action?

Mr. KASTENMEIER. It can if it is central to the Corporation's interest, not a client's interest. Now presently the Corporation may not involve itself in school desegregation cases. That is forbidden by law but it presumably can involve itself in other affirmative, if we want to call it affirmative, action or other similar cases.

It is permitted to do that. That is not forbidden within the scope of this law. It is difficult to react because I have not seen the gentleman's amendment before today.

I suppose the gentleman from Illinois (Mr. RAILSBACK) and I could conjecture about the effect of this, as any Member of the committee might. We really do not know what the effect is. I happen to think it might be very mischievous and far reaching. I may be wrong.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would say that would be in keeping with the purpose of the Legal Services Corporation. I say that not too facetiously, I might point out, but as we listen to the debate there is a Catch-22 here. My friend on my side of the aisle indicates they cannot do it and the gentleman from Wisconsin says they can. I am still trying to find out what the facts are. You noted that "It," referring to the Corporation, "can if it is central to the Corporation's interest, not a client's interest."

I submit under that interpretation if I were heading this Corporation I could get their lawyers involved in just about anything from civil rights to consumerism. You are really telling us, in truth, how broad the Corporations' mandate really is. I think it is dangerous to have such a broad mandate.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, let me point out that the gentleman's amendment not only relates to the Corporation for one, and that is one distinction between it and the Hagedorn substitute amendment.

Second, the closing sentence of the gentleman's amendment says:

> Nor shall any funds made available by the Corporation either by grant or by contract be used for such purposes.

When I responded to the gentleman earlier, I was talking about the powers

of the Corporation itself. The gentleman goes further than that. The gentleman would not only limit the powers of the Corporation, the gentleman says no funds shall be made available by grant or otherwise. In other words, I believe the gentleman would include, and I believe the gentleman meant to include, so-called legal aid recipients.

My feeling is, there was no evidence of abuse by legal aid recipients.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(At the request of Mr. RAILSBACK, and by unanimous consent, Mr. KASTENMEIER was allowed to proceed for 1 additional minute.)

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield further?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, so what I am saying, I think maybe the gentleman's amendment goes a little too far. It deals with problems that I believe have not arisen and problems that I believe will not arise.

Now, if legal aid recipients in the future get involved in some activities that are not what I think is the priority of the Congress in giving aid to the poor, then I think maybe we would want to consider an amendment such as the one the gentleman offered. That is not the case. We are trying with what we have seen are the abuses presented in the Bakke case. I believe some of us believe that is the abuse. I think that is the distinction between the two amendments.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield further?

Mr. KASTENMEIER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I still think you are seeing a distinction without a difference. I am at a loss to understand how the Corporation can get into affirmative action. After listening to the chairman of the subcommittee and to the ranking member, I still think my amendment should pass and I hope it will be supported.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number or words.

Mr. Chairman, I rise in somewhat confused support of both amendments. It seems to me that it is perhaps regrettable that a point of order was not made at an earlier point, because I am not at all sure that the Hagedorn amendment really is a substitute for the Ashbrook amendment. It is preferable in some respects; but at any rate, it seems to me there is substance to both of them.

The chairman of the subcommittee, the gentleman from Wisconsin (Mr. KASTENMEIER), says that in the recent case about which there has been so much discussion here, the gentleman would have preferred otherwise, that the Legal Services Corporation might have sought permission for something of this sort.

The gentleman from Illinois (Mr. RAILSBACK) say it was not proper for them to file that amicus curiae brief and to become involved in that litigation under the existing law.

What do we do as a reward for that? We up the appropriation. We up the authorization. We just voted on that today.

Now, if there is to be any effective control by the Congress, and if there is to be really anything in this authorization bill as to just what restriction we want to be placed, and if there is a will on the part of the Congress that there should be a limitation such as the Hagedorn amendment requires, or a limitation such as the Ashbrook amendment requires, then I think this is all we can do, to state it here, because we cannot expect anything to be done about it in the oversight function. We cannot expect anything to be done about it in any other authorization. We cannot expect anything to be done about it in the appropriation. It is going to have to be specific. That is the history of the Legal Services function.

Here we are in this bill (H.R. 6666) broadening the jurisdiction, relaxing the ability of the Legal Services Corporation in this bill to do anything that they like.

These two amendments—and I am not sure how we arrived at it and whether we will get an opportunity to vote on them separately—I suppose by defeating the Hagedorn amendment as a substitute and then having it offered separately later; but both have their merits. Both, it seems to me, are supportable and both are required.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding. It seems to me that the Hagedorn amendment is more precise and more far reaching in that it requires that in order for the Legal Services Corporation to become involved, there must either be a recipient involved or the Corporation itself must be involved as a party. The Ashbrook amendment would not have to have a party. If an eligible client was available, they could participate directly or as amicus curiae.

Mr. KINDNESS. In response to that first part of the gentleman's argument, I think the Ashbrook amendment goes to a completely different subject matter.

Mr. McCLORY. I would agree with the gentleman, but I think the Hagedorn amendment is more restrictive and would limit more the authority of the Legal Services Corporation, which is consistent with the gentleman's view and mine, I might say.

So, I think that if we adopt the Hagedorn substitute we will have the kind of answer we want in so far as concerns the activities of the Legal Services Corporation, if we are in agreement.

Mr. KINDNESS. Despite the very fine interpretation by the gentleman from Illinois, I would urge defeat of the Hagedorn amendment as a substitute, and I would certainly support it as a separate amendment following the adoption of the Ashbrook amendment. But, I think there is a necessity for both of them, to go to different subject matters. The Ashbrook amendment is specific on one particular thing. It is very logical in its purposes. There is quite a bit of concern throughout our Nation today about the requirement of discrimination against people on the basis of race in order to operate programs that are called affirmative action programs.

People are quite concerned about the problem of reverse discrimination that arises out of such programs. I do not think that we ought to be saying that we are providing money for legal services to poor people and using them in the manner that Legal Services Corporation has in this one case used them, to try to deal with the policies of a particular educational institution. That is not providing legal services to the poor.

I would urge the adoption of the Ashbrook amendment and the defeat of the Hagedorn amendment as a substitute thereto.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the last word, and I rise in opposition to the Ashbrook amendment.

Mr. Chairman, I must oppose the amendment offered by my colleague on the Judiciary Committee, Mr. ASHBROOK. This amendment would add yet another restriction on the ability of the Legal Services Corporation to meet its mandate—provide counsel to those who cannot afford legal fees. I believe there are few Members in this House who do not support the concept of free legal services—that ability to pay not determine the legal protection afforded our people—and yet we continue to add qualification after qualification on the Corporation's charter. It would seem that we are willing to provide our poor with lawyers but—but not for abortion, but not for lobbying, but not for numerous occasions when legal counsel is vitally needed to insure constitutional rights.

Now, this amendment would prohibit the Legal Services Corporation from pursuing cases involving affirmative action or compliance with goals and timetables. My colleague does not indicate that neither affirmative action nor any other remedial tool is ordered by a court except after a finding of discrimination in violation of a relevant civil rights statute. Experience has demonstrated that the effects of institutional discrimination cannot be remedied by prohibitions against future discrimination alone. To bring about actual equality and the fullest possible utilization of human resources, programs of affirmative action must be undertaken to counter deeply entrenched patterns of discrimination.

The effect of this prohibition would be to restrict the Corporation from providing services when affirmative action may be the only remedy to correct past discrimination. We cannot pass this amendment without signaling an end of Congress commitment to racial and sex equality as well as racial and sex justice. It is the worst hypocrisy for us to on one hand prohibit discrimination in the civil rights laws and on the other to deny our poor the means to implement this right.

The concept of affirmative action has become a code word for opposition to meaningful implementation of the concept of equality embodied in our laws. Affirmative action, however, is only the steps taken to remedy the present consequences of past discrimination and to prevent employment discrimination in the future.

I urge my colleagues to join me in opposing this amendment for it seeks to abrogate the promise of equality and justice for those who most desperately need its protection.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield.

Mr. ASHBROOK. I have always found the gentleman from California to be eminently fair, but I think he may have made one mistake in reading my amendment. My amendment talks only of affirmative action. If we just use the words "affirmative action" many would agree with what you say but my amendment says affirmative action "which encourages or requires discrimination." That is the type of affirmative action we are talking about, only those affirmative action programs which encourage or require discrimination on the basis of race, creed, religion, sex, or age.

When we just say "affirmative action," I think sometimes we have to define what we are talking about. My amendment very clearly only talks about discrimination or affirmative action which requires that.

Mr. EDWARDS of California. I do not agree with the gentleman that it reads exactly that way. I think that it would be interpreted as not permitting legal assistance in affirmative action programs. I think that it really would be hypocritical for this House to prohibit discrimination on the one hand and on the other hand deny to the poor appropriate means of implementation.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Ohio (Mr. ASHBROOK) a question. Under the gentleman's amendment, if it were adopted, would it prohibit such things as the amicus curiae brief which he has been talking about, on behalf of the regents of the University of California?

Mr. ASHBROOK. If the gentleman will yield, I will reply to the gentleman from Iowa that my understanding is that both the Hagedorn amendment and the Ashbrook amendment would prohibit Legal Services Corporation from filing that type of amicus curiae, yes.

Mr. HARKIN. There is nothing in here that talks about affirmative action on the basis of discrimination. It talks about affirmative action. This is an affirmative action. But it does not deal with discrimination. It seems to me the gentleman is saying that his amendment is more broad than exactly what he has written down, it covers more than just some kind of discrimination. That is what the Bakke case is all about.

Mr. ASHBROOK. If the gentleman will yield, no, I do not think that is what the Bakke case is all about. The university did require discrimination. It did require they set aside a certain number of applicants to a law school who may have been below the standards. Mr. Bakke was alleging he was discriminated against because he was above the general level of these applicants. They were admitted not because of merit but because of discrimination in a direct set aside for admission.

Mr. HARKIN. The point is that in law schools, as in all professions, there are many more applicants than there are seats in law schools, so schools began to draw the line someplace. They use a variety of techniques. One of the techniques is the LSAT. The LSAT was basically derived 25 years ago. It has been shown time and time again that there is a certain built-in bias in the LSAT which would discriminate in the testing procedures against minority students who did not have available to them certain means of education. I myself know that when I went to law school, I attended with a number of minority students who were brought into law school under a program which did away with the LSAT scores. They did not even think about the LSAT scores. They sent them to a summer program and brought them into law school. I would say to the gentleman that most of those who were brought in graduated from law school, passed the bar and are very successful lawyers today. But if they had gone strictly on the LSAT scores they would not have gotten into law school. That is what we are talking about in the Bakke case. Many people who will be really good lawyers in the future may not qualify under the conditions which were set up years and years ago. Therefore, what we are saying is we are going to have an affirmative action to bring in minority students. That is no more discrimination than using LSAT, or using a friend, or something like that, to get into law school. So I would greatly disagree with the gentleman from Ohio on that premise, that there is some kind of discrimination there.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I think the gentleman from Iowa (Mr. HARKIN) is eminently entitled to his interpretation of "discrimination," but he has made an eloquent case for discrimination on the basis of race, creed, sex, or age, and that is precisely what I am talking about in my amendment. I think either type of discrimination is wrong.

Mr. HARKIN. Mr. Chairman, if the gentleman will allow me to reclaim my time, let me read from the amicus curiae brief in the case we are talking about, beginning on page 4, at the bottom of the page. This relates to the special admissions program.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, the quotation from the brief to which I have referred is as follows:

"It is only through the implementation of remedial special admissions programs that this problem can be solved. The number of qualified applicants to professional schools, including law schools, far exceeds the number of positions available. Although many minority students are qualified both for law school and the legal profession, the history of racial discrimination in this country precludes them from competing effectively for law school admission. This Court"—the Supreme Court—"has recognized that race-conscious procedures are necessary to counteract the effects of that history."

Then in the next paragraph, the statement continues as follows:

"In reaching its conclusion, the California Supreme Court misapplied cases dealing with racial classifications. This Court"—the Supreme Court—"has never held that all distinctions based upon race are illegal per se. Race-conscious special admissions programs reflect none of the evils that characterize invidious racial discrimination: They are not irrational, or based on hostility toward any race; they do not stigmatize any individual or racial group; they are remedial in nature, and do not threaten the future opportunities of any group; and, they do not deprive any individual of a right or benefit. In such circumstances, there is no basis for holding that special admissions programs for minority students offend the Constitution," or amount to invidious discrimination.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, that is the nut of the case. Whether the university did in fact deprive any individual of a right or benefit. Mr. Bakke, I might point out, takes a little different point of view. He feels he was deprived of an individual right or benefit, and that is the crux of his case.

Mr. HARKIN. Mr. Chairman, the other side of the coin is that a minority group student can very well say, "I am being deprived of the right of entering law school because of certain biases in LSAT testing programs."

How would the gentleman answer that? How would the gentleman suggest that a member of a minority group get into law school if he is being discriminated against by these testing procedures?

Mr. ASHBROOK. He is alleging that he is being discriminated against. Whether he is or not may be a situation we would have to look into a bit more in depth, rather than make a conclusion during the 2 minutes of this debate. To cure alleged discrimination by specific discriminations does not seem to be a proper constitutional answer. If the tests are discriminatory, change them but do not set out a discriminatory system enforced and encouraged by law.

Mr. HARKIN. I think that there is sufficient data that shows that minorities make up 2 percent of the legal profession, and it shows they are in fact discriminated against by the LSAT testing procedures because they cannot pass the tests. I can show the gentleman case after case of minority group students, especially black students from the South, who never would have gotten into law school because they could never pass the tests, but they are very good lawyers today. They are all very effective and very good lawyers.

Mr. ASHBROOK. The gentleman may, if he desires, make such a case, and perhaps he has. However, I think the merits are otherwise. I believe the House has voted and would vote otherwise on this question. I believe also that the Supreme Court may very well come down on the

other side of this question. I think the Supreme Court is going to say that it is bad to practice discrimination whether it is against a member of a minority group or whether it is against somebody else, not a member of a minority group.

Mr. HARKIN. But there are certain things that are in the category of invidious discrimination, such as using a testing procedure that in effect bars a certain group of citizens from effectively entering a profession because of the nature of that testing procedure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. MCCLORY) there were—ayes 27, noes 4.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as amended.

The question was taken; and on a division (demanded by Mr. HARKIN) there were—ayes 26, noes 5.

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: On page 9, line 13, after the period following the word "appropriations", add this new sentence: "Beginning with the Corporation's budget request for Fiscal Year 1979 each Corporation budget request shall be submitted for Presidential approval through the Office of Management and Budget.".

Mr. KINDNESS. Mr. Chairman, I would like to point out, as has been previously pointed out, that the budget requests of the Legal Services Corporation are made directly and are not controlled through the Office of Management and Budget.

This amendment would make the funding requests of the Legal Services Corporation subject to the same processes that most of the functions of the Federal Government are subject to; namely, the Office of Management and Budget would deal with the requests along with the rest of the budget and would have approval authority. The amendment would simply require this regular budget process; and the approval of the Office of Management and Budget would be made mandatory in order to give the President, in addition to the Congress, control over this expenditure of taxpayers' money by the U.S. Treasury.

Mr. Chairman, as the Legal Services Corporation Act now reads, the OMB can review and can comment on LSC appropriations, but it has no authority to change them.

The act reads, in section 1005(e)(2) as follows:

Nothing in this title shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

Mr. Chairman, Director Lance in a letter dated April 6 stated as follows:

The Legal Services Corporation Act also permits the Corporation to directly submit its budget request to the Congress without a prior review in the executive branch.

In referring to the Corporation's appropriation for fiscal year 1977, Director Lance further observed:

The funds provided in the Appropriations Act were apportioned in full to Treasury and the Corporation withdrew all of the funds on October 1 and transferred them to a private bank account.

Mr. Chairman, that is the way the Corporation is operating right now. This amendment would make the funds for Legal Services Corporation subject to the usual budgetary process and review and approval by OMB.

We can talk about oversight and control of appropriations until we are blue in the face. However, anyone can see what happens when we rely on a committee of lawyers to blow the whistle on other lawyers, and that is nothing. They want to give them more freedom and more appropriations each year, year after year.

At least, let us let the Office of Management and Budget be in a position to exercise some control as it does over other programs.

Mr. Chairman, I urge the Members to support the amendment on that basis.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think this amendment is one of the worst to be offered to the bill.

It would reverse the entire history, the reason for creation of this Corporation, and the way it has developed since its inception.

Mr. Chairman, I would like to go back in history to 1973 and 1974 to explain to the committee how the Corporation was created as a private and independent body and how it was organized under the laws of the District of Columbia and directly responsible to Congress, not to President Carter and not to Mr. Lance.

The President's Commission on Executive Reorganization said in 1971:

. . . we believe strongly that the Legal Services program's retention in the Executive Office of the President is inappropriate.

In our view, this program should be placed in an organization setting which will permit it to continue serving the legal needs of the poor while avoiding the inevitable political embarrassment that the program may occasionally generate.

Therefore, we recommend that the functions of the Legal Services program be transferred to a nonprofit corporation chartered by Congress.

That is a fundamental element. This is like a lot of other organizations that do not have to go through Mr. Lance of the White House, and there are a whole series of them, in the event you might inquire into that.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I would ask the gentleman from Wisconsin, it is true, is it not, that the House and the Senate Budget Committees would have to budget the funds for the Legal Services Corporation so that the Congress, in that respect, would be exercising responsibility with regard to the level of spending of the Corporation in addition to the authorizing legislation?

Mr. KASTENMEIER. The gentleman from Illinois is absolutely correct. Not only the budget committees, but the authorizing committees and the appropriating committees are involved in this as well as its own budgeting practices.

Mr. McCLORY. I thank the gentleman.

Mr. KASTENMEIER. Mr. Chairman, I would like to detail for the Members of the House what the position of President Carter and that of his predecessor as President, Mr. Ford was:

Both of them publicly favored an independent organization.

Mr. Ford said:

I favor the provision for legal services for those at or below the poverty level, independent of partisan political influences. The establishment of a Legal Services Corporation as an independent agency not subject to Executive Branch management was clearly an improvement. . . .

Also President Carter, at the same time, in a question and answer session said that he favored a thoroughly independent Legal Services Corporation.

The President does not favor bringing this back into the executive branch or putting Bert Lance in charge of it as far as the budget is concerned. That would be a step backward. That would be once again allow intrusion of the political function from which this organization once escaped, presumably.

I find it strange that the proponents should question the Corporation, which is really an independent and private corporation, with its corporate officers derived from the previous administration, and propose to put the control of its budget in the hands of President Carter and Bert Lance.

I believe this amendment ought to be rejected. It would destroy everything that the 12 years of experience has dictated is so desirable about having an independent corporation. Nor should anyone, may I say, be enthralled with OMB's review and comment—and it still does have that function—that $175 million was sufficient. I do not know actually why they came up with that particular suggestion. At the same time, I do not think that it should be relied upon and it would be a mistake to place the Corporation under the executive branch requiring OMB approval of its annual budget.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. KINDNESS and by unanimous consent, Mr. KASTENMEIER was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. Mr. Chairman, would the gentleman yield for a response to the question he put to the proponent of the amendment?

Mr. KASTENMEIER. I am happy to yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I would certainly agree with the gentleman from Wisconsin (Mr. KASTENMEIER)

that there is reason to question why I would want to see this control placed in the hands of the present administration. But I would like to say that over the period of years the gentleman referred to, the 12-year period, we have had a progression of ideas in terms of providing legal services. We have only had this particular arrangement in effect for a 2-year period, and along comes this bill to change things backwards, back to where we were 4 or 5 years ago, to liberalize the terms under which the Legal Services Corporation can act, so as to retrogress. I think that is why I would just as soon see the administration have some control, because this Congress apparently is not going to control it.

Mr. KASTENMEIER. I appreciate the gentleman's comments, but clearly the committee must reject this amendment.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, for 10 years between the years of 1965 and 1974 legal aid to the poor was under the control of the executive branch, and, in my opinion, it simply did not work. The record about that is very, very clear. I have here a letter from the American Bar Association and its president, Justin A. Stanley, which I think best summarizes my feelings about what we are doing and why we should not adopt the gentleman's amendment.

Mr. Stanley says this in a letter dated June 8 of this year:

> While the centralization of fiscal and budget responsibilities in one place is a sound general principle, the legislative history of the Legal Services Corporation Act demonstrates that Congress believed independence from usual Executive Branch processes was necessary to insulate the legal services program from the potential of partisan considerations. The reasons persuasive in 1974 remain so. The Corporation should be continued as a non-profit corporation with authority to submit its own appropriations requests to Congress.

Mr. Chairman, it is my belief that if we were to adopt this amendment, we would really be undoing much of the good that was done by the 1974 act, and I feel particularly so inasmuch as Congress and the respective Appropriations committees have done a thorough and complete job of carefully examining the budget request of the Corporation. So I urge the defeat of the amendment.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I would in iteration or reiteration stress a very essential point here, and I think it is a point that the sponsor of the amendment has long recognized and been an ardent supporter of, and that is the division of powers. I think the gentleman can well appreciate that what he invites by way of precedent is a significant encroachment by the executive upon the judiciary. I think that fundamental precept was well-recognized in the institution of the Legal Services Corporation, and I am quoting now from the House Report (93-247) of the Committee on Education and Labor:

> The President of the United States, in introducing his 1971 recommendations for a corporation, reiterated similar principles:
>
> • • • However, if we are to preserve the strength of the program we must make it immune to political pressures and make it a permanent part of our system of justice.

The unequivocal assertion by the Republican administration's sponsor of this legislation was that we must make it a permanent part of our system and immune to political pressures. I would suggest that despite the well-intentioned direction and thrust of the amendment in terms of economy, it invites the specter of invasion of the separation of powers that is much ill advised, and I urge the defeat of the amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I simply must respond to the statement of my friend, the gentleman from Nevada (Mr. SANTINI), regarding this amendment.

I support the amendment. I am surprised my colleague would indicate that to pass this amendment would mean we would have political pressure—I just cannot understand that argument. An extension of that argument would mean this legislative body dealing with the legal services, which is a judicial function, must give them everything they want or they indeed would subject to political pressure or, as you put it, not immune from political pressure.

We are talking about financial restraints. We are talking about appropriations. We are not talking about political pressure. I think it is unfair to indicate that OMB would engage in political pressure.

I am not in the business of defending this administration but the suggestion that they would be culpable of or given to exerting political pressure is an argument I cannot remain silent to and must answer.

I think it is entirely proper that OMB have some input.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Nevada.

Mr. SANTINI. Is it the belief of the gentleman and the experience of the gentleman that the past experiences with Office of Management and Budget would indicate they have never intruded their opinion process on the ultimate budget product that is acted upon by this House?

Mr. ASHBROOK. I would say in many cases there has been an input, I would say in many cases as far as legal services and their record is concerned they have been off base.

Mr. SANTINI. Will the gentleman yield further?

Mr. ASHBROOK. I yield to the gentleman from Nevada.

Mr. SANTINI. It does then reduce itself to a definition difference between pressure and input?

Mr. ASHBROOK. No, I think we are talking about a different situation. In legal services we are talking about a judicial function which has a legislative base and a legislative oversight. We are not talking about building some dam out in the West.

Mr. SANTINI. Easy on those dams in the West.

Mr. ASHBROOK. I would be inclined to think that the Office of Management and Budget would have far more input on something related to Interior or dams. We all recognize legal services is a sensitive area, a judicial function that has a legislative base and legislative oversight in appropriations and operations. We have all of these. Certainly there are going to be some restraints. There is going to be some politics involved. The amount budgeted is politically arrived at I suppose. What we do here is political. So they are not going to be immune from politics as long as they are legally constituted by our enactment of a law, our funding and our periodic review and oversight.

To suggest OMB will engage in politics in this area—I do not think so. The Office of Management and Budget under Republican and under Democratic administrations has endeavored to have input in many areas. I do not think they have engaged in politics in the judicial sphere. Maybe the gentleman can cite some instances, but I do not think that is a problem with OMB as it relates to Legal Services.

Mr. SANTINI. It may be. I am told in response to the gentleman's concern or inquiry that OMB was used as an instrument or tool to undermine various political programs with which the specific administration may have disagreed.

Mr. ASHBROOK. In legal services?

Mr. SANTINI. And to the extent that legal services activity would be vulnerable to such an assault, whatever the administration, I would suggest to the gentleman we would be at least ill advised to leave that door open for that kind of pressure in the legal services realm.

Mr. ASHBROOK. Again I do not want to be on the floor supporting an OMB in a Democratic administration. I simply believe they would have far more restraint in this sensitive area than you do. I think it is entirely proper for OMB to have some control over a runaway budget. If we would like to bring about a balanced budget by 1981 I think it ill behooves us not to allow OMB in this or any area to take a look and have some recommendations. I myself would feel much better if OMB had an input and some restraint. I support the amendment offered by my friend, the gentleman from Ohio (Mr. KINDNESS).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 18, noes 26.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate

proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 223, not voting 50, as follows:

[Roll No. 381]

AYES—160

Abdnor	Fountain	Myers, Ind.
Andrews, N.C.	Fuqua	Natcher
Andrews, N. Dak.	Gammage	Neal
	Giaimo	Nichols
Annunzio	Gilman	O'Brien
Archer	Ginn	Pickle
Armstrong	Goldwater	Pike
Ashbrook	Goodling	Poage
Badham	Gradison	Pursell
Bafalis	Grassley	Quayle
Bauman	Gudger	Quie
Beard, Tenn.	Guyer	Quillen
Benjamin	Hagedorn	Regula
Bennett	Hall	Rinaldo
Bowen	Hammer-schmidt	Risenhoover
Brinkley		Roberts
Brooks	Hansen	Robinson
Broomfield	Hillis	Rogers
Brown, Mich.	Hollenbeck	Rousselot
Brown, Ohio	Holt	Rudd
Broyhill	Huckaby	Runnels
Buchanan	Hyde	Satterfield
Burgener	Ichord	Schulze
Burke, Fla.	Ireland	Sebelius
Burleson, Tex.	Jenkins	Shuster
Butler	Jones, N.C.	Sikes
Byron	Jones, Okla.	Skelton
Caputo	Jones, Tenn.	Smith, Nebr.
Carter	Kazen	Snyder
Cavanaugh	Kelly	Spence
Cederberg	Kemp	Stangeland
Chappell	Kindness	Steed
Clausen, Don H.	Krueger	Steers
	Lagomarsino	Steiger
Collins, Tex.	Latta	Stockman
Corcoran	Lent	Stump
Coughlin	Lloyd, Tenn.	Symms
Crane	Lott	Taylor
Daniel, Dan	Lujan	Treen
Daniel, R. W.	McDonald	Vander Jagt
Derwinski	McEwen	Waggonner
Devine	McKay	Walker
Dickinson	Mahon	Walsh
Dornan	Mann	Wampler
Duncan, Tenn.	Marlenee	Watkins
Early	Marriott	White
Edwards, Ala.	Martin	Whitehurst
Edwards, Okla.	Mathis	Whitley
Emery	Miller, Ohio	Whitten
English	Mitchell, N.Y.	Wilson, Bob
Evans, Ga.	Montgomery	Winn
Evans, Ind.	Moore	Wydler
Flowers	Moorhead, Calif.	Young, Alaska
Flynt		Young, Tex.
Forsythe	Mottl	

NOES—223

Addabbo	Baldus	Boland
Akaka	Barnard	Bonior
Alexander	Baucus	Brademas
Allen	Beard, R.I.	Breckinridge
Ambro	Bedell	Brodhead
Ammerman	Biaggi	Brown, Calif.
Anderson, Ill.	Bingham	Burke, Calif.
Applegate	Blanchard	Burlison, Mo.
Ashley	Blouin	Burton, John
AuCoin	Boggs	Burton, Phillip
Carney	Jenrette	Rahall
Carr	Johnson, Calif.	Railsback
Chisholm	Johnson, Colo.	Rangel
Cleveland	Jordan	Reuss
Cochran	Kastenmeier	Richmond
Cohen	Keys	Rodino
Coleman	Kildee	Roe
Collins, Ill.	Kostmayer	Roncalio
Conable	Krebs	Rooney
Corman	LaFalce	Rose
Cornell	Le Fante	Rosenthal
Cornwell	Leach	Roybal
Cotter	Lederer	Ruppe
D'Amours	Leggett	Russo
Danielson	Lehman	Ryan
Davis	Levitas	Santini
de la Garza	Lloyd, Calif.	Sarasin
Delaney	Long, La.	Sawyer
Dellums	Long, Md.	Scheuer
Derrick	Luken	Schroeder
Diggs	McClory	Seiberling
Dingell	McCloskey	Sharp
Dodd	McCormack	Shipley
Downey	McFall	Simon
Drinan	McHugh	Sisk
Duncan, Oreg.	Madigan	Skubitz
Eckhardt	Maguire	Slack
Edgar	Markey	Smith, Iowa
Edwards, Calif.	Marks	Solarz
Eilberg	Mattox	Spellman
Erlenborn	Mazzoli	St Germain
Ertel	Meeds	Stanton
Evans, Colo.	Metcalfe	Stark
Fary	Meyner	Stokes
Fascell	Mikulski	Stratton
Fenwick	Mikva	Studds
Findley	Miller, Calif.	Thompson
Fish	Mineta	Thornton
Fisher	Minish	Traxler
Flood	Mitchell, Md.	Trible
Florio	Moakley	Tsongas
Foley	Moffett	Tucker
Ford, Tenn.	Mollohan	Udall
Frenzel	Murphy, Ill.	Ullman
Gaydos	Murphy, Pa.	Vanik
Gephardt	Murtha	Vento
Gibbons	Myers, Gary	Volkmer
Glickman	Myers, Michael	Walgren
Gonzalez	Nix	Waxman
Gore	Nolan	Weaver
Hamilton	Nowak	Weiss
Hanley	Oakar	Whalen
Hannaford	Oberstar	Wilson, C. H.
Harkin	Obey	Wilson, Tex.
Harrington	Ottinger	Wirth
Harris	Panetta	Wolff
Heckler	Patten	Wright
Heftel	Patterson	Wylie
Hightower	Pease	Yates
Holtzman	Pepper	Yatron
Horton	Perkins	Young, Mo.
Hubbard	Pettis	Zablocki
Hughes	Pressler	Zeferetti
Jacobs	Price	
Jeffords	Pritchard	

NOT VOTING—50

Anderson, Calif.	Evans, Del.	McKinney
	Fithian	Michel
Aspin	Flippo	Milford
Badillo	Ford, Mich.	Moorhead, Pa.
Beilenson	Fowler	Moss
Bevill	Fraser	Murphy, N.Y.
Bolling	Frey	Nedzi
Bonker	Harsha	Pattison
Breaux	Hawkins	Preyer
Burke, Mass.	Hefner	Rhodes
Clawson, Del	Holland	Rostenkowski
Clay	Howard	Staggers
Conte	Kasten	Teague
Conyers	Ketchum	Thone
Cunningham	Koch	Van Deerlin
Dent	Lundine	Wiggins
Dicks	McDade	Young, Fla.

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Burke of Massachusetts against.

Mr. Breaux for, with Mr. Staggers against.

Mr. Del Clawson for, with Mr. Hawkins against.

Mr. Young of Florida for, with Mr. Murphy of New York against.

Mr. Cunningham for, with Mr. Howard against.

Mr. Evans of Delaware for, with Mr. Clay against.

Mr. Frey for, with Mr. Van Deerlin against.

Mr. Wiggins for, with Mr. Badillo against.

Mr. Kasten for, with Mr. Nedzi against.

Mr. Michel for, with Mr. Rostenkowski against.

Mr. Rhodes for, with Mr. Moss against.

Mr. Thone for, with Mr. Koch against.

Mr. Bevill for, with Mr. Conyers against.

Mr. Milford for, with Mr. Ford of Michigan against.

Mrs. LLOYD of Tennessee and Mr. NEAL changed their vote from "no" to "aye."

Messrs. BRODHEAD, ECKHARDT, PEASE, and JEFFORDS changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE: On page 8, line 6, at the end of section 1007(b) add the following new paragraph:

"(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system."

Mr. WYLIE. Mr. Chairman, my amendment would restore language incorporated in the 1974 Legal Services Corporation Act which later became Public Law 93-355. The amendment now before the Members is identical to language which is now found in the law but which would be repealed if this bill before us passes in its present form. The amendment which I offer prohibits the use of any funds authorized in this act for legal assistance in any case relating to the desegregation of any elementary or secondary school or school system. In other words, it prevents Legal Services Corporation counsel from participating in mandatory school busing cases.

The reason given for adopting this amendment in the 1974 Legal Services Corporation Act was that Legal Services Corporation attorneys were known to have participated as legal counsel in school desegregation cases.

The best known case in this regard is Bradley against Milliken in the State of Michigan. In that case Legal Services Corporation lawyers were credited with performing a major role in the desegregation decision requiring the busing of suburban inner cities schoolchildren.

I think Congress has spoken wisely on this subject and I offer this amendment because I believe that involvement in such cases by Legal Corporation Services lawyers is not within the alleged spirit of the law which is to provide legal services to the Nation's poor.

The Legal Services Corporation itself is controversial. So is the mandatory busing of schoolchildren controversial. And together they add up to a very emotional mix which helps neither in my judgment.

There is a well known legal principle, *expressio unius est exclusio alterius*, which means the expression of one thing is to the exclusion of another on the same subject. Put another way, if an act is expressly prohibited by a law which is later repealed, it is the intention of the

framers to permit that which was previously prohibited.

I would like to repeat that. We have in the present law language which prohibits Legal Services Corporation lawyers from participating in school desegregation cases. If that language is repealed by this bill which we have before us today, which it will be if my amendment is not adopted, then it will be taken as the intention of us here on the floor of this House to permit that which was previously prohibited.

If the language of my amendment which is presently in the law is repealed, that would not only permit Legal Services Corporation lawyers from providing legal assistance in any proceeding or litigation relating to the desegregation of elementary or secondary schools but also would be an open invitation to provide such legal counsel.

To me, that would be beyond the intended scope of this bill or, if not, it should be.

I favor the concept of this bill before us and I have voted for the Legal Services Corporation Act in the past; but, inviting Legal Services Corporation attorneys to become involved as legal counsel on either side of the very emotional issue of school busing would not enhance the image of the Legal Services Corporation or promote its ability to provide legal services to those who cannot otherwise afford them.

I submit that the language of the present law must be retained for the best interests of the Legal Services Corporation. In that spirit, I respectfully suggest an "aye" vote on my amendment.

Mr. DRINAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is much too broad. If it were adopted it would mean that poor parents could not get legal services in the event, for example, of a voluntary student transfer plan or the consolidation or pairing of schools. Poor parents would be unable to get any legal representation in any matter relating to school discipline, special education or classification of students.

Second, local attorneys are essential for the enforcement of various orders relating to education. It is not contemplated, furthermore, that the Legal Services Corporation or its affiliates would be prime movers in desegregation cases. Only this last year Congress passed a bill that permits plaintiffs who prevail in civil rights cases to obtain attorneys fees. Consequently, because that is now the law, any Legal Services Corporation affiliate would have to make certain before it entered anything related to school segregation that there is no attorney willing to take a case for plaintiffs, understanding that he would obtain his counsel fees if, in fact, his plaintiffs prevailed.

It would seem, therefore, logical to say that under the bill presently before the House the Legal Services Corporation and those whom it funds will not in any way be involved in any significant manner in desegregation cases.

We should recognize, furthermore, Mr. Chairman, that the Legal Services Corporation was designed to take into account all of the needs of the eligible client community. It may well be that in the Southwest and elsewhere Spanish-speaking poor persons may want legal services in order to take care of some grievance that they have with respect to the education of their children or with respect to bilingual education.

Mr. Chairman, I urge defeat of this amendment. The subcommittee where I serve went through this very carefully. We felt that it was wrong to have a restriction of this sweeping kind. We do not anticipate that the omission of the restriction that is now being proposed is going to cause any change in the manner by which local attorneys funded by the Legal Services Corporation go about their task of protecting the poor.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I am happy to yield to the distinguished chairman.

Mr. KASTENMEIER. Mr. Chairman, the gentleman is correct. The subcommittee and the full Committee on the Judiciary did consider this very carefully.

The American Bar Association supported this deletion, as did the Corporation itself, because while substantively this does not go to how these various desegregation cases are handled, it does offer sources for counseling and for other purposes without respect to what position. The local Corporation-funded program is often urged to take or support differing positions. Indeed, there are competing viewpoints possible in these matters. So we thought that it was a good idea to remove restrictions, notwithstanding the fact of the basic question of desegregation. We thought it would make sense to remove this particular limitation and to let the attorneys render legal assistance based on professional judgment and client needs.

Mr. DRINAN. I thank the gentleman for his comments, and note that under the bill now before the House, the Legal Services Corporations and their local affiliates would represent white parents or white students or black students in any manner where these particular people felt that they are not getting equal protection or an integrated education.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I yield.

Mr. WYLIE. The gentleman just made the point I thought I made a little earlier, that the language of the present law is the specific language of my amendment. What I am suggesting is that the Legal Services Corporation, which is supposed to provide legal services for the poor, should not become involved in this emotional issue as legal counsel on either side.

The gentleman referred, first of all, to the fact that under my amendment Legal Services Corporation counsel could not represent the plaintiffs in busing cases; they could not represent defendants either, but the gentleman made the additional point that counsel could represent all parents black or white in busing cases. That is precisely what I do not want it to be able to do. If the law is limited to representing poor people or children who have poor parents and become involved in busing cases, then I think that is an additional reason for the adoption of my amendment.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(On request of Mr. WYLIE and by unanimous consent Mr. DRINAN was allowed to proceed for 2 additional minutes.)

Mr. DRINAN. We felt that in a matter of such paramount concern to parents, namely, the quality of the education which their children are receiving, that we should not sweepingly state that the legal services offered to them by the Federal Government should preclude that entire paramount area from its jurisdiction. Furthermore, we felt that the legal services, because of the enactment of the civil rights attorneys fees bill last year, will in fact be involved in the peripheral things, those things that may follow as a result of a desegregation case.

Mr. WYLIE. Well, I thought the purpose of the Legal Services Corporation was to provide legal services on a personal basis for those who could not otherwise afford these legal services. I did not think it was the intention of this Congress to involve the Legal Services Corporation in such social questions as mandatory busing, whether one is for or against the issue.

Mr. DRINAN. I think that when parents feel that they are being cheated of their legal rights in the public school which their children are obliged to attend by law, I can think of no greater grievance that they could have. I think it would be wrong to deny them lawyers and withhold access to the courtroom for this very fundamental right.

Mr. BUTLER. Mr. Chairman, I move to strike the last word, and I rise to speak in support of the amendment.

Mr. Chairman, I rise in support of this amendment. It is a position which I did not take in the subcommittee and which I did not take in the committee. I guess my plea is on the basis of after-discovered evidence, but on the basis of what I have seen and learned about desegregation cases, I really think it would be a mistake to remove this limitation.

In the first place, we did not really develop a very good record in our subcommittee for making this change in the law, for taking this limitation out. I accepted the change for the argument advanced by the gentleman from Massachusetts we have now provided that attorneys' fees in civil rights cases would be available under the legislation we passed last year. So, this is pretty much a moot question.

But, I do not believe that is true on the basis of the evidence I have. For example, one of the reasons we put this in the law by an amendment from the floor offered by the gentleman from North Carolina (Mr. MIZELL) was because of the apparent abuses or presumed abuses from the amount of litiga-

tion on desegregation cases in which the old legal aid societies were getting involved.

We find, upon inquiry of the Legal Services Corporation, that there are still 12 desegregation cases hanging around from the old days being funded under this program now because there was not any way to graciously get out of them. I have asked for an estimate of how many cases we can expect to develop in this area, and even now, of course, it is difficult. There were some 64 desegregation cases from 1964 to 1975. The problem with these desegregation cases in the Legal Services Corporation is that there are thousands of sides in every desegregation case—the people being moved, the people in whose neighborhood they are moving, the people in the schools. But it does not make any difference. The Legal Services Corporation only gets one side in the desegregation case, because there are legal ethics problems to be considered. So we are really not solving any problems and we are really not providing any services in the way we should be. What also concerns me is the development within the Legal Services Corporation to find ways in which you could fund more than one litigant.

They are developing exceptions to the rules of the bar association and the ethical limitations placed on them. So we are going to find ways, before we get through, for the Legal Services to fund several sides in a desegregation case. And that concerns me greatly. My thought of what legal services to the poor means is a whole lot closer to the source than what is involved in a desegregation case. I have no quarrel with assisting people. I think that is important. I think we found that out when we considered the request of the gentleman from Massachusetts to provide attorneys' fees in civil rights cases. We have taken care of that. So there is no real reason to do this. But if we get our Legal Services Corporation involved in desegregation cases—and they are endless, they go on forever—we will dissipate the assets of the Legal Services Corporation and we will not really be rendering legal services to the poor in the manner I envision them.

For those reasons I think it is appropriate that we return the law to the way it was in this manner. We are only extending the law for 2 more years in this bill. I think we should go into it far more seriously and far more carefully than we did in this authorization bill, and then if there are changes indicated 2 years from now, then we can make them.

Miss JORDAN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. I thank the gentleman for yielding.

Mr. Chairman, I recognize that the gentleman from Virginia (Mr. BUTLER) is an exceptionally fine lawyer and believes in peace and racial harmony in the neighborhood. I think we are safe in saying that that is what the gentleman from Virginia is interested in.

Mr. BUTLER. I thank the gentlewoman. I would say she is correct.

Miss JORDAN. Does the gentleman recognize that if this prohibition which has been suggested by the gentleman from Ohio is written into the law, restored into the law, that you are going to deny representation not just in the courtroom and in litigation, but what about those numerous instances where both sides would like to sit down at the negotiating table and be represented, to talk through and arrive at a rational and sensible solution to continue the peace and harmony and good will in the neighborhood? Would the gentleman deny a legal services attorney this kind of representation right?

Mr. BUTLER. Mr. Chairman, I say to the gentlewoman that I would feel that we have not had that problem during the last 2 years, that therefore that does not concern me. But it does concern me that we have this limitation. It was the expression of the will of this Congress.

Since that time, we have moved to provide legal services in civil rights cases by the changes in attorneys' fees we made in the last Congress. I think this is a move in the right direction.

But the question is this: Do we have a record that justifies removing this limitation from the Legal Services Corporation Act? I say that we do not. I say that if we had set out to do this and if we had built a better record, then perhaps the arguments which the gentlewoman from Texas (Miss JORDAN) advances to us now would have validity. But on the basis of what we have, I simply do not find that this is a shortcoming of the existing legislation.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. Mr. Chairman, let me yield to the gentleman later. I know the gentlewoman from Texas has another point she wishes to make, and I will yield to her.

Miss JORDAN. Mr. Chairman, the gentleman does admit that it is not his intent to prevent these Legal Services attorneys from representing persons in trying to negotiate matters involving school desegregation, does he not?

Mr. BUTLER. My intention is to return the law to what it is under the existing statute, and I do not want to jeopardize her position by an interpretation which I have not considered.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. BUTLER) has expired.

(On request of Mr. WYLIE and by unanimous consent, Mr. BUTLER was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I would like to respond to the gentlewoman from Texas (Miss JORDAN), if I may.

It is my intent by offering this amendment that Legal Services Corporation counsel stay out of the controversy of busing to achieve a racial balance, and that relates to their status as paid counsel. That is not to say that as individuals they cannot participate as unpaid counsel and become involved in a discussion as to whether or not a desegregation plan is proper and should be implemented.

I just feel, as I stated earlier, that it does not enhance the image of the Legal Services Corporation to become involved in this very emotional issue in the community as paid counsel. That is the extent of my amendment. It merely restores present language in the law, as the gentleman from Virginia (Mr. BUTLER) said in his very cogent presentation a few moments ago. It leaves the language as we now find it.

There are thousands of sides to this controversy. We have found that to be true in my own community of Columbus, Ohio. As I said before, I favor the concept of the bill which is to provide legal services for the poor, and I do not think that if we repeal present law on this subject, it will help the Legal Services Corporation do its job.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 174, not voting 51, as follows:

[Roll No. 382]

AYES—208

Abdnor	Duncan, Tenn.	Latta
Alexander	Edwards, Ala.	Le Fante
Andrews, N.C.	Edwards, Okla.	Leach
Andrews, N. Dak.	Eilberg	Lederer
Annunzio	Emery	Lent
Archer	English	Levitas
Armstrong	Erlenborn	Lloyd, Tenn.
Ashbrook	Evans, Ga.	Lott
Badham	Evans, Ind.	Lujan
Bafalis	Fish	Luken
Barnard	Florio	McDonald
Bauman	Flowers	McEwen
Beard, Tenn.	Flynt	McKay
Benjamin	Forsythe	Mahon
Bennett	Fountain	Mann
Biaggi	Frenzel	Marlenee
Blanchard	Fuqua	Marriott
Bowen	Gammage	Martin
Brinkley	Gaydos	Mathis
Brooks	Gephardt	Milford
Broomfield	Gibbons	Miller, Ohio
Brown, Mich.	Ginn	Minish
Brown, Ohio	Glickman	Mitchell, N.Y.
Broyhill	Goldwater	Moakley
Buchanan	Goodling	Mollohan
Burgener	Gradison	Montgomery
Burke, Fla.	Grassley	Moore
Burleson, Tex.	Guyer	Moorhead, Pa.
Butler	Hagedorn	Calif.
Byron	Hall	Mottl
Caputo	Hammer-schmidt	Murphy, Pa.
Carter	Hanley	Murtha
Cavanaugh	Hansen	Myers, Ind.
Cederberg	Hightower	Natcher
Clausen, Don H.	Hillis	Neal
Cochran	Holt	Nichols
Coleman	Hubbard	O'Brien
Collins, Tex.	Huckaby	Oakar
Corcoran	Hyde	Pettis
Coughlin	Ichord	Pickle
Crane	Ireland	Poage
Daniel, Dan	Jacobs	Pritchard
Daniel, R. W.	Jenkins	Pursell
Davis	Johnson, Calif.	Quayle
de la Garza	Johnson, Colo.	Quie
Delaney	Jones, N.C.	Quillen
Derwinski	Jones, Tenn.	Rahall
Devine	Kazen	Regula
Dickinson	Kelly	Rinaldo
Dingell	Kemp	Roberts
Dornan	Kindness	Robinson
	Lagomarsino	Roe
		Rogers

Rooney	Spellman	Watkins
Rose	Spence	White
Rousselot	Stangeland	Whitehurst
Rudd	Stanton	Whitley
Runnels	Steed	Whitten
Russo	Stockman	Wilson, Bob
Sarasin	Stump	Wilson, Tex.
Satterfield	Symms	Winn
Schulze	Taylor	Wright
Sebelius	Thornton	Wydler
Shipley	Traxler	Wylie
Shuster	Treen	Yatron
Sikes	Trible	Young, Alaska
Sisk	Vander Jagt	Young, Mo.
Skelton	Waggonner	Young, Tex.
Skubitz	Walker	Zablocki
Smith, Nebr.	Walsh	Zeferetti
Snyder	Wampler	

NOES—174

Addabbo	Ford, Tenn.	Nowak
Akaka	Fraser	Oberstar
Allen	Giaimo	Obey
Ambro	Gilman	Ottinger
Ammerman	Gonzalez	Panetta
Anderson, Ill.	Gore	Patten
Ashley	Hamilton	Patterson
AuCoin	Hannaford	Pease
Baldus	Harkin	Pepper
Baucus	Harrington	Perkins
Beard, R.I.	Harris	Pike
Bedell	Heckler	Pressler
Bellenson	Heftel	Price
Bingham	Hollenbeck	Railsback
Blouin	Holtzman	Rangel
Boggs	Horton	Reuss
Boland	Hughes	Richmond
Bonior	Jeffords	Risenhoover
Brademas	Jenrette	Rodino
Brodhead	Jones, Okla.	Roncalio
Brown, Calif.	Jordan	Rosenthal
Burke, Calif.	Kastenmeier	Roybal
Burlison, Mo.	Keys	Ruppe
Burton, John	Kildee	Ryan
Burton, Phillip	Kostmayer	Santini
Carney	Krebs	Sawyer
Carr	Krueger	Scheuer
Chisholm	LaFalce	Schroeder
Cleveland	Leggett	Seiberling
Cohen	Lehman	Sharp
Collins, Ill.	Lloyd, Calif.	Simon
Conable	Long, La.	Smith, Iowa
Corman	Long, Md.	Solarz
Cornell	McClory	St Germain
Cornwell	McCloskey	Stark
Cotter	McCormack	Steers
D'Amours	McFall	Steiger
Danielson	McHugh	Stokes
Dellums	Madigan	Stratton
Derrick	Maguire	Studds
Diggs	Markey	Thompson
Dodd	Marks	Thone
Downey	Mattox	Tsongas
Drinan	Mazzoli	Tucker
Duncan, Oreg.	Meeds	Udall
Early	Metcalfe	Ullman
Eckhardt	Meyner	Vanik
Edgar	Mikulski	Vento
Edwards, Calif.	Mikva	Volkmer
Ertel	Miller, Calif.	Walgren
Evans, Colo.	Mineta	Waxman
Fary	Mitchell, Md.	Weaver
Fascell	Moffett	Weiss
Fenwick	Murphy, Ill.	Whalen
Findley	Myers, Gary	Wilson, C. H.
Fisher	Myers, Michael	Wirth
Flood	Nix	Wolff
Foley	Nolan	Yates

NOT VOTING—51

Anderson, Calif.	Dicks	McKinney
	Evans, Del.	Michel
Applegate	Fithian	Moorhead, Pa.
Aspin	Flippo	Moss
Badillo	Ford, Mich.	Murphy, N.Y.
Bevill	Fowler	Nedzi
Bolling	Frey	Pattison
Bonker	Gudger	Preyer
Breaux	Harsha	Rhodes
Breckinridge	Hawkins	Rostenkowski
Burke, Mass.	Hefner	Slack
Chappell	Holland	Staggers
Clawson, Del	Howard	Teague
Clay	Kasten	Van Deerlin
Conte	Ketchum	Wiggins
Conyers	Koch	Young, Fla.
Cunningham	Lundine	
Dent	McDade	

The clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Burke of Massachusetts against.

Mr. Breaux for, with Mr. Hawkins against.

Mr. Bevill for, with Mr. Breckinridge against.

Mr. Chappell for, with Mr. Koch against.

Mr. Del Clawson for, with Mr. Howard against.

Mr. Cunningham for, with Mr. Ford of Michigan against.

Mr. Young of Florida for, with Mr. Clay against.

Mr. Evans of Delaware for, with Mr. Badillo against.

Mr. Frey for, with Mr. Van Deerlin against.

Mr. Michel for, with Mr. Staggers against.

Mr. Wiggins for with Mr. Nedzi against.

Mr. HUGHES and Mr. STRATTON changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

I will take only a minute to inform the committee of our present situation with respect to time and the amendments to be anticipated. As I understand it, the gentleman from Illinois (Mr. CRANE) has an amendment relating to attorneys' fees, as does the gentlewoman from New Jersey (Mrs. FENWICK); possibly, the gentleman from Pennsylvania (Mr. MYERS) has one or more amendments relating to the subject of attorneys' fees.

In addition, there is an amendment to be offered by the gentleman from Louisiana (Mr. TREEN) and there may be a further amendment which will not present any great difficulty as far as the managers of the bill are concerned. There may be one other amendment, but I am not sure about that.

Then we will be done with this bill, and I will not now for this reason ask for any limitation of time. We do expect a motion to recommit with instructions with an amendment, and then, I hope, we will be ready for passage within the hour.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: Section 9 of H.R. 6666 is amended as follows: "On page 9, strike out line 14 and all that follows through line 20."

Mr. TREEN. Mr. Chairman, my amendment is very simple.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, the gentleman from Louisiana may want to give for the benefit of the Committee of the Whole an explanation, but I do want to say in behalf of the majority that we have considered this amendment. I discussed it with the minority as well.

In terms of the Corporation we think the Corporation can operate without this particular advantage to them in funding, gifts and other sources of income. This was not very tough in the committee. We did at that time agree with the Corporation's suggestion for the amendment as it appears in the bill. The Corporation as I understand it is not strongly for it. For that reason I am willing to accept the gentleman's amendment.

Mr. TREEN. Mr. Chairman, I appreciate that. I hope the chairman of the subcommittee understands that the amendment applies to recipients, and not just to the Corporation.

Mr. Chairman, let me take just 60 seconds to describe the amendment. The law, as presently written, prohibits the use of funds for certain activities; however, the bill as we have it before us eliminates some of those restrictions as they apply to funds that might be generated from private sources, such as foundations.

My amendment would simply restore the original language of the act so that the prohibitions against the use of funds would apply whether the funds come from the Federal Government or whether they are generated by the Corporation, or others on behalf of the Corporation, from private sources.

I would, of course, be glad to go into what some of those restrictions are; but simply stated, my amendment would restore the restrictions with regard to the Corporation and to recipients with the exceptions, of course, that are in the present law.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, we have no objection to the amendment. We believe it improves the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BADHAM

Mr. BADHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BADHAM: Page 7, lines 19 and 23, redesignate clauses (7) and (8) respectively, as clauses (8) and (9), and after line 18 insert:

"(7) to provide legal assistance under this title to any unemancipated person of less than eighteen years of age, except (A) with the written request of one of such person's parents or guardians, (B) upon the request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent;".

Mr. BADHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. KASTENMEIER. Mr. Chairman, reserving the right to object, and I shall not insist upon it, except to say that we here on the majority side do not have a copy of the amendment and to dispense with the reading of it suggests that we are still further in the dark about whatever

the amendment is that the gentleman is offering.

Mr. BADHAM. Mr. Chairman, it is a simple amendment. If the gentleman wants it read, I would not care.

Mr. KASTENMEIER. Mr. Chairman, the amendment is brief. I see no reason it not be read. I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading of the amendment.

Mr. BADHAM. Mr. Chairman, section 1007(b) of the Legal Services Corporation Act begins with the prohibition, "No funds made available by the Corporation under this title, either by grant or contract, may be used—" and then lists a series of nine purposes which are included in the prohibition.

Section 7 of H.R. 6666 rewrites this subsection, rephrasing some prohibited activities and dropping others. Among those dropped is the prohibition against the provision of legal assistance—

to any unemancipated person of less than eighteen years of age except (A) with the written request of one of such person's parents or guardians, (B) upon request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent;

Thus the law contained in essence a restriction against the representation of minors without the written request of a parent or guardian or the request of a court of competent jurisdiction, except in any circumstance where the interest of the child in any matter of substance might otherwise go unprotected. This prohibition was carefully considered by the Committee on Education and Labor in the consideration of H.R. 7824 in 1974, which led to the enactment of the Legal Services Corporation Act. As reported from committee the prohibition was much less detailed than that contained in the act, allowing such representation only with the written consent of a parent or guardian or a court of competent jurisdiction, except pursuant to criteria established by the board of the Corporation for assuring that such persons have adequate legal representation. It was amended on the House floor to include "PINS"—persons in need of supervision—proceedings and further amended in conference to include Senate language of the act assures adequate level stands. As a consequence, the existing language of the act assures adequate legal representation of minors in every conceivable cricumstance where it is needed, even without the request or consent of a parent or guardian.

But the prohibition in the act does not permit such representation without the request of a parent or guardian or at the instance of a court of competent jurisdiction unless quite fundamental interests of a minor are at stake or where a parent or guardian might be in an adversary situation and a court might not be in a position to intervene. This was the intent of the committee as was very well stated in the committee report on the bill of May 13, 1974—House Report 93–1039—submitted by our colleague, Mr. HAWKINS. The House Report stated:

The Committee has stressed the importance of preserving the integrity of the family relationship by requiring, in general, the written consent of a parent or guardian before a suit is filed for a child under eighteen years of age. Such written consent is necessary for legal presentation of a youngster, other than a married or legally emancipated child, except where consent is provided by a court of competent jurisdiction or under circumstances covered by guidelines of the corporation. The Committee expects such guidelines to provide exceptions to the general rule in cases of neglect, child custody, dependency proceedings, guardianship proceedings, noncriminal proceedings in which the interests of the child and parent may be adverse to one another, and such other matters for the legal protection of persons under eighteen years of age.

Of course, all the circumstances the Committee on Education and Labor expected to be covered by Corporation guidelines are now spelled out in detail in the law. This is a very liberal prohibition in the sense that it fully protects the interests of a child in any and every circumstance essential to that interest. But it also recognizes what our committee so well described as "the importance of preserving the integrity of the family relationship." It is the integrity of that relationship which is completely ignored by H.R. 6666.

There were good and sufficient reasons for this provision in the act. Had there been no abuses by legal services attorneys of parental rights in the representation of minor children, this provision would stand alone as an essential protection against the possibility of such abuse. But there were abuses. There were, for example, suits filed on behalf of minor children against school systems to prohibit the enforcement of dress codes or hair-length regulations, and without the consent of a parent. Obviously, such suits are over trivial matters as compared with the legal interests of the poor; but the principle of parental rights and the integrity of family relationships they violated were not then and are not now trivial. They are part of the essential glue holding together the family as the fundamental institution of our society, and they ought never be compromised except in well-defined emergency situations.

This provision is one of the best thought out provisions of the act and it ought to be retained. Accordingly I urge adoption of my amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentlewoman.

Mrs. FENWICK. There is something here that troubles me. People are becoming more and more aware of the terrible damage to children used, with their parents permission, in pornographic magazines. This amendment would prohibit, as far as I can see, only child abuse, unless child abuse is to be construed to cover that kind of exploitation. It is, I may say, explicitly prohibited in the Motion Picture Code, but does not seem to apply outside that very limited area. I wonder if this amendment will not inhibit protection to children in this regard.

Mr. BADHAM. I would say to the gentlewoman that in no way would I favor any amendment that would do such a thing. Quite the contrary, this amendment specifically points out that where, for the necessary protection of such persons, it would apply.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. BADHAM was allowed to proceed for 3 additional minutes.)

Mrs. FENWICK. That is the part that worries me.

Mr. BADHAM. To the gentlewoman I would say that this is one of the exceptions within the prohibitions, which means that any court of competent jurisdiction may allow these funds to be used this way, anything that would protect the child against abuses by any person, including the parents, would be exempted from the prohibition.

Mrs. FENWICK. The amendment mentions child abuse, custody cases, persons in need of supervision. PINS—that is a New York State designation; we call them JINS.

I presume the amendment would cover all juveniles in need of supervision.

* * * where necessary for the protection of such persons for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law * * *

There is nothing there that covers this.

Mr. BADHAM. I would invite the gentlewoman's attention to paragraph (C) of my amendment, which specifically says: "in child abuse cases, custody proceedings, persons in need of supervision."

That is an exemption to the prohibition, which means very definitely in that case the child would be defended and defended adequately.

Mr. FENWICK. If the gentleman will yield further, there is no definition of child abuse, which is usually regarded as physical. If one really wanted Congress to cover pornographic abuse, one would have to include it.

Mr. BADHAM. With all due respect, I would have to say the gentlewoman misunderstands the intent of the amendment. This would specifically allow those kinds of cases to be brought without court of competent jurisdiction permission, without parental permission, or without anything else. It is really within the thing that is allowed now and would continue to be allowed.

In this amendment I am trying to reinstall this into the bill.

Mrs. FENWICK. Where it says "child abuse," could we say "or exploitation for pornographic representation?"

Mr. BADHAM. I would have no objection to that.

Mrs. FENWICK. Would the gentleman allow that amendment?

Mr. BADHAM. I would accept that.

Mrs. FENWICK. In other words, "child abuse or exploitation in pornographic representation."

Mr. BADHAM. I would accept that.

Mr. RAILSBACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to say at the outset that I have a very high regard for the gentleman from California. I have no doubt but that he thinks he is offering an amendment that would be in the best interest of the bill and also in the best interest of the Legal Services Corporation.

I happen to believe that this could be a very, very dangerous and a very harmful amendment.

We know, for instance, that as a result of the application of Gault, the 1967 U.S. Supreme Court case, it was recognized that children are entitled to guarantee of due process in delinquency and other noncriminal proceedings. The requirement of parental consent contained in the current provision conditions, in my opinion, the constitutional right of a young, poor person and makes it contingent upon obtaining the consent of another. The juvenile restriction denies legal assistance to children in situations in which parental consent to the provision of legal assistance is unobtainable because the child has been separated from the parent or because the parents refuse consent despite the wishes of the child.

Mr. Chairman, what we have in this country right now is that we have many, many cases of child exploitation, child abuse, sometimes defined by statute of some States, sometimes the statutes are grossly inadequate, poorly defined. In some cases it is our belief that they do not even have any meaningful child abuse statutes.

We are not talking about child custody cases. I am not worried about that. I am not worried about the cases of an institutionalized child. A child who may want to ask some questions about his or her rights, should not that child have a right to ask a legal aid lawyer for advice and counsel, or must he obtain parental consent or must he obtain permission of a court? I do not think we want to hamstring a child in that kind of a situation.

This is not just involved with child abuse cases. There are many, many children who may not get along with their parents; there may be very many neglected children; and there may be many instances when a child, because of an unsympathetic court, may not be able to get legal advice, and I believe a child should be entitled to that advice.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I thank the gentleman for yielding.

If the amendment were amended to include child neglect, all forms of child abuse, and child exploitation arising from pornographic cases, would that resolve the gentleman's objection to the amendment?

Mr. RAILSBACK. Mr. Chairman, I think the gentleman knows the way I feel about that. I think what we would be doing then is accomplishing virtually the same thing as the bill accomplishes without cluttering it up with all these exceptions.

Mr. COHEN. Would the gentleman agree those matters should be included?

Mr. RAILSBACK. I agree that all those activities should be included, but I think if we do that, what we would be doing is accomplishing exactly what the gentleman from Wisconsin (Mr. KASTENMEIER) has done with his bill, so I see no reason to do that.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Illinois (Mr. RAILSBACK).

I think at this late hour, if we were to alter the bill by adopting this particular amendment, it would cause some difficulty with the committee in anticipating just what the amendment might do.

The fact is that the committee was impressed by the evidence that very often juveniles' rights or interests may be different from those of estranged parents or others, and that legal representation should be included for all the people involved, including the children or the juveniles here. The committee has indicated that they, too, ought to have the same legal protection as others within the meaning of "eligible client."

Mr. Chairman, I hope that this amendment is resisted.

Mr. RAILSBACK. Mr. Chairman, I might just add, if I may, that I really see no harm in permitting a child who may want some legal help to get that legal help.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would appreciate hearing my colleague, the gentleman from California (Mr. BADHAM), respond to some of the questions that have been raised by my colleague, the gentleman from Illinois (Mr. RAILSBACK).

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

I do not think that this is a "late date" for the offering of this amendment. I have had the amendment at the desk since the day the bill was first being considered.

I will just say to my distinguished colleague, the gentleman from Illinois (Mr. RAILSBACK), that he can read the amendment, as well as I, and he can see that it says, "with the written request of one of such person's parents or guardians," and it also lists point (B), point (C), and point (D), which have to do with anything the child might want. This does not deny a child any rights at all.

This language leaves discretion with the court of competent jurisdiction. I happen to trust the courts perhaps more than does the gentleman from Illinois (Mr. RAILSBACK). I would trust a court of competent jurisdiction.

There is one thing the amendment does prohibit. About the only thing it does prohibit, with the Cohen-Fenwick language. It prohibits these attorneys from instituting in the name of an unsuspecting, undesiring, and unknown child some lawsuit in which the child has no interest or desire. That is what it prohibits. I do not think these funds should be used for that kind of a lawsuit, and it should be prohibited.

Mr. ROUSSELOT. So what the gentleman is saying is that this really is sort of a "child's rights" amendment?

Mr. BADHAM. Very definitely.

Mr. ROUSSELOT. I appreciate the gentleman's clarifying that point, because I became concerned as I listened to my colleague, the gentleman from Illinois (Mr. RAILSBACK), as he was trying to describe all the bad things this language does.

I understand the gentleman has had this amendment up at the desk for several weeks, before the bill was taken off the schedule?

Mr. BADHAM. Mr. Chairman, if the gentleman will yield further, this amendment was delivered to the desk on the first day the bill was debated on the floor.

Mr. ROUSSELOT. I appreciate my colleague's clarifying that point.

So this is not a surprise amendment, then?

Mr. BADHAM. Not really, because the language is in the law now, and it has been since 1974. We have seen no violence that resulted from its being in the law.

Mr. ROUSSELOT. This language is in the present law?

Mr. BADHAM. It is in the present law.

Mr. ROUSSELOT. And it was never challenged at any time since it became part of the law in 1974?

Mr. BADHAM. I know of no place in the United States where it has been challenged.

Mr. ROUSSELOT. So we do not need to be terrified and think that this is somehow going to bring a whole new concept into the legal services corporation law?

Mr. BADHAM. Mr. Chairman, if the gentleman will yield further, I see no reason that the gentleman could not sleep soundly tonight knowing that this provision is back in the law.

Mr. ROUSSELOT. I am relieved that this language is nothing new.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman for yielding.

When the gentleman asks whether it has ever been challenged, the answer is that virtually every witness who appeared before our committee on the date of the hearing, every single one, supported leaving in the existing language and giving more latitude with respect to children who may be neglected or may not have a good relationship with their mother or father or perhaps might have been in a little bit of trouble.

The idea was, What harm could be done by letting them have legal advice?

Mr. ROUSSELOT. Mr. Chairman, I can understand why a great number of witnesses might have testified that way because many of them were from legal service corporation apparatus and are advocates in the field who want all this money to gin up a lot of legal activities. Some of the advocates work for the poor and some of them just work for "cause" cases.

Therefore, I will say to my colleague that as one studies the testimony before the committee, a substantial number of the witnesses were strong advocates of this legislation and wanted few prohibition against their ability to try cases at any cost. I say that I consider this bill basically a "lawyer's welfare bill." As a matter of fact, I had one of my colleagues jokingly say to me, "John, the reason I am going to vote for this bill is that I may not be here forever, and I might want a place to go as a lawyer to try cases at Federal expenses."

Therefore, Mr. Chairman, I can understand why my colleague would say that many of the witnesses would oppose prohibitions such as this one. I am delighted to hear from my colleague, the gentleman from California, that this is in the present law, so it really does no great damage to the legislation.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Chairman, have no fear; I will not take 5 minutes, but I would like to point out that I oppose the amendment. Further, I urge my colleagues, all of them, on both sides of the aisle, to vote against the amendment.

Mr. Chairman, this amendment is a vigorous attack upon nothing. It is here only for the purpose of confusing the bill. Its problem, it purports to reach, is far more apparent than real because it is not real at all; that is, with respect to the problem the amendment seeks to address.

Mr. Chairman, I submit that there is not a court in our land which would entertain a lawsuit on behalf of a child under 18 years of age without first appointing a guardian ad litem, a person who would be responsible for looking after the welfare of that child, someone selected by the court itself. Mr. Chairman, this amendment constitutes no more than an effort to put into the bill some redundant, unnecessary language that might scare some people and might tend to be a drag upon the functioning of the law.

I urge that it be defeated.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I have known of a number of cases which required a guardian ad litem. One child in my own State came into court with no protection of any kind. She ran away because there was a drunken parent in the home. She was regarded as a runaway.

Mr. Chairman, we have to have some protection for our children. They should not come into a court of any kind today without some kind of representation on their behalf.

Mr. DANIELSON. Mr. Chairman, as usual, I think the gentlewoman from New Jersey is absolutely right.

I urge that we vote down the amendment, and I yield back the balance of my time.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask my friend, the gentleman from California (Mr. BADHAM) whether his amendment takes care of child pornography?

Mr. BADHAM. Mr. Chairman, if the gentleman will yield, I might just say two things: Yes, it does, with the agreement that I did make that that language would be added which was suggested first by the gentlewoman from New Jersey (Mrs. FENWICK) and then the gentleman from Maine (Mr. COHEN). Yes, it would cover that.

Mr. JOHN L. BURTON. Was there a unanimous-consent request to amend the gentleman's amendment so as to take care of child pornography? I do not remember an amendment to take care of child pornography.

I remember the gentleman's being in a colloquy with the gentlewoman from New Jersey (Mrs. FENWICK) in which they talked about child pornography; and I believe that the gentleman from Maine (Mr. COHEN) alluded to child pornography. I further say I am sure that all of the Members on the floor are against child pornography.

If the gentleman from Illinois (Mr. RAILSBACK) wishes, I will yield to him.

Mr. RAILSBACK. Mr. Chairman, if the gentleman will yield, as one of those Members sitting on the subcommittee that has been looking into child abuse and child pornography, let me say that we are not even sure yet what kind of a definition to have for child pornography. In other words, how specific must we be to make certain it is constitutional? So I suggest that it is illusory. It is illusory to be talking about child pornography when we do not even have a handle on what the different States have done.

Mr. JOHN L. BURTON. The gentleman said this would prohibit young people from going to the Legal Services and suing on such things as the length of hair.

Mr. BADHAM. Mr. Chairman, if the gentleman will yield, I would like to explain that. The gentleman from California has asked again a question to which have been given incorrect answers by the other gentleman from California (Mr. DANIELSON).

Mr. JOHN L. BURTON. Mr. Chairman, the gentleman is taking all of my time.

The gentleman said something about children bringing suit over dress codes and the length of hair as a privilege. When the gentleman from California and I were in the State legislature, I thought we agreed that length of hair was a privilege?

Mr. BADHAM. I agree with the gentleman, if the gentleman will yield, I agree wholeheartedly. The gentleman and I have long worked for libertarianism. I think that is wonderful.

What this amendment simply says is that any child with the permission of his parents, any child in a court of competent jurisdiction, any child where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, any child when it is being abused, any child in custody proceedings, with regard to security legal services through this bill, may do so with Legal Services.

Mr. JOHN L. BURTON. Does he need the child's mummy's and daddy's permission under your bill to file a suit?

Mr. BADHAM. No.

Mr. JOHN L. BURTON. The gentlewoman from New Jersey (Mrs. FENWICK) says yes.

I thought the purpose of this was so that the child had to get mummy's and daddy's permission before he could sue.

Mr. BADHAM. Will the gentleman yield?

Mr. JOHN L. BURTON. Yes.

Mr. BADHAM. A person under 18 years of age may secure legal services under this language, under the present language of the law, if he has his parents' consent, or any number of other alternatives. You need not have the parents' consent if you have the consent of any court of competent jurisdiction or other things clearly in the bill.

Mr. JOHN L. BURTON. If he has to go to court he has to get mummy and daddy's permission.

Mr. BADHAM. Absolutely not.

Mr. JOHN L. BURTON. I am dead serious, because we have agreed on many great issues.

Mr. BADHAM. If I may just say to the gentleman from California and the other gentleman from California very simply the answer is no. This does not deny the child any rights. If it did, the child would be denied the rights right now. The gentleman from California knows that this is the present law that is embodied in this amendment.

Mr. JOHN L. BURTON. I did not know they needed mummy and daddy's permission until the gentleman from California (Mr. ROUSSELOT) elicited that information from you in the colloquy you had with him on his time.

Mr. BADHAM. If the gentleman will yield, he is "funning" me.

Mr. JOHN L. BURTON. I yield back the balance of my time.

AMENDMENT OFFERED BY MR. COHEN TO THE AMENDMENT OFFERED BY MR. BADHAM

Mr. COHEN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. COHEN to the amendment offered by Mr. BADHAM: On line 7 of the amendment after the word "abuse" insert the words "and neglect" and after the word "cases," insert the words "child exploitation in pornographic material".

Mr. COHEN. Mr. Chairman, basically all this does is amend the language in the amendment to include not only child

abuse and child neglect, but also to include the words "child exploitation in pornographic material," consistent with the goal of the gentlewoman from New Jersey (Mrs. FENWICK).

It does not make any other changes. I think that was made clear by the debate, and for that reason I offer the amendment so there isn't any doubt that it would cover those items.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding.

Does the gentleman realize that we are excluding all of these things and that by his amendment that would mean that any child involved in any exploitation case could not be represented by the Legal Services Corporation?

Mr. COHEN. No; that is not my understanding.

Mr. DRINAN. Clearly it is not the gentleman's intention.

Mr. RAILSBACK. Mr. Chairman, I rise in opposition to the Cohen amendment. I will not take the full 5 minutes. Let me just say that the harm that I think can be done by the Cohen amendment is this: He talks about neglected children or exploited children, and there are many States where there are inadequate or insufficient statutes defining child exploitation or child abuse. So what we would have is a State-by-State analysis required in order to determine if a child in that particular State had the right to legal representation—a child who may be a poor child or a neglected child. Why in the world deny, particularly in light of the Gulf case, a child that may be in trouble, who may have a problem, who may be neglected, who may not know where to turn—why deny that child the right to at least seek legal advice from a Legal Aid lawyer?

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Maine.

Mr. COHEN. I thank the gentleman for yielding.

The reason the words "child neglect" were added is because the gentleman raised it initially during the course of debate when he said the amendment did not touch that. Now we add it, and he says he is against it.

Mr. RAILSBACK. I will say to the gentleman for whom I have the greatest respect, I thought he would be misdirected in drafting an amendment, and the bill already does. It gives the child the right to get legal advice.

Mr. COHEN. If the gentleman will yield further, it is too specific for him.

Mr. RAILSBACK. My only objection is I do not think it does the job. In other words, when we do not have child exploitation statutes that are uniform and they differ from State to State, they create serious problems. I do not think we give the child a right to legal advice.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to vote against the amendment, but I think in all fairness to the gentleman from California, we should indicate that his amendment would permit these things to be done. In other words, it would permit legal assistance to people under 18 years of age without their consent except in these kinds of cases which we have been speaking to. The amendment of the gentleman from Maine would be another exception, and that would be a type of case which they would be able to handle.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding.

I know the gentleman to be an outstanding attorney and authority of the law. Can the gentleman tell me with the amendment as proposed, and as amended, where there is any instance where a child would be denied legal service?

Mr. McCLORY. There may not be. I do not know, and I do not know that we can anticipate all the kinds of cases where legal assistance might be needed for someone under 18 years of age. But here we are debating this subject, and we continue to find more and more instances where we want to provide this kind of support for poor children. It seems to me we should be very careful about excluding that kind of service when we are enacting this kind of legislation.

Mr. BADHAM. Will the gentleman yield further and answer this question for me? Would the language of this amendment, with the language of the Cohen amendment, prohibit a Legal Services Corporation attorney from instituting an action in the name of the child without that child's knowledge and consent?

Mr. McCLORY. I do not know that I am able to answer that question. I suppose that if the public authorities brought to the attention of the Legal Services Corporation some instance of deprivation or something of that nature, yes.

Mr. BADHAM. No; I mean the Corporation itself.

Mr. McCLORY. I am not certain whether the child, the guardian, the parent, or the grandparent, or someone else might not bring something to the attention of the Legal Services Corporation. But I think it would be a mistake to restrict their authority by this amendment, and I hope the amendment is voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. COHEN) to the amendment offered by the gentleman from California (Mr. BADHAM).

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BADHAM).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BADHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 4, immediately after line 6, insert the following new section:

REIMBURSEMENT TO SUCCESSFUL DEFENDANTS

SEC. 6. Section 1006(f) of the Legal Services Corporation Act (42 U.S.C. 2996e(f)) is amended to read as follows:

"(f) If an action is commenced in any Federal court by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion of the defendant, enter an order awarding the defendant a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the Corporation or the recipient's plaintiff in such action. Such an order shall be appealable before being made final. Any such fee and costs awarded pursuant to a final order shall be paid directly to the defendant by the Corporation.".

Redesignate the following sections accordingly.

Mr. CRANE. Mr. Chairman, my amendment is designed not to create new law but to improve existing provisions of the legal services statute.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I do this for the purposes of expedition. I know the amendment of the gentleman from Illinoins (Mr. CRANE) was just read, I know the gentlewoman from New Jersey (Mrs. FENWICK) has an amendment to offer, and perhaps the gentleman from Pennsylvania (Mr. MYERS) will offer an amendment—I am not sure—all on the same subject of attorneys' fees. I believe that is all.

Accordingly, Mr. Chairman, I ask unanimous consent that all debate on this amendment and all other amendments to the bill close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I do that reluctantly because, of the many virtues that the gentleman from Wisconsin (Mr. KASTENMEIER) has, patience is one of them. He is one of the most patient Members of this body. But some of us still have amendments. I am wondering if the chairman can give us an indication as to that.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I understood there were amendments to be offered by the gentleman from Pennsylvania (Mr. MYERS), and the gentlewoman from New Jersey (Mrs. FENWICK), and one was just read for the gentleman from Illinois (Mr. CRANE), and one by the gentleman from Ohio I understood was not going to be called up.

Mr. ASHBROOK. I do not know who told the gentleman that.

Mr. JOHN L. BURTON. I did.

Mr. KASTENMEIER. Mr. Chairman, the gentleman's amendment is not precluded by the unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. KASTENMEIER. Mr. Chairman, I would move that all debate on this amendment and all amendments thereto close at 5:40 p.m.

Mr. CRANE. Mr. Chairman, I do not yield further. If the gentleman from Wisconsin will withhold for a moment, I have a feeling this is coming out of my time and I am not going to have an opportunity to plead the case for the amendment, so I would appreciate it if the gentleman from Wisconsin would withhold that motion until I finish my presentation.

Mr. Chairman, my amendment is designed not to create new law, but to improve existing provisions of the legal services statute. At present, the law provides that the Legal Services Corporation shall reimburse a defendant who it unsuccessfully helped sue, for reasonable costs and fees incurred in contesting the case. However, the law then undoes most of the benefit by also stipulating that such reimbursement only be provided if the case was brought for the sole purpose of harassment or if, in the process of bringing the case, the Corporation or the litigant it assisted was guilty of maliciously abusing the legal process.

As a practical matter, it is difficult enough for a defendant to contest a case brought with the assistance of the Legal Services Corporation. To require that he or she prove harassment or malicious abuse of the legal process is virtually impossible. Moreover, the defendant who is proven innocent but who cannot prove harassment or malicious abuse is no less put out financially than the person who can. Neither defendant asked to go to court, neither wanted the expense, and neither was guilty of the charges made. Whether the legal services personnel acted in good faith or bad, or with the best or worst of intentions is of little practical consequence to the successful defendant; he or she has to pay the costs, regardless. Or, to put it in another perspective, from the victim's standpoint it is just as bad for the legal services people to have pushed a case that lacks merit as it is for them to have pushed it for the wrong reasons.

An additional benefit, if the amendment passes, is that it would encourage legal services personnel to be more concerned with seeing that existing law is applied fairly than with seeking out cases that might lead to novel new interpretations of the law never intended by Congress. There is a fine line between objective counseling and unabashed advocacy and far too often in recent years this line has been crossed. Changing the law should be a matter for Congress not legal services people; after all, other Federal employees cannot lobby for changes in the existing law so why should these people, who are paid by the Federal Government, be in a position to do so.

In addition to that, Mr. Chairman, my amendment would encourage legal services attorneys to be more careful about the cases they take on. The existing statute provides that the reimbursement, infrequent as it may be, shall come directly from the Legal Services Corporation. My amendment retains that feature which means that all the legal services attorneys will know that the more bad cases they take on, the more good cases will have to be left alone and the fewer the number of legal services attorneys that will be needed. What better incentive for judicious selection of cases? One can only wish that the same principle might be applied to all Federal departments and agencies.

Before closing, I should make one other point about this amendment. Under the current statute, reimbursement is made to successful defendants if they qualify and if State law, a rule of court, or a statute of general applicability is not violated. This amendment would simplify that, and preserve traditional 10th amendment distinctions about States-rights, by simply saying that only those cases that are brought in Federal court are covered. That way, there will be no question about, or chance of, Federal reimbursement being paid to someone who is sued in a State court where State law makes no provision for compensating a successful defendant or prevailing party in a case. Parenthetically, I might note that 47 of our 50 States generally follow the common law principle that each litigant pays his or her own attorney's fees.

Mr. Chairman, all things considered, I think Congress would be well advised to drop the harassment and malicious abuse requirements for reimbursement in cases brought or assisted by the Legal Services Corporation. It is discrimination on the one hand and from another point of view, its elimination would lead to a more efficient and less controversial use of the taxpayers' dollars. Not all the abuses would be curbed by any means and this amendment does not make the legal services concept as desirable or workable as private legal insurance, but at least it is a step in the right direction.

Mr. Chairman, I urge adoption of this amendment.

Mr. KASTENMEIER. Mr. Chairman, I move that all debate on this amendment and all other amendments to the bill close at 5:40 p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 46, noes 20.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. ASHBROOK. Mr. Chairman, I withdraw the point of order of no quorum, and I withdraw my request for a recorded vote.

So the motion was agreed to.

The CHAIRMAN. Do any Members wish to address the pending amendment?

AMENDMENT OFFERED BY MRS. FENWICK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CRANE

Mrs. FENWICK. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK as a substitute for the amendment offered by Mr. CRANE: On page 4, after line 6, the following new Section 6 is added:

REIMBURSEMENT FOR SUCCESSFUL DEFENDANTS

SEC. 6. Section 1006(f) of the Legal Services Corporation Act (42 U.S.C. 2996e(f) is amended by striking the language in subsection "(f)" and inserting in lieu thereof the following new subsection "(f)":

"(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court (shall, upon a finding by the court that the action was commenced or pursued for the principal purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process,) enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.".

The subsequent Sections of the act should be renumbered accordingly.

Mrs. FENWICK. Mr. Chairman, I would like to say that I think the pending amendment is too inhibitory with respect to legal services. I am a member of the Legal Services Board in my local county, and I hope very much that this amendment will be accepted as a substitute by both sides of the aisle.

AMENDMENT OFFERED BY MR. GARY A. MYERS TO THE AMENDMENT OFFERED BY MRS. FENWICK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CRANE

Mr. GARY A. MYERS. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS to the amendment offered by Mrs. FENWICK as a substitute for the amendment offered by Mr. CRANE: In line 9 of the amendment delete the word "shall" and all that follows through "process", and insert in lieu thereof the following: "may, upon motion by the defendant".

Mr. GARY A. MYERS. Mr. Chairman, I have changed the word "shall" to "may", which will give the court the discretion and the opportunity to assign costs and fees. I have also eliminated the requirement contained in the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) that the case be harassment or malicious use of the legal process. I would like to give my reasons. The reason for eliminating "shall" is that some people who could successfully defend themselves in court may have been

contributory to the circumstances which resulted in the case, and I think the court should have that discretion to deny benefits in such cases. Secondly, the reason I believe we should expand benefits beyond harassment is that people who are marginally or below the legal income level would be entitled legal aid services, while many individuals, which all of us can identify in our districts, would not qualify for legal aid because they are marginally above the income limit. Without this amendment the court could not award costs and fees to people in yours and my districts such as steelworkers, coal miners, small farmers, small businessmen, and so forth. Without this amendment these same individuals could see their life savings absorbed to defend themselves against another individual who earns only slightly less and is represented by legal services. We should also protect these working people and their families from having to settle out of court in violation to what they believe to be justice because they know they cannot recover costs even if they win.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I would like to yield to the gentleman from Wisconsin (Mr. KASTENMEIER).

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ASHBROOK. The gentleman's request, as I understood it, was not a unanimous-consent request. It was to yield. Or perhaps I did not hear it.

The CHAIRMAN. The gentleman from Missouri (Mr. VOLKMER) yielded to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, we considered at least the amendment offered by the gentleman from Illinois (Mr. CRANE) and the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) as a substitute for the amendment, and we are agreeable to the substitute amendment offered by the gentlewoman from New Jersey. Unfortunately, the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS), strikes all standards within the bill. However, it does not go as far as the amendment offered by the gentleman from Illinois (Mr. CRANE).

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I would like to speak to the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) to the substitute amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK). I urge a no vote on the amendment. The amendment offered by the gentlewoman from New Jersey has a substantial amount of merit, in that it requires standards for the court to follow. The amendment offered by the gentleman from Pennsylvania strikes the standards. I urge a no vote on Mr. MYERS' amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I rise in support of the Fenwick substitute, in opposition to the Gary A. Myers amendment to the Fenwick substitute, and I simply want to express my belief that what the gentlewoman from New Jersey has done is eminently reasonable. I think what she seeks to do is to permit, in cases where there has been proven harassment or intimidation, the right for the court, rather than the duty for the court, to award attorneys fees upon that kind of a showing. I think that is a proper way to handle the problem.

The CHAIRMAN. The Chair recognizes the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, the proposal that the Legal Services Corporation pay costs and attorneys' fees to defendants in actions its recipients commence and lose is very dangerous and must be rejected. It will mean that a legal services lawyer will not only have to weigh the merits of a case, but will have to reject any case that has a chance of losing. Why then is this amendment proposed? It cannot be based on the notion that frivolous cases are being filed with any regularity.

Legal services programs win about 80 percent of all their cases. Any attorney who signs his or her name to a frivolous case is subject to discipline by the State and Federal courts. Moreover, frivolous cases can be dismissed at the outset, and needless time on discovery can be prevented by protective orders. It would appear that this provision is really directed at cases properly brought which ultimately lose. The attorney will have to choose between representing a client in litigation which is not certain of victory, a choice which endangers the continued funding of the program, or withdrawing from representation of client after client. Either choice destroys the program.

The amendment cannot be based on an assumption that such costs and fees are awarded in nonlegal services cases. Costs are generally awarded to the prevailing party—plaintiff or defendant—unless the losing party was proceeding in forma pauperis. Attorneys' fees are rarely awarded, the more common exceptions being where a statute authorizes such recovery to plaintiffs who have vindicated substantive Federal policies—such as antitrust, environmental protection, and civil rights—or where a court determines that there has been "unreasonable, obdurate obstinancy or persistent defiance of law." The amendment falls into neither of these categories.

And who is it who will make the claim for the fees? Most of the major litigation involves governmental defendants accused of denying legal rights. Consider Murry against United States Department of Agriculture, a food stamp case decided by the Supreme Court a few years ago. Plaintiffs, represented by legal services attorneys, won by a vote of five to four. If one vote had been switched, they would have been subjected to the costs of the U.S. Solicitor General's office. Or consider Moore against City of East Cleveland, decided this spring by the Supreme Court upholding by a 5–4 vote the right of two young cousins to live with their grandmother despite zoning for immediate families only. If one vote had been switched, the legal services program representing the family would have been subject to the costs of the City of Cleveland. Neither of these situations makes any sense.

Finally, the amendment is completely one-sided, and does not provide for the award of legal fees to the Corporation if it wins. I urge that this amendment be rejected.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, I want to say this about the amendment offered by the gentleman from Illinois (Mr. CRANE). It makes the Corporation absolutely sure of payoff in all cases in which the Corporation loses. We do not know how much this will cost. It may cost $100 million, theoretically. This is a case where not really bad faith is involved, but just losing is involved. Thus, if a legal services attorney brought a case in good faith and lost on a technicality, the Corporation, under the Crane amendment, would be liable for attorneys' fees—even if the winner could afford his attorney and wrote off his fees as business expenses. Mr. Crane's amendment would have a chilling effect on the poor who are seeking their rights.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) and in support of the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK). I want to point out that the Gary A. Myers amendment is merely an effort to return us to those days when every effort was made to make the legal services pay on any case when they lost.

If the gentleman wants to have the defendants pay when the legal services wins, I think that is a good argument, but he does not want to go that way because legal services wins 80 percent of its cases.

Mr. Chairman, I urge the Members to vote against the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. CRANE) and in opposition to the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. KASTENMEIER. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, the question of attorney's fees is already before the Committee. What these amendments would do, particularly that amendment offered by the gentleman from Illinois (Mr. CRANE), is this: They would go beyond anything we require of Government. We must remember that this is a private, independent corporation.

We have no notion as to how much this would cost. The Legal Services Corporation wins 80 percent of its cases, but it loses 20 percent, and as with any other litigation, this is going to cost plenty. We do not know what we should ask for if by chance the amendment offered by the gentleman from Illinois (Mr. CRANE) would be adopted. We may need millions of dollars more.

Mr. Chairman, I hope the amendment is defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) to the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) as a substitute for the amendment offered by the gentleman from Illinois (Mr. CRANE).

The amendment to the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank my colleague, the gentleman from California, for yielding.

I realize that the shortage of time does not provide a proper opportunity to discuss this matter, but I would only argue that the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) has the effect of restoring what is in essence the current state of affairs.

The Legal Services Corporation, when it is guilty of harassment and malicious intent, is required now to pay the attorney fees of successful defendants. What my amendment does is to guarantee that if one is innocently injured, even though the injury does not come about maliciously, that injury is still an injury and it is worthy of compensation.

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. COHEN).

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I simply wish to rise in support of the substitute amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) and to suggest that one of the major shortcomings of the amendment offered by the gentleman from Illinois (Mr. CRANE) is that it sets us backward because it takes away the right to recover attorney fees in State court proceedings where we might have a malicious prosecution proceeding. It is limited to an action commenced in the Federal court.

That is a very narrow definition as it relates to the recovery of attorney fees, and I do not believe we should make this limitation on it. It is far more important to prevent harassment and prevent malicious proceedings wherever they are, in all court proceedings, and that is what the Fenwick amendment does.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, as we listen to this debate, we know now why one should never watch sausage being made and should never watch laws being made.

Mr. Chairman, I support the Fenwick substitute, oppose the Crane amendment, and oppose all the other amendments, although I know that we are not going to have a chance to discuss them adequately and know exactly what they do.

Mr. Chairman, this is really not a good way for us to take care of the people's business.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) as a substitute for the amendment offered by the gentleman from Illinois (Mr. CRANE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. CRANE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CRANE. Mr. Chairman, do I understand that the substitute amendment was just agreed to by a voice vote?

The CHAIRMAN. The gentleman is correct.

Mr. CRANE. Mr. Chairman, I demand a division.

On a division (demanded by Mr. CRANE) there were—ayes 67, noes 18.

Mr. CRANE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred five Members are present, a quorum.

The pending business is the demand of the gentleman from Illinois (Mr. CRANE) for a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CRANE), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 9, after line 20, add the following new paragraph:

Section 1010 of the Legal Services Corporation Act is amended by adding the following new paragraph:

"The corporation created under this Act shall be deemed to have fulfilled the purposes and objectives set forth in this Act, and shall be liquidated on September 30, 1979."

Mr. ASHBROOK. Mr. Chairman, this is the same amendment that the House adopted on June 21, 1973, the only difference being the termination date on that amendment was June 30, 1978, and this date will be September 30, 1979.

Of course, that amendment was taken out in conference, but there was a concession the conferees received. We did agree in conference that we would have a 2-year study of the Legal Services Corporation to see if the corporation is the proper means by which to proceed in order to get legal services for the poor.

The second reason I would give in this short time is that all of us talk about sunset provisions during campaigns. Here is one bill that should have a sunset act attached to it. Whether the member really supports it or not, we shall find out.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER) to close debate.

Mr. KASTENMEIER. Mr. Chairman, this is, of course, the Legal Services Liquidation Act of 1977, as proposed by the gentleman from Ohio (Mr. ASHBROOK). It must be rejected.

Mr. Chairman, to permit this amendment to be agreed to would be to destroy the Corporation, and that is not the will of the House or the purpose of the House in setting up this very needed Corporation.

I urge the House to reject the amendment.

The CHAIRMAN. All time has expired.

Mr. McCLORY. Mr. Chairman, the Chair has not recognized me yet. The Chair read my name, but the Chair has not recognized me yet.

The CHAIRMAN. The Chair would advise the gentleman from Illinois that we have run out of time.

POINT OF ORDER

Mr. McCLORY. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. McCLORY. Mr. Chairman, when there is a time limitation and Members are standing, it is my understanding that the Chair must divide the time equally among the Members standing.

Mr. Chairman, I was standing and my name was read.

The CHAIRMAN. The Chair will advise the gentleman that according to the motion, which limited all debate to 5:40 p.m., we are bound by the clock. Time consumed by voting has required the Chair to reallocate time. Therefore, the Chair overrules the point of order.

Mr. McCLORY. Mr. Chairman, I ask

unanimous consent to be permitted to proceed for 40 seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ROUSSELOT. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 25, noes 57.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 214, not voting 53 as follows:

[Roll No. 383]

AYES—166

Abdnor	Fountain	Motti
Alexander	Fuqua	Murphy, Pa.
Ambro	Gammage	Murtha
Andrews, N. Dak.	Gephardt	Myers, Ind.
Annunzio	Gilman	Nichols
Archer	Goldwater	O'Brien
Armstrong	Goodling	Pettis
Ashbrook	Gradison	Pursell
Ashley	Grassley	Quayle
Badham	Gudger	Quie
Bafalis	Guyer	Quillen
Barnard	Hagedorn	Rahall
Bauman	Hall	Regula
Beard, Tenn.	Hammer-schmidt	Roberts
Bennett	Hansen	Robinson
Bevill	Hightower	Rogers
Brinkley	Hillis	Rousselot
Brooks	Holt	Rudd
Broomfield	Hubbard	Runnels
Brown, Mich.	Huckaby	Russo
Brown, Ohio	Ichord	Ryan
Broyhill	Ireland	Sarasin
Buchanan	Jenkins	Satterfield
Burgener	Johnson, Colo.	Schulze
Burke, Fla.	Jones, N.C.	Sebelius
Burleson, Tex.	Jones, Okla.	Shipley
Byron	Jones, Tenn.	Shuster
Caputo	Kelly	Sikes
Chappell	Kemp	Sisk
Clausen, Don H.	Kindness	Skelton
Cleveland	Lagomarsino	Skubitz
Cochran	Latta	Smith, Nebr.
Coleman	Lent	Snyder
Collins, Tex.	Levitas	Spence
Conable	Lloyd, Tenn.	Stangeland
Corcoran	Lott	Steers
Coughlin	Lujan	Stockman
Crane	Luken	Stump
Daniel, Dan	McCloskey	Symms
Daniel, R. W.	McDonald	Taylor
Derwinski	McEwen	Thornton
Devine	McKay	Treen
Dickinson	Madigan	Trible
Dornan	Marks	Vander Jagt
Duncan, Tenn.	Marlenee	Waggonner
Edwards, Ala.	Marriott	Walker
Edwards, Okla.	Martin	Walsh
Emery	Mathis	Wampler
English	Milford	Watkins
Erlenborn	Miller, Ohio	White
Evans, Ga.	Mitchell, N.Y.	Whitehurst
Evans, Ind.	Mollohan	Whitley
Findley	Montgomery	Whitten
Fish	Moore	Winn
Flynt	Moorhead, Calif.	Wydler
		Young, Alaska

NOES—214

Addabbo	Bingham	Carney
Akaka	Blanchard	Carr
Allen	Blouin	Carter
Ammerman	Boggs	Cavanaugh
Anderson, Ill.	Boland	Cederberg
Andrews, N.C.	Bonior	Chisholm
AuCoin	Brademas	Cohen
Baldus	Brodhead	Collins, Ill.
Baucus	Brown, Calif.	Corman
Beard, R.I.	Burke, Calif.	Cornell
Bedell	Burlison, Mo.	Cornwell
Beilenson	Burton, John	Cotter
Benjamin	Burton, Phillip	D'Amours
Biaggi	Butler	Danielson
Davis	LaFalce	Risenhoover
de la Garza	Le Fante	Rodino
Delaney	Leach	Roe
Dellums	Lederer	Roncalio
Derrick	Leggett	Rooney
Diggs	Lehman	Rose
Dingell	Lloyd, Calif.	Rosenthal
Downey	Long, La.	Roybal
Drinan	Long, Md.	Ruppe
Duncan, Oreg.	McClory	Santini
Early	McCormack	Sawyer
Eckhardt	McFall	Scheuer
Edgar	McHugh	Schroeder
Edwards, Calif.	Maguire	Seiberling
Ertel	Mahon	Sharp
Evans, Colo.	Mann	Simon
Fary	Markey	Slack
Fascell	Mattox	Smith, Iowa
Fenwick	Mazzoli	Solarz
Fisher	Meeds	Spellman
Flood	Metcalfe	St Germain
Florio	Meyner	Stanton
Flowers	Mikulski	Stark
Foley	Mikva	Steed
Ford, Tenn.	Miller, Calif.	Steiger
Forsythe	Mineta	Stokes
Fraser	Minish	Stratton
Frenzel	Mitchell, Md.	Studds
Gaydos	Moakley	Thompson
Giaimo	Moffett	Thone
Gibbons	Murphy, Ill.	Traxler
Glickman	Myers, Gary	Tsongas
Gonzalez	Myers, Michael	Tucker
Gore	Natcher	Udall
Hamilton	Neal	Ullman
Hanley	Nix	Vanik
Hannaford	Nolan	Vento
Harkin	Nowak	Volkmer
Harrington	Oakar	Walgren
Harris	Oberstar	Waxman
Heckler	Obey	Weaver
Heftel	Ottinger	Weiss
Hollenbeck	Panetta	Whalen
Holtzman	Patten	Wilson, Bob
Horton	Patterson	Wilson, C. H.
Hughes	Pease	Wilson, Tex.
Jacobs	Pepper	Wirth
Jeffords	Perkins	Wolff
Jenrette	Pickle	Wright
Johnson, Calif.	Pike	Wylie
Jordan	Pressler	Yates
Kastenmeier	Price	Yatron
Kazen	Pritchard	Young, Mo.
Keys	Railsback	Young, Tex.
Kildee	Rangel	Zablocki
Kostmayer	Reuss	Zeferetti
Krebs	Richmond	
Krueger	Rinaldo	

NOT VOTING—53

Anderson, Calif.	Dodd	Lundine
Applegate	Elberg	McDade
Aspin	Evans, Del.	McKinney
Badillo	Fithian	Michel
Bolling	Flippo	Moorhead, Pa.
Bonker	Ford, Mich.	Moss
Bowen	Fowler	Murphy, N.Y.
Breaux	Frey	Nedzi
Breckinridge	Ginn	Pattison
Burke, Mass.	Harsha	Poage
Clawson, Del	Hawkins	Preyer
Clay	Hefner	Rhodes
Conte	Holland	Rostenkowski
Conyers	Howard	Staggers
Cunningham	Hyde	Teague
Dent	Kasten	Van Deerlin
Dicks	Ketchum	Wiggins
	Koch	Young, Fla.

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Conte against.

Mr. Breaux for, with Mr. Burke of Massachusetts against.

Mr. Del Clawson for, with Mr. Staggers against.

Mr. Cunningham for, with Mr. Moorhead of Pennsylvania against.

Mr. Michel for, with Mr. Hawkins against.

Mr. Wiggins for, with Mr. Badillo against.

Mr. Young of Florida for, with Mr. Koch against.

Mr. Ginn for, with Mr. Breckinridge against.

Mr. McCORMACK and Mrs. KEYS changed their vote from "aye" to "no."

Mr. FISH changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'DONALD

Mr. McDONALD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McDONALD: On page 8, line 6, at the end of section 1007(b) add the following new paragraph:

(10) to provide legal assistance with respect to any proceeding or litigation arising out of disputes or controversies on the issue of homosexuality or so-called gay rights.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. McDONALD).

The question was taken; and on a division (demanded by Mr. McDONALD) there were—ayes 39; noes 80.

RECORDED VOTE

Mr. McDONALD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 133, not voting 70, as follows:

[Roll No. 384]

AYES—230

Abdnor	Evans, Ind.	Mahon
Alexander	Flood	Mann
Allen	Flynt	Marlenee
Andrews, N.C.	Fountain	Marriott
Andrews, N. Dak.	Fuqua	Martin
Archer	Gammage	Mathis
Armstrong	Gaydos	Mazzoli
Ashbrook	Gephardt	Milford
Badham	Gibbons	Miller, Ohio
Bafalis	Gilman	Minish
Baldus	Goldwater	Mitchell, N.Y.
Barnard	Gonzalez	Moakley
Baucus	Goodling	Mollohan
Bauman	Gore	Montgomery
Beard, R.I.	Gradison	Moore
Benjamin	Grassley	Moorhead, Calif.
Bennett	Gudger	Motti
Bevill	Guyer	Murphy, Ill.
Boland	Hagedorn	Murphy, Pa.
Brinkley	Hall	Murtha
Brooks	Hammer-schmidt	Myers, Gary
Broomfield	Hanley	Myers, Ind.
Brown, Ohio	Hansen	Natcher
Broyhill	Heckler	Neal
Buchanan	Heftel	Nichols
Burgener	Hightower	O'Brien
Burke, Fla.	Hillis	Patten
Burleson, Tex.	Hollenbeck	Pepper
Butler	Holt	Perkins
Byron	Horton	Pettis
Caputo	Hubbard	Pickle
Carney	Huckaby	Pressler
Carter	Hughes	Pursell
Cederberg	Ichord	Quayle
Chappell	Ireland	Quie
Clausen, Don H.	Jacobs	Quillen
Cleveland	Jenkins	Rahall
Cochran	Jenrette	Regula
Coleman	Jones, N.C.	Rinaldo
Collins, Tex.	Jones, Okla.	Risenhoover
Conable	Jones, Tenn.	Roberts
Corcoran	Kazen	Robinson
Cotter	Kelly	Roe
Coughlin	Kemp	Rogers
Crane	Kindness	Rooney
Daniel, Dan	Krueger	Rousselot
Daniel, R. W.	Lagomarsino	Rudd
Davis	Latta	Runnels
de la Garza	Le Fante	Ruppe
Derrick	Lederer	Russo
Derwinski	Lent	Santini
Devine	Levitas	Sarasin
Dickinson	Lloyd, Tenn.	Satterfield
Dingell	Long, La.	Sawyer
Dornan	Lott	Schulze
Duncan, Tenn.	Lujan	Sebelius
Early	Luken	Sharp
Edwards, Ala.	McClory	Shipley
Edwards, Okla.	McCormack	Shuster
Emery	McDonald	Sikes
English	McEwen	Sisk
Evans, Ga.	McKay	Skelton
	Madigan	Skubitz

Smith, Iowa	Thone	Whitehurst
Smith, Nebr.	Thornton	Whitley
Snyder	Treen	Whitten
Spence	Trible	Wilson, Tex.
St Germain	Tucker	Winn
Stangeland	Vander Jagt	Wright
Stanton	Vanik	Wydler
Steed	Volkmer	Wylie
Steiger	Waggonner	Yatron
Stockman	Walker	Young, Alaska
Stratton	Walsh	Young, Mo.
Stump	Wampler	Young, Tex.
Symms	Watkins	Zablocki
Taylor	White	Zeferetti

NOES—133

Addabbo	Fenwick	Myers, Michael
Akaka	Findley	Nolan
Ambro	Fish	Nowak
Ammerman	Fisher	Oberstar
Anderson, Ill.	Flowers	Obey
Ashley	Foley	Ottinger
AuCoin	Ford, Tenn.	Panetta
Bedell	Forsythe	Patterson
Beilenson	Frenzel	Pease
Biaggi	Glickman	Pike
Bingham	Hamilton	Price
Blanchard	Hannaford	Pritchard
Blouin	Harkin	Railsback
Bonior	Harrington	Rangel
Brademas	Harris	Reuss
Brodhead	Holtzman	Richmond
Brown, Calif.	Jeffords	Rodino
Brown, Mich.	Johnson, Calif.	Roncalio
Burke, Calif.	Jordan	Rosenthal
Burlison, Mo.	Kastenmeier	Roybal
Burton, John	Keys	Scheuer
Burton, Phillip	Kildee	Schroeder
Carr	Kostmayer	Seiberling
Cavanaugh	Krebs	Solarz
Chisholm	Leach	Spellman
Cohen	Leggett	Stark
Collins, Ill.	Lehman	Steers
Corman	Lloyd, Calif.	Stokes
Cornell	Long, Md.	Studds
Cornwell	McCloskey	Thompson
Danielson	McFall	Tsongas
Delaney	McHugh	Udall
Dellums	Maguire	Ullman
Dodd	Markey	Vento
Downey	Marks	Walgren
Drinan	Mattox	Waxman
Duncan, Oreg.	Meeds	Weaver
Eckhardt	Metcalfe	Weiss
Edgar	Meyner	Whalen
Edwards, Calif.	Mikulski	Wilson, C. H.
Erlenborn	Mikva	Wirth
Ertel	Miller, Calif.	Wolff
Evans, Colo.	Mineta	Yates
Fary	Mitchell, Md.	
Fascell	Moffett	

NOT VOTING—70

Anderson, Calif.	Evans, Del.	Michel
	Fithian	Moorhead, Pa.
Annunzio	Flippo	Moss
Applegate	Florio	Murphy, N.Y.
Aspin	Ford, Mich.	Nedzi
Badillo	Fowler	Nix
Beard, Tenn.	Fraser	Oakar
Boggs	Frey	Pattison
Bolling	Giaimo	Poage
Bonker	Ginn	Preyer
Bowen	Harsha	Rhodes
Breaux	Hawkins	Rose
Breckinridge	Hefner	Rostenkowski
Burke, Mass.	Holland	Ryan
Clawson, Del	Howard	Simon
Clay	Hyde	Slack
Conte	Johnson, Colo.	Staggers
Conyers	Kasten	Teague
Cunningham	Ketchum	Traxler
D'Amours	Koch	Van Deerlin
Dent	LaFalce	Wiggins
Dicks	Lundine	Wilson, Bob
Diggs	McDade	Young, Fla.
Eilberg	McKinney	

Mr. TUCKER and Mr. COTTER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. KASTENMEIER. Mr. Chairman, I wish to comment on the recent letter which the gentleman from Ohio (Mr. ASHBROOK) included in the CONGRESSIONAL RECORD of June 22, 1977 (20462–20463). In a letter from an Oregon lawyer and landlord, Mr. Warde H. Erwin, to the gentleman from Ohio (Mr. ASHBROOK), criticism was made of the legal services program. I would like to insert a response from the Legal Services Corporation, and to note that the Oregon State Bar has indicated support of H.R. 6666:

RESPONSE TO CHARGES MADE BY WARDE ERWIN

Mr. Erwin is the landlord of some Portland, Oregon housing, which he has admitted is in terribly dilapidated condition. The local legal services program has represented two of his tenants, one of whom is still being represented. The cases involve alleged violations by Erwin of the Oregon Landlord and Tenant Act, defenses against evictions, and requests for relief after Erwin began physical demolition of a house still occupied by tenants, without obtaining a court order permitting such action.

All the cases are still pending. In the one closest to completion, the tenant won a victory on the appellate level. Subsequently private counsel represented the tenant on retrial and the case is now on appeal again.

Mr. Erwin complained to the State Advisory Council that the program had violated the Legal Services Corporation Act. The Council advised him that the limited information he submitted did not show a violation of the Act, and invited him to submit additional information. He never responded to the invitation and never made an administrative complaint to the Legal Services Corporation.

As part of his vendetta against the local legal services program Erwin asked the Oregon State Bar to investigate the program. The Bar created a committee to do so, and the investigation is now under way. The committee has said that if it finds evidence that the program violated the Legal Services Corporation Act, it will refer such matters to the Corporation. If it finds evidence of ethical violations by program lawyers, such matters will be referred to the Disciplinary Committee of the Bar, to be handled by its usual procedures.

In retaliation against the litigation involving his property, Erwin filed lawsuits against the City of Portland, the Public Utilities Commission, the Presiding Judge of the District Court, the Presiding Judge of the Circuit Court, the Legal Services Corporation, a state court suit against the local legal services program and its clients, and a federal court suit against the local program.

All but one of the numerous suits filed by Erwin are still pending. The state court dismissed his suit against legal services clients because of his refusal to answer questions on deposition. He then entered a voluntary non-suit against the program.

Erwin named the Legal Services Corporation as a codefendant in his federal suit against the local program, but failed to serve the complaint upon the Corporation, which therefore has not been required to respond.

In his other suit against the Legal Services Corporation, Erwin alleged that the Corporation had failed to qualify under D.C. Nonprofit Corporation Law, and had failed to appoint an agent for receipt of process, as required by the Legal Services Corporation Act. In fact the Corporation had done so, and through counsel, submitted proof of this to Erwin. He acknowledged to counsel that he had been in error on this point and agreed to withdraw that claim.

Erwin also alleged that the local program had violated the Act and Oregon Corporation Law, but stated no facts to support his claim. He alleged further that the Corporation had violated the Act by having made a grant to the program prior to the time of the alleged violations. He asked for an order directing the program to return the grant it had received from the Corporation.

The Corporation's motion to dismiss Erwin's complaint is pending. The Corporation never claimed immunity as a public agency. In support of its Motion the Corporation stated that Erwin had not alleged any facts showing that he had been personally injured by any alleged violation of the Act, and therefore lacked "standing" according to traditional rules of federal jurisdiction and corporation law.

In addition the Corporation explained that under the compliance scheme established by the Legal Services Corporation Act, Erwin should have perfected his administrative complaint to the State Advisory Council or to the Corporation before filing suit. If violations were found, the remedy provided by the Act is to cut off future funding. There is no provision for recoupment of past grants. Moreover, there is no basis whatsoever for alleging that the Corporation acted illegally by making a grant to a program that may have subsequently violated the Act.

Mr. Erwin has never presented to the Corporation his proposal for a judicare program run by the Oregon State Bar. He is apparently unaware of the Corporation's study of legal services delivery systems, which will, by this Fall, include approximately 40 programs using private lawyers. One of the current such projects, in fact, is operating in Portland.

Also Mr. Chairman, in the past the gentleman from Ohio (Mr. ASHBROOK) has inserted criticism of the Legal Services Corporation based on a two-part article in Barron's. I included this article and the response to it in the printed hearings on legal services, but would like to note the Corporation's rebuttal for the RECORD:

STATEMENT OF THE LEGAL SERVICES CORPORATION IN RESPONSE TO "BAR SINISTER"

(NOTE.—Portions of this statement were submitted to Barron's in a letter dated January 26, 1977. An abbreviated version of that letter was then submitted and was published in the February 21, 1977 issue of Barron's.)

The two-part article concerning legal services for the poor in the January 24 and January 31, 1977 issues of Barron's is scarred by error and innuendo, by the apparent judgment of its author that poor people are not entitled to the same recourse to the law that is the right of every citizen, and by a sharply negative tone that begins with the title, "Bar Sinister." This statement deals with each of those points in turn.

First, the error and innuendo.

The article states that the Legal Services Corporation has not been faithful to its mandate because legal services lawyers may "advise a client about lawful alternatives to litigation." Litigation is a cumbersome and expensive process that drains the resources of the parties and the courts; whenever litigation can be avoided, it should be. This approach is wholly consistent with the Legal Services Corporation Act.

The suggestion that legal services programs improperly use class actions to benefit the non-poor is incorrect. The Act specifically sanctions class actions in accordance with policies established by the governing bodies of legal services programs. Under federal and state rules of civil procedure, a class is defined by the common interests of its members, and many of the interests of the poor are shared by others. In every case, whether brought by legal services attorneys or not, it is the court that decides whether a class action is proper and who the class members should be.

The article is wrong in suggesting that legal services programs should not bring suits against federal agencies. The Act does not prohibit such suits. Legal actions by private persons, no matter what their economic status and including persons represented by legal services lawyers, are one way to ensure that federal agencies implement and enforce laws as the Congress intended.

The statement that "the LSC Act bars financing public interest law" is wrong. The Act prohibits making grants to or entering into contracts with any private law firm that expends fifty percent or more of its resources and time litigating issues in the broad interests of a majority of the public. The Corporation has uniformly complied.

The article implies that Corporation-funded programs that represent consumers are acting inconsistently with the Legal Services Corporation Act. It states: "there is nothing in the Act authorizing [legal services] lawyers to represent consumers." The mandate of the Legal Services Corporation is to provide *all* poor persons in America with legal assistance. The Act specifically sets forth the Corporation's statutory responsibility to support "high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel." The 29,000,000 poor in this country eligible for legal services are, like the rest of the population, consumers.

The article's discussion about financial eligibility for legal services misstates and misleads, particularly the statement that: "LSC, plainly, is generous in deciding who is eligible for its help." The Act requires the Corporation to set maximum income levels and establish guidelines to ensure that eligibility of clients will be determined properly by recipients. The Corporation regulation provides that a grantee shall not exceed 125 percent of the Office of Management and Budget Official Poverty Line Threshold. That is hardly generous: under the regulation, income for one person cannot exceed $3,500; income for a family of four must be less than $6,874. There are few instances when "over-income" persons are eligible. The exceptions are for persons who are elderly or disabled; persons who are entirely dependent on government benefits; and mothers who supplement Aid to Families with Dependent Children (AFDC) payments by working. In granting eligibility for the latter, the Corporation is consistent with federal policy.

The article's reference to the Spokane Legal Services Center providing counsel for the defense in a case of criminal slander before an Indian tribal court suggests improper conduct. In fact, the legislative history of the Act shows that Congress was aware that legal services programs had been representing Indians charged with misdemeanors in tribal courts, and expected such representation to continue.

Another misleading discussion in the article states that the section of the Act allowing legal services lawyers to take fee-generating cases pursuant to Corporation guidelines "created a loophole," and suggests impropriety. Yet most courts, including the United States Supreme Court, have recognized that legal services lawyers may accept fees under the circumstances specified by the Corporation's regulations. (In the discussion of this topic, the article refers to the Puerto Rican Legal Defense & Education Fund as a Corporation grantee. It is not.)

The article's statement that the Corporation is "shooting at a budget seven times the present size, or $875 million" is false speculation. The Corporation's budget request for Fiscal Year 1978 seeks an appropriation of $217.1 million. Even that level of funding, however, will leave more than seven million poor persons without minimum access to legal services.

The article is incorrect in suggesting that the Act abolished the so-called back-up centers. Section 1006(a)(3) of the Act provides that the Corporation shall undertake directly, and not by grant or contract, training and technical assistance, research, and clearinghouse activities. The Corporation's Board of Director's commissioned an extensive factual analysis of the activities of the support centers as a first step in considering the effect of this provision. On the basis of that study, the Corporation staff and outside counsel thoroughly analyzed the Act and its legislative history—including the statements of members of Congress—and made recommendations to the Board. We concluded that Section 1006(a)(3) restricts the enumerated activities only if they are a part of general assistance given to field programs and unrelated to identifiable clients; it does not limit those activities insofar as they are part of the assistance rendered to actual clients. The Board of Directors concurred in this analysis. As a result, funding was continued for thirteen of the support centers pursuant to carefully-negotiated contracts that require them to act only on behalf of eligible clients. The centers are monitored regularly to ensure that they continue to comply with the Act.

The article misleads in stating that the Corporation has "taken over the functions and some of the activist personnel" of four of the support centers. The Act requires the Corporation to ensure "the maintenance of the highest quality of service and professional standards. . . ." To this end, the Corporation has established an Office of Program Support to provide training, recruiting, and technical support to legal services programs, and a Research Institute on Legal Assistance to conduct substantive research regarding recent developments and areas of poverty law not currently developed. Although some of these services were previously available from support centers on a limited basis, the activities of the Office of Program Support and Research Institute go far beyond those of the old back-up centers. The activities of the present support centers are entirely different than those of the Office of Program Support and Research Institute in that the centers are permitted to act only on behalf of eligible clients.

The article incorrectly implies that the Clearinghouse Review operates independently of the Corporation. The Legal Services Clearinghouse is a unit of the Office of Program Support that publishes the Clearinghouse Review and supplies case materials to legal services programs on request. Its staff and budget are administered by the Corporation. For logistical reasons, including existing lease arrangements and proximity to low cost printing sources, the Clearinghouse is headquartered in Chicago. Its board of directors and autonomous corporate status, however, are being dissolved.

The article is wrong in stating that the Corporation promotes legal services by other governmental agencies, particularly VISTA and the Community Services Administration, because "they can engage in activities for which the Legal Services Corporation Act prohibits Corporation funding." The resources for legal services are so scarce that the Corporation encourages support for those services from a variety of sources, including governmental agencies and the private bar. We are encouraging VISTA to continue to provide funds for paralegals and attorneys that work in legal services programs. Those persons are bound by the provisions of the Act. We have also encouraged CSA to continue to provide funds for legal services programs for special purposes. The Act provides that such public funds may be used for whatever purposes are specified by CSA.

The article suggests impropriety in the provisions of the Corporation's contract with the Legal Action Support Project of the Bureau of Social Science Research dealing with legislative and administrative representation. Administrative and legislative representation is often a more effective way of resolving widely-shared problems than is repetitive and expensive litigation. The Act permits such representation on behalf of eligible clients and in response to specific requests by governmental bodies. Those are the situations in which the Legal Action Support Project is authorized to appear before administrative and legislative bodies. Since July 15, 1976, however, less than 1 percent of the project's time has been devoted to such activity.

The article alleges poor judgment, if not illegal activity, on the part of the National Housing Law Project in its relationship with the Department of Housing and Urban Development. The allegation is unfounded. None of the litigation conducted by the Housing Law Project related to Housing Assistance Counsels—community organizations designed to provide HUD with citizen input—or the background paper on redlining that the Housing Law Project prepared at HUD's request. None of the activities engaged in by the Housing Law Project were compromised because of its involvement with several issues at one time.

Second, the article reflects an apparent judgment that poor people should not be afforded particular kinds of legal representation, and incorrectly implies that those kinds of representation are prohibited by the Legal Services Corporation Act. The article criticizes legal services lawyers for representing their clients in actions against the federal government. Fortunately, such actions are entirely consistent with the Act. Our form of government requires everyone to live under the legal system. That requirement must carry with it the means to ensure that poor people are not excluded from the legal system. Individuals can hardly be asked to live under and respect the law unless they have an opportunity to use it.

The article dwells at some length on a suit by a number of Indians in Maine who claim title to substantial lands in that state. On several occasions the author complained to Corporation staff that the suit had hurt the sale of bonds in Maine. For that reason, she suggested that the suit was plainly wrong. The Corporation's response was that the judges in the case should decide the issues. Indians, like all other Americans, are entitled to use the legal system to protect their rights through lawful means—and that is precisely what is involved in the Maine suit.

Third, the article has a negative—almost sarcastic—tone that is unfair to millions of poor people who desperately need legal help, and to the legal services lawyers and staff who are trying to provide that help. The Legal Services Corporation was created by Congress as an independent organization—not, as the article contends, because of "mounting controversy" over alleged activities of poverty lawyers under the Office of Economic Opportunity Legal Services Program—but rather as a result of a strong campaign led by such groups as the American Bar Association, the National Bar Association, the National Legal Air and Defender Association, and many state and local bar groups to ensure that the program would be independent from partisan politics.

The article reflects a basic misunderstanding of what the Corporation is and what it is not. It suggests that we are misbehaving by requesting an appropriation greater than the amount recommended in President Ford's budget, and disloyal by arguing that the Office of Management and Budget may not control the payment of the appropriation. But the Legal Services Corporation is not an agency or bureau of the government. It is a private, not-for-profit corporation created by Congress and insulated from partisan political considerations by being separated from the Executive Branch and freed from control by the President and the Office of Management and Budget. The Corporation is governed by Directors who were appointed by President Ford, approved by the Senate, and directly responsible to the Congress. They are all respected members of the bar who would not tolerate evasion of the law or countenance mischievous conduct.

The subheading of the article illustrates

all the points made in this letter. It states that the Corporation "stretches its mandate. Heedless of intent of Congress, persists in pushing social activism over needs of the poor. Finances class action suits, lobbying, defends criminals." In fact, Corporation funds are not used to support criminal proceedings. They are used in civil matters only. All the examples of "lobbying" cited in the article are authorized by the Legal Services Corporation Act, which permits legislative advocacy on behalf of eligible clients and in response to legislative requests. The Act specifically sanctions class actions brought according to locally-established procedures.

The Corporation does not "persist in pushing social activism over needs of the poor." Every legal services program is governed by a local board of directors composed of attorneys, eligible clients, and other interested persons in the community to ensure that the needs of the poor in the community are being met. Finally, no evidence was provided in the article that the Corporation is either "stretching its mandate" or "is heedless of the intent of Congress." On the contrary, we have made every effort to comply with the Act and have kept our oversight committees fully informed of our activities.

Those of us in legal services are trying to do a job that was mandated by Congress—to ensure that poor people have the same chance to use the legal system that people have in the business and financial community. The entire tone of the article suggests that poor people should not be afforded those rights. Fortunately, the business and financial community has supported legal services for poor people, just as has the organized bar.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment offered by Mr. BIAGGI to H.R. 6666, Legal Services Corporation Act Amendments. My colleague's amendment is designed to insure that Legal Services programs place high priority on outreach; training and support services for client groups who have special legal problems, but limited access to legal services. These special groups—senior citizens, the handicapped, veterans, migrant workers, persons for whom English is a second language—will benefit immeasurably from this amendment.

It is clear to me that in order to achieve the basic intent of H.R. 6666, which is to extend legal representation to eligible clients currently excluded by various restrictions, a special effort must be made to maximize the availability of legal services to disadvantaged persons. To this end the Legal Services Corporation has set access to two attorneys for every 10,000 disadvantaged persons as its minimum goal, to be reached by fiscal year 1979. This effort, however commendable, is not sufficient, considering the fact that in the general U.S. population there are over 11 attorneys for every 10,000 persons.

While I am pleased to hear about such experiments as Neighborhood Justice Centers organized by the Justice Department as an alternative to our overburdened courts, there is no adequate substitute for effective legal representation in a court of law.

Considering the dire need for legal services among the disadvantaged, I am distressed to see that some of my colleagues are inclined to propose a reduction in legal services funding through fiscal year 1978. I am opposed to such reductions because I know that in my district in Chicago, where 22.5 percent of all families have low incomes, and large numbers of senior citizens and veterans reside, there is a crucial need for legal aid services, along with information on how to use them. Therefore, I reiterate my support for the Biaggi amendment and urge my colleagues to join me in voting for its passage.

Mr. McDONALD. Mr. Chairman, I have long been concerned about the programs of the Legal Services Corporation which parallel, repeat, and amplify those of the National Lawyers Guild, an organization cited by congressional investigative bodies as "the foremost legal bulwark of the Communist Party, its fronts and controlled unions," and which maintains its active membership in the Soviet Union's international communist lawyers association.

The Legal Services Corporation is demonstrably penetrated by the National Lawyers Guild from its local field program staff to its senior staff member and executive vice president, E. Clinton Bamberger, Jr.

While I could go on to cite instances of NLG involvement in the areas of prison law, Native American land grabs, landlord-tenant controversy and so forth, I will confine myself to a recent glaring example that strikes at the heart of the security of our citizens.

In May of this year a call to a so-called Michigan Conference on Police Spying was circulated on Michigan Legal Services letterhead by George Corsetti, a lawyer employed by Michigan Legal Services in Detroit since his admission to the bar some 6 years ago.

Corsetti is a leader of the ad hoc coalition called the Citizens Committee to End Political Surveillance whose phone number is that of the Detroit NLG office—313/963-0843.

The call to the conference was circulated to those organizations who sent representatives to the NLG-organized National Conference on Government Spying on which I made extensive reports in the CONGRESSIONAL RECORDS of January 31 and February 1, 1977.

Legal Services employee Corsetti also circulated a memo advertising as an anti-intelligence "resource" a 300-page study by NLG attorney Jim Jacobs, who works out of the NLG Detroit office. That document, "The Conduct of Local Political Intelligence," is document No. 21,195 and is being distributed free to attorneys by the Clearinghouse Review, National Clearinghouse for Legal Services, suite 2220, 500 North Michigan Avenue, Chicago.

The nature of Jacobs' study is indicated in a shorter memorandum, "Research Into Local Political Intelligence Activities," circulated by Corsetti. Jacobs wrote that to understand the nature of police intelligence one must first determine the "nature of class struggle against capitalism—union struggles, populist actions, civil disorders, student actions, etc."

Jacobs concluded his brief memo with the notation that "what must continually guide the efforts is the goal: The elimination of political surveillance in America," followed by a quotation from Mao Tse-tung meticulously footnoted to "Oppose Stereotyped Party Writing, Selected Readings, page 236."

From the conference promoted and led by attorneys Corsetti and Jacobs was formed the Michigan Coalition To End Government Spying. The coalition members include the Communist Party, U.S.A.; the Michigan Alliance Against Repression, a CPUSA front; the American Civil Liberties Union; American Friends Service Committee; the Communist Labor Party; Americans for Democratic Action; a Trotskyite group called News and Letters; the National Lawyers Guild and other groups.

The anti-intelligence gathering group in Detroit is a local chapter of the Campaign To Stop Government Spying headquartered on Massachusetts Avenue, N.E. here in Washington and headed by Morton Halperin and his Center for National Security Studies group, the ACLU, and the antidefense groups like the American Friends Service Committee. Halperin is trying to arrange a U.S. tour for CIA defector Philip Agee for later this year.

I want to point out that these anti-intelligence groups not only are seeking to destroy intelligence programs targeted against terrorist groups and riots, but also specifically against intelligence programs to combat organized crime.

The ACLU, which has among its leaders and its rank-and-file members of the terrorist-supporting National Lawyers Guild, the Communist Party and other revolutionary totalitarian organizations, has often come to the support of violence-prone, antisocial and totalitarian groups resisting regulation by lawful authority. Currently these supported by the ACLU include National Socialist—Nazi—groups in Illinois who were involved in organizing riots in Chicago's Marquette Park last summer; and Klan groups among marine personnel at Camp Pendleton who are resisting disciplinary transfers and other measures taken for the good of the service. ACLU always acts to increase polarization of society and break down the standards of normal behavior.

This year the ACLU of Mississippi filed a civil suit for damages with itself, the Delta Ministry, Owen Brooks and Ken Lawrence as plaintiffs against the Mississippi Governor, attorney general, and other State officials. The suit alleges illegal surveillance. An answer to the ACLU complaint was filed by Special Assistant Attorney General Edwin A. Snyder on June 6, 1977, on behalf of Attorney General A. F. Summer which cited the "indispensable role of intelligence gathering and the use of intelligence by law enforcement agencies in securing domestic tranquillity and security, preventing crime and fighting terrorism."

The Mississippi attorney general's answer went on to point out that:

It is important that law enforcement authorities be permitted to acquire information by investigation so as to anticipate and prevent crime before it occurs and to protect citizens from the fate and fear of becoming victims.

The attorney general then goes on to document plaintiffs' joint ties and con-

nections with a dangerous terrorist group active in Mississippi, Detroit, New Orleans, New York, and other cities which is called the Republic of New Africa; and notes that:

The close and continuing relationship between the plaintiffs and the RNA, a known terrorist group, discloses that the purpose of this lawsuit is to hinder, impede and prevent essential intelligence operations designed to protect and deter violent and illegal acts such as those committed by the RNA.

Likewise, this is the purpose of the lawsuit that George Corsetti of Michigan Legal Services is now conducting called *Benkert* v. *Michigan State Police*, No. 74-0230934 (Wayne Cty. Cir. Ct.) and in which his Mao-quoting NLG colleague Jacobs is also a plaintiff.

I urge my colleagues to vote against appropriations for the Legal Services Corporation whose programs are being used against the interests of U.S. citizens.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. BURLISON of Missouri, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6666) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes, pursuant to House Resolution 617, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent, in view of the late hour, that all recorded votes on this bill go over until tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KINDNESS. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KINDNESS moves to recommit H.R. 6666 to the Committee on the Judiciary with instructions to report back the same to the House forthwith with the following amendment:

On page 2 strike lines 6 through 22 and insert in lieu thereof the following:

SEC. 3. (a) Paragraph (3) of section 1006 (a) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3) is amended to read as follows:

"(3)(A) to undertake directly and not by grant or contract, the following activities relating to the delivery of legal assistance—

"(i) research

"(ii) training and technical assistance, and

"(iii) to serve as a clearinghouse for information.

"(B) the activities enumerated in paragraph (3)(A) may be undertaken only directly and in-house by the corporation and not by grant or contract or funding of support centers. This restriction shall apply regardless of whether these activities are part of legal assistance rendered to specific identifiable clients."

Mr. ECKHARDT. Mr. Speaker, I reserve a point of order on the motion of recommit.

Mr. KINDNESS. Mr. Speaker and colleagues, I will be brief.

The motion to recommit with instructions includes the instruction to add back the Green amendment of the 1974 bill.

The bill before us, H.R. 6666, strikes out the effect of the Green amendment. Many of the Members will recall that the Green amendment in the original act was intended to restrict the activities and the support of outside backup centers for the Legal Services function. Those backup centers were rather an important issue at the time the Legal Services Corporation was set up.

Mind you, we had only been operating in this mode for 2 years and already comes along this bill to change it back to the confused situation we had when the Legal Services functions were performed under OEO.

The Legal Services Corporation was set up to be an independent agency, an independent corporation. We have given it only 2 years to try to function in this mode. Its function actually has been in violation of the terms of the Green amendment that are in the law right now. They continued their pattern of funding for outside backup centers for research, for training facilities. All this was the controversial area we were trying to get away from in setting up the Legal Services Corporation to begin with. It was the Green amendment that made the Legal Services Corporation Act a palatable proposition in 1974.

H.R. 6666 seeks to strike that out and reintroduce the confusion that existed prior to the creation of the Legal Services Corporation. This motion to recommit with instructions would simply reinsert the Green amendment and do one more thing. It would state it positively, saying that the activities enumerated, that is, research, the training and technical assistance, and serving as a clearing house for information, could be performed in-house by the Legal Services Corporation and its recipient local groups, but it could not be done on a contract basis to provide regional back-up centers. That had been the hotbed of social activist litigation. It is the function of the legislative branch of Government to state policies. Too much of it is, I submit, being done in court today anyway.

The Green amendment was passed by a vote of 233 to 139. I would hope and trust that this motion to recommit with that instruction would be firmly supported today so that we may continue and give the Green amendment the opportunity to operate to limit the support of those back-up centers.

Mr. Speaker, I urge the Members' support on the motion to recommit.

The SPEAKER pro tempore. Does the gentleman from Texas desire to be heard on his reservation of a point of order?

Mr. ECKHARDT. I do not, Mr. Speaker.

Mr. KASTENMEIER. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I will not take 5 minutes. The hour is very late. This redebates the question of the method of funding support activities that has been debated and disposed of a number of times, including on June 9. The gentleman from Ohio (Mr. KINDNESS) offered an amendment in the Committee of the Whole on June 9 to reinsert the restrictions of the Green amendment, and was defeated on this question. We are asked again to vote on the issue in the motion to recommit.

Also most Members will recall last year, 1976, we were confronted with precisely the language we have in section 3 of H.R. 6666. It was fully debated then and we voted overwhelmingly for that language in H.R. 10799, by a vote of 256 to 143. We decided in 1976 and on June 9, 1977, that this Corporation should have the discretion and the alternative of funding support activities by grant or contract, or directly through in-house support. That is all this does. We decided on two occasions, once this month and once last year, in a recorded vote on this particular approach including the Wiggins amendment which limits any expenditure to 10 percent of the entire budget of the Corporation. I trust the Members will do so again. The Members ought to reject the Kindness motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. KINDNESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 154, nays 213, not voting 66, as follows:

[Roll No. 385]

YEAS—154

Abdnor	Barnard	Burke, Fla.
Alexander	Bauman	Burleson, Tex.
Andrews, N.C.	Beard, Tenn.	Byron
Andrews, N. Dak.	Bennett	Caputo
Archer	Bevill	Carter
Armstrong	Brinkley	Cederberg
Ashbrook	Broomfield	Chappell
AuCoin	Brown, Mich.	Clausen, Don H.
Badham	Brown, Ohio	Cochran
Bafalis	Broyhill	Coleman
	Burgener	

Collins, Tex.
Conable
Corcoran
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Ind.
Flynt
Forsythe
Fountain
Fuqua
Gammage
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Hightower
Hillis
Holt
Hubbard
Huckaby
Ichord
Ireland
Jacobs
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Lagomarsino
Latta
Lent
Lloyd, Tenn.
Lott
Lujan
McDonald
McEwen
McKay
Madigan
Mahon
Mann
Marriott
Martin
Mathis
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
O'Brien
Quayle
Quie
Quillen
Regula
Risenhoover
Roberts
Robinson
Rogers
Rousselot
Rudd
Runnels
Sarasin
Satterfield
Schulze
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Taylor
Thornton
Treen
Trible
Ullman
Vander Jagt
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Winn
Wydler
Young, Alaska
Young, Tex.

NAYS—213

Addabbo
Akaka
Allen
Ambro
Ammerman
Anderson, Ill.
Ashley
Baldus
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boland
Bonior
Brademas
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Cavanaugh
Chisholm
Cleveland
Cohen
Collins, Ill.
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Danielson
Davis
Delaney
Dellums
Derrick
Dingell
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Colo.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, Tenn.
Frenzel
Gaydos
Gephardt
Gibbons
Gilman
Gore
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Heckler
Heftel
Hollenbeck
Holtzman
Horton
Hughes
Jeffords
Jenrette
Johnson, Calif.
Jordan
Keys
Kildee
Kostmayer
Krebs
Krueger
Le Fante
Leach
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Luken
McClory
McCloskey
McCormack
McFall
McHugh
Maguire
Markey
Marks
Marlenee
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Natcher
Neal
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Rooney
Rose
Rosenthal
Roybal
Ruppe
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stark
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thone
Thornton
Traxler
Tsongas
Tucker
Udall
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whalen
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—66

Anderson, Calif.
Annunzio
Applegate
Aspin
Badillo
Boggs
Bolling
Bonker
Bowen
Breaux
Breckinridge
Burke, Mass.
Clawson, Del
Clay
Conte
Conyers
Cunningham
Dent
Dicks
Diggs
Duncan, Oreg.
Eilberg
Evans, Del.
Fithian
Flippo
Florio
Ford, Mich.
Fowler
Fraser
Frey
Giaimo
Ginn
Harsha
Hawkins
Hefner
Holland
Howard
Hyde
Kasten
Ketchum
Koch
LaFalce
Lundine
McDade
McKinney
Michel
Moorhead, Pa.
Moss
Murphy, N.Y.
Myers, Michael
Nedzi
Oakar
Pattison
Poage
Preyer
Rhodes
Rostenkowski
Sisk
Slack
Staggers
Steed
Teague
Van Deerlin
Wiggins
Wilson, Bob
Young, Fla.

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mrs. Boggs against.

Mr. Breaux for, with Mr. Burke of Massachusetts against.

Mr. Ginn for, with Mr. Eilberg against.

Mr. Del Clawson for, with Mr. Conte against.

Mr. Cunningham for, with Mr. McDade against.

Mr. Hyde for, with Mr. Nedzi against.

Mr. Michel for, with Mr. Ford of Michigan against.

Mr. Wiggins for, with Mr. Badillo against.

Mr. Young of Florida for, with Mr. Koch against.

Until further notice:

Mr. Annunzio with Mr. Frey.

Mr. Hawkins with Mr. Evans of Delaware.

Mr. Breckinridge with Mr. Kasten.

Mr. Clay with Mr. McKinney.

Mr. Howard with Mr. Bob Wilson.

Mr. Lundine with Mr. Anderson of California.

Mr. LaFalce with Mr. Bonker.

Mr. Staggers with Mr. Murphy of New York.

Mr. Steed with Mr. Holland.

Mr. Slack with Mr. Moorhead of Pennsylvania.

Mr. Hefner with Mr. Moss.

Mr. Giaimo with Mr. Diggs.

Mr. Fowler with Mr. Pattison of New York.

Mr. Florio with Mr. Preyer.

Mr. Applegate with Mr. Dicks.

Mr. Aspin with Mr. Sisk.

Mr. Conyers with Mr. Dent.

Mr. Fraser with Mr. Van Deerlin.

Mr. Flippo with Mr. Duncan of Oregon.

Mr. Fithian with Mr. Bowen.

Ms. Oakar with Mr. Michael O. Myers.

Mr. QUIE changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 267, nays 103, not voting 63, as follows:

[Roll No. 386]

YEAS—267

Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Ashley
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, Tenn.
Frenzel
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gradison
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Heckler
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Hughes
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Okla.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
Krueger
Le Fante
Leach
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
Madigan
Maguire
Mann
Markey
Marks
Marlenee
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Price
Pritchard
Pursell
Quie
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roybal
Ruppe
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Skubitz
Smith, Iowa
Solarz
Spellman
St Germain
Stanton
Stark
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thone
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walsh
Wampler
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—103

Abdnor
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Brinkley
Brown, Mich.
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Byron
Chappell
Clausen, Don H.
Collins, Tex.
Corcoran
Crane
Daniel, Dan
Daniel, R. W.
Derwinski

Devine	Jones, Tenn.	Roberts
Dickinson	Kelly	Robinson
Dornan	Kemp	Rousselot
Edwards, Ala.	Kindness	Rudd
Edwards, Okla.	Lagomarsino	Runnels
English	Latta	Satterfield
Flynt	Lent	Schulze
Forsythe	Lott	Sebelius
Fountain	McDonald	Shuster
Gammage	McKay	Skelton
Goldwater	Mahon	Smith, Nebr.
Goodling	Marriott	Snyder
Grassley	Martin	Spence
Guyer	Mathis	Stangeland
Hagedorn	Milford	Stockman
Hall	Miller, Ohio	Stump
Hammer-schmidt	Mollohan	Symms
	Montgomery	Taylor
Hansen	Moore	Treen
Holt	Moorhead, Calif.	Waggonner
Hubbard		Walker
Huckaby	Mottl	Watkins
Ichord	Myers, Ind.	Whitley
Ireland	Nichols	Whitten
Jenkins	O'Brien	Winn
Johnson, Colo.	Quayle	
Jones, N.C.	Quillen	

NOT VOTING—63

Addabbo	Fithian	Moorhead, Pa.
Anderson, Calif.	Flippo	Moss
	Florio	Murphy, N.Y.
Annunzio	Ford, Mich.	Nedzi
Aspin	Fowler	Oakar
Badillo	Fraser	Pattison
Bolling	Frey	Poage
Bonker	Giaimo	Preyer
Bowen	Ginn	Rhodes
Breaux	Harsha	Rostenkowski
Breckinridge	Hawkins	Russo
Burke, Mass.	Hefner	Sisk
Clawson, Del	Holland	Slack
Clay	Howard	Staggers
Conte	Kasten	Steed
Conyers	Ketchum	Teague
Cunningham	Koch	Van Deerlin
Dent	LaFalce	Wiggins
Dicks	Lundine	Wilson, Bob
Diggs	McDade	Young, Fla.
Eilberg	McKinney	
Evans, Del.	Michel	

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Teague against.

Mr. Burke of Massachusetts for, with Mr. Breaux against.

Mr. Annunzio for, with Mr. Ginn against.

Mr. Conte for, with Mr. Young of Florida against.

Mr. McDade for, with Mr. Del Clawson against.

Mr. Breckinridge for, with Mr. Cunningham against.

Mr. Eilberg for, with Mr. Frey against.

Until further notice:

Mr. Giaimo with Mr. Badillo.

Mr. Hawkins with Mr. Anderson of California.

Mr. Howard with Mr. Fithian.

Mr. Dent with Mr. Koch.

Mr. Van Deerlin with Mr. Clay.

Mr. Dicks with Mr. Diggs.

Mr. Staggers with Mr. Fraser.

Mr. Hefner with Mr. Flippo.

Mr. Steed with Mr. LaFalce.

Mr. Pattison of New York with Mr. Aspin.

Ms. Oakar with Mr. Lundine.

Mr. Slack with Mr. Conyers.

Mr. Nedzi with Mr. Bonker.

Mr. Ford of Michigan with Mr. Moorhead of Pennsylvania.

Mr. Sisk with Mr. Bowen.

Mr. Holland with Mr. Florio.

Mr. Fowler with Mr. Moss.

Mr. Murphy of New York with Mr. Russo.

Mr. Rostenkowski with Mr. Preyer.

Mr. McKAY changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 6666, and to include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3702, TO AMEND TITLE 10, UNITED STATES CODE, TO MAKE CERTAIN CHANGES IN THE RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN AND THE SURVIVOR BENEFIT PLAN AS AUTHORIZED BY CHAPTER 73 OF THAT TITLE

Mr. MEEDS, from the Committee on Rules, submitted a privileged report (Rept. 95–466) on the resolution (H. Res. 659) providing for consideration of H.R. 3702 to amend title 10, United States Code, to make certain changes in the retired serviceman's family protection plan and the survivor benefit plan as authorized by chapter 73 of that title, and for other purposes, which was referred to the House calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4963, TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1978 FOR CERTAIN MARITIME PROGRAMS OF THE DEPARTMENT OF COMMERCE

Mr. MEEDS, from the Committee on Rules, submitted a privileged report (Rept. 95–467) on the resolution (H. Res. 660) providing for consideration of H.R. 4963 to authorize appropriations for the fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes, which was referred to the House calendar and ordered to be printed.

ADDABBO AMENDMENT TO CUT FUNDS FOR B–1 BOMBER

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, the House will vote tomorrow on my amendment to cut all procurement funds for the B–1 bomber. In an effort to assist Members in understanding why this plane should not be allowed to go into production, I would urge that they read an article, "Dump the B–1" which recently appeared in New Republic magazine. I believe the Members will find the article interesting and food for thought as they consider the B–1 amendment. The article follows:

DUMP THE B–1

(By Stephen Chapman)

A couple of years ago the New Yorker ran a cartoon depicting a general seated at a Pentagon conference table asking several colleagues, "Do you ever have one of those days when no deterrent seems adequate?" The B–1 bomber was conceived on one of those days back in the late '60s and has been stirring controversy ever since, barely surviving a series of congressional votes. Candidate Jimmy Carter called the plane "exotic" and "wasteful" and promised to put a stop to it as soon as he became President. In February, President Carter decided to include funds for five B–1s in his budget for fiscal year 1978. He promised a final decision on the plane when he received a National Security Council study due at the end of May.

The predecessors of the B–1, the B–58 and the B–70, were high-altitude supersonic strategic bombers rudely made obsolete when the Russians deployed surface-to-air missile defenses that made high-flying bombers sitting ducks. Determined to have a supersonic bomber, the Air Force decided it needed one that could fly faster than the speed of sound at low altitudes, where Soviet air defenses are more "porous" because of technical problems in tracking aircraft that essentially blend into the landscape. Somewhere along the line, the Air Force decided the plane really didn't have to fly supersonically to elude low-level air defenses, and reduced its planned top speed at low altitude from Mach 1.2 (nearly 900 mph) to Mach 0.85 (less than 650 mph). The B–1's top speed of Mach 1.6 at high altitudes (cut from Mach 2.2) is a superfluous luxury, as even some of its defenders concede. Since the plane will have to fly subsonically to penetrate Russian defenses, its supersonic speed can be used only outside the Soviet Union, where it is unnecessary. Herbert Scoville, former deputy director of the CIA and now assistant director of the Arms Control and Disarmament Agency, criticizes the B–1 as nothing more than a "subsonic bomber with a short supersonic dash capability at high altitudes" and says the supersonic feature makes the B–1 a worse plane: "If the plane is to fly supersonically the engines cannot be designed optimally for subsonic flight. . . . Military effectiveness has been sacrificed to the desire by the Air Force to fly faster." John F. McCarthy, a former vice president of North American Rockwell (now Rockwell International, one of the main contractors for the B–1) and a supporter of the plane, admits the "high-speed capability is not central to the bomber's role" and estimates its elimination at the outset could have reduced the cost of the B–1 by 16 percent. Unfortunately, it's too late to do anything about it now.

The B–1's speed isn't all that has been reduced; in fact, the plane meets almost none of its original standards. Its intended range has been cut drastically, from 10,000 miles to 6,100—which means it could fly a mission from the United States to a target in the Soviet Union and return to a base in Europe without refueling, even if it were flown subsonically. Flying part of the mission at supersonic speeds would shorten the range even more. Worse, the Air Force says the bomber's range may turn out to be only about 4300 miles, less than half the original goal. By contrast, the B–52—which the B–1 is designed to replace—has been flown 12,500 miles without refueling (though not with the payload it would carry on a strategic mission). The B–1's payload has been cut in half and the number of short-range attack missiles (SRAMs) it will carry has been reduced by a fourth. Its vaunted takeoff distance has tripled, and its weight has increased, making it more vulnerable to destruction on the ground. The B–1's quick takeoff was supposed to be one of its biggest advantages over the B–52, but a recent study by the Brookings Institution shows that a B–52 equipped with rocket-assisted takeoff (RATO) would get off the ground and safely away from its base almost as quickly as a B–1.

The innocent might expect such reduced

performance expectations to be accompanied by corresponding cuts in costs, but the opposite is true. The B–1's price has climbed even more sharply than its performance standards have fallen. Originally estimated at $35 million to $40 million per plane, the cost now is figured by the GAO at up to $117 million—an increase of nearly 200 percent in eight years. Senator Proxmire points out that relaxing the B–1's performance standards has helped to camouflage its huge costs increases: one can only imagine what the price of the plane might be if it were built to its original specifications—if indeed it could be at all.

As it is, the B–1, if built, will be the most expensive weapons system ever purchased. Building a fleet of 150 B–1s (the Air Force wanted 244, but the *Washington Star* reports it is now willing to settle for fewer) would cost more than $17 billion. Equipping the plane with missiles, operating and maintaining the fleet, and producing a new wide-bodied tanker for refueling the bomber in flight will bring the cost to well above $90 billion over the next three decades.

The B–1 has found a lot of natural enemies in Congress and among liberals. But it has provoked remarkable opposition among many military men and civilian defense experts. A year ago a group of former government officials, including McGeorge Bundy, Clark Clifford and Townsend Hoopes, issued a simple statement: "The tens of billions of dollars required to build and operate the B–1 bomber are not warranted by any contribution to our security which it might make." Ernest Fitzgerald, the man who revealed the C–5A cost overruns, says the B–1 was not designed solely for the purpose for which it is now intended. Fitzgerald says that as Deputy Assistant Undersecretary of the Air Force in the late 1960s, he was briefed about a study on the best design for a manned bomber to penetrate the Soviet Union with atomic weapons, and that the design looked very different from the B–1. He says the B–1 was a Vietnam-era compromise intended also to carry large payloads of non-nuclear bombs. The B–1, in Fitzgerald's view, may be intended by the Air Force mainly for use in future Vietnams: "It will do a very good job of raining down bombs on the cannibals—at a very high cost."

Probably the most unexpected critic of the B–1 is former joint Chiefs' chairman Maxwell Taylor, who last year wrote Senator John Culver, "I am unable to support the B–1 program because of its cost and the absence of convincing evidence of its essentiality." Sobering words from a general who calls himself "an unregenerate 'hawk'," but they have had no effect on the Air Force's heady infatuation with the plane.

The most persuasive criticism of the B–1 is that a manned penetration bomber is useless in the missile age. The latest in missile technology, the cruise missile, is essentially a pilotless airplane that is practically invulnerable to present Soviet air defenses. It probably even is capable of eluding a possible Russian advance—airborne interceptors with "look-down, shoot-down" capability—that would seriously endanger the B–1. In the Brookings study mentioned above, Alton Quanbeck and Archie Wood recommended the use of cruise missiles launched from a "standoff bomber"—a plane loitering just outside the perimeter of Russian air defenses—as a more effective and less expensive way than the B–1 of destroying targets inside the Soviet Union. The standoff bomber could be a B–52, a modified tanker or airliner, or a newly developed plane—little more is required than good endurance, quick takeoff speed, and the size to carry a large number of missiles. The B–1's poor range and small size make it a poor candidate even for this subsidiary role. Maxwell Taylor endorses the standoff bomber-cruise missile approach, as does retired Admiral Gene LaRocque (now head of the Center for Defence Information), who calls the manned penetration bomber "an expensive and inefficient anachronism."

The last-ditch defense of the B–1 is that it can be used as a "bargaining chip" in the Salt II talks. But it is hard to imagine the Soviets giving up anything in exchange for a plane with all the limitations of the B–1. In all, the B–1's story is reminiscent of what the Caterpillar said of Alice's poem: "It is wrong from beginning to end." Jimmy Carter chose as his Secretary of Defense a man who favors the B–1—the same Harold Brown, incidentally, who as Secretary of the Air Force wanted to fire Ernest Fitzgerald for exposing the cost overruns on the C–5A. But the President could find no better opportunity than the B–1 to show that he, not the generals in the Pentagon, is in charge of his administration's policies on national defense. He should kill it off once and for all.

THE B–1 SIDESHOW

The elaborate compaign on behalf of the B–1 has puttered along for years, reaching an impressive full throttle wherever Congress has approached a crucial vote. Composed in roughly equal parts of corporate favors, strong-arming and old fashioned smears, it has included occasional elements of low comedy. The clumsiness and insensitivity of the plane's supporters may be one reason it has had such a hard time getting into production: if there ever was a textbook case of how not to lobby for a military project, this one is it.

The B–1's biggest booster is Rockwell International, which stands to make a lot of money as the main contractor for the project. When Rockwell got the B–1 contract in 1970, after some rather lean years, Rockwell Chairman Willard Rockwell, Jr., said with relief, "We knew that as a business we had just one more chance—the B–1." The company has gone to great lengths to keep the project alive. Last year a congressional investigation revealed that Rockwell had entertained nearly 100 different Pentagon officials at its hunting retreat in eastern Maryland. Malcolm Currie, head of Pentagon research and member of a committee assigned to review the B–1, got a "severe reprimand" from Secretary Rumsfeld and was fined a month's pay ($3200) for accepting a trip to a Rockwell resort in the Bahamas. Besides running magazine and newspaper ads, distributing films, and lobbying actively in Congress, Rockwell also has urged its employees to write Congress in support of the B–1, an effort that has had mixed results. Some workers wrote to criticize the plane and to complain about Rockwell's tactics. One man wrote: "This letter is being written on Rockwell Inter. time. Dealing with the B–1, I am against it. And since Rockwell is paying me to write this letter and send it here it is." One woman called the B–1 a "disaster" and said, "All employees should feel the same way, because if not they are insane."

The B–1 also enjoys the frenzied support of a conservative group with the official-sounding name of American Security Council. (Some might take that name as a deliberate attempt to confuse the organization in the public's mind with the President's National Security Council.) The ASC's principal motif is shrill denunciation of the "massive, highly organized and well-financed campaign" against the B–1 (in fact, it is almost pathetically underfinanced) and dark suggestions that its opponents are actually Reds. One issue of ASC's *Washintgon Report* ran the headline "The Battle to Stop the B–1" under a photograph of Leonid Brezhnev, surrounded by articles and headlines from the *Daily World*, the *Moscow News*, and the Russian weekly *New Times*—and, displayed prominently, the masthead of the National Campaign to Stop the B–1 Bomber. The accompanying article begins, "Foremost among the groups opposing the B–1 bomber is the Communist Party of the Soviet Union (CPSU) and other Communist parties." Rockwell also has jumped into the smear campaign, at one point saying that Senator John Culver's efforts to halt production of the B–1 were furthering the aims of the USSR. A Rockwell vice president has said the American Friends Service Committee and Clergy and Laity Concerned, two groups opposing the B–1, are funded by the USSR, and is being sued for libel by the Thomas Merton Center in Philadelphia, for accusing it of being Communist. So far neither Rockwell nor the ASC has called Maxwell Taylor a Communist.

The most interesting element so far in the pro-B–1 campaign was a recent episode of "The Six Million Dollar Man," a very popular television show about a man named Steve Austin who enjoys various superhuman powers. This episode was a typically far-fetched yarn about an East German scientist trying to sabotage a B–1 test flight to make it look as if the plane was badly flawed, and thus induce the government to give it up. (Universal Studios, which has the rights to the script, refused to provide me a copy even after I got the author's permission.) Coincidentally, the episode was broadcast only a week before President Carter was expected to make his decision (ultimately delayed) on the B–1. In any case, the hero foiled the plot and saved the plane. Unfortunately for Rockwell, the final decision on the B–1 doesn't rest with Steve Austin.

AN ANALYSIS ON U.S. ENERGY POLICY

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE. Mr. Speaker, as all of us in this Chamber who served with him know, Chet Holifield was trying to do things to solve our energy problem when most other people were oblivious of what we were coming up against. Although he retired at the close of the 93d Congress, he has continued his efforts to help this Nation dig itself out of the energy hole we have dug ourselves into by failing to do, in advance, the things which were identified as necessary to solve our dilemma. Chet was the leader of the Joint Committee on Atomic Energy when, in the early 1960's, we came up with the results of the first really comprehensive national look at our growing energy supply squeeze and identified what must be done to turn the situation around. The findings of that effort are still correct: We must utilize all of our energy resources as efficiently as posible, but for the longer range we must increase our dependence on our most plentiful fossil fuel resource, coal, and at the same time build up our generating capacity of nuclear fueled plants as quickly and orderly as possible.

Chet recently looked over our present situation in the energy field and set his findings down in an address he delivered on June 21, 1977, in Scottsdale, Ariz., before an international conference on nuclear energy technology. I would like to include the text of his address at the conclusion of my remarks for the benefit of all Members of this body.

Chet provides a very useful service in analyzing a number of aspects of the proposed policy changes announced by the administration on April 7 and 20, 1977.

In connection with his comments on the administration's efforts to influence foreign nuclear programs, I would like to invite your attention to a report which our colleague, Representative OLIN E. "TIGER" TEAGUE, made after a series of visits and meetings he held with our friends abroad. I included his report, with my remarks on this matter, in the CONGRESSIONAL RECORD of June 20, starting on page 19862.

I highly commend Mr. Holifield's analyses to you. Unfortunately, but realistically, it appears the conclusions of his findings are that our failure to take actions earlier and at a faster rate will result in things getting considerably worse before we can bring about an improvement. His comments concerning the possibility of desperate acts on the part of some nations are ominous, but is a possibility which must be considered.

ENERGY—A WORLDWIDE DEFICIT PROBLEM

(By the Honorable Chet Holifield, U.S. Representative, retired, Scottsdale, Ariz.)

Mr. Chairman, friends. I am indeed honored by your invitation to speak to you today. As a layman with no scientific or engineering degrees, I do not feel qualified to discuss the intricacies of those disciplines.

My remarks therefore will be based on twenty-eight years of experience in the Joint Committee on Atomic Energy. That committee by the way, happened to be the first congressional committee charged with legislative and oversight responsibilities in evaluating scientific and engineering research and development projects which built our massive atomic capability.

I will discuss the background of our congressional effort and try to analyze the importance of our accomplishments, particularly in the energy programs and the impact which President Carter's decision to terminate the liquid metal fast breeder program will have on our economic and political system.

The energy fuel deficit is world wide, with only a few national exceptions. These exceptions are mainly the OPEC countries of the Middle East, the Soviet Union and minor oil production areas in South America, Indonesia and Algeria.

The impact of the energy fuel deficit has more effect in the industrially developed nations, because their economics provide for a higher standard of living, which has been built on a greater per capita use of fossil fuels.

The complex mass production, mass consumption societies are finding their fiscal, social and political structures threatened because—

1. They do not possess indigenous fossil fuels for their energy sources, or

2. They no longer can afford the financial drain on their fiscal resources due to the unparalleled rise in the cost of imported oil and gas.

It is true that a few of the industrially developed countries have some indigenous supplies of coal, oil or gas. These countries may be in a better position to postpone an early collapse of their economic, social and political structures, but they can take small comfort in their present relatively better position. They too are facing a dangerous future. They can compute with fair accuracy the time when they too will face collapse.

Each nation faces a different set of problems which will determine their duration—their national destiny.

Every developed or developing nation, which is short of fossil fuels, is now competing for the energy fuels of the oil and gas producing nations. There is no stability to the present or future price level which may be exacted, nor can any of the buying nations predict the future degree of supply availability.

When human beings become desperate they are prone to use desperate measures to protect and prolong their natural lives.

History records that when nations become desperate, they too take desperate actions to protect their national survival—their national destiny.

We know that the great wars of the past were basically caused by the ambitions of men fired with dreams of conquest of lands, trade routes, slaves and accumulated wealth.

We may try to quiet our fears, we may try to erase from our minds the lessons of history. But have the human elements of avarice—of hatred or of madness inspired by desperate conditions based on real or fancied dangers, suddenly changed?

Frankly I doubt that such a change has occurred. Therefore I am deeply concerned. The international deficit in energy fuel sources can not be solved on a national basis.

No nation, regardless of its indigenous fuel resources can control the powerful forces which will be set in motion by man's failure to realize that all nations are involved.

No nation can safely hoard its fuel resources and preserve its national perpetuity as an island of safety, while other nations perish.

No nation can use its relative position of advantage to dictate to less fortunate nations terms of international conduct, nor can it impose on a weaker nation fiscal policies that are unrealistic or unbearable.

I was in my third year in Congress serving as a member of the House Committee on Military Affairs, when we entered the atomic age. In that fateful year of 1945, mankind stood paralyzed before the mushroom clouds that rose over the Japanese cities of Hiroshima and Nagasaki.

Fate threw me into man's first legislative efforts to control and direct the newest, most powerful, most concentrated source of energy ever discovered and used by man. The fission of the atom!

In the House Committee on Military Affairs we received the first draft of legislation from Secretary of War, Robert Patterson—the May-Johnson bill. That bill provided for military control of the atom. It failed completely to grasp the promise of the atom.

I wrote the dissenting report and Congressman Mel Price and I were the only two members of the committee who signed it.

Months later the McMahon bill was passed in the Senate and in the House providing for civilian control and for the correction of many of the defects in the original May-Johnson bill, as defined in our dissenting report.

I served in the joint committee of the House and Senate from its establishment in 1946 to the time of my retirement on December 30, 1974—twenty-eight years.

During those three decades the United States worked very energetically, first—to develop the strongest atomic weapon inventory in the world. Second—to develop over two thousand peacetime applications of atomic energy. Great Britain, France, the Soviet Union and India also achieved atomic weapons.

It is a true statement to say that the combined total of atomic weapons owned by the nuclear weapons nations could, if used, destroy the world's great cities and most of the billions of people that live on our small planet.

It is because of this true statement that the nations of the world can no longer resort to world wars to settle their international differences. Self survival is the strongest instinct in the human being.

We must therefore abandon war between nations. We must co-operate in the solution of global problems in order to insure mutual survival.

The world's greatest problem today and in the coming three decades is to develop every source of energy possible. Concurrently the nations of the world must develop fair sharing procedures. I know this seems to most of us an impossible goal—until we consider any alternate policy.

I said "every source of energy possible". There is a vital need for every source. Coal, oil, gas, nuclear, solar, geo-thermal, wind, tides, human and animal. Fusion. etc., etc., certainly the elimination of energy waste has an important part in the picture of wisely using such energy as may be available. We can not rule out or delay the development of any form or source of energy regardless of the technical problems, if the cost is justifiable.

We can not foreclose or delay the use of plutonium in any feasible mixture that will increase the use of uranium 238 or uranium 235 or energize fertile elements such as thorium.

Of course there is an ever present danger of the proliferation of nuclear weapons. The genie can not be put back into the bottle. We have known that since it was first released.

The primary challenge that faces the world's people is the attainment of enough energy to preserve the lives of an exploding birthrate that could double the world's population in a few decades. If we can do this seemingly impossible task of increasing energy supply, surely we can, thru co-operation, develop international safeguards against the misuse of any energy source fuel we can develop.

There were those who said we would never consumate an international treaty to diminish the spread of radioactivity from weapon testing, but we did develop the nuclear test ban treaty. We developed under United States leadership the International Agency on Atomic Energy.

We developed the Non-Proliferation Treaty.

None of these international organizations are perfect—but they have been valuable devices to obtain a measure of stability in a rather unstable world.

I believe that we all appreciate that the national leadership of the United States is important to achieving stability in the world. We can not provide that leadership without wisdom and humility. We must have the respect and the co-operation of most of the other great nations in the world to achieve such a goal.

I have no desire to criticize our President. In my thirty two years in Congress I served under seven Presidents. Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford. I never felt it necessary to indulge in carping criticism or bitter personal remarks about any of those distinguished men. I never agreed 100 percent with their actions or philosophies.

But I was ever conscious of the tremendous responsibilities which rested upon them every minute of their terms of service.

I believe that President Carter is a man of honor and possessed of a strong motivation to serve this Nation with his best effort.

He seems to be moving very fast on a number of fronts. Considering his background of experience and the complications inherent in national and global problems, I would feel more comfortable if his pace was a bit slower and if he had more experienced advisors. In atomic matters as an example, he apparently is advising with a majority of people that have been traditionally opposed to the use of atomic energy. I speak of individuals such as David Freeman, Gus Speth, Russell Train and Charles Warren. I must except James Schlesinger who has a very knowledgeable background in atomic matters as well as Federal Government service. I can not understand his position on the

L.M.F.B.R. termination. When he was chairman of the A.E.C. he was a strong supporter of the breeder. On September 12, 1972 Mr. Schlesinger in testimony before the Joint Committee had this to say:

"The breeder reactor obviously is a most impressive candidate for a major role in the future. It has, because of the energetic activities of the Atomic Energy Commission over a period of twenty years, reached the stage of engineering development, unlike some other possible sources of energy, which because of less aggressive support by industry and by Government are not in a position to go to engineering development at this time." (Reference: Hearings before the Joint Committee, September 7, 8, and 12th, 1972.)

That testimony was given five years ago. It was true then and it is more needed today than it was before the OPEC oil embargo when imported oil from OPEC cost $3.00 per barrel—a fourth of its cost today.

I believe that President Carter is making a tragic mistake in his announced policy of terminating the liquid metal fast breeder reactor. He has too many advisors who have traditionally opposed the fast breeder development.

I do not believe he has availed himself of knowledgeable advice from hundreds of eminent scientists, engineers, and chemists who have developed more than two thousand peace time applications of the atom.

As far as I know, he has not consulted with the Members of the House and Senate who for many years studied atomic problems. Men who were responsible for more than $140 billion of authorization and appropriations of Federal monies.

The chairman of the Science and Technology Committee, Olin Teague, returned from a conference in Europe on June 7th, just two weeks ago. He held conferences with officials of the International Atomic Energy Agency (which we sponsored in 1957), the French Atomic Energy Agency and the International Energy Agency. He reported to the press and his committee as follows:

"Quite simply, we found no agreement abroad with President Carter's proposal to halt breeder reactor development. It seems obvious that if our breeder program is curtailed now as President Carter proposed, it will be done unilaterally, no European nation will go along with us," he said.

Let us recall that we led in forming the International Atomic Energy Agency in 1957, for the purpose of safeguarding the development of the peaceful atom. We took the lead mainly to minimize the proliferation of nuclear weapons.

Suddenly without warning as Chairman Teague said: "We took unilateral action without either seeking the advice of this 110 nation group or telling them where we thought they were falling short in carrying out their objectives in safeguarding nuclear materials. To say the least this has the outward appearance of a no confidence vote in the organization".

I quote Chairman Teague further because he and his five committee members made the contact with the international agencies in Europe which the Carter administration should have made prior to the President's announcement of breeder termination. I quote—

"The officials with whom we met politely but firmly expressed their concerns over what has been proposed in the nuclear policy changes. There was also unanimity in their views. They made it clear that they are convinced that plutonium is important as a fuel and development of the breeder can not be stopped. They indicated their appreciation of the fact that the United States, with indigenous supplies of both fossil fuels and uranium, may have a little more time in putting the breeder to use. But they were also unanimous in their views that our needs for the breeder are close to urgent also, and if we cause a hiatus in our efforts we may not be able to build up the technical teams which are needed to bring the breeder into our time."

There is little wonder then that the Science and Technology Committee has restored the 150 million dollar annual appropriation for the breeder which President Carter had cut to thirty one million dollars.

President Carter is apparently obsessed with the problem of nuclear weapon proliferation. Our Joint Committee agonized over this same problem for many years. But as I said before the "Atomic Genie is out of the bottle."

Five nations possess atomic-plutonium-hydrogen weapons, there could be more. Hundreds of scientists and engineers have participated in the design and construction of nuclear bombs. There are hundreds of research reactors in universities thruout the world. Many full scale electricity producing atomic reactors thruout the world are also burning uranium and thereby producing plutonium. Weapon material can be produced in central station reactors and in university research reactors. I cite the most recent addition to the nuclear club. The nation of India, which produced their so called "peaceful-device" from material produced in a Canadian research reactor.

The President apparently believes that if we deny our people the use of plutonium for reactor fuel that other nations will also forego the use of plutonium in their reactors. But the other nations are not rich in oil, gas and coal as we are.

Japan as an example has to import 98 percent of the oil, coal and gas they use. Many other nations lack indigenous fossil fuels. They must turn to nuclear as a matter of national survival. This they have done and are continuing to do. A breeder reactor offers an irresistable economic bonanza. A breeder reactor will create more fuel than it burns. It is estimated that it will multiply the extraction of energy from a given amount of uranium by factors of fifty to seventy. In an energy hungry world it is naive to expect other nations to follow our lead.

The President is inconsistent in his position. He has accepted the reality of spent fuel pond storage thruout the world. If any nation builds a shielded processing facility they can extract plutonium from their spent fuel ponds. He says the problem is that some country might construct secretly the nuclear weapon assembly system and that overnight they might take the plutonium from the power system and put it thru their nuclear weapon assembly system and the world would be confronted with a new nation seeking membership in the nuclear weapon nation club. He apparently assumes that the new nation would make a few nuclear bombs secretly and then blackmail the adjacent nations. This causes me to ask if the newest nations to achieve nuclear bombs i.e., China and India have tried to blackmail their neighbor nations with their new weapons? The answer is "no". Those new nuclear weapon nations know very well that such a rash act would be counterproductive in the eyes of the world. The major nuclear weapon nations would combine in opposition to such a move and their superior strength in nuclear weapons would, in my opinion, correct such a rash adventure in brinkmanship.

When a nation enters the nuclear weapon nation club, I have noticed that they suddenly become very conservative with their new found status. They do not engage in high noon confrontations. There is no place to hide from the effects of a nuclear world war.

I know that a national questioning of atomic values is in being. I know that organized groups under unofficial, non-elected leaders who claim they represent the opinions of the majority of our citizens, are spreading propaganda and mis-information thruout the land about atomic matters.

But I also know that in seven states where anti-nuclear advocates were successful in placing the issue of nuclear power on the ballot, the people rose up and defeated those anti-nuclear initiatives by huge majorities.

The anti-nuclear people continue to oppose the use of generating electricity by nuclear reactor plants politically and with legal interventions. They oppose most of the national and international policy concepts and programs of scientific research and engineering development which have been followed for the past three decades.

I do not contend that all of our concepts and programs have been perfect. But neither have they been disastrous failures as the critics and dissidents charge. Some post-mortem criticisms can be made on the minus side. Also, a great list of constructive achievements can be furnished on the plus side.

I can state for the record, during the past three decades we have developed many valuable and beneficial national and international policies, treaties and agreements.

Nationally we have engaged in a phenomenal and unprecedented program of scientific research and engineering development. These programs strengthened our Nation's peacetime capability tremendously.

This great national effort was financed primarily with more than $150 billion from the tax funds of our people.

Concurrently with the Federal stimulus, additional billions were invested from the private funds of great corporations and other private enterprise sources.

National and State legislatures functioned as the people's officially elected representatives, in bringing to fruition the beneficial uses of atomic fission.

In the face of today's urgent energy need probably the most beneficial use was the development of the most powerful new energy fuel ever known to man—atomic energy.

During these three decades we also developed a very wise policy of international sharing. In 1953 we called it the "atoms for peace program." Its result was the sharing with the people of other nations the peacetime benefits of the atom.

In 1957 we took the lead in the formation of the International Atomic Energy Agency. In a permanent site in Vienna, Austria we gathered the atomic scientific leaders of many nations together to formulate in the I.A.E.A. Charter, the International Rules and Regulations for procedure. We organized seminars to discuss scientific and engineering problems. We agreed upon safeguards for the international shipment of nuclear materials and we exchanged scientific and engineering information.

International agreements and arrangements were made and officially approved by the co-operating member nations of I.A.E.A. This organization is ready to assume new and important duties in monitoring and safeguarding nuclear materials under any task which may be assigned to it under the Non-Proliferation Treaty.

As a charter member of the United States Joint Committee on Atomic Energy for three decades, I was a vigorous participant in our national program of atomic development and in supporting international agreements and arrangements.

These national and international actions and policies were based on many years of study by scientists, engineers and Members of the Congress. They were slowly and carefully beaten out on the anvils of educational, political and legislative action.

I believe that we should pause and ask many pertinent questions before we change

our course or before we jeopardize our national programs or violate our international commitments.

Questions:

Did our House of Representatives and our United States Senate fail in discharging their public trust and responsibilities in meeting the great challenge of the atom?

Were seven Presidents, Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford wrong in supporting and developing the national and international use of the atom?

Were we wrong in protecting our military security and pledging the use of our military strength to the North Atlantic Treaty Organization for the purpose of preventing a Communist takeover of Europe?

Were we wrong in developing over two thousand peacetime uses of the atom for the benefit of our people and the people of the world?

Were all the nations of the world wrong in accepting peacetime atomic technology from us and making their own supreme efforts to develop their own atomic capabilities?

Where do we as a nation stand today?

We are justifiably a proud nation. We are zealous of our record of leadership in the atomic field. We are proud of our record of accomplishment in domestic atomic technology.

We are especially proud of our ability to manufacture and operate light water and boiling water reactors which produce safe clean dependable and economically competitive electricity. This capability alone may become our energy salvation as our supply of fossil fuels decline.

Concurrently with the development of our light water reactors we have improved our gaseous diffusion separation processes and we are now ready to build an advanced type of separation plant based on the centrifuge process.

We also recognized as far back as 1948 that there might come a time when our high yield domestic uranium ores would be exhausted or seriously diminished.

We foresaw the need to beat our plutonium spear and sword into an energy source fuel for a different type of reactor. A reactor that would breed more fuel than it used. So we began thirty years ago to develop a breeder type of reactor. Our strong research and development program soon gave us experimental breeder reactor No. 1. Then experimental breeder reactor No. 2. We expanded our R. & D. in the Fermi and Sefor experimental reactors. We continued laboratory programs and testing devices. We started the fast flux test reactor at Hanford and we are approaching the consummation of this huge and very costly testing device, whose purpose is to undergird our liquid metal fast breeder fuel technology. It should make possible an inexhaustible energy fuel for the next thousand years.

Regardless of the final decision to defer, delay or terminate the C.R.B.R., the fast flux test facility must be funded and its invaluable function continued. Our nation will inevitably be forced to build and use many fast breeder type reactors to supply our energy needs.

Our scientists and engineers were not the sole possessors of the dream of a future breeder technology. Their counterparts in the Soviet Union, Great Britain, France and elsewhere accepted the principle of the reactor that would breed fuel as it burned uranium 235 and fertilize thorium and U-238. I am sorry to state that foreign nations have forged ahead of us in building their first demonstration breeder plants.

In our own country two breeder approaches survived the screening process. The liquid metal fast breeder and the Rickover seed and blanket type of a slower breeder.

The Joint Committee and the Congress supported the Rickover seed and blanket slow breeder and we hope to start demonstrating its function in 1978.

The liquid metal fast breeder seemed to offer more potential in the evaluation of most of the scientists, engineers, electric utilities, and reactor manufacturers. It became the committee's greatest challenge. We have expended 2.8 billion dollars in research, design and the development of fuel and components. The site has been chosen on T.V.A. property adjacent to the Clinch River in Tennessee. The Congress authorized the breeder demonstration plant in 1973 and appropriations have been made annually for five years.

Suddenly we find ourselves faced with a new President who is opposed to continuance of the project and has decided to defer indefinitely, construction of the demonstration reactor.

ERDA has been instructed to terminate the L.M.F.B.R. program. The President has stated that he will not request 1978 fiscal year funding.

These decisions have been made abruptly by the President without consultation with the Congress. Without consultation with the private manufacturers and the more than three hundred private utilities and corporations that have pledged 250 million dollars and who are partners in the project management corporation. These people have been contributing funds and management personnel to the joint project for years and have a right to be heard.

The Federal Government has expended in the last thirty years two billion eight hundred million dollars and two hundred fifty million dollars has been pledged by private and public entities.

If this project is terminated, three billion dollars of the taxpayers investment will go down the drain because of a sudden arbitrary decision of the President.

But that in no way compares to the loss which the people of the United States will suffer in future years. They will lose a vitally needed inexhaustible source of energy fuel for the production of electricity in the years and decades of the future.

They will stand aside while the Soviet Union, France, Japan, Germany and Great Britain build a series of breeder type reactors. The loss of leadership will diminish the prestige we have earned in nuclear technology. We will lose our influence in developing international agreements on further nonproliferation procedures.

Our unilateral withdrawal from breeder development will not deter other nations who are determined to achieve the energy which they must have, because of their lack of indigenous fossil fuels. The Teague report of two weeks ago reliably supports this statement.

What can pro-nuclear professional and technical associations do?

What can the people do?

What can informed scientists, engineers and technicians do under present circumstances?

The problem we face is not a technical one in my opinion. It is a problem caused by a political decision made by the President of the United States.

Let me pause here to recognize reality. The opposition of President Carter is a powerful factor, especially a new President that has proven to have a strong charisma. The polls continue to prove his popularity. He has a strong majority of Democratic Members in the House and Senate. They are aware of the President's popularity.

They know that in many matters they can by majority vote pass legislation but they are painfully aware that it takes a two-thirds vote to override a Presidential veto.

There will be considerable negotiation between the President and the Congress on every difference of opinion. Neither the President nor his congressional leaders relish a confrontation by veto. If negotiation fails and the President stands firm and threatens to veto legislation, either the Congress accepts the necessity to compromise or makes the attempt to override the veto. A nose count by the congressional leaders will dictate the decision of the leaders.

Few vetoes have been overridden in the history of Congress. With a popular new President the odds are in the President's favor.

The Members of Congress must be convinced that there is an overwhelming public support on an issue before they will confront a Presidential veto with override action.

The President's tenure is four years. All Members of the House of Representatives will face a new primary election only 12 or 15 months from today. One-third of the Senate will also face re-election at the same time.

Most of the Democrats would rather run for re-election as a loyal supporter of the Democratic President than as one of his independent opponents.

If enough voting citizens—if enough organization groups contact their elected Representatives in Congress and convey their interest in a strong nuclear energy development program as the people did in the votes on the seven anti-nuclear State initiative proposals, I know this would strengthen the will of their representatives to negotiate stronger, and vote if necessary to override a veto.

So, if you ask me, "What can I do to preserve our nuclear progress?", I can only say to you, generate letters to your Congressman and your Senators from yourself and any organization to which you may belong and let your wishes be known.

If enough voting citizens are interested enough to write their Federal officials they will strengthen their will to vote affirmatively on nuclear legislation and strengthen their backbones to vote against the President when they believe that he is wrong.

In this matter I believe he is tragically wrong on a vital issue involving the energy base necessary to protect our economic vitality and to preserve our social and political structure as a free Nation.

THE B-1 BOMBER, PRO AND CON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 60 minutes.

Mr. CARR. Mr. Speaker, I should advise the House that the material which I seek to insert in the RECORD has been estimated by the Public Printer to cost $1,610, and I should like to explain that expenditure to the House.

Tomorrow it is expected that we are going to be voting on an amendment to decide the issue whether we produce five B-1 bombers in the next fiscal year. There has been much debate on both sides and a lot of correspondence going back and forth.

Two weeks ago, Mr. Speaker, I authored a letter, signed bv 90 of my colleagues, to the President of the United States setting forth our objections to the production of the B-1 bomber. I include the letter at this point in the RECORD.

The letter is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 8, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In the interest of the military security of our nation, we urge you to reject procurement of the B-1 bomber at any level.

Setting aside questions of environmental effects and of non-military domestic needs,

and setting aside the question of whether we need a manned bomber at all, the case for the B–1 remains pitifully weak in comparison with the case against it. It is clear that the B–1 is inadequate to meet the threat it will have to face. Even if we assume the B–1 will be a successful program in that it will produce airplanes capable of many thousands of flight hours, it is clear that its life as a useful deterrent weapon will be extremely short, if it has any at all; when its deterrent life is exhausted we will have a choice between retiring it early and cutting our losses as we did with the B–58, or draining additional tens of billions from our Treasury for continued operation of a known invalid weapon.

It is true beyond a doubt that the B–1 flies lower and faster than the B–52, and that it has a smaller radar cross-section. But the purpose of a bomber is not to fly low or fast, nor to have a small cross-section; these are only means to the end of deterring attack on the United States by presenting a persuasive threat of retaliation. The B–1's means are inadequate to achieve this end.

We are aware of the massive support the B–1 enjoys within the Air Force, and it is fair to ask how we can have the confidence to say that all those experts, the architects and managers of the most effective strategic bombing force in history, can be wrong.

We impugn neither integrity nor their ability. But, like the rest of us, they can be wrong. We know they can be wrong because they were wrong—dead wrong, recently, on a question remarkably similar to the B–1. We refer to the case of the B–70.

Like the B–1, the B–70 was a marvel of technology, even more advanced for the 1960s than the B–1 is for the 1970s.

Like the B–1, the B–70 was a sleek and beautiful aircraft, the B–70's numbers were even more impressive than the B–1's: It could fly almost twice as fast as the B–1 and much higher, and where the B–1 can fly supersonic only in short dashes, the B–70 flew supersonic for thousands of miles.

Like the B–1, the B–70 enjoyed enthusiastic support from the uniformed Air Force and from the House Armed Services Committee.

But like the B–1, the B–70 suffered from a fatal flaw. It flew high and fast, but it was entirely within the reach of Soviet technology to build anti-aircraft missiles to fly even higher and faster. With no hope of concealment from ground-based radars, the high altitude B–70 would have been vulnerable to these missiles.

Many experts were so dazzled by the B–70's performance they were unable to see the impossibility of translating this perfomance into effectiveness. But thanks to the analytical abilities of Secretary of Defense Robert McNamara and the present Secertary of Defense, Harold Brown, the weakness of the B–70 was confronted and the program was cancelled.

Today we face a similar problem. Because it flies low, the B–1 is protected against the Soviet air defenses of the 1960s and 1970s. But just as the B–70 would have been vulnerable to Soviet technology of the late 1960s, so the B–1 will be vulnerable to Soviet technology of the 1980s.

The key defect of the B–1, or of any modern penetrating bomber, is its inability to survive against a look-down radar such as our AWACS, combined with advanced look-down interceptors such as our F–14 or F–15. While it is true that Soviet look-down technology is primitive compared to ours, it would be imprudent to assume that by 1985 they will not have systems roughly comparable to ours of 1975. Even against defensive weapons somewhat less capable than the AWACS, F–14, and F–15—

The ability of the B–1 to fly low will be of no use.

The smaller cross-section of the B–1 will not be small enough to inhibit Soviet detection, tracking, and destruction.

The higher speed of the B–1 will complicate Soviet peripheral defense problems, but it will not make them unduly difficult.

Although a look-down shoot-down defense will be the principal threat faced by the B–1, we recall no briefings in which B–1 advocates have raised this question. If, as we suspect, the B–1 advocates have similarly avoided this issue in their presentations to you we suggest this is a confession of the weakness of their case. We also suggest that although the B–1 supporters have had some success protecting it from the Soviet look-down threat in debate, they cannot expect to protect it against the real thing in combat.

Alternatively, you might consider the problem this way: We are told our AWACS will be able to function effectively in an intense non-nuclear war in the European theatre. If this is true, it must also be true that a Soviet AWACS, even if less capable than ours, will be able to function effectively against our B–1s, for the Soviet AWACS will have by far the easier task. Consider the different requirements of the two missions:

Traffic-handling. Our AWACS in Europe will have to track and identify hundreds or perhaps as many as a thousand enemy, friendly, and allied aircraft in the air at the same time. In contrast, each homeland-defense Soviet AWACS will have only to deal with a dozen or two B–1s plus a few dozen friendly interceptors.

Size of targets. Smaller targets are harder to detect, and the B–1 has a small radar cross-section for a heavy bomber. But it is large in comparison to the Soviet fighters our AWACS will have to track in Europe.

Jamming. The B–1 will have only whatever jamming equipment it can carry itself. In contrast, Soviet fighter/attack aircraft seeking to penetrate our AWACS screen will have internal jammers plus dedicated jamming aircraft plus ground jammers to help them.

AWACS vulnerability. Eventually, the B–1 will probably be equipped—at considerable additional cost—with some kind of self-defense missile with which to shoot down Soviet AWACS. But this small number of missiles from a small number of identical B–1 bombers will be the only threat the Soviet homeland-defense AWACS will face. In contrast, our AWACS in Europe will have to contend, not only with bomber-launched self-defense missiles, but also with high-speed interceptors such as the Foxbat, with highly maneuverable fighters, and possibly with long-range Soviet surface-to-air missiles. If our AWACS can survive against this threat, there is no doubt even a less-effective Soviet AWACS can survive against the B–1. (It is true that the B–1's self defense missiles may use nuclear warheads whereas Warsaw Pact anti-AWACS missiles will not; but since the B–1, unlike Soviet fighters, can expect to be attacked by nuclear missiles, this sword cuts in both directions equally.)

Thus, we urge you to ask your B–1 advocates their views on AWACS. They cannot have it both ways: It is logically inconsistent to support both B–1 and AWACS. If one works, the other cannot. The same Soviet air-defense technology which creates the need for the B–1 neutralizes its capability.

Thus, even if the Soviets are ten years behind us, they will still be able to neutralize the B–1 only two or three years after it enters the force in substantial strength. We are sure you will agree that so miniscule a useful deterrent life cannot begin to justify the cost of so expensive a program.

It is sometimes argued that, even though the B–1 is ineffective, we need it as a SALT bargaining chip. The poverty of this argument is obvious. A weapon we and the Soviets know to be ineffective will be a chip of no value.

We suggest the inadequacy of the B–1 would mandate its cancellation even if there were no alternative recallable deterrent. But as it happens there is a better choice: the air launched cruise missile, launched from a large low-performance aircraft. The mother aircraft most frequently discussed is an adaptation of the 747, but this is not the only possibility. Another is the DC–10. An interesting prospect is an entirely new aircraft, very large and with very long endurance, possibly propelled by the new prop-fan technology now under development by NASA.

The air-launched cruise missile offers two significant advantages over the B–1 against a look-down defense.

Whereas the cross-section of the B–1 is not small enough to create significant difficulties for any moderately capable look-down radar, the cross section of the cruise missile is so small that it will be difficult or impossible to track.

The low unit cost of the cruise missile enables it to be deployed in sufficiently large numbers to saturate a much costlier Soviet defense.

In addition, the cruise missile force has an advantage which, while unrelated to the look-down threat, is highly significant. Its combination of extreme accuracy and low unit cost makes it the ideal vehicle for destroying large numbers of hard targets—that is, for countering whatever Soviet industrial hardening program may exist. At the same time, its long warning time precludes its use in a first strike, and renders it nondestabilizing.

Five objections have been raised against the cruise missile—

The several Department of Defense studies which have concluded the B–1 is preferable to the cruise missile have focused on the slow speed of the present turbofan-powered cruise missile design, and on the weakness this slowness would present in terms of penetration of Soviet terminal defenses. This may have been a significant point in 1973; it is not significant today. We have under development the ramjet-powered Advanced Strategic Air-Launched Missile (ASALM), which offers essentially the same range, size, and cost as the present cruise missile but which flies at very high supersonic speed throughout its flight profile. It is striking to consider that the B–1's principal virtues of high speed, low altitude, and small cross-section are all available in ASALM; the difference is that ASALM flies several times faster, considerably lower, and is orders of magnitude smaller.

The cruise missile is criticized for lack of electronic countermeasures (ECM). It is possible to incorporate ECM into a cruise missile; we did it in the early 1970s and are now developing new improved cruise missile ECM. Whether ECM in a cruise missile justifies its cost and size penalties remains to be seen; we suspect it does not. But it can be done. In any case, we simply cannot afford to rely on ECM. Even the B–1 advocates concede this point, since if ECM were sufficient to insure penetration there would be no need to replace the B–52. In the race between our electronic countermeasures and Soviet electronic counter-countermeasures, it is impossible to predict with confidence who is ahead at any given point until the battle has actually taken place. Our deterrent is far more secure if it relies on the certainties of large numbers.

Vulnerability of the launch vehicle is cited as a problem. This can be handled in two ways. First, we can easily increase the range of the missile to enable the mother aircraft to stand back out of range of Soviet defenses. This involves some cost and size penalties, but these are not prohibitive. Neither is the cost of a new launching rack designed to carry a large missile. Second, we can incor-

porate ECM into the mother vehicle. As we have said, we do not want to rely exclusively on ECM. But there is reason to believe ECM can be more effective for a cruise missile launcher than for a penetrating bomber, and we find it strange that B–1 advocates are willing to allow ECM for their vehicle but not for its competitor.

The cruise missile does not have a human to guide it, and is therefore unable to look at its targets and make last-minute adjustments in targeting plans. This is true, but the B–1 pilot does not see his target either. The B–1 is unable to penetrate Soviet terminal defenses; therefore, against high-value targets it must stand off several tens of miles and fire Short Range Attack Missiles (SRAM).

It has been suggested that the cruise missile may be range-limited at SALT, and that abandonment of the B–1 might thereby leave us with no new recallable deterrent. Since cruise missile range appears to be unverifiable, we have difficulty in seeing how such an agreement could be achieved; moreover, there is much to be said for the argument that the long-range cruise missile is stabilizing in that it permits us to forgo destabilizing highly accurate ballistic missiles which could be used for a first strike. But even if the cruise missile is banned, this is no argument for the B–1 since the latter remains inadequate. The B–1 cannot be considered a recallable deterrent since it cannot penetrate and therefore cannot deter.

As cruise missile technology has progressed in giant strides over the past five years, the B–1 advocates have been forced to retreat to suggestions that the B–1 should be used as the cruise missile launcher. For several reasons, this is a very poor and cost ineffective solution:

Assume the B–1 and the 747 in cruise-missile-launching configuration cost the same, although this probably overstates the cost of the 747 by at least 50%. The 747 will nevertheless carry twice as many cruise missiles as the B–1, and therefore provides twice as much capability per dollar.

Loiter time of the 747 is very substantially longer than the B–1 at any level of aerial tanker availability from zero to infinite. This could be important in maintaining airborne alert during a crisis of several days' duration. The placing of a fleet of 747 cruise missile launchers on airborne alert would provide a dramatic counter-threat, for example, to a Soviet civil defense evacuation. And it could be maintained at far less cost than the Soviets could maintain the industrial shutdown which would accompany their evacuation.

For the long term, a new large propfan aircraft would provide even longer endurance and more effectiveness per flyaway dollar than the 747. Development cost might or might not be prohibitive, depending on the additional missions available for such an aircraft. It is interesting to consider that such a design could form the basis of an entire new family of energy-efficient aircraft including large-payload transports, airborne command posts, and the Navy's "Big Mamma" maritime patrol bomber.

We believe most of the objections to the cruise missile now raised by B–1 advocates are based less on "it can't be done" than on "we don't want it to be done because it threatens the B–1." We have heard overt statements that the cruise missile program should be cut back because it makes the B–1 look weak. We believe that, once the B–1 were canceled and the cruise missile became the only game in town, the obstacles would miraculously disappear.

But even if there were no such thing as a cruise missile, the B–1 would still be inadequate.

In summary, Mr. President, the B–1's an idea whose time is past. It has been overtaken by countering Soviet technology and by competing U.S. technology. We urge you to seize the opportunity to prevent the fiscal and military weakness which would stem from this procurement.

Sincerely,

BOB CARR.

MEMBERS OF 95TH CONGRESS WHO SIGNED B–1 BOMBER LETTER TO PRESIDENT CARTER

Joseph P. Addabbo
Joseph S. Ammerman
Les Aspin
Herman Badillo
Alvin Baldus
Max Baucus
Berkley Bedell
Anthony C. Beilenson
Adam Benjamin, Jr.
James J. Blanchard
Michael T. Blouin
David E. Bonior
John Brademas
William M. Brodhead
Bob Carr
Shirley Chisholm
Cardiss Collins
John Conyers, Jr.
Thomas J. Downey
Robert Duncan
Robert W. Edgar
Don Edwards
Frank E. Evans
Dante B. Fascell
Millicent Fenwick
Paul Findley
Harold E. Ford
William D. Ford
Richard A. Gephardt
Sam Gibbons
Tom Harkin
Michael Harrington
Andrew Jacobs, Jr.
James M. Jeffords
James P. Johnson
Barbara Jordan
Robert W. Kastenmeier
Martha Keys
Dale E. Kildee
Edward I. Koch
Peter H. Kostmayer
John Krebs
James A. S. Leach
William Lehman
Stanley N. Lundine
Paul N. McCloskey, Jr.
Stewart B. McKinney
Andrew Maguire
Jim Mattox
Helen S. Meyner
Barbara A. Mikulski
Abner Mikva
George Miller
Norman Y. Mineta
Parren J. Mitchell
William S. Moorhead
John E. Moss
Lucien N. Nedzi
Richard Nolan
Henry J. Nowak
James L. Oberstar
Richard L. Ottinger
Leon E. Panetta
Edward J. Patten
Edward W. Pattison
Donald J. Pease
Otis G. Pike
Tom Railsback
Charles B. Rangel
Frederick W. Richmond
Teno Roncalio
Benjamin S. Rosenthal
Edward R. Roybal
Marty Russo
Leo J. Ryan
Patricia Schroeder
John F. Seiberling
Fortney H. Stark
Newton I. Steers, Jr.
Louis Stokes
Gerry E. Studds
Frank Thompson, Jr.
Morris K. Udall
Charles A. Vanik
Bruce F. Vento
Doug Walgren
James Weaver
Theodore S. Weiss
Charles W. Whalen, Jr.
Timothy E. Wirth

Mr. CARR. Mr. Speaker, the reason I insert the letter is because since the letter was circulated, the Air Force was asked to comment on portions of the letter, and the Air Force comments on portions of the letter, and only those portions of the letter which the Air Force commented on, have been previously inserted in the RECORD by my colleague, the gentleman from Utah, Mr. MARRIOTT, and by our colleague in the other body, Senator BARRY GOLDWATER.

I would like to insert in the RECORD at this time, notwithstanding the cost, Mr. Speaker, the complete compilation of the points we have made in our letter, together with the Air Force comments on our letter, and our rebuttal statement to the Air Force. The material is as follows:

THE B–1 BOMBER: PRO AND CON

(By Congressman Bob CARR and U.S. Air Force)

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 24, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I understand the Air Force has done a rebuttal to the letter ninety-two of us recently sent you on the B–1. I have done a counter-rebuttal which I believe demonstrates that, despite the highly capable advocacy of Secretary Stetson, the B–1 concept doesn't fly. My counter-rebuttal is enclosed for your consideration.

Sincerely,

BOB CARR,
Member of Congress.

CONGRESSMAN CARR'S RESPONSE TO AIR FORCE POSITION ON CONGRESSMAN CARR'S ALLEGATIONS AGAINST THE B–1

I begin by summarizing those elements of my original critique to which the Air Force did not respond, and which therefore can assume to be conceded:

(1) The B–70 enjoyed even more impressive specifications than the B–1, and also enjoyed much of the same Air Force and Congressional support. Nevertheless, it would not have been an effective weapon and we were wise to cancel it.

(2) A Soviet strategic AWACS will have much less demanding traffic-handling requirements than will a U.S. tactical AWACS in Europe.

(3) A Soviet home-defense AWACS operating against the B–1 will have a less demanding requirement than a U.S. tactical NATO AWACS in terms of the radar cross-section of its targets.

(4) AWACS vulnerability is far higher in the NATO scenario than in Soviet homeland defense.

(5) You cannot logically have it both ways and support both AWACS and B–1.

(6) B–1 is not an effective SALT bargaining chip.

(7) The cross-section of a B–1 is not small enough to create difficulties for a capable look-down radar, but the cross-section of the cruise missile is small enough to create serious difficulties.

(8) The ability of the cruise missile to saturate the Soviet defense by weight of numbers offers us a highly favorable cost-exchange ratio.

(9) SALT is most unlikely to reduce the usefulness of the air launched cruise missile as a strategic weapon.

(10) Looking to the future, new very large long-endurance propfan technology offers prospects for greatly augmented cost-effectiveness as a missile launcher.

In dealing with the Air Force position paper, I will try to make the debate as readable as possible by giving: first, the section of our original letter with which the Air Force takes issue; second, the Air Force position; third, my rebuttal to the Air Force position on a point-by-point basis.

(1) B–58 ANALOGY

Congressman Carr

Even if we assume the B–1 will be a successful program in that it will produce airplanes capable of many thousands of flight hours, it is clear that its life as a useful deterrent weapon will be extremely short, if it has any at all; when its deterrent life is exhausted, we will have a choice between retiring it early and cutting our losses as we did with the B–58, or draining additional tens of billions from our Treasury for continued operation of a known invalid weapon.

Air Force position

History does not support this assertion. Despite rapidly advancing technology, the B–52 has remained a credible deterrent for over two decades because of the B–52's built-in growth potential and ability to adapt operationally with changes in the threat. The B–58 was retired primarily because its maintainability resulted in prohibitive operational and support costs and not because of advancing technology. Considerable engineering has been incorporated into the B–1 to produce a reliable, relatively easily maintained system and one that has growth provisions, such as, space, electrical and hydraulic power, cooling capacity, and weapons carriage options to address the uncertainties of future years.

Rebuttal

The Air Force Position does not address the thrust of our statement. We cited the B–58, not to suggest that the B–1 suffers from the same deficiencies or that bomber designers do not learn from past mistakes, but as evidence that weapons advocates do make mistakes. The B–58 is an example of a procurement error in which we bought an aircraft in substantial numbers and then were forced to recognize it was unable to do what was expected of it. Purchase of the B–1 would be a similar mistake.

I urge you to examine the question of "growth potential" very carefully. The first problem is that capability growth also means cost growth; the Air Force emphases on excess weight, space, and power capabilities of the B–1 are, in effect, an admission that the aircraft as it now stands will not be sufficient. The second and more serious problem is whether feasible growth, no matter how expensive, will be sufficient to extend the useful deterrent life of the B–1. The B–52 has had a long deterrent life because, when the high-altitude regime for which it was designed became uninhabitable, it was able to grow into a low-altitude penetrator. But when advanced Soviet defenses render the low-altitude regime similarly uninhabitable to a small number of large penetrators, the B–1 will have no opportunity for similar growth; unless it proposes to fly underground, it will have nowhere to go. Significant growth can occur only in ECM capability, which I will discuss in section (9), below.

(2) B–70 ANALOGY

Congressman Carr

But just as the B–70 would have been vulnerable to Soviet technology of the late 1960's, so the B–1 will be vulnerable to Soviet technology of the 1980's.

Air Force position

The basic mission and design of the B–70 called for only high altitude, Mach 3 penetration of the Soviet Union and its design was optimized for that role. The development of a high altitude nuclear burst SAM had the potential of reducing the effectiveness of the B–70 as a high altitude penetrator. The B–70, because it was designed for the high altitude mission, could not effectively fly the low level penetration mission under surface-to-air missile defenses.

Since the days of the B–70 there has been extensive, detailed study of bomber penetration of the Soviet Union. The results have consistently shown that a high speed bomber capable of flying at very low altitudes and equipped with air-to-surface missiles such as the SRAM poses an almost insurmountable problem to the Soviet defenses. The result is the B–1.

The flexibility of design and payload capability of the B–1 is the result of the threat-counter-threat synthesis. Not only can it fly supersonic at high altitude, but it can also fly at high subsonic speeds close to the terrain thereby allowing it to adjust to changes in Soviet technology. Additionally, the B–1 design incorporates features such as complete self-sufficiency for dispersal to austere airfields, quick reaction capability during alert postures, fast escape profile from its base, and hardness to the effects of nuclear detonations which provide a very high level of survivability and dispersal potential—important qualities the B–70 lacked.

The B–1's high penetration speed, approaching the speed of sound at near tree top level, combined with its very small radar detection characteristics and advanced electronic countermeasures will severely complicate enemy detection, tracking and interceptor attack problems and will provide an enhanced capability to avoid or confuse enemy terminal defenses. Employing Short Range Attack Missiles (SRAM) the B–1 could strike defended targets or destroy those defenses if precise delivery of a gravity weapon is required.

The B–1 was designed from the onset as a flexible weapon system, able to counter the projected threats and to have the growth potential to face future threat developments.

Rebuttal

As in the case of the B–58, I do not contend that the B–1 shares the specific vulnerabilities of the B–70; in fact, our letter specifically credited the B–1 with immunity to the high-altitude defenses which destroyed the case for the B–70. I do say the B–1 is similar to the B–70 in that it is optimized against a threat of an earlier generation than that which it will have to face.

On the specific point of the "almost insurmountable problem to the Soviet defenses" posed by "a high speed bomber capable of flying at very low altitudes and equipped with air-to-surface missiles such as SRAM," I point out that the insurmountable part of this combination is the SRAM—a cruise missile—not the relatively large, slow, and relatively non-numerous bomber.

(3) B–1 CAPABILITIES AGAINST LOOK-DOWN DEFENSES

Congressman Carr

While it is true that Soviet look-down technology is primitive compared to ours, it would be imprudent to assume that by 1985 they will not have systems roughly comparable to ours of 1975. Even against defensive weapons somewhat less capable than the AWACS, F–14, and F–15—

The ability of the B–1 to fly low will be of no use.

The smaller cross-section of the B–1 will not be small enough to inhibit Soviet detection, tracking, and destruction.

The higher speed of the B–1 will complicate Soviet peripheral defense problems, but it will not make them unduly difficult.

Although a look-down shoot-down defense will be the principal threat faced by the B–1, we recall no briefings in which B–1 advocates have raised this question. If, as we suspect, the B–1 advocates have similarly avoided this issue in their presentations to you we suggest this is a confession of the weakness of their case. We also suggest that although the B–1 supporters have had some success protecting it from the Soviet look-down threat in debate, they cannot expect to protect it against the real thing in combat.

Air Force position

Intelligence projections of the threat, including a look-down shoot-down defense, have been considered and have strongly influenced the requirement to modernize the bomber forces.

Intelligence projections have continuously postulated that during the time frame of the B–1 the Soviets could develop and deploy advanced air defense systems, such as look-down shoot-down interceptors, improved low-altitude SAMs and an AWACS with a look-down overwater capability. Therefore, the B–1 has been designed to cope with these advanced defenses. Since the mid-to-late 1960s, both DOD and a significant portion of the aerospace industry have used these intelligence projections in a series of studies and analyses to define the available technology and the system design/effectiveness required to insure a viable B–1 weapons system.

The three characteristics of low altitude, high speed, and small radar cross-section are individually identified by the critics and then summarily dismissed. Admittedly, none of the three characteristics cited will, in isolation, insure B–1 survivability. It is the combined effect of the three plus two not mentioned, electronic countermeasures (ECM) and employment tactics, that produce the overall effectiveness of the B–1. To begin with, low-altitude penetration delays detection by the defenses. If detected, the high penetration speed stresses the defenses by reducing the reaction time available to intercept and attack the B–1. Add to these effects the benefits of low radar cross-section plus sophisticated ECM and the defenses become further stressed adding additional time delays and uncertainty which significantly degrade the capability of countering the B–1. Finally, employment tactics such as defense dilution through force massing and selection of weak areas in the defense network also increase bomber survival. The B–1 is capable of passive detection of active defenses at ranges sufficient to allow avoidance of a large number of defensive systems. Those few that cannot be avoided can be neutralized with SRAMs carried by the B–1.

In summary, the cumulative effects of B–1 characteristics and employment tactics produce a complex problem to even a sophisticated defense. There are a large number of effectiveness studies available which support this assessment. The 1974 "Joint Strategic Bomber Study," which has been widely briefed to many agencies including Members of Congress, incorporated very large numbers of look-down shoot-down interceptors of F–14/F–15 quality operating with AWACS of E–3A quality. The study assumed only 50 percent ECM effectiveness for the B–1 against AWACS (use of more sophisticated B–1 ECM capabilities against AWACS could have resulted in a greater degradation). The study showed that B–1s are survivable and that B–1 dominated forces were the most cost-effective alternative against such advanced defenses.

Rebuttal

I give the B–1 its due; it presents a difficult problem to the Soviet defense, and some B–1s would survive and penetrate. But the

counter-B-1 problem is soluble, and the prospects for successful penetration are not impressive when considered in the perspective of B-1 cost and of the alternative offered by cruise missile technology which offers most of the B-1's virtues in even stronger form than does the B-1.

Low altitude penetration does delay detection by limiting defensive radar range to the horizon. But the horizon of an AWACS at 30,000 feet is more than 250 miles away, and its distance increases quite rapidly if the AWACS moves to higher altitudes. If a Soviet AWACS is at 35,000 feet, a B-1 would spend a full hour under its gaze. This allows for very substantial reaction time on the part of the Soviet defense. True, look-down detection radius remains smaller than look-up radius and low-altitude penetration is preferable to high, but look-down radius remains large enough to enable successful interception.

As we said in our original letter, high speed complicates Soviet defense problems. But it does not make it impossible, particularly since B-1 procurement presumably would induce the Soviets to produce a dedicated interceptor superior to our present F-15 and F-14 in that it would be optimized against high-subsonic terrain-following targets.

Small radar cross-section is important in a high-altitude target in that it reduces detection range. But the cross-section of the B-1 is sufficiently large that it can be detected by our present AWACS as soon as it comes over the horizon. Thus, the smallness of its cross-section does not decrease detection range.

ECM is discussed in detail in section (9), below.

Tactics, are, of course, critical to the employment of any weapons system, and I assume we will use the best tactics we can devise for whatever weapon we use.

It is also true that these capabilities are more significant in combination than singly. But it does not necessarily follow that they are sufficient, either singly or in combination.

I am convinced they are not sufficient. There is a way to find out who is right and who is wrong. Instead of relying on armchair arguments and computer conclusions, I suggest that you order a series of live tests to be conducted between the B-1 on the one hand and AWACS/F-15/F-14 on the other. I am willing to put my views to the test. I will be interested to see if the B-1 advocates have the same confidence in their conclusions.

(4) COMPARISON BETWEEN STRATEGIC AND TACTICAL AWACS MISSIONS

Congressman Carr

We are told our AWACS will be able to function effectively in the intense non-nuclear war in the European theatre. If this is true, it must also be true that a Soviet AWACS, even if less capable than ours, will be able to function effectively against our B-1s, for the Soviet AWACS will have by far the easier task.

Air Force position

The large Soviet border area that must be covered by look-down radars is a much more difficult problem than the detection of air attacks in the relatively constricted area in which opposing forces would have to penetrate in the European theater. To provide the Soviet perimeter with the same type of redundant coverage provided by U.S. AWACS in Europe would likely be prohibitive due to immense investment in new look-down capable aircraft. The number of Soviet AWACS orbits that could be mounted by the projected numbers of AWACS aircraft that might be available in the 1980s would allow penetration by a large percentage of the B-1 force. If the Soviet look-down capability is indeed less capable than the E-3A, this would allow even more undected penetrations.

Since the distances involved in the strategic air defense mission require the fighters to position themselves many hundreds of miles from their airfield, the time on station is significantly reduced from that of a European tactical scenario. Additionally, the required number of fighter aircraft needed to maintain both AWACS orbit coverage and homeland defense would be a drastic increase over that of the tactical mission.

Unlike tactical aircraft engaged in performance of their primary mission in the NATO environment, during the perimeter penetration phase of the B-1 mission, the B-1 crew can devote total crew resources to avoidance and/or degradation of the Soviet defensive threat. Further, the B-1 is not operating in total isolation but can expect, through careful SIOP mission planning, mutual ECM support from other bombers in the area. Finally, AWACS itself is not a lethal threat to the penetrating B-1 but rather a control system. The interceptor, even if provided attack information by the AWACS, still has to solve his portion of the intercept problem. His ability to do so is significantly degraded by the B-1's high speed, low altitude terrain-following penetration, changes in course profile, and combination of ECM and low radar cross section. It is the combined contributions of all the B-1 design and performance characteristics that mesh into a formidable and effective penetrating system.

Rebuttal

I discuss the AWACS question in some detail because I believe it is important to emphasize that assertions of B-1 validity and NATO AWACS validity are incompatible, even though they are coming to you from the same people at the same time. The B-1 and AWACS advocates cannot have it both ways.

The assertion of a prohibitive number of AWACS required for Soviet perimeter defense is scenario-dependent, and I believe it relies on the wrong scenario.

In Europe, it is necessary to maintain permanent AWACS station coverage to guard against surprise attack. This forces a ratio of roughly four AWACS for one on station. But in the strategic scenario we are concerned only with B-1 use for retaliation following a Soviet first strike in which the other side chooses the time of attack and determines the time of retaliation. Thus, Soviet AWACS force levels can be set without the requirement of permanent station coverage and on the assumption of surge capability, which probably permits less than 1.5 aircraft per station.

Selected tactical aircraft in the NATO environment can also concentrate their full attention on AWACS. Considering the high value and small numbers of tactical AWACS, it would be surprising if the Soviets did not design and deploy a small force of dedicated AWACS-killer interceptors.

(5) JAMMING

Congressman Carr

The B-1 will have only whatever jamming equipment it can carry itself. In contrast, Soviet fighter/attack aircraft seeking to penetrate our AWACS screen will have internal jammers plus dedicated jamming aircraft plus ground jammers to help them.

AIR FORCE POSITION

Studies and tests of the E-3A show that overlapping coverage by E-3A orbits with suitable coverage geometry can unmask a jamming attack in central Europe where ingress options are limited. However, the large land mass that must be protected by Soviet AWACS coverage, makes such coverage very demanding on the defense. The B-1's jamming capability will be more effective than that carried by smaller fighter and ECM escort aircraft. In addition, the B-1 will have a dedicated crew member to operate its countermeasures systems and can benefit from mutual ECM support which is part of careful mission planning procedures.

Rebuttal

I have discussed the question of AWACS force level requirements in section (4), above. It is true that the B-1's jamming equipment is more effective than that of any single tactical aircraft, but Warsaw Pact forces will have multiple tactical aircraft plus ground jammers. It is true that the B-1 has a dedicated ECM crew member, but so do the tactical systems in question; the EA-6B, for example, has three crew members dedicated to this function.

Mutual B-1 ECM support does have some use, but it is dependent on the attack going exactly as planned—something which has not often happened in the history of warfare.

(6) ECONOMIC AND PHILOSOPHICAL CONSIDERATIONS

Congressman Carr

Thus, even if the Soviets are ten years behind us, they will still be able to neutralize the B-1 only two or three years after it enters the force in substantial strength. We are sure you will agree that so miniscule a useful deterrent life cannot begin to justify the cost of so expensive a program.

Air Force position

For the reason stated earlier, the Soviets will not be able to neutralize the B-1 in the foreseeable future much less in two or three years after it enters the force. But even if the technology were available, the resources needed to develop a defense in sufficient numbers to counter low flying B-1s would divert considerable Soviet engineering and production capacity from offensive systems to defenses which is to our overall benefit.

An implication of the above quote is that the Soviets have the technology and the resources to counter every U.S. capability.

Conceptually, an offense may eventually be countered by some defense if enough resources are expended on defense and if offense remains static. However, we should not unilaterally abdicate the offense/defense struggle to the Soviet Union by throwing up our arms and crying "it's no use."

Despair is not a rational premise upon which to base a nation's defense program.

Rebuttal

There is no evidence that the B-1 will divert Soviet resources from offense to defense. It is more plausible that, to whatever extent the Soviets are impressed by the B-1, it will divert resources from their civilian economy.

The implication of our statement is not that "the Soviets have the technology and the resources to counter every U.S. capability." It is that in the late 1980s and beyond, the anti-bomber defense will be able to counter the penetrating bomber offense. A modern U.S. CONUS defense would be even more effective against Soviet bombers. Whether such a defense is worth its cost if we cannot defend against missiles is another question.

The concluding comment, equating skepticism toward the B-1 with "despair" on the nation's defense is, I suggest, highly revealing of the degree of objectivity with which the question has been evaluated within the bureaucracy. As I'm sure you have noticed, it is amazing how weapons system advocates can be pessimistic about threat levels when pessimism serves to generate need for a program, and at the same time be optimistic

when optimism enhances the attractiveness of the system in question.

(7) FLEXIBILITY

Congressman Carr

In addition, the cruise missile force has an advantage which, while unrelated to the look-down threat, is highly significant. Its combination of extreme accuracy and low unit cost makes it the ideal vehicle for destroying large numbers of hard targets—that is, for countering whatever Soviet industrial hardening program may exist. At the same time, its long warning time precludes its use in a first strike, and renders it nondestabilizing.

Air Force position

The look-down defense represents only a limited portion of the overall defense in depth concept utilized by the Soviets. We believe that several current Soviet SAMs have a capability to engage cruise missiles sized targets flying in the low subsonic speed/low altitude regime. We additionally recognize the Soviet potential to upgrade current SAM Systems. The various known modifications to the existing SAMs illustrate Soviet ability to improve systems.

With regard to the future, the Soviets have under development a new, transportable, strategic SAM which we believe will have significant capability against the cruise missile. Against SAMs the cruise missile lacks the classic operational defense tactics to avoid degrade, and/or destroy. They cannot avoid SAM's defending targets or SAMs whose location is unknown, cannot degrade because they lack a defensive countermeasures system, and cannot destroy the SAM site as the B–1 does with the SRAM. A number of transportable systems are projected for 1986 and are expected to have a large engagement zone against cruise missiles.

We believe that if the U.S. were to employ only cruise missiles, production of the new SAM could be accelerated as was the SA–2 when many new sites were deployed in a single year.

The B–1 will inherently have the ability to detect and avoid SAM sites or degrade SAM capability with ECM. Additionally, the Short Range Attack Missile (SRAM) may be utilized by a bomber crew to suppress SAM sites as required.

Likewise, the B–1 with its long time of flight precludes its use in a disarming first strike, and renders it nondestabilizing.

Rebuttal

Here the Air Force Position appears to conceded our point regarding the utility of the cruise missile against hardened industrial targets, but discusses matters not raised in the quoted portion of our letter. I will repond to the issues the Air Force considers.

I do not dispute that certain Soviet SAMSs have considerable capability against subsonic cruise missiles as described. Penetration of heavy terminal defenses requires a cruise missile which flies supersonic at least in its final stage; failure to consider such a missile is one of the major limitations of the Joint Strategic Bomber Study.

As far as transportable SAMs are concerned, I do not mean to minimize the threat they represent, but it appears obvious that, even if our intelligence were to be entirely unsuccessful which it will not be, transportable SAMs can only plug a small proportion of the present entrance routes. If there were enough of them to plug all or most of the holes in the present Soviet defense system, these SAMs would not need to be transportable.

Cruise missiles are not so limited as the Air Force implies. For example, one missile can run interference for a second by taking out a known SAM site. But while it is true that cruise missiles are not as flexible as penetrating bombers, this is more than compensated by their radical superiority in numbers of penetrating vehicles.

Saturation is an extremely effective and reliable tactic, probably the most effective and reliable available in the nuclear mission in which damage per penetrating vehicle is very high, numbers of sorties per vehicle is probably limited to one, and neither offense nor defense will have time to learn from experience.

(8) ASALM

Congressman Carr

We have under development the ramjet-powered Advanced Strategic Air Launched Missile (ASALM), which offers essentially the same range, size and cost as the present cruise missile but which flies at very high supersonic speed throughout its flight profile.

Air Force position

The ASALM, currently a technology development program, is sequenced for procurement no earlier than the mid-1980s if the technology feasibility demonstrations in FY 1979 are successful. The current ASALM program is time phased for an ASALM system development decision in FY 1979 when results will be available from the ASALM "proof-of-concept" flight demonstrations.

If employed in a high altitude flight profile, the ASALM is expected to have approximately the same range as the short range version of the air launched cruise missile (ALCM), and thus will be incapable of covering the total target system when employed as a standoff weapon. If employed in a low altitude profile, the ASALM's low altitude range will be less than 100 nautical miles at low level penetration altitudes.

When carried on a penetrating bomber SRAM, ALCM, and ASALM provide a substantially increased bomber footprint and versatility of weapon delivery to match the targeting requirements and maximize bomber capability. When carried on a non-penetrating aircraft, these weapons lose much of their versatility and become easier to defend against.

Rebuttal

It is true that a certain proportion of the cruise missile force will need substantially longer range than is available today. But this presents no prohibitive technological or cost problems. The tone of this section illustrates how cruise missile research has been constrained to those applications which assist, but cannot in themselves replace, the B–1.

The fact that it has nevertheless come along as well as it has, with a second revolutionary technology (ASALM) springing up before the first revolution had time to enter production, is testimony to the vitality and validity of the concept. It is sobering to consider what could be done with it if these same very capable people who are concerned lest it look too good were to work with it rather than against it.

(9) ELECTONIC COUNTERMEASURES

Congressman Carr

The cruise missile is criticized for lack of countermeasures (ECM). It is possible to incorporate ECM into a cruise missile; we did it in the early 1970s and are now developing new improved cruise missile ECM. Whether ECM in a cruise missile justifies its cost and size penalties remains to be seen; we suspect it does not. But it can be done. In any case, we simply cannot afford to rely on ECM. Even the B–1 advocates concede this point, since if ECM were sufficient to insure penetration there would be no need to replace the B–52. In the race between our electronic countermeasures and Soviet electronic counter-countermeasures, it is impossible to predict with confidence who is ahead at any given point until the battle has actually taken place. Our deterrent is far more secure if it relies on the certainties of large numbers.

Air Force position

ECM can be included in the cruise missile as had been planned in the 1970 Subsonic Cruise Army Decoy (SCAD) program. However, once again, the cost and range penalties must be taken into account.

Although ECM confidence cannot be defined, two things are certain; (1) ECM and radar grow from the same technological base (2) since we have developed AWACS and Advanced Interceptors (F–14 and F-15) today, we are ahead in the technological base which also supports ECM against these advanced systems.

ECM by itself cannot insure penetration but must be matched with the basic air vehicle characteristics. When compared to the B–52, the B–1's lower penetration altitude, lower radar-cross section, and higher speed complement its ECM to produce a higher level of overall vehicle effectiveness. While future ALCMs might use some form of basic electronic countermeasures, weight and power requirements will most certainly preclude them from having sophisticated multipurpose capability of the B–1 ECM equipment.

We agree that a deterrent based on large numbers enhances security. We must, however, add that a diversity, within the large number of weapons, further enhances the deterrent force. By presenting the Soviet defenses with a mix of weapons, each presenting a different problem, we limit their ability to negate that force of whatever size with a single initiative.

Rebuttal

I agree that our technological base is superior to that of the Soviets; if it has accomplished nothing else, the B–1 debate will have justified itself by extracting this uncharacteristic admission of superiority from the Air Force.

But as the Air Force Position concedes, superior technology does not assure high confidence in this context. It is impossible for any aircraft to carry ECM for every contingency. Instead, the electronic warfare game is a process of (I) the Soviets deploy a new electronic warfare device, (II) our intelligence discovers it, (III) we design a counter, and finally (IV) we deploy the counter. This cycle involves many months.

I would not be surprised if the B–1 ECM proved entirely effective, nor would I be surprised if it proved entirely ineffective. No one can make a more positive statement than that; the ECM game is, inevitably, unknown added to unknown. As the Air Force position concedes, "ECM confidence cannot be defined." But confidence in numerical saturation by cruise missiles can be defined, and confidence is the bottom line of strategic deterrence.

(10) LAUNCH VEHICLE VULNERABILITY

Congressman Carr

Vulnerability of the launch vehicle is cited as a problem. This can be handled in two ways. First, we can easily increase the range of the missile to enable the mother aircraft to stand back out of range of Soviet defenses. This involves some cost and size penalties, but these are not prohibitive. Neither is the cost of a new launching rack designed to carry a larger missile. Second, we can incorporate ECM into the mother vehicle. As we have said, we do not want to rely exclusively on ECM. But there is reason to believe ECM can be more effective for a cruise missile launcher than for a penetrating bomber, and we find it strange that B–1 advocates are willing to allow ECM for their vehicle but not for its competitor.

Air Force position

Although longer cruise missile range and ECM on the carrier aircraft are possible, the impact (cost and performance) of each must

also be assessed. The longer range cruise missile would cost more and increase its vulnerability to defenses.

Increasing missile range, and therefore size, could result in a larger radar cross-section and require higher penetration altitudes. This would offer the Soviets a better incentive to point defend critical targets with surface-to-air missiles. Additionally, increased cruise missile size would decrease the number of cruise missiles that could be carried or the effective range capability of the carrier.

ECM can be installed on the carrier; however, because of the carrier's large radar cross-section, slower speed and relatively high flight altitude and lack of high maneuverability and evasive capabilities, it would be impractical to defend with ECM alone. Even if ECM is installed, the standoff carrier presents a less demanding defensive problem than a penetrating bomber. The standoff only carrier may be countered by extending defended air space further and further beyond the Soviet borders through forward-based long-range interceptors, and picket ships equipped with surface-to-air missiles. As a result, ALCM accuracy becomes degraded because of long flights over open ocean or ice packs where TERCOM navigation updates cannot be performed.

To mount such an extended perimeter defense, major sacrifices in defense depth over the homeland would be required. However, with the threat of a mix of penetrating cruise missiles and penetrating bombers that together could attack the entire target system, defense depth would regain its importance over an extended perimeter. The initiative would remain with the offense, and successful penetration would be far less sensitive to cruise missile range.

The cruise missile is not a competitor to the B–1. It complements the manned bomber. When the cruise missile is employed as a complement to the penetrating bomber, concentration of defenses solely to counter cruise missiles is prevented. Cruise missile employment, which allows launch before or after penetration of Soviet radar coverage, provides high operational flexibility.

Rebuttal

In comparing the cruise missile carrier with the B–1, the reference to "the carrier's large radar cross-section, slower speed and relatively high flight altitude and lack of high maneuverability and evasive capabilities" is, I suggest, somewhat misleading in the context of midcourse vulnerability (i.e., before the cruise missile carrier launches its missiles and before the B–1 drops to penetration altitude).

In fact, in the midcourse regime there are no significant differences in the vulnerability of the two aircraft.

The cruise speed of the B–1 is essentially identical to that of the 747: about Mach 0.9. This is true not only because of the need to stay with the tankers but because departure from airliner speed increases the B–1's fuel consumption and decreases its range.

For similar reasons, cruise altitude of the two aircraft is about the same.

The radar cross-section of the B–1 is smaller, but it is not small enough to make a difference. If you examine the results of our AWACS tests, you will find the radar aircraft can track a high-altitude B–1 size target at an impressively long distance.

The B–1 is more maneuverable than the 747, but this is of no use in the strategic midcourse scenario. No aircraft can hope to outclimb or outspeed a SAM or an air-to-air missile, nor can it hope to pull more Gs in a sustained turn. I believe the Air Force response refers to the tactic whereby a pilot takes advantage of the "slow reflexes" of the attacking missile to perform a sharp, sudden maneuver at the last instant and cause the missile to overshoot. I have discussed this with several fighter pilots who used this tactic successfully in Vietnam; they have told me that, even in a fighter which is considerably more maneuverable than a B–1, they could not rely on causing a miss distance in excess of 300 feet. This is more than enough to evade a conventional SAM warhead, but in the strategic scenario we must expect to be attacked with nuclear warheads. My rough calculations suggest that, even if we generously assume the B–1 to be able to withstand 6 pounds per square inch of overpressure and we optimistically assume the Soviet missile to carry a warhead of only one kiloton, kill probability exceeds 99% from blast effects alone.

A great deal can be done with ECM to protect either aircraft in the midcourse phase. More can be done for the 747 than for the B–1, since the latter has more weight and space for ECM, and since drag from external ECM package is of less consequence. Either aircraft can benefit, not only from self-contained ECM, but from additional ECM support from dedicated aircraft and from ground and ship installations. True, ECM may not be sufficient. But if it is not, both aircraft are degraded in the same way. In essence, unexpected Soviet defensive reach will force premature termination of the midcourse phase and initiation of the penetration phase.

The cruise missile carrier will have to launch earlier, thus sacrificing some coverage of deep targets.

But the B–1 will have to drop down on the deck earlier, thus also sacrificing range and some coverage of deep targets.

Cruise missile accuracy can be preserved by enlarging the computer memory as necessary.

To say the cruise missile carrier will permit Soviet concentration on perimeter defense is to seek to turn a virtue into a vice. Both aircraft are vulnerable in the peripheral (midcourse) phase. But the B–1 is also vulnerable in the penetration phase, whereas the advanced cruise missile is not. Thus, against the B–1, defenses can be divided as the Soviets plan their one-two punch, whereas against the cruise missile all efforts must be directed toward peripheral defense because penetration defense it hopeless.

I might note that the penetrating bomber and the standoff cruise missile each have their optimum modes of employment, and each is most effective targeted against a given subset of the total set of Soviet targets. Modes of employment and target subsets differ somewhat between the two systems. The Air Force Position appears to seek to fit the standoff missile round peg into the penetrating bomber square hole. Even under these conditions, the missile does better than the bomber. But it is interesting to consider how attractive the missile would become if those very capable gentlemen who now seek to constrain it were, instead, to seek to develop dedicated tactics which would fully exploit its potential.

(11) VIEWING THE TARGET

Congressman Carr

The cruise missile does not have a human to guide it, and is therefore unable to look at its targets and make last minute adjustments in targetting plans. This is true, but the B–1 pilot does not see his target either. The B–1 is unable to penetrate Soviet terminal defenses; therefore, against high-value targets it must standoff several tens of miles and fire Short Range Attack Missiles (SRAM).

Air Force position

The effective range of the B–1 radar exceeds the lethal range of Soviet SAM systems. The B–1 crew can, therefore, perform radar damage assessment decisions and withhold weapons or fire SRAM either forward, laterally or behind the aircraft if it is determined that the target has not been destroyed.

The B–1 is able to penetrate SAM defenses. However, no vehicle should be exposed to any defense unless necessary. Even the cruise missile, whose radar cross-section is significantly less than the B–1, is suspectible to attrition by SAM systems. For that reason, the cruise missile will be applied against the lesser defended targets. The B–1, on the other hand, can penetrate to the near vicinity of defended targets, suppress terminal SAM defenses with SRAM and then penetrate to the target. Alternatively, the B–1 can launch the virtually invulnerable SRAM through the terminal defenses, thereby enhancing its chance of approaching subsequent targets.

Rebuttal

This Air Force Position makes claims for the Damage Assessment-Strike (DAS) concept which go considerably beyond those made by the war planners who are developing it.

Under the DAS concept, when a bomber plans to fly over an assigned target which has been previously targetted by a ballistic missile, the crew will examine the target by intra-red, low-light television, or radar, and will make quick and very conservative judgment as to whether the target is already damaged to a sufficient degree. If previous damage is judged sufficient, the crew will withhold its weapon, and will be able to use it on a later target. Thus, in those circumstances in which DAS can be applied, targetting redundancy will be reduced and we will be able to attack more targets with the same number of weapons.

However, DAS can only be used against those targets of such low value to the Soviets that they are lightly defended, but of such high value to us that we target them with two nuclear weapons. Moreover, it can only be used with confidence in those instances in which the first weapon has created a substantial crater; anything smaller is difficult or impossible to see from a real-life bomber. This is not to say it is a useless concept, but its utility is quite limited and is too low to be of significance in a decision of this magnitude.

Obviously, DAS will not examine low-value targets against which we have assigned only one weapon. At the same time, it cannot be used against high-value heavily defended targets, the Air Force Position assertion to the contrary notwithstanding. The essence of the SRAM concept is that the bomber use terrain-masking whenever possible and launch the SRAM while masked from the target; in this case, radar range is irrelevant since no radar can see through the ground. In cases in which the terrain forces line-of-sight from the SRAM launch point to the target, aspect and resolution limitations still prevent effective damage assessment unless the bomber approaches well within SAM range.

The argument that SRAM could be used to suppress defenses in order to permit a DAS overflight of the target is self-contradictory. The purpose of DAS is to conserve the weapon by avoiding unnecessary use. If the bomber has to use a weapon in order to perform the damage assessment, there can be no weapon conservation benefit.

(12) B–1 AS CRUISE MISSILE LAUNCHER

Congressman Carr

As cruise missile technology has progressed in giant strides over the past five years, the B–1 advocates have been forced to retreat to suggestions that the B–1 should be used as the cruise missile launcher. For several reasons, this is a very poor and cost-ineffective solution.

Air Force position

The employment concept of the B–1 does not include use as a standoff-only cruise

missile carrier. There are indeed cost-effective reasons to use the compatible cruise missile (ALCM) with the B–1 operating as a penetrating bomber. Once the B–1 penetrates enemy defenses, the ALCM could be used to increase the foot print of the B–1 on the target system as well as decrease B–1 contact with area defenses. The essential point is the flexibility provided by a penetrating manned bomber. As new munitions are developed, like ALCM, ASALM, or precision guided bombs, they can be carried by the B–1 thereby improving the capability of the bomber force. A standoff-only force lacks this flexibility.

Rebuttal

The employment concept of the B–1 does not now include use as a standoff-only cruise missile carrier. But wait a few years until B–1 production is in irreversible progress and the Soviet defense continues to improve.

I suggest the last two sentences of the Air Force Response are revealing. A standoff-only force has immense potential flexibility in terms of the variety and ingenuity of weapons concepts it can employ. But this potential will remain to some extent unrealized as long as standoff weapons develop is constrained by the bureaucratic requirement to be compatible with the B–1 and not to be so good as to make the B–1 look bad.

(13) B–1 AS CRUISE MISSILE LAUNCHER: COST COMPARISON

Congressman Carr

Assume the B–1 and the 747 in cruise-missile-launching configuration cost the same, although this probably overstates the cost of the 747 by at least 50%. The 747 will nevertheless carry twice as many cruise missiles as the B–1, and therefore, provides twice as much capability per dollar.

Air Force position

The concept of cost-effectiveness is used incorrectly in the above statement. Capability is not simply dollars per missile; rather, it is dollars per weapon on target. The results of numerous studies performed on the subject of modernizing the strategic force indicates that the B–1 is the most efficient modernization concept. It is significant to note that as the threat increases the cost effectiveness of the B–1 increased relative to alternative systems, including the standoff cruise missile launcher.

The current B–1 unit flyaway cost in 1977 dollars is $57.7M for a highly sophisticated military aircraft with complete offensive and defensive avionics systems. The current cost for an unmilitarized, less sophisticated commercial 747 model is $43.8M. Militarizing the 1977 model 747 would add considerable cost, yet it would be a less flexible and capable system than the B–1.

Rebuttal

The concept of cost-effectiveness was used correctly in its intended context of standoff-only, in which a missile launched from either vehicle has an equal probability of arriving on target.

To the best of my knowledge, none of the studies referenced consider a cruise missile which penetrates terminal defenses at supersonic speed. If a missile of this type is considered, increasing defense effectiveness shifts the cost-effectiveness balance toward the cruise missile and away from the B–1.

I would treat the suggested specific unit cost figures with some skepticism.

First, Senator Culver has recently publicized the fact that both Air Force and Department of Defense studies have projected B–1 costs 20% higher than those publicly released, and that these higher figures have been hidden from the public. I hope they have not been hidden from you.

Second, the potential for cost overruns is many times greater for the B–1. Consider that—

(A) We know what it costs to produce a basic 747 today. It has been in production for seven years. 747 production will continue under the watchful eye of the commercial marketplace which, unlike the Department of Defense, is absolutely unforgiving of "cost growth." Government purchases of 747 basic aircraft will benefit from the cost-control pressures of concurrent commercial production; the B–1 offers no such insurance.

(B) "Militarizing" a basic aircraft can be very expensive if one is looking for ways to spend money, or it can be very cheap if one is determined to save money. The Air Force itself has demonstrated this with its commendably frugal plans for militarizing the 747 and DC–10 to serve as advanced tankers.

(C) The bulk of the equipment needed for the standoff mission—launchers for long-range cruise missiles, associated avionics, and some of the defensive avionics—is unique to that mission and will have to be developed and procured for either aircraft. Therefore, it is not a cost to be added to the 747 alone. It must also be added to the B–1.

(14) AIRBORNE ALERT AND LOITER TIME

Congressman Carr

Loiter time of the 747 is very substantially longer than the B–1 at any level of serial tanker availability from zero to infinite. This could be important in maintaining airborne alert during a crisis of several days duration.

The placing of a fleet of 747 cruise missile launchers on airborne alert would provide a dramatic counter-threat, for example, to a Soviet civil defense evacuation. And it could be maintained at far less cost than the Soviets could maintain the industrial shutdown which would accompany their evacuation.

Air Force position

This statement indicates a misunderstanding of the impact of aerial refueling. With refueling, either the B–1 or the 747 could be maintained on orbit. Airborne alert is a design feature of the B–1 and has long been proven in B–52s. In fact, the B–1 is twice as fuel efficient as the CMC–747 and, therefore would require approximately half the tanker support that the CMC–747 would require.

Airborne alert is a very costly mode of operation for extended periods of time in terms of resources, fuel, maintenance, and flight crews. To compensate for this expensive mode of alert, hight prelaunch survivability has been designed into the B–1 and can be maintained through a combination of basing, upgrade ground alert posture options and generally taking full advantage of the B–1's improved base-escape characteristics. In addition the B–1's prelaunch survivability is further enhanced by its self-sufficiency and wide dispersal capabilities.

Rebuttal

The misunderstanding of the impact of aerial refueling is not on the part of the statement.

First, considering the B–1 vs. the 747 with both in the standoff mode, the relevant measure is not tanker support per aircraft but tanker support per missile. On this basis, accepting the Air Force Position on relative fuel consumption suggests an equal requirement for tanker support.

Second, both aircraft have some flexibility in fuel vs. payload tradeoffs, but if you examine the specific figures I believe you will find that, with fuel consumption measured in pounds per unit time rather than per unit distance—that is, with both aircraft on loiter—the 747 is more fuel-efficient per missile than is the B–1.

Third, with heavy tanker support available, crew endurance becomes a factor. The 747 has sufficient space to create a small living "apartment" and even to house a relief crew, while the B–1 is essentially a four-place fighter in terms of crew accommodations.

Fourth, if the B–1 is used as a penetrator rather than in the standoff mode, the loiter endurance balance shifts dramatically against the B–1 in the event refueling capacity is denied. The B–1 must leave its loiter station and proceed to target soon after its last fill-up, or suffer a loss of target coverage.

Thus, it becomes a "use it or lose it weapon" like a missile, and it loses one of the chief advantages of the manned aircraft. In contrast, the standoff launcher needs only enough fuel to return to base, and can remain on station, responsive to Presidential direction, for many hours after its last fill-up. Under extreme circumstances, loiter can be prolonged still longer, without loss of combat effectiveness, if the standoff launcher remains on station until its fuel runs out and then launches its missiles just before the crew bails out.

It is true that the B–1 offers superior prelaunch survivability because of its superior acceleration and hardness. This would give it an advantage if moderate warning were available. On the other hand, the superior loiter endurance of the 747 gives it an advantage if longer warning is available. And creation of an apartment within the 747 would permit the alert crew to live in the airplane, thus eliminating the major source of delay in escape under day-to-day conditions, which is the five minutes allowed the crew to reach its aircraft.

In any case, while prelaunch survivability is the B–1's most dramatic advantage, there is probably no way to prevent massive prelaunch bomber attrition from a sophisticated "bolt out of the blue" attack. Very few bombers *of any type* can escape an unexpected attack by depressed-trajectory SLBMs. For that matter, we have no way of stopping enemy agents from launching a coordinated attack in which they would fly light aircraft over each of our bomber bases and render the runways unusable. Under this scenario, the chief function of the bomber will be, by its destruction or incapacitation, to give us confirmed warning of attack and thereby enable the President to prepare to launch the ICBMs out from under attack. This very important "synergistic relationship" between bombers and ICBMs is essentially independent of the characteristics of the bomber.

ADDITIONAL POINTS

(1) SERIES VS. PARALLEL STRIKES

Full utilization of the B–1 requires the penetrating aircraft sequentially to deliver up to 24 weapons against as many separate targets. This concept has two inherent unavoidable weaknesses:

First, loss of the aircraft while attacking an early target will prevent attack against large numbers of deeper targets, except to whatever extent they are cross-targeted by other weapons. Second, crew fatigue becomes a major problem. B–1 penetration assignments call for many hours of terrain-following in a hostile environment. Even with the B–1's "smooth ride" feature, prolonged terrain-following is extremely fatiguing for even the most experienced and capable crews, particularly if tight profiles involving zero or negative Gs over crests are used. It is not realistic to expect a crew to endure the combination of terrain-following and constant intense defensive and offensive operations without serious performance degradation as the mission progresses.

In contract, each cruise missile is dedicated to one target, and its loss protects only one target. Moreover, it does not fatigue and is not degraded by prolonged terrain-following. One might say the cruise missile has a 24 to 1 redundancy advantage over the B–1 in the penetration phase.

(2) TECHNOLOGICAL SPINOFF

Neither the B–1 nor the missile-launching 747 offer significant new breakthroughs which can generalize to other types of air-

craft. But looking to the next generation, there is a pressing national need for more fuel-efficient and cost-effective transport aircraft for both military and civilian use. In addition the Navy is studying a proposal to use long-endurance aircraft as supplements to or even replacements for the aircraft carrier.

NASA is developing a new ducted prop-fan which promises to be about 20% more fuel-efficient than the best turbofans, and several contractors have published proposals for transport aircraft with approximately twice the capacity of a C-5A. Application of these technologies would be of considerable benefit to the nation as the fuel crunch progresses, but research and development cost is high and may be prohibitive. A requirement for an improved cruise missile launcher would help amortize the development cost, and could conceivably make an otherwise infeasible program feasible.

Mr. CARR. Mr. Speaker, I will not take any more time, and I yield back the remainder of my time.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, I was unavoidably delayed and missed the first rollcall vote on Monday, June 27, 1977, and would like to announce how I would have voted had I been present.

Rollcall No. 379, on resolving into committee. I would have voted "yea."

PRISONERS OF CONSCIENCE, PATRIOTS FOR HUMAN RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GOODLING) is recognized for 5 minutes.

Mr. GOODLING. Mr. Speaker, the followup Conference on European Security and Cooperation in Belgrade provides an opportunity for the free world to once again focus attention on the plight of the Baltic States and other captive nations. It is right and necessary for us to do so.

Hope for progress necessarily must be tempered by realistic expectations. The history of Lithuania is a case in point. After Lithuania declared its independence in 1918, the Soviet Union signed a treaty recognizing its sovereignty. Only 22 years later, under the ruse of "protecting Lithuania's security," the Soviet Union ruthlessly invaded this proud nation and dismantled its democratic institutions.

On behalf of the more than 1 million Lithuanian-Americans, and Lithuanians throughout the world, I would like to call to my colleagues' attention the following statement on "Prisoners of Conscience, Patriots for Human Rights," prepared by the Lithuanian-American Community of the U.S.A., Inc.:

PRISONERS OF CONSCIENCE, PATRIOTS FOR HUMAN RIGHTS

Political repression, religious persecution, cultural genocide, deportation to Siberia and the denial of basic human rights—these are the indignities suffered by the Lithuanian people over the last 37 years at the hands of their Communist occupiers, the Soviet Union.

Lithuanians have not suffered in silence. The Western World has seen and hears of the many sacrifices of Lithuanian patriots for human rights, despite attempts by the Soviet Union to suppress all such communications with the Western World. The underground publications, "The Chronicle of the Lithuanian Catholic Church" and "Ausra" (The Dawn), are published and disseminated by Lithuanians, in spite of the constant threat of arrest and imprisonment by their Russian occupiers. Indeed, Russian prisons are filled with such prisoners of conscience.

The Soviet Union has blatantly ignored the human rights provision of its own constitution, the provisions for human rights in the United Nations Charter, and most recently it has ignored the implementation of the provisions of the Final Act of Helsinki.

Lithuania, a sovereign nation since 1251, established its independence on February 16, 1918, but was invaded and occupied by the Soviet Union on June 15, 1940, and subsequently, more than 300,000 freedom-loving Lithuanians were deported to Siberian forced-labor camps. These tragic events are commemorated by Lithuanians throughout the Free World on June 15th.

This summer, the United States will be attending the follow-up Conference on European Security and Cooperation in Belgrade, Yugoslavia. The people of Lithuania are anxiously awaiting the outcome of the Belgrade Conference, because it represents the only foreseeable means for them to benefit from the provisions of the Final Act of the European Security and Cooperation Conference in Helsinki.

There is world-wide concern for Soviet Jewry, and just so, however, Lithuanians, Latvians, Estonians, and the people of the other Captive Nations also deserve our concern, and action.

The Belgrade Conference presents a unique opportunity to bring the force of world opinion and the diplomatic power of the Western World to bear on the Soviet Union's disregard of the human rights provisions of the Final Act of Helsinki. The Commission on Security and Cooperation in Europe, established by the United States Congress last year, has documented evidence of the Soviet Union's non-compliance with these provisions.

We urge the President of the United States, and the Secretary of State to direct our representatives to the Belgrade Conference to confront the Soviet Union about their non-compliance and evidence of bad faith. Since the Soviet Union seeks better relations with the Western World for its own purposes, let us make compliance with the Final Act of Helsinki a condition on which those relations depend.

LEGISLATION TO ENCOURAGE COMMERCIALIZATION OF METHANOL/ETHANOL PRODUCING PLANTS TO PRODUCE ALCOHOL FUELS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. EMERY) is recognized for 5 minutes.

Mr. EMERY. Mr. Speaker, today I am introducing a bill to encourage the commercialization and expansion of methanol/ethanol producing plants to produce alcohol fuels. The bill has two provisions designed to make construction of a methanol/ethanol producing plant more attractive for private enterprise. The first is a rapid amortization period of 5 years, the second provision would exempt 10 percent alcohol-gasoline blends from the Federal excise tax.

If Nebraska's Gasohol program is any indication of the interest and success of an alcohol-gasoline blend program, this bill would go a long way toward fulfilling the administration's desire to reduce our gasoline consumption. The Nebraska State Legislature was enthused enough about Gasohol to provide a 3-cents-per-gallon reduction in the State gasoline tax on any such fuel sold. When a marketing experiment was conducted, over 90,000 gallons of Gasohol were sold to the public in 11 weeks. At this time the Gasohol program cannot be continued because there is no grain alcohol plant in Nebraska. The State estimates that a plant capable of producing 20 million gallons of alcohol per year would cost approximately $21 million.

Other States and foreign countries have had similar good results from alochol-gasoline blends. The State of California has been testing both blends and straight alcohol in some of their State vehicles. Brazil, in a report sent to ERDA noted that—

In 1972, the annual average of ethyl alcohol (ethanol) content in gasoline in Sao Paulo reached 8.5% by volume. The alcohol content is not constant during the year. One may find at the same gas station blends varying from 0 to 30% ethyl-alcohol during the year.

Brazil, after conducting several experiments in 1975, feels that conversion to straight ethyl-alcohol is becoming a reasonable objective.

In addition to reducing our dependence on gasoline, increased use of alcohol as a fuel could provide a second strong market for agricultural and waste products. According to J. P. McCloskey, Electronic Group Rockwell International, approximately 500 gallons of alcohol per acre could be produced in the temperate agriculture zones of this country—

Thus, the 60 million acres of arable land held in the soil bank by the government last year (1974) could have been used to produce some 30 billion gallons of ethyl alcohol (ethanol) to help ease the liquid-fuel shortage problem. This is a greater volume of liquid fuel than the total amount of crude oil imported last year from both the Arab nations and Canada

Construction of methyl alcohol—methanol—plants from other than petroleum products is still a risky enterprise for business. All the facts on number of gallons of alcohol per bushel of different grains are not in yet. Nor are there sufficient collection systems for wood and municipal waste to be used in an alcohol-producing plant. In order to encourage private enterprise to solve some of these problems, as well as letting them know that Congress is serious about finding renewable, clean alternatives to our present dependence on high priced foreign petroleum products, I have proposed tax incentives for those industries who wish to invest in this new exciting area of fuel development.

The rapid amortization period should be an attraction for industries interested in energy development. An exemption from the Federal excise tax for alcohol-gasoline blends will provide an incentive for consumers to try this new fuel. An average car with a 15-gallon tank could save 60 cents per fill-up by buying alco-

hol-gasoline blended fuel. They would also have the satisfaction of knowing they are contributing to development and utilization of alternative fuels, which are renewable and cause less pollution.

ONLY 27 MORE MEMBERS NEEDED TO PRACTICE DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, one of the issues that has drawn the greatest amount of concern among our citizens is the question of busing to achieve racial balance in our school system. I am certain that every Member of this body has received hundreds of letters on this subject. Our constituents want an answer to the busing issue. To date, however, Congress has not been able to provide that answer because of court decisions which have held that busing is constitutional, and by actions of various Federal, State, and local officials to work their way around antibusing laws.

Time and time again the Congress has not only spoken out but voted against busing. But time and time again our actions have been overridden by those who do not speak for the majority of our citizens.

What we have seen is democracy by bureaucracy, rather than democracy by the people. Only last week this body voted for an amendment to the Labor-HEW appropriations bill which would prohibit the use of Federal funds for busing students to any school other than the school nearest a student's home, even after the merging, pairing, or clustering of that school with any other school.

I would hope that this provision when enacted into law would end the busing controversy. But from past results, I am not too optimistic.

Just a short rundown of antibusing legislation in recent years proves my point. I supported an amendment that would prohibit the use of gasoline for busing children beyond their nearest neighborhood school. I supported a provision that stated that no Federal money could be used to bus children beyond a neighborhood school to achieve racial balance. And I have supported every other similar amendment which has been passed and enacted into law. Yet despite all of these laws the problem seems to be spreading. Legalistic somersaults are being accomplished by the courts to find new ways to permit the use of Federal funds to achieve busing. And not to be undone, various school boards are vying with the courts trying to find ways to promote busing.

One of the new ways to promote busing is the use of pairing or clustering. Pairing involves the consolidation of two comparable schools within a short distance of each other into one unit. For example, one school may offer grades 1 through 3 while the other offers grades 3 through 6. Clustering refers to a similar situation, but involves three or more schools so that one may offer grades 1 through 3 and another may offer grades 4 through 6, while the third may offer grades 7 through 8. Under these consolidation techniques a child could conceivably attend four or five different schools before he or she reaches the 12th grade, and in the process would be bused from one school to the other. This in effect destroys the concept of our neighborhood schools, destroys the quality of education for all our children, and destroys the esprit de corps and morale of both teachers and the students. Most of all, the parents are not getting the return on their tax dollar to which they are fully entitled.

Mr. Speaker, the most basic principle of democracy is the principle of majority rule. It is practiced in even the simplest of family decisions right up through the Supreme Court. Unfortunately, it is not being practiced in the House of Representatives with regard to the busing issue. A constitutional amendment prohibiting busing and to insure equal educational opportunity for all students regardless of their race has been before the Judiciary Committee for well into its third year. No hearings have been scheduled, no testimony has been taken, and no votes have ever been held on this important matter, even though your constituents and mine are demanding an answer to busing.

Clearly there is a sentiment in this body against busing. Last week 225 Members voted for the amendment to the Labor-HEW appropriations bill prohibiting busing. Why is it that we cannot get an opportunity to vote on a constitutional amendment that would decide the issue of busing once and for all. Since the amendment would have to be approved by the Senate and also ratified by two-thirds of the States, there can be no concern about a quickie back door attempt to legislate against busing. Quite the contrary is true. The constitutional amendment route is the most open route available to both those who favor and those who oppose busing since it will provide for the greatest amount of imput by those elected officials across this country.

It now appears that in order to bring a constitutional amendment to the floor of the House for a vote it is necessary to use the discharge petition route. And such a petition has been before the House since March 15. At present 191 Members have signed that petition which would discharge the Judiciary Committee from further consideration of the constitutional amendment opposing busing and bring that constitutional amendment directly to the floor of the House. Only 27 more signatures are needed to reach the required level of 218.

I am asking today all Members of the House who have not signed the petition to add their names so that we can decide this highly important question once and for all.

How can we tell our constituents that although a majority of this body appears to be in opposition to busing we cannot vote on the issue because of a parliamentary inadequacy.

Poll after poll has shown that the American people are opposed to busing. Similar polls show that Congress is held in low regard by the voters, with many voters feeling that Congress does not represent the people. Quite clearly when we cannot even vote on a matter that is of utmost concern to our constitutents then I cannot help but wonder if the low opinion of Congress by the voters is not justified.

The only way to resolve the busing question once and for all is through a constitutional amendment, and I am asking today if there are 27 more Members of this body willing to practice democracy—willing to live up to the principle of majority rule—willing to be the voice of their constituents and willing to take a stand on this vital issue. I think we have such Members in this great body and I hope my faith is not misplaced.

VA HOSPITAL CARE FOR VETERANS MORE ECONOMICAL THAN PRIVATE HOSPITAL CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

Mr. ROBERTS. Mr. Speaker, several Members of the Congress have recently received correspondence from Mr. E. Dean Grout, executive vice president and administrator of the Methodist Evangelical Hospital, Inc. of Louisville, Ky. The Honorable OLIN E. TEAGUE was one of the recipients of this correspondence and he referred it to me as chairman of the House Committee on Veterans' Affairs for response.

I think it important that all Members be aware of the content of Mr. Grout's letter and my response to him. It is for this reason I include the correspondence in the RECORD:

METHODIST EVANGELICAL HOSPITAL, INC.,
Louisville, Ky., May 23, 1977.

HON. OLIN E. TEAGUE,
House of Representatives,
Washington, D.C.

DEAR MR. TEAGUE: We're all concerned in the hospital field about rising costs, but I feel that the Carter Administration is being unfair to single out hospitals to apply additional controls since approximately 75 percent of our increased overhead in 1975 was due to inflationary factors beyond our control.

The propaganda we hear from Health, Education, and Welfare is that this country is over hospital bedded by 20 percent. That would mean, theoretically, that most of our hospitals are underutilized. Quoting from a report prepared for HEW by InterStudy, "A 20 percent reduction in hospital capacity in this country, if done in an orderly and appropriate manner, would not jeopardize high-quality patient care and would result in savings of as much as $6 billion annually." Another 10 percent reduction in hospital capacity could be achieved by eliminating "unnecessary utilized capacity," the report maintains, pointing out that excess capacity appears to aggravate over-utilization of hospitals, and reduced capacity reduces use. The report goes on to say that, "The 10 percent reduction in hospital capacity would be much more effective if accomplished by closing entire hospitals rather than by across-the-board cuts at large numbers of hospitals."

If HEW and others in government are really seeking ways and means to reduce costs, why not close down all VA hospitals in this country and contract with the voluntary hospitals to take care of the Veterans. This would reduce government costs and have a positive result of improving utilization in

most institutions. The savings could be astronomical! Wouldn't this make more sense than trying to ration health care as the Carter bill proposes?

I would appreciate hearing from you as to your thoughts on this matter.

Sincerely,

E. DEAN GROUT,
Executive Vice President and Administrator.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 23, 1977.

Mr. E. DEAN GROUT,
Executive Vice President and Administrator, Methodist Evangelical Hospital, Inc., Louisville, Ky.

DEAR MR. GROUT: Several Members of the House of Representatives, including the Honorable Olin E. Teague, have referred your letter of May 23, 1977 to the undersigned for response. The thrust of your letter is the proposal of closing all VA hospitals throughout the country and contracting with voluntary hospitals for the care of veterans. You indicate that this would reduce government costs and have a positive result in utilization of hospitals in the private sector which are now underutilized.

I could not disagree with you more. Who are you trying to "kid" that this would reduce costs? The Veterans Administration has extensive experience in contracting for the cost of caring for service-connected veterans as well as for certain specialized services such as radiology, pathology, anesthesiology, etc. There is no way that the private or "voluntary" sector of the health care industry can provide this care as economically as it is provided in VA institutions. At the same time the private or voluntary sector would be deprived of the vast resource it now has for the graduate education of physicians and other allied health care personnel as well as the results of VA's extensive medical and prosthetic research program.

Let me assure you that the House Veterans' Affairs Committee is dedicated to the preservation of the health care system for veterans and will do all in its power to insure that the "greedy" hoax that you display in your letter through the expression of generalities is the last thing that comes about. Instead of "savings" the cost would be astronomical and to answer your question—no, it would not make sense.

Sincerely yours,

RAY ROBERTS,
Chairman.

THE U.S. TRADE DEFICIT IS FAR TOO HIGH—WE SHOULD SUBSTITUTE ACTION FOR EUPHORIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, the $4.3 billion current-account deficit the United States recorded for the first quarter of 1977 is cause for concern, not bragging.

This deficit resulted from a sharp reversal in our trade position. In 1975 the United States enjoyed a $9 billion trade surplus, the largest in our Nation's history. It was followed in 1976 by a deficit of $9.2 billion. During the first 5 months of 1977, this country's imports exceeded its exports at an annual rate of nearly $23 billion. Even if the improvement in the trade balance shown in the May figures released today could be sustained for the final 7 months, this year's trade deficit would be a record $18 billion. While deterioration in the trade account had been expected with the strengthening U.S. recovery in advance of other industrial economies, the magnitude of the current trade deficit has caught many observers by surprise.

The Treasury reaction to the worsening trade balance has been one of relative complacence. Officials have argued that growing deficits on the whole are a good thing. The economic expansion in the United States and the increasing demand in this country for imports, they emphasize, has helped weak industrial countries and the developing nations without oil to adjust to the burden that has been imposed upon them by the multiple increase in petroleum prices since 1973.

Indeed, the trade position of developing nations without oil vis-a-vis the the United States has shifted from a traditional deficit to one of an expanding surplus. In addition, the United Kingdom, Italy, and other small OECD countries contending with payments deficits have undoubtedly been helped by the growth of U.S. import demand. On the other hand, rapid increases in imports of oil from the OPEC countries, and of manufactured goods from Japan, are chiefly responsible for the ballooning of the U.S. trade deficit this year. U.S. deficits with OPEC and Japan make no contribution to improving the global distribution of payments deficits.

The Treasury seems almost to be patting itself on the back because the United States has achieved such an outstanding performance in assuming so large a part of the "irrepressible" OPEC deficits that we have been urging on other strong-currency countries.

For the past 2 years, this country's share of world exports of manufactured goods, excluding shipments to the United States, has been slipping. Our share stood at over 25 percent in 1960. It deteriorated to a low of just over 19 percent in 1972 and then began to creep upwards again. By the third quarter of 1975, this country's share had reached nearly 22 percent, but then began to slip again. The latest available data indicates that the proportion for the third quarter of 1976 was 20.3 percent. The U.S. share has slipped each quarter since the 1975 peak. By comparison, Germany's share has been relatively stable since 1970. Japan's share, on the other hand, demonstrates a steady upward march from 6.5 percent in 1960 to 11.2 percent in 1970 and 16.8 percent in the third quarter of 1976.

EUPHORIA OVERDONE

Clearly there are benefits to the world economy from economic expansion in the United States and our resulting deficit. But the Treasury is overdoing its euphoria.

The developing countries benefit from our deficit only to a minor extent—of the $6.9 billion first quarter U.S. total trade deficit, $1 billion was with non oil-exporting developing countries. The bulk of our trade deficit just contributes to the OPEC surpluses. OPEC benefits not only directly, in the dollars it receives for each additional barrel of oil the U.S. imports, but indirectly, because the sharp rise in U.S. demand in the world oil market has exerted pressure on available oil supplies. This pressure encouraged further increases in the world oil price last December and hence, larger payments by other countries.

More serious is the danger that persistent large trade deficits will be perceived as a decline in the competitive U.S. position, and thus lead to depreciation of the dollar. Such a depreciation could have serious implications because of the important role the United States plays in the world financial system.

Termination of dollar-gold convertibility in 1971 placed the international monetary system on an inconvertible dollar standard. The 1973 quadrupling of oil prices caused a number of industrial and developing countries to run substantial payments deficits in succeeding years. These deficits are continuing and, at best, can be expected to shrink only gradually in the future. Official institutions, such as the International Monetary Fund—IMF—financed a portion of the oil payments induced deficits, and expanded aid flows assisted the poorer developing countries.

Private financial intermediaries, commercial banks especially, assumed the remaining financial burden, and in recent years have extended credit that enabled deficit countries to finance almost half of the external payments that they could not meet either by exporting or attracting long-term capital inflows. U.S. banks, both domestic head offices and overseas branches, have played an important role in providing this financing. If adequate balance-of-payments financing had not been available, deficit countries would have been obliged to cut back their imports of oil and other products through direct restrictions and domestic deflation. The consequence would have been global protectionism and an even more severe recession than we experienced in 1974 and 1975.

Partly as a result of the drop of the external value of the pound sterling in the last year or two. U.S. banks have been even more successful than previously in attracting deposits from oil producing nations with excess revenues. Financial intermediaries in this country, therefore, have acquired increasingly important responsibilities in distributing surplus oil revenues to countries with payments deficits and in need for financing. Anything that makes dollar investments less secure or attractive weakens the role of this country in bringing about the efficient redistribution of funds globally needed to permit continued economic growth.

Nor is this all. A depreciation in the value of the dollar relative to other countries, particularly the mark and the yen, might cause the major oil producers to decide that dollar investments were more risky than they had previously believed. The surplus oil producers have looked to U.S. financial markets as they only ones large enough to absorb their investments without threatening sharp reversals when the investors wish to withdraw resources. If the dollar appears weak, OPEC countries might well curtail plans for expanding oil production, and even cut back the volume of oil now pumped. This could have severe repercussions on the levels of economic activity throughout the world.

Thus continuing massive U.S. trade deficits with their resulting dollar de-

preciation, spells trouble. Even more damaging to us could be, not the deficits themselves, but our living in a fool's paradise that says the deficits do not matter. Singing a happy song while the ship is sinking is not a policy I would recommend because it may cause us to ignore underlying problems, such as lagging productivity or excessive price-wage increases. If the U.S. competitive ability drops, American workers will lose jobs in export and import-competing industries. As job losses become serious in particular industries, workers and management in those industries are likely to appeal to the Government for protection from import competition. Should the United States resort to protectionism across-the-board, other nations would retaliate, and even more jobs in the United States would disappear. Thus, job losses and the danger of protectionist reactions and counterreactions are clearly undesirable consequences of trade deficits.

WHAT IS TO BE DONE?

We should confront the problem of our growing trade deficit straight on. We should cease bragging about it, and instead determine to reduce it. A three-point program to attack various components of the burgeoning deficit would include:

First. We must reduce our dependence on oil imports. The energy program introduced by President Carter and currently before the Congress seeks to accomplish this goal by equalizing domestic energy prices with those in the world market. Only if the domestic cost of energy reflects its current world value can we hope to curtail personal and industrial waste needed to reduce dependence on imports in the near term. In addition, we must move to foster domestic energy production to further cut out dependence on imports. Our action will reduce not only our direct contribution to the OPEC surplus, but also will help expand world energy supplies.

Second. We must insist that exchange rates be allowed to adjust promptly to reflect the relative competition abilities of the leading industrial countries. Germany has a somewhat better record than Japan in permitting its currency to appreciate as a reflection of superior competitive abilities. But we must be alert to shifts in competitive positions of individual countries to insure that exchange rate distortions do not further contribute to our trade deficit. If exchange rates are not allowed to adjust, we will suffer both the rising protectionist pressures and sudden massive international liquid capital flows that characterized the old par value regime. Governments should give up exchange rate objectives and let the markets reflect ever-changing economic circumstances. Interestingly, the Japanese Government, which had for months been insisting that it was not pegging the yen rate, announced last week that it will henceforth permit the yen to float freely and suspend intervention—in other words, "We've never done it, and we're going to stop doing it!" I applaud the Japanese decision to go straighter than straight.

Third. Perhaps most important, we must expand our exports of manufactured goods. We must continue to seek to improve our competitive position vis-a-vis other industrial powers, like Germany and Japan. This objective can be accomplished in three principal ways.

First, we must raise output to increase industrial productivity by achieving fuller capacity utilization.

Second, we must hold down inflation by "concerted action." Domestic firms and workers must understand the consequences of a price-wage spiral. The United States should take a lesson from Germany and Austria on the benefits of worker-management cooperation in setting wages, prices, and production levels. The unhappy consequences of falling competitiveness affect us all.

Third, we must increase investment in high-technology industries in an effort to continue to develop competitive exports. Such investment requires careful evaluation of the areas where the United States will have a comparative advantage in years to come. It will mean combined labor, Government, and business cooperation to anticipate the inevitable shifts in comparative advantage and to develop new industries that will employ workers displaced as circumstances change. We cannot expect to maintain forever in the United States labor-intensive industries at the scale at which they currently exist. If technological advances cannot produce increases in U.S. worker productivity to offset the effects of low wages in developing countries, we can only expect that labor-intensive industries will gradually be transferred abroad. To rely on import restrictions is to react defensively. Over the long haul, we must look to developing more sophisticated industries that will bring both jobs and ever-increasing standards of living to American workers.

JOINT COMMITTEE ON DEFENSE PRODUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. MITCHELL) is recognized for 5 minutes.

Mr. MITCHELL of Maryland. Mr. Speaker, last week I had an unexpected and, I believe, unnecessary task to perform. I had to introduce an amendment to the legislative appropriations bill to restore funding for the Joint Committee on Defense Production, of which I am the vice chairman. I view this as an unnecessary task because last month the Senate and the House overwhelmingly agreed to extend this committee for 2 more years. Therefore, I can see no justification for second-guessing these committees by denying funds to permit the joint committee to carry out its assigned oversight responsibilities.

I am told that a justification advanced for withholding an appropriation from the joint committee was because it has not performed its function. Whoever believes that must be thinking of some other committee or is not familiar with the joint committee's list of accomplishments, which I would like to request be entered in the RECORD at the close of my remarks. The record shows that the oversight activities of the joint committee have had a significant impact on defense production, procurement, and mobilization programs.

Since the end of the Vietnam war, the Government activities over which the committee exercises oversight have assumed ever increasing importance, with that "hot" war behind us, it is time to take stock of our economic mobilization and our peacetime defense procurement programs. It is time to assess the defense procurement lessons learned from the Vietnam experience and its aftermath. It is time to review the adequacy of preparedness programs in the light of very changed circumstances. This is what the Joint Committee has been doing.

At the same time, it is the only committee of the Congress which has taken a comprehensive look at Federal material policies and programs for both civilian and defense production. It is the only committee of the Congress which has made an evaluation of our emergency preparedness programs across the board, including but not limited to civil defense against nuclear attack. It is the only committee of the Congress to make an indepth study of industrial defenses and of Soviet civil defense programs.

To accomplish these vital but not always glamorous tasks, the committee has reorganized its staff and improved its oversight capability. It has benefited from changes in membership, which removed the oversight burden from already overtaxed and very senior Members of both Houses. The committee possesses expertise on industrial production and protection, on procurement and auditing functions, on materials policy, and on civil preparedness programs that is not duplicated anywhere else in the Congress.

Therefore, I am at a loss to explain why the Congress should deny itself this oversight capability. I am at a loss to understand why the Joint Committee has been subjected to persistent sniper attacks. The Congress needs to expand its ability to perform program evaluation and review—instead, the Appropriations Committee has proposed to abolish one vital source of expertise.

To me, there is an absurd inconsistency in the arguments made against the Joint Committee. On the one hand, it is said that the Joint Committee was inactive during the Vietnam war, when national attention focused on a "live" war and not on preparations for war. Afterward, when attention shifted again to mobilization and preparedness programs and committee activity increased, it is said that the Joint Committee is merely creating work for itself in order to justify its existence. The more oversight work the committee does, the more it is criticized. That is incredible.

I object to this, not only because it is an inconsistent and untrue interpretation, but because it presents an unfair picture of the quality of the committee's work. I don't believe anyone who has honestly and carefully read the committee's reports on civil preparedness, on Federal materials policy, on industrial defense and readiness, or on conflict of interest can sustain the argument that these are not probing, well-documented and thoroughly analytical studies.

The distinguished Representative from Pennsylvania, Mr. COUGHLIN, who offered

the amendment to delete the joint committee's funding, has automatically been provided with copies of every joint committee publication since January of 1976. He has attended hearings of the Joint Committee and he has had his staff monitor other hearings. He is in a better position than most Members of this body to know that the work of the joint committee is of a very high caliber and I would challenge him to point out specifically where the committee's work has been unsystematic, undocumented, or nonanalytical.

In addition, the committee has exercised its statutory right to advise the standing committees of both Houses on remedial legislation. In the last 2 years, the Congress has passed a lengthy measure reforming the process for making grants of antitrust immunity for defense or energy purposes and has pending before it other bills that would reform Federal emergency preparedness organizations and programs and prevent certain types of conflict of interest in Government procurement. These measures were drafted by the joint committee.

The effectiveness of the Joint Committee on Defense Production is attributable to a number of factors, among the most important, I believe, are the fact that it is a joint committee and the fact that it is primarily engaged in oversight. Since it is a joint committee, it eliminates the need for cumbersome and duplicative subcommittees in both the Senate and the House. Oversight coordination is greatly facilitated, and because its function is primarily oversight, oversight is at the top of the committee's priority list. It does not get lost amid the pressures of processing legislation. I know that these considerations weighed very heavily with the House and Senate Banking Committees when they decided earlier this year to retain the Joint Committee on Defense Production in its present form, instead of distributing its vital program evaluation functions to other and already overburdened standing committees of the Congress.

I do not wish to belabor these points, Mr. Speaker, because I believe they are simple, obvious, and verifiable. They can be summarized quickly:

First, there is no doubt of the need for effective oversight of vital and costly Federal programs in the area of defense production, procurement, and preparedness.

Second, there is no legitimate question of the competence of the joint committee in carrying out its statutory oversight mandate.

Third, the joint committee has had a strong and positive impact on the programs and policies which it has examined; this is documented in the accompanying list.

Fourth, the issue of transferring the functions of the joint committee to other standing committees has been resolved in favor of retaining the present efficient and nonduplicative organization.

Fifth, at a budget of $225,000, as recommended by the Legislative Appropriations Subcommittee, the joint committee is a very economical and cost-effective oversight investment for the Congress, one which it would be foolish to give up.

I hope that my colleagues will examine these points for themselves and take the trouble to confirm what I have said. After reviewing the accomplishments of the joint committee and the quality of its oversight effort, I hope further that this week they will vote in favor of my amendment to restore the funding of the Joint Committee on Defense Production. This is no sound reason for the House not to continue this useful committee.

HELSINKI'S UNFULFILLED PROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BEILENSON) is recognized for 5 minutes.

Mr. BEILENSON. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on the House floor entitled "Helsinki's Unfulfilled Promise." This project is being conducted on behalf of Soviet Jewish families and individuals who are being forcibly detained in the U.S.S.R. as a result of the Soviet Government's repressive emigration policy.

The plight of one Soviet family in particular, the Emanuel Fainberg family, has been brought to my attention by several of my constituents and other interested individuals in the United States.

At this time I would like to bring to the Members' attention a letter written by Emanuel Fainberg which details the plight of his family:

> My family, instead of realizing their dream to go to Israel, where most of our relatives settled, were in 1941 exiled to Siberia. There I lost both my parents and my only brother. My only close surviving relative whom I remembered from childhood asked us to come and live with him in Israel. My uncle told us that he was sick and blind. His wife died and being childless, he felt desolate and lonely and hoped for some family to comfort him in his old age. . . .

The Fainbergs first applied for exit visas to Israel in February 1973—and their requests for emigration have been steadfastly denied. Upon applying to emigrate, Emanuel Fainberg was dismissed from his engineering job, and has only recently found employment as a hard laborer in the construction of chicken coops and cow sheds.

It is my belief that if families such as the Fainbergs are allowed to join their Israeli relatives it would serve to raise the international posture of the Soviet Union in the eyes of many Americans as well as to facilitate the spirit of cooperation and peace between our two nations.

Congress and the American people join with President Carter in appealing to the Soviet Union to abide by its international commitments outlined in the Helsinki Final Act, of which they are a cosignatory, by relaxing restrictions on its emigration policies. At the very least we appeal to them to respect the universal principles of justice, humaneness and freedom so that families such as the Fainbergs can find peace.

REVISED BILL PROVIDING ORDERLY PHASEOUT OF SACCHARIN

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, on Friday, June 24, I introduced a bill (H.R. 8012) providing a 2-year phaseout of saccharin. I believe this is a reasonable time for industry to develop a safe substitute thus protecting the people who have come to rely on saccharin, but Congress should not put itself in the position of second-guessing the qualified agency it established to weigh highly technical information vital to the protection of public health. Industry should be placed on notice, however, that after 2 years saccharin will be banned.

Today, I am reintroducing the bill with one change. Under the revised version, if during the 2-year phaseout, the Secretary of HEW finds on the basis of new evidence that saccharin presents an unreasonable and substantial risk of illness, he has the authority to act to protect the health of the American people. This tightens the standard of the original bill which provided that the Secretary could ban saccharin merely on the basis of new evidence of carcinogenicity.

The evidence of carcinogenicity is already amply demonstrated by more than a dozen separate reputable tests. There is a possibility that new evidence will indicate a much greater threat to health from saccharin, however, and if such risk is found to be unreasonable and substantial, the Secretary should not be precluded from acting.

The text of the revised bill follows:

H.R. 8039

A bill respecting the continued use of saccharin as a food, food additive, drug, and cosmetic, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health, Education, and Welfare may take such action as may be necessary to promulgate the regulations proposed in the notice of the proposed rule making published in part III of the Federal Register for April 15, 1977, but such regulations may not, except as provided in subsection (b) or (c), take effect before the expiration of two years from the date of their promulgation.

(b) If before the expiration of the two-year period referred to in subsection (a) a substitute for saccharin is developed and a regulation for the use of such substitute is issued under section 409 of the Federal Food, Drug, and Cosmetic Act, the regulations referred to in subsection (a) may take effect upon the issuance of the regulation under such section 409.

(c) The Secretary may place the regulations referred to in subsection (a) in effect before the expiration of the two-year period referred to in such subsection if the Secretary finds on the basis of new evidence that saccharin presents an unreasonable and substantial risk of illness.

SEC. 2. The Secretary shall, by regulation, require (1) any product containing saccharin to bear until regulations described in subsection (a) of the first section take effect a

label warning of the health risk presented by saccharin, and (2) all advertising of such products to include such a warning until such regulations take effect. Any product which does not bear a label required by this section or the advertising of which does not include a warning required by this section shall, for purposes of the Federal Food, Drug, and Cosmetic Act, be considered to be a misbranded food, drug, or cosmetic, or to be an unsafe food additive, as the case may be.

SEC. 3. (a) The Institute of Medicine of the National Academy of Sciences shall conduct, on the basis of case studies, an assessment of—

(1) current technical capabilities to predict the direct or secondary toxicity or carcinogenicity in humans of substances which are added to or naturally occur in food, and which have been found to cause cancer in animals;

(2) the direct and indirect health benefits and risks to individuals from foods which contain toxic or carcinogenic substances;

(3) the existing means of evaluating the risks to health from the toxicity and carcinogenicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing authority and need for weighing such risks against such benefits;

(4) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

(b) Within one year of the date of the enactment of this Act, the Institute of Medicine (1) shall complete the assessment required by subsection (a), (2) shall, on the basis of such assessment, make such recommendations for legislation and administrative action as it deems necessary, and (3) shall report to the Congress and the Secretary of Health, Education, and Welfare (A) the results of such assessment, and (B) such recommendations.

WHY WE SHOULD CONTINUE FUNDING THE JOINT COMMITTEE ON DEFENSE PRODUCTION

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the July 4 issue of the Federal Times, which is on the newsstands today—Monday, June 27—contains an editorial that I believe is of special interest to Members of the House. The editorial takes exception to an action by the Appropriations Committee denying all funding for the Joint Committee on Defense Production for fiscal year 1978. The joint committee is funded by the House, while the Senate provides office space and services. To deny it funds would put the joint committee out of business, despite the fact that it was extended for 2 more years under Public Law 95–37.

The effect of the committee's action, unless reversed by the House, would mean denying the Congress the aggressive and effective instrument which the joint committee represents. As the editorial from the Federal Times makes clear, the joint committee fills an oversight role that is not being performed by any other committee of the Congress. And it fills this role very economically at a cost of $225,000. In relation to the multibillion dollar defense production, mobilization and procurement programs which the joint committee oversees, this is a tiny sum indeed. The savings and potential savings realizable from the committee's work far exceed the cost of operating the committee.

In fact, the editorial, praiseworthy though it is, does not address all of the oversight benefits which the Congress has gained from this committee. Earlier this year, the joint committee released the results of its year-long studies of Federal emergency preparedness programs and organizations and of Soviet civil defense. These are the most comprehensive analyses of these subjects available today. So popular have they been with interested individuals and groups that the Government Printing Office was sold out of these reports within a month after they were released. I doubt that there are many committees with reports that can generate this kind of demand and return money to the Treasury.

I am heartened to know that the vice chairman of the joint committee, our distinguished colleague from Maryland, PARREN MITCHELL, has offered an amendment to the legislative branch appropriations bill to restore the funding of the joint committee. I hope that the other Members of the House will study the Federal Times editorial and the record of the Joint Committee on Defense Production and that they will support Mr. MITCHELL's amendment to restore its funding later this week.

NEEDED GADFLY

("gadfly . . . one that acts as a constructively provocative stimulus . . . one habitually engaged in provocative criticism of existing institutions . . ."—From The American Heritage Dictionary of the English Language.)

If there were an endangered species list of congressional committees, the Joint Committee on Defense Production would head it up.

During the past two years, this small but effective gadfly panel—which currently employs six professionals and two administrative staffers—has undergone a perils-of-Pauline existence, threatened with extinction by fund cuts and Senate reorganization.

The latest attack—a House Appropriations Committee vote to eliminate the $225,000 that would allow the joint committee to operate in fiscal year 1978—may prove fatal.

Although the group's legislative subcommittee had recommended continuing the joint committee's funding, Rep. Lawrence Coughlin convinced the full committee to kill the appropriation. Coughlin thinks that some of the joint committee's work should be continued but that the Senate and House Banking Committees or Armed Services Committees should take over these assignments.

We disagree.

The Senate Banking Committee has already said that the joint committee could handle its work better as a separate entity, and the two Armed Services Committees have shown no desire to do the kind of investigative work the ten-member joint committee has done.

Under the leadership of the late Rep. Wright Patman, former Rep. Leonor Sullivan and now by Rep. Parren Mitchell, we think the joint committee has accomplished a good deal during the past few years. Until that time, there was good reason to view the group as a do-little-and-mostly-nothing panel, but since mid-1975 the Joint Committee on Defense Production has probed the acceptance of gratuities by Defense and space officials, conflict of interest in the Condor missile program, the adequacy of Defense contract auditing techniques, a Pentagon plan to reweight profit formulas on major weapons acquisitions, the size and composition of the Defense-industrial base, the industrial Defense preparedness program, the need for new strategic and economic stockpiles, and the standards used for cost accounting. Among other things.

Most recently, the joint committee assisted the Senate Banking Committee in preparing for three-day hearings on a bill to prevent conflicts of interest among federal procurement officials. This bill, sponsored by Sen. William Proxmire, a particularly active member of the joint committee, is an outgrowth of the panel's 1975 goose hunt probe.

Readers of Federal Times should remember that goose hunt probe which involved prominent federal officials—such as William Saxbe, Maurice Stans and Robert Hampton—being entertained at a Maryland hunting lodge by a giant government contractor, Rockwell International.

Which brings to mind a "Forum" essay for this newspaper written by the late Wright Patman, who then headed the joint committee now under threat of wipe-out.

In our December 31, 1975, issue Patman wrote: "While it may be true that no one ever awarded a major weapon system contract in return for a few plucked geese, the acceptance of such favors inevitably raises the question of other, and larger gratuities. It suggests a relationship of coziness between buyer and seller rather than one aimed at squeezing the most value out of the taxpayer's dollar. And a consistent pattern of accepting the largesse of private corporations places in doubt the integrity of federal officials and of the contracting process itself." He went on to explain that in regard to lobbying reform, there may be a need "to place restrictions on what private interests can legitimately offer to public servants" and "that the enactment of legislation with this aim could go far toward relieving federal employees of some of the burden they now bear for resisting corporate blandishments."

We thought that was sane talk then and we think it is sane talk now.

We also tend to agree with Sen. Proxmire that the joint committee "set an enviable oversight record" in the last Congress, at least for $165,000, which was the committee budget then. Now the House Appropriations Committee is saying that the $225,000 needed to keep the group is unnecessary and wasteful.

The way taxpayer money is thrown around on the Hill, we can only suggest that $225,000 is a comparative drop in the bucket and—judging from what the committee has been doing in recent years—should be money well spent.

We also think the present chairman of the joint committee, Rep. Mitchell, has a point when he says that transferring the group's oversight function to another unit—Armed Services, or wherever—"will not reduce the congressional workload which was the aim of the Senate Committee to Study the Committee System."

Yes, we think there are too many committees on the Hill and we certainly believe in saving every taxpayer dollar that can be saved judiciously. But we do think the Joint Committee on Defense Production—as congressional committees go—has done a useful gadfly job. And gadfly is not a dirty word in our book.

Those who want to do away with the group have yet to prove it has not done a decent job. Nor have they proven that such oversight study is not needed. Nor have they proven that such work could be done as well by another panel.

We suspect, as Rep. Mitchell believes, that if the committee's work were to be given to another committee, such oversight study

"would be pushed to the bottom of the barrel" where it does not belong.

We need hardly add that a joint committee for such work is reasonable to begin with because it avoids duplication of effort by both the Senate and the House.

We are hoping that Congress will disagree with the House Appropriations Committee and maintain its gadfly Joint Committee on Defense Production.

To repeat, for $225,000 it seems like a good buy.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Florida (at the request of Mr. RHODES), for after 3 p.m. today, on account of automobile injuries to members of family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPUTO) to revise and extend their remarks and include extraneous material:)

Mr. HILLIS, for 1 hour, on July 13, 1977.

Mr. SARASIN, for 5 minutes, today.

Mr. GOODLING, for 5 minutes today.

Mr. EMERY, for 5 minutes, today.

Mr. BURKE of Florida, for 20 minutes, today.

(The following Members (at the request of Mr. GAMMAGE) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ROBERTS, for 5 minutes, today.

Mr. PEPPER, for 15 minutes, today.

Mr. REUSS, for 30 minutes, today.

Mr. MITCHELL of Maryland, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. BEILENSON, for 5 minutes, today.

Mr. LONG of Louisiana, for 1 hour, on June 28, 1977.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CARR, to revise and extend his remarks and to include extraneous material, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,610.

(The following Members (at the request of Mr. CAPUTO) and to include extraneous material:)

Mr. LUJAN.

Mr. SPENCE in two instances.

Mr. DICKINSON.

Mr. WYDLER.

Mr. CRANE in two instances.

Mr. GILMAN.

Mr. LAGOMARSINO in two instances.

Mr. ASHBROOK in four instances.

Mr. ABDNOR in two instances.

Mr. WAMPLER.

Mr. DORNAN.

(The following Members (at the request of Mr. GAMMAGE) and to include extraneous matter:)

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. EDWARDS of California.

Mr. BYRON.

Mr. KOSTMAYER.

Mr. EDGAR.

Mr. KOCH in three instances.

Mr. EILBERG in two instances.

Mr. CORMAN in five instances.

Mr. OTTINGER.

Mr. NOLAN.

Mr. MOAKLEY in two instances.

Mr. MATHIS.

Mr. SIMON in two instances.

Mr. TEAGUE.

Mr. CARNEY.

Mr. YOUNG of Missouri.

Mr. MCDONALD.

Mrs. SCHROEDER.

Mr. LEDERER.

Mr. BRINKLEY.

Mr. MCCORMACK in two instances.

Mr. ANDREWS of North Carolina.

Mr. BLANCHARD.

Mr. PEPPER.

Mr. MILFORD.

Mr. RANGEL.

Mrs. BOGGS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 208. An act to amend the Urban Mass Transportation Act of 1964 to extend the authorization for assistance under such act, and for other purposes; to the Committee on Public Works and Transportation.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on June 24, 1977, present to the President, for his approval, bills of the House of the following titles:

H.R. 3695. To amend title 38 of the United States Code in order to revise and improve the program of making grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes; and

H.R. 3849. To establish qualifications for individuals appointed to the National Advisory Committee on Oceans and Atmosphere and to authorize appropriations for the committee for fiscal year 1978.

ADJOURNMENT

Mr. GAMMAGE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 28, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1773. A letter from the Secretary of Housing and Urban Development, transmitting the 12th report on implementation of the Emergency Homeowners' Relief Act of 1975, pursuant to section 111 of the Act (Public Law 94–50); to the Committee on Banking, Finance and Urban Affairs.

1774. A letter from the Executive Secretary of the Department of Health, Education, and Welfare, transmitting proposed final regulations for financial assistance to adult education programs for Indians, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1775. A letter from the Executive Secretary of the Department of Health, Education, and Welfare, transmitting proposed final regulations for Women's Educational Equity Act program, pursuant to section 432(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1776. A letter from the Executive Secretary of the Department of Health, Education, and Welfare, transmitting proposed final regulations for financial assistance to improving educational opportunities for Indian children pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1777. A letter from the Executive Secretary of the Department of Health, Education, and Welfare, transmitting proposed final regulations for the purpose of governing the award of fiscal year 1977 grants for the planning and operation of magnet schools, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1778. A letter from the Executive Secretary of the Department of Health, Education, and Welfare, transmitting proposed final regulations concerning waivers of ineligibility in the case of discriminatory assignments of students of classes, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1779. A letter from the Executive Secretary of the Department of Health, Education, and Welfare, transmitting proposed final regulations regarding annual loan limits for health professions students under the guaranteed student loan program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1780. A letter from the Acting Secretary of the Interior, transmitting a report on the implementation of the Alaska Native Claims Settlement Act covering the period July 1, 1975, to December 31, 1976, pursuant to section 23 of Public Law 92–203 (85 Stat. 688); to the Committee on Interior and Insular Affairs.

1781. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92–403; to the Committee on International Relations.

1782. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the month of February 1977, on gasoline service station market shares, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

1783. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Little Klickitat River, Wash., in response to a resolution of the House Committee on Public Works adopted June 9, 1960; to the Committee on Public Works and Transportation.

1784. A letter from the Comptroller General of the United States, transmitting a report

on U.S. participation in International Organizations; jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELANEY: Committee on Rules. House Resolution 659. Resolution providing for the consideration of H.R. 3702. A bill to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes. (Rept. No. 95-466). Referred to the House Calendar.

Mr. MEEDS: Committee on Rules. House Resolution 660. Resolution providing for the consideration of H.R. 4963. A bill to authorize appropriations for the fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes. (Rept. No. 95-467). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAUCUS (for himself, Mrs. BURKE of California, Mr. CARR, Mr. CLAY, Mr. EDWARDS of California, Mr. KILDEE, Mr. MIKVA, and Mr. STOKES):

H.R. 8027. A bill to establish in the Department of Housing and Urban Development an Office of Indian and Alaska Native programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BIAGGI (for himself, Mr. LAGOMARSINO, Mr. LEHMAN, Mrs. MEYNER, Mr. SCHEUER, Mr. MURPHY of Pennsylvania, Mr. EILBERG, Mr. ADDABBO, Mr. ROSENTHAL, Mr. BADILLO, Mr. WIRTH, Mr. NIX, Mr. LENT, Mr. MOAKLEY, Mr. WALGREN, Mr. WAXMAN, Mr. CORNELL, Ms. KEYS, Mr. VENTO, Mr. DRINAN, Mr. RICHMOND, Mr. DICKS, Mr. DOWNEY, Mr. HAWKINS, and Mr. WOLFF):

H.R. 8028. A bill to amend title XIX of the Social Security Act to provide that an individual who is unable to care for his or her personal needs without assistance shall be eligible as a disabled person (even though employable) for the services of a home health aide under the applicable State plan approved under such title; to the Committee on Interstate and Foreign Commerce.

By Mr. EMERY (for himself, Mr. CONYERS, Mr. KINDNESS, Mr. CARTER, Mr. ANDREWS of North Dakota, Mr. NEAL, Mr. PATTISON of New York, Mr. GOODLING, Mr. PRESSLER, Mr. HUGHES, Mr. EDGAR, Mr. COHEN, Mr. PRITCHARD, Mr. VANDER JAGT, Mr. GLICKMAN, Mr. SEBELIUS, Mr. JENRETTE, Mr. MURPHY of Illinois, Mr. LENT, Mr. MARLENEE, and Mr. JEFFORDS):

H.R. 8029. A bill to amend the Internal Revenue Code of 1954 to encourage the use of alcohol as an alternative fuel for motor vehicles by allowing the rapid amortization of facilities producing alcohol for use as such a fuel and by providing that fuels which are at least 10-percent alcohol will not be subject to the Federal excise taxes; to the Committee on Ways and Means.

By Mr. FISH:

H.R. 8030. A bill to amend title 18 of the United States Code to establish penalties for certain crimes against children in the special maritime and territorial jurisdiction, to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to require the States to have similar criminal penalties as a condition of grants under such title I, and for other purposes; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT (for himself, Mr. HILLIS, Mr. GUYER, Mr. BENNETT, Mr. BEARD of Tennessee, Mr. KINDNESS, Mr. WHITEHURST, Mr. MCCLORY, Mr. RINALDO, Mr. TREEN, Mr. KELLY, Mr. LAGOMARSINO, Mr. BROYHILL, Mr. DICKINSON, Mr. DERWINSKI, Mr. HALL, Mrs. LLOYD of Tennessee, Mr. BRECKINRIDGE, and Mr. OTTINGER):

H.R. 8031. A bill to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HUGHES (for himself, and Mr. ROONEY):

H.R. 8032. A bill to amend the Tariff Schedules of the United States by repealing item 807 of schedule 8, part 1, subpart B; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H.R. 8033. A bill to amend the Internal Revenue Code of 1954 to allow, in lieu of the amortization of amounts for pollution control facilities, a deduction in the year in which such amounts are paid or incurred; to the Committee on Ways and Means.

H.R. 8034. A bill to amend the Walsh-Healey Act to provide that, where the majority of the employees of an employer to whom that act applies by secret ballot elect to do so, the employees of that contractor may work 10 hours in each day if they do not work in excess of 40 hours in any one week; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. MIKVA (for himself, Mr. ANDREWS of North Carolina, Mr. BOWEN, Mr. DRINAN, Ms. MIKULSKI, and Mr. FORD of Michigan):

H.R. 8035. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with evenhanded protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MITCHELL of Maryland (for himself, Mrs. BOGGS, Mr. COTTER, Mr. HAWKINS, Mr. JENRETTE, Mr. OTTINGER, Mr. ROYBAL and Mr. CHARLES WILSON of Texas):

H.R. 8036. A bill to amend the Small Business Investment Act of 1958, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. MOFFETT (for himself, Mr. MOSS, Mr. OTTINGER, Mr. MAGUIRE, and Mr. GORE):

H.R. 8037. A bill to amend the Natural Gas Act; to the Committee on Interstate and Foreign Commerce.

By Mr. MONTGOMERY (for himself, and Mr. HAMMERSCHMIDT):

H.R. 8038. A bill to deny entitlement to veteran's benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges for services during certain periods of war, and for other purpose; to the Committee on Veterans' Affairs.

By Mr. OTTINGER:

H.R. 8039. A bill respecting the continued use of saccharin as a food, food additive, drug, and cosmetic, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS (for himself and Mr. QUIE):

H.R. 8040. A bill to extend certain programs under the Elementary and Secondary Educational Act of 1965 for 1 year, and for other purposes; to the Committee on Education and Labor.

By Mr. QUIE:

H.R. 8041. A bill to amend title 23 of the United States Code to establish a rural bridge replacement and reconstruction program for bridges on roads which are not on any of the Federal-aid systems; to the Committee on Public Works and Transportation.

By Mr. ROBINSON:

H.R. 8042. A bill to amend the Internal Revenue Code of 1954 to encourage the use of alcohol as an alternative fuel for motor vehicles by allowing the rapid amortization of facilities producing alcohol for use as such a fuel, and for other purposes; to the Committee on Ways and Means.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. CARTER, Mr. MARTIN, Mr. ALEXANDER, Mr. ALLEN, Mr. ARCHER, Mr. ASHLEY, Mr. AUCOIN, Mr. BEARD of Tennessee, Mr. BLANCHARD, Mrs. BOGGS, Mr. BOWEN, Mr. BRODHEAD, Mr. BROWN of Ohio, Mr. CORCORAN of Illinois, Mr. CUNNINGHAM, Mr. EDWARDS of Oklahoma, Mr. EILBERG, Ms. FENWICK, Mr. FITHIAN, Mr. FOLEY, Mr. FORD of Michigan, Mr. GINN, and Mr. GLICKMAN):

H.R. 8043. A bill to direct the Institute of Medicine of the National Academy of Sciences to conduct a 1-year review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives, and to direct the Secretary of Health, Education, and Welfare to permit the continued use of saccharin as a food, food additive, drug, and cosmetic for 18 months; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. CARTER, Mr. MARTIN, Mr. GORE, Mr. GUYER, Mr. HANNAFORD, Mr. HEFNER, Mr. HEFTEL, Mr. HILLIS, Mr. HORTON, Mr. HUBBARD, Mr. HUGHES, Mr. IRELAND, Mr. JACOBS, Mr. KASTEN, Ms. KEYS, Mr. KINDNESS, Mr. KREBS, Mr. LAGOMARSINO, Mr. LE FANTE, Mr. LEHMAN, Mr. LEVITAS, Mrs. LLOYD of Tennessee, and Mr. LOTT):

H.R. 8044. A bill to direct the Institute of Medicine of the National Academy of Sciences to conduct a 1-year review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives, and to direct the Secretary of Health, Education, and Welfare to permit the continued use of saccharin as a food, food additive, drug, and cosmetic for 18 months; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. CARTER, Mr. MARTIN, Mr. LUKEN, Mr. MARKS, Mr. MCCORMACK, Mr. MILFORD, Mr. MILLER of Ohio, Mr. MINETA, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. NEAL, Mr. NEDZI, Mr. NOWAK, Ms. OAKAR, Mr. O'BRIEN, Mr. PEPPER, Mr. PRITCHARD, Mr. RAHALL, Mr. REGULA, Mr. RUNNELS, Mr. RINALDO, Mr. RODINO, and Mr. RUDD):

H.R. 8045. A bill to direct the Institute of Medicine of the National Academy of Sci-

ences to conduct a 1-year review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives, and to direct the Secretary of Health, Education, and Welfare to permit the continued use of saccharin as a food, food additive, drug, and cosmetic for 18 months; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY (for himself, Mr. CHAPPELL, and Mr. PERKINS):

H.R. 8046. A bill to regulate interstate commerce in wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mrs. SCHROEDER (for herself and Mr. DRINAN):

H.R. 8047. A bill to provide that a former spouse of a Federal employee who is married to such employee for 20 years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse of such employee; to the Committee on Post Office and Civil Service.

By Mrs. SMITH of Nebraska:

H.R. 8048. A bill to amend title 39, United States Code, to regulate the manner in which the U.S. Postal Service may consolidate rural delivery routes and close post offices serving rural areas and small communities and towns, and for other purposes; to the Committee on Post Office and Civil Services.

By Mr. THONE:

H.R. 8049. A bill to amend title II of the Social Security Act to repeal the earnings limitation for all workers age 65 and over, and for other purposes; jointly to the Committees on Ways and Means, Interstate and Foreign Commerce.

By Mr. GLICKMAN (for himself, Mr. BEDELL, Mr. PANETTA, Mr. LEACH, and Mr. BURGENER):

H.J. Res. 535. Joint resolution proposing an amendment to the Constitution of the United States providing for staggered 4-year terms for Representatives, for a limitation on the number of terms a person may serve in the House of Representatives or the Senate, and for other purposes; to the Committee on the Judiciary.

By Mr. LUJAN:

H.J. Res. 536. Joint resolution to designate the stone commonly known as turquoise as the national gemstone of the United States; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE:

H.J. Res. 537. Joint resolution designating the American rose as the national floral emblem of the United States of America; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. ALEXANDER, Mr. BURKE of Florida, Mr. DE LA GARZA, Mr. KAZEN, Mr. LAGOMARSINO, Mr. ROUSSELOT, Mr. RUDD, Mr. WRIGHT, and Mr. YATRON):

H. Con. Res. 265. Concurrent resolution to endorse the Hermosillo Declaration on Combatting Traffic in Drugs at the International Level and urge the President to encourage other nations to cooperate in eradicating narcotics trafficking; to the Committee on International Relations.

By Mr. WRIGHT:

H. Res. 658. Resolution to amend the Rules of the House of Representatives and establish a Permanent Select Committee on Intelligence; to the Committee on Rules.

By Mr. ANNUNZIO:

H. Res. 661. Resolution providing for two additional positions on the Capitol Police, and for other purposes; to the Committee on House Administration.

By Mr. BROOKS:

H. Res. 662. Resolution authorizing the printing as a House document the dedication ceremony of the portrait of the Honorable Peter W. Rodino, Jr., Chairman, Committee on the Judiciary; to the Committee on House Administration.

By Mr. MOTTL (for himself, Mr. BAUCUS, Mr. ERTEL, Mr. LEACH, Mr. LUJAN, Mr. MANN, Mr. MARTIN, Mr. MILLER of California, and Mr. ROE):

H. Res. 663. Resolution to create a select committee to conduct a study of the circumstances surrounding both product liability and professional liability insurance rate increases, and of any other product and professional liability insurance coverage issues the committee shall determine; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

202. By the SPEAKER: Memorial of the Senate of the State of Colorado, relative to the proposed transfer of the Mining Enforcement and Safety Administration (MESA) from the U.S. Department of the Interior; to the Committee on Education and Labor.

203. Also, memorial of the Legislature of the State of Louisiana relative to the cost of relocating natural gas interstate pipelines in Louisiana; to the Committee on Interstate and Foreign Commerce.

204. Also, memorial of the Legislature of the Territory of Guam, relative to requesting Congress to call a Constitutional Convention for the purpose of proposing an amendment to the Constitution of the United States to guarantee the preservation of human life; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MATHIS:

H.R. 8050. A bill for the relief of Lt. Col. John N. Hudgens, U.S. Air Force, retired; to the Committee on the Judiciary.

By Mr. PATTERSON of California:

H.R. 8051. A bill for the relief of Pedro Sagasti-Bilbao and Sylvia Alvarez de Sagasti and their children Karyn Sagasti-Alvarez, Veronica Del Pilar Sagasti-Alvarez, and Pedro Sagasti-Alvarez; to the Committee on the Judiciary.

By Mr. PEPPER:

H.R. 8052. A bill for the relief of Kathleen T. Gomez; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.R. 8053. A bill for the relief of Lt. Col. Charles D. Seymour; to the Committee on the Judiciary.

By Mr. WHITTEN:

H.R. 8054. A bill for the relief of Jessica Layug Patterson; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7932

By Mr. MITCHELL of Maryland:

Page 10, line 19, after line 18, insert:

JOINT COMMITTEE ON DEFENSE PRODUCTION

For salaries and expenses of the Joint Committee on Defense Production, $177,700.

By Mr. PRESSLER:

On page 36, after line 17, insert the following new section:

None of the funds appropriated by this act may be used for the congressional intern program established by House Resolution 420 of the 93d Congress unless for the purposes of the resolution a "similar institution of higher learning" is construed to include a postsecondary vocational school.

On page 36, after line 17, insert a new section as follows:

None of the funds appropriated in this act shall be used to fund the increase in salaries for members of the U.S. House recommended by the President on January 17, 1977, pursuant to section 225 of the Federal Salary Act of 1967.

H.R. 7933

By Mr. BURLISON of Missouri:

"Other Procurement, Air Force". Delete the amount $2,318,986,000 and insert in lieu thereof the following sum, $2,303,998,000."

By Mr. GILMAN:

Page 58, immediately after line 7, insert the following new section:

SEC. 862. None of the funds appropriated by this Act may be obligated or expended to conduct any review of the status of United States military personnel listed as missing-in-action in Southeast Asia other than—

(1) a review with respect to which the Federal officer or employee conducting such review has physical evidence of the actual fact of death, and

(2) a review under chapter 10 of title 37 of the United States Code which is requested by any individual who is a dependent of any such personnel so listed and who is receiving monetary benefits from the United States by reason of being a dependent of such personnel.

SENATE—*Monday, June 27, 1977*

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Study to shew thyself approved unto God, a workman that needeth not to be ashamed, rightly dividing the word of truth.—II Timotry 2:15.

Let us pray.

God of our Fathers and our God, who has safely brought us to the beginning of this new week, grant us a holy stewardship of office and of work in this place. Help us rightly to divide the word of truth, shunning all that is untrue, rejecting half-truths, separating the important from the unimportant, the trivial from the crucial, refining legislation according to the needs of the whole Nation and in accord with Thy will. As we work make us more concerned with Thy judgment of us than with our judgment of Thee.

Guide by the light of Thy presence, the President, all our leaders, and the citizens of this land, to make America a blessing to all mankind. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 27, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, June 24, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures that have been cleared on the Unanimous Consent Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GASPAR LOUIS SAYOC

The Senate proceeded to consider the bill (S. 142) for the relief of Gaspar Louis Sayoc, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Gaspar Louis Sayoc may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–289), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to waive the excluding provision of existing law relating to one who has been convicted of a violation relating to the illicit possession of a narcotic in behalf of the son of a U.S. citizen. The bill has been amended to reflect recent amendments to the Immigration and Nationality Act.

ANGELO B. CORTES

The bill (S. 344) for the relief of Mr. Angelo B. Cortes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mr. Angelo B. Cortes shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–290), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Mr. Angelo B. Cortes. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

"The beneficiary is married. His widowed mother, three brothers and a sister reside in the Philippines. His spouse, two adult sons, and three teenage siblings also reside in the Philippines. His spouse owns land in her own right which furnishes subsistence and livelihood for his family in addition to the amounts he remits from his earnings.

"The beneficiary was admitted to the United States on February 24, 1974, as a temporary visitor for business. He failed to apply for an extension of stay. Deportation proceedings have not been instituted pending disposition of his application for naturalization under section 329 of the Nationality Act of 1940. The beneficiary received the following military awards and commendations: World War II Victory Medal; Philippines Independence Ribbon; and the Army of Occupation Medal with Japan clasp."

Senator Daniel K. Inouye, the author of the bill, submitted the following statement of support:

"STATEMENT BY DANIEL K. INOUYE IN SUPPORT OF S. 3734, FOR THE RELIEF OF ANGELO B. CORTES

"Angelo B. Cortes, presently of Honolulu, was born on September 8, 1922, in Dasol, Pangasinan, Philippines. He entered the United States as a visitor for business.

"Mr. Cortes served in the U.S. Army in the Philippines from 1944 until he was honorably discharged on March 31, 1949. He served as a company clerk and supply sergeant from 1944 to 1946 and a fire control repairman and acting shop foreman of the artillery division until his discharge. He received the World War II Victory Medal, the Philippine Independence Ribbon, and the Army of Occupation Medal with Japan Clasp.

"From 1952 until 1956, Mr. Cortes served as the municipal secretary in Dasol, Pangasinan, and from 1956 until January 31, 1974, he was the provincial inspector of the Bureau of Health in Dasol.

"Mrs. Joaquina P. Cortes is a housewife and is presently in the Philippines with their four sons and one daughter. His oldest son is studying in the Philippine School of Business Administration in Manila. The second son is serving in the Philippine Air Force. The other three children are attending public schools in Dasol. Mr. Cortes hopes to obtain the citizenship of the country in whose Armed Forces he served faithfully and honorably in order that he can avail himself of the great opportunity in the United States to benefit his family."

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 344) should be enacted.

CHIU-PING HASKELL

The Senate proceeded to consider the bill (S. 614) for the relief of Chiu-Ping Haskell, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, in the administration of the Immigration and Nationality Act, Chiu-Ping Haskell, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable to this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Chiu Ping Haskell.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–291), explaining the purposes of the measure.

There being no objection, the except was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of an immediate relative to Chiu Ping Haskell, to which status she would have been entitled were it not for the death of her husband, a citizen of the United States. The purpose of the amendment is to conform the language to established precedents and to correct a typographical error in the beneficiary's name.

SOO JIN LEE

The bill (H.R. 1437) for the relief of Soo Jin Lee, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–292), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States of the prospective adoptive child of U.S. citizens.

TULSEDEI ZALIM

The bill (H.R. 3838) for the relief of Tulsedei Zalim, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–293), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States of an immediate relative of the adopted child of a U.S. citizen.

HEE KYUNG YOO

The bill (H.R. 4246) for the relief of Hee Kyung Yoo was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–294), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States of the prospective adoptive child of citizens of the United States.

Through the auspices of the Korea Social Welfare Society Inc., the beneficiary is being proposed for adoption by Mr. and Mrs. Donald Weicht, of Elk River, Minn. The adoptive parents have no natural children, and have previously adopted two other Korean orphans. One of these children, Amie Lee Weicht, died on February 12, 1976. Mr. and Mrs. Weicht plan to adopt the beneficiary in the United States.

The beneficiary is prevented from being issued a visa number under the provisions of section 101(b)(1)(F) of the Immigration and Nationality Act because of the limitations contained in section 204(c) of the act concerning the approval of only two petitions in behalf of a child, as defined in section 101 (b)(1)(F), or (F) from any one petitioner. While the beneficiary could be registered as a nonpreference applicant, this is not considered to be a viable alternative due to the continued lack of visa numbers for Korean-born nonpreference applicants. At the present time there are no nonpreference numbers available and the beneficiary could face a wait of at least several years before her case could be actively considered.

The beneficiary underwent a medical examination on August 16, 1976, and at that time she was found to have "class A" tuberculosis, which would render her ineligible to receive a visa. She was also found to have pneumonitis.

In December 15, 1976, she was admitted to Seoul Adventist Hospital as a result of convulsions. An electroencephalogram (EEG) and a series of X-rays were done at that time, with no abnormal findings. The examining physician's conclusion was that the beneficiary suffered from "convulsive disorder" of unknown origin. On April 19 of this year the beneficiary was given another medical examination. X-rays taken during this examination revealed no sign of pulmonary tuberculosis. The examining physician noted that the beneficiary had been receiving chemotherapy, and he has recommended that she continue the therapy for an additional 3 months, at which time she could be considered completely cured. The examining physician also noted her previous medical history of convulsion, and stated that he could not rule out the possibility of epilepsy. He suggested, in this regard, careful observation of the beneficiary, and recommended, that should she suffer from convulsions again, an electroencephalogram be done as soon as possible.

The Embassy's investigation revealed no derogatory information concerning the beneficiary.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the bills were passed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are three items on the Executive Calendar that have been cleared beginning with the Department of Justice. I ask unanimous consent, if the distinguished assistant Republican leader has no objection on his side, that the Senate go into executive session to consider the nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Joseph J. Harvey, of Washington, to be U.S. marshal for the western district of Washington.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NEW REPORTS (DEPARTMENT OF JUSTICE)

The second assistant legislative clerk read the nominations of J. Jerome Bullock, of Georgia, to be U.S. marshal for the District of Columbia; and Lee A. Limbs, Jr., of Arizona, to be U.S. marshal for the district of Arizona.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no other matters to present.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I yield the time under the special order that I have reserved to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. STEVENS. Mr. President, I yield back the leadership time that we have.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 15 minutes in his own right.

PRESIDENT CARTER'S MIDEAST PEACE PROPOSAL

Mr. JAVITS. Mr. President, I asked for this time this morning to speak about the President's peace proposals respecting the Middle East. Before I make my remarks in chief, I wish to make a short statement respecting my discussion with the President in the company of Senator CASE, the Vice President, and Mr. Brzezinski, the President's adviser on national security affairs.

On Friday morning last, Senator CASE and I met with President Carter, the Vice President and Mr. Brzezinski to discuss with the President the Mideast, Arab-Israel issues and the perspective set out in the body of my speech being delivered in the Senate today.

The meeting was friendly and constructive. I share with the President the same objectives respecting the Mideast and our meeting was a discussion and not a confrontation. The President listened attentively to what I had to say and I

was most interested in his comments. We did not seek to reach an agreement at this time on how U.S. Mideast policy is to be articulated and how differences which remain may be adjusted. But I am satisfied that we share the objective of a just and lasting peace in the Mideast and I feel that the President can greatly forward the prospects for success.

In this spirit, I felt encouraged by the President to place my position on the public record so as to invite informed debate on the crucial issues that are involved. This is the spirit in which I speak today.

It is my hope to work with the President and the President's advisers, with the Vice President, and the Secretary of State, and to do all I can to help to achieve the Mideast peace objective of the President and of the American people I believe in time we have a good chance to accomplish it.

Also, I have advised the President of my intention to go to the Mideast as a member of the Senate Foreign Relations Committee during the July 4 recess and the President has most generously invited me to continue our discussion further before I leave.

My purpose this morning is to open the dialog on a vital element of U.S. foreign policy from this time forward. We cannot erase, nor does anyone seek to erase what the President has said—that is history. Therefore, I would not ask any President to do that, certainly not President Carter, deeply as he has this issue in his heart.

Speaking in San Francisco on June 17, Vice President MONDALE presented an official statement of President Carter's Mideast peace proposals. In my judgment, President Carter's intentions respecting peace in the Mideast are entirely creditable. Serious questions remain, however, as to whether the specifics of the Carter proposals, as spelled out by Vice President MONDALE, will accomplish the results which are sought by the President. Indeed, there are reasons to conclude that the Carter proposals will not succeed in their objective because they are unrealistic and fail to take account of certain of the key factors in the situation. By asking so much of Israel, and thereby requiring Israel as a matter of its very survival, to ask so much from the Arabs in return—things which may exceed Arab willingness to concede—the Carter proposals may in themselves undercut the possibility of a successful U.S. role as mediator.

My purpose is to open the dialog on this vital element of U.S. foreign policy from this time forward so that it may crystallize in the most constructive U.S. position and the most likely to forward Mideast peace.

The idea of trading territory for peace, which is the essence of the Carter proposals, is not a new one. Several years ago Israel's policy was described by Prime Minister Rabin as being one of trading a "piece of territory for a piece of peace" on a step-by-step basis. Now, President Carter is proposing a well nigh total trade of all the Arab territory administered by Israel for "total peace." In addition to Israel's return "to approximately the borders that existed prior to the war of 1967," President Carter has also proposed the establishment of "a Palestinian homeland or entity—preferably in association with Jordan" in the territory Israel withdraws from.

The persistent public advocacy by the President of the United States of Israeli withdrawal to approximately the pre-June 1967 borders and the establishment of a Palestinian "homeland or entity"—before the convening of the Geneva Conference, before there has been any meeting without preconditions between Israeli and Arab negotiators, even before Israel's new government took office—can only continue to feed Arab illusions that President Carter will deliver to them what they have been unable to deliver to themselves by any other means including the recurrent recourse to war.

Moreover, the President's advocacy of Israel's return to its precarious 1967 borders, side by side with a Palestinian homeland or entity is having the effect of putting the Israelis in fear of their survival and thus hardening the terms they feel they must insist upon. This in turn will make it harder for the Arabs to agree. As a result, the chances for Mideast peace may be lessened and the danger of war enhanced by a breakdown in the peace seeking process through overreaching.

This clash of frustrated Arab illusions and burgeoning Israeli fears when compressed into the pressure cooker of a short-term, "wrap it up" Geneva Conference can only produce more not less tensions and danger of yet another Middle East war. What had been hoped for as a move forward—and understandably different from Henry Kissinger's step-by-step diplomacy—was a call upon all the parties to Geneva and all issues to be on the table for negotiation without preconditions and with the United States in a mediating role between the parties. Even Prime Minister Begin accepts this approach.

But, to be as specific as Vice President MONDALE's blueprint of the administration's position, in advance of Geneva, has raised both Arab expectations and Israeli fears, thereby inviting failure.

It is not enough to state this conclusion. It is necessary to go further and to analyze why the proposals of the administration as confirmed by Vice President MONDALE are becoming unrealistic.

As President Carter himself has emphasized, the United States is morally committed to the survival and integrity of Israel. And, notwithstanding the magnitude of the American contribution, the burden of assuring Israel's survival and integrity rests squarely upon the Israelis themselves—and rightly so.

Thus, the quality of the decisions which Israel makes over the coming year with respect to the life and death issues that will be posed for it at the Geneva conference is of the highest importance to the United States as well as to Israel.

I am convinced that the highest quality of decision can only be made by an Israel which does not feel pressed to the wall. Nations under the threat of coercion from friends—or enemies—seldom make the most clear-sighted decisions. And, wrong decisions by Israel—either conceding too much or not conceding enough—carry the eventual risk of renewed war.

The three tangible Carter-Mondale suggestions are for:

First. Israel's return to 1967 borders with minor modifications, with security zones forward of these borders to be phased out as relations between Israel's neighbors—that is, Jordan, Egypt, and Syria—and Israel are normalized;

Second. A "homeland" for the Palestinians, "preferably" in some association with Jordan; and

Third. Diplomatic recognition of Israel by the Arab States and a phased achievement of real peace: with trade, open borders, et cetera.

Why are these positions unrealistic?

First. To establish forward security borders for Israel means some reasonable zone—say 20 to 25 kilometers—and in that zone it will be impossible to administer affairs for long—what with the PLO riflemen in the wings, the irredentism and pressure to get Israel out will be enormous—no organized administrative continuity is possible, propaganda and disorder will be the order of the day.

Second. The use of the term "Homeland" establishes at once a parallelism with the Jewish National Home in Israel and exactly contradicts an association with Jordan. Indeed, the basis for this association has not been properly laid on the Arab side. In addition, such an association neither assures control of policy nor even its own continuity. As a precedent there is Syria's abrupt denunciation of its union with Egypt in the United Arab Republic.

Third. The administration's proposals respecting a Palestinian entity is qualified by the phrase "preferably in association with Jordan." This phrase is loaded with ambiguity and uncertainty. Yet, the status of the proposed Palestinian entity is one of the most crucial and disputed issues of the entire controversy. Whose "preference" is to govern? The Palestine Liberation Organization, PLO, continues to be recognized by the Arab governments as the "sole" representative of the Palestinian people. At the meeting of its governing national council in March of this year—the PLO conspicuously refused to moderate its demand for the destruction of Israel as a Jewish state. Moreover, the political declaration issued at the close of that meeting gives no indication of PLO interest or willingness to federate a Palestine entity with the Kingdom of Jordan, as was formally proposed a few years ago by King Hussein and despite reported heavy pressure on the PLO to do so by Egypt and Saudi Arabia.

Fourth. The administration proposals are silent on three of the issues most crucial to the achievement of a lasting peace—Jerusalem, Lebanon, and the Golan Heights. Does the return of Israel to approximately the 1967 borders mean that Jerusalem is again to be a divided city—a Middle East Berlin—with Israeli access again as difficult as in the year before 1967? What is envisaged under the Carter proposals for the Golan Heights and for Lebanon? Is Lebanon to remain territorially intact and under Syrian hegemony; and is the PLO to continue to have the right to exist as a "state within a state" there? These questions are crucial in themselves and related inextricably to the Golan Heights issue and the 1967 borders issue.

Fifth. The administration proposals suffer from the multiple deficiency of being too detailed in some respects, silent in other crucial respects, and—worst of all—open-ended in the final analysis. Hitherto, international efforts to achieve Mideast peace have rested upon U.N. Resolution 242 as reinforced by resolution 338. But now, according to Vice President MONDALE'S speech:

> Resolution 242 does not by itself provide all that is required. We, therefore, decided to work with the parties concerned to outline the overall framework for an enduring peace. Our concept was to use this framework as the basis for a phased negotiation and implementation of specific steps toward peace.

The implications of the above-quoted sentences are far-reaching indeed and may open a Pandora's box of new difficulties. How does one define "the parties concerned" as used above? Is the new "overall framework for enduring peace" intended to be merely additive to the existing language of resolution 242—which makes no mention of a "Palestinian homeland or entity"—or are its basic concepts to be opened up to redefinition or renegotiation? Is the Soviet Union to be a party to the definition of the new "overall framework for enduring peace"? Is the Security Council of the United Nations, which now includes the Peoples Republic of China, to pass upon or give it sanction to the new overall framework? By calling into question the status of resolution 242 and 338, the administration proposals raise new uncertainties. I believe that the central position of U.N. Resolution 242 should not be undermined directly or by implication. Its acceptance has been reiterated by the new Government of Israel and by all the other parties other than the PLO and it should be the basis for negotiations at Geneva.

The major criticism of the administration's proposals, in terms of the reaction of many of Israel's supporters in this country, derives from what appears to be an imbalance in what the Israelis and the Arabs are being called on to do.

Israel is being asked to agree in advance to retreat to its 1967 borders in return for a peace which will be phased in over a number of years. The territorial concessions which Israel is asked to make are of dual significance to the very essence of its national security. First, the territories which it has administered since 1967 constitute virtually the totality of Israel's bargaining power with its Arab neighbors. Second, Israel is convinced that its 1967 borders are virtually indefensible under modern battle conditions and as such would be a constant invitation to attack rather than a reinforcing element of a lasting peace.

On the other side, the Arabs are being asked to promise to accept Israel in peace at the conclusion of "phased negotiation and implementation of specific steps toward peace." This seems like being asked to pay heavily now in return for only the promise of a reciprocal benefit which is to be delivered at some indefinite time in the future.

The Israelis will clearly feel impelled to make high reciprocal demands on the Arabs in return for what President Carter is asking of them—demands which the administration proposals do not now seem to encompass.

If the Arab States come to believe that the Arafat "nonnegotiable demands" approach to relations with Israel can succeed, the temptation could be strong for them to try the Arafat approach to relations with the West in general respecting the OPEC oil cartel and North-South issues in particular. The United States has a very real and direct interest in seeing that the Arab States come to recognize that their relations with Israel must be based on a genuine acceptance of Israel's national integrity and vital national interests, too. On the grounds of national interest and security alone our interest in a secure Israel must be put among our priorities.

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, I yield to Senator BROOKE.

Mr. BROOKE. Mr. President, I first want to commend the distinguished senior Senator from New York, our most able colleague, for having made this statement. I know how strongly he feels about the Middle East. I know he has been concerned, as have many of us, about recent administration statements on the subject of peace between Israel and her Arab neighbors.

Mr. President, purposeful ambiguity has its role in the arcane world of diplomacy so long as it makes a positive contribution to the achievement of desired ends. Recognizing this, many of us have been willing until now to forego extensive comment on the administration's ambiguous statements regarding the Middle East.

But ambiguity can also be of great detriment if it creates misperceptions as to actual intent. And it is becoming increasingly apparent that this is the danger that besets the current administration's approach to the Middle East.

It had been my hope that by now the administration would have clearly reiterated, by its actions and statements, a U.S. refusal to coerce Israel into accepting a dictated settlement. Unfortunately, this has not been the case. And I fear that the administration is drifting dangerously toward acceptance of the view that an imposed settlement might be justified. Such an approach would have a high probability of setting the stage for escalating tensions and greater disasters in the Middle East.

One of the serious consequences of the administration's ambiguous statements on the Middle East may be the creation of the perception in the minds of many in the Arab world that direct negotiations with Israel will be unnecessary because the United States will deliver Israel to Geneva to sign a prearranged dictat. Such an Arab expectation will never be fulfilled. Its creation, either by design or ineptness on the part of some U.S. officials could, however, stimulate an understandable hardening of Israeli positions in response to Arab intransigence stemming from such an expectation. Thus, ill-conceived statements on the part of the administration could threaten the very cause of peace which they are intended to promote.

This period of uncertainty requires constant affirmation of fundamental principles providing the anchor for U.S. Middle East policy. Three such principles come to mind.

First, Israel as an independent democratic state is a vital interest of the United States. Its assured existence is intimately linked to the survival of the values upon which our own freedom and form of government are based.

Our unqualified commitment to Israel's survival does not exclude a U.S. desire and need for amicable relations with the Arab States. There is no question that continued improvement of relations with various Arab States is also of crucial importance to our country. But, and this is fundamental, lasting improvement in relations with the Arab States cannot be obtained through a lessening of resolve to assure a viable Israel. Should that resolve weaken, the United States would sacrifice its claim to be a country of principle and honor. Friend and foe alike would have little confidence in our policies or intentions.

Second, it is peace, meaning not only the cessation of a state of belligerency but also normal intercourse between Israel and her neighbors, that is the goal. We must reject the temptation to impose "quick fixes" that do little more than provide interludes between periods of armed conflict.

Finally, the proper role for the United States in the Middle East must be as a mediator and not as a dictator of agreements. Those who would be tempted to impose a settlement on Israel are wrong. It is the Israelis, not ourselves, who must endure the immediate consequences of any agreements. And it would be totally unacceptable for the United States to condition its relations with Israel on Tel Aviv's willingness to accept risks that we ourselves would find intolerable if confronted with similar circumstances.

Much has been said recently about a "peace offensive" by the Arab States. We

all naturally welcome indications of moderation and restraint on the part of the opponents of Israel. But we also recognize that the term "peace" does not have a universal meaning for Israeli and Arab alike.

To many radicals in the Arab world, "peace" could only be achieved if Israel ceased to exist. Their "peace" would be that of the sword. Without question, these perpetrators of violence and hatred must be rejected.

Others in the Arab world believe "peace" means only a cessation of conflict with Israel by overt military action. To them it does not mean unqualified acceptance of Israel's sovereign status. "Peace" in this view, is merely the continuation of the struggle against Israel by means other than military force. To Israel and the United States, this restricted definition of "peace" is unacceptable. While it may promise a brief or even moderately extended respite from open warfare, it also will sow the seeds for future violence.

I am convinced that peace in the Middle East, to be worthy of the name, must include the following:

First. Recognized borders that provide adequate military and political security for the Middle East States.

Second. An end to the preaching of hatred and animosity toward one's neighbors.

Third. Free exchange of peoples and ideas between the various societies.

Fourth. Open trading relationships between Israel and her Arab neighbors.

Fifth. An end to "political warfare" against Israel in various international forums.

But I also am convinced that it is the fundamental right of the conflicting parties to make the decisions regarding the risks to be taken in seeking peace. And only in direct negotiations will the opportunity present itself for the parties to hammer out agreements that will be effective in promoting peace in the area.

The United States can legitimately encourage the accommodation process in several ways.

First, it can indicate to all parties that its commitment to the continued existence of Israel is a principled one that will not be sacrificed to expediency or weakened by acceptance of nebulous formulas for peace. The best means of doing so continues to be a U.S. willingness to provide clearly needed economic and military assistance to Israel. Indeed, as many realize, unless the United States is true to its moral and security-related commitments to Israel, it could never be trusted as a reliable friend of Arab countries.

Second, it can demonstrate that support of Israel and good relations with Arab countries are not mutually exclusive goals. The extensive amounts of U.S. aid provided Egypt, Syria, and Jordan in recent years and the close relations we have with Saudi Arabia are ample proof that this is not the case.

Finally, the United States can continue to offer its "good offices" as a mediator in the search for peace. While doing so it must clearly indicate that it will not seek to dictate the terms of a settlement, either by itself or in conjunction with other outside powers.

True peace in the Middle East can only be achieved through covenants freely agreed to by the involved parties in direct negotiations. Solutions imposed from without will be too fragile to accommodate the tensions that will continue to be characteristic of the Middle East for years to come. Israel and her Arab neighbors must be fully committed to the terms of an agreement if peace is to exist. Such commitment would be impossible under an imposed settlement.

There should be no doubt that pressures will increase for the United States and Israel to accept simple formulas for peace. Indeed, voices are being raised in this country insisting that Arab expressions of a desire for peace are sufficient justification for extensive concessions by Israel. These "simple formulas" remind one of H. L. Mencken's statement:

> For every difficult and complex problem, there is an obvious solution that is simple, easy and wrong.

There are no simple, easy solutions in the Middle East. And neither Israel nor the United States can afford to be wrong in the choices that are made. Too much is at stake.

It is time for the present administration, the Congress and the American people to understand that the process of peace will be very protracted in time if it is to bring to pass the desired results. Our commitment must be for the long haul. And we must accept the financial and psychological burdens that such will entail.

Mr. President, the United States cannot afford to be an "uncertain trumpet" as it seeks to encourage the negotiating process in the Middle East. It is important that we do not mislead others into thinking that we will attempt to coerce Israel into accepting a settlement. To do so would be to risk miscalculations on the part of Israeli and Arab alike, the end result of which would likely be a disaster of unmitigated proportions. Therefore, it is important that the administration clearly indicate, in its statements and actions, that the United States rejects a coercive approach in its relations with Israel even while it undertakes to do everything that it can to encourage direct negotiations without prior conditions between Israel and the Arab States.

In closing, I would like to ask the Senator from New York one question. Is it a crucial point, and one that the Israelis have persistently and consistently argued, that they must negotiate directly with the Arab States?

Mr. JAVITS. That is correct.

Mr. BROOKE. But the Arabs have consistently said they will not negotiate directly with Israel; is that correct?

Mr. JAVITS. Exactly.

Mr. BROOKE. It is a question of direct negotiation between Israel and the Arab States if we are going to get on with peace in the Middle East.

Mr. JAVITS. The Senator is exactly correct.

Mr. BROOKE. That is the point the Senator has tried to make.

Mr. JAVITS. That is exactly right.

Mr. BROOKE. I appreciate having that clarification, not that I had any serious question about it, but I think it ought to be made time and time again. The administration must be made more sensitive to the need for direct negotiations without preconditions between Israel and the Arab States if peace is to be given a chance. A dictated "Carthaginian" peace is unacceptable.

Mr. JAVITS. That is correct.

Mr. BROOKE. I thank my distinguished colleague.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. JAVITS. Yes. I yield.

Mr. PACKWOOD. Following up the statement of the Senator from Massachusetts, can the Senator envision any kind of peace in the Middle East that is imposed on either side being acceptable to either?

Mr. JAVITS. I cannot.

Mr. PACKWOOD. Unless the United States is prepared, if we want to force a settlement, and have a modern day pax romana, to police it perpetually, not only would it be adverse to Israel and the Arab interests, but certainly to our interests, to try to impose something that they do not want.

Mr. JAVITS. And to Western European interests, which are so involved in the area.

Mr. PACKWOOD. Exactly. That is what I have had for years misgivings about. We can offer our good offices, if we can encourage the parties to meet in Geneva, to meet in Tanzania, anyplace where they can negotiate a settlement either face to face or, as the Senator has indicated, through the intermediary of some other parties that both can accept, that is fine.

But in the last analysis, an area that has lived together, sometimes in war but often in peace, for 3,000, 4,000, or more years, is going to have to settle its disputes among themselves. For our country, well-intentioned as we may be—and I emphasize well-intentioned, because we were doing wrong at the start, but we tried to impose in Vietnam our idea of a settlement, our idea of how that government should operate, and it did not work. We had neither the omniscience nor the omnipotence to impose our ideas of correctness.

To enforce our ideas of correctness in the Middle East, I just hope we do not make the same mistake there.

Mr. JAVITS. I thank my colleague for his contribution.

I yield to Senator SCHWEIKER.

Mr. SCHWEIKER. I thank the distinguished Senator, my friend from New York, for yielding. I would like to associate myself with the important speech of the distinguished Senator from New York. I think he was most articulate and most eloquent in his usual ability in expressing the concerns that many of us feel.

I think particularly the two points, as I see them, are, first of all, that we cannot, no matter what intentions or whatever our misguided idealism might be, expect that we are going to effectively thrust down someone's throat or impose a settlement on the parties that they are not in full accord with and are not of a mind as being a fair and equitable way to handle the situation.

Second, I believe if we get away from the principles of secure and defensible borders we are only kidding ourselves, and we have kidded ourselves before, because of the very turbulent nature of the Middle East, and we have got to have some long-lasting settlement that recognizes defensible and secure borders.

I again commend the distinguished Senator.

Mr. President, I would like to associate myself with the important speech of the distinguished Senator from New York (Mr. JAVITS). I fully support his goal of stimulating the dialog on U.S. policy toward the Mideast. Peace in this divided region remains an important—if not the most important—element of our foreign policy, and we must proceed carefully and confidently. The distinguished Senator from New York has eloquently raised very important questions regarding administration proposals in this area, and I believe several of his key points are worthy of reaffirmation.

First, I feel the United States cannot and must not impose a peace settlement on the nations of the Middle East. Statements that merely imply this possibility, as the Senator from New York has pointed out, can only create fear and uncertainty in Israel, and renewed intransigence on the part of Arab nations. Second, Israel must be guaranteed secure and defensible borders if any forthcoming settlement is to be permanent. Surely we have learned this important point repeatedly during the history of the State of Israel.

Peace in the Mideast will not come about tomorrow—and may not come about at all if we do not respect the hopes and fears of the parties involved, as well as the political realities of the area. I would like to reiterate my feeling that, by raising these important concerns, the Senator from New York has performed a great service—not only to those of us in the United States, but to the citizens of all the nations of the Middle East.

Mr. HAYAKAWA. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from California.

Mr. HAYAKAWA. I want to thank the Senator from New York for his great and enlightening speech about the administration's plan regarding the Middle East.

I would like to ask a question basically to repair my ignorance of recent history.

On page 5 of his statement the Senator says:

> The use of the term "'homeland" establishes at once a parallelism with the Jewish National Home in Israel and exactly contradicts an association with Jordan.

I believe the use of the word "homeland" is applicable in one case and is not applicable in the other, and I agree on that certainly very profoundly. But I would like enough historical background—if the Senator please—to explain in what way this exactly contradicts an association with Jordan. Will the Senator comment on my lack of knowledge of the history of that?

Mr. JAVITS. Yes. The reason is that the virtue of the Jewish homeland was precisely in its sovereignty and autonomy. And the fact, the central theme, of the Jewish homeland was that persecuted Jews from everywhere, after the loss of 6 million in the Hitler holocaust, could gain admission simply by coming there to a place of Jewish sovereignty—a refuge. In this sense there is no analogy to a Palestinian "homeland." The Palestineans are Arabs and can, and have, found a "home" in many Arab nations. They are probably the largest group of all in Kuwait. Since, independence, sovereignty, autonomy was a prime requirement for a Jewish homeland, then the "homeland" analogy is particularly inappropriate for a Palestinian entity which "preferably" is to be federated with the Kingdom of Jordan and thus not sovereign and autonomous in the realm of foreign policy and defense.

Palestinian Arab refugees are already settled in many of the Arab countries, there is certainly no analogy to the lonely, persecuted dangerous position of the Jewish minority in the displaced persons camps of Europe who came into Israel when it was established as a state.

Mr. HAYAKAWA. I thank the distinguished Senator from New York. That explains it very, very well.

I would like to ask further, then, in what existing nations is the Palestinian population spread at the present time?

Mr. JAVITS. To give the Senator the best—I think our time is up. May I ask the majority leader whether we are going to have a morning hour?

Mr. ROBERT C. BYRD. Mr. President, by way of answer, is the Senator's time up?

The PRESIDING OFFICER (Mr. MELCHER). The Senator's time has expired.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business of not to extend beyond 15 minutes with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT CARTER'S MIDEAST PEACE PROGRAM

Mr. JAVITS. Mr. President, I do not intend to use this time to speak, I will just use it in answering the questions. I yield.

Mr. HAYAKAWA. I simply wanted to ask that question.

Mr. JAVITS. Yes, where the populations are.

Mr. HAYAKAWA. The entities.

Mr. JAVITS. Well, the populations are concentrated, and I am drawing on my memory, as follows: There are roughly 350,000 in the Gaza Strip, about 50,000 of those work every day in Israel.

There are roughly a half million or more in the West Bank. There are smaller numbers in Lebanon. My recollection is there are maybe 200,000, something like that, in Lebanon which includes a lot of the armed PLO.

In Syria there are smaller numbers. But the bulk of the population is concentrated in the West Bank and in Gaza and on the East Bank in Jordan.

In Jordan, itself, a majority of the population is said to be Palestinian. But the refugees in the camps are concentrated in the West Bank and in the Gaza Strip and in Lebanon. Those are the major concentrations of the Palestinian refugees who are professional "refugees" getting U.N. assistance.

Mr. HAYAKAWA. If the fondest dreams of the Palestinians were recognized and they were assigned a place for a homeland, does that mean there would be a movement of Palestinians from other parts of the world into that homeland the way in which the Jews went to Israel?

Mr. JAVITS. The only contemplation of that migration that I see is the concept of the incursion of a lot of PLO riflemen into the West Bank. The West Bank has 500,000 people now and it is not a very big place, so there is probably not too much accommodation just to move in, as it were, to vacant territory. No doubt there would be pressure to encroach on Israeli territory.

Those are, as the Senator has developed, a number of the reasons that motivated what I said about that issue.

I do not wish to let it go without saying that for years I have worked and fought for the support of the Palestine-Arab refugees in their resettlement, intelligent normalization of their conditions, and for the rights of the Arabs in Israel as full 100-percent citizens of that country.

I have no truck with any discrimination of any kind or character against them anywhere, including in Israel.

But that is a very different concept from the threat which the Israelis feel pointed at their heart in a PLO West Bank state in the present rather crude state or relations between them and the Arab confrontation states.

Mr. HAYAKAWA. I am grateful to the distinguished Senator from New York.

Mr. JAVITS. I thank my colleague.

Mr. President, Senator CASE could not be here this morning. He accompanied me when we together went to see the President on Friday, and he has asked me to have printed in the RECORD a brief statement by him together with the text of a statement which he issued following his talk with the President.

I ask unanimous consent that these statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT SUBMITTED

Mr. CASE. Mr. President, I would like to comment briefly on the meeting Senator JAVITS and I held with President Carter on Friday. It was a most useful

meeting, in my view, and such discussions help underline the continuing efforts to work out foreign policy matters on a bipartisan basis.

Because of the strong interest in the issue we discussed Friday—the Middle East—I thought it might be helpful to comment for the record on my views of some points which must be kept in mind in trying to work out a lasting Middle East settlement. We discussed these points at the hour-long meeting, which also was attended by Vice President MONDALE and the President's national security adviser.

The attachment is as follows:

COMMENTS BY SENATOR CLIFFORD P. CASE ON HIS MEETING WITH PRESIDENT CARTER CONCERNING THE MIDDLE EAST

Speaking for myself, I raised the following issues with the President. I underscored the importance for the United States to keep Israel strong and to help Israel's economy as far as possible. I raised a number of specific coproduction requests made by Israel which have not yet cleared through the State Department and the Defense Department, despite the President's commitment to do his best in this respect. I emphasized that ambiguous statements by top administration officials encourage those in the bureaucracy who oppose coproduction to drag their feet. I agreed to, and I will, make available to the President a detailed memorandum outlining the specific cases and indicating where they are stuck in the system.

I also pointed out to the President that there were a number of reported violations of the Sinai agreements by Egypt, some of which are confirmed by the United Nations Emergency Force in the area. At the President's request I am preparing a brief on the matter.

I also emphasized my concern that some administration statements on the "homelands" question may cause unrest among the Arabs in the West Bank and possibly stimulate a power struggle among the local inhabitants and the PLO. It seems to me this would harm the effort to work toward peace in the Middle East.

Finally, I discussed with the President the effect of administration statements and "codewords" used in those statements in respect of progress toward a Geneva conference. It seems to me essential the U.S. carry on its discussions with the confrontational states in the Middle East with a view toward acting as honest brokers as those states move toward Geneva. One real danger now is that American statements will raise unrealizable Arab expectations and Israeli fears in the area which will lead to further, and serious, instability, undermining our effectiveness.

In my view, which I made clear to the President, the bed rock of American policy must be to keep Israel strong and able to provide its own defense.

Mr. JAVITS. Mr. President, as I conclude may I say two things?

First, this issue has always been a very strongly bipartisan issue. I hope it will continue so.

Mr. President, second, may I say that I have a deep and profound respect for the President, the Vice President, Secretary Vance and Dr. Brzezinski, for their good faith and good will in this matter. I hope that they will take what I have said as an honest expression of another view, which must be tested in the public domain just as the policy outlined by Vice President MONDALE must be. As we know from recent history, American foreign policy must have public and congressional understanding and support.

Mr. STONE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. STONE. Mr. President, the Senator from Florida states that as chairman of the Near East Subcommittee of the Foreign Relations Committee our subcommittee welcomes the dialog and discussion of the steps that are now being taken and proposals now being made in order to bring peace to the Middle East.

Unless all of the views, those of the administration, and of those who raise questions, are aired we could in the process of trying to make peace stumble to everyone's great detriment and particularly now that the climate seems possible to have a meaningful dialog for peace.

The Senator from Florida assures the Senator from New York that his remarks, thought, and discussion with the administration are welcomed by all.

Mr. JAVITS. I am grateful to my colleague. He has helped me to put the matter exactly in the right context.

I yield to my chairman of the Foreign Relations Committee, Senator SPARKMAN.

Mr. SPARKMAN. Mr. President, I compliment and commend the distinguished Senator from New York for presenting a very clear and explicit viewpoint that no one could misunderstand.

He has always acted in that way. I have never found it difficult to agree with the Senator in his presentation.

After all, one objective toward which we all look and pray is the permanent peace in that troubled part of the world. I believe that all of this is aimed at that purpose.

I commend the Senator for presenting his views so clearly this morning.

Mr. JAVITS. I deeply appreciate that, Senator SPARKMAN, especially from so revered a Member as yourself. I pledge to you, as I pledged to Senator STONE and everyone on both sides of the aisle, that my full efforts will be expended in this spirit, on behalf of a just and lasting peace in Mideast.

Mr. President, I yield the floor.

ADDITIONAL STATEMENT SUBMITTED

Mr. DOMENICI. Mr. President, it is with pleasure I have the opportunity to join in this important dialog with my distinguished colleague from New York, Mr. JAVITS.

Like him, I believe it is time to formulate a constructive Mideast policy. Certainly our primary responsibility lies with bringing the Israeli and Arab States together. Our policy must not heighten already existing pressures, but instead, must offer temperate suggestions which may pave the way to a negotiated settlement.

I do not believe we need to reiterate the reasons why Israel must be acknowledged as a sovereign State. We all know she is. She has a right to expect that our overall objectives will be the preservation of her sovereignty. I do not believe it serves any nation's advantage to prescribe preconditions to resolution of the conflict. We should not feel compelled to set the standards for settlement. We should, however, impose with the most urgency, the necessity for reconciliation of the opposing factors.

The United Nations Security Council Resolution No. 242, adopted in 1967, together with SCR 338, have been accepted in principle as guidelines for future negotiations. Ambassador Arthur J. Goldberg recently said:

Despite the passage of time since the adoption of Resolution 242—and, perhaps, because of it—I adhere to the view that the Resolution does provide the basis to achieve a peaceful and accepted settlement between the parties, provided they will come to share the will and courage to achieve a just and lasting peace, which is the goal of the Resolution.

As the Ambassador, I, too, believe we have a set of principles within which we may work. I see no reason to try to alter, or reexamine, or try to improve upon them at this point in time. We can be flexible, but this flexibility must come when all parties are gathered around the negotiating table.

In conclusion, I agree with my distinguished colleague when he said that the "United States is morally committed to the survival and integrity of Israel." Moreover, his statement that "Nations under the threat of coercion from friends—or enemies—seldom make the most clear-sighted decision," is absolutely correct.

I, therefore, urge the administration to implement its most persuasive diplomacy in drawing the Arab and Israeli States together. But, I do hope the President will refrain from setting arbitrary standards for settlement before the parties concerned can mediate their diffrences in the proper negotiating atmosphere.

We all have an important stake in the outcome of this settlement. Let us hope we have the time to reach a settlement before it is too late.

Thank you.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1559. A letter from the Secretary of Housing and Urban Development transmitting, pursuant to law, the Twelfth Report on the Emergency Homeowners' Relief Act (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–1560. A letter, dated June 23, 1977, from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting,

pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC–1561. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "U.S. Participation in International Organizations" (ID–77–36) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1562. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a document concerning the Guaranteed Student Loan Program which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC–1563. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a document concerning the Indian Education Act, Part B, Part 187—Final Rulemaking which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC–1564. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a document concerning the Indian Education Act, Part C, Part 188—Final Rulemaking which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC–1565. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a document concerning the Final regulations for Women's Educational Equity Act Program which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC–1566. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a document concerning Emergency School Aid which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC–1567. A letter from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 613 reports covering the period June 1 through June 15, 1977 concerning visa petitions that have been approved according the beneficiaries of such petitions third- and sixth-preference classification under the Immigration and Nationality Act (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Under authority of the order of June 24, 1977, the following reports of committees were submitted during the recess of the Senate:

By Mr. CANNON, on June 24, 1977, from the Committee on Rules and Administration:

With an amendment:

S. 926. A bill to provide for the public financing of primary and general elections for the United States Senate (title amendment) (Rept. No. 95–300).

By Mr. STENNIS, on June 25, 1977, from the Committee on Appropriations:

With amendments:

H.R. 7553. An act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95–301).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Intelligence:

S. Res. 207. An original resolution relating to public disclosure of funds for national intelligence activities for the fiscal year 1978.

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

With an amendment:

S. 660. A bill to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase and/or lease by the United States of each nation's right and interests in the riverbed of the Arkansas River, and for other purposes (Rept. No. 95–302).

Without amendment:

H.R. 4585. An act to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes (Rept. No. 95–303).

H.R. 4992. An act to amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian business development program (Rept. No. 95–304).

S. Res. 208. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 660, a bill to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase, and/or lease by the United States of each nation's right and interests in the riverbed of the Arkansas River, and for other purposes. Referred to the Committee on the Budget.

S. Res. 209. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4992, a bill to amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian Business Development Program. Referred to the Committee on the Budget.

S. Res. 210. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4585, a bill to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ALLEN, from the Committee on the Judiciary:

Jesse Roscoe Brooks, of Alabama, to be U.S. attorney for the northern district of Alabama.

William A. Kimbrough, Jr., of Alabama, to be U.S. attorney for the southern district of Alabama.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Human Resources:

Julius Benjamin Richmond, of Massachusetts, to be an Assistant Secretary of Health, Education, and Welfare, vice Theodore Cooper, resigned.

Julius Benjamin Richmond, of Massachusetts, to be medical director in the regular corps of the Public Health Service, subject to qualifications therefore as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years, vice Dr. Jesse Leonard Steinfeld, resigned.

Xaveir M. Vela, of the District of Columbia, to be Administrator of the Wage and Hour Division, Department of Labor, vice Ronald J. James.

William Whitaker Allison, of Georgia, to be Deputy Director of the Community Services Administration, vice Robert C. Chase, resigned.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent the second time, and referred as indicated:

By Mr. ZORINSKY:

S. 1761. A bill for the relief of Dr. Dela Cruz; to the Committee on the Judiciary.

By Mr. CHURCH:

S. 1762. A bill to amend the Social Security Act to permit a grandchild who has been placed in legal custody of his grandparent to qualify for benefits as a child of his grandparent; to the Committee on Finance.

By Mr. McINTYRE (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. DURKIN, Mr. EAGLETON, Mr. GRAVEL, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUMPHREY, Mr. LEAHY, Mr. MATSUNAGA, Mr. McGOVERN, Mr. RIBICOFF, and Mr. THURMOND):

S. 1763. A bill entitled "The Civilian Secretaries Information Act"; to the Committee on Armed Services.

By Mr. METCALF:

S. 1764. A bill to amend the Budget and Accounting Act of 1921; to the Committee on Governmental Affairs.

By Mr. RIEGLE (for himself and Mr. GRIFFIN):

S. 1765. A bill for the relief of the Federal Life and Casualty Company of Battle Creek, Michigan; to the Committee on the Judiciary.

By Mr. RIBICOFF (for himself, Mr. PERCY, Mr. JACKSON, Mr. METCALF, Mr. KENNEDY, Mr. THURMOND, Mr. GRIFFIN, Mr. DOMENICI, and Mr. HEINZ):

S. 1766. A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce; to the Committee on the Judiciary.

By Mr. SCOTT (for himself, Mr. ALLEN, Mr. BELLMON, Mr. EASTLAND, Mr. GARN, Mr. GRAVEL, Mr. HELMS, Mr. HANSEN, Mr. HAYAKAWA, Mr. HATCH, Mr. LONG, Mr. LAXALT, and Mr. McCLURE):

S. 1767. A bill entitled "The Federal Officials' Anti-Defamation Act of 1977"; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 1768. A bill to amend the Age Discrimination in Employment Act of 1967 to protect older workers from involuntary retire-

ment; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with the above introduced bills and joint resolutions are printed at the conclusion of Senate proceedings today.)

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Washington (Mr. MAGNUSON) and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 123, to amend the Social Security Act.

S. 189

At the request of Mr. THURMOND, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 189, to amend the Social Security Act.

S. 303

At the request of Mr. MCCLURE, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 303, relating to the pay of Members of Congress.

S. 434

At the request of Mr. INOUYE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 434, to amend title 38 of the United States Code.

S. 1158

At the request of Mr. THURMOND, the Senator from Mississippi (Mr. EASTLAND) was added as a cosponsor of S. 1158, to amend the Internal Revenue Act.

S. 1305

At the request of Mr. HASKELL, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 1305, to amend the Small Business Act.

S. 1426

At the request of Mr. JAVITS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1426, the Urban Trees Act.

S. 1596

At the request of Mr. RANDOLPH, the Senator from Alabama (Mr. SPARKMAN), the Senator from South Carolina (Mr. THURMOND), the Senator from Alaska (Mr. GRAVEL), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 1596, to establish a National Center for the Handicapped.

SENATE RESOLUTION 207—ORIGINAL RESOLUTION REPORTED RELATING TO PUBLIC DISCLOSURE OF FUNDS FOR NATIONAL INTELLIGENCE ACTIVITIES

(Placed on the calendar.)

Mr. INOUYE, from the Select Committee on Intelligence reported the following resolution:

S. RES. 207

Whereas, section 13(a) of Senate Resolution 400, Ninety-Fourth Congress, directed the Select Committee on Intelligence to make various studies and report the results of such studies to the Senate together with such recommendations for legislation or other actions as the committee deemed appropriate; and

Whereas, one matter the Select Committee on Intelligence was directed to study, report, and make recommendations with respect to was the authorization of funds for intelligence activities and whether disclosure of the amounts of such funds is in the public interest; and

Whereas, the report submitted by the Select Committee on Intelligence pursuant to section 13(a) of such resolution recommends that the amount of funds appropriated for fiscal year 1978 for the national foreign intelligence activities of the United States should be publicly disclosed: Now, therefore, be it

Resolved, That the Senate agrees with the recommendation of the Select Committee on Intelligence, made pursuant to section 13(a) of Senate Resolution 400, Ninety-Fourth Congress, to publicly disclose the aggregate amount of funds appropriated for the national foreign intelligence activities of the United States for the fiscal year 1978, and, accordingly, the Senate hereby authorizes and directs the chairman of such committee to make public such aggregate amount immediately after the legislation appropriating such funds has been enacted into law.

Mr. INOUYE. Mr. President, I send to the desk a resolution directing the chairman of the Select Committee on Intelligence to make public the aggregate amount of funds appropriated for national foreign intelligence activities of the United States for the fiscal year 1978 immediately after the legislation appropriating such funds has been enacted into law. It is my understanding that the leadership will take up the issue of disclosure of an aggregate figure for funds appropriated for the national intelligence activities of the United States shortly after the Senate reconvenes following the July 4 recess.

The Select Committee on Intelligence issued a report on June 16, 1977, entitled "Whether Disclosure of Funds for the Intelligence Activities of the United States Is in the Public Interest," in which the background, basic facts, and issues are fully discussed.

The Senate will recall that the predecessor Church committee had voted 3 to 3 to disclose an aggregate figure but upon a motion by Senator CHARLES MCC. MATHIAS, of Maryland, who is also a member of the present permanent committee, the question was referred to the full Senate by a vote of 6 to 5. Senators Mansfield and SCOTT then decided to refer the matter to the permanent oversight committee for study and recommendations. After a year of extensive study and review, the committee voted 9 to 8 to disclose the aggregate figure.

The committee's report details the arguments pro and con. The main question at issue concerns the constitutional requirement in article I, section 9, clause 7 which reads:

No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

While it is my view that the clause of the Constitution contemplates the action that the majority of the committee has recommended, there are strong arguments to the contrary. Some Members go further and believe that the matter should be referred to the Supreme Court for decision. Whatever the constitutional argument, it is my view that the Senate has the authority, indeed, it has the duty to make a policy decision. I have come to the conclusion that as a matter of national policy that an aggregate figure for intelligence moneys should be made public.

I think it would be sound policy for the following reasons. First, the public of this constitutional democracy should know the scale of all governmental activities and the ordering of priorities for governmental activities. This is the first year that the Senate as a whole has had the opportunity to know in detail what goes into the funding of intelligence activities for the United States. The authorization bill approved by the Senate last week marks the first time that the Senate has voted knowingly on funds authorized for the intelligence activities of the United States.

Arguments have been made that no other country in the world discloses funds for intelligence activities. The United States does many things that no other nation in the world would contemplate. No other nation in the world has such a rigorous system of governmental accountability to its people. It is this kind of difference that makes the United States unique among nations of the world, and contributes to the strength of its freedom. The people have a right to know to the greatest extent possible what their Government is doing with their tax moneys.

The determining factor in my decision that it would be sound policy to reveal an aggregate figure for moneys appropriated for the intelligence activities of the United States was arrived at after a careful study of the national security implications of revealing such a figure. Upon consultation with the Director of Central Intelligence and a study of whether such a figure would be of help to any potential enemies, I have come to the conclusion that there is no national security risk in disclosing an aggregate figure. I am of the view, however, that a detailed breakdown of moneys spent by the United States for intelligence activities could adversely affect the national interest.

For all practical purposes the aggregate figure for national intelligence funds is unclassified. The Director of Central Intelligence was prepared to disclose to the public in open testimony before the select committee the aggregate figure for national intelligence activities. He was prepared to say that he had the authority of the President to disclose such an aggregate figure and that it was in the national interest to do so. This was not done because the select committee asked that it should consider the matter first before such an action was taken.

The report which was issued to the Senate on June 16 details the various reasons for positions taken for and against disclosure. But without question, whatever the constitutional arguments, the disclosure of an aggregate figure

would not affect the national security. On the contrary, the disclosure of an aggregate figure would help to restore confidence that all intelligence activities of the United States are being operated under constitutional control and further would inform the public of the magnitude of effort being made by the United States for this vital national activity.

I would hope that when the issue comes to the floor of the Senate for decision after the recess that Members will join with me in voting to disclose the aggregate figure for the national intelligence activities of the United States.

SENATE RESOLUTION 208, SENATE RESOLUTION 209, AND SENATE RESOLUTION 210—ORIGINAL RESOLUTIONS REPORTED WAIVING SECTIONS 402(a) OF THE CONGRESSIONAL BUDGET ACT

(Referred to the Committee on the Budget.)

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following resolutions:

S. RES. 208

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 660, a bill to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase, and/or lease by the United States of each nation's right and interests in the riverbed of the Arkansas River, and for other purposes. Such waiver is necessary because the Select Committee wished to consider this measure, which authorizes new budget authority for the Bureau of Indian Affairs, in conjunction with other measures affecting the programs of the Bureau of Indian Affairs which did not involve the authorization of new budget authority and therefore were not required to be reported by May 15. Further, the Select Committee was engaged in substantial efforts to organize itself at the beginning of the Ninety-fifth Congress and was prevented from giving timely attention to the subject proposal.

S. RES. 209

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 4992, a bill to amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian Business Development Program. Such waiver is necessary because the Select Committee wished to consider this measure, which authorizes new budget authority for the Bureau of Indian Affairs, in conjunction with other measures affecting the programs of the Bureau of Indian Affairs which did not involve the authorization of new budget authority and therefore were not required to be reported by May 15. Further, the Select Committee was engaged in substantial efforts to organize itself at the beginning of the Ninety-fifth Congress and was prevented from giving timely attention to the authorization of appropriations for the Indian Business Development Program.

S. RES. 210

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 4585, a bill to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes. Such waiver is necessary in order to ensure that the Indian Claims Commission will be able to carry out its statutory duties during the fiscal year 1978, on the last day of which its final report is due. The authorization involved is sufficiently small that its consideration will not significantly affect the Congressional budget. The Select Committee was engaged in substantial efforts to organize itself at the beginning of the Ninety-fifth Congress and was prevented from giving timely attention to the authorization of appropriations for the Indian Claims Commission.

AMENDMENTS SUBMITTED FOR PRINTING

LABOR-HEW APPROPRIATIONS, 1978—H.R. 7555

AMENDMENT NO. 467

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

AMENDMENT NO. 469

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself, Mr. BARTLETT, and Mr. ZORINSKY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7555), supra.

AMENDMENTS NOS. 470 AND 471

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill (H.R. 7555), supra.

AMENDMENT NO. 473

(Ordered to be printed and to lie on the table.)

Mr. HAYAKAWA (for himself and Mr. HELMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7555), supra.

MILITARY CONSTRUCTION APPROPRIATIONS, 1978—H.R. 7589

AMENDMENT NO. 468

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (H.R. 7589) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS, 1978—H.R. 7558

AMENDMENT NO. 472

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON. Mr. President, I rise today to introduce an amendment to H.R. 7558, the Agriculture and Related Agencies Appropriation bill. This amendment would increase the appropriation for the extension service $8 million.

Cooperative agricultural extension work was established by the Smith-Lever Act of 1914. The legislation authorizes the Department of Agriculture to give, through the land-grant colleges, instructions and practical demonstrations in agriculture, home economics and related subjects. The extension service encourages the application of such information by means of demonstrations, publications and other means.

The basic job of the Cooperative Extension Service is to help people identify and solve their farm, home, and community problems through use of research findings of the USDA and the State land-grant colleges. State and county extension work is financed from Federal, State, county, and local sources. These funds are used within the States for the employment of county agents, home economics agents, 4-H club agents, and State and area specialists. These agents conduct joint educational programs adapted to local problems and conditions. This work is carried out through State and county extension offices in each State, Puerto Rico, Guam, the Virgin Islands, and the District of Columbia.

For the past few years the Congress has not been appropriating sufficient moneys to sustain a minimum program level. Although the Federal contribution to extension programs has increased as an absolute number, during this time inflation has caused a reduction in "real income" terms.

The State extension services have begun to really feel the pinch. Agents salaries have not nearly kept pace with what persons with equivalent educations are being paid by the private sector or by other agencies of Government. The result has been that an outflux from the State extension services of highly talented personnel has begun. We cannot allow this to continue. Adequate funding must be provided for the Cooperative Extension Service.

This amendment provides an $8 million increase in section 3(b) and 3(c) Smith-Lever funds above the Senate Appropriations Committee reported figure. This increase can be used for salary adjustments and to restaff positions in the State extension services which are vacant because of lack of funds.

Mr. President, I urge my colleagues to join me in this effort to provide increased funding for the Cooperative Extension Service and I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 472

On page 12, line 3, strike out "$175,281,000" and insert in lieu thereof "$183,281,000".

NOTICES OF HEARINGS

S. 1393—CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS

Mr. BAYH. Mr. President, the Subcommittee on the Constitution has scheduled

an additional day of hearings of S. 1393, a bill to grant the Justice Department standing to sue on behalf of institutionalized persons, for Friday, July 1, 1977.

This hearing will be held in room 2228 Dirksen, the Judiciary Committee hearing room, on July 1, 1977, beginning at 10 a.m.

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on the Constitution, room 102B, Russell Senate Office Building, Washington, D.C. 20510.

IMPACT OF FUEL OIL TAX REBATES

Mr. NELSON. Mr. President, I wish to announce that the Government Regulation and Small Business Advocacy Subcommittee of the Small Business Committee will hold hearings on the Impact of Fuel Oil Tax Rebates on Small Business.

The hearings will be held on June 28, in 424 of the Russell Building, and June 30, in 318 of the Russell Building, beginning at 10 a.m. each day. The Senator from New Hampshire (Mr. McINTYRE) will chair the hearings. Witnesses will be announced at a later date.

Further information can be obtained from the committee offices, room 424, Russell Office Building, telephone 224–5175.

PUBLIC LANDS AND RESOURCES SUBCOMMITTEE

Mr. METCALF. Mr. President, I would like to announce for the information of the Senate and the Public, the scheduling of a public hearing before the Public Lands and Resources Subcommittee on the Senate Energy and Natural Resources Committee.

The hearing is scheduled for July 9, beginning at 10 a.m. in the auditorium of the Central Wyoming College in Riverton, Wyo. Testimony is invited regarding S. 242, a bill to provide for consideration of the comparative productive potential of irrigable lands in determining nonexcess acreages under Federal reclamation laws.

For further information regarding the hearings, you may wish to contact Mr. Russell Brown of the subcommittee staff on extension 224–1076. Those wishing to testify or who wish to submit a written statement for the hearing record, should write to the Public Lands and Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C.

ADDITIONAL STATEMENTS

(Additional statements are printed at the conclusion of Senate proceedings today.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PUBLIC OFFICIALS INTEGRITY ACT OF 1977

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to the consideration of S. 555, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 555) to establish certain Federal agencies, effect certain reorganizations in the Federal Government, to implement certain reforms in the operation of the Federal Government, and to preserve and promote the integrity of public officials and institutions, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments, and from the Committee on Governmental Affairs, with an amendment.

The PRESIDING OFFICER. The time for debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Illinois (Mr. PERCY), with 1 hour on any amendment in the first degree, except an amendment by Mr. JAVITS, on which there shall be no time limitation, and with 30 minutes on any amendment to an amendment, debatable motion, appeal, or point of order.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that the following staff members be given the privilege of access to the Senate floor during consideration of S. 555, the Public Officials Integrity Act: Dick Wegman, Claudia Ingram, Bob Sloan, Jim Graham, John Childers, Robert Harris, and Brian Conboy, of the Governmental Affairs Committee staff; Chris Brewster of Senator DANFORTH's staff; Gordon Giffin of Senator NUNN's staff; Chuck Ludlum of Senator ABOUREZK's staff; and David Schaefer of my staff.

Mr. RIBICOFF. Mr. President, I make the same request in behalf of the following staff members: John Napier of Senator THURMOND's staff; Caroline Randel of Senator HANSEN's staff; David Koehler of Senator GRIFFIN's staff; James Schoener of the Rules Committee; Chris Brewster of Senator DANFORTH's staff; and Joe DiGenova of Senator MATHIAS' staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, the Senate today begins consideration of S. 555, The Public Officials Integrity Act of 1977. This legislation is similar to that which was considered and passed by the Senate in the 94th Congress as S. 495, The Watergate Reorganization and Reform Act of 1976. It embodies major reform proposals designed to improve the operation of the most basic institutions of the Federal Government and to assure the accountability of public officials.

S. 555 represents the product of more than 2½ years of study, redrafting, and compromise by the Committee on Governmental Affairs. In this period of time, the committee heard oral testimony from 30 witnesses during 10 days of hearings and received written comments from numerous Government agencies and distinguished members of the American legal and academic communities. The important matters which this legislation covers have been thoroughly explored.

Title I of the Public Officials Integrity Act of 1977 creates within the Justice Department an Office of Government Crimes to deal with abuses of office committed by Government officials and to enforce the Federal lobbying, elections, and conflict-of-interest laws. Title I also establishes a mechanism for the appointment of a temporary special prosecutor to deal with the extraordinary case involving criminal misconduct of high-level Government officials. These proposals represent a synthesis of ideas and recommendations from a number of distinguished individuals and organizations who sought to provide the impetus and focus for consideration of a means by which to improve our criminal justice procedures in cases involving Government corruption.

During the hearings on this proposal over the course of the 3 years in which it was developed, almost every witness recognized that sufficient priority must be devoted to cases of Government corruption and that there is a serious question of conflict of interest when the Department of Justice attempts to investigate or prosecute high-level members of the same administration. The final report of the Watergate Special Prosecution Force, the recommendations of the American Bar Association House of Delegates, and the legislative proposals of Senators PERCY and BAKER, which were introduced in the 94th Congress, strongly influenced the committee in its efforts to shape this legislation.

The second title of S. 555 establishes an Office of Congressional Legal Counsel to represent Congress and protect the vital interests of Congress in matters before the courts. It is a fact of life that controversies involving the constitutional powers of Congress are now more often before the courts. Just in the last few years, landmark decisions have been handed down by the courts defining the scope of the speech and debate clause of the Constitution, affecting the ability of Members of Congress to communicate with their constituents, and limiting the exercise of Congress investigatory powers.

The Justice Department has traditionally represented Congress in the courts. However, in more and more cases the Justice Department's interest as lawyer for the executive branch conflicts with the interests of Congress. As an example, this very day, three Members of this body are testifying before a Federal court in Boston. They were forced to retain private counsel because, as a matter of principle, they felt they could not call upon the Justice Department for representation because the Department is a party in the case. Therefore, there is an

urgent need for Congress to have its own legal counsel to handle this representational duty and to advise Congress and committees of Congress on such vital matters involving its powers, as well as subpenas, and grants of immunity. The Justice Department has recognized this need and has given its support to title II.

The proposal for a Congressional Legal Counsel contained in S. 555, as reported, is based upon years of legislative effort by Vice President MONDALE, and Senators JAVITS, HUMPHREY, and ABOUREZK.

Title III of S. 555 is a proposal for public financial disclosure. This provision requires that high-level officials of the executive, legislative, and judicial branches of the Federal Government annually disclose their financial holdings and interests. The disclosure provision itself is substantially the same as that which was adopted earlier this year in the Senate in the Code of Official Conduct—President Carter, in his May 3 message to the Congress, recommended legislation similar to the provisions contained in S. 555.

A simple, understandable, comprehensive public financial disclosure statute covering all high level Federal Government officials is needed. Existing financial disclosure requirements vary throughout the executive branch. Agency officials are currently required to make confidential financial disclosures to their agency head and these statements are to be reviewed for conflicts of interest. However, the General Accounting Office has found that these disclosure reports are not adequately reviewed by the agencies, and when reviewed, the existing conflict of interest regulations are not effectively enforced. With respect to the judicial branch, there is no requirement for financial disclosure. There is only a voluntary standard under which judges may file confidential statements of their financial interests but there is no means by which the Judicial Conference can enforce this standard.

Title IV of S. 555 establishes an Office of Government Ethics within the Civil Service Commission. This Office will have primary responsibility for implementing financial disclosure requirements throughout the executive branch.

GAO has determined that a large number of violations which have occurred are not entirely the fault of the employee but the fault of a system which requires each agency to establish its regulations and inform employees of their responsibilities. A central office, such as the Office of Government Ethics, would have the overall responsibility for informing employees of their obligations with regard to conflict of interest avoidance and coordinate the enforcement of these laws, rules, and regulations throughout the executive branch in cooperation with the Attorney General.

The provisions contained in titles III and IV of S. 555 were developed from legislation introduced by Senators CASE, WEICKER, HASKELL, CHILES, HATHAWAY, and HUMPHREY, as well as proposals submitted by President Carter. In addition, I am grateful to Senators DANFORTH, PERCY, JAVITS, SASSER, HEINZ, and NUNN who, as members of the Committee on Governmental Affairs, took an active and constructive interest in these proposals.

Title V revises the current restrictions on post-service activities by officers and employees of the executive branch. The principal change from existing law is to impose a restriction that, for a period of 1 year following termination of Government service, a former top-level official shall have no contact with his former department or agency on any matter then pending before that department or agency. The President has requested this legislation in order to close the revolving door which has existed in the executive branch. Restrictions of the type proposed in title V are necessary in order to prevent a former agency employee from exercising undue influence upon his former colleagues and to make existing law more enforceable.

Mr. President, I am proud to say that throughout its deliberations on this important legislation, the Committee on Governmental Affairs has operated in a bipartisan spirit, receiving the cooperation of virtually every member of the committee. The Public Officials Integrity Act of 1977 was reported unanimously by the committee.

As chairman, I would like to recognize those members of the committee who contributed their time and effort to this legislation: Senators PERCY, JAVITS, CHILES, NUNN, SASSER, DANFORTH, ROTH, and HEINZ. Throughout the hearings and markup of this legislation these members lent their dedicated support and constructive suggestions to make this a landmark bill.

Due credit should also be paid to those members of the staff who have worked so hard on this bill. I want to recognize the efforts of Dick Wegman, Claudia Ingram, Bob Sloan, John Childers, and Brian Conboy of the Governmental Affairs Committee staff, Chris Brewster of Senator DANFORTH'S staff, Gordon Giffin of Senator NUNN'S staff, and David Schaefer of my staff.

I reserve the remainder of my time.

Mr. PERCY. Mr. President, once again I wish to express my great pleasure at working with the chairman of our Governmental Affairs Committee, the Senator from Connecticut (Mr. RIBICOFF), and once again I am pleased to report that the measure before us, the Public Officials Integrity Act, S. 555, was voted out by a vote of 13 to 0, with no protests whatsoever. We had differences of opinion—not, certainly, along party lines—and under the very distinguished and able leadership of our chairman, we proceeded in markup in a very orderly fashion.

Mr. President, the bill before the Senate today for consideration, S. 555, the Public Officials Integrity Act of 1977, was, as I say, unanimously reported out of the Governmental Affairs Committee. Legislation quite similar to titles I, II, and III of this bill was approved by the Senate last year by a 91-to-5 vote. As was the case during the 94th Congress, S. 555 has been the product of a bipartisan effort as well as significant input from officials at the Department of Justice.

This legislation would basically enable the Federal Government to perform several functions:

First. See that a temporary Special Prosecutor would be appointed in a certain narrow set of cases so that conflicts of interest on the part of the President, the Vice President, the Attorney General, as well as other high senior Government officials were avoided.

Second. Insure that one statutorily created office exists within the Department of Justice to investigate and, if necessary, prosecute all official corruption cases.

Third. Provide for the establishment of a Congressional Legal Counsel to defend Members of Congress and their staffs in civil litigation as well as propound the interest of the legislative branch before the courts in appropriate cases.

Fourth. Insure that the financial disclosure requirements that the Congress has recently enacted for its entire membership would be made to cover all senior officials in the executive and judicial branches as well.

Fifth. Create an Office of Government Ethics within the Civil Service Commission to enforce the financial disclosure rules that have been enacted.

Mr. President, I will not go into great detail about all of the provisions of the various titles of this legislation since the chairman of the Governmental Affairs Committee, Senator RIBICOFF, has already done so in his opening remarks. But I would like to emhpasize that the Department of Justice and the Carter administration wholeheartedly support this piece of legislation and have been working strongly for its enactment. I expect that there will be several major amendments made to the financial disclosure and ethics titles of the legislation, but once the issues raised by those amendments have been resolved, I am confident that S. 555 will be overwhelmingly approved by the Senate. It is my hope, as well as that of Senator RIBICOFF and other members of the Governmental Affairs Committee, as well as the leadership, that this legislation be enacted swiftly so that the House of Representatives will have time to give adequate consideration to the bill. As many Senators will recall, while the Senate overwhelmingly approved legislation similar to S. 555 last year, the House of Representatives had insufficient time to give thorough committee and floor consideration to the bill. Therefore, it died in the House and never reached the President's desk.

I would like to go into a bit more detail on titles III, IV, and V as they are complicated and detailed.

TITLES III, IV, AND V

Titles III, IV, and V of S. 555 deal with financial disclosure of Government employees and restrictions on post-Government employment to prevent conflicts of interest.

Title III of the bill requires full financial disclosure by high-level officials in all three branches of the Federal Government. The President, Vice President,

Members of Congress, Justices, and judges of the United States and the District of Columbia, officers and employees of the executive branch paid at a rate of GS–16 or greater, officers and employees of the legislative and judicial branches compensated at a rate equal to or greater than GS–16 and members of the uniformed military compensated at a rate equal to or greater than the rate of pay for grade O–7 must file such financial disclosure statements.

What must be filed and the form such statements must take is patterned after Senate Resolution 110, the Senate Code of Ethics, which the Senate passed earlier this year. Sources of earned income and assets and liabilities of covered individuals must be reported in ranges. The ranges are clearly spelled out in the bill and the report.

For each branch of Government, supervising offices are set up to be responsible for monitoring compliance with this statute. In the Senate, the designated group would be the Senate Ethics Committee. I would particularly like to point out two most important sections of title III that are of great interest to a number of Members in this body.

For purposes of this title, this bill states that a reporting individual must also report the interests of the spouse or dependents of that individual. The financial interests of a spouse or dependent must be listed with the same degree of detail as that required for the reporting individual. This provision applies to holdings, assets, and liabilities, but not to earned income. For earned income only sources of such income need be reported on the part of the spouse or dependent.

However, with respect to holdings, the report of an individual must include the holdings of a spouse or dependent in the same detail as for the officeholder himself. This is significantly different from Senate Resolution 110, the Senate Code of Ethics. In Senate Resolution 110, the officeholder has to report only those interests of a spouse or dependent under the "constructive control" of the reporting individual. It is my understanding that Senator JAVITS will have an amendment later in the day to restore the original language of Senate Resolution 110 with regard to reporting of the financial interests of spouses and dependents. The new language in S. 555 was adopted at the request of the administration.

Under the terms of Senate Resolution 555, as was the case under Senate Resolution 110, all blind trusts must be dissolved by the creating party by May 15, 1978, and full financial disclosure must be made. Under the terms of Senate Resolution 110, the Governmental Affairs Committee was to study the question of blind trusts and decide whether they should be permitted statutorily. The committee has held 2 days of hearings within the past month on this question and received testimony from a variety of witnesses.

However, the committee was unable to come to a committee position on the question of blind trusts due to the fact that a quorum was not achieved in the markup session called on this issue. However, the staff of the committee has worked up language establishing the minimum requirements that it feels are necessary if blind trusts are to be permitted. That language will be offered as an amendment later today on the floor by Senator DANFORTH and represents the best thinking of the committee staff as to what requirements should be imposed on blind trusts if they are to be permitted to continue.

The guidelines for these requirements were laid out in discussions with Senators and the staff after the hearings. We had very important contributions and input, particularly from such organizations as Common Cause which have paid very close attention to this. It is my understanding that Common Cause would prefer that there be no blind trusts, but if the Senate in its wisdom, and the House, decide that blind trusts shall be provided for, they laid down certain criteria which I think will protect, to the greatest possible extent, the public interest in this regard. I, for one, wish to express appreciation to Common Cause for their leadership and for the guidance they have provided in this particular area to the Congress.

Title IV creates an Office of Government Ethics within the Civil Service Commission. This office is to be headed by a director, appointed by the President, with the advice and consent of the Senate. The Office of Government Ethics will have primary responsibility for implementing the financial disclosure provisions of this legislation for the executive branch. This office is fully supported by the administration. In the Senate, the equivalent office will be the Senate Ethics Committee which will have responsibility for implementing and overseeing financial disclosure requirements on the part of Senators and covered Senate staff.

Title V of the bill places restrictions on post-Government service activities by officials and employees of the executive branch. It has three basic categories of prohibitions: First, it bans former executive branch officials for life from participating in matters before an agency if that official participated personally and substantially on that specific issue while in office; second, there is a 2-year ban on matters where the official had official responsibility for that matter during his last year of Government service; this is similar to current law, except that the prohibition is increased for 1 to 2 years; third, for a period of 1 year after leaving Government service, the former official is prohibited from contacting his former department or agency on any matter pending before that department or agency regardless of the nature of that proceeding or the degree of association the official had with that matter.

This title is also fully supported by the administration.

Mr. President, in this case I commend President Carter who has made it eminently clear that he feels, along with many of us in the Congress, that the revolving door aspects of holding public office should end. Certainly, it would appear to be a conflict when a person on Monday leaves public office and on Tuesday starts practicing law dealing with some of the very same things he dealt with before in the Government. The particular advantage that he gives in selling those legal services to his client many times is at the cost of the public interest.

The President, in focusing on this, together with all of us in the Governmental Affairs Committee, has brought forward a title in this bill which will, I believe, contribute to strengthening the confidence of the public in Government. We cannot forget that the reason for this piece of legislation, S. 555, which is before us today, is an aftermath of Watergate which brought shame and disgrace to the Government and to the American people.

What the Governmental Affairs Committee has tried to do is to respond to that and find a way to restore the basis for confidence in public officials and in the Federal Government. I feel that we have gone a long way in learning from the past and drawing upon it, and not doing so in the immediate, emotional reaction to Watergate but waiting a period of time until it all settles. We can now take into account the longer range view. Many of the titles we have been discussing are the response that we have had to circumstances that we certainly do not look upon as our greatest hours of glory.

In sum, Mr. President, this bill is a most important piece of legislation attempting to remove conflicts of interest and the appearance of conflicts of interest both during the term of office of a government official and after his leaving office.

Mr. President, I have long felt that many of the reforms proposed in S. 555 can go a long way toward restoring complete faith by the American public in the political process. There is no question that the best, and ultimately only way, to insure that the Department of Justice attempts to equally enforce the laws of the Nation is to make certain that only the most highly qualified individuals hold high positions in that agency. However, I do feel that the institutional changes proposed in S. 555, which have been worked out with the cooperation and assistance of the Attorney General and other officials of the Justice Department, can eliminate the existence and appearance of conflicts of interest in a wide range of cases as well as enable the public to have a better idea of the outside financial interests of its most senior civil servants.

I look forward to the debate on this crucial bill and am hopeful that it will be passed as soon as possible.

Once again, I pay tribute to my distinguished colleague (Mr. RIBICOFF) for his leadership in this area.

ADDITIONAL STATEMENT SUBMITTED

Mr. ABOUREZK. Mr. President, I am a strong supporter of S. 555, especially of title II which establishes an Office of Congressional Legal Counsel to defend Congress and congressional interests in court.

As chairman of the Subcommittee on

Separation of Powers last session I chaired hearings on "Representation of Congress and Congressional Interests in Court." These hearings represent the most detailed analysis yet undertaken of the problems Congress has in obtaining adequate legal representation. The hearings run over 750 pages and include 120 exhibits, many of them never before made public.

In conjunction with the subcommittee hearings, I introduced S. 2731 on December 2, 1975, a bill to establish an Office of Congressional Legal Counsel to represent Congress in court. A copy of that bill is printed in the subcommittee hearings at pages 92–112. This bill was considered by the Senate Committee on Government Operations at its December 1975 hearings on S. 495 at which time I testified on title II. See Watergate Reorganization and Reform Act, at 119–123, 460–554. On the basis of the hearings of the Subcommittee on Separation of Powers and a statement submitted to the subcommittee by the Justice Department on the constitutionality of S. 2731 (hearings, at pages 87–91), I submitted an amendment in the nature of a substitute for S. 2731 on March 31, 1976. When S. 495 was reported to the floor by the Committee on Government Operations on May 12, 1976, the bulk of S. 2731 was substituted for its title II. See Senate Report 94–823, May 12, 1976.

When S. 495 was reported, I arranged for it to be re-referred to the Judiciary Committee—see 122 CONGRESSIONAL RECORD, p. 13693, May 12, 1976. The Judiciary Committee was automatically discharged from its consideration of S. 495 when, due to a filibuster in committee, it failed to take action within the time period of the referral. In a June 22 letter to Senator RIBICOFF and Senator PERCY of the Government Operations Committee, a majority of the members of the Judiciary Committee announced that they would have voted to report S. 495 had they had the opportunity to do so—122 CONGRESSIONAL RECORD, pp. 19959–19960, June 23, 1976.

When S. 495 came up for debate in the Senate on July 1, I made a long and detailed statement on the need for an Office of Congressional Legal Counsel. See 122 CONGRESSIONAL RECORD, pp. 22792–22797, July 20, 1976.

S. 495, with title II intact except for a few clarifying amendments, was adopted by the Senate on July 21, 1976, by the resounding vote of 91 to 5. See 122 CONGRESSIONAL RECORD, p. 23075 (July 21, 1976). The House was unable to take action in the short period of time left in the 94th Congress.

When the bill was reintroduced as S. 555 on February 1, 1977, I made a long detailed statement on title II, including a description of certain changes I had made during the winter. See 123 CONGRESSIONAL RECORD, pp. 2961–2982, February 1, 1977. I testified on title II at the Governmental Affairs, May 4, 1977, hearing. I ask unanimous consent that a copy of my May 4, 1977, statement be printed in the RECORD following my statement.

The Governmental affairs Committee has again reported title II unanimously. With a few minor exceptions title II is the same as I proposed on March 31, 1976, and as the Senate overwhelmingly adopted last June.

As I have been arguing for several years now, it is absolutely clear that Congress must take control of litigation which affects its interests. There has been a reluctance on the part of some Members to establish this office because they do not believe Congress should seek to effectuate its will by becoming involved in litigation. This sentiment completely misconstrues the problem. What we are talking about here is Congress defending itself in litigation. It's very simple. If Congress is sued, Congress should defend itself. By not defending itself vigorously in the courts, Congress actually encourages the bringing of such suits against Congress. By defending itself Congress is not resorting to the courts to effectuate its will. It is making sure that the courts do not further restrict congressional power. As the report of the Governmental Affairs Committee states:

> In each of these types of cases, the vital interests of Congress will be affected whether or not Congress chooses to advocate its position to the court. Because our judicial system relies on adverse parties to sharpen the issues in order for the court to make the best decision, it is essential that the courts have the opportunity to evaluate congressional interests based upon the vigorous and effective presentation of those interests to the court by an attorney representing the Congress. Report at 8–9.

If Congress intends to reassert its power as a coequal branch of Government, it must defend itself in court just as vigorously as it defends itself in the political arena.

I also hear arguments that there is not enough litigation to justify establishing an in-house office in Congress. Let me quote the committee report on this point:

> In the last six years alone the Justice Department alone has defended members, officers, and committees of Congress in at least 70 cases. This total does not even include the 60 legal matters before the courts in which the Senate Watergate Committee became involved (Senate Report 93–981), Final Report of the Senate Select Committee at 1079) nor at least ten other recent cases in which private counsel has been retained, nor numerous other legal proceedings in which subpenas for Congressional documents have been issued. All told, Congress has been involved in no less than 200 legal proceedings in recent years. Report at 10–11.

The counsel can also bring civil subpena enforcement actions under a new jurisdictional statute. The counsel will be called upon to do this at least a half dozen times a year. These litigation responsibilities only begin to explain how busy the counsel will be. The counsel must also advise Congress and committees on investigative procedures, drafting of subpenas, witnesses rights, and other matters which involve considerations of potential litigation. I believe the most vivid explanation of the type of litigation which the counsel must handle is contained in a statement which the committee invited the House Clerk to submit to the committee during consideration of this bill. I ask unanimous consent that a copy of the Clerk's statement also be printed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABOUREZK. I want to emphasize that the committee estimates that the cost of setting up and running this office should be no greater than that which the Justice Department expends in representing Congress and which the Congress spends in hiring private counsel.

As I have mentioned, at present the Congress is represented by the Justice Department in most of the litigation brought against the Congress. The Justice Department supports both the constitutionality and the desirability of Congress establishing a Congressional Counsel Office. I believe the judgment of the Department—which is intimately familiar with the problem created by its representation of Congress—should be given great weight in any consideration of title II. Congress should heed the advice of its present lawyer when that lawyer advises Congress to retain new counsel.

Finally, I want to address the crucial remaining issue about the Counsel Office. That question is whether the House will agree to establishing one joint House-Senate office or insist on establishing its own separate office. I am well aware as one who has served in the House that many in the House are wary of establishing joint House-Senate offices. In view of this attitude, title II is drafted to assure that the Counsel and the office are under the firm and continuous control of Congress and its leadership. The Counsel has no power to conduct studies or make recommendations. The Counsel cannot defend any member or committee unless at least one House adopts a resolution authorizing the Counsel to do so. This requirement is typical of the bill. The Counsel cannot be directed to bring a subpena enforcement action unless at least one House adopts a resolution authorizing the Counsel to do so. The Counsel cannot be directed to intervene or file an amicus brief on behalf of Congress unless at least one House adopts a resolution authorizing the Counsel to do so.

The Counsel cannot represent a Member of Congress in any type of legal proceeding simply on the request of that Member. This bill does not establish a free legal defense fund for Members in trouble with the law. The Counsel can never be authorized to defend a Member indicted for a crime even if one House adopts a resolution authorizing the Counsel to do so. The Counsel can only be directed to defend a Member if the requirements of section 204(a)(1) of the bill are satisfied. Section 204(a)(1) only applies to "civil" actions involving a Member's "official or representative capacity." Because the Counsel office is established by law, this limitation cannot be waived by adoption of a simple resolution in a particular case.

Finally, the bill specifically makes the Counsel accountable to a bipartisan joint leadership group. That group will exercise day to day supervision. I can guarantee every Member that the joint

leadership will have no hesitancy to exercise firm control. Not only will the Counsel be subject to firm and continuous control, but neither House can dominate the Counsel. Each House has equal access to the Counsel's services. Neither House can interfere if the other House directs the Counsel to enter a given court proceeding. The joint leadership group is made up of an equal number of Members of each House. Both Houses must approve selection of the Counsel and both may remove the Counsel.

If there is any conflict between the demands being made by both Houses on the Counsel, the bill provides that the joint leadership group must resolve the conflict before the Counsel can represent either House. If only one House wishes to intervene in a court proceeding, it can intervene only in its own name—never in the name of the "Congress."

Given these multiple protections against either body dominating the office, the House should agree to establishing a joint office with the Senate on grounds of economy alone. It will be very expensive and wasteful for two offices each to establish a set of research files, to develop expertise on a wide range of issues, and to pay top salary for two Counsels and two deputies.

Establishing two offices is not only wasteful economically, however. An even more serious waste is the loss in coordinating House and Senate litigations strategies on common issues like protection of the vital constitutional protection of Congress under the speech and debate clause.

There is no disagreement between the House and Senate on the need for Congress to prevent encroachments of Congressional powers and prerogatives.

Let me take a recent example, which illustrates the common agreement between the House and Senate on the need for Congress to defend its powers in court. As a general proposition, the Senate is less enthusiastic about the congressional veto than the House. However, when the constitutionality of the congressional veto was recently challenged in the Atkins and Ramsey Clark cases, the Senate was just as vigorous in defending the constitutionality of the congressional veto as the House. Recently, the Court of Claims upheld the constitutionality of the congressional veto in the Atkins case. This example demonstrates the common belief in the House and Senate that the Congress should never stand by and let courts infringe on the constitutional powers of Congress.

If the House establishes a separate counsel office, the advantage of Congress presenting a united front to those who challenge congressional powers will be lost. When one case involving a congressional power such as speech and debate clause immunity is pending against an officer of one House, arguments made in that case may have great significance to the defense of an employee of the other House pending at the same time. Whenever litigation challenges arise, Congress must formulate a long-range as well as a short-term litigation strategy. It is only possible to anticipate legal developments by following a coherent and unified strategy.

My conclusion from these facts is that for each House to have its own litigation office will be little better than relying on the executive branch to defend Congress. I have confidence that the House will understand the desirability of a joint office.

I would like to discuss a number of matters which will help in interpreting exactly how this bill will operate in practice. To do this I would like to ask the chairman of the Governmental Affairs Committee how title II relates to a number of types of legal proceedings which are not specifically referred to in sections 204, 205, 206, and 207. These four sections describe the basic functions that the counsel may be directed to perform on behalf of Congress. Section 203 sets forth the procedures which must be followed before the counsel may be directed to perform these functions. For example, the procedure for authorizing the counsel to bring a civil action to enforce a subpena is to introduce a resolution or concurrent resolution. In contrast to authorize the counsel to defend Congress one must introduce a resolution or concurrent resolution or secure a two-thirds vote of the joint leadership group. Because the procedures differ, one must determine first which of the four basic sections of title II describes the type of legal representation which one desires. Normally, this is simple, but sometimes it may not be.

The first of these types of proceedings which raise this issue involves the filing of a petition by Congress or a committee with a court to secure a writ of habeas corpus ad testificandum. The purpose of such a writ is to make a person incarcerated in a State or Federal prison available to a committee as a witness. Petitions for such writs are routine for subcommittees like the Permanent Investigations Subcommittee of the Governmental Affairs Committee, which often investigates criminal conduct. Petitions for such writs have become extremely common. The Watergate Committee secured 20 such writs in 1973. See "Appendix to the Hearings of the Select Committee on Presidential Campaign Activities, Legal Documents, Relating To The Select Committee Hearings," 93d Congress, first and second sessions, 1974 at 2156–2157. The form that such petitions and writs take is shown in "Leading Cases on Congressional Investigatory Power," Joint Committee on Congressional Operations, 94th Congress, 1976, at 87–88. Courts almost invariably grant such petitions without any need for briefs, argument, or a hearing.

A full-fledged judicial proceeding could arise, however, if the imprisoned party moved to quash a petition for a writ of habeas corpus ad testificandum as occurred in 1956 with a petition for a writ by the Senate Banking Committee. In that case a writ was issued and the prisoner did appear before the committee on October 8, 1956. Nonetheless the prisoner continued to press his motion to quash the writ in hopes to prove that his testimony had been unlawfully obtained and that no criminal contempt of Congress proceeding could result. The motion to quash the writ was eventually dismissed by the Court of Appeals as moot. However, that decision was reached only after two courts had heard the case. The motion to quash the writ was initially dismissed by the District Court on October 19, 1956. That decision was not affirmed by the Court of Appeals for the Seventh Circuit until June 28, 1957. See "In the Matter of Hearings by the Committee on Banking and Currency of the United States Senate," 245 F.2d 667 (7th Cir. 1957). The legal papers filed by the committee before the district court appear in "Illinois Banking Situation," hearings before the Committee on Banking and Currency of the U.S. Senate, 84th Congress, second session, part II, October 1956, at 1128–1148.

(It may well be that a motion to quash such a writ would now be subject to a summary judgment motion on grounds of speech and debate clause immunity under the recent precedent set in Eastland against U.S. Servicemen's Fund.)

The question which this unusual case raises here is whether the Counsel would be directed to appear to contest such a motion to quash under section 204 or under section 205 of the bill. Section 204 concerns defense of Congress while section 205 concerns subpena enforcement. The answer to this question makes some difference because the Joint Leadership Group could be a two-thirds vote authorize defense of Congress under section 204 but not authorize enforcement of a subpena under section 205. The question is the following: Would appearance by the Counsel to contest a motion to quash a writ of habeas corpus ad testificandum be equivalent to defending Congress or to enforcing a subpena?

In my opinion it is equivalent to defense of Congress under section 204. I reach this conclusion because by defeating a motion to quash a writ all one does is maintain the status quo—that is maintain the existing force and effect of the writ. By maintaining the existing force and effect of the writ, no steps toward enforcement are taken. The proceeding is essentially the same as where a subpenaed party brings a civil action to enjoin enforcement of a subpena, such as was attempted in the Servicemen's Fund case. By dismissing that injunction action the Supreme Court took no position on whether or not the subpena could later be enforced. With a writ of habeas corpus, whether or not the prisoner ultimately has any right to refuse to comply with the committee's requests or questions once the prisoner is brought before a committee would have to be decided in a subsequent civil or criminal contempt proceeding. The purpose of maintaining the writ is solely to secure the prisoner's attendance so that questions can be asked of him.

I would like to ask the chairman of the Governmental Affairs Committee whether he agrees with this analysis.

Mr. RIBICOFF. Yes, I agree. May I say this is just the commonsense approach I hope will be taken in interpreting sections 204, 205, 206, and 207. One must look to the essential purpose of a legal proceeding to determine which of

the sections of title II applies. One is bound to come across unusual cases like the Banking Committee case which do not fit neatly into sections 204–207 and one should take a commonsense approach to determine what procedures should be followed to authorize the Counsel's involvement.

Mr. ABOUREZK. I would like to emphasize that title II says nothing with respect to whether or not Congress or a House of Congress must approve the filing of a petition for a writ of habeas corpus ad testificandum. It is my understanding that neither House presently requires that it be consulted before such a petition is filed. The Counsel could certainly advise committees how to draft and file such petitions when requested to do so without any need for approval by the Joint Leadership Group or the body.

Second, I want to clarify how the bill relates to directing the Counsel to represent a committee in negotiating with a subpenaed part to secure compliance with a subpena. Section 205 applies only to bringing an action to enforce a subpena, not to negotiating short of actually bringing an enforcement action.

My understanding is that such representational activity would fall within the catch-all provision of section 208(c). That provision states:

> The counsel shall perform such other duties consistent with the purposes and limitations of this title as the Congress or a House of Congress may direct.

In most cases negotiations over compliance with a subpena will be undertaken by committee staff. Under section 208(a)(6) the counsel may give advice and consent and cooperate with such committee staff but not represent the committee. If enforcement probably will be required after such negotiations, however, a committee may well want the counsel to represent it in the negotiations as well as in any subsequent enforcement action.

Again, I ask the chairman of the Government Affairs Committee whether this is the type of activity which section 208(c) is designed to cover.

Mr. RIBICOFF. Section 208(c) is designed to accommodate precisely the type of activity which you describe. It is not possible to cover all of the types of legal services in which it may be desirable for the congressional counsel to engage. Section 208(c) provides the needed flexibility to accommodate situations such as you describe. Of course, Congress cannot authorize representational activity under section 208(c) which is inconsistent with the limitations in sections 204–217.

Mr. ABOUREZK. In a similar vein, would section 208(c) also apply to a situation where the counsel appears in court to move that the court direct a U.S. attorney to release documents in the custody of a grand jury? Let me explain what I mean before you answer.

As I understand it, the problem I am referring to often arises when Congress needs access to documents from a person who has already given up the documents, including the originals and all copies, in response to a grand jury subpena. There is no reason why Congress should not be able to obtain the same documents to fulfill its legislative purposes just because both originals and copies were subpened. If Congress subpened the materials first, I have no doubt that it would normally release them to a grand jury upon request.

Congress would normally simply appear before a court and request the documents rather than attempt to enforce a subpena. In fact, the Senate Banking Committee did this in 1956 in connection with the same investigation which led to the writ of habeas corpus ad testificandum. Counsel for the committee, Matthew Hale, moved that the U.S. attorney be directed by the court to permit inspection and copying of certain documents in the custody of the U.S. attorney. See "In re Hearings Before the Committee on Banking and Currency of the United States Senate," 19 F.R.D. 410 (N.D. Ill. 1056). The legal documents of the committee are printed in "Illinois Banking Situation," Hearings Before the Committee on Banking and Currency Committee, 84th Congress, second session, part II, October 1956, at 1148–1178. A copy of the court's opinion is attached as exhibit — to my statement.

The court granted the committee's motion on the grounds that the committee desired access to the document "for itself, independently, rather than because it was stated before or displayed to the grand jury . . ." Id. at 412. The committee was "not asking whether the document was used in any other facet of the grand jury proceedings." Id. at 413. This same rationale has been applied in similar cases where third parties desired access to grand jury documents. See for example *United States* v. *Interstate Dress Carriers*, 280 F.2d 52 (2d Cir. 1960). (ICC request); *Davis* v. *Romney*, 55 F.R.D. 337 (E.D. Pa. 1972) (request of plaintiffs in a civil proceeding); and *Mallinckrodt Chemical Works* v. *Sachs*, 58 F.R.D. 348 (S.D. NY 1973) (request of plaintiffs in a civil proceeding). See also "The Federal Grand Jury," 22 F.R.D. 457–460.

My question earlier was whether section 208(c) would apply where a committee desired the counsel appear in court to move that the court disclose grand jury documents?

Mr. RIBICOFF. Again, I agree with your analysis. Section 208(c) was included in the bill to provide precisely this type of flexibility.

Mr. ABOUREZK. I would like to conclude this discussion by thanking the distinguished chairman of the Governmental Affairs Committee for his support and assistance with title II. I believe he has shown real leadership on this bill by bringing it out of his committee again this Congress so that the House will have a chance to take early action. I would also like to commend Senator RIBICOFF for the performance of the Counsel to the Governmental Affairs Committee who is in charge of this legislation, Dave Schaefer. Mr. Schaefer has performed in a highly professional manner in coordinating the inputs of all of the persons interested in this legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD my statement before the Senate Committee on Governmental Affairs.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JAMES ABOUREZK BEFORE GOVERNMENTAL AFFAIRS ON S. 555 ON MAY 4, 1977

It is a pleasure to testify again this year on legislation to establish an Office of Congressional Legal Counsel. I testified before this Committee on December 8, 1975, on the Congressional Counsel Title of S. 495, the Watergate Reorganization and Reform Act. See Watergate Reorganization and Reform Act of 1975, Hearings before the Committee on Government Operations on S. 495, at 119–123, 460–554 At the same time the Subcommittee on Separation of Powers, of which I was then chairman, held extensive hearings on the need for Congressional Counsel. See Representation of Congress and Congressional Interests in Court, Hearings Before the Subcommittee on Separation of Powers, 1976.

Rather than repeat my statement on the need for establishing this office, let me give the highlights of what has happened in congressional litigation since December 1975.

These eighteen months have been exceedingly busy.

Several important cases were pending at the time of my testimony. Among these were *Ashland Oil* v. *FTC*, *McSurely* v. *McClellan*, *Common Cause* v. *Bailar*, *Calley* v. *Callaway*, and *Davis* v. *Passman*. These cases involved, respectively, enforcement of a House subcommittee subpena, a damage action against a Senate subcommittee for certain events occurring during an investigation, a constitutional attack on the franking privilege, an appeal of a court martial on grounds of refusal of a House subcommittee to release a transcript of an executive session, and a case alleging sex discrimination by a House Member.

Significant events occurred in each of these cases since my testimony. On December 18, 1975, the House authorized the House Commerce Committee to intervene in *Ashland*. On September 20, 1976, the Court of Appeals for the District of Columbia upheld the position of the Commerce Committee.

On February 10, 1976, the same court ordered a rehearing en banc in the *McSurely* case. On December 21, 1976, the court reversed an earlier ruling of a three judge panel holding that the plaintiff's case should be dismissed. Appeals are now pending from that decision.

In *Bailar*, the House intervened on July 1, 1976. The case is still pending.

Lieutenant Calley lost his appeal in the Supreme Court on April 6, 1976.

Finally on January 3, 1977, the Fifth Circuit reversed a District Court's dismissal of the *Davis* case.

A number of new court challenges have been brought against Congress during this same period. Included among these are *Clark* v. *Valeo*, *United States* v. *ATT*, *Hutchison* v. *Proxmire*, *Pressler* v. *Simon*, *Thompson* v. *Pendergast*, *Mack* v. *Henshaw*, and *United States*. v. *Helstoski*. These cases involve, respectively, a challenge to the constitutionality of the legislative veto, an attempt to raise executive privilege as a bar to enforcement of a House Subcommittee subpena, a libel action against a Senate Member for comments made on the floor and in a press release regarding public expenditures, a challenge to the constitutionality of the Pay Act, a case under the False Claims Act, a similar case brought by a defeated congressional candidate, and a criminal bribery case brought against a House Member raising Speech and Debate Clause issues.

The *Clark* case was brought on July 1, 1976, and finally dismissed as unripe by

the D.C. Court of Appeals on January 21, 1977. The case is now on appeal.

The *ATT* case was brought on July 22, 1976, and remanded for settlement negotiations on December 30, 1976. The House authorized one of its subcommittees to intervene in the case on August 26, 1976. The negotiations are still continuing.

The *Hutchinson* case was brought in August, 1976, and dismissed in the District Court on December 23, 1976. The Senate authorized payment of Senator Proxmire's expenses on August 9, 1976.

In the *Pressler* case, the House was forced to hire private counsel on September 2, 1976, when the Justice Department withdrew as counsel for the House Sergeant-at-Arms. The case is still pending.

The General Counsel to the House Clerk is representing the House in both the *Thompson* and *Mack* cases, brought on October 28, 1976, and January 4, 1977, respectively. Both cases are still pending.

Finally, the *Helstoski* case is being monitored after a February 18, 1977 District Court opinion dismissing certain Speech and Debate defenses.

This brief summary of congressional litigation in the last eighteen months suffices to emphasize that the need for establishment of an Office of Congressional Legal Counsel remains as strong or stronger than when I last testified.

I would like to focus on the most important remaining issues about the counsels office: (1) whether the House and Senate will establish a joint office or whether each will establish its own office and (2) whether the office will be non-partisan and under the control of the leadership or placed under the control of a committee.

Let me be clear on the first of these issues; I believe establishing separate House and Senate offices will cancel out much of the advantage of having in-house litigation counsel. Only by establishing a joint House-Senate office will the Congress be able effectively and consistently to defend its constitutional powers in court.

This issue of the basic structure of the counsel office will be the single most important issue when the House takes up the counsel proposal. The Senate is clearly on record as favoring a joint office. Title II of S. 495 last session proposed creation of a joint office. No opposition to a joint office was ever raised and several of us spoke strongly in favor of a joint office.

The House may have some reservations about establishing a joint office on the fear that the Senate might dominate the office. This fear is utterly without foundation. The structure of the office guarantees that neither House can dominate the office.

Section 201(a)(2) provides that the counsel and deputy counsel shall be appointed by the President pro tempore and the Speaker from among recommendations submitted by the majority and minority leaders of both Houses. Section 201(a)(3)(A) provides that both Houses must approve the appointment and both Houses may remove the counsel or the deputy.

Section 202 makes the office directly responsible to a bipartisan Joint Leadership Group with an equal number of Members from both Houses. Section 203 provides that only the House involved in a particular legal proceeding can direct the counsel to participate in that proceeding. Under sections 204 and 205 either House may direct the counsel to defend a Member, officer, or committee of that House or to enforce a subpoena of a committee of that House. Under section 206 either House may direct the counsel to intervene or appear as amicus in its name or in the name of one of its committees or committee chairman. Under section 207 the counsel may represent a committee of one House in an immunity proceeding at the request of that committee. Under section 208 the counsel may perform certain advisory functions for either House.

Concurrence of the two Houses is not required for the performance of these duties because in none of them will one House have any reason to object to the decisions of the other House. Both Houses agree on the need to represent Members, officers and committees when they are involved in lawsuits arising out of the performance of official duties. Both will defer to the factual determinations of the other as to whether or not a particular lawsuit involves official duties. Similarly, neither House would have any inclination to interefere in the other House's determination to enforce a subpoena or grant immunity to a witness. The concurrence of both Houses is not necessary in making these determinations.

In contrast when both Houses agree to intervene or appear as amicus in the name of the Congress, the concurrence of both Houses is required. Neither House acting alone can assert the prerogative of representing the Congress.

Finally, section 210 provides a mechanism for the Joint Leadership Group resolving any conflict which arises, including a conflict between the two Houses.

These provisions make it impossible for either House to dominate the counsel office.

There are many advantages to having a joint counsel to appear in court. One of the principal problems for the counsel is that the Congress—unlike the executive branch—does not consistently and vigorously defend its interests in court.

When the executive branch is confronted by a series of court challenges to its power, it is able to develop a consistent position, anticipate legal developments, and coordinate the cases as they progress. The advantage which the executive branch has by virtue of its centralization of its litigation in the Justice Department is in stark contrast to the ad hoc and scattered provisions for counsel in the Congress. Even with only two legal offices in the Congress, most of the advantages of consistency, anticipation and coordination will be lost to Congress as an institution. The manner in which the speech and debate clause of the constitution is raised as a defense in a case involving a Senate Committee, for example, may often have direct consequences for the applicability of that defense to a case involving a House officer. Only with a joint office can these consequences be anticipated and resolved.

When a Congressional Counsel appears in court to defend a Member of one House, the counsel brings to bear the full prestige of the Congress as an institution. By analogy there is a great advantage for an executive branch attorney who can say "the United States government" believes in a certain position. When a Congressional Legal Counsel represents a Member—after a vote of at least one House to authorize such representation—courts are more likely to defer to the arguments of the counsel. Such prestige will be particularly important when Congress as an institution intervenes or appears as amicus—which is unlikely ever to occur if there are separate House and Senate counsels cases where both Houses can agree to intervene or appear are bound to be extremely important cases. When it is represented in these cases by a Congressional Legal Counsel, the Congress as an institution can have a tremendous impact. Indeed, in those cases "the Congress" should be represented by a Congressional Legal Counsel.

The second issue is who will oversee the office. This bill places this responsibility with the Joint Leadership Group—a bipartisan body composed of the Speaker, President protempore, the majority and minority leaders of both Houses, the chairman and ranking members of the two Judiciary Committees, and the chairman and ranking members of Senate Rules and House Administration.

This bipartisan group cannot vote to authorize the counsel to become involved in any legal proceeding except to defend a House, a committee, officer, Member, or employee in cases involving the performance of official duties. Such authorization must be agreed to by a ⅔ vote, guaranteeing that the members of the Group from the majority party cannot acting alone authorize representation. In all other cases, at least one House of Congress controls access to the services of the counsel.

Resolutions to direct the counsel to represent Congress are not referred to committee where a committee or a committee chairman could exercise its or his influence.

This structure is designed to insure that the office will represent the interests of Congress as an institution and not be used for partisan purposes. This will enable Congress to recruit and retain first rate professionals for the office. I would seriously oppose any attempt to place the counsel's office under the authority of any committee or Member. The bipartisan nature of the office could then be lost and access to the counsel's services controlled for partisan advantage.

To supplement my statement I would like to submit the following materials for the record:

(a) my February 1, 1977, statement upon the introduction of S. 555;

(b) a list of subpenas for documents and testimony directed to House and Senate Members;

(c) a recent law review article on congressional immunity from judicial subpenas for documents and testimony; and

(d) a number of Library of Congress memoranda bearing on the subpena enforcement mechanism in the bill.

EXHIBIT 1

Subject Legal Representation of the House, Its Members, Officers and Employees in Connection With Actions Concerning Them.

From Edmund L. Henshaw, Jr., Clerk U.S. House of Representatives.

To The Senate Committee on Governmental Affairs.

The purpose of this memorandum is to provide the Senate Committee on Governmental Affairs with background information on the problems encountered in representing the legal interests of the House, its Members, officers and employees in connection with litigation concerning them.

Before addressing the subject directly, I would like first, by way of introduction, to briefly outline the scope of responsibilities delegated to the Clerk by parliamentary law, statute and the Rules of the House of Representatives. I believe this will provide the necessary background for a discussion of the Clerk's involvement in the judicial process.

DUTIES OF THE CLERK OF THE HOUSE

Article I, section 2, clause 5 of the Constitution of the United States provides that the House ". . . shall choose their Speaker and other Officers" and Rule II of the Rules of the House of Representatives, the earliest form of which was adopted in 1789, provides for the election of the Clerk by the House at the commencement of each Congress.

Section 60–1(b) of Title 2 of the United States Code designates the Clerk as one of the "officers of the Congress". Rule III of the Rules of the House of Representatives prescribes the administrative and judicial duties and responsibilities of the Clerk which include, among other things, preparing the role of the Representatives-Elect, presiding before the election of the Speaker, keeping the Journal of the proceedings of the House, attesting all writs, warrants and subpoenas issued by the House, certifying all bills and resolutions passed by the House, making all contracts for services and supplies, and pay-

ing the salaries of all the officers and employees of the House. In addition, the Clerk is charged with keeping accurate accounts of disbursements out of the contingent fund of the House, as well as keeping the stationery accounts of Members.[1] Of particular relevance to the subject before your Committee, the Clerk is the custodian of all House documents, papers, and records.[2] In addition, the Clerk has other administrative duties under the Federal Contested Election Act, 2 U.S.C. § 381–396, and serves as an ex officio member of the Federal Election Commission pursuant to 2 U.S.C. § 437c(a)(1).

As I have indicated in the body of my statement, I feel strongly that Congress should be represented by its own litigative office. I realize that the foregoing recommendation is neither revolutionary nor novel. Various congressional committees have been studying the necessity for and feasibility of such an office for some time and numerous proposals to establish a congressional counsel have been introduced in the past.[3] Although it may be a foregone conclusion in other quarters that Congress lacks adequate legal representation and that the need for a congressional counsel has been amply and convincingly demonstrated, I am not aware that the available evidence in support of these propositions has ever been developed by the Office of the Clerk of the House of Representatives. Therefore, I will proceed on that assumption with the hope that my statement will supply what may be a missing chapter in the documentation of the need for a congressional litigative office. In doing so, my comments will bear primarily on the question of the problems in assuring adequate representation of institutional interests and the problems encountered in obtaining such representation under present circumstances.

THE CLERK'S INVOLVEMENT IN JUDICIAL PROCESS

Generally, the Clerk, in his official capacity, becomes involved in the judicial process through one of two procedures: first, through presentation of subpoenas, orders or requests for the withdrawal of papers or documents within his possession as custodian for the House of Representatives; secondly, where a civil action is brought against the Clerk by parties or groups seeking various forms of legal or equitable relief. In the first instance, where a question is raised concerning the privileges of the House of Representatives, it is necessary that the consent of the House be obtained before the Clerk can comply with any such subpoena, request or order.[4] The receipt of such subpoenas or orders have become frequent and over 100 subpoenas or orders have been reported to the House of Representatives during the last five years.[5]

With respect to the commencement of civil actions against the Clerk, Section 118 of Title 2 of the United States Code provides that upon request the Department of Justice shall defend an "officer" of either House of Congress for acts performed in the "discharge of his official duty". The Clerk has generally exercised his right to be represented by the Department under these circumstances. In fact, in the last five years alone the Justice Department has defended Members, officers and committees of Congress in at least 55 cases.[6]

This increased dependence on the Department of Justice, which is detailed in the Senate hearings, raises serious questions concerning the adequacy of representation which is available to the House and its officers and Members. While I would emphasize that the Department has, in my experience, made a good faith and conscientious effort to defend the interests of the Clerk and the House, the highly specialized procedures and concerns of the House, and its status as a co-equal branch of government, render its reliance on the chief advocate for the executive branch inappropriate and, I believe, unwise. I think a case in point will illustrate the problem.

There was an action brought in the United States District Court for the Central District of California against the Speaker, the House of Representatives, the Clerk, as well as the Chairman of the Committee on Standards of Official Conduct.[7] The suit arises out of the conviction of a sitting Member of Congress and his decision, subsequent to that conviction, to comply with the guidelines established by Section 10 of Rule XLIII(43) of the House Rules. During the course of the litigation, the other defendants involved, including the House of Representatives, were dismissed from the action, although the Clerk remained a defendant for some time thereafter.[8] My statement with respect to this action is offered solely for informational purposes and should not be construed to mean that we concede, endorse or otherwise agree with or accept any of the plaintiff's contentions in the suit, which we believe are without merit.

The gravamen of the action is that section 10 of House Rule XLIII(43)[9] is unconstitutional and that its operation imposes a taxation without representation upon plaintiff and other citizens of the district since they are paying for services which they are not receiving.

Although it appears likely that the judgment of dismissal will be sustained, the action raises numerous substantive issues relating to the House Rules. We have been working closely with the Department of Justice and the United States Attorney for the central district of California on the Clerk's defense and both the Department and the U.S. Attorney in California have been extremely diligent in keeping our office informed at the suit's progress and in seeking our advice and counsel. I believe, however, that our interests would be better served by the direct involvement of the House of Representatives in the litigation. The conduct of the action, and the ultimate grounds upon which it is decided, could have significant impact on the validity and application of the House Rules and procedures and as a result the Clerk and the House should be in a position to frame the issues and shape the action in a manner most favorable to the House—in short, to act as its own advocate.

Moreover, as this particular action illustrates, it is often difficult for those in the Department whose task is to represent the Clerk in such actions to grasp or appreciate fully the intricacies, singularities and, in some instances, the apparent anomolies of House practice, notwithstanding their skill or experience as litigating attorneys. Yet without a working familiarity with or ready access to House rules, precedent or procedures, no truly adequate defense can be prepared. In fact, without such familiarity it is possible that an attorney may inadvertently concede a point or make an argument which may have an adverse precedential impact in another case involving the Congress.[10]

As the repository of expertise on its own procedure and workings, the House should, from the standpoint of logic and sound policy, control and direct litigation, including the fine points of pleading and response, which may affect it as an institution.

There is a further point to be made on this subject. In cases where the Clerk, another officer, Member, employee, a Committee or the House, has an interest, but is not a party, it is my understanding that the Department of Justice can neither intervene nor file an amicus brief on behalf of Congress. The outcome of such cases may nevertheless affect critical House powers or procedures. One case in point is currently pending in the United States Court of Claims, *C. Clyde Atkins, et al.* v. *United States of America*, No. 41–76, (Ct. Cl., filed Feb. 11, 1976). One of the issues in that lawsuit is the constitutionality of 2 U.S.C. § 359(1)(B) which provides that salary adjustments submitted by the President under the Federal Salary Act of 1967 (2 U.S.C. § 351 et seq.) shall become effective at the beginning of the first pay period which begins after the thirtieth day following their transmittal, but only to the extent that *neither* House of Congress has disapproved the recommended adjustments. To my knowledge, no Member, committee or officer of the House has been named as a party in this suit. Nevertheless, it would seem that its outcome could have far ranging implications for the Congress and the legislative process. Despite the fact that the issue of the so-called Congressional disapproval procedure is being contested in another suit in which the Clerk and the Secretary of the Senate are parties (*Clark* v. *Valeo, et al.*, Civil No. 76–1227 [D.D.C., filed July 1, 1976],[12] it is my feeling that the House should possess a mechanism through which it can directly intervene in all actions related to its powers and not be placed in a position of having to live with precedents, as a *fait accompli*, established in litigation in which it is not represented.[11]

Of course, the Clerk has retained private counsel to defend or represent House interests in the past. More specifically, the Clerk is authorized to appoint such special counsel as he may deem necessary to represent the Clerk or the interests of the House in any suit arising out of his actions while performing duties or obligations imposed on him by the Federal Corrupt Practices Act or the Federal Election Campaign Act of 1971.[13] In addition, the employment of private counsel has on occasion been necessitated where the Department of Justice, were it to defend either the Clerk or the interests of the House, would be placed in a conflict of interest by defending a Congressional power or practice which may in the future be used against the executive or which the executive is contending to be invalid.[14]

Recently, the Clerk was presented with an interesting example of a conflict of interest which prevented the Department of Justice from representing the Clerk and other House officers.[15]

The plaintiffs initiated a civil action pursuant to a provision of law enabling private citizens to sue on behalf of the United States, provided certain jurisdictional and procedural requirements are first met.[16] In addition, the law provides that the United States shall have sixty days after the prescribed service is made upon the United States Attorney and the Attorney General to enter an appearance in the suit. If the United States does so, the suit must be carried solely by the United States.[17] Since the United States is authorized to carry on the suit as its own, the Department of Justice was unable to provide representation to the Clerk pursuant to 2 U.S.C. § 118. Nevertheless, the Clerk and the other officers were sued in their official capacities and counsel had to be obtained to represent the defendants. Accordingly, it was determined that it would be appropriate for the General Counsel to the Clerk to defend the Clerk and the other House officers in the action.[18]

In the above instance, the defendants were not unduly prejudiced by the inability of the Department to represent them because the conflict arose from clear statutory mandate and they were on notice of its existence from the beginning of the suit. In many instances, however, the Department may commence representation only later to repudiate its ability to act as counsel.[19]

There is another point to be noted with respect to Department representation. While I believe that the Department makes every effort to furnish competent counsel, I would venture to say that the character of its rep-

Footnotes at end of article.

resentation differs significantly from that which would be furnished by an internal litigating entity. In my experience, the Department is often reluctant to make the vigorous substantive arguments which might best serve the interests of the House.

Perhaps because of its extremely heavy caseload, or the tremendous range of cases in which it participates, the Department may seek the most expedient way in which to obtain a favorable judgment for its House clients. As a general rule of thumb, there is nothing wrong with such an approach. With respect to the House, however, it may result in judgments predicated on grounds that are adequate only for purposes of obtaining the disposition of a single case and which fail to adequately recognize the unique aspects of House powers and prerogatives and their application to future cases. I am aware that the "legal" strategy for each case must be decided on the basis of the facts and circumstances of that case. I am concerned, however, that the Department does not have time and energy or the perspective to take into account the long range interests of the House in mapping legal strategies and that as a result, the unique defenses and positions available to the House are not utilized in all cases, which over time diminishes their vitality.

In addition, the House is a place of great tradition and custom, the origins of and rationale for which are often obscure or difficult to trace. The legal principles and relevant statutes affecting the House are generally not ascertainable through conventional research methods, yet they are important in disposing of the legal issues arising in litigation. As the Table of Cases and Authorities in Exhibit I indicates, such sources consist of House Rules and precedents, as well as legislative appropriations acts, with which the general legal practitioner, whether he is a Department of Justice or private attorney, may not be familiar. A working knowledge of these sources is crucial to effective litigation and I submit that no person from outside the House has sufficient access or sensitivity to these sources to adequately represent the House.

There are other serious limitations in the representation which the Department may provide. As I discussed earlier, 2 U.S.C. § 118 directs the Department of Justice to defend an officer of either House of Congress for acts done in the "discharge of his official duty". The language of that section is mandatory. However, the Department regularly exercises discretion in making a threshold determination whether actions taken by officers of Congress are "official". Moreover, the statute does not specifically include within the class of persons covered Members, employees, and committees of Congress, and although the Department has on past occasions represented such persons, it is not required to do so even in the instances where it is the exercise of their official duties which has resulted in their being sued. The Department has also stated that the mandatory provisions of the statute can be superceded in certain circumstances where representing the Congress or a Member or Committee would place the individual Department attorney in the position of violating the cannons of professional responsibility to which all attorneys are subject.[20]

In still other instances, the Department has exercised unfair leverage by imposing certain conditions upon the party requesting representation. For example, several years ago, an action was filed against the Clerk and certain government officials alleging, among other things, failure to enforce the Federal Corrupt Practices Act, *Ralph Nader et al.* v. *John N. Mitchell et al.*, Civil No. 243-72 (D.D.C. filed Feb. 8, 1972). The Clerk requested representation in the action pursuant to 2 U.S.C. § 118. The Department agreed to undertake representation, however, with the express condition that "if during the course of the litigation it might appear in our judgment that a possible divergence of interest is present and that your interests might be better served by obtaining other counsel, we shall, of course, so advise you."[21]

On May 1, 1972, the Department exercised its right under the condition and advised the Clerk to obtain outside counsel due to disputes between the Clerk's office and the Department which had arisen over enforcement of the Federal Corrupt Practices Act. The Department contended that since the Court would have to be advised of the differences of opinion, the Department might be required to take a position with regard to the propriety of the actions taken. The Department concluded that since the performance of their respective duties under the Act might become an issue under those circumstances, it would be best to obtain counsel who could defend the Clerk without jeopardizing the interests of other clients. The Clerk concurred and obtained other counsel.

I do not believe that the defense of Congressional powers should be subjected to such conditions or that officers, Members or Committees of the House should be forced to compromise their litigating positions in such a manner, regardless of the merits of the particular issues involved. The ability of the Department of Justice to qualify and fetter the representation which it provides to the legislative branch permits the Department to extract concessions which may weaken the position of the Congress and which may be used at a later time against the Congress in a direct confrontation with the Executive Branch.

As the Department of Justice has repeatedly suggested, there is an alternative to representation by the Department—private counsel. While the employment of private counsel has afforded excellent legal representation in the past in some cases, it has two principal drawbacks. First, it can be expensive. Secondly, ". . . the retention of different private counsel to handle different cases provides for little if any consistency among the legal positions . . . taken in different cases."[22]

In addition, I would like also to mention briefly what I believe to be certain practical and logistical problems inherent in utilizing either private counsel, or Department of Justice attorneys, to defend House interests. Again, I refer to the case presently pending against the Clerk in California[23] to illustrate the point.

Originally, that suit named as party defendants the Speaker, the House of Representatives, the Chairman of the Committee on Standards of Official Conduct and the Clerk. After all the other parties except the Clerk were dismissed by prior motion, we continued to work with the United States Attorneys Office in working to obtain a favorable disposition of the action. The Committee on Standards of Official Conduct had been dismissed as a party in the suit, despite the fact that Rule XLIII, which that Committee reported and the applicability of which it continues to interpret, remains an issue in the suit.[24] Accordingly, it would seem that the Committee continued to have, even after its dismissal, a genuine and compelling interest in the outcome of the action, with respect not only to the interpretation of Rule XLIII, but also in relation to any future action the Committee may take in this matter, despite its dismissal as a party. Unfortunately, the lines of communication between the Committee and the U.S. Attorney on this issue were closed when the Committee was no longer a party defendant. While we continued to convey to the U.S. Attorney our views on the Rule for their guidance, and there was nothing to prevent the U.S. Attorney from contacting the Committee to seek their assistance, as a practical matter that did not happen to any appreciable extent because the Committee was formally dismissed and those actually litigating the case were not cognizant of the Committee's continuing interest. Furthermore, as the primary scource of expertise on the Rule, the Committee should be provided the opportunity to express its view on any point raised in the litigation either affirmatively or defensively concerning its validity, application or effect. An internal litigating organization would be uniquely able to achieve these purposes despite the formal dismissal of parties from the action and would not labor under the disabilities of distance which the Department of Justice must confront in conducting litigation in scores of different locations around the country. The mere location of such an office within the House would help to overcome the present obstacles of distance, and could provide uniformly competent legal services, which emanate from a single source, in the place of the present varying quality of services available from the Department of Justice through the local U.S. Attorneys offices. Finally, the collective wisdom of all the offices and departments of the House could be brought to bear on the legal process through the litigating counsel, including those not named in an action who may nevertheless have an interest, or who may be able to assist in preparing a competent defense.

Similarly, while I have spoken repeatedly of House interests, it is necessary to remark that where a variety of House officers, or Members or Committees are involved the interests of the House may not be entirely homogenous. The concerns of one officer may differ slightly in character or quality from that of another officer, or between an officer and a committee, owing to the varying responsibilities prescribed by House rules or statute to the constituent parts of the House. In these instances, a paramount objective is to arrive at a reconciliation of any conflicting interests, to the extent that can be accomplished, prior to crucial stages in the litigation. However, without a central coordinating office to perform this function, the position of House parties in litigation is often expressed on an ad hoc or isolated basis. In fairness, this is inevitable given the press of court headlines and the necessity to respond to a complaint in a timely manner.

Doe v. *McMillian*, 412 U.S. 306 (1973), concerning a suit for damages, declaratory judgment and injunction for alleged invasion of privacy resulting from dissemination of a Congressional report on the District of Columbia school system that included the identification of students in derogatory contexts, is a case in point. Apparently, there was a divergence of views on the dissemination of the report among the Committee members themselves and at one stage, three separate counsel represented these parties in the action. Again, I believe that an inhouse litigating office would be uniquely able to establish procedures to minimize the risks of conflicts among various elements of the institution and at the same time could develop the close personal liaison with responsible House offices needed to alleviate these problems. The office would permit the sound policy of resolving any conflicts internally in a conciliatory and expeditious manner and not in the context of an adversary process which may permanently damage the House and its offices or Committees.

There is one other subject before your committee which I would like to briefly address—problems which are confronted when Members or employees are parties to litigation. It is my view that these individuals face special problems in responding to suits which do not confront the House, its officers or committees.

Footnotes at end of article.

I am not concerned here with what are clearly personal legal matters of Members or employees, which are beyond the responsibility of the House to defend. Rather, I am referring to cases which are civil in nature and in which there is placed in issue the validity of an official action taken by an individual or which was in the normal course of his employment.

The Clerk's office, perhaps because it is charged with the payment of appropriations for clerk-hire for Members and the administration of certain employee benefits as well, may be thought of in one sense as the personnel office of the House of Representatives. In this role, the Clerk has received numerous inquiries from both Members and their employees seeking advice on how to respond to suits in which they are named as parties. Consequently, I have been made aware of the concerns which Members and employees have, and the obstacles they face, in defending themselves in lawsuits.

For the most part, at least in the initial stages of litigation, the Member or employee is on his own. While he may request representation from the Department of Justice, they can decline to do so for a number of reasons which I discussed earlier. Assuming the individual cannot or chooses not to obtain representation from the Department of Justice, he can obtain private counsel and attempt to have the House defray the costs. While the Congress has authorized the payment of the legal fees of Members or employees in suits against them which present significant institutional issues,[25] there is often a substantial burden in demonstrating an institutional interest. Often, the presence of a House interest in the suit involving an individual member may not be immediately or as easily recognizable as when the defendant in a suit is a House officer or committee. Morever, there may be what might be called "submerged" or potential issues of institutional importance which may not emerge until later stages of the litigation. Unfortunately, despite the potential impact which such a suit may have on the House, there is a tendency to regard the matter as the individual concern of the Member and the burden then shifts to the Member or employee to demonstrate a compelling or overriding House interest.

In the current litigous climate, more and more suits are being brought against individual Members and employees.[26] If the House determines not to pay outside counsel, the Member or employee may be required nevertheless to incur the expense of obtaining counsel. Unlike the committee of the House and Senate who generally employ several or more attorneys who might under unusual circumstances or in an emergency, represent the Committee or its members, individual Members may not have even one lawyer on their staff who could prepare a defense.

Obviously, the employee is in even a more precarious position since he is unlikely to be able to exert the kind of influence on the Department to which they will respond. Should the Department in its discretion accept the handling of the case, it may do so to retain favorable relations with Congress but may not have the manpower necessary to assign it any priority.

Based on the risks to which Members and individuals are subjected, I want to indicate my support for the concept of including them within the class of persons who could be defended by a litigation office, should one be created. It is my belief that neither Members nor their staff should be inhibited or circumscribed in the performance of their duties by apprehension or threat of retaliatory legal action. If this is allowed to happen the ability of the Congress to serve the people will be seriously impaired.

FOOTNOTES

[1] Rules of the House of Representatives §§ 637–647 (1975).

[2] Rule XXXVI of the Rules of the House of Representatives, entitled "Withdrawal of Papers", provides that "No . . . paper of the House shall be withdrawn from its files without its leave . . ." See, also, Jefferson's Manual, § 352.

[3] Freeman W. Sharp, *A Proposed Congressional Counsel*, Cong. Research Serv., AP–197, p. 6–15 (1971).

[4] H.R. Res. 10, 95th Cong., 1st Sess., (1977) states that ". . . by the privileges of this House no evidence of a documentary character under the control and possession of the House of Representatives can, by the mandate of the process of the ordinary courts of justice, be taken from such control or possession except by its permission: . . ." This resolution is firmly grounded in precedent. See 3 Hinds' *Precedents of the House of Representatives* § 2663 (1907).

[5] S. Rep. No. 823, 94th Cong., 2d Sess. 69 (1976).

[6] Hearings on Representation of Congress and Congressional Interests in Court before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary, 94th Cong., 2d Sess., at 20 (1976) (hereinafter the "Senate hearings").

[7] *Michael Patrick Clancey* v. *Carl Albert, et al.*, Civil No. 76–982 (C.D. Calif., filed July 19, 1976).

[8] On April 6, 1977, based on a motion to dismiss brought by the United States Attorney, the court entered a judgment of dismissal because of mootness. However, on April 11, 1977 the plaintiff filed a notice of appeal to the Court of Appeals.

[9] Section 10 of House Rule XLIII(43) states, in pertinent part, that a Member who has been convicted of a crime for which a sentence of two or more years may be imposed should refrain from voting on any question at a meeting of the House or of the Committee of the Whole House unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected. *Rules of the House of Representatives* § 939. The section was added to the Code of Official Conduct of the Rules of the House of Representatives by H. Res. 46, 94th Cong., 1st Sess. (1975).

[10] There is a case presently pending which illustrates this problem. In *Ray Elbert Packer* v. *Barbara A. Ringer, et al.*, Civil Action No. 77–0278 (D.D.C. Filed March 7, 1977), plaintiff, an employee of the Library of Congress brought an action against the Librarian of Congress, and certain of its officers seeking damages, declaratory and injunctive relief for alleged discriminatory employment practices. Plaintiff joined the Joint Committee on the Library of Congress as a party defendant. The Department of Justice, in preliminary discussions with the Committee staff on the conduct of the defense, indicated it intended to move for summary judgment on behalf of all defendants. When asked by the staff what consideration was being given to asserting special and preliminary defenses available to the Committee as a creature of Congress, the Department attorneys admitted they had not entertained the notion of attempting to raise such defenses. The Committee staff impressed on the Department the risk of pursuing a summary judgment on behalf of the Committee since in the event of denial the case would proceed to trial and the special defenses available to the Committee might be lost. On April 29, 1977 the Department filed a partial motion to dismiss on behalf of the defendants. The motion, by footnote, contends that the Equal Employment Opportunity Act is inapplicable to Congress, but does not raise any constitutional or other defenses or immunities available to Congress.

[11] Although that case was dismissed by the Court of Appeals without reaching the question of the legislative veto, the plaintiff has applied for certiorari to the Supreme Court.

[12] By letter dated October 14, 1976, the Clerk of the U.S. Court of Claims informed the House and Senate, through the Speaker and the President, respectively, that during oral argument before the court the Assistant Attorney General conceded the unconstitutionality of 2 U.S.C. § 359(1)(B), although he argued plaintiffs were not entitled to recover on other grounds. In the same letter the court invited the House and Senate to file a brief amicus curiae in the cases. It is only through such fortuitous circumstances that the Congress has been asked to express its view. Such events further indicate the need for a procedure whereby direct involvement can be initiated by the Congress without waiting for the Executive to first make such prejudicial and sweeping concessions in the midst of litigation.

[13] H.R. Res. 92, 93d Cong., 2d Sess. (1973).

[14] In at least two instances, *Doe* v. *MacMillan*, 412 U.S. 306 and *Eastland* v. *United States Serviceman's Fund*, 43 U.S.L.W. 4635 (May 27, 1975), the Department provided representation in the district and circuit courts, but declined to provide representation in the Supreme Court. Apparently, the Department felt constrained, in light of its position in other litigation, not to continue its representation to higher levels. Such a decision can have obvious negative affects on the litigant, including the time and inconvenience incurred in attempting to obtain substitute counsel and the problems of the substitute counsel in assuming representation at such an advanced stage.

[15] *United States ex rel. W. Edward Thompson* v. *Paul Pendergast et al.*, Civil Action No. 76–2006 (D.D.C. filed Oct. 28, 1976).

[16] 31 U.S.C. § 232(C).

[17] *Id.*

[18] At the present time, defendants are awaiting a ruling on a motion to dismiss filed on their behalf (a copy attached as Exhibit I).

[19] See p. 13, *infra*.

[20] Senate hearings, *supra*, at 39.

[21] Letter from Assistant Attorney General L. Patrick Gray to Clerk of the House of Representatives, W. Pat Jennings, March 6, 1972, in 119 *Cong. Rec.* 7957 (March 15, 1972).

[22] S. Rep. No. 823, 94th Cong., 2d Sess. 11 (1976).

[23] See footnote 1, p. 5, *supra*.

[24] That issue concerns whether the rule has, standing alone, any force or effect or is merely a guideline for individual Members couched in precatory terms, but nevertheless expressing the sense of the House. If it is merely a guideline, obedience to which falls entirely on the individual Member, the argument could be made that the Clerk has no responsibility for enforcing the rule, is not preventing the Member from exercising his responsibilities and should, therefore be dismissed as a party. For legislative history of the Rule see 121 *Cong. Rec.* H 2806–2810 (daily ed. Apr. 16, 1975).

[25] The Senate agreed to pay the expenses of outside counsel in *Gravel* v. *United States*, 408 U.S. 606 (1972); see S. Res. 280, 92nd Cong., 2d Sess., (1972).

[26] For example, one recent suit brought against a House employee involves allegations that the employee caused to be disclosed confidential information concerning plaintiff without obtaining permission and in violation of the law. *Glen Jones* v. *Palmer Media, Inc. et al.*, Civil Action No. 76–53 (Ed.D. Texas, filed Dec. 1, 1976).

Mr. HUMPHREY. Mr. President, as a cosponsor of the Public Officials Integrity Act of 1977 I would like to express briefly my satisfaction at the legislation that has emerged from several years of study and hearings, and to urge that we move promptly to pass it.

This legislation is very similar to the Watergate Reorganization and Reform Act of 1976 (S. 495) passed by the Senate in the 94th Congress. Its purpose is identical. That purpose is to correct the omissions that contributed to the abuse of Government power in the Watergate era.

Because "the Watergate" is closed, it should not fade from our memories, nor should we dismiss or ignore its lessons until we are faced with another crisis. The potential for new abuses will remain until remedial legislation is enacted.

I am gratified that several of the provisions of this bill are similar to those of the Modern Congress Act which I introduced in both the 94th Congress and this year.

Since then, the Senate has enacted a stringent Code of Conduct, and S. 555 will extend throughout the Government uniform requirements for disclosure, and protection against conflict of interest.

We have debated at length and agreed upon the need for clear, consistent, commanding standards of conduct for all three branches of Government to restore public faith in the integrity of Government officials, and in the conduct of the public business.

The Senate is firmly on record, through its self-imposed Code of Conduct, in favor of the requirements codified in this bill. To insure, that the requirements are properly enforced for executive branch, a new office of Government Ethics is created within the Civil Service Commission.

A second feature of my original proposal which I am gratified to see embodied in today's bill is the overdue creation of an Office of Legal Counsel.

I believe it is clearly established, and widely recognized, that Congress needs independent legal counsel to represent it in court proceedings. In addition to a growing volume of litigation involving Congress and its Members, there is frequent need for expert counsel and advice based on its own particular institutional and political needs.

Congressional litigation must be responsive to the priorities of this body and provide expertise on the legal issues that are unique to the legislative branch.

Earlier this year, I joined with other sponsors of this legislation in signing a letter to the Attorney General in which we pointed out the increasing litigation involving Congress. In many cases, the Department of Justice could not represent Congress because of the conflict of interest with its duty to represent the executive branch. In other cases, Congress felt its interests were better served by private counsel.

The Justice Department has recognized the validity of our arguments, and endorses the concept of a congressional legal counsel.

Because the House of Representatives had previously failed to agree to this concept, I proposed in the Modern Congress Act that the Senate create its own counsel to be redesignated as Congressional Counsel at such time as the House might pass comparable legislation.

Let me emphasize that I consider it far more efficient and desirable to establish a counsel to serve both Houses. In most cases, the basic issues at stake are similar, and the interests of both Houses are similar.

The Senate has supported this concept in the past. I am confident it will vote for S. 555 today. Should the House not concur in this action, I remind my colleagues that we will still have the option, and should act on it, to proceed to establish a counsel for the Senate alone as an interim measure.

The Public Officials Integrity Act of 1977 is a sound bill. It has been strengthened by revisions that have been made to reflect and accommodate differing views.

The time and the climate are right for the passage of this important reform legislation. It is a major step toward a stronger, more accountable Government which can better command and justify public trust and confidence. It will help Congress perform its vital role as a coequal branch of Government in a healthy system of checks and balances.

In short, passage of this legislation is a vote for an independent and vigorous Congress, and for ethical and accountable Government.

Mr. RIBICOFF. Mr. President, the Committee on the Judiciary has reported a series of amendments to S. 555, as reported by the Committee on Governmental Affairs. The Judiciary Committee amendments deal with two distinctly separate subject matters. Therefore, I ask unanimous consent that the amendments of the Committee on the Judiciary be considered in the following manner by the Senate: The amendments on page 53, lines 1, 2, 22, and 23, will be considered as one amendment, and all other Judiciary amendments will be considered as a second, separate amendment. Under the procedure proposed, there would be one amendment dealing with whether or not there should be an Office of Government Crimes in the Department of Justice. The second amendment would deal with the question of whether or not a court-appointed temporary special prosecutor shall be subject to confirmation by the Senate. I think the distinguished Senator from Utah is interested in the second amendment.

Mr. President, could there be a response from the Chair to my request?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

Mr. ALLEN. Reserving the right to object, Mr. President.

Is this a customary procedure? As I recall, when we had the Public Law 480 bill up, that amendment was adopted as original text, with leave to amend. Would that be an appropriate way to handle this matter? The reason I ask is that it is a question of on whom the laboring oar is put on the amendment.

Mr. RIBICOFF. If I may respond, the Governmental Affairs Committee bill is being considered as original text, but the Judiciary Committee's proposals are being taken up seriatim, because they come right at the beginning of the bill. Therefore, after talking to the Parliamentarian, he believes that they have precedence over the rest of the bill. Therefore, I would not want to proceed until the Judiciary Committee amendments are considered.

Mr. ALLEN. Unquestionably, they have precedence, but I was wondering if the Senator would object to adopting the Senate Judiciary Committee amendment as original text, with leave to amend?

Mr. RIBICOFF. I do not know what there is to be gained in either event. They will be discussed. My understanding is that one of these amendments has been compromised and there is only one amendment that is controversial.

Mr. ALLEN. Which one is that?

Mr. RIBICOFF. The one that is controversial is to have the Special Prosecutor appointed by the court, subject to confirmation by the Senate.

Mr. ALLEN. What is the compromise with respect to the Office of Government Crimes?

Mr. RIBICOFF. The Attorney General has worked out with the staff of our committee and Senator PERCY some proposals that I understand are satisfactory. My understanding was that the Committee on the Judiciary had acted in response to the request of the Justice Department. The Justice Department has worked out a proposal. Since this was originally Senator PERCY'S proposal, I shall have him explain the compromise—which, of course, we are going to bring up and discuss. We are not going to put anything through without discussion.

Mr. ALLEN. I understand.

The Senator need not explain if there has been a compromise. I shall certainly be glad to consider that at the appropriate time.

I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

It is so ordered.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum until we have an opportunity to send for the Senator from Utah.

The PRESIDING OFFICER. On whose time?

Mr. SCHMITT. Will the Senator withhold that request briefly?

Mr. RIBICOFF. I am pleased to withhold.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Diana Griffin of my staff may have the privilege of the floor during debate on S. 555.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Will the manager of the bill yield for a question?

Mr. RIBICOFF. I yield.

Mr. STONE. The Senator from New Hampshire (Mr. MCINTYRE) and I have been discussing the problem of reports of the valuations of real and personal property, which, now, are to be done either by going back and picking up the costs, or doing a periodic market valuation. In the case of a farm or a home,

there are frequently—if not usually—situations where the owners do not want to sell. They do not have occasion to make a market valuation and it would cost them money every year to do that. In some circumstances, also, if a person owns a house or an improved piece of property, the question of cost becomes very esoteric, very difficult to collate. Sometimes they either do not pick it all up or they exaggerate.

I am not saying that is the case always, and I think that the two alternatives which the committee has reported are viable in many cases.

The Senator from New Hampshire and I are asking the committee staff to assist us to draft, and we shall offer after a while, a third alternative, which we think is fair, reasonable, and full disclosure at no extra expense to the owners of real and personal property. That is to disclose the tax-assessed valuation.

In some communities or States, assessors value at 90 percent. In some, they assess or value at 100 percent, some at 30 percent. It varies all the time. But there is always available to the public and to the press what the assessors use as their practice for evaluating the property.

The reason I bring this up even before the amendment is drafted is so that the managers of the bill can consider this additional approach. I would not make this as a substitute because, in some cases, cost is available and that would be the very best disclosure. With market value, unless it is up for sale and there is a firm offer, we really do not have anything, or unless it is a listed stock and there is a listed market value every day, we do not have everything. Assessed valuation does give a third-party consideration.

You have no control over it, as the person who is reporting. You have an elected or appointed official, with some expertise. And it would give us and give the press and the public a chance to multiply or extrapolate out what they think the market value really is, based on what an assessor does.

In my State, we had a reassessment process that took about 3 years, in which our real estate appraisers—who used to be called tax assessors; now they are called property appraisers—had to go from something like 30 or 40 percent all the way up to 100 percent, which is where we are now on real property.

The same is true of our tangible property tax and personal property tax.

A person could put the real valuation for those purposes or the appraised valuation as accepted by the State or tax authorities. If we disclose all that as the third alternative, it seems to the Senator from New Hampshire and the Senator from Florida that we have given our people a chance to stay out of the appraisal business, not to have to hire MAIs, or brokers, or other third parties, which are usually, or most of the time, going to give a self-serving appraisal. A person is going to go to friends. Rather, to have this done by somebody who does it for the whole State, the whole county, or the whole city seems to me to give the press, the public, and our colleagues, or anybody who has an interest, a viable alternative.

Mr. RIBICOFF. I am sympathetic to the comments made by the Senator from Florida, who is joined by the Senator from New Hampshire.

In the first place, we wanted to make sure that we are not placing a burden of expensive annual appraisals on property, so we are placing the element of actual cost as the alternative.

Is the point the Senator is making that, sometimes, property might be given as a gift, or might have been acquired through distribution of an estate or inheritance?

Mr. STONE. There is that, and then there is my case. I built a house in Tallahassee. The costs of that house, of real and personal property, I would say are very hard for me to ascertain. Very hard. But there is something called a property appraiser. He comes in for taxes and he looks inside and out once a year.

I am perfectly willing to disclose that, and able. That is the point I am making.

Mr. RIBICOFF. I am sympathetic. I will discuss it with the distinguished comanager of the bill.

I would suggest in drafting the amendment for this, as another alternative, that the Senator makes sure he requires revealing the formula for calculating the tax assessment for that city, town, or State as the formula.

Mr. STONE. Right.

Mr. RIBICOFF. Whether it is 90-percent valuation, 30 percent or 50 percent.

Mr. STONE. Right.

Mr. RIBICOFF. Otherwise it would not be fair, because every community, every State, has a different formula.

Mr. STONE. I quite agree.

Mr. PERCY. If the Senator will yield for a comment on this particular point, our whole purpose in going through this exercise, S. 555, and previously the Senate resolution on this subject, was to finally say, "Look, let's tell the public the price of holding public office."

Now we are applying it to the executive and judicial branches. We are eliminating a degree of privacy when it comes to financial holdings because of the possibility of conflicts, et cetera.

Mr. STONE. Right.

Mr. PERCY. And one way, probably, of guarding against someone enriching himself at public expense is periodic financial disclosure, so that if we are tucking it away someplace we, at least, are liable, and criminally liable.

If we go to the fact that we are trying to tell the public what we are doing, I cannot imagine anything more misleading, and then everyone would know it, than to take assessed values. Everyone knows they vary. Having lived for many, many years in Cook County—and the importance of knowing the assessor and the basis on which he assesses for business and commercial practice—we simply know the practice varies so much.

I cannot really imagine a person owning a piece of property that, they cannot determine what the approximate value is.

Is the person not even curious as to what he owns and how much its value is? Is it not possible on a piece of property to get a broker in and get a best estimate?

I think the bill provides that we simply use the best available technique we have for ascertaining what the reasonable value of that is. Is that not a lot simpler?

Mr. RIBICOFF. If the Senator will yield, I understand the point raised by the distinguished Senator.

We do not require an individual to get somebody in to give an estimate. There either has to be an actual appraisal or a listing of the acquisition cost.

If someone builds a home over a period of time and if he is his own contractor and he has all his various costs as he goes along, and add-ons, that it is very hard to do this.

I am sympathetic, but, of course, I could not accept such a proposal unless my colleague was willing to do so.

Why does the Senator not try to work this out with the staff of the distinguished Senator?

Mr. STONE. Right. We will do that.

In reply to what the distinguished Senator from Illinois was getting at, the Senator from Connecticut, in responding to this suggestion, said that the formula publicly expressed by the assessing authority as to how it assesses should be included in the report, if it is a 30-percent approach, or a 90-percent approach, and it should be there every time we do it.

Mr. PERCY. But the Senator from Illinois asks this question. Would the Senator from Florida presume that everyone who does all his own work at his house, adds a recreation room, adds a bar, adds a lot of interior work, is he likely to call up the assessor and say, "Hey, Mr. Assessor, I've done some work here, it has a value, the public ought to be compensated for this through increasing my tax base, therefore, come over, please, have a drink with me and look at what I've done, and the value of it, and increase my assessment"?

Oh no, not on our life. There is not one out of a thousand that would ever do that.

The very purpose of people is not to be increasing their taxes.

Mr. STONE. But the answer to that is that the assessor comes, Mr. President, whether we ask him or not, because they want those real estate taxes, and in Florida they come every year.

Mr. PERCY. They look at the house inside and out?

Mr. STONE. Inside and out.

Mr. PERCY. Walk all through the house?

Mr. STONE. Yes.

Mr. McINTYRE. If the Senator will yield, I want Senators to know that in New Hampshire, if they will not let him in, the assessors will then assume maximum full value. Assessed value, at least, is an alternative figure fixed by the local government. The criteria, whether 75 or 100 percent of market value, should be stated.

But at least, it puts us beyond the pale of having been criticized.

Again, in the politics of New Hampshire, somebody says, "McIntyre says he

owns blank acres, it is worth $5,000, he put his own figure on; he wouldn't sell that piece of land if you gave him $100,000."

I can say to my opponent or to my critics, this is what the assessed value is in my hometown, I did not go out and hire three auditors or three realtors to come up with a price I liked.

I think the assessed value, at least in New Hampshire, is fine. It sounds to me as if in Illinois they get away with murder. But in New Hampshire, we have our property tax. We do not have any sales tax or income tax, but we have a property tax.

So I hope Senator STONE and I can put together an amendment we can somehow get the distinguished Senator from Illinois to agree to, at least in the alternative.

Mr. PERCY. Possibly we can do this. All I say is, let us not make it difficult for someone who wants to know what the value is. Let us take a specific case. Let us say in New Hampshire it is 30 percent of fair market value.

Mr. McINTYRE. One hundred percent.

Mr. PERCY. Can we not take the figure we have, the assessed valuation, add to it then the increment that actually would be the value and put that down?

Mr. STONE. Surely, if we are permitted——

Mr. PERCY. The estimated value?

Mr. STONE. That ingredient, we can make the computation in the disclosure and show the formula.

Mr. PERCY. The Senator from Illinois is perfectly agreeable so long as the officeholder would make that computation, so that someone who wanted to know what it was would not have to go back and make all that computation himself.

Mr. RIBICOFF. There is a requirement that a copy of these reports and these statements be filed with the Secretary of State in our respective States. I can assure the Senator that the people who will be interested will be the newspapers in his State and his prospective opponent. They will have a very good idea if that assessment is a fixed assessment, a phony assessment, or a real assessment.

I believe that in Connecticut you could not put an addition on a home or add to it unless you received a building permit, and those buildings permits are filed with the assessors, and the assessor takes that into account in establishing the assessment for the following year.

Mr. STONE. I thank the distinguished floor managers. We will later come up with an amendment which does just that.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I yield to the distinguished Senator from Illinois.

Mr. STEVENSON. I thank the Senator from Connecticut.

Mr. President, I ask unanimous consent that the following staff members be granted the privilege of the floor through out the debate on S. 555: Kenneth E. Gray, Susan Macguire Smith, Sherry Towell, C. Braxton Valentine. and Antoinette Friedman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I make the same request for Eric Hultman and J. C. Argetsinger of the Judiciary Committee, during the consideration of and votes on S. 555.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 547

Mr. PERCY. Mr. President, I send to the desk an amendment. This is offered as a substitute for section 529, on page 66.

The PRESIDING OFFICER. Until the amendments of the Judiciary Committee are disposed of, it will take unanimous consent to proceed to another amendment.

Mr. PERCY. Mr. President, I ask unanimous consent.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordeerd.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 547.

Mr. PERCY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, strike line 8, through page 69, line 12 and insert the following:

"§ 529. Office of Government Crimes

"(a)(1) There is established within the Department of Justice an Office of Government Crimes, which shall be headed by a director. The Attorney General shall determine the organizational placement of the office within the Department and shall be kept periodically informed of its activities.

"(2) A person shall not be appointed director of the Office of Government Crimes if he has at any time during the five years preceding such appointment held a high-level position of trust and responsibility on the personal campaign staff of, or in an organization or political party working on behalf of, a candidate for any elective Federal office.

"(b)(1) The Attorney General shall, except as provided in paragraph (2) and except as to matters referred to a special prosecutor pursuant to chapter 39 of this title, delegate to the Office of Government Crimes jurisdiction of (1) criminal violations of Federal law by any individual who holds or who at the time of such possible violation held a position, whether or not elective, as a Federal Government officer, employee, or special employee, which alleged violation related directly or indirectly to such individual's Government position, employment, or compensation; (2) criminal violations of Federal laws relating to lobbying, conflicts of interest, campaigns, and election to public office committed by any person except insofar as such violations relate to matters involving discrimination or intimidation on the grounds of race, color, religion or national origin; (3) the supervision of investigations and prosecutions of criminal violations of Federal law by any individual who holds or who at the time of such possible violation held a position, whether or not elective, as a State or local government officer or employee, which alleged violation related directly or indirectly to his government position, employment or compensation; and (4) such other matters as the Attorney General may deem appropriate.

"(2) A matter described in paragraph (1) of this subsection may be delegated by the Attorney General exclusively or concurrently to the United States Attorneys or other units of the Department of Justice. The Director shall be kept apprised of the progress of any investigation or prosecution so delegated. This section shall not limit any authority conferred upon the Attorney General, the Federal Bureau of Investigation, or any other department or agency of government to investigate any matter.

"(c)(1) At the beginning of each regular session of the Congress, the Attorney General shall report to the Congress on the activities and operation of the Office of Government Crimes for the preceding fiscal year.

"(2) Such report shall specify the number and type of investigations and prosecutions subject to the jurisdiction of such unit and the disposition thereof, but shall not include any information which would impair an ongoing investigation, prosecution, or proceeding, or which the Attorney General determines would constitute an improper invasion of personal privacy.".

(b) The table of sections for chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"528. Disqualification of officers and employees of the Department of Justice.
"529. Office of Government Crimes.".

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(114) Director, Office of Government Crimes, Department of Justice."

SEPARABILITY

SEC. 104. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

Mr. PERCY. Mr. President, I am very pleased to indicate that the objections of the Department of Justice to section 529 have been resolved in meetings that members of the staff of the Governmental Affairs Committee—minority and majority—have held with officials of the Department of Justice. We have word from the Attorney General that the compromise has been worked out to their full and complete satisfaction.

I think this will satisfy the objections raised by the Judiciary Committee, inasmuch as those objections were raised by members of that committee at the request of the Department of Justice.

The amendment provides that there shall be established within the Department of Justice an Office of Government Crimes, to be headed by a director. The important thing is that the Attorney General shall determine the organizational placement of the office within the Department and that he shall be kept informed periodically of its activities.

Some feeling was expressed by the Department of Justice that the establishment of an Office of Government Crimes would somewhat detract from the power of the Criminal Division. But the Attorney General is given the authority, in this particular section, to place the office, if he so wishes, right within the Criminal Division. So there can be no jurisdictional problem.

We make provision for background requirements of the Director of the Office

of Government Crimes and indicate that he shall be excluded and not be appointed if he has held high level positions of trust and responsibility on the personal campaign staff of a candidate for elective Federal office in the preceding 5 years.

The remainder of this section deals with the particulars as to how this office shall be set up. It indicates that at the beginning of each regular session of Congress, the Attorney General shall report to Congress on the activities and operations of the Office of Government Crimes. It specifies that the report shall include the number and type of investigations and prosecutions, so that Congress is fully informed as to what has been transpiring.

I believe, Mr. President, that with this agreement on the part of the Department of Justice and the Governmental Affairs Committee, this amendment will be accepted.

The one area in which members of the Governmental Affairs Committee receded was that we do not require Senate confirmation of the nomination of the Director of the Office of Government Crimes. However, jurisdictionally, it is the understanding of the Senator from Illinois that it will be the intention of the Attorney General to abolish the office that was set up by regulation, the Office of Public Integrity; that the Office of Government Crimes would replace that particular office; and that the Director would report directly to the Assistant Attorney General of the Justice Department, who is subject to confirmation.

We feel that adequate oversight can be and is provided in this amendment, and I therefore offer the amendment, trusting that it will be satisfactory and acceptable to the Senate.

Mr. RIBICOFF. The amendment is acceptable to the manager of the bill.

Mr. HATCH. Mr. President, I think that the bill, as it is presently constituted, is unconstitutional. One reason is that we are delegating to the particular appointing source the right to set up a separate department or separate position and the right to legislate, in essence, the actual duties and responsibilities of the appropriate special position.

That is the reason why, in the Judiciary Committee, we put into the bill the provision that any appointment should be made by and with the advice and consent of the Senate. I still think it would be unconstitutional, but it may clear up the constitutionality of this bill.

Mr. PERCY. The particular amendment we are dealing with now deals with the Office of Government Crimes. It has nothing to do with the special prosecutor.

Mr. HATCH. I understand that, but we have taken that out as to the Office of Government Crimes. Or is the Senator leaving it in as to the Office of Special Prosecutor?

Mr. PERCY. The Office of Special Prosecutor is not affected at all by this amendment. We will deal with that as a separate issue. The comments of the distinguished Senator do pertain to the special prosecutor, but they do not pertain to the Office of Government Crimes.

Mr. HATCH. I will withdraw the comments with regard to that.

However, does not the Senator from Illinois think that we should add the advice and consent of the Senate even with regard to this particular section, as a possible way of overcoming the unconstitutionality of the bill?

Mr. PERCY. The Senator from Illinois would much prefer to have Senate confirmation.

Mr. HATCH. So would I.

Mr. PERCY. But in the process of working this out harmoniously with the Department of Justice, the Senator from Illinois receded on that point. No Senate confirmation is provided. The Attorney General requested that we remove that. The nomination of the Assistant Attorney General is confirmed, and it is the intention of the Justice Department to put the Office of Government Crimes in the Criminal Division; so the director would report to an Assistant Attorney General whose nomination is confirmed by the Senate and who ultimately, therefore, can be held responsible by the Senate for the operations of an office that reports directly to him.

Mr. HATCH. Does the Senator from Illinois indicate that there was indeed a dispute with the Attorney General and that he would prefer not to have the advice and consent in this matter?

Mr. PERCY. That is right. The Attorney General, as of this morning, agreed to the compromise, provided there was no Senate confirmation of the director of the Office of Government Crimes.

Mr. HATCH. Did the Senator from Illinois receive any remarks from the Attorney General with regard to the appointment of a special prosecutor in requiring the advice and consent of the Senate? Is there the same objection?

Mr. RIBICOFF. Yes, and when the time comes for the distinguished Senator to bring up his amendment, I will read the communication. If the Senator does not have a copy, I will give him a copy of it later.

Mr. HATCH. The Senator has a copy? I do not have a copy of the Attorney General's letter.

Mr. YOUNG. Mr. President, will the distinguished chairman yield for a question or two?

Mr. HATCH. I reiterate that I think again it will be found to be unconstitutional if we do not have the advice and consent of the Senate the way this bill is written because we are delegating legislative powers to these organizations and to the judiciary which do not have legislative powers. But with that comment, you have indicated to me you did not get this disagreed to by the Attorney General without delimiting that position. I would have to vote against the bill for that very reason.

Mr. SCOTT. Mr. President, will the managers of the bill—I just came in a moment ago, and I wonder if they could explain to me very briefly what the thrust of the present amendment is. I might say I am on the Judiciary Committee and am aware of the action of the Judiciary Committee, but I just do not know what the amendment is. Is it the amendment of the Senator from Illinois?

Could I have the attention of the Senator from Illinois? Mr. President, if I might have the attention of the Senator from Illinois, I wonder if the distinguished Senator from Illinois would tell me what his amendment is. I just came to the floor a moment ago, and I do not know what his amendment provides.

Mr. PERCY. The amendment offers a complete substititute for section 529. It has been worked out with the Attorney General. The Attorney General has authorized me to state he now supports this fully.

What we did was keep the Office of Government Crimes. We have it headed by a director, but the director is not subject to Senate confirmation. Organizationally, he is appointed by the Attorney General, and organizationally the Attorney General is authorized to have the office structurally placed in the Department of Justice any place he wants it. The Attorney General has indicated that what he will do is eliminate probably the Office of Public Integrity and replace it with the Office of Government Crimes, and have it located in the Criminal Division.

Mr. SCOTT. In other words, the Assistant Attorney General in charge of the Criminal Division would be in charge of this new office you would create?

Mr. PERCY. That is right. This office is subject to Senate confirmation. The Senate can hold Justice responsible for it, and there is adequate provision in the amendment for reporting periodically to Congress so that Congress knows what is happening. But the Attorney General and the Assistant Attorney General have complete jurisdictional control within the guidelines as worked out.

Mr. SCOTT. I say to the distinguished Senator I believe that is an improvement over the provision. It seems unreasonable to have two officials handling criminal work responsible to the Attorney General.

What the Senator is saying is the head of this new office would be responsible to an Assistant Attorney General, and if the Attorney General saw fit it would be the Assistant Attorney General in charge of the Criminal Division who, in turn, is responsible to the Attorney General; is that accurate?

Mr. PERCY. That is absolutely correct.

I would like to say to Senator RIBICOFF, the floor manager of the bill, that I read very carefully over the weekend the Judiciary Committee report, at the suggestion of the Senator from Virginia (Mr. SCOTT), and in reading that report it seemed that there was a possibility of a dual responsibility here. You cannot have two people heading something, and you cannot have them coequal in a sense. They are both, in a sense, reporting to the Attorney General.

There is also provision in this amendment that if the Attorney General determines that rather than having a crime or an alleged crime handled by the Office of Government Crimes, let us just say, in Cook County involving a high official of DOT or HUD, he can have and has the jurisdiction and has the authority to transfer the investigation and prosecu-

tion of that case to the U.S. Attorney's Office in the District of Northern Illinois.

Mr. SCOTT. The only reservation I would have is it would appear this would make the Director of this office somewhat comparable to the head of a section within a division of the Department of Justice. Now, to the best of my knowledge, no section chief is confirmed by the Senate. The Assistant Attorneys General are confirmed. So I would not see a need to confirm the holder of this office.

Is the Senator from Illinois saying he would have to be confirmed by the Senate?

Mr. PERCY. No, he would not have to be confirmed. This is the point the Senator from Illinois receded from with respect to the Attorney General in order to work out this compromise.

Mr. SCOTT. Well, not having read the amendment, and time not now permitting the opportunity to read it, I do not want to make an unequivocal statement but it does appear the Senator from Illinois has a much better amendment than we had in the original bill or in the one that was reported from the Judiciary Committee.

I do have a reservation about chapter 39, the special prosecutor chapter, in its entirety. It seems to me we are on unconstitutional grounds because we have a panel appointed by the chief justice of the Circuit Court of Appeals for the District of Columbia appointing a prosecutor, who would later appear before courts in that circuit.

As the distinguished Senator and Members of the Senate know, within our coequal branches of Government trials are held in the judicial branch, and one of the functions of the courts is to hear these cases, to make decisions with regard to the cases.

It seems incompatible to have the courts appoint the prosecutors who will appear before them. To me it does an injustice to our system of checks and balances. I do not see the courts appointing a prosecutor. More properly this is a function of the executive branch and the appointment should be made by the President.

I make this statement as a Republican at a time when we have a Democratic President, but it does not make any difference to me who the President is or what party he belongs to. He is the Chief Executive, and I believe under the Constitution—and I would direct the Senator's attention to article II which states:

> * * * he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States * * *.

I believe the President has the power to appoint all other officers of the United States. I do not believe the courts have such power. I think it is an unconstitutional act when Congress attempts to give such power to the Judiciary. I feel we should have an amendment, and I will be glad to draw one up if time will permit whereby, instead of the judges, the President will appoint the special prosecutor. We must not let the shadow of Watergate cause us to make bad laws, laws that the courts may hold to be contrary to the Constitution.

I direct an inquiry to both the floor manager of the bill and to the ranking Republican member.

Mr. PERCY. I shall make one brief comment, and then I will yield to the distinguished lawyer, the floor manager.

But the Senator from Illinois understands that right now the district courts can appoint a U.S. attorney if a vacancy occurs.

Mr. SCOTT. No, not permanently.

Mr. PERCY This has been upheld by the courts.

Further, the President and the Attorney General strongly support this particular section on special prosecutors.

Mr. SCOTT. Quite frankly, I have been a lawyer as long as the Attorney General. He is a few years younger than I am. I do not want to pit myself against him, but I can read the Constitution. I believe every Member of the Senate can read the Constitution, and it gives the power of appointment to the President, and it is reasonable that that power that appoints the prosecutor should not have that prosecutor appearing before him to decide an issue or controversy.

There is a contradiction here. It is an obvious contradiction to me, and it just seems that we should follow the constitutional provision and have the President make the appointment.

I am glad to hear from the distinguished floor manager.

Mr. RIBICOFF. The distinguished Senator from Virginia does raise a very serious problem that bothered the committee as well. So, may I say his doubts are not frivolous doubts.

Consequently, we did seek the advice of constitutional experts. The Attorney General, the American Bar Association, Prof. Archibald Cox, and Prof. Paul Mishken, of the University of California Law School, all responded.

They indicated that it was constitutional.

So we went on the basis of independent review of this problem.

May I point out that the Constitution does say:

> . . . Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

So we are proceeding with article II, section 2, clause 2, but we also received the independent opinion of what we considered good legal authority.

There may be other legal opinions, but these are the legal authorities who approved the methods that we have taken.

Mr. SCOTT. Mr. President, I appreciate the thoughts of the distinguished Senator in seeking the advice of some of our leading lawyers. It does not appear that this is such an inferior post as is contemplated by the provision of the Constitution to which he refers.

We know, of course, that lawyers stay in business because there are differences of opinion, and perhaps this will help add to the workload of the legal profession.

However, the ultimate decision as to what is and what is not constitutional, rests with the courts and not with any of the distinguished lawyers to whom the Senator has referred.

I offered an amendment in committee to strike the entire chapter 39. I did that because it seems to me that we are letting a bad factual situation, the remnants of Watergate, cause us to make bad law. Hard cases do make bad law.

My motion, as I recall, was defeated 8 to 7, a one-vote margin in the Committee on the Judiciary.

I still believe that the entire section should be stricken but, if the managers of the bill on both sides of the aisle have a contrary point of view, I am not going to take the time of the Senate to offer a futile amendment. I believe we are doing the wrong thing, and time will tell whether or not this is accurate.

Mr. PERCY. Mr. President, will the Senator yield for one final question because the Senator did not respond?

Mr. SCOTT. I yield.

Mr. PERCY. The Senator from Illinois is not a lawyer.

Does the Senator from Virginia, who is a distinguished lawyer, dispute in any way the power of the courts to appoint a U.S. attorney if the vacancy occurs?

Mr. SCOTT. Yes, I do.

Mr. PERCY. Has that authority been upheld by the courts?

Mr. SCOTT. It is my understanding that the courts do not have authority to appoint a U.S. attorney, but in practice they do appoint an acting U.S. attorney, and it is generally the chief assistant U.S. attorney, during the interim between the time that an individual U.S. attorney resigns and the President exercises his authority to make an appointment to replace him. Of necessity, someone has to be in office to represent the United States, and it is just a practical matter for the chief judge of a judicial district to fill the interim vacancy. It is not a regular appointment. It is a makeshift affair and nothing more.

Mr. PERCY. I express my deep appreciation to the Senator for his explanation and also for indicating he does not intend to offer an amendment.

Mr. SCOTT. I merely do not intend to offer it because I do not believe it would be accepted or would pass the Senate over the objection of the managers of the bill.

Mr. HATCH. Mr. President, will the Senator from Illinois yield?

Mr. PERCY. I am happy to yield.

Mr. HATCH. Mr. President, I was the person who put in the special prosecutor section, during the Judiciary Committee arguments about this debate, the advice and consent of the Senate.

The reason I put that in there was because I feel the bill is unconstitutional as presently constituted.

I felt as that might make it constitutional because we would again be approving the person coming in.

As I read the opinion of Harold R. Tyler, Jr., Deputy Attorney General, before the Committee on the Judiciary, U.S. Senate, dated May 26, 1976, he goes on and says on page 4:

> The second proposal, title I, would provide a statutory mechanism for creation of an independent special prosecutor in certain statutorily defined instances. As set

forth in S. 495, as amended, the proposal is less objectionable from a constitutional point of view than its precursors, but it remains, I believe, constitutionally inappropriate, administratively unworkable, and unnecessary.

In addition to arguing that aspect that it may make the bill more constitutionally so, or at least has that tendency, I have read the letter from the Justice Department from Patricia Wald to Senator RIBICOFF requesting that it be stricken.

Secondly—

She says—

. . . we believe that a provision requiring Senate confirmation of the Special Prosecutor is unwise as a matter of policy. Both the successes of the criminal investigation and prosecution and considerations of fairness to the individual involved require that the appointment process be kept confidential and Senate confirmation of a Special Prosecutor will obviously frustrate this goal.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. HATCH. I am certainly delighted to yield.

Mr. RIBICOFF. I think the Senator addresses himself properly to the next amendment which would be his.

Mr. HATCH. I am.

Mr. RIBICOFF. I wonder if we could dispose of the Percy amendment first and then go on to the amendment of the Senator from Utah.

Mr. HATCH. The reason I bring it up now is I may not bring my amendment forth if the Senate agrees to this.

Mr. RIBICOFF. I see.

Mr. HATCH. In the context of Senator SCOTT's comments and the comments concerning both sections I bring out that, I think, it is unwise for us not to agree to put in "the advice and consent of the Senate" because I think constitutionally we have a right to do that as a legislative body rather than abdicate our responsibility, allow the courts to appoint a person who would then make rules determining his office, or the courts would make the rules determining his office.

I am saying that if we want to have a good workable approach here in having the special prosecutor or even the office what we need to do is we need to make sure that the Senate does approve so that it is not merely a one-person choice and possibly a political choice at that.

By having the Senate approve and confirm, then I think that we can solve possibly this lack of constitutionality which I believe exists, which Mr. Tyler believes exists, and which I believe other constitutional law experts believe exists, and I think still not abdicate the rights of the Senate to confirm people in these extraordinary positions.

I think we are making a mistake—I say this to both distinguished managers of the bill because I have deep regard and respect for both of them—and I think this is a major mistake. I do not think we should go to the Justice Department and give in to their suggestions in this matter.

Mr. PERCY. I think the Senator's point of view is well taken. The personal preference of the Senator from Illinois would be to have Senate confirmation.

But it is highly desirable, when you are imposing upon a department a responsibility for creating an office or maintaining it and carrying it out, to be able to work out an accommodation whereby they suport it rather than oppose it. Because of the opposition when the question was raised in the Judiciary Committee, that was one point the Senator from Illinois receded on, feeling that the assurances provided were sufficient to enable us to go ahead with confidence that this office would be carried out with full support and enthusiasm and the backing of the Attorney General. Feeling that this point should be compromised, that was the basis on which I agreed to compromise.

Mr. HATCH. I accept the explanation of the Senator from Illinois, but could I ask the distinguished Senator from Connecticut, would he agree with the Senator from Illinois that he would just as soon have this provision in, even though the Justice Department would just as soon have it out?

Mr. RIBICOFF. The Senator asks me frankly, and I will state frankly that was my preference, and I supported the distinguished Senator from Illinois. That was his concept.

But the Senator from Illinois, in conference with the Attorney General, worked out this compromise. I would prefer what was in the bill originally. It was my understanding that the Judiciary Committee went along with the Attorney General and struck that section. Then the distinguished Senator from Illinois and the Attorney General worked out the compromise now in the amendment. I frankly preferred the original Governmental Affairs Committee posture, in which the Director in charge of the Office of Government Crime would have been subject to the advice and consent of the Senate.

Mr. HATCH. I am suggesting that, as the mangers of the bill, you put it back in, irrespective of whether the Attorney General likes it or not, for the reason that I believe it is not going to hurt him one bit, and may not be constitutional otherwise.

Mr. RIBICOFF. Far be it from me to ask the distinguished Senator from Illinois to break an understanding he has come to with the Attorney General. Since it is not my understanding but that of the Senator from Illinois, I will follow the lead of the distinguished Senator from Illinois. I liked the original Percy proposal, to tell you the truth.

Mr. PERCY. Mr. President, the problem the Senator from Illinois had was that, from the guidance we got from the votes cast in the Judiciary Committee, it was the understanding of the Senator from Illinois that the Senator from Utah voted to strike this particular section. It was my understanding that one reason for it was that we provided for Senate confirmation. Would the Senator from Utah care to explain what his position was in the Judiciary Committee, when this question was up for a vote and the Senator voted to strike this particular section?

Mr. HATCH. I was the one who raised the point of putting the advice and consent in the remaining part of the bill, and that was unanimously accepted by the full Judiciary Committee; and I think we had a full attendance at that time, with no absences.

Everyone agreed that we should have that in the bill. I did vote to strike the other portion of the bill, believing that that was not constitutional. I think if we put advise and consent back in, there will still be a question, but we may save ourselves a lot of bother in the long run on the issue of constitutionality.

The argument of Miss Wald on the second page of her letter, I think, is not to be regarded. It does not interfere with the special prosecutor at all to require our consent at this point, and I think it is a dereliction of our duty if we do not do it.

Mr. ALLEN. Mr. President, will the distinguished Senator from Illinois yield for a question?

The PRESIDING OFFICER (Mr. NUNN). Does the Senator from Illinois yield?

Mr. PERCY. In just a moment. I would like to say to our distinguished colleague from Utah, however, that the Senator from Illinois has agreed with the Attorney General; I think we have worked this out over a period of Friday, Saturday, and Sunday. We reached agreement on Monday morning, and the Senator from Illinois would be very reluctant indeed to, and in fact would not, go back on an agreement that has been made.

Therefore, taking fully into account the Senator's position—I think the precautionary notes raised by the Senator from Utah are very wise indeed, but I think I will have to stay with the agreement reached with the Attorney General, with his full understanding.

I think the Attorney General knows of our deep interest and concern with the background and quality of the person selected for the position we call the director in charge of the Office of Government Crime, and that the Committee on the Judiciary would have a strong influence in selecting a man of integrity, I do not think they would think of appointing any other type of a person to that office, and that the Judiciary Committee would be accorded a degree of responsibility to pass on it as if it were subject to confirmation. If I were the Attorney General, wanting to maintain a good relationship with the Judiciary Committee and the Senate of the United States, I would certainly pick someone who would, without any question, be overwhelmingly approved and confirmed if confirmation of the officer had been provided.

Mr. HATCH. Mr. President, if the distinguished Senator from Illinois will yield for a minute or two, I did not realize that that matter had had formal consideration. However, in asking for the Senators to reconsider this matter, the point I am trying to make is this: In the case of the special prosecutor, I do not believe the Attorney General appoints him. Is he not appointed by the D.C. Appeals Court?

Mr. RIBICOFF. A special panel designated by the U.S. Court of Appeals for

the District of Columbia, to be made up generally of retired circuit court judges or Supreme Court Justices, will appoint the Special Prosecutor.

Mr. HATCH. So here we have retired judges appointing a Special Prosecutor without any advice and consent, and then the courts determining a legislative matter of how he is to act under the rules and the law and pursuant to his mandate?

Mr. RIBICOFF. No, that is not true. They just make the appointment; but the bill provides that he will continue under the same authority that the Attorney General would proceed under in a prosecution. He would have full authority to proceed, and the panel would not give the charter to the Special Prosecutor. The Special Prosecutor would be vested with the full authority that the Attorney General has under the circumstances.

Mr. HATCH. In other words, he would act as a second Attorney General on a specific matter?

Mr. RIBICOFF. On the matter involved.

Mr. HATCH. Yet we would have to give our advice and consent to the appointment of an Attorney General.

Mr. RIBICOFF. Yes; the reason for that is based on the question of constitutionality, that we have no right to give advice and consent on this particular type of appointment. Again, we are back to the Hatch proposal as against the Percy proposal.

Mr. HATCH. I see. I think within the framework of the broad reading of the Constitution, we could do so.

I would like to vote for this bill, but with this provision in it, I think it would be unconstitutional and would be found to be so,; and we would be performing an exercise in futility. I do not see how anyone can complain about the advice and consent of the Senate in something as important as the appointment of someone equal to the Attorney General, with special functions or with a special obligation. That is the reason why it was put in, in the first place.

Mr. PERCY. The Senator from Illinois is happy to yield to the Senator from Alabama for a question on the pending amendment.

Mr. ALLEN. I am wondering as to the advisability of providing for the Senate confirmation of the Director.

I wonder if the Senator could tell the Senate, within a tolerance of five, the number of people in the Justice Department who have to have Senate confirmation.

Mr. RIBICOFF. The staff tells me it is in the range of between 10 and 12.

Mr. ALLEN. Does the Senator not feel that the duties and responsibilities which are placed upon the Director of the Office of Government Crimes are so immense and so important to the well-being of the country and our Government that he, too, should have Senate confirmation in order that we might be assured that the proper type person is named to that position?

Mr. PERCY. A very interesting point comes up, that this is all done because of the actions of the Judiciary Committee and the strong objections raised by the Justice Department and the Judiciary Committee. The Government Affairs Committee, on which our distinguished colleague has served so ably for so many years, reported this bill unanimously. It was our feeling that we should have Senate confirmation. The Senator from Illinois and the Senator from Connecticut both prefer Senate confirmation for this particular position. But in order to reach an accord and an agreement from the Judiciary Committee and the Attorney General we receded on that particular point. It appears now as though we should not have done so, as we may have misinterpreted the position of the Judiciary Committee.

The Senator from Illinois would like to point out what he believes is true, that the Senator from Alabama voted to strike this particular section in the Judiciary Committee vote.

Mr. ALLEN. Yes, and I am still willing to vote that way. But if we do establish one, I feel he should be confirmed by the Senate, giving the Senate some little protection on who might be chosen. Under the Senator's amendment, this could be handled as an inhouse proposition in the Justice Department. A political hack or a political nonentity could be named to this position requiring no Senate confirmation. It would allow the Justice Department to sweep under the rug anything they did not want investigated.

If the Senate had some voice in the matter, this matter of great importance, the Senate could insist that a man or woman of great statute could be named. It could turn down any person who was really not qualified by ability, expertise, honor, and character to serve in this position.

When the time has expired for the consideration of the Senator's amendment, I plan to offer an amendment requiring Senate confirmtion of this office that, if not hindered by the Justice Department, could be a position of utmost importance. I plan to offer that amendment as soon as time has been yielded back.

Mr. HATCH. Will the Senator yield for a question?

Mr. ALLEN. I do not have the floor.

Mr. RIBICOFF. I will be pleased to yield. May I first suggest the absence of a quorum, Mr. President?

The PRESIDING OFFICER. On whose time?

Mr. HATCH. May I ask a question of the distinguished Senator from Alabama?

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum. I would like the privilege of conferring with the distinguished Senator from Utah and the distinguished Senator from Alabama.

The PRESIDING OFFICER. Will the distinguished Senator from Connecticut tell the Chair who the time should be charged to?

Mr. RIBICOFF. With the time to be charged to me, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time on the Percy amendment.

Mr. PERCY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. RIBICOFF. All time is yield back.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment.

UP AMENDMENT NO. 548

Mr. ALLEN. Mr. President, I offer an amendment on behalf of myself and the distinguished Senator from Utah (Mr. HATCH).

The PRESIDENT OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) for himself and Mr. HATCH, proposes unprinted amendment No. 548, to Mr. PERCY'S unprinted amendment No. 547.

At the end of the first sentence of Sec. 529 (a) (1) add the following:

The Director of the Office of Government Crimes shall be appointed by the President with the advice and consent of the Senate.

Mr. PERCY. Mr. President, I ask for the yeas and nays on the pending Allen amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I yield myself such time as I may use.

Mr. President, we are creating a new Department of Government Crimes under this bill. If operated properly and if the full use of the jurisdiction given to this office is implemented, we shall have a most important office operating within the Department of Justice. This man or this women, who is appointed as the officer or the Director of the Office of Government Crimes, should be an outstanding individual because of the tremendous jurisdiction that this department has and the immense discretion and power that is given to this Director. The appointment should not be made by the Attorney General only, because Congress should assure that the Senate could turn down any appointee which it found to be unqualified for the position.

Further, the Director should be appointed by the President, rather than by the Attorney General, because the responsibility is directly with the President and not the Attorney General.

I feel that we would be assured of a higher level of operation of the Office of Government Crimes if we do require the President to make the appointment and give him the benefit of having the advice and consent of the Senate. All other sections of this amendment would remain the same, with this one exception.

I believe it gives us a better bill, a higher type bill, a bill that will guarantee that the department will be operated at a high level; that it will not serve merely at the complete whim of the Attorney General, but that it will have more independence in this fashion.

I reserve the remainder of my time.

Mr. PERCY. Mr. President, I think that the Senator from Illinois has already made clear his position, but I should like to reiterate it at this point.

The Senator from Illinois voted along with the full Committee on Governmental Affairs when this section was proposed and fully supported this section, which provided for Senate confirmation of the Director of the Office of Government Crimes.

The Senator from Illinois felt it extraordinarily important to work out with the Attorney General this section, which would be an important section and an important office in the Justice Department, in such a way as to have the full backing and the support of the Attorney General.

There were many points of give and take, as there are in any disagreement over any particular controversial issue.

The Senator from Illinois, through his staff, worked out with the majority staff and Senator RIBICOFF's what we considered to be, on balance, a reasonable compromise.

For that reason, the Senator from Illinois will oppose and will vote against this particular amendment.

I feel that the Attorney General, without any question, is on notice as to how strongly the Senate feels about this particular issue without the necessity of this amendment.

It is inconceivable to the Senator from Illinois that the Attorney General would appoint someone to head the office if that person were not of such a caliber and quality, from the standpoint of integrity, experience, and background, as to have Senate confirmation readily available—even if the appointment is not subject to Senate confirmation.

But the Senator from Alabama feels strongly about this matter. The Senator from Utah feels strongly about this matter.

The Senator from Illinois and the majority-minority staff in working out this compromise this morning with the Justice Department felt they were acting on behalf of the Judiciary Committee and the majority vote of that committee. But, certainly, in order to honor the agreement, the Senator from Illinois will vote against this amendment, I understand the floor manager (Mr. RIBICOFF) will vote against the amendment. We feel enough has been accomplished in our discussions with the Justice Department that the caliber and type of person that would be appointed by the Attorney General, in whom we have every confidence, would meet all the requirements of the Senate in this regard.

There are plenty of recourses the Senate would have in its ability to call back the Assistant Attorney General in charge of the Criminal Division, who would be directly responsible for the Director's activities, or the Attorney General himself, in case that office were not carried out fully in the spirit and intent of Congress in this regard.

So for that reason, the Senator from Illinois opposes the amendment.

Mr. President, because there are some of our colleagues who are away on official business at this time and though we had a unanimous consent that there would be no roll calls until 3 o'clock, the Senator from Illinois asks unanimous consent that the rollcall vote on this amendment occur at the hour of 4 o'clock, if that is acceptable to the Senator from Alabama. It would honor the requests made of the distinguished majority leader, so that he can protect Senators away on official business at this time.

Mr. ALLEN. I have no objection, but will the Senator yield for a question?

Mr. PERCY. Yes, but may we have—

Mr. ALLEN We have plenty of time, it is not a question of time. Would the Senator yield for a question?

The PRESIDING OFFICER (Mr. HASKELL). Is there objection to the request to have a rollcall vote at 4 o'clock?

Mr. ALLEN. I have no objection. I merely ask the Senator yield for a question on another matter.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. That is not before 4 p.m.?

Mr. PERCY. At the hour of 4 p.m. is the request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ALLEN. Will the Senator yield for a question?

Mr. PERCY. I am happy to yield to the Senator.

Mr. ALLEN. The distinguished Senator has stated on several occasions that it was in yielding to the wishes of the Judiciary Committee that the so-called compromise left out a provision calling for Senate confirmation of the director of the Office of Government Crimes.

I fail to see the logic of the Senator's statement.

What the Senate did was to knock out the entire provision having to do with the creation of this office.

It is a far cry from knocking out the entire provision to say that the compromise does not require Senate confirmation of the director. Therefore, the compromise carries out the spirit of the action of the Judiciary Committee. That does not follow just because the Judiciary Committee did not see any reason for setting up the office, that if such an office was set up that confirmation by the Senate would not be required. There is no logical connection between the two statements of fact.

So I was against setting up the office. I felt I would rather leave it with the Attorney General where he is charged directly with this responsibility, but then when we allow him to farm out the work to somebody he appoints that does not require Senate confirmation, that is a horse of a different color, so to speak.

I feel that if we are going to farm out this work inside the Department, we have already confirmed the Attorney General, he does not need confirmation again if we do not set up a department, but if we set up a department, we need some control by the Senate on who is named to this department.

So I would like to clarify the position of the Judiciary Committee as I understood it to be.

Mr. PERCY. I appreciate the comments of the Senator from Alabama.

The Senator from Illinois this weekend read the report put out by the Judiciary Committee on S. 555. On page 2, under the section entitled "Committee Action" I read as follows:

> The committee also voted to delete the provisions relating to the Office of Government Crimes in light of the fact that there is presently a Section of Public Integrity which has been successfully functioning for the past year within the Criminal Division of the Department of Justice.

The Senator from Alabama could refer to the report put out by the Government Affairs Committee. It is a fairly voluminous report on this bill. The Senator would find in essence that what the Committee on Government Affairs objected to was that the section of public integrity was created by the Attorney General by regulation. It could be put in by this Attorney General and taken out by any other Attorney General. There was no statutory provision for it whatsoever.

So that Government Affairs Committee upgraded it to an office that was provided by statute, that could not be removed by the Attorney General unless the law was changed. We also provided for Senate confirmation of the Director.

All we had to go on was the Judiciary Committee vote of 7 to 6, which voted to strike and delete the entire section and just leave it with an office with a section of public integrity headed by someone, certainly, not subject to Senate confirmation.

Therefore, we are presented with the fact that the Judiciary Committee downgraded the office that had been established by the Governmental Affairs Committee.

In order to have harmonious feeling and support of the members of the Judiciary Committee, and take into account their vote and their report and also have support of the Department of Justice, we worked out a compromise which created the office and created it by statute, which put it into law and then could not be disregarded by any future Attorney General or even deleted from the Department. But we did recede on the one point of Senate confirmation which we felt was a less than important point because, certainly, the Attorney General was on full notice as to the caliber, character, and quality of the kind of person we felt should occupy that office.

That, I think, will add further to the explanation that my distinguished colleague has already given as to what motivated the Judiciary Committee.

Mr. ALLEN. I thank the Senator.

The fact remains that, under the present condition, the Attorney General has direct responsibility for this work, even though he might have some division in-

side his Department handling it but which has not risen to the point of being a specific Office of Government Crimes, with a director thereof. Simply because the Judiciary Committee knocked out the whole provision does not indicate in any way how it might stand on confirmation of the nomination of the director if such a department is developed.

So I do not believe that the Judiciary Committee has taken action on this question, either express or implied.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, will the Senator from Illinois yield?

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. PERCY. Mr. President, I am prepared to yield back the remainder of my time, if the Senator from Alabama is; then we can proceed to the other business, taking into account that we will have a rollcall vote on this amendment later.

Mr. HATCH. Mr. President, I support the Senator from Alabama. I think the amendment is reasonable, and it may correct some difficulties that would otherwise be in the bill. It is an amendment that keeps the Senate power in operation, which I consider very important. In that regard, I associate myself with the remarks of the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, I ask unanimous consent that the amendment may be set aside temporarily, in order that I might yield 5 minutes to the distinguished Senator from Texas to bring up another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 549

Mr. BENTSEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 549.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 133, line 8, insert the following:

SEC. 502. An individual who has played a leading partisan role in the election of a President shall not be appointed Attorney General or Deputy Attorney General. Individuals holding the position of national campaign manager, national chairman of the finance committee, chairman of the national political party, or other comparable high level campaign role involved in electing the President should be those considered to have played a leading partisan role.

The PRESIDING OFFICER. Is there objection to the amendment being in order at this time? Without objection, the amendment is in order.

Mr. BENTSEN. Mr. President, this is an amendment that was agreed to by the Senate in the previous Congress. It failed to be agreed to in the House because the bill was not considered in the closing days of the session.

First, I congratulate and thank the distinguished Senator from Connecticut for the contribution he has made over the years to openness in government and integrity in government. I congratulate and thank the distinguished minority manager of the bill, Senator PERCY, for what he has done in this regard, and his career exemplifies it. In the same context, I refer to the openness brought to the administration of President Carter and President Ford, preceding him. It is in that spirit that I offer again this amendment which was previously agreed to by the Senate.

This amendment would preclude someone who had held a major political office in the campaign of a President from being appointed as Attorney General or Deputy Attorney General. It is really time that we depoliticize the Justice Department. It is simply time to end what seems to have become the nearly standard practice of Presidents appointing as Attorney General the principal leaders of the political campaign in which they were elected. This has been done time after time and has become ingrained in the political system. We save had some obvious examples of men who have managed a successful Presidential campaign and were immediately appointed to head the Justice Department. I am pleased to see that President Carter and President Ford departed from that practice.

Let me recapitulate briefly, John Mitchell, Robert Kennedy, and J. Howard McGrath, Attorney General under Truman, are the most obvious examples of men who managed the successful Presidential campaigns and who immediately after were appointed to head the Justice Department. Unfortunately the practice has been working its way into our political system for much longer than these relatively recent appointments; it is a practice going at least as far back as Woodrow Wilson.

Historically and by tradition, but with certain exceptions, the top Presidential appointees in the Department of Justice have been highly respected representatives of the legal profession. But where they have also been major campaign officials of the President their appointment only contributes to a growing perception of the Department of Justice as a political instrument. With all of the highly competent members of the legal profession that can be drawn from, it is simply not necessary to look just to the ranks of the President's campaign staff for top Justice Department personnel.

The conduct of some of the recent officials of the Department is too fresh in the minds of the public and too deeply etched on the members of the bar to be passed with a bromide that "the next President will not let it happen."

It is time to assure the American people that law enforcement decisions will not be determined by partisan politics, either Democratic or Republican.

I believe my amendment will be a major step to deal effectively with the problem of politicization of legal posts within the Justice Department. It will insure the Department's capacity to administer justice evenly. It will help restore the people's perception of the impartiality of the justice that is administered.

The partisan orientation in recent years of those responsible for supervising the Nation's legal affairs seems extreme. If justice is to be impartial it must, in the beginning, be nonpartisan. It should not be run or even given the appearance of being run, by people who march to a drum beat emanating from the political advisors of any President or his party.

Decisions as to whether cases are prosecuted or dismissed, whether appeals are taken or settled, must not depend on political influence.

Mr. President, this amendment will further restore public faith in the administration of justice. I believe it is worthy of the Senate's continuing support. I would hope the distinguished floor manager of the bill would agree and that we can further remove politics from our judicial system.

I have discussed this matter with the majority manager of the bill, the distinguished Senator from Connecticut, and with the minority manager of the bill, the distinguished Senator from Illinois, and it is my understanding that they are ready to accept the amendment.

With that, I will withhold the remainder of my time, subject to their comments.

Mr. RIBICOFF. Mr. President, I believe that the amendment offered by the distinguished Senator from Texas is a good amendment, and I accept it, as manager of the bill. I believe it is acceptable to the ranking minority member.

Mr. PERCY. Mr. President, I commend our distinguished colleague for bringing forth this amendment. I think it is a valuable addition to the bill, and I accepted it with enthusiasm.

Mr. RIBICOFF. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 550

Mr. THURMOND. Mr. President, I call up my unprinted amendment.

The PRESIDING OFFICER. Without objection, the amendment will be in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 550:

On page 85, line 2 and 3, strike the words "the Comptroller General of the United States;", and insert in lieu thereof the words "the aforementioned;"

Mr. THURMOND. Mr. President, I note with interest in section 208(a)(3) of the bill that the Congressional Legal Counsel is mandated to advise, consult, and cooperate with—

• • • the Comptroller General, the General Accounting Office, the Office of Legislative Counsel of the Senate, the Office of Legislative Counsel of the House of Representatives, and the Congressional Research Service, except that none of the responsibilities and authority granted by this title to the Congressional Legal Counsel shall be construed to affect or infringe upon any functions, powers, or duties of the Comptroller General of the United States.

The Congressional Research Service, and in particular the American Law Division, has served as a valuable source of legal research and is available to provide such services as tracking litigation of interest to Congress, advice to investigating committees with respect to legality and issuance of subpenas, and background research for official acts. These activities should not be subordinated to the new Office of Legal Counsel. The work of the Office of Congressional Legal Counsel should not be duplicative of the work of the American Law Division.

Mr. President, I ask the distinguished managers of the bill whether they have considered the relationship and how they envision the institutional interface between the Office of Legal Counsel and the American Law Division of the Library of Congress.

Mr. RIBICOFF. Mr. President, I respond in this way to the distinguished Senator from South Carolina:

In general, the Office of Congressional Legal Counsel will give advice on questions related to litigation or possible litigation.

The Congressional Research Service will give advice on congressional powers generally, committee procedure, and will conduct background research.

The Counsel undoubtedly will consult with CRS on many of the questions which it faces. There should be a close working relationship between the two. None will be required to consult only the counsel. Nothing in the bill affects the excellent service and advice CRS gives to Congress.

Mr. THURMOND. Mr. President, I presume the manager has no objection to the amendment?

Mr. RIBICOFF. No objection to the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. THURMOND. I yield back my time.

Mr. RIBICOFF. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

UP AMENDMENT NO. 551

Mr. THURMOND. Mr. President, I have another amendment I wish to take up now. Mr. President, I shall send to the desk another amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes unprinted amendment No. 551.

The amendment is as follows:

On page 70, line 3, strike out "(2) The" and insert in lieu thereof "(2) (A) The".

On page 70, line 10, strike out "position" and insert in lieu thereof "position and shall be subject to the provisions of subparagraph (B)".

On page 70, between lines 14 and 15, insert the following:

(B) No person shall be appointed under subparagraph (A) if, within the 5 year period immediately preceding the appointment, such person—

(i) was a Member of Congress (as defined in section 308(10) of this Act) or a candidate (as defined in section 308(2) of this Act) seeking nomination for election, or election to, the office of Member of Congress,

(ii) actively participated in the management or conduct of any campaign of any individual, including a Member of Congress, for nomination for election, or election to, the office of Member of Congress, or

(iii) was an officer or employee of the Senate or the House of Representatives (as defined in section 308(12) of this Act).

On page 71, line 17, strike out "(b) (1) The" and insert in lieu thereof "(b) (1) (A) The".

On page 72, line 2, after "paragraph" insert "shall be subject to the provisions of subparagraph (B) and".

On page 72, between lines 9 and 10, insert the following new subparagraph:

(B) No person shall be appointed under subparagraph (A) if, within the 5 year period immediately preceding the appointment, such person—

(i) was a Member of Congress (as defined in section 308(10) of this Act) or a candidate (as defined in section 308(2) of this Act) seeking nomination for election, or election to, the office of Member of Congress,

(ii) actively participated in the management or conduct of any campaign of any individual, including a Member of Congress, for nomination for election, or election to, the office of Member of Congress, or

(iii) was an officer or employee of the Senate or the House of Representatives (as defined in section 308(12) of this Act).

Mr. THURMOND. Mr. President, my amendment is designed as an additional safeguard to assure the professionalism of the Office of Congressional Legal Counsel.

It simply provides that no person shall be eligible to serve as Counsel, Deputy Counsel, or Assistant Legal Counsel, if within the preceding 3 years, such person has been a Member of or candidate for election to the House or Senate, has been an employee of the House or Senate, or has served in the campaign organization of any Member of, or candidate for election to, the House or Senate.

Mr. President, the Governmental Affairs Committee wrote a similar prohibition into the bill in regard to the Special Prosecutor provision in title I. Section 593(d) of the bill provides:

The division of the court may not appoint as a special prosecutor any person who holds or recently held any office of profit or trust under the United States.

On page 65 of the committee report, the rationale for this section is stated as follows:

Subsection (d) of section 593 states that the division of the court may not appoint as a special prosecutor any person who holds or recently held any office of profit or trust under the United States. The entire purpose of appointing a temporary special prosecutor is to get someone who is independent, both in reality and in appearance, from the President and the Attorney General. Obviously, an employee of the Justice Department, including a United States attorney, could not satisfy that goal. Such an employee would have been appointed by the President or the Attorney General, could be removed by the President or the Attorney General, and would be under the day-to-day supervision of the Attorney General and, less directly, the President. Similar problems would be presented if the individual were an employee of the legislative or judicial branches. Therefore, the Committee feels that subsection (d) is essential so that a person is appointed special prosecutor who, in both appearance and reality, is not connected with the United States government. For that very reason, subsection (d) also covers people who recently held a position with the United States government. No time period was specified in this section; however, the Committee felt that it would defeat the purposes of this title if, for example, someone could resign their position as United States attorney or a member of the Justice Department one day, and be appointed a special prosecutor the next. A person appointed special prosecutor who formerly was an employee of the United States government should have left the government a long enough period of time prior to being appointed special prosecutor so that there is the reality and the appearance that such individual is totally independent from that government.

Mr. President, I feel the Office of Congressional Legal Counsel is a position which has a degree of sensitivity similar to the Special Prosecutor. On a day-to-day basis, the Office of Congressional Legal Counsel will have greater policy input. Its legal advice should be not necessarily what Congress would like to hear in a political sense, but should be professional, nonpartisan, and nonpolitical. The political judgments should be made by Congressmen and Senators, and no one else. Mr. President, if the concept of disqualification of a former governmental employee is good enough for the Special Prosecutor, it is equally good for the Office of Congressional Legal Counsel.

My amendment is very narrow. It disqualifies former Members, candidates, and employees for a period of 3 years. I would point out that the amendment does not disqualify all governmental employees. It does not disqualify all employees of the legislative branch, such as the General Accounting office or the Congressional Research Service. I am seeking to reach only those employees of the legislative branch who may have an inherent conflict of interest because of the desire to advance pet projects on which they have worked or to please former employers for whom they have worked. This, of course, would apply to former Committee staff, personal staff, political staff, and administrative staff whose salary is disbursed by the Clerk of the House or the Secretary of the Senate I would not contemplate that employees of the Library of Congress, the Congressional Budget Office, the Office of Technology Assessment, or the General Accounting Office would be disqualified.

Mr. President, even with the built-in safeguard of the Joint Leadership Group, of which I would be a member as long as I am ranking minority member on the Judiciary Committee, I have serious questions as to how Congressional Legal Counsel may represent the Congress as a body if an intervention amicus curiae is authorized. Congress is an institution of great diversity and its actions are usually the result of compromise. Where there is uniformity of congressional interest or wide support for a particular course of action, it differs markedly from the situation where there is significant division on a partisan or on an issue basis. In such situations, in particular, it is necessary to have professional advice, absolutely untainted by political considerations and absolutely insulated from charges of cronyism.

I have chosen to disqualify former Members, candidates, and employees only for 3 years, as I believe 3 years is a sufficient period of time for one to gain his independence or to allow for the disposition of an issue on which one may have worked or may have had a political interest.

Mr. President, I reiterate my feeling that for the Office of Congressional Legal Counsel to work, it must be absolutely professional. No political decisions can be made in that office; only the membership of the House and Senate can constitutionally make those decisions.

I commend the Governmental Affairs Committee and its able chairman for recognizing the need for absolute professionalism in the office of Special Prosecutor, and hope they will agree with me that the same professionalism is necessary in the Office of Congressional Legal Counsel. Mr. President, I hope the managers may be able to accept my amendment.

Mr. RIBICOFF. Mr. President, I have discussed this amendment with the distinguished Senator from South Carolina. I think his point is sound. I am willing to accept the amendment. I yield back the remainder of my time.

Mr. THURMOND. I wish to thank the able Senator from Connecticut, the chairman of the Committee on Governmental Affairs, and I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. STEVENSON. Mr. President, will the distinguished managers of the bill yield for some questions?

Mr. RIBICOFF. I would be pleased to yield.

Mr. STEVENSON. Mr. President, as the managers well know, the provisions of this bill in some respects track, they are either identical or substantially identical to, provisions in the rules of the Senate, and the provisions in the rules I have in mind track the provisions of title III of S. 555. Those provisions in the rules of the Senate were approved by the Senate when it adopted recently Senate Resolution 110.

During the debate on Senate Resolution 110 the Senate gave meaning to those rules, and since then the Ethics Committee has, through a number of interpretative rulings, given similar meaning to the provisions of these rules. In other words, a legislative history gives life to the provisions of the rules that goes back to the debate over Senate Resolution 110. It also now includes the decisions of the Ethics Committee.

By adopting S. 555 is it the intention of the managers to repeal or in any way affect legislative history that interprets, although different provisions, provisions which are substantially the same in S. 555?

I would hope that that would not be the case.

Mr. RIBICOFF. No.

Mr. STEVENSON. A great deal of history need not be repeated if we can rely on the history that was written in connection with Senate Resolution 110.

Mr. RIBICOFF. If I may respond to the distinguished Senator from Illinois, the chairman of the Ethics Committee, I see nothing here inconsistent with the Senate rules. The Senate rules are in existence and effective as they cover the Members of the Senate. Of course, S. 555 covers all branches of the Government—executive, judicial, and legislative—and imposes penalties which the Senate rules do not.

I do not know what the ultimate result of this bill will be. First, after the Senate passes it, if it does pass it, it goes to the House of Representatives. Then undoubtedly there will be a conference. Then it goes to the President for signature. If it is signed by the President it becomes law. Then the Senate would have to reexamine its rules to see if there are any inconsistencies between the ultimate bill that becomes law and the Senate rules.

I would assume that if that were the case, the Senate would proceed to alter its rules to conform with the statute. Until that happens, the rules would stay in effect and would cover the Members of the Senate and their staffs.

Mr. STEVENSON. Mr. President, let me try to make myself a little clearer.

Mr. RIBICOFF. May I add, there is a potential change. The Senator from Missouri (Mr. DANFORTH) and the Senator from Georgia (Mr. NUNN) will be offering a provision permitting blind trusts. If that were adopted and then became law, then there would be a change in the Senate rules which do not provide for blind trusts. So to that extent, again, there would have to be a reconciliation between the rules and the statutory language, but until that takes place, the rules of the Senate prevail.

Mr. STEVENSON. Mr. President, there are conflicts between S. 555 and the Senate rules. There may be more when we finally act upon the conference report and at that point, as the Senator indicates—or thereafter—hopefully at that point we can make whatever changes are necessary in order to conform the rules to the statute.

My question has to do with provisions in the rules that are identical, for example, provisions of rule XLII and rule XLIII, to provisions in S. 555. Those provisions in the rules have been given meaning by legislative history that includes the debate over Senate Resolution 110 and also now the interpretations of those rules by the Ethics Committee.

What I am getting at is does all that legislative history go by the boards, or can we continue to rely on that legislative history when interpreting the identical provisions in S. 555?

Mr. RIBICOFF. May I respond that, as it concerns Senators, the legislative history developed in adopting the Code still is current and will prevail.

Having been a member of the Nelson committee, and chairman of the committee having responsibility for S. 555, and also being a member of Senator STEVENSON'S Ethics Committee, I recognize the problems and the work of the Ethics Committee and of the Nelson committee; and the colloquies, debates and the legislative histories in adoption of the rules are still in effect.

Mr. STEVENSON. I appreciate that, Mr. President. The distinguished Senator is not only the chairman of the Government Affairs Committee, but was a member of the Nelson committee also served on the Ethics Committee, and is well aware of the difficulties we have had both in formulating these rules and then in implementing them, interpreting them, and enforcing them.

What he has said is reassuring to me and indicates all the work that has preceded this moment will not be abandoned. It still can be relied upon as a means of giving meaning to the identical provisions which are in this bill.

Let me, if I may, raise a few additional questions, and some of them will illustrate the point.

On page 119, the definition of "gift" in section 308, paragraph (8), the term "gift" it says:

> . . . means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment and reimbursement for other necessary expenses."

In the debate on Senate Resolution 110, that provision was interpreted to qualify not only reimbursement but also transportation. In other words, if on business it was necessary to accept a reimbursement for reasonable, necessary expenses, or the actual transportation, that need not be reported. That was a qualification to the definition of "gift."

It has been upon that assumption that the Ethics Committee and members have acted, and I assume on the basis of what the Senator has said that that assumption would remain.

Mr. RIBICOFF. May I respond that that assumption would remain and it would still be in effect.

Mr. STEVENSON. In earlier discussions, we have also considered the acceptable ways in which to value real property and personal property in order to comply with the reporting requirements of the rules.

The reporting requirements will now be in a statute.

On page 104, section 303, it is required that the value of interests in real estate be reported and must be reported within certain categories.

Section 303(b) recognizes that the

current value of an interest in real property is not always easy to ascertain. It may not be ascertained without an appraisal. Appraisals are expensive.

It goes on to say that if value is not ascertainable without an appraisal, then the purchase price can be used for reporting purchases, but the purchase price or cost is not always available either. It may have been acquired by inheritance or by gift. In such cases as that, and I could raise others with respect to personal property, what is required? I believe that in the earlier debates on this matter when it came up in connection with the rules, it was indicated that a Member need not go to what could be the large expense of obtaining an appraisal. He could give his own informed opinion as to what the value was.

Is that still the case or how, if an appraisal is not readily available, should these valuations be determined for both real estate and personal property?

The assessed valuation usually gives very little indication of what the market value is. The purchase price might not be available, or there might not be a purchase price. How are the members expected to determine, in such instances, the value of property that must be reported within these categories?

Mr. RIBICOFF. May I respond? We have taken the language word for word from the Senate rule. Therefore, the legislative history that would apply to the Senate rule would be applicable. But for the additional information of the distinguished Senator from Illinois, earlier in the day the Senator from Florida (Mr. STONE) and the Senator from New Hampshire (Mr. MCINTYRE), in a colloquy, stated that because of a problem that could arise if a home were acquired through inheritance, or if a person built a home in segments from time to time, so that there was not a fixed purchase price, they would like a third alternative, and that is an assessor's valuation, with complete information of the basis of the assessment, as to whether it is 30 percent of value, 60 percent, 90 percent, or 100 percent.

I indicated complete sympathy with that situation, because we had not considered it. The distinguished Senator from Illinois, the comanager, wanted to see the language; so the Senator from New Hampshire and the Senator from Florida are drafting an amendment to provide a third alternative, which they will submit for approval of the Senator from Illinois and myself.

Outside the possibility of accepting that third alternative, the interpretation in the legislative history of the Senate rule would still be applicable.

Mr. STEVENSON. Mr. President, if the Senator will yield further, I would hope that the history was not changed to indicate that there are only three alternatives, namely, an assessed valuation which gave little evidence of market value, an appraisal, which might be very expensive, or the purchase price, which might not be available.

Does not the Senator mean to indicate that the assessed valuation or the purchase price, which may go back a long time, are indicia of value, but that the Member is not confined to one of those three alternatives? Based on the assessed valuation, he is in a position to make an informed judgment as to what the value is; but there might be more means on which to base such an informed opinion.

Mr. RIBICOFF. No, I would say he does not have to make an informed estimate. He could use as an alternative, if the Senate adopted the assessed valuation, an actual appraisal or the actual purchase price, with the description of the purchase and the date of purchase. As a matter of fact, we required that a copy of this information and these vital values be filed with the secretary of state in the State from which the Member comes; and there is ample opportunity for members of the public and the press to look at those values and come to their own conclusions. After all, people living in your own State realize that if, 20 years ago, you bought a home for $50,000, they know what inflationary pressures mean in that area. That home today may be worth $100,000. Such an approach would permit one to get an interpretation of what the value is every year without requiring you, every year, to get an individual appraisal at a high cost.

Mr. STEVENSON. That is one of the difficulties with using assessed valuation, which, in most cases, is just a fraction of market value.

Mr. RIBICOFF. It would be required to state on what basis that assessor evaluates that property. It has to be uniform, and in every locality it is stated whether it is taken at 30 percent of value, 60 percent, 70 percent—whatever their valuation is must be stated right on the form.

This is the language that has been given to us to look at. We have not accepted the amendment.

Mr. STEVENSON. Is the Senator aware that in some States, real estate is not assessed for a percentage of its fair market value, but, for example, at its value as farm property; it may be assessed at its value for farming purposes, even though its market value may be much higher because it could have other uses, for industrial development, for example?

I wonder if the Senator really means to confine Members to a choice of an appraisal, which may be expensive, an assessed valuation, which may provide very little real indication of the market today, or a purchase price, which may be unavailable. Those are three acceptable means, but they are not really exhaustive, are they?

Mr. RIBICOFF. The Senator is correct. We will not confine him, and he can give his estimate of what the actual value is, but we do provide those two or possible three alternatives which he may use, so that it may not be said that he put a false value on it.

The Senator is correct, and I think we do understand one another.

Mr. STEVENSON. I thank the Senator. That is a most helpful clarification. Once again in this instance, the past legislative history will help to give meaning to that provision of S. 555.

Let me ask the Senator another question, if I may. Items of personal property in a trade or business worth more than $1,000 must be reported.

On the face of it, that requirement would appear to pick up most of the equipment on a farm. If a Senator or an employee of the Senate subject to these disclosure requirements owns a farm, and has on that farm plows, rakes, harrows, and the like, each of which has a value in excess of $1,000, or might have, are they required to be itemized and reported?

Mr. RIBICOFF. No, they are not. If we go back to the legislative history on the adoption of the rule, there is a discussion which indicates that you can lump all the farm equipment together and say, "Farm equipment of an overall value," without listing each item of farming equipment.

So if you had 10 items of equipment, you would not have to list the value of each of the 10; you could just say, "farm equipment of a value of $10,000."

Mr. STEVENSON. And the same would apply to livestock?

Mr. RIBICOFF. Livestock also.

Mr. STEVENSON. I thank the Senator for the additional clarification. If the farm is burdened by a mortgage, would the mortgage reduce the value, or is the value recorded separately without regard to the mortgage, and then the mortgage reported separately as a debt?

Mr. RIBICOFF. The latter is correct. You do not deduct the mortgage from the value; you put the value on the property, and then your liability on the mortgage is listed separately. I would assume, if you have no obligation on the mortgage, if there is no personal responsibility, then it is not a liability to you, and you do not list it.

Mr. STEVENSON. Yes.

Mr. RIBICOFF. But you do list the gross value of that property, subject to the mortgage, I would think.

Mr. STEVENSON. The gross value be listed, and the mortgage listed separately as a liability?

Mr. RIBICOFF. Subject to the mortgage, I would say. I would imagine you would put "property of the value of $100,000, subject to a mortgage of $30,000, net $70,000." In all fairness, I think that is how it should be reported. You would only be required to show the gross, but I would say in all fairness that would be misleading. In all fairness to the reporting individual and to the public, the net would be a fairer reflection of the situation as to the value of your interest.

Mr. STEVENSON. Liabilities must, of course, be reported, too. It would be possible to list the assets unencumbered on one part of the form and the liabilities, which have to be listed anyway, separately. I assume that interpretation would be available.

Mr. RIBICOFF. I think one could do it either way. I can see the acquisition of an interest in a piece of property which is subject to a mortgage. If one had a 5-percent interest in a piece of property worth $100,000, that would mean the 5 percent would be worth $5,000. But if the property were mortgaged for $50,000, the value is only $2,500, really. It becomes easy when the interest is owned outright, but when one

owns that small portion of an undivided interest, it is not worth $5,000, but it is only worth $2,500.

UP AMENDMENT NO. 552

Mr. STEVENSON. Mr. President, I have an amendment which I send to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the amendment being offered at this time? Hearing none, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment No. 552.

Mr. STEVENSON. Mr. President, I ask uanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, between lines 14 and 15, insert the following new section:

APPLICABILITY TO PER DIEM EMPLOYEES

SEC. 309. Notwithstanding any other provision of this title, in exceptional circumstances, the supervising ethics office of an individual who is an employee hired on a per diem basis or a consultant retained on a contractual basis, may waive the applicability of the provisions of this title to such individual, except section 307.

On page 121, line 16, strike out "Sec. 309." and insert in lieu thereof "Sec. 310.".

On page 121, line 23, strike out "Sec. 310." and insert in lieu thereof "Sec. 311.".

On page 122, line 2, strike out "Sec. 311." and insert in lieu thereof "Sec. 312.".

Mr. STEVENSON. This is a matter which has been discussed before, and certainly one with which the distinguished manager of the bill is acquainted.

As the bill now stands, persons who are hired on a per diem basis or as consultants, lawyers, or accountants, for example, retained by the Senate, for more than 60 days would be subject to all of the provisions of the code. Such a requirement could be onerous to the individuals involved. It could deprive the Senate of the services of some of the most experienced, successful, and accomplished professionals in the country.

At present, the rules have a provision which is similar to this amendment, which, in exceptional circumstances, enables the Ethics Committee of the Senate to grant exceptions from the rules where, for example, a lawyer is acting temporarily as counsel to a committee, and they do not have to comply with all these disclosure provisions.

This amendment would do that. It would provide that the supervising ethics office of the Senate, the House, and the executive branch could, in exceptional circumstances, waive the provisions of title III with respect to disclosure. Those are the only provisions which could be waived under the authority of this amendment, in order not, in those exceptional circumstances, to prevent committees of the Congress and agencies of the executive branch from obtaining the services of highly qualified individuals for whom full disclosure might be extremely onerous and not necessitated by the public interest in any way.

Would the Senator have objection to this amendment?

Mr. RIBICOFF. I believe the Senator's amendment makes common sense. We would be depriving ourselves of much valuable service to the Government. I would accept the Senator's amendment.

Mr. STEVENSON. I am grateful to the Senator.

Mr. DANFORTH. The amendment is satisfactory to the minority.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. STEVENSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 465, AS MODIFIED

Mr. DANFORTH. Mr. President, I call up my amendment No. 465 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to considering the amendment at this time? If not, the amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself, Mr. NUNN, and Mr. CRANSTON, proposes an amendment No. 465.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. It is my understanding that under a previous order there will be a rollcall vote at 4 o'clock. Do I understand after the rollcall has been completed I will be recognized to further discuss this amendment?

The PRESIDING OFFICER. The Chair is informed that after the vote at 4 o'clock the Senate would automatically return to the amendment proposed by the Senator from Illinois (Mr. PERCY), as amended.

Mr. DANFORTH. Mr. President, I ask unanimous consent that after the rollcall vote is completed I be recognized for further consideration of my amendment No. 465.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. DANFORTH. Mr. President, I offer the following modifications of my amendment:

On page 3, line 7, strike the words "it is unlikely that." Also on page 3, line 7, strike the word "can" and insert in lieu thereof the word "cannot."

On page 3, line 9, strike everything after the word "party," except the comma after the word "party" through line 10.

On page 3, line 11, strike the words "employed by" and insert in lieu thereof the words "an employee of."

On page 6, line 3, strike the words "agree to."

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified is as follows:

On page 105, beginning with line 14, strike out all through page 106, line 25, and insert in lieu thereof the following:

(d)(1) Except as provided in paragraph (2), each reporting individual shall report, in accordance with the provisions of section 302, the identity of the holdings of and the identity of the source of income from a trust or other financial arrangement from which income is received by, or with respect to which an equity interest is held by, such individual, his spouse, or any of his dependents.

(2) A reporting individual other than a judge or justice of the United States need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust, (as defined in paragraph (3)); or

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any of his dependents,

(ii) with respect to which such individual, his spouse, and any of his dependents have no knowledge of the holdings or sources of income of the trust, and

(iii) with respect to which such individual has requested the trust to provide information with respect to the holdings and sources of income of the trust and the trustee refuses to disclose the information but such individual shall report the category of the amount of income received by him, his spouse, or his dependents from the trust under section 302(a)(3).

(3) For purposes of this subsection, the term "qualified blind trust" includes any trust, in which a reporting individual, his spouse, or any of his dependents has a beneficial interest in the principal or income, and which meets the following requirements:

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

(i) is independent of any interested party such that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) is not an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) is not a relative (as defined in section 308(14)) of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in clause (B), the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by section 302(a)(3) of this title, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset and which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instument and the proposed trustee shall be approved by the reporting individual's supervising ethics office. For purposes of this paragraph, "interested parties" means a reporting individual, his spouse, and dependents if the reporting individual, his spouse, or dependent has a beneficial interest in the principal or income of a qualified blind trust. The term "broker" is used as defined in section 78 of title 15, United States Code.

(4) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of section 208 of title 28, United States Code, and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(5) (A) The reporting individual shall file within 30 days after a qualified blind trust is approved by his supervising ethics office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under section 303(a),

with each office, agency, committee, or individual with whom such reporting individual is required to file a report under section 304.

(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under section 303(a).

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such disolution, and

(ii) file a copy of a list of the assets of the trust at the time of such dissolution and the category of value under section 303(a) of each such asset with each office, agency, committee, or individual with whom such individual is required to file a report under section 304.

(D) Documents filed under clauses (A), (B), and (C) of this paragraph shall be made available to the public in the same manner as a report is made available under section 305 and the provisions of section 305, as appropriate, shall apply.

(E) A copy of each written communication with respect to the trust under paragraph (4)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6) (A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by this subsection or the trust agreement; or (vi) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under this subsection, or (ii) fail to file any document required by this subsection.

(C) Each violation of the provisions of subparagraph (A) or (B) shall be punishable by a fine in any amount not exceeding $5,000.

(7) Any trust which is in existence prior to the date of the enactment of this Act shall be considered a qualified blind trust if—

(A) the supervising ethics office determines that the trust was a good faith effort to establish a blind trust;

(B) the previous trust instrument is amended or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of paragraph (3)(c) and a trustee is (or has been) appointed who meets the requirements of paragraph (3); and

(C) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party, and the category of value of each such asset at the time it was placed in the trust is filed and made available to the public as provided under paragraph 5.

Mr. DANFORTH. Mr. President, I suggest the absence of a quarum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. Preident, I ask unanimous consent that Ira Shapiro be granted the privileges of the floor during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I yield myself one minute with respect to the pending amendment.

This amendment merely provides that the Director of the Office of Government Crimes shall be appointed by the President subject to Senate confirmation, rather than by the Attorney General with no Senate confirmation.

I yield back the remainder of my time.

UP AMENDMENT NO. 548

The PRESIDING OFFICER. The hour of 4 p.m. having arrived, the Senate will proceed to a vote on unprinted amendment No. 548. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI), the Senator from Alaska (Mr. GRAVEL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that the Senator from Iowa (Mr. CULVER) is absent on official business.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Utah (Mr. GARN), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 65, nays 18, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—65

Allen	Haskell	Muskie
Anderson	Hatch	Nelson
Baker	Hatfield	Nunn
Bayh	Hayakawa	Packwood
Bellmon	Heinz	Pearson
Bentsen	Helms	Randolph
Bumpers	Hollings	Riegle
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Sarbanes
Case	Jackson	Schmitt
Church	Johnston	Schweiker
Clark	Kennedy	Sparkman
Curtis	Laxalt	Stafford
Dole	Leahy	Stennis
Domenici	Lugar	Stevens
Durkin	Mathias	Stevenson
Eagleton	McClure	Talmadge
Eastland	McGovern	Thurmond
Ford	McIntyre	Weicker
Goldwater	Metcalf	Williams
Griffin	Metzenbaum	Young
Hansen	Morgan	Zorinsky

NAYS—18

Abourezk	Hart	Percy
Burdick	Inouye	Proxmire
Byrd, Robert C.	Javits	Ribicoff
Chiles	Magnuson	Sasser
Danforth	Moynihan	Scott
Glenn	Pell	Stone

NOT VOTING—17

Bartlett	Culver	Matsunaga
Biden	DeConcini	McClellan
Brooke	Garn	Melcher
Cannon	Gravel	Tower
Chafee	Hathaway	Wallop
Cranston	Long	

So Mr. ALLEN's amendment was agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agree to.

The PRESIDING OFFICER (Mr. MOYNIHAN). Under the previous order, the Senator from Missouri is recognized.

Mr. ALLEN addressed the Chair.

Mr. DANFORTH. Mr. President, I yield to the Senator from Alabama with the understanding that I do not yield

the right to call up my amendment No. 465.

The PRESIDING OFFICER. The amendment is pending. The Senator may yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, I ask unanimous consent that Senator RANDOLPH and Senator HELMS be added as cosponsors of the amendment that was just agreed to by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that my staff assistant, Kim Wilmoth, be granted privilege of the floor during consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I ask unanimous consent that Everett Engstrom of my staff be granted privilege of the floor during the pendency of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier of the Judiciary Committee staff be granted privilege of the floor during consideration of this measure.

Mr. PERCY. That has already been done.

The PRESIDING OFFICER. It has been agreed to.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that John Backer be granted privilege of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Judy Heffner of my staff be granted privilege of the floor for the rest of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 547, AS AMENDED

Mr. PERCY. Mr. President, will the Senator from Missouri yield?

Mr. DANFORTH. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I ask the distinguished Senator if he would set aside his amendment for just a moment so we might have a voice vote on the pending Percy amendment, as amended by the Allen amendment.

Mr. DANFORTH. Mr. President, I am happy to accommodate the Senator from Illinois on his amendment, but it is my understanding that after that amendment is disposed of, I will then be recognized for the purpose of bringing up my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Illinois, as amended.

The amendment, as amended, was agreed to.

Mr. HEINZ. Mr. President, I ask unanimous consent that Mr. Geoff Garin be granted privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 465

Mr. DANFORTH. Mr. President, the purpose of amendment No. 465 is to permit the use of blind trusts by persons subject to the financial disclosure provisions of the Public Officials Integrity Act.

Pursuant to the directive of the Senate, the Governmental Affairs Committee held hearings on the blind trust question on June 7 and June 9. I believe that there was a clear consensus at those hearings that blind trusts could serve a useful purpose in eliminating conflicts of interest, or the appearance of conflict, for high level executive department officials and Members of Congress.

The amendment I am proposing today was drafted by members of my staff, in conjunction with the staff of the Governmental Affairs Committee, Common Cause, and the administration. It has the approval of the administration.

The chief objection to permitting the use of blind trusts has been the fact that there are no rules to govern their use and no sanctions to punish any breach of the trust agreement by the trustee. The rules which we would establish through this amendment speak to both of these objections.

This amendment, Mr. President, is offered on behalf of myself, Senator NUNN, and Senator CRANSTON.

The amendment provides that an individual required to file a report under section 201 of S. 555 need not report the holdings of a qualified blind trust. In order for a trust to be a qualified trust, the trustee must be a financial institution, an attorney, a certified public accountant, or a broker who is independent of any interested party.

In addition to the requirement that the trustee be independent of any interested party, this amendment also provides that the assets in the trust must be free of restrictions with respect to transfer or sale. Furthermore, the trustee must manage the trust assets without consultation with or notification to any interested party.

A common objection to the use of blind trusts has been the claim that such trusts are never truly blind; that, for one reason or another, the assets placed in the trust remain in the trust during the public official's tenure in office, making the trust blind in name only. Therefore, it was decided to adopt the proposal suggested by Common Cause—namely, that any asset placed in a blind trust be considered a financial interest of the reporting individual for the purpose of conflict-of-interest laws until such time as the trustee has certified that the asset is no longer held by the trust or held in an amount less than $1,000. In this way, no trust can be said to be blind unless it is in fact blind.

Finally, any trustee who discloses information regarding trust assets to an interested party and any interested party who solicits such information shall be subject to a $5,000 fine.

Mr. President, I believe that this proposal represents a well-reasoned response to a very difficult problem. I am hopeful that it will be accepted.

UP AMENDMENT NO. 553

Mr. EAGLETON. Mr. President, I have a perfecting amendment to the Danforth amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposed an unprinted amendment, numbered 553, to the amendment by Mr. DANFORTH.

Mr. EAGLETON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the amendment being in order at this time? The Chair hears none, and the amendment is in order.

The amendment is as follows:

On page 9, line 1, delete lines 1–3 and insert in lieu thereof the following:

(C) (i) Any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) shall be fined in any amount not exceeding $5,000, or imprisoned for not more than one year, or both.

(ii) Any individual who negligently violates the provisions of subparagraph (A) or (B) shall be fined in any amount not exceeding $5,000.

Mr. EAGLETON. Mr. President, first, I say to my colleague from Missouri that I am pleased that he is dealing with this very vexing problem of blind trusts. This has been a problem in the law for many, many years, and it is not an easy one with which to deal.

My personal bias is that blind trusts are not always blind. I could cite several examples, but the one that comes most quickly to my mind was the blind trust of Peter Flanagan, who at one time was nominated to be U.S. Ambassador to Madrid. He made much ado about the fact that during his tenure in Government, he had no notion as to how his own personal interests were being enhanced; that all his wherewithal was in a blind trust; and that he remained scrupulous in keeping that trust blind. At first blush, that all sounded very good—until we found out that the trustee was his father. One had to wonder whether a "blind" trust in those circumstances was all that blind.

Having read the Danforth modified amendment, I decided to offer this perfecting amendment, which says, in essence, that a blind trust shall be blind—and, brother, we mean it; because if you intentionally or knowingly or wilfully violate any provision, you shall be fined in an amount not to exceed $5,000 and imprisoned for not more than 1 year. This is the criminal penalty carried over from other portions of this bill.

Further, an individual who negligently violates the provisions of this subsection shall be fined in any amount not exceeding $5,000. Again, this is a provision carried over from other portions of the bill.

If this perfecting amendment to the Danforth amendment, as modified, is agreed to, we then make it crystal clear that we are very serious about this business of blind trusts; that they are, in fact,

to be blind; that they are not to be used as some kind of convenient ruse or sham; that everyone will know we mean business, because we will impose upon any violation thereof a strict criminal penalty.

That about states my case on this perfecting amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. DOLE. What does the Senator's perfecting amendment do, then?

Mr. EAGLETON. If one sets up a blind trust that has only the cosmetic, surface impression that it is in fact blind, but he, in cahoots with the blind trustee, knows what the corpus of the trust is, then both of them are knowingly and willingly violating the provisions of this law. They will subject themselves to a prison term.

Mr. DOLE. Perhaps I have not studied the amendment carefully enough, but is there anything that defines who the trustee may or may not be?

Mr. EAGLETON. That is addressed in the Danforth amendment, as modified by Senator DANFORTH himself.

Mr. DOLE. What are the limitations on that?

Mr. DANFORTH. Mr. President, if the Senator from Kansas will look at page 3 of the bill, there have been some amendments to this provision, or some modifications, and it will read as follows, as modified:

> The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker who, (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)— (i) is independent of any interested party such that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,
>
> (ii) is not an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and (iii) is not a relative (as defined in section 308(14)) of any interested party.

Mr. DOLE. The part that the Senator from Kansas does not totally understand is the section that provides that it is not a close personal friend of any interested party.

Mr. DANFORTH. That has been deleted.

Mr. DOLE. So you cannot be a close personal friend.

Mr. DANFORTH. Well, the way it reads now is that the trustee must be independent of any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party.

Mr. DANFORTH. Mr. President, I would be happy to accept the amendment offered by my colleague from Missouri, Mr. EAGLETON.

Mr. EAGLETON. I would be pleased to yield to my distinguished colleague from Alabama.

The PRESIDING OFFICER. Does the Senator from Missouri (Mr. DANFORTH) accept the amendment to his amendment?

Mr. DANFORTH. Yes, I do.

The PRESIDING OFFICER. The amendment as modified?

Mr. DANFORTH. I accept Senator EAGLETON's amendment to my amendment as modified.

Mr. SPARKMAN. Mr. President, will the Senator yield to me?

Mr. EAGLETON. I am pleased to yield to my colleague from Alabama, Senator SPARKMAN.

Mr. SPARKMAN. I think we have to be very careful in this matter of handling blind trustee. I say that from experience that I have had in both committees.

So often we will have someone come before us appointed to an office, and he has certain assets, and we ask him the question:

> What about these assets that you have? Will they constitute a conflict of interest?

And he says:

> I have placed these—

Under the advice usually of counsel from the White House—

> in a blind trust.

We have usually accepted that fact in many, many cases.

I do not say that the amendment of your colleague is not correct. I just say that we ought to go at this thing very carefully so as not to rule out the use of legitimate blind trusts.

That is all I care to say. I do not know what the details are, but I do think we ought to go into it very carefully with our eyes open.

Mr. EAGLETON. I think the Senator from Alabama makes a very valid observation. The basic thrust of the Danforth amendment is to try to make a blind trust a truly blind and a meaningful alternative for an individual who, because of his personal financial situation, might see fit to use it. The purpose of my amendment was to say that we really mean what we say, that a blind trust is, in fact, blind and not just some kind of a convenient ruse.

Mr. DANFORTH. It is my understanding that the Carter administration has required top level members of the executive branch to place their assets in blind trusts. Also there are and have been for some time Members of Congress—and I hasten to say that I am one of them—who have believed that the blind trust method is the best available one under the circumstances to protect oneself from the possibility of a conflict of interest and from the appearance of a conflict of interest.

The question then is what is a blind trust? Can you just say something is a blind trust and make it a blind trust? I think the Senator from Alabama has made a very good point in this regard. The whole point of this amendment is to set out specific rules for determining what qualifies as a blind trust under the law. Under this amendment it is required that a person who places his assets in the blind trust must disclose the identity of the assets that have been placed in the trust, and also disclose the trust instrument, with the exception of testamentary provisions in the trust instrument.

Further, that when trust assets, original trust assets, are sold by the trustee, the trustee must make the disclosure as to the sale of those original trust assets when they reach zero or anything less than $1,000.

So that there is a presumption of continuity in the mind of the person who sets up the trust that what went in, which he has disclosed, has stayed in unless the trustee has stated otherwise.

So I really believe this amendment takes care of that problem. There is no likelihood, unless the person is violating the law and, therefore, subject to penalties under this statute, there is no possibility, for him to say, "I have cosmetically taken care of the problem of a conflict."

Mr. PERCY. Mr. President, will the Senator from Missouri yield?

Mr. DANFORTH. I yield.

Mr. PERCY. I would like to express appreciation to the Senator from Missouri as well as his distinguished colleague, Senator EAGLETON, for performing a service today in this amendment.

I have been in a blind trust. The blind trust was scrupulously observed for a period, I believe, of 6 years. I finally decided to end the blind trust because of the frustrations involved, and I put a detailed statement into the RECORD as to my reasons for so doing.

I think we are all familiar with the possibility of a blind trust being used as a guise, as a coverup and, obviously, we have made every attempt now to prevent that.

Many of us have seen a cartoon that appeared of two golfers standing on the green, one of them saying to his colleague, "I have got an idea. Why don't I set up a blind trust and you be my trustee, and you set up a blind trust and I will be your trustee."

There is a cynicism that has developed about blind trusts. The administration has encouraged and supported blind trusts and they have been set up, but many times a personal friend of the individual, the public official, setting up the trust has been designated as the trustee.

Then you have the concern about integrity and the appearance of lack of integrity.

In the letter that Robert Lipshutz, counsel to the President, addressed to Senator RIBICOFF and myself, dated June 27, I would like to read in part once again the section pertaining to blind trusts. It says:

> S. 555 provides that a blind trust will not be an acceptable method of removing conflicts of interest unless a later bill authorizes such trusts.

That is what we are now working on.

> In our testimony we encouraged the use of blind trusts properly restricted to prevent abuse. We believe that a qualified blind trust can adequately insulate a Government official from a potential conflict of interest. I understand that Senators Nunn and Danforth will offer an amendment to S. 555 permitting the use of a blind trust to the extent that the trust holdings are unknown to the beneficiary. We support such an amendment.

I think it is important that we have support of the administration on this matter. But I think there is probably a difference between the administration and Congress. The administration through the White House, has said, "We encourage the use of blind trusts," and I would like to ask the distinguished

author of this amendment whether or not there is any known position, as to whether or not the Ethics Committee or the Committee on Governmental Affairs in our deliberations, in any way took a position, that we have determined that blind trusts should be entered into and that we are encouraging them. The Senator from Illinois knows of no position we have taken on that so far. The amendment now provides a second option: A Senator can make a full and complete disclosure, a public disclosure, in accordance with the rules of the Senate; or, under the Danforth amendment he could now go to a blind trust, provided it meets the strict criteria that have been established to remove the possibility this could be looked upon as a means of evading the intent and purpose of full public disclosure.

Certainly, with the Eagleton amendment providing for criminal penalties, this shows we really do mean business by this. But these are the two routes. Neither the Senate Ethics Committee, according to the understanding of the Senator from Illinois, nor the Committee on Governmental Affairs has taken any position on this question and any Senator is free to follow one of the two routes so far as this bill is concerned. Any member of the executive or judicial branch could honorably follow either route, provided he adhered strictly to the rules, regulations and, in this case, the statute; is that correct?

Mr. DANFORTH. That is correct. There is no encouragement or discouragement of the creation of a blind trust. But it is recognized that this is an option that some in Congress and certainly the executive branch have believed is desirable and, therefore, it sets forth specific rules for determining what is a qualified blind trust and rules for what happens if the terms of this amendment are violated.

Mr. PERCY. Because our distinguished colleague participated so actively in the hearings I would like to pose a question to him. Do the requirements and criteria laid down in the Danforth amendment now before the Senate meet the rather rigid standards established by Common Cause? Representatives of Common Cause testified they would prefer there would be no provision for a blind trust, but if the committee and the Senate decided, and the House decided, that there should be a provision, then these are the criteria that should be used. Does the pending amendment essentially meet those criteria and standards that were advocated by Common Cause?

Mr. DANFORTH. That is correct. That is my understanding. My staff in working up the amendment worked with personnel of Common Cause, and also worked with people in the executive branch, people in the White House who have been active in this area.

Mr. PERCY. I once again commend my distinguished colleagues, Senator DANFORTH, Senator EAGLETON, and Senator HANSEN, who have taken a great interest in this field, and I think we have now worked out something that I trust will be acceptable to the floor manager of the bill.

Mr. RIBICOFF. If the Senator will yield, I have had a blind trust for a number of years. During the consideration before the Nelson committee I voted against the continuation of blind trusts. The Government Affairs Committee was under orders from the Senate in discussion of the Rules of Conduct to take into account the Danforth amendment to study the situation of blind trusts. Testimony was had.

I quote from the administration's position:

> There are some situations in which a blind trust should and must be available if the Government is to continue to attract and retain persons who may happen to have some substantial varied holdings. Some officials when they join the Government have holdings in a wide variety of companies and because of economic consequences cannot be expected to divest themselves immediately of such interests. While they could rescue themselves in particular matters, the range of activities of their office may be so extensive their effectiveness could be unnecessarily restricted. Proper blind trusts serve to ameliorate these situations by insulating such officials from knowledge of these holdings.
>
> The administration does not lightly give its endorsement to every proposed blind trust. Each case must be weighed carefully and approval is given only when the criteria that the administration has set up have been met.

In the Danforth amendment care was taken to specifically provide that each blind trust be filed with an ethics office. In the Senate it would have to be filed with the Ethics Committee. It would be made public and opened to perusal by the press or anyone else except such elements of a blind trust which are testamentary in nature.

The Civil Service Commission would have jurisdiction with respect to executive branch disclosure.

The judicial system would submit their documents to a proper group set up by the Chief Justice and the Judicial Council.

Also, it should be pointed out that in creating a blind trust it would be absolutely essential that a full listing of all the assets that go into the blind trust be made public, and it is assumed that the assets that go into the blind trust remain in the blind trust unless the trustee reduces the assets so that there would remain not more than $1,000 of a particular holding. He would have to certify and to make public that such sale was made.

The committee did not take any position for or against the blind trust. But it was very careful as was the staff working with Senator DANFORTH that the guidelines recommended by Common Cause were scrupulously followed.

As a consequcnce, the committee manager has no objection to the Danforth-Nunn-Cranston amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr JAVITS. I understand while I was out Senator PERCY took occasion to make it clear for the record an agreement with Senator RIBICOFF that the fact that we adopt this amendment—and I certainly will join with the committee in its adoption—does not mean that it is unethical not to have a blind trust or that the only way in which to satisfy ethics and this particular law when, as, and if it becomes law is to have a blind trust. I think it would be very useful if I might say to my colleagues, the managers of the bill, if we could get a concurrence to that effect from the chairman and ranking minority member of the Ethics Comeven as an ethical matter. But if Members, including myself, have this question under advisement, and I know Senator PERCY does as a personal matter. I think it would be very helpful to us. As a matter of fact, I have very grave doubts about the whole blind trust business, even as an ethical matter. But if Members wish to do it—and the administration obviously favors it—since this bill has such broad coverage, I certainly would have no objection.

But I think for ourselves here as Senators it should be made clear that if you do not choose to proceed along that route you are just as legal and just as ethical as anyone who does.

Mr. RIBICOFF. I would assume that the overwhelming number of employees in the three branches of Government would not have a blind trust. The failure to have one does not mean there is anything unethical at all. That is completely the choice of the individual in any branch of the Government. It would seem to me were it just the Senate involved I think we should have stayed with the rules adopted by the Code of Conduct in the Senate. But now we are dealing with a governmentwide set of rules and regulations that affect the executive branch, the judicial branch, and the legislative branch. So there has to be uniformity.

The administration feels very strongly that they cannot properly run their administration to attract men of competence unless they use a blind trust route.

We were very careful in having Common Cause's testimony with a set of guidelines, and it is my understanding that the Danforth amendment complies completely with the guidelines laid down by Common Cause.

Mr. JAVITS. Mr. President, if the Senator will yield, I am perfectly satisfied and ask Senator SCHMITT, the ranking minority member of the Ethics Committee, if he could, with Senator STEVENSON, include in the RECORD some assurance for Senators on that score so that there is no implication from the adoption of this amendment that we have changed our policy over the code of ethics, to wit, that we now favor blind trusts for Senators. That was all I had in mind.

Mr. SCHMITT. In response to the distinguished Senator from New York, I will certainly talk with Senator STEVENSON this afternoon and we will come to some agreement on material of that nature to put into the RECORD.

Mr. JAVITS. I thank my colleague very much.

Mr. DANFORTH. Mr. President, I simply wish to add, in response to the Senator from Connecticut, that this amendment would cover the executive branch and Congress. It would not cover the judiciary because, it is my understanding, the judiciary operates under its

own rules and that those do not include provision for blind trusts.

Mr. RIBICOFF. The point is well taken. The Senator is correct.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. ALLEN. I support the Senator's amendment and in fact support all of title III.

I wish to make this inquiry of him. Since his amendment really does not go fully to the question that I am going to raise, I might ask this of the manager of the bill, the distinguished Senator from Connecticut.

Title III sets up a disclosure system which is at variance with the disclosure required of Senators, staff members, and employees of the Senate. Is it going to be necessary for Senators, also House Members under their ethics provision, to file two statements, one under the ethics rule and one under this rule?

Mr. RIBICOFF. May I respond that they are practically identical, that statute would supersede the rule of the Senate, and there would not have to be two filings. One filing would be arranged, and I had a colloquy with Senator STEVENSON pointing out that the legislative history would apply.

Should the House fail to accept a comparable statement, should we not be able to agree in conference, or should the President veto it, then the rules of conduct adopted by the Senate for itself would supersede the rule. If there are changes, it would be essential, it would seem to me, for the Senate to change its rules accordingly.

Mr. ALLEN. This does satisfy the Senate rule?

Mr. RIBICOFF. That is correct.

Mr. ALLEN. And there would be only one filing?

Mr. RIBICOFF. There would be only one filing.

Mr. ALLEN. I thank the Senator.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, as one of the cosponsors, I support the amendment. I think it provides a very effective means of preventing a potential conflict of interest for certain individuals, although I would agree with the Senator from New York that there is no presumption one way or the other about what blind trusts could be entered into by individuals in the executive, or judicial branches of the Government.

As Senators will recall, the special committee which drafted the Code of Conduct which the Senate adopted earlier this year decided to disallow the use of a blind trust due to concern that no definitive guidelines for establishment of an effective blind trust existed. During floor consideration of the code, several Senators expressed the belief that the blind trust mechanism, if properly utilized, could provide a very effective means of preventing potential conflicts of interest. As a result, the Senate instructed the Governmental Affairs Committee to study the issue and analyze the alternatives available.

In accordance with these instructions, the Governmental Affairs Committee conducted hearings on the blind trust issue earlier this month. We heard from several sources including Senators, representatives of the administration, and Common Cause. I believe that the consensus of the witnesses who appeared before the committee was that the blind trust mechanism, properly circumscribed, could in fact be an effective tool, in conjunction with public disclosure, in the prevention of conflicts of interest in Government. Most witnesses made constructive suggestions regarding possible guidelines for establishment of such a trust in order to insure its truly blind character. Many of these suggestions have been incorporated into the provisions of the amendment which is being offered today.

It is important to recognize the purpose and effect of a properly constructed blind trust. Such a trust places the corpus out of the knowledge and control of the government official and thereby precludes his use of any information obtained in an official capacity in management of these personal assets. Furthermore, a trust which is truly blind shields the identity of his assets from the knowledge of the official thereby eliminating the possibility of personal holdings influencing official acts. This mechanism, therefore, not only eliminates the appearance of a conflict of interest but, if properly established and utilized, prevents a conflict in fact. Mere public disclosure, while providing the public with information regarding an official's holdings, could result in a conflict of interest because, by definition, the official would also have complete knowledge of his holdings and possibly by influenced thereby. Many public officials have recognized this important point and are currently using the blind trust to prevent conflicts.

Analysis of this kind produced the conclusion that rather than abolish blind trusts our focus should be upon the development of reasonable guidelines for the establishment of a true blind trust. I believe that this amendment does just that. As I mentioned at the outset, many of its provisions represent suggestions made by witnesses at our hearings.

The amendment contemplates providing strict guidelines for the establishment and maintenance of a "publicly disclosed blind trust."

A public official wishing to use such a mechanism must publicly disclose the terms of the trust instrument along with the identity and category of value of each asset which is originally placed in the trust. The assets which are initially placed into the trust are assumed to remain as part of the corpus until such time as the trustee certifies that a particular asset has been disposed of. At that point, due to the strict limitations which are placed on communications between the trustor and the trustee and the required independence of the trustee, the public official will be truly blind to the identity of the newly acquired assets. This mechanism represents an efficient marriage of the principles of public disclosure and the effective shielding properties of a blind trust.

The appropriate supervisory ethics office must approve the trust instrument and the identity of the trustee prior to the trust being certified as a publicly disclosed blind trust. Communications between the public official and the trustee are strictly circumscribed. The official can instruct the trustee regarding the character of investment which is desired and may obtain sufficient information to complete his personal tax return. The information on the trust tax return would not be disclosed to the official. A quarterly report to the public official regarding the total value of the trust or net income is permitted. In addition, a request for cash or other unspecified assets is permitted if made in writing.

In order to insure compliance with the restrictions imposed by this amendment, a penalty of $5,000 is provided for in the event the trustee knowingly or negligently discloses restricted information or if the public official knowingly obtains such information.

Mr. President, these are just a few of the details of this amendment. I believe it represents a compresensive and reasoned approach to the issue of blind trusts. The original concern regarding these trusts was that no uniform standards existed which would guarantee that the trust was in fact blind. This amendment provides standards which were developed after considerable study and in consultation with groups representing all points of view. Adoption of these strict guidelines will provide a public official with the option of utilizing a mechanism which I believe to be an effective tool in preventing potential conflicts. With standards of this kind now available, there is no logical reason to oppose this tool.

ADDITIONAL STATEMENTS SUBMITTED

Mr. DOLE. Mr. President, the Senator from Kansas supports the amendment by the Senator from Missouri. Basically, blind trusts offer a viable alternative for avoiding conflicts of interest for public officials, if we lay down requirements insuring that they are truly blind. My own interest in this matter stems not from my situation, but from my wife's. As a member of the Federal Trade Commission, it is recommended that she establish such a trust to avoid conflict of interest. In her case, it has worked well to insulate her from conflicts problems. This amendment will allow her to continue using this means and avoid the sort of problems which are the subject of this bill.

There is little doubt that the phrase "blind trust" can be abused. Sometimes it is a misnomer used to describe something which is not truly "blind" at all. But the concept is valid and it provides a meaningful tool to avoid conflicts of interest, if the trust comes up to certain standards. By insuring that they are blind, we have served the public interest by eliminating bogus blind trusts and providing another good means for public officials to avoid conflicts of interest.

But how do we regulate such trusts so that they do not hide an official's assets from everyone but the official? And how

do we avoid letting the phrase "blind trust" become a tool of politicians seeking to obscure a conflict of interest? Mr. President, I believe that the amendment will provide the protection needed.

The requirements of this amendment are tough and should serve to eliminate problems. It requires an institutional trustee who is independent of the official, it limits communication between the trustee and the beneficiary, requires disclosures of assets that have not turned over since formation of the trust, and requires that the terms of the trust agreement be made public.

Of course, the public officials integrity act affects high-ranking officials of all three branches and will affect officials throughout the Government. Certainly, the blind trust is a useful mechanism for certain Members of the Senate and House. But there are even more compelling reasons for its use by members of quasi-judicial bodies who can have very serious conflicts problems. Whereas, Members of Congress pass on legislation which almost always has a rather broad effect upon many industries, the member of a regulatory commission passes upon specific cases involving specific corporations. For such an individual disclosure creates, rather than solves, a conflict of interest problem. The fact that the bill we are considering today affects not only ourselves, but members of quasi-judicial bodies as well is an even more compelling reason for passage of this amendment.

Mr. President, I urge adoption of this amendment. This is not the first time that this issue has come before this body. Senator BARTLETT offered an amendment with the same basic thrust during the ethics code debate. At that time, the managers of the bill expressed a desire to have further study on this important matter. Such a study was mandated and the amendment which we have before us now is largely the product of that effort. The Senator from Kansas compliments those who were involved in working out this language and urges adoption of this approach for avoiding improper influences and the appearance of impropriety in the conduct of our official duties.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. DANFORTH. Mr. President, I ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment, as amended, was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The legislative clerk read as follows:

On page 43, strike the period after line 1, and insert "by and with the advice and consent of the Senate".

On line 22, after the word "prosecutor", insert "by and with the advice and consent of the Senate".

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I oppose this amendment. I understand the distignuished Senator from Alabama has an amendment to that section.

I suggest the absence of a quorum, the time for the quorum call to be taken out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

UP AMENDMENT 554

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

Who yields time?

Mr. STONE. Will the managers of the bill yield me 2 or 3 minutes for an amendment?

Mr. RIBICOFF. The Senator may have a half hour if he wishes.

Mr. STONE. I thank the Senator.

Mr. President, I call up an amendment at the desk.

The PRESIDING OFFICER. Until the two committee amendments are——

Mr. STONE. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE), for himself and Mr. MCINTYRE, proposes unprinted amendment numbered 554.

On page 104, line 9, insert "(i)" after "list".

On page 104, line 11, after "property" insert ", or (ii) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value,".

On page 104, line 21, after the end period insert: "In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.".

Mr. STONE. Mr. President, in response to the suggestions of the Senator from Illinois, the committee staff drafted this amendment for the Senator from New Hampshire (Mr. MCINTYRE) and myself in order to require that, if this additional mode of reporting were used, the method of reporting, the method of tax assessment, the formula, would have to be revealed and the full valuation computed and shown. In the reporting of real estate and personal property that is subject to local, State, or county tax assessments, this amendment allows the officeholder to compute his valuation year to year, or as often as we are required to report, based on the neutral assessment of an elected or appointed tax assessor or his equivalent, instead of the only other two methods now in the bill, cost or market.

It is frequently difficult to assess actual cost. For example, if someone builds a construction project over a period of time, the valuations of the goods and materials and services get very difficult to value properly. The skepticism of the public can be wreaked on one in cases like that.

Here, if there is a tax assessor and if someone wants to compute the value of his real estate or personal property according to the tax assessment—let us say the assessor values generally, in the county or the State or the district, at 90 percent—we would put in tax assessed value by the such-and-such authority; formula used, 90 percent; plus the 10 percent. The form would show the total, the estimate, and people can go and check. Those records are public. The tax assessment records are public as well. It takes care of the inheritance situation, the Government situation, the self-construction situation, and those people who do not want to put their property on the market, nor, for the reasons I have advanced, find it possible, or readily possible, to discuss costs.

I have asked that the managers of the bill look favorably upon this.

I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, we have had a colloquy on this before. During the course of other colloquies with the chairman of the Committee on Ethics, I pointed out to him that the distinguished Senator from Florida and the distinguished Senator from New Hampshire were going to propose this type of amendment. I understand the problem being posed by the Senator from Florida and I am sympathetic with the problem.

I find it acceptable to me as an alternative, and I accept the amendment of the Senator from Florida.

Mr. STONE. I thank the manager of the bill.

Mr. PERCY. The Senator from Illinois not only finds it acceptable, but I commend the Senator from Florida for raising the point. I think it provides a very quick and easy way of arriving at a fair evaluation, probably better than drawing three or four brokers in and having an assessment made, and the cost is based on a percentage of the assessed value, which I think we might find higher.

I think this is perfectly fair and acceptable method and, as long as the provision has been made, as it has, that it is adjusted, so it is known on the face of it and the individual does not have to go back and probe and dig as to how that assessment of value was made, I think the Senator has made a distinct contribution to our bill. I find it acceptable.

Mr. STONE. I really appreciate that.

Mr. STEVENSON. Mr. President, I want to make sure that what we are doing here does not erase something done earlier. The point is that the three procedures that will now be established for evaluation of land with the adoption of this amendment, are not exclusive.

Mr. STONE. No, they are not.

Mr. STEVENSON. They can be used,

not just as a basis for determining the value, but as one among several indices which a Member can use to arrive at an informed opinion about the value, which would then go into the report. So there are these three, but they are not an exclusive list.

Am I not right?

Mr. STONE. That is correct.

Mr. RIBICOFF. The Senator from Illinois is correct and this is an additional alternative.

Mr. STEVENSON. I thank the Senator.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the first committee amendment.

Who yields time?

The Senator from Alabama.

Mr. ALLEN. Mr. President, I ask unanimous consent that the committee amendments may be laid aside temporarily in order that I might bring up an amendment which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 555

Mr. ALLEN. Mr. President, I submit this amendment on behalf of myself, Senator HATCH, and Senator HELMS, and I ask unanimous consent that their names be added to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. HATCH, and Mr. HELMS, proposes an unprinted amendment numbered 555.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

On page 63, delete lines 22 through 24 and lines 1 through 20 on page 64 and insert in lieu thereof the following:

"(a) Beginning with the two-year period commencing on the date chapter 39 of this title takes effect, five judges or justices shall be assigned for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the special panel of the court for the purposes of chapter 39 of this title.

"(b) Except as provided in subsection (f) of this section, assignment to the division established in subsection (a) of this section shall not be a bar to other judicial assignments during the term of such division.

"(c) In assigning judges or justices to sit on the division established in subsection (a) of this section, priority shall be given to senior retired circuit judges and senior retired justices.

"(d) The chief judge of the United States Court of Appeals for the District of Columbia shall make a request to the Chief Justice of the United States, without presenting a certificate of necessity, to designate and assign, in accordance with section 294 of this title, five circuit court judges or justices, one of which shall be a judge of the U.S. Court of Appeals for the District of Columbia, to the division established under subsection (a) of this section."

Mr. ALLEN. Mr. President, I yield myself such time as I may use.

Mr. President, there is a body of legal opinion to the effect that the courts cannot appoint a special prosecutor. The committee states that they have sufficient legal opinion to justify it in proceeding with the bill as drawn; that is, having the special prosecutor chosen, in effect, by the courts.

That might probably well be decided at a later date in litigation on the subject.

But the method provided in the bill for choosing the panel which chooses the special prosecutor is not of a nationwide composition. The bill, as drawn, provides that the chief judge of the Circuit Court of Appeals of the District of Columbia shall have the right, if he sees fit, to appoint the panel or, in his discretion, to call on the Chief Justice to appoint the panel.

If he so desired, he could appoint the panel from members of his own court only. So that the members of a panel having a nationwide problem before it under the present bill would be chosen by the chief judge of the Court of Appeals of the District of Columbia from members of his court.

Now, the amendment offered by the distinguished Senator from Utah and the distinguished Senator from North Carolina provides that the panel will be set up in this fashion, that the chief judge of the Court of Appeals of the District of Columbia shall request the Chief Justice to appoint a panel of five, whereas the bill calls for three. One of those five would have to be a judge of the Circuit Court of Appeals of the District of Columbia. The other four could be from circuit courts throughout the country, from any of the 11 circuit courts of appeal.

They could be members of the Supreme Court, or circuit courts of appeals, or retired Justices of the Supreme Court, or retired members of the court of appeals.

Then that panel having been so chosen would not have any authority to appoint a special prosecutor, and this is also provided in the bill, once the panel is set up the procedure is the same under the amendment as under the bill. But the Attorney General, if he has sufficient complaints about unlawful activity by the officers named in the bill, President, Vice President, Cabinet officers, certain top-ranking officials, and he makes an investigation and finds that there is reasonable grounds for naming a special prosecutor, could request the special prosecutor to be appointed by the panel.

The panel then would appoint the special prosecutor. It would not necessarily be only one special prosecutor. There could be one special prosecutor appointed in the area of a particular illegal activity by certain officials, another special prosecutor, provided the Attorney General made the request, appointed to investigate and prosecute in an entirely different area.

It is left in the hands of the Attorney General to make the request and then he would have I would hope, something approaching a nationwide panel of five throughout the country, rather than three judges chosen on the Court of Appeals here in the District of Columbia.

I believe this ought to be spread out over the country and that is what the amendment provides.

Mr. RIBICOFF addressed the Chair.

Mr. HATCH. Will the Senator yield?

Mr. RIBICOFF. Mr. President, I thank the distinguished Senator from Alabama and the Senator from Utah and the Senator from North Carolina for improving the bill and making a distinct contribution.

The amendment is acceptable to the manager of the bill.

I want to make it clear that what has been provided in the amendment is in accordance with the definition in article II, section 2, clause 2, of the Constitution as follows:

But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or the heads of the Department.

I do believe that the amendment by the distinguished Senator from Alabama does comply with article II, section 2, clause 2 of the Constitution.

The amendment is acceptable to the manager of the bill.

Mr. PERCY. Mr. President, the amendment is acceptable and I join my distinguished colleague in commending Senator ALLEN for his contribution.

Mr. ALLEN. I thank the Senator.

Mr. President, I yield such time as the distinguished Senator from Utah desires.

Mr. HATCH. Mr. President, as I understand it, this amendment provides that the five judges to be appointed by the Chief Justice will be from different circuit courts of appeals or the Supreme Court Justices, is that correct?

Mr. ALLEN. Yes.

I think it might be well to provide—I wonder if the floor manager would agree to this modification—that not more than one member of the panel would come from any one circuit?

Mr. RIBICOFF. Mr. President, I have no objection at all if the Senator would like to so modify his amendment.

Mr. ALLEN. I so modify my amendment.

The modification is as follows:

At the end of the Allen amendment (UP-555) add the following:

"Not more than one judge or justice or retired judge or justice may be named to the panel from a particular court."

Mr. HATCH. Mr. President, I believe the Senator stated in his recitation of the amendment that one of the five judges would be a D.C. court of appeals judge. I thought he could come from any court of appeals.

Mr. RIBICOFF. I think the reason for that is that the Attorney General is in Washington, the Chief Justice is in Washington, the administration is going to be in Washington, and if you had five men from all over the country, it

would be very complex. It would be much easier for administration and the facilities of the court if at least one of the judges would be from the circuit court in the District of Columbia; but he would be appointed, of course, by the Chief Justice. He would make that choice. It is a matter of convenience in the panel.

This approach assures that the appointment will be by a "court," within the meaning of title III of the Constitution, and that the appointment procedure will satisfy article II, section 2, clause 2 of the Constitution.

Mr. HATCH. I believe there still are constitutional questions, and I do not want to fail to say that. However, I think this is a reasonable approach that may resolve the difficulties, and I hope it will. So I support this amendment and associate myself with the remarks of the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, I modify my amendment by adding at the end thereof the following sentence:

Not more than one judge or justice or retired judge or justice may be named to the panel from a particular court.

The PRESIDING OFFICER. The amendment is so modified.

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The question occurs on the first committee amendment.

Mr. RIBICOFF. Mr. President, I oppose the committee amendment. I think the other amendment has taken its place. I yield back the remainder of my time.

I ask that the first committee amendment be rejected.

Mr. ALLEN. That has been supplanted by my amendment.

Mr. RIBICOFF. That is right. The first committee amendment really has been supplanted by the Allen amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was rejected.

The PRESIDING OFFICER. The clerk will report the second committee amendment.

Mr. RIBICOFF. The second committee amendment, I believe, has been adopted.

The PRESIDING OFFICER. There are some other parts of the amendment that have not been adopted or acted upon.

Mr. RIBICOFF. At the beginning of the session, we asked unanimous consent that these amendments——

The PRESIDING OFFICER. The amendment by the Senator from Illinois adopted one part of committee amendment No. 2.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that all other Judiciary Committee amendments be tabled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Now we are back to the bill.

A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. The bill is open to further amendment. Is that correct?

The PRESIDING OFFICER. Yes.

UP AMENDMENT NO. 557

Mr. SCHMITT. Mr. President, I have at the desk an unprinted amendment submitted by myself and Mr. JAVITS.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT), for himself and Mr. JAVITS proposes an unprinted amendment numbered 557.

Mr. SCHMITT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 105, line 10, strike the period and add the following: "if such interests are within the constructive control of the reporting individual. For the purposes of this subparagraph, an interest is in the constructive control of a reporting individual if the enhancement of the interest would substantially benefit the reporting individual".

On page 106, after line 25, redesginate subparagraph "(e)" as subparagraph "(f)" and insert the following new subparagraph:

"(e) An individual only is required to report information within his knowledge.".

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield.

Mr. RIBICOFF. Mr. President, I believe we should have a quorum call so that Senator CHILES and Senator EAGLETON will have an opportunity to come to the floor and handle this amendment.

Mr. HELMS. Mr. President, will the Senator withhold that?

Mr. RIBICOFF. Yes.

Mr. HELMS. Mr. President, I ask unanimous consent that Dr. Jim McClellan, of my staff, have the privilege of the floor during the discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Schmitt-Javits amendment be temporarily laid aside, subject to an amendment being brought up by the Senator from Pennsylvania (Mr. HEINZ).

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 558

Mr. HEINZ. Mr. President, I send an unprinted amendment to the desk and I ask for its immediate consideration. I offer this amendment on behalf of myself and Senator CHILES of Florida.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. CHILES, proposes unprinted amendment numbered 558.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 118, after line 8, add the following new section and redesignate subsequent sections accordingly:

"ADVISORY COMMISSION ON ETHICS

"SEC. 308. (a) There is established an independent advisory commission to be known as the National Advisory Commission on Ethics in Government (hereinafter in this section referred to as the "Commission").

"(b)(1) The Commission shall be composed of nine members who shall be appointed from private life, as follows:

"(A) three appointed by the President of the United States, no more than two of whom shall be affiliated with the same political party;

"(B) two appointed by the President of the Senate, provided that such appointees shall not be affiliated with the same political party;

"(C) two appointed by the Speaker of the House of Representatives, provided that such appointees shall not be affiliated with the same political party, and

"(D) two appointed by the Chief Justice of the United States, provided that such appointees shall not be affiliated with the same political party.

"(2) The Commission shall elect a Chairman and a Vice Chairman from among its members. The Chairman and the Vice Chairman shall not be affiliated with the same political party. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman.

"(3) The terms of office of persons first appointed as members of the Commission shall be for the period of the 1979 calendar year.

"(4) After the close of the 1979 calendar year, persons shall be appointed as members of the Commission with respect to the 1983 calendar year. The terms of office of persons so appointed shall be for the period of the 1983 calendar year.

"(5) A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

"(6) Each member of the Commission shall be paid at the rate of $100 for each day such member is engaged upon the work of the Commission, and shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703(b) of title 5 of the United States Code, when engaged in performance of services for the Commission.

"(c)(1) Without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, and on a temporary basis for periods covering all or part of any calendar

year referred to in subsection (b) of this section—

"(A) the Commission shall appoint an Executive Director and General Counsel and fix their basic pay at the rate provided for level V of the Executive Schedule by section 5316 of Title 5 of the United States Code; and

"(B) with the approval of the Commission, the Executive Director is authorized to appoint and fix the basis pay (at respective rates not in excess of the maximum rate of the General Schedule in section 5332 of Title 5 of the United States Code) of such additional personnel as may be necessary to carry out the function of the Commission.

"(2) Upon the request of the Commission, the head of any department, agency, or establishment of any branch of the Federal Government is authorized to detail, on a reimbursable basis, for periods covering all or part of any calendar year referred to in subsection (b) of this section, any personnel of such department, agency, or establishment in carrying out its functions.

"(d) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(e) The Administrator of General Services shall provide administrative support services for the Commission on a reimbursable basis.

"(f) The Commission shall conduct, in each of the respective calendar years referred to in subsection (b) of this section, a review of—

"(1) the effectiveness in avoiding conflicts of interest and the efficiency of the operation of the financial disclosure system established by this title, and a summary of actions taken under Sec. 307 for—

"(A) Members of Congress, Congressional candidates, legislative branch employees;

"(B) the Judiciary, and

"(C) executive branch officials and employees.

"(2) the effectiveness and frequency of use of remedies for conflicts of interest, including but not limited to, divestiture and disqualification and blind trusts;

"(3) the effectiveness of the enforcement systems established to insure compliance with financial disclosure and other requirements designed to minimize conflicts of interest.

"(4) the effectiveness of post-employment restrictions established by this title in eliminating the interchange of personnel between government and industry, and whether the preemployment reporting requirements established by this title reveal any need for additional legislation to avoid conflicts of interest arising from previous employment.

"(5) any other matters relating to the financial conflicts of interest of public officials.

"(g) The Commission shall submit to the President of the United States, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the United States a report of the results of each review conducted by the Commission under subsection (f) of this section, together with its recommendations. Each such report shall be submitted not later than January 1 next following the close of any calendar year in which the review is conducted by the Commission.".

Mr. HEINZ. Mr. President, this amendment which I have discussed with both Senator RIBICOFF and Senator PERCY establishes an Advisory Commission on Ethics that would meet once every 4 years for a period of time during the year in which it would meet, starting in calendar 1979 and then meeting again in calendar 1983.

The purpose of this advisory commission would be to help Congress, the executive branch, the judicial branch, in evaluating the question of how well the ethics laws in S. 555 really are working.

The reason we need, Mr. President, it seems to me, an independent Advisory Commission on Ethics as proposed in this amendment is because we do not want to be in the position of the fox doing oversight on the chicken coop. Since in this bill we do call upon Congress, call upon the executive branch, call upon the Civil Service Commission, the Attorney General, specifically in the executive branch to construct and enforce the code of ethics, it seems to me we need periodically someone who is in a position to be totally objective about just how well our ethics laws will work.

What we want, Mr. President, is for this commission to tell us whether the rules that the various enforcement and standards-setting organizations that are created or established in S. 555 are doing a good job and establishing good rules, we want to be advised as to the effectiveness of enforcement and, finally, and I think this is particularly pertinent to all our colleagues, we want to be assured that when advisory opinions are given by any of these organizations to any of the three branches that those advisory opinions are timely, accurate, adequate, and clear.

That, Mr. President, is the basic purpose of this amendment. As I said, the commission meets every 4 years for up to a year, the details of which are set forth in the amendment.

Mr. President, I would be happy to yield to my good friend, the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the amendment is acceptable to the manager of the bill.

Mr. PERCY. It is certainly acceptable to the Senator from Illinois.

The PRESIDING OFFICER. Is all time yielded back?

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. HEINZ. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 559

Mr. RIBICOFF. Mr. President, on behalf of the Senator from South Dakota (Mr. ABOUREZK) I send a correcting typographical amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. RIBICOFF) for Mr. ABOUREZK proposes unprinted amendment No. 559.

On page 75, line 12 insert the word "subcommittee" before the word "or".

Mr. RIBICOFF. Mr. President, this amendment corrects a typographical error in section 203 of title II. It conforms section 203 to section 206 so both authorize counsel to intervene in a case in the name of a subcommittee.

Mr. President, I ask unanimous consent that the Senator from Colorado (Mr. HASKELL) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I move that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

MOTION TO RECONSIDER VOTE

Mr. ALLEN. Mr. President, I ask unanimous consent to move to reconsider the vote by which the amendment of the Senator from Utah, the Senator from North Carolina, and the Senator from Alabama was agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment of the Senator from Utah, the Senator from North Carolina, and the Senator from Alabama was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 557

Mr. SCHMITT. Mr. President, the amendment offered by myself and Senator JAVITS provides for S. 555 the same language that was incorporated in Senate Resolution 110 dealing with the subject of the interest of an individual's spouse with respect to reporting of financial activities.

As I said in introducing a similar amendment on March 23, 1977, I think it is extremely important in this day and age that we recognize even among ourselves that the individual interest of Americans is in many cases separable and should be separable from the interest of their spouses or the people upon whom they depend for the majority of their sustenance.

If we do not so recognize then we are going into the face of a general trend that has been established in this country.

I call to the attention of my colleagues the equal rights amendment and other activities that are aimed at the very problem of the individual rights of Americans, whether male or female, or of any ethnic minority, racial minority or religious minority.

I think it is inappropriate for the Senate to take a different course than is being taken by the rest of the Nation.

For further history and discussion I refer the Senate to the debate on this issue on March 23 and March 24, 1977.

At the conclusion of that debate, the

language of this amendment was agreed to by the Senate by a vote of 93 to 1.

Basically, the amendment is that the interests would be reported if such interests are within, quoting from the amendment—

The constructive control of the reporting individual. For the purposes of this subparagraph, an interest is in the constructive control of a reporting individual if the enhancement of the interest would substantially benefit the reporting individual.

In another portion of the amendment, we deal with the reporting requirements on an individual under this legislation, and say that "An individual only is required to report information within his knowledge."

So basically we are, in this amendment, providing for some reasonable latitude in the relationships between individuals and their spouses and other members of their families.

Mr. President, I yield the Senator from New York such time as he may require.

Mr. RIBICOFF. Mr. President, will the Senator yield me just a moment?

Mr. JAVITS. I yield.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I believe that the matter has been so thoroughly debated here that we can assume that members have some recollection of the debate, but I believe that the interchange in connection with the debate is so important that I direct the attention of my colleagues to the debate on a comparable amendment considered in the Senate on March 23 and March 24, to be found at pages 8844 through 8973, insofar as it relates to the comparable amendment, which I believe was amendment No. 84.

Mr. President, this raises, as everyone knows, the very difficult problem of the modern woman and the Senator, or the modern Senator and the modern husband, in that we all feel, and the expressions were very great at the time of the debate on the provision which is now in our own Ethics Code, that it simply is impossible to have the old-fashioned standard which is contained in this bill, which is an absolute standard that the husband must report upon the wife as if he were both people. Of course, Mr. President, modern wives have their own interests and their own affairs in terms of business, and will not take kindly to this merging of personalities.

Then it is by no means always true that wives and husbands file joint returns. In my family, we do not. My wife files a separate return; she has business interests of her own, and I do; and there are other families where the same things occur. Quite a few Senators, Mr. President, spoke on this issue with great feeling at the time it was up before, and ultimately it carried, the amendment now proposed by Senator SCHMITT and myself, by a vote of 93 to 1, with the concurrence, by the way, of Senator RIBICOFF and Senator PERCY.

I am a member of the Government Affairs Committee; as a matter of fact, I am the second-ranking Republican member, and when the matter came up, we debated this issue rather hotly. A majority of the committee—the vote was 7 to 4—went with what I consider a very old-fashioned provision contained in the bill, at pages 105, lines 7 to 10, and did not even wish to qualify it with the requirement of knowledge, which seemed rather arbitrary and unreasonable, and Senator SCHMITT and I felt that the matter had to be pressed here.

Since that time there have been a considerable number of second thoughts, and it has been recognized that this matter has to be not quite as cut-and-dried as it is inserted in this bill. By the way, the expressions of opinion were that because it was universally applicable to both the executive and legislative departments, we could not make the distinction we had made in our own Code of Ethics. A number of Members voted that way who have as fully at heart as I have the new independence of women. I am very gratified and was deeply grateful that Senator RIBICOFF, the chairman of the committee, voted with us, which was very much in fidelity to the position he had taken on the new amendment we had won to the Ethics Code.

The Committee on the Judiciary had some second thoughts on this, too, and they have come to us with a suggestion for compromise of this provision. I would like, if I may, with the indulgence of the managers of the bill, to ask a couple of questions on that compromise.

I read the proposed compromise into the RECORD, Mr. President, as follows:

It would add, at line 10 of page 105, the following:

Provided, That a reporting individual shall not be required to report any specific information concerning interests of a spouse or dependent if the reporting individual certifies to the supervising ethics office that (a) he or she has no knowledge of such information; (b) he or she has made every reasonable effort to obtain the required information from his or her spouse or dependent; (c) he or she derives and expects to derive no benefit from such interest; and (d) that such interests were not derived directly or indirectly from interests or income formerly owned or controlled by the reporting individual.

Mr. President, I believe, as to the items of this compromise that I have read, that items (a), (c), and (d) are themselves encompassed within the provisions now in the Senate Code of Ethics, to wit:

For purposes of this paragraph, an interest is in the constructive control of a reporting individual if the enhancement of the interest would substantially benefit the reporting individual.

I do not believe that anything is added, really, because I think it is within the spirit of items (a), (c), and (d) that if an individual has any real interest in the matter, that individual should report it, of course—either direct or indirect, or constructive, or whatever. The only questions that worry me are these, and I would like to kind of talk these out with the manager of the bill:

One is this: He or she shall have no knowledge of such interest.

That raises this question: If we look at the Code of Ethics and what is required to be reported, we find that it relates to subsection (a) (3) of this particular provision, which says this:

The identity of each source of income, other than earned income, received during such calendar year which exceeds $100.

And so on.

That means that the wife's income must be reported if the Member has knowledge of it.

Many women object to that, on the ground that it gives illusory ideas as to what wealth they have—you know, that it means they are going to be overcharged by the hairdresser, or will be the subject of efforts to sell by stock salesmen, and so on. There is objection to that on the ground that it is none of anybody's business what their income is, if the husband has no constructive interest, which is the language of the Senate ethics bill on that particular subject.

I will ask all my questions at once so they can be answered together.

As to earned income, the only requirement is that the husband shall report who the wife works for and whether she earns $1,000 a year.

That is the earned income provision. But then this requirement for reporting goes on to another section, which is section 302 (e) through (1), and that calls for reporting the following:

The identity and category of value of each item of real property held, directly or indirectly,

Which has a fair market value in excess of $1,000.

That, again, is a matter of disclosing the wife's property, even if her husband has no constructive interest.

(2), the identity and category of value of each item of personal property

Having a value in excess of $1,000.

I would have to disclose what she has in the way of jewelry, let us assume.

(f), the identity and category of each—

Mr. RIBICOFF. I think the wife's jewelry would be exempt from being required to be reported. It is personal and has nothing to do with business. They do not have to report the wife's jewelry.

Mr. JAVITS. That would not be considered.

(f), the identity and category of value of each personal liability.

That would have to be stated, would it not?

Mr. RIBICOFF. If the husband knew it.

Mr. JAVITS. "(g), the identity, date, and category of value of any transaction, directly or indirectly, in securities or commodities during such calendar year exceeding $1,000, except that (1) the identity of the recipient of any gift" involving any transaction within the family.

So all of her transactions in securities would have to be stated if he had knowledge.

Mr. RIBICOFF. If he had knowledge.

Mr. JAVITS. Then, further:

(h) the identity, date, and category of value of any purchase, sale, or exchange, directly or indirectly, of any interest in real property,

Except, again, the identity of any charitable gift, the number of acres, the street address, and so on. So it would apply to a personal residence.

(i) the identity of and a description of the nature of any interest in an option, mineral lease, copyright, or patent right held during such calendar year.

That is the limit of the disclosure which needs to be made.

The question I would like to ask the Senator is this: I can understand where transactions in securities or gifts which the wife might receive, and transactions in real property, might conceivably, if the parties were not separated, give some clue to some impropriety of activity, but I must say that I am a bit confounded by the nonearned income.

Also, I can even understand the fact that she is employed by somebody.

I must say I am deeply concerned about the flat reporting proposition of the exact amount of her income so it is very clear that X's wife is wealthy, without any relationship whatever to whether these were ill-gotten gains or whether the husband in any way was responsible in some way which would trace any impropriety to him. That worries me.

May I hear from the manager his view as to that proposition, how he feels it might be justified?

Mr. RIBICOFF. I am in the embarrassing situation of having strongly believed that all property of the spouse should be reported. During the debate on the adoption of the code of ethics, I agreed to the compromise offered by the Schmitt-Javits proposal and I accepted it. I felt honor-bound, having accepted it, when it came up in the Governmental Affairs Committee. Even though I basically believed in full disclosure of the spouse's interest, I feel bound to keep with my original compromise and acceptance of the proposal on the floor of the Senate. Consequently, I voted against my personal belief, voted with the distinguished Senator from New York, and I was in the minority.

I would be pleased, naturally, if we could work out the compromise the administration seeks with the distinguished Senator from New York and the distinguished Senator from New Mexico because that would obviate many problems.

Again preliminarily, their concern is that we are not now dealing with 100 individuals of the U.S. Senate. We are passing a general law that applies to some 15,000 people in the executive and legislative branches. Consequently, it would be impossible to get involved in interpretation of what is constructive knowledge. Therefore, they want an absolute reporting of the spouse's interest. Because from their experience in working out the problems and information requested from the appointees in the executive branch, they felt it was necessary to have an absolute.

Consequently, in the proviso that we are talking about, if I could go over them one by one, if the Senator or the employee has no knowledge of his wife's interest, that is clear. He or she has made every reasonable effort to obtain the required information from his or her spouse and dependents. I personally would not expect the Senator to go out and hire a private detective to find out what his wife does or does not have.

Mr. JAVITS. Or chain her to the bedstead.

Mr. RIBICOFF. Or chain her to the bed post. [Laughter.]

I would suppose if his wife was very active in the real estate market, and he read in the paper that she had bought a piece of property, he would know that. If his wife was very active in the commodity market, in the stock exchange, he certainly would have a right to make inquiry if her income was high.

That he or she derives and expects to derive no benefit from such interest. Well, one does or does not.

If a husband and wife are living together and know what their salary is and the husband finds out they have a home in Palm Beach and one in Long Island on Fairfield County, and they are living in a home with two extra automobiles, he must realize there is an income coming from somewhere and he is getting the benefit from it. He is swimming in the swimming pool or living in Palm Beach. I think under those circumstances there would be an obligation on his part to try to determine where that income came from because he is a direct beneficiary.

Of course, (D) should be very easy. If the spouse's interest and income comes directly from gifts that the government official had given him or her, or joint ownership or conveyance made by the government official or the establishment of a trust, it would seem to me there is an obligation on the government official's part to disclose.

May I say that all of this is subject to interpretation by the Ethics Committee.

Personally, as a member of the Ethics Committee, I would take the word of my fellow Senators, that they tried to do (A), (B), (C), or (D). Unless it was so obvious that there was a falsehood involved or an evasion, I do not think I would question the bona fides, an affidavit, or statement of my fellow Senators, personally.

The control over what happens with this body of 100 individuals would be derived from the six colleagues who are on the Ethics Committee. Having served with the other five men, as we go over the problems, I find a sense of fairness and broadmindedness.

When it comes to the employees in the executive branch, that determination is going to have to be made by the Civil Service Commission, which will have an office to check on the 12,000 men and women in the executive branch who are covered. I suppose the President, before making an appointment, would have the right to be more exact. I would not place 100 individuals in the U.S. Senate in the same category as an appointee in the executive branch. We have been elected by the people of our States. I have the utmost faith and confidence in the honesty and integrity of my fellow Senators.

Once this is adopted and becomes law, the Ethics Committee will have the problem of wrestling with the questionnaire which will be drawn up by the staff, the Senator from New Mexico, myself, the Senator from Connecticut (Mr. WEICKER), the Senator from Texas (Mr. TOWER), the Senator from North Carolina (Mr. MORGAN), and the chairman (Mr. STEVENSON). My feeling is we are not going to put any Senator through the third degree. We are going to make up a questionnaire. My feeling is that in the face of something very obvious we will take what is reported. I have a belief in the bonafides of my fellow Senators that they are going to tell the truth in answering these. I do not know how else I can respond to the Senator. I have faith in the other 99 men in this body.

Mr. JAVITS. I think the Senator is responding very frankly and very properly. I shall tell the Senator what worries me.

The question is whether, because a woman is married to a Senator and without any constructive trust of any kind or character—no benefit whatever by that Senator—in her earnings and her property or anything else, because she is his wife, if she does not want her affairs spread on the public record, she has to be separated from him. That is really what this gets down to. That is what really worries me.

I think it is a real worry. With the modern, independent woman, do we want to say to her, "Because you are married to a Senator, your affairs are public property, even though, if you were not married to him, they would be completely private, unless you choose to separate from him to keep your affairs private"?

Mr. RIBICOFF. I do not want any wife to separate from a Senator for that reason. But let me put it this way: I hate from the bottom of my soul the fact that any of us, including myself, has to spread on the public record what we have or do not have. But as a U.S. Senator, we are required to do so.

I suppose that if a person marries a man in politics and he is a U.S. Senator, it is required of the U.S. Senator; there are prerequisites that the spouse gets, and the honor of being married to a Senator. And there are certain disabilities; the fact that the spouse cannot spend as much time with her husband as she might like, the fact that there are long periods of time when she does not have his companionship, and times when she has to go and campaign with him when she may not like going campaigning with him. I suppose one of the disabilities she has is that she has to disclose her financial assets when she marries the guy.

I do not know how else I can answer the distinguished Senator. There are benefits and detriments to being married to a U.S. Senator or public official. All of us in public life know it. We know what they are without detailing it.

I suppose our wives have the same benefits, the same disabilities. I know of no way, may I say to the Senator from New York, for whom I have the highest respect, that I can give assurance or that I can come up with a standard that will affect 100 Senators evenly. We are 100 distinct personalities. We are married to women who are variables, as they should be, with distinct personalities.

We are never going to find a rule that will satisfy 100 Senators and 100 spouses.

I tried, the best way I could, as we developed the Code of Conduct, to listen to the problems. Two men on this floor had a problem that is completely legitimate, and I think we responded. The Senator from Kansas married a woman, a great lady, who is in the Federal Government. The Senator from Delaware is married to a woman who has an independent profession, and a respected profession. Throughout this body, we have similar situations.

I do not know how we can take care of every case. We took care, I believe, of the problem of the Senator from Kansas and the Senator from Delaware and the Senators similarly situated. If I could make provisions for 100 Senators with 100 separate problems, I would take the time to do so. I do not know how we can do it in law. I will be very honest with the Senator from New York. I do not know how to do it.

Mr. JAVITS. I yield to the Senator from Illinois.

Mr. PERCY. I think it is well to keep in mind that we are not just talking about Senators. This is a male institution as of now, but we are talking about the executive branch as well, and a great many employees there. We are also talking about the problem that would be encountered when the administration seeks out, say, a wife of some prominent businessman, whose business affairs are very sizable. The wife is brought into Government at a very high level and requires his full and complete disclosure. This presents, I think, a considerable problem.

We have, in a sense, taken care of that kind of problem by providing, now, for a blind trust. There is an honorable route that can be followed by that couple, if they so desire.

I also point out to my colleague from New York, the author of this amendment with Senator SCHMITT, that it is possible, of course, to merge and combine the income and report it as a couple. That is fully provided for. It does not require that there be a separate reporting for one spouse and a separate reporting for another. They can be merged together. By deduction, I presume, because we have put a limitation on outside earned income of Senators, it can be easily deduced how much of the outside earned income is of the other spouse.

By providing for the blind trust route, I think we have provided an avenue. But also I think that the Senator from New York and the distinguished Senator from New Mexico (Mr. SCHMITT), who have worked so diligently in this field, in the wording of this amendment that they are now offering, have provided a protection. They have taken into account and recognized that people have separate lives and there are separate circumstances.

All we are saying in this amendment, and I support the amendment, is that every effort must be made to obtain the information. This is unlike the case that we talked of before, where we were not taking a position. There was a neutral position by the Congress as to whether someone goes the route of full disclosure or goes the route of blind trust. Either route is looked upon as an honorable route to pursue, equally meritorious. In this case, the burden of responsibility is placed on the officeholder to make every reasonable effort to obtain the information. If he simply cannot, then, obviously, he cannot disclose his spouse's finances. I think that there is a provision for that.

The one question I have of the author of the amendment concerns the subsection "c" dealing with whether the spouse derives and expects no benefit from such interest. I ask whether or not that can be defined in this colloquy a little more precisely, because that could be subject to a lot of interpretation. Even though the one spouse received no direct payments, no direct benefits, as the distinguished Senator from Connecticut said, if they share in a swimming pool that may have been built by the spouse, has the officeholder benefited or not?

If a person has an obligation to fully support a spouse and that obligation is relieved considerably by the other spouse's income, has the public officeholder benefited to that extent, then? Would they then have some duty, even under amendment? I wonder if we could more precisely define what we mean by "benefit." That is the only question the Senator from Illinois has.

Mr. JAVITS. In the first place, I have not proposed this. This is the pending Schmitt amendment. That is not yet proposed. It may not be.

I shall not protract the discussion. We shall have to decide, yea or nay.

One thing that is clear is this: The difference between the Schmitt amendment and what the administration is suggesting is a real one, the difference between a substantive interest—does the husband have any substantive interest in the wife's property or what she does, or does he not? If he does not, under the Schmitt amendment, he does not have to report. If he does, then he does have to report.

The PRESIDING OFFICER (Mr. SARBANES). The time of the Senator from New Mexico has expired. The Senator from Connecticut has 10 minutes remaining.

Mr. JAVITS. Mr. President, I have an amendment which is without time limit. I ask unanimous consent that this amendment and any amendments thereto may be considered as my amendment, which, under the unanimous-consent agreement, had no time limit.

The PRESIDING OFFICER. Is there objection to the request?

The Chair hears none. Without objection, it is so ordered.

Mr. JAVITS. I thank my colleagues.

I shall not protract the discussion. I have no desire to do so.

The difference is this: in the present situation of a code of ethics, a member must report anything in which he has any interest, direct or indirect. Senator RIBICOFF defined that very, very strictly. I have included in the RECORD, so that definition could hold for the Schmitt amendment, the whole record of the debate.

It is epitomized in the words which are contained in the Schmitt amendment:

If the enhancement of the interest would substantially benefit the reporting individual.

The difference between that and what the administration suggests is that whether or not we have any interest that is going to be enhanced, we still have to give the facts about our wife's income, who she works for, if she is in a profession, and what stock or other transactions, or real estate transactions, she has had.

That is a very real difference because our wives may violently object to having her personal operations, or property, or purchases and sales disclosed.

But if we accept the administration's position, that would have to be disclosed.

So there is a real substantive difference and that is the thing I have been trying to rationalize out myself. That is really a close question.

That is why I asked the question, "Because she is married to you, should all of her personal transactions be disclosed even though you have no interest in them whatever, of any character?"

I think I would have no trouble whatever with the administration's suggestion insofar as it says that he or she derives and expects to derive no benefit from such interests, and that such interests were not derived directly or indirectly from interests or income formally owned or controlled by the reporting individual.

What troubles me, unless the wife is separated from her husband, granting he has no interest whatever, he still must tell her story and she has got to be spread on the public record for what she has, what income she has had, what transactions she has had, just because she is the person's wife.

That is why I got free time, because I would like to put this up to the managers, perhaps a proper distinction might be the following, that where the husband and wife file a joint return he is obliged to give all this information, but where the husband and wife file separate returns, then a constructive trust rule applies.

Unless he has an interest, he is not supposed to disclose her information.

Mr. RIBICOFF. I would be against accepting that because it is calculated on an economic basis. How does it work out when applied on the basis of taxes?

Mr. JAVITS. Right.

Mr. RIBICOFF. But I would feel very uneasy with that.

I say that, to me, where the spouse really has an independent career, to a great extent is separate and apart from the Government official, and their life is on that type of level I can understand that there was no connection. Where the official spends his time in the U.S. Senate, and has love and affection for his spouse who is completely independent, I can understand a certification. This would be acceptable, and I think our colleagues know that.

But I think for men, like myself, who have a close and continuous relationship with their wives, to come in and say, "I do not know what my wife has" would be a fraud upon the Senate and on the bill and that would not be acceptable.

There is no easy answer to this. A person is married to a U.S. Senator—and there are some pluses and minuses in being married to a U.S. Senator, or a public official, or a Secretary of State, or an Attorney General—and as part of being married to an individual in public life comes some of the disabilities and unhappiness with these reporting provisions.

I do not have an answer for the distinguished Senator from New York. I cannot make it easy for him and I cannot make it easier for my colleagues.

Mr. JAVITS. Will the Senator yield?

Mr. RIBICOFF. I wish I could help the Senator. I cannot.

Mr. JAVITS. I understand.

Does the Senator not think a fair way might be to give the Senate the choice between these two provisions?

In other words, let the Senate make its choice now on the vote. We could easily do this procedurally.

Mr. RIBICOFF. I have been placed in an unhappy position, that Senators who want to oppose this did not come to the floor, because I was under the impression that they would be willing to accept the administration proviso.

So I find myself debating this when I had not intended to debate it.

Mr. JAVITS. Can we give them a quorum? They can easily come here?

Mr. RIBICOFF. Surely.

Mr. JAVITS. There is no time on this amendment.

I suggest the absence of a quorum to try to get Senator EAGLETON and Senator CHILES here.

Mr. RIBICOFF. I do not know. I cannot tell the Senator what to do, to vote up or down.

Mr. JAVITS. No.

Mr. RIBICOFF. And maybe none of it will prevail.

Mr. JAVITS. That is correct.

Mr. RIBICOFF. The Senator wants his cake and to eat it, too. If he does one, or the other one, take this one.

I was under the impression this was acceptable. Apparently, it is not.

Mr. JAVITS. Not to me. I did not give the Senator any such impression, that it was acceptable to me.

Mr. RIBICOFF. Somehow, I had that impression. That is why I did not call for the Senators.

Mr. JAVITS. No, I am sure——

Mr. RIBICOFF. Then I misunderstood.

Mr. JAVITS. Now there is no misunderstanding to what the Senator told me. It was satisfactory to Senator CHILES and Senator EAGLETON. I have not agreed to it.

Mr. RIBICOFF. I was under that impression. Otherwise, I would have insisted that they come here.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAVITS-SCHMITT CONSTRUCTIVE CONTROL-DISCLOSURE AMENDMENT

Mr. DOLE. Mr. President, I rise to support the amendment which would adopt the language in our own Code of Ethics for the Public Official Integrity Act. This Senator understands the concern expressed by those who want to make doubly sure that any disclosure exemption for the assets owned by a spouse would not serve as a loophole which would injure the intent of this legislation.

However, this is not a blanket exception and applies only in certain limited circumstances. In this day and age, I cannot see why we have such a hard time conceiving of a husband's and wife's financial arrangements as being separate, at least in some cases. Long ago, English common law dictated that a husband and wife were one person under the law and that person was the husband. This Senator sees no reason why the Senate should adopt an approach to financial disclosure reminiscent of this discredited, ancient notion. If our wives were simple extensions of ourselves, this Senator would not have any problems with the bill. But that is not the case. It is not the case in this Senator's marriage, nor is it the case in many other marriages represented in this Chamber.

Mr. President, this Senator urges adoption of the constructive control concept as a sensible way to avoid a loophole in the disclosure provisions while protecting the independent rights of the spouse.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Iowa (Mr. CULVER) is absent on official business.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) would vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 36, nays 47, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—36

Baker	Hatfield	Randolph
Bayh	Hayakawa	Roth
Bellmon	Helms	Schmitt
Burdick	Javits	Schweiker
Cannon	Laxalt	Scott
Curtis	Lugar	Stafford
Danforth	Mathias	Stennis
Dole	McClure	Stevens
Domenici	Moynihan	Stone
Goldwater	Packwood	Talmadge
Hansen	Pearson	Thurmond
Hatch	Pell	Williams

NAYS—47

Allen	Hart	Melcher
Anderson	Haskell	Metzenbaum
Bentsen	Hathaway	Morgan
Bumpers	Heinz	Muskie
Byrd, Harry F., Jr.	Hollings	Nelson
	Huddleston	Nunn
Byrd, Robert C.	Humphrey	Percy
Case	Inouye	Proxmire
Chiles	Jackson	Ribicoff
Church	Johnston	Riegle
Clark	Kennedy	Sarbanes
DeConcini	Leahy	Sasser
Durkin	Magnuson	Sparkman
Eagleton	Matsunaga	Stevenson
Eastland	McGovern	Weicker
Glenn	McIntyre	Zorinsky

NOT VOTING—17

Abourezk	Culver	McClellan
Bartlett	Ford	Metcalf
Biden	Garn	Tower
Brooke	Gravel	Wallop
Chafee	Griffin	Young
Cranston	Long	

So the Javits-Schmitt amendment was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 560

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. SCHMITT, proposes an unprinted amendment No. 560.

On page 105 add the following after the period on line 10:

Provided that a reporting individual shall not be required to report any specific information concerning interest of a spouse or dependent if the reporting individual certifies to the supervising ethics office that: (A) he or she has no knowledge of such information; (B) he or she has made every reasonable effort to obtain the required information from his or her spouse or dependent; (C) he or she derives and expects to derive no benefit from such interests; (D) and that such interests were not derived directly or indirectly from interests or income formerly owned or controlled by the reporting individual.

Mr. JAVITS. Mr. President, this is the amendment as suggested to us by the administration. The managers of the bill

are under absolutely no obligation to take it at all. I do not hold them or anyone else to agree to it.

But I propose it because it did represent what the administration is willing to accept as a definition of what will have to be defined anyhow under this particular provision in the bill which reads absolutely but as a matter of law would not be absolute. In other words, the provision says at page 105, lines 7 to 10:

For the purposes of subsection (a)(3) and subsections (e) through (l) of section 302, a reporting individual shall also report the interests of the spouse or dependents of that individual.

The next section deals with a matter of spouses living separate and apart.

But it strikes me that if a spouse is to report on the interest, that is, if a husband is to report on the interest of his wife, which means her income, or whether investment income, or securities trading income, or real property trading income, then he has to know about it. I do not see any ethics committee or anyone else who would have him liable if he did not know about it. The definition of the administration, which I offer as an amendment exactly as they submitted it to us, calls for knowledge. It calls for every reasonable opportunity to obtain the required knowledge which again is only reasonable. As we said a minute ago, you cannot chain your wife to a bedstead or threaten her with whatever you threaten her with if she does not tell you, and that he or she should derive or expect to derive any benefit. And this does not come out of anything which the husband did or did not own on a previous occasion.

It seems to me the Senate has decided, and I think it is very right that it should, having decided 93 to 1 on the Senate code of ethics, that it wanted the provision which we have just voted down. I think it was right to submit that to the Senate after such a topheavy vote. I think with such persuasive reasons in the modern independence of women to support it, I believe that the Senate at least should adopt a reasonable implementation of what on the face of it is a flat and unerasonable provision, if you just read it literally, which was offered to us by the administration.

So I feel it my duty to offer this amendment.

Again I repeat the managers can oppose it violently and say, "Well, you had one vote; you are not entitled to another; we are going to beat you on it."

That is their privilege.

But I feel it my duty to offer it to the Senate, and I hope the Senate will vote it up.

The PRESIDING OFFICER. Will Members please be in order.

The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I think the Senate is due an explanation.

The administration was opposed to the Javits-Schmitt amendment which the Senate voted down. They felt strongly that there should not be a double standard of ethics, that the husband or the employee should report and his spouse should not report, and they found with 15,000 employees it was very hard to determine a standard where the spouse, the government official would not disclose his wife's interests.

In an effort to work this out, the administration came up with this compromise to offer to Senator JAVITS and Senator SCHMITT. Senator PERCY and I were under the impression that this would be accepted. Senator CHILES and a majority of the committee were strongly opposed to the Schmitt-Javits approach, and the vote in the committee was 7 to 4.

I voted with the minority, with Senator JAVITS and Senator SCHMITT, because during the consideration of the code of conduct and assisting the Senator from Wisconsin (Mr. NELSON), I agreed to accept the compromise.

After this debate, it was decided by the distinguished Senator from New York, which was his prerogative, to go for a vote, and he lost that vote because I feel that the Senate does not want a double standard.

I do not think we should have in the Senate rich women with Senators as husbands, period. And the Senators are the men who have to disclose what they have. Personally, I hate disclosures. I consider it demeaning to spread on the record every penny that I have or what my assets are. I believe in personal privacy.

But if I should disclose, I think my wife should disclose. If a Senator is married to a rich woman and he may be a pauper, and he has the benefit of his wife's property, his wife's income, he should also disclose.

But I do not look upon being a Senator as an opportunity to get even. There was an opportunity to work this out in the compromise, and I thought we had the compromise. But the Senator from New York decided that he wanted to have two bites to the cherry.

He felt he was going to win on his original amendment, and then he would have that, and if he lost on that amendment he would come back to this one and prevail on the weaker proposal.

This is what I think the situation is.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. RIBICOFF. I will yield in 1 second.

I, therefore, felt that, and I want to thank the Senate for upholding the position that the committee took. However, the administration was willing to work out this compromise and I was willing to take this compromise.

Having been willing to take this compromise and now having won, and I believe the Senate would back me again on this proposal, I am willing to accept it now. But, I do think I owe the Senate an explanation of what has been going on here. I am willing to accept the amendment offered by the Senator from New York.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. JAVITS. Mr. President, I wish, if I may, to have just 1 minute for the Senate to have an explanation from me, also.

Senators must remember that in this matter I was associated with a great many other people. It will be remembered that on the code of ethics a large number of Senators expressed themselves.

I could not accept any compromise which did not represent at least an acceptance by those who backed me.

I feel I owe that explanation to the Senate.

I thank my colleague very much for his generous attitude which I appreciate.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Is all time yielded back?

Mr. SCHMITT. Mr. President, one further explanation.

In all due respect to the Senator——

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. It was my decision to go with the original language of the amendment. The Senator from New York asked for the yeas and nays. It was my decision, because I felt it offered a much more equitable approach to this whole problem of how, in government, men and women deal with their relationships with their spouses. That was the fundamental reason why I made that suggestion.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 561

Mr. ALLEN. Mr. President, I call up an amendment which I have at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. HATCH, and Mr. HELMS, proposes an unprinted amendment numbered 561:

On page 89, line 16, insert the following after "(2)":

"With respect—

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 89, line 16 insert the following after "(27)": "With respect to a resolution or concurrent resolution pursuant to Section 203(a), (A)".

On page 90, line 3 strike "(3)" and insert "(B)".

On page 90, line 7 strike "(4)" and insert "(C)".

Mr. ALLEN. Mr. President, section 203(a) provides that the congressional counsel shall defend a House of Congress or a committee, subcommittee, Member, officer, or employee of a House of Congress when directed to do so by two-thirds of the Members of that House serving on the joint leadership group, or by the adoption of a resolution by such House.

In other words, two-thirds of the leadership can direct the congressional counsel to defend one House or a committee of one House, or an officer or employee or a Member of one House.

Then, where the whole Congress is involved, or a joint committee or an office or agency of Congress, or an employee of such office or agency, the majority of the joint leadership can instruct the congressional counsel to defend.

Then, if they are unable to get the two-thirds majority of the leadership of the one House or both Houses, depending on what is involved——

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. RIBICOFF. I have looked at the Senator's amendment and I think it is a good amendment.

Under the committee amendment, section 211(a) would still apply to all resolutions to authorize a counsel to represent Congress. Under the amendment, section 211(a)(2) would now apply only to resolutions or concurrent resolutions pursuant to section 203(a). Section 203(a) resolutions require special procedures, because under section 203(a), a very real harm can occur if there is any delay in authorizing the counsel to defend a member of the committee.

This is an excellent amendment, and the Senator and his colleagues have been constructive. I accept the Senator's amendment.

Mr. ALLEN. I thank the Senator from Connecticut for his explanation, which is much better than the one I was giving. I believe it is safe to say that the Senator's opinion is concurred in by the ranking minority member; is that not correct?

Mr. PERCY. Mr. President, I join the manager of the bill in support of the amendment. I commend the Senator from Alabama for offering it.

Mr. ALLEN. I thank both Senators.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. ALLEN. I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

UP AMENDMENT NO. 562

Mr. RIEGLE. Mr. President, I call up an unprinted amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE), for himself, Mr. HEINZ, Mr. DOLE, Mr. DECONCINI, Mr. ZORINSKY, and Mr. HELMS proposes an unprinted amendment numbered 562:

On page 48, after line 19, insert the following

(7) For the purposes of section—

Mr. RIEGLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will attempt, with my cosponsors, Mr. HEINZ and others, to explain the amendment, rather than have it read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, after line 19, insert the following:

"(7) For the purposes of section 592(h) of this title, a Representative or Senator in the Congress of the United States.".

On page 53, after line 15, insert the following:

"(h)(1) Notwithstanding any other provision of this title, the Attorney General shall, upon enactment of this title, conduct for a period not to exceed ninety days, a preliminary investigation into whether there has been since 1970 improper or illegal conduct on the part of any Representative or Senator in the Congress of the United States with respect to the receipt or acceptance of any valuable consideration from representatives of any foreign government in order to influence legislation or other government action.

"(2)(A) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court pursuant to subsection (b).

"(B) If the Attorney General, upon completion of the preliminary investigation, finds that the matter warrants further investigation or prosecution or if ninety days has elapsed from the time of enactment of this title without a finding by the Attorney General that the matter is so unsubstantiated as not to warrant further investigation or prosecution, then the Attorney General shall apply to the division of the court for the appointment of a special prosecutor pursuant to subsection (c).".

Mr. RIEGLE. I would say to my colleagues that the amendment that we offer is one that sets out very clearly a procedure that will be followed by the Attorney General with respect to an investigation that is presently underway, that is referred to by several names, but is, in effect, the investigation of possible efforts to secure undue influence by the Korean Government.

As we know, much has been said and written about allegations that Members of Congress, in the past, may have been approached and involved in relationships that would be improper by representatives of that Government, and investigative efforts have been underway for some time.

One thing that concerns me very much is that in some quarters, this has been referred to as a possible "Watergate of the Congress," and witnesses who have appeared in recent days before other committees of Congress, I think, have raised great suspicion and concern in the public mind.

I was in my home State this last weekend, and I would say that, more so than any other comment, I ran into comments from citizens asking about the extent of that situation, and the degree to which representatives of that foreign government or other foreign governments had attempted to buy influence with Members of Congress.

Our amendment is very simple and very straightforward. It follows the exact language in the provisions of the bill itself. It says that within 90 days of the enactment of this legislation, the responsibility would be upon the Attorney General to indicate that his investigations showed him that there was no problem and no need for further prosecution or further action; or if, at the end of 90 days, it should be the finding of the Attorney General that there was cause for further action, at that point he would so clarify, and the court at that time would bring into being a special prosecutor under the procedures that the bill outlines, so that that case could be taken up by a special prosecutor.

In the instance that the Attorney General would not state any position at the end of 90 days, again, in that instance, a special prosecutor would be named by the court, and the matter would be taken up in that fashion.

That is the intent of the amendment. As to the rationale for such an amendment, I think it is crucial right now that the Congress be prepared to apply the same kinds of unflinching standards to itself as we are suggesting here be applied to members of the executive branch. A cloud does hang over Congress with respect to the Korean allegations. Weeks and months have passed, and there is absolutely no indication of when these issues might be resolved. Frankly, I do not want the Attorney General or this administration caught in a situation——

Mr. HART. Mr. President, may we have order,

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. RIEGLE. For a question. I would like to finish my statement.

Mr. RIBICOFF. If the Senator will yield, I think I can save us a lot of time.

Mr. RIEGLE. I yield.

Mr. RIBICOFF. I have discussed this matter with Senator PERCY.

We do believe that the allegations of a possible Korean scandal are of such a widespread nature that it would have a salutary effect if the Attorney General feels, after study, as the Senator has provided, it would warrant a special prosecutor. As manager of the bill, I am willing to accept the amendment offered by the Senator from Michigan.

Mr. RIEGLE. I thank the chairman. I might say it is offered by Senator HEINZ and myself, with other cosponsors. I appreciate the action of the chairman.

I yield to the Senator from Pennsylvania.

Mr. HEINZ. I thank the Senator from Michigan for yielding.

I was not sure if the people are listed as cosponsor who indicated a desire to be cosponsors. My understanding is that Senator LUGAR desires to be listed. Senator ROTH, Senator SCHMITT, Senator DOLE, Senator PERCY, Senator HAYAKAWA, and Senator HATCH indicated to me prior to the offering of the amendment that they wanted to be included as cosponsors.

I thank the distinguished Senator from Connecticut and the distinguished Senator from Illinois for having taken a careful look at this amendment. I think it makes what is currently a very diffi-

cult situation for the administration a little better situation.

At the present time, if any of us were in the shoes of the Attorney General, we would be damned if we did and damned if we did not, when it came to investigating any allegations involving the Congress.

To date, it is a known fact that there had not been one indictment issued by this or the previous Department of Justice under the Ford administration. I think that in large measure reflects the necessarily ambivalent attitude that any member of the executive branch is going to have when they come up to the Congress day in and day out seeking to work with us cooperatively on legislation and then on the other hand find themselves in the very difficult position of having to look deeply into this body with respect to a possible criminal investigation of the staff, members, or whatever.

I believe the amendment the committee has graciously agreed to accept really helps our entire country out of what currently is a difficult situation.

I thank Senator RIBICOFF and Senator PERCY for having been so farsighted and so helpful.

Mr. PERCY. Mr. President, I would like to comment briefly and express appreciation to the authors of the amendment. I do so for several reasons. We are dealing in this bill in part with the Watergate situation, which is in the past and we hope well behind us. We are now trying to look ahead to prevent future Watergates. Here we have a situation which has cast a shadow over the Congress. Certainly, we should vigorously go on record as supporting whatever investigation is proper and necessary with regard to both Houses, and directing the Justice Department to move ahead and take a good hard look at this for the next few months and clear the air. We ought to clear the air as quickly as we possibly can. The whole purpose of this bill is to restore public faith in the political processes and in the branches of government in this country, and the men and women to whom they have entrusted public responsibility.

By this amendment I believe we have faced right up to the problem, not just to the past, but to the present and to the future. For that reason, I find the amendment not only acceptable, but commendable.

Mr. HEINZ. I thank the Senator.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. RIEGLE. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to cosponsor the Heinz-Riegle amendment. As we all know, there have been very serious allegations about members of Congress and there is a need to clear the air.

Many individuals are under a cloud and have been subjected to endless speculation and innuendo. It is high time facts replaced fancy. While the Senator from Kansas is not charging that there has been deliberate foot-dragging, I believe we should adopt this amendment.

Of course, Attorney General Griffin Bell is in a very difficult position with regard to this situation. I believe that he is making every effort to come to grips with the problem. However, he does oppose the appointment of a Special Prosecutor as demonstrated by the following correspondence between he and myself.

This Senator believes that this amendment will be of assistance to the Attorney General, however. My support of this amendment should not be interpreted as an attempt to undermine his efforts, but is an honest attempt to assist him in getting to the root of these allegations.

Mr. President, I ask unanimous consent that correspondence between myself and the Attorney General be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 25, 1977.

Hon. GRIFFIN BELL,
Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: The recent conflicting and confusing news reports about the status of the Justice Department's investigation into allegations of illegal payments to members of Congress from representatives of the Republic of Korea prompt me to write this letter.

I can appreciate the difficult and very sensitive position you are in and, therefore, recommend the remaining phase of this investigation be turned over to a special prosecutor.

I look forward to your response.

Sincerely yours,

BOB DOLE,
U.S. Senator.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., May 19, 1977.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: In your letter of March 25, 1977, you suggested that the remaining phase of the Korean bribery investigation be turned over to a special prosecutor.

In the present case, unlike Watergate, there are no allegations against the Attorney General or other Department officials. There is also no indication of involvement by others in the Administration. Accordingly, I felt that appointment of a special prosecutor for this matter is inappropriate and unnecessary.

I can assure you that the investigation will be pursued expeditiously, but thoroughly to its full and proper conclusion. No deadlines have been set for the completion of the investigation and no restraints have been placed upon it. It will include vigorous pursuit of all substantial leads.

Yours sincerely,

GRIFFIN B. BELL,
Attorney General.

Mr. RIEGLE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. RIEGLE. Mr. President, might I indicate, too, that Senators ALLEN and BURDICK have also asked to be included as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further amendment to be proposed, the question is on the engrossment—the Senator from Kansas.

UP AMENDMENT NO. 563

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment No. 563.

On page 62, after line 3, insert the following: "(b)(2) Upon leaving office, any person who served as Special Prosecutor, Deputy Prosecutor or Assistant Prosecutor shall not accept or hold any office of profit or trust under the United States for a period of 3 years.".

Mr. DOLE. Mr. President, I have had an opportunity to discuss this amendment briefly with the members of the minority staff. I believe it is consistent with other language in the bill, and also consistent with utterances we have had from the administration. If there is any special opposition to the amendment, I would like to discuss it further.

The public official integrity bill contains an analogous provision on page 54:

The division of the court may not appoint as a special prosecutor any person who holds or recently held any office of profit or trust under the United States.

In contrast this amendment applies prospectively. Someone who holds the office of special prosecutor, deputy prosecutor, or assistant prosecutor could not be rewarded at some future time with Federal service for things he may have done as special prosecutor.

Mr. RIBICOFF. Mr. President, I rise to oppose this amendment. We are talking about two different things. In the bill we bar the appointment of a person who has recently held a job in the Federal Government.

Now what we are saying is if we have a man who served as special prosecutor, deputy prosecutor, or assistant prosecutor, he shall not be eligible to hold any office of profit or trust under the United States for 3 years.

I would hope that in the appointment of a special prosecutor the five judges of the circuit court would pick men of outstanding qualifications and character and ability. After that difficult assignment, to give them a bag of stones and say, "After you have worked so hard in the job as a special prosecutor you now cannot hold a position of trust in the United States for 3 years," is an insult.

What we are doing is making it impossible to get men of character and ability. We are ruling out any outstanding lawyer in the United States, who could do this job and do it right, from ever holding public office. We do not do it for any other prosecutor. I do not know of any U.S. attorney, I know of no other prosecuting attorney in any local, State, or Federal office, who is barred for 3 years from holding public office. I think it is an insult to any person who is chosen for this job, and I oppose this amendment.

Mr. PERCY. Mr. President, I oppose

the amendment simply because I think it would relegate us to finding second-class people for a special prosecutor. We ought to aim for the very best that we can get. To prevent former special prosecutors from taking any office in the Federal Government, to prevent them from even running for public office—I think it would certainly be a disincentive at the very time we need the highest incentive to get the best possible people to serve.

I oppose the amendment.

Mr. DOLE. The purpose is just the opposite; the purpose of my amendment is to attract the best qualified people from the private sector; people who are not looking for Government service. When we look back, we find Mr. Cox did not want any public service when he finished his role as public prosecutor. Neither did Mr. Jaworski. We are looking for the best qualified people possible. This should not be a springboard for Government careers. We should never face a situation where a special prosecutor would receive a Federal job as a reward for services rendered. Likewise, we should avoid any appearance that such a thing was happening.

I feel very strongly about the possibility of rewarding special prosecutors, or the appearance of impropriety, but will consent to a voice vote on my amendment.

I yield back my time.

Mr. RIBICOFF. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

UP AMENDMENT NO. 564

Mr. BAKER. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes unprinted amendment No. 564.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 46, line 20, strike out all through page 69, line 12, and insert in lieu thereof the following:

REORGANIZATION OF THE DEPARTMENT OF JUSTICE

SEC. 101. (a) Title 28, United States Code, is amended by adding after chapter 31 the following new chapter:

"CHAPTER 32—DIVISION OF GOVERNMENT CRIMES

"Sec.
"528. Establishment of Division of Government Crimes.
"529. Jurisdiction.
"530. Powers.
"530A. Memoranda to judicial panel.
"530B. Reports to the Congress.

"§ 528. Establishment of Division of Government Crimes

"(a) (1) There is established within the Department of Justice the Division of Government Crimes which shall be under the direction of an Assistant Attorney General for Government Crimes (hereafter referred to as the 'Assistant Attorney General') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) There shall be in the Division of Government Crimes a Deputy Assistant Attorney General for Government Crimes (hereafter referred to as the 'Deputy Assistant Attorney General') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(3) During any absence, disability, or vacancy in the office of the Assistant Attorney General, the Deputy Assistant Attorney General shall serve as Acting Assistant Attorney General.

"(b) No individual shall be appointed Assistant Attorney General unless such individual—

"(1) is admitted to the practice of law before the highest court of a State or States or the District of Columbia; and

"(2) is, at the time of such appointment, a member in good standing of the bar of the Supreme Court of the United States.

"(c) The President shall report to the Congress in writing and with precision the cause for which any individual serving as Assistant Attorney General or Deputy Assistant Attorney General is removed.

"§ 529. Jurisdiction

"(a) The Assistant Attorney General shall have jurisdiction to exercise the powers specified in section 530 of this title (1) with respect to any matter as to which there is reasonable cause to believe involves the violation of any Federal law by any Government officer or employee, whether elected or appointed; (2) cases referred by the Attorney General because of actual or potential conflicts of interest; (3) criminal cases referred to him by the Federal Election Commission; and (4) allegations of violations by any person of Federal laws relating to campaigns and elections for elective office.

"(b) Any information, allegation, or complaint received by any officer or employee of any branch of Government relating to any violation specified in subsection (a) of this section shall be expeditiously reported to the Assistant Attorney General.

"(c) The Attorney General or the Assistant Attorney General may elect to waive such jurisdiction with respect to any alleged violation. In such case, the Attorney General or the Assistant Attorney General shall refer any evidence of such violation to the appropriate law enforcement authority.

"§ 530. Powers

"(a) Subject to the provisions of subsection (b) of this section, the Assistant Attorney General, in carrying out the provisions of this chapter, shall have the same power to act on behalf of the United States as the Attorney General. In exercising such power, he may conduct such investigations as may be necessary, represent the United States in any legal proceeding, and take such other actions as may be necessary. Nothing in this subsection shall be construed to authorize the Assistant Attorney General to exercise the power of the Attorney General under chapter 119 of title 18.

"(b) The Attorney General may overrule any action or position taken or proposed by the Assistant Attorney General and such decision to overrule shall be final. The Attorney General shall report promptly in writing to the Congress the reason for his decision to overrule any such action or position.

"§ 530A. Memoranda to judicial panel

"(a) (1) Whenever the Attorney General or Assistant Attorney General shall receive specific information that any of the persons described in subsection (b) may have violated any Federal criminal law, other than a violation constituting a petty offense, the Attorney General shall, not later than ninety days after receiving such information, submit a memorandum containing a summary of the information received, a summary of the results of any investigation of such information, and the disposition thereof to a division of the court described in subsection (c). In the event that a majority of the division of the court shall disagree with the disposition of the case, it shall so notify the Attorney General in writing, including the grounds for the disagreement, and such writing shall be included in the annual report of the Attorney General to the Congress as required in section 530B.

"(2) The Attorney General and the Assistant Attorney General shall furnish, upon request, to such division any additional information which such division deems necessary.

"(b) The persons referred to in subsection (a) of this section are—

"(1) the President or Vice President;

"(2) any individual serving in a position listed in section 5312 of title 5;

"(3) any individual working in the Executive Office of the President and compensated at a rate not less than the rate provided for level IV of the Executive Schedule under section 5315 of title 5;

"(4) any individual working in the Department of Justice and compensated at a rate not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5; any assistant attorney general involved in criminal law enforcement; the Director of Central Intelligence; the Deputy Director of Central Intelligence; and the Commissioner of Internal Revenue;

"(5) any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the term of the President in office on the date the Attorney General receives the information under subsection (a) (hereafter in this subsection referred to as the 'incumbent President') or during the period during which the President immediately preceding such incumbent President held office, if such preceding President was of the same political party as the incumbent President;

"(6) a national campaign manager or chairman of any national campaign committee seeking the election or reelection of the President; and

"(7) a Member of the Congress, including any individual who was a Member of the Congress on the date the Attorney General receives the information under subsection (a).

"(c) For purposes of subsection (a), the division of the court shall consist of a panel of three justices or judges appointed by the chief judge of the United States Court of Appeals for the District of Columbia.

"§ 530B. Reports to the Congress

"(a) The Assistant Attorney General shall report to Congress with respect to any matter as to which he has reasonable cause to believe is evidence of an impeachable offense.

"(b) (1) At the beginning of each calendar year, the Attorney General shall report to the Congress on the activities and operation of the Division of Government Crimes for the preceding year.

"(2) Such report shall specify the number and types of investigations and prosecutions subject to the jurisdiction of the division and the disposition thereof, but shall not include any information which would impair an ongoing investigation, prosecution, or proceeding, or which the Attorney General determines would constitute an improper invasion of personal privacy.".

(b) The analysis of part II of title 28, United States Code, is amended by adding after the item following chapter 31 the following new item:

"32. Division of Government Crimes.. 528".

(c) (1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(114) Assistant Attorney General for Government Crimes.".

(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraph:

"(141) Deputy Assistant Attorney General for Government Crimes.".

Mr. BAKER. Mr. President, this amendment would strike title I of the bill relating to the creation of an Office of Government Crimes and the appointment of a temporary special prosecutor. It would substitute in lieu thereof a new title providing for the creation of a Division of Government Crimes within the Department of Justice, under the supervision of an Assistant Attorney General for Government Crimes to be appointed by the President with the advice and consent of the Senate. The Assistant Attorney General would have jurisdiction over all cases in which there was an alleged violation of any Federal law by any Government officer or employee, whether elected or appointed; cases referred by the Attorney General because of actual or potential conflicts of interest; criminal case referred to him by the Federal Election Commission; and allegations of violations by any person of Federal laws relating to campaigns and elections for elective office.

In other words, Mr. President, the Assistant Attorney General for Government Crimes would have the authority to prosecute possible wrong-doing by members or employees of the executive, legislative, and judicial branches of Government. Although the Attorney General may overrule any action or position taken or proposed by the Assistant Attorney General, the Attorney General must report promptly in writing to the Congress the reason for his decision.

Should the Assistant Attorney General for Government Crimes be removed from office, the Attorney General is required to report in writing to the Congress the precise reasons for such removal.

This amendment differs slightly, but only slightly, from the amendment Senator PERCY and I offered to S. 495 approximately 2 years ago. Although I understand and sympathize with the efforts of the bill's sponsors to create an effective mechanism for a special prosecutor who is insulated from partisan pressures, I am convinced that judicial appointment of such a prosecutor is unconstitutional.

Basically, I believe that article II, section 1 of the Constitution stating that the "Executive power shall be vested in a President" and article II, section 3 specifying that the President shall "take Care that the Laws be faithfully executed" make it clear that the prosecutorial function is an executive one.

Secondly, although it is arguable that under article II, section 2, clause 2, Congress could vest the power to appoint a temporary special prosecutor in the "courts of law," it is clear to me that an official exercising such prosecutorial and investigative authority constitutionally must be an executive officer, appointed by the executive branch. Moreover, the power vested by the Congress in "courts of law" relates only to temporary appointments to fill vacancies of limited scope in time and geographical authority.

Admittedly, the Constitution does not create analytically precise or rigidly segregated categories of governmental function among the three branches; there are areas of overlay and shared responsibilities arising from a system of checks and balances. However, the combination of the vesting of "Executive Power," under article II, section 1, and the charge, under article II, section 3, that the President "take Care that the Laws be faithfully executed," seemingly delineates an immutable area of executive responsibility, that is, enforcement of the laws, which would be revocable only by constitutional amendment. As James Madison stated while serving in the Congress:

I conceive that if any power whatsoever is in the nature of the executive, it is the power of appointing, overseeing, and controlling those who execute the laws.

Numerous decisions have been rendered by the U.S. Supreme Court and lower Federal courts in this area and I ask unanimous consent that a memorandum detailing those decisions be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAKER. The question that remains is whether an Assistant Attorney General in a Division of Government Crimes can be sufficiently insulated from political pressure to avoid possible obstruction of justice. I believe that he can be protected effectively and my amendment would protect him in several ways including: First, his or her appointment would be subject to the advice and consent of the Senate; second, the Attorney General must report in writing to the Congress whenever he overrules any action or position taken by the Assistant Attorney General; third, the Attorney General must state in writing the reasons for removing the Assistant Attorney General; fourth, the Attorney General must report annually to the Congress on the activities of the Division including the disposition of cases; and fifth, whenever the target of specific allegations is the President, Vice President, or other designated top officials including Members of Congress, then the Justice Department would be required to transmit a summary of the evidence, investigation, and disposition of the case to a special three-judge panel appointed by the chief judge of the D.C. Circuit Court. If the panel found the Justice Department's disposition of the case improper, it would so inform the Department and provide the specific reasons. That report would then be included as part of the Attorney General's annual report to the Congress.

In conclusion, the intent of my amendment is to avoid the probable unconstitutionality of empowering the judiciary to appoint a temporary special prosecutor and substitute a permanent division within the Justice Department which is effectively insulated.

EXHIBIT 1

MEMORANDUM

Although distinguishable from a potential challenge to the provisions of S. 555, numerous decisions have ruled that the prosecution of offenses against the United States is an executive function and, in accordance with separation of powers, cannot be exercised either by the judiciary or by the legislature.[1] In *Ponzi v. Feesenden*[2] the Supreme Court ruled that the faithful execution clause of article II makes clear that the President is vested with the federal prosecutorial authority, stating that: The Attorney General is the head of the Department of Justice . . . He is the hand of the President in taking care that the laws of the United States in protection of the interests of the United States in legal proceedings and in the prosecution of offenses, be faithfully executed."[3] A similar decision was reached by the Court of Appeals for the Fifth Circuit in *United States v. Cox*,[4] where the court ruled that a United States Attorney cannot be required by the district court to sign an indictment initiating the prosecution of federal offenses. Reiterating the "hand of the President" principle of *Ponzi*, the court in *Cox* declared that the United States Attorney was "an executive official of the government" when exercising the discretion as to whether or not to prosecute a particular case.[5] The court then found "as an incident of the constitutional separation of powers, that the courts are not to interfere with the free exercise of the discretionary powers of the attorneys of the United States . . ."[6]

Furthermore, in *United States v. Nixon*[7] the Supreme Court, in concluding that the Special Prosecutor possessed sufficient standing to bring an action to enforce the tapes subpoena against the President, explicitly acknowledged that the power being exercised by the Special Prosecutor was the executive power under article II to conduct the criminal litigation of the United States, which had been vested in the Attorney General[8] and then delegated in part to the Special prosecutor.[9] As has been stated by former Counsel to the Special Prosecutor Philip Lacovara:

(I)t was always implicit in the arguments submitted (to the Court) . . . that the President had the ultimate constitutional responsibility to take care that the laws were faithfully executed. We argued only that Congress could authorize that function to be exercised by subordinate *Executive* officials . . . and that they are free to pursue this responsibility . . . only until the President chooses to exercise his ultimate constitutional power to remove the subordinate from office . . .[10]

The decision in *United States v. Nixon* also complements a line of cases beginning with *Myers v. United States*[11] and ending with *Wiener v. United States*,[12] recognizing that purely executive functions, that is, the irreducible powers conferred upon the President by article II, must be performed under the direction of the President. In other words, the article II executive power, which includes the faithful execution of the laws, is exercisable only by the President and his subordinate executive officers, and, therefore, constitutionally cannot be allocated by Congress to independent agencies.[13] It is only those "executive" tasks which are merely incidental to the quasi-legislative and quasi-judicial responsibilities delegated to independent agencies which constitutionally can be delegated to such agencies by Congress.[14] The Watergate Special Prosecutor in *United States v. Nixon* was a subordinate of the Attorney General, and hence of the President, and was exercising an exclusive article II power in prosecuting criminal offenses against the United States—a power which, according to the rationale of *Myers* and *Wiener*, could not be exercised by an independent agent. In short, the *Myers* line of cases recognized that article II power could be exercised only by the President and his subordinates, and correspondingly, implicit

Footnotes at end of article.

in *United States v. Nixon* is the proposition that the special prosecutor was a subordinate executive officer under the ultimate authority of the President and was not independent per se of the executive branch.

FOOTNOTES

[1] See, e.g., Confiscation Cases, 74 U.S. (7 Wall.) 454 (1868); Smith v. United States, 375 F.2d 243 (5th Cir. 1967); *In re* Grand Jury January 1969, 315 F. Supp. 662 (D. Md. 1970); Pugach v. Klein, 193 F. Supp. 630 (S.D.N.Y. 1961).

[2] 258 U.S. 254 (1922); *accord,* Springer v. Phillipine Islands, 277 U.S. 189 (1928); Newman v. United States, 382 F.2d 479 (D.C. Cir. 1967). The Court in Springer found that the executive function includes "the authority. . . . to enforce (laws) or *appoint the agents charged with the duty of such enforcement.*" 277 U.S. at 202 (emphasis added). See also 2 Op. Att'y Gen. 482, 48–793 (1831).

[3] 258 U.S. at 262.

[4] 342 F.2d 167 (5th Cir.), *cert. denied,* 381 U.S. 935 (1965).

[5] 342 F.2d at 171.

[6] *Id.; accord,* Newman v. United States, 382 F.2d 479 (D.C. Cir. 1967). The court of appeals held that the lower court possessed no authority to review prosecutorial decisions as the "Constitution places on the Executive the duty to see that the 'laws are faithfully executed' and the responsibility must reside with that power." 382 F.2d at 482 n. 9.

[7] 418 U.S. 683 (1974).

[8] See 28 U.S.C. 516 (1970).

[9] 418 U.S. at 694 n.8. The "independence" of the Watergate Special Prosecutor as upheld in the case depended upon the existence of regulations promulgated by the Attorney General which had the force of law, *Id.* at 695–96.

[10] Perspectives on S. 495, at 113.

[11] 272 U.S. 52 (1926).

[12] 357 U.S. 379 (1958).

[13] Wiener v. United States, 357 U.S. 349 (1958); Humphrey's Executor v. United States, 295 U.S. 602 (1935); Myers v. United States, 272 U.S. 52 (1926).

[14] See Humphrey's Executor v. United States, 295 U.S. 602 (1935); note 46 *infra* and accompanying text.

Mr. BAKER. Mr. President, this final and concluding word at this point: nobody argues, I think, with the necessity for the regularizing of procedures by which attention is drawn to and the examination of alleged public crimes is undertaken. But I think it is foolhardy for us to undertake something that, to me, at least, is patently unconstitutional when there is a constitutional alternative. This has been argued many times in this Chamber, Mr. President. It has been passed on to the courts on many occasions. I urge and submit that, notwithstanding the manifest good intentions and careful efforts of the distinguished managers of this bill, this section of the bill, in my view, is unconstitutional and should be stricken and substituted for.

Mr. RIBICOFF. Mr. President, I rise to oppose this amendment. After all we have learned from Watergate and the necessity of a special prosecutor, at this stage of the proceeding, to say that, under certain circumstances, we do not need one, when, evidently, it was the overwhelming sentiment of this body, just a few minutes ago, to indicate that we might want a special prosecutor to handle the problems of corruption of Congress in the potential Korean scandal, is not understandable to me. President Ford was for a special prosecutor. President Carter is for a special prosecutor. The American Bar Association recommends a special prosecutor. Common Cause recommended a special prosecutor. The Watergate Committee's final report recommended a special prosecutor. The Watergate Special Prosecutor's Task Force Final Report recommends a special prosecutor when needed. All three special prosecutors—Mr. Cox, Mr. Jaworski, and Mr. Ruth—came out for a special prosecutor. All constitutional scholars have stated that this appointment and this method are constitutional.

I ask unanimous consent that memoranda on the constitutionality of this provision be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COURT APPOINTMENT OF A TEMPORARY SPECIAL PROSECUTOR IS CONSTITUTIONAL

The issue of whether a temporary special prosecutor can be appointed by a court of law under the Constitution is one that has been studied and debated by various committees in the Senate for well over 5 years. This matter has been looked into in detail by the Judiciary Committee, as is described in their report on S. 555. This matter has also been studied in depth by the Governmental Affairs Committee.

The Governmental Affairs Committee has no doubts about the Constitutionality of permitting court appointment of a temporary special prosecutor. Over the last 2 years, the committee has received a number of legal opinions from distinguished scholars of the Constitution stating that such a mechanism was Constitutional. Specifically, last year we received a letter from Paul J. Mishkan, the Emanuel Heller Professor of Law at the University of California School of Law at Berkeley unequivocally stating his belief that such appointment is Constitutional.

Mr. President, I ask unanimous consent that that letter be printed in the record at the conclusion of my remarks.

During the consideration of S. 495 last year, the American Bar Association prepared a memorandum on, among other things, the constitutionality of court appointment of a temporary special prosecutor.

Mr. President, I ask unanimous consent that that memorandum be printed in the record at the conclusion of my remarks.

During the hearings on S. 555 this year, the Department of Justice discussed the Constitutionality of the appointment mechanism contained in this legislation at considerable length. I asked unanimous consent that the testimony of the Justice Department before the Committee on Governmental Affairs on the Constitutionality of Title I of S. 555 be printed in the record at the conclusion of my remarks.

The basic argument with respect to the Constitutionality of court appointment of a temporary prosecutor is that a special prosecutor is an officer of the United States. Article II, Section 2, Clause 2 of the Constitution sets forth the manner in which officers of the United States must be appointed. The Constitution specifically gives Congress the power and the responsibility to determine which of the different mechanisms for the appointment of an officer of the United States set forth in this provision of the Constitution will be used in a particular case. That clause specifically states that Congress can specify that an inferior officer of the United States be appointed by a court of law.

It is under this same clause of the Constitution that an Attorney General is permitted to appoint a temporary special prosecutor as was done during Watergate by Attorney General Richardson. This clause of the Constitution states that an inferior officer can be appointed by a head of a department. Under that authority, Archibald Cox was appointed as temporary special prosecutor. That very same clause says that Congress may choose as an alternative to appointment by a head of department appointment by a court of law.

Those who argue that court appointment is not permitted by the Constitution state that, even though the clear language of the Constitution appears to permit such an appointment, the concept of separation of powers overrules the clear language of that provision of the Constitution. This argument has been rejected on a number of occasions by the Supreme Court. The standard applied by the Supreme Court in the *Siebold* case (*Ex parte Siebold,* 100 U.S. 371 (1880)) is whether the appointment by the court of an officer is incongruent with the functions of the court. By any reasonable analysis, it is clear that the court appointment of a special prosecutor is not incongruent with the court's functions.

First of all, a prosecutor is an officer of the court as well as an official of the executive branch. More than any other attorney, a prosecutor has an obligation to the court and the prosecutor's standards of conduct are a matter of great concern to the court. Second, by definition, when a temporary special prosecutor is needed because of a conflict of interest on the part of the Attorney General or the President, it would be incongruent for the special prosecutor to be appointed by the very individuals who have a conflict of interest. It is in these very rare but important situations when court appointment is so necessary. Finally, court appointment of prosecutors is a well-established practice. Presently, the Federal courts are given authority to appoint an individual as United States attorney to fill a vacancy in such a position until the President appoints someone to permanently fill that position. It is also common practice in many states for special prosecutors to be appointed by the courts.

Therefore, I believe there can be little question that court appointment of a temporary special prosecutor, where there is an institutional conflict of interest on the part of the Attorney General or the President, is Constitutional. This view is shared by some very distinguished company, including the Attorney General, the American Bar Association, the President of the United States, Professor Archibald Cox, and Professor Paul Mishkan.

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., May 10, 1976.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: I am pleased to give you and the Committee my opinion on Title I of S. 495, particularly as to the constitutionality and policy direction of the provisions for appointment of a temporary special prosecutor.

Almost needless to say, there can be no question concerning Congress' power to establish a Division of Government Crimes within the Justice Department and to provide for the head of that Division to be an Assistant Attorney General appointed by the President with the advice and consent of the Senate. Nor can there be any doubt about Congress' power to authorize the Attorney General alone to appoint a temporary special prosecutor. I am not aware that any question has been raised concerning this and the matter has in any event been firmly settled by relatively recent holdings of the Supreme Court and other federal courts.

The power of the Congress to authorize

appointment of a temporary special prosecutor by a court is in my judgment equally well-founded Constitutionally. Its source is Article II, Section 2, clause 2:

". . . the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

This is the same provision which supports the empowering of the Attorney General to appoint. It follows that a temporary special prosecutor is an "inferior Officer" within the meaning of this provision and that this is clearly settled by those court holdings which accept such an appointment by the Attorney General alone.

The only possible distinction between appointment by a court and by an Attorney General would have to be based on the proposition that the quoted language of Article II, Section 2 should be constructively limited to vesting "in the Courts of Law" only appointments of officers whose work is somehow judicial or related to the courts—and then on the further argument that a special prosecutor does not fall within that category. That position is clearly wrong; both of its propositions have been soundly rejected as a matter of authority, history, and sound constitutional construction.

The first half—the suggestion that the constitutional authority for Congress to authorize appointments by the courts is restricted to judicially-related inferior officers—was squarely rejected by the Supreme Court in *Ex Parte Siebold*, 100 U.S. 371 (1880). The Court there held that while Congress might appropriately be guided by such considerations of role-relatedness, the Constitution itself imposed no such limitations.

Beyond that there is authority and history even more directly in point confirming that appointment of prosecutors by judges is Constitutionally valid. As is well known, there is now and has long been established provision for appointment by Federal District Courts of temporary United States attorneys. (The current statute is 28 U.S.C. § 546.) This provision has been in operation for a goodly time now and apparently is of unquestioned validity.

Indeed, the idea that judicial appointment of prosecutors is well within the Constitutional scheme goes back to the founding of the nation. A number of Framers of the Constitution (including such leaders as Ellsworth and Paterson) were members of the Senate Judiciary Committee in the First Congress which initially proposed that local United States attorneys be appointed by the District Judges and that the Attorney General be appointed by the Supreme Court. Though this proposal never became law, the fact that these men saw fit to report it to the Floor of the Senate certainly indicates that they viewed it as entirely consistent with the Constitution.

Moreover, the contemporary history of that period confirms in another way that prosecution for crime was not perceived as a function belonging exclusively to Executive appointees. The First Congress (which has been characterized as virtually a continued session of the Constitutional Convention) explicitly provided for criminal prosecutions to be instituted and maintained to conclusion by *private individuals* as well as public prosecutors. [One example of this, out of many, is the statute outlawing larceny in Federal territory, 1 Stat. 112 § 16 (Act of April 30, 1790).]

The foregoing, in my view, clearly support the judgment that Congress may constitutionally authorize judicial appointment of a prosecutor, even one with general prosecutorial authority. Judicial appointment of a temporary special prosecutor with the specific charge provided for in Title I of S. 495 is an *a fortiori* case. That legislation addresses itself to the particular situation in which there is a conflict of interest within the Executive Branch. To whatever extent concepts of separation of powers might be viewed as arguing for some limitation on judicial appointment of prosecutors, those concepts would have their least force with regard to the situation dealt with here in which the Executive Branch would otherwise be investigating and considering prosecution of its own top officials.

The basic authority for judicial appointment of a temporary special prosecutor being valid, the only remaining question relates to the additional functions given the appointing Court by the Act; these include receiving reports from the Attorney General and determining whether a conflict of interest, or the appearance thereof, exists. These functions, which are clearly related to, and concomitants of, the power of appointment are also in my judgment soundly constitutional. Though some authority can be cited for this proposition, the point may be most clearly made by analogy. Assume that Congress authorized judicial appointment of referees, masters, clerks, or other such officers up to a certain number and then provided that actual appointments should be made only as necessary to handle expected increases in court business as specified by statutory criteria. Would there be any doubt that the legislation would be valid not only in authorizing the courts to determine when those statutory criteria were met, but also in empowering them to receive census and other demographic material and relevant economic data from the Commerce and Treasury Departments, as well as the Justice Department and the Administrative Office of the Courts, in order to provide the factual basis for making that determination? The answer seems to me clear: Congress has the power to specify the statutory criteria and may authorize the Courts to receive relevant data in order to determine whether the criteria have been met. On this basis, I believe that the ancillary provisions contained in Title I of S. 495 are entirely valid. I might add that, in my view, the fact that these criteria and arrangements are structured so as to limit the judicial appointment of a temporary special prosecutor to the most necessary circumstances of conflict of interest reinforces that conclusion. As I have indicated, judicial appointment of a standing special prosecutor would pose no constitutional problems; there should certainly be no more where the purpose of the additional procedures is to insure that the appointment is limited to those circumstances of greatest necessity.

The policy judgments are, of course, more open to differences of views than the constitutional ones. I believe that the policy direction taken by Title I of S. 495 is a sound one. It clearly seeks to focus primary responsibility for the enforcement of federal law, even as to government officials within the Executive Branch, in the Department of Justice and subject to the immediate supervision of the Attorney General. That seems to me entirely appropriate and entirely sound. Despite the occasional lapses—which are inevitable in any human institution—the Department of Justice certainly warrants the reposing of trust and confidence in its abilities and dedication. Maintenance of esprit, responsibility, dedication and high competence can only be achieved by the reposing of such confidence. At the same time, in special circumstances where the conflict of interests or the potential or appearance thereof reaches to the highest levels of the Executive Branch, it is appropriate to make special arrangements. Even here, I note that the proposed legislation would give primary initiative to the Attorney General; that, too, seems to me appropriate. And the final provision for judicial appointment of a temporary special prosecutor in the extraordinary circumstances where such independence from the Executive Branch is essential is, in my judgment, a salutary improvement and learning from experience. Though I do not speak to every detail of the Bill in structuring the interface between the role of the Department of Justice and the appointing court, the general approach taken here seems to me wise and the product of a careful and thoughtful legislative process. Further consideration, and perhaps specificially consultation with the Department of Justice, may help improve some of the particulars. But I am favorably impressed with the basic contours of Title I of the Bill as it now stands and strongly support its general policy direction.

Sincerely,

PAUL J. MISHKIN,
Emanuel Heller Professor of Law.

AMERICAN BAR ASSOCIATION,
Washington, D.C., June 3, 1977.

Hon. ROMAN HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: At the hearings held before the Senate Judiciary Committee on S. 495 May 27, 1976, you asked me to comment on several issues which arose during the hearing. These included the thrust of *Ex parte Siebold*, 100 U.S. 371 (1880) with respect to the appointing power of the courts; and *United States* v. *Cox*, 342 F. 2d 167 (5th Cir. 1965), cert. denied 85 Sup. Ct. 1767 (1965), and *United States* v. *Cowan*, 524 F. 2d 504 (5th Cir. 1975), with respect to prosecutorial discretion. You also asked for an analysis of the meaning of the phrase "inferior officer" as contained in the Constitution and the role of the federal prosecutor as a minister of justice and quasi-judicial official. Finally, you asked for a comparison of the relevant provisions of Title I of S. 495 and the recommendations of the American Bar Association contained in the report of its Special Committee to Study Federal Law Enforcement Agencies.

THE APPOINTING POWER OF FEDERAL COURTS

The *Siebold* case involved a statute imposing upon federal circuit courts the duty of appointing supervisors of elections. It was alleged that these duties were entirely executive in character and that no power could be conferred upon the courts of the United States to appoint officers whose duties are not connected with the judicial branch of the government. The United States Supreme Court rejected these arguments and upheld the courts' appointment power.

The Court cited Article II, Section 2 of the U.S. Constitution which provides that "the Congress may be law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments." Of this provision the Court said:

It is no doubt usual and proper to vest the appointment of inferior officers in that department of the government, executive or judicial, or in that particular executive department to which the duties of such officers appertain. But there is no absolute requirement to this effect in the Constitution; and, if there were, it would be difficult in many cases to determine to which department an officer properly belonged . . . but as the Constitution stands, the selection of the appointing power, as between the functionaries named, is a matter resting in the discretion of Congress and, looking at the subject in a practical light, it is perhaps better that it should rest there than that the country should be harassed by the endless controversies to which a more specific direction on this subject might have given rise.

The Court also stated that the duty to appoint inferior officers, "when required thereto by law, is a constitutional duty of the courts. . . ." The Court then posited the "in-

congruity" test, stating that unless there exists an incongruity between the duties to be performed and the appointing authority such "as to excuse the courts from its performance, or . . . render their acts void," the appointment will be valid.

Congress has provided for the appointment by the district court of U.S. attorneys when a vacancy occurs (28 U.S.C. 546). This power was upheld in *United States v. Solomon*, 216 F. Supp. 235 (S.D.N.Y. 1963). Professor Paul Freund of Harvard believes that judicial appointment of a special prosecutor may rest on even firmer footing than the appointment of a U.S. attorney to fill a vacancy. He has pointed out that, although limited in tenure, a U.S. attorney appointed by the court assumes all the power of that office regardless of the subject matter. The special prosecutor, on the other hand, has a far more limited jurisdiction under S. 495, where the specific jurisdiction of the temporary special prosecutor is to be defined by the appointing power.

THE PROSECUTIONAL FUNCTION

During the hearing you raised a question as to whether or not the prosecutor performed a function so executive in nature as to render the appointment of a temporary special prosecutor, albeit under clearly defined circumstances and with limited jurisdiction, incongruous under *Ex parte Siebold*. In answering this question, we must consider three factors: the nature and scope of the prosecutor's function; the interrelationship between the different actors (judge, prosecutor, and defense attorney) in the criminal justice system; and the problems inherent in having individuals investigating and prosecuting crimes involving high-ranking government officials.

Former Attorney General Robert H. Jackson stated that the prosecutor has more control over life, liberty, and reputation than any other person in America, that he has tremendous discretion, and that the manner in which he conducts investigations has a profound affect on the lives of citizens.

The American Bar Association has stated that the prosecutor is not only an advocate but an administrator of justice and that his duty is to seek justice, not merely to convict. His obligation is to protect the innocent as well as to convict the guilty, to guard the rights of the accused as well as to enforce the rights of the public. The ABA concluded:

"This is one of the senses in which the prosecutor has sometimes been described as a 'minister of justice' or as occupying a quasi-judicial position. In the present context, both concepts can be embraced in more contemporary terminology by describing him as an administrator of justice." (*Standards Relating to the Prosecution Function and the Defense Function*, American Bar Association (1971), p. 44.)

The function of the prosecutor in determining probable cause for arrest and for submitting a case to a grand jury has been described as quasi-judicial in several Supreme Court cases. See *Ocampo v. United States*, 234 U.S. 91 (1913) and *Gagnon v. Scarpelli*, 411 U.S. 778 (1973). In the pretrial stage of the criminal justice system, the police or other law enforcement officer makes an arrest and may cause a complaint to be filed. He then recommends to the prosecutor that a formal charge be instituted. The prosecutor carefully reviews the recommendation of the arresting officer and supporting evidence before deciding to submit the case to the grand jury for its consideration or before filing an information in open court.

The extensive responsibilities of prosecutors have given rise to their being regarded as quasi-judicial officials entitled to a type of "judicial immunity" befitting such quasi-judicial status. In *Golden v. Smith*, 324 F. Supp. 727 (D.C. Ore. 1971), the court found there was no liability on the part of a prosecutor for damages caused by an allegedly illegal arrest and detention, noting that "prosecutors, as quasi-judicial officers, have an immunity similar to that of judges for acts which constitute an integral part of the judicial process."

It is settled that a prosecutor is both an officer of the executive branch and an officer of the court. As Judge (now Chief Justice) Burger stated regarding the role of the U.S. attorney:

An attorney for the United States, as any other attorney, however, appears in a dual role. He is at once an officer of the court and the agent and attorney for a client; in the first capacity he is responsible to the court for the manner of his conduct of a case, i.e., his demeanor, deportment and ethical conduct. *Newman v. United States*, 382 F.2d 479, (D.C. Cir. 1967).

The American Bar Association points out that all serious criminal cases require the participation of three entities: the judge, the counsel for the prosecution, and the counsel for the accused. Absent any one of these (barring valid waiver of counsel), the court is incomplete. In short, "court" must be viewed as a three-legged structure which cannot stand without the support of all three.

Thus, the prosecutor plays a role within the court system in the investigation and prosecution of crimes which goes far beyond purely executive or administrative functions. Appointing a temporary special prosecutor under the limited circumstances and with the limited jurisdiction set forth in S. 495 is no more incongruous than the appointment by the district court of temporary U.S. attorney who would assume all the power of that office regardless of the subject matter.

S. 495 does not casually place the appointing authority in the court. The bill places upon the Attorney General the primary responsibility for appointing a temporary special prosecutor. It is only after a review of a case in which the Attorney General has held that there is no conflict of interest and has made no appointment that the proposed court division would consider appointing a temporary special prosecutor, and then only if it found a conflict. In such a circumstance, where the court has found a conflict of interest in the Executive Branch, it could well be said that incongruity would inhere in an executive appointment. But, whether that is true or not, this situation is one in which the Attorney General has decided not to make an appointment, and therefore an investigation might not occur unless another authority is given the power to make the appointment.

The American Bar Association has stated the following:

A prosecutor should avoid the appearance or reality of a conflict of interest with respect to his official duties. In some instances, as defined in the Code of Professional Responsibility, his failure to do so will constitute unprofessional conduct. (*Standards Relating to the Prosecution Function and the Defense Function*, § 1.2)

Chief Justice Burger stated in *Newman, supra*, that an attorney for the United States is responsible to the court for his ethical conduct. In *Sherman* v. *United States*, 356 U.S. 380 (1958), the Supreme Court spoke of the general supervisory power of courts over the administration of criminal justice:

Insofar as they are used as instrumentalities in the administration of criminal justice, the federal courts have an obligation to set their face against enforcement of law by lawless means or means that violate rationally vindicated standards of justice, and to refuse to sustain such methods by effectuating them. They do this in the exercise of a recognized jurisdiction to formulate and apply "proper standards for the enforcement of the federal criminal law in the criminal courts."

To impose "ethical conduct" and enforce "rationally vindicated standards of justice," a court of law may be authorized to appoint a temporary special prosecutor under clearly defined circumstances and with limited jurisdiction.

TEMPORARY SPECIAL PROSECUTOR AS AN INFERIOR OFFICER

During the hearing you raised the question of whether the temporary special prosecutor provided for in S. 495 was an "inferior officer" under Article II, Section 2 of the Constitution. (It should be noted that the Attorney General's authority under present law to appoint a temporary special prosecutor is based on this Section, and that the "inferior officer" question applies equally to his appointments and those by a court.) Professor Paul Freund holds that an office is an inferior office if it is inferior to those that have been enumerated in the Constitution, namely ambassadors, public ministers, consuls and judges of the Supreme Court. Another authority, Professor Paul Mishkin of the Boalt Hall School of Law of the University of California, believes that the history of the development of that clause in the Constitutional Convention indicates that "inferior officer" means anybody inferior to the appointing authorities in Article II, Section 2.

The meaning of "inferior officer" has been explicitly interpreted in *Collins' Case*, 14 Ct. Cl. 569 (1878). In that case, the court characterized the Congressional power to establish appointing authority in this manner:

Thus it may authorize the President or the head of the war department to appoint an army officer, because the officer to be appointed is inferior to the one thus vested with the appointing power. The word "inferior" is not here used in that vague, indefinite, and quite inaccurate sense which has been suggested—the sense of petit or unimportant; but it means subordinate or inferior to those officers in whom respectively the power of appointment may be vested—the President, the courts of law and the heads of departments.

I conclude that the historical record, the language of the Constitution and the holding of the federal courts give clear indication that a temporary special prosecutor appointed under the provisions of S. 495 would be an "inferior officer."

PROSECUTORIAL DISCRETION

During the hearings it was stated by other witnesses that S. 495 would involve an unconsitutional interference with the discretion of the prosecutor in violation of separation of powers in the Constitution. I was asked to comment on *United States* v. *Cox* and *United States* v. *Cowan* in this respect.

At the outset it should be stated that S. 495 in no way authorizes the appointing court to interfere in the exercise of the prosecutor's discretion in handling a particular case. The court is given only two functions, both unrelated to the exercise of that discretion. First, the court may be called upon to review the relationship of the President or the Attorney General to potential defendants only insofar as it may constitute a conflict of interest as defined in S. 495. Should the court find such a conflict, it could then appoint a temporary special prosecutor.

Second, at the time of making such an appointment, the court would establish the overall jurisdiction of the temporary special prosecutor with respect to the matter to be investigated. Once having made the appointment based upon a conflict of interest standard, and after having stated the jurisdiction, the special division of the court would no longer have any authority to second-guess decisions made by the temporary special prosecutor in the course of the inves-

tigation and any subsequent judicial proceedings.

United States v. Cox and *United States v. Cowan* stand for the proposition that prior to the return of an indictment or the filing of an information, the Attorney General and subordinates have the absolute power and discretion to institute or not institute a prosecution. Nothing in S. 495 contravenes these holdings. We should not confuse the power of appointment and the authority to establish basic jurisdiction with the supervision of the prosecutor in a case as it progresses. To avoid any connotation of such supervision, S. 495 provides that the Attorney General, and only the Attorney General may remove the temporary special prosecutor for "extraordinary improprieties." The only role which the court would play in such an instance would be to review the removal to ascertain whether or not this standard has been met.

You asked for some special commentary concerning *United States v. Cowan*. That case involved the appointment of a special prosecutor by a district court judge in Texas after he refused to dismiss a case under Rule 48 (a) of the Federal Rules of Criminal Procedure and the local U.S. attorney then refused to proceed with the case. The Fifth Circuit Court of Appeals reviewed the history of the development of Rule 48(a) and concluded that, while a court could refuse to dismiss a case under certain circumstances, the district court in this matter had exceeded the bounds of its discretion in denying the government's motion to dismiss. Having so concluded the court stated, "We have no cause to consider the propriety of its order effectuating that denial by appointing special prosecutors." Thus, the case is not dispositive of any issues relating to the appointing of special prosecutors.

CONCLUSION

The questions you have raised focus on the scope of the powers of federal courts under the Constitution. The "separation of powers" principle inherent in the Constitution did not assume tightly compartmentalized branches of government. In commenting on this structure the Supreme Court, in an opinion authored by Chief Justice Burger, stated:

In designing the structure of our government and dividing and allocating the sovereign power among three co-equal branches, the Framers of the Constitution sought to provide a comprehensive system, but the separate powers were not intended to operate with absolute independence.

While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity. (*United States v. Nixon*, 418 U.S. 683, 707 (1974)).

In discussing the conflict between the absolute discretion of the prosecutor in initiating prosecution, and Rule 48(a) of the Federal Rules of Criminal Procedure authorizing the dismissal of a case "by leave of the court," Judge Murrah in *United States* v. *Cowan* spelled out the nature of the court's power:

We think the rule [48(a)] should and can be construed to preserve the essential judicial function of protecting the public interest in the evenhanded administration of criminal justice without encroaching on the primary duty of the Executive to take care that the laws are faithfully executed. The resulting balance of power is precisely what the Framers intended. As Judge Wisdom put it, quoting Montesquieu, " 'To prevent the abuse of power, it is necessary that by the very disposition of things, power should be a check to power' . . . [thus] the Framers wove a web of checks and balances designed to prevent abuse of power" and "were too sophisticated to believe that the three branches of government were absolutely separate, airtight departments." *United States* v. *Cox*. . . . From this, it seems altogether proper to say that the phrase "by leave of court" in Rule 48(a) was intended to modify and condition the absolute power of the Executive, consistently with the Framer's concept of Separation of Powers, by erecting a check on the abuse of Executive prerogatives. . . . The rule was not promulgated to shift absolute power from the Executive to the Judicial Branch. Rather, it was intended as a power to check power.

The proposed authority in S. 495 for a division of the U.S. Court of Appeals to appoint a temporary special prosecutor is intended and acts as "a power to check power." The special prosecutor, once appointed, would exclusively exercise prosecutorial direction.

I am attaching a chart which compares the ABA recommendations on the Government Crimes Division and the temporary special prosecutor mechanism with the provisions of Title I of S. 495. As you will note, they are markedly similar.

I hope this letter is responsive to your requests. We stand ready to offer any further assistance should it be desired.

Sincerely,

HERBERT S. MILLER,
Reporter/Consultant to the Special Committee.

Enclosure.

[A Comparison of the Provisions of Title I of S. 495, The Watergate Reorganization and Reform Act of 1976, and the American Bar Association Recommendations Contained in its Report]

"PREVENTING IMPROPER INFLUENCES ON FEDERAL LAW ENFORCEMENT AGENCIES"

The Special Committee to Study Federal Law Enforcement Agencies of the American Bar Association published a report in January, 1976, entitled "Preventing Improper Influences on Federal Law Enforcement Agencies." The report contained twenty specific recommendations for preventing abuses of these agencies, all twenty of which were approved by the Association's House of Delegates in February, 1976, as official policy.

Two of those recommendations ("Prosecuting Government Crimes" and "Special Prosecutor") are almost totally in accord with the provisions of Title I of S. 495, the Watergate Reorganization and Reform Act of 1976, as reported on May 12, 1976, by the U.S. Senate Committee on Government Operations. The following analysis compares the ABA recommendations to the S. 495 provisions.

Issue	S. 495 Approach	ABA Approach
Division of Government Crimes		
1. Establishment of division.	By statute.	By statute.
2. Jurisdiction.	Federal criminal law violations by high-level government officials; federal criminal law violations by all government employees if work-related; lobbying, campaign and election law violations.	Violations of federal laws by government officials; cases referred by the Federal Election Commission; violations of federal campaign laws.
3. Selection of Assistant Attorney General.	Presidential appointment, Senate confirmation.	Presidential appointment, Senate confirmation.
4. Qualifications of Assistant Attorney General.	Must not have held a high-level position of trust and responsibility in campaign of elected President or Vice-President within five years preceding appointment.	No recommendation with respect to the Assistant Attorney General, although a similar restriction on nominees for Attorney General and Deputy Attorney General was recommended.
5. Term of Assistant Attorney.	Coterminus with that of the President making the appointment.	No recommendation.
6. Requirements in Office.	(a) Shall not engage in outside business. (b) Shall report to Congress each session on Division's activities.	(a) No recommendation. (b) No specific reporting recommendation; although the ABA report contemplates close Congressional scrutiny of this statutorily-mandated division.
7. Supervision of Assistant Attorney General.	By Attorney General.	By Attorney General.
Temporary Special Prosecutor (TSP) Mechanism		
1. Circumstances triggering.	Conflict of interest or appearance thereof in which the President or the Attorney General has a direct and substantial personal or partisan political interest in the outcome of the proposed criminal investigation or prosecution (with matters involving specified government officials being automatically deemed to create a conflict).	(a) Conflicts of interest, implications of partiality or alleged misconduct as delineated in ABA *Standard Relating to the Prosecution and Defense Function;* (b) Appearance of professional impropriety under Canon 9 of ABA Code of Professional Responsibility; (c) Improper influence or obstruction of justice as defined in 18 U.S.C. 1501–1510.

Issue	S. 495 Approach	ABA Approach
2. Action to be taken by Attorney General.	(a) File memorandum with Court summarizing allegations and result of preliminary investigation, including information relevant to determining existence of a conflict of interest; the Attorney General's findings; and whether the Attorney General has disqualified himself and appointed a temporary special prosecutor or not; (b) Appoint a temporary special prosecutor if he deems it appropriate.	(a) File memorandum with Court stating facts, legal conclusion and decision with respect to whether or not to appoint a temporary special prosecutor; (b) Appoint a temporary special prosecutor if he deems it appropriate; (c) Request the Court to make the appointment.
3. Alternative means of bringing conflict situation to Court's attention.	Any individual, after 30 days' notice to Attorney General of information raising a conflict issue, may petition Court to review the matter.	The Court can act on its own authority to review allegations of conflict.
4. Response by Court where no TSP appointment made by Attorney General.	Review matter and determine whether a conflict exists, and if so, appoint a TSP.	Review matter and determine whether a conflict exists, and if so, either call upon the Attorney General to appoint a TSP or make such appointment itself.
5. Response by Court where Attorney General has appointed a TSP.	Review appointment to determine if TSP is himself in a conflict situation and, if so, appoint a different TSP.	Review appointment to determine if TSP is himself in a conflict situation and, if so, call upon the Attorney General to make a new appointment or appoint a different TSP.
6. Jurisdiction of TSP.	Whoever appoints the TSP shall specify in writing the matters which such prosecutor is authorized to investigate and prosecute. The statement of jurisdiction in the case of appointment by the Attorney General is subject to review by the Court to determine whether it is "sufficiently broad to enable the TSP to carry out the purposes of this chapter."	The appointing authority would delineate the jurisdiction. Where the Attorney General has made the appointment, the statement of jurisdiction in his memorandum to the Court would be reviewed by the Court and modified where necessary.
7. Removal of TSP.	(a) Upon filing with Attorney General of report stating that all investigations and prosecutions have been completed; (b) By Attorney General for "extraordinary improprieties," subject to review by Court.	(a) No specific recommendation. (b) By Attorney General for "extraordinary improprieties," subject to review by Court.
8. Powers of TSP.	Within specified jurisdiction the same power as an Assistant Attorney General for Government Crimes, except that TSP can appeal any decision in a case to which he is a party without approval of Attorney General or Solicitor General.	Within specified jurisdiction the same power as the Attorney General or a U.S. Attorney in prosecuting a case.
9. Nature of Court.	Division of three judges of the U.S. Court of Appeals for the District of Columbia; judges to be assigned for a two-year term by the chief judge, with priority given to senior retired circuit court judges and senior retired justices; prohibition against judges who participated in process of appointing TSP from deciding on matters brought thereafter by TSP's office.	Special Court of appointment composed of three retired senior federal circuit court judges appointed by the Chief Justice for a two-year term.
10. Expedited judicial review.	Detailed mechanism for expediting judicial review of actions challenging TSP's authority.	No recommendation.
11. Disqualification of Department of Justice employees.	Requires Attorney General to promulgate rules and regulations requiring officers and employees of the Department to disqualify themselves in matters where a conflict, or appearance thereof, may result.	No recommendation.

STATEMENT OF JOHN HARMON

Mr. Chairman and Members of the Committee:

I am pleased to appear today to provide the views of the Department of Justice on Titles I and II of S. 555, the Public Official Integrity Act of 1977. We support the principles underlying these titles which would provide for the appointment of a temporary special prosecutor and create an Office of Congressional Legal Counsel.

With respect to Title I, our support for the special prosecutor provision of the bill should not be misunderstood by this Committee or by the American people as any indication that the Department of Justice cannot or would not forcefully and effectively prosecute even the highest officials of the Executive Branch where there was evidence of criminal wrongdoing. To the contrary, our first duty is to our first client, the American people and the Constitution. And let there be no question that this Department of Justice stands ready to enforce the laws of the United States, fairly and firmly, against all who would violate those laws, no matter what their office or position.

However, we recognize that public perceptions and the appearance of justice are often as important as justice itself. We also recognize that in light of Watergate and its aftermath public confidence in our system of justice must be restored. We must not only do justice, but be able to assure the public that justice has been done. It is in this spirit that I come here for the Department of Justice to support the principles underlying the special prosecutor provision of S. 555.

With regard to Title II and the creation of an Office of Congressional Legal Counsel, the Department of Justice recognizes that the basic decisions whether to establish such office and what structure the office or offices should take are policy questions for Congress to decide. It would be inappropriate for the Department of Justice to enter the debate over those threshold policy questions. However, we do believe that it might be useful in your consideration of the policy issues to know that the Department does not oppose the establishment of an Office of Congressional Legal Counsel in principle and that after reviewing the powers provided in the bill we believe, except for the power of intervention, the Congress might legitimately vest those powers in the Office. Therefore, I am here today to support the basic principles underlying both the special prosecutor and the congressional counsel provisions of S. 555.

There are, however, particular aspects of both Titles I and II which either pose constitutional problems or which would be detrimental to the fair and efficient administration of justice. While the Department generally supports the proposals here, we believe that the deletion or modification of certain problematical provisions will result in a bill which is both more workable and less subject to constitutional objections.

TITLE I

1. Special Prosecutor

In essence, Title I provides for judicial appointment of a temporary special prosecutor in instances where the Attorney General receives a non-frivolous allegation that certain specified persons have violated any Federal criminal law. More particularly, the bill requires the Attorney General to conduct an investigation whenever he receives "specific information" that the President or Vice President, individuals serving at Level I or II of the Executive Schedule, certain high-level officials working in the Executve Office, the Director of the FBI, and certain campaign personnel have violated any Federal criminal law. If, after a period not to exceed sixty days, the Attorney General determines that the "matter is so unsubstantiated that no further investigation or prosecution is warranted," he shall so notify a special court of three judges chosen by the chief judge of the United States Court of Appeals for the District of Columbia; the court would then have no power to appoint a special prosecutor. If, however, the Attorney General finds that the matter warrants further investigation or prosecution (or sixty days elapse without any determination by the Attorney General), he is required to apply to the court for appointment of a special prosecutor. This same action is required of the Attorney General where he determines that a pending investigation or any resulting prosecution "may so directly and substantially affect the political or personal interests of the President or the Attorney General or the interests of the President's political party as to make it inappropriate in the interest of the administration of justice for the Department of Justice to conduct such investigation." Upon receipt of the Attorney General's application, the court is required to appoint a special prosecutor's jurisdiction.

The special prosecutor is given broad power to hire a staff, to conduct investigations and prosecutions, and to secure access to pertinent Department of Justice records and resources. He is obliged to submit reports to Congress and to "cooperate with the exercise of . . . oversight jurisdiction" by the appropriate committees of Congress. He may be removed from office, other than by impeachment and conviction, by the Attorney General but only for "extraordinary improprieties" or similar conduct. The bill also provides for the termination of the speical prosecutor's office upon the completion of its assigned tasks.

As I have already indicated, the Department of Justice endorses the concept of resort to a temporary special prosecutor in extraordinary circumstances. We also support the general approach adopted in this bill. The Department has no objections to the manner in which the appointment process is initiated, the method of judicial appointment, or the restrictions placed on the Executive's power of removal over the special prosecutor.

In view of the departure which this bill takes with respect to the normal methods of appointing and removing Executive officials, I shall briefly state our views as to the constitutionality of the measures here. We believe that judicial appointment is justified by the Appointments Clause, Article II, section 2, and the extraordinary circumstances which would mandate a recourse to a special prosecutor. It is our view that ordinarily Article II, section 2 cannot be used to override the fundamental principle of the separation of powers; this principle would generally require that the Executive be allowed to appoint those officials carrying out Executive functions. However, the circumstances surrounding misconduct by high-level officials and the need to preserve the appearance of justice would warrant a judicial appointment here. In such exceptional circumstances we do not believe that an "incongruous" duty would be imposed upon the courts. *See* Ex parte Siebold, 100 U.S 371, 398 (1879).

The extraordinary circumstances inherent in the need for resort to a special prosecutor would also justify the restrictions placed on the Executive's power of removal in this instance. Ordinarily Congress may not impose limitations on the Executive's unfettered discretion to remove an Executive official. *Myers* v. *United States*, 272 U.S. 52 (1926). Subsequent decisions have narrowed this principle to allow for limitations to be placed with respect to those whose quasi-legislative or quasi-judicial duties require a degree of independence from the Executive. *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935); *Wiener* v. *United States*, 357 U.S. 349 (1958). It is not entirely clear whether these decisions might apply to Executive officials, see *Morgan* v. *Tennessee Valley Authority*, 115 F. 2d 990, 994 (6th Cir. 1940); both the explicit language in those decisions, as well as their reliance on the principle of separation of powers, creates the risk that even in such a situation as this the power of the Executive to remove its own officials may not be restricted. However, on balance we think that the extraordinary circumstances which would warrant a resort to a special prosecutor would also justify granting him the measure of independence provided in the bill.

While the Department supports the basic approach of this bill, we would suggest that the bill as presently drafted to require resort to a special prosecutor with respect to all federal criminal violations by all the individuals specified in the bill including all Level II executives may be overbroad. We would concede that at least the appearance of conflicts of interest inhere any time the highest-level officials (e.g., the President, Vice President, and the Attorney General) are allegedly involved in any sort of criminal conduct, and we support the appointment of a special prosecutor in such instances. However, we believe that conflicts may not necessarily arise with respect to *all* of the other individuals specified in the bill or with regard to *every* violation of the Federal criminal law.

We would suggest, first, that the bill's scope as to the individuals covered might be narrowed. While conflicts of interest may appear with respect to many of the officials specified in the bill, we would submit that no conflict whatsoever exists insofar as some specified individuals are concerned—e.g., most of those serving at Level II of the Executive Schedule. The Department is willing and fully capable to prosecute these individuals where it is warranted, and these individuals are not so close to the President that a conflict of interest would inevitably appear. Of course, if a conflict does develop, the Attorney General could always refer a case to the special prosecutor under the procedure specified in proposed section 592(e).

We would further suggest that the types of crimes included in the bill be narrowed. We agree with the bill's approach of mandating a referral to a special prosecutor in the case of any alleged federal criminal violation insofar as the highest-level officials (e.g., the President, Vice President, and the Attorney General) are concerned. However, it is doubtful whether such conflicts necessarily arise where officials other than these are allegedly involved in criminal conduct which does not involve an abuse of office, obstruction of justice, perjury, or a violation of the election or campaign laws. In these instances we believe that the Department is fully capable of investigating and prosecuting these officials. The principal House bill, H.R. 2835, shares this view, since it mandates a referral to a special prosecutor only in cases involving the sorts of crime just mentioned; this is particularly noteworthy since H.R. 2835 contains in some respects more stringent precautions to ensure against conflicts of interest interfering with the prosecution of official misconduct. Again, if a conflict of interest does arise, the Attorney General could refer it to a special prosecutor under the procedure specified in proposed section 592(e).

It might be said that the adoption of such limitations here would make the bill unnecessarily complex and would not lead to any offsetting advantages. However, we believe that a resort to a special prosecutor should be reserved for those extraordinary instances where the appearance of conflicts of interest is substantial. The appointment of a special prosecutor in instances other than this merely creates unwarranted and undesirable risks—e.g., loss of public confidence in the Department, the undermining of Department morale, damaging publicity to the individual under investigation, and the potential for abuse and departure from established policies and guidelines. It should be apparent that, in view of the problems which may arise from the appointment of a special prosecutor, an unnecessary appointment can undermine, rather than further, the administration of justice.

The Department would also like to offer several brief suggestions regarding other aspects of the bill:

(1) We believe that the time frame for the preliminary investigations should be expanded somewhat. While many investigations can be completed in sixty days, a longer time period—e.g., ninety days with an automatic thirty-day extension upon a certification to the court—would allow for a more effective screening of frivolous allegations and would thereby avoid unnecessary referrals to a special prosecutor.

(2) In the interest of allowing for a speedy and confidential resolution of allegations, referral of more than one matter to an existing special prosecutor should be allowed. Proposed section 593(c) could be interpreted to allow for this, but we think this matter should be stated more clearly. In addition, provision might also be made for referral to a United States Attorney if speed or confidentiality become particularly important; the fact that the special court would appoint him should be a sufficient safeguard to ensure his independence.

(3) We recommend that the provision requiring the special prosecutor to "cooperate" with the "oversight jurisdiction" of Congressional committees be eliminated. We think that this provision is ambiguous and can only lead to confusion on the part of the special prosecutor; it may even be taken to imply that Congress could exercise control over prosecutorial decisions. If this provision is to remain in the bill, we would strongly suggest that it be written so as to eliminate this implication.

(4) We also recommend that the provision allowing for a discretionary referral by the Attorney General to a special prosecutor, proposed section 592(e), be somewhat delimited. We would suggest, first, that the Attorney General be explicitly allowed to make the same sort of determinations as to the substantiality of allegations as he does under the automatic referral procedure. We would also suggest the insertion of a provision allowing for a disqualification of the Attorney General to eliminate any conflict of interest. Finally, we would recommend that the reference to the interests of the President's political party be eliminated lest this provision be deemed to apply broadly in cases involving criminal conduct by any member of *either* political party, as prosecution against member of the "other" party might just as well affect the interests of the President's party as prosecution of members within his party.

(5) In addition, we recommend that the Attorney General's determination under proposed section 592(e) be made unreviewable in the courts. Otherwise, a prosecution could be delayed on the grounds that the Attorney General should have, or should not have, transferred a case to the special prosecutor.

(6) We believe that proposed section 595 (e), allowing Congress to request the Attorney General to apply for the appointment of a special prosecutor or to explain his failure to do so, should be eliminated. If the situation is one requiring the automatic appointment of a special prosecutor upon a determination that the allegations were not unsubstantiated, the Attorney General presumably would be in the process of making, or would already have made, a report to the court. If it were appropriate to disclose that information, they could do so.

The only situation where a report to Congress might be justified would arise in those instances where, under proposed section 592 (e), the Attorney General determines that a referral to a special prosecutor is not necessary. In such instances we would not object to a provision requiring the Attorney General to explain why he believed no conflict of interest existed; we do not believe he should be required to explain any aspect of his determination relating to the exercise of prosecutorial discretion.

(7) We recommend that a provision be inserted requiring the special prosecutor to follow standard Department policies and regulations unless some special need requires otherwise. This proposal is necessary to the fair and uniform application of the law.

(8) The provision requiring a notification to Congress of information which may constitute grounds for an impeachment should be deleted. In view of the ambiguity of what constitutes grounds for impeachment, this provision will only serve to create confusion. Moreover, such disclosure to Congress might have the effect of compromising an ongoing investigation or prosecution or of prejudicing the rights of the individual involved.

(9) We believe that proposed section 597 (a), which requires the Department to suspend all investigations or proceedings within the special prosecutor's jurisdiction, should be modified. Given the haziness of jurisdictional lines, this provision could require the Department to discontinue major proceedings only tangentially related to the matter referred to the special prosecutor. The section should at least provide for an exception whereby the Attorney General and the special prosecutor could agree that the Department could retain jurisdiction over such matters.

2. Office of Government Crimes

The bill would establish within the Department of Justice an Office of Government Crimes, to be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Attorney General could determine the organizational placement of the Office, to which he would be required to delegate, except as to matters referred to a special prosecutor under the bill, jurisdiction of: (1) violations of federal criminal law by any individual who holds (or at the time of violation held) a position as an elected or appointed federal government officer, employee or special employee, if such violation related to his government position; (2) violations of federal criminal laws relating to lobbying, conflicts of interest, campaigns, and election to public office committed by any person, except insofar as such violations involve discrimination or intimidation on grounds of race, color, religion, or national origin; and (3) the supervision of investigations and prosecutions of federal criminal violations involving State or local government officials or employees. In addition, the Attorney General could delegate to the Office any other matters he deemed appropriate.

The purpose of this proposal apparently is to strengthen the enforcement of federal laws designed to insure the integrity of public officials and governmental processes by centralizing the responsibility for supervision and enforcement of such laws in a single unit of the Department of Justice. While the Department shares this concern, it is our belief that this laudable goal has already been achieved by the creation of the Public Integrity Section within the Criminal Division in March of 1976. That Section, which has a jurisdiction virtually commensurate with the jurisdiction that S. 555 would confer upon the Office of Government Crimes, has functioned vigorously and with considerable success in the more than one year since its formation.

In our view, the statutory requirement of an Office of Government Crimes would have distinct disadvantages. On the one hand, if the Office were located outside the Criminal Division, the adoption and maintenance of uniform prosecutive policies—for example grand jury utilization, use of electronic surveillance techniques, and grants of immunity—would be seriously diluted. Such a splintering of criminal law enforcement responsibility would also lead to a duplication of effort in those numerous investigations that overlap with other criminal matters, particularly those handled by the Fraud and Organized Crime and Racketeering Sections of the Criminal Division. (An illustration of such an overlapping situation is a fraud investigation of a federal housing program (conducted by the Fraud Section) which develops information that H.U.D. employees are involved in or using their office to further the scheme).

On the other hand, placing the Office within the Criminal Division would give rise to problems of a quite different nature, arising from the fact that both the head of the Office and the Assistant Attorney General in charge of the Criminal Division would be Executive Level appointees. This fact, coupled with the direct access to the Attorney General that S. 555 would grant to the Director of the Office, would make effective supervision of the Office by the Assistant Attorney General difficult at best, and might well lead to unwholesome conflicts within the Division that would reduce the efficient administration of the anti-corruption laws.

In short, we believe that the objective we share with this Committee of diligence and prompt investigation and prosecution of crimes of public corruption can be better achieved by the existing institutional structure of the Public Integrity Section, which has effectively concentrated Departmental resources for this task. The Congress can of course monitor the efforts of the Department in this regard through hearings or requests for reports from the Attorney General, Deputy Attorney General, and Assistant Attorney General in charge of the Criminal Division. But for the present, and so long as the Public Integrity Section continues to perform its function at a high level of effectiveness, we believe there is no occasion to depart from this structure by legislatively mandating a new institutional unit within the Department. We note that the principal House bill, H.R. 2835, dealing with the establishment of a special prosecutor and related matters, contains no provision comparable to that in S. 555 calling for the formation of a Government Crimes Office. We think this considered omission, reflecting a confidence in the Attorney General and in the benefits of retaining flexibility of the organizational structure within the Department, is the wiser course.

3. Other proposals

Finally, the Department supports the provision in Title I requiring the promulgation of rules and regulations concerning disqualification in cases of conflicts of interest.

TITLE II

This title establishes an Office of Congressional Legal Counsel and requires that Office to perform certain duties relating to the rendering of legal advice to Congress or representing Congress in court in specified circumstances. The Department supports the establishment of the Office of Congressional Legal Counsel in principle and supports most of the functions vested in it by S. 555. However, we have serious constitutional objections to certain of the bill's provisions.

In brief, the bill provides for a Congressional Legal Counsel to be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate. Upon a proper authorization from the Congress, the Counsel is required to perform the following functions: (1) to defend Congress, its offices and agencies, committees, members, officers or employees in any civil action (a) where such individuals are parties defendant and the validity of action taken by them in their official capacity is at issue or (b) where a subpena or order is directed at such parties in their official capacity; (2) to bring a civil action to enforce any congressional subpena except for those issued to Executive officials acting within their official capacity; (3) to represent Congress in requesting the Courts to issue an order granting immunity to individuals ordered to testify in congressional proceedings; (4) to advise and cooperate with various individuals and entities connected with assorted congressional functions; and (5) to intervene or appear as amicus curiae in any legal action where (a) the United States is a party, the constitutionality of an Act of Congress is challenged, and such constitutionality "is not adequately defended by counsel for the United States," or (b) the powers and responsibilities of Congress under the Constitution are placed in issue.

We support the vesting of most of these functions in the Congressional Legal Counsel. The provisions authorizing the Counsel to give legal advice to the various congressional components, for example, relate exclusively to Congress' performance of its legislative functions and are thereby quite properly lodged in the Congress itself. The same can be said of the provisions requiring the Counsel to defend Congress and its members in certain situations. We have no constitutional objections to such authorizations; the defense of these actions, even though it may literally involve defense of official actions undertaken pursuant to the laws of the United States by Members of Congress, do not constitute, in our opinion, the kind of "enforcement of the laws" that the Supreme Court has ruled in *Buckley* v. *Valeo*, must be lodged exclusively with the Executive Branch under our constitutional principles of separation of powers. Thus the Department in the past has not regarded it as constitutionally mandatory to represent all Members of Congress or congressional committees whose actions are challenged and it has often advised them to obtain their own counsel when defense of their actions would conflict with Executive Branch duties and responsibilities. In such cases the establishment of an Office of Congressional Counsel would benefit the Department as well as congressional defendants by assuring them adequate and vigorous representation.

We also support the provisions allowing the Congressional Counsel to undertake the enforcement of subpoenas and representation of Congress in immunity proceedings, but constitutional cautions are in order. At first glance enforcement of a subpoena might be

regarded as "enforcement of the law" which may only be performed by the Executive, see *Buckley* v. *Valeo, supra* at 138, and by those who are "Officers of the United States" appointed pursuant to Article II, section 2, *Id.* at 138–40. However, while we believe this is to be a close case, we have concluded that the congressional enforcement of subpoenas in the context presented by the bill is not subject to constitutional constrictions. Rather a congressional subpoena is an integral part of the legislative process, *Eastland* v. *United States Servicemen's Fund*, 421 U.S. 491, 504–5 (1975), and we believe the civil enforcement of such subpoenas may also legitimately be regarded as within the legislative process. For this reason, it is our conclusion that this "investigative and informative" power may appropriately be lodged in the Congress, *Buckley* v. *Valeo, supra* at 137–38; the officials who are empowered to exercise this power will thus be carrying out "appropriate legislative functions" and need not be appointed pursuant to Article II, section 2. *Id.* at 128.

We reach a different conclusion, however, with respect to the provisions authorizing the Counsel to intervene or appear amicus curiae in certain legal actions. While we have no objection to Congress' appearance as amicus curiae in an action as any other third party could, we have serious reservations about the intervention provision.

Section 206(a) would permit the Counsel to intervene in any "legal action" pending in a Federal or State court where the United States is a party and the constitutionality of an Act of Congress is not defended by counsel for the United States or where the powers and responsibilities of Congress under the Constitution are placed in issue. We assume that the term "legal action" was not intended to include criminal proceedings. The "Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a criminal case," *United States* v. *Nixon*, 418 U.S. 683, 693 (1974), and we do not believe the Constitution would permit interference with the exercise of the executive power by the Congressional Legal Counsel on behalf of a coordinate branch of the Federal Government or a House officer or Member of Congress having a particular interest in the matter. *See also Confiscation Cases*, 7 Wall, 454 (1869).

The intervention provision raises questions in civil actions as well. It is not clear whom the Counsel would be representing in defending the constitutionality of an Act of Congress when the United States is a party and counsel for the United States is not defending the constitutionality of the Act. Certainly the Counsel could not represent the United States in such an action. The conduct of litigation on behalf of the United States is part of the President's constitutional responsibility to take care that the laws be faithfully executed, Art. II, § 3; *Buckley* v. *Valeo, supra*, at 138; *United States* v. *Nixon*, 418 U.S. at 693; *United States* v. *Cox*, 342 F. 2d 167, 171 (5th Cir. 1965), and intervention by the Counsel established under this bill would permit Congress unconstitutionally to infringe on that power. The Supreme Court held in *Buckley* v. *Valeo, supra* at 138–140, that only "Officers of the United States" appointed pursuant to Article II, section 2 of the Constitution may conduct civil litigation on behalf of the United States for the purpose of vindicating public rights. Under the bill, the Congressional Legal Counsel will be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, and will therefore not be an "Officer of the United States" empowered to represent the United States.

The interests represented by the Counsel would therefore be those of Congress, a House of Congress, or an officer, committee, or committee chairman of a House of Congress. This is implicit in section 203(c) of the bill, which sets forth the requirements for authorizing the Counsel to intervene or appear as amicus curiae under section 206 on behalf of these parties. We seriously question whether Congress, a House of Congress, or an officer, committee or committee chairman would have standing under the Constitution to intervene to defend the constitutionality of an Act of Congress.

Once a bill becomes law, a Congressman's and presumably the entire Congress' interest in attaching or upholding the constitutionality of the law is indistinguishable from that of any other citizen and is too generalized to provide a basis for standing under the Constitution. *Harrington* v. *Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975). An Act of Congress cannot confer standing where the constitutional requisites for a "case or controversy" under Article III are lacking. Insofar as section 206(a) attempts to confer standing which does not already exist, it must be without force and effect, and to the extent that it simply recognizes standing which has already been established by the Constitution and acknowledged by the courts, it is unnecessary.

Where Congress or a House of Congress does have standing to bring a civil action, and therefore to intervene, *e.g.*, *Coleman* v. *Miller*, 307 U.S. 433 (1939); *Kennedy* v. *Sampson*, 511 F.2d 430 (D.C. Cir. 1976), the Department of Justice has no objection to the interests of Congress being represented by the Congressional Legal Counsel should the counsel for the United States be unable for whatever reason to represent those interests, and we would support a redraft of section 206(a) to so provide.

One other constitutional problem appears apart from the powers conferred on the Counsel. Several provisions of the bill amend 28 U.S.C. §§ 1345 and 2403 to prevent those statutes from being used as a basis for the Executive Branch to assert the unconstitutionality of an Act of Congress. Although the Department has only rarely challenged the constitutionality of an Act of Congress in court, a congressional limitation on the Department's ability to do so must be regarded as unconstitutional. Even though the President is bound to faithfully execute the laws, he is also sworn to "preserve, protect and defend the Constitution of the United States." Article II, section 1. The discharge of this duty requires the Department, as the agent of the President, to enforce the law in a manner it believes to conform with the Constitution. These proposals could also lead to an unconstitutional erosion of Executive authority if they prevented the Department from challenging statutory restrictions on the President's power or prerogatives—a role which, although rarely invoked, is necessary if the principle of separation of powers is to be preserved. Finally, these proposals also present ethical problems for Department of Justice lawyers; for example, by requiring them to assert arguments which they believe to be frivolous, Disciplinary Rules 7–101(B)(2) and 7–102(A)(2) would be violated. *See also* Ethical Considerations 7–4, 7–14.

The Department of Justice has no views on those aspects of Title II which I have not previously addressed. We believe that, since this Title deals largely with Congress' internal functions, Congress should be free to structure the procedural and accountability provisions in the manner it wishes.

Mr. RIBICOFF. Mr. President, I hope that the Senate defeats the amendment of the Senator from Tennessee.

Mr. BAKER. Mr. President, with extraordinary and great respect for my colleague from Connecticut. I respectfully join issue on the idea that all constitutional scholars consider this approach constitutional. I think the memorandum which I have submitted will clearly indicate the contrary. I think, Mr. President, that the important point to remember is that nobody—I hope nobody—opposes the idea of investigating and thoroughly examining and prosecuting, if need be, allegations and charges of public malfeasance or misfeasance. But one of the prime questions before us here is how that office will be filled. To have a judicially appointed office, in that respect, I think is unconstitutional.

I submit, Mr. President, that the clear duty of the Senate is to pass laws that have a reasonable expectation of standing th. scrutiny of constitutional examination, and there is a clear alternative here. That is to permit the President to make that appointment, which my amendment would do.

Mr. President, I previously called on the President of the United States to appoint a special prosecutor in the case of the so-called KCIA investigation. I renew that call now. But, as I said at the beginning, in my opening remarks, I think there is also a need to regularize the procedure by which we examine the several allegations of misconduct which do now or may hereafter occur with respect to personnel, not only of the executive department but of the congressional department as well, or even of the judicial. That is the purpose of this amendment, Mr. President. I urge my colleague to adopt it.

Mr. PERCY. Mr. President, I shall not delay the Senate but a moment. I feel duty bound, due to the fact that my distinguished colleague has now offered the revised version of the original Baker-Percy or Percy-Baker amendment, to explain why I shall oppose my own amendment.

I do so because at the time we initially introduced this amendment—several years ago—it would have created a division of government crimes. It was opposed by President Ford's appointee, then Attorney General Ed Levi.

We have listened to a great deal of testimony. We have had extensive hearings on this subject. We have conducted considerable negotiations. The revised title I is the product of these negotiations. This morning we have again amended that in order to obtain the full support of the Attorney General for what we are undertaking.

I think we now have a fine title. I think we improved the title by the amendment offered by Senator HEINZ and Senator RIEGLE dealing with the possibility of alleged corruption of Members of Congress by foreign governments.

But I do feel, in my best judgment and the best advice we can get from the Attorney General and widely reported constiutional authorities that this title is constitutional.

It is also backed by the American Bar Association.

I, therefore, will cast my vote against the Baker amendment and will urge that we support title I as it now stands in the bill.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment of the Committee on Governmental Affairs in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. THURMOND. Mr. President, I note with interest in section 208(a)(3) of the bill that the Congressional Legal Counsel is mandated to advise, consult, and cooperate with:

> . . . the Comptroller General, the General Accounting Office, the Office of Legislative Counsel of the Senate, the Office of Legislative Counsel of the House of Representatives, and the Congressional Research Service, except that none of the responsibilities and authority granted by this title to the Congressional Legal Counsel shall be construed to affect or infringe upon any functions, powers, or duties of the Comptroller General of the United States.

The Congressional Research Service, and in particular the American Law Division, has served as a valuable source of legal research and is available to provide such services as tracking litigation of interest to Congress, advice to investigating committees with respect to legality and issuance of subpenas, and background research for official acts. These activities should not be subordinated to the new Office of Legal Counsel. The work of the Office of Congressional Legal Counsel should not be duplicative of the work of the American Law Division.

Mr. President, I would like to ask the distinguished managers of the bill whether they have considered the relationship and how they envision the institutional interface between the Office of Legal Counsel and the American Law Division of the Library of Congress.

Mr. HASKELL. Mr. President, I want to comment only briefly on the various questions of ethics in Government which are addressed in the Public Officials Integrity Act.

Earlier this year, Howard Fleiger wrote in an editorial for U.S. News & World Report that—

> No greater challenge faces the Carter Administration and the new Congress than that of restoring public confidence in the political character of America.

I believe that is a challenge to which the President and the Congress have effectively responded in the first 6 months of this year. Before his inauguration, Jimmy Carter took steps to insure that he and high-ranking officials of his administration did what was necessary to assure their freedom from the appearance of potential misuse of public office. The President subsequently proposed statutory changes necessary to carry this cleansing process further.

The Congress has also responded to that very real need. Each body has enacted a tough new code of conduct, and we are today enacting legislation to effect Government-wide standards of ethical financial conduct and to create new methods to enforce those standards effectively.

In the 94th Congress I introduced legislation mandating Government-wide disclosure and creating an Office of Ethics Enforcement within the Civil Service Commission. I again advocated that approach in February of this year when I introduced S. 673.

I am deeply gratified that the Committee on Governmental Affairs has recognized the worth of such an approach in the legislation before us and that such an approach has also been endorsed by the administration. The need for a special Office of Ethics Enforcement was further documented by the General Accounting Office in a study released in February.

That report, issued February 28, 1977, noted the need for further development of agency policy and criteria for evaluating potential conflicts of interest, for improved procedures of collection and review of employee disclosure statements, and for more effective and enforceable regulations and standards. The report also documented the need for a formal advisory service and periodic audit and evaluation of agency disclosure systems, and called for greater enforcement authority to be vested in the Civil Service Commission.

An Office of Ethics Enforcement—or an Office on Government Ethics as it is now to be called—within the Civil Service Commission will be in a position, with staff and status appropriate to its task, to tackle the present problems of ethics enforcement within the executive branch. We have known for some time what those problems are: inadequate guidelines regarding financial conflicts of interest, haphazard enforcement, and the generally low priority given to ethics questions within various agencies and by the Civil Service Commission.

The record of the Civil Service Commission leaves much to be desired. Clearly if the Office of Government Ethics within the Commission is to be successful, it must rise above the low regard in which the Commission has been widely held. By making the Director of the Office a Presidential appointee subject to Senate confirmation, I believe we signal our determination that such an office will have the backing of the highest levels of Government, and that it will be held strictly accountable for its record.

With such backing, I believe a special Office of Government Ethics will be an effective solution to the shortcomings of the present system, while creating a minimum of new Government machinery. Such an approach places realistic demands on the Civil Service Commission and provides a needed guarantee that strict standards of financial ethics will be evenly and effectively enforced.

By acting expeditiously on this important matter the Congress will further live up to a national commitment to demonstrating clearly and effectively that our Government is indeed again worthy of public confidence.

Mr. JAVITS. Mr. President, I am pleased to join with my colleagues, Senator RIBICOFF and Senator PERCY, and other members of the Governmental Affairs Committee in recommending to the Senate the legislation which we have before us today. This legislation is the direct outgrowth of months of thoughtful analysis and study of the institutional defects of our governmental processes uncovered in the aftermath of the Watergate affair. It is based upon the assumption that the Federal system of justice is not effectively structured to deal with misconduct involving individuals in the top ranks of any Presidential administration.

It is a fact that the disabling and disheartening reality that politics and justice had become intolerably intertwined threatened to destroy public confidence in the integrity of our Government.

We also know that all too often we forget the lessons of the past and repeat those same tragic mistakes. In my judgment, S. 555 will help to repair those institutional weaknesses without undermining the constitutional foundation of our governmental system.

The committee, the administration, Attorney General Bell, former Attorney General Levi, and the members of the Senate Judiciary Committee have all come together in an attempt to resolve constitutional and policy questions of great importance and great subtlety.

I wish to congratulate our chairman, Senator RIBICOFF and our ranking minority member, Senator PERCY for the substantial commitment which they made to this legislation during the past 2 years. The issues involved herein are extremely complex and have required an enormous amount of analysis and hardwork. I wish also to compliment the excellent work on title II of the bill by Senator ABOUREZK and his Judiciary Subcommittee on the Separation of Powers. I think that particular note should be made of the outstanding staff work carried out in connection with this bill by David Schaefer, Robert Sloan, John Childers, and Chuck Ludlum.

Title I of S. 555 would require the appointment of a temporary special prosecutor by the court when serious allegations of criminal conduct arise concerning certain high level members of the executive branch. It would also establish an Office of Government Crimes within the Department of Justice to handle alleged criminal violations by Government officers or employees which are not referred to a temporary special prosecutor. I strongly support the principle and substance underlying title I. I must say, however, that the approach adopted by the committee does raise questions regarding the way in which the provision will work in practice. I have no objection as to the manner in which the appointment process is initiated, the method of judicial appointment, or the restrictions placed on the Executive's power of removal over the special prosecutor. It is contemplated that the procedure pro-

vided in the bill for such appointments will be resorted to only in extraordinary circumstances.

Mr. President, during my years in Congress, I have frequently noted the institutional disabilities under which the Congress exercises its constitutional functions. The most serious of those disabilities is the lack of its own Office of Legal Counsel. In recent years, this disability was most dramatically felt during the executive-legislative struggles over the impoundment power asserted by President Nixon.

I and Senators HUMPHREY and ABOUREZK and former Senator MONDALE all introduced bills over the years to establish an Office of Legal Counsel. Our own hearings and the hearings of the Separation of Powers Subcommittee have analyzed: First, the extent to which the Justice Department provides representation for Members, committees and employees of Congress, and under what circumstances and conditions; and second, the extent to which the Department finds itself defending on behalf of Congress, the constitutionality of statutes which the executive branch believes to be unconstitutional.

The bill provides for a congressional legal counsel to be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate. Upon a proper authorization from the Congress, the counsel is required to perform the following functions: First, to defend Congress, its offices and agencies, committees, Members, officers, or employees in any civil action where such individuals are parties defendant and the validity of action taken by them in their official capacity is at issue or where a subpena or order is directed at such parties in their official capacity; second, to bring a civil action to enforce any congressional subpena except for those issued to executive officials acting within their official capacity; third, to represent Congress in requesting the courts to issue an order granting immunity to individuals ordered to testify in congressional proceedings; fourth, to advise and cooperate with various individuals and entities connected with assorted congressional functions; and fifth, to intervene or appear as amicus curiae in any legal action where the United States is a party, the constitutionality of an act of Congress is challenged, and such constitutionality "is not adequately defended by counsel for the United States;" or the powers and responsibilities of Congress under the Constitution are placed in issue.

At present Congress has no in-house litigation counsel despite the fact that Congress has in recent years been involved in more than a hundred court cases—in most instances as a defendant. The Justice Department normally represents Congress in this litigation pursuant to 2 U.S.C. 118 or 28 U.S.C. 517–518. Increasingly, however, the Department has found itself unable to represent Congress due to a conflict of interest with its duty to represent the executive branch. In other cases Congress has deemed it advisable to retain private counsel notwithstanding offers from the Department to provide representation.

Aside from the instances where the Department does not represent Congress, there is a continuing need for a congressional counsel to advise congressional committees on a day-to-day basis on how to avoid or anticipate litigation, to advise Congress in responding to subpenas for congressional documents, to bring civil actions to enforce congressional subpenas, and to intervene or appear as amicus on behalf of Congress. In the last year alone Congress has retained private counsel to intervene or appear as amicus curiae on its behalf in four cases. None of these functions is—or should be—performed by the Department.

In essence, the Congress needs its own in-house counsel to provide professional representation for congressional interests in the same way the Department provides such representation to the executive branch. Congressional litigation requires expertise on unique legal issues, entails wide-ranging consultations on the Hill, and has political ramifications to which congressional counsel must be sensitive. These factors make it inherently difficult for the Department to handle these cases. With the continuous advice of expert litigation counsel, both the executive branch and the public can expect that Congress will give more careful consideration to the litigation consequences of its actions.

Mr. President, S. 555 also contains financial disclosure requirements for high level members of all three branches of our Government. Although S. 495, the predecessor bill to S. 555 contained a comprehensive financial disclosure provision, it was determined earlier this year that the newly created Special Committee on Official Conduct—the "Nelson committee"—of which I was a member—would resolve financial disclosure and other issues in its proposed "code of conduct."

On March 24 the Senate adopted an amendment which was offered by the distinguished Senator from New Mexico (Mr. SCHMITT) and which I cosponsored during consideration of Senate Resolution 110, legislation to establish a Code of Official Conduct for Members, officers, and employees of the U.S. Senate and for other purposes. The purpose of that amendment which was adopted by an overwhelming vote of 93 to 1 was to protect the basic individual rights of spouses and dependents in reporting assets and income, while at the same time preventing abuse by the transfer of assets through which a Member might receive financial or economic benefit.

The language which we adopted was chosen because it utilized the concept of constructive control used in the code of conduct adopted by the House of Representatives while also incorporating the interpretation given to the term "constructive control" by the House. There was extensive debate on this issue in the Senate during its sessions on March 23 and 24 and may be found at pages S4756 through S4779.

In considering S. 555 the Governmental Affairs Committee voted 7 to 4 to delete two separate provisions which go to the questions of reporting spouses interests and the definition of knowledge for reporting purposes. The amendment Senator SCHMITT and I introduce today would restore the language which the Senate agreed to when it adopted the code of ethics.

Mr. BAKER. Mr. President, although I generally sympathize with the goals of S. 555, I am troubled by the probable effect of many of its provisions. I should like to list those concerns briefly.

Beginning with title II of the bill which creates an Office of Congressional Legal Counsel, I question the basic necessity for such an office as described. During the hearings of the so-called Senate Watergate Committee, I became abundantly aware of the potential value of a Congressional Legal Counsel to represent the Congress, either House, or a particular committee thereof in disputes with the executive branch. Clearly, the Justice Department had a conflict of interest in attempting to serve two branches. However, nowhere among the functions listed for the proposed Office of Congressional Legal Counsel is a provision for representing the Congress in controversies between the executive and legislative branches. Indeed, it is specifically excluded, and I am at a loss to understand why.

A second source of concern is the potential cost of the Office. Were that cost to be equal to or less than what we now spend for representation, it might be well worth forsaking use of private counsel or the Department of Justice. And yet, my understanding is that there is no guarantee of it costing the same or less and it quite possibly could cost much more. I am hopeful that in creating this new office, we are not spawning a new bureaucracy which will vastly increase congressional involvement in litigation across the country. It is not difficult to imagine an activist legal counsel staff which perceives article I, section 8 issues in lawsuits throughout the Nation and seeks the authority to intervene or submit amicus curiae briefs repeatedly. I hope that will not be the case, and I commend the sponsors' effort to prevent it by requiring various forms of approval in advance. Nevertheless, I wanted to make note of my concern.

A further problem I have with the proposed Office relates to its third function which is to bring civil actions against individual or corporations to enforce a subpena or other orders issues by a House of Congress. This troubles me because of the effect it may have upon the rights of individual witnesses. I am fearful that congressional investigatory proceedings exhibit a determination to ferret out the facts even if the investigative process may grievously injure the protected rights of individuals who are, or may become, defendants in judicial proceedings. For that reason, I believe that the Congress should give careful consideration to the codification of rules of legislative hearing procedure so as to provide assurance that individual constitutional rights are not impaired by legislative hearings.

Finally, with respect to title II of the bill, I strongly believe that if there is to be an Office, it should be a Joint Office between the Senate and House. Otherwise, the probable expense and duplication increases immeasurably and the en-

tire notion of a single in-house legal capacity that is more familiar with the law in this general area loses its impact.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. RIBICOFF. I yield back all time.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Iowa (Mr. CULVER) and the Senator from Mississippi (Mr. STENNIS) are absent on official business.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Texas would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 74, nays 5, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—74

Allen	DeConcini	Jackson
Anderson	Dole	Javits
Baker	Domenici	Johnston
Bayh	Durkin	Kennedy
Bellmon	Eagleton	Leahy
Bentsen	Eastland	Lugar
Bumpers	Glenn	Magnuson
Burdick	Hart	Mathias
Byrd, Harry F., Jr.	Haskell	Matsunaga
	Hatch	McClure
Byrd, Robert C.	Hatfield	McGovern
Cannon	Hathaway	McIntyre
Case	Heinz	Melcher
Chiles	Helms	Metzenbaum
Church	Hollings	Morgan
Clark	Huddleston	Moynihan
Danforth	Humphrey	Muskie
Nelson	Ribicoff	Stevens
Nunn	Riegle	Stevenson
Packwood	Roth	Stone
Pearson	Sarbanes	Talmadge
Pell	Sasser	Thurmond
Percy	Schweiker	Weicker
Proxmire	Sparkman	Williams
Randolph	Stafford	Zorinsky

NAYS—5

Curtis	Hayakawa	Scott
Hansen	Schmitt	

NOT VOTING—21

Abourezk	Ford	Long
Bartlett	Garn	McClellan
Biden	Goldwater	Metcalf
Brooke	Gravel	Stennis
Chafee	Griffin	Tower
Cranston	Inouye	Wallop
Culver	Laxalt	Young

So the bill (S. 555) was passed, as follows:

S. 555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited at the "Public Officials Integrity Act of 1977".

TITLE I—AMENDMENTS TO TITLE 28, UNITED STATES CODE

SPECIAL PROSECUTOR

SEC. 101. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following new chapters:

"Chapter 39.—SPECIAL PROSECUTOR

"Sec.
"591. Applicability of provisions of this chapter.
"592. Application for appointed of a special prosecutor.
"593. Duties of the division of the court.
"594. Authority and duties of a special prosecutor.
"595. Reporting and congressional oversight.
"596. Removal of a special prosecutor; termination of office.
"597. Relationship with Department of Justice.
"598. Termination of effect of chapter.

"§ 591. Applicability of provisions of this chapter

"(a) The Attorney General shall conduct an investigation pursuant to the provisions of this chapter whenever the Attorney General receives specific information that any of the persons described in subsection (b) of this section may have violated any Federal criminal law other than a violation constituting a petty offense.

"(b) The persons referred to in subsection (a) of this section are—

"(1) The President or Vice President.

"(2) Any individual serving in a position listed in section 5313 of title 5.

"(3) Any individual working in the Executive Office of the President and compensated at a rate not less than the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

"(4) Any individual working in the Department of Justice and compensated at a rate not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5; any assistant attorney general involved in criminal law enforcement; the Director of Central Intelligence; the Deputy Director of Central Intelligence; and the Commissioner of Internal Revenue.

"(5) Any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the term of the President in office on the date the Attorney General receives the information under subsection (a) (hereafter in this subsection referred to as the 'incumbent President') or during the period during which the President immediately preceding such incumbent President held office, if such preceding President was of the same political party as the incumbent President.

"(6) A national campaign manager or chairman of any national campaign committee seeking the election or reelection of the President.

"(7) For the purposes of section 592(h) of this title, a representative or Senator in the Congress of the United States.

"§ 592. Application for appointment of a special prosecutor

"(a) The Attorney General, upon receiving specific information that any of the individuals described in section 591(b) may have violated any Federal criminal law other than a violation constituting a petty offense, shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate. The Attorney General, upon notifying in writing the division of the court specified in section 593(a) (hereinafter referred to as the 'division of the court') of the need for additional time to complete a preliminary investigation and the reasons why additional time is needed, shall have thirty days to complete such preliminary investigation.

"(b)(1) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court and the division of the court shall have no power to appoint a special prosecutor.

"(2) The notification by the Attorney General of the division of the court shall be by memorandum containing a summary of the information received and a summary of the results of any preliminary investigation.

"(3) Such memorandum shall not be revealed to any individual outside the court or the Department of Justice without leave of the division of the court.

"(c)(1) If the Attorney General, upon completion of the preliminary investigation, finds that the matter warrants further investigation or prosecution, or if ninety days (one hundred and twenty days in the case of an extension) elapse from the receipt of the information without a determination by the Attorney General that the matter is so unsubstantiated as to not warrant further investigation or prosecution, then the Attorney General shall apply to the division of the court for the appointment of a special prosecutor.

"(2) Each application for the appointment of a special prosecutor shall contain sufficient information to enable the division of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(3) Such application shall not be revealed to any individual outside the court or the Department of Justice without leave of the division of the court.

"(d)(1) If—

"(A) after the filing of a memorandum under subsection (b) of this section, the Attorney General receives additional specific information about the matter to which such memorandum related; and

"(B) the Attorney General determines, after such additional investigation as the Attorney General deems appropriate, that such information warrants further investigation or prosecution;

then the Attorney General shall, not later than ninety days after receiving such additional information, apply to the division of the court for the appointment of a special prosecutor.

"(2) Each application for the appointment of a special prosecutor shall contain sufficient information to enable the division of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(3) Such application shall not be revealed

to any individual outside the court or the Department of Justice without leave of the division of the court.

"(e)(1) For the purpose of this section, a conflict of interest or the appearance thereof is deemed to exist whenever the continuation of an investigation or the outcome thereof may directly and substantially affect the partisan political or personal interests of the President, the Attorney General, or the interests of the President's political party.

"(2) Whenever it reasonably appears that a conflict of interest, as defined in paragraph (1), exists, with respect to an investigation of specific information that an individual may have violated any Federal criminal law other than a violation constituting a petty offense, the Attorney General shall conduct a preliminary investigation as required by subsection (a).

"(3)(A) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court pursuant to subsection (b).

"(B) If the Attorney General, upon completion of the preliminary investigation, finds that the matter warrants further investigation or prosecution or if ninety days (one hundred and twenty days in the case of an extension) have elapsed from the time of the Attorney General's finding in paragraph (2) without a determination by the Attorney General that the matter is so unsubstantiated as not to warrant further investigation or prosecution, then the Attorney General shall—

"(i) apply to the division of the court for the appointment of a special prosecutor pursuant to subsection (c); or

"(ii) submit a memorandum to the division of the court setting forth the reasons why a special prosecutor is not required under the standard set forth in paragraph (1) of this subsection.

"(C) If the Attorney General concludes that appointment of a special prosecutor is not required under the standard set forth in paragraph (1) of this subsection, the division of the court shall review the information provided by the Attorney General with respect to whether a conflict, as described in paragraph (1), exists. Upon request of the division of the court, the Attorney General shall make available to the division all documents, materials, and memorandums as the division finds necessary to carry out its duties under this subsection. If the division finds that continuing the investigation by the Department of Justice would create a conflict of interest, or the appearance thereof, as defined in paragraph (1), the division shall appoint a special prosecutor.

"(f) Any determinations or applications required to be made under this section by the Attorney General shall be made by the Director of the Office of Government Crimes if the information or allegations involve the Attorney General.

"(g) The Attorney General's determination under subsection (c), (d), or (e) to apply to the division of the court for the appointment of a special prosecutor shall not be reviewable in any court.

"(h) Documents, materials, and memorandums supplied to the court by the Department of Justice under this subsection shall not be revealed to any individual outside the court or the Department of Justice without leave of the division of the court.

"(i)(1) Notwithstanding any other provision of this title, the Attorney General shall, upon enactment of this title, conduct for a period not to exceed ninety days, a preliminary investigation into whether there has been since 1970 improper or illegal conduct on the part of any Representative or Senator in the Congress of the United States with respect to the receipt or acceptance of any valuable consideration from representatives of any foreign government in order to influence legislation or other Government action.

"(2)(A) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court pursuant to subsection (b).

"(B) If the Attorney General, upon completion of the preliminary investigation, finds that the matter warrants further investigation or prosecution or if ninety days has elapsed from the time of enactment of this title without a finding by the Attorney General that the matter is so unsubstantiated as not to warrant further investigation or prosecution, then the Attorney General shall apply to the division of the court for the appointment of a special prosecutor pursuant to subsection (c).

"§ 593. Duties of the division of the court

"(a) The division of the court which is referred to in this chapter, and to which functions are given by this chapter, is the division established under section 49 of this title.

"(b) Upon receipt of an application under subsection (c), (d), or (f) of section 592, the division of the court shall appoint an appropriate special prosecutor and shall define the jurisdiction of that special prosecutor. The court may define such jurisdiction to extend to related matters. A special prosecutor's identity and prosecutorial jurisdiction shall be made public upon request of the Attorney General or upon the determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of such special prosecutor would be in the best interest of justice. In any event the identity and prosecutorial jurisdiction of such prosecutor shall be made public when any indictment is returned.

"(c) The division of the court, upon request of the Attorney General, may assign new matters to an existing special prosecutor or may expand the prosecutorial jurisdiction of an existing special prosecutor to include related matters. Such request may be incorporated in an application for the appointment of a special prosecutor under this chapter.

"(d) The division of the court may not appoint as a special prosecutor any person who holds or recently held any office of profit or trust under the United States.

§ 594. Authority and duties of a special prosecutor

"(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, full power, and independent authority—

"(1) to conduct proceedings before grand juries and other investigations;

"(2) to participate in court proceedings and engage in any litigation, including civil and criminal matters, as he deems necessary;

"(3) to appeal any decision of a court in any case or proceeding in which such special prosecutor participates in an official capacity;

"(4) to review all documentary evidence available from any source;

"(5) to determine whether to contest the assertion of any testimonial privilege;

"(6) to receive appropriate national security clearances and, if necessary, contest in court, including, where appropriate, participation in camera proceedings, any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) to make applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpenas, or other court orders, and for purposes of sections 6003, 6004, and 6005, of title 18, a special prosecutor may exercise the authority vested in a United States Attorney or the Attorney General;

"(8) to inspect, obtain, or use the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and for purposes of section 6103 of title 26, and the regulations issued thereunder, a special prosecutor may exercise the powers vested in a United States Attorney or the Attorney General;

"(9) to initiate and conduct prosecutions in any court of competent jurisdiction, frame and sign indictments, file informations, and handle all aspects of any case in the name of the United States; and

"(10) to exercise all other investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18.

"(b) A special prosecutor appointed under this chapter shall receive compensation at a per diem rate equal to the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5.

"(c) For the purposes of carrying out the duties of the office of special prosecutor, a special prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as such special prosecutor deems necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate provided for GS–18 of the General Schedule under section 5332 of title 5.

"(d) If requested by a special prosecutor, the Department of Justice shall provide to such special prosecutor assistance which shall include full access to any records, files, or other materials relevant to matters within his prosecutorial jurisdiction, and providing to such special prosecutor the resources and personnel required to perform such special prosecutor's duties.

"(e) A special prosecutor may ask the Attorney General or the division of the court to refer matters related to the special prosecutor's prosecutorial jurisdiction. A special prosecutor may accept referral of a matter by the Attorney General, if the matter relates to a matter within such special prosecutor's prosecutorial jurisdiction as established by the division of the court. If such a referral is accepted, the special prosecutor shall notify the division of the court.

"(f) To the maximum extent practicable, a special prosecutor shall comply with the written policies of the Department of Justice respecting enforcement of the criminal laws which have been promulgated prior to the special prosecutor's appointment.

"§ Reporting and congressional oversight

"(a) A special prosecutor appointed under this chapter may from time to time make public, or send to the Congress, statements or reports on the activities of such special prosecutor. These statements and reports shall contain such information as that special prosecutor deems appropriate.

"(b)(1) In addition to any reports made under subsection (a) of this section, a special prosecutor appointed under this chapter shall, at the conclusion of such special prosecutor's duties, submit to the division of the court a report under this subsection.

"(2) Such report shall set forth fully and completely a description of the work of the special prosecutor, including the disposition

of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such special prosecutor which was not prosecuted. The report shall be in sufficient detail to allow determination of whether the special prosecutor's investigation was thoroughly and fairly completed.

"(3) The division of the court may release to the Congress, the public, or to any appropriate person, without comment on the contents of the report, such portions of a report made under this subsection as the division deems appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and prevent undue interference with any pending prosecution. The division of the court may make any portion of such report available to any individual named in such report for the purposes of receiving, within a time limit set by the division of the court, any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of such division, be included as an appendix to such report.

"(c) A special prosecutor may advise the House of Representatives of any substantial and credible information which such special prosecutor receives that may constitute grounds for an impeachment of the President, Vice President, or a justice or judge of the United States. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(d) A majority of majority party members or a majority of all nonmajority party members of the judiciary committee of either House of the Congress may request in writing that the Attorney General apply for the appointment of a special prosecutor under section 592(e) of this chapter. Not later than thirty days after the receipt of such a request, or not later than thirty days after the completion of the preliminary investigation conducted pursuant to section 592(e), whichever is later, the Attorney General shall provide written notification of any action he has taken under this chapter in response to such request. If no application for the appointment of a special prosecutor has been made to the division of the court, the Attorney General shall explain the specific reasons why a special prosecutor is not required under the standard set forth in section 592 (e). Such written notification shall be sent to the committee on which the persons making the request serve, and shall not be revealed to any third party, except that such committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such notification as will not in the committee's judgment prejudice the rights of any individual.

"§ 596. Removal of a special prosecutor; termination of office

"(a) A special prosecutor may be removed from office, other than by impeachment and conviction, by the personal action of the Attorney General only for extraordinary improprieties, for malfeasance in office, for willful neglect of duty, for permanent incapacitation, or for any conduct constituting a felony. An action may be brought in the division of the court to challenge the action of the Attorney General under this subsection by seeking reinstatement or other appropriate relief. The division of the court shall cause such an action in every way to be expedited. If a special prosecutor is removed from office, the Attorney General shall promptly submit to the judiciary committees of the Senate and the House of Representatives a report describing with particularity the grounds for such action. The committees shall make available to the public such report, except that each committee may, if necessary to avoid prejudicing the legal rights of any individual, delete or postpone publishing such portions of the report, or the whole report, or any name or other identifying details.

"(b) (1) An office of special prosecutor shall terminate upon the submission by the special prosecutor of written notification to the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such special prosecutor, or accepted by such special prosecutor under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. No such submission shall be effective to terminate such office until after the completion and filing of the report required under section 595(b) of this title.

"(2) The division of the court, either on its own motion or upon the personal recommendation of the Attorney General, may terminate an office of special prosecutor at any time on the ground that the investigation of all matters within the prosecutorial jurisdiction of the special prosecutor, or accepted by such special prosecutor under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of termination, the special prosecutor shall file the report required by section 595(b) of this title.

"§ 597. Relationship with Department of Justice

"(a) Whenever a matter is in the prosecutorial jurisdiction of a special prosecutor or has been accepted by a special prosecutor under section 594(e), the Department of Justice,the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except as otherwise required by section 594(d) of this title, and except insofar as the special prosecutor agrees in writing that such investigations or proceedings may be continued by the Department of Justice.

"(b) The Attorney General or the Solicitor General may, to the extent provided under existing law, make a presentation to any court as to issues of law raised by any case or proceeding in which a special prosecutor participates in an official capacity, or any appeal of such a case or proceeding.

"§ 598. Termination of effect of chapter

"This chapter shall cease to have effect five years after the date on which it takes effect, except as to the completion of then-pending matters, which in the judgment of the division of the court require this chapter's continuance in effect, with respect to which matters this chapter shall continue in effect until such division determines that such matters have been completed.".

(b) The tables of chapters for title 28 of the United States Code and for part II of such title 28 are each amended by inserting immediately after the item relating to chapter 37 the following new item:

"39. Special prosecutor.".

(c) There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any special prosecutors appointed under chapter 39 (relating to special prosecutor) of title 28 of the United States Code in carrying out of functions under such chapter.

ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT SPECIAL PROSECUTORS

SEC. 102. (a) Chapter 3 of title 28 of the United States Code is amended by adding at the end of the following new section:

"§ 49. Assignment of judges to divisions to appoint special prosecutors

"(a) Beginning with the two-year period commencing on the date chapter 39 of this title takes effect, five judges or justices shall be assigned for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the special panel of the court for the purposes of chapter 39 of this title.

"(b) Except as provided in subsection (f) of this section, assignment to the division established in subsection (a) of this section shall not be a bar to other judicial assignments during the term of such division.

"(c) In assigning judges or justices to sit on the division established in subsection (a) of this section, priority shall be given to senior retired circuit judges and senior retired justices.

"(d) The chief judge of the United States Court of Appeals for the District of Columbia shall make a request to the Chief Justice of the United States, without presenting a certificate of necessity, to designate and assign, in accordance with section 294 of this title, five circuit court judges or justices, one of which shall be a judge of the United States Court of Appeals for the District of Columbia, to the division established under subsection (a) of this section. Not more than one judge or justice or retired judge or justice may be named to the panel from a particular court.

"(e) Any vacancy in the division established under subsection (a) of this section shall be filled only for the remainder of the two-year period in which such vacancy occurs and in the same manner as initial assignments to the division were made.

"(f) No judge or justice who, as a member of the division established in subsection (a) of this section, participated in a function conferred on the division under chapter 39 of this title involving a special prosecutor shall be eligible to participate in any judicial proceeding concerning a matter which involves such special prosecutor while such special prosecutor is serving in that office or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office.".

(b) The table of sections for chapter 3 of title 28 of the United States Code is amended by adding at the end the following item:

"49. Assignment of judges to division to appoint special prosecutors.".

DISQUALIFICATION OF OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE AND OFFICE OF GOVERNMENT CRIMES

SEC. 103. Chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"§ 528. Disqualification of officers and employees of the Department of Justice

"The Attorney General shall promulgate rules and regulations which require any officer or employee of the Department of Justice, including a United States Attorney or a member of his staff, to disqualify himself from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.

"§ 529. Office of Government Crimes

"(a) (1) There is established within the Department of Justice an Office of Government Crimes, which shall be headed by a director. The Director of the Office of Government Crimes shall be appointed by the President with the advice and consent of the Senate. The Attorney General shall determine the organizational placement of the

office within the Department and shall be kept periodically informed of its activities.

"(2) A person shall not be appointed director of the Office of Government Crimes if he has at any time during the five years preceding such appointment held a high-level position of trust and responsibility on the personal campaign staff of, or in an organization or political party working on behalf of, a candidate for any elective Federal office.

"(b)(1) The Attorney General shall, except as provided in paragraph (2) and except as to matters referred to a special prosecutor pursuant to chapter 39 of this title, delegate to the Office of Government Crimes jurisdiction of (1) criminal violations of Federal law by any individual who holds or who at the time of such possible violation held a position, whether or not elective, as a Federal Government officer, employee, or special employee, which alleged violation related directly or indirectly to such individual's Government position, employment, or compensation; (2) criminal violations of Federal laws relating to lobbying, conflicts of interest, campaigns, and election to public office committed by any person except insofar as such violations relate to matters involving discrimination or intimidation on the grounds of race, color, religion or national origin; (3) the supervision of investigations and prosecutions of criminal violations of Federal law by any individual who holds or who at the time of such possible violation held a position, whether or not elective, as a State or local government officer or employee, which alleged violation related directly or indirectly to his government position, employment or compensation; and (4) such other matters as the Attorney General may deem appropriate.

"(2) A matter described in paragraph (1) of this subsection may be delegated by the Attorney General exclusively or concurrently to the United States Attorneys or other units of the Department of Justice. The Director shall be kept apprised of the progress of any investigation or prosecution so delegated. This section shall not limit any authority conferred upon the Attorney General, the Federal Bureau of Investigation, or any other department or agency of government to investigate any matter.

"(c)(1) At the beginning of each regular session of the Congress, the Attorney General shall report to the Congress on the activities and operation of the Office of Government Crimes for the preceding fiscal year.

"(2) Such report shall specify the number and type of investigations and prosecutions subject to the jurisdiction of such unit and the disposition thereof, but shall not include any information which would impair an ongoing investigation, prosecution, or proceeding, or which the Attorney General determines would constitute an improper invasion of personal privacy.".

(b) The table of sections for chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"528. Disqualification of officers and employees of the Department of Justice.
"529. Office of Government Crimes.".

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(114) Director, Office of Government Crimes, Department of Justice.".

SEPARABILITY

SEC. 104. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

TITLE II—CONGRESSIONAL LEGAL COUNSEL

ESTABLISHMENT OF OFFICE OF CONGRESSIONAL LEGAL COUNSEL

SEC. 201. (a)(1) There is established, as an office of the Congress, the Office of Congressional Legal Counsel (hereinafter referred to as the "Office"), which shall be headed by a Congressional Legal Counsel (hereinafter referred to as the "Counsel"); and there shall be a Deputy Congressional Legal Counsel (hereinafter referred to as the "Deputy Counsel") who shall perform such duties as may be assigned to him by the Counsel and who, during any absence, disability, or vacancy in the position of the Counsel, shall serve as Acting Congressional Legal Counsel.

(2)(A) The Counsel and the Deputy Counsel each shall be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives from among recommendations submitted by the majority and minority leaders of the Senate and the House of Representatives. Any appointment made under this paragraph shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position and shall be subject to the provisions of subparagraph (B). Any person appointed as Counsel or Deputy Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during the term of such appointment.

(B) No person shall be appointed under subparagraph (A) if, within the five-year period immediately preceding the appointment, such person—

(i) was a Member of Congress (as defined in section 309(10) of this Act) or a candidate (as defined in section 309(2) of this Act) seeking nomination for election, or election to, the office of Member of Congress,

(ii) actively participated in the management or conduct of any campaign of any individual, including a Member of Congress, for nomination for election, or election to, the office of Member of Congress, or

(iii) was an officer or employee of the Senate or the House of Representatives (as defined in section 309(12) of this Act).

(3)(A) Any appointment made under paragraph (2) shall become effective upon approval, by concurrent resolution, of the Senate and the House of Representatives. The Counsel and the Deputy Counsel shall each be appointed for a term of service which shall expire at the end of the Congress following the Congress during which the Counsel or Deputy Counsel, respectively, is appointed except that the Congress may, by concurrent resolution, remove either the Counsel or the Deputy Counsel prior to the termination of any term of service. The Counsel and the Deputy Counsel may be reappointed at the termination of any term of service.

(B) The first Counsel and the first Deputy Counsel shall be appointed, approved, and begin service within ninety days after the date of the enactment of this Act and thereafter the Counsel and Deputy Counsel shall be appointed, approved, and begin service within thirty days after the beginning of the session of Congress immediately following the termination of a Counsel's or Deputy Counsel's term of service or within sixty days after a vacancy occurs in either position.

(4) The Counsel shall receive compensation at a per annum gross rate equal to the rate of basic pay for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Deputy Counsel shall receive compensation at a per annum gross rate equal to the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b)(1)(A) The Counsel shall select and fix the compensation of such Assistant Congressional Legal Counsels (hereinafter referred to as "Assistant Counsels") and of such other personnel, within the limits of available appropriations, as may be necessary to carry out the provisions of this title and may prescribe the duties and responsibilities of such personnel. The compensation fixed for Assistant Counsels shall not be in excess of a per annum gross rate equal to the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code. Any selection made under this paragraph shall be subject to the provisions of subparagraph (B) and shall be made without regard to political affiliation and solely on the basic of fitness to perform the duties of the position. Any individual selected as an Assistant Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during his term of service. The Counsel may remove any individual appointed under this paragraph.

(B) No person shall be appointed under subparagraph (A), if, within the five-year period immediately preceding the appointment, such person—

(i) was a Member of Congress (as defined in section 309(10) of this Act) or a candidate (as defined in section 309(2) of this Act) seeking nomination for election, or election to, the office of Member of Congress,

(ii) actively participated in the management or conduct of any campaign of any individual, including a Member of Congress, for nomination for election, or election to, the office of Member of Congress, or

(iii) was an officer or employee of the Senate or the House of Representatives (as defined in section 309(12) of this Act).

(2) For purposes of pay (other than the rate of pay of the Counsel and Deputy Counsel) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the Senate.

(c) In carrying out the functions of the Office, the Counsel may procure the temporary (not to exceed one year) or intermittent services of individual consultants (including outside counsel), or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(d) The Office shall have the same privilege of free transmission of official mail as other offices of the United States Government.

(e) The Counsel may establish such policies and procedures as may be necessary to carry out the provisions of this title.

(f) The Counsel may delegate authority for the performance of any function imposed by this title except any function imposed upon the Counsel under section 206(b) of this title.

(g) The Counsel and other employees of the Office shall maintain the attorney-client relationship with respect to all communications between them and any Member, officer, or employee of Congress.

ACCOUNTABILITY OF OFFICE

SEC. 202. (a) The Office shall be directly accountable to the Joint Leadership Group in the performance of the duties of the Office.

(b) For purposes of this title, the Joint Leadership Group shall consist of the following Members:

(1) The Speaker of the House and the President pro tempore (or if he so designates, the Deputy President pro tempore) of the Senate;

(2) the majority and minority leaders of both Houses of Congress;

(3) the Chairman and ranking minority member of the judiciary committees of both Houses of Congress; and

(4) the Chairman and ranking minority Member of the committee of the Senate and of the House, which has jurisdiction over the contingent fund of that body.

(c) The Joint Leadership Group shall be assisted in the performance of its duties by the Secretary of the Senate and the Clerk of the House.

REQUIREMENTS FOR AUTHORIZING REPRESENTATION ACTIVITY

SEC. 203. (a) The Counsel shall defend—

(1) a House of Congress or a committee, subcommittee, Member, officer, or employee of a House of Congress under section 204 only when directed to do so by two-thirds of the Members of that House serving on the Joint Leadership Group or by the adoption of a resolution by such House; and

(2) the Congress or a joint committee, office or agency of Congress, or an officer or employee of such an office or agency, under section 204 only when directed to do so by two-thirds of the Joint Leadership Group or by the adoption of a concurrent resolution by both Houses.

(b) The Counsel shall bring a civil action to enforce a subpena of—

(1) a House of Congress, or a committee or subcommittee of a House of Congress, under section 205 only when directed to do so by the adoption of a resolution by the appropriate House of Congress; and

(2) a joint committee of Congress or the Technology Assessment Board under section 205 only when directed to do so by the adoption of a concurrent resolution of both Houses.

(c) The Counsel shall intervene or appear as amicus curiae under section 206 only when directed to do so—

(1) by a resolution adopted by a House of Congress when such intervention or appearance is to be made in the name of that House;

(2) by a resolution adopted by the appropriate House when such intervention or appearance is to be made in the name of an officer, committee, subcommittee, or chairman of a committee or subcommittee of that House; or

(3) by a concurrent resolution adopted by both Houses when such intervention or appearance is to be made in the name of Congress or a joint committee, a chairman of a joint committee, an office, or an agency of Congress.

(d) The Counsel shall serve as the duly authorized representative in obtaining an order granting immunity under section 207 of—

(1) a House of Congress when directed to do so by an affirmative vote of a majority of the Members present of that House, or

(2) a committee or subcommittee of a House of Congress, or a joint committee of Congress, when directed to do so by an affirmative vote of two-thirds of the members of the full committee.

(e) The Office shall make no recommendation with respect to the consideration of a resolution or concurrent resolution under this section.

DEFENDING CONGRESS, A HOUSE, COMMITTEE, MEMBER, OFFICER, AGENCY, OR EMPLOYEE OF CONGRESS

SEC. 204. (a) Except as otherwise provided in subsection (b), when directed to do so pursuant to section 203(a), the Counsel shall—

(1) defend Congress, a House of Congress, an office or agency of Congress, a committee, subcommittee, Member, officer, or employee of a House of Congress, or an officer or employee of an office or agency of Congress in any civil action pending in any court of the United States or of a State or political subdivision thereof in which Congress, such House, committee, subcommittee, Member, officer, employee, office, or agency is made a party defendant and in which there is placed in issue the validity of any proceeding of, or action, including issuance of any subpena or order, taken by Congress, such House, committee, subcommittee, Member, officer, employee, office, or agency in its or his official or representative capacity; or

(2) defend Congress, a House of Congress, an office or agency of Congress, a committee, subcommittee, Member, officer, or employee of a House of Congress or an officer or employee of an office or agency of Congress in any proceeding with respect to any subpena or order directed to Congress, such House, committee, subcommittee, Member, officer, employee, office, or agency in its or his official or representative capacity.

(b) Representation of a Member, officer, or employee under subsection (a) shall be undertaken by the Counsel only upon the consent of such Member, officer, or employee.

INSTITUTING A CIVIL ACTION TO ENFORCE A SUBPENA

SEC. 205. (a) When directed to do so pursuant to section 203(b), the Counsel shall bring a civil action under any statute conferring jurisdiction on any court of the United States (including section 1364 of title 28, United States Code, as added by subsection (f)(1)), to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened failure or refusal to comply with, any subpena or order issued by a House of Congress or a committee, or a subcommittee of a committee, of a House of Congress or of Congress authorized to issue a subpena or order.

(b) Any directive to the Counsel to bring a civil action pursuant to subsection (a) of this section in the name of a committee or subcommittee of a House of Congress or of Congress shall constitute authorization for such committee or subcommittee to bring such action within the meaning of any statute conferring jurisdiction on any court of the United States.

(c) It shall not be in order in the Senate or House of Representatives to consider a resolution to direct the Congressional Legal Counsel to bring a civil action pursuant to subsection (a) in the name of a committee or subcommittee unless—

(1) such resolution is reported by a majority of the members voting, a majority being present, of such committee or committee of which such subcommittee is a subcommittee, and

(2) the report filed by such committee or committee of which such subcommittee is a subcommittee contains a statement of—

(A) the procedure followed in issuing such subpena;

(B) the extent to which the party subpenaed has complied with such subpena;

(C) any objections or privileges raised by the subpenaed party; and

(D) the comparative effectiveness of bringing a civil action under this section, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before a House of Congress.

(d) The provisions of subsection (c) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and, as such, they shall be considered as part of the rules of each House, respectively, and such rules shall supersede any other rule of each House only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(e) The extent to which a report filed pursuant to subsection (c)(2) is in compliance with such subsection shall not be reviewable in any court of law.

(f)(1) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Congressional actions

"(a) The District Court for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, over any civil action brought by a House of Congress, or any authorized committee or joint committee of a House of Congress or of Congress, or any subcommittee thereof, to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal or failure to comply with, any subpena or order issued by such House, committee, subcommittee, or joint committee to any entity acting or purporting to act under color or authority of State law, or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof. This section shall not apply to an action to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal to comply with, any subpena or order issued to an officer or employee of the Federal Government acting within his official capacity.

"(b) Upon application by a House of Congress, or any authorized committee or joint committee, or any subcommittee thereof, the District Court shall issue an order to a person refusing or failing, or threatening to refuse or not to comply, with a subpena or order of such House, committee, joint committee, or subcommittee requiring such person to comply forthwith. Any refusal or failure to obey a lawful order of the District Court issued pursuant to this section may be held by such court to be a contempt thereof. A contempt proceeding shall be commenced by an order to show cause before the court why the party refusing or failing to obey the court order should not be held in contempt of court. Such contempt proceeding shall be tried by the court and shall be summary in manner. The purpose of sanctions imposed as a result of such contempt proceeding shall be to compel obedience to the order of the court. Process in any such action or contempt proceeding may be served in any judicial district wherein the party refusing or failing, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpenas for witnesses who are required to attend such proceeding may run into any other district. Nothing in this section shall confer upon such court jurisdiction to affect by injunction or otherwise the issuance or effect of any subpena or order of a House of Congress, or a committee, joint committee, or subcommittee, or to review, modify, suspend, terminate or set aside any such subpena or order. An action, contempt proceeding, or sanction brought or imposed pursuant to this section shall not abate upon adjournment sine die at the end of a Congress if the party which issued the subpena or order certifies to the court that it maintains its interest in securing the documents, answers, or testimony during such adjournment.

"(c) In any civil action or contempt proceeding brought pursuant to this section, the court shall assign the case or proceeding for hearing at the earliest practicable date and cause the case or proceeding in every way to be expedited. Any appeal or petition for review from any order or judgment in

such case or proceeding shall be expedited in the same manner.

"(d) Either House of Congress, any committee, subcommittee, or joint committee commencing and prosecuting a civil action or contempt proceeding under this section may be represented in such action by such attorneys as it may designate.

"(e) A civil action commenced or prosecuted under this section may not be authorized pursuant to the Standing Order of the Senate 'authorizing suits by Senate Committees' (S. Jour. 572, 70–1, May 28, 1928).

"(f) For the purposes of this section, when referred to herein, the term 'committee' shall include standing, select, or special committees established by law or resolution and the term 'joint committee' shall include the Technology Assessment Board.".

(2) The analysis of such chapter 85 is amended by adding at the end thereof the following new item:

"1364. Congressional actions.".

(g) Nothing in this section shall limit the discretion of—

(1) the President pro tempore of the Senate or the Speaker of the House of Representatives in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 104 of the Revised Statutes (2 U.S.C. 194); or

(2) either House of Congress to hold any individual or entity in contempt of such House of Congress.

INTERVENTION OR APPEARANCE

SEC. 206. (a) When directed to do so pursuant to section 203(c), the Counsel shall intervene or appear as amicus curiae in the name of Congress, a House of Congress, or an officer, office, agency, committee, subcommittee or chairman of a committee or subcommittee of a House of Congress or of Congress in any legal action pending in any court of the United States or of a State or political subdivision thereof in which the powers and responsibilities of Congress under the Constitution of the United States are placed in issue. The Counsel shall be authorized to intervene only if standing to intervene exists under section 2 of article III of the Constitution of the United States.

(b) The Counsel shall notify the Joint Leadership Group of any legal action in which the Counsel is of the opinion that intervention or appearance as amicus curiae under subsection (a) is in the interest of Congress or of a House of Congress. Such notification shall contain a description of the legal proceeding together with the reasons that the Counsel is of the opinion that intervention or appearance as amicus curiae is in the interest of Congress or of a House of Congress. The Joint Leadership Group shall cause said notification to be published in the Congressional Record for the appropriate House or Houses.

(c) The Counsel shall limit any intervention or appearance as amicus curiae in an action to issues relating to the powers and responsibilities of Congress.

IMMUNITY PROCEEDINGS

SEC. 207. When directed to do so pursuant to section 203(d), the Counsel shall serve as the duly authorized representative of a House of Congress or a committee or subcommittee in requesting a United States district court to issue an order granting immunity pursuant to section 201(a) of the Organized Crime Control Act of 1970 (18 U.S.C. 6005).

ADVISORY AND OTHER FUNCTIONS

SEC. 208. (a) The Congressional Legal Counsel shall advise, consult, and cooperate with—

(1) the United States Attorney for the District of Columbia with respect to any criminal proceeding for contempt of Congress certified pursuant to section 104 of the Revised Statutes (2 U.S.C. 194);

(2) the committees with the responsibility to identify any court proceeding or action which is of vital interest to Congress or to either House of Congress;

(3) the Comptroller General, General Accounting Office, the Office of Legislative Counsel of the Senate, the Office of the Legislative Council of the House of Representatives, and the Congressional Research Service, except that none of the responsibilities and authority granted by this title to the Congressional Legal Counsel shall be construed to affect or infringe upon any functions, powers, or duties of the aforementioned;

(4) any Member, officer, or employee of Congress not represented under section 204 with regard to obtaining private legal counsel for such Member, officer, or employee;

(5) the President pro tempore of the Senate, the Speaker of the House of Representatives, the Secretary of the Senate, the Clerk of the House, the Sergeant-at-Arms of the Senate and House, and the Parliamentarians of the Senate and House regarding any subpena, order, or request for withdrawal of papers presented to the Senate and House of Representatives or which raises a question of the privileges of the Senate or House of Representatives; and

(6) any committee or subcommittee in promulgating and revising their rules and procedures for the use of congressional investigative powers and with respect to questions which may arise in the course of any investigation.

(b) The Counsel shall compile and maintain legal research files of materials from court proceedings which have involved Congress, a House of Congress, an office or agency of Congress, or any committee, subcommittee, Member, officer, or employee of Congress. Public court papers and other research memoranda which do not contain information of a confidential or privileged nature shall be made available to the public consistent with any applicable procedures set forth in such rules of the Senate and House of Representatives as may apply and the interests of Congress.

(c) The Counsel shall perform such other duties consistent with the purposes and limitations of this title as the Congress or a House of Congress may direct.

DEFENSE OF CERTAIN CONSTITUTIONAL POWERS

SEC. 209. In performing any function under this title, the Counsel shall defend vigorously when placed in issue—

(1) the constitutional privilege from arrest or from being questioned in any other place for any speech or debate under section 6 of article I of the Constitution of the United States;

(2) the constitutional power of each House of Congress to be judge of the elections, returns, and qualifications of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;

(3) the constitutional power of each House of Congress to except from publication such parts of its journal as in its judgment may require secrecy;

(4) the constitutional power of each House of Congress to determine the rules of its proceedings;

(5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof;

(6) all other constitutional powers and responsibilities of Congress; and

(7) the constitutionality of Acts of Congress.

CONFLICT OR INCONSISTENCY

SEC. 210. (a) In the carrying out of the provisions of this title, the Counsel shall notify the Joint Leadership Group, and any party represented or person affected, of the existence and nature of any conflict or inconsistency between the representation of such party or person and the carrying out of any other provision of this title or compliance with professional standards and responsibilities.

(b) Upon receipt of such notification, the members of the House or Houses affected serving on the Joint Leadership Group shall recommend the action to be taken to avoid or resolve the conflict or inconsistency. If such recommendation is made by a two-thirds vote, the Counsel shall take such steps as may be necessary to resolve the conflict or inconsistency as recommended. If not, the Members of the House or House affected serving on the Joint Leadership Group shall cause the notification or conflict or inconsistency and recommendation with respect to resolution thereof to be published in the Congressional Record of the appropriate House or Houses of Congress. If Congress or the appropriate House of Congress does not direct the Counsel within fifteen days from the date of publication in the Record to resolve the conflict in another manner, the Counsel shall take such action as may be necessary to resolve the conflict or inconsistency as recommended. Any instruction or determination made pursuant to this subsection shall not be reviewable in any court of law.

(c) For purposes of the computation of time in subsection (b)—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a date certain are excluded in the computation of the period.

(d) The appropriate House of Congress may by resolution authorize the reimbursement of any Member, officer, or employee who is not represented by the Counsel for fees and costs, including attorneys' fees, reasonably incurred in obtaining representation. Such reimbursement shall be from funds appropriated to the contingent fund of the appropriate House.

PROCEDURE FOR CONSIDERATION OF RESOLUTIONS TO DIRECT THE COUNSEL

SEC. 211. (a)(1) A resolution or concurrent resolution introduced pursuant to section 203 shall not be referred to a committee, except as otherwise required under section 205(c). Upon introduction, or upon being reported if required under section 205(c), whichever is later, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution or concurrent resolution. A motion to proceed to the consideration of a resolution or concurrent resolution shall be highly privileged and not debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to.

(2) With respect to a resolution or concurrent resolution pursuant to section 203 (a)—

(A) If the motion to proceed to the consideration of a resolution or concurrent resolution is agreed to, debate thereon shall be limited to not more than ten hours, which shall be divided equally between, and controlled by, those favoring and those opposing the resolution or concurrent resolution. A motion further to limit debate shall not be debatable. No amendment to the resolution or concurrent resolution shall be in order. No motion to recommit the resolution or concurrent resolution shall be in order, and it shall not be in order to reconsider the vote by which the resolution or concurrent resolution is agreed to.

(B) Motions to postpone, made with respect to the consideration of the resolution or concurrent resolution, and motions to

proceed to the consideration of other business, shall be decided without debate.

(C) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution, or concurrent resolution shall be decided without debate.

(b) For purposes of this title, other than section 203, the term "committee" shall include standing, select, special, or joint committees established by law or resolution and the Technology Assessment Board.

(c) The provisions of this section are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and, as such, they shall be considered as part of the rules of each House, respectively, and such rules shall supersede any other rule of each House only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

ATTORNEY GENERAL RELIEVED OF RESPONSIBILITY

SEC. 212. (a) Upon receipt of written notice that the Counsel has undertaken, pursuant to section 204(a) of this title to perform any representational service with respect to any designated party in any action or proceeding pending or to be instituted, the Attorney General shall—

(1) be relieved of any responsibility with respect to such representational service;

(2) have no authority to perform such service in such action or proceeding except at the request or with the approval of the Counsel or either House of Congress; and

(3) transfer all materials relevant to the representation authorized under section 204 (a) to the Counsel, except that nothing in this subsection shall limit any right of the Attorney General under existing law to intervene or appear as amicus curiae in such action or proceeding.

(b) The Attorney General shall notify the Counsel with respect to any proceeding in which the United States is a party of any determination by the Attorney General or Solicitor General not to appeal any court decision affecting the constitutionality of an Act of Congress within such time as will enable the Congress or a House of Congress to direct the Counsel to intervene in such proceeding pursuant to section 206.

PROCEDURAL PROVISIONS

SEC. 213. (a) Permission to intervene as a party or to file a brief amicus curiae under section 206 of this title shall be of right and may be denied by a court only upon an express finding that such intervention or filing is untimely and would significantly delay the pending action or that standing to intervene has not been established under section 2 of article III of the Constitution.

(b) The Counsel, the Deputy Counsel, or any designated Assistant Counsel shall be entitled, for the purpose of performing his functions under this title, to enter an appearance in any proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this subsection shall not apply with respect to the admission of any person to practice before the United States Supreme Court.

(c) Nothing in this title shall be construed to confer standing on any party seeking to bring, or jurisdiction on any court with respect to, any civil or criminal action against Congress, either House of Congress, a Member of Congress, a committee or subcommittee of a House of Congress, any office or agency of Congress, or any officer or employee of a House of Congress or any office or agency of Congress.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 214. (a) Section 3210 of title 39, United States Code, as amended—

(1) by striking out "and the Legislative Counsels of the House of Representatives and the Senate" in subsection (b)(1) and inserting in lieu thereof "the Legislative Counsels of the House of Representatives and the Senate, and the Congressional Legal Counsel"; and

(2) by striking out "or the Legislative Council of the House of Representatives or the Senate" in subsection (b)(2) and inserting in lieu thereof "the Legislative Counsel of the House of Representatives or the Senate, or the Congressional Legal Counsel".

(b) Section 3216(a)(1)(A) of such title is amended by striking out "and the Legislative Counsels of the House of Representatives and the Senate" and inserting in lieu thereof "the Legislative Counsels of the House of Representatives and the Senate, and the Congressional Legal Counsel".

(c) Section 3219 of such title is amended by striking out "or the Legislative Counsel of the House of Representatives or the Senate" and inserting in lieu thereof "the Legislative Counsel of the House of Representatives or the Senate, or the Congressional Legal Counsel".

(d) Section 8 of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes," approved March 3, 1875, as amended (2 U.S.C. 118), is repealed.

SEPARABILITY

SEC. 215. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 216. There are authorized to be appropriated to the Office for each fiscal year through September 30, 1982, such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding twelve months following the effective date of this title, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with the paragraph relating to the contingent fund of the Senate under the heading "UNDER LEGISLATIVE" in the Act of October 1, 1888 (28 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the Counsel.

TITLE III—GOVERNMENT PERSONNEL; FINANCIAL DISCLOSURE REQUIREMENTS

SEC. 301. (a) Any individual who is an officer or employee designated under subsection (b), and who performs the duties of his position or office for a period in excess of sixty days during a calendar year, shall file on or before May 15 of the succeeding year a report as required by section 302 containing a full and complete financial statement for that calendar year.

(b) The officers and employees referred to in subsection (a) are—

(1) the President;

(2) the Vice President;

(3) each Member of Congress;

(4) each justice or judge or other adjudicatory official of the judicial branch of the United States and of the judicial branch of the government of the District of Columbia;

(5) each officer or employee of an Executive agency, as defined in section 105 of title 5, United States Code, whose position is classified at a grade of GS–16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or who is in a position at a comparable or higher level, and each officer or employee of the United States not employed by an Executive agency, as so defined, who is compensated at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS–16 of the General Schedule prescribed by section 5332 of title 5, United States Code; and

(6) each member of a uniform service whose pay grade is at or in excess of O–7 under section 1009 of title 37, United States Code.

(c) Within thirty days of assuming the position of an officer or employee designated under section (b), an individual shall file a report as required by section 303(f) unless such individual has left another position designated in subsection (b) within thirty days prior to assuming his new position.

(d) Within five days of the transmittal by the President to the Senate of the nomination of a Presidential nominee, as defined in section 309(13), but in any event prior to confirmation by either House of Congress, such nominee shall file a report as required by section 303(f). Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

(e) Within thirty days of becoming a candidate seeking nomination for election, or election, to the office of President, Vice President, or Member of Congress, or on or before May 15 of that calendar year, whichever is later, and on or before May 15 of each successive year the individual continues to be a candidate, an individual shall file a report for the preceding calendar year as required by section 302.

(f) Any individual who occupies an office or position designated in subsection (b) shall, within thirty days after leaving such position, file a report as required by section 302 (covering the portion of that calendar year up to the date the individual left such office or position) unless such individual has accepted employment in another position designated in subsection (b).

CONTENTS OF REPORT

SEC. 302. Each report filed under subsections 301 (a), (e), and (f) shall include a full and complete statement, in such manner and form as the supervising ethics office (as defined in section 304(a)) for the filing individual shall prescribe, which contains the following:

(a)(1) The amount and the identity of each source of earned income (exclusive of honoraria) received during such calendar year which exceeds $100 in amount or value.

(2) The identity of the source, the amount, and the date, of each honorarium received during such calendar year and an indication of which honoraria, if any, were donated to a charitable organization.

(3) The identity of each source of income (other than earned income) received during such calendar year which exceeds $100 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within—

(A) not more than $1,000,

(B) greater than $1,000 but not more than $2,500,

(C) greater than $2,500 but not more than $5,000,

(D) greater than $5,000 but not more than $15,000,

(E) greater than $15,000 but not more than $50,000,

(F) greater than $50,000 but not more than $100,000, or

(G) greater than $100,000.

(4) For purposes of paragraphs (1) and (3), any gift described in subsections (b) and (c) of this section shall not be considered as income.

(b) The identity of the source, a brief description of, and the value of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more provided by any one source other than a relative during the calendar year except that any food, lodging, or entertainment received as part of the personal hospitality of any individual need not be reported.

(c) The identity of the source, a brief description of, and the value of all other gifts aggregating $100 or more from any one source other than a relative during the calendar year unless, in an unusual case, a waiver is granted by an individual's supervising ethics office.

(d)(1) Gifts with a fair market value of less than $35 need not be aggregated for the purposes of subsections (b) and (c) of this section.

(2) In aggregating gifts for purposes of subsections (b) and (c) of this section, the reporting individual may deduct from the total value of gifts received from any source during the calendar year the total value of gifts given by the reporting individual to that source during the calendar year, except that, if gifts with a fair market value of less than $35 received from that source are not aggregated, gifts with a fair market value of less than $35 given to that source may not be deducted.

(e)(1) The identity and category of value of each item of real property held, directly or indirectly, during such calendar year which has a fair market value in excess of $1,000 as of the close of such calendar year.

(2) The identity and category of value of each item of personal property held, directly or indirectly, during such calendar year in a trade or business or for investment or the production of income which as a fair market value in excess of $1,000 as of the close of such calendar year.

(f) The identity and category of value of each personal liability owed, directly or indirectly, other than to a relative, which exceeds $2,500 at any time during such calendar year.

(g) The identity, date, and category of value of any transaction, directly or indirectly, in securities or commodities futures during such calendar year exceeding $1,000, except that (1) the identity of the recipient of any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954 involving such a transaction need not be reported, and (2) any transaction solely by and between the reporting individual, his spouse, and dependents need not be reported.

(h)(1) The identity, date, and category of value of any purchase, sale, or exchange, directly or indirectly, of any interest in real property during such calendar year if the value of the property involved in such purchase, sale, or exchange exceeds $1,000 as of the date of such purchase, sale, or exchange, except that (1) the identity of the recipient of any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954 involving such a transaction need not be reported, and (2) any transaction solely by and between the reporting individual, his spouse, or dependents need not be reported.

(2) For the purposes of subsection (e)(1) of this section and paragraph (1) of this subsection, the identity of an item of real property shall include the number of acres of property, if there is more than one acre), the exact street address (except with respect to a personal residence of a reporting individual), the town, county, and State in which the property is located, and if there are substantial improvements on the land, a brief description of the improvements (such as "office building").

(i) The identity of and a description of the nature of any interest in an option, mineral lease, copyright, or patent right held during such calendar year.

(j) The identity of all positions held as an officer, director, trustee, partner, proprietor, agent, employee, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, and any educational or other institution, except that this subsection shall not require the reporting of positions held in any religious, social, fraternal, or political entity.

(k) A description of, the parties to, and the terms of any contract, promise, or other agreement between such individual and any person with respect to his employment after such individual ceases to occupy an office or position described in section 301, including any agreement under which such individual is taking a leave of absence from an office or position outside of the United States Government in order to occupy an office or position described in section 301(b), and a description of and the parties to any agreement providing for continuation of payments or benefits from a prior employer other than the United States Government.

(l) If any person, other than the United States Government, paid the reporting individual compensation in excess of $5,000 in any of the two calendar years prior to such calendar year, the individual shall include in the report—

(1) the name and address of each source of such compensation;

(2) the period during which the reporting individual was receiving such compensation from each such source;

(3) the title of each position or relationship the reporting individual held with each compensating source; and

(4) a brief description of the duties performed or services rendered by the reporting individual in each such position.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

SEC. 303. (a) For purposes of subsections (e) through (h) of section 302, an individual need not specify the actual amount or value of each item required to be reported under such subsections, but such individual shall indicate which of the following categories such amount or value is within:

(1) not more than $5,000,

(2) greater than $5,000 but not more than $15,000,

(3) greater than $15,000 but not more than $50,000,

(4) greater than $50,000 but not more than $100,000,

(5) greater than $100,000 but not more than $250,000,

(6) greater than $250,000 but not more than $500,000,

(7) greater than $500,000 but not more than $1,000,000.

(8) greater than $1,000,000 but not more than $2,000,000,

(9) greater than $2,000,000 but not more than $5,000,000, or

(10) greater than $5,000,000.

(b) For the purposes of subsection (e) of section 32, if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (i) the date of purchase and the purchase price of the interest in the real property, or (ii) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to subsection (a) of this section. If the current value of any other item required to be reported under subsection (e) of section 302 is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(c)(1) For the purposes of subsection (a) through (c) of section 302, the individual shall report the source, but need not report the amount, of any earned income over $1,000 or gifts over $100 ($250 in the case of transportation, lodging, food, or entertainment) received by a spouse or minor dependent, and of gifts of over $500 received by an adult dependent, but with respect to earned income, if his spouse or any minor dependent is self-employed in his or her own business or profession, only the nature of such business or profession need be reported.

(2) For the purposes of subsection (a)(3) and subsections (e) through (i) of section 302, a reporting individual shall also report the interests of the spouse or dependents of that individual: *Provided*, That a reporting individual shall not be required to report any specific information concerning interest of a spouse or dependent if the reporting individual certifies to the supervising ethics office that: (A) he or she has no knowledge of such information; (B) he or she has made every reasonable effort to obtain the required information from his or her spouse or dependent; (C) he or she derives and expects to derive no benefit from such interests; (D) and that such interests were not derived directly or indirectly from interests or income formerly owned or controlled by the reporting individual.

(3) No report shall be required with respect to the interests of a spouse living separate and apart from the reporting individual.

(d)(1) Except as provided in paragraph (2), each reporting individual shall report, in accordance with the provisions of section 302, the identity of the holdings of and the identity of the source of income from a trust or other financial arrangement from which income is received by, or with respect to which an equity interest is held by, such individual, his spouse, or any of his dependents.

(2) A reporting individual other than a judge or justice of the United States need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3)); or

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any of his dependents,

(ii) with respect to which such individual, his spouse, and any of his dependents have

no knowledge of the holdings or sources of income of the trust, and

(iii) with respect to which such individual has requested the trustee to provide information with respect to the holdings and sources of income of the trust and the trustee refuses to disclose the information,

but such individual shall report the category of the amount of income received by him, his spouse, or his dependents from the trust under section 302(a)(3).

(3) For purposes of this subsection, the term "qualified blind trust" includes any trust, in which a reporting individual, his spouse, or any of his dependents has a beneficial interest in the principal or income, and which meets the following requirements:

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

(i) is independent of any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) is not an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) is not a relative (as defined in section 309(14)) of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in clause (B), the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or less of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by section 302(a)(3) of this title, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset and which notification directs that the assets not be held by the trust, (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee shall be approved by the reporting individual's supervising ethics office. For purposes of this paragraph, "interested parties" means a reporting individual, his spouse, and dependents if the reporting individual, his spouse, or dependent has a beneficial interest in the principal or income of a qualified blind trust. The term "broker" is used as defined in section 78 of title 15, United States Code.

(4) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of section 208 of title 28, United States Code, and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(5)(A) The reporting individual shall file within 30 days after a qualified blind trust is approved by his supervising ethics office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under section 303(a),

with each office, agency, committee, or individual with whom such reporting individual is required to file a report under section 304.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under section 303(a).

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file a copy of a list of the assets of the trust at the time of such dissolution and the category of value under section 303(a) of each such asset with each office, agency, committee, or individual with whom such individual is required to file a report under section 304.

(D) Documents filed under clauses (A), (B), and (C) of this paragraph shall be made available to the public in the same manner as a report is made available under section 3C5 and the provisions of section 305, as appropriate, shall apply.

(E) A copy of each written communication with respect to the trust under paragraph (4)(C)(iv) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by this subsection or the trust agreement; or (vi) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under this subsection, or (ii) fail to file any document required by this subsection.

(C)(i) Any individual who knowingly and wilifully violates the provisions of subparagraph (A) or (B) shall be fined in any amount not exceeding $5,000, or imprisoned for not more than one year, or both.

(ii) Any individual who negligently violates the provisions of subparagraph (A) or (B) shall be fined in any amount not exceeding $5,000.

(7) Any trust which is in existence prior to the date of the enactment of this Act shall be considered a qualified blind trust if—

(A) the supervising ethics office determines that the trust was a good faith effort to establish a blind trust;

(B) the previous trust instrument is amended or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of paragraph (3)(c) and a trustee is (or has been) appointed who meets the requirements of paragraph (3); and

(C) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party, and the category of value of each such asset at the time it was placed in the trust is filed and made available to the public as provided under paragraph 5.

(e) The President, the Judicial Conference of the United States, the House of Representatives, or the Senate may require the reporting and disclosure of information with respect to gifts received by reporting individuals under their supervision, as designated in section 304(a), and their spouses and dependents, in addition to that required by section 302 if it is determined that such information is necessary for the effective enforcement of the conflict of interest laws or regulations.

(f) Each report filed under subsection 301 (c) and (d) shall include a full and complete statement, in such manner and form as the individual's supervising eithics office shall prescribe, with respect to information required by subsections (e), (f), (i), (j), (k), and (l) of section 302, as of the date of filing, and the sources and amounts of any payments to date over and above normal salary (including but not limited to severance, bonus or buy-out payments) from a prior employer or partner for the year of filing and the preceding calendar year.

FILING OF REPORTS

SEC. 304. (a) For purposes of this title, the term "supervising ethics office" means—

(1) a committee designated by the Senate of the United States in the case of Members, officers, and employees of the Senate, candidates seeking election to the Senate, and officers and employees of the General Accounting Office, the Cost Accounting Standards Board, the Office of Technology Assessment, and the Office of the Attending Physician;

(2) a committee designated by the House of Representatives in the case of Members, officers, and employees of the House of Representatives, candidates seeking election to the House of Representatives, and officers and employees of the Architect of the Capitol, the

Botanic Gardens, the Government Printing Office, and the Library of Congress;

(3) a committee designated by the Judicial Conference of the United States in the case of justices and judges of the United States, any officer or employee of the judicial branch of the Government or the District of Columbia government, and any Presidential nominee for any such position;

(4) the President in the case of any Commissioner of the Civil Service Commission and the Director of the Office of Government Ethics of the United States Civil Service Commission; and

(5) the Office of Government Ethics of the United States Civil Service Commission in the case of any other individual required to file a report under section 301; (b)(1) Each officer or employee whose supervising ethics office is the Office of Government Ethics of the United States Civil Service Commission (hereinafter referred to as the "Office of Government Ethics"), other than an individual excepted under paragraph (2), shall—

(A) file the report required by this title with the designated official of his agency; and

(B) file a copy of his report with the Office of Government Ethics if such officer or employee is the President, the Vice President, a Presidental appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, a full-time member of a committee, board, or commission appointed by the President or an individual whose pay rate is specified in subchapter II of chapter 53 of title 5, United States Code.

(2) The President may exempt any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States from the requirement to file a report with his supervising ethics office if the President find that, due to the nature of the office or position occupied by such individual, public disclosure of such report would reveal the identity of an undercover agent of the Federal Government. Each individual exempted by the President from such requirements shall file such report with the head of the agency in which he occupies an office or position and said report shall not be made public.

(c) Each Commissioner of the Civil Service Commission and the Director of the Office of Government Ethics of the Civil Service Commission shall file the report required by this title with the President and a copy with the Office of Government Ethics.

(d)(1) Each individual identified in subsection 301(d) who is nominated for a position the supervising ethics office for which is the Office of Government Ethics shall file the report required by this title with the Senate committee (in the case of a nominee for Vice President, the Senate and House committees) considering his nomination and a copy of such report with the agency in which he is nominated to serve and the Office of Government Ethics.

(2) Each individual identified in subsection 301(d) who is not referred to in paragraph (1) of this subsection shall file the report required by this title with the Senate committee considering his nomination and a copy of such report with the supervising ethics office for the position for which he is nominated.

(e) Each individual identified in subsection 301(e) shall file the report required by this title with the supervising ethics office for the position for which he is a candidate.

(f)(1) Each Member, officer, employee or candidate whose supervising ethics office is a committee designated by the Senate or House of Representatives shall file the report required by this title with the Secretary of the Senate or the Clerk of the House of Representatives, respectively.

(2) Each Member of the House of Representatives or the Senate or a candidate for such a position shall also file a copy of such report as a public document with the Secretary of State (or, if there is no office of Secretary of State, the equivalent state officer) in the State which the individual represents or in which he is a candidate.

(g)(1) Each justice, judge, adjudicatory official, officer, or employee of the judicial branch or the judicial branch of the District of Columbia shall file the report required by this title with his supervising ethics office.

(2) In addition, each justice or judge or other adjudicatory official of the judicial branch of the United States shall file a copy of such report as a public document with the clerk of the court on which he sits.

(h) The individual's supervising ethics office may grant one or more reasonable extensions of time for filing any report (other than a report required by subsection 301(d)) but the total of such extensions shall not exceed ninety days. The congressional committee considering a nomination may grant one or more reasonable extensions of time for filing any report required to be filed under subsection 301(d) but in no event shall such extension extend beyond the time such nominee is confirmed.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 305. (a) The Secretary of the Senate, the Clerk of the House of Representatives, each Secretary of State, the committee designated by the Judicial Conference, and each clerk of court shall make each report filed under section 304 available to the public within fifteen days after the receipt of such report from any individual and provide a copy of such report to any person upon a written request.

(b) Each executive agency, as defined in section 105 of title 5, United States Code, and the Office of Government Ethics of the Civil Service Commission shall—

(1) make each report filed under section 304 available to the public within forty-five days after the receipt of such report from any individual and provide a copy of such report to any person upon a written request and

(2) prior to making such reports available to the public, cause each such report to be reviewed to assure compliance with applicable laws and regulations and indicate on the financial disclosure report the name of the person who conducted such review and the fact that no conflicts exist or a description of the action taken to eliminate any conflicts which do exist.

(c) Any person receiving a copy of a report or inspecting a report pursuant to subsection (a) or (b) shall be required to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting a report and may be required to pay a reasonable fee in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest. The names and addresses of persons or organizations inspecting or receiving a copy of a report shall be made available to the reporting individual and to the public.

(d)(1) It shall be unlawful for any person to inspect or obtain a report—

(A) for any unlawful purpose;

(B) for any commercial purpose;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who inspects or obtains a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

(e) Any report received under this title by the offices referred to in subsections (a) and (b) shall be held and kept available to the public for a period of six years after its receipt. After such six year period, any such report shall be destroyed.

AUDITS OF REPORTS

SEC. 306. (a) The Office of Government Ethics shall, under such regulations as are prescribed by that Office in order to monitor the accuracy and completeness of such reports—

(1) conduct, on a random basis, a sufficient number of audits, as deemed necessary and appropriate, of the reports filed with that Office (other than the reports filed by the President, Vice President, a Commissioner of the Civil Service Commission or the Director of the Office of Government Ethics); and

(2) audit at least one report filed by an individual holding the office of President, Vice President, or Civil Service Commissioner during the term of such person, and at least once every four years audit one report filed by the Director of the Office of Government Ethics, except that no such audit shall take place during the calendar year and any such individual is up for reelection.

(b) The Comptroller General shall, under such regulations as may be prescribed by him, in consultation with the respective supervising ethics office of the Senate or the House of Representatives, in order to monitor the accuracy and completeness of such reports—

(1) conduct on a random basis, a sufficient number of audits, as determined by the respective supervising ethics office, of the reports filed with such offices (other than those filed by a Member of the Senate or House of Representatives or an officer or employee of the General Accounting Office); and

(2) during each six-year period beginning after December 31, 1977, audit at least one report filed by each Member of the Senate and House of Representatives, except that no such audit shall take place during the calendar year such Member is up for reelection and the report of any Member not reelected or who does not serve out the term of his office shall not be subject to audit after he has left office.

(c) The supervising ethics office for the judicial branch of the United States and the District of Columbia shall, under such regulations as are prescribed by that office, conduct, on a random basis, a sufficient number of audits of the reports filed with that office in order to monitor the accuracy and completeness of such reports.

(d) The supervising ethics office of the Senate shall, under the regulations prescribed by the Comptroller General under subsection (c), conduct on a random basis, a sufficient number of audits of the reports filed with said office by officers and employees of the General Accounting Office in order to monitor the accuracy and completeness of such reports.

(e) The findings of each audit conducted pursuant to this section shall be transmitted to the individual being audited and that individual's supervising ethics office.

(f) Nothing in this section shall affect the authority of a supervising ethics office to conduct an audit of a report filed under this

title in the course of an investigation of allegations of wrongdoing.

FAILURE TO FILE, FALSIFYING REPORTS; PROCEDURE

SEC. 307. (a) (1) Any individual who knowingly and willfully falsifies or omits to report any material information such individual is required to report under section 302 shall be fined in any amount not exceeding $5,000, or imprisoned for not more than one year, or both.

(2) The Attorney General may bring a civil action in any district court of the United States against any individual who fails to file a report which such individual is required to file under section 301 or who fails to report or inaccurately reports any information which such individual is required to report under section 302. The court in which such action is brought may assess against such individual a penalty in any amount not to exceed $5,000.

(b) The supervising ethics office shall refer to the Attorney General the name of any individual such office has reasonable cause to believe has failed to file a report, has falsified or failed to file information required to be reported, or has violated any law relating to conflicts of interest of officers and employees of the Government, and in the case of the President, Vice President, or any justice or judge of the United States, shall also refer such matter to the Committee on the Judiciary of the House of Representatives.

(c) The supervising ethics office for the judicial branch shall, subject to such procedures and regulations as the office shall prescribe—

(1) review the reports filed with it under this title to insure that the reports are filed in a timely manner, and are complete and in proper form;

(2) arrange for the audits required by section 306(c) of this title;

(3) investigate complaints with respect to alleged violations of this title;

(4) take appropriate administrative action against employees of the judicial branch who violate this title;

(5) refer matters to the Attorney General and the Committee on the Judiciary of the House of Representatives pursuant to section 307(b); and

(6) report at least annually to the Congress on the activities of the Judicial Conference of the United States pursuant to this title and the effectiveness of the judicial branch system for the prevention of conflicts of interest, with recommendations for changes or additions to applicable laws as necessary.

ADVISORY COMMISSION ON ETHICS

SEC. 308. (a) There is established an independent advisory commission to be known as the National Advisory Commission on Ethics in Government (hereinafter in this section referred to as the "Commission").

(b) (1) The Commission shall be composed of nine members who shall be appointed from private life, as follows:

(A) three appointed by the President of the United States, no more than two of whom shall be affiliated with the same political party;

(B) two appointed by the President of the Senate: *Provided*, That such appointees shall not be affiliated with the same political party;

(C) two appointed by the Speaker of the House of Representatives: *Provided*, That such appointees shall not be affiliated with the same political party; and

(D) two appointed by the Chief Justice of the United States: *Provided*, That such appointees shall not be affiliated with the same political party.

(2) The Commission shall elect a Chairman and a Vice Chairman from among its members. The Chairman and the Vice Chairman shall not be affiliated with the same political party. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman.

(3) The terms of office of persons first appointed as members of the Commission shall be for the period of the 1979 calander year.

(4) After the close of the 1979 calendar year, persons shall be appointed as members of the Commission with respect to the 1983 calendar year. The terms of office of persons so appointed shall be for the period of the 1983 calendar year.

(5) A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

(6) Each member of the Commission shall be paid at the rate of $100 for each day such member is engaged upon the work of the Commission, and shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703(b) of title 5 of the United States Code, when engaged in performance of services for the Commission.

(c) (1) Without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, and on a temporary basis for periods covering all or part of any calendar year referred to in subsection (b) of this section—

(A) the Commission shall appoint an Executive Director and General Counsel and fix their basic pay at the rate provided for level V of the Executive Schedule by section 5316 of title 5 of the United States Code; and

(B) with the approval of the Commission, the Executive Director is authorized to appoint and fix the basic pay (at respective rates not in excess of the maximum rate of the General Schedule in section 5332 of title 5 of the United States Code) of such additional personnel as may be necessary to carry out the function of the Commission.

(2) Upon the request of the Commission, the head of any department, agency, or establishment of any branch of the Federal Government is authorized to detail, on a reimbursable basis, for periods covering all or part of any calendar year referred to in subsection (b) of this section, any personnel of such department, agency, or establishment in carrying out its functions.

(d) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The Administrator of General Services shall provide administrative support services for the Commission on a reimbursable basis.

(f) The Commission shall conduct, in each of the respective calendar years referred to in subsection (b) of this section, a review of—

(1) the effectiveness in avoiding conflicts of interest and the efficiency of the operation of the financial disclosure system established by this title, and a summary of actions taken under Section 307 for—

(A) Members of Congress, Congressional candidates, legislative branch employees;

(B) the Judiciary, and

(C) executive branch officials and employees,

(2) the effectiveness and frequency of use of remedies for conflicts of interest, including but not limited to, divestiture and disqualification and blind trusts;

(3) the effectiveness of the enforcement systems established to insure compliance with financial disclosure and other requirements designed to minimize conflicts of interest.

(4) the effectiveness of post-employment restrictions established by this title in eliminating the interchange of personnel between government and industry, and whether the preemployment reporting requirements established by this title reveal any need for additional legislation to avoid conflicts of interest arising from previous employment.

(5) any other matters relating to the financial conflicts of interest of public officials.

(g) The Commission shall submit to the President of the United States, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the United States a report of the results of each review conducted by the Commission under subsection (f) of this section, together with its recommendations. Each such report shall be submitted not later than January 1 next following the close of any calendar year in which the review is conducted by the Commission.

DEFINITIONS

SEC. 309. As used in this title—

(1) the term "agency" means each authority of the Government of the United States;

(2) the term "candidate" has the meaning set forth in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

(3) the term "commodity future" means commodity future as defined in section 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5);

(4) the term "Comptroller General" means the Comptroller General of the United States;

(5) the term "dependent" has the meaning set forth in section 152 of the Internal Revenue Code of 1954;

(6) the term "earned income" means any income earned by an individual which is compensation received as a result of personal services actually rendered;

(7) the term "employee" includes any employee designated under section 2105 of title 5, United States Code, and any employee of the United States Postal Service or of the Postal Rate Commission;

(8) the term "gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (A) a political contribution otherwise reported as required by law, (B) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid, (C) a bequest, inheritance, or other transfer at death, or (D) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent;

(9) the term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(10) the term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate;

(11) the term "officer" includes any officer designated under section 2104 of title 5, United States Code, and any officer of the United States Postal Service or of the Postal Rate Commission;

(12) the term "officer or employee of the Senate or the House of Representatives" includes any individual whose salary is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives except the Vice President;

(13) the term "Presidential nominee" means an individual appointed by the President to an office for which confirmation, by

and with the advice and consent of the Senate, is required, or an individual nominated by the President to serve as Vice President pursuant to the twenty-fifth article of amendment to the Constitution of the United States;

(14) the term "relative" means, with respect to a person required to file a report under this rule, an individual who is related to the person as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, fiancé, fiancée, or who is the grandfather or grandmother of the spouse of the person reporting;

(15) the term "security" has the meaning set forth in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

(16) the term "transactions in securities and commodities futures" means any acquisition, transfer, or other disposition involving any security or commodity future;

(17) the term "uniformed services" means any of the Armed Forces, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration.

APPLICABILITY TO PER DIEM EMPLOYEES

SEC. 310. Notwithstanding any other provision of this title, in exceptional circumstances, the supervising ethics office of an individual who is an employee hired on a per diem basis or a consultant retained on a contractual basis, may waive the applicability of the provisions of this title to such individual, except section 307.

SEPARABILITY

SEC. 311. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 312. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this ttile.

EFFECTIVE DATE

SEC. 313. This title shall take effect on January 1, 1978, and the first reports under section 301(a) shall be filed on or before May 15, 1978, and shall only include the information required by paragraphs (e), (f), (i), (j), (k), and (l) of section 302 as of January 1, 1978.

TITLE IV—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

SEC. 401. (a) There is established in the United States Civil Service Commission (hereinafter referred to as the "Commission") an office to be known as the Office of Government Ethics (hereinafter referred to as the "Office").

(b) There shall be at the head of the Office a Director (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate.

AUTHORITY AND FUNCTIONS

SEC. 402. (a) The Director shall provide, under the general supervision of the Commission, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency, as defined in section 105 of title 5, United States Code, except the General Accounting Office.

(b) The responsibilities of the Director shall include—

(1) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations establishing procedures for the filing, review, and public availability of financial statements filed by officers and employees in the executive branch as required by title III of this Act;

(2) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to the identification and resolution of conflicts of interest;

(3) monitoring and investigation compliance with the public financial disclosure requirements of title III of this Act by officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available such statements;

(4) establishing a system whereby each financial disclosure statement filed, whether public or confidential, is promptly reviewed by the Director, an ethics counselor, or a reviewing official under the supervision thereof, and that the individual conducting the review signs and dates the financial disclosure statement and indicates on the statement that it has been reviewed and that no conflicts exist or indicates the action taken to elimnate any conflicts which do exist;

(5) conducting the random audits required by title III of this Act of financial disclosure statements to determine whether such statements are complete and accurate;

(6) conducting a random annual review of not less than five per centum of the financial statements filed by officers and employees in the executive branch as required by title III of this Act to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

(7) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

(8) interpreting rules and regulations issued by the President or the Commission governing conflict of interest and ethical problems and the filing of financial statements;

(9) consulting, when requested, with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

(10) establishing a formal advisory opinion service whereby advisory opinions which the Director renders on matters of general applicability or on important matters of first impression are rendered after, to the extent practicable, providing interested parties with an opportunity to transmit written comments to the Director with respect to the request for such advisory opinion, and whereby such advisory opinions are compiled, published, and made available to agency ethics counselors and the public;

(11) ordering corrective action on the part of agencies and employees which the Director deems necessary;

(12) requiring such reports from executive agencies as the Director deems necessary;

(13) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate legislative action;

(14) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Commission and the agencies regarding conflict of interest and ethical problems, with a view toward making such rules and regulations consistent with and an effective supplement to the conflict of interest laws;

(15) cooperating with the Attorney General in developing an effective system for reporting allegations of violations of conflict of interest laws to the Attorney General, as required by section 535 of title 28, United States Code;

(16) providing information on and promoting understanding of ethical standards in executive agencies;

(17) reporting to the Commission recommendations which shall be submitted to the Congress no later than February 1, 1979, as to which additional executive branch employees, if any, should be covered by the requirements for public financial discolsure and a report on which executive branch officials are required to file confidential financial disclosure statements under any Executive order, rules, or regulations; and

(18) reporting to the Commission, which report shall be submitted to the President and the Congress at least annually, on the activities of the Office and the effectiveness of the executive branch system for the prevention of conflicts of interest, with recommendations for changes or additions to applicable laws as necessary. Such report shall include the number of financial disclosure statements annually audited by the Office pursuant to title III of this Act.

(c) In the development of policies, rules, regulations, procedures, and forms to be recommended, authorized, or prescribed by him, the Director shall consult, when appropriate, with the executive agencies affected and the Attorney General.

ADMINISTRATIVE PROVISIONS

SEC. 403. (a) Upon the request of the Director, each executive agency is directed to—

(1) make its services, personnel, and facilities available to the Director to the greatest practicable extent for the performance of functions under this Act; and

(2) except when prohibited by law, furnish to the Director all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(141) Director, Office of Government Ethics, Civil Service Commission".

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. There are authorized to be appropriated to carry out the provisions of this title—

(1) not to exceed $3,000,000 for the fiscal year ending September 30, 1978;

(2) not to exceed $3,000,000 for each of the fiscal years 1979, 1980, 1981, and 1982.

SEPARABILITY

SEC. 405. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

TITLE V—GOVERNMENT PERSONNEL; RESTRICTIONS ON POST SERVICE ACTIVITIES

SEC. 501. Title 18 of the United States Code is amended by deleting section 207 and inserting in lieu thereof the following:

"§ 207. Disqualification of former officers and employees; disqualification of partners of current officers and employees

"(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independ-

ent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly aids, assists, or represents any one other than the United States, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

"(b) Whoever, having been so employed, within two years after his employment has ceased, knowingly—

"(1) acts as agent or attorney for or otherwise represents anyone other than the United States in any formal or informal appearance before, or

"(2) makes any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of,

any court or development or agency, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and which was under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or,

"(c) Whoever, other than a special Government employee, having been so employed—

"(1) at a rate of pay specified in subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater pay rate under another authority; or

"(ii) in a position classified at GS–16, GS–17, or GS–18 of the General Schedule prescribed by section 5332 to title 5, United States Code; in a position classified at O–7 or above under section 1009 of title 37, United States Code; or in a comparable executive branch position under another authority, as defined by the Director of the Office of Government Ethics, Civil Service Commission,

within one year after his employment with the department or agency has ceased, knowingly—

"(1) makes any appearance or attendance before, or

"(2) makes any written or oral communication to, and with the intent to influence the action of,

the department or agency in which he served, or any officer or employee thereof, if such appearance or communication relates to any particular matter which is pending before such department or agency: *Provided*, That the prohibition of this subsection shall not apply to appearances or communication by the former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits: *Provided further*, That for the purposes of this subsection, whenever the Director of the Office of Government Ethics of the Civil Service Commission determines that a separate statutory agency or bureau within a department exercises functions which are distinct and separate from the remaining functions of the department, the Director shall by rule designate such agency or bureau as a separate department or agency', except that this shall not apply to former officers and employees of the department whose official responsibilities included supervision of said agency or bureau—

"Shall be fined not more than $10,000 or imprisoned for not more than two years, or both. In addition, if the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that said former officer or employee violated subsection (a), (b), or (c) of this section, he may prohibit that person from making any appearance or attendance before that department or agency for a period not to exceed five years, or may take other appropriate disciplinary action: *Provided*, That nothing in subsection (a), (b), or (c) prevents a former officer or employee, including a former special Government employee, with outstanding scientific or technological qualifications from making any appearance, attendance, or written or oral communication in connection with a particular matter in a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee.

"(d) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission, of the United States or of the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility—

"Shall be fined not more than $5,000, or imprisoned for not more than one year, or both.".

LEADING PARTISAN ROLE IN THE ELECTION OF A PRESIDENT

SEC. 502. An individual who has played a leading partisan role in the election of a President shall not be appointed Attorney General or Deputy Attorney General. Individuals holding the position of national campaign manager, national chairman of the finance committee, chairman of the national political party, or other comparable high level campaign role involved in electing the President should be those considered to have played a leading partisan role.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 555.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I again congratulate Mr. RIBICOFF and Mr. PERCY on their fine display of teamwork and cooperation, as we have seen demonstrated so often. They have piloted a difficult and important bill through the Senate and have done an excellent job. They are entitled to our admiration and the respect of the Senate for their good work.

Mr. BAKER. I wish to join the majority leader in expressing my appreciation to the distinguished ranking minority member of the Governmental Affairs Committee for his participation in the presentation and management of this bill, to compliment him and the distinguished Senator from Connecticut, the chairman of the committee, for their efforts in bringing this matter to the Senate and bringing it to final passage. They did an outstanding job in dealing fairly and equitably with a range of issues, many of which were highly controversial.

I would pay my compliments as well to the capable and diligent staff who assisted them in both sides of the aisle.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS ACT, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the HEW appropriation bill.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed with the consideration of H.R. 7555, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF CONSIDERATION OF H.R. 7555 AT 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 10 a.m. tomorrow the Senate resume consideration of H.R. 7555, the HEW appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent after the two leaders or their designees have been recognized under the standing order on tomorrow, if there be any time remaining prior to the hour of 10 a.m., such time be utilized for morning business

with statements limited therein to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR HATCH AND SENATOR BAKER ON WEDNESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, after the two leaders or their designees have been recognized under the standing order, Mr. HATCH and Mr. BAKER be recognized for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REFERRAL OF S. 957 TO THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that calendar order 184, S. 957, the consumer controversies bill, be referred to the Committee on the Judiciary with instructions to report the bill to the Senate in not less than 45 days nor more than 60 days, with the bill to be placed on the Senate calendar at such time as it is reported. This request has been cleared by both the Commerce Committee and the Judiciary Committee and the leadership on both sides of the aisle.

Mr. BAKER. Mr. President, if the Senator will yield, I will say that he and I know this has been the subject of some controversy since it came to the calendar. I am happy to note that an agreement has been worked out on a referral on this basis.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 7558

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the bill making appropriations for the Department of Agriculture, H.R. 7558, is called up and made the pending business before the Senate, there be a time limitation of 1 hour to be equally divided between Mr. BELLMON and Mr. EAGLETON; that there be a time limitation on any amendment of 30 minutes, a time limitation on any debatable motion, appeal, or point of order, if the Chair submits such to the Senate for its discussion, of 2 minutes, and that the agreement with respect to the control and division of time be in the usual form.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes

Mr. BAKER. Is there provision or would the majority leader consider a provision, with respect to an exception in the case that the saccharin amendment might be offered?

Mr. ROBERT C. BYRD. That is correct. I am glad the distinguished minority leader called that to my attention. It is in the note in front of me. With the further proviso that should a saccharin amendment be offered to the bill that there be no time limit thereon on such amendment or amendments to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 7558 (Order No. 274) an Act making appropriations for Agriculture and related agencies programs for the fiscal year ending Sept. 30, 1978, and for other purposes debate on any amendment (except an amendment dealing with saccharin and any amendments thereto on which there shall be no time limit) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Missouri (Mr. EAGLETON) and the Senator from Oklahoma (Mr. BELLMON):

Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Now, Mr. President, we have had morning business already today?

The PRESIDING OFFICER. The Senator is correct.

PROGRAM

Mr. ROBERT C. BYRD. The Senate will come in tomorrow morning at 9:45 a.m. At the hour of 10 a.m. the Senate will resume consideration of the Labor, HEW appropriations bill. It will be a long day and, hopefully, the Senate will complete action thereon tomorrow. There will be rollcall votes throughout the day on the bill.

I hope the leadership will work out some agreement with Members of the Senate during the day on the bill and amendments thereto or at least on most of the amendments thereto so as to expedite the action on the bill.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 8:05 p.m., the Senate recessed until Tuesday, June 28, 1977, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1977:

DEPARTMENT OF DEFENSE

Walter Barber LaBerge, of Virginia, to be Under Secretary of the Army, vice Norman R. Augustine, resigned.

DEPARTMENT OF JUSTICE

Kenneth J. Mighell, of Texas, to be U.S. attorney for the northern district of Texas for the term of 4 years vice Michael P. Carnes, resigned.

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

Sar A. Levitan, of the District of Columbia, to be a member of the National Commission on Employment and Unemployment Statistics (new position).

CONFIRMATIONS

Executive nominations confirmed by the Senate June 27, 1977:

DEPARTMENT OF JUSTICE

Joseph J. Harvey, of Washington, to be United States Marshal for the Western District of Washington for the term of four years.

J. Jerome Bullock, of Georgia, to be United States Marshall for the District of Columbia for the term of four years.

Lee A. Limbs, Jr., of Arizona, to be United States Marshal for the District of Arizona for the term of four years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duty constituted committee of the Senate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with bills and joint resolutions introduced today are as follows:)

By Mr. CHURCH:

S. 1762. A bill to amend the Social Security Act to permit a grandchild who has been placed in legal custody of his grandparent to qualify for benefits as a child of his grandparent; to the Committee on Finance.

SOCIAL SECURITY BENEFITS FOR A DEPENDENT GRANDCHILD PLACED IN THE CUSTODY OF A GRANDPARENT

Mr. CHURCH. Mr. President, I introduce for appropriate reference a bill to permit dependent grandchildren who are placed in the custody of their grandparents to receive social security benefits under certain circumstances.

Under existing law, a dependent grandchild living with a grandparent may qualify for social security benefits if his parents are deceased or disabled when the grandparent dies or becomes entitled to disability or retirement benefits.

In addition, the grandchild is eligible for social security if adopted by his widowed grandmother, provided he is not living with his parents nor receiving support from them at the time of the grandfather's death.

These requirements are designed to prevent collusive agreements for the purpose of obtaining social security benefits. To my way of thinking, these are appropirate and reasonable considerations.

However, there are still compelling instances when some grandchildren may not qualify for social security, although they are dependent upon their grandparent for support. Some of my constituents in Idaho have brought this to my attention. The bill that I introduce today is designed to close one of these gaps. It would provide social security for a grandchild living with and supported by a grandparent, provided a court order is in effect for at least 1 year when the grandparent applies for old-age disability benefits.

A court awarding a grandparent custody of a grandchild usually takes this action because it is in the interest of the youngster's well-being. Yet, this purpose can be undermined if the grandchild is denied social security when the grandparent dies, retires, or becomes disabled.

Social security is a social insurance program. It is designed to protect workers and their families from loss of earnings because of three contingencies: death, retirement, or disability. A dependent grandchild placed in the custody of a grandparent suffers a similar loss of earnings if the grandfather dies, retires, or becomes disabled. In my opinion, the grandchild should be entitled to protection under these circumstances.

Some persons, I am aware, will say that adoption is available. However, this may not be a feasible alternative. A grandparent—quite understandably—may be reluctant to take this action, if there is any possibility at all that the grandchild may be reunited with the parents.

Social security now affects almost every American family. It is important that it continue to be perfected to insure that the program is equitable for all concerned.

My bill would help to implement that objective.

For these reasons, I urge prompt approval of this legislation.

Mr. President, I also ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 216(e) of the Social Security Act is amended—

(1) by striking out "and" before clause (3), and

(2) by inserting before the period at the end thereof ", and (4) a person who is the grandchild of an individual or his spouse and who has been placed in the custody of such individual or his spouse by an order of a court of competent jurisdiction within the United States which is in effect on the day on which such individual's application for old-age insurance benefits or disability insurance benefits is filed and has been in effect for at least one year before such day".

SEC. 2. Section 202(d)(9)(A) of such Act is amended by inserting after "such first sentence" the following: ", or who is a child of an individual under clause (4) of such first sentence and is not a child of such individual under clause (1), (2), or (3) of such first sentence.".

SEC. 3. The amendments made by this Act shall apply with respect to monthly benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted on the basis of applications for such benefits filed in or after the month in which this Act is enacted.

By Mr. MCINTYRE (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. DURKIN, Mr. EAGLETON, Mr. GRAVEL, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUMPHREY, Mr. LEAHY, Mr. MATSUNAGA, Mr. MCGOVERN, Mr. RIBICOFF, and Mr. THURMOND):

S. 1763. A bill entitled "The Civilian Secretaries Information Act"; to the Committee on Armed Services.

THE CIVILIAN SECRETARIES INFORMATION ACT

Mr. MCINTYRE. Mr. President, when we reflect upon the deception, the abuses of purpose and power, the violation of the public trust we have seen in recent years, we find that the problem arose in almost every instance when a select few made an arbitrary capricious or a self-serving determination of what constituted the national interest, and when that determination then transcended established principle or the law itself.

The secret bombing of Cambodia, for example, was secret only to the American people and their duly elected representatives in the Congress. The President knew about it, the Secretary of Defense knew about it, the Joint Chiefs of Staff knew about it, the Cambodians, the North Vietnamese, the Chinese and the Russians knew about it, but to our chagrin and resentment, we did not know about it—nor did the Secretary of the Air Force—the civilian ostensibly in charge of the service branch that carried on the secret bombings!

Mr. President, I recognize the legitimate need for some secrecy, some standards of confidentiality, some room for sensitive departments and agencies to operate at their own discretion. But surely, evidence abounds that in instance after instance those bounds have been exceeded, and our system has suffered humiliating, even dangerous consequences.

"All the ills of democracy," someone once said, "can be cured by more democracy," so today I intend to propose a modest dose of more democracy for one specific malady. I intend to suggest legislative reaffirmation of one long-established democratic and constitutional principle—civilian control of the military.

Mr. President, I introduce for appropriate reference, a bill to require that the civilian Secretaries of our military departments be kept fully and currently informed of matters considered by the Joint Chiefs of Staff. It may seem absured to some that legislation is necessary to require that process of communication between, for example, the Chief of Naval Operations and the Secretary of the Navy. But statements by former Secretary of the Army, Howard Callaway, and the disturbing fact that then Air Force Secretary Robert Seamans, was not apprised of secret U.S. bombing of Cambodia in 1969 and 1970, show this is not always the case. Still earlier, former Secretary of the Army, Elvis Stahr, did not know of the decision to support the Bay of Pigs invasion.

Let me underscore Mr. Callaway's observation by referring to passages in the Senate Armed Services Committee transcript of the "Bombing in Cambodia" hearings, conducted in July and August of 1973.

At one point in the hearing—page 148—Gen. Earle G. Wheeler, Chairman of the Joint Chiefs of Staff at the time of the secret Cambodia bombings, is questioned by the former senior Senator from Missouri, the Honorable Stuart Symington.

Senator Symington asks: "If you were on the golf course, at some informal time and the Secretary of the Air Force had said to you, 'Somebody told me that we were bombing in Cambodia; is that correct?' What would you have said?"

General Wheeler answers: "I'm afraid I would have said, 'I don't know anything about it, Mr. Secretary.'"

And Senator Symington says, "Even thought you did know all about it?"

"Yes sir," said General Wheeler.

Now, Mr. President, why did General Wheeler feel he could mislead the Secretary of the Air Force in such a crucial matter?

I think we can find the answer in the same hearing report by examining Dr. Seaman's opening statement in his testimony. On page 90 of the report, the former Air Force Secretary has this to say:

Before addressing these matters (his relationship to certain air operations activities in South Asia prior to May, 1970), I wish to note the role of a Service Secretary with respect to military operations, including air operations in Southeast Asia. As you know, in consonance with the Reorganization Act of 1958, and applicable Department of Defense directives, the operational chain of command for the conduct of military operations runs from the Commander-in-Chief to the Secretary of Defense, through the Joint Chiefs of Staff, or for time-sensitive operations, through the Chairman, Joint Chiefs of Staff, representing the Joint Chiefs of Staff to the commanders of the unified and specific commands, and to the operational units.

Consequently a service Secretary is not in the operational chain of command in any

legal or practical sense. During my tenure as Secretary, of course, I made it a point to remain abreast of overall Air Force operations in the interest of fulfilling my basic responsibilities for managing Air Force Personnel and materiel resources and for acting as an advisor to the Secretary of Defense. However, not being in the chain of command, I was not made aware of certain special military operations, even long after they occurred. Such was the case with bombing missions carried out in Cambodia prior to May, 1970. Consequently, I had no personal knowledge of the particular missions, nor would I have expected to, at the time they were occurring.

Now, Mr. President, it seems clear from these two passages that both General Wheeler and Dr. Seamans chose to believe that the Reorganization Act of 1958 that removed the service Secretaries from the chain of command also eliminated them from the "need to know" category when it came to military strategy decisions made by the Commander-in-Chief and the Joint Chiefs of Staff or specific military operations.

Mr. President, I contend that no service Secretary could possibly fulfill his administrative and advisory responsibilities without full knowledge of the military operations being conducted by his branch of service. While a Secretary's duties may not include military strategy and strategic planning, he must be fully aware of strategic plans and decisions for these will undoubtedly affect his decisions on training, logistics, preparedness and research and development.

Moreover, the advice the Secretary is charged with providing the Secretary of Defense can be only two-dimensional advice at best when he is ignorant of those factors creating a third dimension—in the instance, military operations of crucial political as well as strategic significance.

In the absence of this multi-dimensional advice from a civilian, the advisory input is monopolized by the Joint Chiefs of Staff. Without impugning the integrity or the objectivity of the Joint Chiefs, I must say such a situation does not enhance the principle of civilian control of the military.

But if I am disturbed by the consequences of interpreting the elimination of service Secretaries from the chain of command to mean that service Secretaries need not be told of strategy decisions and military actions, I am also astonished by the interpretation, itself. For it is, indeed, an astonishing misrepresentation.

Mr. President, the Joint Chiefs of Staff are, by law, the principal military advisors to the President, the National Security Council, and the Secretary of Defense. Their input is vital to our defense posture and the readiness of our forces.

The Defense Department has recognized the importance and necessity of full communications between the Joint Chiefs and the service Secretaries. This was clearly spelled out in Department of Defense Directive 5100, of December 31, 1958. That directive states:

(2) The Joint Chiefs of Staff, as a group, are directly responsible to the Secretary of Defense for the functions assigned to them. *Each member of the Joint Chiefs of Staff, other than the Chairman, is responsible for keeping the Secretary of his military department fully informed on matters considered or acted upon by the Joint Chiefs of Staff.*

Now, Mr. President, I fail to see any ambiguity in this directive. I think it makes it absolutely clear that service Secretaries not only have a need to know about all matters—including military strategy—considered by the Joint Chiefs of Staff. They have a right to know.

If this directive is so clear in intent, why then is it necessary to make it part of our laws? One must remember that this directive has no permanence. It can be changed at the direction of any Secretary of Defense. Thus, the basis for this important principle of civilian control over the military is fragile indeed.

Beyond its impermanence, this directive has no mechanism for implementation or enforcement. Neither does it specify any time within which the information is to be imparted to the service Secretary. This loophole would be closed by the bill I propose, for the bill specifies that the service Secretary be "fully and currently informed on all matters considered and on matters acted upon by our Joint Chiefs of Staff."

Now, Mr. President, I do not want to appear harsh in these judgments. Perhaps we have only ourselves to blame for the misinterpretations and omissions of the past. In truth, Congress has not gone on record to require this communication between the military and the civilian leadership of our Armed Forces. The bill I introduce today will put the Congress on record, for it would have the effect of codifying the 1958 Department of Defense directive. In short, it would be a clear statement of congressional intent that service Secretaries have a right to information on matters before the Joint Chiefs of Staff.

Mr. President, civilian control over the military is a time honored and vital part of our constitutional framework. This control can only be effective when the flow of information on decisions and planning is complete and unobstructed. I believe this bill is a necessary step in that direction.

By Mr. RIEGLE (for himself and Mr. GRIFFIN):

S. 1765. A bill for the relief of the Federal Life and Casualty Co. of Battle Creek, Mich.; to the Committee on the Judiciary.

Mr. RIEGLE. Mr. President, today Senator GRIFFIN and I are introducing Senate bill 1765, for the relief of the Federal Life and Casualty Co. of Battle Creek, Mich.

Our reason for seeking this legislation is to remedy a grievous injustice which would occur should this very prominent Michigan corporation lose the right to use the name "Federal" if it merges with an affiliate insurer.

Mr. President, Federal Life and Casualty Co., a licensed Michigan insurer which has used the word "Federal" for 70 years, proposes to merge into an existing affiliate, the Peoples Home Life Insurance Co. of Indiana. Both of the foregoing insurers are now and will be at the time of the merger wholly owned subsidiaries of The Home Insurance Co. of New York.

The merger contemplated that the surviving insurer would use the name "Federal Home Life Insurance Co.," in order to reflect its origins and to utilize its valuable proprietary interest in the name "Federal," dating back to 1906.

In 1906, the Congress passed an act (18 U.S.C. 709) prohibiting the use of the word "Federal" as a portion of any corporate or trade name. The act contained a grandfather clause, which currently provides that:

This section shall not make unlawful the use of any name or title which was lawful on the date of enactment of this title.

Section 709 also prohibits the use of the word "United States" and "reserve", except under the same grandfather clause circumstances.

Until now, the Justice Department has issued letters under similar merger type circumstances indicating that it would not prosecute a further use of a name otherwise prohibited by section 709. In this instance, the Department has opted to reverse its longstanding policy of issuing "no-action" letters. In doing so, the Department made no attempt to distinguish the current facts from those in its other "no-action" cases. Rather, it admits the case is well within the precedents, but it merely asserts that it has changed its mind as to what the law provides.

Neither compelling public policy reasons nor evidence of past Department abuse of its authority in applying the grandfather clause exist, and the company and its officers should not be forced to choose between criminal prosecution or the loss of a valuable property right. The merger is predicated on sound business judgments, and is subject to state insurance department regulatory approvals, and the company has every right to retain use of a name which it has used for 70 years, and which, based on consistent Department interpretation of a criminal code provision, it had every reason to expect to be able to utilize.

Mr. President, the proposed bill, which is carefully limited to the particular facts of this case, would merely permit the surviving insurer to continue to use the word "Federal" in its new name. The proposed legislation in no way authorizes the use of the word "Federal" in more than one corporate name, and there can be no proliferation of the word "Federal." Thus, the proposed bill is entirely consistent with the original legislation.

Likewise, Mr. President, time is of the essence in this matter. For the last eight months, since it sought the "no-action" letter in October 1976, this company has been in limbo on its proposed merger plans because of the delay of the Justice Department in deciding this matter until April of this year, and then because of the precipitous reversal by the Depart-

ment of its long standing application of the grandfather clause. The merger is imminent and unless the bill becomes law within the next 90 days, the Company will lose its right to the use of a name which it has used honorably since 1906.

By Mr. RIBICOFF (for himself, Mr. PERCY, Mr. JACKSON, Mr. METCALF, Mr. KENNEDY, Mr. THURMOND, Mr. GRIFFIN, Mr. DOMENICI, and Mr. HEINZ):

S. 1766. A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce; to the Committee on the Judiciary.

Mr. RIBICOFF. Mr. President, I am today introducing the Federal Computer Systems Protection Act of 1977.

The legislation would impose heavy prison terms and stiff fines for electronic burglars who use computers and computer technology to steal or manipulate information, financial instruments, and other property.

Also sponsoring the legislation are Senator CHARLES H. PERCY of Illinois, Senator HENRY M. JACKSON of Washington, Senator LEE METCALF of Montana, Senator EDWARD M. KENNEDY of Massachusetts, Senator STROM THURMOND of South Carolina, Senator ROBERT P. GRIFFIN of Michigan, Senator PETE V. DOMENICI of New Mexico, and Senator H. JOHN HEINZ III of Pennsylvania.

The bill would make it a crime to misuse the computer systems of the Federal Government, certain financial institutions, and other entities involved in interstate commerce.

Because of a growing national dependence on computers, the opportunities for white collar crime in this area are becoming great with little chance for prosecution under existing law.

If adopted, this bill would be the first law enacted by the Congress aimed directly at controlling crime by computer or computer-related crime. Present Federal criminal law, as reflected in title 18 of the United States Code, contains some 40 sections which the Government can use to combat commuter-related crime. But all 40 of the statutes were written to combat abuses other than computer crimes and, as such, Federal prosecutors have been handicapped because they have had to construct their cases on laws that did not envision the technical aspects of computer crime.

The measure is a result of a year-long inquiry, begun May 10, 1976, conducted by the Senate Government Affairs Committee.

As chairman, and with the concurrence of Senator PERCY, the ranking minority member, I directed the release on February 2, 1977 of a staff report, "Computer Security in Federal Programs," a 130,000 word document that demonstrated evidence of:

First. The Government's inability to adequately secure its 10,000 computers against fraud, compromise, and physical assault. This lack of adequate security is especially evident in those Government computers which handle the distribution of public funds and those which hold economically valuable and privacy data.

Second. Weaknesses in Government procedures for predicting the integrity of its computer personnel; and

Third. A concern on the part of Federal law enforcement and prosecutorial officials that the U.S. Code, title 18, should be amended to strengthen the Government's ability to prosecute computer crime.

It was noted in the committee staff report, for example, that a major computer crime conviction had been won in one well-known case only because the perpetrator had used a telephone line to penetrate the computer system of a Federal contractor across State lines. Had the telephone been used intrastate rather than interstate, Federal prosecutors said, the Wire Fraud Statute (18 U.S.C. 1343) under which the indictment was brought may have been inadequate. In the same case, a part of the indictment was dismissed because electromagnetic impulses which transmitted valuable data were determined not to be "property" as defined in the Interstate Transportation of Stolen Property Statute (18 U.S.C. 2314).

In another attempted prosecution, the Government lost the case because of definitional difficulties in establishing whether checks issued by a computer on the basis of fraudulent or manipulated data were forgeries.

The bill we are introducing today would amend title 18 of the U.S. Code in such a way as to make virtually all unauthorized use of Federal computers and computers used in interstate commerce a Federal offense punishable by as much as 15 years in prison or $50,000 fine, or both.

There would be no requirement that telephones or other forms of illicit computer penetration across State lines be used in order to qualify the act as a Federal crime. The bill is further intended to ease the jurisdictional and evidentiary burdens posed by computer technology on Federal prosecutors and law enforcement personnel.

This bill represents an important step forward in combating crime by computers.

The computer has meant progress in our society almost everywhere—from our ability to predict weather to our ability to detect potential health problems.

But the computer, because it has become such an essential aspect of our financial world—both in the private sector and in Government—has also become vulnerable to criminal penetration. Another serious threat is the potential compromise and misuse of vast quantities of data on the private lives of individuals currently stored in the computer systems of the Federal Government and private industry.

Crime by computer is relatively new. But when it strikes it is not shy. Violators, with even a limited amount of technical knowledge, can literally steal hundreds of thousands of dollars, either from computer check-writing systems or by directing the computer to divert valuable data or costly equipment.

Our committee investigation revealed that the Government has been hampered in its ability to prosecute computer crime. The reason is that our laws, primarily as embodied in title 18, have not kept current with the rapidly growing and changing computer technology.

Consequently, while prosecutors could, and often did, win convictions in crime by computer cases, they were forced to base their charges on laws that were written for purposes other than computer crime.

Prosecutors are forced to "shoe horn" their cases into already existing laws—when it is more appropriate for them to have a statute relating directly to computer abuses.

This bill will provide the needed corrective action. My committee staff, consulting with Justice Department officials, computer security scientists, and persons expert and actively involved in the criminal justice system, concluded that this measure, if adopted by the Congress, will have applicability in virtually every computer crime case not already adequately covered by an existing law.

This bill is specifically designed to give Federal prosecutors a weapon against the four main categories of computer crime. They are:

First, the introduction of fraudulent records or data into the computer system;

Second, the unauthorized use of computer-related facilities;

Third, the alteration or destruction of information or files, and

Fourth, the stealing, whether by electronic means or otherwise, of money, financial instruments, property, services, or valuable data.

Computer technology, which has produced enormous benefits for mankind, has also produced great potential for the sophisticated white collar criminal. The simple fact as demonstrated in the staff report is that computer technology has created vulnerability to white collar crime. This bill is designed to provide criminal sanctions at all points where computer operations are targets for criminals.

There are five key stages in a sophisticated computer system, and each stage of operation is vulnerable to a particular method of criminal attack. The first and most important stage is translation of data into computer language or input, where the data is placed on card readers or magnetic tapes. At this stage criminals can introduce false data into the computer so that key documents could be removed and fraudulent records inserted. A criminal or a criminal group with access to this stage of operation could manipulate the computer with introduction of false data, and it might be years before anyone discovers the fraud.

Computer programing is the second stage of operation and occurs when the

computer is supplied with a logical sequence of instructions for the solution of problems. The computer then responds in a manner dictated by the program. Programs are easily modified, destroyed, or stolen and sold to a competitor.

The third stage involves the computer's brain, known as the central processing unit—CPU. The CPU, which contains the operating system software, guides the computer and directs it to perform the necessary functions following the instructions in the program and is susceptible to various forms of electronic penetration and manipulation. Destruction of the CPU could stop computer operation and be disastrous to a government agency, industry, or company with most of its records computerized.

Once data is received from the CPU, it is translated into an intelligible form called output—the fourth stage of the operation. Output is vulnerable to thefts. Criminals at this stage could steal confidential data, such as privacy information or trade secrets. The computer systems of Government agencies, financial institutions, and others contain voluminous confidential data on firms and individuals; theft of such data could easily lead to blackmail or even be sold on a black market.

The final stage of the operation, communication, involves the transmission of output to other computers and/or users. The computer is vulnerable at this stage to electronic penetration. Initially, the information will be transmitted by telephone circuits, which can be tapped.

The main section of this bill makes it a federal crime to "access" a computer for the purpose of perpetrating fraud or obtaining money, property or service under false or fraudulent pretenses. It should be made clear that the term "access" specifically includes within its meaning as defined in the bill all forms of unauthorized or clandestine penetration of a computer, computer system or computer networks. These penetrations include but are not necessarily limited to:

a. Wiretapping which is gaining access to a system via direct connection to a communication line or part of the central system.

b. Radiation which is passive eavesdropping without direct connection. It siphons data from a system by detecting acoustic or electromagnetic signals emanating from a computer or component.

c. Artifice or "trapdoor entry" which is the intentional introduction of a clandestine code into a system to be used later for subversion from within. It is created by unscrupulous programmers and designers. An artifice can be implanted at the time the system is implemented or during subsequent modification; it can also be implanted by a successful penetration.

d. Impersonation which is unauthorized activity carried out by performing as a legitimate user or device such as using someone else's user identification, code and/or password to gain access to the system.

All phases of computer operations need to be made more secure from criminal penetration but all the physical security precautions in the world will be of little use if they are not accompanied by adequate personnel procedures to reduce the possibility of employment of dishonest persons. Dishonest employees who themselves engage in computer crime or engage in collusion with criminals on the outside pose the biggest threat to government and business. Computer criminals are the most sophisticated of all white collar criminals. They currently operate in an environment and under conditions in which the successful detection and prosecution of their crimes is very difficult. When they are apprehended and convicted, all too often the sentences they receive are extraordinarily light. It is for this reason that I attach great importance to the penalty provisions of this bill.

Under terms of this bill, a Federal judge may, in his discretion, depending on the severity of the crime, impose jail terms of 15 years and fines up to $50,000 on computer thieves.

It is my hope that these increased penalties, unprecedented in federal criminal law for white collar crime, will deter the potential computer thief and at the same time pose a warning to all white collar criminals that the Congress of the United States sees white collar crime as a threat to our society which should be dealt with in a manner befitting the crime.

It is time to tell criminals who use computer terminals, fountain pens and phony stock certificates to rob millions of dollars, that their corrosive activities will not be tolerated.

This bill also places particular emphasis on the prosecution of crimes against the computer systems of banks and other financial institutions which are insured or regulated by the federal government. Today, financial intitutions are heavily dependent on computers which process and record billions of dollars in financial transactions daily. If present trends continue, however, banks and other financial institutions will become more dependent on computers in the future. As Electronic Funds Transfer Systems are perfected and implemented, more computers, terminals, wires, data banks, and operators will be employed to operate these intricate and complex sytems of recordkeeping. Electronic fund transfer systems involve the use of communication and computer networks to relay, process, and store fund transfer information. They may involve transferring funds from a buyer's account to the account of a seller or from an employer to an employee.

A national electronic fund transfer system could supplant the present paper exchange system so that paper currency or stock certificates as we now know them would play an insignificant role in transactions or even become obsolete.

The beginnings of a national EFTS can be witnessed today. Computers with multiprocessing capability and high speed mass memory are in operation, providing a basis for at least a regional EFTS. Taking advantage of this technology, several automated clearinghouses appeared in the early 1970's. Under the present system, banks maintain clearing balances on one another or a common bank such as the Federal Reserve Bank. Because transactions are processed electronically, the cumbersome process of hand-sorting and paper and pen work has been eliminated; in addition, the automated clearinghouse rapidly adjusts balances. Automated clearinghouses are a logical starting point for the development of a national EFTS.

The "point-of-sale" system represents a more sophisticated step in the development of an EFTS. Under a point of sale the buyer can pay for his purchase without the intervention of currency. As in an EFTS the buyer gives the store clerk an identification card to insert in a terminal liked to a bank's computer; the purchase price is then transferred from the buyer's account to the store account. If the store does not maintain an account at the bank, the transfer process takes place as it presently does through some form of clearinghouse.

The automated clearinghouse and the point of sale systems are rudimentary compared to the sophisticated and elaborate technology required to link up a national EFTS. A national system will rely on thousands of computers, millions of terminals and millions of miles of wire with thousands of technicians and computer operators needed to man it. It can totaly displace ink. The workhorse of EFTS is the computer, and the technology which makes the system possible also makes it vulnerable to criminal attack.

These are at least four areas where the protective criminal law sanctions of the bill I am introducing today will apply to EFTS. They are:

First, unauthorized access to a customer's account by means of the theft or reproduction on an access "key," such as the plastic card, given the customer;

Second, unauthorized access to accounts by personnel manning access terminals, such as the store employees operating the supermarket remote deposit-withdrawal system;

Third, unauthorized access to communication lines between remote terminals and information storage areas, such as a financial institution's central processing unit, in short, wiretapping; and

Fourth, unauthorized access at the central processing unit site by employees or outsiders.

In addition, I wish to make it clear that nothing in this legislation is intended to reduce, restrict or supersede existing statutes and nothing in this

legislation reduces existing investigative authority of any law enforcement or national security agency under existing law or duly authorized practices.

The Senate Governmental Affairs Committee investigation, which led to the staff report, "Computer Security in Federal Programs," and this bill have been studied by the Office of Management and Budget (OMB). Issues raised in the staff report have been examined by OMB, which has overall fiscal and policy control of all automatic data processing (ADP) operations in the executive branch.

As a result of the attention focused on computer security by the committee inquiry, OMB is in the process of revising its government-wide regulations affecting computer security. These regulations, which are contained in OMB Circular A-71, are being strengthened and upon completion of their revision, will be made available to the public.

Not affected by the revised OMB A-71 Circular, or by this bill, is another problem raised by the Senate committee's investigation—that problem being the growing and widespread multiple-filer schemes in which violators create bogus tax forms, file them with the Internal Revenue Service and are then sent by computers sizeable refunds, ranging in amounts from $500 to $500,000.

Such schemes are already clearly against the law and neither IRS nor the Justice Department needs a new statute to control them. What is required, IRS officials have indicated to the committee, is an improved system for detection and such a system is being implemented, IRS officials say.

Finally, I wish to note that Senator PERCY, as ranking minority member of the Senate Governmental Affairs Committee, has worked closely with me and the staff for the past year as this examination of computer security and computer crime progressed. Owing to his personal knowledge of how computers fill a great need in financial transactions, Senator PERCY has offered encouragement and advice and the benefit of his long and time-tested expertise in this complicated area.

The committee investigation was conducted at the staff level by Philip R. Manuel and Fred Asselin.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD at this point.

There being no ob'ection, the bill was ordered to be printed in the RECORD, as follows:

S. 1766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Computer Systems Protection Act of 1977".

SEC. 2. The Congress finds that—

(1) computer related crime is a growing problem in the Government and in the private sector;

(2) such crime occurs at great cost to the public since losses for each incident of computer crime tend to be far greater than the losses associated with each incident of other white collar crime;

(3) the opportunities for computer related crimes in Federal programs, in financial institutions, and in other entities which operate in interstate commerce through the introduction of fraudulent records into a computer system, unauthorized use of computer facilities, alteration or destruction of computerized information files, and stealing of financial instruments, data, or other assets, are great;

(4) computer related crime directed at institutions operating in interstate commerce has a direct effect on interstate commerce; and

(5) the prosecution of persons engaged in computer related crime is difficult under current Federal criminal statutes.

SEC. 3.(a) Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1028. Computer fraud

"(a) Whoever directly or indirectly accesses or causes to be accessed any computer, computer system, computer network, or any part thereof which, in whole or in part, operates in interstate commerce or is owned by, under contract to, or operated for, on behalf of, or in conjunction with, any financial institution, the United States Government, or any branch, department, or agency thereof, or any entity operating in or affecting interstate commerce, for the purpose of (1) devising or executing any scheme or artifice to defraud, or (2) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than $50,000, or imprisoned not more than 15 years, or both.

"(b) Whoever, intentionally and without authorization, directly or indirectly accesses, alters, damages, or destroys any computer, computer system, or computer network described in subsection (a), or any computer software, program, or data contained in such computer, computer system, or computer network, shall be fined not more than $50,000, or imprisoned not more than 15 years, or both.

"(c) For purposes of this section, the term—

"(1) 'access' means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of, a computer, computer system, or computer network;

"(2) 'computer' means an electronic device which performs logical, arithmetic, and memory functions by the manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a system or network;

"(3) 'computer system' means a set of related, connected or unconnected, computer equipment, devices, and software;

"(4) 'computer network' means the interconnection of communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers;

"(5) 'property' includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value;

"(6) 'services' includes, but is not limited to, computer time, data processing, and storage functions;

"(7) 'financial instrument' means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, or marketable security;

"(8) 'computer program' means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer ssytem;

"(9) 'computer software' means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system;

"(10) 'financial situation' means—

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) a member of the Federal Reserve including any Federal Reserve Bank;

"(C) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(D) a credit union with accounts insured by the National Credit Union Administration;

"(E) a member of the Federal Home Loan Bank Systems and any Home Loan Bank;

"(F) a member or business insured by the Securities Investor Protection Corporation; and

"(G) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities and Exchange Act of 1934.".

(c) The table of sections of chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following:

"1028 ---------- Computer fraud.".

By Mr. SCOTT (for himself, Mr. ALLEN, Mr. BELLMON, Mr. EASTLAND, Mr. GARN, Mr. GRAVEL, Mr. HELMS, Mr. HANSEN, Mr. HAYAKAWA, Mr. HATCH, Mr. LONG, Mr. LAXALT, and Mr. MCCLURE):

S. 1767. A bill entitled "The Federal Officials' Anti-Defamation Act of 1977"; to the Committee on the Judiciary.

FEDERAL OFFICIALS' ANTIDEFAMATION ACT OF 1977

Mr. SCOTT. Mr. President, I send to the desk a bill entitled "Federal Officials' Anti-Defamation Act of 1977" and ask that it be printed and referred to the appropriate committee. The purpose of the measure is to provide Federal officials with adequate legal redress when false and defamatory statements are made against them. The bill, if enacted, would also encourage broader participation in the affairs of Government by citizens with qualifications and talents to contribute without fear of being unjustly victimized by malicious, false, and defamatory statements.

The Senator from Alabama, Mr. ALLEN; the Senator from Oklahoma, Mr. BELLMON; the distinguished chairman of the Judiciary Committee, Mr. EASTLAND; the Senator from Alaska, Mr. GRAVEL; the Senator from North Carolina, Mr. HELMS; the Senator from Wyoming, Mr. HANSEN; the Senator from California, Mr. HAYAKAWA; both Senators from Utah, Mr. GARN, and Mr. HATCH; the distinguished chairman of the Finance Committee, Mr. LONG; the Senator from Nevada, Mr. LAXALT, and the Senator from Idaho, Mr. MCCLURE have joined in cosponsoring the proposal.

While our office has conferred with the Library of Congress and the legislative

counsel regarding the preparation of the bill, I hope the committee will use it as a vehicle to strike a balance between the constitutional right of freedom of expression and the right of public officials to represent citizens of the country without unwarranted maliciously false and defamatory accusations being made against them.

The measure does establish a new chapter in the judicial code that would provide redress against malicious, false, and defamatory communications. It changes the degree of proof the plaintiff must assume from clear and convincing evidence to a preponderance of the evidence. It also gives a statutory definition of malice by providing that malice is the communication of a false and defamatory statement, knowing it to be false or without making a reasonable effort to determine the truth or falsity of the statement.

While none of us would want to interfere, nor would the Constitution permit us to curtail by legislation the constitutional guarantees of free speech, no one should have the right with impunity to maliciously make false and defamatory statements against a public official. I would hope Senators will review the measure in its entirety, and that the Judiciary Committee will hold hearings so that consideration can be given to appropriate amendments and thereafter the matter can be reported to the full Senate for consideration.

By Mr. KENNEDY:

S. 1768. A bill to amend the Age Discrimination in Employment Act of 1967 to protect older workers from involuntary retirement; to the Committee on Human Resources.

Mr. KENNEDY. Mr. President, I am today introducing the Voluntary Retirement Act of 1977. The purpose of this act is to amend the Age Discrimination in Employment Act to clarify the congressional intent behind the exception which allows lesser benefits to be given to older workers in pension, retirement, and insurance plans.

The exception is contained in section 4(f)(2) of the act, which says that it shall not be unlawful for employers to observe the terms of a bona fide employee benefit plan if such observance is not a subterfuge to avoid the purposes of the act.

The purpose of this provision was to ease the way for employment of older workers by allowing some differentiation in the fringe benefits that they would get. Many retirement and insurance plans require payment for a particular benefit to be based on the age of the worker, rather than the length of employment. It would have been extremely difficult for older people to find work if the fringe benefit costs were very much higher than those for younger workers, even if the salaries were the same. Thus workers first hired when older could be given a smaller fringe benefit if pension or insurance plans for them would be more costly, in order to keep down fringe benefit costs for late arrivals.

Mr. President, I think that our intent is clear from an examination of the language of the act itself and from the legislative history surrounding it. First, note that in section 4 the act mandates:

It shall be unlawful for an employer—(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

Furthermore the exception in section 4(f)(2) itself says that it shall not be unlawful

(2) to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this chapter, *except that no such employee benefit plan shall excuse the failure to hire any individual*; . . ." § 4(f)(2), 29 U.S.C. § 623(f)(2) (emphasis added).

Of course, we were not saying that age could be considered as a factor for termination, but could not be considered as a factor for employment. Otherwise we would simply be setting up a never ending revolving door.

This interpretation is reinforced by the debate on the floor. For instance, the manager of the bill, the distinguished former Senator from Texas, Senator Yarborough said:

. . . when it [Sec. 4(f)(2)] refers to retirement, pension, or insurance plan, it means that a man who would not have been employed except for this law does not have to receive the benefits of the plan. Say an applicant for employment is 55, comes in and seeks employment, and the company has bargained for a plan with its labor union that provides that certain moneys will be put up for a pension plan for anyone who worked for the employer for 20 years so that a 55-year-old employee would not be employed past 10 years. This means he cannot be denied employment because he is 55, but he will not be able to participate in that pension plan because unlike a man hired at 44, he has no chance to earn 20 years retirement. In other words, this will not disrupt the bargained-for pension plan. This will not deny an individual employment or prospective employment but will limit his rights to obtain full consideration in the pension, retirement, or insurance plan. 113 Cong. Rec. 31255 (November 6, 1967).

Mr. President, the legislative history on this, however, can be read the wrong way—although this takes resort to language plucked from the testimony rather than the debate. But this has led a couple of courts to read the exemption far more expansively than I believe we intended. In the case of *Zinger* v. *Blanchette*, 549 F.2d 901 (3d Cir. 1977), for instance, the plaintiff was forced to give up his job and salary to take retirement with a pension before the age of 65.

The court held that the forced retirement did not violate the Age Discrimination in Employment Act, because the worker was given a pension. It then noted that workers who have a pension are better off than those that do not, and quoted language in hearings, and one Department of Labor interpretative bulletin to the effect that forced pre-65 retirement was acceptable. The court went on to note:

There are many cogent, persuasive arguments why involuntary retirement, even with an adequate pension, should not be permitted before age 65. Logically, allowing such a broad exemption may be inconsistent with the prohibition against discrimination in hiring and produce the anomaly that a person who has been involuntarily retired by one company before 65 may not be discriminated against if applying for employment at another company. Similarly, as the Secretary suggests, there may be serious objections to allowing retirement to be at the company's option . . .

But, it still held against the worker who is not yet 65.

The issue of how the exemption should be read is now coming to a head, since the Supreme Court has granted certiorari on one of the cases intepreting this provision. The case it took—*McMann* v. *United Airlines*, 542 F.2d 217 (4th Cir. 1976), cert. granted, No. 76-906 (1977)—interpreted the exception narrowly; it held that a plan which forced retirement before the age of 65 did not fit under the exception.

It is possible that the Supreme Court could interpret the exception to have far more general application than was intended when we passed the act. Many companies, which might prefer to retire workers before the age of 65, could then do so. The exception could eat up the act.

It is therefore important for us to clear up our meaning. We should not wait until the Supreme Court acts. If the Court happens to give an expansive interpretation before we have clarified our meaning many thousands of workers could lose their jobs. At worse, if the clarification has no retroactive effect, these people will be the victims of a simple error in timing. They will have been pushed out in the months following a Court decision and before we could mandate the narrow interpretation. At best, their people will be left to initiate legal action to try to get their jobs back. This is not a satisfactory situation at all.

Mr. President, there are many changes which might be made in the Age Discrimination in Employment Act. It may be, for instance, that a good case can be made for "uncapping"—for removing the jurisdictional limit of 65. Changes of this sort should be given full consideration. But there is no need to wait for a clarification of the section 4(f)(2) exception until these innovations can be considered. We have already seen that workers below the age of 65 are generally fit and able to perform their jobs—it was the very basis of our jurisdictional decision when we passed the act. It would be unforgivable lapse on the part of Congress if we did not take measures now to insure that—regardless of an untoward Court opinion—workers who are fit to do their jobs are not tossed aside.

Mr. President, I especially urge quick action on this piece of legislation.

ADDITIONAL STATEMENTS

WHEAT

Mr. ZORINSKY. Mr. President, it will not be long before the farmers in Nebraska begin their annual wheat harvest. This event is already in progress in the great States of Oklahoma and Kansas as the combing crews make their way north to the Canadian border. However, while we may think that this bumper-crop harvest is a tribute to the ingenuity of the modern American farmer and his ability to produce food in abundance, there is a very sad corollary to this event and that is the prices our farmers are receiving for their efforts to put food on the tables of the American people. The price of wheat today is $1.75 a bushel in many parts of this country. It costs our wheat farmers, at the very least, $3 a bushel to produce it. Should our farmers continue to receive less than the cost of production for their crops, it would not be long before those family farms will belong only to the history books of this Nation.

Mr. President, the U.S. Senate, in passing S. 275, the Food and Agriculture Act of 1977, has taken the necessary steps toward insuring survival of the American farmer yet the present administration has indicated its opposition to this measure. I can only hope that the President will see the severity of the current market-price crunch and support the price support levels adopted by the Senate in S. 275.

Mr. President, I received a very telling letter relating to this crisis from Mr. H. L. Tinley, executive vice president of the Farmers National Co. of Omaha, Nebr. I ask unanimous consent that the entire text of this correspondence be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FARMERS NATIONAL CO.,
Omaha, Nebr., June 20, 1977.

Senator EDWARD ZORINSKY,
U.S. Senate,
Washington, D.C.

DEAR ED: We are now in the midst of harvesting a crop that has been a staple for as far back as we can go in recorded history. The crop is wheat and the food made from it is bread. Wheat and bread have influenced history and been the cause of an untold number of wars through much of man's long and turbulent history. Herbert Hoover put it well when he said "The first word in war is spoken by the guns but the last word almost inevitable is spoken by bread"—and how true this has been.

Bread has become a religious symbol of life—for the Christians we have the Lord's Prayer, "Give us this day our daily bread". In the Hebrew we hear "Praise be Thou, O Lord our God, King of the Universe who brings forth bread from the Earth".

Today as you read this, Ed, the combines are rolling and when they are finished we will have on hand more wheat than ever before in our history—an incredible 3 billion bushels. This astronomical bounty that we take so much for granted simply dumbfounds the Russians. Russia is barely able to produce enough wheat to meet its own needs, and some years even that isn't possible.

While the world is rapidly depleting its supply of oil, natural gas and other raw materials we, in this country, continue to harvest year after year an almost inexhaustible supply of food—and this creates problems—problems of over production.

This year farmers are experiencing the agonizing frustrations that go with selling wheat at $1.75 a bushel—wheat that costs them $3.00 a bushel to produce. The bankruptcies these prices create are milestones on the road agriculture has traveled to reach its present level of efficiency. Because of this efficiency, our American people today spend less of their income for food than do any other people in the world. Though this legacy of plenty is taking its toll among farmers, it is farmers who have championed this country's "Policy of Plenty"—with food, too much is still preferred to too little.

Sincerely yours,

H. L. TINLEY,
Executive Vice President.

NUTRITION

Mr. BROOKE. Mr. President, I would like to call the attention of my colleagues to a timely article in the Washington Post on June 23, 1977, by Dr. Jean Mayer, now president of Tufts University, chairman of the White House Conference on Food Nutrition and Health in 1969, the leading nutritionist in America and one of the acknowledged specialists in nutrition in the world. In this article, Dr. Mayer expertly discusses the objections to school food vending machines being allowed to sell junk food to our school children. With good reason, Dr. Mayer calls for Senate support of an amendment which the distinguished Senator from New Jersey, Senator CASE, will be offering to S. 1420, the school nutrition bill which we will act upon this week. This amendment would give the Secretary of Agriculture the power to regulate the contents of school vending machines. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUTRITION

(By Dr. Jean Mayer and Dr. Johanna Dwyer)

A bill coming up in the Senate soon should interest every parent of school-age children—or anyone who is interested in good nutrition for our young people. The bill, S1420, contains an amendment that would give the Secretary of Agriculture the power to regulate the contents of school food vending machines—a step New Jersey Sen. Clifford Case has been urging for the last four years.

As every parent knows, these machines have proliferated in the last few years, and now can be found in school corridors, locker rooms, gyms and even some study halls. Until about four years ago, the Secretary of Agriculture had the authority to regulate the use of school vending machines. Then Congress removed this power giving it to the states and local school districts.

There's nothing wrong in having food vending machines in schools, particularly if the school does not offer breakfasts or midmorning snacks. Children do get hungry, and if the machines contain things like milk, fruit juice, apples or other fruits or sandwiches, they can appease a child's hunger and may make the difference between learning at peak ability and inattention during late-morning class periods. This was Congress' original intention when it gave local authorities greater flexibility in providing food sources for schoolchildren.

In many cases, however, that is not what happened. Instead, the junk food industry, with its wealth of funds and powerful lobbyists, moved in, and the types of food offered were such things as candies, packaged cakes, cookies and a variety of cola drinks. Local efforts to substitute good foods encountered resistance from some state legislatures, school boards, principals and even the PTA.

Why? Because the vending machines represent money not only for the suppliers but for hard-pressed schools, which need the funds to pay for such extras as band uniforms and sports. These extras also mean a lot to students, and people argue that there can't be any harm in making money for these supplies by selling snacks the youngsters can always buy at the corner newsstand or drugstore.

But we think, and we've heard from a number of parents who feel, that there are a number of things wrong with allowing junk-food vending machines in the schools. For one, it is the job of a school to educate, and the teaching of good nutrition, particularly by example, is part of education. Also, poor nutrition can have a direct economic impact in increased dental bills for the child who yields to the continuous temptation of vending machine candy and other sweets.

Good nutrition is an important part of good health, especially during the growing years. But if youngsters can easily obtain tasty, high-calorie, low-nutrient snacks whenever they feel hungry, they may ignore the nutritious but less tempting fare offered by the school lunchroom.

Surveys by the Dallas school board, which banned school vending machines in 1975, bear this out. In the year after the machines were removed, the same number of pupils bought 3,721,438 lunches, a gain of 365,000 over the previous year, when they had had access to the vending machines. Even more important was the gain in the number of children from economically deprived families who took advantage of free lunches. In 1975–76, these children consumed 621,682 more free lunches than they had in the previous year.

The Federal government has committed $3 billion a year to programs designed to improve child nutrition. Surely it would be inconsistent to allow these programs to be undermined by permitting the open use of vending machines for junk foods, which would compete with school meal programs.

Sen. Robert Dole of Kansas, the ranking Republican member of the Senate Select Committee on Nutrition and Human Needs, is sponsor of the bill now before Congress. He points out that under the best of circumstances, there is waste of foods in an institutional setting. (It has been estimated that 40 percent of the food bought for the armed forces is wasted, and 30 to 40 percent of the food in school lunch programs may wind up in the garbage.) Dole contends that the increase of vending machines in schools is directly related to an increase in food waste, which is also a waste of the tax money that funds these programs. (Not to mention the waste of allowance money that every parent hopes will be well spent.)

Obviously, it is short-sighted to allow the sale of junk foods in our schools as a means of funding other activities. We all lose far more than we gain.

In a recent interview, Secretary of Agriculture Robert Bergland said, "Many of these vending machines dispense items that I don't allow my kids to have before they eat their

lunch, and there are some who say that's undemocratic. But, in fact, our children are not permitted to have a candy bar before dinner because we don't think it's good for them."

The Secretary adds, "I have no problem with machines dispensing fruits."

We agree. If you do, too, we hope you will let your senators know your views.

AN INTERVIEW WITH INTERIOR SECRETARY ANDRUS

Mr. CHURCH. Mr. President, the current issue of U.S. News & World Report carries a fine interview with Secretary of Interior Cecil Andrus.

It is a wide-ranging interview, covering energy, water projects in the West, policy with regard to American Indians, and the future direction of the Department of the Interior.

I commend the interview to my colleagues, Mr. President, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

ENERGY, WATER, ENVIRONMENT—A TOP OFFICIAL LOOKS AHEAD

Q. Mr. Secretary, will natural-gas supplies run short again next winter—and if so, what can the Government do to insure that no gas is held back by producers?

A. Frankly, it depends on the weather. I think we'll have adequate supplies if we don't have as severe weather as we experienced this past winter. But if that happens, then the Government will once again find itself in a position of having to allocate the energy resources to the priority users. We're prepared to do that—and with a little more finesse and experience.

We've been working in a persuasive manner with the producers to have more gas on line. I think we've been successful, because last month we had considerably more gas go into storage then we had a year ago, when we were building our reserves.

I have also met with some of the major companies who have fields that they planned to bring on line in 1980 and 1981 in shallow water in the Gulf of Mexico. They think now that, in some instances, they can have those producing sometime next year.

Q. Can you say that some are not holding back gas supplies intentionally?

A. I'm not prepared to say anyone has intentionally kept a valve closed that should have been open. We have, through the National Academy of Sciences, a group that is coming together now to start evaluating all of these fields to determine whether there is gas that should be in production but is not.

Q. Are there indications that any natural-gas producers are waiting for price increases, rather than drilling now?

A. The economic incentive for waiting is certainly there. But no one has violated a lease in this manner to the point where I could exercise my right of cancellation. You see, a company has five years to develop an offshore lease.

Q. Is five years a reasonable time?

A. It depends upon the area. Five years is not long enough in a deep-water, faulty-bottom area. But five years is more than one needs in a close-to-shore or shallow-water area.

Q. Why haven't there been any sales of offshore leases since you took office?

A. I was given a schedule that had been presented to the American public on January 12 by my predecessor—a proposed lease schedule that, in the privacy of my office, industry said couldn't be met. About three weeks ago, I published our list of sales for the next 18 months. I think it's a more realistic schedule, one that we will try our darnedest not to let lag.

Q. How much oil and gas are left in the U.S., on land and offshore?

A. That argument ranges from the conservative to the wild and imaginary. I don't think that we even know. But the projections are that, by 1985—if our normal rate of energy growth usage continues—our demands will exceed the known world reserves. Then one gets into the speculative area of what we actually know as opposed to what we suspect—and what we do not know.

Admittedly, there are more hydrocarbons, in my opinion, now available in the world than what some project as possible reserves, if one considers all of the small deposits, especially in inaccessible areas. But many of those reserves cannot be recovered because of extreme cost, both financial and environmental.

Q. Is there are reason not to push ahead at this time on all possible fronts in the search for more oil and gas?

A. Not if we can do it in a responsible manner, and that's what we plan to do. But to push ahead on all fronts without due consideration for the consequences would be irresponsible.

I'm talking about environmental consequences, and I'm also talking about the need for that energy over a longer time frame. Also, one has to take into consideration the capabilities of the production companies, so that you have a stable industry and not increase the capital-expenditure demands of those firms.

Q. President Carter has proposed a 50 per cent increase in the use of coal by 1985. Much of that new coal would have to come from the West. Is that possible?

A. It is very possible. We have to increase our production of oil and gas in the short term while we gear up and produce the coal for the long term.

There is no shortage of coal. We have vast amounts of it in areas that are minable. There's 25 to 26 billion tons of coal under lease or preferenced now. But one must have the market, and one has to have the incentive for the major utilities to change from oil and gas to coal.

If the President's energy package is passed so that we can give the financial motivation via tax incentives and other means, to change from oil and gas to coal, then the time frame is reasonable. Without that legislation, the transfer will not come about in a timely fashion.

Q. On balance, is a large-scale strip mining of coal a good thing for the residents of those States where it is done?

A. Yes, particularly with the new strip-mine bill that is in conference right now. One has to be able to make the determination, "No, we will not mine here, but we can mine over there." And that legislation gives us the capability not only to make the determination of where and when, but how. The reclamation provisions in that act will make those areas useful for another purposes. We look upon strip mining as a temporary use of the land, I might add.

Q. Have you seen reclaimed land that you're satisfied with?

A. Yes, I have. I visited Kentucky and West Virginia with regards to the reclamation program—current versus previous. I saw some areas that looked like the aftermath of what I envision World War III would be—where they had mined in the '50s and early '60s. I also saw some reclaimed land with mountaintop-removal techniques where the soil was not pushed over the side but brought back onto the top—and I was impressed.

Technology has come a long way, and I've seen some examples of what the companies can do if they want to. But one has to make them want to do it.

Q. Will reclaiming land, plus making the coal environmentally acceptable to burn, make new coal more costly than what we're paying now for oil or gas for an equivalent amount of energy?

A. Well, when you say "now," you're striking a bench mark. In the future, with inflation, with the increased cost of oil and gas, the answer is "No." It will be more expensive than what we've known in the past. But if we put a monetary value on clean air—and I think we have to—then the American consumers are going to pay that bill. And I think they've made it very clear that they're willing to pay that bill.

Q. Is there sufficient water in the West to reclaim land that is strip-mined?

A. That's part of determining where one mines. If one has an area with a very minimal average annual rainfall and one knows full well that he would never get vegetation to grow, he would be a fool to give a lease to mine it.

Q. But half of Montana and Wyoming are like that—

A. Those percentages are a little high—but the point's well made that there are significant portions. But we have vast amounts of coal in the West. And we're not talking about just Western coal; there's a large amount of coal in the East. If we can increase the market and demand, then we're going to increase the production in the East as well.

Q. Can more cutbacks in dam and water projects be expected?

A. The Administration is going to insist with every possible method at our command to see that we have water reform in America. We must recognize that water is a very valuable resource—a resource that we have to treat with better stewardship than what we have in the past, and that means water reform.

It also means that we'll be taking a harder look at projects that might be authorized in the future. You can certainly look for the Carter Administration to recognize the value of water and to be a little tougher when it comes to approving future projects.

We are not antidevelopment, but it's going to be *good* development, it's going to be *needed* development. And one can't balance the budget if one is going to continue to put billions of dollars into projects that are not economically feasible or do not have at least a 1-to-1 cost-benefit ratio.

Q. Will you recommend a veto if Congress insists on going ahead with water projects the Administration doesn't want?

A. I can't for certain until I see the finished product, but if Congress does not give consideration to our recommendations, I will recommend a veto. I would suspect that if the bill is vetoed, that veto would be sustained.

Q. Can the West support more growth, and is it desirable?

A. It depends on the given area. Let me speak of a State of which I'm very familiar—the State of Idaho, with approximately 53 million acres and about 830,000 to 840,000

people. Obviously it could stand more growth. But it can't stand a great amount of growth in that one little area of the Treasure Valley without destroying it.

In some areas of the West, there is adequate opportunity for growth, but one must make a determination of the public resources that'll be necessary—water, financing of schoolhouses, sewage systems, etc.

Q. You were Governor of Idaho when the Teton Dam collapsed. What is the Interior Department doing to insure the safety of other dams?

A. We are looking at all the dams in America because of the Teton. Most of them have been found safe within the limitations. We have some—for example, the American Falls Dam in Idaho—where storage has been reduced while they're rehabilitating the dam. But we have found none to date that is unsafe under present controls.

Q. Do you have plans to increase the size of national parks or to start new parks?

A. It's certainly true that park usage has become so heavy that we stand a danger of destroying the very thing that we're trying to protect. Now, in some national parks—Yosemite, Yellowstone, where one has the highway networks and the people are controlled—we can handle those heavy loads. But one cannot sustain the heavy loads in some of the areas that aren't controlled, such as the wilderness areas. Rules and regulations are needed which determine when people go and how many go; otherwise, you'll destroy it.

Another deficiency that we have is parks which are close to urban areas. We should have a study by the latter part of September which will make recommendations, but I think I can say that you'll see the Carter Administration move to make parks available to more people.

The demands indeed are there, but the resources control what we'll be able to do in acquisition and development. How much of your national budget can you earmark for that purpose? The President has increased the appropriation in the land-heritage program, the Land and Water Conservation Fund, and he has agreed to give us the additional employees in our national-parks system that are needed to do the maintenance that hasn't been done for some years.

Q. Will Indian tribes that are claiming millions of acres of federal land on the basis of old treaties be successful?

A. Some of them will.

Q. What proportion?

A. I can't answer that question. One of my problems is determining what is a legitimate claim and what is a frivolous claim, and that's why we have so many attorneys in the world. However, the Indian people of America have many, many legitimate claims to both land and resources which have been ignored, and they're just now making believers out of us. It's a trust responsibility that I have, and we haven't backed away from it. And we'll support them in those legitimate claims.

Q. Some Indian tribes have complained that they're too closely controlled by the Federal Government—

A. I suppose that maybe that's true in the past—probably is true today in the minds of some. But we're moving away from that position and supporting Indians involved in the self-determination aspect. But, yes, if you go back a few years, the old reservation superintendent was the kingpin.

Q. There has been talk of separating the Bureau of Indian Affairs from Interior. And your Department would lose some functions to a new Department of Energy. Do you have a feeling that Interior is being gutted?

A. They've been to our pantry many times in that last few years. They created FEA [Federal Energy Administration] and ERDA [Energy Research and Development Administration] and some others out of Interior. Part of the Department of Energy comes from Interior, but I concur with that because we have to get those energy components in one place to make them work.

Q. Is there really a need any longer for a separate Department of Interior?

A. Oh, yes. That's where the stewardship of natural resources and the public lands resides. If one gave that up, there would be no protection. Developers would be able to freewheel across the public domain. That's one of the reasons that I sit in the Cabinet meeting every Monday morning—to see that they do not. That's my responsibility, and I don't take it lightly.

Q. Could your stewardship of natural resources operate more efficiently if you had the Forest Service that is now part of the Department of Agriculture?

A. I have to be very careful that I don't get at cross purposes with any of my Cabinet colleagues. But when I was Governor of Idaho, long before I ever dreamed I'd be back here in Washington, I felt that the U.S. Forest Service could be better domiciled in Interior. I still feel that way, but that's a personal opinion.

And I don't speak for the President or the Secretary of Agriculture, but the Forest Service is a resource agency. Not only does it provide wood fiber for one of the major industries of America by holding timber sales, but it deals in parks and recreation areas, as we do.

There are cross purposes.

One of the greatest impacts upon the watersheds of America and the quality of water that's in our streams—not only for domestic and industrial purposes, but for recreational purposes—is controlled by what happens on U.S. Forest Service land. So, yes, I feel that the Forest Service could better be domiciled in Interior, but that decision will be made later.

Q. You're recommending that to the President—

A. I will when and if I'm asked. But I don't want to take on the image of wanting, because people have raided my pantry, to run around and raid everybody else's.

Keep in mind the Department of the Interior still has more than 60,000 employes, and the Federal Government controls more than one third of all of the surface of America in one form or another. Then, of course, the Department has all of the Bureau of Indian Affairs land and the outer-continental-shelf acreage.

Q. Does that put too much power in your hands?

A. Not from the chair I sit in. It might from the chair that some other people sit in—in particular some of the developmental types that say, "That Andrus's got too big a stick." Well, I don't think I have.

When I went to Plains, Ga., last December, the President said: "I want you to be the environmental voice of the Administration. I want you to use your experience in administration and natural resources to help improve America." And on that basis I said "Yes." So I'm not going to back away from that responsibility or let somebody run roughshod over me because he has a different opinion of what stewardship should be than I have.

I was hired by the President for my philosophy, not anyone else's philosophy. I recognize the tenure of a Secretary of the Interior around this city is not all that long. I'm going to call the shots the way I see them in consultation with the President—and when that no longer works, or the American people have different ideas, then I'll probably do what my family wants me to do when they say, "Hey, Dad, when are we going home?"

THE EFFECT WITHDRAWAL OF U.S. FORCES FROM KOREA WILL HAVE ON JAPAN

Mr. THURMOND. Mr. President, Gen. Ichiji Sugita (retired), Japanese Self-Defense Force, recently addressed a symposium on Northeast Asia security which was sponsored by the Strategic Studies Center, Stanford Research Institute, June 20–22, 1977.

His subject was entitled, "Japanese Perspectives on Security Concerns." The thrust of his address was an evaluation of the effect that the withdrawal of U.S. ground forces from Korea will have on the security of Northeast Asia and the national defense of Japan.

Mr. President, I had the pleasure and honor to meet General Sugita and briefly discuss his views and subsequently study his address. I was very much impressed with his keen intellect, objectivity, and extensive knowledge of the security problems in Northeast Asia.

His astute evaluation of the withdrawal of our ground forces in Korea reveals that this ill-advised decision will have a profound effect on the national life in Japan and the balance of power in Northeast Asia. In my opinion, the security anlaysis made by General Sugita indicates that the Carter administration probably has not fully evaluated the adverse impact of the withdrawal in regard to the stability of Northeast Asia and the security role responsibilities which the United States expects Japan to carry in the future. Japan's national security policies will have to undergo a complete reevaluation which might not result in the interest of our own national security.

Mr. President, on May 26, 1977, in this Chamber, I expressed my strong opposition to President Carter's withdrawal plan. In my judgment, the views expressed by General Sugita reinforce my strong opposition to the President's plan to withdraw our ground forces from Korea under present world security conditions.

Mr. President, I ask unanimous consent for Gen. Ichiji Sugita's address at the Strategic Studies Center symposium, Stanford Research Center, Menlo Park, Calif., June 20–22, 1977, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

JAPANESE PERSPECTIVE

(By Gen. Ichiji Sugita, retired)

I am happy and highly honoured to be here and to have the opportunity and privilege to speak to you distinguished experts

on military affairs assembled here to-day from various parts of the Free World.

I have been asked to say a few words about national defense of Japan in general and I beg your indulgence if, in doing so, I present some factual information based on my own limited experience and knowledge but which, I hope, may contribute, however modestly, to the basic current thinking on this subject.

To begin with, I would like to draw your attention to the fact that President Carter, in his message to Congress at his inauguration, made reference to Japan as one of the partners of the United States of America and a nation of major importance in The Pacific.

Such a reference, . . . on such an occasion, . . . by such a man of eminence was more than enough to give us Japanese a profound impression and opportunity to introspect about our own country as it is now and to try and examine the country as it ought to be in its right perspective.

Admittedly, we have been aware of the U.S. expectation of Japan for the maintenance of world peace. But now, we feel the weight of it far heavily than we felt in the past. How Japan can respond to that expectation and contribute itself towards peace of the world at large and of Asia, in particular, is a big subject given us and Japan is now striving hard to grope about for the best possible way to perform its part.

Obviously to the United States, somewhat dubious behavior of Japan may be causing the feeling of impatience. But when viewed from the point of our national security, particularly from the point of military phase, it is quite clear that Japan's present status has in no way attained a stage where it can respond to that expectation. Therein lies a big problem which I hope to speak about to-day as best I can.

I am sure there must be number of members among you who have already discerned the points I am about to mention. I am equally sure there must be a great many in the world who are amazed at Japan's extraordinary rapid economic growth, but only few . . . surprisingly few who are aware as to the extent and substances of Japan's national defense structure and its military strength.

It is not confined to the people of foreign countries only, but, strange as it may sound to you, I know I am not exaggerating when I say that the most of my own countrymen know very little about these vital questions. Among them, there may be quite a number of politicians, businessmen and learned people, let alone the ordinary people which proves that national defense has not been taken by most of the people of Japan as important enough question to take seriously and it remains the same more or less to-day.

With regard to Korea, I myself have a great hope and expectation on the future of its national defense capabilities. Needless to say, Korea is an essential element for the defense of Japan as Japan is for Korea for that matter. On this particular point, we are just like the two wheels of a cart . . . we are bound to stand and fall together. The pity of it is that not all our people are conscious about it. I for one as a Japanese and a soldier note with deep gratitude in regard to a great effort being made by the U.S. and Korea for security of the region.

I am afraid the pressure of time does not permit me to refer to-day to the question of Taiwan, the Republic of China, but we must bear in mind when we think of the situation of North East Asia that we cannot consider Japan, Korea and Taiwan separately from one another not only because of natural geographical disposition allowing no artificial change but we are, after all, in the era of collective security of nations to-day.

Therefore, if unfortunately one of the three nations were to break down, the result is obvious. North East Asia would easily be thrown into a state of uncontrollable confusion . . . even with the help of the United States.

Even more so, as the Soviet, as a part of its ambitious global politics with power for a background, is carrying out a ceaseless reinforcement of armed forces and modernization of its Pacific Fleet, while its all-round positive and forceful action is decidedly on the increase ever more.

Only recently, we have seen a characteristic attitude of its own at the fishery conference held in Moscow between Japan and the Soviet. I am afraid it is not difficult to anticipate that Soviet will do its utmost to ensure collapse of Japan's defense foundation by any means, particularly by an indirect aggression.

Such being the case, both Korea and Taiwan are very much concerned about the trend of Japan in future and both are closely watching an extent of Japan's communization. I am often cautioned about this point by my friends of both countries.

However, in spite of all, both Korea and Taiwan as well as other Asia nations, while are all counting much on Japan's economic strength, nevertheless do not want to see it becoming a powerful nation both nominally and virtually which is understandable. Perhaps it can be said that expectation and precaution are stuck side by side in their minds so far as the present situation of Japan is concerned. On this point, I suppose both the U.S. and Australia, too, may be no exception. These incompatible phenomenons place us in a very difficult position in determining our defense problem.

There is another important matter from military viewpoint that must not be ignored and it is Japan's relations with various countries of South East Asia and Indian Ocean as well as Middle and Near East.

The formers, not only are they closely related to Japan historically, geographically, culturally and economically, but those countries are situated right along the trade routes of essential raw materials to Japan . . . imported from the latters, particularly, oil and minerals.

Therefore, the tendencies of various countries in those regions reverberate on our national security directly and acutely representing clearly how sensitively we have to react, how vitally important it is for Japan to shoulder a great portion of burden in protection of the sea transportation. In view of this fact and to discharge its task adequately, Japan is required to keep maintaining good relations with the U.S., Canada, Australia, New Zealand and South East Asia countries.

Such being the case, when emergency is taken into consideration, Japan ought just as well to make necessary preparation even in time of peace. It ought to equip itself with all necessary arrangements and mental attitude, also, to dispatch at least its naval vessels to those regions, when necessary.

Considering that Japan's national security is assured, thanks to the U.S.-Japan Security Pact, Japan, as a good partner of the U.S. ought to possess positiveness so much as to take charge of a portion of defense of the sea surrounding Japan, Korea and Taiwan and provides the U.S. 7th Fleet with the freedom of action.

This is very likely what the U.S. expects of Japan and whereabout of the sentiment of general public of America is not difficult to comprehend. However the actual circumstances of Japan as it is now is fairly away out of the point where it can comply with the requirement of the U.S.

So, in order to try and observe a probable development of Japan's future defense, I would like to reflect briefly on the recent history of national defense of my country for your information.

When 30 odd years of post-war Japan is divided into 3 periods from the point of national defense, not, of course, forgetting that the basis of it all rests with the post-war Constitution, I think it can summarily be said as follows:

(1) The 1st period . . . that is between the year 1945 to 1955 . . . there were several notable occurences such as the outbreak of Korean War, the reestablishment of Japan's independence and the organization of Police Reserve Force.

So far as Japan's national defense was concerned, it was entirely left in the hand of the U.S. Armed Forces. There was, therefore, no need at all for leaders of the country to give any sort of consideration to the problem of national defense nor to military affairs.

The propagation of Japan as a nation of militarism was then complete, while in the country the spirit of anti-war and anti-military run amuck, like a wild fire. Anything that had any connection with military was tabooed, resulting in total negligence of the matters pertaining to defense and military of the country. The prohibition of an overseas deployment of armed force was proclaimed from the beginning.

(2) Next, the 2nd period begins from the year 1956 to 1966.

During this period, the Self-Defense Force was organized, equipped with arms of the type of the 2nd World War and had gradually taken over duties of national defense from the U.S. forces. Strange as it may sound to you, but during this period the country was involved in fierce arguments as to whether the Self-Defense Force was a military force or not, whether there was or there was not an infringement of Constitutional Law. A construction of the foundation of national defense organization was as a matter of course totally disregarded.

It was during this period, too, a fierce struggle was taking place in the streets of Tokyo over the U.S.-Japan Security Pact. The concept of national defense was limited to 4 islands only that constitutes Japan.

However, towards the end of this period, that is in 1965, the normalization of Japan-Korea was materialized and with it, Japan began to consider its national defense as a part of the link of North East Asia. The fear for revival of Japan's militarism was still actively argued about among the 3rd powers during this period.

(3) The time between 1967 to 1977 is the 3rd period.

During this period, the return of Okinawa by the U.S. and Japan's recognition of Communist China came to be realized. It was then that Japan started to reconsider its national defense system and concept on the basis of North East Asia as a whole.

However, in spite of its broadened outlook on the matter of defense, equipment and military thought of its Self-Defense Force are no longer up-to-date and defense system of the country remains unchanged. In fact, the capacity as the armed force is deteriorating.

It stands to reason that the nation's defense system has no other way to tread than downward, especially when the very man, the Chief of Defense Agency . . . equivalent to the Secretary of Defense . . . says that 1 percent of Gross National Products would be enough for defense expenditure.

The nuclear allergy is very strongly permeated into the minds of the people of Japan. An overseas deployment of armed forces and export of arms are strictly prohibited. And while opposition parties loudly advocate cancellation of the U.S.-Japan Security Pact, no refutation, however, comes from the Government or the Ministerial party. The discussion on the national defense is still looked upon as something to be put under taboo.

Keeping step with an intensification of confrontation between Communist China and the Soviet, the argument in respect of the revival of Japan's militarism has since been calmed down. On the contrary, Communist China is now recommending Japan's strengthening of defense, also maintenance of Security Pact.

Nevertheless, our general public are still of opinion that not the people but the Self-Defense Force alone should take charge of the duty of national defense. This anachronistic concept is a legacy of bitter experiences of war. Indispensible though national defense is, it will be no easy task to convince them of futility of building it on the foundation of misconception.

In the meantime, the man until a short time ago was the Prime Minister concurrently the Commander-in-Chief of the armed forces was taken into custody on the ground of an implication in the Lockheed payoff scandal during his tenure of office. A bad effect given to the officers and men of the forces was far from small.

The 3 periods of Japan's national defense outlined just now is the course our country, as I see it, had to troden thus far during this past 3 decades. In the meantime, there has been a change of a generation . . . the new generation that has grown up practically, if not wholly, irrelevant to war came to wedge itself in forefront in every line of national life. During past few years, we have witnessed a gradual decrease of power of the Government Party, and now, a rumor has it that there might even be a possible reverse of power between conservatives and leftist parties in the coming election in July. Thus the year 1977 found the Fukuda Cabinet at the helm of state.

With the formation of the Carter Administration just then, came an announcement of an intended withdrawal of the U.S. Forces from Korea. The Prime Minister Fukuda evaded to intervene stating that it is a matter solely concerned between the U.S. and Korea. However, there is no doubt at all that it is a matter of vital importance upon the issue of which hangs the very fates of both Japan and Korea.

Last September, there was an incident of Mig-25 in which the Soviet Flight Lieutenant Berenco grounded his plane in north of Japan seeking refuge in the United States. And only recently, Japan had seen more than enough of a high-handed attitude of the Soviet toward us in connection with the fishery problem. There is no doubt that Japan, as the very other party to the power-politics of the Soviet has again been given a nutritious mental pabulum in which to appraise anew a true merit of the U.S.-Japan Security Pact, also the importance of national defense.

Hitherto, the leftist parties in the Diet have been loudly emphasizing a principle of demilitarized neutrality on the country and cancellation or abrogation of the Pact. But now, they look very much perplexed and are at a loss what to do.

The election of House of Councillors is going to be held in coming July. It is looked upon in the country as one of barometers to divine the future course of Japan. Indeed, Japan is about to face a very serious turning-point in its history in the near future.

What I have outlined so far, I hope, has given you some ideas to conceive the future of Japan's national defense. Now, I hope to end my report by stating my own opinion concerning the subject.

I believe there are 2 ways of looking at the course that Japan is likely to tread from now on. As the undercurrent, skeptic feeling seems to be flowing in the minds of the people as to whether the state prevailing in Japan today would serve as just and proper in carrying the country forward to the future or not.

(1) One way of looking at the future course is that Japan, in fear of external criticism on the possible revival of militarism, has spent this last 3 decades making very light of vital problems of national defense and military fairs. Now, that the political situation no longer is as stable as it used to be, not only will Japan's national defense be not improved but the probability of treading towards, the path of weakening is, I feel very sad to say, none too small. There is, I think, even a danger of weakening of ties between th U.S. and Japan resulting in invalidity of Security Pact.

(2) The 2nd outlook is that the nation that fought for nearly 4 years against Allied Forces in the 2nd Word War while achieving a surprising development in the post-war would, according to a change of situation, inevitably become a powerful nation militarily. For the nation such as this, Korea could not be a decisive factor. In fact, Japan can and ought to be able to defend itself whether Korea or no Korea.

The 1st outlook is that of the Soviet. There are quite a number of retired senior army and naval officers and a section of intellectuals in Japan who are in agreement with this outlook and think it necessary to strengthen defense of the country. Generally, those people are looked upon as if they were the rightists in Japan which, in the strict sense, is not correct as one can love one's own country without being a rightist oneself.

The 2nd outlook seems to me to be the one generally entertained in the U.S. and other democratic nations. It is also the outlook vaguely entertained among large numbers of our civilians mostly influenced by mass media . . . leaders of the country not excepted. I see Mr. Brzezinski of White House seems to be of the same opinion as the 2nd outlook if my interpretation of his book entitled "Fragil blossom" were correct. It seems to me that the basis of the decision to withdraw troops from Korea may also be found in the same thinking as that of the 2nd outlook.

The defense-conscious view of so-called rightists referred to in the 1st outlook are generally considered in Japan by those who entertain the 2nd outlook as a primary factor to create doubt and suspicion among the 3rd powers. But what West Germany did succeed in providing a means to dispel doubt and suspicion of friendly nations I don't see why Japan can not, especially if Japan really determined to respond to the U.S. expectation and amply discharge its responsibility as a good partner should.

However, in order to elevate the country to that capacity, there is, in my opinion, far more important issue than mere increase of armed strength and modernize equipment of our Self-Defense Forces . . . not that I am thinking lightly of those points . . . the pressing need of the hour among all needs now is to consolidate the foundation of our national defense . . . the foundation worked out as an independent country in substance and defense concept on the basis of Northeast Asia as a whole. So far, no attention has ever been given to it and not likely to be given in near future either, because the problem of national defense almost entirely under responsibilities of national leaders and politicians and hardly any room for the military to share it.

I would like to add a few more words before I finish my report. Japan is, as you are well aware, interposed between 3 great nuclear powers, the U.S., Communist China and the Soviet Union with an awkward North Korea nearby. Japan shall become neither a great nation militarily nor a nuclear power. This is out of the question as the people of Japan are thoroughly consistent in this point.

Therefore, the primary importance for us is to try and maintain a close alliance with the U.S. and in concert with Korea and other free countries of Asia make every effort to prevent occurrence of war in Asia, Northeast Asia, in particular.

In conclusion, I would like to repeat once again that the withdrawal of the U.S. Troops from Korea, if I may say so, without due consideration to the true state of national defense of Japan is bound to bring about a tremendous effect on the future of Asia. Already, the Soviet who seems to know correctly every inch of Japan's weakness is out to make full use of it in order to create a climate that would help to achieve its end. Frankly speaking, I can see no sign that makes me entertain an optimistic future for Asia in general.

Under the circumstances, I appeal to politicians and military authorities of the U.S., Australia, Korea and other democratic nations of Asia to inquire once again into the ways to establish and maintain peace and security of West Pacific by affirming the actual state of defense setup of Japan.

LOAN LEVELS FOR 1977 CROPS OF WHEAT AND FEED GRAINS

Mr. HASKELL. Mr. President, I was very pleased to see that the Senate Committee on Agriculture, Nutrition and Forestry reported Senate Resolution 193 last week, sponsored by Senator ZORINSKY, expressing the sense of the Senate that the Secretary of Agriculture should exercise his authority under existing law to increase the loan levels for the 1977 crops of wheat and feed grains.

I totally concur with this sentiment and wish to join by colleagues in cosponsoring the resolution. I think this action is desperately needed by our farmers at this time in order to help accommodate the mounting grain surpluses and to make additional funds available to our much-beleaguered agricultural producers. I have been urging this very action for some time.

Although the resolution very wisely, perhaps, does not recommend a loan level, I would hope that the Secretary will provide a substantial increase offering meaningful assistance. The present loan levels simply fall too short of meeting production expenses to be of useful price support assistance at this time.

In closing, Mr. President, I ask unanimous consent that a letter I wrote to President Carter February 4, 1977, explaining our producers' problems and urging this very action, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 4, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I respectfully call to your attention the severe plight of agricultural producers in the State of Colorado as the result of a continuing depression in the nation's agricultural economy. Although this is a nationwide problem, it is particularly acute in our state because virtually every major agricultural commodity produced in Colorado, wheat, corn, sugarbeets, pinto beans, cattle and other livestock, is presently selling at a price well below the cost of production. Massive losses in our sugarbeet industry have forced the closing of three sugar refineries with a fourth threatening to close. This is a severe blow to our beet growers and to hundreds of workers in those plants as well as the communities affected.

A deepening drought on the high plains has plagued Colorado for the past three years and is now reaching critical proportions. This places an even greater burden on our hard-pressed cattle and grain producers at a time when they are caught in an almost crippling cost-price squeeze. Our farmers and ranchers are extremely grateful for your timely emergency declaration of last week which extends federal emergency programs to producers in the Colorado counties most severely afflicted by drought. Welcome as this assistance is, however, it does not provide the comprehensive support which our entire agricultural community needs at this point to avoid collapse.

In light of the mounting crisis, I most respectfully and urgently appeal to you to use your existing administrative authority at the earliest possible time to raise price support loan levels on all eligible agriculture commodities to at least 80 percent of parity. This will not guarantee and adequate profit for most of our wheat growers who are selling their wheat today for just over $2 per bushel. But it will meet the cost of production and place a floor under prices so that producers can stay in business for the present, and look forward to planting another crop this year. Under present conditions of surplus and low prices to together with accumulating debt, farmers and ranchers are simply unable to obtain the necessary credit to stay in production. Our young farmers, who have exceptionally heavy debts and very limited operating capital, are especially hard hit.

I also respectfully request that you move as swiftly as possible to reduce the global import quota for sugar to a maximum of 3.9 million tons, or suspend the generalized preferences for developing countries which account for about 20 percent of our annual sugar imports, or to invoke quotas under the emergency provisions of Section 22 of the Agricultural Act of 1935. We had hoped that the recommendations of the U.S. International Trade Commission, which has been investigating economic injury to the domestic sugar industry from imports, would be available by now to support such action. But I understand that legal entanglements have stalled the investigation, so I would urge that you proceed on an emergency basis to sharply curb imports to assist our growers and producers until such time as a sound sugar program can be enacted. The boom and bust cycles of the past years have literally caused havoc with our state's sugar beet industry and immediate relief is necessary if our growers are to stay in production this year.

Meanwhile, because of continuing surpluses and low prices, Colorado's cattle industry is seriously foundering and requests your attention to the administration of the Meat Import Act of 1964. We understand that large quantities of essentially raw beef are entering the country outside of the import restrictions of the law, through an exemption for processed beef. Much of the meat currently entering as processed beef is actually uncooked and unprocessed in the true sense in that it has simply been cubed, flaked, ground or otherwise cut up, to evade the intent, if not the letter of the law. It competes directly with the grass-fed beef going to market in Colorado as a result of the currently-depressed market. To help stem the flow of imports during this extremely difficult time for our own producers, we ask that you reexamine the Treasury Department ruling classifying such cuts of beef as "processed" and then close this troublesome loophole. At this time, tight administration of the law is vital to our domestic producers.

We would also request that beef purchases for the school lunch program, military installations and federal institutions be sharply increased to help reduce the current beef surplus, and that government purchases of dry, edible beans be increased to assist our bean growers who are presently receiving prices below the cost of production.

I know that the above actions constitute a fairly comprehensive program, but the situation is acute and the need is very real. Colorado is the second-largest agricultural producer among 11 western states, topped only by California. In 1975, agricultural revenue contributed $2 billion to the state's economy and 65 percent of that came from cattle, calves and winter wheat. We are deeply concerned about the impact of the current problems on our state's entire economy. Although I appeal to you on behalf of Colorado's farmers and ranchers, the entire great plains region suffers from similar conditions. We know that you understand the problems of farmers firsthand as does the Secretary of Agriculture, Mr. Bergland, and we are therefore hopeful that you will consider this appeal favorably and offer adequate relief to our beleaguered farmers to sustain them until a new, comprehensive agricultural policy can be developed by your administration and Congress.

With very best regards,
Sincerely,

FLOYD K. HASKELL,
U.S. Senator.

ARE GLOBAL BUREAUCRATS OVERPAID?

Mr. HELMS. Mr. President, when the Omnibus Multilateral Development Institutions Act of 1977 was before the Senate on June 14, I offered an amendment which was adopted after being modified.

My amendment would have instructed the U.S. representatives to these various institutions to take all appropriate action to limit the staff salaries of these institutions to make them comparable to the salaries of the employees of the Federal Government.

The amendment was modified so as to instruct the U.S. representatives to these banks to take into account also the salaries in private business.

During the discussion of that amendment, I made specific criticism of the World Bank. In response, it was pointed out by Senator CASE that, "The Bank competes with other banks," in seeking personnel.

I agreed to a modification of my amendment to assure that international organizations can attract the best possible talent. I personally feel that the salaries of the U.S. Government are sufficient to do that, but I agreed to a change in my amendment to provide some degree of flexibility.

In an interview that appears in the June 24 edition of Christian Science Monitor, C. Fred Bergsten, Assistant Secretary of the Treasury, stated that he thought that my amendment indicated that Congress believed that salary levels "aren't to badly out of line."

I certainly do not agree with Mr. Bergsten's view. The salary levels are out of line. Otherwise, there would be no great difference between those of the U.S. Civil Service and the international financial institutions.

The U.S. General Accounting Office reported that the average professional salary adjusted for tax-free status and allowances of the World Bank was $35,286 as of January 1976. That is 56 percent higher than the average annual salary of the average U.S. Civil Service professional.

The GAO reported that 45 percent of the World Bank professional staff earn more than $36,000. The Chase Manhattan Bank in New York has reported to me that only 13.5 percent of its officers earn over $35,000.

The GAO reported that 20 percent of the World Bank professional staff earn over $44,000. Only 5 percent of the officers of the Chase Manhattan Bank earn more than $45,000. These figures are not directly parallel, but they point up the contrast.

Manufacturer's Hanover Trust reports the following figures: Approximately 13.6 percent of its officers earn over $36,000; approximately 6.8 percent earn over $44,000.

I construe my amendment this way: The international financial institutions are on notice. If the great disparity continues to exist, surely the Congress will not sit idly by. President Carter is reported to have seen a memo on World Bank salaries, on which he penned a note, "I agree with Congress—J.C."

Needless to say, Mr. President, I hope the conferees working on this bill next week will agree to keep my amendment in the bill. I ask unanimous consent, Mr. President, that the aforementioned article from the Christian Science Monitor of June 24 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARE GLOBAL BUREAUCRATS OVERPAID?

(By John Dillin)

WASHINGTON.—High salaries at world organizations supported in part by U.S. taxpayers are causing growing concern in Congress and the White House.

Pay scales of the World Bank, the United Nations, and other organizations such as the Inter-American Development Bank far exceed those for similar jobs in the U.S. government.

For example, a U.S. federal employee with a GS–18 rank earns $47,500 as a result of this year's pay hike. But at the World Bank, pay for the same type of job is $74,100, and at the United Nations it is $85,500.

Bureaucrats drawing salaries of $40,000 and up have become commonplace. Figures compiled here show that at the World Bank, the average salary for more than 2,000 mem-

bers of the "professional" staff—administrators, educators, economists, agriculturalists, and others—is $48,050 a year.

Such salaries in world organizations often are supplemented by fringe benefits such as country club privileges, education allowances, subsidized cafeterias, and free trips around the world.

Salary levels run ahead of federal scales at every grade, but are most pronounced at the upper end.

This strikes some members of Congress as ironic. Speaking on the Senate floor, Sen. Jesse Helms (R) of North Carolina said:

"If these international organizations are truly set up to help the poor, as is so often proclaimed, let us at least see to it that the funds of the taxpayers of the United States going into these organizations in fact go to the poor, and not to line the pockets of international bureaucrats."

A report on international banks by the Committee on Appropriations put it bluntly:

"Our investigations have led us to the distressing conclusions that, rather than the rewards of a career of service, there is found in the banks a broad policy of personal enrichment. The personnel management practices of the banks are suggestive of an institutionalized granting of lifetime sinecures where extraordinarily high salaries are commonplace and the pursuit of fringe benefits has been raised to a form of art."

CARTER: "I AGREE"

President Carter shares some of these concerns. At a recent Cabinet meeting, the President is reported to have scrawled, "I agree with the Congress—JC," on a memo about World Banks salaries.

But there is some question about how hard the United States can push to change the salary structure—and how far U.S. officials will go in pushing for change.

In response to criticism, various world bodies defend themselves by observing that they must compete for the most talented professionals. That requires, they say, competitive salaries.

At the World Bank, most professionals are recruited when they are about 40 years of age, near the high point of their careers. Without adequate salaries, the quality of recruits for the bank could diminish, it is argued.

The U.S. Treasury, which oversees agencies such as the World Bank, has conducted a quiet effort to control salaries since the Ford administration. For example in 1976, former Treasury head William Simon won the title, "beast of the hour" from striking employees of the International Monetary Fund. Mr. Simon had lobbied successfully to block a 16 percent pay hike. He held it to 5.8 percent.

The New Assistant Secretary for International Affairs at the Treasury, C. Fred Bregsten, says: "We think we have made a lot of progress."

SOME SUCCESS NOTED

Mr. Bergsten cites successful efforts last month to kill a move by the Inter-American Development Bank to raise the $74,750 annual salaries of the executive directors. However, other staffers won a 6.8 percent rise.

The Treasury is making hold-the-line appeals to other nations to bring salaries of world bodies into line with civil service pay in member countries.

But chances for substantial change appear slim. For the most part, influential nations such as West Germany, Japan, and Brazil want even higher salaries.

For example, West Germans tell the U.S. Treasury that World Bank salaries are too low to attract their citizens away from high-paying jobs at home. Japan uses the same argument.

As a result, those two nations have very little representation among the staffs of key agencies.

Congress has acted, somewhat tentatively, to send the world organizations a message. Capitol Hill, of course, controls the purse strings.

In a vote June 14, the Senate adopted a proposal by Mr. Helms directing the President to take all appropriate action to keep salaries and benefits of world banking organizations comparable to those in "private business and the United States Government."

COMPARISON CITED

However, the note about "private business" confused some observers. They said that private industry often pays higher wages than government. Mr. Bergsten, noting that section, said:

"The inference would be that things aren't too badly out of line."

Senator Helms, however, retorts: "I certainly do not agree with Mr. Bergsten's view . . . I think they are out of line, or else there would be no great difference between U.S. Civil Service and the international financial institutions."

The notation about private industry was inserted only to give the banks some "flexibility," Mr. Helms notes. "I construe my amendment this way: the international financial institutions are on notice. If the great disparity continues to exist, surely Congress will not sit idly by."

A report by the General Accounting Office, Mr. Helms says, found that the average World Bank salary was 57 percent higher than U.S. Civil Service.

World Bank officials note that while they pay more than private industry for some lower-level positions, they still trail private industry badly at upper levels, where recruitment can be most difficult.

Similar jobs—different pay

U.S. Civil Service (GS–18)	$47,500
World Bank	74,100
United Nations	85,500
Organization for Economic Cooperation and Development (OECD)	86,450

NOTES.—Average figures, not adjusted for cost-of-living differences between Washington, New York, Paris, and Brussels.

WOMEN IN THE MILITARY

Mr. PROXMIRE. Mr. President, on May 17, I introduced an amendment to the military authorization bill which was designed to expand the number of jobs that could be held by women in the military. Since that time, a number of articles and a study by the Department of Defense have been published on this issue.

A Parade magazine article by Phil Stanford deals specifically with the issue of women in combat. He presents the "pro" side which is in favor of expanding the role of women, as espoused by Adm. Elmo Zumwalt, and the "con" side as taken by Gen. William Westmoreland. The article also refers to some of the studies that have been done by the services to examine this question, and the problems and advantages associated with increasing the utilization of women. This article, on the whole, presents a balanced and unemotional overview of this controversial question.

A second article, written by Vernon A. Guidry, Jr., appeared in the Washington Star, on June 26. Mr. Guidry refers to the study published by the Defense Department on the role of women in the military, and, more specifically, with the necessity for increasing the role of women in order to help assure the success of the All Volunteer Force. The article also mentions the trade-off between a high quality female recruit and a low quality male recruit. Mr. Guidry deals with the traditional problems associated with the increased utilization of women, as well as how the services have been, and could, overcome these.

The final item I would like to bring to the attention of my colleagues is the actual study published by the Department of Defense. Entitled "Use of Women in the Military," this study was published by the Office of the Assistant Secretary of Defense—Manpower, Reserve Affairs, and Logistics. It has been released for publication.

This report was compiled by each of the services for the Secretary of Defense. It consists of background analyses dealing with the number of women in each of the services, the overall performance of these women, retention rates, costs, and the advantages and potential problems associated with increasing the number and role of women. The study recommends, among other things, changing and/or repealing the laws and policies that now constrain the utilization of women in the military.

Because of the length of the study it would be impossible to enter it into the RECORD. However, I would like to alert my colleagues of the existence of the report.

Mr. President, I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, June 26, 1977]

PENTAGON SOS: WOMEN, SIGN UP

(By Vernon A. Guidry, Jr.)

A new Defense Department study suggests that the future of the all-volunteer force may depend on expanding the role of women in the military service.

The study is part of a "priority analysis" of manpower issues ordered by Defense Secretary Harold Brown and conducted in the office of the assistant secretary for manpower, reserve affairs and logistics.

The work focuses primarily on use of women to ease the problems and costs of recruiting which are expected to increase in the 1980s with the dwindling pool of eligible 18- to 20-year-old males.

"The success of the all-volunteer force may well depend on reducing the number of young male high school graduates the department needs to recruit each year," the study read. "This is potentially the major benefit of using more women, but it is not without costs."

The study said the choice department planners face in the current recruiting market is between a high-quality female recruit and a low-quality male recruit.

"The average woman available . . . is smaller, weighs less and is physically weaker than the vast majority of male recruits," according to the study.

"She is also much brighter, better educated (a high school graduate), scores much higher on the aptitude tests and is much less likely to become a disciplinary problem," it continued.

And "while lack of strength is raised by the service leaders as the most common prob-

lem . . . no positions were identified in the service submission as being closed to women for physiological reasons," the study noted, adding that the question needs more attention.

It pointed out that many of the problems arising in using women in nontraditional positions were also faced when adapting American equipment and procedures to the use of male Oriental allied troops who were also generally smaller than American men.

"The problems are not insurmountable, but the reality of these physiological differences should not be wished away in our efforts to avoid sexual discrimination or to substitute women for men in sustaining the all-volunteer force," the manpower specialists said.

Among the services, the Air Force has gone farthest in developing strength standards to classify positions without regard to gender.

"About 28 percent of the women tested by the Air Force could lift 70 pounds to a height of six feet, which was the most stringent test. Virtually all women tested could lift 40 pounds to elbow height (which) would meet the strength needs of most non-combat jobs in the military," the study reported.

Another serious concern is time lost due to pregnancy and childbearing. The services report that pregnancy did result in considerable loss of time.

According to Army figures, about 8 percent of its enlisted women members became pregnant each year with about two-thirds of those giving birth. The average pregnancy completed caused 105 days of lost time. Some 40 percent of women giving birth asked to be relieved from active duty following post-natal leave.

The Army said time lost for abortions approximated that for minor illnesses, averaging 10 to 12 days including just under five days of hospitalization.

The other services reported similar figures, but the Navy compared total lost time rates for enlisted men and women and found that male members lost more time. This was due generally to alcohol and drug use, unauthorized absence and desertion.

There was a catch to the comparison, however. "Both desertions and unauthorized absences may correlate with unpleasantness of an individual's job. Women are less likely to be in such jobs, especially in the Navy," the study pointed out.

The military-wide analysis found a vast difference between the services in the number of positions available for women after the exclusion of combat positions from which they are barred by law. For the Air Force the total available was 93 percent. The Army combat exclusion was 50 percent of its positions and the Navy, because of combat and shipboard prohibitions against service by women, excluded 60 percent of its positions. The Marine Corps had only 27 percent of its slots available to women.

The picture is further complicated by what manpower planners call the "rotation base problem." Men who fill combat, overseas or shipboard duty closed to women must have alternate assignments to which they can rotate when their tours have ended.

The Air Force says it doesn't need any such positions. The Army says it must reserve 8 percent of its non-combat jobs as rotation positions. The Navy and Marine Corps, with high shipboard and combat duty levels, experience the greatest problem. The Navy reports that it must keep open 55 percent of its non-combat jobs for rotation and the Marine Corps must hold open 75 percent of the positions remaining after combat.

[From Parade Magazine, June 26, 1977]

SHOULD WOMEN BE COMBAT SOLDIERS?

(By Phil Stanford)

Over the past five years, as a result of pressure from the women's movement and the Pentagon's own need to fill quotas for the all-volunteer army, women have taken an increasingly larger role in this country's armed forces. The number of women in uniform has nearly tripled, going from 45,000 in 1972 to about 120,000 now. At the same time, the number of military jobs open to women has taken a similar jump. Not long ago, women were confined to nursing or clerical duties. Today there are women truck drivers, airplane mechanics and drill sergeants; women are being trained as pilots and they attend the service academies.

There is, however, one important military duty especially that is still off limits to women—and that is combat. By law in some cases, and by long-standing policy in others, women are forbidden to serve in any position that might bring them in "direct combat" with an enemy. Whether this is as it should be is the subject of a highly emotional debate that we may be hearing for some time.

Within the military, the debate is particularly heated. On one side are the traditionalists like Gen. William C. Westmoreland, the former Army Chief of Staff. "Maybe you could find one woman in 10,000 who could lead in combat, but she would be a freak," Westmoreland has said. "I don't believe women can carry a pack, live in a foxhole, or go a week without a bath."

HE IS IN MINORITY

On the other side is Adm. Elmo R. Zumwalt, former Chief of Naval Operations. "Women," says Zumwalt, "should have the opportunity to have the capability to go into combat. . . . As far as women soldiers are concerned, when I was in Southeast Asia during the Vietnam War, I found that among the most vicious fighters were the Viet Cong women." Zumwalt's views, however, represent a decided minority among military leaders.

As the National Organization for Women sees it, the only question is whether the military has "the right to treat women, regardless of ability, as children who must have their decisions made by others."

To NOW, the only relevant consideration is equal rights. To others, the matter is more complicated. According to a study on "Women and the Military" by Martin Binkin and Shirley J. Bach, to be published next month by the Brookings Institution, there are at least two other vital questions. First, can women fight? And second, how would the presence of women in combat units affect the fighting ability of those units?

As the study points out, neither of these questions has an easy answer.

In a mechanized age, there are still many combat roles that require considerable physical strength. An infantry soldier must carry a backpack that weighs 50 pounds or more; a tank crew member must lift extremely heavy shells and load them into the tank's cannon.

A recent study by the General Accounting Office indicates that women have already experienced problems with physically demanding jobs. Of 97 women assigned to aircraft maintenance, two-thirds reported that they did not have the strength to perform many required tasks, such as changing aircraft tires and brakes and removing batteries and crew seats. In the Marine Corps, most of the women sent to school to be telephone linemen could not climb poles with heavy equipment. Several Army women trained as ammunition storage specialists had to be assigned clerical studies. The supervisors on Navy tugboats indicated that "women cannot physically do much of the work, which includes lifting and handling sandbags that weigh 100 pounds."

MAKING THE GRADE

Last year, however, the Army ran a test to see if women could pass the standard basic combat training program. Two training battalions, each consisting of two companies of men and two of women, were given the same training program—including tactical exercises, grenade throwing and weapons qualification. The overall performance of the two groups was virtually identical: 87 percent of the men and 85 percent of the women passed. The Army found that "female graduates met the standard in every area except the Physical Readiness Training Program, and that those events can be modified for the women without changing the content of the training or reducing the value of training received."

A factor to be considered is pregnancy. It is doubtful, says the Brookings study, that pregnant women could be expected to perform their duties in combat or at sea. However, concludes the study, "predictions concerning the effects of pregnancy or menstruation on job performance remain largely speculative."

Regardless of whether women are capable of being combat soldiers, many military men feel that putting women into combat units would lower the morale and fighting ability of those units. The problem would be particularly acute, they say, for outfits like airborne infantry divisions, the Rangers or warship crews, whose esprit de corps depends to a great extent on their own machismo image.

CAMARADERIE IN CRISIS

This is the official Navy view. As former Vice Chief of Naval Operations Adm. Worth Bagley has testified before Congress, many men are attracted to the Navy "because they enjoy being in a job which has been historically associated with fellowship among men in a difficult and dangerous endeavor."

The Army, meanwhile, is completing a series of tests, called MAX WAC, to determine the effect of women serving in combat support units which might be expected to come into direct contact with an enemy on the battlefield. Although the final results are not yet in, an official for the test says, "MAX WAC will show that women can function adequately in support of units without lowering the units' effectiveness."

In the beginning, says the official, the Army had special rules to protect women in the field. They had to pitch their tents in the center of a company encampment, go to the toilet in pairs, and were not allowed to walk sentry duty. In most cases, these restrictions were found to be unnecessary. "Soldiers out in the field tend to adjust to reality."

The only other test worth noting is the Navy's "Sanctuary" experiment, so named for the USS Sanctuary, a hospital ship to which both men and women were assigned.

THEY GOT HOT

On one particular cruise, the commanding officer noted, "subtropical temperatures necessitated shifting to tropical uniforms and T-shirts, and many recreation activities were carried out on the weather decks after working hours and during holiday routine. Then, all of a sudden, public display of affection that once was very discreet or non-existent crept in."

As the commander reported, "This had a demoralizing effect on both men and women and most particularly on the senior petty officers." This problem was solved, he said, by making public displays of affection illegal and subject to punishment under Article 15 of the Uniform Code of Military Justice.

As the Brookings study points out, neither of these experiments tested the performance of women under combat conditions; the results are useful only in a general way. However, there are examples from recent history that should be instructive.

During World War II, more than a million women were drafted into the Russian armed forces, many into combat. Russian women served as fighter pilots, tank crew members, machine gunners, snipers, and in artillery crews. Israeli women fought in the 1948 war for independence—although, contrary to common belief, they no longer fill a combat role. And, of course, there are the Viet Cong women mentioned by Admiral Zumwalt. Each

of these examples, says the study, deserves careful study by the Pentagon.

The debate over permitting women to be combat soldiers, says the study, is hardly an idle one. Not only is there the question of equal rights, the Pentagon must also worry about keeping up its force levels. As the baby boom recedes over the next decade, there will be fewer and fewer men eligible for military service. Simple calculations show that the only way to keep this country's forces at their present level of approximately 2 million—short of returning to the draft—is to enlist more women.

However, there is a limit on the number of jobs open to women in the military. The study estimates that as things now stand, it would be possible to find places for 400,000 women; any more than that, and it would be necessary to let women be combat soldiers.

RESTRAINING NORTH KOREA

Mr. GRIFFIN. Mr. President, last week the New York Times published a letter written by Prof. Andrew C. Nahm, of Western Michigan University.

Dr. Nahm, whose field is Asian history, is deeply concerned that President Carter and his advisors may be relying too heavily on the ability and willingness of leaders in the Soviet Union and the People's Republic of China to restrain North Korea from pursuing an aggressive course if and when U.S. troops are withdrawn from South Korea.

I ask that Professor Nahm's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 22, 1977]

KOREA: HOW TO PLEASE MOSCOW AND PYONGYANG

To the Editor:

I am afraid that there is a growing notion in the United States that the alleged assurances from both Moscow and Peking would discourage North Korea from taking another risk to destroy South Korea.

It was reported by General Brown and Under Secretary of State Habib that both Moscow and Peking have no intention of increasing tension in Korea after the American pullout. However reliable such assurances may be, the notion that Moscow and Peking would prevent Pyongyang from starting another war is based on erroneous facts and naive and wishful thinking. We must remember that Kim Il Sung is not a puppet of either Moscow or Peking.

I fully agree with General Singlaub's view, as well as those of others, that the withdrawal of U.S. grounds troops would increase the possibility of a war in Korea. One must raise the question: "What will we gain by withdrawing our ground troops from South Korea?"

There is no doubt that it would harden the attitudes of the South Korean Government while increasing the North Korean demands for a complete withdrawal of all U.S. military forces from South Korea. Unless it is the U.S. plan to withdraw all U.S. troops from South Korea in order to exact a concession from Pyongyang for its recognition of South Korea and the abandonment of its designs to reunify Korea through subversive and violent means, or to force South Korea to be more responsive to U.S. demands, or eventually to abandon South Korea to its own fate, President Carter's Korean policy makes very little sense.

It is not even the fulfillment of his campaign pledge in a real sense. The American pullout will bring no beneficial results for either the U.S. or South Korea while it will please both the Soviet Union and North Korea.

It is important to remember that Kim Il Sung pursues a foreign policy in the name of *Churche's* [self-orientation]: he follows his own domestic policies independently of Moscow or Peking; and he pursues his own goals. The national credo of North Korea is "the liberation [annexation] of the southern half of the republic [South Korea]" and the socialization of its systems and culture. Unless this is done, the North Koreans believe, "the Korean revolution" will not be completed.

It is worthwhile to recall what Wilbur Hitchcock said in his article in the March 1951 issue of Current History about North Korea jumping the gun in 1950 with military supplies from Moscow. It is true that both Moscow and Peking help Pyongyang economically and militarily, and they show no signs at present that they wish to see another Korean War. Be that as it may, Pyongyang will take its independent course of action with or without the support (or approval) of its allies to achieve its aims.

It is certain that the U.S. pullout will increase tension in Korea, and the possibility of a war. Both Kim Il Sung and his regime have amply demonstrated their volatile characteristics, and their ultimate objective is to Communize the entire Korean peninsula by any means.

ANDREW C. NAHM,
Professor of Asian History,
Western Michigan University.
KALAMAZOO, MICH., June 15, 1977.

DIPLOMATIC RELATIONS WITH CUBA

Mr. ABOUREZK. Mr. President, U.S. relations with Cuba have been in the news more and more these days and with each discussion on how to proceed, the emotional controversy grows stronger and stronger.

But what we do not hear much about are the opinions of people living around the United States who are not substantially tied to Cuba through family or by having business interests there under the Batista government. I think it is important and timely to take a look at these opinions on whether or not the United States should normalize relations with Cuba. Recently, a poll was done in Minnesota which reflects that 68 percent of Minnesotans think the United States should reestablish diplomatic relations with Cuba. Granted, this percentage is higher than that of the rest of the Nation as a whole, but these barometers of public opinion on such a controversial issue should not be ignored and I ask unanimous consent that the Minnesota poll on Cuba be printed in the RECORD.

There being no objection, the poll was ordered to be printed in the RECORD, as follows:

SIXTY EIGHT PERCENT BACK RELATIONS WITH CUBA

A large majority of Minnesotans (68 percent) thinks the United States should reestablish diplomatic relations with Cuba, an opinion that is notably stronger in the state than in the nation.

An even larger majority of state residents (72 percent) has no interest in traveling to Cuba.

In a statewide opinion survey taken in May by the Minneapolis Tribune's Minnesota Poll, 68 percent said diplomatic relations between the two countries should be reestablished. Eighteen percent disagreed with that view and 14 percent had no opinion.

In late March the Gallup Poll found 53 percent of the people interviewed in a nationwide survey said diplomatic relations should be reestablished with Cuba, while 32 percent were against it.

Ordinarily public opinion in Minnesota is close to that in the nation. State residents may have been influenced by the highly publicized trip of 51 Minnesota businessmen to Cuba in late April.

The desire for closer ties between the United States and Cuba comes even though more Minnesotans think Cuba takes orders from Moscow (44 percent think so) than believe Cuba is largely independent of the Soviet Union (33 percent).

President Dwight Eisenhower broke off diplomatic relations with Cuba on Jan. 3, 1961, an action that had the approval of President-elect John Kennedy and of 76 percent of those interviewed in a Minnesota Poll survey at that time.

A balanced sampling of 605 voting-age men and women living throughout Minnesota was interviewed last month. Toward the middle of the interview, people were asked:

"Do you have a great deal of interest, some interest, very little interest, or no interest at all in traveling to Cuba?

The over-all response:

	Percent
Great deal of interest in traveling to Cuba	4
Some interest	9
Very little interest	14
No interest	72
No opinion	1
Total	100

Those with an interest at all in travel to Cuba total 27 percent, the same percentage the Gallup Poll found in March when Americans were asked if they would like to visit Cuba.

The next question was:

"Do you think the United States should or should not establish diplomatic relations with Cuba in the next year or so?"

Feeling in favor of reestablishing diplomatic ties has increased markedly in two years as the following table shows:

[In percent]

	Jan. 1975	*May 1977*
Should establish diplomatic relations	56	68
Should not	30	18
No opinion	14	14
Total	100	100

"We forced them into enemy status to begin with, now it's time to resume," said a mechanic living in East Grand Forks.

Some of those questioned in the current survey who favor renewal of diplomatic communications added advice to their answers: "Castro must agree to return some of the property he took from us . . . take time in doing this as the safety of the country is at stake . . . do it if you can trust them . . . ok, but we should watch our step."

Minnesotans next were asked:

"Do you think Cubans generally have a better or worse life under President Fidel Castro than they did before Castro?"

Here's how all Minnesotans responded:

[In percent]

Cubans have a better life under Castro	27
Worse life	22
No opinion	51
Total	100

"The Cubans had nothing before," said a Shoreview homemaker. "I'm not sure he's all good, but what government is?"

"They traded their freedoms for economics, so it is both better and worse," said a Mankato businessman.

The final question in the series:

"Do you think Cuba often takes orders from Moscow or is largely independent of the Soviets?"

The replies:

[In percent]

Cuba takes orders from Moscow	44
Is largely independent	33
No opinion	23
Total	100

"Cuba is heavily dependent economically, but doesn't take orders," said a research technician from St. Paul.

"Cuba is influenced by Russia, but Castro makes his own decisions," said a college student from Grand Marais.

Minnesotans who think Cuba does take orders from Moscow favor reestablishment of diplomatic relations, 65 percent for it to 24 percent against.

This Minnesota Poll involved interviews with 605 men and women 18 and over throughout Minnesota May 20–23. As a scientifically based opinion survey it provides an approximation of the response that could be expected if all adult Minnesotans had been interviewed. The editors of the Tribune developed the questionnaire used in the survey. Custom Research, Inc., Bloomington, obtained the interviews and tabulated the answers.

Results of such surveys are subject to sampling error. For a random sampling this size, it is possible to say that the error will not exceed four percentage points either way. Since this sample is taken only from households with telephones, the error may be larger than for a completely random sampling.

ENERGY CONSERVATION THROUGH ELECTRIFICATION OF THE ALASKA GAS LINE

Mr. STEVENS. Mr. President, on May 16 and 17, the Council on Environmental Quality held hearings in Anchorage on the adequacy of the environmental impact statements prepared for the three competing Alaska natural gas transportation proposals. At these hearings, Robert W. Retherford, an engineer in private practice, presented the results of a study performed for the Alaska Power Administration and the feasibility of using electric power to drive the pumps and other equipment for each of the gas pipeline proposals.

The study, entitled "North Slope Natural Gas Transport Systems and Their Potential Impact on Electric Power Supply and Uses in Alaska," concludes that an electric generation and transmission system, using new and existing facilities, could be integrated with a trans-Alaska gas pipeline to provide electricity to the major load centers of the Alaska railbelt at an average cost of 20 percent less than the most competitive alternative and, at the same time, allow an additional 8 percent of Alaskan gas to reach the marketplace.

This additional 8 percent of gas could meet the annual energy needs of nearly 750,000 American homes.

This is a classic example of how two projects can be planned together to achieve greater economies for both. Electricity is provided to Alaskan communities for homes, schools, businesses, hospitals, and other uses for 20 percent less than by any other means. And priority users in the South 48 States receive 8 percent more gas than they would if the pipeline was powered by gas turbines, as is now planned.

Such potential savings deserve a second look.

Mr. President, I ask unanimous consent that the testimony of Mr. Retherford and the overview pages of the above-mentioned study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ROBERT W. RETHERFORD

I am an Alaskan resident of 27 years with my home in Anchorage. I came to Alaska as Chief Engineer for the Chugach Electric Association in 1950. In 1954 I began the consulting engineering practice of Robert W. Retherford Associates and have continued in that practice since. The services performed are primarily those related to the electric power utilities throughout Alaska.

In reference to my request to be heard with regard to the environmental impact statements prepared for the alternate Alaska natural gas transport systems the following particular background is described:

In late 1974 and early 1975 I participated as a consultant with the Alaska Power Administration in support of a Department of Interior study team that was preparing an Environmental Impact Statement for the Alaskan Arctic Gas Pipeline Company proposal to transport natural gas from Alaska's North Slope to United States markets. The particular responsibility of the Alaska Power Administration was to assess the impact of the proposed system and its alternatives on the existing and proposed electric power generation and transmission facilities in the vicinity of the pipeline route.

In the input data prepared for this study team were included comments suggesting that electrification of the natural gas transport system would substantially improve the efficiency of the gas transport system, provide additional community benefits along the route and support the development of a renewable energy resource (hydroelectric power) that would outlive the fossil energy transport system.

In early 1976 after review of the Federal Power Commission's (FPC) Draft Environmental Impact Statement (DEIS) for the Alaska Natural Gas Transportation Systems, the Department of Interior (DOI) submitted a letter (dated February 4, 1976) to the FPC commenting about the DEIS. Included in these comments was this paragraph: ". . . We believe it would be appropriate for the final statement to examine an alternative using electric power in lieu of gas for pumping and compressor stations and liquification in Alaska. This would recognize a major potential for conservation of natural gas."

In the FPC Final Environmental Impact Statement (FEIS) the FPC staff stated in response to the DOI comment quoted above as follows: ". . . The source of electrical power for such uses would most likely come from the combustion of natural gas or petroleum products in generating plants. Such energy conversion and the required transmission systems would result in loss of energy potential and cause an increase in energy consumption rather than conservation that is asserted in this comment. The construction of electrical transmission lines would be required, further increasing construction costs and environmental impact . . ."

I disagree with the response of the Federal Power Commission staff just cited above.

I strongly agree with the suggestion of the Department of Interior that an alternative using electric power in lieu of gas for powering a gas transport system is appropriate for study. The following comments outline in brief the basis for my position:

(1) The Department of Interior (DOI) through their own agency, the Alaska Power Administration (APA), are well aware of energy alternatives to fossil fuels in Alaska. APA operates two hydro-electric projects in Alaska, carries out studies relating to additional hydro-electric and other potential energy sources throughout Alaska, collects and publishes statistical information about electric utilities and other major electricity producers throughout Alaska, and provides expert assistance in the cooperative efforts of Federal, State and Private agencies in producing the several volumes of the Alaska Power Survey in cooperation with the Federal Power Commission.

(2) The APA suggestion (through DOI) regarding possible electrification of the Alaska gas transport systems does recognize ". . . a major potential for conservation of natural gas" which could be accomplished by substituting electricity produced from alternate energy resources such as hydro-power or coal, both of which Alaska has in abundance.

(3) It is possible that the Federal Power Commission staff considered that the electric power for displacing the gas fuel ". . . would most likely come from the combustion of natural gas or petroleum products . . ." because the Southcentral and Interior regions of Alaska are now generating about 75% of their electric supply from such sources—mostly gas; however, because of the drastically increasing costs of oil and gas, much has been done to increase the development of hydrolectric resources to displace these fuels.

(4) An Interim Feasibility Report on Hydroelectric Power and Related Purposes, Upper Susitna River Basin, Southcentral Railbelt Area Alaska, has been prepared by the Corps of Engineers December 1975 (with revisions to June 1976). The Alaska Power Administration prepared the Marketability Analysis, Transmission System conceptual design and the Environmental Assessment for the Transmission system related to those projects. The report concluded that an adequate benefit/cost ratio existed to warrant proceeding with construction of the recommended development. This project would have a capacity of 1,568,000 kilowatts and an annual energy output of almost 7 billion kWh This project is a desirable addition for meeting the railbelt community electrical requirements. In combination with coal-fired electrical power plants the project could supply the requirements of an All Alaska gas transport system and the railbelt communities as well. (See APA report referred to in (6) below). The most likely sponsor for this project at present is the State of Alaska.

(5) I must disagree with the FPC staff response that electricity generated by oil and gas and used to displace the fuel gas ". . . would result in loss of energy potential and cause an increase in energy consumption rather than conservation that is asserted (by the DOI) in this comment." The state-of-the-art today is such that the efficiency of a large gas or oil fired power plant and its associated transmission system would assure delivery of energy to the shaft of a pump or compressor used on a pipeline at a substantially higher efficiency than that of the direct drive turbines proposed for the gas transport systems. The investments would be greater but about 20% less fuel would be used. (See discussion on pages 22–23 of the APA report described in (6) following.)

(6) Recognizing the significance to Alaska's electrical utilities of the gas transport proposals, the Alaska Power Administration through a contract with Robert W. Retherford Associates has prepared a report more directly addressing the relationships of potential gas pipelines to existing and potential electiric power generating and trans-

mission facilities considering power system needs through the year 2000. This report, titled "North Slope Natural Gas Transport Systems and Their Potential Impact on Electric Power Supply and Uses in Alaska" was completed in March 1977 (copy attached). The report describes in concept ". . . A feasible trans-Alaska generation and transmission system . . . that could supply electricity for gas line electrification and future community requirements . . . the cost for power delivered to the major load centers of the Alaska Railbelt would average 20% less than the most competitive power supply . . . the project would insure that an additional 8% of the Alaska gas resource would reach the marketplace . . . and (this extra gas) could supply the annual energy requirements of nearly 750,000, American homes."

It is evident to me that electrification of a gas transport system using hydroelectric and coal-fired power plants is a feasible and desirable way to substantially improve the deliverability of the natural gas and enhance the electric supply systems of communities along the way.

I believe that the Federal Power Commission did not review in sufficient depth the potential for electrification of the gas transport systems. I further believe that if electrification is accepted as feasible, which it is, it must become part of the route selection process. There is a tradeoff of electric energy for more gas delivered to the marketplace. Then it is clear that the value of the gas will pay for the electricity used in its place—hence, it will pay for the electrical systems that produce and deliver the electrical energy.

These systems assuredly will provide additional benefits to the communities along the route, such as improved reliability of electrical service and lower costs by virtue of the enhanced power supply made possible by the combined loads of community and gas transport system. Where hydroelectric facilities are incorporated there will be a residual benefit of a renewable source of energy long after the non-renewable (gas) is gone. And the marketplace benefits because it receives more energy for use where there may be no other energy choice.

In the All Alaska system, the displaced gas would be paying for Alaskan electric facilities,

In the Arctic Gas System, the displaced gas would be paying largely for Canadian electric facilities (some U.S. facilities south of the Canadian delivery points), and

In the Alcan system, the displaced gas would pay for some Alaskan electric facilities (731 miles of pipeline in Alaska), larger Canadian electric facilities (somewhat less than for the Arctic Gas route) and some U.S. facilities south of the Canadian border.

It is suggested that the relative benefits of electrified gas transport systems for the three applicants under consideration be accounted for. It is clear that this was not done in the final environmental impact statements.

I recognize that time is an important factor but I also believe that with the information available today a credible evaluation of electrification and the potential tradeoffs for each gas transport system can be developed for the President's consideration. Thank you for your time and consideration of this matter so important to all Americans concerned with energy conservation.

OVERVIEW

THE SITUATION

The magnitude of the fossil-fuel resources of Alaska is seldom comprehended in meaningful terms. For perspective, consider that if the 114.3 tcf of proven and speculative reserves of natural gas [16] in the general North Slope region were liquefied to reduce its volume by 620 times and shipped to the U.S. West Coast by large LNG (liquefied natural gas) tankers of 165,000 cubic meter capacity*, it would require 22 tankers making 28 trips a year each for 50 years. Each tanker would carry enough gas in one year to provide the annual fuel needs for 800,000 average U.S. homes.

Two pipelines of 42-inch diameter reaching about 800 miles from the North Slope to tidewater and almost 3,500,000 horsepower in compressors, refrigeration units, electric generators and miscellaneous equipment would be needed to complete the system. The fuel-gas used only to power this transport system would equal that consumed by 1,600,000 homes for 50 years. (The numbers are similar for a totally overland pipeline transport system.)

THE CHALLENGE

The impact of such an energy transport system creates two significant challenges for the Alaska electric utilities near the transport corridor: A) an opportunity to use the fuel being transported across Alaska; and B) a chance to provide electrical energy to power the transport system.

(A) The opportunity to use the clean burning natural gas for electric generation will exist when such a transport system is built. It is concluded, however, that the probable cost of this fuel and the developing national policy discouraging such use will prevail against using this new natural gas resource for long term electric generation. Alaska has suitable alternate energy supplies, such as coal and hydro resources, that can provide for the electrical requirements of the State. The following pages in Part I contain a more detailed discussion.

(B) The chance to provide electric energy to power a natural gas transport system is a major challenge. The opportunity exists to displace the fuel-gas used to power the gas transport system by using electricity. This displaced gas could then be delivered to suitable markets in the United States (including Alaska) for use in heating homes and/or supplying vital industrial processes that require the unique qualities of the natural gas. Part I of this report estimates the energy requirements of a gas transport system and the nearby Alaska communities that would be affected.

A SOLUTION

Part II describes a trans-Alaska generation and transmission system to supply these communities and electrify a gas transport system. The particular gas transport system selected for analysis is one of the El Paso Alaska alternatives that would build the gas pipeline to Cook Inlet and construct the LNG plant there instead of Prince William Sound. This scheme could utilize the proposed Anchorage-Fairbanks electric transmission line corridor already being considered as part of the Upper Susitna hydroelectric development.

SUMMARY

A feasible trans-Alaska generation and transmission system is described that could supply electricity for gas line electrification and future community reuirements. This project would require by 1985 about 2,700,000 kilowatts of hydroelectric and coal-fired steam-electric capacity and the construction of almost 1,700 miles of high voltage transmission lines extending from Prudhoe Bay to Cook Inlet. The cost for power delivered to the major load centers of the Alaska Railbelt would average 20% less than the most competitive alternate power supply. The estimated investment that would be made for this project by its completion at the end of 1985 would total about 4¼ billion dollars (60% of this amount would probably have been spent for community electric facilities in any case). The project would insure that an additional 8% of the Alaska gas resource would reach the marketplace. The value of this gas would more than pay the costs of its displacement by electric energy and could supply the annual energy requirements of nearly 750,000 American homes.

RECOMMENDATION

It is recommended that an in-depth analysis of the project described be accomplished as rapidly as practicable with particular emphasis placed on the following:

1. The critical path requirements for completing the project on an acceptable schedule to match the completion schedule of the gas transport system.

2. Review of cost estimates relating to such schedules and considering an integrated system of power plants and transmission lines.

It is also recommended that a study be initiated to consider the broader implications of such a power system, such as:

1. The opportunity to send lower cost energy by transmission lines to more remote load centers of Alaska.

2. The further uses of electrical energy for displacement of fossil fuels where practicable, such as the crude oil transport system and other future systems.

*These tankers are 122,000 tons displacement, about 100 feet long, 150 feet wide, 100 feet deep and with a 40-foot draft.

THE SENATE FARM BILL

Mr. ANDERSON. Mr. President, the Senate farm bill which we passed several weeks ago will be in conference committee, just as soon as the House acts on its version of the measure.

The Senate farm bill is a good bill in many respects. But I must say that it contains a glaring deficiency. The wheat and corn prices contained in the bill still fall below what is necessary for the farmer to meet his production costs.

There has been considerable debate about what it costs to produce a bushel of wheat and a bushel of corn. Yet one thing is certain. The cost of production for wheat is more than the $2.90 per bushel established by the Senate as the 1977 target price. It is more than the $1.75 for corn which remains the 1977 target price. And the cost of production is far more than the $2.25 loan price for wheat.

I am encouraged that the 1978 wheat target price will rise to $3.10 under the Senate proposal, that the loan price will go to $2.47, and that the 1978 target and loan prices for corn will be $2.28 and $2.20, respectively. Whether these prices will actually meet 1978 production costs is a question most farmers will answer negatively.

As far as I am concerned, Congress has an obligation to establish a cost of production figure for wheat which at least falls within the $3.00 to $3.70 range calculated by the USDA.

Unfortunately, neither the Carter administration nor the House Agriculture Committee even comes close to meeting this responsibility.

The Senate performed better. But I had hoped that Congress would be considering price supports for wheat and corn that at least approached the price levels which the Senate approved by voice vote in 1975. Believe it or not, the Senate's 1975 target price was $3.41 and the loan price was $2.89.

Is it any wonder that farmers across the land were dismayed and angry when the administration originally recommended a wheat target price that was

nearly a dollar per bushel less than what the Senate passed 2 years ago? Can anyone blame the farmers for being upset when we go into conference committee with the House with wheat target prices more than 50 cents less than the Senate offered 2 years ago?

What has changed since 1975? The cost of production certainly has—it has gone up. We have had a change of administration, and perhaps that is the key. Two years ago the Senate was willing to send the House and the President a bill which represents what the Senate considered the real needs of American family farmers.

This time, however, it seems that there is a reluctance to do open battle with the administration's farm program. The Senate Agriculture Committee is the best friend the farmer has in the U.S. Government. But after being subjected to constant pressure and veto threats, the Agriculture Committee had to approve prices, which, while substantially better than the administration's recommendations, still fell short of the solid standard which the Senate established in 1975.

Several of us prepared an amendment to raise the wheat target and loan prices to more realistic levels. We thought that perhaps the Senate might seriously consider raising the 1977 target price to $3.31 per bushel and at the same time make a significant adjustment in loan prices. We felt that these prices could be easily defended on the basis of USDA cost of production data.

It is said to report that we were not successful. The Carter administration sponsored an amendment to cut the wheat target price all the way back to $2.65. This amendment was rejected by the slimmest of margins—five votes. It became obvious that our amendment for $3.31 wheat did not have a prayer and the amendment had to be withdrawn.

The same thing happened to efforts to improve corn prices. A simple amendment to raise the 1977 target price to $1.85 lost overwhelmingly. Two years ago the Senate passed a bill that put the corn target price at $2.25.

It is tough to lose these fights. It is even more difficult to understand why the Carter administration and some of our colleagues in the House are zeroing in on wheat and corn farmers in the otherwise praiseworthy pursuit of a balanced budget.

We do know that the President inherited a farm program designed to make family farmers bear the burden of constant bust and occasional boom of an international market. Changing this legacy is not easy. But the administration has failed to meet the challenge.

It is difficult to disagree with a President, especially one as capable and dedicated as President Carter. I regret that the farm program being promoted by the administration leaves me no other choice.

It is essential that the Senate continue to oppose most vigorously the Carter administration's farm program that will, no doubt, be reflected in the House bill. I am pleased that the Senate chose to challenge the President's recommendations by increasing the wheat and corn price support levels. My only disappointment is that a majority of the Senate did not agree to carry the challenge even further.

I now urge my colleagues to keep the Senate-passed farm price support program intact. When the bill goes to conference committee with the House, the Senate conferees will be under great pressure from the administration to retreat from the wheat and corn prices set by the Senate. The Senate conferees will be asked to compromise.

I ask my Senate colleagues to remember that the Senate bill itself is already a compromise between what the administration is willing to give and what the farmer really needs. There is no need to make further concessions.

RETURNABLE BEVERAGE CONTAINERS BACK IN THE NEWS

Mr. HATFIELD. Mr. President, I would like to call to the attention of my colleagues two articles which recently appeared in the Washington Star and the Washington Post concerning State and national efforts to pass returnable beverage container legislation.

In the Washington Star of June 22, 1977, former Oregon Governor and longtime proponent of deposit legislation, Tom McCall, in his usual eloquent and forthright manner, expressed his strong concern that positive action on this proposal be taken both at the State and national level. The Washington Post, on the following day, June 23, 1977, published an editorial endorsing legislation that I have offered in the Senate and that Congressman JIM JEFFORDS has offered in the House that would encourage the reuse of bottles and the recycling of cans through a national mandatory uniform deposit program.

While no substantive action has yet occurred on either of these bills, I am confident that as more States pass their own container laws and as we progress further on national energy and materials policies, these proposals will receive favorable hearing. It is my understanding that the Science and Technology Subcommittee of the Senate Commerce Committee intends to hold hearings next month to receive the report of the National Commission on Supplies and Shortages. My colleagues will remember that this report endorses the returnable beverage container concept. I would hope and will strongly urge members of the subcommittee to include a section on beverage containers in whatever legislation is drafted from this report.

Mr. President, I ask unanimous consent that the two articles mentioned earlier be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 23, 1977]

THE GROSS NATIONAL TRASHPILE

Despite multi-million-dollar lobbying by those who are in the business of manufacturing or using throwaway bottles and cans, the nation's war against junk may be gaining new allies in Congress. Study after study keeps showing not only that throwaways are desecrating the national landscape and costing consumers unnecessarily for packaging and retrieval, but that they also are a waste of energy and resources. So there is increasing sentiment to reverse this no-deposit, no-return attitude about resources through passage of returnable-beverage-container legislation.

Tens of billions of throwaways are produced in the United States each year. That's a lot of trash. It's also a monument to wasted energy, as sponsors of the container legislation keep pointing out. Sen. Mark O. Hatfield (R-Oreg.) has been leading the Senate effort for deposits on bottles and cans as an incentive for the marketing of refillable beverage containers. He can point to numerous reports by government and citizen groups that cite potential energy savings through a revival of returnables. For example, estimates show possible savings of 115,000 barrels of oil a day and 7 million tons of reusable materials each year through a nationwide return to refillable containers.

To be sure, the statistics all leave some room for dispute by the industries that continue to foist millions of tons of steel, aluminum and glass on consumers (along with cheery reminders to use litter baskets). But it would seem only common sense that these billions of bottles and cans—whether strewn all over the land or stacked in little piles to be recycled at additional energy expense—are an expensive and offensive excess.

In the Senate, the legislation enjoys strong support not only from Sen. Hatfield, but also from Sen. Bob Packwood, Mr. Hatfield's Republican colleague from Oregon—where a popular, effective state law has been on the books for some years now. In the House, Rep. James M. Jeffords, Republican from Vermont—which also has such a law—heads a bipartisan list of 55 cosponsors. The nearly identical House and Senate bills would simply require that over the next three years, each soft-drink and beer container carry a statement of its refund value of at least a nickel.

Already, wise consumers have discovered that, where deposit returnables have been readily available, the savings can be considerable. Moreover, no consumer would be required to return anything; the deposit merely would serve as a strong incentive to the packaging industries to let consumers borrow reuseable containers instead of repeatedly buying new cans and bottles. Through a uniform national changeover to refillables, the system would be handy for consumers, who now can't always find their favorite products in this sensible packaging.

As for the impact on industries in this market, most of the gloomiest estimates put out by opponents of the bill have assumed a complete and sudden switch to returnables. Not only would the shift be gradual, but, moreover, as the Environmental Protection Agency has noted, a nationwide phasing-in would minimize adverse repercussions. Besides, all indications are that there would be no net loss in jobs due to such a gradual shift.

So quite aside from absurdity of continuing to manufacture a gross national trashpile every year, there is a clear national interest in this energy- and resource-conservation measure. The immediate question is whether the legislation will receive proper congressional consideration in Congress. In the Senate, the bill rests with the Commerce Committee's consumer subcommittee. In the House, the measure is tied up in an Interstate and Foreign Commerce subcommittee on transportation and commerce, headed by Rep. Fred R. Rooney (D-Pa.), who—along with steel and brewery interests in his district—isn't eager to see the bill approved. While their concerns about the impact of the bill are understandable, the container bill is a reasonable measure that, instead of causing harmful upheaval, is meant to curb a foolish, expensive waste of increasingly pre-

cious resources. It deserves enactment in this session of Congress.

[From the Washington Star, June 22, 1977]

COP-OUT ON THE BOTTLE BILL

(By Tom McCall)

PORTLAND, ORE.—We haven't seen the smoke yet, but you have to assume it's coming.

There just has to be volcanic motion beginning to gurgle and puff somewhere inside the Carter administration.

Clear out here in Oregon even we know of a couple of right turns of the Carter hierarchy calculated to make activists smoulder.

We're not very radical activists out here—really more innovators than placard-wavers—but where the DEVIL, for example, is the Bottle Bill in the thinking of this administration?

And why hasn't Carter consumerists Esther Peterson let it be known to some of us that the Carterites eagerly intend to induce Congress to reverse the recent U.S. Supreme Court "license to cheat" opinion.

Has former people's lobbyist Carol Tucker Foreman lost her tongue, now that she's folded into The Establishment as an assistant secretary of agriculture for consumer affairs?

Where's Doug Costle on the Bottle Bill? Or skip the Environmental Protection Agency, which he heads, and shoot right up to the top, to energy czar James Schlesinger. How come Schlesinger overlooks this Oregon-born legislation—so symbolic and yet so fruitful?

It's symbolic because it provides a visible, practical, easy-to-cross bridge from a profligate to a husbanding society. It shows we can do it and encourages us to think of the many other ways we can make the transition which isn't all that rough; a small slide from an opulent to a merely affluent life.

But you've got to get going, and here was a starter that couldn't miss—a national returnable container deposit law. A year-long study by the Federal Energy Administration, based on only 10–15 trips for a refillable bottle, estimated the legislation would result in creation of 118,999 jobs (net) and savings of 81,000 barrels of oil per day. Thirty-five trips is closer to actuality, and last year Oregon's only brewery found a real trouper in its float of returnables—an 11-ounce brown glass stubby made in 1933.

Where was President Jimmy on that issue? Who scared him off? Was it the union labor brass he'd so bitterly disappointed on situs picketing and the Federal minimum wage, or was it some of the half-dozen administration higher-ups who used to have connections with Coca Cola's Georgia-based national headquarters?

Maybe it's their international headquarters: I don't know for sure. I do know Coke has a major administrative operation in Atlanta. I do know they're active against the Bottle Bill as part of an industry team of adversaries spending millions to push around gutless members of Congress and state legislators and to smother the truth with cascades of dollars and deceitful propaganda targeted in on state and local initiatives and referenda.

The bottlers, brewers and their package-makers got trimmed bady last November, though, in votes in Michigan and Maine, and they just barely managed to buy the Bottle Bill election in Massachusetts.

Containers also are central to our resentment of the Supreme Court decision disallowing state truth-in-packaging laws tougher than federal standards. Oregon and 31 other states sided with California in a lawsuit arguing that the states had the right to exceed federal packaging requirements in order to offer greater protection to the consumer.

Like Oregon's, the California law mandated that bacon and flour, for example, sold at the grocery store, weigh exactly what their package said they weighed. The March Supreme Court decision decreed otherwise, declaring that a 60-year old administrative practice permitted "reasonable variations" between the weight on the label and actual weight of the contents.

Had Congress wanted it different, a Supreme Court majority argued, it could have said so loud and clear a long time ago.

My old state director of agriculture when I was governor, Irvin Mann, calls that "a license to cheat" rationale.

"If President Carter is truly consumer oriented, he'll ask Congress to repair this very basic, essential breach in consumer protection," Mann challenged.

But will he? White House silence indicates that the boat in which the President and Congress fitfully ride will not be rocked on this one. If moderate Republicans in Oregon are aroused by this lack of pro-consumer zeal—and by a cop-out on the Bottle Bill—one wonders how long the Democratic activists in the Carter administration will sit on their smoking hands.

MULTIPURPOSE SENIOR CENTERS

Mr. CHURCH. Mr. President, I am pleased to announce that the Department of Health, Education, and Welfare will issue final regulations this week for the title V multipurpose senior centers programs of the Older Americans Act. These regulations have been long awaited by the State offices on aging and older Americans who are eager to expand or start-up senior centers in their communities.

Title V authorizes funds for renovating, altering or acquiring facilities to be used as multipurpose senior centers. I am particularly pleased to learn that the administration agrees with Congress that these funds can be used for limited expansion of senior centers. There was some question whether limited expansion could be supported by title V, since the statute prohibits funding for construction purposes. However, the Department has agreed with an interpretation expressed by myself and members of the Human Resources Committee and the Committee on Aging that limited expansion can be supported under this title. I ask unanimous consent that our letter to Secretary Califano be printed at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, the issuance of these regulations means that the $20 million appropriation for title V for fiscal year 1977 will finally be released. This will support approximately 2,000 centers throughout the country. I am sure that my colleagues join me in welcoming the issuance of these regulations which will bring many more of these effective, popular senior centers to their communities.

I also wish to commend Secretary Califano for his prompt action in response to our letter.

The letter follows:

EXHIBIT 1

SPECIAL COMMITTEE ON AGING,
Washington, D.C., June 7, 1977.

Hon. JOSEPH A. CALIFANO, Jr.
Secretary, Department of Health, Education, and Welfare, Washington, D.C. 20201.

DEAR MR. SECRETARY: As you know, the 1973 Older Americans Amendments established a new Title V to fund multipurpose senior centers. Funding is authorized for "acquiring, altering, or renovating existing facilities to serve as multipurpose senior centers.

For fiscal 1977 the Congress appropriated $20 million for Title V. However, the Administration on Aging has not yet allocated these funds because final regulations to implement Title V have not been published. It is our understanding that your Department plans to issue the regulations soon, and we would urge this be done as promptly as possible.

We have been informed that the General Counsel's office has construed Title V—as it is now drafted—to prohibit grantees or applicants from adding cubic footage or expanding existing facilities to be used as senior centers. In 1973 the Senate removed the authority for the construction of multipurpose senior centers. The intent was to insure that Title V would not become a costly "bricks and mortar" program. The purpose, though, was to prevent the erection or building of an entirely new facility to be used as a senior center. There was no intent, in our view, to prohibit a Title V grantee or applicant from altering a facility by expanding it to make the building more suitable as a senior center. This type of alteration would certainly increase the floor space of an existing facility, but it is not within the meaning of the prohibited "construction." The General Counsel's construction of the language in Title V may have the unintended effect of forcing applicants to acquire a new facility at a much higher cost than the modest expansion of an existing facility.

We, therefore, urge that you give serious consideration to modifying the soon-to-be issued regulations to permit limited expansion of existing facilities to serve as multipurpose senior centers.

Thank you and best wishes,

Sincerely,

FRANK CHURCH,
THOMAS F. EAGLETON,
HARRISON A. WILLIAMS, JR.,
PETE V. DOMENICI,
JOHN H. CHAFEE,
JACOB K. JAVITS.

SOLAR ENERGY FOR HOMES

Mr. LEAHY. Mr. President, earlier this year I cosponsored a comprehensive package of legislation designed to foster the development of solar energy as an alternative to conventional heating and cooling systems. The package combines several financial incentives including low-interest and guaranteed loans, grants, and tax credits.

Hopefully, most, if not all of this legislation will be enacted by Congress. Given the realities of the legislative process, however, it will probably be some time before many Americans will be able to benefit from these incentives.

In the meantime, the price of oil and gas will continue to increase and claim a larger and larger portion of the average family's already overburdened budget.

To help meet these interim needs I introduced three bills, the Solar Energy for Homes Acts on June 22. These bills would make use of existing mechanisms to promote solar energy use and development by amending the Federal Housing Administration—FHA, Veterans' Administration—VA, and Farmers Home Administration—FmHA—loan programs. Essentially, the bills will insure that solar heating and cooling equipment is treated the same as con-

ventional equipment for the purposes of Federal housing loan programs. These bills would remove the remaining institutional barriers that are still part of our current programs—and allow those who qualify for these programs and wish to install solar equipment to do so quickly, easily, and more cheaply.

Some of these barriers were the result of a lack of information, and some were simply due to the fact that the programs had not kept up with the rapidly changing energy situation and the technological advances that made possible alternatives to conventional fossil fueled systems.

For example, until very recently FHA denied Government loans or loan guarantees to applicants who preferred solar over conventional systems for heating and cooling the property on which they sought to secure loans. FHA felt that it could not approve any solar systems for its minimum property standards—standards which must be met in order to qualify for Federal housing loan programs—simply due to a lack of sufficient available research and information.

With the information provided by the solar heating and cooling demonstration program authorized by Public Law 93-409, FHA was able to formulate intermediate standards for solar equipment. Solar systems which meet these interim standards will now be approved by FHA and can be included in applications for its loan programs. Final standards will be available by 1980.

However, there is still a feature of many of these programs which discourages potential mortgagors from "going solar." Most Federal mortgage programs have limits on the size of loans which may be made or insured. For example, the section 235 program under which low-income families can get insured loans has a basic limit of $21,600 on the size of an insured loan for a new home. A solar system can cost between $2,000 and $4,000 more than a conventional, fossil-fueled heating or cooling system. Inclusion of such a system in a new home thus could easily put a family over the limit. Hence they would be more likely to choose a conventional system in order to qualify for the low-interest loan, a system which over its useful life, might actually be more expensive than the initially higher-priced solar system.

Thus, while solar equipment is no longer specifically excluded from HUD loan programs, loan limits which do not—and realistically could not—reflect the higher initial cost of solar as opposed to conventional thermal equipment discourage the purchase of solar systems. Solar equipment has low life-cycle costs, even though the initial cost is high. Over 10 to 15 years, solar equipment has lower life-cycle costs than conventional equipment. But loan limits reflect only the initial costs.

A similar problem exists with regard to the VA guaranteed loan program. The FmHA housing programs simply do not have explicit authority to make or guarantee farm improvement loans for solar equipment.

Mr. President, I would like to take a moment to briefly describe what each of these bills will do.

S. 1737 would address the loan limitation problem in the HUD programs under FHA by allowing loan limits to be increased by up to 20 percent, if necessary, only to cover the extra cost of the solar equipment. In addition, all solar equipment included as part of the HUD loans would have to meet HUD standards.

S. 1738 amends the Consolidated Farm and Rural Development Act to explicitly include solar equipment among the items for which farm improvement loans may be made or guaranteed.

S. 1736 deals with the VA loans programs, and would include solar equipment among the qualified items for which the VA guaranteed loans to veterans can be made. Under this bill, qualified solar equipment could not exceed 20 percent of the value of the home in which it is installed.

The overall effect of these three bills would be to provide the same benefits of Federal loan programs to those who heat and cool their homes with the sun's rays as are currently available to those who prefer conventional systems.

Because they take advantage of existing programs by simply removing institutional barriers to make the programs more equitable, the bills also have the advantage of creating no new bureaucracies. No new spending authority would be required. Intermediate performance criteria developed by HUD in the solar heating and cooling demonstration program would provide consumer protection.

Mr. President, Congressman BAUCUS of Montana has already introduced identical legislation in the House. Language similar to the concepts contained in S. 1737 and S. 1738 has already been incorporated into bills that will come to the floor of the House soon as a result. Consequently, I am optimistic about passage during this session of Congress.

Mr. President, if we are sincere in our desire to offer solar and other renewable energy sources as viable alternatives to conventional systems which depend upon increasingly scarce and expensive fossil fuels, then we at the Federal level must set an example by getting our own house in order first. My hope is that this Congress will also enact additional financial incentives, such as those which have already been proposed for our tax structure. However, these bills offer a small, but very significant, simple, and inexpensive step forward now.

DANGERS IN DILUTING HATCH ACT

Mr. HELMS. Mr. President, many of us have viewed with regret the recent vote by the House of Representatives to repeal the Hatch Act. There have been some attempts to characterize opposition to the Hatch Act repeal as a partisan endeavor. Nothing could be further from the truth, of course.

The morning newspaper in my hometown of Raleigh, N.C., the News and Observer, can scarcely be regarded as a conservative publication. It is fiercely partisan in its espousal of Democratic Party politics, as it has every right to be. It is noteworthy, therefore, that this newspaper, in its June 9 edition, published an excellent lead editorial.

My friend, Claude Sitton, editor of the News and Observer, may feel a bit faint when he discovers that I have done so, but I commend him for his perception of the real issue. After all, the protection afforded Federal career workers by the Hatch Act is more important and of longer term than any ephemeral political realities.

Today the liberals and Democrats are in power; tomorrow, the conservatives or Republicans may take their place. During a civil service employee's career, the reins of Government change. The important thing is that career employees be able to go about their duties in a conscientious manner, free from burdensome political pressures totally unrelated to their job.

Mr. President, I ask unanimous consent that the aforementioned editorial, entitled "Dangers in Diluting Hatch Act" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DANGERS IN DILUTING HATCH ACT

The U.S. House of Representatives has taken off in the wrong direction with Tuesday's vote to weaken the Hatch Act. This move should be halted by the Senate.

The Hatch Act, passed in 1939, bars most (but not all) active politicking by federal and postal employes. The purpose is to assure impartial administration of U.S. laws and programs, and to promote equitable treatment of workers without regard to their political leanings.

Generally, the law has worked well for almost 40 years. Meantime, it has left federal workers free to join and contribute to political parties and to take part in non-partisan politics—which describes about 75 per cent of local elections in this country.

Traditional arguments against the Hatch Act are that it infringes on First Amendment rights of federal workers. However, the U.S. Supreme Court has upheld the law three times.

In its most recent ruling four years ago, the court catalogued the risks of Hatch Act repeal: biased federal administration, a government work force shaped into a huge political machine, employe treatment based on partisan considerations and pressure on U.S. employes to do political chores. "It is in the best interest of the country, indeed essential, that federal service should depend on meritorious performance in rather than political service," said the court.

The House-passed bill to weaken the Hatch Act does contain safeguards. Federal employes would have to use their own time—not the taxpayers—for political activities. Politicking in government buildings would be barred. Also, the bill would keep under the original Hatch Act rules all U.S. inspectors, law enforcement and national security employes, workers handling contracts for goods and services and those awarding grants or licenses.

But these restrictions still would leave far too much danger of federal employes becoming subject to political pressure or tempted to exert it. That is an excellent reason for the Senate to reject the measure.

OTA FOOD GRADING REPORT

Mr. HUMPHREY. Mr. President, today I would like to note the release of a report, "Perspectives on Federal Retail Food Grading," by the Office of Technology Assessment. This report, re-

quested by my good friend and colleague, the Senator from South Dakota (Mr. McGOVERN), chairman of the Select Committee on Nutrition and Human Needs, is an effort to assess the important issue of Federal food grading and how it might be changed to provide more useful information to consumers.

Today consumers are demanding more information to help them in making wise purchasing decisions with their limited food dollars. My good friend, Secretary of Agriculture Bob Bergland, realizes this and he and his colleagues are giving this area increased attention. The Assistant Secretary for Food and Consumer Services, Ms. Carol Foreman, is concerned that the present food grading standards do not mean a great deal to consumers. In a speech before the Agriculture Editors Association, she stated that—

> We need to re-examine these grades and simplify them so they help instead of befuddle the consumer.

This OTA report constitutes the first comprehensive study of the present program. The objective of this report was to try to establish how Federal programs could convey more information to consumers. This report provides Congress and the administration with an objective analysis of the program and a wide range of options that can be used to modify the program to provide this information.

OTA's report will be forwarded to the Select Committee on Nutrition and Human Needs today. As a member of both Senator McGOVERN's committee and the Technology Assessment Board, I welcome this report. I recommend this report to the Members of this body.

Mr. President, I ask unanimous consent that Part I, "Summary of the Issues, Findings and Congressional Options," be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF ISSUES, FINDINGS, AND CONGRESSIONAL OPTIONS

INTRODUCTION

Food grading is basically a sorting process, a method of separating a food product into two or more groups through the use of chosen base criteria. Once separation is accomplished, the grade assigned should directly impart the criteria used in its determination. Grades are not used for sorting across products—i.e., apples from pears—but rather within products—i.e., apples from other apples.

Present Federal food grades impart little information to the consumer. Federal grade criteria for sorting products are based on sensory characteristics—such as taste, flavor, color, or exterior appearance—and evolved as a mechanism to facilitate wholesome transactions in industry. To benefit consumers, simple, uniform terminology, increased nutritional information, and standardized systems for grading might be established. The question now arises as to whom grades should serve: consumers, industry, or both?

Industry and consumers are affected by:

which food products are graded;

what criteria are chosen for the grade;

how the grade is designated on the product; and

where grading occurs in the food distribution channel.

This study assesses the social, institutional, and economic consequences of modifying or changing the present grading system to a retail- or consumer-oriented grading system. Public policy issues of significant concern to Congress and the Nation surrounding Federal retail food grading are defined.

These issues are:

(1) the criteria (or sorting rules) used for grades;

(2) whether or not retail grades should be mandatory; and

(3) the nomenclature used for grades.

The Office of Technology Assessment found that each major food category—processed foods, fresh fruits and vegetables, and fresh red meat—poses a different problem. Therefore, potential costs and benefits (with respect to a retail-oriented food-grading system useful to consumers for making better food-purchase decisions) differ for each category. The issues, as they relate to each of these broad product categories, are discussed in the text, and possible congressional options for each grading issue are identified. Each option has a cost; none are free. Also, each option has potential benefit to consumers. Careful consideration should be given to the net benefit (cost in relation to benefit) prior to adoption of any particular option. In this report, a full range of congressional options are stated regardless of the potential relative or absolute net benefit to various participants in the food distribution system.

ISSUE I: GRADE CRITERIA—COMBINING SENSORY CHARACTERISTICS AND NUTRITIONAL CRITERIA

Current food grades are based on criteria reflecting sensory characteristics such as flavor, texture, color, or other palatibility or cosmetic factors. A major issue in food grading, is whether to change this basis to reflect sensory and nutritional factors simultaneously. The issue is complex. One general problem associated with making nutritional content a basis for grades is that nutrition deals with diet. As one food grading workshop (see methodology) participant states:

> We can conceive of a nutritious diet, but the concept of a nutritious food product has never been developed. There are many components of a nutritious diet, and the concept of getting them all in a product is very repulsive to nutritionists and, I think, the populous in general. So there is a very great difficulty in nutrition labeling. Any product is a component of a diet, and it may be a useful component although it is very lopsided in its individual characteristics. What makes a nutritious product is what other products it is combined with in a day or a period of several days. We have a conception of nutritional diet; we do not have a conception of nutritional product.[1]

FINDINGS

Current Government programs for processed foods include regulation of food products for wholesomeness and safety standards of identity, fair labeling and packaging, and optional nutritional labeling and grading systems. In addition, most major food manufacturers have elaborate quality control programs that assure compliance with Government regulations and their own specifications. Retail grade criteria should not be changed to reflect some combination of sensory and nutritional factors, as it is not meaningful to grade processed foods on both. Problems include an inverse relationship between sensory and nutritional characteristics and the time lag necessary to establish nutritional content and grade and label the product. For processed foods, analysis by OTA indicates that the most appropriate vehicle for conveying nutritional information to consumers is the nutritional labeling program already in operation.

With regard to fresh fruits and vegetables and red meat, nutritional factors apparently cannot be combined with sensory factors and serve as basis for retail grades. Evidence in this report indicates that the nutritional content of fresh products is quite similar within any particular commodity. For example, apples, regardless of variety, tend to have similar nutritional characteristics, as does round steak regardless of cattle breed. This means that nutrition information cannot serve as a meaningful basis for sorting (therefore grading) various products within a commodity category.

There are a number of options for increasing the flow of nutritional information to consumers, the intent being that such information would facilitate food purchase decisions. The range is wide. Some options deal directly with grade criteria changes, while others deal with increasing consumer nutrition education.

CONGRESSIONAL OPTIONS

The following are some of the options available to Congress for the grade criteria issue:

Congress could direct the Department of Agriculture (USDA) to facilitate the adoption of a voluntary/mandatory nutritional labeling program for fresh retail meat cuts.

Congress could support or provide incentives for education programs by Government agencies or the private sector to inform consumers about:

1. The nutrition of fresh fruits and vegetable products and also the differences in nutritive content from one commodity to another; and

2. The nutrition of processed food products and interpretation and use of the current nutritional labeling program and/or grades for processed food products.

Congress could direct the Food and Drug Administration (FDA) to disseminate information to consumers concerning those programs currently in operation that assure the safety, wholesomeness, labeling, and identity of most manufactured or processed food products.

Congress could direct USDA to administer a standard labeling and variety identification program for fresh fruits and vegetables that are sold in retail packages.

Congress could direct USDA to institute voluntary/mandatory program of retail meat grades where grade criteria are based on yield per pound or per serving. Such a program should not be instituted, however, prior to a program that would assure uniform identification of retail meat cuts.

Since net benefit of any retail grade scheme for meat is highly dependent upon the type of meat distribution system in existence, committees of Congress with jurisdictional authority could examine the potential for improving the distribution costs of meat from various systems (such as conventional compared to centralized frozen) in oversight hearings. Such hearings could produce further evidence on the potential impacts and benefts of retail grade alternatives for meat.

ISSUE II: VOLUNTARY OR MANDATORY SYSTEM

There are three basic systems that might be used for grading under the voluntary/mandatory issue:

Private voluntary system

With a private system, the development of standards for grading and the adoption of those standards are done by industry and used voluntarily.

Voluntary/mandatory system

Under a voluntary/mandatory system, Federal Government grades are established. Any business firm that elects to enroll in the Federal program would be required to adopt the established grades.

---

[1] Transcripts from food grading workshop conducted by OTA on July 28–29, 1976 (hereafter referred to as Workshop vol. —). Workshop, vol. I, pp. 136–137.

Mandatory system

The mandatory system would establish the Federal grades, and use of these grades would be required by law.

FINDINGS

A private voluntary system would be of little use as an information aid in purchase decisions as it would not be expected to have wide industry adoption. From a consumer information viewpoint, the only beneficial grading system would be either an improved voluntary/mandatory system or a mandatory one. Federal grade systems for all food products are currently voluntary/mandatory, and the relative advantages and disadvantages of this system—as opposed to a completely mandatory grading system—are as follows:

Mandatory grading of food would be more costly than the current voluntary/mandatory system. This means that for a mandatory system to produce a positive net consumer benefit, the benefits from a mandatory system must exceed those of a voluntary/mandatory system.

For processed foods, OTA's analysis indicated that a mandatory system probably would not produce a positive net consumer benefit. Brand names partially substitute for retail grades. They have allowed society to exercise its perception of quality by selection of one brand name over another. A mandatory grading system would largely duplicate the information brand names currently provide consumers.

If retail grades were mandatory for processed foods, an inevitable consequence would be to suppress differentiation or variability and evolution of product characteristics. Thus, if society looks at the choice of whether or not to institute retail grades for processed foods, an important implication of that choice is what products should be stabilized in terms of characteristics, and what products should be permitted to continue to evolve.

There is no concentration point of firms in the handling of fresh fruits and vegetables relative to other product-marketing channels. This means no economical point exists in the fresh fruits and vegetables marketing channel for interception of large quantities of a product for the purpose of mandatory grading. A strictly mandatory system of grades, therefore, could be extremely expensive because the industry is structurally dispersed. A mandatory system probably would not produce a positive net benefit to consumers, since mandatory grading costs would be substantial and the additional information provided would likely be of marginal benefit to most consumer purchase decisions.

The current fresh red meat marketing channel, unlike fresh fruits and vegetables, does have points of relative concentration of firms. Given this structure, mandatory retail grading is viewed as potentially more feasible. However, net consumer benefit from mandatory grading as opposed to the current voluntary/mandatory system depends on the type of retail grading system implemented and on the type of distribution system for red meat assumed prior to net-benefit calculations.

Three possible systems for red meat grading are analyzed in this report:

(1) yield per pound or per serving;

(2) uniform mandatory retail cut identity labeling; and

(3) a combination of current grades with the other two systems.

There is however, a direct relationship between the type of meat distribution system and the cost of any mandatory retail grading system. This means that net consumer benefit varies by both the type of grading base and the type of distribution system. Further detailed analysis, beyond the scope of this report, is necessary before net consumer benefit from any combination of grading and distribution systems can be determined.

CONGRESSIONAL OPTIONS

The following are some of the options available to Congress for the voluntary or mandatory grading issue:

Congress could make grading mandatory:

For processed foods, designation of current grades could be made mandatory on retail packages for selected products.

For fresh fruits and vegetables, the current wholesale grade criteria could be used and designation of the grade could be made mandatory at retail.

For fresh red meat, the current carcass-grade criteria could be used, and the grade could be designated on all individual retail meat packages.

Congress could make grade designations at retail mandatory for any food product which is currently graded on a voluntary/mandatory basis. That is, if the product is graded, then the retail package must display that grade.

Congress could provide incentives for widespread adoption by industry of the current voluntary/mandatory system for each major product category. Incentives could include a tax break for business firms that adopt the program and/or a direct subsidy to defray the initial cost of the program.

ISSUE III: GRADE DESIGNATION OR NOMENCLATURE

Confusing grade designation or nomenclature is a major problem for consumers in both fresh fruits and vegetables and processed foods. Uniform, easily understood terminology across grades is a basic need to aid consumers in making food purchase decisions.

There are two basic concerns regarding uniform nomenclature. One is the trade-off between meaningfulness and simplicity in terminology. That is, extremely simple designation for grades (such as A, B, C) impart no meaning in terms of grade criteria. More descriptive grades (such as young, tender, or extra fancy) are more complicated to use but may be more meaningful.

A second concern is that nearly all conceivable grade designations imply rank. One objection to the implication of rank is that a second- or third-grade product may in fact be superior to the top grade, depending on its use or relative price. If simple grade designations were uniformly adopted, such implications of rank might mislead consumers or impart incorrect information to them.

FINDINGS

There are unsettled questions regarding the optimum terminology for grades of fresh fruits and vegetables and processed foods. However, no reasons have been found for not instituting uniform designations for these products, regardless of the terminology chosen.

The terminology currently used for fresh red meat is uniform for all such products. However, one of the more significant consumer information needs is standard identification of individual retail meat cuts and standardized retail package labels. Voluntary identification and labeling standards devised by the National Livestock and Meat Board, exist for fresh beef. This voluntary program has been adopted as law in some States.

CONGRESSIONAL OPTIONS

The following are some of the options available to Congress for the grade designation issue:

Congress could standardize nomenclature for the first, second, third, and fourth grades for both processed foods and fresh fruits and vegetables, so they would be consistent from one product to another.

Congress could direct USDA to immediately adopt the new simplified grade nomenclature for fresh fruits and vegetables it announced in July 1976. This would mean that adoption of this program would not remain at the discretion of growers or processors of these commodities.

Congress could direct USDA to administer a standard labeling and variety identification program for fresh fruits and vegetables sold in retail packages.

Congress could make the current voluntary program on meat identification standards mandatory for all retail meat cuts. This would facilitate uniform identification of retail meat cuts.

THE INDIAN CHILD WELFARE ACT OF 1977

Mr. ABOUREZK. Mr. President, on April 1 of this year, I introduced the Indian Child Welfare Act of 1977, with the cosponsorship of my friends and colleagues, Senator HUMPHREY and Senator MCGOVERN. I am happy to announce that we have been joined by another of our colleagues, Senator HASKELL. I will be glad to add others who may be willing to support this much needed proposal.

Many questions are raised about Federal responsibility and past Federal action in this regard. For example, why has the Federal Government, under the auspices of the Bureau of Indian Affairs and the Department of Health, Education, and Welfare, not been active enough in supporting and protecting Indian families? Why do State welfare departments, which receive substantial amounts of Federal dollars for the welfare of Indian children, continue to take actions which appear to be against the best interests of those children and families who the funds are intended to help? Why do the BIA and HEW have no adequate family rehabilitation and protection programs in Indian communities? Why is it that the BIA and HEW, by their silent complicity, continue to fund State welfare programs which act unlawfully toward Indian families and their children?

Although there has been no widely accepted national study of this problem, most estimates indicate that the number of Indian children in out-of-home placements has been extremely high. A 1962 BIA study of children whose foster care was paid for by the BIA estimated a rate of placement double that for non-Indian children.

During our 1974 Senate hearings on Indian child welfare, several speakers presented statistics on the numbers of Indian children in placement. Dr. James Shore, director of community psychiatry training program for psychiatric residents in the State of Oregon and associate professor at the University of Oregon Medical School, former chief of mental health programs for the Indian Health Service in the Pacific Northwest, stated that 28 percent of the youth under age 18 of the Confederated Tribes of the Warm Springs Reservation in Oregon were in placement several years earlier. Thirty-four percent of these were in foster care placement by the State, 21 percent were in boarding schools, and the remainder were in other off-reservation homes or in tribal foster homes.

A published article by Dr. Joseph Westermeyer, department of psychiatry, University of Minnesota, which was entered into the records, reports statistics from a Minnesota study conducted

between 1969 and 1971, which found that—

The rate of foster placement and state guardianship for Indian children ran 20 to 80 times that for majority children in all counties studied.

Several speakers at the hearings also referred to statistics estimated by the American Association on Indian Affairs, Inc.—AAIA—Which were entered into the record. The AAIA estimates indicate that one out of every eight Indian children in Minnesota was in an adoptive home and that Indian children were placed in foster homes at a rate 4 to 5 times higher than non-Indian children in Minnesota; 2.6 times higher in Arizona; 15.7 times higher in South Dakota; and 9.6 times higher in Washington.

A memorandum from the BIA Billings area director to the Commissioner of Indian Affairs, BIA, agrees with the AAIA estimate that "in Montana Indian children are placed in foster homes at a rate 10 times the national average." However, he disputes the AAIA estimate that 96 percent of foster care placements in Montana are of Indian children. The memorandum cites State figures as of January 1973 that approximately 30 percent of foster care placements made by the State are of Indian children. If BIA foster care placements are included, the percentage rises to 54-percent Indian. If placements in BIA boarding schools and boarding dormitories for social reasons are added and other cases involving Indian children who are living away from home but are not in foster care or in a boarding school, then Indian children account for 17.3 percent of all out-of-home placements in Montana as of January 1973.

REASONS FOR OUT-OF-HOME PLACEMENTS

Several reasons have been suggested for the high volume of out-of-home placements of Indian children. First of all, for many years, placements in BIA boarding schools and missionary schools and placements in white foster homes combined with BIA or public school education seemed too many people to be deliberate devices for encouraging Indian children to assimilate into Anglo society. Second, the lack of preventive and supportive services on reservations and in urban Indian communities contributes to the higher placement rates. Third, the high rate of alcohol abuse among Indians has also caused social workers to remove Indian children from their homes in disproportionate numbers. For example, Dr. James Shore reported that alcohol abuse was the primary cause for child removal in 95 percent of the cases on the Warm Springs Reservation.

Some witnesses at our 1974 hearings attributed the high placement rates for Indians to the application of culturally biased standards in judging whether or not an Indian child should be removed from his or her home. William Byler of the AAIA stated that the persons responsible for making decisions about child neglect may not be equipped by their professional training to decide whether or not a child is suffering emotional damage at home, in spite of conditions which might indicate neglect in an Anglo middle-class home. For example, Indian children are given a great deal more responsibility that is common in Anglo culture. They may play farther from home unsupervised by an adult—although other children are usually responsible for the younger ones. Dr. Joseph Westermeyer also found that in Minnesota parents leaving young children in the care of 8- or 10-year-old children were charged with abandonment.

Several witnesses at the hearings testified to another cause of high out-of-home placement rates of Indian children—the failure of officials to follow proper legal procedures in cases involving the removal of Indian children, thus taking advantage of Indian parents who were not aware of their rights. A number of witnesses at the hearings were Indian people who had lost custody of their children, and their testimony indicated substantial abuses of proper legal procedures. These parents were often unaware of their rights and were not informed of them, and they were not given adequate advice or legal assistance at the time when they lost custody of their children.

Drs. Mindell, child psychiatrist on the faculty of the department of psychiatry at Albany Medical College, and Gurwitt, associate clinical professor in child psychiatry, testified to another cause for the removal of Indian children:

The decision to remove a child from his parents is often made by poorly trained federal and state agency personnel and without the parents' understanding their rights; *e.g.*, where they may voluntarily waive their parental rights without understanding the implications.

Although social workers cannot remove a child from a home without a court order, it is important to note that in the tribal courts the Indian parent usually does not have a professional attorney and may be unable to counteract the professional knowledge of the non-Indian social worker through cross-examination. Dr. Gurwitt stated at the hearings that "the child has had no advocate in court to represent his interests, nor in most cases—have—his parents." Dr. Carl Mindell indicated that courts usually take the word of the welfare worker more readily than the word of the parents.

THE IMPACT OF REMOVING CHILDREN FROM THEIR HOMES

An important issue with regard to the placement of Indian children is the effect of placement on both the children and the family. Westermeyer found in Minnesota that "when the children were taken away by a social agency, the Indian couple split up immediately or soon afterward—no exceptions to this were encountered by the authors or reported by informants." A witness at the hearings from Pine Ridge, S. Dak., reported, on the basis of a survey on the Rosebud Reservation, that:

I found most of the people are concerned about the Indian children, but it seems to me like once an Indian family loses a child, they give up.

Dr. Shore testified:

Once placement of the children has been initiated, Indian parents often withdraw, become depressed and begin or resume intensive drinking.

A 1970 BIA workshop on "social services for parents of children in boarding schools" reported:

Research indicates the door of a child's home begins to close behind him when he leaves home and that if we are going to help families we must get our foot in that door to prevent its closing. Once there has been a break in a parent-child relationship that relationship is difficult to reestablish.

Witnesses testifying at the Senate hearings on Indian child welfare generally agreed that large numbers of Indian children are placed in non-Indian foster or adoptive homes. Westermeyer found that in Minnesota in 1969 of over 700 foster homes caring for Indian children, only two had an Indian parent, although in his testimony at the hearings he stated that more Indian foster homes have been recruited since 1969. An evaluation of the Seattle alternative to foster care project states that a 1974 survey of placements of Indian children in Washington found that 114 of 159 children—72 percent—were placed in non-Indian homes.

A 1962 BIA study—available only in draft form—of children in BIA-supervised foster care found that "over half of the foster mothers were Indian, over two-fifths of the foster fathers." The percentages were somewhat lower for children whose supervision was shared by the BIA and the State or county welfare department. BIA's 1972 followup study found Indian parents in about 65 percent of the BIA-supervised cases. It should be noted that the figures for 1962 and 1972 are not comparable, as the 1962 study asked about mothers and fathers separately, while the 1972 study asked for combined figures for Indian parents.

Indian children placed for adoption have also frequently been adopted by non-Indian families. A witness at the hearings cited statistics from the Tripp County, S. Dak., welfare department that show that from 1967 through 1974, 898 Indian children were adopted, 354 by Indian families and 544 by non-Indian families. Partly because of the decreasing numbers of Anglo children available for adoption and changing attitudes toward interracial adoptions, the demand for Indian children has increased dramatically.

The Child Welfare League also conducted a survey in 1966 of 90 public and voluntary agencies in States having large Indian populations. They found that 696 children of "Indian extraction" were placed with caucasian couples, 14 with Indian couples, 32 with Indian-caucasian couples, and one with Mexican-Indian couple. The remainder were placed with Negro, Mexican, or oriental couples.

The results of placements of Indian children in non-Indian homes have become of grave concern for many Indian people and also for non-Indian people who work with them, especially psychiatrists, psychologists, and social workers. One concern is that Indian cultures are being destroyed by this practice since so many Indian children are not learning Indian ways. A typical Indian view was

expressed by Mr. Phyllis Fast Wolf, an Oneida living in the uptown area of Chicago:

Thinking Indian is a way of life and I think that these children should have an opportunity to learn our heritage and set of values.

This concern was also expressed by a number of witnesses at the Senate hearings; for example, one witness labeled the pattern of placements as "another form of that systematic form of genocide."

The second aspect of the placement of Indian children in non-Indian homes that is of concern is the psychological damage to the children that may result. As one author writes, when children are placed away from the reservation, they "face breaking ties not only with parents and siblings but also with friends, relatives, community, culture, and anything familiar." Several of the psychiatrists who testified at the hearings also reported on the ill effects suffered by environments. While this issues is not specific to placements of Indian children, it is exacerbated by the cultural differences experienced by the Indian child placed in a non-Indian home.

If an Indian child is placed in a non-Indian home while he is still a baby, problems may arise in later years, particularly during adolescence. Dr. Westermeyer testified that the adolescents and adults he had seen in his practice had been "raised with a white cultural and social identity"; then, "during adolescence they found that society was not to grant them the white identity that they had." They encountered this identity problem through pressures from white parents on their children not to date the Indian children, derogatory namecalling, and difficulty obtaining jobs and credit.

The problem was compounded by the lack of an Indian peer group and family to support the Indian children in this identity crisis. Mel Sampson, another witness and a tribal councilman of the Yakima Indian Nation, stated:

They literally suffer when they discover that their physical appearance is not that of their adopted parents. . . . The wonderment and the search for true identity is crucial and probably, at times, never completed.

The evaluation of the alternative to foster care project in Seattle states that placements of Indian children in non-Indian homes "regardless of their quality, pose serious questions regarding the degree of ethnic identification possible for children so placed, and the effect of ethnic identification on general identity formation." To illustrate this point, here are a series of questions and answers taken from our Indian child welfare hearing record.

QUESTION. At what year were you taken from your family?

ANSWER. September 1963, 13 years old.

QUESTION. Why were you taken?

ANSWER. My father died. They thought my mother couldn't take care of us.

QUESTION. Were you taken off the reservation?

ANSWER. Yes, Twenty miles away. I was placed in jail 17 days while they attempted to find me a foster home.

QUESTION. Were you taken to a non-Indian family?

ANSWER. Yes.

QUESTION. How many non-Indian families have you and your brothers and sisters been shipped off to?

ANSWER. Fourteen families.

QUESTION. How many brothers and sisters do you have?

ANSWER. Seven.

QUESTION. What kind of effect did moving you off the reservation, away from your natural parents and family, have on you?

ANSWER. They took me away from my people, from my family, all my friends, brothers and sisters, everyone. I lost all my Indianess, language, religion, beliefs, my entire sense of belonging.

QUESTION. As you've grown up, have you felt the hurt of being taken away? Do you miss the time being away from your people?

ANSWER. Yes. I especially feel for this same problems for my brothers and sisters. They lost everything.

QUESTION. Have you or your brothers and sisters ever been literally instructed to discontinue or forget your Indian people and their beliefs?

ANSWER. Yes. Definitely.

QUESTION. Have you or your brothers and sisters ever been in trouble criminally as juveniles?

ANSWER. Yes. To a large extent.

QUESTION. Do you attribute any of this to your being placed in white homes?

ANSWER. Yes.

QUESTION. Why?

ANSWER. It built in me a resentment, a feeling of anger, they had stolen everything from me. I was mad at the world. I didn't care.

QUESTION. Do you know other Indian children in this area of Minnesota who have been placed in white foster homes?

ANSWER. Yes.

QUESTION. How many?

ANSWER. Over 80 percent of the children of the village I grew up in, Sawyer, on the Fond Du Lac Reservation. The population is 280. Since then I have met many who were also in foster homes.

QUESTION. Would you say, putting Indian children in Minnesota, in white foster homes by welfare is big business?

ANSWER. It certainly is.

QUESTION. Do you think you will ever recover from what happened to you?

ANSWER. I hope so. I just don't know.

I ask once again, that my colleagues help in trying to turn around this terrible situation by joining me as a cosponsor in this absolutely essential legislation.

NELSON CRUIKSHANK'S NEW MISSION IN AGING

Mr. CHURCH. Mr. President, President Carter has fulfilled the pledge he made during last year's campaign to name a knowledgeable and distinguished person to be his counselor on aging.

Nelson Cruikshank, who has served as president of the National Council of Senior Citizens since 1969, will soon fill that role. He will also become Chairman of the Federal Council on Aging.

These appointments bode very well indeed for the entire field of aging. Nelson Cruikshank has long concerned himself with matters directly related to the well-being of older Americans. In his major career assignment as director of the AFL–CIO department of social security, he paid special attention to the needs of older Americans, but he also saw the value of social security for persons of other age groups as well. And as president of the NCSC for 8 years, he has taken a very broad view of other programs and problems which affect older persons and younger members of their families.

I welcome President Carter's choice. And in the President's announcement is a brief and useful description of Mr. Cruikshank's many accomplishments. I ask unanimous consent to have that announcement printed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE ANNOUNCEMENT

The President today announced that he will designate Nelson Cruikshank as chairman of the Federal Council on the Aging. Cruikshank's designation was announced by the Vice President in a speech to the Council's biennial legislative conference this afternoon. Cruikshank will also be appointed counselor to the President. He is presently a member of the Council and president of the National Council of Senior Citizens.

Cruikshank was born June 21, 1902, in Bradner, Ohio. He received an A.B. from Ohio Wesleyan University in 1925 and an M. Div. from Union Theological Seminary in 1929.

From 1930 to 1933 Cruikshank directed the relief program of the Brooklyn (New York) Federation of Churches. From 1933 to 1935 he directed the Workers Education Program of the New Haven, Connecticut Central Labor Union at Yale University, and organized for the AFL in Connecticut. He directed the WPA Workers Education Program at New York University in 1935–36.

Cruikshank worked in labor relations for the Farm Security Administration from 1937 to 1942, serving as director of the Migratory Labor Camp Program from 1940 to 1942. In 1943 and 1944 he was executive assistant to the labor members of the Management-Labor Advisory Committee of the War Manpower Commission, and deputy vice chairman of the Commission in charge of labor relations.

From 1944 to 1950 Cruikshank was director of Social Insurance Activities for the AFL. In 1951 and 1952 he was director of the Labor Division Economic Cooperation Administration in Paris, France. He served as director of the Department of Social Security at the AFL–CIO in Washington from 1953 until his retirement in 1965.

Since retirement, Cruikshank has served as a visiting professor at Michigan State University, the University of Michigan, and Pennsylvania State University. He has been president of the National Council of Senior Citizens since 1969.

Cruikshank was a member of the U.S. delegation to the First General Assembly of UNESCO in 1946, and served on the U.S. National Commission for UNESCO from 1946 to 1950. He was a member of the U.S. delegation to the First General Assembly of WHO in 1948. From 1962 to 1970 he was a member of the ILO's Committee of Experts on Social Security.

In 1976, Cruikshank was co-chairman of Senior Citizens for Carter with Miss Lillian Carter. He has been a member of the Federal Council on the Aging since 1974, and is chairman of its Committee on Economics of Aging.

OUR WORDS CAN PROMOTE HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, we often wonder whether the United States can do anything to protect the rights of peoples outside our borders. In Paraguay, the very country which I cited a few days ago as an example of the continuing threats to human rights that allegedly occurs in many areas of the world, American actions have produced positive results.

Many Paraguayan prison inmates, who reportedly underwent torture and inhumane treatment while confined, were freed beginning in November of last year. The New York Times concluded that—

Since the election of President Carter, governments in the region, nearly all of them military-controlled, have been freeing their political prisoners.

Carmen de Lara Castro, the president of the Paraguayan Human Rights Commission, gave Mr. Carter credit for the release of the prisoners. Mrs. de Lara Castro expressed surprise at the government action, as prisoners had been the subject of what seemed to be permanent incarceration and persecution. The Times quoted Mrs. de Lara Castro as saying:

I have a lot of hope regarding Carter. There seems to be an improvement in the situation here.

The Times also reported Alejandro Orfila, the Secretary-General of the Organization of American States, has spoken with Paraguyan President Alfredo Stroessner about Stroessner's impression of the Carter administration. According to the Times, sources close to Orfila said that—

(Stroessner's) impression is that Carter is serious about human rights.

Mr. President, the most important insight to be gained from the release of the Paraguayan prisoners is that President Carter helped save prisoners from torture and endless confinement without spending any money and threatening the use of American troops.

Mr. Carter has helped to stop persecution in Paraguay, among other countries, by expressing his commitment to protecting human rights. Mr. President, the Senate should not act as if Mr. Carter has a monopoly on this type of commitments. By ratifying the Genocide Convention, we can oppose and help prevent the crime of genocide. I urge my fellow Senators to join me in pushing for ratification of this important treaty.

ELLIOT RICHARDSON AT THE LAW OF THE SEA CONFERENCE

Mr. METCALF. Mr. President, our new Ambassador to the Law of the Sea Conference, Elliot Richardson, is a man whose personal integrity and skill as a negotiator are beyond question. It is, therefore, more than a matter of passing interest that Ambassador Richardson paused during the latest marathon round of discussions on the ocean mining portion of the Conference at the United Nations, to express his strong personal disappointment with the trend of the negotiations. In a recent statement he aimed his criticism at a revision of the revised single negotiating text issued by Committee One Chairman Evensen, singling out four problem areas arising from the granting of excessive powers to the proposed International Seabed Authority. These were:

First. Insufficient assurance of access to seabed manganese nodule resources for participating nations and mining companies;

Second. Likelihood of unacceptable financial burdens being imposed upon the ocean mining industry;

Third. Imposition of overly stringent production limitations on ocean mining industries;

Fourth. Prospect of access to seabed resources being accorded on political rather than economic grounds.

If Ambassador Richardson's remarks were an attempt to jolt the so-called Group of 77 at the Conference into reassessing the direction in which it is pushing Chairman Evensen, his success remains to be seen. The Christian Science Monitor on June 16, 1977, published an article which well describes the situation. Particularly noteworthy is Mr. Richardson's warning that the patience of Congress is wearing thin. He is absolutely right. I would hope that his words are being weighed with greatest attention.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DISAPPOINTMENT AT LAW OF SEA CONFERENCE

(By David Anable)

UNITED NATIONS, N.Y.—For the rich nations of the West, frustration and disappointment.

For the militant countries of the developing world, a tactical victory.

That perhaps best sums up how things have gone during the first three weeks of the current eight-week session of the Law of the Sea Conference here in New York.

The hopes with which most Western delegates started this latest attempt to extend new concepts of international law to the two-thirds of the earth's surface covered by seas and oceans have turned sour. As one disgruntled delegate put it, the West has been given crumbs while the developing world has grabbed triple-decker sandwiches.

Expressing his own disappointment, U.S. chief negotiator Elliot L. Richardson has warned that "the outcome of the conference does genuinely hang in the balance." But he also has made it clear that the United States has by no means given up hope of eventual success.

The central issue now, as it has been for months if not years, is the mining of the deep seabed nodules that contain minerals such as copper, nickel, manganese, and cobalt.

Third-world militants want an international seabed authority to have an effective monopoly over mining the billions of dollars worth of golf-ball-like nodules—on the principle that they are part of the common heritage of all mankind.

These countries reject on principle the compromise proposal put forward by industrialized countries that there should be equal access by the authority and by private companies or states.

At an informal meeting of 86 delegations in Geneva last February-March, there were signs that the militants were being brushed aside by other third-world countries keen to reach a compromise settlement. Back here in the formal gathering of the full 150 delegations, however, the "progress" the West had hoped for has not so far materialized. The militants have at least delayed the disintegration of third-world unity.

In particular, Western delegates are concerned over the trend this session toward giving the seabed authority more and more discretion. They insist that its powers must be carefully tied down in the proposed treaty so that it cannot later interfere with private companies' rights to contract for and dredge up profitably their half of the mineral nodules.

As a quid pro quo, Western countries have tried to reassure the developing world that the authority's own mining arm, the Enterprise, will be capable of working its half of the seabed sites. Hence the detailed U.S. plans for financing the authority submitted to this session.

But third-world militants still insist that money is not enough; "money is not the problem, the problem is transfer of technology. Perhaps we can get the money; but the technology, no, never."

Such delegates are not impressed by warnings that a failure to make significant progress here this session is almost certain to prompt the U.S. Congress to move ahead unilaterally with one or other of its own seabed mining bills. Final congressional action along these lines would be in Mr. Richardson's words, "disruptive if not destructive" of the conference.

"I am more afraid about having a bad treaty," retorts one delegate from the developing world. "I don't believe the Carter administration will go ahead—some administrations might have, but Mr. Carter, no."

Mr. Richardson, on the other hand, says, "It's unrealistic for anyone to suppose that the Congress can indefinitely hold off, given a situation in which very large amounts of money have already been invested and in which other and still larger amounts will still have to be invested if seabed mining is to go forward."

One way or another, it is assumed here that at least one more major negotiating session will be required, probably next spring, if there is to be any hope at all of an eventual treaty.

J. WALTER KENNEDY

Mr. RIBICOFF. Mr. President, J. Walter Kennedy, who was best known for guiding professional basketball into national prominence and who had also been a much respected political figure in my State of Connecticut, died Sunday, June 26, 1977, at St. Joseph's Hospital in his hometown of Stamford. He was 64 years old.

Walter Kennedy is survived by his widow, the former Marion McRedmond of Stamford, and two sons, David and Robert, and a daughter, Kathleen. Mrs. Ribicoff and I extend our deepest sympathies. My association and deep friendship with Walter Kennedy go back many years. He was an extraordinary man who will be deeply missed by all of us who had the good fortune to have known him.

Walter Kennedy became a national figure in 1963 when he was named commissioner of the National Basketball Association. The NBA then had only nine franchises and most of these were located east of the Mississippi.

However, under Walter's brilliant and disciplined leadership, the league expanded and by 1975, at the time of his retirement as commissioner, there were 18 teams in the NBA and professional basketball had taken its place alongside baseball and football as a truly national pastime with franchises from coast to coast.

His achievements as the NBA's second commissioner were legendary, particularly coming as they did at the time the league was meeting competition from the American Basketball Association. Since the merger, professional basketball has continued to gain popularity and, to a large degree, the continued

success of the league is a testimony to the vision and leadership of Walter Kennedy.

While many of his achievements occurred in promoting professional sports, Walter Kennedy went to great lengths to improve his own community of Stamford and the State of Connecticut as well. He was a responsible and energetic public servant and a thoughtful, perceptive political observer and adviser. Twice elected mayor of Stamford, Walter Kennedy was an excellent mayor and an imaginative and hardworking administrator. In 1962, 1968, and 1974 he headed up my Senate election campaigns. He was superb and valuable.

As I look back upon Walter's career, many fine attributes stand out about the man—his remarkably sound judgment, his genuinely humane instincts, courage in the face of adversity, wit and charm and a unique sense of timing. He knew the right thing to do and the right time to do it.

No matter what he did—and his career ranged from broadcasting football games with Ted Husing to activism in the political arena—Walter Kennedy could be counted on to be fair, compassionate intelligent. He was a dear friend and I will miss him very much.

Mr. President, the New York Times and the Stamford Advocate printed articles today about Walter Kennedy's death. In addition, the Scorecard column in the sports section of the Washington Star referred to Mr. Kennedy today. I ask unanimous consent that these articles about Walter Kennedy be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 27, 1977]

WALTER KENNEDY, 64, OF NBA IS DEAD

(By Thomas Rogers)

Walter Kennedy, who presided over the National Basketball Association's growth into a major league in the 1960's, died last night at St. Joseph's Hospital in Stamford, Conn.

Mr. Kennedy, who was 64 years, died from cancer.

During his 12 years as the second commissioner of the National Basketball Association, the game prospered dramatically and approached baseball and football as one of the nation's most popular professional sports.

When the former mayor of Stamford, Conn., took over the N.B.A. helm from Maurice Podoloff in 1963, the league had nine franchises; when he was succeeded by Larry O'Brien in 1975, the league had doubled to 18 teams and was looking forward to further expansion.

The N.B.A. television program, nonexistent in 1963, has grown in value to more than $9 million, and attendance had increased from 1.9 million to more than 7 million.

Much of the progress was attributable to the work of Mr. Kennedy, a chubby, energetic, baldish man who brought experience in business, public relations, politics and sports to the assignment.

First, he demand unquestioned authority from the Board of Governors to enforce the league's bylaws and rules without favoritism. Then he convinced the board to use increasingly lucrative television contracts to smooth the way for planned expansion.

Mr. Kennedy's successful stewardship was complicated by the emergence in 1967 of the American Basketball Association, a rival league whose bidding war with the N.B.A. for players escalated salaries into million-dollar contracts. Several attempts at merger were foiled by the N.B.A. Players Association in the courts and through Congressional lobbying during his tenure. A consolidation of the leagues was finally arranged last year.

As commissioner, Mr. Kennedy quickly established his power by fining Red Auerbach, the coach and general manager of the Boston Celtics, $500 for rowdy conduct during a preseason game in 1963. When Mr. Auerbach threatened to quit, if the fine was not rescinded, he received the following telegram:

"The fine stands and must be paid within five days from this date. Kindest personal regards. Walter Kennedy."

PUBLICIST AT NOTRE DAME

Mr. Kennedy first became acquainted with Auerbach and other important N.B.A. officials and coaches when he was its first publicity director from 1946 to 1951. He came to the job after three years of handling publicity at Notre Dame where he had earned a bachelor's degree in 1934.

From 1952 to 1959, he operated his own public relations and business management company in New York and did extensive consultation and representation for the Harlem Globetrotters basketball team.

In 1959 he was elected by a 2-1 margin as Mayor of Stamford, where he had been born James Walter Kennedy on June 8, 1913. He was re-elected easily in 1961, but resigned less than two years later to accept the commissioner's post at an annual salary, estimated at $30,000.

When he retired, arrangements were made for him to serve as a consultant to the league for 10 years with a contract worth more than a half-million dollars "to assure the commissioner comfortable financial security for the rest of his life."

Mr. Kennedy survived a childhood attack of polio to undertake a varied career that included such jobs as emptying ash cans, serving as a bouncer in a Chicago restaurant, working as a waiter in Stamford, selling textbooks, broadcasting college football games with Ted Husing and refereeing basketball games.

During his tenure as commissioner, there were 44 changes of ownership or principals in the N.B.A., which gradually made his relationship with his employers more impersonal. And legal problems were voluminous.

"During the last five years, mostly because of contract jumpers and other off-court activities, a substantial part of my time was spent in depositions as a witness in courtrooms or meeting rooms of Congress or Federal agencies or in what I call the legalities of the job," he said in 1973 when he announced his retirement.

As well as involving himself in charitable and social causes, he spent the bulk of his time after leaving basketball as chairman of the board of the Special Olympics for the Mentally Retarded of the Joseph P. Kennedy Jr. Foundation, chairman of the board of the First Stamford Bank and Trust Company and president of the Naismith Basketball Hall of Fame in Springfield, Mass.

In 1940 he married the former Marion McRedmond of Stamford. They had two sons, David and Robert, and a daughter, Kathleen.

[From the Stamford (Conn.) Advocate, June 27, 1977]

J. WALTER KENNEDY IS DEAD AT 64, EX-MAYOR CIVIC LEADER, LED NBA

J. Walter Kennedy, one of Stamford's best known and most illustrious citizens, died of cancer Sunday night at St. Joseph's Hospital. He was 65. Mr. Kennedy served as mayor of Stamford from 1959 to 1963 and commissioner of the National Basketball Association from 1963 to 1975.

A hospital spokesman said Mr. Kennedy succumbed to cancer at 8 p.m., a year after he was operated on for a malignant tumor on the back.

Mr. Kennedy had been receiving immunotherapy since the operation. Surgery two weeks ago confirmed findings of blood chemical tests taken two months ago that the cancer had spread to the liver. A hospital spokesman said Mr. Kennedy died quietly of liver failure and complications related to the malignancy.

Mr. Kennedy leaves his wife, Marion, a daughter, Kathleen; two sons, David, senior vice president of International Creative Management of New York, and Robert, Advocate sports editor; his mother, Mrs. Lottie Kennedy, and four grandchildren, Kelly, Robert Jr., Christopher and Paul James.

Although a childhood bout with polio precluded his active participation in sports, Mr. Kennedy remained close to his first love throughout his life as a team manager, coach, sports announcer, sports columnist and, finally, as NBA commissioner.

He was also deeply involved in Stamford civic and governmental affairs throughout most of his adult life, serving as a member of the Board of Education, the Board of Recreation, Park Commission (of which he was chairman) and, finally, as mayor of his hometown. He was also active in state politics serving as campaign chairman for Democratic candidates for the U.S. Senate and governor.

A Democrat, running as the candidate of a reform movement with bi-partisan support, he was elected mayor in 1959 by a two-to-one margin, the largest plurality recorded here in a mayoral race. He was reelected to a second 2 year term in 1961, but resigned five months before the expiration of his second two-year term to succeed Maurice Podoloff who had been NBA commissioner for 17 years.

During Mr. Kennedy's 12-year tenure as NBA chief, the league expanded from nine to 18 cities and game attendance tripled. Although changes in the association's constitution and bylaws made Mr. Kennedy the most powerful sports administrator in the country, he once said of style at the NBA helm, "I have an iron fist but I wear a velvet glove."

On his retirement, the NBA established a $25,000 award in his name to promote racial harmony.

At one time, Mr. Kennedy broadcast Army football games from West Point with the late Ted Husing. He was also one of the few nonathletes to be admitted in the Notre Dame Monogram Club, an association of Notre Dame lettermen.

After leaving the NBA in 1975, Mr. Kennedy was named chairman of the board of the First Stamford Bank & Trust Co., and president of Robustelli Travel and a consultant to the NBA.

In addition to his other activities Mr. Kennedy wrote a sports column for the Advocate (which he called "Splinters") for over 40 years. His last column appeared one month ago.

Mr. Kennedy built a reputation for helping others which transcended and yet embraced sports, business and politics. Accepting the post of volunteer chairman of the Special Olympics, Inc., program for the retarded in 1975, he read a poem which he said had become the dominant theme in his life:

"Today my hands are strong, so let me help you. Tomorrow they may be weak or old or sick and you will have to lighten my load . . ." it said in part.

Despite his illness, Mr. Kennedy maintained an active role in the community during the past year to further the causes which had occupied so many of his earlier years.

In his second annual message as mayor in 1961, Mr. Kennedy warned that Stamford must assess its goals as a City and design a precise plan for it destiny so that it would not merely be swallowed up by the tentacles of New York City. Since last year, he had

chaired the steering committee of Stamford's Economic Base Study, whose aim is precisely the one then Mayor Kennedy identified 14 years ago.

Governor Ella T. Grasso called on Mr. Kennedy last year to head a study of the state's legalized gambling operations and to make recommendations to improve the scandal-ridden State Gaming Commission. He was also former chairman of the State Commission on Higher Education.

Even while confined to his hospital bed two weeks ago, Mr. Kennedy accepted the post of honorary chairman of Mrs. Dahlia Johnston's campaign for the Democratic mayoral nomination.

ABC Sportscaster Howard Cosell once called Mr. Kennedy ". . . a man of great conviction, one of the two most courageous men I have ever known in sports. The other was Jackie Roosevelt Robinson."

Mrs. Eunice Shriver Kennedy, president of the Joseph P. Kennedy Foundation, called Mr. Kennedy, "a man with a rare gift." She once said during a testimonial for the NBA king, "He is so aware. He can keep his integrity, his efficiency and yet respond to the needs of others" Mr. Kennedy was an early backer of John F. Kennedy in his campaign for president.

Mr. Kennedy was born in Stamford June 8, 1912, the son of the late Michael J. and Lottie Hoffman Kennedy. He attended local schools and was graduated from the University of Notre Dame with degrees in journalism and business administration. He also enrolled in graduate studies at Yale University and New York University.

Mr. Kennedy joined the Town Welfare Department as a social worker in 1935 and later became a caseworker with Catholic Charities. He then joined the faculty of St. Basil's Prep, where he served as athletic director and basketball coach. He entered the publishing field as director of sales and promotion for the Macmillan Publishing Co. in New York and later served the same capacity at Loyola University Press in Chicago, before returning to his Alma Mater, Notre Dame, as public relations director.

Finally, Mr. Kennedy returned to his native Stamford to launch his own public relations firm with offices here and in New York. His clients included the White Tower Management Corp., the N.Y. Giants baseball team and the Harlem Globe Trotters, the professional basketball team with which he traveled to Russia and met Soviet Premier Nikita Khrushchev.

Mr. Kennedy was awarded the Medal of Monaco by Prince Rainer III for his contributions to education in the principality of Monaco. And he was made an honorary citizen of Italy for his devoted service on behalf of Boys Towns of Italy. In 1966, Pope Paul named Mr. Kennedy a "Knight of St. Gregory," the highest honor conferred by the Vatican on a Catholic layman for "contributions to State and Church." Mr. Kennedy was honored twice for promoting racial harmony while with the National Basketball Association. He was honored by the Roasters at the local group's annual affair in 1976.

Mr. Kennedy was a member of the Knights of Columbus, the "Skeeters," an organization of show business and entertainment figures, of which he was a founding member; the Old Timers and Holy Name Athletic clubs. He was a member of the Board of Trustees of St. Joseph Hospital and St. Bridget's Church.

The funeral will be held Thursday from the Leo P. Gallagher and Son Funeral Home, Broad St. at Suburban Ave., at 10:30 a.m. to St. John's Roman Catholic Church for Mass of Christian Burial at 11 a.m. Interment will bo in St. John Cemetery, Springdale. Friends may call at the funeral home Tuesday and Wednesday from 3 to 5 and 7 to 9 p.m.

In lieu of flowers, the family requests contributions to the St. Joseph Hospital Memorial Fund or the American Cancer Society.

[From the Stamford (Conn.) Advocate, June 27, 1977]

KENNEDY LEFT HIS MARK ON ROUNDBALL

STAMFORD, CONN.—Former National Basketball Association Commissioner Walter Kennedy has left a legacy of change that resulted in the betterment of basketball.

The professional basketball world, which grew up under his firm but gentle guidance, reacted with deep regret to his death Sunday night.

Kennedy, who was 64, died of cancer at St. Joseph's Hospital in Stamford, a city he had served as mayor for three years.

He also had been tapped by Gov. Ellis Grasso to review Connecticut's legal gambling and submitted a report last year.

NBA Commissioner Lawrence O'Brien, who succeeded Kennedy in 1975, said: "Speaking from my heart, I have admired Walter Kennedy for the last two decades, first from his reputation, then from our personal acquaintance.

"No one has made more of a contribution to sports and basketball in particular than he did. It was a challenge for one to succeed him and I know that he will be sorely missed by the NBA staff and all our members across the country."

Kennedy was the 49-year-old mayor of Stamford when he was chosen to replace 73-year-old Marice Podoloff, who retired Sept. 1, 1963.

"I do not anticipate any more difference with the nine men (the number of owners in 1963) that I had as mayor of a city of 100,000 people," Kennedy said on being named commissioner. "Nobody ever looks for Utopia because you know you'll never find it."

When Kennedy took office, his two major objectives were to return the NBA to national television and to expand the league. He accomplished both. Today there are 22 teams in the NBA, which boasts strong local and network television support.

Kennedy, who called himself "a man for my time" during the 12 years as commissioner of the major pro basketball league, had wanted to be a commissioner for life. However, he retired in 1975 because he was fed up with the highpressure world of sports. The continuous congressional hearings, the lawyers, the high priced contracts, somehow didn't fit into his world.

"I'm retiring because of my health and because I think this is a new era," Kennedy said in an interview about three months before he retired on June 1, 1975.

"The day of the strong commissioner is over. The common draft and many other things basic to sports are being questioned and perhaps changed."

The new era was a drastic change from Nov. 29, 1971, when the NBA club owners moved to make Kennedy a strong commissioner.

They voted to give him the power to make unappealable decisions on situations not covered by league bylaws and constitution and to fix a penalty for violations of rules that carried no specific penalties.

He also was given additional powers. Abe Pollin, chairman of the NBA's Advisory Committee, said:

"We fully realize that in so doing we are conveying unprecedented authority to Walter Kennedy, but we have no hesitancy in doing so because of the excellent leadership he has provided during the past eight years."

With all his power, however, the personality of Walter Kennedy reached out beyond the basketball arena.

Mike Storen, the former commissioner of the defunct American Basketball Association and now an executive with the NBA Atlanta Hawks, recalled that "although you (the media) may have called us adversaries, Walter was always a friend first. At no time did he ever stop being a gentleman.

"The basketball industry passed from the dirty arenas and into the view of television with respectability."

In his report to Gov. Grasso on Connecticut's legal gambling, Kennedy alluded to the possibility of the state becoming "Las Vegas East," when with its lotteries, dog racing, jai alai and planned horse race track.

He also warned against Connecticut becoming covered with "wall-to-wall gambling." His proposal for a two-tier gaming commission to improve state oversight of gaming was sent to the legislature by the governor but lawmakers rejected the idea.

Kennedy's greatest honor may have come just before he retired from the NBA in 1975, when he was honored by three black groups—The United Negro Fund, The National Association for the Advancement of Colored People and the Edwin Gold Services for Children Organization—for promoting racial harmony. Their dedication read:

"In the dozen years Walter Kennedy has headed the NBA, the black man has made his greatest strides. The interracial community among players, administrators and officials has had its greatest flourish. We feel it boils down to the influence of Walter Kennedy."

Simon Gourdine, the deputy commissioner of the NBA and the highest-ranking black official in the four major sports, said: "I was hired by Walter Kennedy and for that I'll be eternally grateful. But he was more than a boss. He was warm and compassionate.

"There were times I could see that he wasn't feeling well, but that never slowed him up. He had a tremendous amount of energy. He loved his job."

Kennedy served as the publicity man for the league when it was known as the Basketball Association of America, from 1944–49, and for two years after it became the NBA. He also assigned game officials for two years.

At various times, he was associated with the Harlem Globetrotters and Little League baseball and was a coach and official in high schools and prep schools in New England. From 1943 to 1945 he was publicity director for Notre Dame, his alma mater.

A spokesman for St. Joseph's Hospital said Kennedy underwent surgery one year ago for a malignant melanoma of the back and for the past year was receiving immunotherapy treatments. Two months ago, blood tests revealed the cancer had spread to the liver.

Kennedy is survived by his widow, Marion; his two sons, David and Robert, sports editor of the Stamford Advocate, and his daughter, Kathie.

[From the Washington Star, June 27, 1977]

WALTER KENNEDY'S LEGACY

Ironically, one of the most heartfelt tributes to Walter Kennedy, the former (1963–75) National Basketball Association commissioner who died of cancer at 64 in a Stamford, Conn., hospital yesterday, came from Mike Storen—often a heated rival when he was commissioner of the old American Basketball Association before last year's merger.

"The basketball industry owes him a debt of gratitude because it was Walter Kennedy who brought basketball out of the dirty arenas and into the view of television with respectability," said Storen, now an executive with the Atlanta Hawks. "Although you may have called us adversaries, Walter was a friend first. At no time did he stop being a gentleman."

Then there was this comment from Willis Reed, new coach of the New York Knicks: "He was the greatest man I ever met. If it weren't for the likes of him, this poor boy from Bernice would not be here."

And now, unfortunately, Walter Kennedy will no longer be here.

CLEAN AIR ACT OF 1977

Mr. ANDERSON. Mr. President, it is clear that the outcome of the pending House-Senate conference committee on H.R. 6161, the Clean Air Act Amendments of 1977, will determine, to a significant degree, the quality of air we and our children breathe in the years to come in this country.

Arguments of technical feasibility, timing, economic impact, fuel efficiency, and consumer cost, as articulated to the Congress by those who favor additional delays for stationary and mobile source compliance, pale in the face of evidence that air pollution impairs human health. The House of Representatives clearly has chosen a course of action favoring pollution over public health. The Senate, while extending some deadlines for both stationary sources and automobiles, has voted to place the health of the American public before the demands of industry.

Two recent articles by national columnists Art Buchwald and George Will speak eloquently to the problems of air pollution and the conduct of the automobile industry in lobbying for additional delays in tough automobile emission standards. I commend both articles to my colleagues.

Mr. President, I ask unanimous consent that the column by Art Buchwald, "For Safety's Sake, Stop Breathing," in the Washington Post on June 21, and the column by George Will, "Another Setback in the Quest for Clean Air," in the Washington Post on June 26, be printed in the RECORD.

There being no objection, the columns were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 21, 1977]

FOR SAFETY'S SAKE, STOP BREATHING

(By Art Buchwald)

My weatherman came on the TV screen the other night and, after predicting warm and humid temperatures, he said, "As for the air-quality index, it's very unhealthy and should stay that way for a few days."

Then the news show went to a commercial showing two elderly people sitting in a canoe on a quiet river talking about "occasional irregularity" and what they do about it.

While the commercial was on my wife said to me, "What does it mean?"

"What does what mean?" I said.

"The business about the air quality being unhealthy."

"I guess it means that the air is not fit to breathe for the next few days."

"Then what are we supposed to do?" she wanted to know.

"That's a good question. It's probably not serious or they wouldn't have mentioned it on television. Otherwise people would panic, and if they panicked they wouldn't buy whatever they're trying to sell on TV."

"How come," my wife wanted to know, "the government bans everything that is dangerous to our health but permits the air we breathe to remain polluted?"

"Well, in the Washington area we don't have any industry so all the bad air comes from the exhausts of automobiles. You can't ban automobiles no matter how dangerous they are to your health."

"Why doesn't the government demand they make automobiles that don't pollute the air?"

"It's been trying to for some time, but every time it sets a time schedule for new clean air standards, the auto lobbyists get Congress to postpone it."

"Don't the lobbyists breathe the same air we do?"

"I imagine they do. But they have to weigh the fees they get for lobbying against their own health. Besides, it's my understanding that the automobile companies have excellent medical plans for their lobbyists, including free vacations to Arizona, in case they get sick from breathing all the gunk in the air."

"You would think congressmen would care about air quality. After all, they and their families have to breathe the same air," she said.

"Congressmen are more concerned with votes than they are with living. If you told a congressman he could get the United Auto Workers' union backing in his district if he stuck his nose in the tailpipe of a trailer truck, he'd do it."

"How bad does the air quality on TV have to get before someone will do something about it?"

"Pretty bad. I think if the weatherman keeled over as he was giving his forecast, then people might get upset. But we're so used to having him tell how dangerous the pollution is that nobody pays any attention to him any more."

"Why doesn't the President do something about it?" my wife asked. "He and Rosalynn and Amy are all breathing the same air we are."

"They never tell the President what the pollution count is in Washington because they're afraid he'd move back to Plains, Ga. The most they do is keep him out of the Rose Garden on a bad day."

"I don't understand," she said. "This is the capital of the nation. People here have the power to do anything they want to, including blowing up the world, and no one does a thing about us poisoning each other to death."

"That's not their job," I said. "All Washington is concerned with is death and taxes—and we seem to be getting both."

My wife sighed. "I wish Anita Bryant cared as much about clean air as she does about homosexuals. I'll bet you we'd get some action then."

[From the Washington Post, June 26, 1977]

ANOTHER SETBACK IN THE QUEST FOR CLEAN AIR

(By George F. Will)

It is a moment for unminced words. If the House of Representatives gets its way with amendments to the Clean Air Act of 1970, Congress will have chosen to increase the incidences of various respiratory ailments. And it will have committed a retrograde act against the nation's natural beauty.

Three times since 1970 Congress has delayed implementation of automobile emissions standards. Now the House has voted a fourth delay. Worse, it has voted to weaken standards for carbon monoxide and nitrogen oxide, and has created a mechanism for indefinite weakening of even the weakened nitrogen oxide standards in the future. The Senate has voted for less delay, and for no weakening of carbon monoxide standards. Furthermore, although the Senate has voted to weaken nitrogen oxide standards, it has not provided a mechanism for indefinite weakening.

To some extent, society chooses its disease rates. Societies, like individuals, constantly choose between health and competing goals and pleasures. The House has made an unacceptable choice against the health of Americans who breathe.

For example, the House would allow a five-fold increase in nitrogen oxide emissions over what would be required under existing law. About 40 percent of nitrogen oxide pollution comes from vehicles, and the percentage is substantially higher in urban areas. Such pollution may produce the carcinogenic (cancer-causing) chemicals called "nitrosamines."

The automobile industry says it does not know how to meet the present, unrevised standards. But the industry has a dismal record of asserting what can't be done, and an admirable record of doing what it is forced to do. The lash of necessity concentrates the mind.

Automobiles should be the focus of the fight for clear air because they are the most pervasive source of pollution. And it is easier to shape the decisions of four automobile companies than it is to deal with scores of thousands of fuel-burning industries. But advocates for the automobile industry say that unless pollution standards are relaxed, jobs will be lost because automobile prices will rise unreasonably, and production may be disrupted.

The House bill is an attempt to secure jobs at the expense of the health of millions, especially children and the aged. But more permissive automobile pollution standards will be an obstacle to industrial growth in many areas.

Where pollution already is the maximum permitted, only a decrease in automobile pollution can make possible increased industrial pollution. So the House bill sacrifices other industries, as well as the breathing public, to the automobile industry.

Some advocates for the automobile industry seem to have learned their science from the tobacco industry. They argue that there is little "scientific proof" of the connection between automobile pollution and particular diseases. Such arguments deny the undeniable: statistical patterns that demonstrate a correlation between high pollution and high disease rates.

The House bill is especially unacceptable, given President Carter's energy program. Carter's plan to substitute coal for oil means increased nitrogen oxide pollution from stationary sources. So a compensatory decline in automobile emissions is imperative.

Another provision of the House bill, if it survives the House-Senate conference, would justify a veto. If enjoyment of natural beauty is, as I believe, important to the serenity of one's soul, then the House bill jeopardizes the nation's spiritual as well as physical well-being. It undoes the policy that prevents "significant deterioration" of the air in several categories of clean-air regions.

The House did this to permit construction of a gigantic coal-fired generating plant in Utah to provide power for Los Angeles. The plant would be near Capitol Reef National Park, not far from Bryce Canyon and near enough to Arches and Canyonlands National Parks to cast haze over them on many days. And this House provision threatens all national parks and wilderness areas where air is supposed to be preserved in its natural pristine quality.

This provision might mean a dramatic decline in scenic values. Rep. Paul Rogers (D-Fla.) says it would be the pollution equivalent of putting a city of 500,000 next to a national park. Rep. Bob Eckhardt (D-Tex.) dryly suggests that "it will be difficult to tell which of our mountain ranges should be called the Great Smokies."

To govern is to choose, and to choose is to reveal values. If the House gets its way, we shall have glimpsed a dark future.

SOLAR ENERGY

Mr. HART. Mr. President, I wish to make certain that there is no possible misunderstanding regarding funds earmarked for the Solar Energy Research

Institute—SERI—as provided for in the fiscal year 1978 ERDA authorization bill, S. 1340. The source of possible misunderstanding is a floor statement of the senior Senator from Minnesota which accompanied his unprinted amendment to that bill. In that statement, Senator HUMPHREY described another amendment which he originally planned to offer but which the committee refused to accept. His statement, while very explicit in its purpose, unfortunately did not describe the modified amendment which the committee did accept. For my colleagues' benefit, let me review the chronology of events.

On Monday, June 13, Senator HUMPHREY offered an unprinted amendment to S. 1340. It provided that $10 million, which was already provided in the committee bill, would be specifically earmarked for SERI and the regional centers. This amendment differed significantly from an earlier draft which Senator HUMPHREY had proposed regarding SERI funding. That earlier draft not only earmarked funds but also prescribed that 90 percent of the funds authorized for SERI be equally divided among the four regional SERI facilities.

As ERDA and the National Academy of Sciences, NAS, have concluded, funding flexibility is essential for SERI and the regional centers to function most effectively.

During debate of S. 1340, the able floor manager, Mr. CHURCH, resisted Senator HUMPHREY's original amendment and instead accepted a modified Humphrey unprinted amendment which merely restated that the Energy and Natural Resources Committee had understood ERDA to be planning—namely, $10 million be provided by ERDA for the operation of SERI and its associated regional centers.

Senator HUMPHREY's floor statement which accompanied the modified amendment, however, unfortunately pertained to the original amendment which committee refused to accept. Thus, in that statement, my distinguished colleague spoke of 80 or 90 percent of SERI's funding being controlled by the regional centers.

Let me reiterate that this statement related to an amendment which was specifically rejected by the committee through its floor manager, and had no relevance to the amendment which was accepted by the committee.

When Senator CHURCH accepted Senator HUMPHREY's amendment, he stated that—

> . . . This amendment does not increase the level of funding . . . But since it does not increase the limit of funding, since it clarifies the purpose for which $10,000,000 already in the bill will be used [i.e., for the operation of SERI and its associated regional centers], I certainly have no objection to the amendment.

Mr. President, I applaud the Senator from Minnesota, who has long been a champion of solar energy, in his efforts to earmark money for SERI and its associated regional centers. I agree with the apparent objectives of Senator HUMPHREY's amendment: to insure that a significant portion of ERDA's resources are devoted to solar research conducted by SERI, and to insure that the regional SERI centers serve as active, contributing partners to SERI's efforts to develop this important alternative energy resource.

Anyone familiar with development of SERI knows that experts who looked at the structure for SERI specifically rejected development of regional research centers which would receive upward of 80 to 90 percent of the Institute's funding and in which a national SERI facility be relegated solely to administrative functions. The statement of the senior Senator from Minnesota, which was to accompany the original amendment, would stand in glaring contradiction to the goal of Congress in establishing SERI—to accelerate the realization of solar technologies as well as to insure their widespread commercialization. Senator HUMPHREY would have unwittingly reversed years of careful study and policy formulation to establish the most advantageous organizational framework for SERI.

Mr. President, I would like to cite a 1975 National Science Foundation, NSF, study entitled "Establishment of a Solar Energy Research Institute" (pp. 9–10):

> We conclude that (the requirements of SERI pursuant to P.L. 93-473) can best be met by a single Solar Energy Research Institute with a number of relatively small field stations under its direct management. Multiple centers either would have to be specialized in individual areas of interest in solar energy or they would be multi-project centers to some extent overlapping one another.
>
> We reject the first alternative of permanent specialized multiple research centers because we believe that the evolution of the solar energy field will require frequent redeployment of research resources. This can be most readily achieved if the resources are not divided into rather fixed packets so that a decision to phase down or abandon one line threatens the continued existence of a specialized research institute. Furthermore, although it is easy enough to establish a specialized center sufficiently large to sustain a single project team, the availability of specialized personnel, or readily deployable additional resources, and of stimulative job rotation is better the larger the institute.
>
> We reject the concept of fuly duplicative Solar Energy Research Centers, in part because of the inefficiencies involved in creating large enough staffs in each of the centers to sustain competence in each discipline and project but also because the analysis and integrative functions of SERI would have to be completely replicated if each of the institutions were to contribute responsibly in providing ERDA with the basis for policy formulation in the solar energy field. In foregoing competition between multiple research centers of SERI, we do not wish to suggest that competition is bad or necessarily wasteful. In fact, competition would be necessary if SERI is to continue to be active and effective. We believe that adequate competition and criticism will come on the one hand from partialy overlapping but not duplicative university, nonprofit and government laboratory projects and large and small development programs funded by ERDA headquarters.

To date, ERDA has adhered closely to the NAS guidelines in developing the regional SERI network. Clearly, this is the most rational and equitable approach to accelerating development of solar technologies while providing opportunities for establishment of a nationwide solar energy industry. I believe it would have been a grievous error for Congress to institutionalize a fixed regional funding provision for SERI which in no way reflects the research, development, demonstration, and commercialization requirements for various solar technologies. SERI must have sufficient flexibility in the allocation of its limited funds in order to maximize the tremendous potential of new solar technologies. Fortunately, the Energy and Natural Resources Committee agreed.

Mr. President, I hope that my comments today will clarify any potential confusion which might have arisen regarding Senator HUMPHREY's statement.

FIRST MICHIGAN COLONIAL FIFE AND DRUM CORPS

Mr. RIEGLE. Mr. President, in 1975, a group of 25 talented and dedicated young musicians came together to form the First Michigan Colonial Fife and Drum Corps. Since then, they have made more than 60 public appearances throughout southeastern Michigan and have received the special recognition of the Colonial Williamsburg Foundation, of the Brigade of the American Revolution, and of the Company of Military Historians.

The intent of the First Michigan Colonial Fife and Drum Corps was to recreate the music and the spirit of the American Revolution. Music is said to have power to soothe the savage beast. Music creates an emotional fervor that can enliven or deaden, that can elate or depress, that can inspire or disenchant. These outstanding young performers have chosen to give of a spirit they, themselves, have already found through the medium of music.

The mood and the music created by the First Michigan Colonial Fife and Drum Corps is a genuine reproduction of the sounds of 1776. To insure authenticity, these young adults, using the same materials, the same tools, and the same methods that our ancestors had, made their own uniforms and musical instruments.

I, as a Senator from Michigan, proudly commend these fine young adults who have chosen to produce rather than to destroy, to elate rather than to depress, to inspire rather than to disenchant. I also wish to thank the First Michigan Colonial Fife and Drum Corps, for through their continued efforts, we can still enjoy the spirit of the American Revolution and of Bicentennial America.

ICF STRIP MINE STUDY

Mr. METCALF. Mr. President, questions have been raised regarding a study of the economic impacts of the Federal Surface Mining Control and Reclamation Act of 1976 which was undertaken by ICF, Inc., on behalf of EPA and CEQ.

At the request of Senator HATCH, the Subcommittee on Public Lands and Resources held a hearing on May 11, 1977 to explore this question. Mr. C. Hoff Stauffer, Jr., president of ICF, Inc. was the chief witness. In response to ques-

tioning by Senator HATCH, Mr. Stauffer submitted supplemental material following the hearing, which I promised Senator HATCH would be incorporated into the RECORD. I ask unanimous consent that these statements regarding the ICF study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ICF INC.,
Washington, D.C., May 31, 1977.

Senator LEE METCALF,
Chairman, Subcommittee on Minerals, Materials and Fuels, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR METCALF: Thank you for the opportunity to appear before your Subcommittee on May 11, 1977. We have reviewed the Transcript of Proceedings from that hearing, making corrections and supplying additional information where requested. This material has been transmitted under separate cover.

During the hearing, you extended an offer to us to submit additional comments for the record. Enclosed with this letter is a Supplementary Exposition, in which we attempt to clarify points which may not have been fully understood during the hearing. We would appreciate your including this Supplementary Exposition as part of the official hearing record.

We feel that our report and our written and oral testimony show conclusively that our report was not "tampered with" or "doctored" in any way. The salient points, which we have demonstrated repeatedly, are the following:

The report was prepared in accordance with our contract, which specifically required draft reports and solicitation of review comments.

Any changes made during the review process were made by ICF. No changes were forced upon us by any government official.

Any textual changes were made to improve readability or to impart a more neutral tone. No textual changes were made to obscure or distort substantive findings.

Any numerical changes were made on a sound analytical basis, and in all cases are fully documented. These numerical changes did not alter any conclusions which were drawn from the estimates.

We are anxious to work with you, Senator Hatch, and your staffs in any way possible to dispose of finally any remaining doubts regarding substantive changes or processes followed in report preparation. We are concerned when such doubts exist, because we interpret this to reflect adversely upon our professional integrity.

We would like to keep an open channel of communication with you and your staff. Through a free and open exchange of questions and answers, we feel the truth can best be determined. As suggested during the hearing, we contacted the staffs after the hearing to express our willingness to continue this dialogue. We were distressed when Minority Counsel, Fred Kraft, rejected our offer and refused to allow this dialogue to continue. We are hopeful that his attitude will not inhibit any further dialogue that may be appropriate.

Again, we thank you for the opportunity to testify and for this opportunity to respond.

Sincerely yours,

C. HOFF STAUFFER, Jr.

Enclosure.

SUPPLEMENTARY EXPOSITION BY ICF INCORPORATED

During testimony by ICF Incorporated before the Subcommittee on Public Lands and Resources on May 11, 1977, Senator Metcalf suggested that ICF review the transcript of proceedings and supply further comments where desired. This supplementary exposition presents our comments regarding statements made and questions raised during that hearing.

We feel that our report and our written and oral testimony show conclusively that our report was not "tampered with" or "doctored" in any way. The salient points, which we have demonstrated repeatedly, are the following:

The report was prepared in accordance with contract, which specifically required draft reports and solicitation of review comments.

Any changes made during the review process were made by ICF. No changes were forced upon us by any government official or anyone else.

Any textual changes were made to improve readibility or to impart a more neutral tone. No textual changes were made to obscure or distort substantive findings.

Any numerical changes were made on a sound analytical basis, and in all cases are fully documented. These numerical changes did not alter any conclusions which were drawn from the estimates.

The remainder of our comments here are organized into two parts. The first part addresses points and issues raised during the hearing, and summarizes and supplements the testimony. The second part makes a response to statements made during the hearing which appeared to reflect a misunderstanding of our report or procedures followed in developing our report.

ISSUES RAISED DURING THE HEARING

In our review of the hearing transcript, we have identified four issues which were raised by Senator Hatch in his questioning. Each is summarized below.

INVOLVEMENT OF GOVERNMENT PERSONNEL

Senator Hatch posed numerous questions regarding the names and roles of the government personnel involved during the report review process. In particular, his concern appeared to be that during this review process, government personnel either "'doctored" our report or unduly influenced us to make changes.

We believe our testimony conclusively repudiates this contention. It is clear that the review process followed is a common and effective proccss used in government and academia. The report schedule and review process had been arranged well in advance, and was fully understood by all agencies participating in the review. It was ICF, and no one else, who decided how to respond to each and every review comment.

Senator Hatch expressed particular concern that Ms. Kathy Fletcher from the White House staff may have influenced our report. To reiterate, at no time during the study did we see Ms. Fletcher, meet her, talk with her, write to her, or receive material from her. It is our understanding that she did talk with our clients. However, our clients never attributed any of their comments to her.

Senator Hatch also suggested that our report was one-sided because the information came largely from the government. This is not the case. In addition to our clients, ICF received review comments from five other federal agencies and one other consulting firm. We solicited oral and written information from officials in virtually every coal mining state. Three mining engineering firms provided input to our analyses. Data was collected from at least 19 western mine operators and 27 eastern mine operations. Numerous other exchanges of information were made with knowledgeable individuals in government, industry, academia, and public interest groups. Far from being a one-sided report, we believe that our efforts represent the most comprehensive, thorough, and open analyses ever made of federal surface mining legislation.

ALLUVIAL VALLEY FLOORS

Senator Hatch posed several questions regarding the revision of the high end of the range of potential production impacts resulting from the alluvial valley floor provisions. We believe that our report documentation, as well as our written and oral testimony, effectively shows that this change (1) was based on sound analytical reasoning, (2) was fully documented, and (3) did not alter the conclusions drawn from these numbers. Accordingly, we see no need to belabor these points.

We would, however, like to respond to Senator Hatch's assertion that this change was a last-minute change, after six to nine months of work. The implication here is that the "bottom line" had been known by our clients for months. This is not so. The first full draft report containing the alluvial valley floor findings was the January 24th draft. The January 10, 1977 draft to our clients did not include Chapter V ("Production and Reserve Base Impacts of Non-Cost Factors"), in which the alluvial valley floor findings are presented. This omission of Chapter V from the January 10 draft was necessary in order to transmit Chapters I–IV, which at that time were the primary focus of our efforts and our clients' concern, in a time that would permit review of that part of the report. Thus, although our data and methodology had been known and reviewed for some time, the "bottom line" shown in Chapter V was not available for review comments until January 24th. Thus, the comments received on this point were made shortly after it was available for review.

We are also concerned that Senator Hatch's remarks that the alluvial valley floor findings "pertain to the most critical part of our report" carry an adverse connotation—namely, that although no other numbers were refined, these "most critical" numbers were. We can understand that Senator Hatch believes these numbers are currently "the most critical." However, when our study began, a host of other numbers were viewed as equally critical. These included incremental production costs, production and employment losses due to cost increases, electricity rate increases, and impacts of steep slope provisions. We suggest that the alluvial valley floor findings may currently be viewed as "the most critical" only because these other issues (a) were addressed adequately in our report, and (b) were shown to have less uncertainty regarding their impacts than did the alluvial valley floor provisions. For better or worse, during the course of our study, we and (we believe) our clients viewed the alluvial valley floor issues as subsidiary to the cost, production, and employment impacts associated with the reclamation requirements. This is not to say that we disagree that the alluvial valley floor issues are currently critical. Rather, we wish to put these issues in the perspective of the other issues that were also viewed as being "critical" prior to the distribution of our report.

FIRST SUMMARY PARAGRAPH

A substantial part of the hearing was devoted to detailing the reasoning behind a rewording of our first summary paragraph. An implication was made that the rewording was an effort to "weaken" or omit relevant findings. Our testimony described in detail that this change was made in order to (1) balance the opening of the summary and not create a lack of parallelism by mixing general with specific points, and (2) avoid giving the impression that those were the only specific impacts, when really there are more.

In order to better prove our point, it is useful to reprint the relevant text from both drafts. In the January 24th interagency review draft, the first paragraph under the "Summary of Major Conclusions" reads:

"The findings of this analysis indicate that

the cost-related impacts due to H.R. 13950 are generally not great. These cost impacts are not likely to significantly affect national coal production, coal consumption, coal prices, employment, or electricity prices. However, there are numerous provisions in H.R. 13950 not directly related to costs which could create major difficulties. Such impacts include (1) substantial production impacts that could result from possible interpretations of the alluvial valley provisions, (2) delays in permitting due to inability to comply within established timetables and/or insufficient administrative funding, (3) extensive litigation resulting from ambiguous and undefined terms, (4) unintended effects due to mismatches between the apparent intent and the actual wording, and (5) losses to the coal reserve base."

In the February 1 Draft Final Report, this paragraph is reworded and presented as the following two paragraphs:

"The findings of this analysis indicate that the cost-related impacts due to H.R. 13950 are generally not great. These cost impacts are not likely to significantly affect national coal production, coal consumption, coal prices, employment, or electricity prices.

"However, several provisions in H.R. 13950 are subject to varying interpretations. In the event that these terms are given very stringent interpretations, the impacts could be substantially higher."

As a background note, the Executive Summary is organized into three sections. The second section summarizes the cost-related impacts, and the third summaries the impacts not related to costs. The first section is in essence a summary of these other two summary sections. The initial paragraphs shown above are the initial paragraphs of this "summary of summaries," and attempt to state in a few sentences the essence of this 500+ page report.

The first reason for rewording these paragraphs as shown was to achieve a more balanced introduction to our findings. Specifically, it was noted that while the first part (relating to cost impacts) was expressed in general terms, the second part (relating to non-cost impacts) expressed specific points. Reviewers noted that the approach lacked balance and parallelism, and the specific points were too detailed to present at the very outset.

In response to what we considered valid criticism, we reworded this to read as two general conclusions. In making this change, our intent was to be clear and to impart a neutral tone. Since all of the specific points cited in the January 24th draft are still cited in the Summary and in the body of the report, we certainly do not consider our conclusions to be weakened or watered down in any way.

The second reason for rewording these paragraphs was to avoid misleading the readers into thinking that these five specific points were in fact the only potentially adverse impacts, when actually there were several more. This concern for possibly being misleading seems to have been borne out during the hearing when Senator Hatch, after citing material prepared by his staff, raised the following question:

Senator HATCH. You are saying that these are additional impacts to the ones that were listed on January 24? . . . In January 24th it was pretty well laid out in cryptic language exactly what the impacts were. You are saying that there are more than those five that we mentioned—that you mentioned in January 24, '77?

Mr. KLEIN. That is one of the reasons we rephrased it. That is one of the reasons that the summary paragraph on the January 24th draft was modified, because the impression was given that there were only four or five possibly adverse impacts or unintended impacts of H.R. 13950.

By rewording this paragraph in more general terms, our intent was to express to the reader that there were potentially adverse impacts, but not that there were only five. In fact, over one-half of the Executive Summary discusses the impacts of these provisions not related to cost (pages 3, 9–19). In addition, some reviewers disagreed that the specific points we had chosen to cite in that initial paragraph were really the most important points we had developed. By not imposing our own ranking criteria at the very beginning, we hoped to avoid unnecessary influencing of the reader.

The charge that this rewording in effect deleted substantive findings cannot be substantiated. As noted before, this paragraph was only an introduction to a "summary of summaries." Any points mentioned there are still raised in the remainder of the "summary of summaries," in the section of the Executive Summary dealing with non-cost impacts, in the summaries chapter and in the main body of the report. To illustrate, the five specific points mentioned in the January 24th draft are referenced elsewhere in the Summary of the February 1 Draft Final Report (as well as being discussed in full in the main body of the report) as follows:

PHRASE IN JANUARY 24, 1977 DRAFT	PAGE NUMBERS IN FEBRUARY 1, 1977 SUMMARY	EXAMPLE IN FEBRUARY 1, 1977 SUMMARY
"substantial production impacts that could result from interpretations of the alluvial valley floor provisions"	3, 12–14, 19	". . . while a moderate scenario of the alluvial valley floor provisions could affect four mines with an additional production in 1978 of 12 million tons, a high impact interpretation could impact up to 25 million tons of western production by 1978 and 104 million tons by 1985." (pg. 3)
"delays in permitting due to inability to comply with established timetables and/or insufficient administrative funding"	18, 19	"In order for existing mines to meet the deadlines established for obtaining permits, it would be necessary for operators to begin collecting data to meet requirements before such requirements have even been proposed." (pg. 19)
"extensive litigation resulting from ambiguous and undefined terms"	3, 19	"In addition there are several other non-cost provisions in H.R. 13950 in which the wording of the provisions could result in additional restrictions, administrative inflexibility, and/or delays." (pg. 3)
"unintended effects due to mismatches between the apparent intent and the actual wording"	3, 14, 19	". . . several aspects of the bill appear to merit further consideration. The characteristic common to all of the issues raised here is that the impacts of the bill could be exacerbated due to varying interpretations, which in some cases differ from the apparent intent (as reflected in the statutory language and Committee Report)." (pg. 19)
"losses to the coal reserve base"	3, 13, 15, 16, 17	"The reserve impacts of H.R. 13950 could range between 8.1 and 24.0 billion tons, or between 1.9 and 5.5 percent of total reserves. These impacts are equivalent to between 5.9 and 17.6 percent of strippable reserves." (pg. 3).

SENTENCE LEFT OUT

During the hearing, Senator Hatch stated that we had left out an important sentence in our February 1 draft:

Senator HATCH: Now, let me just make this point. Then you leave this out: "In most cases the intent of the"—and this is in your January 24th one—"in most cases the intent of the provision would have little cost or production impact. However, the actual wording could result in unecessary restrictions, administrative inflexibility and/or additional litigation." Basically, this is all left out of your February 1st report.

In order that there be no confusion on this point, the first part of that paragraph in the January 24th report reads (on page 3):

"In addition there are several other non-cost provisions in H.R. 13950 in which the wording of the provisions could have effects quite different from the apparent Congressional intent. In most cases, the intent of the provision would have little cost or production impact. However, the actual wording could result in unnecessary restrictions, administrative inflexibility, and/or additional litigation."

In the February 1 Draft Final Report, this text is reworded (on page 3) as:

"In addition there are several other non-cost provisions in H.R. 13950 in which the wording of the provisions could result in additional restrictions, administrative inflexibility, and/or delays. In most cases, the intent of the provision would have little cost or production impact."

In our view, there is very little difference between the two, and the assertion that the

content was "left out" of the February 1st draft is unsupportable. The reason the third sentence was "left out" was that it was combined with the first sentence. The third sentence in the January 24th draft was " . . . the actual wording could result in unnecessary restrictions, administrative inflexibility, and/or additional litigation." The first sentence of the February 1 draft contains " . . . the wording of the provisions could result in additional restrictions, administrative inflexibility, and/or delays." We believe the two sentences of the February 1 draft say the same thing as the three sentences of the January 24th draft.

The reason we revised this paragraph was to avoid reference to the "apparent Congressional intent." Reviewers noted that it was presumptuous of ICF to proclaim what the Congressional intent actually was. Further, it was pointed out that since H.R. 13950 did not pass in either house of Congress, the bill itself was not a reflection of Congressional intent. Accordingly, we sought a rewording which would convey the point that the literal wording could have unintended effects, while avoiding the phrase "Congressional intent." Elsewhere in the Summary and in Chapter V, we made frequent use of the phrase "apparent intent (as reflected in the statutory language and Committee Report)."

RESPONSE TO STATEMENTS MADE IN THE HEARING

The above sections clearly show that the specific points raised during the hearings are in fact easily explainable, fully documented, and analytically sound. We can see no way in which they can seriously be construed as evidence of "tampering" or "doctoring."

In this section, we would like to make note of other statements made during the hearing which appear to reflect a misunderstanding of either our report or our testimony.

President Ford's veto message

During the hearing, an impression was given that we were not familiar with the analysis used to justify President Ford's veto of H.R. 25. This is not so.

The misimpression was created by a statement that we had not read the veto message. By this, we were making reference to the actual statement President Ford made when he vetoed H.R. 25. We had not read this particular statement because we knew it was basically a summation of the staff analysis.

We are extensively familiar with the staff analysis of H.R. 25. ICF has spent over 100 man-hours in analyzing and critiquing this analysis. All of the issues covered in that analysis are considered in our report. Hence, our not having read the veto message (which did not contain any information not found in the staff analysis) does not in any way imply a lack of familiarity with the analysis of H.R. 25.

Numerical changes

In two instances during the hearing, Senator Hatch suggested that the February 1 Draft Final Report differed from the January 24 interagency review draft in several aspects. The differences he cites are incorrect in that the findings are the same in both drafts.

In one instance, Senator Hatch said that the January 24 draft agrees with the H.R. 25 analysis "in more stringent terms" than the February 1 draft with respect to production, cost of energy, unemployment, and litigation. As shown below, there are no changes in any of these parameters between drafts:

	January 24 draft	*February 1 draft*
Production:		
1978 net production curtailments	7–22 million tons (page 8)	
Cost of energy:		
Coal price increases:		
Appalachia	$1.00/ton (page 8)	$1.00/ton (page 8)
Central West	1.00/ton (page 8)	1.00/ton (page 8)
Elsewhere	0.50/ton (page 8)	0.50/ton (page 8)
Electricity price increases	<1% (page 9)	<1% (page 9)
Unemployment (net direct employment impacts):		
1978	max. 1,400 (page 3)	max. 1,400 (page 3)
1979 and after	0 (page 3)	0 (page 3)
Litigation	Cited throughout but not quantified	Cited throughout but not quantified

In another instance, Senator Hatch implied that our estimates of employment impacts had changed:

Senator HATCH. (President Ford) said (H.R. 25) would cost 46,000 jobs . . .

Mr. STAUFFER. I know that we had very different findings.

Senator HATCH. But the fact of the matter is your findings weren't so different in the January 24th.

There was no change made to this paragraph between drafts. In both drafts, the exact wording on page 3 reads as follows:

"The net direct employment impacts (i.e., lost jobs due to production curtailments minus new jobs due to increased reclamation) in 1978 could be a loss of about 1,400 jobs in surface mining in Appalachia, if the net production curtailments were 22 million tons. If the curtailments were lower, the net direct employment impacts would be lower. However, additional jobs could be created in both government and industry to implement the legislation and conduct the studies required for permit applications."

It is important to note that between our January 24 and February 1 draft, there were no changes in the numerical estimates of any of the cost and related economic impacts. As noted before, this covered four of the five chapters in the report. As regards the non-cost impacts in Chapter V, numerical changes were made only in portions of two sets of numbers. In both cases, the underlying data and assumptions are fully documented, and the numerical change did not change the conclusions which were drawn from those estimates.

SPECIFICATION OF SCENARIOS

In reference to our summary of impacts from alluvial valley floor provisions, Senator Hatch suggested that ICF should have used scenarios to depict a range of impacts rather than a single interpretation:

Senator HATCH. In order to accurately reflect the data developed, in order to avoid bias and present an objective analysis, I would think that it would have made sense to include a moderate scenario, a high impact scenario and a low and worst case scenario instead of just leaving a worst case scenario. I think that we deserve to know.

Mr. STAUFFER. We do. We have three scenarios there.

Senator HATCH. No.

We note that our analysis develops (and reports in the summary) production and reserve base impacts under low, moderate, and high scenarios. As our report notes:

"Production and reserve base impacts were estimated for three scenarios—low, moderate, and high impacts. These different scenarios were developed to reflect future regulatory uncertainty, judicial interpretations, and data uncertainty. The moderate impact scenarios were developed to reflect (1) what we believe would happen if the bill was interpreted consistent with the apparent intent (as reflected in the statutory language or Committee Report), and (2) our best judgments based on existing data. Low impact scenarios reflect data uncertainty and regulatory flexibility to meet the standards of the Act. High impact scenarios are based upon very stringent interpretations and data assumptions which tend to exacerbate the impacts."

Further, the estimates of alluvial valley floor impacts made under the low and moderate scenarios did not change at all between drafts.

SOCIAL SECURITY

Mr. McCLURE. Mr. President, a recent editorial in the Sandpoint Daily Bee, published in Sandpoint, Idaho, presents an all too accurate picture of the dilemma we face regarding the social security system Not only is it correct in pointing out some of the major reasons for the system's insolvency, but it also rightly charges Congress with failing to take action to address it for fear of the political repercussions a serious assault on the problem might generate. We all know attempts at merely patching up the system to keep it limping along for a few more years will not solve anything in the long run, and it is the long run we must look to in terms of correcting the situation. Basic, difficult decisions are called for and it seems to me the American people deserve to be told the truth in this regard. This editorial clearly points out the people we represent are capable of understanding that these hard decisions are necessary, and that consideration of ways to head off a disaster in the social security system does not amount to an attack on those people currently relying on social security to meet their living expenses. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY

Sen. Frank Church, while in Sandpoint last week, told Bonner County Senior Citizens there is no substance to the rumor that Congress is contemplating imposing an income tax on Social Security income.

The rumor is apparently circulating Northern Idaho and has shaken those Senior Citizens who depend almost solely on Social Security to meet monthly living expenses. If Church's assurances have made these individuals breathe somewhat easier, the feeling may be short-lived.

When the Franklin D. Roosevelt administration sold the American people on the concept of a "government insurance", the people bought the program under the assumption that a deduction from their paychecks would be set aside to be drawn from during their retirement years, with interest.

The truth is the Social Security system is bankrupt.

Social Security pays out from what it takes in, and still must rely on other sources to pay recipients.

Church is no doubt correct when he says Congress is not considering a tax on Social Security benefits, but if we blindly assume that everything is right with the Social Security system because such drastic measure need not be imposed, then we are all in for an unpleasant payday.

Thirty years ago taxpayers outnumbered retirees 22 to . Now, the ratio is three to one. Most workers are paying more in Social Security taxes than in federal income tax, and if the Social Security program is going to continue to exist workers or employers or both will have to pay more taxes.

To those who paid patiently into the Social Security system all those years and are now eligible for the benefits, the whole mess must seem like deception in the highest order.

Whether the F.D.R. Administration was aware of the inherent problems of such a system when it was instituted 30 years ago, and intentionally overlooked the problems we cannot say.

But, the problem has been spotlighted several times in the last decade, yet Congress has made no serious attempt to deal with it. In fact, Congressional action in 1972 compounded the crisis. By voting an automatic cost-of-living increase to Social Security recipients, Congress has made it possible, at present escalation rates, for recipients to actually receive more money in benefits than they formerly earned in wages.

The trouble with blasting the Social Security system is that such criticism is viewed as a direct assault on those who faithfully paid in during their working years, and who have earned the benefits. No, our criticism lies not with the recipients, but with a government which has allowed a tiny lie to grow into one of such complexity that there now seems no solution to the problem. If someone were to ask F.D.R. today whether the government belongs in the insurance business we wonder what he would say? K.F.

LIFE IN DERRY, NORTHERN IRELAND, 1977

Mr. KENNEDY. Mr. President, today's Boston Globe contains an excellent and extremely sensitive article by David Nyhan on the effects of the violence in Northern Ireland on the people of the city of Derry.

As Mr. Nyhan points out, the 8 years of killing and volence have taken their toll on the city of Derry and its people More than 100 citizens have been murdered since the violence began. As Mr. Nyhan states, the people of the city are its prisoners—all 80,000 of them, Protestant and Catholics, soldiers and civilians—all caught up in the senseless violence and destruction, the sectarian passions, and the daily security precautions that have turned the city into an armed camp.

Mr. President, all of us hope that a way can soon be found to stop the violence in Northern Ireland and end the nightmare that has become the routine of daily life for the people of Derry and other cities for so long. Mr. Nyhan's article is itself a powerful plea for peace, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, June 27, 1977]

DERRY PEOPLE ARE PRISONERS IN THE CITY THEY LOVE

(By David Nyhan)

LONDONDERRY, NORTHERN IRELAND.—You take your life in your hands, living in this bloodied medieval city.

The bombs and guns of the sectarian terrorists—Provisional Irish Republican Army on the Catholic side and Protestant paramilitaries on the other—constitute a threat of aimless death or maiming to rival the plague.

In the name of God, patriotism and fallen comrades, the killing by both sides goes on, despite the demonstrated preference of the vast majority at the polls for political accommodation.

Officially it is named Londonderry. But the Catholics, who outnumber the Protestants about 2–1 in this city of 80,000 (the reverse of the 2–1 Protestant majority in Northern Ireland as a whole), call it by the old name of Derry, rejecting the Anglicization of the name.

The River Foyle flows north from Strabane to the harbor, Lough Foyle. Londonderry straddles the river, spanned by only one bridge. Sub-marine nets keep floating bombs away from the underpinnings of the bridge.

It has plenty of churches: eight Catholic, five Church of Ireland, four Presbyterian. It also has had more than 100 citizens murdered in the last seven years.

The people wait for a political settlement that cannot come until the leaders can escape the bonds imposed by terrorist elements. Outrages fan emotions on both sides.

Every family has been scarred by tragedy. The mother listened to her daughter tell of the disappearance of a 15-year-old boy she used to dance with at the disco. The boy had been "lifted" by the security forces for questioning.

"It's only when your own family knows someone in trouble that it comes home to you," the mother said quietly. "If you don't know your children well, and keep tabs on them all the time, you never stop worrying."

People who live this way are crammed onto the hillsides and flatland of a city with breathtaking potential. Belfast is a grimy industrial port city; Derry could be like Marblehead were it not for the tiny old rowhouses strung like beads on a dirty necklace on the narrow, twisting streets.

The countryside is lush, fertile and inspiring. Before the troubles resumed in the late 1960s, a million tourists a year came to Northern Ireland. In their absence, the poverty that has dogged Ireland for centuries has reasserted itself. Now unemployment rages as high as 30 percent among Catholics. The dole is a way of life, an unclimbable wall for thousands.

It is disconcerning for a stranger to see how easily the people have adapted to this kind of life. It is "A Clockwork Orange" come to life, accommodation to death, destruction, violence.

Women coming into the walled city from the Catholic or Protestant ghettoes to shop have to pass through military checkpoints. Their purses and baby carriages are searched. The women themselves must submit to frisking, present their identification, answer questions as to their destination and intent. It is literally like living in a big outdoor prison.

Cars are banned from the central shopping district. Too many with bombs hidden underneath have exploded. Extensive security precautions multiply the petty complications of life. Don't forget your identification. Find a safe place to park the car. Carry everything you buy by hand. Make sure the children are close at hand on every excursion. Warn fractious children not to mouth off at the soldiers.

The army has a thankless job. It was first brought in to protect the Catholic minority from the depredations of the Protestant gangs that the civilian police were unable to contain. The army's image in the eyes of Catholic ghetto residents turned ugly after the shooting of 13 rioters on Bloody Sunday in 1972.

A middle-class woman who abhors the violence that has marked the municipal life of recent years tried to explain how it feels to confront the soldiers every day.

"No matter how polite they are to you—and they usually are—they have those awful guns. They look you up and down as you approach, they pick through your pocketbook, and when they frisk you—when their hands touch me I shiver all over."

The soldiers know two things. They know that 400 of their number have been killed doing this kind of work since the Troubles began again. And they know that women, even children, have been used as couriers for bombs, guns, ammunition. They suspect everything.

They get shot at, stoned, reviled, almost daily.

From their armored enclosure on an isolated hilltop overlooking the Bogside, they sally forth to patrol the sullen ghetto.

In armored Saracens and heavy-duty personnel carriers, the combat-fatigued troops go patrolling.

They rumble past walls smeared with slogans: "Brits Out" . . . "Release All Political Hostages" . . . "Provos Rule."

It is commonplace to see troops race up in a small convoy of vehicles unship their automatic rifles, and fan out through a neighborhood, always wary of ambush.

Atop a hill over the Bogside called Creggan Estates, the army's Creggan Camp stands out like an ugly caricature of a cavalry fort in the Wild West. The Catholics call it Piggery Ridge, a derisive reference to the fact the army set up camp in an old pig farm.

Here it looks as if the soldiers are the prisoners. A lone road pierces the hilltop meadow. First there is a tall barbed-wire fence. Near the camp gate lies an overturned, burned car. When the shift changes, the Saracens roar up the hill from the Bogside, helmeted drivers peering out of narrow slits to negotiate the sharp turn into the courtyard.

The troops pile out with youthful shouts and catcalls, the tensions of patrol at an end. The guns are emptied under the eyes of superiors; ammunition is supposed to be carefully logged.

An American reporter who seeks permission to photograph the outside of the camp is greeted frostily by a sentry and politely by the officer in charge.

"It looks like Ft. Laramie from down there," the officer said with a smile, "but it isn't."

What it looks like is a terribly depressing place for a young soldier from England to spend time in. Steel shields protect the roofs of the barracks against lobbed bombs and mortar rounds. The off-duty soldiers are virtual prisoners in the area they are supposed to dominate.

It would be very dangerous for them to consort with the young women or seek a drink or a dance in Londonderry.

A young Protestant soldier from Londonderry, not even assigned to the peace-keeping force but home on leave from duty abroad in the army, was drinking with boyhood friends in a Bogside pub one night recently. He was singled out, taken outside at gunpoint and murdered. Authorities blamed the Provisional IRA. The youth's family is mixed; he was related to both Catholics and Protestants. That didn't save him.

At night the soldiers get edgy if an approaching car does not dim its lights as it coasts up to the checkpoint.

"One of the tricks to getting through the roadblock easily is to turn off your lights so you're not illuminating them," says a man who has to cross the bridge as many as 10 times a day in the course of his work.

More than 100 people have been murdered here in the last seven years.

Since Bloody Sunday, five years ago, Londonderry is a city under siege. At the core is the old walled city, grimy blocks of stone enclosing the tightly packed downtown. At the center of that is the Diamond, a graceful plaza dominated by a 40-foot monument.

The streets leading out of the central shopping district contain ugly gaps, vacant lots or bombed-out shells where the terrorists' gelignite or the arsonists' torch struck another blow in the bloody war that has flared periodically in Ireland for hundreds of years.

Walking through the downtown area, a Catholic leader, John Hume, pointed out vacant lots or bombed out buildings.

"Almost every one a Provisional IRA bomb. They claim they are trying to drive the Brit-

ish out by raising the cost of doing business. But most of these shops were owned by Catholics."

Hume, one of the leading Catholic politicians in Northern Ireland, grew up in and still lives in the Bogside.

The deputy leader of the principal Catholic political party, the Social Democratic and Labor Party (SDLP), said of his city:

"Derry is a microcosm of the whole Irish problem. In the siege of Derry in 1688, the Protestants held off King James. This is the Unionists' Mecca. For the Catholics, Derry became a symbol of the worst inequities of the Unionist State. People here are victims of two sets of circumstances, from the IRA in our midst, and from the British."

Hume apparently has unshakable faith in the eventual political resolution of the conflict, though he believes it will take years.

"The vast majority of the people vote for moderation. They see through the slogans, see how they were being manipulated by incidents designed to arouse their emotions."

Hume's faith may be grounded on the feeling of Derry residents for their city.

"Derry people," says Belfast journalist Patrick Scott, "love their city. They are like the salmon; they come back to spawn and die."

It seems odds to talk of civic pride in a city of bomb scars, an occupying Army, more security checkpoints than perhaps any other place of its size anywhere.

They are all prisoners in a way, Catholic, Protestant, soldier. It is an outdoor prison for 80,000 inmates, with walls of sectarian hatred.

On a rainy Sunday morning in June, John Hume passed by the 15-foot granite monument to the 13 demonstrators killed on Bloody Sunday.

"The trouble with the British is that they never remember," he said. "The trouble with the Irish is that they never forget."

TRIBUTE TO GEORGE B. DELAPLAINE

Mr. MATHIAS. Mr. President, last week the people of Frederick, Md., indeed all Marylanders, suffered a very great loss: George B. Delaplaine, Sr., died at the age of 88.

"Mr. George," as he was affectionately known by his whole community, was president of the Great Southern Printing and Manufacturing Co. which publishes the Frederick News and the Frederick Post. But to identify "Mr. George" in terms of his vocation conveys only the frailest suggestion of the real dimension of this remarkable man. It is certainly true that he was a versatile businessman and a member of a notable publishing family, but first and foremost George Delaplaine was a consummate human being.

When I was growing up in Frederick and indeed until the day of his death, "Mr. George" set an example of courtesy, kindness, and Christian commitment that were an inspiration to the entire community.

For many years, "Mr. George" was superintendent of the Sunday school at All Saint's Church in Frederick. His funeral was held there on Friday and 2 days later I was privileged to address that congregation of which he had been such a very special member. Although "Mr. George's" absence already was profoundly felt, I also sensed that the Christian challenge which his modest, gentle way of living had represented will remain fresh in the hearts of the people of Frederick for a long time to come.

An affectionate editorial published in the Frederick News the day after his death captured much of "Mr. George's" special charm and explains his claim on the affections of his townsfolk. I ask unanimous consent that that editorial entitled "George Delaplaine, Sr." be printed in the RECORD so that my colleagues may savor and appreciate the spirit of "Mr. George," who rode his bicycle joyfully up to the last day of his life. I also ask unanimous consent to have printed in the RECORD an account of George Delaplaine's life printed in the Baltimore Sun on June 23.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Frederick News Post, June 23, 1977]

GEORGE DELAPLAINE, SR.

At 88, with little intention of slowing down, George B. Delaplaine Sr. was an inspiration to everyone who knew him. He kept active in body, mind and spirit, and his remarkable awareness of what was going on was matched only by his wit and wisdom and sincere compassion for other people.

"Mister George," as he was known by his fellow employes, was president of the Great Southern Printing and Manufacturing Co., which publishes The News and the Frederick Post.

Mr. Delaplaine died suddenly Wednesday morning at Frederick Memorial Hospital, where he had been admitted Tuesday evening after complaining of chest pains. He had been in excellent health, had worked at the newspaper during the day, and later in the afternoon had completed his daily bicycle ride.

Everyone who knew him has been stunned and saddened by his death. He was a man beloved and respected.

Mr. Delaplaine leaves his wife of 56 years, Mrs. Ruth Carty Delaplaine; two children, Mrs. Myron W. (Frances Ann) Randall of Braddock Heights, and George B. Delaplaine Jr., of Central; eight grandchildren; and one brother, Judge Edward S. Delaplaine of Frederick.

Two brothers are deceased, William T. Delaplaine and Robert E. Delaplaine, both of whom played prominent leadership roles with the News-Post and in the community.

Funeral services will be held at 2 p.m. Friday from All Saints Episcopal Church which he had served in many capacities during his life of devoted membership.

(Friends may call at Smith, Fadeley, Keeney & Basford Funeral Home, 106 E. Church St., this evening from 7 to 9. The family requests that in lieu of flowers, contributions may be sent to the Memorial Fund of All Saints Church).

Mr. Delaplaine, a lineal descendant of John Thomas Schley, who built the first house in Frederick, was a native of Frederick, the son of the founder of The News, the late William Theodore Delaplaine, and Fannie Birely Delaplaine.

Young in spirit and ideas, few people lived to see the changes brought about in the past century and adapted to them as did Mr. Delaplaine.

He was born in the horse and buggy days. The automobile had not been invented. He saw the rise of the automobile, the coming of the telephone, electric light, phonograph, airplane, refrigeration and air conditioning, movies, color photography, rockets to the moon, radar, sonar, the computer sciences, advances in education in both numbers of people educated, and in better facilities and to higher grade levels.

Mr. Delaplaine adapted to change. When the rise of the automobile caused the demise of the horse as a draft animal, the outlet for leather products shrank to where his first business endeavor, a small tanning business, no longer had a market. He readily adapted to change in the newer environment of the newspaper.

When changes came in the newspaper industry, he recognized the advantages of the new and approved the moving to a new plant with an offset newspaper press cold type composition. In fact, when the News-Post converted to the new offset process, it was one of the 32 largest in terms of circulation to convert. And he approved the entry into the cable television field, with the ownership and development of Frederick Cablevision.

He was an "East Patrick Street kid," and very few days in his 88 years was he not seen on East Patrick Street. As a child, at one time he and his family lived in the second block of East Patrick Street. His first business was with the family run tannery at the location of W and W Poultry, adjacent to the News-Post building. When he became associated full-time with the newspaper, which was then located on North Court Street, he stopped at the Post Office daily for the company mail.

He remembers the building of the Post Office, and its selection as midway between the two railroad terminals—the B&O and the Pennsylvania, which is no longer existing at Patrick and East Streets. He remarked that during the October 9, 1976, flood, which occurred on his 88th birthday, he had never seen Carroll Creek flood so much as it did that day.

He prided himself on the education which he had received at the old Boys High School under the tutelage of the late Professor Amon Burgee. He was living proof that it is the teacher, not the facilities, which makes an education, and often quoted Shakespeare which he learned while in high school.

The brief outline of Mr. Delaplaine's life (in the news account of his death) reflects a rare contribution of business acumen and ability to articulate management problems in plain and simple terms—always with a dash of humor and a generous helping of human kindness, understanding and encouragement. And he worked at this until the end—seven days a week, including holidays.

As his father and brothers before him, he earned a lasting place in Maryland's daily newspaper industry, and was one of the oldest, active practitioners in the Maryland-Delaware-District of Columbia Press Association territory.

His example serves to encourage all of us who strive in this busy life toward our own goals never to forget from whence we come, and that the most sincere kindness is that which we do for others, no matter how small or insignificant it may seem—a card, a letter, a memento, a quiet thank-you, or a word of praise . . . even a cheery hello.

We at the News-Post, and everyone who knew him, will miss that warm hello—mixed in with a comment on the weather or some current event. But we cannot say goodbye to "Mister George," because we shall always be reminded that he—a rare man indeed—lives on through his contributions to our newspapers, our community and ourselves.

[From the Baltimore Sun, June 23, 1977]

DELAPLAINE, NEWSPAPER OFFICIAL, DIES

FREDERICK.—George B. Delaplaine, Sr., president of the Great Southern Printing and Manufacturing Company, which publishes the Frederick *News* and the Frederick *Post*, died yesterday of a heart attack. He was 88.

Mr. Delaplaine, son of the late William Theodore Delaplaine, who founded the *News* in 1883, had been a director of the newspaper since 1913.

A life-long resident of Frederick, he began his business career with his uncles in the George K. Birely & Sons Tannery here, but joined the newspaper full-time in 1944 when activities at the tanning business were being phased out.

Following the death of a brother, William T. Delaplaine, he was elected president of the newspaper company in 1964.

A life-long member of the All Saints Episcopal Church, Mr. Delaplaine had served as the superintendent of the Sunday School for 30 years and also served as vestryman.

He was a veteran of World War I and served in the Engineers Corps in the Washington area.

An avid bicyclist, he was an ardent outdoorsman in his youth and was active in the early days of the YMCA.

He is survived by his wife, Ruth; a daughter, Mrs. Myron Randall; a son, George B. Delaplaine, Jr., the publisher and general manager of the company, a brother, retired Maryland Court of Appeals Judge Edward S. Delaplaine, and eight grandchildren.

Funeral services will be held at 2 P.M. tomorrow at the All Saints Episcopal Church.

THE NATURAL GAS CHALLENGE

Mr. McCLURE. Mr. President, the critical issue of natural gas availability and Federal price controls has been the subject of extensive hearings before the Senate Committee on Energy and Natural Resources, Gov. Dolph Briscoe of Texas presented the committee with a pointed summary of the problem facing the Congress and the Nation, when he stated:

Let me emphasize a central fact not widely recognized. The energy development requirements, given in the President's National Energy Plan, are unprecedented, compared to any nine-year period of our history. More than half of the 1985 domestic production must come from newly found and newly developed sources. To achieve his requirements in oil and gas in the face of recent and present declines, reserves must be found to provide 11 million barrels of oil equivalent a day of new production. Simply put, that will require the discovery of about 60 billion barrels of oil or oil equivalent over the next nine years, more than we have ever found in any nine years of our history.

The Governor's remarks present us with a challenge—a challenge which cannot be met by further delays and political sidestepping of the natural gas issue. Again, Governor Briscoe accurately assesses our situation and our immediate need for action, by concluding that—

We have wasted more than three and a half years since OPEC quadrupled the oil price. Time is getting very short because the lead times involved in both conserving energy and expanding energy production are quite long. We are already in a precarious economic and strategic situation because of rising oil imports. If we do not radically modify President Carter's energy plan along the lines I have indicated, our import requirements in the 1980's could break the back of the world economy and endanger the peace. There is no need for that. The fate of the United States and the other OECD nations must not be permitted to depend on whether or not Saudi Arabia is prepared to expand its oil production capacity. We are blessed with large energy reserves. Now is the time to bring them into production. We shall not win this moral equivalent of war with one hand tied behind our back. I came here today to urge you to untie the hand of production.

In addition, the committee heard testimony from Dr. W. Philip Gramm of Texas A. & M. University, concerning deregulation of natural gas. As Dr. Gramm states:

The notion that deregulation is a producer versus consumer issue is a falsehood. Deregulation of interstate sales of new gas is in the interest of the Nation, the consumer, and the producer.

Dr. Gramm went on to describe in detail the history of Federal price controls on natural gas, together with an accurate analysis of the serious consequences that have befallen us. As he stated—

Federal Power Commission regulation of natural gas prices was a tragic mistake for which every American has paid in terms of increased energy costs, foreign dependence, fuel shortages, and stagnation of economic growth.

Mr. President, it is time that the Congress stopped playing politics with the natural gas issue and finally corrected that tragic mistake.

So that my colleagues will have the benefit of Dr. Gramm's full analysis, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. W. PHILIP GRAMM

I welcome the opportunity to testify before the Senate Energy Committee on what I consider to be the most important step in dealing with America's energy problems, the deregulation of new natural gas prices on the interstate market. No single factor has done more to produce the energy crisis than Federal Power Commission regulation of natural gas prices, and no action by the Congress could do more to eliminate the natural gas shortage and benefit the consumer than the deregulation of the price of new natural gas. The notion that deregulation is a producer versus consumer issue is a falsehood. Deregulation of interstate sales of new gas is in the interest of the nation, the consumer, and the producer. Only the Arabs and the producers of far more expensive fuels benefit from F.P.C. regulation of natural gas prices.

As late as the 1930's, natural gas was still a semi-waste product. Demand was not sufficient to produce a market price which would finance the development of a distribution system for those deposits of natural gas that were found away from existing pipelines in small quantities. Therefore, when natural gas was discovered in remote areas, it was often flared into the atmosphere.

In the postwar period with growing energy demand and increasing concern about clean air, the demand for natural gas expanded rapidly. Natural gas had two desirable qualities: it was clean burning and it was cheap. We saw the development of what could have become a nation-wide distribution system as natural gas production expanded to provide cheap fuel for the growth of America. In 1954 all that changed. It changed because the Supreme Court ruled that the Federal Power Commission under the Natural Gas Act of 1938 could regulate the price of gas that was produced within a state but sold to an interstate pipeline.

It is clear from the debates and from the votes cast on the Natural Gas Act of 1938 that the author and supporters of the Natural Gas Act did not intend to regulate natural gas producers within states. The intent of the bill was to regulate natural gas pipelines. The logical distinction between the market structure of the natural gas exploration industry and the interstate pipeline industry was clear cut. Over five thousand firms were engaged in exploration for natural gas whereas there was only one pipeline from Texas to Detroit. Not only did the pipelines operate in interstate commerce but they were, to a significant extent, potential monopolies. The Natural Gas Act brought interstate pipelines under regulation but not intrastate producers of natural gas who sold to pipelines.

In the 1954 Phillips decision the Supreme Court extended the regulatory power of the Federal Power Commission to intrastate producers who sold to pipelines by ruling that their production was clearly intended for interstate commerce and by traditional definitions of interstate commerce their production activities came under federal jurisdiction. Congress responded to the Phillips decision, which was clearly at variance with the intent of the 1938 law, by amending the Natural Gas Act to exempt intrastate producers from federal price regulation. President Eisenhower vetoed the amendment to the Natural Gas Act due to alleged attempts to bribe Congressmen to vote for the amendment. By the time the issue was brought up again for discussion in the Congress, sufficient vested interest in the new regulation had developed to prevent the deregulation of natural gas produced by intrastate producers selling through interstate pipelines. It is therefore an accident of history that due to the ineptitude of the Natural Gas Act of 1938, the Supreme Court decision, and attempted bribery that the great bulk of natural gas sold in interstate commerce ever came under the regulatory authority of the Federal Power Commission.

With the Supreme Court decision of 1954, the Federal Power Commission sought to regulate natural gas prices on a field by field basis. In 1961 the Federal Power Commission imposed a price ceiling at the wellhead on interstate sales of natural gas. In 1962 and 63 it looked as if the Federal Power Commission had achieved what government in the 5,000 years of recorded history had failed to accomplish. Under price regulation production of natural gas sold in interstate commerce did not initially fall despite the fact that a differential development between interstate prices, under federal control, and intrastate prices, which were basically free market prices. The clear proof of consumer benefit was supposedly that prices were lower in interstate commerce than on intrastate sales and yet production had not fallen. By the late 1960's it had become apparent that the reserves committed to interstate commerce and the production of natural gas were not keeping pace with demand. As America grew and the demand for natural gas grew, the supply of natural gas in interstate commerce did not keep pace. In 1956 fifty-eight thousand oil and gas wells were drilled. By 1971 that number had dropped to 27,000. The number of natural gas producers dropped from 18,000 in 1956 to 4,000 by 1971. The old truths were still true. Water wets, fire burns, and artificially low prices set by government must cause output to fall and shortages to occur. What Hammurabi, Pericles, and Diocletian had learned thousands of years earlier the American people were about to find out.

Despite the fact that the Federal Power Commission has held the price of natural gas sold on interstate commerce below its free market level since 1961, it is not clear that interstate consumers have benefited from price regulation. Some present might find this to be a peculiar statement when up until this year, natural gas was shipped to New York at 52 cents per thousand cubic feet while Texans, who were producing the gas, were paying a marginal price as high as $2.20 per thousand cubic feet. But there are

two questions that are necessary in order to gauge the benefit from price control. The first is the obvious question, what is price relative to the level which might have existed in the absence of regulation? The second question is, are adequate supplies available to meet existing demands and if not, what are the prices of substitutes?

A review of natural gas supply under Federal Power Commission regulation clearly indicates that during the period of regulation natural gas production for interstate sales has not kept pace with growing demand. This has forced potential interstate consumers of natural gas to find substitutes. The consumer in the nonproducing states has bought fuel oil, liquified gas from Algeria and synthetic gas as substitutes for natural gas and paid up to $5.35 per 1000 cubic feet. In 1972 eighty-nine percent of finished petroleum products imported into the U. S. consisted of fuel oil and 46 percent of all petroleum imported including crude was fuel oil. In terms of BTU yield, fuel oil has on average in the 1970's sold at roughly twice the free market price of natural gas.

To gauge the benefit or cost to the consumer of FPC regulation on interstate natural gas, it would be necessary to look at total energy consumption and to compare the total price paid for energy under regulation with the total price which would have existed without regulation. While deregulation would have driven up the price of natural gas, it would have expanded the supply and displaced fuels that were far more expensive than natural gas. In 1975 the interstate pipelines serving the Northeast were 15 percent empty due to the shortage of natural gas produced by FPC price regulation. While unused pipeline is by no means a total measure of the real shortage of natural gas, it is interesting to look at what this one manifestation of the shortage cost the consumer. The 15 percent of unused pipeline cost the gas consumer $1 billion in added overhead on delivered gas. Those consumers who were not lucky enough to get gas made up for the 15 percent shortage by buying substitutes and paid as much for alternative fuels to make up for the 15 percent shortage as they paid for the 85 percent of the gas that was delivered.

The possibility that the consumer facing regulated prices may have actually lost by regulation is amplified by the fact that wellhead prices of natural gas represents only a fractional part of the price of natural gas paid at the point of consumption. This is especially significant in the Northeast where 81 percent of the residential gas bill is for pipeline and distribution costs. To the consumer of natural gas in the Northeast a doubling of wellhead prices causes only a 20 percent increase in point of use cost. Therefore even if the output of natural gas were relatively unresponsive to wellhead prices it could be very responsive to point of use prices. This is crucially important because the more responsive the supply of natural gas is to price changes the smaller is the number of gainers from FPC regulations due to a fall off in supply at artificially low prices and the larger is the number of losers who must make up a bigger shortage by purchasing alternative fuels.

Given government regulation of interstate pipelines that guarantees the pipelines a fixed return on investment, any fall-off in natural gas production and sales means that the portion of the pipeline overhead that has to be borne by each unit of gas delivered rises. Zinder and Associates have estimated in a report filed with the Federal Power Commission that if the 52¢ price ceiling had been retained by the FPC the interstate pipelines would be 45 percent empty by 1980. The average wellhead price would be 37¢, the pipeline transportation cost would be $2.03 and the point of use cost to the consumer would be $2.40 per thousand cubic feet. The short-fall in supply would have to be made up for electricity, fuel oil, synthetic gas and imported liquefied gas at over $4.00. By way of comparison, with a $2.00 new gas price and a full pipeline, the average wellhead price would be $1.12 and the cost of pipeline transportation would be $1.27. Cost at point of consumption would be $2.39, about the same as the estimated cost with 52¢ marginal prices and 55 percent utilization of the pipeline. However, the big cost differential produced by regulation comes with the cost of the 5.89 trillion cubic feet shortage of natural gas which would cost about $24 billion to replace with substitute fuels.

While the interstate price of natural gas has been regulated by the FPC, the intrastate price has generally fluctuated with market prices. With the expansion in the demand for gas in 1972 and 1973, the unregulated price of natural gas rose sharply. The Texas consumer saw the marginal price rise from 75¢ in 1972 to a high of $2.20 in 1975. With the new price incentive drilling rigs came to Texas from all over the country and even from Canada. In 1971 only 1,056 new wells were drilled, but by 1975, 2,275 new wells were completed. The expansion in supply drove prices down to $1.76 as the average new price for gas. The Texas consumer had to pay more for gas but he got more gas at higher prices. The gas he got was still a bargain. According to Federal Power Commission price projections the free market price for natural gas in 1975 was 22 percent cheaper than liquefied natural gas, 31 percent cheaper than Alaska gas, 44 percent cheaper than coal gas and 46 percent cheaper than synthetic gas.

The Texas consumer benefited from the ability of prices to rise and affect exploration and production. There is no alternative fuel known or planned in America today that is cheaper than the most expensive natural gas produced and sold. As Philadelphia Electric said of their special purchase of 1.3 billion cubic feet of gas from the Southwest at a delivered price of $2.50, "It's a bargain, it's less than half the price we're paying to make and supply supplemental gas,"

By regulating the price of natural gas at the wellhead, the Federal Power Commission has produced several undesirable effects. It has stifled the development of a cheap and clean burning domestic fuel. It has produced a higher price to the consumer because he has been forced to rely on more expensive substitutes. And it has produced foreign dependence because the consumer has been forced to make up for the failure of natural gas suppliers to grow by importing petroleum products as substitutes. In a very real sense, our foreign dependence has not been produced by the failure of American ingenuity to produce oil and gas but by governmental interference, for which we have all paid in higher prices and shortages.

The exploration, production, and gathering of natural gas is one of the most competitive industries in America. Only agriculture can lay a firm claim to having a more competitive market structure. Traditional definitions of monopoly power as measured by the control of a market by a small number of producers or by the persistance of profitability beyond the range normally attained by industry in general are not present today and have never been present in the history of the American natural gas industry. The deregulation of new natural gas prices will not invalidate any existing contracts for natural gas and will not change the price of gas which has already been found and contracted for. It will, however, provide increased incentives for new exploration and drilling, which are desperately needed to expand the production of the cheapest fuel available to the American consumer.

Federal Power Commission regulation of natural gas prices was a tragic mistake for which every American has paid in terms of increased energy costs, foreign dependence, fuel shortages, and stagnation of economic growth. President Carter has called the energy crisis a moral equivalent of war. Surely in such a struggle, government cannot ask the American people to pay higher taxes and to make sacrifices without doing everything within its power to expand the production of energy to turn the wheels of industry and agriculture.

The deregulation of new natural gas prices will, in the short run, send the price of new natural gas above the level that would exist in the absence of such deregulation. But the experience of Texas and Oklahoma clearly demonstrates that it will expand exploration and drilling. The expansion of natural gas production will in turn displace fuels that are three times as expensive as natural gas. There will be a lag, however, between drilling and production. Deregulation will not instantly eliminate the natural gas shortage, but it will plant the seeds which can, over the next decade, benefit every American consumer. I urge you to take the long view and to vote for deregulation of new gas as a first step in the long, hard struggle to eliminate the energy crisis.

GOVERNOR KNEIP

Mr. McGOVERN. Mr. President, South Dakota Gov. Richard F. Kneip has ended some months of speculation in my State by deciding not to seek public office in 1978.

Governor Kneip has had a distinguished career in the public service of our State. As a State senator and as Governor he has provided progressive representation and leadership for South Dakota.

The Governor's many friends regret his decision, but understand his interest in being able to spend more time with his family as he returns to private life at the end of his term in January 1979.

Mr. President, I ask unanimous consent that the Governor's address to the South Dakota Democratic Party's State convention and editorial from the Watertown Public Opinion and the Mitchell Daily Republic be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY GOVERNOR RICHARD F. KNEIP

Elected public service, even in this, the world's greatest democracy, is a rare experience. To have served the people of South Dakota for the past 13 years as State Senator and as governor has been an even more extraordinary experience.

To serve the people is to know them. To know them is to draw strength from them. Through floods and drought, through civil unrest and economic hardship, the people of South Dakota have prevailed. Through victory and defeat, through times of hope and times of despair we have survived and grown stronger in that struggle.

It was in November of 1964, that I first experienced election to public office. In that year, I was elected to the South Dakota State Senate as a Democrat from McCook County. Since that time, the people of South Dakota have honored me by electing or re-electing me to public office six times. My last four elections, including a primary and general election in 1974, have been to attain or retain the office of the governorship of South Dakota. That first night in early November 1964, started for me what has been one of the most exhilarating and rewarding experi-

ences of my life—and at the same time, one of the most frustrating and demanding times of my life.

Many of you here tonight will recall that it was on January 5, 1971—my first day as Governor—that I said in my inaugural address, and I quote, "it is the task of government to build on this (democratic) system (of law) . . . our needs are not only those of the present, but certainly those of the future. For history will judge us not on how well we satisfied those temporary demands, but how wisely we provided for those of the future."

Working together these past years, we have accomplished a great deal.

No State has a more modern State government structure than that mandated by the people in 1972. Through the "executive reorganization" constitutional amendment which we recommended and the people approved, we have honed and fine-tuned a bureaucracy which I think is truly responsive to your needs, and the needs of all the people of this State.

We have begun to understand and move toward the realization of the value of our great water resources, and we have exerted our claim to the vast reservoirs of water held in the Missouri River.

We have taken the first and tentative steps toward solving the severe social, economic and cultural differences that divide our Indian and non-Indian peoples.

We have instituted and strengthened many programs designed to improve the quality of life of the less fortunate, the low income, the elderly and the handicapped citizens of our State.

We have instituted a school of medicine and adopted policies which will ultimately mean a vast improvement in the quality of health care we can provide our people.

We have made substantial progress toward stabilizing and balancing our economic base through industrialization and tourism expansion.

We are coping with the inevitable conflict between environmental integrity and economic development.

We are attempting to nurture policies which lend themselves to the promotion of the family farm unit, which is so basic to the strength of this State.

We have done this and more because we have always had the courage to grapple with tough issues. We have done all this because you have backed us in these endeavors—you, as Democrats, have mandated that your elected representatives not be afraid to confront controversy head-on. You have given us strength to do these and many other things because you know and truly believe that the most basic precept of the Democratic Party is to courageously and forthrightly seek to solve the challenges confronting our people. For your support in this work, I am truly indebted, and I thank you.

In the past couple of months, my family—Nancy, myself and our eight sons—have taken the time to do much serious thinking as to exactly how involved we can or should be in the democratic process. Admittedly, the occasion for such reflection has been partially precipitated by the opportunity to seek the United States Senate seat which is now occupied by my good friend James Abourezk.

Two decisions have been made: First, the option to seek reelection to the governorship next year exists in a legal sense, but I believe my contribution to state government will be complete by 1978 and I will not seek reelection as governor.

Secondly, many South Dakotans of both parties have asked that I seek election to the United States Senate in 1978.

My family and I have given this alternative the most careful consideration. I have sought election to public office six times and have been successful on as many occasions. There is little doubt that with the continued support of a dedicated, positive and issue-oriented democratic party, we would succeed in a campaign for that office.

I wish to announce tonight, however, that I will not be a candidate for the United States Senate—or any other elective public office in 1978. Together, as a family, we have arrived at our decision.

Please know that there is no personal honor greater than service to the people of South Dakota, but there are few efforts more stressful in the life of a family than a prolonged political campaign and the daily pressures of elected public service. Nancy and the boys have had to make many sacrifices—sacrifices which most human beings are never called upon to endure and probably should not have to endure. And they have done all of this with grace and understanding, and, more than that, have provided me with the support I needed to be your governor.

In announcing my immediate future political plans today, I wish to emphasize the importance of giving ample time for others in the democratic party to make their own plans for 1978. Our party has many able and articulate men and women who have much to contribute to high public office, and it is my hope that this decision clears the way for one of them to enter the United States Senate.

The success of the democratic party in South Dakota has been grounded in our determination to face the difficult issues squarely, with clear proposals for their solution. And our success in the future depends on our continued adherence to these principles. A united and aggressive democratic party will win in South Dakota in 1978. I pledge myself to this end during my remaining days as Governor of this great State.

I wish to conclude tonight by quoting from the late Adlai Stevenson, a great and noble Democrat. He said, "politics is the most hazardous of all professions. There is not another in which a man can hope to do so much good to his fellow creatures; neither is there any in which by a mere loss of nerve he may do much widespread harm; nor is there another in which he may so easily lose his own soul; nor is there another in which a positive and strict veracity is so difficult. But danger is the inseparable companion of honor. With all the temptations and degradations that beset it, politics is still the noblest career any man can choose."

Politics is indeed the noblest career any man or woman can choose.

[From the Watertown (S. Dak.) Public Opinion, June 21, 1977]

"POLITICS IS STILL THE NOBLEST CAREER . . ."

From a personal standpoint, Gov. Richard F. Kneip has undoubtedly made a wise decision in turning his back upon the 1978 U.S. Senate race "or any other elective office." From the political standpoint, he has probably created a double-barrelled donnybrook.

The Kneip announcement closed off months of speculation which began long before Sen. James Abourezk announced last winter he won't try for another term. It has been widely felt that Kneip would cry "done!" with the governor's office after seven years of it and try for something else, probably the Senate seat which is a natural progression point.

Because of this, several would-be contenders have held off. It has been conceded that if Kneip did decide to run for the Senate, he would have the best chance in next year's general election of anyone the Democrats could put up and his candidacy would help avoid the possibility of a scarring primary battle for the nomination since he would (A) be unopposed or (B) meet only token opposition from a party dissident or two.

This comforting outlook now has been erased and the field is wide open. There is every likelihood that a clutch of legislators will feel the urge to declare plus others whose names also rank large in terms of Democratic party prominence and service. A shotgun rush toward the job may well be in the offing.

The Republicans also have a classic building for the Senate nomination between Congressman Larry Pressler and James Abdnor. The governorship, too, holds great potential for trial and tribulation for both parties.

Thus, as been frequently observed, 1978 may well be a political year to remember for parties, candidates and voters in whose hands all ultimate decisions always lie.

Meanwhile, the governor in his no-go announcement made some remarks well worth remembering. Said he:

"Politics is the most hazardous of all professions . . . but danger is the inseparable companion of honor. With all the temptations and degradation that beset it, politics is still the noblest career any man can choose."

And Senator Abourezk added another rhetorical nugget, one which should be pasted in the hat of many an office-holder:

"The most honest of all public servants are those who know when they have given all that they have to give and have the personal courage to step aside when that time comes."

And yet another:

"The toll of public service on personal life is tremendous."

Gov. Kneip's weekend statement indicated the latter consideration was the key one in his decision. Everyone will understand it . . . but there are many South Dakotans who will deeply regret his withdrawal from political life. They will hope . . . and many believe . . . it is only temporary.

[From the Mitchell (S. Dak.) Daily Republic, June 22, 1977]

KNEIP BOWS OUT

Gov. Kneip's announcement Saturday that he will not seek any public office in 1978 will remove from the South Dakota political scene, one of the state's most successful political figures.

Kneip, who was considered the overwhelming favorite to gain the Democratic senate nomination for the seat being vacated by Sen. James Abourezk in 1978, cited the occupying of public office as a duty that taxed his responsibilities toward his family. Noting the sacrifices made by his family, he said a family decision brought him to his own ultimate decision to bow out.

Kneip has been a strong political figure since 1964 when he first was elected to the state legislature. After gaining stature in the state senate, he sought the governorship against Gov. Frank Farrar and in a rare instance ousted the incumbent in 1970.

Re-elected in 1972 by a good majority, Kneip tested his political strength again in 1974 after the constitution was revised to allow two four-year terms for governor. The courts ruled in his favor and the OK was given to seek the unprecedented third term. Again he was re-elected despite primary opposition from his Lt. Governor, and battling the third term issue in the general election. The fact that he could win re-election under such circumstances was testimony to the governor's popularity.

The governorship in 1978 really was a consideration in his decision for the future.

Only the U.S. Senate race was attractive enough to gain Kneip's attention.

There is no question that the Governor has had his difficulties in recent months, but as he indicated Saturday, he is positive such a bid would have been successful had he opted for it.

Criticized for his government reorganization, plea for a single university system, a revised criminal justice code and other dealings with the legislature, Kneip became the target of Republicans in the 1976 election—one that saw Republicans regain their traditional domination of the House and Senate.

But Kneip didn't back away from the challenges. He serves as a powerful governor who commands the attention of his public.

His programs and his power of veto became the issue in the 1977 session. He didn't gain success with most of his own personal programs, but he was able to garner support to sustain many of the vetoes which he considered to be poor legislation.

He put forth efforts typical of a leader in his terms as governor and will likely conclude his final year and one half with that same fierce dedication to do what he feels is best for the people of South Dakota.

Whether this is the conclusion of his career in politics, or whether it is a brief pause, Richard Kneip has made his mark on political history in South Dakota, and that history will treat that era in South Dakota government kindly.

LEAVE ELECTORAL SYSTEM AS IT IS

Mr. McCLURE. Mr. President, in February I testified before the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee regarding the proposal to do away with the electoral college and move to a system of direct election of the President and Vice President. At that time I voiced my strong opposition to this plan. Since then two additional proposals have been added to the plan for reshaping our system of election by the Carter administration, specifically proposals to provide for public financing of congressional elections and to set up a system of automatic voter registration. A recent editorial in the South Idaho Press, published in Burley, Idaho, is illustrative of the views of the majority of my constituents in Idaho, who recognize that the ideas and concepts binding this Nation together are not simple, and that these proposals overlook some of the most basic and important of them. For example, the great compromise imbedded in our Constitution was intended to protect the rights of the small, rural States, and while the idea of direct election of the President is appealing because it is so easy to understand, it totally overlooks the more difficult concept of federalism, which is the very basis for our union. I subscribe fully to these editorial comments, and I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LEAVE ELECTORAL SYSTEM AS IT IS

Public funding of elections has been a long-time favorite goal of Ralph Nader and some of his radical cohorts. President Carter seems to be joining the group with his recently avowed objective of doing away with the influence of rich people like the Kennedys and the Rockefellers. But what actually happens is quite the contrary when you install public funding of elections. The average citizen is then taken for granted with influence completely eliminated. The importance of special interest groups is magnified. We learned in last year's "publicly financed" presidential campaign, with most private contributions limited, that Big Labor could assist liberal candidates to the extent of over $100 million.

If public campaign financing is extended to Congress, nearly every candidate will be forced to please the George Meanys because they can provide millions of dollars worth of phone banks, campaign advisors, billboard and parade supervisors, and leadership for voter registration drives.

Voter registration simplification is another facet of the Nader-Carter plan. Instant registration by identification card is already well know in Chicago and south Texas and frequently produces one-sided vote totals of amazing magnitude. Why issue such encouragement to all the corrupt politicians? The political machines of big city bosses would completely dominate elections because there is absolutely no way to screen out fraud.

The third gimmick, to assure incumbents perpetual political office, involves elimination of the Electoral College. The proposal seems to be directed against the small states and the West for non-conforming at last November's election. Our Founding Fathers devised the best political system in the world and intended to balance the influence of large and small states. If the Electoral College was eliminated in favor of direct elections, the real power increase would go to large cities like New York and Chicago. The small states like Idaho, with no large cities, would become insignificant as far as the election of Presidents and vice presidents is concerned.

Let's not upset the balance and allow our wonderful country to revert back to machine political manipulation at election time. Let's retain our revered election system with private financing, a respected Electoral College and an honest method of voter registration. Tampering with our election rules and playing politics in such a blatantly transparent manner can only come about when one party not only dominates both congressional houses but possesses the Presidency too!

OAHE PROJECT

Mr. McGOVERN. Mr. President, in deciding to delete funding for the Oahe irrigation project for fiscal year 1978, the Senate Appropriations Committee—following an earlier decision of the administration—has predicated their decision on the "lack of local support and commitment" for the project in South Dakota.

Under State senate bill 246—as more closely defined by the attorney general of South Dakota—the Oahe Unit Task Force was created to be the official voice for our State in relation to the Oahe irrigation project.

This task force has provided me with a memorandum setting forth their official views in relation to the public works appropriations funding for Oahe for fiscal year 1978. They have requested that their views be called to the attention of the Members of the U.S. Senate in advance of our consideration of the public works appropriation bill.

Mr. President, I ask unanimous consent that the formal memorandum for the South Dakota Oahe Unit Task Force be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

Re All Members of the United States Senate.
By Senator Curtis Jones, Chairman, State Senate Democratic Member, Representative James Endres, House of Representatives Democratic Member, Representative Don Ham, House of Representatives Republican Member, Richard F. Kneip, Governor of South Dakota, Senator George Shanard, State Senate Republican Member.
Re Fiscal Year 1978 Funding for the South Dakota Oahe Irrigation Unit.

The action by President Jimmy Carter to delete funding for the Oahe Irrigation Unit project from the Fiscal Year 1978 Department of Interior budget request has served to rekindle the controversy surrounding this project among the citizens and elected officials of South Dakota.

Realizing that there are strong feelings toward the proposed Oahe Unit by both the opponents and supporters of the project and realizing that the project can be improved to reflect a greater public benefit, the South Dakota State Legislature in the 1977 session passed legislation (S.B. 246) supporting continual funding of the Oahe Project and creating a special Task Force consisting of four legislators, the Governor and two members of the Oahe Sub-district board of directors. This Task Force was assigned the task of working to help bring about those changes that will make the Oahe project a better project for the people of South Dakota.

We wish to report to you that this Task Force has been organized and is now operational. Senator Curt Jones of Britton, has been elected Chairman; Representative Don Ham of Rapid City has been elected Vice-Chairman; other members of the Task Force are Senator George Shanard of Mitchell, Representative Jim Endres of Watertown, Oahe Conservancy Sub-district board members John Sieh of Groton and Glenn Overby of Mellette and, of course, Governor Richard F. Kneip. We have the services of Mr. Douglas Haeder of Pierre as Director for the Task Force. He will be on board by July 1st at an office in the Capitol Building in Pierre.

The legislation that created the Task Force supported continual funding of the Oahe project, and as we've said earlier in the letter, also mandated the Task Force to work with all concerned to effect changes needed to improve the project and named several areas in which the Legislature wanted this Task Force to work. We have started that program and are getting underway by working at this time with the Oahe Sub-District Board, the Bureau of Reclamation, the Irrigation Districts involved, departments of State Government, the Lower James Conservancy District and citizens in general who have been in attendance at our meetings.

The Oahe Sub-district board of directors has been fit to ask that funding be discontinued. That board feels they are representing the people of the 15½ counties in the Sub-district; however, the Legislature has passed a bill stating that continued funding is now the law of the State of South Dakota.

The Task Force takes no power away from the Sub-district board and will work very closely with the Sub-district board to effect change and to work on other problems that are related to the Oahe Project, but which are of a local nature. These could include such areas as the loss of tax base and highway costs related to the building of the project, as well as others. This Task Force will present needed leadership in our Legislature to face the challenges involved in and surrounding the project.

Finally, being aware of the budget cycle which the Department of Interior operates under for their Fiscal Year 1979 requests,

we wish to inform you that we intend to forward to you in a timely fashion, recommendations to modify and change the design features so as to improve the project. Accordingly, we will be forwarding to you mutually agreed upon modifications by November of this current year.

We send you this letter in order that you might be aware of the actions going on here in South Dakota dealing with and surrounding the Oahe Project. You should know that a majority of 5 of the 7 Task Force members have signed this letter.

Thank you for considering our request in this matter.

IDAHO NATIONAL GUARD MARKS 100 YEARS' SERVICE TO STATE

Mr. McCLURE. Mr. President, on June 18 of this year, Idaho commemorated the formation of a group of Idahoans who have been serving the interest of both the State and the Nation for 100 years. This group is the Idaho National Guard. I ask unanimous consent that a short description of the Guard which appeared in the June 16 issue of the Buhl Herald be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLURE. Mr. President, in both war and peace, Idaho's own weekend warriors have been active and effective in fulfilling their duty. During the recent Teton Dam disaster, the 116th Engineering Battalion evacuated a great deal of Government equipment from the path of the flood waters, and in turn used this equipment to help rebuild the area. During the North Idaho floods of 1974, and the great forest fires of that same year, the Guard once again was called in to save lives and property. The list of service goes on, but let me conclude it now by saying that the men in the Idaho Guard are the kind of men who have made this country free and strong, and they are the kind of men who will keep us that way.

EXHIBIT 1

IDAHO NATIONAL GUARD MARKS 100 YEARS SERVICE TO STATE

BOISE.—One hundred years of service to Idaho will be recognized Saturday, June 18, when units of the Idaho Air and Army National Guard participate in a military review for the general public at Gowen field near Boise. The review is scheduled for 11 a.m. An open house will follow.

A number of state and national dignitaries will attend the review, including Idaho Gov. John Evans and Major General LaVern Weber, Chief of the National Guard Bureau, Washington D.C.

The centennial review will be the first major exercise of its type conducted by the Idaho Guard since the mid-1950's, Approximately 2,000 Air and Army National Guardsmen will march in review.

A flyover of air and army guard Phantom jets and helicopters will coordinate with the review on the grounds. There will also be a display of various types of military aircraft and armored vehicles.

The Idaho National Guard traces its history to June 19, 1877, when Cpt. Edward McConville of Lewiston, organized a group of volunteers to act as scouts for the army in the Nez Perce war. McConville, who is recognized as the founder of the Idaho Guard, was killed in the Battle of Santa Anna in the Philippines during the Spanish-American war.

According to Major General Brooks, adjutant general for the state of Idaho, Idaho guardsmen have participated in every major callup of reserves since 1877. Idaho guardsmen fought in the Spanish-American war and served on the Mexican border campaign of 1916. They were called for both World Wars and Korea. Idaho units were activated during the Berlin crisis and again during Vietnam.

Idaho guardsmen have also brought aid to many communities following natural disasters such as floods and fires. Guard units are also active in supporting many community service projects.

CONCERN EXPRESSED TO PRESIDENT REGARDING FREEING OF WILLIAM NIEHOUS IN VENEZUELA

Mr. GLENN. Mr. President, I note with interest that Carlos Andres Perez, the President of Venezuela, will make an official state visit to the United States on June 29 and 30.

As Mrs. Carter learned on her recent visit to Venezuela, the people of the United States and Venezuela have many common bonds, including a willingness to work together for the good of both countries.

However, I am concerned about a situation which has existed for some time.

In February 1976, William F. Niehous, general manager of Venezuelan operations for Owens-Illinois, Inc., of Toledo, Ohio, was kidnaped from his home in Caracas. He remains a captive today.

In April 1976, after Owens-Illinois met with one of the terrorist kidnapers' demands and published their political manifesto in newspapers in New York, Paris, and London, the Government of Venezuela announced its intention to take control of assets of Owens-Illinois de Venezuela, a subsidiary of Owens-Illinois, Inc., which is headquartered in Ohio.

Although we have heard reports which indicate there have been efforts made to free Mr. Niehous and to bring the nationalization question to a conclusion, I hope the visit of President Perez will provide an opportunity for a resolution of these matters.

The welfare of an American citizen, kidnaped more than a year ago, is of vital concern to us all. The proposed nationalization of Owens-Illinois de Venezuela also casts a cloud upon the potential for investment in Venezuela by U.S. companies.

URBAN ELECTRIC AUTOMOBILES

Mr. McCLURE. Mr. President, last year the 94th Congress passed the Electric and Hybrid Vehicle Research, Development, and Demonstration Act, which encourages the development of electric car technology. In this spirit, Senator STONE and I have invited the developer of the XDH-1 Experimental Electric Car to Washington to demonstrate the feasibility of a practical electric car design. We will be demonstrating the car on Tuesday, June 28 through Thursday, June 30.

The XDH-1 was developed by Globe-Union Incorporated, Milwaukee, Wis. Globe-Union is the sole supplier of the DieHard battery to Sears-Roebuck. The XDH-1 was built under the direction of Everette Wilson, the head of the Sears electric car project.

Wilson began with a new Fiat 128-3P hatchback sedan and converted it to a solid-performing, reliable electric car using a rewound World War II-vintage 27-horsepower aircraft starter/generator motor, and a solid state speed control, married to the Fiat's own front-wheel drive transaxle unit.

The XDH-1 has reached speeds in excess of 75 miles per hour, and has been extensively tested in traffic on city streets and freeways. Another test saw it maintain an average speed of 45 miles per hour for a range of 94 miles through the hilly terrain of central Wisconsin just before arriving at the 1977 Indianapolis 500 for opening day ceremonies.

Sears has no foreseeable intention of marketing electric vehicles. The car was bought from a dealer's stock and Sears has no ties with its manufacturer, Fiat.

Sears also wanted to prove the DieHard could add an important contribution in the further refinement of practical, efficient, electric-powered cars for limited range use such as a second car for clean, dependable urban operation, or a "station car" for suburbanites.

The concept of electric vehicle transportation for our cities is now at the takeoff point with our current technology. The XDH-1 is a good example of the possibilities of a new transportation system which is economical, nonpolluting, and energy efficient.

A large number of this country's population now lives in urban areas which suffer the most from the fumes, noise, and the unwieldly size and shape of the big gasoline car. Those who refuse to listen to reasonable remarks about electric vehicles like to picture people making coast-to-coast ventures in something powered with C batteries. They do not stop and listen to our assertions of what we are trying to get them to picture. It is an urban area, with people going to work and to school, making deliveries or shopping and keeping appointments in electric vehicles—not exploring the mountains and crossing the deserts.

The XDH-1 is one of the most advanced applications of electric vehicle technology, and is capable of the speeds and the range required for normal commuting or around-town driving.

If we have learned nothing else in the last few years, we have learned the necessity for husbanding our precious supplies of oil. Oil must be diverted from uses for which substitutions are available and conserved for its most essential functions. We must have the oil to provide petrochemical feedstocks for synthetic fibers, for clothing, building materials and insulation. We may someday find we desperately need oil for the base for synthetic food supplements—if we do, it must be there. But we cannot grow much food very well without fertilizers and we cannot provide our farmers with the fertilizers they need unless

we have the petrochemicals to manufacture it. And feeding people is not enough. We have to think of their health. We depend on petrochemicals for antibiotics and other medicines as well as for the latest in medical devices, such as artificial heart valves.

One way to change the transportation energy base would be to shift a greater share to urban use of electric vehicles, which would indirectly allow a greater share of coal and nuclear reserves to go for transportation needs. As we are seeing, it is imperative that we find alternative sources of energy. Over the long run, this will not present an unsolvable problem. The physical supply of energy is bountiful, but it is man's technology which must improve to take advantage of it. We must also learn to husband our resources, using the precious, finite fuels for top priorities, where substitutes are not yet available. And, a switch to electric vehicles would allow in the future a greater use of the virtually infinite sources, such as coal, solar energy, geothermal energy, and the energy from nuclear breeder reactors. The name of the game should become, "Use oil only where you can't use something else."

I do not want anyone to conclude from my remarks that I am trying to say that all future vehicles should be electric. Nor should anyone conclude that because my remarks are addressed specifically to urban problems that I am not concerned about the rural and agricultural areas. One of the most important points I want to make today is that by easing the unnecessary use of fossil fuels in combustion engines, we will be allocating the various forms of available energy in a more efficient way. If tomorrow's farmer has enough gasoline and diesel fuel for his trucks and tractors, it will be precisely because these fuels were not used by commuters who were given a reasonably clean and economical alternative. If proper uses are not made of available resources, ultimately everyone suffers.

The commuter depends upon the farmer for food and it now seems that the farmer, at least in the short run, may depend upon the commuter for fuel. But first we must see that the commuter has that choice to make. We must do everything we can to see that the truth of this situation is put before the public. I believe the average citizen has no idea what already is, and what could be, available in the electric car field. I further believe that if he knew, he would be significantly more interested trying one out. Once that demand begins, market forces will take over, and you and I will not be stuck having to make embarrassing explanations to our grandchildren about why we burned such valuable and ueful substances as oil and natural gas liquids, in the face of excellent alternatives.

Apparently people still have to be educated to the fact that many electric vehicles are currently being used. They are doing good service as forklifts, golf carts, work trucks, motorcycles, and even snowmobiles. The electric snowmobile has won the admiration of those enemies of the gas-operated version. Covering territory in a machine that proceeds steadily and cleanly without breaking the eardrums has achieved a new respectability. And, various cities have found the electric bus an efficient and economical answer to mass transportation. In a sense we have a sort of chicken and egg situation. If the Government were to spend more of its transportation dollars on electric road vehicles, the public would become educated as to their value. On the other hand, if the public knew the benefits they could expect from electrical alternatives to the IC engine, it would begin to demand that its tax dollars be spent accordingly. What the first step is to be is now uncertain. But one thing is certain. Those of us here today can continue to help others to change their picture of the electric vehicle.

I will leave it to others, though, to discuss the technical and economic merits of electric vehicles. Speaking as a legislator, though I am deeply concerned with the growing tendency to solve society's problems by reducing the freedom of the individual. I am sure that we have all heard some of the proposals being suggested for solving our energy crisis—particularly with regard to transportation—which require that the individual give up some degree of decision-making to the Government.

We know that electric vehicles cannot solve the long-range energy shortages facing private transportation. But, electric vehicles are a step in the right direction. Instead of telling the commuter or the housewife that they have to give up their gasoline-powered automobile, and rely on mass transit, there is an alternative form of transportation—a form which does not emit pollution, either air or noise, and does not consume precious petroleum supplies. Instead, it is a form which can help maintain the degree of personal freedom which the individual now experiences, whether it involves where to work, where to shop, or even where to live.

There are, of course, some modern planners who express concern at this freedom—freedom which allows a family to choose a house instead of an apartment, for instance—but history has shown that the mistakes made by individuals planning their daily lives are never as horrendous as the mistakes made by Government planners. For that reason alone, continued effort on electric vehicle development is justified—to help insure that future generations will enjoy the dual benefits of a better environment and the freedom of mobility.

Among those who have personally driven the XDH–1 are: Race drivers Dave Marcis and Indianapolis 500 winner Johnny Rutherford, international known race car builder George Bignotti, and a number of members of the motoring press including James Mateja of the Chicago Tribune and Dan Jedlicka of the Chicago Sun-Times. The car was also demonstrated for industrial designer Brooks Stevens who has extensive experience in automotive design. All were unmistakably impressed with the car's performance.

In the words of Everette Wilson:

The purpose of the XDH–1 was to make an acceptable car. The idea was to build a car equal to the cars now in use. The American people have an image of what they like and the idea was to build a car that would simply drive like a 4-speed stick shift. We wanted a car that looked and drove like a regular car and that is something unique with this car. This is a "happy" car—the components fit, the weight is right, the power is right and the batteries are excellent. Everything is working together, and that is what makes it different and better. We have, for the most part, off-the-shelf components—nothing that any machine shop throughout the country couldn't produce. We did do a cosmetic job to make it a show-piece and adjusted it for wind resistence. Wind resistence is a big matter when you get it up to speeds. At speeds of 75 miles per hour you want to get around something or change lanes—you need power in reserve. The 76 miles per hour is a burst of power for 3 to 5 minutes only. If we had wanted 75 miles per hour cruising speed, we would have made a larger engine. The car will cruise at 65 miles per hour easily. It uses 27 horse power at 65 miles per hour and 40 and 75 miles per hour.

We started showing this car privately to Sears people in the middle of April. I was driving it back and forth to work regularly and people would look and wonder. When I started giving people rides, I was amazed at the interest. The thing that amazed me was the real interest and curiosity and these were just people walking by—not electric car enthusiasts. In Chicago, when I stopped it, I had an interested crowd immediately. I kept getting the standard questions along with, "When can I buy this car?" I told them it was up to them—when they were ready to open their wallets for it.

I hope that all of my colleagues in this body avail themselves of the opportunity to test, for themselves, this XDH–1 experimental electric car. I think they will then discover that this is indeed a practical, reliable, pollution-free alternative to the internal combustion engine.

This car is not a golf cart. It is a powerful, comfortable, uncomplicated, quiet automobile which will perform along with, or better than, other compact cars you might see driving home tonight.

Mr. President, I ask for unanimous consent that several articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEARS XDH–1 EXPERIMENTAL ELECTRIC VEHICLE

(Specifications)

GENERAL

Curbweight: 3,110 lbs.
Weight distribution: front/rear percent 48/52
Wheelbase in: 87.5
Track: front/rear in: 52.2/52.5
Length: 150.5 in.
Width: 61.4 in.
Height: 52 in.
Ground clearance: 6.25 in.
Overhang-front/rear: 31/32 in.
Usable trunk space, cu ft: 27
Styling: Alumimum front end cap with integral bumper, quad rectangular headlights with transparent covers, custom fabricated for maximum free air flow and pleasing appearance. Rear bumper removed. Custom-designed paint scheme, based on DieHard racing orange.

POWER PLANT

Type: 120-volt compound wound electric motor: transverse mounted.
Power rating: cruising 27 hp @ 2000 rpm. Acceleration 40 hp @ all rpm.
Speed control: Solid state, field weakening.
Batteries: Sears DieHard experimental

electric vehicle type (20 batteries), plus one accessory battery (DieHard Marine).

DRIVE TRAIN

Transmission: 4-speed, manual all synchromesh transaxle, FIAT 124-type clutch
Final drive ratio: 12/53.

CHASSIS & BODY

Layout: front motor/front drive (based on FIAT 128-3P auto).
Body/frame: all steel/unit.
Brakes front disc/rear drum, PLUS electric regenerative system.
Effective brake area, f/r: 19.2/34.1 sq. ft.
Wheel size: 5-in. rim x 13 in. diameter.
Tires: Sears steel belted "Roadhandler" radials, sizes A78SRx13 (165 x 13).
Steering: direct acting rack and pinion.
Turns, lock-to-lock: 3.5.
Turning Circle, ft.: 32.
Front suspension: Independent McPherson strut, coil springs.
Rear suspension: Independent transverse leaf spring (specially modified for extra strength) acting as anti-sway bar.
Shock absorbers: tube-type.

ACCOMMODATION

Seating capacity: 2 persons (bucket seats).

INSTRUMENTATION

Instruments: Voltmeters for accessory battery, DieHard power packs and gel cell motor control power pack. Ammeters for driving current and field control current. Speedometer, motor temperature gauge, tachometer, battery charge gauge.
Warning lights: Handbrake, hi-low beam indicator, turn signals, emergency flashers.

MAINTENANCE

Service intervals:
Electric motor: Replace brushes @ 50,000 mi.; rewind motor @ 100,000 (est.).
Chassis lube: Lifetime type.

PERFORMANCE

Speed at end of ¼ mi., mph: 75.
Speeds in gears: 4th gear (5000 rpm) 75 mph; 3rd gear (5000 rpm) 60 mph; 2nd gear (5000 rpm) 45 mph; 1st gear (5000 rpm) 25 mph.
Top speed (est.): 75 mph.
Cruising range (est.): 90 miles @ 47 mph.

CHARGING RATES

110-volt line: amps to each of two battery packs/18 hrs. from "full discharge."
220-volt line: 15 amps to each of two battery packs/6 hrs. from "full discharge."
Recharging: two solid state, phase angle control circuits, plus 12-volt accessory charger. (10 batteries per circuit for recharging). Chargers sense 110 or 220-volt input and automatically adjust charge rate.

ACCESSORIES

Heater/defroster, operated by 120-volt electric system.
Windshield wipers rear window defogger: operated by single 12-volt accessory battery.

[Technical Backgrounder]

DEVELOPMENT OF THE SEARS XDH-1

The Sears "XDH-1" was based on an existing passenger car, a Fiat 128-3P, three-door hatchback with transverse-mounted engine, and front-wheel drive because its selection provided a vehicle where power losses through the gear train could be minimized, through the use of a transaxle with straight-cut spur gears rather than a hypoid differential.

The car was also chosen for its front-wheel drive traction, and as a good passenger package for two, with adequate comfort and leg room.

The XDH-1's revamped front end styling offers a minimal frontal area and low wind resistance. The car also has a sturdy chassis, body, frame and suspension, needed to handle the additional load in the form of the two DieHard battery power packs made up of a total of 20 DieHards and located beneath the hood and in the car's former rear seat area.

With it's new front end styling and custom paint job, the car has a pleasing and sporty appearance, coupled with a neat-appearing, fully-accessorized interior.

Conversion of the car to DieHard power was begun by removing the engine, radiator, gas tank, gas lines and all un-needed accessories.

Basis for the power plant is a World War II era aircraft-type starter/generator motor that is compound wound with a portion of its field coil in series with the armature, but a separate field coil energized from an outside source to control motor speed.

The motor is coupled to the original transaxle unit using an intermediate section between the motor and transaxle.

The motor is rated at 167 amps load continuously (65 mph); intermittent load rating is 300 amps for 3-5 minutes.

The intermediate adaptor shaft which is supported by twin tapered roller bearings carries the flywheel and the clutch assembly. Original engine mounts were adapted to the new electric motor. Then the electrics were installed.

A heavy-duty contactor is used to start the motor rolling. It puts the current through a pair of resistors at 40-50 amps under no load. After one second, a time delay cuts in another heavy-duty contactor which shorts-out resistance, then gives full current to the motor to operate the car.

The contactors are controlled by relays operating on 12 volts.

The starting procedure is simple: The ignition key is inserted in the lock, turned on, then advanced to the normal key-turn starting position. The motor starts and idles at 2000 rpm and is immediately capable of delivering full power with no speed control other than the transmission gears.

A solid state speed control is used, however, a unique field-weakening device. Current through the shunt winding suppresses the motor to a constant 2000 rpm. By weakening the current in the suppression coil, the motor goes faster—up to 5000 rpm. Ungoverned, the motor is capable of 8000 rpm.

The speed control utilizes a normal accelerator pedal that controls a rotary pot resistor which in turn operates a solid state speed control from 2000-5000 rpm.

The motor requires a cooling system, a "squirrel cage"-type 12-volt heavy-duty blower fan and ducting for forced cooling of the motor. The motor can run up to 220°F. but it is more efficient if it's run cooler for better performance and longer range from the batteries. Normal operating temperature is in the 120-160°F range.

Twenty batteries are required for the desired range of the car. They are mounted in the car in packs of 10 DieHard batteries each located in the area formerly occupied by the rear seat and extending partially into the luggage compartment. Under the hood are five DieHards and one DieHard Marine battery for auxiliary power to operate accessories. Additional weight on the car's front wheels is about 100 lbs.

The flexibility of on-board battery chargers is desirable, because conventional chargers are too bulky for this application. A new type of charging system was developed that charges between 94 and 96% efficiency of current drawn from an ordinary outlet, about a 20% improvement on other charging methods for batteries. Chargers measure only 6x2x9 in.

Instead of using a land line-type of cord inside the car's trunk, to be pulled out for charging, a plug-in into the car itself is used. It's installed in the former gas filler pipe opening and covered by a dummy gas cap, and there's an adapter for 110 or 220-volt power for charging.

A console-mounted switch inside the car turns on the chargers, and the rate of charge is 5 amps per battery pack using a 110-volt line and the system automatically boosts the charge to 15 amps when it senses a 220-volt current being fed to the car. An 18-hour charge is needed on a 110-volt line, for batteries that are completely discharged, and this time is reduced to just 6 hours with a 220-volt charge. Five amps is used to protect a 110-volt line from blowing a fuse or circuit breaker due to overload with other devices presumed to be drawing current from that line.

All batteries are recharged simultaneously, including the single 12-volt DieHard Marine used to operate wipers, heater, headlights, etc., and the two small 12-volt gel cell batteries that operate the speed controller. The charging system is designed so that all batteries reach peak charge at about the same time, in order to eliminate overcharge condition on any of them.

Each of the two chargers recharges one of the two battery packs independently of the other, through the use of an additional solenoid control that isolates the batteries for charging, then creates a parallel hookup for running.

To prevent driving away with the charging cord plugged into the car and a wall outlet, a relay senses current going into the car and automatically disconnects its starting circuit, making it impossible to start the car with its charging cord connected.

To assist the original equipment brakes on the XDH-1, its electric motor, upon deceleration and downshifting, becomes a powerful generator employing the principle of regenerative braking. Used properly, it increases the car's range by converting braking force to electricity that is fed back into the car's batteries.

The car's power plant permits the eventual inclusion of additional accessories: cruise control, a vacuum pump to add a power assist to the XDH-1's original brakes, and a device to automatically fill the car's batteries with water.

[From the Idaho Falls, Idaho Post-Register, June 21, 1977]

THE HYBRID CAR: CAR OF FUTURE?

Have we gone about as far as we can—or should go—with the conventional, gasoline-powered, piston-engine car?

Unmistakably, immense progress has been made in cleaning up the family gasper. In the decade or so since precontrol days, the average level of pollutants emitted by new cars—chiefly carbon monoxide, nitrogen oxide and hydrocarbons—has been reduced by 83 per cent, thanks to more efficient engines, add-on devices like the catalytic converter and government-mandated measures such as lead-free gasoline.

But we seem to be reaching a crunch point where more and more effort is required to produce smaller and smaller results. As it is, the even more stringent emissions standards that were scheduled to go into effect with 1978 models have been postponed by Congress at the behest of the industry.

The question is not so much whether Detroit can build virtually pollution-free automobiles, or when it can build them, as whether the benefits will be worth the cost.

According to an allegedly "suppressed" memo by the Environmental Protection Agency (EPA), the Carter administration's proposed regulations for pollution controls, fuel economy and safety would raise the average price of a new car $1,000 by 1985. Some automakers are claiming that government rule-making could force Americans to pay upwards of $10,000 for an ordinary 1985 model sedan.

Automobile safety is one thing, and cost considerations here should take a back seat to the savings of human lives. Unfortunately, when it comes to pollution control vs. fuel

economy, the trade-off is usually an adverse one.

For example, other EPA statistics indicate that, on a car-to-car basis, California's emissions standards, which are tougher than the federal ones, have cut average fuel economy by 12 per cent.

Committed as they are to the internal combustion engine for as far ahead as they can see, the automakers are turning to the strategy of reducing the size and weight of their products. The smaller the car and engine, the fewer pollutants generated and the less fuel used, even after the pollution-control penalty is paid.

That is one way to go. But there are other ways, and unless we want to be permanently at the mercy of the oil exporting countries, we should be devoting more attention to alternatives to the internal combustion engine.

Although an act of Congress last year provided $160 million to put a demonstration fleet of several thousand electric cars on the road by 1982, this is less than Detroit spends to change the shape of fenders in a given year.

No electric car yet built or envisioned will totally replace the gas buggy. The best ones available right now can go perhaps 50 miles between charges. They are also tiny and comparatively slow.

But these same characteristics make them ideal as a second car for local commuting and shopping—and some 27 million Americans families own a second car.

There would also seem to be a great deal of promise in hybrid cars, which combine the advantages of the internal combustion engine and the electric motor. In the hybrid, a small, constant-speed—and hence highly efficient and clean—gasoline engine would keep the batteries charged and provide reserve power for sustained freeway travel.

Another possibility is the flywheel-powered car, which uses energy stored in a spinning flywheel that is periodically charged up by plugging into a household electrical outlet.

All of these designs have limitations and drawbacks. But if their development were made a national priority, significant improvements could no doubt be made in battery design, power transmission and what-not.

In short, rather than telling Detroit to come up with the perfect conventional automobile, the government ought to try force feeding some of this alternative technology.

THE FEDERAL GOVERNMENT AND THE ECONOMY OF NEW YORK STATE

Mr. MOYNIHAN. Mr. President, during the last several weeks, I have spent a great deal of time trying to gather my thoughts together on a subject of overwhelming concern to me, the economy of my State. While there is room for debate as to the performance of the national economy, that of New York State, and especially of New York City, continues to be dismal. The Nation has come very far in recovering from the depths of the recent recession, but New York has never recovered, and the economy of the State is severely depressed.

I believe that this condition results not simply from bad luck, though we have had our share of that, nor from any failings on our part, though we have much to answer for on that point. I believe that policy is, in the main, responsible for our present condition, and for the most part I refer to Federal policy. The national government has followed, and continues now to follow, a number of policies which, whatever their purpose, have had the effect of deflating the economy of New York State to the very brink of bankruptcy.

I have had the opportunity to spell out my thoughts on this entire matter at some length in a paper I would like now to insert in the RECORD. Entitled "The Federal Government and the Economy of New York State," it represents the evolution of my thinking at this point, and I should be most grateful for any comments on my analysis and conclusions which my colleagues may have. I have similarly asked the President to seek the comments of the Council of Economic Advisers, and look forward to having their, and his, views.

Mr. President, I ask unanimous consent that the text of my statement, "The Federal Government and the Economy of New York State," be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE FEDERAL GOVERNMENT AND THE ECONOMY OF NEW YORK STATE

I have been in the Senate now for most of half a year, and it would seem time to make some general statement to New Yorkers about the economy of New York.[1] If I seem to have put off this plain duty, let me plead that even now I hesitate to speak on so large a subject which is so little understood.

It will be generally agreed that we no longer "know" nearly as much about the national economy as we may have thought we did some years ago, and even in the most self-confident days of the Council of Economic Advisers in the 1960s no one pretended to know much of regional economics, still less of the economics of the several states which are legal jurisdictions and not at all economic units.

Nonetheless, the fact that New York is a legal jurisdiction has economic consequences. To the degree that we are taxed at higher or lower levels than other jurisdictions, to the degree our public spending is more or public spending less, our public borrowing more or public borrowing less, then the economy of New York will be different from that of other states.

It is different, and in ways that are well known. But why is it so different, and why so much worse? There is surely enough evidence that something extraordinary is going on. The problem is to identify what is extraordinary.

A number of examples come readily to mind in which situations of seemingly great disequilibrium nonetheless admit of alternative explanations which are much less unsettling. For example, the near collapse of New York City's finances two years ago was not an isolated phenomenon. The State's Urban Development Corporation almost went under at about that time. The Cities of Yonkers and Niagara had the narrowest of escapes. Still, this was a time of the deepest recession since the great depression of the 1930s. This general constraint combined with a certain mindlessness in government,—I have elsewhere recalled Gibbon's phrase, a "leakage of reality"—could account for a good deal. We are not compelled by those events to conclude that we are caught up in systematic disorder.

Similarly, it is at least possible to interpret the physical decay of the city in terms that are less ominous than would otherwise seem required. In the history of urban settlement I do not suppose there has ever been a phenomenon such as the destruction of the South Bronx over the past decade. Never. Nowhere on earth.

In history, places aplenty have been destroyed by conquerors, and more places abandoned than we tend to recall—Mesa Verde, Angkor Wat, Machu Picchu, Pagan, for example—but never has an urban settlement been so destroyed by the people living there. Still, to repeat, it is possible to argue, as some have done, that what we really are seeing is abandonment, and that this is nothing unusual in the American experience, which for so long was singular in the way agricultural land on the frontier was settled, quickly worn out, and promptly left behind as the settlers moved on. In that sense the abandoned car in front of the burnt out apartment is part of a continuum.

The welfare system is surely also a factor in this process of abandonment. In February of this year I visited Roosevelt Gardens, the first apartment complex to be burnt out on the Grand Concourse. Assemblyman Seymour Posner, who took me on this tour, told of his efforts, unavailing, to persuade the last cohort of tenants of this once proud property not to take what was in effect the advice of their welfare workers and set fire to their apartments as the one way to get a lump sum of money with which to make a fresh start. It is no news that the welfare system makes for socially irrational decisions.

Nor is it baffling that one person in six in New York City is on welfare, and that other cities in the State have great welfare rolls. If a personal note may be allowed, as far back as 1965 I persuaded the third President before the present one that this was going to happen. To use an economist's term, the welfare system is exogenous. This is to say the influence comes from outside the system. New York State did not create the present welfare system—the Federal government did. If the system were changed, a great many of its symptoms might disappear, which would prove they had nothing to do with New York as such.

But there is one phenomenon that truly is baffling, is ominous, and cannot be explained away: The loss of jobs in the City and the State. If we go back to June, 1969—the last decennial census of manufactures, and a good baseline, for the economy was neither very strong nor very weak at the moment—we find that as of April of this year, New York City has lost 686,200 jobs. This is astounding. There are twelve states in the Union that don't have a work force of this size. This number of jobs would in normal circumstances support a population of one and a half million people—a city roughly the size of San Diego.[2]

For New York State, the loss is only slightly less, some 569,700 jobs.

This decline in the absolute number of jobs in New York State has continued during the current national upswing which began in June 1975. Indeed, the number of jobs lost per month during the period of the present recovery is half again as great as it was for the preceding period. We are confronted with an inverse ratio of sorts. The faster the number of jobs in the nation goes up, the faster the number of jobs in New York goes down.[3]

If the economy of New York State had kept pace with the economy of the nation since 1969, we would now have one million more jobs than we do. New York City would have one half million more.[4]

This loss of jobs in New York State is already having second order effects. The employment/population ratio for the New York SMSA is only 50.5 (and in the New York Central City still lower). By contrast the ratio in Texas is 60.0. The populations of the New York SMSA and that of Texas are roughly comparable. But from roughly the

Footnotes at end of article.

same population, Texas gets proportionately one-fifth more workers.[5]

Again, we shouldn't doubt that welfare payment levels in New York account for some of this disparity, but I would ascribe much the larger value to the absolute loss of jobs.

Population is declining in New York, a recent phenomenon, and the housing market suggests we are preparing for further decline. As recently as 1966 New York accounted for almost seven percent of the national housing starts. Last year we were down to two percent. In 1976 there were only 33,370 housing starts in all of the State. Clearly we are disinvesting in housing, especially in New York City, where 104,000 housing units have been abandoned since 1970.

After the 1980 census we will lose four Congressional seats, bringing the size of our delegation in the House down to 35. Not long ago, of course, it was 45.

Relative decline is natural. I have remarked before that if you invent air conditioning in Syracuse, you get factories in Phoenix. New York's relative share of such activities will diminish, which is well and good.

Absolute decline is not natural. This at least is my view. There are no sufficient reasons for the absolute decline of our State, not even our own considerable mismanagement of our affairs. To the contrary, I have reached the conclusion that our decline has come about as the largely unintended, but nonetheless direct and palpable consequence of the policies of the Federal government. I have come to the conclusion that much of our economic decline is imposed on us from the outside, much in the way our welfare predicament is imposed on us from the outside.

There are three areas of policy in which this process is most in evidence.

First, the overall pattern of Federal taxation and Federal expenditure has the effect of systematically deflating the economy of New York. In effect, national prosperity is traded for New York's decline. Federal statistics conceal the incredible gap between the sum Federal taxes that are levied in New York and the expenditures that are returned to it.

Second, Federal environmental policies are systematically biased against the maintenance even of the present levels of economic activity in New York.

Third, Federal international economic policies have permitted the desolation of New York City's largest industry, with considerable multiplier effect.

FEDERAL TAXATION AND FEDERAL EXPENDITURE

"Federal Outlays in New York" is an annual publication "compiled for the Executive Office of the President by the Community Services Administration". The volume is subtitled: "A Report of the Federal Government's Impact by State, County and Large City." The key section records the total expenditures of the Federal government by sixty-two functions, and records what portion of each was expended in New York.[6]

For Fiscal Year 1976, New York is recorded as having received $40.6 billion in Federal outlays. This is 11.3 percent of Federal outlays totaling $358.9 billion.

The Annual Report of the Commissioner of Internal Revenue for 1976 reports that New York State accounted for $36.9 billion in Internal Revenue collections, 12.2% of the total.

There would thus appear to be a surplus in New York's "account" with the Federal government. As with the nation at large, it would seem that the Federal government is spending more in New York than it is collecting, in this way contributing to the expansion of the economy. This has become, for better or worse, a feature of United States fiscal policy. There has been a deficit in almost every fiscal year since 1958.

Except in New York. The official statement of Federal outlays in New York includes a phantom $14 billion which is not expended in New York at all. In actual fact, in New York—in singular contrast to the pattern elsewhere—the Federal government has outlays of only $26.3 billion, against tax collections of $36.9 billion, making for a federal surplus of $10.6 billion. This much more is taken out than is put in, and to that extent the economy of New York State is deflated.

The discrepancy between reality and the official view of reality is readily explained. The official statistics record that New York, in Fiscal Year 1976, received $13.3 billion in "Interest on the Public Debt". Out of $27 billion total interest paid, some $17 billion was paid from the Federal Reserve Bank in New York City. These monies went every which way—$3 billion went to foreign official accounts—but Federal statistics apportion them among New York, western Connecticut and northern New Jersey, the areas served by the New York branch of the Federal Reserve Bank.

New York is thus recorded as receiving 49.1 percent of the "Interest on the Public Debt". ("Federal Outlays in New York" breaks down these sums by county. Delaware County, in which I reside, is recorded as receiving $32.9 million in interest payments, which comes to $736.39 per citizen. The capital funds of all the commercial banks in the county come to only $15.6 million.)

"Federal Outlays" also records New York as receiving $965 million in "Foreign Economic and Financial Assistance", or 41 percent of the national outlay. This, obviously, is made up of foreign aid transactions handled through New York banks.[7]

There are no grounds for including such sums as direct outlays in New York, and the question of motive cannot be avoided. A scrupulous accounting would ascribe a portion of interest payments to personal and institutional income flows in New York. But in direct terms the Federal government took $10.6 billion more out of New York's economy in fiscal year 1976 than it returned.

Two illustrations will suggest the impact of this large a "surplus." In the past two decades, the Federal government itself has only twice had a budget surplus. In fiscal year 1960 there was a surplus of $269 million. In fiscal year 1969 there was a surplus of $3.2 billion.

The economy of New York State is roughly equivalent in size to the that of Canada. A rough calculation of Gross State Product for 1975 comes to $143 billion.[8] The Gross National Product for Canada for the previous year was $140 billion. Canada, for its Fiscal Year 1976, had total receipts of $30 billion, and total expenditures of $34 billion, for a deficit of $4 billion. These will be seen to be sums that are in the range of Federal taxation and expenditure in New York. Supposing that instead of a $4 billion deficit, Canada had incurred a $10.6 billion surplus. Would not the economy of Canada have been seriously deflated? Would not unemployment have risen, jobs disappeared? Would not the whole of the international financial community have joined in counseling Canada to do what Canada in fact did do, which was to avoid that deflation. Is not the case of New York State comparable?

ENVIRONMENT

The New York Times in an editorial of June 18, 1977 commented, "Over the past decade the Federal government's urban policy shifted from a war on poverty to a war on dirty air." The occasion of the editorial was a Federal court order requiring New York City to reduce by half the number of cars in downtown Manhattan by 1980. This followed a Federal court order to impose tolls on bridges that connect Manhattan with Long Island and the mainland, and a sequence of bewildering Federal instructions, all of which seem designed in the first instance to reduce the economic activity of the nation's largest city.

In the terms of the Clean Air Act, New York City and New York State are, with respect to many pollutants, "non-attainment areas". This means that they do not attain "national ambient air quality standards" established by the Act.[9] And because the standards are not attained, new sources of pollution are not permitted to locate in these areas, or are permitted to do so only under very stringent regulations. New sources of pollution include power plants and factories, and might otherwise be defined as new sources of jobs.

Much attention has been focused on the standard for photochemical oxidants, which are assumed to be the product of automobiles. Yet, as Commissioner Peter Berle of the New York State Department of Environmental Conservation commented on February 11, 1977 to the Senate Committee on Environment and Public Works, "We further have violations of the oxidant standard in very remote areas, such as the top of Whiteface Mountain, which is hundreds of miles from any major municipality or industrial sources." The oxidant standard is violated in the entire northeastern area of the country during the summer months, and Commissioner Berle has stated that, "We believe first of all that the photochemical oxidant standard as currently written will never be achieved in New York State..." It seems worth noting that when the Clean Air Amendments of 1977 were before the Environment and Public Works Committee, the Senators representing Texas and New York—the two largest states, and the states with the largest cities, represented on the Committee—tried to have the oxidant standard relaxed significantly, and failed.

But our problems are not limited to the technological, or to the oxidant standard. Commissioner Berle has pointed as well to the standard for particulate matter—dust, if the truth be known. Mr. Berle has written that, "Deterioration and abandonment of buildings in portions of New York City due to economic problems are partly responsible for localized fugitive dust problems. Prohibition of major sources of particulates with little ground level impact will be counter to the economic stimulus needed to prevent urban deterioration. Fugitive dust problems can have dramatic effects on localized levels of suspended particulates."

For those unfamiliar with the language of environmentalism, the Commissioner is saying that there are lots of crumbling buildings in New York City, and that this is one reason there is a lot of dust, and further that if no economic expansion is permitted by the environmental regulations there will be a lot more deterioration of buildings, and, ultimately, a lot more dust.

The illogic of some of the environmental regulations is not, of course, limited to this one case. To take another, the Power Authority of the State of New York wishes to build a power plant on Staten Island, which would not only produce power but would do so by burning refuse. The proposed plant would burn 2,100 tons of refuse per day, which is over ten percent of the 20,000 tons of burnable refuse produced in the City each day, and would replace dumps, landfills, and incinerators. This plant has been delayed and perhaps will not be built because of environmental standards. It is not my purpose here to argue that the particular standards in question are overly strict, or that the value of this plant—as a producer of power, and as a reducer of pollution in that it will burn trash—is so great that all environmental restrictions must be discarded.

I would assert, though, that when environ-

Footnotes at end of article.

mental laws prohibit us from building such a plant; when they place over our cities standards that we do not always meet in the heart of our forests; when they tell us that we cannot have new factories because our old buildings are crumbling; then we begin to see that the economy of the city and of the state are as much affected by these laws as they are by the laws of economics. But the laws of economics are neutral in their impact, while the laws which set these environmental standards are, one must conclude, often very harmful in theirs.

For all this, there is an exception that must be taken to the New York Times' analysis. The war on dirty air did not come about as a deliberate aspect of national urban policy, still less of policy toward New York. It is, rather, one of those hidden policies of government, which often are the more important. In 1970, in a paper largely devoted to the question of national urban policy I described three propositions that relate to a concept of government by policy as distinguished from government by program—

"The second master proposition is that from the fact that everything relates to everything it follows that there are no social interests about which the national government does not have some policy or other, simply by virtue of the indirect influences of programs nominally directed to other areas. These are the hidden policies of government.

"This is not such a familiar proposition. The interconnections of programs directed to one area with outcomes in another are sometimes seen. Most of us have by now got it fairly straight that, for example, agricultural research can lead to the migration of farm populations, which has consequences for cities. But by and large these connections need to be pretty evident for much note to be taken of them, and ability to detect them is much influenced by intellectual and political fashion. It is fashion that dictates that some activities are interesting; others not. And if a subject is not interesting, it can have consequences all over the place of which no one is likely to take much heed." [10]

It was at just this time, in point of fact, that the present Clean Air legislation was taking shape. Three distinct influences can be detected.

First, and probably the most important is the changing cultural environment of recent years, reflecting, most likely, what Jay W. Forrester called the concluding phase of the life cycle of growth. "Environmental concerns," he writes, "falling birth rate, and pollution legislation are best interpreted as belonging to the transition from growth to equilibrium." Certainly there is a penumbra of anti-business, anti-growth attitudes in much environmental activity. Hence, the language in which we describe our economy has not so subtly changed. A new business becomes a "new pollution source".

Second—and this factor is singularly linked to urban policy, albeit in a negative way—by 1970 the intractability of so many urban problems had seemingly grown, while the psychological rewards of involvement with those problems had much diminished. Environmental issues provided a far greater return on political investment.

Third—a point of general relevance—is the organization of the Congress. The prime mover behind much of the environmental legislation has been the Senate Environment and Public Works Committee, a great committee of which I am a member, whose rural complexion is nonetheless plain. Of the fifteen states represented on the Committee, thirteen have no city even approaching one million in population, and of the top ten states in population, only two are represented on the Committee. Put otherwise, while New York is but one of the states on the Committee, its population is nearly as large as that of the thirteen smaller states put together. This is not a rhetorical point, but a substantive one, for some of the standards imposed on urban areas such as New York City are impossible ones, in that they will never be achieved. Others are achievable only if we adopt a firm no growth policy. Still others are simply based on at least partial misunderstandings of the conditions of life in a city such as New York.

It is one thing to account for a problem: another to resolve it. But clearly, environmental restrains imposed by the national government have become a distinct difficulty for the economy of New York. [11]

INTERNATIONAL ECONOMIC POLICIES

So, in a similar way, are the international economic policies of the Federal government, notably tariff policies. It is still, perhaps heretical to say this, but the doctrinal dedication of the Departments of State and Treasury to removing trade barriers has permitted severe economic dislocations in New York, again especially in New York City, of a sort which none of our trading partners would be expected to put up with, much less to promote.

Between 1969 and 1976, employment in the garment industry in New York City was reduced by more than one-third. The City thereby lost over 82,000 jobs. I do not insist that every one of these was lost due to foreign competition, for clearly this is not the case. It is the case, however, that foreign competition was responsible for much of this staggering loss in employment in one industry, and that our nation's tariff policy was responsible, in large part, for allowing foreign competition to have this effect.

Nor is the loss of jobs the only measure of the decline of the garment industry. Perhaps a fine measure is wage levels in the industry. Mr. Herbert Bienstock, who directs the regional office of the Bureau of Labor Statistics in New York, said recently that, "the garment industry was the highest paying industry in the country in 1939. Now the high paid industry is autos, and the garment industry is at the bottom." From top to bottom: such has been the experience of this industry, which employed 223,000 men and women in New York City in 1969, and which employs 140,000 now.

I take special note of the experiences of this industry because it has played a special role in the political and social, as well as the economic, history of New York City, and indeed of the nation. Surely no other industry had so great a role in providing a place in our economy, and through the garment workers' unions, in our political and social life to newcomers to our City and to our nation. And surely some of the difficulties which more recent immigrants to New York City have experienced can be linked to the decline of the garment industry.

Perhaps those who are in charge of our foreign economic relations have been unaware of the effects of their policies on New York. It is often said that it is impossible to measure these effects with anything approaching precision. This is true, if what is meant by it is that the exact number of New Yorkers who have lost their jobs due to the nation's tariff policies is unclear. But to argue that because we cannot with precision count the jobs lost, we cannot say that jobs have been lost, is not to use statistics but to misuse them. If anyone wishes to argue that the overall effect of these tariff policies on New York is unclear, I would take exception: the effect is clear, and the effect is greatly damaging.

* * * * *

FEDERAL POLICIES

If this analysis is correct, two large undertakings are in order.

The first task is to establish that it is correct. I have presented what appears to me to be a coherent hypothesis to account for much of the now sustained economic decline in New York. I have not presented a proof. It is not clear to me that in the present state of econometrics any final demonstration is possible. Yet there is a wide range of analytic techniques that can be brought to bear on the question, such that the hypothesis can be confirmed or disconfirmed, or (as is more likely) revised.

Clearly, for example, some portion of corporate income tax which is now recorded as paid in New York ($6.8 billion in FY 1976) should be allocated to other states, while some paid elsewhere should be credited to New York. No doubt this is also true of some portion of income tax collected through payroll deductions. Further, the idea that each State ought somehow to have a neutral or positive balance of payments with the Federal government has no more conceptual clarity than do similar notions about international trade. In theory the Federal government might have *no* outlays in New York but at the same time greatly benefit New York through expenditures elsewhere that ultimately reach our economy. My contention is simply that a deficit of $10.6 billion (however it might be reduced through finer calculation) is too huge to be overcome by indirect benefits. Along with the phantom $14 billion, there needs to be an accounting for the missing one million jobs.

This effort should now proceed. The Federal government has the capacity for such analysis, as do many public and private institutions in New York. I have asked for a meeting with President Carter at which I will request that he direct the Council of Economic Advisers, or whichever groups he wishes, to undertake such an analysis. I will ask Governor Carey that he do the same, again, with whichever group he chooses.

The second task is for the Federal government to commence a sustained effort to make New York whole. I submit that the case that the Federal government is directly accountable for a major proportion of New York's economic decline is strong enough that unless it is rebutted, the presumption must be that it is proven pending further refinement.

The Federal government must desist from a policy of further weakening the weakest economy in the nation. It must right the present imbalance between what the Federal government takes from New York and what it returns. There is no need to embellish this point with the hysterical social rhetoric of the 1960s.

We must commence to judge national leaders and parties by their willingness, first to acknowledge this entitlement, and second, to act upon it. There is perhaps a particular message for those who share the liberal political values which both parties in New York have sought to strengthen and advance over the years. There is no way to avoid the proposition that New York's troubles became severe only when the great upsurge in Federal spending occurred in the late 1960s and early 1970s. (I speak as one who recalls receiving the instruction of President Johnson in early 1964 that the forthcoming Federal budget should be under $100 billion.) In overwhelming degree, New York as a political entity supported the new programs for which these vast new expenditures were required. It surely will not serve any interest for us now to be forced to consider that in doing so we may have undone ourselves.

In just this way it may be remarked that New York's economic plummet very much coincided with the onset of severe Federal environmental restrictions. No causal relation has been established. But the coincidence is too strong to be dismissed.

We have had some success in this session of the Congress at improving some of the grant-in-aid formulas which have been

Footnotes at end of article.

biased in our favor which many will have to be if we are going to right the present imbalance. Not long ago, for example, I suggested a possible revision in the present medicaid formula. The present formula follows the practice begun under the Hill-Burton medical facilities legislation of 1946 whereby the amount of Federal aid undertakes to compensate not for the difference between the per capita incomes of the several states, but the difference between the squares of such incomes. I proposed square roots.

The Hill-Burton formula is one of the few to use squares of income, but it is unfortunately not one of the few whose effect, and perhaps whose design, is rather unfortunate for New York. Mass transit aid is provided to cities by Section 5 of the Urban Mass Transportation Act, and the formula which appears in Section 5 is described by the Department of Transportation as follows: "The formula currently used to allocate Section 5 funds to urbanized areas distributes them half in proportion to urbanized area population and half in proportion to urbanized area population weighted by population density." The Department goes on to note that, "When the resulting allocations are compared to transit ridership and vehicle miles, there are considerable variations within and between population groups."

This is an understatement, since the variations are not only considerable but enormous. The Section 5 formula ignores the two factors in which New York City ranks first, transit vehicle miles and transit ridership. As a result, New York receives three cents per rider in federal assistance, while, to cite a few examples, Los Angeles receives twenty cents, Houston nineteen cents, and Dallas twelve cents. The average assistance per rider for cities of over one million in population is six cents, twice what New York receives. The situation is the same for assistance per vehicle mile: New York City receives twelve cents, while, to cite some examples once again, Los Angeles receives forty-two cents, Houston thirty-three cents, and Kansas City thirty cents. The national average for cities of over one million in population is eighteen cents, or fifty percent more than New York City receives.

The result of the use of the Section 5 formula is simple. As Deputy Mayor John C. Burton told the Senate Banking, Housing, and Urban Affairs Committee on March 30, 1977, "New York City has more than thirty percent of the national transit ridership. Nevertheless, under the Section 5 formula, the City receives only 10.7 percent of the annual Section 5 authorization."

These issues will truly require a "long march" through the permanent institutions of the legislative and the executive branches of the national government. For there is a fundamental bias against New York State in the way the Federal government collects its taxes and distributes its revenues. Tax rates accelerate as money income goes up. Benefits accelerate as money income goes down. The Scythians could not have bred two wild horses better equipped to pull New York State apart.

Incomes are higher in New York in the way they are higher in Alaska—because the cost of living is higher. A final irony is that one of the reasons the cost of living is higher in New York is that our taxes are so high, and our taxes are so high in part because the draining away of revenue to the Federal government creates social problems which the state and local government feel they must deal with, and which in turn require them to impose devastatingly high taxes. The Regional Office of the Bureau of Labor Statistics had demonstrated this in a most graphic way, contrasting the money cost of a city worker's budget as between New York City and Austin, Texas.

Higher level budget, family of four—Autumn 1976

	New York	Austin	Difference
Total	$29,677	$20,628	$9,049
Of which:			
Federal income taxes	5,470	2,780	------
State and local income taxes	2,126	-------	------
	7,596	2,780	4,816

The same standard of living (not a remarkably "high" one—this budget enables a family to buy a "new" used car every four years) costs nine thousand dollars more in New York than Austin. More than half the difference arises because of State and local income tax, plus the greater Federal income tax which comes about because the New York family is presumedly better off. In fact, we see that each has precisely the same standard of living.

Federal aid programs must begin to take such cost of living factors into account. Nowhere is this opportunity so conspicuous as welfare reform. It is disheartening to read that the welfare reform proposal now being shaped by the Carter Administration will drain yet more money from New York and our region. Only mildly disheartening, however, for I cannot imagine that the administration will end by sending such a bill to the Congress, anymore than I can imagine that President Carter will not keep his solemn promise that he will propose that the Federal government assume the local costs of welfare in New York and the three other states where significant local contributions are required.

But the most important single approach would be an emergency revenue sharing program that would have the effect of closing the gap between what New York pays and what New York gets in order that New York might reduce taxes. I will ask the President to devise such a program. Alternately, as a member of the Finance Committee, I will devise one myself.

Similarly, the President and Congress really must address the question of military and veterans' expenditure. The United States Army today is trained almost exclusively to fight a war in Nicaragua, which is to say from training camps in the balmier regions of the Old South. I honor the Marines who, when tons of snow fell in upstate New York last winter, were discovered to have a few companies at Fort Drum on winter training exercises. Similarly, I honor the great Southern Congressional chairman who served their region and this nation so well in sustaining the Armed Forces in an earlier period of isolationist clamor. But the time has come to introduce our soldiery to the thought that in many parts of the world it frequently freezes and sometimes snows.

This matter touches the issue of national security. The distribution of veterans' benefits is a matter of good faith. Mr. Stuart Feldman has calculated that owing to the current formulas of aid adopted by the Veterans Administration, in the period from Fiscal Year 1968 to Fiscal Year 1976 California veterans have received $3,173,600,000 in GI bill payments, while New York veterans have received only $1,124,300,000.[12] One might ask whether in this respect this is a direct, if unintended policy of the Federal government to make veterans feel that New York is not a good place to settle down.

We should not exaggerate what is likely to happen. (If we were truly made whole, the amount involved would approach the entire cost of State government.) But we can begin, and the case is overwhelming that we should.

* * * * *

There remains the question of what we New Yorkers should expect of ourselves in this large enterprise.

I dare to suggest that our first task is to bring, finally, to our affairs that measure of social realism and social discipline which will give the nation confidence that what is done on our behalf will not be unavailing. We have already done much in this regard. But every week seemingly brings yet more evidence of how far we have to go. This statement, for example, was written during the week of June 19th. The week began with a major revelation by the New York City's Comptroller's office that while New York spends $500 a year more than most major American cities for each public school student, most of the extra money goes to administrators, and the City is actually spending "substantially less" than the national average on instruction. In that report we also learned that only 71.3 percent of all high school students in New York City attended such on any given day during 1976. (For Cleveland the proportion was 95.8 percent.)

On Monday, the Temporary Commission on City Finances reported that inefficiency in the administration of Medicaid costs the City $400 million a year, and that much of this is due to the "repeated refusal of the Legislature" to provide enough money to administer the programs properly.

On Thursday it was learned that the State Comptroller found utter failure in an eleven year old State program in New York City to build public schools in combination with income producing housing and private business, while from the State Commission on Investigation it was learned a huge program of the City University to aid disadvantaged students has been "so badly" and wastefully managed that the only solution will be to take it away from the university and put it under the State's Department of Education. Given that the State's Department of Education must share some responsibility for the report which began the week, this was not an altogether reassuring proposal. But this is the week that was, and it was typical.

Part of the difficulties New Yorkers have in recognizing their current experience is that our model of government corruption and mismanagement continues to be that which emerged from the three generation struggle between the forces of Good Government and Tammany Hall (to use the disparaging terms by which these opposing forces dominated one another). The problem is that, for good or ill, the organized political parties have little to do with our present difficulties. The week's scandals which I have related are without exception the scandals of Good Government, just as, for years now, the administrations in New York City, most of our other cities, and in our State have been "reform" administrations. We suffer less from bad government than from what Walter Lippmann called "the sickness of overgovernment."

Too much our tendency has been to equate what is good for government with what is good for the people. For years, as one example, New York has unhesitantly supported national programs which involve taxing our private sector one dollar in order to return eleven cents to our public sector. It is not good economics.

Footnotes at end of article.

It has also been our unbecoming habit to ascribe criticism of New York to meanspirited and conservative forces elsewhere in the nation. If we would see ourselves as others see us—as our best friends sometimes see us—we would do well to heed the words of former Senator Eugene J. McCarthy who recently said of us: "They voted for subsidized housing, subsidized medicine, subsidized transportation, subsidized college education and subsidized old age. The only thing they didn't subsidize was clothing, probably because of the garment industry." If he knew all the facts, he might have concluded that we didn't subsidize clothing because the production capacity of our garment industry was no longer great enough!

This year and next are election years in New York. We no more than other people have been able to escape overpromising. But we unlike most others can no longer really afford it, not least because of the impression it makes elsewhere. Surely the New York voters have come to see this. Almost the finest thing that can be said of the elected official in New York of late is that he has not kept his promises!

There is no need for the 1977 and 1978 elections turning into the familiar auctions of wealth. Everyone knows that no additional wealth will emerge from the process, and certainly no enhanced reputations.

Having said that, it is perhaps finally to be said that the single greatest contribution New Yorkers can make to the restoration of our economy is to learn for themselves and teach others just how much is at stake. When the French historian Fernand Braudel was seeking to describe what Venice meant to the Mediterranean world of the 15th or 16th Century, he wrote, "Venice dominated the 'Interior Sea' as New York dominates the western world today."

This is what is at stake: the fate of much that is finest in what the West has stood for in this awesome century.

FOOTNOTES

[1] I would like to acknowledge the assistance of Mr. Joseph Meresman and Mr. Elliott Abrams in preparing this analysis.

[2] and [3] See Appendix A for changes in Annual Average Non-Agricultural Payroll Employment, 1969–1976 for the United States, New York State and New York City.

[4] For this data and half a lifetime of adult education, I am indebted to Mr. Herbert Bienstock, Regional Commissioner of Labor Statistics.

[5] The labor force participation ratio for New York in 1976 was 56.4. For Texas it was 63.7.

[6] See Appendix B.

[7] I am indepted to Mr. Erik Johnsen of the Technical Assistance Center of the State University of New York for calling this matter to my attention in his paper, *A Critical Review of Federal Outlays in New York* (April, 1977). Neal Peirce and the staff of the *National Journal* have written on the subject in their June 26, 1976 issue, as has Bruce Drake of the *New York Daily News* on January 1, 1977.

[8] Calculation of New York Gross State Product—1975 New York State Per Capita Income, $6,564; 1975 New York State Population, 18,120,000; 1975 New York Personal Income, $118,939,680,000; Assumption: Personal Income equals five-sixths Gross Product; 1975 New York Gross State Product, $142,727,616,000.

[9] See Appendix C for potential non-attainment areas in New York State in 1985.

[10] Daniel P. Moynihan, COPING: Essays on the Practice of Government, Random House, New York, 1973. The material cited was read before a centennial observance of Hendrix College, April, 1970. It was first published in *The Public Interest*, Summer, 1970.

[11] One of the curiosities of the Federal environmental program is that in some circumstances it may be said to create a property right in pollution. Under regulations of the Environmental Protection Agency, new sources of pollution may locate in "non-attainment areas" only if equally polluting sources already there are shut down or cleaned up. New firms wishing to start up operations may find it necessary in an area such as New York to buy an old firm, hopefully an especially filthy one and close the firm down, so that the new firm may replace the old firm's pollution with its own. Clearly the time is at hand to try emission fees.

[12] See Appendix D.

APPENDIX A

ANNUAL AVERAGE NONAGRICULTURAL PAYROLL EMPLOYMENT

Year	National	Percent	New York State	Percent	New York City	Percent
1969	70,442,000	100.0	7,182,000	100.0	3,797,700	100.6
1970	70,920,000	100.7	7,154,800	99.6	3,744,800	98.0
1971	71,222,000	101.1	7,005,200	97.5	3,609,400	95.0
1972	73,714,000	104.6	7,030,200	97.9	3,563,100	39.8
1973	76,896,000	109.1	7,124,500	99.2	3,538,400	93.2
1974	78,413,000	111.3	7,070,200	98.4	3,444,600	90.7
1975	77,051,000	109.4	6,791,100	94.6	3,275,900	86.3
1976	79,443,000	112.8	6,708,800	93.4	3,189,200	84.0

Source: U.S. Department of Labor, Bureau of Labor Statistics.

APPENDIX B

FEDERAL INFORMATION EXCHANGE SYSTEM—NATIONAL AND STATE SUMMARIES—BY FUNCTION

[Dollar amounts in thousands]

	Fiscal year 1976 outlays		
	National total	State amount	State (percent)
NEW YORK			
Department of Defense—Military	$82,465,552	$4,126,479	5.0
Atomic Energy Defense activities	1,236,486	127,809	10.3
Defense-related activities	56,414	2,259	4.0
Foreign economic and financial assistance	2,385,105	965,416	40.5
Conduct of foreign affairs	483,990	107,507	22.2
Foreign information and exchange activities	283,378	31,562	11.1
General science, space, and technology	3,583,590	57,051	1.6
General science and basic research	1,128,739	119,811	10.6
Earth sciences	326,103	5,644	1.7
Natural resources, environment, and energy	126,024	1,347	1.1
Water resources and power	3,686,715	284,925	7.7
Conservation and land management	1,992,399	32,805	1.6
Recreational resources	870,620	23,402	2.7
Pollution control and abatement	4,903,061	356,606	7.3
Energy	2,704,475	50,936	1.9
Other natural resources	539,371	8,296	1.5
Farm income stabilization	2,609,583	206,422	7.9
Agricultural research and services	1,027,338	28,387	2.8
Mortgage credit and thrift insurance	92,062	1,390	1.5
Payment to the Postal Service	12,577,747	1,411,446	11.2
Other advancement and regulation of commerce	986,734	47,209	4.8
Ground transportation	7,340,810	706,537	9.6
Air transportation	1,670,409	79,338	4.7
Water transportation	1,498,047	256,064	17.1
Other transportation	103,880	2,434	2.3
Community development	3,001,030	153,112	5.1
Area and regional development	1,492,939	40,946	2.7
Disaster relief and insurance	170,220	32,704	19.2
Education, manpower, and social services	25,361	1,557	6.1
Elementary, secondary, and vocational education	4,392,329	322,920	7.4
Higher education	2,446,741	193,772	7.9
Research and general education aids	1,275,161	105,400	8.3
Manpower training	6,992,885	623,393	8.9
Other manpower services	264,228	11,635	4.4
Social services	2,897,480	248,712	8.6
Health	2,144,446	242,697	11.3
Health care services	$27,266,223	$3,365,730	12.3
Health research and education	1,490,700	153,155	10.3
Prevention and control of health problems	740,692	27,063	3.7
Health planning and construction	10,807	27	0.2
General retirement and disability insurance	78,555,818	7,131,669	9.1
Federal employee retirement and disability	9,169,916	904,681	9.9
Unemployment insurance	2,161,991	278,237	12.9
Public assistance and other income supplements	18,194,525	1,604,454	8.8
Income security for veterans	9,103,921	669,767	7.4
Veterans education, training, and rehabilitation	5,333,633	285,535	5.4
Hospital and medical care for veterans	4,207,418	385,053	9.2
Veteran's housing	70,910	318	0.4
Other veteran's benefits and services	501,821	19,100	3.8
Federal law enforcement and prosecution	1,179,926	130,637	11.1
Federal judicial activities	10,480	577	5.5
Federal correctional and rehabilitation activities	226,131	4,966	2.2
Law enforcement assistance	785,911	58,449	7.4
Executive direction and management	41,057		
Central fiscal operations	2,057,209	208,932	10.2
General property and records management	3,392,063	278,216	8.2
Central personnel management	141,811	7,122	5.0
Other general government	276,707	11,090	4.0
General revenue sharing	6,240,121	710,297	11.4
Other general purpose fiscal assistance	460,448	5	(1)
Interest on the public debt	27,179,203	13,341,122	49.1
Other interest	289,015	45,549	15.8
Total	358,869,914	40,639,679	11.3
INDIRECT FEDERAL SUPPORT:[2]			
Energy	(2,423,229)		
Farm income stabilization	(1,826,731)	(29,742)	10.3
Mortgage credit and thrift insurance	(9,543,483)	(483,114)	67.2
Other advancement and regulation of commerce	(1,604,677)	(105,018)	36.3
Water transportation	(3,430,882)	(893,003)	9.0

Footnotes at end of table.

APPENDIX B

FEDERAL INFORMATION EXCHANGE SYSTEM—NATIONAL AND STATE SUMMARIES—BY FUNCTION

[Dollar amounts in thousands]

	Fiscal year 1976 outlays		
	National total	State amount	State (percent)
Community development	(3)		
Area and regional development	($893, 441)	($34, 672)	12.0
Disaster relief and insurance	(3, 463)		
Higher education	(254, 062)	(23, 494)	8.1
Health	(997)	(1)	(2)
Public assistance and other income supplements	($513, 682)	($33, 541)	11.6
Veterans housing	(10, 461, 361)	(209, 285)	72.4
General property and records management	(139, 692)	(2, 608)	.9

[1] Less than 0.05 pct.

[2] These figures do not represent actual Federal funds and are not included in any totals.

APPENDIX C

Potential nonattainment areas in New York State—1985

Air quality maintenance area, counties or area description, and pollutants:

Binghamton, Broome (part), Binghamton City, Towns of: Vestal, Union, Binghamton, Conklin, Kirkwood, Fenton, Chenango, Oswego; Tioga County (part)—1.

New Jersey-New York Interstate, New York City, Nassau, Suffolk, Westchester and Rockland Counties—1, 2, 3, 4, 5.

Niagara Frontier, Erie and Niagara Counties—1, 2.

Utica-Rome, Herkimer (part), Oneida (part), Utica City, Rome City; Towns of: Schuyler, Frankfort, Lee, Floyd, Kirkland, Trenton, Deerfield, Marcy, Whitestown, Westmoreland, New Hartford, Paris, 1.

Elmira-Corning, Parts of: Chemung and Steuben, Elmira City, Corning City, Towns of Southport, Ashland, Elmira, Horseheads, Big Flats, Corning, Erwin—1.

Rochester, Monroe and parts of Livingston, Wayne and Ontario, Towns of: Caledonia, Avon, Lima, West Bloomfield, Victor, East Bloomfield, Farmington, Canandaigua (city), Ontario, Walworth, Macedon, Canandaigua (town)—1.

Jamestown, Chautauqua County (part), Jamestown, Towns of: Chautauqua, North Harmony, Ellery, Busti, Kiantone, Ellicott, Poland—1.

Syracuse, Onondago—1.

Capital District, Albany (part), Saratoga (part), Schenectady (part), Montgomery (part), Rensselear (part), Amsterdam City, Mechanicsville City, Towns of: Halfmoon, Waterford, Clifton Park, Amsterdam—1, 2.

Mid-Hudson, Dutchess (part), Ulster (part)—1.

Pollutants: 1-Suspended particulate matter, 2-Sulfur dioxide, 3-Photochemical oxidants, 4-Nitrogen dioxide, 5-Carbon monoxide.

(Source: EPA).

APPENDIX D

KEY GI BILL STATISTICS IN LARGE STATES FISCAL YEARS 1968–76

States ranked by veteran population	GI bill payments fiscal years 1968–76	Public college tuition	2 and 4 yr colleges, GI bill use rate (percent)	Per capita payments fiscal years 1968–76	Vietnam veteran population
California	$3, 173, 600, 000	$189– $667	52.5	$3, 484	911, 000
New York	1, 124, 300, 000	850–1, 000	30.4	1, 973	570, 000
Texas	1, 235, 600, 000	280– 460	37.4	2, 740	451, 000
Pennsylvania	781, 300, 000	876–1, 300	19.7	1, 768	442, 000
Ohio	747, 200, 000	663– 870	23.4	1, 822	410, 000
Illinois	900, 600, 000	440– 687	29.6	2, 292	393, 000
Michigan	762, 500, 000	627–1, 052	31.8	2, 290	333, 000

Source: National League of Cities, U.S. Conference of Mayors, Dec. 8, 1976 announcement.

TRANSKEI LOOKS FOR RECOGNITION

Mr. McCLURE. Mr. President, the world has long been guilty of applying radically different standards to nations of different political complexions.

The United Nations, for example, repeatedly passes resolutions criticizing Israel and South Africa, but never passes resolutions critical of the Soviet Union, Communist China, or such Third World dictatorships as Uganda.

Similarly, the international community has described as "legitimate" such nonelected Marxist dictatorships as those which rule Mozambique and Angola.

It has, however, declared to be "illegitimate" a black African State which is not Marxist, which is not racist, which believes in free enterprise and opposes current Soviet encroachment in Africa. That newly independent state, the Republic of Transkei, achieved its independence peacefully on October 26, 1976. Much of the world has rejected it simply because Transkei's independence came from South Africa and was achieved without violence.

Fortunately, many Americans of differing political philosophies have shown a willingness to look at Transkei for themselves and come to their own conclusions.

One such observer, Lorna Hahn, director of the Association on Third World Affairs, has written an important article about Transkei for the liberal journal, the New Leader.

Miss Hahn, who has visited Transkei and interviewed its leaders, notes that—

The criticisms of Transkei hardly constitute a case against Transkei's qualifications for either independence or acceptance by the United Nations. While it is indeed small, it is larger than Belgium, Israel, Lebanon and 25 other U.N. members; has more inhabitants than do 31 U.N. members; has a higher annual per capita income ($210) than 17 of its neighbors; and has a literacy rate of 22 per cent, above that of 19 African countries.

There is considerable hypocrisy in the rejection of the legitimacy of Transkei independence by the member states of the Organization of African Unity. Miss Hahn points out that—

At least 19 of the African states that refuse to help Transkei do some sort of business with South Africa; the U.S. has diplomatic relations with Pretoria, too, and is probably in the most hypocritical and least logical position of all. "Your country," wryly observes Secretary for Planning and Commerce Dunjwa, "assists white South Africa, but will not assist black Transkei, which has broken away from South Africa. And you say you are against racism?"

In my view, the case for U.S. recognition of Transkei is a compelling one. I wish to share with my colleagues the article, "Transkei Looks for Recognition," by Lorna Hahn, as it appeared in the New Leader of April 25, 1977, and ask unanimous consent that it be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Leader, April 25, 1977]

TRANSKEI LOOKS FOR RECOGNITION

(By Lorna Hahn)

UMTATA.—Since it officially became independent of South Africa on October 26, 1976, the Republic of Transkei has been rapidly desegregating schools, hospitals, hotels, swimming pools, and other facilities. Further, the Constitution of this small predominantly black country on the Indian Ocean, states that all persons born here, regardlesss of color, are to be considered citizens. And although some preindependence statutes—notably the (anti-) Mixed Marriages Act, the (anti-) Terrorism Act and the Suppression of Communism Act remain on the books, Minister of Justice George Matanzima promises, "These laws will be repealed as soon as we can draft suitable ones to replace them." His brother, Prime Minister Kaiser D. Matanzima, has in a similar vein declared that neighboring blacks seeking to overthrow the apartheid system, including members of the outlawed Pan African Congress (PAC), are welcome.

Yet thus far only South Africa has recognized Transkei. The reason for this, of course, is that the rest of the world, taking its cue from black Africa, shuns the new

nation as a puppet of Pretoria, a product of the policy of "separate development."

"Grand apartheid," as the program is also called, has grouped South Africa's blacks into 10 homelands or *bantustans*, with the ostensible objective of grooming them for self-rule. Should the plan fully succeed—and several homeland leaders have recently opted to follow Transkei's example—South Africa, a highly industrialized society built largely by native labor, will have managed to strip all its blacks of citizenship and other rights. Critics therefore charge that the Transkei leaders are simply playing along with Pretoria in accepting a sham "independence," and denounce them as stooges and traitors who must not be awarded the dignity of recognition.

Led by the Organization of African Unity (OAU), whose offensive began well over a year ago, a spate of international organizations have echoed a UN General Assembly resolution last October 26 opposing "any dealings with the so-called independent Transkei or other *bantustans*." The United States abstained in the 134–0 vote, but the State Department, whose Africa Bureau has stayed virtually intact under the new Administration, firmly supports the UN position.

The anti-Transkei forces have devoted much of their effort to demonstrating that the tiny, geographically split, underdeveloped country is incapable of standing on its own feet. Its rural economy is still based largely on traditional tribal land tenure systems and primitive farming methods, they note, and cannot provide sufficient food or employment for a population of roughly 3.5 million: Some 335,000 Transkeians, most of them young men, must work in South Africa, and with their families make up a total of about 1.5 million Transkeians now living in South Africa.

In fact, says the Potomac Association on Southern Africa (a Washington-based study group), Transkei simply provides "labor reserves for the white-controlled economy of South Africa, and a location for agricultural workers and those deemed unproductive: the old, the very young, the sick, those 'endorsed out' of the white areas and resettled to the home lands, and the 'undesirables.'" South Africa, meanwhile, subsidizes 65 per cent of Transkei's $180-million annual budget and trains its 250-man Army.

As for Prime Minister Matanzima, critics point out that he is a conservative chief handpicked for leadership by Pretoria, and has made sharply contradictory statements for and against the separate development policy. He rules with the help of emergency regulations that have permitted him to control the opposition, win elections and prevent the formation of trade unions.

All of the criticisms are essentially correct, but in themselves they hardly constitute a case against Transkei's qualifications for either independence or acceptance by the United Nations. While it is indeed small, it is larger than Belgium, Israel, Lebanon, and 25 other UN members; has more inhabitants than do 31 UN members; has a higher annual per capita income ($210) than 17 of its neighbors; and has a literacy rate of 22 per cent, above that of 19 African countries.

In addition, Lesotho and Mozambique send far more laborers to South Africa than does Transkei; Pretoria extends technological assistance to a number of its black neighbors; several long-independent African nations continue to depend on their former colonizers for assistance; and Transkei happens to be phasing out its South African officials. Finally, few African leaders are in a position to protest authoritarian tendencies on the part of anyone else; Transkei's opposition party is at least functioning.

There is no gainsaying the fundamental objection to Transkei: Its leaders did achieve independence by working under the separate development policy, and Pretoria does believe the policy will be legitimized if other nations recognize Transkei. But officials here argue it does not automatically follow that the country is a puppet, or that to deal with it is to play into Pretoria's hands. And they are particularly distressed that critics such as Senator Dick Clark (D.-Iowa), who turned down an invitation to visit Transkei during a recent trip to southern Africa, refuse to investigate the situation for themselves.

Transkei is determined, one official after another insists, to do everything possible "to help our people" and "to become as independent as possible of South Africa." It hopes to capitalize on the beauty of the lush, rolling countryside, and of the untouched Wild Coast along the Indian Ocean, by developing a tourist industry. The government also plans to modernize agriculture, introduce cash crops, and create jobs and income by adding to the 31 modern textile factories already here. But beyond these aims that pretty much resemble those of almost every other newly independent state, Transkei has taken on a special mission: leading the drive for the liberation of blacks still under South African control.

"Transkei's decision to become an independent, sovereign state," explains Finance Minister Tsepo T. Letlaka, a youthful-looking 51-year-old lawyer, "introduces an altogether new factor in debates between black and white in South Africa. An important section of the victims of apartheid can now speak to the world not only on the race issue, but also on other issues concerning national domination and oppression. What is significant and new is that we speak as equals, as free people who can look the white oppressor in the eye. Whether or not the outside world likes it, Transkei can speak on apartheid with an authority no self-appointed outside body or nation possesses today."

The belief that an independent Transkei could and must lead the liberation struggle caused Letlaka, an erstwhile PAC militant, to return from enforced exile in 1975, take diplomatic training in the South African Embassy in Washington, run for Parliament last September, and then accept his present Cabinet post. It induced other militants—like his brother-in-law Digby Koyana and sociology professor Mlahlene Njisana, now ambassador to Pretoria—to return home as well. Interestingly, the feasibility of the idea is even being accepted by the opposition Democratic party, which formerly claimed independence would weaken rather than strengthen the fight for freedom. But perhaps most important, it has become the preoccupation of Prime Minister Matanzima.

Throughout most of his career, the 61-year-old leader had been devoted more to his Xhosa tribe than to his race. "I am a disciple of the creed of nationalism," he stated in 1966 at Rhodes University. "I believe in Xhosa nationalism because I was born to it. I was swaddled in it since the day of my birth. . . . It commands me in the name of nationhood to sacrifice the best of my abilities to the advancement of my own nation in its own country according to the terms of its own culture."

Such statements, despite their ring of old-fashioned tribalism, reflected Transkei's history. As opposed to the other homelands created under the relatively recent separate development laws, Transkei had been a recognized independent entity at the end of the 19th century: It received its name in 1895 (before the Union of South Africa was formed or christened) and for many years had its own legislative assembly, the Bunga. Forced by accident into South Africa in 1910, it was not able to work for independence through internationally acceptable anticolonial means—as were, say, the former British protectorates of Botswana, Lesotho and Swaziland.

The separate development policy, actively initiated by Pretoria in 1951, suited Matanzima's early concepts of developing Transkei nationalism. And since South Africa had decided that its natural allies within the homelands would be the tribal leaders, Matanzima, a minor Tembu chief with a good reputation as a lawyer, was a candidate for power. He played ball with Pretoria, becoming the head of an internationally autonomous Transkei in 1963, and founding his Transkei National Independence party shortly thereafter.

Like other politicians whose only weapon is language, Matanzima used words to gain whatever he could from his adversary. (His strategy sometimes resembles that of Tunisia's Habib Bourguiba). Alternately cajoling and threatening, he obtained another patch of land here, another fiscal favor there.

At the same time, through his growing contacts with black southern African leaders, trips abroad and recruitment of militants like Letlaka, Matanzima became increasingly conscious of his kinship with other blacks. As a result, he has advocated association of the homelands (most of them are small, fragmented and poor), and in 1973 he suggested their federation with South Africa, which would give blacks a Parliamentary majority. In October 1975, just before announcing Transkei's decision to become independent (he "consulted" about this with his people but did not hold a referendum), Matanzima declared: "The black people of Africa can never be entirely free until the blacks of South Africa are free. Transkei's independence will be a material contribution to that cause."

Matanzima has been equally outspoken in demanding more land to accommodate Transkei's rapidly growing population and to link its two sections. Most troublesome to Pretoria, though, has been his stand on the crucial matter of whether persons of Transkeian origin who were born in South Africa, or have long resided there, can be forced to accept Transkeian citizenship. South African Premier John Borster says they can and will; Matanzima insists that they are as much South Africa's responsibility as black children born within Britain are Britain's. This position constitutes a mighty blow to the theory of separate development and the ultimate placing of all blacks under homeland jurisdiction.

Independent Transkei, in short, is considered by Matanzima and his colleagues as both an end in itself and a beachhead in the overall liberation struggle. Some Africans from countries that ostracize Transkei will admit in private to feeling that the Transkeians are on the right track; that Matanzima achieved the best possible deal for his people; that Transkeians are far better off and live in a far more dignified fashion than they did prior to independence; and that Transkei could play an important role in promoting change within South Africa. A Marxist diplomat from Mozambique even went so far as to contend that Matanzima's strategy is comparable to Chairman Mao's concept of building liberated areas from which to attack the enemy.

But officially Africa continues to oppose any recognition of Transkei. It does so partly out of sheer ignorance, partly because the OAU has so often and so ritualistically condemned separate development that the merits of Transkei have been obscured, partly because individual nations are afraid to break ranks, and perhaps partly, as some Transkeians suspect, because Tanzania and Zambia wish to monopolize the antiapartheid assault themselves. Whatever the motives, though, the result of nonrecognition is that South Africa is not being harmed, while Transkei is.

At least 19 of the African states that refuse to help Transkei do some sort of business with South Africa; the United States has diplomatic relations with Pretoria, too, and

is probably in the most hypocritical and least logical position of all. "Your country," wryly observes Secretary for Planning and Commerce Dunjwa, "assists white South Africa, but will not assist black Transkei, which has broken away from South Africa. And you say you are against racism?"

Their disappointment with the world's attitude notwithstanding, the Transkeians are hopeful that things will change. "It is ironic," says Chief George, as the Justice Minister is called here, "that the world associates us with South Africa when we are so busy trying to disassociate ourselves from it. But this situation cannot last for long. Our top priority right now is the development of our country. Once we are able to devote our energies to putting our case for recognition before other countries, they will surely see what we are accomplishing and are bound to recognize us. Then we will really be able to accomplish something in southern Africa."

SECURITY AND COOPERATION IN EUROPE

Mr. KENNEDY. Mr. President, on June 15, delegates from 33 European countries, the United States, and Canada gathered in Belgrade to review what progress has been made in implementing the Helsinki Accords—the Final Act of the Conference on Security and Cooperation in Europe—CSCE—signed by their heads of state in August 1975. The nearly 200 delegates are engaged in preparations for the main conference which will open in Belgrade this fall.

Although the CSCE review is still in a preparatory stage, I believe it is vital for our country to apply its full influence from the very start for the full and scrupulous implementation of the Helsinki Accords. They have responded to the aspirations of people across Europe for increased East-West cooperation which will directly benefit their own lives. This Nation should not only be conscious of these aspirations, it should work vigorously with all other CSCE members to meet them with all the power at our collective command. To do less is to invite popular disillusionment about our country's commitment to both détente and human rights: objectives to which both the Congress and the administration must remain firmly committed.

The critical task which faces us is how to reconcile the support of détente with the advocacy of human rights. On the one hand, it is vital to nurture the relaxation of tensions between East and West: the most fundamental human right remains freedom from war—freedom from even the fear of a return to the nightmarish violence which has twice swept the European continent in this century. On the other hand, it is the moral duty of statesmen not only to protect their citizens from violence within their societies, but to expand political, economic, and social freedoms despite differences of ideology and social order.

Pursuit of détente and human rights is too serious an imperative for governments to be sidetracked into righteous posturing and rhetoric which set back either or both of these objectives. What is needed, instead, is a good-faith and constructive effort to achieve meaningful arms control, to narrow political differences between states, and to respond to legitimate expectations of increased individual freedoms. Just because we encounter difficulties in one or another of these areas is no excuse for us to lose heart about possibilities for progress in the other areas—nor to abandon our dedication to achieving the most rapid possible progress across the board.

To press to fulfill the humanitarian promise inherent in the Helsinki Final Act is hardly a matter of ideology of the right or the left. Twelve days ago, Mr. President, this House voted to cut off military aid to Argentina and Ethiopia because of human rights violations in those two countries. Together with my good friend, Senator CHURCH, I sponsored the move on Argentina and welcomed the one on Ethiopia. But human rights concerns are surely not limited to developing countries; they apply equally to societies which are labeled relatively advanced—those in America and Europe.

First the Helsinki and now the Belgrade meetings have provided a unique multilateral framework through which to pursue these aims. They can serve as the catalyst for breaking down the barriers between East and West and for ushering in a new period of security, cooperation, and human rights in Europe.

Popular hopes have been rightly raised by the seventh Helsinki principle of respect by the participating states for human rights and freedoms, including the freedom of thought, conscience, religion, or belief. It is worth recalling one element of the elaboration of this principle in particular:

> The participating states recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all states.

This principle was agreed among all CSCE participants at the summit level. It is spelled out further and in quite specific ways in the humanitarian provisions of the so-called Basket Three of the Helsinki Accords: Expanded human contacts, including travel and reunification of families; free flow of information and improvement of working conditions for journalists; and cooperation and exchanges in the fields of culture and education.

In this context, one can only be distressed when the Soviet Union and some states in Eastern Europe take actions opposing fulfillment of Helsinki's humanitarian promise in their own countries. Surely the well-known cases of Anatoly Shcharansky and Robert Toth are cases in point. Shcharansky is no traitor for speaking out in support of human rights; Toth is no spy for pursuing the free flow of information. The Helsinki signers reaffirmed "that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them."

These are unfortunately not isolated incidents. There are others:

Yuriy Orlov, Aleksandr Ginzburg, and Mikola Rudenko, among others, were arrested because of their efforts to monitor Soviet implementation of the Helsinki Final Act.

The Czechoslovak Government has arrested many of the signers of "Charter 77," whose only offense was to call upon it to implement its own legal commitments in the field of civil and political, as well as economic, social, and cultural rights.

In May, the Polish Government arrested six members of the Workers Defense Committee, including the writer Adam Michnik and philosopher Jacek Kuron, formed to protest police brutality following the June 1976 food price riots.

Incidents such as these must cause continuing concern among all peoples interested in the full implementation of Helsinki, both in letter and in spirit. I welcome, Mr. President, the constructive and important actions to this end of the U.S. Commission on Security and Cooperation in Europe, under the leadership of Congressman FASCELL. And I applaud the full and candid report of this administration responding to the requirements legislated by the Congress.

Our strong support must surely go to the efforts of our representatives to follow through on the promise of the Helsinki Final Act. This is why I joined 40 of my colleagues in this Chamber in assuring President Carter of our support for his raising "human rights concerns as priority considerations during the Belgrade conference," and in advising him that the Final Act is an integral whole which "must be implemented in its entirety."

It is important to recognize, however, that the record of implementation of the Helsinki Accords is not entirely bleak. To my knowledge, all participating states have adhered to the literal provisions for notification of major military maneuvers under Basket One; trade ties are being expanded somewhat under Basket Two; Soviet emigration visas are again on the increase, and Eastern European countries are taking some steps toward resolving divided family cases under Basket Three. These are moves in the right direction, and they demonstrate that governments can move to implement the Final Act without confrontation—and without challenge to their own legitimacy. Here again, much more can and should be done to make further progress.

Nor should we be deterred by false arguments that criticisms of inadequate performance constitute interference in internal affairs barred by the declaration on principles. As the President stated eloquently last March at the United Nations:

> No member of the United Nations can claim that mistreatment of its citizens is solely its own business. Equally, no member can avoid its responsibilities to review and to speak when torture or unwarranted deprivation occurs in any part of the world.
>
> The basic thrust of human affairs points toward a more universal demand for fundamental human rights. The United States has a historical birthright to be associated with this process.

What can the Congress and the country do to help advance this "basic thrust of human affairs"—in the face of what we must acknowledge as some frustrations, even setbacks, in dealing with the Soviet Union and its allies? We need not merely human rights, arms control,

trade and other policies which are applied piecemeal to the U.S.S.R.; we need an up-to-date Soviet and East European policy. This should be a policy that is attuned to our own priorities, relates our objectives to differing national circumstances, reflects the continued importance of the United States-Soviet relationship, and looks forward to the progressive relaxation of tensions and liberalization of societies.

Our country needs to develop, therefore, a program of action which takes account of the many dimensions of our bilateral relationship—including the likelihood that the Soviet leadership feels beset by an unprecedented number of internal and external challenges. On the one hand, we must be sensitive to Soviet concerns with prestige and equality of treatment; on the other hand, we should recognize that we are likely to make progress in each field because of specific national and global interests in doing so.

We should not accept the idea that arms control negotiations are imperiled by our consistent stand on human rights. At the same time, we should remain ever alert to the imperative of avoiding a return to the confrontation which characterized our relations in the 1950's. We need, therefore, to take reasonable stands on the merits of each issue, and we have a right to expect the Soviet Union to do the same.

While necessarily complex because of the multifaceted nature of the East/West relationship, this strategy has specific policy implications both for our future conduct in Belgrade and for U.S. policies toward the U.S.S.R. and Eastern Europe.

First, we must not be deterred from standing up for our principles over the long haul. Nothing could be more damaging to our relation with the U.S.S.R.—not only in human rights, but in arms control and other fields—than reversing course now under Soviet pressure.

Indeed, I believe the strong Soviet reaction to our stand betrays serious concern that history may be on the side of advocates of increased human rights. At the same time, we should seek to project our views in a manner which will support the process of constructive change and directly benefit the peoples of Eastern Europe and the U.S.S.R. In so doing, we should heed Ludmila Alexeyeva, and other Russians monitoring Soviet implementation of the Helsinki accords, when she writes that if free citizens express "their sympathy for us and offer us their moral support, it cannot weaken us. It can only help us, although this may not happen immediately."

Second, we should respond positively even to limited moves in the direction of increased implementation of the Helsinki accords, and we should encourage further moves in the same direction. Internal liberalization in Hungary; the first hopeful signs of East German flexibility; and Romania's release of the imprisoned novelist Paul Goma are cases in point. In each of these differing societies, however, the situation could be significantly improved.

Third, we can give serious consideration to Communist suggestions for government-to-government cooperation under baskets one and two of the Helsinki accords. In turn we should expect the Soviets and their allies to seriously consider our suggestions on the humanitarian provisions of basket three. And both sides should move, in their joint interest, to notify each other more completely of military maneuvers and military movements; expand economic and commercial interchange; and broaden the exchange of ideas and information.

Fourth, we can attempt more generally to narrow East/West differences on both détente and human rights. I have no argument with General Secretary Brezhnev's recent statement—on French television—that Belgrade should be—

> As it was planned, the continuation and development of the Helsinki spirit and another link in the continuing process of détente.

It is evident that a constructive outcome in Belgrade requires honest discussion of implementation of the final act; it also requires results which are acceptable to all participants.

Fifth, and finally, we should seek ways to enhance our own, already strong record on human rights. I concur with moves the administration has taken to expand freedom of movement outside and into the United States. And I strongly support the President's call for prompt ratification of the two United Nations convenants on economic, social and cultural rights and on civil and political rights, and the two conventions on the prevention and punishment of the crime of genocide and on the elimination of all forms of racial discrimination.

Mr. President, 30 years ago the U.N. Commission on Human Rights began work on the Universal Declaration of Human Rights. That declaration, to which all countries represented at Belgrade are also party, affirmed that—

> It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Nations and peoples are still struggling today to give meaning to that declaration. We should not sell its noble objectives short because of any transitory setbacks in that struggle.

HOW TO BUY A TREE

Mr. McCLURE. Mr. President, the June 26 Washington Post contained an editorial titled "How To Buy a Tree," which presents the paper's views on pending legislation, S. 1360, which is jointly referred to the Agriculture Committee and the Energy and Natural Resources Committee. I ask unanimous consent that the editorial along with my letter to the editor be printed in the RECORD.

There being no objection, the editorial and letter were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 26, 1977]

HOW TO BUY A TREE

Consider the social value of collusive bidding. Think, for a moment, of all the ways in which the wink, the nod and the prearranged price can serve to strengthen community ties and local values. Perhaps you think we're kidding. But Congress isn't. The Senate's Energy and Natural Resources Committee has just voted, 11 to 3, for collusive bidding on those grounds. The 11 senators take a deep and abiding interest in community traditions.

Last year, without giving it much thought, Congress passed into law a provision designed—all too effectively—to end collusion in the bidding for the right to cut timber in federal forests. The new law merely required sealed bids instead of oral auctions. Sealed bidding has been the practice in most of the country. The exception was the Pacific Northwest, where the rigging of timber auctions was becoming notorious.

Collusive auctions permit the insiders—the companies regularly working an area—to divide up the sales among themselves and hold down the payments to the government. Equally important, it permits them to band together to keep out the outsiders. When the new law went into effect, the first response was a loud and steady yowling from the Northwest. Then came a steady hammering on congressmen's doors.

This sudden threat to the established folkways of the region would mean, according to some of the timbermen, upheaval and social collapse. Towns would be left destitute, children would go hungry and crime rates would soar (except, of course, for the crimes of fraud, collusion and violation of the antitrust statutes). Confronted with this dire prospect, Congress is acting fast.

Corrective legislation to restore oral—that is, collusive—auctions in the Northwest has already cleared the House Agriculture Committee. Things also look pretty good in the Senate Agriculture Committee, which shares jurisdiction with the Energy and Natural Resources Committee. The cause of community preservation and economic togetherness rests in good hands.

COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, D.C., June 27, 1977.

Mr. KEN BOYDE,
The Washington Post, Editorial Department, Washington, D.C.

DEAR EDITOR: The Post—in its editorial, "How to Buy a Tree"—has thrust a piece of sawdust into the public eye, blinding its readers to the truths about forest management.

The Senate Committee on Energy and Natural Resources does not deserve the slap in the face from the Post for reporting out by a 11 to 3 vote of a bill to revert to historic patterns of public auction for the sale of timber. If the Post is so certain that "collusive bidding" practices is rampant, it should turn over any evidence it has to the Justice Department, just as the Forest Service is required to do under the monitoring provisions of the bill. Indeed, there are checks and balances on public timber sale practices throughout the law:

1. The Forest Service can deny award of a sale if it sees evidence of collusion.

2. All suggestions of collusion are examined by the Department of Justice for possible Grand Jury action and prosecution.

3. Timber sales from the public lands have been monitored and examined for decades to protect the Government and public interest. Out of the many thousands of sales that have been held, only two have been prosecuted, with one conviction resulting.

Large areas of the South and East are satisfied with the Forest Service sealed bid selling. It should be noted that the Forest Service timber in these areas is in the minority of timber volume available to local mills. If a lumber company misses a successful bid on a Forest Service offering, other volumes from other sources are available. This is not the case in many areas of the West, such as Idaho, where ⅔ of the State is Federally-owned. The bill voted out by

the Energy and Natural Resources Committee merely allows the mill owner to meet his competition on other than a "Russian Roulette" chance. It does not condone collusion as suggested by the Post.

It is hoped the Post will continue to show interest in other forest issues of great importance, such as the implementation and funding of the Resources Planning Act, and resolving of the current conflict over the use and designation of our forest land base. The Post will find the effort to be spent in thoroughly researching these complex issues a challenging one.

Sincerely,

JAMES A. MCCLURE,
U.S. Senator.

CLEAN AIR: ISSUES AND CHOICES

Mr. HART. Mr. President, the Congress of the United States is in the midst of considering a comprehensive modification of the Clean Air Act. The Senate Committee on Environment and Public Works, after 2½ years of deliberations sent to the Senate floor S. 252 which the Senate endorsed by an overwhelming majority. The House has also acted, passing its version of the amendments, H.R. 6101. Now the issue resides with the House-Senate Conference Committee, where the differences between the House-Senate versions must be resolved. As a member of that conference, I hope the resolution of those differences will be in the best interest of the health of the people of this country.

Mr. President, yesterday the Washington Post printed an article by George F. Will which eloquently describes some of the choices which the House-Senate conferees will be facing in the coming weeks. I hope that my colleagues in the Congress, especially those serving on the Clean Air Act Conference Committee, will have a chance to read this article. For, as Mr. Will suggests, if we make the wrong choices now, we will have a glimpse of a dark future.

Mr. President, rather than attempt to summarize Mr. Will's essay, I ask unanimous consent that the text of this perceptive article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANOTHER SETBACK IN THE QUEST FOR CLEAN AIR

(By George F. Will)

It is a moment for unminced words. If the House of Representatives gets its way with amendments to the Clean Air Act of 1970, Congress will have chosen to increase the incidences of various respiratory ailments. And it will have committed a retrograde act against the nation's natural beauty.

Three times since 1970 Congress has delayed implementation of automobile emissions standards. Now the House has voted a fourth delay. Worse, it has voted to weaken standards for carbon monoxide and nitrogen oxide, and has created a mechanism for indefinite weakening of even the weakened nitrogen oxide standards in the future. The Senate has voted for less delay, and for no weakening of carbon monoxide standards. Furthermore, although the Senate has voted to weaken nitrogen oxide standards, it has not provided a mechanism for indefinite weakening.

To some extent, society chooses its disease rates. Societies, like individuals, constantly choose between health and competing goals and pleasures. The House has made an unacceptable choice against the health of Americans who breathe.

For example, the House would allow a five-fold increase in nitrogen oxide emissions over what would be required under existing law. About 40 percent of nitrogen oxide pollution comes from vehicles, and the percentage is substantially higher in urban areas. Such pollution may produce the carcinogenic (cancer-causing) chemicals called "nitrosamines."

The automobile industry says it does not know how to meet the present, unrevised standards. But the industry has a dismal record of asserting what can't be done, and an admirable record of doing what it is forced to do. The lash of necessity concentrates the mind.

Automobiles should be the focus of the fight for clean air because they are the most pervasive source of pollution. And it is easier to shape the decisions of four automobile companies than it is to deal with scores of thousands of fuel-burning industries. But advocates for the automobile industry say that unless pollution standards are relaxed, jobs will be lost because automobile prices will rise unreasonably, and production may be disrupted.

The House bill is an attempt to secure jobs at the expense of the health of millions, especially children and the aged. But more permissive automobile pollution standards will be an obstacle to industrial growth in many areas.

Where pollution already is the maximum permitted, only a decrease in automobile pollution can make possible increased industrial pollution. So the House bill sacrifices other industries, as well as the breathing public, to the automobile industry.

Some advocates for the automobile industry seem to have learned their science from the tobacco industry. They argue that there is little "scientific proof" of the connection between automobile pollution and particular diseases. Such arguments deny the undeniable: statistical patterns that demonstrate a correlation between high pollution and high disease rates.

The House bill is especially unacceptable, given President Carter's energy program. Carter's plan to substitute coal for oil means increased nitrogen oxide pollution from stationary sources. So a compensatory decline in automobile emissions is imperative.

Another provision of the House bill, if it survives the House-Senate conference, would justify a veto. If enjoyment of natural beauty is, as I believe, important to the serenity of one's soul, then the House bill jeopardizes the nation's spiritual as well as physical well-being. It undoes the policy that prevents "significant deterioration" of the air in several categories of clean-air regions.

The House did this to permit construction of a gigantic coal-fired generating plant in Utah to provide power for Los Angeles. The plant would be near Capitol Reef National Park, not far from Bryce Canyon and near enough to Arches and Canyonlands National Parks to cast haze over them on many days. And this House provision threatens all national parks and wilderness areas where air is supposed to be preserved in its natural pristine quality.

This provision might mean a dramatic decline in scenic values. Rep. Paul Rogers (D-Fla.) says it would be the pollution equivalent of putting a city of 500,000 next to a national park. Rep. Bob Eckhardt (D-Tex.) dryly suggests that "it will be difficult to tell which of our mountain ranges should be called the Great Smokies."

To govern is to choose, and to choose is to reveal values. If the House gets its way, we shall have glimpsed a dark future.

OUR INLAND WATERWAY SYSTEM

Mr. BAYH. Mr. President, last week the Senate authorized the construction of a new and enlarged lock and dam at Alton, Ill. At the same time, it made a decision of major importance by approving, in principle, the establishment of user fees to partially cover expenses associated with the construction, operation and maintenance of our inland waterway system. The impetus to link these two issues stems from the fact that we are on the verge of beginning a major reconstruction and enlargement of our inland waterway system.

Over the course of our history, the American taxpayer has built and maintained 25,000 miles of inland water routes, at a cost of some $8 billion. Currently, annual expenses for building and running this system come to about $400 million and another $3.4 billion will be needed to finish projects already under construction. An additional $4.3 billion have been authorized for proposed projects. At a time when we are trying to reduce our Federal deficit, lower taxes and closely scrutinize Federal outlays for new and existing military and social programs, it seems to me that it was most appropriate for the Senate to raise the question of future funding for waterway expansion.

Mr. President, a full public subsidy of our inland waterway system made sense a century ago when we were bent on western expansion and our railroads, which had a monopoly over freight transport, were receiving substantial assistance through land grant programs. Today this rationale no longer obtains. With costs soaring, major replacements and expansions planned and competing modes of transportation, especially rail transit, in financial difficulty, it seems only reasonable to partially phase out full Federal responsibility for expenses associated with the inland waterway system and ask waterway users to share the costs of enlarging and operating the system.

The user fee proposal which passed the Senate continues a generous amount of Federal assistance to the waterway system. Waterway users will be asked, over a 10-year period, to gradually assume full responsibility for operating and maintenance costs. But the Federal Government will still pay for 50 percent of construction costs, which constitute the lion's share of waterway expenses. No charges for construction costs will begin for 5 years. This delay in imposing cost sharing, as well as the overall 10-year phase in of fees, should give the industry sufficient time to adjust to the new economic climate they will face.

The Senate included certain protections in its authorizing legislation to guard against economic hardship and will have ample opportunity to review

the fee system proposed by the Department of Transportation. The authorization specifies that user fees must be developed so as not to result in severe economic impacts on particular waterway segments or users or charges higher than 1 percent of the delivered value of any commodity.

Further, the Senate has approved a system of user fees in principle only, and can reject or amend the specific schedule developed by DOT if it is found to be inequitable to particular users or regions, or unlikely to promote an efficient inland waterway system. Once the Department develops regulations for implementing user fees, they will have to be submitted to the Congress, which will have 90 days to amend or reject them. Finally, DOT, in cooperation with the Corps of Engineers, must submit a report to the Congress by October 1982 on the impact of implementation to date. These procedures should provide the Congress with the information necessary to make modifications, both during the development stage and once the fee system has been tested, if they should be found desirable.

Mr. President, the establishment of a system of user fees is a change in national transportation policy that is fair and timely. Every President since Franklin Roosevelt has recommended this course of action, and 15 comprehensive studies of the issue have been undertaken by the Government since 1939. In the last 2 years, the DOT has spent a considerable amount of time and money studying the costs and benefits of such a system. I think we have reached the point where further studies are not necessary, and would constitute a delaying tactic rather than a bona fide effort to analyze the issue in a fruitful manner.

The establishment of user fees to partially pay the expenses of our inland waterway system meets the test of equity, both for taxpayers and competing transportation modes who pay their own way. Hopefully, this reform will insure that future expansion of our waterways will be undertaken only when warranted by objective needs.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Frank J. Anderson, of Indiana, to be U.S. marshal for the southern district of Indiana for the term of 4 years vice Charles D. Loos.

Ronald S. Reed, Jr., of Missouri, to be U.S. attorney for the western district of Missouri for the term of 4 years vice Bert C. Hurn.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, July 4, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

EXTENSIONS OF REMARKS

"THE UNFINISHED AGENDA"—CONSERVATION OF ELECTRICAL ENERGY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. OTTINGER. Mr. Speaker, the Washington Star on June 7, carried an interview with Gerald Barney, who edited "the Unfinished Agenda," the report of the environmental agenda project. That project, which was funded by the Rockefeller Brothers Fund, brought together a large number of the Nation's environmental leaders to identify and suggest solutions to environmental problems facing the United States.

As the Congress moves forward in its consideration of President Carter's energy plan, and as the Commerce Committee's Energy and Power Subcommittee prepares to mark up part E, the section on public utility regulatory policies, I believe my colleagues will find the Barney interview to be of interest. In addition to submitting the interview for inclusion in the RECORD, I would like to quote from "The Unfinished Agenda's" section on electricity:

Our basic recommendations therefore are:

To avoid the formidable economic and political costs of further centralized electrification, we should make every effort to supply energy only in the quantity needed for the task at hand and not to use up quality electricity or premium fuels for unnecessary purposes.

Study of energy end-uses has revealed that more than half of delivered energy in the United States (generally more abroad) is required as heat, mainly at low and moderate temperatures, and that only a small fraction of end-uses can use to advantage the versatility and high energy quality of electricity. It appears that the United States, like other industrial countries, already has far more electricity than it can thermodynamically justify. Reducing electricity generation would save enormous amounts of capital and fuel by decreasing the wastes associated with central power stations.

"The Unfinished Agenda" also recommends such policies as having utility price structures overhauled to reflect "both policy priorities and sound economic principles" and "smaller-scale energy generations."

In his comments to the Star, Mr. Barney emphasized the degree to which energy is wasted in conversion from fuel to electricity:

For example, we're wasting somewhere between a half and two thirds of all the energy that is used in the production of electricity. That's not necessary. It's useless waste.

Following is the interview with Mr. Barney:

AN ARGUMENT AGAINST MORE ELECTRICITY USE

Gerald A. Barney, editor of "The Unfinished Agenda," an environmentalist view of major issues facing the nation commissioned by the Rockefeller Brothers Fund, was interviewed by Washington Star Staff Writer Thomas Love.

QUESTION: Does your study support the thesis that we are facing an energy crisis?

BARNEY: Basically, the nation stands at a kind of turning point in the road. There's no question that President Carter is correct when he says the nation is approaching a real crisis with energy—that we are depleting our stocks of fluid fuel, oil and gas in particular. We have a choice as to what we're going to do. The policy to date has been one of thinking about going from the present energy economy that we have to one that is highly electrified, probably with a substantial amount of nuclear energy involved.

Q. Did your group of environmentalists agree?

A. No. We came to the conclusion that should not be the approach. Rather, we should go directly from the kind of fossil fuel-based economy that we have now to a sustainable income energy type of economy, based largely on solar and geothermal forces.

Q. Would that be based on electrical distribution?

A. No, it would be far less electric than is being planned. The reason we recommend that we not go so much electric is because electricity wastes so much of the energy. One thing that we found distressing is that Carter's recommendations call for a lot of conservation from the energy user—you and me and the average person in the street—but do not require much attention to conservation of energy within the energy industry. And the energy industry is the biggest waster of energy of all the sectors of the economy. For example, we're wasting somewhere between a half or two-thirds of all the energy that is used in the production of electricity. That's not necessary. It's useless waste.

Q. How does this waste come about?

A. Suppose, for example, you have three barrels of some kind of fuel to heat a house. If you take that fuel to your house and burn it, you get the heat from roughly three barrels of oil. If you take those same three barrels to a power plant and burn them to make electricity and use the electricity to heat your house, you get the heat from one barrel of oil in your house. The heat from the other two barrels is waste heat that's dumped into the river through cooling. Anytime you convert one form of energy into another, the laws of thermodynamics require that there be a substantial energy cost associated with it. And the present master plan of the energy economy of the future for this country calls for an immense amount of conversions of one sort or another—to electricity, from coal to liquids, etc. All this is basically not necessary and results in tremendous waste. We're advocating that conservation not be restricted just to the people at the end of the line, the end-use user, but that the energy industry itself be required to face up to the tremendous waste that's going on there at this point.

Q. How can you get around that problem?

A. In the end, there has to be heavy reliance on solar energy for home heating and cooling. But before you can get to solar, there has to be a transition period. We have to make increasingly intelligent relatively small-scale applications of coal—direct applications. The technology is one that ERDA keeps saying they have in their research objectives, but, in fact, the technology is already available. It's basically one called fluidized bed combustion. It is a process by which you can burn coal in small scale, from

family unit sizes up to modest electric power generating station sizes, without meeting enormous environmental problems with sulfur. And the equipment is available in England and some other European countries, but we just aren't paying attention to it.

Q. How would this work for the homeowner?

A. You use solid coal crushed into small sizes. The fluidized bed is kind of a grate in which air is blown up from underneath it to suspend the coal in the air stream. It burns at a high temperature, is very efficient, and there are countless materials that can be added to it to precipitate out the sulfur so that you don't have an air pollution problem. What is missing now is the incentive to industry and to homeowners to shift away from electricity.

Q. What can be done about the waste of energy in the generation of electricity?

A. We presently generate electricity at massive stations, but what we need to do is to break that down into smaller units, so that the amount of waste heat that comes out can be applied either to heating of homes, or for industrial processes. But that can't be done on a massive scale; it must be done on a smaller scale. All these local places would be selling electricity to the utility, rather than the utility always selling to someone else. The utility has to become a purchaser of power gradually.

Q. How about in the long run if we get to a relatively cheap and plentiful energy source such as reflective solar power, fusion plants or what have you and there's a lot of energy available. Will it be logical to go ahead and produce electricity with it?

A. Possibly, but I'm doubtful. We're talking about things that are way off in the future. My own thesis work—I'm a physicist—was in fusion energy and I have to say I think that some of my colleagues are selling the country a bill of goods about how close they are to making fusion work. It's a tremendously difficult problem and it's not just over the horizon. The direction one would want to go is still not toward more electricity because electricity is the one source of energy that we have too much of.

Q. How do we solve that problem?

A. It's the opinion of this group that the most likely substitute for oil is not hydrogen—which has been talked about a fair amount as a substitute—but it is alcohol. You can use the fermentation of vegetation to create an alcohol-based substitute for the essential uses of fluid fuels. We don't mean generally for applications in heating and cooling but where you need a mobile source of energy. We need a concentrated fuel that can be burned in a mobile form of transportation.

Q. What about the cost of producing it on a large scale?

A. It would be competitive with present energy costs, really. It could be done with an industry something on the order of 10 to 15 times the size of the present beer and wine industries. That's imaginable.

THE U.N., CHROME AND HYPROCRISY

HON. HARRY F. BYRD, JR.

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, June 27, 1977

Mr. HARRY F. BYRD, JR. Mr. President, earlier this month an editorial appeared in the Cincinnati, Ohio, Enquirer concerning the hypocrisy which exists within the United Nations.

It is entitled "The U.N., Chrome and Hypocrisy."

I ask unanimous consent that its text be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE UN, CHROME AND HYPOCRISY

Hypocrisy is far from uncommon at the United Nations, so it's not surprising to learn the Soviet Union and four Eastern European satellites may have been violating the Rhodesian sanctions all along.

It seems that a classified UN document last January "flatly charged the Soviet Union and four satellites with large-scale violations of the Rhodesian sanctions," wrote columnist Robert S. Allen. He says the UN has had around 75 formal complaints of sanctions violations since the embargo on Rhodesian trade went into effect in 1966.

With Congress' recent repeal of the 1971 Byrd amendment exempting the United States from the UN's trade bar, it's also worth noting Mr. Allen's reminder the Rhodesian sanctions resulted in soaring prices for Soviet chrome. They had zoomed 188% by the time Congress enacted the amendment by Sen. Harry F. Byrd Jr. (Ind-Va.). The Soviet price then declined, experiencing a brief new surge in 1974 when the Senate voted repeal of the amendment. House refusal to go along arrested the surge.

Soviet chrome prices, presumably, will go back up now. The victims will be the many small U.S. firms making high grade steel for which the required fine chrome is available in large quantities only in Rhodesia, South Africa and the Soviet Union. One can hope, of course, that any Soviet chrome they're forced to buy is, in fact, Soviet chrome.

ANOTHER PLAIN DUMB BILL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. LAGOMARSINO. Mr. Speaker, the Ventura Star Free Press recently described legislation which would ban by 1980 the sale of any residence that did not measure up to still unspecified insulation standards as "just plain dumb." I have had numerous letters from constituents saying precisely the same thing during the past several weeks. It seems to me that this body would greatly benefit from the wisdom contained in this short editorial and I insert it in the RECORD at this point:

[From the Ventura County Star Free Press, June 21, 1977]

ANOTHER PLAIN DUMB BILL

If it's true that the devil makes use of idle hands, then perhaps it's also true that the joker makes use of idle minds.

It certainly would seem to be true of Congress, which, left to its own devices, demonstrates a remarkable penchant for silliness.

Sometimes, though, the legislative wonders are just plain dumb. That certainly is the case with a bill recently approved by a House subcommittee.

It would ban—by either 1980 or 1982—the sale of any residence that did not measure up to as-yet-unspecified insulation standards. We're not talking about homes that are built in 1980 or 1982. Instead, we're talking about the homes we live in today, and that we might want or need to sell three, five or seven years from now.

Such sales would be banned by making unavailable any form of federally backed housing loans. Beyond that, any lending institution that is backed in any way by any federal agency would be barred from financing such transactions—and that means just about all of them.

This amounts to coercion, and that's a far cry from the kinds of incentives the administration has been talking about. Apparently it's the view of some congressmen that trying to club homeowners into submission is an "incentive."

Of course, there are all sorts of qualifiers that would exempt the poor and who knows who else from the insulate-or-else ultimatum. And once again the heaviest burden would fall on the family in the middle—whose equity in a home is probably its biggest asset, who has recognized mortgage payments as a kind of forced savings account that can be drawn on, with interest, at a later date.

The next problem deals with the level of insulation that the government, in its infallible and infinite wisdom, would deem sufficient.

That level would be established by legislative administrative fiat—with no guarantee against an ever-more-demanding and more costly set of specifications

If you don't think that could happen, talk to industrialists who have poured millions of dollars into an effort to meet one set of pollution standards, only to find a new, more restrictive set of standards must be met within a few years.

Or talk to the city officials who have built sewer plants meet one set of specifications and then find they must get more bond money to meet another, more restrictive set.

Conceivably, this latest legislative nightmare could set the stage for massive governmental expropriation of private property. For, given the denial of the right to sell, many a family might just abandon its now-worthless investment—making it subject to governmental seizure for nonpayment of taxes.

Insulation and other conservation steps—including the use of solar power—need to be encouraged. They can be encouraged, by savings in fuel and by establishing tax credits, as well as by shielding them from extra taxation as improvements.

We have the hunch that, given the potential savings in heating and cooling costs that such improvements will bring, a lot of homeowners will be willing to make that sort of investment voluntarily.

But to subject Americans to the kind of Big Brother browbeating that this kind of legislation represents is totally unwarranted and is an affront to the principle that government exists to serve the people, not vice versa.

ST. LOUISANS WELCOME NEW CITIZEN

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. YOUNG of Missouri. Mr. Speaker, it gives me great pleasure to announce that St. Louisans are welcoming a new citizen, Katherine Hope Gephardt, born June 23, 1977. She is the daughter of Congressman and Mrs. RICHARD GEPHARDT, and the sister of Christine and Matthew. I know you will all join me in extending congratulations to the proud parents.

WHISTLE BLOWERS HALL OF FAME: DR. JOHN NESTOR

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mrs. SCHROEDER. Mr. Speaker, Dr. John Nestor's battle with the FDA over their buddy system with the drug industry is probably one of the more publicized of the whistle blowers I have inserted in the RECORD thus far.

The following is an article by the Project on Official Illegality of the Institute for Policy Studies, 1901 Q Street NW., Washington, D.C.:

DR. JOHN NESTOR

Dr. John Nestor, a pediatric cardiologist at the Food and Drug Administration has been an outspoken critic of his agency throughout the 1960's and 1970's. He has cooperated with Congressional committees, the press, and public interest groups to expose his agency's cozy relationship with the drug companies they are supposed to be regulating. His disclosures have been directed at many of the nation's most prestigious drug companies for furnishing inadequate and sometimes fraudulent data in support of unsafe or ineffective drugs. As a new drug reviewer, he opposed clearance of these drugs for the market.

There has been a basic dispute between Dr. Nestor and the FDA managers during his years of employment there, based on a fundamental ideological difference in attitudes about the role of the regulatory agency. Dr. Nestor believes that there should be an "inherently adversarial" relationship between the FDA and the drug industry. In contrast, FDA management, particularly since 1970 when a new crew of administrators took over the agency, made a conscious effort to cooperate with industry as much as possible. According to the recent report issued by the HEW Review Panel on New Drug Regulation, FDA administrators systematically set out to neutralize Dr. Nestor and other employees who pursued the adversarial role to insure that their more "cooperative" policy was implemented.

Administrators at the Bureau of Drugs tried to neutralize John Nestor by transferring him to the Bureau of Compliance, out of his area of expertise, to a position where he has been given little or no substantive work to perform in four years. Dr. Nestor filed a departmental grievance against the transfer which failed to remedy the situation.

Dr. Nestor has not been idle during these years, however. Nor has he been effectively "neutralized." He "blew the whistle" on these personnel practices which facilitated FDA collusion with the drug industry, sparking a series of investigations into FDA activities.

In 1974, Dr. Nestor and 14 other scientists at the Bureau of Drugs testified before a joint hearing of the Senate Subcommittees on Health and Administrative Practice and Procedure. These controversial hearings were then reviewed by a report issued by FDA Commissioner Schmidt in defense of his agency. In turn, this sparked two more investigations conducted by the Review Panel on New Drug Regulation, appointed by HEW Secretary David Mathews.

The Review Panel's latest report, released in April, 1977, revealed that FDA officials deliberately concealed the real reasons for Dr. Nestor's transfer and lied about them under oath in the grievance hearing. The Review Panel recommended that the dismissal of this grievance proceeding be invalidated, and that the offending officials apologize for their improper conduct.

SOAPBOX FOR ANDY, GAG FOR SINGLAUB

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. CRANE. Mr. Speaker, as the North Korean Government pours nearly one-third of its entire national wealth into a massive military buildup, the President of the United States has announced that the administration's Korean withdrawal policy will be pursued. It has also become clear that any military or diplomatic expert who believes that a U.S. presence in South Korea has been a deterrent to a Communist North Korean invasion of the south will either remain silent, be silenced, or be fired.

Although the wisdom of this withdrawal policy has been questioned and condemned by authorities on the Korean situation, it does seem that the basic philosophy behind the withdrawal is in line with the administration's utopian imaginings that we can afford to embrace our enemies at the price of alienating and embarrassing our allies.

With the North Korean forces stationed and ready just north of the DMZ, the prospects of an all out invasion of the South, should the United States pull out from South Korea, seem considerable. I would like to share the following article with my colleagues.

[From Anaheim Bulletin, June 7, 1977]

SOAPBOX FOR ANDY, GAG FOR SINGLAUB

(By Allan C. Brownfeld)

When Maj. Gen. John K. Singlaub told a reporter in Korea that, "If we withdraw our ground forces on the schedule suggested it will lead to war," he was only expressing the sincere military opinion of virtually every top-ranking U.S. officer in Korea.

For being honest, and for his willingness to say publicly what other officers merely whispered to themselves, Gen. Singlaub has been relieved of his position.

The first thing which must be made clear is that Gen. Singlaub was not insubordinate. He did not refuse an order from his superior. He did not say that he would not carry out an order if it were given. He simply expressed the view that if the policy which has just been adopted by the Carter Administration were implemented, it would make the prospects of war very great Gen. Singlaub has been relieved not for failing to obey an order—which would be a legitimate basis for his removal—but for expressing an opinion concerning policy which differed with that policy. Freedom of speech, it seems clear, is not meant for U.S. military officers.

President Carter's swift removal of Gen. Singlaub is a very curious act for a President who claims that he wants an "open" administration. Perhaps the General believed Mr. Carter, and believed that military officers with expertise in a particular area had a moral obligation to express their views when a government policy was, in their view, headed in the wrong direction. Now, military officers all around the world have been put on notice—what this Administration wants is "Yes Men," and nothing more.

If President Carter were at least consistent—if he removed other high ranking members of his Administration when they publicly challenged U.S. policy—then while we might disagree with his consistency, we could not properly describe him as being hypocritical.

Yet, the President seems to welcome criticism of U.S. policies when they come from U.S. Ambassador Andrew Young. Mr. Young, for example; has welcomed the Cuban-Soviet presence in Africa, stating that it had brought "stability" to Angola. At the same time, the Carter Administration was publicly calling for a withdrawal of Cuban troops from Africa. Mr. Young was corrected for his "error", in welcoming a Communist presence in Africa, but he was not removed.

Andrew Young has been "corrected" for a number of other statements which were in contradiction to U.S. policy. On his recent trip to South Africa, Mr. Young said that it would be "hypocritical" for the U.S. to condemn violence on the part of black terrorists seeking to overthrow the South African government. Speaking to an audience of 250 people at the U.S. Information Service Office in Johannesburg, he declared that, "It would be quite hypocritical if the United States, which had to take up arms to get its freedom from Britain, was to go around advising people against it." While in South Africa, Mr. Young also urged black South Africans to boycott white businesses.

Clearly, the Young statements are not U.S. policy. It is not U.S. policy to interfere in the domestic affairs of other countries—particularly countries friendly to the U.S. Yet, Andrew Young advocated both economic boycotts and possible violence. Has he been removed from office? To the contrary, the President has embraced him and has gone so far as to say that, "He's the finest elected official I've ever known."

The point here is not the merits or demerits of Andrew Young. It is, rather, that what is good for Mr. Young is not good for Gen. Singlaub.

General Singlaub's sin, it seems, is not disagreement with Administration policy per se, but the nature of the disagreement. If he diverged to the left, he would most likely be embraced as Mr. Young has been. To argue that a particular U.S. action might encourage Communist aggression, however, is considered virtually a criminal action.

The fact is that in private almost every top Pentagon official agrees with General Singlaub. A headquarters Army Officer in Seoul who spoke to a Washington Post reporter said that, "I don't know anybody who is not staggered by it. There's no military or strategic logic for withdrawal. In fact, there's a very good case for reinforcing American strength in South Korea." After General Singlaub's reward for expressing his own misgivings about withdrawal directly to President Carter and Defense Secretary Brown. One U.S. colonel says that South Korean officers who believe that the U.S. abandoned South Vietnam, are asking: "Why are you giving up everything you've accomplished here? They quote the old Korean proverb, "Don't trust the Russians and Don't Believe the Americans."

LET'S REWARD HONORABLE MILITARY SERVICE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. ASHBROOK. Mr. Speaker, I am extremely pleased that the House adopted the Beard amendment to the Housing and Urban Development—Independent Agencies Appropriations Act. This important amendment would prevent Veterans' Administration funds from being used to pay benefits to veterans whose

discharges are upgraded by President Carter's discharge review program.

Veterans benefits have traditionally been awarded on the basis of honorable service. I do not believe that it is fair to put those who were dishonorably discharged on the same level with those who served the country with honor.

Previously I introduced a bill aimed at the same goal as the Beard amendment. My bill—H.R. 6691—specifically denied automatic veterans benefits to those individuals with less than honorable discharges whose discharges are upgraded by the President's program.

It is wrong to award veterans benefits to deserters and others who failed to meet their responsibilities to this Nation. To do so would be a great injustice to those who fought and even died for their country.

In addition, the Carter plan would cost millions of dollars a year. In my opinion this money would be far better spent on providing greater benefits for deserving veterans.

Congress should uphold honorable military service. To provide veterans benefits to those whose discharges have been upgraded by President Carter's program would be a slap in the face to those who served honorably.

COMMONSENSE WINS ONE

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. BYRON. Mr. Speaker, Members in both Houses of Congress and the present administration are concerned with and are working toward eliminating the problem of too many Federal regulations and redtape. In the many conversations I have with my constituents and in the mail I receive there is public support for our efforts. Several years ago in Congress we passed legislation which requires that an accurate statement of cost be attached to each piece of legislation we consider. And, there has been further headway.

I would like to share with my colleagues in the House of Representatives, the following well-written editorial on this subject which appeared in the Daily Mail newspaper in Hagerstown, Md.:

[From the Hagerstown (Md.) Daily Mail, June 23, 1977]

COMMONSENSE WINS ONE

The Carter administration is firmly committed to cutting the government redtape that frustrates businesses and complicates all our lives, says Bert Lance, director of the White House Office of Management and Budget.

"That alone will help restore public confidence in government," says the former Atlanta banker. "Business is spending too much time fooling with government forms and government regulations."

Of which there is no end. Last year, the Federal Register contained 57,000 pages of notices, rules and regulations issued by government agencies. The 94th Congress enacted 588 new public laws, each carrying its own economic impact. The Commission on Federal Paperwork conservatively estimates that federal reporting requirements alone cost $40 billion a year.

If the Carter people are really serious about tackling this problem, they might take a fresh look at an idea that has been kicking around Washington since at least 1974. Originally advanced by the National Canners Association during the economic summit meetings held last year, the idea is to require every proposed new regulation or law to first undergo a cost-benefit analysis to make sure the public gains more than it loses.

As an example of well-intentioned but unnecessarily costly regulation, the Food and Drug Administration a year ago proposed that labels on canned foods bear drained-weight information showing how much fruit or vegetable was in the container after liquid was poured out. This would have involved taking samples off the production line, storing them for a month, opening them and then weighing and destroying the contents.

The canners submitted data showing that the regulation would cost $104 million a year and add about a cent more to each can or jar of food. Instead, they suggested a voluntary program, costing only $10 million, in which the solid weight of raw food was weighed before it was put in the can. The FDA agreed to try out the simpler, less expensive plan.

It was one small victory for commonsense. Now the canners' idea of making cost-benefit analyses mandatory has been revived on Capitol Hill in the form of the Regulatory Cost Impact Act, which has been introduced by bipartisan supporters.

The act would require every federal agency to prepare a consumer cost assessment setting forth the direct and indirect costs, as well as the benefits, of any proposed regulation or legislation that may have a significant impact on costs to consumers.

The Regulatory Cost Impact Act would, of course, generate new paperwork of its own. But in this case, more would really be less in the long run.

THE WILMINGTON 10 CASE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. EDWARDS of California. Mr. Speaker. The case of the Wilmington 10 is generating growing attention—both here in the United States and abroad. The reasons for this focus on the case are twofold. The first being the terrible injustice committed against the 10 civil rights workers convicted in 1971 of firebombing and conspiracy during a wave of violence following racial disturbances in Wilmington, N.C.

The three chief witnesses against the defendants have long ago recanted their testimony which they assert was given in response to prosecutor's promises of leniency and gifts. Yet nine of the defendants—all black men—are still in jail.

The second reason is the increased focus which President Carter has placed on human rights issues. As the following column by James A. Wechsler of the New York Post points out, the very nation which has been most criticized by the Carter administration for its stand on human rights has wasted no effort in bringing the case of the Wilmington 10 to the attention of the world community. Hopefully the commitment of the Carter administration to the protection and advocacy of human rights at home and abroad will be recognized as applying to this case.

I ask that my colleagues take a moment to read Mr. Wechsler's thoughtful column reviewing the status of the Wilmington 10 case:

THE CHALLENGE OF WILMINGTON

(By James A. Wechsler)

President Carter has repeatedly said his battle for human rights is aimed at injustice within the United States as well as oppression in the Soviet Union and other nations. The case of "the Wilmington, (N.C.) Ten" gives his Administration a memorable chance to dramatize the point. It is a crucial test case.

There would be ample ground for decisive federal action under any circumstances. Perhaps not since the Scottsboro shame of the 1930's has there been so flagrant an example of prosecutorial prejudice and misconduct with judicial sanction.

The three chief witnesses against the defendants, accused of burning a grocery store during a racially explosive period in 1971, have long ago recanted, asserting their earlier testimony was given in return for promises of leniency on pending criminal charges.

Two others whose evidence could have provided a strong abili for a key defendant—the Rev. Ben Chavis, a veteran civil rights activisit and obviously the main target of the prosecution—admit they fled the state because they feared local reprisal if they took the stand.

In short, there has been a prolonged stench of frame-up and cover-up about the case. Yet, in the face of all the shattering blows suffered by the prosecution, state judge George M. Fountain last month blandly rejected pleas for a new trial, insisting there had been no "substantial denial" of constitutional rights.

When Fountain handed down his ruling, he was aware that a leading member of the prosecution staff had admitted—in writing—that the state could not try the defendants again because its witnesses had repudiated their stories. Indeed, by that time, the true question was the misconduct of the prosecutor who engineered the convictions back in 1972, and who should be vulnerable to charges of suborning perjury.

In the ensuing five years, the United Church of Christ, Amnesty International and other groups have sought to enlist national support in behalf of "The Ten." (Actually, while the nine black defendants have been imprisoned, facing sentences totaling 282 years a lone white woman defendant has been free on parole).

But the most effective national exposure of the story did not come until last March when Mike Wallace's "60 Minutes" show devoted a large segment to it, with special focus on the minister and a woman, now living in Philadelphia, who firmly said on the program that Chavis was with them at the time the burning occurred.

Despite Wallace's effort and a few journalistic forays (inexcusably not including this column), the renewed surge of interest in the case must be largely attributed to the worldwide human rights debate Carter has stirred on so many fronts.

Not unexpectedly, Moscow's propaganda organs have trumpeted mounting concern about the fate of the Wilmington prisoners. The intensity of their indignation may well have hastened Attorney General Bell's pledge to pursue a grand jury inquiry. At his news conference last week, Carter exhibited familiarity with the story and voiced confidence—perhaps somewhat ambiguously—that justice will prevail.

Perhaps he said as much as he could properly say at that moment. But these can hardly be the last words in a case that has stained our judicial system too long (and in which, it should be added for the record, none of the imprisoned had any prior history of violent action).

Now a new, possibly important development is the plea addressed to Bell, led by Rep. Edwards (D-Cal.) and signed by 59 other House members (including twelve from New York). It urges four steps:

The filing of an amicus brief by the U.S. supporting the defendants' plea for review in North Carolina's Appeals Court of the denied motion for retrial.

A similar brief upholding the habeas corpus petition inexplicably ignored by the District Court since 1976.

A recommendation to the Governor of North Carolina that the defendants be pardoned or "at a minimum" their sentences commuted to time served. The letter to Bell concludes:

"We commend you for instituting a federal grand jury investigation . . . Nevertheless, in view of the incarceration of the defendants and the seriousness of allegations of official impropriety, immediate action in every available avenue of address is warranted."

It is indeed. No doubt the Kremlin's press agents will claim credit for any action belatedly taken in a case that has shadowed this country too long. Let them.

If Jimmy Carter's human rights evangelism produces a new passion for justice at home, the example can only increase the international contagion. There could be no clearer message than the freeing of the Wilmington prisoners, who have already spent far too many years in jail.

UNITED STATES IGNORES TRANSKEI

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. CRANE. Mr. Speaker, on October 26, 1976, Transkei declared its independence from South Africa. This predominantly black African state achieved its independence peacefully and immediately established a nonracial society, eliminating the apartheid legislation under which it had been subjected as a part of South Africa. It established a system of free enterprise and its leader, Kaiser Matanzima, declared himself to be opposed to the encroachments of the Soviet Union and Cuba upon the African continent.

Yet, instead of welcoming Transkei to the family of nations, the United Nations passed a resolution against it, and not a single country other than South Africa has so far seen fit to extend diplomatic recognition to it. The United States, which even now is in the process of "normalizing" relations with such totalitarian states as Castro's Cuba, Communist China, and Communist Vietnam, has to date refused to recognize Transkei. This, it seems, is another example of the double standards which exist in today's world.

Black African states engage in a form of hypocritical behavior when they reject Transkei. These same states have no difficulty in doing business with the Government of South Africa, nor does our own country, which maintains diplomatic relations with Pretoria.

Discussing this unusual state of affairs, columnist Ralph de Toledano expresses the view that:

To U.S. policymakers, Transkei's crime is that it was granted its independence by the Republic of South Africa. That independence is completely uncompromised. Transkei is one of the continent's most fertile areas, and with adequate development it could become Africa's breadbasket. Transkei has a larger population than 34 percent of U.N. members, a greater gross national product than 33 percent, is bigger than 16 percent of U.N. members. Its percentage of school-going children is higher than that of most other African countries. Its per capita income is higher than that of most of the rest of Africa.

Mr. de Toledano notes that if he were the leader of Transkei he could get recognition by the United States in 24 hours—"simply by making overtures to Cuba. I would ask the Soviet Union for a billion dollars in arms. I would begin arresting all the whites in the country. I would denounce the CIA. All of this would be lunacy. But it would have its effect."

It is time that the U.S. Department of State reconsiders its position concerning Transkei. In this connection, I wish to share with my colleagues the column, "U.S. Ignores Transkei," by columnist Ralph de Toledano, and insert it into the RECORD at this time:

[From the Jefferson City (Mo.) Post-Tribune, Apr. 5, 1977]

UNITED STATES IGNORES TRANSKEI

(By Ralph de Toledano)

WASHINGTON.—A case could be made that Ambassador Andrew Young and President Carter are anti-African racists.

How?

Because the United States has refused recognition to the new Republic of Transkei and is not pressing for its admission to the United Nations.

Transkei's crime is that it was granted its independence by the Republic of South Africa. That independence is completely uncompromised. Its chief minister, K. D. Matanzima, in his first public declaration, took a tough stance against South African apartheid and made his independence abundantly clear.

But as he said: "Where struggle and suffering were necessary for people to secure freedom let it be so . . . but where freedom has been gained peacefully, who is to say it is less meritorious?" Echo answers: The United States and the United Nations.

To back up the Carter-Young opposition to Transkei, the propaganda is being spread that it is some kind of wasteland, tossed to the Bantu tribes as a phony gesture.

In point of fact, Transkei is one of the continent's most fertile areas, and with adequate development it could become Africa's breadbasket. It is, as well, one of Southern Africa's most beautiful areas. The climate is temperate and it boasts 250 miles of coastline on the Indian Ocean which is rapidly becoming a prime vacation area.

I can say this without fear of contradiction because I have been through Transkei and photographed its capital, Umtata.

Transkei has a larger population than 34 per cent of U.N. members, a greater gross national product than 33 per cent, is bigger than 16 per cent of U.N. members. Its percentage of school-going children is higher than that of most other African countries. Its per capita income is higher than that of most of the rest of Africa. It has its own defense forces.

Transkei has been repulsed by the U.N. because its chief minister is anti-Communist. And it has also refused to set itself a collision course with the Republic of South Africa, another factor contributing to U.N. antagonism. If Transkei were training guerrillas to invade South Africa, it would be gleefully invited to join the U.N.

In short, Transkei is Exhibit A in the madness epidemic in the United States and the Western world. It meets all the criteria for membership in the United Nations. It is peaceful and potentially rich. It seeks investment from other countries to develop its agricultural and mining resources. It has a tough-minded and independent leadership. Certainly, it is not a "democracy" in Western terms, but it is not terrorizing its citizens as most African countries do and has no "human rights" problems.

Transkei has had internal autonomy since 1963, and in the years since then it has developed a first-class civil service. Though it has achieved independence, it is not persecuting the whites within its borders.

If I were heading the Transkei government, I could get recognition by the United States in 24 hours—simply by making overtures to Cuba.

I would ask the Soviet Union for a billion dollars in arms. I would begin arresting all the whites in the country. I would denounce the U.S. Central Intelligence Agency.

All of this would be lunacy. But it would have its effect. Fortunately for the United States, Transkei's leadership is responsible. Its aims are to develop the country, to raise the standard of living. But the powers that be in the State Department and Congress are not interested in responsible governments—which is why we are losing our prestige and credibility throughout the world.

RESOLUTIONS PASSED BY THE REPUBLICAN NATIONAL HISPANIC ASSEMBLY.

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. LUJAN. Mr. Speaker, on June 17, 1977, the Republican National Hispanic Assembly passed the following resolution:

Resolution demanding the appointment of a special prosecutor to investigate members of the House of Representatives.

Whereas, it has been alleged that individual members of the House of Representatives have received funds from representatives of the Korean government; and

Whereas, it is alleged that such funds have not been reported by the Congressmen as required by Federal law; and

Whereas, the Congress has not moved aggressively and openly to investigate these allegations and provide full public disclosure of the results of those investigations.

Therefore, be it resolved, that the President should immediately appoint a Special Prosecutor to conduct an intense investigation of charges against individual members of the House of Representatives; and

Be it further resolved, that upon completion of said investigation the American public be duly informed of the verity or inaccuracy of said allegations; and

Be it further resolved, that should evidence verify the allegations against the individual members of the House of Representatives,

due process of law be implemented immediately.

Respectfully submitted,

BENJAMIN FERNANDEZ,
National Chairman.

JUNE 17, 1977.

THE REPUBLICAN NATIONAL HISPANIC ASSEMBLY OF THE UNITED STATES, WASHINGTON, D.C.

Resolution condemning the Carter administration's relaxation of relations with Cuba with a view toward recognizing this tyrannical regime which willfully violates the human rights of its citizens

Whereas, the Republican National Hispanic Assembly is totally opposed to violations of human rights; and

Whereas, The Republican National Hispanic Assembly denounces the inherent inhumanity of the communist totalitarian system of Fidel Castro known for torturing and executing its political prisoners; and

Whereas, The Republican National Hispanic Assembly further denounces the little publicized fact of the imprisonment of more than 1,000 political dissentors by the Cuban dictatorship; and

Whereas, The Republican National Hispanic Assembly violently objects to Castro's public acknowledgement that the right of a free press will never be permitted in Cuba; and

Whereas, the Castro dictatorship is actively engaged in acts of armed intervention in countries throughout the world, and is unequivocally committed to intervention and the support of armed revolution in other countries; and

Whereas, the Castro dictatorship's expropriation of more than $2 billion from United States corporations and citizens without due compensation constitutes willful violations of international laws; and

Whereas, despite these blatent violations of human rights and international laws, the Democratic administration of President Carter is presently engaged in promoting normalization of relations with this tyrannical regime.

Therefore, be it resolved, that The Republican National Hispanic Assembly condemns the Castro dictatorship, its inhumane treatment of many of its citizens, its armed intervention in the affairs of other countries, its attempts to export the Marxist ideology in the Western Hemisphere and throughout other countries of the world; and

Be it further resolved, that this Hispanic Assembly considers these actions as being contrary to the best interests of the United States; and

Be it further resolved, that The Republican National Hispanic Assembly committed to the American beliefs of freedom, liberty and the pursuit of happiness, considers the Carter Administration's admitted intention to normalize relations with Cuba, a blatant blunder in U.S. Foreign Relations, which is inconsistent with his Administration's policy on human rights.

Resolution recommending the appointment of a Latin American factfinding committee

Whereas, the United States does not presently have a well-defined and realistic foreign policy relating to Mexico, the Caribbean, Central and South America; and

Whereas, no meaningful study relating to problems existent in Latin America and the manner in which the United States government could assist in improving the health, welfare and economic opportunity of the people in Latin America has been undertaken; and

Whereas, the present existing policies are so confusing and poorly directed without proper objectives and are so ill-defined that the governments and people of Latin America do not presently understand the United States policies toward themselves and their countries; and

Whereas, the countries of Mexico, the Caribbean, Central and South America have traditionally been the staunchest friends and allies of the United States and have demonstrated their friendship in large part (with the exception of Castro's Cuba); and

Whereas, such a study and analysis of the interrelationship of the governments and people of the United States and Latin America is much needed and will serve a useful purpose and improve the relationship between our countries;

Therefore, be it resolved, that The Republican National Hispanic Assembly of the United States appoint a committee to study inter-American relationships, to consider all the problems that exist and proposals that might be made to meet these problems; and

Be it further resolved, that this committee should be composed of six members with extensive background in Latin American affairs; and

Be it further resolved, the committee should be authorized to make the necessary studies to communicate with and travel to the various countries under study, to meet with the public officials and with private enterprise representatives as well as with other groups and with the people themselves in order to prepare a report with the objective of being able to submit such a report at the earliest possible date to the Republican National Hispanic Assembly of the United States so that it can then be analyzed and submitted to the Republican National Committee, it being the objective that the recommendation resulting from this report should be considered as part of the foreign policy of the Republican Party of the United States.

It being further resolved, that this fact finding committee shall be sponsored and financed by non-governmental and private sources, guaranteeing its objectivity, it being understood that the members of this fact finding committee will commit the necessary time and effort in order to accomplish the study, to make the necessary investigations, and take the necessary on-site inspection trips in order to submit a report on or before December 31, 1977.

Resolution supporting human rights but opposing Communist oppression

Whereas, The Republican National Hispanic Assembly of the United States is opposed to the violation of basic human rights under any circumstances and by any groups of "liberation fronts" or official institutions; and

Whereas, the Assembly denounces vigorously the constant violation of human rights by the various Marxist-revolutionary fronts in the various countries of the world, specifically in Latin America and Africa, where without any justification the so-called "freedom movement forces" are attempting to overthrow the existing governments, whatever the nature of those governments, to impose their own brand of totalitarian dictatorship, and in so doing are perpetrating some of the most horrendous crimes against humanity, such as kidnapping, assassinations, blackmail, extortion, torture, executions against representatives of what they call the Establishment.

Be it therefore resolved, that it must be recognized that these Marxist-revolutionary movements, led by Cuba in the Western Hemisphere and in Africa, affect the security and the rights of other countries to live in peace and for their people to live normal lives without the constant threat of these so-called "liberation movements".

Be it further resolved, that the United States should denounce vigorously Marxist-oriented efforts to overthrow established governments, particularly when those governments are guaranteeing the safety and the rights of life of their people. At the same time the United States should promote respect for basic human rights of the people of all countries.

Resolution condemning the termination of military assistance to the traditional, friendly allies of the United States, the countries of Latin America

Whereas, The Republican National Hispanic Assembly of the United States believes that the United States should acknowledge and give strong support to its traditional allies and friendly nations; nations which have proven their friendship and support over the years; and

Whereas, the Republic of Nicaragua traditionally has been friendly and has voted and supported United States foreign policies in all international forums and has done much for the betterment and uplifting of the human welfare of its people within the framework of constitutional government and a two party system which prevails in that country; and

Be it therefore resolved, that The Republican National Hispanic Assembly is in total disagreement with the recent action of the Appropriations Committee of the Congress of the United States in the termination of all military assistance programs to such proven friendly nations as Nicaragua, a country that offers great promise in uplifting the welfare of its people; and

Be it further resolved, that The Republican National Hispanic Assembly expresses its support for whatever appropriate action should be taken by the Carter Administration and the Congress of the United States to immediately re-establish all military assistance programs that have been recently suspended to the traditionally friendly nations in the Western Hemisphere.

Resolution demanding more appointments by the Carter Administration

Whereas, The Republican National Hispanic Assembly of the United States at the 1977 National Leadership Conference in Las Vegas, Nevada was apprised of the woefully inadequate number of Hispanic Americans appointed by the Carter Administration to high and/or lower Administrative positions; and

Whereas, The Republican National Hispanic Assembly is concerned for the benefit and advancement of all Hispanic-Americans of quality who share its common aspirations, desires and hopes for democratic representation in governmental bodies at all levels; and

Whereas, President Carter while campaigning for Presidential office made direct, overt and persuasive promises to the Spanish-Speaking people of the United States of America vis-a-vis "give me your votes and I promise to appoint Hispanic-Americans to my Administration"; and

Whereas, the results of the Presidential election of 1976 demonstrate that the Hispanic-American voters responded, once again, to Democratic Party rhetoric without substance; and

Whereas, President Carter has publicly announced that his Administration is unable to find qualified Hispanic-Americans for appointments to his Administration; and

Whereas, Hispanic-Americans of whatever political persuasion must find this Carter Administration admission unbelievable, repugnant, and even bigoted with respect to the Spanish-Speaking; and

Whereas, it is a historical fact that the prior Republican Administrations appointed a substantial number of Hispanic-Americans to Administrative positions at all levels;

Therefore, be it resolved, that The Republican National Hispanic Assembly denounces and condemns the Carter Administration's failure to fulfill its promise to the Hispanic-American community; and

Be it further resolved, that The Republican National Hispanic Assembly hereby promises and covenants to carry the message to Hispanic-Americans, and all Americans, of the Carter Administration's unfulfilled promises and its unacceptable and short-sighted view, i.e., "there is a short supply of qualified Hispanic-Americans" (Sic) . . . . "Mr. President, we shall not let you rest in our efforts to prove you wrong".

Resolution in support of the five Hispanic American candidates for the Congress of the United States

Whereas, The Republican National Hispanic Assembly of the United States believes that the principles of the Republican Party coincide with the basic philosophy of the Americans of Hispanic origin; and

Whereas, the following five Americans of Hispanic origin have indicated their interest in being candidates for the House of Representatives; Fred Avila—Dallas, Texas, Alberto Cardenas—Miami, Florida, Samuel Martinez—Denver, Colorado, Phillip Sanchez—Fresno, California, and Albert Zapanta—Whittier, California.

Be it therefore resolved, that The Republican National Hispanic Assembly of the United States endorses their candidacy for the Congress of the United States.

MAINE LEGISLATOR POINTS OUT FLAWS IN H.R. 5400—UNIVERSAL VOTER REGISTRATION

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. SPENCE. Mr. Speaker, the State of Maine is one of those States with same-day election registration and voting. Although the voter needs to make two separate stops at two separate places to complete the task of registering and voting, the principle is the same as the measure endorsed by President Carter in the Universal Voter Registration Act—H.R. 5400.

State Representative James K. McMahon, of Kennebunk, Maine, has presented an effective case against same-day election registration. He also notes that the State of Maine is seriously considering changing its own law on election day registration. We should recall that the Maine law on this procedure is one of the laws which is usually cited as a shining example for the Nation to follow by proponents of H.R. 5400.

More and more evidence is being accumulated to show that the universal voter registration bill will cause serious problems with our present system of elections. We need to listen to these warnings before it is too late. We must defeat H.R. 5400 here in the U.S. House of Representatives.

I would like to share with you the comments of State Representative James K. McMahon on election day registration:

I am opposed to election day registration for several reasons. First and most important is the opportunity for fraud. Maine has 496 municipalities and it would be possible under our present law for a person or persons to register and vote on election day in as many of those municipalities as could be reached. One resident of Maine registered and voted in two municipalties during the last election just to see if he could get away with doing so. He did get away with it until he himself admitted what he had done. The fact is that our registrars and boards of registration (boards are required in larger municipalities) do not have the time or the financial ability to conduct a post election check to determine whether or not fraud took place. Even if such a check could be made the person or persons involved would be long gone and their votes would have been counted into the total.

Another reason I am opposed to election day registration is I believe it is not unreasonable to ask our citizens to make a little effort on their own behalf and to register in advance of the election.

Another reason I am opposed to election day registration at least in Maine is that many of our polling places are small and a crush of new registrants presents our municipal clerks and election officials with very real problems in logistics.

The Elections Laws Committee of the Maine Legislature (on which I serve) will soon report out a bill to eliminate election day registration in Maine. The bill will have a divided report almost but not entirely along partisan lines. The bill proposes to eliminate election day registration but also to eliminate our closed period which exists prior to our elections.

U.S. GROUND FORCES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. DERWINSKI. Mr. Speaker, on June 23 the gentleman from New York (Mr. MURPHY) discussed the Carter administration plan to pull U.S. ground forces out of Korea, and I direct myself to that subject.

In recent weeks President Carter has made clear his intention to begin a withdrawal of all U.S. ground forces from the Republic of Korea. According to available evidence, this policy is an ill-conceived idea and should be carefully considered by the Congress before the start of any withdrawal of troops.

In 1950 a North Korean misinterpretation of American foreign policy in the Far East and of the U.S. will to defend South Korea's independent existence led to a conflict which ultimately claimed 33,000 American lives.

However, a proposal for the withdrawal of American ground forces from Korea has cast doubt on the future of peace in the region. The bellicosity of the North Korean regime in both words and actions is well known. That fact, coupled with North Korea's insistence on national unification under Communist leadership, provides good reason for concern about the prospects for armed conflict once U.S. troops are removed.

For over 25 years U.S. policy in Korea has been predicated on the "trip-wire" theory: that the presence of U.S. ground forces would mean the immediate involvement of the American Armed Forces in an attack by the North Koreans. The stationing of American soldiers adjacent to the demilitarized zone has virtually guaranteed U.S. participation in an outbreak of hostilities. Ground forces have played a symbolic role which clearly indicates the American commitment to the Mutual Defense Treaty of 1954 and to the survival of the Republic of Korea in the face of outside attack. Air and naval forces as provided under the Carter administration plan do not impart the same degree of assurance to the North Koreans that an attack across the 38th parallel will be met by the same degree of American resolve.

In addition to the American divisions positioned in South Korea, the integrated command structure of the U.S. and ROK armed forces also have insured a U.S. commitment in case of a North Korean attack. Should a conflict occur, the fact that all Korean forces are under U.S. operational control would practically mean that the United States would be involved.

The presence of American troops has kept the peace in Korea for the better part of three decades. The Carter administration has so far failed to demonstrate what has changed in the political and military conditions either on the Korean Peninsula or in the Far East which dictates a troop withdrawal at this time. No one has suggested that Kim Il-sung's dictatorial regime is less hostile today than it was 20 years ago. Indeed, in recent years there have been provocative actions against American and South Korean forces along the DMZ as well as the infiltration of subversive agents into the South. For example, in 1974 the U.N. command in Korea discovered extensive tunnel complexes under the DMZ which could be used for an invasion of the Republic of Korea.

Not only has the Carter administration failed to detail those circumstances which have changed so as to allow for the removal of American ground forces, but there has been substantial opinion voiced against such a move. A few years ago a congressional staff report, indicated that there was general agreement among American civilian and military officials in Korea and that the U.S. presence in Korea was essential for the stability of the area, and that if the U.S. even appeared to be leaving South Korea the North Koreans might move south. As recently as May 25, 1977 the Washington Star reported that there was practically unanimous opposition among the American military officials in the Pacific region to the withdrawal of all land troops from Korea.

What is especially disturbing is the manner in which this policy was formulated. The plan for the removal of American ground forces was never debated within the administration on its merits. The issues of whatever any troops at all should be removed was never addressed and the highest ranking military personnel in the Korean command were never polled as to the desirability of such a move. The only question open for discussion was how American troops should be removed, not whether they should be.

If the administration is unwilling to examine the entire Korean policy, then it is encumbent upon the Congress to do so. For 25 years a strong American presence in the Far East has deterred aggression from North Korea. We must be absolutely sure that any change in policy now does not jeopardize the peace that was bought so dearly in the Korean war. It is my hope that the withdrawal of American forces can be postponed until this matter has been further studied.

NATIONAL ENERGY PLAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. LAGOMARSINO. Mr. Speaker, the administration's national energy plan, now working its way through Congress, is a tremendously complex and far-reaching proposal which promises to have a substantial impact on our way of life. I would, therefore, like to take this opportunity to share some of my thoughts on the administration's proposal with my colleagues.

Mr. Speaker, I believe any effective national energy policy should seek to accomplish three goals. First, through conservation, it should promote efficient utilization of our existing energy sources and fossil fuel reserves. Second, it should encourage the development of alternative energy sources, in order to end our reliance on imported fuels. And third, it should encourage continued exploration and increased production of existing fossil fuel sources, in order to avoid serious economic disruptions and bridge the gap between our present reliance on fossil fuels and our future changeover to alternative energy sources.

In order to be effective, these objectives must be achieved in a balanced and coordinated way. The Nation's energy problems cannot be solved by conservation alone, nor can our future energy needs be met solely through increased production and continued squandering of finite resources. And while synthetic and renewable fuel sources may offer long solutions, they promise little immediate relief. Only through a coordinated and broad-based attack can the problem be effectively met and eventually solved. It is here that I believe the administration's proposed energy policy falls short.

The President's recommendations do not constitute a three-pronged attack, but instead rely primarily on the use of taxes and other controls to curtail demand, while not unshackling the potential of the American economy to solve short-term supply problems. Mr. Speaker, I firmly believe that conservation—the efficient use of energy resources—is absolutely essential to an effective policy. I am concerned, however, that conservation in and by itself may not solve our energy problems. The administration seems to feel that if we can curtail consumption, through a complicated system of increasingly heavy taxes, we can reduce our dependence on foreign oil, ease our balance of payments deficit, and provide adequate supplies for future consumption. So far it has not been a very persuasive argument, in my opinion. The recent Government Accounting Office report which analyzed the administration's proposal and declared that the tax program, even if fully implemented, would have only a negligible effect on actually reducing our energy consumption gives further reason to question this policy.

Mr. Speaker, I should hasten to add that there are many points of the administration proposal that I do like. I strongly support the incentive provisions to encourage insulation of homes and businesses and to develop and utilize solar heating and alternative fuel sources. In addition, I have long advocated the creation of an enlarged petroleum reserve and wish to commend the administration for their efforts to promote coal conversion.

My main concern with the national energy plan is more one of emphasis than of specifics. The emphasis of the plan is, in my opinion, directed too much toward conservation at the expense of increased production, and too much toward punitive taxation and bureaucratic regulation at the expense of encouraging increased production.

The problem with the President's taxation policies, are that they may well be regressive and counter productive. What is needed are progressive taxation policies to encourage capital investment—which would in turn result in increased production, less dependence on foreign supplies and increased Federal revenues.

A central question should be, "How extensive are our remaining fossil fuel reserves?" Obviously, a completely accurate inventory is not possible. However, a number of estimates have recently been made. It is important to note that all indicate a substantial potential for additional discovery and production of domestic crude oil and natural gas. One such study, conducted by the U.S. Geological Survey, estimates the potential for crude oil to be in excess of 130 years and the potential for natural gas to be greater than 65 years. Even the most conservative estimates indicate that there are more than enough reserves to insure an orderly transition from a fossil fuel based economy to an economy based primarily on renewable energy sources.

While I agree that the Federal Government must take an initiative, private industry offers the greatest financial and technological resources and it is primarily to the private sector that we must look for solutions. If, as all studies seem to indicate, we do have sufficient reserves to provide for an orderly transition, a primary goal of the national energy program must be to provide the economic climate to encourage rapidly expanded research and development by the private sector. Yet, the administration plan would apparently have the reverse effect, because it would artificially control energy prices, below actual replacement costs, and shackle industry in regulatory red tape and control. It has been estimated that the President's various energy "conservation" taxes would accumulate over the next 5 years a staggering total of more than $125 billion. Yet apparently not one penny of this enormous sum would be available for development of vitally needed domestic energy supplies. Most of it would be returned through a complicated series of rebates creating another massive bureaucracy and consuming much of the money in administrative costs.

The Chase Manhattan Bank in a recent study estimates that the petroleum industry will need to invest some $265 billion on domestic exploration and development in order to produce sufficient energy to support our work force by 1985. This means the industry will have to expand at a rate of almost $25 billion per year over the decade in order to just achieve the "minimum" target of 15 billion barrels called for by the President's plan.

Would it not be far better to temper the "conservation by taxation" approach, eliminate the need for a massive new energy bureaucracy, and let the free market operate? By largely deregulating the price of domestic oil and natural gas we would not only achieve that measure of conservation that increased prices would produce, but also provide industry with the incentive and the capital to make the kind of commitment that would produce more domestic energy supplies. I fully realize that there are those who would argue that industry should be prohibited from making excessive profits. I agree, and advocate that we tax windfall and/or excess profits with a provision for "forgiveness" for energy development. I must also point out, however, that it makes no sense at all to continue paying billions of dollars annually to foreign countries for oil and natural gas when that money could be put to work here at home, expanding production and creating jobs.

The Government has neither the expertise nor the administrative capabilities to provide future production needed to maintain the American work force and insure an orderly transition from our fossil fuel based economy to synthetic and renewable fuels. The Government does, however, have both the responsibility and the means to see that the job does get done. Clearly the best way to achieve success is by encouraging and more importantly allowing private industry to operate to its full potential.

DOES CONGRESS HAVE THE POLITICAL WILL TO IMPROVE FOOD RESEARCH?

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. WAMPLER. Mr. Speaker, a front page article in the New York Times of Thursday, June 23, expresses doubts that Congress has the "political will" to enact legislation to provide for food research

to remove the threat of immediate famine from most of the world.

The New York Times article, entitled, "Panel Says Food Research Drive Could End Famines in Generation," takes no consideration of legislation overwhelmingly passed by the House in the 94th Congress, H.R. 11743, to substantially increase food and agricultural science research; nor upgraded legislation to establish a new National Agricultural Research, Extension and Teaching Policy (title XIII of H.R. 7171, the Agricultural Act of 1977), due for House floor action July 11 and 12.

I urge my colleagues to take a few minutes to read the New York Times article and a somewhat similar editorial, "The Hunger Challenge," from the Christian Science Monitor appearing Friday, June 24, both of which are reproduced below. Then study title XIII of H.R. 7171, and afterward determine for yourselves whether or not Congress has the "political will" to tackle and solve this serious problem.

The articles follow:

PANEL SAYS FOOD RESEARCH DRIVE COULD END FAMINES IN GENERATION

(By Boyce Rensberger)

The threat of chronic malnutrition and repeated widespread famines could be removed from the world within one generation if the United States and other countries mounted a major mobilization of research on agriculture and nutrition, a panel of experts convened by the National Research Council has concluded.

In a 192-page report to President Carter released yesterday, the panel set forth an analysis of the world food and nutrition situation, listed 22 areas of research deserving high priority and proposed a plan for getting the work done.

Among the recommendations is one that the Department of Agriculture increase by $120 million (20 percent) its outlays for research and add $100 million a year to build new research facilities. The panel also proposed tripling the $30 million a year now spent by the Agency for International Development to help poor countries to improve their own capacity for agricultural research.

The specific areas of research recommended emphasize new methods of improving crop yields that do not depend on such costly factors as fertilizer or irrigation but can be used at little or no extra cost to the farmer. Such gains would be equally useful to American farmers and those in poor countries.

The panel, led by 15 of this country's top specialists in the science and economics of food production and distribution, reached its conclusions after a two-year study commissioned by President Ford. It drew on the resources of 1,500 scientists, farmers, government officials and others in the United States and many other countries.

The report by the council, the operating arm of the National Academy of Sciences, is probably the most comprehensive assessment of the prospects for eliminating hunger and malnutrition ever published.

Although good growing weather has removed the threat of immediate famine from most of the world, the report estimates that between 450 million and one billion people remain malnourished. Unstable weather patterns, foreseen by some climatologists, threaten many marginal growing regions with renewed famine and the United States with severe inflation of food prices.

REPORT IS CAUTIOUSLY OPTIMISTIC

The report is significant because it is cautiously optimistic and because it devotes considerable attention to the social and economic aspects of overcoming hunger, facets of the problem that the scientific community has been criticized for neglecting in the past.

Even if food production were to double in the poor countries by the year 2000—something that must happen if hunger is to be eliminated—there would still be large numbers of hungry people if there were not also improvements in the distribution of wealth, said Harrison S. Brown, chairman of the 15-member panel.

Mr. Brown is a professor of science and government at the California Institute of Technology.

Eliminating hunger, the panel said, depends not only on increasing food production but also on reducing poverty, stabilizing food supplies through reserve systems that hold surpluses for times of scarcity and reducing population growth.

Achieving such goals will not be easy, but enough promising successes have been achieved in some poor countries to suggest that it is possible, the report added.

"If there is the political will in this country try and abroad to capitalize on these elements," it said, "it should be possible to overcome the worst aspects of widespread hunger and malnutrition within one generation."

'POLITICAL WILL' HELD VITAL

"Political will" is a key factor, the panel said, for without strong leadership from both the White House and Congress the crucial role that the United States could play in eliminating hunger will go unplayed.

The report sees some hope on this point in Congress's passage last year of a "right-to-food" resolution and in President Carter's pledge in his inaugural address that the United States would take the lead in working toward fulfilling a basic human right to be free of poverty and hunger.

More recently, Andrew Young, the United States representative at the United Nations, told the Economic and Social Council that combating hunger and famine should be the first priority in the struggle to promote human rights.

The panel said that Western-style industrial development was not necessarily a prerequisite for freedom from hunger. It cited such countries as Sri Lanka, South Korea, Taiwan and China, where the problem has been largely solved under widely different political systems. All have per capita incomes of less than $300 a year.

In addition to the recommended increases in research spending, the report urged that the Department of Agriculture widen its interests to include problems of hunger and malnutrition around the world. It said that researchers sponsored by the department should work in closer collaboration with scientists in other countries.

REVERSAL IN TREND URGED

In recent years, the study found, the knowledge among American scientists of conditions in developing countries has declined as has their involvement in research there. This trend should be reversed, the report said.

The panel also called upon the White House "to develop and maintain a coherent United States strategy for dealing with world food and nutrition problems." And it asked the President to facilitate coordination of American and international research in food and nutrition.

Among the members of the steering committee that produced the report were David E. Bell, vice president of the Ford Foundation; James P. Grant, president of the private Overseas Development Council, and Howard H. Hiatt, dean of the Harvard School of Public Health.

Also Nevin S. Scrimshaw, head of the department of nutrition and food science at Massachusetts Institute of Technology, Sylvan H. Wittwer, director of the agricultural experiment station, Michigan State University, and Sterling Workman, vice president of the Rockefeller Foundation.

Joel Bernstein of the National Academy of Sciences was the director.

Copies of the report, entitled "World Food and Nutrition Study," may be obtained at $6.75 apiece from the National Academy of Sciences, Printing and Publishing Office, 2101 Constitution Avenue NW, Washington, D.C. 20418.

THE HUNGER CHALLENGE

The National Academy of Sciences study of world food supply boils down to a demand for fresh thinking by all nations. Hunger can be banished, the study concludes, if both industrial and developing countries smash through the stereotyped thinking and outmoded perceptions that are the main obstacle.

For industrial nations, especially the United States, this means facing up to the fact that pouring on fertilizer, pesticides, and irrigation water in an energy-intensive forced feeding of the land is no longer an acceptable recipe for plenty.

The industrialized nations must boost food output by the agricultural equivalent of another United States by 2000, the study finds. It adds that "traditional" industrialized farming can achieve this only at the cost of runaway inflation.

What is needed, particularly for the United States, is a revitalization of long-neglected agricultural research to develop crops and farming methods that minimize the need for oil, chemicals, and water while boosting yields through enhanced "biological productivity" inherent in the crops themselves.

For developing countries, the study says, the challenge is to reorganize to remove traditional institutional barriers that inhibit food production. Some of these are economic systems that deny small poor farmers access to needed capital. Some are pressures that force these farmers off the land to swell the ranks of hungry urbanites. Some are time-hallowed modes of living that retard development both of efficient farming and of distribution and proper storage of the harvests.

Noting that Sri Lanka, South Korea, Taiwan, Kerala State in Indian (and, of course, China) have solved the problem of hunger, even though their per capita annual incomes are below $300, the academy study says that others can learn from these successes.

Thus the bottom line of this study, which is a follow-up to the 1974 World Food Conference, is that the challenge of hunger is more a challenger to thinking than it is a matter of material resources. Assessments by some 1,500 experts lead to the conclusions that the most effective help the United States can give hungry nations is to contribute its scientific strength to a joint endeavor to develop an agriculture that can feed the world without relying on chemicals and massive use of oil. And this, the experts say, will be in the best self-interest of the United States.

There is no need to despair at the magnitude and complexity of the food challenge. This planet and this generation do have the means to begin to defeat hunger if people everywhere will summon the will to do so.

OAHE: NEEDED IN SOUTH DAKOTA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. ABDNOR. Mr. Speaker, South Dakota's concern over the potential of its future water development being sacri-

ficed on the altar of political expediency is reflected in two recent editorials. Our State has already sacrificed a half million acres of its richest bottom land to build the high dams on the Missouri river.

Sioux City, Iowa, recently celebrated the 25th anniversary of the "big flood," but no longer are big floods an annual worry for that community. The high dams in South Dakota prevent them. Nearby States are also benefitting from South Dakota's sacrifice through hydroelectric power generated on our dams.

In partial return for the help it is giving our neighbors and for the loss of its rich acreage, South Dakota has long had the promise that the Federal Government would assist with development of irrigation. The Oahe irrigation project was the focus of that promise, as well as many smaller projects.

South Dakota wants and needs development of Oahe irrigation. The House has agreed to continue funding Oahe fiscal year 1978, but action of the Senate Appropriations Committee has raised grave questions about Oahe's future, despite the fact that it has been clearly established the project meets the safety, environmental and economic criteria which have come into play in recent months.

I commend these comments from South Dakota to the attention of my colleagues:

[From the Aberdeen (S.D.) American News, June 19, 1977]

OAHE—TOO GOOD TO BE DEAD

The hopes for completion of the Oahe water diversion project on schedule have obviously been dimmed but that does not mean efforts to revive funding under more favorable circumstances in the future should be abandoned.

The Oahe project has too much potential for good in thirsty South Dakota to be declared dead.

Events in Washington where a new President, having a showdown with a divided Congress, prompted a compromise situation and events in South Dakota, where an active minority against irrigation made its way to a position of influence, combined to eliminate Oahe funds from the water projects bill approved by a Senate subcommittee on appropriations.

But the circumstances that caused the planning and promotion and start of construction of Oahe prevail. Time—only a short time—should further prove the need for extensive water development in South Dakota.

And the diversion of Oahe reservoir water is a key to utilizing the assets of the Missouri River—the river of gold—in South Dakota.

It is encouraging that Sen. Curt Jones, chairman of the special task force created by the legislature to work for the approval of Oahe's completion, wants the task force to remain active in making modifications that will move the majority support to a point nearer unanimity.

South Dakotans with faith in the future of their state have been confronted by adversity many times in many ways and persevered to achieve worthy goals.

[From the Rapid City (S. Dak.) Journal, June 19, 1977]

MISSOURI WATER TO BENEFICIAL USE

The Oahe Irrigation Project is about to be sacrificed on the altar of political compromise.

Rather than facing the likely prospect of a presidential veto of the public works appropriations measure, a Senate subcommittee voted to withhold funds for Oahe and seven other water projects which are among the 17 that President Carter opposes.

Although the subcommittee action isn't the last word since the House approved the appropriations bill with all the projects included, prospects for continued funding appear dim.

The measure did not pass the House by a sufficient margin to override a veto and the Senate obviously wants to avoid a veto showdown between a Democratic president and a Democratically-controlled Congress.

Although the Oahe project meets the administration criteria on environmental, safety and cost-benefit ratio grounds, it was a prime target to be cut because it lacks unanimous support within the state and within the congressional delegation itself.

Whatever the result of the political infighting, the fact remains that South Dakota gave up a lot of valuable land when dams were constructed on the Missouri River to prevent downstream flooding. The state has yet to realize the benefit potential from the water stored behind those dams.

The Oahe Subdistrict board, which opposes the irrigation project in its present form, says it will accept a modified plan. The chairman of the Oahe Task Force says that group will also work for changes in the plan to make it more acceptable. Sen. George McGovern will seek funds for modification planning when the bill reaches the Senate floor.

Whether these efforts ever result in the use of Missouri River water for irrigation, the fact remains that South Dakota is a semi-arid state through which a great amount of water flows on its way to the sea.

If irrigation is not the best use of that water, and it may not be, plans for domestic and industrial use must continue to be developed and implemented. As they are proposed, cost-benefit ratios will be applied to them.

Some may not stand up under such an analysis but then neither will the Postal System, the welfare system, farm price supports, foreign aid or the congressional employment package. But we don't abolish them.

Government programs are rarely profitable but some good. Projects to put Missouri River water to be beneficial use in South Dakota fall into that category.

CONSUMER PROTECTION BILL: AIDED BY ILLEGAL LOBBYING

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. ASHBROOK. Mr. Speaker, serious questions have been raised on whether or not illegal lobbying has taken place for the consumer protection bill. Previously I have placed in the RECORD copies of internal HEW memorandums that in my opinion require an investigation of this matter.

Human Events of May 21 detailed some of the situation in a story entitled "Consumer Protection Bill: Aided by Illegal Lobbying." That story discusses the memorandums at some length. It deserves the attention of Members of this body. For this reason I am including the text of the Human Events article in the RECORD at this point:

CONSUMER PROTECTION BILL: AIDED BY ILLEGAL LOBBYING?

With the Consumer Protection Agency issue now coming to a boil, Senate and House Republicans are seriously weighing whether to order a congressional audit of HEW's Office of Consumer Affairs (OCA). The reason, internal memoranda, first reported on by HUMAN EVENTS in its April 30 issue, strongly suggest the OCA may have been heavily engaged in illegal lobbying activities. Moreover, these suspected illicit actions—sharply challenged by the OCA's General Counsel office—were coordinated with the White House's Special Assistant for Consumer Affairs, Esther Peterson.

Memos written by Frank E. McLaughlin, OCA's acting director, and C. R. Cavagnaro, acting director of OCA's External Liaison, also reveal that civil servants at HEW were ordered to prepare on a "top priority" basis pro-Consumer Protection Agency materials for both Ralph Nader's Congress Watch and the left-wing Consumer Federation of America, two of the most high-powered consumer lobbies in the nation.

Attorneys in OCA's General Counsel office were so worried about McLaughlin's orders to his staff that they not only cautioned him on a personal basis but drafted two lengthy memos—one dated March 30, the other April 7—warning that certain activities already undertaken by the OCA could be in violation of Title 18, U.S.C., Section 1913 (1970) pertaining to restrictions in the federal anti-lobbying statutes. These statutes forbid civil servants from lobbying for passage of legislation.

While McLaughlin, himself a career civil servant, wrote us on May 4 denouncing our earlier story as both incomplete and distorted, protesting that he actually sought guidance from the General Counsel's office as to what he could legally do, he has, in our judgment, been unable to wriggle off the lobbying hook.

McLaughlin sent us what he contended was a more complete set of memos than we possessed which showed "that Mrs. Peterson and I asked twice for legal memoranda exploring definitions of lobbying in order to prevent problems from arising." But McLaughlin's own memos show that he ordered the OCA staff into action prior to receiving any of this guidance. Furthermore, even after receiving written warnings from the General Counsel's office, attorneys there continued to believe that McLaughlin was either skirting or crossing over the boundaries as to what was permissible.

Consider, in fact, just some of civil servant McLaughlin's actions:

A March 23 memo from McLaughlin to "professional staff," titled "Message from the Special Assistant to the President for Consumer Affairs [Esther Peterson]," orders the staff to prepare arguments for business, "attempting to enlist business support. . . ." It also says "examples and case histories must be drawn up to buttress arguments to business" in support of the Consumer Protection Agency.

A "Second Message from Esther Peterson" to the OCA staff, circulated by McLaughlin in his March 25 memo, says: "The Congressional Records of the 94th Congress should be screened for those congressmen whose comments suggest they are borderline on CPA. Their objections and their concerns should be noted, and answers thereto prepared in a convenient document. . . . Canned editorial materials and sample letters to the editor should be prepared for possible use."

In addition to this request, which strongly hints of an intensive lobbying effort, Mrs. Peterson, through McLaughlin's memo, requested three other pro-Consumer Protection Agency steps that were to be undertaken by OCA professionals.

McLaughlin drafted yet another memo to the OCA professional staff on March 25. Said to be a "Third Message from Esther Peterson," it requested the OCA staff to take three steps to promote CPA legislation, including instruction 19 which noted "Esther will need a floor plan of senators and congressmen on committees having jurisdiction over CPA. She will need buildings, office numbers, telephone numbers, names and telephones numbers of key aides, and suggested routing plan to conserve time. GC [General Counsel] should give priority to this."

It is interesting to note that at the time these memos were drafted Mrs. Peterson had not yet even been officially designated as Special Assistant to the President for Consumer Affairs, and thus had no authority to request any materials from the career employees of HEW.

The memos, moreover, show that McLaughlin & Co. were extremely interested in passing pre-consumer protection information along to Ralph Nader and his allies.

McLaughlin's March 23 memo, for instance, baldly states: "All materials prepared will be reviewed by Frank McLaughlin and presented to the Special Assistant for her clearance. The writer [McLaughlin] is under instruction from the Special Assistant [Peterson] to *informally clear and coordinate OCA efforts with Congress Watch, CFA and other public interest lobby members*" (italics added).

A March 29 memo from Cavagnaro to Allan Finkel, HEW's General Counsel, but passed through and initialed by McLaughlin, begins: "SUBJECT: Top Priority for information from Congress Watch and CFA—and I would hope that we could supply this information to them on a priority basis by c.o.b. [close of business] Friday, April 1.

"The requests are: 1. Could we provide them with five or more specific examples of where CPA, if it had been operative in '76, could have intervened on behalf of consumers and influenced or impacted on a regulatory or agency decision. This information would graphically illustrate how CPA would operate and would be greatly useful in contact work with congressmen." The General Counsel's office drew up the examples, but specifically warned McLaughlin not to forward the information to outsider groups.

On March 31, McLaughlin issued a "follow-up" memo to Division Directors, stressing. "In the attached memorandum of March 29, General Counsel is requested to develop a list of regulatory or other agency decisions made in 1976 where the existence of a CPA might have changed the direction of the decision on behalf of customers. I would like the list to show potential savings to consumers and government had such intervention existed, and I would have no objection to including the past two or three years. While this assignment was directed to the General Counsel, any ideas from other Divisions (to GC) would be helpful. This is a priority assignment."

But this isn't all. One attorney with the OCA informed HUMAN EVENTS that career civil servant McLaughlin had also proposed contacting 10 pro-CPA corporations, urging them to get their local offices to lobby lawmakers.

Reacting with a sense of urgency to all these and other furious activities, OCA's concerned General Counsel's office issued on March 30 a memo to McLaughlin larded with "dont's" and clearly aimed at his OCA stewardship.

Underscoring their own remarks for particular emphasis, the attorneys stressed—in their first major recommendation—that OCA had to operate "within the limits of the law!" This might be "best accomplished," the memo continued, by "issuing a new memo superseding those of March 23 and 25 before anyone has an opportunitly to mistakenly engage in behavior which might be subject to challenge."

Putting another dig into McLaughlin, the memo added: "Given the unmistakable moral tone of the new Administration, we should not expect any help if our efforts are put into question. Accordingly, it is of the utmost importance that we stay well inside the permissible limits of information dissemination."

The memo also said that the OCA mandate cannot be construed as permitting "meeting with consumer lobbyists and company representatives to permit a mail, wire and telephone lobbying effort in support of the bill as was proposed at our March 30, 1977, weekly office meeting." It further warned that the proposed "business communication" form should be revised, "since it appears to be a lobbying form rather than merely a record of pertinent conversations from concerned groups." An April 7 memo from the General Counsel's office cautions against "supplying" or "developing" information "on a priority basis" or "informally" clearing actions with organizations such as Nader's.

Though McLaughlin steadfastly denies any wrongdoing, Human Events went to an attorney with many years of Hill experience, who is extremely familiar with the federal anti-lobbying statutes. After carefully evaluating the internal HEW documents, he said that they "demonstrate on their face a pervasive pattern of questionable activity. When one views the totality of circumstances presented, the memoranda appear to suggest a well-thought-out and continuing strategy to lobby with congressionally appropriated funds. If proved, this could constitute a serious violation."

Hence the reason many GOP lawmakers are mulling over the idea of a GAO audit of McLaughlin's Office of Consumer Affairs.

The Consumer Protection Agency, now born again under the name "Agency for Consumer Protection," was advancing in the Congress last week, but at a surprisingly slow pace. Because of effective business lobbying against the legislation, particularly by the U.S. Chamber of Commerce, the CPA just squeaked through the House Government Operations Committee by a 22-to-21 vote. The Peterson-McLaughlin effort may have proved critical. Both Vice President Walter Mondale, through some key calls to committee Democrats, and President Carter, via personal letters to House lawmakers, also had an important impact on the final outcome.

What particularly disturbs business about the consumer protection bill is that it would establish a new, anti-free market bureaucracy, a $15-million-a-year agency authorized to intervene before various government panels and the judiciary on behalf of a non-defined "consumer." Top jobs in the new agency are expected to pay $47,500 a year, with most of these spots going to Nader-style consumerists.

ENERGY AND IDEOLOGY

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. BRINKLEY. Mr. Speaker, too often the simple, straightforward answers to our energy dilemma evade us because we are looking for exotic, unusual solutions. I believed back in 1975, for example, and so suggested in a letter to President Ford, that a sound approach to our international oil trade would place the burden where it belongs.

My suggestion was for an "inverse tariff," or a progressive import duty to be imposed as foreign oil producers threaten or effect an embargo. Indeed, Mr. Speaker, the concept of an import duty has merit as one way of assuring our maintaining a voice in the rules of international oil trade.

Prof. Edward J. Mitchell, professor of business economics in the graduate school of business administration at the University of Michigan, includes import duties as one of the several approaches he suggested in a recent speech to the business council in Hot Springs, Va. Professor Mitchell's view of the energy crisis is refreshing and persuasive, and I insert it in the RECORD for the benefit of my colleagues:

REMARKS OF PROF. EDWARD J. MITCHELL

ENERGY AND IDEOLOGY

Public opinion polls show that Americans believe the energy crisis to be one of rising prices of energy. They see the solution in actions like increasing supplies of oil from the outer continental shelf, or expanding nuclear energy. That is, they see the solution to scarcity as removing artificial government constraints on supply.

This public perception is essentially sound. To the extent energy scarcity is real, the price of energy must rise. But to the extent it is artificial, policies must be adopted that tear down man-made constraints on supply. It is unfortunate that people believe that the oil companies are one of those man-made constraints upon supply, but this does not concern me because opinion polls are interesting mainly because they indicate people's wants, which they are well informed about, as opposed to their knowledge of energy fact, which they are not well informed about. It is my impression that many, if not most, economists also see the energy issue as primarily one of reducing artificial resource scarcity.

Yet this is not the battleground on which the energy issue is fought in the executive branch or in the Congress. The dialogue there is filled with abstractions and entangled in moralisms. Washington energy speeches, including the President's, always sound like sermons.

The experienced Washington observer is likely to shrug off this criticism by saying that the rhetoric is merely for public consumption and that behind the scenes the problem will be treated for what it is: A typical nuts-and-bolts economic issue.

I do not believe this is the case. I believe the political system and the media perceive the problem in exactly the way they speak of it: Philosophical, abstract and moral.

When people do not understand an issue they tend to moralize, and act on the basis of ideology. By ideology I mean that general body of beliefs that you consult when you have to make a judgment on something you know nothing about. It is the theme of my talk today that the energy crisis is a crisis of public policy founded on misconceptions of the issue and therefore a slave to ideology.

There are many useful things government can do, and I will describe some of them later to help us through the program, but it is certainly not necessary for the government to set up a comprehensive plan. Let me briefly relate to you how the first oil crisis was handled.

In the early nineteenth century Americans fueled their lamps with whale oil and sperm oil (both derived from whales). As this source was depleted, whale and sperm oil prices soared. Sperm oil rose from 43 cents per gallon in 1823 to as high as $2.55 per gallon; whale oil rose from a low of 23 cents a gallon in 1832 to $1.45 a gallon.

As prices rose, consumers shifted to substitutes. Camphene (distilled from vegetable oils) and lard oil entered the low-quality illumination market. By the 1840s coal-gas provided lighting for wealthier families. For decades all the fuels competed, but in the 1850s coal oil (kerosene) developed rapidly and came to dominate the residential market.

Barely had coal oil achieved its success when it was driven out by a new fuel, petroleum. Crude oil was a competitive source of kerosene at $18 to $20 per barrel in 1860; but by 1861 its price had fallen to 10 cents per barrel at the wellhead and coal-oil refineries shifted to crude oil as the feedstock for kerosene. By 1863 all coal-oil refineries had shifted to crude oil and many new crude oil refineries had been built.

The technical innovations leading to camphene, lard oil, coal gas, coal oil and eventually kerosene from crude oil were spurred by only one fact: The high prices of whale oil and sperm oil. In an era of limited technical knowledge compared to the present, major new industries rose up, destroyed the competition, and were in turn destroyed by new competitors. In the case of coal oil, the entire cycle took less than a decade.

Contrary to the theory of resources exhaustion, whale supply was never exhausted. Instead, the growing scarcity of whales led to soaring prices, which in turn led to the introduction of substitutes and a declining demand for whales. Today, whales are still around and in little danger of becoming extinct by virtue of their value as a source of illumination.

Anyone brought up on the current energy discussion would find it hard to believe that all this happened without a National Energy Plan. Yet it did. Indeed, it probably went so well because we did not have an energy plan. History does not record ceiling prices set on young and old whales. There is no evidence of threats to break up whaling companies. And the President did not moralize about the virtues of darkness. For these policies would only have frustrated the transformation that occurred. It is also evident that this resource revolution was in the consumer's long-run interest.

Today in the energy market we may well be at another crossroad where petroleum resources give way to coal or nuclear or solar energy. But the future is so uncertain that we cannot even be sure we have reached that crossroad. Unlike the lighting oil "crisis" of the nineteenth century, we face today the uncertainties created by both natural scarcity and government policy.

What can the government do to help us through the present situation? I believe four actions are called for:

(1) Provide security against foreign supply interruption;

(2) Limit environmental damage;

(3) Encourage basic energy research; and

(4) Adopt policies that might reduce the enormous wealth transfers now going from Americans to the OPEC countries.

The first three are all being dealt with under current policy. In each case they are being handled inefficiently. The fourth action is not found at all under the National Energy Plan.

But the remarkable thing about the National Energy Plan is not what it fails to do but all the things it does that serve no national purpose.

To appreciate why this should not be surprising let me suggest to you how energy policy is made. Consider the case of natural gas deregulation, a long-standing energy issue.

The following table shows you all you have to know about deregulation politics.

ADA IDEOLOGICAL RATING AND CONGRESSIONAL VOTE ON NATURAL GAS DEREGULATION, 1976

ADA rating	Votes against deregulation	Votes for deregulation	Not voting	Number of Congressmen[1]	Votes against deregulation as a percentage of all voting
100	7	0	0	7	100
95	19	0	0	19	100
90	18	0	1	19	100
85	13	0	0	13	100
80	18	2	0	20	90
75	23	2	0	25	92
70	17	0	1	18	100
65	16	2	0	18	89
60	18	1	1	20	95
55	12	2	3	17	86
50	13	4	2	19	77
45	6	6	1	13	50
40	6	10	1	17	38
35	2	8	1	11	20
30	3	7	2	12	30
25	4	13	0	17	24
20	1	15	0	16	6
15	0	22	3	25	0
10	2	29	4	35	7
5	1	40	5	46	2
0	0	37	1	38	0
Total	199	200	26	425	

[1] 10 Congressmen were excluded due to a large number of absences on votes used to compute ratings.

Source: ADA Legislative Newsletter, (Washington, D.C.) Jan. 1, 1977; Congressional Record, op. cit.

It groups Congressmen into 21 classes using the liberal-conservative ratings of the Americans for Democratic Action (ADA). Inspection of the table shows extraordinary correlations between the deregulation vote and these ratings. A simple prediction rule that says that if a Congressman's ADA rating is over 45 per cent he will vote against deregulation and if under 45 percent he will vote for deregulation would be correct in 361 out of 387 cases, or better than 93 per cent of the time. This close relationship is due to the fact that even moderately liberal and moderately conservative Congressmen vote overwhelmingly in accord with their ideological leanings and that there are very few Congressmen in the middle classes where the vote is fairly even. What this indicates is that the deregulation vote is more ideologically polarizing than the average issue used to construct the ideological ratings.

Among the 176 liberal Congressmen (those ranked 55 per cent or higher on the ADA scale) the vote was 161 against deregulation, 9 for deregulation, and 6 not voting. Thus for the 41 per cent of the Congress in the more liberal camp the vote was about 18 to 1 against deregulation. Starting at the other end of the spectrum, of the 200 relatively conservative Congressmen (those ranked 35 per cent or less on the ADA scale), the vote was 171 for deregulation, 13 against deregulation and 16 not voting. Thus, for the 47 per cent of the Congress in the more conservative camp the vote was about 13 to 1 for deregulation. This means 88 per cent of the Congress was in an ideological grouping voting at least 13 to 1 in accord with its ideological propensity. Indeed, there were only 30 Congressmen (in the 40 and 45 per cent classes) that were not in a group voting at least 70 per cent in accord with their side of the spectrum. On natural gas deregulation the so-called "vital center" is almost non-existent!

This ideological model of the deregulation vote seems to be foolproof. For example, suppose you took only those Congressmen from major gas producing states—Texas, Oklahoma, Louisiana, Kansas, and New Mexico—and asked me to predict their votes using the ideological model without knowing where they were from. The actual vote was 40 for deregulation, 2 against. The model would predict 39 for, 3 against. It would identify precisely the 2 Congressmen that voted against deregulation, and would err only in that one liberal Congresswoman (Barbara Jordan of Texas) switched on this issue.

Based on a considerably more sophisticated econometric analysis of the deregulation vote, let me enumerate all the things that do not matter. It does not matter, or matters very little:

Whether the Congressman is a Democrat or a Republican;

Whether he is from gas producing or consuming state;

Whether his state has had large shortages of natural gas supplies or virtually no shortage;

Whether the citizens of his state heat with gas or not; and

Whether his constituents are rich or poor, blue collar or white collar, urban or rural.

Why do Congressmen vote their ideologies as opposed to their constituents interests? The simplest answer is that either they or their constituents do not know their interests. They are thus thrown back upon their beliefs, or philosophy, or whatever one cares to call it. Like capital punishment—where the facts are in dispute, or abortion—where the facts are irrelevant, there is no basis other than ideology upon which to choose. And so an inherently nuts-and-bolts pragmatic question like the price of natural gas becomes an issue of philosophy and at that a much more philosophical issue than the average issue used to compute ideological ratings.

If this pattern holds, the reality of gas shortages will exert little influence on the course of events. Whether we deregulate or not will depend overwhelmingly on the philosophical complexion of the Congress. The fact that deregulation was voted down in Congress after the dismal failure of regulation was evident, but passed in two earlier Congresses before regulation had even begun, illustrates the small bearing that reality and experience have on energy politics. The earlier Congresses were simply more conservative and that is all there is to it.

This finding does not seem to be atypical of energy politics. In the debate over FEA price controls on oil products, liberals have generally favored the controls because they are supposed to keep consumer prices down, while conservatives have opposed them. What seems to be ignored is that the controls have had hardly any effect on consumer prices since the Arab embargo. Gasoline prices have run about the same in uncontrolled foreign refineries as at controlled U.S. refineries. While some products, such as kerosene, seem to be cheaper in the United States, the difference is small as compared to what would

be expected from the difference in crude oil costs.

What the FEA is actually about is the transfer of a couple of billion dollars a year from integrated to non-integrated refiners. So massive is this program that the typical non-integrated refiner gets more money from the government than it makes from its petroleum operations. Thus, the myth that the policy debates is consumerism, while the reality is a welfare program for selected business firms paid for by their competitors.

Perhaps the most obvious evidence of the power of ideology arises in connection with the most trendy and fashionable of virtues, conservation. When an environmental group successfully sues to halt the leasing of an offshore petroleum deposit, that is conservation. When an oil company acquires an offshore lease and is believed to be withholding production, that is not conservation. That is monopoly, conspiracy, or a rip-off. The same act is noble when performed by one actor, nasty when performed by another. Clearly, the action, the consequences, the reality are not being assessed. If the oil company believes that petroleum is growing more scarce, withholding supplies for the future is not only in its interest, it is in the nation's interest. It is performing an act of conservation that is socially desirable. It seems that when the priest performs the act it is a sacrament; when the sinner performs it, it is a sacrilege.

The enthusiasm for conservation as "value" has also given rise to a newspeak wherein terms like "efficiency" and "waste" are given new meaning. For example, when the Bureau of Mines released its 1976 energy statistics it referred to the fall in energy consumption per unit of Gross National Product as "indicating more efficient use of energy per GNP dollar." What this may in fact have meant is that because gasoline prices rose some people decided not to drive to the in-laws Sunday afternoon but instead used the money to buy their kids ice cream cones. Can one imagine the Secretary of Agriculture pronouncing us less dairy efficient on this account? It is simply impossible to become more "energy efficient" in this sense without becoming less "something-else efficient" because the GNP by definition has to be spent on something. There is nothing in the study of economics that suggests that there ought to be less energy in the GNP and more ice cream or anything else. The general supposition is that people ought to use their GNP in the way that pleases them. Pronouncements to the effect that we should not allow energy consumption to grow at a rate of more than 2 per cent or 0 per cent (why not minus 25 per cent?) are expressions of personal sentiments, much like old-time religious urgings not to have fun. They are recommended not for the benefit of the listener but to make the world conform to the aesthetic sensibilities of the preacher.

What this is all leading up to is that the President's National Energy Plan reflects little about his economics which seem to be quite pragmatic. It tells us mainly that his energy architects are ideologically chic. This plan will be well received in the fashion capitals of the nation, the Upper East Side of New York, the Harvard Yard, and their satellites across the country.

When you examine the President's Rube Goldberg system of taxes and subsidies what do you come up with? It appears that if crude oil winds up in your car you pay a high price for it; if it ends up in your basement, you pay a low price for it; and if it ends up embodied in almost any of the manufactured products you buy, you pay something in between. I don't think there is anything in a straight economics book that explains any of this. The message I get is that the energy architects dislike cars as compared to houses. Although strictly a bumpkin in the world of high fashion, I believe these tastes are definitely a la mode.

If you heat your house with solar energy the government pays for part of it, but if you heat with oil or gas you pay your own way. If you keep warm by insulating, you are subsidized; if you use oil or gas you pay your way. Again, fashionably anti-oil but hardly economical.

(In this vein I once proposed that we place a tax on fat people in the summertime and subsidize them in the winter, but I was persuaded to drop this idea by a reporter who thought it stood a good chance of becoming law.)

While I am well aware of the necessity to simplify issues in writing Presidential statements, it seems to me that the present plan repeats an unusually large number of misconceptions that derive from ideology. Contrary to the President's statements:

Conservation is not generally cheaper than production of new supplies.

You cannot make a profit without taking a risk.

The Government cannot capture increases in the value of oil without its being produced and consumed.

There should be no preference given to the use of resources that exist in greater quantity. We want cheap resources, not abundant ones.

The United States is not a "wasteful" nation in its use of energy.

Changing government policies each year does not reduce uncertainty.

Americans do not lack foresight in their use of energy

Energy is not a moral issue.

And last, and above all, we do not need a Comprehensive Energy Plan run in minute detail by the Government.

The single most useful thing the Government could do is to help us to lower the cost of acquiring OPEC oil. Under the Carter plan, OPEC is given an invitation to raise its price since they have been informed that we will not raise our prices in response. The only reason any seller hesitates to raise his price is that he'll lose sales. The President is telling OPEC that if they raise their price they won't lose much in sales because we will subsidize their high price with our own lower price.

On various occasions economists, including myself, have suggested the opposite approach; namely, to put U.S. and all consuming nation prices above the OPEC price by means of a common import duty. Perhaps we may retrieve some of that hundred billion dollars per year decline in the standard of living of the consuming nations. Some econometric studies, for whatever they are worth, indicate that we would. It is hard to see that even if unsuccessful a common import duty could do much harm.

Almost always when I give this kind of talk I am cited in the media as being unusually optimistic about energy. Let me say that this is not a reflection of my views, but of my speechmaking abilities. I am in fact pessimistic about energy. It is true I am not especially pessimistic about the world of resources. I do not conform to what John Gardner calls "the tiresome modern fashion of always viewing the universe with alarm." I am concerned about the world of people. It seems as though the decline of conventional religious beliefs in our society has given rise to moral and philosophical exercising about things as mundane as methane and carbon. I do not believe that the matter-of-fact cost-benefit approach that has been developed in recent decades plays any serious role in public policy and that energy policy is merely symptomatic of this broader social circumstance.

Should the occasion ever arise, my first act as energy dictator would be to place a tax on anyone who moralized about energy policy.

NUCLEAR WEAPONS POTENTIAL FROM PLUTONIUM BREEDERS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. BROWN of California. Mr. Speaker, one of the prime reasons for delaying the commercialization of plutonium breeders is the enhanced nuclear proliferation potential that comes from this technology. Strangely enough, this has been disputed by otherwise knowledgeable persons, who apparently do not wish to confront this negative aspect of plutonium breeder reactors.

The June 26 Los Angeles Times carried an article on this subject which reaffirms the danger of this technology and documents the position that President Carter has been advocating at the international level. I believe this article shows another reason why the decision to defer the Clinch River Breeder Reactor is a wise one.

The article follows:

[From the Los Angeles Times, June 26, 1977]

MILITARY POTENTIAL SEEN IN CIVILIAN NUCLEAR PLANTS

(By Robert Gillette, Times Staff Writer)

A foreign government seeking to obtain nuclear weapons covertly could build a "credible" military arsenal by diverting low-grade plutonium generated in civilian nuclear power plants, studies by weapons authorities at California's Lawrence-Livermore Laboratory conclude.

According to an unclassified summary of conclusions from these studies, even relatively simple designs could produce "effective, highly powerful" weapons with explosive yields that range in predictable fashion from the equivalent of 1,000 tons of TNT to 20 kilotons, the power of the plutonium bomb that destroyed Nagasaki, Japan, in August, 1945.

The Lawrence Livermore Laboratory is one of two principal nuclear weapons research and development centers in the United States.

The summary paper, prepared by physicist Robert W. Selden, has been the basis for special technical briefings on nuclear proliferation that the federal government has arranged in recent months for government officials in France and West Germany and for representatives of the International Atomic Energy Agency and the U.S. nuclear industry.

The paper, copies of which were made available to The Times, lends an important measure of credence to fears expressed by Carter Administration officials that governments of nonnuclear nations could—in a national emergency or for reasons of prestige—divert stockpiled plutonium from its intended use as civilian reactor fuel and within days assemble atomic weapons of devastating power.

"For any nation that has done its homework," Victor Gilinsky, a physicist and member of the U.S. Nuclear Regulatory Commission has said, "separated plutonium . . . can be suddenly appropriated from its storage place and inserted in warheads within days."

This, Administration analysts say, is too short a time for the international safeguards system to detect a diversion and for the United Nations or other governments to take preventive action.

Similarly, Joseph Nye, a deputy undersecretary of state who led a major review of U.S. nuclear policy in the early weeks of the Carter Administration, said recently that "if a sudden sense of insecurity" on the part of the government "should happen to coincide with the capability to build nuclear explosives, further proliferation (would be) all but inevitable."

Six nations have detonated nuclear explosives since 1945, and some weapons analysts believe as many as 40 others are technically capable of doing so but lack the desire, the nuclear materials or both.

Besides bolstering the Administration's views on proliferation, the Livermore briefing paper contradicts recent statements by U.S. nuclear industry spokesmen to the effect that plutonium from civilian nuclear power plants is unsuitable for military weapons. (In Europe, some nuclear officials go even further, describing it as "nominal peaceful plutonium.")

This assertion has become something of a debating point in the congressional battle over breeder reactor development in the United States.

The White House, as a signal of concern over the spread of national plutonium stockpiles, is trying to cancel a $2.1 billion project to build a demonstration breeder near Oak Ridge, Tenn., before it gets off the drawing board. (Breeder reactors make more plutonium fuel than they consume.)

Defenders of the project contend that breeders and the plutonium they produce will not necessarily worsen the proliferation problem. The way to control it, they argue, is not to postpone development of breeders but to establish new international controls over commerce in plutonium.

"Trying to divert nuclear power plant fuel into weapons production is the most expensive, clumsiest and inefficient way for any nation to make a weapon," Rep. Mike McCormack (D-Wash.), one of the breeder's most outspoken congressional defenders, has said repeatedly.

A member of the House Science and Technology Committee, McCormack has been a principal figure in the battle to keep the breeder alive for at least another year.

The White House has requested $33 million for fiscal 1978 to terminate the Clinch River project before construction begins, while industry is lobbying for at least $150 million to start construction. On June 14, the House science committee approved the latter sum by a vote of 19 to 11.

Statements about the difficulties of using civilian plutonium in weapons have also come from the Atomic Industrial Forum, an industry-sponsored trade association.

"It's not practical to build a major stockpile of nuclear weapons on the basis of a civilian nuclear program," Carl Walske, president of the AIF, said in widely quoted remarks published last January in the journal International Security.

In a telephone interview, Walske acknowledged that civilian plutonium "is good enough to cause a lot of trouble in some circumstances" and he said recent statements by the Westinghouse and General Electric corporations on the subject "have overstated the inutility of civil-grade plutonium."

"I think they were well intentioned, but they just aren't bomb designers," Walske said

Nevertheless, both Walske and Rep. McCormack, in separate interviews, questioned whether weapons built from civilian plutonium could provide a truly credible deterrent—and whether it was realistic to suppose that a nation would actually attempt such a diversion.

It's a fairly contrived scenario, the overnight nuclear power," Walske said.

The Livermore laboratory's briefing paper deals only with the technical feasibility of making effective weapons from civilian plutonium, not with the likelihood that governments actually will do so.

The distinction between civilian and weapons-grade plutonium turns on the presence of plutonium-240, a contaminating isotope that grows into nuclear fuel the longer it is burned in a reactor.

Problems arise because plutonium124 emits larger numbers of neutrons, the paper explains. Neutrons can trigger a nuclear chain reaction prematurely when a bomb is detonated, reducing its explosive yield and, in the worst case, causing a fizzle.

Weapons designers call the problem "preinitiation." It is analogous to engine knock in an automobile, when residual heat in a cylinder explodes the fuel before the piston can compress it fully. The result is a reduction in horsepower.

The U.S. government has minimized the preinitiation problem by building a special costly system of plutonium production reactors. By removing fuel from these reactors at an early stage of burnup, the government holds the plutonium-240 content of its weapons material to about 6%. In plutonium from civilian nuclear power plants this impurity typically reaches 24%.

But studies at Livermore have shown that the preinitiation problem can also be overcome by relatively simple weapon designs.

Nuclear weapons are detonated by triggering ordinary high explosives which compress plutonium (or uranium) to a dense, "supercritical" state. The paper indicates that the faster this implosion proceeds, the lower the probability that stray neutrons from plutonium-240 will cause a premature chain reaction.

One remaining drawback of the added impurity is that explosive yields of such weapons will vary over a broader range than weapons made from purer plutonium. But this range is said to be predictable. Moreover, certain "clever" designs can reduce the variability.

In any case, the paper notes, variability, while adding an element of uncertainty for military planners, does not render the weapon ineffective.

As an example, it notes that retrospective studies of the United States' first two plutonium bombs—the "Trinity" device exploded at Alamagordo, N.M., in July, 1945, and the "Fat Man" bomb dropped on Nagasaki the following month—showed that both should have had a minimum expected yield of 1 kiloton.

In fact, both yielded 20 kilotons.

Taking all this into account, the paper says that civilian and weapons-grade plutonium are "essentially the same" and that "an entirely credible national nuclear explosives capability could be constructed using only (civilian) reactor-grade plutonium."

It adds that in theory a bomb could be made from less than 40 kilograms or 88 pounds of pure plutonium-240.

Partly because the entire project was highly classified for many years, a belief grew that plutonium could be rendered safe or "denatured" in a military sense by adding plutonium-240.

Last year, a detailed study of the proliferation problem directed by Albert Wohlstetter, a strategic analyst associated with the University of Chicago and Pan Heuristics in Los Angeles, showed that leading figures in the Manahattan atomic bomb project were expressing private doubts as early as 1945.

The Livermore briefing paper declares flatly that the concept of denatured or peaceful plutonium "is fallacious."

SPECIAL DISCHARGE REVIEW SYSTEM

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. EDGAR. Mr. Speaker, Maudine R. Cooper, deputy director of the Washington Bureau of the National Urban League, Inc., made today a very important contribution to the debate before Congress on President Carter's special discharge review system. Ms. Cooper appeared before the Special Oversight Committee of the House Committee on Veterans' Affairs. I share this testimony with the hope that Members of Congress will become more informed on this issue:

TESTIMONY OF MAUDINE R. COOPER

Mr. Chairman and members of the Subcommittee, I am Maudine R. Cooper, Deputy Director of the Washington Bureau of the National Urban League. My testimony is presented in behalf of the National Urban League, an interracial, nonprofit and nonpartisan civil rights organization.

Since its establishment in 1910, the National Urban League has consistently fought to secure equal opportunities for Black Americans—a scope which has been expanded to include all minority groups, the poor and disadvantaged Americans nationwide.

I am here today to express the Urban League's support for President Carter's Special Discharge Review Program for Vietnam Era veterans and to urge the Subcommittee not to deny veteran's benefits to any veteran who has obtained an upgraded Honorable or General Discharge under the program.

The Urban League's concern for the well-being of the nation's veterans is well documented. We have successfully operated a Military and Veterans Affairs Program since 1967 and we have gained a great deal of understanding about the myriad of problems related to life in the military service. Through this program, we have provided assistance to minority veterans in the areas of education, housing, health and welfare, and the administration of justice. The Urban League was represented on the 15-member Task Force on the Administration of Military Justice in the Armed Forces—a task force commissioned in April 1972 by then Defense Secretary Laird. We have testified before the House Subcommittee on Courts, Civil Liberties and the Administration of Justice on the adverse impact of less than honorable discharges on minority and poor veterans.

Today, we strongly urge this body to fully support the President's Special Discharge Review Program (SDRP) as a sorely needed device to ease the plight of the vast number of veterans who remain victims of the Vietnam experience—an experience which most of us view as history but to them is a daily if not traumatic reality. We are convinced that the six criteria for automatic upgrading of Undesirable or General Discharges and the factors to be considered for individuals not qualifying under these criteria will result not in a blanket reprieve for misconduct, but rather an act of overdue compassion to veterans who deserved better or had little control over the underlying rationale for their other than honorable discharges.

The picture, which we hope will emerge from these hearings, is one which will bring clarity to the present status of the approximately 430,000 veterans who are eligible for upgrading under the program. The present confusion and bewilderment existing for those veterans after separation from the service and upon resumption of civilian life is a stigma which hampers full participation in the American economy and deferral of dreams which took place in far away places with unpronounceable and indistinguishable names, friends and enemies. A great number should never have been inducted into the service in the first instance.

Almost one-third of all military offenders were educationally disadvantaged, many of whom were brought into the military through the "Project 100,000" and "New Standards" manpower programs. Instead of calling up the reserves or drafting college students—either of which would have involved immense political consequences—the government met its manpower needs during the Vietnam build-up by accepting hundreds of thousands of recruits whose limited mental abilities would have disqualified them before and after the Vietnam War. These special manpower programs were politically justified on Great Society grounds. Ostensibly, military service would install these underprivileged teenagers with selfdiscipline, give them the education they missed, train them for jobs in the civilian economy, and have them emerge as useful and productive citizens. Instead, they often ended up in combat, learned no useful skills, and returned home scarred by their military experiences. The attrition rate and court-martial-conviction rate for marginally qualified servicemen were both twice the rate for all other servicemen. For about 75,000, this meant bad discharges—one more handicap imposed upon people who were already disadvantaged when they entered the service.[1]

Others continue to be penalized for crimes which would carry only minor penalties in civilian life, i.e., excessive alcoholic consumption, minor drug offenses, etc. Still others viewed their discharges under other than honorable conditions as an easier alternative to possible punitive action, only later to realize the disruption which such a discharge caused.

The veterans benefitting from the SDRP are for the most part those who have served honorably, but were later given less than honorable discharges for reasons other than military performance. These included some isolated events in which the penalty far exceeded the crime, or as an excuse for expediently separating an individual from the military who was found unfit to serve.

In addition, it must be recognized that many of these men are marked not only by serious socio-economic and educational disadvantages, but racial discrimination as well. Indeed, although the Urban League supports the SDRP as a needed act of compassion to this sector of the country's veterans, the rhetoric of compassion should not overshadow the importance and the necessity of bringing justice to an inequitable system.

As we have testified in the past, and are further reiterating today, the manner in which men and women are separated from military service is a system frought with both individual and systematic discrimination. The inequity meted out by the military justice system disproportionately impacts on the poor, the uneducated and minorities. The reports of the Task Force on the Administration of Military Justice in the Armed Forces (Volumes I through IV, and its 1973 supplement) validates the long held belief that Blacks obtain a larger number of less than honorable discharges, obtain them more quickly, and even get them for lesser offenses than do whites.

The 1972 racial breakdown for military discharges in that year, illustrate the disproportionate numbers of minorities separated under conditions other than honorable.

DEPARTMENT OF THE ARMY: RACIAL BREAKDOWN FOR FISCAL YEAR 1972 SEPARATIONS UNDER CONDITIONS OTHER THAN HONORABLE

[In percent]

	Undesirable	Bad conduct	Dishonorable
Caucasian	25,006 (83.1)	1,334 (78.4)	178 (66.7)
Negro	4,866 (16.1)	352 (20.7)	87 (32.6)
Other	233 (0.8)	16 (0.9)	2 (0.7)
Totals	30,105	1,702	267

These figures, reflect the disproportionate discharge rates between whites and nonwhites, but we suspect that they also reflect the disparity of punishment for the same offenses among the services:

Only 9.6 percent of Army personnel separated for "character or behavior disorders" received Honorable Discharges, while 77.1 percent of Navy personnel separated for the same reason got Honorable Discharges. Figures on those separated "for the good of the service" are equally startling: The Army gave 94.3 percent of those released for that reason Undesirable Discharges; the Navy gave 32.7 percent Undesirables for that reason and the Air Force—36.2 percent.[2]

As the American Association of Minority Veterans Programs Administrator points out, the employment problem of minority veterans with bad discharges is even further compounded by the stigma of their discharge. A number of studies have shown that among employers, 40 percent discriminate against persons with General Discharge, 60 percent against Undesirable Discharges, and 70 percent against Bad Conduct or Dishonorable Discharges. Furthermore, the current unemployment rate for Vietnam Era Veterans is approximately 7.5 percent, with the figure for minority veterans nearly double that. The disproportionately high unemployment among minorities, while paralleling minority versus nonminority unemployment figures in the entire labor force, may nevertheless be attributable in large part to the disproportionate number of other than honorable discharges among minorities.

We are firmly opposed to any legislation that would deny benefits to those veterans receiving upgraded discharges under the SDRP. The bent of legislation, such as the Beard Amendment and the legislation introduced by Congressman Hammerschmidt (H.R. 5852) is to circumvent the intent of the President's program. The issuance of an upgraded discharge to Vietnam Era veterans without inclusion of their rightful benefits under that new status represents an empty gesture.

An upgraded discharge must be accompanied by all rightful veteran's benefits. Anything less than that has the effect of denying equal access and equal opportunity to those whom the upgraded discharge is deemed warranted. Furthermore, it has the equally unfortunate impact of continuing the adverse stigma associated with the other than honorable discharge. And finally, many of those being denied benefits under such legislation, as we have pointed out here, represent those most in need—the socio-economically disadvantaged, uneducated, minority veterans.

We further oppose any so-called compromise amendments to the legislation. To initiate a case-by-case review of veterans cases who have upgraded discharges to determine their eligibility for benefits is inefficient, costly, and counterproductive. Such a compromise, presently under consideration in the Senate, is one which we would hope that the House would summarily reject. We find the proposed compromise to be one which not only fails to apprise the Vietnam veterans of what can realistically be expected from the deliberation until after all procedural avenues have been exhausted, but one which in instances where benefits are denied may serve to destroy any illusions which the veteran may have of full reentry and participation in the system.

CONCLUSION

The Special Discharge Review Board is a positive step that should be continued in remedying a system of military separation that is in conflict with the American concept of justice. We believe that in this period of an all-volunteer armed forces, the military should continue to improve its image, effectiveness and the system of justice as a whole by eliminating the administratively issued other than honorable discharge. If a service personnel is so unfit for duty that removal from the system is required, then that removal should be for cause. If that individual's behavior is negative to the extent that alleged offenses warrants a court-martial, then that person should be tried and convicted and issued a discharge based upon the findings of that tribunal.

If, however, the judgment is made that the individual is misfit for military service through errors in the selection process, then penalties should not be imposed upon that individual who was accepted but not suited for military service and certainly that separation should not be classified as an other than honorable discharge.

Critics of the Special Discharge Review Program regard the program as an affront to all veterans who served during the period of the Vietnam war and were discharged under honorable conditions. They view the upgrading of undesirable discharges as demeaning the honorable discharge status.

We understand the emotional issues involved, but compassion and justice must make the final determination in this matter. The upgrading of undesirable discharges will have little real impact on those veterans who left the war under honorable conditions. But for those bearing the stigma of less than honorable discharge, most of whom did little to deserve that life long sentence, the upgrading will have major influence on their lives.

Americans have been too quick to unburden themselves of the legacy of Southeast Asia. As a result all Vietnam Era veterans have suffered alone. It is unreasonable to deny the special and tragic aspects of our experience in Vietnam and *naive* to suggest that the upgrading of discharges either demean the historic notions of honorable service or endanger the future of military performance.

There is indeed a debt to be paid.

---

[1] Baskir, Lawrence M. and Strauss, William H. "Reconciliation After Vietnam A Program of Relief for Vietnam-Era Draft and Military Offenders." Center for Civil Rights, The University of Notre Dame, 1977.

[2] Facts on Other-than-Honorable Discharges and What can be done about them. American Veterans Committee, 1973.

ENDORSING THE HERMOSILLO DECLARATION ON NARCOTICS TRAFFICKING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. GILMAN. Mr. Speaker, along with my colleagues who served as delegates to the 17th Mexico-United States Interparliamentary Conference, we are today introducing a concurrent resolution for the Congress to endorse the Hermosillo Declaration on Combating Traffic in Drugs at the International Level and to urge the President to encourage other nations to cooperate in an international effort to eradicate narcotics trafficking and eliminate the illicit production of opium.

As a member of the congressional delegation to the 17th Mexico-United States Interparliamentary Conference held last month in Hermosillo, Sonora, Mexico, a delegation that was led by the distinguished majority leader, the gentleman from Texas, Mr. WRIGHT; and the distinguished Senator from Texas, Senator BENTSEN, I presented a paper on narcotics that stressed the need for Mexico and the United States to intensify their efforts to interdict narcotics trafficking and to eradicate the illicit supply of opium production.

Through the efforts of my colleagues in the House, who are cosponsors of this measure, the gentleman from Arkansas, Mr. ALEXANDER; the gentleman from Florida, Mr. BURKE; the gentlemen from Texas Messrs. WRIGHT, DE LA GARZA, WHITE, and KAZEN; the gentlemen from California, Messrs. ROUSSELOT and LAGOMARSINO; the gentleman from Pennsylvania, Mr. YATRON; and the gentleman from Arizona, Mr. RUDD; together with the efforts of my colleagues from the other legislative body, the gentleman from Texas, Senator BENTSEN; the gentleman from North Carolina, Senator MORGAN; the gentleman from Utah, Senator GARN; and the gentleman from Indiana, Senator LUGAR; and my colleagues from Mexico, particularly the distinguished Deputies Enrique Ramirez y Ramirez and Victor Manzanilla, my paper on narcotics provided the impetus for the adoption by the Conference of the Hermosillo Declaration.

Mr. Speaker, my colleagues, Messrs. DE LA GARZA, WOLFF, ROUSSELOT and LURKE, and I commented extensively on the House floor on the significance of the Hermosillo declaration—see the CONGRESSIONAL RECORD, June 7, 1977, at pages 17727–17733.

To my knowledge, this is the first time in the 17-year history of the bilateral conferences that a policy objective was adopted by delegations from our two nations. My distinguished colleague from Texas, Mr. DE LA GARZA, who was instrumental in securing the adoption of the declaration and who serves with me as a member of the International Relations Committee and the Select Committee on Narcotics Abuse and Control, considers the Hermosillo declaration "to be one of the most important declarations ever given by the legislative branches of the Government of Mexico and of the United States."

The Hermosillo declaration condemns "without reservations of any kind the illegal cultivation of all plants that may be used to obtain substances which, when employed as narcotics, cause grave and often irreparable damage to people's health." It appeals "to all governments and peoples of the world to take a stand against narcotics traffic once and for all" and recommends "that energetic, preventive, prosecuting and punitive measures be taken to discourage the cultivation of drug producing plants in order to suppress narcotics traffic."

The Hermosillo declaration is an important policy objective, for it is an explicit statement by leading parliamentarians of Mexico, which is the prime supplier of illicit heroin entering the United States, that it is in that nation's interest to assist our country in eradicating Mexican poppy fields and in interdicting narcotics trafficking. This is an important step for Mexico, a nation heavily burdened by the pressing economic and social needs resulting from a burgeoning population explosion, high levels of unemployment and poverty, currency devaluation, and trade and tariff problems. As the distinguished ranking minority member of the Select Committee on Narcotics Abuse and Control, the gentleman from Florida (Mr. BURKE) stated:

> The Hermosillo Declaration, not only symbolizes the friendship that exists between our two nations, but also provides an opportunity for us, Mexico and the United States, to exercise our joint resources in interdicting narcotics trafficking and eradicating the supply of opium production"—Congressional Record, June 7, 1977, at page 17733.

Heroin trafficking and drug abuse are problems that are not unique to Mexico and the United States. These critical narcotic problems are not confined to any geographical boundaries, political ideologies or economic stages of development. Rather, they torment citizens of all societies and in all regions of the world, regardless of the diverse political, economic or social considerations or whether the citizens are from heroin supplier or user nations, or from developed or less developed nations. Combating organized criminal narcotics trafficking and widespread drug abuse requires the cooperative action of the entire community of nations, particularly if drug peddlers and their deadly products are to be removed from the cities, towns and schools throughout the world.

This concurrent resolution is not a complex issue and does not require extensive debate. It is a straightforward resolution calling for the Congress to endorse a declaration condemning the cultivation of dangerous drug-producing plants and urging members of the international community to cooperate in the fight against narcotics trafficking.

Mr. Speaker, in the interest of encouraging other nations to join Mexico and the United States in fighting international narcotics trafficking and drug abuse. I am inserting the complete text of our concurrent resolution and the complete text of the Hermosillo declaration at this point in the RECORD. I will welcome the support of my colleagues in securing the adoption of this resolution which, hopefully, will contribute to awakening the consciousness of the international community concerning the dangers of drug abuse:

Whereas the legislators from the United States and Mexico who attended the 17th Mexico-United States Interparliamentary Conference at Hermosillo, Sonora, Mexico, adopted the Hermosillo Declaration on Combatting Traffic in Drugs at the International Level on May 28, 1977; and

Whereas this Declaration condemns, "without reservations of any kind the illegal cultivation of all plants that may be used to obtain substances which, when employed as narcotics, cause grave and often irreparable damage to people's health"; and

Whereas this Declaration recommends that "energetic, preventive, prosecuting and punitive measures be taken to discourage the cultivation of drug producing plants in order to suppress narcotics traffic";

Whereas this Declaration expresses the desire by Mexico and the United States to intensify their efforts to eradicate the "cultivation, traffic, use and abuse of drugs," particularly heroin and other dangerous drugs, and to combat the organized criminal traffickers of narcotics; and

Whereas efforts to end narcotics trafficking and eliminate the illicit supply of opium production requires the concerted action of all members of the international community: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress endorses the Hermosillo Declaration and encourages other nations to adopt this Declaration.

SEC. 2. The Congress urges the President to encourage other nations to cooperate in an international effort to eradicate narcotics trafficking and to eliminate the illicit production of opium.

DECLARATION OF HERMOSILLO ON COMBATING TRAFFIC IN DRUGS AT THE INTERNATIONAL LEVEL

Whereas: The legislators of the United States and Mexico attending the Seventeenth Interparliamentary Meeting held in Hermosillo, Sonora, have made a detailed study of the circumstances directly fostering the growing illicit traffic in narcotics between our two countries and on the world level, as well as of the historical events that have inclined large sectors of the population to the use of such drugs, as a result of our deliberations, and as the legitimate direct representatives of our two peoples, we hereby

Declare: It is the will of the peoples and governments of the United States and Mexico to:

Energetically and definitively condemn, without reservations of any kind, the illegal cultivation of all plants that may be used to obtain substances which, when employed as narcotics, cause grave and often irreparable damage to people's health;

Tenaciously and untiringly prosecute by every possible means—within the context of our respective countries' Constitutions and laws—the traffic in such drugs both within and across our borders, and establish effective and far-reaching cooperation to that end among the authorized agencies of our two governments as well as among nongovernmental institutions and civic groups.

We further declare that in addition to the economic conditions leading to the increased consumption, production and traffic in drugs in the United States of America and in Mexico, events and situations have occurred throughout the world since the beginning of the 20th Century that have resulted in the creation of an atmosphere of skepti-

cism, discouragement and apprehension. This in turn has fostered the large-scale use and abuse of narcotic drugs by large numbers of our populations and particularly by young people, the inhuman traffic in such substances is mainly handled by organized crime.

The world's youth, dismayed and apprehensive because of the successive world, regional and local wars in this country; the threat of nuclear warfare; the deterioration of living conditions; social insecurity; unemployment; discrimination of various types, and the lowering of educational and cultural levels, has been tempted to respond to this situation by seeking means of escape in a flight from hostile reality, and to lose faith in life and in their own destiny. All this has made them easy prey to the proliferating drug addiction and other serious deviations and vices that afflict humanity in our times.

Drug traffic and the illegal sale of narcotics are particularly harmful to certain regions of the world but are not exclusive problems of any one country or social-political regime. Heroin and other harmful drugs do not respect boundaries and attack or threaten to a greater or lesser degree every nation and especially the youth of all countries.

For these reasons, both Mexican and U.S. legislators, faithfully interpreting our feelings, our concern and the most fervent desire of our peoples declare that it is the responsibility of the public institutions and competent authorities of our nations to become deeply involved, reinforce and extend to the utmost the fight against the cultivation, traffic, use and abuse of drugs, and to this end adopt all the legislative, judicial, political and economic measures that will lead to the eradication of this far-reaching problem.

We thus make a cordial and urgent appeal to all governments and peoples of the world to take a stand against narcotics traffic once and for all and to establish a system for international cooperation, essential for a decisive fight against an illegal and criminal activity that represents a degenerative threat to the culture of the nations of the world and to the general wellbeing of mankind.

We therefore recommend and demand that energetic, preventive, prosecuting and punitive measures be taken to discourage the cultivation of drug producing plants in order to suppress narcotics traffic. But at the same time we draw your attention to a historic need for offering our youth, faced with the threatening specter of wars, nuclear extermination, unemployment, oppression, social injustice and the denial of freedom and opportunities for progress and a productive life, a firm alternative of peace, jobs, creativity, justice and freedom that presents a vital new perspective and new horizons for human fulfillment, so that youth, reconciled by the promise of a dignified, vigorous and just life, will turn its back on demoralization and moral disintegration, which lead to drug addiction and other self-destructing habits of mankind.

The U.S. and Mexican legislators hereby subscribe to this Declaration of Hermosillo to salvage the morality, health and the joy of living of our peoples.

HERMOSILLO, SON., *May 28, 1977.*

CONGRESS HAS CHANCE TO REFORM GRAND JURIES

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. LEDERER. Mr. Speaker, a recent issue of Congressional Quarterly reported on efforts in Congress to reform the Federal grand jury system.

These efforts are being led by my colleague from Philadelphia (Mr. EILBERG), who chairs the House Judiciary Subcommittee which is holding hearings on H.R. 94, the Grand Jury Reform Act of 1977.

I commend to the attention of my colleagues the following Congressional Quarterly report, which details the need for this important effort:

ANOTHER CHANCE FOR REVISING GRAND JURIES

(By Barry M. Hager)

After years of hearings and debate, prospects in Congress for legislation revising the nation's grand jury system appear to be growing stronger.

Charges of abuse of the system by the Justice Department and FBI have been widespread since 1970. Hearings first were conducted on the subject in 1973. Now they are being held again.

"Each time there has been publicity we have learned more about the grand jury and its problems," according to Rep. Joshua Eilberg, (D Pa.), a long-time backer of grand jury legislation. He feels now that enough is known to move to "the first reform of the grand jury in the history of the country."

Proponents of grand jury reform in Congress concede that the peak of alleged abuse of the system already may have passed, but they warn that that does not lessen the need for reform.

"There is no fading of this need at all," Eilberg said. "Those of us who have lived through Watergate, through this period of abuse, know the potential for abuse that is still there. This has made a searing impression on me."

The principal reform bills under consideration in the 95th Congress are HR 94, introduced by Eilberg; HR 3736, sponsored by John Conyers Jr. (D S.D.).

Eilberg also has introduced four proposed constitutional amendments "for the purpose of discussion" which would eliminate or significantly restrict the use of grand juries in the criminal system. In addtion, at least five other bills to revise the grand jury system have been introduced in the House.

Eilberg's bill, HR 94, is the primary vehicle for the current hearings before his Immigration, Citizenship and International Law Subcommittee of the Judiciary Committee.

PAST COMPLAINTS

The central accusation made by those seeking revision in the grand jury system is that the executive branch, particularly the FBI and the U.S. Attorneys around the country, have used grand juries in recent years in dragnet fashion, resulting in a chilling effect on First Amendment rights of political association, free speech and a free press.

Abuse is possible because the grand jury lies at the heart of the national criminal justice system, even though it remains a mystery to most citizens. The Fifth Amendment to the Constitution, which confers such familiar rights as the one against self-incrimination ("to plead the Fifth"), also contains a less familiar guarantee that "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury [except in wartime military]."

That provision, part of the Bill of Rights, was seen at the time as a protective measure against prosecutorial excesses by the government. The idea was that a panel of private citizens—23 has long been the number of grand jurors on a panel—would first sit in judgment on a prosecutor's case against an individual. Only if the grand jury were convinced of the indictability of the citizen could the charges be brought against that individual.

At the time of the adoption of the Bill of Rights, the grand jury was perceived as a bulwark against oppression by the British crown. Massachusetts had been the first to institute the grand jury, in 1634, and most other colonies utilized the protective device.

But proponents of grand jury revision claim the harsh irony is that this historically liberation device has been transformed into a highly effective tool of the government's prosecutors.

In the strong language of Sen. Edward M. Kennedy (D-Mass.) as he testified before the Eilberg subcommittee during its first hearings in 1973, "Over the past four years under the present [Nixon] administration, we have witnessed the birth of a new breed of political animal—the kangaroo grand jury—spawned in a dark corner of the Department of Justice, nourished by an administration bent on twisting law enforcement to serve its own political ends, a dangerous modern form of star chamber secret inquisition that is trampling the rights of citizens from coast to coast."

Secrecy

That star chamber reference points to a central feature of the grand jury system that disturbs reformers—secrecy. While secrecy of grand jury proceedings can serve to protect those targeted from premature revelation of damaging testimony, it also can serve as a smokescreen for wide-ranging prosecutorial activities which might be curbed by a judge if pursued in an open court setting.

An example of that possibility was the "Fort Worth Five" case which prompted the original Eilberg hearings. In that case, according to Sen. Kennedy's testimony, five Irish New Yorkers were subpoenaed to testify before a Texas grand jury despite no apparent evidence that there was any connection between them and the gun-running activities the Justice Department claimed to be investigating.

A more current example, according to the Coalition to End Grand Jury Abuse, a private activist group supporting grand jury legislation at the federal and state level, is the case of two women who were staffers of the Episcopal Church's National Commission on Hispanic Affairs in New York. Since November 1976, the FBI has sought their testimony and extensive records in an effort to find links to the Puerto Rican nationalist terrorist group allegedly responsible for several New York-area bombings.

The two women refused to testify and moved to quash the subpoena which had been issued to compel their grand jury testimony. New York Bishop Paul Moore was quoted as calling the subpoena "an invasion of the confidentiality necessary to the effective working of a religious body."

Both women were jailed in March 1977 for contempt, where they remained as of May 5. Under existing law, they could stay in jail for contempt until the end of the life of the grand jury, in this case May 1978. Even then, under existing law, a new grand jury could be empaneled and the process repeated. And the two witnesses could remain in jail.

Venue, subpoena powers

An additional complaint of grand jury reformers was pointed up by the Fort Worth example. That is the current lack of any requirement for a geographical nexus between the activities investigated by the grand jury and the venue, or place where the grand jury is empaneled and sits.

This type of abuse allegedly was prevalent during the Nixon administration's most intensive efforts to combat what they perceived as politically inspired terrorism. For example, in 1971 the investigation into the bombing of the U.S. Capitol building was pursued by a grand jury in Seattle.

Prior to that, in 1970, a Tucson, Arizona, grand jury had subpoenaed five Los Angeles residents to testify despite the lack of clear connections between the five and the Tucson investigation. Likewise, on July 10, 1972, the day the Democratic Convention was scheduled to open in Miami, Fla., 25 members of Vietnam Veterans Against the War were subpoenaed to testify 500 miles away before a grand jury in Tallahassee. The veterans had planned to demonstrate in Miami, but were detained through the entire week. On July 13, the convention voted to condemn the Nixon administration for trying to intimidate the veterans.

The concern of reformers is that such wide-ranging subpoena powers in the hands of federal prosecutors create hardships on those who must disrupt their lives to respond to the subpoenas and also strip away many of the protective mechanisms familiar in the open court setting. There the venue of a trial and the selection of the jurors is intended to guarantee that individuals are judged by their peers rather than people from distant communities.

First amendment rights

A larger concern of reformers is the fact that many of the most controversial grand juries were investigating political activities. Individuals subpoenaed to testify were being asked to divulge information about their personal political associations and actions.

Those hoping to change the system are worried by possible abridgements of First Amendment political freedoms. They argue that going behind the closed door of the grand jury room inevitably breeds suspicions among political and personal associates, since no one can be sure what was divulged to the grand jury, in contrast to open court testimony.

Reporters also have raised this argument in contesting subpoenaes which require them even to appear before a grand jury regarding their sources. The Supreme Court has ruled against the press argument that journalists ought to be exempt even from responding to a subpoena to appear before a grand jury.

Immunity, contempt

Once in the grand jury room, even a witness who wishes to resist discussing what he considers to be activities protected by the First Amendment may have trouble doing so. The existing grand jury setting is largely under the control of the prosecutor. A witness is not permitted to have his own counsel in the grand jury room, and the questions put to the witness are dictated almost entirely by the prosecutor.

The witness can only invoke the Fifth Amendment, refusing to testify on the grounds that his testimony might incriminate him, if he can convince a judge that self-incrimination is a real possibility. Even then, the prosecutor may decide to grant the witness "use" immunity, which means that the government agrees not to use the specific testimony or its fruits against the witness in any future prosecution. If granted this immunity, even against his will, the witness must testify.

A witness who refuses to testify after being given immunity can be cited for contempt and jailed for the life of one or more grand juries.

PROPOSALS FOR CHANGE

Given all of these complaints about the potential of the grand jury for abuse, some observers would favor its outright abolition.

But Emmy Hixson, an attorney with the Coalition to End Grand Jury Abuse, points out that there have never been any amendments to the Bill of Rights. "To amend the Bill of Rights could be a horrible precedent. Who knows what might be amended next?"

Other witnesses at the current hearings before the Eilberg subcommittee also have noted that a reformed grand jury might again be a positive force in the criminal system. Eilberg himself has expressed the belief that grand juries could be especially useful in pursuing official misconduct.

H.R. 94 thus attempts to address the abuses of past grand juries without suggesting abolition of the Fifth Amendment requirement of grand jury involvement in the indictment process.

One key provision of the bill would restructure the procedures surrounding the subpoenaing and compulsion of testimony. The broad venue and subpoena powers of current grand juries would be restricted, with venue limited to where there is "substantial conduct" in the district of the grand jury, and new safeguards provided for the issuance of subpoenas.

If a witness desires to resist testifying, he would have 72 hours to prepare for a court hearing on the question of a possible contempt citation, and he would be represented by counsel. Should a contempt finding be made by the court against the recalcitrant witness, the confinement could be for no more than six months. H.R. 94 would specifically preclude "reiterative contempt," or repeated confinements of the same witness regarding the same testimony.

Once in the grand jury room, the witness for the first time would have the right to counsel for the purpose of advice, but not for cross-examination, argument or other purposes. This provision has been resisted by many district attorneys around the nation. Attorney General Griffin B. Bell asked a February meeting of the American Bar Association to withhold its anticipated support for grand jury reform along the lines of H.R. 94 until its August meeting to let the Justice Department review the proposals and take a position. Bell expressed concern lest the grand jury inquiry become a slow-moving "mini-trial."

Eilberg argues "it's just unfair to have a one-sided lawyer with a fixed point of view in the grand jury room."

A former Philadelphia prosecutor himself, Eilberg compares what he wants with the use of counsel by witnesses at congressional hearings. Counsel there is availabe for consultation by the witness, but is not generally allowed to interrupt or impede the proceedings. HR 94 even has a safety valve for prosecutors which allows "disruptive" counsel to be removed from the grand jury room, a concession which disturbs some civil libertarians.

If a witness pleads possible self-incrimination as a bar to testifying, the immunity procedures would be substantially altered. First of all, H.R. 94 and several other bills would replace "use" immunity with transactional immunity, which means that the prosecutor, in order to compel potentially incriminating testimony, must agree not to prosecute the witness on the whole transaction about which he is being compelled to testify.

Support for a return to transactional immunity goes beyond the grand jury context. It was the historical form of immunity. Use immunity only came into existence in 1970, at the behest of the John Mitchell Justice Department, and it has been highly controversial from the outset.

A number of supporters of grand jury reform wish to go even further than a return to transactional immunity. The Conyers bill (HR 2736) is supported by the Coalition to End Grand Jury Abuse and others largely because it provides for "consensual immunity" as well as transactional. That is, a witness would have to be insulated against the whole transaction about which he was testifying, but the immunity could only be granted if the witness consented. At present, the witness choice in the matter is irrelevant.

HR 94 does not go as far as consensual immunity but does specify guidelines which must be followed by a court in deciding to grant immunity, including a determination that the evidence sought by the grant is relevant to an authorized inquiry.

Eilberg emphasized that, while the bulk of H.R. 94 and the other grand jury proposals are aimed at curbing alleged prosecutorial abuses by restoring protections to witnesses and targets of grand jury inquiries, some provisions of his bill "may improve enforcement of the law since we are trying to restore vigorous, independent grand juries" in place of what Eilberg feels are excessively prosecutor-controlled grand juries.

H.R. 94 also deals with the double-edged sword of grand jury secrecy by stiffening penalties for disclosures of grand jury activity which are aimed at affecting the outcome of a grand jury's work. Journalists, grand jury witnesses and their lawyers are all protected from the $20,000 or five-year imprisonment contemplated for such revelation of grand jury proceedings.

OUTLOOK

The House subcommittee will follow its March and April hearings with additional hearings in June. Eilberg anticipates that the Justice Department will testify at that time and announce their position. The department's position will be influential; former Attorney General Edward Levi's firm opposition to grand jury revision proposals was a significant hindrance to action by the 94th Congress.

In announcing the introduction of his bill on May 4, Sen. James Abourezk said he would call for early hearings. The bill is expected to be referred to the Judiciary Committee's constitution subcommittee, headed by Birch Bayh (D. Ind.). Hearings could be held in early summer.

Favorable action by the ABA in August also could add momentum to the grand jury measures pending. Eilberg is optimistic about the ultimate prospects.

A BITTER HARVEST AND THE GRIM REAPER

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. NOLAN. Mr. Speaker, the following article, which I am submitting for the RECORD, explains why this year's bountiful harvest in the Nation's heartland will simply aggravate an economic situation which has placed "all but the most prosperous farmers in a perilous financial position" that may lead to "an exodus from Midwestern farms, particularly of young farmers."

The market-oriented farm policy promoted so enthusiastically by former Agriculture Secretary Butz is, more than any other factor, responsible for the price-depressing bumper crop of wheat now being harvested. Mr. Butz nevertheless continues to advocate a boom and bust farm policy. On June 22, 1977, Butz addressed the Futures Industry Association and warned farmers and the U.S. Government not to "let the current surplus of U.S. wheat panic us into short-run programs that will recycle agriculture into massive Governmental intervention and ultimate curtailment of production at great public cost."

Butz's forum was well chosen. His pitch is aimed at the futures trade which profits from the wide swings in market prices. The cries against Government in-

tervention and production controls are designed to cast a smokescreen and obscure the fact that Government can help farmers in developing a rational farm program. Under the Butz-type farm policy farmers and consumers suffer from price instability and uncertainty. These circumstances make it difficult for farmers to make wise production and marketing decisions. The United States does not need a market-oriented farm policy which holds farmers and consumers hostage to the erratic fluctuations in agricultural prices quoted in the commodity exchanges.

The article inserted for the RECORD reveals how Butz' exhortations urging farmers to plant from road to road have had a devastating impact on farm income. In addition, all-out production has led to the abandonment of sound conservation practice, thus contributing to the worst wind erosion in the Great Plains in 20 years.

The Butz approach to agriculture is no more than a formula for bankrupting family farmers and ruining the soil. The 1977 harvest is indeed a bitter one and Earl Butz is the Grim Reaper. Contrary to what Jimmy Carter promised as a candidate for President, he has now accepted the Grim Reaper's disastrous market-oriented farm policy which is cutting a mean swath of economic depression across the Midwestern Plains. Wheat farmers are in desperate circumstances, as the article reveals, but the Carter administration still threatens to veto the Senate farm bill, even though it provides no more than poverty-level price supports for wheat and corn farmers.

What kind of administration is it that continues to support a bloated, multibillion dollar military budget, and is considering spending many more billions of dollars on the B–1 bomber, but will not make a relatively small dollar commitment to a decent price support program for farmers, for the human and productive resources of the Midwest? The Carter administration's support for human rights abroad is no substitute for just treatment at home. Clearly, family farmers in the Midwest are again being shortchanged. The article follows:

BOUNTIFUL CROPS—SO WHY ARE FARMERS AND BANKERS WORRIED?

(Rising costs and low prices are bringing hard times in the midst of plenty to much of the nation's heartland—and raising fear of a rural exodus.)

WELLINGTON, KANS.—Combine crews now working their way through another bumper wheat crop are reaping a bitter harvest for farmers on the Midwestern plains and prairies.

Their problems are as bountiful as the soil that produces the world's richest crops of wheat, corn and soybeans. A combination of drought, low grain and cattle prices, and rising expenses has put all but the most prosperous farmers in a perilous financial position.

Bankers report that many farmers have overextended themselves in an effort to hang onto their farms and cattle herds. Service stations and grocery stores at small, rural crossroads throughout the region are plastered with farm sale notices as loan foreclosures grow. Communities that depend on agriculture are feeling the pinch through rising unemployment and lagging retail sales.

FLASH POINT?

The plight of grain farmers has reached a stage that has created a major confrontation between President Carter and Congress. Congressmen from farming States, feeling the pressure from back home, want sharp boosts in price supports and other crop-subsidy programs. The President warns that such proposals would endanger his efforts to balance the budget.

Even as this argument continues, financial conditions in the grain belt are deteriorating. A special U.S. Department of Agriculture economic study found that 14,000 farmers in the nation's major grain-growing region will not be able to repay their debts this year. Another 59,000 will be forced to refinance their bank loans or dispose of some farm assets to meet their debt payments.

Says a banker who participated in the survey: "In my 20 years of agricultural banking, this would seem to be our most critical economic period as a bank and community, in view of the drought, lower commodity prices and higher costs."

Net farm income is expected to decline from 23.3 billion dollars in 1976 to 21.3 billion this year. As recently as 1973, the nation's farmers netted a record 29.9 billion.

Experts consider it no coincidence that North and South Dakota, with a heavy concentration of agriculture, were the only States to show declines in personal income last year. Personal income fell 6.6 per cent in North Dakota and 2.2 per cent in South Dakota while the nation as a whole showed a 9.1 per cent increase.

EXIT SIGNS

Unless conditions improve drastically in the next few months, some observers are predicting an exodus from Midwestern farms, particularly of young farmers. "Too many of our people don't have enough equity left to get a loan to go another time around," says a Kansas agricultural agent. "Many of the smaller banks are loaned up and can't let go of any more money."

Bernard Johnson, president of the Production Credit Association of Fargo, N.D., reports that 105 farmers who borrowed from the association in 1976 lost a total of 4 million dollars, or about $40,000 each. He adds: "Some of our farmers are in a real financial strain. Many are just hanging on by their boot straps. And some we've had to close out. The problem is, there is no profit at $2.50 for wheat."

In the grain belt, not only do the farmers suffer when profits disappear, but entire communities as well. Dell Severson, appliance manager for a furniture retailer near Fergus Falls, Minn., says sales have been off since the first of the year. "The drought really hurt us," he adds. In Jamestown, N.D., Robert Melland, owner of an International Harvester dealership, says his sales are off 35 percent from last year and that his employes are worried about their jobs.

Under different circumstances, 1977 would be a year to recall with pleasure in the grain belt, which extends through the nation's heartland from the Rockies to the Ohio Valley. Although pockets of drought persist, late spring rains greened the wheat at a critical stage of growth and allowed timely planting of corn, soybeans and other crops.

A HARVEST TO REMEMBER

The Agriculture Department estimates that the harvesters now working their way north through Kansas will reap 1.526 billion bushels of winter wheat, the third-largest crop ever, despite a 4 percent decrease in acreage from 1976. Kansas, the leading wheat-producing State, is expecting a record 396 million bushels. Combined with the spring wheat crop from the Northern States, farmers are likely to produce more than 2 billion bushels of wheat for the third consecutive year.

Bountiful crops of corn and soybeans, which have just been planted, also are forecast unless drought recurs in the next two months.

In fact, the potential grain crop is so large that only Government supports are preventing catastrophic losses for farmers. In mid-June, wheat was selling for around $2.26 per bushel, down from $3.71 at the same time last year. Corn prices had fallen to around $2.25 per bushel from $2.94 a year earlier. These are prices on major commodity exchanges. Farmers are getting less at rural grain elevators. Soybeans, one of the bright spots in farm prices, also have started to soften in recent weeks.

Says Darrell Coker of Cotton County, Okla., who made headlines but no profit when he harvested the first 1977 wheat in Oklahoma: "It costs so much to produce a bushel of wheat, there's no profit in it. I sold my wheat at $2.09 a bushel the first day. By the second day, it had dropped to $1.99 a bushel. It cost me $3.30 to produce when you count interest, fuel, depreciation and labor. It's like doing it for a hobby."

CULTIVATED LOSSES

Thomas E. Ostrander, a Wellington, Kans., farmer, estimates that it costs about $100 an acre to raise dry-land wheat in central Kansas, the heart of the grain belt. The average yield is 30 bushels, leaving the farmer about $40 an acre in the hole at current prices.

A new Agriculture Department report shows that farmers spent 89 billion dollars to produce crops in 1976—9 percent more than in 1975. Production costs for the average farm in 1976 totaled $32,165, up from $29,172 in 1975.

Squeezed between rising expenses and falling prices, farmers are reluctant to sell their grain. Most have put it into storage, hoping for an improvement in price. Grain elevators and on-farm storage bins throughout the grain belt are loaded to capacity. Much of the wheat will have to be stored on the ground.

"We're going to have grain coming out of our ears," says Earl Hayes of Stafford, Kans. "It's going to create a problem of storage." The total supply of wheat in the 1977–78 marketing year will be more than 3 billion bushels, an increase of nearly 450 million bushels from last year. Domestic use should account for only about 900 million bushels, leaving wheat growers at the mercy of foreign buyers to get rid of the surplus.

The National Oceanic and Atmospheric Administration reports, however, that growing conditions throughout the world are better than normal. As a result, world grain reserves will be at an all-time high in 1977. The Soviet Union, one of America's best customers in recent years, enjoyed a record harvest in 1976 and is expected to have its third-largest crop this year. This outlook contrasts sharply with worries about food shortages just three years ago when farmers were urged to plant "fence row to fence row" to feed a hungry world. Then, wheat prices soared to about $5 per bushel, spreading unprecedented prosperity through the grain belt.

"We've done it to ourselves," says Ostrander. "We overproduced. There's only one way to get rid of the surplus—stop producing." Adding to the plight of grain farmers are cattle prices, which have hovered at money-losing levels of about 40 cents a pound for choice steers since 1973, while expenses have multiplied. Most grain farmers raise cattle to diversify their income sources.

DEFICIT FARMING

An example is provided by Robert Wegenast, of Edgeley, N.D., who lost $50,000 last year and was forced to sell 320 acres to pay his debt. Wegenast tried to recoup losses with cattle. But drought forced up the price of hay and reduced the amount of grass for grazing. When he was ready to sell his cattle, the price had dropped to 35 cents a pound. He was forced to sell at a loss of 8 cents a pound, not counting feeding expenses.

Even successful farmers are running into problems dealing with such adverse conditions. Merton Sheldon, who farms 2,300 acres with his son Fuller, is considered one of the most prosperous farmers near Fargo, N.D. Sheldon grows wheat, barley and sugar beets, and raises cattle. Because the farm has been in the family for years and is not burdened with debt, it is easier for Sheldon to show a profit than it is for most Even so, he says he barely broke even in 1976 and anticipates only a small profit this year.

Farmers in the major corn-growing States have not been hit as hard as wheat growers. Greater rainfall there allows farmers such as Kent Paustian to adapt to changing market conditions.

Paustian, who farms 600 acres near Walcott, Ia., with his father, grows corn that is fed to livestock—either cows or hogs. "We used to feed 600 to 700 head of cattle each year," he says. "Now we've switched more to raising hogs because there's more money in them."

Farmers like the Sheldons and Paustians are exceptions. Many are just hanging on, waiting for prices to rise, or the Federal Government to come to their rescue. Without some help, more farmers are likely to be forced out of business, including some big operators.

"We could possibly see a big exodus like in the 1960s," says Ostrander.

THE ESTABLISHMENT OF AN AGENCY OF CONSUMER PROTECTION

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. MOFFETT. Mr. Speaker, recently there has been considerable debate concerning the establishment of an Agency of Consumer Protection. The following is an article by Mark Green, published in the June 18 issue of the New Republic, which provides a sound rebuttal to the ACP's detractors. I would like to bring the article to the attention of my colleagues, and encourage their support of H.R. 6805.

The article follows:

CONSUMER AGENCY: PRO

(By Mark Green)

Federal economic regulation has failed. This is a truism embraced by a wide range of critics. Ways to correct this defective machinery, however, inspire less unanimity. One possibility—supported by President Carter, the House and Senate leadership and a coalition of consumer, environmental, senior citizen, labor and bar groups—is an Agency for Consumer Protection. As envisioned by legislation reported out of Senate and House Committees in early May, this agency could intervene in the decision processes of *other* agencies to advocate the consumer viewpoint; and the ACP could bring that agency into court to defend its rulings. If federal agencies only fear lawsuits, from the businesses they regulate, they will institutionally tilt in a business direction in order to avoid review and reversal. A consumer advocate corrects this imbalance. By even a few interventions and lawsuits, an ACP can make all agencies think twice about the consumer interest before making policy. The effect can be therapeutic throughout the government.

The major premise behind an Agency for Consumer Protection is obvious: if it is wrong for federal judges to hear only one side of a case, it's wrong for administrative law judges as well. The business community—controlling the information agencies depend on, hiring fleets of lawyers and scientists to argue for it, often generously supplying the government with regulators from its own ranks—is able to make its case well. Consumers on the other hand—unorganized, inexpert, and hard to meld because of the "free rider" problem—often are neglected in regulatory proceedings. If the big business community has a $1.7 billion Commerce Department to "foster, promote and develop commerce and industry," if farmers have Agriculture and Labor, it doesn't seem unfair that the neglected consumer should have a nonregulatory, $15 million agency to make a case.

Stephen Chapman's article "Pluralism Run Amok" (TNR, May 21) describes ably the defects of economic regulation. ("The livelihood of an airline executive is at stake in every regulatory decision by the Civil Aeronautics Board, but the average air traveler spends only a fraction of his income on flying; consequently, airline executives spend a lot more time, effort and money trying to pursuade and inform the CAB than most consumers do.") But his cynicism overwhelms his judgment when discussing the proposed consumer agency. He asks, as do many of the business critics of the proposed agency, "How will this agency decide what is the 'consumer' interest in any particular controversy?"

In fact, many consumer interests are apparent: agencies should give consumers greater access to their proceedings; products should be adequately tested for safety and fully disclose their contents; fraud and monopoly pricing should be vigorously prosecuted. Another obvious consumer interest is to have existing laws complied with and enforced. Has NHTSA issued its used car standards? Has the EPA met its timetable in testing toxic substances? If not, the ACP will intervene or sue to enforce the law.

In situations where there may be several consumer interests, the agency's administrator will exercise his or her best judgment after reading the considerable mail and listening to consumer and business petitioners. The ACP may decide to air several consumer interests so the host agency can arrive at the best decision. This is not unprecedented: the Justice Department occasionally has filed multiple amicus briefs in the same lawsuit. When a particular viewpoint is already adequately represented, the agency is supposed to focus on others. The bill also makes clear that the agency is not an exclusive advocate, thus encouraging private consumer representation as well. The possibility that in some cases there might be two or three consumer interests should hardly justify the conclusion that none should be represented. The Agriculture Secretary has to decide among competing farmer claims and the Commerce Secretary among competing business viewpoints—yet no one would say their agencies are illegitimate merely because they must weigh competing claims and exercise sound judgment.

Critics of the consumer agency, like Stephen Chapman, suggest that since the public interest is tantamount to the consumer interest, and "since the regulatory agencies are already charged with promoting the public interest," a consumer advocacy agency is superfluous. But "the public interest" is not a place but a process; it is not a destination but a journey. An agency's judgment about the public interest will be determined by the facts it receives, the arguments it hears. Corporate managements win 99 percent of all proxy contests—not because of any inherent merit or magic, but because those who control the input control the output. You can't expect regulators, even if they were all Brandieses, to research and uncover the consumer interest in every proceeding all by themselves. If consumers aren't heard in agency proceedings, consumers won't be part of the "public interest" policy conclusion. Or, as former FCC Commissioner Nicholas Johnson was fond of saying, the only way to keep regulators upright is to lean on them from all sides.

Chapman dismisses this as "pluralism run amok" and "adversary goulash." "The belief that encouraging pluralism, by dividing people into separate groups and requiring them to scratch and claw for their share of the government pie, is a good way to run a government should be thoroughly discredited by now." I hadn't realized that our jurisprudential system of law, the First Amendment and *The Federalist Papers No. 10*—all of which assume that truth and sound policy result from the clash of ideas—had suddenly become *declassed*. If the consumer agency's conceptual critics don't think that government policy and the government pie are divided according to clashing interests, then they don't understand the way Congress works, the way courts work, and the way federal agencies work. What these criticisms amount to is a disillusionment with the adversary process. But if these critics have a democratic alternative to the adversary process, they should say what it is.

An Agency for Consumer Protection does not signal the end of the drive for regulatory reform. An ACP and efforts to appoint better regulators, provide them with better information and eliminate unneeded agencies are not mutually exclusive. I agree with Chapman's conclusion that we should "get rid of those institutions that facilitate manipulation of government power for narrow private interests," such as the price fixing of the Civil Aeronautics Board and the Interstate Commerce Commission. But until that millenium arrives, I see no merit in tolerating the continuing hegemony over economic regulation enjoyed by the producer interests. To oppose an Agency for Consumer Protection because it is yet another voice added to the pluralist arena is about as rational and fair as banning ambulances from cities because of auto congestion.

CONGRESSMAN WYDLER'S 1977 QUESTIONNAIRE RESULTS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. WYDLER. Mr. Speaker, I am pleased to report that, again this year, the residents of the "Fabulous Fifth" Congressional District have enthusiastically responded to my annual questionnaire and opinion poll.

This annual survey has been held during each of the past 15 years I have served in the Congress, and again indicates that the American people really do care about their Government. Thousands of these questionnaires have poured into my office from people all over the district.

It has been my practice to develop meaningful questions about key national and international issues which would have a direct impact on all Americans. These questions are then mailed to every household in the Fifth Congressional District and residents make their feelings known by selecting answers in a multiple-choice fashion.

When the completed questionnaires are returned to my office, the responses are tabulated and the overall results of the poll are of extreme value to me since they provide a very important personal insight into how residents of my district feel about key issues. This input is of direct assistance to me in developing stands and votes on specific matters.

The results of the 12-question opinion poll will also be forwarded to the residents of the Fifth Congressional District.

Of the 12 questions submitted this year, one which dealt with a requirement for a mandatory sentence and denial of parole for all crimes committed with a gun received a positive response of 88.13 percent, the largest "yes" vote of any of the questions submitted. Allowing the CIA to maintain domestic surveillance and information on American citizens who are suspected of cooperating with hostile foreign governments drew a 79.59 percent favorable response, while a national health insurance program for long-term catastrophic illnesses received a favorable response from 78.71 percent of the responding residents.

Issues the residents of the Fifth Congressional District identified as being of the greatest importance to them were a reduction in welfare, foreign aid, and waste of Government money, and to expand energy development (including solar energy) and health care (including insurance).

The complete results of my 1977 questionnaire and opinion poll are as follows:

RESULTS OF THE ANNUAL "FABULOUS FIFTH" QUESTIONNAIRE OF FIFTH CONGRESSIONAL DISTRICT, NASSAU COUNTY, N.Y.

[In percent]

	Yes	No	Undecided
1. Military strength: Do you feel that the United States should maintain a military strength greater than the Soviet Union?	76.21	16.17	7.62
2. Food stamps: Should the food stamp program be limited to those families with incomes at or below the official poverty line (currently $5500 for a family of four)?	72.02	21.60	6.38
3. Campaign financing: Do you favor the use of federal tax dollars to help finance campaigns for the U.S. House of Representatives and U.S. Senate?	35.98	55.68	8.34
4. Postal service: Do you think the law should be changed to let private businesses compete with the Postal Service in the delivery of first class mail?	64.75	29.01	6.24
5. Tax reform: It has been suggested that the present tax system is too complicated and that the government should eliminate virtually all deductions, thereby lowering the general tax rates. Are you in favor of this kind of tax reform?	48.18	35.02	16.80
6. Crime/law enforcement: Would you support legislation to require a mandatory sentence and a denial of parole for all crimes committed with a gun?	88.13	8.33	3.54
Do you think the use of marijuana should be legalized?	24.42	65.05	10.53
7. Economy: During the next year, do you think the economy will improve?	39.52	35.10	25.38
8. Foreign affairs: Should the U.S. extend diplomatic recognition and rehabilitative aid to South Vietnam?	21.56	64.36	14.08
Should the CIA be allowed to maintain domestic surveillance and information on American citizens who are suspected of cooperating with hostile foreign governments?	79.59	15.11	5.30
9. Health: Should the federal government provide health insurance for long term, major (catastrophic) illnesses?	78.71	13.06	8.23
10. News media: Should there be a provision to provide for equal editorial time in newspapers as there is on television?	60.93	28.15	10.92
11. Unemployment: In your opinion, what is the best method for the government to follow in combatting unemployment?			
(a) Create more government jobs to hire the unemployed	(a)	(b)	(c)
(b) Use tax credits to stimulate job creation among private businesses	24.60	52.48	22.92
(c) Take no action, let the economy alone.			
12. Federal spending:			
(a) What one federal program would you most like to see cut back or eliminated			
Issues residents, 5th Congressional District, identified as of greatest importance:			
(1) Welfare; (2) Foreign aid; (3) Waste of Government money.			
(b) What one federal program would you most like to see expanded or established?			
(1) Energy development (including solar energy); (2) Health care (including insurance); (3) Tough laws for stopping crime (including treating kids as adults; capital punishment).			

"GEFILTE FISHBAIT"

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. CORMAN. Mr. Speaker, Fishbait Miller, our former Doorkeeper and good friend to many of us over the years, recently published his memoirs, "Fishbait." I am compelled by conscience and constituent demand to correct the record regarding an item reported in his book. It was not I who gave the former Doorkeeper the nickname "Gefilte Fishbait." It was my good friend and gefilte fish eater, David Leveton.

Let the record stand revised and corrected.

RIGHT-TO-FOOD RESOLUTION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. SIMON. Mr. Speaker, after an in-depth study, a few days ago the National Academy of Sciences published a report commissioned by President Ford has been called "probably the most comprehensive assessment of the prospects for eliminating hunger and malnutrition ever published."

The report indicates that a sharp increase in the right type of research in agriculture and nutrition would put the world within reach of having food for everyone within a generation. The report emphasizes, however, that food production gains alone will not solve the problem of hunger. For that to happen hundreds of millions of impoverished people must be enabled to make their way out of absolute poverty.

The distinguished panel which compiled the report says that "political will" is a key factor, if this country is to play the crucial role that it could play in eliminating hunger. Congress and the President must provide strong leadership, it says. And as far as Congress is concerned, the report finds encouragement in the right-to-food resolutions passed by both the House and Senate in September 1976.

Significantly, the report singles out the establishment of a system of reserves that would assure an adequate supply of food and provide some stability for food prices, as one basic requirement. A carefully designed food reserve bill (H.R. 7871) was introduced in the House on June 17 under the title, the Stocks Management and Reserve Act of 1977. The House will soon have an opportunity to vote on its provisions when the farm bill reaches the floor. This will provide us with a chance to keep faith with the right-to-food resolution passed by the House last year.

I insert in the RECORD an article by Boyce Rensberger of the New York Times, which reported these and other features of the National Academy of Sciences study.

The article follows:

PANEL SAYS FOOD RESEARCH DRIVE COULD END FAMINES IN GENERATION

(By Boyce Rensberger)

The threat of chronic malnutrition and repeated widespread famines could be removed from the world within one generation if the United States and other countries mounted a major mobilization of research agriculture and nutrition, a panel of experts convened by the National Research Council has concluded.

In a 192-page report to President Carter released yesterday, the panel set forth an analysis of the world food and nutrition situation, listed 22 areas of research deserving high priority and proposed a plan for getting the work done.

Among the recommendations is one that the Department of Agriculture increase by $120 million (20 percent) its outlays for

research and add $100 million a year to build new research facilities. The panel also proposed tripling the $30 million a year now spent by the Agency for International Development to help poor countries to improve their own capacity for agricultural research.

The specific areas of research recommended emphasize new methods of improving crop yields that do not depend on such costly factors as fertilizer or irrigation but can be used at little or no extra cost to the farmer. Such gains would be equally useful to American farmers and those in poor countries.

The panel, led by 15 of this country's top specialists in the science and economics of food production and distribution, reached its conclusions after a two-year study commissioned by President Ford. It drew on the resources of 1,500 scientists, farmers, government officials and others in the United States and many other countries.

The report by the council, the operating arm of the National Academy of Sciences, is probably the most comprehensive assessment of the prospects for eliminating hunger and malnutrition ever published.

Although good growing weather has removed the threat of immediate famine from most of the world, the report estimates that between 450 million and one billion people remain malnourished. Unstable weather patterns, foreseen by some climatologists, threaten many marginal growing regions with renewed famine and the United States with severe inflation of food prices.

REPORT IS CAUTIOUSLY OPTIMISTIC

The report is significant because it is cautiously optimistic and because it devotes considerable attention to the social and economic aspects of overcoming hunger, facets of the problem that the scientific community has been criticized for neglecting in the past.

Even if food production were to double in the poor countries by the year 2000—something that must happen if hunger is to be eliminated—there would still be large numbers of hungry people if there were not also improvements in the distribution of wealth, said Harrison S. Brown, chairman of the 15-member panel.

Mr. Brown is a professor of science and government at the California Institute of Technology.

Eliminating hunger, the panel said, depends not only on increasing food production but also on reducing poverty, stabilizing food supplies through reserve systems that hold surpluses for times of scarcity and reducing population growth.

Achieving such goals will not be easy, but enough promising successes have been achieved in some poor countries to suggest that it is possible, the report added.

"If there is the political will in this country and abroad to capitalize on these elements," it said, "it should be possible to overcome the worst aspects of widespread hunger and malnutrition within one generation."

POLITICAL WILL HELD VITAL

"Political will' is a key factor, the panel said, for without strong leadership from both the White House and Congress the crucial role that the United States could play in eliminating hunger will go unplayed.

The report sees some hope on this point in Congress's passage last year of a "right-to-food" resolution and in President Carter's pledge in his inaugural address that the United States would take the lead in working toward fulfilling a basic human right to be free of poverty and hunger.

More recently, Andrew Young, the United States representative at the United Nations told the Economic and Social Council that combating hunger and famine should be the first priority in the struggle to promote human rights.

The panel said that Western-style industrial development was not necessarily a prerequisite for freedom from hunger. It cited such countries as Sri Lanka, South Korea, Taiwan and China, where the problem has been largely solved under widely different political systems. All have per capita incomes of less than $300 a year.

In addition to the recommended increases in research spending, the report urged that the Department of Agriculture widen its interests to include problems of hunger and malnutrition around the world. It said that researchers sponsored by the department should work in closer collaboration with scientists in other countries.

REVERSAL IN TREND URGED

In recent years, the study found, the knowledge among American scientists of conditions in developing countries has declined as has their involvement in research there. This trend should be reversed, the report said.

The panel also called upon the White House "to develop and maintain a coherent United States strategy for dealing with world food and nutrition problems." And it asked the President to facilitate coordination of American and international research in food and nutrition.

Among the members of the steering committee that produced the report were David E. Bell, vice president of the Ford Foundation; James P. Grant, president of the private Overseas Development Council, and Howard H. Hiatt, dean of the Harvard School of Public Health.

Also, Nevin S. Scrimshaw, head of the department of nutrition and food science at Massachusetts Institute of Technology; Sylvan H. Wittwer, director of the agricultural experiment station, Michigan State University, and Sterling Workman, vice president of the Rockefeller Foundation.

Joel Bernstein of the National Academy of Sciences was the director.

Copies of the report entitled "World Food and Nutrition Study," may be obtained at $6.75 apiece from the National Academy of Sciences, Printing and Publishing Office, 2101 Constitution Avenue NW, Washington, D.C. 20418.

ENERGY SQUEEZE ON FARMERS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. ABDNOR. Mr. Speaker, the American farmer has been the backbone of this Nation for over 200 years. Indeed, his productivity and efficiency have increased to such a degree that the 5 percent they comprise of our population is not only able to feed and clothe the other 95 percent in this Nation, but a good chunk of the world in addition.

Not only have they met past challenges facing our Nation, but they stand ready to shoulder their share of the growing energy problem. Indeed, they stand ready to put their expertise to work in providing this Nation with renewable energy through rich harvests convertible into fuel and lubricants.

While ready to bear their share, American farmers should not be expected to take an undue burden. Concern over this prospect is reflected below:

[From the Sioux Falls (S. Dak.) Argus-Leader, June 17, 1977]

WILL FARMER BEAR UNFAIR SHARE OF ENERGY TAX BURDEN?

How price rationing for fuel would impact on agriculture was examined by the Fargo Forum in a recent editorial. The newspaper's editorial also cited the impact of supply rationing versus price rationing, if the former were adopted by the administration of President Jimmy Carter.

The Forum drew on research at Iowa State University in presenting its viewpoint. The Forum suggests that the farmer may end up carrying more of the tax burden than the consumer.

The House Ways and Means Committee earlier this week approved President Carter's plan for higher oil taxes. If enacted, starting next year the tax would take effect in three annual steps. Eventually the tax would raise the controlled price of oil produced in the United States, generally ranging from $5.25 a barrel to $11.28, up to the uncontrolled world price of about $13.50. It is expected that the tax would raise the price of gasoline by seven cents a gallon by 1981.

There should be some other way to find new energy sources or alternatives without socking it to the American consumer in taxes designed to discourage use of petroleum. Neither the farmer nor the family with a car should be stuck with the taxes the administration has in mind.

Here's the Forum's editorial:

Research conducted at Iowa State University reveals the tough road ahead for American agriculture if President Jimmy Carter's energy program is enacted by Congress.

The Carter administration has chosen price rationing—higher prices forced by high taxation—to reduce consumption of gasoline, diesel oil, fuel oil and natural gas. Note that gas is used to make fertilizers and oil is the base for pesticides.

The farmers' need for these products is inelastic. It takes the same amount of fuel, fertilizer and pesticides to plant and harvest an acre of land, no matter what the price level.

Only the poorest land will not be cropped, and only the marginal irrigators who draw their water from deep wells will stop irrigating. The result will be harvests no more than five per cent below current totals, according to the Iowa study. The impact of doubled fuel costs on food prices would be no more than a 13 per cent boost, of which the farmers' share might be little or nothing.

If the Carter administration is forced to adopt real rationing, as against price rationing, the results would be startlingly different. If the amount of fuel and fertilizer available to farmers were cut by 10 per cent, the Iowa researchers found that production would fall sharply and farm product prices would jump about 42 per cent. If the fuel were cut 15 per cent, farm product prices "would soar so high as probably to make such a policy unacceptable even under the most severe energy shortage," the researchers concluded.

With such a restricted farm output, the government would probably put a lid on exports to hold the prices to consumers down.

There is no indication, however, that the administration intends to make things tough for the food consumer. The food producer, however, could well bear a major burden of the tax crunch being sold to the public as energy conservation.

THERE IS A ROLE FOR CIVIL AFFAIRS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. SPENCE. Mr. Speaker, I have had the occasion in the past to express my interest in and support for the civil affairs branch of our military. I believe

that we need to emphasize the important role that our civil affairs reservists play, and I am concerned about provisions contained in the Defense appropriations bill which seek to reduce the effectiveness of these forces. My distinguished colleague and fellow South Carolinian, Senator STROM THURMOND, is uniquely qualified to comment on the contributions of the civil affairs branch. He is a retired major general in the U.S. Army Reserve, and he has served as a national president of both the Reserve Officers Association and the Military Government Association. He is currently a ranking minority member of the Senate Armed Services Committee, so he has continued to follow the evolution of the civil affairs function in today's military. Senator THURMOND has expressed his concern about the trend toward reducing our Reserve civil affairs capabilities, and I am in complete agreement with the comments he made recently to the 30th Annual Civil Affairs Association Conference in Charleston, S.C. I believe that the Senator's remarks are especially timely, and I include his speech at this point in the CONGRESSIONAL RECORD:

ADDRESS BY HON. STROM THURMOND

THERE IS A ROLE FOR CIVIL AFFAIRS

Colonel Hyman, General Walker, General Mohr, General Ross, officers of the Civil Affairs Association:

As the senior United States Senator of this great State, permit me to join in the welcome I know you are receiving from my fellow South Carolinians.

Charleston is a City of great beauty and charm, in addition to being one of the Nation's most historic sites. In fact, Charleston has its own Army—located at that great military college, The Citadel.

For better than 3,000 years there has not been a single century free of warfare. Through this period the preparation for and the waging of war has been a central preoccupation of man. Unfortunately, the situation is not much different today.

Civil affairs in World War II

Over a third of the century has gone by since we saw the high point of the Army's participation in civil affairs during World War II. Many of you here today are unfamiliar with service in a civil affairs operation under combat conditions. You are the new generation preparing to meet the challenges of the future. Your principal concern is to plan for, and be able to meet the challenges you perceive to be ahead.

The cast of characters in world affairs is constantly changing. We in the Congress are acutely aware of the heavy responsibility that we carry from the day our Constitution was signed. For our forefathers in their wisdom have decreed in the Constitution that the Congress has the responsibility to raise armies and navies.

As one long involved in military matters, the bulk of my service has been as a member of the Army Reserve. I recall some of the problems which I faced as Commander of the 360th Civil Affairs Headquarters in Columbia, South Carolina. My concerns were the effectiveness of our training, our readiness, and stability of the Reserve as a whole. We had recruiting problems and faced periodic reorganizations.

Later as a Mobilization Designee to the Office of the Chief of Civil Affairs, we continued to wrestle with Civil Affairs organizational and doctrinal change. Looking back we enjoyed a considerable measure of success. We established the Civil Affairs branch of the Service. We hammered out a definitive G5 concept. We revitalized the Civil Affairs School and its resident and nonresident courses.

Some of the problems which we thought we had solved are still with us. For example there was the question of whether the Civil Affairs Staff Officer should be at the General or Special Staff level. We made a landmark decision in determining that this function should be at the General Staff level. A few years ago we saw the G5 function encompass the broader aspects of civil-military operations. Just recently the civil affairs staff requirement in Europe has brought another significant change in this concept. There will be established at Headquarters US army Europe the position of Deputy Chief of Staff for Host-Nation Activities as the staff principal for Civil Affairs.

Changing scene

This development is characteristic of the changing civil affairs scene and the constant evolutionary process which takes place. We are adapting to meet the contingencies of a world different from that in which civil affairs performed during World War II.

Our national policy and interests must still be served. However, we have come to view them in a different light. The threat is infinitely more complex and demanding. We are now subject to the tyrannies of shrinking time and distance and relentless technological advances as the Soviet threat continues to grow and our dependence on our Reserve Forces becomes larger.

This year President Carter reduced an already austere Ford defense budget by $3 billion, and now the Congressional Budget process is on the verge of reducing it another billion and one-half. These cuts are not trimming fat from defense spending, but bite into the bone and muscle of our military establishment. I am pleased to report that in the Senate we favored adding back some of the Carter cut, but the House had other ideas.

In this connection, we cannot ignore the realities of our national security commitments. Soviet advances in development of super beam weapons, mobile ICBMs, cold launch and reload missile capabilities from silos are sobering. Against this background the Civil Affairs role remains essentially stable, to support our defense posture wherever and in whatever configuration our national interests demand.

The very nature of warfare today makes mandatory the immediate availability of a reserve Civil Affairs capability. It may well be this capability would have to be used on our very own soil in this age of 30-minute missile delivery.

Alarming trends

These overall trends have prompted contact by me with our able Army Chief of Staff, General Bernard Rogers, as many of us in the Congress become increasingly alarmed about developments in the Soviet Union. As you know, the Soviets are actively engaged in hardening their civil defenses, protecting urban centers, industrial and military bases, and actually conducting evacuation drills. This information comes to me through official contacts, plus my private conversation with Lieutenant Belenko, the Soviet Air Force pilot who flew his MIG aircraft to freedom.

The Soviet civil defense preparations are on an unprecedented scale. They have an ominous potential for nuclear blackmail of the Free World and the United States in particular. The fact is that the United States has made no preparations that parallel or even compare with the Soviet Civil Defense preparations. Our program has been virtually dormant for many years.

Last year I authored legislation approved by Congress which brings civil defense authorization under the primary military committees. From this beginning, we can more adequately meet our growing civil defense requirements.

New role seen

It may be that our Civil Affairs units can and will make a contribution to the United States Civil Defense effort as it takes shape. Based on the briefing I have received from the Army's Deputy Chief of Staff for Operations, General Ross, who is here today, I know the subject is under the most serious and thorough study. I have asked for assurance that the possible role of Civil Affairs units in light of the new Soviet threat be thoroughly coordinated with other responsible Government agencies before any reduction in Army Reserve Civil Affairs units is finally undertaken.

I believe there is a potential role for our Reserve Components in Civil Defense and that we must tap this potential. As the Commander of the Civil Affairs Headquarters in Columbia, we were among the first to undertake a civil defense type of mission as part of our training. The Army has institutionalized this concept and many of our civilian communities have taken advantage of the expertise in our civil affairs units to assist them with their civil defense planning.

While I have no illusions that expanded civil affairs activities in civil defense is the entire answer to challenges posed by civil defense preparedness, I do believe there is likely an important role for Civil Affairs units in this area. We now maintain all our Armed Forces primarily for or to support overseas deployment. Civil Defense and natural disaster relief in the US are now primarily a civilian responsibility. Understandably, local citizens are more interested in preparing for natural disasters than for an enemy attack. Thus, there is a need to reexamine this entire area. This is a major task which must be addressed by the highest levels of our Executive and Legislative Branches of Government as a truly national decision.

The trends of world affairs, the balance of power between the United States and the Soviet Union are of highest importance to me as a United States Senator and to the Congress. Both the Civil Affairs elements represented here and the Army Reserve are essential elements of our National Security posture today. I want you to know that you have always had and will continue to have my fullest support.

Current studies needed

Needless to say, any reductions in our Reserve Civil Affairs capabilities should not be undertaken until new studies evaluate their application towards meeting the recently revealed expansion of Soviet civil defense capabilities. This has not been done and it is foolish to reduce a resource without even knowing how it can meet new and serious requirements.

Before closing let me make a few comments about our Reserve Forces in general. I am aware that the Secretary of Defense will soon be submitting for the President some recommendations that may provide the basis for proposals to the Congress. As we review these proposals I am mindful that turbulence in the units and force size of our Reserve structure have long degraded the readiness of our units. We are confronted by falling manpower strengths in all Reserve components which have now reached crisis proportions. The execution of our war plans is placed in doubt by the magnitude of those shortfalls of manpower.

DOD support weak

Yet, as Rome burns, I do not yet see any sense of urgency or actions coming from the Secretary of Defense to support legislation to establish satisfactory strengths for our Reserve forces. The Reserves were thrust into the All-Volunteer no-draft environment with none of the planning, support, recruiters, enlistment options or benefits that "sell" service in the active forces to the potential enlistee. This is dead wrong; it is

an injustice to the Reserve Forces and a disservice to the maintenance of peace.

Many of our military troubles today would not be as serious had the Reserve and Guard forces been properly supported. This blame lies at the feet not only of the Pentagon, but the Congress as well.

Tough stand needed

I call upon the Administration and the Defense Department particularly to get off the fence and submit some positive initiatives without delay. In addition, I would like to see more of my colleagues join in with those of us in Congress who want some real action. There has been too much lip service and too little action in behalf of the Reserve and Guard.

The new Secretary of Defense should be mindful that several years ago there was an in-depth examination of proposals submitted by former Secretary McNamara to merge and reduce our Reserve forces. The Congress took special care in examining those issues, especially the proposal pertaining to possible merger of the Guard and Reserve. Those proposals were rejected strongly. In answer, Congress passed the Reserve Revitalization Act through which we intended to convey to Mr. McNamara and future Administrations that the value and individual integrity of the Guard and Reserve had been positively established.

Reserve post diluted

Despite this firm stand by Congress, last week the Defense Department diluted the Congressionally established statutory position of Assistant Secretary for Manpower and Reserve. This was done by adding to that post responsibility for all Defense Department logistics and installations activities. That means to me that when meetings on important Reserve affairs are held the Secretary will not be present.

In past years Congress has permitted the lack of full support for the Total Force Policy to become a policy itself. Against this background, I see coming into the new Defense Department management many from the McNamara team who are not strong believers in Reserve forces.

OCAR weakened

In keeping with this trend, we have seen responsibility for the Reserve recruiting contracts transferred from OCAR without even consultation with that office. Moreover, manpower analysis spaces have been taken from the Army Reserve office and moved to Army Personnel where more officers not familiar with the work are required.

In addition, new studies within the Army itself, are aimed at reducing the staff of the Army Reserve Chief to where he would be rendered ineffective. Thank goodness we have a strong man in that office, Major General Henry Mohr, a leader who has no intention of presiding over the dismantlement of the office of Chief of Army Reserve.

These actions appear to be a piecemeal effort to usurp the powers of OCAR. As manpower and money constraints press down on the Army, important functions of the Reserve Chief are being reassigned or relocated under the guise of economy. Let me tell you now, nothing is more economical in the military establishment than what Reservists give for the money they are paid. Further, this resource can be managed in the most efficient way by a strong, well-staffed office of the Chief of Army Reserve.

Protest made

I have written the Secretary of Defense about these matters and will expend whatever effort necessary to halt this weakening of a statutory office so vital to our national defense.

These events have also strengthened my view that it is necessary to enact additional legislation to make clear that the Reserve Chiefs have primary decision authority and responsibility under the Chief of Staff. This authority clearly extends to all Reserve programs and monies appropriated by Congress for the Reserve and Guard. I intend to proceed with action on this matter.

Once again, I appreciate having been given this opportunity to be with you today. It is always a pleasure to meet with so many old friends and it is more of a pleasure when I can do so in my home State of South Carolina.

In conclusion, I want to wish for you every success for a highly successful conference and to assure you of my continuing support of your efforts. I consider myself fortunate to be able to continue serving with you, in the defense of our country and the furtherance of our national interests.

Thank you.

ANTI-INTELLIGENCE CAMPAIGN: MICHIGAN AND MISSISSIPPI

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. McDONALD. Mr. Speaker, during the debate today regarding the excesses perpetrated by persons paid out of Federal funds through legal services, pointed out that even the campaign to destroy police intelligence gathering was being paid for with taxpayers' money. While terrorist groups continue bombings and other atrocious acts the police are prevented from taking the appropriate action as a result of lawsuits paid for with tax money taken from the victims. I would like to share with my colleagues additional information about this ridiculous situation.

With its overall plans developed by an elite group of Marxist strategists from the Institute for Policy Studies (IPS), the National Lawyers Guild (NLG), the Communist Party, U.S.A. (CPUSA), American Civil Liberties Union (ACLU) and the Fund for Peace's Center for National Security Studies (CNSS), a so-called "grass roots" anti-intelligence coalition of veteran anti-Vietnam groups which made its appearance at a Chicago conference January 22–23, 1977, the Campaign To Stop Government Spying (CSGS), has begun conducting regional and local conferences.

The CSGS is working to organize drives against State and local intelligence gathering programs and at the same time develop an illusion of public support for congressional legislation to severely restrict Federal foreign and domestic intelligence operations. As I documented previously in reports on this coalition—see CONGRESSIONAL RECORDS of January 31, 1977, page 2843; February 1, 1977, page 3200; and April 27, 1977, page 12604—the founder of the CSGS organization and its national staff have strong ties to the Communist Party and its legal action fronts and to several foreign Marxist-Leninist governments.

In May, a call to a "Michigan Conference on Police Spying" was circulated to those organizations who had representatives at the January National Lawyers Guild-initiated National Conference on Government Spying. The call to the Michigan conference was issued on Michigan Legal Services letterhead by George L. Corsetti, a lawyer employed by Michigan Legal Services, a Federal taxpayer funded program of the Legal Services Corporation, since his admission to the bar some 6 years ago.

As a member of the Citizens Committee To End Political Surveillance—CCEPS—of room 704, 1308 Broadway, Detroit, Mich. 48226, Corsetti distributed a sample copy of the group's mimeographed newsletter and a brochure listing those groups involved in organizing the Detroit anti-intelligence conference who included:

American Civil Liberties Union of Michigan.

American Friends Service Committee (AFSC)—an organization which has repeatedly supported terrorist Marxist-Leninist "national liberation movements" on the grounds that the existence of the free enterprise system is a greater "crime" than terrorism.

Americans for Democratic Action (ADA)—long active in anti-anticommunism and whose leaders include Sylvia Crane, a member of the advisory board of Counter-Spy magazine and officer of the National Committee Against Repressive Legislation (NCARL), a Communist Party front.

Citizens Committee To End Political Surveillance, Detroit.

Civil Liberties Committee of the State Bar.

Communist Party, U.S.A. (CPUSA)—controlled by the Soviet Union.

Communist Labor Party—a Marxist-Leninist splinter group.

Michigan Alliance Against Repression—local chapter of a Communist Party, U.S.A. antipolice and prison organizing front headed by Angela Davis and Charlene Mitchell called the National Alliance Against Racist and Political Repression (NAARPR).

National Conference of Black Lawyers (NCBL)—a member of the international Soviet legal front, the International Association of Democratic Lawyers (IADL) which is closely alined with the National Lawyers Guild (NLG), also an IADL affiliate.

National Lawyers Guild, Michigan chapter.

National Organization for Women (NOW), Metro Detroit Branch.

News & Letters, a Trotskyite splinter group active in six cities.

People for Economic Justice.

Team for Justice.

Corsetti's Michigan Legal Services memo also advertised as an anti-intelligence "resource" a 300-page study by NLG attorney Jim Jacobs, a former employee of Wayne County Legal Services now working from the NLG's Detroit office at 506 Monroe, Detroit, Mich. 48226 (313–963–0843). Jacobs' paper, "The Conduct of Local Political Intelligence," document No. 21,195, is being distributed by Clearinghouse Review, National Clearinghouse for Legal Services, 500 N. Michigan Ave., Suite 2220, Chicago, Ill. 60611. The document is free to Legal Services attorneys and programs; others pay about $15.

Michigan Legal Services and attorney Corsetti are counsel for plaintiffs in a lawsuit against the Michigan State Police, Benkert against Michigan State Police, No. 74-023-934-AZ, in which a Wayne County circuit judge declared unconstitutional Michigan's criminal syndicalism statutes against advocacy of "crime, sabotage, violence or other unlawful methods of terrorism as a means of accomplishing industrial or political reform."

Apparently no one pointed out to the judge that while "mere" advocacy is not a crime, there are groups and organizations active in Michigan who affirm that they will use terrorism whenever such tactics will advance their cause; and that it is the duty of law enforcement to be aware in advance of the plans and intentions of these groups and their members so as to prevent crime.

James P. Jacobs, who graduated from University of Detroit Law School in 1973, is also one of the plaintiffs in Benkert being represented by Corsetti, who distributed a short memorandum by Jacobs as a "teaser" for the 300-pager. Entitled "Research Into Local Political Intelligence Activities," the four-page single-spaced memo complains that "America has never experienced a revolution which has altered class power" and that to understand the nature of police intelligence gathering one must first "examine some broader areas of the political economy." These broader areas include "the nature of the local political economy" and the "nature of the class struggle against capitalism—union struggles, populist actions, civil disorders, student actions, et cetera."

Jacobs recommends essays and books by such anti-intelligence stars as Frank Donner, an identified member of the Communist Party, U.S.A. and long-term counsel for the United Electrical Workers—expelled from the CIO for CPUSA domination—director of the ACLU's anti-intelligence "Privacy Project"; and New York Civil Liberties Union attorney Paul Chevigny, along with the hearings and studies of the Senate Select Committee on Intelligence.

Jacobs cautions that while the anti-intelligence work involves long hours of dedicated work, "what must continually guide the efforts is the goal: the elimination of political surveillance in America."

Jacobs concluded his memorandum by quoting Mao Tse-tung "writing to the members of the Chinese Communist Party" that "for the proletariat the sharpest and most effective weapon is a serious and militant scientific attitude." Jacobs states that "we should keep Mao's warning in mind," and meticulously footnotes it to "Oppose Stereotyped Party Writing," Selected Readings, page 236.

From the conference, held June 11, 1977, at Marygrove College and attended by almost 200 people, the Michigan Coalition To End Government Spying was formed. Featured speakers included John Shattuck, ACLU legislative director, Washington, D.C.; Nelson Saunders, described as a legislative assistant to Representative CONYERS; Jim Jacobs, described as representing the American Federation of Teachers—AFT; Thomas Dennis, State chairman of the CPUSA; Detroit City Councilwoman Maryann Mahaffey; and Michigan State Representative Perry Bullard.

The Michigan CSGS participants characterized as "political surveillance" the collection of any information about any group or individual. However, a closer examination of the Michigan CSGS statements shows that in fact the objection is to collection of information about groups and individuals who aver, in public or in private, that "armed struggle" including terrorism will be necessary for them to attain their goals or who support other groups already involved in terrorism in this country or abroad.

Conference goers discussed gaining additional support for the anti-intelligence campaign from educational and church groups since "churches and unions were being spied on." In the cases the facts were actually that Black Panthers and other revolutionary groups have held meetings in churches and meeting places are stated in reports. The anti-intelligence groups are trying to persuade members of congregations that their attendance each Sunday is noted by police, which is as great a distortion of truth as describing groups of violence-prone revolutionaries meeting in a church building as "churchgoers." Similarly the cases of "police spying on unions" were actually instances where undercover informants were members of Communist factions who had penetrated certain locals. Their reports were on Communist attempts to prevent trade unions.

The CSGS participants approved a resolution that the organization would disseminate information obtained about local and state intelligence activities to similar anti-intelligence groups; would conduct a publicity campaign against law enforcement intelligence gathering; and would press for Federal, State and local legislation to prohibit surveillance.

Michigan CSGS's claim to support "first amendment rights" was shown false by its resolution to "struggle against political surveillance * * * by police or any government or private agent or agencies;" which would abolish newspaper morgues, clipping services, scholarly political science research, and so forth and would severely restrict the citizens' right to information about groups which pose a threat to our constitutional form of government.

It is significant that the groups opposing the collection of intelligence on terrorist groups are equally opposed to intelligence programs to combat organized crime. I would point out that among the first to take advantage of the National Lawyers Guild's grand jury resistance tactics were organized crime figures. And among those who have apparently taken advantage of the Freedom of Information Act to obtain sufficient files for comparison of reports to determine the identities of informants has been organized criminal gangs. Earlier this year it was reported that nearly two dozen "O.C." informants had been murdered in recent months. Jacobs makes the point in his memorandum that anti-intelligence groups should "look carefully" at city budgets and LEAA state grant proposals for "money to fight 'organized crime.'"

ANTI-INTELLIGENCE ACTION IN MISSISSIPPI

The American Civil Liberties Union (ACLU) is taking an active and leading role in the anti-intelligence battle. ACLU was formed at the time of the First World War by Marxist "pacifists" opposing "imperialist war." ACLU was formed, shaped, and guided until recent years by Roger N. Baldwin,* now 93. ACLU has among its members and leaders members of the terrorist-supporting NLG, the Communist Party, and other revolutionary totalitarian organizations.

ACLU has often come to the support of violence-prone, extremist, and totalitarian groups and individuals resisting regulation by lawful authority. Currently ACLU is supporting National Socialist—Nazi—groups in Illinois who were involved in organizing riots in Chicago's Marquette Park last summer and who are planning to hold an anti-Semitic demonstration in Skokie with the intention of provoking yet another riot. ACLU is also assisting Klan groups among Marine personnel at Camp Pendleton in California who are resisting disciplinary transfers and other measures taken for the good of the service. ACLU always acts to increase the polarization of society and break down standards of acceptable behavior. With its long record of anti-military activity, ACLU here is clearly hoping to increase racial disharmony with resultant demoralization of Marine Corps personnel.

On April 14, 1977, the ACLU of Mississippi filed a class action suit on behalf of itself, the Delta Ministry, Owen Brooks and Ken Lawrence against Mississippi State officials including the Governor and State Attorney General. The suit, ACLU, et al., against Cliff Finch, et al.,

*For over 40 years, Roger Nash Baldwin was the director of the ACLU. Its pro-Communist stance was demonstrated by Baldwin in 1935 when he wrote the following description of his activities for the Harvard College Class of 1905 Thirtieth Anniversary:

"I have continued directing the unpopular for the rights of agitation, as Director of the American Civil Liberties Union, on the side engaging in many efforts to aid working class causes. I have been to Europe several times, mostly in connection with international radical activities, chiefly against war, facism, and imperialism, and have traveled constantly in the United States to areas of conflict over workers' rights to strike and organize. Aside from social and economic issues. I have been active for the conservation of birds and animals and forests. My chief 'aversion' is the system of greed, private profit, privilege, and violence which makes up the control of the world today, and which has brought it to the tragic crisis of uprecedented hunger and unemployment. I am opposed to the new deal because it strives to strengthen and prolong production for private profit. At bottom, I am for conserving the full powers of every person on earth by expanding them to their individual limits. Therefore I am for socialism, disarmament, and ultimately for abolishing the State itself as an instrument of violence and compulsion. I seek social ownership of property, the abolition of the propertied class and sole control by those who produce wealth. Communism is the goal. It all sums up into one single purpose—the abolition of the system of dog-eat-dog under which we live, and the substitution by the most effective non-violence possible of a system of cooperative ownership and use of all wealth."

Civil Action No. CA–J–770047(c), alleges acts of "illegal surveillance."

An answer to the ACLU's amended complaint was filed on June 6, 1977, on behalf of Mississippi Attorney General A. L. Summer by Special Assistant Attorney General Edwin A. Snyder which vigorously dispute's ACLU's allegations. The following section of the answer is of particular interest:

3. The defendant will demonstrate the indispensable role of intelligence gathering and the use of intelligence by law enforcement agencies in securing domestic tranquility and security, preventing crime and fighting terrorism. It is important that law enforcement authorities be permitted to acquire information by investigation so as to anticipate and prevent crime before it occurs and to protect citizens from the fate and fear of becoming victims.

4. This Court, in the exercise of its equitable powers, should dismiss this action as the plaintiffs do not bring this lawsuit in good faith. They are part of an organized, nationwide drive against law enforcement intelligence operations. For instance, in the 1970–71 and 1971–72 ACLU Annual Report, that organization acknowledged that it had made the "dissolution" and dismantlement of the nation's "surveillance network a top priority." The plaintiffs here seek to undermine and weaken law enforcement intelligence operations in Mississippi, the result of which would be to expose society to more crime, violence, and terrorism.

5. It has been judicially determined that the Republic of New Africa (hereinafter RNA) was a terrorist group whose avowed purpose was to assume control of Louisiana, Mississippi, Alabama, Georgia and South Carolina, and to convert those states into a new nation. The means of achieving this end was manifested by the actions of members of the RNA, who in Detroit, Michigan, in 1969, shot and killed a patrolman and wounded a fellow patrolman. On August 18, 1971, members of RNA in Jackson, Mississippi, killed a Jackson police officer and wounded two other law enforcement officers at the RNA "capitol" which the Court of Appeals for the Fifth Circuit described as an "armed fortress, with guns, ammunition, underground bunker, escape tunnel, holes in the foundations through which shots would be fired, and armed guards on duty at the entrance." The so-called "capitol" contained official pamphlets of the RNA describing terrorist tactics such as how to destroy city utility systems. Three months later, three persons identified as members of the RNA murdered New Mexico state trooper and hijacked a jet liner to Havana, Cuba. Yet the American Civil Liberties Union of Mississippi, Inc. and the Delta Ministry, plaintiffs here, fully cognizant of the violent nature of the RNA, continued their support of this group. During the years 1973 through 1975 inclusive, the headquarters for ACLU, Delta Ministry, and PNA was at the same address, and the telephone number for each was identical. Moreover, this cozy relationship continued and was more pronounced in 1974, when all three organizations relocated to another identical address. Plaintiff Lawrence was a contributing writer for the official publication of the RNA, and it is believed that plaintiff Brooks was an officer in the Delta Ministry during the periods mentioned above.

6. The close and continuing relationship between the plaintiffs and the RNA, a known terrorist group, discloses that the purpose of this lawsuit is to hinder, impede and prevent essential intelligence operations designed to prevent and deter violent and illegal acts such as those committed by the RNA.

Plaintiff Lawrence was a highly vocal participant in the January anti-intelligence conference, as were ACLU members. At those sessions, Lawrence sat with, and was in constant private conversation with Republic of New Africa members from Detroit, Mich., the RNA's city of origin.

I commend the citizens of Mississippi and their attorney general for waging a strong and determined court battle to protect the State from the ravages of terrorist criminals seeking political power and organized criminals seeking money from drug traffickng, extortion, and other crimes.

MAN CHARGED $10 BY ARMY TO CUT ARMY'S GRASS

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. MATHIS. Mr. Speaker, recently my constituent, Mr. W. H. Fleming of Blakely, Ga., was charged a license fee of $10 by the Department of the Army for modifying the "natural environmental condition" of certain Government property under the jurisdiction of the Corps of Engineers. Mr. Fleming was simply doing what perhaps millions of Americans do every weekend, because what the Army means by modification of the "natural environmental condition" is what the average citizen would call mowing the grass. Only in this instance, Mr. Fleming was charged by the Army to cut the Army's grass instead of the other way around. On June 1, in reply to a letter I wrote protesting the need to charge Mr. Fleming the $10 the Army cited as authority four Federal statutes, the Code of Federal Regulations, and a Presidential order. At this point I will submit the letter from the Corps of Engineers for the RECORD:

DEPARTMENT OF THE ARMY,
Mobile, Ala., June 1, 1977.

Hon. DAWSON MATHIS,
House of Representatives,
Washington, D.C.

DEAR MR. MATHIS: Reference is made to your letter dated 24 May 1977 regarding a $10.00 fee charged Mr. W. H. Fleming for mowing grass on Corps property.

It is the policy of the Chief of Engineers to manage and protect the shorelines of all lakes under his jurisdiction to properly establish and maintain acceptable fish and wildlife habitat, aesthetic quality and natural environmental conditions and to promote the safe and healthful use of these shorelines for recreational purposes by all of the American people. Guidance for meeting the above objectives is provided in Engineer Regulation 1130–2–406 dated 13 December 1974. The underlying authority for this regulation can be found in the following references.

a. Section 4, 1944 Flood Control Act, as amended, PL 87–874.

b. The Act of 31 August 1951 (31 USC 483 a.)

c. The National Environmental Policy Act of 1969, PL 91–190.

d. The Federal Water Pollution Act of 1972 (FWPCA).

e. Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."

f. Executive Order 11752.

Mr. Fleming's grass mowing on Government property constitutes a private exclusive use privilege because the natural environmental condition has been modified. In the interest of proper management of public lands such privileges are controlled through the issuance of land use permits.

Mr. Fleming was charged $10.00 to help defray expenses associated with issuance and administration of the permit. The charge is in accordance with provisions of references a. and b. listed above.

I hope the above information explains the Corps' position regarding this matter.

Sincerely yours,

DONALD R. POPE,
LTC, Corps of Engineers,
Acting District Engineer.

Mr. Speaker, the information I have is that Mr. Fleming was doing the Government a favor in caring for this particular piece of property as a result of the Government's failure to meet its own responsibilities. If there is any charge to be made in this regard, it is the Army that owes Mr. Fleming. Unfortunately this is the type of case that cannot be remedied if the executive branch remains adamant in its position. I am quite certain the $10 fee was not within the intent of Congress when the cited legislation was enacted and that it would not withstand a court challenge. Obviously with the amount in controversy only $10, neither an act of Congress, an Executive order, a private bill nor a lawsuit represents a feasible solution to this problem. Therefore, I am using the RECORD as a public forum to plead not only the case of Mr. Fleming but also of the millions of others who have been entangled in governmental redtape. I will wait to see if the administration pays any attention to this plea and if it is really serious about solving the inequities experienced by individual citizens in their day-to-day encounters with the Federal Government.

U.S. POPULATION POLICY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. SIMON. Mr. Speaker, it was my pleasure to read in the June 22 CONGRESSIONAL RECORD the statement by our colleague, the new Congressman from California, Representative ANTHONY C. BEILENSON, on U.S. population policy.

It is another reason why so many of us have been impressed by the service of the new Congressman from California.

The dominant issue for the balance of this century is the food and population issue.

It receives little attention on the part of those of us who serve in Congress because we are dealing with immediate problems, and the coming storm is not immediately pressing.

But, anyone who asks where we are going to be 10 years from now or 25 years from now or 50 years from now has to reckon with these two problems that are intimately entwined.

Representative BEILENSON has properly pointed out that we do not have a U.S. population policy. We are encouraging other nations of the world to have a policy, and, yet, we do not have one ourselves. It is true that the population problems are much more pressing in most other countries. But, we should lead not simply by exhortation but by example. I hope more of my colleagues will follow the lead of Representative BEILENSON.

ECONOMY IN GOVERNMENT

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. COLLINS of Texas. Mr. Speaker, I just received a newspaper article from Phoenix written by my old friend, Ned Welch in the Sun City Citizen. His column is titled, "Yesterday Revisited." Ned likes to remind us of history. Many times we forget lessons we should have learned from the past.

Ned referred back to a speech by Alfred E. Smith, of New York, that was made in the spring of 1936 in Washington. Governor Smith, who was at one time the Democratic Party Presidential nominee, had as much commonsense and sound economic knowledge as any national figure in our history.

Governor Smith was stressing the need for Democrats to remember and to reaffirm their 1932 platform. He particularly emphasizes economy in government which was the first plank:

We advocate immediate and drastic reduction of governmental expenditures by abolishing useless commissions and offices, consolidating departments and bureaus and eliminating extravagance to accomplish a saving of not less than 25 percent in the cost of the Federal Government.

Then Governor Smith went on to say:

Well now, what is the fact? No offices were consolidated, no bureaus were eliminated, but on the other hand, the alphabet was exhausted. The creation of new departments—and this is sad news for the taxpayer—the cost, the ordinary cost, what we refer to as the housekeeping cost of government is greater today than it has even been before in the history of the republic.

Balanced budget—another plank:

We favor maintenance of the national credit by a Federal budget annually balanced on the basis of accurate Federal estimate with revenue.

We have the Democratic Party today in control of Congress and the White House. They have emphasized the need for a balanced budget. Yet the first thing this new administration does is increase spending by $42 billion in this year's budget—with more supplementary appropriations ahead. Last year was a bad one as our national debt increased by $88 billion.

Governor Smith spoke with sense and logic. I appreciate Ned Welch reminding us of the commonsense that the Democrats had back in 1932. I wish that this heritage could be carried down to their party today.

A PLEA TO A CONFERENCE COMMITTEE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. BROWN of California. Mr. Speaker, this past weekend I read a typically forceful argument by columnist George F. Will, a well-known conservative. While the subject of his remarks was an issue that is familiar to all of us, the logic of his argument to minimize damage to the Clean Air Act is perhaps better than that which was heard on the House floor during our recent debate on amendments to the Clean Air Act.

In any case, the House and Senate conferees are faced with a clear choice. More is at stake than loyalty to the position of either the House or the Senate. Especially in the case of two House-adopted floor amendments, the Dingell-Broyhill amendment and the Breaux amendment, the Senate bill strikes a fairer and more sensible balance.

I commend the column by Mr. Will to my colleagues.

The article follows:

ANOTHER SETBACK IN THE QUEST FOR CLEAN AIR

(By George F. Will)

It is a moment for unminced words. If the House of Representatives gets its way with amendments to the Clean Air Act of 1970, Congress will have chosen to increase the incidences of various respiratory ailments. And it will have committed a retrograde act against the nation's natural beauty.

Three times since 1970 Congress has delayed implementation of automobile emissions standards. Now the House has voted a fourth delay. Worse, it has voted to weaken standards for carbon monoxide and nitrogen oxide, and has created a mechanism for indefinite weakening of even the weakened nitrogen oxide standards in the future. The Senate has voted for less delay, and for no weakening of carbon monoxide standards. Furthermore, although the Senate has voted to weaken nitrogen oxide standards, it has not provided a mechanism for indefinite weakening.

To some extent, society chooses its disease rates. Societies, like individuals, constantly choose between health and competing goals and pleasures. The House has made an unacceptable choice against the health of Americans who breathe.

For example, the House would allow a fivefold increase in nitrogen oxide emissions over what would be required under existing law. About 40 per cent of nitrogen oxide pollution comes from vehicles, and the percentage is substantially higher in urban areas. Such pollution may produce the carcinogenic (cancer-causing) chemicals called "nitrosamines."

The automobile industry says it does not know how to meet the present, unrevised standards. But the industry has a dismal record of asserting what can't be done, and an admirable record of doing what it is forced to do. The lash of necessity concentrates the mind.

Automobiles should be the focus of the fight for clean air because they are the most pervasive source of pollution. And it is easier to shape the decisions of four automobile companies than it is to deal with scores of thousands of fuel-burning industries. But advocates for the automobile industry say that unless pollution standards are relaxed, jobs will be lost because automobile prices will rise unreasonably, and production may be disrupted.

The House bill is an attempt to secure jobs at the expense of the health of millions, especially children and the aged. But more permissive automobile pollution standards will be an obstacle to industrial growth in many areas.

Where pollution already is the maximum permitted, only a decrease in automobile pollution can make possible increased industrial pollution. So the House bill sacrifices other industries, as well as the breathing public, to the automobile industry.

Some advocates for the automobile industry seem to have learned their science from the tobacco industry. They argue that there is little "scientific proof" of the connection between automobile pollution and particular diseases. Such arguments deny the undeniable: statistical patterns that demonstrate a correlation between high pollution and high disease rates.

The House bill is especially unacceptable, given President Carter's energy program. Carter's plan to substitute coal for oil means increased nitrogen oxide pollution from stationary sources. So a compensatory decline in automobile emissions is imperative.

Another provision of the House bill, if it survives the House-Senate conference, would justify a veto. If enjoyment of natural beauty is, as I believe, important to the serenity of one's soul, then the House bill jeopardizes the nation's spiritual as well as physical well-being. It undoes the policy that prevents "significant deterioration" of the air in several categories of clean-air regions.

The House did this to permit construction of a gigantic coal-fired generating plant in Utah to provide power for Los Angeles. The plant would be near Capitol Reef National Park, not far from Bryce Canyon and near enough to Arches and Canyonlands National Parks to cast haze over them on many days. And this House provision threatens all national parks and wilderness areas where air is supposed to be preserved in its natural pristine quality.

This provision might mean a dramatic decline in scenic values. Rep. Paul Rogers (D-Fla.) says it would be the pollution equivalent of putting a city of 500,000 next to a national park. Rep. Bob Eckhardt (D-Tex.) dryly suggests that "it will be difficult to tell which of our mountain ranges should be called the Great Smokies."

To govern is to choose, and to choose is to reveal values. If the House gets its way, we shall have glimpsed a dark future.

HUMAN RIGHTS IN CYPRUS

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. CARNEY. Mr. Speaker, the American people and, indeed, people around the world who cherish liberty, have applauded President Carter's strong stand on human rights.

The Honorable Harry Meshel, State senator from the 33d Ohio District, and an American of Greek descent, has recently written a letter to President Carter requesting that the President speak out against violations of basic human rights in Cyprus.

Mr. Speaker, I would like to take this opportunity to insert Senator Meshel's

excellent letter in the RECORD for the information and consideration of my colleagues in the U.S. Congress. The letter follows:

OHIO SENATE,
Columbus, June 6, 1977.

President JIMMY CARTER,
The White House,
1600 Pennsylvania Avenue,
Washington, D.C.

DEAR MR. PRESIDENT: I would like to express to you my very strong feelings regarding the continued occupation of Cyprus by the Turkish Army.

I am terribly dismayed by the approach our government has taken to resolve the historic Turkish misuse of military muscle. During the 1974 conflict, Turkey used American arms and American economic aid to conquer the small, peaceful and defenseless Republic of Cyprus. That American military aid contributed to the execution of 4,500 Greek Cypriots and enabled the Turkish Army to uproot 200,000 homeless Cypriot refugees. Today, a large portion of Cyprus is still occupied by the Turkish Army, and yet, for some inexplicable reason, this country has failed to take a stand on Cyprus' behalf.

In the first few months of your new administration, you have spoken openly and honestly on the violation of human rights occurring in Russia, Chile and elsewhere. You have said that "we have a right to speak out openly when we have a concern about human rights whenever these abuses occur." I now respectfully request that you honor your intentions and speak out on the atrocities Turkey has inflicted upon Cyprus.

I further request that no military or economic aid be given to Turkey until Turkey withdraws all military personnel from Cyprus. The granting of aid to Turkey can only amount to a stamp of approval by the United States of the Turkish violations and continued occupation of Cyprus.

I also request that the majority rule your administration has advocated for Rhodesia and South Africa be also advocated for Cyprus.

Respectfully and sincerely yours,
HARRY MESHEL.

THE URBAN GRANT UNIVERSITY ACT—NEW HELP FOR THE CITIES

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. MOAKLEY. Mr. Speaker, recently I had the honor to join with the gentleman from Michigan (Mr. FORD), the gentleman from Alabama (Mr. BUCHANAN), the gentleman from Kentucky (Mr. PERKINS), the gentleman from Wisconsin, (Mr. REUSS) and nearly 50 other Members of this House in introducing legislation to authorize an urban grant university program the concept—though not the details—of which is derived from the land-grant university legislation of the 1860's and the sea grant program of the 1960's.

The Boston Herald-American has recently commented editorially on the urban grant idea pointing out that:

The "land-grant" program of the last century was one of the best investments the Congress ever made—one that has benefitted the entire U.S. and much of the rest of the world. A modest "Urban Grant" program today could yield the same rich results in the future.

I share that belief Mr. Speaker and I am gratified to note that a significant portion of the full membership of this House shares it sufficiently to join in sponsoring the legislation I am talking about. It is my hope that the subcommittee to which these bills—H.R. 7328, H.R. 7696, H.R. 7697, H.R. 7698, and H.R. 7742—have been referred, the subcommittee whose chairman, the distinguished gentleman from Michigan (Mr. FORD) is the principal sponsor of this proposal—will be able at the earliest appropriate time, to hold hearings and to examine this promising concept even more closely.

It is also a source of gratification to me personally, Mr. Speaker, that my good friend Dr. Carlo L. Golino, chancellor of the University of Massachusetts at Boston, is the president of the Committee of Urban Program Universities, the organization which is leading the effort to secure the enactment of the urban grant legislation. Chancellor Golino was recently interviewed by Diane Casselberry of the Christian Science Monitor about the urban grant concept. In that interview he gave further expression to the commitment which he and the presidents of other urban-oriented universities feel to the cities in which they are rooted.

Mr. Speaker, I insert the Herald-American editorial and the Christian Science Monitor interview at this point in the RECORD.

[From the Boston Herald American]

NEW HELP FOR CITIES

More than a century ago, Congress established a land-grant university program to improve agricultural research and aid the economy of rural America.

Now, according to 45 members of Congress, the time has come to establish an "Urban Grant" university program to help solve the problems of the nation's cities.

It's not a bad idea.

The proposal, contained in legislation that was filed last week in the U.S. House of Representatives, calls for an annual appropriation of $25 million to underwrite the cost of research in urban studies by universities located in central cities. Participating universities would receive federal assistance in exploring for ways to solve unemployment, urban blight, fiscal problems and the like.

A number of universities, of course, are already engaged in that kind of research. But their efforts could be greater, more effective and better coordinated with a program of this kind.

More than 20 universities in 15 states have formed a committee to campaign for adoption of the legislation. The committee's chairman, UMass-Boston's chancellor Carlo L. Golino, says that an "Urban Grant" program could be an important step in solving the problems of our cities.

It may be just as important, in fact, as some of the more gradiose and expensive proposals that many of the nation's mayors were urging upon Congress and the Carter administration at their annual convention last week in Tucson, Arizona.

Almost anyone in that or any other western state could tell them that the "land grant" program of the last century was one of the best investments Congress ever made—one that has benefited the entire U.S. and much of the rest of the world. A modest "Urban Grant" program today could yield the same rich benefits in the future.

[From the Christian Science Monitor, June 14, 1977]

URBAN UNIVERSITIES JOIN TO FIGHT PROBLEMS OF THE CITY

(By Diane Casselberry)

BOSTON.—Like eager recruits, a new coalition of urban universities has recently enlisted to help combat the problems of the nation's deteriorating cities.

But battle-weary community action agencies are wondering, "Why now?" And legislative paymasters are asking out loud, "How much will it cost?"

Led by University of Massachusetts Boston campus chancellor Carlo L. Golino, the 21-member Committee of Urban Program Universities (CUPU) last week filed legislation in Washington seeking federal funds to coordinate a nationwide system of urban-grant colleges and universities. Patterned on the land-grant schools signed into existence by President Lincoln in 1862, CUPU says it urban-oriented programs will do for U.S. cities in the 1980s what the original "cow colleges" did to revitalize rural America in the early 1900s.

"The sense of defection and frustration at what is happening to American cities today could be attacked by a nationally backed system of urban universities," says Dr. Golino. "Together, we think we could do some things that we're not able to do now, on our own.

"I'm not saying that we're going to solve all their problems," he continues, "but we do have a commitment to the cities where we're located."

ACCESSIBILITY STRESSED

The 21 schools that make up CUPU are among the largest public and independent universities in the United States. All are in large cities—by choice, CUPU spokesmen emphasize—and draw most of their students from metropolitan areas. The schools see their particular role as providing an accessible, low-cost college education. Many, like the University of Massachusetts, already have specific plans for approaching various urban needs.

CUPU members include the University of Alabama; California State University and Colleges; University of Cincinnati; City College of New York; City University of New York; Cleveland State University; Georgia State University; University of Houston; University of Illinois, Chicago Circle; University of Louisville; University of Minnesota; University of Missouri at Kansas City; University of Pittsburgh; State University of New York at Buffalo; Temple University; University of Washington; Wayne State University; and University of Wisconsin at Milwaukee.

Northeastern University in Boston and the University of Miami are in the process of joining CUPU.

With adequate federal funding, Dr. Golino says that researchers at UMass-Boston could immediately begin a number of solution-oriented programs:

A $5 million, 10-year project to clean up Boston Harbor and save harbor island archaeological "digs" that now are "rotting away."

A $1 million continuation of the university's successful Another Course to College program, which prepares disadvantaged youths for higher education.

New graduate research programs on vulnerability and aging in the city.

Free neighborhood health clinics, nutrition courses, and legal services offices.

CONGRESS HAS RESERVATIONS

But the price tag that UMass and the 20 other CUPU universities have put on their assistance and expertise—$25 million annually has led to charges by several Capitol Hill legislators that the schools are simply seek-

ing compensation for being in turbulent urban centers.

Congress also is "understandably reluctant" to pump more money into universities, Dr. Golino concedes, after the enormous amounts of funds that were given to schools during the 1960s.

"We have to convince them that the meager results for cities that came out of those programs had to do with how the money was awarded," says Dr. Golino. "Then, individual schools applied for grants. Now, we're envisioning an organized plan—a consortium approach to various inner-city problems."

In Boston, the UMass commitment to urban needs also is being questioned by the city's official anti-poverty agency, Action for Boston Community Development, which already runs a number of neighborhood health centers and legal services offices.

"Maybe it's just been a matter of them not having enough money in the past, but we have had trouble getting the schools to respond to our programs," says Melissa Tillman, an education specialist in the ABCD planning department.

UNIVERSITY OF PENNSYLVANIA SCHOLARSHIPS GO TO 41 FROM NORTHEAST PHILADELPHIA AREA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. EILBERG. Mr. Speaker, it is with a great deal of pride that I rise to report that this year, nearly one-half of the mayor's scholarships to the University of Pennsylvania, awarded by Philadelphia Mayor Frank L. Rizzo, will be going to young ladies and young men from northeast Philadelphia, which comprises the Fourth Congressional District of Pennsylvania which I am proud to represent in the U.S. Congress.

A total of 88 public, parochial and private high school pupils from 33 Philadelphia area schools have been awarded these scholarships—and 41 of them have gone to students from my congressional district. This is an outstanding achievement, and I am exceedingly proud of their accomplishment.

Mr. Speaker, these scholarships were established by the University of Pennsylvania in 1910 in partial compensation for city-owned land which was deeded to the university. The test scores and school records of these fine young students were the major factors in determining their selection.

I know the parents and teachers of these young people must be proud of their scholarship achievement. As one who sees in our young people the outlines of the future of our country, I, too, am proud. And I know these young people must take enormous satisfaction with their accomplishments.

It is with pleasure and pride, Mr. Speaker, that I place in the RECORD the names, addresses and high schools of these outstanding young scholars:

Robert M. Abramowitz, 1114 Longshore Ave., Northeast High School.

Howard W. Albert, 9746 Susan Rd., George Washington Senior High School.

Kathleen M. Bender, 7030 Old York Rd., Cardinal Dougherty High School/Girls.

Renate A. Betsch, 329 W. Spencer St., Cardinal Dougherty High School/Girls.

Donald S. Burak, 936 Princeton Ave., Northeast High School.

Catherine A. Cavanagh, 7339 Palmetto St., Northeast High School.

Kenneth C. Cummings, 2114 Shelmire St., St. Joseph's Preparatory School.

Sharon M. Dabrow, 6624 Souder St., Northeast High School.

Miriam Feldman, 11631 Kelvin Ave., George Washington Senior High School.

Vickie Feldman, 6718 Large St., Philadelphia High School for Girls.

Emily T. Finnegan, 3405 Hartel Ave., St. Hubert's Catholic High School/Girls.

Alyce B. Fishman, 1131 Englewood St., Northeast High School.

Steven B. Freilich, 607 Brighton St., Northeast High School.

Eric J. Froberg, 2132 Oakmont St., Father Judge High School.

Edward J. Ginley, 253 W. Colonial St., Cardinal Dougherty High School.

Sherin Gobran, 5909 Castor Ave., Nazareth Academy.

Jonathan E. Grife, 2402 Shelmire Ave., Northeast High School.

Dorothea E. Haug, 14100 Worthington Rd., George Washington Senior High School.

Thomas J. Holmes, 6712 N. Lawrence St., St. Joseph's Preparatory School.

Wendy E. Jacoby, 1821 Carwithan St., George Washington Senior High School.

Steven H. Kalchman, 2322 Vista St., Northeast High School.

Susan M. Keown, 3809 Janice St., Archbishop Ryan High School/Girls.

Vicki A. Kern, 5434 Large St., Frankford High School.

Sharon Lee A. Kustra, 2400 Vista St., St. Hubert's Catholic High School/Girls.

Lynn Lieberman, 1990 Merlin Rd., George Washington Senior High School.

Gail Litz, 6806 N. 12th St., Philadelphia High School for Girls.

Joseph S. McDonnell, 300 E. Roosevelt Blvd., Cardinal Dougherty High School.

Mary T. Monahan, 838 Brill St., Little Flower Catholic High School/Girls.

Cory F. Newman, 1310 Glenview St., Northeast High School.

Emilia A. Puma, 3125 Magee Ave., St. Hubert's Catholic High School/Girls.

Sherri L. Ruder, 10903 Lockart Rd., George Washington High School.

Roseanne Sarkissian, 7904 Anita Dr., Melrose Academy.

Thomas P. Schnepp, 1108 Cottman Ave., St. Joseph's Preparatory School.

Rosemarie Sentman, 3411 Disston St., Abraham Lincoln High School.

Sharon E. Soll, 1034 Camas Dr., George Washington Senior High School.

Ronald M. Summers, 9858 Cowden St., George Washington Senior High School.

John J. Wong, 638 Mayfair St., Cardinal Dougherty High School.

Otealia Wright, 1814 E. Mohican St., Olney High School.

Murray D. Robinson, 1816 Arnold St., Northeast High School.

William J. Steinke, Jr., 1314 Faunce St., Cedar Grove Academy.

Andrew R. Wechter, 2338 Strahle St., Northeast High School.

EMPLOYMENT OF THE HANDICAPPED—FACT AND FICTION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. TEAGUE. Mr. Speaker, on several occasions I have recently brought to the attention of my colleagues the problems of handicapped individuals. I have expressed my concerns on a wide range of issues, including the employment of handicapped individuals, both in the public and private sector.

One of the many obstacles the handicapped face in obtaining employment is the "insurance problem" myth. It seems potential employers believe that they will experience increased insurance premiums by employing handicapped individuals—at least that is what they are telling us and qualified handicapped applicants.

To dispel this myth, I am pleased to bring to your attention an address delivered by Albert J. Millus at the Conference on Compliance with Legislation Concerning the Handicapped, sponsored by Mainstream, Inc., on June 8 and 9, 1977 at the United Nations Plaza Hotel. New York City.

Mr. Millus is the executive director of the State insurance fund—New York. He is an adjunct assistant professor at Baruch College of the city of New York where he teaches Federal and State compensation law and insurance and adjunct associate professor at the College of Insurance. Mr. Millus, a graduate of Harvard Law School and a member of the New York, District of Columbia, and California Bars, is the author of part I of the textbook "Workers' Compensation Law and Insurance."

I commend the following paper delivered by Mr. Albert J. Millus to my colleagues:

THE EFFECT ON AN EMPLOYER'S WORKERS' COMPENSATION INSURANCE PREMIUM AS A RESULT OF HIRING HANDICAPPED PERSONS

(By Albert J. Millus)

Mr. Chairman, Ladies and Gentlemen: I am pleased to be part of this conference on Compliance with Legislation concerning the Handicapped sponsored by Mainstream, Inc. and to be a panel member of its Corporate Insurance Workshop. This conference deals with a problem affecting one out of seven noninstitutionalized adult Americans age 20 through 64. According to Levitan and Taggart in their recently published book, "Jobs for the Disabled", that is the number of people that have "one chronic condition or more lasting at least six months which limits the kind or amount of work he or she can perform."[1]

While your agenda encompasses a wide range of insurance matters affected by the hiring of the handicapped, I shall limit my address to the precise points assigned to me by Brenda Jamison, the Project Coordinator of the Conference.

They are as follows:

1. Background information on workers' compensation

2. How handicapped workers affect a company's workers' compensation program

3. How hiring the handicapped may change the way that a company is underwritten and

4. Special Disability Funds, i.e., Second Injury Funds, in regard to the handicapped.

For the purpose of this discussion only, I shall predicate my entire talk on the assumption that employers are more often than not reluctant to hire handicapped persons because they believe that such persons are more prone to accidents, both in frequency and severity. That assumption is

[1] Levitan & Taggart. "Jobs for the Disabled", John Hopkins University Press (1977).

made deliberately in order to bring you face to face with the effect of frequent and severe accidents on the premiums paid by a business entity for workers' compensation insurance. However studies show that contrary to business fears, handicapped workers are less of an accident risk than the average employee.[2]

Workers' compensation insurance is a compulsory form of insurance in 48 of the 50 States.[3] It provides monetary benefits, the payment of medical and hospital expenses, and other benefits to workers who sustain job-related injuries regardless of fault on the part of the injured claimant, with few defenses available to the employer, such as that an injury was willfully self-inflicted or was due solely to intoxication.

Its history goes back just seven years short of 100 in Europe and nearly four score years in the United States.[4] Today in excess of 67 million workers are covered under the Workers' Compensation Laws.

Assuming, as we are, that in the opinion of some employers the handicapped workers are more likely to be involved in accidents than others as well as in more severe accidents, then an increase in frequency and severity of injury would have a very direct and important bearing on the cost of workers' compensation insurance to the employer.

This type of insurance has a built-in, almost unique feature in the insurance field, known as "Experience Rating". It is an individual-risk rating system applied to all policyholders developing a certain amount of premium which, in New York, happens to be $1,500 for any one year or an average of $750 for two or more years. The plan uses the employer's past loss experience to determine if his basic or "manual" premium should be adjusted upward or downward to reflect the actual loses he has caused his insurer. By a complicated formula based on the estimated or established monetary values of claims filed by his injured employees, his losses are classified as "average" or, one might say, "expected" in which case he pays only the manual premium or "better than average," in which case he pays somewhat less than the manual premium or "worse than average" wherein he pays somewhat more than the manual premium. In the last two cases, he is said to have respectively a "credit" or "debit" experience modification.

Poor loss experience can theoretically result in a debit of unlimited proportions. Debits of 100% or 150% are not uncommon. Any debit, for that matter, is of concern to the employer, since it constitutes a surcharge he would obviously prefer to avoid.

It is significant to note that under the experience modification formula, frequency of accidents is generally penalized even more than is severity.

For example, under one aspect of the formula, five accidents, each costing $2,000, are charged against the employer for the full amount of $10,000 whereas a single accident, costing $32,000 is charged at a discounted value of $8,000 only. This method gives recognition to the principle that no single accident of a non-self rated risk, should be permitted to affect the assured's premium rates catastrophically regardless of its enormity.

On the other hand, as premiums increase in size for larger risks, more and more of their actual losses are absorbed under the formula, to the extent that when a risk reaches a very high premium level all its losses are chargeable against it in full. Such a risk is said to be "self-rated" because of its "credibility" meaning simply that it is so large that we can rely on its own experience truly to mirror its likely future behavior. As the size of a risk increases, so its "credibility" increases.

But experience modification is not the only way losses influence the amount of premium. Under another risk rating plan, the retrospective rating plan, which unlike experience rating is optional with the insured, the precise premium for the policy year is in direct proportion to the losses incurred on behalf of injured employees. Similarly, premium advance discounts and dividends may be affected adversely by unfavorable loss experience.

Thus we see that both accident frequency and severity may seriously affect an insured's experience modification, retrospective rating or other elements of his insurance arrangement. Translated into the language of the market place, the employer is going to have to pay more money for his bad claims experience under his policy of workers' compensation insurance.

It is small wonder that an employer would be reluctant to hire a handicapped individual if he believed that such a person was prone to accidents or that his disability, should one be sustained, would be prolonged unduly.

Not only would the insured be directly affected, assuming a handicapped person added to his insurance cost, but his insurance carrier might well judge the desirability of the risk, in part by, the experience modification.

In times of a tight insurance-availability market, the size of an experience modification debit might very well be a decisive factor in a carrier decision whether to renew a risk on expiration of the policy term.

It was this inclination of industry to discriminate against the handicapped that led to the establishment in various states of what are commonly known as the "Special Disability" or "Second Injury" Funds.

While World War II was in progress, and after it ended, many permanently impaired veterans, on returning home, found that their disabilities were not only physical handicaps but job handicaps as well. An employer, faced with a choice, usually hired a person in the best physical condition. Again there was a natural reluctance on the part of most employers to accept a person with a permanent physical impairment, war incurred or not, on the theory that such an individual was more susceptible to subsequent injury and, secondly, that any subsequent injury might cause more prolonged disability and liability simply because of the presence of the prior injury. As a consequence, some workers with physical disabilities, which would in no way interfere with the job requirements, were not hired.

Such practices are no longer permitted in New York as a result of the passage of the Flynn Act[5] which amended the Human Rights Law to prohibit discrimination based on a "disability" which does not interfere with a person's ability to engage in the activities involved in the job or occupation. Likewise you are all aware of the federal laws and regulations affecting hiring practices in regard to the handicapped.

To help overcome the problem and promote the employment of handicapped workers, special disability laws have been enacted throughout the country for the purpose of providing assurance to prospective employers that their liability, in the event of further injury to their employees with prior permanent impairments, would be limited, although the extent of the limitations may vary from state to state.

In New York the issue was met in the following manner. Even though New York still has on its statute book an apportionment provision or second injury law whereby an employee suffering from a prior disability may not receive compensation for a subsequent injury greater than that provided for such injury when considered by itself, difficult questions of casual relationship oft-time preclude an equitable apportionment between the previous and subsequent disability and result in the imposition of full responsibility for the second injury on the current employer. Likewise where a subsequent injury merely aggravates a pre-existing condition, the employer is generally considered fully liable for the consequences.

A method had to be devised whereby the employer, if self-insured, and the insured employer's carrier, would be reimbursed in part for a subsequent disability of an employee hired with a known physical disability if the employer was to be protected against disproportionate liability.

Fundamentally, the method selected limits liability of an employer or his insurance carrier, under certain prescribed conditions, by providing for reimbursement for all monetary awards, medical, hospital and death benefits paid on such a claim after 104 weeks of disability, or death.

In order to be eligible to obtain the relief provided by the second injury law, the following must be established:

(a) A permanent physical impairment which antedated the second injury and which was or was likely to be detrimental to hiring or retention in employment;

(b) Knowledge on the part of the employer of the existence of the disability and a good faith belief in its permanency before the occurrence of the second injury; and

(c) A permanent disability caused by the second injury of such a nature that the combined permanent disability produced by both conditions is materially and substantially greater than that which would have flowed from the second injury alone.

The pre-existing disability must be a permanent physical impairment. Such physical impairment may be due to a previous accident or disease. It is not necessary that it actually be shown to be a hindrance or obstacle to employment or that it interfered in any way with the worker's present employment. It is sufficient that it is likely to be a hindrance or obstacle to any employment. Furthermore, the pre-existing disability need not be due to a prior industrial accident. For example, a congenital condition qualifies as a pre-existing disability.

While it is normally necessary to demonstrate the existence of a prior permanent physical impairment, this requirement does not pertain to cases involving disability or death due to dust diseases.

Although the statute itself does not require prior knowledge by the employer of the employee's pre-existing permanent physical impairment, the courts have added such a requirement. Admittedly the rationale of the statute demands such a requisite. The reason is obvious. Since the stated purpose of the second injury law is to encourage the hiring of the handicapped and therefore to grant relief to those who do so consciously, no relief should be granted to those who do not know that a handicap even existed.

The extent of that knowledge is best set forth in a decision of the New York Court of Appeals wherein it is stated:

---

[2] S. Kalenik, Myths about Hiring the Physical Handicapped, Job Safety & Health, September 1974, vol. 2 No. 9. (U.S. Department of Labor Occupational Safety and Health Administration). The same article at page 11 notes that a study by the U.S. Chamber of Commerce and the National Association of Manufacturers also negates the myth of higher insurance costs.

[3] Workers' Compensation Insurance is elective in New Jersey and Texas.

[4] Millus & Gentile, History of Workers' Compensation, "Workers Compensation Law and Insurance" (1976), Roberts Publishing Co., New York City.

[5] Laws of New York State, 1974 CH. 988, eff. September 1, 1974.

"The extent of employer knowledge of the employee's physical impairment and its permanency required to establish the employer's right to reimbursement from the Special Disability Fund has proven to be a troublesome issue."

The Court then declared:

"We hold that the policy of the statute and the rationale of the knowledge requirement are met, however, if the prior physical impairment is in fact permanent, and the employer hires or continues in employment a worker with knowledge of the impairment and a good faith belief of its permanency. Certainly, the statutory purpose does not require that the employer have medical evidence or knowledge to a point of medical certainty concerning the permanency of the impairment. The policy of encouraging employment of the handicapped would be frustrated if any employer's good faith belief that its employee suffers from a permanently disabling condition is not sufficient to entitle the employer or its carrier to reimbursement from the Special Disability Fund in the event of a compensable subsequent injury." [6]

The knowledge, however, must be on the part of one who has the right to hire or fire. Knowledge of the officers of a corporation is imputed to the corporation.

It is not necessary that a second, non-fatal, injury be connected or related to the prior injury. All that is required is that the second injury result in a permanent disability which, in combination with the earlier impairment, is materially and substantially greater than it could have been as a consequence of the second injury alone.

It is clear, then, that if the second injury is itself totally disabling on an independent basis and without regard to the prior disability, the second injury law does not apply.

In cases of fatal injury (again except for dust diseases), special disability fund relief is possible only if it be established that either the injury or death would not have occurred except for a pre-existing permanent physical impairment known to the employer.

The test, in determining if the prior condition contributed to the second fatal injury is whether the pre-existing impairment was "an essential factor in causing the death."

While the self-insured employer or the carrier must continue to pay the claimant whatever benefits he is entitled to under the compensation act, the Special Fund, in appropriate cases, provides reimbursement after the lapse of 104 weeks. But notice of the right to reimbursement must be filed with the Board prior to the final determination that the resulting disability is permanent.

Today every one of the fifty states as well as the District of Columbia has a "Second Injury Fund." Although some states have the same limitation of 104 weeks, as New York's law provides, many others limit the employer's liability to the disability caused by the second injury.

In some states relief is granted to an employer only if the second injury, in connection with the prior impairment, results in permanent total disability.

In any event, though there are variations in each state's Second Injury Law, each and every state seeks to mitigate the effect on workers' compensation insurance premium of hiring handicapped individuals.

Raymond R. Corbett, President of the New York State AFL–CIO stated at a Rehabilitation Conference in New York City on April 25, 1977 that the rehabilitation program developed in our own state and in a few other states cannot be considered successful. In this connection, I might point out, that greater knowledge of the Second Injury Fund and the relief it provides employers would spur greater emphasis on rehabilitation programs of those disabled by industrial accident or disease.

In conclusion, I will not venture to speculate overly on the effectiveness of Second Injury Funds on the employment of the handicapped. Definite conclusions in this area are beyond the scope of a carrier's expertise. It is my impression, however, at least in New York, that the large employers, aware that the second injury statute exists and that he may seek relief from it, often no longer considers the prospect of increased compensation losses as the result of the employment of handicapped workers as an undesirable risk. It is my impression, too, that the value of second injury funds as an incentive to such employment could be increased vastly if effective ways were found to inform smaller employers about the statute's provisions on a much wider scale than has currently been achieved. From a practical standpoint, whether a particular state limits an employer's liability to 104 weeks or to the disability caused by the second injury, those handicapped persons who are hired present no significant risk to an employer's workers' compensation insurance costs.

[6] Bellucci v. Tip Top Farms, Inc. 24 N.Y. 2d 416, 419, 420 (1969); 248 N. E. 2d 864.

THE MADISON HEIGHTS FIRE DEPARTMENT, A WELL DESERVED ROUND OF APPLAUSE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. BLANCHARD. Mr. Speaker, on behalf of Bill and Lois King of Madison Heights, Mich., I would like to bring to the attention of this body the outstanding manner in which the Madison Heights Fire Department has served the city of Madison Heights throughout its 22-year existence.

Bill King suffers from polio. He is required to have some form of resuscitation—artificial breathing assistance—at all times. Most types of resuscitators are electrically powered. Any power failure—no matter what its cause—becomes a life and death crisis for Bill King.

Each time a power failure has occurred in Madison Heights, a representative of the Madison Heights Fire Department is at the Kings' home with a generator—usually within 60 seconds from the onset of the outage.

"Just to know that there is someone out there, namely the Madison Heights fire fighters, ready and waiting to assist in an emergency offers a sense of security that is indescribable," is how Lois King describes what the Madison Heights Fire Department means to her.

The job that the Madison Heights Fire Department is called upon to do is often a dangerous one. On February 19, 1973, firefighter Raymond Susko gave his life while fighting a residential fire in Madison Heights.

The outstanding performance of the Madison Heights Fire Department has not gone unrecognized in the metropolitan Detroit area. Commendations have been received from the Greater Detroit Board of Commerce, the city of Madison Heights, and from a number of surrounding communities. The city of Detroit has awarded the Madison Heights Fire Department a certificate of appreciation. Also, a number of residents of Madison Heights have written letters of appreciation and gratitude to their fire department.

I would invite you to join me in giving a well deserved round of applause to these dedicated public servants.

FUNDING FOR LEGAL SERVICES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. EDWARDS of California. Mr. Speaker, the Members will be asked today to vote their support for H.R. 6666, continuing authorization for the Legal Services Corporation for a period of 2 years. The Subcommittee on Courts, Civil Liberties, and Administration of Justice chaired by my good friend from Wisconsin (Mr. KASTENMEIER) has worked hard to bring out a fair bill providing funding for local legal services programs throughout the country. These programs provide legal representation and advice to Americans who cannot afford to hire a lawyer.

I strongly endorse the committee's bill and commend to my colleagues the following two editorials which appeared recently in the San Francisco Chronicle and Los Angeles Times, both supporting passage of the Legal Services authorization.

[From the San Francisco Chronicle, June 8, 1977]

ACCESS TO LAW FOR THE POOR

One of the most significant improvements in the system of dispensing justice in this country has been the government's provision of the services of lawyers to make justice accessible to the poor person unable to afford customary legal fees.

The creation by Congress in 1974 of the Legal Services Corporation formally put the federal government's guarantee behind the idea of equal justice for all; now Congress must face up to the need to continue the program, and we urge bipartisan support for a vote on it this week.

It is so widely accepted nowadays that government should support people's access to the courts, where otherwise they would be excluded, that it's difficult to realize that the concept was only introduced in the mid-1960s by the Johnson administration. Federal legal services started as a "war on poverty" program. Early on it ran into hostility from conservative critics like Ronald Reagan, who chargd, not without accuracy, that it was branching off into social activism. Nevertheless, the need for civil legal services to the poor was undeniable. A recent study by the Bureau of Social Science Research has shown that 23 per cent of the 29 million people who are designated as poor on this country face at least one civil legal problem each year, and yet only 15 per cent of these cases are being met by the federally-funded Legal Services program.

[From the Los Angeles Times, June 8, 1977]

POVERTY LAW: UNSHACKLING AN AGENCY

Opportunities to improve and enlarge government-funded legal services for the poor will occur this week in Washington as well as in Sacramento.

The most crucial votes will come in the

House of Representatives, where there will be decisions concerning legislation to extend the Legal Services Corp. for two more years, to increase the corporation's funding and to eliminate a number of the unwelcome restrictions placed on its work when it was established in 1974.

We have already expressed our support for legislation coming to a vote Thursday in the Senate Finance Committee of the California Legislature. SB 997 would provide for the first time sorely needed state money to add to the federal funds for poverty-law services in the state. The bill would authorize $6.5 million.

The Legal Services Corp. in Washington, established as an independent, federally funded agency in 1974, has proved its effectiveness in its first two years of operation. It has also proved that the need is far greater than anticipated, and that more money is required.

Legislation coming to the floor of the House would extend the corporation for an additional two years while increasing its appropriation from the present level of $125 million a year to $217.1 million for the fiscal year commencing in October.

The increased support is, we believe, justified. So are the reforms embodied in the new authorization bill.

Most of the reforms would, as a spokesman for the American Bar Assn. said, "unshackle" the corporation from unreasonable and unnecessary restrictions imposed by opponents of poverty law when the original law was adopted.

Among the significant changes would be the authorization for the first time for poverty-law agencies to accept desegregation cases, broadened authority to intervene in juvenile-law cases, the elimination of restrictions on how the law agencies may use private funds, and the authority to handle cases related to military services—a change made urgent by the problems created for many poor persons by their military discharges. The new law would also do away with restrictions on the use of existing back-up poverty-law centers for research, training and technical assistance.

But the new authorization bill respects the fundamentals of the original bill. It would prohibit the use of the funds for adult criminal cases. It would limit the role that poverty-law agencies can play in organizing communities or special-interest groups.

The new legislation is better than the 1974 legislation, the funding level more appropriate to the need. The bills deserve support.

DETENTION FACILITIES AND SERVICES FOR JUVENILES

HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. ANDREWS of North Carolina. Mr. Speaker, Sunday's tragic fire at the Maury County jail in Columbia, Tenn., which killed 42 persons is a sad illustration of the need for our criminal justice system to actively seek adequate alternative detention facilities and services for runaway juveniles.

It may be weeks before the complete facts of this unfortunate incident are known. But we do know that Andy Zimmer, the 16-year-old youth accused of starting the fire, is a juvenile. He is an emotionally disturbed child, and he is a runaway. Yet, evidently the only available place he could be detained for 4 days separate from adults was in a padded cell in a county jail.

The fact that Andy Zimmer needed secure confinement is not questioned. His record, as reported by United Press International, included previous fire related incidents. But a secondary tragedy is that more appropriate facilities offering closer supervision and necessary youth counseling were not available.

This is a problem not only for the juvenile justice system but for the society as well. Hopefully, Tennessee and other States can avoid future tragedies like the one at the Maury County jail by seeking alternative detention facilities and services for juveniles as encouraged to do so by the Juvenile Justice and Delinquency Prevention Act of 1974. The incentive is there—the desire and initiative is all that is needed.

SOUTHERN JAMAICA PLAIN HEALTH CENTER

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. MOAKLEY. Mr. Speaker, I would like to take this opportunity to call to your attention the dedication of the permanent quarters of the Southern Jamaica Plain Health Center. An outstanding medical facility, the Southern Jamaica Plain Health Center has been fated for the past 7 years to share its home with a basketball gymnasium. The funding for the relocation was made possible through the Hill-Burton Act, which provided the clinic with the $200,000 needed to renovate and equip the new facility.

The center first began to service the Jamaica Plain community in 1967, when it was established in my district in Massachusetts as a well-baby clinic. In the next few years, its health care program was enlarged to include additional pediatric and obstetrical services. With its recent relocation, the clinic will not expand its primary health care program into the areas of adult and pediatric medicine, mental health, social services, and alcoholism.

The center's director, John E. Cupples, summarizes the philosophy of the clinic as an attempt to deliver high quality health care and treatment at a reasonable fee scale. Family planning services and initial visits are provided free of charge, as are well-child checkups for children under 5.

The Jamaica Plain Health Center is a valuable resource for the entire Boston community because of its increased outreach capacity, and the prioritizing of the health care needs of Jamaica Plain residents. The health center is truly a tribute to the fine residents of this community who are responsible for the clinic's establishment, expansion, and benevolent medical policies.

The article follows:

HEALTH CENTER GETS NEW HOME

(By Viola Osgood)

Bright, modern, cheerful, antiseptic and fully equipped facilities at 685 Centre street were dedicated yesterday as the permanent home for the 10-year-old Southern Jamaica Plain Health Center.

Health center director John E. Cupples said the new facilities are in dramatic contrast to the old quarters the clinic shared for seven years with a basketball gym in Curtis Hall, the neighborhood municipal building.

Cupples told the more than 75 persons attending the formal dedication, held a few doors from the clinic in the Fir t National Bank branch, that the new facility is a "valuable resource for the community, with increased outreach capacity, and which has as its priority the health care needs of the people of Jamaica Plain."

Cupples said renovation and equipping the new quarters for the clinic cost $200,000. He said the money for the program came from the Federal Hill-Burton Act, which provides money for construction of hospitals and health care facilities.

The health center was begun in 1967 by a group of women who felt the area should have some kind of local facility for well-baby checkups. Over the years, the program expanded to include a range of pediatric and obstetrical services.

Three years ago, a committee of residents began to look for ways to relocate the health center out of the Curtis Hall building. Eventually, the present site was chosen and a rehabilitation plan approved and funded.

The clinic has expanded its role and will now deliver primary health care in the areas of adult and pediatric medicine, mental health, social services and alcoholism. The two primary aims of the center in its health care delivery system are preventive medicine and comprehensive care, Cupples said.

Cupples said the philosophy of the center is to deliver high quality care at a reasonable fee. Well-child visits are free for children up to 5 as are family planning and initial visits.

Policies and programs for the center are established by a community committee made up of residents.

INEQUITIES IN DISTRIBUTION OF DEFENSE FACILITIES

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. KOSTMAYER. Mr. Speaker, I wish to share with my colleagues a letter from the Governor of the Commonwealth of Pennsylvania, Milton J. Shapp, which points out the inequity in the distribution of defense facilities and personnel in the United States:

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, June 15, 1977.

Hon. PETER H. KOSTMAYER,
House of Representatives, Longworth Office Building, Washington, D.C.

DEAR REPRESENTATIVE KOSTMAYER: I am writing to you on a matter of fundamental importance to the economic well-being of Pennsylvania and the Northeast. Our state and region are not receiving their fair share of the economic benefits from defense spending. I have asked my Adjutant General, Major General Nicholas P. Kafkalas, to present to you a report entitled, "Defense Employment and Military Installations in Pennsylvania," prepared by our Office of State Planning and Development.

This report documents the fact that we are shortchanged by present defense employment and procurement policies. Pennsylvania

has 5.5 percent of the national population, but only 2.7 percent of all stateside military and civilian Department of Defense (DoD) employees. In 1975, 63,306 DoD employees were stationed in Pennsylvania. But if that number had been based on the state's share of the national population, Pennsylvania would have had 66,330 more defense jobs.

This imbalance in the distribution of DoD personnel, which results in Pennsylvania being seriously under-represented, caused a "loss" in 1975 of about $866,140,000 in military and civilian payrolls. This DoD payroll "loss" is about equal to the total salaries and wages paid from the General Fund of the Commonwealth of Pennsylvania during the same year.

This imbalance applies not only in Pennsylvania but across the entire Northeast. Only 8.8 percent of DoD employees are in the eight Northeastern states which have 22.8 percent of the national population.

Defense personnel cutbacks have been more severe in Pennsylvania than in the nation as a whole. From 1965 to 1975, defense employment declined by 22.8 percent in Pennsylvania, but by only 8.8 percent in the nation.

About half the national cutbacks in stateside defense employment from 1965 to 1975 occurred in the Northeast. During that period, the total national decline was 226,000 and the Northeast lost 107,000 jobs. Pennsylvania alone lost almost 17,000 jobs.

This declining trend has continued since 1975, the most recent year for which complete DOD data are available. The closing of Frankford Arsenal and the U.S. Army Electronics Command, both in Philadelphia, are nearly complete. These two installations employed about 5,000 in 1975. Those jobs are now gone. With continuing declines at the Philadelphia Navy Yard and threatened cutbacks at Indiantown Gap and the New Cumberland Army Depot, another 7,000 jobs are in jeopardy.

I want to emphasize that these declines cannot be blamed on general defense cutbacks or on withdrawal from Vietnam. During and following the Vietnam War, the share of statewide DOD personnel stationed in Pennsylvania has consistently declined.

Nor can these declines be blamed on population migration to the South and West. The share of the total U.S. population in the Northeast dropped from 24.2 percent in 1965 to 22.8 percent in 1975, but military and civilian DOD employment dropped from 12.2 percent to 8.8 percent during the same period.

Pennsylvania doesn't get its share of jobs from defense contracting either. In 1973, Pennsylvania was the home of only 3.3 percent of the total national payroll for defense contracts. A share based on population would have increased defense contract payrolls in the state by 5.6 million for 1973 alone.

Low levels of direct-defense spending cause job losses in other industries and severe economic repercussions. The total difference between actual 1975 DOD spending in Pennsylvania and a share based on population amounts to a "loss" to the state's economy of $2.6 billion. This gap is about equal to total statewide county, municipal and school district tax revenues in 1975.

Every state should receive a fair share of the economic benefits of defense spending. And no state should be forced to absorb an unfair share of defense personnel cutbacks. But the facts prove a consistent pattern of short-changing Pennsylvania and other Northeastern states.

While the closing or cutback of any single installation is understandable for reasons of obsolescence, budgetary constraints, need for consolidation, or inability to expand, these reasons cannot explain a consistent pattern of across-the-board cutbacks in an entire region. Furthermore, it is desirable for strategic reasons to maintain an adequate DOD military and civilian presence in the Northeast. Defense experts frequently cite the importance of the Northeast as a location for cold-weather training and for defense missions related to Europe and the North Atlantic. The continuing DOD decline in Pennsylvania and the Northeast appears to be in conflict with both economic and military goals.

A fair share of federal spending is vital to the economic health of our state and region. As the representatives of our state in Congress, I urge you to continue your efforts and in firm partnership with the Commonwealth in seeking a more equitable distribution of defense jobs and spending.

I am determined to leave no stone unturned in our efforts to obtain our fair share of defense jobs. If space to expand is needed, I will do everything possible to help acquire it. If Pennsylvania businessmen need assistance to obtain job-producing defense contracts, I will ask all agencies of the state government to work toward that goal.

This problem cannot be solved overnight, but we must now double our efforts. I stand ready to provide every possible assistance as you work within Congress and with the Department of Defense to obtain a fair share of defense employment contracts.

Sincerely,

MILTON J. SHAPP,
Governor.

As the Governor makes clear, Mr. Speaker, this is not merely a Pennsylvania problem. It is a problem for the entire Northeast, as well.

While the location of defense bases and installations is very often a strategic matter, in many cases it is not. The proportion of defense installations and personnel allocated to the Northeast is so low, equity demands that the Congress and the Defense Department affirmatively move to correct the imbalance.

Governor Shapp has pledged his best efforts to attract defense jobs to Pennsylvania. I am sure the other members of the Coalition of Northeast Governors will do likewise for their States.

Mr. Speaker, I hope the Congress and Defense Department will cooperate with these Governors, help rectify this situation, and allocate to the Northeast its fair share of defense spending.

THE STRUGGLE WITHIN THE STATE DEPARTMENT ON HUMAN RIGHTS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. KOCH. Mr. Speaker, today's Christian Science Monitor contains an excellent article on the struggle which is taking place inside the State Department with regard to President Carter's policy of pressing human rights concerns. I am appending it for the interest of my colleagues:

STATE DEPARTMENT RIGHTS PROPONENTS FLEX MUSCLES: BUT MORE TRADITIONAL BUREAUCRATS RESISTING

(By Daniel Southerland)

Human rights proponents in the United States State Department are beginning to flex their muscles in a manner more traditionally oriented bureaucrats are starting to resist.

Some officials say guidance from the highest levels will be needed to bring the emerging battles of the bureaucracy under control.

"The human rights people are getting pretty uppity these days, and they're sitting on a bunch of things," said an official who is concerned some overseas arms sales contracts have been delayed for long periods because of human rights considerations.

"Most of these human rights are very new to the system, and they live in a sort of separate world from the rest of the State Department," the official said. "There's a lot of broad-brush moralism—quite a bit of zeal—in their approach, and it's creating a reaction."

The "human rights people" being referred to here are to be found for the most part in the office headed by Patricia Derian, the State Department's Coordinator for Human Rights and Humanitarian Affairs. The position she holds was established by the Congress a year and a half ago, but during the Ford administration its power and influence were limited. To a great extent, its function seemed to be to report to the Congress on human rights violations.

With President Carter making human rights the touchstone of his administration, however, the office has grown markedly in importance, and new staff members, including Mrs. Derian have made it a force to be reckoned with.

New to the foreign affairs field, Mrs. Derian was prominent in the civil rights movements in the 1960s and served as a deputy national campaign director for Mr. Carter during last year's presidential election campaign.

RECENT DISPUTE

An example of the type of dispute which her office is likely to become more and more engaged in emerged recently. It was disclosed that there were differences within the State Department over several proposed Agency for International Development (AID) loans to Chile totaling about $11 million.

Opposition to the loans has been led by Mark Schneider, who, until recently, worked on the staff of Sen. Edward M. Kennedy (D) of Massachusetts and who is now serving as deputy to Mrs. Derian.

Terence A. Todman, Assistant Secretary of State for Inter-American Affairs, is reported to favor granting the loans on grounds they will benefit the poor. Officials said it appeared that a decision on the loans would be delayed so the issue can be given further consideration.

In the meantime, the question has been taken as high as Deputy Secretary of State Warren Christopher, who is said to be spending a considerable amount of his time these days dealing with human rights issues as they relate to foreign policy.

One official, reporting on a high-level meeting at the State Department, said that a "goodly number of assistant secretaries of state—people who are very, very busy"—had been "agonizing" with other officials for some two and a half hours over questions such as "whether some road in an AID project would benefit poor people."

NICARAGUA

Another example of differences within the State Department emerged over the recent vote to restore military assistance to Nicaragua. The aid had been cut in subcommittee.

Rep. Edward I. Koch (D) of New York, who led much of the battle on the floor of the House of Representatives to defeat restoration of the $3.1 million in aid to Nicaragua, said he had verbal assurances from State Department officials they were not concerned with restoring the aid. Nicaragua is considered to have one of the most repressive regimes in South America, and Mr. Koch has done considerable work to document abuses.

But in contradiction with the verbal as-

surances from the State Department which Mr. Koch had received, Assistant Secretary of State Todman sent a letter to Rep. Clarence Long (D) of Maryland, chairman of the subcommittee on foreign operations, urging that the funds for Nicaragua be restored. The House voted in favor of restoring the funds, and Mr. Koch and several other congressmen were furious, asserting that the Carter administration had given them mixed signals.

"There has to be a serious attempt fairly soon to decide what our human rights policy is and how serious it is and then to really communicate that down through the bureaucracy," concluded one official.

Another official agreed there was a need for more high-level guidance, but asserted there could be "no tidy overall solutions because there is no one human rights standard—different countries are at different levels of development and the United States has different kinds of leverage in different situations."

THE SOVIET STRATEGIC NUCLEAR PLAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. DORNAN. Mr. Speaker, many of the liberal intelligentsia in America have become immune to the warnings against the Soviet threat which have been made frequently by the more conservative elements in our Nation. The liberals seem to believe that these warnings are just more "red under the bed" scare tactics aimed at unnecessarily inflating our military budget.

According to the liberal interpretation of world events, the Soviet Union poses no threat to the liberty of Americans: the Communist weapons buildup is geared toward deterrence, not superiority, they say.

Wrong.

Happily for our survival this head-in-the-sand attitude appears to be on the wane in some quarters. In fact, Dr. Richard Pipes of Harvard University—hardly a bastion of conservatism—successfully refuted this liberal interpretation of Soviet intentions in an article which appeared in Commentary magazine and which has been widely circulated by the New York Times News Service. Dr. Pipes is no "read under the bed" kook. He speaks from an almost impregnable position as the head of Team B of the Foreign Intelligence Advisory Board.

Dr. Pipes and his Team B colleagues conclude that the Soviets seek total victory over the United States and the destruction of our society. They do not seek mere deterrence.

These are strange words to hear from a scholar who many would consider liberal. But they are true words nonetheless.

The Santa Monica Evening Outlook reported Dr. Pipes conclusion on the front page of last Saturday's edition. I would like to call the article to the attention of my colleagues. Some of them may heed the warning when it comes from a Harvard man.

[From the Santa Monica (Calif.) Evening Outlook, June 25, 1977]

SOVIET "WIN" POLICY

NEW YORK.—The Soviet Union's strategic nuclear doctrine seeks victory, not deterrence, superiority in weapons rather than sufficiency, and offensive, perhaps pre-emptive, operations rather than retaliation, according to Dr. Richard Pipes of Harvard University who headed "Team B" of the Foreign Intelligence Advisory Board.

Pipes, in an article in the magazine Commentary, asserts that the American negotiators in the strategic arms limitation talks miss the point as long as they concentrate on numbers of nuclear weapons.

The former head of Harvard's Russian Research Center, Pipes is highly critical of the prevalent United States doctrine that contends that a nuclear war would be so destructive that it would leave no winner. Soviet doctrine, he argues, emphasizes winning a nuclear war and the destruction of American society.

The article is expected to revive the debate within the American intelligence community over Soviet strategic capabilities and intentions. The debate began early this year when Pipes' "Team B" termed the Russian nuclear position more threatening to the United States than the Central Intelligence Agency's had reported it.

Team B was appointed in 1976 by President Gerald R. Ford's Foreign Intelligence Advisory Board to prepare an alternative estimate of Soviet strategic objectives to that produced by the CIA.

The United States strategic doctrine, as summarized by Pipes, is based primarily on the concept that a full-scale nuclear war is not a rational policy because there would be no winner in such a war. If the Soviet Union launched a surprise attack, America would emerge from it with sufficient forces to devastate Russia in a retaliatory attack.

Such an attack would destroy all of the Soviet Union's major cities and kill millions. Because of this retaliatory threat, American strategists feel that a Soviet first strike is highly unlikely.

Finally, American strategists and Congressional sources believe that meaningful defenses against a nuclear attack are impossible to build and psychologically counterproductive.

The American conclusion based on all these factors is that nuclear superiority is meaningless.

Pipes is scathingly critical of Paul Warnke, President Carter's chief disarmament negotiator, for his comment that, on the "primitive aspects" of Soviet doctrine, "we ought to be trying to educate them into the real world of strategic nuclear weapons, which is that nobody could possibly win."

On what grounds, Pipes asks, does "a Washington lawyers presume to 'educate' the Soviet general staff" about strategic nuclear weapons "of which they happen to possess a considerably larger arsenal than we?"

Soviet doctrine, he writes, "emphatically asserts that while nuclear war would indeed prove extremely destructive to both parties, its outcome would not be mutual suicide; the country better prepared for it and in possession of a superior strategy would win and emerge a viable society."

The Russian strategic doctrine, according to Pipes, contains five related elements.

These are: pre-emption or first strike, quantitative superiority in arms, counterforce targeting, combined arms operations and defense.

The Russian concentration on pre-emption is traced back to Germany's surprise attack on the Soviet Union in 1941 and "no point is emphasized more consistently" by Soviet strategists "than the need never to allow themselves to be caught in a surprise attack."

This military memory and the speed of modern weapons—a missile can go from the United States to the Soviet Union in 30 minutes—are considerations that call for a preemptive strike, especially since once the missiles have left their silos, bombers are airborne and submarines at sea "a counter attack is greatly reduced in effectiveness."

There is no indication, he continues, that the Russians share the American view that the number of nuclear weapons does not matter once a certain quantity has been attained.

Soviet strategists believes that the ultimate outcome of a nuclear war will be decided in the first hours but they also believe that a nuclear war will last for months or longer, if the destruction of the enemy is to be achieved. Consequently, a large arsenal of nuclear delivery systems may be of "critical importance."

Counterforce targeting by the Soviet Union is the strategy of attacking United States missile launchers and command and communications systems.

"The central idea of the U.S. strategy of deterrence holds that should the Soviet Union dare to launch a surprise first strike at the United States, the latter would use its surviving missiles to lay waste Soviet cities," the analyst reports.

Marshal Andrew A. Grechko, the late Soviet Defense Minister, explained Soviet strategy in an article published in 1971 and cited by Pipes. In it, the marshal said that the Soviet nuclear arm was "designed to annihilate the means of the enemy's nuclear attack, large groupings of his armies and his military bases: to destory his military industries: (and) to disorganize the political and military administration of the aggressor as well as his rear and transport."

Combined-arms operations occupy an important place in Soviet nuclear strategy because of the Soviet emphasis not only on an enemy's defeat but on his destruction in the sense that he is incapable of offering further resistance.

Consequently, Pipes says, the Russians have prepared for "the follow-up phase" of a nuclear war which "may entail a prolonged war of attrition."

Soviet writings on strategy, the author declares, reject "unequivocally" reliance on one strategy and stress that a nuclear war will require the employment of all arms to attain final victory.

The Russians, Pipes notes, agreed to certain "imprecisely defined limitations" on antiballistic missiles in the first agreement on arms limitations but "then proceeded to build a tight ring of antiaircraft defenses around the country while also developing a serious program of civil defense."

A TRIBUTE TO CHARLES J. BONAPARTE

HON. MARIO BIAGGI

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. BIAGGI. Mr. Speaker, I would like to call the attention of my colleagues to the dedication of the Charles J. Bonaparte Auditorium which took place in the new FBI Building here in Washington, Thursday, June 9. The naming of this auditorium after Charles Bonaparte, the 46th Attorney General of the United States and founder of the agency known today as the Federal Bureau of Investigation, marks the culmination of a dream for my friend, John N. LaCorte, and the members of the Italian Historical Society of America.

As an American of Italian origin and former law enforcement officer, I take special pride in this event. I would like to share with my colleagues the personal message my friend, John N. LaCorte, gave on the occasion of this dedication and the remarks of my colleague, the Congressman from the 10th District of New Jersey, PETER W. RODINO, JR., which were delivered by the Honorable Edward Re, Chief Judge of the U.S. Customs Court:

PERSONAL MESSAGE

Today we remember the birthday of Charles Joseph Bonaparte by naming the new Auditorium in the FBI Building in his honor. As we do so, I sincerely hope that all of us who have assembled in this majestic building will receive a meaningful message of Americanism.

I believe that if ever there was a need for rededication to the high ideals of Charles Joseph Bonaparte, the 46th Attorney General of the United States and the Founder of the agency known today as the Federal Bureau of Investigation, this is the time. Each American must become involved in the continuing battle to see that law and order is upheld, with justice for all.

It is appropriate also to pay tribute to the many dedicated individuals who serve the FBI, and to those who have given their lives in the course of their duties.

The Bonaparte Auditorium should be a functional and meaningful entity. In it, American people, from the various geographic regions, may gather to hold discussions and seminars on matters of concern in the field of law and justice.

The Bonaparte Commemorative Committee, which will be officially established today following the luncheon in honor of Joseph Califano and Peter Rodino, will prepare the guidelines for semi-annual symposiums in the Bonaparte Auditorium. And it will create a screening board to select outstanding law students, the leaders of tomorrow, who will receive an annual Charles Joseph Bonaparte Award. It is my feeling that this program will generate greater desire for excellence in academic work and behavior, which Bonaparte believed in.

Of course, this is an ambitious undertaking. Rome was not built in a day. But I have faith that with the cooperation of public and private agencies and concerned individuals, this project can be implemented and will become a significant force for a Better America and a Better World Tomorrow.

I conclude this message by thanking everyone who has, directly or indirectly, assisted in insuring the success of this ceremony. Special thanks to Frank Sturniolo of the Department of Justice, and Nicholas Panuzio of the General Services Administration, whose personal cooperation greatly helped me to coordinate this program. I am grateful to all those present, some of whom have traveled great distances. My everlasting appreciation to the distinguished individuals who participated in the program, and whose presence has enriched the significance of the ceremony.

I am thankful to God and to those whose moral support helped me to carry on an idea conceived in 1957 and which first became visible in 1961, with the dedication of the Bonaparte granite memorial at the main entrance of the Department of Justice Building. The bronze plaque which we present today will represent a symbolic fixture in this majestic building, and will always carry the message of the high ideals and meaningful Americanism of Charles Joseph Bonaparte.

JOHN N. LACORTE.

DEDICATION OF BONAPARTE AUDITORIUM

Mr. Attorney General, Mr. Secretary, Director Kelley, Judge Re, distinguished members of the Judiciary, colleagues and friends:

I am deeply grateful and honored to receive this award which symbolizes the cause of equal justice to which Charles Bonaparte dedicated his life.

We are here today to dedicate this auditorium on behalf of this same man and the same great cause. And I can think of no better words for this moment than Bonaparte's own: "Americans as a nation think their laws are meant to be obeyed by all alike, by the rich no less than the poor."

These are important words, they sum up the great and endless struggle for justice that brought this nation into existence against all odds, and which has sustained it for 200 years. It was this search, this cause, that Charles Bonaparte perceived so clearly and served so well throughout his life.

He knew that no society based on the law and equality of justice could survive with anything less than the full realization of these principles. And to that end, in his private life and his public one, he labored with inexhaustible determination. As a lawyer, he drew no distinction between his clients, rich or poor. He served them all with fairness and dedication. As a political reformer in Maryland he stood for the integrity of the political process, whatever the cost to him personally. And as Attorney General of the United States he represented the interests of the people, all of the people.

It is true that Bonaparte became known as President Theodore Roosevelt's "trustbuster" in the years following his appointment as Attorney General in 1906. But it was perhaps less known that he appeared before the Supreme Court in 560 cases on behalf of the government and that he personally wrote 138 legal opinions, a task normally left to subordinates.

Charles Bonaparte saw himself as a lawyer, and an active, practicing one at that. It is probably that quality, as much as any, that led him to the conclusion that the Department of Justice needed a small, highly-trained investigative force to assist the Attorney General, thus forming the Bureau of Law Violation Investigators, the forerunner of the Federal Bureau of Investigations.

In this, as in the performance of his other duties, Charles Bonaparte insisted that the laws be faithfully enforced for all the people. It was this commitment to a nation and a government under law with equal justice that has earned Charles J. Bonaparte our lasting respect and admiration. Charles Bonaparte not only worked toward those goals—he understood they comprised a sacred trust which he shared with all the people of America.

Because of him and because of a great many other men and women like him, that trust still exists. No crisis, foreign or domestic, has been able to break it. It is that trust which brings us here today, in a nation comprised of citizens whose roots can be traced across the world—but who proudly declare themselves Americans—as Charles Bonaparte was an American. We dedicate this auditorium to his memory, and to the cause for which he stood and fought—liberty and justice for all.

CORRECTION OF FACTS FOR THE RECORD

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. MILFORD. Mr. Speaker, on Thursday June 23, 1977, the Dallas Morning News printed an article on page 30A entitled "Dallas Congressmen Rank Energy Bill as Top Issue."

On Sunday, June 26, 1977, another article was printed on page 27A entitled "Texas Congressmen Split on Energy." Both lengthy articles were written by Annette Bernhard, a college student, who had spent a portion of her summer break as an intern with the Washington bureau of the News.

I am sorry to say that the portions of the articles reporting the positions of Representative DALE MILFORD, were grossly inaccurate.

Since the Dallas Morning News did not identify the author as an inexperienced student, the articles were read and accepted by Dallas Morning News readers as being authoritative and as having been written by the New's professional staff. Most people think of the Dallas Morning News as a responsible newspaper, particularly in the reporting of political news. Therefore, inaccurate facts can be very damaging to those involved.

Early in the Sunday article, Miss Bernhard states categorically that "* * * DALE MILFORD of Grand Prairie supports the President's plan for regulation of natural oil and gas prices." That statement purely and simply is not correct.

I have never supported the President's—or anyone else's—plan to regulate oil and gas prices. Indeed, quite the opposite is the case. I am the author of a deregulation bill. I have made numerous speeches, public statements and issued numerous press releases clearly stating my opposition to price regulation of any type of fuels.

In both in Thursday and Sunday articles, Miss Bernhard seeks to contrast my position with that of Representative JIM COLLINS.

In the Thursday article she writes:

The energy bill is one of the biggest and most important issues now facing Texas.

Said COLLINS:

A Republican who supports further exploration of both tapped and undiscovered gas and oil reserves. Congressmen MATTOX and MILFORD both disagreed with COLLINS' position on natural gas and oil.

I cannot speak for Representative MATTOX, but Miss Bernhard's observations about my position are simply not true.

In the Sunday article Miss Bernhard quoted Representative COLLINS as saying:

The businessman has to have something to depend upon to make a living. Deregulation of prices of natural gas should give him more incentive to go out and find oil energy resources.

She then continued and reported:

MATTOX and MILFORD in separate interviews both disagreed with Collins.

Again, I simply did not make such a statement to Miss Bernhard.

As a matter of fact, Representative COLLINS and I have almost identical views on deregulation of gas and oil and in our belief that unhampered free enterprise is the best answer to our energy crisis.

Mr. Speaker, I regret having to take the floor in this manner in order to cor-

rect the inaccuracies found in Miss Bernhard's article. I would like to emphasize that at this time I do not believe that either Miss Bernhard or the Dallas Morning News have deliberately tried to distort the truth.

The most probable explanation for this event may be that Miss Bernhard simply confused my position on the gas and oil issue with that of another Texas Member. The "separate interview," cited in her article, was of very brief duration—less than 10 minutes. During that interview we discussed aviation and the SST more than energy subject. We are probably only dealing with a situation where a young and inexperienced student attempted to write an article on a very complex subject that she did not understand herself.

The only additional comment that I would make would be to suggest that the newspaper identify student authored news items in the future. The Dallas Morning News policy of allowing interns to work in their Washington Bureau, in order to obtain practical experience, is very laudable. Publication of the student's work under his or her own byline is also very desirable. However, if the byline does not identify the writer as a student or intern, the reader can erroneously assume that the article is authored by a professional reporter that meets the usual high standards of experience and responsibility normally found at the Dallas Morning News.

HAZEL HENDERSON/BARBARA HUBBARD DISCUSS THE FUTURE

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mrs. BOGGS. Mr. Speaker, on June 8, many of our colleagues were fortunate enough to hear Hazel Henderson and Barbara Hubbard discuss the future. Their presentations were the sixth in a series of "Dialogues on America's Future" sponsored by the Congressional Clearinghouse on the Future.

It was my pleasure to introduce these two brilliant and stimulating speakers to my colleagues who were present, and I am equally pleased today to insert into the RECORD the transcript of our session with them.

Mr. Speaker, the issues that were raised that evening and all of the ideas that have been brought to us through this excellent series, are critical to us in this policymaking body. Therefore, I urge all my colleagues to read this discussion and bear in mind the thoughts and suggestions herein.

The text of the dialog follows:

HAZEL HENDERSON'S OPENING REMARKS

Good evening and thank you for having me as part of your "Dialogues on America's Future" series. I would like to share with you some of my thoughts about industrial countries like our own which I believe are undergoing a crisis. I would agree with Jay Forrester when he notes that our internal structures are so complicated that they have become unmonitorable and therefore, unmanageable.

I call our present situation the entropy state. This is not the post-industrial age of Daniel Bell's where everybody is self-actualized and machines do all the work. Instead, I believe that industrial societies have reached an evolutionary cul-de-sac, where the discussion should not be growth vs. no growth, but what kind of growth we want and how to go about reaching our goals.

In addition, as we move our society from a maximum resource use system to a sustained yield system, which I think we must do, then we have to undergo a conceptual shift, too. This is especially important in our economy.

One of the problems with Keynesian and neo-classical economics is that they both visualize the economy as a bathtub, a hydraulic system of supply and demand. But we have all begun to notice that the bathtub is not like it used to be, but is filled with all sorts of water traps like large organizations, consumer groups, labor unions and the like. When we turn on the spigot, we flood the front end of the tub and get inflation, while no water reaches the poor at the back end. It is clearer and clearer that inflation will manage this system if nothing else steps in to manage it.

Britain, my mother country, is a good example of a country that has failed miserably to reconceptualize its situation and it has hit the wall at 60 mph. It now has an inappropriate set of production facilities which requires too much energy and capital to produce goods that not enough people want to buy, and it no longer has a commonwealth of cheap resources to call on.

Canada, on the other hand, has reconceptualized at the government level because the Canadian government has a mandate to lead. The United States government, not having a mandate to lead, serves rather as a traffic cop. The Conserver Society of the Science Council of Canada is gradually relaxing the assumptions that Canada can continue to be the consumer it has been in the past. This is the kind of thinking we need in Washington as we move into this transition period, because the transition is affecting all parts of our society—energy, economics, technology, goals and values.

I have spent a long time in the last few years looking at appropirate technology trying to understand regenerative systems of production. It is beginning to look silly to say we have a captial shortage at a time when our tax laws continue to subsidize capital rather than labor while we have eight to ten million people unemployed. The new economic thinking will require that we run our economy on a richer mixture of labor and a leaner mixture of energy and raw materials. That type of economy is an environmentally benign economy, and every time labor is substituted for capital, we save energy.

Several years ago, I helped form a group called Environmentalists for Full Employment. We have identified over six thousand environmental groups in the U.S. Many of them ask this question: Is the issue really an either/or matter of jobs versus a clean environment? We have come to see that the choice implied here is too narrow, and that we can no longer justify policies simply by saying they will create jobs. We must ask how much capital each job will cost.

And when discussing the future of technology, we have to ask: What is the new technology going to be like? We have reached a stage in our evolution where we have to take conscious control of our evolution and our technological growth. Let's go forward with technological innovation, but let's also understand that just as our ability as toolmakers is natural and inherent, so is our new found ability to question technological change, assess it, and direct it into creating a better future for all of us.

BARBARA HUBBARD'S OPENING REMARKS

Thank you for asking me to participate in this dinner series. I would like to take you back to 1964 to the critical moment in my life when I became a futurist. I was at an opening of a modern art exhibit in New York, and when I walked into the galleries and saw the grotesque depictions of human life, the blank canvases, and a huge plastic hamburger, I said very loudly, in a rage, "We have got to take these things down. They are killing us."

Those artists were telling us the truth, to be sure, because something was and still is dying in our society, but they were not telling us that something was also being born. As a result, I viewed what they were saying as the assassination of hope.

I guess that you could say that I was brought up hopeful and in a deep personal way, I felt that life was being threatened. I began to ask questions. What was being born out of the chaos? Where were we going? What was the purpose of knowledge, power, science, industry, technology?

I got to be an optimistic futurist when I read Abraham Maslow and Teilhard de Chardin. Maslow said that the human potential was great and was virtually untapped; that we are just at the beginning of using the resources of the human species. Teilhard was saying that the evolutionary process which exists in the universe leads to ever higher forms of consciousness through ever greater forms of wholism and synthesis.

I put the two of these together and realized that our emerging human potential and growing complexity were leading us toward synthesis.

Then John Glenn went up into space. As I watched it on television, I was tremendously moved by the human species taking its next step.

I began to piece together the physical thrust of the universe with our inner growth potential along with the sense that we were on a finite system and had to learn to cooperate. And I then began to make contacts with other people in the field. I sent a letter to over one thousand people all over the world and I said, "You're on the frontier. I'm on the frontier, too. Where do you think we're going? Where do you want to go? What do you think is good?"

This letter had a remarkable effect. I got floods of mail, and I published what people wrote me. But I began to see that everybody was seeing the future in fragments, and I believed that it was important to see the future as a whole.

John Whiteside, my partner in the Committe for the Future, and I began to develop a method of participation which would take in all parts of the whole and we called our process Syncon for synergistic convergence.

Syncon brings together ideas about social needs, technology, the environment, production, government, biological evolution, physical sciences, information, political economic theory, the nature of humankind, and extraterrestrial developments. Artists participate as synthesizers, and representatives of unexplained phenomena are invited to share their sense of mystical and spiritual direction.

Each group states its own goal and looks for common goals. Finally all of the walls separating the various groups come down, and the whole group attempts to identify what it can do in common that meets the needs of each separate part.

I agree with Hazel that there is a crisis going on, but we must also see that there are tremendous possibilities open to us. We believe that in order to see the possibilities, we must develop wholistic processes.

QUESTIONS AND ANSWERS

Q. I see the need for synthesis, too, but instead I see increasing division in our society. What has happened to our values?

BH. Our values are everywhere, but until the walls come down, we don't feel it. At our first SYNCON, there was a spontaneous religious experience that we had not expected. People started embracing each other. The Holy Spirit comes when there is this feeling.

Q. But our churches are talking about the B–1 bomber. What is happening in our churches? And how can we hook this sort of thinking to reality? Can we buy it at the country store?

BH. We have to network, communicate with each other. I believe this is critical.

HH. We have begun to rationalize our resource allocation by economics, and so we have got to a point where economics gets in the way of Americans talking to each other about what is valuable.

We can no longer afford this narrow perspective. Kenneth Boulding talks about four forms of human transaction. The first form is the threat system where I say, Stop or I'll kill you. The second form is a more sophisticated threat system where I say, How much will you pay me to stop hurting you? The third form is the market exchange system which is all that current economic thinking talks about. And the fourth system is the integrative system based on love and trust.

We can no longer afford to let economic thinking dominate and impoverish us, because economics doesn't deal with personal growth and development at all.

MEANING OF ENTROPY

Q. Hazel, will you please explain what you mean by entropy.

HH. Entropy is the second law of thermodynamics which states that all energy transformations produce waste heat and that while you can recycle matter, you cannot recycle energy because some is irretrievably lost each time. Entropy, then, is the universal tendency for things to get into a muddle.

When a system like an industrial society gets to a certain point of complexity with so many interconnecting elements, it begins to fall with its own weight. I believe that the human species is undergoing a trial by entropy. There are lessons to be learned from this difficulty, but we can survive.

BH. Entropy is a tendency toward increased disorder and useless energy within a closed system. But I don't think we are in a closed system. And while there is a tendency toward disorder, there is also a tendency toward increased order.

Evolution itself is very orderly, and I think there are two ways for us to overcome this second law of thermodynamics. The first way is through information because information as it is exchanged does not decrease. The second solution to trial by disorder will be to get out of the closed system of earth and move toward the universe and synthesis.

HH. I think this is the key to our disagreement. Our time frame is different. In time, I believe we can be an interplanetary species and we can repeal the second law through technology, but we're not there yet. And I would rather start with spaceship earth. The important task now is for us to deal with this space colony. If we can learn this system, we can go on to manage others.

Q. Barbara, your vision seems related to the photograph of the moon landing and beyond, and Hazel, it sounds like you were more impressed with the photograph of the earth floating in space. Barbara, I sense that you think technological innovation, such as space exploration, will solve many of our problems. Do you believe that everything will work out without the reordering of our world today?

BH. Reordering is necessary, but will be eased by the step into space. It will provide increased opportunities for employment, increased international communication and discovery of new sources of energy. By doing research and development now, in fifteen years we will have more answers to earth problems than we do now. And we might not be able to do this exploration later.

HH. I think that part of our crisis is this transcendent "technological fix" mentality. We need to stop retooling our surroundings and start retooling ourselves. We need to look into ourselves and look at why we do technology. Of course, technology is important to our survival, but we also do it for profound psychological reasons which are painful for us to discuss.

WHY WE DO TECHNOLOGY

There are at least three reasons why we do technology. In the first place, it is fun and we all love to play with toys. In the second place, technology reassures us. The bigger the buildings and the more sophisticated the machines, the more important we feel. And in the third place, we do technology because we are all afraid to die. We very much need to learn to deal with death in our society. We can't bear to see anything die. Technology is part of our desire to push away nothingness and non-meaning. But evolution is a cycle of birth and death, of entropy and syntropy, of order and disorder.

BH. I have a different view of the phrase "technological fix." There is a technological aspect of everything that is material. Our tendency to fix things offers us new possibilities. Pretend you are a single cell in the early seas and you are running out of energy. Then along comes the chlorophyll molecule and photosynthesis is developed. You could, from the perspective of the single cell, be called the "technological fix." In fact, photosynthesis produced a poison to the single cell and in response it became multicellular which led to organisms and the biosphere.

I'm not saying that all technology is good. But I think we should understand that the way nature works is to create new forms of developing energy to enhance options for life itself. And it is arrogant of us to make fun of the capacity of the mind to understand how the laws of the universe work in order to work better with them.

Q. Barbara, I don't understand your sort of hardware line. From your opening remarks, I would have thought you would be taking the line that psychic and spiritual thrusts of the human species are more important than leaps into space.

BH. Well, the hardware is getting more ephemeralized, less mechanistic. And so I believe that the psychic and physical are converging.

WHAT SHOULD WE DO?

Q. I would like to get back to square one, to the country store. Assume for a moment that I am a free spirit and I believe totally in cosmic intelligence, cosmic unity, cosmic force and the infinite possibilities of the human mind. Let's also assume that I believe in a labor intensive society.

But I am also a politician. So what is it you two ladies are telling us? Did I vote wrong? Did you want me to vote like the other guy? Do you want me to have a heightened sense of awareness? I believe in the inherent goodness of man. I'm a great Maslow fan. I have no use for pipe smoking economists. But what do you want me to do? When I look at the SYNCON model, I see that political leaders have only a small part and obviously we in politics are not driving this system. But we do have some responsibility, and maybe we can play our part better.

HH. I think there are some specific things you can do. In the first place you can tackle the tax codes that reward bigness and centralization. Treat capital and labor equally instead of continually subsidizing capital. We are currently looking for more tax credits for capital investment when we have a capital shortage and over eight million people out of work. Give tax credits to corporations only when they can prove that they will create jobs.

Another thing you can do would be to recognize the innovations in technology being made by small businesses and inventors who are working in the field of appropriate technology. Presently the grants given out by EPA, NSF, and ERDA usually go to the big corporations who can hire staff to write proposals. Relax proposal writing rules so that the smaller business people can compete. A great deal of our creative thinking occurs in small organizations.

BH. If I were to give you any advice, I would suggest two things. In the first place, begin to assert to your people back home that they can have a choiceful future, that they can launch a new worlds building effort which can solve problems by using our total intelligence, and that can at the same time move toward an open future of synergistic policies—an integrated earth/space environment.

DEVELOP CITIZEN PARTICIPATION

In the second place, I think we need to develop an increased use of citizen participation processes involving all people, getting past fragmentation. Ask your people to talk with each other, and work toward a wholistic process.

Q. But we protect the single cell. If the idea of photosynthesis had come before the U.S. Congress, it would have been voted down. How can we make contact with the ideas you have discussed tonight?

HH. Well, the smaller groups of citizens who are talking about this transformation still lack power, and one of the reasons for this is that the media are preempted by messages of the powerful. You tend to hear from the single cell folks because the single cell folks are in power. The problem is how to tune into the new, unorganized, unlobbied for groups.

Mrs. Boggs (Mistress of Ceremonies): My grandson, Lee Roberts, who is studying space in school, wrote a poem about space when he was six years old and sent it to me. I would like to share it with you all before we go home tonight.

Space is very, very vast.
Look here: our earth is small.
Do you think the stars consider themselves
Who is short and tall?

IN SUPPORT OF S. 1393—STATE INVESTIGATION OF BRONX PSYCHIATRIC CENTER UNDERSCORES NEED FOR FEDERAL LEGISLATION TO AID INSTITUTIONALIZED AMERICANS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. KOCH. Mr. Speaker, last Thursday I submitted testimony to Senator BAYH's Judiciary Subcommittee on the Constitution in support of S. 1393. The legislation would grant the Attorney General of the United States authority to institute civil actions on behalf of institutionalized persons who are being denied their constitutional rights. This bill is the companion to H.R. 2439. The House bill was initially introduced by my

friend and colleague ROBERT KASTENMEIER and I am pleased to be one of its cosponsors.

On May 18 of this year, I had the opportunity to testify on behalf of the House version of this legislation before Congressman KASTENMEIER's House Judiciary Subcommittee on the Courts, Civil Liberties, and the Administration of Justice. At that time I outlined the deplorable conditions at Manhattan State Psychiatric Center, which I saw when I conducted an unannounced inspection in November. My House testimony, which includes a detailed explanation of my attempt to bring the problems at Manhattan State to the attention of State authorities are outlined in the CONGRESSIONAL RECORD of May 24 on page 16252.

Since the time of my investigation at the Manhattan Psychiatric Center, another incredible situation at a New York City institution has been brought to my attention. On June 9, 1977, the New York State Commission on Investigations completed a thorough inquiry into the deaths of five patients and the beating of a sixth at the Bronx Psychiatric Center. In my prepared remarks of last week I highlighted the findings of that report.

I also testified concerning my request of June 16, 1977, to Assistant Attorney General Days that he undertake a thorough investigation of Manhattan Psychiatric Center, Bronx Psychiatric Center and Creedmore State Hospital. I believe that the abuses found at these institutions may indicate a pattern of patient abuse and lack of treatment in other New York City institutions run by the State of New York.

Finally, I commented on my own disbelief at the hypocritical position taken by State Attorney General Louis Lefkowitz. He has publicly opposed this necessary Federal legislation while he and other State authorities have done little to alleviate the horrible conditions in New York State institutions. A copy of my prepared remarks follows:

TESTIMONY OF EDWARD I. KOCH

Mr. Chairman, I am pleased to have the opportunity to submit this testimony support of S. 1393, which would grant the Attorney General of the Untied States authority to institute civil actions on behalf of institutionalized persons who are being denied their constitutional rights. As a concerned citizen, and as a co-sponsor of the House version of this bill, I am pleased that the Senate has begun active consideration of this legislation. I want to commend the Subcommittee Chairman for his leadership in sponsoring these hearings and in focusing public attention on the critical need for addressing the problems of institutionalized Americans.

I am aware that the U.S. Department of Justice has endorsed this legislation, and I believe that in his testimony of June 17, Mr. Drew S. Days III, Assistant Attorney General for the Civil Rights Division, U.S. Department of Justice, detailed the current status of the Department's authority to initiate civil rights cases involving institutionalized persons which necessitates this legislation. Therefore, I will not elaborate on the legal issues involved, but I wish to address two basic concerns. The first area involves my own investigation and a state investigation of two separate New York City Psychiatric Hospitals. I will conclude with a response to the opposition to this bill.

Mr. Chairman, last November I was approached by families whose relatives were institutionalized at Manhattan State Psychiatric Center located on Wards Island in New York City. The relatives were concerned about the poor physical conditions, the lack of adequate medical care and the lack of protection afforded the patients at the facility.

As a result of those discussions, on November 4, 1976, my staff and I conducted an unannounced on-site inspection of the facility. The conditions I found there were deplorable. The facilities were unclean, there was not adequate clothing provided for the patients, and the patients were afforded almost no privacy. In my testimony of May 18th, in support of the House version of this legislation, I gave a detailed description of the conditions at Manhatttan State and my attempts to bring those conditions to the attention of state authorities. A transcript of that testimony appears at page E 3184 in the Congressional Record of May 23rd, 1977.

Mr. Chairman, I am not a mental health expert, but one need not be a doctor to know that the basic purpose of an institution such as Manhattan State is that of providing the patients with treatment. The lack of cleanliness, the lack of adequate clothing and the lack of privacy all contribute to patient's problems not their treatment. Our institutions are in fact exacerbating the problems of their patients rather than treating them and making the patients better.

Furthermore, it is clear to me that the State of New York and the hospital itself were not responsive to the legitimate concerns of staff and of the relatives of the patients. These relatives then turned to their Congressman. Even the investigation of a U.S. Congressman did not alleviate or ameliorate the situation. I am providing this history to illustrate my concern that without passage of S. 1393 there are no meaningful options for persons seeking to enforce basic human rights of institutionalized citizens. If there is to be appreciable change in the conditions at Manhattan State Hospital and similar institutions, the patients and their relatives, the hospital staff and their Representatives in Congress have to be able to turn to the U.S. Department of Justice.

Since the time of my investigation of the Manhattan State Psychiatric Center, another incredible situation at a New York City Institution has been brought to my attention. On June 9, 1977, the New York State Commission on Investigations completed a thorough inquiry into the deaths of five patients and the beating of a sixth at the Bronx Psychiatric Center (BPC).

In 1975, four patients died under questionable circumstances at BPC. Within a one-month period in 1976, two additional deaths occurred after an unusual sequence of events. As a result of these incidents, an investigation was called for by a citizen Board of Visitors. Let me cite some examples from the resulting Commission report: One female patient had been forcibly beaten. Her injuries included four fractures of her right arm, the fracture or dislocation of six to eight ribs, as well as extensive lung and internal injuries.

Another patient was critically injured when a patient with a history of violent behavior struck him on the head with a broom obtained from a supposedly locked supply closet. The injured patient was forced to wait, for a prolonged period after the ambulance had arrived, while paperwork for his transfer was being filled out. The report indicates that doctors stated that the man's life might have been saved had he received prompt treatment.

The report outlines case after case of patient abuse and neglect. One woman's record gave no evidence that she had ever received any appropriate psychiatric treatment before her reported suicide. Another young man, hospitalized from his youth because of epileptic seizures, received inappropriate medication for his condition. On June 24, 1976, this patient had a seizure which lasted for several hours. He was described as being "on the floor of his room, blue and sweating, incoherent and biting a rag." During this time no doctors were ever called nor was any attempt made to seek emergency aid. It was not until his mother came to visit him that evening, to find him unconscious on the floor, that a doctor was called. Attempts to revive him were futile. Autopsy reports showed that this patient had received medication, Haloperidol, which in the words of Dr. Michael M. Baden, Deputy Chief Medical Examiner of New York, "can precipitate this type of seizure." Dr. Baden stated "he would not have died," if he had not received the Haloperidol which had not been prescribed for him.

This is not the only instance of misuse of drugs in the treatment of patients. Under questioning, Dr. Hugh F. Butts, Director of the hospital, admitted:

"We use medication rather extensively, but there again, I don't think we are using medications as appropriately as we might. I think in many instances we either overmedicate or undermedicate patients."

The Investigative Commission reporting on the deaths summarized:

"In each of the cases scrutinized, the Commission found that little had been done to prevent the incident and that after the incident, BPC (Bronx Psychiatric Center) failed to respond adequately and to take essential corrective measures . . ."

It is discouraging and frustrating to all those involved that even when these facts are made known to hospital administrators and state officials, there is little effective action being taken. The situations described remain generally unchanged. Furthermore, I believe that the abuses outlined may indicate a pattern of patient abuse and lack of treatment in other New York City institutions run by the State of New York.

I would now like to address some of the arguments made against this bill. There are those who argue that this bill would result only in long and expensive litigation. I do not agree. In the first place, the bill would give the Attorney General authority to bring suit only in those situations where the violation of constitutional rights is definite and clear and where there exists a pattern and practice of deprivation of rights. This combined with the complexity of investigating and initiating cases would insure that lawsuits would not be initiated without substantial basis. Litigation might also be avoided in some situations where a state makes an appropriate response to the notice of the Justice Department that a pattern and practice of violation of constitutional rights exists at a state institution. Finally, the State may avoid the protracted procedures of trials and hearings by a "consent decree" at any point in the litigation process. This mutual agreement is not only a cooperative way of abbreviating the legal process, but is a desirable solution for states that are sincere about improving the conditions for institutionalized persons.

There are those who argue that Public Interest groups can sufficiently represent the interests of persons confined in institutions in which constitutional rights are being violated. However, while action taken by citizen groups on behalf of confined fellow citizens is highly commendable, there are far too few of these groups. Those advocate groups which do exist and may be very vocal, are lacking

both in the resources and the authority to initiate and carry out effective investigations and litigation.

I ask of those people who are opposed to this bill . . . Why do we see no results from the non-litigative solutions we have pursued for so long? Why is it that those individuals who have the responsibility will not take appropriate action even when the conditions at these hospitals are made known to them?

Quite frankly, Mr. Chairman, I am unimpressed with the arguments of those who believe that the Attorney General of the United States does not have a basic obligation to intervene on behalf of individuals whose basic rights are being denied, even when they are being denied by one of the 50 states. It is central to my own conception of federal/state relations that one of the primary functions of federal government must be to insure that basic principles of human dignity and individual freedom embodied in the Federal Constitution are not restricted by any state or person. I do not believe that states rights include the right to run institutions which do not provide the institutionalized person with his or her basic constitutional rights.

I would like to believe that the Attorney General of each state has made every effort to assure that persons confined in state institutions are afforded the full panoply of state and federal statutory and constitutional rights. However, I must cite as an example to the contrary, my own state of New York where the State Attorney General has failed to take aggressive action to bring relief and where the deplorable conditions are permitted to continue. In addition to my own attempts to bring these matters to the attention of the State of New York, the investigations of H.E.W., the appeals by families of patients and the actions taken by citizen groups have all been consistently ignored by New York State authorities. And now, in the midst of this, the New York State Attorney General Louis Lefkowitz has taken it upon himself to lead the fight against this bill by saying that it is unnecessary. This is incredible to me. What hyprocisy it would be for this legislation to be defeated on the basis asserted by Mr. Lefkowitz when there has been no change in the deplorable conditions which I have outlined to you at two of New York State's own institutions despite appeals to the officials of the State.

I have requested by letter of June 16, 1977 to Assistant Attorney General Days that he undertake a thorough investigation of Manhattan Psychiatric Center, Bronx Psychiatric Center and Creedmore State Hospital which is under investigation by the Queens County, New York District Attorney because of allegations of patient abuse. At present, Mr. Days on behalf of the Attorney General, can authorize an F.B.I. investigation into situations which present potential criminal violations of civil rights. However, the authority of the Justice Department to initiate civil litigation in situations involving gross denials of institutionalized persons civil rights has been successfully challenged in two cases. The Department's ability to intervene in actions filed by individual plaintiffs has also been under attack.

The passage of S. 1393 would clarify the Department of Justice's authority to intervene and more importantly it would give the Department the right to initiate its own suits where the Attorney deemed such action was required in situations which constitute a pattern and practice of deprivation of civil rights. I have outlined today why such statutory authority is essential and I trust the Congress will act expeditiously to guarantee confined persons basic human and constitutional rights.

Mr. Chairman, I urge the adoption of S. 1393. Thank you.

SENATOR ADLAI STEVENSON'S COMMENTS ON FEDERAL RESEARCH AND DEVELOPMENT PROGRAMS

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. McCORMACK. Mr. Speaker, on June 15, the Honorable ADLAI STEVENSON addressed a colloquium sponsored by the American Association for the Advancement of Science on "Research and Development in the Federal Budget." It was my privilege to introduce Senator STEVENSON.

The Senator's comments constitute a brilliant analysis of the role of the Federal Government today in funding research and development, and will be highly instructive to anyone interested in this all-important subject.

Senator STEVENSON's remarks were as follows:

REMARKS OF SENATOR ADLAI E. STEVENSON

It is a pleasure for me to participate in your second colloquium on research and development in the Federal budget. The AAAS is to be commended for tackling such a formidable subject. In a sense, Congress avoided such a step until 1974 when it passed the Budget Control Act. I can, therefore, sympathize with your effort to understand one of mankind's most complicated and important documents.

Last year's colloquium was your first attempt to initiate the Association's members to the intricacies of the Federal budget process. Willis Shapley's excellent study of the 1977 budget and his 1978 edition, just released, provide the basis for making a more accurate assessment of the R&D budget's impact on the nation's scientific and technological enterprise and our economy. I know these meetings will be productive and useful.

Having been actively involved in the world of science and technology for less than six months, I expect to carry away from this gathering far more than I contribute. I am told this process is known as "technology transfer" and I welcome it.

In exchange, I can only offer the first impressions of one whose record in science and technology policy is relatively clear of positions to defend or causes to advocate. I can't guarantee how long this state of innocence will continue, so I had better proceed.

As most of you are aware, the Senate earlier this year modified the number and jurisdictions of its standing committees. One important result was an expansion of the science and technology responsibilities of the Commerce Committee, now identified as the Committee on Commerce, Science, and Transportation. A new Subcommittee on Science, Technology and Space, which I chair, was established to exercise this expanded science and technology jurisdiction.

We were given legislative jurisdiction over the National Aeronautics and Space Administration, the Office of Science and Technology Policy, and the science and technology activities of the Department of Commerce. We also have jurisdiction over all legislation affecting the National Academy of Sciences, the National Academy of Engineering, and the National Research Council. In addition, the Senate created the jurisdiction of "comprehensive policy oversight" and made the Committee responsible for science and technology, including all research and development activities of the Federal government. Although the legislative mandate is not as broad as that of the House Science and Technology Committee, the combination of our legislative and comprehensive policy oversight responsibilities provides a solid base from which to observe and influence Federal R&D activities.

The pervasiveness of R&D considerations in almost every congressional decision is striking. This is true whether Congress is considering distinct Federal R&D components, such as the NASA or NSF budgets, or developing policy that depends on the results of R&D efforts, such as energy policy or the Clean Air Amendments debated in the Senate last week.

Although the impact of R&D is pervasive, Congress as a whole finds it hard to examine R&D concerns in a sustained or systematic way. Attention is paid sporadically to large military or space R&D efforts in which major contractors have an interest. But more routine R&D items in legislation can slip through Congress almost unnoticed and unexamined. The Executive Branch is often as unfocused as Congress.

A case-in-point is the pending reorganization of energy functions in a Department of Energy. The importance of R&D in accomplishing the Department's mission is obvious. An estimated 70 percent of its budget will be spent on various R&D pursuits. Yet, the Administration's initial legislation submitted to Congress provided no focal point for directing and coordinating R&D. Instead, the responsibility for R&D was dispersed among five Assistant Secretaries. Moreover, the relationships between basic and applied research and the development and demonstration of energy technology were unclear.

The congressional committees and the press were principally concerned with the more politically volatile issue of energy regulation. An effort to create an office or administration within the Department to supervise basic and applied research was dropped by the Senate committee. The R&D issue was discussed explicitly in one paragraph of the Senate committee report and in a brief colloquy on the Senate floor which I conducted with Senator Ribicoff. In essence, the Senate delegated to the Secretary of Energy full responsibility for devising a workable R&D structure.

The House committee approved a fragmented R&D structure similar to the one initially proposed by the Administration. However, the House, during floor debate, did adopt an amendment by Rep. Moss of California creating an Office of Energy Research, headed by a Director at the level of Under Secretary. The Office was given responsibility for coordinating all basic research activities within the Department and advising the Secretary on all other aspects of energy technology development and demonstration.

This action, in my opinion, was a distinct improvement over the structure initially proposed by the Administration and the one approved by the Senate. The issue now must be resolved by the conference committee.

This colloquium should focus on the reasons for this failure to develop an explicit R&D strategy for the Department of Energy. There is little evidence that the issue received much attention when the Administration was preparing its legislation. Even now, the Department of Energy Activation Task Force, chaired by former Air Force Secretary Thomas Reed, has no planning group assigned to the R&D issue, even though about a dozen such groups are in operation. This fact is particularly distressing since both the House and Senate bills place strong reliance on the Secretary of Energy to guide the R&D effort. Congress has been only a little more attentive to the energy R&D issue than the Administration.

This experience with the Department of Energy legislation coincides with my broader impression that R&D policy for the Fed-

eral government is too often the result of ad hoc decisions and short-run pressures. Those seeking Federal funds for development or demonstration projects often behave in ways suitable to an Oriental bazaar. Advocates of basic research may be more restrained but they also tend to lose out when funds are allocated. There is little agreement over the goals and priorities that should guide the Executive and Congress in drawing up the R&D budget.

As long as Federal support for R&D was rising sharply in the early and mid-1960's, there were sufficient resources for all major segments of the R&D community. Many useful things were done in these years although difficult questions relating to the purposes of science and technology in achieving broad societal goals were often pushed aside.

As the Federal budget squeeze grew severe in the 1970's, competition for R&D dollars became more spirited. The stringency in Federal R&D support produced a number of noteworthy results:

R&D as a percentage of the Federal budget has declined. The estimated Carter budget for fiscal year 1978 calls for an R&D allocation of 5.7 percent, considerably below the 7.2 percent in FY 1972.

Estimated Federal support for basic research in FY 1978 is less than 1967, using constant 1972 dollars. This is true even though the FY 1978 budget provided a proportionately larger increase for basic research. As Willis Shapley points out in his study, even in current dollars, funding for basic research in ERDA, NASA, and DOD declined from 1967 to 1975.

The future health of academic science has been threatened. In their recent study on The State of Academic Science, Professors Bruce Smith and Joseph Karlesky point to signs that threaten deterioration of American scientific research over time, even though the level of accomplishment today is outstanding. They note the trend toward a less speculative, risk-taking science and the gradual decline of scientific excellence in second-rank academic departments and universities. There is increasing concern over the decline in the number of talented students who select science as a career.

The emphasis on achieving concrete, short-term results has adversely affected the support of many projects that are not related to easily identified human problems. I think particularly of two NASA scientific projects, the Jupiter Orbiter Probe and the Space Telescope, which have encountered serious funding problems in this Congress. Both projects are within the congressional budget targets; both have been authorized by the Senate and House; both are part of a carefully designed and thoroughly reviewed space sciences program adopted by the National Academy of Sciences.

Our national priorities must have room for this kind of scientific investigation. We must be sufficently farsighted to understand that greater knowledge of our planet and solar system and the galaxies beyond is bound to enlarge our understanding of the physical and biological forces that affect everything we do. We must also be wise enough to understand that the spirit of discovery is a unique human attribute that must be recognized and supported.

The politics of limited budgets also has led us into limited ways of thinking. Justifications for R&D programs were increasingly based on some favorable benefit-to-cost ratio. Though the benefit-to-cost approach can add some rationality to an R&D decisionmaking process, we must be aware of the limits of determining value in strictly economic terms. Economics is but one criteria upon which to base a value judgment.

At the same time that Federal R&D budgets were being squeezed, two other factors came into play:

Unfamiliar voices of the public, outside of the professional scientific and technological community, began to analyze and question federal science and technology policy. These new voices reflected growing skepticism about the role of science and technology in society. Inevitably these public attitudes found expression in the decisions of Congress and other governmental bodies.

Congress itself became better able to examine and judge Executive budget proposals. Passage of the Budget Control Act of 1974 did more than provide Congress with a Senate and House Budget Committee and a Congressional Budget Office. It also signified a new congressional determination to assert itself in the annual budget cycle in a more forceful manner.

As new uncertainty has intruded on the R&D funding process, the temptation has increased for individual sectors of the science and technology community to try to cut their own deals with the Administration and Congress. Although this concern for self-preservation is understandable, the consequences can be very damaging to the scientific and technological enterprise as a whole.

Those who organize direct appeals in behalf of a specific endeavor may be successful in the short run. But they increase the danger that Congress will act irrationally when the volume of special appeals becomes too large to handle. A more orderly process reflecting some common agreement as to R&D priorities would be distinctly preferable.

I suspect that much of the uncertainty and unpredictability that now attends congressional action on the Federal R&D budget is an outgrowth of ambivalent public attitudes concerning the broader role of science and technology in government and society. One does not have to reel off a laundry list of unrealized expectations of the past 20 years to make this point: the benefits of science and technology were oversold during the 1950's and early 1960's and the costs of many such activities were either unrecognized or avoided.

The vision of a Utopian society created by the miracles of science and technology holds little credence today. In place of this vision, we must search for a new, more balanced, and mature perspective of science and technology that can serve both the Executive and Congress in deciding who should spend how much R&D money for what kinds of purposes.

I do not advocate some centrally designed and imposed R&D blueprint. A degree of decentralization in Federal R&D funding is necessary, and competition for public funds, if conducted under proper rules, is healthy. But this activity should be guided by a more clearly defined sense of purpose and the capacity to make wise choices.

If these impressions are at all accurate, it is unlikely that a balanced and healthy R&D budget will result simply from more vigorous lobbying. The first and essential requirement will be to achieve public recognition of the legitimate role that science and technology can and must play in helping solve civilization's most urgent problems and in expanding knowledge of our world and universe. Achieving these mature perceptions is far more complicated and challenging than mastering the intricacies of the Federal budget cycle.

This balanced perception of science and technology by the public, and the R&D budget strategy that hopefully would reflect this perception, must be the product of free inquiry involving all segments of the science and technology community, the Executive and Legislative Branches, and the public. No individual or professional society can provide all the answers. The process by which these new perceptions are developed will be extremely important.

Several factors would seem to deserve special attention.

More reliable quality control in evaluating and managing Federal R&D efforts would help remove targets of congressional and public skepticism. This objective is not easily achieved. However, as R&D efforts cross boundaries of traditional academic disciplines, I wonder if the practice of peer review based on the traditional disciplines is adequate in every case. Solicitation of additional points of view on the excellence and significance of an R&D proposal or project, according to orderly and agreed-upon principles, would seem to make sense.

Improved management of the Federal Government's R&D facilities is also important. This effort should be directed less at eliminating duplication of effort and more at focusing limited resources in support of truly significant research.

The Federal Government must be more careful in funding demonstration projects. We should have learned by now that certain conditions are essential to success. These include a well-developed technology, a sharing of risk with other participants, local interest and initiative, and a well-developed plan for commercialization. Federal money, by itself, is not sufficient.

We must be willing to ask tough questions. Does federally supported R&D really expand industrial innovation and productivity? Should Federal efforts be directed instead at creating R&D incentives in the private sector? What is the real public interest in Federal R&D spending?

Furthermore, we need to find ways to support and test the ideas of individual inventors who attempt to translate scientific understanding into commercial innovations and applications. This is an age of big science and large technological systems driven by economic forces and large institutions, both private and public. Invention and wisdom is not the sole property of these institutions; large is not always best. We need to rediscover how the contributions of individual experimenters and entrepreneurs can be made available to society as a whole.

The public also expects a more forthright accounting of problems incurred through a growing dependence on technology. This involves more than preparing an environmental impact statement. For example, the Subcommittee on Science, Technology and Space is conducting hearings on legislation to establish a national climate research program. Witnesses have emphasized how our present weather problems are not beyond the range of climatic conditions likely to occur over the course of several decades. Crises stemming from drought or the severe cold of last winter are more the result of a technologically dependent society that exists on the margins of what our natural climatic system can be expected to support Now that we are entering a period of below-average precipitation, there is almost no margin or flexibility for safety.

Forthright public accounting places on science and technology an obligation to alert society to such dangers, instead of tempting us to stretch our natural systems even further through technological short-cuts.

We also need greater courage by scientists in speaking out in support of basic and applied research, coupled with greater creativity in explaining to the rest of us how the results of this research are essential to a humane and healthy society. Dr. Max Tischer, emeritus professor of Wesleyan University, offered some sound advice in accepting recently the Gold Medal of the American Institute of Chemists. He said: ". . . Deep down, I believe that the scientific enterprise is not going down the drain. But nevertheless, if it is to survive and prosper as one

man's noblest accomplishment, today's and tomorrow's generation of scientists, the young and the mature, must be enormously more dedicated, resourceful, and industrious and ever mindful of their obligations to society."

Congress, for its part, must be more willing to listen and take seriously such testimony when it is offered. This will require greater discipline and maturity, especially a willingness to eschew the demand for short-term relevance for every scientific enterprise.

We must also be willing to spend more time evaluating the merits of R&D proposals in their infancy and less time in nitpicking and second-guessing once the project is approved and underway. This new maturity on Capitol Hill will come as stronger bonds of trust and mutual respect are forged among scientists and engineers, political leaders, and the public.

I have already suggested that no person or group can be the source of all knowledge or guidance in defining an R&D strategy keyed to a more mature understanding of the benefits and limits of science and technology. All of us have an obligation to participate. A considerable portion of the agenda of the Subcommittee on Science, Technology and Space will be devoted to this issue through a continuing series of hearings and studies that will commence in September.

Congress is well suited to provide a public forum for examining the relationship between the purposes of government and the needs of society. Among the 17 specific powers of Congress enumerated by the founding fathers in Article I, Section 8 of the Constitution is one "to promote the Process of Science and Useful Arts." Beyond this constitutional mandate is the obligation of the Subcommittee to exercise vigorously its legislation and oversight responsibilities for science and technology. This will be done. Our efforts will be guided by the 13 goals for R&D contained in the Science Policy Act enacted last year.

We welcome the participation of the Executive in this effort. In passing the Science Policy Act, Congress set in place the foundation for a cooperative and productive relationship with the Federal R&D community. In particular, the Office of Science and Technology Policy, directed by the President's Science Advisor, should be the focal point for a thorough review of the government's total R&D effort.

As you know, the Executive Office of the President will be the object of President Carter's first reorganization plan. Among the options being considered is one that would fold the OSTP into a broader office of policy evaluation. Such a decision would be a major setback in any effort to bring greater order and purpose to Federal R&D activities. It would be vigorously opposed on Capitol Hill.

We hope that the reorganization plan will spell out how the White House intends to carry out the congressional mandate to conduct a major two-year survey of the condition of science and technology in the United States. There is every indication that the President's Committee on Science and Technology, mandated by the Science Policy Act to conduct this inquiry, will not be appointed. The study itself has not begun, even though an interim report is due this August. Congress expects from the Administration both an explanation of what went wrong and a suggestion of where we go from here.

Dr. Albert Einstein, in a brief foreword written for Lincoln Barnett's outstanding little book, *The Universe and Dr. Einstein*, expresses the spirit and integrity that should guide us in these endeavors. The greatest scientific figure of this or perhaps any century wrote: "It is of great importance that the general public be given an opportunity to experience—consciously and intelligently—the efforts and results of scientific research. It is not sufficient that each result be taken up, elaborated, and applied by a few specialists in the field. Restricting the body of knowledge to a small group deadens the philosophical spirit of a people and leads to spiritual poverty."

It is time that we followed Dr. Einstein's admonition more faithfully.

PENNSYLVANIA GOVERNOR'S JUSTICE COMMISSION ENDORSES FULL FUNDING FOR LEAA PROGRAM FOR FISCAL YEAR 1978

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. EILBERG. Mr. Speaker, I wish to share with my colleagues the deep sense of concern expressed by the chairmen of the Pennsylvania Governor's Justice Commission's eight regional planning councils over the need for adequate funding for the Law Enforcement Assistance Administration program in the coming fiscal year.

The Governor's Justice Commission is the State agency charged with administering the LEAA program in Pennsylvania, and the eight regional planning councils are responsible for local level criminal justice planning.

At a meeting on June 17, 1977, these chairmen adopted a resolution reflecting the general feeling of the approximate 380 Pennsylvania local government officials and policymakers who comprise these councils that the Governor's Justice Commission, in administering the LEAA program in Pennsylvania, has had laudable success in improving the criminal justice system.

The resolution also appeals for support of an adequate fiscal year 1978 appropriation for the LEAA program, declaring that a $754 million appropriation for LEAA would enable the Governor's Justice Commission to continue effecting promising criminal justice improvement programs for Pennsylvania's local units of government.

Mr. Speaker, I am pleased to place the text of that resolution into the RECORD:

RESOLUTION

Whereas, The Governor's Justice Commission is the State Planning Agency established to administer the Federal Law Enforcement Assistance Administration program in Pennsylvania; and

Whereas, Since 1969 the Governor's Justice Commission has used more than $200 million in Federal LEAA funds to plan for and effect significant improvements throughout Pennsylvania's criminal justice system; and

Whereas, such efforts have contributed largely to the improved coordination and delivery of criminal and juvenile justice functions and services and have reduced fragmentation within the State's criminal justice process; and

Whereas, through the funding programs of the Governor's Justice Commission, its Regional Planning Councils and Juvenile Justice Advisory Committee, new and substantial inroads have been made in training and educating local law enforcement officers, professionalizing the State's court administration functions, reforming the State's correctional and probation and parole programs, recognizing the rights of the juvenile offender and preventing crime in Pennsylvania's communities; and

Whereas, such advances have contributed to the birth and continuation of new and innovative criminal justice practices, the introduction and passage of needed criminal justice legislation and the building of a professional, capable and responsive criminal justice system at the local level; and

Whereas, the Governor's Justice Commission through the LEAA program must receive essential authority, encouragement, and Federal appropriations support sufficient to carry forth its efforts to improve the Commonwealth's criminal justice system.

Now, therefore, be it

Resolved, That on this 17th day of June, 1977, the Chairmen of the Governor's Justice Commission's eight Regional Planning Councils, namely:

Reverend Monsignor Charles O. Rice—Pastor, St Anne's Parish Chairman, Allegheny Regional Planning Council.

Mr. Raymond A. Holland—Court Administrator, Huntingdon County Chairman, Central Regional Planning Council.

Honorable James J. Walsh—Judge, Court of Common Pleas, Lackawanna County, Chairman, Northeast Regional Planning Council.

Dr. William P. Garvey—Chairman of History Department, Mercyhurst College, Erie, Chairman, Northwest Regional Planning Council.

Honorable Paul M. Chalfin—Judge, Court of Common Pleas, Philadelphia, Chairman, Philadelphia Regional Planning Council.

Honorable Albert G. Blakey III—Judge, Court of Common Pleas, York County, Chairman, Southcentral Regional Planning Council.

Honorable Isaac S. Garb—Judge, Court of Common Pleas, Bucks County, Chairman, Southeast Regional Planning Council.

Mr. Bernard W. Cashdollar—Beaver County Police Coordinator, Chairman, Southwest Regional Planning Council.

Call upon the Pennsylvania Delegation to the Congress of the United States to support the appropriation of sufficient funds of an amount not less than $754 million for the Federal support of the LEAA program for the 1978 Fiscal Year to enable the Governor's Justice Commission to continue its planning, Federal grant administration and technical assistance activities and responsibilities at a level which meets the needs and expectations of the people of Pennsylvania; and be it further

Resolved, That a copy of this Resolution be delivered to each member of Pennsylvania's Congressional Delegation.

PAUL M. CHALFIN,
Judge, Court of Common Pleas of Philadelphia and Chairman of the Governor's Justice Commission's Regional Planning Council Chairmen.

MORE IS LESS AND LESS IS MORE: THE NEED FOR HORIZONTAL DIVESTITURE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. RANGEL. Mr. Speaker, on Wednesday, June 22, I testified before the Interior Committee Energy and Environment Subcommittee on H.R. 7816, an act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain. This proposed

legislation would limit the so-called Seven Sisters—Gulf, Exxon, Texaco, Mobil, British Petroleum, Shell, and Standard of California—from leasing Federal lands for the production of energy resources.

Barring the major oil companies from leasing Federal lands would act to promote competition within the energy industry. For as long as they are allowed to buy up and control the available alternative sources for the production of energy, they will continue to follow the oilman's basic principle for success—limited production will maximize profits.

It is my belief and the belief of many of my colleagues on both the Ways and Means and Ad Hoc Committee on Energy that as long as the oil companies are allowed to control alternative resources for the production of energy, there can be little expectation that the forces of the marketplace will be able to work in a free and unfettered manner. Therefore, the time for the horizontal divestiture of the oil industry has come.

The text of my remarks follows:

REMARKS BY REPRESENTATIVE CHARLES B. RANGEL

Good morning. First, I would like to take this opportunity to thank the chairman and the committee for the opportunity to testify on H.R. 7816, "An Act to Promote the Mining of Coal, Phosphate, Oil, Oil Shale, Gas, and Sodium on the Public Domain." At the outset, I would like to say how important I believe it is to limit the oil companies from expanding into alternative sources of energy. It is my belief that as long as the oil companies are allowed to control alternative resources for the production of energy, there can be little expectation that the forces of the market place will be able to work in a free and unfettered manner. This will mean that the domestic price of energy will continue to be controlled by OPEC and buoyed by the major oil companies.

Professor David Schwartz, in testimony before the House Ways and Means Committee on June 2d of this year pointed this out when he said:

"If the energy conglomerates control the entire specrum of substitutable fuels, then coal production or uranium production becomes a function of oil and gas profit maximizing, but not an independent decision based upon the market potential of a firm which is in one fuel sector."

In other words, Professor Schwartz is saying that as long as the oil companies are allowed to control oil, gas, and the other forms of energy it is in their self-interest to limit production so that the supply of energy will not outstrip the demand for energy, and thereby depress prices.

One need only briefly examine the history of oil to find glaring evidence of how the major companies have endeavored to control supplies in order to keep prices up. In the 1880's John D. Rockefeller after successfully cornering the oil market by buying out the independents, who because of their own production had allowed the bottom to drop out of the oil market, commented:

"The dear people, if they had produced less oil than they wanted, would have got their full price; no combination in the world could have prevented that, if they had produced less oil than the world required."

So as early on as when Rockefeller first brought organization and control to the industry, the watch words for success were: "Limited production would maximize profits".

By 1928, when the production of oil had become a worldwide operation and the vast reserves of Middle Eastern oil were beginning to be exploited, supplies were beginning to again outstrip demand and as a result, profits began to fall sharply. In order to reestablish order where chaos then reigned, Exxon, Shell, and British Petroleum the three largest producers, met in Scotland to carve up the market. At that time, they essentially agreed to divide the world's oil business into shares; each of which would be proportional to their then share of the world market. This again resulted in reduced production and corresponding increased prices. This organizational arrangement was to last for the next 25 to 30 years and effectively prevented gluts on the market.

During the last 10 years as the sources of oil began to dry up, oil companies began to move to insure their preeminent position in the energy field. The lessons of oil were easily transferred to alternative sources of energy. By 1960, the major oil companies had not acquired any significant holdings in coal. Today, they have cornered vast reserves not just in coal but in uranium, geothermal steam, tar sands, and oil shale also. Of the top 15 coal companies in the United States, three are captive companies owned by steel or electric utilities which consume all the coal they produce, six are petroleum companies, four are conglomerates, and only two can be classified as independent coal companies. 24 oil and gas companies control approximately 44 percent of leased coal reserves. Yet only 8 of the 24 actually produce coal, and most of those 8 had acquired independent coal companies prior to 1960. In recent years, there have been no major new entrants in the coal market and this can well be attributed to the oil companies use of their vast resources of capital to bid on leases.

The problem here is that firms in multifuel markets have as their objective to coalesce the development and marketing of one fuel or another depending upon the alternative profit margins of the varying fuels. Whereas a firm which is marketing only one fuel can only fulfill its business objectives by operating at levels of efficiency and innovation which will provide the greatest possibility of expanding the market for his output. In contrast, the fuel conglomerate will seek to balance-off the marketing of one fuel or another depending upon alternative profit margins, as well as, viewing the market as a total level of energy requirement.

A similar picture can be seen if one examines the uranium industry. Again, the oil companies have moved in and control major reserves. Between them, three oil companies control 51 percent of our uranium reserves and a total of only five oil companies control 62 percent of our domestic uranium milling capacity which converts ore to the fuel concentrate. And in only the past weeks startling revelations of Gulf Oil Company's participation in a Canadian uranium cartel which had as its expressed intent to control production and thereby prices, have been uncovered by Congressman John Moss' Commerce Oversight and Investigations Subcommittee.

Only one conclusion can be drawn from the diverse activities of the oil companies, as long as they are allowed to buy up reserves, they will continue the practice of Rockefeller to limit production and thus maximize profits.

This is precisely why the legislation which you are considering is so important. If we are ever to break the pricing policies of OPEC, we must increase domestic production; and this will not occur as long as oil companies are allowed to enter into alternative sources of energy. A first step in that direction is to prevent the oil companies from participating in the leasing of new public lands which will be opened up for energy exploration as H.R. 7816 would prevent. A more far reaching solution to this problem would be to bar oil firms which produce more than 100,000 barrels a day from expanding into alternative sources of energy. This would provide a healthy competitive atmosphere in the energy supply industry and would go a long way toward breaking OPEC's grip on world energy pricing.

ROCKY RAISEN, AN INNOVATIVE AND IMAGINATIVE TEACHER

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1977

Mr. PEPPER. Mr. Speaker, there are some teachers who have the genius of finding a way to put things to students which will enable the students to grasp them and make the learning process an experience of pleasure and eager expectation. Such a man is Morton "Rocky" Raisen of the Shenandoah Junior High School in Miami, Fla. Rocky, innovative and imaginative teacher that he is, observed the students of the Shenandoah Junior High School coming out of the school building as a part of a fire drill and congregating upon the school's playground. Fresh in Raisen's memory was the voter turnout of 15 percent in a recent Democratic primary of Dade County.

In 1972 Walter Cronkite had heard of Morton Raisen and called him on the phone on election day to get the advice of Morton and the students of Shenandoah Junior High School as to how a much larger percentage of voter turnout could be achieved in significant elections. In his broadcast of November 7, 1972, Cronkite recited many of the suggestions offered by the students of Shenandoah Junior High School.

So in 1976 Rocky Raisen, still remembering his conversation with Walter Cronkite and that low turnout in the recent Democratic primary, began to wonder what Shenandoah Junior High School students could do which would dramatically impress the public with the need to participate in elections. The thought then struck Rocky Raisen that the students, instead of casually going to the playground after a fire drill, could take a position on the playground which would spell out in large letters the word vote.

With the enthusiastic support of the able principal of the Shenandoah Junior High School, Harry Miller, and the warm cooperation of the students, Rocky Raisen put his vote idea into effect on October 5, 1976, when the entire student body of Shenandoah Junior High School, which by coincidence numbered 1,776 in attendance on that day, assembled on the school playground to spell out the word vote.

I was privileged to be present on this dramatic occasion, as were the news media and cameras flying over the scene in helicopters which transmitted it not only locally, but nationally. Later it was sent to the world on "Voice of America," so that nationally and internationally Rocky Raisen and the students of

Shenandoah Junior High School made their dramatic appeal to all free people who had the right to vote to exercise that right and vote.

Rocky Raisen was in Washington this week and was honored by an invitation by the Honorable CARL PERKINS, chairman of the Education and Labor Committee of the House of Representatives to appear before the Education and Labor Committee and many of its members and present a film showing the exciting appeal to vote which Rocky and the students of Shenandoah Junior High School made.

Rocky Raisen is the kind of teacher whom we should encourage in our school system. For example, he teaches geometry, mathematics, and certain aspects of biology by figures in the square dance so the pupils enjoy dancing while they are forming into the various figures which relate to the subject they are studying. If we had more such innovative and imaginative teachers and more encouragement of such teachers, as principal Harry Miller has given to Rocky Raisen, we would have fewer school dropouts in the country and fewer boys and girls of school age participating in crime.

So, Mr. Speaker, I ask to include in the RECORD following my remarks Rocky Raisen's own statement about his dramatic episode, together with the broadcast of November 7, 1972 of Walter Cronkite, telling about his interview with the students of Shenandoah Junior High School:

A PRESENTATION OF UNORTHODOX AND DYNAMIC TEACHING METHODS TO MAKE LEARNING FUN FOR ALL

(By Morton "Rocky" Raisen)

The film "VOTE" that you will view today is a sample of how learning can be made exciting.

This film might be an inspiration for other school systems to get involved in similar innovative educational activities.

Publicizing events like this should encourage a large voter turnout, and arouse public interest to become more informed on important issues.

On October 5, 1976, the entire student body of Shenandoah Junior High School, approximately 2,000 youngsters, assembled to spell out the word "VOTE".

The idea for the "VOTE" formation originated as the result of a 15 percent voter turnout in the September, 1976 Florida primary elections (the lowest ever in the state), and coordinating the random movement of a fire drill exercise into the wholesome, civic-oriented activity that you will see in the film.

The "VOTE" project received local and national attention, and perhaps contributed in some way to the vastly improved 78 percent Florida voter turnout in the national election of November 2, 1976.

I consider it a great honor to the City of Miami and for myself to be invited to appear before the Congress of the United States to deliver this presentation.

With extensive media coverage, I believe what happened at Shenandoah Junior High School can be the stimulus to help make "VOTE WEEK" an ongoing national event.

Every four (4) years during national election time, an attempt is made to involve students in an activity to create more interest in the democratic process.

Prior to the 1972 presidential election, my students "brainstormed" ideas to get more people out to vote. Walter Cronkite picked up the story, and gave it five minutes on CBS, complimenting the students on their suggestions . . . and recognizing the creativeness of these junior high school students." Cronkite's commentary was international, as "Voice of America" radio and "Radio Free Europe" also carried it.

To create interest for the 1976, or Bicentennial Election, the entire school, 1,776 students, gathered in formation on the playfield. At the top of the formation you will notice, in the film, a student made a sign with ten (10) foot letters, quoting the legend that appears on the Statue of Liberty, "Give Us Your Tired, Your Poor, Your Huddled Masses". This was especially significant, since 85 percent of the student body consists of Cuban refugee children.

This was a sizeable project for a junior high school. It meant coordinating nearly two thousand students to function as a single unit. The dimensions of the formation were 120 yards by 30 yards, 20 yards longer than a football field.

The reasons for the "VOTE" display are numerous:

1. This activity stimulated student interest and involvement in the democratic process.

2. Aerial photographs from helicopters were used as the centerfold for the student yearbook.

3. It provided a practical exercise in mathematics, with students calculating letter dimensions, and proportioning people to each letter. Students who solved mathematical problems of formation dimensions made visitations to classes to explain the methods used.

4. The "VOTE WEEK" concept is educationally sound. It offered an opportunity for all teachers to interrelate the entire school curriculum. For example—the nuclear energy topic can easily be correlated with science, history, music, literature, art, civics, political science, geography, math, etc. Similar relationships can be applied to local issues. It helps the children learn that saving the Everglades National Park could depend on the people elected to public office.

5. Instituting a National Vote Week could help to make voting fashionable, like selling toothpaste, by encouraging a "National Vote Week", similar to Christmas Week, Brotherhood Week, Education Week, July 4th, etc. "VOTE WEEK" would take place one week prior to National Election Day.

6. Since National Election Day occurs during the height of the football and basketball seasons, high schools, colleges, universities and professional teams would be encouraged to dedicate their half-time to the importance of voting on the weekend before election day.

7. Staging this event on October 5th gave interested parties time to prepare and participate in "VOTE" festivities.

8. This activity provided the opportunity to introduce students to computer technology, by programming "VOTE" formation problems into a computer, and using the printout as an instructional device to demonstrate how a computer can solve a problem in which the students are directly involved.

9. This activity demonstrated to students that cooperation from nearly 2,000 people, the entire student body, can function as a unified team in accomplishing a wholesome goal, when all energies are in phase or channeled in the same direction.

Innovative activities such as this are only possible if the school administration is courageous enough and sufficiently interested to encourage such activities, and allows a creative climate to exist.

I would welcome the opportunity to discuss these concepts further with interested lawmakers, educators and community leaders.

Thank you for your time.

WALTER CRONKITE REPORTING

Walter Cronkite: This is Walter Cronkite Reporting with news and analysis on the CBS Radio Network.

This is the program that asks the question, "Is it possible, in the middle of election day, to do an election piece that hasn't already been done a thousand times?"

With an assist from a group of junior high school science students in Miami, we're at least going to try. Our attempt in one minute.

For decades, political scientists and good government groups, who struggled to get all the potential voters to the polls, were reminded time and again that tightly-knit, undemocratic political machines can function only in a vacuum of general voter apathy. They control elections by delivering a critical organized minority of votes for the machine candidate, while the majority of voters stay home. Occasionally, such reminders wake up the people, but usually only for a short while. Then, often as not, the electorate falls asleep again, and crooked machine politics resumes control.

Where the political scientists have failed, can ninth-grade scientists succeed? After a poor turnout in a race and election in Miami, a science instructor at Shenandoah Junior High School—Morton Raisen—polled 150 of his students on their ideas of getting out the vote. He sent us about 50 responses. Presumably, the rest involved duplication—assuming, of course, that Mr. Raisen's pupils are less apathetic than their non-voting elders.

The results seem to fall into four categories. One, make conditions more convenient for voting. Two, make sure no one forgets to vote. Three, offer voters a carrot. Four, use a stick. We don't want to upset Vice President Agnew and others worried by too much permissiveness, but by our count the carrots out-number the sticks by 20-to-1.

Some of the suggested conveniences already are actually being tried here and there. They include making election day a holiday, or at least holding it on weekends instead of Tuesdays; stationing voting booths in busy places—even carnivals and athletic stadiums—and keeping them open 24 hours a day; let people register up to the day before election, says one student. Actually, a couple of states do permit simultaneous registration and voting. The students also suggest absentee ballots for the elderly and invalids. For the lazy or inconvenienced, they suggest mail voting with computer cards, phone voting with voice prints, and voting by credit card. Also free baby sitters for voting parents.

To remind all of us to vote, the students have come up mainly with nuisance devices. From top to bottom: sky-writing planes and air-dropped ping pong balls with "vote" written on them; pealing church bells; trucks with blaring loudspeakers; flashing electric signals linked up with traffic lights; subliminal signals from your TV; announcements on PA systems; commemorative postage stamps; and the word "vote" stamped on shopping bags and packages. In other words, the techniques of 1984 put to work for democracy, which might make some observers wonder if apathy and indifference are really so bad after all.

The carrots are pretty much what you'd expect from healthy high school kids—food and materialism, with a little pop culture and sex mixed in; free hamburgers, hot dogs, potato chips, doughnuts, soft drinks and coffee; raffles for voters, and get-out-the-vote contests, for a car, color TV, or a trip around the world; a silver dollar for every voter—that one sounds like something Boss Tweed might have used. And why should the devil

have the best tunes? Free rock concerts for youth voters; other entertainment for those who want to save their hearing; and free kisses from celebrities or otherwise attractive distributors—although, frankly, we feel a voting drive deserves more than mere lip service. For some reason, nobody suggested free seltzer water or aspirin for use after hearing all those loudspeakers or seeing all those flashing signals.

As we mentioned, there was only one stick—but it may do the trick when everything else fails: until you voted, no tax refunds.

And that's the brave new world of Miami's Shenandoah Junior High School, where everybody votes with a smile on his face—or else!

If you haven't been there already, see you at the polls.

This is Walter Cronkite Reporting for CBS News.

MODERN DAY MUSIC MAN—TEACHER KEEPS HIS SCIENCE CLASS IN TUNE WITH THE CHANGING TIMES

(By Gary Gibbs)

Scratchy disco music blares from an old record player as T-shirt, jean and sneaker-clad students drift into Rocky Raisen's classroom at Shenandoah Junior High.

The ninth graders, 13 and 14 years old, move to the beat, chatting with friends. But with the shrill ring of the class bell, the youngsters are ready for 55 minutes of general science—Raisen style.

"I always play entrance and exit music for my classes," says Raisen, a short, muscular man with straight black hair. "And I'm convinced that if you set anything to music, you can teach it."

As proof, he replaces the disco recording with one that sets the periodic table of elements to song.

Students mime the lyrics, "antimony, arsenic, aluminum, selenium", rhymed and rhythmed to stick in the mind. Through music, the technical names of all 102 known elements "will hopefully become friends." Raisen says.

"At the junior high age, kids equate strange with enemy and familiar with friend," he says. "Music helps make the strange familiar, the enemy the friend."

Dancing is another favorite Raisen teaching tool. He employs it often to illustrate molecular structure. Since many molecules are formed by pairs of atoms, square dancing serves his purpose well. The weaving, twisting DNA molecule closely resembles the Virginia Reel and is a student favorite, Raisen says.

Every niche in Raisen's small, box-like classroom serves to showcase recent student projects. Many hang from the room's fluorescent light fixtures and several are piled on cabinets and bookshelves.

Most of the displays reflect Raisen's latest science theme, turning "trash to cash" as the "solution to pollution."

"I asked the kids what should be done with trash and they immediately thought of recycling. But that's an old solution to an old problem and new solutions are needed. Trash prevention or finding a use for rubbish are new ways to deal with the problem," Raisen tells his students.

Youngsters were asked to make something functional from anything that had been discarded. Toby Elias responded by converting a cigar box and several junked phonographs into one compact, working battery-operated record player.

Ergidio Gonzalez constructed his own light show from plexiglass, plywood, wire and colored bulbs. Independently, the orange, red and green lights flash in time with music from Elias' cigar box phonograph.

"Ergidio won't tell me how the inner workings of his light show operates," Raisen chuckled, "because he wants to patent his idea."

Many of the "trash to cash" projects are not as sophisticated, reflecting, Raisen believes, the wide range of maturity and scientific aptitude his teaching must contend with.

"But the idea is to encourage questioning. Nothing is impossible and if your brain can think of something, it can be done," he said.

Encouragement is vital, Raisen believes, and he's extended that reasoning to the grading scale he uses to mark student progress. Abandoning the standard A to F barometer, Raisen's grades range from "freaky" and "outta-sight" at the top, to "guayaba", the Spanish equivalent of ripoff, at the bottom.

In 17 years of teaching at Shenandoah, 195 SW 19th St., Raisen has seen the student population shift from predominantly Anglo to its current 85 per cent Latin level.

"But kids are kids," he says, "and their home environment is basically . . . dominated by television. . . .

"You're competing with Walter Cronkite, Mr. Wizard, 60-second service and instant oatmeal. It forces you to give something extra," he says.

ENGLISH TAUGHT WITH A COUNTRY TOUCH

With a "swing your partner 'round and 'round," Shenandoah Junior High teacher Morton Raisen is helping bridge the language gap for Cuban-born students whose grasp of English is limited.

Raisen has his 75 charges twirling three time a week to such commands as, "Circle to the left and don't be slow," and "Walk the lady back home with you.

"I'm convinced that proper listening demands formal training just as reading does," says Raisen, a science teacher who has been square dancing himself for 16 years.

Putting the students through the paces to the rapid-fire calls of the square dance, Raisen says, enhances their listening skills in English, a language that must be mastered before they can make any real progress in school.

The experimental class of last year, started by Raisen, is now part of the curriculum at Shenandoah, where about 70 per cent of the students are Cubans, many of them recent arrivals.

He has three classes of about 25 each, one an advanced class and two for beginners.

At the start of each new dance, Raisen walks the students through the moves, slowly calling the steps as they go. The recorded music and calls are regulated, becoming progressively faster.

"I got the idea," Raisen said, "from TV commercials. Kids seem to remember most easily those that are set to music, as compared to the ones that are only spoken."

THE EARL NIGHTINGALE PROGRAM: NO. 4379—ROCKY RAISEN

I had breakfast with a very unusual and remarkable person this morning. He belongs to that marvelous and small fraternity of educators who love to teach, and whose classes are places of great interest, excitement, and exceptional learning. He teaches at Shenandoah Junior High School in Miami, Florida.

His idea of a classroom is a place in which students should have a most enjoyable time learning. For example, he has talked with his students about the problems caused by the misuse of alcoholic beverages. He points out to them, for example, that we lose more people every year because of this popular and legal drug, than were killed in eight years of fighting in Viet Nam.

Then he shows his students what alcohol is: it is, he explains to them, the body excretions of tiny organisms. But he doesn't just tell them, he lets them see for themselves by making alcohol in class. He puts a gallon of water on the table, adds a half-cup of sugar, tosses in a package of yeast, and then explains to his students how the little animals which constitute the yeast, eat the sugar, and as it passes through their bodies, it is converted into alcohol. Because of the sugar and water, the organisms have a friendly environment in which to multiply and they soon overpopulate the container of water and when the alcoholic content of the water reaches about fourteen percent they all die.

He then explains that grown men and women pay as much as ten dollars a bottle for the excrement of these millions of little creatures. One of his students commented that cheese is made the same way. But it was explained to him that in the case of cheese, the excrement is thrown away and the protein, the good stuff, is left over to eat. In the case of alcohol, the process is reversed. Take wine for example. After wine is made, the good stuff, the grapes, are thrown away . . . only the excrement of the organisms is retained.

He goes on to explain that alcohol reduces the oxygen supply of the brain, and that's why people get drunk. He explains that you can get the same reaction by sitting in a closet with the door closed tightly, as you run out of oxygen . . . you will begin to feel dizzy.

For the first time, the children in Rocky's class see alcohol for what it actually is—a drug—which is the waste material of millions of tiny creatures. And they understand that when you drink it, because of the oxygen deprivation in your brain . . . you can't think very clearly, you lose your critical faculties . . . and you kill someone, or yourself, in your car, or make a fool of yourself.

Before the national elections, Rocky got all the kids at the junior high school, to line up in an open area in such a way that they formed the word "vote." The four letter word was longer and wider than a football field. It was photographed by helicopters, hit the front pages of the newspapers and was shown on the television news shows . . . the enormous word, formed entirely by students, spelling out VOTE. It helped the students realize the importance of voting, but surely caused thousands of people to vote who might otherwise have stayed home. Rocky Raisen proves, day after day in his class, that education can be just as much fun as it is rewarding. He plays music when the kids come to class . . . he says they need a little warm-up time, just as an athletic team does, before settling down to work. Then he plays music again when class is dismissed. He's quite a guy.

Yes, there ought to be more creative and interested teachers. I think most teachers want to do a good job; I think most teachers do a good job. But teachers like Rocky Raisen are the living proof, that learning can be wonderfully enjoyable.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and

any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 28, 1977, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED
JUNE 29

9:00 a.m.
Environment and Public Works
To hold hearings on the following nominations to be Federal Cochairmen of Regional Commissions as indicated: Claud Anderson, of Florida, Coastal Plains; J. Joseph Grandmaison, of New Hampshire, New England; Patsy Ann Danner, of Missouri, Ozarks; and William R. Bechtel, of Wisconsin, Upper Great Lakes.
4200 Dirksen Building

Select Small Business
Government Regulation and small Business Advocacy Subcommittee
To review an SBA study of small business problems.
424 Russell Building

Veterans' Affairs
Health and Readjustment Subcommittee
To resume hearings on proposed increases in rates of veterans' education benefits.
Until 2 p.m. 6226 Dirksen Building

9:30 a.m.
Energy and Natural Resources
To consider pending calendar business.
3110 Dirksen Building

Human Resources
Labor Subcommittee
To continue hearings on problems of occupational disease, hazards, and health risks, and on providing compensation to the victims of occupational disease.
4232 Dirksen Building

Judiciary
To continue hearings on S. 1096, to strengthen the law concerning use of false identification when applying for Federal documents.
6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on energy conservation programs for existing residential buildings as contained in S. 1469, proposed National Energy Act.
5302 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee and Consumer Subcommittee
To continue joint oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.
5110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation and management of the Clean Water Act (Public Law 92-500).
4200 Dirksen Building

Finance
To resume consideration of the tax and trust fund aspects of S. 1538, proposing reform in the administration of the black lung benefits program.
2221 Dirksen Building

Foreign Relations
To hear Joseph S. Nye, Deputy to the Under Secretary of State for Security Assistance, Science and Technology, on the Administration's nuclear export policy and uranium supply problems.
4221 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To receive testimony on a report of the Commission on Postal Service on recommendations with regard to electronic mail.
3302 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To mark up S. 1750, the proposed Saccharin Study, Labeling and Advertising Act.
S-146, Capitol

Select Small Business
Government Regulation and Small Business Advocacy Subcommittee
To hold hearings jointly with the Economic Growth and Stabilization Subcommittee of Joint Economic Committee on small business investment policy.
424 Russell Building

Select Intelligence
Charters and Guidelines Subcommittee
To hold a closed business meeting.
H-403, Capitol

10:30 a.m.
Appropriations
To mark up proposed appropriations for fiscal year 1978 for the defense establishment.
S-128, Capitol

JUNE 30

8:00 a.m.
Agriculture
Agricultural Research and General Legislation Subcommittee
To hold hearings on the Federal Government's role in food safety and quality.
322 Russell Building

8:30 a.m.
Energy and Natural Resources
To resume hearings on S. 977, to conserve gas and oil by fostering increased utilization of coal in electric generating facilities and in major industrial installations.
3110 Dirksen Building

9:00 a.m.
Environment and Public Works
To hold hearings on the following nominations to be Federal Cochairmen of Regional Commissions as indicated: F. Kenneth Baskette, Jr., of Colorado, Four Corners; George D. McCarthy, of the District of Columbia, Old West; Patrick J. Vaughan, of Idaho, Pacific Northwest; and Cristobal P. Aldrete, of Virginia, Southwest Border.
4200 Dirksen Building

Veterans' Affairs
Housing, Insurance, and Cemeteries Subcommittee
To continue hearings on S. 718, to provide veterans with certain cost information relating to the conversion of Government-supervised insurance to individual life insurance policies.
6226 Dirksen Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Richard Page, of Washington, to be Urban Mass Transportation Administrator.
5302 Dirksen Building

Judiciary
To hold hearings on the nominations of M. Carr Ferguson, of New York, to be Assistant Attorney General (Tax Division), and Russell G. Clark, to be U.S. district judge for the western district of Missouri.
2228 Dirksen Building

Select Small Business
To resume hearings on S. 972, authorizing the Small Business Administration to make grants to support the development and operation of small business development centers.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up H.R. 5294, S. 918, and S. 1130, to amend the Consumer Protection Act so as to prohibit abusive practices by independent debt collectors, and H.R. 5675, to authorize the Treasury Department to make short-term investments of any portion of its excess operating cash balance.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the designated nomination of Richard A. Frank, of Nebraska, to be Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce.
235 Russell Building

*Energy and Natural Resources
To consider pending calendar business.
3110 Dirksen Building

Environment and Public Works Environmental Pollution Subcommittee
To continue oversight hearings on the implementation and management of the Clean Water Act (Public Law 92-500).
4200 Dirksen Building

Foreign Relations
Foreign Assistance and Near Eastern and South Asian Affairs Subcommittees
To receive a closed briefing on Lebanon from Alfred L. Atherton, Assistant Secretary, Bureau of Near Eastern and South Asian Affairs, Department of State.
S-116, Capitol

*Human Resources
Labor Subcommittee
To continue hearings on problems of occupational diseases, hazards, and health risks, and on providing compensation to the victims of occupational disease.
4232 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1393, to authorize actions by the Attorney General to redress deprivations of constitutional rights of institutionalized persons.
2228 Dirksen Building

Select Small Business
Government Regulation and Small Business Advocacy Subcommittee
To continue hearings on the impact of fuel oil tax rebates on small businesses and on the consumer.
318 Russell Building

10:30 a.m.
Commerce, Science, and Transportation
To hold a business meeting.
5110 Dirksen Building

3:00 p.m.
Joint Economic
Priorities and Economy in Government Subcommittee
To resume closed hearings to receive testimony on budget allocations for defense purposes in the U.S.S.R. and Peoples Republic of China.
5202 Dirksen Building

JULY 1

9:30 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To continue oversight hearings on the implementation and management of the Clean Water Act (Public Law 92-500).
4200 Dirksen Building

Veterans' Affairs
Health and Readjustment Subcommittee
To hold hearings on proposed legislation to amend the Veterans' Physician and Dentists' Pay Comparability Act.
Until noon 6202 Dirksen Building

10:00 a.m.
Budget
To hold hearings on the new concept of advance budgeting.
357 Russell Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1393, to authorize the Justice Department to initiate suits to enforce constitutional and other federally guaranteed rights of institutionalized persons.
2228 Dirksen Building

JULY 6

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on alleged irregularities in certain spending practices of the Small Business Administration.
3302 Dirksen Building

JULY 7

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on alleged irregularities in certain spending practices of the Small Business Administration.
3302 Dirksen Building

JULY 8

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on alleged irregularities in certain spending practices of the Small Business Administration.
3302 Dirksen Building

JULY 11

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.
5302 Dirksen Building

JULY 12

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee and Consumer Subcommittee
To hold joint hearings on the auto fuel economy section of S. 1469, proposed National Energy Act.
224 Russell Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings to evaluate information upon which the FDA based its decision to ban Laetril from interstate commerce.
Until noon 4232 Dirksen Building

Human Resources
Handicapped Subcommittee
To resume hearings on proposed extension of the Vocational Rehabilitation Act of 1973, Education of Handicapped Children Act, and S. 1596, to establish a National Center for the Handicapped.
6202 Dirksen Building

Veterans' Affairs
To consider pending calendar business.
412 Russell Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.
5302 Dirksen Building

Foreign Relations
To hold hearings on the Vienna Convention on the Law of Treaties (Exec. L. 92d Cong.; 1st sess).
4221 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 1077, to assure that essential maritime transportation is provided to Alaska, Hawaii, and certain U.S. territories.
5110 Dirksen Building

JULY 13

9:30 a.m.
Human Resources
Handicapped Subcommittee
To continue hearings on proposed extension of the Vocational Rehabilitation Act of 1973, Education of Handicapped Children Act, and S. 1596, to establish a National Center for the Handicapped.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S.1501.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on S. 1381, setting standards for State no-fault benefit plans to compensate motor vehicle accident victims.
5110 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the international telecommunications system.
235 Russell Building

Foreign Relations
To review the operation and effectiveness of the War Powers Resolution of 1973.
4221 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To hold hearings on S. 1682, to implement the treaties with Mexico and Canada on the execution of penal sentences.
6226 Dirksen Building

JULY 14

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To receive a report from the National Commission on Supplies and Shortages on materials policy research and development.
5110 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the cost of drugs.
Until noon 4232 Dirksen Building

Human Resources
Handicapped Subcommittee
To continue hearings on proposed extension of the Vocational Rehabilitation Act of 1973, Education of Handicapped Children Act, and S. 1596, to establish a National Center for the Handicapped.
6202 Dirksen Building

10:00 a.m.
*Commerce, Science, and Transportation
*Communications Subcommittee
To continue oversight hearings on the international telecommunications system.
457 Russell Building

Foreign Relations
To review the operation and effectiveness of the War Powers Resolution of 1973.
4221 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings on S. 1682, to implement the treaties with Mexico and Canada on the execution of penal sentences.
6226 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee and Consumer Subcommittee
To resume joint hearings on the auto fuel economy section of S. 1469, proposed National Energy Act.
5110 Dirksen Building

JULY 15

9:30 a.m.
Veterans' Affairs
To consider pending calendar business.
412 Russell Building

10:00 a.m.
Agriculture, Nutrition and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To resume hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

Commerce, Science, and Transportation
To resume hearings on S. 1381, setting standards for State no-fault benefit plans.
To compensate motor vehicle accident victims.
6226 Dirksen Building

Finance
Social Security Subcommittee
To resume hearings on proposals for maintaining the financial soundness of the Social Security system.
2221 Dirksen Building

Foreign Relations
To review the operations and effectiveness of the War Powers Resolution of 1973.
4221 Dirksen Building

JULY 16

10:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 1381, setting standards for State no fault benefit plans.
To compensate motor vehicle accident victims.
5110 Dirksen Building

Finance
Private Pension Plans and Employee Fringe Benefits Subcommittee
To resume hearings jointly with Select Committee on Small Business on the Administration's report and investment policies under the Employees Retirement Income Security Act; S. 285, diversification of investment of private pension fund assets; and S. 901, to eliminate dual Treasury and Labor Department jurisdiction over the administration of ERISA.
2221 Dirksen Building

JULY 19

8:00 a.m.
Agriculture
Agricultural Research and General Legislation Subcommittee
To resume hearings on the Federal Government's role in food safety and quality.
322 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To review a report from the National Commission on Supplies and Shortages on materials policy research and development.
5110 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To resume hearings on biomedical research programs.
Until 1 p.m. 4232 Dirksen Building

10:00 a.m.
Budget
To hold hearings on the Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building
Foreign Relations
To hold hearings on the following five tax treaties: Convention with Israel (Exec. C, 94th Cong., 2nd sess.); Convention with Egypt (Exec. D, 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K, 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P, 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C, 95th Cong., 1st sess.).
4221 Dirksen Building

JULY 20

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue hearings on biomedical research programs.
Until 1 p.m. 4232 Dirksen Building
Veterans' Affairs
To consider pending calendar business.
412 Russell Building

10:00 a.m.
Budget
To continue hearings on the Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building
Commerce, Science, and Transportation
To resume hearings on S. 1381, setting standards for State no-fault benefit plans to compensate motor traffic accident victims.
5110 Dirksen Building
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1162, to repeal section 222 of the Communications Act of 1934, which governs the inter-relationship among communications common carriers providing international record services.
235 Russell Building
Foreign Relations
To hold hearings on the following five tax treaties: Convention with Israel (Exec. C. 94th Cong., 2nd sess.); Convention with Egypt (Exec. D 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K. 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P. 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C. 95th Cong., 1st sess.).
4221 Dirksen Building

JULY 21

10:00 a.m.
Budget
To continue hearings on the Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building
Commerce, Science, and Transportation
Communications Subcommitte
To continue hearings on S. 1162, to repeal section 222 of the Communications Act of 1934, which governs the interrelationship among communications common carriers providing international record services.
235 Russell Building

10:30 a.m.
Commerce, Science, and Transportation
To consider pending calendar business.
235 Russell Building

JULY 26

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume oversight hearings on the cost of drugs.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Foreign Relations
To hold hearings on protocol to the Convention on International Civil Aviation (Exec. A, 95th Cong., 1st sess.), and related protocols (Exec. B, 95th Congress, 1st sess.)
4221 Dirksen Building

JULY 27

9:00 a.m.
Veterans' Affairs
Health and Readjustment Subcommittee
To hold oversight hearings on a study by the National Academy of Science on health care for American veterans.
6226 Dirksen Building

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue oversight hearings on the cost of drugs.
Until 12:30 p.m. 4232 Dirksen Building
Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the role of the halfway house in the rehabilitation of alcoholics.
Until noon 1202 Dirksen Building

JULY 29

10:00 a.m.
Budget
To mark up Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

AUGUST 1

10:00 a.m.
Budget
To continue mark up of Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

AUGUST 2

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume oversight hearings on the effectiveness of antitrust laws enforcement.
2226 Dirksen Building

10:00 a.m.
Budget
To continue mark up of Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

AUGUST 3

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue oversight hearings on the effectiveness of antitrust laws enforcement.
2226 Dirksen Building

AUGUST 4

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue oversight hearings on the effectiveness of antitrust laws enforcement.
2226 Dirksen Building

SEPTEMBER 21

9:30 a.m.
Veterans' Affairs
To hold hearings on S. 364, Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1 p.m. Room to be announced

SEPTEMBER 28

10:00 a.m.
Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
412 Russell Building

CANCELLATIONS

JUNE 29

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 1077, to assure that essential maritime transportation is provided to Alaska, Hawaii, and certain U.S. territories.
1202 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, June 28, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

If you will seek the Lord your God you will find Him if you search after Him with all your heart and with all your soul.—Deuteronomy 4: 29.

Eternal Father, we thank Thee for this hallowed moment at the beginning of a new day when we can turn aside from the busy tasks of crowded days and become conscious of Thy presence. We would claim the assurance that if with all our hearts we truly seek Thee we shall surely find Thee. In the quiet of this moment may we be still and know that Thou art God and that Thou art with us always all the way.

Make us ready for the duties of this day by cleansing our hearts with Thy grace, by feeding our minds with Thy

truth, by guiding our feet in Thy ways, and by helping us to love one another.

Lord we are able. Our spirits are Thine. Remold them, make us like Thee divine. Thy guiding radiance above us shall be a beacon to God, to love and loyalty.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 377, nays 15, not voting 41, as follows:

[Roll No. 387]

YEAS—377

Addabbo	Burleson, Tex.	Edwards, Okla.
Akaka	Burlison, Mo.	Eilberg
Alexander	Burton, Phillip	Emery
Ambro	Butler	English
Anderson, Calif.	Byron	Erlenborn
Anderson, Ill.	Caputo	Ertel
Andrews, N.C.	Carney	Evans, Colo.
Andrews, N. Dak.	Carr	Evans, Del.
Annunzio	Carter	Evans, Ga.
Applegate	Cavanaugh	Evans, Ind.
Archer	Cederberg	Fary
Armstrong	Chappell	Fascell
Ashbrook	Clausen, Don H.	Fenwick
Ashley	Clay	Findley
AuCoin	Cleveland	Fish
Badham	Cohen	Fisher
Bafalis	Coleman	Fithian
Baldus	Collins, Ill.	Flood
Barnard	Collins, Tex.	Florio
Baucus	Conte	Flowers
Bauman	Corcoran	Flynt
Beard, R.I.	Corman	Foley
Beard, Tenn.	Cornell	Ford, Tenn.
Bedell	Cornwell	Fountain
Bellenson	Cotter	Fowler
Benjamin	Crane	Frey
Bennett	Cunningham	Fuqua
Bevill	D'Amours	Gammage
Biaggi	Daniel, Dan	Gaydos
Bingham	Daniel, R. W.	Gephardt
Blanchard	Danielson	Giaimo
Blouin	Davis	Gibbons
Boggs	de la Garza	Gilman
Boland	Delaney	Goldwater
Bolling	Dellums	Gonzalez
Bonior	Derrick	Gore
Bonker	Derwinski	Gradison
Bowen	Devine	Grassley
Brademas	Dickinson	Gudger
Breaux	Dicks	Guyer
Brinkley	Dingell	Hagedorn
Brodhead	Dodd	Hall
Brooks	Dornan	Hamilton
Broomfield	Downey	Hammer-schmidt
Brown, Mich.	Drinan	Hanley
Brown, Ohio	Duncan, Oreg.	Hannaford
Broyhill	Duncan, Tenn.	Hansen
Buchanan	Early	Harkin
Burgener	Eckhardt	Harrington
Burke, Calif.	Edgar	Harris
Burke, Fla.	Edwards, Ala.	Harsha
	Edwards, Calif.	Hawkins
Heckler	Mikulski	Russo
Hefner	Mikva	Ryan
Heftel	Milford	Satterfield
Hightower	Miller, Calif.	Sawyer
Hillis	Miller, Ohio	Schroeder
Holt	Mineta	Schulze
Holtzman	Minish	Sebelius
Horton	Mitchell, N.Y.	Seiberling
Howard	Moakley	Sharp
Hubbard	Moffett	Shipley
Huckaby	Moliohan	Shuster
Hughes	Montgomery	Sikes
Hyde	Moore	Simon
Jeffords	Moorhead, Calif.	Sisk
Jenkins	Moorhead, Pa.	Skelton
Jenrette	Moss	Skubitz
Johnson, Calif.	Mottl	Slack
Johnson, Colo.	Murphy, Ill.	Smith, Iowa
Jones, N.C.	Murphy, N.Y.	Smith, Nebr.
Jones, Okla.	Murphy, Pa.	Snyder
Jones, Tenn.	Murtha	Solarz
Jordan	Myers, Gary	Spellman
Kasten	Myers, Michael	Spence
Kastenmeier	Myers, Ind.	Stangeland
Kazen	Natcher	Stanton
Kelly	Neal	Stark
Kemp	Nedzi	Steed
Ketchum	Nichols	Steers
Keys	Nix	Stokes
Kildee	Nolan	Stratton
Kindness	Nowak	Studds
Kostmayer	O'Brien	Stump
Krebs	Oakar	Symms
Krueger	Oberstar	Taylor
LaFalce	Obey	Thompson
Lagomarsino	Ottinger	Thone
Latta	Panetta	Thornton
Le Fante	Patten	Traxler
Leach	Patterson	Treen
Lederer	Pattison	Trible
Leggett	Perkins	Tsongas
Lehman	Pettis	Tucker
Lent	Pickle	Udall
Levitas	Pike	Ullman
Lloyd, Calif.	Poage	Van Deerlin
Lloyd, Tenn.	Pressler	Vander Jagt
Long, La.	Preyer	Vanik
Long, Md.	Price	Vento
Lott	Pursell	Volkmer
Lujan	Quayle	Waggonner
Luken	Quie	Walgren
McClory	Quillen	Walsh
McCloskey	Rahall	Wampler
McCormack	Railsback	Watkins
McDade	Regula	Waxman
McDonald	Reuss	Weaver
McEwen	Rhodes	Weiss
McFall	Richmond	Whalen
McHugh	Rinaldo	White
McKay	Risenhoover	Whitehurst
Madigan	Roberts	Whitley
Maguire	Robinson	Whitten
Mahon	Rodino	Wilson, Bob
Mann	Roe	Wilson, Tex.
Markey	Rogers	Winn
Marks	Roncalio	Wright
Marlenee	Rooney	Wylie
Marriott	Rosenkowski	Yates
Martin	Rousselot	Yatron
Mathis	Roybal	Young, Mo.
Mazzoli	Rudd	Young, Tex.
Meeds	Runnels	Zablocki
Metcalfe	Ruppe	Zeferetti
Meyner		
Michel		

NAYS—15

Cochran	Glickman	Pritchard
Conable	Holland	Sarasin
Coughlin	Hollenbeck	Steiger
Forsythe	Jacobs	Walker
Frenzel	Mitchell, Md.	Wirth

NOT VOTING—41

Abdnor	Flippo	Rosenthal
Allen	Ford, Mich.	Santini
Ammerman	Fraser	Scheuer
Aspin	Ginn	St Germain
Badillo	Goodling	Staggers
Breckinridge	Ichord	Stockman
Brown, Calif.	Ireland	Teague
Burke, Mass.	Koch	Wiggins
Burton, John	Lundine	Wilson, C. H.
Chisholm	McKinney	Wolff
Clawson, Del	Mattox	Wydler
Conyers	Pease	Young, Alaska
Dent	Pepper	Young, Fla.
Diggs	Rangel	

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1437. An act for the relief of Soo Jin Lee;

H.R. 3838. An act for the relief of Tulsedei Zalim; and

H.R. 4246. An act for the relief of Hee Kyung Yoo.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 142. An act for the relief of Gaspar Louis Sayoc;

S. 344. An act for the relief of Mr. Angelo B. Cortes; and

S. 614. An act for the relief of Chiu Ping Haskell.

APPOINTMENT OF CONFEREES ON H.R. 7556, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1978

Mr. SLACK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7556) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. SLACK, SMITH of Iowa, FLYNT, ALEXANDER, Mrs. BURKE of California, Messrs. EARLY, MAHON, CEDERBERG, ANDREWS of North Dakota, and MILLER of Ohio.

APPOINTMENT OF CONFEREES ON H.R. 692, AMENDING THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 692) to amend the Small Business Act and the Small Business Investment Act of 1958 to increase loan authorization and surety bond guarantee authority; and to improve the disaster assistance, certificate of competency and small business set-aside programs, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? The Chair hears none, and appoints the following conferees: Messrs. SMITH of Iowa, STEED, DINGELL, CORMAN, ADDABBO, LAFALCE, RUSSO, CONTE, STANTON, and MCDADE.

CONGRATULATIONS TO B. MORRIS PELAVIN AS "MAN OF THE YEAR"

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, I am proud to call the attention of my colleagues to the honor recently paid to a prominent and distinguished constituent of mine, B. Morris Pelavin, of Flint, Mich.

Mr. Pelavin was recently honored as "Man of the Year" by the Flint Chapter of B'nai B'rith for the many contributions he has made through his civic service to both the Flint community and to the Nation. He is a former officer of B'nai B'rith, the Flint Urban League, and the United Jewish Appeal, and is a member of the board of directors of the Flint Institute of Music, as well as being active in many other civic organizations in Flint. Nationally, he has served as a member of the board of the American Association of Jewish Education since 1968 and is a member of the National Committee on Jewish Education as well as being a member of the executive committee of the American Ort Federation. A native of Poland, he has devoted his lifetime to an outstanding career as an attorney and has come to the aid of many persons and causes, thus revealing his innermost purpose as a true brother to all people. I am honored to have him as a friend, and to have this opportunity to present to my colleagues this very brief outline of his many accomplishments.

DISTURBING STATEMENT ON MIDEAST BY STATE DEPARTMENT

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, I am shocked and deeply disturbed by yesterday's statement on the Mideast issued by the State Department, especially following as it did various comments by the President suggesting a new sympathy for PLO demands.

The statement was deplorable on at least three counts: First, although it did not say that Israel should return to the pre-1967 West Bank borders, it was subject to that interpretation and in fact was so interpreted by some of the media; second, it stressed the provision in U.N. Resolution 242 that Israel should withdraw from "occupied territories," but failed to mention that the word "all" was deliberately left out of 242; it also, quite incredibly, failed to mention the 242 provision that Israel was to have "secure and recognized boundaries"; third, it stated that 242 required withdrawal "from all three fronts in the Middle East dispute," a new and baseless interpretation of 242.

More broadly, the statement appears to criticize the announced position of the Begin government that Israel should retain all the West Bank. In contrast, the statement fails to complain that most Arab leaders have repeatedly insisted that Israel must give up all the territories taken in 1967. This reveals a regrettable double standard.

Finally, I strongly disagree with the State Department that "progress toward a negotiated peace in the Middle East is essential this year if future disaster is to be avoided." There is nothing magic about 1977. Moreover, I see no evidence that the Arab States desire peace strongly enough to make early progress toward that goal realistically possible.

OVERSIGHT HEARINGS BY SUBCOMMITTEE ON ECONOMIC STABILIZATION

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, in its role as watchdog over the many aspects of the Nation's troublesome inflation problem, the House Banking Subcommittee on Economic Stabilization will hold hearings next month as part of its examination of recent developments in the Nation's foreign trade policy including several important Presidential decisions. In particular, we will examine the possible consequences for consumer prices, and thus for inflation generally, of recent decisions involving such important products as shoes, color television sets, and sugar. Our initial witness will be Robert Strauss, the President's Special Representative for Trade Negotiations.

The subcommittee is aware of the many conflicting interests surrounding foreign trade policy. We begin with no biases, but we do wish to be certain that the inflation aspects of import restraints are weighed in the scale of decisions. We wish to know the administration's general policy on this difficult question.

Mr. Speaker, I would emphasize that this effort will be conducted within the context of our inflation oversight responsibility.

SECRETARY CALIFANO HAS NO JURISDICTION OVER FARM PROGRAM

(Mr. WHITLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITLEY. Mr. Speaker, I was shocked by press reports over the weekend that Mr. Joseph Califano, Secretary of Health, Education, and Welfare, has suggested that we should abolish the Federal farm program as it relates to tobacco.

It is highly appropriate that Secretary of Agriculture Bergland reminded Mr. Califano that HEW has no jurisdiction over the farm program and that he should more appropriately restrict himself to recommendations designed to promote health, education, or welfare.

Secretary Bergland, the chairman of the House Agriculture Committee, and the President of the United States are on record in support of the tobacco program; and just last Monday it was conceded here in the House that abolishing the support price program for tobacco would not stop a single cigarette from being manufactured, sold, or smoked. Obviously, to the extent that cigarette smoking is or may be harmful to health, any measure emanating from the Cabinet member with health jurisdiction should hold some promise of reducing smoking or otherwise promoting health. A proposal which, for no good purpose, would impose financial ruin upon hundreds of thousands of citizens in Appalachia, is grossly misguided. I would hope, Mr. Speaker, that in the future, he will direct his efforts accordingly.

THIS COUNTRY MUST NOT REPUDIATE ITS COMMITMENT TO ISRAEL

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, for several months, President Carter has been suggesting that Israel must make territorial concessions in its Middle East peace negotiations. Yesterday, a State Department spokesman, Hodding Carter, said in an unusually blunt statement, that Israel must make specific territorial concessions.

The Carter administration is making significant, and unwise, changes in U.S. Mideast policy which place the State of Israel in a position of great disadvantage. It is bad enough to tell one party to make concessions before negotiations begin. It is worse to demand specific concessions. It could be disastrous to force both from a new government in Israel.

I hope the Carter administration is not trying to use the Middle East to divert attention from its failures in SALT. Whatever the President is trying to do, he should be, and he now is, warned that this country is not going to repudiate its commitment to Israel. The United States should stop trying to force a certain result, and instead revert to its successful role as mediator in the Middle East.

DENIAL OF 1977 COMPARABILITY PAY ADJUSTMENTS IN CASE OF CERTAIN POSITIONS

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 964) to provide that the salaries of certain positions and individuals which were increased as a result of the operation of the Federal Salary Act of 1967 shall not be increased by the first comparability pay adjustment occurring after the date of the enactment of this act.

The Clerk read as follows:

S. 964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the first adjustment which, but for this Act, would be made after the date of enactment of this Act under the following provisions of law in the salary or rate of pay of positions or individuals to which such provisions apply, shall not take effect:

(1) the second sentence of section 104 of title 3, United States Code, relating to comparability adjustments in the salary of the Vice President of the United States;

(2) paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), relating to comparability adjustments in the annual rate of pay of Members of Congress;

(3) section 461 of title 28, United States Code, relating to comparability adjustments in the salary and rate of pay of justices, judges, commissioners, and referees; and

(4) section 5318 of title 5, United States Code, relating to comparability adjustments in the annual rate of pay for positions in the Executive Schedule.

The SPEAKER. Is a second demanded?

Mr. WHALEN. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. WHALEN. I am, Mr. Speaker.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from New York (Mr. SOLARZ) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. WHALEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a simple but I think significant bill. It was reported out unanimously by a vote of 23 to 0 by the House Committee on Post Office and Civil Service. It provides that the recipients of the Quadrennial Commission increase which took place last February—Members of Congress, Federal judges, and the high-level Federal executives and supergrades—who would otherwise receive a comparability increase this October will not be entitled to receive that increase when it comes due.

According to the estimates of the Congressional Budget Office, the comparability increase which is scheduled for this October should be somewhere in the vicinity of 6.3 percent. That means that if it takes effect, Members of Congress would be entitled to an increase somewhere in the vicinity of $3,500, and for all of the individuals who were the recipients of the Quadrennial Commission increase in February—the Members of Congress, the Federal judges, and the high-level Federal executives—it would come to a grand total of $36 million for the 1978 fiscal year. Consequently, this bill, which is before us today on the Suspension Calendar, gives the Congress of the United States an opportunity to save the taxpayers of this country $36 million which they would otherwise have to spend in comparability increases for those individuals who have already received the Quadrennial Commission increase this year.

This legislation is based on a very simple premise. It is based on the idea that individuals who have already received one increase during the course of the current year should not be entitled to receive a second increase as well. It is designed to prevent a kind of double-dipping, and it would seem to me that whether Members were for or against the Quadrennial Commission increase which took effect last February, they certainly should be in favor of this legislation which is designed to prevent the comparability increase for Members of Congress, Federal judges, and high-level Federal executives from taking effect in October as well. This will be, I want to point out to the Members, the one opportunity the House will have to vote this year on a pay increase for Members of Congress.

Tomorrow when the legislative appropriations bill comes up, we will be in effect voting on a pay rollback. The vote today on S. 964 is a vote on a pay increase for Members of Congress, which may very well take effect in the absence of this legislation due to the comparability procedures which we adopted 2 years ago in 1975.

I understand that some of my friends on the other side of the aisle, who I am sure agree with most of us that it would be politically obscene for the Congress of the United States, particularly at this time with such difficult economic circumstances in the country, to get two pay raises in 1 year, are nonetheless suggesting that Members go on record against this legislation when it comes up for a vote. They object to voting in favor of the comparability increase for Members of Congress because they believe that this legislation is too limited in scope and because it comes under the suspension procedures where amendments are not in order, and they do not have the opportunity to offer amendments to the legislation which would broaden its impact, and which would enable them to offer even more sweeping reforms than they are permitted to now.

But I want to point out to the Members of the House that if this legislation fails to receive the two-thirds vote which it needs in order to pass, and this bill is brought back sometime in the future, say later in the week or maybe after we return from the recess, under the normal procedures, even with an open rule, the amendment which the gentleman from Ohio would like to have an opportunity to offer to this bill; namely, an amendment which would provide that all future pay raises of Congress not take effect until the next session of Congress after the one in which they are approved, as a way I suppose of removing even the appearance of a conflict of interest, I think Members of the House should know that even under an open rule if we bring this bill back to the floor under the normal procedures, that amendment will not be in order because it is not germane to the very limited purposes of the bill which we have before us today, which is a bill to knock out the comparability increase for this year alone only for those individuals who have already received the Quadrennial Commission increase in February.

And lest anybody be concerned about the scope of this legislation, let me assure them right now that it in no way affects the 2 million Federal civil servants who will be entitled to a comparability increase in October. This does not touch them. All this bill does is to prevent Members of Congress, Federal judges, and high-level Federal executives who have already gotten the benefit of the quadrennial increase in February from receiving a second pay increase in the same calendar year when the comparability pay increase takes effect in October.

So I would say in conclusion to my very good friend on the other side of the aisle, the gentleman from Ohio (Mr. WHALEN), who is the author of the legislation to defer future pay raises for Members of Congress until the next session after the one in which they are approved, that if he wants to bring that bill to the floor for a vote, we cannot do it by amending this legislation even under an open rule because the amendment is not germane. The best way to do that is to report the bill out of the committee to which it is referred. The gentleman knows I am sympathetic to his proposal. Or, if the committee refuses to report the bill out, the gentleman can always go forward with a discharge petition signed by a majority of the Members of the House, thereby bringing the bill to the floor for a vote.

So all I say in conclusion to my colleagues, and then I will yield to my friend, the gentleman from New York, is that if they are against two pay raises for Members of Congress in 1 year, if they want to be on record voting against a pay raise for Members of Congress, then vote for this bill which knocks out the comparability increase for this year.

If some want to vote in favor of the Whalen bill at some future point, do not vote against this bill, because it does not really provide an opportunity to vote for the Whalen bill.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I would like to pose this question, so we have the picture clear. It is my understanding that the question of pay raise will come up some time this week. I would like to know how this relates to that in the event that the cost-of-living increase is, in fact, eliminated on this day. Assuming it is eliminated and the pay raise fails of passage, is it the gentleman's understanding that Members of Congress, as well as the other employees involved, will then be in a position of not receiving any increase?

Mr. SOLARZ. The gentleman asks a very good question. The answer is that since this bill has already passed the Senate in identical form, if it passes the House today it will, if the President signs it, become law and it will mean that regardless of what happens tomorrow, Members of Congress will not be entitled to a comparability increase for the 1978 fiscal year.

I would point out to the gentleman, however, that even if an amendment to the legislative appropriation bill, which I gather may be offered tomorrow, to roll back the quadrennial commission increase which took effect in February is adopted, it does not necessarily mean that the increase will be rescinded, because the Senate on two occasions has voted to reject such amendments, and the legislation will have to return from conference and nobody can be sure what the conferees will do; but in the absence of adoption of this legislation today, we will be entitled to a comparability increase on top of the quadrennial in-

crease which we have already received in February. This may be the one opportunity to vote on whether or not we should receive two increases in 1 year.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield further?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, the gentleman seems to have a sense of optimism with relation to what the Senate will do. It is my understanding at this point that there does not seem to be overwhelming sentiment for the retention of the increase. What the gentleman is saying is that it is foreseeable we might have two increases; but I would like to suggest it is also in the realm of possibility that we have none; so that when we deliberate over this question that we should give serious thought to the possibilities, because we have already had a manifestation of the bill of the House on a previous occasion when the gentleman from New York (Mr. PIKE) offered an amendment that was adopted and which reflected a hostile intention toward the pay raise.

Mr. SOLARZ. The gentleman, of course, is dealing in possibilities and speculation. I think every Member of the House knows that at the moment we are now enjoying the benefits of the quadrennial commission increase, to which I might say I thought we were entitled, because it was 8 years since the last quadrennial commission increase.

The fact is that during that period of time average wages in the private sector went up 70 percent. The Consumer Price Index went up 60 percent. Wages of Federal employees went up by 65 percent. And virtually every category of Americans had substantial pay raises, except Members of Congress. I think we were entitled to that pay raise.

I am hopeful when the moment of truth comes tomorrow that this House will go on record in favor of keeping a justly earned raise for Members.

But that is not the issue today. The issue today is whether we are going to get two increases in 1 year. Even if some believe we were entitled to the quadrennial commission increase in February, I would submit we are not entitled to the comparability increase in the same year as well. Consequently, I urge a vote for the passage of the Senate bill (S. 964).

Mr. WHALEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to suspension of the rules. I would like to take this time to pose several questions to the manager of S. 964, the gentleman from New York, and my traveling companion. As one who suffered with him through the heat of Timbuktu, I can well sympathize with the gentleman's remarks which appeared in last week's issue of U.S. News & World Report.

I am curious. The committee has had S. 964 since March 29, and I am perplexed as to why it took so long for the committee to act on this measure. Also, I am wondering: Is there any coincidence in the fact that S. 964 is brought out 1 day prior to the consideration of the legislative appropriation bill?

Mr. SOLARZ. We, of course, wanted to make sure that this legislation got the very careful consideration to which it was entitled. The members of the committee wanted to discharge their obligations to the House in a responsible way. I am sure the gentleman would not have wanted us to rush to judgment on a matter affecting 11,200 Federal employees, not only in the Congress but in the Federal judiciary and in the Federal Civil Service as well. We did deliberate and we came to the conclusion, after giving it careful thought, that now is the time to bring it to a vote.

Mr. WHALEN. I am deeply touched, and I think we all owe a debt of gratitude to the gentleman and to the committee for taking this time in deliberating this measure.

So, the gentleman is suggesting that it is no coincidence that this measure is being brought out 1 day prior to voting on the legislative appropriation?

Mr. SOLARZ. I am only a new Member around here, and I have very little to do with the scheduling of votes. I think Tuesday is the day for suspensions, but from time to time these things happen. What I do think is important, though, is that Members have an opportunity to go on record in terms of whether or not they are in favor of two increases in 1 year.

Mr. WHALEN. I am curious about another thing. As the gentleman mentioned, the first day of the 95th Congress I, along with Congressmen STEERS, PEASE, and PATTISON of New York introduced H.R. 1365. This is called the Congressional Pay Raise Deferral Act of 1977. What this measure would do would be to defer any congressional pay raise until the Congress succeeding that in which the pay raise occurred.

Now, the thrust of that amendment was proposed in the committee hearings on S. 964 and was ruled out of order because it was not considered germane. Yet, after the committee meeting was over, the distinguished gentleman from Michigan (Mr. FORD) indicated that he still would be willing to consider putting that amendment in as a committee amendment at the time we considered this bill under suspension of the rules.

Now, my concern is, how would this be nongermane during committee consideration, and yet the amendment would be in order as a committee amendment during suspension of the rules? I am a little confused on that.

Mr. SOLARZ. The answer to that question is that when one moves to suspend the rules anything, in effect, is in order, so one can offer amendments to legislation under a suspension of the rules which may not be germane if that legislation were considered under the normal procedures.

Mr. WHALEN. Now, in the committee's deliberations, time was spent, I am sure, considering H.R. 1365; and yet, there was never any vote taken on it. Was there any reason for that?

Mr. SOLARZ. As the gentleman knows——

Mr. WHALEN. If I may interrupt the gentleman, this measure, in addition to the four original sponsors, has about 100 other coauthors. There are about 25 to 30 other Members who have introduced similar bills.

Mr. SOLARZ. As the gentleman knows, an amendment incorporating the gentleman's bill was offered in the full committee, and it was ruled out of order on the grounds that it was not germane.

I think the gentleman also knows that personally I am sympathetic to his approach. But at the same time, it is a bill with 130 friends and cosponsors. There are 300 Members of the House who have not yet affixed their signatures to this particular proposal. I have always felt that if you are going to bring legislation to the floor, it ought to be brought up with a reasonable prospect of passage. We have been taking soundings. I want to take this opportunity today to assure the Member that if he is interested in pursuing this further, our Subcommittee on Presidential Pay Recommendations is fully prepared to conduct additional hearings. The gentleman will have every opportunity to demonstrate the breadth of support for this legislation. And if we arrive at a judgment that the House in its wisdom is likely to look with favor upon this proposal, we have plenty of time in this session to bring it to the floor for a vote.

I would hope the gentleman would not put me in an antagonistic position. I like the gentleman. I even rather like his proposal. But there is a time for all seasons. It was judged in the committee that the time for the gentleman's bill had not yet come. Let it mature, let it ripen. And who knows but that the day may come when we can even bring it to the floor on suspensions.

Mr. WHALEN. Mr. Speaker, it might even come after tomorrow's vote, does the gentleman think?

May I ask the gentleman's assurance that the subcommittee will eventually take a vote on this measure, up or down?

Mr. SOLARZ. It is, of course, difficult for me to commit some of the distinguished members of the committee who have many years of seniority over me. My good friend from Michigan, my good friend from Missouri, my good friend from California, are all very distinguished gentlemen. It is not within my power to commit them on this. But I can promise the gentleman that, if he would like, we will hold additional hearings on this measure.

Mr. WHALEN. Mr. Speaker, I reserve the balance of my time.

Mr. SOLARZ. Mr. Speaker, I think we have utilized more time than the minority. I wonder if it is possible to ask them if they wish to utilize any more time?

The SPEAKER. Does the gentleman from Ohio (Mr. WHALEN) desire to yield time?

Mr. WHALEN. Yes. I would like to yield 3 minutes to the distinguished ranking minority member on the Committee on Post Office and Civil Service, the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, like the Light Brigade, Members of Congress have cannon to right of them, cannon to left of them, cannon in front of them. In the volley and thunder generated by the Federal pay issue, Congress, unlike Brigade members can reply and reason why. The facts remain firmly in place despite a barrage of misdirected broadsides.

Yielding largely to pressure from the Federal judiciary, Congress, in 1975, reluctantly passed legislation which made its Members, U.S. judges, and other high-level Federal executives eligible for automatic, annual cost-of-living adjustments. In arguing their case for a salary adjustment, the judges said salaries in the legal profession had increased nearly 44 percent since the last Federal pay increase in 1969. Since the same wage freeze applied to employees in the legislative and executive branches, Congress responded by making all three eligible for cost-of-living adjustments.

Obviously, the 1975 legislation was not designed to solve the inequities which then existed in the salary schedules. It was, however, a step taken with the realization the problem would be given careful consideration by the Commission on Executive, Legislative and Judicial Salaries.

That independent Commission, which was free from political influence and was not motivated by self-interest, recommended salary adjustments which became effective last March 1. The recommendations were based on a careful and thorough analysis by the highly qualified private citizens who were Commission members. The recommendations subsequently were modified by President Ford and were endorsed by President Carter.

Under the pending legislation, salaries which were increased last March will be excluded from the next comparability pay adjustment which will occur in October. Please note, it has no effect beyond that date.

I see no need for continuing the 1975 law. That is why I have introduced legislation to repeal it. My legislation would end the annual demagoguery on Federal pay.

S. 964 is a first step in the right direction, but we can and should do more. I support the pending legislation with the hope the Members eventually see the wisdom in my approach and help me enact it into law.

However, the law does not provide for an assured vote on the annual October pay adjustments, and that is why S. 964 is necessary.

Under the annual comparability pay adjustments, to which Congress, Federal judges, and executives are tied, the process for implementing the pay raise is automatic. There is no congressional involvement unless the President decides to implement something less than comparability or to defer the effective date of the pay raises. In that case, the Congress has only the choice between full comparability and whatever lesser amount the President may submit.

There is no up or down vote on congressional pay under the October pay adjustment process.

The sole purpose of S. 964 is to eliminate the expected October 1977 comparability adjustment for individuals in the executive, legislative, and judicial branches whose rates of pay were increased earlier this year pursuant to the recommendations of the Quadrennial Commission.

The only way to accomplish this is through the passage of S. 964. The comparability pay adjustment process in October does not offer this same opportunity. I recommend support of the committee position on S. 964.

Mr. WHALEN. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Speaker, I rise to say that I strongly support the concept of this House voting a pay raise only for the next term. I am not against Members of Congress being well paid—indeed I would rather they be paid too much rather than too little. But our procedures need improving. We could command much greater respect if we voted pay increases only for the next term.

Mr. WHALEN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I am most disappointed that this bill (S. 964) that came to us from the Senate does not include the Whalen concept. I was is that Members have an opportunity to offer that concept as part of this bill, and the amendment was ruled out of order. I suspect that if I had been a member of the majority party, it would not have been ruled out of order or no point of order would have been made. As a matter of fact if offered by a member of the majority it would have had a better chance for acceptance so under those circumstances we could make sure that this would have become part of the legislation.

The amendment which I attempted to offer in full committee embodied the Whalen concept of pay raise deferral. My amendment would have provided that any pay increase recommended by the Quadrennial Commission, approved by the President, and passed by record vote of both Houses, shall not take effect until the first day of the Congress following the Congress in which the increase is approved. Such a pay raise delay would apply to all Federal employees who fall under the jurisdiction of the Quadrennial Commission. The Whalen bill is substantially similar to this proposal.

I am sorry that we are not including the Whalen concept in this measure. I think it is a little weak to say that it is nongermane though that was the ruling in committee. As we review this bill, we find that it relates to pay increases for certain individuals in the executive, legislative, and judicial branches, and the Whalen bill relates to future pay increases for the same individuals. I feel it was very much a part of this committee's responsibility to consider that bill during deliberations on S. 964.

I know that my colleague, the gentleman from New York (Mr. SOLARZ), supports the Whalen legislation. I am sorry he was not there the day on which S. 964 was voted. I am sorry that the committee decided to select this procedure, that is, ruling it nongermane in committee, so that we would not have the opportunity to vote on it as part of this measure.

Mr. FLOWERS. Mr. Speaker, will my friend, the gentleman from California, yield?

Mr. ROUSSELOT. I will yield in just a minute. As the gentleman knows, our time is limited because we are operating under the suspension procedure.

Mr. Speaker, I think the Whalen bill is very much related to this issue today, and I am sorry that the majority has decided not to allow us to consider it. I, too, support the Whalen bill, and I have tried very hard to enlist support for it in S. 964. The subcommittee, by the way, took care of S. 964 less than 5 minutes one day downstairs right here in the Capitol. So when it is said that we have considered all aspects of this bill, that is pure "bunk." We have not.

My colleague, the gentleman from Ohio (Mr. WHALEN), has very appropriately pointed out that this bill is here today just to ease our conscience a little so that if we vote for this bill, we will somehow feel better tomorrow—or some Members may—when it comes to supporting the legislative appropriations bill which includes funds for a much larger raise.

Mr. Speaker, I know that my colleague, the gentleman from Ohio (Mr. WHALEN), and our minority leader, the gentleman from Arizona (Mr. RHODES), have both suggested that these two issues be joined in one bill and I am terribly disappointed that the majority has made the decision to disallow further consideration of this joint concept. Even now, by committee amendment, the majority (Mr. SOLARZ) could allow the Whalen amendment to be inserted as part of this measure. I am terribly disappointed that we are not allowing that to occur.

Mr. Speaker, I will be glad now to yield to my distinguished colleague from down the hall, the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Mr. Speaker, I appreciate the gentleman's yielding, although he spent part of the time we could have used here in debate. We might have been through by now.

I support the concept of the Whalen amendment, but that concept is not without fault either, because there is an issue raised there with respect to a succeeding Congress. Members of this House are elected for a 2-year term or one Congress. In the other body, Members are elected to 6-year terms—or three Congresses.

Mr. ROUSSELOT. I will interrupt to say to the gentleman that we had plenty of time in committee to consider perfecting it.

Mr. FLOWERS. Let me tell the gentleman what my point is.

Mr. ROUSSELOT. As a matter of fact, the gentleman from Ohio (Mr. WHALEN) had a different concept as to what should relate to future votes. We should have protected that in committee. That was the place in which to do it. We could have included it in this bill (S. 964). I think it is wrong that we did not. Therefore, I cannot vote for this bill; the procedure is wrong and it was important to include the Whalen provisions.

The SPEAKER. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

Mr. SOLARZ. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Mr. Speaker, I thank the gentleman for yielding.

I simply want to make this point to my good friend, the gentleman from Ohio (Mr. WHALEN), who is the author or the father of the Whalen concept. There is a problem there, too, because we are talking about the succeeding Congress. We are the only body elected for one Congress. It would only be one-third of the other body that would be covered. Two-thirds of the Members of the other body would still be voting on their pay raise or accepting a pay raise for the term in which they were elected. Therefore, the Whalen concept is not without fault, even for the purists.

The idea does have a great deal of merit, and I hope the committee will hold hearings as the gentleman from New York (Mr. SOLARZ) has suggested.

And in any event the Members here today should pass overwhelmingly the measure before us.

Mr. SOLARZ. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, it is with special pleasure that I rise today in support of S. 964, a bill eliminating the October comparability pay increase. As many of my colleagues know, I introduced a similar bill in February of this year. More than 100 Members of Congress joined me in cosponsoring my first legislative effort. This bill was also endorsed by the 95th freshmen Democratic caucus. Therefore, I feel compelled to rise and speak in favor of this bill at this time.

I do not want to repeat the many arguments already expressed in support of S. 964. In fact, there is little that could be said to oppose this legislation. The so-called cost-of-living adjustment could add up to $3,700 to our salaries as well as providing 6.5 percent pay hikes to certain members of the judicial and executive branches. This pay raise comes at a time when unemployment stubbornly remains high and when the inflation rate is not abating. In order to work toward improving the public's trust, it is essential that S. 964 be approved. The cost savings to the U.S. Treasury will be approximately $36 million. But no price tag at all can be placed on the value an improvement in the public's perception of Congress would be worth.

I would like to thank the many Representatives who sponsored and supported my legislation, and I, of course, urge them to join me in voting for S. 964 today.

Mr. SOLARZ. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the bill before us.

I would like to take this opportunity to try to clear up some of the fog being spread around here, particularly by my dear friend, the gentleman from California (Mr. ROUSSELOT), who has brought us a beautiful west coast fog and combined it with a little Lake Erie, Ohio, fog, in the gentleman's amendment.

Mr. Speaker, there is nothing sacred about the concept which we are referring to. As a matter of fact, it is not even being followed by most of the States. What we are really talking about is turning the clock back.

Mr. Speaker, a number of years ago the Congress legislated itself out of the pay-setting business. That was heralded at the time as a great step forward, and it was said that we were going to remove from Congress the temptation to adjust or to take care of its own pay. That was considered to be a great reform at the time it was enacted.

Now, after a number of years, we have a strange new concept that has crept in under the door which says that if one does not vote on his own pay, there is something wrong with him; and if one does vote on his own pay, he obviously should vote against it to prove his purity.

In fact, Mr. Speaker, there is a strong movement to go back to the old-fashioned system of having Congress set its own pay along with the pay of other people in the Federal Government.

That, in my opinion, would be a bad mistake. I think that the Quadrennial Pay Commission given the responsibility of the President to appoint a body to make these recommendations is a wise departure from tradition and will serve us well over the long haul.

Mr. Speaker, the Whalen concept seems to be confusing to a lot of people because it is something that sounds similar to what has happened in their State legislatures.

I hasten to remind the Members that the maximum term that State legislators have is 4 years. Most of them have only 2-year terms.

The SPEAKER. The time of the gentleman has expired.

Mr. SOLARZ. Mr. Speaker, I yield the gentleman from Michigan 1 additional minute.

Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman for yielding me the extra time.

Mr. Speaker, as the gentleman from New York (Mr. SOLARZ) pointed out, you cannot really tie this kind of a deferral that the gentleman from Ohio (Mr. WHALEN) proposes in his bill, with one part of the Congress having a 6-year term and the other part having a 2-year term, albeit there is a new Congress in each of the three segments of the 6-year term.

The purpose of doing this in the State legislatures was that originally you will find that the legislators had their salaries or their compensation, usually on a per diem basis, established by the State constitution. As time went by it was decided to trust the legislators with the authority to set their own compensation from time to time. In return, when making that change from their constitutionally established rate of compensation to that of a legislatively established rate of compensation, there was the requirement that the compensation would not take effect until the next session of the legislature.

There is no comparable background that we can base the Whalen amendment on, and to be fooling around here talking about some similar premise upon which the Whalen amendment rests, is nonsense.

Mr. WHALEN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time. I rise in support of this bill but I am not very happy with voting for it because the bill lacks two provisions that ought to be passed and because it is considered under suspension and cannot be amended.

I would say that the gentleman from New York (Mr. SOLARZ) has come a long way, much further than I had expected the gentleman to come. But, if we really wanted to have a compromise what the gentleman could have done is what the other speakers today have suggested, and which the gentleman had the chance to do, to not only suspend the pay raise for October 1977 the gentleman could have suspended the pay raise for October 1978 because that is an election year and we are not going to have guts enough to raise our pay then anyway. We would not vote ourselves a raise just a month before an election.

The gentleman from New York could have done what so many of us desired, and it would have been better for the Congress of the United States to do what the gentleman from Ohio (Mr. WHALEN) wants us to do, to postpone future pay raises into the next Congress. That could have been done. That could have been worked out a long time before now and we would not have had this problem of considering a bill that is serving as a smoke screen so we can vote down a pay raise now so that we can vote one up tomorrow. We could have done this weeks ago so that you and others who favor the pay raise would not have to vote on an amendment tomorrow rescinding the March 1 pay raise which I am sure will be offered. There was plenty of opportunity to do it and then we would not have the smoke screen effect of this bill today.

We are not fooling anyone.

Mr. WHALEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague the gentleman from Ohio (Mr. WHALEN) for yielding to me.

Mr. Speaker, I also will vote for this bill but, really, you know, we are not fooling anybody. We are not fooling the public. They know exactly what we are up to, and the cynicism with which they regard us is only strengthened by actions like this.

It is quite simple to vote not to have a pay raise in the same Congress in which you are sitting. This is done in many of our State capitals, as a matter of simple political morality. It is familiar. It is not sacred exactly, but at least it does seem to strike toward an ideal which is that you should not profit by voting yourself something.

There was a phrase of Oliver Wendell Holmes that I would like to repeat here today; he said that even a dog knows whether he has been kicked or tripped over. The public is going to know whether we are trying to fool them or whether we are trying to be on the level.

I very much regret all this talk about "my good friend" or "my dear friend so-and-so"; we are not kidding around. We ought to be more concerned, not just with what has happened, but how it

looks to the poor tired public, thinking about the House which represents them, discouraged by what the papers say about us, discouraged by what they read—can you blame them?

I have been very much disturbed by this. I introduced a bill to defer raises. I joined with my colleague, the gentleman from Ohio (Mr. WHALEN). I have done everything that a freshman Congressman can do. We must do better than we have been doing. It seems to me that deferment of pay raises is a very simple step that this Congress really must take.

Mr. WHALEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, perhaps I should apologize to my colleagues for conducting myself in somewhat less than a serious manner, but I suppose that my action was not inappropriate because I do not think this is a very serious action today.

I would point out that the bill, first of all, is a one-shot proposition that deals with the October pay adjustment only, and certainly the timing, I think, represents a charade.

I can appreciate the dilemma in which my colleagues are placed today when I ask them to vote no on suspending the rules. Quite obviously, back home this may be misinterpreted as a vote in favor of the prospective October salary adjustment. So I would certainly release any of my friends who wish to vote affirmatively for this measure. I would hope, however, that at some future time we would have the opportunity to vote on the pay deferral concept which was mentioned earlier. The reason I say this is because I am convinced we need reform in our pay process. It seems to me that every time we vote on our accepting a pay raise during our term of office, this involves a conflict of interest. I think the only way that we can remove this conflict of interest is by adopting legislation which would call for a deferral of any congressional pay increase until the succeeding session of Congress.

Mr. Speaker, I have no more requests for time, and I reserve the remainder of my time.

Mr. SOLARZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. UDALL).

Mr. SOLARZ. Mr. Speaker, in conclusion, I yield myself such time as I may consume.

The suggestion has been made this morning that the members of our committee in general, and the chairman in particular, have engaged in some kind of parliamentary flimflam as a way of preventing a vote on the so-called Whalen bill. I want to take this opportunity to say that nothing could be further from the truth.

The gentleman from California offered the Whalen bill as an amendment before our full committee when this legislation was considered. Upon the advice of the Office of the Parliamentarian—and let me say that I think we have the finest Parliamentarians of any parliamentary institution in the world—we ruled the gentleman's amendment out of order on the ground that it was not germane. It would not have mattered whether the gentleman was a Democrat or Republican. But we were told by the Parliamentarian's Office that in their judgment it was not germane to the purposes of this bill, which are limited to eliminating the comparability increase for this fiscal year alone. We are told that the Whalen bill enjoys such widespread support that we ought to give the House an opportunity to vote on it, but the fact is that it has, as I understand it, 130 sponsors. I do not think there is a Member of this House who is not aware of the Whalen bill. If it is so popular, how come 305 other Members have not cosponsored it?

We are prepared to consider this legislation further, but I would submit that the mere fact that a bill has 100 or so cosponsors is hardly conclusive evidence that the overwhelming majority of Members of the House want it to pass. The gentleman will have his day "in court," but this is not it.

Mr. AMMERMAN. Mr. Speaker, I doubt that many of us are in disagreement with the thrust of the bill before us today. S. 964 would deny the October 1 cost-of-living pay increase to Senators and Members of Congress, Federal judges and top Government officials who received comparability pay raises on March 1 as recommended by the Commission on Executive, Legislative and Judicial Salaries. Unless we act, all of top level Federal officialdom will receive a second pay raise this year, one which was originally intended by the Federal Pay Comparability Act of 1970 to apply only to career civil servants.

Clearly, granting a second raise this year to the most highly paid people in the Federal Government would be uncalled for. We have been hearing a lot recently about "double dipping" in a different but related context—the payment of retirement benefits to retired military personnel employed as civil servants. Acceptance by us high level officials of a second pay raise on the heels of the increases which were effective in March would surely constitute double dipping of a more flagrant sort.

S. 964 will prevent this from occurring in 1977. But the bill is defective in two respects—the scope of application and our method of considering it.

As I said earlier, I believe the legislation we adopt to cure this defect in the law should be both permanent and comprehensive. S. 964 is a temporary measure which fails this test.

Mr. Speaker, what we ought to be doing is taking action which would enable us to put the issue posed by automatic cost-of-living adjustments in the salaries of Members of Congress, judges, and other high-level Federal officials behind us. The bill which I introduced back in March at the time the Senate passed S. 964, H.R. 4251, would eliminate these raises and bring us back to reliance on the quadrennial review process, as was contemplated by the 1970 pay statute.

I would propose such an approach, which would provide the needed permanent solution to the problem, except that it is barred by the prohibition on amendments to bills being considered under suspension of the rules. This issue is simply too important to be handled by yet another motion to suspend the rules. We ought to debate the matter and deal with it once and for all.

Thus, while I will vote in favor of the motion to suspend the rules and pass S. 964, I do so with reluctance. It merely postpones, rather than solves, the problem. I believe we will come to regret adopting a measure which insures that this contentious issue will crop up to haunt us once more in 1978.

Mr. ANDERSON of California. Mr. Speaker, we are today considering legislation that poses the question, and provides the option: Should we save the taxpayers $206.3 million, or should we allow ourselves another pay raise?

Earlier this year, based on a recommendation of the Quadrennial Commission on Executive, Legislative, and Judicial Salaries, our pay was increased by $12,900. My colleagues know my feelings about that raise. I thought it was clearly excessive, and I regret that we were not allowed to clearly indicate our positions by voting on the matter. Today, each of us will be able to demonstrate to the voters and taxpayers of our communities and Nation, exactly where we stand on the issue.

The whole point behind the Quadrennial Commission, was to bring our salaries up to parity with the private sector. There is no reason why the civil service should not be granted an increase for this same purpose in October, but surely it stretches all reason to suggest that we should get yet another increase of the same percentage.

Mr. Speaker, I respectfully submit that we have gotten our increase, perhaps too much at this time. We do not need another, especially one that will cost the taxpayers $206 million over the next 5 years.

Under law, we may be entitled to this raise, but let us tell the citizens of America, "Thanks, but no thanks."

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and pass the Senate bill (S. 964).

The question was taken.

Mr. SOLARZ. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 20, not voting 16, as follows:

[Roll No. 388]

YEAS—397

Abdnor	Bennett	Butler
Addabbo	Bevill	Byron
Akaka	Biaggi	Caputo
Alexander	Blanchard	Carney
Allen	Blouin	Carr
Ambro	Boggs	Carter
Ammerman	Boland	Cavanaugh
Anderson, Calif.	Bolling	Cederberg
	Bonior	Chappell
Anderson, Ill.	Bonker	Chisholm
Andrews, N.C.	Bowen	Clausen, Don H.
Andrews, N. Dak.	Brademas	Clay
	Breaux	Cleveland
Annunzio	Breckinridge	Cochran
Archer	Brinkley	Cohen
Armstrong	Brodhead	Coleman
Ashbrook	Brooks	Collins, Ill.
Ashley	Broomfield	Collins, Tex.
AuCoin	Brown, Calif.	Conable
Badham	Brown, Mich.	Conte
Badillo	Brown, Ohio	Corcoran
Bafalis	Broyhill	Corman
Baldus	Buchanan	Cornell
Barnard	Burgener	Cornwell
Baucus	Burke, Calif.	Cotter
Bauman	Burke, Fla.	Coughlin
Beard, R.I.	Burke, Mass.	Crane
Beard, Tenn.	Burleson, Tex.	Cunningham
Bedell	Burlison, Mo.	D'Amours
Benjamin	Burton, John	

Daniel, Dan	Jones, Tenn.	Price
Daniel, R. W.	Jordan	Pritchard
Danielson	Kasten	Pursell
de la Garza	Kastenmeier	Quayle
Delaney	Kazen	Quie
Dellums	Kelly	Quillen
Derrick	Kemp	Rahall
Derwinski	Ketchum	Railsback
Devine	Keys	Rangel
Dickinson	Kildee	Regula
Dicks	Kindness	Reuss
Diggs	Kostmayer	Rhodes
Dingell	Krebs	Richmond
Dodd	Krueger	Rinaldo
Dornan	LaFalce	Risenhoover
Downey	Lagomarsino	Roberts
Drinan	Latta	Robinson
Duncan, Oreg.	Le Fante	Rodino
Duncan, Tenn.	Leach	Roe
Early	Lederer	Rogers
Eckhardt	Leggett	Roncalio
Edgar	Lehman	Rooney
Edwards, Ala.	Lent	Rose
Edwards, Calif.	Levitas	Rosenthal
Edwards, Okla.	Lloyd, Calif.	Rudd
Eilberg	Lloyd, Tenn.	Runnels
Emery	Long, La.	Ruppe
English	Long, Md.	Russo
Erlenborn	Lott	Ryan
Ertel	Lujan	Santini
Evans, Colo.	Luken	Sarasin
Evans, Del.	Lundine	Satterfield
Evans, Ga.	McClory	Sawyer
Evans, Ind.	McCloskey	Schroeder
Fascell	McCormack	Schulze
Fenwick	McDade	Sebelius
Findley	McDonald	Seiberling
Fish	McEwen	Sharp
Fisher	McFall	Shipley
Fithian	McHugh	Shuster
Flood	McKay	Sikes
Florio	Madigan	Simon
Flowers	Mahon	Sisk
Flynt	Markey	Skelton
Foley	Marks	Skubitz
Ford, Mich.	Marlenee	Slack
Ford, Tenn.	Marriott	Smith, Iowa
Forsythe	Martin	Smith, Nebr.
Fountain	Mathis	Snyder
Fowler	Mattox	Solarz
Fraser	Mazzoli	Spellman
Frenzel	Meeds	Spence
Frey	Metcalfe	St Germain
Fuqua	Meyner	Stangeland
Gaydos	Michel	Stanton
Gephardt	Mikulski	Stark
Giaimo	Mikva	Steed
Gibbons	Milford	Steers
Gilman	Miller, Calif.	Stockman
Glickman	Miller, Ohio	Stokes
Goldwater	Mineta	Stratton
Goodling	Minish	Studds
Gore	Mitchell, Md.	Stump
Gradison	Mitchell, N.Y.	Symms
Grassley	Moakley	Taylor
Gudger	Moffett	Thompson
Guyer	Mollohan	Thone
Hagedorn	Montgomery	Thornton
Hall	Moore	Traxler
Hamilton	Moorhead, Calif.	Treen
Hammer-schmidt	Moorhead, Pa.	Trible
Hanley	Moss	Tsongas
Hannaford	Mottl	Tucker
Hansen	Murphy, Ill.	Udall
Harkin	Murphy, N.Y.	Ullman
Harrington	Murphy, Pa.	Van Deerlin
Harris	Murtha	Vander Jagt
Harsha	Myers, Gary	Vanik
Hawkins	Myers, Michael	Vento
Heckler	Myers, Ind.	Volkmer
Hefner	Natcher	Waggonner
Heftel	Neal	Walgren
Hightower	Nedzi	Walker
Hillis	Nichols	Walsh
Hollenbeck	Nix	Wampler
Holt	Nolan	Watkins
Holtzman	Nowak	Weaver
Horton	O'Brien	Weiss
Howard	Oakar	White
Hubbard	Oberstar	Whitehurst
Huckaby	Obey	Whitley
Hughes	Panetta	Whitten
Hyde	Patten	Wilson, Bob
Ichord	Patterson	Wilson, Tex.
Ireland	Pattison	Winn
Jacobs	Pease	Wirth
Jeffords	Pepper	Wright
Jenkins	Perkins	Wylie
Jenrette	Pettis	Yates
Johnson, Calif.	Pickle	Yatron
Johnson, Colo.	Poage	Young, Alaska
Jones, N.C.	Pressler	Young, Mo.
Jones, Okla.	Preyer	Zablocki
		Zeferetti

NAYS—20

Applegate	Holland	Steiger
Beilenson	Maguire	Waxman
Bingham	Ottinger	Whalen
Burton, Phillip	Pike	Wiggins
Conyers	Rostenkowski	Wilson, C. H.
Davis	Rousselot	Young, Tex.
Gonzalez	Roybal	

NOT VOTING—16

Aspin	Ginn	Teague
Clawson, Del	Koch	Wolff
Dent	McKinney	Wydler
Fary	Mann	Young, Fla.
Flippo	Scheuer	
Gammage	Staggers	

The Clerk announced the following pairs:

Mr. Teague with Mr. Del Clawson.
Mr. Dent with Mr. Gammage.
Mr. Wolff with Mr. Flippo.
Mr. Aspin with Mr. Young of Florida.
Mr. Staggers with Mr. Wydler.
Mr. Koch with Mr. Ginn.
Mr. Mann with Mr. Scheuer.
Mr. Fary with Mr. McKinney.

Mr. STEIGER changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the Senate bill S. 964.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. GAMMAGE. Mr. Speaker, due to my participation in a conference regarding the proposed National Energy Act and especially its provisions concerning the deregulation of natural gas, a question of critical importance to my constituency and the economy of my area, I was unavoidably absent today during rollcall 388 on a motion to suspend the rules and pass the bill S. 964, limiting the October pay raise.

Had I been present I would have voted "yea."

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that on the defense appropriation bill to be before the House today all Members may have permission to revise and extend their remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1978

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7933, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, June 24, 1977, all time for general debate had expired. The Clerk had read through line 2 on page 23. Pending was an amendment offered by the gentleman from New York (Mr. ADDABBO).

Mr. MAHON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the Addabbo amendment.

Mr. Chairman, it is very important that we move along as rapidly as we reasonably can in the consideration of the $110 billion defense appropriation bill.

It is expected that the House will recess later this week. We have a heavy schedule for the remaining part of the time. We could easily devote the entire afternoon to debate on the pending amendment relating to the B–1, if we so desired, but this is an issue that has been before the Congress for years. I think every Member has his own specific, well defined view as to the need for the B–1. I do not think we are going to change any votes in debate with respect to the amendment offered by the gentleman from New York (Mr. ADDABBO), so I shall move along as rapidly as possible.

I have asked for and secured unanimous consent that all Members may revise and extend their remarks with respect to the B–1 and other issues that will be before us this afternoon.

Mr. Chairman, just what is the situation with respect to the B–1? The Ford budget requested $2.2 billion for the B–1 bomber. The $2.2 billion for the B–1 bomber was for development and for procurement of eight B–1 bombers. Of this amount of $2.2 billion, $1.7 billion was for procurement of eight aircraft and $443 million was for research and development.

The Carter budget was presented later, and that budget reduced by $280 million the Ford budget for the B–1. The Carter budget proposed that we reduce the procurement buy from eight bombers to five bombers. The Committee on Appropriations, which is presenting this bill to the Members, approved the full amount of the Carter budget for the B–1 program, namely, the $1.9 billion as requested.

I personally feel, as I know many of my colleagues do, that we must, in the interest of the security of this country, in the interest of having a well-balanced defense program, and in the interest of helping the President and others who are working toward some sort of accommodation with the Soviet Union with respect to the arms race, approve this

amount for the B–1. I am convinced that we need to continue this program. I shall, as in previous years, vote to continue it, as I believe a majority of the Members of this House will.

As I have said, I do not believe any Member is going to be persuaded today by any "Dear Colleague" letters or by any arguments that are made today, because I think most Members have weighed this matter in their own minds and they have their own views as to the pros and cons. There is no doubt about the fact that there are two sides to this issue. I prefer to be on the side of added strength, and I believe that is in our best interest at this time.

I do not know what may happen to the total number of 244 B–1's programed, but we have already spent $4.4 billion on this program and I propose that we go ahead with the $1.9 billion in this program for the continuation of research and development and the procurement of five B–1's. I believe this is the only practical thing for us to do at this stage.

Mr. ALLEN. Mr. Chairman, will the gentleman yield for a brief question?

Mr. MAHON. I yield to the gentleman from Tennessee for a question.

Mr. ALLEN. Can the chairman advise me as to whether or not the President and his military advisors advocate this appropriation for the construction of five B–1 bombers?

Mr. MAHON. The Joint Chiefs of Staff and former Presidents have recommended the B–1 bomber. President Ford recommended that we go forward with a program for eight B–1 bombers. President Carter recommended, with reservations, that we go forward with five.

President Carter indicated that at some time this month he would make a decision as to his further recommendation with respect to whether or not the program should be altered. I personally believe that President Carter will favor a continuation of the B–1 program. In what context and to what degree and under what circumstances, I do not know. Therefore, I am not prepared to speak for him. However, certainly, in the very near future, he will give his own views as to whether or not the program should be changed.

The CHAIRMAN. The time of the gentleman from Texas (Mr. MAHON) has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 3 additional minutes.)

Mr. MAHON. To continue, Mr. Chairman, I do not know what the decision of the President will be, but under the Constitution, it is the responsibility of the Congress to provide for the national defense, for the armed forces; and I think that we should exercise our own views with respect to that matter, and I hope the President will be cooperative in that regard.

Have I answered the gentleman's question?

Mr. ALLEN. Yes.

Mr. MAHON. I would say that various Joint Chiefs of Staff, and various Secretaries of Defense, and others have recommended this program through the years.

Mr. ALLEN. They are, of course, under our Commander in Chief, who is President of the United States.

One other matter: The President has not indicated to the gentleman's committee that he is in any way opposed to this appropriation for five B–1 bombers, has he?

Mr. MAHON. Not that I have any knowledge of. I have no knowledge that the President has indicated opposition to it. The funds for five B–1 bombers were requested by President Carter in his amended budget.

He has stated that he would make up his mind as to what he thought ought to be done. He called a number of Members of Congress to the White House recently for the purpose of discussing this matter.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yielded to the gentleman from New York, the author of the B–1 bomber amendment.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding.

Is it true or not that the President during the campaign, before he was elected, said that the B–1 bomber is a useless weapon and that he is now making up his mind whether to go ahead with these five planes? He has already cut back the number budgeted from eight to five, and that was done when he first entered office when he recommended changes to the defense budget. Now he is going to make up his mind on whether or not to go ahead.

Mr. MAHON. The President did express some concern, as all of us have, about huge expenditures for various military programs, including, of course, the B–1. If he had been adamantly opposed to it, had thought that it was a waste of money, and that it was an outrageous experiment on the part of the Government, he undoubtedly would have said, at the very beginning of his administration, that it should not be supported. However, he has not done that.

He is now President, as we know. He is not campaigning now, he is President; and he has the awesome responsibility of making this decision. He should be commended for his deliberate approach to the problem.

Mr. Chairman, I do hope that we can have cooperation in moving rapidly toward a vote on this particular amendment on which the gentleman from New York (Mr. ADDABBO) already spoke on Friday when the bill was before us.

Therefore, Mr. Chairman, I shall undertake to limit debate insofar as possible.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the statement made by our chairman, the gentleman from Texas (Mr. MAHON), a moment ago.

I doubt that there is anybody in this room who does not know how he or she will vote on the B–1 issue.

The President's budget proposal is for five B–1's. The authorizing committee of the House and of the other body have agreed on five B–1's. Our committee has agreed on five B–1's.

Mr. Chairman, I think we should go forward with this proposal. I cannot, for the life of me, see any reason to extend to any great length the debate on this subject.

I would urge the Members to oppose the amendment of the gentleman from New York (Mr. ADDABBO), and I urge the Members of the House to get on with the rest of the bill and not to spend a whole lot of time on this particular issue.

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ADDABBO. Mr. Chairman, I rise to explain my amendment. What my amendment does is to strike from the bill $1.5 billion for the five production planes. This comes out to over $200 million a copy. What remains in the bill is $442 million for R. & D. In other words, we are being asked to go into production of the planes and still are being asked to fund $442 million for R. & D. I have not offered any amendment against the R. & D. and I do not intend to offer any such amendment. That remains in the bill. The R. & D. covers three R. & D. planes which are presently flying and a fourth, a fourth B–1 which is in production. So we keep the line open. We are not giving up that prerogative. We are not giving this plane up if it is a viable weapon. But this weapon which we are being asked to fund today will cost at least $112 million per plane without weapons. In other words, a platform, and that is with a possible buy of 240 planes. So, if the President should provide for a cutback from the 240 we are talking of a possible $125 to $150 million a plane. This will drastically affect our national security because this will come out of the Air Force's procurement budget which means the Air Force will have less money to buy F–15's and other planes that we urgently need. So this amendment will only cut out of this bill the $1.5 billion to buy the five production models of the B–1.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentleman from New York (Mr. ADDABBO) for pushing this amendment. I would just like to make a couple of points.

There is not any problem with the B–1, in my mind, so far as arms control or the SALT agreements are concerned. There is only one real issue here, and that is, from a cost-benefits point of view is this, the most expensive weapon system we have ever produced, worth our money, or could we better spend the money in some other way? Especially in view of the fact that we are burdened with enormous taxes, and we are increasing our deficit.

Mr. Chairman, Sunday I attended the dedication of a county health services building in my district and I made a little mental calculation regarding that build-

ing. We could build 20 of those for the cost of one B–1 bomber.

They also have a mobile dental clinic that serves various areas throughout the county. I might add there are only three of them in the country, though and there is a great need for them. We could build over 100 of those dental units for the cost of one B–1 bomber.

I am not saying that this money, if we did not spend it on the B–1, would necessarily go for those kind of things, but it certainly brings out the enormous price that our people are going to have to pay if we go ahead with this system.

I think it certainly behooves us to make very, very sure that it is needed. I think there is a very serious question of whether it adds significantly to our defense needs.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, in response to the statement just made by the gentleman from Ohio (Mr. SEIBERLING), with regard to how many buildings could be built, or how many social programs could be funded for the equivalent cost of a B–1 bomber, perhaps the gentleman from Ohio is correct. I would bring to the attention of my colleagues the fact that if Alexander Kerensky had prevailed in the October Revolution of 1917, if the more democratic Mensheviks had prevailed instead of the Bolsheviks, we might have had enough money to do the things that the gentleman from Ohio wants to do in his district as all we might want to do in every Member's district throughout the United States. But Kerensky did not prevail. And today we face an adversary that is undertaking the most massive buildup of strategic intercontinental nuclear first strike weapons that the world has yet seen. Not since 1935 and 1936 in Nazi Germany has the world at peace seen such a vast proportion of an economy devoted to military programs and spending of an offensive nature. The B–1 bomber does make sense, if the gentleman believes this country should have the most effective defense possible.

Mr. ADDABBO. I would point out to the gentleman from New York that it is true that the Russians are moving ahead with their defenses, but the gentleman also knows that they are moving ahead in sophistication in their defense which could easily make the B–1 very vulnerable.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

The gentleman from New York (Mr. KEMP) has made an excellent point about what would have happened if the Soviet Revolution against the czar had led to freedom and Kerensky's movement had not been betrayed and the Duma had not been surpressed. The reason we are even talking about spending billions of dollars for this excellent defense system is because of the malignant growth of Soviet military power. I do not believe any part of our defense system should be or should become a public works project. I would not spend 50 bucks on B–1 bombers, in spite of any benefits to my district, if it were only a public works project.

The reason people should be supporting this strategic aircraft is because of our Triad system, our mixed-forced concept which keeps the Soviets off guard and at bay. Most important it keeps them from opting for a first strike against our beloved country.

We have a recurring problem in this House. Senior Members, that I otherwise respect, keep getting up and stating that no one ever has his mind changed on the floor by debate. I have rejected that thought before and I reject it again. My arithmetic and my head counting tell me that with the President's decision only hours away, this B–1 project could yet die on the House floor today. Every vote is crucial even if I am only talking to two or three Members who have not made up their minds. Those are the persons toward whom I would like to direct the major thrust of my arguments against this pending shortsighted amendment.

The World War II B–17 required 16,000 aircraft for a life of only 6 years at a cost of 70 billion 1977 dollars to destroy the Germain industrial war machine, and, of course, the allied forces did not have to sweat the cost factor.

Of the B–29 that followed, which the Russians copied completely as the Tupolev 4, we only built 3,800 at a cost of $49 billion, and they served a bit longer, for 10 years keeping the peace.

The B–47, which was cut up for scrap in the desert of Arizona near Tucson cost a little more, $51 billion, as opposed to $49 billion for the B–29, and it flew a little bit longer—13 years, again keeping the peace, never being used in anger against anyone.

Now we suddenly find all these new devotees of the 744 B–52's, of which only about 353 remain on combat ready status, aircraft which to date have cost over 65 million in 1977 dollars and have flown for an incredible 22 years. The sons of pilots who originally brought this aircraft "on the line" in 1955 are now aircraft commanders; 1955 was the year I got married and I now have five grown children, four in college. Twenty-two years is a long time for one strategic aircraft to keep our families safe from attack.

When I sat in the cockpit of a B–52 a few weeks ago, the first word that came to my mind was "old." It is a good aircraft but old. It has been asked to do things at low level it was never designed for. It is cutting it but she is tired. Now we suddenly find all these devotees of the cruise missile. I am not questioning any Congressman's integrity but I question whether there are staff members who feed pro cruise missile information to some of our Members that will not be telling them to kill the cruise missile 2 years from now if they are successful in destroying the B–1 system of defense.

I would like to call the House's attention to a critical editorial from one of our country's acknowledged three leading newspapers the Los Angeles Times, about the arrest of an L.A. Times correspondent, Robert Toth. by the Soviets and the subsequent hours long interrogation by the Soviet secret police, the KGB.

I am told that there are U.S.S.R. agents on the Hill, and that some of them boldly walked into an Armed Services Committee office a few days ago and asked for R. & D. on our fighter aircraft. And I would not be surprised to find that they are guests in the House gallery today. That is their job. I wish we could ask them what they think about the ability of the B–1 to keep them at bay.

At the SALT talks the Soviets give the B–1 a value of 3 to 1, over any of their huge missiles, so do not tell me it is worthless as a defense shield. I see Mr. JOHN BURTON from California, who has an eagle eye, scanning for Soviet agents; if he spots any among our guests in the House today, he might please advise me so that I know our vote will be heard loud and clear in the Kremlin by tonight.

Here is the close of the Los Angeles Times editorial:

> As we celebrate the release of Robert Toth, so we also lament that Anatoly Shcharansky is not free. He faces the charge of treason because, as a Jew, he protested the rising anti-Semitism visible in Soviet policy, he asked to emigrate to Israel, he spoke with foreign correspondents.
>
> It is but one of many cases that bear witness to an order and a policy that can only create distrust of the Soviet Union in all it does. A country that cannot be counted on to protect the minimal human rights of its own citizens invites suspicion of the integrity with which it will honor all relationships. The distrust it sows at home inevitable also infects its relations abroad.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DORNAN was allowed to proceed for 4 additional minutes.)

Mr. DORNAN. Mr. Chairman, I continue. The L.A. Times editorial calls to mind this, can we trust the Soviet Union? I say: "No, we cannot."

Before us on this desk is a model of the Russian Tupolev Backfire bomber, which is in scale to the B–1 bomber on the other leadership table. This Backfire is in the field already, 100 of them. Also, the Members know we can make the Pentagon come to our offices and bring us classified satellite photography that will show the Soviet production on their B–1 bomber the Backfire has been increased from 5 a month to 12 a month. An excellent and frightening addition to the Soviet offensive Triad.

I respect the dedication of Soviet soldiers and sailors and marines in their combat forces. They will obey their orders no matter how tough. We must never think the Soviets cannot call on their young men to fly these Backfire bombers on one-way missions. One-way missions similar to the one that Lt. Col. Jimmy Doolittle flew in April of 1942 against Japan. Doolittle won our Congressional Medal of Honor for leading land-based bombers that never had taken off from a carrier before with only 79 other courageous air crewmen against the full might of Imperial Japan. Eight of his captured men were forced to their knees by Japanese Bushido warriors and beheaded. Others died in crash landings. They took off 800 miles from the coast of Japan instead of the planned 400 miles because the U.S.S. *Hornet*, our Shangri-La, was spotted by Japanese fishing vessels. That was dedication. Can we expect less from Russian Backfire

crews? Of course not. I was at Le Bourget Airport a few weeks ago for the Lindbergh 50th anniversary, and took the opportunity to inspect the Russian Ilusyan 76 and I1-86 aircraft. Planes that will definitely be mated up with the Soviet Backfire. Plus it can be recovered in Cuba, or Guyana, or Ghana, or Angola. They already have the Tupolev-95 Bear at their forward bases in Ghana and on Cuba.

When I asked Gen. 'Chappie' James commander of NORAD why the defense systems of our country did not detect the Soviet Bear bombers which popped up off our Atlantic coast a few weeks back, he said:

Bob, You people in Congress have voted to leave our country defenseless.

It is a mad policy this MAD, mutually assured destruction. It is wrong. I ask the Members to turn to page 21105 in the RECORD of yesterday, June 27, 1977. This is reprint from an article circulated by the New York Times News Service. It is not from some "read under the bed" extremist source but rather from the New York Times News Service and was written by the former head of Russian studies at Harvard University, Prof. Dr. Richard Pipes. He points out in this article that the Soviets have a "war winning" policy. The headline in one of my own district papers, the Evening Outlook, which carried the article, points out that the Soviets have opted for total war destruction against our Nation. Their war goal is the total defeat of the United States. I will just read the first paragraph:

The Soviet Union's strategic nuclear doctrine seeks victory, not deterrence, superiority in weapons rather than sufficiency, and offensive, perhaps pre-emptive, operations rather than retaliation . . .

The Soviets have embarked on a first-strike policy demanding the malignant military growth we are witnessing. I remind the Members that the only answer to that evil growth is the reason we are building the B-1. Even if we get a President four generations of disrepute down from the worst we ever had, we will still remain a defensive nation. We will never ever "first strike" any nation. That is why we must have a mixed force, Triad, to keep enemies from taking advantage of our benign respect for others.

Mr. Speaker, the material that the gentleman from Michigan (Mr. CARR) put in the RECORD against the B-1 last night is quite comprehensive. Here is the writing of the gentleman from Michigan (Mr. CARR), where he makes a good case himself for the deterrent effect of our B-1.

I quote exactly—

I give the B-1 bomber its due; it presents a difficult problem to the Soviet defense, and some B-1's would survive and penetrate.

I repeat:

. . . some B-1's would survive and penetrate.

That is exactly correct. Each surviving B-1 has three bomb bays with eight nuclear weapons on rotating racks in each bay for a total of 24 retaliatory weapons per plane. Sufficient counterforce to make any Soviet aggressor pause to consider if the price is worth hitting us with a Pearl Harbor-type attack. They may even pause to consider if they personally are committing personal suicide—they may be targeted in the bay of a surviving B-1.

The CHAIRMAN pro tempore (Mr. SISK). The time of the gentleman from California (Mr. DORNAN) has again expired.

Mr. DORNAN. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN Pro tempore. Is there objection to the request of the gentleman from California?

Mr. WEISS. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I rise in support of the Addabbo amendment to H.R. 7933, the Department of Defense appropriations bill for fiscal year 1978, which would delete $1.5 billion in the bill for procurement of five B-1 bombers.

I have long had serious reservations about the wisdom and utility of the B-1 program. My concerns on that score remain unchanged. I believe that the B-1 project is excessively expensive and of dubious military value. It fails the test of cost-effectiveness, and its implications for our defense structure and our national spending priorities are disturbing.

The estimated price tag for the B-1 system is astounding. According to the latest DOD reports, research and development and procurement of the entire planned fleet of 244 B-1 bombers is estimated to cost $22.8 billion, or $93.6 million for each aircraft. Other estimates place the bill even higher. It is my understanding that the Senate Armed Services Committee has learned that internal Air Force calculations indicate that total B-1 research and development and production costs may reach $28.5 billion, or $117 million per plane. And, the 30-year lifecycle cost of the B-1 fleet has been projected to be nearly $100 billion.

Also, it should be recognized that if the Defense Department should significantly reduce the size of its B-1 fleet during the production phase, the unit cost of the aircraft could skyrocket. And, looming in the background, there is always the inflation factor, not to mention the ominous and illusive specter of the cost overrun.

As staggering as these figures are, I am not suggesting that the B-1 program be judged exclusively by a monetary standard. A final determination as to its merits should certainly not be made until its potential contribution to U.S. national security is fully assessed.

But the B-1 also fails this test, for weapons system is of questionable strategic utility to our country. In my view, the commitment of funds for procurement of this aircraft at this time will not add to our defense capability and may, in the long run, even detract from that capability.

There is considerable evidence to suggest that there are less expensive and equally effective alternatives to the B-1 bomber. U.S. defense officials admit that our current bomber force is adequate now and that it will remain so into the 1990's. And, in addition, a bomber force carrying standoff missiles would appear to have clear advantages over a penetrating bomber like the B-1 in the modern age.

In light of these realities, is it reasonable to spend $93 million or more to build a plane that is highly vulnerable to destruction by low-cost and easily produced foreign missiles?

Does it make sense to rush ahead with procurement of five B-1 bombers when the current SAC bomber force composed of B-52's and FB-111's can provide an equivalent defense capability until 1990 or beyond?

I submit that it does not.

I believe in spending what is necessary to protect our country from possible attack. However, I am opposed to committing billions of dollars to weapons systems which are of unproven effectiveness and which do not contribute to increasing our national security. I am opposed to the procurement of five B-1 bombers at this point in time.

We are all concerned about protecting our national security and about keeping America strong. However, when we talk in such terms we should not allow ourselves to be hypnotized by visions of ever greater and more sophisticated technological achievement. We must consider our national needs in the total perspective—defense needs, and human needs.

The B-1 bomber may be a major technological accomplishment. But, as a weapons system, it is vulnerable to attack and its cost will eat deep into our defense budget and reduce the Air Force's ability to procure the planes and equipment it needs the most for many years to come. It will also necessitate trade offs in other spending areas, diminishing our capacity to meet other important national needs.

When we talk of national security, we must also talk of unemployment, poverty and illiteracy here at home. We must address rising health care costs and our energy problems. The American people also contribute to the strength of America. It is time to recognize the fact that there are other highly significant factors in the "national security equation" besides absolute numerical supremacy in the instruments of war or a diversified arsenal that can destroy the world 10 times over.

National security means more than mere military might. It also means employment security for our workers, income security for our families, nutritional security for our poor and aged, and educational security for our children. It means improving the quality of life for all our citizens.

When considering the B-1 bomber program, it is important to keep in mind that the procurement cost of the projected 244 unit B-1 fleet could fund a the facts clearly demonstrate that this

catastrophic health insurance plan for 10 years, our current low-income housing program for 40 years, or Federal expenditures on mass transit for 10 years; and that the life-cycle cost of the B–1 program could finance Federal outlays for education for 10.4 years.

In closing, I would like to remind my colleagues who believe that the B–1 bomber may have some value as a bargaining chip in the SALT talks that the Addabbo amendment only strikes funding in the DOD appropriations bill for procurement of five B–1's. It retains nearly half a billion dollars for further research and development on the system. Adoption of this amendment will not decrease the value of the B–1 as a negotiating tool. But it will avoid commiting our Nation to building it at a ruinous cost. And, it will provide President Carter with the flexibility he needs to make his final determination as to the merits of the B–1 while registering congressional sentiment on that subject.

Mr. Chairman, in light of the questionable strategic utility of the B–1 bomber, and its tremendous cost, does it really make sense to rush ahead with the procurement phase of the program?

This is a question which each of us in this Chamber must answer for himself. It must be answered today. I believe that the Addabbo amendment is sound, and I urge its passage by the House.

Mr. ALEXANDER. Mr. Chairman, I agree with the chairman of the full committee that most people here today have made up their minds on how they will choose to vote. I take this time today to clear up a few questions that I have in my mind concerning some of the news accounts and allegations that are being advanced by opponents of the B–1 and supporters of the Addabbo amendment.

I would like to address several questions to the gentleman from New York (Mr. ADDABBO). The gentleman from New York has circulated a "Dear Colleague" letter bearing today's date in which the gentleman states that the current cost of procuring the B–1 is $112 million per copy for 240 planes. He further asserts that if this project should be reduced in number that the projected cost could go up to as much as $150 million per copy; is that true?

Mr. ADDABBO. Mr. Chairman, if the gentleman will yield, yes, that is true.

Mr. ALEXANDER. The gentleman further states in his letter bearing today's date that the B-52 fleet can perform the same function at a far lower cost; is that true?

Mr. ADDABBO. That is correct.

Mr. ALEXANDER. Is it not true that the acquisition cost of the B–1 in 1977 dollars is $65 million per copy; does the gentleman have that information?

Mr. ADDABBO. Mr. Chairman, if the gentleman will yield further, where did the gentleman get that figure? The cost I have is $85,900,000. Taking the total procurement cost of $20 billion and dividing that by 240, we receive a unit cost of $85,900,000, without computing in R. & D.

Mr. ALEXANDER. I asked myself the same question yesterday. In answering the gentleman's question concerning the cost of $85.9 million, I inquired, and discovered that is 1981 dollars. In order to put this debate in perspective today, you know, politics is a game that is played in the present tense. I believe for all of us to get the proper perspective on the cost of this airplane that we need to deal in 1977 dollars; so I called the Air Force and asked them the question, "What is the per unit cost of the B–1 bomber in 1977 dollars?"

I have here the answer on their sheet, which I would be glad to show the gentleman, that it is $65 million. Does that surprise the gentleman?

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield.

Mr. ADDABBO. It would not surprise me if we were procuring the 240 in 1977, but we are not procuring them in 1977. These planes are going to be procured in the out years. Would the gentleman admit that in this bill we have $1.172 billion for five planes which will cost $234 million in 1977 dollars, $234,500,000 for five planes? The 240 planes we are speaking of are in the out years and we are telling the people what they cost in future dollars, over $100 million each.

Mr. ALEXANDER. Mr. Chairman, I do not yield further.

Mr. Chairman, I will agree with the gentleman, those figures appear on the paper that is in front of the gentleman. What they represent is a question I would like to pursue. I think in order to put this debate today in perspective that we need to answer the question of the per unit acquisition cost of the B–1 bomber in 1977 dollars. All of the information I have heard all of last week has misrepresented the true picture, in my mind, because I thought we were dealing in 1977 dollars. When the gentleman's letter appeared with the representation that it might cost $150 million per copy, I began to worry about the cost of this airplane; but on discovering that the per unit cost of this airplane is only $65 million per copy, then it lessens my concern about the overall cost.

Does the gentleman know that the cost to modernize the B–52, to make it adequate, costs $31 million?

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas has expired.

(By unanimous consent, Mr. ALEXANDER was allowed to proceed for an additional 2 minutes.)

Mr. ALEXANDER. Mr. Chairman, does the gentleman know it costs $31 million per unit just to modernize the B–52?

That does not acquire any additional airplanes, any additional weapons, any new model weapons, any new avionics. That is $31 million on top of the acquisition cost of the B–52.

If I was on this subcommittee and had the opportunity to look into this matter to the extent that I would like to look into it, I may even conclude just from the data that I discovered in the last 12 hours that not only is the B–1 the most effective bomber that we can produce for present needs and for future needs, but it may even be the cheapest, because when we start going into the costs of the 747, it is $75 million per unit plus the cost of the air-launched cruise missiles, which is an unknown cost because there has been no development. Then, we add the cost of modernizing the B–52, and it may be that the B–1 is even cheaper than the alternatives that are being discussed.

Mr. Chairman, I submit the letter to which I referred during my remarks:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., June 28, 1977.

Hon. BILL ALEXANDER,
House of Representatives.

DEAR MR. ALEXANDER: Using 1977 dollars to remove the masking effects of inflation from now until the last year of expenditures for the B–1 program in 1989, the unit procurement cost for 240 aircraft is $65 million under the currently planned program. Other estimates, including the Selected Acquisition Report to the Congress, include projected rates of inflation through 1989.

Sincerely,

CHARLES C. BLANTON,
Major General, USAF,
Director, Legislative Liaison.

By GRANT MILLER,
Lt. Col., USAF,
Chief, Programs Liaison Division.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I want to congratulate the gentleman from Arkansas for his outstanding statement and for helping clarify the confusion that surrounds the cost of this vital program.

In hearings this year it was established that, for a given job of deterring war, as our Triad system is designed to do, the cost of doing it with bombers, ICBM's, or SLBM's is essentially the same. In other words, the cost of buying bombers, MX's or Trident II's to do the job is essentially the same. This analysis included both nonrecurring and recurring cost for a 10-year period. The criteria used in this analysis was that enough forces are required so that if any one force fails, the other two can do the job. The Trident submarine alone, costs $1.5 billion, and no one suggests that we gut this leg of our Triad.

The point I wish to make is that if a new type of strategic force is required, the nonrecurring cost to develop it has historically been $4 to $6 billion. In the B–1 program, we have sunk $3.2 billion in R. & D. to develop the system. If a different system were to be developed and the B–1 terminated, then the total nonrecurring bill to develop the system would have to be paid. Why would we want to change our direction at this late date? I thank my friend for yielding.

Mr. SIKES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Triad concept gives our defense program an essential versatility. We have land- and sea-launched ballistic missiles and strategic bombers. No single program of this deterrent force can satisfy all of the needed strategic task.

The strategic bomber provides unique capabilities not available from other forces. The present strategic bomber is the B–52. By the time the B–1 initial operational capability is attained, the average age of the B–52 aircraft will be 24 years. Current intelligence estimates

show clearly that Soviet offensive and defensive weapons have improved to the point that it would be increasingly difficult for the B–52 to penetrate Soviet air defenses to the extent which we must have.

The B–1 represents a 10-year development effort. It has been studied, restudied, designed, redesigned, and honed to produce a truly modern, fully effective aircraft. This is tomorrow's aircraft. No other aircraft offers such needed characteristics as penetration speed, resistance to nuclear effects, radar cross section, and terrain-following maneuverability. All possible alternatives have been considered. It is the B–1 or nothing in our time. The B–52 has been modernized to the full limit of its capabilities. It is not realistic to continue to depend upon the B–52 far into the years ahead. It is a great aircraft which has just about outlived its usefulness. It does not have comparable capabilities and we have but a few of them. The B–1, by contrast, can be improved and modernized and utilized into the 21st century.

The B–1 can deliver large payloads to major areas while operating from present U.S. bases.

It will utilize, among other weapons, the cruise missile and this should make it one of the most effective weapons in history.

The B–1 would not violate the provisions of current or foreseeable international agreements. It would greatly modernize our strategic force. It would show national resolve and determination, and it would keep pressure on the Soviets to continue negotiations for a more stable peace.

It would be folly to cancel a program which is so important to America's security. It would be extremely wasteful not to take advantage of the investment already made. It would be poor judgment to weaken our forces by denying them a truly modern, sophisticated weapon such as the B–1.

Some say we just cannot afford the B–1. Quite the opposite is true. The World situation and realities dictate we cannot afford not to buy it.

We must retain our strategic posture vis-a-vis the Soviet Union. It is easy to ignore the steady acceleration of strategic capability by the Soviets. They are enlarging their modern bomber force. They are increasing the range of their submarine-launched ballistic missiles and, at the same time, enlarging and improving their nuclear-powered submarines, and building many more than we. They have operational capability from Cuba, and they have even announced they are using icebergs in the North Atlantic as bases for monitoring their submarine traffic and ours. If that is not enough, remember that the SALT I agreement gave them an edge in overall nuclear capability and they are taking full advantage of the opportunity. They are not playing games. They are in dead earnest about achieving military superiority.

The B–1 development and procurement cannot be blamed for the estimated $24.8 billion cost, for $13 billion of that cost is due to inflation. The real cost growth has been less than 20 percent over a 7-year period. All weapons systems have the same cost growth problem.

The B–1 will operate without a requirement for new air refueling tankers, and without a requirement for new airfields.

The $5.3 billion in 1977-equivalent dollars has been authorized and appropriated by the Congress for the B–1. That means 25 percent of the cost already has been met. Any disruption of the program would mean higher costs and expensive inefficiencies in production. We have problems enough in this area without the intervention of Congress.

The amendment should be defeated.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do not think there is any question in anybody's mind that weapons systems are expensive, and there are not probably very many questions in people's minds with respect to our need for the Triad. We do need it. There perhaps is not a question about the Soviet defense plan scenario against the United States. The bomber is particularly important because it gives us the method of showing our resolve during a crisis. In 1970 and 1972, the United States developed rather well two systems of air warning alert and control planes. One is the E–3A AWACS, and the other is the E–2C. The AWACS has an ability to fly approximately 30,000 feet in the air, track low-level penetrators, track simultaneously more than 150 of them. It has tremendous capabilities. If one postulates that at that altitude it could cover some 200,000 square miles and the Soviet Union approximately 8,600,000 square miles, it would need about 44 AWACS to cover the entire Soviet Union and track, vector and control shoot down fighters against a low-level penetrators.

I repeat that since 1970–72 we have had the AWACS and the E–2C platforms that can track, look for, and detect low-navigating penetrators. In that same period of time we have built the F–14 and the F–15, which are fighter airplanes, also with look-down, shoot-down radar capabilities.

It is, I believe, reasonable to assume that by the year 1990, 20 years after the United States has had a look-down, shoot-down capability, the Soviet Union will have a similar capability. I do not think that is an unreasonable estimate of their lag in this area of technology. Given the fact that the Soviet Union may some day have AWACS in great numbers and considering their attention to spending a fortune on air defenses, that would lead even the most unreasonable person to believe that they will spend the money for the AWACS, so that no matter how much money we spend for the B–1, certainly by the late 1980's and early 1990's they will not be able to penetrate to those targets with confidence.

Therefore, the $110 million, $65 million, $95 million, or whatever figure we might like to use with respect to the unit cost is really immaterial because certainly it will be obsolete.

There is no question that we need a bomber force. They are recallable. We have to provide a synergistic defense force. If they can attack our bomber force, they can't also attack our ICBM sites. We need new weaponry for our bomber wing, it is not the B–1.

There is no doubt that the B–52's are getting old and will have to be replaced by the 1980's. That is one thing we can say for sure. The question resolves itself around whether or not there are new developments of which we can take advantage today that would make a difference with respect to this bomber wing of the Triad. I suggest there are new developments.

One of the alternatives is the air-launched cruise missile, launched from an air platform.

A 747 does not cost $75 million unless they have the most impossibly complicated military specifications, and even at that it would not cost more than $65 million or $70 million. We could use a cruise missile; we could take an ALCM, an air-launched cruise missile, or an ASALM, improve their range and put theirs on a standoff platform. We would fly them at high altitude, which is what the B–1 does in its flight phase, we could take it from its base in the United States to the Soviet Union standoff and fire on Soviet targets.

This as an alternative makes a lot more sense than attempting to have an airplane penetrate Soviet defenses and fire SRAM missiles at their targets.

Some people have mentioned this as the plane of the future. I suggest that by that time the Soviets will be able, in my opinion, to shoot down with high effectiveness a great number of B–1 bombers, and thus we would find it to be a very cost-inefficient airplane.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California, because I know he had a question to ask before during his presentation.

Mr. DORNAN. Mr. Chairman, maybe it will help to know, when the gentleman yields to the gentleman from California (Mr. LLOYD), that 23 American aircraft have undergone an independent cost analysis, the same analysis that the B–1 has undergone. Of those 23, the gentleman from California (Mr. LLOYD) has flown the F–4, the F–5, the F–8, the F–14, the F–15, the A–4, the C–41, and the B–52.

The CHAIRMAN pro tempore (Mr. SISK). The time of the gentleman from New York (Mr. DOWNEY) has expired.

Mr. LLOYD of California. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. DOWNEY) be permitted to continue for an additional 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Chairman, I do not intend to object, because I want to hear the debate. It is an interesting debate.

However, it has been said earlier that we might be cut off in debate during the latter stages so that some of us may not get time to speak. I do not want to object, but I think we ought to know what the intentions of the Committee are.

Under this reservation, I certainly would like to ask our Committee Chair-

man if he is going to cut off debate, because if he is, I do not think we ought to have these extensions of time.

The CHAIRMAN pro tempore. The Chair is not in a position to rule on that matter.

Mr. ASHBROOK. Mr. Chairman, I have said this under my reservation of objection, and I withdraw my reservation.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California (Mr. LLOYD)?

There was no objection.

Mr. DOWNEY. Mr. Chairman, if I may reclaim my time now, rather than making any particular further argument, I will yield now to my friend, the gentleman from California (Mr. LLOYD), for discussion purposes.

Mr. LLOYD of California. Mr. Chairman, I thank the gentleman for yielding.

The point that the gentleman has made is contingent on the basic assumption that only one B–1 would be used in the attack phase at a time, and that is not true.

Mr. DOWNEY. Mr. Chairman, the gentleman knows that if we built 244 B–1's, even under ideal scenario, no more than 100 planes would be available on the runway and able to fly at one time.

Mr. LLOYD of California. Even so, the gentleman must recognize that there would have to be accompanying aircraft, and oftentimes this can be very difficult. We have methodology today wherein we are able to formulate multiple targets.

The other item the gentleman mentioned was concerning the assumption that the AWACS or the Hawkeye, either one of those weapons systems, is not itself going to be under attack. But it will.

I am not saying this is perfect, but I think that what we have is infinitely better than what the Russians have. I had an opportunity to be at the Paris Air Show, and I did get a chance to go aboard a Russian aircraft, and frankly speaking, what I saw on the Russian aircraft made me feel very strongly that we are still some distance ahead of them. How far ahead I frankly could not say, but it is evident that their navigation systems are not as good as ours.

Yes. The point that the gentleman makes is a reasonable one, with one exception, and that is that any time a penetrating force attempts to suppress air defenses, ground radars, and airborne radars a B–1 would have to do all those things. It would—and certainly the gentleman would agree—have its hands full, would it not?

Mr. LLOYD of California. As soon as one saturates a defense system—and all he has to do is to saturate it by one—he has made that system ineffective.

Mr. DOWNEY. The problem that I have, and I think the gentleman is more than aware of it, is with respect to the AWAC's capability, so let us argue that.

Mr. LLOYD of California. Indeed, I am; I have flown in it.

Mr. DOWNEY. The gentleman knows that the AWACS can track targets. The exact number of them we cannot divulge here publicly, but the fact is that a multitude of AWACS could track several thousand targets, so that the tracking redundancy in the air platform would certainly give the AWACS the opportunity to vector on any fighters.

Mr. LLOYD of California. That is correct.

Mr. DOWNEY. Let me make this point, which was mentioned before, that the B–52 is slow and old. The B–52 penetrates at approximately 350 to 375.

Mr. LLOYD of California. It is 0.55.

Mr. DOWNEY. Approximately that. The B–1 is going to go a little faster and that will help improve its chances at penetration, but it is not going to be able to outrun a fighter on its tail. The fact of the matter is that fighters that have been vectored by air platforms are looking down at it. That is what makes the B–1 vulnerable, and that is what makes it a silly weapons system for us to commit so many millions of dollars to when we do not know what the future of the defense environment is and when we have an alternative that could provide, No. 1, target saturation, and a low-level cross section on the cruise missile makes it almost undetectable.

Mr. KEMP. Mr. Chairman, will the chairman yield?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I think the gentleman has made a good case from a wrong premise. The premise he is using suggests a 1990 scenario but with technology developed in the 1950's and 1960's.

The Soviets have high-performance interceptor aircraft in the Mig-25 Foxbat with which to attack stand off 747's or B–52's with cruise missiles.

Mr. DOWNEY. The gentleman knows that the Foxbat does not have a shoot-down capability. It was designed for interception of the B–70.

Mr. KEMP. Regardless of that debate we are talking about the 1990's. The gentleman is suggesting that we use technology developed in the 1950's and 1960's for the problems we might face in the 1980's and 1990's.

Mr. DOWNEY. What I am suggesting is that the technology of the 1970's which we have deployed and ready today will be available to the Soviet Union in the 1990's or before; and if the gentleman has any doubts about what I am saying, what the Air Force might want to do is take some of the B–1 prototypes and array them against our own AWACS and against our own F–14's and F–15's and track them and see whether they could penetrate against that defense system.

Mr. KEMP. The gentleman is talking about the B–1 in a very hostile air-defense environment. All we are suggesting is that the development of the B–1 with cruise missiles poses tremendous problems both in terms of cost and technology, to the Soviet air defense system.

Mr. DOWNEY. Let me reclaim my time.

If the gentleman is saying that the B–1 is important to us because it is going to cost the Soviet Union money, I would suggest that we do not build weapons systems for that purpose.

Mr. KEMP. That is exactly what the cruise missile does.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to say to my colleagues here that I read the "Dear Colleague" letter sent to me this morning by the gentleman from Michigan (Mr. CARR).

When I was through with it, it occurred to me that the writer or writers were asking of the B–1 weapons system something not provided by any weapon system in history. That is that it must stand or fall on the question of whether all or most of the units complete their mission in combat.

History is replete with examples of military victories in which the units which were victorious were largely destroyed. Sir Francis Drake destroyed the Spanish armada and lost many ships in so doing.

The losses of the 8th Air Force in Britain in World War II were catastrophically high, but I believe that the bombing achieved its strategic purpose.

I see my friend the gentleman from California (Mr. DORNAN) standing. The gentleman was developing a good point when his time ran out. It would be a pleasure for me to yield to the gentleman if he would like me to do so.

Mr. DORNAN. Mr. Chairman, I thank the gentleman from Virginia (Mr. ROBERT W. DANIEL JR.) for yielding to me.

Mr. Chairman, let me say that the point that the gentleman from New York (Mr. DOWNEY) made, that a substantial part of our defense budget is to drive up the cost the Soviet Union has to spend on defense is not made by me because money is meaningless to them. There is no Duma in existence now—no Congress where they debate their budget. There is a total denial of consumer goods there, down to cheap autos, telephones, even apartments, even bathtubs. The Government can spend money developing their weapon systems at will. Their percentage of gross national product being consumed by their military is double ours and going up fast. So, let me tell the gentleman from New York that the purpose is not to make the Soviet Union spend more money, it is to let them know that we can and will strike back. To make them respect our fragile peace. To keep them at bay.

Coming back to the subject of the dedication of our Air Force men, let me state that at Ellsworth Air Force Base in South Dakota, a few weeks ago, I asked our SAC crewmen the following: I said, Do you expect your families to survive a nuclear war? They said, "Absolutely not. Our base is multitargeted by the U.S.S.R. and if a nuclear war starts, we know that our wives, our children and our parents, if they live close, will be killed!"

One of them looked me in the eye and said, "That is why Congressman, you can be sure that many of us will reach our targets."

Mr. CARR in his very comprehensive critical report says, regarding penetration by the B–1, that he agrees with these dedicated SAC pilots. Our B–1's, as do our B–52's, will account for more than 50 percent of our total megatonnage. If two B–1 bombers penetrate, only two, I repeat, they have enough room in their bomb bays, because our engines are much smaller and more efficient than

the massive engines in the Soviet Backfire engines, there is a total of 48 bombs or SRAM missiles, short range attack missiles, to go on target to 48 Soviet cities. That would spell disaster for their country. Only two penetrating planes. We must make the Soviets think.

I stood shoulder to shoulder to a Soviet colonel general again at LaBourget last month. I watched him watching our superb high-performance fighters performing. Our F–15 "Eagle," F–16 "Falcon" and F–18 "Hornet." I turned to one of our test pilots and asked what he thought the Soviet general was thinking about our superior planes. His answer shook me: "All they think," he said, "is that we are damned fools because we only have a few of each of our weapons. We do not build anything in sufficient numbers."

The thing is with the Soviet Union that eventually they pause in their research and development and they build, just as they have built in numbers this Backfire bomber. Even if the B–1 is superior to it, it may never reach the number that the Soviets have because they do not debate good systems they build them. The Soviets are interested in one thing—superiority over the leader of the free world. And now the facts lean toward one awful conclusion. They are driving toward first-strike power.

All we are trying to do is to keep the Soviets off guard, to make them know that we are on guard. We must not stop holding them at bay until, God willing, some internal revolution of the Russian people changes their repressive system.

Until there are more Alexandr Solzhenitsyns, more Vladimir Bukovskys, more Anatoly Shcharanskys who speak out bravely against the evils of that still Czarist-type government and prevail, until that time we must continue our Triad of defense no matter what the cost.

I repeat what many constantly ask in this critically dangerous period of our history: How do you put a price on our fragile liberty? At only 201 years we are the oldest republic of our small planet.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I thank the gentleman from Missouri for yielding to me. I would like to make a point which I was trying to make before with my colleague, the gentleman from New York. The gentleman has made the basic assumption that somehow the B–1 is not as capable as the fighter planes. But that happens to be one of the things that the B–1 is best at, it can perform far better than most of the fighter planes. Current day fighters do not fly any faster because they do not have the internal structural factor for that.

In other words, at Mach 2.2, the B–1 bomber can do what the fighters do at a higher altitude, and do it close to the level of the ground, the 500 feet area or below where we must operate, and they can operate their aircraft at Mach 2.2 whereas the fighters cannot do so. They cannot fly their aircraft any faster than 0.85 Mach, probably not that much because of the stresses on the airplane. As a matter of fact, that would be the best thing that could happen to us.

Mr. DOWNEY. Will the gentleman yield again?

Mr. BURLISON of Missouri. I yield to the gentleman from New York.

Mr. DOWNEY. The gentleman mentioned the top speed of the B–1 bomber. Does the B–1 bomber in any scenario fly at its top speed at any point? Does it ever fly faster than the speed of sound, leaving the space of the United States and going into the Soviet Union?

Mr. LLOYD of California. If the gentleman from Missouri will yield further, absolutely, it does. As a matter of fact, in the scenario of the high-low-high routine, when they get high, they are going to function out to at least Mach 1.6.

Mr. DOWNEY. The gentleman has suggested to the Committee that the B–1 can fly at 1.6 Mach at its target. Does the gentleman also say that its tankers are going to fly at 1.6 Mach to refuel the airplane?

Mr. LLOYD of California. The gentleman said, "Does it at any time?" and the answer is at some period of time it can do that in the attack mode. Nobody is going to refuel an aircraft at the speed of sound. That is ridiculous.

Mr. DOWNEY. If the gentleman from Missouri will yield further, I do not like to disagree with my colleague on what I consider basic points of fact, but the fact is that the B–1 does not fly at 1.6 Mach at any time during the flight phase to its targets, because it must fly at high altitude; it must be refueled; and when it approaches into the Soviet Union, it will drop down to low level. Not at one point does it go faster than sound. The gentleman knows it could not fly faster than the speed of sound or it could not be refueled.

Mr. LLOYD of California. If the gentleman from Missouri will yield further, I beg to differ with my colleague from New York. In this case I think it would be pointless, then, to build any airframe which is more capable than the B–52. They did not put those swing wings on the B–1 because they wanted to fly subsonic; they put them on there because if they needed to, they could fly at, say, 45,000 feet or 50,000 feet at up to 2.2 Mach.

Mr. DOWNEY. Will the gentleman yield further?

Mr. LLOYD of California. Wait a minute; let me finish. I waited for the gentleman from New York.

If they needed to fly the aircraft at greater than the speed of sound, they could and that is part of its attack capability. To throw that away, the gentleman misses totally what we are talking about in looking at basically the design of the airframe. If what the gentleman says is true, we do not need any more than the B–52. But the Russians know the capability of that airframe.

Mr. DOWNEY. If the gentleman will yield further, the Russians know exactly the capability of the B–1 and know the capability of the cruise missile, and that is why they are afraid of the cruise missile. But I would suggest to the gentleman that the design of the aircraft—and let us talk about the design of the B–1 bomber. We see a model of it sitting here. It was originally designed to fly faster than the speed of sound. It does not do that. It was originally designed to carry in its cockpit a bubble for the crew to be able to eject if they had any difficulties. It does not do that either. It does not fly as fast at high altitudes as it was originally supposed to do. There was tremendous design modification. It has the variable swing wing because the flight phase at low level needs to be a little more comfortable than the B–52, and because of that, if you penetrate the lower altitude, it can fly a little more comfortably and a little faster than the B–52. That is no reason for the procurement of a $117 million airplane.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

I take the floor in behalf of this amendment, and I would like to talk about it for a moment from just a little bit different perspective. First of all, I am a civilian pilot. I have never been a test pilot for the Air Force, so I really cannot say that I have flown any of these planes. The last plane I ever flew was a P–51 in the civilian sector. So I am not going to get into technical arguments about the flight envelope of the B–1.

I have been listening to the debate trying to think how to put this into some frame of reference. We can argue all day about cost figures and other things. But it seems to me a lot of people here are talking about the Triad as though it is the Trinity and we are only going to be saved if we preserve the Trinity. This is not the Trinity; this is the Triad.

Let us talk about what portion of the Triad we are talking about. I do not care what anyone says about the speed of the B–1, it is clearly the slowest leg of the Triad. No one in this room believes the B–1 bomber goes faster than our ICBM's, or our submarine-launched missiles. Our ICBM's and SLBM's are the fast legs of the Triad and the B–1 is by far the slowest and most outmoded part of the Triad when we talk about the B–1 from a strategic basis.

We know there could be many interchanges of missiles we could have between the United States and Russia in the same time it takes to take off 1 or 10 B–1's and fly them from the United States to Russia.

We have heard people say one good thing about the manned bomber is we can turn it around and bring it back. That is a good point. But let me point out if instead of a manned bomber there is an air-launched platform for cruise missiles, we can also bring that platform back. We have a man, or someday a woman, on board. We can tell him or her to turn around and bring it back. There is not anything sacrosanct about that.

We can also destroy missiles in the air though we cannot bring them back whole.

We hear a lot of people talking about SALT. They say we need the B–1 to scare

the Russians during the SALT discussions. We have had it during the SALT discussions so far. Most of the people who are saying we need it to keep a bargaining chip in the SALT talks are also those people who would say we have not gotten a very good deal in SALT. So the B–1 has not been enough of a bargaining chip to get us a good deal. The Russians have not been scared.

Let me remind the Members that all the R. & D. money stays in. It is only the production money that comes out.

Maybe we ought to reappraise the Triad—and I remind the Members again this is not the Trinity.

Also we need to look at what the cost impact will be in the future on purchasing many planes. In our committee we have had the Air Force tell us we need at least 300 new planes a year to keep the Air Force current. I believe that. But we should be concerned about how much we will start spending per copy. I also sit on the Seapower Subcommittee of the Armed Services Committee and we have seen this trend in ships. Each ship gets more and more and more expensive per copy and suddenly we wake up and say: "My lord, we do not have enough ships. We are in real trouble." I am sure some of the Members have seen some facetious articles written saying that if we do not stop the trend of soaring price per copy weapons systems we will have some day one ship and one plane and one missile and one of everything because each copy is so expensive we cannot afford two. We are in dire straits. We cannot afford what we need. The B–1 only pushes us further down that path.

We have to keep in perspective what we are doing.

Also remember in all the prices being thrown around on this floor, we are talking about only a platform again. The "sticker price" on the B–1 does not have the missiles included in it. What we are arguing about in price is just the platform.

I urge my colleagues to vote for this amendment and am sorry my time has expired.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I would like to respond to a point my good friend, the gentleman from California, (Mr. DORNAN) made earlier, that somehow or other if we buy the B–1 we are going to so disarray the Soviet Union and complicate their defensive position that we are going to create tremendous security here at home for ourselves. It is simply not true. It is simply not true.

If we want to challenge the Soviet defenses, if we want to challenge the Soviet mind, if we want to challenge the Soviet technology and its economy, we are not going to support a B–1. We are going to support a standoff bomber with cruise missiles.

If you go through the transcripts and go through the newspaper clippings, the Members will find that the Soviet Union is not overly concerned about the B–1 bomber. They will find that the Soviet Union is scared to death of the cruise missile and the standoff bomber. What is the reason? It is simple, as my distinguished colleague, the gentleman from New York, (Mr. DOWNEY) so ably stated earlier. With the B–1 bomber all we have is a modernization of what we already have. We do not have anything new.

We do not have anything new. We have a modernization of the B–52. It flies a little faster. It has a little more payload. It is a little improvement over what we already have.

The Soviet Union today is coping with the B–52. The Soviet Union is not overly afraid of the B–52. I am sure it provides some deterrents. And, I will give the B–1 some due. It is a beautiful plane. I have been in it. I have crawled around it. I am interested in aviation. It is a monument to the technology of this country; but it is not the ultimate monument to the technology of this country. What the B–1 is in terms of the Soviets, is a little more that it merely stresses what needs coping with and they will cope with the B–1. They are already looking for the look-down overland shoot-down solution to the problem. With the B–1, we not only give them an offense, we give them a blueprint for what the defense has to be. They not only know what the technology has to be, namely, the look-down shoot-down overland capability, they know with reasonable confidence that they can acquire that.

Why? Because we have acquired it. They have got the blueprint. They have got the pathway to defend against the B–1. They do not have that for the cruise missile and the stand-off bomber, so that it does not complicate the Soviets to the point of deterrence, and that is the final point.

If we buy the B–1, we are buying a plane that will have a 30-, maybe even a 40-year life, as an asset, as a physical thing setting out on the runway; but we are only buying at best 2, 3, maybe 5 years at the most in terms of deterrents. So let us not talk about buying an airplane. Let us talk about buying a deterrent.

With the B–1, we are not buying as much deterrent per dollar as we can with the cruise missile.

Mr. Chairman, I hope we will support the amendment and shoot down this white turkey.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I first want to express my gratitude for being able to participate in the debate. Usually it gets cut off before Members not on the committee can even get involved, so I express my gratitude.

Now, I have not only not flown a bomber or tested any planes, I have not even crawled around inside of one. I just got a look at the model, but I have a vote here and I would like for some of the Members who may not be up on all the technological jargon that is flying back and forth, I think we ought to put it in a little more nontechnical language.

Mr. Chairman, the arguments for and against building the B–1 bomber are quite technical. Members of the House reviewing the pros and cons of the B–1 have been inundated by an incredible collection of strategic warfare jargon. Mr. CARR, my distinguished colleague from Michigan, and Mr. BINGHAM of New York have done an admirable job of critiquing the B–1 bomber and I concur with their arguments in support of the amendment offered by Mr. ADDABBO to delete procurement funds for five B–1 bombers. As a hopefully useful supplement to their analyses, I would like to offer some nontechnical interpretations of some of the key terminology at issue in the B–1 bomber debate on the floor today.

"Maintainability"—by spending an undefined and undefinable amount of money for an indeterminate period of time, the United States may be able to prevent the B–1 bomber from becoming the most sophisticated piece of technological junk in this century.

"Growth potential"—by spending additional undetermined billions, the United States can modify the B–1 over time so that, at least, it doesn't look like the biggest and most obvious procurement mistake of the century.

"Low-altitude regime"—the only Soviet air space left, today, in which the B–1 is usable which, if the Soviets are as backward as we think, will remain usuable for the next 10 years, maybe.

"Deterrent life"—the length of time it will take the Soviet Union to make us admit that we underestimated their technological know-how in producing a B–1 defense system.

"Look-down, shoot-down defense"—let us hope that the Russians cannot produce an anti-B–1 defense or else it will be one of the most expensive bad guesses in modern history.

"Jamming deterrence"—if everything in our attack plan and their defense goes as we plan it, for the first time in the history of warfare, the B–1 will be cost-effective and successful.

Hopefully this incomplete list of B–1 strategy terms and definitions lets in a few rays of light through the jungle of jargon that obscures the real issues in today's debate. Essentially I still agree with candidate Jimmy Carter when, in a moment of pristine insight, he called the B–1 system "an exotic weapon which serves no real function" and which "should not be funded." I intend to help the President stand by his initial judgment, especially in light of GAO's report that the B–1 will cost almost $30 million more per plane than the President originally thought.

Mr. Chairman, I yield back the balance of my time.

Mr. MAHON. Mr. Chairman, we have had a rather broad spectrum of debate. This is the second day we have debated the bill, and I am going to ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I would point out to the Chairman that there have been 15 straight minutes of debate by proponents of the amendment. Could the

gentleman yield 15 minutes on this side before he makes that request?

Mr. MAHON. Both sides have been heard, and the members of the Appropriation Committee have restrained themselves to let others speak.

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. How much time does the gentleman want?

Mr. ROUSSELOT. There are plenty of Members still standing. This is an important weapons system, and people who consider it so want to say something.

Mr. MAHON. Members of the committee have not taken the majority of the time.

Mr. ROUSSELOT. They have taken some of it.

Mr. MAHON. Mr. Chairman, I withdraw my request.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Oklahoma is recognized for 5 minutes.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I will not take my 5 minutes. I just wanted to make the point that the gentleman from Ohio (Mr. SEIBERLING) earlier in debate talked about the need to have money available to build buildings and do things to help us create the good society that we all want. If we are going to preserve the society that builds buildings such as the one he dedicated this weekend, and creates the people programs we all want, we must have an effective and comprehensive defense program—one that includes some kind of effective manned bomber program.

There has been some talk about the B–52 and about how we still have the B–52. The B–52 is maintained, repaired, patched in my district, at Tinker Air Force Base. I have been in the B–52. The B–52 has been patched and repatched, and fixed and refixed, so many times that it is essential that we proceed as rapidly as possible to get a replacement in the air.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield.

Mr. SYMMS. Mr. Chairman, I rise in opposition to the amendment to cut funds for production of the B–1 bomber. The B–1 is expensive, yes, no one will deny that. However, opponents of this most vital defense program repeatedly describe it as "the most expensive weapon system in history." That assertion is absolutely not true and they know it. The Trident submarine with its accompanying missiles bears a price tag of about $1.5 billion per boat with 25 missiles. It so happens that the B–1 also carries 24 weapons; thus the unit cost of a Trident submarine with armaments is considerably higher than the unit cost of a B–1. Furthermore, in terms of cost per equivalent megaton delivery capability the Trident is way, way more expensive than the B–1. Yet, no one is opposing the Trident on the basis of cost—and rightly so—because we need the Trident very badly. My point is, Mr. Chairman, that we can play around with figures and give different impressions. It all depends on total buys and efficiency of production. There is some speculation that we may end up buying 20 or more Tridents; in this case the total program cost would be considerably higher than the B–1 program cost even if we were to buy 250 B–1's.

Now, let us consider for a moment the cost of some of the proposed alternatives to the B–1 and make a comparison. First of all, we could reengine the B–52 and make substantial modifications to the airframe. This would cost at least $40 million per plane, but would not solve the problem of large radar cross section and penetration capability.

The most talked about alternative to the B–1 is the concept of a pure stand-off system using wide-body—747 type—cruise missile carriers. There are many disadvantages with this concept, but let us look first at cost alone. The unit cost of a 474 or other wide-body aircraft configured to carry cruise missiles with some chance of prelaunch survivability would be in excess of $70 million per plane. Considering the reduced target coverage and reduced destructive potential of the standoff cruise missile carrier, CMC, system it can be seen that this system is really not cost effective compared to the B–1 for the following reasons:

Although the U.S. Congress can make laws, its Members must recognize that we cannot alter the laws of physics that limit the performance of weapon systems. With the propulsion technology available in the foreseeable future it is not possible to build a small cruise missile that would have both the high speed needed to penetrate highly defended targets without ECM and the range necessary to provide adequate target coverage of the Soviet Union when launched by a standoff aircraft. Also, such a missile would in all likelihood have a larger radar cross-section than present cruise missiles, thus eliminating one of the alleged advantages of cruise missile penetrators as opposed to B–1's. And, even if the propulsion technology was available, the fact that cruise missile costs tend to increase geometrically with their speed would eliminate the cost savings claimed by the advocates of the stand-off CMC system.

In addition, it is asserted that large numbers of cheap penetrators—cruise missiles—without ECM are more effective than the B–1 bomber with ECM. This assertion is contradicted by numerous DOD studies, including the most recent one commissioned by Secretary Brown, as well as by outside studies conducted by groups with no vested interest in the B–1 program.

The advocates of the CMC system have also overlooked several other important facts. First, their concept would have the United States rely exclusively on standoff capability, which would permit the Soviet Union to focus all of its air defense capabilities on destroying the wide-body cruise missile carriers before they launched their missiles. This could be accomplished with long range interceptors such as the Mig–23 Fiddler or Mig–25 Foxbat or even a tactical version of the Backfire. And, again, the wide-body carrier aircraft would have questionable prelaunch survivability since it is soft, slow, and cannot be flushed to shorter airfields as can the B–1 bomber in times of crisis.

It is stated by opponents of the B–1 that it will be vulnerable to Soviet look down-shoot down fighters directed by a Soviet airborne warning and control system, SUAWACS. This is a faulty assertion. For one, SUAWACS technology is decidedly inferior to ours; it is highly vulnerable to jamming by B–1 ECM and can be killed by a high speed air-to-air missile carried by the B–1 or possibly by a high energy laser, if and when that is available. Without an effective SUAWACS, the capability of Soviet look-down, shoot-down fighters against a high speed low level bomber with good ECM such as the B–1 is greatly reduced.

Another point that should be made is that the B–1 has designed in growth potential. The airframe is designed to accommodate updated avionics and defensive systems, such as high energy lasers, as the Soviet threat increases. This is a feature unattainable with the alternative standoff CMC system. If we were to cancel the B–1 and go to the CMC as an alternative we would not be able to meet a changing Soviet threat due to the inflexibility of the system.

Furthermore, the price of getting a reasonable SALT agreement may be a range limitation on the cruise missile. Those who are arguing that we cancel the B–1 would put the United States in the position of having to either forgo an otherwise helpful SALT agreement or having to be without a bomber force under an agreement which would virtually insure that the U.S.S.R. would have superiority in missile forces. Also, it has come to my attention that one proposal presently under the discussion in SALT is that no future ICBM system would be deployed by the United States and only limited improvements would be made to the present Minuteman force. Such an agreement would effectively eliminate the viability of our land-based ICBM's 10 years hence, thus putting a premium on the SLBM force and the bomber force. Under such circumstances we would require a large B–1 force—nothing less.

But, most importantly, Mr. Chairman, our decision on the B–1 bomber should be based on the question of need. We must consider the trends in U.S.-Soviet strategic military forces. By 1980 the Soviet Union will have the capability to emerge from a nuclear exchange with the United States, in which they shot first by attacking our strategic forces, with a substantial military advantage. Such an advantage in postattack reserve forces could be used to hold American cities and the American population hostage against U.S. retaliation on Soviet cities. Coupled with the fact that the Soviet Union is taking very substantial civil and industrial de-

fense measures to minimize the effects of a U.S. nuclear retaliation, as reported earlier this year by the National Security Council, this emerging strategic military advantage will give the Soviet Union unprecedented coercive capability—politically, economically, and militarily.

If we do not go ahead with expeditious production of the B–1 bomber at this time, the Soviets could have a preemption capability by 1986; that is, they could have such a margin of strategic superiority, combined with civil defense, that they could credibly blackmail us out of deploying the MX advanced ICBM or any other weapon system that could restore stability. There is no weapon system other than the B–1 that is ready for production and can be fully deployed by the mid-1980's that can redress the emerging Soviet advantage and maintain stability. A careful analysis of post-exchange United States-Soviet "equivalent weapon" comparison will show this. The "equivalent weapon" index is used in such a comparison because it takes into account the parameters of throw-weight, accuracy, warheads, yield, and the target characteristics against which they would be used. It is the best overall index of nuclear force effectiveness. The B–1 bomber, properly armed and deployed, will reduce the Soviet's war winning potential by 50 percent—enough to deny them a decisive coercive capability during the 1983–86 time period. Perhaps this is why the Soviet's worldwide propaganda machine is working so hard to convince us that the B–1 should be canceled.

In conclusion, Mr. Chairman, the opponents of the B–1 are using the cost issue as their main argument against it. But all weapons are expensive—that is why the B–1 decision should be based on need, if we do not need it then we should not buy it. However, the principal reason that the cost of this airplane has risen to the present level is inflation and delays in the program brought about solely for political reasons. Since opponents of the B–1 have never had the votes to kill it outright, they have adopted the strategy of slowing down production as much as possible in an attempt to drive the cost higher and higher to the point where the majority in Congress will reject it. Such tactics do an outrageous disservice to the taxpayers of this Nation as well as to our national security.

I urge my colleagues not to be confused or seduced by the shallow arguments being made against the B–1 and in favor of alternate systems that will cost just as much but with much less capability.

Mr. Chairman, the B–1 will cost no more than 4 years of the food stamp program or 3 years of the foreign aid program, but it will be a lot more effective in carrying out its mission. Consequently, I urge the Members of this Congress to oppose these attempts to cut B–1 production funds. To further cripple or kill this program would send the wrong signal to the world at the wrong time.

Mr. EDWARDS of Oklahoma. Mr. Chairman, let me make this one point, since the gentleman from Idaho (Mr. SYMMS) raised the issues of cost. This is an expensive program. I think we all recognize it is an expensive program. But I also recognize that last Thursday we voted to spend $7 billion—one-third of what this B–1 program would cost—on foreign aid, and I think it is important that we keep our priorities in order.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Chairman, a few weeks ago at the Edwards Air Force Base test center I talked with the B–1 test pilots and they are truly impressed with all aspects of this aircraft's potential. I believe they are leveling with me and Mr. LLOYD when they praise the B–1. That is the reason I pointed out the background of the gentleman from California (Mr. LLOYD). Of the 23 aircraft analyzed by the independent cost analysis group, Mr. LLOYD has flown or flown on about a dozen. I have also flown or flown on that number. We speak with some authority, as some of our fine congressional civilian pilots do not on the technical points. This is an excellent system. It has been conceded even in the comprehensive report written by the gentleman from Michigan (Mr. CARR). I asked the B–1 test pilots what they thought would happen to the 12 existing aircraft if the President does not approve production after next year. They said they would upgrade the first three test models to the combat performance of the nine followon B–1's and have one small squadron of 12 aircraft. By dividing these 12 into the development cost of almost $6 billion, you will have 12 planes which are worth about one-half billion dollars each. So what. If what I hear is sincere, I do not think anybody in this Chamber, considering the arguments we have been hearing, will suggest that we junk, that we throw away $6 billion representing the 12 best aircraft in the world, even if it comes down to just 12. The crews, which, of course, will be hand picked for those 12 airplanes, will, even though only a handful, make the Soviets think twice about striking this country. But, if we buy this aircraft in sufficient numbers, as I believe the President will do a day and a half from now, then we are buying even more respect from an enemy. Someday, by winning time for peace through strength as George Washington said, we may see an evolution in the Russian people where they rise up against their repressive government.

One final footnote. Do not be fooled by comparison charts and SALT talks figures which show that we have 452 B–52's on the line. We do not. Our 99 B–52 "D" models are standing down. Only our "G" and "H" models are combat ready. We need the B–1 "guardian of liberty" as soon as we can get it into the capable Air Force pilots. The men and women of SAC are still the finest "peacekeepers" on the face of the Earth. Give them the very best technology with which they will serve us with total dedication. How in blazes do you put a price tag on our liberty? I beg for the defeat of this shortsighted amendment. Thank you.

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words, and I stand in opposition to this amendment.

Mr. Chairman, I stand to make three points, if I may, concerning the B–1 bomber.

On June 7, I, along with approximately 11 other Members of the House and the Senate, spoke to the President in support of the B–1 bomber. It is my understanding that a couple of days later, approximately the same number of people met with the President who were opposing the B–1 bomber. Of the three points I would like to make, two of them I tried to make to the President of the United States, our Commander in Chief.

First, I do not want to be a party of not giving our President, our Commander in Chief, the best and the most effective and the most efficient alternative to pressing the nuclear button. I do not think any of us in this room want to limit our Commander in Chief from having that alternative.

Point 2 that I tried to make to our President was this: The Soviets have said that the B–1 is not important to the SALT talks. I say that they are making a false statement.

The fact is this: The Soviet Union today is employing more than 550,000, nearly 600,000, people to defend the outmoded, outdated B–52.

The Soviets will probably have to double or nearly double their defense against the B–1 bomber. The B–1 is very important in our position in the SALT talks.

Mr. Chairman, those are the two points that I tried to make to our President.

The third point that I would like to make today before my colleagues is this: Our President in the next 2 days, if he follows the timetable that he has stated publicly he has, will be making his decision concerning the B–1 bomber. I do not think, in all our wisdom and in all our prayers, that we should handcuff and handtie the Commander in Chief of this Nation and prevent him from being able to make the decision that he feels is important in carrying out the defense of this country.

Mr. Chairman, I yield back the balance of my time.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is beyond my comprehension how we can sit here today and even suggest that procurement for the B–1 be removed from the defense appropriations bill. I doubt that those in this Chamber who propose such a course fully recognize all that is at stake in the future security of this Nation.

Daily we receive reports of the military advancements being made by the Soviet Union. There once was a time when we could safely say that this country's superiority on land, sea, and air was uncontested, but no longer is that the case.

Through the B–1 this country can be assured of maintaining its military defense by air. What this bomber represents is the finest technological advance-

ment any nation has been able to achieve in the field of strategic bombers. Thanks to such innovative development the United States is now in a position to counter the Soviet procurement of the "Backfire" at a time when our own B–52 is quickly becoming an anachronism. By its very existence the B–1 will be a deterrent to foreign aggression.

Mr. Chairman, should we fail in safeguarding the future of this country by deleting funds for the B–1, we will have irretrievably lost any edge we might have had by air. I remind my colleagues that prudent foresight will prevent the untenable position of self-reproaching hindsight. The question is not can we afford the B–1, but rather can we afford to do without it.

Mr. Chairman, this debate has gone on for quite some time, and I hope that I will not use too much of the committee's time.

Let me first stipulate for the benefit of my colleagues that Palmdale, where the B–1 bomber is built, and Edwards Air Force Base, where it is being tested, both lie within the confines of my district. Having said that, I hope I can assume the Members will divorce that from their minds, because I think this issue is important to America and not particularly to my district.

I would like to remind some of the Members—and, of course, some of them are not old enough to know—of what it was like in 1941 when war was declared and many of us were called to serve. During the preceding period America had become complacent, had cut way back on its armed services, and had cut back on weapons and everything else. Along with hundreds of thousands of other Americans, I trained with a wooden gun.

With this amendment, that is what we are asking America to do today—to train with a wooden gun.

Certainly our weapons systems have become far more sophisticated than ever before in our history, and they are going to continue to become more and more sophisticated. We are going to have to support funds for these systems as long as the Soviet Union poses a threat to this Nation.

I am not going to go into all the technicalities of how fast the B–1 goes, how high it will go, how slow it will go, or how low it will go. I am not even going to ask the Members to match it with the Backfire bomber that is built by the Soviet Union. I only want equity. I only want our Nation to be able to answer in kind if it ever becomes necessary.

One of the Members stood on the floor and said, "Well, this great white airplane may sit on the runways for the rest of time."

Mr. Chairman, if we build that bomber and it sits on the runway and never has to be used, because of its deterrent capability, we will have spent every dime the best way we could.

I listened to the gentleman from Oklahoma, Mr. MICKEY EDWARDS, and I listened to other Members tell us how many schools, how many hospitals, how many of this, and how many of that we could have if only we would knock out the B–1 bomber. Our country is predicated on one thing, and that is defending freedom. Our people are free, and if we do not provide the tools to hold that freedom, all these wonderful social programs of which we are so proud will amount to nothing because we will no longer have them.

Mr. Chairman, I beg of the Members to turn down this amendment in favor of our country.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. KETCHUM. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I think the gentleman has made a very important statement.

One of the points that perhaps has not been emphasized enough today in this debate is that what is most important is whether this Congress sends the right kind of a signal to the Soviet Union today and to any other countries in the world that may wish us ill.

The President and the Secretary of State may say, as they have done, that the United States is making this or that commitment and that we are assuredly going to defend this or that part of the world. But the gut question is whether Congress is going to back up those commitments with the up-to-date weapons required to do the job.

The up-to-date improvement that is needed in the Air Force is the B–1; the up-to-date improvement in the Navy that is needed is the Trident; and the up-to-date improvement that is needed in the Army is the XM–1. If we do not show our determination to keep those systems going, the Soviet Union is going to conclude that Congress is not prepared to back up our declared intention to defend ourselves.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for his contribution, and I agree totally with him.

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the very purpose of the Triad is to assure survivability to one or more of its legs in the event its other legs are threatened or destroyed. We must recognize that we have never been nor are we likely ever to be a first-strike nation. That means then that we must maintain the capacity to survive a first strike by an adversary.

If we are going to survive a first strike in a nuclear exchange with the ability to successfully retaliate, we must have this kind of capability and flexibility. That is the purpose of the Triad—and in part the B–1 bomber.

If the adversary should go for the submarines, we have two legs with which to survive; or if they go for two, we still have one for survival.

We must not lose sight of the purpose of the penetrating bomber. The purpose of the penetrating bomber is to carry the megatonnage in to reach the high-value targets.

We have heard argument here today that we ought to use the moneys instead for the cruise missile. The intent and purpose of the cruise missile is to support the bomber, not vice versa. The intent and purpose of the bomber is to get in, carry enough capability to go out in front for 70 miles or so, and roll back the defenses so that it can get into the high-value targets with the nuclear bomb.

No one presumes that the cruise missile can go far enough with enough payload to reach the high-value targets. Therefore, we are talking about two entirely different systems.

The purpose of the cruise missile is to be carried in to help roll back the defenses so that we can get to the high-value targets with the bomber.

In short, Mr. Chairman, it seems to me that if we buy the principle of essential equivalence as a criterion for evaluating our strategic forces and our needs and the needs for the bomber force, in particular, then we will vote "no" on this amendment. If we are interested in providing a minimum assured destruction of the retaliatory mission or capability, then we will vote "aye." However, if we want to do the job and give ourselves the opportunity to truly retaliate with a survival part of the Triad, then we will vote "no" on the amendment.

I urge the defeat of the amendment.

Mr. ROBINSON. Mr. Chairman, I move to strike the requisite number of words.

Our historical strategic posture with regard to national defense and nuclear deterrents has been a reliance on the Triad, which is more simply known as not putting all of our eggs in one basket.

Mr. Chairman, if we go back on our obligation to support this system, which is one leg of that Triad concept, then we allow ourselves to be open for attack on the other two systems, which would be unthinkable and irresponsible.

Our bomber force and our ICBM force interact to increase the survivability of both systems, and it is essential that both be retained and improved to meet the threat if it comes. Relative to threat, the need for bomber aircraft that can be airborne in less time is going to be essential in the future, and that is the reason that we cannot rely on the B–52, not just because of its age, and that is the reason we cannot rely on such aircraft as the 747's, because they cannot get off the ground in time to avoid what would be an attack by an SLBM. We need to have the B–1 with its faster takeoff capability to meet this threat and insure the survivability of all three legs or, at least, two legs, if one of the other legs happens to get knocked out.

Mr. Chairman, the case has been made allegedly that there are cheaper ways of doing this. I would point out that if we are going to develop a new type of strategic force to take the place of the B–1, it is going to cost us, if we rely on historical development of deterrents of this kind, from $4 billion to $6 billion of new money. Mr. Chairman, we have already sunk about $3.2 billion in research and development of the B–1. If we throw that money away, what will we have to replace it? If a different system were to be developed and the B–1 terminated, then the recurring bill to develop the system would have to paid.

Mr. Chairman, why would we want to change direction at this late date? It simply makes no sense whatsoever.

We cannot presume that when this B–1 goes into action it is going to be flying into an area where there is not going to be some confusion. We presume this is not going in on a first-strike basis. It is going in after there has already been a first strike from our adversary.

After we have struck back, to clear the way for the B–1 bomber, so that it can get in there with both short range attack missiles, which can avoid the ground defenses, and clear the defensive area, and then with the cruise missiles which will demolish the target. It can carry twice as heavy a weapon load as the old B–52 was able to do. That is the reason we need the B–1. We need it to be able to build up this leg of the triad which is being allowed to deteriorate at this time. If we do not do this this will severely reduce our ability for a second-strike capability.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding. I know that the gentleman from Virginia (Mr. ROBINSON) worries about the taxpayers' money and has cut out weapons which are useless, is it not a fact that on many occasions where we have funded weapons systems and found them not cost effective that we have stopped them, no matter how much we have had to spend. We have done so on the missile programs and we stopped the B–70 because it was not cost effective and could not do the job it was supposed to do, is that not correct?

Mr. ROBINSON. The gentleman from New York is correct in what he states, but that is not the case with regard to the B–1 bomber. The only reason that it costs so much as it does today is the fact that we have delayed it to the point that inflation and other things have escalated the cost so that the B–1 has been pushed over the hundred million dollar mark. If we had gone ahead and built it when we should have, we would not be paying nearly as much as we are going to have to be forced to pay.

Mr. FLYNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. Fortunately, this is not my first occasion to speak in support of aircraft, nor will it be my last. This aircraft gives our Nation the mandatory retaliatory ability we need to complete the Triad system of deterrence. This is the eighth year we have had to debate this matter and the arguments of those who oppose this aircraft continue to express the same twisted and distorted views we have listened to for so long.

The principle behind and the purpose of the Triad system of deterrents, is worth the time it takes to spell it out again.

First of all, the Triad is the basic underlying principle of the national defense policy of the United States. It consists, as the name indicates, of the three major components. First, we have the land based intercontinental ballistic missile. I believe that the ICBM system that we have in this country is the equivalent or is superior to the counterpart ICBM forces of the Soviet Union.

The second component in the Triad is the submarine launched ballistic missile. It of course began with the Polaris, later the Poseidon and now we are moving into the era of the Trident platform for the new generation of submarine launched ballistic missiles.

I believe that the research and development program on the Triad has kept pace with the corresponding research and development of the Soviet Union. But, at the same time, we must not neglect the third leg of this triad, the follow-on manned bomber. Since the introduction of the manned bomber force into the early Army Air Corps, then the U.S. Army Air Force, and finally into the U.S. Air Force, this country and this Congress has tried to maintain a manned bomber force which would be the equivalent or the superior of that of any enemy of this country. The B–52 force entered the U.S. Air Force inventory early in the 1950's. The B–52 has been and is an excellent aircraft, but it needs to the replaced by the B–1. This weapons system has improved since the introduction of the first B–52 into the Air Force inventory until today we now have the most modern B–52 G's and B–52 H's which are far, far superior to what the B–52 was when it first became a part of the U.S. Air Force inventory. It has served its purpose well for 25 years, and is scheduled to continue in service into the 1980's. But we are not talking about the remainder of the 1970's and the early 1980's as the era of the B–1. We are looking into the 1990's and into the 21st century, and if we are going to keep abreast of developments in all parts of the world, and if we must to maintain the viability and the credibility of the Triad system in the defense of this country, Mr. Chairman, it seems to me that it is essential that we look and think forward prospectively to a time period well into the 21st century and bring into the inventory of the U.S. Department of Defense the follow-on manned bomber—the B–1 which is just as essential to the purposes and the concept of the Triad as the ICBM or the SLBM.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to my colleague and friend, the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding, and I congratulate him on his statement.

As our colleague from California (Mr. KETCHUM) said, the whole purpose of this program and all weapons systems is having to use them. The gentleman from Georgia is correct in asking this body to look into the 1980's and into the 1990's as to what our adversaries will have and what we will be facing at that time in terms of the threat. Given the 1320 limitation of MIRV missile at Vladivostok, the Soviets will have by 1982 four or five times the number of warheads, with accuracy equal to our land-based missiles; and average yields at least 5 times as great so it seems to me that the B–1 is an integral component of our Triad deterrent in that prospective. I think that is the point the gentleman is making and quite well. I appreciate his leadership on this subject and in the Subcommittee of Defense, as it is my pleasure to serve as his colleague.

Mr. FLYNT. I thank the gentleman from New York (Mr. KEMP) for his comments and for his valuable service on the Defense Appropriations Subcommittee.

I hope we never have to fly the B–1 into combat, but if we do, I would rather have it and not need it than to need it and not have it. It could well be one of our best insurance policies against a nuclear exchange.

Once again I ask that this amendment be defeated. Many of you remember the first attempt to kill the B–1 bomber, when in 1970 we defeated an amendment to cut $100 million of R. & D. funding. Again in 1971, by a vote of 307 to 90, we let the opponents of the B–1 know we supported a viable Triad that was completely justified for the defense of the Nation. The record indicates the same old arguments against the B–1 have repeated each year and now we hear them again. I say it is time to settle this matter and proceed with the production of the B–1.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have talked and debated an awful lot about a highly sophisticated weapons system today, and the debate will probably go on for some time.

I sat on the Committee on Armed Services this year, my first, listening to the debate, hearing the briefings on this and other matters within our military complex. Several questions were raised in my mind when we were having top-secret briefings about our methods of gathering intelligence about what any potential enemy on the face of the Earth is doing. I asked the question of one military leader from the Joint Chiefs, "Do they know this much about us?" The reply was, "Why certainly. We print it in the newspapers." And that is the truth.

We have a situation where our Commander in Chief, as he was referred to today, is advocating the negotiating away of that weapons system that Members on this floor today have said the Russians do not have a defense for, namely, the cruise missile. Our Commander in Chief is advocating negotiating the building of that system away. Some of the Members on this floor have also said that the Russians do not now, but they might have soon, a defense for the B–1 so we should not build that. Logic dictates that pretty soon there will not be any weapons systems, and then we can go about building dental clinics and hospitals up until the time that we do not have any place to build them because there will not be any people for whom to build them.

I do not stand here to try to tell the Members of this body, who are intelligent, that any weapons system that the United States of America or any other civilization throughout history has proposed has not been met with some opposition on the basis that it was anything from too costly to a foolish idea in the first place because it would not work.

I do not dispute the fact that the B–1

bomber is a very costly weapons system. I do not dispute that. I do not think anybody does.

Nor do I dispute the fact that—even though many of us who favor the B–1 bomber would oppose this amendment—none of us will try to tell the Members that the B–1 is a perfect weapons system, because it is not. And the Congress of the United States or the antimilitarists or the antimoney spenders or the antianythings of this world and this House can tell the Members forever that the B–1 is not perfect and we should not build it until it is. There is no weapons system that is either perfect or, on the second hand, is the be-all or end-all weapon. Nobody is going to say the B–1 is going to be the weapons system that would last forever or that the B–17 would carry us through World War III, God forbids there should ever be one.

But the fact is the development has been done on the B–1. In talking with those who fly it and in talking with those who test it and in talking with those who are afraid of it, we hear them say no other weapons system of a manned bomber strategic penetrating type has ever been developed like it and it will be many, many years before there is an adequate defense against it.

What is the alternative? The cruise missile? No, because we may negotiate that away, Besides it is slow flying.

The B–52? No, although it was an excellent weapons system in its day.

The alternative is to go to work on research and development for something new and then we will have to develop that and it will be also costly.

For those who fly back to their constituencies or across the United States, or wherever, in this great country, those who fly in the 747's and the DC–10's and the 707's, I wonder if they have ever thought about the plane in which they were flying back to see their loved ones and realized that it has never been tested anywhere near one-tenth as much as the B–1 has already been tested, and it has been tested to a much greater degree and with much greater results.

Mr. JONES of Oklahoma. Mr. Chairman, I rise in opposition to the Addabbo amendment. I am greatly concerned about the future posture of the United States. As a Member of this body, I, along with the other Members might one day have the awesome responsibility of sending the youth of this Nation to war. If that difficult decision should ever arise, I want to be certain our Nation has the most advanced weaponry available to deal the enemy a crippling blow. I cannot, in good conscience, have our Nation relying on the antiquated B–52 at such a critical time. The B–52 is a product of the technology of the 1940's and the 1950's. It is now essential that we utilize the sophisticated technology found in the B–1. The B–1 represents not only the most advanced technology, but the most extensively tested bomber in the history of aviation.

I am confident it would meet the critical need of a wartime situation.

As one who fully supports the Triad concept of a strong military strategic capability, I believe the bomber portion of the Triad must be provided with a manned bomber capability containing the outstanding features of the B–1. To me, one of the outstanding features of the B–1 is its ability to fly at extremely low altitude speeds in excess of 650 miles per hour.

This gives the United States an opportunity to counteract enemy defensive capabilities, thereby giving our strike capability an added dimension.

Furthermore, I am impressed with the B–1's faster escape speed, greater resistance to nuclear effects and shorter takeoff distance to permit dispersal of the B–1 to a larger number of airfields. I am unaware of any weapons system now in existence or planned for our military that possesses these attributes. I am convinced the B–1 launch survival and penetration characteristics combined with its improved accuracy and large payload capacity, compared to the B–52, will provide a highly effective contribution to the future U.S. strategic deterrent posture.

The B–1 gives the President added options. In the case of the SALT negotiations the President can effectively use the B–1 as a bargaining chip for a more beneficial treaty. Furthermore, in case of attack by an enemy, the B–1, with its ability to be recalled just prior to an attack, provides the President additional time to develop alternate courses of action. This is not true in the case of nonrecallable submarine or land-based launched missiles.

It is clear to me that our national security can best be served by moving ahead on the development of the B–1. I, therefore, urge my fellow Members to reject the Addabbo amendment.

Mr. DRINAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York. The unprecedented cost of the B–1 bomber far exceeds the contribution which this weapons system can make to our national security. If we proceed with the production of the B–1 bomber, we will commit the Nation to an ultimate expenditure of at least $37 billion for a weapon which will add only marginally to our deterrent force.

According to recently released Pentagon estimates, the B–1 will cost at least $112 million per plane, rather than the previously advertised figure of $93 million. Proponents of the B–1 admit that a fleet of 244 B–1's would cost the taxpayers more than $35 billion over the next 20 years. When one includes the additional expenditures for new tanker aircraft and other support services, the figure climbs to approximately $100 million. The continued viability of a modified B–52 through the 1990's and the limited contribution of manned strategic bombers in our Triad of strategic weapons renders the enormous expenditure for the B–1 unjustifiable. The billions of dollars earmarked for the B–1 program could be put to far better use elsewhere in our defense budget, as well as in meeting our Nation's social and economic needs. In fact, several experts feel that the B–1 could actually reduce the effectiveness of our overall military forces by diverting resources badly needed for other weapons, especially tanks, fighter aircraft, and cruise missiles.

According to Pentagon projections, the B–52 will remain a viable and effective aircraft through the balance of the 20th century. Present plans do not call for the replacement of the B–52 with the B–1, but rather for the addition of the B–1 to the manned bomber force. The Air Force will retain a full complement of B–52's in the coming years. It is, therefore, not necessary for us to commence production of the B–1 now. We have many years within which to make a decision on the B–1, during which time the B–52 will, according to the Air Force, remain an effective aircraft. As former Secretary of the Air Force Thomas Reed stated on April 15, 1976:

> We envision over 300 B–52's remaining in the active inventory for the rest of the century.

In recently released testimony before the Senate Armed Services Committee, Lt. Gen. Alton D. Slay, Air Force research chief, said:

> We have never said that it is going to be easy to shoot down the B–52 in 1985.

The upgraded, modernized B–52's will be a part of our arsenal for the rest of the century, regardless of the decision on the B–1 bomber. Estimates that the modernization of the B–52 fleet will approximate the introduction of a limited fleet of B–1's in cost are misleading. They are based on estimated costs of grafting on to the B–52 many of the features and capabilities of the B–1. This would not be necessary, according to the Air Force, to make the B–52 a credible, effective aircraft.

Modernization of a more routine and less radical nature, including most importantly the introduction of cruise missile-launching capability, will make the B–52 a satisfactory manned strategic bomber for many years to come. While it will never fly as fast or as low as the B–1, it will come close to the newer aircraft in its actual destructive potential, at a fraction of the cost.

The availability of cruise missiles constitutes one of the most important arguments against the production of the B–1. The cruise missile is remarkably inexpensive; it is extremely accurate; and it can be launched with pinpoint, computer-guided precision from long distances, by aircraft which do not need to penetrate enemy airspace. The advent of the cruise missile reduces considerably the need for an aircraft such as the B–1, which was designed specifically to penetrate deep into enemy territory.

The advent of the cruise missile simply underscores a principle which is at the heart of the debate over production of the B–1 bomber: manned strategic aircraft are the most expensive and least effective means of delivering nuclear weapons. Our land-based intercontinental ballistic missiles and our virtually impregnable submarine-launched missiles are far more accurate and powerful than anything which the B–1 can launch. These two elements of our nuclear arsenal can destroy all targeted Soviet positions. We now have 34 strategic warheads for every Soviet city over

100,000 in population, 7.5 for each town over 20,000. No Russian city of appreciable size could withstand an attack from our present, overwhelming nuclear forces.

Neither the Soviet Union nor any other nuclear power has invested in a fleet of manned strategic bombers. The costs are simply too great when compared to the benefits derived. After a considerable investment over a period of more than 20 years, the United States has what the Air Force considers a manned strategic bomber which will remain effective into the next century. How foolish it would be for us to divert billions of dollars to an entirely new strategic bomber. The combination of B–52's and cruise missiles, together with our already overwhelming arsenal of land- and submarine-based nuclear missiles, make the B–1 a luxury which we cannot afford.

Seldom has a major military weapons system encountered less support from the Defense Establishment than the B–1 bomber. Only one of the past seven Secretaries of Defense—Donald Rumsfeld—has expressed unequivocal support for the production of the B–1. Former Secretary of Defense James Schlesinger, a man whose commitment to a strong American military force is unquestioned, opposed the B–1 as an unnecessary addition to our Nation's defenses. Former Chairman of the Joint Chiefs of Staff Gen. Maxwell Taylor, a self-described "unreconstructed hawk," last year stated:

> I am unable to support the B–1 program because of its cost and the absence of convincing evidence of its essentiality.

A group of 19 distinguished experts in national defense, including former Secretary of Defense Clark Clifford and former National Security Advisor McGeorge Bundy, have jointly expressed their opposition to the production of the B–1, stating:

> The tens of billions of dollars required to build and operate the B–1 bomber are not warranted by any contribution to our security which it might make.

Mr. Chairman, we frequently hear the B–1 program justified on the basis of its capacity to create jobs. This argument represents a remarkably short-sighted view. According to a study conducted by the Department of Labor, more than twice as many jobs would be created if the funds earmarked for the B–1 were spent on education, health, sanitation, or welfare. Moreover, these jobs would be of a permanent nature, while many of the jobs dependent upon production of the B–1 are temporary.

No one disputes the fact that the B–1 is a remarkable aircraft. The problem is that it is not a necessary aircraft. The United States cannot afford to pour billions of dollars into a weapon which will contribute only marginally to our national defense, particularly at a time when superior weapons of lesser cost are available and other programs of greater urgency compete for the taxpayers' dollar. We all know how difficult it is to terminate a program once production has begun. By adopting the amendment before us, we avoid the extreme difficulties associated with such termination while preserving our ability to initiate production at a later date. The amendment deletes only the $1.4 billion earmarked for production of five B–1's; research and development would continue.

In the interest of a sound, effective, and cost-efficient U.S. defense posture, I urge my colleagues to reject production of the B–1 bomber and adopt the amendment before us.

Mr. WEISS. Mr. Chairman, on two prior occasions this year, I have voiced my opposition to the B–1 bomber on the grounds that it costs too much and is unpromising in its capability to contribute to the improved maintenance of the national defense.

Once again, I rise to express my opposition to our continued involvement with the B–1 bomber and in support of this amendment to the defense appropriation bill (H.R. 7933), which would for all intents and purposes put an end to this bloated defense procurement item.

In the week leading up to this debate there has been a thorough exchange of views from both those who oppose the B–1 bomber program and those who support it. There appeared in the June 13 CONGRESSIONAL RECORD both a letter from Secretary of the Air Force John C. Stetson to Congressman MARRIOTT, (see p. 18650), which enumerates the reasons for continuing the B–1 program, and the staff study by the "Members of Congress for Peace Through Law," requested by Congressman BINGHAM (see p. 18745), which explains why the B–1 bomber should not be built. And of course there have been countless discussions among the Members of the House about the merits and demerits of this now infamous military aircraft.

In explaining to my colleagues and my constituents why I oppose the B–1 it would be easy to simply repeat the arguments which have been used previously: That the B–1 is the world's most expensive weapon system costing nearly $100 million each with a total expected cost of at least $26 billion for 244 planes; that it will be obsolete by the time it becomes operational; that it is a poor deterrent in a world of unmanned deterrents such as missile launched warheads and the mobile SLBM, submarine launched ballistic missiles; that it utilizes funds that could be put to a better purpose.

But I have an additional and equally important concern as the basis of my opposition to the B–1 bomber program: Our country, having just recently entered the post-Vietnam era, now has an opportunity and the obligation to reach out to other countries—knowing that we possess the capability to explode the whole planet Earth many times over—and to lead the way to disarmament. Surely during these relatively peaceful times we do not need to flex our muscles to make it clear to the world that we can pulverize anyone we want—any time we want.

The study commissioned by Congressman BINGHAM which I mentioned above states:

> Far too much has been made also of the B–1's value as a SALT bargaining chip. First, the U.S. does not have to go into full production on the B–1 to credibly threaten the Soviets with full production if concessions are not made at SALT. Already some $3 billion and 7 years of research and development have gone into the B–1 bomber. The Soviets are well aware that the U.S. can go ahead with this kind of technology should SALT fail to cap the arms race.

If a deterrent means that there is a capability to destroy, then certainly the United States possesses and has demonstrated such capability in the B–1 without going into full-scale production.

In considering a vote on this amendment to halt production of the B–1, we realize that President Carter has promised to announce his own decision on the B–1 before this week is over. Some may be inclined to vote against this amendment on the grounds that it preempts the President from taking the opportunity to make a choice on this program—but if the amendment fails to pass, the President may feel that he has little recourse but to follow the consensus of Congress and approve the B–1.

I urge my colleagues to set the sails of our country in a "peaceward" direction and to vote in favor of this amendment. The time is ripe for America to invest itself in other more worthwhile endeavors than the B–1 bomber.

Mr. CUNNINGHAM. Mr. Chairman, today the House is considering the appropriations bill for the Department of Defense for 1978. Mr. George Will, the Pulitzer prize-winning columnist, recently wrote effectively of the immediate need to signal our intentions on defense and begin construction of the B–1 bomber.

An amendment, offered today, will seek to gut the B–1 program. It was offered last year and Members who had the wisdom to support the B–1 at that time will have their resolve strengthened this time.

Mr. Chairman, the Soviet Union will realize any retreat from the B–1 is a politically motivated retreat from the defense of this country. I call upon President Carter and Members of Congress to act to fund this vital project now to continue to uphold the needs of the defense capabilities of our country.

I recommend to all Members the words of Mr. Will:

THE B–1 IS URGENTLY NEEDED

(By George F. Will)

Eleven months ago, when Jimmy Carter's most urgent task was to energize the liberals who energized Democratic campaigns, he said what they wanted to hear: that the B–1 bomber should not be funded.

But two days before the election, he said in Oklahoma (where Tinker Air Base would serve the B–1): "I am not opposed to the B–1." And he wired a California official of the United Auto Workers union (which includes aerospace workers) that "no final decision will be made" until a review of "flight tests and all other factors."

As candidate, Carter treated defense issues as cavalierly as candidates usually do. As commander-in-chief, he has acquired responsibilities and information, and he may, and certainly should, decide for B–1 production.

Today, bombers are delivery vehicles for about half the U.S. nuclear force. U.S. missiles are small in size and number, relative to the Soviet Union's. But the B–52 fleet is about a quarter-century old and has been out of production for years. Some flight crews are younger than their planes; one pilot has flown the plane his father flew.

B–52s, originally designed in 1948, were intended for high-altitude operations. But

since the development of high-altitude Soviet anti-aircraft missiles (demonstrated in 1960, when the U-2 was shot down), B-52s have been flown frequently at low levels, where wear and tear are worst.

This and improving Soviet air defenses means that the usefulness of the B-52 is declining. So if Carter killed the B-1, he would be amputating one leg of the "triad"—the mix of land-based missiles, submarine-based missiles, and bombers—that has been the basis of the U.S. deterrent. He would be imprudent to restrict himself and his successors to a deterrent based exclusively on ballistic missiles.

The Soviet Union is building a modern bomber ("Backfire"). And the Soviet Union is rapidly increasing the number and accuracy of its missile warheads, thereby approaching the ability to launch a potentially disarming strike against U.S. land-based forces, including B-52s on the ground. Thus the B-1 is urgently needed as a stabilizing weapon.

The B-1 could be dispersed to thousands of airfields. Its acceleration gives it a remarkable "safe escape time"—the time required, after an attack is launched, to fly a safe distance before a nuclear blast destroys its air base. So a B-1 fleet would vastly complicate the problem for Soviet targeters told to design a disarming first strike against the U.S. deterrent.

A strategic weapon must not only be able to survive attack; it also must be able to penetrate enemy defenses. The B-1 is twice as fast and only two-thirds the size of the B-52. It carries twice the B-52 payload and can carry it as low as 200 feet, below Soviet radar.

What makes bombers indispensable is that they are, as one expert says, "slow to take offense." Missiles, with their pre-programmed guidance systems, cannot be tentatively launched or recalled. Bombers can be put in the air to show resolve and thereby influence Soviet behavior in a crisis. They extend a President's control over crisis by giving him flexibility of response.

The B-1 is expensive. The American Federation of State, County and Municipal Employees has run ads saying, in effect, that funds for the B-1 should be spent instead on state, county and municipal employees. Unfortunately, Soviet strategic spending has increased four per cent annually since 1964. U.S. strategic spending (measured in constant dollars) declined an average of eight per cent annually between 1961 and fiscal 1975. The B-1 would force the Soviet Union to divert substantial resources from offensive to defensive purposes.

As an alternative to the B-1, some opponents suggest modernizing B-52s so they could stand off from Soviet air defenses and launch cruise missiles. But this would cost a substantial fraction of what a moderate B-1 program would cost, and would produce slow, vulnerable airplanes.

Undoubtedly, Carter is tempted to kill the B-1 in order to rekindle the affection of his critics on the left. As they so often do, they have reduced a complex issue to a symbolic test of virtue. But if strategic rather than political considerations prevail, B-1 production will begin.

Mr. LAGOMARSINO. Mr. Chairman, I wish to express my strong support for continuing the B-1 bomber program. At a time when the Secretary of State describes serious difficulties in reaching an arms limitation agreement with the Soviet Union, we should not be unilaterally offering to weaken our own defense forces.

Strategic bombers are an indispensable part of our three-part defense force of land-based missiles, submarine-based missiles and B-52 bombers. Our B-52 fleet is seriously outdated, but, to reject a replacement for the B-52's and to plan a defense force solely on missiles would leave the United States without the needed flexibility to respond to any unforeseen contingency.

The fact that bombers can be recalled after being ordered to attack while missiles cannot is an uncontestable argument for preserving that ability in our defense force. That the B-1 is the most cost-effective choice in selecting a replacement for the B-52 makes a decision for going ahead with the B-1 program mandatory.

The B-1 is needed to offset the advances being made by the Soviets in developing their Backfire bomber and in increasing the number and accuracy of their missiles. The B-1 could be dispersed to any number of air fields, enabling it to escape an attempted disarming strike directed against U.S. land-based forces. A fleet of B-1's would greatly complicate a Soviet attack since it would be able to survive the initial strike and then retaliate. The B-1 has a number of advantages which would enable it to penetrate enemy defenses. It is twice as fast and only two-thirds the size of the B-52. It can carry twice the payload and fly as low as 200 feet, which would be below Soviet radar. It would also be a defense weapon which would appear less threatening to any potential adversary since it is too slow for use as a surprise attack weapon.

Although the B-1 is expensive, you have to consider what it is going to do. It is going to provide us with a deterrent force that is not available to us with any other weapon at any less cost. Some critics argue modifying existing aircraft would be more economical. For example, they claim a Boeing 747 could be used to carry cruise missiles, but the cost to change that plane to make it a strategic bomber and launch cruise missiles would still cost $75 million. That is for a plane that is not as maneuverable nor as economical to operate as a B-1. The acquisition cost of a Concorde supersonic transport is $125 million. Modernizing B-52's is no answer either because they would still be slow, vulnerable aircraft costing a large portion of what could be spent on the B-1.

All these factors taken together make a clear case for continuing development of the B-1. I repeat my strong support for the program and urge my colleagues to approve funding for the B-1.

Mr. LEACH. Mr. Chairman, in the interest of the military security of our Nation, I urge this Congress to reject further procurement of the B-1 bomber.

Simply stated, the B-1 is an extraordinarily expensive military craft which adds only marginally to our defense capability.

At a cost of more than $100 million per plane, the B-1 will necessitate either a reduction in conventional equipment and weaponry of vital importance to our tactical capacities or a curtailment of funding for domestic programs of consequence to the health of our economy.

Clearly the B-1 is a more advanced aircraft in almost every sense to the B-52. However, in a conventional conflict the B-1 would be too sophisticated to be of substantive significance and in a strategic confrontation with a country like the Soviet Union it would be too vulnerable to relatively inexpensive anti-aircraft detection and missile systems.

In the space age the manned bomber is an obsolete weapon in strategic planning. Accordingly, I urge acceptance of the Addabbo amendment to cut off further funding of the B-1 bomber.

Mr. LUKEN. Mr. Chairman, as the time approaches for President Carter's decision on ordering full production of the B-1 bomber I am encouraged by reports of his favoring going ahead with this vital defense program.

I strongly oppose the amendment before us to delete funding for the five B-1 bombers authorized for fiscal year 1978 in this bill. I am convinced that the B-1 offers the strongest addition to our national defense system and it would be most foolhardy to stop production even of these five planes.

I would like to mention that I am not pleased by the very high cost of this program. Inflation during the research and development period and productions delays has now driven up the cost of each bomber to over $100 million.

Most of us agree that the improved technology of the Soviet Union poses a serious threat to our existing bomber force. The aging B-52's must be replaced as the Soviets improve their air defense systems.

Some have suggested a stand-off system of large wide-body cruise missile carriers. Such a modified 747 would launch long range missiles from outside the Soviet defense perimeter. This, however, is a very expensive and comparatively less effective option.

A cruise missile carrier, CMC, would cost $70 million per plane, would allow the Soviets to extend their air defenses on the approaching CMC's, and the guidance of the missiles would be less reliable as they traveled the great distance toward their targets at subsonic speeds. To modify the guidance systems of these missiles would require increasing their size, thus making them more vulnerable to surface-to-air missiles.

Another option of modifying our present B-52's does not solve the problem of penetration capability through these air defenses.

The B-1's tactical capabilities far surpass those of alternatives. B-1 has been in development for 10 years and is ready now to go into production. Action is needed now to upgrade the effectiveness of our defense "Triad" of intercontinental ballistic missiles, nuclear submarines, and strategic bombers. B-1 would improve and modernize this manned bomber element, allowing the Triad to weather any strategic defeat. And, the SALT agreement may hamper the further developmnt of our cruise missiles, placing greater reliance on our manned bombers and submarines.

I sincerely hope that the House today and the President next week will act positively in support of the B-1 program as the best alternative for defense.

Mr. TUCKER. Mr. Chairman, I intend to vote against the Addabbo amend-

ment, but with the greatest reservations. Over the last months I have anguished over the desirability of continuing the B–1 bomber program. Yet after weighing the merits and demerits of the program countless times in my own mind, I have decided to support the $1.5 billion appropriation to fund construction of five planes. I am anxious, however, that my vote today not be misinterpreted as unequivocal support of the B–1 program and certainly not as support for the Pentagon's full request for 244 planes.

My enthusiasm for the program is dampened severely by several factors. The cost is atrocious, being estimated in excess of $90 million per plane and at anywhere from $20 billion to $100 billion for the full 244 planes when hardware costs, personnel costs, transport costs, and basic maintenance and operational expenses are figured into the equation.

Moreover, there are good arguments that in this age of sophisticated air defense systems, a manned bomber can no longer compete. If the B–1 bomber is not already vulnerable to Soviet air defenses, so the argument goes, it undoubtedly will be within the decade. It is a maxim of strategic warfare that defenses rise to meet the level of competence of new offensive weapons systems. It is simply a matter of time.

Third, we have the B–52 G and H series which most opponents of the B–1 argue will last us through the 1980's. But this troubles me. If we aim to have a manned bomber fleet, should we not at least attempt to modernize it? The last B–52 was built in 1962. True, our B–52's nave been retrofitted to incorporate new developments, but I worry about a critical element of our strategic force being almost 30 years old, which would, of course, be the case in 1990.

My real concern though is the SALT II negotiations. Perhaps the cruise missile is the weapons system of the future, but if we lose this "bargaining chip" in negotiations, and this is certainly under consideration by the adminstraton, does not that enhance our need for a proficient bomber force? In addition, if we also give in on the Soviet Backfire and not include that bomber within the Vladivostok limits, is not this still another reason not to further concede by putting the brakes on bomber development?

The sensitivity of the SALT II negotiations is known to us all. The talks are temporarily deadlocked, apparently over the administration's human rights stand. I have no doubt they will soon resume. But timing is important. The interim agreement feature of SALT I expires this October. And since this is the case, I have no doubt that Soviet officials are watching very carefully what we do here today. Our message should not be that we will fund, unrestrained, every weapons system that emanates from the Pentagon. No one endorses such an arms glut. But at the same time we must signal the strength of our resolve to the Soviet Union and to the free world as well that we are willing to limit our weapons procurement but we expect the Soviet Union and to the free world as cessions at the same time. That our present desire is for peace, but we will deal realistically at the bargaining table.

My goal and the goal of each of my colleagues is clear—to avoid ever having to "roll the iron dice" again as Adlai Stevenson once described it. I do not believe this appropriation impedes the achievement of that goal. In this regard, I am most interested in what the President's final decision will be on the program. Presumably, we will know at the end of this week.

Mr. Chairman, again, I do not cast my vote today with any sense of conviction or certitude. It may well be that a year from now I will be on the other side of this issue. It is an exceedingly difficult question for me. Developments on SALT II will certainly bear heavily on my ultimate decision.

Mr. WIRTH. Mr. Chairman, I rise in strong support of this amendment. The B–1 has become a periennial issue—its pros and cons have been debated for several years. And, as often happens when many people view the same information from different perspectives, they reach different conclusions.

I do not want to take up my colleagues' time with an in-depth review of the pros and cons of this weapon; I would like to mention only a few points. On its face, it seems to me that the B–1 will not perform as its proponents claim. And even if it did, it would still be vulnerable to Soviet defenses. Even more importantly, it does not meet the crucial test of cost effectiveness.

Moreover, the same Soviet defenses that are cited as evidence of the need to augment our B–52 fleet would soon be as effective against the B–1. An operational Soviet AWACS, which would provide early warning of airborne penetration of B–52's would also provide early detection of the B–1. The list of shortcomings of this incredibly expensive weapons systems goes on and on.

In addition to the substantial evidence that the B–1 is a waste of the taxpayers' money, there is another compelling reason to delete these funds: President Carter is trying to bring about a halt to the arms race—to the mutual and wasteful expenditure of billions of dollars—that neither we nor the Soviets can afford. The United States can continue to participate in the arms race, but if we do so, we cannot expect the Soviets to express any interest in deescalation.

It seems to me that we have little to lose—and much to gain—if we delete the funding for the B–1. There will still be nearly half a billion dollars remaining in the appropriation for research and development—so if we eventually decide to construct this weapon we will not have lost much time. But President Carter can use this time to negotiate a new SALT agreement—and could point to our actions as evidence of our intentions.

In final analysis, the lessening of tensions we all desire can only take place after one side or the other takes the first step. We are in the unique position of being able to take that first step—at a very low risk. I urge my colleagues to support this amendment, and put us on the record in favor of an end to the arms race.

Mr. RAILSBACK. Mr. Chairman, I rise in support of the Addabbo amendment to strike funding for the procurement of the B–1 bomber. Despite the $3 billion and 7 years of research that have gone into the B–1, I feel the continuation of the program would be wasteful. At this time, it is anticipated that research and development and procurement of the entire fleet of 244 B–1 bombers would cost $22.8 billion or $93.6 million for each bomber. An internal Air Force estimate communicated to the Senate Armed Services Committee indicated that the cost could reach a total of $28.5 billion or $117 million per craft. Given the tremendous expenditures involved, I think it is imperative to determine the extent of the need for this specific program.

At the present time, the United States has 2,129 strategic delivery vehicles—419 bombers, 1,054 ICBM's, and 656 SLBM's. Our current SAC bomber force is composed of B–52's and FB–111's which will be sufficient to perform in a war with the Soviet Union through 1990 or beyond. It does not appear that the B–1 is essential. Will it offer any advantage to our strategic force? Even this appears unlikely. The development of the Soviet Airborne Warning and Control System would provide the ability to neutralize the B–1 within 2 to 3 years after entering the force in substantial strength. I would advocate instead the development of the air-launched cruise missile. Its smaller cross-section makes it much harder to detect, and therefore, much more likely to survive attack. Furthermore, the lower per unit cost would enable the deployment of a larger number of missiles, thus enhancing the ability to penetrate a Soviet defense.

Finally, to the extent that the B–1 is valuable as a bargaining chip in the SALT negotiations, let us not forget that our previous commitment of time and funds to the B–1 has already indicated our ability to activate this system should we choose to do so. At the same time, our restraint in funding the B–1 could serve to indicate sincerity in seeking arms limitations, while our continued development of the cruise missile would prevent our falling behind.

On balance, I feel our limited dollars are better spent toward more viable defense and domestic programs. I encourage my colleagues to join me in support of the Addabbo amendment.

Mr. GLICKMAN. Mr. Chairman, my opposition to Mr. ADDABBO's amendment to the 1978 defense appropriations bill today has not been an easy decision for me to make. While I am somewhat skeptical of the enormous cost of building any more B–1 bombers and am anxiously awaiting President Carter's final recommendation, I feel we should appropriate the money for the production of these five planes that have already been authorized. President Carter earlier this year recommended cutting the B–1 program for next year from eight to five planes and I support that reduction with my vote today as I did last April in the authorization bill.

I do not want to interfere in any way with our ongoing negotiations with the Soviet Union for reduction of nuclear weapons. That should be our ultimate

concern. The production of these five planes will ensure the Soviets that we do indeed have the technology for building more technically advanced manned bombers. And the production of these five this next year may also provide needed new technical information that could be used in production of less costly weapons systems in the future.

I should emphasize that I still remain rather disinclined to support a massive Federal expenditure for procurement of the B–1 bomber.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. HARKIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Chairman, I yield to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. CHAPPELL. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from California (Mr. LLOYD).

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. LLOYD of California. Mr. Chairman, I would like to say in gathering this thing together, the B–1 is the right bomber at the right time, it does meet the specifications laid down for it, it meets all the demands of the operating theaters in which it will be used. It is an excellent weapons system. It is properly designed.

I think what we have to really talk about here is, as has already been articulated by my colleague, the gentleman from California (Mr. KETCHUM), is the defense of the country. We hope sincerely we will never have to use this weapons system.

But as a person who has been involved in aviation and weapons systems, this is in my opinion the right system.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Chairman, I yield to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I will go forward by saying we have heard comments how it is compared to the B–52. The B–52 at the present time is an old, tired aircraft. If we can imagine this, the B–52 has the same electrical system in it as was originally used in the 707's. We have moved completely beyond that and we do, indeed, need this weapons system for the pressure it brings against our obvious enemy, in this case, the Russians.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, in standing up and finishing this thing off, I think at this time to cut the buy on the B–1 would be sheer folly, because it would be a clear signal to the Russians that we no longer care for the Triad system.

The other thing is that it preempts the decision process of the White House.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. Mr. Chairman, is it not true there have been many arguments that we should upgrade the B–52. It would be extremely costly to do that.

Mr. LLOYD of California. Absolutely.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, so really we are better to go forward with a streamlined modernized vehicle named the B–1 bomber.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I am not going to take my 50 seconds to talk about facts and figures and everything like that. I have 8 years flying experience in the military, as much time in high-speed, high-performance aircraft, as any Member of the House. I also have a brother that was a SAC pilot. We do not have to go into that. We can build a case on facts one way or the other on the B–1.

What we could talk about is the Triad. That would be a more proper place to focus debate; but in the small amount of time I have, let us think about it in terms of do we, in fact, have a philosophy that we are going to try to turn this Nation toward an era of peaceful pursuit with other nations, or are we going to continue down that lonesome road of building bigger and bigger weapons systems to provoke someone at some time in the future to try and test whether we will use them. Let us support the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I think what is at stake here in this vote is whether this Congress is going to make it clear that until we can get a balanced and also a verifiable agreement with the Soviets to limit and reduce our weapons on a mutual basis, we are not going to shirk our duty of providing our troops with the best possible weapons. And in the bomber field that weapon is clearly the B–1.

The CHAIRMAN. The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from New York (Mr. BINGHAM).

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mrs. SCHROEDER. Mr. Chairman, I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I have listened to the entire debate. I think about two-thirds of it has been in generalities with which nobody would disagree. Of course, we need a deterrent. Of course, there is the Soviet threat.

There have also been arguments this would be something to cause problems to the Soviet Union. Well, the gentleman from California (Mr. DORNAN) said that is about the weakest argument one could make for it.

About a third of the time or maybe less has really been on the issue, is this an effective weapons system that is going to be worth the cost in relation to the total burden of our defense appropriation requirements?

I think on that we have about a standoff. We have heard experts on both sides arguing very intelligently that it is and that it is not.

Why not have a test of it?

The CHAIRMAN. The time of the gentlewoman from Colorado has expired.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I would like to call attention to the remarkable memorandum circulated yesterday by the gentleman from Michigan (Mr. CARR) which deals with specifics from beginning to end. It is not any form of demagoguery. It is full of facts on the whole issue.

The point I would like to make and stress, the gentleman says,

> Why not have a test, a thorough test of how the B-1 would do against AWACS and a combination of AWACS and the F-15 and F-14.

I challenge the supporters of the B–1 to rely on such a test. Before we commit the American people to an expenditure of billions and billions of dollars on a system that may be obsolete before it is completed, let us find out. The gentleman from Michigan has offered us a way to do that.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I want to compliment my distinguished colleague from New York (Mr. ADDABBO) for his leadership in bringing this amendment forward.

Evaluated simply from a military point of view the B–1 bomber will not work as a strategic deterrent. It is simply not worth the minimum price of $100 million per plane that is presently contemplated.

The opponents of the amendment in essence concede this point and instead make other arguments that are on their face fallacious. They say we want to send a signal to Russia. At what price? Any price? Surely we can find a signal that

costs less than the $1.5 billion earmarked for the B–1.

Other opponents say that we need this plane because we refuse to arm our own troops and we give them only "wooden guns." We have a defense budget of $120 billion. Can anyone reasonably say that with a budget of that size we have not properly armed our soldiers?

Finally, we have heard the argument that we should fund the B–1 bomber in order to make the Russians spend more money. In other words, we must spend more to make the Russians spend more. If there has ever been more arrant nonsense spouted on the floor of the House, I have not heard it.

It makes absolutely no sense to spend money on a plane that will not fulfill any military purpose.

I urge that the amendment to eliminate production of the B–1 bomber be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I am going to support the amendment. We heard in my Budget Committee this morning that we are not concerned too much about the Backfire bomber because we have got our IMI, the F–15, look-down, shoot-down radar. The Soviets are going to have that kind of capability. What has happened since we conceived this Triad system years ago is that we have the cruise missile. It can operate from land or from sea or from the air. So, a Member can support the Triad system, national defense, support, the Addabbo amendment and save the American taxpayers lots of dough, lots of pilots' lives. I think it is a good amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, I rise in strong support of the amendment.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, it is difficult to characterize debate this afternoon. We have listened to remarks about the B–52, being the equivalent of wooden guns, and that there are Soviet agents listening to the debate, that the Warsaw pact Nations have ICBM's and there is an argument that there is no Triad unless we develop this bomber. The argument is made that we have to continue to spend money, but we have spent many dollars on the B–47, which is in a museum, and the B–70, both of which are in museums.

The debate is difficult to characterize because it ranges on so many broad, diverse, complicated, erroneous areas, we are going to spend $22 billion for a weapons system which, by the year 1990, will be obsolete. That is obscene.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, this debate has raged down through the ages from the Hittite sword, the Macedonian phalanx, to the present day. I would only remind the Members that the greatest war machine, the armored knight of the Middle Ages, was defeated by the simple dog soldier with a bow and arrow. I think we should be concerned here with our fundamental needs and our fundamental fighting forces, and not the monstrosities of technology.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, the President obviously is waiting to see what the sense of the Congress is with respect to this weapons system. I suggest here this afternoon that we provide him with a mandate for supporting the B–1 in the interests of our belief in not putting too many of our defense eggs in one basket, and in the interests of a broad-based, updated national defense and deterrent for nuclear war.

Mr. ASHBROOK. Mr. Chairman, I rise in support of the B–1 bomber. As I sit and listen to the debate, I cannot help but reflect on our policies for the last 17 or 18 years. For the most part, we have foreign policies which are based on facts which are born on hopes. The military has been forced to weaken our once superior position because of the liberals.

The gentleman from New York (Mr. DOWNEY) referred to some of the statements which have been made. We all follow different drums. I have heard some strange statements over the years, also. "The Communists are really not out for world domination, they are good people just like we are"—remember that line? "They only want to achieve parity. They do not want superiority," Secretary McNamara used to state. "They will not attack. Those fighting for consumer goods will win out over those fighting for military hardware." We have heard all of this.

Those of us who see the Communists as a threat should vote for the B–1 bomber. Those who have created a mirror image of the Soviet Union which holds it out to be peaceable may well vote against the B–1. There are few guarantees in the life and death struggle for survival of a nation. The opponents of the B–1 offer no guarantees. We better proceed to build it before it is too late.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I would only say this: My colleague, the gentleman from New York (Mr. DOWNEY) suggested that spending money for the B–1 bomber is obscene. Well, if it is obscene, it is also obscene to spend money for another leg of our Triad deterrent because the Trident submarine is going to cost $1½ billion a copy.

I would also say to the author of this amendment (Mr. ADDABBO), who is a good friend and with whom I serve on the subcommittee, that while he says he supports the air-launched cruise missile, he states in his additional views that the cuts in the budget for procurement and R. & D., for the air-launched cruise missile, do not go far enough for him. Now opponents of B–1 cannot have it both ways.

Today, they attack the B–1 bomber, it is the same type of attack which was made 2 years ago against Trident and again last year. It is an attack that probably will some day come against the air-launched cruise missile as provocative to the Soviets or too costly. I suggest we reject these attacks on our deterrent capabilities and vote down this amendment.

Mr. Chairman, what is also not acknowledged by the irresponsible opponents of a strong American defense posture is that the Soviets will have achieved nuclear superiority perfectly legally under the terms of SALT and the "Vladivostok Understanding."

What the critics of a strong American defense posture who instead want us to base our national security on a policy of trusting the Soviet leadership, do not tell the American people or the Congress is that the Interim Agreement did not stop the expansion of Soviet strategic forces. In the first 2 years of the Interim Agreement, Soviet test ranges showed a great burst of activity that demonstrated dramatic new capabilities. By 1975 they had started deployment of a whole new generation of strategic systems, which, with our relative inactivity, is giving them nuclear superiority. These new Soviet systems were in development before the SALT talks started in 1969.

The testing of MIRV systems in three ICBM systems 1 year after SALT I was the first step in exploiting the Soviet throw-weight advantage. Then we discovered after SALT I that the Soviets had developed four new ICBM's, the deployment of which is doubling their throw weight, thus quadrupling their advantage. The Soviets obviously reject the concept of "overkill."

And this is not the end of it. We have evidence that as many as 10 new Soviet ICBM's are under development even before they complete the deployment of their new generation of ICBM's in production.

During this period we have relied on SALT to protect us, and no new U.S. systems have been developed.

Mr. Speaker, if those people who view our own defense establishment with suspicion, yet see the Russians through rose-colored glasses, now succeed in preventing us from upgrading our triad deterrent by blocking the B–1, Trident, and Minuteman III procurement, we will have greatly reduced the risk of nuclear war to the Soviet Union and greatly increased the risk to ourselves. Our interests will be respected only if the Soviets believe we can defend those interests. Restraint will prevail only if its absence is known to mean heavy risks. If we let our defense posture crumble, we will have indeed made the world safe for Communist imperialism.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, the reading of my views by the gentleman from New York (Mr. KEMP) was taken completely out of context, because I, at that point I was speaking of a duplication of effort. We are not destroying the Triad by my amendment. My amendment cuts out the $1.5 billion for procurement of 5 B–1's, at a cost of $200 mil-

lion each. In this bill we continue the Triad. We have $350 million for the development of the cruise missile, $51 million for the B–52 and $11.4 million for the FB–111 and my amendment retains the money for R. & D. for the B–1.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, there has been enough hot air generated on this subject since 1970 for the plane to float in the air for years and years to come. I am delighted to come down to the end of the debate. If we vote for the Addabbo amendment, that effectively kills the B–1, so far as this House is concerned. I urge a "no" vote on the amendment, and I hope we never have to face this issue again in this House. Let us vote against the amendment, get the B–1 under construction, and let us get this issue behind us.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The chairman recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, the House has repeatedly voted to support the B–1 bomber. The last time we did it was on the Defense authorization bill. The authorization bill has passed the House with the B–1 bomber. It has passed the other body with the B–1 bomber. It is included in the conference report. We have had 2 hours of debate on this issue today. We do hope we will vote now and the House will vote again as it has in the past and vote down the Addabbo amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The question was taken; and on a division (demanded by Mr. ADDABBO) there were—ayes 30, noes 52.

RECORDED VOTE

Mr. HARKIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 243, not voting 12, as follows:

[Roll No. 389]

AYES—178

Addabbo	Buchanan	Early
Ambro	Burton, John	Eckhardt
Ammerman	Caputo	Edgar
Anderson, Ill.	Carr	Edwards, Calif.
Ashley	Chisholm	Eilberg
AuCoin	Clay	Emery
Badillo	Cohen	Ertel
Baldus	Collins, Ill.	Evans, Colo.
Baucus	Conte	Evans, Ind.
Beard, R.I.	Conyers	Fascell
Bedell	Corman	Fenwick
Bellenson	Cornell	Findley
Benjamin	Cornwell	Fisher
Biaggi	Cotter	Fithian
Bingham	Coughlin	Florio
Blanchard	D'Amours	Ford, Mich.
Blouin	Dellums	Ford, Tenn.
Boland	Diggs	Forsythe
Bolling	Dingell	Fowler
Bonior	Dodd	Fraser
Bonker	Downey	Gaydos
Brademas	Drinan	Gephardt
Brodhead	Duncan, Oreg.	Giaimo
Gibbons	Mazzoli	Roybal
Gore	Meeds	Russo
Grassley	Metcalfe	Ryan
Hamilton	Meyner	Santini
Hanley	Mikulski	Sarasin
Harkin	Mikva	Scheuer
Harrington	Miller, Calif.	Schroeder
Harris	Mineta	Seiberling
Heckler	Mitchell, Md.	Sharp
Hefner	Moakley	Shipley
Heftel	Moffett	Simon
Holtzman	Moorhead, Pa.	Smith, Iowa
Horton	Moss	Solarz
Howard	Murphy, Pa.	Spellman
Hughes	Myers, Michael	St Germain
Jacobs	Neal	Stark
Jeffords	Nedzi	Steers
Johnson, Colo.	Nix	Stokes
Jordan	Nolan	Studds
Kastenmeier	Nowak	Thompson
Keys	Oberstar	Traxler
Kildee	Obey	Tsongas
Kostmayer	Ottinger	Udall
Krebs	Panetta	Ullman
LaFalce	Pattison	Vanik
Le Fante	Pease	Vento
Leach	Pike	Volkmer
Lederer	Pressler	Walgren
Leggett	Pritchard	Waxman
Lehman	Pursell	Weaver
Long, Md.	Railsback	Weiss
Lundine	Rangel	Whalen
McCloskey	Reuss	Wirth
McHugh	Richmond	Wolff
Markey	Rodino	Yates
Marks	Roncalio	
Mattox	Rosenthal	

NOES—243

Abdnor	Dicks	Long, La.
Akaka	Dornan	Lott
Alexander	Duncan, Tenn.	Lujan
Allen	Edwards, Ala.	Luken
Anderson, Calif.	Edwards, Okla.	McClory
	English	McCormack
Andrews, N.C.	Erlenborn	McDade
Andrews, N. Dak.	Evans, Del.	McDonald
	Evans, Ga.	McEwen
Annunzio	Fary	McFall
Applegate	Fish	McKay
Archer	Flood	Madigan
Armstrong	Flowers	Mahon
Ashbrook	Flynt	Mann
Badham	Foley	Marlenee
Bafalis	Fountain	Marriott
Barnard	Frenzel	Martin
Bauman	Frey	Mathis
Beard, Tenn.	Fuqua	Michel
Bennett	Gammage	Milford
Bevill	Gilman	Miller, Ohio
Boggs	Glickman	Minish
Bowen	Goldwater	Mitchell, N.Y.
Breaux	Gonzalez	Mollohan
Breckinridge	Goodling	Montgomery
Brinkley	Gradison	Moore
Brooks	Gudger	Moorhead, Calif.
Broomfield	Guyer	
Brown, Calif.	Hagedorn	Mottl
Brown, Mich.	Hall	Murphy, Ill.
Brown, Ohio	Hammer-schmidt	Murphy, N.Y.
Broyhill		Murtha
Burgener	Hannaford	Myers, Gary
Burke, Calif.	Hansen	Myers, Ind.
Burke, Fla.	Harsha	Natcher
Burke, Mass.	Hawkins	Nichols
Burleson, Tex.	Hightower	O'Brien
Burlison, Mo.	Hillis	Oakar
Burton, Phillip	Holland	Patten
Butler	Hollenbeck	Patterson
Byron	Holt	Pepper
Carney	Hubbard	Perkins
Carter	Huckaby	Pettis
Cavanaugh	Hyde	Pickle
Cederberg	Ichord	Poage
Chappell	Ireland	Preyer
Clausen, Don H.	Jenkins	Price
	Jenrette	Quayle
Cleveland	Johnson, Calif.	Quie
Cochran	Jones, N.C.	Quillen
Coleman	Jones, Okla.	Rahall
Collins, Tex.	Jones, Tenn.	Regula
Conable	Kasten	Rhodes
Corcoran	Kazen	Rinaldo
Crane	Kelly	Risenhoover
Cunningham	Kemp	Roberts
Daniel, Dan	Ketchum	Robinson
Daniel, R. W.	Kindness	Roe
Danielson	Krueger	Rogers
Davis	Lagomarsino	Rooney
de la Garza	Latta	Rose
Delaney	Lent	Rostenkowski
Derrick	Levitas	Rousselot
Derwinski	Lloyd, Calif.	Rudd
Devine	Lloyd, Tenn.	Runnels
Ruppe	Stockman	Whitehurst
Satterfield	Stratton	Whitley
Sawyer	Stump	Whitten
Schulze	Symms	Wiggins
Sebelius	Taylor	Wilson, Bob
Shuster	Thone	Wilson, C. H.
Sikes	Thornton	Wilson, Tex.
Sisk	Treen	Winn
Skelton	Trible	Wright
Skubitz	Tucker	Wydler
Slack	Van Deerlin	Wylie
Smith, Nebr.	Vander Jagt	Yatron
Snyder	Waggonner	Young, Alaska
Spence	Walker	Young, Mo.
Stangeland	Walsh	Young, Tex.
Stanton	Wampler	Zablocki
Steed	Watkins	Zeferetti
Steiger	White	

NOT VOTING—12

Aspin	Flippo	Maguire
Clawson, Del	Ginn	Staggers
Dent	Koch	Teague
Dickinson	McKinney	Young, Fla.

The Clerk announced the following pairs:

On this vote:

Mr. Koch for, with Mr. Teague against.
Mr. Maguire for, with Mr. Ginn against.
Mr. Aspin for, with Mr. Staggers against.

Mr. FRENZEL and Mr. MOORE changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LLOYD OF CALIFORNIA

Mr. LLOYD of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LLOYD of California: Page 22, line 21 is amended as follows: "$7,417,705,000" is changed to "$7,178,005,000".

Mr. LLOYD of California. Mr. Chairman, essentially what this amendment does is cut the buy on the A–10 from 144 to 96. The reason I want to do that is that I do not think the A–10 is the right airplane at this time.

I recognize that I was on the other side of the fence just a minute ago on the B–1 and here I am turning around now and saying let us cut a weapons system, but it is not exactly new to anyone in this room that I have always stood against the A–10.

The reason I have been against the A–10 is that it is essentially not the right weapons system. The reason it is not the right weapons system is the fact that it was designed for the South Vietnamese war situation. That situation is passed and we do not have the guarantees that we are going to have the same air superiority situations that existed at that time.

This system is an aircraft which was designed around a gun. That is not a very smart way to build airplanes. In addition to that it is an aircraft which is intended to be able to sustain battle damage. That is all dandy, except for one thing. If we damage an aircraft no pilot is going to take it up again, so if it sustains any damage whatsoever in the air frame, and I think it will, as a matter of fact I do not think it will survive the bombing area it is going to work in, but if it sustains any kind of battle damage no pilot is going to take that plane back into the fray—only in total extremis and then it does not make any difference anyway.

The armament it carries, the GAU8 gun is impressive. However it must have also a Maverick which is an antitank missile and we have to be able to get that gun system in so close that we almost guarantee we are going to get battle damage with the air frame.

Can Members imagine? If the Members would just picture with me for a minute what we are talking about, just picture this. Here we are in a battle situation. The air is going to be filled with metal, much less guidance systems and all the rest of it, and we are going to fly this turkey over the battle line through all of this metal and support these troops. And then get this: We are not only going to make that kind of delivery but with the greatest amount of speed and energy we have we are going to get out of there.

I want the Members to know something: that as a person who has been involved in aviation weapons systems, I think this is folly. It is not going to happen.

I recently had the opportunity to take a trip to Europe and also I talked to the Israelis. Everywhere I went I said: "Would you really want to have the A–10?" The Germans said: "We would not use it in any kind of situation." The Israelis kind of chuckled and said: "We do not think we would want it if you gave it to us."

What I would really like to talk about are some of the problems we have had with the aircraft. It is underpowered because we have all the weight and mass of the aircraft itself and although we have a proven and good engine the point is we have overweighted it and it cannot operate as well in the battlefield area where it has been programed to operate.

It has insufficient thrust. In order to correct this we would have to have new engines.

The air frame drag—maybe a possible wing change. That is a major aerodynamic change for that system.

Mr. WYLIE. Mr. Chairman, a point of order, the Committee is not in order. Even though I disagree with what the gentleman is saying I think he has a right to be heard.

The CHAIRMAN. The gentleman is correct. The point of order is well taken.

Mr. LLOYD of California. Mr. Chairman, let me bring some points to bear here. On takeoff at a forward airstrip there has been a degradation of 45 percent reduction in performance compared to design. In maximum gross weight, and that means what they can haul in the way of bombs and missiles, there is a 25-percent reduction. In takeoff ground roll in the forward strip: 29-percent reduction. In landing load, maximum weight: a 35-percent reduction. These figures are based on some classified figures, so I had to go to percentages; but the fact remains that the aircraft is simply not doing what it was designed for.

The reason I believe it is the kind of airplane it is, is the Air Force hangup on close air-support roles missions.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. ICHORD, and by unanimous consent, Mr. LLOYD of California was allowed to proceed for an additional 5 minutes.)

Mr. LLOYD of California. The loiter time is reduced. The close-air mission has been reduced.

The single-engine-climb capability is greatly reduced. All this adds up to is that it is an expensive air frame, not capable of doing the job it was supposed to be doing. Even with reduced load and fuel, the A–10 is a candidate for curtailment due to rising costs of the program, the marginal performance, the increasing threat of survivability. The aircraft's constraints to future air budgets would practically mandate an extensive review of this program.

What I am really asking is that when we see the limitations of this aircraft, and I think we can see them, that something that originally was supposed to cost, in 1970 dollars, $1.5 million, which costs today over $6 million, certainly ought to be reviewed.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, what I do not understand about the gentleman's argument, and I am not an expert in the A–10, as the gentleman is; but if the plane is so bad as the gentleman portrays, why is the gentleman suggesting we buy 96 of them?

Mr. LLOYD of California. The reason is that that matches up with the buy that has been set in the Senate. Being a pragmatist, not a novice, but a pragmatist, I recognize the limitations of this House in dealing with the other body.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman from California has served as a very distinguished member of the Committee on Research and Development. I would state quite frankly the gentleman knows more about airplanes, particularly in the developmental area, than any person in this body.

The gentleman made an extremely important point when the gentleman stated that the aircraft was overpowered. Would the gentleman inform this Committee as to how many Mavericks the A–10 was supposed to carry when it was sold to the Congress and how many it carries in actual battle?

Mr. LLOYD of California. Mr. Chairman, it was originally supposed to carry six. Now we are down to two, which I think is a significant degradation.

Also, it was supposed to operate on a forward field. It simply cannot operate on a forward field. With everything going up, it can get off some 1,300 feet. That is on a hardened surface. There are other planes that can do better.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I would like to add my congratulations to the gentleman. I appreciate that the gentleman is here in the House with the wisdom and knowledge the gentleman has about air surface aircraft.

I have one quick question. I am concerned about the A–10 because, as I understand, it is designed to operate in a low, slow environment, that is to say down close to the ground and aiming primarily by visual means. Does the gentleman know of any way in today's modern infrared technology that this aircraft can defend itself?

Mr. LLOYD of California. Well, yes; of course, it can with Flares–Chaff and other electronic means; but the fact remains it is extremely vulnerable. The engines are in the rear. Anybody knows in combat plane that is the most vulnerable place for them to be; plus the fact with that engine, which is underpowered; is still putting out a big IR signature with both its engines.

As a matter of fact, we had instances in the Vietnamese War where we had the little F–5, where the missile actually flew right up the tail cone of the airplane, so that I think it would sustain hits.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield.

Mr. DOWNEY. I thank the gentleman for yielding to me. I was at the same meeting that the gentleman was at with the Israelis, and if my recollection of the conference is correct, General Pellet said, "We would be delighted to have the A–10."

Mr. LLOYD of California. The gentleman was not with me. The conversation I held with the Israelis was when I was flying a Mirage. I was talking to the squadron pilots, and they have a slightly different opinion. They said that they needed other things and frankly would rather have, for instance, the F–15. They would like to have additional F–4's or whatever they can have. They really did not want the A–10.

Mr. DOWNEY. I am referring to the conversation we had with the Minister of Defense of the Air Force for the Israelis, who said that they would love to have them.

Mr. LLOYD of California. I was referring to the pilots. They have been flying the A–4, F–4 and others, and I think they probably have a pretty good idea of what they want.

Mr. EDWARDS of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the A–10 has never really had a great body of burning support. It came into existence in controversy as to whether the A–10 or the A–7 was the way to go. The A–10 finally turned out to be the best plane available low to the ground, where it could do the job. I must say that it has gone the way of many planes. I do not know of any plane, ship, tank, or anything else that ended up costing exactly what they said it was going to cost when they started.

I would feel more inclined to get into a long debate on this amendment if the gentleman had suggested doing away with the A–10, and then we would have a clear-cut issue as to the question, Shall we have it or not?

But, simply to cut back from what is considered to be an economical rate of

production to an uneconomical rate of production, I think really begs the question as to whether or not we are going with the A–10. So, I would strongly urge the Members to oppose the amendment.

The plane has a lot of merit. It has problems—nobody says that it does not—but it has a lot of merit. It is now in existence. It is coming off the production lines at a most economical rate. I think, on that basis, that we should continue to build the plane.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Louisiana. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, I support the position of the gentleman from Alabama on the A–10. I had the misfortune, along with Mr. LLOYD and Mr. ICHORD, of watching the A–10 crash at the Paris Air Show a few weeks ago. Of course, that was determined to be pilot error.

Mr. LLOYD of California. I would concur. That has absolutely nothing to do with the aircraft.

Mr. BOB WILSON. I also had the privilege of participating in the hearings, which were extensive, of the Pike Subcommittee on Close Air Support. This A–10 is the outgrowth of the recommendations of that subcommittee. It was disgraceful that in the Vietnam War the Air Force had not fulfilled its responsibility to have an airplane especially designed for close air support, so they had a competition and the A–10 won the competition. This, according to the experts, is the best plan specifically designed for close air support. I agree with the gentleman from Alabama that it would be a mistake to try to reduce production. We should either kill it or leave it as it is so that we can get the most airplane for the money.

Mr. EDWARDS of Alabama. I thank the gentleman for his contribution. I think there is only one way to go on this particular amendment as it is presented to us; that is, to vote it down.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield further?

Mr. EDWARDS of Alabama. I yield.

Mr. LLOYD of California. I happen to have the competition reports that were referred to. Frankly, after reviewing those reports I am sorry that I do not come to the same conclusion. I came to the conclusion at that time that I would have taken the A–7. I think the reason we bought the A–10 was because it was supposed to be cheaper.

It is now almost $1½ million more expensive than the A–7. We probably would have been better off with the A–7 because of navigational aids installed in the A–7. And I am not an advocate of the A–7.

Mr. EDWARDS of Alabama. Mr. Chairman, I will say to the gentleman that at that time I was also an advocate of going the A–7 route rather than the A–10 route. The fact is that we find ourselves with the A–10 in production at an economical rate, and what the gentleman's amendment proposes to do is to reduce it to an uneconomical rate. I think that makes it a faulty amendment.

Mr. SIKES. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. SIKES was allowed to proceed for 5 additional minutes.)

Mr. Chairman, the distinguished sponsor of the amendment to substantially reduce funds and to cut procurement for the A–10 states that the A–10 has doubtful operational capabilities in the modern, close air support environment. If it is that bad we should eliminate it altogether. The fact is the A–10 may be the only aircraft that can operate under today's battlefield conditions. The A–10 has a low level, high maneuvering capability and an extremely tough structure. It was built to find tanks, kill them, and survive in the Warsaw Pact's intense antiaircraft environment.

Recent exercises at Bicycle Lake in California which can be compared to an unsurfaced battlefield airstrip tested the A–10 against the equivalent of a modern sophisticated combat zone 10 minutes from the airstrip was reported in this manner in the June 20 Aviation Week:

> In 112 missions, most of which were flown against a coordinated ground and air defense threat, one A–10 was certified as being shot down by a ZSU–23 battery.

Please remember this was not an actual aircraft loss, but a casualty charged against the A–10 by the ground judges. One loss in 112 missions is something no other aircraft has achieved in the recent Mideast wars or in simulated combat. It will be recalled that in the Yom Kippur War, the ZSU–23 destroyed most of the Israel aircraft that were lost attempting ground attack missions.

A further statement in Aviation Week (June 20) from users of the A–10 indicates:

> The gun makes it possible for us to hit targets without ever going inside 4,000 feet and, once we've made our kill, the aircraft's tight turning radius enables us to get out of there without passing over the target.

Among the opponents of the A–10 are some who simply want to buy another aircraft despite the fact that the A–10 was selected over all competition after the most grueling of tests. To buy any other aircraft now to accomplish the same mission would be to openly accept the second best, which would not survive as well in warfare. We do not have time to start over again—we do not know the Russian timetable.

Other opponents criticize the cost. Yes, the A–10 costs more than it originally was projected to cost. So do all other weapons that we buy. The little M–16 rifle, which is standard equipment, now costs about four times as much as it did when it was first procured 15 years ago. Inflation, higher wages, and higher costs of material all contribute to the problem. Do not blame the A–10 for these things.

It should be very obvious that we need a plane which can survive on a battlefield where tanks will be the spearhead of any enemy thrust. On that battlefield, enemy tanks will outnumber ours by at least 4 to 1. And all of those tanks fire while moving. Many of ours have to stop to fire. A sitting target—even for a few moments—doubles the odds against us. We have helicopters and helicopters will be utilized in defense. But no aircraft is more vulnerable on the battlefield than a helicopter.

The A–10 will save lives—the lives of our ground forces, the lives of the pilots, save costly aircraft. They can help to blunt an enemy attack before it penetrates our defenses and gets out of control. The time is here for the A–10 to proceed on an efficient and orderly basis. The beneficiaries will be the American soldier and the American taxpayer.

The A–10 has had only two accidents in its 5-year period of life. These two, which have recently occurred, are not considered to be aircraft related. They were pilot errors. The airframe has been acclaimed as one of the most successful that has been developed recently.

Two years ago there were complaints that the airframe had fatigue cracks. The A–10 is now past two full lifetimes of fatigue testing (equivalent to 20 years of flying) and has displayed fewer cracks than all other contemporary similar aircraft. As a matter of fact, it was one of the most successful fatigue tests ever done. It is now going into an unprecedented third lifetime of testing.

A reduction in the fiscal year 1978 program will result in a higher unit aircraft cost over the production life of the program. It will cause a severe change in production in that the aircraft will be produced at a nonoptimum rate. It will cause unemployment in areas of high unemployment. It will cause a serious delay in the timely deployment of the A–10 units to NATO where an urgent requirement exists. The modernization of the Air National Guard and Air Force Reserve will be correspondingly delayed. They need modern aircraft and they have waited a long time for them. Foreign nations are exploring the acquisition of the A–10. These include Germany, Thailand, and South Korea. Others have indicated an interest.

Secretary of Defense Harold Brown said:

> The most important job for the A–10 is to destroy armored fighting vehicles in a Warsaw Pact versus NATO conventional war. Operational tests and analyses indicate the A–10 can do this job effectively and with acceptable loss rates.

Air Force Gen. David C. Jones, Air Force Chief of Staff, from Gen. Alexander Haig, Jr., Commander in Chief of SHATE, expressed his strong support for the A–10 program request.

General Haig considers that a proposed reduction of the close air support aircraft currently programed would have a significant adverse impact on NATO forces.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, I want to commend the gentleman from Florida (Mr. SIKES) for cataloging for the Members of the House the assets of the A–10 and the history of the A–10. I think the gentleman has done a remarkable job.

The A–10 is a good plane. As I said earlier, it was born in controversy, but

I think it has proved itself.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I thank the gentleman for yielding.

I would like to point out to the gentleman that there are some Members who do not agree entirely with what he has said.

Mr. SIKES. And I do not agree with what the gentleman from California (Mr. LLOYD) has said, so it is a standoff.

I might point out that the A–10 is not a standoff; it is a tank killer.

Mr. LLOYD of California. Mr. Chairman, I would just like to point out to the gentleman what the GAO report said about the A–10. This is the quotation:

> Tactical instructor pilots told us that because of its relatively slow speed the A–10 cannot survive in the projected threat environment.

I would remind the gentleman that we are not just talking about its slow speed.

Mr. SIKES. The A–10 has survived every test conducted in competition with other aircraft. It has survived it. No other aircraft has a more remarkable record. The record speaks for itself on all counts.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I commend the gentleman from California (Mr. LLOYD) for introducing this amendment.

In fact, I call this amendment my "conscience amendment" because it has been gnawing on my conscience ever since I failed to introduce this amendment or a similar amendment in the authorization committee.

Mr. Chairman, it bothers me considerably, and I want to correct the gentleman from New York. As chairman of the committee during the close-air support investigation I called over to my staff, and these are the words of General Pelled. I just checked them. I quote:

> We would be more than willing to take anything you would want to give us.

Those are the general's words when asked about the A–10 aircraft.

Mr. Chairman, I would like to point out to my colleagues that the subject of close air support, and specifically the A–10, is one which I have followed closely for a number of years.

The R. & D. subcommittee which I currently chair is now engaged, as I stated, in an investigation of close air support. Just recently we concluded the field hearings in NATO with U.S. operational commanders, German, British, Norwegian, and Israel air force and army personnel, at which time the general made his statement that I just cited on the subject of the A–10.

I would remind my colleagues that the requirement for a dedicated, single-mission, close-air support aircraft evolved from the war in Southeast Asia.

In fact, another reason I feel a little guilty is that I served on the Pike committee that went to Southeast Asia in 1964 and came back with a recommendation that we develop the A–10 because at that time we only had the A–1A.

Here it is, 13 years later, and we are just now getting the A–10 when it is completely out of date.

The gentleman from California is correct. Deficiencies found in the responsiveness and accuracy of ordnance delivery of high-performance aircraft and the challenge of the armed attack helicopter caused the Air Force to study the requirement when we made the recommendation for an aircraft to perform this specific mission. Deficiencies noted in Vietnam drove us to design the A–10, that is, an aircraft capable of carrying a large ordnance load, 16,000 pounds, having great accuracy in delivery, slow speed, being responsive, forward basing and greater loiter time survivability, and low cost. However, the problem is that it is underpowered.

The A–10 was sold to the Congress on the grounds that it would carry 6 Maverick missiles. As the gentleman from Florida knows, they will not dare to fly the airplane with more than 2 Mavericks today.

Where are we today? Vietnam is no longer with us, and the A–10 must now meet the task of performing in a mid to high intensity war in Europe, which we hope and pray never comes. Under these conditions and confronted with formidable Soviet air defense capabilities, the A–10's capabilities have drastically altered.

The threat has forced the A–10 to operate behind the forward edge of the battle area and at extremely low altitudes in order to survive. Survivability tests have been conducted at altitudes from 7 to 100 feet with maneuvers from 4 to 6Gs. Air Force personnel have stated that a maximum exposure time of 13 seconds is necessary. If one exposes himself for more than 13 seconds, he is in serious trouble.

Mr. Chairman, such a drastic change in flight profile of necessity requires certain trade-offs be made. These include the reduction that I have just mentioned in ordnance load to 2 Maverick missiles and 1,350 rounds only for 30mm Gatling guns, only 1,350 rounds of ammunition.

Loiter time, a function of fuel consumption, is similarly affected in that after approximately 15 to 17 engagements the aircraft must return to rearm.

Another factor to consider is one of cost. Originally sold to the Congress as a low-cost aircraft, the A–10's current unit program acquisition cost is in excess of $6 million per copy.

In the past the Department of Defense also sold the A–10 and the advanced attack helicopter on the basis of their complementary nature. Let us briefly review the facts. Both, by virtue of the threat, are now limited to operations, which the gentleman from California well knows, behind the forward edge of the battle area. Both must fly the nap of the earth to survive, and both employ stand-off weapons to kill tanks. What at one time may have been complementary is now approaching our suspected duplication.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I would like to concur in the things the gentleman from Missouri (Mr. ICHORD) has said. I want the Members here to fully understand what the gentleman has said and is saying. Here we are, driving this aircraft without adequate electronic devices in it, right down to 50 feet off the Earth itself, in canyons, going up protected areas in order to get where the target is, and, in the meantime, it will be getting shot at. Can anyone tell me how it can perform its mission in an atmosphere or a climatic condition where they are down to three-quarters of the light visibility?

Mr. ICHORD. I agree, it is absolutely ridiculous.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. Before I yield, I would also state that I do not disagree with the gentleman from Florida (Mr. SIKES) at all that a reduction in the number coming off the line is going to increase the cost per unit. But I believe when the Air Force gets down the line further, they will find the airplane so bad that they will voluntarily reduce the buy. This is the only way you can really save money. You will up the cost per unit if you adopt the amendment, but I must support it because of the guilt I have in my own mind in going along with the gentleman from New York (Mr. PIKE) and carrying on a fight for the plane which turned out to be a bastard.

Now I yield to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, I thank the gentleman from Missouri for yielding to me. I can understand the guilt feelings of the gentleman from Missouri (Mr. ICHORD). I know he thinks he was wrong then, but he may be wrong now, so maybe he was wrong both times.

Mr. ICHORD. I have had a little more experience since 1964 with weapon systems and airplanes and I would state that the gentleman from California has taught me a a little bit.

Mr. WYDLER. I am curious about the attack the gentleman from Missouri has made against the A–10 today when last year we had the same plane in this bill the gentleman from Missouri did not make any attempt to reduce any money that was being spent for it.

Mr. ICHORD. That was because I thought it could not be done; that is, reduce the buy, until I finally found out how underpowered it was. They were telling us it would carry six Mavericks and yet it can only carry two Mavericks. It is extremely underpowered.

Mr. WYDLER. Could the gentleman from Missouri explain to me why it is so bad to pay $6 million a copy for an A–10 and not to spend $15 million or more a copy on the F–15?

Mr. ICHORD. I thought the gentleman from California (Mr. LLOYD) told us very well the reason why. There are airplanes and there are airplanes. The F–15 does happen to be made in my State, but it is not made in my district, I would say to the gentleman.

However, we cannot compare the F–15 with the A–10. The gentleman does not know weapons systems if he compares an A–10 with an F–15 or an F–16. One has to compare it with a helicopter, because

that is the only possible comparison that could be made. It is ridiculous to try to compare an A–10 with an F–15.

Would not the gentleman from California agree?

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from California.

Mr. LLOYD of California. I thank the gentleman for yielding.

The answer is yes; the gentleman is right. However, that is not germane. We are not talking about the F–15 or the F–16. We are talking about the A–10. If one were talking about an option to the A–10, what I consider to be the only viable option at this point, even though it is old, is the A–7.

Mr. ICHORD. I would agree with the gentleman. It is the airplane, I believe, that we should have bought.

Members of the committee, I am not politically naive enough to believe that an attempt to terminate the A–10 at this junction would succeed, even though the facts might support such action. I know we are going to build A–10's, I know that the A–10 has some utility and I would urge the Air Force to work hard to maximize the effectiveness of the aircraft. However, I am skeptical of the need for over 700 aircraft and believe this is an area which should be thoroughly reviewed. The amendment before this body does not terminate the A–10 program, it merely slows production of the A–10 from 12 to 8 per month while permitting the Congress and the Air Force to restudy the requirement for this number, 733 A–10's versus the funding of other, possibly more critical, defense needs.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Texas in whose district the A–7 is made.

Mr. MILFORD. I thank the gentleman for yielding.

I take this opportunity to point out that you can still buy the A–7 for $2.6 million with no inflation.

Mr. HEFTEL. Mr. Chairman, I move to strike the last word.

I would like to address a question to the gentleman from California (Mr. LLOYD). His logic is relatively persuasive, but I do not understand why we want to produce 96 A–10's, if his logic is correct.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from California.

Mr. LLOYD of California. I thank the gentleman for yielding.

The reason for that is very simple. I have continued to ask to strike the A–10. I had an amendment in my committee. I have tried to amend on this floor, and I have not gotten anywhere with it. Now with the Senate doing what they are doing, it looks as though they are coming down the line on 96. I say let us cut back. After that I think we can review the thing. My colleague, the gentleman from Missouri (Mr. ICHORD) and I have talked about it. I think we ought to look at this thing and talk about a cutback to 300 aircraft. I do not know what that final figure would be, but I already know we have more than enough of them in inventory. We have ground equipment, personnel training—all those kinds of things. To cut it down now and have to buy out the contract and that would make such an unrealistic cut that we might as well go ahead and take what we have already started and cut off a little bit down the line.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

I would concur with the statement made by the gentleman from California. If his amendment were to carry—I know I would help him lead the fight—to reduce the buy to probably 300 aircraft, we certainly would save some money in the long run. But I would agree with the gentleman from Florida. It does increase the unit cost. Somewhere along the line we are going to have to reduce the total buy of the A–10 aircraft, which should be done.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Florida.

Mr. SIKES. I thank the gentleman for yielding.

I think it would be well to clarify the situation on what the other body is doing. In the subcommittee a motion was offered to cut the number of aircraft to be acquired to the level which the gentleman from California now proposes. However, that action is being seriously challenged in the full committee and will be tested when the full committee marks up their Defense Appropriations bill. So I would not consider it a foregone conclusion at all that the action of the Senate Subcommittee on Defense Appropriations will stand up in the full committee and on the Senate floor.

Mr. HEFTEL. I thank the gentleman, and I yield back the remainder of my time.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I was not an original supporter of the A–10. I have thought all along it was a marginal aircraft. It was originally started without my support or vote. That is the position we find ourselves in. All right, what do we do now?

We have already provided $1.3 billion for production of the aircraft—$1.3 billion. We have started production. It is questionable that we should have started it, but we have started it. The program calls for 733 of these aircraft. There is a lot of skepticism as to the aircraft, and I join in that skepticism. But we have started the ball rolling, and there is over $800 million requested in the fiscal year 1978 President's budget for the A–10.

I think the best thing to do is to defeat the amendment which is pending. I would hope that the total A–10 program may be curtailed. I question the desirability of going forward with the total purchase.

But it seems to me under the circumstances the best thing to do now is to go along with an economical buy as has been proposed by the Carter administration, and then reexamine and restudy and reconsider the whole matter at a later date. But I see no way to make a final determination at this time.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DOWNEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. SIKES. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from New York (Mr. STRATTON).

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STRATTON. Mr. Chairman, this plane is a close air support plane specifically developed because we had no close air support plane in Vietnam and we needed one. It has been subjected for a number of years to the same kind of arguments we hear today.

Of course it does not appeal to combat jet pilots because it goes too slow for their taste. But it does one particular thing. It provides close air support for infantry troops. It is an armored tank killer. It actually has armor on it. It is designed to do that specific job and that is why the combat pilots do not like it. But what we need is a plane that can oppose some of the tanks that are facing us in central Europe. That is exactly what the A–10 will do. And it does it very well.

We can argue as to whether it is underpowered or overpowered, but we have had similar problems with other planes too. But if we really mean business in trying to knock out the vast numbers of Soviet tanks we may have to face in Europe, we need this kind of aircraft. It has demonstrated a remarkable ability to do maneuvers. It has also demonstrated a much better capability of knocking out tanks than the A–7 or F–111 or some other plane that flies by the target at 700 miles an hour.

I think we ought to defeat the amendment and support the chairman of the committee.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I appreciate the gentleman yielding.

Of course, there are those who are enhanced and enamored with the fast

combat jets, and if something flies slow these jet jockeys think it is not good. But the present A–10 has demonstrated a remarkable ability to move in slow on a target like a tank and deal a lethal blow. That is its purpose. It does not need sophisticated electronics. What it faces is a kind of eyeball warfare that has to be fought in the European theater and the A–10 is designed to do just that with all of the solid protection it carries. It would be a serious mistake for us to cut down and effectively kill the A–10 which we desperately need to do a tough, rugged, unglamorous but highly necessary job.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. DODD).

Mr. DODD. Mr. Chairman, I yield to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding. I live on Long Island and represent Long Island, and the F–14, the E–2C, the EA–6B, and the A–6 and the A–10 are built in the district represented by the gentleman from New York (Mr. AMBRO). The largest manufacturer in my district is an air lab which provides electronic counter measurer for the B–1 bomber, so I would like to think I rise on occasion above a parochial interest in what I think is a national interest.

Cutting the A–10 is a foolish proposal. It is designed to kill tanks. It is built around a gun that destroys tanks. It is unfortunate that we need airplanes like this, and other weapons of destruction, but we do. A–10 does its job very, very well.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I do not think there is anything else left to be said with respect to the A–10, other than the fact that to cut it back from 144 to 96 will only further increase the unit cost of the airplane. As the gentleman from California so ably stated on the B–1 bomber on Friday, when we cut the production it raises the unit cost.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, we have had a lot of discussion of what the Israelis want and whether they could use this aircraft. Since they have a potential tank problem, they might be interested in it. I heard the gentleman give the gentleman's version of the conference with the Israeli Ministry and with General Pelled.

The CHAIRMAN. The time of the gentleman from New York (Mr. DOWNEY) has expired.

The Chair recognizes the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, what we hear on the other side from the gentleman from California (Mr. LLOYD), and I have the greatest respect for the conversation the gentleman had with a couple of Israeli jet pilots who are very interested in fast flight and they say they are not really interested in the A–10, but they are not making national policy for the Nation of Israel. They fly planes and have a different view of the matter.

Could the gentleman from New York clear up exactly what the Israeli Minister said?

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield, I believe the gentleman from Missouri (Mr. ICHORD) came up with a definitive statement, since no transcript was made. The general said there was no study made and they would like to have it for close support.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from California.

Mr. LLOYD of California. The reason I was talking with the Israeli pilots is because they have been flying aircraft. They have been in war. They have been in combat. I frankly think they know the best about it.

Mr. WYDLER. They are not jet pilots. They are some other kind of pilots.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, in summary, it is not a question of whether we are buying more or less of these aircraft because of numbers. I realize we are on the back side of a commercial situation where we are committed to buy some aircraft and to cut the buy off and lose some money would be folly. Better to cut those losses and and get out when we have a product that is not an acceptable product or a weapon system. This is just an attempt to get a gun into close areas as we do this in an unreasonable way in the battlefield situation today.

To have that bird that will not carry more than two Mavericks with a full load operating in front lines we still have to have a surface field to operate from also is unreasonable.

The thing that is wrong with the A–10 is that it is the wrong airplane for the wrong battlefield environment at the the wrong time. This plane cannot survive in the battlefield environment in Europe and every pilot I have talked to has said the same thing.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. AMBRO).

Mr. AMBRO. Mr. Chairman, this is the right airplane for the right task at the right time. It seems to me that a couple of things should be cleared up, especially by an objective observer. I am not an aviator, I am not a military planner, but I am a really objective observer, since the airplane is made, for the most part, in my congressional district.

The gentleman from California (Mr. LLOYD) quoted the cost at $1.5 million per aircraft, when the gentleman was in the well, but the gentleman's "Dear Colleague" letter said $1.7 million. It should be understood by the Members of this House that this is the unit flyaway at the 1970 dollar cost. The gentleman says that the cost is now $6 million a copy buy. That is the total program cost including R. & D., amortization, ground equipment, spares, et cetera, divided by the buy. Therefore, the two figures provided by the gentleman from California refer to different concepts and are not comparable. The real figure, reflecting only a slight increase in costs, is somewhere near $2.2 million for each plane.

There are a number of aviation combat experts, and the gentleman from California (Mr. LLOYD), my true and dear friend, is without question an expert; but so is someone named BARRY GOLDWATER on the Senate side, who lauds this plane, and has done so on a number of different occasions. Indeed in the CONGRESSIONAL RECORD on June 23, the Senator from Arizona prefaced a highly favorable article on the A–10 in Aviation Week and Space Technology magazine with his own comments about the plane's impressive "ability to survive in the combat environment where the aircraft can operate to best advantage * * * (and its) greatest asset, in my view is its capacity in an antitank role with the 30-mm cannon."

In addition, while it is interesting to dwell upon the Israeli view of the A–10; whether or not they would want to receive the plane; whether the generals like it or whether the pilots like it, I believe that it is more important to consider the views of our own military leaders and those of the NATO commanders for whose mission the plane was primarily designed. I particularly refer to Gen. Alexander Haig, the supreme commander of NATO who, in an in-house memorandum to the Air Force Chief of Staff, Gen. David C. Jones, expressed his strong support for the A–10 program request of 144 airplanes indicating that any proposed reduction in procurement levels would have a significant adverse impact on NATO forces.

Mr. Chairman, I respectfully urge that my colleagues reject the amendment offered by the gentleman from California.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman, as many of us have observed, the real argument is whether or not we should do away with the A–10. I submit that we should. As has been pointed out by the two committee experts, we have other options. We can buy another weapons system as good as, or better than, the A–10. That weapons system is the A–7. Unlike the $6 million A–10, the A–7 can be purchased for about half its price, a mere $3.3 million. That includes complete avionics and a computerized bomb navigation system—neither of which are found on the A–10.

Mr. Chairman, I urge that we support this amendment and go to a lower cost option next year.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I agree completely with the gentleman from Texas, who just spoke. I was somewhat taken by the argument of the gentleman from New York that what we need is an airplane that can fly low and slow and carry a good load, that has a good turn

radius in the combat environment. He is absolutely right.

He says that pilots in Vietnam did not have a good support aircraft. The best support aircraft was the old AD. If we want a tank killer, we should build the old AD, which had a good radial engine. That was the best we have ever had.

The gentleman from Texas is right. If we want a jet aircraft to do the same job much cheaper and more effectively, we should buy the A–7.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, the gentleman from New York (Mr. AMBRO), the distinguished Member from New York, was using some of the Defense Department's many kinds of costs, flyaway costs, weapons costs, systems procurement costs, program acquisition costs. Program acquisition cost is the important thing; how much per copy for the total program.

The problem is, as the gentleman from California said, that it is underpowered. It just will not do the job. We may as well save our money right now before pouring better than $4 billion into a weapons system that will not work. In fact we would have been better off if we had purchased the P–51 Enforcer for about $1 million per copy. It would have been a better plane.

I would say to the gentleman from New York (Mr. DOWNEY) that I did not have a transcript of the meeting between our committee and General Pelled. I quoted the words of General Pelled and confirmed them with two of our staff members to see if I heard correctly. I knew that General Pelled was not saying what the gentleman from New York thought he was saying because it is ridiculous to think that the Israelis would ever want to buy an A–10 aircraft. I am sure the gentleman from California would agree with my statement and the reasons are obvious.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, the truth is that the Israelis have not flown the A–10 aircraft, so all this is academic. This is a limited plane with a limited role to play, and I do not think that is all bad. We heard about the old AD, or whatever it was, in the Vietnam war, and the A–7, which we have been discussing for years.

The fact is that we now have the A–10. It is in production. It is doing well. I was worried about it, and I went out to Edwards Air Force Base and saw it, talked to the test pilots, had a great discussion about the guns, the engines, the wings and everything else. I came away feeling that it is not a bad airplane at all.

I think this amendment ought to be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON) to close debate.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment, and ask for a vote.

Mr ADDABBO. Mr. Chairman, I rise in opposition to the amendment.

This bill recommends for the A–10 program a total of $820.7 million, consisting of $741.8 million for 144 A–10 aircraft, $30.2 million in initial spares, and $48.7 million in advance procurement relating to a proposed production of 180 additional A–10 aircraft during fiscal year 1979. As I understand, the amendment of the gentleman from California (Mr. LLOYD) would reduce the fiscal year 1978 production to 96 aircraft and would limit advance procurement funding so that only 96 aircraft could be produced during fiscal year 1979.

Through fiscal year 1977, Congress has provided almost $1.3 billion—$1,286.1 million—for the production of 195 A–10 aircraft, and by the end of fiscal year 1977 a total of 56 of those aircraft will have been delivered to the Air Force. This is in addition to six research and development aircraft already delivered. The A–10 is being produced at a rate of five aircraft per month at the present time. According to present plans, the production rate will increase to 8 per month by August 1978 and to 12 per month by July 1979. During fiscal year 1979 production, the Air Force proposes to reach a production rate of 15 aircraft per month, the maximum economical building rate currently proposed.

The gentleman's amendment would maintain a building rate of only 8 aircraft per month during fiscal years 1978 and 1979. Eight aircraft per month is a very uneconomical building rate and this amendment, if adopted, could increase the unit flyaway cost of each A–10 aircraft by as much as $730,000, according to the Air Force. In addition, the price for the fiscal year 1977 aircraft could increase an estimated $8 million because the price of the fiscal year 1977 production contract was based on a planned procurement of 144 aircraft in fiscal year 1978.

Military weapon systems are expensive in and of themselves. There is no justification for Congress to take any precipitous action, such as acceptance of this amendment, that could unnecessarily increase the cost of the A–10 aircraft program of 733 aircraft by as much as $578.4 million. I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LLOYD).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LLOYD of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 299, not voting 12, as follows:

[Roll No. 390]

AYES—122

Akaka	Brodhead	Carney
Andrews, N.C.	Brooks	Carr
AuCoin	Broomfield	Cavanaugh
Badham	Brown, Calif.	Clay
Badillo	Broyhill	Cohen
Bedell	Burgener	Collins, Ill.
Beilenson	Burke, Calif.	Conyers
Blouin	Burlison, Mo.	Corcoran
Boggs	Burton, John	Corman
Bonior	Burton, Phillip	Cornwell
Danielson	Kastenmeier	Reuss
de la Garza	Keys	Richmond
Dellums	Kildee	Rodino
Dicks	Kostmayer	Roe
Drinan	Krebs	Roncalio
Edwards, Calif.	Le Fante	Rose
Eilberg	Leach	Rostenkowski
Evans, Colo.	Lederer	Roybal
Florio	Levitas	Ruppe
Foley	Lloyd, Calif.	Scheuer
Forsythe	Long, Md.	Schroeder
Fountain	McCloskey	Seiberling
Fraser	McCormack	Sisk
Gibbons	McKay	Skelton
Glickman	Mattox	Skubitz
Goodling	Metcalfe	Solarz
Gudger	Mikva	St Germain
Hamilton	Milford	Stark
Hannaford	Mineta	Stokes
Harkin	Mitchell, Md.	Studds
Hawkins	Moss	Thompson
Hefner	Murphy, Pa.	Van Deerlin
Heftel	Myers, Michael	Vanik
Hillis	Oakar	Volkmer
Hollenbeck	Oberstar	Walker
Holtzman	Patten	Waxman
Ichord	Patterson	Weiss
Jenkins	Pettis	Whitehurst
Jones, N.C.	Pursell	Yates
Jordan	Quayle	Young, Mo.
Kasten	Rahall	

NOES—299

Abdnor	Dickinson	Johnson, Colo.
Addabbo	Diggs	Jones, Okla.
Alexander	Dingell	Jones, Tenn.
Allen	Dodd	Kazen
Ambro	Dornan	Kelly
Ammerman	Downey	Kemp
Anderson, Calif.	Duncan, Oreg.	Ketchum
	Duncan, Tenn.	Kindness
Anderson, Ill.	Early	Krueger
Andrews, N. Dak.	Eckhardt	LaFalce
	Edgar	Lagomarsino
Annunzio	Edwards, Ala.	Latta
Applegate	Edwards, Okla.	Leggett
Archer	Emery	Lehman
Armstrong	English	Lent
Ashbrook	Erlenborn	Lloyd, Tenn.
Ashley	Ertel	Long, La.
Bafalis	Evans, Del.	Lott
Baldus	Evans, Ga.	Lujan
Barnard	Evans, Ind.	Luken
Baucus	Fary	Lundine
Bauman	Fascell	McClory
Beard, R.I.	Fenwick	McDade
Beard, Tenn.	Findley	McDonald
Benjamin	Fish	McEwen
Bennett	Fisher	McFall
Bevill	Fithian	McHugh
Biaggi	Flood	Madigan
Bingham	Flowers	Maguire
Blanchard	Flynt	Mahon
Boland	Ford, Mich.	Mann
Bonker	Ford, Tenn.	Markey
Bowen	Fowler	Marks
Brademas	Frenzel	Marlenee
Breaux	Frey	Marriott
Breckinridge	Fuqua	Martin
Brinkley	Gammage	Mathis
Brown, Mich.	Gaydos	Meeds
Brown, Ohio	Gephardt	Meyner
Buchanan	Giaimo	Michel
Burke, Fla.	Gilman	Mikulski
Burke, Mass.	Goldwater	Miller, Calif.
Burleson, Tex.	Gonzalez	Miller, Ohio
Butler	Gore	Minish
Byron	Gradison	Mitchell, N.Y.
Caputo	Grassley	Moakley
Carter	Guyer	Moffett
Cederberg	Hagedorn	Mollohan
Chappell	Hall	Montgomery
Chisholm	Hammer-schmidt	Moore
Clausen, Don H.		Moorhead, Calif.
Cleveland	Hanley	Moorhead, Pa.
Cochran	Hansen	Mottl
Coleman	Harrington	Murphy, Ill.
Collins, Tex.	Harris	Murphy, N.Y.
Conable	Harsha	Murtha
Conte	Heckler	Myers, Gary
Cornell	Hightower	Myers, Ind.
Cotter	Holland	Natcher
Coughlin	Holt	Neal
Crane	Horton	Nedzi
Cunningham	Howard	Nichols
D'Amours	Hubbard	Nix
Daniel, Dan	Huckaby	Nolan
Daniel, R. W.	Hughes	Nowak
Davis	Hyde	O'Brien
Delaney	Ireland	Obey
Derrick	Jacobs	Ottinger
Derwinski	Jeffords	Panetta
Devine	Jenrette	Pattison
	Johnson, Calif.	

Pease	Sawyer	Udall
Pepper	Schulze	Ullman
Perkins	Sebelius	Vander Jagt
Pickle	Sharp	Vento
Pike	Shipley	Waggonner
Poage	Shuster	Walgren
Pressler	Sikes	Walsh
Preyer	Simon	Wampler
Price	Slack	Watkins
Pritchard	Smith, Iowa	Weaver
Quie	Smith, Nebr.	Whalen
Quillen	Snyder	White
Railsback	Spellman	Whitley
Rangel	Spence	Whitten
Regula	Stangeland	Wiggins
Rhodes	Stanton	Wilson, Bob
Rinaldo	Steed	Wilson, C. H.
Risenhoover	Steers	Wilson, Tex.
Roberts	Steiger	Winn
Robinson	Stockman	Wirth
Rogers	Stratton	Wolff
Rooney	Stump	Wright
Rosenthal	Symms	Wydler
Rousselot	Taylor	Wylie
Rudd	Thone	Yatron
Runnels	Thornton	Young, Alaska
Russo	Traxler	Young, Tex.
Ryan	Treen	Zablocki
Santini	Trible	Zeferetti
Sarasin	Tsongas	
Satterfield	Tucker	

NOT VOTING—12

Aspin	Flippo	Mazzoli
Bolling	Ginn	Staggers
Clawson, Del	Koch	Teague
Dent	McKinney	Young, Fla.

Messrs. HEFTEL, KOSTMAYER, RODINO, and CONYERS changed their vote from "no" to "aye."

Mrs. FENWICK changed her vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OTHER PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one thousand one hundred and thirty-nine passenger motor vehicles for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; $2,318,986,000, and in addition, $4,800,000 which shall be derived by transfer from "Other Procurement, Air Force, 1977/1979", to remain available for obligation until September 30, 1980.

AMENDMENT OFFERED BY MR. BURLISON OF MISSOURI

Mr. BURLISON of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURLISON of Missouri: "Other Procurement, Air Force": Delete the amount $2,318,986,000 and insert in lieu thereof the following sum, $2,303,-998,000."

Mr. BURLISON of Missouri. Mr. Chairman, I first want to extend my commendations to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON), also to the ranking Republican on the subcommittee, the gentleman from Alabama (Mr. EDWARDS), and to all of the members of the subcommittee for what I believe to be an outstanding job involving a lot of hard work in building and constructing this appropriation bill.

Mr. Chairman, considerable thought has been given as to whether the CIA amendments should be debated in open session, or approval of the House sought for a closed meeting. The Parliamentarian has been consulted and has recommended against a closed session. His view is that the House is presently not equipped to deal with this procedure. He points out for example, that the officers of the House, reporters, clerks, pages, and others do not have the requisite security clearance to handle classified matter.

I am sympathetic to this problem, and also feel that the amendments to be offered can be adequately debated without divulging sensitive, classified matter.

Mr. Chairman, this amendment reduces the CIA "Reserve for Contingencies" account by $14,988,000, but leaves $20 million there.

Sources of this fund include appropriations, deobligations, merging and purging of unobligated balances, and reprogramings. It is seen that by this mechanism the Agency is equipped to carry out projects that have not been approved by the Congress—acting through its Subcommittees on Defense Appropriations on highly classified and sensitive matters. That is, anything the executive branch decides to do can be done with these funds. It is true that the Congress—through its Subcommittee on Defense Appropriations—must be given "notice." It has been ruled, however, that this properly can be given before or after the fact. Two prominent examples of projects carried on with this fund were the Laos war in Southeast Asia and the Angola war in Africa—before Congress found out and cut off the funds. Over the past 20–25 years there have been numerous releases to scores of countries in the total amount of over one-third of a billion dollars.

All agencies of Government, except CIA, must expend their procurement appropriations within 3 years and R. & D. within 2. If the funds are not obligated within that time frame they revert to the Treasury. The CIA, however, puts all such funds into its reserve. Obviously, this is a lucrative source of funds for the reserve. Money appropriated by Congress for a specific purpose can be—and is—thus diverted to whatever use the Executive chooses. Again, Congress need only be given "notice." Prior to our markup of the bill in the full committee, I announced that if my amendment to terminate the Reserve for Contingencies did not prevail, an amendment would be offered to subject lapsed funds of the CIA to the same treatment as those of all other Government agencies. The Chairman of the Committee, however, preempted this action by successfully offering the amendment himself prior to recognizing me for amendments. I of course supported the amendment and applaud the Chairman and the Committee for taking this important step. Illustrative of this importance is the fact that in recent years only about one-fourth of the reserve has been generated by appropriations with the balance coming from deobligations and lapsed funds. In early years this breakdown was essentially reversed with appropriations providing the major portion of the fund. The fund has now grown to about $35 million. And it should be remembered that by transfer of unobligated balances into the fund it may be enlarged by yet several million dollars more by October 1. Such has happened in the past. My modest amendment merely reduces this sum by $15 million. It is noteworthy that in the subcommittee markup the staff recommended a cut, but it was rejected. The rationale for the reduction is to provide a safeguard against the CIA initiating our involvement in a major war without approval by the Congress.

After last year's hearings the subcommittee chairman ordered the surveys and investigations staff to conduct an inquiry into the reserve. The investigation turned up two flagrant examples of how the Agency builds up the reserve through deception of Congress. The sums involved were $16 million-plus and $3 million-plus. The technique used was to withhold deobligations, purging of merged accounts, and transfer of unobligated balances until after congressional action was completed on appropriations. The rationale was that if the Congress knew these funds were available, appropriations would be cut in like amount. The officials stated that prior to completion of the appropriations process the reserve must be kept down so it could be more easily defended by the Director. It was also emphasized that the Agency must carefully plan its appropriations strategy in its dealings with the subcommittee. Note that these cited cases are documented in writing in CIA files that the surveys and investigations staff found.

It will be argued that if this account is reduced, we could not react to emergencies. This argument is without validity. In the first place, at least $20 million will remain in the fund. We also have several supplemental appropriations bills each year. If this mechanism does not provide the necessary speed, then a reprograming could be accomplished in a matter of hours. It is no secret that in our present appropriations process, CIA funds are concealed within the massive Department of Defense budget. In fact, the reserve has been increased on past occasions by just the methods mentioned, this is, supplementals and reprogramings.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

The Central Intelligence Agency, like most other agencies of the Government, does have certain contingency and reserve funds. It has had them for all these years.

The gentleman has provided an amendment which says that the total reserve fund for fiscal year 1978 for the

Central Intelligence Agency should be cut from about $35 million down to $20 million. This seems not to be inappropriate under the circumstances. It is impossible to tell what contingency or reserve funds might be required. Maybe $20 million is inadequate. Maybe it is more than adequate. Under the circumstances, it seems to me we should not argue this point, and should agree to the amendment.

I would like to point out before concluding that the committee has taken actions in sections 860 and 861 of the bill to tighten up congressional control of this fund. In my opinion, these sections answer many of the questions which have been raised by the gentleman from Missouri in his statement. I will not elaborate for the record in regard to these classified matters, but I would say to the Members of the House I would be glad on behalf of the committee to accept the amendment.

I yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, I thank the gentleman from Texas for yielding.

Mr. Chairman, I am prepared to accept the amendment offered by the gentleman from Missouri.

Mr. MAHON. Mr. Chairman, before I ask for a vote, I yield to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, I support the action of the distinguished gentleman from Texas and the distinguished gentleman from Alabama.

Mr. Chairman, the amendment proposed by my very good friend and distinguished colleague, the gentleman from Missouri, would sharply reduce the CIA's contingency reserve fund. The Central Intelligence Agency is an organization whose purpose and responsibility is to try to keep our Government informed on the activities of foreign nations and particularly those hostile to our aims for world peace. Unique requirements are levied upon the CIA. Unique authorities were granted to it by the Congress so it could carry out the unusual and sometimes sensitive activities which it is called upon to perform. The contingency reserve fund is a necessary mechanism for the needs of the CIA. Such funds are provided for the unusual needs of every administration and for all the major departments of Government. There is a particular requirement for a contingency reserve fund for the CIA.

The details of CIA appropriations cannot be made public for security reasons. Surely this is understandable. The contingency reserve fund is for unanticipated and often emergency requirements which must be dealt with on the spur of the moment. Obviously we are unable to provide funds for that type of requirement by means of supplemental appropriations or a reprograming action. The House well knows that it can take months to get a supplemental appropriation or a reprograming resolution through Congress. Because of these reasons, it was necessary to establish a contingency fund.

In utilization of the contingency fund, procedures have been followed which require that, in addition to the review given at policy levels of the executive branch, the Office of Management and Budget must approve the release and the two Appropriations Committees are notified within 48 hours of the authorization of the release. In the years in which I have been involved in intelligence matters, I have known of no abuse of this authority.

The Defense Subcommittee, through its own staff and through the use of the surveys and investigations staff, keeps close watch over the use of this reserve fund. The Senate Select Committee on Intelligence has also adopted procedures for maintaining close scrutiny of this fund and I dare say that a House select committee on intelligence, if it is established, will do likewise.

Mr. Chairman, the intelligence agencies of our Government undoubtedly are receiving closer oversight than any other Government agency and perhaps we are going too far in this regard. In any event, it would be a mistake not to continue the contingency reserve fund. Perhaps the proposed cut is too severe. This is particularly true at a time when our whole intelligence structure is being reviewed in both the executive and legislative branches. However, the reduction represents a compromise which may be best under the circumstances.

Mr. MAHON. Mr. Chairman, I ask for a favorable vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. BURLISON).

The amendment was agreed to.

The CHAIRMAN. The clerk will read.

The clerk read as follows:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $2,394,108,000, to remain available for obligation until September 30, 1979.

AMENDMENT OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. MAHON: On page 25, line 16, after "$2,394,108,000", and before "to remain" add the following: "of which $13,481,000 shall be available for food research programs,".

Mr. MAHON. Mr. Chairman, this amendment would provide language stating that $13.5 million, the total amount requested in the budget for food research, shall be available for that purpose.

The committee had recommended a reduction of $4 million in the food research program, primarily to delete funding for the development of specifications for low-dollar cost commercially available food products. This reduction was based on information provided by the Department of the Army, which as it developed was inaccurate, so this amendment is offered for the purpose of correcting an error made by the committee as a result of misleading information that had been supplied. This amendment is offered at the suggestion of the gentlewoman from Massachusetts (Mrs. HECKLER).

In view of this, I propose that we make the entire amount budgeted for food research available. The Army would be forced to make funds available from other R. & D. efforts to fill this requirement. This would demonstrate to the Army the importance for providing accurate information to the committee.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Chairman, I rise to express my appreciation to Chairman MAHON for his amendment to the Defense Appropriations Act, earmarking $13,481,000 for food research, and restoring a $4 million cut in funds for that program.

Let me give you a few facts on this portion of the budget. The Army originally requested $13.4 million for food research, which includes development of food systems and products for all of the armed services.

During discussion in the House Defense Appropriations Subcommittee, a misunderstanding arose over the use of these funds. Several Members criticized the excessive use of funds for the development and maintenance of specifications for low-dollar cost, commercially available food products. For this reason, $4 million was cut from the food research appropriation.

The fact is, none of the funds allocated to food research are used for such specifications. The development and maintenance of specifications is financed from another source altogether.

Fortunately, I was able to discover the source of the error which was based on an inaccurate account of the funding and performance of work done at National Laboratories and to correct it by working with committee staff and the chairman. I very much appreciate the efforts of Chairman MAHON to correct this misunderstanding and to offer this amendment to restore the funds for food and nutrition research.

I would urge my colleagues to accept Chairman MAHON'S amendment earmarking the full $13,481,000 for food research, for the following reasons:

First, a new program of feeding system design can be continued. This program has already produced a new concept in feeding which can reduce military food service costs by $5 million per year for a large Army post, or over $50 million per year in annual Army operating costs.

This program has also produced a new system for feeding combat troops which is expected to reduce by 40 percent the food service personnel needed in combat divisions and provide up to $70 million in annual savings for the Army.

Second, funds will be available for research aimed at reaching specific military service requirements for both products and equipment. These products must meet unique field problems, such as limitations on power and environmental problems. Some of this research in-

volved dehydrated/compressed food for nuclear submarines and compressed high density food packets for assault troops and special missions.

Third, Natick Labs is the only laboratory in the nation conducting food research for the armed services. It has performed admirably over the last 23 years in developing new or improved items at the rate of an average of 100 per year. Over the last 10 years, the Federal Government has purchased $19 billion worth of these items.

For example, Natick is now working on a flexible package form of C rations, which offers balanced meals and a variety of food and eliminates the use of bulky cans.

All of the space foods were developed initially at Natick, then were commercially produced. The Department of Agriculture uses these foods to feed firefighters. Food developed for long-range patrols in Vietnam now are sold commercially under such brand names as Mountain House for the use of sportsmen and hikers.

A new flexible package ration is now marketed in Europe and Japan as a regular household food item. Freeze-dried foods, such as Maxim and Taster's Choice instant coffee, were developed at Natick. This type of process is now being used to feed senior citizens, who often cannot do the marketing and cooking necessary to provide themselves with proper nutrition.

All of these advances were made possible through research done at Natick Laboratory.

In summary, Mr. Chairman, I would like to urge passage of this amendment to provide $13.4 million in funds for food and nutrition research. The highly sophisticated research done at Natick is important to the entire country. It is important, not just to the Army, but to all the armed services. I urge your favorable consideration of this amendment.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New York.

Mr. EDWARDS of Alabama. Mr. Chairman, we are prepared to accept the amendment.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I would like to ask the gentleman a question, if I may. Could the gentleman explain to us what research is being done on Army food in this particular amendment?

Mr. MAHON. This is a very complex program, a very extensive program. It has been going on for many years. It is strongly supported by the military services. I could not give the gentleman the intimate details.

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, it seems to me anybody that journeys out to any of the Air Force bases or Army installations finds thousands of soldiers eating at McDonalds every day. If they are doing a lot of research to make this food more palatable or more nutritious, they might want to find out what the people that operate the fast-food places use to do that.

Mr. MAHON. Mr. Chairman, this money supports experiments in irradiated food, in food that can be stored easily for a long time. They try to come up with answers through scientific research. Maybe there is some lost motion, but it is a program we have supported through the years.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Chairman, this amendment would allow a new program of feeding designs to be continued. This program has already produced a new concept in feeding which can reduce military food costs by $5 million per year for a large Army post.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not mean to be obstreperous on this, but I am a little concerned. It is my understanding that for years and years we have spent a fortune on research money spent for food. Now, it would seem to me that there is a lot of private information with respect to nutritious food or food that is more palatable.

Can the gentleman give me some idea how much money we have spent for food research? There are thousands of people doing food research in this country. Can anybody answer that question?

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Chairman, I would like to say, this is research done here which is extremely complex. As a matter of fact, all of the food for the space program was first developed at the Natick Laboratories.

Some of the commercial products are, for example, freeze dried coffee. Those were first developed at these laboratories. At the present time, their mission includes development of products which are suitable for the nuclear submarine fleet and for other military functions.

Mr. DOWNEY. I would just ask the members of the committee to consider how many hundreds of millions of dollars we have spent on this question of food research by the Defense Department, the USDA and the FDA. We have been committing hundreds of millions of dollars for this. I am sorry that I am taking the committee's time, but it would seem to me that before we rush headlong in on spending more money on food research, we at least ought to get better results other than the fact that astronauts have been eating it, because we are not going to be sending very many men to the moon, and we are certainly not going to be able to spend hundreds of millions of dollars for food research that is already done by private agencies.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MAHON).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $3,895,517,000, to remain available for obligation until September 30, 1979.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

I would like to address my remarks to the gentleman from Texas. I have an amendment at this point, and I do not care to lose my right to offer it. However, I notice that it is 5:30, and I would like to inquire of the Chairman what he proposes to do. It would suit me better to bring the amendment up the next day that we have this bill on the floor.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield.

Mr. MAHON. Mr. Chairman, I think it would be well to put in the RECORD at this point the statement with regard to research and development involving shipbuilding programs.

On page 2 with regard to ship design, the conference language makes an authorization of $40 million for research and development relating to the CVV, VSS, and DD-963(H) ship development programs and calls for comprehensive evaluation studies of the cost and combat effectiveness of sea based aircraft platforms for both the short and long term needs of the Navy.

The gentleman from Alabama, of course, is fully aware of the paper which I am now reading with respect to this.

The language further states that such studies shall include, but not be limited to, nuclear aircraft carriers, new design medium aircraft carriers (CVV), the refitting of existing aircraft carriers, and various types of V/STOL aviation ships. It is obvious that such studies could not adequately be performed without the expenditure of a considerable part of the $40 million for both advanced and engineering design. $40 million is not a sum to be associated with a few paper studies which could be accomplished with a few hundred thousand dollars. The conference language does not preclude the expenditure of funds appropriated for ship design of a CVV, a CVN, a VSS, a DD-963(H) or any other ship mentioned. The language states that the section shall not be construed as constituting an authorization for any of the ships mentioned, nor is that contemplated by the Administration or Appropriations Committees. The Authorizing Committees, I think, have dealt wisely with a matter of considerable concern to a number of Members. I have been fearful that there might be a years hiatus before we could get on with even designing a new aircraft carrier. The language makes it clear that this is not the case and that advanced and engineering efforts are authorized and such efforts will, of course, be required in order to complete meaningful studies that will give the Congress, the President, and officials of the Department of Defense and the Navy Department adequate information on which to base a fiscal year 1979 shipbuilding budget.

Mr. Chairman, I thank the gentleman for yielding to allow me to give this statement in regard to the carrier problem.

Mr. EDWARDS of Alabama. Mr. Chairman, may I say that I concur in the statement made by the Chairman.

I would like to now further inquire of the Chairman, what is the plan so far as proceeding with the bill at this time?

Mr. MAHON. If the gentleman will yield, I would say that if we could continue for another 20 minutes if that would be adequate.

Mr. EDWARDS of Alabama. I will say to the Chairman that the amendment I have to offer, in my view, is going to take more than 20 minutes. I would not care to have the debate on the amendment split. I would be most happy to ask unanimous consent, I will say to the Chairman, that it be in order for me to offer my amendment on the next meeting day and then allow us to proceed as far along in the bill as we want to. I believe that type of unanimous-consent request would be in order. I do want to preserve my right to offer my amendment at this point.

The CHAIRMAN. Is the gentleman from Alabama (Mr. EDWARDS) making a unanimous-consent request?

Mr. EDWARDS of Alabama. I have not asked it yet, Mr. Chairman. This is purely in colloquy with my chairman.

Mr. MAHON. If the gentleman will yield, under the circumstances, Mr. Chairman, I think it would be unwise to complicate the matter in the way suggested. I thank the gentleman for his cooperative spirit, as he has always demonstrated in connection with the bill. Under the circumstances, I think it is time for me to move that the committee rise.

Mr. EDWARDS of Alabama. Mr. Chairman, I still have the floor, and I do not yield for that purpose at this time.

Mr. PEASE. Mr. Chairman, to the best of my knowledge, there are funds in this DOD appropriations bill to pay for the deployment of enhanced radiation warheads. The Public Works and ERDA appropriation bill contained funds for the deployment and production of these weapons known as neutron warheads. In a few weeks, this House must decide whether or not to authorize adding them to our Defense Arsenal. This is precious little time to reach a decision of potentially dangerous, far-reaching consequences.

At the outset, I want to make clear that I am neither for or against the neutron warheads per se. I frankly do not have enough information about the technological and defense considerations at this time to reach a reasoned judgment on deployment of these weapons. I venture to guess that many of my colleagues are in the same quandary. Clearly, there is a need for Congress to review this policy decision in much more depth.

Think about what we have all heard and read about neutron warheads in the past few weeks. It is said that they are more humane since they can be targetted more precisely at military targets. It is said that it would be easier to use neuton warheads in response to particular crises. And it is said that neutron warheads provide a more credible deterrent since the decision to use them would not in all probability elicit a more powerful nuclear response.

These contentions advanced by proponents are far from reassuring. Taken in a different light, each of these arguments could be cited as reasons not to deploy neutron warheads.

First, is it really "humane" to talk about killing military targets with radiation? I recognize the time-honored phrase, "war is hell," but I also find it chilling to contemplate deployment of warheads that allow for selective radiation targeting. The distinction between neutron bombardment and poison gas warfare is unclear to me and it may be academic at best.

Second, I am not interested in making it easier to use nuclear warheads in any context. The horror of radiation poisoning is just as real on a small scale as on a massive scale for the human being targeted.

I respect the importance of our country being able to come forth with an appropriate military response to particular crisis situations. In Europe, the Warsaw Pact Forces enjoy numerical advantages over NATO forces with respect to many categories of conventional weapons. However, I am not convinced that such a situation necessitates our lowering the nuclear threshold with neutron warheads. If we are to issue neutron warheads to NATO forces, then serious consideration should be given to developing ground rules for their use and for restrictions on access to them. Do we want allied officers in a position of ordering use of neutron warheads?

Military history is replete with tragedies resulting from miscalculations on the part of commanding officers. I shudder to think about Lance missiles armed with neutron warheads being launched in response to a misperception. Furthermore, throughout the course of history, human beings have not been able to restrain themselves from using newly developed tools of war. Invariably, when new weapons have been developed, they have been used. This trend continued up to the advent of the nuclear age and this country was compelled to make use of the first nuclear weapon. The sheer horror of nuclear war became apparent for all to see at Hiroshima and Nagasaki. Yet, this has not deterred us and others from developing even more destructive weapons.

In short, the specter of nuclear war has been sufficient to prevent the use of nuclear weapons over the last 30 years. Now we are at a stage of technological innovation that enables us to employ radiation poisoning on a smaller scale. I am not sure that our restraint and wisdom is sufficient to stop the longstanding historical trend of ultimately using the tools of war that we as human beings devise. This is a big question to ask, but it has a direct bearing upon whether this House should approve deployment of neutron warheads. One has to wonder if we are not planting the seeds of our own destruction when we devote our time, energies, and resources to finding ways of making it easier to use radiation against other human beings with neutron warheads.

Finally, would neutron warheads really add to our deterrent capability in Europe or anywhere else? The Soviets have denounced the neutron warhead as "practically a chemical warfare weapon" and have criticized its prospective deployment as an escalation of the arms race. Undoubtedly, they have been working on a similar warhead or they will now undertake such an effort. How can they do otherwise?

This point aside, I have questions about the circumstances under which the United States would authorize the use of neutron warheads. If we had neutron warheads in our arsenal during the Vietnam war, would we have used them? How can it be determined that an adversary would not respond to a neutron shelling with a more deadly nuclear response? Once radiation poisoning becomes acceptable on one level, it is speculative as to whether it could not then be used on a bigger scale.

I wanted to share some of my misgivings about the implications of deployment of the neutron warheads and the process by which this decision has been considered to date. A spokesman at the Pentagon told my office this morning that neutron warheads would be deployed in the not too distant future if the Congress and the President gives its approval. The decision is upon us and it must be given more thorough consideration. I hope that passage of this appropriations bill with its funds for deployment of neutron warheads will not be interpreted to mean that it is a foregone conclusion that neutron warheads will be built and deployed.

PARLIAMENTARY INQUIRY

Mr. EDWARDS of Alabama. Mr. Chairman, I would like to address a parliamentary inquiry to the Chair.

The CHAIRMAN. The gentleman will state it.

Mr. EDWARDS of Alabama. Mr. Chairman, the Clerk has read to line 23 on page 25, including the figure $3,895,517,000. If we should rise at this point, will it be in order for an amendment to that line and number on the day that we shall meet again?

The CHAIRMAN. The Chair will state that the pending paragraph will still be open to amendment when the Committee resumes its sitting.

Mr. EDWARDS of Alabama. I thank the Chairman, and I yield the floor.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7932, LEGISLATIVE APPROPRIATIONS, FISCAL YEAR 1978

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–468) on the resolution (H. Res. 664) providing for consideration of the bill (H.R. 7932) making appropriations for the legislative branch for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the House Calendar and ordered to be printed.

VA PROGRAM NOT INCLUDED IN WELFARE REFORM PACKAGE

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, on March 17, 1977, I learned that the Secretary of Health, Education, and Welfare was including veterans' compensation and pension programs in the Department's welfare reform study to be submitted to the President.

In response to my inquiry, Secretary Califano indicated that he did not contemplate, under any circumstances, including compensation for service-connected disabilities as an element of the administration's welfare reform proposal, but could not assure me that the veterans' pension program would not be included as a part of HEW's recommendations.

I am pleased today to announce that the Secretary has finally provided me with the assurance we have all been seeking. In a letter dated June 24, 1977, he has stated without qualification that he has no intention of including veterans' pensions or any other VA program in any welfare reform package.

There follows a copy of his letter which I received yesterday:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 24, 1977.

Hon. RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter requesting clarification of the relationship between veterans' programs and the welfare reform study. I apologize for the delay in responding to your concern.

I am enclosing a summary of the tentative working plan for welfare reform which the President has approved. This tentative proposal has two major programmatic initiatives: a jobs program designed to reach low-income Americans and a consolidated cash assistance structure to replace the Federal share of Aid to Families with Dependent Children, Supplemental Security Income and Food Stamps. You will note that we have not included any veterans' programs as an element of this proposal.

The veterans' pension program provides income-related cash assistance to aged veterans based upon need rather than service-connected disability. Since the reformed welfare system and veterans' pensions are both means-tested programs, I felt that we should look at the relationship between the two. However, we have no intention of including veterans' pensions or any other VA program in welfare reform.

Dr. Michael Barth, Deputy Assistant Secretary for Income Security Policy, who is directing our staff work on welfare reform, has been in contact with Mr. Guy McMichael, General Counsel of the Veterans' Administration, and will continue to do so, as appropriate. In our further planning and implementation stages, we will continue to work with Max Cleland and his staff.

I regret any misunderstanding which may have arisen in this situation.

Sincerely,

JOSEPH A. CALIFANO, Jr.

SACCHARIN BAN SUSPENSION

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the proposed banning of the use of saccharin by the Food and Drug Administration, relying on the Delaney amendment, has brought forth more mail from my district than any other issue this session, with the possible exception of forced busing.

Donald Kennedy, Commissioner of the FDA, has been making public statements from time to time and, yesterday, made another appearance before the Health and the Environment Subcommittee, all of which stimulated me into writing a letter to him requesting that he refrain from further public statements until such time as the "new" Canadian study has been examined and reviewed by qualified scientists and interested persons.

Many persons in this Nation afflicted with diabetes, as well as a number of American industries, are vitally affected by this proposed decision, and I am attaching a copy of my letter to Commissioner Kennedy, which was mailed to him yesterday, for the information of all Members of Congress, as well as the general public.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1977.

Hon. DONALD KENNEDY,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR COMMISSIONER KENNEDY: No regulatory action in recent years has created such a public controversy as your agency's decision to ban saccharin, the nation's only approved non-caloric sweetener. It is imperative that such a decision, impacting upon the lives of millions of Americans, be made only after a full disclosure of all the information upon which the decision is based and a reasonable opportunity for an impartial assessment of all of the scientific evidence. While I am certain you would agree with this statement, your actions recently raise serious doubts about the degree of your commitment to the fundamental concept of due process required in all administrative actions.

I am referring to your public statements concerning a new study of the human use of saccharin reportedly completed recently in Canada. As you know, to date, there have been at least eight human use studies involving saccharin which contradict the announced results of this new Canadian saccharin study. The significance of this new study depends, therefore, upon the validity of the methodology use by the researchers and a comparison of the data results with the other completed studies. The credibility of scientific research largely depends upon it being published and subject to peer review by other scientists. This has not been done in the case of the new Canadian study.

Therefore, it is totally inappropriate, and hardly responsible, to mislead the American public and Congress about the weight which should be given to this new Canadian study. There just has not been a fair opportunity for appropriate review and comments by other qualified scientists and interested parties.

Despite the fact that extensive comments were made by you, or members of your staff, about the new Canadian study, you responded to a reporter that you were "doing our best to keep it confidential—as the authors wanted us to." Three days later, you were making a speech about the new Canadian study in Portland, Oregon. While refusing to respond to requests for information about the new study, press reports indicate that you were discussing the study with selected Members of Congress in an apparent attempt to influence them and derail the legislative process which has already begun for an appropriate Congressional review of the saccharin controversy. Such action can only be viewed, in my judgment, as demonstrating your greater concern with political maneuvering to prevent Congressional action which might prove embarrassing, rather than meeting your primary responsibility of making scientific assessments concerning the integrity of our food supply.

Furthermore, you are simply misleading the American public and Congress when you suggest that this new Canadian study is the definitive answer to the scientific dispute over the risk to humans from the use of saccharin. There is, in fact, the probability that there are some very serious flaws in this study.

Dr. Phillip Cole, noted epidemiologist of the Harvard School of Public Health, has reviewed the preliminary draft of this Canadian study. Dr. Cole has found that there are serious questions as to the validity of the study.

In view of these preliminary findings by Dr. Cole, and for reasons stated above, it would seem advisable to refrain from further public comment upon this Canadian study until such time as the full study is available for review by the scientific community and the American public. To do otherwise will only further discredit the FDA's handling of the saccharin controversy.

Sincerely,

SAMUEL L. DEVINE,
Representative to U.S. Congress.

INTRODUCING NATIONAL USURY LAW OF 1977

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, I am today introducing a national usury law. The bill will give to the Congress an opportunity for the first time to act affirmatively to bring down the alarming rate of inflation in this country, without having to resort to the thoroughly distasteful process of wage and price controls.

Mr. Speaker, most of the literature and most of the thinking of even our top experts on the subject of inflation seem to limit the discussion of inflation to factors in the so-called wage-price spiral. The truth of the matter is that rates of interest are built in to both wages and prices, and are the one element of both that this House can control without causing injustice to anyone.

Even so estimable a public servant as Chairman Arthur Burns, of the Federal Reserve Board, has maintained for years that high interest rates serve as a brake on inflation.

Mr. Speaker, in all humility, I find myself in profound disagreement. The cost of borrowing money, or interest payments, are always included in the cost of every stage of the production of all our goods and services, and by compounding, contribute substantially to inflation.

Mr. Speaker, let us think about this for just a minute. Beginning with the producers of raw materials, and the farmers, and the mine operators, and all the rest of those in our economy who function in the very beginning stages of the entire processes of the production and manufacture of commodities, these individuals must, almost without exception, borrow funds on which to conduct their operations. That borrowing will require them to pay interest, and the interest they pay must be included in the price of the commodity they sell. At the next stage of the processing of the raw materials, the same thing will happen, and the prices charged by these processors will include the cost of the money they have to borrow in addition to the cost of the money borrowed by the original producers of the raw products, so that at this stage, the price will have to take into account two different levels of interest payments.

Mr. Speaker, the same thing will keep happening at every stage of the production, transportation, distribution, wholesaling, and retailing of each and every step of these processes. The result is a multiplication and a compounding of interest costs of staggering proportions to the eventual consumer and, of course, a tremendous boost to inflation.

Mr. Bert Lance, President Carter's closest economic adviser, is the first member of the new administration to recognize and publicly state that high interest rates cause inflation in the long run.

Mr. Speaker, in the 3 years from 1972 to 1975, the amount of interest paid by farmers, industries, individuals, and other nonfinancial institutions increased by $65.6 billion. This was a total increase which averaged more than 11 percent a year. During this same period, the gross national product, measured in constant dollars, increased only $16.6 billion, for an average yearly increase of only about one-third of 1 percent per year.

On the other hand, measured in inflated dollars, the increase during this same period amounted to $341.2 billion for an average yearly increase of almost 10 percent. Such has been the effect of inflation, and of the spiralling increase in the amount of increased interest which have been built into the ultimate prices of articles, services and commodities that have had to be paid by the consuming public.

Mr. Speaker, we cannot hope to put an end to wages chasing increased prices, and prices in turn chasing increased wages, unless and until we get a handle on the spiralling amount of interest which is figured in the prices of everything we buy.

Mr. Speaker, this bill provides for a gradual rollback in the legal interest which may be charged in connection with any credit or loan transaction, half a percent at a time, until by January 1, 1981, the legal rate of interest will be 7 percent, under the national usury law I am today introducing.

PERSONAL STATEMENT ON THE B–1 BOMBER

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, in the CONGRESSIONAL RECORD of June 27, Congressman CARR inserted the text of his letter to President Carter in opposition to the production of the B–1 bomber.

I am listed as one of the 91 Members of Congress who purportedly signed the letter to the President.

I want to say for the record that I never signed this letter, nor did any member of my personal or committee staff give the authorization to include my name.

PROSECUTION OF FORMER AGENT JOHN J. KEARNEY BY THE DEPARTMENT OF JUSTICE

The SPEAKER. Under a previous order of the House, the gentleman from Louisiana (Mr. LONG) is recognized for 60 minutes.

GENERAL LEAVE

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LONG of Louisiana. Mr. Speaker, I rise today to discuss an issue that has caused me a great deal of distress, both as an elected Representative and as a private citizen.

Our country was riven in recent years by a tragic and wasteful war in Indochina; by suspicion and deception at the highest levels of government; and by a domestic turmoil the like of which we had not experienced since the Civil War.

Both President Ford and President Carter, each in his own way, have helped to heal some of the wounds of the past, to put behind us that which divided our spiritual and moral strength as a people. And each is to be commended for helping to restore some unity of purpose and commonality of belief in the process of American democracy.

Yet all of our wounds are not healed; there are vestiges of ill-will and suspicion remaining, and perhaps they can never be truly and wholly removed from our body politic. But lest smoldering resentment break out into a blaze of vengeance, destroying individuals and institutions alike, achieving no real purpose in the process, I suggest it is time for us to pause—reflect—and, perhaps, clarify our objectives.

The Federal Bureau of Investigation has been subject in recent years to a great deal of criticism, and—unfortunately, in my view—to some amount of largely unjustified, categorical abuse. Even its most vocal critics, however, concede that the record of the FBI has been impressive in many respects: Against Nazi and Fascist elements during World War II; against Communist agents in the 1950's; and—more recently—against leaders of organized crime in America.

I do not suggest that the FBI is above reproach; nor should it be exempt from criticism. Human institutions, like the humans who have devised them, are capable of grievous error. It is to our credit as a people that we have, by and large, improved ourselves—and our institutions—through a process of constructive criticism and public commentary.

I, for one, would have it no other way.

But I do suggest that our standards for criticism and commentary should remain consistent with their purpose: The improvement of the institution. And I do suggest that excessive zeal in correcting perceived defects can result in consequences as undesirable as they are unexpected.

We surely must all agree that subversion, terrorism, crime—though perhaps all diminished since the last decade—remain threats to our society. Consequently, there remains a vital role for the FBI to play, and our self-critique ought not to result in that Bureau's effective destruction. I trust that we will not find ourselves in the position of the American officer who remarked, sardonically, that it was necessary to destroy a particular Vietnamese village in order to save it.

Perhaps more importantly: our other institutions should not be corrupted by excessive zealotry. Like others in this country, and in this Congress, I am concerned about the morale of agents of the FBI, and about the effect of low morale upon the efficiency of the Bureau.

As a lawyer, however, I am even more concerned that our legal institutions are in danger of being bent and shaped to achieve an ignoble purpose: Vengeance, retribution, and coercion, instead of justice under the law.

I have grave doubts about the wisdom, the utility, and—most of all—the legal justification for the indictment and prosecution of Special Agent John Kearney.

What is the purpose of a prosecution? Is it to punish for past violations of the law, and, perhaps, to prevent future crimes? Or, is the purpose to penalize, ex post facto, for what today are perceived by Mr. Kearney's superiors to have been moral misconduct of the past?

Justice Department officials have themselves indicated there is little chance of Mr. Kearney's conviction, because of an admission that he had no criminal intent. And why is that? Very simply because the law respecting Mr. Kearney's action was in confusion until a Supreme Court decision was rendered after his retirement, because the Justice Department itself had only the vaguest and most evasive standards respecting this kind of investigation; because Mr. Kearney apparently believed, in good faith, that he was acting subject to legitimate authority; and, again, because Mr. Kearney lacked the requisite mens rea, or criminal intent, necessary for conviction.

It is, to me, the height of irony for Mr. Kearney's superiors in the Department of Justice to be prosecuting him today for what the predecessors of those same superiors encouraged, or at least tacitly approved, in the past.

The process of the administration of criminal justice, in my opinion, is jeopardized by pursuit of this prosecution. The purpose of indictment is conviction for the commission of crimes; a grand jury room, thank God, is no star chamber; prosecutors ought not to have coercion as their aim, nor should indictments be used as techniques of interrogation.

Yet our newspapers report that the prosecution of Mr. Kearney was instituted, not to punish Mr. Kearney, but to secure evidence for prosecution of unnamed superiors. Credence is given this observation by the failure of Justice to prosecute other agents who have acknowledged their own roles in the operation in question.

In my judgment, such a purpose is indeed ignoble, and the more reprehensible in view of the Department's concession that Mr. Kearney was acting in what he believed to be the best interests of the country.

Our Attorney General has a formidable legal reputation; I admire and respect his knowledge and legal skills. I can understand Mr. Bell's agonized deliberations in this matter, because the right of privacy is prized highly, and jealously defended, by all of us who believe in American freedoms.

But I cannot agree with his decision. With due respect to Mr. Bell, I do not believe that the rule of law is at issue in this matter: Surely, no law enforcement officer ought to be above the law; no more than a President or any private citizen, is an FBI agent exempt from the provisions of the law; that is one point that is clear, uncontested, and I know of few who would argue otherwise.

My purpose today is not to explain, to justify, or to rationalize courses of conduct or methods of investigation that many Americans find indefensible. I make no excuses for wrongful conduct, if wrongful conduct can ever be excused. But I do insist that we must distinguish between conduct perceived to be morally unjustified, and conduct which is punishable at law.

Mr. Kearney believed his conduct to be justified by the nature of the criminal acts under investigation. He acted in good conscience, if in error, with no motive of personal gain. And I suggest that our country might best be served, not by toleration of abuses to civil liberties, but by that spirit of human understanding and charity characteristic of the Judeo-Christian ethic, and of—in Walter Lippmann's famous phrase—"The traditions of Western civility."

I earnestly urge Attorney General Bell to reconsider his decision to proceed with prosecution of this affair. The ends of justice would be much better served.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a former special agent of the FBI and a former attorney of the Department of Justice, one who is extremely proud of his service in the Department of Justice, I am greatly dismayed and greatly disappointed by the action taken by the Department in instituting a prosecution against Special Agent John Kearney for his so-called violations in connection with his work with the violent terrorist group, the Weathermen.

I would like to state, first of all, that as a former special agent of the FBI who served during troubled times before at the beginning of World War II, I know that there was nothing that John Kearney did that was not done without the permission, if not at the direction, of his superiors, all the way up to the Attorney General and most probably to the President of the United States.

As far as I am concerned, it is shameful that in view of those circumstances he should be singled out for prosecution at this time.

Mr. Speaker, I do not commend the action of opening mail. I do not commend any of those practices which once were in fashion in the field of law enforcement, because such action should not be tolerated in a country like ours. But I do recognize that as a matter of fact these actions did take place. I can assure the Members, however, that they did not take place on the sole judgment of Mr. Kearney. This conduct was approved at the very highest level of the U.S. Government, and he should not have to bear the brunt of the prosecution. I might add that in the meanwhile I have sent in some money to contribute to Mr. Kearney's defense fund.

Mr. Speaker, the inconsistencies of the Department of Justice's indictment of former FBI agent John J. Kearney for alleged civil rights violations are puzzling and most confusing.

For one thing, in the relatively calm days of 1977, the Civil Rights Division of the Department chooses to seek an indictment for investigative action taken in the chaotic period of 1970–71. The investigation involved, of course, terrorist fugitives of the violent Weather Underground, and one of the major alleged violations was unauthorized mail openings.

This move to indict Kearney, paradoxically, followed directly after issuance of the Justice Department's January, 1977, decision not to prosecute CIA personnel for mail openings in the United States during the period from 1953 to 1973. The Criminal Division of the Justice Department based its decision, substantially, on the fact that the state of law that prevailed during those years was inconclusive and ambiguous.

In support of the verdict not to prosecute government agents for mail openings, the Department report concluded:

> What really stands indicted as a result of the information which the Department's investigation has disclosed is the operation of the government as an institution; specifically, its failure to provide adequate guidance to its subordinate officials, almost consciously leaving them to "take their chances" in what was an extremely uncertain legal environment.

How can we reconcile the decision of the Criminal Division of the Department of Justice not to prosecute CIA agents with the determination by the Civil Rights Division to prosecute a single FBI agent? Is this a standard? Is this, we might ask, a rule of law? Does it apply equally to all?

The Department's own words and action underline the fundamental inconsistency, the dual standards, and the contradictions. I recommend, ladies and gentlemen, that FBI agents be judged according to the same standards the Justice Department affords to others.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

Mr. Speaker, the indictment of an FBI agent for alleged violations of the civil rights of people involved in the investigation of Weatherman fugitives has been called "a disgraceful miscarriage of justice," and I concur that this is an apt description and evaluation.

In this instance, the FBI agents had no thoughts of personal gain whatsoever, and only the intention of carrying out their assigned duties of protecting the lives and property of American citizens. The era of 1970–72, when the alleged violations occurred, was one of violent discord; not only were business establishments across the country being bombed, but even the Pentagon and the U.S. Capitol became objects of terrorist attack.

Through past experience and trust, the general public, local government leaders, and the Federal Government looked to the FBI and other intelligence agencies to take up the gauntlet. And, true to its history, the FBI responded to the emergency—promptly and effectively.

FBI agents conscientiously believed that it was their obligation to protect the national interest, and to stop the senseless and indiscriminate bombings and acts of violence by the Weather Underground. There was no criminal intent to deprive anyone of his civil rights, but the agents involved no doubt did resolve to deprive the Weathermen of their license to bomb and to maraud.

It would be naive to presume—in those troubled days of the early 1970's—that the Department of Justice, the Federal Government, and the investigative news media had no inkling of the extraordinary efforts and measures being employed by the FBI to apprehend these threats to the national security. Yet there was no public outcry during the emergency.

But now, in a different era, when the challenge has been met and the Nation is no longer at the mercy of this little band of bombers, an entirely new viewpoint—and an entirely new set of rules—is being applied to 1970 action.

The same American public which benefited from the work of the FBI in checking the reign of terror of the early 1970's should surely come to the fore-

front today in support of John Kearney. In my considered opinion, the indictment of Mr. Kearney is indeed a miscarriage of justice, and a substantial blow at the effective intelligence operations guarding our national security.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for yielding.

I, too, want to join in expressing my support for Mr. Kearney and my deep concern over the action that has been taken against him.

Certainly the actions which FBI agents and other intelligence agents have taken of the kind referred to in these various indictments against Mr. Kearney are actions that for many years during World War II and subsequently thereto were regarded as being within the authority of the President of the United States when he was confronting an external enemy, and were ordered by superiors.

To apply to an agent of the FBI the kind of ex post facto change in our ideas that has come about since that time I think does a serious injustice to the individual and threatens to undermine our entire intelligence activities.

Mr. LONG of Louisiana. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I am now happy to yield to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I greatly appreciate the distinguished gentleman from Louisiana's having taken this time to help set the record straight in this unfortunate indictment and prosecution of former FBI special agent John Kearney.

I, too, seriously question the judgment of the attorney general in this matter.

In a letter to me on May 31, the attorney general stated that he was reviewing this entire matter in light of his concerns and mine. He stated:

> The rule of law must be upheld in this country. But I shall make every effort to assure that the rule of law is always tempered by fairness and common sense.

I do not grant for one minute that John Kearney broke the law when he conducted electronic surveillance and mail opening operations to collect vitally needed intelligence about criminal activities and plans of the terrorist Weather underground organization.

But even if mistakes were made, the attorney general has complete control under our American accusatory system of criminal justice over whether prosecutions will or will not be instituted.

Even if a grand jury returns an indictment against an accused citizen, the U.S. court of appeals has ruled in the case of United States against Cox, that the attorney general—as an officer of the executive department—"exercises a discretion as to whether or not there shall be a discretion in a particular case."

He can refuse to sign the indictment, and the case is dropped.

In the case of United States against Cowan, the Fifth Circuit Court of Appeals overruled a district court judge who had refused the prosecution's motion during the trial to dismiss the case.

The circuit court ruled that the trial court had abused its discretion in refusing to grant the dismissal motion, stating as follows:

> The executive remains the absolute judge of whether a prosecution should be initiated and the first and presumptively the best judge of whether a pending prosecution should be terminated. The exercise of its discretion with respect to the termination of pending prosecutions should not be judicially disturbed unless clearly contrary to manifest public interest.

Mr. Speaker, the current action against former FBI special agent John Kearney—and possibly other FBI personnel—is "clearly contrary to manifest public interest"—to quote the words of the court decision in the context of this situation.

We must remember that the alleged offenses of John Kearney occurred during his investigation of the Weather underground between about August 1970, and June 1972.

During that time, Bernardine Dohrn—a key member of the Weathermen who was herself indicted as the result of evidence collected by John Kearney and his colleagues—and other members of the Weather underground took credit for no less than 11 terrorist bombings.

Many of these included deaths and severe injury to innocent citizens throughout the country.

They also caused enormous property damage and threatened human safety.

In the Weather Underground's 152-page manifesto, "Prairie Fire," Bernadine Dohrn and her comrades state that this terrorism and violence was committed against the American people, their economy, and their Government, in opposition to the Vietnam war and in behalf of the worldwide Communist revolution and its criminal guerillas.

Just these admitted actions by the Weather Underground—quoted directly from the Prairie Fire manifesto—place into proper perspective the investigation of John Kearney and the FBI, which led to his questionable indictment for mail interception and wiretapping:

> Attacks by the Weather Underground have been focused and specific. These actions were a catalyst for thousands of politically-directed armed actions between 1970 and 1972, almost all of which complemented mass struggles.
>
> These bombings were carried out by the Weather Underground:
>
> To retaliate for the most savage criminal attacks against black and third world people, especially by the police apparatus:
>
> Haymarket police station, Chicago, October 1969 and October 1970:
>
> Chicago police cars, following the murder of Fred Hampton and Mark Clark, December 1969;
>
> New York City police headquarters, June 1970;
>
> Marin County Courthouse, following the murder of Jonathan Jackson, William Christmas and James McClain, August 1970;
>
> Long Island City Courthouse, in Queens, in solidarity with prison revolts taking place in New York City, October 1970;
>
> Department of Corrections in San Francisco and Office of California Prisons in Sacramento, for the murder of George Jackson in San Quentin, August 1971:
>
> Department of Corrections in Albany, New York, for the murder and assault against the prisoners of Attica, September 1971;
>
> 103rd Precinct of the New York City Police, for the murder of 10-year-old Clifford Glover, May 1973 . . .
>
> To disrupt and agitate against U.S. aggression and terror against Vietnam and the Third World:
>
> Harvard War Research Center for International Affairs, Proud Eagle Tribe (Women's Brigade), October 1970;
>
> U.S. Capitol, after the invasion of Laos, March 1971;
>
> MIT Research Center, William Bundy's office, Proud Eagle Tribe (Women's Brigade), October 1971;
>
> The Pentagon, after the bombing of Hanoi and mining of the harbors of North Vietnam, May 1972;
>
> Draft and recruiting centers;
>
> ROTC buildings;
>
> ITT Latin America headquarters, following the Fascist counter-revolution in Chile, September 1973.
>
> To expose and focus attention against the power and institutions which most cruelly oppress, exploit and delude the people:
>
> National Guard Headquarters, Washington, D.C., after the murders at Jackson State and Kent State, May 1970;
>
> Presidio Army Base and M-P station, San Francisco, July 26, 1970;
>
> Federal offices of HEW (Health, Education, and Welfare), (Women's Brigade), San Francisco, March 1974; . . .

Mr. Speaker, this is a direct quote from Prairie Fire, the revolutionary manifesto of the terrorist Weather Underground organization which publicly takes credit for all these bombings and other criminal activity which resulted in the FBI investigation of Special Agent Kearney and his squad 47.

Law enforcement officials became fully aware of the violent terrorist objectives of the Weather Underground during the summer of 1969, when the group's leaders announced that they were revolutionary Communists—and several of them—including Bernardine Dohrn, Ted Gold, and Diana Oughton traveled to Cuba to meet with agents of the Hanoi government in North Vietnam—with whom the United States was then at war.

Ted Gold and Diana Oughton were killed in March 1970, when an expensive Greenwich Village townhouse that they were using as a bomb factory was destroyed accidently by their own explosives.

Bernardine Dohrn then went underground and in a communique distributed via the media declared war on the American people using "the classic guerrilla strategy of the Vietcong."

It was shortly after this announced declaration of war by Dohrn and the Weather Underground that the bombings started in fairly rapid succession.

It was at the same time that Special Agent John Kearney and others received orders to investigate and, if possible, apprehend the Weather Underground criminals to stop their violent terrorist activities against innocent American citizens.

To accomplish this, Kearney utilized investigative techniques that had long

been used to monitor and find fanatical criminals and subversives—including the opening of mail that contained information and plans of future violence, and telephone wiretaps to locate the wanted criminals.

Mr. Speaker, I do not see—and I do not believe the vast majority of the American people will see—why the Attorney General is now permitting loyal and dedicated FBI special agents to be indicted and prosecuted for using such intelligence techniques to stop fanatical terrorists whose announced aim was to kill American citizens and destroy property to achieve a political objective through violence and intimidation.

Government—and that includes law enforcement agencies such as the FBI—must guard against illegal conduct which violates the constitutional rights and freedom of our citizens and their society—just as it must insure the right of all individuals to peaceably assemble and exercise their first amendment rights.

I wonder if the Attorney General has paused to ask himself—as he continues this course of action against Special Agent Kearney—what will happen to our whole system of law enforcement and our delicately balanced constitutional system if he allows the destruction of responsible and efficient intelligence efforts?

Even former Attorney General Ramsey Clark recognized the absolute necessity of such intelligence efforts to stop civil disorder and violence, when he stated as the basis for establishing the Justice Department's interdivision information unit in December 1967:

It is imperative that the Department seek to obtain the most comprehensive intelligence possible regarding organized or other purposeful stimulation of domestic dissension, civil disorders, and riots. To carry out these responsibilities we must make full use of and constantly endeavor to increase and refine the intelligence available to us, both from internal and external sources, concerning organizations and individuals throughout the country who may play a role in either instigating or spreading disorders or in preventing or checking them.

Mr. Speaker, Edward P. Morgan, a Washington attorney and former special agent of the Federal Bureau of Investigation, has eloquently stated the reasons why the current action against John Kearney threatens to have a devastatingly adverse impact on the resourcefulness and effectiveness of counterintelligence operations in the future—and on the morale of the law enforcement effort itself.

In a 31-page brief that states 13 separate reasons based upon law and commonsense why the Kearney indictment should be dropped, Mr. Morgan has said:

IX

Prosecution of Agent Kearney will have a devastatingly prejudicial impact upon the resourcefulness and effectiveness of counterintelligence investigations in the future.

As recently as 1975, the United States asserted, in a Memorandum as *Amicus Curiae* in the *Barker-Martinez* cases, that—

"In regard to warrant searches related to foreign espionage or intelligence, the Department does not believe there is a constitutional difference between searches conducted by wiretapping and those involving physical entries into private premises. One form of search is no less serious than another. It is and has long been the Department's view that warrantless searches involving physical entries into private premises are justified under the proper circumstances when related to foreign espionage or intelligence."

Presumably, the Executive Branch still believes it has the Constitutional authority, in foreign espionage and intelligence matters, to authorize warrantless searches, including but not limited to wiretaps. But if prosecutions against FBI agents are pursued, what agent in the future will be foolhardy enough to carry out such an order without seeing first-hand the authorization of the President of the United States?

If putative agent defendants may not count on the support of the Executive Branch, whose instructions they thought they were fulfilling, why should future agents disregard the warning that anything they do, no matter how well intentioned or sanctioned by practice, will be put to the test of strict criminal liability at a later time when different perspectives may have settled in?

It will indeed be a sad day for this country if the agents who are charged with protecting citizens from criminal incursions upon their security are made to think it wise and even necessary in their own self-interest to consult private legal counsel before carrying out an order or an investigative authorization unless the legality thereof is affirmatively established or is otherwise unquestionable.

Resourcefulness and initiative should not be dampened—even destroyed—by applying new and retroactive rules to old methods sanctioned or seemingly so at the time. The FBI will understandably become an ineffectual force whose pusillanimity will be epitomized in "play it safe"—do nothing!

If the Department of Justice has not already laid down new explicit guidelines for the future, it should do so. But in the process, it should not seek a scapegoat for the past. There were too many high officials who were or should have been aware of relevant events. Many of them are dead. Too many Presidents likely knew what was being done, or had some idea of it, wihout halting it or laying down definite guidelines. As noted by Professor Wechsler, when consultant to Attorney General Levi during consideration of prosecution for the CIA mail opening program, it would be like indicting "an era".

The counter-intelligence agents of this country should be instructed in permissible techniques of investigation and clearly warned of those violative of law. The new rules, whatever they may be, should be prospective only.

But it should be made abundantly clear that if agents perform their duty within authorized limits and follow authorized procedures, they will receive the support and backing of the United States Government if those practices come under criticism at a later time.

The soldiers in the trenches should not be held accountable for the judgmental mistakes of the generals. To attempt to do so would be an unconscionable breach of Governmental loyalty, a loyalty owed to all its servants.

XII

FBI morale has been progressively deteriorating for no justifiable legal reason.

That the morale of the FBI has suffered grievously from the threats of prosecution is indisputable. In one significant and unfortunate respect the blow to morale has been fatal. Aside from the great sense of pride that has been sullied, perhaps the hallmark of every agent—and the true source of the FBI's high morale—has been the certain confidence that he was a part of an elite body, the world's finest law enforcement organization; that he could proceed in unqualified assurance that his fellow agents and superiors were engaged in vital work required by the security of our country; and that, most of all, he was justified in the conviction that he could proceed in full faith and confidence in fulfilling orders of his superiors.

This confidence—this assurance—this conviction welded together the conception and implementation of orders in a smoothly-functioning endeavor so necessary to a paramilitary organization. What with the threats of prosecution and the indictment of former agent John Kearney, all of this has been shattered since an agent may no longer unhesitatingly accept and fulfill his orders even when they appear lawful and reasonable to him in the circumstances. Now he must evaluate the validity of his orders and make an independent judgment of their legality (even though the Attorney General has publicly deplored the fact that the FBI has no satisfactory guidelines or "charter" to assure agents of their authortiy in matters of internal and national security). An organization such as the FBI simply cannot function in such an atmosphere of uncertainty and indecision. When the day comes that an agent must consult a law book or confer with a lawyer before he can with assurance implement an order, on that very day the FBI dies!

To be sure FBI agents should not be immune from prosecution for crimes committed simply because morale may be adversely affected.

However, the fact that a prosecution may destroy the entire morale of a great law enforcement body upon which our nation's security depends is a major consideration in the exercise of prosecutorial discretion vis-a-vis institution of a criminal proceeding where under all of the facts grave doubts eixst as to whether the legal prerogatives in carrying forward with investigations have ever been delineated and defined for the agent, as the Attorney General has so found and publicly stated. In such circumstances, a prosecution is ill-conceived.

The morale problem is exacerbated by the incomprehensible refusal of the Department of Justice, as otherwise discussed herein, to provide funds for the defense of agents charged or threatened with prosecution, even though the allegedly offending conduct clearly occurred in the course of performance of duty.

Mr. Speaker, it is unconscionable that this indictment has been sought and that former FBI Special Agent John Kearney is to go to trial.

I join the gentleman from Louisiana in my sincere hope that the Attorney General will reconsider this action, and move to stop the prosecution and trial in this case.

Mr. WAGGONNER. Mr. Speaker, the current case involving the incidentment of a former FBI agent for alleged violations of the civil rights of persons under investigation as a result of Weather Underground bombings came as a shock to present and former FBI agents, members of other national intelligence agencies, the law enforcement profession and the public. The most shocking aspect has been the conduct of the Department of Justice which instituted the action.

From the outset, there have been any number of unwarranted leaks of information to the news media about the case. The leaked information has included the names and alleged acts of FBI agents under investigation, administrative details of the case, and even matters involved in grand jury proceedings. The nature of leaked material, particularly the grand jury matters, spotlighted the Department of Justice itself as the probable source of the leaks.

A careful analysis by legal staff members of the Society of Former Special Agents of the FBI of the news items—most of which were attributed to "sources close to the Department's investigation"—reflects a deliberate and well calculated sequence of leaks designed to influence the investigation and to create an atmosphere prejudicial to the agents involved.

Both the headquarters of the FBI and the president of the Society of ex-FBI Agents vehemently protested that the leaks and the "trial in the press" atmosphere were impairing the efficiency of the FBI, bringing great anguish to the families of agents involved, and seriously jeopardizing the rights of the agents so publicly cited.

Attorney General Griffin Bell himself publicly expressed indignation that individuals in his own Justice Department had been furnishing to the news media privileged information regarding the Department's investigation of FBI agents. Mr. Bell described the leaks as "unethical and inexcusable," and he accused those responsible with trying to "manage" him and attempting to direct the course of the Department's investigation.

This incidence of leaks, and the Department's contradictory statements concerning them, reflects a lack of professionalism, a total disregard for its own rules and code of ethics, a violation of the confidentiality required for grand jury investigations, and an inability to exercise control over its own officials and personnel. Surely, the Department of Justice, which cannot control its own officials to assure a fair trial, should be barred from prosecuting the victims of its leaks.

It is ironic and entirely unconscionable for the Department of Justice to persevere in prosecuting FBI agents for alleged civil rights violations in pursuit of fugitives from justice, and then at the same time actually violate the rights of the agents themselves.

The excesses that have already been exhibited in this case border on abuse. Anything smacking of a vendetta by the Justice Department against the FBI can only serve to weaken an already shaken criminal justice system. This cannot be allowed to happen.

Calm and reasonable approaches are not only called for, they are demanded.

Mr. WEISS. Mr. Speaker, I would like to comment on the defense of Mr. Kearney and the criticism of Attorney General Bell made by some of my colleagues.

Two themes have dominated their remarks. The first concerns the FBI's morale, the second the judiciousness of prosecuting Mr. Kearney in the "relatively calm days of 1977," to use the gentleman from California's, Mr. DANIELSON, words, for crimes committed in the "chaotic period of 1970–71."

I would like to address the morale issue first. While I believe the FBI should function with a high degree of commitment to its duties, to attach more importance to morale than to the law is a curious interpretation of legal liability, one that undermines the concept of a nation ruled by law, not by individuals.

My colleagues also fail to note the debilitating effect on FBI morale that could result if the prosecution of Mr. Kearney were stopped. What can FBI agents—men who are repeatedly asked to take considerable risks to uphold our laws—think of the sanctity of those laws when one of their superiors is not even prosecuted for an alleged violation of those laws, especially when the Bureau's former chief, J. Edgar Hoover, specifically forbade the activities in question in 1966. While Mr. Kearney is entitled to the fullest presumption of innocence, the matter needs to be decided not according to criteria as vague as "morale," but in a court of law, according to the laws this country is built upon.

My colleagues are deeply concerned with the FBI's morale, but little thought has been given to the morale of the American people. Our Nation is recovering from a period of great mistrust of government. If, in the midst of this, Congress—the Nation's foremost lawmaking body—were to allow a former agent of the Nation's most famous law enforcement body to escape prosecution, our Government's credibility could suffer a pernicious decline, dragging down with it the morale of the people.

As for the political and social climate during the early seventies, there is no doubt that we were a troubled nation. This, however, doesn't excuse anyone from obeying the law. Social climate doesn't determine guilt or innocence; the courts do. Surely, my colleagues who invoke memories of Weatherman activities in defending Mr. Kearney would not allow the poverty indigenous to the social climate of our Nation's ghettos remove culpability for criminal behavior committed there. Again, as was the case with the morale issue, the rule of law must take precedence over other concerns.

Even those who argue that the Justice Department should drop the prosecution of Mr. Kearney because similar charges were dropped against CIA agents don't claim that foreign espionage—the criterion for dismissing the CIA charges—necessitated Mr. Kearney's alleged activities. Despite protests to the contrary, there is no legal basis for stopping the prosecution of Mr. Kearney.

One final point. The gentleman from Louisiana, Mr. LONG, has asked what the purpose of prosecuting Mr. Kearney is. It is an excellent question. The purpose is not to punish Mr. Kearney or to embarrass the FBI. With all due respect to Mr. Kearney and the Bureau, this issue's importance goes far beyond them. It goes to the marrow of our legal system. If the Justice Department ceases its prosecution of Mr. Kearney, it is a dangerous step toward undermining not only our Nation's laws and the Constitution, but our Nation's sense of justice as well.

CARTER'S MIDEAST POLICY

The SPEAKER pro tempore (Mr. RONCALIO). Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, I commend the President for his Middle East peace initiatives. President Carter has rightly recognized that a stalemate in Middle East peace efforts will benefit no nation concerned. He has, therefore, directed his attention to promoting a momentum toward a resolution of conflict in that region which alone can avert further tragedy.

The United States has a major role to play in promoting a Mideast settlement, a role which is inescapable. We are, after all, deeply involved in this area through our moral, economic, and political obligations. We are annually pumping over $3 billion worth of aid into the Middle East which is designed to develop an atmosphere conducive to peace. We sell arms both to Israel and to Arab States. By means of this military equipment, foreign assistance, and trade we have extended our influence and interests throughout the area. Furthermore, a U.S. security commitment to Israel, though unwritten and untested, exists: in 1973 we placed our Armed Forces on alert when Israel's fate was threatened. Our involvement in the Middle East is great, therefore, and does not permit us to remain indifferent or aloof at this moment of decision.

President Carter is dedicated to encouraging the parties involved to seek a mutually acceptable solution to their differences. He has recently restated his belief that the framework for negotiations should continue to be, as it has been in the past, U.N. Security Council Resolution 242. None of the parties should approach the negotiating principles of 242 selectively but instead should express a willingness to discuss and consider all issues and problems. The West Bank and the Palestinians are two such issues that need to be deliberated within the context of negotiations. To rule out their consideration prior to the convocation of a peace conference will cripple the possibility for a serious initiative and destroy our hopes for peace.

I urge my colleagues to support the President in his diplomatic efforts in the Middle East. We need to combine our desire for peace with his in encouraging a resolution of conflict among Israel and her Arab neighbors. We in Congress must recognize that a final peace will be built on compromises offered and agreed to by all sides.

TEACHING KIDS THE NEW DISCRIMINATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, in the most recent edition of Newsweek magazine, Meg Greenfield presents an argument against quotas and reverse discrimination entitled, "Teaching Kids the New Discrimination."

It is appropriate that the edition of the magazine in which this article appears is dated July 4 because the issues which Ms. Greenfield raises are at the heart of our belief in the equality of men and women. What the article points out most eloquently is that we are teaching a whole generation of young people that

discrimination is not necessarily a bad thing; but, in some instances is regarded as a good thing. For young people to have that kind of a representation made to them is a tragedy with long-term implications.

It is important to realize that discrimination can never be used to eliminate discrimination because the only thing produced is more discrimination. We can never use injustice to do away with past injustices because all we produce is more injustice. These are the lessons our young people should be learning and not a new form of discrimination as a means toward a better society.

I include the Greenfield article in the RECORD at this point:

TEACHING KIDS THE NEW DISCRIMINATION

(By Meg Greenfield)

Out of the mouths of babes come depth charges. It took about a week for a remark my 9-year-old niece made recently to sink into my consciousness . . . and then explode. I was visiting her family out West and, as we drove along one day, making the inevitable visiting-auntie inquiries about the children's schooling. At some point the subject of a popular special art class at a nearby school came up—either Robin or her 7-year-old brother, Adam, mentioned it—and she explained to me in the most matter-of-fact, rancorless way that they couldn't enroll because they were white. But Robin did have a piece of happy information for the group: the children's good friend and neighbor Bobby had just been accepted.

"But he's not black," a puzzled Adam observed.

She *knew* it, Robin said, in that voice in which all 9-year-old girls address their younger brothers. But Bobby *was* "part minority." Oh? Yes. "He can go," she explained, "because he's half-Indian."

We all rejoiced at Bobby's good fortune and drifted on to some other topic.

He can go because he's half-Indian—the implication of the children's casual backseat racial chatter didn't strike me until I was back in Washington, listening once more to another kind of racial chatter: the tedious, specious, strained and generally irrelevant nonsense that the guardians of our public well-being have been speaking on the subject lately. U.N. Ambassador Andrew Young was redefining his notion of a racist, when I returned, to include just about everything that moves. On the so-called "reverse discrimination" front, Secretary Califano was caught up in a continuing controversy with the civil-rights establishment and others over what is a "quota" and what is a "goal" and how many goals can dance on the head of a quota.

BLOODLINES

But these were arguments for debating clubs. They seemed to me to have next to nothing to do with the weird and alarming side effect of our drive to achieve racial fairness—of which I had got such a chilling glimpse in the car that day.

That side effect is a preoccupation with bloodlines and race and an acceptance of the idea that these are proper standards for deciding who will be treated how by the state. My informal researches among my friends indicate that the kids in my family are far from unique. Evidently in many parts of the country where desegregation efforts are under way, the young are now able to discuss the various blessings and penalties that flow from a school chum's racial make-up more or less in the manner of twelfth-century bishops discussing "consanguinity"—which royal cousin might marry which noble half brother without becoming an abomination in the eyes of the church. The school district in which my niece and nephew live in fact provides elaborate listings of different racial *fractions* and *mixtures* which qualify some children for certain programs and disqualify others from taking advantage of them. This too, as I understand it, is now fairly widespread practice.

REDEMPTIVE EFFORTS

Before you say it, I will: but these are benign, positive, downright redemptive efforts to eliminate the effect of years of discrimination against blacks and other racial and ethnic groups. In principle, you are right. As an example, it is worth noting that the purpose of the conditions governing what my own niece and nephew may do is to draw children of different races and backgrounds together. I will concede that I find this an unexceptionable aim. I think it is important, and I devoutly hope it works.

Nor do I think we have to be pure to the point of finickiness in trying not to deal in racial classifications as we work to overcome the injuries that earlier, malign racial classifications brought about. From the moment the cataclysmic civil rights legislation of the middle 1960s was enacted it was obvious that we were going to have to let the authorities traffic a bit in race in order to put an end to racially discriminatory practices. If you couldn't count who was in a school by race, you couldn't judge whether that school had desegregated in anything but theory. So there had to be some racial guidelines and bench marks and standards and the rest; informal methods of measuring whether any progress was in fact taking place. And in my judgment, the nation didn't lose anything by somewhat relaxing the rigid posture that had prevented people from realistically taking stock of what was going on within our institutions—and which had raised "color blindness" to the status of an absolute virtue, even when it had been used as a cover for perpetrating racial injustice.

I will make one more concession. It is that, at least in relation to those two children who are special to me, I am not particularly worried by the prospect of the pie's being sliced up in a different way. They will make it all right, reverse discrimination or no; and, stuffy old martinet of an aunt that I am, I calculate that a little challenge and disappointment along the way will only help them. I wouldn't promote that as a social theory applicable to all, since I expect that on a sustained and widespread basis reverse discrimination could lead to some pretty explosive political conditions. But I would say that so far as the children are concerned, who gets what is not the real issue.

The real issue is what we are doing to the values and perspectives of small children throughout the country. By our brazen, clinical insistence on a Nuremberg-like analysis of each child's racial and ethnic background—is he half this or only a quarter that?—we are giving the young to believe that these distinctions are the proper stuff of official decisions. We are distorting their understanding of the system in which we live—and we are doing so in a very fundamental, antidemocratic way.

EXPLAINING CIVIL RIGHTS

My niece and nephew haven't been around very long. They aren't 42 or 85 or 104 like the rest of us. They are post-civil-rights-revolution children who may one day fully understand the meaning of Selma, Ala., and Philadelphia, Miss., and the other bloody battlefields of the movement. But I think it is going to be harder than some people expect to explain to them precisely and profoundly what those battles were all about. And that is because they simply assume—how could they not?—that it is acceptable for the folks who run things to send one person here and another there strictly because of the color of his skin. They think the half-Indianness of their friend down the street is good and sufficient reason for the authorities to decree that he be treated differently.

Is all that so benign? Is is self-evidently something we should accept as the social price of righting old racial wrongs? Should we not be taking stock of how far we have wandered into a morass of new discriminations, which we are teaching the children of this country to view as the normal democratic landscape? I wish the big hitters of our racial politics would get off the platitudes and talk about that.

A TRIBUTE TO HENRY FELTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MCDADE) is recognized for 5 minutes.

Mr. MCDADE. Mr. Speaker, July 10, 1977, will be a very significant day in the life of the community of Montrose, Pa., because it is a very special day in the life of one of its leading citizens. On that day, Mr. Henry Felton will be celebrating his 60th year as a journalist and as publisher of the Montrose Independent. To help make that celebration more meaningful, I wish to call my colleagues' attention to the tremendous career of this fine man.

Henry Felton has been writing news articles since 1915. Two years later he moved from the small town of Jackson in his native Susquehanna County to Mointrose where he learned the fine points of the printers trade. Henry served until 1959 as associate editor of the Independent. In 1959, upon the retirement of his mentor, Mr. W. W. Aitken, Henry became its editor.

Skilled in all facets of journalism, Henry Felton has written a most entertaining book, "The Dashing Years of the Horse and Buggy; the end of an Era," describing the history of Susquehanna County and the Harford Fair, a 120-year-old annual country fair that lures people from all across the State. He is also author of a weekly radio program on Station WPEL in Montrose.

Henry Felton has been and continues to be a main man in his community. The Red Cross, Humane Society, Tuberculosis Society, Montrose Rotary, Nutrition Council, and the Fire Company of Montrose are just a few of the organizations to have benefited from his talents.

His career in journalism has been filled with awards, all of which reflect the great esteem in which he is held. He has been honored by the Boy Scouts, the VFW; the ASCS, the Volunteer Firemens' Association, the U.S. Marines, the Department of Health, Education, and Welfare, the Social Security Administration, and the Future Farmers of America.

Mr. Speaker, 60 years is a long time in any occupation. It is a long time for living and Henry Felton has made the most of his time. If his community needed a conscience, Henry was it. If they needed straight, honest news reporting that comes with 60 years in the trade, then Henry Felton gave them the news. He has given so much time and talent to his home area that he has emerged as one of northeastern Pennsylvania's first citizens.

I know the Members of this Congress will join with me in giving an enthusiastic salute to one of the finest men in our community, Mr. Henry Felton. I trust

that the coming years will be filled with good health and good fortune for the entire Felton family.

THE ADMINISTRATION HAS ADOPTED THE PLO POSITION ON ISRAEL'S BORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, I was dismayed to learn today of the administration's change of position on Israel's borders as a prelude to forthcoming peace negotiations between Israel and her Arab neighbors.

A return to the 1967 borders is simply to invite another war in the region. The 1967 borders were never a sustainable basis for peace in the region because Israel was so vulnerable to military attack. Without secure borders which permit the Israelis to develop a defense in depth, there can never be a lasting peace in the region.

The position the Carter administration has adopted would set the cause of peace back 10 years, rekindling hopes among the most militant Arab zealots that the United States will cooperate with them to achieve through negotiation what Arab armies could not achieve by force, namely to force Israel to acceed to a set of "peace" arrangements which would compromise Israel's security.

Peace in the Middle East cannot be obtained by an imposed solution by outside powers. The Soviet Union tried to do so by force in 1973 and failed. The United States should not now try to do so by diplomatic means. Only a mutually acceptable peace settlement to the powers in the region can have any durability.

A prerequisite for peace in the Middle East is secure borders to enable the State of Israel to survive a change of attitude on the part of her Arab neighbors. If there is any lesson to be learned from three Middle East wars it is that. The inexperience of the Carter administration's officials in dealing with an issue as complex as the Middle East is manifest in the most recent administration announcements. I hope they have the wisdom to reexamine them.

Israel has shown a willingness to compromise with her Arab neighbors on the issue of suitable boundaries, witness Israel's acceptance of U.N. Resolution 242. We should refrain from interference in the negotiations by seeking to impose preconditions or "required" outcomes of such negotiations before they even take place.

DISABILITY INSURANCE AMENDMENTS OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 30 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I rise today to introduce H.R. 8076 which is revised version of H.R. 15630, 94th Congress. At the time I introduced the bill last September I realized it was too late in that Congress for legislative action to be taken. The bill did serve the intended purpose of focussing attention and study on the many problems of the disability insurance program. The legislation I introduce today reflects the commentary received on the earlier bill and further study of the disability insurance program.

BRIEF SECTION-BY-SECTION DESCRIPTION OF H.R. 8076, 95TH CONGRESS, DISABILITY INSURANCE AMENDMENTS OF 1977 SHOWING DIFFERENCES BETWEEN IT AND H.R. 15630, 94TH CONGRESS

Section 1: Short title.

Section 2: Financing.—In order to prevent the Disability Trust Fund from being exhausted in late 1978 or early 1979, my new bill would transfer funds from the Old-Age and Survivors Trust Fund. Last year's bill required a transfer of revenues of 0.20 percent of combined employer-employee tax but this year, because of the passage of time, a transfer of 0.30 percent will be required. Both trust funds would last through 1981 under this legislation. A separate tax would be established for the disability program but no new sources of revenues would be utilized pending resolution of short-term and long-term problems of social security financing.

Section 3: Disability definition.—In order to decrease subjectivity and to promote uniformity in application the definition in my bill this year would provide: First, for those individuals under age 50, a determination on the basis of meeting or equaling the medical listings currently applicable; second, for those over 50 (a) a determination on the basis of meeting or equaling the medical listing; or (b) a determination by meeting the occupational definition applicable to the blind—at age 55—in present law but on a reduced benefit basis similar to that for disabled widows or widowers. My bill last year contained the so-called Yourman definition which delegated authority to the Secretary who by regulation would establish classifications of degrees of impairment and abilities to work which when combined with other classifications of nonmedical factors, such as age, education, work skills, would result in standardized, less individualized determinations of disability.

Section 4: Disability determination under State agreements.—The new bill basically contains the provisions in last year's bill in explicitly giving Social Security Administration the authority to establish standards for effective State administration of the disability program and providing specific authority for termination of agreements with States who do not measure up. This year's bill would add a provision which would allow the Secretary of HEW to take over the employees of State disability units in case of the termination of the agreement to prevent disruption of the program. Provisions are made in the bill to protect the pension rights and other fringe benefits of States employees following precedents in the National Guard Technicians Act.

Section 5: Appeals process.—The section contains a number of provisions not contained in last year's bill. The bill spells out the appeals process in more detail with a specific provision authorizing reconsideration with, at the option of the clamant, face-to-face conference with the State agency decisionmaker.

Also included are provisions designed to better inform the claimant of the reasons for the decision and better focus the issues for any further appeal. Finally, the bill provides a specialized disability court which would not only greatly relieve the Federal district courts but will establish a more uniform and systematic body of precedents to govern the entire disability process. Certain other provisions are included to prevent possible abuses in court remands.

Section 6: Earnings level governing benefit termination.—This provision is somewhat modified from last year's bill which would have established the SGA level—the amount of earnings which will terminate benefits—on a dynamic basis following the retirement test mechanism. This would mean that the current figure of $200 a month would have been raised to $240 last year, $250 this year, $260 next year, and so forth. The Administration had previously proposed this step but now the implementing regulation has been withdrawn because of second thoughts on its cost ramifications and questions as to whether substantial increases in SGA really is an effective work incentive. My new bill would call for a SGA figure of $250 with regulatory authority for further increases. The bill would also authorize a study of various alternative work-incentive approaches including the provision in last year's bill to reduce benefits on a $2 of earnings for $1 of benefit basis. The Ways and Means Committee and the Finance Committee would be kept fully informed of the progress of the study.

Section 7: Period of trial work.—This is virtually identical to the 24-month trial work provision in last year's bill which is designed to stimulate work incentives. It differs in that it has a period of complete income exemption for 12 months while during the final 12 months there is benefit suspension if earnings exceed the SGA level but no loss of eligibility. Also there is a provision which continues medicare benefits for 24 months after loss of eligibility because of work as long as the individual does not medically recover.

Section 8: Vocational rehabilitation services for disabled workers.—Last year's bill, upon the recommendation of the GAO, placed a limitation on the amount of trust funds available for VR services based on 1976 expenditures. The Administrations, both Ford and Carter, have imposed even greater budget cuts.

The proposed amendment suggests a more substantive approach to the problem. Funding and basic program responsibility would be placed on the regular VR program and agency. The multisource funding and juggling of program rationale would be eliminated and the regular VR program funds would be increased by $200 million effective in fiscal 1981. Along with this, bonus matching would be available to the State VR agency for each rehabilitation of a disabled beneficiary where it could be shown that his termination from benefit status was due to the rehabilitation services provided and he had remained employed for a 12-month period after termination.

Section 9: Continuation of payments during vocational rehabilitation.—A pro-

vision is added in my new bill to provide for the continuation of disability benefits during an approved VR program. In some instances such termination of benefits has been detrimental to the potential of beneficiaries for employment.

Section 10: Elimination of second 24-month medicare waiting period.—This is identical to last year's bill and would eliminate the provision in the law that requires an individual who has gone off the rolls to wait another 24 months after he is in benefit status again before he can receive medicare.

Section 11: Payment for existing medical evidence.—This was in last year's bill and has been slightly expanded to cover the cost of a doctor summarizing the medical record of a claimant in addition to covering the cost of photocopying medical records. Such authority already exists in SSI although not spelled out in the law.

Section 12: Payment of certain travel expenses.—This provision authorizes travel expenses for claimants to medical examinations requested by social security and to parties, their representatives, and all reasonably necessary witnesses for travel to reconsideration interviews and proceedings before ALJ's. This language has appeared in the HEW Appropriations Act but the Appropriation Committee has requested the removal of such "point of order" language which should more appropriately appear in the Social Security Act.

DISABILITY BENEFITS WHICH REDUCE WORK INCENTIVES

Last year's bill provided a limitation on disability benefits—established at the maximum retirement benefit currently paid—in an attempt to control the benefits of younger workers, particularly those at the higher wage levels, which constituted a disincentive for return to work. This "cap" has been eliminated from the bill because the Carter administration wage indexing decoupling bill, without a transition provision for disability and survivor benefits, appears to do a good job in reducing the replacement rates for younger disabled workers at all earnings levels.

There now follows a more detailed discussion of my new legislation with supporting information and rationale.

INCREASE IN FINANCING

Like last year's bill this measure is aimed at solving the very real and rapidly approaching fiscal crisis in the disability insurance program. By early 1979, or even late 1978, if something is not done, the disability trust fund will be exhausted.

Otto Eckstein of Harvard University, in the past week, described the problem of the disability program in testimony before the Senate Finance Committee:

> The Disability Fund will be out of money by 1978 or 1979 because its deficits are now reaching 20% of outlays. The rate of increase of spending of the disability fund over the last five years is an enormous 21% a year, and the report of the Board of Trustees of the Social Security funds projects a rate of increase of over 13% for the next five years. Total beneficiaries at the end of fiscal 1976 equalled 4,533,000 persons, making this perhaps the largest redistributive social program in the U.S. Both recent experience and future estimates are substantially higher than had been expected earlier. According to the latest Trustees Report, the cost of the program, measured as a percentage of taxable payroll, would rise by 82% between 1977 and 2001, whereas the Old Age and Survivors Program would rise by just 11%. The number of beneficiaries would exceed ten million, a striking figure considering the improving health care for the American people.

In order to provide additional financing for the short term, my bill would provide an additional 0.30 percent of combined employer-employee tax receipts for disability beginning in 1978. H.R. 8076 would establish an earmarked tax for the disability insurance program in the same manner as is done for the hospital insurance program. The Ways and Means Committee followed this route in the medicare bill in the 1965 amendments to clearly separate the programs for cost purposes and to provide that an actual change in the tax rates was necessary rather than a reallocation which might be given more perfunctory consideration by the Congress. This reasoning is equally applicable to disability insurance which now about equals medicare in cost.

The following table shows the tax rates proposed under H.R. 8076. It should be emphasized that the combined old-age and survivors, disability, and hospital insurance tax rates would be the same as those under existing law. The proposal merely creates a separate and higher tax for disability insurance, with a corresponding reduction for old-age and survivors insurance.

SOCIAL INSURANCE TAXES: OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

	Present law	Proposal	
	OASDI	OASI	DI
Employee (percent):			
1977	4.95	4.375	0.575
1978	4.95	4.200	.750
1979	4.95	4.200	.750
1980	4.95	4.200	.750
1981	4.95	4.200	.750
Employer plus employee (percent):			
1977	9.9	8.750	1.150
1978	9.9	8.400	1.500
1979	9.9	8.400	1.500
1980	9.9	8.400	1.500
1981	9.9	8.400	1.500
Self-employed:			
1977	7.0	6.185	.815
1978	7.0	5.940	1.060
1979	7.0	5.940	1.060
1980	7.0	5.940	1.060
1981	7.0	5.940	1.060
Hospital insurance (present law):			
1976	.90	1.80	.90
1977	.90	1.80	.90
1978	1.10	2.20	1.10
1979	1.10	2.20	1.10
1980	1.10	2.20	1.10
1981	1.35	2.70	1.35
OASDHI—Combined (present law and proposal):			
1976	5.85	11.70	7.90
1977	5.85	11.70	7.90
1978	6.05	12.10	8.10
1979	6.05	12.10	8.10
1980	6.05	12.10	8.10
1981	6.30	12 60	8.35

The following tables show that the disability trust fund under my bill would not be exhausted until late 1981, as opposed to 1979 under present law. Of course, the old-age and survivors trust fund would be exhausted earlier than is projected under present law, which would also be in 1981.

The Congress will take action on legislation this year to strengthen the financing of the social security program, which will result in increases in revenues for both the disabilty program and the old age and survivors program and the figures contained in the tables will be altered. Nevertheless, the basic ideas I am presenting—a shift in revenues from the OASDI trust fund to the DI trust fund and a separate identifiable tax to finance the disability program—would be an integral part of such remedial action.

ESTIMATED OPERATIONS OF THE DI TRUST FUND DURING CALENDAR YEARS 1977-81 UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY A PROPOSED REALLOCATION OF THE CONTRIBUTION RATES BETWEEN OASI AND DI

Dollar amounts in billions

Calendar year	Income		Outgo		Net increase in fund		Fund at end of year		Fund at beginning of year as a percentage of outgo during year	
	Present Law	Proposed	Present Law	Proposed	Present Law	Proposed	Present Law	Proposed	Present Law	Proposed
1977	$9.6	$9.6	$12.1	$12.1	−$2.5	−$2.5	$3.3	$3.3	48	48
1978	10.8	13.4	13.6	13.6	−2.8	−.3	.5	3.0	24	24
1979	11.8	15.0	15.4	15.3	−3.5	−.3	−3.1	2.7	3	20
1980	12.7	16.5	17.4	17.3	−4.6	−.8	−7.7	1.9	(1)	16
1981	14.6	17.8	19.5	19.5	−4.9	−1.6	−12.6	.3	(1)	10

ESTIMATED OPERATIONS OF THE OASI TRUST FUND DURING CALENDAR YEARS 1977-81 UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY A PROPOSED REALLOCATION OF THE CONTRIBUTION RATES BETWEEN OASI AND DI

1977	72.5	72.5	75.7	75.7	−3.2	−3.2	32.2	32.2	47	47
1978	79.8	77.3	83.9	83.9	−4.1	−6.6	28.2	25.6	38	38
1979	87.7	84.5	92.1	92.1	−4.4	−7.6	23.8	18.0	31	28
1980	96.1	92.3	100.6	100.6	−4.5	−8.3	19.3	9.7	24	18
1981	102.8	99.7	109.4	109.5	−6.7	−9.8	12.7	−.1	18	9

[1] Fund exhausted in 1979.

STATE-FEDERAL DISABILITY ADMINISTRATION

When the program was established in the 1950's, an effective rehabilitation program and good working relationships with the medical profession were deemed essential. For these reasons, Congress indicated that it wanted the actual determination of disability to be carried out by the State vocational rehabilitation agencies. Thus, the law directed the Secretary of Health, Education, and Welfare to contract with the State vocational rehabilitation agency, or another agency the State might designate, to carry out the function of determining disability under the Federal program. This same system has been carried over into the SSI program.

Criticism of the existing system and the rationale for its establishment has persisted over the years. The relatively few rehabilitations and even fewer terminations from benefit status have been one of the most disappointing aspects of the program. GAO reports to the subcommittee in recent years have been quite critical of both the rehabilitation aspects and the current administration of the State agency system of making disability determinations. A GAO report has emphasized the lack of uniformity in decisionmaking between the various State agencies and Federal adjudicators. It stated:

The function of State agencies in the disability determination process is the same—deciding whether or not a claimant is disabled. However, the means used in reaching those decisions differ significantly among the States.

The differences result, in part, because the agreements between the Secretary of HEW and the States provide that the State can (1) determine, with the Social Security Administration's concurrence, where the State agency will be located within the State heirarchy, (2) establish its own organization and staffing mix, and (3) determine its own case-processing procedures.

The Social Security Administration has not conducted an overall study of the differences that exist among the State agency operations nor developed a model or standard organziation which could provide the States guidance.

Some groups, such as the National Association of Disability Examiners, which represents the State disability examiners, believe that more fundamental steps are necessary and that federalization of the system is essential. Others, including the organizations of the parent VR agencies, believe that there is still validity in the State agency operation and a near-zero capacity in the Social Security Administration to take on any additional burdens.

My bill last year would have made it optional for the Secretary to enter into agreement with a State and he could only have entered into such an arrangement where there was an agency which could efficiently and effectively carry out the required functions. The bill would also have required that the agreement "contain such terms and conditions which will assure effective and uniform administration throughout the United States." The idea was to give a statutory underpinning for the GAO suggestion that more Federal leadership and control could be achieved by the more aggressive use of the Federal-State contract mechanisms. A corrolary provision was specific authority in the Secretary to terminate an agreement because of unsatisfactory performance or because such an agreement was inconsistent with effective administration.

With such authority the Social Security Administration would set and enforce standards for, among other things, quality control, a uniform training program, and model administration structures, personnel requirements, and claims processing procedures.

I requested comments from all the State agencies on the State-Federal provisions of my bill last year and many replied that a strengthened system would not necessarily result, because the Social Security Administration would still be on the horns of a dilemma. It was thought that many States would not go along with Federal standards, particularly those which impinged on program provisions previously established by the States. The Secretary would then be faced with two unsatisfactory alternatives. He could acquiesce and enter weaker agreements with the States which were failing to conform, or the Secretary could terminate their agreements. The former action would undermine his entire program of establishing uniform standards, while the termination route would leave him with no assurance that there would be a disability determination unit which could continue to operate effectively in the State. Moreover, there would be no substantial protection for the rights of the State employees involved and no mechanism for the Social Security Administration to take over the experienced State employees in a quick and effective manner. Thus, when it came to playing "termination roulette" the Secretary, the State employees, and the disability process itself appeared to be the losers.

That this is a realistic assessment of the situation is borne out by a recent pronouncement by the Council of State Administrators of Vocational Rehabilitation, which consists of the Chief Administrative Officers of the VR program and constitutes a majority of the parent agencies who control the disability determination units in the States. The Social Security Administration in responding to the GAO call for more effective leadership in designing more uniform organizational units created a work group which included State agency representatives. Their study, "Model DDS Organization and Workflow Report" was not greeted by much enthusiasm by the State Council of Vocational Rehabilitation Administrators and emphasizes the problem of achieving uniform administration without the ability to enforce the Federal guidelines. The Council emphasized that the "model" should be interpreted as being just that, and should not be interpreted as a mandate or as a required mechanism. The Council also emphasized that the organizational level of the DDS must be determined by each State and, where appropriate, by each VR administrator. Finally, the Council stated that while they may advise its membership to study the principles and concepts contained in the report on "model organization" it will insist that each State continue to be responsible for adjusting its organizational structure and workflow to meet individual State needs.

My bill this year is still based on the belief that, following the framework of H.R. 15630, it is possible to establish a more uniform, effective, and accountable disability system which utilizes both Federal and State auspices. But the proposed modifications to H.R. 15630 will give the Social Security Administration the tools for carrying out the effective leadership which has been called for by the GAO. My new bill will give the Federal Government the ability to carry on a DDS operation wtih minimum disruption if the State decides to terminate its agreement or is forced to terminate because of its failure to carry out its agreement. My amendment, following generally precedents in the National Guard Technicians Act, will allow the the Federal Government to take over all permanent employees of the State agency, to afford these State employees credit under Federal civil service for sick and annual leave, and to credit past State service for retirement purposes with an offset for State benefits based on such service or, if the State is agreeable, to continue State retirement and social security protection with the Federal Government contributing the employer share.

Finally, the proposal, as did last year's bill, would authorize the Secretary to reverse all State agency determinations. Under present law, the authority of the Secretary is limited to reversal of allowances or in making the onset of disability more recent. The bill would allow the Secretary to reverse both allowances and denials. Some might question the necessity for this amendment—or even the present reversal authority—inasmuch as the Federal Government today is examining only a small sample of cases and sending an infinitesimal number back to the States for a change in decision. This minimal review and return policy, which has been questioned as abdicating effective supervision of State agency decisionmaking, is modified to a substantial degree as a part of the revised definition of disability which will be discussed in the next section.

Finally, my new bill would prohibit what is known as "indirect costs" whereby the parent agency is reimbursed under an HEW formula for the services it renders to the disability determination unit. Although this approach is perhaps appropriate to grant-in-aid programs, it is not for the national social security program supported by the payroll tax. Currently as to "indirect costs," the Social Security Administration has no responsibility in determining whether these costs charged to the disability trust fund are valid. My bill would insert the word "actual" before "costs" in the provision which authorizes reimbursement to the State agency for expenditures under the agreement. It would be our intention that

the Social Security Administration in its regular budget process with the State agencies should examine these "indirect costs" charged to the trust fund to see if they are truly ones that should be charged against the disability program.

DEFINITION OF DISABILITY

Lack of uniformity of decisions and control over the adjudicative process is not merely a matter of administrative structure but also the problem of applying highly subjective concepts to millions of individualized determinations of disability. This may also have a relationship to the great growth of the incidence rates in disability over the last 10 years. Since the definition's adoption in the 1954 and 1956 amendments, the language "inability to engage in substantial gainful activity by reason of a medically determinable impairment" has admittedly been one of the most subjective concepts in the social security program. Moreover, experience over recent years indicates that more and more cases are being determined on the basis of the nonmedical factors. These are much more subjective and subject to variation than the medical factors which are spelled out in listings published in regulations.

The definition proposed by our subcommittee consultant, Edwin Yourman, was included in last year's bill. It followed, in general approach, the efforts of the Social Security Administration to relate various degrees of impairment, expressed in terms of ability to do different types of work—heavy, light, sedentary, et cetera, with various combinations of nonmedical factors such as age, education, work experience. This "grid" method appears in the regulations which the Social Security Administration has indicated will be published as a Notice of Proposed Rulemaking by July 30, 1977. The Administration has stated that these regulations can be promulgated on the basis of current legislative authority. The Subcommittee will closely follow their implementation, particularly at the ALJ level, where they provide guidelines which heretofore have not existed.

The definition in the bill I am introducing today for social security disability avoids some of the concepts that have been the most difficult to administer in the current definition. In this regard it is, perhaps, preferable to the Yourman definition and that of the actuarial consultant to the subcommittee, John Miller, which is incorporated in the bill introduced by Congressman LEVITAS (H.R. 5064). It provides for individuals under age 50 to qualify for disability only if they "meet or equal" the medical standards, or "listings," which have been published in regulations now for almost 20 years. Those over age 50 who cannot qualify on the "listings," can still qualify if they meet a more liberal relatively easier concept to adjudicate—an occupational definition of disability of inability to engage in substantial activity "requiring skills or abilities comparable to those of any gainful activity in which (the claimant) has previously engaged with some regularity and over a substantial period of time." This would eliminate the controversial and administratively complex concept in existing law that an individual is not disabled if he is able to engage in any type of substantial gainful activity which has lead to the so-called "national economy" job test.

Under this aspect of the current definition, the Government must cite a myriad of jobs which the claimant is theoretically capable of performing but which may not exist in his immediate locality or for which he may not realistically have a chance of being hired. To mitigate the cost of such an amendment and to emphasize work-incentive aspects, the benefits payable to the over-50 group qualifying on the occupational definition will be based on the benefit-reduction factor used for benefits paid to disabled widows and widowers. Also to encourage return to the labor force the benefits will only be suspended and not terminated on the basis of substantial work. This is the same treatment which is afforded the blind who now can qualify under this same occupational definition at age 55—under the bill this would be reduced to age 50. The disability "freeze" will be applicable even though a substantial work attempt is in process as will be medicare benefits if the claimant has met the 2-year entitlement requirement.

From an administrative standpoint, this amendment emphasizes the aspects of the current definition which are the most objective and, thus, can be administered in a uniform manner. The determination of capability to work at one's former employment or one requiring comparable skills and abilities is a preliminary step in the current adjudicative process. Under the bill, allowances based on the medical listings which provide full benefits for workers regardless of age would be reviewed on a 100-percent basis by the Federal agency.

WORK DISINCENTIVES

One of the problems of the disability program is that during a period when the number of disabled workers coming on the rolls has been rapidly expanding, we are experiencing a declining number of terminations in benefits because of the recovery of the disabled workers. More benefits were terminated because of work or medical recovery in 1967 when there were about 1.5 million disabled workers on the rolls than in 1974 when there were about 2.5 million workers on the rolls. Moreover, the small number of benefits terminated—about 35,000 a year—raises the basic question as to some of the structural aspects of the program such as the benefit formula and the amount of earnings which determine ability to engage in substantial gainful activity.

Otto Eckstein in his testimony last week noted:

> Benefits have improved greatly, raising the incentives to become elegible. Cash benefit levels were raised 82% between December 1969 and December 1975, and in 1973 medical benefits became available to beneficiaries. The administration of the program also seems to have deteriorated. A recent study by the Department of Health, Education and Welfare analyzes termination rates of benefits due to recovery. In 1967, 3.21% of all beneficiaries recovered from disability and ceased receiving benefits. By 1975, only 1.07% were terminated due to recovery.

In the 1974 Ways and Means staff report, it was noted that work incentives problems are being exacerbated by rapidly growing benefits amounts for younger disabled workers. This is due to the fact that the wage base has gone up rather precipitously in recent years and that younger disabled workers can qualify on the basis of as little as 2 years of coverage at the new wage base levels.

The results can be quite startling. An extreme case would be the young worker, age 25, who had worked at the maximum taxable wage base and was disabled in February 1977. He would be entitled to a monthly benefit of $566.90, and, if he had a wife and child, a maximum family benefit of almost $1,000 a month. This family benefit would constitute about 78 percent of his preretirement earnings before taxes and, when the income tax exemption for disability benefits is taken into account, almost 100 percent of these earnings. The actuarial consultant to the subcommittee, Mr. John Miller, describes the benefit situation as one of the basic defects in the system not susceptible to cure by improvement in administrative and review procedures. He states that—

> These excessive benefits not only encourage claims in bordering or invalid cases, but also, in all cases on which awards are granted, include malingering, and discourage recovery or rehabilitation.

The decision of the individual to seek rehabilitation or accept work, which is difficult enough in view of these benefit amounts, is further compounded by the HEW regulation which provides that after a "trial work period' earnings in excess of $200 a month will result in a termination of his family's cash benefits. If the individual has been disabled for 2 years and is entitled to medicare and then he is terminated on the basis of his earnings, he also loses his medicare benefits. Moreover, if he once again becomes entitled to disability benefits, he must wait another 24 months before he can regain his medicare eligibility.

My bill last year had a number of provisions which were designed to deal with the work incentive elements of the system. In my new bill these provisions are reintroduced, but some of them in a perfected form.

First, reduction of excessive disability benefits for younger workers. This provision was designed to accomplish two objectives: First, to remedy the situation whereby benefit amounts are so high as to be against the economic self-interest of beneficiaries to attempt rehabilitation and work; and second, to eliminate a situation whereby retired workers and other older disabled workers who have contributed all their lives to social security receive benefits substantially lower than young disabled workers who worked only a few years at the same wage level.

In last year's bill we provided a "cap" on younger disabled worker's benefits which was based on the maximum

amount that a retired individual could receive who had contributed at the maximum creditable earnings level all his life. At the time we recognized that it was an imperfect solution which lessened the differential between younger and older workers, but had little effect on the replacement rate (i.e., benefits expressed as a percentage of earnings in the year before disability benefit status) of young disabled workers at moderate and low incomes. We pointed out that under the Ford administration's decoupling bill, H.R. 14430, 94th Congress, the great disparity in benefit levels between disability and death cases as compared to retirement cases would be greatly reduced since past earnings would be indexed. In this regard, legislation such as that proposed by both the Ford and Carter Administrations for indexing by wages rather than prices is much more effective. However, the transition provision in the Ford administration bill would have guaranteed higher benefit levels for disability and death cases coming on the rolls for 10 years after enactment. The Carter administration wage-indexing decoupling proposal has no provision for a transition period for disability and survivor cases. This immediately eliminates, to a large degree, the differential between young disabled workers and older workers.

This proposal would also appear to have some effect in moderating replacement rates more generally although illustrations at all wage levels and ages have not been developed. It is hoped that the Social Security Administration will continue to develop information in this area so that we will be able to ascertain whether or not more comprehensive limitation will be needed on disability benefits so that excessive replacement ratios will not constitute major work disincentives. In the meantime, the President's wage-indexing proposal is a step in the right direction. Its effect compared with existing law is shown in the following table for the primary benefit for a young disabled worker at three specified earnings levels. What its effect will be on disability beneficiaries more generally and in terms of replacement rates when family benefits are taken into account is not presently available.

TABLE 5.—COMPARISON OF PRIMARY BENEFIT AND REPLACEMENT RATES FOR WORKERS BECOMING DISABLED BEFORE AGE 30 [1] FROM 1979 THROUGH 1988 UNDER EXISTING LAW AND UNDER THE CARTER ADMINISTRATION'S DECOUPLING PROPOSAL AT VARIOUS WAGE LEVELS

Year of disablement	Low wages [2]				Average wages [3]				Maximum wages [4]			
	Existing law	Replacement rates [5] (percent)	Administration's proposal	Replacement rates [5] (percent)	Existing law	Replacement rates [5] (percent)	Administration's proposal	Replacement rates [5] (percent)	Existing law	Replacement rates [5] (percent)	Administration's proposal	Replacement rates [5] (percent)
1979	$349.90	80	$254.90	58	$539.70	62	$402.80	46	$678.30	47	$529.50	37
1980	386.20	82	275.50	58	588.70	62	435.30	46	740.60	47	573.80	36
1981	404.60	84	296.40	59	638.60	63	467.70	46	807.80	47	621.90	35
1982	465.10	86	316.90	59	686.00	63	499.90	46	873.70	46	670.20	36
1983	506.00	89	337.20	59	733.60	64	531.30	46	940.60	47	718.50	36
1984	550.30	91	357.40	59	784.60	65	563.10	46	1,010.00	45	767.70	35
1985	600.10	94	378.30	59	837.60	65	595.90	46	1,082.40	47	816.00	36
1986	646.50	96	399.60	59	892.10	66	629.70	46	1,157.50	47	885.20	35
1987	691.40	97	421.80	59	951.90	66	665.20	46	1,237.80	47	918.20	35
1988	738.80	98	444.70	59	1,013.90	67	702.10	46	1,319.20	48	969.20	35

[1] Primary insurance amount of workers who became disabled at ages older than 29 generally are lower under existing law than those shown.
[2] $4,600 in 1976. Wages are assumed to rise according to the intermediate earnings assumptions in the 1977 trustees' report.
[3] $9,200 in 1976. Wages are assumed to rise according to the intermediate earnings assumptions in the 1977 trustees' report.
[4] $15,300 in 1976. Wages are assumed to rise according to the intermediate earnings assumptions in the 1977 trustees' report, but with the $600 increases in the social security contribution and benefit base included in the administration's decoupling proposal for 1979, 1981, 1983, and 1985.
[5] Annual benefit, including the cost-of-living increase, as a percentage of final year earning.

Second, liberalization of earnings amount which will terminate disability: The high level of benefits is not the only provision in the social security program which may inhibit work activity. The General Accounting Office, in its report and its testimony before the subcommittee, pointed to the regulations which terminate benefits when earnings exceed $200 a month as making a difficult transition for the beneficiary from "depending on disability payments plus other benefits he might be receiving to depending solely on his earned income which may be less than his benefits."

My new bill would provide statutorily for a $250 SGA monthly amount, and replace the 9-month "trial work" provision in the existing law with a 24-month "trial work" provision. This 24-month period would be composed of a 12-month period during which substantial gainful work, SGA, will not stop benefits payments and another 12-month period during which benefit payments will be suspended if the SGA level is exceeded but benefits would not be terminated or medicare protection lost. Also for an individual whose benefits are terminated after the trial work period, his medicare benefits will be continued for another 24 months unless his medical condition improves to such a degree that he is no longer disabled.

In accordance with the recommendation of a number of studies of the disincentives to rehabilitation, my bill also provides for a period of trial work for disabled widows and widowers. There seems to be no substantial reason why a period of trial work should not be provided for this category of beneficiary. My bill would, in addition, take care of a situation called to our attention whereby an individual participating in an approved vocational rehabilitation is determined to be medically recovered to such a degree that he is capable of engaging in substantial gainful activity. However, the type of activity he may be determined to be able to engage in is often of an unskilled type which, even if available, may not keep him employed. Moreover, his condition may worsen and he may not be able to continue in this type of employment. My bill would add realism and flexibility in this situation by allowing an individual to continue in benefit status while he is under an approved vocational rehabilitation plan if it appears to the Commissioner of Social Security that allowing him to complete the rehabilitation program will enhance his prospects of permanently staying off the benefit rolls.

My legislation last year also provided that the SGA limit would be dynamic in that it would raise in the future as wages rose, and that benefits in excess of the SGA limit would reduce benefits on a $1 of benefits for $2 of earnings basis during the trial work period. These provisions have been eliminated from this year's bill because the lack of data and research findings makes it impossible to adequately gage their effects. The new bill does require, however, that the Commissioner shall carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of treating the work activity of disabled beneficiaries, including such methods as reducing their benefits on the basis of earnings, toward the end of returning them to work and providing savings to the trust funds. The Committees on Ways and Means and Finance shall be informed 90 days before the experiments are put in effect and shall be periodically informed of their progress. The Commissioner shall transmit the final report to the Congress no later than January 1, 1983. Authority is given to the Secretary of HEW to waive benefit requirements necessary to accomplish the study.

As did last year's legislation, my bill would eliminate the second waiting period for medicare for disabled workers who must go back on the rolls after an unsuccessful work attempt. It would also allow them credit toward the 24-month requirements for any previous waiting period. In its report on the rehabilitation program, the GAO stated that the present law could be a: "disincentive to beneficiaries who are doubtful of their ability to maintain competitive employment. On this matter, the Congress might wish to consider rescinding the requirement that disabled beneficiaries wait another 24 months for medicare eligibility if after their benefits are

terminated, they return to the disability rolls because they are unable to continue work."

Under the 1972 amendments, medicare was extended to disability annuitants. The committee report states that the Congress was proceeding on a "conservative basis" because of cost considerations and that it was necessary to provide assurance that the protection would be available only to those whose disabilities have proven to be severe and long lasting. Thus, the legislation provided that health protection would be available to disabled workers only after they had been entitled to benefits for not less than 24 consecutive months. The way the law has been interpreted is that if an individual attempts to return to work and does so and then, say a year later, regresses and once again becomes entitled to disability benefits, he will have to wait another 24 months before he is entitled to health insurance benefits.

It should be noted that Congress in 1980 eliminated the second waiting period for disability cash benefits for those who had gone back to work and then within 5 years—7 years for widows—once again become eligible for benefits. The elimination of the second 24-month requirement would be similar in purpose to that provision relating to the disability waiting period.

REHABILITATION EXPENDITURES AND PROGRAM EFFECTIVENESS

Through the years Congress has tried to encourage rehabilitation by enacting provisions which would make return to work easier for the disabled worker. My bill's work incentive provisions continue this tradition but more closely link expenditures of Disability Trust Funds to actual terminations of benefits.

In the Social Security Amendments of 1965, Congress provided that disability insurance trust fund money could be used to reimburse the States for the cost of rehabilitation services to disability beneficiaries. Under this provision, the total reimbursement could not, in any year, exceed 1 percent of the amount of social security disability benefits for the previous years. The Senate Finance Committee report on the 1965 act stated that only about 3,000 disability beneficiaries were "rehabilitated" in any previous year mainly because of the lack of State funds to match the available Federal funds.

At that time, Congress was assured by the Department of Health, Education, and Welfare that the money spent on rehabilitation services would actually produce a savings to the disability trust fund as a result of the increase in the number of disabled beneficiaries who would be returned to covered employment after having received these services. Given a similar assurance in 1972 by HEW that the trust fund was realizing savings due to the money spent on vocational rehabilitation—in December 1970, HEW had reported a savings of $1.60 for every dollar spent and in January 1972, the savings were reported as $1.93—Congress increased the authorization for use of trust fund money to 1.25 percent of benefit expenditures for fiscal year 1973 and to 1.5 percent for fiscal year 1974 and subsequent years.

Although the amount of trust funds available for beneficiary rehabilitation has increased from about $15 million in 1967 to almost $100 million in 1976, the bottom line—terminations due to rehabilitation—has been disappointing. Cumulatively over these 9 years, only 20,000 disabled workers who have been "rehabilitated" have been terminated from the rolls. This was during a period of time when the number of disabled workers on the rolls was increasing from 1.5 to 2.5 million.

In 1974, the committee asked the GAO to look into the operation of the beneficiary rehabilitation program—BRP—to determine whether the savings claimed by the Social Security Administration were realistic. The GAO testified before the subcommittee on February 3, 1976, after an examination of some 350 cases in four States. The cases surveyed were those of persons that State agencies claimed to have been rehabilitated and who had been terminated from the program. GAO found that 51 percent of the cases did not meet the criteria for selection for the BRP in that these cases had been "diaried" for expected recovery.

Another 11 percent of cases returned to work without being given rehabilitation services. But, in the remaining 38 percent of the cases, the GAO found that the rehabilitation did indeed lead to the termination of benefits. Basing their calculation on only this last group and using the social security actuary's formula, the GAO estimated that there were trust fund savings of $1.15 for every $1 of rehabilitation service expenditure. A just completed cost-benefit study by Rutgers University comes up with a figure of $1.17 for every $1. The Department's earlier estimates of savings had been much more favorable. In June 1974, they reported a savings of $2.50 for every $1 spent.

The GAO in its testimony recommended that Congress temporarily freeze the funding level for the program at the fiscal year 1976 level plus providing a factor for inflation. In their view, this should provide sufficient funding until the Department can insure that the program is being properly administered. My understanding is that the Department of HEW agrees basically with the GAO recommendation in that current formula basis for financing rehabilitation services has outlived its usefulness and is providing more money than can be prudently expended by the VR agencies. In fact both the Ford and Carter administrations have imposed successive 10 percent budget cuts in beneficiary rehabilitation program funds. The bill I introduced last year incorporated the GAO proposal for a freeze at the 1976 level with cost-of-living adjustment which is substantially above what has been available under the administration's budget restraints.

The bill I have introduced this year is a substantive attempt to simplify and make more cost and program efficient the provisions of existing law relating to the rehabilitation of disability beneficiaries. In terms of simplification and better administration the legislation would consolidate the VR funding sources for the seriously disabled in the regular VR program and substantially increase its authorization of annual appropriations. Under existing law the VR agency and counselor may have three potential funding sources for disabled beneficiaries and the required bookkeeping and juggling of differing program rationales has lead to confusion in administration. My bill also authorizes bonus Federal matching of State regular VR expenditures for those individuals where the rehabilitation results in the actual termination of disability benefits for a 12-month period. The proposed legislation also recognizes that some persons on the disability rolls will only be able to work in sheltered workshop situations at a wage rate which would not be sufficient to terminate their benefits. Under my proposal there also would be bonus matching for their rehabilitation expenses, but it also would be subject to a requirement that they receive wages for 12-month period after the "rehabilitation" phase of their sheltered workshop experience had been concluded.

PAYMENT FOR MEDICAL EVIDENCE

My bill last year provided that any hospital, doctor, or other medical source would be reimbursed by the Government for supplying the records of an applicant for social security disability benefits on a reasonable cost basis.

At the present time, a claimant or his doctor or hospital must bear the cost of preparing and photocopying his medical record and transmitting them to social security. In certain instances, this has inhibited the collection of needed medical evidence. The payment of such costs under SSI is authorized, but not under social security. Dr. William Roemmich, the subcommittee's medical consultant, stated that extending this authority to social security would help in the better documentation of claims. The GAO report on State agency decisionmaking was particularly unsettling because in 50 percent of the sample of claims examined by the Social Security Administration it was found that the case was not adequately documented so that a decision could be made. It can be argued that the ability to get full medical records already in existence may be a less costly alternative to the purchase of consultative medical examinations at Government expense and that it would speed up the adjudicative process.

This provision is reintroduced this year in a slightly expanded manner so as to allow not only for the costs of copying of records but for the costs of a doctor pulling together and summarizing existing notes and records so that they would be usable in the adjudication process. No authority for further medical examinations or tests would be provided by this legislation. This expansion would also be applicable to SSI.

IMPROVING THE APPEALS PROCESS
LAYERS OF REVIEW

The problems in this disability program have often been linked to the many layers of appeal before benefits are ultimately paid or finally denied. The system has been criticized both for lack of speed and the quality of adjudication. A recent

survey of congressional offices which I instituted indicates that slowness in disposing of disability cases is the number one complaint of constituents. A reversal rate of about 30 percent at the reconsideration level before the State agency and 50 percent at the hearings level before the ALJ has been cited as one of the reasons for the actuarial difficulties of the disability fund. Such a situation can lead to both excessive appeals and possible unequal treatment for the individuals who do not appeal their cases.

In my view, the ultimate solution of the disability appeals crisis is a major strengthening of the initial determination so that the cases are adequately documented and adjudicated at that level and are subsequently reversed in only a small number of instances. Today, cases are reversed at the reconsideration, hearing, appeals counsel, and court levels. Moreover, cases are constantly being remanded from one level to another presumably because of the inadequacies of the prior determinations. There is now an informal remand procedure—of questionable legality, and even more questionable effectiveness—back to the State agency—a re-reconsideration. There can be remands from the ALJ's back to the State agency, from the Appeals Council back to the ALJ, and finally, in rather large numbers, from the courts back to the ALJ's. Finally, there is the rather analmolous situation of disability examiners at the State agency level never seeing the claimant on a face-to-face basis while at the ALJ hearings level the presence of the claimant plays a rather significant part in the decision.

The bill I introduce today attempts to deal with some of these many problems. First, it clearly spells out the process which statutorily is vague under existing law. It authorizes specifically a reconsideration and indicates the procedural and substantive requirement of a face-to-face meeting, at option of the claimant, before the reconsideration decision is handed down.

My bill also contains provisions that will better inform claimants of the reasons for the denial of their benefits and better pinpoint and delineate the issues to be considered at the hearing. At the present time, the computerized communication of standardized denial notices may have the effect of generating appeals.

FACE TO FACE ON RECONSIDERATION

The proposal of face-to-face interviews at the State agency level has been one that has been pending a long time and has been the subject of numerous studies. Opponents cite the recent experiments showing slightly increased allowances at the reconsideration level as not justifying the slight decrease in appeals which also appear to result. Others believe that better, less emotional adjudications result from "paper" decisions where the claimant is unseen by the disability examiners. On balance, I believe that face-to-face contact at the reconsideration level adds quality and validity to the system and more uniformity and comparability with the decision at the hearing level. My amendment would not authorize continuation of the "informal remand" after reconsideration back to the State agency—a re-reconstruction.

TIME LIMIT ON RECONSIDERATION

My bill also imposes a time limit of 60 days on the Government to dispose of the reconsideration decision. However, there is an important caveat that this period can be extended when circumstances make it impossible for the State to obtain the results of an independent medical examination within this time. I am well aware and entirely sympathetic with other pending legislation which impose time limitations at various levels of adjudication. We must be careful, however, that such requirements do not adversely affect the quality of adjudication. In the past, calls by the Social Security Administration to the State agencies for speedier adjudications have sometimes resulted in impairment of the quality of the decision and increased chances of its reversal at a later level of review.

LIMITATIONS ON COURT REMANDS

Finally, my bill addresses the problem of court remand. In the first 3 months of this year 364 ALJ decisions were affirmed by the district courts while only 85 were reversed—an 81-percent affirmance rate. However, another 300 cases which had been remanded to ALJ's by the courts were reversed during this 3-month period which would bring down the affirmance rate to 49 percent. There are two elements addressed in my bill relating to court remands both of which will attempt to limit the possibility of abuse. First, under existing law, the Secretary has authority to remand a case back to an ALJ prior to filing his answer in the court case. Some critics, including the Harrison subcommittee in 1960, suggested that such absolute discretion gave the Secretary potential authority to remand them back so that they could be strengthened to sustain court scrutiny. Others have suggested that such a device also may have the tendency to lead to laxity in appeals council review in that it will give them another look at the case if the claimant decides to go to court. The bill would require that such remands would be discretionary with the court upon a showing of good cause by the Secretary. Similarly, under existing law the court itself, or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ. It would appear that although many of these court remands are justified some remands are undertaken because the judge disagrees with the outcome of the case which may be sustainable under the "substantial evidence rule." Moreover, the number of these court remands seems to be increasing. The proposed amendment would require that the remand would be authorized only on a showing that there is new evidence which is material, and that there was good cause for failure to incorporate it into the record in a prior proceeding.

DISABILITY COURT

The final provision in my bill relating to the appeals process is the creation of a court for review of disability cases under social security and SSI. The reasons for the establishment of this specialized court under article I of the Constitution are twofold. First, it will greatly relieve the workload of the article III U.S. district courts where disability case filings will exceed 6,000 in this calendar year. Second, it would greatly enhance uniformity and quality of decisionmaking in disability adjudications, two areas which are highly suspect in the present appeal mechanism. I will now elaborate on the rationale for its establishment and briefly describe how the disability court will operate.

From the beginning of disability appeals in 1955 through 1970 there were just under 10,000 cases filed in the U.S. district courts. At the present rate the number of pending disability[1] cases in the district courts will total over 10,000 by the end of the year. The reason for the growth of the backlog can be seen from the fact that in contrast to the situation in 1971—when there were 1,525 case filings and only 2,319 dispositions. For instance, there have been 745 SSI disability cases filed since these cases started reaching the courts in 1975, but there have been only 83 dispositions of these cases. The need for article I courts of the nature proposed in my bill, was emphasized by last year's report of the Department of Justice Committee on Revision of the Federal judicial system—the Bork committee—as a major way of reducing Federal court dockets.

The disability court will also be instrumental in providing increased uniformity of adjudication throughout the system and for better quality in ALJ decisionmaking. At present there is almost no precedent material to guide ALJ's in the disability area coming out of the Appeals Council or through social security rulings. Moreover, there is little substantive review of ALJ decisions by the Appeals Council except, of course, upon the motion of a claimant whose denial of benefits by the State agency has been affirmed by the ALJ. The Bureau of Disability Insurance reviews only for the technical aspects of allowances which are necessary to the affectuation of the payment of benefits. Substantive decisional errors are not "appealed" or called to the attention of the Appeals Council or the ALJ's. Court decisions are available for substantive guidance of the ALJ's but they vary markedly from court to court.

Moreover, there is some confusion in what decisions the ALJ are supposed to follow and which cases the Government does or does not acquiese in. Good examples of these variations can be found in how different courts evaluate pain in determining disability and whether live testimony of vocational experts is required. The Disability Court will create a standard body of jurisprudence which will be uniform, binding and communicated throughout the country.

The Disability Court will largely follow the pattern of the Tax Court in structure. Twenty judges will be appointed by the President to the Court for a term of 10 years. The President shall designate a chief judge who shall have authority to

[1] These include Black Lung cases.

administer the system. He will establish divisions of the court so that cases can be heard throughout the United States and establish a review mechanism so that decisions having policy implications can be reviewed by the court en banc or by his appointment of panels of at least three judges of the Disability Court. Review before the Disability Court or one of its divisions can be sought by either the denied claimant or the Government and will be on the record of the hearing and evidence before the ALJ. The substantial evidence rule will apply in the Disability Court as it does today in the District Court. Judicial review of the Disablity Court will be to the circuit court of appeals.

ONE HUNDRED AND SIXTEEN HOUSE MEMBERS SUPPORT CONGRESSIONAL ACTION TO END AGE DISCRIMINATION IN FEDERAL EMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, I am today reintroducing with additional cosponsors legislation which would end mandatory retirement—which currently is at age 70—as well as age discrimination in hiring and advancement in the Federal Government. This makes a total of 116 out of our distinguished colleagues who share my feeling that this legislation is urgently needed in order to provide an example that all public and private employers could follow. Hearings before the House Select Committee on Aging, which I have the privilege of serving as chairman, have indicated that States, local communities, and private corporations might reconsider their own retirement age policies if the Federal Government were to take this initiative.

Under existing law, the so-called "Age Discrimination in Employment Act," only workers who are between 40 and 65 are protected from mandatory retirement, making this law its own worst offender. The tragic result is that the talents, abilities, and experience of millions of older persons who are willing and able to go on working are wasted.

In addition to my bill, Representative PAUL FINDLEY has introduced H.R. 65, which would end mandatory retirement in both the public and private sectors. I support this legislation completely. However, my chief concern is the need for immediate action to demonstrate support for ending agism, a form of discrimination as vicious, arbitrary and indefensible as sexism and racism. I emphasize that if we cannot enact H.R. 65 now, we ought to at least pass H.R. 1115, my bill covering the Federal sector, as a first step.

Ending mandatory retirement is a bipartisan issue reflected in the positions of both President Carter and the Republican national platform. President Carter has said:

> We need to change the laws and policies that force retirement on older people who are willing and able to work.

The 1976 Republican national platform declared:

> We favor the abolition of arbitrary age levels for mandatory retirement.

In addition, the House Select Committee on Aging, in a September 1976 report, recommended that—

> Legislation to eliminate the upper age limit in the Age Discrimination in Employment Act of 1967 and to end mandatory retirement solely because of age (should) be enacted as soon as possible.

This legislation, H.R. 1115—and the identical bills H.R. 5383, 5119, 5120, 5121, 5122, and the bills being introduced today—has now been cosponsored by some 116 Members of the House. They are: Mr. ROYBAL, Mr. ROONEY, Mr. BIAGGI, Mr. EDWARD BEARD of Rhode Island, Mr. BLOUIN, Mr. BONKER, Mr. DOWNEY, Mr. FLORIO, Mrs. MARILYN LLOYD of Tennessee, Mr. HAROLD FORD of Tennessee, Mr. HUGHES.

Mr. SANTINI, Mr. DRINAN, Mr. DAVID EVANS of Indiana, Mrs. MEYNER, Mrs. OAKAR, Mr. RUSSO, Mr. WAMPLER, Mr. HAMMERSCHMIDT, Mr. SARASIN, Mr. WALSH, Mr. GRASSLEY, Mr. COCHRAN, Mr. RINALDO, Mr. MARKS, Mr. AUCOIN, Mr. BADILLO, Mr. BAUCUS.

Mr. BAUMAN, Mr. BINGHAM, Mr. BOLAND, Mr. BONIOR, Mr. BRADEMAS, Mr. BRODHEAD, Mr. HERBERT BURKE of Florida, Mr. BUTLER, Mr. CARNEY, Mr. CLAY, Mr. COCHRAN, Mr. COLEMAN, Mrs. CARDISS COLLINS of Illinois, Mr. CONYERS, Mr. CORMAN.

Mr. CORNELL, Mr. D'AMOURS, Mr. DELLUMS, Mr. DERWINSKI, Mr. DIGGS, Mr. DODD, Mr. DUNCAN, Mr. EDGAR, Mr. DON EDWARDS of California, Mr. MICKEY EDWARDS of Oklahoma, Mr. EILBERG, Mr. ERTEL, Mr. FARY, Mr. FASCELL, Mr. FAUNTROY.

Mrs. FENWICK, Mr. FRASER, Mr. GILMAN, Mr. GLICKMAN, Mr. HANNAFORD, Mr. HARKIN, Mr. HARRINGTON, Mr. HAWKINS, Mr. HOLLENBECK, Mrs. HOLTZMAN, Mr. HOWARD, Mr. HYDE, Mr. JENRETTE, Mr. KEYS, Mr. KILDEE, Mr. KOCH, Mr. KOSTMAYER, Mr. LAGOMARSINO.

Mr. LEACH, Mr. LEDERER, Mr. LEHMAN, Mr. LENT, Mr. LONG, Mr. MCCLORY, Mr. MANN, Ms. MIKULSKI, Mr. MINETA, Mr. PARREN MITCHELL of Maryland, Mr. MOAKLEY, Mr. AUSTIN MURPHY of Pennsylvania, Mr. NEAL, Mr. NIX, Mr. NOLAN, Mr. OTTINGER.

Mr. PANETTA, Mr. PATTEN, Mr. PATTISON, Mr. RAHALL, Mr. RANGEL, Mr. REUSS, Mr. RICHMOND, Mr. RODINO, Mr. RYAN, Mr. ST GERMAIN, Mr. SCHEUER, Mr. STARK, Mr. STOKES, Mr. TONRY, Mr. UDALL, Mr. VAN DEERLIN, Mr. WALKER, Mr. WAXMAN.

Mr. WEISS, Mr. WHITEHURST, Mr. CHARLES WILSON of California, Mr. YATRON, and Mr. ZEFERRETI.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. MANN) is recognized for 5 minutes.

Mr. MANN. Mr. Speaker, I regret that while participating in an important conference concerning the Defense appropriations bill, which was under consideration today, I inadvertently failed to register my vote on rollcall No. 388, the final passage of S. 964, eliminating the October pay increases for senior officials of executive, legislative and judicial branches. Had I cast my vote, I would have voted "yea."

FINANCIAL DISCLOSURE OF REPRESENTATIVE ELIZABETH HOLTZMAN FOR 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

Ms. HOLTZMAN. Mr. Speaker, I believe deeply that elected officials must observe the highest standards of honesty.

One of the best ways of insuring integrity in Government is to provide the voters with the facts regarding each Representative's financial dealings—so that the voters can prevent dishonesty and conflict of interest when they go to the polls.

For this reason, I am making the following financial disclosure, as I have done each year since first being elected. I believe it will help enable the voters of my district to judge how I have discharged my public trust.

I also want to add that I resigned from my law practice before I took my seat in Congress. I have not resumed law practice since that time and will not do so while I am a Representative.

FINANCIAL STATUS NONCONGRESSIONAL INCOME

In 1976 my income from noncongressional sources was as follows:

Lecture and writing fees, $12,325.00: New York Society for Ethical Culture, New York, New York; United Jewish Appeal, Somerville, New Jersey; Kean College, Newark, New Jersey; T. C. Williams Law School, Richmond, Virginia; Freedom Forum, Schenectady, New York; New York State United Teachers Association, Westchester, New York; Hobart & William Smith Colleges, Geneva, New York; State University of New York at Stony Brook; Mohawk Valley Community College, Utica, New York; Queens College, Flushing, New York; LaGuardia Community College, Long Island City, New York; Aquinas College, Grand Rapids, Michigan; Mt. Sinai Hospital, Minneapolis, Minnesota; National Council of Jewish Women, Lakeville Section, New Hyde Park, New York; Temple Beth Shalom, Haddon Heights, New Jersey; and The Nation Magazine.

UNSECURED LOANS

I had no unsecured debts in 1976.

NONCONGRESSIONAL REIMBURSEMENT

Reimbursements to me for expenditures in excess of $50,000 other than from the U.S. Government in 1976 totaled $984.92. Most of these reimbursements were for out-of-pocket expenses incurred in connection with speaking engagements. The sources of these reimbursements are: Albany Jewish Community Council, Albany, N.Y.; Freedom Forum, Schenectady, N.Y.; Mohawk Valley Community College, Utica, N.Y.; Syracuse Civil Liberties Union, Syracuse, N.Y.; Hobart and William Smith Colleges, Geneva, N.Y.; and Mount Sinai Hospital, Minneapolis. Minn.

I was also reimbursed for out-of-

pocket expenses by Regis College, Weston, Mass., incurred in connection with receiving an honorary degree, and by Harvard University in connection with attending meetings of the Harvard Board of Overseers.

SECURITIES

I own no stocks and bonds with a value more than $25.

INCOME TAX

The personal income taxes I paid for 1976—contained in my tax returns as filed on June 15, 1977—totaled $18,781 and are divided as follows: U.S. Government, $12,678; New York State, $4,703; and New York City, $1,400.

BUSINESS AFFILIATES

During 1976 I did not serve as a director, officer, or partner—or adviser or manager—of any business entity, foundation, of professional organization of a noneleemosynary nature.

THE PLIGHT OF YOSEF BEGUN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 5 minutes.

Mr. DOWNEY. Mr. Speaker. I again bring to your attention the case of Dr. Yosef Begun, a scientist and senior scientific worker in the Central Scientific Research Economic Institute of the State Planning Commission of the RSFSR until he was fired in 1971.

On April 14, 1977, Yosef Begun was arrested and charged with vagrancy. His trial was set for May 18 but it was postponed until June 8. In an unexpected action, Dr. Begun was brought to trial on June 1 and sentenced to 2 years in exile in Siberia on charge of vagrancy. When he was sentenced, Dr. Begun's 13-year-old son cried out, "Let us go to Israel."

Since his April 14 arrest, Yosef Begun has been on a hunger strike. His health has deteriorated and his beard and skin are whitish in color. The Soviets have been force feeding Dr. Begun since he began his hunger strike and he has developed a speech impediment.

Cases such as this belie the declarations made by the Soviet Government of respect for human rights and freedom. They raise serious questions about whether the Soviet Union is acting in accordance with the Universal Declaration of Human Rights and the Final Act of the Conference on Security and Cooperation in Europe. In addition, the type of treatment experienced by Dr. Begun can only serve to damage relations between the United States and the U.S.S.R.

Yosef Begun and other Soviet Jews in similar predicaments will continue to suffer as long as the rest of the world does not protest. We must continue to help focus world opinion on the practices of persecution in the Soviet Union. I urge my colleagues to do all that they can to further this effort.

CONGRESS MUST SAVE THE HISTORIC WEST FRONT OF THE CAPITOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 10 minutes.

Mr. STRATTON. Mr. Speaker, since 1966 repeated efforts have been made to make major changes in the historic West Front of the Capitol, the one that looks out over the Mall and Pennsylvania Avenue. The 1966 cost estimate was $45 million.

It was argued that the whole building was seriously deteriorating and in danger of imminent collapse. A $250,000 engineering study commissioned by the House in 1971 proved this allegation totally false. It was also argued that the House needed more office space. But the House has since added two office annexes and growth still continues apace. If we enlarged the Capitol to meet all our space needs it would have to be extended all the way to the Washington Monument.

The 1971 engineering study concluded that the West Front could be restored and repaired for $15 million. But this simple solution has never appealed to the Architect of the Capitol, and was never seriously pursued. Instead, like his predecessor, he has been determined to put some kind of extension on the West Front, whether it was wise or not.

The latest proposal, which comes before the House tomorrow as part of the legislative appropriations bill, contains in title III the Architect's latest proposal at $55 million. While it will not cost as much as the original extension—in current dollars, and will not do quite as much damage to the Nation's No. 1 historic shrine, it is still unnecessary, wasteful, damaging, and deserves to be defeated for the following reasons:

First. It will cover up forever the last remaining visible portion of the original 1800 Capitol building.

Second. In spite of what the Architect says, it will seriously alter the traditional aspect of the Capitol's West Front that has been honored in pictures for over a hundred years, with an essentially flat surface replacing the present arrangement of three separate entities. The American Institute of Architects has made this point emphatically and supports simple repair and restoration of the West Front.

Third. The added space will not be significant. Indeed, if the House were really serious about getting extra space for the use of its most important members, we should transfer the Architect and his staff out of the 50 scarce Capitol offices they now occupy.

Fourth. There is no justifiable reason for spending $55 to $60 million for an extension when we can adequately repair and restore for $27.5 million.

At the appropriate time I will offer an amendment to strike these funds for the West Front extension by striking out title III of the bill. I do hope I can have the support of a majority of the House in preventing this blow to historic preservation and this waste of the taxpayers' money.

NEGOTIABLE ORDERS OF WITHDRAWAL

(Mr. CARR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CARR. Mr. Speaker, the debate over NOW—negotiable orders of withdrawal—is steadily gaining the attention of the media and the public. Simply put, a NOW account is an interest bearing checking account. Superficially, legislation which would allow NOW accounts has much appeal, economically and politically.

Unfortunately this superficial explanation glosses over the fact that the money that is paid as interest to the checking account holder has to come from somewhere. It will come from service charges on what are now chargeless checking services. It will come in the form of minimum balances, increases in interest on loans or reduction in services.

In short, NOW accounts which look so attractive to the uncritical eye will work one more economically discriminatory burden on the small versus the large, the poor versus the rich, the less powerful versus the most powerful. I urge my colleagues to give NOW accounts a critical look.

To help my colleagues evaluate the NOW account issue I insert at this point in the RECORD an article authored by Edward A. Trautz, president of East Lansing State Bank, East Lansing, Mich., and current president of the Independent Bankers Association of America. The article appeared in the April 19 issue of the Independent Banker. In the article Mr. Trautz thoughtfully analyzes the three current and most popular studies on NOW accounts and points out their weaknesses.

ECONOMICS IN A BOTTLE: AN ANALYSIS OF DEMAND-DEPOSIT-INTEREST POSTULATES OUTSIDE THE THEORETICAL VACUUM

(By Edward A. Trautz)

One of Congress's fail-safe measures to prevent a repetition of the widespread bank failures of the 1930s is under increasing assault. The measure is 12 U.S. Code 371a (section 19i of the Federal Reserve Act), the four-decades-old prohibition against payment of interest on demand deposits.

Congress and various state legislatures are being pressured to allow demand-deposit interest. In some instances, such proposals are limited to NOW-type accounts (including individuals, households, entrepreneurs, and nonprofit corporations). In other cases, interest-bearing checking accounts are advocated on an unlimited basis; that is, extending to accounts for profit-making corporations and public funds.

IMPLICIT VS. EXPLICIT INTEREST

Three recent major studies on the potential impact of checking-account interest are, in chronological order:

David C. Cates and Samuel B. Chase Jr., *The Payment of Interest on Checking Accounts* (South Carolina Bankers Association, February 1976). Mr. Cates is a New York City consultant to bank management; Mr. Chase has taught at several universities and is a Washington, D.C. economic consultant.

William A. Longbrake, "Commercial Bank Capacity to Pay Interest on Demand Deposits Part II: Earnings and Cost Analysis," in *Journal of Bank Research* (Bank Administration Institute, Summer 1976). Mr. Longbrake is associate director of the banking research division for the U.S. Comptroller.

Stephen H. Axilrod, *et al.*, *The Impact of the Payment of Interest on Demand Depos-*

its (Federal Reserve Board, January 1977). This study was prepared by Mr. Axilrod, the Fed's staff director for monetary policy, in collaboration with members of the Board's division of research and statistics.

All three studies point out that banks at present pay *implicit* interest on demand deposits; that is, they do not levy service charges sufficient to cover the operating costs of such accounts. Study estimates of implicit rates range from 1.3% to nearly 5%, depending on the statistical method used, bank size, volume of checking activity, and average balances maintained in checking accounts. The last three factors, of course, vary from bank to bank so that implicit rates would not be uniform in any event.

The studies also point out that implicit demand-deposit interest could be recovered by explicitly charging for the cost of such services. It is apparent that the low-balance, high-volume users of checking services—young families, low- and moderate-income people, minorities—are the most heavily subsidized by banks (See, for example, Cates/Chase, p. 9, "For high-activity accounts, or those of substantially less than average size, net yields [pretax] are doubtless often negative."). These users can least afford explicit charges and would gain least from interest paid on checking accounts.

Those users with large balances and low volume, on the other hand, are usually in the high-income, high-tax categories. Many of these people have tax havens for additional income and would gain the most from explicit interest and demand balances.

There would be a considerable difference in impact if payment of interest were permitted on all demand deposits as opposed to NOW-type accounts only. With this in mind, it might be useful to examine the studies individually, from the perspective of a working banker, in an attempt to determine to what extent it would be feasible for banks to shift from implicit to explicit interest payments.

GIVING THE STORE AWAY

The Longbrake study theorizes that banks can afford to pay interest on *all* demand deposits through increased service charges, increased loan rates, cost reductions, profit reduction, and reduction in reserve requirements.

Increase service charges to a level sufficient to cover demand-deposit costs, suggests Longbrake. On the basis of a statistical-analysis technique involving the regression allocation method, the study concludes that on a combined basis banks pay implicit demand-deposit interest ranging from 1.8% to 3.4%. By recovering this implicit interest, the study reasons, banks could pay explicit demand-deposit interest of 1.8% to 3.4% "at the very least."

The Fed study, using the functional cost-analysis technique, estimates that implicit demand-deposit interest rates are currently 4% for small and medium-size banks and 4.7% for larger banks. Whether the implicit rate is 1.8% to 3.4% or more, however, competitive factors may make it impossible for banks to recover *any* demand-deposit costs by increasing service charges. The question economic theorists cannot answer is who will fail first—the banker willing to give the store away or the one who plays the game for profit but loses his deposit base and as a result his base for generating-earnings assets.

INCREASING LOAN RATES

Proceeding on the assumption that banks could recover the 1.8%–3.4% implicit checking-account interest, Longbrake estimates they could pay 5% interest on all demand deposits by increasing loan rates 100 basis points (1%) or 200 basis points (2%), depending on the method used to determine demand-deposit costs.

Increasing rates on total loans by 2% would not be realistic. First, market conditions may prevent any increase in loan rates. Second, a large proportion of loans in most small banks are real-estate mortgage loans. Because such loans are long-term, fixed-interest instruments, the rates on them would be difficult if not impossible to adjust. Large banks, which have relatively short-term loan portfolios, would have less difficulty in increasing loan rates, but the vast majority of banks in this country are small-to-medium size.

COST AND PROFIT REDUCTION

Since reducing costs by 10% results in only 50–60 basis points toward the rate paid on savings, Longbrake admits, "It is obvious from these figures that cost cutting is unlikely to increase the amount of interest that can be paid by much." This is especially true in periods of increasing wage costs, equipment costs, and escalating costs for bank supplies.

As for reducing profits, Longbrake estimates that every 10% decline in profit could support a 30–40 basis points increase in the rate paid on demand deposits. Assuming no other means of reducing costs or increasing income, therefore, the average bank would reach a point of zero profit if it were obliged to pay 3%–4% on all demand deposits.

Longbrake contends that every percent decrease in reserve requirements would enable banks to pay 6 basis points in interest. A decline from 11% reserves to 5% reserves would support 36 basis points. However, a decline of this magnitude could seriously impair the liquidity of the banking system, to prevent which, it will be remembered, Congress proscribed demand-deposit interest in the first place.

Longbrake's Table 10, which proves that a 10% decline in earnings will support 30–40 basis points of demand-deposit interest, effectively warns bankers what will happen to their profits in the event they have no other means of increasing earnings or decreasing costs. As for the thesis that banks can pay 5% on all demand deposits *if* they recover implicit costs and *if* they raise loan rates 2%, it represents a clearly impractical approach based on the shakiest of assumptions.

NOWS COST

The Cates/Chase South Carolina study assumes that interest will be paid only on NOW-type accounts offered to individuals, households, and entrepreneurs. The study also assumes South Carolina banks would pay 5% on NOWs and there would be no additional income except that which might be generated by earnings on freed reserves.

Based on these assumptions, Cates/Chase structured a mathematical model that determined increased cost of demand deposits would be approximately .4% of 8%–9% of total demand deposits converted to NOWs; 1% if 20%–23% shifted to NOWs; and 2% if 40%–45% converted to NOWs. From these figures, Cates/Chase determined the effect additional interest expense would have on various balance-sheet income ratios.

For banks in the $10–$25-million-deposit category, the following figures from the Cates/Chase tables show the effect on key ratios at the 2% net added-expense level. These figures, I believe, speak for themselves. (See table below.)

	Actual 1974	(1)
Percent change in net operating income before tax	0.0	−62.0
Percent change in net operating income after tax	0.0	−58.2
After-tax net operating income as percent of stockholders equity	11.0	3.7
Net interest margin (not tax equivalent)	5.10	4.01
Coverage of net charge-offs by pretax operating income	9.0	4.1
Earnings retention as percent of stockholders equity	8.3	0.6

[1] 2.0 net added expense as percent of demand deposits.

SHARE-DRAFTS COMPARISON AND THE IMPLICIT-INTEREST TRAP

The Cates/Chase study provides a strong clue to the cost of paying interest on NOW-type accounts. If the Fed were to limit NOW interest to 2½ percent daily, the cost would be 0.5 percent of a bank's total demand deposits, assuming only 23 percent of the demand-deposit dollar total shifted to NOWs.

A 2½ percent interest rate on NOWs, incidentally, would be more than generous compared with the rate of return on credit-union share drafts. Although CUs advertise 5 percent–7 percent on share drafts, the interest is paid on the lowest balance monthly or quarterly. The real cost to a credit union on share-draft accounts, therefore, is more nearly an annual interest of 1½ percent–2 percent plus the cost of processing the share drafts.

It is strange but true that high-volume, low-balance users of share drafts are receiving the same subsidy they would receive in a commercial bank; that is, implicit interest is being paid on share drafts. There is mounting evidence that mutuals and cooperative banks in New England are caught in the same trap.

TRANSITION-PERIOD EARNINGS PRESSURES

Axilrod, like Longbrake, assumes that banks can be expected to offset the additional demand-interest burden by raising charges to depositors for services now offered free or below cost. The Fed study estimates that, on average, bank expenses for demand deposits exceed income by about $31 per year per account at small banks, $39 at medium-size banks, and $48 at large banks. This assumes an implicit demand-deposit interest rate of 4 percent–4.7 percent.

To recover those costs, banks would have to charge $3 to $4 more per month for checking accounts. However, the Fed study concedes that, "Given the uncertainties in predicting the reaction of the many thousands of banks and thrift institutions and the multitude of depositors to the availability of explicit interest on demand deposits, it is difficult to forecast how long earnings pressures would last." It could be a relatively short period of a year or less, continues Axilrod, or a longer period *of perhaps two to four years* (emphasis added).

"It is equally difficult," the study admits "to estimate the intensity of competition for market shares in such a period." Cates/Chase indicates the same concern for competitive factors that would make recovering checking-account costs impossible. This is an important caveat. The proliferation of free-checking, no-minimum-balance accounts in some banking markets indicates a propensity for some bankers to disregard earnings in their search for greater totals on their balance sheets.

FUNDS DRAIN AND EXPANDED THRIFT POWERS

Axilrod points out that competitive pressures during the transition period would be much less if removal of the prohibition on demand-deposit interests were not coupled with extension of demand-deposit powers to thrift institutions. This is a recognition, I believe, that the funds flowing from banks to

thrifts would be incremental thrift deposits and could be used to cover incremental thrift costs.

Banks, on the other hand, which have structured their asset yields for implicit demand-deposit interest, might well be unable to recover additional costs through higher service charges. The funds drain from the banking system, therefore, would further impair banks' ability to pay explicit interest on checking accounts at the same time the ability of thrifts to do so was enhanced, especially if they were granted new loan and investment powers.

FED INTEREST ON RESERVES

The Axilrod report seems to favor interest on NOW-type accounts only and Fed interest payment on reserve balances to offset NOW costs. "The largest transitional impact would be felt if interest were paid on all demand deposits and thrift institutions were also empowered to offer such deposits. Impact would probably be considerably smaller if interest-bearing demand-deposit powers were limited to commercial banks, or if both banks and thrift institutions were authorized on a nationwide basis to offer only NOW accounts restricted to individuals and nonprofit organizations." Adjustment difficulties, the report suggests, "could be mitigated by payment of interest on reserve balances" as well as "a low, and perhaps gradually rising, ceiling rate." Axilrod does not go into detail about the rate the Fed would have to pay on reserves to provide "a compensating adjustment for the loss in revenue."

An analysis of a hypothetical Fed-member bank would, I believe, provide a clue to the rate of interest the Fed would have to pay if the bank offered NOW-type accounts at 3% and experienced a 40% shift of its demand deposits to NOWs. It is assumed that this bank cannot, because of market conditions, raise service charges on demand accounts or increase loan rates and that the Fed will not charge for services provided.

Let us consider a Fed-member bank with average annual deposits of $100 million. The median bank, according to the latest BAI Bank Performance Index, has 64% of its total deposits in time accounts. Our hypothetical bank, therefore, would have $64 million in time deposits and $36 million in demand deposits. If 40% of demand deposits, or $14,400,000, shifted to NOW-type accounts paying 3%, the total increased interest cost would be $432,000.

The bank's exact reserves are difficult to determine because of the complicated formula for determining reserve requirements on time deposits. I estimate average reserve on time deposits at 3.25% of total time deposits. Thus, our hypothetical bank would have about $6,035,000 average annual sterile reserves, including vault cash.

Given these postulates, the Fed would have to pay 7.16% on the reserves of our hypothetical bank to offset its $432,000 increase in demand-deposit interest costs. This is very close to the Axilrod estimate of total costs of NOWs at 3% (4.5% implicit interest plus 3% explicit interest).

A 40% shift of demand deposits to NOWs might seem extreme, but many small banks with large proportions of household, entrepreneurship and nonprofit-corporation demands could very well experience such a shift. These smaller banks can be expected to suffer, as the Fed study concedes, "the largest relative earnings reductions."

If the Fed study had recommended that interest be paid only on household accounts and be limited to, say, 2%-3%, that recommendation might have been supportable. However, the suggestion that increased interest costs would be offset by Fed payment of interest on reserves is not clearly explained in terms of explicit charges that would be made for services provided member banks. Nor does the Fed study address itself to the problem of sterile nonmember-bank reserves held, in most instances, by correspondent banks.

ECONOMICS IN A BOTTLE

It seems to me there is an enormous gap between what is theoretically possible according to the economists who prepared these three studies and what is practicable in the real world. It makes little sense for a system that currently pays implicit interest on demand deposits to recover that interest, in a reverse Robin Hood approach, primarily from those least able to afford explicit charges.

If the government persists in changing the system, it should phase into the new mode with extreme caution because the current pricing structure, assets mix, and assets yield are geared to implicit interest on demand accounts. Under no circumstances should thrifts be given additional powers while the banking system is undergoing such a traumatic change. Declining bank earnings and consequent bank failures, lowered returns on capital, and stockholder dissatisfaction could cause a severe lack of confidence in the banking system.

In the final analysis, it might be a good idea to heed the advice of Bert Lance, director of the Office of Management and Budget and a former independent banker, who said, "In Georgia we have a saying—if a thing ain't broke, don't fix it."

HOLY TRINITY BULGARIAN EASTERN ORTHODOX CHURCH OF MADISON, ILL., CELEBRATES 70TH ANNIVERSARY

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, this Sunday, July 3, will mark the 70th anniversary of the dedication and founding of Holy Trinity Bulgarian Eastern Orthodox Church in Madison, Ill.

It is a real pleasure for me to pay tribute to the congregation of Holy Trinity Church. The men and women of this church have lived and worked together since the turn of the century—a modern community concerned with the solution to today's problems, yet a community holding to older traditions and the rich heritage of its native land.

The very fact that Holy Trinity parish has survived and even grown in the past seven decades is a tribute to its people and its priests. The Bulgarian nation has seen much tyranny and sorrow, yet her people have always continued their fight for liberty and unity despite sometimes impossible odds. The success of Holy Trinity parish speaks well, I believe, for the regeneration of the American spirit, a desire to work hard to keep intact the values of patriotism, family life, and faith in God. I commend Holy Trinity, its clergy, and its congregation past, present, and future for their fine work. As they mark this milestone, I know their efforts to make the next 70 years even better will be uppermost in their minds.

CLINCH RIVER MEMO: MUST READING FOR ENERGY DECISIONS AHEAD

(Mr. COUGHLIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker I am inserting into the CONGRESSIONAL RECORD today a copy of an internal memorandum on the letterhead of Burns & Roe Corp., Oradell, N.J., which holds a $175 million contract to design the Clinch River breeder reactor and which confirms the worst suspicions among those of us who have been critical of the liquid metal fast breeder reactor—LMFBR—program.

In submitting this frank and enlightening memo which has been the subject of several recent news articles, I do so not to embarrass the firm or anyone mentioned in the memo, but because the contents are so vital to an objective evaluation of the LMFBR and the Clinch River project and, even more important, to the entire thrust of the Nation's energy development.

The memo, in short, cites design mistakes, confusion, mismanagement and a poor performance prognosis. Despite the Burns & Roe rebuttal of the 4-year-old memo, I am convinced the contentions enumerated in 1973 do, in fact, apply now. And no rebuttal, for instance, can change the fact that the memo called the Clinch River site selected for the LMFBR demonstration plant "one of the worst sites ever selected for a nuclear powerplant based on its topography and rock conditions."

Since 1971, I have been calling attention to the escalating costs of the LMFBR and Clinch River, its inadequate cost-benefit ratio, the fact that delays probably will make it obsolete by the time it is ready for use, and the disturbing trend of private industry's declining share in the joint Government-private sector project.

My opposition has not been on safety and environmental grounds occasioned by the breeding of dangerous plutonium, although there is a high degree of validity to these concerns. I have attempted to show that the entire project is a poor investment, that it is most likely to fail in its purported goal, and that the overwhelming share of research and development funds claimed by the LMFBR project threatens the development of other energy sources.

The esteemed nuclear scientist, Dr. Edward Teller, in a recent speech in Philadelphia supported these contentions and agreed with President Carter's proposal to cut the LMFBR funding.

Now casually labeled as the $2.2 billion nuclear energy demonstration plant, Clinch River in 1972 carried a $700 million price tag. The entire project—development, testing and demonstration—was estimated in 1969 at $3.9 billion and has now escalated to more than triple that to a total of $11.8 billion. I submit that even inflation on its own could not produce disastrous results such as these.

I recognize that the LMFBR plant is not in my district, but it does affect my taxpayers. I cannot support such a project knowing that a continuation would adversely affect the American people and our entire energy outlook in the long run.

With all the work to be done in committee and in the Congress, I urge my colleagues to take the time to read this memo and to make your decision on funding on the basis of the facts—calmly and impartially in the interests of the country as a whole.

The text of the memorandum follows:

POSITION PAPER ON LMFBR PROJECT—STATUS CURRENT PROBLEMS, RECOMMENDED ACTIONS, AND FORECAST FUTURE CONDITIONS

SUMMARY

This position paper summarizes the presently known and anticipated problems and events related to the LMFBR Project, discusses the options open to Burns and Roe on a corporate basis and the pros and cons of each, recommends a specific course of action at this time, and forecasts possible future events on the project.

The LMFBR Project agreements and the PMC–AEC contract have cleared the Joint Committee on Atomic Energy (JCAE) but are now held up pending AEC determination of a course of action relative to the comprehensive LMFBR program Environmental Impact Statement now required per a recent Federal appeals court ruling. The potential delay due to this matter could be days or months depending on AEC actions and events following. It is quite possible that a project hiatus for an extended time or a reduced rate of funding could result. In the meantime, our LMFBR work will be continued for two months at its current level under temporary AEC funding.

It is important to Burns and Roe that the PMC–AEC contract be signed even if its subsequent execution is restrained by a court injunction, since funds already owed us should then become available. We should influence the AEC position on contract signing to the extent we can and need to, although AEC agreements negotiated with the intervenors may have already given away the desired result.

If and when the agreements and the PMC–AEC contract are signed, PMC and Westinghouse intend to provide Burns and Roe with currently funded work authorizations for three months' effort pending negotiation of contracts. It is recommended that the work authorizations be accepted when offered, that negotiations for full contracts be entered into, and that project manpower continue to be applied consistent with funding limits to do the best technical job possible as quickly as manpower limits permit.

It is essential that Burns and Roe performance on the LMFBR Project be outstanding because of that project's key position relative to our future growth, the visibility of the utility industry on our results, and the national need for a new energy source. At the same time, the project should provide a fair financial return to Burns and Roe. A three-pronged approach to the project should be carried out to achieve the desired results. First, a top quality engineering product should continue to be presented in an effective manner. Second, firm positions should be taken early on project problems in order to provide Burns and Roe with the best chance of long-term success on the project and to document our situation for later possible scrutiny. Third, our positions should be developed in a manner to provide us with the proper financial return in the most effective manner.

To the above ends, firm positions should be taken by Burns and Roe in the next few months on LMFBR Project schedules, costs, fee, and Reactor Manufacturer and client support of our efforts. These positions will have to be timed and presented well and taken in consideration of future developments on the project. However, even if carried out effectively, they may well result in considerable conflict with PMC, AEC, and Westinghouse, protracted negotiations, and probably short-term unhappiness with Burns and Roe, since in the near future we will have to be saying that:

First. The project schedule will be missed by at least two years based on events to date.

Second. Our total long term project costs are now expected to be over $40 million rather than the $25 million originally estimated because of drastic changes in the way the job is organized and is proceeding.

Third. We want a fixed fee based on a fair percentage of the estimated cost of over $40 million.

Fourth. The project capital cost estimate is likely to be exceeded.

Fifth. The site selected is likely to be very costly to prepare and could even be unsuitable.

Sixth. Many of the planned Reactor Manufacturer engineering efforts are not satisfactory to support our design work.

The above positions should be taken when necessary to give us the best chance to do a good job, protect our corporate integrity and reputation, assure maximum financial return to the company, and preempt a possible later bad situation with the utility industry and others in which it will be easier for others to blame Burns and Roe for project problems as discussed herein.

Because of the many present and potential political and licensing problems on the project, the client will be likely to desire to blame project delays and overruns on those types of problems. We should, in our positions, take proper consideration of the delays and disruption caused on the project by outside forces. We will also have to take our positions in documented ways which provide the least chance for adverse information to come into the possession of those who desire to kill the LMFBR program. At the same time, we must recognize that the LMFBR Demonstration Plant Project will in all likelihood be subjected to close Congressional, public, and utility industry scrutiny in future years. Therefore, our documentation for the record must be objective and professional and accomplished in a way which will protect our interest and reputation. This will be a difficult and delicate task. Our position is particularly difficult because we are in a very subordinated position on the project and do not have good inside information and visibility on client aspects of the project.

Notwithstanding the above, in spite of the job Burns and Roe does, the issues we raise, and the record we document, most actions on the project are out of our control, and it is already clear that the project results will be extremely poor. Within one year, the following situation is likely to exist on the LMFBR Project (assuming the project proceeds now):

1. The start of construction as scheduled will not be able to occur because:

a. The licensing variance required will not be approved because the overall environmental impact of LMFBR's will not have been resolved as required by the recent Federal appeals court ruling.

b. PMC will not be able to certify before start of construction (as they must) that the plant can be built within current estimates.

2. Burns and Roe engineering and design work may be slowed because of licensing and funding problems which are likely to be involved with the Congress and the EPA and because of limited AEC funding for LMFBR versus the funding required to bail out FFTF. The course of project work is likely to be subject to continuing similar hold-ups and delays to those which have occurred over the past six months.

3. The organization of the AEC and the PMC–AEC relationship could well have changed considerably, with an effect on our work. During the next year, AEC leadership of the LMFBR Demonstration Plant Project is likely to be hesitant and preoccupied with other matters, and the overall project is likely to be bogged down.

4. Design reviews and changes to reduce capital costs are likely to be in progress based on project cost estimates and better utility industry realization of some plant design features. In addition, the safety approach to the project is likely to have changed, resulting in considerable design changes. These are likely to hold up design and delay the project further.

5. The cost of preparing the Clinch River site will have been proved to be substantially more than estimated. The site costs and problems could be such as to indicate a change of site.

6. Burns and Roe's reputation on the LMFBR Project may be worse than the excellent one we enjoy today, even if we do an outstanding job. Our reputation will depend on how skillful we are in handling and explaining the above situations and in executing our engineering work.

Within the next year, we should follow events on the LMFBR Project closely and reassess actions required. The steps we take will have to be timed properly and be based in part on client reactions and events.

It is important that additional new nuclear power business other than LMFBR be secured to fill in for nuclear projects phasing down and the slower than anticipated pace of LMFBR. A special appeal to key utilities built around an explanation of our real LMFBR workload situation should be carried out to counter the present impression that we cannot handle any other new projects.

* * * * *

b. Subsequent adoption of alternatives other than the LMFBR would not be foreclosed during the limited period of the NEPA review.

c. Should implementation of the PMC–AEC contract be delayed until NEPA review of the LMFBR program is completed, the public interest would be adversely affected as a result of a significant increase in project costs and the risk of loss of key management and engineering personnel.

d. The expenditure of resources by the AEC and the other project participants during the limited period of the NEPA review (approximately $22 million) will not be of such magnitude as to affect the eventual decision on the NEPA review.

The AEC has allowed a 15-day period for public comment on the above proposed determination. The period expires on July 14, 1973.

The AEC has not stated publicly what it proposes to do with the public comments before signing the AEC–PMC contract. However, the Commissioners have told the AEC staff that the comments must be responded to before the contract is signed, and the obvious AEC intent is to forestall a possible court injunction. We believe that one of the intentions of the AEC is to not permit expenditure of capital funds before the NEPA review is completed. This would effectively slow down our design work (particularly the Balance of Plant effort) as well as affect the project schedule.

The SIPI attorney has told Nucleonics Week that the proposed AEC determination is unsatisfactory and that litigation will be inevitable if the AEC position is not changed. The SIPI position is apparently that contract signing should be delayed until a final Environmental Impact Statement is filed. This could take many months, since the final statement follows a round of comments and resolution thereof on the draft statement that the AEC proposes to prepare in eight months. AEC has apparently also promised SIPI 72 hours' advance notice on the signing of the contract, which would give SIPI time to seek an injunction before the

U.S. District Court in Washington, D.C. The potential for considerable delay and a project hiatus for one or two years due to this matter appears high since the appeals court ruling seemed to invite a request for an injunction. Further, the apparent AEC agreement to notify SIPI before signing the contract is a dangerous one if true, since that would permit a preliminary injunction restraining efforts before the contract is signed rather than after, and would thereby not permit payment to Burns and Roe or other project participants for past work.

4. Because of the above developments, the AEC has authorized an extension of our current temporary funding arrangement (base technology program work) for a period of two months. This extension will permit continuation of our LMFBR project work at the current staff level of about 40 people but will not permit the return of additional people to the project staff at this time. Over 50 people to be recalled on July 1, 1973 will now have to be continued on other work.

5. If and when the project agreements and the PMC–AEC contract are signed, we have been told to expect three-month work authorizations from PMC and Westinghouse which would permit buildup to about 100 people at the end of the period while contract negotiations proceed with us.

B. Burns and Roe Internal Considerations—

1. As of June 30, 1973, Burns and Roe will have spent over $800,000 on the LMFBR Project this year. Of that amount:

a. About $575,000 is authorized and funded under a contract with Westinghouse. The contract has been negotiated and signed. Payment by Westinghouse of our first invoice under this contract is imminent. Payment of subsequent invoices each period should be routine. The funds provided to us by the AEC under this contract are from the LMFBR base technology program. Their authorization for use by us on the LMFBR Demonstration Plant work we are doing could be of questionable legality. If audits of fund use were conducted, certain members of the AEC could be in trouble.

b. About $165,000 was expended under authorization by PMC which was contingent upon execution of the PMC–AEC contract. Payment by PMC would become due to us only after the contract signing. As noted above, it is important to Burns and Roe whether AEC signs the PMC–AEC contract and is then restrained by an injunction or whether contract signing is delayed. Hopefully, AEC will take the former route and free up funds already owed to project participants even if future work is restrained. Whatever pressure can be brought to bear should be applied to have the contract signing take place.

c. About $65,000 was incurred in January and February 1973. This will be included as an item of recoverable costs in our negotiation with PMC.

In addition, Holmes & Narver will have incurred costs of about $80,000 by June 30, 1973. Our payment of their invoices was made contingent on payment to us by Westinghouse and PMC.

2. We will expend an additional $300,000 during July and August 1973 under the extended AEC funding. The funds will be provided under the Westinghouse contract and circumstances described in 1.a. above.

3. A building has been purchased and refurbished to accommodate increased corporate workload including the LMFBR Project at a cost of about $2,000,000. The building we purchased will house 350–380 people, or about what could possibly be a maximum manning at the peak of the LMFBR Project. We would not have purchased this space were it not for the LMFBR Project. At worst, we would have had to rent 10,000 square feet for other new work, not purchase 50,000.

4. The need for space for the LMFBR Project has been and will likely continue to be slower than originally predicted, because of funding problems. A maximum level of less than 150 people is now projected by June 30, 1974. It is our desire to keep the peak project staff below 300. Bechtel peaked at 420 on FFTF because of pressure from AEC, found that number of people unmanageable, and is cutting back to slightly over 300. Burns and Roe could be subject to the same developments as Bechtel.

5. If the project had proceeded as planned by Burns and Roe in January 1973, over 120 people would have been employed on the project by now. Corporate commitments to PMC were met and the staff was built up to 90 by April 1973, at which time a manpower ceiling was established by the client. In late May 1973, reductions in available funds caused the staff to be reduced to 40 people.

6. The buildup of project personnel to the initial level of 90 was accomplished with minimum difficulty. Buildup of the project schedule (to about 225 by June 30, 1974) would have been very difficult for Burns and Roe to accomplish. Therefore, budget cuts by the AEC may have been somewhat of a blessing to us.

7. We initially projected LMFBR Project billings of about $10.2 million for the 18-month period from January 1, 1973 through June 30, 1974. Billings are now expected to be about $6.7 million. There is some chance of a further slowdown as discussed above. In the long run, however, the total amount of billings and the amount of fee should be greater than originally predicted.

8. Engineering Services reports that other potential clients are refusing to consider Burns and Roe for further business in the belief that LMFBR has loaded the company down. In actuality:

a. Corporate workload permits new business

b. Less than one-third of planned personnel are actually now assigned to LMFBR work

c. The scope of some Burns and Roe work has been reduced by assignments to Reactor Manufacturers

d. Holmes & Narver shares in our scope of work.

However, securing new business may be a continuing problem on which special measures must be brought to bear.

9. PMC and AEC have disapproved use of scheduled overtime for designers and draftsmen as we requested because of market conditions and our inability to hire sufficient designers and draftsmen. An appeal is being prepared based on our problem plus the benefits to the project which might result from schedule acceleration. Without use of scheduled overtime, it is not clear that the project can be manned and the contract performed. Our market stiuation may well be worsened by recent actions of M. W. Kellogg to set up a new design office in Hackensack at Route No. 4.

10. One of the prime considerations to Burns and Roe with respect to the LMFBR Project is that the corporate reputation not be damaged by the results of the project, since it is in large measure a key to our future growth. Bechtel has been pilloried for the overall FFTF results and schedule delays. However, Bechtel has apparently not been damaged too badly by the FFTF job because of its size and the fact that it is an AEC job run by RDT, which does not enjoy a good reputation with the utility industry. Burns and Roe is more vulnerable on LMFBR than Bechtel on FFTF because LMFBR is a much larger part of our business and because it is a job for the utility industry.

C. Client Organization and Management—

1. When Burns and Roe bid the LMFBR Demonstration Plant job, it was to be accomplished under the direction of and contract to PMC. Although AEC involvement was expected, it was not provided for in the Request for Proposal on which our proposal was based. Since our selection for the job, the nature of the job has changed drastically to one in which the AEC is in total charge of the Nuclear Steam Supply System (NSSS) effort and PMC only the Balance of Plant. The client organization for conducting the project was concocted by AEC (Dr. Ray), TVA (Mr. Wagner), and Commonwealth Edison (Mr. Ayers) as a means of satisfying JCAE demands for AEC control over NSSS technical decisions and use of public funds. Attachment 1 shows the client organization and that of contractors on the project. It is more complex and has more divided responsibility and interfaces than for any previous nuclear power plant development and is not favored by any of the project participants.

2. The PMC organization has lost much of its desire and determination to manage the project and perhaps the ability to do so. It is led by naive individuals who fear and accede to the AEC. This leaves the job run largely by the AEC from its perspective. Even in those cases where PMC clearly has the overall responsibility and should be taking the lead, it is not, partly because of disagreements with the AEC.

There is no "client" representative whom Burns and Roe can help maintain the utility industry position. It is not clear that PMC is telling the utility industry its real expectations and fears about the project. The PMC General Manager has privately advised Burns and Roe to get out of the LMFBR job now, since it does not have a chance of success and could harm us badly.

3. The AEC (Division of Reactor Research and Development or RRD, formerly RDT) is trying to run the program. Recent similar programs run by the same group have been failures. The LMFBR Demonstration Plant Project Definition Phase (PDP) effort produced few useful results. The FFTF project's cost and schedule results are a disaster, in some measure due to AEC. There is every indication that the AEC will try to run the LMFBR Project the same way as FFTF, with the added complication of the multi-client/contractor approach. The AEC does not make decisions which are necessarily in the interest of the utility industry; therefore, the ultimate result of the LMFBR Project may not be to the utility industry's liking. The AEC decision-making process is not oriented toward construction needs and on FFTF has been characterized by long delays and indecision because of its slow-moving bureaucratic structure. The AEC is also preoccupied primarily with component and RM matters.

4. There have been significant recent changes in personnel and matters affecting the AEC. Therefore, its leadership of the project in the foreseeable future is expected to be hesitant and questionable. Some of the changes are:

a. Mr. Shaw has retired as head of RRD and has been replaced by Mr. Nemzek, who is known as a better administrator, a healer and compromiser, and less of a technical man. This will mean some changes in AEC personnel and approaches. This will take a considerable period of time to shake out and will likely mean delays and changes in decisions. In addition, the PMC–AEC relationship is likely to change somewhat with Mr. Shaw departed. This also will take time to shake down and is likely to involve conflicts between PMC and AEC.

b. Mr. Ramey, whose term as an AEC Commissioner expired on June 30, 1973, was not reappointed by President Nixon because of Dr. Ray's active opposition and has retired. Mr. Ramey was a strong influence on the course of the LMFBR Project. In addition, he

was our highest level contact in the AEC and source of inside information. No successor has been named.

c. On June 29, 1973, President Nixon proposed to reorganize the AEC by:

(1) Making the non-regulatory functions of the AEC part of a new Energy Research and Development Administration which would be responsible for all types of energy. Dr. Ray is a leading contender to head this organization.

(2) Making the five Commissioners of the AEC the head of a new Nuclear Energy Commission which would be responsible for only licensing and regulatory activities.

He also proposed a new Department of Energy and Natural Resources which would relate to nuclear power programs in some undefined manner and the formation of a new Energy Policy Office in the White House, headed by Colorado Governor John A. Love.

Two things seem clear if the proposed changes are accepted by Congress. The vigor of AEC efforts to develop the LMFBR may be diminished since a high priority task of the new energy administration seems to be coal research. Also, with licensing and regulatory functions separated from development, the chances for expedited licensing would be much worse.

d. The JCAE has historically played a strong role in the LMFBR program. The future role and relationships of that committee are now uncertain. A poor relationship has developed between its leaders (Messrs. Holifield, Hosmer and Price) and Dr. Ray over Mr. Shaw's demise. However, it is not clear that the committee leadership has control over its members. Further, since nuclear energy is likely to be made a part of overall energy programs, the committee's future role is unclear. If a new Congressional committee were given cognizance over the LMFBR program, project reviews could be extremely difficult in light of the other information contained in this paper.

e. Overall responsibility for and approaches to light water and LMFBR reactor safety matters have been under the direction of RRD and Mr. Shaw. Recently, light water reactor safety matters were transferred from RRD to a new group under the General Manager headed by Dr. Kouts. We have reason to believe that with Mr. Shaw gone, LMFBR safety matters may also be transferred to Dr. Kouts' group. Therefore, changes in AEC approaches to LMFBR safety are likely. The group headed by Dr. Kouts is expected eventually to be transferred to the Nuclear Energy Commission if that organization is approved by Congress.

5. The overall approach to LMFBR reactor safety matters has to date been based on FFTF approaches and policies established by Mr. Shaw and RRD which are in many ways contrary to those of the AEC Division of Regulation (DRL). For example, Westinghouse and Burns and Roe have been told orally by RRD and PMC that we should not comply with the requirements of 10CFR50 Appendix A (General Design Requirements) for LMFBR where such requirements arise from theoretical DRL safety considerations and would not necessarily provide a simple, reliable plant.

This approach is being fostered in full knowledge that it may not result in meeting DRL's licensing requirements and that many issues would have to be taken to the ABC Commissioners for resolution. It is part of a power struggle between parts of the AEC. The LMFBR Demonstration Plant is viewed as a test case in which RRD and PMC can knock out many theoretical safety-oriented design features which complicate commercial plants and make them more expensive, and in which a new approach to safety and licensing can be established. In addition, the Demonstration Plant is viewed as having to be consistent with FFTF in order to justify the approaches on that project. Unfortunately, some safety approaches on FFTF were apparently decided on because of the severe cost bind that project is in.

Westinghouse design approaches have been influenced strongly by this approach. With Mr. Shaw departed and further AEC reorganization a possibility, there are likely to be significant changes in direction on safety approaches.

A number of existing approaches based on FFTF practices are already known as potential problem areas. These include the lack of specific safety criteria for the project; present emergency core cooling provisions and natural circulation assumptions; the current assumption that a double-ended pipe break is not a credible accident; the assumptions as to the extent of the Hypothetical Core Disruptive Accident (HCDA) and features needed to contain it; the effects of sodium spills and fires; radioactivity release above the operating floor; plutonium leakage and levels at the site boundaries; and the ability to design an effective system to contain a core and reactor vessel meltdown. At this time, little work has actually been accomplished by Burns and Roe in these areas, which are primarily Westinghouse responsibility. However, current assumptions strongly affect the plant arrangements which are proceeding. The approach by Burns and Roe to date is to bring to the client's attention each known case where DRL requirements are not being met, along with pertinent recommendations, and to cause a specific assessment and decision in each case.

6. The AEC has scheduled issue of a revised, comprehensive Environmental Impact Statement on the LMFBR program within eight months. The schedule is essentially impossible and will devour the attention of the top personnel in RRD for the foreseeable future. Therefore, proper attention will probably not be paid to directing the LMFBR Demonstration Plant project. Unfortunately, the project agreements have placed AEC in a key leadership role. Therefore, the project pace is likely to suffer unless Westinghouse can take charge more than it has, which appears unlikely.

D. Contractor Organization and Responsibilities—

1. A unique and complex contractor organization and assignment of responsibilities has also been devised for LMFBR. Attachment 2 summarizes the responsibility assignments. This also was not envisioned in our proposal. The Reactor Manufacturers (RM's) have been assigned significant responsibilities for the engineering of NSSS auxiliary systems and for component specifications and procurement which architect-engineers have performed in the past. These assignments were made because of Mr. Shaw's poor opinion of the capabilities of architect-engineers and to keep three RM's involved in the LMFBR program. The efficacy of this arrangement remains to be proved in practice.

However, it is clear that development of system engineering information and component design information to be the basis for our drawings will be significantly more of a problem and an interface situation than if we did the work ourselves. Drawing schedules will suffer and it will be a struggle to assure that our drawings reflect an approach that is satisfactory to us.

2. Many aspects of the working relationships between Burns and Roe and the other contractors have not yet been addressed and decided, making it extremely difficult for work to proceed and schedules and cost estimates to be developed. Examples are:

a. Contractual arrangements planned with the RM's

b. Manner in which AI and GE will work with Burns and Roe and whether AI and GE will take direction from AEC or Westinghouse

c. Extent of work by the RM's or Burns and Roe on system engineering

d. Extent of effort by the RM's or Burns and Roe on component specifications

e. Scheduled pace of engineering and component work by the RM's relative to Burns and Roe drawings.

3. Experience to date with the client/contractor arrangement planned for the project has shown the following:

a. Westinghouse is supposed to be the prime contractor for the NSSS and to direct AI, GE, and Burns and Roe. However, it does not provide the vigorous leadership required. Part of this is the experience of the Westinghouse personnel involved (only FFTF Project or LMFBR research) and part is the role AEC will permit Westinghouse to play. Westinghouse has been very upset to find that AEC apparently intends to provide the real direction to AI and GE, perhaps via existing contracts with AEC. Westinghouse also is more interested in playing politics with the AEC and the schedule than in taking on the hard issues necessary and being straightforward with the utilities regarding the status of the project. To date, Westinghouse has ducked the tough issues and left Burns and Roe to defend and win the positions that needed to be taken.

b. Westinghouse, GE, and AI are doing a poor job of developing basic criteria, operating philosophies, and the necessary engineering information needed by Burns and Roe in many areas of their responsibilities, partially because of limited funding and partially because of their basic approaches. The situation is compounded by lack of PMC and AEC agreement on operating philosophies and basic approaches and the resulting indecision and lack of direction. Prior Burns and Roe problems between the Engineering and Project Operations Divisions over Criteria development will pale in comparison with the LMFBR situation which is developing. Burns and Roe control over drawing content and issue schedules is already significantly affected.

c. The manner in which responsibility and authority are divided has resulted in a situation where no one is really running the LMFBR Demonstration Plant effort and making it proceed properly. Necessary decisions are not being made and meetings are characterized by vacillation and equivocation on the part of PMC, AEC, and the RM's. The results are a confused, sluggish reaction by the organizations involved.

The above, combined with recent Fiscal Year 1974 budget cuts, makes it absolutely clear already that the project will proceed in a manner in which late results and cost overruns will be serious. These events are out of the control of Burns and Roe and will occur even if Burns and Roe's performance is outstanding. We are continuing to document in a nice way our lack of support and direction. However, it is a painful process with little positive reaction.

E. Project Budgets, Manning and Fee—

1. The LMFBR Project started out as a top national priority, crash effort to complete an LMFBR Demonstration Plant by 1980. Since then, all indications are that the project pace will be limited by AEC funding decisions between FFTF and LMFBR and that many of the compromises that have made FFTF a disaster will be dominant. The NSSS portion of the project will be directed in ways best suited to manipulation of AEC moneys between FFTF and LMFBR.

2. For example, Burns and Roe submitted a budget of $9.5M for FY 1974 to meet the project schedule, including $6.5M for the NSSS effort. AEC has decided on allocation of available funds between FFTF and LMFBR. Burns and Roe will be limited to $3M for the NSSS, less than half the amount

requested. Westinghouse budgets have also been cut in half. It is likely that FFTF demands for funds will continue to grow, that FFTF will continue to receive top priority in AEC decisions, and that budget cuts will also occur in future Fiscal Years.

3. If equipment orders are not placed until LMFBR program environmental questions are resolved, our design work will be slowed drastically. For example, if the turbine generator is not ordered, little Balance of Plant design work can proceed usefully.

4. A heavy manpower application and engineering and design effort early in the project is necessary if the project schedule has any chance of being met. Burns and Roe proposed on that basis. Startup delays and the budget cuts and other events described above are preventing that approach and will drastically affect the schedule. Enclosed as Attachments 3 and 4 are a set of comparison curves showing what happened to Bechtel manning on FFTF, what we proposed, and what is happening to us on LMFBR. The similarity to the effects on Bechtel is striking. The job will become late and inefficient due to budgets and manning.

5. Bechtel costs grew from an initial estimate of $14M to a current estimate of $42M (which we believe must grow further) in large measure because of delays and major rework. Our initial cost estimate of $25M was based on minimum rework and delays. We are presently reestimating our costs for purposes of contract and fee negotiations and expect the revised estimate to be between $40M and $50M for the following reasons:

a. The arrangement for client management and conduct of the job has changed drastically from that specified in the RFP, going from a simple job managed by PMC to a complex one largely managed by AEC with most AEC funds not flowing through PMC. This arrangement involves multiple approvals, repeated studies and long delays in decisions, and contributed to massive cost increases on FFTF.

b. Contractor responsibilities for the job have been divided among Westinghouse, AI, GE and Burns and Roe. This leads to a complex engineering interface problem, a problem in obtaining component design information, a problem in completing drawings in a timely manner, and considerable communication and liaison problems. We know that much of the work presently assigned to the RM's will evolve to Burns and Roe and not necessarily in a formal, controlled manner. We also must satisfy ourselves that the RM engineering is correct if we are to be responsible for drawings. Our experience to date with RM-furnished information is that it is incomplete and requires considerable effort on our part to develop needed data. This type of scope change is extremely difficult to address as a contract change because of its bits and pieces nature and sheer volume.

c. We will perform our work under two to four contracts (with PMC and Westinghouse, and perhaps with GE and AI) rather than one as called for in the RFP. In addition, we will be required to administer our work in accordance with AEC procedures (189's). Thus, far greater administrative costs are involved.

d. Our proposal was based specifically on use of one of the RM designs which resulted from the three year Project Definition Phase, and provided for no conceptual design phase. However, we are now just starting an extensive conceptual design phase required by client decisions to not use the Westinghouse design.

e. As we have become more familiar with LMFBR and FFTF, we have found our original estimates to be low in some cases. In addition, the scope of our work has increased in some areas such as the following:

(1) A much larger than planned site investigation effort is now anticipated because of the boring results to date.

(2) Additional drawings such as component interface and isometric drawings are required.

(3) The manner in which PMC plans to apply RDT Standards to the BOP will mean more work than planned.

(4) The use of a scale model is now planned.

(5) The licensing approach involves numerous variance requests and submittals not originally included.

(6) The use of program-wide administrative procedures will be required.

f. Our proposal was based on heavy, early funding of a total job and the ability to work efficiently. We actually will work under annual funding procedures which involve extensive administration and budget limitations.

g. Our requested funds for FY 1974 have been cut drastically as have those requested by the RM's, leading to a slow and disjointed start on the job. Arrangement work on some buildings is being deferred to later years, leading to building interface problems and redesign and rework. This leads to an inefficient engineering effort, late input to drawings and rework, later higher manpower peaks with attendant inefficiencies, and an early higher-than-desired management to producer level. The job will be controlled by lack of AEC funds when needed, leading to much higher long term costs. Our price must reflect this misguided direction of the design effort.

h. The start of the job has been delayed by the hang-ups in the project agreements. We will have spent over $1M before the real start of the job.

It should be noted that even though our scope of work was reduced by $10—15% by assignments of responsibilities to the RM's, our estimate of the effort required during FY 1974 for the work assigned to us was about the same as that in our proposal because of increased effort on the work remaining with us. Westinghouse concurred in our estimate for FY 1974 based on an independent estimate by them. Therefore, the reduction in our scope by assignments to the RM's has been at least offset by a greater amount of effort now recognized in the work remaining with us.

5. AEC is exerting strict control on RM manpower application. Manpower buildups are being limited until experienced people become available from FFTF. This is likely to drag out even worse than present budget cuts. This will severely affect the engineering input to and support of our drawings and their schedules.

6. Burns and Roe proposed a 7% fee for LMFBR. It appears, based on Bechtel FFTF experience and recent checks of AEC practices, that a fee in the range of 4–6% may be the maximum which can be expected Further. all indications are that PMC's measure of its negotiating success will be a fixed fee from us for the total job of a very low amount. On an estimated cost of $25 million, our fee would be $1–1.5 million or less. On an estimated cost of $45 million, our fee could be $1.8–2.7 million or less. A firm, well-handled fee negotiation could mean $1 million to us. This is important to our future corporated development. It is also important since LMFBR will be a substantial portion of our workload for years to come.

F. Project Schedule—

1. In mid-1971, President Nixon set a national goal of demonstration of breeding by 1980, interpreted to mean by December 31, 1979 or earlier. This timetable is still being maintained by PMC and AEC. However, in the intervening two years, no contracts have been let. It is about 18 months since the Commonwealth Edison/TVA proposal was accepted and over one year since contractor proposals were submitted. No planning for work or personnel assignments subsequent to July 1, 1973 has been authorized. Needed and irretrievable time has been lost.

2. In May 1973, PMC (Shewski) informed the Breeder Reactor Corporation that a tentative 64-month schedule had been established for the LMFBR Project (measured from award of contracts to initial criticality). He was referring to a Westinghouse document developed in February 1973. Burns and Roe did not and does not agree with that document and is so on record.

3. Based on recent decisions and expressed intentions of PMC and AEC and on delays in resolution of contract and other matters, it is now apparent that the project schedule will be missed by at least two years or more (making it at least a 96-month or eight year schedule or longer). Completion of demonstration of breeding is now likely in late 1981 rather than late 1979. Some of the principal reasons for this conclusion are:

a. The delays noted in 1. above and late manpower application in FY 1974.

b. Problems resulting from the project budget and client and contractor arrangements described above.

c. The recent PMC decision to utilize extensive competitive bidding of individual construction packages to construct the plant, which adds a year to the schedule.

d. An extended conceptual design period due to decisions to not utilize the Westinghouse plant design. This period keeps growing longer.

e. Site rock conditions and delays in the site investigations due to lack of funds.

Delay in equipment ordering would also affect the schedule.

4. In addition to the above, LMFBR schedule durations are predicated on unique and timely licensing actions by the AEC, which have been assumed to be completed up to two years earlier than present experience for light water nuclear power plants. The schedule assumes receipt of approval of special variances for site grading and excavation and for substructure installation prior to receipt of a Construction Permit. This schedule could be affected drastically by the following:

a. The recent Federal appeals court ruling on the SIPJ suit means that the AEC must obtain acceptance of the total long term environmental effects of future breeder reactors compared to other alternatives in order to license and construct the LMFBR Demonstration Plant. It is highly unlikely that such a matter will be settled less than a year from now when a variance to start clearing of the site is scheduled for approval. Therefore, site work is likely to be delayed and the variance approval concept is likely to fail.

b. The overall approach to LMFBR reactor safety matters is likely to be changed based on Mr. Shaw's departure and possible future AEC reorganizations as discussed above. Therefore, changes in licensing schedules are likely.

c. It appears likely that the Regulatory group of the AEC will be made independent of the development part of AEC soon. This would mean far less chance of early and unique licensing approvals.

d. The site conditions described below may delay establishment of the suitability of the site.

5. Current schedules for light water nuclear power plants are similar to the above described current estimate for LMFBR. The FFTF schedule is expected to be about nine years long. The FFTF project did not undergo normal licensing procedures, has a favorable site, has a simpler contractor arrangement, and is being constructed by force account (no competitive bidding of packages).

6. The original FFTF schedule called for

completion about three years earlier than presently expected. Bechtel has been pilloried by AEC for the schedule delays on FFTF. The attached Bechtel manpower curves show part of the reasons why the schedule was delayed. A similar slower-than-desired manpower buildup is being forced on Burns and Roe. Further, Westinghouse has already started its efforts to blame Burns and Roe for schedule delays. There is no substance to the Westinghouse schedule delay contention, as documented in a recent Burns and Roe letter.

7. The Clinch River site selected for the LMFBR Demonstration Plant is one of the worst sites ever selected for a nuclear power plant based on its topography and rock conditions. The suitability of the site will not be confirmed until after an extensive soil boring program. There is a possibility that the site may not be acceptable. As a minimum, site development costs will be high. The reasons for the above conclusions are as follows:

a. The site has varying rock conditions. The rock on which we are attempting to place the plant is known to be somewhat nonhomogeneous and to be subject to possible solution activity problems and perhaps voids and cavities. These conditions may require some rock treatment such as grouting, and verification of the results by an added soil boring program. Previous sites with similar problems have been difficult to license and have been difficult and costly to prepare.

b. The areas surrounding the present estimated plant location are known to have an as yet undetermined degree of voids and cavities. Because of this condition and the large amount of excavation required by the design depth of containment at the present time, an extensive rock treatment (grouting) effort appears to be required, followed by a detailed soil boring program to verify that the results are satisfactory. This effort is anticipated to be required to avoid possible severe subsidence problems, which could be the equivalent of a seismic event. The AEC has insisted on such actions for previous sites with less extents of voids and cavities; considerable costs and delays have been involved.

c. Slope stability will be a problem during construction due to the nature of the site material.

d. Extensive excavation, including much into bedrock, and backfill is presently estimated to be required because of the hilly terrain and subsurface conditions at the site.

The results of the above could mean a minimum of more than six months' delay and many millions of dollars in cost increases. In addition, final location and orientation of the plant will be delayed pending results of the soil boring program. We are approaching the overall plant design and location in a manner to minimize the amount of required excavation and the above problems. A letter to PMC outlining the nature and potential of the site situation based on best data at this time is being prepared to be issued soon in the proper manner.

8. Law Engineering Testing Company has been performing the site seismic, geologic, and hydrologic investigations under subcontract to Burns and Roe. This work was commenced in mid-May 1973 based on receipt of $75,000 from Commonwealth Edison as temporary funding until the project agreements were signed. The Law site investigations were stopped by Burns and Roe on July 1, 1973 when the $75,000 was expended and Commonwealth Edison would not provide additional funding. This will delay establishing building locations on the site and the development of a Site Safety Report, which will be prepared for early submission to the AEC (DRL) to confirm the suitability of the site. The Site Safety Report was scheduled unilaterally by AEC (RRD) to be completed by June 30, 1973. It cannot now be completed until early 1974. Based on the site conditions, described above, discussions with DRL regarding site suitability are likely to be long and drawn out, leading to effects on the licensing schedule. The early, clean acceptance of the site by DRL hoped for by AEC (RRD) is not likely.

9. PMC has apparently decided to invoke many RDT Standards in the turbine generator specification rather than the approach with options recommended by Burns and Roe. This will mean long delays in turbine generator award and delivery and in our Balance of Plant design effort. The same philosophy applied to other Balance of Plant components will also mean long delays in them.

G. Project Capital Costs—

1. Burns and Roe has had no access to the LMFBR Demonstration Plant capital cost estimate to date. PMC must certify before construction starts that the plant can be built within the present capital cost estimate. Burns and Roe is now knowledgeable of the following items which could cause the estimate to be exceeded:

a. A two-year delay in the schedule could add $60,000,000 or more to the cost due to escalation alone.

b. The site will be very costly to prepare as described above.

c. The size of the NSSS and containment have grown considerably because of use of FFTF design features rather than those prepared by Westinghouse. The containment diameter has increased from 155' as proposed by Westinghouse to 200' or greater.

d. Our engineering and design cost estimate will have grown by $20–$25,000,000.

e. The maintenance approach may add substantially to the plant cost.

f. The magnitude of plant features necessary to really carry out the PMC design guideline of "no planned releases from radioactive effluent systems to the environment during normal plant operation" and their cost effects have not yet been fully appreciated.

g. PMC desires to construct the Balance of Plant in parallel with the Nuclear Island. This approach will result in some extra costs.

2. PMC has decided to go to competitive bidding of construction packages to minimize costs even at the expense of schedule delays Burns and Roe has advised PMC that construction packages are not likely to result in fixed price bids which will hold up. We expect many drawing changes due to the developmental nature of the job. This will be aggravated by the budget cuts and Reactor Manufacturer assignments described above. FFTF drawings today contain extensive holds and changes. Burns and Roe has told PMC that claims and changes could well make competitive fixed price packages more expensive in the long run than force account work. This is being confirmed by letter to PMC.

3. Westinghouse has stated in a letter to AEC that the use of proven FFTF design concepts should, in the long run, improve LMFBR Project schedules and costs. Burns and Roe has gone on record in a letter to Westinghouse that we are not in a position to agree or disagree with Westinghouse, not having had an opportunity to study projected project costs. This step was taken to leave us latitude in dealing with the utility industry later but to not alienate AEC now.

H. Scale-Up of LMFBR Demonstration Plant for Commercial Use—

1. In many of the project technical decisions, there are trade-offs between what is best to achieve an early, successful Demonstration Plant and what is best to minimize later development costs and to be able to scale the plant up to commercial size. The results of the decisions to date are that there are many aspects of the LMFBR Demonstration Plant design which are not pointed toward scale-up of the plant for commercial use and toward minimizing development costs to the utilities later. We believe the decisions have been made for the following reasons:

a. FFTF concepts are being utilized partly to justify that program and to increase AEC ability to spread FFTF costs into the LMFBR Project. The FFTF program is experiencing severe cost and schedule overruns which are likely to get worse and become more of a scandal. The possible use of LMFBR funds for FFTF could be a significant part of the scandal.

b. The schedule is far too optimistic and requires special approaches to be met.

c. The AEC believes that the use of previously approved FFTF concepts and components will lead to early, reliable operation of the Demonstration Plant and will minimize technical development work which could hang up the Demonstration Plant.

When the utility industry comes to develop a second Demonstration Plant or commercial designs, the above will come to light. The utilities will find their development costs high to develop follow on LMFBR's.

2. Examples of the above are:

a. The NSSS design has been modified to use FFTF design concepts. Although Westinghouse is the prime contractor for FFTF, it did not recommend FFTF concepts after three years of PDP studies. The AEC has forced the use of FFTF concepts rather than the Westinghouse design over the objections of many in Westinghouse. However, top Westinghouse management has decided to side with AEC. PMC recommendations against use of some of the FFTF concepts have been overruled by the AEC (this could be reopened with Shaw gone). As long as AEC and Westinghouse continue to make the design decisions, they are likely not to be in the overall utility industry interest. We know that some aspects of the FFTF design are abortions due to an AEC decision to make the FFTF containment too small and because of distortions in project efforts because of inadequate estimates and funding problems. There are indicators that utility representatives are starting to question why they should contribute $250 million to add a balance of plant and steam generator to an FFTF.

b. Specifically, the AEC decision to utilize hot leg reactor coolant pumps like FFTF has caused the primary piping diameter to increase to 38" and the containment diameter to go from 155' to 200'. The present containment design will be the largest ever built. Containment diameter for a 1500 MW plant of the future (four times larger than the Demonstration Plant) is likely to be over 300'. It is not clear that the sheer physical size of a future commercial scale LMFBR will not make it unattractive. Further, AEC seems opposed to use of a reinforced concrete containment, even though it may cost considerably less than a steel containment stiffened to withstand a 300 mph tornado.

c. The Demonstration Plant is based on a non-reheat cycle and 1450 psig steam pressure. Commercial plants will have to operate with a 2400 psi steam pressure which Westinghouse favored for the Demonstration Plant. Considerable development will be involved at utility expense to go to the higher steam pressure.

d. Both FFTF and Westinghouse designs, based on years of effort, result in a containment depth below grade of about 125'. Burns and Roe estimates that such a design would be very expensive to build on most sites in the U.S. and would be a severe problem on many sites due to hydrostatic pressure problems. This could cause the utilities to look unfavorably on the LMFBR. Burns and Roe is presently trying for a redesign which will limit containment depth below grade to about 60'. It is not clear that AEC and PMC will agree to this.

e. The maintenance philosophy adopted for the LMFBR Demonstration Plant will be expensive and is not necessarily in accord with utility industry desires. The cost of the PMC approach has not yet been realized.

f. Many safety approaches incorporated in FFTF and planned for the LMFBR Demonstration Plant may not be commercially licensable. These plant features could be addressed and resolved during the Demonstration Plant licensing process.

3. There is no indication that PMC is advising the utility industry of the future implications of the design decisions it is acceding to. The impact and efficacy of the design decisions is a difficult matter for Burns and Roe to deal with. We will probably not be able to take a position in this matter except via cost effects.

I. Holmes & Narver Situation—

1. Holmes & Narver was of substantial help to us as a subcontractor in obtaining the LMFBR award. They continue to be of considerable help in the area of sodium system design. Their scope of work in sodium system stress analysis has been reduced considerably from that we proposed and from that they hoped for. They are greatly upset and disappointed by this. There appears to be an effort underway on the part of AEC and Westinghouse to minimize the Holmes & Narver role on the project even though their reputation on their LMEC work for AEC seems to be satisfactory.

2. Holmes & Narver recently made a proposal to become the "West Coast Architect-Engineer" for the LMFBR Demonstration Plant, proposing to do all the architect-engineer work for AI and GE. They proposed to do the radwaste system and H&V design work as well as sodium and inert gas systems. We rejected that approach flatly and worked out an agreement whereby they would be assigned slightly more than the 90,000 manhours which was the minimum amount for them in our proposal. However, much of the effort to be assigned to them has not yet been established as RM or AE responsibility. In addition, the recent budget cuts by the AEC will directly affect the amount of Holmes & Narver's work for us in the near future.

3. Based on the above, it is likely that we will have more difficulty with Holmes & Narver in the near future. They may again threaten to be the "West Coast A-E" or to leave the job, or to charge us exorbitant fees for their expertise, all of which have been mentioned in the past. We will have to continue to give them as much work as we can within their agreed upon scope, be firm with respect to their moves, and develop our actions based on circumstances as they develop.

DISCUSSION

Based on the above information, the following options and their expected positive and negative results have been examined and are discussed below—

Proceed as at Present—Take Firm Positions on Expected Cost, Schedule, and Technical Problems,

Proceed as at Present—Delay Taking Positions on Expected Cost, Schedule, and Technical Problems,

Reorganize Into Two Projects—Reduce Management Attention and Disclaim Overall Responsibility,

Terminate Efforts on Project—Replace With Other New Business.

Each of the above options is discussed individually below followed by a section on overall conclusions and recommendations.

Proceed as at Present—Take Firm Positions On Expected Cost, Schedule, and Technical Problems.

Basis for and Manner of Proceeding—

1. Proceed to negotiate contracts and man the project to the level permitted by funding limits. Continue application of presently assigned management and retain overall responsibility for the total final design product. Do the best technical job as quickly as possible. Take the position that if we are to be responsible for technical results (drawings) we must be satisfied with them.

2. Assess the overall effects of outside forces on the LMFBR Project such as the delays in obtaining JCAE agreement and the delays due to environmental reviews and determine how these situations should be related to the known delays and cost increases for other reasons. Reflect the overall strategy in the actions below.

3. After authorization of full project work, advise PMC formally of expected overall effect of competitive bidding of construction packages, make recommendations, and base schedule position on results.

4. At the proper time, attempt again to obtain approval to use scheduled overtime for designers and draftsmen to be able to properly man the project and base negotiation and schedule position on the result.

5. Advise PMC by formal letter of the potential nature of site related problems known today based on best available data.

6. After authorization of full project work, take a firm formal position with PMC that the overall project schedule is late (based on the factors enumerated in recent draft letter) and use the extended schedule as the basis for our cost estimate. We are obligated by our assigned responsibilities to develop an overall project schedule for PMC as soon as work starts.

7. For contract negotiations, estimate the total overall engineering and design costs expected to occur ultimately (over $40 million) and base fee on those costs. Take a hard position in fee negotiation.

8. Recommend that Burns and Roe help PMC review project capital cost estimates and effects of events to date. Point out technical decisions which have increased costs and the true state of the capital cost estimate.

9. Take special steps with appropriate utilities to advise them of true status of LMFBR and impact on us. Clear the steps we plan with PMC.

Expected Positive Results—

1. Could provide billings and fee we might not otherwise obtain.

2. Could put us in the best position to obtain maximum fee from the job. This is important to provide funds for future growth and development. Also could put us in best position if project is delayed or terminated.

3. Enhance our reputation for technical performance on LMFBR and for competence, integrity, and professionalism.

4. Raises serious project problems early, permitting possible corrective action. Hopefully, could force correction of some serious situations which will continue to distort and harm project efforts if not recognized and fixed, and could result in schedules and estimates which we can meet in an efficient manner.

5. Raises the problems when other parties are in the poorest position to blame Burns and Roe for bad results.

6. Provides time to see the results of expected evolutions on the project.

Expected Negative Results—

1. Will incur displeasure of PMC, AEC, and Westinghouse regarding cost and schedule positions. Could put PMC and AEC in a bind with JCAE and utilities. Could cause efforts to replace us.

2. If cost and schedule truths abort the project early, could cost us business and incur enmity of supporting utilities.

3. Could lead to protracted contract negotiations and involve much time of company and project management.

4. Retains LMFBR in our workload, with attendant possible negative effect on specific potential clients for new business.

Proceed as at Present—Delay Taking Positions on Expected Cost, Schedule, and Technical Problems.

Basis for and Manner of Proceeding—

1. Proceed to negotiate contracts and man the project to the level permitted by funding limits. Continue application of presently assigned management and retain overall responsibility for the total final design product. Do the best technical job as quickly as possible. Take the position that if we are to be responsible for technical results, we must be satisfied with them.

2. Assess the overall effects of outside forces on the LMFBR Project such as the delays in obtaining JCAE agreement and the delays due to environmental reviews and determine how these situations should be related to the known delays and cost increases for other reasons. Reflect the overall strategy in the actions below.

3. At the proper time, attempt again to obtain approval to use scheduled overtime for designers and draftsmen to be able to properly man the project and base negotiation and schedule position on the result.

4. Do not address construction package, site, or schedule problems presently known. Obfuscate overall positions until later.

5. Keep estimated cost and desired fee low. Delay fee negotiation as long as possible. Plan on maintaining a desired fee percentage through negotiation of contract changes.

6. Avoid looking at capital cost estimate.

Expected Positive Results—

1. Avoids putting PMC and AEC in a near-term bind on the project.

2. Will result in least short term animosity toward Burns and Roe.

3. Project progress may be drastically affected by environmental and licensing matters; cost and schedule problems might be hidden in other effects.

4. Provides time to see the results of expected evolutions on the project.

Expected Negative Results—

1. May make it more difficult to realize a proper fee on the job via the changes route. May also make the job a continuing legal argument over scope, cost, and fee. Weakens negotiation position if job delayed or terminated.

2. Does not treat known problems in a fully professional manner.

3. Postposes emergence of problems until a later time when Burns and Roe can, and in all likelihood will, be blamed for cost and schedule overruns as Bechtel has been. Could cast doubt on our knowledge and competence. Such a situation would have a serious long term effect on our reputation and growth.

4. Perpetuates optimistic myths and schedules and distortion of our efforts on the project. Will not correct bad client management practices which have evolved.

5. Retains LMFBR in our workload, with possible attendant negative effect on specific potential clients for new business.

Reorganize Into Two Projects—Reduce Management Attention and Disclaim Overall Responsibility.

Basis for and Manner of Proceeding—

1. Recognize that control over the course of the project is out of Burns and Roe's hands and that the final products, drawings, and specifications for the NSSI will reflect Reactor Manufacturer, not our, designs, for which we cannot be responsible. Recognize that low rate of funding has diminished project priority.

2. Accordingly, disclaim responsibility for overall project products and results. Be a true subcontractor to the RM's. Have them issue all NSSS drawings and specifications under their name and be responsible for schedules. Continue to be responsible for BOP products and results only.

3. Divide project in two, with independent Project Managers for Westinghouse and PMC work. Reassign present top project management to other work. Be a "body shop" for the RM's.

Expected Positive Results—

1. Makes contractual and accounting matters the most clear cut.

2. Frees up some management talent.

3. Might relieve us of ultimate responsibility for poor results expected.

Expected Negative Results—

1. Would be likely to insure bad results and an uncoordinated product.

2. Would not fully relieve us of responsibility.

3. Would not be professional approach and would be so viewed by the utility industry.

4. Retains LMFBR in our workload, with attendant possible negative effect on specific potential clients for new business.

Terminate Efforts on Project—Replace With Other New Business.

Basis for and Manner of Proceeding—

1. Notify PMC that Burns and Roe does not desire to proceed with contract because of total change in nature of job, limited budgets, late start on project with unchanged end date, and reduced scope of our effort and responsibility for product by assignments to RM's.

2. Make claim for unauthorized costs incurred, including disruption, loss of business, and loss of overhead income.

Expected Positive Results—

1. Extricates company from a known bad situation similar to that in which Bechtel found itself.

2. Makes personnel available for other jobs which might be obtained with a better financial return and chance of success.

3. Eliminates reason for lack of new business due to LMFBR contract.

Expected Negative Results—

1. Does not support urgent national project needed to help solve energy crisis. Takes Burns and Roe out of forefront of technology in power industry.

2. Will result in long project delays and possibly abort project if not handled right.

3. Will transfer blame for current project problems to Burns and Roe rather than keeping it where it belongs.

4. Will insure we cannot collect considerable money already spent on the project and will put us in a poor position to prosecute any claims.

5. Will damage our reputation as a top AE and will severely hurt our chances of getting future LMFBR work.

6. Will make enemies of many utilities and Westinghouse as well as PMC and AEC.

7. Will likely cause utilities to view us less favorably than now for new work.

8. May well not result in new business even if utilities viewed our actions favorably, since truly hard prospects for nuclear power plant work are not readily apparent regardless of impact of LMFBR.

CONCLUSIONS AND RECOMMENDATIONS

1. Implement the steps described above under Option 1—Proceed as at Present—Take Firm Positions on Expected Cost, Schedule, and Technical Problems. Specifically:

a. LMFBR Project staff prepare following at proper times:

1. Letter to PMC on effect of bidding of construction packages.

2 Letter to PMC and Westinghouse requesting approval of scheduled overtime for designers and draftsmen.

3. Letter to PMC on site conditions.

4 Letter to PMC on overall project schedule

5. Estimate and rationale of projected costs.

Handle cost and schedule positions so as to maximize positive utility industry reaction.

b. Engineering Services prepare necessary information to give to selected utilities showing:

1. Our workload and maximum effect of LMFBR worst case.

2. That we have LMFBR management staff already assigned and will not be drawing from others available for utility work.

3. Status of our work on LMFBR (Project assist in preparing).

4. That we shouldn't be punished for serving the long term needs of the utilities.

2. View project events over the next year and reassess action needed at that time or when necessary.

PRODUCT LIABILITY LOSS RESERVE ACCOUNT

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, today I am introducing legislation which would make it possible for businesses to receive a tax deduction for funds reserved to pay losses on product liability claims.

In the past decade, it has become increasingly difficult for companies to afford—or obtain—product liability insurance. During this period, the courts have extended the tort law concept of strict liability to product liability, which has meant that the number of product liability suits has increased rapidly. From 1970 to 1977, the number of claims filed rose from 500,000 to 1 million. As a result, the total cost of paying claims has risen from $12 billion in 1970 to $50 billion in 1975. Average awards have escalated from $25,000 in 1970 to $50,000 in 1975. As a result, insurance premiums have gone up dramatically, with some firms experiencing increases of over 1,000 percent.

The increasing cost of product liability coverage has been accompanied by an increasing difficulty in obtaining product liability insurance. The interagency task force on product liability identified approximately 184 firms without product liability coverage. The number of uninsured companies nationwide is far higher than this—possibly as high as 40 percent of all small manufacturers.

This pay-as-you-go liability—"going bare"—is extremely risky, especially for small businesses. When losses exceed revenues, the company may be forced to sell or borrow against assets, or even declare bankruptcy. No one wins in this situation. The plaintiff may not receive compensation, and the company may go out of business.

Large manufacturers unable to obtain product liability coverage from private insurers can purchase or establish "captive" insurance companies because they possess sufficient capital.

Small and medium size companies, however, do not have sufficient capital to pursue this alternative. And the Federal tax laws work against self-insurance by prohibiting contributions from being deducted as a business expense as are insurance premiums.

The bill that I am offering today provides that contributions to a reserve fund to cover product liability losses can be deducted from a firm's Federal income tax. This is the same treatment permitted to a business which obtains product liability insurance and deducts premiums.

The amount which can be reserved for product liability in any given year is limited to 2 percent of gross receipts of that product. This percentage is comparable to the average which affected manufacturers are now paying in product liability insurance premiums. The reserved funds are available only for product liability payments, and withdrawals for any other purpose are subject to a stiff penalty.

In many cases self-insurance permits firms to predict their losses more accurately than insurance underwriters, who seldom set rates on small accounts based on the firm's actual loss experience. Furthermore, a self-insured firm can set aside a fund or liability within a certain range, and insure the remaining liability through private insurance companies.

Mr. Speaker, the number of bills introduced by my colleagues in the House which seek to provide remedies to the product liability situation reflect the concern of business, insurance brokers, consumers, and Members of Congress. In addition, the Senate Small Business Committee has held extensive hearings regarding product liability, and Senator JOHN CULVER and Congresman CHARLES WHALEN have introduced similar bills to allow companies to set up reserve accounts for paying product liability claims which are tax deductible. For many small and medium size businesses, product liability is the most serious obstacle to success. I hope that my colleagues in the House can quickly begin the consideration of this legislation, which will establish an alternative to the inequitable system of product liability insurance.

Mr. Speaker, I insert the text of the bill in the RECORD:

H.R. 8064

A bill to amend the Internal Revenue Code of 1954 to provide a deduction for certain amounts paid to a reserve for payment of product liability losses

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) RESERVE FOR PRODUCT LIABILITY LOSSES.—

"(1) IN GENERAL.—In the case of a taxpayer engaged during the taxable year in a trade or business which involves the manufacture, importation, distribution, lease, or sale of any product with respect to which the taxpayer may incur any product liability (as determined under regulations prescribed by the Secretary), at the election of the taxpayer, there shall be allowed as a deduction under subsection (a) for such taxable year an amount (determined under paragraph (2)) paid by the taxpayer within the taxable year to his product liability loss reserve account.

"(2) DETERMINATION OF AMOUNT.—The aggregate amount of payments by the taxpayer to his product liability loss reserve account which may be taken into account under paragraph (1) for the taxable year (hereinafter in this paragraph referred to as the 'computation year') with respect to any product shall not exceed the 'esser of—

"(A) 2 percent of the gross receipts of the taxpayer for the computation year from the manufacture, importation distribution, lease, and sale of such product; or

"(B) the amount which, when added to the amount in the product liability loss reserve account at the end of the computation year, equals 10 percent of the average yearly gross receipts from the manufacture, importation, distribution, lease, and sale of such product for the shorter of—

"(i) the period of taxable years ending with the computation year with respect to which the election under paragraph (1) continuously applies; or

"(ii) the 5-taxable year period ending with the computation year.

In determining average yearly gross receipts, proper adjustment shall be made for any taxable year of less than 12 months.

"(3) DISALLOWANCE OF DEDUCTION FOR LOSSES PAID FROM ACCOUNT.—No deduction shall be allowed under subsection (a) to a taxpayer for any product liability loss sustained during the taxable year except to the extent that the aggregate amount of such losses during such year exceeds the sum of—

"(A) the amount in the product liability loss reserve account of the taxpayer at the beginning of such taxable year, plus

"(B) the aggregate amount of payments by the taxpayer to such account within the taxable year which are allowable as a deduction under paragraph (1).

"(4) USE OF ACCOUNT FUNDS FOR OTHER THAN PAYMENT OF PRODUCT LIABILITY LOSSES.—

"(A) IN GENERAL.—If any amount in a product liability loss reserve account is, during a taxable year, used for any purpose (including use as a loan or as security for a loan) other than the payment of any product liability loss of the taxpayer—

"(i) an amount equal to the amount so used shall be included as taxable income (without regard to other income or deductions) to the taxpayer for the taxable year in which such use commences, and

"(ii) the liability of the taxpayer for tax imposed by this chapter for such taxable year shall be increased by an amount equal to 50 percent of the amount so used.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any payment from any product liability loss reserve account within 90 days after the last day prescribed by law (including extensions thereof) for filing the return of the tax imposed by this chapter for the taxable year if the amount of such payment is not more than the excess of—

"(i) the aggregate amount of payments by the taxpayer to such account within the taxable year, over

"(ii) the maximum amount of such payments which may be taken into account under paragraph (2).

"(5) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of any taxpayer who is at any time during a calendar year a component member of a controlled group of corporations, for purposes of paragraph (2), only gross receipts properly attributable under section 482 to such taxpayer for such year shall be taken into account under paragraph (2).

"(B) DEFINITION OF CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group of corporations' has the meaning given such term by paragraph (1), (2), and (3), of subsection (a) of section 1563, except that—

"(i) the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in such subsection; and

"(ii) the determination of whether a taxpayer is a component member of a controlled group of corporations at any time during a calendar year—

"(I) shall be made on December 31 of such year; and

"(II) shall be made without regard to subsection (e)(3)(C) of such section.

"(C) CONTROLLED GROUPS CONTAINING PERSONS OTHER THAN CORPORATIONS.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraphs (A) and (B) shall be applied to groups of taxpayers under common control where one or more of such taxpayers is not a coporation.

"(6) ELECTION.—The election under paragraph (1) shall be made at such time and such manner as the Secretary shall by regulations prescribe. Such election may not be revoked except with the consent of the Secretary.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) PRODUCT LIABILITY.—The term 'product liability' means liability for damages arising out of injuries to persons or property attributable to any negligence, breach of warranty, or defect in connection with any product manufactured, imported, distributed, leased, or sold by the taxpayer.

"(B) PRODUCT LIABILITY LOSS.—The term 'product liability loss' means any loss attributable to product liability of the taxpayer.

"(C) PRODUCT LIABILITY LOSS RESERVE ACCOUNT.—The term 'product liability loss reserve account' means any trust—

"(i) which is created or organized under the laws of the United States or of any State (including the District of Columbia) for the taxpayer.

"(ii) the exclusive purpose of which is the payment of product liability losses sustained by the taxpayer,

"(iii) the trustee of which is a bank (as defined in section 401(d)(1)), or any person (other than the taxpayer or any component member of a controlled group of corporations, within the meaning of paragraph (5), of which the taxpayer is a component member) who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with such purpose, and

"(iv) the assets of which will not be commingled with any other property other than in a common trust fund."

SEC. 2. The amendments made by the first section of this Act shall apply to amounts paid in taxable years beginning after December 31, 1977, and before January 1, 1985.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, personal business forced me to be off Capitol Hill last Friday during the vote on House Resolution 655—roll call No. 376—a rule waiving points of order against certain provisions of the Defense Department appropriations bill. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

(Mr. SIMON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIMON. Mr Speaker, last Thursday's RECORD lists me as voting "aye" on the Moore—palm oil—amendment. My intention was to vote in the negative. I have checked and apparently this is not a typographical error. It was an error on my part in punching the voting switch; I would like the RECORD to show my intention.

REMARKS OF PATRICIA ROBERTS HARRIS, SECRETARY OF HUD

(Mr. O'NEILL (at the request of Mr. WHITLEY) was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. O'NEILL. My Speaker, I would like to bring to the attention of my colleagues the speech given by the Secretary of the U.S. Department of Housing and Urban Development at the U.S. Conference of Mayors annual meeting in Tucson, Ariz. on June 13, 1977. Secretary Patricia Roberts Harris outlined, in detail, the new directions undertaken during the first 5 months of President Carter's administration:

REMARKS PREPARED FOR DELIVERY BY PATRICIA ROBERTS HARRIS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT

I am pleased to be with you in Tucson today.

This has given me an opportunity to gain perspective on how you perceive our first five months in office and the new directions HUD has taken during that period.

It has given me the opportunity to meet with you individually to discuss our shared concerns. This kind of dialogue is essential to our continued progress at HUD. We will do our part to continue this dialogue.

We will work through the new Office of Intergovernmental Relations to develop more formal ways of obtaining policy input from the Nation's mayors and from your colleagues in State and local government.

President Carter understands the needs, strengths, and resources of local government, and the ability of the people who direct it.

The Carter Administration is aware of its need to be responsive and of your need to be involved in what we do.

The recently established 18 member Mayor's Advisory Committee is an example of how that need will be met.

The advice and policy recommendations coming from these mayors will provide the Department with your perspectives as we formulate the community development and housing initiatives for 1979 and subsequent fiscal years.

In short, the day of national urban policy being conceived in Washington, directed from Washington, and controlled by Washington is over. We want your help and support. We will continue to ask for it.

We are committed to building a partnership with you. We may argue from time to time, but from those arguments we expect to find consensus.

Ten years ago, the mood of this Conference would have been very different. The conversations, the topics, the agendas—would have been different.

It was the worst year of the urban riots.

As a consequence, Americans came to associate the city with fear, disruptions, violence, and racial tensions.

Ten years later, the memory remains. The situation is different but cause for concern exists. A close look at what is happening reveals a disturbing pattern.

Between March 1975 and March 1976, central cities sustained an incredible net population loss of two million people.

In the 15 largest metro areas, jobs are shifting to the suburbs at an alarming rate; the central cities share of metro jobs dropped from 63 percent in 1960 to 52 percent in 1970, to less than 50 percent today.

In central cities in 15 years, the percentage of poor people who are black has risen from 37 percent to nearly 50 percent.

It is estimated that today 6 million American families live in inadequate housing, and that an equal number pay a disproportionate amount of their income for shelter.

As Donna Shalala, HUD's Assistant Secretary for Policy Development and Research, says, "older America is in deep financial trouble."

Donna is equally careful to point out that older, distressed cities are not all of urban America. The concern of the Urban Development component of the Department of Housing and Urban Development is all urban areas.

The Department, therefore, will develop variations in strategies and a full spectrum of housing and community development tools to address the diverse needs of America's urban communities—all of them. This is being done and you will appreciate the consequences.

Despite this overall concern for the protection of our entire urban environment, we recognize that there is a crisis in one part of the urban America.

It is a matter of direct concern for all of us that America's older cities are financially distressed.

We share Mayor Gibson's concern that Parts of urban America are becoming what our new Assistant Secretary for Neighborhoods, Geno Baroni, describes as "Black, Brown, and Broke."

We share the concern of central city mayors which are growing concerns to all of you.

The loss of the taxpaying population and revenue providing jobs to the suburbs.

The regional economic disparities that intensify the imbalance between resource needs and service demands.

The energy and environmental costs of suburban sprawl and the government's past role in encouraging it.

The growing social isolation of the poor and the concentration of minorities in central cities.

The dual housing market which functions to limit the housing choices of minorities.

The immediate need to encourage reinvestment in the central cities.

The urgent needs of 6 million American families in other cities who live in inadequate housing and a greater number who pay a disproportionate portion of their income for housing.

I know that you share these concerns. You live with them. You work with them. They are also our concerns.

Let me describe briefly what we have done about them in our first five months.

I came to HUD with the specific intention of being an advocate for completing the unfinished business of America's cities.

To do this it was necessary to revise the operaing budget which we inherited for Fiscal 1977 and to change the budgetary and legislative package for Fiscal 1978.

Good intentions without follow-through would be a hollow response to urban America's needs.

Accordingly, we have made our proposals to Congress and they have responded with tentative support for the following.

The three year reauthorization of the Community Development Block Grant program to give more predictability to local economic development.

The authorization of appropriations for the basic block grant programs, not to exceed $3.6 billion in Fiscal '78, $3.65 billion in Fiscal '79 and $3.8 billion in Fiscal 1980.

The initiation of a $400 million urban development action grant program to meet the unique, non-recurring development needs of urban America.

The use of dual formula entitlement funding to target block grant funds to older distressed cities.

The expansion of the permitted program activities to encourage local economic development.

A small communities strategy allocating the discretionary balances in a State-by-State basis to meet the development needs of smaller communities in a realistic way.

A 134,000 unit increase in the Section 8 Budget authorization for fiscal 1977 to 130,000 units of existing housing, 25,000 units of rehabilitated housing, and 168,000 units of new construction.

A further increase for fiscal 1978 to 172,000 units of existing, 147,000 units of rehabilitated housing and new construction, and a reactivation of the public housing programs to 81,000 units, including 6,000 units of Indian Housing.

An expansion of the urban homesteading program and renewed activity in public housing and State agency programs.

Increased mortgage limits in FHA insured programs, and in the Section 235 home ownership program, along with reduced down payments.

Expansion of the Graduated Payment Mortgage Plan to broaden home ownership opportunities for younger families.

These actions serve as the foundation of this Administration's new strategy toward America's cities. Our new strategy involves:

shoring up the economic and tax base of distressed cities;

conserving the inner city neighborhoods, the building blocks of urban society;

providing equal opportunity in housing for low income families in cities and suburbs as well;

making it financially feasible for middle class families to live in the city;

strengthening the role of the Mayors in determining the future of their communities, and

offering a wide range of programs to meet the diversified conditions in America's communities.

Let me elaborate. The new Urban Development Action Grant and the proposal to allow economic development as an eligible activity under the Block Grant program can combine to help a particular city reclaim deteriorating neighborhoods, attract private sector investment, and implement the kinds of large scale revitalization efforts that can help that city restore its tax base.

Similarly, I announced Saturday in a meeting with the Mayor's Housing Task Force our plan to implement a new set of procedures which will facilitate the use of the Section 8 Rehab program for neighborhood conservation.

Briefly, these new procedures will allow selected cities to receive special allocations of the Section 8 substantial rehabilitation funds that they request in their HAPs. In addition to these special allocations—to show that we are serious about making rehab work in cities—we are earmarking a special bonus allocation of 20,000 units of Section 8 Substantial Rehabilitation funds to aid cities in their neighborhood conservation efforts.

To ensure that there will be equal opportunity for low income families in the suburbs as well as the city, HUD will strictly enforce the requirements of the Housing Assistance Plan.

Cities that will not accept their fair share of low and moderate income housing will no longer receive Community Development Block Grant Funds. Where cities and suburbs work together to provide housing for low and moderate income people, bonus allocations of Block Grant Discretionary Funds, 701 Planning Funds, and Section 8 assistance will be given.

To make it economically possible and more attractive for middle income families to live in the city, we will attempt to make FNMA and GNMA more responsive to center city housing concerns.

To strengthen the role of the Mayors in the direction, and implementation of Federal programs at the local levels, HUD is rethinking all of its existing programs and its proposed new programs in such a way as to place the Mayor in the position of the catalyst in local community development.

Finally, we want you to have the programs to meet unique conditions; we want to have the flexibility to respond.

For example, the San Jose and Milwaukee metro areas had roughly the same population in 1970. During the decade of the 1960s, San Jose grew by 66 percent overall, and low and moderate income households grew by 25 percent.

Milwaukee by contrast, grew by only 5 percent, while the number of low-to-moderate income households declined 17 percent.

If current conditions reflect 1970 data, then Milwaukee and San Jose would develop different housing strategies to meet their unique needs.

In San Jose it would make sense to build new units, in Milwaukee, a rehabilitation/lease-in-place strategy would make more sense.

Our new strategy will present a full spectrum of programs to respond to its diverse universe of housing and community development constituents.

Again let me stress that we want to make these programs effective tools for local public and private leadership to use.

We believe that Federal programs which enable you as Mayors and political leaders to demonstrate the leadership skills that put you in office are effective Federal programs. We want to encourage local initiative and creativity in putting together a new partnership of local government and private enterprise with Federal support to revitalize our cities.

We recognize that utilization of local resources of skill and money is essential to an effective national urban policy. We realize that we cannot do it alone.

Our new strategy to the cities is receiving strong support inside the Department.

The enthusiasm of the new HUD team and the nature of our initiatives should prove to you that we are ready to help with your city's community development and housing problems.

They should indicate that this Administration recognizes that local government officials are leaders in their communities and that national policy objectives cannot be carried out effectively without the full, working cooperation of the people in this room and your counterparts in government across the country.

We have laid the foundation for future Federal action, which will demonstrate not only a departure from the past, but also a reliable course for the near future.

To keep this Administration on the right course, another decision was made.

Rather than declaring the urban crisis to be over, as was done by the last Administration, the President has convened a Cabinet level urban and Regional Policy Group. He has given high priority to the development of a coherent national urban policy sensitive to the effects of suburbanization the continuing plight of disadvantaged groups, and the emergence of economic disparities among parts of the country.

A comprehensive policy means that the gap between research and action that opened in recent years will be bridged. Policy decisions will be linked more closely with the world of ideas. In turn, the needs of people will frame the questions asked. This is what the Urban and Regional Policy Group will try to do as we prepare an urban agenda for the President.

You must agree, that HUD is heading in the right direction.

But HUD itself must become better at what it does, if our initiatives are to produce results.

As Mayors you are familiar with Federal programs, and you know that working with them can often be a frustrating, time consuming, and exasperating experience.

They promised speed—you got delays.

They promised simplicity—you got complexity.

They promised choice—you got restrictions.

They promised discretion—you got more regulations.

They promised economy—you got waste.

We are going to turn this around.

HUD is not going to be the place where things get stopped; it is going to be the place where things get done.

It is already happening.

For example, our assisted housing starts on Section 8 were up 12,000 in April and 20,000 in May for a current total of 50,000. We are confident that we will reach our goal of 80,000 construction starts in this fiscal year. The new order in the Office of Housing is Go! Go! Go!

We have also received a supplemental appropriation which will make funds available for an additional 77,000 units of Section 8 new construction and substantial rehabilitation for this fiscal year. These units will be converted as quickly as possible to starts. As an indication of our commitment to speeding up our part of the process, we sent allocations of these units to the field three hours after we received them at Headquarters. They were in the field three days later. We thereby reduced what had been a 30-day allocation process to a mere 75 hours. We hope to match this dispatch in other areas.

A measure of our performance on housing programs will be the actual delivery of housing opportunities and assistance.

We are not in the business of counting reservations.

We consider this approach to our business to be nothing more than the recognition of our basic purpose.

We will work with communities. We will help communities make better use of all HUD programs.

An additional concern that we intend to become more involved in is energy conservation.

HUD has taken action on several fronts.

During the bitter winter months, we halted evictions on all HUD-held or insured properties. We did not want low income people to be victimized by soaring utility costs.

In cooperation with ERDA, we have made a $5 million Demonstration program available to more than 10,000 families in 11 States for the installation of solar heating systems in their homes.

We have begun a major campaign to distribute literature on home insulation, and we will expand it to help home owners across the country.

These are beginnings. Our most important energy conservation effort must be focused on the revitalization of urban areas—which are more energy efficient than suburban developments.

It is a fact that the free-standing single family home is the greatest residential energy user.

It is a fact auto travel has the poorest passenger mile/energy consumption ratio of the currently available transportation systems.

It is 2½ times less efficient than the subway; three times less efficient than the commuter train, and four times less efficient than the bus.

If the goal of reduced energy consumption and energy independence is to be realized by 1985, we must reduce reliance on auto travel and provide more multifamily housing.

In other words, we must make better use of the great resource that is the American city. With your help, this is what we will do. I commend to your consideration the slogan—"Live in the City and Save Energy." Think about it.

We have discussed today the need to shape a national urban life that recognizes the realities of American urban life.

The most fundamental reality of urban America and the great remaining challenge to your leadership skills is the immediate need to start knocking down the economic, political and social barriers that separate the growing population of black and brown residents of our central cities from the remaining white population.

There are a number of common concerns which can bridge racial and income differences in our cities, and get black, brown, red and white people working together:

Their common concern for decent, affordable housing.

Their common need for adequate health care.

The common desire for quality education for their children.

Their common battle for clean air, clean water and a cleaner environment.

Their common fear for crime and unsafe streets.

Their common struggle for jobs and higher incomes.

The greatest barrier to building bridges is NOT that they do NOT have common problems. It is the fear they have of each other.

You and I have much to say about whether this situation changes.

It is a question of leadership.

For the past two decades, political figures have risen to national prominence by pandering to people's fears by encouraging racial division, and by dwelling on economic disparities.

President Carter broke the back of politics of racial confrontation. Let us all join him in calling an end to the politics of fear.

Let's work for our shared future, white, red, black, and brown.

Let's build bridges to people who appear to be different.

Let's glory in our apparent differences and respect them.

America must become a Nation that encourages every citizen—black, white, yellow, red and brown—to contribute to the definition of American life.

Your leadership can make that happen.

The lessons of the past decade should remind us that all of our plans, all our programs, and all our good intentions can be violently swept aside by forces which are easy to trigger but very difficult to control.

In every generation great burdens fall on those who would enter public life.

Experience tells us that public life also presents great opportunities to regenerate our energy, hope, and vision.

It is not sufficient to lament about the problems of our society.

Those who would wish to change this society for the better must take a stand against its problems in the dynamic midst of our active society—the public life.

You have done this, and I commend you for it.

In the troubled journey that has been America's over the past two decades—like the much travelled Odysseus—we are returned home, but weary.

We have not lost our ideals, but we are silent about them.

It is time to think about them.

It is time to speak about them.

It is time to act on them.

And the place to begin is the public life.

We must stay in public life—we must get the people involved, and we must give urban America the leadership it will need to restore this land of our parents' dream.

We must work together to achieve our goals.

The future of urban America is in your hands. And I am reassured today that that is where it should be.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. YOUNG of Florida (at the request of Mr. RHODES), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to revise and extend their remarks and include extraneous matter:)

Mr. FINDLEY, for 5 minutes, today.
Mr. STEERS, for 5 minutes, today.
Mr. WALKER, for 5 minutes, today.
Mr. MCDADE, for 5 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. KEMP, for 5 minutes, today.
Mr. LEACH, for 5 minutes, today.

(The following Members (at the request of Mr. WHITLEY) and to revise and extend their remarks and include extraneous matter:)

Mr. BURKE of Massachusetts, for 30 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WOLFF, for 10 minutes, today.
Mr. PEPPER, for 15 minutes, today.
Mr. MANN, for 5 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.
Mr. DOWNEY, for 5 minutes, today.
Mr. STRATTON, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. COUGHLIN, to extend his remarks in the body of the RECORD, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,093.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to include extraneous matter:)

Mr. SARASIN in two instances.
Mr. DICKINSON.
Mr. WALKER.
Mr. DERWINSKI in two instances.
Mr. RUDD.
Mr. COUGHLIN in two instances.
Mr. FINDLEY.
Mr. WAMPLER.
Mr. CUNNINGHAM.
Mr. ASHBROOK in three instances.
Mr. PRESSLER.
Mr. STEIGER.
Mr. MCDADE.
Mr. MCCLORY.
Mr. CAPUTO.
Mr. HILLIS.
Mr. EDWARDS of Oklahoma.

(The following Members (at the request of Mr. WHITLEY) and to include extraneous material:)

Mrs. BURKE of California.
Mr. TEAGUE.
Mr. FARY.
Mr. GAYDOS in two instances.
Mr. CLAY.
Mr. CHARLES WILSON of Texas in four instances.
Mr. EILBERG in two instances.
Mr. ALEXANDER.
Mr. MCDONALD.
Mr. MURTHA.
Mr. FRASER.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BAUCUS.
Mr. LONG of Maryland.
Mrs. SCHROEDER.
Mr. NIX.
Mr. APPLEGATE.
Mr. SOLARZ in two instances.
Mr. MOORHEAD of Pennsylvania.
Mr. FISHER.
Mr. BALDUS in two instances.
Mr. EDGAR.
Mr. PATTEN.
Mr. FOWLER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 142. An act for the relief of Gaspar Louis Sayoc; to the Committee on the Judiciary.

S. 344. An act for the relief of Mr. Angelo B. Cortes; to the Committee on the Judiciary; and

S. 614. An act for the relief of Chiu Ping Haskell; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1437. An act for the relief of Soo Jin Lee;

H.R. 3838. An act for the relief of Tulsedei Zalim; and

H.R. 4246. An act for the relief of Hee Kyung Yoo.

ADJOURNMENT

Mr. LONG of Louisiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock p.m.), the House adjourned until Wednesday, June 29, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1785. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Flow Industries, Inc., Kent, Wash., for a research project entitled "Field Test of Hydraulic Borehole Mining Systems in Shallow Uranium Sands," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

1786. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Hydronautics, Inc., Laurel, Md., for a research project entitled "Evaluation of Coal-Associated-Rock Cutting by the Cavitating Water Jet," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

1787. A letter from the Director, Administrative Office of the U.S. Courts, transmitting his annual report for fiscal year 1976, pursuant to 28 U.S.C. 604(a)(4); to the Committee on the Judiciary.

1788. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Weather Modification Policy Act of 1976 to extend the date for the submission of the report of the Secretary of Commerce on weather modification; to the Committee on Science and Technology.

1789. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; to the Committee on Veterans' Affairs.

1790. A letter from the Administrator of Veterans' Affairs, transmitting a request that the recommendation of the previous administration for the introduction of legislation terminating the VA educational loan program be withdrawn; to the Committee on Veterans' Affairs.

1791. A letter from the Comptroller General of the United States, transmitting a report on the emphasis needed on the data analysis phase of space science programs (PSAD-77-114, June 27, 1977); jointly, to the Committee on Government Operations and Science and Technology.

1792. A letter from the Comptroller General of the United States, transmitting a report on protecting the public from the hazards of radiation at nuclear facilities which are no longer operating (EMD-77-46, June 16, 1977); jointly, to the Committees on Government Operations, Armed Services, Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

1793. A letter from the Comptroller General of the United States, transmitting a report on the Swine Flu program (HRD-77-115, June 27, 1977); jointly to the Committees on Government Operations, Interstate and Foreign Commerce, and the Judiciary.

1794. A letter from the Comptroller General of the United States, transmitting a report on the need for visitor protection services at Federal recreation areas (GGD-77-28, June 21, 1977); jointly to the Committees on Government Operations, Agriculture, Interior and Insular Affairs, the Judiciary, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLLING: Committee on Rules. House Resolution 664. Resolution providing for the consideration of H.R. 7932. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-468). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN:

H.R. 8055. A bill to establish a national usury law, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ASHLEY:

H.R. 8056. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts:

H.R. 8057. A bill to amend title II of the Social Security Act, the Internal Revenue Code of 1954, as amended, and the Railroad Retirement Act of 1974 to permit combined reporting of wages by employers for old-age, survivors, disability, and health insurance and income tax withholding purposes on an annual basis, and for other purposes; to the Committee on Ways and Means.

By Mr. CLAY (for himself, Mr. BADILLO, Mr. BRODHEAD, Mr. EDWARDS of California, Mr. GILMAN, Mr. EILBERG, Mr. JACOBS, Mr. JENRETTE, Mr. MITCHELL of Maryland, Mr. MURPHY of Illinois, Mr. MURPHY of Pennsylvania, Mr. NIX, Mr. PEPPER, Mrs. SCHROEDER, and Mr. STARK):

H.R. 8058. A bill to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. CONYERS:

H.R. 8059. A bill to amend chapter 117 (commonly called the Mann Act) of title 18, United States Code, to prohibit the transportation of minors in interstate or foreign commerce for sexual purposes; to the Committee on the Judiciary.

By Mr. PANETTA:

H.R. 8060. A bill to establish an Office of Water Management within the executive branch to coordinate Federal water authorities; to establish an Independent Water Project Review Board within the executive branch to advise the President and the Congress, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ERTEL (for himself, Mr. ROBERTS, Mr. FLOOD, and Mr. BEILENSON):

H.R. 8061. A bill to amend the Flood Control Act of 1970 to provide that in determining the need for a local flood protection project, the Secretary of the Army shall consider the impact on the economy and social well-being of the local area and certain surrounding areas if flood protection is not provided, to specify the factors to be evaluated in considering such impact, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FORD of Michigan (for himself, Mr. ROSENTHAL, and Mr. WAXMAN):

H.R. 8062. A bill to amend title I of the Higher Education Act of 1965 to establish a system of grants for urban universities; to the Committee on Education and Labor.

By Mr. FREY (for himself, Mr. BROYHILL and Mr. ABDNOR):

H.R. 8063. A bill to amend the Communications Act of 1934 with respect to the renewal of licenses for the operation of broadcasting stations; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA:

H.R. 8064. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for certain amounts paid to a reserve for payment of product liability losses to the Committee on Ways and Means.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr BLANCHARD, Mr BADILLO, Mr. LUNDINE, Mr. VENTO, Mr.

WATKINS, Mr. ASHLEY, Mr. FAUNTROY, Mr. HUBBARD, Mr. LAFALCE, Mr. MCKINNEY, Mr. STANTON, and Mr. STEERS):

H.R. 8065. A bill to provide for a program of projects to promote economic stability by increasing productivity through the better use of human resources in employment, to encourage the development of worker and management capabilities and to improve job security in order to enhance the well-being of workers and the quality of work life; jointly to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. MURPHY of New York (for himself, Mr. KILDEE, and Mr. CAPUTO):

H.R. 8066. A bill to amend the Child Abuse Prevention and Treatment Act to prohibit the sexual exploitation of children and the transportation and dissemination of photographs or films depicting such exploitation; to the Committee on Education and Labor.

H.R. 8067. A bill to amend title 18, United States Code, to prohibit the sexual exploitation of children and the transportation in interstate or foreign commerce of photographs or films depicting such exploitation; to the Committee on the Judiciary.

By Mr. NIX:

H.R. 8068. A bill to discourage the use of leg-hold or steel-jaw traps on animals in the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. SANTINI, Mr. EVANS of Indiana, Mr. WAMPLER, Mr. HAMMERSCHMIDT, Mr. SARASIN, Mr. COCHRAN of Mississippi, Mr. AUCOIN, Mr. BAUMAN, Mr. BLANCHARD, Mr. BOLAND, Mr. BRADEMAS, Mr. BURKE of Florida, Mr. BUTLER, Mr. COLEMAN, Mr. CORMAN, Mr. CORNELL, Mr. D'AMOURS, Mr. DERWINSKI, Mr. EDWARDS of Oklahoma, Mr. EILBERG, Mr. ERTEL, and Mr. FARY):

H.R. 8069. A bill to amend the Age Discrimination in Employment Act of 1966 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. FAUNTROY, Mrs. FENWICK, Mr. FRASER, Mr. GLICKMAN, Mr. HANNAFORD, Mr. HOLLENBECK, Mr. JENRETTE, Mr. LEACH, Mr. LEDERER, Mr. LENT, Mr. MCCLORY, Mr. MANN, Mr. MITCHELL of Maryland, Mr. PANETTA, Mr. PATTISON of New York, Mr. REUSS, Mr. STARK, Mr. VAN DEERLIN, Mr. WALKER, and Mr. WHITEHURST):

H.R. 8070. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. CARTER, Mr. MARTIN, Mr. ABDNOR, Mr. BYRON, Mr. COHEN, Mr. GRADISON, Mr. HOLLENBECK, Ms. MIKULSKI, Mr. MURPHY of Pennsylvania, Mr. SIMON, Mr. STEED, Mr. STEERS, Mr. STEIGER, Mr. STOKES, Mr. STUMP, Mr. THONE, Mr. VENTO, Mr. VOLKMER, Mr. WALKER, Mr. WHITEHURST, Mr. WHITLEY, Mr. CHARLES WILSON of Texas, and Mr. WOLFF):

H.R. 8071. A bill to direct the Institute of Medicine of the National Academy of Sciences to conduct a 1-year review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives, and to direct the Secretary of Health, Education, and Welfare to permit the continued use of saccharin as a food, food additive, drug, and cosmetic for 18 months; to the Committee on Interstate and Foreign Commerce.

By Mr. SCHULZE:

H.R. 8072. A bill to provide for the burial at the Arlington Memorial Amphitheatre, Arlington National Cemetery, Va., of the remains of an unknown American soldier who lost his life in the American Revolutionary War; to the Committee on Veterans' Affairs.

By Mr. TREEN (for himself and Mr. LOTT):

H.R. 8073. A bill to amend the provisions of the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 which relate to the adjustment of the salary rate for Members of Congress, and for other purposes; jointly, to the Committees on Post Office and Civil Service, and Rules.

By Mr. WHITTEN:

H.R. 8074. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

By Mr. WIRTH (for himself, Mr. BROYHILL, Mr. HEFNER, Mr. HUGHES, Mr. LUKEN, Mr. MANN, Mr. MILLER of California, Mr. MOLLOHAN, Mr. MOSS, Mrs. PETTIS, Mr. SISK, Mr. CHARLES WILSON of Texas, and Mr. WINN):

H.R. 8075. A bill to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts:

H.R. 8076. A bill to amend title II of the Social Security Act to provide separate and increased financing for the disability insurance program, to modify and perfect work-incentive and vocational rehabilitation provisions affecting disabled workers, to provide for a more explicit and administrable definition of disability, to improve the appeals process at the administrative level and to establish a Disability Court, to require that the contractual agreements with the State agencies determining disability are consistent with effective and uniform administration of the disability program and provide the Secretary with authority to terminate agreements with State agencies which do not carry out their agreements, and otherwise to improve the soundness and administration of such program, to amend title XVIII of such act to eliminate the requirement that months in the medicare waiting period be consecutive, and for other purposes; jointly, to the Committees on Education and Labor, the Judiciary, Post Office and Civil Service, and Ways and Means.

By Mr. HILLIS:

H.J. Res. 538. Joint resolution proposing an amendment to the Constitution of the United States to limit the number of years which Representatives and Senators may serve in the Congress; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON of California (for himself, Mr. RYAN, Mr. AKAKA, Mr. ANDERSON of California, Mr. APPLEGATE, Mr. BEVILL, Mr. BUCHANAN, Mrs. CHISHOLM, Mr. CORMAN, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, Mr. HALL, Mr. HARSHA, Mr. HORTON, Mr. JONES of North Carolina, Mr. KEMP, Mr. MONTGOMERY, Mr. NEAL, Mr. RANGEL, Mr. STOCKMAN, Mr. STUMP, Mr. Mr. TAIBLE, Mr. WAGGONNER, Mr. WHITLEY, and Mr. WIRTH):

H. Con. Res. 266. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. NIX introduced a bill (H.R. 8077) for the relief of Anne C. Patterson, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7932

By Mr. COUGHLIN:

On page 19, line 23, strike "$2,402,500," and insert in lieu thereof: "$1,919,500." and strike the remainder of the paragraph.

By Mr. GLICKMAN:

On page 36, after line 17, insert the following new section:

SEC. 404. (a) Except as provided in subsection (b), no funds appropriated by this Act shall be used to pay any employee any part of whose duties may consist of the operation of automated elevators for the House of Representatives.

(b) Subsection (a) shall not apply with respect to any employee who was employed to operate elevators for the House of Representatives on June 29, 1977, and whose employment for such purpose continues without interruption after that date.

By Mr. GRASSLEY:

Page 2, immediately after line 12, insert the following:

No part of the funds appropriate for fiscal year 1977 or fiscal year 1978 by this Act or any other Act may be used hereafter to pay the salary or basic pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for January 4, 1977, if the rate of salary or basic pay for such office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) Limited to a mximum rate which is equal to or greater than the rate of basic pay for such level V (or a percentage of such maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution. For purposes of the preceding sentence, the rate or maximum rate (as the case may be) of salary or basic pay payable for January 4, 1977, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(B) jointly by the Speaker of the House and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

The preceding two sentences shall not apply in the case of any individual holding an office the compensation with respect to which may not, under section 1 of Article III of the Constitution of the United States, be diminished during such individual's continuance in office.

By Mrs. HECKLER:

Page 9, after line 3, insert the following new section:

SEC. 102. (a) None of the funds appropriated by any provision described in subsection (b) shall be expended or obligated for any purpose specified in such provision unless such funds so expended or obligated are subject to audit by the Comptroller General of the United States.

(b) For purposes of subsection (a), any provision in title I of this Act following the provision relating to compensation of Members and preceding the heading "JOINT ITEMS" is a provision described in this subsection.

By Mr. KOSTMAYER:

Page 6, line 24, delete "$1,712,000" and insert in lieu thereof "$1,342,200".

Page 22, line 16, delete "$72,102,000" and insert in lieu thereof "$71,897,750".

Page 36, after line 17, insert the following new section:

"None of the funds appropriated in this act shall be used for the printing or purchase of either House wall calendars or U.S. Capitol Historical Society calendars to be distributed gratuitously from, or under the name of, offices of Members of the House of Representatives."

H.R. 7933

By Mr. WHALEN:

Page 58, immediately after line 7, insert the following new section:

SEC. 862. None of the funds appropriated in this Act shall be used for any form of aid or trade, either by monetary payment or by the sale or transfer of any goods of any nature, directly or indirectly to Cuba.

SENATE—*Tuesday, June 28, 1977*

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Thy word is a lamp unto my feet, and a light unto my path.—Psalms 119: 105.

Let us pray.

Eternal God, who at creation said, "Let there be light," and there was light, shed Thy light upon our pathway this day. We confess that often we are in the dark, that our sight is dim, our knowledge limited, our judgment fallible. But we would be as those who walk in the light of Thy presence.

O Lord, give us a great faith and great causes to live for. Amid the stress and strain of crowded hours, grant to us a quiet certitude and inner peace. As we hallow Thy name, so may we hallow our own, keeping our hearts pure, our honor bright, and our devotion to the Nation faithful and true.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 28, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, June 27, 1977, be approved.

The ACTING PRESIDENT pro tempore. The request having been made by the distinguished minority leader, there will be no objection.

Mr. BAKER. I thank the Chair.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the minority leader seek recognition under the standing order?

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order and no request for it. So I yield my time back.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate under the order of yesterday will proceed to the consideration of morning business. Is there morning business to be transacted?

Do I hear a suggestion that a quorum is not present?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

Mr. BAKER. Mr. President, reserving the right to object, I wonder if the majority leader would consider a request to modify that so that all committees of the Senate could meet during the session of the Senate today, with the exception of the Judiciary Committee. I have an objection on my side to the Judiciary Committee meeting.

Mr. ROBERT C. BYRD. Mr. President, there being objection to the Judiciary Committee meeting today, I so modify my request.

The PRESIDING OFFICER. Without objection, the request, as modified, is agreed to.

Mr. BAKER. Mr. President, I thank the distinguished majority leader.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency, which was referred to the Committee on Environment and Public Works.

MESSAGES FROM THE HOUSE

At 10:01 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MCFALL, Mr. STEED, Mr. KOCH, Mr. DUNCAN of Oregon, Mr. BENJAMIN, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. EVANS of Colorado, Mr. MAHON, Mr. CONTE, Mr. EDWARDS of Alabama, Mr. O'BRIEN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

At 12:55 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed the following bill and joint resolution in which it requests the concurrence of the Senate:

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes; and

H.J. Res. 525. A joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes.

ENROLLED BILLS SIGNED

At 2:45 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bills:

H.R. 1437. An act for the relief of Soo Jin Lee.

H.R. 3838. An act for the relief of Tulsedei Zalim.

H.R. 4246. An act for the relief of Hee Kyung Yoo.

The enrolled bills were subsequently signed by the President p o tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1568. A communication from the President of the United States transmitting, pursuant to law, a request for fiscal year 1978 appropriations in the amount of $82,717,000 for the Department of Transportation and $29,283,000 for the Federal contribution to the Washington Metropolitan Area Transit Authority (with accompanying papers); to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

With an amendment:

S. 1307. A bill to amend title 38 of the United States Code to deny veterans' benefits to certain individuals whose discharges from service during the Vietnam era under less than honorable conditions are administratively upgraded under temporarily revised standards to discharge under honorable conditions (title amendment) (Rept. No. 95–305).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 197. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1420 (Rept. No. 95–306).

S. Res. 199. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1341 (Rept. No. 95–307).

S. Res. 200. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6415, extending the Export-Import Bank Act of 1945, as amended (Rept. No. 95–308).

S. Res. 202. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1522 (Rept. No. 95–309).

S. Res. 204. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 9 (Rept. No. 95–310).

S. Res. 208. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 660 (Rept. No. 95–311).

S. Res. 209. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4992 (Rept. No. 95–312).

S. Res. 210. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4585 (Rept. No. 95–313).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Esther Crane Wunnicke, of Alaska, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Leland Earl Bartelt, of California, to be Administrator of the Federal Grain Inspection Service.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

William T. Moore, Jr., of Georgia, to be U.S. attorney for the southern district of Georgia.

William L. Harper, of Georgia, to be U.S. attorney for the northern district of Georgia.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

John Newhouse, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

Philip Mayer Kaiser, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

Leonard Woodcock, of Michigan, for the rank of Ambassador during the tenure of his service as Chief of the U.S. Liaison Office at Peking, People's Republic of China.

William J. vanden Heuvel, of New York, to be the representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Philip M. Kaiser.

Post: Ambassador to Hungary.

Contributions, amount and date:

1. Self: See attached sheet.
2. Spouse: See attached sheet.
3. Children and spouses: Robert G. Kaiser and Hannah J. Kaiser; David E. Kaiser and Cathy Kaiser; and Charles R. Kaiser (bachelor).
4. Parents: Deceased.
5. Grandparents: Deceased.
6. Brothers and Spouses: Mr. Ben Kaiser and Mrs. Beryl Kaiser; Mr. Henry Kaiser and Dr. Paula Kaiser.
7. Sisters and spouses: Deceased.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them.* To the best of my knowledge, the information contained in this report is complete and accurate.

PHILIP M. KAISER.

PHILIP M. KAISER AND HANNAH E. G. KAISER

Donee, amount, and date:

Democratic Study Group, $125, May 1974.

Congressman John Brademas, $50, May 1974.

Congressmen Thompson and Brademas, $100, October 1974.

Loan to Democrats Abroad (U.K.), since converted to contribution, $200, January 1976.

Several contributions to Democrats Abroad and National Committee, $260 and $60, July–November 1976.

DAVID E. KAISER (SON)

Donee, amount, and date:

Democratic National Committee, $25, 1976.

Jimmy Carter campaign, $25, 1976.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Leonard Woodcock.

Contributions

1973:	
Committee for Good Government (UAW)	$98
Democratic Party of Michigan	100
1974:	
Committee for Good Government (UAW)	98
Democratic Party of Michigan	100
UAW-V-CAP	20
1975:	
Committee for Good Government (UAW)	98
Democratic Party of Michigan	100
1976:	
Committee for Good Government (UAW)	96
Democratic Party of Michigan	100
Democratic National Committee	600
Carter Campaign	200
Riegle for Senate	100
1977 (to date):	
Committee for Good Government (UAW)	36
Democratic Party of Michigan	100

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William J. vanden Heuvel.

Post: United States Ambassador to the European Office of the United Nations and other organizations.

Contributions and amount:

1. Self: See attached list—Addendum E.
2. Spouse: None.
3. Children and Spouses: None.
4. Parents: None.
5. Grandparents: None.
6. Brothers and Spouses: None.
7. Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

WILLIAM J. VANDEN HEUVEL.

ADDENDUM E

Nominee: William J. vanden Heuvel.

Post: United States Ambassador to the European Office of the United Nations and other organizations.

Report of Federal Campaign Contributions: January 1, 1977 through April 20, 1977

Donor, amount, date, and donee:

Self, $500, March 12, 1974, Democratic Congressional Dinner Committee.

Self, $500, February 26, 1975, Williams in 1976 (Senator Harrison Williams).

Self, $500, July 22, 1975, Committee to Reelect Edward Kennedy.

Self, $250, October 28, 1975, Jimmy Carter Presidential Campaign.

Self, $750, December 10, 1975, Jimmy Carter Presidential Campaign.

Self, $250, April 12, 1976, William Lehman Congressional Campaign Fund.

Self, $500, October 7, 1976, Senator John Tunney Campaign Committee.

Self, $500, October 21, 1976, Daniel P. Moynihan for Senate Committee.

Self, $100, November 9, 1976, Abzug for Senate.

BILL PLACED ON CALENDAR

The following bill was read twice by its title and ordered placed on the Calendar:

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent the second time, and referred as indicated:

By Mr. CHURCH:

S. 1769. A bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings; to the Committee on Finance.

By Mr. LONG (for himself and Mr. PEARSON) (by request):

S. 1770. A bill to amend the Interstate Commerce Act to provide increased civil fines and criminal penalties for violations of the Motor Carrier Safety Regulations, to extend the application of civil fines to all violations of the Motor Carrier Safety Regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPARKMAN (by request):

S. 1771. A bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes; to the Committee on Foreign Relations.

By Mr. PEARSON:

S. 1772. A bill to amend title 39 of the United States Code to prohibit a reduction in the frequency of mail delivery service, to alter the organizational structure of the United States Postal Service, to revise the procedure for adjusting postal rates and services, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JAVITS (for himself, Mr. EAGLETON, and Mr. CHAFEE):

S. 1773. A bill to amend the Age Discrimination in Employment Act of 1967 to extend the protection against discrimination in employment to individuals above age sixty-five, and to protect individuals covered by the Act from early mandatory retirement as required by certain seniority systems and employee benefit plans; to the Committee on Human Resources.

By Mr. NELSON (for himself and Mr. EASTLAND, Mr. CLARK, Mr. MCGOVERN, Mr. ZORINSKY, Mr. HATHAWAY, Mr. CHILES and Mr. HUMPHREY):

S. 1774. A bill to amend the Internal Revenue Code of 1954 to provide that the Federal excise tax on telephone service does not apply to amounts paid as State tax on the same service; to the Committee on Finance.

By Mr. CRANSTON (by request):

S. 1775. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; to the Committee on Veterans's Affairs.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with the above introduced bills and joint resolutions are printed at the conclusion of Senate proceedings today.)

ADDITIONAL COSPONSORS

S. 146

At the request of Mr. GOLDWATER, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 146, to amend the Social Security Act.

S. 551

At the request of Mr. HUMPHREY, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 551, a bill to provide grants to States for the payment of compensation to persons injured by certain criminal acts and commissions.

S. 1245

At the request of Mr. GRIFFIN, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1245, the Corrections Construction and Program Development Act of 1977.

S. 1307

At the request of Mr. CRANSTON, the Senator from California (Mr. CRANSTON), the Senator from Vermont (Mr. STAFFORD), the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from Nebraska (Mr. ZORINSKY), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 1307, as reported from the Committee on Veterans' Affairs—with the amended title—a bill to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes.

S. 1554

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1554, the Rail Rehabilitation Act.

S. 1651

At the request of Mr. ROTH (for Mr. BIDEN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Indiana (Mr. LUGAR), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 1651, relating to equal protection under the Constitution.

S. 1675

At the request of Mr. HATHAWAY, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Iowa (Mr. CLARK), the Senator from Oregon (Mr. HATFIELD) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 1675, the Social Security Act Amendments of 1977.

SENATE JOINT RESOLUTION 17

At the request of Mr. ROTH, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Joint Resolution 17, relating the rights of pupils in public schools.

AMENDMENTS SUBMITTED FOR PRINTING

MILITARY CONSTRUCTION APPROPRIATIONS, 1978—H.R. 7589

AMENDMENTS NOS. 474 AND 475

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted two amendments intended to be proposed by him to the bill (H.R. 7589) making appropriations for military construction by the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS, 1978—H.R. 7558

AMENDMENT NO. 476

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to the bill (H.R. 7558) making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes.

DEPARTMENT OF LABOR-HEW APPROPRIATIONS, 1978—H.R. 7555

AMENDMENT NO. 477

(Ordered to be printed and to lie on the table.)

Mr. ALLEN (for himself and Mr. SPARKMAN) submitted an amendment intended to be proposed by them to the bill (H.R. 7555), supra.

AMENDMENT NO. 478

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. JAVITS, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7555), supra.

Mr. CRANSTON. Mr. President, I am submitting for printing the attached amendment. This amendment is cosponsored by Senators JAVITS, WILLIAMS, RANDOLPH, RIEGLE, PERCY, HUMPHREY, KENNEDY, HATHAWAY, and HASKELL.

It would add an additional $4.4 million to H.R. 7555, increasing the budget for the ACTION Agency from the Appropriations Committee recommendation of $117.26 million to $121.66 million. The additional money is targeted for two purposes:

First, $1.4 million, or the amount certified by the ACTION Agency Director to be needed, is earmarked to provide an increase in the VISTA stipened, end-of-service readjustment alowance, from the current $50 per month to $75 per month. This would correspond generally with the increase from $75 per month to $125 per month granted to Peace Corps volunteers since April 1, 1976. The authority for this increase is contained in section 5(b) of Public Law 94–130, which requires specific earmarks in the appropriate appropriations acts to effect the increase in order to protect program moneys from being used to finance a stipend increase and visa versa. Funds to increase the Peace Corps stipend were first provided in the fiscal year 1976 Foreign Assistance Appropriations Act (Public Law 94–330) and made retroactive to April 1, 1976.

Second, $3 million would be used to enable the ACTION Agency to fund three discretionary programs under its title I, part C special volunteer programs authority—namely, demonstration programs to assist displaced homemakers, to test the urban service corps concept, and to provide financial counseling serv-

ices to senior citizens on fixed incomes. An appropriation of $8 million in the part C programs is authorized. The committee bill provides for $2.5 million—the same amount appropriated for fiscal year 1977. The amendment would provide flexibility to the Agency in developing programs in these three areas of concern—all program directions supported by the new Agency Director and Deputy Director at their confirmation hearings earlier this year.

I ask unanimous consent that the text of this amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 478

On page 43, line 13, strike out "$117,260,000." and insert in lieu thereof "$121,660,000, of which $1,400,000 (or such other sum as may be certified by the Director of the Agency as necessary to carry out section 5 of Public Law 94–130) shall be used for carrying out section 5 of Public Law 94–130.".

AMENDMENT NO. 479

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. JAVITS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7555), supra.

NOTICES OF HEARINGS

VETERANS' ADMINISTRATION PHYSICIAN AND DENTIST PAY COMPARABILITY ACT

Mr. CRANSTON. Mr. President, on July 1, 1977, at 9:30 a.m., in room 6202 of the Dirksen Senate Office Building, the Subcommittee on Health and Readjustment of the Senate Committee on Veterans' Affairs will hold public hearings on S. 1775, which I introduced today for the administration, a bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, and the implementation of that 1975 act. Additional information is available from Michael Burns of the Veterans' Affairs Committee staff at 224–0126, room 414, Russell Senate Office Building. Any person wishing to testify or submit a written statement should contact Mr. Burns.

ADDITIONAL STATEMENTS

(Additional statements are printed at the conclusion of Senate proceedings today.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR-HEW APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed, rather than at 10 a.m. this morning, to the consideration of the Labor-HEW appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that Warren Reid, of my staff, be granted the privileges of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I understand that the pending order of business is the HEW appropriation bill. That has been laid down. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MAGNUSON. Mr. President, I wish to present the usual request: I ask unanimous consent that the committee amendments be agreed to en bloc; that the bill as thus amended be considered as original text for the purpose of further amendments; and that no points of order be considered to be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, the Labor-HEW appropriation bill, more than any other single piece of legislation, is directed to the needs of individual American citizens. It exists to meet the needs of the poor, the handicapped, the young, and the aged—people who ordinarily, through no fault of their own, cannot participate fully in our great society.

What we are recommending in this bill is not going to meet the total need, however, in any of the Labor-HEW programs. We are simply recommending what we know the country can afford to spend to improve the health, education, and welfare of the American people.

We have tried to restrain our impulse to meet all this country's human resource needs as soon as possible. We have increased funding for only the highest priority programs in this bill; that is, from the budget, and, in some cases, from the House amount.

Some will disagree with our recommendations. For some, the allocations to individual programs will be too high—while for others, the amounts will be too low.

In our deliberations, we reviewed every single account and every single program, and there are many. Where we found some wanting—either in proven successes or, at least, future promise—we have either curtailed spending or cut them out.

There are far too many programs in this measure that do have a solid record of achievement, and a goodly number that have great promise and reason for hope in the future.

We had to prune and pare out personal recommendations to what we felt was reasonable—to what we felt was prudent—to what we felt was more closely near that level of absolute necessity. In fact, we reviewed over 200 amendments suggested by Senators, Members of this body, which amounted to nearly $8 billion. Eight billion dollars was requested by Members of the U.S. Senate. I think we did a yeoman's job in looking over those items and not allowing them in the bill. Had we done so, the bill would have been $8 billion over any budget amount, or the House amount, too, in round figures.

(Mr. CRANSTON assumed the chair.)

Mr. MAGNUSON. The committee has included $6 billion for Labor Department programs. This is $433 million over the House and $425 million under the budget request. We are $13.7 billion below last year's level.

This sounds like an alarming figure, but it is due to the nonrecurring unemployment benefit costs and the fact that most of this year's public service jobs were funded out of the 1977 economic stimulus program in the supplemental bill and need not be included in this regular bill.

The big increases over the House are for employment and training programs, primarily summer youth jobs.

The unemployment rate has dropped from about 7.2 percent last year to 6.9 percent this year, but the unemployment rate—mark this, Mr. President—for youth is still nearly 20 percent. The unemployment rate for minority youth is almost twice that high. Nearly one out of two minority youth will be unemployed this year. Therefore, logically this is our highest priority target group for employment programs. What an enormous waste of manpower to have so many able-bodied individuals obliged to resort to just "hanging around" day after day because of a lack of employment opportunities! Our recommended appro-

priation of $893 million for summer youth employment programs would provide 1,500,000 summer jobs to needy youth. This is 420,000 more jobs than were provided last year.

Our other target group that we think is also being discriminated against in employment opportunities is senior citizens. We have increased the House allowance for community service employment for older Americans by $20 million, up to the budget request of $200 million. This will enable 50,000 unemployed low-income persons, 55 years of age or older, to be paid for community service activities during fiscal year 1979.

Our third major priority in the training and employment area is national training programs under title III of CETA for migrants, Indians, and veterans. We have raised the House allowance by $109 million to directly fund training for these groups rather than require the Secretary of Labor to deplete his discretionary funds.

There may be an amendment proposed sometime today to reduce the amount we have recommended for the Secretary of Labor in his discretionary funds. but we shall meet that amendment when we come to it.

Six point four billion dollars is in this bill for health.

This is $393 million over the House level and $900 million more than the President requested. It is only a 12-percent increase over the 1977 level.

We have targeted the health increases into research, services, and health training. All of these tie into a health care system which must be in place before we can even think about a national health insurance plan.

Another important area and reason for adding to the health funding level was prevention. Preventive medicine gets a lot of lipservice—but that is about all. We have tried to correct the serious funding shortfalls in many programs. Examples are genetics, immunizations, VD control, and health education.

While many people—including the administration—rightly talk about cost containment, we have done something about it. We have placed a priority on prevention. These are programs that can save untold millions in the future—not to mention the suffering we will avoid in the present.

Effective disease prevention must be based on thorough medical research. At the National Institutes of Health, our first link in the chain of prevention, we are funding research programs on hundreds of diseases, trying to find cures, treatments, and ways of wiping them out altogether. We have increased the President's budget request for NIH by $320 million and the House level by $154 million, up to a total of $2.9 billion.

Whatever dread disease that strikes fear into most every home and family—those victims look toward this bill and the biomedical research efforts that are underwritten by these funds for help.

(Mr. EASTLAND assumed the chair.)

Mr. MAGNUSON. Mr. President, in doing this, we have continued our high priority on research. We have also started to address the problem of an imbalance of funding—but this cannot be done overnight.

In the area of services, we have added $135 million for Public Health Service hospitals. Sixty million dollars of this is for construction and modernization. Most of these hospitals are located in what are called medically underserved areas. We think they should be taken advantage of as model medical centers, showing how to best reach out to urban communities in need of better medical care.

And this they are doing. The record is excellent. This is the kind of thing we have to be doing if we are serious about making some national health insurance plan work.

Increases were also allowed for such important service programs as the National Health Service Corps. These health professionals go to medically underserved areas and are doing more than anyone to solve the health care crisis. Funds were also added to check and screen many more children before they are too old—and it is too late to find diseases or take care of dental problems.

In other important service areas the committee has placed a priority on alternatives to abortions such as family planning programs; increased funds for women's alcohol programs; and initiation of the new genetic information and counseling program. This could be one of our best prevention programs ever—to avoid pregnancies where genetic and hereditary diseases are likely to occur.

While many people continue to talk about national health insurance—it is again this bill which will help to make it work. To do this, we need an adequate supply of health professionals—nurses, aides, doctors—to do the job right. With this in mind, $532 million has been allowed for health training. This is $200 million over the President's request. That seems like a lot, but it is $29 million less than the 1977 level. The President has proposed a phaseout of many training programs. They just cannot be turned on and off like a faucet. It takes 5, 7, or 10 years for training. Our figure just emphasizes the high priority we place on all training programs.

In summary, we are presenting you with what we feel is an adequate but not excessive health budget. It is geared to preventing illness before it happens and to laying the groundwork for a national health insurance system that will work and one of which we can all be proud.

This year we are recommending slightly over $10 billion for education programs.

That sounds, Mr. President, like a great deal of money—and it is. I can remember when Federal aid to education was a bad word around here, when we would not even dare speak about it. But we have established the principle of Federal aid to education, it is there, and it is working to the benefit of millions of students.

So we have recommended this year $10 billion for education programs.

This is only about 8 percent of the total education cost for elementary and secondary education in our Nation. It is still down that low.

This total is $24 million below the House and $1 billion above the President's budget. As I will point out later, the primary reason for the large difference between the committee recommendations for education and the budget requests is that the budget requests for two programs—and this is the problem in this whole bill when we deal with figures only, two programs under the budget—impact aid and direct student loans, were sent up unrealistically low.

I know that there is going to be every effort made, and we made every effort, to keep the total down. But if the budget were to be made up by the administration, say today or tomorrow, after what has happened—remember the present budget was made up many months ago—probably there would be what we would suggest, adequate amounts in impact aid, which is required by law—until we change the law we cannot change it here—and more money for direct loans.

Those two programs would probably make up the difference between comparisons of the budget request with the amount we recommended in the bill, and we would not be very far apart.

Now, for the programs which directly assist our elementary and secondary schools, we have included funds for several vital programs. For grants for the disadvantaged, or title I, as it is often called, the committee is recommending $2.8 billion. This is, by far, the largest program assisting our elementary and secondary students. And it helps those with the greatest need, the disadvantaged students, in private or public schools, who need special assistance to catch up with their fellow classmates.

The largest single increase over the budget in this bill is impact aid. The committee put in $852 million, which is slightly above the 1977 level; and this was put in under a formula that exists and that is the law of the land. It is an entitlement, and until a legislative committee changes the rules of eligibility, there is not much the Appropriations Committee can do.

Last year and in years before, we talked a great deal about impacted aid, about some parts of the program that seem to be inequitable, and that some school districts were taking undue advantage of it. The members of the Senate Legislative Committee involved in this matter piously said on the floor, "We will hold hearings. We promise you that we will do something about it." Another year has gone by, and nothing has been done. The law is still there.

The distinguished Senator from Massachusetts and I believe that the law should be changed in some respects. But in the meantime, impacted aid must be appropriated, and this is one of the problems that was not squarely faced by the administration in approving these budget requests.

Looking at it now, I am sure that if they were making up the budget today, they would put—almost be required to put—this amount in the budget. This is the amount we are talking about, where there is a difference between our recommendations, the budget, and the House

figure, although the House did, in this particular instance, put in more than was requested. But it is still that billion dollars over the President's budget in those two programs—impacted aid and direct student loans, which were zero when they came up. The budget included money for A students and attempted to cut out B students. It was zero for B students.

The largest single increase in this bill, therefore, is for impacted aid; and the committee put in, as I mentioned, $852 million, which is slightly above the 1977 mandated level.

These funds will provide assistance to over 4,300 school districts that are affected by the presence of children of Federal employees in their schools. Most of the time, these same school districts also are affected by large amounts of Federal property within their boundaries, on which taxes are not paid.

As I pointed out, while there are certain inequities in the present law, especially as it relates to so-called category B students—students whose parents work on Federal property but live in the community—the present law requires that we provide funds for B students, and the administration, as I said, recommended no funds for B students. I hope the administration will propose a reasonable legislative alternative before we consider the 1979 bill. Otherwise, there will just be that difference between what Congress has to do and what the Office of Management and Budget sends up.

The committee also provided an additional $20 million above the House for impacted aid construction. These additional funds will help provide suitable facilities for pupils in military base schools, and they are sorely needed. The program is long overdue. Many of those schools are in disrepair, and something should be done. It is a comparatively small amount, when we think about the total of impacted aid.

Another important area is emergency school aid. We believe, basically, that it is much better to take care of the problem of desegregation if it is done in a voluntary way and not forced by a court order. The purpose of emergency school aid is to try to work out these problems in those particular school districts, of which there are many in the United States. We are proposing a total of $324 million to help school desegregation across the Nation.

One of the most constructive ways of implementing desegregation is somewhat of a new idea, a sort of pilot operation in some areas, including my own area, the Seattle school district, and others, such as Cleveland, Houston, and Los Angeles. This is done with magnet schools. These schools, with their specially developed curricular programs, are designed to attract students of different racial backgrounds.

Magnet schools can become a valuable crisis prevention mechanism. The committee has recommended a total of $30 million for magnet schools, which is added into the $324 million, because it is firmly convinced of their value to the Nation's school desegregation program and that puts us $29.2 million above the budget request for that emergency school assistance program.

There is a large increase—$173 million more than last year—for the education of the handicapped. The major reason for this increase is the Education for All Handicapped Children Act, which greatly increases the Federal role in this area. I do not think that was considered when the budget was being made up. This is relatively new.

The Secretary of HEW, the House, and the committee all agree that the $642.4 million in this bill for education for the handicapped is needed and required to carry out the promise of free and accessible education for all handicapped children, but we do not yet cover them all. More needs to be done.

We are recommending $725.7 million for vocational and adult education. These funds reinforce the commitment of the Federal Government to a productive American labor force.

It has been said that anyone can find a good lawyer—well, not so much a good doctor, but a good lawyer—but it is pretty hard to find a good auto mechanic or carpenter. This appropriation means that they will be qualified for jobs, and the funds will help provide us with those qualified people in the crafts.

Libraries play a major role in our educational system. The cost of books and library materials has skyrocketed in recent years. As a result, the committee has proposed and we provide $180 million for school libraries; and, overall, the bill includes $267 million for library resources.

Higher education is another area of great interest to many of us. Those who have children enrolled in post-secondary education institutions know all too well that the costs of attending school are rising rapidly. This is why the major thrust of Federal involvement in this area goes to student assistance.

The committee is recommending $2 billion for basic educational opportunity grants, commonly known as BOG. These funds will provide for grants up to $1,600 per year. We started out with this program—because it had some hope of being a good program to aid students in higher education—with funding first the freshman class; next year we went to the sophomores; the next year to the juniors; and now this goes across the board to everyone in undergraduate school, academic or vocational.

We started out with grants of approximately $600 a year. Because of rising costs—tuition and otherwise—we raised it. We think $1,600 a year is a fair and equitable amount.

We are also recommending that part of the increase for BOG be used to assist middle and lower middle income students with their educational costs. We find volumes of evidence that the middle and lower middle income families have been left out of this program—too often left out.

These students are rapidly being priced out of the educational marketplace by these rising costs.

Another important student assistance program provides the other large increase over the President's education budget. I mentioned this before. This is the national direct student loan program. The committee and the House are recommending $310.5 million, the same as the 1977 level, for direct loans. The President's budget recommended zero. You add this to the impact aid for the B students, and the President, the budget and Congress are not far apart.

The direct loan program has long been a cornerstone of the student assistance programs. It has also been a high priority item in the Congress for years.

The committee is recommending $12.5 million to initiate the teacher centers program. This program will allow classroom teachers to establish inservice training programs which are designed specifically to meet their teaching needs. With the current surplus of teachers, the teacher centers' emphasis on providing inservice training is a most important part in our effort to provide a quality education for all students.

WELFARE

The administration's welfare estimates this year were greatly overstated. I do not point any fingers and I do not think it was necessarily their fault. It was a trend that has just begun to happen, but it is happening, and we have looked carefully at how much is currently being spent and at some of the program factors, and we have come up with much lower estimates.

In the medicaid program, for example, the States are right now spending at an annual level of $1 billion less than what we appropriated. We think that there is going to be at least $400 million left at the end of the year even if they pick up their rate of spending.

In welfare payments to poor families we expect a surplus at the end of this current fiscal year of $300 million. And in the Supplemental Security Income program of welfare payments to the aged, blind, and disabled even the administration has acknowledged a surplus of $500 million.

In addition to reducing our fiscal year 1978 new budget authority for these surplus fiscal year 1977 funds, we also need to reduce the 1978 estimate, which was at least as overstated as the administration's 1977 estimate.

All told, we would reduce the budget request for Aid for Dependent Children and Supplemental Security Income welfare payments and the medicaid estimate by a total of $1.8 billion. The House reduced medicaid by $352 million, so we would be making a further reduction below the House of $1.5 billion.

Regardless of program, regardless of whether it is controllable or uncontrollable—these are taxpayer dollars that we are dealing with. Where our best judgment told us that estimates presented to us were inflated—were too high—it was our responsibility, we cut them.

Those estimates were prepared for the President months ago—months before this President took office. We consulted with the Budget Committee, the Congressional Budget Office, the General Accounting Office, the Library of Congress—and the executive agencies—before we reached any final determination. These cuts are justified.

They all come up with practically the same figure and I think we were even

conservative in our cuts, which will bring down, regardless of dividing the controllables, the uncontrollables, the total amount of the bill, what we are going to take out of the taxpayers' till, and that is what we are here to do, if that is possible, and in this case it is not only possible but wise to make these reductions.

Now, for the Corporation for Public Broadcasting, which has been somewhat of a controversial subject in our committee and in the hearings, we spent a lot of time on it, and the committee is recommending $155 million for the Corporation for Public Broadcasting. Under the advance-funding provisions of the basic law, these funds will become available in fiscal year 1980.

Public Broadcasting is a key to quality television and radio programing. If it were not for public radio and television, there are many groups and interests that would never be served by the broadcast media. The funds included in this bill will provide valuable assistance for the growth and improvement of noncommercial radio and television. We should do no less than to insure that the Congress continue to play a major role in the support of this valuable means of communication.

HUMAN DEVELOPMENT PROGRAMS

The Office of Human Development within HEW administers a wide variety of vastly important programs, including those on behalf of our youth, our elderly, and our handicapped citizens. We have provided for significant expansion of services in all these areas. For the elderly and this is part of a new directive by Congress, too, since the budget was made up—we provide for more than half a million daily, hot, nutritious meals.

For children, we have provided for an additional 94,000 Head Start openings—and this is the first increase in Head Start in 10 years. In effect, when you look over the whole bill and the importance of Head Start and its being a successful program, and we think it is, that decision is very well taken.

For the handicapped, State grants will permit rehabilitation of 286,000 individuals into new vocations.

We have included $65 million for weatherization of homes of low-income families, to be administered by the Community Services Administration. This is 20 million more than the House provided.

We also included a significant expansion for Community Action offices. The last few years were bad ones for these programs, but they managed to survive. Now, with new people in charge, we can begin to fund them again with confidence that the money will be constructively used.

Overall, the bill is within our budget ceilings, our own budget ceilings, way below. In the controllable health programs, though, we are nearly $200 million above the amounts the Budget Committee assumed.

This means that we really cannot afford any further amendments over the committee's figures.

In summing up, this is a big, complicated, and very important bill. It require a lot of attention by the Members to understand it, particularly those who did not have the advantage of going through weeks and weeks, hundreds of hours of hearings and testimony, and through many, many hours of markups.

We cannot afford to get distracted from these very important money issues by other issues that are not germane to this bill. I have complained about this many times, but to no avail. The Labor-HEW appropriations bill is not the proper vehicle for writing authorizing legislation. This is a money bill. Let us try to keep our discussion to the money issues. I do not know whether that will be the case today before we get through with the bill, but last year, Mr. President, we spent 4½ to 5 days on this bill.

The Senate spent approximately—and I tabbed it so I have the record—less than 2 hours on the money items of a $57 billion bill. The remainder of the time was on legislation on an appropriations bill which becomes not subject to a point of order if the amendment is worded correctly to put a limitation on the spending of funds.

We have much legislation in this bill. As a matter of fact, Mr. President, I am not so sure that the Appropriations Committee in all appropriations bills has not become the legislative committee. Any time some group that has a cause cannot get something done in a legislative committee, they show up down at the Appropriations Committee with legislation on an appropriations bill. We have had them all.

The Rules Committee should be doing something to take all of these emotional controversial items that either the legislative committees do not handle or do not want to handle, and they show up on appropriations bill.

This is a money bill. It involves, next to defense, the largest single appropriation bill that we have, and if we add social security to it, which the Office of Management and Budget continues to put into the bill, over which we have no control—the control belongs in the legislative committees on what we pay in or take out—it will amount to over $198 billion and some millions plus. So in those terms it is the largest appropriations bill we have.

It amounts to most of the money that the taxpayers have a right to take a good look at and scrutinize how we are spending their money, and that we are not making decisions on policy questions, controversial, emotional policy questions that belong in legislative committees.

So, I am hopeful that we can finish this bill soon on the money items and spend at least a minimum amount of time on these controversial issues that happen to be in the bill which should be legislative items.

As we move on appropriations bills here—we move this week again, to try to finish some of them before the week is out—I think we will find that nearly everything legislatively that anyone can think of which cannot get done some place else has found its way into these appropriations bills.

So I am hopeful we will spend a minimum of time on them. But they are in the bills, and I appreciate there is going to be some discussion about them. There should be, but not to the point of taking up everyone's time, because we have to get these money bills done and the appropriations cleared up as soon as possible.

Mr. President, before I yield to the Senator from Massachusetts, who has been of great help to the subcommittee, and all other subcommittee members, I want to compliment our staff for working so hard. This is a complex, long, tedious bill with over 300 line items, and within the line items there are four or five other subtitles that we have to go into. Everyone has worked hard and done a good job on the bill, and the chairman is very appreciative of that.

But before I yield to the Senator from Massachusetts, at this point, in order to facilitate the study of committee recommendations by Members of the Senate, their staffs, and others, I ask unanimous consent to have printed in the RECORD, as usual, a table that shows the details of the progress of the bill moneywise, appropriationswise, up to this date.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
					1977 appropriation	Budget estimate	House allowance
TITLE I, DEPARTMENT OF LABOR							
EMPLOYMENT AND TRAINING ADMINISTRATION							
Program Administration:							
Planning, evaluation and research	5,266,000	5,715,000	5,715,000	5,715,000	+449,000		
Comprehensive employment development	38,442,000	49,103,000	49,103,000	49,103,000	+10,661,000		
Trust funds	(2,409,000)	(2,428,000)	(2,428,000)	(2,428,000)	(+19,000)		
Apprenticeship services	12,989,000	14,146,000	13,856,000	13,856,000	+867,000	−290,000	
U.S. employment service	708,000	708,000	708,000	708,000			
Trust funds	(14,738,000)	(15,161,000)	(15,161,000)	(15,161,000)	(+423,000)		

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
Unemployment insurance service	1,341,000	1,621,000	1,621,000	1,621,000	+280,000		
Trust funds	(10,037,000)	(11,070,000)	(10,890,000)	(10,890,000)	(+853,000)	(−180,000)	
Investigation and compliance	751,000	870,000	870,000	870,000	+119,000		
Trust funds	(1,139,000)	(1,131,000)	(1,131,000)	(1,131,000)	(−8,000)		
Executive direction and management	16,725,000	19,324,000	18,959,000	18,959,000	+2,234,000	−365,000	
Trust funds	(3,911,000)	(4,024,000)	(4,024,000)	(4,024,000)	(+113,000)		
Subtotal, Program Administration	108,456,000	125,301,000	124,466,000	124,466,000	+16,010,000	−835,000	
Federal funds	76,222,000	91,487,000	90,832,000	90,832,000	+14,610,000	−655,000	
Trust funds	(32,234,000)	(33,814,000)	(33,634,000)	(33,634,000)	(+1,400,000)	(−180,000)	
Employment and Training Assistance (CETA):							
Title I	1,880,000,000	1,880,000,000	1,880,000,000	1,880,000,000			
Title II (Public employment)	1,540,000,000				−1,540,000,000		
Title III:							
National training programs	1,558,360,000	1,135,060,000	301,060,000	410,060,000	−1,148,300,000	−725,000,000	+109,000,000
Program support	42,370,000	44,870,000	44,870,000	44,870,000	+2,500,000		
Title IV (Job Corps)	274,100,000	487,100,000	417,000,000	417,000,000	+142,900,000	−70,100,000	
Summer youth employment program	595,000,000	525,000,000	595,000,000	893,000,000	+298,000,000	+368,000,000	+298,000,000
Subtotal, regular program	5,889,830,000	4,072,030,000	3,237,930,000	3,644,930,000	−2,244,900,000	−427,100,000	+407,000,000
Temporary Employment Assistance (CETA):							
Title VI	6,847,000,000				−6,847,000,000		
Community Service Employment for Older Americans	150,000,000	200,000,000	180,400,000	200,000,000	+50,000,000		+19,600,000
Federal Unemployment Benefits and Allowances:							
Payments to former Federal personnel	440,000,000	560,000,000	560,000,000	560,000,000	+120,000,000		
Trade adjustment assistance	120,000,000	240,000,000	240,000,000	240,000,000	+120,000,000		
Unemployment assistance and payments under other Federal unemployment programs	300,000,000	400,000,000	400,000,000	400,000,000	+100,000,000		
Subtotal, FUBA	860,000,000	1,200,000,000	1,200,000,000	1,200,000,000	+340,000,000		
Grants to States for Unemployment Insurance and Employment Services:							
Unemployment Insurance Service	(697,000,000)	(754,600,000)	(771,010,000)	(771,100,000)	(+74,100,000)	(+16,500,000)	
Employment Services:							
Federal	89,100,000	53,600,000	53,600,000	53,600,000	−35,005,000		
Trust	(475,900,000)	(583,500,000)	(583,500,000)	(603,500,000)	(+127,600,000)	(+20,000,000)	(+20,000,000)
Subtotal, Employment Services	565,000,000	637,100,000	637,100,000	657,100,000	+92,100,000	+20,000,000	+20,000,000
Contingency Fund	(239,800,000)	(174,400,000)	(174,400,000)	(174,400,000)	(−65,400,000)		
Subtotal, Grants to States	1,501,800,000	1,566,100,000	1,582,600,000	1,602,600,000	+100,800,000	+36,500,000	+20,000,000
Federal funds	89,100,000	53,600,000	53,600,000	53,600,000	−35,500,000		
Trust funds	(1,412,700,000)	(1,512,500,000)	(1,529,000,000)	(1,549,000,000)	(+236,300,000)	(+36,500,000)	(+20,000,000)
Advances to Unemployment Trust Fund and Other Funds	5,000,000,000				−5,000,000,000		
Subtotal, Employment and Training Administration	20,357,086,000	7,163,431,000	6,325,396,000	6,771,996,000	−13,585,090,000	−391,435,000	+446,600,000
Federal funds	18,912,152,000	5,617,117,000	4,762,762,000	5,189,362,000	−13,722,790,000	−427,755,000	+426,600,000
Trust funds	(1,444,934,000)	(1,546,314,000)	(1,562,634,000)	(1,582,634,000)	(+137,700,000)	(+36,320,000)	(+20,000,000)
LABOR-MANAGEMENT SERVICES ADMINISTRATION							
Salaries and expenses:							
Labor-management relations policy and service	3,208,000	3,518,000	3,280,000	3,280,000	+72,000	−238,000	
Labor-management standards enforcement	14,430,000	15,026,000	15,026,000	15,026,000	+596,000		
Veterans reemployment rights	2,682,000	2,772,000	2,772,000	2,772,000	+90,000		
Federal labor-management relations	5,034,000	5,897,000	5,897,000	5,897,000	+863,000		
Employee benefits security	21,841,000	25,309,000	25,308,000	25,309,000	+3,468,000		
Executive direction, management and support	3,559,000	3,677,000	3,677,000	3,677,000	+118,000		
Subtotal, LMSA	50,754,000	56,199,000	55,961,000	55,961,000	+5,207,000	−238,000	
EMPLOYMENT STANDARDS ADMINISTRATION							
Salaries and expenses:							
Improving and protecting wages	43,722,000	47,045,000	47,045,000	47,045,000	+3,323,000		
Elimination of discrimination in employment	15,472,000	16,317,000	16,317,000	16,317,000	+845,000		
Office of the Federal Contract Compliance	(6,585,000)	(6,774,000)	(6,774,000)	(6,774,000)	(+189,000)		
Workers' compensation	27,516,000	32,624,000	32,624,000	36,124,000	+8,608,000	+3,500,000	+3,500,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(+5,000)		
Program development and administration	12,282,000	13,294,000	12,794,000	12,794,000	+512,000	−500,000	
Subtotal, Salaries and Expenses	99,252,000	109,545,000	109,045,000	112,545,000	+13,293,000	+3,000,000	+3,500,000
Federal funds	98,992,000	109,280,000	108,780,000	112,280,000	+13,288,000	+3,000,000	+3,500,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(+5,000)		
Special benefits:							
Federal Employees Compensation Act benefits	307,407,000	292,325,000	292,325,000	292,325,000	−15,082,000		
Disabled coal miners benefits	27,100,000	24,300,000	24,300,000	24,300,000	−2,800,000		
Longshore and harbor workers' benefits	2,442,000	2,735,000	2,735,000	2,735,000	+293,000		
Subtotal, Special Benefits	336,949,000	319,360,000	319,360,000	319,360,000	−17,589,000		
Subtotal, ESA	436,201,000	428,905,000	428,405,000	431,905,000	−4,296,000	+3,000,000	−3,500,000
Federal funds	435,941,000	428,640,000	428,140,000	431,640,000	−4,301,000	+3,000,000	+3,500,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(+5,000)		
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION							
Salaries and expenses:							
Safety and health standards	8,338,000	8,692,000	8,692,000	8,692,000	+354,000		
Compliance:							
Federal inspections	57,616,000	59,151,000	59,151,000	62,151,000	+4,535,000	+3,000,000	+3,000,000
State programs	35,605,000	35,605,000	35,605,000	32,605,000	−3,000,000	−3,000,000	−3,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978—Continued

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE I, DEPARTMENT OF LABOR—Continued							
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—Continued							
Education, consultation, and information	18,897,000	19,902,000	21,902,000	21,902,000	+3,005,000	+2,000,000	
Safety and health statistics	6,206,000	6,301,000	6,301,000	6,301,000	+95,000		
Executive direction and administration	3,671,000	4,989,000	4,989,000	4,989,000	+1,318,000		
Subtotal, OSHA	130,333,000	134,640,000	136,640,000	136,640,000	+6,307,000	+2,000,000	
BUREAU OF LABOR STATISTICS							
Salaries and expenses:							
Labor force statistics	27,878,000	32,314,000	33,314,000	32,314,000	+4,436,000		−1,000,000
Prices and cost of living	15,310,000	21,943,000	17,768,000	21,943,000	+6,633,000		+4,175,000
Wages and industrial relations	11,573,000	12,441,000	12,180,000	12,180,000	+607,000	−261,000	
Productivity and technology	2,789,000	3,010,000	2,937,000	2,937,000	+148,000	−73,000	
Economic growth	694,000	731,000	731,000	731,000	+37,000		
Executive direction and staff service	10,157,000	10,327,000	10,327,000	10,327,000	+170,000		
Revision of the consumer price index	7,216,000	3,600,000	3,600,000	3,600,000	−3,616,000		
Subtotal, Bureau of Labor Statistics	75,617,000	84,366,000	80,857,000	84,032,000	+8,415,000	−334,000	+3,175,000
DEPARTMENTAL MANAGEMENT							
Salaries and expenses:							
Executive direction	10,983,000	9,836,000	9,697,000	9,697,000	−1,286,000	−139,000	
Legal services	19,616,000	22,435,000	22,048,000	22,048,000	+2,432,000	−387,000	
Trust funds	(177,000)	(177,000)	(177,000)	(177,000)			
International labor affairs	5,093,000	5,899,000	5,899,000	5,899,000	+806,000		
Administration and management	14,516,000	17,489,000	16,810,000	16,810,000	+2,294,000	−679,000	
Trust funds	(315,000)	(1,065,000)	(1,065,000)	(1,065,000)	(+750,000)		
Adjudication	282,000	4,371,000	4,371,000	4,371,000	+4,089,000		
Trust funds	(820,000)	(320,000)	(320,000)	(320,000)	(−500,000)		
Promoting employment of the handicapped	1,446,000	1,432,000	1,432,000	1,432,000	−14,000		
Subtotal, Salaries and expenses	53,248,000	63,024,000	61,819,000	61,819,000	+8,571,000	−1,205,000	
Federal funds	51,936,000	61,462,000	60,257,000	60,257,000	+8,321,000	−1,205,000	
Trust funds	(1,312,000)	(1,562,000)	(1,562,000)	(1,562,000)	(+250,000)		
Special foreign currency program	70,000	70,000	70,000	70,000			
Subtotal, Departmental Management	53,318,000	63,094,000	61,889,000	61,889,000	+8,571,000	−1,205,000	
Federal funds	52,006,000	61,532,000	60,327,000	60,327,000	+8,321,000	−1,205,000	
Trust funds	(1,312,000)	(1,562,000)	(1,562,000)	(1,562,000)	(+250,000)		
Total, Labor Department	21,103,309,000	7,930,635,000	7,089,148,000	7,542,423,000	−13,560,886,000	−388,212,000	+453,275,000
Federal funds	19,656,803,000	6,382,484,000	5,524,687,000	5,957,962,000	−13,698,841,000	−424,532,000	+433,275,000
Trust funds	(1,446,406,000)	(1,548,141,000)	(1,564,461,000)	(1,584,461,000)	(+137,955,000)	(+36,320,000)	(+20,000,000)
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
HEALTH SERVICES ADMINISTRATION							
Community health services:							
Community health centers	215,148,000	229,148,000	247,000,000	247,000,000	+31,852,000	+17,852,000	
Comprehensive health grants to States	90,000,000	90,000,000	90,000,000	90,000,000			
Genetic Information and Counseling				5,000,000	+5,000,000	+5,000,000	+5,000,000
Maternal and child health:							
Grants to States	315,000,000	315,000,000	315,000,000	350,000,000	+35,000,000	+35,000,000	+35,000,000
Sudden infant death information dissemination	1,716,000	1,716,000	1,716,000	3,650,000	+1,934,000	+1,934,000	+1,934,000
Research and training	28,708,000	28,708,000	28,708,000	30,000,000	+1,292,000	+1,292,000	+1,292,000
Subtotal, Maternal and child health	345,424,000	345,424,000	345,424,000	383,650,000	+38,226,000	+38,226,000	+38,226,000
Family planning	113,615,000	123,615,000	123,615,000	140,000,000	+26,385,000	+16,385,000	+16,385,000
Migrant health	30,000,000	30,000,000	34,500,000	34,500,000	+4,500,000	+4,500,000	
National Health Service Corps	25,381,000	37,599,000	42,599,000	42,599,000	+17,218,000	+5,000,000	
Hemophilia treatment centers	3,000,000	3,000,000	3,000,000	3,000,000			
Hypertension	9,000,000	9,000,000	10,000,000	12,000,000	+3,000,000	+3,000,000	+2,000,000
Home health services	3,000,000	3,000,000	8,000,000	5,000,000	+2,000,000	+2,000,000	−3,000,000
Program support	22,894,000	23,886,000	24,790,500	24,790,000	+1,896,000	+904,000	−500
Subtotal, Community health	857,462,000	894,672,000	928,928,500	987,539,000	+130,077,000	+92,867,000	+58,610,500
Quality assurance:							
Medical care standards	4,215,000	5,665,000	5,665,000	5,665,000	+1,450,000		
Professional standards review organizations	61,125,000	72,234,000	72,234,000	72,234,000	+11,109,000		
Program support	1,212,000	1,348,000	1,348,000	1,348,000	+136,000		
Subtotal, Quality assurance	66,552,000	79,247,000	79,247,000	79,247,000	+12,695,000		
Health care services and systems:							
Patient care and spec. health services:							
Hospitals and clinics	130,818,000	135,511,000	135,511,000	210,000,000	+79,182,000	+74,489,000	+74,489,000
Federal employee health	629,000	641,000	641,000	641,000	+12,000		
Construction and modernization				60,000,000	+60,000,000	+60,000,000	+60,000,000
Payment to Hawaii	1,200,000	1,200,000	1,200,000	2,200,000	+1,000,000	+1,000,000	+1,000,000
Subtotal	132,647,000	137,352,000	137,352,000	272,841,000	+140,194,000	+135,489,000	+135,489,000
Health maintenance organizations	18,100,000	18,100,000	21,100,000	21,100,000	+3,000,000	+3,000,000	
Emergency medical services	40,125,000	33,625,000	39,625,000	45,000,000	+4,875,000	+11,375,000	+5,375,000
Program support	9,466,000	9,779,000	9,779,000	9,779,000	+313,000		
Subtotal, Health care systems	200,338,000	198,856,000	207,856,000	348,720,000	+148,382,000	+149,864,000	+140,864,000
Program management	5,700,000	6,474,000	6,474,000	6,474,000	+774,000		
Less: Trust fund transfer	−40,121,000	−34,934,000	−34,934,000	−34,934,000	+5,187,000		
Subtotal, Health services	1,089,931,000	1,144,315,000	1,187,571,500	1,387,046,000	+297,115,000	+242,731,000	+199,474,500

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
CENTER FOR DISEASE CONTROL							
Disease control:							
Project grants:							
Venereal disease	25,000,000	18,000,000	27,000,000	37,000,000	+12,000,000	+19,000,000	+10,000,000
Immunization	17,000,000	19,000,000	22,000,000	23,000,000	+6,000,000	+4,000,000	+1,000,000
Rat control	13,000,000	13,000,000	13,000,000	14,000,000	+1,000,000	+1,000,000	+1,000,000
Lead-based paint poisoning prevention	8,500,000	8,500,000	8,500,000	12,000,000	+3,500,000	+3,500,000	+3,500,000
Disease surveillance	54,100,000	53,607,000	55,107,000	45,000,000	−9,100,000	−8,607,000	−10,107,000
Laboratory improvements	15,803,000	15,490,000	17,490,000	17,490,000	+1,687,000	+2,000,000	
Health education	4,564,000	7,064,000	7,064,000	2,500,000	−2,064,000	−4,564,000	−4,564,000
Occupational health:							
Grants	8,500,000	4,900,000	10,900,000	10,900,000	+2,400,000	+6,000,000	
Direct operations	42,269,000	44,277,000	45,277,000	44,277,000	+2,008,000		−1,000,000
Buildings and facilities				1,000,000	+1,000,000	+1,000,000	+1,000,000
Program management	3,037,000	3,088,000	3,088,000	3,088,000	+51,000		
Subtotal, Preventive health	191,773,000	186,926,000	209,426,000	210,255,000	+18,482,000	+23,329,000	+829,000
NATIONAL INSTITUTES OF HEALTH							
National Cancer Institute	814,936,000	818,936,000	831,936,000	920,000,000	+105,064,000	+101,064,000	+88,064,000
National Heart, Lung, and Blood Institute	396,661,000	403,642,000	432,642,000	456,000,000	+59,339,000	+52,358,000	+23,358,000
National Institute of Dental Research	55,573,000	57,981,000	58,981,000	63,000,000	+7,427,000	+5,019,000	+4,019,000
National Institute of Arthritis, Metabolism, and Digestive Diseases	219,600,000	216,961,000	237,461,000	273,000,000	+53,400,000	+56,039,000	+35,539,000
National Institute of Neurological and Communicative Disorders and Stroke	155,500,000	161,461,000	175,000,000	179,000,000	+23,500,000	+17,539,000	+4,000,000
National Institute of Allergy and Infectious Diseases	141,000,000	153,442,000	157,042,000	162,000,000	+21,000,000	+8,558,000	+4,958,000
National Institute of General Medical Sciences	205,000,000	219,896,000	225,396,000	235,000,000	+30,000,000	+15,104,000	+9,604,000
National Institute of Child Health and Human Development	145,543,000	155,761,000	162,761,000	167,000,000	+21,457,000	+11,239,000	+4,239,000
National Institute on Aging	30,000,000	34,500,000	39,000,000	35,000,000	+5,000,000	+500,000	−4,000,000
National Eye Institute	64,000,000	64,981,000	85,000,000	74,952,000	+10,952,000	+9,971,000	−10,048,000
National Institute of Environmental Health Sciences	51,141,000	58,100,000	63,600,000	58,000,000	+6,859,000	−100,000	−5,600,000
Research resources	137,500,000	102,074,000	144,947,000	144,947,000	+7,747,000	+42,873,000	
John E. Fogarty, International Center	7,992,000	8,369,000	8,369,000	8,369,000	+377,000		
Subtotal, biomedical research	2,424,446,000	2,456,104,000	2,622,135,000	2,776,268,000	+351,822,000	+32,0164,000	+154,133,000
National Library of Medicine	35,234,000	36,746,000	36,746,000	36,746,000	+1,512,000		
Office of the Director	16,934,000	17,871,000	17,871,000	71,871,000	+937,000		
Buildings and facilities	67,400,000	65,650,000	65,650,000	65,650,000	−1,750,000		
Total, National Institute of Health	2,544,014,000	2,576,371,000	2,742,402,000	2,896,535,000	+352,521,000	+320,164,000	+154,133,000
BIOMEDICAL RESEARCH—BY ACTIVITY (NON-ADD)							
Research grants:							
Regular programs:							
Noncompeting	733,984,000	768,795,000	768,795,000	768,705,000	+34,811,000		
Competing	275,134,000	288,896,000	356,696,000	356,696,000	+81,562,000	+67,800,000	
Subtotal	1,009,118,000	1,057,691,000	1,125,491,000	1,125,491,000	+116,373,000	+67,800,000	
Biomedical research support	40,873,000		35,000,000	35,000,000	−5,873,000	+35,000,000	
Minority research support	9,711,000	8,772,000	10,772,000	10,772,000	+1,061,000	+2,000,000	
Special programs:							
Multidisciplinary Centers	200,030,000	202,905,000	202,905,000	202,905,000	+2,875,000		
Other	162,556,000	174,471,000	174,471,000	174,471,000	+11,915,000		
Subtotal	362,586,000	377,376,000	377,376,000	377,376,000	+14,790,000		
Subtotal, research grants	1,422,288,000	1,443,839,000	1,548,639,000	1,548,639,000	126,351,000	+104,800,000	
Training programs:							
Individual awards	31,446,000	31,247,000	31,247,000	31,247,000	−199,000		
Institutional awards	104,694,000	91,639,000	91,639,000	91,639,000	−13,055,000		
Subtotal	136,140,000	122,886,000	122,886,000	122,886,000	−13,254,000		
Research and development contracts	388,488,000	391,838,000	396,838,000	396,838,000	+8,350,000	+5,000,000	
Intramural research operations	249,071,000	268,474,000	271,474,000	271,474,000	+22,403,000	+3,000,000	
Direct operations	161,455,000	172,972,000	172,972,000	172,972,000	+11,517,000		
Cancer disease control	60,625,000	61,233,000	62,233,000	61,233,000	+608,000		
Cancer construction grants	22,001,000	12,000,000	12,000,000	12,000,000	−10,001,000		
Program management	36,546,000	37,479,000	37,479,000	37,479,000	+933,000		
Subtotal, Biomedical Research	2,476,614,000	2,510,721,000	2,623,521,000	2,623,521,000	+146,907,000	+112,800,000	
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION							
General mental health:							
Research	108,908,000	106,908,000	116,908,000	116,908,000	+8,000,000	+10,000,000	
Training	86,600,000	86,600,000	86,600,000	86,600,000			
Community programs:							
Planning	1,000,000				−100,000,000		
Operations:							
First year	17,967,000		22,775,000	30,000,000	+12,033,000	+30,000,000	+7,225,000
Continuation:							
Grants initiated under new law	29,851,000	53,340,000	53,340,000	53,340,000	+23,489,000		
Converted staffing grants	49,914,000	104,754,000	104,754,000	104,754,000	+54,840,000		
Conversion	20,000,000	9,372,000	19,372,000	19,372,000	−628,000	+10,000,000	
Consultation and education	8,000,000	8,245,000	8,245,000	8,245,000	+245,000		
Financial distress	7,000,000	4,988,000	4,988,000	6,988,000	−12,000	+2,000,000	+2,000,000
Continuations under old law:							
Staffing	79,806,000	38,247,000	38,247,000	38,247,000	−41,559,000		
Child mental health	18,786,000	13,900,000	13,900,000	13,900,000	−4,886,000		
Subtotal, Community programs	232,324,000	232,846,000	265,621,000	274,846,000	+42,522,000	+42,000,000	+9,225,000
Program support	28,502,000	27,695,000	27,695,000	27,695,000	−807,000		
Subtotal, Mental health	456,334,000	454,049,000	496,824,000	506,049,000	+49,715,000	+52,000,000	+9,225,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978—Continued

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued							
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION—Continued							
Drug abuse:							
Research	34,000,000	34,000,000	34,000,000	34,000,000			
Training	10,000,000	10,000,000	10,000,000	10,000,000			
Community programs:							
Project grants and contracts	160,000,000	161,500,000	161,500,000	161,500,000	+1,500,000		
Grants to States	40,000,000	40,000,000	40,000,000	40,000,000			
Program support	16,686,000	16,572,000	16,572,000	16,572,000	−114,000		
Subtotal, Drug abuse	260,686,000	262,072,000	262,072,000	262,072,000	+1,386,000		
Alcoholism:							
Research	14,808,000	13,179,000	16,179,000	16,179,000	+1,371,000	+3,000,000	
Training	7,200,000	7,200,000	7,200,000	7,200,000			
Community programs:							
Project grants and contracts	73,008,000	68,719,000	75,008,000	82,508,000	+9,500,000	+13,789,000	+7,500,000
Grants to States	56,800,000	55,500,000	56,800,000	56,800,000		+1,300,000	
Program support	9,538,000	9,468,000	9,468,000	9,468,000	−70,000		
Subtotal, Alcoholism	161,354,000	154,066,000	164,655,000	172,155,000	+10,801,000	+18,089,000	+7,500,000
Buildings and facilities		350,000	350,000	350,000	+350,000		
Program management	7,197,000	7,119,000	7,119,000	7,119,000	−78,000		
Subtotal, Alcohol, drug abuse and mental health	885,571,000	877,656,000	931,020,000	947,745,000	+62,174,000	+70,089,000	+16,725,000
Saint Elizabeths Hospital	64,514,000	68,746,000	68,746,000	68,746,000	+4,232,000		
Construction and renovation (SEH)		810,000	2,010,000	2,010,000	+2,010,000	+1,200,000	
Subtotal, ADAMHA	950,085,000	947,212,000	1,001,776,000	1,018,501,000	+68,416,000	+71,289,000	+16,725,000
HEALTH RESOURCES ADMINISTRATION							
National health statistics	29,349,000	34,778,000	35,278,000	33,600,000	+4,251,000	−1,178,000	−1,678,000
Health planning and resources development:							
Health planning	130,000,000	125,000,000	140,000,000	150,000,000	+20,000,000	+25,000,000	+10,000,000
Special medical facilities	9,000,000			1,750,000	−7,500,000	+1,750,000	+1,750,000
Program support	11,921,000	11,924,000	11,924,000	11,924,000	+3,000		
Subtotal, Planning and resources	150,921,000	136,924,000	151,924,000	163,674,000	+12,753,000	+26,750,000	+11,750,000
Health services research	30,134,000	30,442,000	33,542,000	32,442,000	+2,308,000	+2,000,000	−1,100,000
Health manpower:							
Health professions institutional assistance:							
Capitation grants	125,000,000	114,500,000	144,000,000	125,000,000		+10,500,000	−19,000,000
MOD	(101,100,000)	(114,500,000)	(120,100,000)	(101,100,000)		(−13,400,000)	(−19,000,000)
VOPP	(18,000,000)		(18,000,000)	(18,000,000)		(+18,000,000)	
Public Health	(5,900,000)		(5,900,000)	(5,900,000)		(+5,900,000)	
Health teaching facilities	26,000,000		5,000,000	8,500,000	−17,500,000	+8,500,000	+3,500,000
Health professions student assistance:							
Loans	24,000,000		10,000,000	26,000,000	+2,000,000	+26,000,000	+16,000,000
Loan repayments	2,000,000	1,500,000	1,500,000	1,500,000	−500,000		
National health service scholarships	40,000,000	40,000,000	55,000,000	55,000,000	+15,000,000	+15,000,000	
Scholarships	1,000,000				−1,000,000		
Exceptional need scholarships		5,000,000	5,000,000	5,000,000	+5,000,000		
Shortage area scholarships	400,000				−400,000		
Subtotal, Student assistance	67,400,000	46,500,000	71,500,000	87,500,000	+20,100,000	+41,000,000	+16,000,000
Health professions special educational assistance:							
Family med. residencies and training	39,000,000	45,000,000	45,000,000	45,000,000	+6,000,000		
Primary care residencies and training	15,000,000	15,000,000	15,000,000	15,000,000			
Project grants—VOPP	5,350,000				−5,350,000		
Interdisciplinary Training	5,350,000			5,000,000	−350,000	+5,000,000	+5,000,000
Physicians/dental extenders	10,500,000	11,100,000	11,100,000	11,100,000	+600,000		
Area Health Education Centers	14,000,000	15,500,000	17,000,000	17,000,000	+3,000,000	+1,500,000	
Disadvantaged assistance	10,000,000	8,000,000	14,500,000	14,500,000	+4,500,000	+6,500,000	
Foreign medical graduates	1,000,000	2,000,000	2,000,000	2,000,000	+1,000,000		
Manpower initiatives	10,000,000				−10,000,000		
Project grants MOD	14,850,000				−14,850,000		
Emergency medical training	6,000,000		6,000,000	6,000,000		+6,000,000	
National Advisory Committee on Graduate Medical Education	1,000,000	1,000,000	1,000,000	1,000,000			
Health profession startup	3,326,000	1,000,000	1,000,000	2,000,000	−1,326,000	+1,000,000	+1,000,000
Financial distress	3,500,000	2,000,000	2,000,000	4,000,000	+500,000	+2,000,000	+2,000,000
Supply and distribution reports	1,000,000	2,000,000	2,000,000		−1,000,000	−2,000,000	−2,000,000
Subtotal, Special programs	139,876,000	102,600,000	116,600,000	122,600,000	−17,276,000	+20,000,000	+6,000,000
Dental Health Education	8,000,000	2,100,000	4,000,000	4,000,000	−4,000,000	+1,900,000	
Nursing institutional assistance:							
Capitation grants	40,000,000		32,00,0000	30,000,000	−10,000,000	+30,000,000	−2,000,000
Advanced nurse training	9,000,000		10,000,000	12,000,000	+3,000,000	+12,000,000	+2,000,000
Nurse practitioner training	9,000,000	9,000,000	13,000,000	13,000,000	+4,000,000	+4,000,000	
Special projects	15,000,000	6,000,000	15,000,000	15,000,000		+9,000,000	
Subtotal	73,000,000	15,000,000	70,000,000	70,000,000	−3,000,000	+55,000,000	
Nursing student assistance:							
Loans	22,500,000		20,000,000	22,500,000		+22,500,000	+2,500,000
Scholarships	6,500,000	9,000,000	9,000,000	9,000,000	+2,500,000		
Traineeships	13,000,000		13,000,000	13,000,000		+13,000,000	
Loan repayment	3,000,000		1,500,000	1,500,000	−1,500,000	+1,500,000	
Fellowships	1,000,000		1,000,000	1,000,000		+1,000,000	
Subtotal	46,000,000	9,000,000	44,500,000	47,000,000	+1,000,000	+38,000,000	+2,500,000
Nursing research	5,000,000		5,000,000	5,000,000		+5,000,000	
Subtotal, Nursing programs	124,000,000	24,000,000	119,500,000	122,000,000	−2,000,000	+98,000,000	+2,500,000
District of Columbia Medical and Dental	8,900,000				−8,900,000		
Allied health (institutional)	24,000,000	8,000,000	20,000,000	20,000,000	−4,000,000	+12,000,000	

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
Public Health:							
Special projects and health administration	5,500,000	5,000,000	5,000,000	5,000,000	−500,000		
Public health traineeships	9,120,000		7,000,000	7,000,000	−2,120,000	+7,000,000	
Health administration graduate programs		3,000,000	3,000,000	3,000,000	+3,000,000		
Health administration traineeships			1,000,000	2,000,000	+2,000,000	+2,000,000	+1,000,000
Subtotal, Public Health	14,620,000	8,000,000	16,000,000	17,000,000	+2,380,000	+9,000,000	+1,000,000
Health teaching fac. interest subsidies		2,000,000	2,000,000	2,000,000	+2,000,000		
Program support	22,577,000	23,020,000	23,020,000	23,020,000	+443,000		
Subtotal, Health Manpower	560,373,000	330,720,000	521,620,000	531,620,000	−28,753,000	+200,900,000	+10,000,000
Program management	10,947,000	11,755,000	11,755,000	11,755,000	+808,000		
Subtotal, Health Resources	781,724,000	544,619,000	754,119,000	773,091,000	−8,633,000	+228,472,000	+18,972,000
Payments of sales insufficiencies	4,000,000	2,592,000	2,592,000	2,592,000	−1,408,000		
Medical Facilities Guarantee and Loan Fund	31,000,000	41,000,000	41,000,000	41,000,000	+10,000,000		
Subtotal, Health Resources Administration	816,724,000	588,211,000	797,711,000	816,683,000	−41,000	+228,472,000	+18,972,000
ASSISTANT SECRETARY FOR HEALTH							
Salaries and expenses	23,177,000	23,178,000	23,178,000	23,178,000	+1,000		
Health education and promotion				2,500,000	+2,500,000	+2,500,000	+2,500,000
Retirement pay and medical benefits for commissioned officers	52,352,000	56,948,000	56,948,000	56,948,000	+4,596,000		
Scientific activities overseas	1,500,000	11,387,000	11,387,000	11,387,000	+9,887,000		
Subtotal, Assistant Secretary for Health	77,029,000	91,513,000	91,513,000	94,013,000	+16,984,000	+2,500,000	+2,500,000
Subtotal, Health	5,669,556,000	5,534,548,000	6,030,399,500	6,423,033,000	+753,477,000	+888,485,000	+392,633,500
EDUCATION DIVISION							
Office of Education							
ELEMENTARY AND SECONDARY EDUCATION							
Grants for disadvantaged children (Title I)	2,285,000,000	2,635,000,000	2,735,000,000	2,800,000,000	+515,000,000	+165,000,000	+65,000,000
Support and innovation grants	194,000,000	194,000,000	194,000,000	201,000,000	+7,000,000	+7,000,000	+7,000,000
Bilingual education:							
Grants to school districts	74,300,000	81,000,000	81,000,000	81,000,000	+6,700,000		
Training grants	29,700,000	36,975,000	36,975,000	36,975,000	+7,275,000		
Materials	7,000,000	10,000,000	10,000,000	10,000,000	+3,000,000		
Grants to State agencies	3,900,000	4,375,000	4,375,000	4,375,000	+475,000		
Advisory council	100,000	150,000	150,000	150,000	+50,000		
Information clearinghouse	167,000	500,000	500,000	500,000	+333,000		
Model replication and studies		2,000,000	2,000,000	2,000,000	+2,000,000		
Subtotal, Bilingual education	115,167,000	135,000,000	135,000,000	135,000,000	+19,833,000		
Right to Read	26,000,000	26,000,000	27,000,000	27,000,000	+1,000,000	+1,000,000	
Follow Through	59,000,000	59,000,000	59,000,000	59,000,000			
Drug abuse education	2,000,000	2,000,000	2,000,000	2,000,000			
Environmental education	3,500,000	3,500,000	3,500,000	3,500,000			
Educational broadcasting facilities	15,000,000	15,000,000	15,000,000	22,500,000	+7,500,000	+7,500,000	+7,500,000
Ellender fellowships	750,000	750,000	750,000	750,000			
Ethnic heritage studies	2,300,000	2,300,000	2,300,000	2,300,000			
State equalization grants	10,500,000				−10,500,000		
Indochinese refugee assistance	18,500,000				−18,500,000		
Subtotal, Elem. and sec. education	2,734,717,000	3,072,550,000	3,173,550,000	3,253,050,000	+521,333,000	+180,500,000	+79,500,000
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS							
Maintenance and operations:							
Payments for "A" children	271,600,000	295,700,000	298,300,000	298,300,000	+26,700,000	+2,600,000	
Payments for "B" children	341,550,000		344,900,000	344,900,000	+3,350,000	+344,900,000	
Special provisions	15,350,000	16,600,000	16,600,000	16,600,000	+12,250,000		
Payments to other Federal agencies	52,500,000	57,700,000	57,700,000	57,700,000	+5,200,000		
Savings provisions	87,000,000		52,500,000	85,000,000	−2,000,000	+85,000,000	+32,500,000
Subtotal	768,000,000	370,000,000	770,000,000	802,500,000	+34,500,000	+432,500,000	+32,500,000
Construction	25,000,000	25,000,000	30,000,000	50,000,000	+25,000,000	+25,000,000	+20,000,000
Subtotal	793,000,000	395,000,000	800,000,000	852,500,000	+59,500,000	+457,500,000	+52,500,000
EMERGENCY SCHOOL AID							
National competition projects:							
Bilingual education projects	8,600,000	8,600,000	8,600,000	8,600,000			
Educational television	6,450,000	6,450,000	6,450,000	6,450,000			
Special programs and projects	45,750,000	50,750,000	48,250,000	55,000,000	+9,250,000	+4,250,000	+6,750,000
Evaluation	2,150,000	2,150,000	2,150,000	2,150,000			
Magnet schools	7,500,000	5,000,000	7,500,000	30,000,000	+22,500,000	+25,000,000	+22,500,000
State apportioned projects:							
Pilot programs	32,250,000	32,250,000	32,250,000	32,250,000			
Grants to non-profit organizations	17,200,000	17,200,000	17,200,000	17,200,000			
General grants to school districts	137,600,000	136,700,000	137,600,000	137,600,000			
Subtotal, emergency school aid (direct)	257,500,000	260,000,000	260,000,000	289,250,000	+31,750,000	+29,250,000	+29,250,000
Civil rights advisory services	34,700,000	34,700,000	34,700,000	37,400,000			
Subtotal, Emergency school aid	292,200,000	294,700,000	294,700,000	323,950,000	+31,750,000	+29,250,000	+29,250,000
EDUCATION FOR THE HANDICAPPED							
State assistance:							
State grant program	315,000,000	365,000,000	465,000,000	485,000,000	+170,000,000	+120,000,000	+20,000,000
Deaf-blind centers	16,000,000	16,000,000	16,000,000	16,000,000			
Preschool incentive grants	12,500,000	12,500,000	12,500,000	15,000,000	+2,500,000	+2,500,000	+2,500,000
Subtotal, State assistance	343,500,000	393,500,000	493,500,000	516,000,000	+172,500,000	+122,500,000	+22,500,000
Special population programs:							
Severely handicapped projects	5,000,000	5,000,000	5,000,000	5,000,000			
Specific learning disabilities	9,000,000	9,000,000	9,000,000		−9,000,000	−9,000,000	−9,000,000
Early childhood projects	22,000,000	22,000,000	22,000,000	22,000,000			
Subtotal, special population programs	36,000,000	36,000,000	36,000,000	26,000,000	−9,000,000	−9,000,000	−9,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978—Continued

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued							
EDUCATION FOR THE HANDICAPPED—Continued							
Regional vocational, adult, and postsecondary programs	2,000,000	2,000,000	2,000,000	2,000,000			
Innovation and development	11,000,000	11,000,000	11,000,000	20,000,000	+9,000,000	+9,000,000	+9,000,000
Media and resource services:							
Media services and captioned films	19,000,000	19,000,000	19,000,000	19,000,000			
Regional resource centers	9,750,000	9,750,000	9,750,000	9,750,000			
Recruitment and information	1,000,000	1,000,000	1,000,000	1,000,000			
Subtotal, media and resource services	29,750,000	29,750,000	29,750,000	29,750,000			
Special education manpower development	45,375,000	45,375,000	45,375,000	45,375,000			
Special studies	1,735,000	2,300,000	2,300,000	2,300,000	+565,000		
Subtotal, Education for the handicapped	469,360,000	519,925,000	619,925,000	642,425,000	+173,065,000	+122,500,000	+22,500,000
OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION							
Vocational education grants, academic year 1976–1977	(451,246,000)				(−451,246,000)		
Vocational education (1977–1978 academic year vs. 1978–1979 academic year):							
Grants to States for vocational education:							
Basic vocational education program	412,719,000	393,719,000	430,266,000	430,266,000	+17,547,000	+36,547,000	
Program improvement supportive services	103,180,000	98,430,000	107,567,000	107,567,000	+4,387,000	+9,137,000	
Programs for students with special needs	20,000,000	20,000,000	20,000,000	20,000,000			
Consumer and homemaking education	40,994,000	40,994,000	40,994,000	40,994,000			
State advisory councils	5,066,000	5,066,000	5,066,000	5,066,000			
Subtotal, Staff grants	581,959,000	558,209,000	603,893,000	603,893,000	+21,934,000	+45,684,000	
Programs of national significance	27,153,000	25,903,000	28,307,000	28,307,000	+1,154,000	+2,404,000	
Bilingual vocational training	2,800,000	2,800,000	2,800,000	2,800,000			
Subtotal, vocational education 1978–79	611,912,000	586,912,000	635,000,000	635,000,000	+23,088,000	+48,088,000	
Adult education	90,750,000	80,500,000	90,750,000	90,750,000		+10,250,000	
Subtotal, occupational vocational, and adult education	1,153,908,000	667,412,000	725,750,000	725,750,000	−428,158,000	+58,338,000	
HIGHER EDUCATION							
Student assistance:							
Basic educational opportunity grants	1,903,900,000	2,316,000,000	2,300,000,000	2,070,000,000	+166,100,000	−246,000,000	−230,000,000
Supplemental educational opportunity grants	250,093,000	240,093,000	270,093,000	270,093,000	+20,000,000	+30,000,000	
Work-study	390,000,000	390,000,000	420,000,000	450,000,000	+60,000,000	+60,000,000	+30,000,000
Direct loans:							
Federal capital contributions	310,500,000		310,500,000	310,500,000		+310,500,000	
Loans to institutions	800,000		1,000,000		−800,000		−1,000,000
Teacher cancellations	11,920,000	15,160,000	15,160,000	15,160,000	+3,240,000		
Incentive grants for State scholarships	60,000,000	44,000,000	63,750,000	63,750,000	+3,750,000	+19,750,000	
Subtotal, Student assistance	2,927,213,000	3,005,253,000	3,380,503,000	3,179,503,000	+252,290,000	+174,250,000	−201,000,000
Special programs for the disadvantaged	85,000,000	70,331,000	125,000,000	100,000,000	+15,000,000	+29,669,000	−25,000,000
Educational Information Centers			5,000,000				−5,000,000
Minorities in the professions		3,000,000	3,250,000			−3,000,000	−3,250,000
Institutional assistance:							
Strengthening developing institutions	110,000,000	120,000,000	120,000,000	120,000,000	+10,000,000		
Language training and area studies	17,650,000	16,300,000	18,000,000	18,000,000	+350,000	+1,700,000	
University community services	14,125,000	12,125,000	18,000,000	18,000,000	+3,875,000	+5,875,000	
Aid to land-grant colleges	11,500,000	11,500,000	11,500,000	11,500,000			
State postsecondary education commissions	3,500,000	3,500,000	3,500,000	3,500,000			
Veterans cost of instruction	23,750,000	23,750,000	23,750,000	23,750,000			
Cooperative education	12,250,000	10,750,000	15,000,000	15,000,000	+2,750,000	+4,250,000	
Construction—annual interest grants		4,000,000	4,000,000	4,000,000	+4,000,000		
Subtotal, Institutional assistance	192,775,000	201,925,000	213,750,000	213,750,000	+20,975,000	+11,825,000	
Personnel development:							
College teacher fellowships	100,000				−100,000		
Local training for disadvantaged (CLEO)	750,000	1,000,000	1,000,000	1,000,000	+250,000		
Public service fellowships	4,000,000	4,000,000	4,000,000	4,000,000			
Mining fellowships	4,500,000	3,000,000	4,500,000	4,500,000		+1,500,000	
Law school clinical experience			1,000,000				−1,000,000
Subtotal, Personnel development	9,350,000	8,000,000	10,500,000	9,500,000	+150,000	+1,500,000	−1,000,000
Wayne Morse Chair on Law and Politics				500,000	+500,000	+500,000	+500,000
Subtotal, Higher education	3,214,338,000	3,288,509,000	3,738,003,000	3,503,253,000	+288,915,000	+214,744,000	−234,750,000
LIBRARY RESOURCES							
Public libraries	60,237,000	60,237,000	60,237,000	60,237,000			
School libraries and instructional resources	154,330,000	154,330,000	160,000,000	180,000,000	+25,670,000	+25,670,000	+20,000,000
College library resources	9,975,000	9,975,000	9,975,000	9,975,000			
Research Libraries			3,000,000	7,000,000	+7,000,000	+7,000,000	+4,000,000
Training and demonstration	3,000,000	1,500,000	3,000,000	3,000,000		+1,500,000	
Undergraduate instructional equipment	7,500,000	7,500,000	7,500,000	7,500,000			
Guidance, counseling and testing	3,000,000		3,000,000		−3,000,000		−3,000,000
Subtotal, Library resources	238,042,000	233,542,000	246,712,000	267,712,000	+29,670,000	+34,170,000	+21,000,000
SPECIAL PROJECTS AND TRAINING							
Special projects:							
Metric education projects	2,090,000	2,090,000	2,090,000	2,090,000			
Gifted and talented children	2,560,000	2,560,000	2,560,000	2,560,000			
Community schools	3,553,000	3,553,000	3,553,000	3,553,000			
Career education	10,135,000	10,135,000	10,135,000	10,135,000			
Consumer education	3,135,000	3,135,000	3,135,000	5,000,000	+1,865,000	+1,865,000	+1,865,000
Women's educational equity	7,270,000	8,085,000	8,085,000	8,085,000	+815,000		
Arts in education program	1,750,000	1,750,000	2,000,000	2,000,000	+250,000	+250,000	
Packaging and field testing	10,000,000	10,000,000	10,000,000	10,000,000			
Educational TV programming	7,000,000	7,000,000	5,000,000	5,000,000	−2,000,000	−2,000,000	
Subtotal	47,493,000	48,308,000	46,558,000	48,423,000	+930,000	+115,000	+1,865,000

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (—) compared with— 1977 appropriation	Budget estimate	House allowance
Educational personnel training:							
Teacher centers		5,000,000	5,000,000	12,500,000	+12,500,000	+7,500,000	+7,500,000
Teacher Corps	37,500,000	37,500,000	37,500,000	37,500,000			
Planning and evaluation	7,085,000	7,200,000	7,085,000	7,085,000		−115,000	
General program dissemination	500,000	500,000			−500,000	−500,000	
Information clearinghouse	333,000	400,000	400,000	333,000		−67,000	−67,000
Subtotal, Special Projects and Training	92,911,000	98,908,000	96,543,000	105,841,000	+12,930,000	+6,933,000	+9,298,000
Guaranteed Student Loan Program:							
Interest subsidies	325,000,000	121,781,000	121,781,000	121,781,000	−203,219,000		
Student Loan Insurance Fund	32,312,000	133,943,000	133,943,000	133,943,000	+101,631,000		
Contingency Borrowing Authority (SLIF)		25,000,000	25,000,000	25,000,000	+25,000,000		
Subtotal, Guaranteed student loan program	357,312,000	280,724,000	280,724,000	280,724,000	−76,588,000		
Higher Education Facilities Loan and Insurance Fund	2,119,000	1,847,000	1,847,000	1,847,000	−272,000		
Education Activities Overseas:							
Special Foreign Currency Program	2,000,000	2,000,000	2,000,000	2,000,000			
Salaries and Expenses:							
Advisory committees	2,281,000	2,041,000	2,261,000	2,261,000	−20,000	+220,000	
Program administration	112,976,000	127,018,000	123,128,000	123,128,000	+10,152,000	−3,890,000	
Subtotal, Salaries and expenses	115,257,000	129,059,000	125,389,000	125,389,000	+10,132,000	−3,670,000	
Subtotal, Office of Education	9,462,164,000	8,984,176,000	10,105,143,000	10,084,441,000	+622,277,000	+1,100,265,000	−20,702,000
NATIONAL INSTITUTE OF EDUCATION							
Research and development	58,300,000	96,000,000	76,600,000	76,600,000	+18,300,000	−19,400,000	
Program administration	12,085,000	13,000,000	13,000,000	13,000,000	+915,000		
Subtotal, National Institute of Education	70,385,000	109,000,000	89,600,000	89,600,000	+19,215,000	−19,400,000	
ASSISTANT SECRETARY FOR EDUCATION							
Improvement of Post-Secondary Education	11,500,000	14,500,000	12,500,000	11,500,000		−3,000,000	−1,000,000
Salaries and Expenses	9,062,000	10,159,000	9,939,000	9,939,000	+877,000	−220,000	
National Center for Educational Statistics	13,120,000	15,940,000	14,940,000	13,120,000		−2,820,000	−1,820,000
Subtotal, Assistant Secretary for Education	33,682,000	40,599,000	37,379,000	34,559,000	+877,000	−6,040,000	−2,820,000
Subtotal, Education Division	9,566,231,000	9,133,775,000	10,232,122,000	10,208,600,000	+642,369,000	+1,074,825,000	−23,522,000
SOCIAL AND REHABILITATION SERVICE							
Public Assistance:							
Maintenance assistance	6,306,430,000	6,605,800,000	6,585,800,000	6,300,000,000	−6,430,000	−305,800,000	−285,800,000
Medical assistance	10,229,318,000	11,816,000,000	11,464,400,000	10,750,000,000	+520,682,000	−1,066,000,000	−714,400,000
Social services	2,576,589,000	2,401,300,000	2,401,300,000	2,401,300,000	−175,289,000		
State and local training	79,860,000	75,000,000	75,000,000	75,000,000	−4,860,000		
Child welfare services	56,500,000	56,500,000	56,500,000	56,400,000			
Research	9,200,000	9,200,000	9,200,000	9,200,000			
Training projects	8,150,000		8,150,000	10,000,000	+1,850,000	+10,000,000	+1,850,000
Subtotal	19,266,047,000	20,963,800,000	20,600,350,000	19,602,000,000	+335,953,000	−1,361,800,000	−998,350,000
Work incentives:							
Grants to states	356,995,000	351,995,000	351,995,000	351,995,000	−5,000,000		
Program direction	13,005,000	13,005,000	13,005,000	13,005,000			
Subtotal	370,000,000	365,000,000	365,000,000	365,000,000	−5,000,000		
Cuban refugee program	82,000,000	67,700,000	67,700,000	76,200,000	−5,800,000	+8,500,000	+8,500,000
Special assistance to refugees from Cambodia, Vietnam, Laos in the U.S.	50,000,000				−50,000,000		
Program administration	65,751,000	74,535,000	73,000,000	73,000,000	+7,249,000	−1,535,000	
Subtotal	19,833,798,000	21,471,035,000	21,106,050,000	20,116,200,000	+282,402,000	−1,354,835,000	−989,850,000
SOCIAL SECURITY ADMINISTRATION							
Federal Funds							
Payments to the Social Security Trust Fund:							
Federal payments for supplementary medical insurance	5,053,000,000	6,383,000,000	6,383,000,000	6,383,000,000	+1,330,000,000		
Hospital insurance for the uninsured	803,000,000	687,941,000	687,941,000	687,941,000	−115,059,000		
Military service credits	622,000,000	656,000,000	656,000,000	656,000,000	+34,000,000		
Special payments for certain uninsured persons	235,902,000	228,203,000	228,203,000	228,203,000	−7,699,000		
Subtotal, Payments to SS Trust Fund	6,713,902,000	7,955,144,000	7,955,144,000	7,955,144,000	+1,241,242,000		
Subtotal, health function 550	(5,997,000,000)	(7,213,941,000)	(7,213,941,000)	(7,213,941,000)	(+1,216,941,000)		
Subtotal, income maintenance function 600	(716,902,000)	(741,203,000)	(741,203,000)	(741,203,000)	(+24,301,000)		
Special Benefits for Disabled Coal Miners:							
Benefit payments	947,865,000	958,000,000	958,000,000	958,000,000	+10,135,000		
Administration	14,100,000	9,623,000	9,623,000	9,623,000	−4,477,000		
Subtotal, Special benefits	961,965,000	967,623,000	967,623,000	967,623,000	+5,658,000		
Supplemental Security Income Program:							
Benefit payments	5,230,000,000	5,000,000,000	5,000,000,000	4,500,000,000	−730,000,000	−500,000,000	−500,000,000
State supplemental payments	55,000,000	45,000,000	45,000,000	45,000,000	−10,000,000		
Vocational rehabilitation services	52,770,000	75,180,000	75,180,000	75,180,000	+22,410,000		
Administration	500,352,000	542,958,000	542,958,000	542,958,000	+42,606,000		
Federal fiscal liability	57,000,000	86,862,000	86,862,000	86,862,000	+29,862,000		
Subtotal	5,895,122,000	5,750,000,000	5,750,000,000	5,250,000,000	−645,122,000	−500,000,000	−500,000,000
Limitation on salaries and expenses	(2,597,655,000)	(2,685,951,000)	(2,685,951,000)	(2,685,951,000)	(+88,296,000)		
Limitations on construction	(14,400,000)	(14,600,000)	(14,600,000)	(14,600,000)	(+200,000)		
Subtotal, Social Security Administration	16,183,044,000	17,373,318,000	17,373,318,000	16,873,318,000	+690,274,000	−500,000,000	−500,000,000
Federal funds	13,570,989,000	14,672,767,000	14,676,767,000	14,172,767,000	+601,778,000	−500,000,000	−500,000,000
Trust fund limitation	(2,612,055,000)	(2,700,551,000)	(2,700,551,000)	(2,700,551,000)	(+88,496,000)		

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978—Continued

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued							
SPECIAL INSTITUTIONS							
American Printing House for the Blind	3,012,000	3,498,000	3,498,000	3,498,000	+486,000	----------	----------
National Technical Institute for the Deaf: Academic Program	12,675,000	14,630,000	14,630,000	14,630,000	+1,955,000	----------	----------
Gallaudet College:							
Academic Program	15,610,000	17,510,000	17,150,000	17,510,000	+1,900,000	----------	----------
Model Secondary School for the Deaf	7,343,000	8,343,000	8,343,000	8,343,000	+1,000,000	----------	----------
Kendall Demonstration Elementary School	3,270,000	3,907,000	3,907,000	3,907,000	+637,000	----------	----------
Construction	15,575,000	16,216,000	16,216,000	16,216,000	+641,000	----------	----------
Subtotal, Gallaudet College	41,798,000	45,976,000	45,976,000	45,976,000	+4,178,000	----------	----------
Howard University:							
Academic Program	63,487,000	73,087,000	73,087,000	73,087,000	+9,600,000	----------	----------
Howard University Hospital	22,106,000	22,106,000	22,106,000	22,106,000	----------	----------	----------
Construction	2,500,000	3,925,000	3,925,000	3,925,000	+1,425,000	----------	----------
Subtotal, Howard University	88,093,000	99,118,000	99,118,000	99,118,000	+11,025,000	----------	----------
Subtotal, Special Institutions	145,578,000	163,222,000	163,222,000	163,222,000	+17,644,000	----------	----------
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT							
Child development:							
Head Start	475,000,000	485,000,000	595,000,000	655,000,000	+180,000,000	+170,000,000	+60,000,000
Research, demonstration, and evaluation	14,700,000	16,700,000	14,700,000	14,700,000	----------	−2,000,000	----------
Child abuse	18,928,000	18,928,000	18,928,000	18,928,000	----------	----------	----------
Subtotal, Child development	508,628,000	520,628,000	628,628,000	688,628,000	+180,000,000	+168,000,000	+60,000,000
Youth development	9,000,000	9,000,000	9,000,000	16,000,000	+7,000,000	+7,000,000	+7,000,000
Aging programs							
Community services (Title III):							
State agency activities	17,000,000	17,000,000	18,000,000	20,000,000	+3,000,000	+3,000,000	+2,000,000
Area planning and social services	122,000,000	122,000,000	153,000,000	153,000,000	+31,000,000	+31,000,000	----------
Model projects	14,700,000	12,000,000	15,000,000	15,000,000	+300,000	+3,000,000	----------
Subtotal, Community Services	153,700,000	151,000,000	186,000,000	188,000,000	+34,300,000	+37,000,000	+2,000,000
Nutrition (Title VII)	203,525,000	225,000,000	250,000,000	250,000,000	+46,475,000	+25,000,000	----------
Research, demonstration, and manpower (Title IV):							
Research	8,500,000	7,000,000	8,500,000	8,500,000	----------	+1,500,000	----------
Training	14,200,000	14,200,000	16,000,000	18,000,000	+3,800,000	+3,800,000	+2,000,000
Multidisciplinary centers on gerontology	3,800,000	3,800,000	3,800,000	3,800,000	----------	----------	----------
Subtotal, Research, demonstration, and manpower	26,500,000	25,000,000	28,300,000	30,300,000	+3,800,000	+5,300,000	+2,000,000
Federal Council on Aging	575,000	450,000	450,000	450,000	−125,000	----------	----------
Multipurpose Senior Center (Title V)	20,000,000	20,000,000	40,000,000	30,000,000	+10,000,000	+10,000,000	−10,000,000
National clearinghouse	----------	2,000,000	2,000,000	2,000,000	+2,000,000	----------	----------
Subtotal, Aging programs	404,300,000	423,450,000	506,750,000	500,750,000	+96,450,000	+77,300,000	−6,000,000
Rehabilitation Service and Facilities:							
Basic State grants	740,309,000	760,472,050	760,472,050	760,472,000	+20,163,000	−50	−50
Service projects:							
Innovation and expansion	18,000,000	18,000,000	18,000,000	18,000,000	----------	----------	----------
Deaf-blind Center	2,100,000	2,500,000	2,500,000	2,500,000	+400,000	----------	----------
Special projects	17,150,000	14,327,950	19,328,000	17,028,000	−122,000	+2,700,050	−2,300,000
Training and facilities grants:							
Training services	5,000,000	5,000,000	5,000,000	5,000,000	----------	----------	----------
Facility improvements	2,400,000	2,400,000	2,400,000	2,400,000	----------	----------	----------
Subtotal, Service projects	44,650,000	42,227,950	47,228,000	44,928,000	+278,000	+2,700,050	−2,300,000
Research	29,000,000	29,000,000	30,000,000	33,000,000	+4,000,000	+4,000,000	+3,000,000
Training	30,500,000	20,000,000	30,500,000	30,500,000	----------	+10,005,000	----------
Subtotal	844,459,000	851,700,000	868,200,050	868,900,000	+24,441,000	+17,200,000	+699,950
Grants for the Developmentally Disabled:							
State grants	333,058,000	33,058,000	33,058,000	33,058,000	----------	----------	----------
Service grants	19,617,000	19,567,000	19,567,000	19,567,000	−50,000	----------	----------
University affiliated facilities	5,250,000	5,500,000	6,500,000	7,500,000	+2,250,000	+2,000,000	+1,000,000
Subtotal	57,925,000	58,125,000	59,125,000	60,125,000	+2,200,000	+2,000,000	+1,000,000
Special programs for Native Americans	33,000,000	33,000,000	33,000,000	33,000,000	----------	----------	----------
White House Conference on Handicapped Individuals	1,436,000	----------	----------	----------	−1,436,000	----------	----------
White House Conference on Families	----------	3,000,000	----------	3,000,000	+3,000,000	----------	+3,000,000
Salaries and expenses	49,449,000	51,875,000	51,875,000	51,875,000	+2,426,000	----------	----------
Less: Trust fund transfer	−600,000	−600,000	−600,000	−600,000	----------	----------	----------
Subtotal, Human development	1,907,597,000	1,950,178,000	2,155,978,050	2,221,678,000	+314,081,000	+271,500,000	+65,699,950
DEPARTMENTAL MANAGEMENT							
Office for Civil Rights	29,770,000	36,061,000	33,821,000	33,821,000	+4,051,000	−2,240,000	----------
Less: Trust fund transfer	−919,000	−514,000	−514,000	−514,000	+405,000	----------	----------
Subtotal, Office of Civil Rights, Federal funds	28,851,000	35,547,000	33,307,000	33,307,000	+4,456,000	−2,240,000	----------
General Department Management:							
Department direction	45,026,000	51,810,000	49,260,000	49,260,000	+4,234,000	−2,550,000	----------
Department operations	38,703,000	42,646,000	42,196,000	42,196,000	+3,493,000	−450,000	----------
Less: Trust fund transfer	−9,443,000	−9,579,000	−9,579,000	−9,579,000	−136,000	----------	----------
Subtotal, General department management	74,286,000	84,877,000	81,877,000	81,877,000	+7,591,000	−3,000,000	----------

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
Office of the Inspector General	27,453,000	29,633,000	29,633,000	29,633,000	+2,180,000		
Less: Trust fund transfer	−3,905,000	−4,290,000	−4,290,000	−4,290,000	−385,000		
Subtotal, Inspector General, General funds	23,548,000	25,343,000	25,343,000	25,343,000	+1,975,000		
Policy research	20,000,000	22,400,000	40,000,000	22,400,000	+2,400,000		−17,600,000
Subtotal, Departmental Management	146,685,000	168,167,000	180,527,000	162,927,000	+16,242,000	−5,240,000	−17,600,000
Total, Health, Education, and Welfare	53,507,477,000	55,844,160,000	57,291,533,550	56,218,895,000	+2,711,418,000	+374,735,000	−1,072,638,550
Federal Funds	50,840,434,000	53,093,692,000	54,451,065,550	53,468,427,000	+2,627,993,000	+374,735,000	−1,072,638,550
Trust Funds	(2,667,043,000)	(2,750,468,000)	(2,750,468,000)	(2,750,468,000)	(+83,425,000)		
TITLE III—RELATED AGENCIES							
Action (Domestic Programs):							
Volunteers in Service to America (VISTA)	23,000,000	25,350,000	25,350,000	25,350,000	+2,350,000		
Service Learning Programs	5,500,000	5,500,000	5,500,000	5,500,000			
Older Americans Volunteer Programs:							
Foster Grandparents Program	34,000,000	34,900,000	34,900,000	34,900,000	+900,000		
Senior Companion Program	3,800,000	6,600,000	7,000,000	7,000,000	+3,200,000	+400,000	
Retired Senior Volunteer Program	19,000,000	20,100,000	20,100,000	20,100,000	+1,100,000		
Subtotal, Older Volunteers	56,800,000	61,600,000	62,000,000	62,000,000	+5,200,000	+400,000	
Special Volunteer Programs	2,500,000	2,500,000	2,500,000	2,500,000			
Program Support	21,310,000	21,910,000	21,910,000	21,910,000	+600,000		
Subtotal, Action	109,110,000	116,860,000	117,260,000	117,260,000	+8,150,000	+400,000	
Community Service Administration:							
Community Action Operations:							
Local initiative	330,000,000	330,000,000	363,000,000	375,000,000	+45,000,000	+45,000,000	+12,000,000
Senior opportunities and service	10,000,000	10,000,000	10,000,000	10,000,000			
State economic opportunity offices	12,000,000	12,000,000	12,000,000	12,000,000			
Community food and nutrition	27,500,000	27,500,000	27,500,000	35,000,000	+7,500,000	+7,500,000	+7,500,000
Emergency energy conservation services	110,000,000		45,000,000	65,000,000	−45,000,000	+65,000,000	+20,000,000
Crisis intervention program (energy)	200,000,000				−200,000,000		
National youth sports program	6,000,000		6,000,000	6,000,000		+6,000,000	
Summer youth recreation and transportation	17,000,000		17,000,000	17,000,000		+17,000,000	
Training and technical assistance		1,000,000	1,000,000	1,000,000	+1,000,000		
Migrant program	1,000,000		1,000,000	1,000,000		+1,000,000	
Research and demonstration:							
Rural housing and development and rehabilitation	5,000,000		6,000,000	6,000,000	+1,000,000	+6,000,000	
Subtotal, Community Action	718,500,000	380,500,000	488,500,000	528,000,000	−190,500,00	+147,500,000	+39,500,000
Community Economic Development	48,170,000	30,000,000	48,170,000	47,170,000		+18,170,000	
Evaluation		1,000,000	1,000,000	1,000,000	+1,000,000		
Program Administration	27,883,000	31,000,000	30,183,000	30,183,000	+2,300,000	−817,000	
Subtotal, Community Services Administration	794,553,000	442,500,000	567,853,000	607,353,000	−187,200,000	+164,853,000	+39,500,000
Corporation for Public Broadcasting	103,000,000				−103,000,000		
Advance 1978	107,150,000				−107,150,000		
Advance 1979	120,200,000				−120,200,000		
Advance 1980		120,200,000	145,000,000	155,000,000	+155,000,000	+34,800,000	+10,000,000
Subtotal, Corporation for Public Broadcasting	330,350,000	120,200,000	145,000,000	155,000,000	−175,350,000	+34,800,000	+10,000,000
Federal Mediation and Conciliation Service	21,177,000	21,932,000	21,932,000	21,932,000	+755,000		
National Commission on Libraries and Information Science	4,007,575	563,000	563,000	563,000	−3,444,575		
National Labor Relations Board	80,908,000	88,520,000	88,520,000	88,520,000	+7,612,000		
National Mediation Board	3,660,000	3,703,000	3,703,000	3,703,000	+43,000		
Occupational Safety and Health Review Commission	6,607,000	7,150,000	7,150,000	7,150,000	+543,000		
Railroad Retirement Board:							
Payment to Railroad Retirement Trust Funds	250,000,000	250,000,000	250,000,000	250,000,000			
Regional Rail Transportation Protective Account	65,000,000	50,000,000	50,000,000	50,000,000	−15,000,000		
Limitation on salaries and expenses	(33,723,000)	(33,282,000)	(33,282,000)	(33,282,000)	(−441,000)		
Soldier's and Airmen's Home (trust fund appropriation):							
Operation and maintenance	16,009,000	16,356,000	16,356,000	16,356,000	+257,000		
Subtotal, Related Agencies	1,715,194,575	1,151,066,000	1,301,619,000	1,351,119,000	−364,075,575	+200,053,000	+49,500,000
Federal funds	1,681,471,575	1,117,784,000	1,268,337,000	1,317,837,000	−363,634,575	+200,053,000	+49,500,000
Trust funds	(33,723,000)	(33,282,000)	(33,282,000)	(33,282,000)	(−441,000)		
Final total, Labor-HEW	76,325,980,575	64,925,861,000	65,682,300,550	65,112,437,000	−11,213,543,575	+186,576,000	−569,863,550
Federal funds	72,178,708,575	60,593,970,000	61,334,089,550	60,744,226,000	−11,434,482,575	+150,256,000	−589,863,550
Limitation on trust fund transfers	(4,147,272,000)	(4,331,891,000)	(4,348,211,000)	(4,368,211,000)	(+220,939,000)	(+36,320,000)	(+20,000,000)

Mr. MAGNUSON. Mr. President, I yield the floor to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from Massachusetts (Mr. BROOKE) is recognized.

Mr. BROOKE. Mr. President, I thank the distinguished chairman of the subcommittee for yielding.

Mr. President, the pending bill provides funding for the Departments of Labor, Health, Education, and Welfare and related agencies for fiscal year 1978.

The budget requests we are considering total some $162 billion with trust funds counted in. In the area of funds which this committee acts upon directly, our bill totals $60,744,226,000. This is $589,863,550 under the House and only $150,256,000 above the budget request.

The fact that our bill is so low results from $1.8 billion in cuts from the budget estimates made in public welfare, medicaid, and supplemental security income. The cuts are based on projected carryover funds from fiscal year 1977 and reestimates of actual needs in fiscal year 1978.

There has been some discussion about the legitimacy of this reduction in welfare and supplemental security income. I would only say that the committee made the decision based upon estimates provided it by the Congressional Budget Office and others.

These estimates are, of course, subject to change. Thus, we make this reduction with the understanding that these are entitlement programs and it may be necessary to appropriate supplemental amounts to make up any shortfall that may occur.

Mr. President, let me provide the Senate with the highlights of our bill:

LABOR

Our total for the Department of Labor is $5.9 billion. This is an increase of $433.2 million over the House level, $424.5 million under the budget request, and $13.6 billion less than in fiscal 1977. The re-

duction from the 1977 level is due primarily to nonrecurring unemployment benefit costs and the fact that public service jobs have already been forward-funded into fiscal 1978. There is no need at this time to provide further amounts for the public service jobs program.

Beyond this, our committee has provided increased funding for two other jobs programs.

For summer jobs for youth we provide $893 million, or $298 million more than the House allowance. Under the Senate's bill we increase job slots from the present level of 1 million to 1.5 million. It is estimated the number of disadvantaged young people eligible for these jobs total about 2 million. So we would only be 500,000 under the total eligible.

For older workers we provide $200 million. This is $19.6 million above the House allowance. The Senate bill will provide 50,000 job slots, or about 12,600 more positions than are presently provided. The jobs go to low-income persons 55 years of age and older.

We also have made one other substantial change. Under the Occupational Safety and Health Administration we have shifted $3 million to the Federal compliance effort so as to provide additional inspectors, particularly in the area of worker health. The funds have been shifted from State OSHA programs where there appear to have been surpluses in the past.

HEALTH

Our total for the health function is $6,423,033,000. This is $392,633,500 more than the amount in the House and $888,485,000 above the administration request.

In the area of services, we have provided additional funds for emergency medical services, for hypertension, for maternal and child health grants, for sudden infant death, for family planning, and for Public Health Service hospitals.

Let me call particular attention to three of these areas.

For sudden infant death, SID's, our committee provides additional funds for both counseling and information and for basic research.

SID's is also known as crib death because of the number of infants who die in their cribs while asleep. SID's is the leading cause of death of infants between 1 and 12 months. It takes an estimated 7,500 infants' lives each year. But, as our subcommittee's recent oversight hearing on sudden infant death showed, the parents of the infants also are victims. They not only are left in a state of shock, but may also feel they were negligent in caring for their babies. It is clear they need counseling from trained professionals. However, we found that the HEW information and counseling program is poorly funded and does not provide for at least one project in each State. Our committee thus increased funding for SID's counseling from the $1.7 million in the budget to $3.6 million, the full amount of the authorization. We also have provided increased funding for SID's research by the National Child Health Institute over the $7.7 million now in the budget. Our level could more than double the allowance for SID's research.

For family planning services we provide $140 million, an increase of $16.3 million over the House and the budget. It is estimated that the recommendation will support an additional 600,000 persons in need of family planning services, particularly low-income women and teenagers. It is our committee's intent that these funds be used only for title X projects and that none of the money be transferred, administratively or otherwise, to other HEW programs.

Our committee also has provided an additional $74.4 million for Public Health Service hospitals and clinics to assist in meeting all costs which were incurred during fiscal year 1977 but for which no funds were appropriated. The committee has provided another $60 million to renovate and modernize these facilities.

For the National Institutes of Health, our committee has attempted to restore some balance to the funding of the various Institutes. Under our approach most of the Institutes receive a 15-percent increase over their fiscal year 1977 appropriation. Because its appropriation has been rising rapidly, the National Cancer Institute was given an increase of over 12 percent to $920 million. This is some $88 million more than the House allowance, a substantial increase.

Clearly, our committee is not in the least downgrading the battle against cancer. Cancer's appropriation is rising and is now nearing the $1 billion mark.

We believe that ever so gradually cancer research is paying off and that the program is on the right track. Although the research is expensive and time-consuming, NCI must, as our report points out, "have adequate financial resources to continue its humanitarian work."

In other areas of biomedical research, we give special emphasis to diabetes, arthritis, central nervous system regeneration, high risk pregnancy, communicable diseases, diseases of the eye, the aging process, and genetics. I could go on at length citing the many research priorities in our bill.

We have also provided more funding for alcoholism in particular because of our concern about the drinking problems of women and teenagers. Other increases over the House are for community mental health centers, for health planning, health professions and nursing education.

EDUCATION

For education, the committee provides $10,208,600,000. We have included increases over the budget request for handicapped children, for disadvantaged students in elementary and secondary schools and at the postsecondary level, for school desegregation efforts and for impact aid, among others. Yet, our bill is less than a 7-percent increase over the fiscal year 1977 appropriation for education and is $23.5 million below the House figure for 1978.

For elementary and secondary education, we recommend $3,253,050,000. Most of this amount, $2.8 billion, is for title I grants to disadvantaged children. Our recommendation, which is $65 million above the House figure, would provide services to about 64 percent of eligible children, as compared to only 57 percent currently.

We provide an increase of $29 million under emergency school aid to get the new magnet schools program into full swing and to provide some additional help to cities undergoing desegregation under either voluntary or court-ordered plans.

We provide $642.4 million for handicapped education, which includes an additional $20 million over the House for grants to the States. The total for State grants is thus $485 million which will be enough to fully fund the entitlement for the 3.6 million handicapped children identified by the States so far. We are only in the second year under the new handicapped education law and States will be required to provide full services to all handicapped children ages 3 to 18 by next year. It is important to provide States the full entitlement to carry out these mandatory services so as not to lose the momentum generated by the program thus far.

In short, Mr. President, Congress had mandated that all handicapped children receive equal educational opportunities. Thus, we must provide the funds, for we know full well that many of the States in this Nation are unable to provide sufficient funds to assure those children of equal educational opportunities. Therefore, we are attempting to do so in this bill to carry out the mandate of Congress for equal educational opportunities for all handicapped children in this country. It is a giant step forward, but it is an essential step that must be taken by this Congress.

The committee has provided $3,503,253,000 for higher education, $3.2 billion of which is for student assistance. This is nearly $235 million less than the House bill. The principal difference from the House is in basic grants, BOGS, for which we provide $2.07 billion, a reduction of $230 million under the House level. This amount will be enough to serve all eligible disadvantaged students and provide for a $200 increase in the maximum award, to a $1,600 ceiling. This will help, to some extent, with tuition increases which have afflicted a growing number of students from middle as well as lower income families. We also provide $1.1 billion for other student grant and loan programs to supplement basic grants, including a $30 million increase over the House for work-study jobs. The committee concurred with the House in rejecting the request by the administration to terminate support for the direct loan program; we provide $310.5 million to continue the program at its current level.

For school libraries, we provide $180 million, an increase of $20 million over the House, to help libraries meet the increasing cost of materials, and we provide $7 million for the newly authorized research libraries program to help make their resources more widely available and avoid costly duplication of collections.

Libraries, like all other institutions, have been hard hit with inflationary, spiraling costs. Thus, we try to provide some relief for them in this bill.

For impact aid, we concurred with the House in rejecting the administration's

proposal to cut off abruptly the aid to school districts for so-called category B children whose parents work on—but do not live on—Federal property. This proposal would have had a sudden and serious financial impact on nearly one-fourth of the Nation's school districts.

WELFARE

For public assistance we provide $19.6 billion, and for the Social Security Administration $14.1 billion. The total of both of these components is nearly $1.5 billion below the House level and $1.87 billion below the budget request. As I stated earlier, these cuts are based on estimated future requirements in the aid to families with dependent children program, in medicaid and in SSI, which are, in fact, uncontrollable programs.

HUMAN DEVELOPMENT

We have provided $655 million for the Headstart program, an increase of $170 million over the administration's request and $60 million more than the House provided. Most of this increase would go for expansion of the program, its first since 1968. The committee provided a total of $500 million for aging programs, $77 million more than the administration asked and nearly a 20-percent increase over the current year. This is designed to serve the elderly in parts of the country currently underserved.

RELATED AGENCIES

For related agencies, we provide a total of $1.35 billion. Nearly half, $607 million, is for poverty programs under the Community Services Administration. We provide increases over the House in the energy conservation, local initiative, and community food and nutrition programs. These increases total $39.5 million. The increase for local community action programs is the first in several years.

LANGUAGE AMENDMENTS

Our committee struck two language amendments added by the House. One would have prohibited the use of OSHA funds for issuing health and safety standards, unless accompanied by so-called economic impact statements. The matter is under review, and there is a serious concern that the development of such statements could delay putting essential health standards into effect.

The other amendment would have prohibited the use of HEW funds to support affirmative action programs. It is clear the amendment would tie the Department's hands in civil rights enforcement and should be dropped.

So far as the money provisions in the bill are concerned, I believe we have developed a responsive but prudent bill. There is no doubt we could have provided for even higher levels of funding for many worthy programs, but we recognize there are limited funds available and we must choose our priorities carefully. This we have done. Speaking purely on the funding levels provided by this bill, I am glad to recommend them to the Senate.

Mr. President, I take this opporunity to express again my deepest admiration and respect for the distinguished chairman of this subcommittee, Senator WARREN MAGNUSON of the State of Washington. He works tirelessly and effectively as our chairman.

Actually, we hold months of hearings on this bill. There is never a time when the bill is not before us, either this bill or bills supplemental to this bill. That means, Mr. President, that we are constantly holding hearings, markups, then hearings on supplementals and markups, then bringing them to the floor for consideration by the full Senate. It has been an inspiration and a pleasure for me to work as the ranking minority member with such a distinguished chairman. I commend him.

I also commend the very able and effective staff that we have in the Labor-Health Education and Welfare Subcommittee. Terry Lierman, who is our distinguished staff director, and Gar Kaganowich, Jim Sourwine, Sam Hunt, Jim Moran, Jim Painter, Featherstone Reid, and the ladies who work with them all have combined to make this, I think, a truly very, very important piece of legislation.

I want to add one thing further. I associate myself with what the distinguished chairman has said. Mr. President, this is an appropriations bill, not a legislative bill. Each year, we are confronted with all of the legislation which authorizing committees that have the legislative responsibility seemingly want to shirk and put over on to the Appropriations Committee. We have spent many hours, many days, and many weeks on legislative matters, particularly abortions, busing, OSHA, and the like. We hope that, at some time, these authorizing committees—we have said it before and we say it again—will accept their responsibility and deal with these important, substantive legislative matters in the legislative committees, and not leave them for the Appropriations Committee.

We have rules, Mr. President, which provide that we cannot legislate in an appropriations bill. But somehow, they have maneuvered around now by language to make it possible for them actually to legislate on an appropriations bill.

The distinguished majority leader and our distinguished minority leader are well aware of the parliamentary procedures that have been used in the past and which we expect here. I hope that, in consideration of this bill—because time is of the essence and it is such an important bill which we want to get through the Senate and into conference with the House and signed by the President—we can expedite this matter by not having lengthy discussions on the issues that I have spoken of—these issues have been well and fully debated by the Senate time after time—so that we can expedite the Senate's business.

I also hope, Mr. President, that the new President of the United States, in his first year in office, will recognize the importance of this bill. I hope he will also recognize what I am sure the House has done and what the Senate has done in order to present a realistic bill, a bill that recognizes the need of the administration to hold down spending, but, at the same time, recognizes the needs of the poor, the disadvantaged, the disabled, and the elderly. If he will do that, I am sure he will sign this bill into law.

Mr. President, I ask unanimous consent for floor privileges for the duration of the discussion of this bill for Michael Shorr of the Committee on Human Resources, Ralph Neas, Janet Anderson, Ernie Garcia, Steve Kittrell, Mary Wheat, Sheila Burke, John Napier, and Barbara Harris.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. I yield the floor for now.

Mr. MAGNUSON. Mr. President, I thank the distinguished Senator, the ranking minority member on the committee, for his presentation of the matter on the floor, and for the fact that he has made a statement about this constant legislation under appropriations bills.

Mr. President, I ask unanimous consent, on behalf of Senator RIBICOFF, that Susan Irving of his staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD a view supported by the Labor Department of language added on the House floor concerning illegal aliens. It is a statement by the Labor Department. It does not necessarily coincide with the committee's views.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The amendment has the limited objective of denying illegal aliens the benefits of CETA funds, unemployment insurance, youth training programs and elderly employment funds. This was the stated intent of Congressman Biaggi, the principal sponsor of the House of Representatives amendment. Thus, by prohibiting the Department of Labor from using funds "to carry out any activity for or on behalf" of an illegal alien, the amendment merely seeks to prevent certain public funds from being dispursed directly and specifically to aid individual illegal aliens. This would result from a transfer of federal funds either directly "for" the illegal alien, as in the disbursement of CETA funds to an illegal alien, or "on behalf" of the illegal alien, as in the expenditure of public funds for the training of a particular illegal alien.

On the other hand, the amendment would not require the Department of Labor to suspend its law enforcement activities because its investigation of an entire workplace might incidentally benefit one or more illegal aliens. For example, the amendment does not prevent the initiation or continuation of a proceeding under the Occupational Health and Safety Act just because a single illegal alien is employed in a factory in which two thousand legal workers are also employed. Similarly, in administering ERISA, the Fair Labor Standards Act, the Equal Pay Act, the Age Discrimination in Employment Act, the Davis-Bacon and Related Acts, the Service Contract Act, the Walsh-Healey Public Contracts Act, the Farm Labor Contractor Registration Act, and other statutes which the Department of Labor enforces, the Department could still initiate and continue a proceeding even if some of the employees who would benefit by the proceeding were illegal aliens.

The amendment has been designed to deny

certain privileges to illegal aliens and is certainly not meant to harm legal workers. Any interpretation to the effect that the amendment meant the Department of Labor could not proceed with an investigation of, for example, an allegedly unsafe workplace, because one illegal alien was employed there would be contrary to the intent of the amendment. Such interpretation would harm legal workers by denying them their rights to work in a safe and healthy environment. Where the Department enforces its various statutes which affect all workers, it is not taking action directly and specifically to benefit illegal aliens, but rather is acting "on behalf" of all employees.

THE DROUGHT SITUATION

Mr. MAGNUSON. Mr. President, I have become increasingly concerned about our Nation's drought situation, particularly out West. Nobody yet knows the full impact in the coming months in terms of unemployment, but we certainly have to prepare for the worst. In this regard, I have been trying to get the Labor Department to gear up for prompt action to counteract possibly severe drought-related unemployment.

At first, Secretary of Labor Marshall indicated he would set aside only $5 million for special drought assistance projects for the entire Nation. This was clearly not enough. For Washington State alone, the Governor has submitted a proposal to the Labor Department for $16 million, of which $8 million is needed immediately.

The Appropriations Committee, therefore, included report language directing the Secretary of Labor to set aside up to $50 million, to be made available as needed from funds currently available, during the balance of the fiscal year ending this September.

Secretary Marshall indicated he is collecting data to get the facts on the severity of drought-related unemployment, and will develop a national plan by July 1, 1977. In response to a letter from Senator JACKSON and me, the Secretary agreed to allocate the full $50 million called for by the Senate report, if indeed the data shows unemployment due to drought justifies this expenditure. I certainly hope drought-related unemployment does not reach crisis proportions; but if it does, I feel we have laid the groundwork to insure a prompt and meaningful response by the Labor Department.

Mr. President, I ask unanimous consent to have printed in the RECORD a Senate report excerpt, as well as correspondence with the Labor Department, concerning the drought situation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT No. 95-283

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL, 1978

JUNE 21—(legislative day, MAY 18), 1977.—Ordered to be printed

(Mr. MAGNUSON, from the Committee on Appropriations, submitted the following report, to accompany H.R. 7555.)

The Committee remains concerned about the severe drought in the Far West, particularly in the States of California, Idaho, Oregon and Washington. The need to direct substantial amounts of discretionary funds to these affected states above their allocations to which they would otherwise be entitled is clear.

Accordingly, the Secretary is directed to channel discretionary funds adequate to support State-developed, drought-related emergency employment projects. In order to insure that sufficient funding is available to meet drought assistance needs as they may arise, the Secretary is directed to set aside both remaining fiscal year 1977 uncommitted discretionary resources and money anticipated to be reclaimed from prime sponsors this summer, up to $50,000,000, to be made available as needed during the balance of fiscal year 1977.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., June 20, 1977.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: This letter will provide you with information on funding of drought-related unemployment projects to supplement that which I provided you and five other Senators in my letter of June 16. I would specifically like to review for you my decision on a proposal to alleviate drought-related unemployment submitted to me by Governor Ray of Washington.

First of all, let me say that any Department of Labor response to drought-related unemployment will be based on a national assessment of the problems as they are manifested across the country. We have drought-related project proposals from a number of States, in particular the State of California. Our position to date, on all proposals, has been that the drought situation has not had significant unemployment effects. While there is the potential for a considerable unemployment problem due to the drought, it has not developed into a problem of an emergency nature. If and when such problems develop, the Department must evaluate the needs of each State relative to those of others similarly affected.

We have established an information system to provide us with current data on the impact of the drought. This system involves a weekly Drought Report from 21 States on the number of individuals filing drought-related unemployment insurance claims. State employment security agencies have also been asked to supplement this report by estimates of total drought-related unemployment, both insured and uninsured. The first reports from this system will be available on June 24.

As I indicated in my letter of June 16, I have set aside $5 million to be used nationwide for drought assistance projects. The Employment and Training Administration (ETA) has begun preliminary work on a plan for distributing these funds should our information systems indicate that drought-related unemployment is reaching serious levels. The plan will provide for analysis of such variables as the population affected, anticipated length of unemployment and the existence of alternative or supplementary relief systems. The final plan should be completed by July 1. Weekly information from Washington State will be considered under the plan along with that from other States that we are monitoring.

With regard to Washington State's particular proposal, I met with staff from Governor Ray's office on June 7. The Governor's representatives, members of your staff, and staff from my office discussed the proposal at length. The Governor had requested $8 million to provide project-type employment for those affected by the drought situation in the State. Those groups anticipated to be most severely affected are migrant and seasonal farmworkers and persons working in the logging industry.

After assessment of a variety of information currently available to us about drought-related unemployment in Washington State and the nation as a whole, I decided that the situation described by the proposal did not warrant direct intervention by this Department. I intend to communicate this decision to Governor Ray shortly.

Staff of the ETA also had some concerns about certain elements of the Washington State proposal. The proposal addressed the possibility of impact on both migrant workers and loggers but was not definite about a specific population to be served nor whether the populations described would meet eligibility requirements under the Comprehensive Employment and Training Act (CETA). The proposal also requested Departmental waiver of legislative provisions requiring public service employees to be paid comparable wages for comparable work done by unsubsidized employees. We believe that such a waiver would be inappropriate. We will communicate these concerns to Governor Ray. We will also inform the Governor that we have set aside $5 million for drought-related unemployment assistance, which could be used for approved projects if the situation worsens.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 23, 1977.

Hon. F. RAY MARSHALL,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: We are responding to your letter concerning the drought situation, particularly with respect to the application for funding from the Governor's office in Washington State.

Your letter indicated that you plan to set aside only $5 million for drought assistance projects. Recognizing that the impact of the drought on employment may be much more severe, the Senate report accompanying the fiscal year 1978 appropriations bill directs you to set aside up to $50 million, to be used during the balance of fiscal year 1977. As you know, the Washington State application alone totals $16 million.

Since your letter also indicated you will be developing a national plan on drought assistance by July 1, 1977, we are seeking your assurance that you will allocate the full $50 million called for by the Senate report, should unemployment due to the drought justify this expenditure.

Your prompt reply to this letter will be appreciated.

Sincerely,

HENRY M. JACKSON,
U.S. Senate.
WARREN G. MAGNUSON,
Chairman, Labor-HEW Appropriations Subcommittee.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., June 27, 1977.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your June 23, 1977, letter concerning Department of Labor funding of projects designed to reduce unemployment related to drought conditions.

I agree that the allocation of funding specifically earmarked for drought assistance is appropriate and, as directed by the Senate report accompanying the Fiscal Year 1978 appropriations bill, will utilize Fiscal Year 1977 discretionary resources and unused allocations to prime sponsors as the sources of such funding. If drought-related unemployment reaches levels sufficient to justify the expenditure of funding beyond that already available to the States, and if such funding is available, I will allocate up to $50 million for such purposes.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. MUSKIE. Mr. President, the bill before us today, H.R. 7555, would provide $60.6 billion in fiscal 1978 funding for the Departments of Labor, Health, Education, and Welfare, and related agencies. As reported to the Senate, H.R. 7555 is within the spending constraints imposed by the first budget resolution, and I intend to vote for the spending this bill provides.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to it under the budget resolution. This bill is under the subcommittee's section 302(b) allocation, and is generally consistent with the first budget resolution targets.

The Labor–HEW Subcommittee's allocation under section 302(b) totals $68.7 billion in budget authority and $73.5 billion in outlays. Enactment of H.R. 7555 as reported plus spending already enacted would leave room within the subcommittee's allocation for further appropriations of $8.0 billion in budget authority and $2.2 billion in outlays.

A number of supplemental claims can be anticipated, however, that will reduce this budget margin in the months ahead.

The first budget resolution assumed as much as $3.8 billion would be appropriated to permit a smooth continuation of the CETA public service jobs program into fiscal 1979. This bill does not include those funds, nor does it include about $500 million in budget authority requested by the President for the youth employment legislation now in conference. Based on the estimate used in the first budget resolution for medicaid, the funding in H.R. 7555 is low by $300 million. Possible supplementals totalling $1.2 billion may be needed to fund other initiatives now pending before Congress for child care grants, SSI benefits, education programs, child welfare services, and various other programs. All in all, however, passage of H.R. 7555 and these other possible requirements would still leave $2.0 billion in budget authority and $800 million in outlays within the Labor–HEW Subcommittee's 302(b) allocation.

Mr. President, I ask unanimous consent that a table listing these possible later requirements be inserted in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 7555: Labor-HEW appropriations, 1978 relationship to subcommittee allocation

[Dollars in billions]

	Budget authority	*Outlays*
Subcommittee section 302(b) allocation	68.7	73.5
Other actions completed	0.1	0.1
H.R. 7555	60.6	71.2
Remaining allocation	8.0	2.2
Medicaid	0.3	0.5
Income security programs	0.2	0.2
Child care legislation	0.2	0.2
Employment and training initiatives	0.7	0.3
Education	0.5	----
CETA forward funding	3.8	----
Other programs	0.3	0.2
Total possible later requirements [1]	6.0	1.4
Possible amount over (+) or under (−) Subcommittee allocation	−2.0	−0.8

[1] Possible later requirements would be higher, and the remaining Subcommittee allocation lower, by $1.4 billion in budget authority and $0.1 billion in outlays based on estimates used for the medicaid, SSI, AFDC, and medicare programs in the 1978 First Budget Resolution. The higher figures used in the Resolution appear unlikely to materialize in future supplementals. In the case of medicaid, SSI and AFDC, $1.3 billion in 1977 budget authority that will not be needed in fiscal 1977 has been continued for use in fiscal 1978 by the Senate Appropriations Committee; thus, $1.3 billion of budget authority assumed for medicaid, AFDC and SSI in the Resolution will not be needed. Another $0.1 billion in budget authority and outlays was assumed to be needed for federal payments to the medicare trust funds over and above the amounts included in H.R. 7555. No supplemental is expected for this amount.

Mr. MUSKIE. The Labor-HEW bill affects spending in seven different budget categories. Only in the health area is there any likelihood that appropriations could result in our exceeding the functional target for budget authority. Taken together, the several bills that determine health spending would result in health budget authority being about $200 million over the resolution target. However, the House levels are below the target, so I think we must see the results of the various appropriations conferences before a definitive judgment on health spending can be reached.

This bill is within the budgetary constraints adopted by Congress and is in agreement with the budget priorities we adopted last May. The budget act established a means by which Congress expresses its own preferences on how Federal spending is allocated among the functions of Government. This process is independent of what the President proposes to Congress in his annual budget message and appropriations requests. We have acted to set our priorities for the coming year and we are now in the process of carrying out those budgetary decisions. The bill before us today is substantially consistent with the spending plan already agreed to. And may I remind Senators the total outlays in the congressional budget are below those of the President.

However, I urge my colleagues to resist any floor amendments for substantial increases. No increase in health funding should be approved without offsetting reductions, since we are already potentially over the resolution targets as things now stand. Substantial increases in other areas would be undesirable, since the likely margin remaining after accounting for probable further requirements is fairly thin, and spending estimates for many of these programs are likely to change in ways we cannot foresee. It is important that we maintain flexibility to meet the unforeseen needs as we proceed through the fiscal year beginning this October.

I wish to thank the distinguished subcommittee chairman, Senator MAGNUSON, for his support of the budget process, not only through his work on appropriations but in his valued role as a Budget Committee member as well. I greatly appreciate the subcommittee reporting a bill consistent with the congressional budget, and I will be pleased to vote in favor of the spending you propose for fiscal 1978.

Mr. BELLMON. Mr. President, H.R. 7555 represents one of the major pieces of spending legislation for fiscal year 1978. Questions naturally arise as to the budget implications of this bill and some of the implications have been addressed by previous comments on this bill. I believe it is more meaningful to look at the budget implications of this bill in the context of all of the appropriations bills. The Appropriations Committee had an allocation of budget authority and outlays under the first budget resolution which the committee divided among all its subcommittees. After making some preliminary assumptions about bills yet to be reported by the Appropriations Committee, the picture for all appropriations bills shows that the committee will likely be under its allocation in budget authority—perhaps by as much as $4.5 to $5 billion—but will likely be over its allocation in outlays by as much as $0.4 to $0.5 billion. These numbers include assumptions regarding expected future requirements and the number will likely change through committee action on unreported bills, as well as floor action and conference action.

But the trend is likely to hold—the budget authority (BA) appears to be OK, but we have an outlay problem. It also appears that a significant amount of our future flexibility concerning possible later requirements will be used up. Therefore, while I will likely vote for final passage of H.R. 7555, I will likely be opposed to spending increases of this or later bills and I will likely be in favor of amendments which propose rational reductions. For example, I believe that there are opportunities for reasonable reductions in this bill before us today.

Finally, as an overall comment, let me express concern about certain questionable budget practices which might cause bills to reflect inaccurate impressions regarding true costs. In this bill, for instance, I question the practice whereby unused BA from fiscal year 1977 for public assistance and medicaid programs were "rolled forward" to fund programs covered by this bill and thus the true cost of this bill is understated by about $1.3 billion in budget authority. The bill would still be within the budget without the roll forward, so the practice was not used to hide a budget buster. However, the practice does in my mind involve some truth in budgeting. We put into the fiscal year 1978 budget resolution BA to fund these programs and since the programs will not use 1978 BA, but rather pick up unused 1977 funds, I intend next month in the second budget resolution to move the budget targets downward so that the unused 1978 budget authority will not be floating around uncommitted.

There is one particular budget prob-

lem which deserves our attention. The health function is of special concern as the provisions in this and other appropriation bills exceeds first budget resolution targets by $200 million in controllable health programs. A special effort must be made to resist amendments which increase spending in this area.

The congressional budget process provides us with one of our best tools for setting priorities between human resource needs and other Federal obligations. The budget process can also help us evaluate carefully what we are supporting within the human services field and aline our always-short resources effectively to meet as many human needs as possible. We must resist the temptation to let all the existing Labor-HEW and related agencies programs grow and I believe we can restrain growth in this bill. Therefore, I plan to offer some amendments to try to shave a few of the more generous increases the committee proposes.

Mr. President, as I have stated, I have particular concerns about Federal spending for health programs. In fiscal year 1973, Federal health outlays were slightly less than $19 billion—$18,832 million. Now 5 years later we are facing a budget that will involve health outlays of about $44.5 billion. That is an increase of 137 percent in 5 years. That averages nearly 27 percent growth per year. It is clear that the Federal Government has helped fuel the raging inflation in medical care costs. We have been too willing to turn large sums of the taxpayers' money loose and we have paid far too little attention to the economic effects of what we were doing, or even to the extent to which our generosity was really helping people meet their legitimate health care needs.

Mr. President, this bill appropriates money for most of the Federal health care programs. Only the medicare hospital care program, the Veterans hospitals and certain other Federal health care activities are not covered in this bill. But the $24.5 billion for health programs funded under this bill point up for us some realities we should not ignore. Even if we accept the committee's conclusion that the medicaid program will operate for $1 billion less in new authority than the President's budget estimated for fiscal year 1978, the health programs we are funding in this bill will cost about $2.5 billion more than they are costing in fiscal year 1977. Now that looks like slower growth, about 12 percent rather than the 27 percent that we experienced during the past 5 years, but let us not get carried away with our successes. We do not have medicare part A—one of the fastest growing programs—in this bill. And the medicaid reestimates may turn out to be too low. In any event, this bill continues to help fuel inflation in the health care field that far exceeds what is being experienced in our overall national economy.

Mr. President, I shall offer some amendments to try to reduce somewhat this bill's overgenerosity for health programs. The proposed cuts reflected in my amendments are small ones, but I am convinced they are appropriate. By approving the reductions I will offer, the Senate can signify its readiness to exercise at least some modest restraint on growth of health care costs. Past failures to exercise restraint and establish priorities have resulted in inappropriate and excessive development of health resources which contribute to cost but not to real human health needs.

I want to call particular attention, Mr. President, to the excess supply of hospital beds in many areas of this country. According to the experts, we are supporting over 100,000 excess beds. We ought to be using Federal Government influence to encourage hospital closings, consolidations, and reorientation of services.

I ask unanimous consent to include in the RECORD at the conclusion of my remarks a speech delivered by Secretary Joseph Califano at the recent American Medical Association Conference.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. In this address, Secretary Califano discusses the problem of cost escalation in health care field, and stresses the need to eliminate excess beds. Also, I have a statement on surplus hospitals capacity and ask unanimous consent that it also be inserted in the RECORD at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HENRY BELLMON ON SURPLUS HOSPITAL CAPACITY, MAY 17, 1977

Cost inflation in health care has reached crisis proportions. U.S. citizens will spend over 150 billion dollars for medical care in 1977 which represents 8.6 percent of the Gross National Product. This figure is more than one and one-half times the entire national defense budget. At the same time, however, it does not include additional health expenditures of about 40 billion dollars for eyeglasses, prescription drugs, dental care, and related needs. Also, it does not include indirect expenditures of over 10 billion dollars in reduced tax revenues provided by federal income tax deductions for health insurance, and tax exemptions by state and local governments.

Hospital costs account for about 40 percent of all medical care expenditures and represent the most inflationary component of the health care system. Since the early 1960's, for example, the Consumer Price Index has increased 75 percent. At the same time, hospital costs increased 500 percent, physician charges over 250 percent, and all other medical and dental services by 150 percent. Currently, hospital costs are escalating at a rate of about 15 percent each year or about three times the rate for other goods and services. These increases in health care and related costs have created tremendous inflationary pressures on other segments of the economy. It is estimated, for example, that health insurance increased from an average of 3.8 to 4.7 percent of total payroll between 1973 and 1977. By 1979, Ford Motor Company estimates that annual costs per employee for medical insurance will be approximately $2,700.00.

There is considerable evidence that excess hospital use and capacity, which make little or no contribution to health levels, represent major factors accounting for unacceptable levels of cost escalation. Hospital care represents one of the nation's largest industries. Since 1960, the total number of non-federal, short-term hospital beds increased from 640,000 to 930,000 and the national ratio of beds to population increased from 3.6 per 1,000 to 4.4 per 1,000. Since 1960, over 35 billion dollars have been invested in hospital beds and equipment. It is estimated that over 5 billion dollars will be invested in 1977 despite the fact that surplus capacity exists in most communities.

The Institute of Medicine and others estimate that at least 10 percent of the existing hospital beds are not needed. These beds cost about 5 billion to construct and about 2 billion each year to operate. Despite this surplus, 27,000 additional beds were constructed in 1976. It is estimated that New York City alone has 5,000 surplus beds which cost over $250 million to build and nearly $100 million annually in operating expenses.

There is little evidence to suggest that excessive hospital beds contribute to better health. Studies do show, on the other hand, that capacity generates use. For example, it is estimated that a 10 percent increase in capacity leads to from 4 to 6 percent increase in use. In one study in Vermont, it was found that annual occupancy rates varied from 897 patients days per 1,000 persons to 1,578 patient days per 1,000 persons in communities with almost identical population characteristics and illness rates. Thus, the differences were due to variations in availability of services and not the health needs of the population. There was no evidence that the high rate of hospital utilization made a contribution to better health for consumers in the high use area. In fact, studies of Health Maintenance Organizations have shown that hospital use can be reduced to 600–800 patient days per 1,000 without decreasing health and well-being of patients.

It is clear that during the past decade, strong incentives have developed for building and using short-term hospital beds. These trends have slowly eroded all market discipline so that the system operates virtually without constraints. Federal planning efforts have had virtually no impact upon total capital investment. Even in areas where certificate-of-need programs have limited bed growth, capital investment has shifted to upgrading plant and equipment.

There is general consensus that three factors have contributed to the erosion of market discipline and development of positive incentives for over-building hospital beds and duplication of services. First, health care is characterized by indefinitely expansible demand. The difficult and uncertain nature of medicine implies that medical demands are virtually inexhaustible even though illness rates remain constant or even decline. Providers can always justify added expenditures in order to give greater safety margins for patients (a problem aggravated by tremendous increases in malpractice insurance), treat more and more hopeless patients, utilize more laboratory tests, upgrade the quality of facilities, and increase personnel. Thus, the medical care system can legitimately absorb every dollar society will make available to it.

A second factor is that the present incentive system is skewed toward specialized, technological, high cost care. Hospitals and physicians compete for prestige which is achieved largely from highly specialized rather than primary care. Hospitals must compete largely by attracting physicians who expect the latest equipment and facilities. Since these are essentially "free" to the physician, he is insulated from economic penalties associated with surplus capacity. As a result, every hospital is under pressure to invest in the latest technology and to have available highly specialized units even though similar facilities are available in the community. It is estimated, for example, that from 84–93 percent of the Cardiac surgery units in the U.S. are underutilized.

The third and probably most important incentive for excessive capacity has been the growth of third-party reimbursement. Third-party payors, government and private insurance, currently pays about 90 percent of all

hospital costs. The retrospective method of reimbursement provides almost open-ended financing to the medical care system. The patient and, to a larger extent the provider, control the demand for services, but the bill is paid by a third-party. The consumer, once the premium or and/or co-payment is paid, has every incentive to demand maximum benefits and the provider has every incentive to render them. This system has driven a wedge between cost and consumption of services and has eliminated penalties for unwise or unnecessary utilization of hospital care.

It is clear that immediate steps must be taken to reduce the supply of hospital beds. Since capacity begets use, a reduction in the number of beds to an acceptable average ratio of not more than 4 beds per 1,000 people will save 8–10 billion dollars in hospital costs over the next 5 years. The Institute of Medicine has recommended an immediate reduction in the number of beds of at least 10 percent and many health planners believe that reductions of 15–20 percent could be made without risk to the health of U.S. citizens. Such a reduction would still allow for annual use of 1,000 patient days per 1,000 population with an average occupancy rate of 77 percent. Highest priority should be given to closing entire hospitals in areas with bed to population ratio significantly above 4 per 1,000. It is estimated that a 10 percent reduction achieved by closing units would achieve 8 percent savings in hospital costs or about 1.6 billion dollars per year. Less savings are achieved by closing subunits within hospitals (4 percent savings on 10 percent decrease in beds and little is gained by simply eliminating beds (less than 1 to 2 percent).

The following table shows the estimated cost savings that would result from a ten percent reduction in per capita hospital capacity (dollars in billions).[1]

[1] Estimates assume an annual increase of 15% in hospital costs. Also, that savings will be phased in as beds are reduced (25% 1978; 50% 1979; 75% 1980; and 100% for 1981–82).

Type of reduction	Initial expense [1] (if purchased)	Annual saving, with Roemer effect [2]					Total 1978–82
		1978	1979	1980	1981	1982	
Individual beds	0.9	0.5	0.9	1.5	2.3	2.6	7.7
Service departments	1.8	.6	1.4	2.4	3.6	4.2	12.2
Entire hospitals	13.2	1.2	2.8	4.7	7.3	8.3	24.3
Moratorium only	0	.5	.8	1.1	1.8	2.5	6.7

[1] Initial expense refers to a one-time cost if surplus beds were purchased. Costs would be less if only the capital costs were paid by the Government.

[2] The Roemer effect refers to the tendency for excess beds to generate use. McClure estimates that a 10-percent reduction in beds results in a 4-percent reduction in utilization rates.

The decision to close hospitals or reduce surplus capacity will be strongly resisted in most communities. The prestige and reputation of hospitals are often viewed as vital assets to communities. In addition, closing a hospital or reducing capacity has major economic implications as hospitals employ large numbers of workers and purchase goods and services in the community.

Despite some community resistance, however, it is clear that policies must be adopted to reduce excessive capacity and utilization which make little or no contribution to health. If current rates of cost inflation continue, more and more Americans will be unable to afford even minimal care. In 1976, for example, annual medical costs (excluding dental care, eyeglasses, and prescription drugs) averaged $640.00 per person or about $2,560.00 for a family of 4. This represents 18 percent of the annual income of a family at the Median income level. This burden is felt through higher out-of-pocket costs, growing insurance premiums, and taxes (Federal expenditures for health are predicted to double by 1982). As indicated previously, first priority should be given to immediate efforts to close or divert surplus beds in areas with low-occupancy and unusually high capacity. This must be accomplished in such a way as to minimize the immediate economic impact upon the community and must involve a long-range strategy to alter those conditions responsible for unnecessary hospital demand and excessive capacity. Such a strategy should include policies which encourage more front-end cost sharing in hospital insurance, promote a variety of alternative delivery systems with incentives to utilize hospitals more efficiently, alter current systems of reimbursement, reduce the number of hospital-oriented specialists, and shift the emphasis to ambulatory or outpatient alternatives consistent with good patient care. These approaches will help to reestablish some of the market incentives and discipline to the health care system and reduce the motivation for continued development of unnecessary beds and duplication of expensive technology.

Mr. BELLMON. Mr. President, one of the amendments I will offer will attempt to keep us from spending $60 million on brick-and-mortar improvements in eight federally operated Public Health Service hospitals. This type of investment in outmoded and unneeded facilities is totally unjustified in my view. My amendment is just a small token of the type of actions the Federal Government could take to help restrain health care cost escalation.

In conclusion, Mr. President, I urge my colleagues to resist amendments that will add costs, and to support amendments that will make reasonable reductions in the over-generous funding increases this bill provides for a number of programs.

EXHIBIT 1

[From the Washington Post, June 26, 1977]

WHAT'S WRONG WITH U.S. HEALTH CARE

(By Joseph A. Califano, Jr.)

We have set ourselves an ambitious goal in America: a high standard of health care for everyone—at manageable cost.

If we are to meet this ambitious goal, or even approach it, we must first see the nation's health care system clearly for what it is: a vast, sprawling, complex, highly expensive and virtually noncompetitive industry—one of the nation's largest though least understood industries, a unique system of economic relationships that are commanding, and controlling, an ever larger share of our nation's resources.

Health care in America today is big business. To be sure, health is not just another industry; the enduring strength and high quality of the doctor-patient relationship is a vital element in the medicine of the 1970s, just as it was a generation ago—and generations before that.

But the term industry is still an apt one—and it provides a critical perspective on the health care system for public policy makers.

With expenditures of $139 billion in 1976, the health care industry is the third largest in the United States. Only the construction industry and agriculture are larger.

In 1975, 4.8 million people worked in the health industry. That was 5.1 per cent of the national workforce—slightly more than one American worker in 20.

In the same year, 375,000 physicians were in practice in America: one for every 570 citizens.

Health care spending was 5.9 per cent of the gross national product in 1965. It was 8.3 per cent in 1975. And, at present inflation rates, it could reach 10 per cent of GNP by 1980. In that year, spending on health care will, without some kind of restraint, have ballooned to $230 billion, $1,000 for each man, woman and child in America.

The giants of corporate America have moved in to obtain their share of the health industry—major companies like IBM and Bausch & Lomb. Many of the major pharmaceutical companies are in the Fortune 500. The profits of these drug companies are far above the average for large corporations in America.

Health care is an inordinately complex and fragmented industry. It contains over 7,000 hospitals with a total capacity of 1.5 million beds; 16,000 skilled nursing homes, with a capacity of 1.2 million beds; thousands of laboratories and hundreds of suppliers of drugs, expensive medical equipment and other medical products.

Decisions in this industry are made—by a host of private and public institutions—without adequate planning at the state and local level.

Health care is a very costly industry. The median income of the average American family was $13,700 in 1975. In that same year, the average family expenditure for health care was nearly $1,600, more than 10 per cent of the median income.

An average hospital stay cost less than $350 in 1965. It now costs over $1,300. Private health insurance premiums have jumped 20 to 30 per cent in just the last year alone.

And the American people paid doctors a total of $26.3 billion in 1976.

The health care industry is virtually noncompetitive. The features of the competitive marketplace that have served our people so well in other industries—to promote efficient allocation and utilization of resources—are just non-existent in the health care industry.

The patient—the consumer—may select his family doctor, but he does not select his specialist, his hospital, the services he is told he needs, the often expensive medical tests to which he is subjected: The physician is the central decision-maker for more than 70 per cent of health care services.

Increasingly, the patient—the consumer—does not pay directly for the service he or she receives. Ninety per cent of the hospital bills are paid by third parties—private insurance companies, Medicare, Medicaid.

These reimbursement mechanisms usually operate on a cost-plus or fixed-fee-for-service basis, the most expensive and least efficient ways to function.

Most public and private benefit packages are heavily biased toward expensive inpatient care.

The unavailability of price and quality information keeps the consumer of health care services dependent on the decisions of the health care provider, who plays a dominant role in determining demand for health services and whose financial well-being is determined by the price charged.

The ability to restrict access to competitors—hospital credential committees that can for example, deny or delay privileges to Health Maintenance Organizations (innovative prepaid group health units)—provide special levers of market control.

We must face a basic fact: There is virtually no competition among doctors or among hospitals. And, just as important, there is precious little competition among pharmaceutical companies or among laboratories. For pharmaceutical and medical device and equipment companies, research has become big business, with patent monopoly pots of gold at the end of the research rainbow.

These economic features pose severe problems in allocating and utilizing health care resources in the most effective way possible.

THE WRONG INCENTIVES

We do not perceive the health care industry as a world of good people and bad people. Doctors are not bad and para-professionals good. Hospitals do not wear black hats while government policy makers wear white ones. That is not the point.

The point is that doctors, hospitals, pharmaceutical companies, nursing home operators—all the inhabitants of this non-competitive, free-spending, third party-payor world—act exactly as the incentives motivate them to act: conscious of quality, insensitive to cost.

The result, inevitably, is a set of economically classic structural problems.

First: Our health resources, abundant as they are, are not well-distributed, either economically or equitably.

In the past 10 years, we have made considerable strides toward opening access to health care for many people. But major problems remain:

We have not done a very good job over the past 10 years of helping rural Americans get ambulatory care. The typical rural citizen is twice as likely never to have had a physical examination as the typical citizen of a large metropolitan area. Many rural women fail to receive basic early cancer detection examinations.

In our inner cities, minority citizens still lag far behind others in their access to physician care. Polio immunization rates for black children under the age of 4 are one-third lower than the rates for white children.

While some are starving for health care, obesity is commonplace for others. Nationwide we have an excess of some 100,000 hospital beds. In Southern California, there are enough CAT scanners—a sophisticated X-ray and computer diagnostic tool costing $500,000 or more—for the entire western United States.

We have made progress in absolute numbers in ending the doctor shortage of 10 years ago, but doctors are unevenly distributed, geographically and by specialty. Manhattan has 800 doctors per 100,000 people; Mississippi fewer than 80. In some disciplines, we have too many specialists, while the desperate need for primary care physicians in many rural areas persists.

And so we face a major national challenge: to redirect the flow of new health resources into underserved areas and to underserved groups so that ultimately all Americans will have fair access to quality health care. And we must ask: Can we do this in an industry with virtually no competition? Indeed, in an industry where the economic incentives move resources in the opposite direction?

Second, not only are our health care resources poorly distributed, but they are often not organized as efficiently as they might be.

As physicians have moved to more lucrative practices in the suburbs, for example, the burdens of providing primary medical care in our inner cities has fallen increasingly on the outpatient departments of large metropolitan hospitals. Yet the cost of this kind of care is high: for cure, one which makes prevention as profitable for providers as treatment now is.

Fourth, our system of health insurance in America is an expensive and inequitable crazy quilt.

Some 18 million Americans—most of them unemployed or employed in small non-manufacturing businesses—have no health insurance at all.

Another 19 million Americans—most of them with incomes between $5,000 and $10,000—have no group insurance, only skimpy individual coverage that is at best inadequate.

Nearly half the population under age 65 does not have insurance that is sufficient to cover major medical expenses. National health insurance to protect all Americans from the crushing burden of medical expenses is essential.

THE COSTS ARE SOARING

But the overarching problem of the health care industry in America is the problem of runaway costs. In part because of these other problems I have sketched, the cost of medical care is soaring today.

Not only is health care spending devouring an ever larger share of our gross national product, but, under current projections:

Total health expenditures will double by 1980.

Hospital costs paid for by Medicare and Medicaid will double even sooner.

If unchecked, total hospital costs could reach $220 billion by 1985.

Health care is rising at a rate of 2.5 times the rise in the cost of living.

This rapid inflation imperils the ability of uninsured people to get health care at all. It gobbles tax dollars at such a rate that they are not available for other public priorities. The federal government spends 12 cents of every taxpayer dollar on health care—9 cents to the hospital industry alone. The average American worker works one month each year to pay health care costs.

The health care industry, as presently structured, has become a problem for all of us—leading to demands for change from the American people, from public officials, and increasingly from many physicians who are urgently concerned about both the medical and economic health of our people.

So the government—representing the people and the consumers—must play an increasing role in health care. We will fulfill our responsibility best with the many patients, two or three times higher than the same services offered in other settings, such as Health Maintenance Organizations and community health centers.

We have not made much progress in using non-physician health professionals to take some burdens off the physician—even though we know that nurses, physician assistants and other primary health practitioners can less expensively assume many tasks traditionally performed by physicians, without lowering the quality of care. Licensure laws are essential to preserve and maintain professional standards, but they should not be permitted to inhibit the development of new patterns of care.

Third, with little incentive to be cost-effective in the use of skills and resources, it is no wonder that our present health-care system emphasizes treatment of illness rather than prevention of illness.

Because of this, we are needlessly risking illness and sometimes even lives and recklessly consuming resources that could be used to meet other urgent needs.

Today the health-care challenge is dramatically different from what it was 10 or 20 years ago. Today the leadings killers are not communicable diseases, but accidents, heart disease, cancer, cirrhosis of the liver—which are often caused by people's lifestyles or by hostile influences in the environment.

Yet our health-care system is not really geared to the field of prevention aimed at these killers.

We could literally save thousands of lives that are now being stunted or lost—if we could reduce the ravages of:

Cigarette smoking, which kills through cancer, heart attack and emphysema.

Alcoholism, and its toll in mortality, morbidity and the destruction of family life.

Obesity, with its sinister companions, diabetes and hypertension.

Accidents, which kill and maim in the office, at home and on the highway.

In the case of each of these killers, we already have enough knowledge to make major lifesaving gains. What we lack is sufficient will and ingenuity in educating our fellow citizens about how to live more safely and sensibly.

Thus far, the administration has pressed forward on the cost front. The President has sent to the Congress legislation that would control the precipitous rise in hospital costs—the most inflationary sector in the health industry.

But we recognize that the proposal we have put forward—a limit on increases in total hospital revenues—is merely a stop-gap solution that is a necessary transition to more profound long-term structural reform.

For the long term we must organize health resources more effectively, distribute health care benefits more equitably, emphasize prevention and primary care, and establish a fair and effective system of national health insurance.

These much needed reforms will form the basic agenda for federal policy in health care for the immediate future.

Although the precise shape of these changes will be a source of debate and controversy, we know that any long-term strategy for reform in the health system must:

Provide alternatives to costly institutional care—whether in hospitals or nursing homes.

Encourage the substitution of general primary care for more costly specialized care wherever that is possible without lowering quality standards.

Expand and make more efficient the use of less expensive health care personnel.

Stress prevention and early treatment—especially among our children—to avoid unnecessary illness, disability and death.

For too long, all of us in health care have been using our affluence to cure problems, rather than our ingenuity and self-discipline to prevent them. We have not been willing to confront the hard fact that resources are limited and that we must find new methods to provide quality health care to all Americans at reasonable cost.

Now, the cost of our indulgence is catching up with us. We can no longer buy our way out of difficulties. We must *think* our way out.

Mr. MAGNUSON. Mr. President, I do not see anyone on the floor. I am tempted to move for third reading.

Mr. BROOKE. I am tempted to second that.

Mr. MAGNUSON. With all this interest, I do not know where it is, but they are awfully busy when we are down there having hearings. Everyone knew the HEW bill was coming up this morning. I guess at least 40 Senators have asked me personally, and probably as many have asked the Senator from Massachusetts. They knew it was going to be up and I wish they would be here. I understand that the Senator from Wisconsin is on his way, and I shall have a short amendment we can start with.

Mr. BROOKE. Mr. President, in the family planning services section, the committee report directs that the funds

appropriated for family planning services shall only be used for projects as authorized by title X. Is it the intent of the committee to insure that funds appropriated under this act for title X, PHSA, will not be used by HEW to increase funding for other legislative authorities?

Mr. MAGNUSON. I am sure that was our intent, I want the legislative record to so show.

Mr. BROOKE. Is it correct that the primary health care programs, such as maternal and child health, community health centers, and HMO's, are already required to provide family planning services by their legislative authorities and that we intend that they meet this mandate with the funds we have appropriated pursuant to these authorities?

Mr. MAGNUSON. That is correct.

Mr. BROOKE. I thank the distinguished chairman.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 565

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and I ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment No. 565.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add a new section as follows:

Sec. —. Notwithstanding any other provision of this Act, the sums appropriated by this Act shall not be available for obligation in excess of the amounts requested in the most recent budget requests for the Departments of Labor, and Health, Education, and Welfare, and related agencies for which funds are appropriated in this Act, submitted to the Congress by the President.

Mr. PROXMIRE. Mr. President, I will explain the amendment.

Mr. President, I ask unanimous consent that Howard E. Shuman and Larry Patton of my staff be granted privilege of the floor during consideration of this amendment and the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this amendment has one aim, to bring this Labor, and Health, Education, and Welfare appropriation bill back in line with President Carter's budget request. It would save $1.8 billion, and here is how:

It puts a limitation on the spending of each controllable budget item at a level not higher than the President's budget request. This is no Simon Legree or Scrooge amendment in which money is taken out of the mouths of the poor, the sick, lame and crippled. Not for a moment.

All this amendment does is to reduce each item in this bill which is above the request of the President back to the President's budget.

There are some items which the committee reduced below the President's request and, of course, I do not touch those. Whatever reductions the committee made I leave intact.

MASSIVE AMOUNTS FOR LABOR-HEW

President Ford proposed $180.8 billion in budget authority for the Department of Labor and the Department of Health, Education, and Welfare in fiscal year 1978. President Carter in his revised 1978 budget increased that total amount to $188.8 billion, an increase of $7 billion.

My amendment seeks, to the degree we have control over the budget, to return the figures not to the Ford budget but to the higher Carter budget figures.

Furthermore, the Carter budget, as submitted to Congress, was $16 billion more than the fiscal year 1977 Carter budget revisions and $18 billion more than the 1977 Ford budget estimate.

To look at it another way, the increase of $18 billion in this year's Carter budget and last year's Ford budget is equal to the total amount we spent in 1970 for labor, health and education.

So the return to the Carter budget will not pauperize the Department of Labor or the Department of Health, Education, and Welfare. It simply recognizes that President Carter is a humane, concerned President of the United States; and it recognizes that he has the same general goals for health, education, and welfare as the Members of the Senate. On that basis, it reduces what I think are excessive increascs which the committee has imposed back to the budget level.

WHO'S ON FIRST?

The appropriation bill before us deals with less than 40 percent of the total Labor-HEW spending, because much of the total is from trust funds or noncontrollable items.

Nevertheless, this bill is bloated. One would not know that by reading the report. Trying to figure out the actual budget figures is as maddening as the old comedy routine of "who's on first?"

If my colleagues would take a minute to look at the cover page of the committee's report, we can read a wondrous tale of alleged fiscal restraint.

We see a bill totalling $60.7 billion. According to the report, this represents a reduction—let me repeat that—a reduction of nearly $600 million from the House-approved bill.

But the news gets even better.

On the fourth line we discover that the comparable fiscal year 1977 appropriation was over $72 billion. The conclusion is now obvious: We have a bill that is a model of fiscal restraint—$11½ billion under last year's spending levels and a mere $150 million above the President's requests.

Or is it?

A CONGRESSIONAL SHELL GAME

Let us look at the facts.

First, it is misleading to compare this year's bill with a level of spending for fiscal year 1977 of $72 billion. In fact, the level of spending this year is higher, not lower, than last year.

Why?

When we adopted the fiscal year 1977 supplemental bill and the economic stimulus bill, we provided advance funding for a number of programs: public service jobs, vocational education, youth training and employment, advances to the unemployment trust funds, and initial advance funding for the Corporation for Public Broadcasting. This advance funding skews last year's figures to the point where it is difficult to determine how to compare this coming year with the current fiscal year.

But both House committee Chairman FLOOD and the ranking minority member, Mr. MICHEL, agreed during the debate on the House floor that their bill represented an increase of about $4.3 billion, or 7.5 percent, over a comparable fiscal year 1977 figure.

So that is the first point. We started with a House bill that represented an increase in spending, not a decrease.

Second, the Senate Labor-HEW Appropriations Subcommittee increased that amount by $1 billion on controllable budget items.

How does one hide an increase of that magnitude?

Here is how:

First, the bill uses a lower estimate of what our welfare expenditures will be. The difference can be made up in a later supplemental after the critical spending decision is made. Remember: These are entitlement programs, so that we save nothing by using lower estimates of expenditures. These benefits must be paid regardless of what we do on this bill unless Congress alters the basic authorizing legislation.

Next, there is the handling of carryover welfare funds—excess funds from last year. These are applied to this year. Past congressional policy has always been to return unused funds to the Treasury and consider each year's appropriation from scratch. The distinguished Senator from Florida (Mr. CHILES) may have more to say on this matter.

But my point is this: Lower estimates of the funds necessary to pay the costs of entitlement programs or one-time accounting carryovers do not equal budget cuts in welfare spending.

A BLOATED BUDGET: FIRST A LOOK AT CONTROLLABLES

Mr. President, with all of the discussions about trust funds, entitlement programs and the like, it is difficult for any of us to develop an accurate picture of how this budget is growing.

I would like to suggest two ways: First, a look at the growth in spending for controllable items—items over which the Appropriations Committee, and ultimately the Senate, has control.

Here is where we begin to get a picture of a burgeoning budget.

President Carter's budget request represented an increase of nearly $700 million in controllable spending over a base of $22 billion—a base figure used by the House subcommittee, I might note.

The House added nearly $900 million of additional increases to the President's budget, for a grand total of $1.6 billion in increases over this year's budget—or an increase of 7 percent.

Not to be outdone, the Senate committee added another $1 billion in controllable spending.

This brings us to a total increase of $2.6 billion over last year's level—a whopping 12-percent increase in controllable items.

THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE: A PROFILE IN BIG SPENDING

The second approach that will put this increase in further perspective is to do a profile of the appropriations for the Department of Health, Education, and Welfare.

It is a profile in big spending that would make any taxpayer shudder.

When HEW was founded in 1963, it received $5.3 billion in appropriations. After only 4 years, its appropriation had more than doubled so that in fiscal year 1967 it received $12.3 billion.

And that was just the beginning!

Five years later, in fiscal year 1972, HEW's appropriation had more than doubled again. It was now $26.4 billion, instead of $12.3 billion.

Thus, it comes as no surprise that in 5 more years, the budget has nearly doubled again to $51.5 billion. Think about that. From 1963 to 1967, it took 4 years to double; 1967 to 1972, 5 years; 1972 to today, 5 years, it has almost doubled again.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MAGNUSON. I wish the Senator would put in his statement the legislation that was passed in between, adding more and more authorizations and duties and responsibilities to HEW. Does the Senator have the figures as to that legislation? There is even more legislation, passed by Congress, which the Senator from Wisconsin voted for, between the time the budget was submitted and the time we are discussing this bill.

The Senator can talk about increase. Of course, it has been increased. We voted for all these programs and told HEW to administer them. That is what has happened.

When the Senator talks about percentages, the same thing has happened with respect to the Senator from Wisconsin. I hope he does not suggest that these figures are wrong. The interpretation of them might be different, but the figures are correct.

The HUD-Space Science bill, which comes before the subcommittee of the Senator from Wisconsin, has grown from $20 billion to $67 billion—a 231 percent increase. That is because we have done more in the field. That has gone up 231 percent in HUD-Space Science, and I think that is right; whereas, the HEW bill has grown, during the same time, 108 percent.

Mr. PROXMIRE. I say to my good friend from Washington that I do not blame the Appropriations Committee for this. I say that Congress has done it. Congress is responsible for most of these increases. There is no question about it.

As the Senator knows, I have tried to hold down the HUD appropriation bill. I voted against every increase in that bill. And it unlike this bill, is below the President's budget request.

Mr. MAGNUSON. I know.

Mr. PROXMIRE. But we also have followed a policy, unfortunately, of running out those expenditures for 40 years. That is one of the reasons why it has exploded as much as it has, and that is something that has been introduced only in the past couple of years.

Furthermore, new programs and new agencies have been added to the HUD-independent agencies bill which were not in the figures for previous years. The $5 billion in revenue sharing is one. The $5 billion for the Brooke-Cranston tandem plan is another, although the actual outlays for that program will never be more than a few $100 million. Another is the emergency loan program for New York City which is to be paid back. But the major reason for the increase is nothing more than a new bookkeeping increase in which housing funds for the section 8 program are multiplied by 20 or 30 or 40 times, unlike almost any other program in the budget.

Mr. MAGNUSON. The Senator has made some efforts. Now, he is on the HEW Subcommittees. I do not know how many hearings the Senator attended, because I know how busy he is, but some of these things from the hearings, since the budget was——

Mr. PROXMIRE. The Senator knows that as a member of the subcommittee I did my best to hold down the increases the subcommittee insisted on putting in. I voted "no" on every spending increase that came up without exception.

Mr. MAGNUSON. I know it is easy to vote "no" in this particular case, but the law is there.

Mr. PROXMIRE. Let me say to the Senator I am simply trying to go back to the budget. The authorizations do not mean we must go to the peak; that is the ceiling, and I want to go back to the budget. I am not saying that we should wipe out this whole operation; I am simply saying we have had an enormous, astronomical increase. The Senator is right. It is not only in HEW, it is in HUD, it is in many appropriations.

Mr. MAGNUSON. It is in the whole national defense budget.

Mr. PROXMIRE. If we are going to arrest this increase, the way to do it is at least to try to hold down spending to the level requested by the administration wherever we possibly can. That is what my amendment tries to do.

Mr. MAGNUSON. I suggest that one of the last places, if you think it is justified, and one of the most sensitive places, to hold it down is when we are directing what capabilities we might have, fiscal capabilities, to human needs. That is what this bill is all about, basic human needs, and this is what causes the trouble.

The whole budget has gone up this much. I voted—well, the Senator was not here, but I will tell him what kind of a job we did in the subcommittee. We had requests, 200 requests, from Members of the Senate to add to this bill, each for his own particular program, it might have been in health, rehabilitation, mental health centers, or other areas.

Mr. PROXMIRE. I agree with that wholeheartedly.

Mr. MAGNUSON. Do you know what they amounted to? Over $8 billion. We cut that out. That is a pretty good saving to hold the budget down. They wanted $8 billion more, and they were honest and sincere about their programs.

Mr. PROXMIRE. If the Senator would permit——

Mr. MAGNUSON. We had a stack of requests from Senators this high.

Mr. PROXMIRE. I do have limited time on the amendment, and if the Senator will permit——

Mr. MAGNUSON. You can have all the time you need until I ask for third reading. I think when you get done we will ask for third reading because no one else is here.

Mr. PROXMIRE. I do not want to keep offering amendments in order to get some time.

With respect to the HEW appropriation it comes as no surprise that in 5 more years, the budget has nearly doubled again to $51.5 billion.

Think about that: From 1963 to 1967, it took 4 years to double, fiscal year 1967 to fiscal year 1972, 5 years, fiscal year 1972 to today, again 5 years.

Where will this trend end? Can this country afford runaway social spending in which HEW's budget is doubling every 4 or 5 years?

It is time to break the pattern.

It is time to begin paring wasteful programs and mismanagement.

It is time to evaluate where we are going.

And my amendment affords us that chance.

WHAT THE AMENDMENT DOES

So what affect does the amendment have?

It cuts back to the budget proposal about $1.8 billion in controllable items the committee added to the President's budget.

I might point out this is a cutback of $1.8 billion; it is only a cut of about 3 or 4 percent in a $60 billion total, so I am not asking to gut the programs, I am not asking to destroy the programs, but I am just asking to return to the substantial increases President Carter recommended.

Mr. MAGNUSON. The Senator's figures are correct, if he will yield just a minute. The total controllables in the bill are up 6.7 percent, and the Senator's amendment would cut it down approximately in half, would it not?

Mr. PROXMIRE. My amendment would make a cut of $1.8 billion. That is approximately correct, that is right.

Mr. MAGNUSON. But we are up 6.7

percent and that just about takes care of the inflationary costs for all of these scores of programs. The Senator's figures are right.

Mr. PROXMIRE. With regard to specific items, if it is a controllable item and if it is over the budget estimate, it is cut back to that estimate.

Second, it leaves intact those cuts already made by the committee. They have exercised their will. We accept it. But we see no reason to force upon the President or the agencies funds they have not asked for and probably will not spend. These cuts amount to about $1.2 to $1.3 billion.

So, what would my amendment do? Simply look at the budget estimates. My amendment says that there shall be a limitation on obligation. They can be no higher than the latest budget estimate. It is as simple as that.

HOW TO CUT

Mr. President, when one attempts to cut the budget or to amend a controversial provision of a legislative proposal, a series of stock arguments are almost always trotted out. This is not the time. Wait until later on. Why not attack spending somewhere else—in defense or agriculture or foreign aid or HUD? Those are the cries that go up.

So I am certain that the opponents of this amendment—as they have already started—will either raise these stock arguments or others, principally the argument that "this is not the way to cut the budget," "that we should not merely return to the President's proposals but that some other method," probably unstated, "is the way to cut this appropriation." In particular, it will be said that this amendment takes Congress out of the act and accepts the President's levels. It does not take Congress out of the act. It does reduce it to the President's level, but it leaves the Senate in the act where it has made cuts.

Here is why it is done that way.

I could have proposed my own personal views of the ceiling level on appropriations. But that is much too narrow and limited an approach and would be subjected to even harsher criticism.

I could have proposed that we return to the House levels. But I did not do that because that would leave nothing for the conference to decide.

So what I propose is that we take, as a ceiling for spending, the levels proposed by the President and by the agencies. And I remind Members of the Senate that those levels are not only very much higher than last year's level of spending but they are in the totality some $7 billion higher than President Ford proposed.

So, yes, it does take Congress out of the act in terms of spending more money than either the President or the agencies requested in the official budget message of President Carter.

But it leaves the Senate in the act when we cut below the President.

In conclusion, Mr. President, my amendment does not "gut" this bill. It gives us a chance to begin reorienting our priorities in this area by the one effective tool Congress has at its disposal: The power of the purse.

The time has come to bring a halt to the burgeoning growth of agencies like HEW.

I would welcome any amendment or suggestion to reduce the HUD budget or any other budget, and I expect to introduce other amendments to reduce, for example, the military construction budget back to the level requested by the President and other budgets to the extent that they exceed the President's request.

Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, I just want to say that I oppose this amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield for us to get the yeas and nays?

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, we have gone over this bill with a fine-tooth comb and taken into consideration the responsibilities that have been thrust upon both the Departments of Labor and HEW since the budget was made up, and that must be carried out. We only have a certain amount of controllables in this budget, and they are the very sensitive ones.

They are for human needs; they are to take care of the poor, the disabled and the handicapped, and the better health or education for all citizens. The total we added to the budget, as I said earlier this morning, and if the OMB and the President were to make up a budget today it would be entirely different, I think, than the one they made up months ago, because they would have had to add some of these things.

So, going back to that would be destructive on the programs that Congress has enacted for these people.

I want to suggest, as I did just a minute ago, that of the total controllables in this bill we have only suggested 6.7 percent, and in many of these cases this only takes care of the increased costs over last year, of the inflationary costs. Some programs are up a little, some are down. Some we took out altogether, but Congress keeps passing bills requiring this or that particular agency to do more things in authorizations.

Mr. President, I have sat now in the Appropriations Committee—this might not seem believable to some—but the Senator from Massachusetts and I have sat downstairs here now on this bill looking at figures, cutting them or seeing whether they are adequate or not, listening and hearing all the testimony and, on the very same day, at the same time, the Senators upstairs were passing a bill recommending further responsibility and appropriation of more money at the same time, the same day.

So this is, as the Senator from Massachusetts said, sort of a running thing. But we think 6.7 percent is all right. It is adequate. We are going to go to the House, I say to my friend from Wisconsin, who understands conferences with the House pretty well, and we will probably come up nearer the figure he suggests. We will fight for what we have put in, but I think it will come down considerably, and naturally so. The House wants some things up and we want some things down, and this is the purpose of the conference.

I do not think, on human needs, this Congress should be any rubber stamp for a budget that was prepared by another administration and, particularly, when all of these other responsibilities have been given to the Department of HEW. We should appropriate as much for human needs as we think the country is capable of doing.

I think we should have our own opinions and our own advice on that.

The budget is advisory, and we pay very careful attention to the budget. But some of those recommendations were prepared months ago, and I think it would be an entirely different budget if it were sent up now.

I yield to the Senator.

Mr. BROOKE. Mr. President, I rise to oppose this amendment.

I have the greatest respect for Senator PROXMIRE, and it is good we have him in the Senate. It reminds me of the days when John Williams of Delaware was here as the Senate watchdog of spending. Senator PROXMIRE does that service for the Senate and performs that role, I think, most admirably.

I have the privilege of serving with him in the Banking, Housing, and Urban Affairs Committee, and I know how strongly he feels about fiscal conservatism and fiscal responsibility.

I simply point out to him, and not in a facetious manner, on the House, Space Science bill—and I serve on the subcommittee as well—that has grown from $20.4 billion in 1974 to $67.6 billion in 1978. This represents a 231-percent increase in budget authority.

I realize that there have been new funding requirements added to the House space science bill. However, there have also been additions to the Labor-HEW bill, as our distinguished chairman has said, which has grown from $29.1 billion to $60.7 billion during the same time, an increase of only 108 percent.

I will not belabor these figures. Suffice it to say the chairman has made the point and made it well. We are primarily working with the budget submitted by the outgoing President, President Gerald Ford. That budget was submitted, and that is the way we work with budgets. When a new administration comes in, the outgoing administration submits the budget, and then by law the incoming administration has not only the right but the responsibility to make amendments to it, and some admendments were made, to be sure.

But the administration has not had sufficient time to really analyze all of the spending programs in appropriations bills that are before Congress. We feel that the administration made some attempt, but we do not think it was realistic in some places. What the Senator would do is to cut money generally across the board. and there are many programs that would be hurt even though there

may be some that could stand some paring.

But even as late as this morning, the distinguished chairman and I have been trying to pare down this bill. We recognize the problems involved in it, but we still have to go to conference with the House of Representatives, as the Senator from Wisconsin very well knows, and we expect there will be some give and take obviously in the House of Representatives. The final version of this bill will be reduced even more than it is in the Chamber today.

I know that the Senator wants a rollcall vote on this amendment, which is his right. He has the yeas and nays on it.

But I must oppose the amendment because I think we have actually pared the bill down as much as we possibly can.

I hope that the Senator will stay in the Chamber and help us to withstand some of the increases, however, that are predicted to be coming forth. Even though we have considered literally hundreds of money amendments to this bill already, we still anticipate there will be some that will be offered in the Chamber this morning.

But I must in all due respect, for those reasons, oppose the Senator's amendment to cut this bill any further.

I yield the floor, Mr. President.

Mr. PROXMIRE. Mr. President, the distinguished chairman of the subcommittee (Mr. MAGNUSON) indicated there have been changes since the original budget request was made by the President.

I think we all know that if the President wanted to change the budget in any way, if he wanted a higher figure, he could communicate with us quickly, and would do so. He often does so. He writes us letters. He writes the chairmen whenever he feels in the case of any appropriation measure, or any other measure, that he would like a higher figure or a different figure. Advocates for the higher figure are always anxious to get that kind of communication from OMB.

We do not have any higher request on this budget than the request that I have been comparing in my discussion here or that my amendment would return the figures to. And, under my amendment, if a new formal budget request has come to the Congress, that new figure would prevail.

As far as the argument given by the distinguished chairman that inflation is the reason for most of the increase, the fact is that the President took that into full account in making his request. This is an increase of overall controllable and uncontrollable from $170.9 billion to $188.8 billion, or precisely 10 percent, from the original Ford budget of 1977. We have not had an inflation of 10 percent. It has been less than 10 percent. So the President's request not only took full account for inflation but added additional funds so that the real resources in the program would increase.

In addition to that, the House of Representatives added on money to that figure. The Senate added on the House's figure.

Senator MAGNUSON and Senator BROOKE are two of the finest Senators and ablest Senators we have in this body. They both have served extremely well. This is a tough job they had, and I think they have done an excellent job in every respect, except that the figures are too high.

As far as the Senator from Massachusetts is concerned in making the point he made about HUD, I point out that HUD is below the President's request on any basis. And we made sure of that. It is well below.

If we conformed to the President's budget request we would have increased the HUD budget, not decreased it.

Furthermore, virtually all of the increase in the last 4 years of the HUD budget is because since 1974 we have made a change in the way we fund that budget. We now do it on a multiyear basis. We used to do it on the 1-year basis. Now we run it out to 10, 30, or 40 years, depending on the program. That is resulting in multiplying the amount. For instance, we had one the other day that would have been a $30 million expenditure in 1974. Now it is $1.2 billion or 40 times, $30 million.

That is the main reason for this explosion at HUD. Still HUD is too high. I wish to see it lower, and I would have voted for amendments that would have cut it lower. But it is below the President's budget. It is below the House of Representatives figure. I think we should take that into account.

Mr. President, I recognize that it is very difficult to get this kind of an amendment seriously considered by Members of the Senate. But I think if we are going to mean it when we say we want to hold down spending, certainly the most moderate course we could follow is to at least conform with the President's request when he is substantially higher than President Ford, when he is a man who obviously thoroughly and deeply believes in health, education, and welfare, and the labor programs and job programs that are funded in this bill.

So I hope we can act on this amendment favorably.

I must say I do not expect that it is going to get more than a few votes, but I am hopeful.

Mr. ROBERT C. BYRD. Vote.

Mr. PROXMIRE. Mr. President, I am ready to vote.

I yield back the remainder of my time.

Mr. MAGNUSON. I have no time to be yielded back.

The PRESIDING OFFICER (Mr. ZORINSKY). The question is on agreeing to the amendment of the Senator from Wisconsin.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "nay."

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) is necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 32 nays 62, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—32

Allen	Goldwater	Morgan
Bellmon	Griffin	Proxmire
Bentsen	Hansen	Randolph
Biden	Hatch	Roth
Byrd, Harry F., Jr.	Hayakawa	Schmitt
	Helms	Scott
Byrd, Robert C.	Johnston	Stone
Cannon	Laxalt	Thurmond
Curtis	Leahy	Tower
Danforth	Lugar	Wallop
Garn	McIntyre	Zorinsky

NAYS—62

Abourezk	Hart	Muskie
Anderson	Haskell	Nelson
Baker	Hatfield	Nunn
Bayh	Hathaway	Packwood
Brooke	Heinz	Pearson
Bumpers	Hollings	Pell
Burdick	Huddleston	Percy
Case	Humphrey	Ribicoff
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schweiker
Clark	Kennedy	Sparkman
Cranston	Long	Stafford
Culver	Magnuson	Stennis
DeConcini	Mathias	Stevens
Dole	Matsunaga	Stevenson
Domenici	McGovern	Talmadge
Durkin	Melcher	Weicker
Eagleton	Metcalf	Williams
Eastland	Metzenbaum	Young
Glenn	Moynihan	

NOT VOTING—6

Bartlett	Gravel	McClure
Ford	McClellan	Riegle

So the amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

Mr. MAGNUSON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, will the distinguished manager of the bill yield to me for a brief colloquy?

Mr. MAGNUSON. Yes.

Mr. TALMADGE. Mr. President, the Labor-HEW Subcommittee of the Senate Appropriations Committee has chosen to reduce the Senate allowance for disease investigations, surveillance, and control in the Center for Disease Control 1978 budget. The Senate allowance for this line item is $45 million, whereas the House allowance is approximately $55 million.

The $10 million reduction would have a significant impact on the ability of the Center for Disease Control to respond to the broad range of health problems and disease epidemics with which they are concerned. It would also reduce the laboratory services which the CDC provides to States and compromise the core support for immunization activities, venereal disease control, lead screening, and so forth.

This budget cut would require a reduction in personnel of over 300 positions, from 1,581 to 1,268.

Those people are engaged in very important work of disease control, lead screening, venereal disease control, and so on. May I have the assurance of the

distinguished floor manager of the bill and the ranking minority member—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order.

Mr. TALMADGE. May I have the assurance of the distinguished floor manager of the bill and the distinguished ranking minority member that these items will be carefully reviewed in the conference committee, with a view to trying to correct any inadequacies that the Senate figure may contain, and with the hope that the House figure can be agreed upon on these items?

Mr. MAGNUSON. I assure the Senate from Georgia that the Senator from Massachusetts and I hope to have this in conference. We are pretty much dedicated to the general idea that we ought to have more prevention anyway. There have been some additional reports that we need to get. I think that the Senator from Georgia will be satisfied when we get through the conference.

Mr. TALMADGE. I am grateful to my distinguished friend. May I have the same assurance from the distinguished ranking minority member?

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished Senator from Georgia. I think he makes a strong point and I assure him that when we go to conference, we shall give this very serious consideration.

Mr. TALMADGE. I am grateful indeed for the assurance of my two distinguished friends. On that basis, Mr. President, I shall not offer an amendment that these items be increased at this time.

I yield to my distinguished colleague from Georgia, if the Senator from Washington will yield to me further, for his comments.

Mr. MAGNUSON. I yield.

Mr. NUNN. I thank the Senator from Washington and the Senator from Massachusetts for agreeing to give strong consideration to the factors that my distinguished colleague from Georgia has pointed out in his reference to the Center for Disease Control. I think it is important that this money be restored in the conference. I thank the Senator from Washington and the Senator from Massachusetts for their assurance of their help in the conference to see whether this program will be continued.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Indiana for a unanimous-consent request.

Mr. BAYH. I thank my friend from Washington.

Mr. President, I ask unanimous consent that Ann Church, Barbara Dixon, Abby Reed and Fred Williams be granted privilege of the floor during debate and votes on H.R. 7555, the Labor/HEW appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Robert Hunter of my staff be granted privilege of the floor during the debate on voting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that the following staff members be granted the privilege of the floor during the consideration and vote on the pending legislation:

Greg Fusco, Jon Rother, Mike Shore, Spencer Johnson, Douglas Racine, Alan Fox, Debbie Robertson, Barbara Dixon, Fran Farmer, Jeff Garin, Nancy Anderson, Dick Vodra, Carolyn Randel, and Karin Adler.

Mr. MAGNUSON. Mr. President, reserving the right to object, are these staff members? Not of our staff.

Mr. BROOKE. No, they are of various Senators.

Mr. MAGNUSON. The Senator put them all together?

Mr. BROOKE. I put them all together just to save time.

Mr. MAGNUSON. Very well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Carlton Andrus, John I. Brooks, and Joanne O'Neal of my staff be granted privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Now, if I may have the attention of the Senator from Washington, on page 7 of the committee report it shows that the committee recommendation for appropriation for the Employment and Training Administration, the program administration costs, would be $90.832 million.

That compares with $76.222 million for the current fiscal year, an increase of 19.1 percent.

My question is, is not that a very substantial increase in administrative costs for that program?

Mr. MAGNUSON. It is a substantial increase, but the House put it in. We decided we would go along with the House figure, realizing we would probably have to anyway in conference.

A lot of this is mandatory with public service jobs we voted here in the supplemental.

Mr. HARRY F. BYRD, JR. The fact is that there is an increase in administrative costs of 19.1 percent in that program.

Mr. MAGNUSON. That is correct. That was due to the fact that we almost tripled the public service job program in the supplemental that they have to manage and I think that bill was something like $4 billion.

Mr. HARRY F. BYRD, JR. I note from the same page of the committee report—the committee recommendation—I am quoting, as follows:

The committee recommends an appropriation of—

Mr. MAGNUSON. Page 7?

Mr. HARRY F. BYRD, JR. Page 7.

The committee recommends an appropriation of $90.832 million in general revenue funds to support 2,721 positions.

In using a calculator to figure that out, those positions will average $33,300 in salary per position.

My question is: Is it necessary to put on 2,721 individuals at an average salary of $33,300?

Mr. MAGNUSON. This is not salary. The salary is nowhere near that average at all. It is much lower.

This is for maintenance and operations. This is for all the expenses of management put together. It is below the budget estimate. The House went below the budget, and we did. But it comes from the fact that we did appropriate these billions of dollars in public service jobs.

The average salary is $12,000 to $17,000.

Mr. HARRY F. BYRD, JR. I am just reading the committee report, and it says:

The committee recommends an appropriation of $90,832,000 in general revenue funds to support 2,721 positions.

Mr. MAGNUSON. That is right.

Mr. HARRY F. BYRD, JR. And that averages out to $33,300 per position.

Mr. MAGNUSON. No. That is for the total cost of administering a $4 billion or $5 billion new program that showed up after the budget was written, and we are $1 million below the budget; and with the House figure, an average salary is from $12,000 to $17,000.

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MAGNUSON. In just a moment.

The rest of the amount is for maintenance and office, and whatever they have. The House had long hearings on it. We accepted the House figure and the President even recommended higher than this. That is because of the Unemployment Security Administration, which will handle public service jobs, of which there are——

Mr. HARRY F. BYRD, JR. I have not gotten to that yet.

Mr. MAGNUSON. What?

Mr. HARRY F. BYRD, JR. I have not gotten to that yet, I say to the Senator. I am not speaking of that figure. I will get to that next.

Mr. MAGNUSON. It is what the committee did.

Mr. STONE. Will the Senator yield for a unanimous-consent request?

Mr. HARRY F. BYRD, JR. Yes.

Mr. STONE. Mr. President, I ask unanimous consent that Mary Repper of my staff be granted privilege of the floor during voting and proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I say to the Senator from Washington, the committee report says that in addition to the $90,832 million, $33.634 million is recommended to be expended for the Employment Security Administration Account in the Unemployment Trust Fund to support 1,110 positions.

Mr. MAGNUSON. That is mandatory.

Mr. HARRY F. BYRD, JR. I just want to point out, though, the tremendous sums of money which are being used for administrative costs of these programs; $33,634,000 to support 1,110 positions.

Mr. MAGNUSON. It is not that much.

Mr. HARRY F. BYRD, JR. That is what the committee report says; that is all I know about it.

Mr. MAGNUSON. How much did the Senator say?

Mr. HARRY F. BYRD, JR. $33,634,000 is recommended to be expended to support 1,110 positions. It is on page 7 of the committee report.

Mr. MAGNUSON. Yes; that is exactly

what it is, 1,110 positions, and $33 million is the total for the whole management and the whole program, which involves close to $5 billion of jobs we created in the supplemental.

I do not think that ratio of administration compared with what they are handling and what they must do under the bill and under the money we gave them—close to $5 billion, I do not have the exact figure—is too high.

This is building maintenance, equipment, and that is what we call support. The salaries run between $12,000 and $17,000, which is not too large a salary for this responsibility.

I am quoting from the House who went to great length on hearings on this matter.

Mr. HARRY F. BYRD, JR. I am quoting from the Senate committee report.

Mr. MAGNUSON. Yes; we quoted the figures which the House put it. These are House figures.

Mr. HARRY F. BYRD, JR. But certainly a reader would have a right to believe that it costs $33,634,000 to support 1,110 positions. That is what it says here.

Mr. MAGNUSON. That is correct. That itself is a decrease over the comparable 1977 level.

Mr. HARRY F. BYRD, JR. If we go to page 18 of the report, at the bottom of the page—"Departmental Management" is the caption—we read:

> The committee recommends an appropriation of $60,257,000 in general revenue funds to support 1,705 positions.

That breaks down to an average of $35,340 per position.

Mr. MAGNUSON. This is general management for the whole department. On page 19 we see that the committee concurs with the House in reducing the request of $1,069,000 and 55 positions for Comprehensive Employment and Training Act, and reduces the staff by 20 positions.

The committee feels that these resources combined with those provided in fiscal 1977 will be sufficient. We reduced it. We reduced it from the budget.

Mr. HARRY F. BYRD, JR. The fact is that the committee report says:

> The committee recommends an appropriation of $60,257,000 to support 1,705 positions.

That is another way of saying that it costs $35,340——

Mr. MAGNUSON. Those are not additional positions. Those are positions they now have.

Mr. HARRY F. BYRD, JR. Whether they are the same, it averages out to $35,340 per position.

Mr. MAGNUSON. Support is more than just salary. It is the whole management of the Department. They have not only public service jobs but also all kinds of other employment jobs that we put in the two bills, in the Emergency Labor Employment Act.

Mr. HARRY F. BYRD, JR. I ask the Senator a question, with reference to page 24 of the committee report, under travel. I read one sentence:

> The committee continues its concern over the amount of time and money spent on travel within the Department. Close reins should continue to be kept on domestic and foreign travel, retreats, conferences, and conventions.

My question is this: Does the able chairman have a figure as to how much is being spent? How much was spent in the past year on travel and how much is being spent this year on travel?

Mr. MAGNUSON. I do not have those figures exactly, but we can break them down for the Senator. We have all the testimony.

Mr. HARRY F. BYRD, JR. I note that the committee, and I feel very wisely and justly, has concern about the amount of money that is spent on travel.

Mr. MAGNUSON. We have taken a 10-percent reduction on all forms of travel, 20 percent in some cases. I will get those figures.

Mr. HARRY F. BYRD, JR. I wonder whether we can get an overall figure as to the total cost of travel.

Mr. MAGNUSON. The only reason we exempt patient travel is that these are often people being moved to a more suitable treatment facility.

Mr. HARRY F. BYRD, JR. This does not apply to that.

Mr. MAGNUSON. We do not apply it to that.

Mr. HARRY F. BYRD, JR. My inquiry does not apply to travel of patients.

Mr. MAGNUSON. I understand.

Mr. HARRY F. BYRD, JR. It applies to travel of Department personnel.

Mr. MAGNUSON. We have cut most of the departments in the whole bill from 10 percent to 20 percent as to their travel—that is, from last year's travel account.

Mr. HARRY F. BYRD, JR. I would appreciate it if the Senator could get those figures.

Mr. MAGNUSON. We will get them for the Senator.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. DOLE. Mr. President, the Senator from Kansas wishes to address a question to the managers of the bill. In the committee report on the Supplemental Appropriations bill, the Office of Education was directed to complete and submit to Congress by May 1, 1977, a study of the school facilities at various sites including those at Fort Riley, Kans. On April 1, I was assured by my distinguished colleague, the junior Senator from Massachusetts, that the Subcommittee on Labor-HEW Appropriations shared my concern about the urgent need for school facilities at Fort Riley and that it was the subcommittee's intention to assess the forthcoming Office of Education study and then to recommend the need for additional funding. Given the fact that the Office of Education still has not fulfilled the committee's request for updated information and priority rankings of pending construction applications, the Senator from Kansas is more concerned than ever regarding the present status of the Fort Riley schools. In testimony which I presented to your subcommittee on March 1, I indicated that during the past few years, the Army has spent $27.3 million to construct 1,101 new housing units at Fort Riley resulting in an estimated school enrollment increase of some 1,700 students. Since HEW and not the Army, has jurisdiction over the construction of school facilities, it was hoped that school construction would begin soon after HEW was aware of the need. We still have 139 children going to school in World War II era barracks. I am appalled that we have to send the sons and daughters of our military families to school in World War II barracks. And the number is going to increase unless we provide some supplemental appropriation.

The Army has provided the World War II barracks as a temporary facility. It is my understanding that this is the best that can be done since the Army is specifically barred from using defense appropriations for school construction.

Needless to say, there are many problems resulting from this situation. There are no special education facilities. There is no auditorium. The playground facilities are minimal, and that is significant since grades 1 through 6 are being taught in these facilities.

The lack of better facilities has required class enrollments higher than the optimum level. About 30 children are being placed in each class. Classes cannot be held on the second floor of these buildings because of the danger of fire. Due to poor insulation, these buildings are very expensive to heat.

There is no cafeteria. Food must be prepared in a kitchen some place else and transported to the facilities.

The alternative to the temporary solution of using World War II barracks would be "double session." "Double sessions" would require half of the students going to school from 7 a.m. to 1 p.m. and the other half from 1:30 p.m. to 7:30 p.m. I believe this is totally unacceptable for children in grades 1 through 6.

In addition to the classes being held in World War II barracks, 232 children of grades kindergarten through six are being bused into schools in Junction City. These students are being assigned to schools on a space available basis, which means they are rotated from one school to another on a year-to-year basis. Again, the lack of stability in the school environment adds to the difficulty of getting a good education.

At the junior high school level, the school at Fort Riley, which was constructed for about 400 students, is being attended by 563 students. Due to the crowded conditions, there is no library and no special education facilities. Three temporary buildings have been constructed to accommodate additional students.

I could go on but, most of what I have to say was stated in testimony I presented last March.

Fort Riley's needs are truly not exorbitant. A conservative estimate suggests an expenditure of $12.5 million. Can the Senator from Massachusetts comment on this matter?

Mr. BROOKE. We are aware of the present needs at Fort Riley. Under Public Law 815, the Committee on Appropriations has included $50,000,000, an increase of $25,000,000 over the 1977 level. Twenty million of the increase recommended by the committee is targeted at helping to meet the school construction

needs at military bases such as Fort Riley.

Mr. DOLE. What provisions has the committee made to assure that all of the funding needs at Fort Riley will be met in the near future?

Mr. BROOKE. When we get the new Impact Aid Construction priority list from HEW, the list that we were supposed to have by May 1, it will be easier to tell how much will be required to meet the needs at Fort Riley. Let me assure you that the committee is aware of the needs in this area. According to the old priority list, it appears that Fort Riley would receive at least $6,000,000 in fiscal year 1978.

Mr. DOLE. Mr. President, I thank the Senator from Massachusetts. It is my hope that we can provide some funding at the earliest possible date so as to alleviate the severe lack of school facilities at Fort Riley.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished Senator from Kansas, and he makes a strong point. The committee is aware of the problem at Fort Riley, Kans., and has given very serious consideration to this and to school construction funds.

Mr. DOLE. I thank the distinguished ranking Republic floor leader.

UP AMENDMENT NO. 566

Mr. DOLE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. (Mr. HUDDLESTON). Is the Senator sending an amendment to the desk?

Mr. DOLE. Yes. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 566:

On page 35, line 19, strike out "$2,221,678,000" and insert in lieu thereof "$2,226,678,000".

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished Senator from Massachusetts. I understand the financial constraints and the pressures to hold down spending. Reluctantly, I will not press the amendment in view of these restrictions. However, I would like to make record of this amendment, because I think it is a very worthwhile effort. I understand the many pressures on this committee, and realize that the vote just taken indicates there is considerable support for cutting all funding to the budget request.

Mr. President, the amendment I offer today would raise the amount of money appropriated to the assistant Secretary for Human Development from $2,221,678,000 to $2,226,678,000. This is an increase of $5 million.

I propose this increase to provide an additional $5 million to the Rehabilitation Services Administration, to be earmarked specifically for projects with industry—PWI.

The Senate Appropriations Committee voted to fund PWI at $5 million. This represents a $1 million increase over the House recommendation, and a $2 million increase over the budget request. Although I appreciate the committee's awareness of the need for increased funding, I do not think it was a sufficient increase.

However, I understand the practicalities of the matter, and so, as I have indicated, will not press the amendment.

PROJECTS WITH INDUSTRY

Projects with industry was created by the Vocational Rehabilitation Act of 1968. Its purpose is to prepare handicapped individuals for jobs in private businesses and industries. It provides not simply a job, but a career to handicapped Americans.

I might add there are a great many handicapped Americans who are looking for meaningful work through which to express themselves and to get into the mainstream of American life.

HIGH UNEMPLOYMENT

Statistics show that the handicapped have the highest unemployment rate of any minority group in the country. Dr. Henry Viscardi, Director of the White House Conference on Handicapped Individuals, estimates that 12 million handicapped Americans are able to work. Of these, only 4.75 million are employed, and most of those persons are underemployed. Because of their underemployment, the situation is even worse than the statement indicates.

Most handicapped persons earn under $7,000 yearly, and many earn even less than $2,000. Figures show that of the handicapped individuals who are not institutionalized, 42 percent are employed. Fifty-nine percent of able-bodied persons are employed, making a difference of 17 percent. Forty-two percent versus 59 percent employment rate translates into 2 million handicapped persons that need employment in order to allow the handicapped population to enjoy the same employment rate of the rest of society.

Dr. Viscardi also states that if these 2 million handicapped Americans were employed—even if their wages averaged only $5,000—that their jobs would result in $10.5 billion added to the economy because of their new roles as wage earners and taxpayers. An equal amount of money would be saved because of reduced public and private support of handicapped persons.

KANSAS PROJECTS

PWI has proven to be an effective program in helping disabled individuals find and keep jobs. Now, approximately 20 projects are working with 1,000 corporations across the country. By October of this year, there will be 30 projects with industry.

In my own State of Kansas, we can boast of an excellent project. Center Industries of Wichita has proven its worth by integrating severely disabled workers into industrial jobs. Because of careful planning and counseling, the project has run smoothly, and I know personally of handicapped individuals who for the first time in their lives, have the satisfaction of working for gainful employment.

The Menninger Foundation in Topeka is also working to help the mentally handicapped individual find his slot in the working world. This is a relatively new area, but is very much in keeping with the goals of projects with industry. I know of other projects all across the country that are experiencing the same kinds of success, and I am eager to see that we allow for expansion and further development of these projects. We can do this by increasing the PWI money to $10 million. It is a small price to pay for the large amount of benefits we accrue from the program.

FACTS

By the end of fiscal year 1977, these projects will have placed 3,600 to 4,000 handicapped persons in jobs. These persons have generated $25 million in wages, of which approximately 20 percent has gone for taxes. Clearly, this is a program which pays for itself—not just in theory or concept alone, but in practice, as illustrated by hard, cold facts.

In addition to the taxes paid, many new job-holders are former welfare recipients, who sometimes claimed over $5,000 in yearly benefits.

When the program was initiated, it cost $2,000 to $3,000 per placement. This cost has since been trimmed to $1,000 per placement. As the projects continue to grow and develop, I anticipate that this figure will drop even lower.

Employers have been surprisingly supportive of this program, and have often made financial contributions to rehabilitation facilities, or have equipped them with machinery and instructors. While most of the training is done at rehabilitation facilities, instruction for more advanced jobs is conducted on location.

PAST CONGRESSIONAL MANDATE

The Congress in recent years has mandated affirmative action policies for handicapped individuals. PWI presents an excellent incentive for the enforcement of these policies.

Affirmative action is much more efficient if approached in this manner rather than by sheriff and posse. We can elect to expand a program which provides technical assistance to employers and which familiarizes them with the needs of handicapped individuals.

We must not fool ourselves—affirmative action for the handicapped will not be easy to achieve. But, with a program-like projects with industry, we can work through such problems as architectural modifications, social adjustments, and other job-related difficulties once the person has been trained for—and allowed—a career.

I urge my colleagues to support this amendment to raise projects with industry funding by $5 million. It will not only generate revenue for the treasury, but more importantly, it will provide employment opportunities to thousands of handicapped Americans.

As the distinguished Senator from Massachusetts indicated, the committee is aware of this program and of its potential. Of course, the Senator from Kansas is also aware of the budgetary constraints; and am willing to accept any comments the Senator might make.

Mr. BROOKE. Mr. President, if the Senator will yield, I commend the distinguished Senator from Kansas for proposing this amendment and for recog-

nizing the budgetary restraints upon the committee.

This is an excellent program, and rehabilitation services, specifically those where you bring in private indutsry to help the handicapped, is a program we are well aware of.

I have discussed this with the distinguished chairman, Senator MAGNUSON, and he fully understands the import of the Senator's amendment; and is also appreciative of the Senator's willingness at this time to withdraw his amendment.

I wish to point out that we did add an additional $1 million for this program, which brought it up to a total of $5 million and, as I understand it, the Senator from Kansas would increase this to $10 million.

I think it is a project certainly worthy of that kind of funding level, and we hope we might be able to do that in a future appropriations bill, but I think the Senator from Kansas has made a strong case on the floor this morning, and we certainly will take that into consideration when we consider this rehabilitation services program for further appropriations.

Mr. DOLE. I thank my distinguished colleague.

Let me again point out there is a great need in this country for more emphasis on finding meaningful employment for handicapped Americans. We have just completed a White House Conference on Handicapped Individuals. There will be a number of excellent suggestions that will be put forth in legislative terms in the coming months.

Handicapped persons have the highest unemployment rate in the country. During fiscal year 1977 about 4,000 persons will have been placed through this program alone. Many of these persons were previously on welfare, and have never made a dollar in their lives, but had been subject to public charity. I find that most handicapped Americans are very much like everyone else—they want to work, they want to express themselves.

Placement costs in this program run about $1,000 per transaction, which represents a big reduction, since in the beginning the transaction costs were about $3,000, rather expensive.

It just seems to me this is a positive program, and I commend the committee for the increase they allotted to it. I understand the great constraints the committee is under. I would only suggest in the coming months and years there is going to be more and more emphasis on opportunities for handicapped Americans. It is the next wave. The Senator from Kansas knows of the deep compassion and concern that both Senator BROOKE and Senator MAGNUSON have in this area.

I only suggest that we need to be doing what we can to make certain that this program properly grows and expands, not just for the sake of growth or expansion but for the sake of helping America's handicapped.

Mr. BROOKE. Mr. President, if the Senator will yield, I again commend the Senator from Kansas for his deep commitment in the work he has done in nutrition, and the work he is now attempting to do by this amendment with the handicapped. He is absolutely correct. We have to pay more attention to jobs for the handicapped.

As the Senator from Kansas well knows, we have mandated equal educational opportunities for all handicapped children in this country. Under this bill Senator MAGNUSON and I have worked for funds for educational opportunities for these handicapped children.

As they are further educated and as they complete their education, they are going to be in a position to look for jobs, so there will be more of a need to employ the handicapped than we have ever had before because they will be better equipped to take on jobs.

And we cannot do it all through Government jobs. We have to do it through the private sector. And I think the amendment which the Senator has offered and has been willing to withdraw, in recognition of fiscal restraints upon our appropriations bill, certainly is an indication of where we have to go.

We commend the Senator from Kansas again for introducing the amendment, for bringing it to the attention of the subcommittee, and we can assure him that in the future we will give it the utmost consideration.

Mr. DOLE. Mr. President, I might just say before I withdraw the amendment that I believe this program will grow in a proper way, in a reasonable way, and in a measured way. It will be of great benefit to industries as they attempt to comply with many mandates of the Rehabilitation Act of 1973.

I am happy with the response of the distinguished Senator from Massachusetts, and I withdraw the amendment.

The PRESIDING OFFICER (Mr. HUDDLESTON). The amendment of the Senator from Kansas is withdrawn.

Mr. BROOKE. I thank the Senator.

Mr. President, I ask unanimous consent that a member of Senator CULVER'S staff, Kim Holmes, be granted the privilege of the floor during votes and consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HELMS. I yield, gladly, to my able friend.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Eileen Winkleman of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I make a similar unanimous-consent request on behalf of Mr. Carl Anderson, of my staff, including all votes that may occur during consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I make the same unanimous-consent request on behalf of Jan Olsen, a member of Senator HAYAKAWA'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 471

Mr. HELMS. Mr. President, I call up amendment No. 471 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina proposes amendment No. 471.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. —. None of the funds appropriated under this Act which are extended to any institution of higher education may be terminated, withheld, or otherwise encumbered while such institution is a party to any action in the courts of the United States alleging in whole or in part the failure of such institution to comply with any regulation or that any regulation is unlawful or otherwise improper in its substance or in the administration or application thereof and until all appeals of such action have been exhausted.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) be included as a cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, on April 22 of this year, I introduced, along with seven of my colleagues, S. 1361, the Academic Freedom Act of 1977. That legislation was proposed to preserve the academic freedom and the autonomy of institutions of higher education. Since that time I have received a great many letters from college presidents and administrators all across this country recounting to me many of the problems they experience as a result of excessive bureaucratic regulation. Often those regulations go far beyond the intent of Congress as expressed in its recent enactments.

For example, the regulations published by HEW, which purport to implement title IX of the Education Amendment of 1972, are broad and sweeping in nature. Indeed, they bear little resemblance to title IX at all. Through overbroad interpretation inconsistent with the congressional enactment, HEW has extended the meaning of the term "education" to embrace programs, activities, and services which are not actually part of the educational curriculum, such as athletics, student housing, medical care, fraternities and sororities.

Additionally, HEW has effectively rewritten the law which pertains to education programs and activities "receiving Federal financial assistance." Under the HEW regulations, they cover such programs and activities "receiving or benefiting from Federal financial assistance." There are several problems with the

phrase "or benefiting from," but foremost is the fact that Congress did not say it. It is not in the law. HEW said it. And HEW has put itself in a position of making law.

These two gross excesses on the part of unelected bureaucrats, standing alone, are quite significant. First, HEW applies the term "educational" very broadly to almost anything even remotely associated with a school or college. Second, by the insertion of the phrase "or benefiting from" in connection with Federal financial assistance, HEW brings within the coverage of its regulations activities which do not receive Federal financial assistance in any reasonable sense of the concept. Thus, the Department has made vague that which was precise, and with the nebulous legal environment that it has intentionally created, the Department now has latitude to arbitrarily dictate "law" that will affect every student in this country. This vast power is vested in a relatively small group of unelected bureaucrats who are not in anyway whatsoever answerable to the American people.

These concepts are fundamental to and underlie the problem. The practical manifestations of this distortion of the congressional enactment will, if allowed to stand, continue to radically alter the structure, and eventually, the substance of all education throughout America. Such an alteration, effected by a small group of unelected individuals, will be forced upon countless thousands who do not want the brand of restrictive debilitating so-called equality that severely limits freedom and absolutely inhibits traditional values.

Many college administrators regard such HEW regulations as wasteful, outside the scope of congressional intent, and unconstitutional. As a practical matter, colleges have been foreclosed from challenging such regulations in court because HEW may terminate all funds to a college during the legal proceedings.

Mr. President, the careers of many college students and professors depend upon the Federal financial assistance appropriated under this act today. Colleges should be given a due process hearing before their interests are so adversely affected. This pending amendment would give colleges their day in court before the funds upon which they rely are terminated. This amendment does not require HEW to seek a judicial ruling every time it decides to terminate financial assistance to a college. It simply prohibits the termination of such assistance during the time a college seeks a judicial review of the agency action on the grounds that the concerned regulation is unconstitutional or exceeds congressional intent, or is otherwise improper.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, the Senator from North Carolina wishes an additional 10 minutes.

If the Chair will just indulge me a moment, how about 30 minutes?

Mr. HELMS. Mr. President, let me offer a proposal to the distinguished majority leader:

Could we have a 30-minute time limitation on the amendment and assume that I have consumed 10 minutes of my time and thus have 5 minutes remaining.

Mr. MAGNUSON. Mr. President, may I suggest to the Senator from North Carolina that it is my understanding that the Senator from Massachusetts or myself will make a point of order on this amendment and, if the point of order is sustained, of course, we would not need to worry about a time agreement.

Mr. HELMS. That is correct.

Mr. MAGNUSON. If it is not, then we come back to a time agreement. Is that all right?

Mr. HELMS. Yes, entirely satisfactory.

Mr. MAGNUSON. We will wait until the Senator from Massachusetts returns to the Chamber.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I have read the Senator's amendment. Without exhaustive debate, because I believe this matter has been debated at great length, I feel compelled to raise a point of order as this amendment, I feel, is legislation on an appropriation bill. I will withhold raising that point of order, however, out of due respect to the distinguished Senator from North Carolina, until such time as he has completed his discussion of this amendment. At the time that he does complete his discussion of this amendment, it is my intention, with all due respect, to raise a point of order.

Mr. HELMS. Mr. President, the understanding of the Senator from North Carolina is that in any event there will be no rollcall votes prior to 2 p.m. this afternoon, which I find entirely satisfactory.

Mr. President, I noted with interest the comments of my friend from Massachusetts (Mr. BROOKE), who stated that he, at the appropriate time, intends to raise a point of order against this amendment.

I hope he will not do that. The Senator from North Carolina feels this issue is so compelling, that it involves so many colleges and universities across the country—surely the Senate owes it to the college administrators who are so burdened——

The PRESIDING OFFICER. Will the Senator withhold until we have order in the Chamber? The Chair cannot hear the Senator.

Mr. MAGNUSON. I wonder if the Senator from North Carolina would temporarily lay his amendment aside so that we might take up an amendment which we can dispose of in 5 minutes, an amendment of the Senator from Missouri, with the understanding we will return to his amendment.

Mr. HELMS. Certainly, if the Senator will permit me to complete my thought.

The administrators of colleges and universities in this country, Mr. President, are laboring under an awesome burden which threatens the survival of many institutions. Unelected bureaucrats in the Department of Health, Education, and Welfare can arbitrarily cut off funds, and the administrators have no recourse.

The Senator from North Carolina asks only that the colleges and universities of this country be given the right of due process. If the Senator from Massachusetts decides that he must raise a point of order against this amendment on the ground that it is legislation on an appropriation bill, the Senator from North Carolina, in turn, will appeal the ruling of the Chair, in the event the Chair rules against the Senator from North Carolina and in favor of the Senator from Massachusetts.

The Senator from North Carolina feels that this matter deserves to be considered by the Senate. It deserves an up-and-down vote on the question.

I feel very strongly about this. Our colleges and universities ought to be allowed at least the basic rights in responding to Federal bureaucracies.

Mr. President, I have done research in the past several months on the whole effect of Federal controls on higher education. Would you believe, Mr. President, that Duke University in my State spends nearly $500 per student per year just to respond to Federal redtape and Federal regulations? The University of North Carolina at Greensboro tied up its entire computer system for 6 months to respond to just one Federal redtape request. One copy of the report filed by the University of North Carolina at Greensboro in response to that one demand from some Federal bureaucrat in Washington, D.C., Mr. President, weighed 12 pounds.

Who is in charge? If the Congress does not take note of this situation, and correct it, then we will have been derelict. In one way or another, Mr. President, I hope we can have a rollcall vote on this question.

I will ask unanimous consent, Mr. President, that I be permitted to lay aside my amendment.

Mr. BROOKE. Will the Senator yield?

Mr. HELMS. Yes.

Mr. BROOKE. Can we have a unanimous-consent agreement to have a vote on this matter after 2 p.m.?

Mr. HELMS. That is satisfactory with me.

Mr. BROOKE. As I understand, we will first get a ruling from the Chair on the point of order. Can we get that ruling now? Will that be agreeable?

Mr. HELMS. Certainly.

Mr. BROOKE. I will raise the point of order.

Mr. President, I raise the point of order on the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The amendment containing the contingency is general legislation. The point of order is well taken.

Mr. HELMS. Mr. President, as stated earlier, I must appeal the ruling of the Chair, for reasons that I stated. I ask for the yeas and nays.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Is there a sufficient second for the yeas and nays?

There is not a sufficient second.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that the rollcall on the Senator's appeal from the ruling of the Chair be at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 567

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes unprinted amendment numbered 567.

On page 20, line 15, strike "($2,798,750,000)" and insert in lieu thereof "($2,633,750,000)".

On page 20, line 24, strike "$3,246,050,000" and insert in lieu thereof "$3,081,050,000".

On page 21, line 7, strike "($2,798,750,000)" and insert in lieu thereof "($2,633,750,000)".

Mr. EAGLETON. Mr. President, this amendment, which has just been stated, would cut $165 million from the committee's recommendation for title I purposes under this bill.

Let me say, Mr. President, that I doubt if I have ever offered an amendment as reluctantly as I offer this one. The educational needs of this country are colossal. There are educational inadequacies and shortcoming in almost every school district in our Nation.

However, we are about a very practical business here today, Mr. President. We know that, as the Senate bill now stands, it is $1.8 billion over the Carter budget insofar as controllable items are concerned. and that it is $800 million over the House figure insofar as controllable items are concerned. The President has indicated that he can "live with" the House bill. The President has also indicated that he cannot "live with" the Senate bill.

(Mr. BIDEN assumed the chair.)

Mr. MAGNUSON. Will the Senator yield?

Mr. EAGLETON. I yield to the Senator from Washington.

Mr. MAGNUSON. The chairman has had no such indication, but there have been some rumblings down there to that effect. I do not think the President of the United States has ever said directly that he will veto the HEW bill if the Senate figures prevail—of course, naturally, the Senate figures will not prevail when we get to conference—but that he would accept the House figures. There has been no direct communication to the Senator from Massachusetts or myself. I want the record clear on that.

The Secretary of HEW has indicated that he hoped we would keep the bill as low as possible. That is what the Senator from Missouri is trying to do.

Mr. EAGLETON. I thank my distinguished colleague from Washington. I will clarify my remarks by adopting his words: There have been "rumblings" from the White House and from HEW that the President may not be able, in the final analysis, to live with the Senate figures. I have talked twice this morning with the Secretary of HEW, Mr. Califano. Although he has not categorically stated that the President will, in fact, veto the bill if the Senate figures prevail, he has expressed, as he has to the chairman, his deep concern that the Senate figures are considerably in excess of both the Carter budget and the House figures.

Having said that, I must say that I think we all, sooner or later, are going to have to face up to a stark, blunt reality which I shall state as follows: Somewhere along the line, between now and October 1, we are going to have to pass an HEW bill that the President will sign. Somewhere along the line, whether today or later in conference with the House, we are going to have to make some accommodations with the administration to try to achieve a shared objective—to wit, the enactment and signing of an HEW bill. I think that now is the time to begin that process of accommodation. I hasten to repeat, I say this with enormous reluctance.

I have picked as the subject of this amendment title I of the Elementary and Secondary Education Act. Let me give, in brief essence, the figures that are involved in this portion of the HEW budget.

The fiscal 1977 enacted title I figure was $2.285 billion. The Carter budget for this same function increased it by $350 million, for a total figure of $2.635 billion. The House of Representatives added $100 million to that. Their total figure was $2.735 billion for this function. The Senate bill, before this body at this time, increased it another $65 million, for a total in the Senate figure for title I of $2.8 billion.

The administration's proposed budget, the $350 million that they are proposing in addition to the fiscal year 1977 enacted, is the largest single increase in the education budget. That is, the administration, in its refashioning of title I, when it came into office in January this year, gave its heaviest increase, insofar as educational item is concerned, to title I. They upped it on their own by $350 million. Of course, the House, as I have said, and the Senate have added, in toto, another $165 million to that figure.

Also at this time, Mr. President, let me point out to my colleagues that there is $500 million in the pipeline for title I, which will not be obligated by local school districts from the fiscal year 1977 appropriation. I think that is a very important and telling point. Not only has the administration increased title I in its own budget by $350 million, but, in addition thereto, there is already $500 million in the pipeline which will not be obligated by local school districts in fiscal year 1977 and which will thus be spent in fiscal year 1978.

So, in a manner of speaking, if we add the $500 million that is in the pipeline with the Carter increase of $350 million over the fiscal year 1977 figure, in practical essence, for fiscal 1978, there will be $850 million more spent on title I in fiscal 1978 than was spent for that same function in fiscal 1977.

Mr. President, I shall conclude my remarks as I began: I offer this amendment with a heavy heart.

I am one of two Members of the U.S. Senate who serve both on the education authorization committee and the education appropriation committee. The other Senator in that same category is Senator SCHWEIKER.

Thus, I have had a continuing connection, indeed, a continuing deep interest, in educational matters.

As I said at the outset, I know that there are thousands of unmet needs insofar as education is concerned in this country. But having said that, I realize that somewhere along the line in some portions of this budget—like it or not—some accommodation is going to have to be reached with the White House.

I think we ought to begin now to travel that road of accommodation. That is why, even with reluctance, I offer the amendment that I have just described.

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. Mr. President, of course, I know the Senator from Missouri has done a great deal of work in this field. So have the rest of us. We are thinking about this total amount. Of course, that sounds big. It does not adequately cover the people that need it or should be eligible for it.

We agree with the Senator. I was about to offer an amendment myself for some figure because this is a matter that has had its ups and downs both in the House of Senate committee.

It is a matter that we did cut below some recommendations. We had requests from several Senators to add to this particular item and we cut those down.

I think we can accept some different figure here. The Senator from Massachusetts and I discussed this matter. Because we will probably have to go back to the House figure anyway, or somewhere near the House figure, and we would be under the House with this figure.

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. BROOKE. Mr. President, I know that the Senator from Missouri offers this amendment, as he has said, with a

heavy heart, because he has been in the forefront in education, as has our distinguished chairman (Mr. MAGNUSON). No one has done more in this field than has Senator MAGNUSON for disadvantaged children.

Mr. President, I have a heavy heart also that the Secretary of HEW would even suggest a drastic cut in title I funds. Title I funds are so important. There are over 9 million eligible disadvantaged children in this country.

Our bill would serve only 6.6 million of the 9 million. If we were to agree to this cut, we would only be serving 5.6 million children.

That is going in the wrong direction, Mr. President. We should be going further forward. We should be adding to the number of disadvantaged children that we are taking care of, rather than cutting back on the number of disadvantaged children.

We have recommended $165 million over the budget request. The House level is $65 million less than the Senate. We discussed this at great length after rather exhaustive hearings and, as the distinguished chairman has said, we had amendment after amendment from Senators who wanted to add to the money.

We know that the Senator from Missouri is making a strong case on budgetary constraints and we certainly want to have a bill the President will sign into law. The distinguished chairman and I, as late as this morning, have been looking for areas where we could make some cut that would make this bill more palatable to the administration, that the administration could in conscience sign.

Obviously, we all would agree that there is a need for more spending here as elsewhere in this particular bill. But again, we are faced with fiscal responsibility and we just cannot spend money that we do not have.

I would ask the distinguished Senator from Missouri to consider a change in his amendment and take it back to the House amount. I will say why I would suggest that. That would mean—and with an even heavier heart do I suggest it—a $65 million cut from title I. It would take the program back to a position where it would not mean a great step forward, but it would not, also, mean a step backward.

When we go to the House, if we go with a further cut, then I am fearful the House, being also cognizant of fiscal constraint, might accept the Senate figure and then it would be even further reduced. If we did that, I think we would achieve a purpose that the Senator from Missouri, certainly the chairman of the committee and I, would not like to see accomplished.

But I do not think this is a matter we ought to bring to the Senate for a vote. I think if the Senator could see his way clear to modify his amendment accordingly, I suggest this would be a matter which the distinguished chairman could accept and I certainly could accept, then we could look elsewhere in this bill for other cuts, because I understand the Senator has made a very important and a very firm case.

Mr. MAGNUSON. Mr. President, my friend from Massachusetts suggests we go back to the House figure, and suggests to the Senator from Missouri $165 million.

I would offer a substitute or a modification of the Senator's amendment to make it different and we can then talk with the House about it.

Mr. BROOKE. Mr. President, Senator JAVITS has been informed of this amendment and is on his way to the floor. I would have to ask for time for him to be heard on this amendment.

Mr. MAGNUSON. I withdraw my suggestion.

We have to wait, I guess. I know Senator JAVITS wanted to up it more.

Mr. BROOKE. He is the ranking minority member of the legislative subcommittee, and I am sure they are very much concerned about any cut in title I funds.

Mr. MAGNUSON. If we took every authorization of the legislative committee—and Senator JAVITS is a member of it—and had what we called full funding of what they authorized in that committee, the U.S. marshal would be walking down to the Treasury Department right now.

It runs into billions. We just could not do it.

So the authorization is a ceiling for us to work in between.

Mr. President, I suggest that the Senator withdraw his amendment temporarily.

Mr. BROOKE. Senator JAVITS is on the floor.

Mr. EAGLETON. Mr. President, let me summarize what is before the body and we are, of course, anxious to hear from the Senator.

Let me restate what we are doing in this amendment. We are dealing with title I. All three of us have debated this matter, myself, Senator MAGNUSON and Senator BROOKE.

As we stated, we do it with grave reluctance and a heavy heart. But we realize some accommodation has to be made with the President.

So I have offered an amendment to cut from the Senate figure on title I by $165 million. The Senate figure is $2.8 billion.

My amendment would cut it back to the Carter budget figure. The Carter budget is $350 million over what was spent in fiscal 1977, and there is another $500 million in the pipeline that will not be spent in fiscal 1977.

In essence, therefore, the total figure will be $850 million over what, in actuality, will be spent in fiscal 1977.

I am prepared to yield to my distinguished colleague from New York (Mr. JAVITS) if he wishes to discuss this at this point in time.

Mr. BROOKE. Mr. President, I want to be sure that the Senator is well aware of——

Mr. JAVITS. I am not aware of anything, so I suggest the absence of a quorum.

Mr. BROOKE. I should like to discuss it with the Senator.

Mr. JAVITS. I will; fine.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, it is an interesting thing here that has developed—my being called in suddenly, because I had expressed myself to the Appropriations Subcommittee as being strongly favorable to this item, and urging that it be increased to over $3 billion.

The reason is that none of these bills does more than serve two-thirds of the universe to be served—to wit, the disadvantaged children, of whom there are about 9 million. The Senate bill would serve about 6 million, the House bill about 5 million, without dealing with fractions. Hence, the desire to get as close as possible to dealing with our real problem, which is the totality of the disadvantaged children.

The interesting thing that develops is that Senator EAGLETON, Senator MAGNUSON, Senator BROOKE, and I are all deeply devoted to title I, the help for disadvantaged children. The only reason for making any cuts in this bill would represent some effort to defer to the President's desire to bring down the aggregate amount, and that is undoubtedly shared by other Members here. But I do not feel that I can, in good conscience, join in any cut which is deeper than that which I understand has been suggested by Senator BROOKE, bringing the Senate figure down to the House figure.

After all, this represents $2.8 billion. It represents the considered judgment of the subcommittee which is here with this measure. They, too, had very much in mind the exigencies which were faced in this field. Yet, they brought in a figure which was $65 million higher than that of the House.

In deference to the views of my colleagues—and I immediately affirm their fidelity to the substantive purpose as much as mine, and that goes for the mover of the amendment and the managers of the bill—I would not feel that, in good conscience I could stand silent or not vote "no" on a cut which was less than the House figure.

Mr. EAGLETON. I say to my distinguished colleague that I know of his deep interest in educational matters. No one participates more vigorously at all the hearings of the Human Resources Committee than does the Senator from New York City (Mr. JAVITS). Perhaps no city in the world has as severe educational problems as does New York City. Thus, I understand when he says that even the $65 million cut, as suggested by Senator BROOKE, meets with great reluctance on his part.

I suppose no Senator who will participate in this debate will do so with any joy or glee or eagerness or happiness. We are all here with a feeling of reluctance.

However, as I said before Senator JAVITS came to the floor, we are fast approaching a day of reckoning, a day of

reckoning insofar as some livable, tolerable condition is concerned between the viewpoint of Congress and the viewpoint of the adminstration as to the scope and extent of the HEW bill.

I probably would be agreeing with my colleague from New York, Senator JAVITS, were it not for these two facts, which I think bear brief repetition:

No. 1, the Carter budget already calls for a $350 billion increase over the fiscal 1977 budget—a very healthy increase. That is already in the Carter proposal.

I repeat: There is a half-billion dollars in the pipeline that will not be spent in fiscal 1977, but will be spent in fiscal 1978. If we add $350 million and $500 million, it is $850 million more than will be spent in fiscal 1977.

To be quite frank, I think the $65 million figure offered by Senator BROOKE does not really accomplish much at all. I would just as soon leave the figure as it is. I think it would be such a token, miniscule showing of accommodation with the White House that it would not send any meaningful signal to the White House, nor would it even have any significant symbolic meaning.

I could agree with the distinguished chairman, the Senator from Washington, that a cut of three-digit figures—to wit, $100 million—would carry some symbolic significance that would help us begin to travel a road of rational accommodation between Congress and the President. I hope that Senator MAGNUSON, in due time, will offer his $100 million figure as a compromise, and then we can vote on it.

Mr. JAVITS. Mr. President, I do not wish to detain the Senate. I just wish to answer that as follows:

We all agree that the people we are trying to reach are not being served. We all agree that the appraisals of the House and the Senate are higher than the $100 million cut about which Senator EAGLETON speaks. That was much considered.

I would just like to make two added points: One, the influence of inflation on the dollar and what this money can buy. Going back over a period of years, back, say, to 1968, we have had about a 50-percent inflation. So when we are talking about this figure now as compared with previous figures, even with previous figures a year ago, the inflation factor has got to be cranked in, and that makes a very material difference when you are dealing with large sums. Even a 6-percent inflation factor means $180 million in a $3 billion figure, and that is a very very large figure. It just takes in all the things we are talking about. That is point No. 1.

Second, Mr. President, I do not believe we are going to design this bill in such a way that all the President's objections can be met. Some can be met, but not all, and I do not think he is going to veto this bill because this particular item is cut $65 million or $100 million.

So I deeply believe we have got to listen to our own consciences, too. I think Senator BROOKE has gone just about as far as, in all conscience, I feel I could go for whatever it means for one Senator to feel this way, and I think I would like to stand with him.

Mr. BROOKE. Mr. President, I just want the RECORD to show that I am not in favor of any cut from title I to the disadvantaged. I suggested, as a compromise, to cut the $65 million and go back to the House figure because the Senator from Missouri had made such a strong case for fiscal restraint and, as my chairman has said, an attempt to keep this bill at such a level that the President would sign it.

But I have to agree with my colleague from New York. I cannot see the President of the United States vetoing an HEW bill because of the difference in $35 million for the disadvantaged children of this country. I just cannot see it.

It is incomprehensible to me. This is a huge bill. This bill is a $62-billion bill, leaving out the trust funds. With trust funds it is even more than that. It goes over $100 billion. So we are talking about a small amount of money here. We are talking about $165 million over the budget request, but we are talking about only $65 million over the House request.

Now the House has been very conservative in this bill, but they saw themselves the need to increase the title I funds $100 million over the President's budget.

I cannot see why the distinguished Senator from Missouri will call $65 million a minuscule amount. It is a lot of money to me. It is a lot of money to the Senator from North Carolina (Mr. HELMS), I am sure, for title I.

It certainly will mean a lot to those disadvantaged children, and will raise the number served, from the low number who are being served today, to a larger increase than certainly would be true under the Senator from Missouri's amendment.

But I want the RECORD to show I do not favor even a $65 million cut. When we added the $165 million in the Senate, both in the subcommittee and in the full committee, we did so with full knowledge of what we were doing. We knew there was a further need for money for title I. We did it in good faith and we did it in confidence that the President would sign it.

I understand the President is looking for some places to cut back. All I am saying is do not do so here, not on the services to disadvantaged children.

When I made that offer to the distinguished Senator from Missouri which the Senator from New York, I think reluctantly, agreed to go along with—as he serves as the ranking member of the Human Resources Committee which is the authorizing committee for this legislation—it seemed to me not to be just a nonsymbolic gesture, and I assure the Senator it was not a nonsymbolic gesture, it was a good faith attempt to try to find some way in which we could cut back without hurting too much.

But I fear if we go back, either under the Senator from Missouri's amendment or the amendment which he would like the chairman of the subcommittee—the manager of this bill—to offer, we might get hurt in a conference with the House and end up even further back than the House level. That they could come in and accept the Senate version of the bill which, I think, would be disastrous.

Therefore, I would hope the Senator from Washington, our distinguished chairman, would not offer that amendment. I would be compelled to vote against it and ask for a rollcall vote on that, and I think the Senator understands why.

Mr. EAGLETON. Well, just a brief response, Mr. President. Were this the only item in dispute between the Congress and the President, then the Senator from Massachusetts would be completely correct. Were this the only item in disagreement, the President would not veto this bill because of a $35 million difference, that is, the difference, between the Brooke $65 million and the Magnuson $100 million.

But this is not the only item in disagreement. This is one of a whole host of items in disagreement.

As the Senator from Massachusetts said, "There ought to be cuts, but not here." If not here, where? We are $1.8 billion over the Carter budget. Who wants to offer to cut the National Cancer Institute? We have added millions to cancer research. Is there going to be a Brooke amendment to cut the National Cancer Institute? How about the National Eye Institute? Who is going to offer an amendment to cut the National Eye Institute? Is there going to be a Brooke amendment then to cut vocational education funding? If not here, where? Find me a place in this bill where you will cut. If you do not start on this item in the educational budget that has the largest incremental increase of any other educational item, if you do not start with that, where do you start?

We all know that in a "shoot out at high noon," in a "face-down" between the White House and the Congress, somewhere along the line we are going to have to compromise. All of us in this body know that. All of us in this body know that sooner or later we are going to have to reach an accommodation with President Carter and Secretary Califano. I maintain that now is the appropriate time to begin to responsibly face up to this reality.

AMENDMENT NO. 471—APPEAL WITHDRAWN

Mr. HELMS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BROOKE. I yield.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to request that the yeas and nays previously ordered at 2 o'clock be vacated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to request that I withdraw my appeal from the ruling of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Now, Mr. President, I ask unanimous consent that it be in order for me to withdraw my amendment.

The PRESIDING OFFICER. The amendment has fallen on a point of order and is not before the Senate.

Mr. HELMS. I thank the Chair and I thank the Senator.

UP AMENDMENT NO. 567

Mr. BROOKE. Mr. President, I know how strongly the Senator from Missouri feels, and I also know that he, in good faith, is trying to find ways in which we can cut this bill.

I want to assure him that the distinguished chairman and I are also looking for ways in which we can cut the bill.

The Senator said that the Senator from Massachusetts would not introduce an amendment to cut cancer. He is absolutely correct, I would not. We came in with a 12-percent increase in cancer, but we came in with a 15-percent increase in all other NIH divisions.

But we did recommend cuts and I am recommending further cuts: First, $65 million in title I. Second, $32.5 million in maintenance and operations.

The Senator also knows I recommended a cut in Cuban refugees money. I think the Senator voted for the continuation of that money. It is a program we have been supporting for 17 years. It was supposed to be a temporary program. Now, there is a proposal to keep it going for another 10 years, and I recommend that that be cut out and terminated, but the Senator voted against doing that.

There were others who voted against it.

I do not want the record to remain that the Senator from Massachusetts is not looking for places to cut because that just is not true. All I am saying is you do not cut back on title I services to disadvantaged children. I do not think the President wants to cut back on title I services to disadvantaged children.

We could go on and on and debate this case. It is an important factor, to be sure, but I do not think anything really would be served by it at this time.

I feel the case has been strongly made that we ought not to cut back, and if we cut back then let it be known that the administration is doing the cutting back, the administration is cutting back on the services to disadvantaged children.

There are other areas which I could point out where they could cut back if they want this bill reduced, but I do not think this is the place. If they want to do it, then they will just have to muster the votes to do it.

I fear if we cut back here in the Senate and go to the House of Representatives there will be a further reduction and we will take a giant step backwards insofar as title I services to disadvantaged children in this country are concerned.

That is a decision which the distinguished Senator from Missouri will have to make.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I seem to be in the middle here between my friend from Massachusetts and my friend from Missouri.

I think that we can cut a little from this amount for the simple reason that overall it involves $2.8 billion. There is $500 million in the pipeline. We just got those figures recently. That $165 million might be too much, and $65 million might be just a little too little.

So I am going to submit an amendment to the bill to cut this amount $100 million. It is in between.

And also I propose to submit another amendment which would cut $32.5 million in impacted aid, as mentioned by the Senator from Massachusetts, which would give us a total cut right there in those two items of $132.5 million which I think is reasonable.

I do not think we should be too hardnosed about this money one way or another, and I say to my friend from Massachusetts probably when we go to the House of Representatives we are going to come closer to his figure anyway, although there is a possibility, I agree with the Senator from Massachusetts, that they may say, "All right, we will take the cut," as they often do that.

UP AMENDMENT NO. 568

So I propose, first, an amendment to the amendment of the Senator from Missouri making it $100 million.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes unprinted amendment No. 568 to the Eagleton amendment No. 567.

On page 20, line 15, strike "($2,798,750,000)" and insert in lieu thereof "($2,698,750,000)".

On page 20, line 24, strike "$3,246,050,000 and insert in lieu thereof "$3,146,050,000".

On page 21, line 7, strike "($2,798,750,000)" and insert in lieu thereof "($2,698,750,000)".

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. I wish to submit the other amendment to the bill, the $32.5 million, but maybe we could dispose of that right now without a rollcall.

Is that all right?

UP AMENDMENT NO. 569

I propose the amendment on page 21, line 24, strike $802.5 million; on page 21, line 25, strike $744.8 million, on page 22, line 2, insert a period after "act" and delete the remainder of lines 2, 3, and 4.

This would accomplish this $32.5 million in impacted aid for maintenance and operation, the so-called Savings Provisions. That is what the amendment is about, and I hope the Senator will accept it.

UP AMENDMENT NO. 567

Mr. EAGLETON. Mr. President, I ask unanimous consent that my amendment with the Magnuson substitute pending be temporarily laid aside and that the pending order of business be the Magnuson $32.5 million amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I am willing to accept the Magnuson amendment of a cut of $32.5 million.

The PRESIDING OFFICER. The Senator will withhold a moment.

UP AMENDMENT NO. 569

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes unprinted amendment No. 569.

On page 21, line 24, strike "$802,500,000" and insert $770,000,000.

On page 21, line 25, strike "$744,800,000" and insert $712,300,000.

On page 22, line 2, insert a period after "Act" and delete the remainder of line 2 and lines 3 and 4.

The PRESIDING OFFICER. The Senator fram Massachusetts.

Mr. BROOKE. Mr. President, I am prepared to accept the amendment of the distinguished chairman on maintenance and operation costs of $32.5 million, and yield back my time.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 569) was agreed to.

Mr. BROOKE. Mr. President, I ask for the yeas and nays on the Magnuson amendment for $100 million.

Mr. MAGNUSON. $100 million instead of $60 million.

Mr. BROOKE. Title I.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, if I may, I wish to question the Senator from North Carolina if he intends to have his vote on appeal from the Chair at 2 p.m. If not, I ask unanimous consent that the vote occur on the Magnuson amendment at 2 p.m.

Mr. HELMS. Mr. President, as the Senator knows, by previous unanimous-consent request an order for the yeas and nays was vacated.

Mr. BROOKE. I did not hear that. I thought the Senator asked whether it could be.

Mr. HELMS. No. I made such a request, and it was vacated.

Mr. BROOKE. Has the order then been vacated, Mr. President?

The PRESIDING OFFICER. Yes, the order has been vacated.

Mr. BROOKE. Then, Mr. President, I ask unanimous consent that vote occur on the Magnuson amendment at 2 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Carolina reserves the right to object.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. HELMS. Mr. President, I ask the Senator from Massachusetts if it is his understanding inasmuch as I yielded to the Senator from Missouri for his amendment that after the vote the Senator from North Carolina will be recognized to call up a series of amendments.

Mr. BROOKE. Yes. We can vote now.

The PRESIDING OFFICER. We can vote now.

UP AMENDMENT NO. 568

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the name of the Senator from Missouri (Mr. EAGLETON) be added to the so-called Magnuson amendment.

Mr. EAGLETON. That is correct.

Mr. HELMS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Mr. President, I did not hear the Chair state that the Senator from North Carolina would be recognized immediately after the rollcall. Is that understanding correct?

The PRESIDING OFFICER. That is only because the Chair did not hear the request.

The Chair acknowledges that request and the Senator from North Carolina will be recognized.

Mr. HELMS. I thank the Chair.

Mr. BROOKE. Mr. President, I withdraw my unanimous-consent request that the vote occur at 2 p.m., because there is no necessity for it at that time, and would agree to vote immediately.

Mr. EAGLETON. Mr. President, I ask unanimous consent that my name be added to the Magnuson $32.5 million amendment that has previously been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I am prepared to vote on the Magnuson substitute.

The PRESIDING OFFICER. The Chair wishes to know if the Senator from Massachusetts is still requesting the yeas and nays on the Magnuson-Eagleton amendment.

Mr. BROOKE. Yes.

The PRESIDING OFFICER. The question is on agreeing to the Magnuson-Eagleton amendment.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 41, nays 50, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—41

Anderson	Byrd, Harry F., Jr	Church
Bentsen	Cannon	Cranston
Bumpers	Chiles	Curtis
Burdick	Eastland	Eagleton
Garn	Johnston	Proxmire
Gravel	Long	Scott
Griffin	Magnuson	Sparkman
Hansen	McClure	Stennis
Hatch	McIntyre	Stevens
Hayakawa	Metcalf	Stevenson
Helms	Morgan	Talmadge
Huddleston	Nelson	Thurmond
Jackson	Nunn	Young
	Percy	Zorinsky

NAYS—50

Allen	Hart	Moynihan
Baker	Haskell	Muskie
Bayh	Hatfield	Packwood
Bellmon	Hathaway	Pearson
Biden	Heinz	Pell
Brooke	Hollings	Ribicoff
Byrd, Robert C.	Humphrey	Roth
Case	Inouye	Sarbanes
Chafee	Javits	Sasser
Clark	Kennedy	Schmitt
Culver	Leahy	Schweiker
Danforth	Lugar	Stafford
DeConcini	Mathias	Stone
Dole	Matsunaga	Tower
Domenici	McGovern	Wallop
Durkin	Melcher	Williams
Glenn	Metzenbaum	

NOT VOTING—9

Abourezk	Goldwater	Randolph
Bartlett	Laxalt	Riegle
Ford	McClellan	Weicker

So Mr. MAGNUSON's amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 567

The PRESIDING OFFICER The question recurs on amendment No. 567.

Mr. MAGNUSON. That amendment reduced——

SEVERAL SENATORS. Mr. President, we cannot hear.

The PRESIDING OFFICER. The Senate will be in order. The question is on the amendment.

Mr. MAGNUSON. The amendment of the Senator from Missouri, Mr. President?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. What is the amendment of the Senator from Missouri?

Mr. MAGNUSON. To cut $165 million.

The PRESIDING OFFICER. It is amendment No. 567.

Mr. EAGLETON. It would cut the $185 million. The Magnuson substitute to cut the $100 million having failed, my amendment cutting the $165 million is before the body and I presume we will hear from the Senator from Massachusetts (Mr. BROOKE).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, since we have debated this amendment at great length and the Senate has voted its will on the amendment of the Senator from Washington, I would ask the Senator from Missouri if he would withdraw his amendment to cut title I funds by $165 million and substitute therefor an amendment for $65 million, which amendment I would be willing to support and hopefully we could take it on a voice vote.

Mr. EAGLETON. That would be fine, and I would be pleased to be a cosponsor of a Brooke amendment.

Mr. BROOKE. I would rather have it called the Eagleton amendment, Mr. President.

Mr. MAGNUSON. If nobody wants the honor, I will take it.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Does the Senator want to propose it as a substitute?

Mr. BROOKE. That is correct.

Mr. EAGLETON. The Senator proposes as a substitute to mine a cut of $65 million, with the figures to be appropriately conformed.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BROOKE. Yes.

Mr. JAVITS. Mr. President, I do not wish the Senator to stand alone in this.

The PRESIDING OFFICER. The Senate will be in order.

If the Senator from Massachusetts has a substitute amendment, will he send it to the desk?

Mr. BROOKE. Yes, we shall send it up.

Mr. JAVITS. Mr. President, I would not wish the Senator to stand alone in this matter. I do not misconstrue the view of the Senate, either. I think the Senate voted against the $100 million because it thought that cut was too large.

I have spoken to a great many Members. I think they feel there should be some cut. I am sorry to see it. I think it is most regrettable. But I think Senator BROOKE is doing exactly what he should do in proposing the $65 million cut. I should like to support him and share the responsibility.

Mr. BROOKE. I thank my courageous colleague from New York.

Mr. President, with a heavier heart than the Senator from Missouri had when he submitted his amendment, I submit the substitute amendment which would reduce it by $65 million. I accept the Senator from New York as a cosponsor of that amendment.

Mr. JAVITS. All right.

Mr. PELL. Will the Senator yield for a unanimous consent request?

Mr. BROOKE. Yes.

Mr. PELL. Mr. President, I ask unanimous consent that the privilege of the floor be accorded to Jean Frohlicher and Peter Harris.

The PRESIDING OFFICER. Without objection, it is so ordered.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted to the following staff members:

Mr. KENNEDY, Jack Leslie; Mr. CANNON, Kelton Abbot; Mr. GLENN, Reginald Gilliam; Mr. BENTSEN, Gale Picker; Mr. DECONCINI, Jerry Bonham; Mr. CHAFEE, Lee Verstandig, and Fran Paris; Mr. WALLOP, Deral Wiley; Mr. EAGLETON, Marsha McCord.

Mr. MAGNUSON. Mr. President, that is all the staff members that are available, is it not? All of them. We should have had a blanket request, to let everybody in, en bloc, on this particular bill. I wish there were more Senators here, but the staff is adequately represented.

Mr. BROOKE. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona (Mr.

DECONCINI) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. I should like to be listed as a cosponsor.

Mr. BROOKE. I ask unanimous consent that the distinguished Senator from Missouri (Mr. EAGLETON) and the distinguished Senator from Washington (Mr. MAGNUSON) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 570

The clerk will state the substitute amendment.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes unprinted amendment No. 570.

Mr. BROOKE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 15, strike "($2,798,750,000)" and insert in lieu thereof "($2,733,750,000)".

On page 20, line 24, strike "$3,246,050,000" and insert in lieu thereof "$3,181,050,000".

On page 21, line 7, strike "($2,798,750,000)" and insert in lieu thereof "($2,133,750,000)".

Mr. BROOKE. I think all my colleagues understand that this is a cut of $65 million from title I of this bill. Mr. President, I am prepared to yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

INTERNATIONAL TRADE COMMISSION

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6370.

The PRESIDING OFFICER. (Mr. MOYNIHAN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 6370) to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the chairman and vice chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LONG. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. ROTH, and Mr. PACKWOOD conferees on the part of the Senate.

EXTENSION OF TIME FOR COMMITTEE ON FOREIGN RELATIONS TO FILE REPORT

Mr. SPARKMAN. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. HELMS. I yield.

Mr. SPARKMAN. Mr. President, on April 1, 1977, the Official Conduct Amendments of 1977 (S. Res. 110) was adopted by the Senate. That resolution contained the following provision:

SEC. 305. (a) The Committee on Foreign Relations shall review the problem of travel, lodging, and other related expenses provided to Members, officers, or employees of the Senate paid for by foreign governments in the situation where it is not possible to procure transportation, lodging, or other related services or to reimburse the foreign government for those purposes.

(b) the Committee shall report the results of its review under subsection (a), together with its recommendations, to the Senate within *ninety days* after the day on which this resolution is agreed to.

The 90-day requirement of that section will expire next Thursday, June 30, 1977. However, within the next 2 weeks, the Senate and House conferees will be meeting to resolve the differences between the House and Senate versions of the Foreign Relations Authorization Act of 1978 (H.R. 6689). Section 458 of the Senate-passed version of that legislation addresses the entire area of foreign gifts and decorations including the acceptance of travel paid by foreign governments.

It is my hope that the Senate will grant the Foreign Relations Committee an additional 30 days to submit the report required in section 305 of Senate Resolution 110. This extension of time will permit the committee to consider adequately the results of the conference on H.R. 6689 in the preparation of its report. It is also my understanding that the Senate Select Committee on Ethics, the committee charged with primary responsibility concerning the Senate rules governing the receipt of gifts, has no objection to granting the Foreign Relations Committee this extension of time.

Therefore, I ask unanimous consent that the Senate grant the Foreign Relations Committee an additional 30 days within which time it may submit the report required by section 305 of Senate Resolution 110.

Mr. ROBERT C. BYRD. Reserving the right to object, has this been cleared with the distinguished Senator from Illinois?

Mr. SPARKMAN. It has been cleared with the Committee on Ethics, yes.

Mr. ROBERT C. BYRD. Then I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEE TO FILE REPORT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be given until midnight tonight to file its report on S. 1307.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AMENDMENT—S. 9

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the OCS bill is called up and made the pending business, there be a time limitation of 4 hours to be equally divided between Senator JACKSON and Senator HANSEN, that there be a time limitation on any amendment of 2 hours, a time limitation on any amendment to an amendment of 30 minutes, with one exception, that being an amendment by Mr. DURKIN with respect to the study of oil and gas reserves on which there be a 2½-hour time limitation, that there be a time limitation on any debatable motion or appeal of 30 minutes, and that the agreement be in the usual form, with the further proviso that the majority leader may call up the measure at any time after the July 4 holiday.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, this agreement was worked out with some care on both sides of the aisle.

It is my understanding that there is no objection to that arrangement. The only question I would have and I would ask for further clarification on is the amendment to be offered by Senator DURKIN.

Do I understand it is for oil and gas study? Specifically, would that not include then a proposal for, say, oil and gas divestiture?

Mr. ROBERT C. BYRD. It will not. I can assure the Senator of this because I would be opposed to that myself.

Mr. BAKER. All right.

Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in further modification of the agreement I ask unanimous consent that the vote occur not later on final passage of that bill, with paragraph 3 of rule XII waived, than 6 o'clock on the second day of consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That at any time following the July 4th Non-Legislative Period, it be in order for the Majority Leader to call up S. 9 (Order No. 262), a bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, and that debate on any amendment in the first degree (except an amendment by the Senator from New Hampshire (Mr. Durkin), relative to a study of oil and gas reserves, on which there shall be 2½ hours) shall be limited to 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his desig-

nee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill (which shall occur no later than 6 p.m. on the 2d day of consideration), debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Washington (Mr. Jackson) and the Senator from Wyoming (Mr. Hansen): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

LABOR-HEW APPROPRIATIONS

The Senate continued with the consideration of H.R. 7555.

Mr. MAGNUSON. Mr. President, will the Chair put the question?

The PRESIDING OFFICER. The question is on agreeing to the Brooke substitute for the Eagleton amendment.

The amendment was agreed to.

Mr. EAGLETON. I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Eagleton amendment as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized.

The Senator from North Carolina has the floor.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HELMS. Yes, I yield.

Mr. BROOKE. Mr. President, I ask unanimous consent that there be a time limitation on this amendment of 10 minutes for each side, a total of 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 470

Mr. HELMS. Mr. President, I call up amendment No. 470 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be sated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes amendment No. 470.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . None of the funds appropriated under this Act which are made available to students as scholarships, loans, grants, wages, or in any other form; or made available to any institution of higher education for payment to or on behalf of students admitted to such institution shall be held and considered for any purpose as Federal financial assistance made available to such institution itself.

Mr. HELMS. Mr. President, thousands of college students today face the possible loss of Federal financial assistance due to the arbitrary actions of HEW officials. HEW has decided to terminate Federal assistance; including scholarships, loans, grants, wages and veterans' benefits, to every student attending a college which has failed to comply with its rules and regulations. That means, Mr. President, that if one student receives benefits from the Federal Government, HEW assumes command of that institution.

This decision to substantially injure the educational career of thousands of students as a means of resolving disputes with college administrators is profoundly unfair. It completely lacks congressional authorization and should not be tolerated. The bottom line is that students should not be pawns in this new bureaucratic game which the HEW bureaucrats play.

There are hundreds of small, private colleges throughout the United States. These colleges are vital to the education of millions of Americans and their contribution to diversity in the American educational experience is substantial. These colleges highly prize their long traditions of independence and some have even refused to accept any Federal financial assistance in order to preserve that autonomy.

Hillsdale College in Hillsdale, Mich., is representative of many small colleges in its desire to maintain that independence. Its plight at the hands of Federal bureaucrats recently was the subject of a commentary by Nicholas von Hoffman. I think it is worthwhile to ponder what Mr. von Hoffman said.

Mr. von Hoffman wrote the following:

Some years ago, (Hillsdale College) decided that the Federal Government might not be the fount from which all blessings flow and refused to accept any financial help. No dormitory loans, no research grants, no funds for this kind of special program or that sort of exciting breakthrough experiment. Hillsdale did not want to be bossed. . .

Moreover, where other schools spend a fortune keeping the books to satisfy the whims of the General Accounting Office, Hillsdale can administer itself at a low cost the way it wants. . .

But now a threat has come to Hillsdale. The government has found what it apparently hopes is a way to put the college under its regulatory net. HEW has decreed that Hillsdale is a "recipient institution," although it takes no government money, on the grounds that the Hillsdale students, as individuals, do receive federal student loans and veterans' benefits which make it possible for them to attend college.

As a recipient institution, Hillsdale would have to have HEW's affirmative action program and all the requirements that Washington imposes on colleges and universities.

Not that the school is opposed to admitting blacks or females, (Hillsdale President George) Roche points out that Hillsdale, founded in 1844, was doing so before the Civil War. The student body is evenly divided male-female with 3.5 percent blacks, most of whom are scholarship students.

The college also has students from 28 nations, all of which suggests that Roche isn't speaking with forked tongue when he says the school is resisting as a matter of principle. It wants to stay free.

To resist, the board of trustees has passed a resolution saying that the college "will hold to its traditional philosophy of equal opportunity without discrimination by reason of race, religion, or sex but such nondiscrimination will be voluntary," and if that means no more government tuition help, then Hillsdale will take up the beggar's cup and try to find more money for scholarships.

Mr. President, what Nicholas von Hoffman has said about Hillsdale is true all across this country.

I have discussed earlier on this floor today and days previous the alarming statistics involved in Federal control, Federal domination, of our colleges and universities.

Mr. President, $3 biliion a year is spent by the colleges and universities just to respond to Federal regulation and redtape. That happens to be exactly equivalent to the total amount of the private funds raised by the colleges and universities in a year's time.

Moreover, Mr. President, I referred earlier today to Duke University, a very fine university in my State of North Carolina.

Can we believe it, Mr. President, that Duke University spends $500 a year per student per year just to respond to Federal redtape?

That is precisely the figure; $500 per year per student. The Senator from North Carolina submits that is too much redtape, too much regulation, too much Federal control, and that is what this amendment is all about.

Mr. President, there should be room in the American education system for Hillsdale and the hundreds of small private colleges like it. Year after year, bureaucratic regulation becomes more excessive and more stifling to that creative balance necessary for the unencumbered pursuit of knowledge that has been the hallmark of American college life. Today we have come very close to the point when bureaucrats at HEW can demand of these small colleges: "Either accept Federal regulation and its consequences or we will make it impossible for you to exist."

That is what it amounts to. That is what this amendment addresses itself to.

Congress can act now to remedy this situation. Today we are voting on an appropriation act. We are appropriating money to be extended to colleges as Federal financial assistance to those institutions and we are also appropriating money to be extended to students as Federal financial assistance to those individuals. It is entirely proper, Mr. President, for Congress in this appropriations act to appropriate those funds in such a manner so as to avoid any confusion or misunderstanding on the part of HEW bureaucrats that money appropriated for the one purpose can be considered by them to have been appropriated for some other purpose.

Mr. President, I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HELMS. Yes, of course. I am delighted to yield to my friend.

Mr. CRANSTON. Mr. President, I ask

unanimous consent that during Senate consideration of H.R. 7555, the Labor-HEW Appropriations bill, Jon Steinberg of the Veterans Affairs Committee staff and Gary Sellars and Fran Butler of the Human Resources Committee staff have full access to the floor, including during rollcall votes, and all stages of the proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from California (Mr. HAYAKAWA) be added as a cosponsor, and I yield to him the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I would like to speak in support of the amendment offered by my distinguished colleague from North Carolina (Mr. HELMS).

I believe there is a very important distinction to be drawn when HEW makes grants as to who is the recipient of a grant that is offered to a student to help him get through college.

If, indeed, HEW has decided the college the student goes to is a recipient institution and, therefore, comes under the directives of HEW and has to accept those controls, then it seems to me this is a real misreading of the ultimate intent of scholarship and other financial aids for students.

Such moneys are really intended for the student as recipient, not the institution.

I am rather sensitive on this point because at San Francisco State College as one of the presidents of the California State University system, we had to undergo considerable lecturing on the part of extremely arrogant agents of HEW who presumed to tell us what was moral and what was not moral in the treatment of our minority students.

I and my own faculty were extremely offended by these remarks because, as a college dealing with minority students ever since its inception in 1899, we at San Francisco State had enormous experience in what is just, what is proper, to enhance opportunity for minority students, what to do for the economically handicapped, and so on. And when HEW came to dictate to us what is moral and not moral, as I say, we were deeply offended, we were absolutely outraged. But they said, "If you don't follow our guidelines, we withhold this, that and the other funds from your institution."

All this got us into the expensive program already described in which hundreds of dollars per student were spent just writing reports and going over the records of all our students and all our faculty to discover what were our hiring and admission practices in faculty and staff, and so on.

It was an enormous waste of time and an enormous waste of money, especially the taxpayers' money; but, also, it seemed to me that it was a limitation on the freedom of the student, when the student was threatened with the withdrawal of the scholarship funds if he went to a college which did not choose to follow HEW guidelines and was preoccupied with promoting its own sense of racial justice.

Apparently, from what the Senator from North Carolina says, Hillsdale College has its own definition of social justice, as we did.

I, not having had the experience, did not institute a program to fight HEW at that time, when I was President of San Francisco State. I am very sorry I did not have the education or the background to be able to fight them in the proper way, but I am glad to see this opportunity now.

I believe that a student who is deserving of financial aid to go to college should go to the college of his choice, in any accredited institution, including Hillsdale College, which does not choose to go by HEW guidelines and spend all the money and manpower necessary to report that it is following those guidelines.

If a student wants to go to San Francisco State or Stanford or East Texas State University, at Commerce, Tex., it does not matter. It is the student's choice. If the Government chooses to subsidize students by such grants in aid, I believe the students should have the freedom to go wherever they wish, without the institution suffering therefrom or without the student suffering therefrom.

Mr. HELMS. I thank the Senator from California.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. BROOKE. Mr. President, this amendment would restrict HEW from using students' aid as a lever to enforce title VI of the Civil Rights Act. Courts already have ruled that student aid is Federal aid for civil rights enforcement purposes.

I could debate this amendment at great length with the distinguished Senator from North Carolina, now joined by the distinguished Senator from California. However, as in the other amendment which was offered, which was similar in its direction to this amendment, I am compelled to raise a point of order. I do so reluctantly, whenever I raise a point of order; but I have indicated that I will consistently raise a point of order on these matters which are, in my opinion, legislation on appropriation bills.

So I raise the point of order, Mr. President, on the ground that this is legislation on an appropriation bill.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. MAGNUSON. I join the Senator. It seems to me that the new amendment by the Senator from North Carolina does exactly the same thing that he had in the other amendment. Again, it is legislation on an appropriation bill. It belongs in a legislation committee, and while I might be for it, it does not belong here.

The PRESIDING OFFICER. The Chair rules that the point of order is well taken. The amendment does contain——

Mr. HELMS. I raise the question of germaneness, Mr. President.

The PRESIDING OFFICER. The Chair has ruled that the point of order is correct, and it is too late for the question of germaneness to be moved.

Mr. HELMS. The able occupant of the Chair had not finished ruling, and I raised the question of germaneness. The Chair was still in the process of ruling.

I raise the question of germaneness, Mr. President. I suggest that the Chair did not finish.

The PRESIDING OFFICER. The Chair does not wish to insist upon its ruling. The Senator raises the question of germaneness.

Under rule XVI, the Chair submits that question to the Senate, without debate.

Mr. HELMS. I thank the Chair for its courtesy.

The PRESIDING OFFICER. The question is whether the amendment is relevant.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is whether the amendment of the Senator from North Carolina is relevant. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The yeas and nays resulted—yeas 33, nays 62, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—33

Allen	Griffin	Nunn
Baker	Hansen	Roth
Bellmon	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Scott
	Hayakawa	Sparkman
Chiles	Helms	Stennis
Curtis	Johnston	Thurmond
Dole	Laxalt	Tower
Domenici	Long	Wallop
Eastland	Lugar	Zorinsky
Garn	McClure	
Goldwater	Morgan	

NAYS—62

Abourezk	Culver	Javits
Anderson	Danforth	Kennedy
Bayh	Durkin	Leahy
Bentsen	Eagleton	Magnuson
Biden	Glenn	Mathias
Brooke	Gravel	Matsunaga
Bumpers	Hart	McGovern
Burdick	Haskell	McIntyre
Byrd, Robert C.	Hathaway	Melcher
Cannon	Heinz	Metcalf
Case	Hollings	Metzenbaum
Chafee	Huddleston	Moynihan
Church	Humphrey	Muskie
Clark	Inouye	Nelson
Cranston	Jackson	Packwood

Pearson	Sarbanes	Stone
Pell	Sasser	Talmadge
Percy	Schweiker	Weicker
Proxmire	Stafford	Williams
Randolph	Stevens	Young
Ribicoff	Stevenson	

NOT VOTING—5

Bartlett	Ford	Riegle
DeConcini	McClellan	

The PRESIDING OFFICER (Mr. MOYNIHAN). The Chair will now rule on the point of order. The amendment having been held nongermane, the point of order has been made that the amendment contains legislation in an appropriation bill. The Chair rules that the point of order is well taken.

Mr. BROOKE. Mr. President, I ask unanimous consent that on the amendment to be offered by the Senator from North Carolina and cosponsored by the distinguished Senator from California there be a time limitation of 25 minutes to each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I yield to Senators for unanimous consent requests.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members:

Mr. BELLMON, Robert Boyd, Robert Fulton, Dick Hargis, Barry Kinsey, Charles McQuillen; Mr. KENNEDY, Jay Urwitz, Christine Burch; Mr. ANDERSON, Sandy Wallace, Andy Kozak; and Mr. MCCLURE, Jim Streeter.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. I believe there is a previous order that I will be recognized for a series of amendments. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I ask unanimous consent that I may yield to the Senator from California to call up an amendment to be cosponsored by the able Senator and the Senator from North Carolina, and that I be recognized after resolution of his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

AMENDMENT NO. 473

Mr. HAYAKAWA. Mr. President, I call up my amendment No. 473 to H.R. 7555 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) for himself and Mr. HELMS proposes amendment numbered 473.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 21, insert the following new section:

SEC. 211. None of the funds appropriated in this Act may be obligated or expended in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order issued by the Secretary of Health, Education, and Welfare which for purposes of compliance with any timetable, goal, ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admissions policies or practices of such individual or entity.

Mr. HAYAKAWA. Mr. President, today I call upon my colleagues in the Senate to take affirmative action against discrimination based upon race, creed, sex, and national origin.

Affirmative action, I say, not passive acceptance of divisive, discriminatory, and unfair practices fostered, indeed, decreed by the Department of Health, Education, and Welfare. I am referring, of course, to HEW's entrenched policy of forcing upon the schools and businesses of this country a curious form of bigotry—as if bigotry in all its forms were not curious—which actually requires employers and admissions officers to take into account a person's race or sex in their decisions. It does not matter whether this be called a quota system, a minority ratio plan, a goal, a timetable, or numerical representation. What it boils down to is treating some people more favorably, and treating others less favorably, because of the shade of their skin, the nationality of their parents, or the gender of their chromosomes.

I really thought that, as a nation, we had put all that behind us. In fact, not too many years ago, laws were passed in this very Chamber to forbid that kind of discrimination. And now, the Federal Government, through the regulatory authority of HEW, insists upon the very kind of discrimination outlawed by the Civil Rights Act of 1964.

I do not think anyone has been deceived by recent assurances on the part of Secretary Califano—whose own ethnic origin, one would hope, has taught him the evils of discrimination—that his Department does not support racial or sexual quotas in employment and education. There is no functional difference between a quota on the one hand and, on the other, goals and timetables and all the other evasive means which are being used to camouflage discrimination and reimpose quotas. In the hands of HEW, it is only the difference between a gloved fist and bare knuckles.

I ask my distinguished colleagues of the Senate to consider for a moment how they would feel if they received a letter in the mail, inviting them to accept a teaching job at a particular institution because their skin color was underrepresented on the faculty of that institution. It happens.

How would we feel if we applied for a position at a university, received an enthusiastic response from the school, appeared there for an interview, and found our potential employers visibly distressed that we were not the right color. That happens too.

And the curious fact is that this is not in defiance of the law. It is in compliance with HEW's regulations which, in one way or another, require its grantees to give preferential treatment in employment and admissions to members of groups which have, in the past, suffered from discrimination. Or rather, some such groups which have suffered from discrimination but not all of them.

HEW has not seen fit to consider as minorities many ethnic and cultural groups whose members have nonetheless suffered past discrimination in our society. If your name is Pulaski or Slechta or Horvath or Chakiris or Gedra or, for that matter, Califano, you cannot be included in affirmative action programs, except as a victim. If your name is O'Brien or Odgaard or Oberholtzer, you have no recompense for past discrimination you may have suffered. If my name were Heifitz or Humboldt or Hlatki, I could be denied a job, a promotion, or a place in college in favor of someone less qualified than I whose name happens to be Hayakawa.

All this in the name of justice.

We all know where HEW stands on this matter. And we know where the American people stand: In a recent Gallup poll, by a margin of 8 to 1, they affirmed their belief that ability, rather than preferential treatment, should be the main consideration. Among women, 82 percent feel that way; and among nonwhites, fully 64 percent want ability, rather than other considerations, to determine hiring and job advancement. What we do not know is where the Congress stands.

It is not easy for me to say this, because I respect this body and admire my colleagues in it. But the unpleasant truth is that, time and again, we have allowed the Federal bureaucracy to openly thwart our will. The Congress did not see fit in 1964 to mandate affirmative action programs by law, and we should not allow the executive branch to do the same thing by regulation. Unless we act clearly and forcefully now, we run the risk of having the public and the courts mistake our inaction for approbation. We cannot escape our final accountability for whatever the bureaucracy does in our name.

The amendments which I and several of our colleagues are offering today to the Labor-HEW appropriations bill specifies that none of the funds for HEW can be used in any way to mandate hiring and promotion policies, or admissions practices of any individual or entity. It would, in effect, prohibit the Department from requiring quota systems even when they are disguised as timetables, goals, or ratios. The Secretary could not force discriminatory practices upon the American people through "any rule, regulation, standard, guideline, recommendation, or order." I did not include in that list "ukase," because that is defined as a royal proclamation from a czar, and HEW does not have a czar to rule us.

I realize, Mr. President, that my amendment will meet with opposition. And before we hear from the advocates of affirmative action programs, I would like to offer this one note of caution. Before any of us extolls HEW's mania for quotas, let us look to our own office

staffs. How many of us are in full compliance with HEW's guidelines? I know, I know, they do not apply to the Congress. What is good enough for the rest of the country is not good enough for Capitol Hill. We enacted some new Senate rules this year, which forbid discrimination in hiring. But how many offices are engaging in affirmative action to put their own houses in order?

It is possible—indeed, in the opinion of many persons, it is probable—that the Supreme Court, in its decision in the Bakke case, will soon drastically curb HEW's penchant for discriminatory practices. I am sure that everyone here is aware of the issues in the Bakke case. An applicant to a medical school in California was denied admission because he was the wrong color—in other words, because school authorities gave preferences to other, less qualified applicants solely on the grounds of their race. The California State Supreme Court struck down that discriminatory system, and the Supreme Court of the United States may well agree.

But how fitting it would be if the Congress, which found the courage to enact the Civil Rights Act of 1964, would now summon up the strength to teach HEW the true meaning of that law. Its true meaning was that the American Republic, having at least overcome its weaknesses, wrote into law the fundamental decency of its people by requiring that we be blind to color and sex and creed and national origin in our business dealings with one another.

That was a noble decision in 1964. Its reaffirmation would be a noble decision by the Congress today.

Mr. President, I yield to the distinguished Senator from North Carolina.

Mr. MOYNIHAN. Mr. President, will the Senator from North Carolina yield for a unanimous-consent request?

Mr. HELMS. I yield.

Mr. MOYNIHAN. I ask unanimous consent that Judy Bardacke of my staff be accorded the privilege of the floor during the remainder of debate on this measure.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

Mr. HELMS. Mr. President, how much time remains to the proponents of the amendment?

The PRESIDING OFFICER. Fifteen minutes.

Mr. HELMS. I thank the Chair.

Mr. President, I commend the able Senator from California (Mr. HAYAKAWA) for his comments on behalf of the amendment which he and I are jointly sponsoring. He is correct. America's colleges and universities are indeed laboring under a staggering amount of Federal regulation. Federal bureaucrats are producing a constant flood of new and revised laws, regulations, and guidelines that often leave college administrators confused, frustrated, and exhausted.

Recently, the Southern Association of Colleges and Schools studied the impact of Federal regulation on its member colleges. The report found that the cost of compliance with Federal regulations required some institutions to spend as much as 50 cents to administer every Federal dollar received. Others stated—get this, Mr. President—that they must spend more to comply with Federal regulations than they do to operate many of their academic departments.

By far, the greatest cause of this flood of Federal regulations affecting higher education is the social engineering of Federal bureaucrats. And by far the greatest segment of these regulations has concerned the use of affirmative action quotas and goals.

Historically, the concept of affirmative action first surfaced in Executive Order No. 11246, issued by President Lyndon Johnson in the wake of the Civil Rights Act of 1964. It requires employers to "take affirmative action to ensure that (people) are treated—without regard to their race, color, religion, sex, or national origin." However, Federal agencies administering this Executive order have failed to articulate a constitutionally proper meaning for "affirmative action" which is consistent with the intent of Congress in its landmark civil rights legislation.

The legislative history of the Civil Rights Act of 1964 clearly shows the intent of Congress to outlaw preferential employment practices. For example, the able Senator from Minnesota (Mr. HUMPHREY), who was then majority whip, maintained that:

> The proponents of the bill have carefully stated on numerous occasions that Title VII does not require an employer to achieve any sort of racial balance in his work force by giving preferential treatment to any individual or group. (110 Cong. Rec. 14331.)

That is a matter of record. Senator HUMPHREY will confirm it, I am sure.

But, despite this intent of Congress to prohibit discriminatory practices through the use of numerical quotas and goals, Federal bureaucrats have interpreted "affirmative action" as requiring quotas and goals.

Under the present bureaucratic formulation, affirmative action is, in reality, as the Senator from California has stated, affirmative discrimination. Within the academic community it has created a system of reverse discrimination. Affirmative action quotas and goals inescapably produce a situation where discrimination is commonplace. Edward Levi, former U.S. Attorney General and past president of the University of Chicago, rejected HEW's claims that the "hiring goals" it repeatedly imposes are different than numerical quotas. He said: "The country has been on a program where affirmative action, requiring the statement of goals, is said with great profoundness not to be the setting of quotas." But, he concluded, "it is the setting of quotas."

Proponents of discriminatory quotas and goals have been partially successful in blurring the distinction between nondiscrimination and affirmative action. In a classic example of Orwellian "newspeak" the Department of Labor characterized affirmative action as part of an employer's larger obligation not to discriminate. This confusion between nondiscrimination and affirmative action has promoted a system in which discrimination is being institutionalized under the guise of a nondiscrimination program.

The interpretation of affirmative action as requiring quotas and goals is not compelled by any executive order. Nor is it mandated by any act of Congress. Instead, discrimination through the use of quotas and goals is a bureaucratic creation, and this is the point the Senator from California and I are making with this amendment.

Affirmative discrimination is being promoted as the only practical response to discrimination. To the contrary, there are many Federal and State laws which prohibit discrimination in almost every area of life including education, employment, and accommodations. The continued vigorous enforcement of these laws has been the most effective method of eliminating discrimination in the recent past and is still the most effective method today.

Just as affirmative discrimination is legally unnecessary to promote equal opportunity for minorities in higher education, it is also unnecessary as a practical matter. Prof. Thomas Sowell of UCLA, the noted black economist, observes that contrary to the myths fostering affirmative action plans,

> The effect of the straightforward anti-discrimination laws of the 1960s and of the general drive toward racial integration had created a premium for qualified black academics, even before HEW's goals and timetables. Moreover, the improvements that have occurred since then need not be due to HEW pressures but may be thought of as a continuation of trends already evident before affirmative action programs began.

The cost of implementing Federal regulations adversely affects minority and low-income students. For example, at Duke University the cost per student of implementing federally mandated social programs has increased from $58 in 1968 to $451 in 1975.

The cost today is over $500 per year per student at Duke University. This is a statistic which I hope Senators will ponder carefully. The poor and the minorities are being deprived by this folly.

The cost of compliance has affected other private universities even more drastically. To take another example, the cost at Georgetown University has risen from $16 per student in 1965 to $356 in 1975.

I do not know what it is for 1977, but I would be willing to wager it is far in excess of $400 per year per student in Georgetown University.

This increase in the cost of attending college most adversely affects minority and low-income students. If they start off, Mr. President, having to pay $500, approximately. per year per student for Federal regimentation, where does that send the price of education? Who is being hit the hardest? The minority and low-income students, of course.

These students can least afford any increase in the cost of attending school. They are most dependent upon financial aid. The millions of dollars which are today spent implementing Federal regulations could instead provide thousands of students with a college education.

Mr. President, in closing I would like to share part of an open letter to President Carter, sponsored recently by the Committee on Academic Nondiscrimination and Integrity. In it, over 40 prominent educators describe quotas and preferential treatment as illegal, unconstitutional, and shortsighted.

The signers of the letter include Dr. Sidney Hook, of the Hoover Institution, Prof. Nathan Glazer, of Harvard University, Prof. Valerie Earle of Georgetown, Prof. Eugene Rostow of the Yale Law School, Prof. Maurice Rosenberg of Columbia Law School, Prof. Paul Seabury of the University of California at Berkeley, and Prof. Allan Ornstein of the University of Chicago. The letter reads, in part, as follows:

DEAR MR. PRESIDENT: According to the New York Times of March 18, 1977, Secretary Califano of H.E.W. has enthusiastically endorsed racial and sexual discrimination which we believe to be unjust and illegal. In offering his support to racial quotas and preferential policies in hiring and admissions, your Secretary has bid defiance to the Civil Rights Act of 1964, to Executive Order 11246, to the Equal Protection Clause of the Constitution of the United States as interpreted consistently by the Supreme Court, and to basic principles of Civil Rights. . . .

Many of us have long felt that the so-called "goals and timetables" programs were in reality discriminatory quota programs, masked to conceal their illegality. We owe Secretary Califano thanks for the candor with which he announces his support for racial and sexual discrimination. But candor cannot atone for flagrant defiance of law, . . . In one stroke, Secretary Califano proposes to arrogate to himself the power to determine who shall and who shall not enjoy equality of opportunity in our country, and reduces the constitutional rights of all citizens to privileges bestowed at the caprice of government. . . .

We note with dismay Secretary Califano's justification of discrimination, namely that it "works." Of course, discrimination "works." It benefits the favored groups and damages the others. . . . But let us assure you as educators, Mr. President, that discrimination has never and will never work to produce the best possible education for all Americans, and let us assure you as citizens that it has always worked to destroy justice and fairness and has always created cynicism, conflict and more discrimination . . .

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I yield myself such time as I may require.

Mr. President, I oppose the anti-affirmative action amendment to H.R. 7555, the fiscal year 1978 Labor-HEW appropriations bill. This section is an attempt to circumvent the Constitution by precluding the Department of Health, Education, and Welfare from enforcing title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, and from carrying out its responsibilities under Executive Order 11246. The Hayakawa-Helms amendment would prohibit HEW from expending any funds in connection with the implementation or enforcement of certain civil rights requirements relating to the employment or admissions policies of institutions receiving Federal grants or contracts.

The amendment to H.R. 7555 states:

None of the funds appropriated in this Act may be obligated or expended in connection with the issuance, implementation or enforcement of any rule, regulation, standard, guideline, recommendation or order issued by the Secretary of Health, Education and Welfare which for purposes of compliance with any timetable, goal, ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or

(2) the admissions policies or practices of such individual or entity.

The apparent effects of the amendment would be threefold.

First, it would limit severely the enforcement of Executive Order 11246, which prohibits discrimination by Federal contractors. Under Executive Order 11246, Federal contractors are required to adopt an affirmative action plan designed to insure that the contractor does not discriminate on the basis of race, sex, et cetera, and is making a reasonable effort to employ minorities and women in proportion to their availability in the labor force. Where the contractor fails to meet established standards relating to the employment of such individuals, the contractor's affirmative action plan must establish certain timetables and goals to increase the employment of minorities and women.

However, HEW does not take any enforcement action against such a contractor to obtain "compliance" with any such timetables or goals. HEW takes action only if it determines that the contractor has not made a good-faith effort to meet its timetables and goals. While the amendment does not precisely address this type of enforcement action, it does speak in terms of prohibiting HEW, for purposes of complying with goals and timetables, from requiring a recipient "to comply" with any ratio, quota, or other numerical requirement respecting hiring or promotion policies or practices. The amendment would significantly restrict HEW's authority to enforce Executive Order 11246.

Second, the amendment would prohibit HEW from requiring certain types of remedial action by recipients who have been determined to be in violation of either title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs, or title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in federally assisted education programs. Where recipients are found to have discriminated in violation of those statutes, remedial action may be necessary to overcome the effects of past discrimination. The case law under title VII of the Civil Rights Act and the Executive order makes it clear that goals and timetables are an appropriate means of correcting past discrimination. As in the case of the Executive order, HEW does not attempt to enforce compliance with numerical requirements as such, but looks to the policies and practices of the recipient to determine if a good-faith effort has been made to eradicate the effects of past discrimination.

Because the proposed amendment is apparently intended to prohibit HEW from requiring use of any remedial "numerical requirement," it would restrict the ability of HEW to enforce title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972.

Third, the amendment would interfere with the ability of HEW to comply with several court orders, such as Adams against Califano, which require HEW to issue and enforce desegregation guidelines which may require the use of goals and timetables to correct employment discrimination against, or underutilization of, minority and female administrators and teachers. This amendment not only precludes the executive branch from faithfully executing two laws enacted by the Congress, but, in effect, places HEW in a position of noncompliance with an order of a Federal court. Ultimately we will have orchestrated a conflict between the other two branches of Government. The court will tell them to remedy a longstanding wrong against women and minorities, and we will have made the remedy unavailable.

There is, however, a monstrous myth surrounding the whole anti-affirmative action syndrome and the "reverse discrimination" rhetoric which gives rise to such amendments as the one contained in this bill. The plain facts are these—prohibiting discrimination in admissions in higher education did not and has not increased significantly the participation of minorities in professional and higher education. With regard to employment, this is especially true at the doctoral level. If there were truly much "reverse discrimination" in the land, there would not exist such a paucity of minority and femal doctors, lawyers, Ph. D.'s in the physical and biomedical sciences, in mathematics, engineering, et cetera. Black American citizens make up about 1 percent of those annually receiving doctoral degrees. Mexican, Puerto Rican, and Native American citizens receive such degrees in even smaller percentages. Although women appear to fare better, we have in no way reached the millennium.

If affirmative action were so successful, why is it that, 30 years after the Federal Government required nondiscrimination among Government contractors, Federal agencies are backlogged with complaints of discrimination? And why do Federal courts regularly order backpay remedies in the millions of dollars thus denoting extensive patterns of race and sex discrimination in this country?

The amendment before us would set us back 25 years or more. It ignores the glaring realities of the education and employment status of minority and female Americans in 1977. Because of this, I urge my colleagues to halt this retreat from our Government's commitments to equality of opportunity, equality of employment, equality of education. I ask that this amendment be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. BROOKE. How many minutes remain for the proponents of the amendment?

The PRESIDING OFFICER. There are two.

Mr. BROOKE. Mr. President, I want to add that the administration and HEW both support the position that I have taken in opposing the amendment offered by the distinguished Senator from California and the distinguished Senator from North Carolina. I think it is important that the administration sees fit to come out strongly in opposition to these amendments, because the administration recognizes the fact that I have indicated to the Senate today, that there is still a great need to remedy past discrimination against women and minorities in equal educational opportunities and employment opportunities.

I reserve the remainder of my time.

Mr. HELMS. Will the Senator from California yield 1 minute?

Mr. HAYAKAWA. Yes.

Mr. HELMS. In response to the able Senator from Massachusetts, I suppose it is to be expected that HEW would oppose this amendment. Who ever heard of a bureaucrat or a bureaucracy wanting to give up any power? That is just the point.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HAYAKAWA. Mr. President, do I have any time left?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. HAYAKAWA. Because of the affirmative action in higher education, a new form of racial discrimination has been developing across the country. That is that black graduates with bachelors', masters', or even doctors' degrees are today being discriminated against because it is assumed that they got into college on the basis of affirmative action and, therefore, are not the equivalent of white graduates with the same degrees. I warn the distinguished Senator from Massachusetts that this is one of the side effects of affirmative action that was not predicted. I have seen this with great alarm. This is the kind of reputation that unjustly falls upon very distinguished and able black graduates of universities at all levels. I point that out.

I, too, would like to ask for the yeas and nays on this measure.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. MAGNUSON. Mr. President, I merely want to associate myself with the statement of the Senator from Massachusetts, which I have discussed with him previously. I hope that this amendment will not be added to this bill. I still think, and again, I repeat, it is changing the rules. It is legislation and should be taken up in the regular committee rather than on a money bill.

Mr. BROOKE. Mr. President, I certainly agree with my distinguished chairman. As we have discussed earlier, he supports a position of strong opposition to this amendment, which, as he said, is legislation on an appropriation bill. We did not raise the point of order, because there is language to this effect in the House bill. We feel it would be a serious step for the Senate to take this position where there is such a strong need for a remedy of past discrimination in this country. I hope that this amendment will be defeated.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "nay."

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 31, nays 64, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—31

Allen	Griffin	Nunn
Byrd, Harry F., Jr.	Hansen	Roth
Cannon	Hatch	Schmitt
Curtis	Hayakawa	Schweiker
Danforth	Helms	Scott
Dole	Johnston	Stennis
Domenici	Laxalt	Talmadge
Eastland	Long	Tower
Garn	Lugar	Wallop
Goldwater	McClure	Young
	Morgan	

NAYS—64

Abourezk	Gravel	Moynihan
Anderson	Hart	Muskie
Baker	Haskell	Nelson
Bayh	Hatfield	Packwood
Bellmon	Hathaway	Pearson
Bentsen	Heinz	Pell
Biden	Hollings	Percy
Brooke	Huddleston	Proxmire
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Sarbanes
Case	Javits	Sasser
Chafee	Kennedy	Sparkman
Chiles	Leahy	Stafford
Church	Magnuson	Stevens
Clark	Mathias	Stevenson
Cranston	Matsunaga	Stone
Culver	McGovern	Weicker
DeConcini	McIntyre	Williams
Durkin	Melcher	Zorinsky
Eagleton	Metcalf	
Glenn	Metzenbaum	

NOT VOTING—5

Bartlett	McClellan	Thurmond
Ford	Riegle	

So the Helms-Hayakawa amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROOKE. Mr. President, I ask unanimous consent that on the amendment to be offered by the Senator from North Carolina there be a time limitation of 20 minutes, 10 minutes to each side.

Mr. PACKWOOD. Mr. President, what is the amendment?

Mr. BROOKE. It is an amendment on classification and keeping of files.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Will the Senator make that 15 minutes to a side?

Mr. BROOKE. Mr. President, I withdraw that request and make the further unanimous-consent request that the amendment by the Senator from North Carolina have a time limitation of 20 minutes, 10 minutes to a side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BUMPERS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BROOKE. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Karen Minton, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Senators will take their seats.

UP AMENDMENT NO. 571

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes unprinted amendment No. 571.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. —. None of the funds appropriated under this Act shall be used to require any school, school system, or other educational institution, as a condition precedent, contingent, or subsequent for receiving funds, grants, or other benefits from the Federal Government, to classify teachers or students by race, or national origin; assign teachers or students to schools, classes, or courses for reasons of race, or national origin; or prepare or maintain any records, files, reports, or statistics pertaining to the race, or national origin of teachers or students.

Mr. HELMS. I yield myself such time as I may require.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. BROOKE. Is it the Senator's intention to have a rollcall vote on this amendment?

Mr. HELMS. My present intent is to have a rollcall vote.

Mr. BROOKE. I thought while we had Senators here——

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, much attention has been directed to the actions of our courts in requiring the assignment of pupils and teachers on the basis of race. Courts may order assignments in specific cases based upon judicial notions of equity.

If a court decides that a school system has not been keeping the law, that is one thing; but it is an entirely different thing for HEW bureaucrats to decide that pupil and teacher assignments must meet some arbitrary standards of bureaucratic imagination. If a school system has not been in court, we should not leave it to bureaucrats to be the judges. But HEW bureaucrats have used the power of the Federal purse to force school systems to make assignments and keep records on the basis of race in order to qualify for Federal funds.

The solution is simple. Today we are appropriating funds for HEW. HEW will in turn use those funds to require school systems to set assignments and establish records based on race, as HEW has constantly done in the past. So today we can stop this practice by refusing to allow HEW to demand racial quotas as a condition of dispensing Federal funds.

Mr. President, the fundamental laws of this Nation clearly state that there shall be no discrimination on the basis of race or national origin. Quotas imposed by the Federal Government undermine this most basic foundation of our system of government: Equality before the law. We should teach our children that all people have equal opportunity to earn life's benefits, and that in our society there are no boundaries to limit their achievement other than their own ability and dedication.

Instead, the quota system tells them everyday as they enter their schoolhouse that it is not what they may do, but who they are that really counts. Ultimately, the quota system fosters among our children a contempt for the law and their fellow students.

My amendment would prohibit an isolated and arrogant Federal bureaucracy from engaging in economic blackmail to achieve its goals of social engineering—goals which have never had the support of the American people and which could never be achieved at the ballot box.

The pending amendment, Mr. President, provides that no funds appropriated under this act shall be used to require any school system, or other educational institution as a condition for receiving funds, grants, or other benefits from the Federal Government, to classify teachers or students by race or national origin.

It provides that these funds shall not be used to require the assignment of teachers or students to schools, classes, or courses for such reasons; and it provides that these funds shall not be used to require the preparation or maintenance of any records, files, reports, or statistics pertaining to the race or national origin of teachers or students.

This amendment, if enacted, will return the schools of this country to the local units of government and, thereby, to the people. That is what the American people want, Mr. President; every poll taken shows this; and it is what Congress ought to do and do now even at this late date.

As this Senator from North Carolina has stated many times, it happens occasionally that programs and policies of government continue to survive long after the reason, if any, for their existence has ceased to be a real consideration. The Federal Government is riddled with such programs. They are wasteful; and often, they are counterproductive to the best interest of the American people.

The amendment is addressed to such an anachronism: The needless "strings" that allow the Department of Health. Education, and Welfare to require school systems to compile stacks and stacks of information, statistics, and reports in order to prove that no discrimination exists.

Now, such a requirement may seem harmless enough on its face; but numerous school officials have repeatedly advised me that it is not. HEW requires them to devote many hours—time they could use helping students—to gathering and processing these statistics. It completely disrupts their offices and programs. In many instances these schools do not have sufficient clerical assistance. They must resort to requiring teachers to help compile this information. They are in effect forced by HEW to require teachers to take time away from helping children gain an education in order to provide data-hungry bureaucrats with unnecessary information.

The purpose and intent of this provision is simple and clear. It states that the Senate does not want the Department of Health, Education, and Welfare to interfere further with the administration of our schools.

Congress has the power to correct this situation. It can do so by approving this amendment. The approval of this provision will finally remove this anachronistic Federal interference from the educational process. It will preclude HEW from continuing to make a negative contribution to the well-being of the children of America.

Lest anyone fear that the removal of these Federal controls will result in the reinstitution of historical discriminatory practices, let me point out that the court-ordered desegregation plans that were entered over the years still remain on the books. They survive as an assurance that dual school systems and the like will not be reestablished.

Constitutional interpretations require unitary school systems; but the Constitution does not require the existence of a power within HEW to continually harass our school officials, teachers, parents, and children. The Constitution does not require that Congress appropriate money for the collection of data regarding teachers and students. It is the responsibility of the States and local units of government in the operation of their schools to maintain such records as they consider helpful. It is not a Federal matter, and Federal funds should not be used for that purpose.

I do wish that Senators would go out across the country, across their own States, and talk with the administrators and the teachers of our public schools. Ask them about their problems. I have done this and, without exception, they are fed up to here with all of the unnecessary recordkeeping which is so burdensome, which wastes the time of teachers and administrators, time which they would otherwise spend in improving the quality of education.

We talk so often, so piously in this Chamber about improving education. Here is our chance to do something constructive for education—and it will not cost a dime. To the contrary it will save countless millions of the taxpayers' dollars.

I urge adoption of the amendment.

Mr. MAGNUSON. Mr. President, there are portions of this amendment where there might be something said in their favor, but it goes way too far, and it would probably stop HEW from keeping any kind of records at all in order that they might do what Congress and the courts have told them to do, enforce the civil rights legislation.

There may be some cases where they abuse this, but that is a matter again for a piece of legislation to lay out all the ground rules under the Civil Rights Act, which is the law, we voted for it, and I hope the amendment will be defeated for that reason.

I do not see how they could operate and have any information at all if the amendment carried. Again, for the second reason I oppose it, because here again is a legislative matter that should be taken up by the legislative committee.

If there are regulations and rules down at HEW which are wrong, and they want to change them, they should change them through the proper committee in the Congress, so I hope the amendment will be defeated.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes, I yield.

Mr. BROOKE. Mr. President, I join my distinguished chairman in opposing this amendment.

Mr. President, this is one of the most dangerous amendments to be offered. This amendment was offered, in perhaps some modified form, in 1974. It is the old Holt amendment that was offered in the House, and I think it was also offered in the Senate by the distinguished Senator from North Carolina.

On each occasion thankfully, Mr. President, this amendment has been defeated by large margins here in the Senate.

What it would do would be to effectively repeal title VI of the 1964 Civil Rights Act. Not only could we not enforce title VI to remedy unconstitutional violations, but we could not even discover if such violations existed. We could not assign two students or teachers, and every remedy involved some type of assignment. So the effect of the Senator's amendment, as I said, would be disastrous.

I hope the Senate will again, as it has in its wisdom heretofore, overwhelmingly defeat this amendment.

I yield back the remainder of our time.

Mr. MAGNUSON. Yes.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from North Carolina. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE), would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Virginia (Mr. SCOTT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 26, nays 64, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—26

Allen	Hansen	McClure
Byrd, Harry F., Jr.	Hatch	Nunn
Cannon	Hayakawa	Roth
Curtis	Helms	Schmitt
Dole	Huddleston	Talmadge
Eastland	Johnston	Tower
Garn	Laxalt	Wallop
Goldwater	Long	Young
	Lugar	Zorinsky

NAYS—64

Anderson	Gravel	Moynihan
Bayh	Griffin	Muskie
Bellmon	Hart	Nelson
Bentsen	Haskell	Packwood
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Heinz	Percy
Burdick	Humphrey	Proxmire
Byrd, Robert C.	Inouye	Randolph
Case	Jackson	Ribicoff
Chafee	Javits	Sarbanes
Chiles	Kennedy	Sasser
Church	Leahy	Schweiker
Clark	Magnuson	Sparkman
Cranston	Mathias	Stafford
Culver	Matsunaga	Stevens
Danforth	McGovern	Stevenson
DeConcini	McIntyre	Stone
Domenici	Melcher	Weicker
Durkin	Metcalf	Williams
Eagleton	Metzenbaum	
Glenn	Morgan	

NOT VOTING—10

Abourezk	Hollings	Stennis
Baker	McClellan	Thurmond
Bartlett	Riegle	
Ford	Scott	

So Mr. HELMS' amendment was rejected.

UP AMENDMENT NO. 572

Mr. BELLMON. Mr. President, I call up an amendment which I have at the desk, and ask that it be reported.

The PRESIDING OFFICER (Mr. SASSER). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 572:

Page 42, line 21: Add the following new section: "Section 211. Funds under this title shall be utilized to the maximum extent provided by law to provide incentives through equalization of reimbursement schedules for physicians and other health providers who deliver services in rural and other medically under-served areas. To this end, the Secretary is directed to report to the Congress no later than January 1, 1978 on the progress made in carrying out these requirements and on actions taken to eliminate differences in reimbursement levels for practitioners in rural and medically under-served areas."

Mr. BELLMON. Mr. President, the purpose of this amendment is to require the Secretary to equalize reimbursement schedules for physicians and other health providers who practice in rural and underserved areas. There is a serious shortage of physicians and related health professionals in rural areas. At least 100 counties in the United States have no physicians and over 50 percent of rural areas have less than 50 physicians per 100,000 population.

Mr. President, current reimbursement practices based upon usual and customary charges provide disincentives for physician practicing in rural or underserved areas. Traditionally, physicians' fees in these areas were lower than those in urban communities. Thus, the rural physician pays an economic penalty for practicing in areas of highest need. If we are to solve the problem of geographic maldistribution, it would appear that policies should be adopted which provide positive incentives for physicians and other providers who serve rural and underserved areas. Mr. President, this amendment will at least help eliminate economic discrimination and possibly reduce the flow of physicians to affluent areas of the community. I urge the Senate to adopt this amendment and hope that new legislation may be developed later which more directly addresses the the needs of rural and medically underserved areas.

Mr. MAGNUSON. Mr. President, I hope the Senator from Oklahoma might discuss this amendment for a minute or two, and then withdraw it. It is subject to a point of order.

I think it is a good amendment. The Secretary is directed to report to the Congress no later than January 1, 1978, on the progress in carrying out the requirements to equalize these payments. I am sure the committee will join with the Department and expedite that report, and urge the Secretary to do something about the reimbursement levels of health practitioners in rural areas vis-a-vis such practitioners in other areas.

Mr. BELLMON. Mr. President, to be sure that Senators understand the problem, today the young M.D. coming out of medical school who goes to the urban areas receives much higher levels of reimbursement for his services under medicare and medicaid than that same physician if he goes to practice in the rural areas, where he may be most needed. Thus, most of the young doctors are going to the cities and passing up the rural areas, where they are badly needed.

Did I understand the chairman to say that the committee is looking into this area, and expects some legislation?

Mr. MAGNUSON. Yes; I think this has been one of the problems for a long time, the maladjustment in distribution of medical personnel, with shortages in certain areas. This, as I say, has existed a long time. That is one reason why we established the National Health Service Corps.

I can assure the Senator the committee will take some action on this matter when we get the report. In the meantime, the Department will do what it can to equalize these payments.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BELLMON. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, let me say, in addition to what the Senator from Washington has said, that we are now considering a bill in the Health Subcommittee of the Committee on Finance which covers pretty much the same area. Perhaps we could work with the Senator from Oklahoma. It is the so-called Talmadge bill, now before the Health Subcommittee. It would appear to me, just from a quick reading of the language, that it may contain a section very much like the Senator's proposal. I will be happy to work with the Senator from Oklahoma.

Mr. BELLMON. Mr. President, on the basis of those assurances, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

UP AMENDMENT NO. 573

Mr. BELLMON. Mr. President, I call up another amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) offers an unprinted amendment numbered 573.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 12, Line 23 Delete "$920,000,000" and insert in lieu thereof "$901,290,000".

Page 13, Line 2 Delete "$456,000,000" and insert in lieu thereof "$436,327,000".

Page 13, Line 6 Delete "$63,000,000" and insert in lieu thereof "$61,146,000".

Page 13 Line 12 Delete "$273,000,000" and insert in lieu thereof "$261,560,000".

Page 13, Line 18 Delete "$179,000,000" and insert in lieu thereof "$171,050,000".

Page 13, Line 23 Delete "$162,000,000" and insert in lieu thereof "$155,100,000".

Page 14, Line 1 Delete "$235,000,000" and insert in lieu thereof "$225,500,000".

Page 14, Line 7 Delete "$167,000,000" and insert in lieu thereof "$160,097,000".

Page 14, Line 12 Delete "$35,000,000" and insert in lieu thereof "$33,000,000".

Page 14, Line 14 Delete "$74,952,000" and insert in lieu thereof "$70,100,000".

Page 14, Lines 21–22 Delete "$58,000,000" and insert in lieu thereof "$56,225,000".

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BELLMON. Let me get the yeas and nays first. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. MAGNUSON. I wonder if the Senator would agree to a time limitation agreement of 10 minutes to a side on the amendment.

Mr. BELLMON. I am very happy to agree to that.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the debate on this amendment be limited to 10 minutes to a side.

Mr. KENNEDY. Mr. President, reserving the right to object, I would like to know what the substance of the amendment is. As I understand, it is a health amendment, and I would like to ask what the substance is before I would be willing to agree to a limitation.

So, for the moment, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MAGNUSON. The amendment is to cut all of the items in NIH by certain amounts of money as listed in the amendment.

Mr. BELLMON. Mr. President, let me explain very briefly. The amendment would provide for a 10-percent increase in the appropriations to NIH for the fiscal year over the 1977 level.

Mr. MAGNUSON. It is cut from what we recommend.

Mr. BELLMON. The committee recommends a 15-percent increase and this amendment would provide for a 10-percent increase.

Mr. President, there is no point in a lengthy discussion. I will simply say that the savings amounts to $91.5 million, and the amendment would bring the total very closely in line with the level of the House bill. The House bill is $2.74 billion and this amendment would make the level $2.76 billion. It is just slightly above.

I feel that the 10-percent increase in the appropriation for the National Institutes of Health represents a reasonable increase over the fiscal 1977 level.

This would still provide a funding level in excess of both the administration and House recommendations. Since 1976, or in 2 years, the National Institutes of Health will have increased from $2.2 billion to $2.9 billion if the committee's recommendations are adopted. This represents an increase of $700 million in 2 years. There is a limit as to the amount of funds which can be effectively administered and allocated for worthwhile health research. A 10-percent increase would permit a significant expansion of research programs and is consistent with the need to control cost escalation in the health field.

Mr. President, it is time that we began to recognize a basic medical fact of life. We cannot do everything that is scientifically possible and we must start to establish priorities for the use of health resources. Research needs must be balanced off against the need to provide additional health care to needy populations. We must start to evaluate new medical technology in order to determine which research developments actually promote health. We are beginning to realize that more is not necessarily better and that significant gains in health may best be achieved by redirecting resources into prevention and improvements in diet, personal habits, and environmental changes.

Mr. President, the changes which are contained in this amendment are reasonable and establish responsible funding levels for the National Institutes of Health. It will permit the health research effort to continue at a high level and at the same time, permit room for possible development of new priorities and initiatives into those areas which appear to offer major opportunities for improving the health status of American people.

Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, the members of the committee oppose this amendment. We spent a great deal of time on NIH. One of the problems, of course, is to establish priorities. There is always a great deal of argument whether cancer should get this, or heart get this, or eye get this, or what the amounts should be.

We think to be fair about it, and we have done this almost every year in the bill, we increased NIH a certain percentage. This year, after looking it all over and listening to reams and reams of testimony, and considering the House bill, we all agreed, practically unanimously, except maybe the Senator from Oklahoma did not agree in the full committee meeting, that we would increase all of the Institutes approximately 15 percent over the budget. It would be 15 percent for all of the Institutes and 12 percent for cancer, because it has received a greater amount in the past 2 or 3 years.

The House did not add as much as that. Of course, I would think after we go to conference we could come out with a figure perhaps near what the Senator is suggesting.

I hope the Senate will not agree to these cuts, which are across the board. I hope they will not agree to them. I know the increases were across the board, too.

There is a lot of good work being done. We have seen a lot of exciting things happen. We just did not want to underfund NIH programs and activities. We are hopeful there will be steady progress out there with the new director, Dr. Frederickson.

I hope the Senate will not accept this amendment. We will go to the House and probably come down a little bit anyway. There, again, we need some leeway in the establishment of research priorities when we get there. Somebody will always want a little more for arthritis, and someone else will want more for heart and lung diseases. They are all different. Sometimes there are even arguments and feuds between the people in the institutes as to which ones should get this amount or that amount of funds.

We thought we came to a wise and sensible decision on this, considering what the House said, and the fact that the budget itself was extraordinarily low this year.

Mr. BELLMON. Mr. President, let me make it clear again that this does not represent a cut from the current level of operation nor from the President's budget. My amendment provides for a 10 percent increase in funding for the National Institutes of Health, which, in my opinion, is adequate to provide for the establishment of priorities which the distinguished chairman of the subcommittee is interested in, as we all are, and it provides for adequate growth and new initiatives. The idea of jumping 15 percent in the operation of the National Institutes of Health to me seems to be extravagant. It is simply going to promote waste in that agency.

Mr. MAGNUSON. I understand that, and the Senator understands our problem in this. The Senator himself presented an amendment, as I remember it, to add $20 million to diabetes.

Mr. BELLMON. And take $20 million out of another item.

Mr. MAGNUSON. To take $20 million out of cancer. I do not like to see these things traded off like that. They have to stand on their own feet. That is why we sometimes have to revert back to a cut as we see these things moving. NIH is doing a great job. I hope we can sustain the 15 percent. We have the best health research in the world. Our problem is the delivery of health care. These NIH people are extremely qualified and highly dedicated. There have been six Nobel prize winners at NIH and four are still working at NIH for a pittance I should add.

The Senator from North Dakota knows what we have accomplished in the eye field, for instance. There have been great strides. Heart cases have gone down 7.5 percent in the past year, and probably 16 percent over the last 3 years, much of that due to the hypertension screening that we have initiated in this bill.

We are also pressing some buttons on cancer.

I have said many times I have some personal reasons in this cancer matter, personal reasons in my family. The first bill I ever authored when I came to Congress was to establish the cancer institute. I got the big sum of $2 million to establish it, and that started the NIH we know today.

At that time, 4 out of 5 people who had cancer died. We have it down now to 2.5. We can do even better if we have more clinical work, like more women taking Pap tests and things of that kind. That is some progress. We cannot evaluate these things in terms of money. I would rather err a little on the other side than to pick on NIH and biomedical research. That is the most sensitive program we have in this bill. We wanted to keep moving ahead and we thought 15 percent would give us leeway in the conference. We must end up with an increase anyway over last year because all these things cost a little more.

There are millions of dollars worth of volunteer work that go into the Institutes. Top people all over the world, scientists and doctors, come in. They do not get any salary and they work on a particular thing that they are expert in.

I hope that we will not take this cut across the board. Let us go to conference on our recommendations. It is not going to make a great big dent, anyway, in a $62 billion bill. It is for something that is good; it is for something that is worthwhile. Without it, the American people will be bad off.

Does the Senator know that the longevity of the American people has increased, in the past 24 years, 18 years? Is that not something?

Out at NIH, there is an institute for the heart, one for eye, one for general medicine, one for arthritis. But they all work together. They all cut across each other. That is why we added this 15 percent, because to take it from one and put it in another, may be hurting the one that is doing the best job. They all realize that and work together out there.

This is not any great amount, 15 percent, for a country as wealthy as we are, for the health of the American people. It has paid off. It is the best investment we have ever made in the health of our people. I do not want to stint one bit on it and I hope the amendment is defeated.

Mr. BELLMON. Mr. President, one final word. I point out that a 10-percent increase is generous. Increasing the appropriation by that factor means almost doubling it. If we increase it by 10 percent a year over 8 years, that almost doubles it. If we increase it at the rate of 15 percent, that doubles it over 6 years. So the amendment is being generous with the National Institutes of Health.

I agree with the distinguished chairman, the floor manager of the bill. They have been remarkable and I do not want to slow them down. I think giving them an increase of 10 percent in 1 year is adequate to keep that good work going on.

Mr. BAYH. Will the Senator yield?

Mr. MAGNUSON. I yield any time I have to the Senator from Indiana.

The PRESIDING OFFICER. There is no time control. The Senator from Indiana is recognized.

Mr. BAYH. I appreciate the courtesy of my colleague from Washington. I shall not take more than 5 minutes, even though the time is not controlled.

It has been the good fortune of the Senator from Indiana to sit on the Subcommittee on HEW Appropriations for a good while now, and see the Senator from Washington and the Senator from Massachusetts labor over the very difficult problems of how we get enough money to do all the things we would like to do.

I have the greatest respect for my friend from Oklahoma. He has a little different responsibility as a member of the Committee on the Budget, perhaps, than some of the rest of us. But I must say that there is one of the most compelling reasons for us to maintain the committee position. Perhaps I should say that, when we were arguing within the committee, the Senator from Indiana wanted to do a little bit more. The Senator from Massachusetts and the Senator from Washington resisted this.

Mr. MAGNUSON. As a matter of fact, we cut it down from the request of several Senators on this floor to make it higher than we did. We cut it to a sensible and defensible level.

Mr. BAYH. I understand. The Senator from Indiana has to plead guilty to that indictment.

Mr. MAGNUSON. The Senator is only one of them.

Mr. BAYH. I accept that admonition.

The reason I have been for increasing expenditure in these areas is that, in a lot of areas of Federal expenditures, we wonder whether we are getting anything out of it. We think we are, but we wonder. In these National Institutes of Health programs, we are seeing the results. There are people now living with their loved ones, walking, talking, playing, because we had the courage to put that money in there 5 years ago. For the first time in history—and I am sure the Senator from Washington has touched on many of these things—for the first time, maybe not in history, but in modern history, since we have started keeping records, we have had the number of people dying from heart diseases, stroke, heart-related incidents of death, go down this year. Why is that? It is because of the progress made in these Institutes, the educational program that is part of the money in this bill.

We have people now, children, living because of the progress made in cancer research in childhood lukemia. Breast cancer and other kinds of this disease have been effectively dealt with.

Frankly, Mr. President, I just could not resist succumbing to what I felt was a responsibility to support the Senator from Washington, realizing that the Senator from Oklahoma would like to do more but feels budgetary restraints. But when we have the enemy on the run, I say let us pour it to them. Right now, we have the enemy, some of these killers, on the run, and now is not the time to retreat.

ADDITIONAL STATEMENT SUBMITTED

NATIONAL INSTITUTE APPROPRIATIONS

Mr. HUMPHREY. Mr. President, the reputation of the National Institutes of Health is worldwide. It has set a standard of scientific excellence and competence. It deserves our strong and continued support.

Congress can be proud of the research establishment it has helped to create. Each of the individual Institute budgets has been reviewed by the executive branch, by the House of Representatives, by our Appropriations Committee. The figures set represent the judgment of our colleagues on the amount of funding required to maintain the momentum of medical progress.

I have spoken at length on the need to fund the cancer program adequately at a level that permits us not only to maintain momentum but to advance toward greater understanding of the diseases that afflict Americans, and new and better methods to treat and cure them. Each of these Institutes has a vital function. Biomedical research is one investment recovered many times over in lives lengthened and saved, in increased productivity, in the quality of our lives.

Our biomedical research establishment has been developed carefully and gradually over the past 2 decades. In no case that I know of have we thrown at these Institutes more money than they can constructively employ. The structure is in place and prepared to use effectively and efficiently the relatively modest increases envisaged in this bill, much of which is neutralized by inflation.

Institute programs are not ivory towers in which scientists toil for the sake of knowledge alone. A crucial element in every program is the education, dissemination of research results, and application to the medical problems that undermine this Nation's health. The American public has an immediate stake in Institute activities.

Statistics illustrate the success and positive impact of these programs. Cancer treatment has made great strides in survival and recovery rates. There has been a sharp decline in the death rate from stroke and hypertension. Developments in technology have saved millions of dollars annually for the American public. These "earnings" do not appear on any balance sheet. If they did, our investment would not seem extravagant. It would seem cautious.

The National Institutes budget affects the health, life and economic well-being of practically every American. I cannot think of a budget item which deserves more vigorous support. We have a right and duty to demand a careful accounting of goals and results. But a punitive and arbitrary slash in funds will have the opposite effect and will defeat our purposes.

Mr. MATHIAS. Mr. President, the Labor-HEW appropriations bill before the Senate today makes a strong commitment to finding cures for killing and debilitating diseases that deeply affect the lives of too many Americans. The $2.9 billion for biomedical research in the National Institutes of Health budget supports studies that generate broader and deeper knowledge to be applied to solving our health problems. That figure is reasonable and necessary and should not be reduced by this amendment.

Inflation in medicine threatens to erode the national commitment to basic medical research. The bill we consider today rejects the notion that we should make counterproductive cuts in research to respond to medical cost increases. I urge my colleagues to join in supporting this needed level of funding for biomedical research. We should therefore reject the Bellmon amendment.

I have had the privilege of representing the people of Maryland in the U.S. Congress since 1960. There has always been a large number of biomedical scientists as part of my constituency. I have known many of those men and women personally and I have visited their laboratories and clinics to discuss with them time and again their goals and the goals of medical science for our Nation. I respect those people for a dedication unequalled in any other profession and I greatly admire their search for truth and for cures for our most serious maladies.

In times of increasing health care

costs it is tempting to foresake commitments to the search for medical knowledge in favor of programs of more immediate return. But I am convinced that one of the most promising avenues for lowering costs is an investment in basic research.

We are understandably impatient for national investments in basic biomedical research to bear fruit. Yet unrealistic expectations lead to unrealistic promises of success and this has led to the disease-of-the-year phenomenon in our policies. I believe that this appropriations bill is an intelligent and balanced approach to solving problems on a number of fronts. It would be a tragic error to reduce support for NIH at this moment in history.

Dr. Robert Butler, the 1976 Pulitzer prize winner for his book, "Why Survive? Being Old in America," prescribes basic research as the cure for some of our current cost ills. He says research is the ultimate medical service and the ultimate cost container.

When Michael Faraday was asked by Queen Victoria to explain the value of his obscure discoveries in magnetism and electricity, he responded, "Madam, of what use is a baby?" Faraday could not have foreseen that his revelations would be the basis of modern power generation, but he clearly appreciated the fact that discovery develops as technology.

Mahlon B. Hoagland, M.D., is a modern medical scientist who knows the value of basic research and appreciates its importance in solving health problems. In 1956, Dr. Hoagland and Dr. Paul C. Zamecnik discovered the molecule that transfers the genetic message of the production of proteins. Dr. Hoagland is president and scientific director of the Worcester Foundation for Experimental Biology. He has prepared an excellent statement on the value of basic biomedical research.

I ask unanimous consent that Dr. Hoagland's statement, as well as a guest editorial which I authored and which appeared in the February 14, 1977, issue of Chemical and Engineering News be printed at this point in the RECORD.

I urge the Senate to defeat the pending amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Guest editorial in Chemical and Engineering News, Feb. 14, 1977]

WANTED: MORE SUPPORT FOR BASIC RESEARCH

(By Senator CHARLES McC. MATHIAS, JR.)

The United States is not making the commitment to scientific research that our resources and our responsibilities demand. Last year Congress finally managed to reverse an eight-year trend of declining support for basic research, but by that time funding had declined so drastically in terms of real dollars that we were barely spending at the 1965 level.

While the federal budget increased almost 100% over the past decade, spending on research dropped from 1.5 cents in every federal dollar to 1.2 cents. Most of that money is earmarked for specific projects. The amount available for unfettered research is negligible.

Some believe that the United States is suffering a "technology gap"; that our reduced research effort has made our exports less attractive and our industry less competitive. The jury is still out on that question. But what is clear is that basic research, so vital to the growth and well-being of our society, has been short-changed.

Basic research—the pure search for knowledge—does not press for immediate, predictable results, but it is central to scientific and economic progress. An investment in basic research admittedly is an act of faith—a gamble, but it is a gamble that has paid off for us over and over again.

We need look no farther than the energy crisis to recognize that a new investment in basic research is vital. No one who has been living on the East Coast of the United States in this winter of 1977 can doubt that our civilization is facing a basic challenge to its survival which revolves around the question of energy. To meet this challenge we urgently need the scientific breakthroughs that only research can produce. We also need a national commitment to train the experts, to develop the tools, and to establish a broad research effort in the energy field.

We cannot hope to meet this and future problems by buying knowledge on a crisis-by-crisis basis. We cannot expect to push a button and have science supply answers instantaneously. We must lay broad foundations now, to have a scientific structure adequate to tomorrow's needs.

We can no longer count on great scientific strides being made by a single genius working with simple tools. New laws of physics aren't likely to be discovered under an apple tree and even Einstein's chalk and blackboard seem inadequate to today's complexities. Thousands of computer hours are now the prelude to advances in pure mathematics.

The frontiers of knowledge have advanced so far that new discoveries can be made only at great cost. It is unrealistic to expect private enterprise to underwrite such costs when the returns, however sure, are generally neither direct enough nor immediate enough to justify the investment. Industry should be encouraged to stimulate basic research wherever possible, but it is government that must shoulder most of the burden.

I worked hard last Congress to get a healthy boost in National Science Foundation funding. I am ready to do battle again this year and I hope others both inside and outside of the governmental system will join me in pressing for more support for basic research.

When Americans swept the Nobel Prizes last year, they testified to the great intellectual dynamism in this country. We obviously have the talents and the tools available for putting the money to good use. I intend to see that we get it.

[From Worcester Foundation Bulletin]

STATEMENT BY DR. MICHAEL B. HOAGLAND, M.D.

Our country is seriously shortchanging itself by spending less than one percent of its health care budget on basic research. But how much research money would be enough? It is, of course, impossible in this area of so many unknowns to give a precise answer to the question. But we can try for an approximate answer in two ways: (1) by evaluating the evidence indicating that basic research is in readiness to contribute substantially to a solution of major health problems; and (2) by considering how our potential for progress in medical science is actually now being discharged.

What has basic research accomplished thus far in this century? Knowledge gained primarily as the result of basic research has made possible: (1) an increase of some 30 years in human life expectancy; (2) women's opportunity to control their own childbearing; (3) the virtual elimination of such diseases as plague, cholera, tuberculosis, poliomyelitis, smallpox, diptheria; (4) vitamins and general improvement in human nutrition; (5) X-rays in medical diagnosis and treatment; (6) extensive improvements in surgical and anesthetic technology; (7) advances in the prevention and treatment of numerous immunologic, hormonal, neurologic and genetic disorders; and many other technological improvements.

These are monumental achievements for science. But the potential for even more brilliant achievement is intrinsic in the nature of knowledge growth. For knowledge accumulates, if science is healthy, at a steadily increasing rate. Prior to the last few years' slump in science support, knowledge growth was phenomenal, leading to a vast body of information, now poised and ready to help the sick.

One example: the present $800 million a year effort to conquer cancer is a direct outgrowth of basic science achievements. During the 1940's, 1950's and 1960's, scientists gained major new insights into the workings of cells: the detailed structure of genes and proteins, how they work to duplicate cells, how cells perform their many functions, how immune systems work, etc. By the early part of this decade, this new knowledge was ripe for application to the understanding of cancer. For cancer is a disease of cells.

These considerations cannot help us to arrive at a specific figure for an optimal level of dollar support for basic research. They do tell us, however, that a vast new fund of knowledge is abuilding, and historical experience tells us that such knowledge will inevitably benefit mankind.

There are several clear indications that the nation's potential for scientific exploration of medical problems is being weakened: (1) training opportunities for scientists are severely limited; (2) only about one-quarter of all approved proposals are being funded. This program, wherein a scientist with an idea could get money to carry out his research, provided he can convince a committee of his peers as to the merit of his project, has been among the most enlightened pieces of legislation enacted by the American political system; (3) in recent years, the withholding or paring of funds has made research support insecure and unstable to the intense discouragement of men and women and institutions trying to give their best to the discovery of new knowledge.

The savings in medical and health care dollars, to say nothing of misery, that has been achieved by elimination of diseases can be conservatively estimated in the tens of billions annually. Measles vaccine alone, for which good data are available, saves us a quarter of a billion dollars annually. Even modest, additional contributions by basic science to disease prevention or cure could offset the expected additional health care cost of $50 billion during the next three years.

WHY IS BASIC RESEARCH BEING SHORTCHANGED?

There's a public relations problem. It is difficult to glamorize and sensationalize the search for basic knowledge. Applications of knowledge to people always have greater appeal. The technology of the treatment of paralyzed polio victims is, for example, more immediately comforting than the underlying laboratory studies on virus-cell interactions.

Basic research solutions, while ultimately definitive, take time before they can become applicable to people. This tempts scientists to make premature promises which, when they're not fulfilled, lead to public disillusionment.

Some public figures have publicly scorned basic science and its methods, particularly the use of model systems, often because they don't understand the full potential of basic research. Model systems are simple systems used by basic researchers for experimentation when they can't use humans. Bacteria, for example, have been used extensively in molecular biology to gain profound new insights into genetics and the molecular structure and functions of cells. Mendel used peas

with consummate skill to establish modern genctics. Thomas Hunt Morgan used fruitflies to make genes known. The concept that individual genes governed the synthesis of individual proteins came from Beadle's great work—with bread molds.

One day, if we allow science to continue to develop knowledge, basic research will make present-day health care obsolete. Farfetched? Hardly. In 1946, I lay in bed with "moderately advanced" tuberculosis at Trudeau Sanatorium, New York. Thousands upon thousands of other victims of the disease, there and throughout the world, had the choice of prolonged bed rest or radical chest surgery. Some of my friends at Trudeau had been sick for 30 years! Late that year streptomycin was introduced and treatment of some patients began. The result was nothing short of a miracle. Before my eyes men and women, sick most of their lives, became well. Not better, but well!

The largest problem that emerged was how to help such patients adjust to beginning life anew in the outside world. And soon after that, the most important problem faced by Trudeau's trustees, shared by sanatorium directors all over the country, was how to dispose of a large number of useless buildings!

Basic research made that miracle possible. Given any kind of reasonable encouragement it can continue to work its miracles.

Mr. MAGNUSON. Will the Senator yield to me for half a minute?

Mr. BAYH. I am glad to yield the floor.

Mr. MAGNUSON. Another thing that we have found out, and I have known for years, is that, when there is any inflationary process in the country, for some reason, medical supplies, sophisticated medical machines, and laboratory equipment all go up higher than any other items. The best figure we got out of long hearings on this matter was that the inflation rate for equipment and things like that at NIH was 11 percent. So if we go up 10, we are not even taking care of the inflationary pressures that are involved in the whole medical and biomedical research profession.

I yield the floor.

I ask for the vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. SCOTT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 24, nays 68, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—24

Allen	Cannon	Eastland
Bellmon	Curtis	Garn
Byrd, Harry F., Jr.	Danforth	Goldwater
	Eagleton	Griffin
Haskell	Lugar	Stennis
Hatch	McClure	Talmadge
Hayakawa	Nunn	Zorinsky
Helms	Proxmire	
Laxalt	Roth	

NAYS—68

Anderson	Hatfield	Nelson
Bayh	Hathaway	Packwood
Bentsen	Heinz	Pearson
Biden	Hollings	Pell
Brooke	Huddleston	Percy
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Case	Javits	Sarbanes
Chafee	Johnston	Sasser
Chiles	Kennedy	Schmitt
Church	Leahy	Schweiker
Clark	Long	Sparkman
Cranston	Magnuson	Stafford
Culver	Matsunaga	Stevens
DeConcini	McGovern	Stevenson
Dole	McIntyre	Stone
Domenici	Melcher	Tower
Durkin	Metcalf	Wallop
Glenn	Metzenbaum	Weicker
Gravel	Morgan	Williams
Hansen	Moynihan	Young
Hart	Muskie	

NOT VOTING—8

Abourezk	Ford	Scott
Baker	Mathias	Thurmond
Bartlett	McClellan	

So Mr. BELLMON'S amendment was rejected.

Mr. BROOKE. Mr. President, I move tc reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed.

Mr. BROOKE. Mr. President, I ask unanimous consent that there be a time limitation on the busing amendment of 45 minutes to a side, the time to be controlled 45 minutes by the distinguished Senator from Missouri (Mr. EAGLETON) and 45 minutes by the distinguished chairman of the subcommittee, Senator MAGNUSON.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, that proposal is perfectly agreeable with me. My only inquiry is this: I do not know if there will be more than one amendment on busing. My understanding is that the Senator from Massachusetts will offer a motion to strike the language that is in the committee bill; but I heard that another Senator has an amendment he wishes to offer.

Mr. BROOKE. The unanimous-consent request I suggested is restricted to that particular amendment.

Mr. EAGLETON. Does the amendment of the Senator from Massachusetts strike language in the committee bill? I am agreeable to 45 minutes to a side.

Mr. MAGNUSON. Mr. President, I ask that if the Senator from Massachusetts is going to make the motion to strike the language, the time be allocated to him.

Mr. BROOKE. I thank the chairman.

Mr. MAGNUSON. I have views of my own, depending on the wording.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that on the amendment to be offered by the distinguished Senator from Oklahoma (Mr. BELLMON) there be a time limitation of 20 minutes, 10 minutes to a side, to be controlled by the Senator from Oklahoma and the distinguished chairman, Senator MAGNUSON.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 574

Mr. BELLMON. Mr. President, I call up my amendment which is at the desk, amendment No. 1.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 574.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 10, Line 19 Delete "$1,387,046,000" and insert in lieu thereof "$1,306,046,000.

Page 10, Lines 22 and 25, insert colon after "Leprosy", and delete "and $60,000,000, to remain available until expended, shall be for construction and renovation of Public Health Service Hospitals and Clinics."

Mr. BELLMON. Mr. President, this amendment would reduce recommended appropriation levels for Public Health Service hospitals and clinics from $270,000,000 to $189,000,000. It would eliminate $60,000,000 which was added for buildings and facilities and reduce increases for services by $21,000,000. This would still allow for an increase of $53,000,000 over the House and Carter budgets for health services. This increase in services is more than adequate in terms of requests and justifications given in testimony by PHS officials during the fiscal year 1978 hearings. In addition, it would allow sufficient additional funds to eliminate shortcomings—identified in a GAO study of the PHS hospital system. Specifically, it would permit hospitals and clinics to maintain current services, purchase adequate supplies of drugs and related needs, and maintain existing equipment and facilities.

Mr. President, there is a serious question concerning whether or not additional funds should be invested in upgrading or expanding PHS hospitals. Most are located in communities which have large surpluses in hospital beds and expensive medical technology and facilities. Expansion of PHS hospitals would add to redundant capacity and inefficient utilization of health resources. Funds could be more effectively used to assist existing facilities to convert surplus capacity to outpatient and ambulatory care centers. Such facilities could easily provide services available through PHS hospitals and clinics.

Mr. President, this amendment is not only consistent with the current administration's recommendations concerning funds for PHS hospital construction and facilities, but priorities and goals of past administrations. No funds were recommended or appropriated in fiscal year 1977 and none were included in the President's budget for fiscal year 1978. Finally, Mr. President, there is a serious national concern over rapidly rising health care costs. Federal expenditures for health has doubled during the past

5 years and may double again by 1980. Thus, it is imperative that we critically evaluate every expenditure in order to determine if it is the most effective use of tax dollars. In view of widespread uncertainty as to the need for expansion of PHS hospitals and clinics, this appears to be one area in which a more realistic level of funding can be achieved without endangering legitimate health care needs. I urge that the amendment be adopted.

The PRESIDING OFFICER (Mr. STONE). The Senator will suspend.

The Senate will be in order. The Senate is not in order.

Mr. BELLMON. Mr. President, I point out again, for those who may have missed it, that this appropriation in fiscal 1977 was $130.8 million. In the bill before us, that appropriation is more than doubled, to $270 million, and my amendment would allow an increase of up to $189 million, which is almost 50 percent. So this cannot be thought of as a cut-back. This provides for a very generous increase, but it does cut back some of the wasteful appropriations provided in the bill.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, this amount of money was added to the bill after a great deal of consideration regarding what it was going to be used for in the field of modernization of these eight or nine so-called Marine hospitals, Public Health Service hospitals.

Now, we have debated on this floor in the past when Members of the Senate have sought to knock out funds for the hospitals altogether. Long ago we established the fact that they are there and they are going to be kept there and they are serving a useful purpose, and could serve even more good purposes.

They have expanded and, in some cases, they have become clinics or medical centers in areas where they are sorely needed.

They are not only there now to service Marine people, seamen, and people of that kind whom they were originally set up for, but they are into basic and applied research and they are doing everything else.

Out in Seattle, the PHS hospital is involved in providing additional services similar to some of the rest of them. There was no place in town for an Indian health clinic. They have taken over all of the Indian patients in the area who do not live on the reservation but who live in the urban centers.

They are doing cancer research, combined with the medical school at the University of Washington. Like the one in Boston does, and the one in Baltimore works hand in glove with Johns Hopkins.

Because they have been used so much and because they are so important they needed some repairs—sometimes it is really only remodeling—to set them up for this type of clinic or that type of of clinic or that type of special treatment, even some temporary beds.

HEW was asked, we asked them, for a report. They came back and said the total for all of them would run about $120 million. We decided that maybe that was a little too high. We wanted to accomplish at least 45 percent of these urgently needed projects to place in these hospitals and clinics which are going to remain operational, and we want them to give the kind of service they are giving, so that we cut that construction total down to $60 million, and we will have to go to the House with this.

They have been used in many cases for immunization purposes, drug abuse and alcoholic treatment clinics. Drug and medical care supplies in the area—and there are currently 22 of their clinics, have only 1 week to a month of supplies on hand, a critical shortage. All this because they have been short changed in operational funds and can't pay their bills.

Another thing, some of them have been operating in violation, some minor violations, but they are operating in violation, of some fire and safety codes in some of these places. This would take care of that and pay their bills, keep them going as they should be going and rendering this much needed service.

So I hope the amendment is not agreed to.

I yield to the Senator from Massachusetts.

Mr. BROOKE. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, very briefly, I just want to associate myself with the arguments made by the distinguished Senator, the manager of the bill.

I concur in his feeling about the Public Health Service hospitals. Several years ago when Elliott Richardson was Secretary of HEW he threw out the idea that we might phase out the Public Health Service hospitals. That forced us to look at the issue very, very hard.

The result of that was that these hospitals are performing a vital function. Until some provision is made with other hospitals to pick up the load that Public Health Service hospitals are carrying we need to keep these hospitals in business. If they are in business they have to be in business at a quality and at a standard of performance which is acceptable.

That is why the money is necessary, in my judgment, and that is why, very briefly, I think this amendment should be defeated.

Mr. BROOKE. I certainly agree with my distinguished colleague from Maryland.

Mr. President, this amendment would cut $81 million total, $60 million from construction and $21 million from services. What it would do would be to really defeat rural and urban health initiatives that should be taken.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. BROOKE. Yes.

Mr. BELLMON. To keep the record straight, it is not a cut from the present level of funding. It is actually an increase over present funding levels by about $60 million.

Mr. BROOKE. That is correct, but it is still an $81 million cut, as I said. But the Senator is correct.

There is, however, an active outreach program to provide necessary health maintenance and immunization. We certainly would not be able to do that with this cut; on full participation in health planning we would not be able to do that either with this cut.

As the distinguished chairman said, we find that all of these hospitals, in order to restock their drug and medical care supplies, because of lack of funds have had to cut back, curtail, and they have had supplies of only 1 week to a month on hand.

So, Mr. President, for all of these reasons we hope the Senate would not accept this amendment. We discussed it at some length before in the committee, and we feel the funding level we have proposed to the Senate is a sound one.

We hope there will be no further cuts in Public Health Service hospitals.

I am prepared to yield back the remainder of my time.

Mr. BELLMON. Mr. President, I will be willing to yield back the remainder of my time in a moment.

Let me point out just one example of what I am talking about. There is a Public Health Service hospital in Staten Island in New York, in the metropolitan New York area. In that area there is already a surplus of 5,000 hospital beds. So here we are, the Federal Government, operating a hospital in an area that is already seriously overbuilt so far as hospital beds are concerned, and we are now talking about coming along and spending part of the $60 million for new construction in an area where there is no need for this kind of facility at all.

The same circumstances exist in other areas where these Public Health hospitals are in operation. So let me just point out again, Mr. President, that this amendment would allow an increase of almost $60 million in a $130 million budget. That is a 50-percent increase.

The committee's level is a 100-percent increase in 1 year. I submit there is no justification when we are in a tight budget situation, as we are, for increasing any program like this by 100 percent in 1 year.

Mr. President, I am willing to yield back the remainder of my time and have a vote.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from Oklahoma. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND), would vote "yea."

The result was announced—yeas 37, nays 57, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—37

Allen	Goldwater	Proxmire
Bellmon	Griffin	Roth
Bentsen	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Scott
Cannon	Hayakawa	Stafford
Chafee	Heinz	Stennis
Curtis	Helms	Stone
Danforth	Laxalt	Talmadge
DeConcini	Lugar	Tower
Dole	McClure	Wallop
Domenici	Morgan	Young
Garn	Nunn	Zorinsky
	Percy	

NAYS—57

Anderson	Haskell	Metcalf
Bayh	Hatfield	Metzenbaum
Biden	Hathaway	Moynihan
Brooke	Hollings	Muskie
Bumpers	Huddleston	Nelson
Burdick	Humphrey	Packwood
Byrd, Robert C.	Inouye	Pearson
Case	Jackson	Pell
Chiles	Javits	Randolph
Church	Johnston	Ribicoff
Clark	Kennedy	Riegle
Cranston	Leahy	Sarbanes
Culver	Long	Sasser
Durkin	Magnuson	Schweiker
Eagleton	Mathias	Sparkman
Eastland	Matsunaga	Stevens
Glenn	McGovern	Stevenson
Gravel	McIntyre	Weicker
Hart	Melcher	Williams

NOT VOTING—6

Abourezk	Bartlett	McClellan
Baker	Ford	Thurmond

So Mr. BELLMON'S amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 575

Mr. McCLURE. Mr. President, I have an unprinted amendment at the desk, which I call up and ask that it be reported.

Mr. MAGNUSON. Mr. President, will the Senator yield so that I may ask the Senator from Oklahoma whether he has another amendment?

Mr. McCLURE. Will the Senator please wait until the clerk has stated the amendment?

The PRESIDING OFFICER. The Senate will be in order. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) offers an unprinted amendment numbered 575.

The amendment is as follows:

On page 8, line 17, following the word "employees", insert the following: *Provided further*, That none of the funds appropriated or otherwise made available in this paragraph may be obligated or otherwise expended to promulgate regulations, excepting those complying with Executive Order No. 11949.

Mr. McCLURE. I now yield for an inquiry to the Senator from Washington.

Mr. MAGNUSON. I did not hear the Senator.

Mr. McCLURE. Did the Senator wish for me to yield to him?

Mr. BROOKE. If the Senator will yield, we had had an understanding that after the Bellmon amendments had been completed, we would go to Senator EAGLETON'S and my amendment on busing. We were trying to ascertain whether or not the Senator from Oklahoma has another amendment.

Mr. McCLURE. This amendment which is at the desk would insert the language in the House bill with regard to the economic impact statement. Copies of the amendment have been furnished to legislative counsel on both sides of the aisle, and it will take just a few minute to dispose of.

Mr. MAGNUSON. I was going to ask the Senator from Oklahoma, I understood he had one more amendment, and I would like the Senator from Oklahoma to finish with his amendments so we could start with someone else's.

Mr. BROOKE. Will the Senator from Idaho agree to lay aside his amendment until we finish with the Senator from Oklahoma?

Mr. McCLURE. This amendment will take just a few minutes. I think the Senator from Oklahoma has indicated it is all right to go ahead with it.

Mr. BROOKE. Mr. President, I could not accept this amendment. I think I would like time to discuss it. I think the chairman would also like time to discuss the amendment with the Senator from Idaho. If he were to agree to lay it aside, we might discuss it with him.

Mr. McCLURE. Then I ask unanimous consent, Mr. President, that I be permitted to lay my amendment temporarily aside, and that the amendment of the Senator from Oklahoma be considered at this time.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, there was an understanding that upon the disposition of the amendments by Mr. BELLMON, Mr. BROOKE would be recognized to make his motion to strike the language dealing with busing. I would hope we could pursue that course at this time; then I had hoped we could get on the amendment by Mr. PACKWOOD. Could we work out some understanding whereby those understandings could be carried out? Then we could work out some agreement with respect to the Senator's amendment.

Mr. McCLURE. Mr. President, I will be happy to cooperate with the majority leader, of course. I was not aware of the agreement. I checked at the desk, and they said there was no order.

Mr. ROBERT C. BYRD. No order, that is correct. We just had a sort of gentlemen's understanding.

Mr. McCLURE. Could the Senator from Massachusetts indicate how long it might take to dispose of the amendment?

Mr. BROOKE. The Senator from Oklahoma only wants 5 minutes. It will merely be a colloquy.

The amendment, which I will move to strike, has a time agreement of 45 minutes on each side, controlled on the one side by the Senator from Missouri (Mr. EAGLETON) and on the other side by me.

Mr. McCLURE. I will be happy to withdraw my amendment, Mr. President, if I may be recognized in order following the disposition of the motion to strike.

Mr. BROOKE. There was another part to that so-called gentleman's agreement, not an order, that the Senator from Oregon (Mr. PACKWOOD) would be recognized to introduce an amendment.

Mr. PACKWOOD. Could I explain the problem? I have been waiting all afternoon. I do not mind. I am perfectly willing to wait. This amendment is on abortion and a number of people want to know reasonably a specific time. If I can tell them that we are coming after the disposition of the Eagleton-Brooke debate, we can reasonably have a time for them.

Mr. McCLURE. I am concerned that if we get busing and abortion ahead of OSHA, OSHA will be up about midnight tonight.

Mr. PACKWOOD. I talked with the majority leader. I can assure the Senator from Idaho I do not intend to take a lengthy time on abortion. I did not want to enter into a time limitation before I made my comments, but this is a debate we have had for several years and I do not expect it to be a 5-hour debate.

Mr. ROBERT C. BYRD. Mr. President, let me see if we can get an order entered and agreed to carrying out our understanding.

Mr. JAVITS. Mr. President, I cannot hear anything.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the yielding of the floor by Mr. BELLMON, the disposition of his amendment, the Senator from Massachusetts (Mr. BROOKE) be recognized to proceed with his amendment or motion dealing with the busing section of the bill; that upon the disposition of that amendment on which there is a time agreement, the distinguished Senator from Oregon (Mr. PACKWOOD) be recognized to call up his amendment, and upon the disposition of that amendment Mr. McCLURE will be recognized to call up his amendment.

Mr. BROOKE. Reserving the right to object, I would point out to the distinguished majority leader that, depending upon the outcome of the amendment to which I will offer a motion to strike, the busing language, it will necessitate a further amendment to be offered regarding busing. I think the Senator from Missouri well understands what I am talking about. I would not want to agree to a time agreement or an order which would preclude that prior to the recognition of the distinguished Senator from Oregon to call up his amendment.

Mr. ROBERT C. BYRD. Would that be acceptable?

Mr. PACKWOOD. It would be acceptable to me.

Mr. McCLURE. It seems to me what we are entering into now is a rather long-

range question on busing which will take some time to dispose of. Although the Senator from Oregon has indicated that he is willing to abbreviate his remarks, I am not sure that he speaks for the other 99 Members of this body.

Mr. BROOKE. Will the Senator yield?

Mr. McCLURE. Yes.

Mr. BROOKE. If it will reassure the Senator from Idaho so he will not object to this unanimous-consent agreement, if there is another amendment following the vote on the amendment to strike the busing language, I would be willing to take a unanimous-consent agreement for a 1-hour time limitation on that.

Mr. ROBERT C. BYRD. Or even less, because the subjects have been discussed ad infinitum.

Mr. MAGNUSON. Mr. President, I cannot hear what they are saying on the other side of the aisle. What is the nature of the amendment of the Senator from Idaho? Is it legislation on an appropriation bill or is it a money item?

Mr. McCLURE. It is a limitation on the expenditure of the money.

Mr. MAGNUSON. It is legislation on an appropriation bill. It is not a money item. Can the Senator wait until we get through some of the other legislation on the appropriation bill?

Mr. McCLURE. Sure.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, could we present the request?

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, what is the request?

Mr. ROBERT C. BYRD. Mr. President, may I repeat the request?

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. That upon the disposition of the amendment by Mr. BELLMON, Mr. BROOKE will proceed with his amendment dealing with busing, on which there is a time limitation. Depending upon the outcome, if there is another busing amendment, it will be limited to 40 minutes because the subject will have been amply discussed in the first amendment. Upon the disposition of that busing matter, then Mr. PACKWOOD will be recognized to bring up his amendment on abortion. Upon the disposition of that amendment, Mr. McCLURE will be recognized.

Mr. JAVITS. Mr. President, reserving the right to object, may we have any idea of the plan of the majority leader for tonight? It is now half past 5. I personally happen to be due at a White House dinner. Others may have similar problems. All we need is to know. Are we going to go through with this for whatever number of hours it takes?

Mr. ROBERT C. BYRD. I would hope to finish the bill tonight. At least, we are putting this effort in trying to arrange a sequence. These subjects have been discussed so much I do not think it will take the time we may envision at the moment.

Mr. JAVITS. I am certainly not going to stand in the Senator's way of arranging the schedule, but that means we may be here until any hour, is that correct?

Mr. BROOKE. That is correct.

Mr. JAVITS. We may be here until midnight.

Mr. ROBERT C. BYRD. But let us say that if conditions were such after a while we saw we could not finish, at least the sequence would be there.

Mr. BROOKE. I hope the majority leader will not hold that out because we are hoping to finish the bill tonight.

Mr. ROBERT C. BYRD. I hope to finish it tonight.

Mr. BROOKE. Reserving the right to object again, just so we will not mislead the distinguished Senator from Idaho, depending upon the outcome of the Packwood amendment on abortion, there could be further amendments on this question of abortion. I think the Senator ought to understand that. There is no time limitation on the Packwood amendment, to start with, and there are several amendments which might be proposed on this whole question of abortion.

Mr. McCLURE. Mr. President, I wonder, in fairness to the Senator from Idaho, if we can dispose of my amendment, which is certainly a much less complex question than the busing or abortion issues, both of which may be followed by subsidiary motions or ancillary motions. I wonder if the majority leader and the manager of the bill might not see fit to allow me to go ahead and call up my amendment and get it disposed of before going into those other relatively lengthier amendments.

Mr. MAGNUSON. I want to suggest to the majority leader that when he gets all through talking with the Republican side of the aisle, he might come over here and tell us what is going on. [Laughter.]

All of these amendments are all right, but when we are through with them, there are a few more legitimate amendments to this bill which deal with the appropriation of money. That may take a half hour or an hour. I hope it does not take any longer. Every time I turn around there is another Senator up here with another amendment to up the bill, but then they vote to cut it somewhere else. So they get it both ways when they go home and want to explain it. They want to cut the bill and up the bill, too.

It looks like we are going to have a long evening. I suggest those who have to go to the White House or who want to go to the White House better get going and forget about it. [Laughter.]

Mr. HANSEN. Will the Senator yield?

TIME-LIMITATION AGREEMENT—M'CLURE AMENDMENT

Mr. BROOKE. Mr. President, could we make an agreement to follow the busing amendments? If we could enter into a time agreement with the distinguished Senator from Idaho for 30 minutes, would that be adequate for him, a 30-minute time agreement, 15 minutes on a side? After we dispose of that amendment, then we will move on to the question of abortion. Is that agreeable?

Mr. McCLURE. Yes, it is.

Mr. ROBERT C. BYRD. I so move, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senate will be in order.

UP AMENDMENT NO. 576

Mr. BELLMON. Mr. President, I have an amendment at the desk. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes unprinted amendment No. 576.

Page 17, lines 14–15 Delete "$773,091,000" and insert in lieu thereof "$701,091,000."

Mr. BELLMON. Mr. President, this amendment would reduce the level of funding for Health Resources Administration and Health Resources by $73 million. Specifically, it would make cuts in the following areas:

Program:	*Amount of reduction (millions)*
1. Health professions institutional assistance:	
Capitation grants for veterinarians, optometrists, pharmacists, podiatrists (VOPP)	18
2. Nursing institutional assistance:	
Capitation grants	30
Advanced nurse training	12
3. Nursing student assistance:	
Traineeships	13
Total	73

Mr. President, health manpower is an excellent example of a successful Federal program. These programs were developed during the 1960's when it was apparent that the Nation faced a serious shortage of health professionals. Unfortunately, once programs have been developed, there are strong pressures to continue them regardless of existing needs or new priorities which require attention. Current projections indicate that existing levels of enrollment will supply adequate health manpower and that we will have surpluses in some areas by 1985. It is quite clear that the physician shortage will likely be solved within the next decade. It is estimated that approximately 170 physicians per 100,000 population are required to provide adequate care although the rate will vary from 150 to 190 per 100,000 depending upon demographic and health characteristics of an area. The rate per 100,000 in the United States was 158.6 in 1970 and if present trends continue will exceed 237 per 100,000 by 1990. Because of the overall increases in the number of physicians and continued emphasis upon medical and surgical specialties, there will be a large surplus of specialists by 1985. This surplus represents a major threat for further cost escalation and will further the trend toward highly specialized hospital-based care. More specialists simply means more referrals and more costly procedures.

The anticipated surplus in the number of registered nurses will occur by 1980 even if there are no changes in present enrollment levels. In addition, the large number of nursing schools currently developing graduate programs indicates a potential surplus in graduate trained nurses by 1985.

Thus, immediate steps can be taken to alter levels of support in nursing educa-

tion for capitation grants, advanced training, and traineeship. Funds are retained for nurse practitioners training, special projects, and student loans and scholarships.

Mr. President, reductions contained in this amendment are directed toward programs which are designed to significantly increase the overall level of health manpower. It does not recommend cuts in programs designed to promote geographic and speciality redistribution or better utilization of health resources through increased health planning and resource development. Thus, increased support for residencies and training in family medicine and primary care is retained. In addition, additional support for disadvantaged assistance, national health service scholarships, and related programs is excluded from this amendment.

This amendment does not reduce support for essential health manpower needs. It recognizes that the major health manpower priority has shifted from producing large numbers of practioners to the need for geographic and speciality redistribution. Even with the reductions in this amendment, the allocations for health resources exceed the administration's budget by over $100 million. It is time, Mr. President, that we accept the fact that our manpower policies have been successful and that we begin to redirect resources into other high-priority areas.

The purpose of the amendment is simply to point out that when we started these programs, back in the 1960's, there was a very obvious need in this country for more health professionals. We had a severe shortage and, obviously, emphasis needed to be given to these programs. Now, when we project the existing levels of enrollment in these programs ahead a few years and look out to 1985, it is obvious that if we keep increasing the funding for these types of programs, we are going to wind up with a very great oversupply of physicians and paramedics of all types. The purpose of this amendment is to start putting on the brakes so we do not wind up a few years from now with a lot of people who are highly trained and will not be needed in the health professions.

Mr. MAGNUSON. Mr. President, I shall take just a minute.

I appreciate what the Senator from Oklahoma is trying to do. What happened was that the President proposed a cut of $100 million. That was too much too fast. The House and the Senate disagreed with that, even though we do know that, in some places, there might be a surplus of nurses. But there are not enough nurses in the very places the Senator and I talked about earlier, the underserved areas—rural hospitals and nurse practitioners and preventive health service people. We did cut the capitation grant to start a phase-out. We think this amount that we have in will phase it out gradually and wisely so we shall not have a shortage in the places where we do not want a shortage.

Mr. BELLMON. Mr. President, I appreciate the comments of the distinguished chairman of the subcommittee. I think we are in agreement. We know there are areas where there is a shortage and we want to take care of those. I am concerned that we not have a great oversupply in some of the urban centers. I appreciate his interest.

Mr. BROOKE. Will the Senator yield?

Mr. BELLMON. I yield.

Mr. BROOKE. I say to the Senator that I understand the purpose of his amendment, but the increasing demands of health care are making greater demands of registered nurses. There are evolving roles that require that nurses continue their education beyond basic nursing programs. Without loan and other assistance, student nurses will not be able to enter health professions training programs.

Our committee has made, as the chairman has said, a 25-percent cut in nurses' capitation funds, which was reduced from $40 million to $30 million, and which is $2 million less than the House figure. The budget request for 1978 for nursing was $100 million under the 1977 appropriation. At the present time, only about 20 percent of nurses have baccalaureate or higher degrees and the projected demand for 1980 is for more than 50 percent of nurses to need more than baccalaureate degrees.

Even though I certainly understand the Senator's bringing up this amendment, I am glad that he is just discussing this question and not pressing the amendment at this time.

Mr. BELLMON. Mr. President, it is obvious that the committee is aware of the danger and they share my concern. I shall not press the amendment. I withdraw the amendment from further consideration.

The amendment was withdrawn.

UP AMENDMENT NO. 577

Mr. BROOKE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes unprinted amendment No. 577.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 41, line 5 strike out section 208.

Mr. BROOKE. Mr. President, this is a historic and deeply disturbing moment in the legislative history of this body. For our deliberations on this year's Labor-HEW appropriations bill represent the culmination of a trend which we should deplore, and which we may all yet regret, regardless of our ideological persuasions or political affiliations.

Legislating on appropriations measures has long been a disapproved practice in the Senate. The inclusion of substantive legislative language, without recourse to the normal Senate apparatae of hearings, investigations and debate, has almost always been ruled subject to points of order, and has engendered great criticism.

Yet, today, we are treated to the rising specter of amendments and riders which are framed in prohibitory or delimiting terms, and not, therefore, as susceptible to points of order.

The fact that an amendment limits or proscribes activities, instead of advocating new ones, should not obscure its essentially substantive quality, legislative weight, import, or purpose. Prohibiting the use of Federal funds for certain activities is often as effective as far-ranging legislative initiatives. Yet this practice short-circuits the safeguards which we in Congress are bound to respect and which the American people have a right to expect.

This practice has escalated to the point where reasoned, dispassionate debate on controversial issues is virtually impossible. And this practice must cease, for, if we vote to sustain this amendment, we are fostering preemptory, precipitate action at the moment when we should be encouraging caution, concern, and restraint.

The practice of legislating on appropriations measures does little to enhance the luster of the Senate as a deliberative body. When we consider the underlying fact that the educational future of millions of our young are at stake, our haste borders on the irresponsible.

It is long past time that we in the Senate should separate emotionalism and illusion from reality when confronting the busing issue. The most central issue is certainly not busing, per se. Indeed, busing for school transportation has been an integral and time-honored component of our educational system. At this very moment, 55 percent of all schoolchildren are transported by bus to schools in their communities. Yet, only 4 percent of the schoolchildren in this Nation are bused for racial desegregation purposes. I conclude that the fundamental question remains whether we as a Nation are truly committed to full equality of educational opportunity for all Americans.

If we are committed, then all other questions become merely procedural. These procedural issues—what tools can be used to further our Federal antisegregation policies; how much discretion must be vested in HEW to facilitate accomplishment of these worthwhile policies; what is the impact of limitations, through amendment, on our ability to achieve equality—are extremely complex and variated. They are best solved after careful and protracted consideration.

Anything less is an abrogation of the public trust. Anything less compromises our ability to forge progressive solutions to our manifold social and economic problems. I, for one, cannot endorse any other course but that we fully meet our responsibility, in this instance, to conduct ourselves in a constitutionally sound and forthright manner. Anything less is disingenuous, and may ultimately be divisive and destructive.

No one can deny that there are several constitutional, as well as practical problems with the Eagleton-Biden amendment which wait to be resolved. First, any

amendment which precludes HEW from taking remedial actions in the face of unlawful segregatory practices raises serious constitutional questions.

It is settled case law that any Federal statute which would force an agency to fund a racially discriminatory program would be found in violation of the fifth amendment of the Constitution. This principle was articulated by a unanimous Supreme Court in the Little Rock school desegregation case, *Cooper* v. *Aaron* (358 U.S. 1, 19 (1958)). Cooper holds that Government support of segregated schools "through any arrangement, management, funds or property" cannot be reconciled with the constitutional prohibition against governmental action denying equal protection of the laws. *Gatreaux* v. *Romney* (488 F 2d 731, 739 (7th Cir. 1971)) and *Green* v. *Kennedy* (309 F Supp. 1127 (D.D.C. 1970)) expressly buttressed this analysis in other Government activities.

By passage of this amendment, which is so constitutionally suspect, we make the Government a partner in segregation. This we cannot do.

And, if Eagleton-Biden is passed, we force HEW into an anamolous, and altogether unsatisfactory position. First, HEW could abide by this amendment, forsaking its fifth amendment responsibilities. Second, HEW could ignore this amendment, thereby precipitating an almost certain court challenge or mandamus action.

Third, and most probable, HEW could be forced to radically alter its approach to title VI enforcement. This approach has, in the past, been largely conciliatory. Although title VI provides for the suspension or termination of Federal funds to programs which illegally discriminate, HEW has rarely utilized this sanction. Instead, HEW has consistently attempted to secure voluntary compliance through negotiation and cooperative efforts. The amendment does not acknowledge this reality. Instead, this amendment shreds HEW's enforcement and review mechanisms and divests the procedure of even a modicum of sensitivity and selectivity. Whatever our opinion about the efficacy and fairness of busing, this dilemma must give us pause.

And, it should be crystal clear, even to those who oppose busing on principle, that the severe and crippling limitations which Eagleton-Biden places on HEW's discretion may ultimately lead to more, not less, busing. For it will certainly lead to greater litigation and contention over the issue. And it will almost certainly precipitate more use of the courts as the only remaining recourse to vindicate the rights of students who are trapped in still-segregated communities, and ill-equipped educational ghettos.

Second, the practical dangers of so sharply limiting HEW's ability to fashion or to accept remedies to end unlawful segregation must also be evaluated. The precedent which we may now forge could be applied again and again to other agencies and departments whose purview includes controversial issues. Without careful consideration of this particular aspect of our actions, we may do disservice to the fragile balance of powers guaranteed by the Constitution. And we do violence to the concept of free-flowing, consistent and effective administrative action.

Under these grave circumstances, we must resist the lure of short-term political expediency. We must resist the temptation to resort to demagoguery as we face this volatile issue. Because each time we yield to more facile solutions, we compound our Nation's serious problems, and prolong the processes which we must employ to fashion the solutions which we seek.

There will always be disagreement on the underlying issues which we face today. But for myself, I have only one view. And it is a strong view. I believe that this society must be equal, and free, for all the people. And this equality and freedom must be secured by any permissible, legal or constitutionally-mandated means. If it means busing to end unlawful segregation, then I support it. If it means temporary preferential remedies, then I support them, also.

My faith in the Constitution as a living document which requires equal treatment and protection of the laws for every citizen leads me to conclude that the temporary discomfort and inconvenience which must be borne in our efforts to propel this society to that moment when equality is finally realized are but small costs to pay.

This debate is particularly poignant to me, as our Nation has seen a whole people ravaged by the dark staining shadow of slavery. Over 100 years ago, this very deliberative body fashioned remedial legislation to help the displaced and disenfranchised persons who were trapped and oppressed by the incidence of their birth. Yet, this tragic historical condition, and the remaining vestiges of slavery, continue to cast a pall over our aspirations, our dreams, and our lives.

So, the need for strong leadership through enlightened congressional action is no less great today. We have stumbled toward progress since the 1954 Brown decision, but we have far to go. This body has, in the recent past, spoken courageously to the issue of racial inequality, securing voting rights, fair and open housing and guaranteeing the use of public accommodations for all. It would be reprehensible, and an historical anomaly, if this 95th Congress presided over the dismantling of those few agencies charged with promoting equality, even before full equality was assured.

Yet, even my strong, unequivocal support for the eradication of inequality wherever it is found in our society does not prevent me from stressing the procedural consequences of the actions which we might take this afternoon. Nor do my own strong views on this issue hinder me from perceiving the value of intensive dialogue among citizens and elected officials who have differing views, before we take precipitous action.

Mr. President, I urge my colleagues to join me in separating substance from procedure. I urge my colleagues to consider the dangers inherent in our rush to judgment and legislation without benefit of dispassionate consideration. And whatever the views on the substantive merits of the Eagleton-Biden amendment, I urge my colleagues to consider the dangerous precedent we are here establishing, by attaching a rider of this import on an appropriations measure, and by so sharply limiting agency discretion.

I, therefore, ask my colleagues to support my motion to strike section 208 from this bill. Let those who wish fashion a piece of substantive legislation to accomplish these debated ends, submitting it to the appropriate Senate bodies for study, and then to the Senate collectively for deliberation and disposition.

Mr. President, I yield to the distinguished Senator from North Carolina 5 minutes, and before I do, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I rise to support the amendment of the distinguished Senator from Massachusetts, and once again oppose the language in this bill which is supposed to be antibusing and which is supposed to encourage neighborhood schools—but not in the case of the South.

Although I confess, Mr. President, that I would rejoice if a piece of legislation would come before the Senate outlawing nationwide busing and providing means and ways for us to provide quality schools all over the Nation so that we can ultimately return to neighborhood schools, I will not support, Mr. President, a plan which would, in effect, relieve the burden north of the Mason-Dixon line and keep the South busing until kingdom come. And that is exactly what we are talking about here today.

The language of the Eagleton-Biden amendment is in the present Labor-HEW appropriations bill. The language would block HEW from using the funds to require busing beyond the nearest school, and the "pairing" of schools to achieve racial quotas.

But—and this is the important thing my colleagues should remember—the ban would apply only in the future, because it can apply only to the 1978 HEW funding. Thereafter, a new limitation will have to be included every year. And even then, the ban will apply only to future desegregation requirements.

That means one thing, and one thing only: That the ban on busing shall apply only in the North and West, because that is where future actions are to be taken. The South has already integrated its schools, and this so-called antibusing amendment will not apply.

In my State of North Carolina, 42 school systems are operating under court orders. This amendment will not touch them. Those that are busing now will be busing still.

Eighty more school systems have plans in effect on a voluntary basis, and, usually, a suit against them pending in Federal court. This amendment will not ap-

ply to them, because HEW will take no action in 1978 to require such a plan. It has already done it, and that will stand. Even if a school board were to try to argue that HEW would be prevented from keeping a past busing plan in effect during this year, you had better believe that pending court suit would be activated, and that school system would be in worse trouble than it is now.

There are those who argue with me that I ought to vote against busing, even if the ban would only apply in the North. But I have to most emphatically disagree.

I believe that if we take the pressure off the North and the West, we will remove any incentive from these areas of the country to help us find ways to provide quality education for boys and girls in every area of the country in such a way that we can then return to neighborhood schools.

Mr. President, we might as well face the facts of life. That is the only way we ever are going to return to neighborhood schools—to see that the schools in every community in America offer an education equal in quality to that of any other area. Until we recognize that, until we do it, we are not going to be able to return to neighborhood schools, which I think all of us want to do, provided we can provide these equal opportunities.

If we adopt this amendment, or the language of the Eagleton-Biden proposal, we will return, in my opinion, to the hypocritical situation in which a northerner may stand up and oppose busing on the grounds that it creates turmoil and stress in the lives of children, but a southerner making exactly the same argument will be dismissed as a bigot.

Last year, a national television reporter did a telecast from a suburb of a Midwestern city. The reporter was repeating, in a horrified manner, the sort of turmoil that is attendant on busing, which that city was seeing for the first time. He was reporting the suburbanites' objections that there were police walking the halls of the schools. He was saying that students were going to school armed. He was especially anxious to stress the absurdity that children were being bused past their own neighborhood school to 1 mile away, even when their old school was right across the street from their homes.

All these issues were being reported as if they were brand new, and they were being reported in a most negative manner. But the very same things were being objected to in the South 15 and 20 years ago, and the objections fell on deaf ears.

Fifteen and twenty years ago, the selfsame outcries were to be heard from the South, and they were ignored. There was no such television news report as I have just described. No such amendment as we are now considering would have had a ghost of a chance in the Senate of the United States. But now things are different, and they are different because now the rest of the Nation is beginning to have its own busing. Suddenly, the legitimate objections against busing are no longer dismissed as excuses.

But relieve that pressure on the rest of the country, and what will you have? Vote to ban future—repeat, future—busing, and what will result?

We will again have the pretense that the solid black schools in Northern cities, and the solid white schools in their suburbs are just a matter of chance. We know that that is not true, that racial discrimination has existed in the North and the West just as truly as it existed in the South and in other parts of the Nation. The same contention would be made, that the black and white schools in the South were deliberate and premeditated denials of constitutional rights.

The truth has dawned on many people. A supposed antibusing measure has come before the Senate. Neither one would have happened if busing had not become a fact outside the Southern States.

I will vote for a competent antibusing measure which attacks the problem on a nationwide basis. I remain hopeful that we will solve this problem by providing top quality schools in each and every neighborhood. I decline, once again, to vote for the mere appearance of a busing ban. I will not vote for one which guarantees that northern children will walk to their neighborhood schools, and southern ones ride a bus to the other side of town.

So I join in the support of the amendment of the Senator from Massachusetts.

Mr. BROOKE. I thank the distinguished Senator from North Carolina. I understand his reasons for supporting my amendment to strike this language. I again have to say how very much I am inspired and pleased by his courageous stand and by his understanding, more important, of the real problem involving school desegregation, what busing is and what it is not.

I think he has made a very clear and very convincing case. What he has said is absolutely true, and I wish others would look at it realistically and not hypocritically as, unfortunately, some do in this country.

Mr. President, I yield 5 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, we have debated this matter for many years, and always there is the kind of rear guard effort to dismantle whatever we are trying to do at a particular time, without general regard to how it fits into the total scheme of trying to assert constitutional rights.

A note has been struck by Senator BROOKE which I would like to repeat, which I think is critically important.

I stood in this place 20 years ago and heard the dire things which would happen to our country and to our social system, the civil war and insurrection which would occur if black people and other minorities were given their rights as citizens of the United States, by the United States.

We said at that time that the States did not do it and would not do it and that, therefore, if this country meant anything, we have to do it.

Mr. President, notwithstanding the disorders in Louisville and Boston and Little Rock and many other places, the fact is that the most segregated part of the United States is getting to be the most desegregated—to wit, the American South—and the South is bigger, richer, stronger. Indeed, we are terribly worried about it now, because the pendulum has swung so strongly, economically, in favor of the so-called sunbelt.

Mr. President, it really is almost disheartening, as an American coming from the very same minority origins myself, to now have to still debate this very same rear guard action against common human decency, sustained by all the judges of the Supreme Court unanimously only yesterday.

How much validation do the minorities need? How long do they have to suffer this indignity, to have this challenged and challenged and challenged and challenged again by Senators who represent not only their States but also the conscience of our country? That is really what is at stake in the busing argument. In my judgment it is irrefutable if we really mean what we say about America.

Finally, Mr. President, many of the men and women who feel as we do about busing or some other aspect of the segregation, as ordered by the courts, are the most ardent exponents of human rights and backed President Carter in this great moral struggle for human rights throughout the world. What about us at home? Are we practicing what we preach, which is one of the most elementary sentiments in the human personality, or are we just preaching it to others?

Or do we intend really, before we preach to others, to be an example to the world?

Mr. President, I repeat it is almost disheartening to have to go through this year after year after year, with people voting who, in many, many other directions, show the most broad-scale and generous sentiments to their fellow men, and yet somehow or other cannot perceive the sheer element of dignity which went into the constitutional rights which the Founding Fathers vouchsafed us, and which it is now our duty to make good.

Mr. President, I hope very much the Senate will respond to the eloquence of my colleague, who fought this battle so manfully for a very long time, and to the deep feelings which, I think, should animate us all as Americans.

Mr. BROOKE. Mr. President, I want to thank my distinguished colleague from New York who has truly been a leader in the battle for civil rights for all people for so many years. His statement was articulate and eloquent, as usual, and I hope very persuasive to his colleagues on this floor.

Senator JAVITS mentioned that in the South they have done so well so far as school desegregation is concerned, and he is absolutely correct.

Mr. President, in 1964 in the South 8 percent of the black schoolchildren attended integrated public schools; only 8 percent in 1964.

In 1972, 8 years later, 92 percent of the black schoolchildren in the South attended integrated schools—from 8 to 92 percent in only 8 years to show that it can be done.

The Senator from New York referred

to some of the violence that happened in Boston, of which I was ashamed. But I am proud to say that they had a graduation the other day of the first class under the desegregation orders. There was not one act of violence, which goes to prove that if we let the children alone, and let the teachers and the children work this matter out, we could do in the North as they have done in the South.

We do not keep coming up with these amendments, as the Senator said, requiring us to fight a rear guard action year after year after year on every bill possible without giving hope to those advocates of violence and those who still want to deny equal educational opportunities to all children in this country; that we could get on with not the integration of schools but the desegregation of public school systems in this Nation.

So I thank my colleague from New York who spoke so eloquently, as I thank my colleague from North Carolina who also spoke eloquently, for different reasons, but he spoke and he stood up because he knows what is right and what is essential in this Nation.

Mr. President, I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, I yield myself such time as I may consume.

Mr. President, before making my principal remarks, which I have considerably shortened from the prepared text, I would like to make two comments with respect to the remarks of the Senator from North Carolina (Mr. MORGAN), who is no longer here, I think, on the floor, and my friend and colleague, the able Senator from New York (Mr. JAVITS).

First, with respect to the fact that this amendment applies only to the North, I must beg to differ with the Senator from North Carolina. It will apply to the whole Nation.

As I will get into later in the debate, talking about the segregating and isolating factors of urban school systems, there happen to be five on this list that are from the South: Houston, Dallas, New Orleans, Memphis, and San Antonio, and my remarks are equally applicable to those five cities as to the other cities on the list, starting with New York, and going down through Kansas City.

Second, in response to the Senator from New York, who is at all times eloquent and a person who most sincerely speaks with great compassion, I thought his remarks were in his customary vein of being compassionate and understanding.

It is a little bit troublesome to me in referring to the fact that for 20 years in this body we have been having this debate and, as Senator JAVITS points out, some of the greatest segregation is now in school systems in the North. I will bring it even a little closer here, Mr. President, I will bring it to the city where we are situated and where we have been having these debates for 20 years: the most segregated school system in the United States, bar none is Washington, D.C., with 96 percent minority—here it is on the list about eight down—96.3 percent minority, 3.7 percent white.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. EAGLETON. No, not at this time.

Yet despite the fact of this being the most segregated school system in the country, I know of no suit filed by the Civil Rights Division of the Department of Justice to desegregate this whole system; I know of no suit filed or pending by any civil rights group to desegregate this school system; I know of no suit currently pending by any students or parents of students to desegregate this school system. Why is this, Mr. President? It is a very simple answer, and that is the whole guts of this debate. There is no way under the sun to desegregate the District of Columbia school system.

There is no way you can bus around 3.7 percent whites and place one in each class in each school in the District of Columbia. It would be an exercise in futility. It would be an exercise in nothingness.

If you look down the segregative and isolative patterns in all the major school systems of this country, the same will apply.

I say to my friend from New York City, there is no way in this, one of the largest, if not the largest, school system in the country, there is no viable way, to desegregate a 67.0 percent minority school system. There is no way if you bus white children all across New York and have one-third of each school comprised of whites, there is no way that you will avoid white flight in New York City, no way whatsoever.

If you go down the line, Chicago, 70 percent black, 70 percent minority, there is no way you can desegregate the Chicago school system.

Here is Philadelphia with 62.2 percent minority, there is no way to desegregate the Philadelphia school system.

Detroit, the subject of later remarks in this speech, 81.4 percent minority. There is no way under the Detroit case that you can desegregate the Detroit school system.

I hasten to point out that the Supreme Court yesterday spoke—the Senator is correct, my friend the Senator from New York, with respect to busing—and what did they say in the two cases they handed down yesterday? In Detroit No. 2 or call it Milliken No. 2, the U.S. Supreme Court failed to order again across-district busing, and by a unanimous—this time unanimous—opinion affirmed the basic premise of the earlier Detroit case, which means that there will only be intradistrict busing, not inter, but intra, within Detroit, with an 81 percent minority school system.

It said with respect to that busing, that the cross-district busing Detroit was about to order exceeded the violation and reiterated that the remedy must be tailored to cure the specific violation. You must tailor the remedy Detroit—not to include the suburbs because there was no evidence that any school district outside of Detroit was found to have engaged in unconstitutional activity, as was stated in an earlier case. You must tailor the busing and target it. You cannot have interstate busing; it must be within the city of Detroit. That is what the Court held 8 to 0 yesterday.

Let us go to the Dayton case that just came down yesterday, again 8 to 0. The district court in Dayton ordered cross-district busing, ordered the kind of busing that would bus inner city school students to the suburbs. It went up to the court of appeals where it was rejected. The Supreme Court affirmed that order yesterday unanimously 8 to 0.

The U.S. Supreme Court said no cross-district busing, and again if there is to be busing in Dayton it must be intradistrict and it must be very limited in nature. It must be targeted under the so-called Austin doctrine. So that is what the court held yesterday.

We are talking about the Court that is just across the street from us here. They spoke unanimously. So if we are invoking the great jurists of mankind, let us invoke them in their most recent opinions, and let us apply them to the facts as we know them, because in net sum essence, Mr. President, I repeat, it is impossible in the kinds of school systems I have listed on this chart, many of which are preponderantly minority, we are only kidding ourselves, and doing worse, we are not even kidding the people in those communities. We are invoking a great harm on them when we pretend that we can, in fact, desegregate a city school system that has minority percentages as listed on this chart.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. EAGLETON. I will yield at a later time.

Mr. BROOKE. On that point.

Mr. EAGLETON. I refuse to yield. Make notes and I will be glad to chat with you a little later on.

The Byrd amendment was first adopted nearly 2 years ago, and it was subsequently readopted last year, to express a clear congressional directive to the Department of Health, Education, and Welfare that it may not require busing of students beyond the school nearest their homes in order to enforce compliance with title VI of the Civil Rights Act. Within the past month, the Departments of HEW and Justice have disclosed their own interpretation of the Byrd amendment, an interpretation which circumvents the clear intent of the amendment and would allow HEW to require busing in connection with the so-called pairing or clustering of schools. There have been indications from both within and without the Department that HEW is preparing to test its interpretation of the Byrd amendment in Court, in connection with a proposed desegregation plan for the Kansas City, Mo., school district.

When the bill we are now considering was considered by the Appropriations Committee, I, along with Senator BIDEN, offered a revised version of the Byrd amendment, designed to vitiate what I consider to be HEW's fallacious analysis. The Appropriations Committee adopted my revised version and I urge the entire Senate to retain the revised Byrd amendment in the final bill.

In explaining the reasoning behind my amendment, Mr. President, I wish first to make it clear that in this Kansas City matter, we are not talking about a case

in Federal court where the judge finds a violation of the equal protection clause of the Constitution and enters a busing order to remedy such violation. The Byrd amendment would not apply in such a situation and I would not support a law which attempted to restrict the authority of Federal courts to fashion appropriate and targeted remedies to redress such constitutional violations. The Byrd amendment does apply and I support its application to matters such as Kansas City where HEW acting solely on its own administrative authority and acting without any judicial determination of unconstitutionality, administratively seeks to impose its own formula as the racial mix or racial balance of a given school district.

Mr. President, my position is that the Supreme Court decisions in the Detroit and in the Indianapolis cases, and I should add refortified by Detroit No. 2 handed down yesterday and Dayton No. 1, both unanimously, and absent the special and incredibly unique facts in the Wilmington case that my colleague, Senator BIDEN, will address, that those Supreme Court opinions, Detroit 1, Indianapolis 1, Detroit 2, and Dayton 1, bar—and that is the law—they bar, they prohibit, interdistrict busing, busing from the city to the suburbs between black inner city school districts and white suburban school districts.

That is not Eagleton law and that is not Biden law. That is the Supreme Court of the United States law. None of us wrote it, but we are all obliged to read it, we are all obliged to understand it, and we are all obliged to comply with it.

If I am correct in this reading of the Detroit, Indianapolis, and Dayton cases—and I am convinced that I am right in my reading of those cases—then large-scale busing within predominantly minority populated school districts cannot and will not remedy such racial imbalance.

Mr. President, I ask unanimous consent that a table be printed in the RECORD showing the racial mix of some of our Nation's largest school districts.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Major urban school districts:	Percent minority	Percent change in white enrollment 1967–72
New York City	67.0	−5.0
Los Angeles unified	39.8	−12.0
Chicago	70.4	−23.0
Philadelphia	62.2	−6.0
Detroit public schools	81.4	−30.0
Houston independent school district	65.8	−21.0
Baltimore City	75.5	−38.0
Dallas independent school district	54.9	−21.0
District of Columbia	96.3	−40.0
Cleveland City school district	62.2	−13.0
San Diego unified school district	33.7	−10.0
Milwaukee public schools	40.2	−19.0
Memphis City schools	71.2	−15.0
Orleans parish	80.8	−39.0
Boston public schools	49.3	−16.0
Indianapolis	45.7	−25.0
St. Louis City	72.2	−27.0
San Francisco unified school district	51.1	−25.0
San Antonio independent school district	52.3	−13.0
Kansas City	68.0	−27.0

Mr. EAGLETON. Mr. President, it is my position that if HEW proceeds to order intradistrict, inner district busing in these school districts, starting with Kansas City, quite obviously they intend to move on—there is preliminary negotiation with Chicago to start there, with the 70 percent black school system—then such busing, in my opinion, will be completely self-destructive. The effect of such intradistrict busing will be to heighten the racial isolation of these inner city schools, not lessen it.

I am convinced that if HEW orders large-scale intradistrict busing in the Kansas City school district and in Chicago, within a year the current 68 to 70 percent minority composition of the Kansas City and Chicago school districts will be dramatically increased.

If HEW goes ahead with this order in those two cities, I am willing to read into the RECORD right now my prediction, and I will apologize to the whole body if I am wrong. If this fall, this September, in Kansas City and Chicago an intradistrict total busing order goes into effect, I will promise that by September 1978, a year from now, Kansas City—instead of being a 68 percent minority school district—will be at least 78 percent. I am willing to predict if they enter a similar order in Chicago—Chicago which is now a 70 percent minority school district—it will be a year from now, this fall, if they go ahead with such a foolish concept, an 80 percent minority school district.

It is this stark reality of the racial mix of our large city school districts which causes me to conclude that intradistrict busing is foredoomed to failure in such school districts.

It is this reality and the same reality that has caused Prof. James Coleman, who was the author of the landmark report on the effects of segregation on school children, to reevaluate his all-out support of busing as an integration tool, and he now opposes it in districts such as I have been describing.

It is this same reality that has caused black newspaper columnist William Raspberry to conclude:

A lot of us are wondering whether the busing game is worth the prize. Some of us aren't even sure just what the prize is supposed to be.

It is this same reality that has caused Wilson Riles, a black and the superintendent of public instruction for the State of California, to say:

If you have to have blacks sitting next to Caucasians to learn, we are in a mess, because two-thirds of the world is non-white, and we would not have enough whites to go around. If the schools are effective and the children learn, that is the easiest way to achieve the ultimate goal of integration.

It is this same reality that has caused the liberal and progressive St. Louis Post-Dispatch to oppose large-scale busing in the St. Louis school district, which, by the way, has a 72 percent minority enrollment. The St. Louis Post-Dispatch interestingly does support busing in Kansas City where it is 68 percent black. It opposes busing in St. Louis and says:

. . . both sides in the suit recognize that large-scale busing in a school district with a black majority could be counterproductive in terms of desegregation, and both sides insist that they do not want to "shove something down people's throats." No one wants a duplication of the Boston school dispute here.

So says the Post-Dispatch.

Mr. President, the problems of segregated schools currently being addressed by the Federal courts and by HEW are far different from those that were involved in previous enforcement activities. For most of the period following the 1954 Supreme Court decision in Brown against Board of Education, desegregation efforts were directed primarily at disestablishing the separate systems of schools for blacks and whites that were mandated by law throughout the Southern States and some border States, I might add, including my own of Missouri.

It was evident in those cases that dual system of segregated schools was the result of official action, that is de jure segregation, and as increasingly more explicit rulings of the Supreme Court made clear, the dual systems had to be eradicated, "root and branch," and converted to unitary systems. Busing as an instrument for desegration did not raise difficult issues in the largely rural districts of the South, in a sense, for a high proportion of students were being bused to their schools already; indeed it has often been stated that the effect of desegregation in many places in the South was to reduce the amount of busing since maintenance of a dual system required busing more children for longer distances than that necessitated in a unitary system.

Today, a generation after Brown, the question is not so much what to do about dual systems in the rural South—they have been unified, for the most part—but rather what can and should the Federal Government do about predominantly minority schools—also called "racially isolated schools"—in the big cities. As the U.S. Commission on Civil Rights stated in its February 1977 report entitled "Statement on Metropolitan School Desegregation," page 6:

To a very great extent the remaining problems of segregation by race and national origin in public schools are problems that exist in big cities. While nationally . . . two out of every five black children attend intensely segregated schools [i.e. 90 to 100 percent minority enrollment], in the 26 largest cities of the United States almost three of every four black pupils are assigned to such schools.

Viewed from a somewhat different statistical perspective, HEW reports that more than 70 percent of the black students who are in all-minority schools are

in 19 cities, located in all parts of the country.

Problems of big city school segregation are complicated by two factors not commonly found in earlier cases coming out of the South:

First. Many of these cities—9 of the largest 12 and 14 of the largest 20—have majority black enrollments in their schools, and the proportions of black students to white students are steadily rising.

Referring to the chart, the second column—and these are the latest complete figures we could get—indicates the racial trend in these school districts during a period from 1967 to 1972. During that period, every school system listed had an increase in the percentage of minority enrollment: For example, the District of Columbia by 40 percent, Detroit by 30 percent, New Orleans by 23 percent, and so on. As the Civil Rights Commission report puts it, page 1:

> In the wake of two great migrations—the movement of black people from the rural South to big cities throughout the country and of whites from central cities to the suburbs—the racial composition of these school systems has changed dramatically from predominantly white to predominantly black.

Second. The liability of big city school districts for segregated schools is often not readily ascertainable through application of the de jure/de facto criteria developed by Congress and the courts to distinguish between State-enforced segregation and that which has been "adventitiously caused"; that is, by factors not related to official action. The cities of the North and the West did not maintain separate schools for black and white students as part of a legally mandated segregated system prior to 1954, thus liability for racially isolated schools in those districts cannot be imputed to school authorities on the ground that such schools are vestiges of a former dual system; there must be evidence of official action leading to the creation of conditions of segregation. Even in cities located in border States with a history of official segregation, where desegregation was undertaken promptly following the Brown decision there often are questions as to whether the existence of predominantly black schools today resulted from the earlier segregated systems or whether they were caused by other factors, such as the shifts in population referred to by the Civil Rights Commission.

In short, Mr. President, we are faced with a situation where predominantly black schools exist in cities having—in most cases—a predominantly black school population and where the fundamental causes of racial isolation are generally not readily attributable to a history of segregative practices.

That would be true in all the eastern and far western cities.

Given these circumstances, I believe that we are bound to inquire what the effects of programs of large-scale cross-town busing in such cities are going to be—whether it will be Kansas City this year or Chicago next year, and whether such busing is more likely to produce meaningful integration or more segregation.

My views on this question were expressed in the 1975 debate which led to enactment of the Byrd amendment, when I said:

> To spread a dwindling number of white students throughout a predominantly black city school system is a self-defeating exercise. While the so-called "white flight" from the cities to the suburbs cannot be attributed solely to unreasonable busing requirements, it certainly has been an important factor.

(Mr. METZENBAUM assumed the chair.)

Mr. EAGLETON. Now let us hear what the Civil Rights Commission says on this same argument.

The Civil Rights Commission report, which argues for desegregation on a multidistrict, metropolitan approach concurs with my views on the efficacy of busing within big city districts, stating, page 10–11:

> Few people regard desegregation plans that affect the city alone as providing stable or satisfactory solutions. In the words of Eleanor Holmes Norton, then chairman of the New York City Human Relations Commission (whom we recently confirmed as chairperson of the U.S. Equal Employment Opportunity Commission): "To simply distribute a diminishing number of whites thinner and thinner is obviously to get embarked on a process that will not result in integration. A school with 20 percent white students and 80 percent minority students is not integrated . . . That's why the metropolitan approach has to be looked at very closely."

Thus, given the Court rulings limiting busing to intradistrict, if we look down once again at this list and see the minority makeup, with that intradistrict busing in Detroit and Kansas City, in Chicago, and in Washington, D.C., we can see it is foredoomed to failure.

In the same vein, Dr. James S. Coleman of the University of Chicago, whose earlier studies of student performance in desegregated schools lent support to the movement toward integration, has argued convincingly that the exodus of white families from the central city to the suburbs has been hastened by ill-advised desegregation policies of the kind that the Byrd amendment is intended to prohibit. Professor Coleman recently said in a speech:

> Ironically, "desegregation" may be increasing segregation.

While reaffirming his commitment to the vindication of rights guaranteed by the Constitution, Dr. Coleman has urged a reconsideration of the remedies the courts have devised to enforce those rights so as to avoid practicer which are, in fact, destructive of the goals of integration.

The Civil Rights Commission concluded that metropolitan remedies involving most or all of the school districts in a metropolitan region, must be employed to overcome racial isolation in big city school districts, stating that, page 8:

> The difficulty of dealing with racial isolation in very large cities is compounded by the fact that in many places the problem has become not simply the existence of segregated schools but of segregated school districts.

However, recent decisions of the Supreme Court concerning the appropriateness of ordering desegregation on a metropolitan basis make it unlikely that such an approach will be sustained, absent exceptional circumstances. The Supreme Court has dealt with this issue in several cases; the principal exposition of the Court's position on this subject came in the Detroit case, *Milliken* v. *Bradley*, 418 U.S. 717 (1974).

The Federal district court in Milliken found, and the sixth circuit court of appeals affirmed, that the only effective remedy for the de jure segregation found to exist in Detroit was to include 53 suburban school districts in the desegregation plan, even though there was no evidence that any school district outside of Detroit had engaged in unconstitutional activity. The Supreme Court reversed, holding that a Federal court is not empowered to impose such a remedy unless acts of the State or of the suburban school districts can be shown to have been a substantial cause of interdistrict segregation.

It should be noted that yesterday the Supreme Court once again considered the Detroit case. No busing between the city and the suburbs was ordered. In fact, as to the busing to be conducted within the Detroit school district, such busing must not "exceed" the violation and the remedy must be "tailored" to cure the "condition that offends the Constitution."

Chief Justice Burger, writing for a unanimous court, stated as follows:

> The well-settled principle that the nature and scope of the remedy is to be determined by the violation means simply that federal court decrees must directly address and relate to the constitutional violation itself. Because of this inherent limitation upon federal judicial authority, federal court decrees exceed appropriate limits if they are aimed at eliminating a condition that does not violate the Constitution or does not flow from such a violation, see *Pasadena City Board of Education* v. *Spangler*, *supra*, or if they are imposed upon governmental units that were neither involved in nor affected by the constitutional violation, as in *Milliken I*, *supra*. *Hills* v. *Gautreaux*, 425 U.S. 284, 292–296 (1976). But where, as here, a constitutional violation has been found, the remedy does not "exceed" the violation if the remedy is tailored to cure the "condition that offends the Constitution." *Milliken I*, supra, at 738.

If there had been any doubt as to the direction being signaled by the court in the Detroit case, such doubts were erased yesterday in the Court's ruling on the Dayton desegregtaion case. In remanding the Dayton case to the district court, the Supreme Court reiterated its conviction that a remedy must be tailored to a specific violation of the equal protection clause.

Such was the case in Wilmington, Del., where the Court affirmed without opinion a ruling by Federal district court that a metropolitan remedy was appropriate after the Delaware General Assembly explicitly excluded the Wilmington district from a general reorganization of Delaware school districts. This prevented the predominantly black Wilmington district from being reorganized with a predominantly white school district while other districts within the

State were able to consolidate (*Buchanan* v. *Evans*, 423 U.S. 965 (1975)).

However, the Supreme Court reversed the lower court's order in a subsequent case ordering interdistrict desegregation in Indianapolis and directed the lower court to reconsider its decision in light of the Supreme Court's intervening opinions in two cases which held that in order to establish the unconstitutional character of official actions, it is necessary to show a "racially discriminatory purpose," *U.S.* v. *Board of School Commissioners of Indianapolis*, 45 U.S.L.W. 3500 (1977), vacated and remanded for reconsideration in light of *Washington* v. *Davis*, 426 U.S. 229 (1976), and *Village of Arlington Heights* v. *Metro Housing Development*, 45 U.S.L.W. 4073 (1977).

Washington v. *Davis* and *Arlington Heights* v. *Housing Authority* were not school desegregation cases—they involved claims of racial discrimination in employment and housing construction, respectively—but the Supreme Court's direction to lower courts considering school desegregation matters to take these two cases into account is particularly significant, in view of the more restrictive approach to racial discrimination issues articulated by the Court therein. What the Supreme Court appears to be saying is that lower courts should not be quick to impute a discriminatory purpose to the actions of school authorities based on the existence of predominantly black schools, where those racial concentrations may as plausibly be explained by other factors, such as the existence of racially segregated housing patterns.

Support for this conclusion can be drawn from a separate concurring opinion written by Justice Powell—joined by the Chief Justice and Justice Rehnquist—in the recent case of *Austin Independent School District* v. *U.S.*, 45 U.S.L.W. 3413 (1976). The Austin case, like the Indianapolis case, was remanded to the lower court in a brief memorandum opinion for reconsideration in light of *Washington* v. *Davis*.

The Austin case, ratified yesterday in both the Detroit and Dayton cases, called for a very specific targeted remedy, and takes into account what had been the negative effects of segregation. Senator BIDEN, I know, will discuss that in some detail.

In his opinion concurring with the Court's per curiam order, Justice Powell said:

> The principal cause of racial and ethnic imbalance in urban public schools across the country—North and South—is the imbalance in residential patterns. Such residential patterns are typically beyond the control of school authorities. For example, discrimination in housing—whether public or private—cannot be attributed to school authorities. Economic pressures and voluntary preferences are the primary determinants of residential patterns.

The point of this discussion of recent Supreme Court actions in the area of school desegregation, Mr. President, is to indicate that the Court's view of the responsibilities of local school authorities and the appropriateness of particular remedies for segregation is an evolving thing, particularly as more and more cases involve school districts where allegations concerning the liability of school authorities for predominantly black schools must be established by circumstances other than the existence of a prior dual system mandated by law.

It should be pointed out at this point that just yesterday the Supreme Court handed down its 8 to 0, unanimous opinion in the Dayton case—Dayton against Brinkman. In that case, the Supreme Court unanimously rejected a systemwide busing remedy as being much too broad. The Supreme Court, in remanding the case to the district court, stated as follows:

> . . . In effect, the Court of Appeals imposed a remedy which we think is entirely out of proportion to the constitutional violations found by the District Court. . . ." The Court further stated:
>
> "The duty of both the District Court and of the Court of Appeals in a case such as this, where mandatory segregation by law of the races in the schools has long since ceased, is to first determine whether there was any action in the conduct of the business of the school board which was intended to, and did in fact, discriminate against minority pupils, teachers or staff. *Washington* v. *Davis*, supra. All parties should be free to introduce such additional testimony and other evidence as the District Court may deem appropriate. If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a systematic impact may there be a systemwide remedy. . . .

By contrast, the administration of title VI by HEW gives the appearance of a mechanistic process; evidence concerning racial isolation is punched in and a requirement is printed out that each school must reflect the racial balance of the entire school system, give or take a few percentage points. Lipservice is paid to the need to establish a de jure violation, but there would seem to be a few school districts with any significant degree of racial isolation where HEW cannot construe some official action of some agency as having a racially discriminatory purpose, sufficient to call for districtwide relief, often involving extensive busing.

The experience of the Kansas City School District in my home State of Missouri is instructive. It has a predominantly minority school population—mainly black but with a significant Hispanic representation—approximating 68 percent. It is surrounded by predominantly white suburban districts. Like all school districts in Missouri, Kansas City maintained a segregated school system in 1954, when approximately 18 percent of its students were black. In the fall of 1955, following the Brown decision, a desegregation plan was adopted which provided for assignment of students to their neighborhood schools. Three formerly black schools and one formerly white school were closed to aid in eliminating dual facilities.

Throughout the 1950's and into the 1960's, Kansas City was one of the industrial cities receiving a great influx of black people from the rural South, most of whom settled in or near the central city area which was predominantly black. The black residential area expanded greatly during this period, with areas on the fringe becoming integrated and then rapidly resegregated as black residential areas. Schools changed along with neighborhoods, becoming integrated and then resegregated.

The school district's problems with HEW began when it sought and obtained funds in 1973 under the emergency school assistance program—ESAA—to implement a voluntary program of grade level restructuring and some busing of students to decrease racial isolation. When the district sought continued funding for the program in 1974, it was advised by the representative of HEW's Office for Civil Rights—OCR—located in Kansas City that certain steps regarding assignment of school administrators and student transfer policies would have to be taken to comply with the particular eligibility requirements of ESAA. After a period of disagreement with OCR, negotiations were begun and the district reached a settlement with OCR in February 1975 resolving the disputed issues pertaining to eligibility for ESAA funds.

The district successfully implemented all of the settlement provisions, including the student transfer provisions, until it was enjoined by a State court, acting on a complaint filed by the parents of some students affected by the new transfer policy. HEW moved to terminate the district's eligibility for ESAA funds and to obtain repayment of funds previously paid the district under the ESAA grant.

The district brought an action in Federal court and obtained an injunction prohibiting the suspension of ESAA funds. At the same time it contested the proposed termination of funds through HEW administrative procedures, contending that it was in compliance with ESAA eligibility requirements. The hearing officer ruled in favor of the district and, following an appeal by the regional HEW office, this ruling was upheld by the Assistant Secretary of HEW.

To recapitulate, Mr. President, the school district, of its own initiative, sought to remedy some of the problems of racial isolation in its schools. It obtained funds provided by Congress for just such a voluntary program. There was a dispute with the Office for Civil Rights officials in the Kansas City regional office of HEW over issues relating to desegregation which bore upon the district's eligibility for ESAA funds—a dispute in which the district ultimately prevailed at higher levels in HEW.

It was at this point, Mr. President, during the hearing on ESAA eligibility, that the district was served with a notice by the Kansas City regional OCR office alleging that the district was in violation of title VI of the Civil Rights Act of 1964 because it maintained a segregated school system, and was therefore subject to termination of all Federal financial assistance. There is an inescapable suspicion that the region OCR office had zeroed in on the Kansas City School District, al-

though it must be conceded that OCR was also under pressure to investigate and take action against a number of school districts as a result of an order issued by a Federal court in Washington.

Whatever the motivation of OCR, it rejected a desegregation plan developed by the district and generally took the position that the district could comply with title VI requirements only by achieving a racial balance of all, or nearly all, schools within the district—a process that would require extensive crosstown busing. The district rejected this requirement, fearing that it would result in white students retreating across nearby school boundary lines into readily accessible white suburban districts.

It was at about this time, Mr. President, in September 1975, that Congress first adopted the Byrd amendment, prohibiting HEW from requiring busing as a condition for continued receipt of Federal funds. Representatives of the district sought to discuss the legal consequences of the Byrd amendment with regional OCR officials, but the latter refused to give up any HEW interpretation of the effect of the Byrd amendment on the pending issues, a position which I believe was itself a violation of the proscription contained in the Byrd amendment.

A hearing was held in December 1975, on the question of whether all Federal financial assistance to the Kansas City School District should be terminated. The hearing officer appointed by HEW was a Social Security Administration hearing officer with no experience in education or civil rights matters.

One year later, in December 1976, the HEW hearing officer rendered a decision against the district, in which he essentially found that local school authorities had never dismantled the prior dual system because they had never achieved a significant racial balance in schools of the district. The hearing officer rejected the district's contention that segregated conditions resulted from the manifold increase in the black student population, and the reduced white student population, that came about as a result of profound demographic changes in Kansas City in the period following 1955.

The hearing officer also rejected the district's contention that the Byrd amendment imposed a restriction upon the allowable range of remedies that could be required by HEW as a condition of compliance under title VI; indeed the hearing officer's formal conclusions of law made no reference to the Byrd amendment. The hearing officer proposed a student assignment plan calling for a partial balancing of student population by race, which would necessarily involve transporting students away from the schools nearest their homes, in violation of the Byrd amendment.

The decision of the hearing officer in the Kansas City case is now under appeal to a reviewing authority within HEW.

Mr. President, I believe that the history of HEW activities in Kansas City supports my view that the limitations on HEW's authority under title VI of the Civil Rights Act ought to be extended as proposed by the Appropriations Committee. Even apart from any questions of the motivations of the OCR enforcement personnel, or of the experience or expertise of the decisionmakers, this case exemplifies the HEW position that racially isolated schools are presumptively the outcome of intentional racial discrimination, rather than the unwanted and unfortunate consequence of population shifts that are beyond the control of local school officials. There may well have been actions that could have been taken by the school authorities to ameliorate to some degree the effects of a changing school population, but given established patterns of residential racial separation, it seems likely that the results would have been de minimus. Indeed, if Dr. Coleman and other like-minded commentators are correct, such actions may well have hastened the white exodus.

In any case, to hold school authorities liable for all that has happened in Kansas City in the last 20 years is to credit them with far more influence than they could possibly have. Yet, that was the position of HEW; there was little or no effort to suggest a remedy tailored to reach such failures to react to changing circumstances for which the school board and its predecessors might reasonably be held accountable.

The Byrd amendment was intended to deal with just such situations. It does not prohibit HEW from requiring remedies when there has been a finding of a title VI violation. However, it does require that when HEW determines that compliance with title VI requires that students be bused, because of the grave consequences to a community that very often accompany such a requirement enforcement may not proceed through the administrative process. HEW is authorized under title VI to refer matters to the Department of Justice for litigation; this is the course that should be pursued if there is a decision to go forward in a case to which the Byrd amendment applies.

As I mentioned at the outset, Mr. President, the Byrd amendment as contained in the bill before the Senate, H.R. 7555, was modified in committee to deal with the interpretation recently given it by HEW, based on an analysis prepared by the Department of Justice. I will submit copies of Justice and HEW memorandums on this interpretation, along with a Library of Congress analysis of the interpretation.

The Justice Department analysis concludes that Congress did not intend to prohibit HEW requirements of busing associated with the desegregation techniques known as "pairing" and "clustering." The revised Byrd amendment language which I have submitted is explicit in stating that Congress intends for its prohibition to extend to such practices, as well as to any other reorganization of grade structure. Allowance is made, however, for such transportation as may be necessary to transport handicapped children for purposes of special education or to transport children to magnet schools.

Mr. President, my position in favor of the Byrd amendment rests in large part on my view that districtwide busing in cities with predominantly black school populations will lead ultimately to less, rather than more integration, and also on the corollary principle that interdistrict, or metropolitan, remedies are probably not feasible in most areas, based on a reading of the Supreme Court's opinion in the Detroit case and its actions in similar cases. It has been suggested that these considerations are irrelevant when constitutional rights are at stake, and the Supreme Court decision in *Cooper* v. *Aaron*, 358 U.S. 1 (1958) is cited to that effect.

Mr. President, let me conclude on this note, because it was raised by the Senator from Massachusetts (Mr. BROOKE) when he talked about Cooper against Aaron. Let me dwell on that for a moment.

Cooper against Aaron dealt as the Senator from Massachusetts pointed out, with the desegregation of Central High School in Little Rock, Ark. The school board asked that desegregation be postponed because extreme public hostility, engendered largely by the Governor and the legislature, would make it impossible to conduct a sound educational program with Negro students in attendance. The Supreme Court held that vindication of the Constitutional rights of the plaintiffs could not be sacrificed or yielded because of concerns about violence or disorder. Quite properly—and I fully agree with the holding in Cooper against Aaron—the court ordered that its order be implemented without regard to possible public reaction, and President Eisenhower eventually used Federal troops to effectuate the court's mandate.

The situation here is different in several respects. It is not being proposed that constitutional rights be denied because of the fear of public reaction; rather the Byrd amendment imposes a partial limitation on the use of one form of remedy because its use may result in a diminished opportunity for black children to obtain an integrated education. Troops can prevent interference with a court's order, but I say to my colleagues that no army, nor any other force, can compel white parents to remain in a school district where they are in a substantial minority. Moreover, it is not a State Governor or a mob that is acting to impede the implementation of a court order; rather, it is the U.S. Congress placing limitations on an administrative process which it created in the first instance. Finally, the Byrd amendment in no way restricts the Federal courts from carrying out any orders they may seek to enter in desegregation cases; it is addressed only to HEW.

In closing, Mr. President, I would like to quote from an article on school busing which appeared in April 1975, in the journal of the Phi Delta Kappa education society. The authors of this article, Biloine Whiting Young and Grace Billings Bress, suggested that perhaps our approach to providing equal educational opportunity over the past 20 years has been too simplistic. They noted that:

> For 20 years the national remedy for low minority achievement has been busing for integration—the faith that if the correct

racial mix can be provided in a classroom, problems of low achievement and racial tensions will disappear. Such a "solution" now appears to have been dangerously simplistic, creating expectations it has, so far, been unable to satisfy. Further, mandatory busing has contributed to the racial and economic segregation of our cities on a scale undreamed of in 1954, to the extent that in many there are no longer enough white pupils to integrate.

The Detroit ruling now ends the search for more white faces and throws the challenge back on the schools to find genuine solutions rather than inadequate and largely symbolic remedies which distract attention from learning problems that need real—not symbolic—solutions. Educators must free their thinking of the racist notion that there is something magical in whiteness—that without it a black or a red or a brown child cannot learn. Once this mythical heritage of white superiority is abandoned, educators can address themselves to an analysis of the strengths, weaknesses, and needs of each school system, school, classroom, and, ultimately, each child—no matter his color or that of his seatmates—to determine which of the many resources, including integration, are most applicable to his learning needs.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete text of my remarks, and also a Library of Congress analysis of the Justice Department memorandum.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PREPARED STATEMENT OF SENATOR EAGLETON

The Byrd amendment was first adopted nearly two years ago (and subsequently readopted last year) to express a clear Congressional directive to the Department of Health, Education and Welfare that it may not require busing of students beyond the school nearest their homes in order to enforce compliance with Title VI of the Civil Rights Act. Within the past month, the Departments of HEW and Justice have disclosed their own interpretation of the Byrd Amendment, an interpretation which circumvents the clear intent of the Amendment and would allow HEW to require busing in connection with the so-called "pairing" or "clustering" of schools. There have been indications from both within and without the Department that HEW is preparing to test its interpretation of the Byrd Amendment in court, in connection with a proposed desegregation plan for the Kansas City, Missouri School District.

When the bill we now are considering (H.R. 7555) was considered by the Appropriations Committee, I offered a revised version of the Byrd Amendment, designed to vitiate what I consider to be HEW's fallacious analysis. The Appropriations Committee adopted my revised version and I urge the entire Senate to retain the revised Byrd Amendment in the final bill.

In explaining the reasoning behind my amendment, Mr. President, I wish first to make it clear that in this Kansas City matter, we are not talking about a case in federal court where the judge finds a violation of the Equal Protection Clause of the Constitution and enters a busing order to remedy such violation. The Byrd Amendment would not apply in such a situation and I would not support a law which attempted to restrict the authority of federal courts to fashion appropriate and targeted remedies to redress such constitutional violations. The Byrd Amendment does apply and I support its application to matters such as Kansas City where HEW acting solely on its own administrative authority and acting without any judicial determination of unconstitutionality seeks to impose its own formula as the racial mix or racial balance of a given school district.

Mr. President, my position is that Supreme Court decisions in the Detroit and Indianapolis cases, absent the special and unique facts in the Wilmington case, effectively bar interdistrict busing between black inner city school districts and white suburban school districts. If I am correct in this reading of the Detroit and Indianapolis cases—and I am convinced that I am correct, as I will elaborate shortly—then large-scale busing within predominantly minority populated school districts cannot and will not remedy such racial unbalance.

Mr. President, let me state the racial mix of some of our Nation's largest school districts.

Major urban school districts:	*Percent minority*	*Percent change in white enrollment 1967–1972*
New York City	67.0	— 5.0
Los Angeles Unified	39.8	—12.0
Chicago	70.4	—23.0
Philadelphia	62.2	— 6.0
Detroit Public Schools	81.4	—30.0
Houston Indep Sch Dist	65.8	—21.0
Baltimore City	75.5	—38.0
Dallas Indep Sch Dist	54.9	—21.0
District of Columbia	96.3	—40.0
Cleveland City Sch Dist	62.2	—13.0
San Diego Unified Sch Dist	33.7	—10.0
Milwaukee Public Schools	40.2	—19.0
Memphis City Schools	71.2	—15.0
Orleans Parish	80.8	—39.0
Boston Public Schools	49.3	—16.0
Indianapolis	45.7	—25.0
St. Louis City	72.2	—27.0
San Francisco Unif Sch Dist	51.1	—25.0
San Antonio Isd	52.3	—13.0
Kansas City	68.0	—27.0

It is my position that if HEW proceeds to order intradistrict busing in these school districts, as it is seeking to do in Kansas City, then such busing will be completely self-destructive. The effect of such intradistrict busing will be to heighten the racial isolation of these inner city schools, not lessen it. I am convinced that if HEW orders large-scale intradistrict busing in the Kansas City School District that withn a year the current 68% minority composition will be dramatically increased. It is the stark reality of the racial mix of our large city school districts which causes me to conclude that intradistrict busing is foredoomed to failure in such school districts.

It is this reality that has caused Professor James Coleman, author of the landmark report on the effects of segregation on school children, to re-evaluate his all-out support of busing as an integration tool.

It is this reality that has caused black newspaper columnist William Raspberry to conclude:

"A lot of us are wondering whether the busing game is worth the prize. Some of us aren't even sure what the prize is supposed to be."

It is this reality that has caused Wilson Riles, a black and the Superintendent of Public Instruction for the State of California, to say:

"If you have to have blacks sitting next to Caucasians to learn, we are in a mess, because two-thirds of the world is non-white, and we would not have enough whites to go around. If the schools are effective and the children learn, that is the easiest way to achieve the ultimate goal of integration."

It is this reality that caused the liberal and progressive St. Louis Post-Dispatch to oppose large-scale busing in the St. Louis School District (which has 72% minority enrollment), stating, ". . . both sides in the suit recognize that large-scale busing in a school district with a black majority could be counterproductive in terms of desegregation, and both sides insist that they do not want to 'shove something down people's throats.' No one wants a duplication of the Boston school dispute here."

Mr. President, the problems of segregated schools currently being addressed by the federal courts and by HEW are far different from those that were involved in previous enforcement activities. For most of the period following the 1954 Supreme Court decision in *Brown* v. *Board of Education*, desegregation efforts were directed primarily at disestablishing the separate systems of schools for blacks and whites that were mandated by law throughout the Southern States. It was evident in those cases that dual system of segregated schools was the result of official action, i.e. *de jure* segregation, and as increasingly more explicit rulings of the Supreme Court made clear, the dual systems had to be eradicated, "root and branch", and converted to unitary systems. Busing as an instrument for desegregation did not raise difficult issues in the largely rural districts of the South, for a high proportion of students were being bused to their schools already; indeed it has often been stated that the effect of desegregation in many places in the South was to reduce the amount of busing since maintenance of a dual system required busing more children for longer distances than that necessitated in a unitary system.

Today, a generation after *Brown*, the question is not so much what to do about dual systems in the rural South—they have been unified, for the most part—but rather what can and should the federal government do about predominantly minority schools (also called "racially isolated schools") in the big cities. As the U.S. Commission on Civil Rights stated in its February 1977 report entitled "Statement on Metropolitan School Desegregation" (p. 6):

"To a very great extent the remaining problems of segregation by race and national origin in public schools are problems that exist in big cities. While nationally . . . two out of every five black children attend intensely segregated schools [i.e. 90 to 100% minority enrollment], in the 26 largest cities of the United States almost three of every four black pupils are assigned to such schools."

Viewed from a somewhat different statistical perspective, HEW reports that more than 70 percent of the black students who are in all-minority schools are in 19 cities, located in all parts of the country.

Problems of big city school segregation are complicated by two factors not commonly found in earlier cases involving the South:

(1) Many of these cities—9 of the largest 12 and 14 of the largest 20—have majority black enrollments in their schools, and the proportions of black students to white students are steadily rising. As the Civil Rights Commission report puts it (p. 1):

"In the wake of two great migrations—the movement of black people from the rural South to big cities throughout the country and of whites from central cities to the suburbs—the racial composition of these school systems has changed dramatically from predominantly white to predominantly black."

(2) The liability of big city school districts for segregated schools is often not readily ascertainable through application of the *de jure/de facto* criteria developed by Congress and the courts to distinguish between state enforced segregation and that which has been "adventitiously caused," i.e.,

by factors not related to official action. The cities of the North and the West did not maintain separate schools for black and white students as a part of a legally mandated segregated system prior to 1954, thus liability for racially isolated schools in those districts cannot be imputed to school authorities on the ground that such schools are vestiges of a former dual system; there must be evidence of official action leading to the creation of conditions of segregation. Even in cities located in border states with a history of official segregation, where desegregation was undertaken promptly following the *Brown* decision there often are questions as to whether the existence of predominantly black schools today resulted from the earlier segregated systems or whether they were caused by other factors, such as the shifts in population referred to by the Civil Rights Commission.

In short, Mr. President, we are faced with a situation where predominantly black schools exist in cities having (in most cases) a predominantly black school population and where the fundamental causes of racial isolation are generally not readily attributable to a history of segregative practices.

Given these circumstances, I believe that we are bound to inquire what the effects of programs of large-scale crosstown busing in such cities are going to be—whether such busing is more likely to produce meaningful integration or more segregation.

My views on this question were expressed in the 1975 debate which led to enactment of the Byrd Amendment, when I said:

"To spread a dwindling number of white students throughout a predominantly black city school system is a self-defeating exercise. While the so-called "white flight" from the cities to the suburbs cannot be attributed solely to unreasonable busing requirements, it certainly has been an important factor."

The Civil Rights Commission Report, which argues for desegregation on a multi-district, metropolitan approach concurs with my views on the efficacy of busing within big city districts, stating (p. 10–11):

"Few people regard desegregation plans that affect the city alone as providing stable or satisfactory solutions. In the words of Eleanor Holmes Norton, chairman of the New York City Human Relations Commission (now chairperson of the U.S. Equal Employment Opportunity Commission): 'To simply distribute a diminishing number of whites thinner and thinner is obviously to get embarked on a process that will not result in integration. A school with 20 percent white students and 80 percent minority students is not integrated . . . That's why the metropolitan approach has to be looked at very closely.'"

In the same vein, Dr. James S. Coleman of the University of Chicago, whose earlier studies of student performance in desegregated schools lent support to the movement toward integration, has argued convincingly that the exodus of white families from the central city to the suburbs has been hastened by ill-advised desegregation policies of the kind that the Byrd Amendment is intended to prohibit. Professor Coleman found that, "Ironically, 'desegregation' may be increasing segregation." While reaffirming his commitment to the vindication of rights guaranteed by the Constitution, Dr. Coleman has urged a reconsideration of the remedies the courts have devised to enforce those rights so as to avoid practices which are, in fact, destructive of the goals of integration.

The Civil Rights Commission concluded that metropolitan remedies involving most or all of the school districts in a metropolitan region, must be employed to overcome racial isolation in big city school districts, stating that (p. 8):

"The difficulty of dealing with racial isolation in very large cities is compounded by the fact that in many places the problem has become not simply the existence of segregated schools but of *segregated school districts*."

However, recent decisions of the Supreme Court concerning the appropriateness of ordering desegregation on a metropolitan basis make it unlikely that such an approach will be sustained, absent exceptional circumstances. The Supreme Court has dealt with this issue in several cases; the principal exposition of the Court's position on this subject came in the Detroit case, *Milliken v. Bradley*, 418 U.S. 717 (1974). The federal district court in *Milliken* found, and the Sixth Circuit Court of Appeals affirmed, that the only effective remedy for the *de jure* segregation found to exist in Detroit was to include 53 suburban school districts in the desegregation plan, even though there was no evidence that any school district outside of Detroit had engaged in unconstitutional activity. The Supreme Court reversed, holding that a federal court is not empowered to impose such a remedy unless acts of the state or of the suburban school districts can be shown to have been a substantial cause of interdistrict segregation.

It should be noted that yesterday the Supreme Court once again considered the Detroit case. No busing between the city and the suburbs was ordered. In fact, as to the busing to be conducted within the Detroit school district, such busing must not "exceed" the violation and the remedy must be "tailored" to cure the "condition that offends the Constitution."

Chief Justice Burger, writing for a unanimous court, stated as follows:

"The well-settled principle that the nature and scope of the remedy is to be determined by the violation means simply that federal court decrees must directly address and relate to the constitutional violation itself. Because of this inherent limitation upon federal judicial authority, federal court decrees exceed appropriate limits if they are aimed at eliminating a condition that does not violate the Constitution or does not flow from such a violation, see *Pasadena City Board of Education v. Spangler, supra*, or if they are imposed upon governmental units that were neither involved in nor affected by the constitutional violation, as in *Milliken I, supra. Hills v. Gautreaux*, 425 U.S. 284, 292–296 (1976). But where, as here, a constitutional violation has been found, the remedy does not 'exceed' the violation if the remedy is tailored to cure the 'condition that offends the Constitution'. *Milliken I, supra*, at 738. (Emphasis supplied.)

If there had been any doubt as to the direction being signalled by the Court in the Detroit case, such doubts were erased yesterday in the Court's ruling on the Dayton desegregation case. In remanding the Dayton case to the District Court, the Supreme Court reiterated its conviction that a remedy must be tailored to a specific violation of the Equal Protection Clause. Such was the case in Wilmington, Delaware, where the Court affirmed without opinion a ruling by federal district court that a metropolitan remedy was appropriate after the Delaware General Assembly explicitly excluded the Wilmington District from a general reorganization of Delaware school districts. This prevented the predominantly black Wilmington District from being reorganized with a predominantly white school district while other districts within the state were able to consolidate (*Buchanan v. Evans*, 423 U.S. 965 (1975).

However, the Supreme Court reversed the lower court's order in a subsequent case ordering interdistrict desegregation in Indianapolis and directed the lower court to reconsider its decision in light of the Supreme Court's intervening opinions in two cases which held that in order to establish the unconstitutional character of official actions, it is necessary to show a "racially discriminatory purpose" (*U.S. v. Board of School Commissioners of Indianapolis*, 45 U.S.L.W. 3500 (1977), vacated and remanded for reconsideration in light of *Washington v. Davis*, 426 U.S. 229 (1976), and *Village of Arlington Heights v. Metro Housing Development*, 45 U.S.L.W. 4073 (1977).

Washington v. Davis and *Arlington Heights v. Housing Authority* were not school desegregation cases (they involved claims of racial discrimination in employment and housing construction, respectively) but the Supreme Court's direction to lower courts considering school desegregation matters to take these two cases into account is particularly significant, in view of the more restrictive approach to racial discrimination issues articulated by the Court therein. What the Supreme Court appears to be saying is that lower courts should not be quick to impute a discriminatory purpose to the actions of school authorities based on the existence of predominantly black schools, where those racial concentrations may as plausibly be explained by other factors, such as the existence of racially segregated housing patterns.

Support for this conclusion can be drawn from a separate concurring opinion written by Justice Powell (joined by the Chief Justice and Justice Rehnquist) in the recent case of *Austin Independent School District v. U.S.*, 45 U.S.L.W. 3413 (1976). The Austin case, like the Indianapolis case, was remanded to the lower court in a brief memorandum opinion for reconsideration in light of *Washington v. Davis*. In his opinion concurring with the Court's *per curiam* order, Justice Powell said:

"The principal cause of racial and ethnic imbalance in urban public schools across the country—North and South—is the imbalance in residential patterns. Such residential patterns are typically beyond the control of school authorities. For example, discrimination in housing—whether public or private—cannot be attributed to school authorities. Economic pressures and voluntary preferences are the primary determinants of residential patterns."

The point of this discussion of recent Supreme Court actions in the area of school desegregation, Mr. President, is to indicate that the Court's view of the responsibilities of local school authorities and the appropriateness of particular remedies for segregation is an evolving thing, particularly as more and more cases involve school districts where allegations concerning the liability of school authorities for predominantly black schools must be established by circumstances other than the existence of a prior dual system mandated by law.

It should be pointed out at this point that just yesterday the Supreme Court handed down its 8–0, unanimous opinion in the Dayton case (*Dayton v. Brinkman*). In that case, the Supreme Court unanimously rejected a system-wide busing remedy as being much too broad. The Supreme Court, in remanding the case to the District Court, stated as follows:

". . . In effect, the Court of Appeals imposed a remedy which we think is entirely out of proportion to the constitutional violations found by the District Court. . . ." The Court further stated:

"The duty of both the District Court and of the Court of Appeals in a case such as this, where mandatory segregation by law of the races in the schools has long since ceased, is to first determine whether there was any action in the conduct of the business of the school board which was intended to, and did in fact, discriminate against minority pupils, teachers or staff. *Washington v. Davis*, supra. All parties should be free to introduce such additional testimony and other evidence as

the District Court may deem appropriate. If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a systemwide impact may there be a systemwide remedy. . . ."

By contrast, the administration of Title VI by HEW gives the appearance of a mechanistic process; evidence concerning racial isolation is punched in and a requirement is printed out that each school must reflect the racial balance of the entire school system, give or take a few percentage points. Lip service is paid to the need to establish a *de jure* violation, but there would seem to be few school districts with any significant degree of racial isolation where HEW cannot construe some official action of some agency as having a racially discriminatory purpose, sufficient to call for district-wide relief often involving extensive busing.

The experience of the Kansas City School District in my home state of Missouri is instructive. It has a predominantly minority school population (mainly black but with a significant Hispanic representation) approximating 68 percent. It is surrounded by predominantly white suburban districts. Like all school districts in Missouri, Kansas City maintained a segregated school system in 1954, when approximately 18 percent of its students were black. In the fall of 1955, following the *Brown* decision, a desegregation plan was adopted which provided for assignment of students to their neighborhood schools. Three formerly black schools and one formerly white school were closed to aid in eliminating dual facilities.

Throughout the 1950's and into the 1960's, Kansas City was one of the industrial cities receiving a great influx of black people from the rural South, most of whom settled in or near the central city area which was predominantly black. The black residential area expanded greatly during this period with areas on the fringe becoming integrated and then rapidly resegregated as black residential areas. Schools changed along with neighborhoods, becoming integrated and then resegregated.

The School District's problems with HEW began when it sought and obtained funds in 1973 under the Emergency School Assistance Program (ESAA) to implement a voluntary program of grade level restructuring and some busing of students to decrease racial isolation. When the District sought continued funding for the program in 1974, it was advised by the representative of HEW's Office for Civil Rights (OCR) located in Kansas City that certain steps regarding assignment of school administrators and student transfer policies would have to be taken to comply with the particular eligibility requirements of ESAA. After a period of disagreement with OCR, negotiations were begun and the District reached a settlement with OCR in February, 1975 resolving the disputed issues pertaining to eligibility for ESAA funds.

The District successfully implemented all of the settlement provisions, including the student transfer provisions, until it was enjoined by a state court, acting on a complaint filed by the parents of some students affected by the new transfer policy. HEW moved to terminate the District's eligibility for ESAA funds and to obtain repayment of funds previously paid the District under the ESAA grant.

The District brought an action in Federal Court and obtained an injunction prohibiting the suspension of ESAA funds. At the same time it contested the proposed termination of funds through HEW administrative procedures, contending that it was in compliance with ESAA eligibility requirements. The hearing officer ruled in favor of the District and, following an appeal by the Regional HEW office, this ruling was upheld by the Assistant Secretary of HEW.

To recapitulate, Mr. President, the School District, of its own initiative, sought to remedy some of the problems of racial isolation in its schools. It obtained funds provided by Congress for just such a voluntary program. There was a dispute with the Office for Civil Rights official in the Kansas City Regional Office of HEW over issues relating to desegregation which bore upon the District's eligibility for ESAA funds—a dispute in which the District ultimately prevailed at higher levels in HEW.

It was at this point, Mr. President, during the hearing on ESAA eligibility, that the District was served with a notice by the Kansas City Regional OCR Office alleging that the District was in violation of Title VI of the Civil Rights Act of 1964 because it maintained a segregated school system, and was therefore subject to termination of all federal financial assistance. There is an inescapable suspicion that the Reigonal OCR Office had zeroed in on the Kansas City School District, although it must be conceded that OCR was also under pressure to investigate and take action against a number of school districts as a result of an order issued by a federal court in Washington.

Whatever the motivation of OCR, it rejected a desegregation plan developed by the District and generally took the position that the District could comply with Title VI requirements only by achieving a racial balance of all, or nearly all, schools within the District—a process that would require extensive cross town busing. The District rejected this requirement, fearing that it would result in white students retreating across nearby school boundary lines into readily accessible white suburban districts.

It was at about this time, Mr. President, in September, 1975, that Congress first adopted the Byrd Amendment, prohibiting HEW from requiring busing as a condition for continued receipt of federal funds. Representatives of the District sought to discuss the legal consequences of the Byrd Amendment with Regional OCR officials, but the latter refused to give any HEW interpretation of the effect of the Byrd Amendment on the pending issues, a position which I believe was itself a violation of the proscription contained in the Byrd Amendment.

A hearing was held in December, 1975, on the question of whether all federal financial assistance to the Kansas City School District should be terminated. The hearing officer appointed by HEW was a Social Security Administration Hearing Officer with no experience in education or civil rights matters.

One year later, in December 1976, the HEW hearing officer rendered a decision against the District, in which he essentially found that local school authorities had never dismantled the prior dual system because they had never achieved a significant racial balance in schools of the District. The hearing officer rejected the District's contention that segregated conditions resulted from the manifold increase in the black student population, and the reduced white student population, that came about as a result of profound demographic changes in Kansas City in the period following 1955.

The hearing officer also rejected the District's contention that the Byrd Amendment imposed a restriction upon the allowable range of remedies that could be required by HEW as a condition of compliance under Title VI; indeed the hearing officer's formal conclusions of law made no reference to the Byrd Amendment. The hearing officer proposed a student assignment plan calling for a partial balancing of student population by race, which would necessarily involve transporting students away from the schools nearest their homes, in violation of the Byrd Amendment.

The decision of the hearing officer in the Kansas City case is now under appeal to a reviewing authority within HEW.

Mr. President, I believe that the history of HEW activities in Kansas City supports my view that the limitations on HEW's authority under Title VI of the Civil Rights Act ought to be extended as proposed by the Appropriations Committee. Even apart from any questions of the motivations of the OCR enforcement personnel, or of the experience or expertise of the decision makers, this case exemplifies the HEW position that racially isolated schools are presumptively the outcome of intentional racial discrimination, rather than the unwanted and unfortunate consequence of population shifts that are beyond the control of local school officials. There may well have been actions that could have been taken by the school authorities to ameliorate to some degree the effects of a changing school population, but given established patterns of residential racial separation, it seems likely that the results would have been *de minimus*. Indeed, if Dr. Coleman and other like-minded commentators are correct, such actions may well have hastened the white exodus.

In any case, to hold school authorities liable for all that has happened in Kansas City in the last 20 years is to credit them with far more influence than they could possibly have. Yet, that was the position of HEW; there was little or no effort to suggest a remedy tailored to reach such failures to react to changing circumstances for which the School Board and its predecessors might reasonably be held accountable.

The Byrd Amendment was intended to deal with just such situations. It does not prohibit HEW from requiring remedies when there has been a finding of a Title VI violation. However, it does require that when HEW determines that compliance with Title VI requires that students be used, because of the grave consequences to a community that very often accompany such a requirement enforcement may not proceed through the administrative process. HEW is authorized under Title VI to refer matters to the Department of Justice for litigation; this is the course that should be pursued if there is a decision to go forward in a case to which the Byrd Amendment applies.

As I mentioned at the outset, Mr. President, the Byrd Amendment as contained in the bill before the Senate, H.R. 7555, was modified in Committee to deal with the interpretation recently given it by HEW, based on an analysis prepared by the Department of Justice. Senator Biden will submit a copy of the Justice Department memorandum and the letter from HEW Secretary Califano on this interpretation, and I will submit a Library of Congress analysis of the interpretation to be printed at the conclusion of my remarks.

The Justice Department analysis concludes that Congress did not intend to prohibit HEW requirements of busing associated with the desegregation techniques known as "pairing" and "clustering." The revised Byrd Amendment language which I have submitted is explicit in stating that Congress intends for its prohibition to extend to such practices, as well as to any other reorganization of grade structure. Allowance is made, however, for such transportation as may be necessary to transport handicapped children for purposes of special education or to transport children to magnet schools.

Mr. President, my position in favor of the Byrd Amendment rests in large part on my view that district-wide busing in cities with

predominantly black school populations will lead ultimately to less, rather than more integration, and also on the corollary principle that inter-district, or metropolitan, remedies are probably not feasible in most areas, based on a reading of the Supreme Court's opinion in the Detroit case and its actions in similar cases. It has been suggested that these considerations are irrelevant when constitutional rights are at stake, and the Supreme Court decision in *Cooper* v. *Aaron*, 358 U.S. 1 (1958) is cited to that effect.

Cooper v. *Aaron* dealt with the desegregation of Central High School in Little Rock, Arkansas. The School Board asked that desegregation be postponed because extreme public hostility, engendered largely by the Governor and the Legislature, would make it impossible to conduct a sound educational program with Negro students in attendance. The Supreme Court held that vindication of the Constitutional rights of the plaintiffs could not be sacrificed or yielded because of concerns about violence or disorder. Quite properly, the Court ordered that its order be implemented without regard to possible public reaction, and President Eisenhower eventually used federal troops to effectuate the Court's mandate.

The situation here is different in several respects. It is not being proposed that Constitutional rights be denied because of the fear of public reaction; rather the Byrd Amendment proposes a partial limitation on the use of one form of remedy because its use may result in a diminished opportunity for black children to obtain an integrated education. Troops can prevent interference with a court's order, but no army, nor any other force, can compel white parents to remain in a school district where they are in a substantial minority. Moreover, it is not a state governor or a mob that is acting to impede the implementation of a court order; rather, it is the United States Congress placing limitations on an administrative process which it created in the first instance. Finally, the Byrd Amendment in no way restricts the federal courts from carrying out any orders they may seek to enter in desegregation cases; it is addressed only to HEW.

In closing, Mr. President, I would like to quote from an article on school busing which appeared in April, 1975, in the journal of the Phi Delta Kappa education society. The authors of this article, Biloine Whiting Young and Grace Billings Bress, suggested that perhaps our approach to providing equal educational opportunity over the past 20 years has been too simplistic. They noted that:

"For 20 years the national remedy for low minority achievement has been busing for integration—the faith that if the correct racial mix can be provided in a classroom, problems of low achievement and racial tensions will disappear. Such a 'solution' now appears to have been dangerously simplistic, creating expectations it has, so far, been unable to satisfy. Further, mandatory busing has contributed to the racial and economic segregation of our cities on a scale undreamed of in 1954, to the extent that in many there are no longer enough white pupils to integrate.

"The Detroit ruling now ends the search for more white faces and throws the challenge back on the schools to find genuine solutions rather than inadequate and largely symbolic remedies which distract attention from learning problems that need real—not symbolic—solutions. Educators must free their thinking of the racist notion that there is something magical in whiteness—that without it a black or a red or a brown child cannot learn. Once this mythic heritage of white superiority is abandoned, educators can address themselves to an analysis of the strengths, weaknesses, and needs of each school system, school, classroom, and, ultimately, each child—no matter his color or that of his seatmates—to determine which of the many resources, including integration, are most applicable to his learning needs."

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., June 15, 1977.

From American Law Division.

Subject Analysis of the Position of the Department of Health, Education, and Welfare with Respect to the Byrd Amendment and the Department's Authority to Enforce School Desegregation under Title VI of the 1964 Civil Rights Act.

Reference is made to your inquiry concerning recent reports in the Washington Post that the Department of Health, Education, and Welfare has reassessed its position on the legal effect of the so-called "Byrd Amendment" to the fiscal 1977 Labor-HEW appropriations as it relates to the agency's authority to enforce desegregation by school districts under Title VI of the 1964 Civil Rights Act (42 U.S.C. 2000d et seq.). According to those reports, HEW is now of the view that it is not barred by that language from requiring federally aided districts to "pair" or "cluster" schools, and reassign pupils for remedial purposes, to compel compliance with federal nondiscrimination standards. See, Washington Post, A–6 (June 8, 1977). This notwithstanding possible contrary implications in section 208 of the Appropriations Act which provides as follows:

"None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with Title VI of the Civil Rights Act of 1964. (P.L. 94–439, sec. 208, September 30, 1976).

You ask whether the Department's position finds support in the legislative history of this section.

Section 208 had its origin in the Byrd Amendment which was initially adopted by floor amendment to a prior law, the fiscal 1976 Labor-HEW Appropriations Act (P.L. 94–206, sec. 209, January 28, 1976). The section was later included in the reported version of the 1977 Appropriations bill and was reenacted without substantial debate. Consequently, the primary evidence of Congressional intent is that contained in the debates on the fiscal 1976 Act.

As passed by the Senate, that measure (H.R. 8069) contained three amendments designed to limit the authority of HEW to administratively enforce the requirements of Title VI of the 1964 Act-barring discrimination on the basis of race, color, or national origin in federally assisted programs—with respect to state and local educational agencies. The first of these, offered by Senator Biden on September 17, 1975 (Biden I), would have applied to all educational institutions (including postsecondary) and was addressed in general terms to the "assign-[ment of] teachers or students to schools, classes, or courses for reasons of race," whether or not busing was involved. 121 Cong. Rec., p. 29113 (September 17, 1975). A week later, Senator Biden called up another amendment (Biden II) which deleted the reference to teachers and focused specifically on busing by banning simply the "transportation of students for reasons of race." 121 Cong. Rec., p. 30356 (September 25, 1975). Both measures passed the Senate but were later dropped in conference.

Meanwhile on September 19, 1975, the Senate resumed debate on the busing issue with the introduction of an amendment by Senator Scott (Pa.) for himself and Senator Humphrey which was apparently intended to nullify Biden I by providing that "[n]one of the funds contained in this Act shall be used in a manner inconsistent with the Fifth and Fourteenth Amendments to the Constitution of the United States and Title VI of the Civil Rights Act of 1964." 121 Cong. Rec., p. 29544 (September 19, 1975). Senator Scott, like Senator Brooke two days earlier, contended that this amendment was necessary because Biden I went far beyond busing and would "emasculate" H.E.W. authority under Title VI to enforce school desegregation.

Following a series of procedural votes, Senator Byrd (W. Va.) offered his amendment as a perfecting amendment to Scott-Humphrey to modify the latter to provide that "[n]one of the funds appropriated by this Act shall be expended to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the course of study pursued by such student, in order to comply with Title IV of the Civil Rights Act of 1964." 121 Cong. Rec., p. 29551 (September 19, 1975.) There followed four days of debate during which time Senator Byrd, assisted by Senators Allen and Helms, made it clear that they would yield the floor only if the opposition, led by Senator Brooke, would agree not to kill his amendment on a tabling motion.

Senator Byrd asserted that his amendment would restore the principle set forth in the Supreme Court's landmark decision in *Brown* v. *Board of Education*, that students could not be assigned to schools solely on the basis of race. Since that decision, Senator Byrd contended, "we have . . . gone 180 degrees and today children, black and white, are being assigned to public schools in various parts of the country solely on the basis of race—black or white—nothing more, nothing less." At the same time, however, he stressed that his substitute was narrower than the Biden amendment which opponents argued would bar all administrative action by H.E.W. requiring remedial assignment of students and teachers. According to Senator Byrd,

"My amendment is strictly a busing amendment. It addresses itself only to busing and not to assignment of students—only to busing. It also addresses itself only to students. It says nothing about teachers. Also, it addresses itself only to the subject of public schools; it has nothing to do with colleges, et cetera. So it is a very simple amendment. It deals with busing only, with the busing of students only, and with the busing of students to the nearest public school. It makes one exception, that being if the student cannot pursue courses he desires to pursue at the nearest school. So it is the neighborhood school concept." 121 Cong. Rec., p. 29813 (September 23, 1975).

* * * * *

"The amendment is purely and simply a busing amendment. It does not go to the assignment of students, it does not go to the assignment of teachers, it does not pertain to colleges; it pertains only to students in the public schools of this country. It would provide that the funds appropriated in this act cannot be utilized by H.E.W. either directly or indirectly to require the transportation of any student to any school beyond his neighborhood school—beyond the school nearest his home—except in instances wherein the student could not pursue the courses of study he desires to pursue in the nearest school." 121 Cong. Rec., 30037 (September 24, 1975).

Therefore, whereas Biden I, which spoke in terms of racial assignments to classes and courses as well as schools, may have prohibited all HEW imposed remedial assignments of students—to walk-in schools, particular classrooms, or otherwise—Senator Byrd stressed throughout the debates that his amendment would affect only administrative authority with respect to desegregation plans

requiring transportation or busing of students.

In sum, the legislative history of the Byrd Amendment, like the measure on its face, strongly suggests that it was its proponents' intention to eliminate busing beyond the physically closest school to the student's home as an administrative remedy for enforcement of Title VI. The only apparent exception is the situation where that school does not provide the appropriate course of study for the particular student. Although there is evidence that among the motivating factors behind the amendment was misgiving as to reach of Biden I—that it was overbroad and might have the unintended effect of inhibiting a broad range of remedial actions unrelated to administratively imposed busing—supporters of the various alternative formulations before the Senate were united on the question of student transportation. Senator Biden, for instance, in offering his second amendment stated that he intended the restrictions imposed by Biden II to parallel those contained in the Byrd Amendment. "I suppose a short-hand way of saying it—and this is a way of shifting responsibility—is that I want the Byrd amendment to be the law . . . I want it to be just the Byrd amendment. I want the Byrd amendment to be the law of the land with regard to H.E.W.'s use of funds in any way to order busing." 121 Cong. Rec., p. 30357 (September 25, 1975). Accordingly, we are able to discern little basis from the legislative history of the Byrd Amendment for asserting an additional exception, express or implied, to the "nearest school" limitation for those cases where HEW is seeking to impose a school pairing or clustering plan under Title VI.

An interesting parallel may be provided by judicial construction of an anologous limitation contained in Title II of the 1974 Education Amendments, 20 U.S.C. 1791 *et seq.* One provision of that law purports to prohibit the courts and federal agencies from requiring the transportation of students beyond the school closest or next closest the home. 20 U.S.C. 1714(a). Although the courts have avoided giving this section mandatory effect, this is because of another provision in Title II exempting cases involving constitutional violations,* not because of any judicially perceived limitation on the reach of the section 1714 prohibition with respect to school pairing or clustering plans. See, e.g., *Brinkman* v. *Gilligan*, 518 F. 2d 853 (C.A. 6 1975); *Newburgh Area Council, Inc.* v. *Board of Jefferson County*, 521 F. 2d 578 (C.A. 6 1975). Unlike Title II of the 1974 law, the Byrd Amendment contains no "escape" clause for cases involving constitutional violations. Moreover, HEW has stated that the Title II restrictions precluded it from requiring implementation of a school pairing plan to desegregate the schools in the Fresno, California school district. See, Washington Post, A–2 (November 10, 1975).

There is another possibility, however. The U.S. district court for the District of Columbia has, in a series of decisions, held HEW in defaults of its administrative responsibilities for failing to take enforcement action with respect to numerous school districts across the country with substantial racial disproportions in their schools, placing them in presumptive violation of the law under *Swann* v. *Board of Education*, 402 U.S. 1 (1971). *Adams* v. *Richardson*, 351 F. Supp. 63 (1972), aff'd 480 F. 2d 1159 (C.A.D.C. 1973); *Adams* v. *Weinberger*, 391 F. Supp. 269 (D.C.D.C. 1975). It might be argued that in these and similar situations, the agency might still take action to terminate assistance under Title VI where it ultimately determines that the offending racial disproportion is the consequence of forbidden discrimination and cannot be redressed without busing students. Put another way, while HEW could not require student busing under the Byrd Amendment, the agency may not be precluded from imposing sanctions where the failure to take remedial action results in continued noncompliance. Indeed, it may be under constitutional compulsion to do so since to continue federal assistance to racially discriminatory programs might raise Fifth Amendment due process issues. See, e.g. *McGlotten* v. *Connelly*, 338 F. Supp. 448 (D.C.D.C. 1972); *Norwood* v. *Harrison*, 413 U.S. 455 (1973).

This interpretation may be questionable, however, since the effect of such action would seem to be to "require" busing in violation of the Byrd Amendment. The Amendment might be read as prohibiting the agency from terminating assistance in these situations. Instead, HEW may be required to pursue the alternative enforcement route of referring such cases to the Justice Department for court action under Title VI.

It is hoped that this will assist in your consideration of this matter.

CHARLES DALE,
Legislative Attorney.

*That provision, following the declaration of Congressional findings, states that nothing in Title II is "intended to modify or diminish the authority of the courts of the United States to fully enforce the fifth and fourteenth amendments to the Constitution of the United States." 20 U.S.C. 1702(b).

Mr. BROOKE. Will the Senator yield for a question?

Mr. EAGLETON. I yield for a question on the time of the Senator from Massachusetts.

Mr. BROOKE. The Senator has repeatedly said to the Senate that there has been white flight due to court ordered desegregation. Then he cites as an example of this the District of Columbia. But there is no court ordered desegregation for the District of Columbia. There never has been. Is that not true?

Mr. EAGLETON. That is absolutely correct. I did not say that the only reason was desegregation orders. I find it a very serious thing that after 20 years of debating this in this Chamber, no civil rights organization, nor the Department of Justice, nor HEW has ever filed a suit to desegregate the schools of the District of Columbia.

Mr. BROOKE. Why mislead the Senate?

Mr. EAGLETON. I am not misleading. The Senator is trying to put words in my mouth which would cause me to mislead the Senate. I did not say that the problem in every school system was attributable to busing. I said in certain areas where busing had gone into effect they had shifted the citizenship from the cities to the suburbs. In Detroit, where they first got into the school busing business, the Detroit figures were about 60-percent black and 40-percent white. Since they have embarked on the busing program, it has gone from 60 to 80 percent.

Mr. BROOKE. The Senator referred to Chicago. There has never been court-ordered busing in Chicago.

Mr. EAGLETON. That is where HEW plans to light next, right after Kansas City.

Mr. BROOKE. It plans to light?

Mr. EAGLETON. Right after Kansas City, which is 68-percent black, the next order of business is Chicago, which is 70 percent.

Mr. BROOKE. Then the Senator said HEW-ordered busing. HEW cannot order busing.

Mr. EAGLETON. HEW has ordered it in Kansas City. They called in a Social Security Administration hearing examiner. Listen to this. They sat him down and said, "We want to give you, Mr. Social Security Hearing Examiner, some figures. Here are some schools in Kansas City and here is the racial mix. We want an order out of you, social security examiner, to desegregate the schools of Kansas City." By God, that wizard on social security gave them the order. How about that? It was an order of a social security examiner, but, nevertheless, Kansas City is under the gun and will lose all Federal aid unless they comply with the ruling of the social security examiner.

Mr. BROOKE. HEW does have the authority to cut off funds if they find there has been a constitutional wrong. They can cut off funds, but they cannot order busing.

Mr. EAGLETON. There was no judicial finding of a constitutional wrong. If they went to the Kansas City district court and got an order of the court that there had been de jure segregation in Kansas City, they would have to order them bused. A social security hearing examiner is not quite a judicial process.

Mr. BROOKE. Let us use my own city of Boston. The Senator said there has been white flight because of desegregation.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. We are on my time, I take it. The Senator has taken three-quarters of the time.

Mr. EAGLETON. We have to limit it a little bit because I have other colleagues who want me to yield. Let us finish on Boston.

Mr. BROOKE. The Senator from Missouri would have our colleagues believe there has been white flight in Boston because of the court-ordered busing. That is not the case. The mayor of the city of Boston appeared before our delegation just the other day. And he states there has been some white flight, but it has been due mostly to increased taxes and insurance costs, not to court-ordered busing in the city of Boston. I want the Senator to be correct in the information which he gives to the Senate.

If we were to look through these other cities, we would find out that court-ordered busing has not been responsible for white flight.

Mr. EAGLETON. I do not think I mentioned Boston. I was talking about New York and Chicago and five cities in the South.

Mr. BROOKE. But there has been no court-ordered busing in New York City.

Mr. EAGLETON. Mr. President, I reserve the remainder of my time.

Mr. BROOKE. There is no court-ordered busing in New York City. If there is white flight, again it has been done because of taxes and not through court-ordered busing.

Mr. EAGLETON. Everybody has left New York just because of taxes?

Mr. BROOKE. No. The Senator from

Missouri said they have left because of court-ordered busing.

Mr. EAGLETON. I said people will move for a whole host of conceivable reasons, some imagined, some actual, some fantasies, and in some of these districts there has been white flight. I am willing to stake my reputation on it. A year from this September if the Kansas City order goes in, I guarantee the Kansas City system will be at least 78-percent minority instead of 68 percent.

Mr. BROOKE. I would suggest that most of this is fantasy, not fact. There is no fact to support the contention that what has caused the whites to leave these cities is court-ordered busing. In many of the cases listed here there never has been court-ordered busing.

Mr. EAGLETON. I yield 8 minutes to my colleague from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, again we are called to the floor to deal with an issue that we disposed of, or thought we disposed of, almost 2 years ago. During the debate on this issue in 1975, the Senator from Massachusetts and I spent several days in the Chamber going over this issue.

We tried on occasion to focus on the issue. Senator JAVITS, of New York; Senator BROOKE, of Massachusetts; and others in this Chamber have real cause to be concerned about this amendment. Make no mistake about it, if this amendment goes into the books and is enforced, we are going to drastically cut the number of children that are being bused as a consequence of a court and/or administrative order. It is hard to pin down the civil rights division, but there is something approaching 700 cases for HEW.

Mr. BROOKE. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. BROOKE. Does the Senator truly believe that his amendment would stop court-ordered busing?

Mr. BIDEN. No. It has nothing to do with court-ordered busing. But we are talking about busing.

Mr. BROOKE. We are talking about court-ordered busing.

Mr. BIDEN. Begging the Senator's pardon, I am making a comparison here. Most of the children who are on buses going to school different than the one that they want to go to in their neighborhood are on that bus not because of a court. They are on that bus because of an HEW threat to withhold funds. There are the numbers.

I only have 8 minutes. Let me get into this. We are back to the same old fact and fiction routine. I cite Dr. Armour's testimony before the Judiciary Committee with regard to the white flight from these very cities. I referred the staff of the Senator from Massachusetts to that study. There is evidence, at least according to one eminent sociologist, that white flight is drastically increased as a consequence of both court-ordered and administratively-ordered busing.

The Senator says that HEW is not ordering anything here, that they cannot order busing. All they can do is threaten to withhold funds.

That is true, but I do not see how that is any different. They go into a school district and say, "Unless you comply with this desegregation order that we have decided upon, we are not going to send any Federal funds into your district."

That is like saying to me, "If you do not cut off your left arm, I am going to shoot you. I am not going to cut your left arm off, but if you do not, I am going to apply the ultimate sanction. You do not get any money."

Let us stop kidding here. We are talking about administrative-ordered busing. I happen to be a proponent of the point of view that whether or not a court ordered busing certain standards should apply. We are only talking here about administrative busing. We are not talking about court-ordered busing. What we talked about in the past was, very simply, in this last discussion we had 2 years ago with the Senator from Massachusetts, whether or not, if, in fact, there is going to be an order to place a child on a bus, that order should come from an administrative agency.

Mr. BROOKE. Will the Senator yield?

Mr. BIDEN. On the Senator's time, I will.

Mr. BROOKE. All right, on my time.

Does the Senator realize that in the last decade, HEW has only defunded one school district in this country, at Ferndale, Mich.? The Senator would lead our colleagues to believe that HEW is withholding funds all the time from school districts. It is just not the fact. The Senator should know that.

He did not expect HEW to defund under Richard Nixon and under Gerald Ford. Now he has his own administration in there. Let us see what is going to happen. They did not defund them then. What does he think they are going to do under Joe Califano?

Mr. BIDEN. Are we back on my time?

They only did defund one, because only one school district had the guts to say, "We don't want your funds."

Mr. BROOKE. Where was Delaware?

Mr. BIDEN. Delaware bused. De La War school district said, "OK, Jack, we'll bus." Not to the court; that was administrative busing. HEW came into our school district and said—not in the Wilmington case, this was the De La War school district; they said, "Unless you bus, you get no money." What did they do? They said, "OK, we need the money."

Mr. BROOKE. They said, "We are guilty," first.

Mr. BIDEN. Oh, my gosh.

Look, let us try to get three things straight here. No. 1, those of you who are going to vote with the Senator from Massachusetts are making one decision: That you think, absent a court order, a bureaucrat downtown or out in the district can make a judgment that there is a constitutional violation that exists. I say to you that the only person who should be able to make that decision is a duly constituted Federal court. It is not for some bureaucrat to say, "We think you violated the Constitution; therefore, we make the judgment that unless you comply with our order, you do not get any Federal money." That is No. 1 point.

No. 2 point: We talk about whether or not there is an analogy—this is an amazing debate. Here I am, BIDEN and HELMS versus BROOKE and MORGAN. Let me ask you, is that not something for the books?

Talk about politics making strange bedfellows. Well, we are in a situation here where we get constant analogies to the South. Let us talk about the facts in the South and the North. They are completely different living patterns.

When they came along and emancipated the slaves, the slaves did not move off the plantation, they did not move into cities. In small towns, all through the South, my southern colleagues and northern colleagues who are familiar with it, know it: It is not a question of segregated neighborhoods. There are integrated neighborhoods and segregated facilities.

Now we have busing orders in major metropolitan areas where there has been a migration to those cities in a traditional American fashion—sometimes as a consequence of pure prejudice and encumbrances placed upon blacks, but also as a consequence of normal migration patterns.

When blacks moved into the cities, they moved in with blacks. When the Irish moved in, they moved into Irish ghettos. They moved in that way in all other ghettos. That is the way it developed.

What do we have? We have essentially integrated facilities and segregated neighborhoods in the North.

Mr. BROOKE. Will the Senator yield?

Mr. BIDEN. I will not yield.

We are applying the same standard to correct two different ills. It always perplexes me when my colleague from North Carolina (Mr. MORGAN) stands up and talks about this issue. He has the same problem in his cities, they have the same problem in Atlanta, they have the same problem in every major metropolitan area in the South. But they are different situations we are dealing with. When you add it all up and shake it all down, it comes down to one thing: Do you want the Department of Health, Education, and Welfare, and the most able, most brilliant young lawyer, Drew Days, in the Civil Rights Division, making a decision whether a constitutional violation exists or not? That is what we are talking about.

I thought we settled it all the last time out. We did. Then we got the most ingenious memorandum. It came from my administration.

Here I am, Jimmy Carter's national campaign chairman, or whatever the title was, fighting his administration down there. I cannot make apologies for that. I can only talk about what has happened.

The Justice Department got a little request from Secretary Califano asking whether or not the Biden amendment, which later became the Byrd amendment, can essentially be preempted.

It asked whether they can make an Executive order. Secretary Califano asked the Attorney General for an opinion, and the Attorney General and Drew Days wrote a brilliant opinion that comes out as a memorandum of advice, 17 pages. It says little things like, there was minimal discussion on the Byrd amendment—be-

cause we spent 3 days on Biden 1 and Biden 2. And thank God for the majority leader, who came along and got me out of a procedural snag. I could not amend my amendment because of Senate rules. So we had the Byrd amendment that came along and clarified it.

I shall not bore you with this memorandum, but I ask unanimous consent to have it printed in the RECORD at this point in my remarks.

(Mr. MELCHER assumed the chair.)

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR THE ATTORNEY GENERAL

Re HEW Interpretation of Byrd Amendment in Proposed Letter to Senator Eagleton.

This memorandum is in response to the referral to me of Secretary Califano's April 12, 1977 letter to you. That letter asked whether you agree with the Secretary's interpretation of the Byrd Amendment to HEW's current appropriation. The Secretary's draft letter to Senator Eagleton expressed the view that the Byrd Amendment's prohibition of transportation of students beyond the school nearest their home, for purposes of compliance with Title VI (42 U.S.C. §§ 2000d *et seq.*), should be applied after grade structure reorganization for the purpose of desegregation is implemented.

A review of the legislative history reveals support for both sides of the issue. However, the interpretation which would apply the transportation limitation before a remedy is proposed would conflict with Title VI and raise constitutional questions; the principles of statutory construction require that a statute be interpreted, if possible, to avoid conflict with the Constitution and with other statutes. Accordingly, I recommend that we support the Secretary's interpretation by sending him a copy of this memorandum and by defending his position in any litigation which may arise on the subject.

QUESTION PRESENTED

Can the Byrd amendment be interpreted to permit HEW to attempt to withhold funds under Title VI of the Civil Rights Act of 1964 from an unlawfully segregated school district operating a neighborhood assignment plan and to apply the transportation limitations of the amendment to grade structures existing in the remedial, as opposed to original, student assignment plan.

STATEMENT

The Byrd Amendment, sec. 208 of Pub. L. 94–439, HEW's appropriation for fiscal year 1977, was originally passed as part of HEW's appropriation for fiscal year 1976, see sec. 209 of Pub. L. 94–206. The Byrd Amendment was added to the bill after it had passed the House, and the Senate Appropriations Committee, and was pending on the Senate floor.

Prior to the amendments added on the Senate floor, the bill included the following provisions: [1]

SEC. 207. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 208. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

Just before its consideration of the Byrd Amendment, the Senate considered two other amendments which were directed to HEW's actions on school desegregation, particularly "forced busing." The first, introduced by Senator Helms, would have prohibited HEW from requiring school districts, as a condition for receiving federal funds, "to classify teachers or students by race, or national origin; assign teachers or students to schools, classes, or courses for reasons of race, or national origin," or to maintain racial records on students or teachers. See 121 Cong. Rec., pp. 29101–102 (September 17, 1975). This amendment was ultimately tabled. *Id.* at p. 29113. Following that, Sen. Biden introduced an amendment, also directed at "forced busing," which stated:

None of the funds appropriated under this Act shall be used to require any school, school system, or other educational institution, as a condition for receiving funds, grants, or other benefits from the Federal Government, to assign teachers or students to schools, classes or courses for reasons of race."

Id. at p. 29113. That amendment was passed by the Senate. *Id.* at pp. 29122–123.

Following the passage of Sen. Biden's amendment, Sen. Scott introduced an amendment which read:

"None of the funds contained in this Act shall be used in a manner inconsistent with the enforcement of the fifth and fourteenth amendments to the Constitution of the United States and title VI of the Civil Rights Act of 1964."

Id. at p. 29544 (September 19, 1975).

Sen. Scott indicated that he felt Sen. Biden's amendment had effectively repealed Title VI, and that Sen. Scott intended to narrow and clarify Sen. Biden's amendment. Id. However, before a vote on that amendment could be held, and before substantial debate on it was conducted, Sen. Robert Byrd introduced his amendment as a perfecting amendment to that of Sen. Scott. Sen. Byrd's amendment altered Sen. Scott's proposed amendment to read as follows:

"None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

Id. at p. 29551.

Sen. Byrd said that his bill was also designed to stop HEW from requiring busing, but was more narrowly drawn than Sen. Biden's amendment concerning HEW's other Title VI activities. *Id.* at p. 29551 (colloquy of Sen. Byrd and Sen. Haskell). See also id. at p. 30042, where Sen. Byrd states that Sen. Biden's amendment would effectively repeal Title VI. Sen. Byrd made it clear that his amendment was directed only to the issue of busing.

My amendment is strictly a busing amendment. It addresses itself only to busing and not to the assignment of students—only to busing.

Id. at p. 29813 (September 23, 1975). Several other Senators stated that they viewed Sen. Byrd's amendment as dealing with the issue of busing. See statement of Sen. Haskell, id. at p. 29551 (September 19, 1975); Sen. Eagleton, id. at p. 29810 (September 23, 1975); Sen. Helms, id. at p. 30042 (September 24, 1975).

The Senate passed the Byrd amendment. Id. at pp. 30044–30046.

Following the passage of the Byrd amendment, Senator Brooke introduced an amendment to the Bryd bill which contained language identical to that of the original Scott amendment (see p. 3, supra). Id. at p. 30346 (September 25, 1975). That amendment was ruled out for a procedural failure on a point of order, and was the subject of neither extended debate nor vote. Id. at p. 30354. Sen. Biden then introduced an amendment for the purpose of conforming the effect of his original amendment to the effect of the Byrd amendment.[2] Id. at p. 30356. Sen. Biden's amendment stated:

"Notwithstanding any other provision of this Act, the funds contained in this Act shall be used in a manner consistent with the enforcement of the fifth and fourteenth amendments to the Constitution of the United States and title VI of the Civil Rights Act of 1964; *Provided*, that the funds contained in this Act shall not be used so as to require the transportation of students for reasons of race unless such transportation is specifically required by a final decree of a court of law."

Sen. Biden said that he was attempting to insure that his original legislation was interpreted to leave HEW's Title VI authority intact, except "to prevent HEW from busing."

Id. at p. 30359. This legislation was passed by the Senate. *Id.* at pp. 30364–365.

The appropriations bill was then sent to conference. The conference recommended that the Senate recede from both Biden amendments. See Conference Report, H. Rep. 94–689, 94th Cong., 1st Sess., at 19. The full House and Senate adopted the report and agreed to the deletion of the Biden amendments. 121 Con. Rec. p. 38713 (December 4, 1975), and p. 39040 (December 8, 1975).

The House conference managers recommended that the full House seek to amend the Byrd amendment by adding "or next nearest" to the legislation following "school which is nearest." See Conference Report at 17. Rep. Flood offered the appropriate motion, 121 Cong. Rec. p. 38714 (December 4, 1975), in order to conform the bill to the existing law in sec. 215(a) of the Equal Educational Opportunities Act of 1974, 20 U.S.C. 1714(a).[3] *Id.* at p. 38715. The full House voted to reject the motion and to concur in the Byrd amendment as passed by the Senate. *Id.* at pp. 38718–719. The appropriations bill was finally passed over a presidential veto unrelated to the busing provisions. See text of presidential veto, *id.* at p. 41880 (December 19, 1975) and vote of House, *id.* at p. 1035 (January 27, 1976), and Senate, *id.* at p. 1326 (January 28, 1976).

There was minimal discussion of the Byrd amendment in Congress' consideration of HEW's appropriation for fiscal year 1977. During debate on the House floor, a point of order was raised that the amendment is legislation in an appropriations bill, and as such is out of order. The Chair rejected the point of order, characterizing the amendment as a limitation on the expenditure of the funds. See 122 Cong. Rec., pp. 29689–690 (June 24, 1976). The Senate report briefly discussed the amendment by printing a letter from HEW Secretary Mathews

Footnotes at end of article.

to Sen. Magnuson, which stated that the amendment "would effectively bar the Department from requiring transportation in virtually every desegregation case." S. Rep. 94-997, 94th Cong., 2nd Sess. at 115. The Report noted that HEW had not submitted a formal opinion of its General Council although such had been requested.

No similar anti-busing amendments were discussed on the Senate floor, and the Byrd amendment was discussed only briefly, See 122 Cong. Rec., pp. 21196-21198 (June 29, 1976). The bill was enacted with the Byrd amendment language intact.

DISCUSSION

I. HEW's Title VI Authority

The Byrd amendment was intended to affect HEW's administrative Title VI activity. A brief review of the methods by which Title VI is enforced is appropriate.

Title VI prohibits discrimination by recipients of federal funds, and requires each federal agency which extends federal assistance to "effectuate" the prohibitions of the Act. 42 U.S C. 2000d. This duty is mandatory, not discretionary. *Adams* v. *Richardson*, 351 F. Supp. 636 (D.D.C. 1972), *aff'd* 480 F.2d 1159 (D.C. Cir. 1973). An agency can enforce Title VI by (a) terminating or refusing to fund a recipient which has been found, after a hearing, to fail to comply with Title VI, or (b) by any other legal means. 42 U.S.C. 2000 d-1.

HEW regulations establish the methods by which it seeks administratively to enforce Title VI with respect to school districts. The district must submit a plan of assignment which HEW determines complies with Title VI, and must provide assurances to HEW that it will carry out the plan. See 45 C.F.R. 80.4(c)(2).

In the event that HEW determines a district's present plan is violating Title VI, HEW must first seek informally to resolve the problem. 45 C.F.R. 80.8(a). Presumably this informal resolution would require HEW to accept or reject various remedial plans offered by the school system.[4] If a dispute cannot be resolved informally, HEW may either (a) attempt to terminate federal funds through an administrative hearing or (b) refer the case to this Department for suit to enforce any rights of the United States under any law or contractual assurance. The administrative hearing is to determine if the school district's present assignment plan violates Title VI.

Any remedial plan the school district submits to correct the Title VI violation must be approved under 80.4(c)(2) by the "responsible Department official." See 80.10(g)(1). A decision of the Department official which is unfavorable to the district is reviewable in a hearing. 80.10(g)(3).

Accordingly, unlike a court, HEW may not *order* a desegregation plan into effect. HEW can move to withhold funds, alleging that an assignment plan is in violation of Title VI, and can approve or disapprove alternative plans submitted by the school district. The only order it can enter is one which would terminate federal funds.

II. The Statute and Legislative History

It is against this background that the Byrd amendment operates. The legislative debate on that and other anti-busing amendments suggests that by stating HEW can not use federal funds to "require [certain actions] directly or indirectly," the Senate meant "indirect" to refer to the process of threatening to withhold funds unless a new plan is adopted. See statements of Sen. Biden, 121 Cong. Rec., p. 30357 (September 25, 1975); and at p. 30359; statement of Sen. Allen *id.* at p. 30357, statement of Sen. Eagleton, *id.* at p. 30360.

Footnotes at end of article.

The language of the Byrd amendment, unlike that of the original Biden amendment, does not clearly prohibit all HEW action to desegregate systems operating discriminatory plans of student assignment. Instead, the Byrd amendment limits transportation. The question presented herein arises because the act does not clearly say whether the transportation limitation—no student to be transported "to a school other than the school which is nearest the student's home and which offers the courses of study pursued by such student" refers to the school nearest a student's home under a plan HEW determines to be discriminatory, or to the school nearest the student's home under a plan the school district submits to HEW as compliance with Title VI.

When HEW is faced with a school district which it alleges is operating a discriminatory neighborhood system,[5] see *Swann* v. *Board of Education*, 402 U.S. 1, 28 (1971), the two interpretations cause vast differences in the effects of the legislation. If the legislation is interpreted to refer to the closest school under the original discriminatory plan, HEW would be effectively precluded from taking any action. Under that interpretation, Congress would be saying that none of HEW's funds can be used indirectly to require (i.e., through threat of fund termination) transportation beyond that which the district described above is already doing—transportation to the closest school.[6] HEW therefore could not move to terminate funds in order to seek assurances from the district that it will adopt a plan which, in this case, would necessarily involve transportation which Congress specifically said could not be required as a condition to continued federal funding.

The alternative interpretation would apply the transportation limitation to the plan HEW determines will correct the title VI deficiencies. Under this interpretation, HEW could institute termination proceedings against a district operating a neighborhood plan. However, in determining whether remedial plans submitted by the school district will or will not bring the district into compliance with title VI, HEW could not require more desegregation than is possible through the assignment of students to the nearest school which serves their grade under the remedial plan. In other words, HEW could not reject a plan submitted by the district on the ground that the plan would not result in sufficient desegregation if the plan would accomplish as much desegregation as possible (see n. 4, *supra*) without transporting students beyond the closest school under the remedial plan.

Under this interpertation, Congress would appear to be saying that HEW may not, by rejection of submissions, require a plan that provides for transporting students beyond the closest school under the remedial plan. The limit on transportation for a desegregation plan adopted pursuant to title VI would therefore be transportation to the closest school which, under the new plan, serves the student's grade. However, compliance with title VI would still require a plan which will achieve the greatest possible desegregation (see n. 4, *supra*); therefore, HEW could reject remedial plans which did not attempt to desegregate through pairing (with appropriate restructuring of grade levels and assignment of students to the closest school serving their grade level following grade restructuring) if such a properly constructed pairing plan would result in the greatest degree of desegregation of any possible remedial plan.

As stated before, the language of the amendment does not clearly support one interpretation over the other. Either interpretation is reasonably supported by the statutory language; the statute does not clearly state at what point in the desegregation process the transportation limitation applies.

The legislative history also fails directly to address this question. A major difficulty in interpreting the floor debate is that nearly all references to desegregation were to "forced busing;" there was minimal discussion by the proponents of the bill of other methods by which schools may be desegregated.[7] Although some portions of the debate suggest that the Senate's intent was to stop HEW from taking any action with regard to desegregation of a neighborhood system, which would effect a broad limitation on HEW's title VI authority, other portions of the debate suggest that some Senators intended only to limit remedial transportation, and to leave methods of desegregation not involving long distance busing intact.

Although the intent of Senator Robert Byrd, the sponsor of the amendment, is not totally clear from the floor debate, it appears that he intended a broad limitation on HEW's authority to seek to remedy school segregation through the administrative process. It appears that Senator Byrd viewed "forced busing" as the sole method by which HEW acts in this area, and his legislation was, therefore, directed at that practice. Senator Byrd did not address the question of imposition of a remedy through re-structuring of grade levels.

Senator Byrd stated that his amendment was designed to prevent "forced busing to bring about an arbitrary racial balance in the public schools." 121 Cong. Rec., p. 29814 (September 23, 1975). The term "racial balance" has been used primarily to indicate a "de facto" situation where, based on prior judicial decisions, a remedy would not be constitutionally required. See Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c-6(a), and *Swann*, *supra*, 402 U.S. at 17. Senator Byrd's use of the term "racial balance" would, if his use were consistent with the prior use by Congress of that term, indicate an intent to leave HEW's authority intact when it is seeking to remedy an unconstitutionally segregated system.

However, Senator Byrd indicated that he felt the courts had misapplied the Constitution in many cases, see 121 Cong. Rec., pp. 29936-937 (September 24, 1975); he stated that many judicially ordered remedies were, in his view, designed to secure "racial balance." *Id.* at p. 29937.[8] Accordingly, Senator Byrd appeared to intend his amendment to prevent HEW from ordering a transportation remedy even when a district was operating assignment practices which a court, under prevailing judicial standards, would find to be racially discriminatory.

Senator Byrd's comments were, however, limited to remedial action by busing and may apply primarily to techniques such as satellite zoning. It is unclear whether he was aware of other methods—i.e., pairing and clustering—by which schools are desegregated. In fact, at one point he stated, "My amendment is strictly a busing amendment. It addresses itself only to busing and not to the assignment of students—only to busing." *Id.* at p. 29813 (September 23, 1975). This comment indicates that Senator Byrd did not consider the effect of his amendment on other methods of desegregation. However, his comments are very broad; he appears to have intended to foreclose HEW action in many circumstances where a court would order a remedy. A fair reading of Senator Byrd's language would suggest that he would have wanted to prevent any alteration in an existing "neighborhood" plan, under his view that such a plan is based on geographical proximity, and is never racially discriminatory.[9]

However, the legislative debate suggests that some Senators who supported the amendment did so under the view that while it would prohibit HEW from requiring remedial busing, it would not prohibit other meth-

ods of desegregation. Senator Eagleton, for example, recognized the traditional definition of "racial balance" as reflected in Title IV, *id.* at p. 29810 (September 23, 1975), and viewed the problem to be addressed as one of stopping HEW from requiring alterations in plans of student assignment for the sake of "racial balance." *Id.* Senator Eagleton stated that the Byrd amendment would "not limit HEW in mandating other methods of school desegregation, but would simply remove the authority of HEW to require busing." *Id.* at p. 29811. Senator Eagleton also stated that the Byrd amendment would "permit [] the Department to employ other remedies [than busing] not incompatible with previous strictures already legislatively imposed by Congress." *Id.* See also statement of Senator Haskell, *Id.* at p. 29551 (September 19, 1975), statement of Senator Huddleston, *id.* at p. 30042 (September 24, 1975) and statement of Senator Biden. *id.* at p. 30359 (September 25, 1975). But see statement of Senator Biden, *id.* at p. 30357.

These comments suggest that some members of Congress were attempting to limit HEW's authority to require busing as a remedy for a school system which is unconstitutionally segregated, but to permit other methods of desegregation to remain available. Again, although the precise use of pairing was not discussed, there is support, particularly in Senator Eagleton's comments, for an interpretation of the amendment which would permit HEW to apply the amendment in such a manner as to seek to require the adoption of a pairing plan. However, both interpretations have support and the legislative debate on the Byrd amendment is far from conclusive.[10] The tabling of the Helms amendment and the ultimate rejection of the first Biden amendment, both of which would have very broadly restricted HEW's Title VI authority, may support to a small degree the view that Congress intended a limited effect on HEW's Title VI authority. However, this can be as easily interperted as an intention to leave unaffected HEW's authority on issues other than student assignment. See statement of Senator Biden, *id.* at pp. 30357–358 (September 25, 1975). The weight to be accorded these comments suffer from their reference only to busing, not to all methods of desegregation.

Congress, in past years, had avoided a direct conflict with the prohibition on discrimination by recipients of federal funds which it previously enacted in Title IV. For example, previous appropriation bills contained language prohibiting HEW from requiring alterations in assignment plans of school districts which were "desegregated as that term is defined in Title IV of the Civil Rights Act of 1964." See Sec. 208 of Pub. L. 93–192. Provisions were enacted prohibiting transportation to overcome "racial imbalance," which would of course permit HEW to act to desegregate unconstitutionally segregated schools. See sec. 209(b) of Pub. L. 93–517. In fact, when Pub. L. 93–517 was finally enacted, provisions which would have prevented HEW from requiring busing in any circumstances were eliminated during the conference. See H. Rep. 93–1489, 93rd Cong., 2d Sess., at p. 19. The provisions enacted in that bill left HEW's Title VI responsibilities virtually unaffected, and Congress rejected provisions that would have dramatically curtailed Title VI authority.[11]

In addition, in the Education Amendments of 1972, Congress passed a provision which stated that there was nothing to require alterations in neighborhood assignment plans "drawn on a racially nondiscriminatory basis." Pub. L. 92–318, Sec. 719. Congress was expressing support for the concept of neighborhood schools, a concept Senator Byrd would support, see 121 Cong. Rec., p. 29813 (September 23, 1975), while not precluding action against discriminatory neighborhood plans.

III. Principles of Statutory Construction

It is an accepted rule of statutory construction that when the language of an act is ambiguous, similar language in other legislation may provide an interpretive guide. See *United States* v. *Stewart*, 311 U.S. 60, 64 (1940), *Huddleston* v. *United States*, 415 U.S. 814, 826 (1974). When passing the Education Amendments of 1974, 20 U.S.C. 1701 *et seq*, Congress set out in section 214, 20 U.S.C. 1713, a priority of the remedies to be used by courts or administrative agencies when desegregation plans were to be devised.[12] Part (d) of that section permits pairing and clustering of schools ("revision of attendance zones or grade structures"). However, any such remedial plan was specifically limited by the provisions of section 215(a), U.S.C. 1714(a), which states:

"(a) No court, department, or agency of the United States shall, pursuant to section 214 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student."

This language suggests that the transportation limitation applies to the grade structure of a remedial plan. Section 214(d) of the 1974 Act permits pairing as a remedial plan, subject to the transportation limitation of section 215(a). Both sections refer to the construction of the remedial plan. Section 215(a) is worded in the present tense, and refers to the school "which provides the appropriate grade level" for the student. Placing the limitation in the present tense, and referring to the plan to be implemented, appears to suggest that the limitation applies to the grade structure of the remedial plan, and not of the old, discriminatory plan. Accordingly, the language in the Education Amendments of 1974 suggests that Congress intended its transportation limitations to apply to the grade structure in the remedial plan, and not that of the plan to be remedied. The similarity of the Byrd amendment to section 215(a) suggests that its transportation limitation be similarly interpreted.[13]

Two additional tenets of statutory construction suggest that the amendments should be interpreted to apply the transportation limitation following the drafting a remedial plan, which would permit HEW to seek to require remedial plans through the threat of fund cutoffs. The first states that "when two statutes are capable of coexistence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective." *Morton* v. *Mancari*, 417 U.S. 535, 551 (1974). If the transportation limitation is read to describe school locations prior to the development of a remedial plan, HEW would be precluded from taking any action to enforce Title VI against a school district operating a discriminatory neighborhood plan, and would be forced to continue funding a discriminatory program. This result conflicts directly with Congress' previous enactment of Title VI, which directed agencies to enforce Title VI and to insure that federal funds do not flow to programs which discriminate. In fact, an agency's continued funding of a discriminatory program is in direct violation of the Act. See *Hicks* v. *Weaver*, 302 F. Supp. 619 (E.D. Pa. 1969). Interpreting the two statutes (Byrd and Title VI) in such a way as to permit HEW to exercise its Title VI responsibilities, even in a manner circumscribed by the transportation limitation,[14] would be consistent with a court's duty to avoid a direct statutory conflict.

The second tenet states that "when a statute is ambiguous, 'construction should go in the direction of constitutional policy' ". *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 134 (1974). See also *United States* v. *Johnson*, 323 U.S. 273, 276 (1944). "Our task is not to destroy the Act if we can, but to construe it, if consistent with the will of Congress, so as to comport with constitutional limitations." *CSC* v. *Letter Carriers*, 413 U.S. 548, 571 (1973).

The interpretation of the amendment which would preclude HEW action could lead to a challenge to the statute's constitutionality. A federal statute which would force an agency to fund a racially discriminatory program would be held unconstitutional, *Gautreaux* v. *Rommey*, 448 F.2d 731, 739 (7th Cir. 1971), *Green* v. *Kennedy*, 309 F. Supp. 1127 (D.D.C. 1970), and a statute which authorizes segregation by state officials has been held unconstitutional, *Simkins* v. *Moses H. Cone Memorial Hospital*, 323 F.2d 959 (4th Cir. 1963), *cert. den.* 376 U.S. 938 (1964). A constitutional test of the statute could raise the question, which Congress has thus far been careful to avoid, of Congressional power to overrule, through legislation, the *Swann* decision. The interpretation of the legislation which would enable HEW to seek to terminate federal funds to school districts operating discriminatory neighborhood plans might well avoid a collision between the statute and the Constitution, and for that reason that interpretation is supported by principles of statutory construction.

Thus far, we have discussed possible interpretations of the Byrd amendment in a theoretical context. The amendment may soon be subjected to judicial review. The Kansas City, Missouri school system has sued HEW, alleging that HEW's deferral of funds violated procedural requirements in Title VI. *School District of Kansas City, Missouri* v. *HEW, et al.*, No. 77–0238–CV–W–3. In its complaint, the school system stated that HEW failed to explain its interpretation of the Byrd amendment.

CONCLUSION

The question presented by the Byrd amendment and by Secretary Califano's letter turns, in my view, on the need to reconcile the Byrd amendment with Title VI, and on the apparent Constitutional issue which could arise from applying the transportation limitation in such a way to preclude all HEW action to desegregate schools. For that reason, the Secretary's position is supportable.

We should so indicate to him, and suggest that if that interpretation leads to the necessity for a judicial resolution of the statute's meaning, we would support his interpretation in subsequent court proceedings.

A draft response to the Secretary is attached.

DREW S. DAYS, III,
Assistant Attorney General,
Civil Rights Division.

FOOTNOTES

[1] The provisions were also part of HEW's 1975 appropriations bill. See sections 208 and 209 of Pub. L. 93–517.

[2] Rules of the Senate prohibited Sen. Biden from withdrawing or moving to delete his original amendment. See *id.* at S16791 (colloquy with Sen. Eagleton).

[3] Section 215(a) states:

"No court, department, or agency of the United States shall, pursuant to section 214 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student."

[4] HEW's decisions on what constitutes compliance with Title VI are of course guided by court decisions on discrimination. Courts

require remedial plans in school desegregation cases to achieve the "greatest possible degree of actual desegregation," *Davis* v. *School Comm'rs of Mobile County*, 402 U.S. 33, 37 (1971). HEW, in accepting or rejecting various plans submitted by a school district to bring it into compliance with Title VI, may therefore accept only a plan which will achieve the greatest degree of desegregation and HEW must reject plans which do not meet this standard.

[5] For purposes of this memorandum, "neighborhood system" or "neighborhood plan" refers to one where students are assigned to the closest school serving their grade.

[6] This assumes that the students are transported.

[7] Senator Brooke, an opponent of the bill, stated that the amendment "would deny HEW all other means of achieving desegregation," 121 Cong. Rec., p. 29811 (September 23, 1975.) However, the proponents of the bill referred only to forced busing as the problem they wanted to address.

[8] Senator Byrd expressed his disagreement with the courts' views that the Fourteenth Amendment established an "affirmative duty" to eliminate the vestiges of discrimination, and permitted the use of racial criteria in remedial stages. Senator Byrd expressed disagreement with *United States* v. *Jefferson County Board of Education*, 372 F. 2d 836 (5th Cir. 1966), *Green* v. *County School Board*, 391 U.S. 430 (1968), *Swann, supra*, and *Keyes* v. *School District No. 1*, 413 U.S. 189 (1973).

[9] Senator Byrd describes the assignment plans at issue in *Swann* and *Keyes* to be based on "geographical proximity," a "nonracial basis." *Id.* at pp. 29936–937 (September 24, 1975). Accordingly, we can presume Senator Byrd would oppose any interpretation which would permit HEW to suggest an alteration of a "neighborhood" plan.

[10] The Byrd amendment was mentioned in the Senate report in HEW's appropriation for fiscal year 1977. See S. Rep. 94–997, 94th Cong., 2nd Sess. at 115. The report attached a letter from Secretary Mathews which, while stating that the amendment would bar HEW from requiring transportation, did not address the effect of the statute on other remedies.

[11] During debate on the Byrd amendments, the busing amendments of previous appropriations bills were briefly discussed. The only conclusion reached was that the Byrd amendment and the prior amendments would not be in conflict; the previous amendments (see pp. 2–3, *supra*) referred to schools which have been desegregated as defined by Title IV; the Byrd amendment had no such limitation. See colloquy of Senators Magnuson and Allen, 121 Cong. Rec., pp. 29689–690 (September 22, 1975).

Accordingly, what debate there is on the effect of the Byrd amendment on previous legislation is as vague as the remainder of the debate.

During consideration of the first Biden amendment, Senator Biden said his amendment was different from the previous legislation on busing in appropriations bills. Previous bills referred to districts which are desegregated; his bill would have kept HEW from acting in any district, desegregated or not.

See *id.* at p. 29116 (September 17, 1975).

Senator Biden also stated that previous legislation stated that funds could not be used "for the transportation of students," (see sec. 208(b) on p. 3, *supra*), but that the appropriations bill did not appropriate funds for transportation in any event. However, Congress' ultimate rejection of the Biden amendment makes Senator Biden's comments of limited value.

[12] On several occasions various members of Congress pointed out that the Byrd amendment was merely a further limitation on the transportation permitted by the 1974 Act. See statement of Rep. Flood, 122 Cong. Rec., p. 22370 (June 24, 1976); Rep. Conte, 121 Cong. Rec., p. 38715 (December 4, 1975). See also S. Rep. 94–997, discussed at p. 6 and no. 10 *supra* wherein Secretary Mathews' letter describes the Byrd amendment as a further limitation on the transportation permitted by Section 215(a) of the 1974 Act.

[13] Section 214 (a) of the Act states that the assignment of students to the closest school which provides the appropriate grade level is the first remedy which should be considered. Section (d) permits pairing within the "closest or next closest" limitation of section 215(a). Insofar as the Byrd amendment's transportation limitation is to the closest school, it effectively limits the transportation possible after pairing to the same limit as the first remedy—assignment to the closest school. However, insofar as each part of section 214 describes a remedial plan, the closest school limitation of section 215(a) is determined under the new plan, including any grade restructuring permitted as part of a remedial plan.

[14] See p. 9, *supra*.

Mr. BIDEN. This memorandum says little things, like:

There was no question that if Biden language had been upheld and voted on and been the named amendment, you would not be able to do this, Mr. Califano. You would not. But because Byrd came along and there was little legislative history discussing Byrd, we think you have got an out. We think you have got a loophole.

I thought we fought this fight. We talk about rearguard actions. If I may be so bold as to suggest—I ask my colleague to yield me 2 more minutes.

Mr. EAGLETON. I yield 2 more minutes.

Mr. BIDEN. If I may be so bold as to suggest, my distinguished colleague from New York stands up and talks about this rearguard action. You are not going to like what I am about to say, but let me tell you something: This is the front-guard action. There is nothing rear about this. If the Eagleton amendment is not sustained, if we do not move to address this question of busing and put it in its proper perspective—and note, we are not saying this amendment that the young Senator from Delaware will bring to the floor, hopefully, some time in this month—we are not saying the courts cannot find constitutional violations. We are saying there are certain restrictions. If, in fact, we do not address this question, we are going to see the civil rights movement in this Nation—which has already come to almost a screeching halt over the last 8 years—kicked in the teeth and it may not recover for another 10 or 20 years.

Let me tell you, there are a lot of folks out there who are good-thinking folks, who are committed to equal opportunity, who see the absurdity of some of these busing orders. What do they do, out of their frustration? They turn around and they leave the cities, as the Senator from Missouri indicates. And/or they begin to put blame where it does not belong. They turn around and say, "Were it not for blacks, my child would be able to go to this good school." And it builds resentment and it builds hostility.

I am not talking about violence. That does not happen in 99-44/100 percent of the cases. But let me tell you something: People are beginning to get fed up and when, in fact, you lose the basic support of that so-called great unwashed, that middle class—of which I am a part—you are not going to get any social policy in this Nation to continue to move.

I do not know why we keep talking about the citadels of virtue, or the Constitution. The distinguished Senator from New York stands up and says "those who honor the Constitution."

Well, I revere the Constitution. I introduced an amendment which caused all blank to break loose.

All "blank" broke loose. And do you know what it said? That the court must find that there was a specific intent to segregate before they could order busing.

I was told how that was going to be the end of the free system. One of the greatest men in the 20th century in America, Clarence Mitchell, stood before my committee and said:

If this amendment passes, we will soon have rats crawling in the citadel of justice, the Supreme Court of the United States. It will become a hollow building.

And I am paraphrasing.

What did that citadel of justice say yesterday? It said that you need to find a specific intent to segregate. It is about time that institution went beyond the Eagleton-Biden amendment and addressed itself to the question of what the Constitution requires. Does it require that we affirmatively integrate for the purpose of integration? Or does it say that we must knock down all impediment to equal opportunity and desegregate wherever we find a constitutional wrong?

We have had too much knee-jerk reaction in this institution. And, quite frankly, I am always disturbed, and more and more disturbed, when we keep talking about who has the citadel of virtue, who is the possessor of wisdom, and who understands the Constitution. Obviously, the court is beginning to understand the Constitution.

I thank this body for its indulgence; but please understand, this is not court-ordered. This is merely saying, do you want an administrator to have the power to determine whether or not a constitutional violation exists and then not order but threaten to withhold all Federal funds unless they act?

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Massachusetts has 12 minutes. The Senator from Missouri has 2.

Mr. BROOKE. Mr. President, the Senator from Delaware, among other things, has talked about ethnic groups moving into a city and living in areas where the same ethnic group would be found. That, Mr. President, is de facto, not de jure segregation.

The Supreme Court has never at any

time in its history said that we must desegregate schools because of de facto segregation. It does not say so now.

All the Supreme Court has said is that where a school district has become segregated by official action, as was found in my city of Boston and in the Senator's city of Wilmington, as the Senator from Delaware knows, that school district must desegregate its school system. The Court gives the school district time to bring about the desegregation of that system. If it does not, if it blatantly refuses, as it has in the Senator's city and in mine, then the court will order desegregation.

That is all the court does.

Mr. BIDEN. Will the Senator yield for a brief question?

Mr. BROOKE. No. I listened to the Senator. I had to listen to him, and I just have a few more things.

Mr. BIDEN. I just wonder what that has to do with this amendment.

Mr. BROOKE. I just want to speak about court-ordered busing.

Now, at no time has the court given authority to HEW to order busing. HEW is the department of this Government, of the executive branch of the Government. HEW does not make the law. It carries out the law.

There are funds in this bill which HEW can use. But HEW cannot use it when a school district is in violation of the law, when there is a constitutional wrong.

What HEW does, after a finding of constitutional wrong, is threaten the withholding of funds, as it has done in several instances.

But as I pointed out, and the Senator from Delaware agreed, only in one instance has HEW ever defunded a school district in the history of this country.

There, obviously, has been no harassment by HEW in the past, there is not in the present, and I do not think we can anticipate any in the future.

The Supreme Court says that busing is a constitutional tool that can be used. It does not say that it has to be used. It has inferred that it is a constitutional tool of last resort. When everything else has failed, then busing has been used by courts to desegregate school systems.

What the Senator from Delaware would do with his amendment, with the Senator from Missouri, is take away the options of pairing, of clustering, and would deny the court other remedies to alleviate and to relieve constitutional wrongs.

If we do that, we have really abrogated title VI, as the Senator knows.

So it is a very dangerous amendment, no matter what the Senator says. He may stand up and walk the floor and wave his hands and say this and that, but we are not talking about de facto segregation, and we are not talking about HEW-ordered busing. We are talking about taking away a remedy that has been used and is available to remedy a constitutional wrong, and no more. And the Senator knows it.

So I hope that the Senate in its wisdom will recognize what this amendment would do.

This amendment actually goes beyond the Byrd amendment. And the Senator will remember that 2 years ago he joined in with the Senator from West Virginia (Mr. ROBERT C. BYRD), when we finally and reluctantly agreed to the Byrd language.

Now, the Senator would go beyond Byrd. This amendment is a further retreat from our commitments to equality of educational opportunity.

Why does the Senator want to take that action now when desegregation of public schools is going along peacefully, when there is no evidence of white flight, as the Senator from Missouri has mentioned?

What is the reason in 1977 for coming up with another amendment to deny equal educational opportunities to children in this country?

It is difficult to understand why the Senator comes forth with this amendment at this time. For there is no reason for it. There is no logic for it, unless, of course, the Senator does want to deny equal educational opportunity, which he says he does not want to do. And I believe him when he says it, but I cannot understand how that is consistent with the amendment he has introduced.

I would be very pleased to yield him an opportunity to respond to that question.

Mr. BIDEN. I beg the Senator's pardon. I did not hear the last part of the question. I was conferring with Senator EAGLETON.

Mr. BROOKE. I asked why the Senator at this time in 1977, when the desegregation of public school systems in this country is progressing without violence, when those districts that are under court order are desegregating their school systems without violence, feels that it is necessary to take a step even further back than the Byrd amendment which we adopted in 1975?

Mr. BIDEN. For several reasons. First of all, this amendment goes no further than the Biden amendment the first time out. We all thought at that time—at least I thought at that time—the Byrd amendment was merely a measure to get out of the procedural thicket we were in to adopt the Biden amendment. This is, sum and substance, the same thing.

The second question is, there is no reopener in this, no reopener clause in the other legislation I referred to that I plan to introduce.

It will not affect districts where it is already in place, which is what upsets the Senator from North Carolina.

It will upset administratively ordered busing because that school district could say that we are going back the way we were. We cannot withhold our funds.

But it would not affect court-ordered busing. The amendment I referred to would not affect it.

The Senator asks why, in light of the fact we have come from 8 percent integration to 92 percent integration, and the answer is very simple. It is obvious why that occurred, because when Brown came down and was finally imposed upon the South, there was a situation where they said, "You've got to go to school in the neighborhoods in which you live," and those neighborhoods were already racially integrated.

That is the reason why that percentage so drastically increased, other than in the major metropolitan areas of the North and South.

Mr. BROOKE. The Senator knows that while Brown established the law of the land, title VI of the 1964 Civil Rights Act was actually responsible for the effective implementation of that law.

Mr. BIDEN. I was responding to the court-ordered question.

The reason for that integration in the South initially was a consequence of court-ordered unitary schools——

Mr. BROOKE. No. Title VI was responsible for the major part of desegregation in the South, as I am sure the Senator must know.

Mr. BIDEN. The reason still holds, that what we were talking about was integrating schools, facilities, where the neighborhood was already integrated, and these situations, we are talking about integrating the facility in a segregated neighborhood. That is the difference, and it is a very obvious difference.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. HELMS. The Senator from Delaware made reference to the Senator from North Carolina. It was not this Senator from North Carolina to whom he referred.

Mr. BIDEN. I beg the Senator's pardon.

Mr. HELMS. This Senator regretfully demurs from the stated position of the Senator from North Carolina (Mr. MORGAN) with respect to the pending amendment. I feel it essential that the record be clear on that point.

Mr. BROOKE. I have a few minutes. I certainly do not intend to yield time for further discussion which would argue against the amendment. I certainly want to give the Senator an opportunity to correct the record.

Mr. HELMS. I have 2 minutes, and I will let the Senator from Massachusetts have 1 of those minutes if he needs it and I think he will need more than that to prove his case.

Mr. BROOKE. It certainly was not the distinguished Senator from North Carolina (Mr. HELMS) who agreed to that. It was Senator MORGAN.

Mr. HELMS. That is right. I thank the Senator.

Mr. BROOKE. Mr. President, while we have debated this matter again at some length, I can only reiterate what I said before: That the amendment offered by the Senators from Missouri and Delaware would go far beyond the Byrd amendment which we adopted in 1975. It would deny the remedies of clustering and pairing. And it certainly would put us further back in our effort in this country to desegregate public school systems that have been segregated only by official action.

All that has been said today only reiterates the need for the U.S. Senate to stand up at this time in our history and say to all children in this country, "We guarantee you an equal educational opportunity. We do not guarantee you integrated education, but we do guarantee

that you will not be segregated by any arm of Government."

That is what we are talking about. We are talking about no more than that. We never have talked about any more than that.

I hope that the motion I have made to strike out this language—which would include the so-called Eagleton-Biden language—will be agreed to by this body.

Mr. EAGLETON. Mr. President, I have 2 minutes remaining. I yield 50 seconds to the Senator from Delaware (Mr. ROTH).

Mr. ROTH. Mr. President, I will be brief. Practically everything which needs to be said about this amendment has already been said at one time or another, whether it was in the committee or here on the Senate floor. But there are a couple of points I would like to make.

First, I think it is absolutely clear that the Secretary of Health, Education, and Welfare and the Attorney General of the United States have been seeking to circumvent the express will of the Congress of the United States with respect to the use of Federal funds for forced busing. I trust that their actions in the case of Kansas City have been the product of an excess of ill-placed zeal, but whatever their motives, Mr. Califano and Mr. Bell are wrong.

The purpose of this amendment is to keep the bureaucrats out of busing. They have no business meddling in what ranks as the premier social issue of the day in a score or more cities and counties. I do not like the involvement of courts, but at least from them there is some appeal to higher court and a rule of law. But there can be no appeal from the informal intimidation exerted by a bureaucrat who threatens to cut off a city's or county's education funds.

Mr. President, that was our intent when this amendment was originally enacted, and the purpose of the current language is to clarify this intent beyond mistake. If the errors of Mr. Califano and Mr. Bell were well intentioned, then we will disabuse them: Federal funds should not be used directly or indirectly to pay the costs of forced busing, nor are members of the executive branch to involve themselves as advocates of busing.

Mr. President, I am deeply disturbed by the accusation made that Delaware was involved in a blatant case, because that is contrary to fact.

First of all, I want to point out that in the 1950's, when the Supreme Court held so-called equal but separate schools were unconstitutional, our State proceeded with dispatch and good faith in developing a unitary system. It did so well that, in the 1960's, HEW applauded Delaware for doing the best job that had been done in any State.

What happened was that, in later decisions—and I must respectfully disagree with my distinguished colleague from Massachusetts—the Supreme Court came very close to doing away with the difference between de facto segregation and de jure. In the recent Delaware case, there was no finding that Delaware had intentionally discriminated, as was brought out so eloquently by my junior colleague. I believe—and strongly believe—on the basis of the Dayton case, that there are good chances for reversal of this latter decision if the procedural situation will permit the Delaware case to be reviewed by the Supreme Court.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EAGLETON. Mr. President, I yield 50 seconds to the Senator from North Carolina (Mr. HELMS).

Mr. HELMS. Mr. President, there is no question about the beneficial effect that the Eagleton amendment, as contained in the bill and which the Brooke amendment proposes to strike, will have in North Carolina and other States. I respectfully and regretfully disagree with the position taken by my able colleague from North Carolina. We do not often disagree, but this is one time that we do. If we eliminate the heavy bureaucratic hand of HEW from our schools in North Carolina, it will be a great relief to our people.

This is the point, Mr. President: What are we doing to the schoolchildren in this country by permitting HEW to run wild? The majority of the American people are absolutely opposed to forced busing. Every poll shows it. Education is deteriorating. I challenge anybody to present any evidence to the contrary.

Furthermore, if we are serious about conserving energy, let us bear in mind that busing is consuming the equivalent of the total output of 600 oil wells each year.

I thank the Senator for yielding to me.

Mr. BROOKE. Mr. President, I just want the record to show that those barrels of oil that the Senator is so worried about certainly are not being used to desegregate the school systems. Fifty-five percent of all the children in this country ride to school on buses. But only 4 percent of them ride to school on buses because of desegregation.

I hope the Senator will not leave it on the record that he believes we are spending all this money on oil for the desegregation of public schools. Let us worry about energy when we get to it. That is not the case at all.

If the Senator believes that the amendment offered by Senators EAGLETON and BIDEN is going to stop court-ordered busing, the Senator again is wrong. The Senator from North Carolina (Mr. MORGAN) is absolutely right: It is not going to stop court-ordered busing, and I do not think we should give the impression that it is. If anybody votes on this amendment in the belief that they are going to stop court-ordered busing, they are being misled.

Mr. HELMS. This Senator has not mentioned court-ordered busing. The record will show that. I have referred to the unnecessary and destructive meddling by HEW bureaucrats.

The PRESIDING OFFICER. The Senator from Missouri (Mr. EAGLETON) has 20 seconds remaining.

Mr. EAGLETON. Mr. President, what the Eagleton-Biden amendment will do is stop HEW-ordered busing—now in Kansas City, next in Chicago, and next will come Philadelphia and Baltimore. They are on the next hit list of HEW-ordered busing. The Eagleton-Biden amendment will prohibit that.

ADDITIONAL STATEMENT SUBMITTED

Mr. METZENBAUM. Mr. President, I rise to express my support of Senator BROOKE's amendment striking language from the 1978 Labor-HEW appropriations bill that restricts HEW's ability to eliminate funding for unlawfully segregated schools.

I am not here today to say I support busing, because, frankly, I do not. I have said it before, and I repeat it today—in the short time that it has been used, busing has not proved to be a workable and practical solution to achieve racially balanced schools.

In plain and simple terms, this language restricting busing is just another piecemeal approach to a highly complex and emotional issue. The language in question eliminates one remedy presently available to achieve racially balanced schools, but leaves unresolved the basic and fundamental issues which busing raises.

It is not enough to stand here in opposition to busing and say "busing is bad" without providing any alternative solutions which address the problems of illegally segregated schools. Last session, my distinguished colleague from Ohio, Senator GLENN, proposed an alternative to busing—magnet schools. I supported his efforts then, and I continue to do so today. I urge my colleagues to give serious consideration to this and other proposals which provide a means by which children can receive a quality education.

The burden is on everyone—Congress, school boards, local officials, and parents—to provide viable alternatives consistent with the equal protection and due process clauses of the Constitution. While I disagree with busing as a means of integrating our schools, I will not attack it in a piecemeal fashion, without offering positive alternatives.

Mr. BAKER. Mr. President, I believe all of my colleagues share a commitment to carry out the mandate of the Supreme Court in the 1954 Brown decision, to uphold the policy of desegregation in title VI of the Civil Rights Act, and, at the same time, to improve the quality of education available to children of all races.

Considerable progress has been made in the last 23 years toward achieving these goals, especially in the South. In the past few years, however, the courts have turned increasingly toward the use of a desegregation "tool" which results in assignment of students to particular schools because of their race—the practice which the Brown decision condemned as unconstitutional. That "tool"—busing—has caused an upheaval in affected communities and has created more problems than it has solved.

As a result, thousands of families in Tennessee, for example, view busing as an infringement upon personal liberty, a threat to the health and safety of their children, and a disruption to their children's lives and education. These concerns are expressed by white and black families alike and opposition to busing in Tennessee is no longer even remotely

synonymous with opposition to desegregation.

I believe that the Congress and a majority of Americans concluded long ago that busing is not the solution to the problems of desegregation. In fact, busing has jeopardized the quality of education for all students by undermining parental participation and public support for the schools, two factors vital to a successful public school system.

I believe the Congress clearly expressed its opinion on school busing when it adopted the Byrd amendment to the fiscal year 1976 Labor-HEW appropriations bill. That amendment specifically prohibited HEW from requiring busing beyond the school closest to a student's home which offers the appropriate curriculum for that student. In approving this language, a majority of the Congress espoused the view that forced busing is disruptive of childrens' lives, that it is not desired by most Americans, and that it is not the best means of achieving integration, much less improving the quality of education.

Since enactment of the Byrd amendment, however, the Departments of Justice and HEW have circumvented the will of Congress by the practice of pairing or clustering of schools. By this practice, grade levels are restructured and children, who formerly could attend classes in their neighborhood school, must be bused across town in order to obtain instruction in their particular grade level. The result is that school districts throughout the Nation, who are subject to HEW-imposed desegregation plans, could be exposed to massive, forced busing in order to implement pairing and clustering projects.

Mr. President, I believe that it should be evident by this time that to achieve desegregation and the provision of equality of educational opportunity to every child, we must turn our attention to other, more effective means than busing. The truth is that desegregation comes about most efficiently and with the least disruption when local communities are given the flexibility to devise a plan tailored to their own needs. Such efforts can include voluntary transfer programs, the construction of new schools in neutral sites, and the pairing of public schools with specific colleges and businesses. In addition, the magnet school concept, which offers special programs designed to attract students from other schools, has proven especially successful in several communities.

In an effort to encourage school districts to experiment with these alternatives to busing, the Senate last year approved an amendment offered by the distinguished Senator from Ohio (Mr. GLENN) to increase by $50 million the authorization for the emergency school assistance program. With the help of similar Federal assistance programs, I believe that we can continue to progress toward eliminating segregated school systems without utilizing busing on a massive scale.

For these reasons, I believe that the language of the Eagleton-Biden amendment, which has been approved by the Committee on Appropriations, is consistent with the intent of the Congress in seeking to limit the use of busing through the Byrd amendment; I support the committee amendment, and urge all my colleagues to do likewise.

Mr. HUMPHREY. Mr. President, I rise in support of Senator BROOKE's amendment.

The history of the last decade has placed the Congress, and especially the Senate, decisively on the side of strong educational antidiscrimination policies. That history is threatened by the Eagleton-Biden amendment, section 208 of the Labor-HEW appropriations bill, that cuts out the heart of that commitment.

Once, not so very long ago, the United States was regarded as a land of bigotry, of lawlessness, of lynchings and cross burnings—of slavery. It was impossible to travel outide the country without having someone ask about the treatment of Negroes in the South. Indeed, the story of our treatment of blacks, Hispanics, and, of course, the American Indian, was a blight on the name of the Nation.

More recently, through the courage and restraint of our civil rights movement, when people of all colors and all religious persuasions joined hands in affirmation of the goals for which this country was founded, the world was treated to a different image of America. To be sure, it saw churches bombed and little girls killed. It saw Federal troops called out to protect children entering schools. And it saw school buses attacked by mobs of angry adults.

But through it all, it also saw the images of John Fitzgerald Kennedy, Lyndon Johnson and Martin Luther King. It saw a generation of young people linking arms and singing "we shall overcome." It saw good men, like Phil Hart, lend us their vision of what this Nation could become. And in the end, it is this image of America that has prevailed. In the eyes of the world, a country that was once condemned for its peculiar institution, has come to represent freedom and justice for all its people.

And what a good thing it is for us that this has happened. Because today we face a world in which the issue of human rights is, more than anything else, the cutting edge between totalitarian ideologies and our own system of free and open democracy. The United States, that country that was once half-slave and only half-free, has emerged as the model for human rights throughout the world.

And the Congress has demonstrated its willingness to assume that responsibility. Just 2 weeks ago, we voted a concurrent resolution, expressing the sense of this body that every effort be made to insure that the issue of human rights is placed high on the agenda of the Conference on Security and Cooperation in Europe. We have criticized certain nations in particular for their record on human rights. What I am saying is that this Congress has taken a very firm stand on the issue of human rights in other countries. What remains for the world to see is what we will do at home.

Today, Mr. President, we have a crucial human rights decision before us. We can tell Latin America that we are hypocritical. We can tell Africa that our attitudes really have not changed fundamentally since the days when we enslaved her sons and daughters. To the Middle East, we can say that we do not mean what we say. To Europe, that we preach one thing for the rest of the world and practice another at home.

To our own people, we can create false hopes that these problems simply will go away. That the clock can be turned back 25 years, which it cannot. We can give a signal that would encourage new resistance to a change that is imperative and inevitable. We can make a mockery of the many good men and women of the South, who put aside their own misgivings and traditions for the good of the country and the promise of a better tomorrow.

Or, my friends, we can act responsibly and get on with the implementation of the law of the land. We can vote against all provisions which back us away from our commitment to the full civil and human rights of all Americans.

The issue here today is not busing. As my colleague from Massachusetts pointed out, 55 percent of the school children in this country ride buses, and that has nothing to do with desegregation. Fifty-five percent ride buses every day. And only 4 percent of those are involved in any sort of desegregation plan. Four percent! The issue here is not busing. The issue is school desegregation, equal educational opportunity, and the basic justice of our society.

Will we have the strength and the foresight to get on with it? To see it through? Or will we just allow the present situation to drag on forever, destroying communities, crippling cities, turning neighbor against neighbor?

I am proud to be a member of this body, to call myself a Senator of the United States. There are many times when I have seen the members of this body put the interests of the Nation above rivalries, sectionalism and personal prejudice or ambition. This is one such moment, when all the world is watching. I hope we, too, shall rise to the occasion by passing Senator BROOKE's motion to strike section 208 from this bill.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment offered by the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURKIN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Kentucky (Mr. FORD). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the

Senator from Tennessee (Mr. BAKER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER), and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The result was announced—yeas 42, nays 51, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—42

Abourezk	Hathaway	Morgan
Anderson	Heinz	Moynihan
Bayh	Humphrey	Muskie
Bellmon	Inouye	Nelson
Brooke	Jackson	Packwood
Case	Javits	Pearson
Chafee	Kennedy	Pell
Church	Leahy	Percy
Clark	Mathias	Ribicoff
Cranston	Matsunaga	Schmitt
Culver	McGovern	Stafford
Glenn	Melcher	Stevenson
Hart	Metcalf	Weicker
Hatfield	Metzenbaum	Williams

NAYS—51

Allen	Goldwater	Randolph
Bentsen	Gravel	Riegle
Biden	Griffin	Roth
Bumpers	Hansen	Sarbanes
Burdick	Haskell	Sasser
Byrd, Harry F., Jr.	Hatch	Schweiker
	Hayakawa	Scott
Byrd, Robert C.	Helms	Sparkman
Cannon	Hollings	Stennis
Chiles	Huddleston	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Talmadge
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Magnuson	Young
Eagleton	McClure	Zorinsky
Eastland	Nunn	
Garn	Proxmire	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Durkin, for.

NOT VOTING—6

Baker	Ford	McIntyre
Bartlett	McClellan	Thurmond

So Mr. BROOKE's amendment was rejected.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 578

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) for himself, Mr. JAVITS, Mr. HUMPHREY, and Mr. MOYNIHAN proposes unprinted amendment No. 578.

On page 41, strike out lines 5 through 19 and insert in lieu thereof the following:

SEC. 208. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.

The PRESIDING OFFICER. Time on this debate under previous order is limited to 40 minutes, 20 minutes on each side.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, if I may have the attention of my colleagues—Mr. President, may we have order?

The PRESIDING OFFICER. The Chair observes the Senate is not in order, and there is a time limitation on the amendment. Could we have the attention of the Senate?

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, though there is a time limitation of 40 minutes on this amendment, I wish to assure my colleagues that at least for the proponents of the amendment I will not take the 20 minutes which has been allotted to me.

Mr. HUMPHREY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BROOKE. I yield.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that my staff aide, Martha Rogers, be permitted the privilege of the floor during debate and vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield for a similar request?

Mr. BROOKE. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that Don Zimmerman, of the Human Resources Committee staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, this is an amendment which is cosponsored by Senators JAVITS, HUMPHREY, MOYNIHAN, and others. This amendment, Mr. President, would merely restore the Byrd language of 1975. As many Senators who were here at that time will remember we had a lengthy debate before we finally came up with compromise amendment language which was introduced by the then majority whip, now distinguished majority leader.

In substance, Mr. President, this amendment would allow the desegregation remedies of restructuring, clustering, and pairing. And it is an amendment with which we have lived with very well for 2 years.

It is certainly less restrictive than the amendment that we just voted upon. It does not allow busing any more than the present state of affairs, as we have already indicated. But it would still allow HEW and school districts to fashion and to use a remedy which they need, namely, pairing, clustering, or restructuring.

I hope that Senators in their wisdom will agree to this amendment which, as I said, is the old Byrd language of 1975 and which we have lived with.

It does not go as far as I would like to see it go by any means. And it is rather strange that I should be the one offering this amendment when I fought against it initially. But we compromised and accepted it in 1975, and I present it at this time.

I now yield to the distinguished Senator from Minnesota (Mr. HUMPHREY).

Mr. HUMPHREY. Mr. President, the action which has been taken by this body in the previous vote for all practical purposes, may I say, destroys what we tried to do in the State of Minnesota.

We do not have, obviously, large numbers of what we call minority students, even though we do have them in Minneapolis and St. Paul.

We have really set a pattern for what we call clustering and pairing, as a way of improving educational opportunities, and we have been able to work out, without the benefit of court order, or however you wish to term it, a program of desegregation.

Of course, the issue here is not the issue of busing because most children are bused going to school, and we know that. My grandchildren are all bused. They go to school on buses.

In the entire county where I live we have busing that takes children from the little town where my home is to the next town, Howard Lake. We have busing that takes children from one community to another in order to give what we call a better advantage in education. But the issue is, of course, desegregation.

The amendment which is offered by the Senator from Massachusetts does exactly what we did do under very difficult and trying times a couple of years ago. We did not think it was the most desirable amendment at that time, but it was sure better than what is presently in legislation, and I am hopeful that the Senate will see fit to support us.

I believe that it will result in constructive efforts on the part of many of our communities.

It does protect the neighborhood school. It does give protection to methods that have been used in desegregation that are proven to be sound. And clustering and pairing have proven to be sound methods of desegregation and not only of desegregation but of quality education and of economics.

It boils right down to the issue of how do you give a child a good education experience? And we should do nothing here that will in any way interfere with that.

The amendment of the Senator from Massachusetts does not go all the way, as we would have said before, but it does go part of the way in terms of giving protection for desegregation or, I should say, some impetus to desegregation for quality education.

I thing that is the issue, and I hope it will be supported.

Mr. EAGLETON. Mr. President, I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I am delighted that so many of our colleagues are in the Chamber. Hopefully we can put this in proper perspective.

Our colleague from Massachusetts stood up and spoke in regard to court-ordered busing. Let us get something straight: This has absolutely nothing to do with court-ordered busing. A court, with or without this amendment, can come along, find a constitutional violation, and order whatever remedy it may choose, including busing, if it desires. So let us understand, the issue has nothing to do with court-ordered busing, period.

Our colleague from Minnesota says, "Let us talk about the issue; the issue is desegregation."

That is not the issue. The issue is, can an administrative agency, the Depart-

ment of Health, Education, and Welfare, absent a finding by any court in this Nation—absent a finding, absent a court order, absent a court ruling that there is a constitutional violation—can an administrative agency make a determination that, in their judgment, there is in effect a constitutional violation; and that therefore, unless a school district or a series of school districts enter into a plan suggested by or sanctioned by HEW, that district or those districts will have their Federal funds withheld? That is the issue. Do Senators want to give that power to an administrative agency?

One of our colleagues, the distinguished Senator from Washington, said, "Joe, this is all right, but you have constitutional problems."

There is no constitutional problem. No one has suggested a constitutional problem. No court has ever mentioned the possibility of a constitutional problem. Even Drew Days, in his memorandum from the Attorney General's office to HEW, does not even venture to say there is any constitutional problem. So let us get that straight. We are not talking about a constitutional problem.

We are talking about a social policy and an administrative policy. You gentlemen have to decide whether or not you want HEW to make that decision. JOE BIDEN is not standing here and saying we should not have busing under any circumstances. If a court finds a violation, and decides the only remedy under the Constitution is busing, so be it. But that has nothing to do with what is happening here, nothing whatsoever.

Let me read from the memorandum from Drew Days to Mr. Califano regarding the Byrd amendment, which is what we want now to make the law. It says:

The language of the Byrd amendment, unlike that of the original Biden amendment, does not clearly prohibit all HEW action to desegregate systems operating discriminatory plans of student assignment. Instead, the Byrd amendment limits transportation. The question presented herein arises because the act does not clearly say whether the transportation limitation—no student to be transported "to a school other than the school which is nearest the students' home and which offers the courses of study pursued by such student"—refers to the school nearest a student's home under a plan HEW determines to be discriminatory, or to the school nearest the student's home under a plan the school district submits to HEW as compliance with Title VI.

Mr. President, if that is not an exercise in sophistry, I do not know what is. They say, in this 17-page opinion, time and again, that "if the Biden language stood, we could not do this; we could not order busing. But the Biden language is unconstitutional."

No one has suggested, other than my opponents on this floor, one shred of evidence that that amendment was unconstitutional. Nor is this.

I say to the Senate, if you go back and say, "We are going to put the Byrd language in," you are saying that the amendment we just passed is out the window. That is all right, if that is what you want to do, but understand what you are doing. Do not dance around the issue. Do not pretend.

All of you knew, when you voted for the Byrd amendment last time, you thought you were voting to limit the right of HEW to order busing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. Two more minutes, if I may.

Mr. EAGLETON. Two more minutes.

Mr. BIDEN. Well, I bet you, those of you who voted for that amendment, were surprised to find out it did not mean a darn thing, because of the interpretation of the legislative record written by a very ingenious, very bright, and very dedicated lawyer who heads up the Civil Rights Division. I do not have time to read it all to you, but I hope you will read, before or after you vote, the 17-page opinion I put in the RECORD of Drew Days. It is beautiful. It is absolutely beautiful. If I ever get arrested, I want him to represent me.

He points out in here time and again, in paragraph after paragraph, that if the original language were sustained, they could not do what they are contemplating. But he admits that because of a procedural necessity precluding BIDEN from amending his own amendment, we had to put in the Byrd amendment, and the Byrd amendment did not have attached to it enough legislative history on the Senate floor, even though we all here thought we knew what it meant; we all thought it meant exactly what BIDEN was trying to do in the Biden amendment.

So understand, fellows, if you vote for this little old Byrd amendment, you are saying HEW can make constitutional determinations on their own, absent a court order, and bus students at their discretion. Not a court. Nothing to do with the courts; not a single thing.

Mr. HUMPHREY. Mr. President, will the Senator from Massachusetts yield me about 5 minutes?

Mr. BROOKE. I yield the Senator from Minnesota 5 minutes.

Mr. HUMPHREY. Mr. President, I had not even planned to get involved in this argument.

Mr. BIDEN. I wish you had not.

Mr. HUMPHREY. But I want to say this: each of us, in our own way, tries to promote what he believes is right.

Of course, the distinguished Senator from Delaware has given a great deal of attention to this question, as has the Senator from Missouri. But I know what the language in the bill as it now stands does to my State, and I tell you we have less school trouble there than most States. We have clustered and paired, and it saves money and gives more education to our kids.

That is denied under the existing legislation, as it now stands. I also know that the language of the amendment before us by the Senator from Massachusetts permits HEW to work with school boards and school districts, to work out a suitable plan, using alternatives that have proven effective.

There is not any way that you are going to make this easy. I say to the Senate that there will be enough court cases under the language of the bill that we will have more court ordered busing than we ever dreamed possible. We will have citizens coming in demanding that their constitutional rights be obtained and maintained. When you deny pairing and clustering, which is a way of operating schools for higher quality education, you are going to have lawsuits, and you are going to put the courts more and more into what we call forced desegregation.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I happen to believe it is better to take the language that the Senator from Massachusetts has suggested, which is clear, and we can make the language clearer here by legislative history.

It says:

None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.

It does deny the use of funds for busing for desegregation purposes, but it does not deny the use of funds for clustering and pairing. It does preserve the neighborhood schools.

We did this once, and I think that with an administration that wants to make this work, we can have a sensible, reasonable application of the law.

Mr. BIDEN. Will the Senator yield for a question?

Mr. HUMPHREY. I yield.

Mr. BIDEN. Does the Senator understand that this does not preclude pairing and clustering of schools? There is nothing in the present language of the amendment we just agreed to which prevents pairing or clustering.

Further, does the Senator understand that the interpretation given by the Justice Department was that they can bus beyond the physically nearest school? Really, what we are talking about here, according to HEW, is their determination of what the nearest school is. It is not physically the nearest school. It is that sophistry I referred to.

I refer Senators to this decision. It clearly does allow busing.

If Senators in fact vote for this amendment, clearly the present amendment does not preclude pairing or clustering

Mr. HUMPHREY. That is not what the Civil Rights Commission says at all. I have a letter here from the Civil Rights Commission, which the Senator from Massachusetts undoubtedly has placed in the RECORD, which says, speaking of the Eagleton-Biden amendment:

For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structures of the school, the pairing of schools or the clustering of schools or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

That is the only one.

Mr. BIDEN. With all due respect, they are dead wrong. They have not read the decision or the memorandum from the Justice Department justifying the abrogation of the intent of the Byrd amendment. I just wish for once in this body we

would read and know what is at stake. Has anybody, besides the Senator from Massachusetts, the Senator from Missouri, and the Senator from Delaware, read the decision which brought on this whole fuss? Just read it. It is clear.

Mr. EAGLETON. Mr. President, I yield myself such time as I may need, and it will be brief, after which, unless some other Senator desires to speak, I will move to table the Brooke amendment. In so doing, I do not want to foreclose any other colleague who may wish to address himself to this point. I shall be brief.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. The Senator from Delaware is absolutely correct. The reason that Senator BROOKE from Massachusetts is for the Byrd amendment tonight, in 1977, is the fact that HEW Secretary Califano and the Justice Department just a few days ago said the Byrd amendment did not mean a darn thing. Naturally, since it does not mean anything, the Senator from Massachusetts is for it.

The Senator from Minnesota, my beloved colleague (Mr. HUMPHREY) reads from it, all of its glowing words, and says this is reasonable, this is a compromise.

The only problem is Secretary Califano and Attorney General Griffin Bell said, "It ain't worth the paper it is written on."

So what Senators BROOKE and HUMPHREY would have us do is to vote into the bill language that HEW has already read off the map.

I cannot help but reminisce, since the Senator from Minnesota has addressed himself to this issue, back to March 23, 1964, when the authorization bill that created title VI was before the body. It was being managed by the Senator from Minnesota, who was under heavy attack as to what did this section mean, title VI, which gives HEW the right, unilaterally, without a court order, to go into Kansas City and say, "We want you to bus there," and next to go into Chicago, with 70 percent black, and say they want intracity busing there. They cannot bus to the suburbs. That was reaffirmed yesterday. They want all the busing in Chicago and then later on in Philadelphia.

Senator HUMPHREY was under heavy attack then. This is what he said he thought the title would do:

QUESTION. Will the bill force some children to ride buses to schools outside their own neighborhood?

ANSWER. No. The bill specifically rules out Federal action to require racial balance in schools. The original draft of the civil rights bill did authorize the Federal Government to get involved in efforts to 'adjust racial imbalance in public school systems caused by neighborhood housing patterns or so-called de facto segregation.' But this authority was removed by the House Judiciary Committee. An amendment was later added on the House floor clearly banning Federal action in this field.

That is what the floor manager of the bill said that bill did back in 1964.

QUESTION. Will the bill force some children to ride buses to schools outside their own neighborhood?

Answer by Senator HUMPHREY: "No"

Ever since 1964, HEW has been going into school systems, most recently Kansas City, and saying,

We hereby tell you, we have a social security hearing examiner who has just had a little old hearing and he says there is a little old segregation around here, this social security hearing examiner.

That is what happened in Kansas City.

We now order you to bus in a racially imbalanced school system that is already 68 percent minority. Don't bus out to the suburbs because you cannot do that, but bus in that city.

And in Senator STEVENSON'S home city, Chicago, 70 percent; Senator SCHWEIKER'S, 62 percent, they are going to order intradistrict busing without a court order. Incredible? HUMPHREY said in 1964 it could not happen.

Mr. HUMPHREY. Will the Senator yield?

Mr. EAGLETON. I yield.

Mr. HUMPHREY. First of all, the amendment in which I have joined with the Senator from Massachusetts says exactly that. It says no funds in this act shall be used to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home. That is No. 1.

Second, it was not the administration which made the interpretation of title VI. It was the court. The court made a different interpretation of title VI than did Senator HUMPHREY, who was managing the bill.

Mr. EAGLETON. That being the case, I know of no Humphrey amendment which has been offered to any subsequent legislation on civil rights which sought to redress the erroneous interpretation by the courts. We are not talking about the Constitution. Senator BIDEN has made that clear. If there is an equal protection clause violation, there is a remedy. The Civil Rights Division can go into the Department of Justice and seek it. HEW can seek it. Aggrieved parents and schoolchildren can seek redress in Federal district courts for constitutional violations. Senator BIDEN and I do not tamper with that and do not want to. All we are talking about is a unilateral, in-house, bureaucratic, HEW administrative order which orders busing, because they force them to. If they do not bus, they take away all of their Federal funds, impact aid, title I, just name it. "We take it away."

Mr. HUMPHREY. First of all, may I say the Senator from Minnesota has voted for the title VI clarification as I thought it was. That is No. 1.

No. 2, like the Senator from Missouri, I have to abide by the court's decision.

No. 3, HEW, properly used, can be a help in bringing about programs of desegregation. Improperly used, like any agency of Government, it can violate the purpose and intent of the law. All I happen to believe is that HEW, with careful administration, can help a school district get a program which is workable. I do not think we ought to leave all this in the hands of a judge who thinks somehow or other he can order anything he wants to. I think it is a whole lot better, in most instances, to have the kind of reasonable consultation and the agreements which can be worked out on a voluntary basis. Lord only knows, none of them are going to be very desirable when we have population ratios of minority population such as we have today in these major cities.

Mr. EAGLETON. Will the Senator yield for a question? He asked me a question. Let me ask him a question. Let us forget Kansas City because that is my hometown. I do not have Minneapolis on this chart. Let us pick another city. Let us take Chicago. The Chicago school system at the present time is 70-percent minority. Under the recent Supreme Court opinions, including the two yesterday, they cannot bus from the Chicago city school districts to Evanston or the suburbs.

Mr. HUMPHREY. That is correct.

Mr. EAGLETON. Yes; is there any way under the sun that a system that is already 70-percent minority can be racially balanced or can be integrated?

Mr. HUMPHREY. No. I think the Senator is right. Let me say this: There is a way by clustering and pairing that they can provide better education. While I know the Senator from Delaware disagrees with my interpretation of the amendment, may I say that the Civil Rights Commission and its lawyers do not disagree with it. Just as the Senator is opening up a Pandora's box in one issue, he is opening it up in another.

Mr. EAGLETON. I yield 1 minute to my colleague from Delaware and then I will move to table the amendment.

Mr. BIDEN. Does the Senator from Minnesota and do the other Senators in this Chamber understand that the Justice Department of the United States of America, in conjunction with the Department of Health, Education, and Welfare, said that the amendment which is being proposed, which Senator HUMPHREY is cosponsoring, does not mean anything? Do Senators understand that?

In that 17-page opinion, the Justice Department said, in giving advice to the Department of Health, Education, and Welfare—

As we read the Byrd amendment, do not worry about it, fellows; go ahead and do it. Nothing is really changed.

It is just so Senators understand that. That judgment has been made.

Mr. HUMPHREY. By whom?

Mr. BIDEN. By the only people who can make it. By the Justice Department and the agency that exercises this power, HEW. They decided to ignore Byrd, period. That is hard to do. But they have decided to do it.

Now, if we write back into the law the Byrd amendment, we are saying, "Right, HEW, you were right, ignore it. It doesn't mean a thing. It doesn't restrict you. Go ahead."

That is what they said.

Mr. SCOTT. Will the Senator yield?

Mr. EAGLETON. I yield 1 minute to the Senator from Virginia.

Mr. SCOTT. Mr. President, I am willing to support the motion to table by the Senator from Missouri. But I believe that, with the overwhelming majority of the American people being opposed to racial busing, we are not going to solve

the matter by any amendment to an appropriation bill. We are going to have to address this matter directly by a law that is valid, or by an amendment to the Constitution. I hope the Committee on the Judiciary will address itself to this problem.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BROOKE. Mr. President, I would just like to say that I disagree with what the Senator from Missouri and what the Senator from Delaware have said. Lawyers do disagree. We disagree on the interpretation of what the Byrd language does. But I think Senator HUMPHREY was absolutely correct when he said that all we are concerned with in the Byrd language is that HEW has the right to use the remedy of pairing and clustering.

Under the present law, we have that right, because the Byrd language is the law at the present time. If the Senate position that was taken on the vote on the Eagleton-Biden language is confirmed, the law would change and we would deny HEW the right to use clustering and pairing. So we would remove two remedies—no, three, because the remedy of restructuring would also be removed. We would lose three remedies presently available to HEW which they could use without resorting to court-ordered busing.

Court-ordered busing is something that many of you here who have voted today indicate you do not want. If you do not want it, then do not deprive HEW of the only other means they have of remedying the situation by resorting to the remedies of pairing, restructuring, and clustering.

That is very simple. That is what we are talking about and no more. If we do not adopt the Byrd language, then we are forcing more court-ordered busing, because we have removed alternative remedies.

I cannot understand how Senator EAGLETON and Senator BIDEN do not make this clear to their proponents, because that is what they are talking about. If you are against court-ordered busing, then you do not want to deny these alternative remedies to HEW.

That is important. All three of these remedies are important. As the Senator from Minnesota said, it has worked very well in his State. It has worked elsewhere successfully, across the country. Now we are saying to HEW, "You cannot do that any more."

They both agreed that nothing in this bill is going to stop court-ordered busing, because that is the law. The Supreme Court has said it, time and time again. They are not going to stop court-ordered busing where they find a constitutional wrong. They are going to use that remedy.

What we are doing if we do not vote for the Byrd amendment is narrowing the remedies. In fact, we are restricting it to one and we are restricting it to the one remedy that many of you do not want, and that is court-ordered busing.

So I ask the Senate to vote for the Byrd amendment, just as you did before, because that is what you have ordered, despite what the Senator from Delaware has said.

I am pleased to yield to the Senator from Illinois.

Mr. PERCY. I shall take just a moment.

The Senator from Minnesota has said that the amendment the Senator from Massachusetts is offering would work better in Minnesota. I can speak only for myself and for the good of my State. Busing is no more popular there than any place else. But, speaking on their behalf, certainly, as I understand the needs of our constituency, this amendment would serve their needs better. That is why I support it.

I ask unanimous consent that Lawrence Grisham of my staff may be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. I am sure the Senator from Illinois realizes that busing is not popular in my city of Boston. I am sure he realizes that. I am not suggesting that we have to resort to busing, but I do suggest that if we do not pass the Byrd language, we shall have to have more court-ordered busing in this country.

I again want to correct the Senator from Delaware when he says HEW-ordered busing. HEW does not order busing, cannot order busing, and I do not believe it should ever be given the authority to order busing. All HEW can do is act in accordance with the law as we pass that law. That law does not give them any authority to order busing. They can withhold funds where they find a constitutional wrong and, as I pointed out earlier, they have only done it in one instance in the history of the United States. So that cannot be the fear.

All I can understand from the opponents of this language is that they do not want the remedies of pairing, restructuring, and clustering. So I hope that the Senate will vote for this amendment.

Mr. BIDEN. Mr. President, does the opposition have any time?

Mr. EAGLETON. I yield the Senator 1 minute.

Mr. BIDEN. Gentlemen, it is true that HEW cannot order busing if you take it literally. But how many of you think the threat of withholding all funds to your district unless they bus is any different than ordering busing?

Mr. BROOKE. Unless they desegregate. Then they have a right of appeal to the courts, as the Senator knows.

Mr. BIDEN. Right. And as the Senator points out, HEW determines a constitutional violation.

Mr. EAGLETON. Let me interrupt my colleague. It is the social security hearing examiner—that is literally true. That is who they called in: a beloved, archaic social security hearing examiner, who came hot off the trail of widows' benefits and sat down there and said, "Now, look, I find something wrong with the racial balance in this school district." A social security hearing examiner said, "Then you lose all your money if you don't bus."

It happens to be true.

Mr. HUMPHREY. I say to the Senator, grandfathers and grandmothers love children. That is why they love that social security examiner.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

I move to lay on the table the Brooke-Humphrey amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. LEAHY). Until the time of the Senator from Massachusetts has been yielded back, the motion is not in order.

Mr. BROOKE. I yield back the remainder of my time, unless the Senator from New York wants time.

Mr. MOYNIHAN. No, Mr. President.

Mr. BROOKE. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Missouri renew his motion?

Mr. EAGLETON. Yes, Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the Brooke amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Louisiana (Mr. LONG) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 47, nays 43, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—47

Allen	Eastland	Randolph
Bentsen	Garn	Riegle
Biden	Goldwater	Roth
Bumpers	Griffin	Sarbanes
Burdick	Hansen	Sasser
Byrd, Harry F., Jr.	Haskell	Schmitt
	Hatch	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Cannon	Helms	Sparkman
Chiles	Hollings	Stennis
Curtis	Huddleston	Stone
Danforth	Laxalt	Talmadge
DeConcini	Lugar	Tower
Dole	McClure	Wallop
Domenici	Nunn	Young
Eagleton	Proxmire	Zorinsky

NAYS—43

Abourezk	Hathaway	Moynihan
Anderson	Heinz	Muskie
Bayh	Humphrey	Nelson
Bellmon	Inouye	Packwood
Brooke	Jackson	Pearson
Case	Javits	Pell
Chafee	Kennedy	Percy
Church	Leahy	Ribicoff
Clark	Magnuson	Stafford
Cranston	Mathias	Stevens
Culver	Matsunaga	Stevenson
Durkin	Melcher	Weicker
Glenn	Metcalf	Williams
Hart	Metzenbaum	
Hatfield	Morgan	

NOT VOTING—10

Baker	Johnston	McIntyre
Bartlett	Long	Thurmond
Ford	McClellan	
Gravel	McGovern	

So the motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 575

The PRESIDING OFFICER. The question recurs on unprinted amendment No. 575, offered by the Senator from Idaho (Mr. McCLURE). There are 30 minutes, equally divided.

Who yields time?

Mr. MAGNUSON. Mr. President, for the information of the Senate, we are going to continue for a short while. How long this will take, I do not know. However, after the amendment of the Senator from Idaho, we will have an abortion amendment. I do not know how long that will take. No time limit has been placed on it.

So I think we should proceed, if the majority leader agrees, with the Senator's amendments; then we have, as I said earlier, a few legitimate amendments to this bill. [Laughter.]

Those amendments deal with appropriations and money and will not take too long. Those are the amendments I am more interested in than some of the others that do not belong on the bill at all.

Mr. PACKWOOD. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. PACKWOOD. The Senator mentioned the abortion amendment. I have talked to the majority leader. I do not expect, so far as I am concerned, that this will be a lengthy amendment. I want to make opening remarks, and after that I think I would accept a time limit.

I do not speak for any other Senators. This is an issue that has been discussed over the years, and I do not think it will take us into the early hours of the morning.

Mr. ROBERT C. BYRD. I suggest that we proceed with the McClure amendment, and then let us see if we can work out an arrangement on the other matter in the meantime.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAYH. I hope the leadership in the Senate is not under the impression that there is only one amendment on abortion.

Mr. ROBERT C. BYRD. The leadership understands that.

Mr. BAYH. If the Senator from Oregon succeeds, I think there would be only one. If that is not the case, I imagine there would be others.

Mr. ROBERT C. BYRD. I understand.

Mr. McCLURE. Mr. President, the amendment I have offered, which was read by the clerk earlier, is now before the Senate for disposition. It is a very simple amendment. It can be described in a very few words.

Nearly 2 years ago, the President issued an Executive order concerning inflation impact statements. That executive order was later amended to require an economic impact statement on OSHA regulations as they were promulgated. The Department has been making those economic evaluations, and it has been helpful to the Department of Labor in making the regulations to determine what the economic impact is. As a matter of fact, it has led to the choice of alternatives that do nearly as much for the safety of the worker but with a much smaller economic impact.

Mr. SCOTT. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCLURE. I thank the Chair, and I thank my colleague from Virginia.

This amendment simply says that the Executive order must be complied with and that the economic impact statement now required by the Executive order and now being complied with by the Department will continue to be complied with.

Mr. President, there is no point in going through a long, sad litany of the excesses of OSHA in the kind of regulations they have issued. We have gone up and down that hill far too often.

But let me just remind the Senate that this amendment is precise language that was adopted on the floor of the House and was in the House bill when it came to the Senate.

All I seek to do is to restore the language which the House, in its wisdom, adopted, and which the committees sought to drop by the action on this bill within the committee.

I think it is important for us to look not just at what OSHA does, but also at the entire burden of regulation.

This new administration has indicated they are going to turn OSHA around, that they are going to stop the nitpicking tactics that so characterized it in past years, and have them concentrate on the really meaningful and really important actions that can be taken to enhance worker safety, and I think we all applaud that action on the part of the administration.

At the same time, I think it would be incredible that this administration, which has so pledged itself to reduce the regulatory burden, to reduce the paperwork burden upon businesses, to have the kind of openness which has characterized the Carter administration to this point, saying, "Now we are not any longer going to look at the economic cost of the regulations that are being promulgated in this agency and by this agency."

It seems to me, Mr. President, we ought to begin to translate into concrete action in this body what we have given lip service to upon many, many occasions in terms of reducing the burden of Government and make it work more efficiently.

A study by OMB showed that the total cost of regulation to the U.S. economy may be as much as $130 billion. That is 8.1 percent of gross national product for the calendar year just finished.

The Federal Paperwork Commission has estimated that Federal paperwork alone is $40 billion in cost. A study by Dow Chemical Co. covering an average size division showed the cost of compliance with Federal regulations had risen from $164,000 in 1970 to $1.5 million in 1975, in just 5 years. That is 13 percent of their corporate budget.

Eli Lilly Co. has estimated they fill out 27,000 forms each year, and I suspect every Member of this body has at one time or another talked to someone of their constituents, as I did, who said, "I am going to pay a $500 fine rather than fill out that form because that form is going to cost me more than the $500 fine just to fill it out."

I asked the man why he was willing to expose himself to that kind of penalty, and he said, "That form is 63 feet long." And I said, "You have to be kidding." And he said, "I am not." And he got that form and strung it around the office, so I could see a Federal form, as he indicated, 63 feet long.

All I am asking in this particular instance is to do what is already being done, to write into this particular appropriation measure the requirement that the Department of Labor and OSHA comply with the Executive Order which is now in effect and with which they are now complying.

I had hoped the managers of the bill might see fit to accept this amendment. The Senator from Massachusetts indicated he could not accept it, that he wanted to discuss it. I suggest that, perhaps, he might wish to discuss it.

I would be prepared to yield 5 minutes to the Senator from New Mexico who has taken a very strong lead in the field of regulatory reform.

Mr. SCHMITT. I thank the Senator from Idaho. I will not require 5 minutes.

I do want to be sure that he knows he has my very sincere support in this amendment. I had planned to offer the same identical amendment myself, but I defer to his greater experience on this subject, and on many others.

I think it is important that the Senate and the Congress, as a whole, realize that the idea of economic impact analysis is an idea whose time has come; that in calling upon the officials of OSHA to use their experience and background to evaluate the impact of their actions before these actions are taken, we are only doing what I think is purely rational and that is certainly what the people of this country would ask us to do.

I hope this same concept is applied to an increasing degree throughout the Government. We have attempted in other forums and in the committee to

apply it to various agencies and departments, sometimes successfully and sometimes not, but I do believe it will be the order of the day for the U.S. Government before too many months or years have passed.

Economic impact analysis which, of course, would include the analysis of the amount of paperwork required to comply with Federal regulations is something that we in Congress can, I think, use very effectively to determine whether certain rules or regulations are really reaching to the heart of the problem that we treat in legislation.

So I wish to commend the Senator from Idaho for his initiative in this area. He certainly has my support, and I hope he has the support of all of our colleagues.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 15 minutes for debate, not to exceed 15 minutes, at which time the vote occur.

Mr. McCLURE. Reserving the right to object, and I shall not object, the opponents of the amendment have 15 minutes remaining, and I assume they can use all of it. Under the unanimous-consent request I would hope I would have 5 of that.

Mr. BROOKE. I do not think we would need that 15 minutes.

Mr. MAGNUSON. Mr. President, the Senator from Kansas asked me earlier about this. He has an amendment. The Senator from New York wants to talk on this.

Mr. ROBERT C. BYRD. On the McClure amendment?

Mr. MAGNUSON. Yes.

Mr. DOLE. Mine is a little different.

Mr. MAGNUSON. The Senator from New Jersey would like to make a statement, and I think we ought to say something on it.

Mr. CURTIS. I thought the Senator already had 30 minutes.

Mr. ROBERT C. BYRD. Half of that is gone.

Mr. MAGNUSON. Is the Senator from Idaho through?

Mr. McCLURE. Yes, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, for the benefit of the Senate, the amendment that the Senator from Idaho is talking about was adopted in the House by a voice vote, and it prohibits the use of OSHA funds to issue safety and health standards unless accompanied by economic impact statements.

In the last year both the House and Senate Appropriations Committees cut President Ford's request for economic impact statements, and these cuts were retained in conference and in the final enacted bill for various good reasons.

Now the Executive order requiring economic impact statements issued by President Ford in 1976 is being reviewed after Congress had turned down the idea, reviewed by the Carter administration, pending a final decision by the new administration, and I would think this language would tie the hands of the President and it should not come into the bill.

The language has nothing to do again with appropriation levels and should be considered by an authorizing committee. Here we go again. I do not think this matter has been presented to the authorizing committee this session, but they want to bring it in on an appropriations bill.

The Secretary of Labor has indicated that economic impact statements would impose a burden unnecessarily slowing down the development of health and safety standards.

Last year's Senate report said the same thing. Economic impact statements require cost-benefit studies, and no one yet has shown how the value of human life can be priced out in evaluating benefits of OSHA. That is the trouble with the amendment to begin with.

I wish people who have these kinds of amendments would go up to the committee and present their case and have a hearing on it. But it is an amendment that the House did put in by a voice vote. There was no—I do not think in the House, I have looked at the testimony quite carefully, and I do not recall that there was any—testimony before the House Appropriations Committee on this particular matter. There may be, but I doubt it.

Does anybody else want to speak?

Mr. DOLE. I have a little different amendment.

Mr. MAGNUSON. I yield to the chairman of the committee such time as he wishes.

Mr. WILLIAMS. Mr. President, I certainly want to join the chairman of the subcommittee and ranking member in opposition to this amendment. We know the frustration Members have had with the Occupational Safety and Health Administration. That frustration and annoyance has been expressed in many ways, and this has been a traditional way—cutting off appropriated money for certain activities.

In this case, however, to require an economic impact statement under law I think would be very unwise—unwise for the working people of this country, because their health and their safety requires standards that employers can understand and which will provide them with the guidance they need to run their business and protect their workers.

This amendment, of course, does not deny standards, but it does require under law an impact statement that we know can delay inordinately the food promulgation of regulations necessary to literally save lives.

Let me tell you about one proposal which comes under the Executive order that is in progress right now. It is a proposal to revise the current standard on asbestos. Asbestos exposure at certain levels can cause a number of diseases which can kill the worker who is exposed to asbestos.

The first of these is the scaring of the lung, and this is called asbestosis. The second asbestos-related disease is cancer of the lung. If the worker manages to escape these, there is still a type of cancer then he might get which is the most insidious kind of cancer, and that is mesothelioma, a very rare thing that only happens to people exposed to asbestos. This is cancer of the lining of the lung cavity.

Right now OSHA is in about the 15th month of evaluating the economic impact statement on the revised asbestos standard, and the standard has not been promulgated yet. And we do not know how many thousands of workers there are out there exposed to asbestos, but every day their risk increases. This is what we get into with these economic impact statements.

The Executive order is there. If the President is going to change it, I would think that there are certain impact statements that he could require which would not inordinately delay the protection, safety, and health of the American worker.

Certainly an economic impact statement on one of these awful disease creating agents, slowing up the final promulgation of a regulation almost forever in terms of the lives of some of the workers, is a cruel, cruel thing to have imposed on people who are living with this kind of risk.

Therefore, I think this is the wrong way to try to correct some of the frustrations we have with OSHA.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I am happy to yield.

Mr. JAVITS. Mr. President, I am the ranking member of the same committee. We defeated an amendment exactly like this on the mine safety bill right here in the Senate just the other day 57 to 29.

The reason is the delay and the danger of collateral attack when you have an impact statement and a matter which involves life and death and the body of an individual worker.

Let me give the Senate some examples of the delay. In fixing a standard respecting inorganic arsenic because of the need for the impact statement 17 months lapsed before the standard could be fixed. And my colleague spoke of asbestos. They have not set a standard yet. They have been going 10 months on that. Carbon monoxide, 15 months, and they have not yet set standards, and so on.

The facts are contained in a report to Congress by the Comptroller General of the United States entitled "Delays in Setting Work Place Standards for Cancer-Causing and Other Dangerous Substances, May 10, 1977."

Mr. President, I think these responses are exactly directed toward the defeat of this amendment because of the purpose of the law which does not brook these delays, and that is why the whole Executive order is being reviewed as it must because it has worked out counterproductively for the purpose of the basic law itself in the most serious industrial illnesses that we know, those I have just mentioned and those described by my colleague from New Jersey.

I hope the Senate, therefore, will reject this amendment.

Mr. BROOKE. Mr. President, I thank the Senator.

If the Senator from Idaho will, we will yield back the remainder of my time.

Mr. SCOTT. Mr. President, will the Senator yield briefly?

Mr. McCLURE. I am happy to yield briefly to the Senator from Virginia.

Mr. SCOTT. Mr. President, of course, I shall be brief.

I listened to the distinguished Senator from New Jersey (Mr. WILLIAMS) about the adverse effect of asbestos, and certainly I am no scientist, but I do not know how some of us lived to be the age that we are today.

I remember my own home in a small community. We had enough rooms, perhaps a dozen, but we had gas fireplaces in each room. We had chimneys in each room, and we had these gas burners, and on the back, to make the fire come out into the room, we had some sort of a board, fireproof board, and asbestos, in every room of the house.

I am not aware that anyone within my family was hurt by that asbestos, and I wonder if each of us would recall some of these things in our own lives, and I just wonder how people lived before the Government got into the business of regulating their lives.

I think that is what the distinguished Senator from Idaho intends to bring to our attention, to make us think a little bit about all these environmental impact statements and he is just saying that we should have an economic impact statement.

He is not saying we should have a lot of paperwork. In fact he says no more paperwork, just a statement as to the economic cost.

We have gotten along pretty well for several hundred years without the Government attempting to run the lives of the individual citizen.

I appreciate the Senator yielding.

Mr. McCLURE. Mr. President, I thank my colleague.

Let me just respond to the Senators who have been arguing in opposition to the amendment.

Before I do that, Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. First of all, it is stated that the economic impact statement money was cut, but actually, as a matter of fact, this amendment will cost nothing more than is being spent now because they are already doing it. It is not a question of asking them to do something they are not now doing. They are doing it now.

The Council on Wage and Price Stability, as a matter of fact, issued recent requests to OSHA to review what they are doing because of economic impact, to take a look at what the economic impact is.

What is so wrong with knowing what it is going to cost? What is so wrong about knowing in advance what the alternatives are to be fully informed on the alternatives before the regulation is issued?

It has been suggested that these Senators who are opposed to my amendment are concerned with health, and I assume that in raising the possibility of cancer it is implied that if this amendment is passed more people are going to get cancer.

What is OSHA actually doing? They are coming out with things like we had last year saying manure is slippery when it is wet. They are saying things like, and I shall quote from some of their regulations now:

All employees shall be instructed that danger signs indicate immediate danger.

What in heaven's name is a danger sign supposed to mean? Why do we have to have regulations issued requiring that kind of instruction to the employee?

All employees shall be instructed that caution signs indicate a possible hazard.

Is that not amazing? We have to have someone going around telling people that caution signs mean caution.

And that is not said just once; it is said two different places. Both of those require separate instructions of employees.

The driver shall be required to look in the direction and keep a clear view of the path of travel.

We have to have the OSHA inspector telling us that?

Stunt driving and horseplay shall not be permitted.

It is as though in the absence of that kind of regulation that will be permitted.

What kind of nonsense are we involved in?

The Senator from New Jersey says it is cancer we are worrying about. But it is this kind of regulation we are getting.

Why do we not have some economic impact statements that will make OSHA concentrate its efforts on the real hazards to the health and the welfare of the worker rather than fooling around with this kind of nonsense?

Do Senators know what they say about flush toilets?

Flushing shall be accomplished by a single control so arranged as to be operated without special knowledge or effort.

[Laughter.]

For heaven's sake, what are we involved in here?

Then I am told that we should not be asking to know what the cost is before that kind of regulation is issued.

No employee shall be allowed to consume food or beverages in the toilet room.

And on and on and on.

That seems to justify the action.

I hope the amendment will be agreed to.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired.

Mr. BROOKE. Mr. President, I want to say just one thing, and then yield back the time.

The Senator has talked about massive paperwork. What he is proposing in this amendment would be monumental paperwork; is that not true?

Mr. JAVITS. Exactly right; and that is why all these delays. Why do you think it takes 17 months to get a standard for arsenic poison? Because this impact statement business bogs down the works.

Mr. WILLIAMS. Mr. President, will the Senator from Massachusetts yield for one observation?

Mr. BROOKE. One observation.

Mr. WILLIAMS. I oppose this proposal, although I recognize there have been a lot of nitpicking regulations.

We are talking about those standards we absolutely need, as a matter of life and death. There is an economic impact statement that would make a lot of sense to me: What the economic impact is when there is not a standard, and one of these toxic materials becomes a problem in industry. Kepone, for example; just what has been the economic cost of no standard dealing with kepone? Those are the kinds of questions we should be asking.

Mr. JAVITS. If the Senator will yield for one other fact, that is that the economic impact statements called for by this amendment are for major matters. They do not even deal with nitpicking.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is obvious that the Senate cannot complete its work on this bill tonight without staying past midnight. I ask unanimous consent that upon the disposition of the amendment of Mr. McCLURE, there be 1 hour on the amendment by Mr. PACKWOOD. Mr. PACKWOOD wants a vote tonight on his amendment. He is agreeable to a 1-hour limitation on it.

I ask unanimous consent that upon the disposition of that amendment, the Senate go into morning business, and that the work on this bill continue tomorrow, in this fashion:

That tomorrow morning the Senate proceed to the consideration of the Agriculture appropriation bill, upon which there is a time agreement;

That upon the disposition of that bill, the Senate proceed to the consideration of the Military Construction bill, upon which there is a time agreement; and

That upon the disposition of that bill, the Senate resume the consideration of the HEW appropriation bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, may I ask a question? It was our understanding here that amendments were going to be offered to the Packwood amendment, and that therefore a final vote on Packwood could not be had unless we stayed in session.

Mr. ROBERT C. BYRD. I knew nothing about amendments to the Packwood amendment.

Mr. MAGNUSON. Oh, yes.

Mr. BROOKE. Amendments to Packwood?

Mr. JAVITS. Amendments to Packwood, that is right.

Mr. BROOKE. If the Packwood amendment failed, of course, the bill would be open to further amendment.

Mr. JAVITS. I understand; but in the absence of the Senator from North Carolina or the Senator from Indiana—oh, there he is; perhaps he can reply.

Mr. BAYH. A little bit late, apparently.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana, however attired.

Mr. BAYH. I say to my friend from New York, I think I have already been highly recognized. Will the majority leader permit a question to be addressed to whomever it might be appropriate?

Mr. ROBERT C. BYRD. Yes.

Mr. BAYH. I had understood there was going to be an amendment to the Packwood amendment, but have since learned that perhaps it will be up or down on Packwood, and then do your piece later on.

The Senator from North Carolina, I understood, might have an amendment.

Mr. PACKWOOD. I did not hear what the Senator from Indiana said.

Mr. BAYH. I think the Senator from New York raised a very good question as far as time limits for the disposition of this matter are concerned. If it is going to be up or down on the amendment of the Senator from Oregon, that can be disposed of in an hour; but if the Senator from North Carolina and others have a different view, I think it would take perhaps a good deal longer.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I knew nothing about amendments to the Packwood amendment. I thought that was all we were talking about.

Why do we not proceed with the vote on the McClure amendment, and during the rollcall perhaps we can work something out.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator from Washington is correct. The Chamber is not in order. The Chair asks Senators to cooperate in maintaining order.

The Senate is still not in order. The point of the Senator from Washington is still well taken. The Senate is not in order.

The clerk may proceed.

The second assistant legislative clerk resumed the call of the roll.

Mr. MAGNUSON. Mr. President, may we have order so we can hear the voting?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order. Senators will please cease their conversations. The clerk is unable to hear the responses.

The clerk will proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 41, nays 47, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—41

Allen	Eastland	Packwood
Bellmon	Garn	Pearson
Bentsen	Goldwater	Roth
Byrd, Harry F., Jr.	Hansen	Schmitt
	Hatch	Scott
Cannon	Hatfield	Sparkman
Chafee	Hayakawa	Stafford
Chiles	Heinz	Stennis
Church	Helms	Stevens
Curtis	Laxalt	Talmadge
Danforth	Lugar	Tower
DeConcini	McClure	Wallop
Dole	Morgan	Young
Domenici	Nunn	Zorinsky

NAYS—47

Abourezk	Haskell	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Huddleston	Nelson
Brooke	Humphrey	Pell
Bumpers	Inouye	Proxmire
Burdick	Jackson	Randolph
Byrd, Robert C.	Javits	Ribicoff
Case	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Schweiker
Durkin	Matsunaga	Stevenson
Eagleton	McIntyre	Stone
Glenn	Melcher	Williams
Hart	Metcalf	

NOT VOTING—12

Baker	Griffin	McGovern
Bartlett	Johnston	Percy
Ford	Long	Thurmond
Gravel	McClellan	Weicker

So the amendment was rejected.

Mr. BROOKE. I move to reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MUSKIE). The Senator from West Virginia.

ORDER FOR RECESS UNTIL 9 A.M. AND SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Oregon (Mr. PACKWOOD) wanted very much to have a vote on his amendment tonight. In view of the fact that the Senate has now been on this bill today since 10 a.m., and the distinguished managers of the bill have been on their feet now almost 12 hours, the distinguished Senator from Oregon has indicated that he is agreeable to waiting until tomorrow to take up his amendment and to have a vote thereon.

Therefore, I make the following unanimous-consent request.

I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning; that immediately after the two orders for recognition of Senators on tomorrow, the Senate proceed to the consideration of the Agriculture appropriations bill, on which there is a time agreement; that, upon the disposition of that bill, the Senate proceed to the consideration of the military construction bill, on which there is a time agreement; that there be an understanding that there be no rollcall votes, if ordered prior to 12 o'clock tomorrow, prior to the hour of 12 o'clock tomorrow so that committees may meet; that, upon the disposition of the military construction bill tomorrow, the Senate resume consideration of the Labor-HEW appropriations bill; and that there be no more rollcall votes tonight.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF THE COMMITTEE ON THE BUDGET

Mr. MUSKIE. Mr. President, on behalf of the Committee on the Budget I wish to inform the Senate that the committee met this afternoon and has reported favorably on eight resolutions referred to the committee in recent days. In each case, the committee had been asked by an authorizing committee to waive section 402(a) of the Congressional Budget Act with respect to consideration of authorizing legislation presently on the Senate Calendar.

Mr. President, section 402(a) of the Budget Act provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because these eight measures, which authorize enactment of new budget authority which would become available in fiscal 1977 and fiscal 1978 were reported by the authorizing committees after the statutory deadline, resolutions waiving section 402(a) of the Budget Act must be adopted before these bills can be considered by the Senate.

Mr. President, I wish to emphasize that in reporting favorably on these resolutions, the Budget Committee is simply recommending that the Senate proceed to consideration of the bills but is not prejudging the merits of these measures. In several cases, some members of the Budget Committee have serious misgivings with respect to the merits of the bills, but recognized that those concerns were more appropriately expressed at the time of floor consideration rather than in the course of discussion on the waiver resolutions.

Mr. President, the Budget Committee is extremely reluctant to recommend the adoption of a resolution waiving section 402 of the Budget Act. This section was

included in the Budget Act to assure all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the budget resolution. Even more importantly, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year. This notice is essential for the Appropriations Committee to meet the appropriations timetable spelled out in the Budget Act.

Mr. President, legislation authorizing enactment of new budget authority which is reported to the Senate after the May 15 deadline could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a), has considered factors including: the effect of delaying consideration of the authorizing bill, the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and the impact of the authorization on the national priorities established in the congressional process.

I am pleased to observe, Mr. President, that this year the cooperative effort of the Budget Committee and the Appropriations Committee has produced a timetable which brings us to the beginning of July with all but four appropriations bills passed by both Houses of the Congress. This is an extraordinary record for which the distinguished chairman of the Appropriations Committee, Senator McCLELLAN, is to be congratulated.

Mr. President, the Budget Committee has taken a firm position with respect to the enforcement of the May 15 deadline. This year we have sent numerous letters to committee chairmen and their staffs with respect to strict enforcement of this reporting date. As an illustration of the multiple contacts with authorizing committees, I ask unanimous consent that copies of letters regarding this deadline be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

[Sent to all committee chairmen]

U.S. SENATE,
Washington, D.C., March 22, 1977.

Hon.——— ———:
Chairman, Committee on ———, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Recently Congress completed final action on the Third Concurrent Resolution on the budget for fiscal year 1977 and commenced Budget Committee hearings on the First Concurrent Resolution for fiscal year 1978.

As we commence the budgetary process for fiscal 1978, we wish to commend you and your committee staff for meeting the May 15 deadlines for fiscal 1977. That excellent cooperation of all standing committees last year greatly facilitated the smooth operation of the congressional budgetary process. However, many committees are now examining legislation which authorizes both additional budget authority for fiscal 1977 and new authority for fiscal 1978, and questions continue to arise with respect to the Budget Act. Therefore, we wanted to take this opportunity to review the statutory requirements of the Act with respect to such legislation.

As you know, the Budget Act contains the statutory deadline of May 15, for the reporting of legislation authorizing the enactment of new budget authority for a fiscal year. In the case of the present fiscal year, FY 1977, all such legislation must have been reported by May 15, 1976, or be subject to a point of order. The Budget Act provides that the Senate may adopt a resolution waiving the application of this provision of the Act as to legislation reported after May 15.

Senate committees are now or will soon be considering measures which are a response to the Administration's request for economic stimulus as well as measures which have been reintroduced this session of Congress and which will require additional authorizations for FY 1977. We would like to remind you that any measures which constitute an authorization of new budget authority for FY 1977 must be accompanied by a resolution waiving the May 15 deadline of Section 402. Under Section 402, the waiver resolution must be reported along with the substantive bills to expedite the process. The waiver resolution is then referred to the Budget Committee. We assure you we will act as expeditiously as possible in order to facilitate the work of the Senate.

A question has been raised as to whether the Budget Committee would be willing to overlook the May 15 deadline in view of the fact that the economic conditions inherited by the new President have required the submission of additional authorizing requests and that the Carter Budget Amendments were submitted to Congress late in February. The suggestion has also been made that the May 15 deadline should be overlooked because the reorganization of the Senate committee system as a result of S. Res. 4 has brought about shifts in committee jurisdictions which may possibly delay the reporting of legislation. None of these points justify abandonment of the May 15 deadline which is mandated by the Budget Act.

The Budget Committee cannot overlook the requirements of the Budget Act and must insist that all committees adhere to the statutory deadlines. This Committee is proceeding expeditiously with its hearings and mark-up preparations for the First Concurrent Resolution and intends to meet the May 15 deadline for passage of the Resolution.

There is an additional provision of the Budget Act which we would like to bring to your attention, and that is Section 303. Those committees which are planning to report entitlement or spending legislation should keep in mind that, prior to the adoption of the First Concurrent Resolution for FY 1978, any spending legislation or entitlement measure effective on October 1 for such fiscal year, is also subject to a point of order unless a waiver resolution is adopted by the Senate.

Again, we appreciate the tremendous effort your committee and other standing committees of the Senate are making to meet these deadlines. We simply wish to underscore that the success of the Congressional budget process very much depends on the success of that effort.

The staff of the Budget Committee is available to assist your staff in the drafting of appropriate waiver resolutions or in any other matter. If there are any questions regarding the Budget Act in general or its application to FY 1977 authorizations or entitlement or spending measures, please contact Karen Williams, Chief Counsel, on 4–0532.

With best wishes, we are

Sincerely,

EDMUND S. MUSKIE,
Chairman.
HENRY BELLMON,
Ranking Minority Member.

[Sent to All Committee Staff Directors]

U.S. SENATE,
Washington, D.C., April 8, 1977.

Mr. WILLIAM B. CHERKASKY,
Staff Director, Senate Select Committee on Small Business, Russell Senate Office Building, Washington, D.C.

DEAR BILL: On March 22, Senators Muskie and Bellmon wrote the chairman of each standing committee of the Senate to review the budget procedures with respect to legislation within the committee's jurisdiction. Since your select committee also has jurisdiction over authorizing legislation, I thought this information might also be useful to you.

With the excellent cooperation of the committee staffs, you met the budgetary deadlines last year. We are confident that you can achieve the same outstanding record for fiscal 1978. Since, however, a number of inquiries have been received by the Budget Committee staff—generally from subcommittee staff directors—regarding the reporting requirement and other matters, I thought it might be helpful to write you separately.

As you may recall, the Congressional Budget Act provides a May 15 reporting deadline for legislation which authorizes new budget authority for fiscal year 1978. Under the Budget Act, such authorizing legislation reported in the Senate after May 15 is subject to a point of order unless the Senate adopts a resolution waiving the application of this provision of the Act to that legislation. This is true even if a companion bill has been reported by May 15 in the House.

The purpose of this provision is to facilitate the appropriation process, which must be finished on a timely basis in order to complete the budget cycle in time for the adoption of the Second Concurrent Resolution on the Budget before October 1, as the Budget Act requires.

Should other questions arise with respect to fiscal 1978 authorizations or any other matter, please do not hesitate to contact us. As always, if the Budget Committee staff can be of any help to you, I hope you will call on us. Please call me or Karen Williams, the Committee's Chief Counsel, directly. You can reach me at 4–0535 and Karen at 4–0532.

Sincerely,

JOHN T. McEVOY,
Staff Director.

[Sent to all committee general counsel]

APRIL 8, 1977.

Mr. EDWARD P. SCOTT,
General Counsel, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR ED: On March 22, Senators Muskie and Bellmon wrote the chairman of each standing committee of the Senate to review the budget procedures with respect to legislation within the committee's jurisdiction.

With the excellent cooperation of the committee staffs, you met the budgetary deadlines last year. We are confident that you can achieve the same outstanding record for fiscal year 1978. Since, however, a number of inquiries have been received by the Budget Committee staff—generally from subcommittee staff directors—regarding the reporting requirement and other matters, I thought it might be helpful to write you separately.

As you may recall, the Congressional Budget Act provides a May 15 reporting deadline for legislation which authorizes new budget authority for fiscal year 1977. Under the Budget Act, such authorizing legislation reported in the Senate after May 15 is subject to a point of order unless the Senate adopts a resolution waiving the application of this provision of the Act to that legislation. This is true even if a companion bill has been reported by May 15 in the House.

The purpose of this provision is to facilitate the appropriation process, which must be finished on a timely basis in order to complete the budget cycle in time for the adoption of the Second Concurrent Resolution on the Budget before October 1, as the Budget Act requires.

Should other questions arise with respect to fiscal 1977 authorizations or any other matter, please do not hesitate to contact us. As always, if the Budget Committee staff can be of any help to you, I hope you will call me at 4-0532.

Sincerely,

KAREN HASTIE WILLIAMS,
Chief Counsel.

Mr. MUSKIE. We have also had exchanges of correspondence with committee chairmen with respect to pending legislation.

Mr. President, as an example, I ask unanimous consent that copies of correspondence with the Agriculture Committee and the Energy Committee be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., April 29, 1977.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Senate Committee on Agriculture, Nutrition, and Forestry is presently considering omnibus farm legislation which will revise and extend the support prices for commodities. In actions taken to date, the Committee has tentatively agreed to a provision increasing the target price and loan rate for the 1977 crop of wheat. There is a possibility that this change would increase outlays in fiscal year 1977 by approximately $13.5 million and in fiscal year 1978 by approximately $500 million.

I would appreciate your advising me (1) whether the proposed increase in outlays for fiscal year 1977 would be within the level of outlays in the most recently agreed to concurrent resolution on the budget for fiscal year 1977, and, (2) whether the proposed increase in outlays for fiscal year 1978 would be within the contemplated level of outlays in the first concurrent resolution for fiscal year 1978.

I would also appreciate knowing whether a bill reported out of this Committee containing the proposed increase in the 1977 target price and loan rate for wheat would be subject to any point of order under the Congressional Budget Act.

I would appreciate a formal response from you on this issue as soon as possible.

With every good wish, I am

Sincerely,

HERMAN E. TALMADGE,
Chairman.

U.S. SENATE,
Washington, D.C., May 4, 1977.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR HERMAN: This is in response to your letter of April 29 requesting my advice concerning the budgetary effect of legislation tentatively agreed to by the Senate Committee on Agriculture, Nutrition, and Forestry.

An increase in outlays of approximately $500 million in fiscal year 1978 cannot be accommodated within the Function 350, Agriculture, target proposed in the First Budget Resolution for fiscal year 1978 unless major reductions are made in other Function 350 programs. In considering Function 350 during markup on the First Budget Resolution for fiscal year 1978, the Senate Budget Committee used the latest information available from CBO concerning the expected level of outlays in fiscal year 1978 for current law. In arriving at the recommended targets of $2.2 billion in budget authority and $3.7 billion in outlays, the Committee did not explicitly provide for any legislative increases in fiscal year 1978 outlays for price supports to farmers. Thus, an additional $500 million in outlays from new legislation could only be accommodated within the $3.7 billion recommended target if reductions were made in existing price support programs—changes I understand are impractical at this time—or in other programs in this function, chiefly agriculture research and services.

The Office of Management and Budget has recently reestimated total outlays for fiscal year 1978 for Function 350 as part of its April 1977 budget reestimates. Based upon initial review by CBO, the Senate Budget Committee determined that no adjustment to the reported targets for Function 350 for FY 1978 was necessary. There are likely to be significant reestimates both up and down in many functions between now and the adoption of the Second Budget Resolution for fiscal year 1978 in September. For that reason, the Committee decided there was no need to make adjustments in the presently recommended targets for the fiscal year 1978 First Budget Resolution.

I am deeply concerned, however, that administrative actions already announced by the Secretary of Agriculture could increase outlays for price supports to a much higher level, resulting in Function 350 total outlays much higher than the $3.7 billion included in the First Budget Resolution as reported in the Senate. In the event that the Senate Agriculture Committee also agrees to report an omnibus farm bill with substantial increases in target prices for the 1977 crop, the Agriculture function outlays could be in the range of $5.0 billion or more in fiscal year 1978, with probable increases in future years.

What I am saying is that if there is no restraint in the new farm bill, it will become increasingly difficult to find money for other worthy new programs and to balance the budget for fiscal year 1981.

With respect to fiscal year 1977, an increase in outlays of approximately $13.5 million would add further to the existing Function 350 ceiling which has already been breached. It would not necessarily exceed the overall ceiling on outlays in the Third Budget Resolution for fiscal year 1977 agreed to on March 3, nor would it necessarily exceed the amended fiscal year 1977 aggregate outlay ceiling now being proposed by the Senate Budget Committee in the Committee amendment to S. Con. Res. 19. The Third Budget Resolution for fiscal year 1977 contained an overall outlay ceiling of $417.45 billion, with an outlay ceiling for Function 350 of $3.0 billion. The Senate Budget Committee now recommends for fiscal year 1977 a revision to the Third Budget Resolution, with an overall outlay ceiling of $408.8 billion, including an outlay ceiling for Function 350 of $4.5 billion. An increase of $13.5 million in outlays would not exceed these revised ceilings. But, the pressures on these spending ceilings are very substantial, and many worthy programs are now competing for the remaining 1977 dollars.

With respect to technical points of order relating to a bill reported by the Agriculture Committee concerning target price and loan rate adjustments, I can only answer your question after review of the specific legislation. I can offer the following considerations: points of order under the Budget Act concerning spending levels relate to the budget as a whole, not to individual functions, so it would be necessary to review the entire relationship of proposed legislation to the relevant Resolution before a complete response could be given.

As you are aware, specific sections of a bill must be interpreted in the context of the legislation as a whole. With this understanding, I would point out the following:

Any new entitlement contained in the Omnibus Farm measure must have an effective date of October 1, 1977, or later in fiscal year 1978, to avoid a point of order under Section 401(b) of the Budget Act. It is my understanding that the section pertaining to wheat presently expires on December 31, 1977; thus any extension of an entitlement effective January 1, 1978, is not subject to a point of order. If, however, there is created a new entitlement affecting fiscal year 1977, the effective date of the authority for that entitlement must also be October 1, 1977, or later, or it, too, will be subject to a point of order under Section 401 (b).

As you know, if there are any authorizations for the enactment of new budget authority for fiscal year 1978 contained in the measure, the bill must be reported by May 15, which I believe is your intention. If there is any authorization for the enactment of fiscal year 1977 budget authority in the reported Omnibus Farm bill, then, as you know, a waiver resolution waiving Section 402(a) of the Budget Act must be reported as well for reference to the Budget Committee.

The Budget Committee staff is available for further consultation once a final draft of the Omnibus Farm bill is completed.

With best wishes, I am

Sincerely,

EDMUND S. MUSKIE.

U.S. SENATE.
Washington, D.C., April 21, 1977.

Hon. EDMUND S. MUSKIE,
Chairman. Senate Budget Committee, Washington, D.C.

DEAR SENATOR MUSKIE: As you are probably aware, President Carter further refined his policy on energy since his submission of a revised FY 1978 budget for the Energy Research and Development Administration on February 22. As a result of his statements on April 7th and April 20th, he will submit another FY 1978 ERDA budget to the Congress in about another week. This budget will propose major restructuring of the activities in certain programs rather than merely changing the level of support for existing programs.

In view of the magnitude of the proposed changes and the importance of the decisions to international and domestic energy policy, the Members of the Committee on Energy and Natural Resources have concluded that we can not responsibly report the full FY 1978 ERDA Authorization bill without further hearings and consideration of the Carter policies. As a result, although the Committee will proceed as expeditiously as possible, we probably will not be able to comply with the May 15th deadline established by the Budget Control and Impoundment Act and will need to seek a waiver from the Senate Budget Committee when the bill is reported. Our Committee may be able to complete action on the non-nuclear portion of the bill in time to report a separate bill for those programs by

May 15th, and we will advise your Committee of our progress.

Sincerely yours,

HENRY M. JACKSON,
Chairman.
CLIFFORD P. HANSEN,
Ranking Minority Member.

U.S. SENATE,
Washington, D.C. May 4, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SCOOP: We have received your recent letter regarding the difficulties faced by the Committee on Energy and Natural Resources in meeting the May 15 reporting deadline for the fiscal year 1978 ERDA Authorization Bill. We are encouraged that you are optimistic you can meet the deadline for the non-nuclear portion of that bill.

As you know, the May 15 reporting deadline in the Budget Act is intended to aid the appropriations process by assuring timely enactment of authorizations required before appropriations can be made. Section 402 also provides for the possibility of a waiver of the May 15 deadline in appropriate cases. The legislative history of the Budget Act suggests strongly that such waivers are to be sparingly granted, since delays in the appropriations process derail the entire legislative schedule and can disrupt the functioning of both the Federal and state governments by delaying and confusing program funding. In fact, such waivers are termed "emergency waivers" in the provisions of the bill relating to the House of Representatives.

We think the Congress can be proud that all but one appropriation were completed prior to October 1 last year. This success, unparalleled in recent times, is the direct result of unprecedented cooperation in early reporting of authorizing legislation. The Appropriations Committee pursued its responsibilities under the Budget Act with great energy. The authorizing committees met their responsibilities to the Appropriations Committee and the Congressional budget process by reporting their authorizations before May 15. In fact, a total of only 22 authorizations (including four from the Committee on Interior and Insular Affairs) were reported after May 15 last year by the 14 authorizing committees of the Senate.

We are confident the members of the Budget Committee will be sympathetic to the difficulties you face in processing the energy legislation the President has so recently submitted. We encourage you, however, to report as much of that legislation as is possible prior to the deadline. We also encourage you strongly to report all other legislation your Committee contemplates for authorization of new budget authority for fiscal year 1978 prior to that deadline.

We and our staff at the Budget Committee stand ready to assist you in any way we can. Please do not hesitate to call upon us.

Sincerely,

EDMUND S. MUSKIE,
Chairman.
HENRY BELLMON,
Ranking Minority Member.

U.S. SENATE,
Washington, D.C. April 21, 1977.

Hon. EDMUND S. MUSKIE,
Chairman, Senate Budget Committee, Washington, D.C.

DEAR SENATOR MUSKIE: As you are probably aware, President Carter further refined his policy on energy since his submission of a revised FY 1978 budget for the Energy Research and Development Administration on February 22. As a result of his statements on April 7th and April 20th, he will submit another FY 1978 ERDA budget to the Congress in about another week. This budget will propose major restructuring of the activities in certain programs rather than merely changing the level of support for existing programs.

In view of the magnitude of the proposed changes and the importance of the decisions to international and domestic energy policy, the Members of the Committee on Energy and Natural Resources have concluded that we can not responsibly report the full FY 1978 ERDA Authorization bill without further hearings and consideration of the Carter policies. As a result, although the Committee will proceed as expeditiously as possible, we probably will not be able to comply with the May 15th deadline established by the Budget Control and Impoundment Act and will need to seek a waiver from the Senate Budget Committee when the bill is reported. Our Committee may be able to complete action on the non-nuclear portion of the bill in time to report a separate bill for those programs by May 15th, and we will advise your Committee of our progress.

Sincerely yours,

HENRY M. JACKSON,
Chairman.
CLIFFORD P. HANSEN,
Ranking Minority Member.

MEMORANDUM

For: Senator Muskie
From: John McEvoy
Date: May 3, 1977

Attached is a letter received from Senators Jackson and Hansen suggesting that the Committee on Energy and Natural Resources will be unable to complete work on the EDRA Authorization Bill for 1978 prior to May 15 as a result of the late submission of the Carter energy program. Also attached is a suggested response from Senator Bellmon and yourself to that letter. The response is calculated to achieve two results:

1. To ackowledge that the Energy Committee may need more time without committing you to give it to them; and

2. To prompt that Committee, which has been the most derelict in meeting the May 15 deadline, to meeting it in all possible cases this year.

U.S. SENATE,
Washington, D.C., May 4, 1977.

Hon. CLIFFORD P. HANSEN,
Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR CLIFFORD: We have received your letter regarding the difficulties faced by the Committee on Energy and Natural Resources in meeting the May 15 reporting deadline for the fiscal year 1978 ERDA Authorization Bill. We are encouraged that you are optimistic you can meet the deadline for the non-nuclear portion of that bill.

As you know, the May 15 reporting deadline in the Budget Act is intended to aid the appropriations process by assuring timely enactment of authorizations required before appropriations can be made. Section 402 also provides for the possibility of a waiver of the May 15 deadline in appropriate cases. The legislative history of the Budget Act suggests strongly that such waivers are to be sparingly granted, since delays in the appropriations process derail the entire legislative schedule and can disrupt the functioning of both the Federal and state governments by delaying and confusing program funding. In fact, such waivers are termed "emergency waivers" in the provisions of the bill relating to the House of Representatives.

We think the Congress can be proud that all but one appropriation were completed prior to October 1 last year. This success, unparalleled in recent times, is the direct result of unprecedented cooperation in early reporting of authorizing legislation. The Appropriations Committee pursued its responsibilities under the Budget Act with great energy. The authorizing committees met their responsibilities to the Appropriations Committee and the Congressional budget process by reporting their authorizations before May 15. In fact, a total of only 22 authorizations (including four from the Committee on Interior and Insular Affairs) were reported after May 15 last year by the 14 authorizing committees of the Senate.

We are confident the members of the Budget Committee will be sympathetic to the difficulties you face in processing the energy legislation the President has so recently submitted. We encourage you, however, to report as much of that legislation as is possible prior to the deadline. We also encourage you strongly to report all other legislation your Committee contemplates for authorization of new budget authority for fiscal year 1978 prior to that deadline.

We and our staff at the Budget Committee stand ready to assist you in any way we can. Please do not hesitate to call upon us.

Sincerely,

EDMUND S. MUSKIE,
Chairman.
HENRY BELLMON,
Ranking Minority Member.

Mr. MUSKIE. Mr. President, in addition, the majority leader, the distinguished Senator from West Virginia, has also corresponded with authorizing committee chairmen on the May 15 deadline and held several meetings with committee chairmen and staff directors early this spring to reinforce the importance of reporting all authorizing legislation.

I ask unanimous consent that his letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 23, 1977.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: May I take this opportunity to express my deep appreciation for the cooperation you and your committee members and staffs have shown me and the staff of the Democratic Policy Committee in processing the legislation within your jurisdiction in these early months of the session. With your help, the Senate has measured up to its responsibilities, though several weeks were consumed in our reorganization.

While we are "on track" at the moment we face an increasingly heavy schedule if we are to meet our several deadlines and hold to our prospective adjournment date of early October.

As you know the Budget Act provides that it is not in order for the Senate to take floor action on a measure authorizing the enactment of new budget authority for any fiscal year unless the measure has been reported by May 15. This provision applies to new program legislation as well as legislation reauthorizing existing programs.

For that reason it would be extremely helpful to the leadership in the scheduling process if, at your earliest convenience, you could supply me with a list of those measures your committee expects to report between now and May 15, and the anticipated reporting dates thereof.

I value your continued cooperation and I believe that working together we will write an excellent record for this first session of the 95th Congress.

Sincerely yours,

ROBERT BYRD.

U.S. SENATE,
Washington, D.C., May 13, 1977.

To All Committee Staff Directors:

Since the May 15 Budget deadline falls on a Sunday this year, I have obtained unanimous consent for reports to be filed until midnight, Monday, May 16. To avoid a back-up at the Government Printing Office, I hope that the majority of your reports will be filed before midnight, Saturday, May 14. Please bear in mind that while necessity may require you to file a so-called "dummy" report on a particular bill to meet the deadline, it is absolutely essential to the Budget process, and for floor scheduling purposes, that the complete text of the report be received by the Government Printing Office by midnight, Monday, May 16, except in the most extraordinary circumstance. This not only facilitates the availability of the printed report on the Senate floor to meet the requirements of the Legislative Reorganization Act, but also it is necessary before the Budget Committee can begin to assess a bill's impact on the Budget process.

The Leadership is very appreciative of your assistance during the last two months to expedite the work of the Senate. In the great majority of cases, committee cooperation with the Policy Committee and the Budget Committee has been outstanding. In the event that you have not done so, it would be helpful if you informed the staff directors of your subcommittees of the benefits of submitting a copy of your written report when it is filed in the Senate with either the Budget Committee or the Policy Committee. Your Chairman may also wish to so advise the subcommittee chairmen.

Because of the Budget Act requirement there will be a tremendous workload placed on the Budget Committee to clear measures for floor action within the next few weeks. At the same time, the printing office will face the same mechanical problems, thereby delaying the printing of many reports. To speed clearance of your bills, a xerox copy of your report, sent to the Budget Committee at the time the report is filed in the Senate, will allow the Committee to begin work on the required Budget clearance days before the printed report will become available.

Sincerely yours,

ROBERT C. BYRD,
Majority Leader.

U.S. SENATE,
Washington, D.C., May 10, 1977.

Mr. JOHN T. MCEVOY,
Staff Director, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR JOHN: The Congressional Budget Act of 1974 mandates that all authorizing legislation be reported to the Senate by May 15th of each year. Since that date falls on Sunday this year, the Majority Leader has obtained unanimous consent extending the reporting date to midnight on Monday, May 16th. Additional reporting authority has also been granted for Saturday, May 14th.

This letter is to advise you that our office will be staffed and available to your committee on both reporting dates. Due to the large volume of reports expected, the assistance and cooperation of your committee in the preparation of reports will greatly facilitate their processing and printing. It would be most beneficial to all concerned if your committee staff would take the following actions during the days prior to the actual reporting dates:

1. Contact the Bill Clerk (Ext. 4-2118 or 3-2120) to ascertain a current and complete list of co-sponsors of the legislation to be reported;

2. Make certain that calendar number and report number spaces are provided on the front and back page of the bill and the front page of the report;

3. Review the bill to ensure that the reporting action as indicated on the front page of the bill, i.e., without amendment, with an amendment, with amendments, etc., accurately reflects the action taken by the committee (see attached memorandum of October 10, 1975);

4. Clearly indicate on the report whether *Additional, Minority,* or *Supplemental* views are filed pursuant to the provisions of Sec. 133(e) of the Legislative Reorganization Act of 1949, as amended (2 USC 190(a)); and

5. Limit the listing of committee staff personnel on the inside cover page to Chief Counsel (Chief Counsel-Staff Director), Staff Director, Minority Counsel, and Chief Clerk pursuant to Joint Committee on Printing regulations.

Included for your reference are printed examples of correct styles of reports and reported bills with the pertinent information (mentioned in the five points above) underlined in red. Also enclosed are 20 blank report forms for use by your committee which conform to Joint Committee on Printing standards.

Please note new paragraph 3(b)(2) of Rule XXVI of the Standing Rules of the Senate (pursuant to S. Res. 4, reorganizing the Senate committee system) which states:

"Proposed legislation which is referred to two or more committees jointly may be reported only by such committees jointly and only one report may accompany any proposed legislation so jointly reported."

Your cooperation in this matter will be deeply appreciated.

With best personal wishes, I am

Sincerely,

STAN.

U.S. SENATE,
October 10, 1975.

To All Senate Committees.

When reporting bills back to the Senate, committees have in the past shown a Senator reporting in one of the following ways: without amendment; with an amendment; and with amendments.

In the future, for the sake of clarity, additional endorsements will be used by this office in printing reported bills and in the Calendar of Business to reflect such action, they are as follows:

With (an) amendment(s), and an amendment to the title.

With (an) amendment(s), and an amendment to the title and preamble.

With an amendment to the title, and (an) amendment(s) to the preamble.

With (an) amendment(s), and (an) amendment(s) to the preamble.

With an amendment to the title.

With (an) amendment(s) to the preamble.

The use of these additional endorsements, where applicable, will simplify considerably the procedure involving the passage of bills on the floor of the Senate and the reporting of same in the CONGRESSIONAL RECORD.

Your kind cooperation in using the appropriate endorsement will be appreciated.

FRANCIS R. VALEO,
Secretary of the Senate.

Mr. MUSKIE. The distinguished majority leader has been a strong supporter of the budget process and indeed has rearranged the entire schedule of Senate floor action to permit authorizing committees extensive periods for markup sessions to meet the Budget Act deadline for authorizing legislation. On behalf of the Budget Committee let me express our sincere appreciation to the majority leader for his cooperation in this process.

Mr. President, it is true that the bulk of the authorizing legislation has been reported by the authorizing committees in compliance with the May 15 deadline. However, for many reasons which are detailed in the reports filed today on the waiver resolutions, a few committees have not been able to get all of the legislation with committee amendments out of committee to meet the statutory deadline. Mr. President, the Budget Committee recognizes that there are extenuating circumstances which surround the eight requests for waiver resolutions and as a result, the committee has voted to favorably report all of these resolutions.

SMITH COLLEGE, NORTHAMPTON, MASS.

Mr. CURTIS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 276, H.R. 1404.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1404) for the relief of Smith College, Northampton, Mass.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, the chairman of the committee (Mr. LONG) wanted this bill called up tonight. I asked him to discuss it with the distinguished Senator from Nebraska, who is the ranking member. There was agreement all around that the Senate would proceed to the consideration of the bill, because there are certain deadlines to be met in this bill.

There being no objection, the Senate proceeded to consider the bill (H.R. 1404) for the relief of Smith College, Northampton, Mass., which had been reported from the Committee on Finance, with an amendment, on page 2, beginning with line 1, insert the following:

FOOD STAMP ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS

SEC. 3. Effective July 1, 1977, section 8 of Public Law 93-233 is amended by striking out "June 30, 1977" where it appears—

(1) in the matter preceding the colon in subsection (a)(1), and in the new sentence added by such subsection, and

(2) in subsections (a)(2), (b)(1), (b)(2), (b)(3), and (f),

and by inserting in lieu thereof in each instance "September 30, 1978".

EXTENSION OF FEDERAL FUNDS FOR CHILD SUPPORT COLLECTION AND PATERNITY ESTABLISHMENT SERVICES PROVIDED FOR PERSONS NOT RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 4. Section 455(a) of the Social Security Act is amended by striking out "June 30, 1977" in the matter following paragraph (2) and inserting in lieu thereof "September 30, 1978".

EXTENSION OF TIME FOR MAKING REPORT BY SECRETARY REGARDING CHILD DAY CARE SERVICES STANDARDS

SEC. 5. Section 2002(a)(9)(B) of the Social Security Act is amended by striking out "July 1, 1977" and inserting in lieu thereof "April 1, 1978".

DEFERRAL OF IMPLEMENTATION OF CERTAIN DECREASES IN MEDICAID MATCHING FUNDS

SEC. 6. Notwithstanding the provisions of subsection (g) of section 1903 of the Social

Security Act, the amount payable to any State for the calendar quarters during the period commencing April 1, 1977, and ending September 30, 1977, on account of expenditures made under a State plan approved under title XIX of such Act, shall not be decreased by reason of the application of the provisions of such subsection with respect to any period for which such State plan was in operation prior to April 1, 1977.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall admit free of duty thirty-three carillon bells (including all accompanying parts and accessories) for the use of Smith College, Northampton, Massachusetts, such bells being provided by the Paccard Fonderie de Cloches, Annecy, France.

SEC. 2. If the liquidation of the entry for consumption of any article subject to the provisions of the first section of this Act has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made.

FOOD STAMP ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS

SEC. 3. Effective July 1, 1977, section 8 of Public Law 93–233 is amended by striking out "June 30, 1977" where it appears—

(1) in the matter preceding the colon in subsection (a)(1), and in the new sentence added by such subsection, and

(2) in subsections (a)(2), (b)(1), (b)(2), (b)(3), and (f),

and by inserting in lieu thereof in each instance "September 30, 1978".

EXTENSION OF FEDERAL FUNDS FOR CHILD SUPPORT COLLECTION AND PATERNITY ESTABLISHMENT SERVICES PROVIDED FOR PERSONS NOT RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 4. Section 455(a) of the Social Security Act is amended by striking out "June 30, 1977" in the matter following paragraph (2) and inserting in lieu thereof "September 30, 1978".

EXTENSION OF TIME FOR MAKING REPORT BY SECRETARY REGARDING CHILD DAY CARE SERVICES STANDARDS

SEC. 5. Section 2002(a)(9)(B) of the Social Security Act is amended by striking out "July 1, 1977" and inserting in lieu thereof "April 1, 1978".

DEFERRAL OF IMPLEMENTATION OF CERTAIN DECREASES IN MEDICAID MATCHING FUNDS

SEC. 6. Notwithstanding the provisions of subsection (g) of section 1903 of the Social Security Act, the amount payable to any State for the calendar quarters during the period commencing April 1, 1977, and ending September 30, 1977, on account of expenditures made under a State plan approved under title XIX of such Act, shall not be decreased by reason of the application of the provsions of such subsection with respect to any period for which such State plan was in operation prior to April 1, 1977.

Mr. CURTIS. Mr. President, the provisions of H.R. 1404 include a number of items on which it is important that we act before June 30. The original form of the bill, as passed by the House, called only for the refund of duty paid by Smith College on the importation of bells needed to repair its carillon. The only source of matching bells is a French foundry; the refund would cost a one-time revenue loss of $2,250; and no objection was expressed in committee to the refund.

Added in committee were amendments which should be passed before June 30 and which are of critical importance to the continued functioning of a number of our AFDC, SSI, and medicaid provisions. All simply extend dates found in current law. The four items added are as follows:

(1) *Food stamp eligibility for SSI recipients.* The language in H.R. 1404 simply extends until the end of the next federal fiscal year (September 30, 1978) current provisions of law relating to the method whereby SSI recipients are eligible for food stamps. They are eligible in all States except California and Massachusetts, which provide amounts in the grant computations under other special formulae in the law. If we do not act, the benefit computations in all the other States will revert to a very complex individual determination, in effect at the time of the change from the old adult aid programs to SSI. No one, at the federal or State levels, appears to favor reversion to this complex formula; legislation to remedy it was enacted in 1973; the remedial language has been extended several times; and, because it does not appear that general food stamp legislation adopted earlier this year by the Senate (which will resolve the problem permanently) will be enacted by June 30, another extension is desirable.

(2) *Child support funding for nonwelfare families.* Under existing law (Title IV–D of the Social Security Act), assistance is provided by the States (with federal matching) for paternity and parent locator services directed toward maximizing child support. This assistance is made available to welfare and nonwelfare families, although federal matching for the latter would end on July 1, 1977, if no action is taken. Because it is important that such assistance be provided to nonwelfare families to keep them *off* welfare, H.R. 1404 continues federal matching for such families for another 15 months, until September 30, 1978.

(3) *Child care study deadline.* The staffing standards, and other requirements, under the Federal Interagency Day Care program have been the subject of scrutiny by the Congress over the last several years, and in legislation recently enacted, HEW is to report to the Congress on the appropriateness of FIDCR standards (under Title XX of the Social Security Act) by July 1, 1977. Additional time (until April 1, 1978) is provided the Department to complete this report.

(4) *Medicaid funding to the States.* Under existing language as interpreted by the Secretary of HEW, recent Medicaid funding cuts totaling $142 million, affecting 20 States, have been announced by the Secretary. These cuts relate to the statutory requirement that States have in place regular independent evaluations of long-term patients in skilled nursing homes, intermediate care facilities, and mental hospitals. The Secretary (pursuant to an opinion from the Comptroller General) believes that across-the-board cuts must be made to all States in which there is even one facility where the reviews have not been completed. In my own State of Nebraska, reviews had been completed in 290 out of 295 facilities, and of the remaining five, two have gone out of business. To halt a precipitate cut to 20 States, and to permit an orderly consideration of an alternative formula, the language added to H.R. 1404 provides for a 90-day delay in the imposition of this particular sanction.

Mr. President and Members, these all are critical extensions and should be adopted immediately. I ask for an "aye" vote.

Mr. DOLE, Mr. President, I know a number of my colleagues are concerned and dismayed at the prospect of reductions in medicaid matching payments to States. On Wednesday, June 8, HEW announced that it would reduce July medicaid payments to 20 States by a total of $142 million because of noncompliance with the independent professional review requirements during the first calendar quarter of this year.

The basic problem, as I pointed out in my remarks to the Finance Committee, is the severity of the reductions in terms of State budgetary difficulties balanced against the need to assure that Federal funds are expended only for patients receiving proper care in a proper setting.

It is my belief that the statutory requirements we have at present must be carefully examined before we proceed with any legislative efforts that would markedly change them. At the same time, the States cannot afford to experience reductions as severe as that presently facing them.

The House Interstate and Foreign Commerce Health Subcommittee has approved an amendment to H.R. 3 designed to address the problems with the present law in addition to protecting the States from the immediate imposition of the reductions. Unfortunately, this legislation would not have come to us in time.

It is the purpose of my amendment to H.R. 1404 to assure the time necessary to undertake statutory changes. I understand that the Department of HEW has begun to make the July 1 grant awards to States. The grant awards made to at least five States have been reduced in accordance with section 1903(g). However, since the amendment approved by the committee would postpone any reduction in payments to States until October 1, 1977, the committee expects that HEW will make a supplemental grant award to restore funds to these States and to any other States whose grant awards might be reduced for noncompliance with 1903(g) either before or subsequent to enactment of this amendment.

Senators BURDICK, EAGLETON, HEINZ, LUGAR, MORGAN, SASSER, SCHWEIKER, AND ZORINSKY have personally expressed their support for this amendment in addition to the cosponsors in the Committee on Finance, Senators TALMADGE, DANFORTH, and CURTIS.

I am hopeful that this legislation will receive rapid consideration by the House of Representatives so as to relieve the States from any immediate threat of reduced Federal payments.

Mr. CURTIS. Mr. President, I ask for a vote on the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

Mr. HEINZ. Mr. President, I should like the Senator from Nebraska to explain these amendments in a little more detail.

Mr. CURTIS. I shall be happy to. I had a feeling of consideration for the employees here, who have waited all day.

The bill itself grants to Smith College the right to import some carillon bells free of duty. It is the only place they could get them.

The SSI amendment provides that SSI recipients are eligible for food stamps. If we do not extend that, it will revert back to the old law that existed before we had an SSI program, when

it was a matching old-age assistance program. It would be rather chaotic for the recipients as well as for the Government.

One of the other amendments extends the time for some child care studies; another amendment deals with a rigid feature in the law that is causing a great injustice. The law requires that if a State fails to complete all of its inspections of nursing homes, the money is withheld from all of them. About 20 States are involved. I can tell about Nebraska.

We have 295 licensed homes. The State completed their inspection of 290. It now develops that two of the remaining five have gone out of business. There are extenuating circumstances that they could not get the reports from the other three. Yet, under the law, they had to withhold the money from all 295.

Mr. HEINZ. If the Senator will yield, exactly how do we change the law with respect to those nursing homes?

Mr. CURTIS. Give them 90 days to clear it up. The Department favors it. There is no opposition to it.

They are all matters that must be taken care of by June 30. I have no interest in the bill. If there is objection to it, I, of course, am instructed by my chairman to withdraw it.

Mr. HEINZ. I thank the Senator.

Mr. CURTIS. Mr. President, I ask for the vote.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CURTIS. Mr. President, I ask for a vote on the bill itself, as amended.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act for the relief of Smith College, Northampton, Massachusetts, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. EAGLETON. Mr. President, I am pleased that the bill appropriating funds for fiscal year 1978 for the Departments of Labor and Health, Education, and Welfare has provided $500,750,000 for programs for the elderly, an increase of $96,450,000 over the 1977 comparable level, and an increase of $77,300,000 over the budget estimate.

As my colleagues will recall, the Older Americans Act was first enacted in 1965, at which time the total Federal appropriation under the act was $7.5 million. I am delighted that the overall budget has been consistently and significantly increased by Congress in order to implement programs to meet the needs of our older population.

In 1976, there were approximately 22 million persons in the United States aged 65 and over. While in this century the total U.S. population has doubled, the number of adults aged 65 and over has increased six times. Congress must continue to address itself to the very real needs of this sizable number of older adults in our contemporary society.

For the national nutrition program for the elderly, the committee has recommended $250 million. Over the years, there has been a concern about the manner in which funds have been obligated under the title VII nutrition program. In past years, not all funds appropriated for a given fiscal year have been expended within that fiscal year. A 1976 U.S. district court order required the States to accelerate their obligating practices so that all funds are obligated by the States in the same year in which they are appropriated. The committee reiterates its intent that the total $250 million contained in this bill is to be allocated and expended in fiscal year 1978. We intend that the Administration on Aging will allot title VII funds to State agencies on aging as soon as they are available. In turn, the State agencies must obligate these funds as soon as they receive them, to insure that local projects receiving these moneys, can spend them in fiscal year 1978. The nutritional needs of the elderly are of such magnitude that even this level of appropriations cannot fully meet the needs of all the States, and there should be no reason for the Administration on Aging not to expend the entire amount.

This bill also contains $188 million for expanding State agencies on aging activities, an increase of $2 million over the House allowance. The principal focus of activity under this title has been the establishment and operation of area agencies on aging to substantially expand programs of service.

The committee has also recommended $18 million for training programs, a $2 million increase over the House allowance. The Subcommittee on Aging of the Committee on Human Resources, which I chair, has documented the dearth of well-trained personnel to work in the field of aging. Clearly, a lack of well-trained professionals and practitioners is one of the major barriers in developing an effective service delivery system. A recent article in the New York Times dealing with the training of specialists further documents the need in this area. According to the article, 1,275 schools are now offering courses in gerontology, an estimated three times as many as were available 5 years ago. Mr. President, I ask unanimous consent that the text of this article be reprinted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. Two other programs contained in this bill, and not under the Administration on Aging, are also of particular interest to me. Title IX of the Older Americans Act established a part-time older workers program for unemployed low income persons aged 55.

I am delighted that the committee has recommended an appropriation of $200 million, an increase of $19.6 million over the House allowance. It is unusual that we appropriate the full authorization for any program but in my judgment, it is well justified in this instance because of the compelling need to remedy the poor employment prospects of our elderly citizens, while providing valuable community services. I hope that my colleagues will give their full support to full funding of this program and will assist me in persuading the House Members to adopt the Senate level.

Finally, Mr. President, I would like to express my concern that the funding level for the National Institute on Aging contained in this bill is $4 million below the House allowance. As I have indicated, because of the rapid growth in the elderly population, expanded research programs are desperately needed in order that we can better understand the process of aging and in that understanding be able to improve the health status of the elderly. I am pleased that the committee has included funds in the bill for 25 additional positions within the institute, and I am hopeful that in the final version of this bill those positions will be retained, and the funding level for research programs more in line with the House allowance.

EXHIBIT 1

[From the New York Times, June 19, 1977]

GERONTOLOGY IS STILL A VERY YOUNG SCIENCE

(By Robert Lindsey)

LOS ANGELES—On the top floor of a building at the University of Southern California here, researchers are trying to discover what chemical processes occur in the brain as people age. They hope to find the chemical mechanism, if there is one, that orchestrates the way people grow old and perhaps alter its effects.

Beneath these researchers, on the second floor, about 100 college students are taking courses in preparation for careers dealing with the aged, while personnel specialists of corporations such as General Foods, Xerox and Hughes Aircraft receive guidance on how to prepare their companies' employees for retirement.

And on the ground floor, there is an ebb and flow of gray-haired men and women seeking guidance in how to deal with the problems that can come with old age: loneliness, loss of memory and financial, emotional, sexual and family difficulties.

These activities are part of one of the nation's first, and most comprehensive, college programs in gerontology, a word whose origins are in the linguistic root for "old" in Greek.

Traditionally, gerontology referred to the scientific study of aging. Gerontology now is becoming a linguistic umbrella embracing not only research but the training of specialists to work with older people and specialized services for the elderly.

Over the last five years, gerontology has been one of the fastest-growing fields of study on American campuses, although the quality of such programs, according to some observers, varies widely. One survey indicated that 1,275 schools now offer at least one course in geronotology, probably triple the number five years ago.

"By the year 2000, there won't be a college or university in the country that doesn't have a program in gerontology; they'll have to," says Dr. James Birren, the 59-year-old director of the Ethel Percy Andrus Gerontology Center at the University of Southern California—and one of the pioneer scholars in the field. The center is named for the

founder of the American Association of Retired Persons and the National Retired Teachers Association.

Because it combines research, professional training and programs to help elderly people, the University of Southern California center is regarded by some specialists as a prototype for gerontology schools of the future.

The growing interest in gerontology is rooted in demographic trends; increased lobbying and influence by older voters; sharply increased Federal aid for older people and more local aid programs; and the beginning of career opportunities in a new field.

As census studies have repeatedly shown, Americans are living longer. "There are more older people alive today than the total of all the older people that ever lived in the world before," says Edwin Kaskowitz, executive director of the Washington-based Gerontological Society, whose membership, now 5,000, has tripled in the last decade.

Academic interests often march in step with the availability of government grants. The budget of the Administration on Aging, part of the Department of Health, Education and Welfare, has jumped to $420 million this year from $30 million five years ago, with most of the money going for nutritional assistance to the aged, but some of it for research, training and local assistance programs.

About $30 million is being spent annually by the National Institute on Aging. Special programs for the elderly are now a part of virtually every major Federal executive department, and many cities and counties have established agencies to deal with older residents.

The outlook is for continued acceleration of Government aid and of demand for professionals. One recent study concluded that over the next 10 years there would be a need for 1,000 additional psychiatrists, 2,000 clinical psychologists, 4,000 psychiatric social workers, 4,000 nurses, 8,000 nurses aides and 10,000 other specialists. Younger taxpayers will have to pay for them.

The granting of college degrees with gerontology majors is still rare. The University of Southern California program, established last year as an arm of an 11-year-old gerontology research center, offers bachelor's and master's degrees and special training for professionals already at work in the field.

School officials take care to distinguish geriatrics, a medical specialty, from their program in "social gerontology." Their purpose, they say, is to train students for careers in research and in public agencies and private enterprises. There are courses, for example, on legal and financial difficulties peculiar to the elderly, on nutrition and sexuality, and on how to help people deal with the depression felt by many old people.

Although many of the students are middle-aged women, a few college-age students have begun to enroll. Faculty members say that while most stay in the programs, some find that working with the elderly depresses them and drop out.

The stigma of old age is a problem for fund-raisers. "Some people tell you they just don't want to be associated with anything to do with old people," said Dorothea Adamson, a fund raiser for the center.

School administrators say the job outlook for college gerontology graduates is not yet a booming field. "It's a pioneering thing," Dr. Birren said. "I tell students: you have to create your own jobs; it's a new field, it's a little like homesteading; the land is out there to be cleared, and you have to do it."

He calls the growing population of older Americans a little understood "mammoth issue with so many ramifications it is staggering."

The issue "can be portrayed as a downer—you can emphasize the economic problems that are going to be caused by the old people, especially if the economy doesn't grow fast enough," he said. "I say that's bunk; it's not bad to be old; it's bad to be poor, it's bad to be unhealthy, it's bad to be lonely. Gerontologists can give leadership and awareness of what's going to be happening."

Mr. STEVENSON. Mr. President, I would like clarification of the committee's intent in requiring States to file AFDC, medicaid, and social service claims in a timely fashion. Does the committee intend the language on page 29 of the bill to preclude HEW's use of funds to settle any claims which the States file by September 30 of this year?

Mr. MAGNUSON. No.

Mr. STEVENSON. Does the bill affect in any way claims to be submitted by States for fiscal years 1977 and 1978?

Mr. MAGNUSON. No.

Mr. STEVENSON. In other words, the intent of this language is to warn the States that they have until September 30 of this year to submit claims more than 1 year old to HEW if they want reimbursement of those claims?

Mr. MAGNUSON. That is correct.

Mr. STEVENSON. Finally, Mr. President, because some States may experience difficulty in submitting all their claims for social service programs within 1 year of the service would the chairman be willing to make the issue of timely filing of these claims the subject of hearings, should the need arise?

Mr. MAGNUSON. Yes.

Mr. STEVENSON. I thank the Senator for his answers to my questions.

ARKANSAS AGING PROJECT

Mr. McCLELLAN. I would like to call Senator MAGNUSON's attention to the efforts of the Pulaski County Council on Aging in Arkansas. The council has utilized model project funds under title III of the Older Americans Act to provide over 19 different services to over 4,000 different individuals in Pulaski County. This has been an excellent program and I certainly trust every fair consideration will be given to its continued funding.

Mr. MAGNUSON. This is the type project that certainly should be given every fair consideration.

IMPACT AID: SHOULD CONGRESS INCREASE LOCAL PROPERTY TAXES

Mr. CHURCH. Mr. President, once again the Congress is resisting the administration over termination of the impact aid program. Every administration for the last 25 years has seen elimination of this program as an easy way to reduce the budget for the Department of Health, Education, and Welfare, and each Congress has overwhelmingly rejected it. The reason for the repeated outcome of this annual scenario is the real question Congress faces when termination is proposed: Should Congress vote an increase in local property taxes?

Education is funded at the local level almost exclusively through property taxes. The premise of impact aid is the fact that the Federal presence on land in a school district's tax base takes that land off the property tax rolls. If Federal funds are not furnished to the schools to compensate for the withdrawal of this land, then ordinary property taxes must be increased or the schools will not be sustained.

An October 1976 report by the General Accounting Office attempts to discount this case. The report argues that if impact aid were ended, the property taxpayers in 66 percent of the school districts studied would incur increases of less than 10 percent. But the report also found that in 15 percent of the districts, property taxes would have to be increased 25 percent or more. If Congress eliminated impact aid, these districts would be placed between the devil of degraded education and the deep blue of heavy tax increases.

If the GAO report were not enough to give Congress pause, then the fact that the report itself is now out of date should settle the matter. Although it was not issued until October 1976, it is based on financial data from the 1971–72 school year, and on eligible school districts in fiscal year 1973. Not only is this data outdated, but it precedes the substantial amendments to the program which were enacted in 1974.

A number of other questions occur in reading the report. GAO studied school districts in 16 States, finding that if impact aid were withdrawn there would be modest tax increases for some and sharp increases for others. But which districts are in these categories? Are they urban or rural, rich or poor, with large or small tracts of federally owned land? I asked GAO this question, and the only response GAO provided was a breakdown of how many school districts would be affected, to one degree or another in each studied State.

Mr. President, whatever the deficiencies of the GAO report, it at least makes the point that ending impact aid and increasing property taxes are identical propositions. The congressional response should be the same as it always has been: No.

Mr. CHILES. Mr. President, as a member of both the Labor-HEW Appropriations Subcommittee and the Special Committee on Aging, I would like to take this opportunity to express my support for the appropriation bill's provision of $250 million for the elderly nutrition program. As you know, the elderly nutrition program is legislated by title VII of the Older Americans Act and provides hot meals to senior citizens at congregate feeding sites. The program not only enhances the ability of our senior citizens to receive adequate nutrition, but also provides these meals in a conducive social setting.

In my State of Florida there are many elderly living on fixed incomes. The continually escalating cost of living renders many of these senior citizens destitute. As a result, thousands of elderly poor in Florida, and in every other part of the country for that matter, are in desperate need of the meals provided by the title VII program. Many others require the social and supportive services of the program. It is mandatory, therefore, that Federal, State, and local administrators of title VII operate the program so as to reach the greatest number of elderly

citizens. This means that HEW and the Administration on Aging must allot title VII fiscal 1978 appropriations as soon as they are available. State Offices on Aging, too, should obligate their fiscal 1978 allotments with dispatch. Finally, local project administrators should use these obligations to provide meals to their elderly population as quickly as possible.

In short, we intend to underline at this time that title VII fiscal 1978 appropriations must be spent in fiscal 1978, and not be carried over for use in fiscal 1979. Any fiscal 1977 funds that remain unspent at the end of fiscal 1977, which should not be the case, must also be available and used in fiscal 1978. We have read too many news articles, even seen too many television reports, and heard too many stories reflecting the plight of the elderly poor. Title VII funds must be used to the maximum extent possible to relieve their plight. While this small program is limited in the effect it can have, it should not be further limited by failure to use program funds as soon as they become available.

SUPPORT FOR FUNDING OF AGING PROGRAMS

Mr. CHURCH. Mr. President, as Chairman of the Senate Committee on Aging, I wish to express my support for the funding provisions for older Americans in the fiscal 1978 Labor-HEW Appropriations Act, H.R. 7555.

I am especially pleased that the committee has supported my recommendation for full funding for the title IX Senior Community Service Employment Program.

Nearly 15,000 low-income persons 55 or older are employed under this program. In July this number will increase to 37,400, including 165 in Idaho. In addition, a Green Thumb Program will be established in Idaho for the first time. Green Thumb provides job opportunities in a wide range of useful and fulfilling activities for the rural elderly, including planting trees and shrubbery, beautify our countryside, restoring historical sites, and antipollution control activities.

H.R. 7555 would provide jobs for almost 50,000 older workers beginning in July 1978. In Idaho, more than 200 individuals 55 or older would be employed in the Community Service Jobs Program.

NUTRITION PROGRAM FOR THE ELDERLY

The committee bill would also increase the number of meals under the national hot meals program for the elderly.

This is vitally important because older Americans typically spend about one-fourth to one-third of their limited budgets for nutrition.

Nearly 390,000 meals are now served daily under the nutrition program for the elderly, primarily in senior centers, schools, and other nonprofit settings. At the end of the fiscal year, this number is expected to rise to 420,000.

In my home State of Idaho, approximately 5,500 meals are now served daily under the nutrition program for the elderly. Approximately 5,900 elderly Idahoans are expected to participate in the program 5 days a week by September.

The Senate Appropriations Committee bill would increase the number of meals served to almost 467,000 throughout our Nation and to approximately 6,600 in Idaho.

The title VII program not only offers low-cost, nutritious meals for older Americans; it also provides an opportunity to meet with others. This social function can be as valuable as the meal itself—and in some cases even more valuable, particularly for lonely shut-ins.

COMMUNITY SERVICES

H.R. 7555 would help to make services under the Older Americans Act more readily available to the aged.

The title III State and community services programs of the Older Americans Act authorizes a wide range of services to enable senior citizens to live independently in their own homes.

Many elderly persons are prematurely and unnecessarily institutionalized, simply because few effective alternatives—such as homemaker or home health services—are available. Yet, institutionalization is our most expensive form of care.

H.R. 7555 would provide services to about 25,000 elderly Idahoans, including transportation, home health, homemaker, residential repairs, legal counseling, and employment referral.

ACTION'S OLDER AMERICAN VOLUNTEER PROGRAMS

I am also pleased that the bill would allow more older Americans to participate in the Foster Grandparent, the Retired Senior Volunteer, and Senior Companions program.

Many elderly discover that some of their most rewarding experiences occur when they help others in their communities.

Nearly 15,300 Foster Grandparents provide valuable supportive services for mentally retarded and other disadvantaged children in institutions. Witnesses appearing before the Committee on Aging have emphasized that the program permits thousands of older persons to use their talents and skills to help others, while helping themselves at the same time. In addition, it enables disadvantaged children to grow emotionally, socially, and psychologically.

RSVP—the Retired Senior Volunteer program—and Senior Companions also provide opportunities for persons 60 or older to help others in their communities.

Almost 250,000 older Americans now participate in these three programs: 15,300 Foster Grandparents, 228,000 Retired Senior Volunteers, and 2,600 Foster Grandparents. H.R. 7555 would increase this figure to more than 270,000: 15,700 Foster Grandparents, 250,000 Retired Senior Volunteers and 2,840 Senior Companions.

NATIONAL INSTITUTE OF AGING

The fiscal 1978 Labor-HEW Appropriations Act would continue the activities of the National Institute of Aging.

This Institute is responsible for conducting and supporting biomedical, social, and behavioral research and training relating to the aging process.

Nearly 23.5 million persons are 65 or older. By the turn of the century most experts project that there will be between 30 million and 35 million older Americans.

In terms of sheer numbers, our Nation should be concerned about the impact of the aging process. However, there are other important reasons as well. Health care cost, for example, may be reduced because of discoveries relating to the aging process. With this body of knowledge, greater emphasis can be placed upon preventive medicine, rather than waiting until an illness may reach the serious stage.

OTHER PROGRAMS

Finally, H.R. 7555 would fund other important programs for older Americans:

Multipurpose senior centers;

Training;

Research;

Senior opportunities and services;

The Age Discrimination in Employment Act; and

A home health demonstration program to expand and develop home health agencies and train personnel to staff these units.

Approximately 2,000 senior centers are expected to be funded this year. They can provide one-stop service to meet the elderly's diverse needs: nutrition, health, recreational, informational, and many others.

H.R. 7555 would expand the title IV training program under the Older Americans Act. About 75 colleges and universities now receive Administration on Aging funds to prepare students for careers in gerontology. One of the most serious problems in the entire field of aging is the critical shortage of adequately trained personnel to deliver essential services for older Americans.

Under the Senate bill, about 37,000 persons could be trained on a short-term basis to meet immediate needs at nutrition sites, senior centers, and elsewhere.

For these reasons, I reaffirm my support for the older Americans programs funded by the fiscal 1978 Labor-HEW Appropriations Act.

Mr. INOUYE. Mr. President, I speak in support of the committees' recommendation for the appropriations for nursing education.

Those of us that follow health issues closely know well the concern of the public and the administration, as well as ourselves, for the increasing cost of health care. Health services delivery agencies are big business and we need to have qualified people administering them.

Are you aware that 40 to 60 percent of hospital operating budgets are for the nursing department budget? Directors of nursing are responsible for millions of dollars a year. One hospital in Georgia for example, has a $12 million nursing budget, while one in Boston is more than $25 million. Surely we have to see that those directors of nursing have good educational preparation to assure good administration.

Likewise, with the billions of dollars going into nursing care nationwide, how can we possibly not approve the $5 million for nursing research projects as requested by the committee. In fact, I think that item is much too low.

I know how hard it is for low- and middle-income families to send children to college. Nursing loans and scholarships

have greatly helped us meet the country's need for nurses.

I heartily support this nursing budget and I urge our conferees to stick to it in the conference.

Mr. SASSER. Mr. President, I commend the distinguished chairman of the subcommittee, Senator MAGNUSON, and the ranking Republican member, Senator BROOKE, for their hard work in producing this bill.

This piece of legislation is certainly one of the most important bills which will come before the Congress this year.

It has aptly been called the people's bill. It provides funding for health, education, and job-training programs in addition to various public assistance payments to low-income Americans.

There have been press reports which indicate that the President might veto this bill. I hope he does not. It is true that this bill is a very large bill. It provides more than $60 billion for the various programs of the Departments of Labor and Health, Education, and Welfare. But this bill is a balanced piece of legislation. The Senate Committee on Appropriations, I believe, has acted very responsibly in reducing the amount approved by the House by almost $600 million.

There are two items in this bill which I would like to bring to the attention of the Senate.

First, the bill provides funding for capitation grants to medical, osteopathic and dental schools. This program is for general operating funds of these health profession schools. The funds are awarded to these institutions on a formula basis—each school gets a certain amount for each student.

The needs of this country's medical schools are increasing every year. Inflation is taking its toll in the education field as well as throughout the whole economy. At the same time, enrollments at these schools are increasing. There is little doubt of the growing need for qualified medical personnel in this country, and we must assist these institutions in every way possible in order to meet our national health manpower needs.

Adequate capitation funds are necessary for all medical institutions but they are vital if our minority medical schools are to remain a viable resource.

Let me say that I was disappointed that the Carter administration only provided $114 million for this program in the fiscal year 1978 budget request. This amount was actually $2 million less than was requested earlier in the year by the previous administration. However, this amount is an increase of $13 million over the current year, and I believe it to be a minimum amount necessary for this program.

The House of Representatives earlier in the month provided $120.1 million for MOD. capitation grants. I was hopeful that the Senate Committee on Appropriations would go along with the House and recommend this increased level of funding. However, the bill before us today provides only $101.1 million. This is the same amount as for the current year and is a reduction of $13.4 million from the amount recommended by the administration, and it is $19 million under the amount approved by the House.

Mr. President, it is my information that the amount in the Senate bill will not provide adequate assistance to our Nation's medical schools. I want to take this opportunity to encourage the Senate conferees to agree to the House-passed amount for capitation grants.

At a minimum, I would hope that the committee of conference will provide the amount originally proposed by the administration. This would be a compromise between the Senate and House figures and would provide a minimal increase over the current year and would continue to provide needed funds to these medical institutions.

Second, I want to point out that the Appropriations Committee approved a total of $4 million for financial distress grants to minority medical schools. This funding is twice the amount requested by the Administration and approved by the House.

I want to congratulate the committee for taking this action. There are several minority medical institutions in this country which are finding it very difficult to survive the inflationary pressures on education.

These additional funds will assist these schools by providing needed financial assistance funds which are available to only the neediest of institutions.

I want to encourage the Members of the Senate who will be participating in the Senate-House conference committee to insist that the $4 million for financial distress be maintained and approved. The amount provided in the bill is an increase of $2 million over the budget, but it is still $1 million short of the authorized level. These funds are needed; they are necessary. I hope the bill we finally send to the President includes the funding as proposed by the Senate.

Mr. President, in connection with financial distress funding, I want to direct the Senate's attention to the critical financial condition of Meharry Medical College in Nashville, Tenn.

Meharry is just entering its second century. For more than 90 years it has been at the forefront of minority medical education. More than half of our country's black physicians and dentists have been educated at this college.

Meharry is a truly national resource. Currently about 20 percent of all black American students attending medical schools and 30 percent of all black dental students are located at Meharry. It should be pointed out that all but 88 of the school's 642 students are from States other than Tennessee. Currently more than 500 persons are enrolled from 38 States, and the majority of these students will practice in States other than Tennessee once they graduate.

Relative to the school's total budget, Meharry receives about 16 percent of its financial support from private grants. This represents a far greater proportion of private grants than any other medical school in the country. Tuition and fees at Meharry provides 13.5 percent of the school's overall financial support, compared to only 4.3 percent of other medical schools. I also want to point out that the school receives only a limited amount of support from State and local sources. Meharry is a free-standing private medical college. This school has a per capita expenditure for each student that is 90 percent of the national average. In addition, it has a retention rate of 98.8 percent, the highest of all the national medical institutions. In other words, Meharry is doing more for less.

This institution, however, is facing an uncertain future. In the current school year Meharry is facing a deficit of several million dollars—a large sum for a relatively small institution. The school is facing this deficit although there has been a tremendous outpouring of public support. In 1968, Meharry began an effort to raise $55 million in private funds—six times as much as the school had raised before with any single fundraising effort. Almost $40 million of this goal has been reached.

Meharry has found it necessary to increase tuition by $1,250 for the next school year. This increase will make the tuition $4,000 per year. It must be kept in mind that a majority of minority students enrolled in the medical and dental schools come from families with incomes under $5,000 per year. More than 80 percent of Meharry's students presently receive financial assistance in the form of scholarships and loans.

The school is attempting to solve its problems with a minimum of Federal help. However, despite all these efforts, I am concerned for the long-term viability of this national resource due to a lack of funds. I have just been informed that the dental school is facing the very real possibility of losing its accreditation this year because of the school's fiscal situation. Also, this year the Liaison Committee on Medical Education will review the accreditation of the medical school, and the financial needs of Meharry will certainly influence that committee's recommendations.

There is no doubt that there continues to be an overall shortage of minority health professionals throughout the country. Only 2 percent of the total physicians and dentists in the country are black. Each year Meharry is providing superior-trained medical personnel to help meet this shortage. Eighty percent of Meharry's students set up practice in the underserved rural and inner city areas of the country.

Mr. President, the Appropriations Committee has recognized the special needs of Meharry Medical College. During the committee markup, the distinguished chairman of the subcommittee, Senator MAGNUSON, called attention to the fact that of the Nation's financially distressed minority medical institutions, Meharry is probably in the worst condition.

In addition, the committee provided language which directs the Health Resources Administration to give special consideration to Meharry.

The committee also provided report language to the effect that financial distress grants should be allocated on the

basis of current need and greatest merit. I believe that Meharry Medical College certainly fits this category. Its financial situation is deteriorating although the school's administration is making every effort to improve its fiscal condition. I hope that the Department of Health, Education, and Welfare will review Meharry's applications for assistance for financial distress grants and other programs with the committee's report language in mind. I wish to point out that Meharry needs at least $3 million in Federal supports next year.

Mr. President, in summary, this is a good bill. I strongly support the programs and policies which are funded by this legislation. I hope the Senate will adopt the bill. I hope the conference committee will follow the recommendations I have made. And finally, I hope the President will sign it.

THE FIGHT AGAINST DIABETES

Mr. SCHWEIKER. Mr. President, I rise in support of the Labor-HEW appropriations bill, and wish to direct the attention of my colleagues to one important feature of the health portion of the bill, the continuation of the Federal effort against diabetes. As is probably well known, I have taken a special interest in this problem, and therefore it is with particular pleasure that I note the action of the Senate Appropriations Committee in this regard.

In the last several years we have become increasingly aware of the need to make diabetes a top health priority. For a long time, diabetes was thought to be controllable through the use of insulin. Gradually, though, we became aware that diabetes was linked to heart problems, vascular problems, eye problems, and other complications.

Seeing the need to define the nature and extent of diabetes, Congress in 1973, under legislation introduced by myself and others, created the National Commission on Diabetes. This distinguished body, led by Dr. Oscar W. Crofford of Vanderbilt University, called together leading diabetes researchers, held hearings across the country, and, in December 1975, issued a 10-volume report. The highlight of the report was the Long-Range Plan To Combat Diabetes, a coordinated program of diabetes research, training, and service developments to be implemented over the following 5 years.

One part of the commission's plan which I introduced as a legislative proposal was enacted last year, when Congress created the National Diabetes Advisory Board. This board, whose chairman is Dr. David M. Kipnis of the Washington University School of Medicine in St. Louis, has now met several times, and is actively engaged in reviewing the Federal diabetes effort and developing new programs for the future.

Perhaps the most important part of the long-range plan is the program for Federal research support, coupled with budgetary recommendations for the various National Institutes of Health. I would like to include in the RECORD at this point a summary table of these funding recommendations.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NATIONAL COMMISSION ON DIABETES NIH RECOMMENDATIONS BY INSTITUTE—INTRAMURAL AND EXTRAMURAL (FISCAL YEARS)

[In thousands of dollars]

	1976		1977			Commission recommendations [1]			
	1975 actual	Commission [1]	Actual	Commission recommendation [1]	Congressional action	NIH planned allocation	1978	1979	1980	1981
NIAMDD	18,373	28,116	18,348	46,717	39,826	39,826	64,453	87,877	105,032	120,250
NHLBI	5,588	7,109	[2] 7,070	8,933	9,700	9,700	12,350	13,585	14,845	16,330
NEI	4,763	6,931	5,246	9,840	10,041	[3] 9,065	11,500	14,000	15,500	17,667
NICHD	1,476	3,170	2,230	4,815	4,340	4,340	6,166	7,928	10,300	12,363
NINCDS	[4] 782	1,760	331	2,149	2,000	1,860	2,400	2,600	2,800	3,000
NIDR	427	769	400	1,099	600	600	1,467	1,866	2,281	2,766
DRR	5,733	6,658	6,075	8,093	6,324	6,324	9,186	10,284	11,334	12,712
Other [5]	2,053	2,250	2,515	2,462	2,437	2,437	2,661	2,843	2,997	3,160
Total	39,195	56,763	42,215	84,108	75,268	74,152	110,183	140,983	165,089	188,248

[1] Commission recommendations for fiscal year 1976 through fiscal year 1981 are stated in current dollars and, therefore, may differ from levels shown in the Commission's Dec. 10, 1975, report, which were stated in constant dollars.

[2] Additional $2,500,000 spent during the fiscal year 1976 transition quarter.

[3] NEI has based its allocation on an apparent misinterpretation by NIH on the effect of the House allowance. However, the House report indicates (p. 23) that there is a total increase for diabetes in NIH of $27,000,000. This amount can be arrived at only by using the $3,500,000 figure for NEI rather than the $2,500,000 assumed by NIH.

[4] Restated actual figure for fiscal year 1975. Previous report showed $1,365,000.

[5] Diabetes research effort in Institutes not directly affected by Commission's recommendations (National Institute on Aging, National Cancer Institute, National Institute of General Medical Sciences, National Institute of Allergy and Infectious Diseases, and National Institute of Environmental Health Sciences).

Mr. SCHWEIKER. Earlier this year, I was privileged to chair hearings on this bill where we heard from the National Institutes of Health on diabetes, and then later from representatives of the National Diabetes Advisory Board, the Juvenile Diabetes Foundation, the American Diabetes Association, and the Pennsylvania Diabetes Institute. These witnesses reviewed the progress we have made in the fight against diabetes at NIH. We have learned much about this disease, and we are moving faster than the commission expected in its 1975 report. Most of the nongovernmental witnesses endorsed the commission levels as the figures that should be approved by the Congress. From what I heard then and have learned since, I believe that these amounts could be effectively used in diabetes programs, and I have worked to have those figures adopted in this bill.

Therefore, I am very pleased with the levels for diabetes research provided in H.R. 7555. When this bill was considered in the full Appropriations Committee, we added $20 million for diabetes research in the National Institute for Arthritis, Metabolism, and Digestive Diseases. The Labor-HEW Subcommittee had earlier approved adequate levels for diabetes in the other institutes, but because of the concentration of diabetes research in NIAMDD, additional money was needed and was provided.

I would like to include at this point in the RECORD a chart indicating the amounts provided for diabetes in this bill. These amounts represent the judgment of the NIH Directors as to how they would divide up the amounts provided by the Senate committee, following the indications of interest in this problem contained in the committee's report filed with this bill. In some cases, notably at NHLBI and NINCDS, the Institute actually intends to spend more on diabetes than the commission had proposed 2 years ago. These increases reflect the progress that is being made in the important research areas of neuropathies and vascular complications from diabetes, which are the areas that cause the most frequent deaths from the disease.

I ask unanimous consent that that table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

APPROPRIATIONS FOR DIABETES RESEARCH, NATIONAL INSTITUTES OF HEALTH

	1976 actual	1977 appropriation	1978 President's budget	1978 House allowance	1978 Senate allowance
National Institute of Arthritis, Metabolism, and Digestive Diseases	$14,538,000	$35,727,000	$34,012,000	$40,012,000	$63,512,000
National Heart, Lung, and Blood Institute	7,000,000	11,900,000	12,400,000	12,800,000	14,200,000
National Eye Institute:					
Diabetic retinopathy	5,008,000	6,627,000	6,563,000	7,724,000	7,724,000
Diabetes total NEI	5,246,000	9,065,000	9,065,000	10,565,000	11,517,000

	1976 actual	1977 appropriation	1978 President's budget	1978 House allowance	1978 Senate allowance
Research resources	6,075,000	6,355,000	7,378,000	8,253,000	7,783,000
National Institute of Child Health and Human Development	2,230,000	4,619,000	4,750,000	5,750,000	5,900,000
National Institute of Neurological and Communicative Disorders and Stroke	1,605,000	1,860,000	1,931,000	3,380,000	3,380,000
National Institute of General Medical Sciences	775,000	1,000,000	1,000,000	1,300,000	1,300,000
National Institute of Dental Research	400,000	600,000	600,000	600,000	600,000
National Institute on Aging	490,000	563,000	575,000	650,000	575,000
National Cancer Institute	235,000	250,000	250,000	250,000	250,000
Total	38,595,000	71,939,000	71,961,000	83,560,000	109,017,000

Mr. SCHWEIKER. I believe that members of the subcommittee and the committee deserve a word of thanks for supporting these levels for diabetes. These figures will allow proper emphasis at NIH for diabetes, the third leading cause of death in this country.

Finally I would like to add some comments about the new administrative directions being taken at the National Institutes of Health with respect to diabetes. I have had several opportunities to speak with the very competent Associate Director for Diabetes, Dr. Lester Salans, who is located within NIAMDD but is charged with coordinating the entire diabetes effort. Dr. Salans is currently working to set up, under the sponsorship of the Director of NIH, Dr. Donald Fredrickson, the Intra-NIH Diabetes Coordinating Committee, which should begin operation later this summer.

This committe will contain top representatives from seven or eight institutes which carry on various aspects of diabetes research. It is important not only in the context of diabetes but also as a model for other systemic diseases that cross institute boundaries. I would like to salute Dr. Frederickson for this leadership in this effort, and hope that it can effectively span the jurisdictions of the various institutes of NIH that can sometimes get in the way of effective biomedical research. The Diabetes Committee will work to assure that the money we approve will be used effectively and innovatively, and that the various institutes cooperate in diabetes research, thereby guaranteeing the most productive use of these tax dollars.

Therefore, let me again say that this bill takes us a long way toward full implementation of the long-range plan to combat diabetes, and I think it deserves the support of every Member of this body.

FAMILY PLANNING

Mr. BAKER. Mr. President, I note with pleasure that the Appropriations Committee has recommended funding for family planning services authorized by title X of the Public Health Service Act at a level of $140 million for fiscal year 1978. This figure represents an increase of $26.3 million over the amount appropriated last year. While I wish the amount could be larger, it represents a renewal of the Congress' commitment to voluntary family planning services and will permit the many successful programs now in operation throughout the country to continue.

Mr. President, the family planning program has been among the Federal Government's most successful efforts. Since 1970, when title X was enacted, a total of $584.3 million has been appropriated. A recent article by Frederick S. Jaffe and Phillips Cutright in "Family Planning Perspectives" estimates that 1.9 million unwanted births among low- and marginal-income women have been averted, at a saving in Federal expenditures of $1.07 million. The benefit/cost ratio of the family planning program has been 1.8 to 1.

While the success of the program in terms of savings in Federal expenditures is good news, the benefits which have accrued to low-income women and families are also great and harder to measure.

I am proud that my own State of Tennessee is now the fourth largest provider of family planning services in the Nation. During fiscal year 1977, $6.6 million was spent to provide family planning services to almost 128,000 patients. Even with its remarkable record, however, there is room for improvement and expansion in Tennessee's program. One-half of the women in my State in need of family planning services did not get them in 1976 because of inadequate funding.

I hope, Mr. President, that we in the Senate will keep in mind the need for future increases in funding for title X in order to meet the goal of making family planning information and services fully available on a voluntary basis to all those who need them.

INTERDISCIPLINARY TRAINING PROGRAM

Mr. EAGLETON. Mr. President, I am very pleased that the bill, as reported by the committee, includes $5 million for the newly authorized interdisciplinary training and curriculum development program. As you will recall, the type of activity contemplated by this new authority is the same as that funded previously under the special projects program for schools of veterinary medicine, optometry, podiatry, and pharmacy.

I would like to briefly review some of the accomplishments of the special projects program. Of particular interest to me was the development, by the colleges of podiatric medicine, of a deferred cost of education plan for health professions students. As a direct result of this study, I offered an amendment to the Health Professions Educational Assistance Act of 1976 to establish a new federally insured student loan program specifically for health professions students. Although regulations for the program have not yet been promulgated, I believe that this new student assistance mechanism will, when implemented, shift a great part of the cost of health professions education from the Federal Government to the students.

Another project funded under this program led to the implementation of an interdisciplinary education program. Developed by one of the colleges of podiatric medicine in conjunction with schools of osteopathy, nursing, pharmacy, and optometry, it is designed to prepare students for team delivery of health care services, a concept which many believe will have significant impact on our entire system of health care delivery. This program is now completing its second year of operation, and I believe it is vitally important that it continue to be supported under the new funds contained in this bill.

Finally, Mr. Chairman, two feasibility studies relating to the establishment of new colleges of podiatric medicine in underserved areas are currently being conducted. The podiatric manpower shortage appears to be most severe in the South, and it may be that the studies will recommend the establishment of one or more regional podiatric medical schools. Here too, special project funds should be available to assist in developing that regional approach.

Mr. Chairman, I hope that the Senate will be able to prevail upon the House to accept these funds in conference.

Mr. MAGNUSON. I, too, fully support the Senate level of funding for the interdisciplinary training and curriculum development program. I believe that the innovative projects which the Senator from Missouri has described must continue to receive support to help us reach our goal of improving health professions education which will ultimately lead to improved quality of health care and greater accessibility to that care for all of our citizens.

A POSITIVE COMMITMENT TO JOB CREATION

Mr. HUMPHREY. Mr. President, the HEW and Department of Labor appropriations bill is one more positive commitment to provide decent employment to the people of this country. It is our pledge to continue the fight to alleviate high unemployment and to provide meaningful jobs for all Americans willing and able to work.

This appropriations bill carries our fight forward by providing the necessary level of funding for some of our key manpower programs. Most importantly, it provides for further funding of the Comprehensive Employment and Training Act, the cornerstone of our manpower policy. Although no forward funding for public service jobs into fiscal 1979 is provided in the bill, we will consider such funding in a supplemental appropriations bill later this year. We will also consider increased funding of the youth employment program in that supplemental bill.

The bill also reflects our continuing concern for disadvantaged youth. It increases the funding of the Job Corps program which provides low-income, dis-

advantaged youth with vocational training, education, counseling, and work experience. This program is a key component of our effort to help move disadvantaged youth into the mainstream of American life. America's youth want jobs, they want to be productive, they want to work for a living, they want a fighting chance and this program helps provide them with that opportunity.

In addition, this legislation substantially increases the number of summer jobs for youth. Last year we provided funding for the creation of just over 1 million jobs for the summer of 1977. This bill increases funding for the summer youth employment program so that next summer, 1.5 million job opportunities will be available.

While it will not provide job opportunities for all the young people who will be looking for work next summer, it does reflect our commitment to build and improve existing programs that have proven so effective for millions of young Americans.

Mr. President, although the bill reflects our strong commitment to alleviating unemployment, I think we need to realize how far we still have to go to achieve that goal. In May, more than 2 years after the economic recovery began, the official unemployment rate was 6.9 percent. Except for the 1957–58 recession, that is higher than the rate at the trough of any recession since the Great Depression. Unemployment continues to deal devastating blows to the hopes and aspirations of millions of Americans.

I am pleased to support this bill and hope that we will continue to support efforts to create jobs so that the millions of Americans, ready, willing, and able to work, can find meaningful employment.

NATIONAL CANCER PROGRAM APPROPRIATIONS

Mr. HUMPHREY. Mr. President, just last week I testified before the House Intergovernmental Relations and Human Resources Subcommitte oversight hearings on the national cancer program.

I testified because I believe there is a serious danger that those of us who conceived this program, and who are called upon to oversee and to fund it, may grow tired and discouraged, and weaken in our commitment.

It is important to reiterate that we began in 1971 a concerted attack against one of mankind's oldest enemies. We are determined to control and conquer this dread disease, but I do not think we can realistically expect to overcome an age-old enemy in a mere 6 years.

In assessing our progress, we should give due recognition to the strength of the enemy. Cancer is not one but many diseases. It has plagued men for centuries. We cannot hope for victory overnight.

But we can expect, and we have achieved, progress in both basic research and improved clinical care. The National Cancer Act did not promise us early victory, but a better program and progress. I maintain that our expectations have been met, in some cases dramatically.

I would like to ask unanimous consent that my testimony be printed in the RECORD at the end of my statement. It underlines the need for continued strong financial commitment.

To stand still is to fall behind and to waste human resources and facilities that are prepared and mobilized to move ahead. We must give this program the financing that will permit it to move ahead strongly and confidently.

Doubt was expressed at the House hearing as to the ability of the program to absorb limitless funding. But we are millions of dollars from reaching that saturation point. Because there are many strong competing demands on our limited Federal dollar, we have never matched authorization with appropriation and, after quite a few conversations with my good colleagues from the Senate Labor-HEW Subcommittee, I accept the realism of their proposed funding. But I want to emphasize very strongly that we need and can use every penny of this $920 million on this Nation's cancer program.

I congratulate the subcommittee for its wise and judicious increase over the House-proposed level. This amount is the minimum amount required to maintain the momentum of the remarkable research efforts underway. To provide less is to jeopardize the investments we have already made.

In light of the challenge we face, and measured against the terrible human and economic toll of the insidious enemy we confront, this is a very reasonable investment. Under no circumstances should this amount be bartered away.

I would like to clarify another aspect of this bill. I wrote the distinguished Appropriations Committee Chairman, Senator MCCLELLAN, of my interest in a specific program, the grant-supported bladder research at St. Vincent's Hospital in Worcester, Mass.

As I mentioned in my letter, Dr. Friedell, the project director feels that a continuation of current funding for the center would impose a serious constraint on plans to expand clinical investigation without neglecting basic research. The project was allotted $4 million under the National Organ Site Program of the Division of Research Resources and Centers. It will be very difficult to maintain research efforts in both basic and clinical areas without a large budget increase to $5 million in fiscal year 1978, $6 million in fiscal year 1979 and $7 million in fiscal year 1980. It was proposed that this funding priority be established as a line item designation in the appropriations bill. I am convinced personally that bladder cancer deserve greater research priority if we are to control or reverse 29,900 new cases each year, and to reduce the 9,800 bladder cancer deaths annually. It is important to note, as well, that bladder cancer is one of the most costly cancers, both in treatment and in reduced earnings.

I note that no line items appear in the appropriations bill. I would like to ask my colleague, the distinguished chairman of the subcommittee, Mr. MAGNUSON, if he does not agree with my assessment of the need for a greater emphasis and funding for this priority program?

Mr. MAGNUSON. I would like very much to accommodate my friend and colleague from Minnesota. However, our committee has consistently avoided including line item designations in cancer and all NIH funding. I am sure you understand that admitting one exception would open the door to a flood of equally worthy cancer projects, and pull this committee into program administration.

Mr. HUMPHREY. I do not suggest that research on any one type of cancer be done at the expense of other vital areas of research. But I believe it is legitimate to recognize that bladder cancer has been a neglected area of research, that the need for increased understanding and better treatment is acute, and that the project I cite is on the threshold of significant progress. It is not so much a question of priority as of timing. I believe that this consideration should guide the efforts of the NCI, and the timely support it dedicates to this worthwhile project.

Mr. MAGNUSON. I understand your concern. Certain areas of the United States have now been identified as producing a high incidence of certain types of cancer. I understand that the death rate for bladder cancer is especially high in New Jersey. Research priority should be given to bladder cancer as one of the more costly forms of this disease both in terms of treatment and lasting physical impairment. I will be glad to go on record with my distinguished colleague in identifying bladder cancer research as an appropriate focus for intensified research efforts.

Mr. HUMPHREY. I thank the distinguished Senator from Washington for his response to my concern. I trust that the National Cancer Institute will give careful consideration to the need to provide adequate funding for the programs under this important project on bladder cancer research.

Mr. President, I ask unanimous consent that my testimony to the House Subcommittee on Intergovernmental Relations and Human Resources regarding the National Cancer program be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman, may I just very quickly thank you for permitting me to testify before your subcommittee. You are very gracious and generous to make this time available. I welcome the opportunity to place in the public record my opinion—and that is what it is, just my opinion—on the progress and achievements of the National Cancer program, as well as some of its problems.

The National Cancer Act, as we know, was passed in 1971 because Congress and the American public wanted to give a high priority to combatting the disease most feared by a majority of Americans.

I came back to the Senate in 1971 and this was one of the first pieces of legislation that I became involved in. The genesis of it was earlier but it came into being in 1971.

Each year we are called upon to justify the priority that we gave to the National Cancer Program, and rightly so. A simple statement of fact, however, does that.

Cancer is a scourge—it is a plague—that strikes two families in three or one person out of every four Americans. It kills more

children between the ages of 3 and 14 than any other disease. Cancer killed more Americans in 1971 than in the four years of World War II. Vietnam deaths from 1961 to 1976 took 46,498 lives—a terrible, tragic toll. However, in the same period, cancer killed five million Americans.

This just gives us a picture of what we are combatting—the nature of the struggle, the tenacity of the enemy called cancer. In addition to the personal tragedy and suffering, the economic loss is staggering. If you add the estimated cost of treatment to lost productivity, a conservative total cost is $25 to $35 billion each year. That is just the money part of it—it is impossible to estimate the heartache, the tragedy, the pain, the suffering, the uncertainty, the fear.

I do not think an investment of under $1 billion is too much to try to stem this tragic waste of human and material resources.

We are waging a war against an enemy that we cannot see, at times, in terrain that is unknown. Yet we have to wage it because this enemy continues to take a terrible toll of our people, and that toll has been increasing. It is almost at plague proportions, epidemic proportions.

In the Cancer Act, we declared war on this dread disease, and I do not think that we should retreat or put up the white flag.

Perhaps our original expectations were too high. That generally happens, you know. To sustain our determination year after year, to invest the necessary resources, to make advances little by little when afflicted individuals and families need and want help and a solution right now—that is a task that understandably tries human nature and patience.

People become desperate. They want answers. I saw a brother stricken down by the disease. I saw a son with Hodgkin's. By the way, that was 13 years ago. He is, today, a very healthy, active, successful young man.

It also is human nature to react to disappointment by seeking a culprit. We have mobilized our efforts against cancer. We have dedicated enormous resources to its eradication. But people still are suffering and dying from cancer.

So, theory and logic goes, somebody must be at fault. The logic may lead to sensational press copy, but not to sound public policy.

There is nothing sacrosanct about the National Cancer Program and it ought to be looked upon with complete objectivity. Congressional oversight is not only appropriate, I happen to think that it is essential.

Firm standards and clear objectives underlie any successful endeavor and this program, like any other, ought to be monitored, it ought to be checked, and Congress has that responsibility. I have no doubt that we can find instances of error and waste because we are waging a war against an enemy that is very elusive, an unbelievable coalition of enemies, because cancer is not any one disease, any one type.

In that process, there is no doubt that you will waste some resources in terms of getting results. That is the picture of war.

We can and we should demand that this element of waste and error be corrected, but I strenuously object to any attempt to discredit and abandon a noble venture simply because we are in a hurry. That is not a good argument for starting over or abandoning our efforts.

Research is a process of discovery, and results can never be guaranteed. Even the inevitable blind alleys, however, sometimes help to focus research on the real options. The significant questions to be asked concern the validity of our priorities, and whether progress has justified if not our unrealistic hopes, at least our investments.

Let me address briefly the question of achievements. In 1971, we began a concerted attack against one of mankind's oldest enemies. For centuries, man had been virtually helpless to prevent, arrest, or cure cancer. The difficulty is compounded because, as I have said, cancer is not one but many, many diseases.

The annual report of the Memorial Sloan-Kettering Cancer Center in New York City says, of the basic research required, "The net that must be cast is almost as wide as the whole field of biomedical science."

I mention this because we speak about cancer as though it were something like smallpox—one type. It is many things. There are many types, and there are so many unknowns.

In confronting this towering challenge, the National Cancer Program—I happen to believe—has made enormous strides in both basic research and improved clinical care. The National Cancer Act did not promise us an early victory, but it did promise a better program and it did promise progress.

I maintain that our expectations have been met and, in some cases—thank God—dramatically. This year, half of all the new cancer cases can and should be arrested or cured. I tell you, that is something. That is a remarkable achievement.

In the 1930s, less than one victim in five lived five years after treatment. In the 1950s, the ratio was one in four. Today, it is one in three. Progress. This translates into thousands of lives saved, an unbelievable amount of suffering avoided, an incredible amount of economic loss prevented.

There are three million Americans alive today with a history of cancer and most of them can be considered cured.

Promising developments are occurring in treatment. Retinoids, a combination of natural and synthetic Vitamin A, offer new hope for cancer prevention. At least, it is a hope and is being tested.

New methods—such as combined drug treatments, blood transfusion, immunotherapy, CAT scanning, and ultrasound detection of tumors—have been developed and disseminated. Modern surgery gets better results with less radical operations; radiation therapy has fewer side effects; and chemotherapy attacks some advanced cancers and prevents some tumor recurrence.

It is not easy to compile, ir six years, statistics for a disease which is not considered cured until a lapse of at least five years after treatment. You are running against your own timeframe, but there are some measurements by which we can assess the value of the program.

In less than ten years, the five-year survival rate for patients with Hodgkin's disease has risen from 68 to 90 percent for early cases, and from 10 to 70 percent for advanced cases. When my son got Hodgkin's disease, in 1964, I felt terror.

I will never forget when my wife told me that the exploratory operation that my son, Robert, had, confirmed that he had Hodgkin's disease. If somebody had taken a hot dagger or poker and plunged in into my heart, it could not have been worse.

However, 13 years have passed, and as a result of care that he received from the Cancer Center at the University of Minnesota, today he is healthy, strong, and I hope he will be successful.

Ten years ago, the survival rate for childhood leukemia was 15 percent. Today there is a 50 percent chance of survival.

I think Dr. Holland, from Mount Sinai Hospital in New York, testified on the remarkable progress in breast cancer. The same is true of bone cancer. The treatment for bone cancer has shown really remarkable advances.

Not all cancers have shown the same dramatic improvement, but each has shown a significant and heartening advance. Each person saved is a victory and vindication of our efforts.

Treatment could save 345,000 lives, or half of the persons who get cancer, each year. For others, research holds the only hope. It was just my luck to get a form of cancer in which they have not made that much progress, but I intend to have them use me as a sort of test. We are going to make the progress. It can be done.

We do not and should not make a distinction of value between the lives that can be saved or lengthened now and those that will be affected by long-term research. Patients today, throughout the United States, have greater hope because the National Cancer Program has established 18 comprehensive cancer centers as focal points for research, diagnosis, treatment, and rehabilitation to provide both standards of excellence and a resource for surrounding community hospitals.

These cancer centers give people by the hundreds of thousands hope that they will survive. In this battle against cancer, hope is a very significant part of the total equation.

Finally, the either/or purists charge that environmental causes of cancer have been neglected, and to a degree they are right. For many years, Americans saw industry and technology as the all-powerful twin engine powering America's welfare and progress.

There was a complacent belief that the ravages of technology could always be cured by a different dose of technology. We have learned to respect God's creations more in these last few years—both our natural surroundings and the fragile and marvelous human body.

This emphasis must be incorporated in our National Cancer Program which has reflected, to a degree, the bias and blindness of our society. In other words, more emphasis must be placed on the environmental aspects.

We know now that environmental conditions are factors in from 70 to 90 percent of cancer which is, thus, potentially preventable—but I want to say that it is going to take some doing and Congress and the public are going to have to pour in the resources if we really mean it.

It does no good to talk about a healthful environment—about the birds and the bees and the pure air—unless you are willing to put the money on the line. It is going to take billions, but you are going to save millions of lives. It is a question of whether you want to save your money or save your life.

There are no checking accounts or savings accounts in either Heaven or Hell, so I think what you have to do is try to save your life.

I support increased funding. I have in the Senate in the past, and I will continue to do so. I support emphasis on programs to explore, identify, and eliminate the environmental causes of cancer, and to clarify its relation to nutrition.

Let me put in a plug here for nutrition research and for nutrition education. I think that it is imperative that, in this cancer program, we put a great deal more emphasis upon nutrition. It is going to be a difficult problem to change the eating habits of the American people, but I am convinced that we are eating ourselves into cancer, Mr. Chairman, in part, and I am convinced that we have to place much more importance on this.

This is a place where we can combine the efforts not only of the NCI and the NIH, but of the Department of Agriculture and all that we do in the field of nutrition research as well.

Now, nutrition research is underway at Baylor University and other places, but it is new. Most of our doctors, Mr. Chairman, have had no more than minor courses in nutrition—it has never had a major place in their education.

Therefore, nutrition needs new emphasis. There is no doubt whatsoever in my mind

that prevention is always preferable to cure. NCI is expanding its test program for chemical compounds and we need to strengthen this priority, but we must also recognize that the National Cancer Institute's mission is to promote the use of cancer knowledge; to define, apply, and refine cancer treatment; and to seek new solutions and knowledge through research.

I repeat that research may lead you up a thousand blind alleys but, in each blind alley, you may find a little clue. Every once in a while, you find a clear channel.

We are learning so much today about the cell, we are learning so much about our bodies, and we have learned most of it in the last 10 to 15 years. Much of it is due to the fact that the Government of the United States—working in cooperation with private organizations, our great universities and laboratories, and the pharmaceutical institutions and others—has pushed ahead on research to discover the causes of cancer and its treatment.

In that process, we are discovering many other things that have no relationship to cancer, but which are very definitely helpful to our general mental and physical health.

I would remind you that the National Cancer Institute is not a regulatory agency. I do not need to remind you, you know it. I just want to emphasize it. It is a research, diagnostic, and treatment instrumentality.

In short, the National Cancer Program now—to put it in perspective—is not above criticism and doctors, as well as Congressmen, find that it has shortcomings.

However, its priorities, I submit, can be defended. Its progress can be defended. It does not do any good for the media of this country or anybody else to downgrade its effectiveness and its achievements.

When you have this disease, you have to have hope that you can live. You have to have hope that your loved ones will not get it.

When you read these spreads where somebody points out that something did not work or that some money was wasted, it sends a terrible jolt through you. You begin to feel it is all useless, all hopeless.

I am here to give some good news. I know that there is a lot of bad news in the world.

The good news is that we have made progress. I do not know if that is going to make any headlines, but it will save some lives.

I think it is time that America starts to get some good news about something. That is why I am over here. That does not in any way—nor should it in any way—deter us from being analytical and constructively critical about everything that we are doing.

We need to constantly improve. There are young men and women coming out of our universities and our medical schools who are literally geniuses, who are working in this field trying to find the causes, the treatments, and the cures for cancer.

In the process of doing this, they are improving our total health. We have built a solid platform of knowledge, institutions, and organizations and trained specialists.

Fortunately, my fellow Members of Congress, these great cancer centers that are spotted around our country are within reach of our people. The outreach of information from these cancer centers to the local doctor is phenomenal.

Today, doctors know where they can send their patients, they know where the treatmet can come from for any particular type of cancer, they know where the specialists are. If we did not get anything else out of this program other than simply to know where to go, it would be worthwhile.

As new ideas develop, we have the skilled workers and the equipment to test them quickly. Moreover, there is a geometric progression to knowledge. We would be ill-advised to begin weakening, retreating, or dismantling the world's most intense professional and coordinated attack on cancer.

If we can break through on cancer, we will do more for the world than the mind of man can even imagine. This would be an incredible benefit because cancer knows no race, no geographical area, no sex, no color, no religion. It hits us all.

I am proud that America is willing to put huge resources into cancer research and the cancer treatment program. This is what we ought to be known for, not that we are going to get a B–1 bomber or not that we have a huge missile. The Russians have that, too, and they can build them as good as we can.

But we have the finest technicians, doctors, scientists, researchers, and specialists in the world in this field, and we are spreading that knowledge out and bringing other people in, in a great international effort to find the answer to this dread killer.

I conclude by saying—and you know it and I know it—that nothing worthwhile is achieved easily. You have to live with frustration as a Member of Congress. It takes so long first, to get anything done because we have all the different points of view—which is good—and then, when you finally get something set up, it takes time to get it moving.

Once you get it set up, you have all the counterforces that think they know how to do it a little better than the other fellow, but that is the competitive nature of our system. That is why we do better.

Sometimes it is a little inefficient. Sometimes it is a little slow. But, it works—and I think the record speaks for itself.

To reverse the strides already made would be an unconscionable waste of our previous investments but, more importantly, it would literally be a retreat from what we know is right. We must maintain and expand—and I underscore the word "expand"—the war on cancer, and we must do so under the scrutiny and healthy skepticism of the public and its elected representatives.

You see, I want to win this war before it is too late. I have a personal stake in it, and I am going to be very unhappy if they find a cure to what I had just about two days after I am dead. That would make me very, very unhappy. I would most likely rise up and complain. I just wanted to express my heartfelt feelings and sense of purpose.

NUTRITION EDUCATION FOR THE ELDERLY

Mr. HUMPHREY. Most American consumers have remarkably little understanding of the foods they should eat. Understanding dietary requirements, however, is particularly difficult for the aged. The metabolic changes that accompany aging reduce an individual's caloric needs while necessary levels for protein, vitamins, and minerals remain constant. The lack of nutrition comprehension among the elderly is reflected in our skyrocketing health care costs and the huge numbers of elderly requiring institutional care.

There is, I believe, an immediate need for a comprehensive program of nutrition education for the elderly, and such a program is feasible.

Mr. MAGNUSON. I certainly support and endorse the Senator's efforts to address the needs of the elderly.

Mr. HUMPHREY. No comprehensive nutrition education program has been tested but a health education program in the area of physical fitness for older persons has been demonstrated effectively through a Federal initiative taken in 1975 by the Administration on Aging. I refer to the health education and fitness program for older persons which is involving both the public and private sectors in communities throughout the country and includes training and education of community leaders and the enrollment of hundreds of thousands of older persons in exercise and activity programs.

The same methods could be employed in a comprehensive nutrition education program for the elderly.

The proposal offers a grassroots approach focusing on the application of diet objectives and has, as a main objective, the widespread dissemination of information with motivational incentives for the practical application of sound nutrition principles for the elderly. Utilizing mass media as was employed in the fitness project, the proposal provides an action-oriented program for coordinating all efforts, community by community.

Senator MATSUNAGA is truly an expert of the programs and issues concerning the elderly. Would my distinguished colleague from Hawaii share his views on the need for a strengthened approach to nutrition education for the elderly by our Government?

Mr. MATSUNAGA. During my chairmanship of the Subcommittee on Federal, State, and Community Services of the House Select Committee on Aging, my subcommittee held a number of hearings relating to the problems of the elderly. Several of these hearings demonstrated the profound need to make available more adequate nutritional information for our older Americans. I am particularly concerned that we develop policies and programs to assure sound dietary habits among older Americans. There is no doubt in my mind that we need to enhance the Government's effort in the area of nutrition education.

NATIONAL CANCER PROGRAM

Mr. DOLE. Mr. President, except for peace, there is probably nothing the American people want more from their Government than a cure for cancer. Here in Congress, we may debate antitrust legislation, common-situs picketing, or welfare reform; but to most Americans, those are only tangential concerns. Rarely do they touch to the quick of our lives. But in one way or another, cancer touches us all. It is hard to find someone who has not lost a friend or loved one to that disease. It strikes at the poor and rich without distinction. It touches the Congress, the White House, the kindergarten, the farmhouse. And there does not seem to be too much we can do about it.

What the Congress can do it has done. We have appropriated increasing sums to the National Cancer Institute for research against this country's most fearful internal enemy. That medical battle is in the hands of scientists, as it should be; and the Senator from Kansas for one, would not presume to second-guess their decisions. It is, therefore, with mixed emotions that I have requested the General Accounting Office to evaluate the effectiveness of the National Cancer Institute, and to review research program selection process so that the Congress can be assured of the effective use of these funds.

Serious questions have recently been raised concerning grants awarded by the Institute to certain organizations to which officials at the Institute have personal ties. During the consideration of the Labor-HEW appropriations bill by the House of Representatives, additional questions were raised about the financing of travel expenses for Institute officials and members of their families. I am certainly not in a position to pass judgment upon either the individuals involved or the Institute grants which are under scrutiny. But while we must avoid prejudging these matters, we can make clear—both to the Institute and to the taxpayers who fund its vital work—that the Congress will not abdicate its responsibility to guard carefully the dollars that are our first-line weapons against cancer. That is why I think it appropriate—and, more than appropriate, necessary—for the Government Accounting Office to take a close look at certain activities of the Institute, if only to dispel any lingering suspicion concerning them.

The Senator from Kansas has also requested the General Accounting Office to review the methods used by the National Cancer Institute for the selection of cancer research projects.

I believe we should pay more attention to the prevention of cancer, and as a member of the Select Committee on Nutrition, I am particularly concerned about the growing body of evidence pointing to relationships between nutrition and cancer. Dr. R. Lee Clark, the president of the American Cancer Society, and Dr. Frank J. Rauscher, senior vice president of the society and former Director of the National Cancer Institute, pointed out recently that a portion of other cancers may be extrinsically related to the kinds of food we eat. So far, the most likely culprit is the high animal fat diet, which is also implicated in abnormal blood cholesterol and heart attacks. By their estimate, smoking and diet are related to one-half to three-quarters of all killing cancers in the United States.

But we need to know more. Are we creating a future epidemic of cancer by the foods we are feeding our children now? Can we reduce an individual's vulnerability to cancer through better prenatal, neonatal, and childhood nutrition? Has nutrition been a factor in the escalating rate of cancer among black men over the last quarter century, an increase which the Director of the National Center for Health Statistics calls the most startling, most important rise in cancer mortality? Can alcohol be a carcinogen, either by itself or in conjunction with other chemicals? Should we be as vigilant about its advertising promotion as we have been about tobacco? I think it would be helpful if the Institute were engaged in the kind of research that could direct the Congress in its decisions. What good will it do if, while the Food and Drug Administration enforces a new prohibition by snatching saccharin out of the hands of dieters, the American people persist in other nutritional habits which result in greater susceptibility to cancer?

Mr. President, I intend my request to GAO to provide assurance that the funds appropriated for use in cancer research are properly directed. I do not want my concern mistaken as censure of the National Cancer Institute. I do not know if the institute's critics are correct; but they include scientists of the caliber of Nobel Prize winner James D. Watson, who has called our war on cancer a total sham, and Dr. Irwin Bross, chief of health statistics for Roswell Park Memorial Institute, who has charged that the program is producing more cancer than it is preventing. But even if the Congress is reluctant to take sides in this dispute among learned men and women of science, let us not neglect our responsibility to remind cancer researchers that both we and they are accountable for their Federal funds.

I ask unanimous consent that my letter to the General Accounting Office be inserted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 28, 1977.

Mr. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: Criticism has been heard recently, in testimony before a House Subcommittee and in the press, on the lack of effectiveness of the National Cancer Institute, the principal Federal agency responsible for implementing our National Cancer Program. Despite this criticism, the appropriations committees of both the Senate and House have proposed to increase funding for the Institute.

My concern is not necessarily this additional level of funding, but whether the National Cancer Institute is making the best use of these funds in understanding and combating this dreaded disease.

Because of this concern, I am requesting that the General Accounting Office promptly conduct an audit of the National Cancer Institute, with the following goals:

(1) To evaluate the use of the Institute's special administrative and advisory structure for managing the functions and programs of the Institute; and

(2) To review the methods used by the Institute for the selection, evaluation, and reporting of cancer research.

In this latter context, I am particularly interested in how much consideration has been given to research on the relationship between nutrition and cancer and whether more emphasis on projects in this area is planned.

I will appreciate your prompt handling of this request. Members of my staff will be available to discuss this request further if you desire.

Sincerely,

BOB DOLE,
U.S. Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Nebraska.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. ALLEN, I ask unanimous consent that the Senate go into executive session.

Mr. ALLEN is interested in two nominations there and I ask him to call them up. They affect his State of Alabama.

Mr. ALLEN. Mr. President, I ask that the Senate consider the nominations under Department of Justice, they are Calendar Orders No. 304 and 305, and I ask unanimous consent that they be considered en bloc.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Jesse Roscoe Brooks, of Alabama, to be U.S. attorney for the northern district of Alabama, and the nomination of William A. Kimbrough, Jr., of Alabama, to be U.S. attorney for the southern district of Alabama.

Mr. ALLEN. Mr. President, these two nominees were recommended to the President by Mr. SPARKMAN and myself. They are both able attorneys, highly competent men of honor and character, and I feel that they will do a good job serving as district attorneys in the respective districts to which they have been named.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF LABOR, COMMUNITY SERVICES ADMINISTRATION, AND DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the remaining nominations, Calendar Orders Nos. 306 through 309.

The PRESIDING OFFICER. Without objection, the nominations will be stated.

The assistant legislative clerk proceeded to read nominations in the Department of Labor, Community Services Administration, and the Department of Health, Education, and Welfare.

Mr. ROBERT C. BYRD. I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it so ordered.

The nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR

Xavier M. Vela, of the District of Columbia, to be Administrator of the Wage and Hour Division, Department of Labor.

COMMUNITY SERVICES ADMINISTRATION

William Whitaker Allison, of Georgia, to be Deputy Director of the Community Services Administration.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Julius Benjamin Richmond, of Massachusetts, to be an Assistant Secretary of Health, Education, and Welfare.

Julius Benjamin Richmond, of Masachusetts, to be Medical Director in the Regular Corps of the Public Health Service.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER TO HOLD JOINT RESOLUTION AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 525, to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERIM REGULATORY REFORM ACT—FEDERAL MARITIME COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 177.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1532) to authorize appropriations for the Federal Maritime Commission, to require the Commission to recodify its rules, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MAGNUSON. Mr. President, the interim regulatory reform bills which we have before us today are the product of several years of oversight activities conducted by the Committee on Commerce, Science and Transportation, and its predecessor, the Committee on Commerce. During these investigations, the need for regulatory reform of the independent regulatory agencies was explored in depth. As a result of these investigations, the committee reported S. 3308 in the 94th Congress. This legislation, which passed the Senate in May 1976, would have made a number of procedural changes in the way independent regulatory agencies, subject to the committee's jurisdiction, conduct their activities. Each of the changes had been independently considered and enacted with respect to one agency or another, however, the committee felt that the soundness of these provisions was such that we could proceed with recommending to the Senate that they be enacted for the seven agencies under consideration.

These are only interim steps in the long and complex process of regulatory reform, but they are necessary steps. In the 95th Congress, the committee again considered the Interim Regulatory Reform Act, S. 263. Hearings on this measure were conducted in April 1977, and all who wished to testify were given the opportunity to testify. Others, wishing to submit comments, were permitted to do so and those are included in the hearing record. On May 16, S. 263 was reported, as well as a number of original bills, each one dealing with a different regulatory agency. This procedure was adopted by the committee in order to avoid problems in referral in the House of Representatives. For example, some of the agencies involved are within the jurisdiction of the House Committee on Interstate and Foreign Commerce, while others are within the jurisdiction of either the House Committee on Public Works and Transportation or Merchant Marine and Fisheries.

The Senate has already passed S. 263, the law revision provisions of the Interim Regulatory Reform Act. This bill grows out of section 312 of the Railroad Revitalization and Regulatory Reform Act of 1976, which authorized and directed the Interstate Commerce Commission to prepare and submit to Congress a final draft of a proposed modernization and revision of the Interstate Commerce Act, and a proposed codification of all acts supplementary to the Interstate Commerce Act. The final draft submitted by the ICC must be designed to simplify the present law and to harmonize regulation with respect to the various transportation modes regulated by the ICC. The committee has been of the belief that the organic acts administered by the other independent regulatory agencies are also in need of review and revision. Indeed, one of these agencies, the Federal Maritime Commission, does not have such an act to define its powers, duties, and responsibilities. Although the Maritime Commission was created 16 years ago, it still operates under the authority of a reorganization plan pursuant to which it administers transferred functions rather than powers granted to it by act of Congress. This provision of the Interim Regulatory Reform Act was reported by the committee in S. 263, as it is apparently within the jurisdiction of only the Committee on the Judiciary in the House of Representatives. Other provisions, however, of the Interim Regulatory Reform Act are more limited in scope and amend either the reorganization plan or the organic act of the agencies. As a result, these provisions have been combined into separate bills for each agency.

Basically, the bills contain seven major provisions. These are: First, rules recodification; second, timely consideration of petitions; third, congressional access to information; fourth, representation in civil actions; fifth, avoidance of conflict of interest; sixth appointment and tenure of the chairman; and seventh, authorization of appropriations. The rules recodification provision requires each agency to submit to the Congress a proposal setting forth the recodification of all of the rules which the agency has issued and which are, as of the date of the submission, in effect or proposed. The recodified rules may recommend the transfer, consolidation, modification, and/or deletion of particular rules—or portions of rules—in the interest of clarity of presentation, comprehensibility, elimination of redundancy, simplicity, and similar objectives. After certain time periods for comments, the rules, as proposed to be recodified in a final proposal, shall take effect as the recodified rules of the agency, effective 180 days after submission of the final proposal. That would be approximately 2 years and 4 months after the date of enactment. Of course, any rules could be voided or appealed by act of Congress or joint resolution of the Congress.

The committee has been concerned with the failure of agencies to respond to petitions for issuance, amendment, or repeal of rule 5 which agencies are empowered to issue. As a result, the timely consideration of petitions provision of the bills, which has previously been enacted and applies to the Consumer Product Safety Commission and the Interstate Commerce Commission, would require the Commission to grant, deny, or take other appropriate action for each petition within 120 days after it is received. Additionally, the bills provide a remedy if the agency should fail to grant, deny, or take other appropriate action within the 120-day period.

The independent regulatory agencies are distinctive entities for a number of reasons. The independent regulatory agencies are a statutory exception, at least to some extent, to the doctrine of separation of powers since the typical agency exercises quasi-legislative—rulemaking—quasi-judicial—adjudicatory—and executive—enforcement—functions, pursuant to the mandate of Congress. Second, the independent regulatory agency is, for the purposes for which it is created, independent of the authority of the executive branch. As Mr. Justice Sutherland declared in *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935):

Thus, the language of the Act, the legislative reports, and the general purposes of the legislation as reflected by the debates, all combine to demonstrate the congressional intent to create a body of experts who shall gain experience by length of service, a body which shall be independent of executive authority, except in its selection, and free to exercise its judgment without the leave or hindrance of any other official or any other department of the government.

The committee believes that the unique position of the independent regulatory agencies, and the unique responsibility of the Congress which created them, require that there be no impediment to communication between the agencies and the Congress.

A provision is thus included to amend the statutes to provide that whenever an agency submits certain information to the President or the Office of Management and Budget, it shall concurrently transmit that information to the Congress. The unique responsibility of the Congress toward each of these agencies, which have been termed "arms of Congress" requires unimpeded access to the views of the agencies without any prior review or clearance by the executive branch. At the same time, the executive branch should be informed of transmissions which it may wish to counter or concur in through its own recommendations or comments.

REPRESENTATION IN CIVIL ACTIONS

The independence and the effectiveness of an independent regulatory agency is jeopardized if the agency is barred from attempting to enforce its orders in the courts. At the same time, the position of the Federal Government as a single entity is jeopardized if one entity—the Department of Justice—is not permitted to represent, and thereby coordinate the legal positions of, all departments, agencies, and other instrumentalities of the Government of the United States.

The bills would achieve both objectives in the following manner. Each independent regulatory agency, as a consequence of provision already reported and enacted into law or as a result of amendments made by these bills, would be authorized to commence, defend, intervene in, and to supervise the litigation of, any civil action involving any statute administered by it (and any appeal of such action) if: one, the agency first gives written notification of such intent to the Attorney General and undertakes to consult with the Attorney General with respect to such action and two, the Attorney General fails, within 45 days after receipt of such notification, to commence, defend, or intervene in, such action.

During the 45-day period, while the Department of Justice decides whether or not it will undertake the presentation, the agency could go into court in its own name, by its own attorneys, to seek temporary or preliminary injunctive relief or to initiate a defense. If, and when, the Department of Justice undertakes representation in such a case, it would take charge of the preliminary relief proceedings or assume such a defense. The committee intends, by this provision, to promote a fruitful and harmonious working relationship between one, the substantive expertise of the agency, and two, the expertise in Federal court litigation of the Department of Justice and the 94 U.S. attorneys' offices. It is essential for regulatory reform that each independent regulatory agency have the authority to implement and enforce, through judicial action where necessary, its legislative mandate.

The Attorney General has expressed his grave concerns about this provision. He has suggested that this is a new day and that the Congress need not fear improper handling of agency referrals of cases by the Department of Justice. It has been Department of Justice problems which resulted in the committee's consideration of this provision of legislation. For example, the Federal Maritime Commission referred in November 1976, evidence of a rebate violation to the Department of Justice. The letter of transmittal advised the Department that unless the case was given immediate attention, that is before February 1977, the statute of limitations would bar any recovery. Unfortunately, the Department of Justice failed to take the appropriate action, and even though the regulatory agency fulfilled its responsibility in ferreting out violations of the Shipping Act, the Department of Justice failed. Failures of this sort are unconscionable and untenable. Historically, similar problems have resulted in delays in seeking injunctions and subpena enforcement. The Department of Justice has, on occasion, failed to seek the injunction sought by the agency with expertise or has failed to seek enforcement of the subpena, which has resulted in the Commission investigation falling on its face for want of the information which the agency was entitled to obtain by law. We cannot tolerate a continuation of this situation, and as a result have substituted the Department's judgment for the expertise of the agency. We cannot tolerate such an activity.

The Attorney General, however, has written to the chairman and ranking member of the committee, assuring him that in this new day he will work with each of the independent regulatory agencies and devise a memorandum of understanding between the Department and the agency clarifying the relationship between the agencies, the timetables for consideration, and the limits of each agency's participation in litigation. I think this is a fair approach and should be taken. Therefore, Mr. President, I will shortly submit an amendment to strike from each bill as it is called up section 5 of the bill concerning representation in civil actions.

The committee has been concerned about the importance of avoidance of conflicts of interest and the appearance of conflicts of interest. These are particularly important in independent regulatory agencies. Increasing confidence in the regulatory agencies is an important goal of the regulatory reform movement. Prohibiting a person who has been a commissioner or a policymaking employee from representing clients in a professional capacity before his colleagues on the same commission, for a limited period of time, eliminates a potential abuse and represents a step toward the achievement of this goal. As a result, the bills contain a provision which would prohibit a regulatory commissioner from representation before the commission in a professional capacity for 2 years after leaving the agency. Senators RIBICOFF and PERCY, who have worked diligently on this issue in the Committee on Governmental Affairs, have suggested some language which would improve the provisions on avoidance of conflict of interest which are contained in the bills, and these will be offered shortly.

The bills contain a provision providing that the chairman of the regulatory agency shall be appointed by the President and shall be subject to the advice and consent of the Senate. The chairman shall serve at the pleasure of the President, as is currently the case in all agencies except the Consumer Product Safety Commission. However, other than the National Transportation Safety Board, the chairman is not voted upon by the Senate for that position, he is voted upon and confirmed as an individual commissioner. Thus, the Congress will have an opportunity to consider an individual who may be completely qualified to serve as a commissioner or has so served as a commissioner, but may not be qualified to serve as chairman of a regulatory agency.

Authorizations for appropriations are provided for fiscal years 1978, 1979, 1980, and 1981. The Committee on Commerce has determined that enacting a statutory authorization for each independent regulatory agency will enhance the oversight process and better enable the committee to fulfill its responsibilities to conduct oversight investigations. By its very nature, the authorization process makes it incumbent upon the committee to monitor on a continuing basis, and to examine in depth, the activities of the Commission in a cyclical manner. The authorizations provided in the bill are based upon projections of needs during the 4-year period. Should these authorizations be low, it is incumbent upon the committee to examine the activities of the Commission at such time as it becomes evident that the authorizations are too low, and to determine whether or not the agency is engaged in activities which meet the expectations of the committee and the Congress. Additionally, the cyclical authorization process provides an excellent opportunity for the committee to consider the continuing activities of the commission with respect to its responsibilities.

I note here that this is an important step toward Sunset, a concept which has been raised by many Members of the Senate and by the administration as well.

Mr. President, after the Committee on Commerce, Science and Transportation reported the interim regulatory reform bills, conversations ensued with the staffs of Mr. RIBICOFF and Mr. PERCY and other members of the Committee on Governmental Affairs, to reconcile the language reported by the Committee on Commerce, Science, and Transportation with the views of the Committee on Governmental Affairs which have developed through the regulatory reform studies conducted by the committees jointly and independently. As a result of those deliberations, a number of amendments have been prepared by Senators RIBICOFF and PERCY which the Committee on Commerce, Science and Transportation is willing to accept. Let me go over these, in that they apply to each of the bills, although not necessarily in the same place in each bill.

In the rules recodification provision, we require that certain impact statements be included with the agency's submission of its recodified rules. As drafted, these impact statements would be required for each rule. This was not the intent of the committee, and so the first amendment proposed by Senators RIBICOFF and PERCY, is that immediately after "rule" we insert "or class of rules." Aditionally, there is some concern as to the reviewing test for the adequacy of the impact statements. It was the intention of the committee that these impact statements be reviewed solely by the Congress. To insure that that is the case,

the Ribicoff-Percy amendment proposes to insert "and not judicial review" after the statement concerning congressional review.

Another amendment proposed by Senators RIBICOFF and PERCY has to do with the conflict of interest provisions. The Governmental Affairs Committee has suggested that the language be tightened so that it be more comprehensive and not allow for loopholes which might otherwise be the case. Additionally, the Ribicoff-Percy amendment would raise the application of the conflict of interest standard to GS–16 or higher rather than GS–15 as proposed in the version reported by the Commerce Committee. This amendment would conform the bills with S. 555 which the Senate has already passed. Another important amendment proposed by Senators RIBICOFF and PERCY is an amendment which would retain the independence of the independent regulatory agencies by not subjecting super grade positions to OMB clearance. Of course, these positions would still be subject to clearance as to qualifications by the Civil Service Commission, but there would be no political clearance of the appointments.

A further concern addressed by the Ribicoff-Percy amendments is the qualifications of nominees. The Ribicoff-Percy amendment proposes that persons nominated to a commission be persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission and also that Commission membership should be well balanced with a broad representation of various talents, backgrounds, occupations and experience.

Lastly, provisions of section 8335 of title V provide that a Federal employee who reaches the age of 70 or has completed 15 years of service must retire unless a waiver is granted by the President. Since this has the effect of putting a commissioner, who might have a 7-year term but turns 70 at the end of his third year of service, on an annually renewable basis, the independence of the agency is considerably diminished. The last amendment proposed would waive the provisions for commissioners, and leave the decision as to whether or not a commissioner should continue to serve over the age of 70 in the hands of Congress at the time of advise and consent to the nomination.

Mr. President, as I said in my opening statement, the Attorney General through Senator EASTLAND has expressed grave concern over the representation in civil actions provisions of the bill and therefore for the reasons discussed in my opening statement, I will offer an amendment to delete these provisions on behalf of Senator EASTLAND.

Mr. PERCY. Mr. President, Senators MAGNUSON and PEARSON have introduced the Interim Regulatory Reform Act of 1977, which is now before us for consideration. The act is contained in seven separate bills: S. 263 and S. 1532 through 1537.

This is excellent legislation. It provides for important first steps along the road to regulatory reform. The measures apply to the Civil Aeronautics Board (CAB), the Consumer Product Safety Commission (CPSC), the Federal Communications Commission (FCC), the Federal Maritime Commission (FMC), the Federal Power Commission (FPC), the Federal Trade Commission (FTC), and the Interstate Commerce Commission (ICC). All seven bills have been reported favorably by the Committee on Commerce, Science, and Transportation.

The bills direct the independent regulatory agencies to prepare a thorough study of the organic acts, Executive orders, court decisions, and other orders and decrees pertaining to that agency, and the host of regulations which the agency has developed since its inception. Each Commission is then to report to Congress its recommendations for law revision and/or recodification.

In addition, Commissions would be required by this legislation to decide to grant, deny, or otherwise act upon most petitions within 120 days of their submission. This requirement is already operative at the CPSC and the ICC. It is my understanding that it has created no undue burdens, and has in fact speeded up decisionmaking within those agencies.

The Interim Regulatory Reform Act further requires the Commissions simultaneously to submit to the Congress any budget request or legislative comments which it submits to the President or the Office of Management and Budget. It also authorizes appropriations for a period not to exceed 4 years. Additionally, it makes designation as Commission Chairman separate from an individual's designation as Commissioner, so that if the Senate found a Chairman-nominee fit to be a Commissioner but not fit to be Chairman, he or she could be confirmed as Commissioner only.

S. 263 makes it a Federal crime to forcibly assault, resist, oppose, impede, or intimidate Commission enforcement agents in the performance of their official duties.

Finally, each Commission is authorized to litigate on its own behalf in certain cases.

I join with my distinguished colleague and chairman of the Governmental Affairs Committee, Senator ABRAHAM RIBICOFF, in calling for several important amendments to these bills. It is my understanding that these amendments are in keeping with the intent and scope of the legislation as reported and therefore are acceptable to the distinguished chairman and ranking minority member of the Committee on Commerce, Science, and Technology.

The amendments which we propose emerge from a comprehensive regulatory reform study conducted jointly by these two committees pursuant to Senate Resolution 71, which I authored. They provide, first, that the laws guiding the FPC, FMC, CPSC, CAB, FCC, and FTC be amended to require the President to nominate persons "who by reasons of training, education, or experience are qualified to carry out the functions of the Commission[s]." Too often regulatory appointments have been personal or political rewards to persons who are inexperienced or less than able.

Although these amendments—indeed any amendments—cannot guarantee that we will always have competent Commissioners, they write Congress desire for competence and professionalism firmly into the law, and provide an objective and defensible justification for the Senate to more vigorously examine nominees and to refuse to confirm an unfit nominee. The standard for nominees to these critically important positions—that have such an impact on the American economy and the health and safety of the American public—should be nothing less than excellence.

The amendments further require that FPC, FMC, CPSC, CAB, FCC, and FTC Commissioners be broadly representative of "various talents, backgrounds, occupations, and experience appropriate to the functions and responsibilities of the Commission[s]." Modern analysis has exploded the notions that only businesses are affected by regulation and that only lawyers and businessmen are competent to regulate. Businesses are affected by regulation, certainly, but so are businesses' customers, businesses' employees, and the economy as a whole. Likewise, businessmen and lawyers clearly have important contributions to make to the regulatory process, but they are not exclusive of the contributions which can be made, for example, by economists, labor specialists, consumer experts, public interest advocates, and others.

Presently, Commissioners are required by law to retire upon reaching the age of 70 and upon completing 15 years of Federal service, unless they are specifically exempted by the President each year. This procedure is fraught with problems for these quasi-judicial Commissions. There is an obvious potential for individual Commissioners to become beholden to the President for continuance in office, and hence lose their independence, or the appearance of independence. Moreover, since Commissioners are appointed for a fixed term, the President knows at the time of nomination whether a Commissioner-designate will be 70 or more than 15 years of Federal service by the end of the designated term. And the Senate knows it at the time of confirmation. If either the President or the Senate had any objections to an individual Commissioner exceeding these retirement criteria, the person would not have been nominated or confirmed in the first place. Therefore, to preserve the independence of independent regulatory commissions, the amendments provide that FPC, FMC, CPSC, CAB, FCC, and FTC Commissioners can serve through the end of their prescribed terms regardless of age or years of Federal service.

The amendments additionally aim to curtail any unhealthy coziness between the regulatory commissions and the regulated industries—the so-called revolving door problem. Former Commissioners and staff personnel of grades GS–16 or higher are prohibited from communicating with the Commissions on any substantive matter for 1 year after leaving employment. Moreover, on substantive matters as to which they had official responsibility during the last year of employment, they are prohibited from communicating with the Commissions for a period of 2 years.

Finally, top Commission staff members in GS grades 16 through 18 would be exempt from the normal civil service process. While the Civil Service Commission would continue to designate positions and their grades, it would not approve individual appointments to these "supergrade" positions in the independent regulatory commissions.

These appointments are to be made by the Commission Chairman with the approval of a majority of the Commissioners. In the past, Civil Service Commission approval has too often meant White House approval, hardly appropriate for staff policymakers in independent regulatory agencies. In addition, these policymaking staff members will not be permanently ensconced in the regulatory system. Exemption from the normal civil service process will make them more accountable for their actions to the Commissions themselves. As changing policies or needs arise, merely defending the status quo will hardly be sufficient to justify their continued usefulness to a commission concerned with revitalizing itself, its operations, and procedures.

At this point, I note that S. 1534, dealing with the ICC, has been approved by the Senate by unanimous consent. I had earlier requested that the legislation be held up to accommodate the concerns of the Governmental Affairs Committee as reflected by these amendments. But through a clerical error, it was allowed to remain on the unanimous consent calendar despite my request that it be removed. Thus, we cannot now amend it as we are amending the other bills. Nevertheless, the reforms we propose would benefit the ICC just as they will benefit the other Commissions, and I certainly hope they will be incorporated into S. 1534 when consideration is given to this legislation by the relevant house committees and by the full House of Representatives.

Taken together, the Interim Regulatory Reform Act and the amendments we are proposing reflect a Congressional commitment to improvement in Federal regulation. It is improvement which is vitally needed. But it must not stop here. We need to rethink the Federal Government's entire regulatory role: Where is regulation needed? How much is enough? What forms should it take? Do we need to restructure whole agencies, or even groups of agencies? These are not easy questions, and there are no easy answers. S. 600, the Regulatory Reform Act of 1977 now cosponsored by 40 Senators, provides a timetable and agenda by which we can approach these questions and work, within a sunset discipline, to timely arrive at answers that are relevant to today's economy.

When Senators ROBERT BYRD, ABRAHAM RIBICOFF, and I introduced S. 600, we did so knowing that regulatory reform is a legislative "must." The horror stories of regulatory harassment and tremendously high costs of regulation—$60 billion yearly by GAO estimates—make it imperative that we improve the regulatory agencies in every respect. The Interim Regulatory Reform Act, with the amendments we are proposing, and the upcoming Regulatory Reform Act of 1977 are a powerful offensive against misguided or oppressive regulation. Let us hope they succeed.

It is therefore with great pleasure, Mr. President, that Senator RIBICOFF and I join in proposing these amendments to the legislation at hand. We are both deeply appreciative of the thoughtfulness and assistance of Senator MAGNUSON and Senator PEARSON, on behalf of the Commerce Committee, in working out these amendments and accepting them as part of this interim reform measure.

We look forward to working with them and with other interested Senators, when the Regulatory Reform Act of 1977 is reported to the Senate floor. Just as this interim measure calls upon the agencies themselves to get their own house in order, S. 600 calls upon Congress and the President to likewise address itself to the overriding concerns of Federal regulation—not only from the standpoint of agency performance but also regulatory purposes, mandates, and structures. Only then can we assess how much regulation as a society we need and are prepared to tolerate.

UP AMENDMENT NO. 579

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. RIBICOFF and Mr. PERCY and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. RIBICOFF and Mr. PERCY, proposes an unprinted amendment No. 579.

The amendment is as follows:

On page 3, lines 16, and 23, and on page 4 lines 4, 12, and 14, insert "or class of rules" immediately after "rule", each time such word appears.

On page 4, line 2, insert "s," immediately after "record".

On page 5, line 4, insert "and not judicial review" immediately after "only".

On page 13, delete lines 5 through line 14, and insert in lieu thereof the following:

"(e) No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS–16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of one year prior to the termination of such responsibility, or

"(2) for a period of one year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.

On page 13, immediately after line 19, insert the following:

(c) Section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is further amended by inserting at the end thereof the following new subsection:

"(f) Any appointment of an employee of the Commission to any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

On page 13, line 20, insert "; QUALIFICATIONS OF MEMBERS" immediately after "CHAIRMAN".

In page 13, line 21, insert "(a)" immediately after "SEC. 7."

On page 14, immediately after line 6, insert the following:

(b) Section 102(a) of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding after the first sentence thereof, the following:

"The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Reorganization Plan. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropirate to the functions of the Commission. Once appointed, a Commissioner may serve until conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT 580

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. Eastland and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. EASTLAND, proposes unprinted amendment No. 580.

The amendment is as follows:

On page 11, line 5, delete all through line 24, page 12, and renumber subsequent sections accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 581

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an unprinted amendment on behalf of Mr. Magnuson and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. MAGNUSON, proposes unprinted amendment numbered 581.

The amendment is as follows:

On page 14, lines 14–17, delete, "$8,901,000", "$9,150,000", "$9,500,000", and "$9,800,000", and insert in lieu thereof, "$9,424,000", "$9,700,000", "$10,000,000", and $10,400,000" respectively.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 1532) was passed, as follows:

S. 1532

An act to authorize appropriations for the Federal Maritime Commission, to require the Commission to recodify its rules, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interim Regulatory Reform Act—Federal Maritime Commission".

RULES RECODIFICATION

SEC. 2. Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding at the end of part I thereof the following new section:

"MISCELLANEOUS PROVISIONS

"SEC. 106. (a) (1) Within 480 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress an initial proposal setting forth a recodification of all the rules which the Commission has issued and which are in effect or proposed, as of the date of such submission. Each such recodification proposal shall, to the extent practicable and appropriate—

"(A) recommend the transfer, consolidation, modification, and deletion of particular rules and portions thereof, including reasons therefor;

"(B) recommend changes and modifications in the organization of such rules and in the technical presentation and structure thereof;

"(C) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof; and

"(D) include a comprehensive index to the rules in such recodification, cross-referenced by subject matter. Each such recodification proposal shall include the text of such rules, proposed to be recodified, in their entirety, and a comparative text of the proposed changes in existing rules.

"(2) Within 660 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress, in accordance with the requirements described in paragraph (1), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of such submission. Such submission shall reflect (A) an evaluation of the recommendations and comments received from any source; and (B) the results of additional study and review by the Commission and its employees and consultants. Such rules shall take effect 180 days after the date of submission of such final proposal.

"(3) To the extent practicable and appropriate, the Chairman of the Commission shall submit along with each recodification proposal submitted to the Congress under this section—

"(A) an economic impact analysis which takes into account, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), the cost impact on and benefits to consumers, wage earners, businesses, markets and Federal, State, and local governments, and the effects on productivity, competition, supplies of important manufactured products or services, employment, and energy resource supply and demand;

"(B) a paperwork impact analysis, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), containing an estimate of the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records, and fulfill any of the information gathering requirements under each such rule or class of rules; the nature and amount of the information required to be filed in such reports, and the frequency of such reports; the nature and number of records that would have to be kept by such persons, and the manhours and costs required or incurred to keep such records and make such reports; and steps being taken by the Commission to insure that there is no unnecessary duplication in record keeping and report filing resulting from the issuance of each such rule or class of rules;

"(C) a judicial impact analysis showing the probable consequences of each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(D) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of each such recodification proposal.

The material submitted to the Congress under this paragraph shall not be considered a part of the rulemaking process instituted by the Commission under this section, and the sufficiency of such material shall be subject to congressional review only and not sion finds that it would be impracticable judicial review. In the event the Commission finds that it would be impracticable or inappropriate to submit the information required under subparagraph (A) through (C) of this paragraph, the Commission shall submit a statement as to why it cannot so comply.

"(4) Each appropriate authorizing committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to each initial and final recodification proposal submitted to the Congress under this subsection and referred to such committee.

"(5) The text of each initial recodification proposal submitted under paragraph (1), and of each final recodification proposal submitted under paragraph (2), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by the Commission which is not included in the recodified rules which take effect pursuant to paragraph (2), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this section.

"(b) As used in this section, the term 'rule' includes the whole or any part of a statement of general applicability which is issued or promulgated by the Commission for future effect and which is designed to—

"(1) implement, interpret, or prescribe law or policy (including any rule for the approval or prescription of rates);

"(2) describe the central and field organization of the Commission, and the established places at which, and the employees from whom, and the method whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(3) describe the general course and method by which the functions of the Commission are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(4) describe any rules of procedure, forms available or the places where forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.".

TIMELY CONSIDERATION OF PETITIONS

SEC. 3. Part I of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840), as amended by this Act, is further amended by adding at the end thereof the following new section:

"TIMELY CONSIDERATION OF PETITIONS

"SEC. 107. (a) TIMELY CONSIDERATION OF PETITIONS.—(1) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) files a petition with the Commission (other than a petition for rehearing) for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any lawful authority granted to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, or takes no action on such petition within the 120-day period, it shall set forth, and publish in the Federal Register, its reasons for such denial or inaction.

"(2) If the Commission denies a petition under paragraph (1) (or if it takes no action thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate United States Court of Appeals for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the Court (by a preponderance of the evidence in the record before the Commission) that (A) the failure of the Commission to grant a petition to which paragraph (1) applies is arbitrary and capricious; (B) the action requested in such petition is necessary; (C) the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with the responsibilities of the Commission; and (D) the action requested in such petition is in the public interest, the Court shall order the Commission to initiate such action.

"(4) A Court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any lawful authority granted to the Commission.

"(b) As used in this subsection, the term 'Commission' includes any division, individual Commissioner, administrative law judge,

employee board, or any other person authorized to act on behalf of the Commission in any part of the proceeding for the issuance, amendment, or repeal of any order, rule, or regulation under any lawful authority granted to the Commission.".

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 4. Part I of Reorganization Plan Numbered 7 of 1961, as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONGRESSIONAL ACCESS TO INFORMATION

"SEC. 108. (a) ACCESS TO INFORMATION.—(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit any legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, or if the Commission cannot make the requested documents available within the 10-day period, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee, or a statement of the reasons why such documents are not in the possession of the Commission, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof.

"(b) Transmission of any information, report, or other document to the Congress under the provisions of this section shall not constitute an offense under section 1905 of title 18, United States Code. The provision of such section 1905 shall apply, however, to the transmission of any such information, report, or other document by any employee or officer of the Congress (other than a Member of Congress), or of any Member or committee of the Congress, to any person other than another such employee or officer, a Member of Congress, or the Commission.".

AVOIDANCE OF CONFLICT OF INTEREST

SEC. 5. (a) Section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding at the end thereof the following new subsection:

"(e) No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS–16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of 1 year prior to the termination of such responsibility, or

"(2) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

(b) The amendment made by subsection (a) shall apply to employees of the Commission specified in the amendment on and after the first day of the thirteenth full calendar month occurring immediately after the date of enactment of this Act.

(c) Section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is further amended by inserting at the end thereof the following new subsection:

"(f) Any appointment of an employee of the Commission to any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

APPOINTMENT AND TENURE OF CHAIRMAN; QUALIFICATIONS OF MEMBERS

SEC. 6. (a) Section 102(a) of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840), is amended to read as follows:

"(b) The President shall appoint one of the Commissioners as the Chairman of the Commission, by and with the advice and consent of the Senate. The Chairman shall serve as Chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.".

(b) Section 102(a) of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding after the first sentence thereof, the following: "The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Reorganization Plan. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Part I of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840), as amended by this Act, is further amended by inserting at the end thereof the following new section:

"SEC. 110. APPROPRIATIONS.—Amounts appropriated to carry out the functions, powers, and duties of the Commission shall not exceed $9,424,000 for the fiscal year ending September 30, 1978, $9,700,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, and $10,400,000 for the fiscal year ending September 30, 1981.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERIM REGULATORY REFORM ACT—FEDERAL POWER COMMISSION IMPROVEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order 180.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1535) to amend the Federal Power Act to authorize appropriations for the Federal Power Commission, to require the Commission to recodify its rules, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSTON. Mr. President, I would like to address a question to the chairman of the Committee on Commerce, Science, and Transportation. As the distinguished Senator from Washington (Mr. MAGNUSON) knows, pursuant to Senate Resolution 4, jurisdiction for the Federal Power Commission is now within the purview of the Committee on Energy and Natural Resources. It is my understanding that S. 1535 was originally part of a bill affecting seven independent regulatory agencies, and that when Senate Resolution 4 passed, we agreed not to request a rereferral provided that the Committee on Commerce did not make any further substantive amendments to the Federal Power Act. Now that the committee has reported the bill as several original bills, there is no reason why we could not request the rereferral.

Mr. MAGNUSON. The Senator is absolutely correct. The Committee on Commerce no longer has general jurisdiction over the Federal Power Commission. If this bill were to be introduced today, it should be referred to the Senator's committee and not the Committee on Commerce, Science, and Transportation.

Mr. JOHNSTON. If the House of Representatives were to make substantive amendments in this bill which necessitated a conference, or were to use this bill as a vehicle for other substantive amendments to the Federal Power Act, would the chairman be willing to have conferees appointed from the Committee on Energy and Natural Resources?

Mr. MAGNUSON. Of course. I would think that equal representation from the

two committees would be in order if a conference were necessary.

Mr. President, let me state three things: First, this bill is within the jurisdiction of the Committee on Energy and Natural Resources; second, its consideration and reporting by the Committee on Commerce, Science, and Transportation should not be construed in any way as a precedent for the future. It is purely through the good graces of the Committee on Energy and Natural Resources that we have considered this bill at all, and they have condoned this consideration because the Commerce Committee worked on this bill for several years prior to adoption of Senate Resolution 4; and third, should a conference with the House be necessary on this bill, the Committee on Energy and Natural Resources would have equal representation on the committee of conference.

UP AMENDMENT NO. 582

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RIBICOFF, Mr. PERCY and Mr. EASTLAND, I send to the desk amendments by Mr. RIBICOFF, Mr. PERCY, and Mr. EASTLAND, and I ask for their consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. RIBICOFF, Mr. PERCY, and Mr. EASTLAND, proposes unprinted amendment 582 en bloc.

The amendment is as follows:

On page 3, lines 17 and 24, and on page 4, lines 5, 14, and 16, insert "or class of rules" immediately after "rule".

On page 5, line 7, insert "and not judicial review" immediately after "only".

On page 9, line 16, insert "(1)", immediately after "(b)".

On page 13, line 13, insert "(1)", immediately after "(b)".

On page 14, immediately after line 8, insert the following:

(c) Subsection (b) of the first section of the Federal Power Act (16 U.S.C. 792(b)) as designated by this Act, if further amended by inserting the following new paragraph:

"(2) Any appointment of an employee of the Commission to any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by and officer or agency of the Federal Government other than the Commission."

On page 14, line 9, after "CHAIRMAN" insert "; QUALIFICATIONS OF MEMBERS".

On page 15, line 14, after "Senate.", insert the following:

"The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

On page 13, line 22, delete "and no employee of the Commission" and all that follows through and including line 3, page 14, and insert in lieu thereof the following:

"and no employee of the Commission classified as a GS–16 or higher, shall—

"(A) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(i) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(ii) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of one year prior to the termination of such responsibility, or

"(B) for a period of one year beginning on the last date of service as such member of the Commission or employee—

"(i) make any appearance or attendance before, or

"(ii) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

On page 11, line 18, delete all through line 11, page 13, and renumber subsequent sections accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 1535) was passed, as follows:

S. 1535

An act to amend the Federal Power Act to authorize appropriations for the Federal Power Commission, to require the Commission to recodify its rules, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interim Regulatory Reform Act—Federal Power Commission Improvement".

RULES RECODIFICATION

SEC. 2. Section 29 of the Federal Power Act (16 U.S.C. 823) is amended (1) by inserting "(a)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b)(1) Within 480 days after the date of enactment of this subsection, the Chairman of the Commission shall develop, prepare, and submit to the Congress an initial proposal setting forth a recodification of all the rules which such Commission has issued and which are in effect or proposed, as of the date of such submission. Each such recodification proposal shall, to the extent practicable and appropriate—

"(A) recommend the transfer, consolidation, modification, and deletion of particular rules and portions thereof, including reasons therefor;

"(B) recommend changes and modifications in the organization of such rules and in the technical presentation and structure thereof;

"(C) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof; and

"(D) include a comprehensive index of the rules in the recodification, cross-referenced by subject matter.

Each such recodification proposal shall include the text of such rules, as proposed to be recodified, in their entirety and a comparative text of the proposed changes in existing rules.

"(2) Within 660 days after the date of enactment of this subsection, the Chairman of the Commission shall develop, prepare, and submit to the Congress, in accordance with the requirements described in paragraph (1), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of such submission. Such submission shall reflect (1) an evaluation of the recommendations and comments received from any source; and (2) the results of additional study and review by the Commission and its employees and consultants. Such rules shall take effect 180 days after the date of submission of such final proposal.

"(3) To the extent practicable and appropriate, the Chairman of the Commission shall submit along with each recodification proposal submitted to the Congress under this subsection—

"(A) an economic impact analysis which takes into account, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), the cost impact on and benefits to consumers, wage earners, businesses, markets, and Federal, State, and local governments, and the effects on productivity, competition, supplies of important manufactured products or services, employment, and energy resource supply and demand;

"(B) a paperwork impact analysis, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), containing an estimate of the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records and fulfill any of the information gathering requirements under each such rule or class of rules; the nature and amount of the information required to be filed in such reports, and the frequency of such reports; the nature and number of records that would have to be kept by such persons, and the man-hours and costs required or incurred to keep such records and make such reports; and steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from the issuance of each such rule or class of rules;

"(C) a judicial impact analysis showing the probable consequences of each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(D) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of each such recodification proposal.

The materials submitted to the Congress under this paragraph shall not be considered a part of the rulemaking process instituted by the Commission under this subsection, and the sufficiency of such material shall be subject to congressional review only and not judicial review. In the event the Commission

finds that it is impracticable or inappropriate to submit the information required under subparagraphs (A) through (C) of this paragraph, the Commission shall submit a statement as to why it cannot so comply.

"(4) Each appropriate authorizing committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to each initial and final recodification proposal submitted to the Congress under this subsection and referred to such committee.

"(5) The text of each initial recodification proposed submitted under paragraph (1), and of each final recodification proposal submitted under paragraph (2), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by the Commission which is not included in the recodified rules which take effect pursuant to paragraph (2), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this subsection.

"(6) As used in this subsection, the term 'rule' includes the whole or any part of a statement of general applicability which is issued or promulgated by the Commission for future effect and which is designed to—

"(A) implement, interpret, or prescribe law or policy (including any rule for the approval or prescription of rates);

"(B) describe the central and field organization of the Commission, and the established places at which, and the employees from whom, and the method whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(C) describe the general course and method by which the functions of the Commission are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(D) describe any rules of procedure, forms available or the places where forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; and

"(E) contain and describe all statements of general policy or interpretations of general applicability formulated and adopted by the Commission.

This term does not include any order, as such term is defined in section 551(6) of title 5, United States Code, except to the extent that any order includes a statement of policy, or an interpretation of a policy or substantive law or rule, of general applicability for future effect.".

TIMELY CONSIDERATION OF PETITIONS

SEC. 3. Section 309 of the Federal Power Act (16 U.S.C. 825h) is amended (1) by inserting "(a)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b)(1) Whenever, pursuant to section 553 (e) of title 5, United States Code, an interested person (including a governmental entity) files a petition with the Commission (other than a petition for rehearing) for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, or takes no action on such petition within the 120-day period, it shall set forth, and publish in the Federal Register, its reasons for such denial or inaction.

"(2) If the Commission denies a petition to which paragraph (1) applies (or if it takes no action thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate United States court of appeals for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission) that (A) the failure of the Commission to grant a petition to which paragraph (1) applies is arbitrary and capricious; (B) the action requested in such petition is necessary; (C) the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Commission; and (D) the action requested in such petition is in the public interest, such court shall order the Commission to initiate such action.

"(4) A Court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this act or any other statute or lawful authority administered by or applicable to the Commission.

"(5) As used in this subsection, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of any proceeding for the issuance, amendment, or repeal of an order, rule, or regulation.".

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 4. The first section of the Federal Power Act (16 U.S.C. 792) is amended (1) by designating the four paragraphs thereof as subsections (a), (b)(1), (c), and (d), respectively; (2) by striking out "That a" in subsection (a) as so designated and inserting in lieu thereof "A"; and (3) adding at the end thereof the following new subsection:

"(e)(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendation, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, or if the Commission (for good cause) cannot make the requested documents available within the 10-day period, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee, or a statement as to the reasons why such documents are not in the possession of the Commission, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.

"(4) Transmission of any information, report, or other document to the Congress under the provisions of this section shall not constitute an offense under section 1905 of title 18, United States Code. The provisions of such section 1905 shall apply, however, to the transmission of any such information, report, or other document by any employee or officer of the Congress (other than a Member of Congress), or of any Member or committee of the Congress to any person other than another such employee or officer, a Member of Congress, or the Commission.".

AVOIDANCE OF CONFLICT OF INTEREST

SEC. 5. (a) Subsection (b)(1) of the first section of the Federal Power Act (16 U.S.C. 792(b)) as amended by this Act, is further amended by striking out "Said commissioners shall not engage in any other business, vocation, or employment." and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS-16 or higher, shall—

"(A) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(i) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(ii) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of
the Commission, or any officer or employee thereof, in connection with the proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period 1 year prior to the termination of such responsility, or

"(B) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(i) make any appearance or attendance before, or

"(ii) make any written or oral communication to, and with the intent to influence the action of
the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

(b) The amendment made by subsection (a) shall apply to employees of the Commission specified in that amendment on and after the beginning of the thirteenth complete calendar month occurring immediately after the date of enactment of this Act.

(c) Subsection (b) of the first section of the Federal Power Act (16 U.S.C. 792(b)) as designated by this Act, is further amended by inserting the following new paragraph:

"(2) Any appointment of an employee of the Commission to any position in categories GS-16, GS-17, and GS-18 may be made

by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

APPOINTMENT AND TENURE OF CHAIRMAN; QUALIFICATIONS OF MEMBERS

SEC. 6. Subsection (a) of the first section of the Federal Power Act (16 U.S.C. 792), as so designated by this Act, is amended by deleting all after "consent" through "office" and inserting in lieu thereof the following: "of the Senate. The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code. The President shall appoint one of the Commissioners as the Chairman of the Commission, by and with the advice and consent of the Senate. The Chairman shall serve as Chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Section 2 of the Federal Power (16 U.S.C. 795) is amended (1) by inserting "(a)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b) Amounts appropriated to carry out the functions, powers, and duties of the Commission shall not exceed $44,549,000 for the fiscal year ending September 30, 1978, $46,410,000 for the fiscal year ending September 30, 1979, $48,373,000 for the fiscal year ending September 30, 1980, and $50,444,000 for the fiscal year ending September 30, 1981.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERIM REGULATORY REFORM ACT—FEDERAL COMMUNICATIONS COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 181.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1536) to amend the Communications Act of 1934 to authorize appropriations for the Federal Communications Commission, to require the Commission to recodify its rules, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 583

Mr. ROBERT C. BYRD. Mr. President, I send to the desk amendments by Messrs. RIBICOFF, PERCY, and EASTLAND and I ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Messrs. RIBICOFF, PERCY and EASTLAND, proposes unprinted amendment No. 583 en bloc.

The amendment is as follows:

On page 3, line 18, and page 4, lines 1, 7, 15, and 17, insert "or class of rules" immediately after "rule" each time such word appears. On page 5, line 7, insert "and not judicial review" immediately after "only". On page 9, line 19, delete "new subsection", and insert in lieu thereof "two new subsections."

On page 11, immediately after line 18, insert the following:

"(q) Any appointment of an employee of the Commission to any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

On page 13, line 23, delete "as a GS–15 or higher" and all that follows through and including line 3, page 14, and insert in lieu thereof the following:

"as a GS–16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of
the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of one year prior to the termination of such responsibility, or

"(2) for a period of one year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of
the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

On page 14, line 9, insert "Qualifications of Members and" immediately before "Chairman".

On page 14, line 10, insert "(a)" immediately after "7.".

On page 14, line 13, after "Senate." insert the following:

"The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

On page 14, immediately after line 19, insert the following:

(b) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)), is amended by—

(1) inserting "(1)" immediately after "(a)", and

(2) adding at the end thereof the following four new paragraphs:

"(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employment under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in this Act), (B) the distribution of business among such personnel and among administrative units of the Commission, and (C) the use and expenditure of funds.

"(3) In carrying out any of his functions under the provisions of this section, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

"(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

"(5) There are reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.".

On page 11, line 19, delete all through line 12, page 13, and renumber subsequent sections accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment, en bloc.

The amendment was agreed to, en bloc.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 1536) was passed, as follows:

S. 1536

An act to amend the Communications Act of 1934 to authorize appropriations for the Federal Communications Commission, to require the Commission to recodify its rules, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interim Regulatory Reform Act—Federal Communications Commission".

RULES RECODIFICATION

SEC. 2. Title IV of the Communications Act of 1934 (47 U.S.C. 401–416) is amended by adding at the end thereof the following new section:

"SEC. 417. (a) Within 480 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress an initial proposal setting forth a recodification of all of the rules which such Commission has issued and which are in effect or proposed,

as of the date of such submission. Each such recodification proposal shall, to the extent practicable and appropriate—

"(1) recommend the transfer, consolidation, modification, and deletion of particular rules and portions thereof, including reasons therefor;

"(2) recommend changes and modifications in the organization of such rules and in the technical presentation and structure thereof;

"(3) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof; and

"(4) include a comprehensive index to the rules in the recodification, cross-referenced by subject matter.

Each such recodification proposal shall include the text of such rules, as proposed to be recodified, in their entirety, and a comparative text of the proposed changes in existing rules.

"(b) Within 660 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress, in accordance with the requirements described in subsection (a), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of submission of the initial recodification proposal. Such submission shall reflect (1) an evaluation of the recommendations and comments received from any source; and (2) the results of additional study and review by the Commission and its employees and consultants. Such rules shall take effect 180 days after the date of submission of such final proposal.

"(c) To the extent practicable and appropriate, the Chairman of the Commission shall submit along with each recodification proposal submitted to the Congress under this section—

"(1) an economic impact analysis which takes into account, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), the cost impact on and benefits to consumers, wage earners, businesses, markets, and Federal, State, and local governments, and the effects on productivity competition, supplies of important manufactured products or services, employment, and energy resource supply and demand:

"(2) a paperwork impact analysis, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), containing an estimate of the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records, and fulfill any of the information-gathering requirements under each such rule or class of rules; the nature and amount of the information required to be filed in such reports, and the frequency of such reports; the nature and number of records that would have to be kept by such persons, and the man-hours and costs required or incurred to keep such records and make such reports; and steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from the issuance of each such rule or class of rules;

"(3) a judicial impact analysis showing the probable consequences of each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(4) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of each such recodification proposal.

The material submitted to the Congress under this subsection shall not be considered a part of the rulemaking process instituted by the Commission under this section, and the sufficiency of such material shall be subject to congressional review only and not judicial review. In the event the Commission finds that it is impractical or inappropriate to submit the information required under paragraphs (1) through (4) of this subsection, the Commission shall submit a statement as to why it cannot so comply.

"(d) Each appropriate authorizing committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to each initial and final recodification proposal submitted to the Congress under this section and referred to such committee.

"(e) The text of each initial recodification proposal submitted under subsection (a), and of each final recodification proposal submitted under subsection (c), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by the Commission which is not included in the recodified rules which take effect pursuant to subsection (b), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this subsection.

"(f) As used in this section, the term 'rule' includes the whole or any part of a statement of general applicability which is issued or promulgated by the Commission for future effect and which is designed to—

"(1) implement, interpret, or prescribe law or policy (including any rule for the approval or prescription of rates);

"(2) describe the central and field organization of the Commission, and the established places at which, and the employees from whom, and the method whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(3) describe the general course and method by which the functions of the Commission are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(4) describe any rules of procedure, forms available or the places where forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; and

"(5) contain and describe all statements of general policy or interpretations of general applicability formulated and adopted by the Commission.

This term does not include any order, as such term is defined in section 551(6) of title 5, United States Code, except to the extent that any order includes a statement of policy, or an interpretation of a policy or substantive law or rule, of general applicability for future effect.".

TIMELY CONSIDERATION OF PETITIONS

SEC. 3. Title IV of the Communications Act of 1934 (47 U.S.C. 406), as amended by this Act, is further amended by adding at the end thereof the following new section:

"SEC. 418. (a)(1) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) files a petition with the Commission (other than a petition for rehearing) for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Commission, the Commission shall grant or deny such petition within 120 days after the date of filing of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, or takes no action on such petition within the 120-day period, it shall set forth, and publish in the Federal Register, its reasons for such denial or inaction.

"(2) If the Commission denies a petition to which paragraph (1) applies (or if it takes no action thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate United States Court of Appeals for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission); that (A) the failure of the Commission to grant a petition to which paragraph (1) applies is arbitrary and capricious; (B) the action requested in such petition is necessary; (C) the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Commission; and (D) the action requested in such petition is in the public interest, such court shall order the Commission to initiate such action.

"(4) A court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance amendment, or repeal of a norder, rule, or regulation under this Act or any other statute or lawful authority administered by or applicable to the Commission.

"(b) As used in this section, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of any proceeding for the issuance, amendment, or repeal of an order, rule or regulation.".

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 4. Section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended by inserting at the end thereof the following two new subsections:

"(p)(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendation, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit any legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, or if the Commission

(for good cause) cannot make the requested documents available within the 10-day period, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee, or a statement as to the reason why such documents are not in the possession of the Commission, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.

"(4) Transmission of any information, report, or other document to the Congress under the provisions of this section shall not constitute an offense under section 1905 of title 18, United States Code. The provisions of such section 1905 shall apply, however, to the transmission of any such information, report, or other document by any employee or officer of the Congress (other than a Member of Congress), or of any Member or committee of the Congress, to any person other than another such employee or officer, a Member of Congress, or the Commission.

"(q) Any appointment of an employee of the Commission to any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

AVOIDANCE OF CONFLICT OF INTEREST

SEC. 5. (a) Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended by striking out "Such commissioners shall not" and all that follows through "term for which he was appointed." and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS–16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of 1 year prior to the termination of such responsibility, or

"(2) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular which is pending before the Commission.".

(b) The amendment made by subsection (a) shall apply to employees of the Commission specified in that amendment on and after the beginning of the thirteenth complete calendar month occurring immediately after the date of enactment of this Act.

APPOINTMENT AND TENURE OF QUALIFICATIONS OF MEMBERS AND CHAIRMAN

SEC. 6. (a) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)), is amended by deleting all after the word "consent" through "chairman." and inserting in lieu thereof the following: "of the Senate. The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code. The President shall appoint one of the Commissioners as the Chairman of the Commission, by and with the advice and consent of the Senate. The Chairman shall serve as chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.".

(b) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)), is amended by—

(1) inserting "(1)" immediately after "(a)", and

(2) adding at the end thereof the following four new paragraphs:

"(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in this Act), (B) the distribution of business among such personnel and among administrative units of the Commission, and (C) the use and expenditure of funds.

"(3) In carrying out any of his functions under the provisions of this section, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

"(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

"(5) There are reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriate funds according to major programs and purposes.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) Section 4 of the Communications Act of 1934 (47 U.S.C. 154), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(r) Amounts appropriated to carry out the functions, powers, and duties of the Commission shall not exceed $70,000,000 for the fiscal year ending September 30, 1978, $74,000,000 for the fiscal year ending September 30, 1979, and $78,000,000 for the fiscal year ending September 30, 1980, and $82,000,000 for the fiscal year ending September 30, 1981.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the enrollment of the three bills just adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6111.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. CULVER, BAYH, DECONCINI, MATHIAS, and WALLOP conferees on the part of the Senate.

PUBLIC OFFICIALS INTEGRITY ACT—S. 555

Mr. ROBERT C. BYRD. Mr. President, there are two inadvertent errors which were made in the final form of S. 555, the Public Officials Integrity Act, approved by the Senate yesterday. These corrections have been cleared with the minority leader and with the sponsors of the amendments to S. 555 which resulted in the need for those corrections.

UP AMENDMENT NO. 584

Mr. President, I ask unanimous consent that the following two corrections be made to S. 555 as passed by the Senate yesterday:

(1) Every time the phrase, "5 year period" appears in the modified unprinted amendment No. 561 proposed by Senator Thurmond, the phrase "3 year period" be inserted in its place.

(2) Bentsen unprinted amendment No. 549 be altered so that the paragraph to be addded by that amendment is labeled "Section 105" instead of "Section 502" and the paragraph is added after line 12 on page 69 instead of on line 8 on page 133.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The first change is necessitated because Senator THURMOND informed the managers of the bill and the Senate that his amendment had been modified to include a 3-year ban instead of a 5-year ban on Senators

or Senate employees working in the Office of Congressional Legal Counsel. All debate on this provision refers to a 3-year ban as does the summary of the amendment in the Daily Digest. However, inadvertently, the copy of the amendment sent to the desk by Senator THURMOND did not contain the modification changing references to a 5-year ban to a 3-year ban. Senator THURMOND is in favor of making this correction to conform S. 555 to the intent of the Senate.

The second change simply moves the Bentsen amendment, which prohibits high campaign officials from being appointed Attorney General, from title V—which deals with restrictions on post-service activity—to title I which amends title 28 of the United States Code which deals with the Department of Justice.

AGE DISCRIMINATION ACT OF 1975

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6668.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 6668) entitled "An Act to amend the Age Discrimination Act of 1975 to extend the date upon which the United States Commission on Civil Rights is required to file its report under such Act, and for other purposes", and concur therein with the following amendment:

In lieu of the matter proposed by said amendment, insert: That section 307(d) of the Age Discrimination Act of 1975 (42 U.S.C. 6106(d)) is amended—

(1) by striking out "eighteen months" and inserting in lieu thereof "two years"; and

(2) by adding at the end thereof the following new sentence: "The Commission is authorized to provide, upon request, information and technical assistance regarding its findings and recommendations to Congress, to the President, and to the heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.".

SEC. 2. (a) Section 707(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3045f(a)(4)) is amended by striking out "and" following "1976," and by inserting after "1977" a comma and the following: "and the fiscal year ending September 30, 1978".

(b)(1) Section 707(d)(1) of the Older Americans Act of 1965 (42 U.S.C. 3045f(d)(1)) is amended by striking out "in any case in which a State has phased out its commodity distribution facilities before June 30, 1974, such" and inserting in lieu thereof "a".

(2) The second sentence of section 707(d)(2) of the Older Americans Act of 1965 (42 U.S.C. 3045f(d)(2)) is amended by inserting "only" after "shall".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendment to the Senate amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ORDERS FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of two Senators in the morning tomorrow be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE APPROPRIATIONS, 1978—ORDER FOR CONSIDERATION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of the leaders or their designees on tomorrow, which is a standing order, the Senate then proceed to the consideration of the agriculture appropriation bill, as was earlier understood.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STEVENSON). The Chair, on behalf of the Vice President, appoints the following Senators as congressional advisers to the Strategic Arms Limitation Talks—SALT—Delegation in Geneva, Switzerland, during 1977: The Senator from West Viriginia (Mr. ROBERT C. BYRD), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Iowa (Mr. CULVER), the Senator from Georgia (Mr. NUNN), the Senator from Idaho (Mr. CHURCH), the Senator from Tennessee (Mr. BAKER), the Senator from Alaska (Mr. STEVENS), the Senator from North Dakota (Mr. YOUNG), the Senator from Wyoming (Mr. HANSEN), the Senator from New Jersey (Mr. CASE), the Senator from New York (Mr. JAVITS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Texas (Mr. TOWER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Maryland (Mr. MATHIAS).

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:30 tomorrow morning.

AGRICULTURE APPROPRIATIONS

After the two leaders or their designees have been recognized under the standing order, the Senate will take up H.R. 7558, an act making appropriations for Agriculture and related agencies programs. There is a time agreement on that bill.

If rollcall votes are ordered on the bill or on amendments or motions in relation thereto, such rollcall votes, under the order previously entered, will not occur until 12 o'clock noon tomorrow. I ask unanimous consent that such rollcall votes occur in the proper sequence, as ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION APPROPRIATIONS

Mr. ROBERT C. BYRD. Upon the disposition of the Agriculture appropriation bill or if action on the bill is completed prior to 12 noon, the Senate will proceed at that point to the consideration of the military construction appropriation bill. There is a time agreement on that bill, and I make the same request with respect to rollcall votes on that bill, if such are ordered, that they follow in sequence the rollcall votes that may have been ordered on the agriculture appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR-HEW APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, it is the understanding then that upon the disposition of the military construction bill, the Senate will resume consideration of the Labor-HEW appropriation bill at that point, and there will be rollcall votes on amendments during the afternoon to the Labor-HEW appropriation bill and on any motions in relation thereto. It is expected that the Senate will complete action on the Labor-HEW appropriation bill tomorrow.

So far as I know the Senate has disposed of the busing amendments.

The main amendments on tomorrow, as far as I can anticipate at this time, would refer to the abortion issue and also to OSHA. So I feel there is every good reason to expect that the Senate will complete action on that bill tomorrow.

Other matters may be cleared for action tomorrow, and it is anticipated that on Thursday and Friday the Senate will take up the Public Works appropriation bill and other matters which may be cleared for action by then, including conference reports.

Mr. President, I thank all Senators for their patience and I thank the assistant Republican leader for his cooperation.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and, at 9:39 p.m., the Senate recessed until Wednesday, June 29, 1977, at 9:30 a.m.

NOMINATION

Executive nomination received by the Senate June 28, 1977:

ENVIRONMENTAL PROTECTION AGENCY

William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency, vice Alvin L. Alm, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 28, 1977:

DEPARTMENT OF JUSTICE

Jesse Roscoe Brooks, of Alabama, to be U.S. attorney for the northern district of Alabama for the term of 4 years.

William A. Kimbrough, Jr., of Alabama, to be U.S. attorney for the southern district of Alabama for the term of 4 years.

DEPARTMENT OF LABOR

Xavier M. Vela, of the District of Columbia, to be Administrator of the Wage and Hour Division, Department of Labor.

COMMUNITY SERVICE ADMINISTRATION

William Whitaker Allison, of Georgia, to be Deputy Director of the Community Services Administration.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Julius Benjamin Richmond, of Massachusetts, to be an Assistant Secretary of Health, Education, and Welfare.

Julius Benjamin Richmond, of Massachusetts, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with bills and joint resolutions introduced today are as follows:)

By Mr. CHURCH:

S. 1769. A bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings; to the Committee on Finance.

RAISE THE SOCIAL SECURITY RETIREMENT TEST TO $3,600

Mr. CHURCH. Mr. President, I introduce for appropriate reference, a bill to increase the social security retirement test to $3,600, effective in 1978.

As things now stand, social security beneficiaries under age 72 may earn up to $3,000 a year before $1 in benefits is withheld for each $2 of wages above the earnings ceiling.

Each year the retirement test is adjusted on the basis of the average covered earnings under social security. In 1978 the earnings limitation is projected to increase to $3,240.

Many older Americans believe that advancing age shuts them off from purposeful activity. Time and time again, elderly witnesses have asked the Committee on Aging this fundamental question: Why should our Nation promote inactivity when inactivity may be the aged's greatest psychological enemy?

One of the greatest employment barriers for older Americans is the existing social security earnings limitation.

More and more elderly persons are discovering that they must work to meet their mounting everyday expenses: Housing, utilities, food, medical care, nutrition, transportation, and others.

However, the present retirement test penalizes these individuals.

Ideally speaking, I would prefer to eliminate the earnings limitation entirely for persons under age 72. Unfortunately, this is not legislatively feasible at this time because of cost considerations. Additionally, the Congress is not likely to enact this proposal, since there is a need to strengthen the financing of social security. Equally important, future improvements in social security protection must be low-cost, high yield proposals.

My bill would meet these requirements. Moreover, it offers a much more realistic prospect of helping social security beneficiaries penalized by the existing retirement test than measures to provide a higher exempt earnings ceiling or to eliminate it entirely.

As chairman of the Senate Committee on Aging, I strongly believe that our Nation should remove employment barriers for older Americans.

Our policies should encourage—not discourage—those who want or need to work.

Most elderly persons have lived vigorous lives during their working years. They should continue to be active participants in their communities.

Advancing age can provide an opportunity for continued self-development and fulfillment. It can permit older Americans to engage in new and rewarding activities.

If these goals are to be achieved, though, our Nation must remove employment disincentives for older workers.

Increasing the social security earnings limitation is clearly an important first step in implementing these objectives.

For these reasons, I urge prompt approval of my bill.

Mr. President, I ask unanimous consent that the text of this measure be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraphs (1), (3), and (4)(B) of section 203(f), and paragraph (1)(A) of section 203(h), of the Social Security Act are each amended by striking out "$200" and inserting in lieu thereof "$300".

(b) The amendments made by subsection (a) shall apply with respect to taxable years ending after December 1977.

By Mr. LONG (for himself and Mr. PEARSON) (by request):

S. 1770. A bill to amend the Interstate Commerce Act to provide increased civil fines and criminal penalties for violations of the Motor Carrier Safety Regulations, to extend the application of civil fines to all violations of the Motor Carrier Safety Regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LONG. Mr. President, I introduce today, at the request of the Comptroller General of the United States, and on behalf of myself and my colleague, Mr. PEARSON, a bill to amend the Interstate Commerce Act to provide increased civil fines and criminal penalties for violations of the Motor Carrier Safety Regulations, to extend the application of civil fines to all violations of the Motor Carrier Safety Regulations, and for other purposes.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 204 and 222, chapter 104 of Part II of the Interstate Commerce Act (formerly the Motor Carrier Act of August 9, 1935, ch. 498, 49 Stat. 543), as amended, are further amended:

SEC. 1. Section 222 (49 U.S.C. § 322) is amended by redesignating subsection 222(a) (49 U.S.C. § 322(a)) as subsection 222(a)(1) and adding a new subsection 222(a)(2) to read as follows:

"SEC. 222. (a)(2) Any person who knowingly commits an act in violation of any requirement, rule, regulation, or order promulgated by the Secretary of Transportation under section 204 of this part relating to qualifications and maximum hours of service of employees and safety of operation and equipment shall be fined not more than $1,000 for the first offense and not more than $2,000 for any subsequent offense."

SEC. 2. (a) Section 204(a)(3) (49 U.S.C. § 304(a)(3)) is amended by striking the words "and (g)" and inserting "(g), and (h)" in substitution.

(b) Section 204(a)(3a) (49 U.S.C. § 304(a)(3a)) is amended by striking the words "and (g)" and inserting "(g), and (h)" in substitution.

SEC. 3. (a) Section 222(h) (49 U.S.C. §322(h)) is amended by inserting in the first sentence after "thereof," the following: "who fails to follow any requirement, rule, or regulation of the Secretary promulgated pursuant to section 204 of this part,".

(b) Section 222(h) (49 U.S.C. § 322(h)) is further amended (i) by striking "$500" and inserting "$1,000" in substitution, and (ii) by striking "$250" and inserting "$500" in substitution.

By Mr. SPARKMAN (by request):

S. 1771. A bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes; to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes.

The bill has been requested by the Chairman of the Board of Directors of the Overseas Private Investment Corporation and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis of the bill and the letter from the Chairman of the Board of Directors of OPIC to the President of the Senate dated June 16, 1977.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1771

Be it enacted by the Senate and House of Representatives in Congress assembled, That

this Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1977."

SEC. 2. Title IV of Chapter 2 of Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191–2200a) is amended as follows:

(1) Section 234 is amended—

(A) in subsection (a)(2), by substituting a period for the comma following the words "total project financing" and deleting the remainder of paragraph (2);

(B) by deleting the phrase "total face amount" appearing in subsection (a)(3) and subsection (b) and substituting in lieu thereof the phrase "maximum contingent liability";

(C) by deleting paragraphs (4) through (7) of subsection (a) and substituting in lieu thereof the following new paragraph:

"(4) In order to encourage the development of private and multilateral investment insurance the Corporation may make arrangements, consistent with its purpose set forth in section 231 and on equitable terms, with private insurance companies, multilateral organizations, or others for participation in the liabilities arising from insurance of the risks referred to in paragraph (1) of this subsection.";

(D) by deleting the second paragraph of subsection (c) and substituting in lieu thereof the following new paragraph:

"No loans shall be made under this section to finance operations for extraction of oil or gas."; and

(E) in subsection (d), by deleting the proviso appearing therein and substituting in lieu thereof the following:

"*Provided, however,* That the Corporation shall not finance surveys to ascertain the existence, location, extent or quality, or to determine the feasibility of undertaking operations for extraction of oil or gas.".

(2) Section 235 is amended by subsection (a)(4), by deleting the date "December 31, 1977" and substituting in lieu thereof the date "September 30, 1981".

(3) Section 237 is amended—

(A) in subsection (f), by deleting the period at the end of the first sentence thereof and by adding the following proviso thereto:

": *Provided, however,* That the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets."; and

(B) in subsection (f), by deleting the period at the end of the second sentence thereof and by adding the following proviso thereto:

": *Provided, however,* That this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.".

(4) Section 239 is amended—

(A) in subsection (b) thereof, by deleting the second paragraph thereof; and

(B) in subsection (d) thereof, by adding to the parenthetical appearing therein the following:

"or participation certificates in evidences of indebtedness held by the Corporation in connection with settlement of claims under section 237(i)".

(5) Section 240A is amended by deleting subsection (b) thereof and substituting in lieu thereof the following:

"Not later than December 31, 1980, the Corporation shall submit to the Congress a report on the development of private and multilateral programs for investment insurance and any participation arrangements it has made with private insurance companies, multilateral organizations and institutions, or other entities.".

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1977

I. INTRODUCTION

The proposed Overseas Private Investment Corporation Act of 1977 (hereinafter referred to as the Bill) amends the Foreign Assistance Act of 1961, as amended (hereinafter referred to as the Act) in order to extend the authority to issue investment insurance and guaranties and to make certain changes in existing programs and policies.

II. PROVISIONS OF THE BILL

Section 1. Short Title

This section provides that the Bill may be cited as the "Overseas Private Investment Corporation Amendments Act of 1977."

Section 2. Amendments to the Act

Paragraph (1)—OPIC Programs

This paragraph amends section 234 of the Act, which describes the programs the Corporation is authorized to operate, to make five changes:

(A) Subparagraph (A) deletes the limitation imposed on the use of the Corporation's authority to share risks in multilateral ventures. This limitation is no longer necessary since its purpose was to conform to the private participation guidelines of section 234(a)(4)–(7) which are being deleted in Paragraph (1) of the Bill.

(B) Subparagraph (B) deletes the phrase "total face amount" appearing in section 234(a)(3) and section 234(b) and substitutes therefor the phrase "maximum contingent liability". Section 234(a)(3) and section 234(b) of the Act limit the amount of investment insurance and investment guaranties, respectively, which the Corporation may issue to any single investor to not more than 10 percent of the respective total face amounts it is authorized to issue. The actual ceilings on total investment insurance and guaranties are described in section 235(a)(1) and section 235(a)(2), respectively. These ceilings are not described in terms of total face amount, but in terms of maximum contingent liabilities which present a more accurate portrayal of program levels and risk exposure. Subparagraph (B) conforms the terminology of single investor limitations to the terminology of overall program limitations contained in section 235(a)(1) and section 235(a)(2).

(C) Subparagraph (C) deletes the private participation guidelines of section 234(a)(4)–(7) and replaces them with authorization for the Corporation to encourage the development of private and multilateral investment insurance by making arrangements, consistent with the Corporation's statutory purpose and on equitable terms, with private insurance companies, multilateral organizations and others for participation in the liabilities arising from political risk insurance.

(D) Subparagraph (D) removes the restriction on the use of Direct Investment funds for financing of minerals projects, but retains the restriction for oil and gas projects.

(E) Subparagraph (E) removes the restriction on the use of Investment Encouragement funds for financing of surveys to ascertain the existence, location, extent or quality, or to determine the feasibility of undertaking operations for mineral extraction, but retains the restrictions for oil and gas projects.

Paragraph (2)—Extension of Authority

This paragraph extends the authority of the Corporation to issue investment insurance and guaranties until September 30, 1981.

Paragraph (3)—Insurance Limitations

This paragraph amends section 237 of the Act, which describes general provisions relating to the insurance and guaranty programs, to make two changes:

(A) Subparagraph (A) permits the Corporation to make appropriate adjustments in the insured dollar value of an investment to reflect the replacement cost of project assets. Section 237(f) of the Act does not permit the Corporation to take into account increases in the replacement cost of insured project assets. Adjustments may only be made for accrued interest, earnings or profits. Subparagraph (A) will permit the Corporation to make selective adjustments in the insured dollar value of an investment to fully recognize the cost of replacing the underlying project assets.

(B) Subparagraph (B) removes the 10% co-insurance requirement in the case of loans by banks or other financial institutions to unrelated parties. When the bank or financial institution has no ownership in the foreign enterprise, the co-insurance requirement is inappropriate. The co-insurance requirement of Section 237(f) of the Act was designed to place the insured investor at risk with respect to a percentage of the investment so that it would exercise control and direct the foreign enterprise in a prudent manner. When a financial creditor has no ownership in the foreign enterprise, the underlying rationale of co-insurance cannot be accomplished. Further, experience has shown that imposing mandatory co-insurance requirement on banks and financial institutions diminishes the utility of OPIC insurance as an incentive to project lending in developing countries.

Paragraph (4)—Powers of the Corporation

This paragraph amends section 239 of the Act, which describes the general provisions and powers of the Corporation, to make two changes:

(A) Subparagraph (A) removes the requirement that the Corporation cease operating the programs authorized by section 234(b) through (e) of the Act after December 31, 1979. This requirement was included in the Act in anticipation that the Corporation might be able to meet the scheduled withdrawal from direct underwriting of insurance pursuant to section 234(a)(4)—(7) of the Act. However, as Paragraph (1) of the Bill would permit the Corporation to continue underwriting and management of investment insurance, there would no longer be a reason to transfer the related program of investment finance to another agency.

(B) Subparagraph (B) permits the Corporation to issue participation certificates in evidences of indebtedness held by the Corporation in connection with the settlement of claims. Section 239(d) of the Act authorizes the Corporation to issue participation certificates for the purpose of selling its direct investments pursuant to Section 231(c) of the Act, but there is no explicit authorization in the Act for the Corporation to issue participation certificates in debt securities it may acquire in connection with the settlement of claims. When the Corporation seeks to dispose of claims-related debt securities it will continue to use the facilities of the Federal Financing Bank whenever they are made available.

Paragraph (5)—Report to Congress

This paragraph requires the Corporation to submit a report to the Congress, not later than December 31, 1980, on the development of private and multilateral programs for investment insurance and any participation arrangements it has made with private insurance companies, multilateral organizations and institutions, or other entities.

OVERSEAS PRIVATE INVESTMENT CORPORATION,
Washington, D.C., June 16, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting today a bill to authorize a four-year extension of the investment insurance and finance programs operated by the Overseas Private Investment Corporation ("OPIC") and to make certain changes in its existing programs and policies. The Administration believes that OPIC has played an important role in advancing U.S. foreign economic development policies and that its programs can be of greater value in the future.

The major change proposed by the Administration is to remove the requirement that

"

OPIC transfer its insurance operations to the private insurance industry by certain deadlines. These deadlines were set in the 1974 amendments to the Foreign Assistance Act, when the Congress expressed its intention that OPIC progressively increase private participation in its insurance functions, with the aim that OPIC withdraw completely from direct underwriting and management of investment insurance in 1980. The Administration has undertaken a review of OPIC's efforts to achieve private participation in its insurance liabilities, the views of the private insurance industry, the costs and benefits of various types of private participation by this industry, and the compatibility of the "privatization" goals with OPIC's basic developmental purpose and other statutory guidelines.

This review has concluded that the ultimate privatization goals of the 1974 legislation cannot be met consistent with the fulfillment of OPIC's purpose. The private insurance industry will not provide long-term non-cancelable insurance or an adequate volume of insurance in the foreseeable future. The result of meeting the present statute's deadlines would be to terminate OPIC insurance operations without any reasonable prospect of replacement by a comparable private sector facility.

In place of the 1974 guidelines, it is now proposed that OPIC be authorized to encourage the development of private and multilateral investment insurance programs and operations, consistent with OPIC's statutory purpose, and to report to the Congress on these efforts.

The bill also proposes certain other changes of lesser significance which will improve OPIC services and its ability to be self-supporting.

I urge the early passage of the enclosed legislation.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to the Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely,

JOHN J. GILLIGAN,
Chairman of the Board of Directors.

By Mr. PEARSON:

S. 1772. A bill to amend title 39 of the United States Code to prohibit a reduction in the frequency of mail delivery service, to alter the organizational structure of the U.S. Postal Service, to revise the procedure for adjusting postal rates and services, and for other purposes; to the Committee on Governmental Affairs.

Mr. PEARSON. Mr. President, rarely has an institution been so roundly criticized as has the Postal Service for the past 6 years. Since the Postal Reorganization Act of 1970, service has gotten worse and postal rates have increased faster than the rate of inflation. Critics say there is little evidence to suggest this trend will stop. Few, if any, believe the Postal Service will ever be self-sufficient and an increasing number of people believe we should drop that pretense and devote more energies toward making the service more dependable.

This public outburst puts the onus on Congress to decide for the second time this decade what the future of the Postal Service is to be. Quite simply, Mr. President, I believe Congress should end the independence of the Postal Service, admit the reorganization experiment has failed, and return the Postal Service to congressional control.

I am introducing legislation today that will force the Postal Service to come before Congress each year for its authorizations and appropriations. Although I have added several substantive changes, this legislation is modeled after H.R. 6520, which contains the provisions that were accepted by the House last Congress.

The proposal I have introduced would abolish the Board of Governors, which under the present system is responsible for running the day-to-day operations of the Postal Service. It would require that the Postmaster General be appointed by the President and confirmed by the Senate. It outlines a procedure whereby Congress decides on the advisability of postal rate increases or the need for an increased Federal subsidy to meet financial obligations. The legislation stresses that mail delivery service must not be dropped from 6 to 5 days a week. It also protects against the arbitrary closing of small post offices unless a majority of the patrons vote to do so or unless the post office's postmaster slot is vacant.

By requiring an agency to come before Congress for its appropriations it is guaranteed that a certain amount of politics will be involved, Mr. President. But it is the intent of this legislation that politics be kept to a minimum. Congress will not be responsible for the appointment of postmasters. It does not seek to run the day-to-day operations of the Postal Service. It will be responsible for directing the Postal Service toward a more service-oriented goal.

The shift from the present, quasi-independent status of the Postal Service back to Government control does not mean a lower priority will be given efforts to make the Postal Service more efficient, more cost-effective. Although the objective of this legislation is to make the Postal Service more dependable, Congress cannot turn its back on the need to hold down costs. If Congress allows the Postal Service to slip into wasteful, inefficient habits then we will ultimately have no alternative but to pay for the inefficiency through higher appropriations or increased postage rates. Effectively managing the Postal Service budget will be a most challenging task should Congress find the Postal Service reins in its hands once again. But it is a task that will determine the success of Government control of the Postal Service.

Another section of my bill relating to the future of the Postal Service regards the research and development efforts of the Postal Service to stay abreast of current technology. Study after study points to the dangers of the Postal Service falling behind the advancements of the communications market, and ending up as a prohibitively expensive service whose "time has already passed."

Mr. President, it is essential that Postal Service management devote a larger portion of their energies and funds toward developing long-term plans for the Postal Service. Of primary importance is the agency's decision regarding electronic communications. The effect of electronic communications was dramatically illustrated with the advent of the 13-cent first-class stamp. Because of the increased expense, the large users of first-class mail began experimenting with the electronic transfer of mail, thus, in part, contributing to the decline in total mail volume and Postal Service revenues. If this trend accelerates, as many predict it most certainly will, it portends disaster for the Postal Service as we know it now.

It is the intent of this legislation to force management to adopt innovative long-term plans that will adapt to a changing communications market. Under my bill the Postmaster General would be required to submit a yearly report to Congress outlining the total amount of funds expended on research and development and explaining the direction of each project.

At this time, Mr. President, I would ask that this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Postal Reorganization Act Amendments of 1977".

AMENDMENT OF TITLE 39

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 39 of the United States Code.

FREQUENCY OF MAIL DELIVERIES; POST OFFICE CLOSINGS

SEC. 3. (a) Chapter 36 is amended by inserting after section 3662 the following new sections:

"§ 3663. Frequency of delivery service

"Notwithstanding any other provision of this title and until otherwise provided by law, the Postal Service shall not reduce the frequency of mail delivery service for any user of the mail below the frequency of such service in effect for such user of the mail on April 21, 1977. As used in this section, 'frequency of mail delivery service' means the number of days in any calendar week on which any delivery of mail is made.

"§ 3664. Closing of post offices

"(a) The Postal Service shall not close any post office which was providing regular mail service on April 21, 1977, unless—

"(1) the Postal Service receives the written consent of a majority of the regular patrons of such office who are at least 18 years of age, or

"(2) there is a vacancy in the office of postmaster of such office.

"(b) Notwithstanding the provisions of subsection (a), the Postal Service shall comply with the provisions of section 404(b) of this title before closing any post office.".

(b) The table of sections for chapter 36 is amended by inserting after the item relating to section 3662 the following new items:

"3663. Frequency of delivery service.
"3664. Closing of post offices.".

ORGANIZATION OF POSTAL SERVICE

SEC. 4. (a)(1) Sections 202 and 203 are amended to read as follows:

"§ 202. Postmaster General

"The chief executive officer of the Postal Service is the Postmaster General, who shall be appointed by the President, by and with the advice and consent of the Senate. The

pay of the Postmaster General shall be at an annual rate equal to the annual rate of basic pay, as in effect from time to time, for level I of the Executive Schedule of section 5312 of title 5.

"§ 203. Deputy Postmaster General

"The deputy chief executive officer of the Postal Service is the Deputy Postmaster General, who shall be appointed by the Postmaster General. The Postmaster General shall fix the term of service of, and shall have the power to remove, the Deputy Postmaster General. The pay of the Deputy Postmaster General shall be at an annual rate, fixed and adjusted by the Postmaster General, not more than $2,500 less than the annual rate of basic pay of the Postmaster General, as in effect from time to time.".

(2) Section 205 is amended to read as follows:

"§ 205. General authority of Postmaster General

"The Postmaster General shall direct and control the expenditures and review the practices and policies of the Postal Service and perform other functions and duties prescribed by this title.".

(3)(A) The table of sections for chapter 2 is amended by striking out the items relating to sections 202 and 203 and inserting in lieu thereof the following new items:

"§ 202. Postmaster General.
"§ 203. Deputy Postmaster General.".

(B) The table of sections for chapter 2 is amended by striking out the item relating to section 205 and inserting in lieu thereof the following new item:

"205. General authority of the Postmaster General.".

(b)(1) Section 102 is amended to read as follows:

"§ 102. Definition

"As used in this title, 'Postal Service' means the United States Postal Service established by section 201 of this title.".

(2) The table of sections for chapter 1 is amended by striking out the item relating to section 102 and inserting in lieu thereof the following new item:

"102. Definition.".

(c)(1) Section 402 is repealed.

(2) The table of sections for chapter 4 is amended by striking out the item relating to section 402.

(d) Section 2402 is amended to read as follows:

"§ 2402. Annual report

"The Postmaster General shall submit to the President an annual report concerning the operations of the Postal Service under this title.".

(e)(1) The following sections are each amended by striking out "Board" each place it appears therein and inserting in lieu thereof "Postmaster General";

(A) 204.
(B) 207.
(C) 1011.
(D) 3625(f).
(E) 5206(c).

(2) The following sections are each amended by striking out "Governor" each place it appears therein and inserting in lieu thereof "Postmaster General":

(A) 3621.
(B) 3623(b).
(C) 3624 (c)(1) and (d).
(D) 3625 (other than the last sentence of subsection (d)).
(E) 3628.
(F) 3641.
(G) 3684.

(3)(A) Section 1001(d) is amended by striking out "of the Board or".

(B) Section 1002(a) is amended by striking out "Governor or".

(4) The last sentence of section 3625(d) is amended to read as follows: "However, the Postmaster General may modify any such further recommended decision of the Commission under this subsection if the Postmaster General expressly finds that—

"(1) such modification is in accord with the record and the policies of this chapter; and

"(2) the rates recommended by the Commission are not adequate to provide sufficient total revenues so that total estimated income and appropriations will equal as nearly as practicable estimated total costs.".

(5)(A) The heading for section 3625 is amended to read as follows:

"§ 3625. Action relating to recommended decisions".

(B) The table of sections for subchapter II of chapter 36 is amended by striking out the item relating to section 3625 and inserting in lieu thereof the following new item: "3625. Action relating to recommended decisions.".

PROCEDURES FOR ADJUSTMENT OF RATES AND SERVICES

SEC. 5 . (a)(1) Subchapter II of chapter 36 is amended by redesignating section 3628 as section 3629 and by inserting immediately after section 3627 the following new section:

"§ 3628. Appropriations or adjustments for operating deficits

"(a)(1) If the Postal Service determines that total estimated revenues of the Postal Service for any fiscal year are not sufficient to defray total estimated costs of the Postal Service for such fiscal year, the Postal Service may—

"(A) request the Congress to authorize the appropriation of, and appropriate, an amount which, together with such total estimated revenues, will defray as nearly as practicable such total estimated costs;

"(B) make a request under section 3622 (a) of this title for a recommended decision of the Postal Rate Commission; or

"(C) propose a change in the nature of postal services under section 3661(b) of this title.

"(2)(A) If the Postal Service makes a request to the Congress under paragraph (1)(A) of this subsection, the Postal Service shall notify the Postal Rate Commission of such request and shall provide the Commission with data and an analysis with respect to the amount of any increase in a rate or rates of postage or in a fee or fees for postal services, or with respect to the nature of any change in postal services, which would be necessary if the Congress fails to appropriate the amount involved in such request.

"(B) If the Postal Service makes a request under section 3622 (a) of this title, or proposes a change under section 3661 (b) of this title, as a result of a determination of the Postal Service under subsection (a) of this section, the Postal Rate Commission shall notify the Congress of such request or proposal and shall provide the Congress with data and an and analysis with respect to the amount of appropriated funds which, together with total estimated revenues of the Postal Service for the fiscal year involved, would defray as nearly as practicable the total estimated costs of the Postal Service for such fiscal year.

"(b)(1) If the Congress fails to appropriate the amount requested by the Postal Service under subsection (a)(1)(A) of this section, or if the Congress appropriates an amount which is less than such amount, during the 5-month period immediately following the date upon which such request is made, and the Postal Service has not made a request under section 3622(a) of this title or proposed a change under section 3661(b) of this title during such 5-month period, the Postal Service may make such request or propose such change, as a result of a determination of the Postal Service under subsection (a) of this section, at any time after such 5-month period. Any such request or proposal shall take into account the amount of any appropriation made by the Congress as a result of a request of the Postal Service under subsection (a)(1)(A) of this section during such 5-month period.

"(2) In the case of any request made by the Postal Service under section 3622(a) of this title after the 5-month period immediately following the date upon which the Postal Service makes a request under subsection (a)(1)(A) of this section, the Postal Rate Commission shall transmit its recommended decision to the Postmaster General no later than 5 months after receiving such request under section 3622(a) of this title.

"(c)(1) If the Postal Service makes a request under section 3622(a) of this title as a result of a determination of the Postal Service under subsection (a) of this section, the Postal Rate Commission may not make a recommended decision with respect to such request during the 5-month period immediately following the date upon which such request is made. If the Congress appropriates funds to the Postal Service during such 5-month period for the purpose of defraying as nearly as practicable the total estimated costs of the Postal Service for the fiscal year involved, the request made by the Postal Service under section 3622(a) of this title shall be modified to take into account such appropriation.

"(2) If the Postal Service submits a proposal under section 3661(b) of this title as a result of a determination of the Postal Service under subsection (a) of this section, such proposal may not take effect during the 5-month period immediately following the date upon which such proposal is submitted. If the Congress appropriates funds to the Postal Service during such 5-month period for the purpose of defraying as nearly as practicable the total estimated costs of the Postal Service for the fiscal year involved, the proposal submitted by the Postal Service under section 3661(b) of this title shall be modified to take into account such appropriation.

"(d) The provisions of this section shall not apply to any adjustment of a rate or rates of postage which is authorized by section 3627 of this title.

"(e) For purposes of this section, the Congress shall not be deemed to have passed legislation making an appropriation unless such legislation becomes law.

"(f) For purposes of this section, the term 'total estimated costs' has the meaning given it by section 3621 of this title.".

(2) The table of sections for subchapter II of chapter 36 is amended by striking out the item relating to section 3628 and inserting in lieu thereof the following new items:

"3628. Appropriations or adjustments for operating deficits.
"3629. Appellate review.".

(b)(1) Section 3624(c)(1) is amended by inserting immediately before the period at the end thereof the following: ", except that such recommended decision shall be transmitted no later than 5 months after receiving any such request from the Postal Service if such request is subject to the provisions of section 3628(b)(2) of this title".

(2) Section 3624(c)(2) is amended by inserting "5-month period or" immediately before "10-month period".

(c) Section 3627 is amended by inserting immediately after "provision of this subchapter" the following: "(other than the provisions of section 3628 of this title)".

(d)(1) Section 3641 (f) is amended by striking out "section 3628" and inserting in lieu thereof "section 3629".

(2) Section 3662 is amended by striking out "section 3628" and inserting in lieu thereof "section 3629".

REVIEW OF PROPOSED CAPITAL INVESTMENTS AND RESEARCH AND DEVELOPMENT EXPENDITURES

SEC. 6. (a) Chapter 20 is amended by adding at the end thereof the following new sections:

"§ 2011. Review of proposed capital investments

"(a) The Postal Service may not carry out any capital investment project having a total estimated cost which exceeds $200,000,000 unless the Postal Service, before commencing such project, transmits a report to the Post Office and Civil Service Committee of the House of Representatives and the Committee on Governmental Affairs of the Senate. Such report shall contain a detailed description of the project involved, together with a justification for such project.

"(b) The Post Office and Civil Service Committee of the House of Representatives and the Committee on Governmental Affairs of the Senate, upon receiving any report from the Postal Service under subsection (a) of this section, shall review the project involved and conduct such hearings with respect to such project as each committee considers necessary. Each such committee shall transmit recommendations to the Postal Service with respect to such project no later than 4 months after receiving a report under subsection (a) of this section.

"(c) The Postal Service may not commence any capital investment project with respect to which a report has been transmitted by the Postal Service under subsection (a) of this section until the Postal Service has received recommendations with respect to such project from the appropriate committees of the Senate and the House of Representatives under subsection (b) of this section. The Postal Service shall take such recommendations into account in making its final determination with respect to carrying out the project involved.

"(d) For purposes of this section, the term 'capital investment project' means any project the cost of which is not properly chargeable, under generally accepted accounting principles, as an expense of operation and maintenance.

"§ 2012. Report on research and development

"Within 30 days of the last day of each fiscal year, the Postal Service shall transmit to the Congress a report listing the total amount of funds expended on research and development during that fiscal year, each research and development project for which such funds were expended during that fiscal year, and the amount of the funds expended on that project.".

(b) The table of sections for chapter 20 is amended by adding at the end thereof the following new items:

"2011. Review of proposed capital investments.

"2012. Report on research and development.".

POSTAL RATE COMMISSION BUDGETS

SEC. 7. Section 3604(d) is amended to read as follows:

"(d) The Commission annually shall prepare and submit to the President a separate budget of the expenses of the Commission, including expenses for facilities, supplies, compensation, and employee benefits. The President shall include the budget of the Commission, with his recommendations but without revision, as a separate item in the budget required by section 11 of title 31 to be transmitted to the Congress.".

EFFECT ON COLLECTIVE BARGAINING AGREEMENTS

SEC. 8. Nothing in this Act, or in any amendment made by this Act, affects—

(1) any collective bargaining agreement entered into by the United States Postal Service which is in effect on the effective date of this Act; or

(2) the authority of the United States Postal Service under chapter 12 of title 39, United States Code, to engage in collective bargaining with respect to any collective bargaining agreement into which the United States Postal Service may enter.

EFFECTIVE DATES

SEC. 9. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on the first day of the first fiscal year immediately following the date of the enactment of this Act.

(b) The amendments made by section 3 shall take effect on the date of the enactment of this Act.

By Mr. JAVITS (for himself, Mr. EAGLETON, and Mr. CHAFEE):

S. 1773. A bill to amend the Age Discrimination in Employment Act of 1967 to extend the protection against discrimination in employment to individuals above age 65, and to protect individuals covered by the act from early mandatory retirement as required by certain seniority systems and employee benefit plans; to the Committee on Human Resources.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

Mr. JAVITS. Mr. President, I am introducing today along with Senators EAGLETON and CHAFEE a bill to expand as well as clarify the protections afforded older workers by the Age Discrimination in Employment Act of 1967—ADEA. This act now protects only those employees who are at least 40 but less than 65 years of age from age discrimination in matters of hiring, discharge, compensation, or, in other terms, conditions or privileges of employment.

Our bill seeks to aid older workers in two ways. First, it gradually raises the upper age "cap" from age 65 to age 72, and eliminates the upper age limit altogether in 1985. The cap would be raised to age 68 on January 1, 1978, to age 70 on January 1, 1980, and to age 72 on January 1, 1982. On January 1, 1985, the 72-age cap would be completely eliminated. Second, our bill would amend the limited exception for bona fide employee benefit plans contained in section 4(f)(2) by making it clear that such plans and seniority systems may not be used to force mandatory early retirement on the basis of age.

As many of my colleagues may know, I have had a special interest in age discrimination legislation for many years. I introduced my first such bill back in 1951 when I was a Member of the House of Representatives. My efforts reached fruition in 1967 when the ADEA was passed. I had the privilege of participating extensively in the legislative consideration of the administration bill which, with the addition of a number of amendments that I sponsored, became law. The ADEA has proved to be an excellent piece of social legislation, and the time has now come to extend its protections to more workers and to close the gaping loophole which some Federal courts have read into the employee benefit plan exception.

RAISING AND EVENTUALLY ELIMINATING THE AGE CAP

There is nothing preordained about the 65 upper age limit of the ADEA. Former Secretary of Labor Willard Wirtz acknowledged that it was selected simply because the Social Security Act used that age. If we look at the history of the Social Security Act, we see that age 65 was selected somewhat arbitrarily, in part because of the tradition of using this age in Germany's social security system. With advances in medical science and improvements in the U.S. standard of living, life expectancies in the United States have steadily increased since the time when age 65 was first incorporated into law. Age 65 is not as old as it once was, and our laws on age discrimination should take this into account.

It has always seemed unjustifiable to me to permit employees to be forced into retirement solely because they have reached an arbitrarily established age. If such a standard were applied to Members of Congress, I dare say we would lose some of our finest and most competent Members. Such a standard would have halted the work of such great individuals as Benjamin Franklin, Eleanor Roosevelt, and Oliver Wendell Holmes. The point is that an arbitrary ADEA age cap fails to take account of differential aging and different effects of aging on various skills. It could waste well-developed abilities and mature judgment which can be of great benefit to society. In addition, evidence exists that mandatory retirement accelerates the aging process and brings on or makes physical and emotional problems worse.

The actual number of employees who would opt to continue working past age 65 will probably be quite small. Only 2 percent of the employees at General Motors and 20 percent at Exxon postpone retirement until the present mandatory age. A social security study indicates that only about 7 percent of male workers would want to continue to work after normal retirement age. Fears of large numbers of aged employees lingering on appear to be unfounded and of course, employees no longer capable of performing their duties can be discharged as for good cause.

In addition, eliminating the age gap will relieve some of the funding pressures of retirement plans. Employees who continue working past age 65 will collect their pensions for shorter periods of time. Under the Employee Retirement Income Security Act of 1974, employers are not required to continue the accrual of benefits after the normal retirement age as defined in ERISA. Consequently, the cost of pension plans will not be increased and, in fact, should be decreased as a result of eliminating the age cap.

Those who oppose raising or eliminating the age cap frequently argue that older workers are less productive, yet many studies indicate that this is a fallacy. Opponents also argue that mandatory retirement avoids competency-based retirements. The experience of many major corporations indicates that a program of competency-based retirements, instead of mandatory retirement based on age, can be successfully administered.

Proponents of the status-quo also raise fears that eliminating the age cap will result in fewer new job openings for minorities, women, and younger workers,

but we know that normal turnover, coupled with the long-term upturn in the economy, will continue to provide increasing opportunities for these and other new entrants to the labor force. In addition, since relatively few employees can be expected to work past age 65, a steady turnover in positions should continue as employees voluntarily retire.

Finally, well before the time when this bill would eliminate the age cap of the ADEA, it requires the Secretary of Labor to complete a study, by January 1, 1979, on the effects of raising and eventually eliminating the cap.

Mr. President, I believe that eliminating discrimination against the older worker is long overdue. Justice has too long been denied, not only for the men and women who continue to suffer employment discrimination, but for our society which denies itself the social and economic benefit of older workers' contribution to the Nation.

AMENDING SECTION 4(F)(2)

Section 4(f)(2) permits an exception to the ADEA's general age discrimination proscription by making it lawful "to observe the terms of . . . any bona fide employee benefit plan . . . which is not a subterfuge to evade the purposes of this Act."

The purpose of this amendment was to facilitate the hiring of older employees by permitting their employment without necessarily providing equal benefits under employee benefit plans. As I stated on the Senate floor to Senator Yarborough, the bill's floor manager, "The meaning of the provision is as follows: An employer will not be compelled under this section to afford to older workers exactly the same pension, retirement, or insurance benefits as he affords to younger workers." Senator Yarborough explicitly agreed with my explanation of the provisions.

Yet, despite this clear explanation, the U.S. Court of Appeals for the Third Circuit in *Zinger* v. *Blanchesse*, 549 F.2d 901 (3d Cir. 1977), has construed section 4(f)(2) to mean that mandatory retirement under a plan at less than age 65 at the option of the employer is lawful. The effect of Zinger is to deny the ADEA's protection with respect to forced early retirement to six million employees who are members of plans which permit the employer to force early retirement before age 65 and to encourage other employers to include similar provisions in their plans covering an additional 29 million employees.

The Supreme Court will have the opportunity to decide this issue in *McMann* v. *United Airlines*, 542 F. 2d 217 (4th Cir. 1976), cert. granted, No. 76-906 (1977). In McMann, the Court of Appeals for the Fourth Circuit interpreted the 4(f)(2) exception narrowly, holding that a plan which forced retirement before age 65 was unlawful.

Before the Supreme Court considers the arguments about what the Congress intended by section 4(f)(2), I think it is encumbent that Congress make clear that this provision was never intended to permit the wholesale evasion of the ADEA's protections. As the Fourth Circuit in McMann observed, "We think it unlikely that Congress intended to leave the vast loophole in this broad remedial legislation which . . . [the employer] . . . would have us fashion."

It should be added that under our bill union representatives will still be able to collectively bargain for decreases in the voluntary early retirement age under employee benefit plans.

In conclusion, Mr. President, I and Senators EAGLETON and CHAFEE urge our colleagues to consider this bill favorably. We have received communications from other Senators interested in aspects of this bill and understand that there is substantial support in the other body for increasing and clarifying the protections of the ADEA.

Even though most Americans will never experience the employment discrimination which minorities have endured, most of us will eventually face some form of discrimination on the basis of age. We all, therefore, have an interest in seeing that this form of discrimination is overcome. As ranking minority member of the Human Resources Committee and its Labor Subcomittee, I and Senators EAGLETON and CHAFEE, as chairman and ranking minority member respectively of the Committee on Human Resources' Subcommittee on Aging, will urge that action on this vital measure be taken promptly.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Age Discrimination in Employment Amendments of 1977".

SEC. 2. Paragraph (2) of section 4(f) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) is amended by inserting after "individual" the following: "and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12 of this Act because of the age of such employee."

SEC. 3. Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by striking "sixty-five years of age." at the end thereof and by inserting the following:

"(1) Sixty-five years of age during the period ending December 31, 1977,

"(2) Sixty-eight years of age during the period beginning January 1, 1978 and ending December 31, 1979,

"(3) Seventy years of age during the period beginning January 1, 1980 and ending December 31, 1981, and

"(4) Seventy-two years of age during the period beginning January 1, 1982 and ending December 31, 1984."

SEC. 4. Effective January 1, 1985, Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631), as amended by Section 3 of this Act, is further amended to read as follows:

"AGE LIMIT

"SEC. 12. The provisions of this Act shall be limited to individuals who are at least 40 years of age."

SEC. 5. The amendments made by this Act shall apply with respect to any action taken by any employer, employment agency, or labor organization on or after the date of enactment of this Act, and to any discrimination by any employer, employment agency, or labor organization which occurs on or after such date.

SEC. 6. Section 5 of the Age Discrimination in Employment Act (29 U.S.C. 624) is amended to add at the end thereof the following:

"Further, the Secretary is directed to complete a study of the effect of age discrimination against workers above age sixty-five on individuals, employment practices, and employee benefit plans, and shall submit such report, together with any recommendations deemed appropriate, to the President and to the Congress. Both studies required by this Section shall be submitted no later than January 1, 1979.".

Mr. CHAFEE. Mr. President, I am honored to cosponsor today, along with Senators JAVITS and EAGLETON, legislation designed to end age discrimination against older persons in employment. At the present time, the Age Discrimination in Employment Act of 1967, ADEA, prohibits age discrimination in employment for persons ages 40 through 65. This bill would eliminate the age ceiling by raising the upper age limit to 68 in 1978, to age 70 in 1980, to age 72 in 1982 until the age ceiling is eliminated in 1985. In addition, this bill forbids mandatory retirement on the basis of age due to conditions established in bona fide employee benefit plans.

One observation that is clear to us all is that people do not age in the same way. Some are fully qualified to remain employed throughout our sixties, seventies, and beyond. Others would prefer, for personal or medical reasons, to retire at age 65 or an earlier age. This is a highly personal decision which cannot be made on the basis of age alone.

However, our laws promote mandatory retirement at the age of 65. ADEA forbids age discrimination in employment for persons between the ages of 40 and 65. At 65, however, an employer may require an employee to retire because of his or her age. This, Mr. President, is age discrimiantion; 65 is simply an arbitrary age at which to retire. If a person is able to continue to work and chooses to do so, our laws should allow them to remain employed. By raising and eventually eliminating the age ceiling under ADEA, we will achieve this important goal.

There is mounting evidence that mandatory retirement is neither healthful nor desirable. For example, the American Medical Association suggests that stopping productive work and earning power leads to physical and emotional deterioration. Men and women who lead productive, fulfilling lives do not necessarily lose their desire and ability to work on their 65th birthday. A nationally based Harris poll found that up to one-third of retired Americans would prefer to remain working if they had the opportunity.

I often hear this issue raised by my constituents. Just this week, a constituent of mine in Rhode Island described to me the serious problems he is facing in trying to secure employment after being forced to retire on his 65th birthday.

Admittedly, if a large number of currently retired individuals rejoined the labor force there theoretically would be fewer jobs. But, in fact, the ability of the working elderly to afford more goods and services would create more jobs.

The second part of this bill corrects a problem that has arisen because bona fide employee benefit plans often require retirement at age 65. As a result, the antidiscrimination intent of ADEA is circumvented. This bill would strengthen the age discrimination provisions of ADEA by clearly stating that mandatory retirement on the basis of age pursuant to the terms of employee benefit plans is not permitted.

Prejudice against age is as inexcusable as prejudice against race, sex, or religion. By continuing our present retirement policies, we encourage dependence rather than independence; we deny our communities the benefits that older workers can contribute. It is incumbent upon this Congress to vigorously promote rather than discourage older people to remain active and productive. I urge my colleagues to give strong support to this vital legislation.

By Mr. NELSON (for himself, Mr. EASTLAND, Mr. CLARK, Mr. MCGOVERN, Mr. ZORINSKY, Mr. HATHAWAY, and Mr. CHILES):

S. 1774. A bill to amend the Internal Revenue Code of 1954 to provide that the Federal excise tax on telephone service does not apply to amounts paid as State tax on the same service; to the Committee on Finance.

DOUBLE TAXATION ASPECTS OF THE FEDERAL TELEPHONE EXCISE TAX

Mr. NELSON. Mr. President, I introduce for appropriate reference a bill to eliminate an unfair element of a Federal telephone excise tax, which amounts to double taxation in Wisconsin and 17 other States.

Most people are familiar with the Federal excise tax on telephone service, which stands at 5 percent in 1977 and is being reduced 1 percent per year until it will be phased out entirely in 1982.

What has caused this problem is that 18 States have enacted sales taxes on telephone service in a manner known as a "retailer tax"—levied on the provider of the service—rather than a "consumer tax"—which is levied on the user of the service.

In 1973, the Internal Revenue Service issued a ruling that if the State taxes fell into the "retailer" category, the Federal excise tax must be imposed not only on the basic telephone bill, but also on the additional State tax as well.

This, of course, is a "tax on a tax" and I do not believe that Congress intended that result. Because of this inequity, we sought from IRS a delay in the imposition of this tax-on-a-tax element. IRS was willing to postpone the effect of the ruling until February 1977.

There has also been an attempt to gain State action in Wisconsin, and perhaps other States, to change the nature of the State tax from the retailer to the consumer category. However, such a change has not taken place in Wisconsin.

If the law is not changed, there are three reasons why the tax on a tax will continue to be an inequity for the States involved:

First, it should be noted that not all States impose a State sales tax on telephone service. There are 32 States in which the citizens do not bear a double tax in this respect.

Second, those States which impose a communications excise tax on the users of the service, rather than the providers, do not incur this form of double taxation.

Third, even within the 18 States which are paying this extra tax, there is no uniformity in the amount of State telephone sales taxes which are imposed. The higher the sales tax becomes, the higher the excise tax will be. Thus, the greater revenue effort the State is making, the more its telephone users would suffer the double tax.

The extent of this problem can be understood from the total amounts in question. In Wisconsin alone, telephone users would have an estimated liability of $3,500,000 in additional Federal excise taxes between now and 1982. For the 18 States involved, the total is estimated to be $46,250,000. In my view, most people would agree that paying any tax once is difficult enough. We should not ask any of our citizens to endure a tax on another tax.

I feel that the citizens of these 18 States are entitled to relief on this burden of double taxation and I hope that the Congress will act expeditiously to correct this unfair situation.

I ask unanimous consent that the text of the bill and a table showing the additional Federal excise tax liability estimated for the telephone users of the 18 States be printed in the RECORD at this point.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 1774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4254 of the Internal Revenue Code of 1954 (relating to computation of tax) is amended by adding at the end thereof the following new subsection:

"(c) AMOUNTS PAID AS STATE TAX FOR SERVICE DISREGARDED.—No tax shall be imposed under section 4251 on so much of any amount paid for services as is properly attributable to any tax imposed on the amount paid for such services, or otherwise imposed on the providing of such services, by a State or any political subdivision thereof.".

SEC. 2. The amendment made by the first section of this Act applies with respect to bills rendered after June 30, 1977.

Alabama	$1,750,000
Florida	10,000,000
Illinois	10,000,000
Iowa	1,250,000
Kansas	1,000,000
Kentucky	2,000,000
Maine	750,000
Minnesota	2,250,000
Mississippi	1,312,500
Missouri	2,500,000
Nebraska	625,000
New Mexico	625,000
North Dakota	312,500
Pennsylvania	5,000,000
South Carolina	500,000
South Dakota	375,000
Tennessee	2,500,000
Wisconsin	3,500,000
Totals on above States	46,250,000

By Mr. CRANSTON (by request):

S. 1775. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; to the Committee on Veterans' Affairs.

ADMINISTRATION PROPOSAL TO EXTEND AUTHORITY TO ENTER INTO SPECIAL PAY AGREEMENTS WITH VA PHYSICIANS AND DENTISTS

Mr. CRANSTON. Mr. President, at the request of the administration I am today introducing S. 1775, a bill to amend the Veterans' Administration and Dentist Pay Comparability Act of 1975, as amended, in order to extend certain provisions thereof, and for other purposes. The bill further makes an amendment to section 4118 of title 38, United States Code, relating to new terms of agreement authorized by subsection (e)(1) of such section.

Mr. President, I ask unanimous consent that the letter of transmittal, the bill, a section-by-section analysis of the bill, and the changes in existing law be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., June 27, 1977.

HON. WALTER MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes" with a request that it be introduced and considered for enactment.

Public Law 94-123, "Veterans' Administration Physician and Dentist Pay Comparability Act of 1975," authorized the Veterans' Administration to pay special pay to eligible physicians and dentists upon the execution of and for the duration of a written agreement. The Veterans' Administration authority to enter into agreements was limited to one year. Public Law 94-581, "Veterans Omnibus Health Care Act of 1976" extended the authority to enter into agreements through September 30, 1977.

The proposed bill would further extend the authority to enter into agreements through September 30, 1978. It would also amend section 4118 of title 38, United States Code, to provide, in subsection (e)(1), that upon completion of the terms of an agreement authorized by this section by a physician or dentist in the Department of Medicine and Surgery, such individual can enter into subsequent new agreements for additional periods not to exceed four years in any such agreement. This provision is necessary in order to overcome an interpretation of the law by the Veterans' Administration that no agreement or combination of agreements could be entered into which would exceed a total of 4 years. Under this proposed amendment, a physician or dentist who has signed an agreement under current or prior law, which will be completed during the extended authorization period, may execute an additional agreement not to exceed 4 years even if the total period of any combination of agreements does exceed 4 years.

Since the enactment of the special pay program we have been collecting data on its effectiveness. Data that we have received indicates that the program has had a positive impact on our ability to recruit and retain physicians and dentists in the Department of Medicine and Surgery. Accordingly, we believe it essential that the present authority be extended through September 30, 1978 so as not to disrupt current agency efforts to recruit and retain physicians and dentists.

In this connection, Public Law 94–123, required both the Comptroller General and the Director of the Office of Management and Budget to submit a report to Congress containing an investigation of problems facing the departments and agencies in the Federal Government in recruiting and retaining qualified physicians and dentists, together with prospective solutions to the problems. The Director of the Office of Management and Budget and the Comptroller General have both submitted such reports. The Veterans' Administration cooperated in the development of these reports by furnishing information concerning the recruitment and retention of physicians. We will continue to cooperate, in any way possible, in attempting to resolve this problem.

We estimate that extension of our current contracting authority would result in the following costs to the Veterans' Adminisration:

Fiscal year:	Costs
1978	$3,958,000
1979	7,481,000
1980	6,658,000
1981	5,927,000
1982	2,792,000
Total cost	26,816,000

Therefore, in view of the foregoing, we request the enactment of the draft bill at the earliest possible date.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report to the Congress, and enactment of the draft bill would be consistent with the objection of the administration.

Sincerely,

MAX CLELAND, *Administrator.*

Enclosure.

S. 1775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669) as amended (Public Law 94–581; 90 Stat. 2852), is further amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

SEC. 2. Section 4118 of title 38, United States Code, is amended by—

(1) striking out in subsection (a)(1) "he" and inserting in lieu thereof "the Administrator"; and

(2) inserting a new sentence at the end of subsection (e)(1) as follows: "Upon completion of the terms of any agreement authorized by this section subsequent new agreements may be entered into by any such physician or dentist for additional periods of service not to exceed four years in any such agreement.".

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section amends the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, to provide that the authority to enter into agreements with physicians and dentists to pay the special pay authorized by Public Law 94–123, would be extended from a termination date of September 30, 1977, to September 30, 1978. We believe that this amendment is essential so as not to disrupt current agency efforts to recruit and retain physicians and dentists.

SECTION 2

Section 2 amends 38 U.S.C. 4118. Clause (1) amends subsection (a)(1) by striking out the word "he" and inserting in lieu thereof the words "the Administrator". Public Law 94–581 attempted to eliminate all references to gender in title 38, U.S.C. This amendment corrects an omission made by that law.

Clause (2) amends subsection (e)(1) to provide that upon completion of the terms of an agreement authorized by this section by a physician or dentist in the Department of Medicine and Surgery, such individual can enter into subsequent new agreements for additional periods not to exceed 4 years in any such agreement. This provision is necessary in order to overcome an interpretation of the law by the Veterans' Administration that no agreement or combination of agreements could be entered into which would exceed a total of 4 years. Under this proposed amendment a physician or dentist who has signed an agreement under current or prior law, which will be completed duing the extended authorization period, may execute an additional agreement not to exceed 4 years even if the total period of any combination of agreements does exceed 4 years.

CHANGES IN EXISTING LAW MADE BY THAT DRAFT BILL

Changes in existing law made by the draft bill are shown as follows (existing law proposal to be omitted is enclosed in black brackets new matter printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38. UNITED STATES CODE

* * * * *

PART V—BOARD AND DEPARTMENTS

* * * * *

Chapter 73—DEPARTMENT OF MEDICINE AND SURGERY

* * * * *

§ 4118. Special pay for physicians and dentists

(a)(1) Notwithstanding the provisions of section 4107(d) or any other provision of law, in order to recruit and retain highly qualified physicians and dentists in the Department of Medicine and Surgery, the Administrator, pursuant to the provisions of this section and regulations which [he] *the Administrator* shall prescribe hereunder, shall provide, in addition to any pay or allowance to which such physician or dentists is entitled, special pay in an amount not more than (A) $13,500 per annum to any physician employed in the Department of Medicine and Surgery, or (B) $6,750 per annum to any dentist so employed, except as provided in paragraphs (2) and (3) of this subsection, upon the execution, and for the duration of, a written agreement by such physician or dentist to complete a specified number of years of service in the Department.

* * * * *

(b)(1) Any agreement entered into by a physician or dentist under this section shall be with respect to a period of one year of service in the Department of Medicine and Surgery unless the physician or dentist requests an agreement for a longer period of service not to exceed four years. *Upon completion of the terms of any agreement authorized by this section subsequent new agreements may be entered into by any such physician or dentist for additional periods of service not to exceed four years in any such agreement.*

* * * * *

[94th Congress, H.R. 8240, October 22, 1975]

PUBLIC LAW 94–123

An Act to amend title 38, United States Code, to provide special pay and incentive pay for certain physicians and dentists employed by the Department of Medicine and Surgery of the Veterans' Administration in order to enhance the recruitment and retention of such personnel, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Administration Physician and Dentist Pay Comparability Act of 1975".

* * * * *

SEC. 6. (a)(1) The amendments made by section 2 of this Act shall become effective on October 12, 1975.

(2) No agreement to provide special pay may be entered into pursuant to section 4118 of title 38, United States Code (as added by section 2(d)(1) of this Act), after [September 30, 1977] *September 30, 1978.*

(b) Except as provided in subsection (a)(1) of this section, the amendments made by this Act shall become effective beginning the first pay period following thirty days after the date of the enactment of this Act.

ADDITIONAL STATEMENTS

A FATHER'S DAY MESSAGE BY GEORGE HALEY

Mr. BAKER. Mr. President, I recently reviewed a Father's Day message delivered by Mr. George W. Haley at the Sharp Street Methodist Church in Sandy Springs, Md., on June 19.

George Haley is a remarkable man from a remarkable family. His brother, Alex Haley, is known to and revered by us all for his research and writing of "Roots." Like his brother, George Haley is a man of notable accomplishments. He is an attorney, a former State Senator from Kansas, and the present General Counsel of the U.S. Information Agency.

I find George Haley's Father's Day message to be a moving and thought-provoking statement of man's relationships with his family and his God. I highly commend this message to my colleagues and to all Americans for their perusal. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAKING A NAME FOR YOURSELF

There are some very precious people in the world. Three of the most precious live with me! I could not possibly begin a Father's Day Message without expressing my joy at being the father of two of these people. One is my eighteen-year-old son, David, who is just home from his freshman year at Morehouse College in Atlanta, Georgia. The second is my fifteen-year-old daughter, Anne, who completed the ninth grade at Argyle Junior High School here in Montgomery County this week. The third person and the one who inspired and encouraged me to become a father in the first place is my wife, Doris, to whom I have been married for twenty-two years and eleven months!

Reverend Coursey, I make no claim to the ministry—my profession as you know is the law—but I am no stranger to the Bible. Every now and then I go to the Bible for inspiration and read a passage or passages which intrigue me. And I have done that for my message this morning. I came across this story in the eleventh chapter of Genesis, verses one through nine which you have heard read. It is an old story which goes back to the beginning of the long history of mankind. But as I read the story and reflected on it awhile, I realized that it is also a very modern, up-to-date story. As a matter of fact, it is as up to date as Watergate!

The story is of a group of people who decided that they would build a tower whose top would reach heaven and they could make a name for themselves. And so the people got together and decided to build a tower, brick by brick. And while they were building their city and this heavenly tower, the Lord came down to see them and he was displeased. And so, the Bible reports—the Lord confused

their language—one interpretation says he confounded them—so that the people could not understand one another and as a result, the tower was abandoned and the people were scattered over the face of the earth.

As I interpret this story, it depicts one of the primary sources of trouble in human history and in our own lives. It deals with human pride and arrogance and failure to communicate. The people building the tower thought they could build it without asking for help or assistance from God. They didn't need his help. They thought they were going to do it by themselves.

We can look at this story in Genesis and see what God did when he was displeased with those tower builders. But it is not as easy for us to examine ourselves and admit that, if we are honest with ourselves, this story is very applicable to us as well.

For one of the persistent tendencies of mankind is to try to build without God. Have you heard the expression . . . "I'm a self-made man." . . . "I got where I am because I worked hard." . . . "Nobody helped me do a damned thing." . . . "I built these houses." . . . "I bought this Mercedes and swimming pool and my thirty-eight foot boat." Have you heard a man brag like that about his material wealth? Or . . . hold on . . . have you ever done it yourself?

In these moments of self-conceit and arrogance, the man has forgotten the mother who bore him . . . forgotten the father who helped rear him . . . forgotten his teachers . . . his preachers . . . the church . . . and he has forgotten God who created him in the first place. No one is self-made! All of us are in debt to each other and God. If you think you have achieved any degree of success in life, somebody or somebodies have been helping you climb whether you admit it or not.

I should like to speak to you today about our view of ourselves as fathers. And I will do so in socratic fashion, through questions. I have three:

One: How do I relate to the term father?

Two: What are my responsibilities as a father?

Three: How is the Bible story of the tower builders applicable to us?

One of the earliest recollections most all of us have are of our father and mother. This is certainly true in my own life. My earliest recollection is of a time when I was three years old. We were living at Langston University in Oklahoma where my father was teaching. There was then in our family my father, my mother, my older brother, Alex, and me. It was two weeks before Christmas and our parents had Alex and me deeply submerged into the mystiques and fantasies of Christmas planning for the arrival of Santa Claus. Santa had sent word because Alex and I had been such good children, he would make our house one of his rest stops. That meant he would stay a little longer in our house than others on the campus in spite of the millions of homes whose chimneys he must squeeze in and out before dawn on Christmas morning.

We made signs along the driveway welcoming Santa to his rest stop. All kinds of goodies and our favorite chocolate and coconut cakes had been baked to share with Santa if he had time for a snack. When I came into our living room on that Christmas morning, I was overwhelmed! It was showered with toys and clothes and candies and fruits and I was told by my father that not only had Santa left so much, he had actually stayed at our house more than fifteen minutes talking with him and Mama over coffee and cake. Three used coffee cups were on the dining room table and about a third of the chocolate cake was missing. Sleigh tracks in the fresh snow were in our drive and on the roof all the way to the chimney. Dad had gotten out early before Alex and I were awake—I later learned—to make these tracks.

When I was six years old, we moved to Huntsville, Alabama. Alex was ten and we had another little brother born to the family. One morning shortly after I had arrived at school, one of Dad's college students came to my first grade class and asked the teacher to excuse me right away because my mother was seriously ill. He took my hand and rushed me home so rapidly that I was practically running. We went immediately into my parents' bedroom where Mama was dying. In a very few minutes after my arrival, the doctor said, "She's dead." For at least a minute, the room was very still and quiet. No one said a word. I looked up at my father and asked: "Dad, how can Mama be dead when her eyes are open?"

At that instance, my father grabbed me, hugging me, crushing me, and burst into terrible, breaking cries and all of a sudden, everybody was crying, including the family doctor. They told me that Mama had gone to live with God. But my question then and now—through these many years since—has been, why would God take my mother? The person who made those chocolate cakes and cookies and loved me like a six year old needs love? I later checked every one of the twenty-six other youngsters in my first grade class and nobody else's mother had died.

Next year my school had its annual operetta with one role for an orphan. I was selected as the orphan. The orphan had a song to sing and it still sticks with me. It goes:

"Mother, are you looking down from heaven's window high? Can you see your little boy, oh can you hear me cry? Sometimes it's so hard to be unselfish, brave and true. Do you think that God would care if I should come to you."

After my mother's death, Dad married again and a sister joined us. My Dad loved his family and there was no sacrifice he would not make for his children. One of his finest acts of pride and equal affection for his three sons occurred on the Howard University campus just about three months before his death. Brother Alex was being awarded one of his many honorary doctorates of letters and after the degree was conferred, the President of the University, Dr. Cheek, had invited Alex and his family and other friends to a small reception. At the reception, Dr. Cheek, with great eloquence, was telling Dad what a fine son he had in Alex.

Dad—interrupting in the middle of a sentence—with his cane unsteady, but his voice rising in emotion, said—"Now, just a minute, Dr. Cheek, I want you to know I don't have one fine son . . . I have three fine sons."

My father died four years ago at the age of eighty-three and as we were driving to his funeral, I recall saying to my son, David, that if he found himself in a similar situation wherein he was driving his family to my funeral . . . I would hope that he would feel as much love, respect and admiration as I felt for my father.

My second question is: What are my responsibilities as a father?

On the editorial page of the Washington Post on April 20, 1977, Tom Braden wrote: "If you read the newspaper headlines or listen to the TV talk shows, you get the impression that the American family is about washed up. Women's liberation, divorce, people living together out of wedlock, couples not wanting children, everyone wanting to do his own thing—all these rising trends are doing the family in. Or so you would gather from the daily news.

"But this is not true—according to the latest census reports on the family. The reports acknowledge these trends: they even suggest that some of the trends may grow. But the most important conclusion of the recent statistics is that the family is still a very strong institution in this country, the embodiment still of everybody's need for stability, continuity and affection.

"Eighty-four per cent" of all American families are still husband-wife families—that is, unbroken by separation or divorce, and seven out of eight of these families are one-marriage families."

Fathers must be a strong part of the family institution. Our responsibility as fathers most assuredly far exceeds the traditional role of simply being the breadwinner. This is not true any more in many American homes. Recent statistics show that eighteen million children have mothers who go to work outside the home every day. Under these conditions, fathers must expand their role within the family. They must set an example and give guidance and counsel in the family from a man's point of view. Hopefully, a father should be able to challenge formulative teenage minds on such controversies as Anita Bryant's crusade against homosexuals with measured discussions and opinions about some of the legal, moral and community ramifications. Or, be able to discuss wisely the comments made by Wisconsin Judge Simonson who blamed suggestive clothing worn by young women as a possible cause in a recent case where a fifteen-year-old-boy allegedly raped a sixteen-year-old girl.

Parents should not too swiftly throw off young people's opinions under the aegis of youthful aberrations. Young people frequently analyze situations deeply. It is expected that parents' opinions will be less flexble for many reasons—their experiences, their desire for protection of the young and the like. But there may be a better, more amicable solution if open-minded exchanges exist between a father and his teenaged daughter, for instance, on the time she is expected in at night, or, now, more realistically . . . early morning; hopefully.

Impressions, discussions, examples of the father and the mother, set the tone for our children's present and future lives. Winston Churchill, a devoted father, once stated: "What is the use of living unless it is to make the world better for those who come after you?"

My third question is: How is the Biblical story of the tower builders applicable to us?

Not only do individuals build towers, but nations do also. The Egyptian Pharaohs. . . . thousand of years ago. . . . thought they could build towers that would never fade away. They had gigantic statues carved of themselves out of stone. They had chiseled on stone the record of their achievements. They had their bodies buried in the pyramids in the hope that they would be preserved forever. But the tombs have long since been vandalized and the pyramids stand among the empty sands of a civilization that slowly drifted to decay as many of you may have learned when you saw the King Tut Exhibit on display earlier this year in the National Gallery of Art.

The path of history is strewn with the wreckage of countries that have tried to build military towers that would insure their dominance, but the result has been the same . . . only the names are different . . . Napoleon of France, Hitler of Germany. And we have to be careful in our country which we sometimes call God's country. It appears that the philosopher Hegel was right when he said, "We learn from history that men learn nothing from history."

In recent years our nation has gone through perhaps the greatest trauma in our history as we have witnessed the resignation of a President and Vice-President and the conviction of several high-ranking officials—all brought back to us very recently by David Frost on TV. Many people would say this all came about because of a common burglary and some indiscreet tapes. But there is a much deeper dimension. For in the rise and fall of the Nixon Administration, we see the old story. Here was another leader—unques-

tionably then the most powerful leader in the world—who sought to secure his place in history by building a tower. A tower in which ends justified means. A tower in which morality became an unknown word. The seeds of ruin were built in the Nixon Administration. The Babel story is certainly brought up to date with Watergate. Mr. Nixon had arrived at his pinnacle of power. After having received one of the most overwhelming mandates in the history of U.S. elections, he sought to imprint his footprints on the sands of time permanently. It is ironic that the very efforts to cement the name were the efforts used to destroy the name. Perhaps you recall what President Carter said in his Commencement address at Notre Dame recently: "In ancestry, religion, color, place of origin and cultural background, we Americans are as diverse a nation as the world has known. No common mystique of blood or soil unites us. What draws us together, perhaps more than anything else, is a belief in human freedom."

History has a way of confounding tower builders who run afoul of God's plan. We can never get big enough to take the place of God. There is something about man that causes us to try to find a way to overcome our limitations—not to want to acknowledge that we are creatures of a Creator—to escape the limitations of human existence. New inventions and discoveries are essential for us to maintain ourselves on this earth but Alfred Lord Tennyson was right when he said, "Let knowledge grow from more or more, but more of reverence in us dwell. That mind and soul in one accord may make one music as before, but vaster." For God is God! And man cannot take the place of God. Psalms 24 says: "The earth is the Lord's and the fullness thereof. The world and they that dwell therein. For He has founded it upon the seas and established it upon the floods." Psalms 100 says: Know ye that the Lord He is God. It is He that hath made us and not we ourselves. We are people and the sheep of His pastures."

The Biblical story ends with the people in confusion because they could not understand one another. They were confused. They couldn't communicate. This is our problem. We can't seem to speak the same language—a husband to his wife—a father to his child—a black race to a white race—a nation to a nation. Witness just a few world trouble areas indicative of misunderstanding and confusion . . . South Africa, Ireland, The Middle East, Angola. And wherever people—nations do not speak the same language, there is a gulf . . . an alienation . . . a chasm.

But being a good lawyer, I knew there has to be a solution to every problem, however serious. And the solution is set before us in that same Bible from which the Babel story came. There is a Power—a Power of restoration—that can bring people around. You will recall in the Book of Acts, people were waiting for the coming of the Spirit. They had come from every nation . . . spoke many tongues . . . couldn't understand each other . . . and then, the Holy Spirit came upon them . . . and they were able to speak in languages that all could understand. The effect of the coming of the Spirit was to restore the power to communicate . . . to bring understanding out of ignorance.

In all humility, but firm in my and Alex's belief, is the reason for the modern miracle, *Roots*. How else indeed can one explain this phenomenon. God has decided to use our family with Alex as the instrument to reveal his power in advancing understanding out of ignorance . . . in overcoming evil with good . . . in revealing that God is the Father of all of us. "If a man say he love God and hateth his brother, he is a liar." So says the 14th Chapter of John. "For how can he love God whom he hath not seen and hate his brother whom he hath seen." The Fatherhood of God presupposes that all men are brothers.

And listen to the power of the 11th chapter of St. John. "Let not your heart be troubled . . . ye believe in God . . . believe also in me . . . in my father's house are many mansions . . . if it were not so, I would have told you . . . I go to prepare a place for you . . . and if I go to prepare a place for you, I will come again . . . I am the way . . . The truth and the light . . . no man cometh unto the father but by me."

We have been talking today about people building towers to make a name for themselves. If you are planning to build a tower, make sure you are using the right kind of power! There are many towers of power to supply all of our needs if we would but use them. I often wonder how the Black race would ever have made it if we didn't have God to depend on. And He has brought us a mighty long way. Let nobody tell you otherwise.

The real hope for our lives, our families, our nation and our world is to include God and his power in our plans.

I already told you that my Dad died four years ago at the age of eighty-three years. I am sure God received him. I also already told you that I vividly recall saying to my son when I was driving him and my family to Dad's funeral: "David, if you find yourself in a similar situation wherein you are driving your family to my funeral, I would hope that you will feel as much love, respect and admiration as I felt for my father. Making this kind of name for myself is my challenge. And, it appears to me, that should be the challenge to fathers everywhere!

A WELL DESERVED TRIBUTE TO OUR MAJORITY LEADER SENATOR ROBERT BYRD

Mr. HUMPHREY. Mr. President, a recent article in the Washington Star of June 20 by Mr. James R. Dickenson pays high and well-deserved tribute to our majority leader, Senator ROBERT BYRD.

I have had the opportunity of serving in the Senate under several majority leaders, each one of them in his own way left his mark and earned our respect. BOB BYRD has already imparted to the Senate his qualities of diligence, perseverance, orderliness, discipline, consideration for the need and views of others, and persuasiveness. I can recall no majority leader that has been more considerate of his colleagues nor can I recall any leader that has worked more intimately with committee chairmen, the Policy Committee, and the Democratic Caucus. BOB BYRD is not only a man of the Senate, he is the spokesman for the Senate. He reveres the institution of the Senate and he honors it by his performance.

The article to which I have referred is worthy of the attention of every Senator and, therefore, I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, June 20, 1977]

BYRD'S LOVE OF SENATE THE KEY TO HIS LEADERSHIP

(By James R. Dickenson)

At the most recent meeting of the Senate Democratic Conference Majority Leader Robert C. Byrd told his colleagues that compared to his love of the Senate, "Michelangelo hated painting."

His performance at the closed meeting was quintessential Robert Byrd. He mixed expressions of his affection for the institution he now leads—an affection as genuine as the sunrise—with an hour and a half of laying out and explaining his ambitious plans for this session, which he is determined will end on or about Oct. 8.

He has been Senate Democratic leader for not quite six months, but he is running the Senate as might have been predicted: he is methodical and efficient—no sparrow that falls escapes his attention—and he is pushing the Senate to perform like a loving but demanding parent. He refers to the majority members as "my Democrats."

With the Carter administration, he doesn't come on like the admiring friend as House Speaker Thomas P. O'Neill does. Byrd is more the avuncular but somewhat detached older brother who alternately scolds the White House for its mistakes and then excuses them on the grounds of inexperience.

"The leadership in Congress is going to be patient and cooperative," he said a week ago after scolding the White House for "overreacting" to a House committee's alterations of the administration's energy proposal. "This is a more 'new' administration than most and we expected problems of communications."

Along with O'Neill, Byrd is a potentially powerful ally of the new administration, however. He is dedicated to pushing President Carter's top priority programs, has given the President accurate readings on such matters as the aborted $50 tax rebate and has helped work out a number of compromises on administration legislation.

He runs the Senate like a skilled pilot operating a complex and temperamental piece of technology. The common expression is that he is making "the trains run on time," which translates that his colleagues appreciate his giving them a relative degree of orderliness and a minimum of hassling.

Even liberal Democrats who supported Hubert Humphrey and other candidates for majority leader last winter admire Byrd's professionalism and like the predictability of his scheduling, demanding though it may be. "He has a great capacity to grow that I and a lot of others hadn't perceived," says Sen. Gaylord Nelson of Wisconsin.

One of the chief supporters of Humphrey's leadership campaign concurs. "People are tired of being promised October adjournment and then getting out two days before Christmas," he says.

There are a lot of rave reviews for Byrd's leadership of which Sen. Abraham Ribicoff's appraisal is representative: "Absolutely great."

His steady accession to power sits well on the 59-year-old Byrd. In the past there was a hard-scrabble, up-by-the-bootstraps look to him and in fact his success is the result of grinding hard work and countless favors for his colleagues. His suits always seemed a bit too large and loose and the shoulders seemed a little too padded.

No more. He is well tailored, his silver pompadour is well coiffed and he moves with an easy, quiet, ubiquitous assurance that is apparent even to the outsider.

The Senate has held to Byrd's schedule so far and has passed a substantial list of legislation, including President Carters' governmental reorganization authority, a Senate code of conduct, creation of a Department of Energy, emergency natural gas legislation, strip mining controls and other measures.

Yet there are more muted voices who don't like the speed and direction of the train. "He's such a zealot he doesn't realize that some of us have other obligations, like to our families," says a Republican.

"This is a little like the court of Louis XIV with its demands that we give 99 percent. He gets petulant sometimes when you hold back."

More important are the criticisms of the direction his leadership takes. These begin with the tactic that has made the Senate's legislative efficiency possible—Byrd's use of

his primary power, which is to set the legislative schedule and to postpone controversial legislation that would probably entail lengthy debate, even filibuster.

Byrd deems such legislation—the Consumer Protection Agency, Carter's voter registration proposal and public financing of congressional elections, for example—as nonessential. His supporters describe him as a superb political tactician who knows when and when not to move on a measure, but his critics, mostly liberals, use such terms as "cop-out."

"He's sacrificing good legislation for efficiency and expediency," says one Midwest Democrat. "Humphrey would have scheduled the Consumer Protection Agency. Byrd isn't afraid to take on (Sen. James) Allen (D-Ala.) in a filibuster fight; he just doesn't want to take the time."

Although Byrd, once a provincial West Virginian who briefly belonged to the Ku Klux Klan years ago, has surprised some colleagues by his increasingly moderate voting record and steadily broadening sophistication on issues, his reputation as an unphilosophical technician has always been his biggest liability.

"He'll never be a really great majority leader because he's not a philosophical leader who puts his permanent stamp on an institution the way a Henry Clay or a Robert Taft did," says a Republican senator. "There aren't many who are natural, intellectual enough leaders to be great. Lyndon Johnson wasn't. He bent the Senate to his goals but he didn't shape it.

"He's a hell of a plumber but he doesn't care who goes into the pipes," says one Democrat who opposed Byrd last winter but has come to admire his technique. This senator was one of several liberals who proposed a leadership post for Humphrey—they finally created the job of deputy president pro tempore of the Senate—so he could act as a spokesman at leadership meetings at the White House and with the House of Representatives.

Byrd not only supported this, he appointed the ad hoc committee that came up with the idea. His supporters point out that he has been scrupulously fair in committee appointments, including those to the influential Policy Committee, for the liberals who opposed him for majority leader.

"He knows the Democratic senators are his constituents, his political base," says one. "He also knows that we liberals are a majority and he acts accordingly."

One instance of this occurred a week or two after President Carter's inauguration when James R. Schlesinger, the administration's chief energy adviser, conferred with key senators on energy legislation. Some senators who had an interest in energy were miffed at being left out and Byrd leaped to their rescue by rebuking the administration for its insensitivity and suggesting that the White House had better learn how the Congress operates.

Ribicoff, chairman of the Government Affairs Committee which worked out the Department of Energy legislation, praises Byrd for his support. "We disagreed on giving the new secretary full pricing authority and Sen. Byrd explained my position to the White House and supported it," he recalls.

The result of such actions is that Byrd is "stronger and more popular than when he was elected," according to Sen. Alan Cranston of California, the Senate majority whip.

Byrd counters criticism that he is nonideological by pointing out that he is the one who set the Senate's priorities, foremost of which is passing an energy bill this year, followed by the mandatory appropriations bills. All others can wait till next year, he says.

"When the President made his speeches on energy, the Speaker and I agreed that this was top priority," he says. "There will be more time in the second session because in this we had to deal with the Stevenson resolution (reorganization of committee jurisdictions) and the ethics bill and we won't have a mandatory August recess next year."

He also points out that the President is the party's spokesman. "My role is different when the President is in my own party," he says, speaking in measured phrases that, intentionally or not, make it as easy as possible for note takers to keep up with him. "With a Republican president is would be more incumbent on me to work to mold an alternative course, to speak out more, as when Lyndon Johnson was majority leader with President Eisenhower."

As majority leader Byrd falls in between his two predecessors, the domineering, bullying, arm-twisting Johnson and the mild, professorial Mike Mansfield, who operated under a *laissez-faire* theory of every man his own senator. Byrd seldom tries to influence senators on how they vote but because of his active control of the Senate his colleagues rate him more like Johnson than Mansfield.

He tries to influence votes generally when institutional questions, a need for party solidarity, or the wishes of the President or congressional leadership are involved.

He pushed for the compromise that got the Clean Air Amendments passed, fought amendments to the Natural Gas Emergency Act because he wanted it passed quickly, urged the controversial confirmation of Paul Warnke as nuclear arms negotiator and insisted on making the congressional pay raise contingent on a limitation of outside income.

"He thought the Senate's credibility was at stake and that such a limit was overdue," says one Democrat. "We wouldn't have gotten as strong a code or gotten it nearly as fast without him."

"He must have called me 10 or 15 times at home in the evenings," recalls Nelson, who was chairman of the committee that worked out the ethics code. "I'd never had the leadership call me at home at night before.

Byrd see his job as one of coordination and development of a consensus. "Circumstances don't permit the Lyndon Johnson style,' he says. This is due partly to the infusion of younger, somewhat more independent senators and reforms that have weakened the power of committee chairmen.

"First, there is no longer a cohesive Democratic bloc vote held together by such an issue as civil rights as there was then. That issue also bound Northerners and Southerners. There were also more senior senators there who were accustomed to the establishment's discipline. Finally, there was a Republican president."

Byrd systematically laid the groundwork for this session. He began by meeting with the committee staff directors and informing them that in the first months the full Senate wouldn't meet until as late as 4 p.m. to enable the committees to work without interruption.

"They needed to know that in advance so they could schedule hearings and witnesses," he says.

He then met with the committee chairmen to get their "must" list of legislation and to let each hear what the others' problems and priorities were. Then they all worked to pare down the "must" list.

Then the Democratic Policy Committee went over the list and finally he laid out the plans and schedule for the full Democratic Conference. In addition Byrd worked closely with the Senate Republican leadership and the House leadership. He has continued this careful liaison.

"One of my jobs is to learn what my Democrats think and to keep them informed of what has to be done," he says.

COMPETITIVE FOODS IN SCHOOLS

Mr. CASE. Mr. President, S. 1420, the School Lunch and Child Nutrition Act Amendments of 1977, is scheduled to come before us shortly. It contains a provision with regard to competitive foods in schools which I sponsored and in which I hope the Senate will concur.

I ask unanimous consent, Mr. President, that the text of a recent editorial from the Trentonian in support of the competitive foods provision be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LET'S GET RID OF IT: JUNK FOOD IN SCHOOLS

Spending millions to provide children with nutritious lunches while simultaneously allowing them to gorge themselves on potato chips, soda, candy and other goo from school vending machines would appear to be a pinnacle of lunacy too lofty for even the United States government to ascend.

But the bizarre fact is the government has been following precisely such a policy for years—and it may well continue it for years to come, if a piece of nutrition-minded legislation pushed by N.J. Sen. Clifford Case fares no better than its predecessors did in two previous Congresses.

Robert Bergland, President Carter's secretary of agriculture, has indicated he'd like to get junk foods out of all schools participating in the federally funded National School Lunch Program. The Case measure, by giving the secretary power to regulate "competitive foods" in the schools, would give him the chance to do it.

The junk purveyors, understandably, are against the idea. They prefer having the decisions made at the local level, where they can exert pressure by offering financial inducements. They also raise the arguments that (1) school schildren will buy junk foods out of school if they can't buy them in school, and (2) school children are entitled to "freedom of choice."

As to Argument No. 1, it could just as easily be applied to the sale of cigarettes, booze or heroin—but we don't see anybody peddling those items in the schools to raise money for the class trip or the marching band.

As to Argument No. 2, it's debatable how much "freedom" enters into a youngster's decision to buy a candy bar after he's been subjected to hours of televised brainwashing. We'd also point out that society's responsibility for the well-being of children must supersede their supposed "freedom" to choose foods that rob them of health. And finally, we'd contend this dubious "freedom" can't possibly be worth the incalculable price that society pays for obesity, heart disease, diabetes and other nutrition-related disorders that ravage our population.

On two previous occasions Sen. Case managed to get his antijunk measure passed by the Senate, only to have it eliminated by a Senate-House conference committee. It's given a better chance of final passage this time because it has the backing of some powerful political figures and because of the public's generally increased awareness of nutrition. Its chances will be even better if every parent and teacher who's concerned about children's health will let the senator and his colleagues in the House and Senate know that he or she is behind the measure and is watching its progress with interest.

FARM LABOR

Mr. CANNON. Mr. President, I would like to note that despite continuing un-

employment throughout the Nation, and despite the demands of the unemployed that they be given work, there is a continuing and, indeed, a growing need for farm labor on our Western farms and ranches, and, in fact, throughout the country.

The work on our farms and ranches is seasonal and, for the most part, it involves hard labor that requires no particular skills. For these reasons, the average American worker has little or no interest or desire to take on any of the thousands of agricultural jobs that are available and those jobs, many of them, would remain unfilled were it not for alien labor.

In my own State, for example, there is a serious problem in finding adequate labor to work our sheep ranches which, over the last 10 years, have increased in acreage despite a contrasting decline in the number of acres farmed throughout the United States as a whole.

The U.S. Employment Service and State employment agencies in Nevada are unable to provide an adequate labor supply to meet our ranchers' needs, which are determined by season, by crops and by climate as well as by the vagaries of the agricultural market place.

Farming, as you may know, tends to be labor intensive, with one of the lowest returns on investment of virtually any business or industry in America today. And while the farmer's profit is usually marginal, at best, his labor costs are always inordinately high. In Nevada farm labor amounts to 21.4 percent of the farmer's total cost and is the highest single cost he has.

Because farming is an industry basic to life itself, because farming is throughout the United States still a major industry, and because American farmers produce an inordinately high share of the world's food supply—a major factor in our balance of payments and in our political as well as our economic status in the world, one would reasonably expect our Government to reflect concern for the farmers economic plight.

With respect to the needs of the ranchers in my State, this does not seem to be the case. On the contrary, in a well-meaning but misguided attempt to meet the problems of alien labor in areas where it may be competitive with our own, or to meet problems in areas where alien labor may be underpaid or otherwise abused, the Department of Labor seems to be embarked on a course of action that will result only in depriving Nevada ranchers of any labor at all.

I refer in particular to the proposed rules governing the temporary employment of aliens under article 655, code 20 of the Federal Regulations which, in the final analysis, will only further bureaucratize and slow if not altogether end the process by which the only available labor—alien farm labor—can continue to work our farms and ranches.

We must otherwise face a broad curtailment of our agricultural production, the failure through no fault of their own of many individual farmers and ranchers, and an alien unemployment problem of serious and far-reaching proportions Surely, there is a better way to solve the rancher's and farmer's as well as the alien farm worker's problems than with restrictive legislation that merely puts them all out of work and on welfare or relief.

INSTANT REGISTRATION

Mr. LUGAR. Mr. President, one of the most talked about ingredients of the President's election reform package is his proposed legislation to permit same-day registration of voters in Federal elections.

Although Senate hearings on this bill have closed, we can always use more imput from informed citizens.

Accordingly, I recently received a copy of a letter on this topic sent to President Carter by Mr. Larry West, chairman of the Democratic Central Committee of Vanderburgh County, Ind. Mr. West expresses deep concern that same-day voter registration would result in widespread abuse of the election system.

Since this legislation has been championed by members of his own political party, Mr. West's remarks carry enhanced credibility. And because so-called "instant registration" is thought to favor Democratic candidates, it is clear that Mr. West is not motivated by self-interest—but rather by a sincere commitment to fair elections and the integrity of the voter's ballot.

I ask unanimous consent that Mr. West's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEMOCRATIC CENTRAL COMMITTEE
OF VANDERBURGH COUNTY,
Evansville, Ind., June 16, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As one who agrees strongly with your goal of maximizing voter participation in all elections, I am writing to offer my opinion on the Universal Voter Registration bill as presently proposed.

I oppose it, both as a citizen and as county chairman. This is a view shared by most of the experienced Democrat leaders of my community with whom I have discussed the matter in recent weeks.

One of the main reasons I sought the county chairmanship here, Mr. President, was to attempt to bring back a sense of trust in the political process at the local level. Our community has seen absentee ballot scandals and other election abuses and I fear that the minor requirements of election day voter registration would only serve to compromise the integrity of elections even more.

It may be a sad commentary, but I have come to believe that zealous political activists in both parties will take advantage of any weaknesses in the system to manipulate the outcome of an election. And this can happen despite the best efforts of political leaders to abide by the letter of the law.

Aside from our specific experience in Vanderburgh County, I firmly believe that the main task in accomplishing greater voter participation is not so much to get people registered as it is to stimulate those who are registered to actually vote.

As you are well aware, both parties conduct extensive door-to-door registration campaigns prior to each election. These are successful campaigns. We do get a majority of the people registered. But they still don't vote.

I submit the problem goes much deeper than the simple mechanical process of registration. I submit that the main reason too few people vote is that they have lost confidence in the political process itself. Watergate and a host of other abuses, including some by individuals within our own party, seems to have left the public with a severe political hangover. I find people saying they don't believe their vote counts anyway; others don't perceive a significant difference between the two parties; and others, frankly, are just plain too lazy or don't care enough to bother voting.

I believe there is a responsibility that each and every individual must exercise before he casts his vote: that is to bother to inform himself on the issues and the candidates and then to vote his convictions. That requires time and effort on the individual's part . . . much more time and effort than is now required of him to become registered to vote. If a person isn't willing to take just a few minutes to become registered, how willing is he or she likely to be to exercise the responsibility and take the time to examine issues and candidates to cast a well-informed vote?

Finally, I find it ironic that your administration which, in my opinion, is doing much to help stimulate a new sense of confidence in our political and governmental institutions should be the administration to advance this election-day registration proposition. The abuses which are likely to result from such a system, I believe, will only offset the progress you have already made in helping to restore citizen confidence in the political processes.

We need the cross check we presently have with voter registration. Perhaps deadlines could be extended or measures included that would give individuals greater flexibility as to the time and place they could be registered—but prior to election day.

Without accurate registration lists clearly showing who is eligible to vote in which precinct on election day, the system is going to be in big trouble. And you will see abuses, no matter what penalties are proposed for them. And the very fact that this proposal would make the system even easier to manipulate by those who would choose to do so would cast even more doubt on the whole political process at a time when there is already too much doubt in the minds of too many.

Thank you very much for your attention. I again congratulate you on the forthright manner in which your administration has conducted the public's business to date. More of this same honest approach to government and politics is what is needed to encourage greater voter participation in the system, not election-day registration proposals.

Very Sincerely Yours,

LARRY WEST,
Chairman.

ABOLISH THE ELECTORAL COLLEGE

Mr. BAYH. Mr. President, I ask unanimous consent that an article which appeared in the Chicago Tribune over 8½ months ago be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ABOLISH THE ELECTORAL COLLEGE

(By Jerald terHorst)

WASHINGTON.—The people have spoken; we have had our straw poll for President. Now we must wait until January to see if the Electoral College will go along with the people's choice. And that's ridiculous.

Will the college ratify the verdict? Undoubtedly. But it doesn't have to. And that's both ridiculous and dangerous.

Here we are, 200 years into our democracy, and we still cling to the quaint custom that says the real presidential election, the only one that counts under the Constitution,

can't occur until January when the Electoral College results are counted by Congress.

Scrapping the Electoral College, I know, is not a new idea. It's been proposed for years. And just as regularly sidetracked. But now it is time that we move—before the next presidential election in 1980—when the heat of the past campaign has subsided.

We have heard a lot of arguments this year for constitutional amendments to ban abortion and to permit prayers in public schools. But if there is one amendment that deserves prompt support of the newly elected President, it's an amendment to insure that the next President will actually be chosen by popular vote.

Not a single decent argument can be raised in defense of the Electoral College. It is like a loaded gun, lying around the house, waiting to go off. It didn't happen this time, but it might next time. And we will be sorrier for it.

The college, you will remember from high school civics, was a compromise inserted into the Constitution because the 13 colonies couldn't agree on a method of selecting the President. Some favored direct vote of the people, but the majority felt that was too radical an idea. Others wanted the President to be chosen by Congress, but objectors said that would make him subservient to the legislative branch.

So the constitutional convention of 1787 opted for an intermediate plan. Each state would select, "in a manner as the legislature thereof may direct," a number of electors equal to the number of its senators and representatives in Congress. This "college of electors" would meet to pick the President.

The tradition, of course, is that a state's electors will cast their votes in accord with the majority of the popular vote in that state. But they don't have to do so. And if the Electoral College can't agree on a President, the choice reverts to the House of Representatives in which each state would have but one vote to cast for President.

That hasn't happened since 1824, when Andrew Jackson, the popular winner, lost to John Quincy Adams in a raw congressional deal engineered by Speaker Henry Clay. But we have had six narrow escapes since then, including the 1960 Kennedy-Nixon contest and the 1968 Nixon-Humphrey race.

The question is why we tolerate such an "elitist" tradition to continue. There have been dozens of proposals for reform of the college, but none so elegant or so clearly right as the abolition of the college itself.

Public opinion polls show that the public supports abolition and has done so for many years.

The hang up is in Congress, where lawmakers of small states have feared that their political clout somehow would be weakened. That may have been true in the past. But it makes little sense now that the size of a state's delegation in Congress—and therefore in the Electoral College—is based on the population rule of "one man, one vote."

Congress should act. Public opinion should be exerted to insure that it act—if need be, by petition of the voters. My mail indicates that it would be a worthy crusade.

The Presidency is the last major office in the land on which the voters do not have a direct voice. Tuesday's election of the chief executive should have rested with the people and with none other. Let's make sure that this really will be the case four years from now.

Mr. BAYH. Mr. President, this column was written by Jerald terHorst the morning after our last Presidential election. It gives us once again the sense of relief we felt when we finally knew that the candidate with the most popular votes was also likely to be elected by the electoral college.

As Mr. terHorst starts his article:

The people have spoken; we have had our straw vote for President.

What a calamity we would have had if the people's choice had been denied by the electoral college. We can remember watching television through the night of November 2, seeing the popular vote pile up for Mr. Carter while the electoral tally wavered. In spite of his unmistakable popular vote lead, it was not until after 3 a.m. that it was announced that the electoral vote was in favor of President Carter.

We have watched this game played too often in the last 20 years. It is a form of brinksmanship which may make for exciting television viewing, but could make for a very dubious Presidential mandate. We must ask ourselves the question, what would be the reaction of the voters if the game ever turned out differently, and the second place finisher were elected President by the electoral college.

Mr. President, it is my conviction, as it is Mr. terHorst's, that the people of this country should be allowed to cast a real vote, not just a straw vote for President. The stakes are too high for us to let ourselves forget that the risk of electoral college misfire was there and could be again.

COMMUNIST PARTIES IN WESTERN EUROPE: CHALLENGE TO THE WEST

Mr. BAKER. Mr. President, I greatly Value former Secretary of State Henry A. Kissingers' continued active participation in the public debate over our foreign policy goals. Henry Kissinger has always been keenly aware of the challenging, if not unique, requirements of a successful foreign policy. In that regard, his address to the Conference on Italy and Eurocommunism, entitled "Communist Parties in Western Europe: Challenge to the West," is a most perceptive analysis of a particularly difficult and complex problem.

The NATO Alliance is a cornerstone of our national security. Continued close cooperation between the Western industrial democracies represents the best hope for a stable and equitable international system of commerce and finance. But both our security and financial arrangements should be undermined by communist accession to power in Western Europe. Because, in the former Secretary of State's words:

This cohesion rests not simply on material considerations of wealth and power but on a common moral foundation as well—on the shared conviction that the consent of the governed is the basis of government and that every individual enjoys inalienable rights and is entitled to constitutional liberties.

I would suggest to the Congress and to the administration that Communist participation in Western European governments does directly threaten the security of the United States. If we treat the threat lightly, we are deluding ourselves and confusing and weakening those in Western Europe who take our judgments seriously and rely upon us for moral support.

Because Henry Kissinger brings great clarity of thought to this particular issue, I believe that his views should receive the widest possible dissemination in the Congress, in the administration and in the public; and for this reason, I ask unanimous consent that the full text of his speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COMMUNIST PARTIES IN WESTERN EUROPE: CHALLENGE TO THE WEST

Ladies and Gentlemen: The cohesion of the industrial democracies of Western Europe, North America, and Japan has been for thirty years the bulwark of peace and the engine of global prosperity.

This unity has been the keystone of our foreign policy in every Administration from President Truman to President Carter. The first permanent peacetime security alliance in American history was with the democratic nations of the Atlantic Community; it was soon followed by our commitment to the security of Japan. Since then, the agenda of cooperation among the industrial democracies had spread from collective defense to common action on energy policy, economic recovery, the international economic system, relations with the Communist countries, and with the Third World. This cohesion rests not simply on material considerations of wealth and power but on a common moral foundation as well—on the shared conviction that the consent of the governed is the basis of government and that every individual enjoys inalienable rights and is entitled to constitutional liberties.

It is ironic that at the moment when the industrial democracies are most cohesive in their opposition to external threats, at a time when our cooperative efforts cover a broader range than ever, the unity developed with so much effort and imagination over a generation should be jeopardized by an internal danger—the growth of Communist parties and the danger of their accession to power in some of the countries of Western Europe.

In Italy, in the parliamentary elections of June 1976, the Communist Party obtained 34% of the vote, strengthening its position as the second largest party and as a powerful rival of the Christian Democratic Party which has governed Italy throughout the post-war period. The Communists' growth since the 1972 election has been primarily at the expense of the democratic socialist groups, and is part and parcel of an increasing and dangerous polarization of Italian politics. The Communists have already achieved a virtual veto over government programs in the Italian Parliament.

In France, in the Presidential election of April 1974, a coalition of the Communist and Socialist Parties came within one percentage point of victory on the final ballot. A majority for this coalition in the parliamentary elections which must take place by March 1978 would bring Communist leaders into key ministerial positions. It would do so, moreover, in conditions of constitutional crisis, for the Constitution of the Fifth Republic has not yet faced the test of a President and a Prime Minister from different parties.

In the Iberian peninsula, where hopeful steps are being taken toward democracy, Communist Parties have fought with ruthlessness and disciplined organization to increase their already considerable influence. Portugal is a member of NATO; Spain is strategically crucial and tied by special agreements to the United States. Communist participation in the government of either country would have serious consequences for Western security.

And these Communist challenges do not exist in isolation from each other. There is no doubt that a Communist breakthrough to power or a share in power in one country will have a major psychological effect on the others, by making Communist parties seem

respectable, or suggesting that the tide of history in Europe is moving in their direction.

Most of the causes of this phenomenon are indigenous to the individual countries. And by the same token, the response to this challenge must come in the first instance from European leaders and voters who are persuaded that democracy is worth the effort. America cannot make their choices for them or decide the outcome of free elections.

But America must recognize the significance of what may lie ahead. We must not delude ourselves about what the accession of Communist leaders to executive power will mean to the most basic premises of American foreign policy. We must not confuse either our own people or those in allied countries who take our judgments seriously about the gravity of the threat. We must not weaken their resolve either by treating a Communist victory as inevitable—which it is not—or by imaging that a Communist electoral victory would be an accidental, transitory or inconsequential phenomenon. The ultimate decisions are for the voters of Europe to make. But they—and we—would be indulging in wishful thinking if we all did not acknowledge now:

That the accession to power of Communists in an allied country would represent a massive change in European politics;

That it would have fundamental consequences for the structure of the post-war world as we have known it and for America's relationship to its most important alliances;

And that it would alter the prospects for security and progress for all free nations.

THE COMMUNIST PARTIES AND WESTERN DEMOCRACIES

Those who take a less grave view of these prospects often claim that the European Communist Parties are independent of Moscow, that they have been effectively democratized and assimilated, and that they therefore pose no international issue in the broader East-West context.

It is true enough that the centrifugal and polycentric tendencies in the Communist world are one of the most striking developments of our age. These schisms, moreover, are made doubly intense by the passions of a quasi-religious battle over what is true dogma and what is heresy. Symptomatic is the fact that the Soviet Union has used military force in the post-war period only against other Communist countries—in East Berlin, in Hungary, in Czechoslovakia, and on the Sino-Soviet border. The Sino-Soviet conflict may indeed by the most profound and potentially explosive current international conflict. Nor is there a serious observer who disputes that the Communist parties in Western Europe have in fact occasionally demonstrated some degree of independence from the Soviet Union.

But this hardly exhausts the issue. For we must ask: In what sense and on what issues are they independent? And what are the objective consequences for the West of their policies and programs?

We are entitled to certain skepticism about the sincerity of declarations of independence which coincide so precisely with electoral self-interest. One need not be a cynic to wonder at the decision of the French Communists, traditionally perhaps the most Stalinist Party in Western Europe, to renounce the Soviet concept of dictatorship of the proletariat without a single dissenting vote among 1700 delegates, as they did at their Party Congress in February 1976, when all previous Party Congresses had endorsed the same dictatorship of the proletariat by a similar unanimous vote of 1700 to nothing. Why was there not at least one lonely soul willing to adhere to the previous view? Much was made of this change as a gesture of independence. Now it turns out that the new Soviet Constitution, in preparation for years, drops the phrase as well.

Through out their existence, the guiding principle of the Communist parties has been their insistence that a minority had to seize power as the vanguard of the working class and impose its views on the rest of the population. This disdain for democratic procedures—whether it is presented in the traditional form of the "dictatorship of the proletariat" or wrapped in Gramsci's more elegant phrase, "the hegemony of the working class"—is precisely what has historically distinguished the Communist from the Socialist parties.

I find it hard to believe that after decades of vilifying Social Democracy and treating it as their mortal enemy, especially in every Communist country, Communist parties have suddenly become Social Democrats. Whether or not they are independent of Moscow, Communists represent a philosophy which by its nature and their own testimony stands outside the "bourgeois" framework of Western constitutional history; they are a movement that appeals to a different tradition and uses a largely misleading vocabulary.

To be sure, the French, Spanish, and Italian Communist parties have all recently declared their resolve "to work within the pluralism of political and social forces and to respect guarantees and develop all individual and collective freedoms." Enrico Berlinguer and Georges Marchais pledged their devotion to national independence and political pluralism at a conference of Communist parties in East Berlin in June 1976.

But can we take these declarations at face value? After all, Marchais has listed Bulgaria, Poland, and East Germany as countries having a "pluralistic" party system. As recently as 1972, French Communist doctrine was that "there can be no return from Socialism to Capitalism." And a few weeks ago, to the great irritation of their Socialist allies, the French Communists estimated the cost of the economic program of the two parties at over 100 billion dollars. The Communist program—by definition—calls for the radical transformation of society; by the very nature of their beliefs Communists will be driven to bring about institutional changes that would make their ascendance permanent.

Moreover, are these professions of the national road to Communism and of devotion to democratic principle really so new? Let me read some quotations from European Communist leaders:

First: "The crux of the matter, and we Marxists should know this well, is this: every nation will effect its transition to Socialism not by a mapped-out route, not exactly as in the Soviet Union, but by its own road, dependent on its historical, national, social, and cultural circumstances."

That was from a speech by Georgi Dimitrov, leader of the Bulgarian Communist Party, in February 1946.

Second: "We take the view that the method of imposing the Soviet system on (our country) would be wrong, since this method does not correspond to present-day conditions of development. . . . We take the view rather that the overriding interests of the . . . people in their present-day situation prescribe a different method. . . . namely the method of establishing a democratic anti-Fascist regime, a parliamentary democratic republic with full democratic rights and liberties for the people."

That is from a proclamation of the (East) German Communist Party in June 1945.

Third: "The great national task facing the country cannot be solved by either the Communist Party or by any other party alone. The Communist Party holds that it does not have a monopoly, and it does not need the monopoly, to work among the masses for the reconstruction of the new (nation). The Communist Party does not approve of the idea of a one-party system. Let the other parties operate and organize as well."

That is a statement by Erno Gero, Communist Party leader of Hungary, in November 1944.

Fourth: "In (our country) there is a division of functions, and State power is based on parliamentary democracy. The dictatorship of the proletariat or of a single party is not essential. (Our country) can proceed and is proceeding along her own road."

That is from a speech by Wladyslaw Gomulka, Communist Party leader of Poland, in January 1946.

Fifth: "The Communist Party seeks to attain Socialism, but we are of the opinion that the Soviet system is not the only road to Socialism. . . . The coalition of the Communists with other parties is not opportunistic, a temporary limited coalition, but the expression . . . of all strata of the working people. . . . We seek at present to make certain that our new democratic parliamentary methods . . . be expressed in constitutional law. If you want the view of the Communists, I can only say that they will be the strictest guardians of the new Constitution."

That is a statement by Klement Gottwald, Communist Party leader of Czechoslovakia, in January 1947.

Sixth: Marchais speaks of 'Socialism in the colors of France." But in 1938, George Orwell described French Communist strategy as "marching behind the tricolour."

In short, what the leaders of the Western Communist Parties are saying today about their affection for the processes of democracy is not significantly different from what East European Communist leaders declared with equal emphasis in the 1940's—before they seized the total power which they have never relinquished since.

Certainly Communist parties are willing to come to power by democratic means. But could they permit the democratic process to reverse what they see as the inevitable path of "historical progress?" Would they maintain the institutions—press, parties, unions, enterprises—that would represent the principal threat to their power? Would they safeguard the freedoms that could turn into instruments of their future defeat? No Communist Party that governed alone has ever done so, and the vast majority of those democratic parties which entered coalitions with European Communists are now in the indexes of history books rather than in ministries or Parliaments.

The Italian Communist Party, to be sure, left the government following its disastrous defeat by the Christian Democrats in 1948. But the situation today is greatly changed. In 1948, the Communists were a far smaller party, with little regional or municipal power. They had to contend with a younger and more united Christian Democratic Party, a strong Socialist Party, and a determined Western alliance alarmed by Stalin's adventures in Greece and Czechoslovakia. Today, Italian Communists participate in the governments of most major cities and regions, have enormous trade union strength, substantive support from intellectuals and the popular culture, and have reduced the strength of the Socialists to a fraction of what it was three decades ago.

The French Communists were similarly removed from the government in 1947, following the intensification of the cold war. But, just as in the Italian case the following year, the popular revolt against the Communists took place within the framework of a united West with a clear perception of an external and internal threat to its survival. By contrast there are now many people on both sides of the Atlantic who have permitted themselves to be convinced that European Communism is only Social democracy with a Leninist face.

We cannot know, with certainty, whether a fundamental change has occurred in these parties' traditional goals and tactics. But

their internal organization and management speak against such a view. It is not democratic pluralism but the stern Leninist precept of "democratic centralism" which continues to guide the internal structure of all European Communist Parties. This is a doctrine of iron discipline, not a principle of free and open dialogue. It is a system of dogma, of a "party line", of authority and obedience, of suppression of dissent and purge of dissenters. There are too many recent instances of resorts to violence, attempts to censor newspapers and broadcasting, and efforts to control the functioning of universities to be optimistic about their character.

Only in Western Europe and the United States are there still illusions about the nature of Communist Parties. In Eastern Europe boredom, intellectual emptiness, inefficiency, and stultifying bureaucratism have been obvious for decades. Countries which used to be leading industrial powers have been reduced to mediocrity and stagnation; nations with long democratic traditions have seen the destruction of civil liberties and democratic practices. The countries of the West would mortgage their future if they closed their eyes to this reality. Societies that try to avoid difficult choices by making comforting assumptions about the future win no awards for restraint; they only speed their own demise.

COMMUNIST PARTIES AND THE ATLANTIC ALLIANCE

It is sometimes asked: If the United States can deal with Communist governments in the Soviet Union, China, Eastern Europe, and even Cuba or Vietnam, why can we not accept and learn to deal with Communist Parties seeking power in Western Europe? Is not the Soviet Union uneasy about the prospect of new Communist regimes that they may not be able to control?

These questions miss the central point. There is a crucial difference between managing conflict with adversaries and maintaining an alliance among friends, particularly when the prospects for stable East-West relations depend vitally on the cohesion of the Western Alliance. And even if some West European Communist parties should prove more difficult than the better disciplined satellites of East Europe, and thus pose new problems for Moscow, they would pose far more serious problems for the West.

For the key issue is not how "independent" the European Communists would be, but how Communist. The dynamics of the Communist Parties and the program on which they would be elected suggest that their foreign and domestic policies are not likely to be consistent with the common purposes of the Atlantic Alliance.

The solidarity of the great industrial democracies has maintained global security for thirty years. Western collective defense provided the shield behind which the United States, Western Europe and Japan developed the institutions of European unity and the progressive world economic system. All these relationships would be severely jeopardized if Communists came to power in allied governments.

Specifically:

The character of the Alliance would become confused to the American people. The signatories of the North Atlantic Treaty pledged in 1949 that "they are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law." If Communists entered governments in allied countries, the engagement to help maintain the military balance in Europe would lack the moral base on which it has stood for a generation. The American people would be asked to maintain their alliance commitment on the basis of two highly uncertain, untested assumptions: That there is a new trend of Communism which will in time split from Moscow, and that the West will be able to manipulate the new divisions to its advantage.

Both of these propositions are open to the most serious doubt. No major Communist split has ever been generated or maintained by deliberate Western policy—in fact the Soviet Union's disputes with Yugoslavia and with China had been festering for months and even years before the West became aware of them.

But even such a split—which would surely take years to develop—would hardly diminish the danger to current Allied relationships. By the time it occurred the damage to the NATO structure would probably have become irreparable. And the character of the Atlantic relationship would be totally transformed, even should the United States, for its own reasons, eventually decide to support a revisionist Communism. While the United States can never be indifferent to the extension of Soviet hegemony to Western Europe, the permanent stationing of American forces in Europe could hardly be maintained for the object of defending some Communist governments against other Communist governments. Such a deployment could be justified only on the crudest balance of power grounds that would be incompatible with American tradition and American public sentiment.

This is not a personal recommendation as to a desirable policy, but a judgment of stark reality. Significant participation by Communist Parties in West European governments will over time undermine the moral and political basis for our present troop deployment in Europe.

The effect on Alliance cohesion generally would be disastrous. The Western Alliance has been held together by a system of close consultation based on shared goals and compatible philosophies. President de Gaulle cherished France's independence from the United States, but in major crises, over Berlin or Soviet missiles in Cuba, he stood firmly with his allies. By the same token, Communist governments in Western Europe, however independent of Moscow they may be on intraparty issues, can be expected to demonstrate their basic Communist convictions on major international issues.

If Communist Parties come to power in Western Europe, significant divergences on foreign policy would be bound to develop between Europe and the United States and between European states in whose governments Communists participate and the others.

In February 1976, Italian Communist leader Berlinguer stated to a London Times interviewer that "the Soviet Union's peace policy is in the general interest of mankind." The Italian Party newspaper denounced NATO last year as "one of the fundamental instruments for American manipulation of the politics and economy of our country and Western Europe," and urged that "the relations between the countries of Western Europe," and urged that "the relations between the countries of Western Europe and the two superpowers must be rediscussed." A leading member of the Italian Party's Central Committee was asked in a recent interview with Radio Free Europe: If the French and Italian Communist Parties were in power, what would you do in the event of "a grave international crisis between the Soviet Union and the West?" He answered: "We would choose the Soviet side, of course." Such "support" of NATO as is expressed is explicitly tactical, and rests upon a distortion of detente. It is coupled with the proposition that a Soviet threat against Western Europe is inconceivable. No European Communist party suggests that it wishes to be part of a Western alliance to withstand Soviet expansion. And, indeed, how could Leninist parties dedicate themselves with any conviction to a military alliance whose primary purpose was and remains to counter Soviet power?

To be sure, these parties have had their differences with the Soviet Union, but in practically every case it has been on a matter of relations within the Communist movement. They have rarely, if ever, diverged from the Soviet position on an international issue. The Italian Communist Party has hailed the Cubans in Angola as "freedom fighters," condemned the Israeli rescue of hostages at Entebee as an "intolerable violation of Uganda's national sovereignty," applauded Soviet policy in Africa and denounced America's diplomatic efforts in Southern Africa as an attempt to "save the neocolonial and military-strategic interests of imperialism."

At best, West European Communist Parties can be expected to steer their basic policies closer to the so-called non-aligned bloc and in an anti-Western direction. Yugoslavia—whose independence from Moscow on East European issues is by now traditional—has emerged as a champion of anti-Western and anti-American positions on most international issues outside of Eastern Europe. Why should we expect that Communist parties in Western Europe would be more friendly to us than the most independent East European state which has been engaged for nearly three decades in an open dispute with Moscow and whose government the Kremlin has sought repeatedly to undermine?

The strong role our allies play in defending Western interests in many regions of the globe—such as President Giscard's courageous actions in Zaire—could not be expected from a nation where Communists share power. In the Middle East, in Southern Africa, in relations with the Third World, on Berlin, on arms control and European security, the parallelism of views that has existed between the United States and its European allies would almost certainly be eroded.

On the contrary, active opposition especially in regions of traditional European cultural and political influence is probable. In our common efforts to improve the world economy and stimulate progress in both the developed and developing worlds, in the OECD, in the Paris Conference on International Economic Cooperation and at Heads of Governments Summits, divisions would soon be apparent. How could Atlantic unity possibly be maintained in such circumstances, even on the security issue?

The military strength and unity of NATO would be gravely weakened. The Communist Parties of Western Europe pay lip service to NATO. In fact, it is hard to visualize how the present NATO structure could continue, with its exchange of highly classified information, its integrated military planning and political consultation, if Communists had a significant share of power.

The participation of Communist Parties in West European governments would force a major change in NATO practices, as occurred temporarily with Portugal, which had to exclue itself from classified discussions within the Organization when its own political future was in doubt. These parties are unlikely to give NATO defense a high budgetary priority. Communist Parties would surely use their power to diminish the combined defense effort of Western Europe and inevitably sap our own will to pay the costs of maintaining US forces in Europe.

Furthermore, if Communists participate in a significant way in the governments of key European countries. NATO may turn by default into a largely German-American alliance. This specter could then be used in other West European countries to undermine what remains of Atlantic cohesion. With NATO thus weakened, while the Soviet Union continued to increase its strategic and conventional strength and maintained its grip on the Warsaw Pact, the essential equilibrium of power between East and West in Europe would be fundamentally threatened, the freedom of many European countries, allied or neutral, to chart their own future would be diminished in direct proportion as the fear

of Soviet power grows. Eventually, massive shifts against us would occur, not because a majority freely chose such a course, but because the upsetting of the overall balance left them no alternative.

The hopeful progress toward European unity would be undermined. The French and Italian Communist Parties opposed the creation of the European Common Market as a conspiracy of monopoly capitalism. Until quite recently, they have consistently fought progress toward European unity. Lately they have come to accept the European Community as a fact of life; they now say they seek to make it more "democratic" and to transform it, by "a process of innovation . . . in the spheres both of institutions and of general orientations," as Berlinguer expressed it. They can be counted on to reorient the Common Market towards closer relations with the state economies of Eastern Europe and toward the more extreme of the Third World's demands for a "new international economic order." It can be assumed that they will not encourage European political unity to foster cooperation with the United States; rather they will urge it, if at all, to encourage Third Force tendencies. And over time either governments with Communist participation will pull the others towards them, or deep fissures will open up between the traditional Atlanticists and the "New Left" in the European Community. Either outcome would be destructive of European unity and Atlantic solidarity.

Thus whatever hypothesis we consider, Communist participation in governments of Western Europe will have a profound impact on the international structure as it has developed in the post-war period. We cannot be indifferent or delude ourselves that the advent of Communists to a significant share of power in Western Europe would be less than a watershed in Atlantic relationships.

THE AMERICAN RESPONSE

The attitude of the United States towards such developments must of necessity be complex. The crucial role must be that of European governments; the final decision must be that of the European voters. We cannot substitute for either.

In the end, the Communist Parties in Western Europe find their opportunities less in their inherent strength than in the demoralization, division or disorganization of their opponents; they succeed only when the democratic system seems unable to solve the social problems of the day; when the center does not hold and societies become polarized. Violence—such as that currently tormenting Italy—drives many to support Communism in desperation, convinced that drastic remedies are required to end a state of siege which has now spread to the press and other media.

The basic causes of Communist gains thus go deep and are not easy to remedy. In many European countries disillusionment with democratic government and democratic leaders is pervasive. In an era of peace, in a world of bureaucracy and mass production, there is no galvanizing crisis and little opportunity for heroic performance. A relativist age debunks authority and puts nothing in its place as an organizing principle of society. Massive impersonal bureaucracy disillusions the citizen with the responsiveness of his government, and simultaneously makes the task of elected officials more difficult. In too many democratic countries the young are offered too little inspiration; their elders too often have lost confidence in their own values. Too frequently democratic leaders are consumed by winning and holding office and are unable to demonstrate the force of conviction and philosophical self-assurance of their radical opponents.

The very success of Western societies in maintaining prosperity at a level undreamt of even forty years ago sometimes contributes to their malaise. Intellectuals condemn society for materialism when it is prosperous and for injustice when it fails to insure prosperity. The widespread economic difficulties of the last four years—recession and inflation unparalleled in a generation, to a large extent induced by the extraordinary increase in oil prices—fuel the frustration of all whose hopes for economic advancement are rebuffed. The interdependence of economies causes inflation and recession to surge across national boundaries, compounding the sense of individual impotence.

And yet, with all these difficulties, the democratic forces of the West have it in their power to determine whether the Communist Parties have opportunities to succeed. They have the capacity to put their economies on the path of steady non-inflationary expansion. They have the intellectual capital and the resources to usher in a new period of creativity. Anti-Communism is not enough; there must be a response to legitimate social and economic aspirations, and there must be reform of the inequities from which these anti-democratic forces derive much of their appeal. With able leadership—and Western cohesion—the democracies can overcome their challenges and usher in a period of dramatic fresh advance

In this process it is vital that the United States encourage an attitude of resolve and conviction.

First of all, we must frankly recognize the problem that we will face if the Communists come to power in Western Europe and we must understand the practical decisions this will impose on us as a nation. We must avoid facile projections which seek to escape difficult choices by making the most favorable assumptions about what might happen. We must have a program for encouraging the forces of moderation and progress in this critical period and for rallying them should a Communist Party nonetheless prevail.

Second, we must avoid giving the impression that we consider Communist success a foregone conclusion by ostentatious association or consultation with Communist leaders or by ambiguous declarations. Communist success is not a foregone conclusion; United States hesitation or ambiguity can, however, contribute to it. Communist parties are riddled with weaknesses and internal strains, and marked by a fundamental flaw: parties that do not speak for the humane values which have inspired the peoples of the West for centuries, are unlikely to appeal to a majority in a Western nation except in a moment of unsettling crisis. In no Western European country has the Communist party ever fairly won more than about a third of the vote. Their most powerful weapons are fear, distrust and discouragement; their principal asset is the myth of their inevitability. Therefore, we do our friends in Europe no favor if we encourage the notion that the advent of Communists and their allies into power will make little or no difference to our own attitudes and policies. I am talking less of formal statements—which depend on tactical judgments difficult for any outsider to make—than of a clear and ambiguous U.S. attitude.

Some have argued that such a policy would be counterproductive, that it would encourage Communist protest votes. I believe the opposite to be true. On balance, I consider it important that Europe know of America's interest and concern. Many voters in allied countries value the friendship of the United States and appreciate the security supplied by the Atlantic Alliance. We should not ignore them, or demoralize them, or undercut them. The gradual gains scored by the Communist Parties over the past years occurred—by definition—at the margin, among voters who had not voted Communist before; who did not vote by anti-American reflex; who for one reason or another were persuaded that the Communists have now become acceptable or indispensable.

There is no evidence that voters are influenced to vote Communist by American attitudes. On the contrary, the real danger may well be the other way; many usual opponents of the Communist parties may be lulled by voices, attitudes an ambiguities in this country implying that our traditional opposition has changed. Paradoxically, we even weaken whatever moderate elements may exist in Communist movements by settling too eagerly for verbal reassurances.

If the United States has a responsibility to encourage political freedom throughout the world, we surely have a duty to leave no doubt our convictions on an issue that is so central to the future of the Western Alliance and therefore to the future of democracy. Human rights is not an abstraction concerned only with judicial procedures and unrelated to basic questions of political and geopolitical structure. We cannot fail to reckon the setback to European freedom that will result if Communist minorities gain decisive influence in European politics; we must not close our eyes to the effect on freedom throughout the world if the global balance tips against the West.

Thirdly, the United States should conduct its policies toward its allies in a way that strengthens the moderate, progressive and democratic governments of Western Europe. We must, on the one hand, avoid demands or lecturing which, whatever the intrinsic merit, magnify domestic fissures in European governments. At the same time, the United States can contribute to a sense of accomplishment by offering vigorous cooperation in joint efforts to solve common problems in the fields of diplomacy, arms control, energy, and economic growth. This was the purpose of the economic summits among Western leaders begun by President Ford at Rambouillet and Puerto Rico, and continued so successfully in London by President Carter.

The unity and cooperative action of the democracies is crucial to all that America does in the world. Western unity defends not only our security but our way of life and the most basic moral values of our civilization. On this we cannot be neutral. To foster these principles deserves the same dedication and commitment that inspired the most imaginative periods of American diplomacy.

The stagnant societies of the East to which I have referred serve as both a warning and a hope. They remind us that the West's latent intellectual and political vitality, even more than its material prosperity, is the envy of the world. The winds of change are ultimately blowing from the West. The men and women of Eastern Europe are certainly aware that the West, for all its doubt and sense of spiritual dilemma, is the vanguard of modernization, the vital source of learning and of much of modern culture, and the haven of the free human spirit. The developing countries yearning for progress also turn to the West, not the East, for assistance, support, and the measure of what man can achieve when he aspires. Our technology, our creativity, our unequaled economic vigor, not some bureaucratic doctrine of economic determinism, are the forces that will shape the future if we mobilize the energies of free peoples.

This is not the time or resignation or acquiescence. It is a time for confidence, determination and hope. The power of free men and women and free nations acting in concern, confident of their strength and of their destiny, cannot be matched by any totalitarian regime or totalitarian movement. The spirit of freedom can never be crushed. But freedom can be lost gradually. Such a danger exists today in Western Europe, and that threat could have consequences not only in Europe but throughout the community of democracies and the world.

If we cherish freedom, we will face the peril, marshal joint efforts to overcome it and begin a period of new fulfillment for our peoples. Western Europe, our closest partner and the cradle of much of our civil-

ization, is too precious to us for us to do otherwise.

RENO APPRECIATES REGULATORY REFORM

Mr. CANNON. Mr. President, as the issue of regulatory reform of the airline industry moves closer to resolution, there has been much debate on the effects reform would have on various communities. I have noticed that several of my colleagues have, from time to time, submitted statements or newspaper editorials from their States decrying the effects of reform.

As coauthor with Senator KENNEDY of the pending regulatory reform bill, I am naturally concerned with these gloomy prophecies. Therefore, I was pleased to note two recent editorials from my State of Nevada which enthusiastically supported the concept of reform. The Reno Evening Gazette, which carried the editorials, was a recent recipient of the Pulitzer Prize for editorial writing, I might add, so its observations are not to be taken lightly.

I would hope that those of my colleagues who have reservations about regulatory reform would read the editorials, which I will offer for the RECORD following my remarks. Note that Reno is a relatively small town which has a long history of mediocre to poor air service. Indeed, at this moment six airlines want to serve Reno from Phoenix and six more want to fly in from California. The only thing preventing a speedy resolution of their petitions in the city's favor is the archaic mechanism of the Civil Aeronautics Board that I and other forward-thinking Senators are attempting to update.

I ask unanimous consent that the editorials be printed in the RECORD and recommend them as must reading for those of my colleagues who have doubts about regulatory reform.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Reno Evening Gazette, June 17, 1977]

AIRLINE REFORM

When the Civil Aeronautics Board was created nearly 40 years ago, its purpose was to rescue America's fledgling airline industry from the jaws of Depression-era disaster.

Congress gave the agency three major powers: authority to set air fares, to grant exclusive routes and to provide immunity from antitrust prosecution.

Since those emergency steps were taken in 1938, the industry has mushroomed from a group of small companies bickering over air mail contracts to a multi-billion dollar transportation system. On an average day, that system encompasses more than 13,000 flights and half a million passengers.

For one reason or another, drastic changes in the industry over those four decades have not prompted Congress to make any substantial revisions in the CAB's regulatory powers.

Clearly, the time has come for reform.

That's what U.S. Sens. Howard Cannon of Nevada and Edward Kennedy of Massachusetts have in mind with their legislative proposal designed to deregulate the U.S. airline industry. The bill, three years in the making, underwent 13 days of hearings last month before the Aviation subcommittee of the Senate Commerce Committee. Next Tuesday, the committee is scheduled to begin important markup sessions on the legislation.

Most major U.S. airlines, vowing to battle the legislation with everything they can muster, have launched an all-out lobbying offensive to prevent the measure's passage. This has resulted in a curious development for many Capitol Hill watchers who are accustomed to seeing airline executives praise the concept of free market competition.

Now, with deregulation a possibility, the airlines are switching their stand and defending the CAB's stringent control. The incentive for the airlines' turnaround can be summed up in one word: greed.

If the legislation is approved, it would allow unrestrained competition for routes and would remove special privileges realized by the nation's 10 major interstate air carriers. These large companies, called trunk lines, have been consistently protected over the years because the CAB has allowed them to use their route authority to bar new airlines from interstate markets.

This monopolizing activity would be diminished if the bill is approved because it would permit the five largest airlines—United, American, Eastern, Delta and TWA—the opportunity to add only one new 2,000-mile route a year. Smaller carriers would have a chance to add several routes a year.

Cannon, in explaining advantages of the idea, believes it is likely that an airline will be encouraged to enter a market if another company tries to raise fares unreasonably. The senator is convinced that if a market is controlled by only one carrier, it will have no incentive to improve service. We concur.

Only United Airlines among the major air carriers supports the Cannon-Kennedy concept. From the big carriers' point of view, it's simple to see why they have launched a powerful campaign against the bill. There's no question that a more competitive air travel market would result in reduced fares. This, of course, is against the corporate way of thinking.

The financial argument cannot be overstated. A recent General Accounting Office study estimated that the CAB's powerful controls inflate fares by more than $1 billion annually.

In order to retain this financial advantage, the major carriers are arguing that even moderate changes in airline regulation will destroy the industry. They say that small communities across the country will suffer serious damage to service and that safety rules will be compromised.

But the legislation specifically calls for protection of small town service, through subsidization if necessary, and there is no evidence—as Sen. Cannon has made clear, that would indicate a trend toward lower safety standards.

Congress has a tough task. It must somehow deal with the double-barrelled challenge offered by the big airlines and the CAB, which was characterized in testimony last month by consumer-oriented Common Cause as a "classic example of a government agency which is part of the problem, not part of the solution."

[From the Reno Evening Gazette, June 20, 1977]

OVERDUE RELIEF

Congressional legislation to deregulate the nation's airline industry, which comes up for consideration in the Senate Commerce Committee Tuesday, could provide substantial benefits for travelers to and from a market like Reno.

The Senate bill, co-sponsored by Sen. Howard Cannon of Nevada and Sen. Edward Kennedy of Massachusetts, is designed to remove stringent regulatory controls over the industry and open up routes to free market competition. Such a law, if successful, would probably bring about lower air fares in medium market communities.

For example, Pacific Southwest Airlines, which has applied for route to Reno and Las Vegas from the San Francisco Bay Area and Southern California, says there's no question that it could offer sharply reduced fares if regulatory barriers are removed.

The carrier, which presently operates wholly in California, says it would be able to offer a $20 one-way fare between Reno and the Bay Area, a 43 per cent reduction from the current Civil Aeronautics Board-controlled $35 fare.

Other airlines, especially those which operate on an interstate basis, believe an opportunity to expand their service areas is sure to result in financial advantages to passengers.

The competitive free market concept is not liked by all airlines, however. The major companies, or trunk lines, would only be able to add one new 2,000-mile route a year. They are no doubt peeved that smaller airlines will have the opportunity to add several new routes a year if the legislation is approved.

Most major airlines in the country are waging an intense and emotional lobbying campaign to assure that the bill is defeated. They obviously do not like the financial threat it poses to a rate structure system closely maintained by the CAB.

More is at stake here than corporate profits, however, the bill would not only reduce air fares, it would dismantle the dictatorial authority over the industry held by an agency, the CAB, which has clearly overstepped its authority. And it would bring about genuine competition in the industry for the first time in history.

In a market like Reno, that's an important consideration. Six airlines are presently trying to get a route to Reno and Las Vegas from Phoenix. A hearing on those service applications will be held in Reno late next month. And six other airlines besides PSA have applied to serve Reno from California points—service which could result in help at last for the consumer.

Approval of the legislation would provide overdue monetary relief to Reno passengers who have suffered for some time with an air service arrangement which has been inadequate at best.

HARD ENERGY VERSUS SOFT ENERGY

Mr. GARN. Mr. President, a recent essay in Foreign Affairs by Mr. Amory Lovins has caused quite a stir among those dedicated to the "small is beautiful" ethic. Mr. Lovins essential point is that we have taken the wrong path in the development of this Nation, emphasizing growth and energy rather than more spiritual values. He urges us to take a different path, a softer path in terms of energy development.

The goal is attractive, and Mr. Lovins argues his case persuasively. Nevertheless, there are important arguments to be made on the other side, and I feel compelled to provide the Senate with some balancing comment.

One of the best critiques of Lovins has been made by Dr. Margaret N. Maxey, associate professor of bioethics at the University of Detroit. I ask unanimous consent that an article prepared by Dr. Maxey for publication in a collection of critical essays on the Lovins article, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALONG THE SOFT PATH TO SOFT TECHNOLOGIES: COSTS AND CASUALTIES

(By Dr. Margaret N. Maxey)

Amory Lovins has made repeated disclaimers to the effect that lifestyle, behavioral and value changes are not necessary to his argument—namely, that energy consumption can be sharply reduced through improvements in end-use efficiency alone—via "technical fixes"—and that this large reduction in energy usage can be attained while still preserving an American standard of living based on a rising level of expectations, to which the population has long been accustomed. Yet, Lovins contends that the condition for embarking upon his "soft path" is a choice made necessary because of "logistical competition and cultural incompatibility." But, there could be no competition or incompatibility if there were not the conflicting cultural and personal values upon which a choice-by-exclusion allegedly rests. It appears, therefore, that lifestyle, behavioral and value changes are a necessary keystone in the bridge leading to Lovins' soft path.

Lovins also says that "Making values explicit is essential to preserving a society in which diversity of values can flourish," and that his "technical fixes," conservation and soft technologies are so politically attractive that, "like motherhood, everyone is in favor of them." However, he leaves unnamed the "all too apparent" values which make a high-energy society work while leaving the impression that these are low values.

Lovins does enumerate those values which consumers in a low-energy society should reinstate so as to sustain a lifestyle of "elegant frugality"—of thrift and simplicity, humility and neighborliness, diversity and craftsmanship. However, his blueprint for decentralizing energy systems would shift the burden of investment and financing from corporations and industry to individual householders and local communities. But how can this financial burden be assumed by the unemployed, the unemployables and the poor—or, in general, by any but the very well off? (Also, it is less than responsible for Lovins to obscure the capital cost of "soft" systems underneath a cost comparison measured by "daily oil-barrel-equivalents.")

It would appear that Lovins has reason to believe that humility and neighborliness will move the American taxpayer and consumer into pressuring our Federal government to "broaden householders' access to capital markets." Or that "neighbor values" will motivate insurance companies and banks to "finance the solar investment (leaving its execution to the householder's discretion)" and to await repayment "in installments corresponding to the householder's saving." It would appear that our experience with 'redling' gives us a more reliable indication of how the capital market will flow.

REMEMBER DUSTY COAL BINS?

Lovins further contends that his soft technologies and the transitional path leading to them are "sustainable and benign." Considering the environmental impact of the transitional strategy alone, the American citizen should question this claim. It seems to rest on the assumption that large-scale technologies are categorically harmful to the natural and social environment, and that small units are by definition healthier. To the contrary. Besides the economic advantages of scale in fuel purchasing, transport, energy production and plant maintenance, large-scale units have compelling environmental and public health advantages. Biohazards, accident risks and environmental pollution can be concentrated both in space and time, making potential health impairment and ecological damages far easier to monitor, measure and control with greater cost-effectiveness. This is not the case when energy systems are scattered.

For those who can remember a dusty coal bin in the basement and the chore of removing ashes, the prospect of a home coal-burner however "fluidized"—plus the specter of noisy trainloads of coal deployed throughout a vast fuel distribution network serving individual customers—heralds a regressive return to a "hard path" without attraction or ecological redemption.

Furthermore, Americans who already deplore the diffusion of television transmitters and antennae, power transmission lines above ground, and billboards throughout the countryside are not likely to consider the erection of numerous household and local windmills for generating electricity an acceptable, much less "benign" impact on the environment.

THE PRUDENT PATH

In taking a broad perspective on the sources and uses of energy there are two main questions that the nation must ask itself: (1) What is the most prudent and responsible use of increasingly scarce and exhaustible resources? and (2) Among feasible alternative resources now available, which technological methods of energy conversion will meet ethical criteria for distributional equity and justice?

Clearly, the necessity for conservation—for "trimming off the fat" of waste, of profligate lifestyles, of self-destructive or superfluous recreational uses of energy—is all too obvious. Similarly, our responsibility for the living and for future generations requires us to preserve nonrenewable fossil fuels—natural gas, oil, coal—on a long-term restricted basis for medicines, petrochemicals, fertilizers, pesticides, etc. To the best of our ability, we should assure future human beings of having the same alternative resources and environmental quality as we have inherited if not better.

It is therefore unconscionable to burn up natural gas and oil for space heating and transportation fuels when other resources for energy are already or imminently available. No one disputes the necessity for "technical fixes" to achieve maximal efficiency in heating, ventilation, and transportation systems. But to claim, as Lovins does, that end-use efficiency can be doubled with minor or no changes in lifestyles or values is based on a false, if not irresponsible, human expectation.

THE NUCLEAR ENERGY ALTERNATIVE

As George Will observes, "Few things are as subversive in public reasonableness as the misdescription of social issues." [1]

Those opposed to nuclear energy have endeavored to discredit this alternative by depicting it as a demonic threat to the safety of our environment—hence an "environmental issue." However, when stripped of rhetoric, it is less a dispute about environmental effects of a particular technology than it is a dispute about the economic growth which the technology sustains. It leaves untouched the question about *which* energy system provides the more equitable distribution of costs, benefits and opportunities for the many. The nuclear energy alternative is a "social justice" issue. The quality of life of the biosphere, the ever-increasing number of inhabitants on this planet, and the decreasing availability of scarce, nonrenewable resources demand a national and international policy based—not on choice-by-exclusion and elimination—but upon choice-by-inclusion, replacement and wise governance.

There was a time when those who attacked nuclear energy technology for being "unsafe, unreliable, uneconomic, and unnecessary" were taken at face value. Without a doubt, cost overruns in reactor construction, forced up by ever-changing federal safety regulations—in turn multiplied and proliferated because of pressure from career-intervenors and special interest groups—have been a powerful political lever for those critics who quickly learned how to use "the system."

Until recently, many felt that the military origins of atomic technology and that associations with "the Bomb" accounted for anti-nuclear hysteria. And only a year ago it was considered a "wry witticism" to observe that electricity itself would still be under attack if the electric chair had been invented before the light bulb." [2]

But now electrification has *again* come under attack. And at the root of the antipathy for nuclear-generated electricity lies an ideological repudiation of all large-scale electricity generating systems. This ideology assumes that the precondition for a "democratic control of technology" is to make and keep it small, local and, therefore, "beautiful."

ELECTRICITY

There is a direct correlation between the quality of public health and the availability of electricity—especially for refrigeration, for water and sewage treatment, for air pollution reduction, and for recycling of solid wastes. This correlation can be demonstrated by contrasting the public health statistics of an advanced, energy-intensive economy with those of Third- and Fourth-World countries today, or with past statistics of the United States.

Unfortunately, there are groups that think that it is energy per se which has caused environmental degradation. They therefore are opposing strategies for expanded electricity capacity. If they succeed, we will face on a long-term basis the disruptions which we have experienced temporarily in the mid-1970's.

Environmental deterioration should be traced, however, not to high technology, nor even to a widespread dependence on electricity, but rather to poor technology and its misapplications.

Residents of the United States, whose modest standard of living and fundamental needs are met increasingly through the use of electricity, are rightfully indignant when accused of being "energy junkies" in pursuit of mindless growth in consumption. Electricity has ecological merits and social benefits—it is clean, convenient, versatile and, when generated by fissioning uranium, environmentally advantageous. But to critics of "Massive electrification" it is a baneful menace—an economic liability, a sorcerer's apprentice serving high technology, a large-scale centralized concentration of power by which a few malcontents could allegedly "turn off a country."

The ecological merits and social benefits of electricity as a source of power for mass-transit systems, as well as for transitional replacements of oil and natural gas in household space heating and cooling, are persuasive reasons for increasing the use of two resources: coal and uranium. Of the two, coal is the less attractive for various reasons. For example, its use in generating other forms of needed energy besides electricity is an important one. And then there are the many environmental effects and health hazards connected with the mining, transporting and burning of some 800 million tons of coal annually by the year 2000.

By contrast, uranium has striking advantages.[3] Its energy intensiveness is so great that, with present technology, a single uranium miner can produce an energy output which would take 26 coal miners to produce—the quantity of uranium oxide required for a year's reactor fuel supply is only 200 tons, as contrasted with two million tons of coal for the same amount of energy release.

Moreover, uranium is a "flameless fuel" and does not involve a chemical combustion with noxious atmospheric pollutants. The safety of reactors is unparalleled: "The safety objective for a nuclear plant is a factor of more than 30,000 (times) more restrictive

Footnotes at end of article.

than the best that can be achieved with a fossil plant." [4] Fear strategists notwithstanding, there is no evidence that low-level radiation may cause genetic damage—not even among survivors of the atomic bombs dropped on Japan.[5]

Finally, nuclear power plants generate far less waste than coal-fired facilities. For example, the waste (containing toxic pollutants) from combusting coal in a single 1000 MW(e) plant would fill 33 train cars per day, while the volume of high-level radioactive wastes from a year's reactor operation would fit into a cube less than 4 feed on edge. Also, the technology to process and dispose of nuclear wastes has already been developed.

Since generating electricity by fissioning uranium is clearly more feasible, safe, economically sound, and environmentally benign than fossil combustion, it is a resource which introduces a new ethical standard for the prudent use of scarce nonrenewable resources. Whereas coal, oil and natural gas can be used to meet other vital human needs, uranium can be used for nothing else but for generating electricity. With reprocessing of used fuel to recover and recycle the unused fission products, together with the prudent use of a few breeder reactors capable of extracting 50 times more energy from a pound of uranium than can present reactors, no shortage need ever arise. Those who would continue a national policy of a "breeder moratorium" and an international policy of "nuclear isolationism"—with the belief that proliferation of power reactors runs the risk of precipitating a nuclear war—have succumbed to a far more risk-laden illusion. The fulcrum on which international stability rests is adequate energy supplies for increasing populations. More political instability is produced by the inequitable distributions of resources for fulfilling human needs than by the mere availability of weapons.

In any case, controlling weapons proliferation—nuclear or otherwise—is a serious international political problem; but it cannot be the decisive factor in the use and export of power reactors for producing electricity.

Writing in 1945, Henry Nelson Wieman proposed a thesis which, coming from a theologian, was quite startling. "The bomb that fell on Hiroshima," he said, "cut history in two like a knife. Before and after are two different worlds. That cut is more abrupt, decisive and revolutionary than the cut made by the star over Bethlehem. It may not be more creative of human good than the star, but it is more swiftly transformative of human existence than anything else that has ever happened. The economic and political order fitted to the age before that parachute fell becomes suicidal in the age coming after. The same break extends into education and religion." [6]

The emergence of an altogether new order of human possibility has, of course, brought with it an altogether new order of danger and risk, a new order of challenge to constructive ingenuity and to ethical sensitivity. Furthermore, we all know that the problems of historical existence are not likely to be solved in a single stroke. Only disasters, it seems, lend themselves to such dramatic and categorical causality. The patient cultivation of civility, and of political institutions to embody and support it—however falteringly—requires a rather different orientation to our common humanity and a rather new analysis of our democratic prospects.

FOOTNOTES

[1] George Will, "Nuclear Power Controversy and Life Below the Waterline," syndicated column appearing in the St. Paul Dispatch (St. Paul, Minnesota), 3 June 1976.

[2] San Francisco Examiner, 12 March 1976.

[3] Cf. Ralph Lapp, "The Pros and Cons of Nuclear Power." Paper presented before the Connecticut River Watershed Council, Easthampton, Mass., 24 February 1977.

[4] Tobias Burnett, "The Human Cost of Regulatory Delays." Lecture before the American Nuclear Society Annual Meeting, June 1976. Documentation for his study is referenced.

[5] J. V. Neel and W. J. Schull, "The Effect of Exposure to the Atomic Bombings on Pregnancy Terminations in Hiroshima and Nagasaki," National Academy of Sciences, National Research Council Publication No. 461. Washington, D.C. 1956. Cf. also Roger E. Linnemann, M.D., "Medical Aspects of Power Generation, Present and Future," presented at the Nuclear Controversy in the U.S.A. II International Workshop, Lucerne, Switzerland, 5-8 May 1974.

[6] Henry Nelson Wieman, "The Source of Human Good," Southern Illinois University Press, 1946; Arcturus Books, 1964; p. 37.

TEACHING CONSUMERS HOW TO COMPLAIN EFFECTIVELY

Mr. METCALF. Mr. President, the Education Amendments of 1972 (P.L. 92-318) authorized funds for projects, curriculum development and dissemination of information on consumer education. This legislation also authorized appointment of a director of consumers' education in the Office of Education to carry out this program.

Similar legislation was included in the Education Amendments of 1974 (P.L. 93-380). Funds were appropriated for these worthwhile programs in 1976 and the results of the first year of operation are now becoming apparent. They are described in the March 23 letter to me from Dustin W. Wilson, Jr., director of the Office of Consumers' Education, in an article by Goody L. Solomon in the April 2 issue of the Washington Star and an article by Sidney Margolius in the December 27, 1976 issue of the Long Island Press.

I request unanimous consent that these three items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., March 23, 1977.

Hon. LEE METCALF,
U. S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: In light of your previous interest in and support for the Consumer's Education Program, I am sending you information about our first year's operation.

The enclosed "Analysis of the Consumers' Education Applications and Funded Projects, Fiscal Year 1976" indicates a high level of National participation in proposal development. Of interest was the fact that 50.5 percent of the 839 applications were received from public or private non-profit agencies, a clientele with which the Office of Education has had limited contacts in the past. The remaining half of the submissions were from traditional education agencies. This mix is proving to be a challenge in administration of the program and provides great opportunities for cross-fertilization of ideas.

Although many of the issues identified as subjects for consumers' education projects could have been predicted, the area of human services was new and not anticipated. Also new was the suggestion by some community action agencies that the delivery of civic services is a subject for consumer study.

Other emerging topics for consumer education, as indicated by grant applicants, include energy consumption and conservation, issues related to utilities and regulatory agencies, and consumer representation on public boards. While not unpredictable as subjects for consumer education, consumer credit (included by 26 percent of the applicants) and legal rights, redress and consumer law (3 percent of the applicants) were the two top topics. Food (24 percent of the applicants) and housing (23 percent of the applicants) appeared in third and fourth places, respectively.

I have also enclosed a copy of a syndicated column by Sidney Margolius, written as a result of his participation in our first conference of project directors, plus a compilation of project summary sheets. Hopefully, these materials will project some of our feeling for the breadth of interest in the Consumers' Education Program, as experienced in 1976.

Sincerely,

DUSTIN W. WILSON, Jr.,
Director, Office of Consumers' Education.

[From the Washington Star, Apr. 2, 1977]

TEACHING CONSUMERS HOW TO COMPLAIN EFFECTIVELY

(By Goody L. Solomon)

We had come to learn how to be assertive consumers, and we in turn would teach others.

We plunged right in. As we registered for the course sponsored by the National Consumers League (NCL), each of us received a sheet of paper listing 14 personal descriptions. For example, "I know I'm an assertive consumer." . . . "I have taken a complaint to an official agency." . . . "I was once denied credit but I never found out why." Each student had to find someone in the group who fit one of the descriptions. The get-acquainted game let no one be shy; we were forced to assert ourselves.

That was easy. While the game went on, we had a tougher test. Each of us had to appeal a bank's refusal to give us a loan. Pretend, we were instructed, that you were either a single parent (if you were a woman) or a married man with an income of $11,000 and one child. You had applied for a $500 loan to buy a new furnace and the bank turned you down.

One at a time, we went behind a curtain in a corner of the room where a would-be bank officer sat. To those who asked why the loan had been refused, the bank officer replied that, "Your salary is too low for a woman—or for a married man," depending on the student's sex. The answer should have stirred us to assert that the bank was discriminating illegally. Only three out of 38 students did that.

We simply didn't know the law. Although we sensed that something was amiss, we were generally frustrated and confused about what to say, therefore tended to act either angry and pushy or embarrassed and timid. On a scale of 14 points of assertive behavior, our scores ranged from 4 to 12.

After three days of training (once a week), we all enacted the same scene. This time, seven out of 38 scored right on all 14 points. On the average, scores rose by 39 percent.

We improved for two reasons. First, we became better informed about credit. In fact, a written test given at the beginning and again at the end of the course showed an average increase in factual knowledge of almost 60 percent. We had learned not only the basics of credit (why it's good and bad, how it works, the forms it takes, and such) but also our legal rights to equal opportunity and truthful disclosures. We had also learned about warranties.

Second, we had learned assertiveness techniques, which we practiced by role-playing situations in our daily lives as well as in connection with consumer problems. How to

tell your tennis partner to stop sponging and occasionally supply a can of tennis balls. How to tell the doctor you can't afford to spend hours in his waiting room every time you visit him. How to get a refund that you're entitled to and the salesperson refuses to give it to you.

The course was the brainchild of our instructors, Barbara Clark and Wanda Veraska, two friends who got a federal grant by virtue of their backgrounds and a set of fortuitous circumstances.

In 1975, Clark, who has an M.A. in human resources development, was working for Southern Railway Systems, designing and conducting management training courses. Veraska, a home economist, former consumer reporter and food editor, was working as a writer-editor for Congressional Infromation Service. She was also serving as a volunteer in the office of Swankin and Turner, public interest attorneys.

There, one day, she read in the newsletter of the H.E.W. Office of Consumer Affairs that grants were available for consumer education programs. The wheels started spinning in her head. She talked to Clark and the idea took shape. It was, in Clark's words, "That consumers need two things in order to bring themselves up to a position of power in the marketplace—knowledge about their rights and training in the kind of behavior that will let them deal comfortably and productively with merchants."

Veraska bounced the idea off Swankin. As counsel for the National Consumers League (NCL), he knew the group was planning to submit a proposal to HEW and suggested that Veraska and Clark seek League support. They did and the League agreed. Veraska and Clark then prepared the proposal. Result: a $70,000 grant for one year beginning September 1976.

Starting in mid-January, we attended four days of classes. It wasn't all fun and games. The untried course had a number of wrinkles in its organization, focus of instruction and written materials.

Now we are all set to teach you. The courses are free. NCL hopes that among those of you who attend, some will be motivated to give the course to others. But you don't have to make that promise in order to learn yourself. These are the courses that have been organized so far. There will be others as well. For information, call 229–2722.

COURSES LISTED

Assertive consumer instruction is being offered as follows this spring:

Apr. 4, 11, 18, 25, May 2, 9 a.m. to noon, D.C. Division of Adult & Continuing Ed., 13th & K Sts., NW. Call Deborah Johnson, 724–4946.

Apr. 4, 5, 11, 12, 7–10 p.m.; Apr. 9, 16, 9–12 a.m., Inner Voices, 535 Edgewood St., N.E. Call Thomas Tinner, 635–2372.

Apr. 6, 13, 20, 27, 6:30–9:30 p.m., Center For Displaced Homemakers, Baltimore. Call Jean Proudfoot (301) 243–5000.

Apr. 8, 16, 22, 2–5 p.m., Md. Commission for Women, Baltimore. Call Dolores Street, (301) 383–5608.

Apr. 14, 21, 28, May 5, 12, 19, 26, June 2, 12:30–2:30, Pleasant View School, Kensington. Call M.C. Adult Ed., Geri Gardner, 279–3335.

Apr. 16, 9 a.m. to 4 p.m., Arlington County Library, 1015 No. Quincy, Arlington. Call Sandy Hill, 243–8674.

Apr. 18, 25, May 2, 7:30 to 10 p.m., Ryland Church, Branch Ave. & S St. SE Call Barbara Hogan, 584–2968.

Apr. 21, 22, 9:15 to 3:15 p.m., D.C. Office of Consumer Protection, 1407 L St., N.W. Call James Toughhill, 629–2618.

Apr. 23, 30, May 7, 14, 10 a.m. to 2 p.m., Martin Luther King Library. Call Susan Holleran, 223–5700.

[From the Long Island Press, Dec. 27, 1976]

CONSUMER EDUCATION PROJECT INITIATED

(By Sidney Margolius)

The $3 million the U.S. Office of Consumers' Education is spending to finance 66 grass roots projects around the country may well be the best money the government ever spent, both in immediate and future returns. This is the first year of this broad effort at consumer education authorized by Congress in the Education Amendments of 1974.

The diversity of the first 66 projects funded by a combination of federal grants and local resources is especially striking. From lonely Indian reservations to teeming inner city neighborhoods, pilot groups are beginning classes, information clinics and service activities aimed at developing consumer skills needed to cope with their special problems.

The groups include senior citizens, handicapped people, minority groups, teen-agers, industrial workers, and low-income families. They all share common consumer problems, of course, but have unique problems.

As immediately useful as the services flowing from these exploratory projects may be to their communities, their real value is what the country as a whole is going to learn about specific consumer information and service needs. The community groups and educators running these projects will learn as much from the people being educated as they will from the teachers.

In fact, and very encouragingly, some of the projects are aimed at training school teachers and community agency representatives in consumer information so they in turn can teach the students and other people they reach.

There are few more worthwhile educational efforts in this age of widespread consumer problems with their often harmful effects on individuals and families, and on our national economy and community life.

It is increasingly apparent that a waste of personal and family resources is, on a large scale, a waste of national resources. In almost every type of consumer expenditure noticeable waste of resources is taking place.

The projects themselves have been designed so that the methods and materials they develop can be used in other towns and schools around the country.

The Office of Consumers' Education (OCE), which helped develop these projects is part of the U.S. Office of Education. OCE sees its effort as different from much of the traditional consumer education in schools that was, and often still is, related mainly to homemaking, business education or industrial arts.

In this new concept, school students would get consumer education in a wide variety of subject areas. But as significantly, the OCE program includes consumer education for adults, and especially for those with particular needs or who are trying to manage on relatively small incomes.

Just over half the projects are being run by traditional educational institutions such as local school systems, OCE Director Dustin Wilson, Jr. The others are conducted by community-based public or private nonprofit agencies.

Several of the community-based projects seek to teach consumers their legal rights. One, operated by the Tampa, Fla. Legal Services helps answer individual legal questions but also tries to educate the public through group discussions of rights and responsibilities. Another project, in Flagstaff, Ariz., is zeroing in on consumer legal education for low-income people.

A number are aimed at helping seniors with their many and often acute consumer problems. Virginia Polytechnic Institute is developing a financial counseling program for the elderly. Catonsville Community College in Baltimore, Md. is concentrating on "Senior Survival in the Marketplace."

In Detroit, the United Auto Workers Union is working on consumer education materials for industrial workers and also is training a number of workers to provide consumer education for other workers.

Several projects are helping native Americans and Spanish-speaking groups solve urgent consumer problems. In the West, the Coalition of Indian Controlled School Boards is developing a consumer education program for reservation schools.

In Massachusetts the Boston Indian Council is developing a program for adult low-income Native Americans recently coming in to the city from reservations and rural communities. A number of projects are aimed at helping handicapped consumers, such as the deaf.

Also noteworthy are projects being developed to help people returning to society. The Southern Illinois University Dept. of Family Economics is planning consumer-education for prison residents and parolees.

The University of Alabama is sponsoring a consumer education project for prerelease mental patients. Another project, sponsored by San Francisco State University and potentially useful for other communities is concerned with health education, especially with the informing of consumers against useless and sometimes even harmful quack medical products and services.

SPEAKING REALISTICALLY ABOUT DETENTE

Mr. JAVITS. Mr. President, I am a member of the board of honorary directors of the Atlantic Council of the United States, which is a bipartisan, nongovernmental organization brought together 15 years ago for the purpose of promoting understanding of the major international issues that confront the United States and its closest allies in Western Europe and Asia. The Atlantic Council is a most distinguished organization with which I have been most happy to have been associated.

One of the Council's directors, Timothy W. Stanley, has written a most concise and informative article for the Atlantic Community Quarterly titled "Détente: The Continuation of Tension by Other Means." Because of varying and sometimes unrealistic interpretations of the term "détente," is has become a controversial one, and it has attracted connotations which the authors of the policy, both in this country and in the Soviet Union, never intended. Mr. Stanley presents a pragmatic appraisal of détente and suggests some useful policy recommendations to enable the policy of détente to be pursued more fruitfully for U.S. interests and to maintain world peace and stability.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DÉTENTE: THE CONTINUATION OF TENSION BY OTHERS MEANS

(By Timothy W. Stanley)

INTRODUCTION

Few concepts in the international political lexicon have been subjected to as much controversy and confusion as "détente." The term has been applied, distorted, and reinterpreted by Americans, Chinese, Europeans,

Russians, and others for quite inconsistent purposes.

To many observers, the controversy may seem surprising, for the concept is hardly novel. Nearly a decade ago, the North Atlantic Council's "Harmel Report" on the future tasks of the Alliance concluded that "military security and a policy of détente are not contradictory but complementary."[1] And a few years later, one of this study group's co-chairmen cautioned that détente is—to adapt Clausewitz's phrase—"the continuation of tension by other means."[2] Nevertheless, it has given rise in the West and in the United States to a sense of "euphoria" as well as frustration about U.S.-Soviet affairs and East-West relations in general, apparently in the belief that the term is synonymous with a new era of good feeling. Some critics, on the other hand, see it as benefitting only the Russians and having no value at all for the West.

On the Soviet side it has been used, by some Russians at least, to imply a tactical means of "tranquilizing" the West while they increase steadily their global military power. The Soviet leaders appear to be assiduously cultivating détente, while at the same time pressing for political and military advantages which may be stretching the limits of Western tolerance.

The Atlantic Council's Security Working Group believes that détente has some important values—if it is properly understood and applied only within its limitations. Accordingly this policy paper is designed to help dispel some popular Western misconceptions about the concept and to put it in a realistic perspective of American and allied security interests and values. Those values, of course, include the capacity to hope for a better future; and in this, at least, there should be some common ground with the peoples of the East.

DÉTENTE IN THE EASTERN PERSPECTIVE

As a French word meaning, roughly, "relaxation" (presumably of tension, although it also has other connotations), détente does not translate well into either English or Russian. The Russians have a word, "razriadka," which means variously "relaxation of international tensions" or, in the preferred Soviet idiom, "peaceful coexistence." But it must be borne in mind that the Russians themselves make a sharp distinction between "peaceful coexistence between states with different social systems" and what they call "the sphere of social development, which forces its way unrelentingly in any international conditions, whether it be détente, cold, or even shooting war."[3] (Social development, it should be noted, includes what Khrushchev called "just" wars, i.e., those of national liberation, or in effect those supported by the Soviet Union as contrasted with "unjust" wars, which are those supported or even defended by capitalists.)

For many years Communist Party officials have been warning the faithful that peaceful coexistence does not mean renunciation of the class struggle. Indeed at the rhetorical or party platform level, this has been a constant theme of Soviet policy since Lenin's day but supplemented by the newer realities of the nuclear balance of terror.

Americans have often chosen to ignore very explicit Soviet warnings that they do not consider themselves bound by our unilateral interpretations of what détente should mean for East-West relations. In the fall of 1975, Izvestia noted pointedly that détente could not be equated with elimination of "all the developments in different parts of the world that may be unpalatable to the United States"—such as, presumably, Angola.

If détente means relaxation of tensions, it is self-evident that such tensions have existed and that many of them are likely to continue. It is worthwhile therefore to review briefly some of the causes of these tensions.

For the most part they are not of the traditional international variety, such as conflicting territorial claims. Nor are they basically economic, since the economies of the United States and the Soviet Union are almost as complementary—for example in energy and raw materials, food grains and capital goods—as they are competitive.

Moreover, although there is a natural U.S.-Soviet rivalry as "superpowers" and a complex triangular relationship with China, there is also a growing complementarity of interests in maintaining an equilibrium in the world power structure and on certain functional interests ranging from the law of the sea to nonproliferation of nuclear weapons. Overriding everything, of course, is the common interest in avoiding a disastrous nuclear war. There are, on the other hand, a number of actual or potential third area conflicts, in which one must include Europe, where the classic issues of Berlin and Germany gave rise to the cold war. A number of these issues have been defused, however, if not solved, even in the six years since they were described in some detail in the Atlantic Council's 1970 analysis.[4]

Notwithstanding these potentially favorable factors for East-West relations, there remains a fundamental stumbling block. This is the Soviet ideological claim on the world's "social development," as they call it—which includes its political and economic as well as future social systems. If this claim and its subideologies were not backed by the power of the Russian state apparatus, including its massive military establishment, then the Western world might be able to accept it as part of the normal competition of ideas. But that has not been the case historically, nor is it likely to be in the near future.

Alternatively, if the Soviet state were to maintain its institutions and internal structure, including its ideological system—and even its claim to be immune from external criticisms—but to drop its involvement in the "class struggle," in the activities of Communist parties elsewhere and in wars of national "liberation" abroad, then a pragmatic accommodation might be reached on the basis of a comparative lack of conflicting state interests.

The problem, then, is that the legitimacy of the internal power structure and apparatus of the Soviet state depends upon an ideology which is inextricably linked to its external applications. As seen from Moscow, failure to pursue forcefully on a planetary basis the historical developments foreseen by Marxism-Leninism could again cause the Russian state to become isolated, prey to attacks by its neighbors—for which the racial memory is a very long one—and perhaps unable to justify to its own people the sacrifices they are called on to make. The centralized and controlled Soviet system is attempting to manage the complex political economy of the country, as well as the continuing challenge of absorbing Russia's many diverse nationalities; and it requires a strong element of ideological discipline. This applies also to Eastern Europe from which it is feared disaffection could spread.

Conversely, Moscow may fear that as a "disembodied" ideology, i.e., one not tied closely to Soviet power, communism itself might be doomed by what they like to call reactionary and "counter-revolutionary" forces but what the West would term the "test of the market." Communism's growing irrelevance to the problems of the modern world is shown by the proliferation of national variations geared more to local conditions and history than the doctrines of Moscow's "Mother Church."

Thus, despite the contradictions between Russian national interests and Soviet-Communist ideology and foreign policy, no early "decoupling" of interests from ideology seems likely. The West should, therefore, define détente in ways which are consistent with this reality, but without abandoning longer term hopes of a parallel mellowing of *both* the internal and external applications.

Is détente, then, merely a political-military "tranquilizer," a tactical weapon to advance Soviet goals in ways which may be inconsistent with Western interests and values? Are the critics correct who call it a snare and a delusion for the West, or even a "zero sum game"—one in which the Soviet Union and its allies in effect get the sum, while the West gets the zero? We believe the answer is "no"—but only insofar as the limits and purposes of détente are understood and applied in the context of Soviet perceptions. If properly applied, however, it can be argued that détente is a "positive sum" game, from which both sides benefit.

If the United States under its incoming Administration takes a wholly negative view of Soviet purposes, then this could easily become a self-fulfilling prophecy. For there is evidence, fragmentary and inconclusive, that détente has other meanings and purposes within Russia itself and even more so in Eastern Europe. For example, those hopeful of liberalization in the repression of political and artistic expression see in détente a potential climate in which the xenophobia and paranoia—which have been characteristics of Moscow leadership long before communism—can gradually be overcome. The same applies to elements seeking liberalized conditions of emigration as well as those hoping to realize implementation of the Helsinki CSCE accords in spirit as well as technical letter, particularly those East Europeans who see in the Helsinki framework grounds for a more flexible and humane system.

Perhaps even more influential are those Russians concerned at the continuing high proportion of Soviet national product devoted to defense spending and heavy industry at the expense of consumer needs such as housing and improvement in the quality of life. Foreign observers characterize the Russian countryside as being at "median developing country" or roughly 19th century Western levels. Much remains to be done to improve agricultural productivity and even the basic infrastructure of transportation and communication systems needed to effectively link the vast continent.

The appointment, for the first time, of a civilian defense minister (albeit one coming from the industrial side of the Russian military-industrial complex) suggests that the problems of gaining effective civilian or political control over resources allocation and defense spending are by no means unique to the Western democracies. Détente has been used in Russian internal debates to support the rationale of those who are arguing for a cutback in the militant defense posture of the Soviet Union.

On the other side, the Russian emphasis on the military aspects of security antedates even the Soviet Revolution and has proceeded on its own track, largely independent of doctrinal changes away from or toward peaceful coexistence or détente.[5]

No one in the West—and perhaps no one in Moscow—can really predict the outcome of the inevitable struggle for succession after Brezhnev, nor the weights to be assigned to various factions in the internal debates. But it would make little sense to undercut the proponents of a more relaxed (internally as well as externally) Soviet policy; and perhaps the way to avoid this is not by attacking détente per se, but rather by making clear that the Soviets cannot have both détente and a constantly expanding relative military power. For the same reasons, however, care must be taken to avoid alarmist Soviet perceptions of U.S. military developments.

WESTERN PERSPECTIVES AND INTERESTS

On the Western side, the problems caused by détente could be described as "self-inflicted." As Secretary Kissinger put it:

Footnotes at end of article.

"Some take for granted the relative absence of serious crises in recent years, which the policy [of détente] has helped to bring about, and then fault it for not producing the millennium, which it never claimed. Some caricature its objectives, portraying its goals in more exalted terms than any of its advocates, and then express dismay at the failure of reality to conform to this impossible standard . . . they use the reality of competition to attack the goal of coexistence rather than to illustrate its necessity." [6]

The Secretary went on to quote President Eisenhower's view that "there is no alternative to peace," and to say that "we owe it to ourselves and to future generations to seek a world based on something more stable and hopeful than a balance of terror, constantly contested."

America is not known in the world for the steadfastness of its foreign policies; rather we seem to embark upon crusades and then to retreat from them. Yet the general continuity of purpose in our alliance with Europe and maintenance of an East-West military balance has extended for nearly three decades. It is ironic that one token of its success—the military stalemate which has made détente possible has simultaneously brought that concept under attack for going too far and not far enough.

We believe that the United States should have the following objectives in its policies toward the Soviet Union, even while we pursue our own national interests and international obligations in other areas in close consultation with our principal allies:

To avoid a nuclear war and to manage situations which could by accident or design lead to one: to maintain, as the London *Economist* put it,"brakes" on the East-West confrontation. In other words, to maintain the East-West military stalemate but to negotiate lower costs for it, as well as controlling its risks.

To accept defense and détente as part of the same strategy on a long-term basis, not alternative (or alternating) strategies. This would require making arms control a more integral part of our defense planning, recognizing, however, that arms control cannot consist of a series of constraints and inhibitions on U.S. policy while the Soviet Union continues to expand its own capabilities and the global reach of its military power. Détente without defense is certainly a delusion. But in the thermonuclear missile age, the reverse may also be true.

To try to moderate Soviet "capabilities" by influencing their "intentions" through continued realistic negotiations, bearing in mind the "mirror image" tendency of each side to plan its forces on the basis of perceptions and misperceptions of the other side's intentions. (Reasonable allowance must also be made for the lag time often exhibited by the Soviet system in major policy shifts, notably in arms control matters.)

And in the *long* term, to bring about a situation where a decoupling of the Soviet's internal ideology and power from their interventionist external ideology can evolve and thereby permit the pragmatic application of the talents and energies of both countries to the common problems of the globe.

In the light of such objectives, it is apparent that détente must be given a narrower meaning than it currently has acquired in the public mind, making a sharper distinction between medium-term realities, and longer-range hopes—which can be somewhat broader in their scope.

DETENTE IN PRACTICE

The Security Working Group's efforts have been directed toward sharpening public recognition of this distinction. Our deliberations have focused on four areas of détente's possible application.[7]

1. The strategic nuclear standoff;
2. The regional confrontation in Europe;
3. Crises and issues in other areas; and
4. The linkage, if any, between security and nonsecurity factors.

In the area of strategic nuclear forces—détente's most important potential impact—there is ground for concern that, notwithstanding the limited progress made in SALT, the Soviet Union continues to improve its forces. This improvement is both quantitative, where permitted by the treaty, and qualitative—sometimes in a questionable manner, according to Western interpretations of the accords, interpretations which, however, were not necessarily accepted by the Soviet Union.

Future efforts and their public information treatment should be explicit both as to what is agreed and points on which it is, in effect, "agreed to disagree," in order to avoid the dangers of unrealistic expectations on the Western side. Not only can these lead to serious international misunderstandings; but they can undercut public and congressional support for prudent modernization of U.S. strategic nuclear forces.

In the regional confrontation in Europe, the Working Group is particularly disturbed by the steady pace of improvements in the Warsaw Pact's military posture. They include rapid modernization of ground and air forces as well as the introduction of new weapons and support systems. The impasse in the negotiations on mutual and balanced force reductions partly reflects the larger uncertainties of East-West relations and SALT; but it also raises questions about Soviet seriousness of purpose. Too much emphasis may have been placed in the negotiations on "reductions" *per se* rather than achieving, as the fundamental *sine qua non* of any agreement, a durable stability and equitable balance of military forces remaining in the potential reductions areas, along with constraints on the employment, exercising, and reinforcement. Here, too, there may be opportunities for progress, especially now that the Western side has offered to include some tactical nuclear forces in the negotiations. But détente can only have meaning here if the Eastern side is persuaded that its present favorable margin of military asymmetries is not needed to assure its own security. And, of course, temptations to exploit tactical advantages must be countered by continued Western solidarity and cooperative defense programs at meaningful budgetary levels for all members of the alliance. However, NATO may have to find means of assuring the Eastern participants that the forces of the European country they fear most, namely West Germany, would not constitute a disproportionately large share of the forces permitted under an overall Western ceiling. This should not be beyond the capacity of imaginative diplomacy.

In third areas, such as Africa, we must recognize that ideological and political-military competition will continue and perhaps intensify. This prospect should not be confused with détente except for the limited—but vital—purpose of insuring that such rivalry does not lead to serious military confrontations between the nuclear superpowers. The interests of East and West conflict too much in the Middle East to expect active Soviet-American collaboration in solving the intractable problems there; but some tacit "rules of engagement," proceeding from the basic premise about avoiding nuclear confrontation, and building on points of common interest in avoiding renewal of active Arab-Israeli hostilities are desirable, as long as too much is not expected of détente.

The triangular relationship with China is another area of great potential difficulty for both superpowers. The U.S. must maintain its right to regulate, and, if possible improve, bilateral relationships with China while reassuring the Russians that we are not conspiring against their interests.

Finally, on the question of "linkage" between security and nonsecurity issues, a balance must be found between the extremes of comprehensive linkage and total compartmentalization. In economic relations, for example, particular arrangements for transfers of credit or technology, or trade in resources or food grains should be examined on their merits, but without unduly relaxing those controls on strategic goods which are still prudent in the light of continuing military competition. At the same time, given the ideological suspicions on both sides, the atmosphere of détente provides an "ambiance" which can help consummate negotiations on matters where a mutuality of interest has been established—and such outcomes can in turn, reinforce favorable political attitudes. But détente should not be used to try to create the illusion of a common interest where none, in fact, exists, or to justify "deals" that do not provide reasonably balanced benefits for both sides.

In the political area, the West does not have to disavow in any way its own values and concerns with human rights questions or freer information flows. The Russians are acute enough to recognize the weight that these have in America's domestic politics and hence in the country's external attitudes. But we should avoid encumbering our basic national security interests with divisive side issues. It is also healthy to recognize that, realistically, there is often little that outside pressures can accomplish on such subjects. Expanding business and cultural contracts may do more good for liberalization in the long run than would withholding them on grounds of principle.

THE LONGER VIEW

Americans are going to have to learn to curb their traditional impatience and settle down for the long haul of competitive coexistence with the Soviet Union in a turbulent world—one torn by emerging North-South economic and racial conflicts which may increasingly provide the occasion for renewal of the more traditional East-West political-military conflicts.

Indeed the new challenges to international "security" in the broadest sense encompass not only economic issues but also global environment, population, and food crises and the even more ominous, though less certain, evidence of cyclical climatological changes which could significantly affect much of the northern hemisphere. A case could be made, therefore, for the superpowers to bury their differences, even to the point of forming, in effect, a condominium to impose the minimum of order which the world requires to surmount these challenges. Such a course would, however, be unacceptable to a majority of public opinion in the United States, in NATO and other allied countries, in China, and in the non-aligned world as well. It also might prove risky; for the Soviets have not abandoned their goals, as they perceive them, in the pursuit of détente. The underlying value systems of Western democracies and the authoritarian regimes of the East are simply not susceptible of immediate or comprehensive compromise. The chief benefit of détente is that it ratifies on both sides the nuclear constraints against resolving that conflict via military force.

This rather considerable benefit of détente must of course be weighed in the balance of other risks. But there is another cost-benefit calculation to be made—namely the potential gains in world stability that might be *foregone* by allowing détente to wither.

For the first time, the Soviet state apparatus, including its military is emerging from centuries of relative isolation onto the world stage. Backed by a massive strategic nuclear arsenal, the Soviet Union now has an ability to project nonnuclear power beyond its immediate periphery. In the case of naval forces, there seemed for a time to be a kind of "neo-Mahanism" undertaken with the usual enthusiasm of a convert. Later developments have modified the U.S. assessment of how the Soviets may be inclined to carry their pro-

Footnotes at end of article.

jection of naval forces, but the capability of moving out is still there.[8]

Soviet policy may thus be at a crossroads in terms of having attained a clear ability to satisfy all legitimate security needs (except for some longer term questions versus China) and facing the choice of whether to stabilize there, or to continue in the several disturbing directions which it has taken of late. Accordingly, the Russian emphasis on a "correlation of forces" which is allegedly shifting in their favor, is not reassuring.

These apparent trends include qualitative and quantitative acceleration in Soviet missile and nuclear weapons programs; the continued modernization and expansion of general purpose forces in Eastern Europe, and the strengthened Russian naval presence in the Mediterranean and Indian Oceans; a major military-industrial complex and civil defense program plus a general capacity to project both overt and clandestine politico-military operations globally.

The problem then, is what the West in general and the United States in particular is willing and able to do about this growing capacity. In describing détente, NATO Secretary General Luns has said that "signals have been alternating between red, green, and amber, sometimes with all three flashing at the same time." On the Soviet side this is understandable, given their system's bureaucratic sluggishness and the conflicting pressures and factions within it, facing a period of transition.

There are some encouraging signs of a gradual evolution toward a more liberal and less insecure system internally—and it is worth recalling that Khrushchev's famous denunciation of Stalin and the abuses thereby revealed to the Soviet people and the world were an even greater shock to that closed system than Watergate, Vietnam, and related traumas have been to the United States. We believe, therefore, that the correct interpretation to put on the Soviet Union's hesitant steps toward détente is that of the "orange" light, signaling a willingness to proceed cautiously with détente—but in terms of their own definitions and interests.

We must also give thought to the signal which we display to adversaries. A "red" light risks returning the world to a state of greater distrust, hostility, and rivalry between the U.S. and the Soviet Union, accompanied by a less restrained arms race at both the nuclear and conventional levels, with higher dangers of an actual conflict by accident or miscalculation.

Since the West would presumably prefer a more open, tolerant and responsible type of Soviet government which would be willing to cooperate in selected spheres, despite ideological and value differences, U.S. policies should seek to encourage this pattern and discourage a return to the paranoia and conspiratorial attitudes of past years. Paradoxically, a "green" signal could also be counterproductive by indicating that the Soviets can use détente to disarm and isolate the United States, while relentlessly pressing for a correlation of forces which is even more in their favor. Moreover, this would imply an excessive preoccupation with the U.S.-Soviet relationship which, however, important, is only one among many.

We therefore believe that the message we should give is also the "orange" light of caution, proceeding with circumspection and on the basis of reciprocity. But we must also make clear our determination to maintain our values, our traditional alliances and our goals and programs for dealing with the world's ills, but with continued constraints on confrontations, and the door of active cooperation held open.

More specifically, we believe that the U.S. should seek concrete but limited and, where possible, verifiable results in the arms control field in both the strategic nuclear and NATO-Warsaw Pact areas. An additional possibility which commends itself to careful examination by the incoming Administration might involve an understanding that defense spending would be held level for both sides in *real* terms. As the pendulum of congressional support has moved away from the post-Vietnam extremes and toward reasonable defense modernization, the U.S. is correcting many of its "baseline" deficiencies. So it should be possible for the United States to increase its budgets in later years only by amounts necessary to cope with inflation, perhaps measured by the GNP deflator. This would, however, place a premium on good management. Inflation is also present, although often unacknowledged, in the Soviet system; but they have expressed interest in level real-term budgets, as a basis for possible mutual reductions later on.

While no detailed comparision is possible of the quite different U.S. and Soviet defense programs, nor would specific verification or enforcement be feasible, the broad magnitudes and trends of defense effort can be discerned. Some detailed consideration has already been given to the problems of measuring and evaluating military expenditures in the UN and other working groups.[9] There would be advantages to an understanding which tended to place constraints around overall spending, for specific arms control agreements reached in one area would be less likely to be offset by expansions in other components, such as naval power. Either side could retain the right to adjust its own programs if it believed the other was not adhering to the understanding. But as important forces in both countries are concerned to limit allocation of resources to defense programs and away from other needs, and in particular to cut out wasteful and unnecessary expenditures, they would tend to give such mutual undertakings a self-enforcing character. The difficulties and complexities should not be underestimated; but we believe the idea worthy of study.

Absent any such understandings, however, the United States and its allies should move resolutely to do the necessary to bolster and insure the survivability of their conventional and nuclear deterrents. Particular attention should be paid to gaps and deficiencies in the European area that can be rectified without adopting destabilizing new programs or massive added expenditures. Former Defense Secretary Schlesinger's warning is timely: "We are face-to-face with the problem of Soviet conventional military capabilities in a way that we have not been before. In the past, we could offset our inferiority in conventional capabilities by our strategic superiority. Now, that offset is gone."[10] The actions necessary to face this problem may in the end be a contribution to détente by persuading the Soviet Union that further expansions on their side *will* be countered and are thus literally a "waste" of resources. Fortunately many of the needed corrective actions can be done relatively inexpensively and nonprovocatively. But they do require the steady will of political leaders to act.

CONCLUSION

Summing up, "détente"—the relaxation of tensions—must not be confused with the elimination of the causes of tension. Its limitations must be recognized. It may, with wisdom and caution, be utilized to the benefit of both West and East; but it certainly represents no "millennium," not even an era of good feeling, let alone real community of interest in achieving world stability. In that respect, it is like the report of Mark Twain's death: highly exaggerated or, at the very least, premature! But in the latter analogy it may, as an evolutionary process, also be inevitable. For the world is moving into entirely new sets of problems and relationships in the next century—provided, of course, that a nuclear holocaust is avoided in the interim. The challenge, then, is to live with the reality of conflicting values and objectives; to apply détente only to areas where it can have real meaning, or significant potential for the future of the superpower relationship; and to maintain the military stalemate while negotiating, in an attitude of sober optimism, lower costs and risks for it.

The hope must be that, as the West's opposing system proves itself more durable and resilient than expected, "détente" will become a learning experience which will convince the Soviet Union that it is not destined to be history's sole beneficiary.

FOOTNOTES

[1] The Report is reprinted in *The NATO Handbook*, NATO Information Service, Brussels, February 1976, p. 64.

[2] Harlan Cleveland, *NATO: The Transatlantic Bargain*, Harper & Row, New York, 1970, p. 171.

[3] G. Arbatov, "Who Benefits from Détente?" quoted in *Atlas World Press Review*, December 1975, Volume 22, pp. 14–16.

[4] T. W. Stanley and D. M. Whitt, *Détente Diplomacy: United States and European Security in the 1970s*, Dunellen Company, for the Atlantic Council of the United States, New York, 1970.

[5] George Kennan's article, "The United States and the Soviet Union, 1917–1976" in the July 1976 *Foreign Affairs* contains a useful historical review of U.S.-Soviet relations and of the continuities in Russian security policy.

[6] Address to the International Institute for Strategic Studies, July 25, 1976, *The New York Times*, June 26, 1976, p. 7.

[7] For an elaboration of these categories, see Gen. Andrew J. Goodpaster's Foreword to *National Security and Détente*, Thomas & Crowell Company, New York, 1976.

[8] See "What is the Soviet Navy Up To?" by Vice Admiral Julien LeBourgeois, Atlantic Council Security Working Group, printed in the fall issue of the *Atlantic Community Quarterly*, 1976.

[9] See, for example, *Report of the Group of Experts on the Reduction of Military Budgets*, pursuant to General Assembly Resolution 3093B(XXVIII), UN, New York, 1974.

[10] Talk at Key Largo, Florida, April 23, 1976, published by the National Planning Association in "New International Realities," July 1976.

HUMAN RIGHTS IN CUBA

Mr. HARRY F. BYRD, JR. Mr. President, the topic of human rights has been much in evidence in recent months as has been the matter of normalization of relations with Cuba.

To better assess the question of human rights in Cuba, I invite attention to an article in the New York Times of June 22, written by Irving Howe, a distinguished professor of English of the Graduate School of the City University of New York.

I ask unanimous consent that the text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 22, 1977]

MERCY

(By Irving Howe)

In the discussions that may soon be held between United States and Cuban representatives, might not our man say a quiet word about Huber Matos? That it would help smooth relations if he were released from jail and allowed to leave Cuba?

A former teacher, Mr. Matos joined Fidel Castro's troops in the fight against Batista's dictatorship. Rising rapidly in rank, he be-

came head of the rebel army's Column Nine, which led the takeover of Cuba's second largest city, Santiago de Cuba. After Castro's victory, Mr. Matos became Chief of the Second Military District with its seat in Camaguey. About his bravery in battle and devotion to the guerrilla cause there could be no doubt.

In 1959 Mr. Matos grew concerned about the growing influence of the Communists in the new regime. Fidel reassured him: the Cuban Communists, who had not even fought against Batista, would never take control. How valid this reassurance was, it soon became clear.

In October, Mr. Matos sent in his resignation, saying he wanted to retire from public life. That was all, just retire. A few days later, Mr. Castro flew to Camaguey Province and had Mr. Matos arrested. A show trial followed at which Mr. Castro made a seven-hour speech but refused to submit to cross-examination. This trial, says Theodore Draper in his book on Cuba, "will go down in recent Cuban history as the equivalent of the Moscow trials of the 1930's."

Be that as it may: Mr. Matos was sentenced to twenty years in prison, a sentence that contrasts strikingly with the 15 years Fidel Castro got under the Batista regime for leading a military attack on an army barrack.

Mr. Castro served only 20 months. Mr. Matos, whose "treason" consisted in wanting to return to private life, has now served seventeen years. Seventeen years!

No pleas from human rights groups, no whispered embarrassments from foreign friends who regard Castroism as "different" from other Communist dictatorships, nothing has thus far been able to soften the heart of the ruler in Havana. The sick and broken Huber Matos must serve the full 20 years—such, apparently, is the dispensation of "the new society."

Leave aside justice, leave aside human rights. Might not the American representative at future negotiations at least say a word about mercy?

NEIGHBORHOOD REINVESTMENT CORPORATION ACT

Mr. GARN. Mr. President, I am pleased to join my distinguished colleague, Senator PROXMIRE, in cosponsoring the Neighborhood Reinvestment Corporation Act. This legislation provides for the conversion of the remarkably successful Neighborhood Housing Services (NHS) program from an ad hoc demonstration project into a public corporation patterned after an institution such as the Corporation for Public Broadcasting.

The NHS program is currently under the direction of the Urban Reinvestment Task Force. Under this legislation, the Task Force would be reconstituted as a National Reinvestment Corporation, retaining the existing board of directors, thus preserving the essential links to the financial regulatory agencies and HUD.

The Neighborhood Housing Services program has demonstrated significant impact on 32 urban neighborhoods, and will likely be operating in 40 cities by the end of this year. Probably the main reason for its impressive performance is the fact that the NHS program addresses the overall neighborhood needs by involving the community residents, the local government officials, and the local financial institutions.

Built into the complex urban system are a set of preconditions which, if they are not met, represent a series of disincentives to neighborhood revitalization. Such disincentives serve to frustrate affirmative programs and efforts for revitalization.

These preconditions can be grouped under three broad categories. First. Public services such as police and fire protection, health services, schools, and recreation facilities must be sufficient to meet the minimum needs of the community. Second. Public policies, such as local ordinances, zoning codes, and taxing policies must be appropriate to community needs. Public policies should stimulate a climate for reinvestment that will advance neighborhood viability. Third. There must be policies for adequate credit to insure the availability of funds and investment opportunities so as to permit and encourage private and individual investment. These three factors are obviously intertwined, but they provide an initial set of definable goals for urban neighborhood revitalization.

The Department of Housing and Urban Development and the Federal Home Loan Bank Board established the Urban Reinvestment Task Force in April, 1974, to replicate an exceptionally effective Neighborhood Housing Services organization in Pittsburgh, Pa.

Over an 8-year period the original neighborhood housing services successfully increased the flow of capital into formerly declining Pittsburgh neighborhoods, thus demonstrating the long term potential of this approach. During the first 5 years, about two-thirds of the more than 300 NHS loans were concentrated in the central northside of Pittsburgh. Home improvement lending increased by 97 percent, building permits went up 245 percent, code violations were removed from more than 1,200 homes, and numerous additional homes already meeting the codes were improved. As a result of this NHS activity and its effect on neighborhood confidence, real estate values increased by more than 60 percent.

In the past 8 years, the Pittsburgh NHS has continued to be the model for other NHS programs around the country. The program has maintained its vitality and has grown both geographically and in the range of services provided to residents.

The task force found that a successful NHS program should operate in a neighborhood in which the housing stock is beginning to show signs of deterioration but remains basically sound, and where there is a high degree of homeownership. The program has five basic elements:

First, residents who want to preserve their neighborhood, improve their homes, and who are willing to make an effort to establish and operate an NHS program;

Second, local government which seeks to improve the neighborhood by making the necessary improvements in public amenities and by conducting an appropriate housing code inspection and compliance program coordinated with NHS activities;

Third, a group of financial institutions which agree to reinvest in the neighborhood by making market rate loans for qualified borrowers and tax deductible contributions to the NHS to support its operating cost;

Fourth, a high risk revolving loan fund to make loans at flexible rates and terms to residents not meeting commercial credit standards; the funds are provided by private foundations, industry, or government; and

Fifth, an NHS organization, which is a State-chartered private nonprofit corporation having a board of directors of which a majority are community residents, along with a significant representation from financial institutions.

Neighborhood housing services programs represent a blend of private, public, and community involvement in a working partnership, with each group strongly represented and respectful of the other's positions. This partnership must be constructed with great care.

Key features of the NHS program include the following:

The program is a local one. The role of the Urban Reinvestment Task Force is that of catalyst and facilitator. The task force brings to each local situation detailed knowledge of the program and the manner in which it may be adapted to the local situation. Local program policies administration and implementation are responsibilities of those at the local level.

NHS is nongovernmental. Although some public funds are included, control is vested in a board of directors of the private corporation which consists of community and financial institution representatives. With few Government regulations to comply with, the board has freedom and flexibility in its operation of the program.

It is nonbureaucratic. Each program develops its own priorities and policies. Although the task force may provide technical assistance in helping to establish operating procedures, important decisions which affect the loan fund or the relationship of NHS to the community are made by the NHS board. The program is very flexible.

NHS is a self-help effort. The involvement of local citizens is regarded as extremely important by the financial institutions, funding sources, and city government. Strong citizen interest indicates neighborhood pride and is a major factor in convincing potential lenders that the residents care about the neighborhood. NHS operating costs are funded entirely through local sources, and local contributors supply much of the high risk loan fund. Emphasis on local funding is part of the self-help element of the NHS model.

The NHS program is not a giveaway. The high risk loan fund is a revolving loan fund; even for high-risk applicants, there must be a prospect for repayment. The fact that the NHS is not a giveaway is an important feature in the eyes of financial institutions and other funding sources, and it effectively communicates the program's philosophy that property upkeep is the responsibility of homeowners and other property owners.

The program is concentrated in specific neighborhoods. The NHS addresses itself to neighborhoods which are basically sound, but which are deteriorating. Concentrating the program in a small manageable area is an important factor for success.

Mr. President, in my judgment, this legislation will greatly aid the implementation of NHS programs in aging neighborhoods across the country. The NHS concept has been shown to be enormously successful in every community where it has been organized and should not be converted to a permanent freestanding institutionalized program under the Neighborhood Reinvestment Corporation. I urge all of my colleagues to give this legislation their full and prompt consideration.

THE HORRORS OF THE FIRST MODERN GENOCIDE RECALLED

Mr. PROXMIRE. Mr. President, 62 years ago this month town criers walking through the streets of Armenian towns in Turkey ordered the people to assemble at Government buildings. There they were told of the Government's decision to transport them to areas better for their safety. Ox-drawn carts transported the elderly and invalids; the rest huddled together as they struggled along a prearranged route.

The slow-moving caravan did not have to go far before the number of deportees was reduced. Some were disposed of on the way in order to lighten the loads of the ox-drawn carts; others were murdered for their failure to keep up with the rest. Some women were taken out of the caravan by guards, raped and then murdered; others were taken as maids or slaves. When the caravan arrived at its destination, usually an isolated out-of-the-way place, guards encircled the people and told them of their fate. Then thousands, while crying to heaven, were gunned to their death.

Mr. President, 1 million Armenians were murdered that way. The once thriving and relatively prosperous Armenian communities in Asia Minor were literally obliterated by a swift and deadly stroke, conceived, devised, and executed by the Turks in the first genocide in modern history.

Arshag Sarkissian, a longtime worker and holder of emeritus status at the Library of Congress, graphically describes the suffering of the Armenians and the horrors of genocide in an article just published in the Armenian Review.

He tells of massacres that were "not merely massacres, but horrors unutterable, unspeakable, unimaginable by the mind of man." He insists that we remember that Armenians, not too long ago, "were absolutely hunted like wild beasts being killed wherever they were met."

First, Armenian soldiers—blamed for Turkey's military loss to Russia in 1914—were exterminated. Then, the simultaneous arrests of Armenian community leaders in all parts of the Empire took place. Many of these were also marked for summary hanging in public view on some trumped-up treasonable charge, while the rest were marched off from prisons to out-of-the-way places to be murdered by their guards.

Finally, came the uprooting of all Armenians from their homes. They were deported under circumstances of appalling misery, rape, and murder, to desolate deserts of Mesopotamia and Syria. There the wretched survivors of long marches languished and suffered a slow death by sheer exhaustion and famine.

"Regardless of women, children, and invalids, and however deplorable the methods of destruction may seem, an end is to be put to their existence without paying any heed to feeling of conscience," ordered Talaat Rey, the Minister of Interior charged with carrying out the genocide.

Mr. President, the mass murder of the Armenians was not an historic freak: genocide is a recurring evil.

For 28 years the Senate has had an opportunity to endorse the Genocide Convention and help bring genocide to an end But it has turned its back on this opportunity.

In closing his article, Mr. Sarkissian says he has "not quite understood why my people had to be guinea pigs in the first genocide in modern history." I too am confused. I do not quite understand why my colleagues refuse to do their part to put an end to the atrocities that Mr. Sarkissian's ancestors suffered.

EDUCATION OF INDIAN CHILDREN

Mr. METCALF. Mr. President, there can be no more important factor in the future of America than the education of our children. The education of Indian children must occupy a special place in our hope for the future, because in recent years the new authorities we have written to provide special assistance to native Americans have been the most exciting and successful programs to observe.

Several years ago I took a particular and personal interest in the formation of Upward Bound, a plan to assist disadvantaged students to remain in college. Several Northern Cheyenne of my acquaintance were graduated from the University of Montana under the sponsorship of Upward Bound and are now competing as fully trained and qualified professionals in their fields of training.

There is a similar program to encourage Indian high school students to stay in school and it, too, is having a significant effect on the dropout rate.

Mr. President, I ask unanimous consent that an article from the Great Falls Tribune describing a title IV program in the Great Falls public schools be printed at the close of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INDIAN PROGRAM KEEPING STUDENTS IN SCHOOL

(By John Barber)

School Dist. 1's Title IV, or Indian program, is doing the job, says Murton McCluskey.

And the job it's doing is keeping Indian students in school.

McCluskey, director of the district's Indian program, said the dropout rate among Indian students this year should show a decrease compared to past years. But he said he won't have specifics until later this year when a study of dropouts is completed.

McCluskey said one reason they are staying in school is Indian clubs which have started in five schools: Great Falls and C. M. Russell High Schools, Paris Gibson and West Junior Highs and Longfellow Elementary.

"Projects of the Indian clubs are a very important part of the Title IV program," McCluskey remarked.

"Indian club activities keep them in school. We want to get them involved in activities of the school to make them feel they belong," he said.

McCluskey said the clubs do cultural things, such as beadwork, dances, music and demonstrations, and have films and speakers.

The Longfellow club, he said, does a lot of teaching of Indian crafts.

Some of the projects undertaken by Indian clubs—whose membership is open to non-Indians as well—included an Easter egg hunt put on for preschoolers through 12-year-olds.

The clubs have scheduled a dinner for April 24 at the YWCA which will feature Indian-type foods, McCluskey said. The dinner is to raise funds to send students to a Missoula youth conference (Kyi-Yo Days) April 28–30.

Kyi-Yo Days will include a two-day powwow, workshops, picnic and parade and will attract about 400 Indian students from throughout the state.

A youth health conference in Missoula also has attracted Indian club members.

Some other projects include car washes, bake sales, roller skating, bowling and field trips.

Advisors for the clubs are also the home-school coordinators: Sarah Shield, Grace Fairhurst, Jan Myers, Laverne Morris, Ed LaMere, and Carol Parrish. Assisting with the program are Charles Wilkinson, Pat Maki, Octavia, Asselstine, Bonnie Ray and Bill Ley.

"It's not so much the money they (students) make" on projects, adds McCluskey. "It's the involvement. One main goal of the Indian club is to help the other kids and keep them in school."

McCluskey thinks "kids don't get enough credit for the things they do. For instance, they helped Follow Through give a picnic for all kids this fall."

McCluskey said the Indian program "also tries to get kids involved in post-secondary (education)" and to get them into college.

"It's not part of our function in Title IV, but most of us feel anything we can do to be of service to them, we do."

He noted that Harvard has asked the school district "if we have students who can handle the work there" and added that Montana currently has seven Indian students attending that college, both on undergraduate and graduate programs.

McCluskey also said such programs as one offered Washington State University in Pullman help get Indians into college.

In WSU's program, Indians can attend school there to work on General Education Development (GED) certificates. When they obtain their GED, they can go on to college at WSU.

"Without this type of assistance, I don't know how many would continue," McCluskey said.

McCluskey adds that the home-school coordinators are another big reason Indian students are staying in school.

He noted that one coordinator made 240 home visits, attended 15 workshops and contacted 55 agencies during October and November.

"I don't know how many kid contacts were made," he added. "It's tough to keep track of that type of thing."

Another made 350 contacts in September and 307 in October—including contacts with teachers, parents, students and social services.

He commented that the contacts of the home-school coordinators are documented every two weeks. "I don't want any question about our credibility—because at one time there was."

McCluskey said coordinators get paid only

for eight hours, but they all do night and weekend work.

"They're totally committed to their work," McCluskey adds. "They're the most unselfish people I know."

THE FORGOTTEN VIETNAM VETERAN

Mr. McGOVERN. Mr. President, today's Washington Post contains a sensitive and excellent article by Colman McCarthy dealing with the personal impact of the Vietnam war among a group of veterans from the Cleveland area.

It is a heartbreaking story.

Dr. John P. Wilson, who directed the Cleveland study titled the "Forgotten Warrior Research project on Vietnam Veterans" has observed that:

We as a society feel ashamed, embarrassed and guilty about the war. Perhaps the Vietnam veteran is the scapegoat who gets blamed for our collective guilt. All we want to do is forget and in the process we ignore everything associated with the conflict, most of all the men who fought it.

We are now secing up close the results of that foolish war. We are now reaping what we have sown and the toll in human costs is not measured in dollars and cents, but in terms of shattered lives.

Mr. President, I believe that all of us in the Congress would benefit by reflecting for a few moments in our own hearts on the tragic situation many Vietnam veterans find themselves in; especially those who cheered our participation in that war overseas and who are now callously adverse to facing its brutal legacy here at home.

I ask unanimous consent that this article, "Veterans of a Lost War," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 28, 1977]

VETERANS OF A LOST WAR

(By Colman McCarthy)

At hearings last Wednesday before the Senate subcommittee on veterans affairs, John P. Wilson, a psychologist from Cleveland State University, offered some staggering findings on how life is going for a group of 346 veterans from the Cleveland area. Wilson's study, funded by the Disabled American Veterans Association, sought to discover the personal impact of the war among a sampling of combat and non-combat veterans who were white and black and from all economic groups.

Wilson's study, called the "Forgotten Warrior Research Project on Vietnam Veterans," supplies some new information, however unsettling, to those in the old-line veterans groups, and their boosters in Congress, who believe that Vietnam was no different from earlier wars. When Wilson sought modest grant money—$20,000—for his research from the American Legion and the Veterans of Foreign Wars, he had no success.

He told Cleveland Magazine: "It was obvious that the subject was one that did not appeal to the interest of these groups. I think some may have guessed what we would come up with. . . . More than anything else this study will show the American public what happened in Vietnam. They have no idea of the human toll it took. By facing the reality of what the war did to the men who served there we can learn about society itself. My suspicion, at this time, is that we as a society feel ashamed, embarrassed and guilty about the war. Perhaps the Vietnam veteran is the scapegoat who gets blamed for our collective guilt. All we want to do is forget, and in the process we ignore everything associated with the conflict, most of all the men who fought it."

Reporting that the typical soldier in Vietnam was a late adolescent or young adult still in "the developmental period of identity formation," Wilson shows how that formation has been progressing since the war. Among black combat veterans, unemployment is 48 per cent; among whites, 39 per cent. Thirty one per cent of black, and 22 per cent of white, combat veterans are divorced. Forty one per cent of both groups have alcohol problems. Forty five per cent report poor family relationships. Fifty nine per cent of the blacks, and 67 per cent of the whites, have drug problems.

With these excesses of turmoil and tragedy in veterans' postwar lives, the answers to some of the "attitude" questions are not surprising. When asked, "If there were another Vietnam tomorrow, would you serve in the military?" 95 per cent of the combat veterans stated "absolutely not." More than 90 per cent do not trust the government. Wilson reports that "most of the men currently believe that the war was fought for economic purposes and that they were exploited by political leaders." If the men have bitter feelings about being duped by those who sent them into Vietnam, they also suffer from what Wilson calls "negative self-esteem." Thirty seven per cent of the black combat veterans, and 28 per cent of the whites, have negative attitudes about themselves.

The statistics tell, still again, that the burdens of readjustment have fallen more harshly on the black veterans. Wilson concludes that "for the lucky veteran, typically a white middle-class person with some college education and family support to help pay for higher education, the process of identity integration and finding a niche in society was not as difficult as it was for the poor black veteran without these benefits or opportunities. For the black veteran, life since Vietnam has been one hassle after another. A vicious cycle of Catch 22s has been the rule."

As an example Wilson cited the GI Bill. It is, he said, "inadequate to subsist on and simultaneously raise a family." Without additional job training or education, he said, the black veteran finds only menial jobs available—or none at all. Without education and good employment they are refused commercial credit to purchase houses. In turn, "lack of employment and a decent standard of living generate psychological stress that then spins off into interpersonal conflict, drug use and crime."

Readjustment from the Vietnam War thus leads to either battles against society or, if those can be contained, personal battles against the self. Earlier studies on readjustment problems suggest that the inner effects of war are prolonged and surface randomly. Vietnam veterans constitute 9 per cent of the Veterans Administration hospital population, but 20 per cent of the suicides in those hospitals. Another survey found that Vietnam veterans "have a higher rate of single-car, single-passenger fatalities than any other group in the U.S."

Despite the studies and statistics, it appears that many in Congress and the country don't want to be told the Vietnam experience was something special, because that obliges them to reflect on *why* it was special. And the answer to that, of course, is not just that it was the nation's longest, most expensive and second-largest war, but also that, after all that effort, the war was ignominiously lost. With the exception of eight Vietnam veterans, all war veterans in Congress are from World War II or the Korean War. Because their perceptions were shaped by their own readjustment periods—they returned as heroes to a grateful nation ready to reward them—many members see little need for passing legislation to provide more and broader services to Vietnam veterans and to be large-minded about their eligibility. Rep. G. V. (Sonny) Montgomery (D-Miss.) said, "I do not see the difference between the Vietnam war, the Korean war or World War II. They are all wars. The persons fighting the wars cannot tell any difference." Such an attitude, grounded either in ignorance or callousness, can only further alienate and depress the Vietnam veterans.

But it can't silence them. Ralph C. Thomas III, a Vietnam veteran and director of the discharge review division of the Harvard Law School Committee on Military Justice, told the House Committee on Veterans Affairs yesterday that he and his comrades had a stark awareness that this war was different.

During the Vietnam years, Thomas said, "the war's morality and even legality were questioned daily [and] debated on the floor of Congress as well as editorialized in the news media. . . . Such a climate couldn't endure without affecting the morale of the servicemen both within and without the country of Vietnam. We began questioning our own morals and principles and I can assure you that our political discussions were not less heated in the hills of Vietnam than yours were in the halls of Congress. I observed arguments concerning the validity of the Vietnam war that brought GI's to the brink of fisticuffs with one another. Such disagreements often led to a serviceman's demise. An unpopular political opinion to the wrong superior officer was usually the beginning of the wheels' being set in motion for a less than honorable discharge—regardless of the individual's competency or job performance. It is probably safe to say that during the Vietnam era more bad discharges were sparked by political considerations than during any other American war."

In the Winter 1975 issue of the Journal of Contemporary Psychotherapy, Victor DeFazio wrote that "the psychological climate of the war, the public's response to [veterans'] homecoming, the fact that most entered the armed forces during late adolescence, their moral doubt and the survival experience seem to account for [the Vietnam veterans'] unique difficulties and attitudes." Still to be explored are the psychological problems created by the newest obstacle to healthy and quick readjustment: politicians like Montgomery who are now as indifferent to the war's messy aftermath as once they were passionate for its escalation.

MAKING EVERY VOTE COUNT

Mr. GRIFFIN. Mr. President, for some time I have believed that the existing electoral college system for electing the President of the United States should be reformed, primarily because of the danger that a candidate not really the choice of the people can be named President.

As we know, that has actually happened three times in the past. Even though the country survived in those instances, I think it would be more difficult today for such a minority President to exercise effectively the powers and duties of the office with public acceptance of his leadership. That would be particularly true if a minority chief executive were of one party and the Congress were controlled by the other major party.

In the past, I have supported a proposed constitutional amendment to provide for direct election of the President by the people. But there are some aspects

of the direct election proposal that disturb me. Development in recent times of highly effective mass communication methods, particularly television, has led to more and more concentration of political effort in media-saturation areas. Now, the name of the campaign game is to concentrate the candidate's time in high population areas, where he can get the biggest TV bang for the political buck. If it were adopted, the direct election amendment is likely to encourage this trend in political campaigning, to the further disadvantage of smaller States and rural areas.

Recently, my attention was called to an alternative plan for electing the President which almost certainly would achieve the same result as the direct election method, while preserving an important role in the process for each State and each congressional district.

It is a relatively simple plan—which would award one electoral vote for each congressional district, two electoral votes for each State and a Federal electoral vote of 50. All votes would be recorded automatically without convening an electoral college.

This plan was described by its author, Arnold J. Levin, in a recent article in the Washington Post because I believe his proposal merits serious attention as the Senate considers the important question of how to elect the President, I ask that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 22, 1977]

HOW TO MAKE EVERY VOTE COUNT

(By Arnold J. Levin)

Once again, plans are being pushed to "reform" the system under which we choose the Chief of State. The Carter administration has thrown its weight behind the proposal, offered by Sen. Birch Bayh (D-Ind.), for a constitutional amendment to abolish the Electoral College and provide for direct election of the President and Vice President.

On the surface the idea seems valid and democratically pure, but in fact it does not satisfy the basic objective of Electoral College reform. It would not assure an adequate voice in the selection process for all the varied interests in this vast and complex country.

This adventure into the political unknown, instead would reinforce the trend toward emphasis in political campaigning on the large population centers where television saturation influences the most voters. The danger is that areas with relatively few inhabitants but with economic and cultural significance would be neglected inevitably alienating voters of those regions.

There is, I believe, a practical alternative which would correct the faults in the present system and meet the reform objective. It would contain these elements:

Each congressional district would have one electoral vote.

Each state would have two electoral votes. These votes would be awarded to the candidate with the highest total in the popular vote in the given district or state.

In addition, there would be a federal electoral vote of 50, recorded for the candidate winning the most votes nation-wide.

Thus, there would be a total of 588 electoral votes, and a bare majority of 295 would be required for election to the presidency.

The Electoral College itself would be abolished, and the various electoral votes would be recorded automatically for the winning candidate after the results are certified by the proper state officials.

The required federal administration would be entrusted to the present Federal Election Commission or a special Presidential Election Commission nominated by the chief executive on a bipartisan basis and confirmed by the Senate.

That commission would record the various electoral votes and report the results to the Senate president and the House speaker. Congress would be required to declare the election of a President on the basis of the commission's report.

What would happen if there were charges of voting fraud? Requests for recounts on a district or state level would go to the commission for certification to the proper state authorities. If a recount could affect the ultimate outcome of the election, the commission could delay its report to Congress, subject to Supreme Court review. At any rate, all recounts would have to be completed within 60 days after election day.

What if there were three or more candidates receiving electoral votes and no one candidate won a majority? In such a case, the candidate running last in the national popular voting would be eliminated from consideration. His district and state electoral votes would be reallocated to the candidate who ran second to him in the popular vote in that particular state or district. This last-man-out concept would assure the selection of a President without the complexities of run-off elections on a district or state level.

The impact of such a system would be significant. In a direct and nation-wide popular presidential election, the individual voter is part of an anonymous mass, lost among 80 million or more voters trooping to the polls. But under the present proposal, each citizen's ballot would have a three-fold impact—on the district, state and national electoral votes.

By giving each state two electoral votes, we would assure recognition of each state's total voting pattern as well as the particular preferences of each district within the state. The 50 federal electoral votes, on the other hand, would reflect overall national concerns and help insure that the popular vote winner also won the electoral vote.

Direct, nationwide popular election would give no voice to our regional differences. The present proposal would recognize them. The people of the congressional district in rural Kansas would have equal weight with the voters in Chicago or New York. The cattle farmer and the production line worker would have means of political expression without one being overwhelmed by the other because of sheer numbers.

Or put it another way: Much was made at the time of the fact that in the 1976 election President Ford carried almost all the states west of the Mississippi. But surely Carter won congressional districts in those states. The difference is that Carter's district victories did not show in the Electoral College results.

Thus, the present inflexible principle that the winner takes all in a given state would be eliminated by the allocation of electoral votes to each district. On the other hand, given the prize of 50 federal electoral votes, the winning candidate would have to demonstrate a truly national appeal.

There is no question but that we require some form of electoral reform. In three of the last five presidential elections, we came within a hair's breadth of naming a President who placed second in the national popular vote. As all who follow the political process know, a shift of 9,245 votes—5,558 of them in Ohio and 3,687 in Hawaii—last November would have changed the electoral college total sufficiently to throw the election to Gerald Ford.

Such examples are used as arguments for the direct election of Presidents by direct nationwide popular vote. It does not necessarily follow. For, while congressional redistricting has distorted historical data to a degree, a review of election results from 1916 onward shows that in each presidential balloting the winner of the popular vote would have won the White House if the reform plan under discussion had been in effect.

Perhaps the benchmark is the famous 1960 election. John F. Kennedy's majority in the popular vote was slender—119,000 votes—but it was a majority. And yet a minor shift in votes in two states—4,430 ballots in Illinois where 4,757,409 people voted, and 23,117 votes in Texas where 2,311,845 votes were cast—would have given Richard Nixon 51 more electoral votes, enough to win though he would have been chosen by a minority of the voters.

But what if Nixon had received an additional 119,001 votes in the states whose electoral votes he did win? The result would not have changed. Kennedy would be President, a minority President.

Under the reform plan presented here, the winner of the popular vote in 1960 would also have won the presidency. And each vote would have counted, on a district level, a state level and a national level.

HARRIS SURVEY FINDS BUSINESS OUT OF TOUCH WITH CONSUMER SENTIMENT

Mr. PERCY. Mr. President, a recently released survey, conducted jointly by Louis Harris and the Marketing Sciences Institute associated with Harvard Business School, has shown that concern about consumer issues has grown rather than subsided in recent years, but that there is a serious gap between the perceptions of businessmen and consumers as to what should be done.

Next to controlling inflation, unemployment, and Federal spending, the public has stressed the need to help consumers get a good deal when shopping.

Although it is not surprising, the survey found a large gulf between the views of consumers and businessmen on how serious consumer concern actually is. Businessmen, according to the findings, have greatly underestimated the magnitude of public concern. Harris notes that—

It is difficult to escape the conclusion that many top managers are, themselves, out of touch with consumers.

The magnitude of consumer dissatisfaction may be new but the nature is not. Complaints today echo those of more than a decade ago when the consumer movements began with the work of Ralph Nader.

Americans are concerned about dangerous products, product durability, deceptive marketing practices, and unresponsive segments of the business community. Consumers interviewed complained that, over the past decade, product quality has declined and prices have skyrocketed. Some 31 percent said product quality has worsened and only 27 percent felt that quality had improved. Some businessmen and regulators flatly reject this consumer criticism. By a 3-to-1 margin, senior business managers said they felt product and service quality had improved rather than worsened.

Typical of these divergent views are the sentiments expressed by the two groups on the subject of regulation. The

Harris survey shows that, by and large, consumers feel that Government regulation has failed to improve quality significantly. In fact, 46 percent of the public believes that Government regulation has helped business more than consumers.

Consumers are also cynical about the willingness of business to help the consumer unless compelled. Over 70 percent of the public doubted that, unless forced, businesses would attempt to upgrade products and services if this jeopardized high profits.

Not surprisingly, the two groups disagree on the need for a proposed consumer protection agency. Only 15 percent of the senior business managers interviewed stand behind the proposal, while 52 percent of the general public does.

However critical their current feelings are, consumers interviewed said they expected improvements in the coming decade. This optimism may compel changes among business and regulators. As Harris said:

This optimism presents a real challenge, for if the performance cannot match the public's expectations, then the groundswell of dissatisfaction, already so strong, will become more strident and more hostile. If business reacts slowly and grudgingly to consumer demands and fails to live up to consumer expectations, the call for far-reaching changes in the management and regulation of business may become irresistible.

The Regulatory Reform Act of 1977, which I am sponsoring together with Majority Leader BYRD, Senator RIBICOFF, and 39 colleagues in the Senate and strongly supported by the Business Round Table, is attempting to address some of the problems affecting consumers and businesses, as a result of the inefficiency and ineffectiveness of much of our regulatory system. Mr. Harris' study sounds a warning to both businesses and regulators, and it underscores our need to act expeditiously.

Mr. President, I think the findings of this study are an important index of sentiment on consumer issues and I ask unanimous consent that the preface to the study be printed in the RECORD.

There being no objection, the preface was ordered to be printed in the RECORD, as follows:

CONSUMER AT THE CROSSROADS

A. INTRODUCTION

Consumerism At the Crossroads is the third in a series of national opinion research surveys commissioned by Sentry Insurance. In 1973, Sentry made a substantial commitment to the insurance industry and the public with its pioneering study, Consumer Attitudes Toward Auto and Homeowners Insurance. A second major survey, Businessmen's Attitudes Toward Commercial Insurance, was published in 1975. Both studies were widely publicized and distributed to the public and throughout the insurance and business communities.

In July 1976, Sentry commissioned the Marketing Science Institute, a non-profit research organization associated with the Harvard Business School, and the opinion research firm of Louis Harris and Associates, Inc., to conduct a broadly-based survey on the consumer movement.

The content for Consumerism At the Crossroads was developed by Prof. Stephen A. Greyser, Executive Director of the Marketing Science Institute and a professor of the Harvard Business School. Prof. Greyser, who has written extensively on consumerism, and has examined public and business opinion widely, was assisted by Dr. Steven Diamond, MSI Research Associate. Further assistance was provided by Brian McBain and Peter Small of the New York-based research firm, McBain and Small, Inc.

Louis Harris and Associates was responsible for the questionnaire design, field work, analysis and observations in this summary report.

This volume presents the basic study findings from the research, including the principal conclusions, supporting data and related observations. A more extensive analysis and interpretation of the survey data and their implications for business and public policy are being prepared by Greyser and Diamond for a monograph planned for publication by the Marketing Science Institute in the fall of 1977.

B. RATIONALE AND OBJECTIVES—WHY CONSUMERISM AT THE CROSSROADS?

In the decade since publication of Ralph Nader's "Unsafe At Any Speed," consumerism has become an important movement in the United States. It has matured from a cause of a handful of "radicals" to a paramount concern of many major American corporations.

Both consumer activists and the business community have aired their views on consumer issues. Activists have largely sought to increase the rights and powers of the buying consumer. The business community, in turn, has reacted in various ways—some effective, some ineffective or superficial. Earlier studies have found executives at both poles of the spectrum, considering consumerism on the one hand a threat to business, and on the other, a marketing opportunity. Proponents of consumerism generally claim they are providing greater protection for consumers. Businessmen often claim consumerism has brought increased regulations and policies unwanted by most consumers, and—worst—higher costs, which have had to be borne largely by the consumers.

Amid all the controversy, however, the voices of consumers themselves have been heard only rarely, and never in any comprehensive and systematic manner.

Within this context, Sentry Insurance undertook the sponsorship of this study to try to learn how accurately the differing views of consumer activists, business executives, as well as of regulators and legislators reflected the views and aspirations of the public with respect to consumer-related issues.

Taken as a whole, this study was designed to achieve two overriding goals:

1. To serve as a national "report card" on the consumer movement to date.

2. To provide insights into future directions for the consumer movement.

C. CONTENT AREAS

To accomplish these goals, the study explored public attitudes and perceptions in the following major areas:

The standards, practices and motivations of American business with respect to consumerism.

The role and effectiveness of government regulation of consumer matters.

The handling of consumer complaints by business.

Expectations for the future development of consumer affairs.

The extent to which different leadership groups are seen as speaking for the consumer.

The effectiveness and role of the consumer movement and its leaders.

The public's sources of consumer information and their attitudes toward such sources.

The expectations for the future of the consumer movement, regulation and the handling of consumer problems.

D. SAMPLE DESCRIPTION

A total of 2,032 interviews were conducted in person for this study. Each interview lasted on the average 80 minutes.

The sample included:

A representative national cross-section of 1,510 adults who were interviewed between November 27 and December 7, 1976.

Moreover the difference in meaning of the terms "consumerism" and "consumer movement" was explored in an additional cross-section of 1,459 adults between December 17 and December 30, 1976.

Six leadership groups were interviewed between January 24 and February 10, 1977.

These groups included:

219 consumer activists;

85 government consumer affairs officials;

33 insurance regulators,

32 non-insurance regulators;

100 senior business executives; and

53 consumer affairs specialists in business.

Technical details and a full description of the methodology may be found in the Appendix.

Conclusions and implications

Consumerism At The Crossroads set out to evaluate the impacts of the consumer movement over the past decade, to evaluate the strength of the movement now and to gain insights into its future directions. Equally important, the study sought to determine who, if anyone, speaks for the consumer and how closely in touch with the consumer the various leadership groups are—senior business managers, consumer affairs professionals in business, consumer advocates in government, independent consumer activists, regulatory officials.

The individual chapters of this report report on the detailed findings question-by-question. This section addresses the overall questions raised at the outset and comments on the implications of the findings for the future.

A. THE CONSUMER MOVEMENT IS HERE TO STAY AND, IN FACT, IS GROWING STRONGER

The consumer movement has accomplished much in the past decade. According to consumers, consumer shopping skills have gotten better (72 percent), product information and labeling has gotten better (70 percent) and product safety has improved (60 percent). There is still a long way to go. By 50 percent to 27 percent consumers feel they get a worse deal in the marketplace than ten years ago and by 61 percent to 27 percent they believe the quality of goods and services has gotten worse. Consumers believe that products don't last as long as they did 10 years ago (73 percent) and that it's more difficult to get things repaired (64 percent).

Overall there is general optimism as to the future, yet this optimism is tempered with realism. Consumers believe product information and labeling will improve in the next decade (76 percent), their own shopping skills will improve (71 percent), product quality will improve (50 percent), and by 48 percent to 20 percent, they will get a better deal overall in the marketplace. However, by two to one they believe that products will not last as long as they do now and that it will be more difficult to get things repaired (55 percent to 26 percent).

There are a number of problems which worry consumers a great deal. They worry about the high price of many products (77 percent), the high cost of medical and hospital care (69 percent), the poor quality of products (48 percent), the failure of many products to live up to their advertising (38 percent) and so on.

B. THERE ARE MANY TARGETS FOR THE CONSUMER MOVEMENT

Leadership groups and consumers alike think that many different industries and services are doing a poor job in serving consumers. The most frequently mentioned are

car manufacturers, auto repair shops, the oil industry, used car dealers, hospitals, the medical profession, electric utility companies, credit loan companies and the advertising industry.

The methods the leadership groups thought would be most effective in influencing the practices of these industries are consumer boycotts, getting consumer representatives in government and in regulatory agencies, class actions, and lobbying Congress and regulators.

C. NO PARTICULAR GROUP SPEAKS FOR CONSUMERS, BUT NON-GOVERNMENT CONSUMER ACTIVITIES ARE SEEN AS MOST IN TOUCH WITH CONSUMERS AND SENIOR BUSINESS MANAGERS ARE LEAST IN TOUCH

What the public feels should be the targets of activism does not always coincide with what consumer advocates think.

For example, while 73 percent of activists would focus on electric utilities, only 37 percent of the public thinks they should do so.

Similar disparities are found with respect to the nuclear power industry (19% public—61 percent activists), the advertising industry (28 percent public—63 percent activists), and the banking industry (10 percent public—41 percent activists). Despite these differences, activists were found to be in closer agreement with the public on most consumer issues than were any of the other leadership groups surveyed.

Senior-level business managers, the survey showed, were most out of touch with consumers.

D. ON THE QUESTION OF REGULATION OF BUSINESS NONE OF THE LEADERSHIP GROUPS ARE IN STEP WITH THE PUBLIC

The failings of the regulatory system are widely recognized and neither the public nor business, nor consumer activists, nor even the regulators themselves, are very happy with the status quo. While 43 percent of the public think that government regulation has, on balance, done a good job, 46 percent feel that regulation has done more to help business than to protect consumers. However, only 16 percent believe that companies should be left to themselves and should not be regulated.

The public and leaders are highly critical of what federal, state and local governments have done, or not done, to help consumers.

Consumer activists who call for more government regulation and businessmen who call for less are both sharply out of step with the public. A majority of the American people would not be satisfied by either an increase or a decrease in regulation.

E. THE SURVEY INDICATES THAT THE PUBLIC WOULD SUPPORT A NUMBER OF NEW PROPOSALS WERE THEY TO BE DEVELOPED

By a modest majority, 52 percent to 34 percent, the public favors the idea of a new federal government agency for consumer advocacy.

72 percent of the public supports a proposal to hold a major convention every four or five years at which government, business and consumer representatives would work out long-term policies in the consumer field.

By 66 percent to 25 percent the pubic believes that it would be helpful if every community had a complaint bureau where complaints against manufacturers, dealers and salesmen could be dealt with.

By 79 percent to 11 percent the public believes that there should be a new independent testing center for evaluating the safety of potentially dangerous products, run by either the federal government or consumer activists, rather than by business.

92 percent of the public believes that consumer affairs should be a compulsory subject in all high schools.

By 77 percent to 8 percent, a majority of the public believes that all large companies should be required to employ a senior officer with responsibility for consumer affairs.

By 65 percent to 16 percent the public feels that all large companies should be required to have a public or consumer representative on the board of directors.

F. BUSINESS VIEWS AND PUBLIC VIEWS

The business community is sharply out of step with the American people on consumerism issues.

Observation

In the next few years, it can expect to be vigorously attacked by both consumer activists and elected representatives. And it will be more severely regulated unless there are major changes within the business world.

The study indicates need for three different kinds of change. The first is a change in the attitudes and perceptions of senior management, based on better information about consumer needs, consumer attitudes and consumer expectations.

The second step, would be for very specific improvements of the kinds which consumers are demanding—safer products, better quality, better service, more reliable products, better guarantees and warranties, better complaint handling mechanisms, and so on.

The third need is for better communication with the public about the steps which companies are taking to be responsive to and about the very real problems which business has in meeting consumer demands.

Contrary to the views of many business executives, there is no inherent contradiction between these steps and the profit motive. According to the findings, consumers have always been prepared to pay more for better products provided that the difference in quality is real, the price differential is not excessive, and they are fully aware of the improvements that have been made.

G. ADVERTISING

Mistrust of advertising, and the claims made by business in its advertising, runs through many of the findings in this survey. The public questions the honesty and accuracy of advertising. Almost everyone believes that some advertising is misleading, 46 percent of the public think that most or all of television is seriously misleading and 28 percent hold similar views about print media advertising.

H. THE IMPLICATIONS FOR THE MEDIA

There is a public support for two developments in the reporting of businesss and consumer affairs. Fifty-four percent of the public would like newspapers, magazines and television to give more attention to consumer affairs and consumer information. But more published information alone would not satisfy public demand unless the credibility of media reporting can be improved. There is very little public confidence in the reliability of reporting of consumer affairs by journalists. While 33 percent of the public think that the problem is one of bias, the real credibility gap, to which the media would do well to address itself, concerns accuracy and reliability rather than the motivation of reporters or editors.

I. IMPLICATIONS FOR THE INSURANCE INDUSTRY

The insurance industry, as this study shows, is less unfavorably regarded than many other industries. Very few—less than 10 percent—spontaneously blame the high cost of premiums on insurance companies looking to increase profits. Also consumers are quite reasonable and realistic in that they blame higher auto insurance costs, for example, on more accidents, inflation, the rise in the cost of parts, increased numbers of claims and lawsuits, etc.

The public's attitudes to questions of product liability are significantly less demanding than are those of consumer activists or than the actual number or size of awards made in court in recent years. Essentially the public believes that accidents resulting from the negligence of the victim rather than from the negligence of the manufacturer should not result in claims against the manufacturer.

Some insurance companies in light of OSHA, have already developed the service to evaluate and certify the health and safety standards of factories. This survey suggests a similar opportunity for insurance companies to evaluate and certify the safety of a company's products, and to set guidelines for both the substance and language of guarantees and warranties.

Thus, the insurance industry appears to retain considerable confidence of the public.

THE BLIND TRUST

Mr. SASSER. Mr. President, yesterday, during the consideration on S. 555, the Public Officials Integrity Act, the Senate adopted by a voice vote an amendment to allow public officials, including Members of Congress, to use a blind trust mechanism to protect themselves from conflicts of interest or the appearance of conflicts of interest. Although I was away from the Senate on official business at the time of the vote, I wish for the record to note my opposition to this amendment.

This amendment was the subject of hearings before the Senate Committee on Governmental Affairs, of which I am a member. During that hearing, the committee took testimony from many groups and individuals. From the hearings, and from my personal experience as a candidate for public office, and as a public official, I must conclude that the well-meaning amendment adopted yesterday is not the proper way to address the possibility of conflicts of interest.

The question that faced the Senate yesterday was, "Can there be such a thing as a truly blind trust?" Mr. President, I believe that there can be no such mechanism. I mean in no way to question the integrity of my distinguished colleagues who offered the amendment. Indeed, there is no indication that any of my colleagues have ever—or will ever abuse the public trust through the improper use of a blind trust. I simply feel strongly that the best way to avoid conflicts of interest, and the appearance of conflicts of interest, is to make a full financial disclosure and to let the public judge whether or not your votes have been impartial and in the public interest. The public can never truly judge your voting record in this sense if your assets are in a so-called blind trust. I hope that my colleagues will take a long and hard look at the blind trust mechanism and, whenever possible, choose to make a full financial disclosure of their assets so that the public may know at all times whether or not a Member's votes are benefiting him or her personally.

Mr. President, I would also like to praise my distinguished colleagues for the good-faith effort they have made to establish a truly blind trust mechanism. The standards adopted yesterday are indeed the toughest I have ever seen. The amendment reflects the hard work and diligent and fair efforts of the chairman and ranking minority member of the Governmental Affairs Committee and of my fellow committee members, Senators DANFORTH and NUNN, who sponsored this amendment with the distinguished Senator from California, Mr. CRANSTON. My

opposition to this amendment in no way diminishes the work they have done.

RETIREMENT OF DR. GLEN P. WILSON

Mr. STEVENSON. Mr. President, it is with regret that I announce the retirement of Dr. Glen P. Wilson from the Senate. Dr. Wilson came to the Senate as an assistant to the late Lyndon B. Johnson in 1955 and has served with distinction for more than 22 years.

As a staff member of the Special Committee on Space and Astronautics, he helped to write the National Aeronautics and Space Act of 1958, and he was the only staff person to serve throughout the entire history of the Committee on Aeronautical and Space Sciences. His most recent service has been on the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation.

As chairman of that subcommittee, I can say that we certainly hate to see him go, but wish him continued success in his new endeavors.

THE FIRST 100 YEARS

Mr. MATHIAS. Mr. President, it is fitting that we cherish particularly warmly those institutions which are part of a glorious past, as well as of a challenging present. The Oakland Republican is such an institution. Every week for over one-half of the life of our Nation it has published an edition from its home in the westernmost part of Maryland—Garrett County. Recently, the Republican noted with undue but characteristic modesty the anniversary of its first 100 years of publication, years which witnessed the growth of a great nation and the strengthened vitality of a beautiful and rugged county.

The Oakland Republican has taken us from the days of the Pony Express to men walking on the Moon, and its many admirers and subscribers, confidently predict another 100 years of newspaper excellence from it.

I ask unanimous consent that the editorial and news story which appeared in the Republican on March 3, 1977, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FIRST 100 YEARS . . .

Today The Republican begins a second century of publication. This newspaper has been issued every week for one-half the life of the United States. It has had a broad and colorful existence, witnessing much change, both locally and nationally.

The achievements and advancements of mankind in every field the past century are unsurpassed by any other hundred-year period in history.

The Republican had been a part of it, or a witness to, five wars, the terms of 20 Presidents and the addition of 12 states to the Union. It has seen the invention of the telephone, the wireless telegraph, the television, the automobile and the airplane. At its beginning, people were carried about town in buggies. Today people are carried to the moon in rockets.

Closer to home, The Republican reported stories over the years concerning the Great Depression, prohibition, women's suffrage, the Gay Nineties and the Roaring Twenties. The list goes on.

The growth of a county newspaper is usually a good indicator of the growth and progress of the county itself. As a county grows, more news is made and more advertising is purchased. Over the past 20 years The Republican has grown by leaps and bounds to become one of the largest weeklies in the east.

While Garrett County has not grown so much in population, it has made tremendous gains economically, educationally and recreationally. Garrett County is constantly moving, creating better lives for everyone therein contained. This is unlike many other counties in the nation which have become stagnant.

May the next century continue to look with favor upon us.

THE REPUBLICAN COMPLETES ONE HUNDRED YEARS OF PUBLICATION

Today's issue of The Republican, Volume 101, Number 1, marks the beginning of the one hundred and first year of publication of the weekly newspaper.

The first issue of The Republican rolled off the hand-fed press on Saturday, March 4, 1977, under the editorship of Captain James A. Hayden, in hopes that it would become "a permanent institution" in the county.

Captain Hayden, who became Major Hayden for his gallant conduct at the battle of Gettysburg, published The Republican for 13 years before selling out to Benjamin H. Sincell, an employee of Major Hayden at the time.

Mr. Sincell issued his first newspaper on July 11, 1890, his 21st birthday.

In 1911, Benjamin's son, Donald R. Sincell, at the age of twelve, began working at The Republican office. Donald assumed the position of managing editor in 1947, a position which he still holds today.

Benjamin Sincell remained editor until his death in 1947, when associate editor, George H. Hanst took over the position. Mr. Hanst served as editor for 30 years until his retirement this past January. His place was taken by Donald W. Sincell, great-grandson of Benjamin H. Sincell, grandson of Donald R. and son of Robert B. Sincell, production manager.

The circulation of The Republican is now approximately 9,800, reaching nearly every state in the union and various points overseas.

WALLOP CLARIFIES LOGGING ISSUE

Mr. DOLE. Mr. President, in recent years the issue of logging policy in the national forests has developed into a controversy of major proportions characterized by alarmism, name-calling, and misinformed accusations. The latest timber policy flap concerns a provision in the National Forest Management Act of 1976 relating to bidding procedures used by logging companies in purchasing timber grown in the national forests.

A bill to amend the act by giving the U.S. Forest Service discretion to permit either sealed or oral bidding practices was favorably reported by the Committee on Energy and Natural Resources last week. Today the Committee on Agriculture, Nutrition and Forestry, which shares jurisdiction over the National Forest System, also reported the bill.

A recent spate of articles and editorials in the Washington Post and elsewhere have shed more heat than light on the issue by creating the erroneous impression that the bill, which would permit a return to oral bidding under certain circumstances, will necessarily result in collusion and price fixing among timber purchasers.

The distinguished Senator from Wyoming (Mr. WALLOP) convincingly puts this notion to rest in a letter to the editorial page editor of the Washington Post. I ask unanimous consent that Senator WALLOP's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 21, 1977.

Mr. PHILIP L. GEYELIN,
Editorial Page Editor, The Washington Post, Washington, D.C.

DEAR EDITOR: George Lardner's June 16th article, "Western Lobby Trying to Topple Timber Law," contributed to the literature that leads unknowing readers to conclude that collusive bidding is widespread in the timber industry. I must answer by saying that there are no facts to support such an allegation. The Justice Department has undertaken ten investigations since 1960 during which time thousands of sales generated over one half billion annually. One conviction resulted.

Many of Mr. Lardner's statements are essentially half truth distortions peculiarly the privilege of a writer, and denied to the accused. The article makes the point that sealed bidding has been the rule in the South and East for decades. This is true, but the pattern of ownership and supply differs greatly between those regions and the West. Timber purchasers in the West must deal with a government monopoly in the supply of timber, as opposed to the South and East where much of the timber is privately owned. In these areas the success or failure of a given timber operation seldom rides on the ability to purchase a Forest Service sale, as it does in the West. Many mills in the West rely on a specific mix of log types or species. Failure to purchase the right sale at the right time could mean not only financial loss, but actual shutdown for some mills. Many small Western communities are totally dependent upon these mills as their sole economy. Contrary to Mr. Lardner's implication, it is not the huge timber companies, but the small operations whose survival is at stake.

The article says oral bidding offers an opportunity to buy timber at the cheapest possible price. This statement is not only misleading, but it is irrelevant. The Forest Service establishes a price below which it will not sell timber offerings. All bids, to be acceptable, must meet or exceed that price. If the final price is too low, it is the fault of the appraisal system, not the bidding system.

Parenthetically, it is also the fault of the gross mismanagement of the national forests. The board feet of diseased or damaged timber is increasing at a rate faster than the total sales of all timber. It leaves the country with a product to sell which yields less than one hundredth of the price green healthy timber would bring; a needless waste of a national resource which is the result of poor management practices.

As for the contention that oral bidding makes it easier to collude, I do not believe that those who might be inclined toward collusion will be stopped by sealed bidding. Agreements can be made prior to bidding regardless of the bidding method. If there is collusion in the timber industry, the participants should be prosecuted. Generalizations about sealed bidding only lump the innocent with the guilty.

I wish to emphasize that the issue is not

collusion, which can be dealt with. The issue is community stability and an appropriate business climate. The oral bidding system allows individual timber operators more flexibility to protect dependent communities. The economic viability of many Western communities is threatened by a total sealed bidding system. Timber companies in these areas frequently bid away all profit to assure getting a sale of needed timber or bid a reasonable price and take a chance of not getting the sale. This quickly turns into a rather expensive game of Russian Roulette which dependent communities cannot afford to lose to operators from outside the area. They must have the freedom to increase their bids in an oral auction when they are faced with a "must buy" situation for a given timber sale. With the dwindling Forest Service offerings in the West, that situation is becoming more common every day.

I must point out that the big companies become the beneficiaries and the consumer the loser in the application of rigid policies which do not recognize all market forces. The auction has long been one of commercial man's tools to assure competition, not to eliminate it. Only a competitive sales technique will assure equity to public consumers, communities, and operators. The forests are a national asset and their management deserves more thoughtful comment than Mr. Lardner gives them.

Sincerely,

MALCOLM WALLOP,
U.S. Senator.

PATRICIA HARRIS AND HUD

Mr. METZENBAUM. Mr. President, the Washington Post of Saturday, June 25 carried a very impressive editorial commending HUD Secretary Patricia R. Harris for her affirmative action in advising the mayors of this country to concentrate their community development programs in poorer areas.

I, too, commend the Secretary for her efforts to enlarge housing opportunities and I ask unanimous consent to have the editorial printed in the RECORD for the information of the Senate.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO HOUSING, NO GRANTS

The Department of Housing and Urban Development has been reminding local officials recently that community-development block grants come with strings attached. The message is aimed especially at middle-class suburbs, which relish the federal aid for sewers, parks and other facilities but resist providing housing for low- and moderate-income people. Central cities, however, are not home free; HUD Secretary Patricia R. Harris and Assistant Secretary Robert C. Embry have told mayors bluntly that they will also have to concentrate their CD programs in poorer areas, instead of scattering projects all over town.

If HUD's new toughness comes as a jolt to some local governments, it is only because the Ford administration never consistently enforced Congress's 1974 directive that the $4-billion grant program be used primarily to benefit lower-income people, expand their housing opportunities and prevent or eliminate blight. According to the National Association of Housing and Redevelopment Officials, local governments actually used 49 per cent of the first-year grants and 56 per cent of the second-year funds in higher-income areas.

No more. HUD is now reviewing jurisdictions' housing-assistance plans and performance much more carefully. As staff writer William Chapman reported the other day, an application by Hempstead, N.Y., was turned down recently because of the community's poor record on low-income housing. Last month the city council of Boca Raton, Fla., hurriedly approved a subsidized housing project in order to save a $400,000 grant.

HUD's new aggressiveness is not going to bring widespread, instant economic integration to suburban America. For one thing, suburbs may opt out of the program if they decide that exclusivity is worth the price. A number have done so, including Cicero, Ill., and Warren, Mich., whose resistance to subsidized housing caused so much trouble for former HUD Secretary George Romney some years ago. Moreover, even where suburbs are amenable to aiding lower-income residents and workers—as several Washington-area jurisdictions are—progress is likely to be slow. The high cost of housing not only keeps poorer people out of the private markets; it also makes subsidies very expensive and restricts their scope.

Even so, the CD program can be an important catalyst, especially if coordinated with other efforts such as enforcement of fair-housing laws. If HUD hangs tough, local officials will no longer be able to evade politically sticky housing issues so easily. Indeed, federal firmness may give some timid local governments sufficient reason or excuse to accept, finally, their responsibility for helping to enlarge housing opportunities. As a result, both suburbs and cities can gradually become more economically and residentially diversified, and the isolation of poorer urban dwellers will be reduced. That's what the program is meant to promote. For taking it seriously, despite the likelihood of unpopularity in some quarters, Mrs. Harris and Mr. Embry deserve congratulations and support.

STATE PROGRAMS SUFFER UNDER FEDERAL REGULATION

Mr. PERCY. Mr. President, in hearings, now completed, before the Intergovernmental Relations Subcommittee of the Governmental Affairs Committee concerning the Regulatory Reform Act of 1977—S. 600—we discussed at length the shortcomings of much of the Government's regulatory system. We heard testimony documenting the extent of much of its ineffectiveness and inefficiency.

Until now, we have focused primarily on the impact of regulation on the operations of the Federal Government itself, and on the individuals and groups who must conform to regulatory requirements. However, we have devoted rather little attention to the effects of regulation on the various States.

In the May issue of Nation's Business, former Gov. Patrick J. Lucey of Wisconsin examined Federal regulation as it impacts upon the States.

Although the regulatory problems affecting the States do not differ significantly from those which have affected others who have been subject to some form of regulation, they are, nonetheless, a significant dimension of the overall problem and must be addressed. After all, in fiscal 1975, the Federal Government appropriated $50 billion to be spent by State and local units of government. This comprises 21 percent of the Federal domestic budget.

Governor Lucey is not the only Governor who feels unduly constrained by what he calls "needless Federal regulatory requirements and burdensome paperwork." Several Governors joined him in preparing a report on the effects of regulation from the National Governors' Conference this year.

Governor Lucey outlines numerous instances in which lack of coordination among Federal departments and agencies has resulted in conflicting and often contradictory guidelines governing various State programs. He criticizes Federal regulatory policy for encroaching on matters under State jurisdiction and for focusing more on details than on end results. And he repeats the charge, heard all too often, that mountains of paperwork are impeding governmental operation.

Lucey notes that:

The Federal agencies have refused to give State agencies the flexibility and authority needed to run programs effectively. The Federal agencies have issued reams of requirements, with the result that States constantly are out of compliance with Federal guidelines. And in the scramble to keep up with Federal dictates, picayune matters compete for attention with vital issues. Complying with Federal administrative rules receives higher priority than delivering services to citizens.

Mr. President, as we approach mark up in the Governmental Affairs Committee on the Regulatory Reform Act of 1977, which I am sponsoring with Majority Leader BYRD, Senator RIBICOFF, and 39 other Senators, I hope we can give serious consideration to the effects of regulation on Federal-State relations. Governor Lucey's article merits attention and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW ABSURD FEDERAL RULES VICTIMIZE THE STATES

(By Gov. Patrick J. Lucey)

When the state of Wisconsin built some facilities for the mentally retarded a few years ago, it included about 100 single rooms providing 90 square feet of living space—ten square feet more than called for in existing federal regulations.

Later the federal Department of Health, Education, and Welfare issued new standards requiring that individual rooms had to be at least 100 square feet in size. Moreover, HEW decreed that no more than four mentally retarded residents could occupy a multiple sleeping room.

If Wisconsin is to live up to the revision in federal living space standards, it will have to eliminate single rooms, combining two singles into one double in order to pick up the required additional space. Needless to say, the state will not be able to accommodate as many persons who need individual housing.

LOWER QUALITY OF CARE

To comply with the other requirement—a maximum of four persons per room—would involve $3.1 million in remodeling costs Also, I am advised that we would have to add more than 200 people to the staff at an annual cost exceeding $2 million. Currently one health professional can closely supervise 12 to 16 seriously retarded patients who are cared for in large dormitory-style quarters. The present staff could not provide the needed care if these quarters are broken down into smaller rooms.

Not only would these federal requirements fail to significantly improve patient care in most cases, but they would actually result in a lower quality of care for some patients. Nevertheless, if Wisconsin does not comply with the requirements, it will lose federal

funds whose source is taxes paid by its citizens as well as the citizens of other states.

The state of Oregon set out to replace two old bridges, one over the Yachats River and the other over the Snake River. Both the Oregon Highway Department and the Federal Highway Administration, an agency of the U.S. Department of Transportation, had approved project environmental assessment reports.

In stepped the U.S. Coast Guard, another part of the Department of Transportation, and threw out the environmental assessments. The Coast Guard demanded that the state file a negative declaration—showing neither bridge would adversely affect the environment—or an environmental impact statement. This delayed construction three months for one bridge and eight months for the other.

UNNEEDED AIRPORT REPORTS

If a state wants to participate in the federal airport development program, it must file an environmental impact assessment report estimating the amount of aircraft emissions that will result from the increased use of whatever airport is involved.

These emissions projections are then compared to the national ambient quality standard. For most small general aviation airports, the pollution level during the worst period ten years hence is expected to be less one tenth of one percent of the standard. Yet development projects at such airports are not exempt from the projected emissions procedure.

The procedure is a requirement of the Environmental Protection Agency, even though researchers commissioned by EPA concluded there was no need for such projected emission calculations. Interestingly, the conclusion was based on studies made at the Van Nuys Airport in California and the New Tamiami Airport in Florida, two of the nation's busiest general aviation airports. The researchers found there were "no instances in which predicted [emission] concentration exceeded air quality standards."

THE REAL DAMAGE

These are only a few examples of what state and local governments must put up with in order to do business with Uncle Sam.

The damage done by federal red tape is much more serious than a mere listing of needless paperwork and meaningless requirements would imply. The real damage is in waste of tax dollars, misuse of public employee skills, and subversion of program goals.

In Wisconsin federal red tape has snarled state attempts to clean up the air and waterways, and it has deflected attention and money from meaningful affirmative action efforts in the employment of women, minorities, the handicapped, and veterans.

State employees who are supposed to be fighting pollution are so busy trying to keep up with a steady flow of new federal regulations that they have difficulty getting on with their job.

During one period, for example, EPA issued an average of one new regulation per working day. Each regulation must be reviewed by the Wisconsin State Department of Natural Resources. Anytime a regulation requires revision of the state administrative code—and about 30 regulations do each year—there is a cost of $10,000 to $15,000 in staff time. Continuous changing of federal rules also means that the state's enforcement effort is constantly out of compliance with federal standards.

Members of the University of Wisconsin affirmative action staff, who could be helping to find qualified minority candidates, spend most of their time meeting detailed—and often absurd—federal reporting demands. Two university employees have spent more than seven months adjusting a 6,000-page affirmative action report so it will comply with rigid requirements laid down in Washington. I cannot conceive what reasonable need this will meet, nor do I believe there are enough bureaucrats in Washington to analyze such reports pouring in from states and territories.

FIVE PROBLEM AREAS

Wisconsin certainly is not alone in trying to fight its way through the federal bureaucratic thicket.

I joined other governors in preparing for the National Governors' Conference a report detailing the pervasiveness of needless federal requirements and burdensome paperwork. The report identified these five general problem areas which characterize state and federal relations:

Lack of coordination among federal departments or agencies.

For example, a state trying to help people displaced from their homes or businesses by federal construction projects run up against eight different sets of guidelines from eight separate government agencies. You can imagine the confusion—and the inequities in many cases. Residents of opposite sides of a street and businesses located around the corner from each other receive different levels of assistance because of disagreement among bureaucrats.

Both Congress and the executive branch are aware of this situation and have tried to do something about it. Progress is slow, however. More than five years after special committees were set up to bring order out of chaos, these committees still are discussing ways of compensating residents of businesses forced to relocate.

At the state level this has created administrative nightmares for those agencies responsible for providing uniform treatment to uprooted homeowners and business establishments.

The federal government's tendency to exceed its authority by encroaching on matters wholly under state jurisdiction.

Consider the Land and Water Conservation Act. Say a state agency wants to use funds obtained under the act to buy a small parcel of land to expand a park or forest. As a result of a provision in the act, the entire park or forest then would come under the jurisdiction of the Bureau of Outdoor Recreation. If the state thereafter wanted, for example, to straighten out a highway running through the property, the state would have to get federal permission and assure Uncle Sam that whatever land is lost to the road would be replaced by other land.

More attention is paid to detail than to end results.

I have already described how the imposition of unrealistic federal regulations will hurt Wisconsin's efforts to help its mentally retarded. Now take Circular 74–7, issued by the Office of Management and Budget, which calls for a biennial audit of every state and local project supported by federal grants.

The U. S. Department of Agriculture has announced that the school lunch program must comply with Circular 74–7. In Wisconsin state law already requires annual audits of all public school districts, and food programs are reviewed every three years. The combination of the two has kept abuse of the school lunch program to a minimum.

Must the state really be put to the expense of a review of the school lunch program every two years?

If the school lunch regulations are extended to include the other child nutrition programs, as Agriculture Department officials hint may be done, about 3,500 schools, camps, day care centers and Head Start programs in Wisconsin would have to be audited biennially. We estimate we would have to add 25 full-time auditors, and the taxpayers of my state would have to ante up $250,000 annually to pay their salaries. Does that make sense?

Regulations governing some federal programs are far too rigid. Take the guidelines set down by the Defense Civil Preparedness Agency for preparing public officials and communities to handle disasters. The time allotted for each activity is clearly spelled out, with little room for adjustment. For exam-ample, the regulations decree that one quarter of a day may be spent in each school district developing emergency preparedness curricula, but no allowance is made for the fact that one district may have only one school and another may have 150 schools. Such provisions make it impossible to tailor programs to fit special needs.

Excessive paperwork requirements.

The sheer volume of the paperwork involved in federal regulations with which state agencies must comply is astonishing. EPA rules on air quality programs take up 842 pages in the Code of Federal Regulations. Between July 1975, and March 1976, a total of 359 changes and additions to the air quality guidelines were published, and 77 new rules were proposed. Each new regulation must be reviewed to determine if it conflicts with state law or rules, whether state resources are available to comply, and what implementation will cost.

In Wisconsin the paperwork issue takes several forms. State agencies are required to supply the federal government with exhaustive reports at frequent intervals. Sometimes the data provided are available to no one but the federal agencies requesting the information. Sometimes several agencies require the same information; but, due to different reporting formats and time frames, one report will not suffice.

As part of the affirmative action program, the Office of Civil Rights at one point required 14 separate analyses of every employee action on state university campuses. For the University of Wisconsin campus in Madison alone, this amounted to more than 100,000 separate analyses. The final affirmative action plan for the campus took up 16 volumes and roughly 6,000 pages.

Any state using funds under the Federal Water Pollution Control Act must come up with new plans each year, even though the state's programs remain essentially unchanged. This costly, duplicative procedure generally serves no useful purpose. From the state of Pennsylvania alone came a stack of documents five feet high between April 15 and Oct. 1 last year. Pennsylvania had submitted much of the same information in prior years.

Sometimes we spin our wheels hopelessly trying to keep up with Washington. Last April we in Wisconsin received a request from the Federal Highway Administration to report in detail the participation of minorities in state building contracts. As often happens, all of the information was in the files of the agency making the request, so we would have been put to an unnecessary expenditure of time and money in order to comply.

In this case, however, we were spared. A week after the request was made it was canceled.

Another incident involving the Federal Highway Administration defies explanation. When the agency issued new contract provisions, it inadvertently included some of the same language in both the principal set of provisions and an accompanying supplement. The agency has ignored a request to eliminate the duplicative pages. In Wisconsin alone we let approximately 250 federally funded highway construction contracts annually. Normally 80 copies are made of each proposal. As a result of the duplication we have to send out many thousands of totally useless pages.

Federal funds are held up by lengthy approval procedures and other cumbersome administrative practices.

States participating in programs author-

ized by the 1974 Housing and Community Development Act must submit voluminous documentation to the Department of Housing and Urban Development. Extensive cost data, detailed financial statements, and previous participation statements from contracts must be presented. The supporting documents weigh about 2.5 pounds and, because of their size, must be mailed to HUD in a box. We used to be able to send the documents on HUD programs in a regular business envelope.

Even though HUD guidelines dictate a ten-day turnaround on these papers, I am told some states have experienced delays in HUD action of up to nine months.

HOW DID IT HAPPEN?

How did the state-federal relationship come to be such a model of irrationality and inefficiency?

Beginning with the New Deal and continuing through the Great Society era, massive federal programs have been enacted which directly affect the lives of millions of our citizens. Of necessity, the federal government has had to rely on the states to administer some of the programs.

In fiscal 1975, $50 billion in federal funding was spent by state and local units of government. That figure represents 21.3 percent of the federal domestic budget.

Yet the federal agencies have refused to give state agencies the flexibility and authority needed to run programs effectively. The federal agencies have issued reams of requirements, with the result that states constantly are out of compliance with federal guidelines. And in the scramble to keep us with federal dictates, picayune matters compete for attention with vital issues. Complying with federal administrative rules receives higher priority than delivering services to citizens.

In sum, tax dollars are squandered, state employees are misused, and services are impeded. The clout and credibility of the federal government have been seriously diminished.

Clearly, the federal-state relationship is out of kilter, with too much federal emphasis on administrative detail and not enough on genuine leadership. Federal officials have a legitimate interest in seeing that federal dollars are used to deliver the services for which they are authorized. But the time has come for federal officials to recognize that state officials also have an interest in delivering services equitably and effectively to their citizens at a reasonable cost—whether those services are funded by the state or the federal government.

Federal officials should continue to monitor carefully the utilization of federal funds. But emphasis should be on the basic goals of a program and not on the details of program administration—details which can't be controlled by the federal government anyway. By eliminating the restrictive, costly web of excessive regulations, federal officials can work closely with individual states to solve particular program-related problems and facilitate—not hinder—the delivery of important services.

A BETTER PARTNERSHIP

With such changes, a new and better partnership can be forged between the states and Washington. The partnership will require that:

Congress pass laws with clear mandates and goals so states and federal agencies have a precise idea of the objectives toward which they are working.

Regulations promulgated by federal agencies be limited to carrying out specific charges from Congress and guaranteeing fundamental rights of citizens.

Administrative responsibility be delegated to states.

A federal review mechanism be established to ensure that duplications, inconsistencies, and needless requirements be eliminated from federal regulations.

Federal agencies provide enough flexibility to promote experimentation with new approaches to chronic problems.

To continue the existing federal-state relationship is senseless and irresponsible. Creation of a partnership permitting state flexibility is desperately needed. To do anything less is a disservice to our citizens and a violation of the principles of federalism incorporated in the U.S. Constitution.

NO RELIEF ON SECTION 404

Mr. DOLE. Mr. President, it was with much regret that I today received a response from the White House denying a request for a 90-day moratorium on "phase III" of the so-called dredge and fill regulations promulgated by the Army Corps of Engineers. The denial means that, on July 1, the Army Corps of Engineers will assume jurisdiction over all "navigable waters" of the United States, and will issue Federal permits for all dredging and filling activities on such waters. Under a court mandate defining "navigable waters," the corps jurisdiction will include traditional navigable waters, streams, and tributaries up to their headwaters, certain lakes, and wetland areas adjacent to these waters.

On June 3 of this year, I sponsored a letter to the President—which was cosigned by 26 of my Senate colleagues—pointing to the delays and obstacles encountered by farmers, ranchers, forestry personnel, and others as they seek to comply with corps regulations. At that time, I pointed out that an Executive order for a 90-day moratorium on the stringent "phase III" would give Congress an opportunity to alleviate some of the problems encountered by persons in those professions. Mr. President, I ask unanimous consent that the full text of that letter, along with a list of those who signed it, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

MORE RED TAPE

Mr. DOLE. Mr. President, the "phase III" regulations which take effect on July 1 will produce additional redtape for the farmer or rancher who seeks to go about his normal activities in wetland areas. It will produce hassles for forestry and highway construction industries whose work comes into contact with streams or tributaries. I am advised by ranchers in Kansas that phase III will even make it necessary for them to go through a permit application process in order to construct watershed dikes, designed to conserve soil and water in farmland areas.

The Senate will act on this matter. I have no doubt about it. The House of Representatives has already passed legislation which would make phase II and phase III of the section 404 program unnecessary. It is unfortunate indeed that thousands of public and private entities across the Nation must be saddled with the burdensome permit requirements for a few weeks until the Senate has an opportunity to express itself on the matter. Given the widespread concern about the matter among my colleagues, I am confident that the permit program will at that time be significantly reduced in scope, and this matter can be settled statutorily, once and for all.

Mr. President, I ask unanimous consent that the text of the letter over Mr. Stuart Eizenstat's signature be printed in the RECORD following the text of my letter to the President.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

U.S. SENATE,
Washington, D.C., June 3, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Many of our country's citizens—particularly those engaged in farming, ranching, forestry, and construction activities—are extremely concerned about federal regulation under the auspices of Section 404 of the Federal Water Pollution Control Act. We, as representatives of those citizens, want to register our own concern about the expanding jurisdiction of the "dredge and fill" permit program, and respectfully request a 90-day moratorium on implementation of "Phase III" regulations by the Army Corps of Engineers.

When Congress originally authorized the Section 404 Corps permit program in 1972, it was principally intended to regulate the disposal of dredged fill material in "navigable waters" of the United States. A U.S. District Court interpretation of Congressional intent during 1975 effectively expanded the Corps' regulatory jurisdiction over a variety of dredging and filling operations on virtually all waters of the United States. Subsequently, Interim Final Regulations were issued by the Corps of Engineers in 1975, to implement the much expanded permit program in three stages.

Phase III is scheduled to take effect on July 1, 1977. Under the regulatory provisions, Corps permit authority will cover a broad range of major and minor dredging and filling operations on the nation's rivers, streams, and tributaries, up to their headwaters.

At this time, we believe a temporary, 90-day moratorium on the implementation of Phase III is advisable for the following reasons:

1. The House of Representatives has already approved major revisions in the Section 404 program, including a more restrictive definition of "navigable waters" which would eliminate the legislative basis for Phase III (H.R. 3199). The Senate Committee on Environment and Public Works has scheduled hearings on the issue during June and recommendations for changes in Section 404 will likely follow.

2. The Secretary of Agriculture has endorsed the intent of H.R. 3199, has supported clarification of the definition of navigable waters, and has stated, "We believe the enactment of Phase III on July 1, 1977, will significantly increase . . . delays, duplications, and expenses" in production of food, fiber, and forest products.

3. Preparation of "Final Regulations" with additional details by the Corps of Engineers for the Section 404 program has been considerably delayed. Provisions for a "nationwide permit system," along with additional exemptions, were published only last week. There will not be adequate time for thorough consideration and public comment on all aspects of Final Regulations for Phase III prior to the effective date of July 1, 1977.

In short, there are serious problems associated with implementation of Phase III in July, and Congress is now moving towards a legislative resolution of the "dredge and fill" permit issue. We are asking that you direct the Corps of Engineers and the Environmental Protection Agency to delay imple-

mentation and enforcement of Phase III of Section 404 regulations for 90 days, pending a final resolution of associated issues by Congress.

We appreciate your earliest attention to this matter, and will look forward to hearing from you in this respect.

Sincerely yours,

Bob Dole, Edward Zorinsky, James A. McClure, John Tower, J. Bennett Johnston, Malcolm Wallop, Lloyd Bentsen, Milton R. Young, John C. Danforth, Pete Domenici, Ted Stevens, John C. Stennis, Robert Morgan, John Melcher, William V. Roth, Jr., Clifford P. Hansen, Jake Garn, Russell B. Long, James O. Eastland, Dewey F. Bartlett, Walter D. Huddleston, George McGovern, Barry Goldwater, Sam Nunn, Bob Packwood, Jesse Helms, Carl T. Curtis, U.S. Senators.

EXHIBIT 2

WHITE HOUSE,
Washington, D.C., June 27, 1977.

HON. BOB DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Thank you for your letter of June 3, requesting that the President declare a moratorium on program implementation in Phase III waters under section 404 of the Federal Water Pollution Control Act.

As you point out, the program for regulating discharges of dredged or fill material under section 404 has attracted the attention of numerous citizen groups. We believe, however, that appropriate procedures have evolved over the last five years to accommodate concerns raised by Congress, the Courts, the public and the Executive Branch. It is our view that the program is operating effectively in Phase I and Phase II waters, and that the final stage of implementation in Phase III waters beginning July 1 of this year will also proceed smoothly.

The Corps of Engineers proposed a regulation on May 16, 1977 to authorize a number of discharges by nationwide permit. Encouraging comments from several critics of the program and our experience with general permits issued on a regional basis convince us that these nationwide permits will resolve many of the fears raised over unnecessary regulation in Phase III waters. In addition, the Corps of Engineers expects to publish by July 1 a complete revision of the current program regulation which will clarify and streamline the permitting process.

The President has decided, therefore, that it is in the best interest of the Nation to allow program implementation to continue as scheduled two years ago. We all recall the confusion and uncertainty created by imposition of a Presidential moratorium on Phase II last fall. To suspend the ongoing processing of Phase III applications for projects that are scheduled to begin later this year, would only repeat the unfortunate delays that occurred during the last such moratorium.

The President announced in his message on the environment that he will recommend to Congress some adjustments to the section 404 program which will further improve its effectiveness and efficiency of administration. These recommendations are based in part upon legislative proposals debated by the House of Representatives and the Senate during the last two years. Specifically, as part of this package we expect to request authority to transfer the permitting responsibility in Phase II and III waters to States that demonstrate the capability to administer the program. We believe that the experience gained by the Federal agencies in administration of this program coupled with the authority to transfer primary responsibility to the States will ensure that the section 404 program will continue to play an essential role in protecting water resources including our rapidly diminishing wetlands.

Thus, while I can understand your concern and desire to impose a moratorium, the President is of the view that a moratorium is not required in light of the experience acquired to date and the refinements embodied in the forthcoming Corps of Engineers regulations.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

JOHANNES HOEBER

Mr. KENNEDY. Mr. President, I was deeply saddened this week to learn of the death of Johannes Hoeber, a distinguished civil servant and humanitarian, who capped a long life of service in behalf of his fellowman as director of U.S. programs for refugees in Vietnam.

Dr. Hoeber was himself a refugee—a refugee from Hitler's Germany. In 1933 he was arrested and imprisoned by the Nazis for several weeks, and subsequently spent 5 years working with the anti-Nazi underground until 1938, when he was faced with questioning by the Gestapo. Dr. Hoeber fled to the United States where he began a long career in social service programs to help people in need both here at home and abroad.

From 1951 until 1962, Dr. Hoeber served as Philadelphia's deputy commissioner of welfare. In 1962, Dr. Hoeber became Assistant Administrator of the Area Redevelopment Administration of the Commerce Department.

However, a few years later Dr. Hoeber joined the Agency for International Development—AID—to direct its programs for refugees and social welfare activities in Vietnam.

It was in this capacity, Mr. President, that I came to know of Dr. Hoeber's dedicated service. As chairman of the Subcommittee on Refugees I came to know of his constant effort to upgrade AID's programs for refugees and millions of other victims of that tragic war. He often fought against the insensitivities of his own superiors in AID, who were more interested in commodity import programs to help Saigon's ailing economy, than in efforts to help Saigon's orphans or the maimed or crippled.

Dr. Hoeber never lost sight of the urgent humanitarian needs in war-torn Vietnam, nor of America's great humanitarian responsibility to help meet those needs. His humanitarian service during the Vietnam conflict, like that of so many others both here in Washington and in the field, often went unnoticed and unseen. But they are the unsung heros of America's effort to meet its humanitarian obligations to millions of innocent men, women and children caught up in one of the most tragic wars the United States has ever been involved.

To his wife, Elfriede, and his three children, I want to offer my deepest sympathy for their loss, and to recognize the dedicated humanitarian service of their husband and father.

Mr. President, I ask unanimous consent that an article from today's Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOHANNES U. HOEBER DIES, FOUNDING MEMBER OF ADA

(By Charles Shepard)

Johannes U. Hoeber, 72, one of the founding members of the Americans for Democratic Action, died of a heart attack at his home here Sunday.

Born in Zurich, Switzerland, Mr. Hoeber was raised and educated in Germany receiving his Ph. D. in economics from the University of Heidelberg in 1930. He also studied at the London School of Economics.

Mr. Hoeber was arrested and imprisoned by the Nazis for several weeks in 1933 and spent the next five years working with the anti-Nazi underground in Germany.

In 1938, faced with questioning by the Gestapo, Mr. Hoeber fled to the United States, where he settled in Philadelphia. There he worked for several charitable agencies as an administrator.

He was also active in the reform campaign and in the administration of Philadelphia Mayor Joseph Clark, who later served in the U.S. Senate. From 1951 to 1962 Mr. Hoeber served as Philadelphia's deputy commissioner of welfare.

In 1962 Mr. Hoeber became assistant administrator of the Area Redevelopment Administration of the Commerce Department and five years later he became chief of the Refugee and Social Welfare staff, Vietnam bureau, of the Agency for International Development.

In 1972, Mr. Hoeber retired from the AID and received the agency's meritorious honor award. He worked for the next three years as a consultant to the Council of International Programs for Youth Leaders and Social Workers.

Looking back on his life, Mr. Hoeber recently wrote that he was most proud of "my participation in the fight for freedom and democracy in Germany . . . my success in becoming a useful and respected citizen of the United States, and the professional careers of my daughter and two sons."

Mr. Hoeber is survived by his wife, Elfriede Fischer Hoeber, of the home in Southwest; his three children, Susanne Hoeber Rudolph, a professor at The University of Chicago, Thomas R., a magazine editor who lives in Sacramento, Calif., and who works for the National Labor Relations Board in Philadelphia; two sisters, Dr. Ursula Hoeber of Philadelphia and Gabriele Blashy of Temple, Tex.; and eight grandchildren.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

James R. Burgess, Jr., of Illinois, to be U.S. attorney for the eastern district of Illinois for the term of 4 years vice Henry A. Schwartz, deceased.

Albert S. Hinds, of Illinois, to be U.S. marshal for the eastern district of Illinois for the term of 4 years vice Arthur J. Wilson, Jr., resigning.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, July 5, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

EXTENSIONS OF REMARKS

AIRPORTS POLICY

HON. JOSEPH L. FISHER
OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. FISHER. Mr. Speaker, in an attempt to deal with the persistent problems of noise from airplanes using National Airport, the Federal Aviation Administration recently made a suggestion for spreading out flight patterns. This suggestion was presented for comment at public meetings sponsored by the Metropolitan Washington Council of Governments. The COG has analyzed the public response and will make a recommendation to the FAA. While I am pleased that the FAA has involved the public in its decisionmaking, I do not think that the FAA's proposal offers the best or most workable solution to the problems encountered by the neighbors of National Airport. The public apparently also opposes the FAA proposal, according to the response at the public hearings.

An adequate approach to the problem cannot be developed without consideration of the relationship among all the airports in the Washington region. The Council of Governments has already issued long range planning recommendations for the airports after a detailed study. I think that these recommendations point in the general direction of solution.

The primary recommendations call for gradual reduction in the number of flights at National through the use of new, quieter, widebodied airplanes which can handle more passengers per operation. It calls for diverting, especially after 1985, additional flights from National to Dulles and Baltimore-Washington Airports. Other recommendations deal with the need for noise abatement plans, policies, and guidelines for both National and Dulles.

While I agree with the general direction of the recommendations, I do not believe they go far enough. The COG proposal calls for increasing the number of enplanements—passengers boarding planes—to a maximum of 8 million annually from the current 6 million. I would prefer to see National limited to its present number of passengers. The shifting of increased numbers of passengers to Dulles should begin immediately, instead of waiting for 1985. Combined with a change to fewer flights on larger, quieter airplanes, this should provide some relief to areas heavily impacted with noise from National Airport.

Another important step in reducing the number of planes using National would be a strict limitation on the number of general aviation or noncarrier airplanes using National. Every effort should be made to divert these flights to Dulles and Baltimore-Washington. This is a necessary part of any plan to reduce noise and traffic at National.

If COG recommends against the current FAA suggestion for spreading out the noise from National Airport, I hope that it will urge the FAA to give serious consideration to the recommendations in COG's own plan or to even stiffer recommendations such as I have proposed. I think that these offer a constructive way to work on the problems, particularly the noise.

LES BELL—ESTEEMED JOURNALIST AND FRIEND

HON. ROBERT McCLORY
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. McCLORY. Mr. Speaker, it is with a great deal of quiet reflection and with personal feelings of friendship and respect that we take note of the departure of the Copley News Service Capitol Hill Correspondent, Lester M. Bell.

Many of us with whom Les Bell has had contact in reporting events on Capitol Hill for the Copley chain of newspapers have developed an attachment for this quiet, perceptive, and foursquare individual.

Les Bell is an oldtimer with the Copley organization, having joined the staff of the San Diego Union as a reporter on military affairs following service in the U.S. Navy in World War II. Later, this resulted in Les Bell's assignment to the Pentagon in 1964, where he worked for 3 years as the Defense Department correspondent for the Copley newspapers. Then, 9 years ago Les Bell moved his base of operation to Capitol Hill where he has worked actively in the House and Senate Press Galleries reporting to the Copley newspapers the major news events occurring here in Washington as well as other subjects of special interest to the communities served by the Copley News Service.

Mr. Speaker, as an investigative reporter, Les Bell never pulls his punches and never leaves any stone unturned. On the other hand, he is fair and open in the manner he holds news interviews. For example, if he gives his word that a quotation will be made without attribution, one can be certain that his word will be honored.

What is more, Les Bell always endeavors to get his facts straight, and I have never observed in any of his news stories that he misunderstood, exaggerated, or guessed in his reporting of the news.

Mr. Speaker, according to Les Bell, he plans to leave his busy journalistic activity behind him in Washington to take off next week for a new home which he and his wife, Sally, have established in North Carolina. There is a hint that Les may find an outlet for his energies through some local small town journal or weekly newspaper. Indeed, I suspect that after a brief period of rest, Les will be on the rampage again for news stories in the new area where he will be making his home.

Mr. Speaker, many of our colleagues who have had intimate and frequent contact with Les Bell here on Capitol Hill will miss this genial and gentle personality who is both respected and beloved.

Mr. Speaker, I am sure that I speak for all of us when in bidding Les Bell farewell, we extend to him and to his wife, Sally, our good wishes for health, happiness, and fulfillment in the days ahead.

THE CAREER CRIMINAL MUST BE STOPPED

HON. JOHN M. ASHBROOK
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. ASHBROOK. Mr. Speaker, crime remains one of the major problems in our society. Every year millions of our citizens fall victim to criminal acts.

Solutions to the crime problem are not easy. It is clear, however, that a large number of crimes may be prevented simply by keeping the repeat offender off the street.

An FBI study demonstrates through its computerized criminal history file—CCH—that many crimes are committed by persons who have prior arrest records and never spent any time in jail.

The 1975 FBI "Uniform Crime Reports" states that a study was conducted of 255,936 offenders who were arrested during the period 1970–75. Over 64 percent of these individuals had been arrested two or more times.

Moreover, the FBI report cautions: "It should be kept in mind that this presentation is conservative and understates the amount of crime committed by these offenders since it is based on police detection, arrest, and submission on a fingerprint card."

These figures show an incredible pattern. The reported 255,936 offenders had a total of 1,011,000 documented charges during their criminal careers, with 355,308 reported convictions and 141,922 imprisonments of 6 months or more. Career criminals are not off the street.

Over 48 percent of the individuals arrested for murder had three or more prior charges. These are the recidivists—the two, three, or four time losers. They are put on probation for one offense and they go out and commit another.

The FBI study conclusively shows that one effective way to reduce crime is to get the career criminal off the street. Mandatory sentencing and less lenient judges are the key elements in this effort.

As nationally syndicated columnist James J. Kilpatrick has stated:

> The merits of sheer incarceration seldom are sufficiently acclaimed. Most serious crime is the work of criminals who have been around the track once or twice before . . . Law abiding people have a right to demand

that these vicious misfits be put away until time turns them into old men.

Congress should focus its attention on the career criminal. By stopping the career criminal—the person who commits one offense after another—we can make a major reduction in crime.

NUCLEAR-POWERED SUB IS SIXTH NAVAL VESSEL TO BE NAMED AFTER CITY OF PHILADELPHIA IN 200 YEARS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. EILBERG. Mr. Speaker, for the sixth time since 1776, the U.S. Navy has named one of its vessels after the city of Philadelphia. The latest ship to bear this proud name is the nuclear-powered fast attack submarine U.S.S. *Philadelphia*, which was commissioned in traditional ceremonies at New London, Conn., on June 25.

With a crew of 12 officers and 90 enlisted men under the command of Comdr. Robert D. Osborne of Alhambra, Calif., the Navy's newest vessel carries the most recent advances in antisubmarine warfare technology.

On behalf of Mayor Frank L. Rizzo, city representative and director of commerce, Albert V. Gaudiosi headed a delegation of Philadelphia congressional members, civic leaders, and Navy officers at the ceremony at the New London Submarine Base.

At a reception following the ceremony, Gaudiosi presented a bronze plaque to Commander Osborne. At a later time, the city will present a 30-pound working Liberty Bell to the ship. The bell is currently being cast at its foundry and will shortly be ready for presentation.

The third of the *Los Angeles* class attack submarines, U.S.S. *Philadelphia* displaces almost 7,000 tons submerged and carries four 21-inch torpedo tubes amidships which can fire missiles or torpedoes. She has a maximum submerged speed in excess of 30 knots, is 360 feet in length, has a beam of 33 feet, and a draft of 32 feet.

Five other submarines named after cities are scheduled to be commissioned later this year, giving the United States a highly powered nuclear submarine fleet.

Also participating in the commissioning ceremony were Rear Adm. Wycliffe D. Toole, Jr., commandant, 4th Naval District; Rear Adm. J. R. Lewis, commander, Submarine Group Two; David E. Mann, Assistant Secretary of the Navy, Research and Development; Rev. R. E. McNulty, director of Catholic Charities, Diocese of Norwich, Conn.; and W. Thacher Longstreth, president, greater Philadelphia Chamber of Commerce and Penn-Jerdel Corp.

The keel of U.S.S. *Philadelphia* was laid on August 12, 1972. The vessel was launched in October of 1974 and was sponsored by Mrs. Hugh D. Scott, Jr., wife of the former Pennsylvania Senator.

The first U.S.S. *Philadelphia* was a continental gondola of five guns which was built in 1776 on Lake Champlain by Gen. Benedict Arnold. It was sunk during the Battle of Valcour Island which delayed the British advance into the Colonies. The ship was raised in 1935 and is now being restored at the Smithsonian Institution in Washington, D.C.

The second *Philadelphia*, originally named City of Philadelphia, was a 36-gun frigate built in Philadelphia from money donated by the city's citizens. Commissioned in 1800, she was burned in Tripoli Harbor after she grounded on an uncharted reef.

The third *Philadelphia* was a sidewheel, iron-hulled steamer which was used primarily as a transport during the Civil War. She was sold at public auction in 1865.

The fourth *Philadelphia*, cruiser No. 4, was built in Philadelphia and commissioned in 1890. She served in both Atlantic and Pacific Fleets until her decommissioning in 1902.

The fifth *Philadelphia*, a heavily armed light cruiser, was built at the Philadelphia Naval Shipyard and commissioned in 1937. She remained with the Pacific Fleet until just before Pearl Harbor. During World War II, the cruiser, with her 15 6-inch guns, participated in the assaults on French Morocco, Sicily, Salerno, and Anzio. She was decommissioned in 1947 and sold to Brazil in 1951. She served in the Brazilian Navy under the name Barroso until scrapped in 1974.

ANTIABORTION RESOLUTION

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. McDADE. Mr. Speaker, the Scranton Chapter of Pennsylvanians for Human Life has passed a resolution stating its opposition to channeling of family planning funds through agencies which advocate abortion. At the request of the chapter I would like to bring this resolution to the attention of my colleagues as follows:

PENNSYLVANIANS FOR HUMAN LIFE,
Scranton, Pa., May 2, 1977.

Hon. JOSEPH McDADE,
House of Representatives,
Washington, D.C. 20515

DEAR CONGRESSMAN McDADE: Enclosed please find a copy of a resolution adopted recently by the Scranton Chapter of Pennsylvanians for Human Life. I thought you might be interested in seeing it.

Sincerely,

Mrs. DENISE NEARY,
President.

RESOLUTION

Whereas, The President of the United States and the Secretary of the Department of Health, Education and Welfare have publicly expressed an opposition to federal funding of abortion and oppose governmental encouragement of abortion; and

Whereas, both the President and the Secretary have advocated sex education and family planning as a partial solution to the abortion problem; and

Whereas, it is the intention of the President to introduce legislation to increase funding of such programs in the near future; and

Whereas, there are existing family planning agencies currently receiving federal funds for programs of this nature—most notably Planned Parenthood of America—which advocate abortion as a back-up solution to the problem of unwanted pregnancy; and

Whereas; lawyers for Planned Parenthood have repeatedly gone to Court to oppose any restriction on abortion and have also argued in Court in favor of federal funding of abortion; and

Whereas, Planned Parenthood has a vested interest in promoting abortion since its operates abortion clinics in major cities across the United States; and

Whereas: Planned Parenthood's commitment to a successful program of contraception is questionable in light of the fact that its five-year plan advocates a doubling of the number of abortions their clinics will perform by 1980;

Now therefore be it resolved by the Scranton Chapter of Pennsylvanians for Human Life:

That sex education and family planning funds not be channeled through any agency which encourages, promotes, or provides abortions.

COMMUNITY UNITES TO AID POLICE—DETER CRIME

HON. BRUCE F. CAPUTO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. CAPUTO. Mr. Speaker, despite increased efforts by law enforcement agencies nationwide, the current crime rate shows little chance of significantly declining in the years ahead.

Recently I received a letter from a group of my constituents, the Lincoln Park Taxpayers Association of Yonkers, N.Y., who have developed several projects to aid their local law enforcement officers in crime prevention.

As part of their "neighborhood security goal," they are providing the following services:

Free use of an electronic pencil for marking valuables in the home. This provides a means of determining ownership in the event any property is stolen.

A "resident vehicle" decal, made from a photocopy of an owner's registration certificate. In this manner, residents of a neighborhood can be easily identified and, should a car be stolen, police are aided in finding the rightful owner.

A "no solicitation" front door decal that, when visibly displayed, allows police to act in a resident's interest before a stranger actually enters a dwelling. Current law forbids such action in the absence of such a sign.

In the words of Mr. William Weisgerber, president of the Taxpayers Association:

I believe it is important that communities throughout the nation learn that people are willing and capable of working for the quality of life in which they choose to live, and do not require the kinds of bureaucracies . . . created since World War II.

I commend these citizens on their individual display of initiative in developing these crime prevention activities. Their efforts have resulted not only in a reduction of crime, but more significantly, in a rebirth of community spirit and a feeling of "neighborliness" which will strengthen their community tremendously.

ISRAEL AND THE 66 VIETNAMESE REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. SOLARZ. Mr. Speaker, I believe, as I am sure many of my colleagues do, that Israel has a record any nation would be proud of in its commitment to democracy and human rights. Despite this, in recent years Israel has been condemned by certain countries for its alleged intransigence in dealing with the refugee situation. In light of this controversy over the nature of a settlement in the Middle East, a small but highly significant event recently took place which should help clarify for the American people Israel's humanitarian perspective toward the situation.

Israel offered refuge to 66 Vietnamese who left their country in the hope that they could find a new homeland and a better life. Several countries turned their backs on these desperate refugees, who for 3 weeks had been living in a small, leaky boat searching for a place to live. After several ships passed the refugees at sea, an Israeli vessel humanely offered to take them aboard. A short while later they were flown to Israel where they were given permanent residence.

The decision to offer a home to the Vienamese was the first official act of the newly elected Prime Minister, Menachem Begin, who said, "Jews know what it is to be a refugee, with every door being closed in one's face." Israel was founded in 1948, in part, as a homeland to the thousands upon thousands of refugees who survived the Holocaust, but were denied refuge by most nations.

This compassionate act further demonstrates the humanitarian and democratic values held by Israel in the tradition of our own country. In the final analysis, despite minor differences that occasionally crop up among even the friendliest of nations, the United States and Israel share similar goals and stand for the same democratic principles. Just as Israel did not neglect the 66 Vietnamese, we in the United States must not turn our backs on the free nation of Israel.

I hope and pray that America's deep and meaningful friendship with the people of Israel continues and that we recognize that we have in the State of Israel, not only a faithful ally, but a country which embodies our own sense of decency and democracy as well.

DEREGULATION OF NATURAL GAS

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. EDWARDS of Oklahoma. Mr. Speaker, the Governor of Oklahoma, the Honorable David Boren, recently released a study on the status of Oklahoma's interstate natural gas system and the effects of free market pricing on reserves and production. This study conclusively refutes contentions that unregulated prices do not result in any additional supplies. Under free market conditions within Oklahoma, the net additions to Oklahoma's intrastate natural gas reserves in 1976 were 454 percent above those added in 1972. I recommend this report to all who want a realistic appraisal of the effects of deregulating natural gas:

THE STATUS OF OKLAHOMA'S INTRASTATE NATURAL GAS SYSTEM AND THE EFFECTS OF FREE MARKET PRICING AT THE WELLHEAD ON RESERVES AND PRODUCTION THEREFROM

INTRODUCTION

The purpose of this presentation is to provide an analysis of the status of Oklahoma's intrastate natural gas system in 1977 and the effects of the intrastate competitive free market pricing on the development of new natural gas reserves and natural gas deliverability over the five year period, 1972 through 1976.

The status of the intrastate natural gas system in Oklahoma has been dimensioned. The effects of free market pricing on new intrastate natural gas reserve additions and on prices paid by the Oklahoma residential consumer also have been dimensioned.

The study and projections are especially important for several reasons.

Oklahoma ranks third among the states as an exporter of energy, is the third largest natural gas producing state and is the seventh largest natural gas consuming state.

Oklahoma is the only state which is representative of the results of a free market price for natural gas at the wellhead.

Oklahoma had 13 trillion cubic feet of proved recoverable reserves at 1975's year end. Only Texas, Louisiana and Alaska hold larger gas reserves.

Oklahoma's remaining potential natural gas reserves have been estimated by the Potential Gas Committee at 122 trillion cubic feet. However, nearly half of this natural gas is believed to lie at great depths (below 15,000 feet).

CONCLUSIONS

The study supports conclusions in regard to the changes in Oklahoma's intrastate natural gas system.—

Oklahoma's intrastate natural gas system has been and continues to be representative of the free market system as to wellhead pricing. Adequate supplies for all users supplied by the intrastate market are available and should continue to be available even with deregulation of new interstate natural gas prices at the wellhead.

Total intrastate natural gas reserves in Oklahoma have increased four out of five years since 1972.

1976 annual new reserve additions from newly drilled wells were 123 percent above those added in 1972.

1976 annual net reserve additions, new reserve additions less withdrawals, were 454 percent over those added in 1972.

1976 annual consumption was only 31 percent over that consumed in 1972.

Intrastate natural gas reserve additions have exceeded withdrawals since 1972. In fact, since 1973 reserve additions have exceeded withdrawals by more than 49 percent.

In 1976 the average Oklahoma residential consumer paid $1.54 per mcf, well below the national average for residential consumers of $1.81 per mcf.

1976 deliverability of natural gas to Oklahoma's intrastate consumers was 34 percent above the peak day delivery capability in 1972.

These conclusions are based on the two basic conditions that (1) due to competitive free market pricing of natural gas, Oklahoma's natural gas producers have been able to find and develop natural gas reserves for the intrastate markets and (2) competition between intrastate market purchasers has resulted in Oklahoma's consumers having adequate supplies of natural gas and no curtailments to firm customers with delivered consumer prices well below the national average.

OKLAHOMA'S NATURAL GAS SYSTEM—1977

Natural gas accounts for over 59 percent of Oklahoma's energy reserves, about 57 percent of Oklahoma's energy production and serves as Oklahoma's largest energy source supplying more than 64 percent of the energy used in Oklahoma.

Oklahoma still produces more than twice as much natural gas as it consumes. The state ranks third among all the states in natural gas production and seventh in natural gas consumption.

In 1976, Oklahoma had 10,436 producing gas wells, an increase of 567 during the year, delivering more than 4.7 billion cubic feet of gas each day. About 58 percent of Oklahoma's natural gas production is delivered to interstate pipelines. However, interstate pipelines deliver to Oklahoma consumers only one mcf for every 16 mcf of natural gas they purchase in Oklahoma. The other 15 mcf is shipped to out-of-state consumers.

Interstate and intrastate patterns

During 1976 Oklahoma produced more than 1735 billion cubic feet (bcf) of natural gas. In 1975 Oklahoma consumed 729 bcf. Of this 729 bcf of natural gas consumed in Oklahoma, more than 93 percent was produced within the state and sold at unregulated wellhead prices to intrastate natural gas pipelines and electric utility companies.

Reserves

At the end of 1975, Oklahoma had 13 trillion cubic feet of proved recoverable reserves, or 5.7 percent of the U.S. total. Only Texas, Louisiana and Alaska hold larger gas reserves.

The state's remaining potential natural gas resources have been estimated by the Potential Gas Committee at 122 trillion cubic feet.[1] However, nearly half of this gas is believed to lie at great depths (below 15,000 feet), where high drilling costs are restraining exploratory efforts. As natural gas prices rise, drilling in these high-cost areas will become more attractive and could result in substantial additions to the state's proved reserves.

Reserve additions

As a result of the free market system, over 90 percent of the new gas discovered in Oklahoma in 1976 was dedicated to intrastate consumers. In fact since 1972 more than 85 percent of the cumulative natural gas reserves discovered in Oklahoma have been dedicated to the intrastate market. A summary of the number of drilling rigs active in Oklahoma, the amount of new natural gas

[1] The 122 trillion cubic feet of potential natural gas resources is representative of the potential resources projected by others.

reserves added annually and Oklahoma's natural gas consumption are shown in Figure 2 (not printed).

Prices and reserves

The well-head natural gas prices necessary to recover cost and profit in Oklahoma, based on the drilling and completion costs per foot and the amount of gas reserves found per foot drilled for the years 1967 through 1974, are shown in Figure 3 (not printed). Informed opinion is that the wellhead price necessary to recover cost and profit in Oklahoma was $2.10 to $2.25 per mcf in 1976 and may have exceeded $3.000 per mcf in ultra-deep exploration. Since the highest price paid for new reserves in 1976 approached only $2.00, informed opinion is that producers make their decision to drill based on their concept of future price and the certainty of that price.

The revenues received for natural gas in Oklahoma's intrastate free market environment have tracked the revenues required by the producer, e.g. gas wells drilled in 1974 required a price of 154.2 cents per mcf (see Figure 3 on page 7) and the average intrastate prices paid in late 1975 and 1976 ranged from 136 to 170 cents per mcf. (See Table I). The lack of steady increases in prices paid at the wellhead is an illustration of Oklahoma's intrastate natural gas market being a true and competitive free market.

Rising prices

While some Oklahoma consumers are served by interstate pipelines, more than 93 percent of the natural gas used in Oklahoma is produced within the state and sold at competitive free market wellhead prices to intrastate pipeline companies. The wellhead price of gas sold into interstate markets has been and remains regulated by the Federal Power Commission at levels below the free market intrastate prices and below the levels required to recover exploration and production costs and a reasonable return on investment. As a result, almost all of the natural gas reserves discovered in Oklahoma since 1972 have been dedicated to the intrastate market.

TABLE I.—OKLAHOMA NEW INTRASTATE GAS PRICES [1]

[Cents per million cubic feet]

Year and quarters	Wellhead prices		
	Average	Range low	High
1972:			
3d	32	17	34
4th	30	17	37
1973:			
1st	38	17	58
2d	44	22	52
3d	35	19	68
4th	51	19	75
1974:			
1st	58	35	87
2d	72	45	80
3d	85	42	93
4th	80	46	100
1975:			
1st	88	56	107
2d	101	51	143
3d	120	63	140
4th	136	53	163
1976:			
1st	146	81	170
2d	168	114	187
3d	170	133	186

[1] Weighted prices for new natural gas contracts for selected intrastate purchasers.

Source: Center for Economic and Management Research University of Oklahoma.

The Federal Power Commission has set a national rate for natural gas from wells commenced on or after January 1, 1975, of $1.44 per mcf. This compares to the intrastate market price which now approaches $2 per mcf. The regulated interstate price has lagged behind the competitive free market intrastate price since the early 1970's. As a result, in the second quarter of 1976, the average intrastate wellhead price was 95 cents per mcf, and the average price for Oklahoma gas leaving the state was 35.8 cents.

Impact on consumers

Natural gas usage and costs for the average residential customer of Oklahoma Natural Gas and of Brooklyn Union Gas are compared in Table II. The Oklahoma consumer, relying on competitive free market intrastate gas, paid $1.54 per mcf in 1976, while his counterpart in Brooklyn paid $3.48 per mcf. In addition, in 1976, the Oklahoma residential price, $1.54 per mcf, was well below the national average for residential consumers of $1.81 per mcf.

Results

As a result of the free market pricing and Federal regulatory actions, Oklahoma's intrastate market has enjoyed substantial new supplies of natural gas and no intrastate curtailments to firm customers have occurred. At the same time, the delivered natural gas cost to the average residential consumer is increasing more than 8 to 10 percent per year.

TABLE II. NATURAL GAS PRICE, AVERAGE USE AND COST TO RESIDENTIAL CONSUMERS

Average Annual	1972	1973	1974	1975	1976
Oklahoma Natural Gas Co.:					
Use, mcf	115	133	107	120	106
Price per million cubic feet	$.90	$.91	$1.05	$1.21	$1.54
Average bill	$104	$121	$113	$146	$163
Brooklyn Union Gas:					
Use, million cubic feet	235	239	213	221	210
Price per million cubic feet	$1.57	$1.71	$2.02	$2.78	$3.48
Average bill	$370	$409	$431	$615	$730

However, interstate pipelines such as ARKLA and Lone Star, among others, curtailed substantially schools, businesses and industry in Oklahoma this last winter. In fact, if it had not been for large emergency sales to the interstate pipelines from Oklahoma's intrastate systems, thousands of Oklahoma residences would have been without natural gas.

The system

Oklahoma's intrastate system is composed of natural gas pipeline companies that supply natural gas distribution systems (principally Delhi and ONG) and those companies which transport natural gas for Oklahoma's three large electric utilities:

UTILITY AND PIPELINE

Oklahoma Gas & Electric Company (OG&E): Mustang Fuel.

Public Service Company of Oklahoma (PSO): Trans Oak.

Western Farmers Electric Cooperative (WFEC): Western Farmers.

Oklahoma Gas and Electric Company, Oklahoma Natural Gas Company and Public Service Company of Oklahoma account for approximately 85 percent of the intrastate natural gas purchases and deliveries in Oklahoma. All three companies each have individual, direct producer contracts for natural gas and are not supplied by other natural gas pipelines or gas utilities

Representative Oklahoma intrastate data

Since these three companies' activities account for approximately 85 percent of the intrastate market, detailed analysis of their reserves, sales and consumption, new reserve additions and deliverability may be extended to Oklahoma's intrastate market as a whole.

Pertinent statistics on these three companies' natural gas reserves, reserve additions and consumption for each year from 1972 through 1976 are detailed in Table III.

New Natural Gas Reserves Added.—New reserve additions from newly drilled wells increased 123.6 percent from 392.8 billion cubic feet (bcf) in 1972 to over 878.1 bcf in 1976. In fact, during the three years, 1974 through 1976, reserve additions exceeded withdrawals by more than 49 percent on an annual basis.

Natural Gas Sales and Consumption.—Natural gas sales and consumption increased 31.5 percent from 454.6 bcf in 1972 to over 597.8 bcf.

Net Natural Gas Reserve Additions.—Net natural gas reserve additions, new reserves added less withdrawals during the year, increased from a short fall of 61.8 bcf in 1972 to a net addition of more than 280.3 bcf in 1976, an increase of more than 454 percent.

Total Natural Gas Reserves at Fiscal Year End.—The total reserves for these three companies increased from 4,874.5 bcf in 1972 to over 5,165.6 bcf in 1976 despite revisions in reserves from natural gas purchased and/or dedicated in prior years.

Peak Day Deliverability.—The peak day deliverability increased 34.5 percent from 2.23 bcf per day in 1972 to over 3.00 bcf per day in 1976.

TABLE III.—OKLAHOMA INTRASTATE NATURAL GAS RESERVES, CONSUMPTION AND PRICE DATA FROM 1972 TO 1976 FOR OKLAHOMA'S 3 MAJOR INTRASTATE COMPANIES [1]

	New natural gas reserves added during the year (billion cubic feet)	Natural gas sales and consumption during the year (billion cubic feet)	Net natural gas reserve additions during the year (billion cubic feet) [2]	Representative price for new reserve additions during the year (cents per million cubic feet)	Revisions to natural gas reserves previously contracted [3] (billion cubic feet)	Total natural gas reserves at fiscal year end (billion cubic feet)	Total natural gas deliverability fiscal year end (billion cubic feet per day)
Year:							
1972	392.8	454.6	(61.8)	37	8.7	[4] 4,874.5	2.23
1973	536.3	487.5	48.8	66	48.2	4,971.5	2.35
1974	822.6	517.2	305.4	93	290.4	4,986.5	2.40
1975	789.1	551.2	237.9	154	276.0	4,948.4	2.55
1976	878.1	597.8	280.3	169	63.1	5,165.6	3.00
Total	3,418.9	2,608.4	810.6		590.0		

[1] Based on Oklahoma Gas & Electric Co., Public Service Co. of Oklahoma, and Oklahoma Natural Gas Co. data. These 3 companies represent approximately 85 percent of the intrastate natural gas purchases and deliveries in Oklahoma. All information is based on each company's fiscal year end resources.

[2] Col. 2 minus col. 3.

[3] Calculated using reserves at the beginning of the fiscal year, net reserve additions (col. 4) and reserves at the end of the fiscal year.

[4] Natural gas reserves at the beginning of the 1972 fiscal year were 4,945,000,000,000 cubic feet.

SUMMARY

This study has analyzed the status of Oklahoma's intrastate natural gas system in 1977 and has dimensioned the effects of competitive free market pricing on new intrastate natural gas reserve additions and on prices paid by the Oklahoma residential consumer.

The study supports conclusions in regard to the changes in Oklahoma's intrastate natural gas system.

Oklahoma's intrastate natural gas system has been and continues to be representative of the free market system as to wellhead pricing. Adequate supplies for all users supplied by the intrastate market are available and should continue to be available even with deregulation of new interstate natural gas prices at the wellhead.

Total intrastate natural gas reserves in Oklahoma have increased four out of five years since 1972.

1976 annual new reserve additions from newly drilled wells were 123 percent above those added in 1972.

1976 annual net reserve additions, new reserve additions less withdrawals, were 454 percent over those added in 1972.

1976 annual consumption was only 31 percent over that consumed in 1972.

Intrastate natural gas reserve additions have exceeded withdrawals since 1972. In fact, since 1973 reserve additions have exceeded withdrawals by more than 49 percent.

In 1976 the average Oklahoma residential consumer paid $1.54 per mcf, well below the natural average for residential consumers of $1.81 per mcf.

1976 deliverability of natural gas to Oklahoma's intrastate consumers was 34 percent above the peak day delivery capability in 1972.

These conclusions are based on the two basic conditions that (1) due to competitive free market pricing of natural gas, Oklahoma's natural gas producers have been able to find and develop natural gas reserves for the intrastate markets and (2) competition between intrastate market purchasers has resulted in Oklahoma's consumers having adequate supplies of natural gas and no curtailment to firm customers with delivered consumer prices well below the national average.

HEROISM OF DENNIS DEE FORD

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. PATTERSON of California. Mr. Speaker, I would like to take this opportunity to laud the heroism of Mr. Dennis Dee Ford of Buena Park, Calif.

On January 20, 1976, Police Officer Ford saved the lives of two victims of a fire in Compton, Calif. A 3-year-old child was rescued from a smoke filled building, whereupon Officer Ford began mouth-to-mouth resuscitation at once, saving the little girl's life.

Immediately after this act of valor, Officer Ford relieved a fireman who was administering external cardiac compressions on another casualty of the fire. Officer Ford continued the compressions until a steady pulse in the victim could be detected.

Officer Ford's quick, clear thinking, his knowledge of lifesaving techniques, and his compassion for others, resulted in two lives being saved. Such acts of mercy and courage serve as a shining example of human concern and nobility to us all.

Mr. Ford has been honored by being selected to receive the Red Cross Certificate of Merit. This is the highest award given by the American National Red Cross. The certificate bears the original signatures of our President, the Honorary Chairman of the Red Cross, and Frank Stanton, chairman of the American National Red Cross.

I know my colleagues will wish to join me in congratulating Police Officer Ford on receiving the honor he richly deserves.

MRS. JEAN CLAYTON: ONE OF CLEVELAND'S FINEST

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. STOKES. Mr. Speaker, I rise on this occasion to bring to your attention and to the attention of my colleagues in the U.S. House of Representatives the outstanding career of Mrs. Jean Clayton of Cleveland, Ohio.

In my estimation, Mrs. Clayton is an exceptional person. Moreover, Mr. Speaker, I am certain that there are thousands of citizens in Cleveland who share my sentiments. For 25 years, she served with distinction on the Cleveland police force. This was long before women were welcome in crime prevention positions. During these years of service, Mrs. Clayton worked primarily with women- and child-related problems. I can attest to the fact that her warmth, strength, and sensitivity to the needs of others helped many desperate families through periods of severe hardship.

Mr. Speaker, even though Mrs. Clayton spent many long hours in her profession, she worked equally hard in her role as a wife and devoted mother. Her four children have grown up to be among the finest young people that I know.

So that my colleagues in the U.S. House of Representatives can acquaint themselves with Mrs. Clayton's career, I hereby submit for the RECORD an article which appeared in the June 7, 1977, Cleveland Press featuring Mrs. Clayton and her long history of exemplary service to her community:

BUT SHE WAS—FOR 25 YEARS—"I NEVER WANTED TO BE A POLICE OFFICER"

(By Darlene Johnson)

Twenty five years ago, years before anyone ever heard of women's liberation, Jean Clayton became a policewoman. She was also known as badge number 3027.

Her black hair is now streaked with gray, you can tell her brown eyes have seen a lot. The lines in her face are not necessarily from age, but maybe from a struggle.

"I never wanted to be a police officer," she began reminiscently. "It was a different type of work than I had been doing. After a while, I began to learn and feel a commitment to try to help people, not so much to try to arrest them," Jean Clayton remarks.

In her early years on the force, Mrs. Clayton was a part of the now defunct women's unit. Her unit dealt primarily with women and child related problems.

She reports that she never found being a woman a problem with the citizens, but it was with some of the males she worked with.

"I guess I was sort of considered a troublemaker by some," she reflects. "I filed a suit against the Cleveland Police Department, not so much for myself, but for women in general," she says.

"For a long time," Mrs. Clayton says "women were excluded from the pensions. Policewomen were considered a necessary evil. The department didn't even want us to wear pants.

"When it came to promotions, there was one set of jobs for the men and another for the women, even though we both took the same test," she reports.

Mrs. Clayton says she feels very strongly that women have a place in police work.

"If she doesn't do the job the way the criteria have been set up, she should be transferred somewhere else. Women take an oath, just like the men, to protect the life and property of the citizens," Mrs. Clayton says adamantly.

All things considered, Jean Clayton says there wasn't a time during her career when she wished she was doing something else—well maybe once.

"I had to go to Toledo for a drug bust. I was given $1000 in marked bills and I was supposed to act like I wanted to buy drugs. I couldn't have a badge nor a gun. I was to go into an all white bar . . . It was the first time I wished I was someplace else," is how she puts it.

According to Mrs. Clayton, treatment of crimes today is not any different than it was 25 years ago. There is just more emphasis on the rights of a person, mainly the accused.

"In the early years, you just threw someone in jail who was suspected of the crime. You got them charged and you forgot about them. Today you have to have a lot more evidence," says Mrs. Clayton.

"I feel and I have always felt that a police officer making the investigation should make the best investigation that can be made. It was not just enough for me to accept a female's statement that she had been raped. I had to go out and investigate the whereabouts of the suspect at the time of the alleged rape.

"My co-workers would laugh at me because if I arrested someone who was later convicted, I would sit in the court room and cry," she confesses.

There has been some joy with those tears. Mrs. Clayton says that many of the young people she has had some contact with have since thanked her for all that she had done.

"Police work has been a wonderful experience. I've met some beautiful people and I've worked with some," she points out.

But she has also found that bringing up children and working, though hard for any mother, was harder on her.

"I had two children before I joined the force and two while I was on the force. I almost never had any free time. We had to work the three shifts just like everyone else. If you were fortunate to have a day off, you were probably in court.

"There were times," says Mrs. Clayton, "when I was working midnight to 8 a.m. I would get a subpoena to be in court at 9 a.m.

"It didn't make work easy . . . it took you away from your family and it still does," she says.

In her early career she remembers going to Central Police station. There they have the badges of police officers killed in the line of duty.

"I made a promise then and there to myself: My badge would never be there.

"I never carried a gun the whole 25 years. I didn't feel I needed one," says Mrs. Clayton. "The public didn't know. When I finished the police academy, I returned the gun they had given me back to the box. My last day on the job, I returned it in that same box with

the same bullets in it . . . it had never been fired."

Jean Clayton has retired to her Lee-Harvard home and badge number 3027 is not at Central Police Station.

PLO FACTIONS BUYING UP U.S. EXTREMIST REVOLUTIONARY SECTS?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. McDONALD. Mr. Speaker, over the past 3 years we have observed an increasingly common phenomenon wherein U.S. socialist groups of both the Marxist-Leninist and National Socialist—Nazi—varieties stridently support the terrorist Palestine Liberation Organization—PLO. The Havana and Moscow oriented U.S. groups have supported the PLO majority led by Yasir Arafat's Al Fatah and Nayif Hwatmeh's Popular Democratic Front for the Liberation of Palestine—PDFLP—which are willing to combine the most brutal terrorism against innocent civilians with political maneuvering in the U.N. where they receive extensive Soviet bloc guidance.

The PLO minority is called the Rejectionist Front. Led by George Habash of the Popular Front for the Liberation of Palestine—PFLP—the Rejectionists have insisted on the primacy of the "armed struggle"—terrorism—and looked with suspicion on political maneuvering in international forums. The Rejectionist Front included many veterans of the PLO's Black September special operations terrorist cadre and has received extensive support from some of the most extremely hardline Arab states particularly Libya, Iraq, and the People's Democratic Republic of Yemen.

A number of Marxist-Leninist and Nazi groups since 1975 have noticeably expanded their publications from irregularly produced newsletters and small drab monthly tabloids to expensive many-paged productions. While styled to the peculiarities of each group there is a common theme: Obsequious praise of Libyan strongman, Col. Muammar Qaddafi.

The various National Socialist Hitlerian cults serve principally as instigators of public disorder, in that there are many U.S. citizens of European origin—Polish, French, Greek, Hungarian, Dutch, Ukrainian, et cetera—who remember only too clearly the brutality, waste, and destruction that accompanied the Nazi invasions and who remember atrocities like Lidice. It is interesting to note that while there has been no real increase among the alienated sociopaths who form the Nazi rank and file, a number of groups have been able to increase their propaganda output, and a couple of leaders have managed to go to Europe and meet with similar groups. It is to be expected that these sects would support the PLO in attacking Israel; the significance is their support of the real PLO goal of overthrowing the non-Marxist Arab governments and establishing a revolutionary PLO-led regime in Jordan, Saudi Arabia, and other countries.

More dangerous because of the organization's better organization and tighter international contracts are the Marxist-Leninist groups. As I mentioned earlier, the U.S. Castroite revolutionaries and the Moscow-run Communist Party, U.S.A.—CPUSA—continue to support the Arafat-led PLO majority which has enjoyed extensive Soviet support since 1968 when the Soviet KGB station chief who was then also the U.S.S.R.'s Ambassador in Beirut determined that the PLO could be useful to Soviet expansionist goals in the Middle East. Thus the Rejectionists have had to develop contacts among some of the smaller, though no less militant, U.S. revolutionary groups.

For example, let us examine the Workers League—WL—the U.S. branch of a minor Trotskyite grouping called the International Committee of the Fourth International which is controlled by Gerry Healy and his Workers Revolutionary Party in England. Early in 1976, Healy's WRP was so short of cash it had to cease publication of its principal propaganda outlet, the newspaper Workers Press. However in May 1976, subscribers to Workers Press were told that a new daily newspaper—using markedly more expensive two-color printing—had commenced called the News Line.

The WRP's newspaper, no longer an "official organ" of the WRL, has been continuously fulsome in praise of the Libyan dictator—on a sampling of three issues a week. Additionally, the News Line contains heavily biased "reporting" in favor of the PLO and Lebanese Marxist forces who precipitated a bloody civil war in Lebanon and openly backs their efforts to reestablish a strong force in the "Fatahland" region of southern Lebanon. Libya and Iraq strongly supported the PLO/Marxist forces in the civil war which, although severely weakening the Palestinian terrorist groups, has served to reunite them out of necessity.

Both the Workers League, headquartered in New York City, and the Workers Revolutionary Party in England have made the provision of logistical supplies to the Marxist/PLO forces in Lebanon the priority campaign for their youth groups, both called the Young Socialists. The News Line and the Workers League's twice-weekly paper, the Bulletin, are running identical ads for contributions. Operating from P.O. Box 1876, GPO, New York, N.Y. 10001, the Bulletin in March published direct reports from Cairo on the meeting of the PLO's debating arm, the Palestine National Council—PNC—by John Spencer noting that criticisms among the two PLO factions were "muted" and that the issue of participation in a Geneva conference attempt to bring territory under direct PLO control with U.N. approval "appears to have been resolved among the leadership."

The Workers League is currently producing two 12-page issues of its newspaper a week dated Tuesdays and Thursdays. The Bulletin has begun carrying the masthead slogan, "Forward to the Daily Revolutionary Newspaper."

Another member of the small clique of Qaddafi admirers is the National Caucus of Labor Committees, also known as the U.S. Labor Party—NCLC/USLP. The USLP is a self-admitted Communist organization of Trotskyite and New Left origins which adds to the "standard" revolutionary theoreticians such as Marx, Engles, and Lenin the fevered fantasies of its founder, Lyndon LaRouche who, deteriorating into megalomania, leaves most of the actual USLP/NCLC operations to his top coterie.

Like the Workers League, the USLP press has carried repeated attacks on the Egyptian Government, a continuing target for Libyan subversion, and the non-Marxist Arab governments hated by the PLO. For example, in February the NCLC/USLP newspaper, New Solidarity, worried that Egypt might "abandon" the PLO because the United States would try to "terrify the cowardly Egyptians into line"—a crude application of reverse psychology principles as well as a demonstration of "Caucusoid" arrogance.

There is another interesting aspect to the NCLC/USLP political line. The USLP claims that "warhawks"—who are always of NATO or Western, noncommunist origin—are striving to promote a nuclear war in the Middle East, Europe, Asia, and generally. The "peace forces" are the Soviet Union and Soviet Communist Party Chairman Brezhnev along with North Korea, East Germany, Somalia, Mozambique, Cuba, Guyana, Jamaica, and others who see the "benefits" of the Brezhnev "peace plan." Of late, the NCLC/USLP is citing East German and Soviet sources ranging from technical manuals to radio broadcasts in its shrill attacks on the U.S. Department of Defense and NATO.

Despite the CPUSA's sniping at the USLP/NCLC domestically, there is no reciprocal hostility from the Caucusoids who are totally supporting the U.S.S.R.'s aggressive policies in Europe, Africa, the Middle East, and Asia even to the extent of attacking the Chinese Communists as "imperialist agents" of the U.S.

It is interesting that some alleged conservatives are presenting Qaddafi as an "anti-Communist" and "Islamic fundamentalist" who should be supported against the more responsible Arab governments as well as against Israel.

In fact, Qaddafi bases his activities on a burning hatred of the United States, the NATO allies, and the "Third World" countries friendly to the West. Therefore, Qaddafi eagerly acts as a middleman in supplying revolutionary terrorist groups, many of them Soviet-supported, in Europe, Africa, the Middle East, and Asia with weapons and money for terrorist operations against Western countries and friendly countries who trade and work with them.

Qaddafi has said that "We must purge all the sick people who * * * make propaganda for the Western countries and advocate capitalism." Qaddafi has openly given large sums to the Marxist terrorist Irish Republican Army—IRA—and to Marxist and nationalist terrorists in the Philippines, Eritrea, and several European countries. He backs the opponents of anti-Qaddafi governments in

Morocco, Tunisia, the Sudan, and Egypt, financing repeated coup attempts.

Qaddafi runs training camps for the Marxist Popular Front for the Liberation of Palestine—PFLP—as well as an "R. & R." spa on the Mediterranean frequented by Black September veterans, members of the Japanese Red Army—the group responsible for the Lod Airport massacre carried out on behalf of the PFLP, and by the notorious Soviet-trained terrorist Ilych Ramirez Sanches known best in the press as "Carlos the Jackel." It will be recalled that when "Carlos" cover was blown in Paris, he was working under Cuban case officers with the PFLP to assassinate prominent Jewish leaders in England and France.

The PFLP's Rejectionist Front has training centers in the People's Democratic Republic of Yemen—PDRY—and Iraq which are also well-known to Ilych Ramirez Sanchez. No doubt his native Spanish language is convenient in PDRY since cadre from the Puerto Rican Socialist Party—PSP—are being sent there by the Cubans for terrorist training.

The European sections of the U.S. Labor Party maintain mailing addresses in Canada, Mexico, West Germany, Denmark, Italy, Belgium, Sweden, and maintain "press service" offices in France, Venezuela, Peru, Colombia, West Germany, and Italy.

Linkage between the promoters and organizers of international terrorism and these small, but internationally active revolutionary groups may pose a threat far in excess of the numbers of persons involved.

Congress needs an Internal Security Committee to investigate the extent of the threat posed and to recommend appropriate legislation to cope with the problem. Lacking an Internal Security Committee to which to refer these developments, I am asking the executive branch agencies to investigate this matter for possible violations of existing Federal law.

LIFETIME OF ACHIEVEMENT

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. APPLEGATE. Mr. Speaker, I would like to bring to the attention of the House of Representatives today a constituent of mine who has demonstrated his dedication and servitude to Tuscarawas County, Ohio. On his 74th birthday, August 10, 1977, Mr. Henry C. Spring will receive the Lifetime of Achievement and Service to the Community Award. I might add, it is an award well deserved.

Henry Spring's early years were spent working in various church groups. During this time, he developed an interest in the history of the Tuscarawas Valley and of early Ohio. He combined his interest in church work with a campaign to promote the historic, cultural, and scenic attributes of the northeast section of Ohio. In 1926, at the early age of 23, Mr. Spring was named to the board of directors of the Indian Village Federal Savings and Loan Association, a bank that he would be elected president of 21 years later and serve in that capacity for going on 30 years now.

As the Ohio representative at the World Christian Endeavor Society meeting held in Berlin, Germany, in 1930, he spread the story of Ohio and encouraged many to visit.

In 1946, Mr. Spring called the first meeting and helped organize the Twin City Chamber of Commerce and served as first president of the chamber. This group, in 1968, elected him man of the year.

Besides being a civic leader, businessman, and banker, Mr. Spring found time to work extensively with the Boy Scouts and has lectured to hundreds of young people about their heritage and the values of our American way of life.

Through his life, he has exhibited drive, dedication, hard work, character, and high ethics in his work for the betterment of the community. Henry Spring has provided an example to our youth in the finest tradition.

On behalf of Tuscarawas County and the 18th district, I would like to give due recognition to Mr. Spring, a man of priceless qualities, which unrelated to his office or station in life, has enriched our relationship with one another.

RELIEF LEGISLATION IN THE CASE OF MRS. ANNE C. PATTERSON

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. NIX. Mr. Speaker, Mr. John S. Patterson was a young, U.S. Foreign Service officer from Philadelphia who was kidnaped and killed in Mexico while stationed there. At least some of his killers were tried and convicted in San Diego, Calif., after being apprehended in that city.

Mrs. Anne C. Patterson, his mother, is a school teacher in Philadelphia. She had to bear expenses resulting from the trip of family members to Mexico to identify Mr. Patterson's body, as well as the expenses of two daughters who accompanied her to the trial site in San Diego at the request of the U.S. Attorney.

Mrs. Patterson claimed $1,200 on her 1976 income tax for these expenses. The deduction was denied by the Internal Revenue Service.

I will introduce legislation which would compensate Mrs. Patterson to the extent of $1,200.

My bill would overcome the rigidity of the tax laws by paying a small amount of money to see that justice is done in this minute way to the mother of a distinguished young man who died in his country's service.

I regard this legislation as a way to deal fairly with Mrs. Patterson who has given so much. I hope that my colleagues will agree with me and enact this legislation.

STEEL EXECUTIVE EXPLAINS INTERNATIONAL TRADE DILEMMA

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. GAYDOS. Mr. Speaker, on many occasions in the past I have talked about the predatory practices of foreign manufacturers who do not adhere to the concept of free trade and fair trade in their dealings with the United States.

Therefore, I was most interested in a recent speech by Mr. Lewis W. Foy, chairman of Bethlehem Steel Corp., which explored this subject in great deal. I am inserting it into the RECORD for the attention of my colleagues. I believe they will find it interesting as well as informative:

NO FOOLING!

About five years ago my predecessor as Bethlehem's Chairman, Stewart S. Cort, warned American steel users against relying too much on imports of foreign steel. He told them what would happen if our own domestic industry wasn't able to expand enough to meet the nation's needs for steel products.

For one thing, he pointed out that when things get tight, foreign steelmakers are going to look out for their own domestic customers. Here's what he said: "If you expect them to take care of you when their own home markets are in short supply, you're whistling in the wind."

Mr. Cort was right. During the steel shortage in 1973 and 1974, a lot of steel users were left high and dry by their offshore suppliers. Exports from the European Community to the U.S. dropped from 32 percent of their production in 1972 to less than 19 percent in 1974. Exports from Japan fell from 27 percent of production in 1972 to just 18 percent in 1974. In other words, when the crunch comes along, they take care of their own domestic customers, and that shouldn't surprise us a bit.

The only thing American buyers could do in 1973 and 1974 was "whistle in the wind." Companies like mine did what we could; we worked full-out, but it wasn't good enough. There was a fierce crunch. And that crunch had a terrific impact on the prices of whatever foreign-made steel was available, precisely as Stew Cort predicted.

What he said was this: "Everyone here who has bought foreign steel knows how widely prices can fluctuate. What could you expect if you were completely at their mercy?" Again, Mr. Cort hit the bull's-eye. Listen to this: American steel buyers had to pay premiums of as much as $100, sometimes $200 a ton over domestic prices. In total, they paid an estimated $1.6 billion in premiums for foreign steel products in that one year alone, 1974.

THE FUTURE THREAT

In those days things were bad, all right, but they could get worse. Steel imports could go as high as 30 percent of the domestic market, according to a current study by the American Iron and Steel Institute.

I'd like you to think about that for a moment. Suppose imports were grabbing off 30 percent of the market, and then along came another worldwide boom. Suppose another shortage developed. It could happen, just as it happened a few years ago. According to that study I mentioned, American firms buying foreign steel might have to pay $6 billion in premiums alone; $6 billion! That's bigger than the total U.S. trade deficit last year.

So, if it's occurred to you that this is special-interest pleading, that I'm burdening

you with my problems, I hope you'll think again. Because if you need steel, if you use steel, if you buy steel, you simply can't afford to rely too much on foreign suppliers.

There are additional considerations. Every million tons of foreign steel imports mean about 5,000 fewer direct steelmaking jobs for American workers. About 60,000 direct steelmaking jobs were lost last year, when our economy sorely needed those jobs. And I've only been talking about direct jobs. When you add in the ancillary or supporting jobs, the numbers go a lot higher.

As bad as it is, this situation could get a lot worse in the years ahead. If imports ever captured 30 percent of the market, we could be talking about another 60,000 or more lost jobs!

So, I think there's a very strong case for making sure it never happens; never let our nation depend too much on unreliable foreign sources of steel products. I can assure you that every other steelmaking nation in the world fiercely and jealously aids and protects its own domestic steelmaking capability.

"FREE—IF FAIR"

It isn't an open-and-shut case of slapping on quotas or raising tariffs, just because our industry is taking it on the chin. The American steel industry is not "protectionist." I repeat: The American steel industry is not "protectionist." We believe strongly in free trade, as long as it's fair trade, and this is well known and understood all over the world. Compared to most other nations you could name, the U.S.A. is Caspar Milquetoast when it comes to shielding our own industries from the heat of global competition.

What's more, we fully realize that "trade" runs both ways. Millions of tons of American-made steels are exported every year in the shape of manufactured products. As Fred Bergsten has pointed out, a third of the earnings of American industry comes from trade; one out of every five or six American workers produces goods for export; and one out of every three acres of American farmland grows products to be sent overseas.

I'd hate to try operating a steel company without raw materials imported from abroad—iron ore, manganese, oil—it's a long shopping list.

What's the outlook? I can tell you that the view overseas isn't good. It isn't good at all. A lot of countries in Europe, Asia, and Africa are in danger of going down the slippery slope of protectionism. I hope our country will exercise a moderating influence, and I mean that sincerely.

The U.S. market is, after all, the biggest and richest market in the world, and that gives us a lot of leverage. Let's use that leverage effectively.

FIVE REALITIES

As I see it, there are at least five realities, facts of life about trade, that we've got to face up to.

First, our country believes in foreign trade. All Americans benefit from it. We benefit from imports, and we benefit from our own exports. You can't have one without the other.

Second, at the same time we encourage trade, let's not forget that some domestic industries can be grievously damaged if imports get out of hand. It's bad enough for industries such as textiles, shoes, color television, and hockey sticks, but with steel—a basic material that's indispensable to the whole economy—there are profound questions involved.

Third, let's never forget how other countries look at these things. Let's not forget that for a long time the U.S. has been the leader in pushing for freer trade as long as it's fair trade, and for a general, mutual lowering of trade barriers.

Fourth, let's not ignore the distinction between fair trade practices, on the one hand, and predatory practices on the other. For example, "dumping" is by definition an illegal practice, but it goes on all the time. The problem is that it's hard to prove, and a lot of damage is done before you can get an official ruling.

It's clear that American steel users know what's going on. Back in February, the president of a large fabricator here in Chicago said that foreign producers were offering flat-rolled coils "at prices below the cost of production of any mill in the world." My information is that he's dead right about that.

The International Trade Commission found dumping of specialty steels. That's the only reason quotas were imposed, and it was about time. The ITC has ruled there was dumping of color television sets. Let's understand that dumping is a special case. It has to be stopped.

Fifth—and this is a situation that applies with particular force to steel—it isn't reasonable or fair to expect privately owned domestic companies to be able to compete on even terms with foreign competitors that get a lot of help from their own governments; that don't have the same pressures we do to earn a profit or generate capital.

I've said time and again that my company and most other domestic steelmakers can compete with offshore competitors as long as they're pricing their products in line with full costs, and without government subsidies or other substantial aid and favors that shield them from the financial consequences of marginal cost pricing.

EVIDENCE OF GOVERNMENT AID

Let's look at what's going on overseas. And to rule out my own prejudices, I'll refer to a reliable and unbiased source of information, a major article in The Economist of London, February 12th.

In Great Britain, where British Steel Corporation is already owned by the government, the government has financed a $140-million stockpile of steel products, just to bolster the company's operating rate.

France? "The industry has enormous debts to the government—roughly equal to last year's total turnover—and for many years has been more or less under state control. And last December, the industry asked the French government for $600 million to cope with the recession."

In Belgium, "The companies are losing money fast and are begging for government hand-outs."

The Swedish government has been financing another stockpile deal, and it's well known that the government has been pouring investment capital into the steel industry for years.

And even in West Germany, which comes closest to our own idea of private enterprise, the government is helping out by picking up part of the tab for laid-off workers.

Tough times for European steel have triggered government-backed measures that are almost incomprehensive by our standards. From the Economist: "The European Community's steel industry has a legalized cartel, 'Eurofer,' and the commission's market-sharing Simonet plan to help it through the crisis."

One way that cartel has been helping Common Market steelmakers is by negotiating with the Japanese cartel. Again, from The Economist: "Backed by Eurofer, the commission has already persuaded the Japanese to increase exports to the EEC in 1977."

As for Japan, Business Week put it bluntly a few weeks ago. "Among the great trading powers," they said, "Japan is undoubtedly the most protectionist."

What I'm saying is that just about everybody else is playing a different game than we are, and by different rules. And no matter how you slice it, the effect is that private American steel companies are up against foreign companies that are owned, subsidized, financed, or protected by their own governments, that don't have to earn a profit and don't have to generate their own capital.

The least we can ask for is a fair deal from our own government. And all I'm asking for is a chance to compete on fair and equal terms here in our own country, in a way that in the long run can only benefit all Americans.

HELP WANTED!

Why am I telling you all this? Because we need your support; because we want your support; and because we think we deserve your support.

Support for what?

First, if you're connected with a firm that buys foreign-made steel, or is only weighing the possibility of buying foreign steel, I hope you'll re-consider. That may sound as if I'm asking a lot, but it isn't suggesting any more than that you think about your own long-range self-interest. I'll repeat what I said earlier: Foreign suppliers turned coy in 1973 and 1974, and American firms paid whopping big premiums for what foreign steel was available. Your best insurance in the long run is a healthy domestic steel industry, expanding to keep pace with the growth of domestic demand,

Second, if you're with us all the way, I hope you'll tell your member of Congress and your Senators. Write to them; talk to them; and better yet, write to them and talk to them! Just let them know that you're aware that a lot of the foreign competition in the American steel market is unfair competition, at least by my definition of what's fair and what isn't, and a lot of damage is being done.

At Bethlehem Steel—and I'm sure it's true of other steel companies—we've put our own organizations through the wringer. I personally supervised a corporate-wide cost-reduction program that produced gratifying results, and controlling costs is virtually an obsession with us, every hour of every day. We've just gone through a force-reduction program, mainly relying on attrition to prune personnel from the payroll. Again, we achieved a lot, and that program, too, is continuing.

Those are just the highlights. We're doing everything humanly possible to help ourselves. We're pulling out all stops to be as efficient as possible, and I don't mind telling you that my company ranks high on the list of the world's most efficient steel producers. I wouldn't ask you to help an industry that doesn't first help itself.

We can compete here in the United States with any steel producers as long as it's a fair fight, but it isn't a "fair fight."

That's why we need and I think deserve your support. I hope you'll help us.

ARE BREEDERS AN ENDANGERED SPECIES?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. BROWN of California. Mr. Speaker, due to the current interest in breeders in the Congress, I would like to insert the following statement into the RECORD giving the position of the U.S. Fish and Wildlife Service:

RED TAPE CUT FOR BREEDERS OF ENDANGERED SPECIES

Zoos, game bird breeders, and other persons who breed and raise endangered species in captivity can now buy and sell certain

of these animals in foreign and interstate commerce under a new rulemaking issued by Interior's U.S. Fish and Wildlife Service, Associate Director Keith M. Schreiner, announced today.

The regulations, published in the June 1, 1977, Federal Register, relax restrictions and permit procedures for qualified breeders of endangered species which are designated as captive, self-sustaining populations (CSSP's). The rulemaking determines that 11 endangered species of large cats, birds, and primates exist in this country as stable, separate populations from the wild, capable of perpetuating themselves in captivity. These captive populations, which are now classified as threatened, include the tiger, leopard, jaguar, ring-tailed lemur, black lemur, brown eared pheasant, Edward's pheasant, Humes pheasant (bar-tailed pheasant), Mikad pheasant, Palawan peacock pheasant, and Swinhoe pheasant.

REMEMBRANCE OF POZNAN

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. FARY. Mr. Speaker, many of us here remember 21 years ago today when the newspaper headlines told of the workers' revolt at Poznan, Poland.

Poland never fully acquiested to communism. Despite many attempts to win over the non-Communist population of Poland, the Polish Communist Party failed to sell its economic policies to their people.

By 1956 the strong grip of the Soviet Union over Poland was slipping. The puppet regime in Poland was momentarily cooling its relations with Moscow. The enforced low standard of living did not go over well with the Polish people.

A 2-day revolt of the workers of the Cegielski factory dramatized the rising discontent among the Polish workers. A long simmering dispute with the regime's representatives over declining wages was causing unrest. There was a food shortage, especially bread, and circumstances became ripe for a revolt. The workers took to the streets of Poznan.

The factory workers, joined by students, went marching to the chant of "We want bread."

The workers' demands soon became clear—free elections, ouster of the Russians from their homeland, protected working conditions, and the "bread and living wages" issue.

The civil authorities called out the troops to put down the rebelling workers and to restore order. To the surprise of everyone, the first troops reportedly helped the rioting workers attack the security police headquarters. Other soldiers were reported to have turned their rifles over to, not on, the demonstrators.

Before the Soviet troops put down the Poznan workers' revolt, hundreds of people were injured, and between 200 to 300 others lost their lives. There were mass arrests which resulted in mass trials.

This 2-day revolt in Poznan dramatized the rising discontent in 1956 of the Polish workers with the Communist way of life. Ironically, one Polish Communist official was reported in the press as saying that "Poznan shook the conscience of every honest man."

Mr. Speaker, on this anniversary of the Poznan workers' revolt, I wish to pay tribute to our Polish brothers and sisters here in the United States and at home in Poland. The dream of the Polish people of a homeland free to choose its own way of life and determine its own future did not die at Poznan. Rather, the sacrifices made on the streets of Poznan served only to strengthen that dream and determination.

COUNCIL OF EUROPE ON HUMAN RIGHTS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. FRASER. Mr. Speaker, you recently authorized a small delegation to attend the debate on the Helsinki Final Act and the Belgrade Conference, now underway, which was held by the Parliamentary Assembly of the Council of Europe in Strasbourg, France on April 28–29. I attended these sessions together with my colleagues, the gentleman from Connecticut (Mr. DODD), from Iowa (Mr. HARKIN) and from Pennsylvania (Mr. WALGREN).

The delegation thought that our colleagues would like to read the following report we made to you after our trip. We believe our attendance was important to help demonstrate a solidarity on the issues to be discussed at Belgrade with the parliamentarians from the 19 democracies of Europe which comprise the Council of Europe's assembly:

The report follows:

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to your appointment, the undersigned attended the Parliamentary Assembly of the Council of Europe on April 28 and 29 in Strasbourg, France. We took part in the discussion concerning the implementation of the Helsinki Final Act and the preparations for the Belgrade meeting later this year which will review the Final Act and the progress made in carrying out its provisions.

Our attendance provided an important opportunity for us to discuss these major international issues with our parliamentary colleagues from Europe. The European participants from the 19 democracies of Western Europe were favorably impressed, we believe, by the interest of the U.S. Congress in these issues as evidenced by our presence.

The discussion was based in part on the reports of the nine Assembly committees which we found to be carefully drafted and of a very high quality. While the reports covered all three "baskets" of the Final Act, the discussion was focused largely on the "third basket," which encompasses the human rights provisions.

The Political Affairs Committee report carefully reviewed developments in both East and West since August 1975 when the Final Act of Helsinki was signed. The report ended with an eloquent plea that Helsinki not be used simply to try to prove that the communist world is worse than the West in the observance of human rights. Rather, it proposed that the debate over Helsinki should also inspire the West to improve its own performance both at home and abroad:

"The Western democracies can equally well impel their 'partners' in Africa, Asia and Latin America toward democracy as towards dictatorship. If they want, they can, under the impetus of the new President of the United States, oblige these countries to have more respect for human rights. In so doing, they would increase the West's chances in the competition with the true values of human rights in particular."

The same report urged President Carter (whose emphasis on human rights observance had obviously made an important impression in Europe) to "pursue a moral policy of this kind through the world—in respect of the East-European countries as well as America's allies such as South Korea, in Southern Africa as well as in Latin America, an area where Washington exercises much greater responsibility than in relation to the situation in Eastern Europe."

The Draft Recommendation of the Political Committee, adopted by the entire Assembly on the final day, calls for "beginning a dialogue, in a spirit of constructive cooperation, between politicians of all the signatory states (of the Helsinki Final Act) on questions relating to security and to the various areas of cooperation in Europe."

We have quoted from this committee report and its Draft Recommendation to indicate the serious tenor of the debates. We have included the Draft Recommendation as an attachment.

We are convinced that the issues raised by the original Final Act of Helsinki should engage the serious attention of parliamentarians of all democracies for some time to come. There is already an effort by the President of the Parliamentary Assembly to involve members of Eastern European parliaments in future discussions on the meaning of Helsinki, particularly on human rights matters. We consider these initiatives important even though such parliaments from single-party political systems bear little resemblance to the parliaments of the Western democracies. Within the single-party states of Eastern Europe, the message of Helsinki has made a striking impression. The Charter 77 group in Czechoslovakia, for example, has courageously and publicly sought expanded civil rights for Czechs, citing the Helsinki Act as obliging the Czech government to allow the exercise of these rights.

Obviously, it would be imprudent for the West to try to pinion Eastern European parliamentarians between their own governments' reactive tendencies and their constituents' heightened human rights aspirations. But the parliaments of the Eastern European countries can be encouraged through East-West meetings to understand and perhaps to begin to identify with these aspirations.

Our own contribution to the Strasbourg debates included some general observations on the issue of human rights and the importance of international cooperation on this matter, a summary of the current interest of President Carter and of the Congress in human rights, a review of the extent of compliance with the Final Act of Helsinki which has been elicited from the Eastern European countries in the field of human contacts, and a description of the work of the Commission on Security and Cooperation in Europe, chaired by Congressman Fascell, which the Congress established last year.

The Parliamentary Assembly of the Council of Europe regards American participation as highly important. This is the fourth consecutive year of such participation after an unfortunate gap of three years (1969–1972) when there was no U.S. representation.

We believe strongly that Congress, or at

least the House of Representatives, should continue to send small Congressional delegations to the Council of Europe debates when, as in the case of human rights or the annual debate on OECD, matters important to the United States are considered.

We appreciate your confidence in us as reflected in your authorization for us to travel and participate in the Strasbourg meeting. We especially appreciate the work of the staff in making the necessary arrangements for our participation.

Sincerely,

TOM HARKIN,
DOUG WALGREN,
CHRISTOPHER J. DODD,
DONALD M. FRASER.

NO TO THE CONSUMER PROTECTION AGENCY

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. BAUMAN. Mr. Speaker, one might think, given the already bewildering array of Federal agencies charged with the responsibility of protecting the consumers of the Nation, that there is no need for the so-called Consumer Protection Agency. Yet the Naderites, ever watchful for another opportunity to pass legislation that will provide Government jobs for those of their ilk, keep hounding the Congress to pass a new bill.

The editorialist for WBOC-TV in Salisbury, Md., recently ran a three-part series of editorials dealing with reasons why this new consumer proposal should be rejected. The series is one of the finest explanations of this issue that I have encountered in the long debate over how best to protect the American consumer and I commend it to the attention of my colleagues.

CONSUMER PROTECTION AGENCY

PART 1

There is a renewed effort in Congress to pass legislation creating a new consumer protection agency . . . which would at best be another level of federal bureaucracy. We strongly feel, in the best interest of the business community, that we should oppose this legislation, which apparently will reach the floor this month.

The legislation would empower the administrator of the agency to intervene, virtually at his discretion, in the activities of every department, agency or independent establishment in the executive branch.

Leon Jaworski, the former Watergate special prosecutor, had this to say before the House Committee: "If the agency were to function as it is conceived, the power of the administrator could not be checked by the President. Neither Congress nor the judiciary could provide an effective balance against the activities of the agency."

Two years ago, that old country lawyer from North Carolina, Senator Sam Erwin said: "this bill is roughly parallel to decreeing that all marriages should be made by matching federal computer readouts . . . or that the government should issue a daily menu which all families would be expected to implement at meal time."

There is no mistaking the views of these two legal experts, and we suspect consumers generally agree. We'll have more to say on this subject in our next commentary. Until then, we urge the business community to make its views known to your representatives in Congress . . . both House and Senate. If you can't remember Senate Bill 1262, or House Bill 6805, simply advise them of your strong opposition to legislation designed to create a new consumer protection agency. This is the critical month.

PART 2

In yesterday's commentary we urged the business community to contact their representatives in Congress, urging them to vote against the Consumer Protection Agency legislation. The Opinion Research Corporation poll notes that American consumers are opposed to it—75 percent to 25 percent—and when those who did favor it learned that operation of such an agency would cost at least 60 million dollars for the first three years, 50 percent withdrew their endorsement.

We have noted that Leon Jaworski pinpointed the serious risk involved in giving any one person such great power as that expected to be given to the administrator of the new agency. Senator Sam Ervin emphasized the arrogant idea of attempting to institutionalize the personal interests of all American consumers.

The Washington Star recently noted editorially: "It is designed to create a super agency—a watchdog over watchdogs—insinuating itself into the business of every other agency and telling them what to do. There are enough agencies in Washington which are supposed to look out for the public interest—there's no need of another Nader-esque super-watchdog unit."

Tomorrow, in our final commentary on the subject of the Consumer Protection Agency, we'll cite four specific reasons why this legislation will, in our opinion, be harmful to the business community and to you, the consumer. In the meantime we again urge you to contact your representatives in Washington—both House and Senate—and make them aware of your opposition to the creation of this agency. The measure should reach the floor both Houses this month. Now's the time to make your voice heard.

PART 3

In this final commentary opposing legislation designed to create a new Consumer Protection Agency, we cite four specific reasons.

1. It would mean another layer of federal bureaucracy at a time when people are fed up with excessive government intervention.

2. If existing agencies are not adequately representing our interests, the logical solution is to improve their operation, not impose a new super agency over them.

3. While the agency will cost only 60 million in the first three years, it will become a bigger drain on the taxpayers later, for government agencies always get bigger—never smaller.

4. The agency is expected to advance consumer interests, yet it prohibits any intervention in union matters before the National Labor Relations Board, even though wage demands and work restrictions affect consumer prices. This loophole was provided solely to gain union support for the bill—and it tends to confirm that the agency's objectives will be more anti-business than pro-consumer.

We don't consider Ralph Nader a genius, but if he is, we're still inclined to think that we have quite enough of them in Washington already. The Consumer Protection Agency measure should be on the floor of both Houses of Congress this month—and now is the time for the business community to make its opposition known to all Congressmen and Senators.

They might ignore a trickle of opposition—but they will not likely ignore a mass protest from the business community. And to make sure that we bury Mr. Nader's latest dream once and for all, that's what it will take to do the job.

ALASKAN NATURAL GAS: PART IV—CANADIAN NATIONALISM

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. MURTHA. Mr. Speaker, Mr Walter Annenberg has for many years been an incisive spokesman on a number of problems involving the United States.

In a recent article, he outlined very well the problems that growing Canadian nationalism may pose for completion of any natural gas pipeline through Canada. As with all the information I have submitted in this series, I believe Mr. Annenberg highlights a key point which must be considered in the debate later this year on the transmission of Alaskan natural gas reserves.

I would like to enclose the article for the RECORD:

NEWS WATCH—HOW SECURE IS A PIPELINE THROUGH CANADA?

(By Walter H. Annenberg)

Apparently the Federal Power Commission is not aware of Canada's burgeoning nationalism, a nationalism that started as a commendable effort to encourage distinctive Canadian culture and resulted in economic war against American business.

Publications based in the United States have been all but banned in Canada by laws specifically designed to make it impossible for them to operate there. American broadcasters are harassed by regulations and practices that can be described only as acts of an unfriendly nation.

Yet when the Federal Power Commission (FPC) had to decide whether to bring Alaskan gas to the 48 lower states via a pipeline across Canada or in tankers, it opted for the Canadian pipeline. Reportedly, the decision was influenced by the assertion that the pipeline would be less environmentally damaging than the sea route.

Such a parochial approach is unworthy of the FPC's responsibility to the citizens of this country. It is, in view of the Canadian government's determination to separate itself from the United States, at very least shortsighted. We are placing one of our energy lifelines under direct control of a less-than-friendly government. Should the trend of Canadian nationalism continue in its present direction, the FPC would be helping place in the hands of an unfriendly power a gun to hold against the heads of American citizens.

How unfriendly is the Canadian government? I speak from personal experience, which is why I am taking the rather unusual step of speaking out in this space on a subject that only peripherally concerns television. It is an experience I shared with other American publishers when the Canadian Parliament passed an act making it illegal for Canadian advertisers to deduct advertising in American-owned magazines as a legitimate business expense. This act effectively cut off Canadian advertising to American publications directed to the Canadian audience. TV Guide was fortunate to find a distinguished young French-Canadian executive who organized a group to buy our eight Canadian editions. Time magazine simply discontinued its Canadian edition. Reader's Digest has had to develop a device, including substantial Canadian ownership to continue publishing there.

American television has felt similar blows. Although Canadians have clearly shown their preference for American programs, Canadian regulations provide that 60 per cent of the

programs carried by the government-controlled Canadian Broadcasting Corporation (CBC) and by the other two networks must be Canadian. Most of Canada's population live close to the American border and can receive American stations as well as Canadian ones, thus they can watch an American network show from a station in, say, Buffalo, or from a station in Toronto that carries the same show via CBC.

CBC, however, insists in many cases that the network show be made available to its audience several days before the show is broadcast by the American network. This unfair advantage prompts Canadians to watch the Toronto station rather than Buffalo's.

Cable systems are quite important in Canada, one reason being the Canadians are so fond of American programming. This bothers the government in Ottawa, which doesn't like the idea of its citizens being exposed to so much American television culture—and so many American commercials. It therefore encouraged cable systems there to drop some commercials from the American programs and substitute Canadian promotions. Most cable systems are doing this (a few used to drop in Canadian commercials occasionally), but the furor from American broadcasters was so great that the new cable system doesn't have to delete American commercials.

In limiting tax-deductible expenses, American law restricts the number of conventions an American company may hold, and the number of convention trips an individual may take outside the U.S. This has reduced the Canadian income from conventions and the Canadians want the restrictions lifted. America broadcasters suggested that such a change be contingent upon a Canadian promise to stop harassing them, but neither the Canadians or Congress would go along.

How much Canadian harboring of draft dodgers and deserters during the Vietnam War period has contributed toward the anti-American attitude there is not measurable. But the anti-Americanism is evident, especially in government action and government-sanctioned actions. It should be possible to encourage Canadian contributions to the arts and a unique Canadian culture without using the United States as a scapegoat.

It is obviously to be hoped that the current Canadian attitude toward the United States, at least the attitude of the Canadian government, will give way to the friendly cooperation and interchange that once existed between our two nations. At this point, however, that is only a hope and we cannot dismiss the possibility—however remote—that matters will get worse instead of better.

That is the possibility that makes it imperative to act with extreme caution in the matter of planning to bring vital natural gas from Alaskan fields to the lower states. President Carter is to make the final decision by Dec. 1 concerning the means to make available Alaska's Prudhoe Bay reserve of some 20 trillion cubic feet of gas, enough to provide 5 percent of our consumption for 25 years. Two pipeline routes now favored by the FPC would each cost about $6.7 billion.

A third route involves a pipeline from Prudhoe Bay south to the Alaskan coast and then having the gas—by then liquified—transported by tanker to West Coast ports. The all-pipeline routes, environmentalists and the FPC say, are more reliable and less environmentally damaging.

The FPC and the environmentalists may have studied the matter carefully, but it is evident from the naive conclusion they reached that they gave little if any deliberation to the serious and immediate problem of the political situation in Canada and that nation's growing antagonism—well-displayed antagonism—toward the United States.

Unless there is a clear and immediate danger to the environment, or there is some recent development that makes tankers carrying liquified gas—as they have done safely for many years—suddenly less reliable than they always have been, we believe the FPC recommendation to the President should be reconsidered.

We already have an oil pipeline crossing Alaska to ports where the oil is to be shipped south. Why not a gas transportation system paralleling that?

Whatever Canada's real—or imagined—differences with the United States, every effort must be made to regain our former friendly, easy relationship. Until that goal is reached, however, the United States cannot permit itself to be vulnerable to the whims of a government that has acted less than responsibly toward us.

Our safest course would seem to be the prudent one, and that is the course that avoids placing 5 percent of our natural gas supply under what amounts to foreign control.

THE WATERWAYS CHARGE, A TOOL OF DESTRUCTION

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. GAYDOS. Mr. Speaker, the Carter administration has made it known it favors imposing an additional tax, charge, fee—call it by whatever name you will—upon users of the Nation's inland waterways system.

I want it known I will oppose this tax in every way possible. I believe it to be a tool of destruction. A measure which will destroy the economic base of many communities which contributed substantially to the development of this Nation. It will create havoc among industries which use the rivers and despair among thousands of families employed by those industries.

The 20th Congressional District of Pennsylvania, which I represent, is highly dependent upon river transportation. One river alone, the Monongahela, carries more than 24 million tons of coal a year to mills and powerplants along its banks. Nearly 80,000 jobs are keyed to shipments of products by river. Land transportation is not available. And, if it were, it is not feasible.

One plant, Clairton Works of United States Steel Corp., requires 25–27 barges to satisfy its daily need for coal. In comparison, it would take—if they were available—385 railroad cars or more than 1,000 trucks to do the same job.

It has been estimated that waterway shipping rates would increase 50 percent if a user charge were enacted. Unquestionably, that would boost the cost of doing business for our industries and the cost of living for our people.

Mr. Speaker, William H. Wylie, business editor for the Pittsburgh Press, recently wrote an article about the importance of the waterways to western Pennsylvania. I would like to insert his article into the RECORD and urge my colleagues to read it and judge for themselves if the Carter administration's proposed waterways tax is not, in reality, a tool of destruction.

MON IS CLAIRTON WORKS' LIFELINE; WATER USER CHARGE CALLED THREAT

(By William H. Wylie)

About a mile above the Elizabeth Bridge across the Monongahela River there's a stretch of eroding concrete and machinery that dramatizes Pittsburgh's stake in the water user tax debate.

Better known as Lock No. 3, this vital passageway permits 24 million tons of coal to move up and down the river annually to district mills and power plants.

King of all coal customers is U.S. Steel's Clairton Works, which stretches about 2½ miles along the banks of the Mon some distance below Lock 3. Robert E. Scatterday, president of the Waterways Association of Pittsburgh, said the cokemaking complex is the biggest coal user on American rivers.

Robert L. Walls, Clairton Works general superintendent, told a reporter the plant consumes 27,000 tons of coal a day, or about 9.5 million tons a year. Roughly half is shipped through Lock 3 from mines upriver, he said.

Also dependent on Lock 3 for 5 million to 6 million tons of coal a year are Jones & Laughlin Steel Corp. plants at Hazelwood and Aliquippa.

Other big users of the lock are consolidation Coal Co. and Weirton Steel division of National Steel Corp. George Douglas, manager of Consol's barge operations, said his company moves 5 million tons of coal through the locks to market each year. It is estimated Weirton Steel gets about 2 million tons from mines upriver.

Industry cites these statistics to argue that a water user charge would boost shipping costs and put the region's steel industry at a competitive disadvantage.

Arthur Brosius, vice president of Union Mechling Co., the barge line owned by Dravo Corp., predicted waterway shipping rates would increase 50 percent if a user charge were enacted.

Clairton Works Chief Walls pointed out that his plant receives all of its coal by barge. There are no provisions for shipping it in by rail or truck.

Even if land transportation were available, it's doubtful if it would be feasible, he said. While between 25 and 27 barges satisfy the plant's daily appetite for coal, 385 railroad cars or more than 1,000 trucks would be required to do the job, he explained.

"About 9½ million tons of annual steel production depends on coke and gas from Clairton," Walls said. Or, looking at it another way, about 58,000 jobs at U.S. Steel hang in the balance, he continued.

That doesn't include 14,000 jobs at J&L plants and 5,000 jobs at Weirton whose existence is keyed to coal that moves through Lock No. 3.

Support for the user tax, which has been discussed since the Franklin D. Roosevelt administration, seems to center around railroads and environmentalists.

Railroads support the measure for the obvious reason that they are competing carriers. "Free use of the expensive waterway system is unfair to a majority of shippers dependent upon other transportation modes," a spokesman for the Western Railroad Association said.

He estimated the Army Corps of Engineers spends at least $400 million a year to maintain the inland waterways system. Other sources put the total federal outlay at a billion dollars annually.

The railroads say the $400 million proposed expansion of the dam and locks at Alton, Ill., whose antiquated facilities bottleneck river traffic, would cost railroads $383 million in annual revenue.

The railroads argue that there is nothing free about barge transportation, that rates

are cheap because the public subsidizes them.

"The result is that railroads pay 30 times more state and local taxes than barges do for every ton-mile of cargo moved," the rail spokesman declared.

Some environmentalists would like to see the user charge enacted because they believe it would provide revenue for badly needed water projects, mainly in the West.

Pittsburgh has its own version of the Alton problem at Lock 3 where the Army Engineers are spending $900,000 to patch it up. But Col. Max Janairo, Pittsburgh district, said the repairs are only temporary, that a $13 million replacement is needed.

Money—about $2 million—to get the job started is tied up in the congressional debate over waterways projects that President Carter has threatened to veto, Janairo said. The outcome is still uncertain. In the meantime, Janairo said he is hoping the patchup lasts until permanent improvements are made.

Before the debate ends, a water user tax of some kind stands a good chance of being passed, river industrialists say. This would impair Mr. Carter's plan to make coal the linchpin in the energy solution, they argue.

Incidentally, there are 22 power plants along the Ohio River between Pittsburgh and Cincinnati that use 11,000 tons of coal an hour. Virtually all of this fuel moves by water.

Whether a water user tax is right or wrong, its passage would boost the cost of doing business in the Pittsburgh region which is so heavily dependent on the rivers for transportation.

Arguing that the timing is very bad, foes of the tax contend it would have an adverse effect on the steel industry—the area's leading employer—which already has been stung by imports.

MS. JEWEL P. LIVINGSTON, EXECUTIVE DIRECTOR, ST. LOUIS OPPORTUNITIES INDUSTRIALIZATION CENTER: A GEM IN OUR COMMUNITY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. CLAY. Mr. Speaker, one of the great standard bearers for youth in my city of St. Louis, is Ms. Jewel P. Livingston, the executive director of the St. Louis Opportunity Industrialization Center—OIC. She, in conjunction with the national OIC office, were of great help to me in my evaluation of the Youth Employment and Demonstration Projects Act.

Through Ms. Livingston, the St. Louis OIC has consistently attempted to help people help themselves. Specifically, she strives to implement the laudable objectives of the national office of OIC.

First. To train or retrain millions of unemployed men and women with untapped talents and unknown skills.

Second. To involve the total community in the awareness of the value of preparation for employment, thereby stimulating and inspiring individuals to seek higher levels of productivity, creativity, and achievement.

Third. To develop among OIC trainees and associates a sense of increased economic security.

Fourth. To foster and nurture a sense of self-pride which will give trainees confidence in themselves and enable them to participate with dignity in the total society.

Fifth. To stimulate loyalty and pride in the community * * * a sense of brotherhood involving all religious, racial, cultural, economic, political, and other groups.

Sixth. To adapt the OIC training program to meet the challenge of changing technological advances and current needs.

Seventh. To develop an awareness of one's relationships and responsibilities to humanity, along with the ability to act in a constructive manner in the community, and the world. Hence, Opportunities Industrialization Center will seek to develop the whole person.

Ms. Livingston is to be commended for her wonderful work, through OIC, in helping the unemployed of St. Louis.

PROPOSAL TO LIMIT YEARS OF SERVICE IN HOUSE AND SENATE

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. HILLIS. Mr. Speaker, today I have introduced a joint resolution proposing an amendment to the Constitution limiting the number of years of individual service in the Congress. Specifically, my resolution limits total individual service to 12 years in the House, 12 years in the Senate, and a combination of 18 years in the House and Senate. By limiting the number of years any individual can serve, we would effect a change away from the view of Members of Congress as politicians to the view of Members as true representatives of the people. Limited years of service would encourage the influx of new opinions through a continual stream of newly elected individuals as opposed to the problems associated with entrenchment in Washington.

Many changes have occurred since I was first elected to serve in the 92d Congress. From 1971 to 1977, the average age of Members has decreased by nearly 5 years giving the Congress a nice mix of ages and ideas. I believe ratification of the provisions of my bill would help retain this balance. Adoption would also assure that those serving would be regularly stepping aside to allow others an opportunity to bring their ideas to the Congress. Such constant change would virtually guarantee that the Congress would be in touch with the people on all vital issues.

Variations on this resolution have been introduced this year. This shows that there is growing interest in the issue of limiting the length of service of Members. I believe the interest in this approach is great enough to require serious discussion in the Congress. I plan to reintroduce my resolution with cosponsors later this summer and will be circulating a notice to this effect. Should interest prove to be as high as I anticipate, I hope that time can be set aside to debate the merits of such an approach.

BISHOP JOHN NEUMANN OF PHILADELPHIA CANONIZED IN SOLEMN VATICAN RITES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. EILBERG. Mr. Speaker, on June 19, 1977, in solemn ceremonies at the Vatican in Rome, Pope Paul VI canonized Bishop John Neumann, the fourth bishop of Philadelphia, as the first American male saint.

Attending these ceremonies were a dozen planeloads of Philadelphians, headed by John Cardinal Krol, who presently is bishop of the Archdiocese of Philadelphia.

The Philadelphia Catholic Standard and Times carried a moving report of the colorful ceremonies, and I am inserting the text of this article in the RECORD as evidence of the widespread interest expressed in the city of Philadelphia over this singular event:

PHILADELPHIA GETS ITS SAINT—JOHN NEUMANN CANONIZED IN SOLEMN VATICAN RITES

(By John T. Muthig)

VATICAN CITY.—Pope Paul VI made Philadelphia's simple "little bishop" John Neumann, the United States' first male saint June 19 during solemn ceremonies outdoors in baroque St. Peter's Square.

As a crowd of about 30,000 (most of them Americans) sat in the hot Roman sun, Pope Paul praised Philadelphia's fourth bishop as the honor of all immigrants and . . . the symbol of Christian success."

The rites crowning 90 years of work on the Neumann cause were attended by more than 100 American cardinals and bishops, plus 12 planeloads of pilgrims from the Philadelphia area alone.

"Glory to the American people, a glory which is spiritual, religious, Christian, Catholic and very human," exclaimed Pope Paul as he spoke to the pilgrims from his apartment window after the Mass.

"The man we are honoring today was an emigrant who came not to find gold in the earth, but rather to spread throughout America, fabled for its riches, a gold which is more valuable—the gold of charity."

Bohemian-born John Neumann (1811–1860) arrived as an immigrant in New York in 1836. He worked in the Buffalo area and then, as a Redemptorist, in Pittsburgh and Baltimore.

Named bishop of Philadelphia in 1852, the small-sized bishop became known for his radical life of Christian charity, hard work and lack of pretention.

He set up America's first Catholic school system, founded the Sisters of the Third Order of St. Francis, promoted 40-Hours Devotion, and launched an extensive church building program.

Seated before a temporary, covered altar on the steps of St. Peter's, Pope Paul, 79, told Americans in his homily to preserve their Catholic schools and religious education programs.

Neumann, he said, "helped children to satisfy their need for truth, their need for Christian doctrine . . . Both by catechetical instruction and by promoting with relentless energy the Catholic school system in the U.S."

The saint, who was once considered boorish by Philadelphia high society, was "close to the sick, at home with the poor and a friend to sinners," said Pope Paul.

The Pope, vested in white and gold, said

that through his program of 40-Hours Devotion, John Neumann "helped his parishes become communities of faith and service."

As the chimes of St. Peter's struck 10 o'clock, many American pilgrims knelt on the hard cobblestones of St. Peter's Square while Pope Paul read in a full voice the solemn canonization formula:

"After having reflected for a long time and invoked divine aid, having obtained the counsel of many of our brother bishops, we declare and define that Blessed John Nepomucene Neumann is a saint."

Americans applauded warmly as John Neumann was officially proclaimed the third United States citizen to be canonized. (Italo-American St. Frances Cabrini was canonized in 1946. And in a ceremony similar to John Neumann's, St. Elizabeth Seton became a saint in 1975.)

Hundreds of Redemptorist Fathers, wearing the same type habit which John Neumann wore, were sprinkled through the crowd, which included many women with parasols and men who tied "handkerchief-cape" to their heads for protection against the strong sun.

Redemptorist Superior General Father Joseph Pfab and Redemptorist Cardinal Jose Clemente Maurer of Sucre, Bolivia, were among 10 prelates concelebrating with the Pope.

American bishops from dioceses whose history John Neumann touched also concelebrated with the Pontiff around the altar which was decorated with salmon-colored roses and garlands of red and yellow flowers. They are: Cardinal Krol, Terence Cardinal Cooke of New York, Archbishop William Borders of Baltimore, Bishop Vincent Leonard of Pittsburgh, and Bishop Joseph McShea of Allentown.

John Cardinal Cody of Chicago, a friend of Pope Paul since they worked together in the papal secretariat of state, was personally invited by the Pontiff to concelebrate.

Bishop Frantisek Tomasek, apostolic administrator of Prague, Czechoslovakia, also concelebrated, representing the Church of Bohemia where Neumann was born. Bishop Tomasek is in Rome to receive the red hat of a cardinal on June 27.

Only about 30 Czechoslovakians were given exit visas to attend the canonization of their native son, said a spokesman for the Czechoslovakian embassy in Rome.

The other concelebrant was former Redemptorist Superior General Bishop Tarcisio Amaral Aviovald of Limeira, Brazil.

A large banner portraying Neumann between the basilica which he built and Philadelphia's Independence Hall, flapped gently against the monumental facade as pilgrims carried offertory gifts to the Pope. The gifts were braided bread baked in Norristown, Pa., and wine from the New Jersey, Delaware, Pennsylvania area.

The state flowers of the three states—purple violets, peach blossoms and mountain laurel—were also offered in huge bouquets to the smiling Pope.

Birds are a traditional offering at canonizations. At this time, the Pope was presented with two ruffed grouse, Pennsylvania's state bird, in white cages.

As a symbol of Neumann's pioneer work with education and the modern Catholic school system, the Pope received a model of Bishop Neumann High School in Philadelphia.

Neumann's generosity to the needy was represented by a blue porcelain rice bowl and a cardboard "Operation Rice Bowl" container and a pair of tennis shoes and playclothes. Medicines, symbolic of Neumann's closeness to the sick, were given as was a token sum of money from Philadelphia's poor to be shared with the poor of the world.

After the Mass, Cardinal Krol gave the Pope a silver statue of Neumann touching the Liberty Bell. In its base was a relic of the saint.

Michael Flanigan, whose cure was accepted for the canonization in process, and his family met with the Pope during a brief private audience. Others who were received in audience were Philadelphians Mr. and Mrs. John Connolly and John McShane. Both McShane and Connolly have been known for their contributions to the Philadelphia archdiocese.

Richard Gardner, U.S. ambassador to Italy, attended the canonization in a private capacity. It was the first time that the new Carter appointee attended a papal function.

Philadelphia's mixed cathedral choir augmented the male voices of the Sistine and Julian papal choirs. At Communion, which was distributed by 200 priests mostly from Philadelphia, that city's choir sang "Gift of Finest Wheat," hymn of the Eucharist Congress.

KASTEN RESPONDS TO THE PLIGHT OF FIRST-TIME HOMEBUYERS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. STEIGER. Mr. Speaker, more family homes were resold in 1976 than in any other year in U.S. history. It is unfortunate but this encouraging news makes it easy for us to overlook a very discouraging fact about homeownership in today's inflated housing market.

The sad fact is, only about one-fourth of America's families can afford to buy the average new home at today's prices. To the first-time buyer the goal of owning a home is a luxury beyond one's means.

Congressman ROBERT KASTEN deserves credit for recognizing the homeownership problem and for proposing a plan to help the first-time buyer. His initiative, the Young Families Housing Act of 1977, was the subject of a Milwaukee TV editorial this month. As a good summary of the nationwide problem and Congressman KASTEN's effort, I include as part of my remarks the WITI–TV editorial by Carl Zimmerman:

[Editorial, June 16, 1977]

A HELP FOR FIRST-TIME HOME BUYERS

Talk with young newly-married people today and they'll tell you one of their biggest frustrations . . . they just can't afford the down payment for a new home. And it's no wonder. For the first time in history, the average new American home costs $51,600. That's 38 percent more than the price just three years ago. That puts the American dream of home ownership way out of reach for those who are first-time home buyers.

Congressman Robert Kasten is trying to come to their rescue. With his Young Families Housing Act he would make it possible for young couples to save up to $2,500 per year in an individual housing account. The money saved would be deductible for federal income tax purposes and the interest income would be tax-free. Also, once a home is purchased there'd be graduated monthly mortgage payments which would reduce payments during early years of a mortgage and increase gradually during later years. This would more closely correspond to a young family's income.

It's TV6's hope that Kasten will receive support for his Young Families Housing Act. Unless young couples inherit a bundle of money, a new home is just out of the question for them at today's inflated prices.

CBO STUDY SHOWS COST OF NATURAL GAS DEREGULATION TO EXCEED $80 BILLION

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. FRASER. Mr. Speaker, a new study by the Congressional Budget Office shows that deregulation of new natural gas will cost the American consumer more than $80 billion over the next 8 years.

The study was performed in response to questions posed to CBO at the June 14 hearing of the House Budget Committee Task Force on Distributive Impacts. At that same hearing, John O'Leary, Administrator of the Federal Energy Agency testified that deregulation would cost the consumer $70 billion by 1985. The CBO study confirms the administration's estimate. Indeed, it suggests that the cost will be $10 to $15 billion more than the administration suggested.

The $85 billion, which comes to over $1,000 for each American family, is the additional cost consumers will face for the same amount of gas as would be obtained under the Carter plan. It represents a huge windfall for the producers.

The CBO study also indicates that deregulation will result in some increase in production of natural gas over the levels that would be achieved by the Carter plan. However, an analysis of this increased production reveals that it is not worth the cost. In my judgment the CBO study thoroughly undermines the case for decontrol.

Deregulation, in and of itself, will mean an additional cost of $80 billion for the same amount of gas that would be obtained under the Carter plan. The new supply, induced by deregulation will itself cost $14.3 billion, bringing the total cost of deregulation to $94.3 billion. In exchange for this $94.3 billion the country will receive an additional 4.7 trillion cubic feet of natural gas. Simple arithmetic shows that the real bill for this gas will be roughly $20 for each thousand cubic feet. Since a barrel of oil contains the energy equivalent of 5.8 thousand cubic feet of natural gas, the consumer will be paying for the new gas at a rate equivalent to $116.00 for a barrel of oil.

Admittedly, these numbers will be open to some dispute. They are predictions. They do not take into account all of the fine points of natural gas pricing. However, they clearly establish that deregulation will not provide benefits anywhere near the costs involved:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 27, 1977.

Hon. DONALD M. FRASER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FRASER: In response to your request at the hearing of the Task Force on Distributive Impacts on June 14, 1977, I am pleased to provide the following information on the impact of deregulating natural gas.

The Administration has proposed to merge interstate and intrastate markets and to place a ceiling on new gas of approximately $1.75 per thousand cubic feet (MCF), adjusted thereafter for increases in other fuel prices. Compared to this approach, deregulation will increase both the level of domestic production and the price paid for natural gas

Due to the fact that pipelines typically average new gas prices with those of already flowing gas—some of which was purchased at prices as low as 20–30 cents per MCF—competition from other fuels is not expected to serve as a check on higher prices for new natural gas. Thus, under deregulation the price of new gas is expected to rise well above the BTU equivalent, at least for the next few years.

Our analyses indicate that if deregulation were to become effective this year the average new gas would increase immediately from its current level of about $1.85 per MCF to approximately $4.00 per MCF. However, as a result of new gas production, and the possibility of reductions in demand and switches to lower priced fuels, this $4.00 price is unlikely to be maintained for a long period. New gas prices would be expected to drop back to about $2.80 per MCF by 1985. New production resulting from deregulation is expected to be about .9 trillion cubic feet per year by 1985.

On the basis of these estimates we calculate that if natural gas were deregulated, as opposed to being priced in accordance with the scheme proposed by the Administration, consumer costs for natural gas would rise by about $80–$85 billion (in 1977 prices) over the period 1977–1985 for the same volume of gas. Since producer costs are not expected to vary significantly as a result of deregulation, it is anticipated that industry profits would also rise by about $80–$85 billion. The additional .9 TCF of annual prouction by 1985 resulting from deregulation, which is equivalent to about 450,000 barrels per day of crude oil, would most likely reduce oil imports.

In using these estimates a word of caution is in order. The prices and production levels forecast involve the future decisions of many thousands of firms and individuals and are subject to a considerable margin of error. If, for example, producers were to accelerate production from existing fields, the additional production resulting from deregulation could rise above the .9 TCF forecast. Similarly, prices for new gas could conceivably rise above the indicated levels. On balance, however, we believe these estimates reflect the best information available to us at this time.

Sincerely,

ALICE M. RIVLIN,
Director.

RILEY REGAN OF NEW JERSEY APPOINTED TO NATIONAL POST

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. PATTEN. Mr. Speaker, as a member of the Labor-HEW Subcommittee on Appropriations, I have continued to support increased Federal funds for combatting one of the Nation's most serious health problems: alcoholism and alcohol abuse. Millions of Americans suffer from problems created by alcoholism, so it is important to have the Federal Government provide funds which hopefully will help lead to a solution.

Riley W. Regan, director of New Jersey's Alcoholism Division, is extremely capable and dedicated, as well as being a strong and effective leader. New Jersey is fast developing one of the best anti-alcoholism programs in the Nation and I know that Mr. Regan is one of the main reasons the State's activities in this important field are ranking among the best. Another person who deserves great credit for his truly distinguished leadership is U.S. Senator HARRISON A. WILLIAMS, Jr., (Democrat of New Jersey), who has done so much in the Senate and continues to for those who need help in the battle against alcoholism and alcohol abuse. Recently, Riley Regan was elected president of the Council of State and Territorial Alcoholism Authorities—CSTAA—a national post. This is a real honor for him and a special one for the State of New Jersey. A copy of the public announcement of his election to the CSTAA post, follows:

At the convention of the Council of State and Territorial Alcoholism Authorities (CSTAA) held June 5 to June 10, 1977 in Charleston, South Carolina, Riley W. Regan, Director of New Jersey's Alcoholism Division, was elected President of that body. As President of CSTAA he also serves as Chairman of its Board of Directors.

In a separate action, the Alcohol and Drug Problems Association of North America (ADPA) under a recent reorganization plan reached an agreement wherein the CSTAA Board of Directors will serve as ADPA's Council of State Authorities. As a result, Mr. Regan will also serve as President of the ADPA Council of State Authorities.

Additionally, in connection with ADPA's reorganization, a major federal grant which had been issued to CSTAA to develop uniform state information systems was transferred to ADPA effective June 1, 1977. Consequently, the ADPA Council of State Authorities, i.e., the CSTAA Board of Directors, will serve as the Evaluation Project Policy Committee with respect to the federal grant, and Mr. Regan will be the Chairman of that committee. The evaluation project was devised to assist states in developing model information systems. At this time, twenty-one (21) states have contracts under the grant to develop model information systems concerning alcoholism and alcohol abuse.

Thus, Mr. Regan by virtue of his election in Charleston, S.C. has assumed three truly significant positions in the field of alcoholism and drug abuse: (1) President of CSTAA, (2) President of the ADPA Council of State Authorities, and (3) Chairman of the Evaluation Project Policy Committee.

To elaborate, the combined thrust of Mr. Regan's efforts in the positions which he holds will be: (1) to bring about an extensive and comprehensive management and evaluation system to collect data from numerous sources throughout the health care system, (2) to assist state agencies in the development of prevention and education programs focused on drinking problems relating to youth, women and other special populations, (3) to testify to Congress and its committees on key legislative matters, (4) to develop a certification program to insure qualified personnel in the alcoholism field, (5) to raise the level of awareness of communities with respect to the problem of alcoholism, (6) to develop a closer working relationship between the drug and alcohol constituencies, and (7) to assist states in developing and implementing facility licensing standards.

As a result of this level of commitment and involvement by N.J.'s Director of Alcoholism, Mr. Regan has brought increased visibility and credit to the State of N.J.

THE CLINCH RIVER BREEDER REACTOR IS A NECESSITY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. TEAGUE. Mr. Speaker, the debate over this Nation's energy problems has been continuous since the 1973 Arab oil embargo with few significant decisions and none that have offered this Nation a secure energy supply for the future.

We need clean energy at a price Americans can afford.

The reserves of oil and natural gas are limited. No matter what they are, they are being exhausted rapidly.

In spite of this, the administration would like to delay the only technically mature solution to the energy shortage. They support that we wait until most of the oil is gone before making a decision to build the Clinch River breeder reactor. They discuss energy reserves in terms of supply, not in terms of the price people will have to pay for that energy.

The OPEC nations exert tremendous influence over the pocketbooks of U.S. citizens. This Nation's most unfavorable balance of trade in its entire history occurred the first quarter of this year. This unfavorable balance is a direct result of our increasing petroleum imports from the OPEC nations.

Even uranium, the fuel of present day nuclear power plants is limited. According to the January 1977 ERDA report, the recoverable uranium resources was estimated at 8 million short tons—known resources; 1 million short tons—probable resources; and 1.9 million tons—speculative resources. The National Academy of Sciences has assessed the probability that our resources are actually equal to or greater than the speculated amount, at only 3 percent. Disregarding this minimal probability, Dr. Schlesinger, the President's Energy Advisor, uses this speculative amount of uranium to delay the construction of the Clinch River Breeder Reactor.

In contrast to this, a group of six independent geologists in a study now in progress for the National Academy of Sciences have selected the 1.8 million short tons of known plus probable resources as a prudent planning base.

At present, the U.S. has stockpiled, in three locations, the equivalent energy of one trillion barrels of oil. This energy is in the form of uranium-238 which is the waste product of the uranium enrichment process. This is also equal to 700 years of electrical power production at the rate electricity was consumed in the U.S. in 1976. While the administration asks for conservation, and I agree we should stop wasting energy, they do not want to use this stockpiled energy. The breeder reactor can put this present waste uranium to work for us in 25 years if we continue to gain experience in generating power from breeder reactors. That is what the Clinch River Breeder Reactor will demonstrate.

In the face of these facts, the Clinch River Breeder Reactor is a necessity and should be supported by all Members of Congress.

REHABILITATION FOR THE ELDERLY DISABLED

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. BRADEMAS. Mr. Speaker, rehabilitation services for the mentally and physically disabled have been supported by the Federal Government for more than 55 years. Since the inception of this Federal-State program, over 3 million handicapped people have been rehabilitated. Under the Rehabilitation Act, State vocational rehabilitation agencies now serve over 1½ million handicapped individuals annually.

Through research in rehabilitation medicine, tremendous gains have been made in recent years in the rehabilitation techniques and services available to disabled people. In particular, new emphasis is being placed on offering rehabilitation to older people who have been the victims of stroke and other debilitating diseases. While the focus of vocational rehabilitation has, in the past, been on employment training for younger, handicapped persons, the elderly disabled are no less deserving of rehabilitation assistance.

Mr. Speaker, I applaud efforts being made to rehabilitate older handicapped people. In this regard, I wish to call attention to an article in the current issue of "Modern Maturity" in which Dr. Howard A. Rusk, a leader in rehabilitation medicine, discusses the rehabilitation opportuntiies available to the elderly disabled. As chairman of the Subcommittee on Select Education was responsibility for legislation affecting handicapped and elderly individuals, I am pleased to insert this article in the RECORD.

[From Modern Maturity, June–July 1977]

NEW HOPE AFTER ILLNESS

(By Arthur S. Freese)

As the founder of the field of medical rehabilitation, Dr. Howard A. Rusk is one of the medical giants of our 20th century. And he has both promise and information for you.

He speaks from 50 years of experience in medicine as well as his own 76 years of life.

From the time Howard Rusk began practicing in the mid-1920s, he has emphasized the importance of treating the whole patient, dealing with both medical and nonmedical (social and psychological) factors. Out of this has come his philosophy of rehabilitation. Here are some of his suggestions and the new hope for the health problems that threaten and plague older people.

What has rehabilitation taught us about human beings?

Nature has given us tremendous powers of overcompensation, but the average person uses only some 25 percent of his physical capacity. The blind man sees with superacutely sensitive touch and superacute hearing: He knows whether he's walking into a wall—you and I couldn't even hear the sound. The deaf man learns to hear with his eyes: He develops superacute visual acuity so he can read lips.

What is the philosophy behind your rehabilitation medicine?

In a nutshell—taking the patient back to the best life possible. In our society, physical wholeness and ability are not synonymous—you can be the fastest runner or the highest jumper and yet be too stupid to make a living. We don't need many highjumpers and fast runners so we pay for brains and hand skill primarily—that's the philosophy we've worked on since we developed this new concept of rehabilitation medicine.

Do the aged, too, have compensatory abilities?

The greatest and most precious compensatory ability they have is wisdom—but wisdom comes only with experience and experience only with time. So I think compulsory retirement at a given age—65 is most popular—wastes this precious human resource. Age is physiological and not chronological—some people are old at 50 and others young and very viable at 80-plus.

What disabilities are the over-65 persons most likely to suffer?

Stroke, arthritis, various heart conditions, diabetes, and such chronic destructive lung diseases as pulmonary emphysema.

Can the person with pulmonary emphysema be rehabilitated today?

The little air sacs in the lungs where you breathe in oxygen have to expand and contract. In emphysema these sacs lose their contractility, so the sufferer gets in air but then can't get the used air out. They are like fish out of water—pant all the time.

Now we can retrain these people. In one group of such patients we were able to get a third back to some kind of gainful work and 90 percent were quite comfortable at home. Even those confined to the house can learn to do certain types of hand activities.

What can be done for the arthritics?

In most cases we can do much with rehabilitation toward making these sufferers both more comfortable and more mobile.

Can you help those with amputations?

We now have prosthetic devices (artificial limbs) which are so much better than before that these people *can* get around. Because their leg is off, say, they don't have to be relegated to the back room the rest of their lives.

What hope can you offer the heart patients?

The cardiac, the person with a bad heart, has to learn to live within the limits of his capacity, which we can now work out scientifically. But first you have to be dedicated to the idea and second you have to have more than a modicum of imagination. It can't be done by rote. For example, a man with a bad heart may know the owner of a one-man shop in his nighborhood—the cardiac can work there for two hours a day so that the owner can have time for lunch.

Many heart patients are working in sheltered workshops now. I remember when the Elder Craftsmen was started 15 years ago—they're wonderfully skilled with their hands and may work a half day or "x" number of hours a day, but they don't try to punch a time clock. This provides the extras they need beyond Social Security and gives them dignity which is most important of all.

Would you say the outlook for the stroke victim has changed in the last 25 years?

It's a whole different ballgame! The greatest advance in rehabilitation in the 25 years has been the acceptance of a philosophy of responsibility. A physician's responsibility is not over when the fever is down and the stitches are out, but only when he's taken his patient back to the best life he can live with what he has left after a severe disabling sickness or accident or what-have-you.

It's our responsibility to teach the individual to live the best life he can, taking into consideration two things—first and least important is the disability; second, and most important, is the ability.

What hope is there for a person after a stroke?

We conducted a study of a series of selected stroke patients at our institute. This consisted of 3,000 patients with an average age of 63. Their average training time was seven weeks. We got 33 percent back to some kind of gainful work . . . and we were able to teach over 90 percent to meet the needs of daily living so they didn't have to be in an institution.

Gainful work varied from the housewife who ran her own house from a wheelchair to a judge on the Federal bench who sat for 14 years after he was rehabilitated.

We had three stroke victims at New York's Bellevue one time. These men had aphasia—they couldn't put the word and the object together and so couldn't communicate. They'd accepted their strokes but it was killing them because they'd always worked..

I got them together and explained: "We've got a new kitchen here that can be run from a wheelchair or crutches or with one hand . . . how would you like to learn to cook and care for the house so your wife can get a job and you wouldn't have to go on relief?" Well, they grabbed at it and they all learned. We've done this hundreds of times since, so there are many ways to meet these problems.

Is there this much help for all stroke victims?

There are certain types of strokes that can *not* be rehabilitated, mainly three kinds: those were, in addition to the stroke, there is such severe heart damage that they can't take on the extra activity for rehabilitation; those with uncontrollable malignant high blood pressure (with our new drugs this is rather rare today), and, finally, those with such severe brain damage that they can't remember today what they were taught yesterday.

How common is stroke?

There are two million stroke patients in this country all the time—when some die their ranks are filled by new ones.

What causes a stroke?

There are three types of strokes. First is an occlusion or plug in an artery so that the area of brain supplied doesn't function: like rust getting in the plumbing of an old house until one day it stops up the pipe to the upstairs bathroom and there's no water there. Then there's the clot that breaks off somewhere in the body and lodges in the brain blood vessel. The most severe ones, where mortality is the highest, are where a blood vessel ruptures and there's a hemorrhage—these are usually much more devastating.

Can rehabilitation help hardening of the arteries and senility?

The hardening of the arteries, arteriosclerosis, produces a general brain damage that is senility, with loss of memory. But even here rehabilitation is possible to a degree with some patients who are able to learn certain exercises that help their memory. Hyperbaric oxygenation (oxygen under pressure) is a hopeful new approach to this general arteriosclerotic problem—we've had some brilliant results with it. We've had some negative results, too, and we've had in-between. We're only now in the process of analyzing these.

How do you rehabilitate the stroke victims?

We can rehabilitate these people because nature has such tremendous powers of compensation. Some get back all they've lost, some a great deal, some a fraction. It's our job to teach these people how to live the best life possible with what they have left.

Our patients have to be referred by their doctors. We're not a nursing home but a dynamic, driving, training program. The person is given a physical examination and range of motion, muscular and functional tests, along with psychological and social screening. A program is prescribed for each individual.

Patients work up to five hours a day at training until we get maximum improvement. The average training time for strokes is about seven weeks. Then the patients go back to part-time or full-time employment, a new job, a nursing home, custodial care or whatever.

How soon after a stroke should the rehabilitation start?

Immediately—even while the victim is still unconscious—for we can posture the leg and shoulder, provide passive motion and prevent a lot of problems. The training continues as the victim regains consciousness. Even with the first standing or as the patient starts to get around, he is taught activities of daily living. Rehabilitation should start early and it has to be continued.

What sort of rehabilitation program or center do stroke victims need?

There are 50 or 60 rehabilitation institutes in this country that have good general programs. Several hundred communities have adequate physical therapy and can do a good piece of the program.

Only the very severely affected stroke victims, with aphasia and other complications, should go to a big comprehensive center like ours. If the necessary program isn't available in the community, the patient has to be sent elsewhere, like those who need specialized open-heart surgery. In ordinary general hospitals you can expect the rudiments of the program and for the mild stroke they do just fine.

How can affected people check on a rehabilitation institution?

These institutions are accredited and certified and there's a national society that lists them, along with their cities and the qualified people who are running them. Information can be obtained by writing: Association of Rehabilitation Centers, 7979 Old Georgetown Road, Washington, D.C. 20014.

Has rehabilitation made a difference to paraplegics and quadriplegics?

Most of these are in the younger age groups but older people, too, have accidents, become paraplegic and quadriplegic and they also can be rehabilitated. Just 15 years ago we were getting only 15 percent of our quadriplegics (all four limbs paralyzed) back into some kind of life. Today more than 80 percent of them go back to school or some kind of gainful work.

Young paraplegics can now expect—if they do the simple things we teach them—to live to within two years of their normal life expectancy.

How would you sum up the philosophy of rehabilitation?

We have learned through the years that there can even be advantage to the disadvantaged!

NOTES ON DR. RUSK

Every day is an active one for Dr. Howard A. Rusk, who recently celebrated his 76th birthday. He is, in fact, the ultimate proof of the value and importance of aging. He began to lay the foundations of his new branch of medicine only when he was middle-aged.

At 50, he saw his permanent institute opened. And today, he is seeing the coming-of-age of the science of rehabilitation.

Dr. Rusk earned his medical degree from the University of Pennsylvania in 1925. He went into practice in St. Louis the following year, and soon became known as one of the city's finest diagnosticians. He served in the Army Air Forces Medical Corps during World War II, and organized a center in Tucson, Ariz., for those with the then-devastating rheumatic fever.

One of his first patients was the son of commentator Lowell Thomas. He eventually recovered and was returned to full duty. The famous reporter visited Dr. Rusk and enthusiastically supported the physician's dream of rehabilitation of the handicapped. Next to support his project was H. H. Arnold, then commanding general of the U.S. Army Air Forces.

Dr. Rusk's vision of rehabilitation extended to all the disabled. He had successful interviews with and support from Eleanor Roosevelt, President Truman and others.

There's a gentle persuasion in Dr. Rusk that attracts people, and in a way this made possible his development of his new field. He had the backing of Bernard Baruch, Bernard Gimbel and the presidents of many major companies.

Finally, in 1948, there appeared the buildings of what is now the world-famous Institute of Rehabilitation Medicine at the New York University Medical Center in New York City.

Dr. Rusk's warm concern is for all human beings, not just the war-injured, the young or even just the aged.

However, in 1949 he took on the responsibility of rehabilitating the aged at his new institute. Those who suffer broken hips, strokes, Parkinson's disease, or have heart or blood vessel problems, are treated. Rehabilitation has produced vast changes in the outlook of victims of these problems.

Dr. Rusk continues to serve as director of the institute as well as professor and chairman of the Department of Rehabilitation Medicine at New York University School of Medicine. He is a fine example of his belief that chronological age is no criterion for retirement from active and creative participation in any field of endeavor.

FISCAL YEAR 1978 FOREIGN AID APPROPRIATIONS

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mrs. BURKE of California. Mr. Speaker, last week this body passed, after 2 days of debate, the fiscal year 1978 foreign aid appropriations bill. I am concerned that many amendments adopted during consideration of that legislation often showed gross inconsistency and shortsightedness of our national security goals.

More disturbing than the inconsistencies, however, was the myopic view taken by Members of the House in agreeing to a last minute 5 percent cut in the bill and in agreeing to those amendments which could very well destroy the multilateral lending institutions and with them the positive infrastructure development abilities they foster.

These amendments were adopted, I believe, without any substantial analysis and realization of the effects on the administration's formulation and capacity to carry out foreign policy. The only justification for this derailment of long-term national security interests seems to rest on the belief that there is no constituency for foreign aid.

Apparently many Members of the House of Representatives felt that a substantial cut in foreign aid, regardless of the long-run implications for our national concerns of world peace and security, would either go unnoticed or be praised by residents of their districts. I doubt, for example, that most Members of this body would favor a 5 percent cut for the $110 billion defense appropriations bill. Yet both bills, it may be said, share the mutual goal of this Nation's survival. Justifications for expenditures appropriated, it would seem, then are the same. If only every Member had asked of himself, "How will my constituents feel when somewhere down the road their lifestyle, livelihood, or life is threatened because of the possible shortsightedness inherent in my vote to cut these appropriations."

Mr. Speaker, there is concern from the "Hinterland" for foreign aid. The negative actions taken by this body last week did not go unnoticed. We did not fool anyone who takes an interest in their future survival. This is evidenced by the Los Angeles Times editorial of June 27, 1977. I place that view in the RECORD for the benefit of my colleagues:

AID: A MESSY HOUSE

The U.S. House of Representatives acted irresponsibly, we think, in handling the foreign-aid appropriations bill. We hope that the Senate proves to have a more realistic grasp of the American national interest and the international-development need.

Before finally voting to appropriate $6.7 billion for the next fiscal year, the House approved amendments prohibiting the extension of aid—directly or indirectly—to Vietnam, Laos, Cambodia, Uganda, Cuba, Angola and Mozambique.

From the American point of view, there is room for honest disagreement as to whether U.S. aid should go to some of these countries. If the restriction had been limited to direct, bilateral aid, it would be defensible.

By including indirect aid in the prohibition, however, the House majority clearly intended also to prevent the extension of loans to these countries by the World Bank, the Inter-American Development Bank and other international lending agencies.

House members also voted an arbitrary 5% cut in the $7 billion measure, which already had been reduced from $7.6 billion in the Appropriations Committee. Going further, the final language would ordain that no more than a tenth of the cut could come from any one area of expenditure.

These actions represent serious interference with the flexibility that the executive branch needs to carry out an intelligent, effective foreign policy. The actions also set an example that could come back to haunt us.

Certainly most Americans would agree that the United States should not be in the business of granting unilateral development aid to countries such as Cuba or Cambodia or Uganda. But the attempt to go further and force international lending agencies to adopt the American definition of good guys and bad guys is a mistake.

It may be possible, though difficult, to overcome the technical difficulties of segregating the U.S. contribution to these institutions and to enforce a ban on using any of the American money for aid to countries that we don't like.

But that is a game that other countries can play, too, with results that may not be to our liking. For example, the oil-rich Arab states could abstain from participation in loans to any country not cooperating with the Arab boycott of Israel. Romania and Yugoslavia could hold back from credits to countries that don't please them. The possibilities go on and on.

If this sort of thing became endemic, multilateral lending institutions would be destroyed. The real losers would not be the right-wing or Communist dictatorships in the world, but poor, powerless people who would thereby be denied sanitary water systems, irrigation projects to help ward off starvation and other projects aimed at helping to alleviate their poverty.

The House, fortunately, voted down an amendment that would have cut in half the projected U.S. contribution to the International Development Assn., which makes loans to the poorest nations. But that was about the only bright spot.

We urge the Senate to undo the damage.

URBAN GRANT UNIVERSITY PROGRAM

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. FOWLER. Mr. Speaker, I have recently joined with other Members of this House, on both sides of the aisle, in the cosponsorship of H.R. 7742 and related bills to create an urban grant university program. I want to take this opportunity to express my hope for early hearings and favorable committee action on this important legislation.

The Urban Grant Act, Mr. Speaker, was obviously inspired by the Land Grant Acts of the mid-19th century. Those acts recognized that the problems and the promise of American agriculture were the problems and the prospects for the future of a growing nation. The Land Grant Act, seeking to bring the skills and talents of the universities to the service of the "agricultural and mechanical arts" made American agriculture a success story that still astounds historians and economists alike.

Fifty Members of this House now come with the suggestion that this same idea can be applied to the manifold problems of America's cities. We realize fully that no two cities are going to have the same types of problems, or the same coincidence of need on the part of the cities, and capability on the part of the universities. Yet we must also realize that the problems of our cities are truly national problems, and if we can meet these problems, we will have enriched the lives of all Americans.

There is already a tradition of service by universities to the cities in which they are located. Often it is these institutions which have the talents and skills which are needed to help the surrounding urban areas. We believe that a small amount of Federal funding can dramatically assist and encourage this relationship, utilizing more fully resources already in existence.

The Urban Grant Act seeks to provide a modest amount of Federal assistance to universities which:

First, are located in urban areas;

Second, draw a substantial portion of their undergraduate students from the urban areas in which they are located;

Third, carry out programs to make higher education opportunities more readily available to students living in those areas;

Fourth, have the capacity to carry out urban-oriented research, service and education activities;

Fifth, have a wide range of graduate or professional offerings; and

Sixth, have demonstrated and sustained a sense of responsibility to such area and to their people.

Urban grant assistance would be given to universities which meet the qualifications specified above and which submit acceptable proposals for carrying out projects or comprehensive programs of assistance to the cities in handling specific urban problems which the cities believed were important, and in regard to which the university has a special competence.

For instance, in one city, the urban university might provide assistance in planning a more rational metropolitan transportation system. In another, the university might have a particular collection of skills in public health. In a third, the university might be uniquely qualified to offer help in reorganizing municipal financial or personnel management systems. In yet another city, a university might be in a position to offer a comprehensive package of research and operational services covering a number of problem areas.

The number of problems, the number of cities, and the variety and depth of the skills that the urban universities can bring to bear do not lend themselves to easy generalizations about the kind of assistance the Urban Grant University Act could bring to the problems of America's cities. But what one such university, Georgia State University located in Atlanta, is already doing is illustrative of what can be done.

Georgia State University administers an organization called Urban Life Associates. This is a comprehensive grouping of more than 150 neighborhood and community organizations. Through meetings, seminars and a university-produced newsletter, members of these organizations are kept informed of problems concerning zoning, schools, consumerism and various subjects affecting their urban lives. Through another program, the Atlanta Urban Corps, the university coordinates the placement of approximately 750 college students from all over the Nation in dozens of local governmental and communty service organizations.

At the same time, small businesses throughout the State are assisted by the Business Information Center, maintained as part of the university's urban outreach program. State funds permit several hundred thousand dollars in grants to faculty members to provide them with released time and resources necessary to carry out applied research projects aimed at solving urban problems.

Through its Urban Life Conference Center, Georgia State this year had more than 60,000 people take part in approximately 1,200 conferences, seminars, workshops, and short courses, most addressing the various aspects of urban living. Such community service activities as I have mentioned are supported both at the university level and through the College of Urban Life, an academic college of the university which provides formal degree programs for hundreds of undergraduate and graduate students who intend to take a career of service within the urban community. These examples give an indication of the kinds of activities which a major urban university could more adequately address with the encouragement and assistance of Federal funding.

I would not state for a moment, Mr. Speaker, that the Urban Grant Act will finally solve the problems of the cities, no more than the Land Grant Act solved the problems of American agriculture. But I am confident that the people of the United States will benefit tangibly and enormously from the investment of this legislation calls for them to make.

Mr. Speaker, I am proud to be associated with the gentleman from Michigan (Mr. FORD), the gentleman from Alabama (Mr. BUCHANAN), the gentleman from Kentucky (Mr. PERKINS), and the gentleman from Wisconsin (Mr. REUSS), in the sponsorship of this legislation. I urge the gentleman from Michigan, who is chairman of the Subcommittee of Reference, to schedule hearings at his earliest convenience on this bill. I offer it my full support.

WHISTLE-BLOWERS HALL OF FAME: DR. J. ANTHONY MORRIS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mrs. SCHROEDER. Mr. Speaker, in continuing with my series of articles on whistle-blowers in the Federal Government, today I am including the story of Dr. J. Anthony as written by the Project on Official Illegality of the Institute for Policy Studies, 1901 Que Street NW., Washington, D.C.:

DR. J. ANTHONY MORRIS

Dr. Anthony Morris, a former government microbiologist at the National Institutes of Health, was assigned to research the efficacy and safety of a variety of vaccines. When his work on flu vaccines demonstrated that they were ineffective and sometimes even hazardous, his superiors at NIH tried to ignore, and later suppress his findings. Morris persisted in going public with his information, taking his name off his papers so they would be approved for publication. He soon found himself without a laboratory and staff, in a tiny cubbyhole of an office with no telephone, his research animals destroyed. This was his punishment for criticizing national medical strategy. Dr. Morris explained, "I don't know for certain why, but there is a close tie between government scientists and manufacturing scientists. And I was hurting the market for flu vaccine." (Parade Magazine March 13, 1977.)

Subsequent Congressional investigations led to a massive reorganization of the vaccine research program and its transfer to the Food and Drug Administration. Dr. Morris was also transferred, and given a new job researching a different kind of vaccine. However, he continued to keep an eye on developments in the flu vaccine program. He was one of the initial outspoken critics of the government's controversial swine flu program, which he maintained was at the very least ineffective, but potentially very dangerous for children, old people, and pregnant women. He and his attorney, James Turner, author of The Chemical Feast, embarked on their own campaign against the proposed mass inoculation program, writing letters to the New York Times, the Director of NIH, the FDA commissioner, and others who were writing on the subject.

Soon afterward, in July, 1976, Tony Morris was fired by FDA Commissioner Schmidt for "insubordination and inefficiency" and with charges that "the kind of behavior exhibited by you toward your scientific colleagues and administrative superiors directly challenges the integrity of scientific progress

and the ability of the Food and Drug Administration to carry out its mission."

Dr. Morris and his attorney have appealed the dismissal through the Civil Service Commission. They are still awaiting a decision. His warnings against the swine flu program which led to the firing have proven to be correct. The government was forced to discontinue the program due to deaths and illness caused by the flu vaccine.

CLINCH RIVER PROJECT COSTS: TERMINATION AGAINST CONSTRUCTION

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. COUGHLIN. Mr. Speaker, the furor over construction of the Clinch River breeder reactor—CRBR—demonstration plant has continued to grow. Amid this compounding confusion and lack of firm cost figures, I contacted the Office of Management and Budget to request a comparison between the cost figures for plant completion versus termination costs for the Clinch River facility.

The Office of Management and Budget concluded:

The budget authority and costs required to complete the project would be far in excess of the required budget authority and costs to terminate the project.

The OMB reply follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 28, 1977.

Congressman LAWRENCE R. COUGHLIN,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. COUGHLIN: Thank you very much for your letter of June 16, asking that the Office of Management and Budget review the budget authority requirements for termination of the Clinch River breeder demonstration plant versus the requirements for completion of construction of that demonstration plant.

The Energy Research and Development Administration has recently concluded a new construction cost estimate for completion of the Clinch River project in connection with the Administration's review of the breeder reactor program conducted in March and April of this year. These estimates and the ERDA estimates of the cost of terminating the existing contracts on the Clinch River plant are the basis for our evaluation of the budget authority and cost requirements for termination of the Clinch River project or for continued construction to completion of the project.

The enclosed table indicates that the additional costs to the Government beyond those already expensed to terminate the Clinch River demonstration project would be about $257 million. The additional costs to continue the project would be about $1.6 billion.

ERDA estimates that the total cost of the Clinch River project would be $2.2 billion. The private utilities and reactor manufacturers involved in the project would contribute $309 million towards this total cost. The total U.S. Government costs would, therefore, be about $1.9 billion. The budget authority approved for the Clinch River project through FY 1977 is $522 million. As a result, we estimate that the required new budget authority to complete the Clinch River project would be about $1.4 billion.

ERDA costs to date on the Clinch River project have been $278 million. Termination costs associated with the Clinch River project would amount to about $155 million. Repayment of utility contributions to the project could potentially amount to $102 million. Therefore, we estimate that the additional budget authority required to terminate the Clinch River demonstration project would be about $13 million, see enclosed table.

We have reviewed the above estimates as supplied by ERDA and in our view they are reasonable. We, therefore, conclude that the budget authority and costs required to complete the project would be far in excess of the required authority and costs to terminate the project.

I appreciate your interest in such an important issue as the breeder reactor. I would like to encourage you to contact me with any additional questions that you may have on this or any other subject.

Sincerely,

BERT LANCE.

Case I: Budget authority requirements to terminate Clinch River breeder reactor plant

[In millions]

Budget authority for CRBR through fiscal year 1977	522
Less ERDA projects costs to date	−278
Less termination costs associated with existing contracts	−155
Less potential repayments to utilities	−102
New budget authority required to terminate	13
Termination costs associated with existing contracts	155
Potential repayments to utilities	102
Additional costs incurred to terminate CRBR	257

Case II: Budget authority requirements to complete Clinch River breeder reactor plant

[In millions]

Total estimated construction cost	2,194
Less total utility contribution	−309
Total U.S. Government costs	1,885
Budget authority through fiscal year 1977	−522
New budget authority required to complete project	1,363
Total U.S. Government costs	1,885
Total U.S. Governments costs to date	−278
Additional costs incurred to complete the project	1,607

TECHNOLOGY—ARGUMENTS FOR COAL GASIFICATION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. TEAGUE. Mr. Speaker, I would like to bring to the attention of the House an article in the New York Times of June 15, 1977, entitled "Technology—Arguments for Coal Gasification."

The article quotes two widely recognized authorities in the field of coal gasification, Dr. Henry Linden, president of the Institute of Gas Technology in Chicago, and Mr. Eric Reichl, president of the Conoco Coal Development Co. Dr. Linden, who is deeply into research and development of second generation coal gasification technology, tells us that he wants to counteract the idea advocated by some of holding up commercial application of present technology until second generation technology is completely developed. He is convinced that there is no better way to go forward with second generation technology than to develop first generation technology as a benchmark.

Last year, after weeks of testimony from expert witnesses who spoke to the need of loan guarantee legislation if commercial development of synthetic fuels is to go forward, my committee reported out the synthetic fuels bill which was subsequently referred to the Interstate and Foreign Commerce Committee, the Banking and Currency Committee, and the Ways and Means Committee. That bill would have provided $3½ billion in loan guarantees and one-half billion dollars in price supports for synthetic fuels development.

This year we have again heard testimony addressing the same concerns and reaching the same conclusions.

Development of synthetic fuels, including first generation technology for coal gasification will not go forward without Federal loan guarantees to support the sponsors' ability to obtain financing from the private financial market.

The amendment adding loan guarantees to authority already provided to ERDA under section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 is included in the ERDA authorization bill for fiscal year 1978 which the House will soon consider. The Senate has recently passed S. 1340, the Senate ERDA authorization bill for fiscal year 1978, and has included in that bill the same loan guarantee authorization as is contained in the bill reported out by the Science and Technology Committee.

I believe that when this bill does come before the House we should make our wishes known expeditiously. The country needs to move forward as rapidly as is practicable in the development of alternative fuels and to provide the means necessary to make this energy available to the consumers of America with the greatest possible speed. I am convinced that a loan guarantee program is the method that will afford the private sector with the greatest flexibility in developing this industry while at the same time involving the Federal Government with the least possible exposure. Legislation that will allow ERDA to move forward with a program which included the number of plants at the required production capacity necessary to prove the viability of the industry to the financial community is urgently needed if these vitally needed supplies of new energy are to be brought to the marketplace within the next 5 years. We recognize that as

the President's energy program is evolving, Congress needs to provide for that program all of the tools that wise counsel allows so that the program may include the best possible balance of production along with conservation.

The remarks of Dr. Linden and Mr. Reichl present very well the wisdom of moving forward with first generation coal gasification and I wish to submit them for the RECORD at this time:

TECHNOLOGY—ARGUMENTS FOR COAL GASIFICATION

The economists of existing technology for converting coal into pipeline-quality gas looks so favorable that commercial-scale projects in the West should go forward immediately, according to two leaders of advanced coal-gasification research.

The two are Eric Reichl, president of the Conoco Coal Development Company, a research arm of the Continental Oil Company, and Dr. Henry R. Linden, president of the Institute of Gas Technology in Chicago, whose work is supported largely by the nation's gas industry.

"I want to counteract the present notion of waiting for second-generation technology," Dr. Linden said. "I'm a purveyor of second-generation technology but I'm convinced that there is no better way to push it than to establish a benchmark against which to work."

"Are we going to play roulette with the supply of energy in this country?" Mr. Reichl asked. "Gas from coal cannot come into our energy economy in any dramatic way but, for the guy who wouldn't have any gas at all, it's pretty dramatic."

Both men agreed that Federal loan guarantees and authority to average the price of gas from coal with the price of gas from other sources were essential to launching such projects as the $600 million North Dakota plant planned by the American Natural Resources Company and People's Gas Light and Coke Company.

A major stumbling block to private financing, the two men asserted, is that the cost of projected coal-gasification plants almost equals the total capitalization of the participating companies and is beyond the resources of even the largest private companies.

Dr. Linden, speaking of the Carter Administration's plans to spur more use of coal in preference to oil and gas, said that "instead of shipping vast new amounts of coal around the country, which in fact you can't do, you should look at the total system cost."

"As a first step on energy policy, I would suggest maintaining the existing energy infrastructure as much as possible. We should confront the possibility that synthetic gasoline at $30 a barrel might turn out to be cheaper than electric cars. Let's take a serious look at synthetic liquids and gas from coal."

In interviews, the two cited recent studies, such as one by the American Gas Association, in support of several propositions:

That gas produced from coal at the mine mouth by existing technology would heat homes for roughly half the cost of electricity transmitted from a mine-mouth generator, even if the homes used heat pumps.

That gas from coal will cost about as much as gas brought by pipeline from Alaska to the Middle West or as liquid in ships to the East and West Coasts from Algeria and Indonesia.

That a coal-gasification plant producing 250 million cubic feet daily, using existing designs, would cost about half as much and use a third less coal than the equivalent coal-fired electricity plant that would generate 3 million kilowatts.

That the coal-gasification plant would use less than a tenth of the water of the scrubber-equipped electricity plant, and put out less than a third of the solid wastes, less than a fifth of the particulates, and less than a tenth of the oxides of nitrogen.

That the gas from coal would use an existing infrastructure of pipelines that now runs at about 60 percent of capacity.

Failure to use the existing gas-distribution network fully, both men say, will make new demands on the nation's electric utilities, which are already struggling against scarcities of investment capital and environmental delays on both coal and nuclear power plants.

They expressed skepticism that the nation's barge and rail systems for moving coal to electric power plants would expand rapidly enough to meet the needs set forth by the Carter Administration in its proposed national energy plan.

While welcoming such Carter Administration initiatives as doubling the proposed strategic oil stockpile, both Mr. Reichl and Dr. Linden criticized the Administration's apparent dismissal of synthetic gas as a good way, perhaps the best way to tap vast coal reserves.

Neither agrees with the privately expressed view of Administration energy specialists and some in the gas industry itself that "natural gas has had it." This view holds that price increases sought by industry will do little to increase supplies, which are judged to be very limited, and that therefore the nation's new offices, homes and factories must turn to energy sources far more costly than price-controlled natural gas, such as direct burning of coal under industrial and utility boilers, or imported oil.

Both Mr. Reichl and Dr. Linden feel that allowing natural gas prices to rise is bound to increase the supply, particularly from offshore wells and perhaps deep beneath the Southwest.

They are skeptical, however, about how soon or how much gas will be available from deep, briny formations beneath the Gulf of Mexico, "tight" formations in Colorado that nuclear explosives failed to tap, so-called Devonian shale beneath the Appalachian Mountains, or methane siphoned from coal seams that would be mined later.

Both the Conoco Coal Development Company and the Institute of Gas Technology are involved in federally sponsored efforts to design, and possibly build, so-called second-generation coal-gasification plants.

Although these are not expected to improve the economics of existing technology more than 15 to 20 percent, second-generation pilot plants have greatly widened the variety of coals that can be gasified.

In first-generation plants, such as those designed by Lurgi Mineraloelteknik of Frankfurt, only coals that do not "cake," or form lumps under high pressure and temperature in gasifiers, are suitable. In the United States this means subbituminous, low-sulfur Western coals.

Second-generation processes, such as the "slagging gasifier," which gets its name from the molten slag created by the high-temperature processes, designed by the British Gas Corporation and tested by Conoco at Westfield, Scotland, the Cogas process of the Cogas Development Corporation of Princeton, N.J., and the so-called Hygas process of the Institute of Gas Technology, have worked on caking coals of the sort found in the Eastern United States.

Last month, the Federal Energy Research and Development Administration signed design contracts for plants in Illinois and Ohio that would demonstate the first two concepts on a large scale, and announced negotiations for a similar plant to scale up the Hygas process.

VETERANS OF A LOST WAR

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. EDGAR. Mr. Speaker, in today's Washington Post, Colman McCarthy has written an excellent article on how life is going for veterans of Vietnam. I share this editorial with the hope that Members of Congress will become more informed on the issue:

VETERANS OF A LOST WAR

At hearings last Wednesday before the Senate subcommittee on veterans affairs, John P. Wilson, a psychologist from Cleveland State University, offered some staggering findings on how life is going for a group of 346 veterans from the Cleveland area. Wilson's study, funded by the Disabled American Veterans Association, sought to discover the personal impact of the war among a sampling of combat and non-combat veterans who were white and black and from all economic groups.

Wilson's study, called the "Forgotten Warrior Research Project on Vietnam Veterans," supplies some new information, however unsettling, to those in the old-line veterans groups, and their boosters in Congress, who believe that Vietnam was no different from earlier wars. When Wilson sought modest grant money—$20,000—for his research from the American Legion and the Veterans of Foreign Wars, he had no success.

He told Cleveland Magazine: "It was obvious that the subject was one that did not appeal to the interest of these groups. I think some may have guessed what we would come up with. . . . More than anything else this study will show the American public what happened in Vietnam. They have no idea of the human toll it took. By facing the reality of what the war did to the men who served there we can learn about society itself. My suspicion, at this time, is that we as a society feel ashamed, embarrassed and guilty about the war. Perhaps the Vietnam veteran is the scapegoat who gets blamed for our collective guilt. All we want to do is forget, and in the process we ignore everything associated with the conflict, most of all the men who fought it."

Reporting that the typical soldier in Vietnam was a late adolescent or young adult still in "the developmental period of identity formation," Wilson shows how that formation has been progressing since the war. Among black combat veterans, unemployment is 48 per cent; among whites, 39 per cent. Thirty one percent of black, and 22 per cent of white, combat veterans are divorced. Forty one per cent of both groups have alcohol problems. Forty five per cent report poor family relationships. Fifty nine per cent of the blacks, and 67 per cent of the whites, have drug problems.

With these excesses of turmoil and tragedy in veterans' postwar lives, the answers to some of the "attitude" questions are not surprising. When asked, "If there were another Vietnam tomorrow, would you serve in the military?" 95 per cent of the combat veterans stated "absolutely not." More than 90

per cent do not trust the government. Wilson reports that "most of the men currently believe that the war was fought for economic purposes and that they were exploited by political leaders." If the men have bitter feelings about being duped by those who sent them into Vietnam, they also suffer from what Wilson calls "negative self-esteem." Thirty seven per cent of the black combat veterans, and 28 per cent of the whites, have negative attitudes about themselves.

The statistics tell, still again, that the burdens of readjustment have fallen more harshly on the black veterans. Wilson concludes that "for the lucky veteran, typically a white middle-class person with some college education and family support to help pay for higher education, the process of identity integration and finding a niche in society was not as difficult as it was for the poor black veteran without these benefits or opportunities. For the black veteran, life since Vietnam has been one hassle after another. A vicious cycle of Catch 22s has been the rule."

As an example Wilson cited the GI Bill. It is, he said, "inadequate to subsist on and simultaneously raise a family." Without additional job training or education, he said, the black veteran finds only menial jobs available—or none at all. Without education and good employment they are refused commercial credit to purchase houses. In turn, "lack of employment and a decent standard of living generate psychological stress that then spins off into interpersonal conflict, drug use and crime."

Readjustment from the Vietnam War thus leads to either battles against society or, if those can be contained, personal battles against the self. Earlier studies on readjustment problems suggest that the inner effects of war are prolonged and surface randomly. Vietnam veterans constitute 9 per cent of the Veterans Administration hospital population, but 20 per cent of the suicides in those hospitals. Another survey found that Vietnam veterans "have a higher rate of single-car, single-passenger fatalities than any other group in the U.S."

Despite the studies and statistics, it appears that many in Congress and the country don't want to be told the Vietnam experience was something special, because that obliges them to reflect on *why* it was special. And the answer to that, of course, is not just that it was the nation's longest, most expensive and second-largest war, but also that, after all that effort, the war was ignominously lost. With the exception of eight Vietnam-era veterans, all war veterans in Congress are from World War II or the Korean War. Because their perceptions were shaped by their own readjustment periods—they returned as heroes to a grateful nation ready to reward them—many members see little need for passing legislation to provide more and broader services to Vietnam veterans and to be large-minded about their eligibility. Rep. G. V. (Sonny) Montgomery (D-Miss.) said, "I do not see the difference between the Vietnam war, the Korean war or World War II. They are all wars. The persons fighting the wars cannot tell any difference." Such an attitude, grounded either in ignorance or callousness, can only further alienate and depress the Vietnam veterans.

But it can't silence them. Ralph C. Thomas III, a Vietnam veteran and director of the discharge review division of the Harvard Law School Committee on Military Justice, told the House Committee on Veterans Affairs yesterday that he and his comrades had a stark awareness that this war was different.

During the Vietnam years, Thomas said, "the war's morality and even legality were questioned daily [and] debated on the floor of Congress as well as editorialized in the news media. . . . Such a climate couldn't endure without affecting the morale of the servicemen both within and without the country of Vietnam. We began questioning our own morals and principles and I can assure you that our political discussions were not less heated in the hills of Vietnam than yours were in the halls of Congress. I observed arguments concerning the validity of the Vietnam war that brought GI's to the brink of fisticuffs with one another. Such disagreements often led to a serviceman's demise. An unpopular political opinion to the wrong superior officer was usually the beginning of the wheels' being set in motion for a less than honorable discharge—regardless of the individual's competency or job performance. It is probably safe to say that during the Vietnam era more bad discharges were sparked by political considerations than during any other American war."

In the winter 1975 issue of the Journal of Contemporary Psychotherapy, Victor DeFazio wrote that "the psychological climate of the war, the public's response to [veterans'] homecoming, the fact that most entered the armed forces during late adolescence, their moral doubt and the survival experience seem to account for the Vietnam [veterans'] unique difficulties and attitudes." Still to be explored are the psychological problems created by the newest obstacle to healthy and quick readjustment politicians like Montgomery who are now as indifferent to the war's messy aftermath as once they were passionate for its escalation.

PROSPECT JAYCEES SHOOTERS

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. SARASIN. Mr. Speaker, teamwork, accuracy, and quality are the characteristics most often ascribed to the Prospect Jaycees Shooter Education Team.

Young people, aged 11–14, have joined together, under the guidance of Jaycees Bruce Woundy and Tom Howsen to develop the skills and the perfection so necessary to marksmanship and the respect and understanding essential to the proper use of weapons.

Patience and perserverance have their rewards, and on May 21, the Prospect Jaycee Shooter Education Team won the State championship at their meet in Shelton, Conn., demonstrating skills superior to those of the 14 other teams against whom they competed.

As a result of their outstanding victory in Shelton, the children will represent the State of Connecticut in upcoming competition. The six youngsters, Maureen Macary, Donald Read, John Read, Mark D'Anglo, Frank Baker III, and Robert Allen, will have an opportunity to meet with teams throughout the country at the U.S. Jaycee International Daisy B–B Gun Meet in Sioux Falls, S. Dak., on July 8, 9, and 10.

I wish to extend my sincere congratulations to Prospect Jaycee Shooter Education Team for their State championship and wish them every success for the international competition.

NURSING AN AMBULANCE

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. CHARLES WILSON of Texas. Mr. Speaker, one of the big concerns we have these days is how to make sure that health care is available to people in areas where there are no doctors and people cannot easily get to the medical centers. Some people in San Jacinto County, Tex., have come up with a pretty ingenious solution to this problem. A couple of nurse practitioners have combined operating a gas station with an emergency ambulance-health care service. An article on this project appeared in the June issue of Family Health magazine. Mr. Speaker, I include this article in the CONGRESSIONAL RECORD:

NURSING AN AMBULANCE (AND A COUNTY)

(By David Lampe)

If you ever need an ambulance anywhere in San Jacinto County in eastern Texas, just dial the Shell service station in Coldspring, the county seat. There, a large sign lit with flashing lights proclaims, "Nurse's Shell—Super Care for You and Your Car."

Proprietor Charlotte O'Quinn is also a realtor, a Methodist minister, the owner of a health food shop—and a registered nurse. Day or night, weekdays or weekends, Nurse O'Quinn drives the only ambulance in the county (which includes the Sam Houston National Forest) and will race to your aid within minutes. By the time you're on the stretcher, a very efficient deputy sheriff will have screeched up alongside to lend a hand in carefully placing you in the ambulance. And if you happen to live in one of the wilder corners of the "Big Thicket," the deputy will ride shotgun à la John Wayne while Nurse O'Quinn performs her medical duties.

To all appearances, the area's 9,000 souls—mostly lumbermen, dirt farmers and small ranchers—are tucked away in some forgotten corner of the world. Actually, this densely wooded area, the poorest per capita in Texas, is only 75 miles north of Houston, but dangerously curving country roads virtually isolate it from surrounding communities as well as from the nearest hospital—in Huntsville—20 miles away.

Like many small towns, Coldspring had no emergency medical service. That is, until four years ago when two determined "angels of mercy" swooped into town. Their presence and skill have been responsible for saving the lives of at least a dozen cardiac patients.

It all began in 1973 when Elizabeth Fraley, a registered nurse from Houston, inherited a run-down, 36-acre farm six miles from Coldspring, and invited Charlotte, an old friend, to live with her. Since the small farm could not possibly support them, they both went to work—Elizabeth as one of the town's two school nurses and Charlotte as a realtor, trying to sell land and weekend homes around the state park's newly created, 52-mile long Lake Livingstone.

But things didn't work out quite the way they had expected: Within two weeks the other school nurse left, and Charlotte agreed to take on that job in addition to her brokerage responsibilities. On her own initiative, she began to teach first aid and simple emergency medical care to high school students—vital knowledge in an area as remote as the Big Thicket.

"When I was in high school, she taught us how to take people's blood pressure," recalls

one deputy sheriff. "Well, I went right home and took my mother's. You know, it was too high—but we were able to do something about it in time. I reckon folks around here, we owe Ms. O'Quinn a lot."

It wasn't long before the two nurses realized just how great the need for medical advice and care was. Since there are no physicians in the huge county (patients who can, travel out of the county to visit doctors), the women decided to go into "freelance" nursing practice. By providing some of the services that physicians do—such as taking blood pressures, giving injections and guiding medical regimens—they hoped to close the enormous gap in medical care.

"We sent out letters to twenty-five doctors with patients in our county, offering to do their follow-up work as nurses," Charlotte recalls. "Seventen doctors agreed to our suggestion so we rented an office downtown."

Initially, the townspeople didn't know what to make of the two whirlwinds. "I suppose we made some enemies at first," says Charlotte, "what with being women *and* outsiders. But I was sure we'd fit in when the people got to know that our intentions were good."

However, just as things began to run smoothly, the two nurses were confronted with another obstacle: Coldspring had no ambulance service. The problem was not unique to San Jacinto County—many small towns, unless they can support their own ambulance service, have to rely on private ambulance companies.

But Coldspring was too poor to provide such a service—so the nurses decided to start their own. Unfortunately, you can't have an ambulance service without an ambulance. After a long search, they tracked down a Chevrolet ambulance that had been stripped down into a van. Charlotte, who had once studied auto repairs, began to refashion the van back into an ambulance. Then the two women contacted the emergency services office of the Texas State Health Resources Department for a list of the state's standards and specifications for ambulances, and asked for aid in setting up their emergency service. Much to their surprise they learned that the state would only provide funds for the ambulance if the vehicle was used exclusively for *non*-emergency calls.

Obviously, an ambulance prohibited from being used in an emergency was useless to the citizens of isolated San Jacinto County. The only solution was to outfit their own vehicle—and with the financial aid of a few townspeople, that's exactly what they did.

But to their amazement, the women learned that all their years of nursing training did not qualify them to operate their newly initiated service. "Before we could put an ambulance on the road we had to show that we'd each taken an eight-hour first-aid course!" Charlotte recalls. No matter that for 19 years Elizabeth had taught college-level nursing and worked as a hospital night nursing supervisor at the same time. Or that for 12 years Charlotte had been a surgery and emergency department supervisor in a hospital.

Nevertheless, both women took the required first-aid course; for good measure, Charlotte also found the 138 hours necessary to take a state-supervised emergency medical technician's course.

In hopes of finally luring a general practitioner to San Jacinto County, the two nurses moved "Nurses' Practitioners of Coldspring" into a larger building that they equipped—again mainly at their own expense—as a full-scale clinic. They even installed a dark room where Charlotte, who also happens to be a trained x-ray technician, would be able to develop film.

For four months last year, a young physician from India worked with them but, heart set on becoming a specialist, he accepted the first city hospital residency the came along. Unable to replace him, the nurses reluctantly had to close the clinic doors.

Although they still had their ambulance, they were faced once again with the problem of subsidizing the service. "An ambulance," Elizabeth says, "costs $500 to $600 a year just to insure. And, it's forever needing expensive things—like new tires."

"No private ambulance service is profitable," adds Charlotte, "unless you can go on a large scale. Some local people are very generous, but we still have to pay for a lot ourselves. If we could get contributions from each family in the community and on top of that charge for each call, we'd be in good shape. But we can't. That's why I decided to lease the Shell station last year."

This unique solution has proved fruitful in more ways than one. In addition to making enough money to cover operating costs, the station provides a good central base for the ambulance, one where repair services are always available. These days it also houses an emergency medical center, set up in a cubicle at the back. There, Charlotte takes blood pressures and gives inoculations and medications prescribed by the physicians from surrounding areas. She remains "on call" at all times so that the local people who drop in for medical advice—and they pass through at all hours of the day and night—can have it. But is her backroom mini-practice legal?

"Diagnosing, treating and charging patients constitutes practicing medicine," she explains. "If you do any two of these but not the third, then you're not officially practicing medicine. I'm very careful about this. But it's a fact that no one around here ever takes anyone to the hospital without first asking me about it."

It's also a fact that whenever neighbors see Charlotte taking out-of-town visitors on a tour of Coldspring they make some, usually feeble, excuse to introduce themselves and say nice things about "our nurses."

"People here are knocking themselves out saying they can't afford to lose us," Charlotte admits. And they use more than words to get their message across: When she took over the Shell station, its gasoline sales immediately tripled.

Because she knows that wherever in Coldspring (or for that matter anywhere else in San Jacinto County) she happens to be immediately becomes *the* place to go for health care advice, she has recently opened a health food store in her service station. Her reasons? Partly to get—and to keep—her neighbors interested in sensible nutrition, and partly because some of the natural foods she sells are also simple remedies for minor ailments. "Mind you, I don't prescribe medicines," says Charlotte. "I'm not allowed to. But I am allowed to give advice. And I know where to draw the line; I know what I don't know.

"It seems a shame to me that nurses who are capable—and I readily admit that not all nurses are—of doing primary care in minor-type things are not allowed to do it in rural settings like this one. These people are desperate."

And, of course, her ambulance service continues to thrive. But now, in addition to her other duties, Charlotte works it single-handedly. "Elizabeth used to come out with me on the ambulance till the arthritis in her shoulders and neck got so bad," Charlotte explains.

"Most of our calls nowadays are filtered through the county sheriff's office, and usually when I get one out in the deep of the thicket, he sends along a deputy. In the lonelier spots you never know just what you're going to run into. Some of these places can be pretty wild, and most of the calls I get are at night. So far I've been lucky; I haven't had any trouble.

"Back when we first got the ambulance, we'd go out maybe fifteen, twenty times a week. But now we try to get help from the town of Cleveland, about twenty-one miles from here. And we only answer five or six calls a week ourselves. We try to limit our work to cardiac patients, serious illnesses and traffic accidents. Sometimes after we've passed a call on to the Cleveland ambulance I still go out to help."

Charlotte insists that when she reaches retirement age in two years she's going to hand the Shell station over to her mechanic and take things easier. But unless somebody else turns up who's better qualified, she'll most likely continue to provide her community with its unique emergency medical service. It's hard to imagine Nurse O'Quinn turning in her siren.

RICHARD N. GARDNER, U.S. AMBASSADOR TO ITALY, SPEAKS ON "HUMAN RIGHTS AND FOREIGN POLICY"

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. BRADEMAS. Mr. Speaker, on May 17, 1977, Richard N. Gardner, the distinguished U.S. Ambassador to Italy, addressed the American Chamber of Commerce in Italy on "Human Rights and Foreign Policy." I include his comments, a detailed examination of our commitment to individual liberties in an interdependent world, to be inserted into the RECORD:

ADDRESS OF AMBASSADOR RICHARD N. GARDNER

HUMAN RIGHTS AND FOREIGN POLICY

I am honored to be here tonight because the American Chamber of Commerce in Italy plays a vital role in relations between Italy and the United States.

You are the second largest American Chamber in Europe, with a membership of 2,300. You are a truly binational organization, with the majority of your total membership consisting of Italian companies that have commercial relations with the United States, and with more than 90 percent of the 750 operating American subsidiaries in Italy playing an active part.

I have seen your remarkable Annual Directory, which you publish at great expense and effort—and which is undoubtedly the best compendium of American business representation in Italy. It is a source of great satisfaction to me that our Embassy and our Consulates contribute to that effort. It is a good example of the kind of cooperation which, you may be assured, I intend to foster during my service here.

There are a host of activities of this Chamber that exemplify the sense of civic responsibility that characterizes the work of this organization:

Your summer work program for students of Italian schools and universities;

The seminars you organize on subjects of tropical and immediate interest to your membership and the community at large; and

The special activities you undertake to reinforce the image and the reality of Amer-

ican business as a responsible citizen in our host country, Italy.

What these and other activities demonstrate is that this Chamber is a dynamic organization making a valuable contribution to Italian-American relations. I am deeply grateful for your work and I thank you for giving me the privilege of spending this evening with you.

More than three and a half centuries ago the Dean of St. Paul's Cathedral in London, the poet John Donne, writing in that elegant Elizabethan prose familiar to us all, observed:

"No man is an island, entire of itself . . . any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee."

Many centuries earlier Marcus Aurelius expressed very similar thoughts when he observed:

"The reason, in respect of which we are rational beings, is common; if this is so, common also is the reason which commands us what to do, and what not to do; if this is so, there is a common law also; if this is so, we are fellow-citizens; if this is so, we are members of some political community; if this is so, the world is in a manner a state . . . My nature is rational and social; and my city and country, so far as I am Antonius, is Rome; but so far as I am a man, it is the world."

It is this sense of shared destiny, this sense that, irrespective of national boundaries, regardless of ideological differences, despite differences of religion and race and culture, humankind is an interdependent whole, that underlies the initiatives of the Carter Administration toward actively encouraging a global respect for the rights of the individual.

A RETURN TO PRINCIPLES

The American republic was founded 200 years ago on the principle that self-government and individual liberty are the inalienable rights of "all men" everywhere. The present mood of the American people reflects a return to those first principles, to the fundamental concepts of personal freedom and moral responsibility that were the basis upon which the American republic was constructed.

I think Jimmy Carter was elected President largely because the American people saw in him the personification of that desire to return to those fundamentals. It was a recognition that our strength, stability and vitality as a nation grow out of those very philosophic roots of our political system.

At the same time, in our international relations, we recognize more clearly than before that the enduring influence of the United States depends to a very large degree upon the extent to which the common people of the world see us as a force for good. As the President said in his Inaugural Address:

"We will not behave in foreign places so as to violate our rules and standards here at home, for we know that this trust which our nation earns is essential to our strength."

And he added:

"Because we are free, we can never be indifferent to the fate of freedom elsewhere. Our moral sense dictates a clear-cut preference for those societies which share with us an abiding respect for individual human rights."

A firm commitment to the promotion of human rights is not a novel element in American foreign policy. It has emerged, not coincidentally, at some of the more luminously creative periods of our history. We see it in the writings of Thomas Jefferson and Abraham Lincoln. We see it in President Woodrow Wilson, who in 1917 referred to our commitment to:

"The things we have always carried nearest our hearts—democracy, the right of those who submit to authority to have a voice in their own governments, the rights and liberties of small nations, a universal dominion of right by such a concert of free peoples as shall bring peace and safety and make the world itself at last free."

We see it in President Franklin Roosevelt, who told the American Congress in 1941:

"In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms . . . Freedom of speech and expression . . . freedom of every person to worship in his own way . . . freedom from want . . . freedom from fear."

We see it in President Harry Truman, whose special message to the Congress in March 1947 noted:

"The free peoples of the world look to us for support in maintaining their freedoms. If we falter in our leadership, we may endanger the peace of the world—and we shall surely endanger the welfare of this nation."

We see it in President Dwight D. Eisenhower, who said in 1955:

"We shall always hold that there can be no true peace which involves acceptance of a status quo in which we find injustice to many nations, repressions of human beings on a gigantic scale, and with constructive effort paralyzed in many areas by fear . . ."

And we see it in President John F. Kennedy, who asked at American University in 1963:

"Is not peace, in the last analysis, basically a matter of human rights?

So President Carter's emphasis on human rights is in the mainstream of traditional American thought.

INTERNATIONAL RELATIONS

We have been told by some leaders that an emphasis on human rights in our international relations represents an unacceptable and illegal interference in the internal affairs of other countries. It may well be unacceptable and uncomfortable to leaders who do not rule with the consent of the governed—whose survival depends upon the subordination of individual political and economic rights to the interests of the state. But it is hardly illegal or interference in internal affairs.

The Charter of the United Nations is an international agreement freely entered into by all its signatories. In articles 55 and 56, the members of the UN pledge themselves to take joint and separate action in cooperation with the organization to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

The United Nations Charter is only one of many international agreements entered into by the governments of the international community to respect the rights of their own citizens—to respect political rights, such as freedom of speech, press, assembly, and religion, freedom from arbitrary arrest and detention, freedom to leave one's country, and also to promote economic rights, such as full and productive employment, and access to food, education, health care, and other basic human needs.

Having freely made these international commitments, no nation can say that human rights questions are solely matters of domestic concern. All nations share the duty to speak out when human rights are violated in other countries—whatever their political orientation.

And then there are the so-called Helsinki Accords.

On August 1, 1975 the Final Act of the Conference on Security and Cooperation in Europe, the CSCE, was signed in Helsinki. That document contains provisions calling for respect for human rights and fundamental freedoms, including freedom of thought, expression, religion or belief. In the long CSCE negotiations the West was successful in incorporating in the Final Act a detailed statement on human rights, which reaffirmed that human rights are a legitimate element in relations between states, and a proper subject for discussion among them. It is important to note that any claims by a CSCE signatory that the human rights principles are less important than the other principles is contrary to the intent of the document. All principles, it was agreed, are equally important.

Although the Final Act at Helsinki is a political statement of intent and not a treaty or legally binding document, it does carry considerable moral and political weight. It was signed at the highest level of the participating governments.

The Final Act provides for a follow-up meeting, which in fact will be held in Belgrade this fall. The purpose of the Belgrade meeting is to:

Review the implementation of the provisions of the Final Act;

Consider the possibility of new CSCE-related proposals; and

Decide on further follow-up arrangements beyond Belgrade.

We will be going to Belgrade in the same spirit that took us to Helsinki—cooperation, not confrontation. For we look upon the CSCE as part of the process of detente. At Belgrade all subjects will be treated equally.

We will naturally be especially interested in human rights, and the progress made thus far in implementing the Helsinki commitments on free movement of people and ideas.

We believe that an important part of the process of reducing tensions in East-West relations is the effect it has on people, their ability to travel freely, to be reunited with members of their family, to marry whom they please, to travel for professional reasons, to read the books and newspapers they choose, to watch the films and television programs they want.

AMERICAN POLICY

Genuine, constructive, enduring detente is not possible while governments try to keep entire populations isolated in ideological ghettos. The fears and suspicions—and indeed, the ignorance—that prevent a real relaxation of tensions between East and West must be reduced by encouraging a frank and open intercourse among peoples and ideas.

Let me emphasize further that:

President Carter has called for a review of American policies and practices, to insure that we are fully complying with the international standards we apply to others. He has eliminated the last remaining restrictions on American travel abroad, and he is moving to liberalize travel by people of other countries to the United States. We Americans do not complain when other peoples of the world criticize us for our shortcomings. We admit them, we publish them, we make movies about them. And we try to correct them.

We are applying a rule of reason in our human rights strategy, a flexible approach with specific means adapted to the special circumstances of each case. As pragmatic idealists, we are analyzing the human rights impact of alternative U.S. actions, such as the granting or withholding of economic or military aid, and attempting to employ measures that will promote, not hinder, the achievement of human rights for the mass of the people.

We are emphasizing economic rights as well as political rights. Under President Carter, our aid programs will focus on meeting the basic human needs of the poorest people for food and nutrition, health and family planning services, education and skills, and productive jobs. It is rightly said that man does not live by bread alone, but

it is also true that freedom of speech is of little help to a starving man.

We are convinced that our new emphasis on human rights will not interfere with strategic arms control negotiations, because in these and other urgent matters there is an over-riding self-interest in reaching agreement.

We will give particular emphasis to multilateral implementation of human rights standards. In this connection, we wish to strengthen the human rights work of the United Nations.

Let me conclude with a few words on this final point. Mere international declarations on human rights are not enough. The time has come to strengthen international implementation.

RIGHTS AND REMEDIES

No right is effective without a remedy. That is why each country must examine not only the formal norms on human rights contained in its constitution, but also the practical procedures needed to make those norms meaningful to the average citizen—procedural remedies to assure freedom from arbitrary arrest and detention, the right to a speedy and public trial, the right to confront and cross-examine his accusers, the right to loyal and effective counsel, the right to an independent judiciary, and so on.

At the international level, procedures to implement human rights standards are also inadequate. It would be utopian to ask for a world judiciary and a world police force to enforce human rights, but some practical measures can be taken to review the performance by governments of their international commitments and to expose to the conscience of the world persistent patterns of gross violations of internationally accepted human rights.

There are two specific measures that should now be taken to this end:

First, the General Assembly should create a new office of United Nations High Commissioner for Human Rights, as was proposed by the Government of Costa Rica twelve years ago. The High Commissioner could make an annual report on the performance by UN members of their human rights obligations and bring emergency human rights situations to the attention of the Human Rights Commission. He could also conduct special studies and investigations on behalf of the Commission.

Second, the Human Rights Commission should meet more often. Indeed, our aim should be to have it continuously available to discuss human rights problems, whenever the need arises, just as the Security Council is continuously available to discuss threats to international peace and security.

One possibility to be considered is a Charter amendment to transform the Trusteeship Council, which has little left to do, into a Human Rights Council. This would raise human rights to new authority and visibility in the United Nations and in the international political process.

The aim of such new procedures would be to assure more systematic and objective examination of the state of human rights in the world than is now the case. We must never accept a double standard, in which the international community denounces human rights violations by so-called right-wing regimes while remaining silent on violations by so-called left-wing governments. And in the preoccupation with how white men treat black men, the world must not lose sight of how white men treat white men, or how black men treat black men, or how black men treat white minorities in their midst.

In short, we need to focus sharp beams of international light into all the world's corners of reaction.

The real test of commitment to human rights by a nation or an individual, I suggest to you tonight, is not how strongly that nation or individual attacks the human rights transgressions of its adversaries, but how strongly that nation or individual seeks to correct the human rights transgressions of itself and its friends. A self-serving invocation of human rights is not a genuine concern at all.

Those who claim to be concerned with human rights can demonstrate the genuineness of their concern by supporting effective international measures of human rights implementation. A nation that consistently frustrates objective international study and fact-finding on the condition of human rights within its own borders or in friendly countries should forfeit any claim to be taken seriously as a champion of human betterment.

Peace and security, economic and social development, and human rights are three interrelated and essential elements in the triangle of world order. In the absence of any one of these, the triangle is incomplete.

The cause of human rights, as I suggested earlier, is the world's only great revolutionary cause. As the American journalist Walter Lippmann once put it:

"The deepest issue of our time is whether the civilized people can maintain and develop a free society or whether they are to fall back into the ancient order of things, when the whole of men's existence, their consciences, their science, their arts, their labor, and their integrity as individuals were at the disposal of the state."

This is the central question that faces all of us, as nations and individuals, as we begin the climatic last quarter of the twentieth century.

THE POSTAL SERVICE DOES DELIVER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. DERWINSKI. Mr. Speaker, it is always open season on the Postal Service. It is attacked even when able to provide expedient delivery of the mail. The services it renders most often are taken for granted while deficiencies are repeatly emphasized.

Therefore, I was pleased to read a very positive column in the Washington Post of June 25th, by Tom Braden, the Los Angeles Times syndicated columnist, which I insert into the RECORD for the attention of the Members.

I ask the Members to keep in mind that our Postal Service is a huge operation, facing many logistical complexities, and that there are no simple solutions to the problems which beset the Postal Service.

The article follows:

[From the Washington Post, June 25, 1977]

THE POST OFFICE DOES DELIVER

(By Tom Braden)

Chatting amiably the other day with a stranger who happened to be standing next to me, I made one of those disparaging remarks about the postal system to which so many of us are inclined. "Of course," I said, "you can't trust the mails."

"Yes you can," the stranger retorted. "Last year, 95 to 96 percent of all first-class letters were delivered on time, and the ratio of missent first-class mail was down to 2.5 per cent."

It turned out that I had fallen into conversation with the public affairs assistant to the Postmaster General, a handsome young black-haired man named Roy Harris, whose job is to do combat with the "American myth," as he sees it, that the Postal Service is inefficient. Harris suggested that we have lunch so that he could further disabuse me of error.

I learned some interesting information. At 13 cents, the United States provides the cheapest first-class mail rate of any nation in the world except Canada, where a letter costs 12 cents. In Belgium a letter costs 21 cents; in France, 20; in Sweden, 24. Yet the postal deficit in the United States is less than in any other country in the world—25 per cent of total revenue compared with, say, 96 per cent in Canada.

I asked Harris how he accounted for this, and he produced a table of figures showing that the U.S. Postal Service handles 132,115 pieces of mail per employee, the highest rate in the world. Japan, with 105,417 per employee, is second and Switzerland third.

Never in its history has the U.S. Post Office paid for itself, and Harris speculated as to whether the founding fathers anticipated that it would. "Congress has provided that we give free mail service to the blind; it has provided a cheap second-class rate for magazines and newspapers in order to disseminate information; and a special nonprofit rate for religious and cultural organizations.

"We could save half a billion a year if we cut out Saturday delivery and another half a billion if we closed half of the 25,000 rural or isolated post offices. We could do that and still provide customers with comparable or better service.

"Even so, our current deficit (nearly a billion last year) can be traced largely to the inflation/recession that the country is going through. In 1973, the post office nearly broke even."

Harris conceded that the billion-dollar loss last year (as well as the $12 million loss in 1973) was on top of the annual congressional subsidy of nearly $1 billion. "But remember that the purpose of the post office is not to make money but to perform services, and we are doing that more efficiently than ever before.

"When you consider that the number of delivery points [houses and offices] increases at 4 percent a year, it is remarkable that the post office has been able to decrease the number of its employees from 712,000 in 1974 to 651,000 today." (Not counting the Army, the post office is the second largest employer in the United States, ranking just behind the American Telephone and Telegraph Co.)

As the public affairs officer for the second largest employer in the country, Harris closed our luncheon with a peroration: "Our standard is overnight delivery within 150 miles; second-day delivery within 600 miles, and third-day delivery across the country, and we're meeting that standard about 95 percent of the time. It's the best service Americans have received in the 200-year history of their postal system."

EUROPE AND THE PLUTONIUM AGE: PART ONE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. BROWN of California. Mr. Speaker, as you know, I have expressed strong concerns about the nuclear pro-

liferation risks of certain civilian reactors and related facilities, and have joined with President Carter in attempting to deal appropriately with these risks. The persistent claims of those who are committed to existing reactor designs and fuel cycles is that it is too late to change because Europe is already committed to the current techology. This statement is only part true, and the perceived commitment to a plutonium breeder economy may only be temporary in any case.

A recent three part series in the Los Angeles Times threw new light on this subject as it described the steps that have been taken in Europe toward the plutonium breeder reactor, and the steps that have and have not been taken to safeguard this fuel cycle and deal with these nuclear wastes. In reading this series, which I will place in the CONGRESSIONAL RECORD this week, I was struck by how many questions the European proponents of breeder reactors have not answered.

For example, David Owen, the new British Foreign Secretary, stated that the proliferation issue has been avoided in Western Europe, while "politicians have allowed the urgency and dangers to be swamped by commercial interests and bureaucratic indifference." The reporter who wrote this series on President Carters policy commented,

There are signs that resulting pressure from a newly sensitized public, combined with economic constraints on the growth of energy demand, may yet curtail Europe's headstrong effort to commercialize the breeder.

Mr. Speaker, I include the first of three articles, in the CONGRESSIONAL RECORD at this point:

[From the Los Angeles Times, June 15, 1977]

(First of a series)

DESPITE RISKS, EUROPE OPTS FOR PLUTONIUM AGE

(By Robert Gillette)

DOUNREAY, SCOTLAND.—From neolithic man to plutonium man, the brown, heather-clad hills of Scotland's north coast have seen a panoply of human technological advance that spans nearly five thousand years.

The first arrivals were Stone Age farmers who built chambered tombs on the windswept headlands overlooking the North Atlantic. People of the Bronze Age followed a thousand years later. In the first century BC, their Iron Age successors, refugees from the northward march of Roman legions, fortified the rocky promontories and topped the hills with stone towers called brochs.

Picts, Angles, Saxons and Vikings came later.

Now modern Britain has chosen a rocky embayment a hundred yards from the Atlantic shoreline here as the place to make its bid for entry into the plutonium age.

At the Dounreay Experimental Reactor Establishment—a site chosen not for its historic symbolism but for its isolation from heavily populated areas—the United Kingdom Atomic Energy Authority runs a 250-megawatt power station that in some respects is the world's most advanced operating prototype of the plutonium breeder.

Britain's successful two-year operation of the prototype fast reactor suggests that an era of global commerce in plutonium, a radioactive metal usable as reactor fuel or in atomic weapons, is nearing reality—prematurely, arms control experts contend; and not quickly enough, the nuclear industry says.

The Dounreay reactor, along with similar prototypes operating or under construction in four other countries, marks an important new divergence in official attitudes toward nuclear power development between the United States and most of the rest of the industrialized world.

While Europe and Japan are working briskly to develop plutonium breeders for their own use and perhaps for export, the Carter Administration, motivated by fears that increasingly routine commerce in plutonium fuel might hasten the spread of atomic weapons and increase the likelihood of nuclear war, has reined in the American effort and ordered cancellation of a $2.1 billion prototype breeder on the Clinch River in Tennessee.

Long envisioned as the ultimate in fission technology, breeders differ from other reactors by their ability to make more fissionable fuel than they burn.

The Clinch River breeder was to have been the American version of reactors already running in Britain, France, Japan and the Soviet Union. West Germany is building a 300-megawatt prototype breeder, with cooperation from Belgium and the Netherlands. And France has started construction of the world's first commercial-scale, 1,200-megawatt breeder, with completion scheduled in 1981.

Not surprisingly, President Carter's implicit suggestion last April that Europe and Japan follow the American example has met with official reactions ranging from silence to prickly rejection.

Although this initial hostility has abated, three weeks of conversations with European energy officials met a consistent refrain: Europe, these officials say, has achieved a rare technological lead over the American industrial juggernaut and is not about to surrender it.

Some officials, although apparently few in the highest policy echelons of Britain, France, and West Germany, suspect that commercial motivations underlie the Carter Administration's pleas for restraint in commercializing plutonium. Perhaps, these officials suggest, the United States is seeking a pause not to buy time for improving international nuclear safeguards but for closing the breeder gap.

One senior British official, in explaining this view without subscribing to it, noted that the Carter Administration still proposed to spend $483 million in the next fiscal year on a breeder research and development program that would include $33 million for completion of designs for the Clinch River reactor.

This adds up to substantially more than European nations will spend collectively this year on breeder development.

"I should be quite happy with that amount of money," the British official said. "You may be slow, but you are still moving on a majestic scale."

A more widely shared opinion is that cancellation of the Clinch River project—which Congress may yet revive—was a gesture of political sincerity that the United States, richly endowed with coal and uranium, could afford. Europe, this view holds, is not so fortunate and needs the more energy-efficient breeder to reduce its politically vulnerable fuel imports.

Nevertheless, President Carter's concerns about proliferation (and former President Gerald R. Ford's similar policy statement on the subject last October) have aroused a new and intensifying public discussion in Europe of plutonium and the international security problems it creates.

The proliferation issue, moreover, has arisen just as environmental objections to conventional nuclear power plants have begun mushrooming throughout Western Europe.

There are signs that resulting pressure from a newly sensitized public, combined with economic constraints on the growth of energy demand, may yet curtail Europe's headlong effort to commercialize the breeder.

In Britain more than in other major European countries, the government has encouraged public debate on the painful choices that development or curtailment of a plutonium-based energy economy entails. David Owen, the foreign secretary, put the choices starkly in a speech the other day:

"The world is increasingly forced to look to nuclear power as a means of sustaining life," Owen observed, "in the full knowledge that nuclear power, if misused, adds to the danger of destroying life once and for all.

"The dilemma is unprecedented in human history. None of us—nuclear and non-nuclear states alike—has yet fully come to terms with its implications."

Owen went on to say that "politicians have allowed the urgency and dangers to be swamped by commercial interests and bureaucratic indifference," and he praised President Carter as being "absolutely right to give this issue high priority."

That said, however, Owen took note of recent studies by the Central Intelligence Agency and researchers at the Massachusetts Institute of Technology predicting worldwide oil shortages in the 1980s (but didn't mention a dissenting study by the Stanford Research Institute emphasizing huge amounts of oil still in the ground.)

"The plain truth is," Owen said, "that some countries have no alternative to nuclear power, and even those with plentiful oil and gas know these cannot last indefinitely."

Britain, with large coal reserves and a generous share of North Sea oil and gas, fits in the latter category. Indeed, a flood of cheap North Sea gas has drastically slowed growth in demand for electricity and left the government-owned nuclear industry bereft of new orders for power reactors.

British nuclear officials, who hint darkly about the possible collapse of their industry unless new orders are forthcoming, argue that North Sea oil and gas should not be allowed to stand in the way of nuclear development but instead should be exported to prop up the limping British economy.

"We ought to be exporting this to get the capital to put U.K. industry back on its feet," Clifford W. Blumfield, director of the Dounreay research station, contends.

"We don't know what our energy growth rate will be, but nuclear has to expand or we'll be deeper in the mire than we are now. We don't know if the breeder reactor will be needed, but it might."

According to officials of the International Energy Agency in Paris, European nations currently import an average of 60% of their energy supplies. West Germany, for example, relies on oil for about 50% of its primary energy needs and imports 95% of that, mainly from the Middle East.

West Germany has large deposits of brown coal or lignite in the Ruhr Valley and is planning several big new coal-fired power plants now that environmental opposition has brought construction of new conventional nuclear power stations to a standstill.

But a major expansion of coal mining implies major environmental damage, the visibility of which is magnified by the country's relative compactness. One huge open-pit mine planned for the early 1980s for instance is expected to devour West German's oldest and largest oak forest.

France's options, as French energy officials describe them, are even more tightly circumscribed by limited natural resources. France has virtually no oil and gas and very little coal. Uranium is more abundant than in Britain and West Germany (which have almost none) but cannot be counted on to sustain long-range energy growth, much less support the energy independence France seeks.

"For a country like ours, with little fossil fuel, nuclear energy is considered essential,"

Andre Giraud, president of the French Atomic Energy Commission, said recently. As for developing breeder reactors, Giraud adds, "we think there is not time to lose."

Having already suffered from two Arab oil embargoes—one in 1956 after the French, British and Israeli incursion into the Suez and again in 1973—French energy officials are as loathe to rely heavily in the future on imported uranium as they have in the past on imported oil.

"On moral grounds, it is a risk we can't take, even if it proves later to be wrong," Giraud said.

Summing up what appears to remain the predominant view, a senior Common Market energy official observed that in the United States "there is the illusion of having many alternative options. In Europe, the informed among us have fewer illusions. Perhaps we can afford a delay of a year or two. But we see a major role for nuclear energy, and this means the breeder."

The plutonium breeder's single compelling virtue is the expectation that it will squeeze 50 to 60 times as much energy from a given supply of uranium as do other types of power reactors. In light of limited supplies of uranium available to European countries, supplies that are not vulnerable to political cutoff the breeder translates in the minds of European energy analysts as nothing less than a guarantor of sovereign independence.

But a system of breeder reactors implies a costly system of reprocessing plants to extract newly formed plutonium from spent fuel and special fabrication plants to recycle it into fresh fuel.

These facilities, along with storage depots for tons of surplus plutonium stockpiled in the system, pose security problems unlike any that civilian industry has ever faced.

Arms control experts emphasize that 11 pounds of plutonium is enough to make a bomb powerful enough to destroy the center of a major city. But if present nuclear development plans hold, according to one authoritative estimate, European governments will be guarding a collective stockpile of 18 metric tons of plutonium in 1980 and 102 tons in 1990.

In the expectation that security problems will somehow be surmounted, breeder development is proceeding.

The equipment emerging from research programs in Britain, France and West Germany (as well as in Japan and the Soviet Union) is remarkably similar to that developed in the United States over the last 30 years.

Long, pencil-thin metal tubes are filled with slate-gray pellets of plutonium and uranium oxide and bunched in sub-assemblies to form the reactor's core. The core is immersed in a huge steel vessel filled with molten sodium, light, silvery metal that resembles mercury in its liquid state.

(Sodium, though it burns in air and reacts explosively with water, has proved to be the most efficient coolant available that does not interfere with fast neutrons streaming outward from the fission process in the core. This is important, because around the breeder's core is a blanket of otherwise unusable uranium-238, which, in soaking up the neutrons, becomes fresh plutonium.)

At Dounreay, the prototype fast reactor's vitals are immersed in a double-walled steel vessel 46 feet deep and 40 feet in diameter. The vessel in turn is embedded up to its brim in a cavity excavated in soft sandstone.

The vessel is capped by a heavy steel and concrete shield and enclosed in a cavernous building 80 feet high with roughly the proportions of a shoebox.

To enter the interior reactor room, a visitor picks his way down a narrow staircase in the building wall and passes through an airlock. Inside, the first impression is one of a modest cathedral, except that, where gothic arches might span the ceiling, a gigantic gantry crane hangs ready to move reactor components and the massive shielded flasks that hold spent radioactive fuel.

Although the reactor is running, radiation levels are low enough so that persons inside the room need no special protection.

Shouting to be heard over the roar of three huge sodium pumps that project out of the reactor and through the floor, program director Anthony Broomfield points to a metal grating in the floor. Barely visible in the dim light 14 feet down is the reactor's thick cap, from which a web of black electrical control cables protrudes.

Underneath, Broomfield explains, about a thousand tons of liquid sodium heated to 1,015 degrees Fahrenheit churn up through four tons of uranium and plutonium fuel. A series of heat exchangers extracts 600 megawatts of thermal energy from the reactor vessel and passes it along to steam generators in an adjacent building. The steam goes to still another building, where turbine-powered electric generators produce 250 megawatts of electricity for Scotland's industrial centers.

Thus far the only operating problem has been finding and plugging small leaks of sodium in the plant's steam generators. It may seem prosaic, but the problem is potentially serious because sodium reacts with water to make hydrogen, and a chemical explosion and fire can result.

Similar problems have cropped up in France's 250-megawatt prototype breeder, named Phenix. The reactor, near Avignon, ran smoothly for two years until sodium leaks developed in the cooling system last summer. The reactor has been shut down for repairs.

The leaks, blamed on faulty welds, were detected promptly in both reactors, and French and British technicians seem to regard them mainly as expensive nuisances.

The Soviet Union, however, has been either less fortunate or less astute. Over the last four years a series of sodium leaks in an experimental breeder at Schevchenko on the Caspian Sea has led to at least three serious chemical explosions outside the reactor vessel.

(Ironically, some American experts believe the U.S. breeder research program has developed the world's best plumbing for liquid sodium, but there is no immediate prospect of a reactor on which to try it.)

Plumbing problems notwithstanding, France already has started building Superphenix, a 1,200-megawatt commercial demonstration breeder, near Lyons. Although it is based on French technology, Superphenix is a European enterprise. The French national utility, Electricite de France, is putting up 51% of the capital, with the rest to come from government and private utilities in Italy, West Germany, the Netherlands, Belgium, and Great Britain.

Elsewhere in Europe, however, breeder programs seem more vulnerable to the political tides, and there is still a tentative air to ambitious plans.

Two years ago, Britain's Atomic Energy Authority was talking about building 40 commercial breeders by the end of the century. Now it is fighting for permission to build just one full-size demonstration reactor at a cost equivalent to $1.3 billion.

The British energy authority seems likely to obtain permission for detailed design studies, but the secretary of state for energy, Anthony Wedgewood-Benn, has held off making a decision on construction since last October to allow a fuller public airing of nuclear issues.

Taking a neutral position in the debate, Benn said in an interview with The Times that the government's nuclear policies in the past had not been examined as closely or as critically as they might have been.

Now, he said, public concern over safety, economics, waste disposal and proliferation "have brought (issues) that have for some years been regarded as technical questions into the heart of political discussion."

"I think that's overdue. It's a healthy sign. Because we're dealing here with a completely unique problem—namely the responsibility people have for future generations.

"I'm not making an anti- or pro-nuclear statement," Benn emphasized. "I'm saying that a body of policy as important as this ought to be clearly under democratic control."

In West Germany, where the government has taken no visible steps to encourage public debate of nuclear power, one is emerging anyway and is having an effect.

Last month, the government unexpectedly proposed a freeze on further money for breeder development—not, evidently, in response to the Carter Administration but rather to short-circuit growing skepticism among minority forces in the Bundestag, where a coalition of parties maintains a bare majority for the Schmidt government.

France alone has evinced no second thoughts, at least not publicly. Giraud, the Atomic Energy Commission president, dismisses the nascent French antinuclear movement as a public relations problem.

"Buoyed up by initial enthusiasm, absorbed in technical problems, fascinated by the wish to succeed in a hurry, nuclear technicians neglected to popularize their field," Giraud said in a speech to an international nuclear meeting last month in Salzburg, Austria.

Giraud told reporters recently that he expected environmental protests to cause no significant delays in the breeder program. A ranking French industrialist, who asked not to be identified, agreed with Giraud's prediction.

"Here, energy policy is a (government) dictate," he said. Environmentalists, he added, have relatively little access to the courts, the only utility is owned by the government and thus is insulated from public demands, and the government is reputed not to go out of its way to notify environmental groups of formal public hearings on energy projects.

"They publish a small notice in an obscure corner of a newspaper saying anyone wishing to comment has until the day after tomorrow. What can you do in that time? Even with opposition, if the government wants to build a dam somewhere, it does."

But even France, where going to the barricades to communicate with government is something of a popular tradition, may not be totally immune to the nuclear debate now blossoming in Europe. Already the Paris subway is sprouting graffiti advertising an antinuclear rally next July 30 at Creys-Malville, the construction site of Superphenix and the scene last summer of a massive protest demonstration.

Elsewhere in Europe it appears that the Carter Administration, by lending credibility to thoughtful skeptics, is having an indirect effect on nuclear plans that far exceeds what it might achieve by direct appeal to governments.

For better or worse, belated public interest combined with normal slippages in complex technical projects may yet slow the advent of the plutonium age in Europe.

OBSERVANCE OF ST. VITUS DAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. DERWINSKI. Mr. Speaker, today, June 28, commemorates the anniversary

of the Battle of Kosovo, an event of tremendous historical significance to Americans of Serbian descent and to Serbs all over the world.

The anniversary of the Battle of Kosovo is observed on June 28, under the Gregorian calendar, although the battle was actually fought on June 15, 1389. On this day, the kingdom of Serbia was crushed as Turkish attacks proved to be too strong for the Serbian empire. The battle in which the life of the Serbian Tzar Lazar I was lost, completely destroyed the very existence of the Serbian nation, and forced the Serbs to live under Turkish domination until 1459, when the Serbians became part of the Ottoman Empire.

For the next 500 years, the Serbians were harshly treated by the Ottoman rulers, who subjected the peasantry to cruel and inhumane treatment. Throughout these years, however, the Serbian people with the leadership of their church were able to maintain a sense of national pride. The weakening of the Ottoman rulers in the late 18th and early 19th century led to a series of events that enabled Serbia to regain its independence and become a kingdom in 1882.

Serbia fought with the Allies during World War I which was the basis of the creation of Yugoslavia. However, it was not until 1929, that the complete unification took place with such diverse ethnic groups as Croats, Slovens, Albanians, and others joining together to form a single nation.

After 1945, the monarchy was abolished and Communist domination of Yugoslavia was imposed. Unfortunately, the official observance of St. Vitus Day has been banned by the Yugoslav Red Government. Nevertheless, this historic date remains alive in the hearts of Serbs everywhere.

Serbians make up the largest single ethnic group living in Yugoslavia. And those who are now living in America are committed to the preservation of their national heritage. I have been fortunate enough to witness the community spirit of Serbian Americans in Chicago, and I must say that their patriotism and determination in their quest for freedom for their homeland is very strong.

American Serbs are patriotic, law-abiding people. We should have a deep admiration for their pride and dedication, for they are waging a heroic struggle to achieve the full realization of the ideals embodied in the spirit of Kosovo.

FRED SMITH: PILOTING A WINNER INTO A NEW FIGHT

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. ALEXANDER. Mr. Speaker, I would like to share with my colleagues a recent article from Industry Week which charts the success story of the Federal Express Corp. which was borne in my part of the country. The article also notes the problems that the corporation is confronted with in dealing with the Federal bureaucracy and the champion efforts of its chief executive, Fred Smith, to move the mountains of red-tape. Those of us who know of these struggles applaud Fred's persistence and have pledged our cooperation to his cause.

MANAGER ON THE SPOT—PILOTING A WINNER INTO A NEW FIGHT

(By Charles Day Jr.)

Sporting a splashy purple, orange, and white color scheme, Federal Express Corp. is the brash new kid on the block in the air transportation industry. It first lifted off the ground just four years ago in Memphis, a benefactor of a revised exemption clause penciled into the Federal Aviation Act of 1938.

Because of that exemption it has been virtually free of regulation, able to criss-cross the nation's skies each night with its fleet of small Dassault Falcon fanjets, offering delivery of small shipments to 130 cities in 38 states by noon the next day.

The company's young founder and chairman, Frederick W. Smith, still recalls the chorus of skepticism which all but jeered at his corporate child of the air. As Federal Express embarked on its new venture, the skepticism appeared well-founded. The company hung on by a shoestring, and one official recalls with a smile, "There were days when we wondered what the next morning might bring."

In time, though, the next morning brought prosperity along with the rising sun. In the fiscal year just ending, Federal Express may be silencing the skeptics for good: $110 million in revenues and a net profit expected to be "around $8 million," reports its proud chairman, whose graying hair belies his 33 years. "And next year," he adds confidently in a slight but unmistakable and engaging Tennessee drawl, "we should do about $140 million worth of business."

Adding greater impact to these figures is the fact that they fly in the fact of the dismal picture painted by other all-cargo carriers, whose losses have far outstripped gains during the last ten years.

It is precisely because of its regulatory freedom that this upstart from the South has escaped economic woes and prospered, asserts Mr. Smith. Yet it appears that Federal Express may become a victim of its own success and lose this advantage, a situation that puts Fred Smith and his 2,200 employees firmly on the spot.

In short, the company—and, Mr. Smith claims, its customers—yearn for massive expansion, a program that would more than double its existing system and add large, airline-size jets to its fleet. But standing in the way are federal regulations which the company contends are hopelessly out of date and out of touch with reality, plus the airline industry as a whole, which has mobilized its army of powerful, influential lobbyists.

"It's the one problem we have that we have no control over," he laments.

ELBOWROOM NEEDED

Federal Express' future growth hinges on the purchase of a small number of DC-9 and Boeing 727 aircraft, which offer three times the capacity of the Falcon's maximum payload of 7,500 lb. These larger planes would be used on longer routes which necessitate larger capacities—specifically the West Coast—thereby freeing some of the Falcons to fly to smaller cities not yet in the route system.

Such a purchase, however, needs federal approval, either from the Civil Aeronautics Board (CAB), which governs the nation's air transportation system, or some form of Congressional relief. It it this juncture that Mr. Smith has flown into the political turbulence of Washington. Being a relative newcomer to the wiles of lobbyists and legislative hearings, he has, so far at least, been getting scorched by the baptismal fires.

Federal Express' initial move two years ago was to petition the CAB for another exemption. "It has such powers which are not well-defined," asserts Mr. Smith, "We felt here was an opportunity for the CAB to use those powers and really do something in the public interest, because we don't fit into the certification system as drafted by the 1938 law."

That request unleashed a flood of protests from the airlines, and shortly thereafter the CAB denied the request, ruling that its exemption authority was intended to cover "inconsequential" air transportation and that it couldn't be stretched to fit the ever-growing dimensions of Federal Express. Instead, the CAB suggested that the company should formally apply for a certificate of public convenience and necessity the process by which airlines obtain authority to fly their routes—but one which can take anywhere from two to six years to complete, with no assurance of success.

Mr. Smith decided against seeking the certificate, fearing he would lose a lengthy, expensive bureaucratic battle, especially since, he says, "The airlines as much as told me if we got our head in that certification noose they'd chop us up."

His next move was an appeal to Congress, but that effort also failed. Relief-granting measures were passed twice in the Senate, only to wither and die in the House.

STILL FIGHTING

Undaunted, Federal Express has mounted another offensive, on two fronts. First, it is supporting both airline deregulation bills now in the Senate, and in late March, Mr. Smith testified before the Aviation Subcommittee. At the same time, though reluctantly, the company did apply for a certificate with the CAB, requesting not only authority to expand to nearly 250 cities, but also approval to connect any two cities in its system without route restrictions.

Should the certificate be granted, Federal Express would be able to fly the larger planes it says it so badly needs.

While either Senate bill would provide the relief sought, Federal Express' main objective is to persuade Congress to establish separate regulations for the governing of air cargo traffic. As Mr. Smith told the Senate subcommittee in March, "The starting point is to recognize that there is no present structure of cargo regulation and there never has been . . . there is only a system of passenger transportation regulations into which freight transport has been forced."

This objective, he insists, is crucial, because the original 1938 Act "doesn't say in any way, shape, or form that the CAB has got to look at our business as a distinct and critical public need. And that structural defect in the Act is very, very serious."

And that's understandable, he reasons, because when it was written no one could envision the day when anybody could make any money carrying property by air. "The velocity of society wasn't what it is now, the value of the items shipped wasn't the same. It was just different," he notes.

Today, however, he emphasizes that Congress must recognize the movement of high-priority goods by air as a separate and distinct public need from passenger transport. At present, he muses, it's a "Catch-22 situation if there ever was one."

For if Mr. Smith's firm were to forego attempts at Congressional reform and concentrate on its application for a certificate, it would be, in effect, accepting the contention that an all-cargo carrier does indeed fit into the present structure of the law—the

very contention Federal Express has been strenuously rejecting.

As the Act is now written, a company which intends to conduct air transportation in the U.S. must satisfy three conditions: demonstrate a public need and convenience; demonstrate a fitness and willingness to perform such a service; and, finally, demonstrate that the proposed operation won't contravene the public interest by diverting so much traffic from competitors that they will be forced into bankruptcy.

PASSED THE TEST

The structural problems of the Act notwithstanding, Mr. Smith feels that Federal Express' success in the last two years is ample proof that the company satisfies all three conditions.

"We're obviously doing something in the public interest," he begins. "Look at the 25,000 packages we're carrying each and every night. We're certainly fit and able. We fly a route structure, in terms of route miles (not plane miles) that is twice the size of United Air Lines, and we do it at the same level of government safety standards as United, Delta, or anybody else. Finally, I do not see the country side being strewn with bankruptcies of any airlines at all. In fact, we've helped expand the market for air freight!"

The growth of Federal Express, he continues, has stimulated the market to the point where all carriers have increased their business. One competitor, Emery Air Freight Corp., Wilton, Conn., has even said, "Thank goodness for Federal Express."

"It's like the old Hertz-Avis thing," adds Mr. Smith. "Neither of them lost, they both won."

What makes this struggle especially frustrating for him is that long ago he all but predicted many of the problems all-cargo carriers would experience trying to fit into a regulation structure for passenger carriers. That was when he was an economic major at Yale University.

"I had a paper to write, and since I began flying at 15, I was determined to write something about aviation," he recalls. His original intention was to support the popular theory that air freight was the wave of the future. But soon after he began studying the situation, "I became convinced that that was not to be the case. It was an absolute impossibility, for economic and technological reasons."

An airplane, he decided then, could never duplicate the unit cost of surface transportation without some massive technological breakthroughs. "For example," he explains, remembering his research, "a 727 jet with a payload of 45,000 lb. costs $10.5 million. A good tractor-trailer rig that carries the same amount of freight costs $75,000."

His solution, then, he says, "was to quit trying to approach this market as if it were a duplicate of truck transportation and establish instead what amounted to a nationwide system of 550-mph delivery trucks."

DUTY CALLS

That nation-wide system became, in time, Federal Express. Immediately upon graduation from Yale, the Memphis native flew off to Viet Nam, where he served as a Marine Corps pilot and logged over 200 combat missions, earning a fistful of medals.

His discharge from the Marine Corps was followed by a brief career with a business jet sales company in Arkansas, a career significant not because of its notable success, but because it produced the revelation that led Fred Smith back to the college paper prepared at Yale. "I became victimized by the very system that I had predicted wouldn't work," he says. "When I ordered something from, say, Erie, Pa., it might arrive in two days, or it might arrive in a week."

So, Mr. Smith dusted off his Yale study, revised it somewhat, conducted further market surveys, and concluded he could practice what he had once printed—given three conditions: obtain those 550-mph delivery trucks, raise "a hell of a lot of money" (Mr. Smith himself pledged the family fortune of $5 million), and obtain the government authority which would permit the venture to take off.

Once the CAB revised an exemption intended primarily for small, regional air taxi services in September 1972, Mr. Smith and his assembled investors, who formed one of the largest venture capital deals on record, gave the project the green light.

Their debut on that April night in 1973 was anything but a keynote for success.

"We never did figure out exactly how many packages we hauled that first night," he chuckles, "because about half of them were sent by our own salesmen." The total was somewhere between six and 18, hardly enough to inspire optimism.

Mr. Smith once pawned his personal executive jet for fuel that kept his struggling idea alive. Delivery truck drivers, it is said, also resorted to some rather bizarre bartering to secure gasoline for their vehicles. But the yarn which truly tickles the fancy of Memphis storytellers concerns the Federal Express pilot who was confronted by a deputy sheriff one lonely night on a forgotten runway.

The lawman had been dispatched to impound a Falcon jet, due, no doubt, to an unpaid bill. "You can't take this plane without approval from the control tower," the quick-thinking pilot said. The deputy scratched his chin, accepted the information at face value, and marched to the tower—while the hero made his getaway by zooming into the heavens, laughing all the way.

ALL SYSTEMS GO

The Federal Express operation today is a far cry from those early, and often bewildering times. Five nights each week the company ships an average of 25,000 small parcels of all shapes and sizes, at an average cost of $20 per article.

"Our biggest problem," the chairman recalls, "was convincing our customers that we could really do what we said we could. That we could pick up 60 to 70 pieces from Xerox in Rochester, N.Y. at 6:30 p.m. and have them in 60 to 70 different cities by 7 a.m. the next morning, and to a customers door by noon. Once we did convince them, then came this fantastic revenue growth.

"It's not that we're all that smart, it's simply a matter of matching supply with demand."

The company matches these business basics this way. During the day, Memphis headquarters gets a reading from its agents along the system of what needs to be shipped, and where. A schedule is prepared, and soon afterward Federal Express jets race off to pick up the shipments, which include everything from legal briefs to live kidneys to computer hardware.

Late at night, the Falcons return to Memphis like homing pigeons, almost always fully loaded. Cargo is immediately carted to "The Hub," a quarter-mile-long, low-slung building whose chief characteristics are a system of conveyors, hard-working employees, and organized confusion. (Were the Marx Brothers in their prime today, it would make an ideal setting for one of their zany, madcap adventures.) In The Hub, packages are sorted as fast as they arrive, reassigned to other aircraft, loaded, and whisked into the skies before dawn. Upon arrival at destination airports, the packages are then trucked to the final consignees.

"The business of moving goods by air is not tremendously large," Mr. Smith points out, "about $2 billion annually. But," he pauses for emphasis, 'it represents THE most critical transportation need in the United States. Though less than one-half of 1 percent of all inter-city ton miles moves by air, it represents over 20 percent of the total value of U.S. commerce. The things that go by air are urgently needed."

BRIDGING A GAP

Federal Express has satisfied this need. In addition, Mr. Smith concludes that it has significantly expanded the entire air freight market (35 percent to 40 percent of the packages handled by his company weren't being shipped at all before it launched operations, he claims).

"Now we're being forced to apply for a certificate to do nothing more that what we've been doing all along—only more efficiently," he says.

What has startled Fred Smith throughout this on-going crusade has not been the airlines' opposition per se, but the manner in which it has been conducted. 'There is just no shame in Washington" he insists flatly. "Those guys up there haven't the remotest sense of obligation to tell things the way they are. Instead, their total obligation is to tell them the way they want them heard."

His exposure to Washington, and the legions of bureaucrats and influence-peddlers, causes him to wonder aloud if there is still room for the entrepreneur who offers a better mousetrap. "For if something that has as much force of correctness behind it as Federal Express gets beaten down . . . think about all the people who may not have the aggressiveness that we have, who aren't as idealistic, don't have as much savvy, or, worst of all, don't have as much money. They can't win, no way," he laments.

The central opposition, Mr. Smith surmises, comes not from the airlines' senior management, whose primary concern is passenger traffic, but their air freight operations personnel, and, in turn, airline lobbyists. "They may claim they offer the same type of service as we do, and then claim we shouldn't be granted the authority we seek because it isn't necessary," he says with some emotion. "But if they can duplicate our service, how in the world did a little, unknown entity like Federal Express 'steal' $140 million worth of business?

"It's so ridiculous, it's almost laughable," he adds without a smile.

NO SPOTLIGHT

Another problem Federal Express must overcome in its fight is that the cargo sections of proposed airline deregulation bills are not red-hot political issues that congressmen will seize with gusto. One is not likely to get emotional over them, Mr. Smith says, "until you're on your back in a hospital bed and need that live kidney or heart pacemaker in a hurry."

This, his only game plan is to simply apply shoe leather and outwork his enemy, by meeting regularly with interested legislators and—possibly more important—with congressional staffs. "If you keep working at it, in the last analysis, you win. That's the only way to beat the vested interests. Other than a scandal, or something," he observes.

One insight gained by his experience is the need for businessmen to stand up and tell their side of the story. If it takes 30% of a corporate leader's time, so be it, reasons Mr. Smith, who feels the time is fully worth it—especially since he foresees expansion and even more explosive growth if he wins his case.

And if he loses? There is no question that Federal Express will survive, and continue to be profitable, but it won't in its chairman's opinion, come close to realizing its potential.

In conversation, Fred Smith will predict outright victory in one breath, and then hedge his conviction slightly 10 minutes later. In the final analysis, however, it is obvious that he clings to the feeling that right is on his side and that eventually he will win.

"I guess it's like I was telling a lobbyist who is opposing us," he says with a sly smile. "We're like old Ho Chi Minh. They've got to kill us 100 times. All we have to do is kill them once."

A CLEAN BILL

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am pleased to introduce as a clean bill, following markup by the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, the Human Resources Development Act of 1977.

In amending and then approving the bill by 13 to 1, the subcommittee has demonstrated its conviction that there is a fruitful field for progress in a modest program of Federal grants and contracts aimed at improving labor-management cooperation and human relationships at the workplace. One of the chief payoffs in the successful experiments to date in this area is improved productivity, with all its benefits for higher living standards, reduced inflation, and international competitiveness. But better productivity is not the only objective.

I want to pay tribute to the gentleman from New York (Mr. LUNDINE), the original author of this bill, who has worked tirelessly and effectively to see it through to its present stage. I think he will agree with me that the version of the bill being introduced today will be effective in achieving the purposes of this promising new program. I can report that the administration is sympathetic to the objectives of the program, though the locus of its operation in the executive branch is not yet decided.

In its markup, the subcommittee has tightened and I believe improved the bill in several respects. We have eliminated a new program of loan guarantees and have fixed the authorized spending levels on the basis of a realistic appraisal of the number and cost of likely projects, using helpful analysis by the Congressional Budget Office. We have eliminated the provision for a new Advisory Committee and have left policy formation in the hands of the existing Board of Directors of the National Center for Productivity and the Quality of Working Life. There will be no open-ended program in the perplexing area of dealing with the periodic or cyclical layoffs that characterize some industries, but rather a demonstration effort limited to no more than four projects at any one time. Finally, we have made clear that projects under this act will not interfere with or substitute for the normal collective-bargaining process.

Mr. Speaker, the members of the Subcommittee on Economic Stabilization have demonstrated by their vote, after extensive hearings, that they believe there is much to be accomplished in this neglected area of human relationships—that is, the day-to-day atmosphere and procedures at the work place. I am hopeful that before too long the House as a whole will have the opportunity to give its approval to our work:

SECTION-BY-SECTION SUMMARY OF H.R. ——, THE HUMAN RESOURCES DEVELOPMENT ACT OF 1977

Section 1 provides that the title shall be the "Human Resources Development Act of 1977."

Section 2 contains the findings and statement of purpose.

Findings include: the importance of human relationships at the workplace to the nation's productivity growth and the proven effectiveness of innovations and experiments in workplace cooperative relationships; the need both for additional projects of this kind and for wide dissemination of information on successful projects; the need for further innovation to help solve the problem of periodic worker layoffs in some industries; the need for third-party assistance in many cases to foster the required labor-management cooperation; and the desirability of a modest program of Federal financial aid for third-party assistance and related purposes.

The broad purpose of the Act is to promote economic stability by increasing productivity and enhancing the well-being of workers and the quality of their work life through such methods as better use of human resources in employment, encouraging the development of worker and management capabilities, increasing employment opportunities, and improving job security during temporary downturns in demand.

ASSISTANCE TO PROJECTS

Section 3 provides details of the types of projects to be assisted and directions for the administration of the assistance program.

Administration of the program is lodged with the President or his delegate. Assistance shall be provided through grants to or contracts with public or private organizations, both profit and non-profit. Specifically included are units of State and local government or combinations of such units, labor-management committees, institutions of higher education, and labor organizations.

Priority shall be given to projects involving labor-management cooperation, and where both parties agree, these projects may provide for the help of third-party independent organizations, including but not limited to the Federal Mediation and Conciliation Service.

Priority shall also be given, to the extent possible, to projects financially assisted by other sources, including the participants.

Within 90 days after enactment, the Board of Directors of the National Center for Productivity and Quality of Working Life shall establish the criteria, which may be revised from time to time, by which assisted projects are to be selected.

Paragraph (3) of this section defines the projects that may be assisted. They are of two general types.

The first type is defined in Subparagraph (A) and is the main thrust of the program. The paragraph establishes four requirements, at least one of which must be met in order for a project to be eligible for assistance. They are: (i) a labor-management committee or similar group established for this purpose; (ii) an innovation in work procedures or schedules; (iii) increased participation by workers in "shop floor" decisions; and (iv) new methods of sharing by workers in productivity or other gains in work effectiveness.

The second type of project is more experimental and is defined in Subparagraph (B). These projects are aimed at maintaining normal employment levels during periods of downturn in demand that characterize some industries. Workers due for layoff could be assigned to training or other developmental activities. In other cases, part of the time of an entire work unit could be spent on these activities in lieu of layoff. These experimental projects could be funded only if there is a finding that without a grant or contract under this program, there would be layoffs because of a downturn in demand.

Paragraph (4) provides that no more than four demonstration projects of the type specified in (B)—the counter-layoff projects—may be assisted at any one time.

Paragraph (5) makes clear that projects under this Act are not to replace or interfere with normal collective bargaining unless both sides agree. Specific reference is made in this connection to the National Labor Relations Act.

Paragraph (6) provides for the promulgation of regulations governing applications for assistance.

Paragraph (7) provides for assistance either in anticipation of, or as reimbursement for, costs of a project. Provision is made for termination of cooperative projects in which either labor or management elects to discontinue participation. In the event of such termination, this paragraph provides for the recovery of unexpended Federal funds.

This paragraph, Paragraph (7), also contains the provision that projects normally shall be funded for only three years, after which they should be either self-financing or discontinued as unsuccessful.

Paragraph (8) provides for advice and technical assistance in carrying out the provisions of the Act of the Federal Mediation and Conciliation Service and the National Center for Productivity and Quality of Working Life.

Paragraph (9) provides that the Board of the National Center for Productivity and Quality of Working Life shall conduct a specific evaluation of each project.

Paragraph (10) provides for the dissemination to the public of the results and evaluation of each project.

Paragraph (11) provides for an annual report to Congress 90 days after the end of each fiscal year. The report will include the results of the evaluation of each project. In the case of the experimental counter-layoff projects, the report must assess the applicability of each experiment and its results to the general problem of cyclical unemployment.

Subsection (b) of section 3 provides that the President shall designate an officer of the United States to carry out the functions assigned to the Board of the National Center for Productivity and Quality of Working Life under this Act, in the event the Board is terminated.

NATIONAL LABOR RELATIONS

Section 4 provides that nothing in this Act shall affect the rights guaranteed under the National Labor Relations Act.

AUTHORIZATION OF APPROPRIATIONS

Section 5 provides for authorizations of appropriations not to exceed as follows: $25,000,000 for the fiscal year ending September 30, 1981; and $49,000,000 for the fiscal year ing September 30, 1979; $56,000,000 for the fiscal year ending September 30, 1980; $47,000,000 for the fiscal year ending September 30, 1981; and $49,000,000 for the fiscal year ending September 30, 1982.

Section 6 provides that this Act shall terminate on September 30, 1982.

CHEAP GAS FOR BROOKLYN

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. COLLINS of Texas. Mr. Speaker, what this country needs is cheap gas for Brooklyn. The Wall Street Journal

summed up well the national gas supply. Brooklyn is paying over $4 M ft³ for synthetic gas whereas if the United States deregulates natural gas, it would level out at a domestic price one-half of this.

The big issue is that the cost of all distribution overhead in plant, pipelines and salaries goes on whether pipelines are full or half full. Only 20 percent of the customer's bill is for the natural gas itself, and the other 80 percent is a fixed expense. When less gas is flowing through the pipeline, the fixed overhead will force the consumer price to be increasingly higher in cost.

The only answer is an open market, with an open deregulated price of natural gas which would be in balance with market supply and demand:

CHEAP GAS FOR BROOKLYN

We see The Energy Policy Task Force, an umbrella consumer group was not only "extremely disappointed" but "flabbergasted and stunned" by the U.S. Court of Appeals decision on natural gas. The court last week upheld the Federal Power Commission's decision to lift the regulated price of natural gas on the interstate market to $1.42 from 52 cents.

We're sorry the consumerists are crestfallen; Mr. Nader no doubt had a sleepless night, worrying that prices and profits will now jump and the little guy will get stuck with even higher heating bills. But if the consumerists bothered with a little homework, they'd discover that the court decision is the best thing to happen to the natural gas customer in years. Thanks to the decision, customers will have more gas. Not only that, but many of them will pay less for it. Under total deregulation they would pay less still.

Yes, it sounds like a free lunch, having the wellhead price of natural gas rise, yet having the cost to the consumer fall. But a lot happens to a cubic foot of natural gas from the time it enters the pipeline in Texas or Louisiana until it burns under a frying pan in Brooklyn. When the Brooklyn customer pays his gas bill, only 20% of it goes to buy gas. With the other 80% he buys pipelines. Whether his bill goes up or down depends principally not on the cost of gas but on whether the pipelines operate efficiently.

Consider. The price paid at the wellhead averages 45 cents per thousand cubic feet (mcf). The Brooklyn Union Gas Co. charges its residential customer $3.38 per mcf for heating and cooking and $5.78 for only cooking. Just four years ago, when the average wellhead price was 25 cents, Brooklyn Union was charging $1.72 and $3.42 for comparable services. Thus while the wellhead price went up by only 20 cents, the cost at retail went up by $1.66 and $2.36.

The reason for this lies mostly in pipeline costs. In the U.S. there's about $40 billion worth of pipeline on which principal and interest has not been paid. The pipeline companies, regulated by the FPC, are permitted to charge enough to pay off the debt, along with operating costs and a small profit. Say gas costs 52 cents, and the pipeline is being amortized at 10% a year. If only one cubic foot of gas moves through the system, the customer at the end will pay $4,000,000,000.52. If two cubic feet move through the system, the retail price plummets to $2,000,000,000.52.

The point is that if the pipeline is not full, each cubic foot bears a higher transmission burden. In 1973, the pipeline was full. Now, because it was against the law for the pipeline company to pay more than 52 cents and nobody would sell gas at that rate, the pipeline supplying Brooklyn Union runs half empty. The cost goes from 50 cents per mcf to $1.00 per mcf for all the pipeline customers. Brooklyn Union has its own pipeline network to pay off and must, in the same fashion, spread these charges over an underutilized distribution system.

Then too, it gets colder in Brooklyn, and when winter comes and there is no extra gas in the pipeline, Brooklyn Union must kick in its synthetic gas plant. Last year about 12% of the gas Brooklyn Union's customers burned was synthetic, which costs $4 per mcf to produce. Some New England utilities paid as high as $6 per mcf for peak-period gas, because the pipeline supplying them was not permitted to pay more than 52 cents. These high costs, of course, are rolled into the price of the gas under the frying pan.

Is it any wonder that Brooklyn Union Gas Co. is passionately in favor of new-gas deregulation, although it knows the wellhead price its supplier pays must rise? It believes, as do we, that higher prices will bring on new supplies of gas to keep the pipelines full, end the wholesale use of $4 synfuel, and other things being equal, provide a lower price at retail.

In 1975 Arthur Young & Co. studied these costs for the state of Oklahoma. It found that without new supplies resulting from higher prices, Brooklyn Union's 1980 price would be $4.45 per mcf. But if the pipeline were kept full with new gas costing $2.50, Brooklyn Union's retail price would be $3.98. If new gas came in at $1.50, the retail price would be $3.31.

Though the whole country will benefit from these efficiencies, the effect on retail prices for each region depends on how much pipeline they must pay for. Higher wellhead prices would probably mean higher retail prices for some sunbelt customers close to the gas, but the Northeast would clearly benefit. Deregulation of new gas would truly be a free lunch for New England, New York and the Atlantic States, and especially for their financial hub, New York City. Why is it, then, that the politicians of this region are against the idea? Only Mr. Nader knows.

REFORM OF THE DAVIS-BACON ACT

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. WALKER. Mr. Speaker, I would like to call my colleagues' attention to a perfect example of anachronistic legislation contributing to the very problem that it was designed to combat. I am referring to the importation of wage rates on public construction.

Studies comparing States, such as Pennsylvania, which have their own versions of "Little Davis-Bacon" laws and those which do not make the point quite clearly. They conclude that the prevailing wage concept increased school construction costs by at least $240 million annually.

Two articles which appeared in the Lancaster, Pa., New Era and the Lancaster, Pa., Intelligencer Journal on June 3 and 4 respectively further relate to problems with the administration of the Pennsylvania Prevailing Wage Act. I submit these articles as evidence of the need for substantial reforms in the Davis-Bacon Act:

[From the Lancaster Intelligence Journal June 14, 1976]

CONTRACTORS CITE MANDATED WAGE SCALES

The president of the Keystone Chapter of Associated Builders and Contractors (ABC) charged Friday that the state's Prevailing Wage Act is hindering construction projects, imposing inflated costs and limiting the supply of skilled craftsmen.

Dennis Hevener added that the act also results in higher taxes, higher unemployment and fewer building projects.

The act sets the wages to be paid workers on state-funded projects. These prevailing wages are usually set at higher union levels and have been traditionally opposed by non-union organizations such as the ABC.

The state's Prevailing Wage Act is hindering construction projects, imposing inflated costs and limiting the supply of skilled craftsmen, the president of Keystone Chapter of Associated Builders and Contractors said today.

The state law, which controls the rate of wages paid on public projects, also is resulting in higher taxes, higher unemployment and fewer projects, Dennis Hevener said.

Speaking at a morning press conference, Hevener outlined an eight-point program for lowering the cost of publicly-financed construction and providing more jobs, especially for young and minority group workers.

He urged the Secretary of Labor and Industry to reassess local wage scales in setting mandatory state wage scales for publicly-financed construction.

Hevener called for the state secretary to survey true construction costs in the locality of a publicly-financed project. He said the state General Assembly should provide added staff to make this possible.

The chapter's plan also advocates opening up apprentice programs so that more craftsmen can be trained, instead of the present quota system. Also, it recommends a state-set "helper" class which would open more jobs for low-skilled workers, and free the higher-skilled workers for more difficult work.

The eight-point program was developed after a year-long chapter survey showed the state is mandating construction costs in many counties which are not the true local costs, according to Richard Honabach, chapter executive director.

[From the Lancaster New Era, June 3, 1976]

THEY HURT INDUSTRY—REVISE STATE WAGE LAWS, BUILDERS URGE

The state's Prevailing Wage Act is hindering construction projects, imposing inflated costs and limiting the supply of skilled craftsmen, the president of Keystone Chapter of Associated Builders and Contractors said today.

The state law, which controls the rate of wages paid on public projects, also is resulting in higher taxes, higher unemployment and fewer projects, Dennis Hevener said.

Speaking at a morning press conference, Hevener outlined an eight-point program for lowering the cost of publicly-financed construction and providing more jobs, especially for young and minority group workers.

URGES REVISIONS

He urged the Secretary of Labor and Industry to reassess local wage scales in setting mandatory state wage scales for publicly-financed construction.

Hevener called for the state secretary to survey true construction costs in the locality of a publicly-financed project. He said the state General Assembly should provide added staff to make this possible.

The chapter's plan also advocates opening up apprentice programs so that more craftsmen can be trained, instead of the present quota system. Also, it recommends a state-set "helper" class which would open more jobs for low-skilled workers, and free the higher-skilled workers for more difficult work.

The secretary also would encourage more competitive bidding, according to the Keystone Chapter plan.

The eight-point program was developed after a year-long chapter survey showed the state is mandating construction costs in many counties which are not the true local costs, according to Richard Honabach, chapter executive director.

ENDORSES PLAN

The plan was endorsed by John D. Heiman, president of the Pennsylvania Associated Builders and Contractors, Inc. Hevener said his group would travel to Harrisburg Monday to discuss the plan with state officials.

The result of the plan, he said, would be more construction and more jobs, since the then-reduced cost of publicly-financed construction would make it more attractive to municipalities.

In its present form, Hevener said, the state Prevailing Wage Act is limiting job opportunities by allowing inflated construction costs, which discourages potential building.

Historically, Hevener said, the purpose of the act has been to make certain publicly-financed project workers get the prevailing local wage, and that local companies will not be out-bid on projects by non-local firms offering non-local wages.

LOBBYING BILL

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. DICKINSON. Mr. Speaker, as we all know, during the 94th Congress both Houses considered and passed bills covering lobbying activity. The Senate passed S. 2477 on June 15 and the House passed its version of the lobbying bill—H.R. 15—on September 29, 1976; but due to the rush to adjourn in the election year, no conference was held. Both Houses will certainly consider lobbying legislation in the 95th Congress.

I would venture to say that there is almost a universal agreement that the present law is ineffective and that some additional visibility as to lobbying activities, within constitutional guarantees of freedom of speech and the right to petition the Government for redress of a grievance, is required. Who is doing the lobbying and on what issues should be a matter of public information and should not be hidden or secret.

But any legislation must be carefully drawn so as not to flood the Government with paper that has no significance. We should not draw the net so tightly as to require recordkeeping and reporting of business activity that is not lobbying to affect legislation. However, there is a great danger that much that is normal business activity may be swept in by broad wording of a statute and much that is not lobbying to affect legislation could be included in statutory coverage.

We sometimes forget that the Federal Government in addition to being the "government" is also a buyer in a very large sense. The executive branch expends billions of dollars annually as a buyer of goods and services. Most of what the executive branch does as a buyer is no different than the activities of private industry conducting its buying activities.

For example, many industry salesmen contact executive branch personnel in an effort to sell their products just as they contact industry purchasing departments to sell their products. These contacts are extremely important to Government buyers to assure maximum competition. I do not think the Congress would want every normal marketing contact to be included in the definition of lobbying nor reported on as required in the reporting section of a bill.

After the award of a contract, there are many millions of contacts between Government and contractors which are normal business contacts, for example contract administration and contract performance matters that are not lobbying activity in any sense of the word. If all of these contacts have to be reported on, they would create fantastic amounts of additional paper work and the total would be tons of reports of unnecessary information to GAO or whoever is set up as the receiving agency of the Government.

The problem of gifts and donations to an executive branch employee is a separate and distinct problem as testified to by the Justice Department last Fall. If Congress wishes to legislate in this regard, the matter should be separated from the lobbying legislation and we should have separate bills and separate hearings. As we are aware most executive agencies have detailed rules regarding gratuities of their employees. Currently the Office of Federal Procurement Policy part of the Office of Management and Budget has a proposed contract clause on gratuities out for comment from other Government agencies and anyone who cares to comment. The Department of Defense on January 19, 1977 has issued a new standard of conduct covering the Department of Defense personnel and their contacts with industry. These cover in detail acceptable and unacceptable actions. Detailed statutory coverage could well hamper the executive branch from carrying on its activities to the very serious detriment of the Government.

Even if legislation were restricted to levels I through V of the executive branch executives, the problem of determining which contacts an industry man should report would be extremely difficult.

Just to illustrate the difficulty of the problem of including executive branch contact within the lobbying legislation, the Department of Defense in fiscal year 1976 had over 8 million contract actions in excess of $10,000. That number, 8 million, excludes all contracts under $10,000 and does not include any of the millions of civil agency contracts. Just imagine the millions of contacts under all of these contracts and the massive recordkeeping and reporting that would be required in a broadly worded statute.

It would seem to me that executive branch coverage is a subject we may well wish to look into, but I think that is a distinct problem from legislative branch coverage and we should not mix the two. Therefore, I strongly urge that we exclude executive branch coverage in this bill.

THE NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. WAMPLER. Mr. Speaker, on July 11 and 12 the leadership has indicated the House will consider the omnibus farm bill, technically called H.R. 7171, the Agricultural Act of 1977.

Title XIII of the farm bill is cited as the National Agricultural Research, Extension, and Teaching Policy Act of 1977. This title is the result of 2 years of effort by the House Agricultural Committee to strengthen our Nation's agricultural research programs, improve agricultural research, extension, and teaching policy formulation and provide for more effective coordination of these vital programs.

A New York Times article of June 26 "Experts Call for New Research on How Plants Grow," sets forth some of the needs for a new agricultural research, extension, and teaching policy by the U.S. Department of Agriculture. I urge my colleagues to acquaint themselves with this excellent article reproduced below.

EXPERTS CALL FOR NEW RESEARCH ON HOW PLANTS GROW

(By Boyce Rensberger)

In recent years American farm productivity has leveled off or even declined in some cases, and top agricultural experts say the reason is that the applied research that once led to steadily increasing yields has nearly depleted its storehouse of basic knowledge of how plants grow.

It is time, experts say, to learn more about the fundamental aspects of how plants capture solar energy and use it to assemble atoms of carbon, hydrogen, oxygen and nitrogen into food. Only then, they say, can scientists find new ways of manipulating the inner workings of corn, rice, wheat, soybean, and other plants to push yields above present levels.

After more than a quarter-century of spectacular increases, the average national yield per acre of corn began declining dramatically in 1972, according to statistics compiled by the United States Department of Agriculture. Sorghum yields have fallen similarly. Yields of wheat and soybeans have largely failed to gain for most of this decade.

INCREASE IN FUNDING URGED

According to a major report on overcoming world hunger, submitted to President Carter last week by the National Research Council, an essential step toward such a goal is an increase in both the funding and scope of research sponsored by the Department of Agriculture. The department's research programs have been criticized as slow to take advantage of new avenues of scientific inquiry.

The report also urged a major change in the way the department's money was spent.

The panel of top agricultural scientists who produced the report, entitled "World Food and Nutrition Study: The Potential Contributions of Research," said that the department needed to be given a $120 million increase (20 percent) for its research expenditures for the first year and additional $60 million increases in each of the following four years.

The panel also recommended that half the increased funds be given out in grants for which any scientist could compete. This is the predominant method by which the Government supports other areas of research. In agriculture, however, experiment stations at land-grant colleges have done most of the publicly supported agricultural research since 1887, when the system was founded.

Although these stations and the department's in-house laboratories are responsible for much of the spectacular growth in American farm productivity of past decades, the panel felt they were not adequately exploiting new research opportunities.

By opening food and nutrition research to the entire scientific community on a competitive basis, new ideas are more likely to be developed, Dr. E. T. York, who headed one of the panel's study teams, said in an interview.

"Over recent years we've been depleting our basic storehouse of knowledge," he said. "We need to bring into food and nutrition research segments of the scientific community that haven't considered themselves part of this effort." Dr. York, who has been departmental administrator and head of a land-grant college of agriculture, is chancellor of the State University System of Florida.

The panel also urged that the department broaden its outlook from the needs of American farmers to problems of worldwide food and nutrition. Such an approach, Dr. York said, would be of benefit to the United States as well as to other countries.

The report notes that cooperative reserach with scientists in developing countries has yielded new plant varieties that proved beneficial for American farmers. Among examples cited in the report were the introduction of a virus-resistant grass from South America that has restored pasture lands in the Southeastern states, the adaptation of Nigerian beans of high nutritional quality by Wisconsin farmers, and the discovery of two soybean varieties from China that promise to permit large scale soybean farming in Southern states.

IMPROVING BUILT-IN CAPACITIES

One of the major directions in which new food research should move, the panel said, is toward crops and farming methods that require little or no added resources to exploit. In the past, many of the new "green revolution" plant varieties required fertilizers or irrigation or both to perform their best. Such costly inputs excluded many poor farmers from the benefits.

New advances, the report said, should rely more on improving built-in plant capacities such as photosynthesis and the ability to convert atmospheric nitrogen gas into fertilizer.

Such advances would benefit American farmers as well, many of whom are already pushing plant growth to the maximum possible with fertilizer. Also, since nitrogen fertilizer is made from fossil fuels, its supply is limited and its price is certain to rise over the long run.

Among the promising new avenues of research that the panel said should be pursued, were the following:

Increasing the amount of atmospheric nitrogen converted by plants into nutrient. Certain bacteria that live on the roots of some plant, chiefly legumes, do this now. If such bacterial strains could be made to live with cereal crops or if the ability to fix nitrogen could be genetically engineered into crops, less chemical fertilizer would be needed.

Increasing the efficiency with which plant leaves use sunlight to synthesize food. Most plants use only about 1 to 3 percent of the light they receive. Studies indicate efficiency could be pushed toward a theoretical maximum of 12 percent. For example, some plants already have biochemical means of suppressing their consumption of stored food at night. Such traits might be bred into food crops that lack this ability. The panel estimated that 15 years of research in this area could increase yields by 50 to 100 percent.

Identifying plants with resistance to disease, drought, acid soils, temperature extremes and other environmental stresses and breeding these traits into food crops. Drought resistance, for example, could be achieved in many species simply by breeding for deeper root penetration.

The panel also suggested reducing post-harvest crop losses which, in some countries, are estimated to be as high as 50 percent. Remedies, depending on the causes, could range from simple pest-resistant containers to streamlining marketing and distribution systems that cause delays in moving food from producers to consumers.

CASTRO'S POLITICAL PRISONERS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1977

Mr. RUDD. Mr. Speaker, Cuba's dictator Fidel Castro told ABC News Reporter Barbara Walters a bold-faced lie in their recently televised interview, by stating that he had only a few thousand political prisoners in the 187 prisons and jails, work camps, and penal farms acknowledged to exist in official Cuban reports.

And those who watched this interview were acutely aware of his sneering approach to anything concerning the United States and relations between our two countries, which makes even more bizarre the policy of our current administration to have closer relations and renewed trade with this Communist gangster.

An article on the subject of Castro's political prisoners by Frank Calzon, a Cuban-born student of life and politics in his native country, appears in the current issue of the National Observer. According to this report, Castro is perhaps the world's most brutal enemy of human rights, with five to eight times more political prisoners per capita than the Communist regime of the Soviet Union.

If human rights is honestly a concern of the Carter administration, the Castro regime is one of the last we should be seeking closer relations with. This is truly a tyranny that should be kept in isolation by any legitimate champion of human rights and freedom.

I would like to include Señor Carlzon's article at this point in the RECORD:

CUBA'S POLITICAL PRISONERS

(By Frank Calzon)

Watched closely by soldiers, they travel in huge army convoys, often sleep on bare floors, eat only watery soup, and work more than 80 hours a week. When there are no roads to build, they cut sugar cane, work in quarries, construct houses or prisons, or—waist deep in swamps, their skins puffy and eyes swollen by mosquito bites—they toil in drainage projects.

Their belongings fill a bag the size of a pillow case. Many have lost their teeth because of poor diets and lack of dental care. Some have died during the grueling *cordilleras*, or convoys.

According to official Cuban publications, their output is worth several hundred million dollars a year, making them Cuban Premier Fidel Castro's most-productive labor force.

They are Cuba's "rehabilitated" prisoners, those who have recanted anti-Castro political ideas and have pledged loyalty to the Havana regime. They are the better off of Cuba's two categories of political prisoner.

MORE THAN RUSSIA

The *plantados*, the other group, are those who refuse to co-operate with Castro's government. They receive especially harsh treatment, which may include no visits by family, confinement to dark cells for months, no regular correspondence, and often no medical treatment. And because of their "dangerousness," their prison terms may be extended when their sentences are completed.

The plight of political dissidents in such countries as Russia and Chile has gained world-wide attention, particularly since President Carter began his human-rights crusade. Yet, according to Castro's own figures, Cuba holds five to eight times as many political prisoners per capita as does Russia. And most neutral observers peg Castro's figures as far too low.

In a recent interview on U.S. television, Castro said Cuba had between 2,000 and 3,000 political prisoners. President Carter has put the figure at between 15,000 and 20,000. Prof. Edward Gonzalez of the University of California at Los Angeles, after visiting Cuba, wrote in 1974 that Castro's jails held between 25,000 and 80,000 political prisoners. Soviet dissident Andrei Sakharov estimates that Russia, with a population of 250 million to Cuba's 9.5 million, has about 10,000 political prisoners.

UNDERPOPULATED JAILS?

Official Cuban reports also cast doubt on Castro's figures. For example, Havana has acknowledged it has 56 prisons and jails, 23 work camps, and 108 penal farms. If so, that would mean that by Castro's figures each institution holds only 10 to 15 prisoners.

Bohemia, a Cuban-government publication, reported that political prisoners, "besides their contribution to agriculture and specifically the sugar harvest," were involved in the following projects in 1973:

In Havana Province, they built 3 high schools, 135 dairy farms, 6 cattle-raising centers, and 344 housing units and other projects.

In Pinar del Rio Province, they were building 48 housing units and 8 high schools as well as working in a prefabricated-materials factory, 2 carpentry shops, and 4 state establishments.

In Matanzas Province, they built a dairy farm, pig-breeding farm, prefabricated-panels factory, mortar factor, and carpentry shop, and enlarged two penal institutions.

The labor needed for such projects would indicate that Castro's jails hold many more political prisoners than he has acknowledged.

More than half of Cuba's political prisoners are peasants unhappy with Castro's agrarian policies. Most reportedly are serving terms ranging up to 20 years.

Punishment can be severe for those who rile Castro. Rene Dumont, a French leftist who once served as an agricultural consultant in Cuba, tells about one young peasant in his book *Is Cuba Socialist?* "A young

sentinel guarding some new rice plantings had one night let cows graze amidst them, and Castro wanted to have him shot," Dumont wrote. Castro "was restrained with difficulty by being reminded that the grazing would in fact encourage plant growth. Once over his rage, Castro agreed to have the sentence changed to 15 years in a prison farm."

Even after a political prisoner completes his term and presumably affirms his loyalty to Castro, his freedom is limited. Generally a political prisoner is barred from returning to his original province and from access to higher education. If he was a professional, generally he can't practice that profession—medicine is an exception—but is required to work on a farm or at a menial industrial task.

The Travails of Sakharov and other Soviet dissidents have long been reported outside of Russia. But the plight of several Cuban plantados—from a Spanish word meaning "to stand firm"—only recently has come to light.

NUDE FOR TWO YEARS

One is Huber Matos, a former major and provincial military commander in Castro's army who played a key role in the guerrilla campaign that brought Castro to power on Jan. 1, 1959. Later that year Matos was sentenced to 20 years in prison for resigning his commission to protest the growing number of Communist cadres in Castro's government.

According to a document Matos' wife, Maria Luisa, presented in 1975 to the United Nations Commission on Human Rights, Matos "has been kept incommunicado for periods of more than one year. He has been the victim of countless abuses and humiliations. Because he refused to accept a program of indoctrination, he was forced to live nude for two years. In February of 1970 he was isolated in a dark cell with a small window covered with a heavy cloth stitched to the bars. I do not know if the situation persists since for the past five years he has not been allowed to receive visitors."

More than 100 U.S. congressmen wrote twice to Castro earlier this year pleading for Matos' release. They received no response. More than 40 members of the Venezuelan Congress recently appealed to Castro for the release of Armando Valladres, a 40-year-old poet imprisoned since 1960.

CELL ROW NO. 12

In February 1970 Valladares was transferred to Boniato Prison in Oriente Province, where, according to his wife, "beatings, starvation, physical and mental tortures were taking place." Mrs. Valladares says her husband's cell block was sealed by metal plates that blocked windows and doors. He was transferred to La Cabana Prison two years later.

At La Cabana, according to the Organization of American States' Inter-American Commission on Human Rights, "44 Cuban political prisoners were punished and deprived of food and medical assistance in cell row No. 12. . . . Some of them were gravely ill." Because of lack of food, says Mrs. Valladares, "six men were paralyzed by polyneuritis. . . . Armando Valladares was one of them."

Valladares is now confined to a wheel chair. "My husband's paralysis can be cured by adequate nourishment, therapy, and exercises, which have not been provided because of his refusal to accept the government's rehabilitation plan," says Mrs. Valladares.

PRISON RIOT

Pedro Luis Boitel, who served as a student leader and urban-underground organizer in Castro's guerrilla war, also was a plantado. "In May of 1972," according to the OAS' human-rights commission, "Pedro Luis Boitel, still a prisoner of the El Principe Castle in Havana, was seriously ill as a result of maltreatment and torture to which he continued to be subjected.... On May 28, the commission received a communication informing it that he had died in prison."

Boitel died without medical attention, while his fellow prisoners, unable to save him, rioted, burning their mattresses. The National Catholic News Service reported that "prison officials damaged his spine during beatings . . . when he went on a hunger strike he was transferred to a security cell and told, 'This time we will let you die, no doctors.'"

By the time of his death, Boitel had become a symbol inside Cuba. In a poem smuggled out of prison, Miguel Sales, now serving a 20-year sentence, wrote, "They finally killed your 96 pounds of pure bone and heart . . . they walled up your smile . . . with hunger they blocked off your eyes . . . they drowned your name-legend. May your assassins rest in peace."

TWICE AN ESCAPE

Nine years old when Castro came to power, Sales is a poet who has twice escaped from Cuba. The first time, in 1968, he fled with 11 others on a motorboat, but was picked up by a Soviet trawler off the Florida coast. Returned to Cuba, he was sentenced to prison until his 21st birthday.

The second time, in 1975, he swam for seven hours at night before reaching the U.S. base at Guantanamo. After being reunited with his parents in Florida, he decided to return to Cuba to rescue his wife and baby daughter. He was captured and sentenced to 25 years in prison. His poetry has won a prize in an American competition. One section entitled *Celular* (an allusion to Cuba's prison cells) is dedicated to his fellow prisoners who died in jail.

Theodore Jacqueney, an American journalist who visited Cuba last year as a guest of the Havana government, interviewed several dissidents and former prisoners. "As in the men's prisons," he wrote, "the woman political prisoners report deplorable medical inattention, with deprivation of health care sometimes used to coerce prisoners." Jacqueney tells of one woman prisoner who was not permitted to have a desperately needed cancer operation "until she promised to change her political ideas and attitudes."

And thus, a relative of the woman told Jacqueney, "she was rehabilitated."

HOUSE OF REPRESENTATIVES—*Wednesday, June 29, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

O come, let us worship and bow down; let us kneel before the Lord our Maker.—Psalms 95: 6.

Eternal Father, ever near and always ready to help those who put their trust in Thee, make us more receptive to the influence of Thy spirit and incline our hearts to do Thy will that with clear vision and courageous hearts we may move into the duties of this day.

Bless our beloved Speaker, the Members of this body, and those who work with them that only good may come to them and only good may come from them.

Bless our President and his Cabinet that wisdom and strength may be theirs as they seek to work with us in leading our country in right and sound ways.

Bless the citizens of our land that they may live together happily, harmoniously, helping one another and keeping true to their faith in Thee.

Bless the nations of our world that they may learn the fine art of getting along with each other in peace and with good will, stressing human rights for all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 6668. An act to amend the Age Discrimination Act of 1975 to extend the date upon which the United States Commission on Civil Rights is required to file its report under such Act, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1404. An act for the relief of Smith College, Northampton, Mass.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6111) entitled "An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. BAYH, Mr. DECONCINI, Mr. MATHIAS, and Mr. WALLOP to be conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6370) entitled "An act to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the chairman and vice chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. ROTH, and Mr. PACKWOOD to be the conferees on the part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 7932, LEGISLATIVE BRANCH APPROPRIATION ACT, 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up

House Resolution 664 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 664

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7932) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1978, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amendment under the five-minute rule. No amendment to and no motion to recommit said bill affecting the compensation of Members of the House of Representatives or of the Senate shall be in order in the House or in the Committee of the Whole except one amendment in the following form:

"Page 2, immediately after line 12, insert the following:

" 'No part of the funds appropriated for fiscal year 1977 or fiscal year 1978 by this Act or any other Act may be used hereafter to pay the salary or basic pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for January 4, 1977, if the rate of salary or basic pay for such position is—

" '(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

" '(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or a percentage of such maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

For purposes of the preceding sentence, the rate or maximum rate (as the case may be) of salary or basic pay payable for January 4, 1977, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

" '(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

" '(B) jointly by the Speaker of the House and the President pro tempore of the Senate in the case of any office or position within the legislative branch; or

" '(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

The preceding two sentences shall not apply in the case of any individual holding an office the compensation with respect to which may not, under section 1 of article III of the Constitution of the United States be diminished during such individual's continuance in office.' ".

Said amendment shall be in order, any rule of the House to the contrary notwithstanding, said amendment shall not be subject to amendment but shall be debatable by the offering of pro forma amendments, and if said amendment is agreed to no amendment shall be in order in the House or in the Committee of the Whole which has the effect of changing or modifying said amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

CALL OF THE HOUSE

Mr. BOLLING. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 391]

Andrews, N.C.	Dent	McKinney
Archer	Diggs	Marlenee
Ashley	Flippo	Meeds
Aspin	Fraser	Mollohan
AuCoin	Giaimo	Nolan
Badham	Ginn	Pettis
Badillo	Goldwater	Scheuer
Bellenson	Harris	Spellman
Brown, Calif.	Harsha	St Germain
Burton, John	Heckler	Teague
Byron	Hollenbeck	Walker
Chisholm	Kastenmeier	Waxman
Clawson, Del	Keys	Young, Alaska
Collins, Ill.	Long, Md.	
Conyers	McCormack	

The SPEAKER. On this rollcall 390 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION TO FILE A REPORT ON H.R. 7557, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION ACT, 1978

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. PHILLIP BURTON. Mr. Speaker, I have a unanimous consent request. Yesterday on the Addabbo amendment, which I strongly favored, I was under the impression I had voted "aye." I was aghast this morning to read in the RECORD that that vote was registered as cast against the Addabbo amendment. I ask unanimous consent that this explanation appear in the permanent RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 7932, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1978

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. BOLLING. I yield such time as he may require to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I thank the gentleman from Missouri for yielding.

I believe that before the Congress increases its own salaries or the salaries of senior Federal officials, we should provide for more funds either directly or through tax provisions for the poor people of this country and for the working people of this country. People on fixed incomes, retired people and the middle class have been stuck for years now at stagnant salary levels while they have had to meet increasing cost of food, energy and housing. And, the Congress ought to address that as a matter of our first order of business.

Therefore, I am going to vote against this rule to express my opposition to the principle of Congress increasing its own salary first and also increasing the salaries of senior government officials.

But if the House does not defeat this rule, then I am going to vote for the continuation of the present salary structure. My reason for doing so is that thousands of people have been hired by the Carter administration at set salary levels comparable to the levels of private industry and if we do not vote for the continuation of these levels we will be breaching our contracts with these officials for those salaries. This would be like a private employer signing a contract to hire somebody and then turning around 6 months later and cut their salary by 20 percent.

As I said initially, I do not believe that we should have increased these salaries of these senior Federal officials, but once we did hire them we are bound to follow through on that commitment.

If the issue of an increase in salary for Congressmen had been separate so that we could vote on it separately, I would clearly vote against that increase but since the increases for Congressmen are tied together I feel I must vote for that increase otherwise it would be a breach of contract in the event the rule is not defeated, I would however, like to reiterate my opposition to such increases in principle.

Mr. BOLLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not intend to take much time at this point in the proceedings. The rule that is before us was reported out by the Committee on Rules virtually without objection, without objection as far as I know. There were a number of witnesses scheduled to appear. When they found out what the content of the rule was, they did not bother to testify.

This is a very straightforward, simple rule with one exception. It does not waive any points of order. It does not do anything except provide for the entirely open consideration of the legislative appropriation bill. That one exception is to provide that no amendment except the amendment appearing in the resolution itself shall be in order to the matter of compensation.

The amendment that is provided to be offered by whoever wishes to offer it at a certain point is a rollback of the pay

increase which has now been in effect for a number of months. It is a rollback of both the legislative pay increase and the pay increases in the executive branch. The constitutional judges are excepted. I understand that there are a few nonconstitutional judges who are affected by the amendment.

In light of the fact that there was little or no opposition before the Committee on Rules, I reserve the remainder of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I hope we can have a rollcall on this rule, and I hope that the rule will be defeated. It has been stated previously that the rule is very simple and straightforward, and that it is. While, it may not be unprecedented, it is unusual certainly. I think all of us who have been around the floor of the House in the last several months know why it has been written in this unusual manner. It preserves the right of all Members to offer any amendments they may choose to any section of the bill regarding any topic under the sun which might be germane, with one glaring exception.

As has been indicated, the rule allows no amendment to be in order affecting the compensation of the Members of the House or of the other body except the one written by the Rules Committee.

I know many of you have a sinking little feeling in your tummies today, your nerves are on edge, and you may feel somewhat frazzled. You do not know whether you are going to have to go on record on a rollcall or whether or not you are going home to your wives and children or your husbands and children, as the case may be, and face their wrath or relief. I do think you ought to realize and recognize the rule for what it is.

It is part of what can be called charitably an arrangement. I will not say a deal because I think that would be perhaps unworthy. It is an arrangement, and the objective of the arrangement is to make it as unpalatable as possible with the maximum number of Members in order to gain the maximum number of votes against the amendment which would repeal the pay raise.

If we had been permitted under the usual procedure to offer amendments, any Member could have drafted one that would have knocked out the congressional pay increase and touched no one else. But this particular amendment has been crafted to include everyone that constitutionally can be brought within its purview. So we have to vote on our own salaries and the salaries of our staff and all the executive branch executive level employees. I am sure the hope of some is that all this freight will bog down the engine of the little train before it gets over the top of the hill.

For my part, I hope that we exercise our prerogative as Members of the House to defeat this rule and allow free and full amendments to be offered.

I would also express some sorrow that we were not permitted, as long as we were going to be told what amendment would be offered, an opportunity to go into other matters. For instance yesterday we had extensive debate about the merits of the bill already offered by the gentleman from Ohio (Mr. WHALEN) that would prevent any Member of Congress, from receiving a pay raise during the same Congress, but that was not permitted.

So I would say those who wish to be part of this arrangement should vote for this rule. Those who do not wish to be part of the arrangement should oppose it. I hope the rule is defeated so that we can offer any amendments that would ordinarily be in order.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think the gentleman from Missouri (Mr. BOLLING) has adequately described this rule. It is a 2-hour open rule making in order the consideration of the bill H.R. 7932, the legislative appropriations bill for fiscal year 1978, and certain supplemental appropriations for fiscal 1977. The only exception to the completely open nature of this rule is that it permits the offering of only one amendment affecting the compensation of House and Senate Members, and that amendment is printed in the rule. It would roll back the recent pay raises for certain top Government officials to the previous salary levels. Federal judges would be exempt from this rollback since section 1 of article III of the Constitution prohibits any reduction in their salaries during their continuance in office.

Mr. Speaker, while some nine Members had asked to testify before the Rules Committee on this matter, only the chairman of the Legislative Subcommittee of the Appropriations Committee presented formal testimony. The other Members in attendance looked over the rule and agreed that it was fair and would give them the vote they wanted on the pay raise matter as well as permitting all other germane amendments to the bill. The rule was reported from the Rules Committee on a unanimous voice vote—a very rare display of unity on a matter involving such controversy. I fully agree that we should have a vote on the pay raise; I thought we should have had it last February, before it took effect, and wrote to the chairman of the Post Office Committee on February 7 urging his committee to report a resolution of disapproval so we could have that vote.

The majority leadership disagreed with that procedure and the pay raise took effect automatically on February 20 without a vote by this House. We have subsequently adopted a provision into law to require all future pay raises be subject to a rollcall vote by the Congress, and I have long supported that requirement. Yesterday we voted to deny the October cost-of-living pay increases and I supported that bill.

Having said all this, I want to make my position on the pay raise rollback amendment this rule makes in order unequivocally clear. I oppose it. I think we would do well to briefly review just what has transpired since the President's Commission on Executive, Legislative, and Judicial Salaries submitted their recommendations last December.

The President's Commission clearly recognized that we are caught in the crosscurrents of two great crises: the crisis of attracting and retaining competent people to Government as a result of the virtual salary freeze in effect since 1969 in the top levels of all three branches; and the crisis of public confidence and trust in Government resulting from Vietnam, Watergate, and other Government corruption scandals. The Commission knew that we knew the "alarming facts" of this first crisis and the need for a solution in the form of a pay raise for these top level officials. But the Commission also recognized that the greater crisis—the crisis of confidence in Government—made it almost politically impossible for us to do anything about the former crisis. To quote from the Commission's report:

> The members of both houses of Congress are close to the people and they can gauge the extent of this greater crisis better than others. They would have anticipated the response of the American people confronted with a substantial salary increase and too few checks on what they perceive to be continuing breaches of public trust. The result would be the same as it has been for the past eight years.

So what the Commission recommended as the only logical step was to attempt to deal with both crises simultaneously—that is, increasing those salaries which have been frozen since 1969 and at the same time restoring public confidence and trust in Government. Central to dealing with the crisis of confidence was the Commission's proposal for a new Code of Public Conduct—in the Commission's words,

> Reforms applicable to all three branches of government, which we believe must be the indispensable prelude to a popular acceptance of a general increase in executive, legislative and judicial salaries.

As the Members of this body are well aware, we have now adopted that tough new code of financial ethics, as has the other body. The President has already imposed certain financial ethics standards on certain of his appointees, and on May 3 of this year sent up a requested conflict of interest statute to cover all executive policy makers. I do not think I have to recapitulate the debate or the provisions of our new code of ethics to remind Members of the stringent new personal financial disclosure requirements and outside earnings limitations we have imposed upon ourselves in direct response to the recommendations of the President's Commission and our own sincere desire to restore a measure of public trust in our Government. Whether all of us care to admit it or not, we knew at the time we adopted that code that there was a direct linkage between that code and our pay raise. Many of us went along with certain aspects of that code we might otherwise disagree with because of that linkage and because the pay raise made it possible for us to live with these tight new limitations.

In short, Mr. Speaker, we not only bit the bullet on this tough new code of financial ethics, but swallowed hard our personal pride and philosophical and financial objections.

I recall that debate over that code of conduct last March 2 because I think we

must put today's debate over the proposed pay raise rollback in proper perspective. We have written a compact for good government with the American people in that code which is intricately linked to the pay raise, just as the President's Commission had recommended that we deal simultaneously with the pay raise and code of conduct issues. The President's Commission foretold what type of government we would be getting if we denied these increases, and I quote:

If we continue down the path of the past eight years, in which the politics of survival have required no pay raises at all, we must accept the implications of a government of only the rich, or only the young and untried, or, more likely, a government of those who are willing to compromise themselves with political money. The costs of such a government reach beyond the costs of a salary increase; they are incalculable, and to a free people unacceptable.

Alexis de Tocqueville, in his famous work, "Democracy in America," published in the early part of the last century, commented on the "parsimonious conduct of democracy toward its principal officers," even though it treated its secondary officers fairly well. He observed that in the United States the salaries seem "to decrease as the authority of those who receive them is augmented," and he attributed this to the tendency of the people to fix the salaries of their public officers "by a comparison with their own wants," and their inadequate conception of the needs of higher officials. In all that, he predicted our current dilemma. But in explaining why secondary civil servants seemed to do quite well by comparison, he perhaps offered the best argument for applying similar treatment to the principal officers of government, and I quote:

. . . every kind of private business is lucrative, and the state would not be served at all if it did not pay its servants well. The country is in the position of a commercial house, which is obliged to meet heavy competition, notwithstanding its inclination to be economical.

This is really what the Peterson Commission has told us in its report and in the findings of the various studies which it had commissioned: the Government is competing for competent people and will not be served at all if it does not pay its servants well.

We have a decision to make here today as to whether we want this Government to be served well and thus the people to be served well, or whether we want to continue to pander and contribute to antigovernment sentiment and thereby give the people even worse government by driving out and keeping out competent people. I would submit that the erosion of public trust in government will accelerate and become a self-fulfilling prophecy if we do not vote to maintain decent government salaries as a critical element in insuring that the people are served by a decent government. I would therefore strongly urge the defeat of the pay raise rollback amendment which this rule would make in order.

Mr. Speaker, I am pleased to yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I would only say to my good friend from Illinois, I do not for a moment withdraw my characterization of this rule as being an arrangement; but I attribute no dishonorable motives to anyone that was a part of the writing of this rule. Certainly the gentleman from Maryland and the gentleman from Illinois know that one of the methods available to Members is to use the rules of the House to the maximum to gain victory for a position that one supports. This rule is a form of doing that; so I am not questioning anybody's motives, but I do think the gentleman will have to admit that the factors I described in my remarks were operative in the writing of this rule. I still think that arrangement is highly unfortunate.

Mr. ANDERSON of Illinois. Mr. Speaker, I appreciate the gentleman from Maryland offering that explanation and I quite agree that Members will have an opportunity to vote on this rule, and that is as it should be.

I frankly feel that we are going to have an opportunity to vote on the question of the pay raise.

Back on the 9th of February this year, I sent a letter to the chairman of the Committee on Post Office and Civil Service and suggested that they ought to report out in sufficient time for a vote by the full House a resolution of disapproval of the pay raise, so that Members could be recorded.

The vast bulk of the mail that I have gotten on this subject over the past few months has been in opposition to the procedure, the feeling that Members were less than honorable or less than forthright or less than courageous in addressing an admittedly controversial question.

We will have that opportunity under this rule if we adopt it, as I hope we will. We will have that opportunity today to demonstrate to the people of this country that we are not shirking our responsibility. We are not afraid to vote on the question of whether or not we should have an increase.

Let me say, I want to make it clear, since I have taken time under the rule, that I am going to oppose the amendment that will be offered under the rule to roll back salaries for all 22,000 who had their salaries increased in March. I agree completely with the President's Commission, the Peterson Commission, when they foretold in their report, when they made their recommendation of increases for the executive and legislative compensation. They foretold the kind of government that we would be getting if we deny the increases as recommended. Let me quote for just a minute the conclusion from that report:

If we continue down the path of the past eight years in which the politics of survival have required no pay raises at all, we must accept the implications of a Government of only the rich or only the young and untried or, more likely, a Government of those who are willing to compromise themselves with political money. The costs of such a Government reach beyond the costs of a salary increase. They are incalculable and to a free people, unacceptable.

Those are the reasons I think when we have the opportunity later today to vote on the amendment, we should vote against the amendment. We made a contract. I feel we made a contract to the American people when we adopted a code of conduct, a code of ethics in March of this year, a very stringent code of financial ethics, putting limitations on outside income. That was a difficult thing for many Members of this body to accept, but we accepted the necessity of doing that, a majority of us did, on the basis that the recommendations of the Presidential Commission have been made on the assumption that Congress would take that action. We did it. We have before us today the question once again of whether or not the pay raise, therefore, should be accepted.

I hope that the rule is adopted. I hope that when the amendment is offered later today that the amendment that would roll back those increases will be defeated.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. PICKLE) for debate.

Mr. PICKLE. Mr. Speaker, I rise in opposition to the rule on the legislative appropriations bill, H.R. 7932.

The modified rule which the Rules Committee granted yesterday precludes me from offering an amendment on the controversial legislative pay raise question. We will only be permitted a "yes" or "no" vote on this matter and I think that the issue is too complicated and emotional to reduce us to that lone option.

I would like to offer an amendment which represents a good compromise. My amendment joined in by Mr. JONES of Oklahoma, would establish our salaries at approximately half of the $12,900 raise we automatically received last March. I would set the pay at $51,000 and allow the leadership to retain its current pay margin over Members; that is, $68,500 for the Speaker and $58,500 for the majority and minority leaders. This amendment would not be retroactive but would have these figures become effective on the 1st of August 1977.

Our amendment would also apply only to Members of Congress. For the last several sessions, I have introduced legislation which would separate the "supergrade" civil servants, Federal judges, and others, from Representatives and Senators on the question of pay increases.

Clearly, since the pay raise took effect without a vote, the Congress has been doing its best to disavow it.

The Congress is entitled to a reasonable pay raise. The Members should have the right to vote directly on this issue. I am not opposed to a pay raise but I feel it should be by a direct vote, and at a more realistic level.

My amendment would be a good compromise between completely rescinding the increase and leaving at the present level of $57,500.

I, therefore, oppose the rule, and if the rule is voted down I would ask that my amendment be considered.

Mr. JONES of Oklahoma. Mr. Speaker, this rule on the pay raise should be defeated, because it is essentially a closed rule which does not give the opportunity to adjust these Government salaries.

According to the Rules Committee, if this rule passes only one vote will be

permitted. That vote would be to indiscriminately repeal the entire pay raise authorized for executive and legislative branch officials earlier this year.

My position has been clear and consistent as I have discussed this issue in my district. Some pay raise is justified and needed especially within the executive branch where the President competes with private industry for the best talent available to lead this Nation. However, I have said that the recommended pay raise is more than I support. Any pay adjustment should be in line with the average increases in the private sector over the last couple of years.

If this rule passes, then I will not be permitted to offer an amendment cutting the pay increase to a more reasonable level. That is why I will vote against the rule on the pay raise question.

On the substantive vote, I will vote against the full salary increase for executive and legislative branch officials. At the request of and as a courtesy to my good friend and colleague, Mr. DENT, of Pennsylvania, I will vote a live pair against the pay raise. As you know, Mr. DENT is in the hospital and he called this morning to say that his doctor said it would be hazardous to leave the hospital and, therefore, he cannot be here. He would vote yes on the pay raise were he able to be here to vote.

I urge that this rule and the full pay raise be defeated. Perhaps we can consider a lesser pay adjustment in the House-Senate conference.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. ALLEN) for debate.

Mr. ALLEN. Mr. Speaker, the proposed and only amendment that is permitted under this rule presents very difficult decisions for many of us. There were a number of us who have expressed ourselves against the increase in pay of our own salaries, but once again we are going to be denied the opportunity of voting on that question alone. Instead, if we vote to limit the salaries of Members of the Congress, or to roll them back to where they were before the increase earlier this year, we would at the same time have to make a major cut in this amendment, by its provisions, in the salary of every member of President Carter's Cabinet who was induced to come in and become a part of his Cabinet on a salary scale that had already been set by the Commission and approved by President Ford, and endorsed by President Carter.

We would have to reduce the salaries of some 22,000 civil service employees in order to roll back the salaries that we, the Members of this House, shall receive. As I say, it does present a very difficult decision for us to make.

We are not voting today merely on whether or not we should be reducing our own salaries and perhaps postponing the increase that went into effect earlier in the year until after the next election of Congress, but we must vote to reduce the salaries of all lawyers, all clerks, of every Federal judge in the entire judiciary. The only one who would be excepted would be the Federal judges themselves, whose salaries may not be reduced under the Constitution during their terms of office.

Had I the permission to do so—and I do not—I would offer a substitute amendment stating, "No part of the funds appropriated for fiscal year 1977 and fiscal year 1978 by this Act may be used hereafter to pay the salary or basic pay of any Member of Congress in excess of the rate of compensation payable for such offices or positions on January 4, 1977."

That is what I wish I would be permitted to offer in the way of an amendment, and I shall now ask the distinguished gentleman from Missouri (Mr. BOLLING) whether or not he will recognize me for the purpose of offering such an amendment.

Mr. BOLLING. If the gentleman will yield, I will tell the distinguished gentleman from Tennessee that I am under a mandate from my committee to sustain this rule, and I will not yield for the purpose of amendment.

Mr. ALLEN. I understand the position of the manager of the rule, the distinguished gentleman from Missouri (Mr. BOLLING).

Mr. Speaker, in any event, I am going to say that we are going to have to bite a pretty hard bullet. If the rule contained such a provision as this, there is no question but what I would vote for such an amendment, at least to hold the rate of pay of Members of Congress to what it was when we were elected until after the next election. But if I am confronted with the proposition of having to cut the salaries of every single member of President Carter's Cabinet, all of the top position officials in the Federal service holding civil service positions, many of our staff members, and others, I have to reserve judgment until after I hear the full debate on this matter.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I suppose that having to take the well, as I feel compelled to do today for the purpose I am doing so, is probably one of the most difficult tasks I have had in the years I have been here.

It is especially distasteful to take a position opposed to our beloved Speaker, who was one of the first friends I made in Washington when I came here 18 years ago. We have a friendship which I value higher than anyone else in the Nation's Capital. But I must, nevertheless, feel as a matter of principle, that I am just as right as my adversaries in this matter, they who acquiesced in a 28-percent increase last January, committed the judgment call which was not in the best interests of this institution.

Mr. Speaker, on January 31, I introduced House Concurrent Resolution 95, which would have disapproved that Commission pay increase on the basis that it was unwarranted, unjustified and excessive, and would have instead allowed a 5-percent per annum pay increase for each of the upcoming 3 years. In 4 years, thus, we would have attained the same salary level by allowing the cost-of-living increases to take effect as they came up each year.

This would have been the less objectionable way in my opinion, to have brought about the increases that are fully needed. I have been working very hard. I feel I am entitled to a reasonable pay increase. But in good conscience I do not feel that we can justify sustaining an increase of 28 percent in the pay of ourselves or any other Govermnent official at any level.

I shall vote accordingly.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I am happy to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, did I understand the gentleman to say that he would have felt more comfortable with an annual 5-percent increase for the period between 1969 and 1977 rather than the increase of 28 or 29 percent? If my mathematics is correct, that would add up to 40 percent.

Mr. RONCALIO. That may or may not be true, but the point is it would have been an annual incremental cost-of-living increase from January of this year, that would have been tied to inflation. It would have been much less objectionable than what we did by accepting the recommendation of the Peterson Commission last fall, and then deliberately arranging matters to avoid a vote on it at that time.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I rise in opposition to the rule, because I believe that it limits the freedom of this body to fully and fairly examine and take action on executive and congressional salaries. Instead of linking these two issues together, as this rule proposes, this body should be able to vote clearly and separately on the pay levels for Members of Congress and of the executive branch.

I personally subscribe to a point of view which I know many other Members of this body share: That no raise should take effect without an intervening election. I am cosponsoring legislation which would provide for this procedure, and I am grateful for the personal assurance which Speaker O'NEILL has given me that we will get an opportunity in this session to vote on legislation which would establish this principle.

Although I did not favor the implementation of the congressional pay raise earlier this year, I cannot agree with the prospective amendment to "roll back" appropriations for the salary levels set for Members of Congress and executive branch personnel. Two strong arguments can be made against such an amendment, and they in part explain my opposition to passage of this rule.

First, I oppose any prospective amendment which would force the President of the United States and our Government to renege on the commitments made in

hiring all executive branch officials covered by the actions of the Commission on Executive, Legislative, and Judicial Salaries. Should this rule prevail—and with it, the pending amendment to roll back the salary increases set by that Commission—all the negotiated agreements between the Government and these individuals brought into Government service after January of 1977 would necessarily be broken.

These men and women left their private lives, sold homes, moved to a new residence, and took up their duties here in Washington. They would now have their salaries automatically and arbitrarily reduced.

Under the rule and the pending amendment. no renegotiation is possible. Therefore, the credibility of the Government would be impaired. These actions would force the Government to break its word to its policymakers and the implementors of those policies—doing immeasurable damages to the good faith of the Government and its credibility. I cannot believe that those supporting this rule and the "roll back amendment" are suggesting that we break the word of the U.S. Government.

Second, it is impossible to alter basic law establishing pay levels in an appropriations bill. Therefore, passage of this amendment would force the Government to use the appropriated funds as previously authorized for pay until the money runs out. There would then be a period when no salaries would be paid to anybody, until the end of the fiscal year. This is simply an impossible proposition to support.

In fact, this rule will set in motion an impossible and self-contradictory set of circumstances. It is especially difficult for those of us who believe that any pay increase should not take effect during a sitting Congress, but should only take effect after an intervening election.

I, therefore, urge my colleagues to vote down this rule, in favor of instead bringing to the floor two separate amendments—one dealing with congressional salaries and one dealing with executive branch salaries.

In the absence of that, it is simply impossible to support the pending amendment. And I look forward to the earliest possible opportunity, in that case, for us to consider in this body legislation to defer pay raises until an intervening election has given the people of this Nation an opportunity to speak on the level of salaries for public officials.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Speaker, I oppose this rule, because it is a modified-closed rule. We should have an "up" or "down" vote on our own salaries. I want Members of Congress to be well paid. But my point is simple—we should have a vote on our pay. The modified-closed rule will not allow that. What it will permit is a vote on all Government salaries. Thus we would have to vote down the whole appropriation to start all over—and even then we might not get a vote on Members' salaries. I have a lawsuit questioning whether or not Congress can take a pay raise without a specific vote. The Constitution says that Congress is to vote on its pay.

Mr. FISHER. Mr. Speaker, I rise to oppose the proposed rule on H.R. 7932 for legislative branch appropriations. The rule would permit only one amendment relating to the pay raise issue, an amendment which would roll back the recent increases received by Members and certain executive level persons and higher level civil servants. My objection is that no opportunity would be allowed to present an amendment to separate the vote on Members' salaries from the others. Their way of handling the matter specified by the rule once again would prevent a direct, head-on confrontation of what most Americans regard as the principal issue at stake: the salaries of Members. I believe profoundly that the House should finally be able to vote up or down on the salaries of its Members alone. If given an opportunity, I will propose an amendment to permit a separate vote.

The only way I can now express my strong preference on this matter is to vote against the rule. I am tired of the hidden ball tactic of lumping Members' salaries of 20,000 or more other Government employees. I think most Americans are tired of it also.

Mr. SKUBITZ. Mr. Chairman in the past, I have not supported the pay raise proposal.

I opposed the cost-of-living increase we received in 1975 that amounted to $2,100, not because I felt that I was not entitled to it but because after Federal and State taxes—the balance was not worth the trouble it would take to explain it.

I must confess that I had intended to vote against the pay increase. But after a careful analysis of all the facts, I have concluded that by any guidelines you want to use, the increase is justifiable.

Of course, at times I have felt certain Members were not entitled to an increase. I have questioned their qualification to serve in this distinguished body. I am sure they have felt the same about me. In the final analysis—it is our constituents that make the final determination—not you or me.

I have opposed the pay increases in the past because I thought such action established a bad precedent and only added to the inflationary flame—that such action only served for a wage spiral in all segments of our society—civil servants, blue collar workers, labor unions, and others outside of government.

This is what bothered me with regard to this proviso—but I think this concern must be weighed against doing justice and equity to the Members of this body.

Is this membership entitled to an increase based on cost-of-living increases? Take any guideline you desire—civil service, social security, private industry, or any other guideline and the only conclusion that you can reach is that the raise is justifiable.

Look at the facts. I have in my hand a copy of the social security cash benefit increases given in recent years. The record shows that since 1969, when this body received its big increase in pay to $42,500, the social security cash benefits have been increased as follows:

	Percent
December 1969	15.0
March 1971	10.0
July 1972	20.0
June 1974	11.0
June 1975	8.0
June 1976	6.4
June 1977	5.9

If the Congress had taken its pay increases on the basis of these cost-of-living increases, the Members of this body would now be receiving $34,977.50 more per year and our pay would total $77,477.50 a year.

Compare these increases given classified employees.

	Percent
December 27, 1969	6.0
January 1, 1971	6.0
January 1, 1972	5.5
January 1, 1973	5.1
October 1, 1973	4.8
October 1, 1974	5.5
October 1, 1975	5.0
October 1, 1976	4.8
Total	42.7

Had Members of Congress been given the same increases, we would today be receiving a salary of $60,647.50—$3,147.50 more than this bill provides.

If we add to that the 9.1 percent comparability increase given classified employees on July 1, 1969, the congression salary would total $64,515.

Let us look at pay increases received by blue collar workers. From 1969 to this year, blue collar workers' pay has increased 71 percent. And if Congress had received yearly step-by-step increases based on the increases blue collar workers had received, the congressional salary would now be $72,675.

If we want to use cost-of-living increases as a basis for comparison, the cost-of-living increases from 1969 total 61 percent.

If we had taken the 61 percent, the congressional pay today would total $68,425 which is $10,925 more than called for in this proposal.

Hence, taking any guideline you want, the Members of this body are not receiving, by this one-step approach, as much as they would have received if the increases had been calculated on a step-by-step basis each year.

Whether or not the Members of this body are worth this amount of money is up to the people in each congressional district to decide. The decision is made at the ballot box.

My colleagues, each of us represents 450,000 people. This $12,500 increase amounts to 3 cents per person. If you are

not worth that, you are not congressional timber.

The financial obligations attendent to being a Member of Congress are well known in Washington, if not in each congressional district. The high cost of living, the expense of maintaining two residences, the out-of-pocket expenses for entertainment—all are items that knock rather large holes in monthly pay checks of Members of Congress. These are all obligations that the average wage-earners in our congressional districts neither face nor, in many cases, understand.

I am going to support this bill today, although I am not going to be a beneficiary for long. I have already announced that I will retire at the end of the 95th Congress. Thus, I will be receiving the increase in pay through the remainder of this Congress only.

Oh, some will say, "Oh Yeah. What about your retirement? How will this affect your retirement?" To those good people let me say—I have checked with the Sergeant at Arms and I find that if I had retired at the close of the last Congress in 1976, as I had originally planned to do, my retirement pay plus the 11 percent cost-of-living increase and in March 1976 the 5.4 percent cost-of-living increase, and in 1977, the 4.8 percent increase which is expected to be given this October—not only to Members of Congress but to all civil servants—plus $4,600 I would save by not being required to pay into the retirement fund, would exceed the retirement pay that I shall receive in January 1979 by $5,500. In other words, my decision to serve my district and my people has cost me $5,500 a year. Furthermore, I would have saved the cost of maintaining two households, the high cost of Washington living, and certain other expenses incurred because of my position.

Jess and I will make it—whether or not this pay raise goes through—provided you do not spend money like drunken sailors and continue to fan the flame of inflation. We have no children to put through school, we will no longer have two homes to keep up.

However, many Members of this body are not in this position—many of you have two or three children to put through school—you are committed to the high cost of living in the Washington area, and you have many extra costs because of your position.

It is for you and also for the approximately 22,000 other Federal employees—those in the executive branch, as well as Federal judges—for whom I believe this pay increase is necessary and deserved.

Furthermore, it is morally wrong for us to grant these workers a raise and then attempt to withdraw it. I urge my colleagues—take the heat if you must but do what you know in your heart is right.

GENERAL LEAVE

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks on the resolution under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 279, nays 139, not voting 15, as follows:

[Roll No. 392]

YEAS—279

Addabbo	Duncan, Tenn.	Levitas
Akaka	Eckhardt	Lloyd, Tenn.
Alexander	Edwards, Ala.	Long, La.
Anderson, Calif.	Edwards, Calif.	Long, Md.
Anderson, Ill.	Eilberg	Lott
Andrews, N. Dak.	English	Luken
Annunzio	Erlenborn	Lundine
Applegate	Evans, Colo.	McCloskey
Armstrong	Evans, Del.	McCormack
Ashley	Evans, Ga.	McDonald
AuCoin	Fary	McFall
Bafalis	Fascell	McHugh
Barnard	Findley	McKay
Beard, R.I.	Flood	Madigan
Beard, Tenn.	Florio	Mahon
Bellenson	Flowers	Mann
Bennett	Flynt	Markey
Bevill	Foley	Marlenee
Blanchard	Ford, Mich.	Martin
Blouin	Ford, Tenn.	Mathis
Boggs	Forsythe	Mazzoli
Boland	Fountain	Meeds
Bolling	Fowler	Metcalfe
Bonior	Fraser	Michel
Bonker	Gephardt	Mikva
Bowen	Giaimo	Milford
Brademas	Gibbons	Miller, Ohio
Breaux	Glickman	Mineta
Breckinridge	Gonzalez	Minish
Brinkley	Gradison	Mitchell, Md.
Brodhead	Gudger	Mitchell, N.Y.
Brooks	Hagedorn	Moakley
Brown, Ohio	Hall	Moffett
Broyhill	Hamilton	Mollohan
Burke, Calif.	Hanley	Montgomery
Burke, Mass.	Harrington	Moorhead, Calif.
Burleson, Tex.	Harsha	Moorhead, Pa.
Burlison, Mo.	Hawkins	Moss
Burton, John	Heckler	Mottl
Burton, Phillip	Hefner	Murphy, N.Y.
Byron	Hightower	Murtha
Carney	Holtzman	Myers, Gary
Carr	Horton	Myers, Michael
Carter	Howard	Natcher
Cederberg	Hubbard	Neal
Chappell	Huckaby	Nedzi
Chisholm	Ireland	Nichols
Clay	Jacobs	Nix
Collins, Ill.	Jenkins	Nolan
Conable	Jenrette	O'Brien
Corman	Johnson, Calif.	Oakar
Cornell	Johnson, Colo.	Oberstar
Cornwell	Jones, N.C.	Obey
Cotter	Jones, Tenn.	Ottinger
Coughlin	Jordan	Patten
D'Amours	Kastenmeier	Patterson
Daniel, Dan	Kazen	Pattison
Danielson	Ketchum	Pepper
de la Garza	Keys	Poage
Delaney	Koch	Preyer
Dellums	Kostmayer	Price
Derwinski	Krebs	Pritchard
Dickinson	Krueger	Pursell
Dicks	LaFalce	Quie
Diggs	Le Fante	Quillen
Dingell	Lederer	Railsback
Dodd	Leggett	Rangel
Duncan, Oreg.	Lehman	Regula
	Lent	Rhodes
Richmond	Sisk	Vanik
Rinaldo	Skelton	Vento
Risenhoover	Slack	Waggonner
Roberts	Smith, Iowa	Walsh
Rodino	Snyder	Wampler
Roe	Solarz	Watkins
Rooney	Spence	Waxman
Rose	Staggers	Weiss
Rosenthal	Stangeland	Whitehurst
Rostenkowski	Stark	Whitley
Roybal	Steed	Whitten
Ruppe	Steiger	Wiggins
Russo	Stockman	Wilson, Bob
Ryan	Stokes	Wilson, C. H.
Sarasin	Stratton	Wilson, Tex.
Satterfield	Stump	Winn
Sawyer	Thompson	Wolff
Scheuer	Thone	Wright
Schroeder	Thornton	Yates
Schulze	Traxler	Young, Fla.
Seiberling	Tsongas	Young, Mo.
Shipley	Udall	Young, Tex.
Sikes	Ullman	Zablocki
Simon	Van Deerlin	Zeferetti

NAYS—139

Abdnor	Fish	Miller, Calif.
Allen	Fisher	Moore
Ambro	Fithian	Murphy, Ill.
Ammerman	Frenzel	Murphy, Pa.
Andrews, N.C.	Frey	Myers, Ind.
Archer	Fuqua	Nowak
Ashbrook	Gaydos	Panetta
Baldus	Gilman	Pease
Baucus	Goodwater	Perkins
Bauman	Goodling	Pickle
Bedell	Gore	Pike
Benjamin	Grassley	Pressler
Biaggi	Guyer	Quayle
Bingham	Hammerschmidt	Rahall
Broomfield	Hannaford	Reuss
Brown, Mich.	Hansen	Robinson
Buchanan	Harkin	Rogers
Burgener	Harris	Roncalio
Burke, Fla.	Heftel	Rousselot
Butler	Hillis	Rudd
Caputo	Holland	Runnels
Cavanaugh	Hollenbeck	Santini
Clausen, Don H.	Holt	Sebelius
Cleveland	Hughes	Sharp
Cochran	Hyde	Shuster
Cohen	Ichord	Skubitz
Coleman	Jeffords	Smith, Nebr.
Collins, Tex.	Jones, Okla.	Spellman
Conte	Kasten	St Germain
Corcoran	Kelly	Stanton
Crane	Kemp	Steers
Cunningham	Kildee	Studds
Daniel, R. W.	Kindness	Symms
Davis	Lagomarsino	Taylor
Derrick	Latta	Treen
Devine	Leach	Trible
Dornan	Lloyd, Calif.	Tucker
Downey	McClory	Vander Jagt
Drinan	McDade	Volkmer
Early	McEwen	Walgren
Edgar	Maguire	Weaver
Edwards, Okla.	Marks	Whalen
Emery	Marriott	White
Ertel	Mattox	Wirth
Evans, Ind.	Meyner	Wydler
Fenwick	Mikulski	Wylie
		Yatron

NOT VOTING—15

Aspin	Conyers	McKinney
Badham	Dent	Pettis
Badillo	Flippo	Teague
Brown, Calif.	Ginn	Walker
Clawson, Del	Lujan	Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Aspin against.

Mr. Badillo for, with Mr. Ginn against.

Mr. Dent for, with Mr. Badham against.

Mr. Young of Alaska for, with Mr. Lujan against.

Mr. Del Clawson for, with Mr. Walker against.

Messrs. HYDE, EMERY, HILLIS, WHITE, McCLORY, DON H. CLAUSEN, BAUCUS, and BURKE of Florida changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

June 25, 1977:

H.R. 3416. An act to amend section 316(c) of the Agricultural Adjustment Act of 1938 to provide that leasing of flue-cured tobacco acreage-poundage marketing quotas after June 15 of any year be permitted only between farms on which at least 80 per centum of the farm acreage allotment was planted for such year; and

H.R. 7606. An act to authorize the Secretary of Agriculture to permit general recreational access and geothermal explorations for six months within a portion of the Bull Run Reserve, Mount Hood National Forest, Oreg.

June 27, 1977:

H.R. 3314. An act for the relief of Tri-State Motor Transit Co.; and

H.R. 1440. An act for the relief of Eun Kyung Park and Sang Hyuk Park.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION ACT, 1978

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and appoints the following conferees: Messrs. BOLAND, TRAXLER, BAUCUS, STOKES, and BEVILL, Mrs. BOGGS, Messrs. BURLISON of Missouri, ALEXANDER, MAHON, COUGHLIN, MCDADE, YOUNG of Florida, and CEDERBERG.

DESIGNATION AS MINORITY EMPLOYEE

Mr. RHODES. Mr. Speaker, I offer a resolution (H. Res. 665) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 665

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, Gerald Lipson is hereby designated a minority employee, effective July 1, 1977.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE BRANCH APPROPRIATION ACT, 1978

Mr. SHIPLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7932) making appropriations for the legislative branch for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. SHIPLEY).

IN THE COMMITTEE OF THE WHOLE

Accordingly the Committee resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7932, with Mr. MURPHY of New York in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. SHIPLEY) will be recognized for 1 hour, and the gentleman from Colorado (Mr. ARMSTRONG) will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois (Mr. SHIPLEY).

Mr. SHIPLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want everyone to know it is a real honor and pleasure for me to serve on the Committee on Appropriations as the chairman of the Legislative Branch Subcommittee. I want everyone to know that the publicity I received at home is more than I ever received in the 19 years I have been in Congress. Can anyone believe I waited 16 years for this subcommittee? I have. I know I have the most sought after subcommittee chairmanship in the entire House.

I want to assure this body that there is absolutely nothing in this bill that is controversial today, nothing to become emotional about and there is very little money in the bill. In fact, we can take all this money and it would not buy half a dozen B–1 bombers. It is just a little bill, but it is a good bill.

I would not be surprised if this is not the first appropriation bill we have had in years that no one offered an amendment to. I do not believe there will be any amendments offered to this bill today.

Mr. Chairman, I sincerely want to thank the members of the subcommittee who have been so cooperative and very helpful to me in a very difficult task. Without them, I do not know how we could have done what we did with this bill. The gentleman from Indiana (Mr. BENJAMIN), the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Michigan (Mr. TRAXLER), the gentleman from Connecticut (Mr. GIAIMO), the gentleman from California (Mr. MCFALL), and on the minority, the gentleman from Colorado (Mr. ARMSTRONG), the gentleman from Pennsylvania (Mr. COUGHLIN), and the gentleman from Michigan (Mr. CEDERBERG), all have been tremendous.

Mr. Chairman, we are all very much aware of the charges over the past several months that we are a billion dollar Congress. Actually, only 60 percent of the $1,062 million budget for the legislative branch transmitted by the President last January is in direct support of the Congress. The remainder is for related agencies, which in most cases furnish some percentage of support, though some do not at all. The budget also includes $11 million for three independent agencies not a part of the legislative branch or under the jurisdiction of the legislative subcommittee.

There are a number of revenue activities within the legislative branch which will return an estimated $38.5 million to the Treasury during fiscal year 1978. Included in this estimate is $5 million from copyright fees, $7 million from the sale of catalog cards and publications by the Library of Congress, and $26 million from the sale of Government documents through the Office of Superintendent of Documents. Savings directly attributable to General Accounting Office activities total approximately $500 million a year, which also have an offsetting effect on total Federal finances.

STRUCTURE OF 1978 BILL

The committee has restructured the 1978 bill to more accurately reflect the actual cost of operating the Congress as opposed to the total cost of the various activities within the legislative branch than has been true in past years. The bill, as presented to the House today is divided into four titles—congressional operations, related agencies, capital improvements, and general provisions. The bill also includes a number of supplemental appropriations for fiscal year 1977 as well as funds for the 1978 costs of the executive level pay raises.

RECOMMENDATIONS FOR FISCAL YEAR 1978

Mr. Chairman, the bill we are considering today contains appropriations for fiscal year 1978 totaling $928,818,800, of which $491,946,300 is for congressional operations. These figures exclude appropriations for the operation of the Senate in accord with the longtime practice under which each body determines its own housekeeping requirements. A total of $10,919,400 is also recommended in additional appropriations for 1977 to cover the costs of pay raises and other expenses.

The budget requests considered by the committee total $959,422,100. The recommendation is $30,603,300 less than was requested. It has been the committee's general policy to provide only the funds necessary to maintain operations at the current level, taking into account the cost of pay raises and the effect of inflation. Reductions recommended in title I, congressional operations, total $7,609,100. The related agencies budgets have been reduced $22,994,200. Excluding the House and copyright revision activities, over which the committee really has no control, a total of 335 new positions were requested. The committee recommends only 12 or 3.6 percent of the total number proposed.

The overall appropriations recommended are $108,588,760 above the current year level enacted to date. Percent-

agewise approximately 48 percent of this increase is attributable to the full funding of the extension of the west front of the Capitol, 22 percent is to fund additional resources to meet an increasing workload, 20 percent for the cost of pay raises, 9 percent for other increased costs, and 1 percent is attributable to copyright law revision requirements.

At this point in the RECORD under permission which I will seek at the conclusion of consideration of the bill, I will insert a tabulation detailing the committee recommendations in comparative form:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEARS 1977 AND 1978

[Excludes Senate items including those under Architect of the Capitol. All amounts are in the form of "appropriations" unless otherwise indicated.]

Agency and item	New budget (obligational) authority, fiscal year 1977 (enacted to date)	Budget estimates of new (obligational) authority, fiscal years 1977 and 1978 [1]	New budget (obligational) authority recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1977 (enacted to date)	Bill compared with— Budget estimates of new (obligational) authority, fiscal years 1977 and 1978
(1)	(2)	(3)	(4)	(5)	(6)
TITLE I—CONGRESSIONAL OPERATIONS					
HOUSE OF REPRESENTATIVES					
Payments to Widows and Heirs of Deceased Members of Congress					
Gratuities, deceased Members	$89,200			−$89,200	
Compensation and Mileage for the Members					
Compensation of Members	21,543,800	$27,760,400	$27,760,400	+6,216,600	
1977 supplemental		3,600,000	3,600,000		
Mileage of Members	210,000	210,000	210,000		
Total, compensation and mileage for the Members	21,753,800	27,970,400	27,970,400	+6,216,600	
1977 supplemental		3,600,000	3,600,000		
House Leadership Offices					
Office of the Speaker	493,250	520,400	520,400	+27,150	
1977 supplemental		16,000	16,000		
Office of the majority floor leader	313,100	369,100	369,100	+56,000	
1977 supplemental		45,300	45,300		
Office of the minority floor leader	313,100	464,100	464,100	+151,000	
1977 supplemental		100,700	100,700		
Office of the majority whip	279,950	399,000	399,000	+119,050	
1977 supplemental		75,800	75,800		
Office of the minority whip	279,950	304,000	304,000	+24,050	
1977 supplemental		20,400	20,400		
Total, House leadership offices	1,679,350	2,056,600	2,056,600	+377,250	
1977 supplemental		258,200	258,200		
Salaries, Officers and Employees					
Office of the Clerk	4,987,510	5,819,000	5,819,000	+831,490	
1977 supplemental		166,200	166,200		
Office of the Sergeant at Arms	8,909,185	9,352,700	9,352,700	+443,515	
1977 supplemental		570,000	570,000		
Office of the Doorkeeper	3,688,010	3,700,600	3,700,600	+12,590	
Office of the Postmaster	1,073,000	1,116,600	1,116,600	+43,600	
Office of the Chaplain	19,800	22,100	22,100	+2,300	
Office of the Parliamentarian	233,590	197,600	197,600	−35,990	
Compilation of precedents of the House of Representatives	268,600	288,600	288,600	+20,000	
Official reporters of debates	532,775	536,300	536,300	+3,525	
Official reporters to committees	615,560	619,600	619,600	+4,040	
Two printing clerks for majority and minority	31,300	31,300	31,300		
Technical assistant, Office of the Attending Physician	28,700	28,700	28,700		
House Democratic Steering Committee	382,000	382,000	382,000		
House Democratic Caucus	73,300	73,300	73,300		
House Republican Conference	455,300	455,300	455,300		
6 minority employees	232,900	280,550	280,550	+47,650	
1977 supplemental		14,900	14,900		
Total, salaries, officers and employees	21,531,530	22,904,250	22,904,250	+1,372,720	
1977 supplemental		751,100	751,100		
Committee Employees					
Professional and clerical employees (standing committees)	21,805,000	24,705,000	24,705,000	+2,900,000	
Committee on Appropriations					
(Studies and Investigations)					
Salaries and expenses	2,618,000	2,768,000	2,768,000	+150,000	
1977 supplemental		135,000	135,000		
Committee on the Budget (Studies)					
Salaries and expenses	329,000	261,000	261,000	−68,000	
Office of the Law Revision Counsel					
Salaries and expenses	370,350	394,350	394,350	+24,000	
Office of the Legislative Counsel					
Salaries and expenses	1,358,200	1,682,000	1,682,000	+323,800	
Members' Clerk Hire					
Clerk hire	103,268,000	107,192,000	107,192,000	+3,924,000	

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEARS 1977 AND 1978—Continued

[Excludes Senate items including those under Architect of the Capitol. All amounts are in the form of "appropriations" unless otherwise indicated.]

Agency and item	New budget (obligational) authority, fiscal year 1977 (enacted to date)	Budget estimates of new (obligational) authority, fiscal years 1977 and 1978 [1]	New budget (obligational) authority recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1977 (enacted to date)	Bill compared with— Budget estimates of new (obligational) authority, fiscal years 1977 and 1978
(1)	(2)	(3)	(4)	(5)	(6)
Contingent Expenses of the House					
Allowances and expenses					
Computer and related services for Members	3,500,000	3,500,000	3,500,000		
Constituent communication expenses	2,195,000	2,738,400	2,738,400	+534,400	
Equipment (purchase, lease, and maintenance)	5,809,000	6,418,000	6,418,000	+609,000	
Official expenses	865,000	3,073,000	3,073,000	+2,208,000	
Postage stamps	133,450	97,700	97,700	−35,750	
Rental of district office space (private and Federal)	6,220,000	6,739,280	6,739,280	+519,280	
Transportation for Members	2,350,000			−2,350,000	
Transportation for staff	900,000			−900,000	
Transportation for Members and staff		3,494,000	3,494,000	+3,494,000	
Telegraph and telephone	9,383,000	10,812,500	10,812,500	+1,429,500	
Supplies and materials	1,512,000	1,712,000	1,712,000	+200,000	
1977 supplemental		50,000	50,000		
Furniture and furnishings	1,500,000	2,020,000	2,020,000	+520,000	
Reporting hearings	1,525,000	1,598,000	1,598,000	+73,000	
Salaries authorized by House resolutions	2,250,000	2,340,000	2,340,000	+90,000	
Government contributions	11,141,300	12,343,000	12,343,000	+1,201,700	
Miscellaneous items	1,085,500	299,120	299,120	−786,380	
Total, allowances and expenses	50,369,250	57,185,000	57,185,000	+6,815,750	
1977 supplemental		50,000	50,000		
Stationary (Revolvings Fund)					
Allowances	2,853,500	2,853,500	2,853,500		
Special and Select Committees					
Salaries and expenses	25,093,000	32,700,000	32,700,000	+7,607,000	
1977 supplemental		5,700,000	5,700,000		
Total, contingent expenses of the House	78,315,750	92,738,500	92,738,500	+14,422,750	
1977 supplemental		5,750,000	5,750,000		
Total, House of Representatives	253,118,180	282,672,100	282,672,100	+29,553,920	
1977 supplemental		10,494,300	10,494,300		
JOINT ITEMS					
Contingent Expenses of the Senate					
Joint Economic Committee	1,497,975	1,697,100	1,697,100	+199,125	
1977 supplemental		53,300	53,300		
Joint Committee on Atomic Energy	709,700	709,900		−709,700	−$709,900
Joint Committee on Printing	511,325	1,081,000	1,081,000	+569,675	
1977 supplemental		40,400	40,400		
American Indian Policy Review Commission	363,000			−363,000	
Reappropriations (indefinite)	100,000			−100,000	
Total, contingent expenses of the Senate	3,182,000	3,488,000	2,778,100	−403,900	−709,900
Contingent Expenses of the House					
Joint Committee on Taxation	1,725,100	1,948,100	1,948,100	+223,000	
1977 supplemental		172,000	172,000		
Joint Committee on Defense Production	177,700	225,000		−177,700	−225,000
Joint Committee on Congressional Operations (including Office of Placement and Office Management)	743,350	897,300		−743,350	−897,300
Total, contingent expenses of the House	2,646,150	3,070,400	1,948,100	−698,050	−1,122,300
1977 supplemental		172,000	172,000		
Office of the Attending Physician					
Medical supplies, equipment, expenses, and allowances	387,800	344,200	344,200	−43,600	
Capitol Police					
General expenses	702,000	728,000	724,800	+22,800	−3,200
Capitol Police Board	1,618,860	1,701,400	1,701,400	+82,540	
Total, Capitol Police	2,320,860	2,429,400	2,426,200	+105,340	−3,200
Education of Pages					
Education of congressional pages and pages of the Supreme Court	180,200	193,700	193,700	+13,500	
Official Mail Costs					
Expenses	46,904,000	48,926,000	48,926,000	+2,022,000	
Capitol Guide Service					
Salaries and expenses	406,100	403,700	403,700	−2,400	
Statements of Appropriations					
Preparation	13,000	13,000	13,000		
Total, Joint items	56,040,110	58,868,400	57,033,000	+992,890	−1,835,400
1977 supplemental		265,700	265,700		
OFFICE OF TECHNOLOGY ASSESSMENT					
Salaries and expenses	7,366,050	9,094,000	7,400,000	+33,950	−1,694,000
1977 supplemental		55,300			−55,300

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEARS 19 7 AND 1978—Continued

[Excludes Senate items including those under Architect of the Capitol. All amounts are in the form of "appropriations" unless otherwise indicated.]

Agency and item	New budget (obligational) authority, fiscal year 1977 (enacted to date)	Budget estimates of new (obligational) authority, fiscal years 1977 and 1978 [1]	New budget (obligational) authority recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1977 (enacted to date)	Bill compared with— Budget estimates of new (obligational) authority, fiscal years 1977 and 1978
(1)	(2)	(3)	(4)	(5)	(6)
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses	9,576,600	10,459,000	10,459,000	+882,400	
ARCHITECT OF THE CAPITOL					
Office of the Architect of the Capitol					
Salaries	1,863,500	2,035,500	2,002,800	+139,300	−32,700
1977 supplemental		27,400	27,400		
Continent expenses	210,000	120,000	120,000	−90,000	
Total, Office of the Architect of the Capitol	2,073,500	2,155,500	2,122,800	+49,300	−32,700
1977 supplemental		27,400	27,400		
Capitol Buildings and Grounds					
Capitol buildings	6,065,500	5,857,600	5,516,000	−549,500	−341,600
Reappropriations (indefinite)	208,500			−208,500	
Total, Capitol buildings	6,274,000	5,857,600	5,516,000	−758,000	−341,600
Capitol grounds	1,917,800	2,420,000	2,402,500	+484,700	−17,500
Reappropriations (indefinite)	94,500			−94,500	
Total, Capitol Grounds	2,012,300	2,420,000	2,402,500	+390,200	−17,500
House office buildings	15,101,000	18,457,000	18,176,900	+3,075,900	−280,100
Capitol Power Plant (operation)	11,239,000	12,317,000	12,317,000	+1,078,000	
Modifications and enlargement, Capitol Power Plant	12,000,000			−12,000,000	
Total, Capitol buildings and grounds	46,626,300	39,051,600	38,412,400	−8,213,900	−639,200
Total, Architect of the Capitol (except Library buildings and grounds, Congressional Cemetery and extension of the Capitol)	48,699,800	41,207,100	40,535,200	−8,164,600	−671,900
1977 supplemental		27,400	27,400		
LIBRARY OF CONGRESS					
Congressional Research Service					
Salaries and expenses	20,261,200	[2] 23,317,200	21,745,000	+1,438,800	−1,572,200
1977 supplemental		132,000	132,000		
(By transfer)		(127,000)	(127,000)		
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding	64,650,500	73,937,600	72,102,000	+7,451,500	−1,835,600
Total, title I—Congressional operations	459,712,440	499,555,400	491,946,300	+32,233,860	−7,609,100
1977 supplemental		10,974,700	10,919,400		−55,300
(By transfer)		(127,000)	(127,000)		
TITLE II—RELATED AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	1,233,000	1,307,600	1,283,000	+50,000	−24,600
LIBRARY OF CONGRESS					
Salaries and expenses	83,617,000	[3] 93,699,000	87,095,300	+3,478,300	−6,603,700
Copyright Office, salaries and expenses	9,769,300	11,017,300	10,945,500	+1,176,200	−71,800
National Commission on New Technological Uses of Copyrighted Works, salaries and expenses	559,500	520,500	520,500	−39,000	
Books for the blind and physically handicapped, salaries and expenses	21,818,000	32,013,000	28,720,700	+6,902,700	−3,292,300
Collection and distribution of library materials (special foreign currency program):					
Payments in Treasury-owned foreign currencies	2,680,200	3,184,600	3,184,600	+504,400	
U.S. dollars	230,000	256,600	256,600	+26,600	
Total, collection and distribution of library materials	2,910,200	3,441,200	3,441,200	+531,000	
Furniture and furnishings	2,942,000	10,680,000	8,030,700	+5,088,700	−2,649,300
Total, Library of Congress (except Congressional Research Service)	121,616,000	151,371,000	138,753,900	+17,137,900	−12,617,100
ARCHITECT OF THE CAPITOL					
Library Buildings and Grounds					
Structural and mechanical care	2,355,200	2,452,700	2,169,100	−186,100	−283,600
Reappropriations (indefinite)	71,000			−71,000	
Total, Library buildings and grounds	2,426,200	2,452,700	2,619,000	−257,100	−283,600
Congressional Cemetery					
Maintenance and preservation		225,000			−225,000
Total, Architect of the Capitol	2,426,200	2,677,700	2,169,100	−257,100	−508,600
COPYRIGHT ROYALTY TRIBUNAL					
Salaries and expenses	276,000	726,000	726,000	+450,000	
GOVERNMENT PRINTING OFFICE					
Printing and binding	28,988,500	30,780,400	30,127,500	+1,139,000	−652,900
Office of Superintendent of Documents, salaries and expenses	47,188,400	[4] 47,526,000	46,976,000	−212,400	−550,000
Total, Government Printing Office (except congressional printing and binding)	76,176,900	78,306,400	77,103,500	+926,600	−1,202,900

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEARS 1977 AND 1978—Continued

[Excludes Senate items including those under Architect of the Capitol. All amounts are in the form of "appropriations" unless otherwise indicated.]

Agency and item	New budget (obligational) authority, fiscal year 1977 (enacted to date)	Budget estimates of new (obligational) authority, fiscal years 1977 and 1978 [1]	New budget (obligational) authority recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1977 (enacted to date)	Bill compared with— Budget estimates of new (obligational) authority, fiscal years 1977 and 1978
(1)	(2)	(3)	(4)	(5)	(6)
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	157,089,500	168,641,000	160,000,000	+2,910,500	−8,641,000
COST-ACCOUNTING STANDARDS BOARD					
Salaries and expenses	1,700,000	1,837,000	1,837,000	+137,000	
Total, title II—Related agencies	360,517,600	404,866,700	381,872,500	+21,354,900	−22,994,200
TITLE III—CAPITAL IMPROVEMENTS					
ARCHITECT OF THE CAPITOL					
Extension of the Capitol		55,000,000	55,000,000	+55,000,000	
SUMMARY					
Grand total, new budget (obligational) authority	820,230,040	[1] 959,422,100	928,818,800	+108,588,760	−30,603,300
1977 supplemental		[1] 10,974,700	10,919,400		−55,300
By transfer		(127,000)	(127,000)		
Consisting of:					
1. Appropriations	819,756,040	[1] 959,422,100	928,818,800	+109,062,760	−30,603,300
1977 supplemental		[1] 10,974,700	10,919,400		−55,300
By transfer		(127,000)	(127,000)		
2. Reappropriations (indefinite)	474,000			−474,000	
RECAPITULATION					
Title I—Congressional operations	459,712,440	499,555,400	491,946,300	+32,233,860	−7,609,100
1977 supplemental		10,974,700	10,919,400		−55,300
By transfer		(127,000)	(127,000)		
Title II—Related agencies	360,517,600	404,866,700	381,872,500	+21,354,900	−22,994,200
Title III—Capital improvements		55,000,000	55,000,000	+55,000,000	

[1] Includes budget amendments for fiscal year 1978 totaling $79,704,570 and supplemental estimates for fiscal year 1977 totaling $10,974,700 in H. Docs. 95-93 and 95— and S. Doc. 95-31. Excludes $15,500,000 requested by the Government Printing Office for "Acquisition of site and general plans and designs of buildings."

[2] Includes funds for revision of the Annotated Constitution previously carried as a separate appropriation.

[3] Includes funds for distribution of catalog cards; books for the general collections; and books for the library previously carried as separate appropriations.

[4] Reflects transfer of $2,076,000 from Government Printing Office budget to HUD-independent agencies appropriation bill, 1978.

MAJOR ITEMS IN BILL

Mr. Chairman, as I stated earlier, the Committee has included $10,919,400 in the bill for additional appropriations for 1977. I would like to make it clear to all of the agencies involved that we do not want any further supplementals for 1977 or for fiscal year 1978 other than such cost-of-living pay raise costs that cannot be absorbed.

TITLE I—CONGRESSIONAL OPERATIONS

The bill provides a total of $491,946,300 for fiscal year 1978 and $10,919,400 for 1977 for seven major areas of activity in direct support to the Congress. These include the House, joint items, the Office of Technology Assessment, the Congressional Budget Office, the Architect of the Capitol—except Senate and Library buildings and grounds—the Congressional Research Service, and congressional printing and binding.

HOUSE OF REPRESENTATIVES

The allowance of $282,672,100 for the House for 1978 is an increase of $29,553,920 above 1977 appropriations enacted to date and includes $15,800,000 to meet additional workload requirements, as well as increased allowances for Members and expanded resources for special and select committees which have already been approved by the House. The bill provides an increase of $6,200,000 for 1978 and a supplemental of $3,600,000 for 1977 for "Compensation of Members" to cover the costs of the salary increase for Members which became effective March 1, 1977. The bill also includes $483,000 and language for the development of temporary parking facilities on the Providence Hospital site as requested by the Committee on House Administration. This latter item is included in the Architect's budget.

RECOMMENDED REDUCTIONS

The total recommendation for congressional operations is $7,609,100 less than was requested. In round figures $1.6 million reflects the abolishment of the Joint Committees on Atomic Energy and Congressional Operations through other legislation and action; a reduction of $1.7 million in the request of the Office of Technology Assessment; the deferral of certain projects and other downward adjustments totaling $670,000 in the budget of the Architect; a reduction of $1,600,000 in the amount requested for the operation of the Congressional Research Service, and $1,800,000 less for congressional printing and binding reflecting an updated projection of funds required to complete orders initiated in prior fiscal years. The sum of $225,000 requested for the operation of the Joint Committee on Defense Production during 1978 has been eliminated.

TITLE II—RELATED AGENCIES

A total of $381,872,500 is recommended for the seven agencies carried in this title of the bill. This allowance is an increase of $21,354,900 over the current level of funding and $22,994,200 less than requested.

As I noted earlier, the committee has structured the bill in a different way than in the past to clearly show those items directly related to the operation of the Congress in one title, and the related agencies in another. The major portion, approximately 75 percent of the total funds recommended in the bill for these agencies is for activities for general government or public service. The remaining 25 percent, or $95,595,088, is for support in varying degrees to the Congress.

The agencies that are included in this title of the bill, the amounts recommended and the percentage of the allowance that is in support of Congress are as follows: First, Botanic Garden, $1,283,000 of which 14.1 percent or $180,903 is in support of the Congress; second, Library of Congress—except the Congressional Research Service, $138,753,900 of which 27.1 percent or $37,605,000 is in support of the Congress; third, Library buildings and grounds, $2,169,100 of which 35 percent or $759,185 is in support of the Congress, mainly through the Congressional Research Service; fourth, Copyright Royalty Tribunal, $726,000, none of which is related to congressional activities; fifth, Government Printing

Office—except congressional printing and binding, $77,103,500, of which three-tenths of 1 percent is related to the Congress; sixth, General Accounting Office, $160,000,000 of which 34 percent, or $54,400,000, is in support of the Congress; and seventh, Cost-Accounting Standards Board, $1,837,000 which has no relationship to congressional activity.

Mr. Chairman, I will not attempt to discuss all of the recommendations made by the committee for the various agencies funded in this title of the bill, but I would like to mention a few. Our general policy has been to provide only the resources necessary to maintain activities at the current level. The additional staffing requested by the Library of Congress and the General Accounting Office to expand activities has not been allowed. The exception is the request of the Copyright Office based on the Register's best judgment as to what will be required to carry out the mandates of the Copyright Revision Act of 1976 which completely changes existing law and procedures. It is estimated approximately $5.2 million of the appropriation to the Copyright Office will be recovered through fees that are deposited directly in the Treasury.

CONGRESSIONAL CEMETERY

The committee did not approve the request of the Architect of the Capitol for the sum of $225,000 to make improvements to a portion of the Congressional Cemetery containing a number of Government-owned burial plots as well as making a study to determine ultimate needs and future jurisdiction over the care of these historic sections of the cemetery. This request has been denied without prejudice. The cemetery is privately owned and the Government-owned plots are under the jurisdiction of the Veterans' Administration and not the Architect. The request is premature as there is currently no provision to prevent further destruction or vandalism which would make any work at this time futile.

RESTRICTION ON NUMBER OF COPIES OF CONGRESSIONAL RECORD

The bill contains language restricting the number of copies of the daily edition of the CONGRESSIONAL RECORD each Member of the House is entitled to for distribution to designees of their choice. The current entitlement of 68 is being cut back to 34 and appropriations for printing and distribution of those copies have been reduced $1,200,000 to reflect the savings that will result.

TITLE III—CAPITAL IMPROVEMENTS

This is a new title under the revised structure of the bill. In years past major construction projects have been carried under the same headings as operating expenses. Only one project is proposed for 1978.

EXTENSION OF THE CAPITOL

The committee recommends the appropriation of $55,000,000 for the modified plan developed by the Architect of the Capitol for extension of the west central front of the U.S. Capitol as requested by the Architect pursuant to the directive of the Commission for Extension of the U.S. Capitol, dated April 7, 1977. Authorization for the project is contained in Public Law 242, 84th Congress, as amended by Public Law 84-406.

This project is not new to the Congress. It has been considered and reconsidered over a period of years. The first appropriation was made in the fiscal year 1965. However, the proposal recommended this year is a new one and not as extensive as the original proposed extension which would have moved the west wall out 44 feet, including the terraces, and adding a gross area of 265,528 feet. The current modified plan provides for a 22-foot extension at the center portion of the building and would add a gross area of 135,000 square feet, of which a net of 100,000 square feet would be usable space. The Olmsted Terraces would remain in their present location with the extended walls joining the existing interior walls of the terraces thus filling in the existing courtyards. This design would substantially complete the building in accordance with the plan to extend the Capitol to the west developed in 1864 by the fourth Architect of the Capitol, Thomas U. Walter. The modified plan as recommended would maintain the basic appearance of the building as we see today.

The need for work on the west wall is evident and the weakened condition of the structure has been known for years. The original construction was of inferior building material. It has undergone the rigors of two fires. A number of structural changes have been made on the interior over the years which has resulted in weakening of the structure. There are no expansion joints in this old section of the building and as a result cracking, opening of joints, and bulging have occurred. The committee is advised that the structural integrity of the wall must be restored.

The solution to the problem of restoring the structural integrity of the wall has been a matter of contention throughout the history of the project. Two basic methods have been advanced. One method is to replace many damaged stones and to pressure grout and presumably fill the void in the interior of the wall in the hope that this will solidify the wall and make it strong enough to carry the existing loads. This method would require drilling some 5,700 2-inch holes over the entire face of the wall. They would then have to be plugged after grouting is inserted in the wall under pressure.

The wall would then have to be repainted and continue to be painted periodically forever. It is questionable, upon completion of the grouting process, whether the structural integrity would be adequately restored and it has been predicted that the problems of cracking, as well as moisture penetration to the interior and condensation on the interior face of the wall would continue to occur. The cost of restoration through this process is estimated to be $45,000,000.

The other basic method for restoring the structural integrity is to brace the wall. The Architect has advised that the simplest and most expedient way of bracing is by placing another structure against it. This is his recommendation which has been approved by the Commission on Extension and is recommended by the Committee. If it is decided not to strengthen the wall it will cost $250,000 just to perform the minimal work of painting and replacing the rotting support timbers which have been in place for a number of years.

The committee recommends proceeding with the modified plan for extension. Only $10,000,000 will be obligated during fiscal year 1978.

CONCLUSION

Mr. Chairman, these are the highlights of the bill. The committee report explains our actions in much more detail, and is available to all the Members of the House.

The committee has little discretion as far as the amounts for the House and the joint items of the Congress are concerned. Salaries, allowances and expenses of the Members, special and select committee funding and other items have been approved by the House and are already in effect through the adoption of House resolutions from the Committee on House Administration. Where the committee has discretion, it has been exercised.

As I noted earlier in my remarks, the committee is recommending an overall reduction totaling $30,603,300, and only 3.6 percent of the new positions requested in those areas where we have control have been allowed.

Mr. Chairman, this is a good bill. I recommend that it be approved.

Mr. ARMSTRONG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am very pleased to rise in support of this bill and to compliment the chairman, the gentleman from Illinois (Mr. SHIPLEY), on the manner in which he has brought this bill to the floor and for his conduct of the hearings and markup of this bill.

Mr. Chairman, many of the Members in the Chamber know that I am very much opposed to the lavish year-to-year increases in spending for various purposes which are brought before us day after day in this Chamber. I have not hesitated to criticize such spending. I have been particularly critical of the large year-to-year increases in spending for the legislative branch itself. Having done so, I want to compliment the chairman, the gentleman from Illinois (Mr. SHIPLEY), and members of the subcommittee for their effort to hold the line in this particular appropriation.

We were asked to fund several hundred new staff positions here on Capitol Hill. But we have funded only 12 in this appropriation. I think that is an admirable start toward economizing.

Personally, I would be well pleased if we would go back and systematically reduce the staffing and spending in many congressional agencies.

There remains in this appropriation a lot of fat. But it is mostly fat left over from prior years. It is spending and staffing which was built into the system long ago. This bill represents an admirable attempt to hold the line for this

year. For this the committee is to be commended, and I am pleased to do so.

Beyond that, there is little I can add to what the chairman of the subcommittee, the gentleman from Illinois (Mr. SHIPLEY) has said.

Mr. Chairman, I rise in support of the bill, and I reserve the balance of my time.

Mr. SHIPLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. TRAXLER), a member of the subcommittee.

Mr. TRAXLER. Mr. Chairman, I rise in support of this bill which provides appropriations for the legislative branch for fiscal year 1978.

I know firsthand of the tremendous efforts put forth by my friend and colleague, the distinguished gentleman of Illinois, who is the chairman of this subcommittee on which I sit. I wish to both thank and congratulate the gentleman for his exceptional work in keeping the lid on spending in this bill. As we all know too well, the Congress has often been criticized for spending too much money on itself, and I think we can all be grateful to our colleague for the fine proposal he brings to this body today.

I would also like to thank the gentleman from Colorado, ranking minority member of this subcommittee, for his candid and complimentary comments on this bill. In past years, this particular appropriation bill has been the subject of intense partisan debate.

I would like to call to the attention of all the Members of this body to the supplemental views accompanying this bill made by my distinguished colleague from Colorado. I commend and concur with the gentleman that "this year the legislative branch Appropriations Subcommittee has held the line." Indeed, reductions and limitations in staffing have been made where it has been practically possible, and numerous requests for increases in dollars and staff have been rejected. I wish to express my appreciation to all of the members on this subcommittee, on both sides, and to the staff, for the hard work and cooperation which has resulted in this appropriations bill which deserves the support of this body.

Beyond the commendable restraints in spending, a significant change has been made in this bill for which I must applaud the gentleman from Illinois. This bill has been broken down, by title, to more accurately reflect those costs which are directly attributable to the operations of the Congress, and those costs which are provided for assisting executive agencies and the public. Additionally, capital improvements have also been separated from congressional operations.

What this change means is that we have now very clearly shown that we are not a "billion-dollar Congress." We have all heard references to the "billion-dollar Congress" from many distinguished politicians and critics, including former President Ford. We have all read newspaper and magazine articles headlined with the "billion-dollar Congress." We have had this stigma attached to us because individuals have simply taken the sum total of the legislative branch appropriations and attributed it to the operations of the Congress. This year's bill, however, clearly states what is and is not the cost of operating the Congress.

For example, the Congress has always publicly borne the total operating cost of the Library of Congress—yet the Library of Congress is a national library, a copyright office, a supplier of books for the blind and handicapped, and a provider of other public services. On the other hand, the function of the Congressional Research Service is to provide direct assistance to the Congress. This appropriations bill separates the cost of the CRS from the cost of the public services provided by the Library of Congress.

Another example is the Cost-Accounting Standards Board. This independent agency sets accounting standards for Defense contractors, and does not function in support of the Congress. It is beyond me why the nearly $2 million needed to operate this agency should be deemed as part of the budget of the Congress, part of the so-called billion-dollar Congress. This bill clearly indicates that the board is not part of the operations of the Congress, and should not be charged so.

It is my sincere hope that the work put forth by the committee and staff to separate out the actual costs of operating the Congress will be duly noted by all of our colleagues as well as the media. A very important step has been taken here. I think this is a grand beginning, and I know I share the wishes of my colleague from Illinois that we will be successful in further defining what is and is not attributable to the congressional operations in future appropriations bills. Again, I want to thank my colleagues on this subcommittee for their efforts to set the record straight that we are not a "billion-dollar Congress."

Mr. SHIPLEY. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, since assuming the chairmanship of the Committee on House Administration 1 year and 5 days ago, I have discussed individual parking problems with almost every Member of the House. And I am sure that those Members with whom I did not speak have discussed their individual parking problems with my good friend, the gentleman from Tennessee, ED JONES, who is the chairman of our Subcommittee on Services.

Because of the severity of parking problems and my desire to alleviate that difficulty for employees and Members, I undertook a search for an additional and available parking space. I located a piece of property owned by the House of Representatives. The site of the old Providence Hospital, which is dedicated to the eventual construction of a page school. The property presently is nothing more than an unsightly pile of rubble. Because of the convenient location of the property to the House side of the Hill, I became interested and I discussed this matter with the members of the Legislative Subcommittee of the Committee on Appropriations.

We determined that it would be in the best interests of the House to proceed to clear the site and make it available on a temporary basis for the parking of approximately 400 automobiles.

Since that time, Mr. Chairman, I have discussed this matter with residents of the immediate area and have given much additional thought to the matter. While the presently existing pile of rubble is unsightly and inappropriate to the area, I have also concluded that an asphalt parking lot, no matter how green and attractive we attempt to make it, would be an improper use and would be unfair to the residents of the area.

Consequently, Mr. Chairman, I hope that the point of order which I understand will be raised today when this section of the legislative branch appropriation bill is reached will be sustained.

I would like to assure the Members that the gentleman from Tennessee (Mr. JONES) and I will continue to look for additional parking space in a more appropriate area.

I do hope that this site of the old Providence Hospital is cleared soon and that the badly needed page school will be constructed there.

The Delegate from the District of Columbia has written to the Members a very persuasive letter reflecting the attitude of the residents of that area. The argument was so persuasive that I went back and reviewed the site and talked with a number of the residents. I am glad that I have changed my mind on the matter.

I thank the distinguished chairman for yielding to me.

Mr. ARMSTRONG. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. Chairman, on our side we are fortunate to have on the committee the gentleman from Pennsylvania (Mr. COUGHLIN). He was formerly the ranking Republican on that committee, and he is an authority on this appropriation bill.

Mr. COUGHLIN. Mr. Chairman, I thank my distinguished colleague, the gentleman from Colorado (Mr. ARMSTRONG), for yielding me this time.

I congratulate him as well as the chairman of the subcommittee for a job really well done this year.

It is impressive, I think, to bring before this committee a bill in which there has been a real, honest-to-goodness attempt to cut back on the proliferation of staffs and on the size of the legislative branch of Government. I think the committee has done an outstanding job on this bill.

Mr. Chairman, I think it is also important to note that the chairman and ranking minority member have done an excellent job in trying to categorize those expenses that are expenses of the House of Representatives itself and separate out those other expenses that are really more in the nature of public expenses and not expenses of operating the House of Representatives.

Mr. Chairman, I will have amendments in two areas. The first does involve the provision in the bill for a temporary parking facility on the site of the old Providence Hospital. I was pleased to see the distinguished gentle-

man from New Jersey, the chairman of the Committee on House Administration, indicate that he hopes a point of order will be sustained against that provision for a parking lot at the old Providence Hospital. I will make such a point of order at the appropriate time, and I am very pleased that the gentleman supports it.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I will appreciate the gentleman's making that point of order. I hope that it is sustained. I will see to it that we will continue our efforts to find a more suitable place to take care of the immediate parking problem.

Mr. COUGHLIN. Mr. Chairman, I thank the gentleman from New Jersey (Mr. THOMPSON) very much indeed.

Mr. Chairman, at the appropriate time I will also offer, on behalf of the distinguished minority leader and myself as the chairman of the House Republican Task Force on Reform, as well as on behalf of the gentleman from Minnesota (Mr. FRENZEL), chairman of the Republican Research Committee, the gentleman from Michigan (Mr. CEDERBERG) ranking minority member of the Appropriations Committee, the gentleman from Maryland (Mr. BAUMAN), the gentleman from New York (Mr. CONABLE), in their positions, and on behalf of the gentleman from Colorado (Mr. ARMSTRONG), in his position as a member of the Commission on Administrative Review, a series of amendments similar to amendments that have been previously offered to this House, which I think will go a long way toward making the operations of the Congress more open to the public.

These have been described in a "Dear Colleague" letter which has been sent to each of the Members. Basically they would do the following things:

First, they would make the expenditure records of the Clerk of the House open to the public at the Office of the Clerk. The Commission on Administrative Review has proposed, and salary records of employees of the House are available now on microfilm, but the other expenditure records of Members of the Congress and committees should also be available for inspection in the office of the Clerk. This amendment would do just that.

A second amendment would prohibit a person from being on both a committee payroll and a Member's payroll at the same time. This should be stopped.

A third amendment would require the stationery room, the House recording studio, the beauty and barber shops, and all House cafeterias and dining rooms to be operated on a self-sustaining basis. We are now susceptible to the charge that these are hidden perquisites that we as Members of the Congress have. I believe that they all should be operated on a self-sustaining basis so that we are not susceptible to that charge.

The next amendment would eliminate the $5,000 increase in Members' allowances that was provided by the Commission on Administrative Review last March at the time we had the so-called consolidation of accounts. At that time we eliminated the so-called slush funds and added $5,000 to our expense allowances. This was certainly no way to have reform, and we should eliminate that $5,000.

Finally, we would terminate completely the authority of the Committee on House Administration to adjust allowances without bringing that question before the House.

You will recall that under the present law the Committee on House Administration has the authority to change allowances on the basis of changes in cost of living or changes in technology, and the minority believe that provision should be eliminated and that all changes in allowances would have to come to the floor of the House.

Mr. THOMPSON. Mr. Chairman, would the gentleman yield.

Mr. COUGHLIN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, on that point I must say that I have ambivalent feelings. I have a number of letters from Members citing increases in the costs of many items, even down to paperclips. Anything new would be brought to the committee, to the floor and the Committee on Rules. If this suggestion were to be adopted, I would have no particular objection, but we must keep in mind that there are a great many small items that will mean a great many bills and resolutions coming to the floor for a vote, which I do not object to in the slightest, if the Members want to take that much time to do it.

Our committee has been extremely careful and cautious and will continue to do so. I would hope that, somehow or other, we could work this out so that it will be a more efficient process.

Mr. COUGHLIN. Mr. Chairman, I thank the gentleman from New Jersey.

Mr. SHIPLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. FLYNT).

Mr. FLYNT. Mr. Chairman, first of all I want to compliment the gentleman from Illinois (Mr. SHIPLEY) the chairman of the subcommittee for the splendid job the gentleman has done in bringing this bill first to the full Committee on Appropriations and now to the floor of the House. I support the bill as reported out by the Committee on Appropriations. I particularly support that portion which deals with the extension of the west front of the Capitol.

Mr. Chairman, frequently, when visitors come to the Capitol, I, along with other Members, am asked "when was the Capitol built?"

The only accurate answer that we can give is that it was begun in the 1790's and has been an ongoing construction project ever since. The proposal for the extension of the west front of the Capitol is not new to the Congress, the House of Representatives, nor to the Committee on Appropriations. It has been before us time and time again.

I remember in the early days of my service here when the question of the extension of the east front of the Capitol was just as controversial as the proposed extension of the west front of the Capitol is today. I remember the efforts that were made to complete the construction on the extension of the east front in order that it might be ready in time for the Inauguration of President John F. Kennedy on January 20, 1961.

I think that even the most vocal opponents of the extension of the east front have now joined with those of us who supported the extension of the east front in believing that extension to be one of the most important additions to the U.S. Capitol.

Mr. Chairman, whether something has to be done on the west front is not the issue. The question is what form the modification shall take: restoration, extension, or whatever. The disadvantage to a restoration is that we might wind up spending more money than an extension would cost and still have a structurally unsound and unsafe west front.

I hope that the House will approve the extension of the west front of the Capitol in the form developed by the Architect of the Capitol pursuant to the direction of the Commission for Extension of the U.S. Capitol dated April 7, 1977. Mr. Chairman, I support the bill as reported. I particularly support this section of the bill.

Mr. ARMSTRONG. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. I thank the gentleman from Colorado for yielding.

Mr. Chairman, at the appropriate time my good friend and colleague, the gentleman from Iowa (Mr. GRASSLEY), will offer an amendment whose effect would be to roll back the pay increase for the House of Representatives which was accorded this body as a result of the recommendation of the Quadrennial Pay Commission. I shall vote against the Grassley amendment. Or to put it another way, I support the pay increase which results from the Quadrennial Commission recommendation.

In supporting this increase, I do have two very serious concerns, however. First, I am disturbed about the processes by which this pay increase has been considered. Specifically, the Members have been refused the opportunity to vote on the increase itself last spring. All efforts to reform the pay process have been resisted. I am still very perplexed at the coincidence of a bill having been brought out on the floor yesterday, 1 day prior to consideration of the legislative appropriation bill, which denies the prospective October comparability pay increase. Too, I am somewhat mystified at the decision to bring out a modified rule, which really prohibits any meaningful amendments in terms of the pay increase. To put it very bluntly, Mr. Chairman, I think that at best we can say is that these processes have been very shabby.

I think certainly the people of America deserve much better from this body.

Second, I am concerned about the possibility that those of us who support this

salary increase will be accused of conflict of interest. Indeed, I believe this would be a proper charge because what we are doing obviously is to vote ourselves an immediate pay increase. Mr. Chairman, 37 States have gotten around this problem either by statute or by constitutional amendment. What they do is to defer any legislative salary increase to succeeding sessions of the State legislature. This is true in my own State of Ohio. I would hope that the Congress of the United States would adopt the same provision. Indeed, over 100 of us have sponsored bills which would do this very thing. During our consideration yesterday of Senate bill S. 964, the manager of that measure, the gentleman from New York (Mr. SOLARZ), was somewhat less than forthcoming as to whether or not the bill to which I have referred will receive a hearing or any action during the 95th Congress.

However, I was pleased, Mr. Chairman, to receive a copy of a letter which the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), wrote to his colleagues in the Democrat Party urging that they vote against the Grassley amendment. He indicated a number of reasons. His second one reads as follows:

If you need additional justification there will be a vote later on the Whalen proposal to make any future pay raise applicable only to the next succeeding Congress. If you desire you can announce your support for this proposition.

The distinguished majority leader, I see, is present on the floor and I would like to pose this question to him. Do we have his assurance that there will be a vote, yes or no, on the Whalen proposal to defer salary increases until succeeding sessions of Congress?

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, it is my understanding that the committee is prepared to report out that proposal. If I am correct, and if the committee does report out that proposal it would be the purpose of the leadership to schedule it. As a matter of fact the Speaker in his press conference today responded to a question in regard to that and indicated that it was expected that the proposition would come before the House at a later date this session.

Mr. WHALEN. I certainly respect the right of the committee either to accept or reject a bill before it. Is it clear then that the committee will vote one way or the other on the Whalen proposal?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, the gentleman in the well knows the degree of my respect and admiration for him. I have followed him on occasion when he has had the courage to take at times unpopular actions.

The Nedzi-Whalen amendment probably was one of the most significant turnarounds in the war in Vietnam, which was an effort I saw the gentleman bring back again and again and again before it was finally successful. I know the gentleman will persist and I will predict on the basis of his track record that something will happen on the Whalen bill.

Mr. WHALEN. I do not want predictions, I will say to the gentleman from Michigan (Mr. FORD). I would like assurances that we will get a yes-or-no vote in the committee.

Mr. FORD of Michigan. I think the gentleman in the well knows the members of the Subcommittee on Pay Recommendations are cosponsors of a version of the Whalen proposal, so I would expect it would be treated sympathetically and I would expect that will depend on what happens today. If we are facing the probability of a continual rollback, then I suppose we would consider the question moot and not worth shedding any more blood over.

The main problem, as the gentleman knows, is trying to figure out how we deal with the other body on such a proposal as the Whalen proposal.

Mr. WHALEN. If I may reclaim my time for a moment, I would point out to the gentleman from Michigan that in the 94th Congress the other body did approve their version of the Whalen bill.

Mr. Chairman, I yield to the gentleman from New York (Mr. PATTISON).

Mr. PATTISON of New York. Mr. Chairman, I thank the gentleman for yielding.

I congratulate the gentleman on his statement. As the gentleman knows, I am one of the principal cosponsors of the Whalen bill. I believe very much in its principle. I think it makes good political science and I think it makes good politics. I think it would be better for us to have that kind of mechanism in this House. It would be easier for us to do what is right. Some of us are very reluctant to vote on our own pay during our own terms and will give back the money, even though we support the pay increase. As a matter of fact, that makes it very difficult under the current circumstances to do it.

I would also urge the leadership of this House and the Committee on Post Office and Civil Service to take quick action on the Whalen bill and bring it to the House for a vote and let us get an up or down vote. I am sure it cannot fail if it gets to the House floor.

Mr. WHALEN. Mr. Chairman, I thank the gentleman for those comments. I certainly appreciate the gentleman's efforts in trying to achieve meaningful pay reform.

Mr. Chairman, I yield to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Chairman, I commend the gentleman for his proposal.

We have a law in the State of Washington that is similar and is very successful.

I would like to ask the gentleman one question. Does the gentleman think it is at all possible that we could avoid a vote under the gentleman's proposal, if it were to be effective in the next season? It seems to me there is no way we are ever going to escape voting on this issue and if we were to accept the proposal, inevitably it would come up for a vote when the next Congress convened and we would be voting for an increase.

Mr. WHALEN. Mr. Chairman, we will get a vote on any future pay raises, regardless of whether or not my measure is approved by the Congress and signed by the President. Obviously, it would be up to future Congresses how they would handle this.

I argued in support of my measure, first of all, as the gentleman from New York (Mr. PATTISON) pointed out, it is procedurally correct.

Second, as a practical matter, it seems to me Members of this body could defend the measure for deferring pay increases to succeeding legislative sessions on the ground they did not vote to increase their own pay, only the pay of those who serve in this chamber in the next succeeding Congress.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I am a cosponsor of the gentleman's amendment. I commend the gentleman for his statement and point out that the State of California has a constitutional provision very similar to that which would be in effect if the gentleman's amendment is passed into law. The California constitutional amendment was voted on by the people in 1966. Under that provision the legislature is allowed to increase its pay by 5 percent a year. There has to be a recorded vote, and the pay raise does not take effect until after the succeeding legislative election. I might point out that since it has been in effect, there have been three or four pay increases. This is done deliberately with hearings, with the public coming in and testifying. There has been very little adverse reaction to it because it has been done openly and in accordance with the law. It does not take effect except for those elected in the next legislature.

Let me ask this question. Being as there seems to be so much support for the gentleman's amendment, is the gentleman thinking of offering it as an amendment to this bill?

Mr. WHALEN. Mr. Chairman, I would love to do so, but I am afraid under the rules that this is not in order.

Mr. LAGOMARSINO. Surely the gentleman does not think anyone would make a point of order, as there is that much support for his proposal?

Mr. WHALEN. I just suspect a point of order would be lodged against this amendment.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I appreciate the gentleman yielding.

As the gentleman may know, I firmly subscribe to the commission form of establishing appropriate pay levels for Members of Congress, the judiciary, and

the executive branch. Under the present procedure where they meet quadrennially and then at the end of the congressional session report to the follow-on Congress. Would it be the gentleman's judgment in the absence of amending that basic law that we would then act one way or another on a recommendation in the first session of a Congress, to be effective in the first session of the following Congress, which really means there will be a 2-year or 2½-year lag behind the fact when the recommendations were made?

I like his proposal, but I have a reservation only about the longtime lag that exists between what is supposed to be a credible recommendation by a commission and then having the figures outdated before they ever take effect. What is the gentleman's view?

Mr. WHALEN. Well, the quadrennial recommendation would probably be received by the Congress in January. It would be acted on within the prescribed time. It, if approved, would then become effective 2 years from that January, so there would be a 2-year time lag. I view this as applying only to the Congress. My bill, as introduced, would not apply to the other branches of Government. There are those who would seek to do this, however, and have it apply Government-wide. This, of course, would be debatable, and I certainly would bow to the will of the majority of this body.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman for his statement. I think possibly one way around that would be to have, instead of doing it on a quadrennial basis, would be to do it every 2 years and have the same kind of recommendation go into effect in the following Congress.

I want to commend the gentleman for his efforts. I think he has made a very outstanding contribution, and it is something that should be given thorough consideration. It is something that would meet the basic objection that we should do this and then have it go into effect in the next Congress. I think the American people would support that approach more strongly.

Mr. WHALEN. I thank the gentleman for his comments.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Maryland.

Mr. BAUMAN. I just want to say to the gentleman that I find the change in the tenor of debate from yesterday, when we considered the suspension that knocked out the cost-of-living pay increase for Congress, somewhat amazing in its dimensions.

The gentleman from Ohio yesterday was some sort of pariah, being denounced for wanting to bring up his bill and have it considered in due course in a related legislative measure. Today, we hear all sorts of love songs and embracing of his position on both sides of the aisle.

I can perhaps reasonably attribute this to the arithmetic of votes needed this morning. Perhaps the closeness of the situation now commends support for his position. For whatever reason, I am delighted to see the change.

Mr. WHALEN. I thank the gentleman.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield.

Mr. FORD of Michigan. I would simply like to say that I think the gentleman from Maryland has quite accurately awakened at noon on the 29th of June to discover how persuasive the gentleman in the well can be. Those of us who listened to his attempts to persuade yesterday had an opportunity to think on them through the night, and have been persuaded that he is on the right course, and we want to be supportive of him. I commend the conduct of the gentleman in the well to the gentleman from Maryland. It works, if you try hard enough.

Mr. WHALEN. I stand here humble before my colleagues.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman very much for yielding to me. I am just a little bit disturbed at this proposal to put off any pay raise until after next election. If the gentleman's purpose is to make sure that we never get a pay raise, it would seem to me that this would be a pretty good device, because I can see this becoming an issue in every single election district in the country. "If I vote for you for Congress, will you vote to repeal the pay raise that has been passed?"

I doubt if we will ever get one. I feel very strongly that Congress should get one, so that on strategic grounds it just seems that this is the most felicitous way of accomplishing it.

Mr. WHALEN. I thank the gentleman. Let me just conclude, Mr. Chairman, by saying that I think we should divide the issues as I suggested previously. In my opinion, I believe the quadrennial pay raise for the Congress is warranted. I am not going to attempt to delineate the reasons for the Members. I think this was superbly done by Mr. John Gardner in his op-ed article which appeared in yesterday's edition of the Washington Post. But I am concerned about the pay raise processes.

I certainly appreciate the assurances from the majority leader and from the distinguished gentleman from Michigan (Mr. FORD) that we will have hearings and action one way or the other on the Congressional Pay Raise Deferral Act of 1977.

Mr. ARMSTRONG. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield.

Mr. ARMSTRONG. I have followed with great interest the colloquy, and I also commend the gentleman for his statement and those who have spoken in support of the gentleman's position.

I just want to point out that the rule under which we are proceeding, there will be in order an amendment which, I believe, will be offered by the gentleman from Iowa (Mr. GRASSLEY) which has precisely the effect the gentleman has advocated.

The amendment will not defer for all time and cancel favor the pay increase. It only delays it until the end of fiscal year 1978; and so, in effect, the gentleman's purpose would be rather precisely served if the amendment of our colleague, the gentleman from Iowa (Mr. GRASSLEY), were to be adopted.

Mr. WHALEN. Mr. Chairman, I thank the gentleman for his observation. I also again want to express my appreciation for his yielding me time to discuss this issue.

Mr. SHIPLEY. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman, I am going to vote against the amendment designed to roll back the previously approved pay raise. I do so with considerable trepidation, if you will.

Mr. Chairman, my record as an elected official I think will bear out that in the past I have voted against pay increases, and I have done so because I did not feel that any elected official should be in a position of determining his own pay level.

While I certainly agree that the proposal of the gentleman from Ohio, who just preceded me in the well, is certainly a step in the right direction, nevertheless, as has been pointed out by the gentleman from Washington (Mr. BONKER), and for a number of other reasons, this does not totally get us away from the position in which I think we will find ourselves in the future on similar occasions when we are again called upon, in essence, to decide our own pay level.

It seems to me that, although this may well be a minority view in the chamber at this time, the system which we have had and the system which resulted in the Quadrennial review by a committee, which was a blue ribbon committee on which there was no legislative representation, on which there was no representation by any of the judges to be affected, and none of the top Federal officials, was a valid and legitimate process. I frankly regret to see us going back to a system—and the handwriting is on the wall—where we will be in a position of a blatant conflict of interest.

So I hope that when we finalize the legislation in this particular area we will give the conflict of interest element very serious concern.

Mr. ARMSTRONG. Mr. Chairman, I yield 5 minutes to the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Chairman, it seems to me that the real question in my constituency is the procedure that the House of Representatives uses to raise its pay. I would say that the Whalen amendment would be a great improvement. Many of our people do not oppose raises in congressional pay, but they would like to see a rollcall vote specifi-

cally on it. They feel that the Constitution requires such a vote. Also, I think that if the Whalen amendment were adopted, or the effect of the Whalen amendment, it would make our people much more confident in the Congress. I think it is the manner in which this Congress has been raising its pay that is objected to as much as the specific level of pay. My people want our Congress to be well paid—but they want us to vote in an up or down fashion.

Mr. GIAIMO. Mr. Chairman, this is a complicated bill to explain in terms of the Congress previous actions on the budget resolution for fiscal year 1978.

It is necessary to look at this bill from at least two perspectives:

The relationship of this bill, as reported by the Appropriations Committee, to the subdivisions of budget authority and outlays under section 302 of the budget act, as allocated within the Committee on Appropriations; and

How the funds provided in this bill compare with the overall determinations of Congress for the several functional categories.

First, with respect to the Appropriations Committee subdivisions under section 302:

The committee subdivision for this bill was $1,050 million.

The amount in this bill, as reported, is $929 million.

However: the subdivision includes about $154 million for Senate items which the House traditionally does not consider; if we make the necessary adjustment for these Senate items, this bill would be $33 million over the section 302 subdivision.

Second, with respect to overall functional aggregate targets established by Congress for the 1978 budget:

This bill provides relatively minor amounts for functions 400—commerce and transportation—in the copyright office, and for function 500—education, training, and social services—in the Library of Congress, which are well within the targets for these functional categories.

The predominant portion of this bill impacts upon the functional category 800—General Government: in this connection, reductions the House has made in other bills—notably Treasury-Postal Service and Interior appropriations—provide enough leeway to accommodate the overruns which this bill from this subcommittee would otherwise entail.

Mr. Chairman, I realize this is complicated and difficult to understand.

The bottom line, if I may suggest it to the House, is that this bill does not alter the priorities established in the congressional budget resolution. On the one hand, the total overrun as a result of this bill, if adopted in its reported form and if the Senate adds its items as now estimated, would be $33 million of budget authority, about 3 percent of the Appropriations Committee subdivision. On the other hand, it seems at this point that this bill will not cause the total functional category target for "General Government"—800—to be breached.

I commend the gentleman from Illinois, the chairman of the subcommittee, and his committee members for their work on this measure, and I urge all Members to support the bill as reported.

Mr. FRENZEL. Mr. Chairman, this is one of those days on which it is no fun to be a Congressman. Today we vote on an amendment to cut our own wages, and however impossible it seems, about half of us, including myself, will vote for that amendment.

There are a number of important principles involved here. First among them is the need to have the House recorded in a vote on this matter. A good deal of the public outcry against the pay raise related to what was perceived as a sneaky procedure. The people resent the fact that the Congress was apparently afraid to vote on this issue. In the House, the Presidential recommendation was buried in committee. In the other body, Senators voted, in a recorded vote, not to vote on the issue. The people deserve a recorded vote, and today they will get it.

A second principle at stake today is the need to have one House election intervene between approval of a pay raise and its effective date. My vote against the pay raise today is based on this principle. A bill to mandate a post-election effective date has been sponsored by about 100 Members. It is a real indictment of our leadership that the House has not had a chance to vote for that bill yet.

Another important principle has been rendered moot by our vote yesterday. This House should never get any automatic cost-of-living pay raise. If the legislation we pass is any evidence, we already have too much incentive to run up the cost of living.

The last principle is the need for a salary level sufficient to attract high quality people to the Congress. It is true that most of our constituents do not earn what we do. It is also true that there is no shortage of congressional candidates. Nevertheless, the current wage is hardly adequate to attract successful people, with records of high achievement, to run for Congress.

The difficulty of getting first-rate lawyers to serve on the Federal bench because they must take a pay cut is well known. Obviously, Congress should attract the same kind of quality—with the approval of the electorate, of course—whether it comes from the professions, the business community, academia, or other sources.

I believe the salary level of Congress now, $57,500, is about as low as we can go without losing the possibility of attracting some of the kinds of people who should be in Congress. I think the job is worth the current salary. Some of our Members could not earn that salary in the private sector, but some could make much more. From my own personal observation, I think my colleagues deserve that salary. Immodestly, I think I am worth that salary.

Therefore, even though I shall vote for the amendment to reject the pay raise—in effect to vote against the pay raise, I do so because of the procedure, not because I think the salary is too high.

Mr. Chairman, the salary issue and the west front of Capitol controversy have tended to obscure the fact that the total legislature appropriation is much too high. Admittedly, it is slightly down from last year, but not nearly enough fat has been cut from it.

Our committee staff is nearly twice as large as it was 3 years ago. We have four overlapping, and sometimes conflicting groups offering research or consultative services to Congress. OTA, CRS, GAO, and the Budget Committee have, for example, all given differing and conflicting reports on the President's energy recommendations. So have a dozen committee staffs. Clearly, much of this work is redundant and wasteful.

I shall vote against this appropriation for the "billion-dollar Congress" even if the committee has managed to hold it to a level slightly under $1 billion.

Mr. KEMP. Mr. Chairman, I am in opposition to passage of the bill now before us, H.R. 7932, the legislative appropriations bill for the coming fiscal year and will support Mr. COUGHLIN'S motion to recommit.

Despite all of the talk about congressional reform and despite all of the measures adopted, we are still a long way from where the people expect us to be.

We know the so-called congressional reforms we have seen passed in the past year have been very little real, substantive reform. The first definition of "reform" in Webster's dictionary is "to remove faults or abuses * * *." Simply amending something, rewriting it, moving a section from here to there—these are not substantive reforms. Amendment is not synonymous with reform. Reform, to me, means we take the abuses we have seen in recent years, particularly last year, and address them, through an overall, comprehensive effort, and put onto the books those clarifications, proscriptions, prohibitions, and penalties needed.

Under the leadership of Mr. COUGHLIN, several of us offered the House an "accountability" package, drawn in part from the Congressional Reform Act and Congressional Reform Resolution I introduced on January 13, at the beginning of this session. That package was not accepted. It is beyond my comprehension that these measures have been rejected.

That accountability package consisted of six provisions.

First. An amendment to make expenditure records of the Clerk of the House open to the public at the Office of the Clerk, section 2 of the Congressional Reform Resolution. Although the information is presently compiled, any public access is very difficult.

Second. An amendment to prohibit a person from being on both committee payroll and a Member's payroll at the same time.

Third. An amendment which would require the stationery room, the House recording studio, the beauty and barber shops, and all House cafeterias and dining rooms to be operated on a self-sustaining basis, section 109 of the Congressional Reform Act.

Fourth. An amendment that would reduce the salaries of the majority and minority printers to the minimum level of $1,200 per year and provide funds to pay for services rendered to the majority and minority leadership at a rate customarily paid by all Members, a matter which arose subsequent to the introduction of my two measures.

Fifth. An amendment that would eliminate the $5,000 increase in Member's allowances provided by the Commission on Administrative Review when it abolished unofficial office accounts.

Sixth. An amendment to terminate completely the authority of the Committee on House Administration to adjust allowances without bringing the question to the floor, section 104 of the Congressional Reform Act. The so-called reform proposal adopted by the House several months ago had loopholes designed to permit the House Administration Committee to adjust allowances for changes in price and technological changes.

As a result of today's action, these reforms will not be law or governing procedure for the House, and the money in this bill sustains what they were designed to correct. I cannot, therefore, vote for it.

Mr. DORNAN. Mr. Chairman, today we consider an amendment which would prevent the expansion of the West Front of the Capitol. I believe that this amendment should be supported.

The West Front is the last original face of this symbol of the free world. It is our last visible link with that day in 1793 when George Washington laid the cornerstone of the edifice in which we now sit. And, because we sit here, the trusteeship of this building rests in our hands. This trustreeship should not be lightly discarded by hastily made decisions about the extension of the West Front.

Mr. Chairman, I am sure that most of my colleagues have seen and read a recent column by Mr. George Will which appeared in the Washington Post. The columnist's arguments against the extension and in favor of restoration are well reasoned and supported by the facts. I can argue with him on only one point: that the offices of the Architect of the Capitol be removed from the Capitol building.

Our present Architect, Mr. George White, has done a remarkable job of preserving and improving our Capitol and grounds. He is truly a worthy successor to L'Enfant. He, at least, should keep his personal offices in the building which has benefited from his imagination and sense of duty. His staff can—and should—be relocated in another building if additional room for the legislature is required.

Except for this one point, I believe that Mr. Will is entirely correct in his assessment of the current proposal to extend the West Front. I call my colleagues' attention to his column.

A CAPITOL IDEA TURNS OUT TO BE A CASE OF EXTENDED STUPIDITY

(By George F. Will)

WASHINGTON.—The resilience of bad ideas is demonstrated again, by the fact that, again, some elements in Congress propose tacking an extension onto the nation's foremost public building, the Capitol. This benighted proposal tests Congress' sense of trusteeship, the hallmark of civilization.

Pierre Charles l'Enfant, whose mark on the Federal City has been lasting and beneficent, saw Jenkins Heights as "a pedestal waiting for a monument." So today it is Capitol Hill, crowned by the dome that, according to a distinguished architect, "is better known throughout the civilized world than any object except the Great Pyramid . . . As a dome and as a symbol, it is the most successful ever built."

The Capitol's West Front overlooks the green sweep of the mall, and the Washington Manument and Lincoln Memorial. It is the face that Congress presents to the executive branch, which is scattered below in less-distinguished buildings along Pennsylvania and Constitution Aves.

It is, therefore, appropriate that the West Front is the last exposed portion of the original Capitol, the last visible link with the government's infancy. And it would be intolerable for Congress to bury this beneath an unnecessary and indefensible extension.

Advocates of the extension use two arguments that demonstrate that two weak arguments do not make one strong argument. They argue that Congress needs additional space, and that an extension is the only solution to the structural weakness of the West Front.

No one denies that the West Front needs to be repaired. The perfidious British burned the Capitol in 1814, and the West Front was damaged again in 1851 when there was a fire in the quarters that then held the Library of Congress. And the soft sandstone wall has suffered from the elements.

Congressmen and senators who favor the extension insist that restoration cannot make the wall safe—that it must be buttressed by an extension. But an engineering study commissioned by Congress says restoration is feasible, and the American Institute of Architects emphatically says restoration is preferable. The idea that restoring the wall is beyond the wit of man is plainly an idea that beggars believe.

Worse than Congress trying to solve its space problems at the expense of the Capitol's architectural integrity would be Congress doing so before allocating existing space sensibly. No one contends that the various "hideaway" offices awarded to senior legislators are perquisites indispensible to the commonweal. And no one doubts that space gained by the proposed extension would be used, at least in part, for more such perquisites.

Before congressmen and senators, seeking lebensraum, commit vandalism on the symbol of American democracy, they should expand underground, and should remove from the Capitol such occupants as the disbursing office, the travel ticket office, barber shops and the most conspicuous offender, the sprawling domain (at least 42 rooms) of the Capitol Architect, who is the most persistent advocate of the extension.

The flimsiest argument for the extension is that it would not cost "much" more than restoration of the West Front. Conceivably that is true; certainly it is irrelevant. A good price does not make a bargain of a bad idea.

The extension (60 feet at its widest point) would reduce the view of the splendid dome and would flatten the west facade, the contours of which express the bicameral legislative principle. With the National Historic Preservation Act of 1966. Congress declared that "the historical and cultural foundations of the nation" should be preserved "to give a sense of orientation to the American people." Yet some legislators contemplate burying a splendid achievement of the republic's earliest architects, completed over 150 years ago. These legislators would do this for the narrowest reasons of convenience, reasons that could easily be used to justify paving the mall for parking.

There are barbarians within the Capitol's gates. Fortunately, there are formidable persons—Sen. Ernest F. Hollings (D–S.C.) conspicuous among them—whose sense of trusteeship is commensurate with the building entrusted to them.

Preservation is a civilizing task; it involves discerning and cherishing the most excellent work of previous generations, and holding it in trust for subsequent generations. Preservation of the Capitol is a test of Congress' fitness for trusteeship, the most important measure of fitness to govern.

Mr. SHIPLEY. Mr. Chairman, I have no further requests for time.

Mr. ARMSTRONG. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, no amendment shall be in order affecting the compensation of Members of the House of Representatives or of the Senate except an amendment as specified in House Resolution 664, and said amendment shall not be subject to amendment except pro forma amendments.

The Clerk will read.

The Clerk read as follows:

COMPENSATION OF MEMBERS

For compensation of Members, as authorized by law (wherever used herein the term "Member" shall include Members of the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegate from the District of Columbia, the Delegate from Guam, and the Delegate from the Virgin Islands), $27,760,400.

For an additional amount for "Compensation of Members", fiscal year 1977, $3,600,000.

AMENDMENT OFFERED BY MR. GRASSLEY

Mr. GRASSLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRASSLEY: Page 2, immediately after line 12, insert the following:

No part of the funds appropriated for fiscal year 1977 or fiscal year 1978 by this Act or any other Act may be used hereafter to pay the salary or basic pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for January 4, 1977, if the rate of salary or basic pay for such office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or a percentage of such maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

For purposes of the preceding sentence, the rate or maximum rate (as the case may be) of salary or basic pay payable for January 4, 1977, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(B) jointly by the Speaker of the House

and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

The preceding two sentences shall not apply in the case of any individual holding an office the compensation with respect to which may not, under section 1 of Article III of the Constitution of the United States, be diminished during such individual's continuance in office.

Mr. GRASSLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GRASSLEY. Mr. Chairman, at the opening I would like to take this opportunity to thank the chairman of the subcommittee, the gentleman from Illinois (Mr. SHIPLEY), for his cooperation. From private conversations that I have had with the ranking Republican member of this subcommittee, the gentleman from Colorado (Mr. ARMSTRONG), I know that surely we—at least those of us who feel as I and the gentleman from Colorado do on this issue—feel that the chairman of the subcommittee has been very open, forthright, and willing to work with us in handling this issue in a manner that is totally above board. For that we thank the gentleman.

Mr. SHIPLEY. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Illinois.

Mr. SHIPLEY. Mr. Chairman, I would be glad to see that the gentleman gets more time if he would like to extend his remarks further on this point. I thank the gentleman from Iowa for his comments.

Mr. GRASSLEY. Mr. Chairman, for a long time it has been known that an amendment on this general subject would come before the House. Under the rule, we are denied the opportunity to offer a multitude of amendments that possibly could be offered on this subject. In other words, we have been denied the opportunity for the House to really work its will. Everybody knows that there are as many ideas on this subject as there are Members of this House.

The rule governing debate on this bill from the Committe on Rules, which is admittedly controlled by the majority party, allows only this one amendment to be offered, and that is the amendment that is written as part of the rule. None of us has any choice as to the language of this amendment. I thought surely some Member from the majority party, since they were writing the amendment, would offer this amendment, but since no Member of the majority party is offering it, we on the minority side intend to offer it and are doing that, at least those Members of the minority who agree with me on this subject.

I have learned one thing from my work on this issue over the last 6 months. I have learned to appreciate the sincerity of those who support a pay raise for the various and multitudinous reasons that that pay raise has been supported and justified. Those reasons are, for instance, the increased cost of living since 1969, the necessity for comparability between congressional pay and the pay of upper-level civil servants and those in private-sector jobs, the need to encourage competent people to run for Congress, the responsibility that we in Congress have to maintain two homes and the cost of that, and, of course, just generally speaking, the high cost of living in the District of Columbia area.

I have learned that this issue really is no longer a "salary grab" issue as it is portrayed by the press and the news media and hence as it is viewed by the public. I am sorry, of course, for the good of our country and for the good of this institution of Congress, that this issue is portrayed in the press in such a simplistic way. In the process of working on this issue, I have learned to appreciate the views of those who do support the pay raise.

But there are honest differences of opinion on this issue, as to whether or not there even ought to be a pay raise at this time. There are honest differences of opinion as to the size of that raise, if there is going to be one.

There are honest differences of opinion as to the procedure by which such raises ought to be accomplished. There are honest differences of opinion on whether or not it should be voted upon. Of course, there are honest differences of opinion, as exemplified by the debate we just had over the Whalen amendment, as to when that raise ought to take effect.

Mr. Chairman, those of us who disagree on these issues are offering the only amendment we can on this subject at the only opportunity we will have during this, the first session of the 95th Congress; and that is the amendment that was printed in the rule.

I do not intend to go into detail on my reasons for feeling that this amendment should be adopted because that would be a repeat of the arguments that I have used and that everybody else in this Chamber has used in giving reasons that the pay raise should not go into effect under the procedure by which it went into effect.

Therefore, Mr. Chairman, I will just ask the Members of this distinguished body to support this amendment, the only one that we can have under the rule before us.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GRASSLEY) has expired.

(By unanimous consent, Mr. GRASSLEY was allowed to proceed for 30 additional seconds.)

Mr. GRASSLEY. To continue, Mr. Chairman, regardless of the outcome of this debate, whatever the circumstances may be, let us put this matter behind us after this bill becomes law.

Mr. SHIPLEY. Mr. Chairman, I rise in opposition to the amendment.

There is no question that this subject has been discussed for several months, and I think extremely heavily during the last couple of weeks, including last night and early this morning.

Mr. Chairman, I just want to make this statement to the House and to the membership: I do oppose the amendment, and I want the Members to know that if the amendment is successful, our paychecks and our increase will stop almost immediately. Therefore, I think it is time that we made that decision.

At this point in the RECORD I would like to insert some statistics that have been compiled by the General Accounting Office comparing executive pay levels in State and local governments, educational institutions, tax exempt and other organizations.

(The material referred to follows:)

EXECUTIVE PAY IN STATE AND LOCAL GOVERNMENTS, EDUCATIONAL INSTITUTIONS, TAX EXEMPT AND OTHER ORGANIZATIONS

STATE AND LOCAL GOVERNMENT

Salaries of executives and others in State and local governments have increased substantially over the past several years according to data collected by the Civil Service Commission, the National Center for State Courts, the International City Management Association and the Council of State Governments. Approximately 3,300 of these positions received $40,000 or more during Fiscal Year 1976.

Average salaries for State Governors increased about 38 percent from 1969 to 1975. In 1975, their salaries ranged from $10,000 (Arkansas) to $85,000 (New York). Twenty-seven Governors received $40,000 or more, as shown below.

New York	$85,000
Texas	65,000
New Jersey	60,000
Pennsylvania	60,000
Alaska	50,000
Florida	50,000
Georgia	50,000
Illinois	50,000
Louisiana	50,000
Ohio	50,000
Tennessee	50,000
Virginia	50,000
California	49,100
Hawaii	46,000
Michigan	45,000
Wisconsin	44,292
Mississippi	43,000
Oklahoma	42,500
Rhode Island	42,500
Connecticut	42,000
Washington	42,150
Minnesota	41,000
Arizona	40,000
Colorado	40,000
Iowa	40,000
Massachusetts	40,000
Nevada	40,000

Average salaries for State Chief Judges increased about 52 percent. By late 1975, about 1,866 positions in the State Judiciary—judges in the State Appellate Courts and Trial Courts including the Chief Judges—received salaries over $42,000, the then salary received by a Federal District Judge.

Salary range:	*Number of positions*
$42,001–$44,999	826
$45,000–$49,999	919
$50,000–$59,999	113
$60,000 and above	8
Total	1,866

Average salaries for nine selected top State administrative positions increased 35 to 53 percent during this same period:

	Percent
Chief personnel officers	53.0
Chief finance/administrative officers	51.9
Chief mental health officers	50.2
Attorneys General	49.9
Chief corrections officers	49.4
Treasurers	47.5
Chief transportation/highways officers	44.7
Secretaries of State	39.9
Chief health officers	35.4

About 286 top State administrators and technical personnel, such as laboratory directors, physicians and chief engineers, received in excess of $40,000 in 1975. Twenty-two of these received $50,000 or more, with six receiving $60,000 or above.

Approximately 547 local government positions received $40,000 or more in 1975, as shown below.

	Total	$40,000–44,999	$45,000–49,999	$50,000–59,999	$60,000–69,999
City managers or chief administrators	75	43	23	9	-
County managers or chief administrators	34	14	18	2	-
Regional council directors	6	3	2	1	-
School superintendents deputies and assistants	126	79	39	8	-
Other city officials	114	80	28	3	3
Other county officials	192	142	40	9	1
Total	547	361	150	32	4

In 1976, approximately 175 officials in State and local public corporations, including bay, park, and river authorities, utilities, transit and transportation and hospitals, received $40,000 or over including the value of fringe benefits. Forty-two received $50,000 to $59,999 and 13 received $60,000 or more. The three highest paid received $82,000, $80,000 and $73,600, respectively.

EDUCATIONAL INSTITUTIONS

Surveys conducted by the American Association of University Professors, involving 1,436 institutions with more than 286,000 full time faculty members indicate that college and university faculty salaries increased about 42 percent between 1968–69 and 1975–76.

School years:	Percent increase
1968–69 to 1969–70	5.8
1969–70 to 1970–71	5.4
1970–71 to 1971–72	3.6
1971–72 to 1972–73	4.1
1972–73 to 1973–74	5.1
1973–74 to 1974–75	5.8
1974–75 to 1975–76	6.0

About 963 top professional administrators in public and private educational institutions surveyed by the College and University Personnel Association received $40,000 or more in 1975–76. A distribution for ten different positions is given below:

	Total	$40,000–49,999	$50,000–59,999	$60,000–69,999	$70,000 and above
Chief executive officer	262	190	52	19	1
Chief executive officer in a system	119	90	22	5	2
Executive vice president	54	49	4	1	-
Chief academic officer	75	62	11	2	-
Health affairs officer	50	32	12	4	2
Dean, medicine	55	19	29	5	2
Dean, law	39	35	4	-	-
Dean, engineering	25	25	---	-	-
Dean, graduate program	27	25	2	-	-
Chief business officer	48	44	3	1	-
Total	754	571	139	37	7

TAX EXEMPT ORGANIZATIONS

An IRS survey of compensation paid to principal, full-time executives of 33 large private foundations, many with assets of over $100 million, revealed the following:

14 Presidents received gross income (1974–75) ranging from $51,875 to $99,791;

17 Vice Presidents received from $38,115 to $87,798; and

A total of 23 executive officers in 9 foundations received from $39,500 to $185,226.

THE WORLD BANK AND THE INTER-AMERICAN DEVELOPMENT BANK

Salaries at these international banks are tax free. The schedule below shows the salaries in effect during 1976 after adjustment for this tax free status and inclusion of certain other allowances.

Management	World Bank	Inter-American Development Bank
President	[1] $116,050	[2]
Senior/Executive Vice President	[1] 106,950	[1] $90,300
Executive Directors	[1] 78,830	[1] 74,750
Alternate Executive Directors	[1] 57,840	[1] 54,850
Managers	not used	67,000–73,600
Deputy Managers	not used	64,800–69,200
Professionals		
	Q $73,690–$89,850	I $48,400–$63,000
	P 65,530– 82,600	II 41,100– 59,800
	O 62,290– 79,710	III 34,800– 56,100
	N 51,470– 68,910	IV 29,300– 47,600
	M 41,300– 59,190	V 25,100– 40,400
	L 32,580– 49,710	

[1] Maximum.
[2] Not available.

UNITED NATIONS

Gross salaries for top level employees of the United Nations, which became effective in January 1977, are shown below. Employees who are U.S. citizens are taxed on this amount but actually receive a lower net amount which varies according to number of dependents.

Under-Secretary-General, $76,030.
Assistant Secretary-General, $67,430.
Director, $52,650–$57,300.
Principal officer, $43,890–$52,450.

Mr. Chairman, I understood that there might be other Members who might care to make some remarks at this time on this amendment.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I agree with the gentleman, and I rise in opposition to the amendment.

Mr. DERWINSKI. Mr. Chairman, in a very short time we will have the opportunity to substitute statesmanship for political gamesmanship by appropriating funds for the Government-wide pay increases which became effective last March 1.

Despite all the adverse publicity and misinformation, the pay increases were not the result of some sinister plot. The increases were based on the recommendations of a nonpartisan, dedicated group of citizens operating under procedures which had been approved and established nearly 10 years earlier. As the Commission on Executive, Legislative, and Judicial Salaries, their recommendations were modified by President Ford and subsequently endorsed by President Carter. It was an action completely above board.

In a report which placed its reliance on fact, the Commission reached the inescapable conclusion the pay increases were justified and overdue. They knew the top officials in the executive, judicial, and legislative branches of the Federal Government had received only one nominal 5-percent increase in 8 years. In that same time frame, average private wages increased by 70 percent, and the Consumer Price Index increased by 60 percent.

I have no quarrel with individual Members who want to forgo their pay increase. No one is attempting to preclude them from exercising that option on an individual basis. I do, however, have problems with the attempt to roll back the pay increases which have been in place for 4 months. It would work a financial hardship on many top officials of modest means who have joined the Carter administration.

In once again following the procedures prescribed by the Federal Salary Act of 1967, we have eliminated the need for the patchwork action taken in 1975 which made top-level officials eligible for annual cost-of-living adjustments. Even at that, we were reluctant partners, finally yielding to the pressure generated by Federal judges and other top Government executives who had not had a salary adjustment in 8 years.

It was Chief Justice Warren E. Burger who pointed out in 1975 that in the previous 4 years more Federal judges re-

signed from the bench for economic reasons than in the previous half-century. The Commission said the strains of an 8-year wage freeze were evident not only in the upper ranks of the Federal judiciary but even more in Federal bankruptcy courts where 16 resignations in 2 years appeared to be tied to salary problems.

Yesterday, we acted in a proper fashion by denying the October cost-of-living adjustment to officials who received pay increases earlier this year. We can take the final step by repealing the 1975 law, and I am sponsoring such a bill.

As John Gardner, founder and former chairman of Common Cause, pointed out, the Commission tied its pay recommendations to the willingness of Congress to pass a tough code of ethics.

"Members of Congress responded by passing the toughest code of ethics in their history," said Gardner. "Now they should have their raise."

Mr. MIKVA. Mr. Chairman, as chairman of the Democratic Study Group for the 95th Congress, I would like to call attention to a DSG special report published today which summarizes legislative activity in the House so far this year.

This DSG report shows that there has been no letup in the constant increase in the legislative workload which has been occurring over the past decade and that the House of Representatives has set new records for legislative activity during the first 6 months of this Congress in terms of the number of committee meetings, the number of hours in session, the number of record votes, and the number of major bills adopted.

The DSG report documents the fact that the legislative workload has more than doubled over the past 8 years. For example, a comparison of the first 6 months of 1969 with the first 6 months of this year shows the following workload increases:

A 93-percent increase in the number of hours the House has been in session—from 242 to 466;

A 125-percent increase in the number of committee and subcommittee meetings—from 1,091 to 2,440; and

A 750-percent increase in the number of record votes—from 44 to more than 370.

Much of this workload increase is a result of Democratic Study Group reforms adopted over the 8 years—reforms which I believe both the public and most Members will agree have improved the manner in which the House conducts its business.

Unfortunately, however, Members' pay has not kept pace with either the cost of living or with the increase in workload over the past 8 years.

The cost of living has increased 61 percent since 1969.

The legislative workload has increased more than 100 percent since 1969.

Members' pay has increased 35 percent since 1969.

Mr. Chairman. the amendment to rescind the pay increase which took effect earlier this year is not only unwarranted, it demeans the House of Representatives and its Members. I urge that it be rejected.

Mr. Chairman, I ask consent that the summary of this DSG report be printed in the RECORD at this point.

I also want to call attention to another DSG special report, "The Pay Raise Controversy," which was published earlier this year and was reprinted on page 8872 of the RECORD for March 23, 1977.

DSG SPECIAL REPORT NO. 95-5, "THE FIRST SIX MONTHS"

The House has worked at a record pace while acting on a wide range of measures during the first six months of the 95th Congress.

The House and Senate together have enacted into law or completed action on more than 70 substantive measures compared to 47 during the fist six months of the 94th Congress. These include the Tax Reduction and Simplification Act, the Executive Reorganization Act, Economic Stimulus Appropriations, Public Works Capital Development and Investment Act, Emergency Unemployment Compensation Extension, and the First FY 1978 Budget Resolution.

In addition, both Houses have passed more than 45 important measures which are awaiting the President's signature, or are in conference or will be going to conference shortly. This compares with 21 in 1975. These measures include the Strip Mining Control Act, Clean Air Act Amendments, Department of Energy Organization Act, Youth Employment Act, Housing and Community Development Act, and the International Development and Food Assistance Act.

The House alone has passed another 50 substantive pieces of legislation, as well as numerous bills and resolutions of a procedural or housekeeping nature, including House Rules and rules accompanying legislation, committee funding and election resolutions, and commemorative resolutions. Significant legislation which has passed the House includes the Legal Services Corporation Act Amendments, Debt Collection Practices Act, Federal Employees Political Activities Act, FY 1978 general appropriations bills, and a new financial ethics code for Members.

In addition, numerous bills have been reported by House committees and await Floor action or are in the markup or hearing stage. Such bills include the Medicare-Medicaid Anti-Fraud and Abuse bill, the Agriculture Act, Mine Health and Safety Act, Universal Voter Registration Act, Renegotiation Reform Act, the National Energy Act, Campaign Public Financing, and the Agency for Consumer Protection.

In compiling this legislative record, the House during the first six months of the 95th Congress has held more committee and subcommittee meetings (2,400), worked more hours on the Floor (466) and taken more record votes (373) than during the first six months of 1971.

The 2,440 committee and subcommittee meetings and hearings held during the past six months represent a 20 percent increase over the 2,032 committee and subcommittee meetings held during the first six months of the 94th Congress—and a 112 percent increase over the 1,151 committee and subcommittee meetings held during the first six months of 1971.

The number of hours in session exceeds the first six months of any Congress in the past three decades. The previous high was 459 hours during the first six months of 1947, the 80th Congress.

The number of record votes taken during the first six months of 1977 represents a 40 percent increase over the first six months of 1975, the previous high. It should be noted, however, that several of these votes were taken in lieu of quorum calls which are more difficult to obtain under new rules adopted this Congress. Not counting these "in-lieu-of-quorum-call" votes, the number of record votes is still 33 percent above the first six months of the 94th Congress.

Following is a compilation of record votes and days and hours in session for the first six months of each Congress since 1947, when the Congressional Record began publishing such data each month:

Year	Days in session	Hours in session	Record votes
1977	[1] 98	[2] 466	[3] 373
1975	93	420	267
1973	95	350	227
1971	84	318	112
1969	94	242	44
1967	95	364	87
1965	103	382	81
1963	80	278	41
1961	94	301	53
1959	93	336	48
1957	100	381	48
1955	92	346	54
1953	93	346	41
1951	100	378	52
1949	103	442	62
1947	106	459	56

[1] Includes Thursday, June 30.

[2] Actual hours in session as of close of business Tuesday was 452. It is estimated that the House will be in session at least 14 additional hours before adjourning on Thursday, June 30.

[3] A total of 362 record votes had been taken as of close of business Tuesday. It is estimated that the House will take at least 11 additional votes before adjourning on Thursday, June 30.

Mr. HARRIS. Mr. Chairman, I am pleased to have an opportunity today to vote on the pay raise issue for Members of Congress. Though voting on this issue will never be a politically comfortable task, it is right and I think this House must stand up and do so.

This vote signals the need for basic legislation that would accomplish several objectives I have been seeking since coming to Congress:

First. Congress should vote directly on congressional pay separate from the pay of any other Federal employees.

Second. Congress should make any pay raise effective for the next succeeding Congress so that in effect Members of Congress would not be voting on their own pay, surely an apparent conflict-of-interest situation.

Third. Congressional pay should not be tied to Federal employee pay. Career civil service employees should not be linked in any way—annual comparability, pay freeze, or otherwise—to the pay of elected, political officials.

PROCEDURE PREVENTS REFORM

I voted against the procedure recommended by the Rules Committee today because the method by which this legislation is being handled requires a vote on congressional pay tied to executive branch pay—not as a separate issue. Congress should vote on congressional pay and executive branch pay separately.

More importantly, the process for considering this bill denies us the oppor-

tunity to make basic reforms in the pay-setting mechanism which are desperately needed. The House should not block, through procedural mechanism, thorough deliberation and direct votes on the changes that need to be made to get the congressional pay process on the right track.

GOVERNMENT IS NOT FOR THE PRIVILEGED ONLY

I wish to place on the public record my reasons today for voting against the amendment to repeal the salary adjustment Members of Congress received earlier this year. First, I believe that elected office should not be reserved for a privileged few. For too long, pure economics—whether you can afford it—has been a major determinant in whether an individual seeks elected office. The cost of running for office and the cost of serving have virtually excluded middle and lower income people from serving. This is wrong. Our Government should be available to all the people, regardless of income. Thus, the salary for holding office must be adequate enough so that individuals will not have to also maintain another job as a source of income or seek "pay" through outside sources such as investments or emoluments from outside groups for "favors" granted.

ETHICS CODE FORMULATED

Second, the Commission on Executive, Legislative, and Judicial Salaries which recommended the salary increase late last year did so with the proviso that Congress enact a strong, new, comprehensive ethics code to prohibit conflicts of interest through outside sources of income. We have acted forthrightly and promptly by strengthening our House rules and we are now working on placing these new requirements into law with strong criminal penalties. I supported these ethics reforms and believe they will remove some of the loopholes that allowed and, in fact, encouraged office-holders to seek other sources of pay.

HAMPERING FEDERAL RECRUITMENT

Third, we should not deny adequate pay to our top Federal executives if we are serious about quality in Government. The Civil Service Commission, the Quadrennial Commission, and the House Post Office and Civil Service Committee, on which I serve, have found time and time again, that Federal agencies lost top management personnel right and left from 1969 to 1976, when top Federal salaries just did not compete with private industry. We want the best people possible in Government and the fact is that adequate pay most often is the "carrot," determining whether an individual will come into or stay in Government service. We cannot let top jobs sit idle while industry grabs the top talent in the country. I believe we must pay for quality and that Government will be better as a result.

While this vote will give the public a clear record of our sentiments on this year's pay raise, it does not address the basic reforms that must be made in the way pay for Members of Congress is set which I outlined at the beginning of my statement. I will continue to work for true pay reform in the House to achieve these objectives.

Mr. BEDELL. Mr. Chairman, I would like to take just a brief moment of the House's time to offer my thoughts on the pay raise issue.

On March 1, 1977, the salaries of Members of Congress and high level executive branch officials were raised without a vote of Congress. Under current law, the pay level recommendations of the Presidential Commission on Executive, Legislative, and Judicial Salaries take effect unless vetoed by vote of Congress within 30 days. The 95th Congress declined to take such action.

Last February, I registered my objections to this procedure in testimony before the House's Ad Hoc Subcommittee on the Congressional Pay Raise. Although I oppose the pay raise for Members of Congress, my primary concern in appearing before the subcommittee was to insure that the full House would have an opportunity to act on the Commission's recommendations. Unfortunately, my appeal went unheeded.

I stand here today to repeat that appeal. Our Government is a representative government, and the cornerstone of our system is accountability—the responsibility of our elected officials to be accountable for their actions. In my view, the failure of Congress to take a recorded vote on the congressional pay raise does not speak well of our commitment to the standard of public accountability.

In February, we were denied the opportunity to vote up or down on the proposed increase in congressional salaries. Yet, when the House considered the first concurrent resolution on the budget for fiscal year 1978, it voted 236 to 179 in favor of an amendment which would reduce budget authority and outlays by the amount required to cover the cost of the congressional pay raise. Unfortunately, this vote was devoid of substance because the first budget resolution is nonbinding.

Nevertheless, the message is clear. There is by no means unanimous or even overwhelming support in the House for the March 1 congressional pay increase.

I believe that the salary increase for Members of Congress was unwarranted. Given the chance, I would have voted against it in February, and I will vote against it today. But, beyond that, I am concerned about the implications of the Congress reluctance to stand up and be counted on this issue. If we can escape public accountability on the congressional pay raise, what is to prevent us from taking a similar course of action on other difficult issues which we must face? And, what will be the impact of our handling of this salary increase on the public's perception of Congress? The American people's confidence in this institution is already at a disturbing low. Their mistrust of their elected officials is substantial. I submit that it would be better to bring the pay raise to a vote in the House, and to accept our collective verdict, than to continue the current procedure for considering such increases which only fosters the impression of secret, backroom maneuverings.

I hope that today, as we consider the legislative branch appropriations bill for fiscal year 1978, each of us will have an opportunity to register his or her position clearly and for all to see on the congressional pay raise issue.

Mr. KOCH. Mr. Chairman, I support the congressional pay raise and accordingly I will vote against this amendment to rescind the pay increase recommended by the Presidential Commission on Executive, Legislative and Judicial Salaries which took effect on March 1, 1977. I believe it is in the best interests of this country that the pay raise not be rescinded.

The simple fact is that the cost of living has increased 65 percent since 1969. During that same period, the average salary received by a blue collar worker rose 70 percent and the average salary received by business executives rose by 59 percent. This compares with a 5 percent increase in salaries of Members of Congress over the 8-year period. This comparison is even more staggering when one analyzes a report, prepared by Towars, Perrin, Foster & Crosby, a management consulting firm, on the salary increases received in 1976 by the executives of our Nation's 100 biggest industrial companies as compared with their 1975 salaries. That report showed that the No. 1 executive in each of those companies received an average increase of $72,200. Their average increase in salary from 1975 to 1976 is $15,000 over the total salary received by a Member of Congress under the Commission's recommendations. The No. 2 executive of each of those companies received an average salary increase for the 1 year of close to $49,000 which is $6,500 more than a Member of Congress would receive if the recommendations are rescinded. We are asking our Members of Congress to serve at a total yearly salary level which is less than the amount most of our higher executives can expect to receive as an increase or bonus in a single 1-year period.

The Federal employees who have received only a 5-percent increase, rather then the actual cost of living increases during that period, have effectively received a cut in their salaries. Unless these salaries are increased, Federal judges and senior Government officials will retire and some Congressmen, unable to live on existing salaries because they have to maintain two homes—one in the District of Columbia and one in their own State, will simply leave. I do not think it is helpful to the country to leave the Congress in the hands of the wealthy.

Finally, Mr. Speaker, I want to add that this Congress has fully shown its good faith by implementing the financial ethics reforms recommended by the Obey Commission. We have adopted the most binding set of standards required by any major legislative body on earth. We have voted to reduce opportunities for outside income. Since coming to the Congress, I have filed a financial disclosure statement annually, which is available to the public. In addition, I file with the Clerk of the House a full copy of my income tax return which is also available to the public. I accept no honorariums of any kind and I live on my income. I withdrew from the practice of law upon

my election to Congress in November 1968.

These congressional and personal actions with respect to ethics are evidence of conscientious efforts to increase confidence and trust in our public officials. For some Members, rescinding the pay increase is demogoguery and this group includes several millionaires. But such a vote will not provide us with the safeguards against corruption and influence which we need. The honest and hard-working men and women of the Congress deserve salaries which will make it possible for them to effectively serve in public office.

For the benefit of my colleagues I am attaching an excellent commentary which appeared in the June 28 issue of the Washington Post written by former Common Cause President John W. Gardner which sheds additional light on this issue. His comments follow:

CONGRESS SHOULD HAVE ITS PAY RAISE

(By John W. Gardner)

I say Congress should have its pay raise. Do you disagree? Read on.

You are not reading the opinion of a great Congress-lover. I have criticized Congress as vigorously and battled with it as frequently as anyone.

But for Congress to deny itself its pay raise—as a good many members now appear to be inclined to do in response to pressure from their constituents—would be to behave in an idiotic manner. And I'm against that on principle.

Every four years the President is required by law to appoint a commission on executive, legislative and judicial salaries. It is made up of serious citizens and they don't like to throw our tax dollars around any more than you do. Toward the end of 1976 they recommended a raise in *all* federal salaries: judges and executive-branch officials as well as senators and representatives.

The pay they recommended for members of Congress was $57,500. It sounds like a lot of money and many citizens are outraged. They believe that Congress should not appropriate the money for the raise. But the outraged citizens are wrong.

A recent news report says that the board chairman of one major corporation (United Technologies) receives $1.6 million in yearly salary. The board chairman of General Motors receives $950,000. Among the 500 largest corporations (as listed by Fortune), a salary of $57,500 would apply to the lower level of vice presidents.

You may say, "Yes, but $57,500 looks huge out here in River City. Most of the people in our congressman's district never see that kind of money."

But the level of salaries in River City isn't the issue. When the voters send a man or woman to Congress they are sending a person who will participate in the most fateful issues determining the future of this planet. That is true no matter how small or remote or humble the congressional district.

The representative may have a significant role in deciding whether we have peace or war, what we pay in taxes, whether the nation prospers or goes broke. Those are big decisions—decisions to be made by the best people we can assemble. We should demand a lot of them and then we should pay them well. They work hard. They live a hard life. (I know because I help to make it a hard life.) Most of them have to maintain two residences: one in Washington, one back home. Most have children whose college education is a family expense that's still ahead. Most are the kind of people who could easily get a higher-paying job in the private sector. And that's just what the best of them are going to do if they figure the voter doesn't value their services enough to pay them.

One counter-argument says: "They should consider it an honor and a patriotic duty. We don't want public servants who are just there because the salaries are high." Sounds plausible, but I can't buy the argument. I want extremely able legislators, and I want to pay them for their competence. Why should I ask them to scrimp and save for the honor of serving me? If the honor and patriotic duty justify low pay then perhaps we should cut their salaries in half. It's not difficult to guess what the ablest of our senators and representatives would do in that case. They'd leave. And people of lesser ability would succeed them.

When the President's commission recommended the raise, it conditioned the recommendation on Congress's willingness to pass a strong code of ethics. Members of Congress responded by passing the toughest code of ethics in their history.

Now they should have their raise.

Mr. SHIPLEY. Mr. Chairman, I ask unanimous consent that we vote on this amendment at 1:15 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ARMSTRONG. Reserving the right to object, Mr. Chairman, is it the gentleman's purpose to set a time certain or a limitation?

Mr. SHIPLEY. All I want to do, I will say to the gentleman from Colorado, is to have a time certain; I would like to afford an opportunity to the Members of the House to be here. I think, frankly, that some were a little surprised that we did not use as much time as was expected on general debate. I think this subject is of the utmost importance and that the Members should be present.

Mr. ARMSTRONG. Mr. Chairman, I am inclined to agree that we should have a certain time so that everyone who wishes to do so may be present. I think that is a good idea, but I am uncertain as to what the procedure would be if the time for debate runs out before that time is reached. What would we do? Would we simply stand at ease until that time?

Mr. SHIPLEY. We will go ahead in an orderly fashion.

Mr. ARMSTRONG. Mr. Chairman, I withdraw my reservation of objection. I have no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, I believe the gentleman's request was that we vote on this amendment at 1:15. I do not believe that that request is in order.

A request to limit all debate on this amendment would be in order, but not that a vote be ordered at a certain time. It is not provided in the rules, Mr. Chairman.

The CHAIRMAN. The Chair will state that the Chair would interpret the unanimous-consent request of the gentleman from Illinois (Mr. SHIPLEY) to mean that all debate on this amendment would terminate at 1:15 p.m.

Mr. BAUMAN. Further reserving the right to object, Mr. Chairman, that would mean that if all of the debate time was not used, the vote would occur earlier.

Mr. SHIPLEY. Mr. Chairman, would it be possible to set it at a time certain, that time to be 1 p.m.?

I ask unanimous consent that the time be made 1 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Chairman, reserving the right to object again, I do not believe that request is in order.

The CHAIRMAN. The Chair would state to the gentleman from Illinois (Mr. SHIPLEY) that the Chair cannot guarantee a 1 o'clock time certain because of the possibility of a quorum call or other extension of debate.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, I believe the gentleman from Illinois (Mr. SHIPLEY) may get a vote sooner than that. There may not be that many people who want to speak. The issue is clear.

Mr. SHIPLEY. Mr. Chairman, I withdraw my unanimous consent request.

Mr. Chairman, let me renew the request in this way, since we are trying to get all of the Members on the floor before we vote, I would ask unanimous consent that all debate on this amendment end at 1 o'clock, no later than 1 o'clock.

Is that agreeable?

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I would suggest to the gentleman from Illinois that he could achieve his objective merely if the Chair would indulge him by permitting a regular quorum call, but I do not think the gentleman should try to cut off debate.

Mr. SHIPLEY. Mr. Chairman, I would say that we do have some speakers who are on the floor now who would like to speak, and we can go to 1 o'clock or maybe longer. At the time I made this request I thought there were Members who wanted to speak who were not on the floor and I did want to protect them.

So, Mr. Chairman, if we can agree that the debate would end no later than 1 o'clock that would be helpful. I think everybody would have an opportunity to say what they want to before we vote.

Mr. ARMSTRONG. Mr. Chairman, further reserving the right to object, it would seem to me the point made by the gentleman from Maryland (Mr. BAUMAN) is correct, that is if our only purpose is to assure the attendance of the Members that the easiest way for the House to do that would be for the Chair to indulge us with a regular quorum call.

Mr. SHIPLEY. Mr. Chairman, I would say that we do have a quorum on the floor now. There are more than 100 Members present. There is no question about that.

Mr. MICHEL. Mr. Chairman, further reserving the right to object, and I do so only to say that I believe the request of the gentleman from Illinois (Mr. SHIPLEY) is a very legitimate one. The only problem I can foresee is that those

Members who took special luncheon engagements did so because they were under the impression that there could not possibly or conceivably be a vote on this issue until 1 or 1:30 at the earliest. I am sure the gentleman from Illinois (Mr. SHIPLEY) in good faith, is only making the request to make sure that every Member can be present, and that some will not be caught short, and have the opportunity to be recorded. I believe that if 1 o'clock is too short then 1:15 would be good enough.

Mr. SHIPLEY. Mr. Chairman, I would gladly agree to 1:15. Mr. Chairman, I withdraw my previous unanimous consent request and ask that all debate on this amendment end at 1:15 p.m., so that everybody desiring to speak will have the opportunity to do so.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SHIPLEY. Mr. Chairman, I move that 1:15 p.m. be used as a time certain to end the debate on this amendment.

The motion was agreed to.

(By unanimous consent, Mr. COUGHLIN yielded his time to Mr. ARMSTRONG.)

(By unanimous consent, Mr. ROSENTHAL yielded his time to Mr. UDALL.)

Mr. ANDREWS of North Carolina. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Arizona (Mr. UDALL).

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, it seems to me today would be a good time to make an objection, but I will not.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, we are here today to talk about congressional salaries and pay cuts, and I want the Members to understand just where we are.

Back in 1969 an impartial commission met and tried to decide what would be a fair salary for Cabinet members, judges, and Members of Congress. They decided $42,500 would be the right figure. Today the purchasing power required to provide the same standard of living would be $68,000 in terms of 1977 dollars. So we have already had a very substantial pay cut.

Next we are going to get this year by the process of inflation another pay cut in congressional salaries of 6 to 8 percent, depending on which economist one listens to. Earlier this year we were asked to accept the toughest code of ethics in the history of any government, I believe, and that represented for many a kind of pay cut because of limitations on outside income. Today, the Congress is confronted with the toughest set of problems I think our Nation has faced since World War II, and we are going to be here all year, and in my judgment we are going to be here until Christmas Eve trying to make some decisions for the country on energy.

With all of those heavy responsibilities and limitations on income, the proponents of this great amendment have got something further for us. They want us to cut back the pay in a more definitive fashion to $44,600, which will be equivalent, to put it another way, to $26,000 in 1969 purchasing power when the last big adjustment was made.

I do not know why it is, but debating this subject always produces more self-righteousness and more passionate oratory and more posturing and more nonsense, if I may say so, than almost any other subject, both down here on the floor and in the press gallery. Look up at the press gallery today and see how many people are here on this relatively minor matter involving $7 or $8 million, and then find out how many in the press were with us yesterday when we were debating about what to do with a $100 billion defense budget.

Remember the old story about the old man who had his grandson on a donkey and they passed some people, and the people said: "Look at that little kid riding while his elderly grandfather has to walk." So the kid got off and the grandfather got on the donkey and they went along a little further and saw some other people who complained about the grandfather riding while the little kid was walking. So they said: "Why don't you both get on?" So they did, and they both rode on and came to another group of people who said: "Isn't it terrible that the poor little donkey is being loaded down with both of those people." So they got off and tied the donkey on a pole and carried him. They came to a bridge over a river, slipped, and they all fell off the bridge and drowned in the river. The moral of the story is: If you try to please everybody you are going to lose your donkey.

Mr. Chairman, I was floor manager of the pay raise bill in 1965. People said: "Look at those selfish, greedy Congressmen voting to raise their own pay. Isn't that terrible?" So I developed a system so we would not have to vote on our pay raise. Doing otherwise, they said was a conflict of interest. The new system would have an outside commission to help decide congressional pay raise questions.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(By unanimous consent, Messrs. MCKAY, RYAN, SLACK, and CLAY yielded their time to Mr. UDALL.)

Mr. UDALL. Mr. Chairman, so we set up the new system. The rationale was to eliminate this conflict of interest by not having to vote on our own pay raises. We were going to get impartial people from business and from labor and others from the outside and every 4 years they were going to review what had been done with the State Governors and legislatures and what was happening in the private sector.

So the impartial Commission came along and made its recommendation. Now people did not say: "Look at those greedy Congressmen." They said: "Look at those cowardly Congressmen."

My God, how many times have I been on the floor of this Chamber since the new system was established and heard people say: "Why don't they stand up and be counted? Why hide behind this Commission?"

And so here we are again. We have heard all this oratory about standing up and being counted. They say it is not the pay raise, but the way, the sneaky, backhanded manner in which it is being handled. Or they were saying, as we have heard it said so many times, that they were not against the pay raise if we would just give them a chance to vote. That is all they want.

Well, today is judgment day. We are going to have a vote on whether congressional pay and the pay of other people involved should be kept at the new salary or whether the salaries should be rolled back.

I remember another story about the minister making a hellfire-and-damnation speech saying: "Brothers and sisters, judgment day is coming. You are all going to have to meet your Maker on that terrible judgment day. There is going to be lightning and thunder, there are going to be earthquakes, and there is going to be weeping and wailing and, brothers and sisters, you are all going to gnash your teeth." And then a little lady in the front row said: "Brother, I ain't got no teeth." The minister said: "On that terrible day, believe me, madam, teeth will be provided."

These same people, who have been complaining about not being able to stand up and be counted and implying they would be with us, said that they were really for an adjustment in pay. Let us see what kind of teeth they have today.

Now we hear not this: "Oh, is it not great that we are going to have to vote at last." No, now they complain: "We are not going to do it right. We are not going to have a vote on the Whalen bill."

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I am one of those people who complained about the way the pay raise was obtained. It was perceived as less than ethical. I supported the Pike amendment on that occasion. Frankly I believe the Members of the House of Representatives deserve the increase in salary. I was one of the 75 who voted for the pay raise before the election, firm in the conviction that this body genuinely deserves it. We try to provide for everybody else's need in this country and yet we are the only ones who can provide for ourselves.

I will vote for this pay raise today because it is important and it is necessary for all the aforementioned reasons.

Mr. UDALL. It was, indeed, and I commend the gentleman. We will find out in

about 30 or 40 minutes who will stand up and be counted.

You know, the Senate has not ducked this matter. Every time it has come up, the Senate has voted. Babies were born, the World Series went ahead and people got elected. It was not the end of the world. If we have any respect for this legislative body, if we have any respect for ourselves, we will stand up today in favor of this Commission's recommendations.

I hope the Members will confront this issue once and for all, Democrats and Republicans, so that we can put this matter behind us and get on with solving the problems of the country. That is what we ought to be doing and not having to listen to these kinds of speeches every day.

Mr. Chairman, although I am not a member of either the Committee on Rules or the Committee on Appropriations, who are directly involved in H.R. 7932, I am the ranking majority member of the Committee on Post Office and Civil Service which has sole legislative jurisdiction under the House rules over the subject matter of the amendment under consideration. In that capacity, I have consulted with these two other committees regarding the result sought by this "rollback" amendment. With that in mind and with the able assistance of the legal staff of the Post Office Committee and the House legislative counsel, I drafted this amendment and submitted it to the Appropriations and Rules Committees for their consideration. The amendment before the House is identical to my draft.

Let me make clear the intent of this amendment.

It provides for an immediate rollback in the rate of pay for those individuals in the legislative, executive, and judicial branches or in the government of the District of Columbia, whose rate of pay was either directly or indirectly increased as a result of the pay increases which went into effect earlier this year under the Quadrennial Commission mechanism.

The first sentence of the amendment provides that the rate of pay will be rolled back to the rate in effect on January 4, 1977, which is the day the 95th Congress convened. It also defines in clauses (1) and (2) the class of individuals who are subject to the rollback. Under clause (1) any individual whose rate of pay is $47,500 or more—that is equal to or greater than level V of the executive schedule—is covered by the rollback. This clause covers those individuals whose rate of pay was directly affected by the quadrennial increase—such as Members, Senators, heads and assistant heads of cabinet departments—as well as individuals whose rate of pay is administratively set at rates above $47,500—such as certain high level positions in the Postal Service.

Clause (2) covers those individuals whose rate of pay was not directly affected by the quadrennial increase, but whose rate of pay nevertheless increased because the quadrennial increase raised the statutory, or other, salary ceiling on their rate of pay.

For example, on January 4, 1977, a GS–18 was being paid at a rate of $39,600 because his rate of pay was limited to the rate for level V. When the level V rate was raised to $47,500 under the quadrennial increase, the rate of pay for GS–18 "floated" up to the new $47,500 ceiling. The amendment would roll back the rate of pay for GS–18 to $39,600, the January 4, 1977, rate. The amendment has the same effect on rates of pay for committee staffs, other officers and employees of the House and Senate, and for administrative assistants whose maximum rate of pay is limited by congressional resolution.

Clause (2) would also require a rollback in the rate of pay for some individuals who are currently paid less than the level V rate of $47,500. For example, a GS–17 employee presently makes $46,423. Under the amendment, his rate of pay would be rolled back to $39,600 since that was the maximum rate payable for any GS position on January 4, 1977. Similarly, a GS–16, step 2, who is presently making $40,950, would be rolled back to the January 4 maximum of $39,600. The parenthetical "or a percentage of such maximum rate" would require a rollback in rates of pay for those House subcommittee staff employees whose rate is limited to 75 percent of level IV.

The amendment applies to individuals in all three branches, and thus includes individuals in the Postal Service, and the military service.

Under the amendment, the rollback is in effect from the date of enactment until the end of fiscal year 1978. If the rollback is to continue beyond fiscal year 1978, it will be necessary for Congress to enact a similar limitation of funds again next year.

The second sentence of the amendment provides a special rule to cover positions which were not in existence on January 4, 1977, and requires the appropriate officials in each branch to promulgate regulations to insure that the pay for such positions will be set at a rate equivalent to that for comparable positions which were in existence on January 4, 1977. The last sentence excludes from the amendment's coverage sitting Justices and judges whose pay cannot be reduced because of section 1 of article III of the Constitution.

With respect to judges' pay, it should be noted that the Constitution provides only that the pay of judges "shall not be diminished during their continuance in office." The last sentence of the amendment applies only to judges who are "holding" office at the time the amendment becomes law, and accordingly, judges appointed after the effective date of the amendment could receive no more than the rolled back rate. Similarly, only article III judges are protected under the Constitution. Thus the pay of judges in certain courts which are not article III courts—such as the Tax Court, the Court of Military Appeals, and territorial courts—would be rolled back.

EFFECT OF AMENDMENT ON CERTAIN SALARIES

Position	Current pay	Pay after rollback	Difference
Vice President	$75,000	$65,600	$9,400
Members:			
Senators (salary)	57,500	44,600	12,900
Outside earnings (15 percent maximum)	[1] 8,625	[1] 6,690	1,935
Total	66,125	51,290	14,835
Judges, district court	54,500	54,500	0
Judges, circuit court	57,500	57,500	0
Associate Justices, Supreme Court	72,000	72,000	0
Full committee staff (House):			
2 employees (maximum)	[1] 50,000	[1] 41,800	8,200
Other	[1] 47,500	[1] 39,600	7,900
Subcommittee staff (House):			
1 employee (maximum)	[1] 37,500	[1] 31,350	6,150
Administrative assistants (House)	[1] 47,500	[1] 39,500	8,000
Executive schedule:			
Level I (Cabinet officers)	66,000	63,000	3,000
Level II	57,500	44,600	12,900
Level III	52,500	42,000	10,500
Level IV	50,000	39,900	10,100
Level V	47,500	37,800	9,700
GS–18	47,500	39,600	7,900
GS–17	46,423	39,600	6,823
GS–16	39,629	39,600	29
Postmaster General	66,000	63,000	3,000
4-star general (over 26 yr)	47,498	39,600	7,898

[1] Maximum.

JUDGES NOT COVERED BY ARTICLE III

Territorial district courts:

First, Guam—8-year term; rate of pay for district court judges, 48 U.S.C. 1424b.

Second, Virgin Islands—8-year term; rate of pay for district court judges, 48 U.S.C. 1614(a).

Third, Canal Zone—rate for district court judges.

U.S. Tax Court—15-year term; rate of pay for district court judges, 26 U.S.C. 7443.

U.S. Court of Military Appeals—15-year term—rate of pay for court of appeals judges, 10 U.S.C. 867.

U.S. magistrates—same rate as referees in bankruptcy but limited to 75 percent of salary for district court judges, 28 U.S.C. 634.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I want to endorse in part what my distinguished chairman of the Committee on the Interior (Mr. UDALL) said: that is, that we ought to stand up and be counted today. That will require under our rules 20 brave, hardy souls to stand to get a rollcall vote. I think that is really the only way to address the issue.

I happen to support the amendment of the gentleman from Iowa for reasons the gentleman stated; but I also think the method by which this pay raise has taken effect has stuck in the craw of this Nation. The mail and comments of our citizens indicate that and to avoid a rollcall is to dishonor the people looking for a recorded decision one way or the other.

I remember when our former Speaker, Carl Albert, of Oklahoma, commented to me after the close 218-to-217 vote 2 years ago on the payraise issue. I complimented him for ruling that a sufficient

number had arisen to demand a rollcall. It was a bare 20.

He said:

I had to count to 20, because they were there and I think the integrity of the House of Representatives demanded we go on record on this issue.

I am paraphrasing his words, but I feel that his statement is still true. We should stand and get a rollcall vote and adopt the pending amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment. I would like to say that I do not consider this to be a politically partisan issue. Interest in this amendment on both sides of the question transcends party lines. I do not know at this hour whether there will be more than a handful of votes influenced by what is said in this hour of debate but I am happy that on this issue of our pay we finally are going to get the vote—the lack of which has given us so much trouble in the press.

Personally, I have never had a particular problem with the issue, for I made the decision long ago to support the Quadrennial Commission's recommendations if they were reasonable, and particularly so if we were to impose upon ourselves a new code of ethics. We have done that, and as a matter of fact have imposed some very restrictive restraints on outside earned income that in my judgment is adversely affecting a number of our Members. I just cannot for the life of me then understand why Members so affected by those new restrictions would want to be masochistic as to roll back their new salary level, to boot.

I recognize that our newer Members particularly have a special problem, and that is understandable. For those of you with several terms under your belt, growing families, particularly those with college-age children, the two-home expense routine, and all the rest, have a serious problem. I just happen to think there are all kinds of good grounds for holding our position and justifying the higher level of salary that was recommended by the Commission.

I have never found it to my advantage to demean my own worth. I do feel those of us in middle age and beyond who have given the greater part of our life to public service, and worked hard at it over the years are entitled to be adequately compensated or otherwise be forced to return to private life where we can still earn in our remaining productive years those kinds of salaries to which we feel we are deserving.

I hope the more senior Members particularly, on both sides of the aisle who can take the heat will shoulder their fair share of the responsibility for the vote here this afternoon. I have done my best to round up votes against this amendment on our side.

And, finally, to you younger Members who have a good future ahead of you in this House, I hope you will bear in mind the very difficult problem this question of pay poses to our membership, and that within a few years if you are to retain comparable pay, you are going to have to go through the traces again. And when that time comes, you had better stay a bit loose. I do hope you would all be smart enough to refrain from the temptation of telling your constituents that you will never vote for a pay increase for yourself. That is a ridiculous position to take if you are going to be here for any length of time and while it may be a very extraordinary privilege to set and vote on one's own pay, we cannot escape the responsibility.

As you all know, the Constitution itself, which we swear to uphold upon taking office provides for our dealing with the question in article 1, section VI.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, time and again I have expressed my concerns about our economy and the effects of inflation. In my view the budget practice which accepts deficits in expanding amounts has contributed enormously to that inflation and the resulting economic problems which have confronted us.

I believe Congress should not merely correct the errors of this fiscal practice but that it should send a clear signal to the public and to the international community that we are concerned and intend to do something about it. In this context, it is obvious that the exercise of restraint with regard to congressional salaries in the face of cost-of-living pressures is a clear way to telegraph that signal. To that end I have opposed past congressional pay raise proposals. In 1967, I also voted against the Postal Revenue and Federal Salary Act, which established the procedure whereby a congressional raise may occur without the affirmative vote of Congress.

I must confess that earlier this year, had I been afforded the opportunity, I would have voted against the recommendation of the Federal Salary Commission. Under the same circumstances I would do so today.

But that is not the question before us. It is being said that the pending amendment is the first chance we have had to vote on the recent pay raise. That is not a fact. The salary increase in question is now the statutory salary and nothing in the pending amendment can change that fact.

Of all the considerations important to this issue, none weighs more heavily than the fact that the circumstances which existed in January no longer obtain.

Subsequent to the effective date of the recent salary increase this body, in good faith and on account of that raise, took affirmative action to implement related recommendations of the Commission. Its recommendations for the adoption of certain provisions dealing with ethics were well taken and merited consideration regardless. One recommendation, however, was directly related to the pay raise. I refer, of course, to the imposition of a limitation on the amount of earned income a Member may receive. That provision was adopted as a quid pro quo to receipt of the salary increase in question. As such it is intimately coupled to the new salary level and entitled to review should the statutory level of pay be altered.

The pending amendment, however, does not deal with the statutory level. If adopted it would produce only a de facto reduction in salary. It is pernicious, therefore, in that it would reduce pay checks to the previously established level without diminishing the present level. Since receipt of the full increase would depend only upon appropriations, with or without a specific vote, the grounds upon which an alteration in the income limitation would be removed. The result would be to continue the limitation, contrary to congressional intent, in that it would apply to a salary level which is lower than the level for which constituted a quid pro quo. Decoupling these two issues, therefore, should not be permitted and this is reason enough to reject the pending amendment.

Mr. Chairman, I am acutely aware of the sensitive nature of the vote we are being called upon to cast. Each of us is seized by an involuntary reflex to vote on the basis of how it will be received by the public. The manner in which we conduct the usual business of Government does not revolve upon this consideration, nor should it. Each item of legislation deserves and generally receives objective consideration of all pertinent facts with passage or rejection depending upon what is considered best for this country. The measure before us deserves the same objective consideration.

I have analyzed the facts involved in this issue and am disturbed about the deleterious effect the amendment would have on the caliber of future Members of this, the people's branch of Government. I am also disturbed that implementation of it may well operate to violate existing contracts of Federal employment where the contract wage is within the limits of the statutory salary but in excess of the amount which could be paid under the terms of this amendment. Such a result not only raises serious questions about the standards of equitable treatment at the hands of the Federal Government but would create a valid claim for the breach. The number of court actions which this could product is alarming.

For the reasons assigned, I have decided to vote against the pending amendment and urge my colleagues to do likewise.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. FLYNT).

Mr. FLYNT. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Virginia (Mr. SATTERFIELD) for exactly the same reasons the gentleman gave and for those reasons I, too, shall vote against the pending amendment and urge its defeat.

Since 1955 I have voted against every pay raise bill including the Salary Adjustment Act of 1967, on October 11, 1967, as has the gentleman from Virginia.

I have taken the brunt of three redistrictings in Georgia in each of which my district has been changed by population shifts more than any other district and almost as much as eight of the other nine districts combined. In spite of this I have been able to work the new territory and accomplish reelection. When I first same here in a special election in the 83d Congress, my philosophy then was that I would vote for what I believed to be right and best regardless of the political consequences. I still try to do this, but on highly emotional and almost totally misunderstood issues like the pay raise, I have to do what I conceive to be right.

In October 1967 when the House voted on the Salary Adjustment Act of 1967 and created the President's Commission to fix legislative, judicial, and top executive salaries, I foresaw exactly the chaotic mess which that act would bring about. I voted against it although it passed by a vote of 319 and 89. We have the ridiculous situation of an automatic pay raise feature which has provided a 61 percent pay increase for 99 percent of the Federal employees but excluded 22,200 including the 538 Members of Congress who are making only a pittance above early 1969 levels and whose purchasing power of their fixed salary has eroded to 50 percent or less of what it was in 1969. At the present rate of salary increase Federal pay scales will be compressed to near equality and eventually everyone in the Government will make more than Members of Congress who along with staffs probably work harder and far longer hours than any group in Government. Work days frequently run 14 to 18 hours. Work weeks are seldom less than 7 days and the sometime multiple trips to the district during one week are physical and mental strain.

Mr. Chairman, I urge the defeat of the pending amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I am going to vote against the amendment, but I do think that this House should begin to consider how we look at ourselves. I think that Commission was a shameful thing in that it took away from us the responsibility for our actions.

If we are going to take a pay raise, we should be given the opportunity to vote for it. We are now voting not just for ourselves, but on the salaries of 22,000 civil service employees.

I would like to say to those who hesitate to vote for pay raises for themselves that there is a very simple method to resolve this. They can simply give back the pay raise to the Treasury of the United States. Anyone who hesitates to vote an immediate benefit for himself—and I think many of us in the Whalen camp, so to speak, do feel that way—there is a very simple solution: Give it back to the U.S. Treasury and the taxpayers from whom it came.

(By unanimous consent, Mr. HEFTEL, Mr. MCFALL, Mrs. BURKE of California, Messrs. CHARLES WILSON of Texas, EVANS of Colorado, and DODD yielded their time to Mr. O'NEILL.)

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Chairman, I rise in opposition to this amendment. I have never voted for a pay increase and by voting against the amendment, I am still not voting for a pay increase. The increase became law a few months ago that increased more than 22,000 Federal employees. The 535 Members of Congress were in this increase. I probably would have voted against that across-the-board increase, but we did not have the opportunity to vote on that.

Today, this amendment does not just reduce Members of Congress pay, but about 22,000 other Federal employees. Some of those need not have their salaries increased, but there are many career Federal employees who have not had a pay increase since 1969 who are deserving of an increase.

I do not like the rules. I voted against the modified closed rule because I would like to separate some of those 22,000 employees from this amendment. The rule does not allow this. Yet, because that rule was passed and because it does not allow any further amendments or modification, does not make this amendment any better. Under normal procedure, this amendment would not be in order because it provides restrictions of other acts already passed.

To preserve the integrity and rules of the House this amendment should be defeated.

The CHAIRMAN. The Chair recogizes the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, I rise in opposition to the amendment, and I yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in the last year and a half I have voted to decline or to return to the Treasury some $7,000 in salary. Now it seems I am being told I should take a salary reduction as well. I want to address my remarks today to my conservative friends, many of whom have voted as I did.

When the Federal Salary Act of 1967 was passed, we were told that this would relieve Members of Congress from having to face the hard issue of raising their own salaries; and this is admittedly a tough vote when it comes up. Although I voted against that act. it became law.

When the first Quadrennial Commission report was made to President Johnson, modified, and transmitted to Congress in 1969, it was accepted without a record vote in the House. For almost 8 years there were no more congressional and executive level pay raises, in part because President Nixon did not send to Congress his 1973 recommendations in a timely fashion.

In late 1975, partly out of desperation and with great concern for the executive level employees of Government who had also been without a pay raise for almost 8 years, Congress passed a law placing Members of Congress and executive level employees on the same cost-of-living salary increase basis as all other Federal employees; and we received a 5-percent increase. The increase in the cost of living at that time was actually 8 percent, and we ran into trouble with other Federal employees by asking for a smaller figure, not wanting to appear to be asking too much for ourselves. In 1976 we found a relatively new approach to this problem in the form of a limitation on the legislative appropriations bill. Through this procedure we declined the 1976 cost-of-living increase for ourselves and the executive level Federal employees.

The 1977 Quadrennial Commission report was made to President Ford, it was modified and transmitted to the Congress with the full support of President Carter, and became law on March 1 without a vote of the House. As a result of that increase, and pursuant to the recommendation of the Commission, we have passed into law a tough ethics bill severely restricting outside income, we are requiring record votes on all future increases, and we will no doubt be adopting a new law soon which says in effect that no future raises for Members of Congress shall take effect until the next succeeding Congress.

We are finally "getting our house in order," and I think it is about time.

While we have been going through this agony of pay problems since 1969, the cost of living has gone up approximately 60 percent and comparable salaries outside Government have risen about 70 percent.

Now through this procedure of limiting spending on an appropriations bill, we are being asked to take a pay cut, and I think that is unwarranted.

Through my votes and my actions I have tried to take a reasoned approach to the question of salaries for Congress and the executive branch and I do not feel that cutting salaries in view of the history of the last 8 years is reasonable.

Finally, we should also keep in mind that the political realities of life are such that if we adopt this amendment today we are literally taking the Congress and the executive level employees back to the 1969 salary level with the exception of the minor change in 1975. The further reality is that there will be no further pay adjustments until 1981, a period of 12 years.

I know that there is strong feeling back home that public officials earn too much, but my concern is that if the salaries of public officials do not keep pace with the salaries of similarly responsible professionals in the private sector, it will not be too long before we turn the affairs of government over to either the very rich or the very incompetent. In either case that would be a disaster.

And so I say to my conservative friends who may feel that you are compelled to vote to cut salaries of Members of Congress and the executive level employees under the guise of economy in government that you are missing the point of what conservatism is all about. Conservatives believe in good government run by competent people. And in order to have

this, we must have salary levels that will attract and hold competent people—and that is true whether we are talking about Congress or the executive branch. And that is how you get efficiency in government. If you do not have the ability to explain that back home, then maybe incompetence has already set in in the House of Representatives.

I will vote against the amendment.

(By unanimous consent, Mr. GARY A. MYERS yielded the balance of his time to Mr. O'NEILL.)

(By unanimous consent, Mr. SOLARZ yielded his time to Mr. O'NEILL.)

(By unanimous consent, Mr. GRASSLEY yielded his time to Mr. CRANE.)

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Chairman, at long last, Congress has the opportunity here today to do that which it should have done back last February—vote on the propriety of its getting a pay raise. It is not just a matter of whether a pay raise for Members is fair, given the increase in the cost of living; it is also a matter of whether or not such a raise has been earned and can be justified.

Unquestionably, the cost of living has gone up the last few years—no one is denying that—but, if one believes, as most economists do, that an increase in the money supply greater than the increase in productivity leads to inflation, then who is to blame? Given the fact that Congress sets a framework for fiscal policy by its legislative enactments and appropriations, the answer must, in the main, be Congress. For years now, be the administration Republican or Democrat, Congress has been engaging in an orgy of deficit spending, climaxing in the budget deficits of the last 3 years which, when the final figures are in, are likely to reach a cumulative total in excess of $170 billion.

Yet, instead of accepting the blame for such irresponsibility and at least living with its consequences along with everyone else, Congress is contemplating slapping itself on the back once again and doing what few others in society can do—insulate itself from the adverse effects of its own actions. It is no wonder the public is upset; Americans have every right to be.

I might also note, in case anyone has any doubts about the relationship between deficit spending, inflation, and pay raises, that since 1968, the national debt has increased 91.1 percent. By a strange coincidence, congressional salaries have increased an identical 91.1 percent. Given that coincidence, it is understandable why there are those who see a conflict of interest in Congress compensating itself for cost-of-living increases when it has, by its deficit spending policies, driven up the cost of living.

Had an open rule been in effect for consideration of this bill, as I wish it had been, I would have offered an amendment that would have made a pay raise possible but would have dealt with the problem just referred to. That amendment would have allowed money appropriated in this bill to go for the pay raise if, and only if, the budget, as finally adopted by Congress in accordance with the Congressional Budget and Impoundment Control Act of 1974, did not show a deficit. Thus, Congress could have earned its raise by balancing the budget and the people would have some assurance that it would not be laying the groundwork for another inflationary spiral that, sooner or later, would have resulted in pressure for still more raises.

However, we do not have an open rule in effect today and there is little chance Congress is going to balance the fiscal 1978 budget, much as it needs to be balanced. Instead, we are looking at the prospects of more deficit spending, more ineffective programs, more Government regulation and further erosion of the free enterprise system. It is not the kind of prospectus, coming as it does on the heels of record budget deficits, that lends itself to claims that Congress has earned a pay raise. Which underscores one of the problems with the Quadrennial Commission recommendations — ultimately, they are based on subjective rather than objective standards. If, instead, pay raises were predicated on the reality that the budget had been previously balanced, that would not be a problem.

Mr. Chairman, having eight children myself, I can sympathize with those who argue that congressional salaries do not stretch all that far, given all the demands placed on them. But that, in no way justifies, my voting for this raise. If the pay is inadequate for me, I always have the option of retiring and trying to earn more in the private sector and if it seems so inadequate to others, why are so many people scrambling so hard to run for Congress. I see no diminution of prospective candidates and I rather doubt, even if the salary were reduced, that people would be discouraged from running.

Mr. Chairman, there are many other arguments that can be raised in opposition to funding the pay increase that Congress indulgently permitted to go into effect last February and little that can be said for it, but rather than reiterate them let me simply repeat that I believe this pay raise is wrong and I believe it should be voted down.

(By unanimous consent, Mr. BOLLING and Mr. DICKS yielded their time to Mr. WRIGHT.)

(By unanimous consent, Mr. MURTHA yielded his time to Mr. O'NEILL.)

The CHAIRMAN. The Chair recognizes the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Chairman, I rise in support of this amendment of which I am a cosponsor. Passage of this amendment would lay the groundwork to get a vote on congressional pay—I believe we have a constitutional duty to so vote—and my lawsuit now before the Supreme Court addresses that point. This amendment is not really a vote on the specific pay level, but it might force a future vote on the pay level and I support it.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. PRESSLER. I yield to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Chairman, though I rise in support of the amendment, I do not wish to debate the merits of the $13,000 increase. Rather I would like to deliver a scenario of what has transpired since I became a Member of Congress in January 1977.

In January, then President Ford with the endorsement of President Carter approved the Quadrennial Commission's report calling for a pay increase to Members of Congress, the Federal judiciary and high echelon bureaucrats. Under the established legal procedure, the only way the pay increase could be voted on was by way of a resolution of disapproval.

The Senate had the courage to vote on the pay increase and the vote was affirmative. However, the House under pressure from the leadership, refused to allow the resolution of disapproval to come out of the subcommittee. Thus, Members of this body were unable to vote on the Commission's recommendation.

Once the pay matter was settled, the House passed a so-called ethics bill. The justification for the ethics bill seemed to be that Members just received a $13,000 increase so now we must convince the public that we are really ethically pure. Apparently there is the presumption that once a person is elected to public office he or she is going to become unethical—especially when pay increases are involved. Full disclosure was not enough for an ethics bill, but limitation of earned income was described as the "heart and soul of the bill". So really instead of an ethics bill we really have a law which should be referred to as the income limitation bill of 1977.

With the pay increase which forced the ethics bill, I feel we are headed toward creating a Congress of people who need the money in salary to put bread on the table or millionaires who run for Congress because they have nothing else to do.

With the ethics bill out of the way, the next area of the pay dispute evolved around the budget. By an overwhelming vote the pay increase was deleted. Now Members were free to travel back home and put out press releases claiming their opposition to the pay increase. However, as we all know the vote on the budget was simply an exercise in futility or a vote in which Members could possibly demagog the pay issue.

The vote on today's appropriation bill has a little more meaning. Pragmatically speaking, a vote for this amendment could possibly lead to a withholding of the pay increase. The possibility of rolling back a pay increase which we have had for 7 month seems a bit remote.

During the past 2 months, the leadership on both sides of the aisle have been vote hunting for the pay increase. There has been a total immersion in this matter which has very little relevance to discharging the responsibilities of a legislative body.

Yesterday, the House passed a Senate bill which would prohibit the automatic increase in October. However, that bill was peculiarly absent of any language that future pay increases would apply to the next session. History reveals that James Madison offered a constitutional amendment to put off any pay increase to the next session. Though this was adopted by both the House and Senate, it failed because the States failed to ratify it. I submit that much of the agony of voting a pay increase for yourself could be mitigated by postponing any increase to the next Congress.

I would hope that after today this body would be more interested in legislating such things as energy rather than concerned about passing pay hikes and having income limitations placed on Members because of the inauspicious light cast on one who enters the arena of public life.

(By unanimous consent, Mr. JOHNSON of Colorado yielded his time to Mr. ARMSTRONG.)

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Chairman, I rise in opposition to this amendment. I would have voted against this matter had I been given an opportunity to do so earlier this year, but I was not. I think to attempt to roll back the increase at this time, however, is absolutely out of the question.

The Judiciary already has an increase which cannot be rolled back for constitutional reasons. The Senate will have its increase. We have accepted a very complex ethics package which was coupled to this pay increase, one which severely limits the outside incomes of all Members.

We have rejected a cost-of-living increase this year. We have put ourselves on record as being required to vote on these matters in the future.

For all these reasons, I feel that we must reject this amendment.

Mr. Chairman, I am gravely disappointed at the failure of the American press to explain this issue adequately to the people of the Nation. I do not believe the press of this Capital and the press of the Nation as a whole have done an adequate job of explaining this issue in a fair and balanced way to the American people. I have seen or heard no report, for example, which points out that this increase for executive and legislative officials amounts to only a 4-percent increase per year over the last 8 years. There are a number of areas in which I believe the press has failed the Nation by providing wholly inadequate news coverage.

Mr. Chairman, I sincerely hope that the press in the gallery today will explain this issue adequately to the American public so they can see on television tonight and read tomorrow in their daily papers the real facts about this matter.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, I think that obviously a case can be made for a pay raise, for many of the reasons that have been given, including some of the extra expenses that Members of Congress incur that other people do not. I think the most serious problem here is the timing of the issue. This matter of a pay raise is coming before us at a time when the American people, the people whom we represent, are suffering seriously from inflation and higher taxes and by inflation moving them into higher tax brackets.

Therefore, my conscience requires me to vote against the pay raise, to vote for the amendment, and beyond that, to stand up and ask for a vote.

Mr. Chairman, let me say this in addition: I do not think this is an issue that should be used in the future. I do not think those Members who vote for a pay raise should be subjected to having this action held against them as an issue. I think there are grounds for the raise, and grounds to oppose it, as I intend to do, but I would especially like to appeal to my colleagues on both sides to allow us a chance to vote. We want a chance to vote. That is the essential thing, and I urge the Members to stand up and get a vote on this issue.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. MCEWEN).

Mr. MCEWEN. Mr. Chairman, I have not in the past voted for any pay increase in this body. I listened with interest to the remarks of the distinguished gentleman from Arizona (Mr. UDALL), and I quite agree that we have been accused first of serving our own interests; and then, under his proposal, it appeared that we were being accused of being cowards. I did not support that proposal at the time. I felt it was a reversal of the legislative process.

I would support a commission to make its recommendations to the Congress. I hope that we in the future will take some action to bring about a different procedure to deal with this matter.

I rise today, Mr. Chairman, to say that in the light of the situation with which we are now confronted, involving not just the Members in this Chamber but 22,000 other people who serve this Government, we now face the alternative of a rollback in pay.

Mr. Chairman, I shall oppose the amendment offered by the gentleman from Iowa (Mr. GRASSLEY) and vote to support this bill.

(By unanimous consent, Mr. FORD of Michigan yielded his time to Mr. O'NEILL.)

(By unanimous consent, Mr. SMITH of Iowa yielded his time to Mr. WRIGHT.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, there is no reason for us to cower and apologize for the rate of pay that has been set by the Commission and now is law. By no objective standard of comparison could it be called excessive.

In 1969, when the Commission was created, the congressional salary was set at $42,500; today it is $57,500. If cost-of-living adjustments had been made during that period of time—in other words, if congressional salaries had kept pace with only the certified cost-of-living increase—salaries today would be $70,125 instead of $57,500.

The reason the Commission recommended a 29-percent increase for Congress and commensurate increases for high level executive and judicial officials is because it had been so very long since any substantial increase has been permitted.

Since 1969, the cost of living has increased by more than twice the increase allowed this year for these positions.

If Congress had permitted annual increases, similar to those allowed for other public servants, the pay today would be much higher than it is. Each of us is aware of that fact. If the public is not aware, it simply is because the public has not been told.

If the congressional salaries had kept pace with the adjustments which have been made in civil service pay, the salary today would be $70,550, instead of $57,500.

If it had kept pace with average increases in blue collar pay during the same years, our salary today would be $72,250; and if Members of Congress had received the same increase which has been average and general among representatives of the news media since 1969, the congressional salary today would be $77,500. It would be exactly $20,000 more than it is.

Therefore, not having kept pace with the cost of living, we now face the question of whether we shall further reduce our pay and reflect a reduced estimate of our self-worth as an institution. That is what is at stake in considering this amendment.

The Congress of the United States is the most representative legislative body on Earth. The average one of us is chosen to speak and to make decisions for a half million of our fellow Americans. It is our job to deal effectively and intelligently with the biggest and most fateful questions on Earth. The job certainly is worthy of the amount of pay that has been established for it.

Let us just say very frankly that if we individuals are not worthy of a job of that magnitude, then we ought not to be here, and someone else should be here in our place.

In my first term in Congress there was a vote to increase the pay by a larger percentage than the one which went into effect last March. The increase was from $15,000 to $22,500. I was a little queasy about that. The vote came early in the term. I wondered, what would people think if one of the first things I do is increase my pay before I do much of anything else?

I expressed my concern to Speaker Rayburn. His answer, like so many of his answers, was a classic of wisdom and brevity. He looked at me in that stern manner of his and said,

Jim, if you vote against this pay increase, you are saying one of two things: Either you

are saying that the job you sought is not that important, or you are saying that you are not a big enough man for the job.

So I suggest, my colleagues, there is no reason for us to cover. The jobs we hold are important jobs. The institution we serve is the most important legislative body on Earth. It can rise to heights of sparkling statesmanship, and on occasion it can sink to levels of rather crass mediocrity. Which posture it takes affects the future of people yet unborn. Which posture it takes is the collective result of our individual courage, our individual responsibility, our individual sense of the importance of the work that we do and the decisions that we make.

I do believe that the public has been gaining an improved impression of our collective worth, and that is reflected in the national opinion polls. Since the beginning of this year the polls have reflected an increase in the public's concept of the value of Congress and of the job it is doing. The public estimation of the performance of Congress, according to these polls, is approximately three times as good as it was at the beginning of this year.

What, then, of our own institutional sense of self-worth? Our image will be no better than our substance, and the substance of our work no better than our self-appraisal of the responsibilities we exercise. By our vote on this amendment, we will either denigrate the Congress or uphold it. The road to institutional self-respect, and to the respect of others, lies in upholding it.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Chairman, until very recently, there was real doubt whether or not we would be permitted a recorded vote on this matter. But it now appears such a vote will be possible which, under the circumstances is a real tribute to the good judgment of the membership.

Mr. Chairman, the most disagreeable part of this whole pay raise business, which has been dragging on for the last 2 years, is the attempt by some of our leadership and by some of the proponents of the pay increase to preclude a straight up or down vote on this issue. The scurrying to avoid such a vote demeans the institution in which we are proud to serve.

I therefore congratulate those whose wisdom and fairplay motivate them to come forward in helping us to get a recorded vote on this matter.

Let me turn briefly to the merits of the pay raise. Why is it that we need a pay raise? The main argument in support of the raise is that inflation has hurt us just as it has hurt every family in this country.

But since Congress, by its legislative enactments and budget deficits, is responsible for the inflation which has so grievously injured our fellow Americans, I think it is wrong for us to protect ourselves from the inflation we have inflicted on the rest of the Nation.

There is yet another reason this pay raise should be voted down.

It is a matter of judgment how much the job is worth, how much each of us, as individuals, is worth. But that is not the issue before us today. It seems to me reasonable to compare this job with other public service occupations. Our compensation should be compared with public service occupations, not with what any of us might earn in a purely private capacity. By that standard, and certainly by the standard of average income of those we represent, at $44,600 per year we are well, we are amply and lavishly compensated. Forty-four thousand six hundred dollars a year is three times the average American family income. It is twice or more than twice what college professors make. It is more than the mayors are paid. It is three or four times what ministers make. In addition, Mr. Chairman, $44,600 a year is more than the annual pay of the Governors of 35 of our States.

By any of those standards of relevant comparison we are already well enough paid. Let us therefore adopt the Grassley amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Chairman, there is not much that can be added at this particular time, except perhaps a comment that it seems as though the few millionaires we have on our side of the aisle are against the amendment and the millionaires on the other side of the aisle support the amendment. I do not know what that proves, if anything.

We are going to have a vote on this issue and I am going to urge the Members on our side to stand up for a recorded vote. I might also point out, with regard to the Whalen amendment, I have talked with Chairman STEVE SOLARZ and members of the subcommittee, and we will have that issue on the floor before this session is over.

Mr. Chairman, I was fascinated by a memorandum that came over the wire last week stating that the top executives of the Nation's 100 biggest industrial corporations earned 17 percent more last year than 1975, bringing their median earnings to $420,000 against $357,800 the previous year. Of course that rate of increase means that they are making more in that increase than we receive in salary.

Then the median pay for the No. 2 executives in the top 100 companies increased 20 percent in 1 year to $293.700, and the third ranking executives received a 16 percent increase in 1 year to $237,200. Thus, they too, received a pay raise last year of more than we received in salary.

I have always faulted the argument that our actions in the Congress are responsible for inflation in this country, and figures like that readily affirm that fallacy.

Mr. Chairman, 4 months ago I took the well of this House with regard to the ethics bill. We argued for 9 hours on the floor that particular day. The heart and soul of the ethics package was full disclosure and a limitation of 15 percent of congressional salary on our outside income.

The feeling at that time was extremely heated. We asked many of our Members to make terrific sacrifices. We asked them to give up their substantial outside earnings, even when no conflict of interest existed, because we promised them a salary increase.

An awful lot of people were hurting. Some of them were my closest personal friends. I recall the manner in which they looked at me. They felt that their families had been hurt. I felt bad about it, but I thought that adoption of a stiff ethics code was in the best interests of this Congress and, as a result we could enhance the image of Congress.

The Nation was in a depressive mood. The American people looked with disdain upon the Establishment and the Congress. How could we move forward in the best interests of the Nation, how could we move the Nation? Our rating at that time was 9 percent. I understand now the polls are showing—which will probably be in the paper this week—that our rating is 40 percent.

I think we have turned the corner with confidence in Congress and confidence in our Government. That is what we wanted, and the tough ethics package that we created has already restored in this short time, a considerable measure of public confidence in our elected officials.

What has the pay raise got to do with it? The pay raise was a vital part of the ethics package. It was a promise. "If you vote for ethics, if you vote to limit your outside income, you are going to get a pay raise." That was a promise, I believe, that was made by the Members of this House. Yet they say, why should we have voted on our pay raise?

The gentleman from Arizona (Mr. UDALL) explained what happened in the sixties. There was criticism of the fact that we voted on our pay raise, and instead there should be a bipartisan blue ribbon commission set up. One was set up by the President. It recommended this pay raise, and it recommended a code of ethics. The recommendation was endorsed by President Ford and President Carter, and it is as nonpartisan as it possibly could be.

There was a lot of talk around the country about the fact that we ducked a vote on the pay raise. Some of you, sincerely, you—and you over here, those who did, took to the microphones saying we ducked the vote on the pay raise. But that just is not accurate. A vote on the pay raise was avoided by the fact that we had to get unanimous consent. There was no way we could get around that. Those who were telling the people otherwise, were shamming.

We know that high-level positions in the Government have gone unfilled, and capable people could not be attracted. The pay raise was offered and given, and we have attracted quality people and we have signed them now to come into this Government.

Why do we have to have the judges,

and why do we have to have the supergrades in the same bill? Why do we? One of the Members asked that question. Why not alone? To be perfectly truthful, the Congress of the United States would never get a pay raise if the judges and if the supergrades had not been included in the bill through the years.

I make mention of the fact that in 1873 the Congress of the United States raised its salary from $5,000 to $7,500, and there was a lot of weakness in the Members, and they went back and they undid what they did in 1873. In 1874 they cut the pay back from $7,500 to $5,000. The next time the Congress of the United States got a pay raise was in 1907, 33 years later. If history were to repeat itself, the next pay raise of the Congress of the United States would be in the year 2010.

Let me say this to the Members: This Congress has no intention of undoing its ethics package. The limitation on outside income is here to stay. Where are we at the present time? The Senate leadership has told me they have voted on the matter; they have no intention of reducing their salaries or the salaries of the supergrade Government employees. But a rider could be attached to a piece of legislation exempting the Senate and exempting the Government employees, while we go back to our old salary, if we want to adopt it. What would that mean? It would mean that the Members of the Senate would be earning $57,000 and the Members of the Congress would be earning $44,600, a difference of $12,900.

Under the 15-percent limitation in the ethics bill, which both the House and the Senate adopted, the Senators would be able to earn $8,625 maximum and the Members of the House would be able to earn $6,690 maximum, or $1,935 less. So we would not only reduce our own salary, but we would reduce our own outside incomes.

Now, interestingly, in this particular amendment, if it is adopted, I want the Members to realize that a Member of Congress would be receiving $44,600, but a full committee staff member in charge of a committee in the Senate would make $50,000, or $6,400 more than a Congressman. The administrative assistant of a Senator would make $47,500 and he would be entitled to $2,900 more than a Congressman. That is the administrative assistant of a Senator would get more than a Congressman. The committee counsel would get $6,400 more than a Congressman.

Where does that actually leave us? Suppose this amendment does pass the House and passes the Senate, then where does that leave us? It leaves us in utter confusion. Utter confusion. This is a limitation.

The Congressman's salary is $57,500 and his salary is not cut. The Grade 16's, 17's and 18's are not cut. This is a limitation. There are 22,000 people outside of this Congress on whom there would be a limitation. Let me say to the Members: This would be utter confusion. There would be 22,000 suits in the morning. They would go to the Court of Claims and they would be awarded the claim. Make no mistake about it.

This is an appropriation bill. We cannot legislate to cut my salary or anybody else's salary. We can limit it to $44,600 over a period of time. I do not know, if I were to go to the Clerk of the House and say: "My salary is $57,500 and I want to be paid on a basis monthly as I have been paid before," but I think he would have to give it to me. I do know, if this amendment prevails, that on August 15, I would receive no more salary for the remainder of August or September. I would receive no more salary until the new fiscal year.

Confusion? Utter confusion. That is what it means. And actually we have our opportunity to vote today, to stand up and be counted. People have said to me, and how many Members have come up and told me about the problems they have. They have said: "I have three in college. It is costing me $25,000. Gee, I would like to vote for it." One of the Members on my side yesterday came to me and said: "I have three in college. It is costing me $18,000. I am also maintaining a home. I have never had my head above water."

I have been in this Congress for 25 years. I commuted. I had three in college at one time. I had a wife that I went home to every week, fortunately a strong and beautiful individual. When I came home I went around campaigning or I had a little insurance business where I worked to try to make both ends meet, to try to educate that family. Well, all our kids are past that today, but my heart goes back to those days when I could not give my love and affection and time to those children and family. I gave it to my job and to trying to earn outside income so I could support my family.

I know the Members are in the same position and it is a wrong position. Believe me. It is a wrong position.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

On the request of Mr. SHIPLEY, and by unanimous consent, Mr. O'NEILL was allowed to proceed for 2 additional minutes.

Mr. O'NEILL. The reason I say it is a wrong position is this: the Members of this House come from every type of affluence in this country. That is as it should be. They may have been at the bottom and worked themselves up to middle affluence, and all this is combined.

True, we may be wasteful, we may be spendthrifts at times, we may not do the right thing; but one thing we are, we are the freest Nation in the world; and we are the greatest Nation in the world; and the people from down in the grassroots to the mighty who have lobbyists in this town all have a choice and are represented; and that is what makes us the great democracy that we are. In your vote today, do not make it great just for one affluent group. Make it great for every group. Make it so that the man who represents you here or represents this great country can serve with dignity and equality with everybody else.

Mr. Chairman, I urge everyone, I urge all on both sides, to do the decent thing for our fellow colleagues. Do not vote for reduction at this particular time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Iowa (Mr. GRASSLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. O'NEILL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 241, answered "present" 2, not voting 9, as follows:

[Roll No. 393]

AYES—181

Abdnor	Ginn	Mattox
Ambro	Glickman	Meyner
Andrews, N. Dak.	Goldwater	Miller, Ohio
Applegate	Goodling	Moffett
Archer	Gore	Montgomery
Armstrong	Gradison	Moore
AuCoin	Grassley	Moorhead, Calif.
Badham	Gudger	Mottl
Bafalis	Guyer	Natcher
Baldus	Hagedorn	Neal
Barnard	Hall	Nichols
Baucus	Hammer-schmidt	O'Brien
Bauman	Hanley	Panetta
Beard, Tenn.	Hannaford	Pike
Bedell	Hansen	Poage
Benjamin	Harkin	Pressler
Bennett	Harsha	Pursell
Blouin	Heckler	Quayle
Bonior	Heftel	Quie
Breckinridge	Hightower	Quillen
Brinkley	Hillis	Rahall
Brown, Ohio	Hollenbeck	Regula
Broyhill	Holt	Rinaldo
Byron	Holtzman	Roncalio
Caputo	Hubbard	Rudd
Carr	Huckaby	Runnels
Clausen, Don H.	Hughes	Ruppe
Cleveland	Ichord	Russo
Cochran	Jacobs	Santini
Cohen	Jeffords	Schroeder
Coleman	Jenkins	Schulze
Collins, Tex.	Jones, Tenn.	Sharp
Conable	Kasten	Shuster
Corcoran	Kelly	Skelton
Crane	Kemp	Smith, Nebr.
Cunningham	Ketchum	Snyder
D'Amours	Keys	Spence
Daniel, R. W.	Kildee	St Germain
Davis	Kindness	Stangeland
Derrick	Kostmayer	Steiger
Dickinson	Krueger	Stockman
Drinan	Lagomarsino	Stratton
Duncan, Tenn.	Latta	Stump
Edgar	Leach	Symms
Edwards, Okla.	Levitas	Taylor
Eilberg	Lloyd, Tenn.	Thone
Emery	Lott	Thornton
English	Lujan	Trible
Ertel	Luken	Tsongas
Evans, Del.	Lundine	Vander Jagt
Evans, Ind.	McDade	Volkmer
Fish	McDonald	Walker
Florio	McHugh	Walsh
Ford, Tenn.	Maguire	Watkins
Fowler	Mahon	Weaver
Frenzel	Markey	Whitley
Frey	Marks	Wirth
Gammage	Marlenee	Wydler
Gephardt	Marriott	Yatron
Gilman	Martin	Young, Fla.
	Mathis	

NOES—241

Addabbo	Biaggi	Burgener
Akaka	Bingham	Burke, Calif.
Alexander	Blanchard	Burke, Fla.
Allen	Boggs	Burke, Mass.
Ammerman	Boland	Burleson, Tex.
Anderson, Calif.	Bolling	Burlison, Mo.
Anderson, Ill.	Bonker	Burton, John
Andrews, N.C.	Bowen	Burton, Phillip
Annunzio	Brademas	Butler
Ashbrook	Breaux	Carney
Ashley	Brodhead	Carter
Badillo	Brooks	Cavanaugh
Beard, R.I.	Broomfield	Cederberg
Bellenson	Brown, Calif.	Chappell
Bevill	Brown, Mich.	Chisholm
	Buchanan	Clay

Collins, Ill.	Krebs	Rodino
Conte	LaFalce	Roe
Conyers	Le Fante	Rogers
Corman	Lederer	Rooney
Cornell	Leggett	Rose
Cornwell	Lehman	Rosenthal
Cotter	Lent	Rostenkowski
Coughlin	Long, La.	Roybal
Daniel, Dan	Long, Md.	Ryan
Danielson	McCIory	Sarasin
de la Garza	McCloskey	Satterfield
Delaney	McCormack	Sawyer
Dellums	McEwen	Scheuer
Derwinski	McFall	Sebelius
Devine	McKay	Seiberling
Dicks	Madigan	Shipley
Diggs	Mann	Sikes
Dingell	Mazzoli	Simon
Dodd	Meeds	Sisk
Dornan	Metcalfe	Skubitz
Downey	Michel	Slack
Duncan, Oreg.	Mikulski	Smith, Iowa
Early	Mikva	Solarz
Eckhardt	Milford	Spellman
Edwards, Ala.	Miller, Calif.	Staggers
Edwards, Calif.	Mineta	Stanton
Erlenborn	Minish	Stark
Evans, Colo.	Mitchell, Md.	Steed
Evans, Ga.	Mitchell, N.Y.	Steers
Fary	Moakley	Stokes
Fascell	Mollohan	Studds
Fenwick	Moorhead, Pa.	Teague
Findley	Moss	Thompson
Fisher	Murphy, N.Y.	Traxler
Fithian	Murphy, Pa.	Treen
Flood	Murtha	Tucker
Flowers	Myers, Gary	Udall
Flynt	Myers, Michael	Ullman
Foley	Myers, Ind.	Van Deerlin
Ford, Mich.	Nedzi	Vanik
Forsythe	Nix	Vento
Fountain	Nolan	Waggonner
Fraser	Nowak	Walgren
Fuqua	Oakar	Wampler
Gaydos	Oberstar	Waxman
Giaimo	Obey	Weiss
Gibbons	Ottinger	Whalen
Gonzalez	Patten	White
Hamilton	Patterson	Whitehurst
Harrington	Pattison	Whitten
Harris	Pease	Wiggins
Hawkins	Pepper	Wilson, Bob
Holland	Perkins	Wilson, C. H.
Horton	Pickle	Wilson, Tex.
Howard	Preyer	Winn
Hyde	Price	Wolff
Ireland	Pritchard	Wright
Jenrette	Railsback	Wylie
Johnson, Calif.	Rangel	Yates
Johnson, Colo.	Reuss	Young, Alaska
Jones, N.C.	Rhodes	Young, Mo.
Jordan	Richmond	Young, Tex.
Kastenmeier	Risenhoover	Zablocki
Kazen	Roberts	Zeferetti
Koch	Robinson	

ANSWERED "PRESENT"—2

Jones, Okla.	Murphy, Ill.

NOT VOTING—9

Aspin	Flippo	McKinney
Clawson, Del	Hefner	Pettis
Dent	Lloyd, Calif.	Rousselot

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Oklahoma for, with Mr. Dent against.

Mr. Aspin for, with Mr. Del Clawson against.

Mr. Rousselot for, with Mr. McKinney against.

Mr. JONES of Oklahoma. Mr. Chairman, I have a live pair with the gentleman from Pennsylvania (Mr. DENT). If he were present, he would have voted "no." I voted "aye." I withdraw my vote and vote "present."

Mr. JONES of Oklahoma changed his vote from "aye" to "present."

Mr. RISENHOOVER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

Mr. SHIPLEY. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment or to points of order at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $22,904,250, including: Office of the Clerk, $5,819,000; Office of the Sergeant at Arms, $9,352,700; Office of the Doorkeeper, $3,700,600; Office of the Postmaster, $1,116,600; including $19,562 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $10,524 per annum each; Office of the Chaplain, $22,100; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of the Rules, $197,600; for compiling the precedents of the House of Representatives, $288,600; Offical Reporters of Debates, $536,300; Official Reporters to Committees, $619,600; two printing clerks, one for the majority appointed by the Majority Leader and one for the minority appointed by the Minority Leader, $31,300 to be equally divided; a technical assistant in the Office of the Attending Physician, to be appointed by the Attending Physician subject to the approval of the Speaker, $28,700; the House Democratic Steering Committee, $382,000; the House Democratic Caucus, $73,300; the House Republican Conference, $445,300; and six minority employees, $280,550.

AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KETCHUM: Beginning on page 3, line 22 strike everything after "$619,600" through "divided" on page 4 line 1.

Mr. KETCHUM. Mr. Chairman, the amendment that I offer speaks for itself.

The Members may recall a year ago in the Chamber when the legislative appropriation bill was before us I asked the bill manager some questions regarding the minority and majority printers. Most of those questions could not be answered completely.

I asked, "Do they pay rent? Who employs them? Who supervises them? Are they paid a minimum wage?"

Mr. Chairman, I asked a whole series of questions which, quite honestly, could not be answered because the committee had not really considered what the printers were doing.

All this amendment seeks to do, Mr. Chairman, is to strike the salaries of the minority and majority printers.

After last year's debate, the GAO did a study; and I think most of us are privy to that study. We discovered that the minority and majority printers pay no rent, but they do split or they did split about $118,870 in additional salaries as well as $104,535 in business profits. I have no objection to business profits, nor do I have any objection to how much money they make on the outside through their efforts on our behalf.

I do not believe we can ask the taxpayers, in all sincerity, to pay salaries to these people—and I have nothing against them, they both do fine work—but to pay salaries to these gentlemen, to provide free space for these individuals, and have next to no supervision for either of them.

Mr. Chairman, I have before the Committee on House Administration a bill designed to take care of this particular problem where we will put this out to bid. We will rent the space to these individuals based on the decision of the Committee on House Administration. That is all the amendment does. It is very simple. It simply strikes the salaries of the minority and the majority printers. I think this is long overdue.

Mr. SHIPLEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. KETCHUM).

Mr. Chairman, this is a matter that arose last year during the consideration of the legislative appropriation bill. However, Mr. Chairman, we are a subcommittee that funds the activities that are authorized. This particular item was authorized back in the 79th Congress. At that time the salary was set at $2,000 and, over the years, it has risen to the present level of $15,650 per printing clerk.

As I understand it, the majority and minority parties do not have to pay these printers if they do not want to. The authority is there. If the leaders do not want to pay the salaries, they do not have to.

This is one of the things that we have a commission looking into, one part of the review of the entire House structure. This is one of the things under consideration by the Commission on Administrative Review.

Mr. Chairman, at this time I would be more than glad to yield to my good friend the gentleman from Wisconsin (Mr. OBEY) who is the chairman of the Commission, to express his thoughts on the question of what is going to happen.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, let me just assure the Members of the House that the Commission on Administrative Review is looking not only into this question, but into many, many more questions just like it. One of our task forces, for instance, the task force headed by the gentleman from Washington (Mr. MEEDS), held a meeting again yesterday. One of the directions to the staff was that they prepare a set of options for us to choose from.

The distinguished minority leader of the House, the gentleman from Arizona (Mr. RHODES), has sent to our commission and to the Speaker of the House a suggestion involving the printers which is at variance with the suggestion of the gentleman from California (Mr. KETCHUM). I personally believe that I favor the suggestions made by the gentleman from California, but I would

ask each of the Members of the House to please allow the Commission which is, after all, spending a million dollars of the taxpayers' money, to proceed with its work. We brought in the Westinghouse Corp. as a management consultant to review a good many of these questions, including this one. We will be spending a good deal of the taxpayers' money. We are, on a systematic basis, interviewing Members and staff within the House to try to determine exactly what ought to be done with all of these issues.

I guarantee the Members of the House that we will have recommendations which will correct the problems not only with respect to the printers, but in the TV and radio studios, and with respect to a good many other items of importance here. All I ask is that they give us the time that we need to complete our work.

We intend to have our entire report out by the August recess so that Members of the House will have 1 month within which they can review it and so that we do not sneak anything by anybody. They will have an entire month to review it before we take final action in September. Hopefully we can be on the floor in September with just the kind of recommendation as that suggested by the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Chairman, I very much appreciate the comments of the gentleman from Wisconsin (Mr. OBEY). We questioned this last year, as the Members know, and I was not prepared to offer an amendment, nor was I prepared to offer an amendment for the press gallery which receives a great deal of free service, some of which is justified and some of which is probably not; and there has been comment publicly about that a time or two.

There are several other things that concern me—the barber shops. Why do we not bid on the barber shops? The Republican study committee, the environmental study group, the Democratic study group all have free space around this place, and we are trying for additional space for Members all the time. It seems to me that the gentleman would have the intent to study that entire spectrum so that we are really using space the way we ought to. If we are going to have those services, we certainly ought to be receiving some remuneration back.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I will be more than pleased to yield to the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding.

It would be my hope, Mr. Chairman, that the amendment offered by the gentleman from California not be agreed to at this time. I have talked to the gentleman from California, and I share his views as to the actions which should be taken, and taken hopefully in the very near future.

As the gentleman from Wisconsin stated, I have written a letter to the Speaker suggesting one solution.

I do not know whether it is the best solution, but it is a solution. The gentleman from California has a solution. It may be better; I do not know. But I am pleased to have the assurance of the gentleman from Wisconsin that the commission which he heads is considering the problem and will give us some sort of a recommendation on it within the next few weeks. I think it is important that we handle this matter as soon as we can and as wisely as possible.

Mr. SHIPLEY. Mr. Chairman, I urge defeat of the amendment.

Mr. KETCHUM. Mr. Chairman, based upon the comments of the gentleman from Wisconsin (Mr. OBEY), I ask unanimous consent to withdraw the amendment, but I will be back next year.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $107,192,000.

AMENDMENTS OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Chairman, I offer a series of amendments and ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. COUGHLIN: Page 5, line 24, strike the period, and insert in lieu thereof: "*Provided*, That appropriations under this paragraph shall not be available for the salary of any person who at the same time receives a salary under any other paragraph of this Act.".

On page 6, line 4, strike "$57,185,000" and insert "$54,990,000"; line 8, strike "$3,073,000" and insert "$878,000".

On page 7, line 10, strike the period, and insert in lieu thereof: ": *Provided*, That none of the funds appropriated in this Act shall be used for an allowance for a Member's Official Expenses in excess of $2,000.".

Page 9, after line 3 insert the following new section:

"Expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures included in the statement of expenditures, authorized by 2 U.S.C. 104a, which statement is available for public inspection during normal working hours each day, excepting only Saturdays, Sundays, and legal holidays."

On page 9, after line 3 insert the following new section:

"Funds in this Act shall be limited to services provided by the Stationary Room, the House Recording Studio, the House Barber Shops, the House Beauty Salon, and each food service facility, that are operated on a annually self-sustaining basis including rent, utilities, and compensation and benefits of personnel employed in those entities.".

On page 9, after line 3, insert the following new section:

"None of the funds contained in this Act shall be made available for purposes authorized by House Resolution 457, approved July 21, 1971 (Public Law 92-184) or authorized by House Resolution 1372, approved July 1, 1976, as a result of any order to be issued by the Committee on House Administration pursuant to the provisions of House Resolution 457, 92nd Congress, or House Resolution 1372, 94th Congress, for official expenses and allowances for Members, officers and standing committtees of the House of Representatives."

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. COUGHLIN. Mr. Chairman, this is the package of amendments that I mentioned in the general debate that I am offering on behalf of the distinguished minority leader (Mr. RHODES), the distinguished chairman of the Republican research committee (Mr. FRENZEL), the distinguished ranking minority member of the Appropriations Committee (Mr. CEDERBERG), the ranking minority member of the Appropriations Subcommittee (Mr. ARMSTRONG), the gentleman from Maryland (Mr. BAUMAN), a member of the Commission on Administrative Review, and the gentleman from New York (Mr. CONABLE).

These amendments, Mr. Chairman, have five basic purposes. They are basically an accountability package of amendments that were offered to this body last year and were rejected at that time but which we think continue to be important if we are going to have an accountable Congress.

Mr. Chairman, the Commission on Administrative Review has done a fine job in many areas. It has done a fine job in providing for disclosure of the personal finances of Members but it has done little if anything to provide for public accountability for the way Members and committees spend the taxpayers' money.

As Members know, we as Members and the committees of this House of Representatives get considerable funds in this legislative appropriation bill. It is our purpose in these amendments to make sure that those funds are accounted for because that is the taxpayers' money.

The first amendment would make the expenditure records of the Members and committees available and open to inspection of the public and press in the Office of the Clerk. Although some of this information is presently compiled, the public access to it is very difficult, and this would make those records available on a daily basis at the Office of the Clerk so the public could know how we are spending the funds with which they entrust us, and these are the taxpayers' dollars.

The second provision would prevent a person from being on a committee payroll and on a Member's payroll at the same time. We have seen in the past great abuses of that prerogative. This would not prohibit Members or groups of Members from paying the cost of a staff member but it would prohibit a person being on a Member's payroll and a committee staff payroll at the same time.

The third provision would require the stationery room, the House recording

studio, the House barber shops, the House beauty salon, and the House cafeterias and dining rooms be operated on a self-sustaining basis, so we would not have these facilities subsidized at the expense of the taxpayers. At the present time they are susceptible to that accusation. This amendment would say they would be run on a self-sustaining basis at no cost to the taxpayers and would pay for themselves, and we cannot be accused that we are getting special treatment at the expense of the taxpayers. These amendments should be adopted.

The fourth amendment would eliminate the $5,000 increase in our allowances which was provided by the Commission on Administrative Review when we eliminated the so-called slush funds. If that was not outright legislative bribery, I do not know what it was, but when we eliminated the unofficial office accounts or slush funds, we increased our allowances by $5,000. This would eliminate that $5,000, which was a bribe at the time and an unwarranted and unnecessary increase in our accounts.

Finally, these proposals would eliminate completely the authority of the Committee on House Administration to alter Member's salaries and allowances. You can recall when we eliminated most of that authority, we left some glaring loopholes so that they could adjust our allowances upward by reason of changes in technology or changes in costs. These are loopholes wide enough to drive a truck through.

This proposal would eliminate those loopholes and provide that any change in our allowances would have to be brought before this House and voted upon.

We just finished a very extensive consideration of salaries for the House and it was brought to a vote. These allowances are as important as the salaries themselves. They should be brought before the House for a vote and be open to public inspection.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to associate myself with the gentleman's remarks. I think every one of these amendments is needed. I congratulate the gentleman on this initiative.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I want to associate myself with the remarks of my friend, the gentleman from Pennsylvania. His leadership on these issues and these amendments is well known in this body. I share the gentleman's support for these reforms and I have supported him in the past on these amendments. I want to thank him for bringing to the attention of the House and to the country these legislative reforms because they are so important in helping elevate this body in the eyes of the public and restore credibility. I think these reforms are a very healthy start toward that end and I urge their adoption.

Mr. COUGHLIN. I thank the gentleman from New York who has been a sponsor of these reform proposals and who has been a real leader in the field of reform. It is through the efforts of the gentleman from New York that many important measures have been proposed and adopted.

Mr. Chairman, I thank the gentleman for his strong support.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I am sure that the intentions of the gentleman from Pennsylvania are good, but I very strongly oppose this block of amendments. In the first place, the present authority of the Committee on House Administration is that it may adjust allowances only as a result of changes in the price of materials, services or office space, technological or other changes and improvements in electrical and mechanical equipment, and cost-of-living increases under the Federal Pay Comparability Act.

In the year and 5 days during which I have had the honor of serving as chairman of that committee, we have completely revised the regulations, have promulgated them to each and every office, and have conducted numerous informational seminars. We have been extremely careful in every action. If I do say so myself, the committee and I have been completely responsible in our actions. To strip us of current authority would be to invite an absolutely unnecessary number of resolutions coming to this floor for debate, simply because the cost of a typewriter has gone up, or the cost of another piece of equipment has gone up.

I have spent at least 3 hours a day signing mail to Members without regard to their political philosophy, which side of the aisle they are on, or any other consideration. I think within the rules we have been responsible, and at the same time completely cooperative with the Members. That goes for myself and the distinguished gentleman from Tennessee (Mr. JONES), chairman of the Services Subcommittee, and the rest of the committee, the gentleman from Pennsylvania (Mr. GAYDOS) on contracts; the gentleman from Pennsylvania (Mr. DENT) on accounts, the gentleman from California (Mr. HAWKINS), the gentleman from Michigan (Mr. NEDZI), the gentleman from West Virginia (Mr. MOLLOHAN), and the gentleman from Illinois (Mr. ANNUNZIO). The gentleman from California (Mr. JOHN L. BURTON) has also been very cooperative. And we have also had wonderful cooperation with the minority members.

Our authority is a restricted and a limited one that allows the committee to perform only what amounts to ministerial functions. To remove it would mean that the whole House would have to act whenever there was an adjustment or increase in air fares, the cost of typewriter ribbons, or anything else. It just does not make sense to waste the time of this body on such actions.

Now, with respect to the $5,000 increase in the official expenses allowance, that was a part of a whole ethics and consolidation package recommended by the Obey commission. It was debated thoroughly on March 2 of this year when the House considered House Resolution 287. This amendment was soundly defeated at that time by a vote of 235 to 187.

The increase in this allowance was made by the House in order to provide an adequate allowance for Members with which to conduct their official business. Incidentally, the accountability rules are very rigid. It must be recognized that costs are rising, and our constituents are demanding more services. Furthermore, members can no longer supplement official expenditures from outside sources. There is also a limitation on earned income, as the Members will remember.

With respect to placing the various House services on a self-sustaining basis, there is a lot of misunderstanding about this. Both the restaurant system and the beauty shop are profitable, and have been for several years, and will be this year. The barber shop is expected to decrease its losses by $50,000. We have just raised prices, and it is the goal of the subcommittee chaired by Mr. JONES to place it on a self-sustaining basis at the earliest possible time. The stationery store and recording studio charge prices to cover their costs, except for salaries. This part of the amendment is a bad idea, based on bad information, and should be rejected.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would simply like to say for the record that there may have been a time in the past when the House Administration Committee received—or maybe even some would say deserved—a lot of widespread criticism of this body, but I think under the leadership of the gentleman from New Jersey I have never heard any real complaints. I do not think he has been called parsimonious or profligate. I think he is between the two extremes. I think we have had a reasonable administration.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent Mr. THOMPSON was allowed to proceed for 5 additional minutes.)

Mr. ASHBROOK. Over and beyond that, I would say that on this side of the aisle we have the distinguished gentleman from Ohio (Mr. DEVINE), the distinginushed gentleman from Alabama (Mr. DICKINSON), and others who, even if the gentleman wanted to be that way, I think that he would run up against some very strong opposition. So, I think that perhaps some parts of this amendment make sense, but I would say that overall the House Administration Committee does deserve the support of the Members of this body. It has regained the stature it may have lost many years ago.

Mr. THOMPSON. I thank the gentleman. I might remark to the gentleman that I am sure that the gentleman from Alabama (Mr. DICKINSON), the ranking minority member, will conform, as will the gentleman from Ohio (Mr. DEVINE) and others that one of the first acts I took upon being elected committee chairman was to double the minority space and to instruct the majority staff to work at all times with the minority. No one has tried to pull anything tricky. No one has tried to slip anything past anyone else.

I think we are administering the affairs of the House, and our jurisdictional responsibility extremely well, and I am extremely proud of the staff, which is available at all times to all Members.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield.

Mr. COUGHLIN. I would like to join in commending the chairman of the Committee on House Administration for the reforms he has undertaken. They are very commendable. I just want to suggest that it would, of course, be possible to bring in on an annual or a quarterly or a semiannual basis changes in allowances for the House, would it not?

Mr. THOMPSON. I would say, in answer to my friend from Pennsylvania, yes, it would be possible. However, one can determine with specificity the increased cost, for instance, of an airline ticket. That increase might take place in March, so that means a resolution, a meeting of the subcommittee on accounts, a meeting of the full committee, a resolution to the floor and an hour's debate over something which is totally and absolutely defensible. And that increase in March might not be reflected in House action for many months—a wholly unnecessary delay.

There are hundreds of items of stationery, office equipment items, electrical and mechanical equipment authorized under the allowances, and so forth, all of which must be periodically adjusted. Some items are added and invariably, as the gentleman knows, costs are going up constantly. This would be an absolute nightmare to bring each change before the House, and I respectfully say to the gentleman that it could not even properly be done on a quarterly or semiannual basis.

Mr. COUGHLIN. We really are talking about adjustments to our allowances, so that could be brought in on a periodic basis to adjust the allowance to reflect these costs.

Mr. THOMPSON. I respectfully say to my friend, having been on the committee for 22 years and having studied this thing very carefully, that there are so many items that it would be impossible for us, without running to the floor virtually every week, to make the necessary adjustments, and waste the time of this entire body when we are under a strict rule which we have adhered to and which we will continue to adhere to.

Mr. JOHN L. BURTON. Is it not true, just in electrical and mechanical equipment alone, we have had something like 19 different providers come in with cost increases due to inflation, and even some cost decreases, and for us not to be able to handle that administratively and to request 17 different resolutions on the floor providing a $7.32 increase for a Xerox mimeograph machine would be self-defeating, whereas with regard to any new allowance or any expansion of an existing allowance, except for this cost of living, it must come to the floor and must be voted on by the membership?

Mr. THOMPSON. That is an accurate statement. There has not been and there will not be, since the majority and minority work so closely and so well together, anything but a strict adherence to the rules and to the regulations. I say, regretfully and respectfully, to my friend, the gentleman from Pennsylvania (Mr. COUGHLIN), that his intentions are splendid but the result would be harsh, and I strongly urge the defeat of these amendments.

Mr. DAVIS. Will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS. I thank the gentleman for yielding.

Mr. Chairman, I would just like to say that I oppose all of these amendments en bloc, specifically the one where we talk about putting the services on a profitmaking basis, and I would say that maybe the gentleman from Pennsylvania has received some bad information.

Last year during the 94th Congress I served on the subcommittee.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. THOMPSON) has expired.

(On request of Mr. DAVIS and by unanimous consent, Mr. THOMPSON was allowed to proceed for two additional minutes.)

Mr. THOMPSON. I yield further to the gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS. Mr. Chairman, I will say to the gentleman from Pennsylvania that we made a profit in all of the eating services rendered by the entire House of Representatives, which include both of the carryouts, both of the cafeterias, the restaurant here, the catering, et cetera. This year the profit is going very well. It is making almost as much as any small business in America. The beauty shop has been on a profitmaking basis for a long time. Yes, we have had trouble with the barber shops, even though we charged for haircuts and got blamed by the press that we were doing the same thing as the Senate in getting free haircuts. As a result of firing and some attrition and raising of prices in the barber shops, we have turned that corner now. To accuse the committee of not rendering these services already is grossly wrong, because we have done it. We have tried to act responsibly. Going back to bringing all of these little equipment and allowance adjustments to the floor, if any Member wants to burden the entire House of Representatives with that burden and never get around to taking up the important business, then I say take the blame. But right now it is an open book, an open record. We took testimony on everything. If any Member thinks this body should take time to do all of the housekeeping work, then I think we are wasting a lot of time.

Mr. THOMPSON. We might as well hand everybody a broom and dustpan and ask them to join us. This is not easy committee work or necessarily exciting, but it is essential and it has been responsibly done.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I do want to commend the gentleman from South Carolina on the job which has been done on the restaurants in bringing them back up to par and making them carry their own weight. I think the gentleman's point is extremely well taken. But if these things are carrying their own weight we should not be unwilling to assure the public that they are by adopting this amendment.

Mr. THOMPSON. The public will be assured by the quarterly reports of the Clerk which are published and open to the public and by public announcements. Any change is announced well in advance in the RECORD. Each Member is notified, as they were last week.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. THOMPSON) has again expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 1 additional minute.)

Mr. THOMPSON. Mr. Chairman, last week, for instance, we adopted the policy of leave without pay for those employees who may become ill or who for other reasons have to leave for a temporary period of time, so that their life insurance and their health insurance will be continued.

We could have brought that matter to the floor and waited an hour and given everybody a chance to debate it, but it was obviously badly needed. The committee action was by a unanimous vote. Each and every member was officially notified of that compassionate action. We will continue to do that.

With all due respect to the gentleman from Pennsylvania, I reiterate, Mr. Chairman, I urge that my colleagues respectfully and emphatically defeat these amendments.

Mr. SHIPLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, as I think we discussed earlier, the major problem with this series of amendments is that the gentleman is anticipating the results of the work that is being done by the Commission on Administrative Review. The members of that Commission are looking at these things, and I understand that a report will be forthcoming very shortly.

Something else bothers me, and that is in regard to the language in the amendments. As I read the language in the one dealing with the stationery room, the recording studio, and so forth, it would prohibit the use of the funds in the entire bill for these purposes, because the language says, "Funds in this act shall be limited to services provided by the stationery room," and so forth. I am not sure of the intent of that language, but it says, "Funds in this act." The way I

would read this language in the amendment, stated literally, it would severely limit the use of these funds, and I know that is not the gentleman's intention. I would just like to have the gentleman clear that point up in my mind.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, I believe the language is that funds in the act for the beauty shop, the barber shop, and so forth, shall not be used unless they are self-sustaining. That is the intention of the language.

Mr. SHIPLEY. I wanted to be sure that was the gentleman's intention, because I was certain he did not want the amendment to go beyond this meaning.

Mr. COUGHLIN. That is correct.

Mr. SHIPLEY. Mr. Chairman, I urge the defeat of the amendments, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. COUGHLIN. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-seven Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Pennsylvania (Mr. COUGHLIN) for a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONTINGENT EXPENSES OF THE HOUSE

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $57,185,000, including: Computer and related services for Members, $3,500,000; constituent communication expenses, $2,738,400; equipment (purchase, lease, and maintenance), $6,418,000; official expenses, $3,073,000; postage stamps for the second session of the Ninety-fifth Congress to be procured and furnished by the Clerk of the House of Representatives (1) to each Representative, the Resident Commissioner of Puerto Rico, and the delegates from the District of Columbia, Guam, and the Virgin Islands, $211; (2) to each standing committee of the House of Representatives upon request of the chairman thereof: $131; (3) to the Speaker, the Majority and Minority Leaders, and the Majority and Minority Whips of the House of Representatives, $191; and (4) to each of the following officers of the House of Representatives: $341 for the Clerk of the House, $251 for the Sergeant at Arms, $211 for the Doorkeeper, $171 for the Postmaster, and $200 for the Chaplain, in all, $97,700; rental of district office space, $6,739,280; transportation for Members and staff, $3,494,000; telegraph and telephone, $10,812,500; supplies and materials, $1,712,000; furniture and furnishings, $2,020,000; reporting hearings for stenographic reports of hearings of committees, including special and select committees, $1,598,000; salaries authorized by House resolutions, $2,340,000; Government contributions to employees' life insurance fund, retirement fund, and health benefits fund, $12,343,000; and miscellaneous items including, but not limited to, purchase, exchange, hire, driving, maintenance, repair, and operation of House motor vehicles, and not to exceed $15,000 for the purposes authorized by section 1 of House Resolution 348, approved June 29, 1961, as amended by House Resolution 434, Ninety-fourth Congress, $299,120.

For an additional amount for "Allowances and expenses, supplies and materials", fiscal year 1977, $50,000.

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

AMENDMENTS OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer three amendments and ask unanimous consent that they be considered en block.

The Clerk read as follows:

Amendments offered by Mr. KOSTMAYER: Page 6, line 24 delete "$1,712,000" and insert in lieu thereof $1,342,200".

Page 22, line 16 delete "$72,102,000" and insert in lieu thereof "$71,897,750".

Page 36, after line 17, insert the following new section:

"None of the funds appropriated in this act shall be used for the printing or purchase of either House wall calendars or U.S. Capitol Historical Society calendars to be distributed gratuitously from, or under the name of, offices of Members of the House of Representatives."

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, I first want to thank the gentleman from Illinois (Mr. SHIPLEY) for permitting me to offer these three amendments en bloc and to commend the gentleman and his subcommittee for the outstanding work they have done.

Mr. Chairman, I offer these amendments with some reluctance. Some of the senior Members have urged me not to do so. They have done so not as a form of criticism but out of a sense of kindness and friendship and I appreciate their advice, although I must disagree with them.

Mr. Chairman, my amendment is simple. It will end the printing of over 1 million congressional calendars which are currently costing about $574,000.

Since 1901 Members of the Congress have been distributing these free calendars. It seems to me, Mr. Chairman, that their purpose is only to help us get reelected. It would seem to me that we should be reelected, not because we send out the most greeting cards, or because we send out the most congratulatory letters or because we send out the largest number of calendars. Rather I believe we should be reelected because we have the courage of our convictions, as I believe most of the Members do.

I believe these funds are being wasted in the purchase of calendars and I believe that the money would better be returned to the taxpayers of this country, or used to solve some of the problems that our country faces.

Mr. Chairman, I believe that there are too many calendars in America, too many calendars in Washington, too much paper in America, too much paper in Washington, and I think this is a step toward getting rid of some of that paper clutter.

Mr. Chairman, some say the people want these calendars, and as a result I think the Congress has been subjected to some unfair criticism. I look forward to stopping these calendars, and I look forward to the first constituent calling me to complain about it, and I will tell him that citizens constantly criticize the Congress because we do not cut spending. Here is an example of something we can cut. "You are always telling us to cut, and now you are complaining about it," I will say, and I urge Members to say the same thing to their constituents.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding.

Does the maker of the amendment understand the source of the calendar, who acquires the calendar, which society is involved, and the whole background attached to the calendars, which has become an institution not only here in Washington but all over this country? Does the gentleman understand who buys them?

Mr. KOSTMAYER. I agree with the gentleman that the calendars have become an institution in the Congress, but I do not believe they are sacrosanct, and I think simply because they are an institution is no reason to continue them.

Mr. GAYDOS. Has the gentleman distributed the calendars himself?

Mr. KOSTMAYER. Early on in the Congress, I began to mail out some calendars. I am as guilty as anybody else here. I stopped doing so after we mailed some out, and we kept them in my district offices so people could pick them up. About a week ago we received an order slip for next year's calendars. I will not be ordering any additional calendars.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from New York.

Mr. PATTISON of New York. I thank the gentleman for yielding.

I congratulate the gentleman from Pennsylvania for offering this amendment. I know how deeply and dearly held this privilege of calendars is among some of the Members of this body.

I also distributed them the first year

I was in Congress, and I quit doing it the second time around. I think one cannot distinguish among the 500,000 constituents we all have and how does one distribute 2,000 calendars in any kind of fair way. I think it is something that is an anachronism in the Congress, and we ought to get rid of it. I think we get criticized for it—and justifiably I think in this case—way out of proportion to its cost. I think we ought to do away with the calendars.

Mr. KOSTMAYER. I thank the gentleman for his comments.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield again?

Mr. KOSTMAYER. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding.

I would appreciate if my colleague, the gentleman from Pennsylvania, whom I am very closely associated with, if he does not use his calendars to give them to me, because I have a request now going into 1,000 for these very useful calendars in my district. So I would appreciate it if he would direct his supply to me.

Mr. KOSTMAYER. I thank the gentleman.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentelman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Do these calendars have the same dates and days of the month as all other calendars have on them?

Mr. KOSTMAYER. In all the rest of the country?

Mr. VOLKMER. Yes, all the rest of the calendars that anybody can get.

Mr. KOSTMAYER. Yes, they do. There are 2-year calendars and 1-year calendars, and they are the same as all other calendars.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

In addition to the dates that all other calendars have on them, the U.S. Historical Society calendars have dates of other years that are very relevant to the understanding of the history of our country.

Mr. KOSTMAYER. It grieves me deeply to differ with the gentlelady from Louisiana, but I must respectfully disagree. Some of these calendars are printed by the Historical Society, the Congress buys them at cost. I would prefer, that rather than have that quid pro quo with the Society, we grant them an outright appropriation for the very worthwhile work that they do.

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from New Jersey.

Mr. PATTEN. I thank the gentleman for yielding.

It is the only calendar I have ever seen in my life that does not have an ad on it. The gentleman does not have to put his name on it. A schoolteacher can put it up in her classroom and she will not be criticized. Just send it out without your ad.

Mr. KOSTMAYER. I thank the gentleman.

Mr. SHIPLEY. Mr. Chairman, I rise in opposition to the amendment and urge its defeat.

Mr. ARMSTRONG. Mr. Chairman, I rise to compliment the gentleman from Pennsylvania on his amendment. In my view, having looked carefully at the cost of these calendars, and having felt a certain sense of queasiness that the Members of Congress should be spending the taxpayers' money for this purpose, I think the gentleman is completely right, and I will vote for his amendment.

Mr. KOSTMAYER. I thank the gentleman from Colorado for his comments.

Mr. GAYDOS. Mr. Chairman, I rise in opposition to the amendments but I will take only a half minute. I want to remind all of our colleagues here on the floor of the House that the calendar contract is let. The United States Capitol Historical Society, which has done so much for this building and other historical landmarks in Washington, D.C., already has incurred legal expenses and a contract for publication of 1 million calendars.

Let me say in conclusion, because I do not want to take any more time, that the fact that many schoolteachers in all types of schools request these calendars indicates they are an educational tool and an institution, and not—I repeat "not"—a waste of the taxpayers' money.

Mr. McFALL. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from California.

Mr. McFALL. Mr. Chairman, I have received many congratulations and thanks from my constituents over the years I have been sending them these calendars, and I have received in all those 20 years only one letter to the contrary. Furthermore, I received a letter from a schoolteacher in which she said, in thanking me for the calendar, that the children in her class learned more about the Government and history of the United States from that calendar than from all the other materials she had used during the year.

I believe this is a fine service this Congress provides. Government is many things and part of our responsibility is to bring the Government to the people and an understanding of what the Government is and what the Government does. If we can do it by educating the people with the calendars, I think we are performing a productive service.

Mr. GAYDOS. I thank my colleague, the gentleman from California. He has stated it well.

Mrs. BOGGS. Mr. Chairman, I rise in opposition to the amendment of my friend, the gentleman from Pennsylvania.

I should like to remind the Members that all of the profits from the calendars and the other publications issued by the U.S. Capitol Historical Society are used to restore and to embellish the Capitol Building, and for research and development into other publications about the Capitol and the Congress. We are familiar with the excellent publications "We, the People," "The United States Capitol," and the semiannual closely focused "Capitol Studies," the current issue of which will give an historical overview of congressional investigations.

We Members are indebted to the Society for the splendid film seen by millions of our constituents at the U.S. Visitors Center, "Washington, City Out of Wilderness," which it produced through the support of its members.

In addition, through membership fees and grants and matching grants to this nonprofit organization, a course "Capitol Studies" which leads to a master's degree in political science has been established here at the Capitol in coordination with Catholic University; a bibliography for the Capitol Building has been produced for $100,000; a microfilm of the Latrobe papers has been recently financed; the halls of the House wing are being decorated by the distinguished artist, Allyn Cox, at a cost of $245,000; and, an history endowment fund has been established which will permit interns and fellows year-long studies of the Congress.

Clearly, the Congress is the beneficiary of the dedicated support of this worthy society.

I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. KOSTMAYER).

The question was taken; and no a division (demanded by Mr. KOSTMAYER) there were—ayes 18, noes 52.

So the amendments were rejected.

The CHAIRMAN. The Clerk will read.

The Clerk continued to read the bill.

AMENDMENT OFFERED BY MRS. HECKLER

Mrs. HECKLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. HECKLER: Page 9, after line 3, insert the following new section:

SEC. 102. (a) None of the funds appropriated by any provision described in subsection (b) shall be expended or obligated for any purpose specified in such provision unless such funds so expended or obligated are subject to audit by the Comptroller General of the United States.

(b) For purposes of subsection (a), any provision in title I of this Act following the provision relating to compensation of Members and preceding the heading "JOINT ITEMS" is a provision described in this subsection.

Mr. SHIPLEY. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The gentleman from Illinois reserves a point of order.

Mr. SHIPLEY. Mr. Chairman, I reserve a point of order against the amendment. I am not sure that I understand the thrust of the amendment offered by the gentlewoman from Massachusetts (Mrs. HECKLER).

The House finance accounts are already subject to GAO review. I believe the Commission on Administrative Review is considering this matter.

The CHAIRMAN pro tempore. Is the gentleman from Illinois making a point of order or reserving a point of order.

Mr. SHIPLEY. Mr. Chairman, I reserve a point of order.

Mrs. HECKLER. Mr. Chairman, I offer this amendment on my own behalf and on behalf of my distinguished colleague, the gentlewoman from New York (Mrs. CHISHOLM).

The purpose of this amendment to the Legislative Appropriations Act is to establish a General Accounting Office audit of the administrative services of the House.

My reasons for proposing this audit are as follows:

First of all, although, a new accounting system has been suggested by the Committee on House Administration, for which I congratulate them, it is not a mandatory system and has not been enforced. An audit would virtually require uniform procedures, that each office would have a system of handling its accounts. At the present time under the current system, there can be 435 different ways of administering funds, when each office follows its own separate procedure. I personally have had the experience of hiring an outside accountant who could not with certainty tell me what the procedures of the House really required.

Such an audit as I propose, would not be an adversary to Members of Congress. Instead, in my judgment, a GAO audit would protect Members of Congress. It is all too easy under the present ill-defined system for Members to make mistakes which would then reflect discredit on the Member involved.

I believe that having an audit would require that uniform procedures would protect the Members against careless management even in their own office.

I believe also that an audit would restore public confidence in the Congress, which has been so shaken by recent public events.

Obviously, it is only fair that Congress police itself. We are requiring an audit of other agencies, but who should be the policeman? The GAO already has that authority. I think the establishment of an administrative authority within the House, which may be the subject of the Obey Commission report, that establishment would only be the operation of a pulse taking by Members of the House.

If we are going to audit public funds in the House, then we must do so by an independent agency. I think the GAO is the correct agency.

When a GAO audit was discussed in the last session of Congress, GAO spokesmen assured the Congress that they had sufficient personnel to perform an audit of all congressional offices.

Therefore, for all these reasons, I believe that the House should take steps to provide for a thorough official audit of congressional offices. I request that this amendment, for those reasons, be adopted.

Now, obviously, there is no specific procedure for requiring this audit. I would leave that to the leadership of the Congress, both the majority and the minority side; but I would say in view of the considerable public funds in this appropriation, that if we are going to guarantee to the public that their money is being correctly spent, then we should submit ourselves to an audit.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to congratulate my distinguished colleague. This is really very important. I think it would bring great peace of mind to every Member of this House in the conflicts of keeping one's accounts in order and the surety we would get through this means of knowing we are doing the right thing and we stand for no question or criticism.

I think it is a very fine forward step. I hope it will be adopted.

Mrs. HECKLER. Mr. Chairman, I thank the gentlewoman from New Jersey.

Mr. SHIPLEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Does the gentleman from Illinois withdraw his point of order?

Mr. SHIPLEY. Mr. Chairman, I withdraw my point of order.

Mr. Chairman, I just think this is something that will be done. It is comng along in another manner. We have a Commission looking into this. This is one of the items that will be considered and I know it will be considered. I think we should wait until the House has a reasonable chance to do this on its own.

Mr. ARMSTRONG. Mr. Chairman, I rise in support of the amendment. It is similar in its intent to that which I offered last year to this very bill. A year ago when the legislative appropriations bill was pending before the Committee on Appropriations and before the House, we were told it would be well to put off the audit of the accounts of Members and committees until such time as there had been an opportunity to study the matter, review it, and so on and so on.

Well, a year is enough and the proposition, it seems to me, is perfectly plain. The gentlewoman from Massachusetts has merely suggested that the accounts of Members of Congress and all committees be subject to precisely the same kind of treatment, that is, auditing by the General Accounting Office, as every other agency of Government. It does nothing more, nothing less, nothing special. The White House is audited; so is the CIA, the Supreme Court, everybody who spends public money, except the Members of Congress and committees, are, in fact, all audited by GAO.

So, I think we owe a debt of gratitude to the gentlewoman from Massachusetts. I compliment her on the amendment, and I urge its adoption.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I rise today in support of the amendment which would require the General Accounting Office to audit the administrative services of all Members of the House.

The most important result of this amendment would be that it would be one more measure toward restoring public confidence in this body. Those of us who have survived in this House during the past 6 years are fully cognizant that there has been a steady erosion of the public trust—some of that rightfully so. The misuse of Federal funds for private or political purposes has surfaced primarily through the investigative processes of the press—not through a consistent and systematic administrative procedure. As holders of that public trust, we do owe the taxpayers and our constituencies an accounting of how we use those funds allocated to us in the carrying out of our duties as elected officials.

Establishment of such an audit would not duplicate the efforts of the Commission on Administrative Review, which was established to study administrative accounting and purchasing procedures. That Commission never intended to provide an ongoing review of the actual process.

Any of us who have had to supervise budgets in other capacities know the importance of uniformity and an accounting system that is genuinely reflective of administrative procedures. Right now, Members of Congress devise their individual procedures, and there is no guarantee that proper procedures are being used.

I recognize the fact that there have been substantial changes in policy, but in order to implement them most effectively, we need an auditing procedure which is consistent from office to office.

I would also like to point out that such an audit would be a protection for House Members against any slipshod or illegal practices of staff members. We are the ones who are held accountable for the use of funds in each of our offices.

This is a very simple amendment. I think we can all agree that it is an idea whose time has come. I urge you to support this amendment in the interest of your constituents, the Federal process, and your own offices.

Mrs. HECKLER. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield.

Mrs. HECKLER. Mr. Chairman, I would like to express my appreciation to the gentlewoman from New York for her leadership on this issue. It obviously indicates the bipartisan nature of the proposal. In view of the fact that she stands for the image of integrity, I think she adds a great deal of luster to the proposal before us. I thank her so much for her support, and congratulate the gentlewoman for her continuing leadership on ethical issues.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Massachusetts (Mrs. HECKLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. HECKLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk continued to read the bill.

AMENDMENT OFFERED BY MR. MITCHELL OF MARYLAND

Mr. MITCHELL of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MITCHELL of Maryland: Page 10, line 19, after line 18, insert:

JOINT COMMITTEE ON DEFENSE PRODUCTION

For salaries and expenses of the Joint Committee on Defense Production, $177,700.

Mr. MITCHELL of Maryland. Mr. Chairman, the purpose of the amendment I am offering is simple and obvious. It will restore to the legislative branch appropriations bill, H.R. 7932, the $225,000 in funding recommended for the Joint Committee on Defense Production by the Legislative Appropriations Subcommittee earlier this month.

If this amendment is not adopted, the Joint Committtee on Defense Production will, in effect, be out of business after September 30, despite the fact that both Houses of the Congress overwhelmingly endorsed its extension late last month. The authorization legislation for the joint committee, Public Law 95–37, was signed by President Carter on June 1 of this year.

Therefore, I cannot understand why funding for the joint committee has been omitted from this bill. I have looked at the report on the legislative branch appropriations bill, Report No. 95–450, in order to find a reason for denying funds for a duly constituted and authorized committee of the Congress. But the report contains no reason. It merely states that the money requested for the joint committee has been denied. Surely some explanation is in order.

I can understand why this bill does not contain funds for the Joint Atomic Energy Committee or the Joint Congressional Operations Committee. Those committees have been abolished. But the Joint Committee on Defense Production has not been abolished. In fact, it has been renewed for the customary 2 additional years. I believe it is unprecedented in the modern annals of the Congress to deny any funding at all to an authorized committee of the Congress. And surely it is unprecedented to strike funds for a committee or any other agency of Government without providing an explanation for so drastic an action. In addition, I consider the omission of funds itself a very ill-advised move for the Congress to make.

I am told that some Members of this body may hold the view that the joint committee is inactive and is not carrying out its oversight mandate. But the record does not show this. Instead, the record shows that during the 94th Congress the joint committee held hearings on or reviewed every major program authorized under the Defense Production Act, including the defense priorities and allocations system, the cost accounting standards board, grants of antitrust immunity for defense production, and Federal stockpiling programs.

I am told that some Members may believe the joint committee has been superficial and that its oversight activities are merely make-work. Again, the record will not support the contention. I invite my colleagues to analyze the annual and special reports of the joint committee. They are painstaking and thoroughly professional; they will stand up to the best program review and evaluation that the Congress can produce. I can only say to anyone who feels the joint committee is superficial that he has not examined its publications with the care they deserve.

I am told that some Members may have the erroneous impression that the joint committee has had no impact, that its work has had no effect on programs. Earlier this week I inserted in the RECORD a detailed and lengthy list of the documented and verifiable impact of the joint committee on the programs it oversees. The list is factual; it can be checked. It shows a host of regulations that have been revised solely as a result of the joint committee's oversight. It shows improved compliance with existing standards and regulations as a result of the joint committee's activity. In addition, it shows the remedial legislation which members of the joint committee have offered to deal with other problems uncovered in its oversight inquiries. Two of these measures—dealing with reform of Federal preparedness programs and with preventing conflict of interest—have gained wide support in this body.

The essence of adequate legislative oversight is improved or reformed programs and regulations. That is the standard the joint committee uses to gage its effectiveness. By that yardstick, the joint committee has been effective indeed.

But that is not the only index. I would like to point out that the annual and special reports of the joint committee are widely used in both the Government and the private sector for educational purposes. They are used at the Industrial College of the Armed Forces here in Washington; they are used in other Department of Defense training programs; they are used by the Commerce Department to train individuals in industrial mobilization. Outside of Government agencies, university and college teachers are among the most frequent requesters of joint committee analyses. The joint committee's study of the Navy's Condor missile program has been used as a case study of major weapons acquisition in at least two college courses.

Earlier this year the committee issued a comprehensive report on Federal preparedness programs and a comprehensive report on Soviet civil defense. Both the joint committee and the Government Printing Office quickly depleted their stocks of copies within a month of publication. The joint committee keeps records on the distribution of its reports and this can be verified.

So it is simply not true by any index that the Joint Committee on Defense Production has failed to have an impact. In the contrary, it has had an impact way beyond what its small staff and small budget would suggest is possible.

It may be that some Members believe there is no need to oversee Defense procurement practices, industrial mobilization and readiness programs, or Federal preparedness activities. Certainly, I confess, these are not glamorous subjects in peacetime. I would suggest that one of the causes for the severe problems the committee is now studying in defense procurement and the defense industrial base is that these programs have received too little high level attention in the executive branch.

But these programs are not something you can suddenly invent in time of emergency. They have to be in operation all the time. And they involve special powers and preferences which must be constantly reviewed to insure they are properly used. If there is no need to oversee these vital programs, then there is no justification for legislative oversight at all.

I believe the Congress acted wisely 27 years ago this month when it established an efficient joint committee structure as a watchdog for these important and costly programs. It recognized they were necessary but that they contained a potential for abuse.

No reason whatsoever has been advanced for going back on this original wisdom. Nor has any case been made that the present joint committee has failed to discharge its mandated duties. In fact, just the opposite has been true. The joint committee has been diligent as well as thrifty in every aspect of its oversight program. It had indeed been a watchdog.

Therefore, I feel obliged to say that the House would be acting irresponsibly and would be running a grave risk of censure from the public and from posterity if it fails to provide funds for the Joint Committee on Defense Production. I ask my colleagues to pause and reflect on what it means to kill a committee with a worthwhile purpose and a record of competence. And then I ask you to adopt my amendment to restore the funding of the joint committee.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has expired.

(On request of Mr. EVANS of Indiana and by unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 1 additional minute.)

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I am delighted to yield to the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. REUSS. Mr. Chairman, I want to commend the gentleman from Maryland (Mr. MITCHELL) for the views he has just stated and wholly associate myself with them for two reasons:

The Joint Committee on Defense Production, in my judgment—and I have been able to view it somewhat objectively since I am not a member of it nor associated with it—has been and is doing an excellent job. It is dedicated to its work. It is moving forward on voluntary defense production agreements, on cost accounting agreements, on ethical standards, on civil preparedness, on defense materials policies, and on a whole group of other issues which were simply not

getting adequate attention elsewhere. For that reason alone, it deserves a pat on the back, not a kick in the teeth.

Second, just a few weeks ago this body, by a vote of something on the order of 380 to 10, reaffirmed the existence and the desirability of that existence of the Joint Committee on Defense Production.

Mr. Chairman, certainly we ought not to tamper with that in an appropriation bill, and I hope the amendment will be adopted.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the distinguished gentleman for his supportive remarks.

The CHAIRMAN. Without objection, the Clerk will reread the amendment offered by the gentleman from Maryland (Mr. MITCHELL).

There was no objection.

The Clerk reread the amendment.

Mr. EVANS of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to voice my support of the Mitchell amendment to restore the funding of the Joint Committee on Defense Production.

Last year, I chaired several of the hearings of the joint committee. I am sure anyone who was present at these hearings on Federal, State, and local emergency preparedness and the CONDOR missile program or who has studied the record will agree that these inquiries were carefully and professionally conducted. The committee's findings in both cases have been translated into legislation that has found wide support in the House. That in itself is a good index of effective oversight.

But I believe there is in some quarters a mistaken impression that an oversight committee's value is measured solely in terms of the number of hearings it holds or the number of reports it issues or the number of bills it produces. These alone are superficial standards. Hearings, reports and bills are easy to generate. The Congress is awash in all three of them.

What we do need more of is thorough, informed and high quality program evaluation. That is what the joint committee provides. Its hearings are always preceded by careful research or investigation of the issues. Its reports reflect the same research and equally careful analysis.

I am sure that there are some who will disagree with the joint committee's findings. But I do not believe there are many who can state that these findings are based on inadequate evidence or documentation or inadequate policy analysis.

I would ask my colleagues to examine the committee's special and annual reports with the same care with which they are compiled. For one thing, they will notice that the reports command substantial support from both majority and minority members. Even where there have been disagreements, the minority reports have not contradicted the basic majority conclusions. Instead, they have taken exception to certain points in the analysis.

If the House is nevertheless dissatisfied with the quantity or quality of the joint committee's oversight activity, then it has several options. It could, for example, grant the joint committee the additional resources required to expand its oversight capability. But killing the joint committee is like cutting off our noses to spite our faces. It simply makes no sense as an answer to whatever problems some Members may have about watchdog committees. It is inconsistent with the ideal of improving legislative oversight.

I would also like to call my colleagues' attention to the fact that the joint committee is one of the few congressional committees with a permanent "sunset" provision in its enabling legislation. Every 2 years, the joint committee is up for review. That is a good provision. The members of the joint committee welcome constructive criticism and a review of their work. Chairman PROXMIRE has made that clear by inviting Representative COUGHLIN to attend all of the joint committee's hearings and by automatically sending to Representative COUGHLIN all of the joint committee's hearing records and reports.

But the joint committee cannot continue to be effective, if it must repeatedly defend itself against unjustified and unreasoned sniper attacks. These are a drain on the committee members' time and resources, as well as the time of the House.

We have already lost time this year while the joint committee was reviewed in the Senate and the House for its renewal authorization. That issue has been decided in favor of retaining this specialized and efficient oversight unit. I see no adequate reason for second-guessing that decision. And so I call on my colleagues to support the ideal of effective legislative oversight by voting for the Mitchell amendment to restore the joint committee's funding for fiscal year 1978.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Indiana. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, the gentleman in the well shares with me concern about civil preparedness in the United States after the reorganization of 1973. There is a very uncoordinated situation now, both in terms of our response to a nuclear attack and also in terms of a civil disaster.

As the gentleman knows, it is his committee that has done the research and investigation in this particular area.

Mr. Chairman, the gentleman has cosponsored with me a bill which I filed some 2 weeks ago to finally take a sensible position and bring together the various organizations so that we can have a national policy in this regard.

Mr. Chairman, at this point to cut off the committee would be, in essence, to cut off the effort to finally bring together various organizations to exert efforts in this particular area.

Mr. Chairman, I commend the gentleman for his remarks and I ask the Members to support him and the gentleman from Maryland (Mr. MITCHELL) as well.

I thank the gentleman for yielding.

Mr. EVANS of Indiana. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. TSONGAS).

Mr. MITCHELL of Maryland. Mr. Chairman, I rise to make a unanimous-consent request.

Inadvertently, when I referred to the amendment, I referred to the one that was submitted in the RECORD on Monday. It was actually the one submitted on last Wednesday.

Therefore, Mr. Chairman, I ask unanimous consent that the amendment submitted on Wednesday be considered instead. It contains the same substance. The difference is in the dollar figure.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. The modification is made accordingly.

The amendment, as modified, is as follows:

Amendment offered by Mr. MITCHELL of Maryland: Page 10, line 19, after line 18.

"JOINT COMMITTEE ON DEFENSE PRODUCTION

"For salaries and expenses of the Joint Committee on Defense Production, $225,000."

Mr. COUGHLIN. Mr. Chairman, I rise in opposition to the amendment.

I have the greatest respect for my colleague and friend, the gentleman from Maryland (Mr. MITCHELL), and I certainly appreciate his interest in the Joint Committee on Defense Production.

For 5 years now, as a member of the Subcommittee on Legislative Appropriations, I have been reviewing the record of the Joint Committee on Defense Production. This joint committee was established back during the Korean War to analyze our defense preparedness at that time for wartime emergency situations as well as to analyze the stockpiles we might have to have to sustain a wartime situation.

Since the Korean war, Mr. Chairman, the joint committee has lapsed into a sort of somnolent state because our Nation has maintained a very high standard of military preparedness.

During the period in which I have been observing the joint committee, I might add, in 1972 the joint committee held 3 days of hearings and prepared its 21st annual report.

In 1973 it held no days of hearings and prepared its 22d annual report.

In 1974 it held no days of hearings and it prepared its 23d annual report.

In 1975 it held 2 days of hearings and prepared its 24th annual report.

In fact, in 1975, this House voted to eliminate the funding for the joint committee effective September 1976. In conference that was extended until September 1977. In the ensuing year after that passed, there indeed was a great deal of activity on behalf of the joint committee. It held 22 days of hearings and prepared its 25th annual report.

The basic functions of the joint committee is still to send out a questionnaire to the various departments and agencies on their preparedness programs and to publish the results of that questionnaire. I have that volume of the annual report here in my hand.

As to the usefulness of the report, the current chairman of the committee said that they were difficult to digest and were the consequences of compiling records from the various agencies involved, and not of any attempt to analytically distill the information.

Mr. Chairman, it has been alleged that this committee is a watchdog but I believe it is important to recognize that is specifically not one of the functions of that committee and also the fact that there are seven other groups in this Congress such as the General Accounting Office, the Government Operations Committees, of both the House and Senate, the Armed Services Committees of both the House and the Senate on the authorizing side, and Defense Subcommittees of both the House and Senate on the appropriating side, who have that kind of oversight jurisdiction.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. Mr. Chairman, I will yield to the gentleman from Maryland (Mr. MITCHELL) in just one moment.

The amendment was defeated in the subcommittee by a tie vote and was passed by the full Committee on Appropriations without really any strong opposition or any real vote on it. So that I do believe that it is time that we looked at some of the functions that we have, and I guess part of that is the question of whether we have the gumption not to fund something that is sort of a vestigial body and, obviously in which there are several Members who have a particular interest.

I now yield to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for yielding, and I am just a bit curious. Does the distinguished gentleman from Pennsylvania have the volume of the work of that committee for 1976?

Mr. COUGHLIN. I do have the record of 1976.

Mr. MITCHELL of Maryland. Does not that record reveal that there were 18 days of hearings, 11 public and 7 executive sessions? Also that we issued subpenas in order to carry out the functions of the committee and the mandate to the committee. Further, that in addition to the hearings, the committee met at regularly scheduled intervals, January, May and September.

Mr. COUGHLIN. I cited the fact that the committee had more activities since we last voted to cut off the funding.

But the Senate in its reorganization report, S. 4, I believe it is, apparently wishes the joint committee to consolidate its functions where they should be in the Committee on Armed Services and the Committee on Banking, Finance and Urban Affairs, so that it is something that is being carried out, that is the functions that it performs, some of which are good and could well be performed elsewhere.

Mr. MITCHELL of Maryland. Mr. Chairman, I will not take any further time from the gentleman from Pennsylvania but perhaps I may be able to get a little bit more time on my own.

Mr. SHIPLEY. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment offered by the gentleman from Maryland (Mr. MITCHELL).

Mr. Chairman, I do so very reluctantly. I have talked with the gentleman from Maryland (Mr. MITCHELL) about this amendment. As stated earlier, it was included in the subcommittee markup. There was a very close vote, as the gentleman from Pennsylvania (Mr. COUGHLIN) mentioned. Unfortunately, when we went to the full committee the funds were stricken. So I am put in the position of having to support the action of the Committee on Appropriations, and must oppose the amendment and urge its defeat.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to add my voice in support of the Mitchell amendment to restore fiscal year 1978 funding for the Joint Committee on Defense Production. I do not understand why it should be necessary to make these arguments, however, because I cannot see any reason why the move to abolish this committee should have made so much progress through the House.

If the issue is whether the committee performs a useful function that justifies its continued funding by the House of Representatives, I must say that I have been very impressed by the accomplishments of this committee during the 94th Congress and the early days of the 95th Congress, particularly in light of the minimal budget under which it operates. It has accomplished a great deal with a staff numbering only eight people.

I would like to mention particularly one of the areas in which this committee has worked. The Joint Committee on Defense Production is perhaps the top source of expertise within the Congress on the insidious effect that conflicts of interest can have on Federal procurement decisions. The committee has examined this problem in exhaustive detail. It has documented the need for remedial legislation. It assembled an informal committee of individuals concerned about this problem, and thrashed out a bill to correct some of the worst abuses. I was privileged to participate in the early drafting sessions, and I can testify to the expertise and abilities of the Members and staff of the joint committee. Early this year, I introduced this legislation in the House. More than 50 Members of this body joined with me in cosponsoring the legislation, thus endorsing the work performed by the Joint Committee on Defense Production.

Finally, since the time the bill was introduced, the joint committee has been working closely with the House and Senate Banking Committees in their deliberations on this bill. Largely thanks to the efforts of the Joint Committee on Defense Production, there is a good chance that this most important legislation will be enacted this year. I think that this contribution alone more than justifies the $225,000 which was initially provided by the Legislative Appropriations Subcommittee and which the Mitchell amendment would restore. It would be a tragic mistake to abort this committee at this time.

Supporters of the move to abolish the joint committee argue that the committee has not done work sufficiently to justify continued function. That argument is ridiculous. I challenge any person to sit down and examine the committee's record of oversight over Federal materials policy, the defense industrial base, civil and industrial preparedness activities, and cost accounting standards. If he can review this record and still contend that the committee has not done useful work, I would question that person's judgment. I urge every Member of the House to support the Mitchell amendment.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will not take the 5 minutes. I think the case for the joint committee has been established by the proponent of the amendment and all those who have spoken in behalf of and in support of the amendment. It seems to me that cutting the funding of a committee is not an appropriate way to determine whether or not a committee should exist. Already the other body has acted in support of the joint committee after conducting a hearing on it and raising the very issue that was raised by this funding resolution. It obviously decided the issue in the affirmative, that the Joint Committee on Defense Production should be continued.

This House has taken similar action in a substantive way with respect to the existence of the committee, and I think it would be very irresponsible and unwise for us at this time to go along with what apparently was not a terribly well-thought-out action on behalf of the full Committee on Appropriations when they struck the funding for the Joint Committee on Defense Production.

Mr. Chairman, I would urge my colleagues to support the amendment, and I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Maryland (Mr. MITCHELL).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 14, noes 16.

Mr. MITCHELL of Maryland. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pur-

suant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. MITCHELL) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 244, not voting 17, as follows:

[Roll No. 394]

AYES—172

Addabbo	Gephardt	Myers, Michael
Akaka	Giaimo	Neal
Allen	Gibbons	Nix
Ambro	Ginn	Nolan
Ammerman	Glickman	Nowak
Anderson, Calif.	Gonzalez	Oakar
	Gore	Oberstar
Annunzio	Gudger	Ottinger
AuCoin	Hamilton	Panetta
Badillo	Hammer-schmidt	Patterson
Baldus		Pattison
Barnard	Hanley	Pease
Bedell	Harkin	Pepper
Beilenson	Harrington	Pike
Bennett	Harris	Preyer
Biaggi	Hawkins	Price
Bingham	Hefner	Pritchard
Blanchard	Hollenbeck	Quayle
Blouin	Holtzman	Rangel
Bolling	Horton	Reuss
Bonior	Howard	Richmond
Brademas	Hughes	Rodino
Breckinridge	Ireland	Roe
Brinkley	Jacobs	Roncalio
Brodhead	Jones, N.C.	Rooney
Brown, Calif.	Jordan	Rose
Brown, Mich.	Kastenmeier	Rosenthal
Buchanan	Keys	Russo
Burke, Calif.	Kildee	Scheuer
Burke, Mass.	Koch	Schroeder
Burton, Phillip	Kostmayer	Seiberling
Carr	Krebs	Simon
Cavanaugh	Lederer	Skelton
Chisholm	Leggett	Solarz
Clay	Lehman	St Germain
Conyers	Lloyd, Calif.	Stanton
Corman	Long, La.	Stark
Cornell	Lundine	Steers
Cornwell	McFall	Stokes
D'Amours	McHugh	Studds
Dellums	Maguire	Thompson
Diggs	Markey	Tsongas
Dodd	Mattox	Tucker
Downey	Meeds	Van Deerlin
Drinan	Metcalfe	Vander Jagt
Early	Meyner	Vanik
Eckhardt	Mikulski	Vento
Edgar	Mikva	Volkmer
Edwards, Calif.	Miller, Calif.	Walgren
Evans, Ind.	Mineta	Waxman
Fary	Minish	Weaver
Fascell	Mitchell, Md.	Weiss
Fisher	Mitchell, N.Y.	Whalen
Florio	Moakley	Whitley
Foley	Moffett	Wirth
Ford, Mich.	Moorhead, Pa.	Wolff
Ford, Tenn.	Murphy, Ill.	Wylie
Fraser	Murphy, Pa.	Yates

NOES—244

Abdnor	Broomfield	Corcoran
Alexander	Brown, Ohio	Cotter
Anderson, Ill.	Broyhill	Coughlin
Andrews, N.C.	Burgener	Crane
Andrews, N. Dak.	Burke, Fla.	Cunningham
	Burleson, Tex.	Daniel, Dan
Applegate	Burlison, Mo.	Daniel, R. W.
Archer	Butler	Danielson
Armstrong	Byron	Davis
Ashbrook	Caputo	de la Garza
Ashley	Carney	Delaney
Badham	Carter	Derwinski
Bafalis	Cederberg	Devine
Baucus	Chappell	Dickinson
Bauman	Clausen, Don H.	Dicks
Beard, Tenn.		Dingell
Benjamin	Cleveland	Dornan
Bevill	Cochran	Duncan, Oreg.
Boggs	Cohen	Duncan, Tenn.
Boland	Coleman	Edwards, Ala.
Bowen	Collins, Tex.	Edwards, Okla.
Breaux	Conable	Eilberg
Brooks	Conte	English
Erlenborn	Levitas	Roybal
Ertel	Lloyd, Tenn.	Rudd
Evans, Colo.	Long, Md.	Runnels
Evans, Del.	Lott	Ruppe
Evans, Ga.	Lujan	Santini
Fenwick	Luken	Sarasin
Findley	McClory	Satterfield
Fish	McCloskey	Sawyer
Fithian	McCormack	Schulze
Flood	McDade	Sebelius
Flowers	McDonald	Sharp
Flynt	McEwen	Shipley
Forsythe	McKay	Shuster
Fountain	Madigan	Sikes
Fowler	Mahon	Sisk
Frenzel	Mann	Skubitz
Frey	Marks	Slack
Fuqua	Marlenee	Smith, Iowa
Gammage	Marriott	Smith, Nebr.
Gaydos	Martin	Snyder
Gilman	Mathis	Spence
Goldwater	Mazzoli	Staggers
Goodling	Michel	Stangeland
Gradison	Milford	Steed
Grassley	Miller, Ohio	Steiger
Guyer	Mollohan	Stockman
Hagedorn	Montgomery	Stratton
Hall	Moore	Stump
Hannaford	Moorhead, Calif.	Symms
Hansen		Taylor
Harsha	Moss	Thone
Heckler	Motti	Thornton
Heftel	Murphy, N.Y.	Traxler
Hightower	Murtha	Treen
Hillis	Myers, Gary	Trible
Holland	Myers, Ind.	Udall
Holt	Natcher	Ullman
Hubbard	Nedzi	Waggonner
Huckaby	Nichols	Walker
Hyde	O'Brien	Walsh
Ichord	Obey	Wampler
Jeffords	Patten	Watkins
Jenkins	Perkins	White
Jenrette	Pickle	Whitehurst
Johnson, Calif.	Poage	Whitten
Johnson, Colo.	Pressler	Wiggins
Jones, Okla.	Pursell	Wilson, Bob
Jones, Tenn.	Quie	Wilson, Tex.
Kasten	Quillen	Winn
Kazen	Rahall	Wright
Kelly	Railsback	Wydler
Kemp	Regula	Yatron
Ketchum	Rhodes	Young, Alaska
Kindness	Rinaldo	Young, Fla.
Krueger	Risenhoover	Young, Mo.
LaFalce	Roberts	Young, Tex.
Lagomarsino	Robinson	Zablocki
Latta	Rogers	Zeferetti
Leach	Rostenkowski	
Lent	Rousselot	

NOT VOTING—17

Aspin	Dent	Pettis
Beard, R.I.	Derrick	Ryan
Bonker	Emery	Spellman
Burton, John	Flippo	Teague
Clawson, Del	Le Fante	Wilson, C. H.
Collins, Ill.	McKinney	

The clerk announced the following pairs:

On this vote:

Mr. Le Fante for, with Mr. Teague against.

Messrs. SCHULZE, STANGELAND, FRENZEL, WATKINS, and NICHOLS changed their vote from "aye" to "no."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The clerk will read.

The clerk read as follows:

CAPITOL GROUNDS

For care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant; personal and other services; care of trees; planting; fertilizer; repairs to pavements, walks, and roadways; waterproof wearing apparel; maintenance of signal lights; and for snow removal by hire of men and equipment or under contract without regard to section 3709 of the Revised Statutes, as amended, $2,402,500, including $483,000 to develop Square 764 into a temporary parking facility for the House of Representatives: *Provided*, That chapter V of the Supplemental Appropriations Act, 1973 (Public Law 92-607, approved October 31, 1972, 86 Stat. 1513), is hereby amended by striking the words "green park area" in the third further proviso of the paragraph entitled "Acquisition of Property as an Addition to the Capitol Grounds", and inserting in lieu thereof, the following: "temporary parking facility".

POINT OF ORDER

Mr. COUGHLIN. Mr. Chairman, I make a point of order against the entire paragraph starting on page 19, line 16, through line 7 on page 20, on the ground that in two respects it violates rule XXI, clause 2.

Mr. Chairman, this is a provision for the creation of a parking lot at the old Providence Hospital site about which the Chairman of the Committee on House Administration, the gentleman from New Jersey (Mr. THOMPSON) and I have had colloquy. There is no authorization in law for the development of this parking lot provided for in lines 23 to 25 on page 19.

Mr. SHIPLEY. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Illinois.

Mr. SHIPLEY. I thank the gentleman for yielding.

The committee understands that this is subject to a point of order, as the Chairman of the Committee on House Administration, Mr. THOMPSON, mentioned earlier. The committee will concede the point of order.

Mr. COUGHLIN. I thank the gentleman.

The CHAIRMAN. The point of order is conceded and sustained against the entire paragraph.

AMENDMENT OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHIPLEY: On page 19, after line 15, insert the following:

For care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant; personal and other services; care of trees; planting; fertilizer; repairs to pavements, walks, and roadways; waterproof wearing apparel; maintenance of signal lights; and for snow removal by hire of men and equipment or under contract without regard to section 3709 of the Revised Statutes, as amended, $1,919,500.

Mr. SHIPLEY. Mr. Chairman, this amendment simply restores the appropriation language for the Capitol grounds at the lower figure, reflecting the reduction of the $483,000 for the temporary parking facility, which was eliminated by the point of order.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

On that project, which is very close to my heart, I wish the Architect of the Capitol would reconsider. It is on the East Front of the Capitol where there are little terraces with the lights. It would be so beautiful banked with potted flowers from the greenhouse which is nearby. I think it would really add so much to the beauty of the East Front and I wonder if the chairman would dis-

cuss this further with the Architect of the Capitol.

Mr. SHIPLEY. I will say to the gentlewoman, if she will come with me, I will be glad to talk to the Architect.

Mrs. FENWICK. I thank the gentleman from Illinois.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SHIPLEY).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with special studies of governmental financial practices and procedures; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries notwithstanding section 3648, Revised Statutes, as amended (31 U.S.C. 529); benefits comparable to those payable under sections 911(9), 911(11) and 942(a) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1136(9), 1136(11), and 1157(a), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (Public Law 87-195, 22 U.S.C. 2396(b)), $160,000,000: *Provided*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Secretary and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On line 18 of page 34 strike the figure "$160,000,000" and replace with the figure of "$164,000,000".

Mr. ASHBROOK. Mr. Chairman, I think that the Members know that it is a rare occasion when I take the floor to increase any appropriation. I do think in the case of the General Accounting Office that we should, at least, consider an additional amount of $4 million.

I have read the report extensively. On page 36, discussing the GAO, it is indicated that as much as $532 million was saved in fiscal year 1976 by the very fine work of the General Accounting Office. Needless to say, there are few Government units which give us much return for our money these days. I have used the services of the GAO on a number of occasions. I hope to use them in the future quite often. It is indicated they cannot get into certain requests until others are completed, because of lack of personnel.

I think this committee has been generally very restrained in its appropriation requests. The GAO did ask for $168,641,000. The chairman and ranking member and others allocated $160 million. I merely offer this amendment to indicate what I believe to be a need for $4 million more for the General Accounting Office. I would urge support for this amendment.

Mr. SHIPLEY. Mr. Chairman, I rise in opposition to the amendment.

Just let me say, frankly, that the request was for a little over $168 million. The committee went along with the $160 million, which is $2,910,500 more than has been appropriated to date for fiscal year 1977. We have always been very generous with the GAO.

Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

EXTENSION OF THE CAPITOL

For an amount, additional to amounts heretofore appropriated for "Extension of the Capitol", in accordance with the modified plan for extension of the West Central Front approved by the Commission for Extension of the United States Capitol on April 7, 1977, to be expended, as authorized by law, by the Architect of the Capitol under the direction of such Commission, $55,000,000, to remain available until expended.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: On page 35, line 17, strike out everything on line 17 through line 2 on page 36.

And renumber the remaining sections accordingly.

(By unanimous consent Mr. STRATTON was allowed to proceed for an additional 5 minutes.)

Mr. STRATTON. Mr. Chairman, this is an issue that has been before the Congress on a number of occasions; to be specific, since 1966. It is an attempt to extend the West Front of the Capitol, that is, the front that looks out over Pennsylvania Avenue and down the Mall. It is included in this particular bill at a cost of $55 million.

Anybody taking a look at the West Front of the Capitol would recognize that it is not in perfect repair. There are some wooden buttresses on the center portion; the pigeon droppings have been allowed to accumulate and the paint is peeling in a number of places. It is, admittedly, in need of repair and restoration, but for some reason or other a succession of Architects of the Capitol have developed an edifice complex, and they do not want to just fix up the Nation's No. 1 historic shrine; they want to change it and modify it and extend it. This is essentially the problem that we have here today.

If the Lincoln Memorial were in disrepair—and there has, in fact, been some problem recently with stones crumbling on the Lincoln Memorial—I do not think anyone would seriously suggest that we build another building alongside it. I think we would spend whatever was necessary to repair it and restore it. It certainly is another great historic shrine in this Capital. But, for some reason or other, an Architect of the Capitol, who really is, in most respects, just a glorified janitor, somehow feels that he has not done his job unless he can modify this great structure of ours.

When the battle for extension began back in 1966, we were told that the Capitol had to be extended because it was in danger of falling down, that it was weakening and it was trembling; that if a helicopter flew too close to the dome, the dome would crumble and we all might be crushed underneath the falling stone. That almost succeeded in getting the money through for the Architect's proposal; but not quite. Finally, after some debate on the floor, it was decided that we ought to settle this question, not by what the members of the Appropriations Committee thought or by what the Member from New York thought. But it was decided to engage the most prestigious, brilliant engineering firm in the United States and pay them whatever was necessary and find out once and for all just what the condition of the Capitol was. So, in 1971, the House approved the expenditure of a quarter of $1 million and engaged the Prager, Cavanaugh & Westbury engineering firm of New York City. They produced the Prager report, which concluded essentially that the Capitol was not falling down; that it was perfectly sound. As a matter of fact, about the same time a bomb went off over in the Senate wing, and there was not even a shudder in the West Front.

The Praeger report said that it was not necessary to add on all of this additional building space that the Architect wanted to add on; that for $15 million we could restore and repair the West Front, get it back to looking as it should look. So, that report was submitted to the Congress, but unfortunately nobody paid any attention to it, and the Architect filed it away somewhere.

Now the Commission on the Extension of the Capitol, which incidentally is one of the few remaining secret devices for legislation that still exists in this post-Watergate operation of the Congress of the United States, also sat on it. So, here we are, back again, once again, once again trying to ignore the facts as presented by the best engineering firm in the country. We have before us now a proposal now for a renewed extension program in the amount of $55 million.

Now, why is it bad to extend the Capitol? Well, in the first place, the West Front of the Capitol is the last remaining original portion of the building that went up in 1800, and which even the British were unable to destroy when they

invaded the Capitol and tried to burn it down in 1814.

We have had hundreds of thousands of Americans through this city and through this Capitol in the last year and a half, and they have been taking picture after picture of the West Front because that, more than anything else, represents Washington and the U.S. Government to them.

Second, we should not destroy the existing shape of the Capitol. I do not think there is any reason why we should deface it or come up with a new architectural shape. And yet that is exactly what the architect's plan will do. If the Members have noticed the West Front—and, of course, many of us are too busy to go into the architectural niceties—essentially there are three portions that we see as we look out from Capitol Hill, over Pennsylvania Avenue and the Mall. There is the central portion with the dome, the House section on the right, and the Senate section on the left. All three sections stand out, very convincingly and very massively.

What the Architect would do would be to fill in those spaces in between so that we would have just a kind of flat blah. He will probably deny that, but if we take a look at his models that is exactly what happens. I do not think we want to destroy this historic building. It stood with us for 200 years, and I think we should protect it and not try to deface it.

The third reason they tell us they need this extension is because we need more space, we have to have some hideaway offices so that the more senior Members can stay over here in the Capitol and will not have to go back to their offices in the Rayburn Building or elsewhere.

I will say to the Members that it might have been reasonable back in 1966 to find some additional space in the Capitol, but since we have had this recent expansion of committees and staffs, we have had to take over two additional annexes just to house all of the people we now have. If we really had to extend the Capitol to meet all of our space needs, we would have to extend it down to the Washington Monument. As a matter of fact, we cannot meet all of our space needs in the Capitol, but I have an idea that new space might provide some hideaway offices for people.

It so happens, as the gentlewoman from New York (Ms. HOLTZMAN) has pointed out, that the Architect of the Capitol himself and his staff occupy 50 office spaces in this building. There is no reason at all why he should be in the Capitol. He takes care of maintenance operations in the building. I think we ought to send the Architect and all of his assistants over to annex No. 2, and let us open up the 50 spaces down in the terraces, where he now occupies these rooms, and make them available to the Members themselves.

Another thing which certainly would help us would be if we stopped trying to make a mausoleum out of this building. The gentleman from Michigan (Mr. TRAXLER) has circulated a document here about how this Capitol is a "living breathing building" of ours. Well, it used to be a living building, but our good friend and former colleague, Fred Schwengel, has been converting it rapidly into a mausoleum. Two or three or four spaces which we used to use for conference committees are now museums. And what they have done to Statuary Hall should not be done to anything. It looks like a high-class bordello, with those pink curtains hanging there. I think our priority should be to provide space where the Members of Congress can work and not convert needed space for museum purposes.

But finally and most importantly of all, the reason we ought to oppose extension is that even with the inflation that has taken place since the Praeger report was submitted, we can get this building repaired and restored for only $27.5 million. I checked with the Praeger Co. just the other day, and that is their updated report. That would mean we would save from the $55 million they are asking now for extension—and I do not think that would cover the full bill—about $27 million.

Mr. Chairman, I think we ought to save the money and save the Capitol, and so we should eliminate these funds.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. STRATTON) has expired.

(On request of Mr. SHIPLEY and by unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. SHIPLEY. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Illinois.

Mr. SHIPLEY. Mr. Chairman, I want to clarify a couple of points.

Did the gentleman from New York (Mr. STRATTON) refer to the fact that the extension would look like a "high-class bordello?"

Mr. STRATTON. I said that Statuary Hall, which has been made into another museum piece instead of a place where we can work, resembles what I have seen in books as representing that kind of an institution.

Mr. SHIPLEY. Could the gentleman tell me from what he has seen in books, what a low-class bordello looks like?

Mr. STRATTON. No; my own education has not gone quite that far, but I have been talking to some of my associates and they have filled me in.

Mr. SHIPLEY. Mr. Chairman, I have just one other question, and I would like to clarify this in my own mind.

It is difficult for me to determine which the gentleman dislikes the most, the Architect or the project to extend the West Front. I am in doubt as to which priority comes first.

Mr. STRATTON. Mr. Chairman, I think the Architect is obviously occupying priority space that could be used for other purposes. If space is so valuable and so necessary, it seems to me there is no reason why he should be occupying 50 units of prime space in the Capitol. I agree thoroughly with my colelague, the gentlewoman from New York (Ms. HOLTZMAN).

So, for the reasons I have indicated, this is not only an historically and esthetically damaging proposal, but also a very expensive one. The money we would save by eliminating this extension and going instead to restoration would reimburse us for the pay raise we just reaffirmed a little earlier in the day.

Mr. SHIPLEY. Mr. Chairman, I would answer the gentleman by saying that the total expansion cost would amount to the cost of less than half of one of our B–1 bombers, so in that respect we are not talking about much money when we refer to dollar values. This is for the preservation of the Nation's Capitol, something that will be here from now on. I believe that it would be money well spent.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has again expired.

(On request of Mr. DORNAN and by unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I will be supporting the gentleman from New York (Mr. STRATTON) in his excellent suggestion that we refurbish rather than destroy the West Front of the Capitol, which looks toward all the States of our United States. This is the front that we show to the executive branch and all of its myriad and growing complex of buildings.

However, I must disagree with the gentleman on three points. No. 1, I might support his suggestion for removing the Architect's staff to other buildings in this area, because his staff is not elected to office, and we are. But the Architect himself is a fine gentleman. I met with him for over an hour on the cleaning of the Cannon Office Building. That project is now proceeding with great speed. He has convinced me that he is a man who is in love with this building. He refers to it as the "citadel of liberty." I am very proud to have Dr. George White residing in this building. He is charged with the care of the building, and I think he should reside here and have his offices in it. Perhaps the size of his staff is something that might be in contention.

No. 2, Statuary Hall has been restored, as depicted in a painting by Samuel F. B. Morse showing how it appeared in the period prior to the Civil War. As we pass through Statuary Hall, we get a feeling of our deep roots, our traditions, and our heritage, as well as the principles we are supposed to uphold here.

The same thing would hold true for the room where John F. Kennedy's reception was held after he was sworn in as President. It has been restored to its grandeur of the days when Daniel Webster, Henry Clay, who was a former Speaker of the House, and Calhoun debated.

The same is true of the chamber downstairs, the former Supreme Court Chamber.

I take my constituents on tours in this area and stand them on the spot where

Thomas Jefferson was sworn in for the Presidency of 1801–05, and I can just see the goosepimples rise on their flesh.

Mr. STRATTON. Mr. Chairman, I understand what the gentleman is saying, but if the argument is that we need more space in the Capitol, it seems to me we are making a mistake when we take out of active service some of these very useful rooms such as the Old Supreme Court Chamber and the Old Senate Chamber, which used to be excellent places where we could hold conferences with the Senate. Those two excellent rooms are no longer available because they have become museum pieces. If this is going to be a breathing, working Capitol, we ought to be able to make some use of it, not just look at it.

Mr. TRAXLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from New York to strike the funds for the West Front extension.

I think it is important for each of my colleagues to come forth and examine this proposed extension as is represented in this model. The extension follows the contours of the present front in the classic architectural design. It is a beautiful piece of work which will provide the West Front with the relatively maintenance-free marble face which now covers the remainder of the Capitol Building.

Something you may not all be aware of is that an extension of the West Front was originally proposed by the fourth Architect of the Capitol, Thomas Walter, in 1864. Architect Walter was the gentleman who designed the Senate and House wings, the part of this Capitol in which we now stand, as well as the large Capitol dome which now sits under the Statue of Freedom. But upon completion of the huge dome, he felt the building was unbalanced and out of proportion. To resolve this difficulty, he proposed extending the East and West Fronts.

This is the basis of the design we are considering today—a design which was recommended by the Architect who had one of the greatest impact on this building as it stands today. Supporting this extension of the West Front is not an antipreservationist position. On the contrary, we are working to preserve a design that originated over 100 years ago.

The distinguished gentleman claims that this extension will seriously alter the appearance of the building. I hasten to disagree and I welcome my colleagues to examine this model. It is true that moving the center of the West Front out by 22 feet will lessen the view of the dome from the terraces closest to the building, but the grandeur of this monument will remain, in fact it may be enhanced, from the view from the mall or Pennsylvania Avenue.

It has been commented that if we could miraculously build this extension overnight, one would not notice a change in design. I might also add that I showed this model to a number of my constituents from Michigan one afternoon, and they all felt the extension was an improvement over the current West Front.

But let us look further at my colleague's amendment which seeks to maintain the status quo. I cannot believe that any person who has been around to the West Front recently really wants to keep those unattractive wooden braces in place, or to continue to display this building as crumbling and cracking. The time has come to restore structural integrity to that wall—and I believe it would be totally irresponsible of this body to ignore this need.

So we are essentially left with two choices: restoration and extension.

Restoration would entail the drilling of 5,700 holes, 2 inches in diameter, all across the face, squirting grout into these holes, and then repatching the surface. This is not a particularly safe approach to solving the problem of structural integrity, as there exists great fear that grouting could penetrate the interior walls and damage the frescoes. Furthermore, once you start drilling holes, you have no idea exactly what you are going to find in those walls, which range from 6 to 8 feet thick. There is a lot of loose sand in there which could cause serious restoration problems, as well as make the total cost of this operation unpredictable.

There have been four studies made as to whether the West Front should be restored or extended. Only one, the Praeger Report, advocated restoration and employing the grouting process. But even the Praeger Report foresees more problems. The report states:

> If the wall voids were filled, exterior cracking would be inhibited by transfer of stress to interior portions of the wall. Generally, however, cracking will continue to occur as the wall adjusts to temperature change.

The report then recommends a series of control joints which, in theory, are supposed, but not guaranteed, to control the locations of the cracks. But even then "future cracking should occur at a much reduced rate."

There are other problems with restoration as well, and that is that many of the stones now in the West Front will have to be replaced for not only cosmetic reasons, but because the requirements for transmission of loads through the walls require replacement. Many of the key stones are cracked. So the preservationists are not going to be preserving much by the time they get through this process.

Extending the West Front, on the other hand, will preserve this original wall as an interior wall—and it is safe. This extension does not threaten the preservation of the present interior walls, or jeopardize the magnificent frescoes which are certainly worth protecting.

This extension is compatible with the current overall design of the Capitol Building. It was advocated by Architect Thomas Walter in the 1860's. It is a structurally sound approach to solving the problem we face. Additionally, as a dividend, it also provides for 135,000 square feet of space which is in close proximity to the Chambers.

The Capitol Building is a national monument. But it is a living, breathing, and working monument. It is much like our Constitution, which changes and adapts itself to the times of our Nation, yet holds fundamental precepts which are unchangeable. The Capitol is not one building, created by one man. It is alive and has adapted to our Nation's changing needs. The structural integrity of the West Front must be restored, and this proposed extension will restore integrity, is of beautiful and consistent design, provides us with more space close to the Chambers, and is, by far, the safest approach to solving this problem. I strongly urge all of my colleagues to reject this amendment.

Mr. FLYNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my friend, the gentleman from New York (Mr. STRATTON).

Mr. Chairman, this is not the first time that there has been debated an extension of either the West Front or the East Front of the Capitol Building. It has gone on in one form or another nearly as long as, or perhaps longer, than the gentleman from New York (Mr. STRATTON) and I have been Members of this body.

To those who oppose expansion and extension of the West Front on the ground that the West Front is somewhat sacrosanct and it cannot be touched or it cannot be modified lest we take away something which was not originally there, let me say that that is not correct.

The gentleman from Michigan (Mr. TRAXLER) ably defined his opposition to the amendment using the series of architectural drawings. Let me add that if anyone wants to carry the purist theory to its logical conclusion we would have to go back to that initial tiny block building for which President George Washington laid the cornerstone. On the other hand, as you all know, tourists, visitors, and friends frequently ask us when this Capitol was built. I like to reply that the Capitol is a living thing, it lives in the hearts and minds and memory of America ever since the first fragment of it was erected in the late 1790's.

The Capitol is and should be dynamic—not static, growing and changing with the people whom it serves. I see the evolution of this building from the tiny focal point of the government of a fledgling nation to the magnificent, beautiful building it is today as the seat of government of the leading nation of the entire world. How long has it been built? It has been in the process of being built, rebuilt, modified, extended and expanded ever since the first stone was laid about 180 years ago; so may it continue to be for another 180 years, another 500 years, another millennium. May this building still stand, during each decade and each century of its existence and may it be extended and expanded as often as necessary.

I revere the history of this building. I revere it; I love it. Nothing gives me more pleasure when time permits than to take visitors through this building and

point out things that are part of the living history of this country and part of the living building that houses the Congress of the United States.

I remember when they extended the East Front. Other Members are here today remember it. The cries of "descecration" and "degradation" went up, not only in this Chamber but elsewhere. The forces of logic and reason prevailed then, as I hope the forces of logic and reason will prevail today. I hope that the forces of logic and reason will prevail today and that the House will vote down the pending amendment.

When the extension of the East Front was proposed, the dome overhung the East Front by 6 feet. It was already structurally unsound and unsafe. It was necessary to make the extension of the East Front. Today no observer of the West Front of the Capitol could fail to see that the West Front is today in unsound and unsafe structural condition. It must be strengthened. We have a choice of restoring what is there now with no assurance that it will be any stronger when the job is completed than it is now, or to tear away the present West Front, rebuild it, and reconstruct it with the extension which was planned not over 100 years ago as part of the same modification which included the construction of the great dome which surmounts the Capitol here today. Let us get on with our job begun 100 years ago.

Mr. Chairman, I hope that the amendment will be rejected.

Mrs. MEYNER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York.

In every community in America there is one building, one landmark, which separates that town from all the others. The people who live and work near that landmark, whether it is a church, a private home or a railroad station, know that the building has a special place in their lives; it says something about who they are, where they come from, and what they might become.

Today we consider the fate of the greatest landmark in America, the U.S. Capitol. This majestic building, whose physical drama expresses the strength of representative democracy, and the principle of bicameralism, is in danger of being vandalized by a senseless and unjustifiable assault on history.

We cannot permit the one structure on Earth symbolic of all America, to fall victim to Congress voracious appetite for office space.

The price of the proposed extension is much more than $50 million; it is part of our national soul. In building to the West we would conceal forever the only original wall of the Capitol—the same wall that was standing on a cold March day in 1801, when Thomas Jefferson, taking the oath of office, proclaimed what we still believe today:

> Though the will of the majority, is, in all cases, to prevail, that will, to be rightful, must be reasonable.

Mr. Chairman, there is nothing reasonable about the proposed extension, in either common dollars or commonsense. Under the Architect's current plans the 100,000 square feet of additional office space would cost roughly $550 per square foot. A comparable figure for prime office land in downtown Washington is $45 per square foot. It therefore seems to me that the only monumental feature of the extension is its cost.

Mr. Chairman, if we fail to strike funds for this wasteful project, how can we return to our districts, and praise the value of historical preservation? How can we urge and assist our constituents to save a Victorian mansion, an ancient church or a grist mill, if we will not work for the architectural integrity of the Capitol?

Mr. Chairman, let us restore the West Front. We have the technology to do so.

The American Institute of Architects, the National Trust for Historic Preservation, and the Commission of Fine Arts, all insist that restoration is possible, and at a far lower cost than erecting a 60-foot breadbox.

Let us, in adopting this amendment give a clear signal to all who would tamper with this magnificent edifice to look elsewhere for space; the Capitol is complete. It will not be cheapened. It will not be compromised. The American people will not permit it, nor will their Congress permit it.

Mr. Chairman, I very strongly urge the adoption of the amendment offered by the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYNER. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I want to compliment the gentlewoman from New Jersey for her very eloquent statement. I certainly appreciate her support.

We have heard speakers say moments ago that this Capitol has grown and developed over the years with a number of different Architects, and nobody disputes that. But the point is, we now have a winner. I think if we took a poll of the American people and asked them if they wanted to have the shape of the Capitol changed, they would say overwhelmingly: "No, leave the Capitol alone."

So we have something here today that means something to the American people. We ought to leave it alone and preserve it, as the gentlewoman has said.

Mr. DAVIS. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYNER. I yield to the gentleman from South Carolina.

Mr. DAVIS. Mr. Chairman, I would like to associate myself with the remarks of the gentlewoman. It was a very fine statement.

Although we are concerned about space here, there is a place architecturally sound to go underground. While we have been worried about living in the sunshine, there is a lot of room to let people in to see the meetings; although I doubt that a lot of these rooms would accomplish that effect, but I would urge we adopt the amendment and preserve the beauties of this place and extend in other places.

Mrs. MEYNER. Mr. Chairman, the gentleman is exactly right. We could extend the Capitol right down to Pennsylvania Avenue or the White House and it still would not be enough.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

I had not intended to speak about this, but as some know, I am an amateur historian. As such I am strong for the preservation of those things of the past which are inspiring to us now and can inspire future generations.

This leads me to feel we ought to look carefully at what is proposed here. What is really proposed here is to cover up a small ancient building by extending a building in front of the old building. That older building was built in the 1790's, where George Washington laid the cornerstone.

It has been inferred in this debate that this old wall came down in 1815 or some other period of time. That is not true. The wall we are talking about has stood since George Washington laid the cornerstone in 1793. What is to be covered here is the last remaining exterior portion of the old building. That does not mean that the west wall otherwise is that ancient. There is only a very small portion of that area which is that ancient. It is just the area which is on the outside of the wall across from the old Supreme Court room and the old Senate room, just that small area. It is not the front of the tremendous Senate wing where the Senate now meets. It is not the central portion under the dome. It is just one very small building two and a half stories tall.

Certainly for a few million dollars, $27 million has been suggested here, but certainly a few million dollars could preserve that small piece of a building. After all, those of us who were here during the Truman administration realize the entire innards of the White House were taken out and an entire new building made out of steel was placed inside the White House and everything was put back. So that relatively small building in the west front of the Senate wing could be preserved by inner-structured steel that will uphold anything that needs to be upheld. So there is nothing at all to the idea that we could not do it and could not do it inexpensively. We could do it very cheaply, in my opinion.

There are many activities that could go into an expansion of the building but it is interesting to note that few have been mentioned here, because if they had been noted, some of them would be struck down as not essential. There has been a suggestion that we have a convention hall or a big restaurant and all kinds of things like that have been suggested. I am sure if they were suggested, they would be struck down, because nobody in his right mind would want to put that many millions of dollars into tourist activities that have nothing to do with running the Government or the memorial aspect of this building. This is not going to be a massive center for tourists to come to. It is a place to watch the Government operate and for those who want to enjoy history as it is made.

Furthermore, there are thousands and thousands of feet relatively underused space in this building. There is a whole floor that is nothing much but storage, a whole floor that has nothing of significance in it at all, all of which could be developed.

I strongly urge we do two things: First of all, that we pass this amendment and then resolve that we will not make a museum out of this building. I am offended myself at the use of the old Supreme Court room and the old Senate chamber as museums which were recently excellent places to hold meetings for conferences between the House and the Senate. Now that we have the sunshine law there are few adequate rooms for conferences in the building. These historic rooms even now, after all the money has been spent on them, could be made to be adjusted to be used for conferences.

This is a living building. It is not a museum. It ought to be structured and used for the use of the Government of the United States. Therefore, to take those, the only two good-sized rooms in this Capitol and relegate them to museums, in my opinion, was a very negative thing to do.

Mr. Chairman, I want to conclude by saying that I do hope that this relatively small 2½-story building, which is all that remains of the old building, be left open and be retained, and that the amendment of the gentleman from New York be approved. It will at this time save money and be a thrust for important historic preservation.

Mr. CEDERBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. This is a matter that has been before the Congress for many, many years. Going back—many Members were here when we did the East Front—we went through all this kind of controversy at that time. The East Front restoration is one of the best things we have done to this Capitol. I am sure the Members have seen in the display how this Capitol has grown over the years.

We are faced with a very basic problem. Are we going to spend substantial amounts of money, the size of which no one really knows, to restore the wall? Anyone looking out the side of the Capitol, the West Front of the Capitol, will see that the walls are already propped up. We have discussed this in our subcommittee with the Architect of the Capitol, who incidentally had some reservations about this before he became Architect of the Capitol, but who is fully convinced that this is what should be done.

I recall over the years when our former colleague, Bob Casey of Texas, was chairman of the subcommittee—and at that time I was ranking minority member—we went over this time and time again. It passed the House, but we always had a problem on the other side. Now, the Commission on the Extension of the Capitol, which I know the Members are familiar with and which is made up of the Speaker of the House, the minority leader, the majority leader, the Vice President and the leaders of the Senate, has agreed that this is the way that we should go. They did not do this without giving it some thought and some consideration.

But the choice, I really believe, boils down to whether or not we want to restore a wall, the cost of which we have no idea of because they tell us that we cannot get any fixed bids on the wall restoration, and we are not really sure whether it can be effectively done; or whether we, possibly for little more money, want to restore the West Front as we have done the East Front, in a dignified way which will also take care of the problem of the wall and provide some space.

That just seems eminently sensible and eminently reasonable.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from New York.

Mr. STRATTON. The gentleman says that we do not know how much the cost to restore the wall will be, and that we cannot get any bids on it. I am not sure whether the gentleman was in the Chamber at the time I pointed this out, but we have had, as the gentleman knows, a quarter of a million dollar study made by the prestigious Praeger engineering firm in 1971. Praeger said that restoration would cost $15 million, and they have now updated their figure this year to $27.5 million.

The fact of the matter is that the Architect has never made any conscientious effort to find out whether this could be done or not. It has been done for St. Paul's and for other distinguished structures, as the gentlewoman from New Jersey (Mrs. FENWICK) pointed out. We do know, in fact, what the broker prices are.

Mr. CEDERBERG. That is highly questionable.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to my colleague from Michigan.

Mr. TRAXLER. Mr. Chairman, this is the Praeger report, and I urge the Members to read it before they vote. It is an interesting study, and it cost us some money. They opted for restoration, but they themselves have to come down and honestly say to us that while they have some good estimates, they cannot promise anything.

That wall is between 6 and 8 feet thick, and it has a hollow cavity between the inside and outside. We think it is filled with stone in most instances, and we will start over 5,700 2-inch holes in that wall to inject grout under pressure. Then, nobody is going to tell us absolutely that they are going to be successful, and they will not give us a bid.

Mr. CEDERBERG. That is exactly correct. You can have all the engineering studies you want, but if we try to get a contractor who is going to commit himself to that, we will find that it is an entirely different story.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I have looked at this design carefully, and I think the problem here is really one of tradition. The difference between the East Front extension and the West Front extension is that, when they did the East Front, the West Front remained undone. One could stand on the lawn somewhere in the 360-degree circumference of this building and point to a wall that was constructed in 1801 where George Washington laid the cornerstone. If one walks through the private walkway to bypass the tourists—our constituents—from the spot where one can actually touch the wall, a person looking through glass can see only two or three pieces of the original East Front wall.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CEDERBERG) has expired.

(By unanimous consent, Mr. CEDERBERG was allowed to proceed for 3 additional minutes.)

Mr. CEDERBERG. Mr. Chairman, I yield further to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. If we close off this West Front, the way we have the East Front, no longer will we have sunlight through either passageway connecting this Chamber with the prior Chamber or connecting the Senate side with its prior Chamber, those two historic rooms. Take the office of the gentleman from Arizona (Mr. RHODES). Traditionally, prior minority leaders have occupied that space. Obviously, that will become an internal chamber room with no sunlight. So a future minority leader will opt against tradition and he will prefer to be out where he has a view of the Mall, the Jefferson Monument, and the Washington Monument and trees and lawn.

Mr. CEDERBERG. That does not bother him, because obviously we can get him a place with a window in it.

Mr. DORNAN. I do not see why we cannot go underground the way the White House has with its seven-story building. That surprised me when I learned that. It still retains the four-story appearance, and it has seven stories. I think we should avoid having more above-ground offices in the Capitol so that our constituents can share this building instead of its being filled with offices.

Mr. SHIPLEY. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Illinois (Mr. SHIPLEY).

Mr. SHIPLEY. I thank the gentleman for yielding.

Mr. Chairman, this has been a problem that has been around for some 12 or 15 years, and Congress has not made a decision because no one has ever come before Congress and convinced us that you could drill 5,700 holes in the exterior walls and do it properly. I would also like to mention that it is very curious that this year for the first time we have not had quotes of opinions from the American Institute of Architects. Every year I have been on the floor we have listened to opinions and facts and figures and judgments of the AIA. I will tell my friend, the gentleman from Michigan (Mr. CEDERBERG), that I know why they did not mention the AIA evaluation. It is because when we were trying to extend the East Front they said, "Don't extend

the East Front. Do it on the West Front." I have the comment from the AIA Journal of January 1958 in which Architect Ralph Walker stated:

> Everything that would be obtained by the predetermined plan . . . that of moving the East Front and also extending the wings, could be accomplished much more pleasantly, esthetically and efficiently by the reconstruction of the West Front which has no great historic significance.

That is why they are not quoting the AIA today.

Mr. VOLKMER. Mr. Chairman, would the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, does the gentleman know that this $55 million is all that is going to ever be asked for this West Front?

Mr. CEDERBERG. Yes.

Mr. VOLKMER. In other words, the Appropriations Committee would never again come back to this House and ask for another penny for that West Front?

Mr. CEDERBERG. I do not want to make any ridiculous statement. I cannot possibly say that. We did the East Front within the estimate. The record is pretty good. I think it is one of the really good records, one of the best things we did. But we have had cost overruns on the Kennedy Center, too.

Mr. VOLKMER. That is right. We have a $4 million goof over there, too.

Mr. CEDERBERG. But we will have more of a problem if we just restore the old wall.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in earnest support of this amendment. I think it might be interesting for the Members of the House who are here to know which experts believe that there is a perfectly practical method to restore the West Front of the Capitol.

The experts who feel this way include Mr. Taralon, the chief inspector, and Mr. Paquet, chief architect of the historic monuments of France, Mr. Torraca, assistant director of the Rome Centre, and Mr. Feilden, the English architect who restored St. Paul's, Westminster Abbey, and Norwich Cathedral. In other words, there is no great mystery as to what to do to maintain old buildings, buildings that are far older than our dear Capitol.

No matter what somebody may have thought in earlier times, this is the Capitol that our people know. In this world of change and endless destruction, this is a building that means something. This is what is pictured in our school rooms.

Sometimes I think we must be mad. We have here a building that means something to us, and we immediately begin to twist it and change it, because we need more office space. We should hang onto something in this world.

The architect, Mr. Feilden, said in his letter that it would be a great loss if the West Front were to be wilfully destroyed. He wrote of similar work in Westminster Abbey, and Norwich and St. Paul's Cathedrals. These things mean something to the English people and they are preserved.

We do not have much in the way of a long-standing tradition, but what we have is here. In the Capitol it is written, "We have no oracle but our Constitution; we have no temple but our Capitol." Let us not start destroying the temple in order to provide a little extra space for our inflated committees.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, one of the interesting things about architects is that they like to create monuments to themselves. I do not think, however, that this Congress should give the Architect of the Capitol this opportunity to fulfill his ambition in this respect by extending the West Front.

With regard to the issue of office space, I think it is extraordinary that the staff of the Architect of the Capitol with their files and desks, are occupying 22,000 square feet of space on the House side of the Capitol. The Architect has not lifted a finger to try to make any of that space available to Members of Congress. Instead he is spending his time trying to create a monument by extending the West Front.

What the Architect should be doing is helping Members of Congress work more effectively by providing us with the space in this Capitol that his staff is using. I think that would be a more valuable use of the Architect's time.

There is another argument put forth by the Architect with respect to the West Front extension: The committee report says that we need to brace the wall. But how does the Architect propose to brace the wall? By building an entire new structure. This, it seems to me, is an extravagant method of bracing a wall, and it certainly is not one that is ordinarily used.

If we are concerned about bracing a wall, we ought to do it in the most efficient and the least expensive way possible, and in a way that preserves the esthetics of this building and respects its history.

Mr. Chairman, I would also like to say, with respect to the argument that we are trying to fulfill an ancient dream of some former Architect of the Capitol, that this plan does not carry out that dream. This plan is a substantial modification of the older plan. So the proposed extension is not even true to any age-old dream. Certainly we ought not to give this Architect an opportunity to fulfill his own dream, which is a boondoggle.

Mr. STRATTON. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I would be happy to yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I want to commend the gentlewoman from New York (Ms. HOLTZMAN) for her statement.

I would like to point out that we cannot properly pinpoint this on the model down in the well, but if this extension is allowed to be put onto the West Front, we would find that the West Front is so far out that people would not even be able to see the dome if they were standing on the terrace.

That was never part of the original design. We will be hiding the most significant part of the structure.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, basically, this whole argument comes down to about two objections to the present plan in the appropriation bill.

The first objection has to do with the preservation of a national monument; and that is a very worthy objective. The second has to do with cost; and that is a very worthy objective, too.

There is also laced through this question a kind of suspicion of the House leadership based upon the performance of what went on behind the wall after the leadership got that eastern side extended and what use those rooms were assigned to. Not enough space was set aside for the regular House membership itself, I believe. Those of us in the peasantry such as myself, who simply labor here day in and day out without too much effect upon large policy matters such as this question, do not have much capacity to use this building as it should be used. This is a living building.

Mr. Chairman, when I first came to Washington 5 years ago, I was opposed to the extension of the west side of the Capitol. There seemed to be enough reasons. However, over the years since I have been here, I have listened to those two different kinds of comments, the reasonable kind of comment of my good friend, the gentleman from Michigan (Mr. TRAXLER), who laid it all out, who showed us what the whole question is all about; who pretty much exploded some of the mythology that builds up around a building such as this. The other kind of comment is that desire so well expressed by so many here today to keep things as they are because they are, in fact, monuments.

Mr. Chairman, I think, as usual, both of those arguments are a little bit exaggerated here on this floor today.

To those who wish to preserve things as they are, go out that main door right there, walk about 100 yards, and take a look about you. You are in a room that, for me anyway, ought to have been restored long since to the condition in which it was shown in that great painting of S. F. B. Morse's of the House in session at night in about 1840 when he painted it. It is over here, I believe, in the Corcoran Gallery. If any Members have not seen that painting, they have not seen a vital room that should be restored, instead of having some statutes of people who, I suppose, were famous people in their own State, but who collectively look like cigar-store Indians. I say that with no disrespect to their memories or to their reputations.

However, that old House Chamber to me is more the center, the holy of holies, on this side of the Capitol, at least, than any place else in the building. It is a mess.

No one here who now advocates preservation of a well, suggests that that old

Chamber be restored except for me, if the Members will pardon my modesty. I did write a letter to the Speaker a couple of years ago suggesting that it be done. I still think it is a good idea. At any rate, anyone concerned about preservation for its own sake might consider doing that.

Why do we take just the last couple of years to restore the old Senate Chamber and to restore the old Supreme Court chamber downstairs? It is a constant delight to me to go in there and stand there for a moment and hear those distant voices.

I have read a little history, too, not too much, I imagine; but I have been a lifelong student of American history, enough, in fact, to occasionally win a bottle of champagne on an American Airlines flight after taking their test on American history.

I am proud, as a matter of fact, of being a Member here and of trying to get my work done. I wish I could use some of it in this building.

Mr. Chairman, I presume that if the leadership actually gets this part extended out there, there will be some room for people like me to work right here, so we can come over here directly instead of having to shag it from the far reaches of the sixth floor of the Longworth Building or of the Cannon Building, down at the far end, where I have been.

Mr. Chairman, those who have emphasized the past and the necessity to preserve the past could do better, I believe, than to worship an old wall because there is more here to worship.

Perhaps it might be different for those of the Jewish faith who go to Jerusalem and go to the Old Wall, the second temple. There is a reason for that. It is all that is left. It is all that is left of an ancient time, of an ancient religion, and of ancient fathers. As a consequence, it does have real meaning and real worth.

However, today, we talk about preserving things of the past while not doing these other things that are much more obvious and would have much more effect on people who came through here and would have much more effect on us, I think, as Members. Not just now, but 10 years from now, 20 years from now, or 50 years from now.

Mr. TRAXLER. Will the gentleman yield?

Mr. RYAN. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank my good friend for yielding.

Mr. TRAXLER. Mr. Chairman, there is no intention on the part of the Architect or anyone else not to want to see the historic perspective of this Capitol fulfilled. The west wall will not be destroyed, it will be left there. It will be exposed as an interior wall. The paint will be removed and the sandstone itself will be viewable.

Mr. SHIPLEY. Mr. Chairman, I wonder if it is possible to secure a limitation of time on this amendment. I know we have one speaker left on this side and I think maybe there is one on the other side.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end at 5:10 o'clock p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I just think that this is such an important issue, and I want to remind this Congress that this building is not ours, it belongs to the American public. If the American people knew that this plan was going to possibly take effect, they would object. Furthermore, we have absolutely not had any discussion in a committee that I am a member of, the Subcommittee on Historic Preservation and Coinage of the Committee on Banking, Finance, and Urban Affairs. Why was this legislation not brought before the proper committee in Congress? I would like to ask the chairman why this was not done.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Chairman, when I went into the hearings on this matter, I was inclined to favor the position taken by this amendment. But when I looked seriously at the issues, and when I looked at the model and the history of the building, I concluded that the extension is justified. Therefore I will vote against the amendment now pending.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Chairman, I used to be a member of the subcommittee handling this and at that time I was one of those who went into this question very carefully. Originally I favored the extension because we were told that a restoration was not possible. The Praeger Report made it clear that a restoration was possible. I think the west wall should be preserved in its original form and, therefore, I shall support the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Chairman, the gentleman from California (Mr. RYAN) made a case against his own remarks when he mentioned the sacred old wailing wall in Jerusalem, which I have visited. That "second temple period" treasure represents two millenia of tradition. I love seeing it. And I love being able to touch or look directly at our west wall which represents almost 200 years of tradition on this Jenkins Hill, which was once called a pedestal looking for a monument. I think every American generation to come should be able to see at least one part of the original structure where Washington himself laid the cornerstone in 1793. I would beg this House not to close off forever the sunshine that streams in the corridor windows down the spine of this beautiful Capitol. Do not jam this lovely building with more offices but put them elsewhere. They will just generally be used as an excuse to hire more legal counsel anyway.

In the name of tradition refrain from burying our history inside over 100 more feet of modern offices. If you must continue to grow and grow at taxpayers' expense have the decent shame to put your offices underground. I strongly support the Stratton amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, with all due respect to my colleague, the gentleman from New York (Mr. STRATTON), I have in the past supported his amendment, but I really think we have reached a point where we should make a decision on the west wall.

I call his amendment the Taj Mahal amendment. We are really trying to treat the Capitol Building as some kind of architectural wonder. Actually it is important because it is the Capitol of our country. I know that when he started to oppose the project we are now considering, the cost was supposed to be $15 million. Now it is about $30 million. Maybe by the time we finally approve it, it will be $60 million. I think we would be wise to go on with the project and have it done with.

Mr. Chairman, I oppose the gentleman's amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, having chaired the Task Force on Space and Facilities Utilization, I can tell the Members that the Architect and his staff are occupying 22,000 square feet of space in the Capitol Building itself on the House side that could be converted to the use of the Members. That is what ought to be done. We do not need the West Front Extension for additional space. We also do not need the extension to save the wall. We can restore it. The major architectural groups oppose the extension. The scheme simply does not make any sense on the basis of any of the rationales that have been offered for it.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I think we ought to recognize that the way this issue keeps coming before us, without any opportunity for either the House or Senate to consider the basic issue of whether it is better to extend rather than to repair, because we are still saddled with a secret legislative device which can make decisions without the membership ever being consulted. That is why this extension issue always comes up on the appropriations bill, rather than in an authorization bill. The Commission on the Extension of the Capitol is such a secret, antidemocratic device, it ought to be abolished. It has no proper place in this post-Watergate Congress. We in the House ought to make these decisions—the membership themselves. They should not be made by just a few Members meeting in a telephone booth, with no open doors, and no public record. This is another reason why the amendment I have offered should be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WILSON).

Mr. CHARLES WILSON of Texas. Mr. Chairman, once again I would like to take this opportunity in support of this amendment to say that I really do not think we need more space. I think we need a better allocation of space. I do not think we need the Democratic Campaign Committee in the House Office Buildings; I do not think we need the Republican Committee in the House Office Buildings; I do not think we need the DSG in the House Office Buildings. I think we have many committee staffs that could best be put in other buildings. I think what we need is a good evaluation of space that we have and a fair distribution of that space.

Mr. Chairman, I intend to vote for this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Chairman, I wish to identify myself with the remarks of the gentleman from California (Mr. DORNAN) and the gentlewoman from Ohio (Ms. OAKAR). I think the Historical Preservation Committee should have been consulted also. I think the approach to restore the wall is much better in view of the historical importance of this building. I feel very strongly that the Historical Preservation group should certainly be consulted on a matter such as this. As Mr. DORNAN has pointed out, the proposed changes will block light out of many sections of this Capitol. Asthetically we should restore before we build more. Our Nation's Capitol is a historic and sacred building. Let us restore the wall.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I rise in opposition to the amendment for all the reasons stated earlier.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I rise in opposition to the amendment.

When I came here almost 10 years ago we were arguing about this question. We are still arguing about it. When I came I was all emotional about restoring the wall but now I look at it more realistically. I believe the extension is the only right way to go not for reason of space but as the best way to preserve the Capitol. We should all look at it realistically and support the program of the committee.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. SHIPLEY).

Mr. SHIPLEY. Mr. Chairman, I will not take any more time. The matter has been clearly and thoroughly discussed. I am opposed to the amendment, and I urge that it be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STRATTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 204, noes 212, not voting 17, as follows:

[Roll No. 395]

AYES—204

Abdnor	Gephardt	Neal
Addabbo	Gilman	Nedzi
Akaka	Glickman	Nichols
Anderson, Calif.	Goldwater	Nolan
	Goodling	Nowak
Anderson, Ill.	Gore	Oakar
Andrews, N.C.	Gradison	Ottinger
Archer	Hammer-schmidt	Panetta
Ashbrook		Patterson
Ashley	Hannaford	Pattison
Badillo	Hansen	Pease
Bafalis	Harkin	Perkins
Bauman	Harrington	Pike
Bedell	Harris	Pressler
Bellenson	Hawkins	Preyer
Bennett	Heckler	Pritchard
Boggs	Hollenbeck	Quie
Bonior	Holt	Rahall
Bonker	Holtzman	Railsback
Brown, Mich.	Horton	Regula
Buchanan	Howard	Reuss
Burgener	Ichord	Rinaldo
Burke, Calif.	Ireland	Risenhoover
Burton, John	Jacobs	Rodino
Burton, Phillip	Jones, Okla.	Roncalio
Byron	Jones, Tenn.	Rousselot
Caputo	Jordan	Russo
Cleveland	Kasten	Santini
Cochran	Kemp	Sarasin
Cohen	Ketchum	Satterfield
Coleman	Keys	Scheuer
Collins, Tex.	Kildee	Schroeder
Conable	Kindness	Sharp
Conte	Kostmayer	Simon
Conyers	Krebs	Smith, Nebr.
Corcoran	Krueger	Solarz
Cornell	LaFalce	Spence
Crane	Lagomarsino	Steers
Cunningham	Leach	Steiger
Daniel, Dan	Lehman	Stockman
Daniel, R. W.	Lott	Stokes
Davis	Lujan	Stratton
Dellums	Luken	Studds
Dodd	Lundine	Symms
Dornan	McDade	Taylor
Downey	McDonald	Thompson
Duncan, Tenn.	McHugh	Thone
Early	Maguire	Thornton
Eckhardt	Markey	Trible
Edgar	Marks	Tsongas
Edwards, Ala.	Marlenee	Van Deerlin
Edwards, Calif.	Martin	Vander Jagt
Edwards, Okla.	Mattox	Vento
Eilberg	Mazzoli	Volkmer
Emery	Meyner	Walker
English	Mikva	Walsh
Evans, Del.	Miller, Calif.	Watkins
Evans, Ind.	Miller, Ohio	Waxman
Fenwick	Mineta	Weaver
Findley	Minish	Weiss
Fish	Mitchell, Md.	Whalen
Florio	Mitchell, N.Y.	Whitehurst
Flowers	Moffett	Wilson, Tex.
Ford, Tenn.	Montgomery	Winn
Fowler	Moore	Wirth
Fraser	Moorhead, Calif.	Wylie
Frey		Yates
Fuqua	Moorhead, Pa.	Yatron
Gammage	Myers, Gary	Young, Fla.

NOES—212

Alexander	Brademas	Corman
Allen	Breaux	Cornwell
Ambro	Brinkley	Cotter
Ammerman	Brodhead	Coughlin
Andrews, N. Dak.	Brooks	D'Amours
	Broomfield	Danielson
Annunzio	Brown, Calif.	de la Garza
Applegate	Brown, Ohio	Delaney
Armstrong	Broyhill	Derrick
AuCoin	Burke, Fla.	Derwinski
Badham	Burke, Mass.	Devine
Baldus	Burleson, Tex.	Dickinson
Barnard	Burlison, Mo.	Dicks
Baucus	Butler	Diggs
Beard, R.I.	Carney	Dingell
Beard, Tenn.	Carr	Drinan
Benjamin	Carter	Duncan, Oreg.
Bevill	Cavanaugh	Erlenborn
Bingham	Cederberg	Ertel
Blanchard	Chappell	Evans, Colo.
Blouin	Chisholm	Evans, Ga.
Boland	Clausen, Don H.	Fary
Bolling		Fascell
Bowen	Clay	Fisher
Fithian	McEwen	Rudd
Flood	McFall	Runnels
Flynt	McKay	Ruppe
Foley	Madigan	Ryan
Forsythe	Mahon	Sawyer
Fountain	Mann	Schulze
Frenzel	Marriott	Sebelius
Gaydos	Mathis	Seiberling
Giaimo	Meeds	Shipley
Gibbons	Metcalfe	Shuster
Ginn	Michel	Sisk
Gonzalez	Mikulski	Skelton
Grassley	Milford	Skubitz
Gudger	Moakley	Slack
Hagedorn	Mollohan	Smith, Iowa
Hall	Moss	Snyder
Hamilton	Mottl	Spellman
Hanley	Murphy, Ill.	St Germain
Harsha	Murphy, N.Y.	Staggers
Hefner	Murphy, Pa.	Stangeland
Heftel	Murtha	Stanton
Hillis	Myers, Michael	Steed
Holland	Myers, Ind.	Stump
Hubbard	Natcher	Traxler
Huckaby	Nix	Treen
Hughes	O'Brien	Tucker
Hyde	Oberstar	Udall
Jeffords	Obey	Ullman
Jenkins	Patten	Vanik
Jenrette	Pepper	Waggonner
Johnson, Calif.	Pickle	Walgren
Johnson, Colo.	Poage	Wampler
Jones, N.C.	Price	White
Kastenmeier	Pursell	Whitley
Kazen	Quayle	Whitten
Kelly	Quillen	Wiggins
Latta	Rangel	Wilson, Bob
Lederer	Rhodes	Wilson, C. H.
Leggett	Richmond	Wolff
Lent	Roberts	Wright
Levitas	Robinson	Wydler
Lloyd, Calif.	Roe	Young, Alaska
Lloyd, Tenn.	Rogers	Young, Mo.
Long, La.	Rooney	Young, Tex.
Long, Md.	Rose	Zablocki
McClory	Rosenthal	Zeferetti
McCloskey	Rostenkowski	
McCormack	Roybal	

NOT VOTING—17

Aspin	Flippo	McKinney
Biaggi	Ford, Mich.	Pettis
Breckinridge	Guyer	Sikes
Clawson, Del	Hightower	Stark
Collins, Ill.	Koch	Teague
Dent	Le Fante	

The Clerk announced the following pairs:

On this vote:

Mr. Breckinridge for, with Mr. Teague against.

Mr. Ford of Michigan for, with Mr. Sikes against.

Messrs. JONES of Tennessee, PEASE, KOSTMAYER, and BUCHANAN changed their vote from "no" to "aye."

Messrs. COTTER, DRINAN, OBEY, CLAY, CAVANAUGH, HEFTEL, FITHIAN, HUGHES, SEBELIUS, and PEPPER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk continued to read the bill.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 36, after line 17, insert the following new section:

SEC. 404 (a) Except as provided in subsection (b), no funds appropriated by this Act shall be used to pay any employee any part of whose duties may consist of the operation of automated elevators for the House of Representatives except for the function of Member only elevators while the House of Representatives is in session and elevators in the Capitol Building.

(b) Subsection (a) shall not apply with respect to any employee who was employed to operate elevators for the House of Representatives on June 29, 1977, and whose employment for such purpose continues without interruption after that date.

Mr. GLICKMAN. Mr. Chairman, in terms of money value, this amendment is clearly not as significant as anything else we have talked about today, but in terms of the image of Congress, I believe it is probably more significant.

The issue relates to elevators and to operators of elevators that are automatic in nature.

I am proposing an amendment which will eliminate operators on automatic elevators except under the following circumstances: No. 1, where we have "Members Only" elevators while the House of Representatives is in session; and No. 2, elevators in the Capitol Building.

I am also proposing that no existing operators be terminated as a result of this amendment. Therefore, they would cease to work as a result of attrition.

Mr. Chairman, I wonder whether Congress ever stopped to think of how much better image the Government would have if there were not any operators of automatic elevators. The image that these operators project of the Federal Government is the exact image evervone has of the Federal Government, a Government, that spends money with abandon because it is so far removed from the taxpayers who have to cough up the dollars.

Mr. Chairman, can anybody here imagine the taxpayers of his State standing still and paying for operators to press buttons for passengers boarding automatic elevators in the city hall or State capital of this State?

Obviously, this is not the biggest example of Government waste around, but it is the kind of waste that we cannot blame on bureaucracy. It is the kind of waste we can do something about. We are spending several hundred thousand dollars for these pointless patronage jobs. These are clearly patronage jobs.

Mr. Chairman, I do not have any objection to patronage jobs; but I do think that if we do have patronage positions, they ought to be used for some positive purpose.

Again, as I pointed out, there is really no need to have these people. Obviously, before the House had automatic elevators, operators were needed; but as we automated these elevators, these positions were kept on primarily because they were patronage jobs. I would rather take the money and send these people out to do research for us on important issues or hire them as painters or for other work here in the House. However, to have people, for the most part, sitting on little stools on elevators and preventing the average citizen from coming in and pushing his own floor button is ridiculous.

Again, Mr. Chairman, I indicate that I am exempting "Members Only" elevators while the House is in session because I think that is fair for those of us, particularly on higher floors. I am exempting elevators in the Capitol Building because, obviously, there are a great number of tourists coming into these buildings; but I am not exempting the other elevators in the Longworth, Cannon, and Rayburn Buildings.

At this point, Mr. Chairman, there are 13 automatic elevators in the Cannon Building, 18 in the Longworth Building, and 28 in the Rayburn Building.

Mr. Chairman, while I realize that these are people who are doing these jobs, I still think the American people believe, for the most part, that they can push their own elevator buttons.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman has a good amendment, and I will support it.

I, for one, am tired of being embarrassed by having constituents come in and ask me about the billion dollar Congress and why we hire people on automatic elevators.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I would like to commend the gentleman also for offering an outstanding amendment.

There may be only a small amount of money involved, but I think the gentleman is quite correct. I agree with him.

Again, Mr. Chairman, I commend the gentleman for his amendment; and I plan to vote for it.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Indiana.

Mr. QUAYLE. Mr. Chairman, I thank the gentleman for yielding.

I also would like to compliment the gentleman on this amendment. If charity does not begin right here at home with automatic elevator operators, where else does it begin?

Using operators on automatic elevators adds up to quite a bit of charity.

Mr. Chairman, as the gentleman pointed out, it is embarrassing to try to excuse or rationalize the use of operators on automatic elevators when constituents ask why we have them on those automatic elevators.

I would urge everyone on both sides of the aisle to support the gentleman's amendment. I think it is a very good amendment.

Mr. GIAIMO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

Mr. Chairman. I take this time to point up a problem which is of great concern to us in the appropriations' procedure. For some weeks other Members of the House and I have been talking to each other with great concern about the use of limitations on appropriation bills, to write amendments and, in effect, to legislate. Increasingly, I hear Members saying that we should restrict in some way this ability to legislate on appropriation bills.

I do not buy that suggestion because I have been here for some years, and I remember the struggle that we had to go through to get meaningful reforms to open up this place to the legislative process so that, for example, we were able to get very meaningful limitations on serious matters in appropriation bills.

I remember, for example, that the only way we were able to get a limitation and a curtailment on the funds for bombing in Vietnam was via a limitation on an appropriation bill.

I do not like to see a reform that has taken place over these years being rolled back to the old situation. But, Mr. Chairman, many Members are concerned that we are getting limitations on everything under the sun. If we are not to jeopardize the process of effective limitations on appropriation bills, then we have to assume some restraint here. That means that we should not come in here with everything that seems like a brilliant idea right off the top of our heads and tack it on as a limitation on an appropriation bill.

We have committees in this House. It is the function of those committees to study these problems. I do not know whether there should be elevator operators or not. I would suggest that many of us in this Chamber do not know either. Therefore, we should not vote on it through this medium and in this way until a committee effectively looks into the matter and studies it.

We should carefully preserve and protect this great right that we have today, which is to write limitations on appropriation bills. It serves us well and has served us well in many instances, if we think back to many of the things that we have accomplished in this Congress that were of crucial significance. Many of them were accomplished through the medium of a limitation on an appropriation bill.

But, Mr. Chairman, I repeat that it is creating a problem and concern with many of our colleagues because they say that every time we bring an appropriation bill up now, we add every kind of an amendment to it. In effect, what we are doing is usurping the power of the legislative committees. We on the Committee on Appropriations do not want to do this. We say: Bring forth your limitations when they are serious and significant in nature, but do not bring up those things which could properly wait for effective action by the other committees. Do not jeopardize this vehicle that we have in this great Committee on Appropriations. We should not be bringing forth amendments of this kind, and we should vote down this amendment.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I want to join with my colleague the gentleman from Connecticut (Mr. GIAIMO) with regard to this problem. I feel very strongly that we should not support this amendment or take this kind of ac-

tion without actually exploring the problem fully.

I happen to be aware of the fact that we are occasionally confronted with some patronage problems. But, let me say that we have had elevator operators around here for a long time, and that, in fact, through them we are better able to serve many of our constituents. However, if it were only for our own personal use and that of our employees, that we were maintaining elevator operators and that we were used to them, then we would probably accept such an amendment, because that would be an entirely different thing. But in this case, Mr. Chairman, I would hope that the author would either withdraw the amendment, or that we vote down the amendment and that he take it to the proper committee for consideration.

Mr. TRAXLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am opposed to this amendment because although I believe there is a great and growing desire within each and every one of us, particularly myself, for economy in government, let me point out, that, while the amendment makes a good subject to discuss, the amendment does not accord with the facts of the situation. What are the facts in regard to elevator operators? In 1976, last year, those of us who were here reduced the number of elevator operators. At that time there were 152 in the House and Senate. They were assigned to a legislative group of buildings, and the provision provided that they be reduced to 90 through attrition. To date 51 have been eliminated. We have 11 more to go, and they are gradually phased out as they graduate from college and move on to other employment. Where will we be, then? In the House Office Buildings, 28; the Capitol will have 46; and the Senate Office Buildings, 16.

The Architect, who has been responsible for and funds the operation through this bill, is attempting to place these people in the most sensitive and traveled portions of our buildings and the Capitol, where they are absolutely necessary—absolutely necessary.

In committee we made every effort not only to hold the line, which we did do—look at the report; look at any new positions that are there, and there are darned, darned few, we denied virtually every request. What we wanted to do was make reductions, we examined elevator operators as a prime place for reductions and saw they are being phased down.

Let me just tell the Members that the gentleman's proposal providing that only during the time the House is in session will we have elevator operators is, from an employer's standpoint, impossible. Any Members who have been employers know it is impossible. We cannot hire somebody to come to work, sometimes at 10 o'clock, sometimes at 12 o'clock, sometimes they get out at 4 o'clock and sometimes they get out at midnight. It is an impossibility and it would cost us more money in the long run. It would be more expensive. We are hiring people who are in college to do this work.

I welcome every effort to reasonably and responsibly reduce the number of people we have around here. The committee last year took that action in regard to elevator operators. I will continue this effort to further reduce where possible.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I thank the gentleman for yielding.

I associate myself with the remarks of the gentleman. He is exactly right on target. We have done a heck of a job in this committee and the chairman has done a great job in this committee on cutting back.

Mr. TRAXLER. I thank my friend and the distinguished Republican member of the committee for his comments.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to say the gentleman from Kansas has an excellent amendment. I think it makes inordinately good sense. I intend to vote for it. I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The question was taken; and on a division (demanded by Mr. GLICKMAN), there were—ayes 35, noes 82.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 36, after line 17, insert the following new section:

SEC. 404. None of the funds appropriated by this Act may be used to purchase or maintain any automobile which has an average fuel mileage rating (based upon the combined fuel mileage ratings of such automobile for city and highway driving, as published by the Environmental Protection Agency) of less than 20 miles per gallon.

Mr. JACOBS. Mr. Chairman, the amendment pretty well speaks for itself. There is a bill pending before Congress that asks the American public to save gasoline, and the last time I heard, the best way to lead is by example. Those who say, "Do as I say and not as I do," do not turn out to be the best leaders, it seems to me.

One thing that might interest the Members is that there are three automobiles manufactured this year which can meet these standards and get 20 miles to the gallon average that have 109 cubic feet of passenger space. How much do you suppose a Cadillac limousine has? It is 115 cubic feet of space. So we are not asking anybody to cramp themselves up. What we are asking is that if anybody around here really believes there is an energy crisis or about to be an energy crisis, it seems to me that those people who believe that ought also to believe that we should set an example for the country.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I notice, having just read the gentleman's amendment that he refers to "none of the funds" contained within this act—is that correct?

Mr. JACOBS. I believe that is the way it was drawn.

Mr. EVANS of Colorado. No matter in what portion of the bill the funds appear, no such funds can be used to purchase any vehicle that gets less than 20 miles per gallon?

Mr. JACOBS. Or maintained.

Mr. EVANS of Colorado. And that includes if any Member of Congress decided to buy an automobile for himself or herself. Is that correct?

Mr. JACOBS. I am embarrassed to have to correct the gentleman, but if he is talking about the salaries of the Members of Congress, the funds of this bill are used for the salaries and not for the purchase of the automobile for the Congressman.

Mr. EVANS of Colorado. It seems to me if the Member wants to buy an automobile, those provisions would apply to the Member.

Mr. JACOBS. I am very happy to clear that point up. I do not think anybody else was confused about it.

Mr. McCORMACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

I was going to ask the gentleman a question, but I would like to point out the amendment reads:

None of the funds appropriated by this Act may be used to purchase or maintain any automobile.

This means any automobile now in the possession of any of the agencies funded in here, if the automobile does not fit this category, cannot be maintained even though it is now in the possession of the Government or of the agencies involved. I suggest the amendment be defeated.

Mr. SHIPLEY. Mr. Chairman, I rise in opposition to the amendment and urge its defeat.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I rise in opposition to this amendment.

Several minutes ago I made a speech on another amendment. I would just like to say "ditto" on this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. PRESSLER

Mr. PRESSLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRESSLER: On page 36, after line 17, insert the following new section:

None of the funds appropriated by this Act may be used for the Congressional intern program established by House Resolution 420 of the 93rd Congress unless for the purposes of the Resolution a "similar institution of higher learning" is construed to include a postsecondary vocational school.

POINT OF ORDER

Mr. SHIPLEY. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SHIPLEY. Mr. Chairman, the gentleman's amendment is subject to a point of order, and I make the point of order that it amends existing law and constitutes legislation on an appropriation bill.

Subsection (b) (1) of House Resolution 420 of the 93d Congress, which was made permanent law in Public Law 93-245 reads as follows:

(1) if the intern is a student, a certificate that such intern was during the academic year immediately preceding his employment, a bona fide student at a college, university, or similar institution of higher learning; or

Mr. Chairman, the language I just read is quite specific. I understand the purpose of the gentleman. I agree with him. I think his amendment has merit and I want to support him in any way, but it is legislation on an appropriation bill.

I suggest the gentleman work with the proper committee, I assume the House Administration Committee, and I will help the gentleman.

Mr. PRESSLER. Mr. Chairman, I would argue this does not change the law. I have attempted to hire a postsecondary education student intern under the Lyndon Johnson intern program. The reason I am presenting this amendment is that I have been unable administratively to get this matter resolved for that postsecondary vocational student to qualify for the summer program; but with the offer of assistance to get this matter resolved, I will be happy to accept that; but I do believe that the matter is not new legislation.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

The amendment of the gentleman from South Dakota does change the structure of existing law and for the reasons pointed out by the gentleman from Illinois, the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 36, immediately after line 17, insert the following new section:

SEC. 404. None of the funds appropriated under this Act may be obligated or expended for the planning, design, or construction of any additional office building for the United States House of Representatives.

Mr. JACOBS. Mr. Chairman, across the river in the Pentagon they have 3,705,397 square feet of office space and approximately 26,000 people who are employed there. That works out to 142.5 square feet per employee.

Now, that is the Pentagon and they are not really known for their parsimonious ways over there when it comes to spending.

The three House office buildings, by comparison, have 3,346,596 square feet and approximately 12,000 employees.

Let me say parenthetically that many of those 12,000 employees are out in the various congressional districts in the States across the country. Some of them work in the Capitol. Some of them are police officers who do not have office space. In fairness, I would have to say that some of that space is used by committees; but in any case, making the same comparison now with the Pentagon, we have here among those three office buildings in the most conservative estimate that I have just indicated, not the 142 square feet per employee, but 303 square feet per employee. It is for that reason that I think the cause of fiscal responsibility, if you want to call it that, and not wasting the taxpayers' money, if you want to speak in plain English, would mean a vote for the adoption of the amendment.

Mr. SHIPLEY. Mr. Chairman, I rise in opposition to the amendment. This is the last amendment and the chairman of this subcommittee is ready to finish the day. I oppose the amendment and urge its defeat.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MURPHY of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7932) making appropriations for the legislative branch for the fiscal year ending September 30, 1978, and for other purposes, pursuant to House Resolution 664, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. COUGHLIN. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. COUGHLIN of Pennsylvania moves to recommit H.R. 7932 to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendments:

Page 5, line 24, strike the period, and insert in lieu thereof: "*Provided*, That appropriations under this paragraph shall not be available for the salary of any person who at the same time receives a salary under any other paragraph of this Act."

On page 6, line 4, strike "$57,185,000" and insert "$54,990,000"; line 8, strike "$3,073,000" and insert "$878,000".

On page 7, line 10, strike the period, and insert in lieu thereof: ": *Provided*, That none of the funds appropriated in this Act shall be used for an allowance for a Member's Official Expenses in excess of $2,000."

Page 9, after line 3 insert the following new section:

Expenditure of any appropriation under this Act, available for disbursement by the Clerk of the House of Representatives, shall be limited to those expenditures included in the statement of expenditures, authorized by 2 U.S.C. 104a, which statement is available for public inspection during normal working hours each day, excepting only Saturdays, Sundays, and legal holidays.

On page 9, after line 3 insert the following new section:

Funds in this Act related to services provided by the stationery room, the House recording studio, the House barbershops, the House beauty salon, and each food service facility, shall be limited to such services, that are operated on an annually self-sustaining basis including rent, utilities, and compensation and benefits of personnel employed in those entities.

On page 9, after line 3, insert the following new section:

None of the funds contained in this Act shall be made available for purposes authorized by House Resolution 457, approved July 21, 1971 (Public Law 92-184) or authorized by House Resolution 1372, approved July 1, 1976, as a result of any order to be issued by the Committee on House Administration pursuant to the provisions of House Resolution 457, 92d Congress, or House Resolution 1372, 94th Congress, for official expenses and allowances for Members, officers, and standing committees of the House of Representatives.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SHIPLEY. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk continued the reading of the motion to recommit.

Mr. COUGHLIN (during the reading). Mr. Speaker, I renew my unanimous-consent request that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. COUGHLIN. Mr. Speaker, I will not take the entire 5 minutes by any manner of means. This is exactly the same set of amendments that were proposed earlier en bloc, and they are the same set of amendments that were brought before this House last year.

Mr. Speaker, as I said earlier, the Commission on Administrative Review has done a great job in providing for the disclosure and accounting for Members' personal finances, the things they do personally outside this House, but they have, at least so far, done very little about the way Members and committees use the taxpayers' dollars in their allowances and their accounts, and in committee allowances and accounts. So, just to be clear for those Members who were not here earlier, what this motion to recommit would do would be as follows:

It would provide that the expenditure

records of Members and committees would be available for public inspection at the Office of the Clerk.

It would prohibit Members from having a person on the payroll of both the Member and a committee at the same time.

It would require the stationery room, the House recording studio, the beauty shop, the barber shop, all House cafeterias and dining rooms, to be operated on a self-sustaining basis so that we cannot be accused of using taxpayers' funds to subsidize those, which is what is happening now.

It would reduce our allowances by the $5,000 they were increased by at the time we had the so-called Obey reform amendments.

Finally, it would require that any change in our allowances be brought to the House floor for a vote, and stop the present procedure where some adjustments can be made by the Committee on House Administration unilaterally, and without a vote.

I think this would go a long way toward restoring the credibility in this institution which we have lost because of the many abuses in the past, in the use of taxpayers' funds. That is the thing we are responsible to account for, and that is what these amendments would do.

Mr. Speaker, I urge the Members to vote for the motion to recommit.

Mr. SHIPLEY. Mr. Speaker, I think the provisions contained in the recommittal motion were fully discussed today. I urge its defeat.

Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. COUGHLIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred forty-seven Members are present, a quorum.

So the motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McFALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 161, not voting 22, as follows:

[Roll No. 396]

YEAS—250

Addabbo	Baldus	Brademas
Akaka	Beard, R.I.	Breaux
Alexander	Beilenson	Brodhead
Allen	Benjamin	Brooks
Ammerman	Bevill	Brown, Calif.
Anderson, Ill.	Bingham	Brown, Mich.
Andrews, N.C.	Blanchard	Burgener
Andrews, N. Dak.	Blouin	Burke, Calif.
	Boggs	Burke, Mass.
Annunzio	Boland	Burlison, Mo.
Armstrong	Bolling	Burton, John
Ashley	Bonker	Burton, Phillip
Badillo	Bowen	Butler
Carney	Jones, N.C.	Rhodes
Carter	Jordan	Richmond
Cederberg	Kastenmeier	Roberts
Chappell	Kazen	Robinson
Chisholm	Krebs	Rodino
Clay	LaFalce	Roe
Collins, Ill.	Latta	Rogers
Corman	Lederer	Rooney
Cornell	Leggett	Rose
Cornwell	Lehman	Rosenthal
Cotter	Long, La.	Rostenkowski
D'Amours	Long, Md.	Roybal
Daniel, Dan	Lujan	Ryan
Danielson	Lundine	Sarasin
Davis	McClory	Satterfield
de la Garza	McCloskey	Sawyer
Delaney	McCormack	Scheuer
Dellums	McEwen	Schroeder
Derwinski	McFall	Seiberling
Devine	McHugh	Shipley
Dickinson	McKay	Simon
Dicks	Madigan	Sisk
Dingell	Mahon	Skelton
Dodd	Mann	Skubitz
Drinan	Marks	Slack
Duncan, Oreg.	Mathis	Smith, Iowa
Early	Mazzoli	Solarz
Eckhardt	Meeds	Spellman
Edwards, Ala.	Metcalfe	St Germain
Edwards, Calif.	Meyner	Staggers
Eilberg	Michel	Stangeland
Erlenborn	Mikulski	Stanton
Ertel	Mikva	Steed
Evans, Colo.	Milford	Steers
Evans, Ga.	Miller, Calif.	Stokes
Fary	Mineta	Studds
Fascell	Minish	Thompson
Findley	Mitchell, Md.	Thornton
Fisher	Moakley	Traxler
Flood	Mollohan	Treen
Florio	Moorhead, Pa.	Udall
Flowers	Moss	Ullman
Flynt	Murphy, Ill.	Van Deerlin
Foley	Murphy, N.Y.	Vanik
Ford, Tenn.	Murtha	Vento
Forsythe	Myers, Michael	Waggonner
Fountain	Nedzi	Walgren
Fraser	Nichols	Wampler
Fuqua	Nix	Waxman
Gaydos	Nolan	Weiss
Giaimo	Nowak	Whalen
Gibbons	O'Brien	White
Gonzalez	Oakar	Whitehurst
Gudger	Oberstar	Whitten
Hagedorn	Obey	Wiggins
Hall	Ottinger	Wilson, Bob
Hamilton	Panetta	Wilson, C. H.
Hanley	Patten	Wilson, Tex.
Harris	Patterson	Winn
Hawkins	Pattison	Wirth
Heftel	Pease	Wolff
Holland	Pepper	Wright
Holtzman	Perkins	Wylie
Horton	Pickle	Yates
Howard	Preyer	Yatron
Hyde	Price	Young, Alaska
Ireland	Pritchard	Young, Mo.
Jenkins	Quie	Young, Tex.
Jenrette	Railsback	Zablocki
Johnson, Calif.	Rangel	Zeferetti
Johnson, Colo.	Reuss	

NAYS—161

Abdnor	Cohen	Gore
Ambro	Coleman	Gradison
Anderson, Calif.	Collins, Tex.	Grassley
	Conable	Hammer-schmidt
Applegate	Conte	
Archer	Corcoran	Hannaford
Ashbrook	Coughlin	Hansen
AuCoin	Crane	Harkin
Badham	Cunningham	Harsha
Bafalis	Daniel, R. W.	Heckler
Barnard	Derrick	Hefner
Baucus	Dornan	Hillis
Bauman	Duncan, Tenn.	Hollenbeck
Beard, Tenn.	Edgar	Holt
Bedell	Edwards, Okla.	Hubbard
Bennett	Emery	Huckaby
Bonior	English	Hughes
Brinkley	Evans, Del.	Ichord
Broomfield	Evans, Ind.	Jacobs
Brown, Ohio	Fenwick	Jeffords
Broyhill	Fish	Jones, Okla.
Buchanan	Fithian	Jones, Tenn.
Burke, Fla.	Fowler	Kasten
Burleson, Tex.	Frenzel	Kelly
Byron	Frey	Kemp
Caputo	Gammage	Ketchum
Carr	Gephardt	Keys
Cavanaugh	Gilman	Kildee
Clausen, Don H.	Ginn	Kindness
	Glickman	Kostmayer
Cleveland	Goldwater	Krueger
Cochran	Goodling	Lagomarsino
Leach	Myers, Gary	Shuster
Lent	Myers, Ind.	Smith, Nebr.
Levitas	Natcher	Snyder
Lloyd, Calif.	Neal	Spence
Lloyd, Tenn.	Pike	Steiger
Lott	Pressler	Stockman
McDade	Pursell	Stratton
McDonald	Quayle	Stump
Maguire	Quillen	Symms
Markey	Rahall	Taylor
Marlenee	Regula	Thone
Marriott	Rinaldo	Trible
Martin	Risenhoover	Tsongas
Mattox	Roncalio	Tucker
Miller, Ohio	Rousselot	Vander Jagt
Mitchell, N.Y.	Rudd	Volkmer
Moffett	Runnels	Walker
Montgomery	Ruppe	Walsh
Moore	Russo	Watkins
Moorhead, Calif.	Santini	Weaver
	Schulze	Whitley
Mottl	Sebelius	Wydler
Murphy, Pa.	Sharp	Young, Fla.

NOT VOTING—22

Aspin	Flippo	McKinney
Biaggi	Ford, Mich.	Pettis
Breckinridge	Guyer	Poage
Clawson, Del	Harrington	Sikes
Conyers	Hightower	Stark
Dent	Koch	Teague
Diggs	Le Fante	
Downey	Luken	

The Clerk announced the following pairs:

Mr. Breckinridge with Mr. Teague.
Mr. Le Fante with Mr. Aspin.
Mr. Ford of Michigan with Mr. Flippo.
Mr. Dent with Mr. Guyer.
Mr. Harrington with Mr. Hightower.
Mr. Biaggi with Ms. Pettis.
Mr. Sikes with Mr. McKinney.
Mr. Koch with Mr. Conyers.
Mr. Diggs with Mr. Del Clawson.
Mr. Downey with Mr. Stark.

Mrs. HECKLER and Messrs. RUSSO, RAHALL, and STRATTON changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHIPLEY. Mr. Speaker, I ask unanimous consent that I may revise and extend my own remarks on the bill which was just considered, and to include tabulations and other extraneous matter, and, further, that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7171, TO ESTABLISH MORE RESPONSIVE PROGRAMS FOR THE BENEFIT OF FARMERS AND CONSUMERS OF FARM PRODUCTS AND TO EXTEND AND IMPROVE PROGRAMS UNDER AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

Mr. BOLLING from the Committee on Rules, submitted a privileged report (Rept. 95-471) on the resolution (H. Res. 666), providing for the consideration

of the bill (H.R. 7171) to establish more responsive programs for the benefit of farmers and consumers of farm products; to extend and improve the programs conducted under the Agricultural Trade Development and Assistance Act of 1954, as amended; and for other purposes, which was referred to the House Calendar and order to be printed.

PERMISSION FOR SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATIONAL RESOURCES OF THE COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE TOMORROW

Mr. RYAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Environment, Energy, and Natural Resources of the Committee on Government Operations be permitted to sit, if necessary, during the 5-minute rule tomorrow to conduct an investigative hearing on dam safety.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR THE ADJOURNMENT OF THE TWO HOUSES FROM JUNE 30, 1977, UNTIL JULY 11, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, I send to the desk the following privileged concurrent resolution (H. Con. Res. 267) providing for an adjournment of the House of Representatives from Thursday, June 30, 1977, until Monday, July 11, 1977, and of the Senate from Friday, July 1, 1977, until Monday, July 11, 1977, and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 30, 1977, it stand adjourned until 12 o'clock meridian on Monday, July 11, 1977, and that when the Senate recesses on Friday, July 1, 1977, it stand in recess until 1 o'clock postmeridian on Monday, July 11, 1977.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TOMORROW DURING GENERAL DEBATE ON H.R. 6831

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have permission to sit during general debate tomorrow on H.R. 6831, the public works portion of the Energy Bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TENTH ANNUAL REPORTS ON ADMINISTRATION OF THE HIGHWAY SAFETY AND NATIONAL MOTOR VEHICLE AND TRAFFIC SAFETY ACTS OF 1966—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committees on Public Works and Transportation and Interstate and Foreign Commerce:

To the Congress of the United States:

The tenth annual reports on the administration of the Highway Safety and National Motor Vehicle and Traffic Safety Acts of 1966 are transmitted for your consideration. The volume on motor vehicle safety includes the reporting requirements of Title I of the Motor Vehicle Information and Cost Savings Act of 1972. It also mentions the responsibilities with respect to automotive fuel economy in the Energy Policy and Conservation Act of 1976. The highway safety document briefly describes developments in those aspects of traffic safety in which Congress expressed an interest in the Highway Safety Acts of 1973 and 1976.

These reports are based upon traffic program activities in effect prior to my term of office.

JIMMY CARTER.

THE WHITE HOUSE, *June 29, 1977.*

COMMUNICATION FROM SERGEANT AT ARMS—SUBPENA DUCES TECUM AND FINDING OF COURT OF U.S. DISTRICT COURT FOR DISTRICT OF COLUMBIA

The SPEAKER pro tempore laid before the House the following communication from the Sergeant at Arms:

JUNE 28, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On June 15, 1977 I was served with the attached subpoena duces tecum issued by the United States District Court for the District of Columbia together with the attached finding of the Court concerning the materiality and relevancy of the subpoenaed materials.

Pursuant to the provisions of House Resolution 10, I am transmitting said subpoena and finding of the Court for the consideration of the House.

With kind regards, I am,
Sincerely,

KENNETH R. HARDING,
Sergeant at Arms,
House of Representatives.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 10, the subpena and attached finding of the court will be printed in the RECORD at this point.

The subpena and finding of the court follow:

[United States District Court for the District of Columbia]

SUBPOENA DUCES TECUM

In re: Possible violations of 18 U.S.C. §§ 1341, 1001.

To: Honorable Kenneth R. Harding, Sergeant at Arms of the House of Representatives, Washington, D.C., or his authorized representative:

Bring with you:

(A) Any and all documents pertaining to any loans or advances of salary made to Charles C. Diggs, Jr., such documents to include loan applications, notes, instruments making payment to Diggs, instruments evidencing repayments by Diggs, ledger cards, journals, correspondence, and office memoranda from January 1, 1972 to the present;

(B) Any and all documents pertaining to any checking accounts in the name of Charles C. Diggs, Jr., such documents to include monthly statements, checks, deposit slips, deposit items, debit and credit memos, correspondence and office memoranda from January 1, 1972 to the present.

You are hereby commanded to attend before the 7th day of July, 1977, at 9:30 A.M. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Grand Jury without leave of the Court or United States Attorney.

Witness: this 15th day of June, 1977.

WILLIAM B. BRYANT,
Chief Judge, United States District Court for the District of Columbia.

[United States District Court for the District of Columbia]

MISC. No. 77-0137—FINDING OF COURT

In re: Possible violation of 18 U.S.C. §§ 1341, 1001

Upon consideration of in camera disclosures made by representatives of the Office of the United States Attorney for the District of Columbia, it is this 15th day of June, 1977,

Found that the documentary evidence and materials subpoenaed under the subpoenas duces tecum dated June 15, 1977, and addressed to the Honorable Edmund L. Henshaw, Clerk of the House of Representatives, or his authorized representative, and Kenneth R. Harding, Sergeant at Arms of the House of Representatives, or his authorized representative, facsimiles of which are attached hereto, are necessary, material and relevant to a pending Grand Jury Investigation in this Judicial District.

Wherefore, the court desires that the documentary evidence or certified true copies thereof which are the subject of the subpoenas duces tecum be supplied to its authorized representative, James F. Davey, accompanied by Assistant United States Attorney Eric B. Marcy and/or Robert W. Ogren as representatives of the proper party to this proceeding, to wit: the Federal Grand Jury of the United States District Court for the District of Columbia.

WILLIAM B. BRYANT,
Chief Judge, United States District Court for the District of Columbia.

COMMUNICATION FROM CLERK OF THE HOUSE—SUBPENA DUCES TECUM AND FINDING OF COURT OF U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House:

WASHINGTON, D.C.,
June 28, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On June 15, 1977 I was served with the attached subpoena duces

tecum issued by the United States District Court for the District of Columbia together with the attached finding of the Court concerning the materiality and relevancy of the subpoenaed materials.

Pursuant to the provisions of House Resolution 10, I am transmitting said subpoena and finding of the Court for the consideration of the House.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

The SPEAKER pro tempore. Pursuant to the provision of House Resolution 10, the subpena and finding will be printed in the RECORD at this point.

The subpena and finding follow:

[U.S. District Court for the District of Columbia]

SUBPOENA DUCES TECUM

(In re possible violations of 18 U.S.C. §§ 1341, 1001.)

To: Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Washington, D.C., or his authorized representative.

Bring with you: All original and official payroll, tax and personnel documents, records and materials whether maintained by the Finance Office, the Committee on the District of Columbia or any other internal House of Representatives body, relating to Maria A. Reynolds, Prince Wallace Jeter and Jeralee Richmond, for the period beginning January 1, 1971 through the present, such documents and materials to include all applications for employment, W-4 and W-2 Federal Tax Forms (or their equivalents), clerk-hire forms, personnel files, payroll ledgers or journals, and House of Representatives records reflecting all United States Treasury checks, by number, issued during that period which reflects payroll payments to the aforementioned individuals and any evidence of the method by which those checks were transmitted to the payees, their banks, or their representatives.

You are hereby commanded to attend before the Grand Jury of this Court on Thursday the 7th day of July, 1977, at 9:30 A.M. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Grand Jury without leave of the Court or United States Attorney.

Witness: this 15 day of June, 1977.

WILLIAM B. BRYANT,
Chief Judge, U.S. District Court for the District of Columbia.

[U.S. District Court for the District of Columbia—Misc. No. 77-0137]

FINDINGS OF COURT

In re possible violation of 18 U.S.C. §§ 1341, 1001

Upon consideration of in camera disclosures made by representatives of the Office of the United States Attorney for the District of Columbia, it is this 15 day of June, 1977,

FOUND that the documentary evidence and materials subpoenaed under the subpoenas duces tecum dated June 15, 1977, and addressed to the Honorable Edmund L. Henshaw, Clerk of the House of Representatives, or his authorized representative, and Kenneth R. Harding, Sergeant at Arms of the House of Representatives, or his authorized representative, facsimiles of which are attached hereto, are necessary, material and relevant to a pending Grand Jury Investigation in this Judicial District.

WHEREFORE, the court desires that the documentary evidence or certified true copies thereof which are the subject of the subpoenas duces tecum to supplied to its authorized representative, James F. Davey, accompanied by Assistant United States Attorney Eric B. Marcy and/or Robert W. Ogren as representatives of the proper party to this proceeding, to wit: the Federal Grand Jury of the United States District Court for the District of Columbia.

WILLIAM B. BRYANT,
Chief Judge, U.S. District Court, for the District of Columbia.

STATEMENT ON U.S. POLICY TOWARD ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Florida. Mr. Speaker, I am concerned today about the recent reports that the Carter administration is on the verge of doing irreparable damage to our position in the Middle East and putting one of our few good friends in even more danger than it already faces.

I refer, Mr. Speaker, to the June 27 statement by Hodding Carter III of the State Department which calls for Israel to relinquish its territorial gains and the protection these territories afford to assist forward movement toward a peace settlement in the Middle East. The grounds for this proposal are found in the United Nations Resolution 242 of November 1967, which would require Israel to withdraw from all land, including the Golan Heights, as a price of peace. My understanding is that this complete withdrawal would be a precondition to negotiation and would not bring any guarantee of Israel's security. Small wonder that the people of Israel recently found it necessary to turn to a government more willing to dig in its heels and uphold its rights.

Mr. Speaker, President Carter has tried quick-fix initiatives in the Panama Canal negotiations, normalization of relations with Cuba and Vietnam, human rights, and troop withdrawals from Korea. If President Nixon's specialty was the surprising long pass, Jimmy Carter's approach seems to be a series of quick openers. However, the human rights initiative has soured SALT negotiations with the Soviets and endangered Soviet dissidents; Vietnam normalization is in for a long series of fruitless treks to Paris: the Panama treaty is in for considerable difficulty in the Senate and the House; Cuban talks are far from reaching any results satisfactory to most Americans, and the President's Korean initiative has come close to being ambushed. In short, the President has been unable to make any substantial diplomatic achievement. Now we are seeing Israel face the prospect of providing the bait for the President's next angling expedition.

Mr. Speaker, Israel is a staunch friend of the United States. It is a valiant and vigorous ally and to it we have a commitment which is a measure of our resolve. As such as I want to see peace in the Middle East, I cannot see how relinquishing all Israel's bargaining chips at once with no real reciprocal agreements from the other side is a healthy approach. Israel depends heavily on the United States already for defense. Were we to prevail in forcing Israel to negotiate along lines laid down by U.N. Resolution 242 we would be saying: "You will have to trust us even more," while we convince many Israelis to doubt our reliability.

Once again, Mr. Speaker, I think the President should realize that in the Middle East, as elsewhere in the world, there are no quick dashes through the line and down the field.

There are no quick fixes, no fast solutions. Israel should not be the next to live through one of our foreign policy initiatives. It might not survive, and that would be a tragedy of the worst sort.

SOCIAL SECURITY BENEFIT INCREASES SHOULD NOT AFFECT ELIGIBILITY OF RECIPIENTS OF OTHER FEDERALLY ASSISTED PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, on Friday, June 20, the 33,023,522 recipients of social security will receive an automatic 5.9-percent increase in their checks based on the escalation in the cost of living since the last annual adjustment.

Once again, many Americans who are also qualified to receive support under other Federal programs can expect to see their status in those other programs reevaluated on the basis of their "greater income" attributable to the automatic cost-of-living increase in social security. Many participants in programs such as federally subsidized housing, food stamps, medicaid, aid for families with dependent children, and non-service-connected veterans' benefits can expect to see reductions in the level of support they receive under those programs. Surely, this was not the intent of Congress when it provided in 1972 for annual automatic adjustments in social security benefits.

I doubt that there is a Member of this body who has not received heart-rendering letters from constituents receiving meager veterans' pensions who found those payments seriously curtailed or eliminated when his or her status was reevaluated effective January 1, 1977. Can we seriously consider a cost-of-living adjustment cause to cut back other aid?

On February 24, my friend and colleague, Mr. SEIBERLING, and I introduced a package of five bills addressing each specific area in which we have become aware that such cutbacks occur. To date there has been no positive action on any of these measures.

Our legislation provides that social security benefit increases shall not be considered as income or resources for the purposes of determining the eligibility for or amount of assistance which any individual or family is provided under Federal or federally assisted programs. Over 200 Members support this or similar legislation.

I would like to invite additional cosponsorship to insure that this matter is at least given a fair hearing by the committees involved.

Such an obvious miscarriage of congressional intent should not be allowed to continue. The situation I have described truly is giving with one hand and taking away with the other. Those who are most adversely affected are those who fully qualify for means-tested relief programs—children, the aged, the infirm, and the poor—in short, the people we should be trying to help.

THE CARTER ADMINISTRATION'S MIDEAST PEACE PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. STEERS) is recognized for 5 minutes.

Mr. STEERS. Mr. Speaker, the Carter administration appears to be changing its position regarding a peace settlement in the Middle East by attempting to dictate to Israel how they should approach settlement negotiations between themselves and their Arab neighbors.

The administration policy statement made yesterday leaves little doubt that President Carter now expects Israel to withdraw "to approximately the borders that existed prior to the war of 1967." Further, the administration has attempted to dictate to the Middle East the outcome of the Palestinian dilemma by asserting that a Palestinian "homeland" or "entity" should be established.

Mr. Speaker, I believe President Carter sincerely desires to see peace come to the Middle East, but I am at a loss to see how his administration's recent position will help achieve this goal. How can President Carter expect a peace settlement that has been forced upon one or both of the conflicting parties to last permanently? This permanent peace must be our ultimate goal in the Middle East, and it is my firm conviction that this can be achieved only through direct negotiations between those involved without any preconditions.

With this position, President Carter has led Arab leaders to expect many concessions from the Israelis, but he has not outlined Arab concessions to Israel's leaders. If it is the desire of President Carter to dictate a Mideast peace settlement, he should outline his entire plan, assuming he has proposals to make regarding Arab concessions. Since he has yet to announce this aspect of a Mideast peace, I expect the Government of Israel will have objections to the administration's present position.

President Carter further places the Israelis in an awkward position by expecting them to agree, in advance, to the establishment of a Palestinian "homeland," while the Palestinian Liberation Organization, which claims to represent most of the Palestinian refugees, still retains the destruction of the State of Israel as its primary goal. How can Israel be expected to accept this administration dictum concerning a Palestinian "homeland" when the Palestinians are unwilling to accord to the Israelis the right even to exist as a state?

Mr. Speaker, I doubt President Carter's recent efforts to define the administration's position will serve to reduce Middle East tensions. It is possible that these statements will serve to raise the expectations of the Arabs and force the Israelis into a hard bargaining position. I am afraid this will set the stage for failure at Geneva. It is important for the success of these important, crucial negotiations that the Middle East countries involved approach the Geneva Conference without false expectations and preconditions that will jeopardize the chances for a truly lasting peace.

Mr. Speaker, I am enclosing a further statement in the Extensions regarding the problems of Israel and the Middle East.

UNAVOIDABLY ABSENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTEN) is recognized for 5 minutes.

Mr. KASTEN. Mr. Speaker, due to previous commitments in Wisconsin, I was absent from the Monday, June 27 session and missed a series of votes relating to H.R. 6666, the Legal Service Corporation Act. I wish to state for the record how I would have voted had I been present:

Kindness amendment to reduce the authorization in the bill from $238.7 million to $175 million in fiscal year 1978—"yea."

Kindness amendment to require that the budget of the Corporation be submitted to the Office of Management and Budget—"yea."

Wylie amendment to prohibit the use of funds by the Corporation for cases relating to school desegregation—"yea."

Ashbrook amendment to terminate the activities of the Corporation on September 30, 1979—"yea."

McDonald amendment to prohibit the Corporation from providing assistance in cases arising out of disputes or controversies surrounding homosexuality or gay rights—"yea."

Kindness motion to recommit the bill with instructions to reinstate the so-called Green amendment—"yea."

Final passage of H.R. 6666—"nay."

INTRODUCTION OF A BILL PROVIDING FOR THE SETTLEMENT OF CERTAIN WATER CLAIMS OF THE AK CHIN INDIAN COMMUNITY OF ARIZONA AGAINST THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, I am today introducing a bill designed to satisfy the critical water needs of the Ak Chin Indian Community of Arizona and to settle any legal claims the tribe may have against the United States arising out of the entitlement of the tribe to the use of water.

The bill proposes to resolve, without protracted, costly, and socially disruptive litigation, the Ak Chin Indian Community's water claims which are based upon the contention that the United States failed to meet its trust responsibility to the Indian tribe.

The Ak Chin Reservation was established by Executive order on May 28, 1912, as a permanent home for scattered Pima and Papago Indians. It is located 30 miles south of Phoenix and contains 21,840 acres. All of the land is suitable for irrigation. However, using the Bureau of Reclamation figure of 6 percent reduction for nonfarm uses, 19,656 acres of the reservation are available for irrigation. It is estimated that between 333 and 350 members of the tribe live on or near the reservation.

At the time of the establishment of the reservation, the United States filed notices of appropriation of 70,000 acre/feet annually from surface waters on the reservation for the benefit of the tribe. The United States subsequently failed to take necessary action to practically secure this right for the Indians. Subsequent pumping and diversion by non-Indian users have totally depleted the surface water of the reservation. The reservation is now totally dependent on ground water pumping for irrigation purposes.

Between 1912 and 1946, there was no farming development on the reservation. Federal Indian policy did not permit Indian farming on an intensive basis. Beginning in 1946, Federal policy supported non-Indian leave development of reservations. Under this policy, 10,000 acres of Ak Chin land were developed for irrigation by non-Indian lessees with only minimal return to the Indians. Because of the relatively high elevation of the water table on the reservation—50 to 60 feet below the surface, the lessees were able easily to obtain water.

Beginning in the 1960's, the Indians became extremely dissatisfied with this arrangement. They either canceled or refused to renew existing leases and went into the farming business themselves on the developed lands. This operation is under the management of the Ak Chin Farms, a community farming enterprise.

The success of the Ak Chin Farm community enterprise has been outstanding. The tribe is nearly self-sufficient with tribal unemployment virtually nonexistent. Substantial tribal government and social programs are funded from the revenue of the enterprise. Only 2 percent of the members of the tribe are on welfare and the only direct Federal employee working on the reservation is a law enforcement officer employed by the Bureau of Indian Affairs. In short, this tribe has achieved what we are seeking for all tribes, economic self-sufficiency and independence.

However, unless Congress acts to secure a stable water supply for the tribe, the tribe now faces economic ruin. Until recently, the natural slope of the water table caused the ground water to flow in a northerly direction, across the reservation.

Extensive off-reservation, non-Indian pumping has reversed this south to north flow. Ground water now flows from all directions into a trough which has formed across the valley south of the reservation, known as the Maricopa-Stanfield depression. The effect of this off-reservation pumping has been to cause the water table under the reservation lands to fall from 50–60 feet to 400 feet. While non-Indian lessees, up until 1960, were able to irrigate 10,000 acres from ground water pumping, the tribe now can only irrigate 5,000 acres.

With recharge of the acquifer being inadequate to replace the water being pumped, the hard-won self-sufficiency of this tribe is seriously endangered.

Although the tribe, for a variety of reasons, is extremely reluctant to initiate litigation to secure their water rights, they are now faced with that necessity.

Under the so-called Winter's doctrine, the tribe has a prior and paramount right to the use of waters arising on, traversing, or bordering on the reservation. This right dates from the date of the establishment of the reservation, 1912. The usual measure of this right is the water sufficient to "irrigate all the practicably irrigable acreage." With 19,656 acres of irrigable land and a water duty of 4.59 acre-feet per acre, approximately 90,000 acre-feet per annum would be required.

More importantly, at the moment, is the prior and paramount right of the tribe, if any, to the use of ground water. At issue is whether or not the Winter's doctrine applies to ground water. The 1976 Supreme Court decision in Cappaert against United States might be read to indicate that it does.

This case involved the inclusion of Devil's Hole in the Death Valley National Monument by Presidential proclamation in order to preserve the endangered pupfish. The Court held, under the Winter's doctrine, that the United States necessarily reserved sufficient ground water necessary to maintain the level of the underground pool in which the fish lived and sustained the restriction on adjacent ground water pumping.

Since the statute of limitations on the tribal claim will expire on June 18, 1977, the tribe must also file any damage claim it may have against private parties for unlawful diversion and use of water to the detriment of the tribe. The Justice Department is evidently prepared to file such a suit on behalf of the tribe sometime before July 18. The elements of such a suit would be as follows:

First. An injunction against off-reservation pumping of groundwater.

Second. Adjudication of Ak Chin water rights.

Third. Damages against non-Indian off-reservation water users for depletion of the reservation water resource.

It is in order to avoid this protracted, disruptive litigation that I am introducing this bill. The bill provides:

First. The United States will allocate to the tribe sufficient ground water from adjacent Federal lands to irrigate available irrigable lands within the Ak Chin reservation, until a permanent supply of water can be made available.

Second. The United States will fund and provide for the construction of wells, pumping facilities, canals, pipelines, and so forth, to transport the water to the reservation.

Third. The tribe will waive any claim it has against the United States for failure to protect the water rights of the tribe.

THERE IS NO SOFT TYPE OF COMMUNISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, almost daily there is an increase in the Communist involvement in the affairs of Western Europe. Communists are already in control of many major Italian cities and hold what amounts to a veto in the national government. Communism has made such inroads in France that in the next election the Communist party could gain its share of power, and in other countries the so-called Eurocommunism is facing bright prospects.

Coupled with the growth of Eurocommunism is a belief held by too many that the variety of communism being practiced in Western Europe is far different than that practiced in Moscow. We are told that this is a new type of communism—a soft type of communism, and that is exactly what the Communists want us to think. Certainly the free world would be outraged if the Communists tried to capture control of a Western European country through force, reprisals and torture. Knowing that the free world would not stand for that type of approach, the Communists have sought a course of infiltration. But make no mistake about it, once the Communists get a toehold they then get a foothold and then it's a stranglehold, and after that its all over but the shooting. The only difference between the Moscow communism and Eurocommunism is at what point the murders, the torture and the political jailings take place.

Along with many in this country, I am concerned that the new outlook on communism is apparently being held by Secretary of State, Cyrus Vance. In a recent interview with an Italian newsman Secretary Vance said that Eurocommunism as opposed to Moscow communism poses little threat to the United States.

Mr. Speaker, as one who has fought against communism for 40 years, I can tell you that communism does not come in assorted packages and sizes, and communism by its very nature poses a threat to the free world. Communism cannot survive without the use of force and terror. And this pattern has been proven time and time again in every place where communism has gained a new staging ground.

There are also those who feel that the United States should not become involved in the internal affairs of any other country that faces a Communist takeover. How can we justify that type of position when at the same time we are becoming involved in the affairs of other countries because of the human rights issue? We will not have to worry about human rights in Western Europe if communism continues to march, for there are no human rights under communism.

The encroachment of communism in Western Europe poses a very real and direct threat to the free world. As the strongest nation in that free world we must recognize that threat for our liberty is too precious to gamble it away on the chance that there really is a new communism.

Mr. Speaker, the Chicago Daily News on Tuesday, June 21, carried an extremely important editorial on the subject of Western Europe communism. I am enclosing a copy of that editorial as it points out most graphically the dangers of taking the new communism for granted.

[From The Chicago Daily News, June 21, 1977]

VANCE'S WISHFUL THINKING

Communist growth in Western Europe, particularly in France and Italy, presents an increasingly nagging problem in American foreign policy. And a not-so-subtle shift in the State Department's attitude since Cyrus Vance replaced Henry Kissinger signals further problems ahead.

Talking with Italian newsmen recently, Vance went so far as to say that Communist victories in West European elections might cause more trouble for the Soviets than for the West. This strikes us as carrying wishful thinking to an extreme.

Vance did say that the United States could "not be indifferent to the result" if the Communist parties gained control, and that "we clearly prefer those [parties that] have a democratic backdrop." But he implied that Eurocommunism, as distinquished from the Moscow variety, was developing in ways that pose very little threat.

French and Italian Communists have indeed professed an independence of Moscow, and nationalism has more than once proved stronger than international ties of ideology. Nevertheless, the basic ideology of communism remains in the parties of France and Italy, and it is totally antithetical to the ideals of Western democracy. If two of the key nations of Western Europe were to "go Communist," the foundations of the Common Market and of NATO would be in instant peril.

It is plainly true that the United States cannot dictate how the people of France or Italy cast their votes. Interfering in the internal affairs of a sovereign ally would almost certainly backfire. But softpedaling all talk of U.S. concern about the developing trend surely won't help matters either.

The Communists already are in control of many major Italian cities, and hold what amounts to a veto in the national government. French communism is on the march, and the next elections could elevate the party to a share of the power. The setbacks suffered by the Communists in Spain and Portugal in recent elections provide only a minimal offset to such gains.

The trouble the Soviet Union might have with "independent" Communist parties in Western Europe could hardly compare with the trouble they would bring ta the democratic structures built up in the postwar era. And if Vance seems not to be fully aware of that, his predecessor is. In a speech earlier this month, Kissinger had this to say:

"The ultimate decisions are for the voters of Europe to make. But they—and we—would be indulging in wishful thinging if we did not acknowledge now that the succession to power of Communists in an allied country would represent a massive change in European politics . . . and that it would alter the prospects for security and progress for all free nations."

Sec. Vance, please copy.

LEGISLATION TO AMEND SECTION 302 OF COMMUNICATIONS ACT OF 1934—RADIO FREQUENCY INTERFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 5 minutes.

Mr. BENJAMIN. Mr. Speaker, I have introduced H.R. 8079, a bill to amend section 302 of the Communications Act of 1934 to authorize the Federal Communications Commission to prescribe regulations with respect to certain electronic equipment that is susceptible to radio frequency energy interference.

Representatives VANIK and ASHLEY introduced similar legislation during the 94th Congress.

This legislation is aimed at reducing interference to home entertainment equipment caused by citizen band radio broadcasts.

H.R. 8079 gives the FCC specific authority to require inclusion of interference-protection components in various types of consumer electronic devices.

The problem is radio frequency interference—RFI—which causes a television set to lose its picture, to static or "snow." The audio portion may be replaced by static noise. The strange noises also affect radios, stereos, and electric musical instruments. No audio or visual electronic device is immune from RFI.

In the past 2 years, the FCC has received 130,000 complaints and that number is expected to double this year. For each complaint received, the FCC estimates that 14 other citizens have the same problem but have not bothered to contact the FCC.

Our office has been contacted. In January, East Chicago, Ind., City Clerk Charles P. Pacurar advised that the City Council of East Chicago had received numerous complaints to which the FCC could only lend a sympathetic ear—not resolve.

Later, Carol Vertrees of the Post Tribune wrote an interesting column regarding the problem. Recently, Rich James of the Herald carefully and comprehensively explained the problem in relation to channel 50, a high-grade UHF public broadcasting station serving northwest Indiana. Lou Iaconetti, general manager of WCAE–TV, channel 50, was kind enough to forward that column with his own editorial comment.

According to the FCC, 90 percent of all television interference can be cured in the television set only. The same is true for all audio equipment.

The best method of eliminating RFI is to install filters. A filter can be installed on a CB transmitter to prevent its emitting a signal higher than its allowed frequency. Filters can also be placed on home electronic devices to prevent their receiving lower CB signals. On television sets, a filter can be installed on an antenna or next to the tuner.

Filters cost about $30 for CB sets and from $4 to $10 for televisions plus an average installation fee of $25. However, the estimated cost of installation at time of manufacture is $1.

Unfortunately, the FCC does not have the authority to compel manufacturers to install filters. Some manufacturers supply filters when RFI is reported to them but the consumer is required to pay for the installation.

My bill will cure the interference problem at time of manufacture. If all new sets are required to have filters, it would certainly lessen the enforcement burden on the 100 members of the FCC enforcement team scattered in 24 locations throughout the United States.

Enactment of this bill will eliminate most of the interference, inconvenience, and irritation experienced by our constituents without inhibiting the use of citizen band radios. It will reduce complaints and the FCC enforcement time and effort in this area.

I believe the measure deserves this House's consideration and I invite each Member's support.

I plan to reintroduce the bill within the next several weeks. If any of the Members wish to cosponsor this bill or need further information or wish to share information, I ask that you contact me at your earliest convenience.

PRESIDENT JIMMY CARTER: ROCK OR REED?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, the children of Israel from time immemorial have too often found that some of their purported friends are reeds, not rocks. It is distressing to report that President Jimmy Carter, who gave public assurances to the people of Israel and their American supporters both before and after his election, has drawn back from those solemn pledges.

I think it important to set forth an excerpt from President Carter's town meeting held in Clinton, Mass., on March 16, 1977. In response to a question on Israel President Carter stated:

I think one of the finest acts of the world nations that has ever occurred was to establish the State of Israel. So the first prerequisite of a lasting peace is the recognition of Israel by her neighbors; Israel's right to exist; Israel's right to exist permanently; Israel's right to exist in peace. That means that over a period of months or years that the borders between Israel and Syria, Israel and Lebanon, Israel and Jordan, Israel and Egypt must be opened up to travel, to tourism, to cultural exchange, to trade, so that no matter who the leaders might be in those countries the people themselves will have formed a mutual understanding and comprehension in a sense of a common purpose to avoid the repetitious wars and death that have afflicted that region so long. That is the first prerequisite of peace.

The second one is very important and very, very difficult: that is, the establishment of permanent borders for Israel. The Arab countries say that Israel must withdraw to the pre-1967 borderlines. Israel says that they must adjust those lines to some degree to insure their own security. That is a matter to be negotiated between the Arab countries on the one side and Israel on the other. But borders are still a matter of great trouble and a matter of great difficulty, and there are strong differences of opinion now.

And the third ultimate requirement for peace is to deal with the Palestinian problem. The Palestinians claim up to this moment that Israel has no right to be there, that the land belongs to the Palestinians and they have never yet given up their publicly professed commitment to destroy Israel. That has to be overcome.

There has to be a homeland provided for the Palestinian refugees who have suffered for many, many years. And the exact way to solve the Palestinian problem is one that first of all addresses itself right now to the Arab countries and then, secondly, to the Arab countries negotiating with Israel. . . . I guess both sides have some doubt about us. But we will have to act kind of as a catalyst to bring about their ability to negotiate successfully with one another. . . .

The essence of the President's position at Clinton, Mass., was succinctly summarized in a New York Times editorial today as follows:

(1) The Arab nations must recognize Israel's right to exist in peace and commit themselves to full and normal relations of every kind.

(2) The permanent borders of Israel must be negotiated by the parties, with all the territories occupied by Israel since the 1967 war open to negotiation.

(3) A homeland for Palestinian refugees must be part of the settlement, with the issue to be negotiated first among the Arab countries, who disagree about it, and finally put to Israel.

(4) The role of the United States will be to spur the parties into negotiation *with one another.*

Now we find that Carter's March statement has been thrust aside for a new position, which was further crystalized in a statement released by the administration on Monday. What is that new position? It appears to be an attempt to bludgeon Israel into agreeing to withdrawing to the 1967 borders in exchange for a promise of "peace" and "steps toward the normalization of relations." In March, the President spoke of "the recognition of Israel by her neighbors" and of borders between Israel and its neighbors which would be open to travel, tourism, and trade, as the "first prerequisite of peace." As the New York Times editorial perceptively states:

Between March and July something was lost here in translation.

The effect of the recent statements of the President and the State Department on the Middle East are to embolden the Arab States into believing that they now need only pay lipservice to what is a reality anyway—the existence of Israel—and that they will thereby be able to achieve their goal of regaining all of the occupied territories. Those territories were lost to the Arab nations as a result of their several invasions of the State of Israel, and they now form a defensive

buffer around Israel. Conceding all of these territories in return for a vaguely defined "peace" is unacceptable not only to Israel but also surely to every thinking American whose goal for the Middle East must be, again as the New York Times put it so well:

A peace that can last—and peace or war, a secure Israel.

Israel cannot be expected to permit its borders to be adjusted so as to place Jerusalem and Tel Aviv on the edge of a new battle. And so long as the Arabs refuse to agree on a comprehensive peace treaty with all that means in terms of secure borders and normal relations, the United States should not in any way seek unilateral concessions from the State of Israel. Both the current and prior Israeli governments have taken the position that there can be no preconditions to going to a conference table in Geneva, and Israel accepts, as does the United States, the formula for Middle East peace negotiations expressed in United Nations Security Council Resolutions 242 and 338. Resolution 242, adopted following the 1967 Middle East War, and reaffirmed by Resolution 338, following the 1973 war, calls for the acknowledgment of the sovereignty, territorial integrity, and political independence of every state in the area, and their right to live in peace within secure and recognized boundaries. Although President Carter claims also to be following the principles of Resolutions 242 and 338, which all the parties in the Middle East have agreed to, his recent statements make evermore explicit demands on Israel that are not called for by the U.N. resolutions and that are not acceptable preconditions for beginning negotiations. Israel quite understandably will resist making concessions on territories unless they are accompanied by comparable concessions with respect to peace on the part of the Arab States, and they are right to resist.

I am distressed, Mr. Speaker, that President Jimmy Carter has demeaned his own vision on this subject—and that whereas last year he appeared to be a rock, today he is a reed. There is an ancient adage, "Am Yisroel Chai"—"The People of Israel live"—and based on all the polls taken on the subject, the people of the United States support them.

I am appending a copy of the Carter administration's statement of June 27 and of today's New York Times editorial:

UNITED STATES STATEMENT ON MIDDLE EAST

WASHINGTON, June 27.—Following is the text of a statement on the Carter Administration's Middle East policy, read today by a State Department spokesman, Hodding Carter 3d, at his regular news conference:

We believe strongly that progress toward a negotiated peace in the Middle East is essential this year if future disaster is to be avoided.

We also believe that the only true security for any country in that troubled area is a true peace negotiated between the parties. Fortunately, we don't begin our efforts in a vacuum. A starting point exists in United Nations Security Council Resolution 242 of November 1967, which all the governments involved have accepted.

The United States policy since 1967 has consistently sought to apply the principles agreed upon in that resolution through the process of negotiations called for in Security Council Resolution 338 of October 1973, which all the parties have also accepted.

The peace foreseen in these resolutions requires both sides to the dispute to make difficult compromises. We are not asking for any one-sided concessions from anyone. The Arab states will have to agree to implement a kind of peace which produces confidence in its durability.

In our view, that means security arrangements on all fronts satisfactory to all parties to guarantee established borders. It also involves steps toward the normalization of relations with Israel.

The peace, to be durable, must also deal with the Palestinian issue. In this connection, the President has spoken of the need for a homeland for the Palestinians whose exact nature should be negotiated between the parties.

Clearly, whatever arangements were made would have to take into account the security requirements of all parties involved.

Within the terms of Resolution 242, in return for this kind of peace, Israel clearly should withdraw from occupied territories. We consider that this resolution means withdrawal from all three fronts in the Middle East dispute—that is, Sinai, Golan, West Bank and Gaza—the exact borders and security arrangements being agreed in the negotiations.

Further, these negotiations must start without any preconditions from any side. This means, no territories, including the West Bank, are automatically excluded from the items to be negotiated. To automatically exclude any territories strikes us as contradictory to the principle of negotiations without preconditions.

Nor does it conform to the spirit of Resolution 242, which forms the framework for these negotiations.

Every administration since 1967 has consistently supported Resolution 242 and it has the widest international support as well.

GIVE VISION A CHANCE IN THE MIDDLE EAST

The trouble now brewing between Israel and the United States can be attributed to a single, regrettable fact: President Carter refused to quit while he was ahead in the Middle East maneuvering.

Goaded by applause and criticism, now from Arabs, now from Israelis, and then startled by a new and inexperienced Israeli Government that was clearly determined to take a harder line in negotiations, Mr. Carter and his spokesmen kept explaining and defining their vision of a peace until a lofty set of principles could be misapprehended as American terms for a settlement. No wonder the Arab capitals are now cheering; the Israelis are being crowded toward a "solution" without a single responsible proposal or offer from Egypt, Syria or Jordan. And no wonder that Israel's fervent supporters in the United States are shouting their alarm.

The President set out to make himself the "catalyst" for negotiations and he stands in danger now of becoming their main and perhaps only conductor. Instead of the parties being led to tell each other what they expect from peace, they have been encouraged to demonstrate their bona fides to Washington as if the White House intends to decide what they deserve. Fortunately, there is still time before Israel's new leader, Menahem Begin, visits the President on July 18 to clear the air. Mr. Carter needs to recapture the eloquent invitation to peace he offered last March, the essence of which we reprint in our Notebook below.

His propositions then were plain; they can only be diminished by embellishment:

(1) The Arab nations must recognize Israel's right to exist in peace and commit themselves to full and normal relations of every kind.

(2) The permanent borders of Israel must be negotiated by the parties, with all the territories occupied by Israel since the 1967 war open to negotiation.

(3) A homeland for Palestinian refugees must be part of the settlement, with the issue to be negotiated first among the Arab countries, who disagree about it, and finally put to Israel.

(4) The role of the United States will be to spur the parties into negotiation with one another.

There is no reason to budge from this excellent formulation. The trouble started when some officials in Washington began to ignore proposition 4 and to toy with meanings, implications and reaction on items 1, 2 and 3. The Arabs helped their cause by ignoring Mr. Carter's very first principle and jumping all over items 2 and 3—talking up the 1967 borders as settled and an independent Palestinian state in the West Bank as just around the corner. The Israelis, caught up in an election campaign, hurt their cause by overlooking the President's extraordinary definition of peace and objecting to the concessions implied in his items 2 and 3. When the victorious Mr. Begin implied that a West Bank withdrawal was unthinkable, impatient Washington hands began to crank out policy statements that only caused Israel's supporters in the United States to wonder whether the State Department was really content with the Carter formula.

The new Israeli Prime Minister has since moderated his public utterances, saying that nothing was foreclosed from negotiation but wondering how he could bargain with nations that still refuse to say "good morning" to any of his diplomats. This is reasonable enough. But there is some basis for Washington's suspicion that Mr. Begin is learning fast to move not toward real territorial concessions but rather toward a diplomatic failure that could be blamed on the Arabs. These concerns provide a useful agenda for the Carter-Begin talks, but not for the tense communiques now being exchanged by their foreign ministries.

The result has been a demeaning of the Carter vision. Whereas in March the President spoke of a lasting peace with open borders, travel, tourism, trade and a commingling of populations as "the first prerequisite of peace," his State Department opined this week that peace, besides security arrangements to guarantee borders, "involves steps toward the normalization of relations." There are enough lawyers in Israel to understand that between March and July something was lost here in translation. If that kind of legalistic maneuvering becomes typical of the American contribution, a great deal more will be lost before this critical year is out.

There has always been some tension on Middle East policy between a President and the State Department. The crude view is that Presidents are more responsive to the pro-Israel lobby in Congress and the electorate while State is filled with Arabists worrying about a dozen or more countries with enormous wealth and strategic position. But the strains also reflect a subtler distinction. It is the job of diplomats to settle conflict, to compromise for the success of negotiation, to stay on good terms with all. It is the job of a President to lead toward an objective, with or without successful negotiation.

The American objective in the Middle East is not a "settlement," this year or ever; it is a peace that can last—and, peace or war, a secure Israel.

COMMITMENT OF CONGRESS TO SICK AND DISABLED VETERANS DESPITE ORGANIZED EFFORTS TO DISMANTLE VA MEDICAL PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

Mr. ROBERTS. Mr. Speaker, the Committee on Veterans' Affairs recently received a study from the National Academy of Sciences entitled, "Health Care for American Veterans." This study cost the American taxpayer $6 million. I personally believe this sum of money could have been put to a much better use.

The body of the study emphasizes some very strong points. As well as some that are not so strong, regarding the health care delivery system of the Veterans' Administration. These could have been useful to both the Congress and the Veterans' Administration except for its shocking and ill-advised conclusions and recommendations. Essentially, these would change the role, policies, and direction of this fine medical program. What started out to be a study of staffing and other resource requirements for the VA medical system to provide quality care to veterans winds up recommending a complete turn-around in the national policy pertaining to the provision of medical services and hospital care for veterans; that is, closing out the acute care provided veterans by the system and turning it over, on a contract basis, to private practitioners of medicine and the private health industry. The National Academy of Sciences states in one of its recommendations that—

> The VA policies and programs should be designed to permit the system ultimately to be phased into the general delivery of health services in communities across the country.

Yet the Academy study director reported to the Committee on Veterans' Affairs that the VA was practicing "mainstream medicine—about the same level of care provided in the private sector." Why then the conclusion to phase it out?

It is certainly the intention of the Committee on Veterans' Affairs to hold oversight hearings, as early as they can be scheduled, to review this study in depth. Until this can be accomplished, I want to go on record to the Members of this body and to American veterans that the VA medical program is but a small token of gratitude of the American people for the sacrifices and hardships our veterans endured to preserve America's way of life in time of its greatest need. No study by any organization will ever convince the Congress to turn this excellent system over to anyone. Quite the contrary, Congress is committed not only to the maintenance of a separate veterans' medical program but to continue to strengthen it in every way possible. This is not to say we should lower our guard for there are organizations and other groups of demagogues who would do anything to give away this program or otherwise cause its demise. Let no one be mistaken—they are real, they are organized—at least to the extent of $6 million—and they are on the move. The Veterans' Affairs Committee of the House is already on record that their efforts cannot and will not prevail.

Due to the many inquiries we have been receiving regarding "community takeover of the veterans' medical program' brought about by the National Academy of Sciences' study and news releases, I felt that both Members and American veterans needed to know of this situation. In behalf of the Veterans' Affairs Committee I pledge to you that veterans organizations will be given the opportunity to express their views regarding the Academy study as well as the National Academy of Sciences.

LIBRARY OF CONGRESS ASSAULT ON UNIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. MITCHELL) is recognized for 5 minutes.

Mr. MITCHELL of Maryland. Mr. Speaker, the other day I was approached by representatives of AFSCME Locals 2910 and 2477 about a grave situation in their agency. It seems that these two unions won the right to exclusive representation in their respective bargaining units over a year ago. However, the administrators of their agency have consistently blocked attempts by union leadership to communicate with the employees which by law the AFSCME locals are bound to represent. When union representatives tried to desk drop information to the members of their bargaining units during their nonduty time, they were halted by the agency's special police, their materials were confiscated, and they were threatened with disciplinary action. The situation that I have described should be a matter of concern to all persons who believe in the guarantees of the first amendment and who are dedicated to the preservation of civil liberties for all Americans in all walks of life. However, this situation should be of a more immediate concern to those of us gathered in this Chamber. The agency which I have just described is not a Federal installation in my district or even an executive agency in Washington. This agency which is making a concentrated, deliberate assault on the unions and their guarantees of freedom of speech is that august center of knowledge, the Library of Congress. Discovering that this situation exists right across the street from us, and to a certain extent in our own house, has caused me both pain and embarrassment. How can we address ourselves to the cause of human rights for people all over the world when the people who so diligently serve us and our constituents do not have these same guarantees? Moreover, can we really expect these people to continue performing at their consistently high level if we are indifferent to their plight? The employees of the Library of Congress have asked for my help in putting an end to this intolerable situation which has already gone on too long. I have pledged my support and now I ask for yours as well.

THE UNITED STATES VERSUS THE U.S.S.R.: A MORE POSITIVE NOTE ON DEFENSE, BUT THE NEED TO STANDARDIZE WEAPONS IN NATO STILL EXISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, the House tomorrow completes consideration of the Department of Defense Appropriations Act for fiscal 1978. That measure would appropriate some $110.6 billion to equip, operate, modernize, and maintain our Armed Forces during this fiscal period.

As is usual during debate on any defense appropriations act in Congress, we already have been treated to hyperbolic statements from both proponents and critics of our military budget.

On the one hand, we have heard the alarmists and have been told that the only way to stave off the opposition is to drastically increase our defense spending and develop every major new weapons system we can.

On the other hand, we have heard an equally urgent cry that we can, as drastically, reduce our military budget without weakening our defense posture, and that we should make a wholesale transfer of defense billions to social programs.

As in most instances, Mr. Speaker, the truth of the matter lies somewhere in between both these extreme viewpoints, and I would ask my colleagues to remember this as our debate continues tomorrow on the Fiscal 1978 defense budget.

I would ask my colleagues on both ends of the spectrum to refrain from the overly simplistic, broad generalizations about our military capabilities which only serve to mislead some of our other colleagues, and certainly the American people, about the real nature and substance of our defense posture relative to that of the Soviet Union.

I would ask the most extreme proponents of either "more" or "less" defense dollars to eschew their their extreme rhetoric. Such statements only cloud the Nation's understanding of the hard choices central to maintaining an American Military Establishment capable of performing the required national security and foreign policy missions.

Mr. Speaker, extreme statements and overbroad characterizations about defense policies and issues do not contribute to the reasoned, enlightened debate this House should engage in whenever it considers the annual military budget.

I believe the real nature and substance of our defense posture is that we and our allies, and it is important to remember that we do not face the U.S.S.R. and the Warsaw Pact nations alone, maintain significant advantages over our adversaries in several crucial military areas. We also are at a disturbing disadvantge against the Soviets in other areas, and we should not forget that.

On balance, and in the overall sense, I believe the United States and its allies are at least the military equals, if not the superiors, of the Soviet Union, and the Warsaw Pact.

We naturally should do what is necessary to modernize and maintain our forces so as to retain our advantages and reduce our disadvantages. Congress should be willing to appropriate the money for these endeavors, and it should insure that these sums are well spent.

But this does not mean throwing money at our defense problems in an effort to solve them—a method of seeking solutions our more conservative colleagues are quick to criticize when social programs are involved.

Nor does it mean indiscriminately slashing the military budget through wholesale reductions and fund transfers in many programs.

What it does means is that more Members of Congress, not just those on the committees involved, should take a long, hard look at the many programs and policies contained in our annual defense budget.

We should attempt to discuss this budget intelligently and calmly, discriminating among the needed, justifiable expenditures, and the wasteful programs.

And we should have the courage to begin to make the difficult choices about which programs and policies to continue or end, rather than allow almost every program to have an eternal life of its own, regardless of the strength or weakness of its military or fiscal rationale.

Mr. Speaker, this country's economic and military resources are finite, and just as we cannot continue to spend tax dollars for every social program, we cannot continue to spend tax dollars for every defense program.

We do have to free some resources from the defense budget and apply them to no-less-important social initiatives. Military strength alone is not enough for the United States to remain a world leader. Our country must be economically, politically, and socially strong, and its institutions must be able to respond to the human needs of all its citizens.

So we in Congress should be more intelligent about targeting defense dollars to areas where they truly are needed and face reality that we must consider legitimate reductions in other military areas.

To do this, we must look at the defense realities—at the relative advantages and disadvantages the United States and its allies are experiencing compared to the Soviet Union and the Warsaw Pact.

I am pleased to note two recent newspaper articles quoting American military officials who testify that, on land and on the sea, our position versus the U.S.S.R. in Europe and the Mediterranean Sea area is much better than the doomsayers state.

Maj. Gen. John Royster Thurman III, commander of the Army's Command and General Staff College at Fort Leavenworth, Kans., has said this to the Kansas City Star about the ability of our ground forces to thwart a Russian-led offensive into West Germany:

> Yes . . . I would say absolutely we are better prepared now than we probably ever have been.

NATO naval strategists, while keeping a wary eye on future developments, are characterized in the Los Angeles Times as believing:

> Their forces in the Mediterranean outgun growing Soviet sea power.

The article continues that—

> The combined navies of NATO, which has its southern headquarters here (Naples, Italy), easily dominate the permanent Soviet force . . .
>
> But despite their concern for the future, the strategists agree that the West is definitely in the ascendancy in the region now.
>
> Cmdr. John Dewey, spokesman for the U.S. 6th Fleet, said the Americans alone have "a slim margin of superiority over the Soviets."
>
> "What they don't have is an aircraft carrier and we have two," he added. "We have F-14 and antisubmarine aircraft and attack aircraft, and it's a compelling advantage. . . ."

So there are positive signs about the military balance, Mr. Speaker, although we must continue to maintain these advantages.

On the subject of our advantages over the Soviets, I would add that they are only just beginning to build aircraft-capable vessels, and that they have restricted these designs to helicopter and vertical- and short-takeoff-and-landing aircraft carriers.

Such vessels and their air power are not the equals of our *Nimitz* carriers, nuclear powered and carrying the sophisticated F-14 Tomcats, or even of the planned, nonnuclear "midi" carriers, which also should be able to launch and retrieve our better, conventional fighter, and attack aircraft. We have a major edge here.

With the introduction of the new SSN-688, fast attack nuclear submarines, our Navy now can boast of attack boats that are faster, quieter, and more effective than those in the Soviet navy.

Our fleet ballistic missile nuclear submarines are essentially invulnerable today against the Soviet threat. Our Navy expects this key element of our strategic deterrence Triad to remain this way for many years, especially since necessary modernization is taking place with introduction of the Trident submarines into the fleet.

I would proudly point out that these Tridents, most of the SSN-688's, and most of our already-deployed nuclear missile and attack submarines are products of the Electric Boat Division shipyard of the General Dynamics Corp. in Groton, Conn., in my district.

Let us now look at the disadvantages.

Our surface vessels are vulnerable to an increasingly effective Soviet antiship missile threat. Thus, we need to introduce into the fleet, as soon as reasonably possible, the sophisticated Aegis air defense system. Unfortunately, we will have to pay a great deal of money for this more capable system, but it is a necessity.

Our fighting effectiveness, and that of our NATO allies, is severely hampered by a plethora of different weapons systems, communications networks, aircraft, and armored vehicles. This "nonstandard" equipment requires expensive and separate maintenance and logistic support, all of which impedes military coordination among the many NATO nations.

I cannot emphasize enough the problems associated with nonstandardization of systems within the NATO Alliance, Mr. Speaker, yet I am afraid that most Members of this body are either unaware of them or just do not seem to care.

The stories from the Kansas City Star and the Los Angeles Times are again full of insight. The Star quotes Major General Thurman as saying that a major task of armed forces in the 15-nation NATO Alliance remains standardizing equipment and tactics:

> One of the very big, most difficult problems we face in Europe is interoperability. How can be husband the resources of all the countries . . . so they contribute in the ways they are best able to contribute? With diminishing resources everywhere, that's something we're going to have to do better.

In the Los Angeles Times, British Vice Adm. Roderick McDonald, the senior naval officer at NATO's southern headquarters is described as worrying "about keeping up with the Americans" as well as with the Soviets:

> As the threat becomes more sophisticated, it's inevitable that the well-off countries match that threat, and they not only outstrip their less well-off allies. In a sense their units become increasingly incompatible.

"We cannot talk to each other," he gave as an example of this, referring to modern naval communications systems:

> Everybody wants them, they're jolly expensive and its very difficult to conduct a battle without them.

Mr. Speaker, there must be a willingness on the part of this Nation, as NATO's main arms supplier, to forswear some of its own parochial resistance to equipping U.S. Forces with weapons manufactured by our allies whenever appropriate. We must also lead the way in encouraging standardization of NATO weapons, and we must assume our share of this responsibility.

Let me briefly state, now, certain areas where I think this Congress could reduce our defense budget, while not diminishing our military capabilities.

First, Congress should have ended the B-1 bomber program, with its far too expensive airplane which may not survive improving Soviet air defenses in the future. I urge President Carter to keep the pledge he made to the American people to stop this program, and I am disappointed the House did not do so yesterday.

We need a manned bomber in the Triad, Mr. Speaker, but the B-1 is the wrong weapons system for that mission. Its vulnerability to future development of Soviet "look-down, shoot-down" radar defenses raises serious questions about its military effectiveness.

Second, this country should move away from continued procurement of the $4 billion per copy, *Nimitz*-class aircraft carriers and the nuclear-powered strike cruiser. These programs allocate too

many of our scarce defense dollars for construction of just a few ships, while we need to build many more platforms to offset our declining numbers of Navy surface combatants.

Third, Congress must begin the painful process of carefully reexamining the personnel policies and programs of the armed services, including the retirement programs, and it must consider reductions whenever fair and appropriate. We must not deny retirement benefits to those who already have earned them, and we should not drastically alter the "rules of the game" for those who already are in uniform.

But those who enter the military in the future must realize they cannot expect to receive the present level of benefits, because the sad fact of life is that this country cannot afford it. The increasing costs of these programs now absorb more than 50 percent of our military budget, and they divert needed dollars from other defense areas. So we must overhaul the military retirement system, and consider reforms in other personnel areas, if possible.

Mr. Speaker, the Department of Defense appropriations measure is one of the most important pieces of legislation Congress considers each year. Not only is approximately one-quarter of the total Federal budget involved, but there are serious fiscal and military implications, not only for the next fiscal period, but for many years into the future.

I would hope our deliberations and action on this tomorrow, and on similar measures in the future, reflect a recognition of this.

At this point in the RECORD, I would like to insert in full the two newspaper articles from which I quoted:

[From the Los Angeles Times, June 9, 1977]

NATO FEARS FOR FUTURE IN MEDITERRANEAN

(By Roland Dallas)

NAPLES.—NATO strategists believe their forces in the Mediterranean outgun growing Soviet sea power, but they are worried about the future.

The combined navies of NATO, which has its southern headquarters here, easily dominate the permanent Soviet force.

They include the huge U.S. 6th Fleet, with its aircraft carriers Kennedy and Roosevelt and 200 aircraft and the modern Italian fleet led by the cruiser Vittorio Veneto.

The French fleet has it carriers Foch and Clemenceau. Although France does not belong to the NATO integrated command structure, its forces would join those of other members of the Western alliance in the event of an attack on it.

Against the Western warships is a Soviet fleet of about 14 combat warships and nine submarines, lacking a permanent base, resting at about 15 different anchorages and serviced by ships from the Black Sea.

But the strategists fear the Russians could quickly reinforce their fleet from the Black Sea before a conflict, and that their submarines could disrupt Western control of the sea.

They also worry that there may be no settlement of the dispute between Greece and Turkey, both NATO members, over Turkey's invasion of Cyprus, which led to Greece's withdrawal from the NATO command structure.

"This really could give a greater appearance of weakness than there really is," U.S. Lt. Gen. Robert McAllister, the chief of staff, said.

McAllister has another worry—that the relatively weak economies of both Greece and Turkey cannot support the high cost of sophisticated modern weapons systems.

"They have some modern features but some are antiquated," he said. "It's a question of catching up and keeping up."

In contrast, across the Greek border in Bulgaria and the Turkish eastern border in the Soviet Union, Warsaw Pact forces are being steadily modernized, the general added.

The senior naval officer here, British Vice Adm. Roderick McDonald, also worries about keeping up with the Russians—and keeping up with the Americans.

"As the threat becomes more sophisticated it's inevitable that the well-off countries match that threat, and they not only outstrip their less well-off allies. In a sense their units become increasingly incompatible," he said.

Asked what form this took he replied. "We cannot talk to each other."

Modern naval communications are beyond the era of Morse code and are now handled by secure voice circuits, rapid transmission of data and fast ship-to-ship transmission of photos.

"Everybody wants them, they're jolly expensive and it's very difficult to conduct a battle without them," he said.

McDonald also worries that in any conflict the Soviet role of denying control of the sea to the West will be easier than the Western role of controlling it.

"The Mediterranean is very shallow, a lot of landlocked lakes, and its water conditions for detecting and destroying submarines are particularly difficult," he said.

But despite their concern for the future, the strategists agree that the West is definitely in the ascendancy in the region now.

Comdr. John Dewey, spokesman for the U.S. 6th Fleet, said the Americans alone have "a slim margin of superiority over the Soviets."

"What they don't have is an aircraft carrier and we have two," he added. "We have F-14 and antisubmarine aircraft and attack aircraft, and it's a compelling advantage."

But Dewey also worries about the Soviet navy's ability to repeat its performance during the 1973 Middle East war when it boosted its Mediterranean fleet to at least 96 ships.

All Western strategists here point happily to the Kremlin's inability to find a major naval base in the Mediterranean.

Soviet ships are allowed to stop at a small base on the Syrian coast at Tartus, which has a dock and a floating dock, but elsewhere their ships bob at anchor while they are serviced.

McDonald believes this was one of the reasons why Soviet Communist chief Leonid I. Brezhnev and the navy commander, Adm. Sergei Gorshkov, recently visited Yugoslavia.

Soviet ships can now be repaired at one Yugoslav port but under strict supervision with all their ammunition unloaded on the dockside, and the Russians are believed to want to improve the arrangement.

[From the Kansas City Star, May 22, 1977]

TACTICS SHIFT WITH NEW ARMY WEAPONRY

(By Gregory S. Reeves)

Ft. Leavenworth—A major shift in the study of U.S. military tactics and strategy, especially in the European area, is under way at the Army's Command and General Staff College here, according to Maj. Gen. John Royster Thurman III.

The top-ranking officer here and commander staff college, Thurman said much of the shift stems from new weapons systems U.S. forces are acquiring.

The college trains thousands of U.S. military officers and leaders of foreign allied armies in military tactics and doctrine.

Speaking at a press conference Friday organized during a tour of the fort for the press, Thursman said the staff college is updating its curriculum to fit the latest military needs.

"The whole business of fighting has become far more complicated than it was even three years ago," said Thurman, a 34-year Army veteran who has served as post commander here since July.

"We're trying to adapt a few of the techniques that we did well in Southeast Asia to a completely different concept of preparing ourselves to fight elsewhere in the world."

Thurman said the command and staff college and other advanced military training centers are concerned with increasing U.S. ability to deploy heavily concentrated forces, such as would be necessary in a European conflict.

A key factor in that training, Thurman said, is the variety of new weapons the Army is acquiring, including new attack helicopters, new tanks, new armored personnel carriers and other arms.

"Our equipment now is more expensive, it's more technically capable, it's more difficult to operate, it takes a higher degree of training and far more sophisticated coordination than we have experienced."

The college has graduated thousands of U.S. officers and military leaders of allied foreign armies, many of them now for the battalion and brigade levels, Thurman said.

"This is the last schooling many of them (the officers) get. For many of them, even the very best, it represents all the schooling they will get for the next seven to nine years.

"That is a very important point. I am not teaching guys so much to be generals, because very few of them will be. My responsibility is to make them battalion commanders and brigade commanders," Thurman said.

Many graduates now stationed in Europe told Thurman during a visit there earlier this year the school should concentrate more on military technology, he said.

"I believe we need some of the technical (training), but we also need our students to understand very thoroughly the tactics of our adversary," Thurman said.

In the post-Vietnam era, training for a possible armed conflict in Central Europe has received increased emphasis in the command college:

"The most complicated thing that faces us is how to manage large forces in a high-intensity or mid-intensity (battle) environment. And that environment exists in Europe.

"It's a question of emphasis in that area. The Army has not neglected that necessarily," Thurman said, but ultrasophisticated weaponry as well as a Russian force buildup have helped lead to the new emphasis on Europe.

Asked where U.S. forces are better prepared now than in recent years to thwart a Russian-led offensive into West Germany, Thurman said:

"Well, I would hope so. That's what it's all about. Yes . . . I would say absolutely we are better prepared now than we probably ever have been."

A major task of armed forces in the 15-nation NATO (North Atlantic Treaty Organization) remains standardizing equipment and tactics, Thurman said.

"One of the very big, most difficult problems we face in Europe is inter-operability. How can we husband the resources of all the countries . . . so they contribute in the ways they are best able to contribute? With dimin-

ishing resources everywhere, that's something we're going to have to do better."

However, Thurman said he believes cooperation between the U.S. and its major NATO allies, such as West Germany, remain healthy.

He cited an agreement by NATO defense ministers last week to increase the alliances' military spending. In a 2-day meeting in Brussels, defense ministers of 13 NATO nations agreed to the spending increase beginning in 1979. The U.S. now provides about 45 percent of the over-all alliance spending, which is about $100 billion a year.

Thurman also said the Vietnam War helped prove there are limits to U.S. military supply capabilities.

"The war in Vietnam gave us the idea that resources were unlimited. And they are not. One of the things that we have to learn to do is to manage the resources that are available more effectively. That's not just in peace time. I mean in war time, too," he said.

Thurman, a native of Lexington, Ky., is a former division commander in South Korea. On July 19 last year he succeeded Maj. Gen. Morris J. Brady as the top-ranking Ft. Leavenworth officer.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. HEFNER) is recognized for 5 minutes.

Mr. HEFNER. Mr. Speaker, when the House voted earlier this afternoon on the Grassley amendment to the legislative branch appropriations bill, H.R. 7932, I was meeting at the White House with President Carter, Vice President MONDALE, and Secretary of Agriculture Bergland to discuss two matters of importance to my district, my State, and my country—the tobacco programs of the Federal Government and reform of the food stamp program.

Those Members of this body from the tobacco growing areas of the country were quite concerned over remarks made by the Secreary of Health, Education, and Welfare this past weekend that the Government should cease its programs in support of tobacco, because of the health problems which may be connected with its use. I was pleased to learn from Secretary Bergland that Secretary Califano has conceded that the economic impact of his proposal would be most severe on the small farmers in the South and that driving the farmer out of business is a very indirect way to deal with a health problem. I also discussed with Secretary Bergland my concerns with our food stamp program as it presently operates. The elderly and truly poor who most need food assistance are not always the ones helped by the program, while many who do not deserve or need this aid are the ones using food stamps. We had a very informative discussion of the administration's food stamp reform proposal as it relates to these concerns.

Because of this White House meeting, I was unable to return to the Capitol in time for the vote on the amendment striking funds to pay for the salary increases for Members of Congress, Federal judges, and executive branch officials recommended by the Quadrennial Pay Commission. I made my position on this issue very clear in my statement before Congresman CLAY's ad hoc subcommittee earlier this spring—I disagreed with the recommendations of the Commission and I opposed the pay increase. I have indicated to my constituents that if given the opportunity to do so, I would vote against the pay increase. Had I not been unavoidably detained at the White House earlier this afternoon I would have cast my vote in support of the Grassley amendment. I see from the outcome that my individual vote would not have changed the final result, but I would like the record to reflect my position.

WILSON CALLS FOR COMPLETE OSHA COVERAGE FOR POSTAL EMPLOYEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 15 minutes.

Mr. CHARLES H. WILSON of California. Mr. Speaker, it is my opinion that it is time for postal employees to receive the full protection of the Occupational Safety and Health Act—OSHA. The 1970 act, considered landmark legislation for private sector workers, has yet to be fully extended to public sector employees or to the Postal Service. In large measure due to this fact, statistical data indicates that public employees—in particular postal employees—suffer from far more hazardous conditions than their counterparts in private industry.

In calendar year 1975, 76,246 accidents were reported in the U.S. Postal Service. That is well over 10 percent of the total postal workforce who were injured—and in some cases disabled—largely as a direct consequence of the weakness in the law. And it is about time we started doing something about it.

Those 76,246 accidents represent 45 percent of the total accidents in Federal employment. In other words, nearly half of the accidents in the Federal sector occurred in the Postal Service. Another way to show this extremely high accident ratio is to show that the U.S. Postal Service accident total exceeds that of the following agencies combined:

U.S. Department of Agriculture	8,431
U.S. Air Force	9,522
U.S. Department of Army	14,851
U.S. Department of Commerce	959
U.S. Department of Defense	1,746
U.S. Gen. Services Administration	1,800
U.S. Department of H.E.W	2,827
U.S. Department of H.U.D	354
U.S. Department of Interior	5,096
U.S. Department of Labor	820
U.S. Navy	18,971
N.A.S.A.	751
U.S. Department of State	296
Veterans' Administration	9,556
Total	75,980

Postal employees are presently covered under only one provision of OSHA—and a very weak section, at that. Section (19) of OSHA specifies Federal agency safety programs and responsibilities. For several years, the Postal Service even tried to evade this weak responsibility, maintaining it was not covered by the statute, because of its quasi-independent status. That ambiguity—if it ever existed—was eliminated when the 94th Congress approved a bill providing the same coverage for the USPS as for Federal agencies. The legislation which the Congress passed was sponsored by me and was a result of extensive hearings and investigations conducted by my subcommittee, Postal Facilities, Mail and Labor Management. During a period of more than a year, our subcommittee made field trips in which we questioned postal employees and their superiors on the Postal Service's safety program. We found that the Postal Service's so-called safety program existed in the public relations office's handouts.

Based on these findings, the subcommittee decided to take the first step and that was to at least involve the Postal Service in section 19 of OSHA. It is interesting to note that during the consideration of my bill the Postal Service maintained that the legislation was unnecessary because they were already conforming to OSHA standards. This, of course, was not true.

Even though linking the Postal Service to section 19 was much better than nothing, I recognize that section 19 still does not protect Federal employees to anywhere near the same extent as their counterparts in the private sector. And despite all the advisory and voluntary efforts undertaken to remedy this obvious deficiency, section 19 remains a "paper tiger"—a meaningless piece of paper which serves little other purpose than to present the pretense of having a safety program. The inadequacies of present section 19 coverage include:

The complaint mechanism for safety and health violations, which is the only guarantee of effective information gathering, remains ineffective. Employees of the USPS have no guarantee of anonymity if they report hazardous conditions to the employer. Presently, such reports must be signed by the employee complaining of the condition. Further, should the employee file the complaint to OSHA. the Federal compliance officer is instructed to merely forward the complaint to the USPS headquarters for action. In most cases, records of the complaints and/or action taken are not maintained. Again, a key part of the act leaves USPS employees unprotected.

OSHA is not empowered to require USPS to enforce safety and health standards. Thus, the agency continues to be self-policing, even though its injury and accident rates are extremely high.

Postal management can and does continue to refuse access to postal facilities by an OSHA inspector. Thus, the enforcement of the standards promulgated by the act remains self-policing—and hence, ineffective.

The inspection procedures are established by the agency and the USPS policy is that on scheduled inspections "the facility is to be given a reasonable advance notice of the planned visit." Unannounced inspections are the key to proper enforcement of OSHA standards to prevent the coverup of conditions which often occurs with advance notice.

The inadequacies of section 19 have been highlighted by the Comptroller

General of the United States in three reports. In March 1973, Report B–163375 recommended that the Secretary of Labor adopt a stronger leadership posture in guaranteeing the health and safety of Federal employees. In 1974, a followup study showed no improvement in the Federal program's effectiveness. And a third report, issued as recently as August 1976, discovered approximately 1,400 violations of occupational health and safety standards at 30 randomly selected locations. In private industry, these violations would have resulted in penalties estimated at $90,000.

In January 1976, a House Government Operations Subcommittee released a report on the OSHA system for Federal agencies, which criticized numerous areas of activities in Federal safety programs.

It is about time postal employees were afforded the same rights that their counterparts in the private sector receive. It is about time that we dispense with the charade of section 19, a voluntary and advisory program that has proven particularly in the case of the Postal Service to be worth little more than the paper upon which it is printed. And it is about time that we take action—real action—to provide postal employees with a safe place in which to work.

If a Federal employee is hurt—he is hurt just as much as his counterpart in the private sector. If a worker loses a leg, an eye, or a hand, is he any less hurt, because he works for the U.S. Postal Service and not United States Steel?

In fact, the Government—and Congress in particular, ought to have a special responsibility in protecting the health and safety of its employees. To deny these public servants the same protections of their health and their safety provided to private sector employees is a disgrace. And this disgrace is paid for in more than just dollars or legal verbiage. It is paid for in accidents, disability, and death—real accidents, real disabilities, which are suffered by real people. This is a point that I stressed during consideration of my legislation to bring the Postal Service under section 19 of OSHA. It is an anomaly that our Government would require that our citizens who work in private industry have their safety guaranteed while the Government turns its back on the workers in the Federal Government.

Let us not continue to treat postal employees as second-class citizens when their lives and health are at stake. It is obvious that one of the largest employers in the United States today—with an accident and injury rate of over 76,000—can no longer with impunity place itself outside of and beyond the full scope of OSHA. It is about time Congress did something.

Mr. Speaker, I would at this point, like to include with my remarks the text of my legislation introduced today, which would tie the Postal Service to OSHA in a meaningful way:

H.R. —

To amend title 39, United States Code, to provide that the United States Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 410(b)(7) of title 39, United States Code, is amended to read as follows:

"(7) all provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and any amendments to such Act which may be made from time to time, except that the provisions of section 17(e) of such Act (29 U.S.C. 666(e)) and the provisions of section 19 of such Act (29 U.S.C. 668) shall not apply to the Postal Service; and".

SEC. 2. Section 410 of title 39, United States Code is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

"(d) For purposes of subsection (b)(7) of this section and for purposes of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Postal Service shall be considered to be—

"(1) a person, as such term is defined in section 3(4) of such Act (29 U.S.C. 652(4)); and

"(2) an employer, as such term is defined in section 3(5) of such Act (29 U.S.C. 652 (5)).".

H.R. —

A bill to amend title 39, United States Code, to provide that the United States Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 410(b)(7) of title 39, United States Code, is amended to read as follows:

"(7) all provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and any amendments to such Act which may be made from time to time, except that the provisions of section 17(e) of such Act (29 U.S.C. 666(e)) and the provisions of section 19 of such Act (29 U.S.C. 668) shall not apply to the Postal Service; and".

SEC. 2. Section 410 of title 39, United States Code, is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

"(d) For purposes of subsection (b)(7) of this section and for purposes of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Postal Service shall be considered to be—

"(1) a person, as such term is defined in section 3(4) of such Act (29 U.S.C. 652(4)); and

"(2) an employer, as such term is defined in section 3(5) of such Act (29 U.S.C. 652 (5)).".

CONFERENCE REPORT ON H.R. 7557

Mr. McFALL submitted the following conference report and statement on the bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95–470)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7557) "making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1978, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 5, 6, 24, and 32.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 7, 10, 11, 13, 14, 19, 20, 21, 29, 31, 33, 35, and 36, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$236,000,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$14,000,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$1,000,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

TRAFFIC CONTROL SIGNALIZATION DEMONSTRATION PROJECTS

For necessary expenses to carry out the provisions of section 146 of the Federal Aid Highway Act of 1976, $20,000,000, to be derived from the Highway Trust Fund and to remain available until September 30, 1981.

And the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$78,388,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Sentate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$26,220,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,500,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$646,500,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$108,000,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amend-

ment insert "$439,000,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,365,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 12, 15, 26, 27, 28, 34, 38, and 39.

JOHN J. MCFALL,
TOM STEED,
ED KOCH,
ROBERT DUNCAN,
ADAM BENJAMIN, Jr.,
NEAL SMITH,
JOSEPH P. ADDABBO,
FRANK E. EVANS,
GEO. MAHON,
Managers on the Part of the House.
BIRCH BAYH,
JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
JOHN C. STENNIS,
ROBERT C. BYRD,
TOM EAGLETON,
J. BENNETT JOHNSTON,
CLIFFORD P. CASE,
MILTON R. YOUNG,
CHARLES MCC. MATHIAS, Jr.,
LOWELL P. WEICKER, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Transportation Planning, Research, and Development

Amendment No. 1: Appropriates $25,000,000 instead of $24,000,000 as proposed by the House and $28,000,000 as proposed by the Senate. The amount recommended includes $298,000 for the continuation of the project identified under this heading in chapter X of Public Law 94–303.

In order to insure maximum effectiveness by the Minority Business Resource Center in maintaining liaison with minority contractors, the conferees request that the Secretary of Transportation actively pursue methods of improving the Center's outreach capability.

Coast Guard

Operating Expenses

Amendment No. 2: Appropriates $878,865,000 as proposed by the House instead of $879.365,000 as proposed by the Senate. The conference agreement includes 150 positions for tanker inspection in addition to those provided by the House.

Acquisition, Construction, and Improvements

Amendment No. 3: Appropriates $236,000,000 instead of $256,302,000 as proposed by the Senate. The conference agreement includes the full budget request for the medium range surveillance aircraft procurement program, $17,900,000 for a total of two harbor tugboats, $8,000,000 for the Puget Sound vessel traffic system, $1,000,000 for the Mississippi River vessel traffic system, $100,000 for the installation of a Loran-C system on the Lake Pontchartrain Causeway, and $1,800,000 for construction of a shelter and other support facilities at Cordova, Alaska. With respect to the Cordova station, the conferees expect that after the necessary construction is completed, the Coast Guard will assign two helicopters and appropriate personnel to this facility.

Research, Development, Test, and Evaluation

Amendment No. 4: Appropriates $20,000,000 as proposed by the Senate.

Pollution Fund

Amendment No. 5: Deletes the language proposed by the Senate to transfer $5,000,000 from the appropriation Pollution Fund, 1977, to the appropriation for acquisition, construction, and improvements. The conferees direct that $5,000,000 of the appropriation for acquisition, construction, and improvements be used for 200 mile fisheries zone enforcement.

Federal Aviation Administration

Operations

Amendment No. 6: Appropriates $1,802,700,000 as proposed by the House instead of $1,809,150,000 as proposed by the Senate. The conference agreement includes 200 positions in addition to those provided by the House. Of the additional positions provided, 150 are for air traffic control and 50 are for systems maintenance.

Grants-in-Aid for Airports

Amendment No. 7: Deletes the word "and" as proposed by the Senate.

Amendment No. 8: Appropriates $14,000,000 for airport planning grants instead of $10,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

Amendment No. 9: Appropriates $1,000,000 for state standards grants instead of $1,275,000 as proposed by the Senate.

Construction, Metropolitan Washington Airports

Amendment No. 10: Appropriates $5,500,000 as proposed by the Senate instead of $5,000,000 as proposed by the House.

Federal Highway Administration

Limitation on General Operating Expenses

Amendment No. 11: Limits general operating expenses to $159,725,000 as proposed by the Senate instead of $159,500,000 as proposed by the House.

Highland Scenic Highway Study

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

In lieu of the sum named in said amendment insert: "$1,500,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Access Highways to Public Recreation Areas on Certain Lakes

Amendment No. 13: Appropriates $8,650,000 as proposed by the Senate instead of $3,350,000 as proposed by the House.

Overseas Highway

Amendment No. 14: Appropriates $17,000,000 as proposed by the Senate instead of $25,000,000 as proposed by the House.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to provide, by transfer, $8,000,000 to the overseas highway from amounts available for obligation under section 105(c)(2) of the Federal-Aid Highway Act of 1976.

Traffic Control Signalization Demonstration Projects

Amendment No. 16: Appropriates $20,000,000 instead of $30,000,000 as proposed by the House.

National Highway Traffic Safety Administration

Traffic and Highway Safety

Amendment No. 17: Appropriates $78,388,000 instead of $77,253,000 as proposed by the House and $80,000,000 as proposed by the Senate. The conference agreement includes the following additions to the amount provided by the House:

Alcohol programs	$300,000
Motorcycle safety	135,000
National driver register	200,000
Drug and alcohol programs	250,000
Consumer information	250,000

The conference agreement also includes 10 positions for regional and state traffic safety programs and 5 positions for consumer information in addition to those provided by the House.

Amendment No. 18: Provides that $26,220,000 of the appropriation shall be derived from the Highway Trust Fund instead of $25,335,000 as proposed by the House and $26,776,000 as proposed by the Senate.

Amendment No. 19: Provides that $33,927,000 of the appropriation shall remain available until expended as proposed by the Senate instead of $33,427,000 as proposed by the House.

Amendment No. 20: Provides that $7,841,000 of the amount appropriated to remain available until expended shall be derived from the Highway Trust Fund as proposed by the Senate instead of $7,591,000 as proposed by the House.

Federal Railroad Administration

Railroad Research and Development

Amendment No. 21: Appropriates $53,600,000 as proposed by the Senate instead of $55,000,000 as proposed by the House. The conference agreement includes the full budget request for economic analysis and for the automated freight car scheduling research and development program. The conference agreement also includes $500,000 for the design, construction and testing of three prototype lightweight low-level flatcars and $15,000,000 for the transportation test center, including $1,000,000 for an architectural and engineering study for a larger test facility conceptually similar to the facility for accelerated service testing.

The conferees recommended travel allowances for railroad safety inspectors for up to 20 days per month to inspect for rail safety violations. The conferees have been advised that the average daily travel expenses for each inspector amount to $50.

Rail Service Assistance

Amendment No. 22: Appropriates $3,500,000 for the programs authorized by section 11(c) (6) and (7) of the Department of Transportation Act, as amended, instead of $6,000,000 as proposed by the Senate and $1,000,000 as proposed by the House.

The conferees fully support the objectives of the Minority Business Resource Center and have provided a total of $3,500,000 for venture capital funding. These funds are in addition to the $5,000,000 provided for this purpose for fiscal year 1977. If additional funding is required during fiscal year 1978, a supplemental request will be considered.

The conferees believe that all branch line rehabilitation projects should be carefully considered on an individual basis to determine whether a proposed improvement is a cost-effective freight transportation project.

Grants to the National Railroad Passenger Corporation

Amendment No. 23: Appropriates $646,500,000 instead of $633,500,000 as proposed by the House and $680,000,000 as proposed by the Senate. The conferees recognize that Amtrak overcommitted its guaranteed loan authority under 45 U.S.C. 602. The conferees do not approve of this prior overcommitment

but recognize its continued existence. The conferees direct Amtrak not to undertake any action which would further overcommit its guaranteed loan authority.

Amendment No. 24: Provides that $488,500,000 of the appropriation shall be available for operating losses as proposed by the House instead of $500,000,000 as proposed by the Senate. The conferees believe this amount will be sufficient for the entire fiscal year and direct Amtrak to make effective use of the criteria and procedures for making route and service decisions developed pursuant to section 8 of the Amtrak Improvement Act of 1975.

Amendment No. 25: Provides that $108,000,000 of the appropriation shall be available for capital improvements instead of $95,000,000 as proposed by the House and $130,000,000 as proposed by the Senate.

In addition to the general funding recommendations in the House report, the conference agreement includes the following capital items:

Maintenance facility improvement at Beech Grove, Ind.	$13,000,000
Right-of-way improvements from Post Road to Rensselaer, N.Y.	4,100,000
Construction of a station near Baltimore-Washington Int'l airport	1,500,000

The conferees direct Amtrak to expeditiously complete construction of the railroad station near the Baltimore-Washington International airport.

Alaska Railroad

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $3,000,000 for payments to the Alaska Railroad Revolving Fund.

Urban Mass Transportation Administration

Research, Development, and Demonstrations and University Research and Training

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $70,000,000 instead of $67,000,000 as proposed by the House. The conference agreement includes $5,000,000 for the demonstration project authorized by section 148 of Public Law 94-280, $1,000,000 for the installation of a flywheel propulsion system in a commercially available bus, $600,000 for the accelerated walkway program.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to earmark $67,500,000 of the appropriation for research, development, and demonstrations instead of $64,500,000 as proposed by the House.

Rail Service Operating Payments

Amendment No. 29: Appropriates $45,000,000 for rail service operating payments as proposed by the Senate instead of $40,000,000 as proposed by the House.

Projects Substituted for Interstate System Projects

Amendment No. 30: Appropriates $439,000,000 instead of $424,000,000 as proposed by the House and $469,000,000 as proposed by the Senate. The amount provided is for the following projects:

Washington, D.C. (WMATA)	$275,000,000
Metropolitan Chicago area	132,000,000
Denver, Colo.	12,000,000
Salem, Oreg.	5,000,000
Northern New Jersey	15,000,000
Total	439,000,000

Of the total amount provided, $15,000,000 shall be made available to Northern New Jersey for the improvement of existing commuter rail service in the corridor previously owned by the Central of New Jersey Railroad between Aldene and Phillipsburg, N.J.

Amendment No. 31: Deletes language earmarking not to exceed $275,000,000 of the appropriation for the Washington Metropolitan Area Transit Authority as proposed by the Senate.

TITLE II—RELATED AGENCIES

Interstate Commerce Commission

Amendment No. 32: Appropriates $60,525,000 for salaries and expenses as proposed by the House instead of $61,566,000 as proposed by the Senate. The conference agreement includes a total of 2,250 positions.

Washington Metropolitan Area Transit Authority

Amendment No. 33: Appropriates $60,900,000 for interest payments as proposed by the Senate instead of $48,657,000 as proposed by the House.

The conferees are aware of the statement on Federal policy on assistance for major urban mass transportation investments issued by the Department of Transportation on September 22, 1976. The conferees believe this policy should apply to all major mass transportation capital assistance grants financed under the Urban Mass Transportation Act of 1964, as amended, and the Federal-Aid Highway Act of 1973, as amended, including assistance provided to the Washington Metropolitan Area Transit Authority.

The conferees are also aware that an analysis of alternatives, which is an important requirement of the Federal policy, is being performed on selected unbuilt segments of the proposed WMATA system. These segments have previously been subjected to varying degrees of analysis in connection with certain Federal, State and local decisions and requirements. The conferees believe that UMTA should accept the substantive aspects of previous analyses, wherever appropriate, as meeting the alternatives analysis requirement but in all such cases UMTA should re-examine the critical assumptions of previous analyses to determine their validity and reasonableness.

With regard to the "B" Route of the Metro system from Silver Spring to Glenmont, the conferees support the special engineering assessment of this segment to ensure that all apparent cost reduction measures are fully considered. The conferees direct that this engineering assessment be completed by October 7, 1977.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that reads as follows:

In lieu of matter stricken and inserted by said amendment, insert the following: "expended: *Provided*, That $12,243,000 of such amount shall become available upon the date of enactment of this Act: *Provided further*, That the Secretary of Transportation shall execute an agreement with the Authority whereby the Authority agrees to (1) issue no additional bonds under title I of Public Law 92-349, (2) provide a minimum of 20 percent of the Authority's unreimbursed debt service costs under title I of Public Law 92-349, and (3) develop and execute a plan, with the participating local governments, that will provide for the Authority to be financially responsible for the remaining capital and operating costs of the rail transit system in a manner consistent with the Urban Mass Transportation Act of 1964, as amended, the Federal-Aid Highway Act of 1973, as amended, and the terms and conditions the Secretary may require."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 35: Limits obligations for highway related safety grants to $28,000,000 as proposed by the Senate instead of $21,000,000 as proposed by the House.

Amendment No. 36: Limits obligations for State and community highway safety to $172,000,000 as proposed by the Senate instead of $129,000,000 as proposed by the House.

Amendment No. 37: Limits commitments for the Urban Mass Transportation Act of 1964, as amended, to $2,365,000,000 instead of $2,307,000,000 as proposed by the House and $2,415,000,000 as proposed by the Senate. The conference agreement includes the following amounts:

Programs:	*Amount*
Capital grants	$1,400,000,000
Bus	(395,000,000)
Rail modernization	(530,000,000)
New starts	(475,000,000)
Formula grants	775,000,000
Technical studies	55,000,000
Research	70,000,000
Administrative expenses	20,000,000
Rail service operating payments	45,000,000
Total	2,365,000,000

The conference agreement includes 50 positions in addition to those provided by the House.

The conference agreement includes capital grant funds for the downtown people mover (DPM) program under the heading "new starts". Under the original Department of Transportation selection process, four cities were designated to participate in the DPM program. The conferees recognize that the cities of Jacksonville, St. Louis, Baltimore and Indianapolis have also undertaken significant planning efforts at the local level in this area. The conferees, therefore, believe that the DPM projects in these four cities should be considered for funding under the regular UMTA capital grant program. The conferees also believe that UMTA should recognize these four cities' planning efforts as meeting the requirements of the initial step in the capital grant funding process. The conferees expect that any additional applications under this program will follow all the procedures established for the regular capital grant program.

The conferees believe that UMTA should impose strict limits on the Federal commitment for each project and should insist on contractual procedures, including fixed-price contracts, which will ensure that project costs are kept within current estimates. Further, the conferees believe that UMTA should undertake to fully inform the local communities of the potential capital and operating costs of DPM systems prior to final project approval by UMTA.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that obligations for the Great River Road shall be used for preliminary engineering and the planning or execution of certain projects with the proviso that no funds may be used for constructing new segments until 60 percent of the road in each State is completed.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 318. Such funds as may be necessary shall be utilized from the appropriations above made available to the Federal Aviation Administration and to the Civil Aeronautics Board for the preparation of a plan to coordinate as promptly as possible the use of Midway Airport with O'Hare Airport in Chicago, Illinois, for service by regularly scheduled airline carriers in order to relieve air traffic congestion and to promote air safety in that area.

SEC. 319. Funds appropriated for grants to the National Railroad Passenger Corporation under P.L. 95-26 and for the fiscal year 1978 purchase payments for the Northeast Corridor shall be used for the payment of any principal and interest costs due or payable to the Consolidated Rail Corporation after March 11, 1977.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 amount, the 1978 budget estimates, and the House and Senate bills for 1978 follow:

New budget (obligational) authority, fiscal year 1977	$5,864,626,357
Budget estimates of new (obligational) authority, fiscal year 1978	[1] 6,282,784,023
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1977	+331,982,666
Budget estimates of new (obligational) authority, fiscal year 1978	−86,175,000
House bill, fiscal year 1978	+292,535,000
Senate bill, fiscal year 1978	−80,380,000
House bill, fiscal year 1978	5,904,074,023
Senate bill, fiscal year 1978	[2] 6,276,989,023
Conference agreement	[2] 6,196,609,023

[1] Includes $113,275,000 of budget estimates not considered by the House.

[2] In addition, $12,243,000 was provided for fiscal year 1977.

JOHN J. MCFALL,
TOM STEED,
ED KOCH,
ROBERT DUNCAN,
ADAM BENJAMIN, JR.,
NEAL SMITH,
JOSEPH P. ADDABBO,
FRANK E. EVANS,
GEO. MAHON,
Managers on the Part of the House.
BIRCH BAYH,
JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
JOHN C. STENNIS,
ROBERT C. BYRD,
TOM EAGLETON,
J. BENNETT JOHNSTON,
CLIFFORD P. CASE,
MILTON R. YOUNG,
CHARLES MCC. MATHIAS, JR.,
LOWELL P. WEICKER, JR.,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPUTO), to revise and extend their remarks, and to include extraneous matter:)

Mr. BURKE of Florida, for 5 minutes, today.

Mr. WHALEN, for 5 minutes, today.

Mr. STEERS, for 5 minutes, today.

Mr. KASTEN, for 5 minutes, today.

(The following Members (at the request of Mr. WATKINS), to revise and extend their remarks and include extraneous material:)

Mr. UDALL, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Mr. BENJAMIN, for 5 minutes, today.

Mr. KOCH, for 10 minutes, today.

Ms. HOLTZMAN, for 15 minutes, today.

Mr. ROBERTS, for 5 minutes, today.

Mr. MITCHELL of Maryland, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. HEFNER, for 5 minutes, today.

Mr. CHARLES H. WILSON of California, for 15 minutes, today.

Mr. BLANCHARD, for 5 minutes, on June 30, 1977.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. JONES of Oklahoma, to revise and extend his remarks during consideration of House Resolution 664 following Mr. PICKLE's remarks.

Mr. MIKVA, to revise and extend his remarks immediately prior to the vote on the Grassley amendment in the Committee of the Whole today.

Mrs. BOGGS, to revise and extend her remarks just prior to the vote on the Kostmayer amendment.

(The following Members (at the request of Mr. CAPUTO), and to include extraneous material:)

Mr. KETCHUM.

Mr. KASTEN.

Mr. TRIBLE.

Mr. WHITEHURST.

Mr. CONTE.

Mr. LAGOMARSINO in four instances.

Mr. SARASIN.

Mr. YOUNG of Florida.

Mr. ABDNOR in two instances.

Mr. STANTON.

Mr. BURKE of Florida.

Mr. GOODLING.

Mr. FORSYTHE.

Mr. HYDE.

Mr. DERWINSKI in two instances.

Mr. KEMP in five instances.

Mr. HILLIS.

Mr. COLLINS of Texas in three instances.

Mr. REGULA.

Mr. STEERS in two instances.

Mr. GOLDWATER.

Mrs. HOLT.

Mr. BADHAM.

Mr. LEACH.

Mr. WALKER.

Mr. ASHBROOK in three instances.

Mrs. SMITH of Nebraska.

Mr. PRESSLER.

Mr. CARTER.

Mr. DORNAN in two instances.

Mr. GILMAN.

Mr. RUPPE.

(The following Members (at the request of Mr. WATKINS) and to include extraneous matter:)

Ms. MIKULSKI in five instances.

Mr. ROSENTHAL.

Mr. GAYDOS.

Mr. OBEY.

Mr. LEGGETT.

Mr. WAXMAN.

Mr. TEAGUE in two instances.

Mr. HAMILTON.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. MCFALL.

Mr. NOLAN.

Mr. EVANS of Georgia in five instances.

Mr. SOLARZ.

Mr. JONES of Tennessee.

Mr. BLANCHARD.

Mr. PHILLIP BURTON.

Mr. WEAVER.

Mr. YOUNG of Missouri.

Mrs. BOGGS.

Mrs. SCHROEDER.

Mr. KOCH in six instances.

Mr. MCDONALD in five instances.

Mr. BRECKINRIDGE.

Mr. CHAPPELL in two instances.

Mr. AUCOIN.

Mr. SIMON in two instances.

Mr. DODD.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 964. An act to provide that the salaries of certain positions and individuals which were increased as a result of the operation of the Federal Salary Act of 1967 shall not be increased by the first comparability pay adjustment occurring after the date of the enactment of this act.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6668. An act to amend the Age Discrimination Act of 1975 to extend the date upon which the U.S. Commission on Civil Rights is required to file its report under such Act, and for other purposes.

ADJOURNMENT

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 33 minutes p.m.), the House adjourned until tomorrow, Thursday, June 30, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1795. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to strengthen and improve procedures for reviewing and controlling the utilization of medical services under medicaid and for other purposes; to the Committee on Interstate and Foreign Commerce.

1796. A letter from the Acting Assistant General Counsel for International, Conserva-

tion, and Resource Development Programs, Federal Energy Administration, transmitting notice of a meeting related to the International Energy Program July 12–13, 1977 in Paris, France; to the Committee on Interstate and Foreign Commerce.

1797. A letter from the Comptroller General of the United States, transmitting a report on the environmental and economic issues involved in the dredging of the Nation's waterway system (CED–77–74, June 28, 1977); jointly, to the Committees on Government Operations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE: Committee on Armed Services. Allocation of budget totals for fiscal year 1978. (Rept. No. 95–469). Referred to the Committee of the Whole House on the State of the Union.

Mr. McFALL: Committee of conference. Conference report on H.R. 7557 (Rept. No. 95–470). Ordered to be printed.

Mr. SISK: Committee on Rules. House Resolution 666. Resolution providing for the consideration of H.R. 7171. A bill to establish more responsive programs for the benefit of farmers and consumers of farm products; to extend and improve the programs conducted under the Agricultural Trade Development and Assistance Act of 1954, as amended; and for other purposes (Rept. No. 95–471). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN:

H.R. 8078. A bill to provide low-interest construction and mortgage loans for low- and medium-priced residential housing where members banks of the Federal Reserve System wish to be paid interest on their funds on reserve in exchange for furnishing said low-interest loans, and to permit nonmember banks, savings and loan associations and certain other financial institutions to participate by offering deferred-interest loans by amending the Federal Reserve Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BENJAMIN:

H.R. 8079. A bill to amend section 302 of the Communications Act of 1934 to authorize the Federal Communications Commission to prescribe regulations with respect to certain electronic equipment that is susceptible to radio frequency energy interference; to the Committee on Interstate and Foreign Commerce.

By Mr. BREAUX (for himself, Mr. HUCKABY, and Mr. LONG of Louisiana):

H.R. 8080. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BRINKLEY:

H.R. 8081. A bill to provide that the Federal Government shall pay the costs (including attorney's fees) of civil actions brought by the Government against the same party on substantially the same factual grounds, if the Government does not combine all of its theories on which it seeks relief into a single civil action; to the Committee on the Judiciary.

By Mr. BURKE of Florida:

H.R. 8082. A bill to establish the West Lake National Park in the State of Florida, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PHILLIP BURTON (for himself, Mr. ROSE, Mr. DAVIS, Mr. NEAL, and Mr. JENRETTE):

H.R. 8083. A bill to provide benefits for sufferers from byssinosis; to the Committee on Education and Labor.

By Mr. COHEN (for himself, Mr. KOCH, Mr. ANDERSON of California, Mr. KASTEN, Mr. LEDERER, Mr. PURSELL, Mr. ROSENTHAL, and Mrs. SCHROEDER):

H.R. 8084. A bill to provide that polling and registration places for elections for Federal office be accessible to physically handicapped and elderly individuals, and for other purposes; to the Committee on House Administration.

By Mr. CONTE:

H.R. 8085. A bill to amend title 38 of the United States Code to provide for the payment of supplemental tuition allowances for certain veterans pursuing educational programs; to the Committee on Veterans Affairs.

By Mr. CORCORAN of Illinois (for himself, and Mr. QUAYLE):

H.R. 8086. A bill entitled "The College Tuition Tax Relief Act of 1977"; to the Committee on Ways and Means.

By Mr. DUNCAN of Tennessee (for himself and Mr. THONE:)

H.R. 8087. A bill to amend the Internal Revenue Code of 1954 to exempt from the excise tax imposed on trailers any trailer designed to be used with a light-duty vehicle for farming purposes or for transporting horses or livestock; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 8088. A bill to amend the Railroad Retirement Act of 1974 to provide that the spouse of a person receiving an annuity on account of disability may receive an annuity at age 60 if such person would have completed 30 years service as of the date of that person's attaining the age of sixty; to the Committee on Interstate and Foreign Commerce.

H.R. 8089. A bill to insure that recipients of veteran's pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veteran's Affairs.

By Mr. GOODLING (for himself and Mr. SHUSTER):

H.R. 8090. A bill to authorize the transfer of one of the Gettysburg Address manuscripts from the custody of the Library of Congress to the custody of the Secretary of the Interior; to the Committee on House Administration.

By Mr. GUDGER:

H.R. 8091. A bill to amend title VII of the act of October 17, 1976 (90 Stat. 2450); to the Committee on Interior and Insular Affairs.

By Mr. LEACH:

H.R. 8092. A bill to provide for campaign finance reform of congressional elections; to the Committee on House Administration.

By Mr. PATTERSON of California:

H.R. 8093. A bill to amend the Internal Revenue Code of 1954 to provide that certain short-term gains from the sale of houses will be taxed at a rate of 75 percent; to the Committee on Ways and Means.

By Mr. REUSS:

H.R. 8094. A bill to promote the accountability of the Federal Reserve System; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. ROGERS:

H.R. 8095. A bill to amend the Social Security Act to strengthen and improve procedures for the reviewing and controlling the utilization of medical services under medicaid and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 8096. A bill to amend title XVIII of the Social Security Act to provide an optional, simplified method of reimbursement for physicians' services under the medicare program for each State on the basis of a fee schedule, uniform throughout such State, and to authorize reimbursement to participating physicians in the full fee schedule amounts (with collection of the applicable deductibles and coinsurance from patients becoming the responsibility of the Federal program); jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. SEIBERLING (for himself, Mr. KAZEN, Mr. ECKHARDT, Mr. BYRON, Mr. MURPHY of Pennsylvania, Mr. BEILENSON, Mr. EDWARDS of Alabama, Mr. MAZZOLI, Mr. PATTERSON of California, Mr. PEPPER, and Mr. RICHMOND):

H.R. 8097. A bill to establish a national policy for the preservation of historic, architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. SPELLMAN (for herself and Mr. FRASER):

H.R. 8098. A bill to amend title 17, United States Code, relating to copyrights, for the purpose of extending certain exemptions, and removing certain limitations, pertaining to the transmission of performances of dramatic literary works, which performances are designed specifically for blind or other handicapped persons; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 8099. A bill relating to the settlement between the United States and the Ak-Chin Indian Community of certain water right claims of such community against the United States; to the Committee on Interior and Insular Affairs.

By Mr. WEAVER (for himself, Mr. MOFFETT, Mr. SCHEUER, Mr. FOUNTAIN, Mr. REUSS, Mr. MAGUIRE, Mr. MIKVA, Mr. DELLUMS, Mr. ZEFERETTI, Mr. LAFALCE, Mr. PURSELL, Mr. DRINAN, Mr. HUGHES, Mr. BEILENSON, Mr. OTTINGER, Mr. EILBERG, Mr. WALGREN, Mr. MURPHY of Pennsylvania, Mr. HOLLENBECK, and Mr. RODINO):

H.R. 8100. A bill to assist in the marketing and handling of 1977, 1978, 1979, 1980, and 1981 crops of wheat and feed grains; to the Committee on Agriculture.

By Mr. YATRON:

H.R. 8101. A bill to establish an office within the Congress with a toll-free telephone number to be known as the Congressional Advisory Legislative Line (CALL), to provide the American people with a free and open access to information, on an immediate basis, relating to the status of legislative proposals pending before the Congress; to the Committee on House Administration.

By Mr. BEDELL (for himself, Mr. THONE, Mr. ENGLISH, Mr. BROWN of California, Mr. PRESSLER, Mr. HUGHES, Mr. HARKIN, Mr. ABDNOR, Ms. HOLTZMAN, Mr. BADILLO, Mr. NOLAN, and Mr. RICHMOND):

H.R. 8102. A bill to require that all reports concerning certain sales of meat and meat food products meet standards set by the Secretary of Agriculture concerning accuracy and completeness; to the Committee on Agriculture.

By Mr. BINGHAM (for himself, Mr. DELANEY, Mr. DELLUMS, Mr. BRADEMAS, and Mr. RINALDO):

H.R. 8103. A bill to encourage the use of transportation modes other than personal motor vehicles for travel to and in national parks; jointly, to the Committees on Interior and Insular Affairs, and Public Works and Transportation.

By Mr. PHILLIP BURTON:

H.R. 8104. A bill to amend the Fair Labor Standards Act of 1938 to provide that blind persons may not be employed at less than the applicable minimum wage under that act; to the Committee on Education and Labor.

By Mr. CAPUTO (for himself, Mr. WALKER, Mr. KETCHUM, Mr. MURPHY of Pennsylvania, Mr. EILBERG, Mr. GLICKMAN, Mr. LONG of Maryland, Mr. GEPHARDT, Mr. EDWARDS of Oklahoma, Mr. STOCKMAN, Mr. OTTINGER, Mr. KILDEE, Mr. PATTERSON of California, Mr. LEACH, Mr. LUKEN, Mr. QUAYLE, Mr. EVANS of Delaware, Mr. COHEN, Mr. HOLLENBECK, Mr. TRIBLE, Mr. DORNAN, and Mr. BEDELL):

H.R. 8105. A bill to repeal section 108A of the Mutual Educational and Cultural Exchange Act of 1961 which allows participation by Federal employees in certain cultural exchange programs financed by foreign governments; to the Committee on International Relations.

By Mr. DRINAN (for himself, Mr. BADILLO, Mr. DIGGS, Mr. GILMAN, Mr. HAWKINS, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. PEASE, Mr. RYAN, and Mr. WEISS):

H.R. 8106. A bill to amend the Truth in Lending Act to require biannual examinations of creditors, to require public disclosure of certain information obtained in such examinations, to require persons affected by violations of the Act to be so notified, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DRINAN (for himself, Mr. BINGHAM, Mr. CONYERS, Mr. EDWARDS of California, Ms. HOLTZMAN, Mr. MIKVA, Mr. SOLARZ, Mr. STARK, Mr. WEISS, Mr. BEDELL, Mr. DELLUMS, Mr. HAWKINS, Mr. KOSTMAYER, Mr. LEHMAN, Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. ROSENTHAL, Mr. SCHEUER, Mr. SEIBERLING, and Mr. STEERS):

H.R. 8107. A bill to carry out the principles of the Helsinki Final Act pertaining to freedom of travel and emigration, by providing that aliens who are associated with certain political organizations or who advocate certain political beliefs shall not be ineligible to receive visas and excluded from admission into the United States, or deported from the United States, because of such association or beliefs; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Mr. BADILLO, Mr. BAUCUS, Mr. BINGHAM, Mr. FRASER, Mr. LAFALCE, Mr. MITCHELL of Maryland, and Mr. STARK):

H.R. 8108. A bill to amend the Employment Act of 1946 to limit the terms of membership on the Joint Economic Committee; to the Committee on Rules.

By Mr. HEFTEL:

H.R. 8109. A bill to amend the Merchant Marine Act, 1920, to establish a program of development grants for those seaports located in the domestic offshore States, territories, and possessions of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. MATHIS:

H.R. 8110. A bill to apply duty-free treatment under certain circumstances to articles produced in the insular possession of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. MOTTL (for himself, Mr. TEAGUE, Mr. ROBERTS, Mr. HAMMERSCHMIDT, Mrs. HECKLER, Mr. WOLFF, Mr. ALLEN, Mr. APPLEGATE, Mr. HEFNER, Mr. WYLIE and Mr. WALSH):

H.R. 8111. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PREYER:

H.R. 8112. A bill to repeal chapter 27 of title 44, United States Code; to the Committee on House Administration.

By Mr. STANGELAND (for himself and Mr. OBERSTAR):

H.R. 8113. A bill to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HEFNER:

H. Con. Res. 268. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service and should not close any post office until the Congress has an adequate opportunity to review and act upon the recommendations made by the Commission on Postal Service under the Postal Reorganization Act Amendments of 1976; to the Committee on Post Office and Civil Service.

By Mr. JENRETTE:

H. Con. Res. 269. Concurrent resolution relating to the resolution of certain issues in United States—Cuban relations; to the Committee on International Relations.

By Mr. LATTA:

H. Con. Res. 270. Concurrent resolution disapproving the President's action of entering into a marketing agreement with Japan concerning limitations on the importation of color televisions into the United States; to the Committee on Ways and Means.

By Mr. ROE (for himself and Mr. YOUNG of Missouri):

H. Con. Res. 271. Concurrent resolution expressing the sense of the Congress that the Holy Crown of Saint Stephen should remain in the safekeeping of the U.S. Government until Hungary once again functions as a constitutional government established by the Hungarian people through free choice; to the Committee on International Relations.

By Mr. DRINAN (for himself, Mr. BEDELL, Mr. BINGHAM, Mr. BLOUIN, Mr. BONIOR, Mr. CONYERS, Mr. EDWARDS of California, Mr. EILBERG, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. KREBS, Mr. MAGUIRE, Mrs. MEYNER, Mr. MITCHELL of Maryland, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. RICHMOND, Mr. SEIBERLING, Mr. SIMON, Mr. STUDDS, Mr. WAXMAN, and Mr. WOLFF):

H. Res. 667. Resolution calling on the President to promote negotiations for a Comprehensive Test Ban Treaty ending all nuclear explosions; to the Committee on International Relations.

By Mr. PATTISON of New York (for himself, Mr. BEDELL, Mr. BRADEMAS, Mr. CONYERS, Mr. EDGAR, Mrs. FENWICK, Mr. FISH, Mr. FORD of Tennessee, Mr. HAWKINS, Mr. JEFFORDS, Mr. LE FANTE, Mr. LUKEN, Mr. MITCHELL of Maryland, Mr. PERKINS, Mr. ROSENTHAL, and Mr. TUCKER):

H. Res. 668. Resolution to authorize each Member of the House of Representatives to hire two additional Lyndon Baines Johnson congressional interns and to authorize payment of additional compensation for such interns from the clerk hire allowance; to the Committee on House Administration.

By Mr. RUDD:

H. Res. 669. Resolution relative to determining a telecommunications regulatory policy; to the Committee on Interstate and Foreign Commerce.

By Mrs. SMITH of Nebraska (for herself and Mr. FOUNTAIN):

H. Res. 670. Resolution expressing the sense of the House of Representatives that the effect on our society of the level of violence depicted on television requires more consideration and study; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII,

205. The SPEAKER presented a memorial of the Legislature of the State of Colorado, relative to the development of controlled nuclear fusion as a source of energy; to the Committee on Science and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred to as follows:

By Mr. BARNARD:

H.R. 8114. A bill for the relief of William H. Spratling; to the Committee on the Judiciary.

By Mrs. BOGGS:

H.R. 8115. A bill for the relief of Hugo Hansen, Mikael Hansen, Peter Hansen, Esben Hansen, and Sebastian Hansen; to the Committee on the Judiciary.

By Mr. PATTERSON of California:

H.R. 8116. A bill for the relief of Clare Coombes; to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 8117. A bill for the relief of T.Sgt. Charles E. Welch, U.S. Air Force; to the Committee on the Judiciary.

By Mr. SARASIN:

H.R. 8118. A bill conferring jurisdiction upon the U.S. Court of Claims to hear, determine and render judgment upon the claim of James W. Brundage; to the Committee on the Judiciary.

By Mr. CHARLES WILSON of Texas:

H.R. 8119. A bill for the relief of Leslie Martin Chen, Maria Chen, Natasha Shanon Chen, Natalie Karen Chen, Corinne Michelle Chen, Faye Allison Chen, Lily Monica Chen, and Dorian Jerald Augustine Chen; to the Committee on the Judiciary.

H.R. 8120. A bill for the relief of Sho Ving Chan, Chung Mok Heung Chan, Luiza Sho Ving Chan, David Sho Ving Chan, and Steven Sho Ving Chan; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

136. The SPEAKER presented a petition of the Puerto Rico Chapter, Association of Trial Lawyers of America, Old San Juan, Puerto Rico, relative to endorsing Jose V. Toledo for the position of judge of the U.S. Court of Appeals for the First Circuit; which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, June 29, 1977*

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the Fifth Psalm, the third verse:

"My voice shalt Thou hear in the morning, O Lord; in the morning will I direct my prayer unto Thee, and will look up".

Let us pray.

O God, our God and the God of our Fathers, we lift our morning prayer to Thee seeking the wisdom and strength which comes from Thee and from Thee alone. Without Thee we can do nothing great or good, but with Thee all things are possible. Therefore we consecrate to Thee all that we are and all that we have, the faculties of our mind, the organism of our body, our wealth, and our time, asking Thee to employ all to Thy glory.

Hear us in the prayers which are spoken and in the deeper unuttered prayers of our hearts. Answer all our prayers as may be in accord with Thy will, granting us in this world knowledge of the truth, and in the world to come life everlasting. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 29, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, June 28, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I advise my friend, the majority leader, that we have some objection to the meeting today of the Judiciary Committee during the session of the Senate. I wonder if the majority leader would rephrase his unanimous-consent request in that way so I can avoid objecting to it.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I so revise my request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the minority leader.

THE B–1 BOMBER

Mr. ROBERT C. BYRD. Mr. President, two of our major newspapers, the New York Times and the Washington Star, have recently editorialized against the B–1 bomber.

As President Carter nears a decision on his position on the B–1, both the Times and the Star make a compelling case against the B–1.

The Times editorial sets forth some of the alternatives to the B–1 that would be more effective from both a cost and strategic standpoint. The Times favors a combination of modified B–52's and standoff bombers—the cheapest way to get cruise missiles to launch point.

The Star editorial asks the question: What could the B–1 do that cruise missles cannot do more cheaply and reliably? As I have suggested and as the Star editorial comments, the cruise missile is far cheaper and it could be delivered from standoff planes from outside the perimeter of Soviet air defenses.

Mr. President, I have stated my opposition to continued large-scale funding of the B–1. I do think it is appropriate at this stage to keep the technology alive. I support the provision in the Defense appropriations bill that allows I believe for the construction of five B–1's. But I see no justification for going ahead with a project that will result in planes costing well over $100 million apiece. The estimated life-cycle cost of the B–1 fleet could be $100 billion.

Spending these massive sums on the B–1 is not the best use of public funds. There are less expensive and more credible military alternatives and many unmet domestic needs for which the money could be better spent.

Mr. President, I ask unanimous consent that the two editorials be printed in the RECORD together with a letter which I wrote to the President on June 23, 1977.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 29, 1977]

B–1: THE UNNEEDED WEAPON

President Carter has been pictured as wading through a 1½-inch stack of reports on the strategic implications of the B–1 bomber plus a thick book of engineering evaluations. The indications are that he intends to approve continued production of the plane on a reduced basis. If so, then it may be that Mr. Carter understood more about the plane when he knew less.

Last June Mr. Carter told the Democratic Platform Committee that "the B–1 is an example of a proposed system which should not be funded and would be wasteful of taxpayers' dollars." That is even more the central point now, with the cost increased to $102 million per plane. Strategic implications, engineering evaluations, the credibility of the candidate's promises, the SALT talks and all the other issues now being debated are only of secondary, indeed marginal importance.

Why marginal? The technical problems in the plane evidently are no greater than normal at this stage of advanced weapon development. The environmentalist complaint that the B–1 would be "the greatest fuel guzzler of all time because it gets 440 yards on a gallon" can be made against most military aircraft. The SALT talks will not be affected one way or the other; no current Soviet or American proposal deals with the B–1 and none is likely to be altered by the President's decision. If the B–1 were in fact vital to the nation's defense, no one would tax the President for changing his mind.

It is equally important, however, that the right issues be confronted on the other side of the argument. Serious critics of the B–1 are not attacking the "triad" concept of strategic offensive forces—the reliance on intercontinental ballistic missiles, submarine-launched ballistic missiles and manned bombers. It is generally agreed that a manned bomber force should be maintained. The issue is, what kind? The President has four choices.

Option No. 1 would be to modernize the strategic bomber force by production of the B–1. A high-performance aircraft, it has been designed with one overriding objective: to preserve the United States' ability to penetrate the Soviet Union's high-intensity air defenses. To do this, the supersonic B–1 would have to fly below the speed of sound at tree-top levels, like the B–52. Its radar profile is smaller than the B–52's and its electronic countermeasures gear would better deceive Soviet defenses.

Option No. 2 would be to extend the life of the existing B–52 bomber force. The B–52 is an old plane but still good. Built for high-altitude flight, it now has to be flown at low altitude to avoid radar detection. But at a cost of $40 million per plane for new engines and a restressing of wings, it could serve until the year 2000. The Air Force, which naturally would prefer to trade up, nevertheless acknowledges that later-model B–52's will retain a high penetration capability into the mid-1980's. They will become more vulnerable when the Russians develop high-altitude planes with look-down radar. But then so will the B–1's.

Option No. 3 would be to build a relatively inexpensive "stand-off" bomber that would not enter Soviet air space but fire cruise missiles from the Soviet periphery. Modified wide-bodied 747 commercial jets are one possibility. The B–1, if it is built, would also be equipped, as a hedge, to carry such cruise missiles, which are subsonic pilotless bombers costing only $1 million each and able to fly 1,500 miles at low altitude to within 100 feet of a target. So would the B–52, which could carry 20 cruise missiles as against the B–1's 24.

Option No. 4 would be a combination of modified B–52's and stand-off bombers—the cheapest way to get cruise missiles to launch point and to retain a bomber penetration capability for many years. That would take care of strategic needs well into the 1990's with an outlay of $10 to $15 billion less than the full B–1 program, ac-

cording to a Brookings Institution study. This is the option we favor.

It reluctantly accepts the cruise missile, which would be better banned in the SALT talks. If it were, a stronger argument would emerge for the B–1 or a cheaper penetration bomber for the 1990's. But there is no longer any likelihood of a cruise-missile ban.

The gold-plated design of the B–1 promises to make it the most expensive weapons systems in the history of warfare—$25 billion for 244 planes, at least $15 billion for operational costs and, by some estimates, as much as $90 billion for supporting aerial tankers, missiles, spares. Producing fewer—Senator Goldwater is prepared to settle for 150—is a compromise that will attract politicians. President Carter will prove himself a statesman by a clean decision to abandon the program.

[From the Washington Star, June 28, 1977]

MR. CARTER AND THE B–1

The White House put out word the other day that the B–1 bomber already has so many fast friends in Congress that President Carter's support or opposition (which he's expected to announce this week) might cut no ice.

It was a curious and probably over-modest advertisement of presidential impotence. But it is only the latest of Mr. Carters' missteps in the matter of the B–1.

He first denounced this latest gleam in the Air Force's eye last summer, and in unmeasured terms. He told the Democratic Platform Committee that the latest manned bomber is an "exotic" weapon of no defense value, "wasteful of the taxpayers' dollars." Mr. Carter wowed those who line up automatically against every new strategic weapons system. But he gave hostage to eventual charges of deceit and hypocrisy.

Then after Mr. Carter obviously began to have embarrasing second thoughts, he rebuffed a press conference question with the too-clever response that the press had been relentless in keeping track of his campaign remarks on the B–1, but not about what he told Playboy.

Now, in blunder number three, Mr. Carter seems to say there's no point fighting Congress over the B–1 because it wouldn't make any difference.

In fact, B–1 development is precisely the kind of issue that calls for vigorous and forthright presidential leadership. Mr. Carter has no constituents dependent on aerospace payrolls to mollify. He is uniquely positioned to judge whether or not the B–1 would be of value as a SALT "bargaining chip." He has an enviable overview.

The B–1, we are forced to conclude, is not a good buy for the taxpayers—as Mr. Carter originally said. Almost the only tenable argument for any new manned bomber, especially one whose cost could exceed $100 million per aircraft, is the so-called "triad" concept of deterrence. Having three distinct sorts of strategic weapons delivery, argued then Air Force Secretary Robert Seamans Jr. four years ago, "denies an enemy the possibility of neutralizing our deterrent by concentrating his attack against a single element of our strategic force." That argument would weigh more heavily if cheaper alternatives (for instance, the so-called "stand-off" delivery of cruise missiles) were not equally feasible and far cheaper.

The basic notion, initally, was that the B–1 would be a "supersonic" manned bomber, but that idea has been qualified as the prototypes developed. The trouble is this: If the B–1 flies supersonically (as it presumably would do, approaching its target from distant bases) its range would be too short for a round trip. If it flies subsonically to target (as it would do in any event over targets) it would be of slight value in at least the early stages of a nuclear exchange. Other features—the large payload and the short takeoff distance—have likewise become casualties of prototype development, as we understand it.

But perhaps the major blow to the strategic value of the B–1 has been the rapid development, in recent years, of the cruise missile, an unmanned subsonic drone craft that would serve essentially the same mission of eluding anti-missile defenses. The cruise missile is far cheaper; and it could be delivered from "stand-off" planes from outside the perimeter of Soviet air defenses.

The key question, then, is this: What could the B–1 do that cruise missiles can't do, more cheaply and reliably (especially if no range ceilings are imposed on cruise missiles in the SALT talks)? The answer appears to be: Little or nothing.

In fact, the suspicion arises that the B–1 is to modern air war technology what the aircraft carrier is to modern naval war technology—a high-prestige traditional weapon system that costs a great deal but may be altogether obsolete. It is risky and foolish to be dogmatic about such conclusions, which are to a degree theoretical. But the burden of proof now lies heavy on the B–1's proponents.

If that is true, as we believe it is, President Carter could and almost surely would make a difference if he took a strong and well-informed position against the B–1. The B–1 issue is made to order for the kind of rational, economy-wise management of public affairs Mr. Carter has again and again proclaimed as a principal objective. His yea or nay could make all the difference—and what a difference!—as much as $90 billion worth over the next 30 years.

JUNE 23, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am not a member of the Senate Armed Services Committee nor am I a member of the Appropriations Subcommittee on Defense. I, therefore, write to you on the subject of the B–1 bomber, realizing that I am lacking in any qualifications to speak as an expert on the subject. Yet, my limited examination of the subject has failed to stimulate any enthusiasm on my part by way of support for the B–1 as a logical follow-on bomber to the B–52.

I shall not belabor the subject, but I respectfully submit the following for your consideration as you arrive at a decision in respect of the B–1:

COST

Any consideration of the B–1 bomber must begin with the enormous and ever-growing cost. The latest estimates are at least $100 million per plane. Some estimates are as high as $117 million, and when operation and maintenance costs over a period of time are included, the cost will be considerably greater. It has been estimated that over the life-cycle of the B–1 (25–30 years), the cost of the fleet could approach $100 billion. In considering any estimates it should be remembered that the cost is already 4–5 times as much as the original estimates. Should you decide in favor of building fewer than the 244 planes requested by the Air Force, the total cost might be less, but the unit cost would skyrocket.

Incidentally, I have heard that several features of the B–1 have been eliminated during the development and testing stages to keep costs down; e.g., deletion of the capsule escape module, the titanium skin, and the variable intakes on the engines. It could be that certain cost saving decisions have been made to keep the program costs at a lower level until after the official go-ahead decision has been made.

CAPABILITY

As for the strategic and functional value of the plane, there is a strong possibility that it would become vulnerable to Soviet technology by the 1980's and that the ability of the B–1 to fly low—cited as one of its major assets—would no longer be an important consideration.

In the age of intercontinental ballistic missiles that can reach the Soviet Union in half an hour, the B–1 may well be an anachronism.

One of the B–1's problems is its range. Although there is some dispute about exactly what the plane's range might be, it is clear that it will have to be refueled by tankers in flight.

Originally designed to fly at high altitudes at a supersonic speed as well as to attack at low levels at a high subsonic speed, the B–1's flexibility is questionable in view of the fact that Soviet air defense at high altitudes is very good, while at low levels, the plane and its crew would be very vulnerable to surface-to-air missiles. Designing the B–1 bomber to fly at supersonic speeds has been one of the main contributors to the plane's high cost; yet, by flying at supersonic speed, the B–1 will be denied a longer range, will have a higher infrared signature, and less target flexibility, less evasive maneuverability, and a much higher fuel consumption rate. Ergo, the supersonic capability for the B–1 would appear to be strategically useless and degrades the vital subsonic capability necessary for low level attack.

Still another important factor is the relationship of the B–1 to the B–52. Currently, we have 460 B–52's, most of which have at least 10 more years of useful life, and nearly half of which may be used into the 1990's.

JOBS

One of the major arguments used by supporters of the B–1—as with any major weapons system—is that it would create jobs. However, several studies have indicated that B–1 spending would create far fewer jobs than would spending an equal amount on nearly any other government program. A large amount of B–1 spending would go for materials, fuels, and technology. One study indicates that per $1 billion expended, the B–1, at peak production, would generate 22,000 jobs, as compared to 36,000 for housing construction; 46,000 for health, welfare, and sanitation; or 52,000 for education. The jobs bill passed earlier this year would create 92,000 jobs per $1 billion.

ECONOMICS

B–1 spending would be inflationary because it creates demand in the marketplace without creating any offsetting supply. Procurement of a substantial number of B–1's would add to the budget deficit and significantly reduce the possibilities of tax reduction.

ALTERNATIVES

One less expensive alternative to the B–1 is the so-called "standoff" bomber which would launch cruise missile from outside an adversary's borders instead of trying to penetrate enemy defenses. Alternative launch vehicles for the cruise missile should be further explored. One possibility is the use of 747's as platforms for cruise missiles. A long-range cruise missile launched in such a manner offers the possibility of a much more cost-effective system and a more credible deterrent.

MILITARY TRADE-OFFS

I am seriously concerned about the danger of putting so many eggs in one basket. By going all-out on the B–1, we drastically reduce our ability to develop and fund other

weapons systems. For example, we have heard expressions of concern from NATO about the need for more tanks in Europe, where the Warsaw Pact countries enjoy a substantial advantage. There are a number of areas where military funding may be put to better use. The five basic alternative plans include:

1. Pay for the expansion of the Navy from its present size to about 660 ships during the next 10 years, as recommended by Navy officials. Cost estimate: $17.7 billion.

2. Pay for replacement of destroyers coming due for retirement because of obsolescence before 1990, for which funding would have to be provided by 1986. Cost estimate: $16.4 billion.

3. Replace carriers, cruisers, and attack submarines coming due for retirement because of obsolescence before 1990, for which funding would have to be provided by 1986. Cost estimate: $16.2 billion.

4. Pay for additional multi-service conventional alternatives/weapons systems. Cost estimate: $15.4 billion.

5. Three additional Army divisions equipped and supported in NATO. Estimated cost (12-year aggregate): $10.4 billion.

DOMESTIC TRADE-OFFS

Procurement of the B–1 would almost certainly mean substantially less funding for much-needed public spending for housing, energy research and development, health care, education, etc. One estimate shows that the cost of the B–1 fleet could finance federal expenditure for mass transit for 10 years. The FY 1978 program for prevention and control of health problems is equal to approximately 10 B–1's. Obviously, this could be applied to other programs such as proposals for national health insurance.

CONCLUSION

With the B–1 we are being asked to gamble a massive amount of public funds—tens of billions of dollars—on the B–1's being effective (and invulnerable) through the 1990's. The investment is simply too great to take that gamble.

In the final analysis, it is a question of the best allocation of our resources. Spending $100 billion or more on the B–1 in the years ahead is not the best use of public funds. There are less expensive and more credible military alternatives and many unmet domestic needs for which the money would be better spent.

Respectfully,

ROBERT C. BYRD,
Majority Leader.

Mr. ROBERT C. BYRD. Mr. President, I have no further use of my time.

Mr. BAKER. Mr. President, I have no requirement for my time, and I yield it back.

AGRICULTURE APPROPRIATIONS, 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 7558, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7558) making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Appropriations with amendments.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 1 hour, to be equally divided and controlled by the Senator from Missouri (Mr. EAGLETON) and the Senator from Oklahoma (Mr. BELLMON), with 30 minutes on any amendment, except an amendment dealing with saccharin and any amendments thereto on which there shall be no time limitations, with 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. EAGLETON. Mr. President, the 1978 Agriculture appropriations bill has been carefully reviewed by the Appropriations Committee. The Subcommittee on Agriculture held 14 days of hearings, involving 30 agencies or departments as well as public witnesses, and 1,901 pages of testimony. That is a lot of pages of testimony. In our deliberations, we carefully considered well over 100 letters from Senators, Representatives, interested farm groups as well as from farmers and citizens at large.

The bill recommended by the committee provides total funding of $13.9 billion for the various agriculture and related appropriations. This amount includes both new appropriations as well as transfers which also result in the outlay of Federal funds. Although the amount recommended is $370 million below the President's budget, this is slightly misleading. In the fiscal year 1977 supplemental, Congress appropriated $710 million of the fiscal year 1978 budget request. When this is taken into account, the total in the bill is really $340 million above the President's budget estimate. As the Members will note on page 2 of the committee report that is before every Senator, the bill recommended is well within the budget resolution target passed by Congress and allocated to this subcommittee.

Mr. President, I want to explain the problems faced by the committee in marking up the bill. There remains a good deal of uncertainty about S. 275, the farm bill, which was passed by the Senate on May 24, but has not yet passed the House of Representatives. For this reason, the committee based its markup on current farm legislation, taking into account the strong likelihood that existing programs will be continued. No attempt was made to address the fiscal implications of major changes in the farm bill. The committee had no budget estimates for any of the new programs contained therein, and it would have been particularly difficult to attempt to "second guess" where the farm bill will come out. When S. 275 is enacted, we can expect to get a supplemental request and will be able to address the issues at that time.

Likewise, the committee did not address two very significant issues that are of concern to many Senators—additional funds for drought relief in the present fiscal year or additional money for other agricultural conservation programs.

The reason we did not address these two areas was that there has been no budget request submitted for them yet.

We have been advised that budget estimates in the form of a 1977 supplemental are now pending the President's approval over at the Office of Management and Budget. It could conceivably be that sometime during the consideration of this bill, we will have some communication from OMB. We have been advised that a letter is on the way. We expect it will be over here during the next hour or so. We hope it will.

Mr. President, I would like to go through each title of the bill and describe what is recommended, but in order to save time, I will merely call the attention of my colleagues to pages 5 through 7 of the report where there is a section titled "Highlights of Major Changes Recommended in the House Bill." This summarizes the major features of the bill, and I ask unanimous consent that it be printed in the RECORD as exhibit 1 following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. EAGLETON. I would like to draw attention to one very controversial issue involving this bill. This deals with saccharin. The House bill included a prohibition against the Food and Drug Administration's taking action to ban saccharin prior to September 30, 1978. The committee recommends striking this prohibition for what are, to me, very compelling reasons. Let me explain by giving a little background.

On March 9, 1977, the Food and Drug Administration, FDA, announced its intention to propose a ban on saccharin within approximately 30 days.

On April 14, 1977, FDA issued a detailed plan for ending the use of saccharin as a food additive. FDA proposed to permit continued marketing of saccharin as a single ingredient drug for use by diabetics and others who for medical reasons must restrict their sugar intake.

Since then, there have been a number of new studies that raise serious questions about a ban as well as the carcinogenic effects of saccharin.

Mr. President, the entire committee is very concerned about the FDA's proposed prohibition, as we know all Senators are, but since the FDA's intentions were announced, a number of important things have happened. Bills have been introduced in both the House and Senate to delay imposition of a ban while further studies are made and while the Congress has a chance to reconsider the Delaney clause under which the FDA was compelled to announce it would issue a ban in the first instance.

Senator KENNEDY, chairman of the Health and Scientific Research Subcommittee of the Committee on Human Resources, has assured the committee—has personally assured me and the committee as a whole—that his subcommittee will report out legislation dealing with this matter within the next 10 days. As a matter of fact, they will be marking up the bill sometime this morning.

On the House side, I have talked with Representative ROGERS, who, as we all know, is chairman of the Health and Environment Subcommittee of the Com-

mittee on Interstate and Foreign Commerce, and he has assured the committee that his subcommittee will also report out legislation on this matter prior to the August recess of the Congress. The committee has also received an assurance from the Commissioner of the Food and Drug Administration, Dr. Donald Kennedy, that FDA will not issue a ban on saccharin prior to October 1, 1977.

I ask unanimous consent that a letter received from the Commissioner of the Food and Drug Administration be printed in full as exhibit 2 at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. EAGLETON. Based on the pledges and assurances made regarding the rapid, but thorough, review that will be made on saccharin by the appropriate committees, coupled with the assurances that no saccharin ban will take effect prior to October 1, 1977, the committee recommended striking out the House proviso prohibiting FDA from banning saccharin. This action will permit Congress to work its will in the legislative process in a careful and deliberate fashion, not through a hasty or precipitous order on an appropriations bill such as this.

Mr. President, I urge my colleagues to support the recommendation of the committee.

That concludes my opening statement, Mr. President. I am pleased to yield at this time to my colleague the ranking Republican member of the committee.

Before yielding to him, let me say this: I am new to this subcommittee assignment as chairman. I was selected and appointed chairman of the subcommittee early this year. My experience with respect to agriculture was, to put it in the most favorable light, limited.

My Republican counterpart, Senator BELLMON, is vastly experienced in that area, and I can say in all candor that without the support and, to be more blunt, the education that Senator BELLMON gave me in terms of the real pragmatics and practicalities of farming, farm operations, agribusiness, and so forth. I do not know how I would have been able to mark up this bill. I am everlastingly in his debt for the patient way in which he has tutored me, and I shall always be grateful to him.

Mr. President, I ask unanimous consent that a member of my staff, Mr. Rushford, have the privilege of the floor during the consideration of all phases of this legislation today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXHIBIT 1

HIGHLIGHTS OF MAJOR CHANGES RECOMMENDED TO HOUSE BILL

Highlights of major recommendations and changes to the House bill:

Federal Grain Inspection Service.—Restored a $2.7 million reduction made in the House bill. These funds are required to provide full staffing to administer the recently passed U.S. Grain Standards Act.

Agricultural Research Service.—Restored the full budget request of $27.6 million for competitive grant research (House bill provided only $10 million program). Also, provides funding for soybean research at $3.1 million above the budget request, and recommends provision of funds for new facilities not requested in the budget as follows:

	Millions
Dairy laboratory, Wisconsin	$11.5
Human nutrition laboratory, North Dakota	3.5
Soil laboratory, Purdue University	4.0
El Reno Research Center, Oklahoma	2.0
Nutrition laboratory, Tufts University (planning)	2.0
Nutrition laboratory, Baylor University (planning)	1.35
Plant stress and moisture laboratory (feasibility study)	.1

Animal and Plant Health Inspection Service.—Increases funding for the imported fire ant control program by $7.5 million above the House bill, and removes the restrictions recommended by the House on the boll weevil trial eradication program. Also, adds funds above the budget request for control of the following pests and diseases:

	Millions
Brucellosis	$23.5
Citrus blackfly	1.5
Range caterpillar	2.0

Farmers Home Administration.—Principal recommendations include:

(1) *Increases* to loan levels requested in the budget as follows:

Rural housing:	Millions
Low-income housing ($170 million above House bill)	$339
Moderate-income housing ($50 million above House bill)	79
Guaranteed ($100 million below House bill)	200
Rural rental housing (same as House bill)	90
Production credit:	
Operating ($150 million above House bill)	275
Ownership ($150 million above House bill)	150
Rural development:	
Waste and water disposal (same as House bill)	150
Community facility (same as House bill)	50
Rural industrialization (same as House bill)	650

(2) Concurrence in House *increases* to grant programs above budget as follows:

	Millions
Water and waste disposal (same as House bill)	$50
Mutual and self-help housing (same as House bill)	9
Business and industrial (same as House bill)	10

(3) Increases staffing by 1000 positions and $20 million above budget. This includes $1 million for planning and evaluation of housing programs.

(4) Includes bill language providing for utilization of staff (Farmers Home Administration, Agricultural Stabilization and Conservation Service, and Soil Conservation Service) at county offices on a nonreimbursable basis.

(5) Adds $1 million above budget for a pilot program in low-income counseling services.

(6) Restores Rural Development Service as separate entity (House included functions of this agency within Farmers Home Administration).

(7) Specifies a limit of $17 million on funds available in fiscal year 1978 for implementation of rural rent supplement program.

(8) Provides $10 million for Section 111 Rural Development Planning grants.

Soil Conservation Service.—Retains $500,000 added by House above budget for River Basin Survey new starts, deletes $1.2 million added by House above budget for new watershed planning starts, and doubles House increase of $10 million above budget for Public Law 566 small watershed projects (new starts).

Also concurs in House increases of $7.8 million above budget for Resource Conservation and Development projects.

Agricultural Stabilization and Conservation Service.—Concurs in House increase of $10 million above budget for Water Bank Act program, but deletes half of House increase of $15 million above budget for forestry incentives program. An expected carryover of prior year funds will result in a $15 million program level for this program.

Food and Nutrition Service.—House bill reduced Section 32 transfers by $304 million and increased direct appropriations by this amount. The Committee recommends reversing the House action, thereby eliminating carryover balances in Section 32.

Increases special milk program to $168 million level, and lifts the 7-percent reserve provision inserted by the House in the Food Stamp Program.

Other programs are funded at the same level as in the House bills.

Food and Drug Administration.—Deletes $1 million added by House above budget for saccharin research, since additional research and testing will not provide any results that can change the application of current law by FDA that could justify this investment of public funds.

Strikes a House proviso that prohibited FDA from banning saccharin from use as a food additive.

Increases House bill for other items as follows:

$1.5 million for producer information newsletter, Economic Research Service.

$.1 million for enforcement, Packers and Stockyards Administration.

$.7 million for export marketing and other studies, Farmers Cooperative Service.

$1.4 million for Commodity Futures Trading Commission (includes $.5 million for forwarding contracting). Total provided for CFTC is $14.5 million.

EXHIBIT 2

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION,

Rockville, Md., June 23, 1977.

Hon. THOMAS F. EAGLETON,
Chairman, Subcommittee on Agriculture and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR SENATOR EAGLETON: This letter confirms our phone conversation of yesterday in which I described FDA's timetable for further action on the banning of saccharin.

Subsequent to the publication of our proposal to ban saccharin in the FEDERAL REGISTER of April 15, 1977, preliminary results of two epidemiology studies have become available to the FDA; a Canadian study coordinated by the Epidemiology Unit of the National Cancer Institute of Canada, and the *Epidemiology of Bladder Cancer: A Second Look* by E. L. Wynder and R. Goldsmith.

The Canadian study is a case-controlled study which started with a base of bladder cancer patients and related the cancer retrospectively to the use of non-nutritive sweeteners, including saccharin. The resulting data from 480 matched pairs of male individuals showed a bladder cancer risk ratio of 1.6 for users of artificial sweeteners (principally saccharin) versus nonusers. Stated another way, for this matched set of 960 individual males, the ratio of those with bladder tumors to those without was 60 percent

greater for artificial sweetener users than for nonusers.

The second paper reported on a broad epidemiology study which included patients with bladder cancer. The study, conducted between 1969 and 1974, was amended in 1973 to include questions on the use of saccharin. Based on the 1973–1974 data, the authors reported 13 of 132 males with bladder cancer used artificial sweeteners as compared to 16 saccharin users of 124 matched controls not having cancer. The authors concluded "no association of bladder cancer with artificial sweetener use was found".

With respect to the Canadian study, we believe that it is a well designed and carefully conducted study which shows, in our view, a strong association between saccharin and bladder cancer in males. With respect to the second study, it is our view, based on a preliminary analysis, that it is less definitive and does not provide data commensurate with that set out in the Canadian study. Nevertheless, we believe it to be important and in the public interest to provide an opportunity for careful scientific review by experts in this country to ensure that FDA receives the benefit of their analysis on these two studies before reaching a final decision on our proposal to ban the use of saccharin.

To do this in an orderly fashion, we will publish in the FEDERAL REGISTER within the next week a notice extending the comment period on our saccharin proposal until August 31 of this year and making available for public review the two studies I mentioned above.

We anticipate that the review of the comments we receive on these new studies, in addition to finishing our review of the 130,000 comments we have already received on our proposal to ban saccharin, will take at least 30 days following the close of the extended comment period on August 31 of this year. Thus, October 1 would be the earliest date by which action on the proposal could be taken.

I will provide you a copy of our FEDERAL REGISTER notice extending the comment period. I appreciate your interest and concern about FDA's proposed action on saccharin.

If I can be of any further assistance, please let me know.

Sincerely yours,

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

Mr. BELLMON. Mr. President, I thank my friend from Missouri. He has been entirely too kind. He has a deep understanding of agriculture and its importance to the Nation, and I believe has done a great job in the few months he has headed this subcommittee. I commend him for the job he has done, and wish to say it is a real pleasure to be associated with him in this work. While he has been on this assignment, he has done an outstanding job of guiding the subcommittee through its deliberations on the bill. I would also like to note the contribution of the late Dudley Miles, who was the staff director of the subcommittee for several years until his death 3 months ago. Dudley laid the invaluable groundwork for the consideration of the bill. We have and will continue to miss his wise and able assistance.

The work which Mr. Miles had undertaken has been ably carried on by Stephen Kohashi of the minority staff and by Dick Lieberman, who took Dudley Miles' place.

Mr. President, like the chairman, this is the first year that I find myself in the position of thanking minority members of this subcommittee. This brings full circle my committee responsibilities in Federal budgeting and in Agriculture with my assignments on the Committee on Agriculture, Nutrition and Forestry and on the Budget Committee. I am pleased that the bill as recommended by the Appropriations Committee, is fully compatible and responsive to the concerns of the two other committees on which I serve.

Total new budget authority recommended in the bill is $12,546,000,000. This is $113 million less than was provided in the House bill and $371 million less than the budget estimate. In terms of outlays, the bill as reported will result in a budgetary impact of $12.4 billion. This is contrasted to $12.7 billion as provided in the House version of the bill and $12.5 billion in the budget estimate.

The bill as recommended is well within the Appropriations Subcommittee's allocation for budget authority and outlays under the first concurrent resolution. The bill, however, does not reflect increases in budget authority which may be required to fund new legislation currently pending before Congress, except for extensions of current programs.

Chairman EAGLETON has already given a thorough summary of the committee's major recommendations; however, I would like to highlight several points which I feel are particularly reflective of this committee's concern to maintain and improve needed programs while being as responsive as possible to preserving and developing the concept to congressional budgetary control.

AGRICULTURAL RESEARCH

Mr. President, the bill contains increased funding for both the Agricultural Research Service and the Cooperative State Research Service. For many years, agricultural research has been the victim of inflation despite the continuing, and in many cases, increasing demand for more efficient and environmentally acceptable means of producing food and fiber.

The record shows, Mr. President, that the Federal share of agricultural research support has been declining for many years, while the amount of funds invested by State and private interests in agricultural research has consistently grown.

The committee has recommended a $10 million increase in Federal support of the State agricultural experiment station network. This will put the Federal share back more in line with where it has been in the past, and we hope to be able to increase this Federal share in subsequent years.

Additionally, the Senate bill has fully funded the proposed $27.6 million competitive research grant program, which will seek the best research institutions to pursue long-range solutions to increasing "food gap" which threatens our growing world population.

I would also note that the committee is recommending that a $10 million increase be made for human nutrition research, in addition to planning and construction funds to develop a system of human nutrition labs in the Agricultural Research Service. This represents a major initiative to examine the quality of our diet in health maintenance in conjunction with the ongoing work in agricultural research to increase productivity. This will nearly triple the current level of human nutrition research in USDA.

COUNTY OFFICE ADMINISTRATION

The Department of Agriculture maintains a network of county service offices across the country. Agencies such as the Soil Conservation Service, the Agricultural Conservation Service and the Farmers Home Administration all maintain a complement of personnel at these locations either together with, or more frequently, in separate offices from other USDA agencies. This has led to difficulties in administration. While the employees of one agency may be overworked, other USDA employees in the next office or one across town may have spare time. Many of the programs of the Department are seasonal in nature reflecting the seasonal nature of agriculture in general. The committee has, therefore, recommended a new provision in the bill which allows for the temporary transfer of unutilized personnel time on a nonreimbursable basis so that agencies of the Department will have available staffing from other agencies to meet peak workloads and avoid much of the paperwork associated with such transfers. The committee has also directed the Secretary to assign new personnel provided in this bill only to those county offices that have such transfer policies in effect.

FARMERS HOME ADMINISTRATION PERSONNEL

Related to the preceding recommendation is an increase of $20 million for additional staffing for the Farmers Home Administration. As noted in the committee's report, personnel levels of this agency, as a ratio to program size, are only 16 percent of the 1962 level. This dramatic decline is a result of increases in the housing and rural development responsibilities of the agency while Congress has failed to maintain adequate administrative support capacities. This has led to a decline in the ability of the agency to properly service its many loan and grant authorities. The committee's recommendation will allow the agency to employ an additional 1,000 people to correct this serious deficiency.

ADEQUACY OF USDA FOOD PROGRAM ESTIMATES

Mr. President, for several years I have been concerned with the reliability and accuracy of USDA food program budget estimates. The experience of the committee this year has done nothing to lead me to believe that this situation has improved.

In recent years the administration has failed several times to fully estimate the cost of the several food program authorities which they are, by law, charged to operate. Additionally, Congress has often had to take the initiative in providing adequate funding when the administration refused to move quickly in requesting necessary supplementary funding. This year the committee was faced with

a similar problem because of recent information regarding reestimates of economic conditions which may reduce the requirement for food stamp program spending. Rather than amending the budget estimate, however, the Department has merely indicated that while their new estimates would indicate a cut in the food stamp account, a change in the budget estimate is not requested at this time. Similarly, when the House made a reduction in a child nutrition account, the Department chose not to appeal, but neither did it amend its budget estimate to reflect an anticipated change in program requirements. The Department should consider itself on notice that this committee will expect greater diligence in the handling of budget estimates for the USDA food programs.

Mr. President, the bill as recommended also includes a number of individual program increases which the committee feels will ultimately increase program efficiency and reduce future year Federal outlays. Among these are increases of $20 million for the very effective and needed small watersheds program—Public Law 566—to address a massive backlog in construction projects; an increase of $23.5 million to put the brucellosis eradication program on a 10-year completion schedule rather than under fund and drag the program on indefinitely as has been done for the past 40 years; an increase of $1.5 million for a producer information newsletter to make information currently collected and analyzed by USDA available to farmers and ranchers who really need it; and an increase of more than $25 million for facility construction, repair, and maintenance in the Agricultural Research Service to meet the pressing need to efficiently meet research demands placed on it.

Mr. President, I believe that the bill we have before us today is sound. It has been thoroughly examined by the committee, and I urge my colleagues to join me in supporting its passage.

Again, Mr. President, I would like to compliment our chairman, the distinguished Senator from Missouri, for the truly outstanding job he has done as chairman of this subcommittee. I believe this bill reflects some of the most thorough examination and thoughtful work I have seen go into any appropriations bill. I believe this is a great tribute to the work of the Senator from Missouri.

Mr. EAGLETON. I thank my distinguished colleague for his kind words and for his great effort on this bill.

Before yielding to my colleague from Georgia, Mr. President, I would like to take care of two housekeeping things.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no points of order shall be waived by reason of the agreement to this request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 585

Mr. EAGLETON. Second, Mr. President, I send an amendment to the desk that is a correction of a typographical error, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment No. 585.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line 1, strike "$570,000,000" and insert in lieu thereof "$670,000,000".

Mr. EAGLETON. Mr. President, this has been cleared on the Republican side. If there be no further debate, I move its adoption. I yield back the remainder of my time.

Mr. BELLMON. I yield back my time, Mr. President.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT 586

Mr. TALMADGE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE), for himself and Mr. NUNN, proposes an unprinted amendment No. 586.

Mr. TALMADGE. Mr. President, I ask that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 37, line 5, after the word "channels", strike the period and insert in lieu thereof the following: ": *Provided further*, for an additional amount to carry out the Agricultural Conservation Program, $50,000,000, to be immediately available upon enactment, to incur obligations for the period ending September 30, 1977, and to liquidate such obligations for soil and water conserving practices in major drought or flood damaged areas as designated by the President or the Secretary of Agriculture: *Provided further*, That, not to exceed 5 per centum of the amount herein may be withheld with the approval of the State committee and allotted to the Soil Conservation Service for services of its technicians in the designated drought or flood damaged areas.".

Mr. TALMADGE. Mr. President, on May 4, President Carter signed the supplemental Appropriations Act. Included in that act was a $100 million supplemental for the 1977 agricultural conservation program, a cost-sharing program administered by the Agricultural Stabilization and Conservation Service for the purpose of preventing or abating agriculture-related pollution of water, land, and air. The $100 million supplemental to ACP was for the solution of drought-caused soil and water conservation problems.

This $100 million supplemental has already been allocated to the 24 Western and Midwestern States initially designated for this assistance. Actually, ASC county offices have reported requests on hand totaling over $130 million. Unfortunately, the drought afflicting major areas of the West has now spread into parts of the East and Southeast. Its impact on agriculture is growing daily.

Because the initial supplemental has been obligated in the West and Midwest the Department now estimates it will need an additional $50 million to meet demands for the ACP cost-share assistance in the newly designated States that could not be satisfied with the original $100 million.

My own State of Georgia recently had 130 of 159 counties designated as drought emergency impact areas. Indications are that before the drought is over most of the remaining counties will be drought designated.

In addition, some other very critical drought problems are showing up in Alabama, Mississippi, the Carolinas, and Florida. It is estimated that the $50 million will meet obligations for emergency assistance that can be obligated by the end of this fiscal year in the areas of the East and Southeast most recently affected by the drought and those areas in the West still in need of this cost-sharing assistance.

Mr. President, this aid is urgently needed by farmers to restore drought damaged resources. Orchards and crops are being stunted or destroyed. In Georgia, it now appears that the corn crop is practically a total loss.

Farm water supplies are dwind'ing, and cattle herds are daily being liquidated as the drought continues and deepens.

This $50 million will be used for such practices as rental of drought and water supply equipment, restoration of drought-damaged vegetative cover, improvements in irrigation and water supply systems to conserve water, and measures to attain new water sources or supplement existing ones.

These additional funds are urgently needed now.

This amendment, Mr. President, has been discussed with the distinguished chairman of the subcommittee and the distinguished ranking member. I believe they are prepared to accept it. As I said, it simply authorizes an additional $50 million for conservation programs in the extremely hard-hit drought areas in the Southeast. The request has been made by the Department of Agriculture and OMB has approved the request. I hold a letter in my hand from Bert Lance, the Director of OMB, dated June 29, 1977. The letter reads as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 29, 1977.

Hon. HERMAN E. TALMADGE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TALMADGE: This is to advise you that the Administration supports the Department of Agriculture's pending request for an additional $125 million in fiscal year 1977 for the Agricultural Conservation Program.

A portion of the request, $50 million, is for soil and water conserving practices in major drought or flood designated areas. The balance of $75 million would provide an appropriation to partially liquidate fiscal year 1977 contract authority to permit payment for conservation materials and services under the program.

The formal transmittal documents are being prepared and will be forwarded to the Congress shortly.

Sincerely,

BERT LANCE,
Director.

I hope my distinguished friend from Missouri and my distinguished friend from Oklahoma are prepared to accept the amendment.

Mr. EAGLETON. I believe we are, but I would like to ask a question or two of my distinguished colleague from Georgia.

Is the Senator's amendment for $50 million or is it for $50 million plus $75 million, for a total of $125 million?

UP AMENDMENT NO. 586, AS MODIFIED

Mr. TALMADGE. I would modify my amendment to make it a total of $125 million, if the Senator is agreeable to that.

The PRESIDING OFFICER. Will the Senator send his modification to the desk, please?

Mr. TALMADGE. Mr. President, I move we strike $50 million and insert in lieu thereof $125 million.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 37, line 5, after the word "channels", strike the period and insert in lieu thereof the following: ": *Provided further*, for an additional amount to carry out the Agricultural Conservation Program, $125,000,000, to be immediately available upon enactment, to incur obligations for the period ending September 30, 1977, and to liquidate such obligations for soil and water conserving practices in major drought or flood damaged areas as designated by the President or the Secretary of Agriculture: *Provided further*, That, not to exceed 5 per centum of the amount herein may be withheld with the approval of the State committee and allotted to the Soil Conservation Service for services of its technicians in the designated drought or flood damaged areas.".

Mr. EAGLETON. May I ask, with regard to these drought and disaster funds: although the situation is especially critical in the Southeast, this is a nationwide program and other areas of the United States, if they have had similar problems——

Mr. TALMADGE. The Senator is entirely correct. In fact, the problem arose this way, as the Senator knows: we passed a supplemental appropriation bill early in the Congress to authorize $100 million for this purpose; $98.5 million of that fund has already now been committed to the western States and they have in this fund, available now, only a million and a half dollars. Georgia has declared as disaster areas 130 of our 159 counties. This drought is also acutely severe in north Florida, portions of Alabama, portions of South Carolina, and other areas developing in the West. It is a national program and not restricted to any locality.

Mr. EAGLETON. I think it should be underscored that there is only a million and a half left in this fund now.

Mr. TALMADGE. A million and a half is left in a supplemental appropriation of $100 million.

Mr. EAGLETON. If that were applied, it would apply to just a few counties in the Senator's State. Practically his whole State is experiencing this difficulty.

Mr. TALMADGE. The Senator is entirely correct.

Mr. EAGLETON. I am prepared to accept this amendment.

Mr. TALMADGE. I yield back my time.

Mr. DOLE. Mr. President, the Senator from Kansas supports the amendment, as the ranking Republican on the Senate Agriculture Committee. This was a matter discussed yesterday in our committee meeting. I think there was unanimous agreement that we should do something and do it quickly.

Mr. TALMADGE. I thank my distinguished colleague from Kansas, who happens to be the ranking minority member of our committee, very valuable and very effective.

Mr. President, before I yield back the remainder of my time, I want to salute and commend the distinguished chairman of the subcommittee, the Senator from Missouri (Mr. EAGLETON); also, the ranking minority member, the distinguished Senator from Oklahoma (Mr. BELLMON). The distinguished Senator from Oklahoma happens to serve on the Agriculture Committee. The Senator from Missouri has already paid him a warm tribute. I join in that tribute.

The Senator from Oklahoma is one of the few Members of the U.S. Senate who farms for a living. He knows whereof he speaks. I compliment him.

I commend the distinguished Senator from Missouri for the outstanding job he has done. Even though he has had limited experience in agriculture, he has done an outstanding job in marking up this bill, and accepted several of the recommendations made by the Committee on Agriculture, particularly the one to improve the Farmers Home Administration with additional personnel. I commend him.

I yield back the reminder of my time.

Mr. EAGLETON. Mr. President, before the Senator yields back the remainder of his time, we are in a little technical bind. I should like to work our way out of it.

I ask the Senator from Georgia if he will reintroduce his $50 million amendment and we will vote on it. Then I am going to ask him to introduce, on my behalf as well as Senator BELLMON's behalf, the $75 million amendment. We shall do them in succession.

Mr. TALMADGE. Mr. President, I withdraw the amendment pending at the desk.

The amendment was withdrawn.

UP AMENDMENT NO. 587

Mr. TALMADGE. I send an amendment, which is only for a $50 million request, to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE), for himself, Mr. NUNN and Mr. ALLEN, proposes unprinted amendment No. 587.

On page 37, line 5, after the word "channels", strike the period and insert in lieu thereof the following: ": *Provided further*, for an additional amount to carry out the Agricultural Conservation Program, $50,000,000, to be immediately available upon enactment, to incur obligations for the period ending September 30, 1977, and to liquidate such obligations for soil and water conserving practices in major drought or flood damaged areas as designated by the President or the Secretary of Agriculture: *Provided further*, That, not to exceed 5 per centum of the amount herein may be withheld with the approval of the State committee and allotted to the Soil Conservation Service for services of its technicians in the designated drought or flood damaged areas.".

Mr. TALMADGE. I yield back the remainder of my time on the pending amendment.

Mr. EAGLETON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TALMADGE. I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. I send an amendment to the desk and ask for its immediate consideration.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I ask unanimous consent that Mr. Michael R. McLeod, Mr. Reider White, and Miss Karen Schubeck, and Mr. Dale Sherwin may be accorded the privilege of the floor during debate and all rollcall votes on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I withdraw temporarily the pending amendment.

The PRESIDING OFFICER. The amendment has never been stated.

Mr. EAGLETON. Mr. President, I have an amendment I could take up, but I see we have the distinguished Senator from Kansas here. Perhaps he has an amendment.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I ask unanimous consent that the distinguished staff member, Carl Rose, be accorded the privilege of the floor during consideration and debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that Mr. Bill Stringer

and Mr. John Giles of the Senate Budget Committee staff be accorded the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 588

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes unprinted amendment No. 588.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 22, strike the colon and the word "Provided" and in lieu thereof insert the following:

". For necessary expenses to carry out the 1978 Agricultural Conservation Program, $190,000,000, to incur obligations and to liquidate such obligations: *Provided*, That this amount shall exclude administrative costs: *Provided further*, That no participant in the Agricultural Conservation Program shall receive more than $2,500, except where participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community in which case such participants may receive an amount not more than a sum obtained by multiplying the number of individual farms and/or ranches times $2,500: *Provided further*" and

On page 35, line 9, after the word "amended" strike all down through "community)" on line 15.

Mr. EAGLETON. Mr. President, I am offering an amendment to change the present contract arrangement for the agricultural conservation program from advance contract authority and delayed liquidation to one similar to the other conservation programs in the bill, that is, a direct appropriation or concurrent liquidation of obligations.

While this amendment sounds technical in nature, it will correct a major deficiency in the manner that the agricultural conservation program has been funded since 1944.

ACP is a program by which farmers and ranchers are provided cost share payments for undertaking approved soil and water conservation practices. It is a tremendously successful and popular incentive program in which a powerful Federal-private partnership has been forged to meet our ever-growing need to protect the soil and water resources of the Nation.

To date, however, the regular fiscal year appropriation for the program has been one where advance contract authority was provided in one year, with liquidation of obligations arising under that authority appropriated in the next. This delay in providing actual payments for work accomplished has created some hardships for both cooperators and to contractors who have supplied goods or services in good faith to cooperators. This problem has been aggravated with the change in the fiscal year, which has delayed payments an extra 3 months, leaving some producers unpaid for work accomplished nearly a year earlier. I understand the administration will propose a supplemental to address this problem for the balance of this fiscal year. In future years, a direct appropriation will correct this problem by providing prompt payment for ACP work.

In addition to the difficulties encountered by the participants in the program, the current funding arrangement has also become a burdensome administrative chore both in Washington and in county offices. A concurrent appropriation of liquidation authority will allow the Agricultural Stabilization and Conservation Service to administer this program like its other conservation programs, such as the Water Bank Act, and the forestry incentives program. This will encourage long-term agreements for enduring conservation programs on farm operations, a practice which was discouraged with the massive paperwork required in tracking accounts over a multiyear period.

Unlike other accounts in the bill which fund programs on a delayed basis, ACP has access to only a limited borrowing authority, and there is no real uncertainty as to the actual cost incurred which will have to be paid. Additionally in the 1977 supplemental, Congress provided $100 million for the ACP under this proposed budget arrangement to meet emergency drought and flood needs. This concept has also been recommended by the Senate Agriculture, Nutrition, and Forestry Committee.

This change will result in a one-time increase in outlays for fiscal year 1978 of approximately $100 million in fiscal year 1978 to reflect timely payments to producers. This increase, however, would represent only an advance of payments which would have to be made anyway, and actual program levels would remain unchanged.

Mr. BELLMON. Mr. President, there is no opposition to this amendment on the minority side, we support it. It is a good idea and I urge its approval.

Mr. EAGLETON. I thank my colleague, Mr. President.

I move the adoption of the amendment.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. EAGLETON. I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

Mr. HUDDLESTON was recognized.

Mr. TOWER. Will the Senator yield for a quick unanimous-consent request?

Mr. HUDDLESTON. I yield to the Senator.

Mr. TOWER. Mr. President, I ask unanimous consent that Pam Turner and Elaine Heath of my staff be granted privilege of the floor during consideration of and votes upon this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 472

Mr. HUDDLESTON. Mr. President, I call up my amendment No. 472 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an amendment No. 472:

On page 12, line 3, strike out "$175,281,000" and insert in lieu thereof "$183,281,000".

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that my colleague from Kentucky (Mr. FORD) be added as a cosponsor of this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, Congress created the Cooperative Extension Service in 1914. Since that time the success of this unique method of education and information dissemination has been unparalleled by any program of the Government.

In addition to its agricultural mission, the Extension Service has the responsibility for carrying out the 4-H program, a home economics program, and is involved very heavily in rural development. Without question, the accomplishments of the Extension Service are impressive and many. But in recent years the appropriation support for extension programs has deteriorated.

For the past few years the Congress has not been appropriating sufficient moneys to sustain a minimum program level. Although the Federal contribution to extension programs has increased as an absolute number, during this time inflation has caused a reduction in "real income" terms.

The State extension services have begun to really feel the pinch. Agents' salaries have not nearly kept pace with what persons with equivalent educations are being paid by the private sector or by other agencies of Government.

The result has been that an outflux from the State extension service of highly talented personnel has begun. Dr. Charles Barnhart, the dean of the University of Kentucky College of Agriculture, has told me he is losing two agents a month. And last week four agents left the employment of the University of Kentucky Extension Service because of low pay.

Mr. President, we simply cannot allow this to continue. We must provide adequate funding for cooperative extension.

The amendment I am proposing provides for an additional $8 million above the Senate Appropriations Committee reported figure for the Extension Service.

This increase can be used for salary adjustments and to restaff positions in the State extension services which are vacant because of lack of funds.

Mr. President, there is no fat in this amendment. What we are talking about are bare bones cost of living increases—not about catching up for inadequate funding levels in the past, but cost of living raises for inflation that has occurred this year.

I have spoken with the distinguished floor manager of the bill and he has indicated that he is willing to accept the amendment. I commend him for his concern for the future of the Cooperative Extension Service and urge my colleagues to join us in support of this measure.

Mr. EAGLETON. Mr. President, when the Appropriations Committee considered this important matter that has been raised by Senator HUDDLESTON, we carefully reviewed the cooperative extension program. Last year, $136 million was appropriated for the program. The budget requested another $136 million for fiscal 1978, but the House increased this above the budget request by $4.5 million. The Committee on Appropriations felt that this was not enough, so we further increased it by $2.5 million, making a total of $143 million available, or $7.5 million over the President's budget.

I do think, however, that Senator HUDDLESTON makes some telling points. I ask him—and I ask my Republican colleague—if he would consider modifying his amendment, which, as I understand, calls for an additional $8 million. Could we agree on, say, an additional $4 million, and the assurance that we will make a concerted effort to retain this amount in conference?

Mr. HUDDLESTON. Mr. President, I thank the distinguished floor manager of the bill for his suggestion.

In all candor, I should point out that my original figure took into account the situation with which we will be confronted in the conference with the House, recognizing that we might have to make some compromise there. While the $4 million figure would not, of course, be as desirable as the larger figure, it does represent a substantial increase.

The problem would be, as the floor manager of the bill recognizes, the question of whether or not we could hold that full figure in conference, as opposed to having a figure on which we would have some give.

Mr. EAGLETON. We are going to make a maximum effort, because we are in sympathy with what the Senator from Kentucky is saying. We were so convinced that the additional money was needed that we added $2.5 million to the House bill.

The Senator from Kentucky has made a persuasive case, and we will do our level best to retain the Senate amount in conference.

Mr. HUDDLESTON. I should like to hear from the distinguished minority floor manager.

Mr. BELLMON. Mr. President, I compliment the distinguished Senator from Kentucky for raising this matter.

The fact is that the level of appropriations recommended by the administration and the level approved by the House did not adequately fund the Extension Service just to keep them on a current level. Because of inflation, both those figures represent a reduction. The Senate figure, we thought, was more adequate to compensate the agency for the necessary increases which inflation has caused. The figure offered by the Senator from Kentucky would provide for some moderate growth in this important service, which has meant a great deal not only to agriculture, but to the whole country as well.

So I support the Senator in his effort. I believe we can hold the $4 million figure in conference, and I certainly will do all I can to see that we do maintain that level of funding.

Mr. HUDDLESTON. I thank very much the Senator from Oklahoma. I have great confidence in our two floor managers and their ability to maintain the Senate position in conference; and with that confidence, I am willing to make the adjustment.

However, before we act on the amendment, I want to take a look at it to make sure that we get the right figures in the right places, so I suggest the absence of a quorum.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NUNN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 589

Mr. HUDDLESTON. Mr. President, I send to the desk a substitute for the amendment.

The PRESIDING OFFICER. Is all time yielded back on the original amendment?

Mr. EAGLETON. I yield back the remainder of my time.

Mr. HUDDLESTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The substitute will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 589.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 3, strike out "$175,281,000" and insert in lieu thereof "$179,281,000".

On page 12, line 23, strike out the figure "$246,774,000" and insert in lieu thereof "$250,774,000".

Mr. HUDDLESTON. The substitute merely conforms to what the floor manager of the bill, the Senator from Missouri, and I just discussed: It reduces the requested figure in the original amendment from an $8 million to a $4 million increase.

I move the adoption of the amendment.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Kentucky, Mr. HUDDLESTON, which would increase the appropriation for the extension service by $8 million.

Mr. President, as a graduate of Clemson College and a former vocational agriculture teacher, I have seen firsthand the many valuable contributions the Extension Service has made in rural communities in South Carolina and throughout our Nation. For those of my colleagues who are not familiar with the Cooperative Extension Service, I would like to make a few comments about how this program operates.

Cooperative agriculture extension work was established by the Smith-Lever Act of 1914, with the extension activities being administered by the land-grant colleges. Mr. Lever, one of the authors of this important legislation, was from my home State of South Carolina. The basic thrust of the program is to provide, through practical demonstrations and other means, assistance to the rural families in identifying and solving their farm, home, and community problems.

Mr. President, I would like to point out to my colleagues that these extension field agents are assisting the rural families to upgrade their standard of living by self-help measures through educational efforts. This is a cooperative effort financed by Federal, State, county, and local funds and is carried on in each State.

Those who know about the extension program in my home State tell me that there has not been any increase in recent years, in real terms, in the level of support by the Federal Government for the general extension programs. During this time, salary levels of extension professionals have not kept up with those with similar jobs in the private sector or the other Federal agencies. Consequently, many devoted extension professionals have been attracted away by other opportunities. In addition, positions at both the local and State levels are vacant either because qualified professionals cannot be attracted or because funds are not available. This results in a breakdown of delivery of needed services to the communities.

Mr. President, I believe we must provide the Cooperative Extension Service with the means to attract and keep qualified professionals. We must not allow the present trend to continue. I compliment the Senator from Kentucky, Mr. HUDDLESTON, on his amendment and urge my colleagues to join me in support of his amendment.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. The Chair informs the Senator from Kentucky that the amendment as drafted is not technically a proper substitute. If the Senator will withdraw his original amendment, this amendment will be in order.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent to withdraw the original amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that my colleague from Kentucky, Senator FORD, be added as a cosponsor of the new amendment.

The PRESIDING OFFICER. Without objection, it is ordered.

Does the Senator offer his amendment to be considered at this time?

Mr. HUDDLESTON. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time yielded back?

Mr. HUDDLESTON. I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. EAGLETON. Mr. President, in a few moments, we are going to take up the question of sugar subsidies, and Senator DOLE is going to proceed with his amendment. Senator INOUYE is here, and Senator MATSUNAGA has been notified.

However, prior thereto, we have two amendments that I believe are not controversial—one by the Senator from New Jersey (Mr. WILLIAMS), who is on his way to the Chamber, and one by the Senator from Colorado (Mr. HART).

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 590

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes unprinted amendment numbered 590:

On page 8, line 13, strike out "$469,470,000" and insert in lieu thereof "$469,870,000, of which $500.000 shall be available only for the purpose of carrying out the provisions of the Horse Protection Act of 1970; and".

Mr. WILLIAMS. Mr. President, this amendment would increase the appropriation for enforcement of the Horse Protection Act by $400,000. This relatively small amount of money could go a long way toward ending the inhumane treatment of show horses.

The Tennessee walking horse can achieve a distinctive, high-stepping gait through long and patient training. But this gait can also be produced artificially, with very little training. Unscrupulous owners and trainers use blistering agents to inflict sores on the front legs of walking horses. These sores are then irritated with chains or boots, causing the horses to lift their legs up quickly to relieve the pain. The resultant exaggerated gait has unfortunately become the horse show standard. Horses that are not sored have difficulty competing, and the sorest rather than the best, horses win the blue ribbons.

The Horse Protection Act of 1970 was designed to end this cruel practice. But 4 years later, at oversight hearings before the Senate Commerce Committee, it became clear that the law was not being enforced. The Department of Agriculture needed broader authority and increased funding to apprehend and prosecute violators.

Therefore, amendments to the 1970 act were passed, with the support of the Department of Agriculture, the walking horse industry, and humane organizations.

The amendments, which became law June 21, 1976—

First, increased USDA's authority to inspect shows and auctions, examine horses suspected of being sored, and bring charges against violators;

Second, increased penalties for violations, to up to 3 years imprisonment and $5,000 fine; and

Third, increased authorizations for carrying out the act from $100,000 to $500.000 a year.

USDA needs this increased funding to enforce the strengthened law. It needs to buy new equipment to detect whether a horse has been sored. And it needs to pay inspectors for covering shows and auctions. Current funding levels allow USDA to cover only 10 to 12 shows out of the 6,000 that are held annually. Appropriation of the full authorization would allow inspection of about 300 shows.

Unfortunately, the administration has not requested any increase over the fiscal year 1977 appropriation of $100,000. If the Congress fails to provide more funding for this purpose, the new law will be rendered meaningless. The horse show season is upon us, and will surely bring an upsurge in the number of sored horses if USDA's hands are tied by inadequate funding.

Therefore, Mr. President, I hope that the Senate will accept my amendment which would increase the appropriation for the Horse Protection Act to $500,000.

Mr. President, the authorization does call for $500,000 for this. The appropriation bill has $100,000. This would add $400,000, which is essential if the Horse Protection Act of 1970 is to be effectively enforced.

Of course, I have discussed this fully with the most distinguished Senator from Missouri, the floor manager of the bill, and I believe he recognizes the importance of this relatively small amount to insure that the humane act is effectively enforced.

Mr. EAGLETON. I have discussed this with my colleague from New Jersey. I think he makes a meritorious case. I believe my Republican colleague believes likewise.

May I ask the Senator from New Jersey if he would be willing to modify his amendment slightly, although even as modified, it will accomplish the same result. We know from the debate what program his amendment is adding to. The Appropriations Committee tried to refrain from doing excessive earmarking in this bill, so I have suggested a minor change. Many Senators want to earmark something, but it tends to clutter up the bill unnecessarily. I believe it will be very clear from this record that the additional funds are for the purposes intended by the Senator from New Jersey.

Mr. WILLIAMS. With the modification proposed by the Senator from Missouri, then, it will still be clear from its place in the bill and from the record here today that the $400,000 increase will be for enforcement of the Horse Protection Act.

Mr. EAGLETON. That will be absolutely clear, and there will be no doubt about it that this additional $400,000 is to go for the intended and stated purpose of the Senator from New Jersey.

Mr. WILLIAMS. With that clear understanding, Mr. President, I ask that the amendment be modified by striking all of the language after the amount stated of $469.870.000.

The PRESIDING OFFICER. The Senator modifies his amendment? His amendment is so modified.

The amendment, as modified, is as follows:

On page 8, line 13, strike out "$469,470,000" and insert in lieu thereof "$469,870,000".

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment, as modified, of the Senator from New Jersey.

The amendment, as modified, was agreed to.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time? Will the Senator from Missouri indicate on whose time it is?

Mr. EAGLETON. To be charged to the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I ask unanimous consent that Bill Motes of my staff be given privileges of the floor during the consideration of the present measure.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 591

Mr. CLARK. Mr. President, I ask that an amendment that I have at the desk be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Iowa (Mr. CLARK), for himself and Mr. DOLE, proposes unprinted amendment numbered 591:

On page 8, line 13, strike out "$469,470,000" and insert in lieu thereof "$471,020,000".

(Later the following occurred:)

The PRESIDING OFFICER. The amends a figure that has already been amended and it would take unanimous amendment of the Senator from Iowa

consent to further change a figure that had already been amended. Does the Senator from Missouri ask unanimous consent that that amendment might be in order?

Mr. EAGLETON. I ask unanimous consent that the amendment be considered as in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

(This concludes proceedings which occurred later.)

Mr. CLARK. Mr. President, I am offering an amendment to H.R. 7558, the appropriations bill for Agriculture and related agencies programs for the fiscal year 1978. My amendment would add slightly more than $1.5 million for the development and establishment of a pseudorabies control program.

H.R. 7558 contains no provision for funding a pseudorabies control program. Instead, the report accompanying the bill encourages the Animal Plant Health Inspection Service to develop a control program and to submit a supplemental request for funding. Thus, this would not increase the amount of money to be spent in fiscal year 1978 for this purpose. However, it would make the funds available sooner.

In fact, the Department is well advanced toward the development of a pseudorabies control program. A number of States have implemented control programs of their own, and APHIS will be called upon to support their intrastate control efforts. On May 27, 1977, proposed rules were published in the Federal Register for a Federal pseudorabies program. The Department expects to modify these rules in order to more effectively provide for the handling of vaccinated swine. but it expects that a Federal pseudorabies control program will be announced in the near future, and will be in effect for the fiscal year 1978.

The Animal Plant Health Inspection Service needs $1,550,000 both to fund the Federal pseudorabies control program and to cooperate with State programs which are now in operation. APHIS needs these funds for three purposes: First, they need funding to complete a survey of the incidence and location of the disease; second, APHIS needs funding to permit them to cooperate with States in the enforcement of some States rules on intrastate movement of swine; and third, APHIS needs funds to permit them to do more testing to support the enforcement of the control program.

There is no question about the need for such a control program. The disease is rapidly worsening, and it is spreading quickly into areas that formerly were free of infection. Unless an effective control program is implemented, 1978 could be a catastrophe for the swine industry.

It is important that the funds for the fiscal vear 1978 operation of the program be included in the fiscal year 1978 budget at this time in order to prevent delay in the implementation of the program. To wait for the administration to review and approve their supplemental request could mean a very costly wait for the control program to go into effect.

I hope the Senate will support this request for funding for this crucial program.

Mr. EAGLETON. Mr. President, the problem with respect to pseudorabies is a grave one. We had extensive testimony on this, and it has a grave impact, for instance, in the State of Indiana. Senator BAYH and Senator LUGAR are keenly interested in the problem as a result thereof.

This is a major threat to the pork industry in the country. So I share the keen interest of Senator BAYH and Senator CLARK in this matter, and I know Senator BELLMON, as well, is very concerned about it.

I think, in all candor, that Senator CLARK has made a persuasive case, and I think this amendment should be accepted.

If there be no further discussion on the amendment, I will yield back the remainder of my time.

Mr. BELLMON. I yield back my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO 592

Mr. EAGLETON. Mr. President, I have an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself, Mr. TALMADGE, and Mr. BELLMON, proposes an unprinted amendment numbered 592.

On page 34, line 17, after the amount $190,000,000, insert the following: "of which $75,000,000 shall be available immediately upon enactment."

Mr. EAGLETON. Mr. President, this is the $75 million amendment which we discussed earlier in connection with an amendment offered by Senator TALMADGE of Georgia. At that time the Senator from George had a $50 million amendment. This is a related amendment. We had to explore the technicalities of this amendment and had to discuss certain problems raised by the Budget Committee.

Now pending before us, Mr. President, is the $75 million amendment. As I understand it, the Budget Committee has no objection to it. It has the support of Senator TALMADGE, and I believe it likewise has the support of my colleague, Senator BELLMON.

Mr. BELLMON. Mr. President, this amendment is necessary in order to make it possible to promptly pay cooperators who have completed soil and water conservation measures pursuant to agreements with the Federal Government. However, I remind my colleague that this additional outlay in fiscal year 1977 does breach the 300 Function, energy and natural resources, by the full $75 million. The fact is. though. that this feature does reduce the function by a like amount in fiscal year 1978. What we are doing here is shifting funding from one year into another and so it is a kind of a washout.

That function fiscal year 1978 has a potential overage of $400 million.

I, thus, support the amendment, but I remind the Senate of this budgetary impact which may be rather significant.

Mr. EAGLETON. I thank my colleague.

I yield back the remainder of my time on the amendment.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 593

Mr. DOLE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. CLARK, proposes unprinted amendment No. 593.

On page 49, immediately after line 10, insert a new section as follows:

"SEC. 615. No part of the funds appropriated or made available under this Act shall be used for the payment of salary of any officer or employee to formulate or carry out a price support program for 1977 crop sugar under which a total amount of price support in excess of $50,000 would be extended or paid to any producer by means of loans, purchases, or other operations made, or made available, to processors of sugar beets and sugar cane by the Commodity Credit Corporation.".

Mr. DOLE. Mr. President, the amendment that has just been read is very simple. What it would do would be to limit payments, and I am talking about Federal payments, tax dollars, to sugar producers to $50,000, and this is the same limitation as provided for wheat producers, feedgrain producers, cotton producers, and rice producers. So it makes a uniform program. The $50,000 cap would apply across the board.

There is a program proposed by the administration that is about to be implemented for the 1977 sugar crops, and I find it has many failures insofar as a support program is concerned. It provides for up to 2 cents a pound for Government subsidy payment to processors to pass on to producers.

In reality this will provide millions of U.S. taxpayers' dollars for a selected few.

According to the Congressional Research Service, which used 1974 production data and assumed the maximum 2 cents per pound subsidy, about 40 corporate entities will be getting about 40 percent of the money.

We are talking about a program that is about $240 million to $250 million where nearly half that $240 million would go to some 40 corporate entities, not farmers, not family farmers, not producers, but 40 corporate entities.

A single corporation, it is estimated, may receive subsidies under this program in excess of $14 million. That would be a $14 million payment to one corporation.

The proposed sugar program would also benefit commercial purchasers of sugar.

About 80 percent of the sugar used in this country is not bought by housewives but by soft-drink manufacturers, confectioners, bakers, restaurants, and institutions.

The Bureau of Labor Statistics shows that consumers' cost for sugar-bearing foods and drinks are higher than they were when raw sugar was at 65 cents per pound. Now it is at 11 cents per

pound, but the prices are even higher for sugar-bearing foods.

The May 31 issue of USDA's agricultural prices states:

> The April 1977 consumer price index at 179.6, rose 0.8 percent from March. The food component increased 1.2 percent. Food purchased in grocery stores increased 1.3 percent. About ⅗ of the increase was attributed to nonalcoholic beverages—coffee, tea, and soft drinks.

The largest manufacturer of soft drinks in this country is Coca Cola. It uses about 1 million tons of sugar per year. It now has available to it through recently reduced sugar prices below the producers' cost of production over $5 million per month of additional gross profits. The large users of sugar are saving about $45 million per month. None of it, of course, is going to the producer. None of it is being passed on to the consumer.

The so-called price support of 13½ cents per pound is determined to be the average cost of production in efficient producing areas. I say that 13.5 cents per pound is below the cost of production, but trying to reach that minimum target with a 2 cent per pound maximum payment and today's market price of less than 11 cents per pound just proves the program cannot possibly reach the objective.

In the view of this Senator, the program is a failure. It should not be implemented. The International Trade Commission has recommended imposing import quotas so that sugar beet and sugarcane producers can earn their incomes from the marketplace rather than from Federal subsidies that favor the few.

Payment limitations in the so-called Talmadge-Dole proposal, which was passed by this body with a wide margin, were raised from $20,000 to a more realistic $50,000 figure based on inflation and higher costs of production. These limits on support payments apply to wheat, feed grain, cotton, and rice producers, as I have indicated before. The farm bill also places special emphasis on support for the family farm and not the corporate conglomerates.

My amendment puts a payment limit of $50,000 on sugar producers in the event the proposed Carter sugar program is implemented. There is no reason to discriminate between producers of wheat, cotton, rice, sugar beets, and sugarcane. It would seem to this Senator that in the interest of fairness and in the interest of equity we might take a close look at this program, and one way to make certain that it would be properly implemented and fairly applied is to limit payments to the same payment limitations that other commoditie · are entitled to.

Mr. President, as I have indicated before, another thing that we have discussed at great length in the agriculture hearings was payments to family or small producers, not corporate entities. There was an amendment, I might say, that the committee adopted, offered by the distinguished Senators from Iowa (Mr. CLARK and Mr. CULVER)—and, with some modification, the amendment was adopted in the Senate—which tried to reassure the American farmers that if there were any benefits, they would go to the farmers and not to someone who held an interest in a farm, but no real interest in doing any farming. It might be a corporation or someone who bought farmland to make a profit.

So we have emphasized in the farm legislation passed by the Senate just a few weeks ago that we believed the farm programs should benefit farmers and the farm program should benefit consumers, but that the farm programs should not benefit corporations.

Representative FINDLEY, of Illinois, recently said as follows:

> Estimated payments to just five large grower processors will gobble up over 20 percent of the total funds spent under the proposed Carter program.

Again, we are talking about $240 million, with 20 percent, or about $48 million, going to the following:

	Million
1. AMFAC, Inc. (Hawaii)	$14.2
2. U.S. Sugar Corp. (Fla.)	10.8
3. Alexander & Baldwin, Inc. (Hawaii)	9.6
4. C. Brewer & Co., Ltd. (Hawaii)	8.8
5. Theo. H. Davis & Co., Ltd. (Hawaii)	5.7

As I add that up, that is nearly $50 million of taxpayers' funds going to five corporate entities. I would again indicate that the price of sugar has not gone down. The consumer has not felt the sharp drop that producers have. When we had 65-cent sugar, the prices on the shelves went up. Now that we have 11-cent sugar, the prices in the marketplace are still up.

Mr. President, it just seems to me that, based on the specific concern the Agriculture, Nutrition, and Forestry Committee expressed—and the bill was adopted by the full body with, I believe, seven or eight dissenting votes—we ought to have fairness, equity, and balance in payments, whether it be to wheat producers, sugar producers, or producers of any other farm commodity.

Mr. President, I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, I yield such time to the Senator from Hawaii as he may consume.

Mr. INOUYE. Mr. President, this amendment saddens me, because it has been offered by a very distinguished Senator who has always supported business enterprises, especially big business, and now this amendment, ironically, will just about destroy big business in Hawaii.

This amendment of my colleague from Kansas may sound reasonable, especially to those accustomed to thinking in terms of the family farm which is typical in many agricultural communities in the United States, but for all practical purposes, Mr. President, this amendment will kill the President's sugar program as far as the State of Hawaii is concerned.

It will also affect many enterprises in the State of Florida, in the State of Louisiana, and in some parts of California.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. TOWER. Better add Texas to that, too.

Mr. INOUYE. I am very happy to add Texas.

The Hawaiian sugar industry, Mr. President, produces approximately 20 percent of our domestic production. It also employs about 9,400 people, who work for 15 corporate producers responsible for 95 percent of our total production, which is about 1,050,000 tons.

In addition, some 18,000 to 20,000 jobs are indirectly dependent on our sugar industry. Our sugar industry workers are the best organized in the world, and incidentally the best paid in the world. They average $60 a day in wages and fringe benefits.

Furthermore, I am certain all studies will indicate that the most efficient and productive industry in the United States is in Hawaii, notwithstanding the fact that our market is 2,400 miles away, and notwithstanding the fact that our refinery is 2,400 miles away. The Hawaiian industry has been able to keep its head above water.

Today, because of the erratic world situation, without the President's program the jobs which are now held by 29,000 citizens of the State of Hawaii will be in jeopardy, and 20 percent of our Nation's domestic production will be jeopardized. So I would hope that the Senator from Kansas would see fit to withdraw his amendment.

I would like to point out, Mr. President, that the large unit structure of the Hawaiian sugar industry is a historic and efficient unit of production, which has been based upon cooperative refining capacity in a market which is over 2,400 miles away. If the payment limitation of $50,000 is adopted, then the maximum benefits to the cooperate producers will drop from $39,771,000 based on 1976 production figures, to $750,000.

These corporations will be penalized because they happen to be large agricultural producers. The only way you can have efficient production in Hawaii is to have a broad and large production base.

Mr. President, these companies could have put on a legal facade and divided themselves up into itty-bitty corporate structures, but no one would have been kidded by that. We have attempted to play the game according to the rules.

Mr. President, if Senators will recall, in 1974, when the world market price for sugar began rising, one segment of the industry stood up and said, "We must maintain the Sugar Act," and that was the Hawaiian industry. All the others wanted to cash in on the sweet profits. Now to find themselves being penalized, when they stood up for the Sugar Act, just because they happen to be huge in corporate structure, I think, is unjust and unfair.

The President's program, as we are all aware, is just a stopgap measure, and I hope that some day soon we will come forth with a long-term program which will be based upon some effective import quota which will benefit the entire domestic sweetener industry.

With sugar prices currently around 10 cents a pound, the President's program is, however, vital to the health of our industry nationally and in Hawaii, as the only program which can be implemented for the 1977 crop year.

I hope my colleagues in the Senate will oppose this amendment, which will impose a payment limitation, and I hope

that we can some day soon come forth with an effective long-term sugar policy.

Mr. MATSUNAGA. Mr. President, I rise to express in the strongest possible terms my opposition to the pending amendment. Allow me to say at the outset that the pending amendment should be recognized clearly by my colleagues as an ill-disguised attempt to undermine and destroy the fledgling sugar program announced by the President on May 4, and detailed by the Secretary of Agriculture on June 14. That program is the product of a full year's effort by beet sugar and cane sugar producers, foreign interests, consumers, two administrations, the Congress, and all others concerned with our domestic sweetener industry, to find a moderate solution to slumping world sugar prices, which had fallen well below the cost of production, and which threatened the survival of the domestic industry.

Acceptance of the Dole amendment will effectively negate the fragile compromise program born of this extensive consideration, and will, in the process, destroy the sugar industry in my own State of Hawaii, and inflict a devastating blow on Hawaii's already shaky economy.

Mr. President, because below-cost prices were being forced upon domestic producers of sugar as a consequence of the world's surplus sugar being dumped in the U.S. market, the International Trade Commission conducted an investigation in the fall of last year into whether cheap foreign imports constituted a threat to the domestic sugar industry. In March of this year, the Commission answered that question affirmatively, and recommended to the President a substantial reduction in the annual quota on foreign sugar entering the United States. The effect of such a quota reduction would have been to reduce supplies, thereby raising prices.

In May, the President rejected the Commission's recommendations on the grounds that such reductions were not in the national interest, partly from the point of view of restricting access by foreign countries to U.S. markets, and not in the interests of the American consumer in that the price of sugar would likely rise. Instead, he announced a payments program, clearly intended to be temporary pending agreement on an international sugar agreement. While not fully satisfactory to the industry, the administration's proposal did provide an interim assurance of survival.

That program, the result of a long and painstaking process, has not even been given the chance to demonstrate its worth, and already its opponents are trying to scuttle it. Last week, the other body wisely defeated, by a 2-to-1 margin, an amendment to prohibit any payments to sugar processors under the sugar program.

The pending Dole amendment seeks to limit payments to growers and processors under the program to $50,000 each annually.

It seems harmless on the surface, since such a limitation exists with regard to Government support payments for other crops, and the limitation would affect only a few processors in California, Florida, Minnesota, and Hawaii. In fact, however, such a limitation would spell bankruptcy for the sugar industry in Hawaii, and it would throw thousands of Hawaii's workers out of employment and onto the welfare roles. The State unemployment rate, already above the national average, would increase significantly to an estimated 15 percent.

The reason why any payment limitation would be particularly harmful to Hawaii is that the Hawaiian sugar industry, which produces approximately 10 percent of our country's sugar requirements, is organized around 15 large producing units which both grow and process their own sugar. This situation, different from any other sugar-producing region of the country, arises from unique historical and geographic circumstances. Because the land is suited for little else than the growing of sugar cane, and because Hawaii is more than 2,400 miles from its nearest market, the U.S. mainland, centralization is a prerequisite for survival. As a result, the sugar program payments made ultimately to these highly centralized, consolidated, relatively few producers are understandably quite large. However, to limit payments to these large corporate farmers as if they were small family owned operations, which make up the vast majority of sugar-growing concerns on the mainland, would severely penalize the 500 Hawaii growers who must share the payments made to these large corporate processors.

The entitlement of Hawaii's sugar industry, if the maximum 2-cents-a-pound payment specified in the program was distributed, would be about $40 million annually. Acceptance of the Dole amendment would reduce the statewide payment to approximately $750,000. Under the circumstances the State's third largest industry would go bankrupt, while sugar producers elsewhere in the country would be surviving by receiving their full 2-cents-a-pound payment.

The question therefor is: Should the Senate permit the demise of Hawaii's sugar industry through acceptance of the Dole amendment, merely because unique circumstances in Hawaii have necessitated a high degree of centralization in which large firms both grow and process their cane? The only fair answer is my mind, and I trust in the minds of my colleagues, is a very clear "no."

Proponents of the pending amendment have raised several unfounded arguments in its support. Foremost among these, one which I find most in need of being put into proper perspective, is that the administration's sugar program discriminates against corn producers, whose product is used in part to manufacture high fructose corn syrup, a sweetener competitive with sugar. This is clearly false. The sugar program is an income support program for producers, providing supplemental payments of up to 2 cents a pound, whenever the world price for sugar falls below 13.5 cents a pound, which has been determined to be the average cost of production for U.S. sugar growers. As such, it is not unlike the target price support program of which corn producers are the beneficiaries. In 1976 these corn producers received $184 million for such support. The estimated net maximum cost to the U.S. Treasury of the sugar program will be a much smaller $100 million annually.

In summary, Mr. President, the Senator from Kansas (Mr. DOLE) evidently is concerned about the sugar program, and I respect his views, but he should wait to see how the program works over a sufficient test period. After such a period, it may very well be that the Congress should undertake a review of the program, with an eye toward how it might be improved. However, the pending amendment offered by the Senator from Kansas will accomplish nothing more than the discriminatory destruction of one unique segment of the sugar industry, that which exists in my own State of Hawaii. Hawaii should not be made to suffer unduly.

I urge the defeat of the pending amendment.

Mr. EAGLETON. Mr. President, I have a brief statement I should like to make on this issue.

Imposition of a $50,000 per producer payment limitation would be inequitable. It would prohibit extending the same degree of support to all sectors of the industry. Since sugarbeet producers generally have smaller acreage and sugar yields per acre are lower, it is estimated that a relatively large percentage of the sugarbeet acreage in the United States will be afforded the full 2-cent support when required. A much smaller percentage of the sugarcane production will be afforded coverage. In Hawaii—and the distinguished Senator from Hawaii has just spoken—15 growers produce 97 percent of the 1-million-ton Hawaiian sugar crop.

In Florida, about 50 percent of the area's grower payments would be restricted. In Louisiana and Texas, it is estimated that 15 and 25 percent, respectively, of the area's growers would be subject to payment limitations.

In the case of sugar cane production, it should be noted that larger firms produce a large percentage of our domestically produced cane sugar, and are among our more efficient producers due to their independent research programs, capital investments, and management.

Vertical integration of production and processing, plus participating contracts, have resulted due to the dependency between production and processing. Unlike corn, which can be channeled into different uses, sugar cane and sugar beets must be processed into sugar. There are no alternative uses at this time for product or processing facilities.

The 13.5 percent support level is thought to be sufficient to cover the cost of efficient domestic producers. Restricting payments will mean providing support at a substantially reduced level, especially during periods when market prices are more than 2 cents below the 13.5-cent support level.

Mr. President, I am prepared to yield back the remainder of our time. I am sure the Senator from Kansas has more to say. If there is to be a rollcall vote, it cannot occur prior to noon.

Mr. DOLE. How much time remains to the Senator from Kansas?

The PRESIDING OFFICER (Mr. ANDERSON). Seven minutes remain.

Mr. DOLE. Mr. President, let me say first of all that I have a great deal of concern for my distinguished colleague from Hawaii. There is no effort on my part to try to do anything to disrupt the economy of the sugar industry.

Having been on the House Agriculture Committee with both Senators from Hawaii, and serving on the Senate Finance Committee, which handles sugar legislation, what we would like to see is an effective program. There have been no hearings on the program advocated by the administration. I do know for a fact that many within the administration are not satisfied with the program. It is ill-conceived. There have been no hearings either in the Finance Committee or in the Appropriations Committee.

It just seems to me that this is an effort on the part of the Senator from Kansas to call it to the attention of the Senate.

The Senator from Kansas would like to remind our colleagues that in a discussion of the farm bill, S. 275, after a long discussion in the Senate committee, again based on the amendment offered by the Senators from Iowa, we made a provision in our bill which says as follows:

> No payments for cotton, rice, feed grains and wheat may be made to any person except:
>
> (1) A sole proprietorship farming operation (including any individual operating a farm as a tenant);
>
> (2) A corporation or other entity engaged in a farming operation if a controlling interest in such corporation or other entity is held by individuals engaged primarily in farming:
>
> (3) A small business corporation as defined in section 1371 (A) of the Internal Revenue Code of 1954;
>
> (4) A partnership or similar arrangement in which each partner or owner would, if engaged in a farming operation on his own, be eligible for payments under this subsection; and
>
> (5) Any State, political subdivision, or agency thereof.
>
> (6) Several technical trust arrangements which relate to actual operations by persons of a farm.

Mr. President, the purpose of this amendment was to make certain if there were any payments of taxpayers' funds they would go to farmers. They would go to those who had a direct interest in the farming operation.

If the Senator from Missouri wants to vote a $14 million subsidy to some corporation in Hawaii, he has that right. But it seems to this Senator, based on the nearly unanimous recommendation of the U.S. International Trade Commission, we have spelled out a very comprehensive program which would impose quotas, quotas that were meaningful and which would help the American producer.

I do not see anything in the Carter administration proposal which helps producers, whether they are cane producers or beet producers.

Since the State of Louisiana has been mentioned, it was stated recently by an official, Mr. Horace Godfrey, vice president of the American Sugar Cane League, that—

> Louisiana's growers do not favor subsidy payments, but tariffs and restrictions on the amount of sugar that can be imported.

Mr. President, there has been no showing, that the Senator from Kansas is aware of, that this program will do anything. It is a $240 million program pulled out of the air, advertised as a price support program, when it is not a price support program. In effect, as indicated, most of the money goes to a very few producers.

I can recall on this floor having to defend against the amendments of the distinguished Senator from Indiana (Mr. BAYH) who every year on this bill would offer amendments to reduce payments from $55,000 to $20,000, and he normally won. That is $20,000 to any wheat producer, corn producer, cotton producer, or rice producer.

I will place in the RECORD how Members of the Congress voted on these payment limitations. They did not want $25,000 or $30,000 payments. I do not believe the Senate wants to go on record today voting for a program to make payments not of $20,000, $30,000, $40,000, $50,000, or $60,000, but, in some cases, estimated payments of $8 million to one corporation, $14 million to one corporation, and where, in effect, five corporations would get 20 percent of the total money, nearly $48 million.

If that is the intent of the Senate today, then it has changed a great deal since Senator BAYH offered on an annual basis payment limitations of $20,000. Because of his efforts they were kept at $20,000. They were raised this year because of increased costs of production and inflation to $50,000. There was a great deal of thought in the Senate Agriculture Committee about raising them to $50,000.

It is not a case of trying to do in an industry. It is a case of trying to come up with some program that will protect and preserve a very vital industry in America and also make certain that the American producer, the sugar beet producer, and the sugar cane producer, will benefit.

I would hope we would just look at the facts. I will be happy to work with the distinguished Senators from Hawaii in working out a program. There are others who have that interest. I would hope that after comments, and they are in the comment period now on the administration proposal submitted by Secretary Bergland, the administration will withdraw this ill-conceived program.

Mr. President, I ask for the yeas and nays, knowing that there will not be a vote until 12 o'clock.

The PRESIDING OFFICER (Mr. ANDERSON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. I am prepared to yield back the remainder of my time .

Mr. President, I will reserve the remainder of my time.

Mr. EAGLETON. I yield 2 minutes to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I would like to say that I am certain the Senator from Kansas is aware that the President's program is a short-term program, a stop gap program. Many of us in and out of the industry are doing our best to come up with a comprehensive long-term program.

As far as hearings are concerned, I do not suppose we have had hearings whenever support prices have been increased or decreased by the President. This is part of a support price program, as far as I am concerned. It all boils down to this, Mr. President: Why penalize the producer? I am sure the Senator from Kansas knows that on each occasion when the vote came up on the Bayh amendments I supported wheat, corn, and all other agricultural products. I ask now that all those in agricultural communities come to the aid of one agricultural product we find in the State of Hawaii, which is sugar. I believe the time has come when we deserve that help.

Mr. DOLE. Mr. President, I certainly do not quarrel with my good friend and long-time friend before political days. We imposed payment limitations to preserve agriculture, because we were finding wheat corporations, cotton corporations, and other corporate entities getting into farming and actually driving out farmers in Missouri, Kansas, and throughout the Midwest and the South. They were getting the big Federal payments. It was difficult for some of us from those areas to sustain it. We think in retrospect that those in this body who forced us to accept a payment limitation were actually helping the family farmer.

That is a very difficult term to define, I understand. It is thrown around a lot.

We have put a lid on other commodities. We said $50,000 out of the Federal Treasury should be enough for a wheat producer, and $50,000 out of the Treasury should be enough for the cotton producer, for the rice, the feed grain, and corn producer. We think it should be enough for the sugar producer.

I ask unanimous consent to insert in the RECORD the July 27, 1972, vote on payment limitations.

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

> The result was announced—yeas 23, nays 46, as follows:
>
> [No. 320 Leg.]
>
> YEAS—23
>
> Bayh, Beall, Boggs, Brooke, Byrd, Harry F., Jr., Case, Chiles, Griffin, Harris, Hartke, Hughes, Javits, Kennedy, McIntyre, Nelson, Percy, Proxmire, Ribicoff, Roth, Saxbe, Schweiker, Stevenson, Williams.
>
> NAYS—46
>
> Aiken, Allen, Anderson, Bellmon, Bentsen Bible, Brock, Buckley, Burdick, Byrd, Robert C., Cannon, Cook, Cooper, Cranston, Curtis, Dole, Eastland, Ervin, Fannin, Fong, Fulbright, Gurney, Hansen, Hollings, Hruska, Jackson, Long, Magnuson, Mansfield, McClellan, McGee, Metcalf, Miller, Montoya, Moss, Pearson, Smith, Sparkman, Stennis, Stevens, Symington, Talmadge, Thurmond, Tower, Tunney, Young.

Mr. CHURCH. Mr. President, I come from an agricultural State but I feel I represent farmers and consumers. The majority of my constituents are not

farmers. They are consumers. The majority of Idaho farmers are not beet farmers. I can tell you flatly that this amendment is not in the interest of American agriculture nor is it in the interest of the American consumer.

What is happening here—and tragically—we see one element of agriculture pitted against the other, corn producers versus sugar producers. The corn folks are concerned about payments that the sugar industry will receive because they are competitors in portions of the sweetener market.

But corn is a subsidized commodity and no one is proposing today to strike corn from the price support program.

This is not a consumer amendment, although its advocates would have us believe it is. This amendment will wreck havoc with the President's plan to aid the sugar industry. The Department of Agriculture has informed me that they are unsure how this amendment would be administered and until they have devised a plan to limit payments, no support will be forthcoming to the domestic industry. In short, further delays in aid to sugar farmers all across the country.

And what about the consumer? The price of sugar is currently around 9 cents a pound. If some help is not given the domestic sugar industry, not just cane, not just beet, we will simply drive more and more of our production overseas, further increasing the deficit in our balance of payments. If that happens, the very small world market in sugar may produce cheaper sugar prices for a year or so, but as soon as bad harvests or other conditions prevail, the amplification of this will, in my judgment, result in skyrocketing sugar prices, as we experienced in 1974.

When Venezuela comes up with its sugar crop and 90 percent goes to the European economic community at a price in excess of 20 cents, they can dump their 10 percent surplus in this country for whatever they can get, joining the host of other countries who dump sugar in our market at ruinously low prices.

If the Senate decides to tamper with the President's plan to aid sugar farmers, it will ultimately succeed in doing several things. In some years, American consumers will be subject to the highest prices in the world; in other years, perhaps a bargain price. In the process, our country will become totally dependent on foreign sources for an important product. Once again we will be subjected to the whims of foreign cartels as we currently experience in oil.

I do not think the President's program is a cure-all for the problems facing the Nation's sugar industry. I would prefer some form of import limitation to preclude below-cost-of-production dumping of foreign sugar in our market.

But the President's plan is the only thing we have got to help our Nation's sugar farmers. It is designed to help them stay in business, to maintain a viable domestic sugar industry and to cut back on the $5 billion that our country has spent over the last 3 years for imported sugar. This amendment casts serious doubts in my mind as to whether the purpose of the President's plan is now frustrated.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

I ask unanimous consent that the vote on the Dole amendment, on which the yeas and nays have been ordered, occur at 12 o'clock.

The PRESIDING OFFICER. That is according to the previous order.

Mr. HART. Mr. President, I ask unanimous consent that David Sprague of my staff may be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 594

Mr. HART. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes unprinted amendment No. 594:

On page 6, line 17, strike out "$24,734,000" and insert in lieu thereof "$25,434,000"; and

On page 5, line 21, strike out "$362,112,000" and insert in lieu thereof "$362,812,000".

Mr. HART. Mr. President, the effect and intent of this amendment is to provide $700,000 in planning money for the relocation of the Agriculture Research Services, Arthropod-borne Animal Disease Laboratory which is currently located in the Denver Federal Center. The money would be used for the development of relocation plans to move the laboratory to the Colorado State University Research Center at Fort Collins, Colo., and for the design of an appropriate facility.

Mr. President, this laboratory is extremely important, since its research is concerned with the diagnosis and control of insect-transmitted diseases among the livestock and animals in this country. The results of this research can have a direct effect on United States and worldwide agriculture, particularly in terms of exportation of livestock and other beef and livestock products around the world. The relocation is necessary, because the facilities at the Denver Federal Center are becoming extremely crowded and urban development has almost surrounded the area. Those responsible for the operation of the research facility at the Agriculture Research Service feel that it would be of extreme value to this research effort to relocate the laboratory to the Fort Collins campus, where a great deal of complementary research is being done. It will make a great deal of sense to have this research group relocated and housed in an adequate facility.

It is my understanding that the managers of the bill on both sides are willing to accept this amendment.

Mr. EAGLETON. Mr. President, I think Senator HART has made a very persuasive and convincing case. My colleague (Mr. BELLMON) and I are prepared to accept the amendment.

We yield back the remainder of our time.

Mr. HART. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

THE RANGE CATERPILLAR

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Is there a time limitation?

The PRESIDING OFFICER. There is 1 hour on the bill.

Mr. DOMENICI. Mr. President, I have no statement. Will my colleague yield to me?

Mr. EAGLETON. I yield 3 minutes to my colleague on the bill.

Mr. DOMENICI. Mr. President, I thank the Senator from Missouri.

I rise to thank the Committee on Appropriations for their consideration of a matter that I believe is of extreme importance in the field of agriculture. I am sure both managers of the bill know that I speak of the range caterpillar. We have, in the State of New Mexico, Mr. President, an infestation of this caterpillar that is almost incomprehensible. It seems to come back every 10 or 15 years and it eats up, literally destroys, more and more acreage of the private and public grazing land in my State each time it comes back. Finally, it has gotten bad enough that it is now beginning to spread into three of the adjoining States. Try as we have in the past to control it by conventional means, we have only had rather limited success.

I commend the committee for having taken evidence on this subject and having concluded that aiding the States in spraying and attempting temporary controls is, indeed, of national interest. They have provided funds for next year for that.

More importantly, they have seen fit to appropriate $1.5 million, to be matched by the States, for a long-term effort at finding out how to get rid of that caterpillar permanently. This will be the first time that this particular infestation has received this kind of commitment from the National Government. I think it is appropriate. Certainly, their record is filled with evidence as to its appropriateness. We have done this for other kinds of infestations that needed a sustained research effort.

We find now that they are willing to say that, if the States will put up their share, we shall have a multiyear $1.5 million research program to find out how to get rid of this permanently. Mr. President, this is not merely a local problem. It will soon be in four States, and I wonder where it will be next. It does not only burden the private domain, but the evidence is conclusive that the public domain in my State and in the adjoining States will soon be totally eaten up by this infestation if we do not learn to control it. I know this effort will succeed, because the scientists that have worked on it indicate that it has the exact kind of potential for eradication, but that we need our laboratories and

our agricultural schools to put some of their great expertise to working at it. I hope that, in a few years, we can come back and report that this $1.5 million, matched by the States, has indeed saved private and public lands worth millions of dollars. I think that is going to happen.

I truly thank the committee for having understood the nature of the problem and for their willingness to conclude that this is exactly the kind of thing we ought to be doing in this country to help eradicate this kind of infestation.

Mr. EAGLETON. Mr. President, I have listened very attentively to our distinguished colleague from New Mexico (Mr. DOMENICI). He is correct. Our committee did examine this matter in our hearings and carefully considered it in our markup on the bill.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. EAGLETON. That is what I yielded to the Senator from New Mexico. I yield myself 3 minutes on the bill.

We did take thorough testimony on this and it is a problem of significant magnitude.

I ask unanimous consent that the following portions of our committee report dealing with the range caterpillar be printed at this point in the RECORD: The bottom of page 27 and the top of page 28 of our report and the middle of page 30 of our report. In both places, we have addressed ourselves to the range caterpillar.

Mr. DOMENICI. I thank the distinguished Senator from Missouri.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Range caterpillar.—The Committee recommends an appropriation of $2 million to continue the range caterpillar control program in the Southwest. This pest is a serious threat to grazing land as well as to large acreages in Federal grasslands and parks.

For fiscal year 1977, Congress appropriated $500,000 to address the most critically affected areas and to begin work on alternative control measures. The Committee conducted hearings that addressed this issue and has examined the basis for proceeding with an intensified effort on both research and control. It is the Committee's view that sufficient funding should be provided to mount an expanded control effort. These funds are matched by both State and private sources except for applications on Federal land. This control effort will provide producers in the area with temporary relief from the pest and will allow the needed research on long-term control or eradication to proceed. A research effort on range caterpillar is discussed elsewhere in the report.

Range caterpillar.—The Committee recommends an appropriation of $1,500,000 for a research effort on the range caterpillar. This is in addition to $2 million which is also being provided for a control program under the Animal and Plant Health Inspection Service. The State of New Mexico will also be providing $1.5 million to mount a coordinated Federal-State program aimed at developing alternative control technologies and providing an integrated pest management program with eradication of the range caterpillar as its goal.

UP AMENDMENT NO. 595

Mr. TOWER. Mr. President, I have an amendment at the desk that I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes unprinted amendment No. 595:

On page 44, line 13, after "$275,743,000" insert the following language:

"Provided, That no portion of these funds may be utilized for the promulgation or enforcement of any prohibition of the continued use of saccharin as a food additive at existing levels, which would be in effect prior to September 30, 1978."

Mr. TOWER. Mr. President, I offer this amendment, because I think now is an appropriate time to act on an issue which we have all committed ourselves to consider expeditiously. Even though the ban on saccharin has now been postponed until October, we remain in the same legislative limbo, relying on the committees to make some definite conclusion. I think most of us in the Senate, as well as in the House, have personally reached a conclusion that there is a social as well as a scientific value judgment to be made. There is nothing to be gained by postponing that judgment any longer.

Mr. President, in its legislated responsibility to protect the public health, the Food and Drug Administration has no flexibility for making such a social judgment. The specific requirements of the Delaney clause and the general safety standard of the food additives amendment of the Food, Drug, and Cosmetic Act allows FDA no discretion whatsoever in deciding whether the benefits derived from a possible cancer-causing agent outweigh the risks.

However, individuals can and should be allowed to continue to function differently. We should be allowed a certain amount of discretion—to include the right to make certain exceptions in the application of what appears to be a hidebound dictum. Without feeling tremendous anxiety about relenting in one instance, we should be able to make a legislative exception overwhelmingly petitioned by those most personally affected.

In the case of saccharin, the effort to reconcile the public welfare with scientific fact, economic interests, and commonsense is not new.

No evidence to suggest that saccharin taken in normal quantities is harmful to human health has been found.

However, as former FDA Administrator Alexander Schmidt recently said, our scientific capacities to detect chemical residues have, in many cases, outstripped our scientific ability to interpret their meaning.

This unsynchronized development in concert with an inflexible mandate produced the March announcement by FDA that it proposed to ban saccharin. The basis of this decision, as we all know so well, was the Canadian study showing that when saccharin was fed to rats in doses equivalent to human consumption of 800 diet sodas daily over a lifetime, they developed malignant bladder tumors. A little more than a month later, FDA said that it would allow saccharin to be sold without prescription as a single-ingredient drug, provided manufacturers can demonstrate it is effective in medical uses such as the management of diabetes or in weight control programs. Now there is the possibility that even that latitude will vanish.

Now the FDA and the committees have one, and we optimistically hope, even two new studies to review. The first is another Canadian study concluding that human males using artificial sweeteners face an increased risk of bladder cancer. The second, which could conceivably offset the first, is a study by the American Health Foundation concluding that—

No association (of bladder cancer) with artificial sweeteners is found.

I do not wish to argue here the merits of the various scientific studies. I am not a scientist. Indeed, I barely made passing marks in my minimum requirements in science as an undergraduate. I do not wish to deviate from my earlier statement that there is a social judgment to be made here, as well as a scientific one. It is completely unlikely that any study will be made that will still the public clamor for the right to exercise individual judgment in this matter.

Even if a modern-day "poison squad" similar to early lab research volunteers were pumped full of sufficient saccharin concentrate daily to rival any laboratory rat, the public would still not willingly relinquish its commonsense or the right to make a choice in this matter. Those who have a special interest in this matter will still want to make their own determination about the risk versus the benefit.

That risk/benefit ratio will vary with the individual according to his tendency toward diabetes, obesity, and cavities, and according to his taste. With all of the publicity and the warnings about the hazards of smoking, millions still smoke. Whether it is a matter of pleasure, health, freedom, or necessity, we have a tradition in this Nation of letting the individual make his own decisions as long as they do not impinge on the exercise of that privilege by others.

We all know that we do not live in a risk-free society. For all of our lives, we exercise our discretion in balancing the risk versus the benefits in thousands of ways—from stepping out of a slippery bathtub to riding a motorcycle without a helmet. Our citizens will not tolerate confinement in a regulatory cocoon, and they should not have to.

I think it is quite clear that the public wants this one exception to the application of FDA's mandate.

Mr. NELSON. Will the Senator yield for a question?

Mr. TOWER. I will yield.

Mr. NELSON. The Senator used the traditional term used in the field of science respecting drugs—risk/benefit ratio.

What are the scientific benefits of saccharin?

We are aware of the risk, because it causes cancer in animals.

What is the benefit?

Mr. TOWER. I do not propose to arrive at any solutions here, or arrive at any scientific judgments, because I do

not know. I cannot say with certainty that saccharin does not pose even greater risks than scientists today have found. Maybe it does.

What occurs to me is that the evidence is inconclusive and that the rigidity of the dictate of the Delaney clause is that no consideration can be given to risk-benefit ratio in this matter or, indeed, in any other.

What occurs to me is that even if students were more conclusive than they are now, and in due course they could be, I do not know, but even if they were more conclusive and the risk were even more clearly shown, there still may be some who would prefer to assume that risk, rather than the risk involved in not using saccharin as a food additive, because of the dietary or diabetic problems that might create.

I certainly would not be prepared to make any medical judgment. As I pointed out earlier in my remarks, I barely passed my minimum requirements in science as an undergraduate.

Mr. NELSON. The troublesome part, it seems to me, is that the uncontested scientific evidence—uncontested by any qualified scientists is that saccharin does cause cancer in animals and the testing——

Mr. TOWER. When taken in what quantities?

Mr. NELSON. This is, I think, one of the worrisome political problems, that people say that the testing procedure involved the consumption of huge unrealistic amounts of diet soda per day.

All that criticism indicates is that those who criticize the scientific methodology are uninformed about the methodology. The methodology of using high dosages on short-lived animals is the accepted methodology of the most distinguished scientists in the world for testing to determine whether or not an agent is carcinogenic. It is not contested by a single scientist that I know of anyplace. They use a uniform strain of a short-lived animal; for example, the rat. They escalate the dosage to determine whether or not in that test a substance produces a cancer or is mutagenic.

The frightening statistic is that every agent known to man that causes cancer in man, save two, on which the tests are not complete, causes cancer in animals. The frightening prospect is that the converse may very well be true.

The high dosage testing methodology is the accepted scientific methodology. This methodology is not challenged by any scientist that I know of.

We are faced with a situation in which we know that saccharin causes cancer in animals. We have a situation in which we know that all agents that cause cancer in man—except arsenic and benzene, on which conclusive tests have not been completed—cause cancer in animals.

The proposal here is that we expose 210 million people to a carcinogenic agent because they should be allowed to make their own informed choice. What they are actually making is an ignorant choice. Does the 9-year-old child on the street corner make an informed choice when he drinks pop with saccharin in it? Of course not.

So I raise this question: How do we justify allowing the food chain to be contaminated by a known carcinogenic agent on the ground that lots of people in this country want it? If we are going to respond to that kind of emotional uproar from our constituents on a scientific question such as this, we should turn in our badges and go back home and let somebody represent the people who has has guts to stand for scientifically rationality whatever the political pressure may be.

Mr. TOWER. Mr. President, I yield to Senators for unanimous-consent requests.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members:

Mr. KENNEDY: Larry Horowitz and Dave Blumenthal; Mr. JAVITS: Alan Fox and Spencer Johnson; Mr. NELSON: Judith Robinson.

Mr. JAVITS. Mr. President, will the Senator yield for a factual statement?

Mr. TOWER. I yield.

Mr. JAVITS. I hope the Senator will take into account the following facts—and I will debate this in due course—and to give the legitimacy of my interests, I am the ranking member of the committee which is wrestling with this matter right now.

We were due to meet at 11 o'clock to mark up a saccharin bill, when we were interrupted to come to the floor to debate this amendment.

There is always a lot of talk here about not having legislation on appropriations bill, no matter how described. This is going to take a full-dress debate on saccharin. I do not know how long it will take. It may take a very long time. We were going to meet at 11 and try to resolve the issue.

The second fact: The Department, itself, has deferred the prohibition of saccharin to October 1. That is an extension, and there may be another extension. I do not say that that is sufficient, but that is a fact, too. We are not faced with the bar of saccharin tomorrow. It is 4 months away.

I thought the Senator from Texas should have those facts.

Mr. TOWER. I am aware of those facts, and I expected that there would be a colloquy, following my remarks, that would bring out the fact that legislation is being considered, which has been offered by the distinguished Senator from Massachusetts. I thought we could get into that matter after I had concluded my remarks. Perhaps it would be better to conclude my remarks, and then we could get into a general discussion of this matter.

I, for one, believe that the matter should be stripped of any demagoguery. I think we cannot assume that those of us who have some concern about this are merely responding in a demagogic way to some public outcry. I am sure that people who have dietary problems and diabetes have a genuine concern about it.

It is my understanding that there is no universal agreement in the scientific community, that the American Health Foundation concluded that no association of bladder cancer with artificial sweeteners has been found. That may or may not be right. I do not know. I am not prepared to make scientific judgments. I am just saying that we should have an intelligent approach.

I say to the Senator from Wisconsin that we really should have some guts here sometimes about the things we do. I am afraid that too often we have done what appeared to be the popular bent at the moment, rather than used some judgment based on the knowledge and information we had, in trying to convince the people that a particular course of action is proper to take, whether at the moment it appears to be popular or not.

Of course, we could carry this a step further. We do not ban cigarettes from the market, and I think there is a clearer demonstration of the harmfulness of cigarettes than there is of saccharin. Certainly, the history of man is strewn with the wreckage of people who have been destroyed by alcohol. How many of us would propose a national prohibition on the sale of alcoholic beverages?

Let me proceed to conclude, and then I think we should try to get into an intelligent discussion of this matter, free of escalated rhetoric and everything else. I do not believe that, willy-nilly, we should allow substances that are carcinogenic to b put on the market.

Let me finish my statement, and then I think we can proceed with the discussion.

I think it is quite clear that much of the public wants an exception to this application of the FDA's mandate. It is entirely possible that they want others. It is possible that they want the mandate changed. However, we are dealing with just one problem today, and there is no point in postponing this matter any longer.

Senator KENNEDY, himself, has stated—the Senator can correct me if I am wrong on this, since he is here—that "the scientific community is deeply and approximately evenly divided over whether the risks of leaving saccharin on the market outweigh the benefits." I subscribe to that statement. He has stated that "persons with impeccable scientific credentials reach exactly opposite conclusions after reviewing the same data."

It is possible that future research and broader, longer, and more substantive studies will ultimately resolve that impasse. However, in the meantime, we should not be so hasty in denying everyone a substance of such acclaimed benefit.

Congress does not have the same restrictive mandate under which FDA must function. In deciding this issue, we are obligated to take into account the will of the people and the findings of other studies that there is no correlation between saccharin consumption and the incidence of cancer. Until we have definitive proof that the degree of risk in consuming saccharin completely outweighs the benefit to the millions of individuals who demand to take it, those individuals should continue to have the right to make their own risk/benefit decisions. It is for that reason that I offer this amendment today.

I should like to see brought out in this discussion what is currently under consideration in the way of legislation that bears on this problem. I think the Senator from Massachusetts can make a contribution to that, because he has been involved in the preparation of legislation that I understand will be reported in a timely way and deals with this question.

Mr. EAGLETON. Mr. President, may I ask a question of the Senator from Texas?

Mr. TOWER. Yes.

Mr. EAGLETON. The Senator has made a fine statement with respect to his position. It so happens that the Health Subcommittee, chaired by Senator KENNEDY, was marking up the very bill that is going to be the subject of much of this debate.

When they heard that an amendment pertaining to the saccharin issue was now up on the floor of the Senate, several members of that subcommittee came over. This included the chairman of the subcommittee, Senator KENNEDY, and other members of that subcommittee, including Senator NELSON and Senator JAVITS. So we are in a somewhat unusual circumstance here where the Health Subcommittee has stopped marking up their bill dealing with saccharin because the chairman and other Senators interested in this matter are on the floor debating a saccharin amendment to an agriculture appropriations bill.

I wonder if there is some way we could get off the horns of this dilemma. Would it not be better to let the Health Subcommittee go back to their markup of legislation on saccharin, and let the Senate proceed to other matters on the agriculture apropriations bill? I do not have the answer, I am merely asking a rhetorical question.

Mr. TOWER. I do not have the answer either, because I do not set the schedule around this place. I think it was anticipated that this discussion would come up this morning and, perhaps, the committee should have scheduled otherwise. We are sometimes discussing a banking bill on the floor while the Banking Committee is meeting.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. CURTIS. I do not think you have any problem. Why not adopt the amendment of the distinguished Senator from Texas and let that be the law until you change it? We have so often seen the argument here, "Don't put a rider on this bill, let the committee take its time to act."

The two are not inconsistent. What the distinguished Senator proposes has the force of a statute that Congress can change at any time. I will seriously object to seeing that argument used as an argument for not adopting the Senator's amendment.

Mr. EAGLETON. Let me say just briefly—and then I am going to yield to my colleague from Massachusetts—that in my opening statement I addressed the issue of a ban on saccharin.

Mr. CURTIS. Who has the floor?

Mr. TOWER. I am willing to yield the floor so that the Senator from Missouri may proceed.

Mr. KENNEDY. I want to gain the floor on my own right and explain what these matters are.

Mr. EAGLETON. Mr. President, who has the floor now?

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. EAGLETON. I will yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. NELSON. I wonder if the Senator from Massachusetts would allow me about a 1- or 2-minute response to Senator CURTIS' suggestion so that it will be in the right place in the RECORD?

Mr. KENNEDY. I yield without losing my right to the floor. I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. On the suggestion that we adopt the amendment of the Senator from Texas and then wait and see whether or not we subsequently change the law before October 1: I do not agree with that. I consider this a major issue for a major debate, and just so there will be no confusion, I do not see any way to settle a debate on this issue in less than 2 days. So if there were an insistence upon a vote on that amendment I think we will be on it at least 2 days.

We have got plenty of time after the July recess to act upon what may come out of the Human Resources Committee, although I am opposed to the proposal there. So we will have plenty of time to debate it in full on the floor of the Senate after the July recess before October 1.

Mr. JAVITS. Mr. President, I think the key point all of us must emphasize is that there is a stay on the barring of saccharin, and I believe, Senator KENNEDY, if he will hear me, that between us we can see that no action was taken prejudicial by that stay by the FDA until we could present the matter to the Senate and the Senate could act.

In other words, October 1 seems to be plenty of time. But if for any reason it is not, I think it would be our duty to see that that stay was extended to accommodate the Senate action, perhaps the whole congressional action, and I just want to suggest to Senator KENNEDY, who has been the very gifted chairman of the Health Subcommittee, that we might, perhaps, be able to give that kind of assurance to the proponents of this amendment and, thereby, just establish the fact that there would be no prejudice, because of the fact that the amendment would not be pressed on this bill.

I might say for myself, because I do not wish to leave the matter obscure, that I am inclined to agree with my colleagues on the committee, those of them who do feel that way, that no precipitate action should be taken. I am not sure about 18 months; I am very sure about the fact that it ought not to be a rider on this bill. It takes a much more considered judgment.

I am also convinced that when we do report legislation it ought to have appropriate conditions. For example, the advertising business is jumping up and down, newspapers, radio, television, "What are we going to do about that," and so, on. These are all considerations which we will develop in the legislation.

So, in sum, my hope would be that this amendment would not be pressed; that the committee would have an opportunity to work its will, and that assurances would be given that the ban would not take effect until Congress had had ample opportunity to act.

Right now that is the frame of reference, October 1, but, if necessary, to extend that further, I have every confidence we could do it within reasonable compass of time.

Mr. KENNEDY. Mr. President, the situation has been stated accurately by the Senator from Wisconsin and the Senator from New York in terms of voting procedure in their brief discussions, in terms of the substance of at least what the Senate Health Subcommittee is undertaking at the present time.

I, for one, question whether it makes very much sense to make bad law in haste when there is no reason for it either from a health point of view or from an economic point of view.

We get around the fact that the principal pressures which have been upon the Health Subcommittee during all of this consideration have been, I find, primarily economic considerations which, obviously, ought to be given some degree of attention about whether there would be a disruption in the continued production of saccharin.

So the Senate Health Subcommittee, in attempting to try to do an evaluation on the initial studies that were developed in Canada, acted very expeditiously in attempting to try to get the most able and the most gifted scientists, researchers within the Office of Technology Assessment to review the totality of information that had been collected, and to report back to the Health Subcommittee with a time deadline on that particular issue, with the hope that we would be able to get early action in a way which would meet our responsibilities.

We did have that report. It was testified to by many of the members of that OTA panel. There was a difference in terms of the panel as to the risk and benefit relationship, and that is a very delicate balance, on the one hand, as to what are going to be the health risks to the American population by continued access to saccharin, and what might very well be the benefits to the American population, particularly those with high blood pressure and diabetes, and those who are obese. So we have been attempting to try to balance these particular issues.

During the time while we were considering a markup of this particular proposal, we found out that additional studies came to the attention of the head of the Food and Drug Administration that show that saccharin is no longer just a carcinogen in terms of animals, including rats, as the earlier Canadian study showed, but is, as a matter of fact, according to the study that was made in Canada by three other most distinguished and prestigious universities and

research groups, also a cancer-forming agent in human beings.

So these presumptions which, on the one hand, existed only when we had information on the issue of saccharin and its effect on rats, have now been washed away. Now we know, at least on the basis of an extremely extensive study, that saccharin is a cancer-forming agent in human beings.

The head of the Food and Drug Administration was asked if he would have the ability to go into great detail and examine carefully the Canadian study and then come back to our particular subcommittee and at least make some recommendations or give some reactions to the preliminary steps we had taken, or at least some of us thought would be a reasonable response, to the issue which was before us.

Then, during this particular hiatus, we found the markup of the appropriation bill, and in an effort to try to conform to the interest which existed by the members of that committee, we decided to again ask Commissioner Kennedy to accelerate his study on that particular matter and to give us a final best judgment on which we were prepared to act today in the Health Subcommittee.

I dare say we had the members there to take action, and hopefully with action by the full committee in the early part of July the Senate would have had a chance to get into a full discussion and debate on this particular question. So we were acting expeditiously and deliberately in a way which would, I think, help assure that the public policy decision that the Senate was going to take was a responsible one protecting the health of the American people and also being sensitive to the particular risk-benefit ratios, and we were prepared to do that.

It is extraordinary to me to see the circumvention of that particular process by Members of this body, and it does seem to me to indicate that this whole process of clearly circumventing what has been, I think, a responsible attitude by the committee may very well mean a much longer and prolonged debate and discussion on this particular issue because the health implications of this debate are profound.

It seems to me that we would act more quickly if we permitted the Health Committee to resolve and make the recommendations, have the full Labor Committee report out legislation, and then permit the Senate to act on this measure during the period hopefully in July. I do not set the schedule. The leader sets it. No one questions that we have a full agenda. But it seems to me that we should be able to because of the interest. I would be glad to go with other interested Members to talk to the leadership and to see what kind of arrangement could be made in terms of a schedule.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mr. TOWER. I certainly have no desire to act in undue haste and I do not believe in circumventing the normal deliberative process of the committee. I believe, though, it is important that attention be focused on this matter because there are a lot of people who are very, very deeply concerned about it, and I am perfectly willing to be very reasonable on this matter. We have had the assurance of the distinguished Senator from Massachusetts that this can be reported out in July. Is that the Senator's view?

Mr. KENNEDY. I would fully expect that we would report it out in the very early part of July. One provision in the legislation at least which we were going to consider and I would hope to point out has a reference in there dealing with advertising which would go to the Commerce Committe. The Commerce Committee has agreed to report that measure out to the floor by July 27 and that would certainly give us a week to act. I would hope that, with the action that would be taken and if the leader understood that this would be a measure that would be ready for debate during that final week, we could work out at least the process by which we could get action by the Senate.

Mr. TOWER. The Senator has answered my second question and that is concerning the consideration of the measure by the Commerce Committee.

I have one additional concern here and that is that there might be several matters in that bill that are very controversial, and I do have a concern that this issue not be held hostage to other matters that are very, very controversial, even if we arrived at some sort of consensus agreement on what kind of provision should be on this.

Mr. KENNEDY. Will the Senator be more specific in terms of the controversial items?

Mr. TOWER. I understand the questions of advertising and that sort of thing. There are some matters in that legislation that might be considered controversial. My only concern is that this issue might be held hostage to others. I hope we could move on to consideration of it at some point in time without it being held hostage to others.

Mr. KENNEDY. I want to give the assurance that we are not interested in holding any legislation hostage. If the Senator would examine the record, in the time frame that we placed upon the Office of Technology Assessment that had this for 90 days, we had a restricted time limitation. I think quite frankly the information was developed by that panel, a very extensive report, which will be enormously useful and valuable to the Members of this Senate when we get into a discussion and debate. It has been very helpful to our Health Committee. But we have no interest, and I certainly do not, in prohibiting the Senate from taking action on this measure. Similar legislation, somewhat different from the approach but generally similar, has been proposed by Congressman Rogers that is moving expeditiously through the House of Representatives procedures and, although I have not talked to the Congressman in the last week. I did talk to him a week ago and he had indicated that he thought that there would be action. His plan was to get action in due time to the House of Representatives so there would not be interruption in terms of the continued production of the substance.

Mr. TOWER. In that connection, if the Senator will respond to another question and that is——

Mr. KENNEDY. Could we have order, Mr. President.

Mr. TOWER. Could we have order, Mr. President.

Mr. KENNEDY. Could we have order. The Senate is still not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. TOWER. Had the Senator from Massachusetts had any commitment or assurance that there would be given early consideration of this measure on the floor? I understand the distinguished majority leader has set up a list of priority measures that we are to consider. I wonder where this one might fall in the list of priorities, whether or not we could get expeditious floor consideration of the measure referred to by the Senator from Massachusetts.

Mr. ROBERT C. BYRD. Mr. President, it will be my desire and my intent to take up this legislation before Congress adjourns for the hoped for October date sine die and as much in advance of that date as possible. Once it is reported from the committee and if we could work out an arrangement whereby there is agreement on all sides to take it up and not take too long, I will give the Senator my assurance I am going to make every effort to bring it up because I think some action has to be taken in this area.

Mr. TOWER. Will the Senator yield further?

Mr. KENNEDY. I yield.

Mr. TOWER. I appreciate the majority leader giving us this assurance. There are some of us who might not want to be bound by what is recommended by the committee, and I am sure amendments would be offered. I suggest that expeditious consideration is desirable because if it is not forthcoming and if there are any delays thrown in the way when we are going to have the same thing we have now, and that is someone finding an appropriate vehicle to hang this thing on to and so the debate is going to start all over again. This is one that is not going away because there are a lot of people very much concerned about it and, therefore, it is something that we are going to be forced to consider.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I compliment the Senator on focusing attention on this matter at this point, but I do not think that it is a matter that should go through the normal legislative process. I compliment the Senator from Massachusetts. He and his committee are moving forward on the matter. I do not know what the verbiage will be in the measure that is reported out. I have to reserve judgment on that point by point at that time. But it will be my desire at an appropriate time to bring up the legislation that is ultimately reported from the committee and let the Senate thrash it out.

Mr KENNEDY. Mr. President, I appreciate the assurances of the leader and I

think he has been extremely fair in giving those assurances. I want to make it very clear we are going to proceed in an orderly fashion in the Health Committee and then to ask the chairman of the Labor Committee to have an early full exec and to report this legislation out and do it in a very timely fashion.

But I want to also make it very clear that if attempts are made to circumvent what is a bona fide, legitimate attempt to act in the procedure of this body, then there are those who are going to also exercise what judgments they can.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator be permitted to proceed for 2 additional minutes.

Mr. KENNEDY. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. There is a previous order for a vote at 12 o'clock.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator be permitted to proceed notwithstanding the order for the vote.

The PRESIDING OFFICER. Without objection, it is so ordered. This order supersedes the order that the vote occur at 12.

Several Senators addressed the Chair.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts will state it.

Mr. KENNEDY. As I understand it, there is no time limitation on this matter.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Do I understand there is a previous agreement to vote at 12?

The PRESIDING OFFICER. There is a previous order to vote at 12 o'clock on an amendment offered by the Senator from Kansas.

Mr. KENNEDY. I see. I guess the hour of 12 just about having arrived, I would look forward to getting the floor afterward, if there is to be further discussion, to go through these details. I would hope we could have an opportunity, before withdrawing it, to give us a good faith effort to act expeditiously. I believe that is the honest way to act, and I believe it will move the whole process forward in more timely fashion.

I would give assurance to the Senator from Texas, as I did the Senator from Louisiana, and particularly the Senator from Pennsylvania, who is the ranking Republican member of the Health Subcommittee, who has wanted expeditious action, as have other members, that we will do so.

Mr. ROBERT C. BYRD. Mr. President, I would hope that the Senator would withdraw his amendment, so that we would not have a continuation of this debate after the vote. I ask unanimous consent that the vote be delayed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from California seek recognition?

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that two members of my staff, John Backer and Jane Olson, have the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, is my understanding correct that the amendment will be withdrawn, and there will be no further discussion, after the scheduled vote?

Mr. TOWER. If we can dispose of the matter in 5 minutes.

Mr. NELSON. Mr. President, since we are having this discussion at this time, I wish to put into the RECORD some material in connection with the matter. All I would need, at the appropriate time, is 2 minutes.

Mr. ROBERT C. BYRD. Go ahead.

Mr. NELSON. Mr. President, I wish to read a very brief colloquy that involved testimony before the Subcommittee on Health chaired by the Senator from Massachusetts (Mr. KENNEDY), in which I asked the same question of Dr. Fredrickson, director of the National Cancer Institute, and Dr. Kennedy, Commissioner of the Food and Drug Administration.

My question was this:

Are there any conclusive tests that have been done, that demonstrate an important need for saccharin for diabetics, over-weight or heart patients? I am not aware of any.

Dr. FREDRICKSON. The answer is no, Senator Nelson. There is no test that is available that demonstrates a specific need for saccharin by such patients.

Senator NELSON. So, what we are dealing with here is a risk with no known benefits. Is that correct?

Dr. FREDERICKSON. I would not go so far as to say "no known benefits" because that goes off into regions of even aesthetics.

Senator NELSON. All right, with no tests demonstrating benefits, conclusively, to diabetics, over-weight or heart patients.

Dr. FREDRICKSON. That is correct.

Now, the same query to Dr. Kennedy, Commissioner of the Food and Drug Administration:

Senator NELSON. Doctor, you were here when Dr. Frederickson testified, and the record can speak for itself, but I believe he said that there were no careful studies that would prove an important medical necessity for saccharin. I think that is a fair statement.

Would you agree with that?

Dr. KENNEDY. I think there is no study known to me that demonstrates the efficacy of saccharin as opposed to some alternative strategy in a dietary or diabetic medical—

This xerox copy does not show the conclusion of his statement, so I will have to fill it in later:

Senator NELSON. So, then, if saccharin were not available, there is not any demonstrated, provable, serious medical adverse effect on the people who now use it; is that what you are saying?

Dr. KENNEDY. I would be more cautious, I think. I know of no study that is done under rigorously controlled conditions that shows the efficacy of saccharin in attaining compliance to those regimes, but we did at our two day hearing, Senator, hear some testimony from doctors who are experts at diabetes management who argued the other side.

Senator NELSON. Were these testimonials, or were they based upon carefully controlled scientific studies?

Dr. KENNEDY. They were not controlled trials. No, Senator.

Senator NELSON. So we are dealing here with a risk; and we are not able to demonstrate through any scientific study thus far that there is any significant benefit to the use of saccharin.

Would that be a fair statement?

Dr. KENNEDY. I think it would be a fair statement.

Mr. President, I ask unanimous consent to submit for printing in the RECORD at this point some summaries from the OTA study, and some other materials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF MR. NELSON

It has become evident that public education is essential in the present saccharin matter. The Delaney Anti-Cancer clause and the general food safety section in the Food, Drug and Cosmetic Act are under fire as "unreasonably inflexible".

The law requires that food additives be safe and the Delaney clause prohibits any substance in the food supply that is found to induce cancer in animals or humans.

What really is at stake is whether a little bit of cancer in the food supply is good for the public health, and whether the risks of massive, involuntary exposure to a potentially hazardous substance in the food supply outweigh the possible benefits of limited, voluntary exposure.

Clearly, cognizance must be taken of the risks versus benefits of special medical needs for a specific human population. That can be done under the drug law.

The record should show the following scientific facts:

EXTRAPOLATION OF ANIMAL TESTS TO HUMANS

The Congressional Office of Technology Assessment (OTA) panel report, *Cancer Testing Technology and Saccharin*, concluded, as Panel Chairman Dr. Frederick Robbins testified before the Senate Health Subcommittee, June 7, 1977:

"Every organic chemical known to cause cancer in humans also causes cancer in rodents. The converse is more difficult to prove, but the unity of biology permits the conclusion that a substance that is carcinogenic in rodents will also be carcinogenic in humans.

"... when suitable (animal) tests are positive, they must be considered as presumptive evidence for carcinogenicity in humans.

"... the usual sensitivity limits of even a properly conducted (epidemiological) study make detecting (in humans) a carcinogen with a low incidence unlikely and the long induction time usually seen in cancer is a further complication. Substances in general use—such as food additives—present these problems.

"Carcinogenesis testing of saccharin reflects the advancing nature of the testing technology. Data are available from a number of laboratory experiments and epidemiological studies. Only the most recently completed experiments, however, approach current standards for testing.

"The best evidence for concluding that saccharin is a potential human carcinogen comes from three two-generation rat feeding experiments. These tests show that over a long period, diets high in saccharin produce bladder tumors.

"The experiments that determined cancer incidence in both generations found more tumors in the second but the difference is not statistically significant. Nonetheless, this finding needs confirmation since it would

be important to know whether or not exposure in utero or in very early life increases the risk of bladder cancer from saccharin."

(In the Canadian rat tests, 100 rats were fed as pure saccharin as could be devised, as 7 percent of their diet. Three (3%) rats developed bladder tumors; 14% of the offspring of the first generation developed bladder tumors.)

The OTA conclusions on extrapolation as a valid predictor of human hazards are as follows:

1. Because carcinogenicity cannot be tested directly in humans, indirect methods are necessary. Current methods can predict that a particular substance is likely to cause cancer in humans. Although the technology for making quantitative extrapolations from animal experiments to human risk is progressing, this technology does not currently permit reliable estimates of the numbers or locations of cancers that might occur in humans except in a few cases.

2. Three methods are employed.

a. Animal tests are accepted as the most valid, reliable predictors that a substance will produce cancer in humans.

b. Short term tests provide presumptive evidence of a substance's risk to humans. A positive result in any of the short term tests warrants suspicion and calls for tests in animals. A negative test indicates that carcinogenicity is less likely, but does not rule it out.

c. Human epidemiological studies attempt to answer two questions: (1) is there a positive association between a particular exposure and the occurrence of cancer in humans, and (2) if there is, is it causal? Positive results can clearly show that human populations are at risk. Negative results are more difficult to interpret, but they do not eliminate the possibility of risk.

3. Statutory authorities for regulating carcinogenic substances to which humans may be exposed are not consistent. Unlike the Food and Drug Administration's authority under the "Delaney clause," other agencies regulate carcinogenic substances under general authorities relating to toxic substances. Although attempts are made through implementing regulations to apply consistent standards, such efforts are voluntary, often discretionary, and the legislation sometimes precludes consistency.

a. The "Delaney clause" reflects the present state of technology in which laboratory methods can predict that a specific substance is likely to cause cancer in humans, but cannot reliably quantify this potential effect.

b. Other legislative authorities which call for risk-benefit balancing in decisions to regulate carcinogenic substances allow quantitative extrapolations to be made from animal testing to humans.

4. The National Cancer Institute guidelines do not provide criteria for classifying an agent as a potential risk to humans. They do provide criteria for judging whether specific experiments have been properly conducted, but they are not mandatory for all Federal agencies.

5. Laboratory evidence demonstrates that saccharin is a carcinogen.

a. Prolonged ingestion of saccharin at high levels caused a significant increase in the incidence of bladder cancer in rats in three independent experiments. Earlier experiments were not sensitive enough to detect this carcinogenic effect.

b. This evidence leads to the conclusion that saccharin is a potential cause of cancer in humans.

c. There are no reliable quantitative estimates of the risk of saccharin to humans.

6. Epidemiological studies of human experience have not been sensitive enough to determine whether or not saccharin is a carcinogen when ingested.

7. Recently conducted short term tests on the impurities in commercial saccharin, including some undertaken as part of this study, detected mutagenic activity. Although these impurities may account for the observed carcinogenicity of saccharin in animals, they are nonetheless present in commercial saccharin.

[End of OTA Panel conclusions.]

It is difficult to ascribe a cancer-causing effect on humans to any one substance, unless (1) it causes unusual tumors, such as in the case of vinyl chloride (angiosarcoma of the liver), or (2) is associated with a very high incidence of cancer, as with asbestos.

In the case of food, such circumstances are difficult to identify, because of the variety of exposures and because the effects are cumulative over a long period of time.

If experiments to determine carcinogenicity were to be done in humans, they would require using controlled populations, under very controlled environmental circumstances, and studying effects over long periods of time. Such a clinical study is impossible, scientists tell us.

For this reason, scientists since the 1930s have relied on animal tests, extrapolated statistically to human experience, to predict whether substances are safe or toxic to humans. The same tests are used to prove safety of food additives.

An international group of scientists, convened at the request of the Swedish Parliament, reported March 8, 1977 from an International Symposium at the Karolinska Institute that linear extrapolation is a valid test methodology. Their report is titled, "Air Pollution and Cancer: Risk Assessment Methodology and Epidemiological Evidence."

The same kinds of tests have accurately predicted the cancer-causing properties in man of vinyl chloride and estrogens. Of 17 known human carcinogens, all except two (arsenic and benzene) have caused cancer in animals; further tests are being done on both.

Furthermore, there is no carcinogen ever shown to cause cancer at one level that did not cause cancer at a lower dose level, according to Dr. Howard Roberts, Acting Director of the FDA Bureau of Foods.

Scientists agree that new and better testing methodologies are needed.

However, until scientists can demonstrate to us a better way of predicting potential human hazards, we must and should rely on animal tests.

The OTA saccharin panel concluded the following: (from testimony of OTA panel chairman, Dr. Frederick Robbins, p. 16):

"It is possible that the use of saccharin may lead to greater, not lower, consumptions of sugar by contributing to the craving for sweets. (Robbins testimony, page 16)

"The beneficial effects of saccharin have never been subjected to the kinds of scrutiny given the risk of cancer. Thus, analysis of risk is narrower but more thorough than analysis of benefits, which is largely based on opinion rather than data.

"The need for saccharin by the obese or diabetic is not easily quantitated, and one can only speculate concerning the effect of removing saccharin from these populations.

"Thus, on the one hand we are dealing with the probability of the occurrence of a serious life threatening complication to an unknown number of people. On the other hand, the benefits are not of the same category of importance although many more people are involved." (Robbins testimony)

OTA CONCLUSIONS

"8. Because of its widespread use, the availability of a nonnutritive sweetener is of psychological benefit to many people.

9. Claimed benefits of non-nutritive sweeteners were identified for five groups of users:

a. Diabetics. A non-nutritive sweetener may help in avoiding consumption of sugar and in complying with prescribed dietary therapy.

b. Persons with long term, low calorie requirements. Substitution of a non-nutritive sweetener for sugar by people on restricted diets could permit them to consume greater amounts of foods containing vitamins and minerals without reducing the consumption of sweets and without increasing total calories.

c. The obese and those concerned with avoiding obesity. A non-nutritive sweetener may help in avoiding excessive consumption of sugar.

d. Persons particularly susceptible to dental caries. Non-nutritive sweeteners may aid in reducing exposure to sugared foods, which are highly cariogenic.

e. Persons who must take certain drugs. A non-nutritive sweetener may have benefit in improving the palatability of certain essential drugs, including fluoridated dentrifices and other fluoridated oral health preparations.

10. Whether or not using a non-nutritive sweetener leads to measurable health benefits has never been tested. The Food and Drug Administration has proposed limited use of saccharin as a single ingredient, over-the-counter drug and as a component of certain drug products, but these uses will be allowed only if such health benefits are proven.

11. The availability of alternative non-nutritive sweeteners is uncertain at this time. The Food and Drug Administration has scheduled a hearing for cyclamate on July 13, 1977. Petitions for four of the alternatives OTA has identified have been filed with the FDA. No predictions on availability can be made on the basis of these petitions.

[End of OTA conclusions.]

Some leading diabetes experts have stated the following:

Dr. Max Miller, Director of the University Group Diabetes Program (U.G.D.I.) (involving 13 clinical centers treating diabetics):

"There is no role for saccharin in the regimes (diets) of obese patients we are treating. We have never included saccharin in instructions to diabetics. From the practical point of view, diabetics don't use much sugar anyway. Their diets can be arranged to allow some sugar intake in food, restricting calories and balancing carbohydrates. Sweeteners mask taste. I am amazed at how little sugar my diabetic patients take."

Dr. P. J. Palumbo, Mayo Medical School, Assistant Professor of Medicine:

"Saccharin is not essential in diet management of diabetics. We can manage their diet satisfactorily. The problem with their diets involves a lot of factors and the management of calories. Most diabetics can have some sugar we put it in cakes, ice cream, other foods in their program."

As to the Delaney Anti-Cancer Clause in the Law:

To date, no scientific body has devised a replacement for this law, which insures that human health risks will be minimized. No safe threshold has been identified for any cancer-causing chemical.

In light of these recognized scientific limitations, the public chose, in 1958, to opt for caution, for less risk, on the principle that no benefit is worth the possible hazard of adding a known cancer-causing chemical to the food supply. The Delaney Clause, then, recognizes science's limits at the present time.

Even if the Delaney Clause were not in law, saccharin presumably would have to be considered harmful as a food additive, in that it does not meet the safety requirements of Section 409 of the Food, Drug and Cosmetic Act.

A GAO report that our office requested and issued August 16, 1976, "Need to Resolve Safety Questions on Saccharin" (Report No. HRD-76-156), identified at least 23 research studies on saccharin conducted since 1970, which indicated possible carcino-

genic or mutagenic hazards. The FDA, scientific community and industry have known that the safety of saccharin has been questioned for at least 20 years.

The question must be raised as to why safer alternatives have not been developed in that time.

Support for the Delaney Clause concept was voiced by the 1970 White House Conference on Food, Nutrition, and Health. The same support was reiterated at a 1973 symposium on the Delaney Clause, conducted by the New York Academy of Sciences. No scientist attending that conference, including those affiliated with the industry, advocated weakening the Delaney Clause.

Although scientists made it clear they disagree at a 1974 forum conducted by the National Academy of Sciences, "How Safe Is Safe? The Design of Policy on Drugs & Food Additives," there was no consensus supporting modification of the concept behind the Delaney Clause.

Dr. Philip Handler, President of the Academy, in a summary of the forum proceedings said: "For my part, I begin to view that clause as a great red herring rather than as a problem in our society. Certainly, on its face, all other things being equal, it is a perfectly rational guide to desirable societal behavior. No one in his right mind wants to put carcinogens into anything intended for human consumption. We should be perfectly willing to accept that guideline until the day when we find ourselves in the position of banning as a carcinogen some chemical entity which also offers great benefit. Until that time comes, we will not have to test the validity of the Delaney principle. When it does, we will have no recourse but to test the validity of the principle in a real life situation."

Dr. Hander continued: "... It has been said that the great harm of the Delaney clause is its deterrence to those who might otherwise be exploring new and important food additives. No such real case in point is known to me." (Academy proceedings, p. 175–6).

In testimony in May, 1974 before the House Appropriations Subcommittee for Agriculture, former FDA Commissioner Alexander Schmidt, M.D., stated:

"On the basis of the information, expert opinion and conclusions contained in the compilation, we are not prepared to state that the Delaney clause has had a deleterious effect, to date, upon the food supply, nor could we suggest any particular change in the anticancer clauses."

He said that "the growth of knowledge in carcinogenesis may eventually permit safe levels of carcinogenic additives to be determined, but that day is not yet here." The Commissioner also testified:

"The evidence at hand does not indicate that the Delaney clause has barred public utilization of food additives of such importance that their prohibition has not been in the public interest. The question remains, however, as to whether the mere existence of the Delaney clause has had such a profound influence upon the FDA that action against carcinogenic substances, that might not have been taken otherwise, has been taken under the more general safety provisions of the FD & C Act. This question has no real answer, but it is clear from the history of the FD & C Act and anti-cancer legislation that the public wishes to have its food supply protected against the addition of 'unsafe' food chemicals."

In light of the scientific unknowns and the risk-versus-benefit considerations posed by adding a little bit of cancer to the food supply—which is ingested involuntarily and unknowingly, in large part, by millions of people—the public, in my view, would be well-served to seriously consider whether it wants to modify the Delaney Clause.

In addition, the synergistic (combination) effects of exposure to many chemicals must be considered. Saccharin is not the only chemical substance in the food, air, or water supply, to which humans are exposed.

There is a cancer epidemic in this country: more than 600,000 new cases are diagnosed each year. Up to 90 percent of cancers are thought by scientists to be caused by environmental factors.

Dr. Alvin Weinberg, former director of the Oak Ridge National Laboratory, sums up the need for public understanding: "The republic of science can be destroyed more surely by withdrawal of public support for science than by intrusion of the public into its working."

Mr. President, I ask unanimous consent that the following articles discussing these matters be printed in the RECORD following these remarks: Science magazine, June 10, 1977, "Saccharin: A Chemical in Search of an Indentity," by Barbara Culliton; New York Times, March 13, 1977, "Saccharin Tests Followed Accepted Methods," by Boyce Rensberger; and Chemical & Engineering News, June 27, 1977, "U.S. Health Will Be Jeopardized if Delaney Clause Is Abandoned," by Dr. William Lijinsky, Director, Frederick Cancer Research Center of the National Cancer Institute:

[From the New York Times, Mar. 13, 1977]

SACCHARIN TESTS FOLLOWED ACCEPTED METHODS

(By Boyce Rensberger)

If a small proportion of rats develop cancer when fed saccharin in doses hundreds of times larger than people could reasonably consume, does it make sense to consider saccharin a hazard for human beings?

The Food and Drug Administration's impending ban on the artificial sweetener and previous bans on many other substances were based on just such tests, but many people who are not familiar with animal testing question the logic of it.

As scientists look at the problem of chemical causes of cancer, however, relying on such experiments is not as unrealistic as it may appear. What follows is a review of the reasoning that is almost universally accepted among scientists:

Substances like saccharin cannot be properly tested on human beings for several reasons. It takes a quarter to a half of lifetime for many cancer-causing chemicals to produce tumors. One must kill the experimental subjects after a set time and look for tumors during an autopsy. The subjects would have to be isolated from other known cancer causes for the duration of the experiment; this would probably mean keeping people in environmentally controlled prisons.

Therefore, researchers usually depend on short-lived, easy-to-raise and easy-to-kill mammals such as rats and mice.

Because cancer-causing chemicals, or carcinogens, at realistic levels of exposure may produce tumors only in a very small percentage of people or rats—perhaps one in 10,000—detecting such an effect could require that thousands of animals be exposed.

And because the genetically standardized animals used in research are not cheap, scientists prefer to test a smaller number, say a hundred, but to increase the dosage of the suspected chemical by, say, a thousand.

Over years of study, the vast majority of carcinogens have been found to have no lower limit—that is, no level of exposure below which the chemical does not cause cancer. Thus, it is widely accepted that if a substance causes cancer at high doses, it almost certainly causes at least some cancers at much lower doses.

Although many non-scientists suspect it to be true, there is good evidence that most chemicals commonly encountered by people do not cause cancer, no matter how high the dose. It is not true, then, that "anything will cause cancer if you eat enough of it."

If a substance causes cancer in only 1 percent of the animals fed very high doses, it does not mean that it causes cancer in people at the same rate. The human rate might be only one in 10,000. But if 50 million human beings were exposed, such a low rate could be expected to cause 5,000 cases of cancer.

In the case of the latest saccharin testing, 100 rats were fed the chemical as 7 percent of their diet. Of these animals, three developed bladder tumors. Of their offspring—exposed before birth—14 percent developed bladder tumors.

Is it certain that something that causes cancer in rats will do the same in man?

There is no absolute proof that such a correlation would always hold, but of the approximately 30 chemicals proven to cause cancer in human beings are also carcinogenic to rats or mice or both.

Many additional chemicals are known to cause cancer in animals, but direct proof from human beings is either impossible or incomplete.

SACCHARIN: A CHEMICAL IN SEARCH OF AN IDENTITY

"Anybody who says saccharin is injurious is an idiot," Teddy Roosevelt declared back in 1907. Today, almost three-quarters of a century and several saccharin scares later, 244 members of Congress and percent* of the American public think Roosevelt was absolutely right. But the Food and Drug Administration (FDA) thinks he, and they, are absolutely wrong. At the moment, what the FDA thinks is what counts.

In March, because of the now notorious Canadian findings that saccharin causes bladder cancer in laboratory rats, FDA said it was going to ban saccharin—the last available artificial sweetener (*Science*, 15 April). The public was outraged. Diet food fans by the millions have protested. And the Canadian data, originally advertised as "definitive," on second glance may not be all they were first cracked up to be. But the FDA is sticking to its guns. After 2 days of open hearings on 18 and 19 May at which saccharin users and saccharin sellers pleaded that the agency change its regulatory mind, FDA commissioner Donald Kennedy (who inherited the saccharin decision when he took over at FDA in mid-March) said he will move right along with plans to get saccharin out of the food supply by late summer.

The hearings, something of a first in FDA's attempts to get public input, produced "no blinding flash" of new information, Kennedy said—nothing to alter the agency's basic position. However, he acknowledged that some of the testimony convinced him that FDA should reconsider some of the details of its present proposal. For example, he said that FDA may decide to allow continued use of saccharin in some prescription drugs. But saccharin-laced colas and cookies and ice cream and cake—all of the things people care about most and which account for 70 percent of saccharin use in the United States—remain on the FDA's hit list.

Saccharin's imminent demise has made it a strange yet compelling symbol for a remarkable variety of causes. It is being invoked in the name of everything from re-

---

*According to a public opinion poll commissioned by the Calorie Control Council, trade association for the diet food industry, 80 percent of the people think FDA acted "before it had sufficient evidence" against saccharin.

writing the whole body of food and drug law, to safeguarding the environmental protection movement (if saccharin is allowed to stay, what next), to citizens' "right" to freedom of choice among available risks, to the healthy "psychosocial development" of juvenile diabetics. In addition, saccharin hysteria has provoked fundamental questions about the health value of diet foods and the validity of animal testing in assessing risk to man.

SACCHARIN: IN NEED OF A DEFINITION

Saccharin is a chemical in search of its identity. Is it a food additive, as the law defines it now? Or is saccharin really a drug that confers some medical benefit? FDA is adamant about getting saccharin out of the food supply, but it will consider reclassifying it as an over-the-counter (DTC) drug. Critics who challenge the idea that saccharin is dangerous see this as an amazingly inconsistent position; the FDA sees it as a practical, lawful compromise—if it can be pulled off. In order for saccharin to become a drug, someone is going to have to prove that it is "efficacious" for some medical purpose, which will not be easy to do.

Indecision about saccharin's real identity has led to considerable discussion of the laws governing foods and drugs, with special emphasis on the Delaney amendment which FDA chose to invoke in announcing its initial proposal to ban saccharin from foods. Delaney is the all-or-nothing 1958 amendment that says "No additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal, of if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal." Among the current issues are the meaning of the word "appropriate," and the usefulness of the amendment itself, which allows no room for risk-benefit judgments.

In this whole debate about saccharin, a lot of attention has focused on the Delaney amendment. However, as Kennedy has pointed out, even without Delaney "the general provisions of the food safety laws would have required to move to ban saccharin. If you want to save saccharin, you're going to have to change more in the law than the Delaney amendment."

Legally, the FDA is on very solid ground in basing its proposed saccharin ban on rat studies, but from a public relations point of view it is too bad the data are not firmer. Part of the problem has to do with rats. Not everyone agrees that rats are an "appropriate" species for studying saccharin and may wish the case could be bolstered by evidence, which does not exist, that saccharin causes cancer in some other kind of animal.

The immediate impetus for FDA's proposed saccharin ban is data from Canadian scientists who fed saccharin as 5 percent of the diet (approximately 2500 milligrame per kilogram body weight) to two generations of laboratory rats. Among the first generation animals, 3 of 100 developed bladder tumors. Among second generation rats, exposed to saccharin in utero as well as during their lifetimes after birth, 14 of 100 developed bladder tumors. (A special question about the safety of saccharin consumption during pregnancy comes up.) These data, on top of several previous but equivocal rat studies, tipped the balance against saccharin.

PROBLEMS WITH THE CANADIAN STUDY

But there are problems with relying heavily on the Canadian data. For one thing, according to scientists close to the situation, the Canadians have not yet finished histopathological analyses of all the rats. For another, U.S., British, and other pathologists who are reviewing the slides of the rat bladders do not agree on whether they're looking at cancerous tissue or not. Previous assertions about the number of cancers, therefore, may not hold up. (But Kennedy believes the pathology is really quite sound. Referring to the first group of scientists, including FDA officials, to review the Canadian data, he says, "Not all the pathologists agreed about every slide—that never happens—but they did reach consensus about each one.") Third, it is now known that the supposedly contaminant-free saccharin used in the Canadian experiments may not be pure after all. Absolutely pure saccharin, Science is told, is not mutagenic in the Ames test—a sensitive new in vitro assay. The saccharin the Canadians used is. Thus, the possibility that cancer was caused by some yet unidentified impurity cannot be excluded as was originally thought.

Two previous rat studies have implicated saccharin as a cause of bladder tumors in rats. However, because the saccharin in those studies was contaminated by OTS (orthotoluenesulfonamide), the data were set aside. The Canadian study, in which OTS was compared with "pure" saccharin, seems to have cleared OTS. That being so, some scientists argue, the previous rat studies are validated retroactively, thereby strengthening the FDA's present position. On the other hand, it can be said that the contaminants in the Canadian saccharin just muddy things more.

RATS

Complicating the picture even further, there is the question about rats. Many scientists point out that when it comes to bladders, rats are a special breed. Rats concentrate their urine to a very high specific gravity, which means that chemicals in the urine are apt to remain in the bladder for comparatively long periods before being excreted. As a result, rats frequently develop bladder stones which some investigators believe may cause tumors from physical irritation of the bladder wall. Furthermore, saccharin is not metabolized by the body but is excreted unchanged. Although there is no absolute proof, toxicologists interviewed by Science said that most known carcinogens are metabolized. In rats fed saccharin in large quantities, this means it is all the more probable that accumulated stores of unmetabolized saccharin could be a physical irritant. (However, Kennedy says—on the basis of information not published in the first draft of the Canadian study—the frequency of bladder stones in the rats was generally low and not all of the animals that had tumors had stones.) Yet another complicating factor is the common presence of certain parasites in rat bladders—parasites associated with tumors.

There have been repeated suggestions that saccharin be tested in other species. As far as Science has been able to determine three such experiments are going on in the United States, though others are being conducted abroad. Here, one is being conducted by toxicologist Philip Shubik at the Eppley Institute of the University of Nebraska. Shubik reportedly has found no evidence of tumors in hamsters who have been fed saccharin for a year and a half now. Another study has just been completed at Albany Medical College where Frederick Coulston has been feeding saccharin (200 milligrams per kilogram body weight) to the rhesus monkeys for 7 years. He found no tumors or other forms of toxicity. A third monkey study is in its seventh year at the National Cancer Institute. Richard H. Adamson is feeding saccharin 5 days a week to a group of ten monkeys. At doses of 25 milligrams per kilo, his animals are consuming about 40 times what an average person might consume. Because Adamson intends to follow them for their lifetime, he has no histopathological data, but a variety of clinical tests indicate the animals are perfectly well.

Adamson's studies obviously are not definitive. Neither, for that matter, are Coulston's, involving as they did fewer than a dozen animals. But they are suggestive, and what they suggest is that saccharin does not cause cancer. In addition, a recent report from Britain indicates once again that saccharin is not metabolized in rats, rabbits, or human beings. Epidemiological studies in man, though admittedly imperfect, provide no evidence that bladder cancer occurs more frequently in saccharin users.

SACCHARIN'S ALLEGED BENEFITS

A few of these issues were raised at the recent FDA saccharin hearings—especially the point about the validity of rats—but, in general, attention focused on the other important part of the saccharin equation. Is saccharin medically beneficial? Should it be classified as a drug? Should the Delaney amendment be changed or should Congress grant saccharin a special exemption?

Representative James Martin (R-N.C.) led off with a plea to FDA to "allow an extended grace period before the ban falls shut," so that Congress can "refine our food additives policy free from the pressure of the extreme public reaction of which we have had only a taste." Martin, who has received 6000 prosaccharin letters from constituents, estimates that altogether legislators have heard from a million angry citizens. He is chief sponsor of a House bill (193 representatives are cosponsors) that would "modernize" the Delancy amendment by introducing the risk-benefit concept to food additives, much the way it now applies to drugs. (Various other prosaccharin bills also are in the hopper, sponsored or cosponsored by an additional 50 members of Congress.) Martin says that Congress cannot give the matter careful attention during the next couple of months because the House Interstate and Foreign Commerce Committee, which has jurisdiction over the saccharin bills, is busy dealing with President Carter's Comprehensive Energy Act. Therefore, Martin asked the FDA to hold off on its saccharin ban. In addition to pleading for more time, Martin, who holds a Ph.D. in organic chemistry, claimed saccharin is beneficial in "helping people stick to their diets," and he called the rat studies "at best a flimsy scientific basis for predicting any incidence of cancer in humans."

The majority of witnesses at the hearings seemed to be against the FDA and for saccharin, many of them arguing with "anecdotal evidence" that saccharin meets a real need. One woman, unaccompanied by before and after pictures, presented herself as living proof that diet foods help people lose weight. Several witnesses alluded to the virtues of saccharin in reducing obesity, heart disease, and the complications of diabetes.

Representatives of the American Diabetes Association's "Heart of America" affiliate came from the Midwest to testify that diabetics need saccharin to "enhance their quality of life." One of them spoke of "soda without fear." Another, a psychiatrist who treats diabetic children and adolescents, said they need saccharin so they can snack with their peers. It is necessary, she said, to their "psychosocial development."

A spokesman for Procter & Gamble, makers of saccharin-containing Crest and Gleem, told the FDA that if saccharin is banned from toothpaste there could be a "major increase in dental disease," as people by the thousands stop brushing twice a day.

NO EVIDENCE SACCHARIN WORKS

Countering such testimony were declarations by antisaccharin forces that there is no evidence it is good for anything—scientifically speaking. What few studies have been done to compare dieters or diabetics who use saccharin with those who do not have shown no benefit from saccharin, consumer advocate Sidney Wolfe of the Nader-affiliated Health Research Group rightly pointed out. He added that in some cases saccharin may

actually make things worse. Saccharin, Wolfe claimed, has been shown to *lower* blood sugar, which in turn increases appetite and, among diabetics may actually contribute to the onset of hypoglycemia and insulin shock.

In addition to arguing that saccharin has no proven benefit, Wolfe testified that, in his view, the risks are proven. He referred to 11 different long-term "laboratory studies" in which saccharin has caused cancer. "Some of these studies were less than perfect by today's standards," Wolfe admitted, referring to a continuing problem in evaluating the relatively large amount of saccharin data that have accumulated over the years. "Nevertheless, the consistency of the findings should have compelled a saccharin ban years ago," he said.

In fact, when FDA commissioner Kennedy picked up the ball on the saccharin ban he was handed upon taking office, he went to some effort to point out that it was not *just* the Canadian but the accumulation of evidence that saccharin is hazardous that persuaded him the ban is proper. Furthermore, Kennedy believes a saccharin ban is justified in light of current concern about environmental carcinogens. "We should not," he says, "allow even weak carcinogens in the environment if we can help it. Our systems may already be overloaded."

The many assessments of saccharin give equivocal evidence that it is risky, but there is even less proof that it is safe. As far as the other side of the equation is concerned, there have been no overall assessments of the *benefits* of saccharin, except for a preliminary evaluation of the situation in 1974 by the Institute of Medicine-National Academy of Sciences. At that time, the Academy was completing a study of evidence of saccharin's potential hazards, and the Institute was making ready to consider whether there are grounds for reclassifying it as a drug, were the Academy group to recommend its being banned from food. When the Academy declared the data were not strong enough to ban saccharin, the Institute shelved its saccharin-as-a-drug study. However, reporting for the Institute, pharmacologist Kenneth Melmon of the University of California Medical Center at San Francisco said, "The data on the efficacy of saccharin or its salts for the treatment of patients with obesity, dental caries, coronary artery disease, or even diabetes has not so far produced a clear picture to us of the usefulness of the drug." On the other hand, Melmon says, "There isn't any good evidence that saccharin causes human cancer either."

No one really knows what to make of all of this contradictory and inconclusive information. But many scientists are beginning to join the politicians and the average citizens who think that the FDA may have acted in haste. Whatever the case, it will be unfortunate if a serious—and needed—discussion about possible changes in the food and drug law is clouded by the saccharin debate, with all its ambiguities and emotionalism. The underlying issues about the role of the FDA are too important; saccharin is too trivial a vehicle to carry them.—B.J.C.

U.S. Health Will Be Jeopardized if Delaney Clause Is Abandoned

(By Dr. William Lijinsky)

The Delaney clause, forbidding addition to food of any substance found to induce cancer in man or animals, removes discretion from the regulatory agencies. These agencies are subject to great pressure, both direct and indirect, from those with an economic stake in the matter, to set tolerances for carcinogens The current argument about the widely used food additive saccharin is whether we should trust manufacturers, or anyone else, to decide whether the additive is safe to use, even though it is a carcinogen. As then Secretary of Health, Education & Welfare Arthur Flemming said in 1960 at the time of an argument similar to that over saccharin, no one knows how to set a safe tolerance for a carcinogen and, therefore, no cancer-causing substance can be legally added to food. That is the reason for the Delaney clause, which I strongly support.

It is not unexpected, nor unreasonable, that manufacturers that will be hurt economically by such a ban will use all of their economic clout to oppose it. However, neither can they claim to be objective in their view of the matter, nor to have the interest of the public as their guide. So let us examine the scientific evidence supporting the Delaney clause, and why the future health of Americans will be jeopardized if it is abandoned.

In this paper, I will first discuss the basic principles and methods of toxicological testing in animals for carcinogenicity of chemicals, and some widely held misunderstandings of these principles and practices. I will then discuss the saccharin case and the Delaney clause as applications of these principles, and explain why I believe that the Delaney clause should be preserved intact.

First, a few observations on chemical carcinogenesis in man. It is a sobering fact that every day 1000 Americans die of cancer. The probability that a majority of these cancers are caused by chemicals shows why there is such concern over the presence of carcinogens in the environment.

If, as this implies, cancer is a preventable disease, a major effort should be devoted to identifying cancer-causing substances to which people are exposed and to removing them, or at least to reducing exposure to them as much as possible. Although it is certain that nobody is in favor of carcinogens, past and present arguments over how to go about eliminating these substances have centered on their identification, and on whether a little of them is acceptable, even when a large amount is not.

The association of cancer with chemical substances in the environment goes back more than 200 years, when the surgeon Percival Pott related the scrotal cancer of chimney sweeps to their exposure to soot. But widespread interest in this association has burgeoned only in the past 20 years or so. The causes of death that were most common in the 19th century have been greatly reduced through better sanitation and better care, and cancer and circulatory diseases have now assumed the place of infectious diseases as the most common cause of death.

There is growing evidence that cancer and circulatory diseases are both related to our life style, rather than to genetics, and therefore are inherently preventable. Few would deny that cigarette smoking is a major factor in the large, and growing, incidence of lung cancer in most western countries. Epidemiological studies of cancer rates in Japanese people strikingly show the major influence of environment and life style in the induction of cancer. Japanese living in Japan have a low incidence of colon cancer and of lung cancer, but a relatively high incidence of stomach cancer. First- or second-generation Japanese living in Hawaii have a very similar cancer pattern to those living in Japan. However, Japanese of third and subsequent generations in Hawaii or the continental U.S.—who have to a large extent adopted an American life style—show the same pattern of cancer as the bulk of the American population, namely high incidence of colon and lung cancer and relatively low incidence of stomach cancer.

So it seems that the environment is very much involved in cancer. But where and how do we look for the carcinogenic agents? In the beginning, industrial cancers were the most obvious ones seen. For example, bladder cancer of dye workers in the Ruhr was related by Ludwig Rehn in 1895 to exposure to aromatic amines. Skin cancer of creosote workers, wax pressmen, and workers in the shale oil and coal tar industries was related to polynuclear hydrocarbons in materials to which these people were exposed. More recently, rare cancer of the liver found in some people who worked in plastics plants was related to exposure to vinyl chloride. To these must be added cancer of the vagina in young women whose mothers were given diethylstibestrol during pregnancy. All of these associations were made because the cancers observed by alert physicians were rare in the rest of the population.

But how could we make such associations if the chemicals happened to cause cancer of types commonly found in the rest of the population? And what might be causing these common types of human cancer, anyway? Such common cancers are lung, breast, colon, pancreas, stomach, bladder, esophagus, and leukemia—each causing the death of more than 10,000 Americans every year.

History of Carcinogen Testing

In an effort to identify the causes of these cancers we have to turn increasingly to the testing of chemicals for carcinogenic activity. It is these tests which are currently the subjects of such intense debate. As do all tests, they suffer from imperfections and lack of precision. But they are certainly better than no tests at all, and when they do raise the warning flag of potential cancer-causing activity by a chemical, they cannot be ignored.

Animals have been used for centuries as surrogates for people in assessing the effects of therapeutic and other agents which might later be used in humans. It has not been common to carry out experiments in man without preliminary studies in animals. Were the results of tests of chemicals in animals not useful as predictors of their effects in man, few pharmaceutical compounds would be developed and introduced these days, and mankind would, no doubt, suffer as a consequence. This is true whether the tests in animals are to demonstrate a desired biological effect or the absence of an unwanted effect—for example, toxicity.

The induction of cancer is one such biological effect that has been observed in experimental animals during the 70 years since the first studies of experimental carcinogenesis. These studies were in 1906 and involved treatment of rabbits with a dye, scarlet red, proposed for use as an anticeptic. The dye was painted on their ears, and the rabbits developed skin cancer at the site of application.

In 1915 two Japanese scientists, Katsusaburo Yamagiwa and Koichi Ichikawa, painted coal tar on rabbits' ears—and again skin cancers developed there. Exposure to coal tar was known to be related to the common skin cancers in workers in that industry. This demonstration was the first example of a known carcinogenic agent producing similar results in laboratory animals.

This finding was followed up during the 1920's and early 1930's by Dr. Ernest Kennaway and his coworkers in London who, after a series of revolutionary experiments combining chemical analysis and biological testing, isolated a cancer-causing chemical, benzo[a]-pyrene, in pure form from an environmental source, coal tar pitch. The isolation was made easier, though hardly simple, because of the intense fluorescence in ultraviolet light of this compound. It was possible to follow the compound through the fractionation procedure, because the carcinogenic activity in rabbit and mouse skin seemed to parallel the degree of flourescence of the fractions. Nevertheless, it took almost 10 years to obtain 5 grams of benzo[a]pyrene from 2 tons of coal tar pitch.

Work on polynuclear hydrocarbons and their carcinogenic effects is still going on, and attention still focuses on benzo[a]pyrene in tobacco smoke, air pollution, petroleum prod-

ucts, solvents, and cooked food. A natural outgrowth was study of the mechanism of action of this and similar chemical carcinogens, work which continues to this day.

PARALLEL CARCINOGENICITY IN MAN AND ANIMALS

Thus was begun the ever-expanding investigation of chemical carcinogenesis, which can nowadays be called, more comprehensively, environmental carcinogenesis. This investigation has developed along two lines:

Continuation of the pioneering medical studies of Pott, Rehn, and others into the relation between cancer incidence in man and exposure to enviromental agents—which is categorized as cancer epidemiology.

Investigation of the chemical nature of carcinogenic agents and their mechanism of action. This involves testing a great variety of chemical substances for carcinogenic activity in experimental animals, with the aim of revealing the types of chemicals that present a cancer hazard to people, as well as the way in which they do this.

So far, the relation of these two lines of investigation has been close. Epidemiological studies in man have directed us to the identification of certain substances which are carcinogenic in man, and these substances have been found equally and simultaneously to produce cancerous tumors in experimental animals.

In fact, the parallel is so close that almost all substances known to be carcinogenic in man have had the same effect in some suitable animal model. Polynuclear compounds show this parallel effect in man and animals, for example, especially as mixtures. Aromatic amines—2-naphthylamine and benzidine among them—are associated with bladder cancer in dye workers and also induce bladder tumors, as well as tumors of other organs, in dogs and hamsters. Several metal oxides and sulfides (such as nickel, cobalt, and cadmium) and other inorganic compounds (for example, beryllium salts, chromates, and asbestos) have been related to cancer in industrial workers and also have given rise to a variety of tumors in experimental animals.

In parallel fashion, several compounds that were tested for a variety of reasons were first shown to be carcinogenic in experimental animals, and these results later turned out to be accurately predictive of the compounds' carcinogenic effects in people exposed to them. A good example is vinyl chloride. It was found to induce liver cancer when inhaled by rats. A few years later, the same type of liver cancer—which is rare in humans—was diagnosed in factory workers who had been exposed to relatively high concentrations of vinyl chloride vapor.

Similarly, diethylstilbestrol (DES) was shown to cause cancer in mice more than 20 years ago. During the past few years, a rare cancer of the vagina developed in several young women who had been exposed in utero to DES (their mothers took it in quite small doses while pregnant).

The DES case illustrates several factors which are important in using experimental animals to test for carcinogenicity and then trying to use the results to predict possible carcinogenic effects in man. First, animal tests are predictive of carcinogenicity in man, who is not an exceptional species in this regard. Secondly, there is a dose-response effect: Larger doses of carcinogen given to experimental rodents make tumors appear within two years (untreated rodents normally live only a little longer than that), whereas the comparatively small doses to which people are exposed make tumors appear in them only after a much longer time. Thirdly, not all of the exposed people developed the cancer, suggesting a considerable variation in susceptibility to the carcinogen (which might have something to do with genetics), just as we find in experimental animals.

ANIMAL TESTS FOR CARCINOGENICITY

Since most of our information about carcinogenesis has been obtained from experiments in animals, it is appropriate to describe such studies and to catalog what they have told us about carcinogenesis. Carcinogens elicit the maximum tumor response, dose for dose, when they are administered as a large number of small doses, rather than in a small number of large doses. This is almost universally true of all classes of carcinogen. Usually a single dose, however large, of most carcinogens does not give rise to tumors.

The response of animals to carcinogens depends upon the site of application. Some classes of carcinogen act mainly at one site and not at all at other sites. For example, polynuclear hydrocarbons act mainly on the skin and to a lesser extent on the lungs.

Even if we accept the probability that a majority of human cancer is caused by chemical factors, we are faced with a dilemma, since exposure to chemicals in the workplace seems to account for only a small proportion of chemically induced cancers. The dilemma is that we cannot prevent exposure to all foreign chemicals without sacrifice of what we call civilization, and yet we do not have adequate methods of determining which chemicals are carcinogenic and which are "safe."

It is quite likely that humans are exposed to a large number of chemical carcinogens in quite small amounts, rather than to large doses of a single carcinogen such as we administer to animals in the course of a test. Accumulation of the effects of these small doses—sometimes supplemented by relatively large doses of unusual carcinogens, as in the workplace—leads to cancer. That is why we cannot say that such and such a carcinogen causes cancer in man.

Instead we say that exposure to a carcinogen increases the risk of developing cancer—the higher the exposure, the greater the risk. Therefore, it is unwise for anyone to predict how many cases of cancer will result from exposure of people to a particular amount of carcinogen.

Both human data and the results of animal experiments tell us that individuals vary greatly in their susceptibility to the effects of carcinogens, but we do not know how to identify those most at risk. Not everyone exposed to materials containing polynuclear hydrocarbons develops skin cancer. Not everyone who smokes a lot of cigarettes develops lung cancer (although in this case the problem might be much more complex than simply exposure of the lungs to identifiable carcinogens in the smoke). Not everyone who worked with 2-naphthylamine or benzidine developed bladder cancer, although 20 to 25% did. In animal experiments, a fixed dose of a carcinogen, for example nitrosomorpholine, caused the death from liver cancer of one of a group of rats within six months. Other rats died of the same cancer at intervals over the subsequent 18 months, and a few rats died late in the experiment without tumors. Here again, the experience with humans and experimental animals is very similar.

Other carcinogens act at distant sites whatever the route of administration, a type of action shown by aromatic amines (which cause bladder tumors even when fed), and by aflatoxins and nitrosamines. Nitrosamines thus cause tumors in a great variety of organs (depending on the chemical structure of the nitrosamine), whether inhaled, injected, or given by mouth. Nitrosamines seem to be most effective when given orally, an important consideration since the most common human exposure to them is through their formation in the stomach from amines and nitrite.

There are significant differences in response of different species to a given carcinogen. This difference can be tumors versus no tumors, or it can be one type of cancer in one species and another type of cancer in a second species.

For example, polynuclear hydrocarbons applied to the skin of mice or hamsters induce skin tumors, but the response of rats is very much lower and guinea pigs do not respond at all. Man, of course, responds with skin tumors. Aflatoxins are very potent liver carcinogens in rats, but mice are almost totally resistant to their action. Aromatic amines give rise to bladder cancer in man, dogs, and hamsters, but they are much less effective carcinogens in rats and mice, including mainly liver tumors. And nitrosamines have not been related so far to any particular human cancer, but they induce tumors in all species of animal tested, and show very different tumor responses from one species to another. For example, 2,6-dimethylnitrosomorpholine induces cancer of the pancreas in hamsters but not in rats, in which instead it causes esophageal tumors.

This suggests that there is no way in which we can predict from animal experiments which type of tumor could be induced in man by any particular compound. It might be the same target as in the animal, or it might be a different target. However, it cannot be assumed that a compound that is carcinogenic in animals would not have a carcinogenic effect in people. Indeed, because of the refractoriness, largely unpredictable, of some species to the action of some carcinogens, it cannot even be assumed that a substance shown to be nontumorigenic in animals is necessarily without effect in man. But we have to draw the line somewhere, and to assume the worst would be to ban all foreign chemicals on the ground that they *might* have a carcinogenic effect in some susceptible person. Only the most radical would espouse such a view.

DIFFICULTIES IN ANIMAL TESTING

The most misunderstod aspect of toxicity testing is the use of very large doses in experimental animal studies, particularly in rodents. There is a wide spectrum of susceptibility to the effect of a toxic substance, and statistics must be applied to arrive at an E_{50} dose (the dose at which one expects half of the animals to show the effect). When the effect is death, the number is called LD_{50}, or the lethal dose that will lead to death of 50% of the animals. A similar number can be arrived at for induction of a tumor of a particular type, or the death of the animals from tumors. These numbers are, of course, estimates, since the size of the groups of animals is small.

In the specific case of testing compounds for carcinogenic effects, the problem is more complicated than in looking at a definite end point, such as death. However carefully we do the animal experiments, there are large variations, biological and chemical, which render the tests imprecise. As discussed previously, carcinogens are most effective when given as many doses over an extended period, often the life span of the animals. The animals increase in weight during the course of the treatment, and grow at different rates, and it is impossible to deliver exactly the same dose to each animal each time. Unless the tests are to be enormously expensive, the animals are housed in groups, and the consumption of food or water in which the test compound is incorporated will be an average, rather than a specified amount for each animal.

Assuming that the chemical administered is a carcinogen, a certain proportion of animals in the group will develop tumors, which may or may not lead to death. The animals will be approximately the same age when the treatment starts, usually six to eight weeks. One end point of the test, then, is to kill all the animals at a fixed time, usually two years after the beginning, and to count the number of animals with tumors

at that time. The other approach is to let the animals die naturally and to use the average or median age at death as an index of the carcinogenic effectiveness of the treatment, assuming that the tumors kill the animals.

Using the first approach, a larger number of animals with tumors would indicate greater carcinogenic effectiveness. By the second approach, the carcinogenic treatment that caused death from tumors at an earlier average or median age would be considered more effective.

In either case, it is the pathological findings that are the essence of the tests. All such tests have to include a comparison with a control group of untreated animals. It is not simply that the animals treated with a carcinogen develop tumors and the controls do not All types of experimental animals develop tumors, including the rodents commonly used in carcinogenesis tests. The tumors appearing in untreated animals we call, perhaps unjustly, "spontaneous tumors"—mainly tumors of the breast and endocrine organs, most of which are "benign." However, control animals almost always develop a few tumors of the liver, kidney, brain, and other organs, but at a very low incidence, perhaps one in 100. We do not know and cannot speculate about the cause of these "odd" tumors.

If only a very small group of animals were used in a test, it would be impossible to demonstrate a significant carcinogenic effect. Therefore, minimal sizes of groups have been established for such tests. The number is usually 50 males and 50 females, a total of 100 animals.

A single test of one chemical usually consists of three dose groups of this size and preferably two species. Such a test on the 600 animals involved over a period of two years usually is estimated to cost about $150,000, setting economic limits on the maximum numbers of animals used.

If the group of animals to which the test substance is given develops a number of tumors that are not seen in untreated controls, then we say that the substance is a carcinogen. But how many tumors of, for example, the liver, lung, esophagus, or bladder are needed before we conclude that there is a carcinogenic effect? Obviously not one or two, since we might expect this number by chance. The number usually accepted as statistically significant is five. This is not to say that a test of a substance which induces four kidney tumors in a group of animals demonstrates the absence of a carcinogenic effect, but only that within the limits of the test a carcinogenic action is not proved.

In such a test, then, we would assume that diagnosis of an induced (meaning nonspontaneous) tumor of a certain type in four animals would not suggest a carcinogenic effect of the chemical, even though 4% of the animal population under test developed that tumor. Translated to the U.S. population, that would be equivalent to 8 million people. On the other hand, a finding of this tumor in five of the 100 animals would be considered statistically significant, and that would be equivalent to 10 million Americans.

Any substance which, when tested at the doses to which people are exposed, gave rise to an incidence of tumors greater than 5% in a group of experimental animals would, I think, be considered extremely hazardous. In practice, we never would find such a substance. Instead, we are looking for carcinogens to which man is exposed in very low doses, or for very weak carcinogens, and the continuing debate is about means of identifying them.

WHY HIGH DOSES ARE USED

A prime subject of controversy is use of high experimental doses on animals, doses which critics often charge are "unrealistic" compared to human consumption of food additives. The sensitivity of animal tests to weak carcinogens or to low doses of strong carcinogens is not very great. Thus, our tests have to be designed to compensate for the weakness in them.

The first problem is that experimental rodents live for only two years or so, and this must represent a possible human exposure of 50 to 60 years. So we increase the dose given to the animals above that reasonable for man, to compensate for the difference. It is most probable that tumors appear late in the life span of man, because of his exposure over many years to low doses of carcinogens. This is exactly the pattern observed in experimental animals—the lower the dose, the later in the life span the tumors appear.

Similarly, because of the statistics of the animal experiments, should we wish to detect a carcinogen that might cause cancer in 0.01% of the U.S. population (which would amount to 20,000 people), at the dose to which it is exposed, the dose given to the experimental animals must be greatly exaggerated. As has been mentioned, carcinogens evoke a dose response: The higher the dose, the earlier tumors appear, and the larger the number of tumors in any given group of test animals.

Of course, there is the alternative of using a group of 50,000 animals to test the substance, so that we could pick up the minimum of five animals at an incidence of 1 in 10,000. It is not necessary to dwell on such a ridiculous suggestion, which would mean devoting all our conceivable animal and manpower resources (especially pathologists, who are few in number) to the testing of a handful of compounds, to say nothing of the costs involved.

SACCHARIN CARCINOGENICITY

Let me turn now to the specific case of saccharin, about which a furor rages based more on emotion than on interpretation of scientific evidence. It is strange that many scientists, who are usually so logical, cannot accept the sound basis of toxicological testing when the results implicate as hazardous such a widely used substance as saccharin.

There have been many tests of saccharin for chronic toxicity during the past 20 or 30 years. Several of these were "suspicious," that is showing tumor incidences on the borderline of significance; others were negative. It was thought that some of the equivocal results might be due to the presence in saccharin of a common impurity, o-toluenesulfonamide (a starting material in the synthesis).

The recent Canadian tests—which were excellently conducted—used both saccharin and o-toluenesulfonamide (OTS) to settle the point. For reasons already explained, each compound was given separately to rats mixed in food at quite high doses, up to 5 percent of their diet, during their lifetime. In one part of the test, saccharin was also given to pregnant rats and then to the offspring for their lifetime.

In both types of saccharin tests, a significant number of urinary bladder tumors occurred in treated rats. As would be expected, there were more tumors in animals treated transplacentally. (Fetuses are often much more sensitive to carcinogens and teratogens than are children or adults.) However, there was no significant incidence of tumors induced in rats given OTS only. It was concluded that saccharin is carcinogenic and that OTS is not. Because this was the outcome, a host of authorities has questioned the validity of the tests. Had these shown that OTS was carcinogenic and saccharin not, I am sure that few would have questioned the validity of the tests, and the only pressure would have been to purify the saccharin.

What do the results of this test—and tests of other compounds that result in a significant incidence of tumors—mean? They do not mean that everyone who takes saccharin will develop bladder cancer, nor necessarily any other type of cancer. We do not know which organ of man might be the target of saccharin. Were the target organ the colon, for example, we should never know that some cancer is caused by saccharin, since the incidence of colon cancer is so high from other causes (equally unknown, incidentally).

Nor do the Canadian test results mean that saccharin has the same effect in all people who take it. They do mean, however, that among substances to which we are exposed, saccharin presents a substantially higher carcinogenic hazard than compounds that are not carinogenic in animal tests—o-toluenesulfonamide, for example. Because of the special sensitivity of the fetus and small children to carcinogens, it is most important to avoid exposing children and pregnant women to saccharin.

The most controversial aspect of the saccharin problem, and that of all food additives found to be carcinogenic, is application of the Delaney clause of the Food Drug & Cosmetic Act of 1958. This states, inessence, that no substance can be allowed as a food additive that induces cancer in man or animals. Use of the substance is not permitted at any level; there is no tolerance. The law takes this position because there is no way of establishing a safe threshold dose of a carcinogen.

Even though one might agree that there must be a no-effect level, we do not know how to determine what that is. In an animal test of reasonable size, it would not be possible to establish a dose level that would guarantee the safety of even 95% of the population. As discussed earlier, to determine a dose that would protect the most sensitive 0.01% of the population from any carcinogenic effect of the compound would require that 50,000 test animals would show no significant incidence of tumors compared with 50,000 untreated controls. And even that would not be good enough since 20,000 people might still be at risk. Also, in most cases we do not know whether man is more sensitive or less sensitive than the experimental animals to a particular chemical carcinogen.

In trying to set a threshold, still other problems arise. A safety margin would have to be included, as in all toxicity evaluations. This would probably reduce the permitted level of use of a compound below that at which it is useful, as has happened with several moderately toxic (but noncarcinogenic) substances.

The problem would be simpler if saccharin and other food additives were used occasionally—as are several drugs prescribed in dire circumstances even though they are carcinogenic. But the additives are not used occasionally. Instead, they are consumed in as large quantities as people can be persuaded to buy them. Since the effects of carcinogens are cumulative, the more that is taken, the larger the risk of tumor induction.

Moreover, there is growing evidence that carcinogens can act synergistically. That is, the effect of one carcinogen can potentiate the action of another, so that the total effect is greater than addition of their effects. In this respect, our animal tests do not serve as perfect models of the exposure of people to a carcinogenic substance. In animal tests we administer a single substance, while in man the effect of that substance is added to the effects of many other carcinogens to which he is exposed—those in tobacco smoke, for example.

The studies of Dr. Irving J. Selikoff of Mt. Sinai School of Medicine, New York City, are relevant here. They show that workers exposed to asbestos have a manifold higher incidence of lung cancer if they smoke cigarettes than either asbestos workers who don't smoke, or heavy smokers who have not been exposed to asbestos; asbestos increases the risk. Several experiments with nitrosamines

have also shown this type of synergism in carcinogenesis.

Because of interaction of the effect of one carcinogen with that of another—even if synergism were not involved, but simple additive effects—acceptance of a threshold for the large variety of food additives that might now, or in the future, prove to be carcinogenic would lead to a dangerous outcome. Assuming that 100 substances were so approved, each could be used at its threshold level. Their combined effects, added to those of possibly unavoidable carcinogens in the environment (unavoidable because we have not yet identified them), would provide a carcinogenic exposure that could be overwhelming. This is what must be avoided.

There are solutions to the dilemma, even for saccharin. Noncarcinogenic substitutes undoubtedly can be found, since most substances are not carcinogenic. In fact, carcinogenicity is a rarity—contrary to popular opinion that "anything will cause cancer if you feed an animal enough of it." For example, a survey of compounds tested for carcinogenic activity (U.S. Public Health Service publication 149) shows that less than 20% of the compounds tested are carcinogenic in animals. Since the compounds were especially selected for testing because of strong suspicion of their carcinogenicity, one would expect a far lower percentage of carcinogens among chemicals in general.

Furthermore, it might be possible to do without the particular property, sweetness, imparted by this food additive. After all, mankind survived before 1879, when the sweetening effect of saccharin was discovered. It even survived before refined sugar became an article of commerce. We might be better off if we could do without either.

And, considering the personal disaster that cancer represents to those who develop it, as well as to their families, we can do without any substance that is less than vital and for which there is any suggestion—let alone strong evidence—of cancer-causing effect.

TOLERANCE LEVELS CAN BE SET FOR CHEMICAL CARCINOGENS

(By Dr. Frederick Coulston)

On April 14, 1977, the new commissioner of the Food & Drug Administration, Dr. Donald Kennedy, reaffirmed FDA's decision to ban, or, if you wish, delist saccharin as a food additive. However, he stated that this action was taken not necessarily because of the Delaney clause; it would have been done anyway, even if the clause did not exist. In addition, he said that FDA will propose to continue use of saccharin as an over-the-counter item for sale in drugstores and supermarkets, just as aspirin or cough medicine is now available to the consumer, provided that there is medical evidence to prove that saccharin can be considered a drug.

The statement by the FDA commissioner that he did not need the Delaney clause in order to make the decision about saccharin is a key point, and must be considered by all that he did not need the Delaney clause is not necessary in this decision making, then what is its value in protecting consumers from unwanted food additives that may be imminent carcinogenic hazards to man?

In many interviews with the media before Kennedy's April 14 announcement, I expressed my astonishment that FDA had taken the action that it did—claiming that it was banning saccharin on the grounds that the Delaney clause forbids its continued use. And I said that it would be far better and more traditional for the agency to simply delist saccharin as a GRAS (generally recognized as safe) substance or food additive, considering it instead as a possible drug in over-the-counter use and sales—an action FDA now proposes to take.

Certainly, no thinking person, either at the Canadian Ministry of Health or at FDA considers saccharin to be an imminent carcinogenic hazard to man. If they did, remaining supplies of saccharin and diet foods on the shelves would be banned and destroyed immediately. It is indeed noteworthy that the new commissioner now has accepted the approach that should have been followed at the beginning of the saccharin controversy. The fact that the Delaney clause did not have to be invoked to ban saccharin emphasizes the need to re-examine the intent of the clause and its importance for the consumer and FDA.

However, before the Delaney clause can be discussed in any detail, it is important to understand the role of the toxicologist in these difficult situations. His responsibility is as simple to state as it is difficult to achieve: The toxicologist must assure the safety of man as he is increasingly exposed to chemical agents.

The human race has been exposed for hundreds of years to such chemicals as arsenic, lead, fluorine, copper, pyrethrum, natural flavors, and spices. Proof of safety was relatively simple in the past, compared with that needed for chemicals of the present day. The proof of safety simply consisted of the experience of man himself. If man got sick from too much arsenic or lead, the signs and symptoms were very readily recognizable and were well documented as early as the era of the ancient Greeks and Romans. Man himself, rather than animals, was the species of choice for the actual determination of toxicology.

In modern times, man has been exposed to hundreds and hundreds of new synthetic chemicals that are used as feed and food additives, pesticides, and medicines, and with which he has had no previous experience. Furthermore, chemical intermediates and metabolites, apart from their original purpose, manage to find their way into man and affect the normal physiological state. No one can deny the importance of these chemicals to general human welfare, but we must always assure man's safety as he is increasingly exposed to them.

Traditionally, toxicology is a study of poisons as they affect man, plants and animals. The modern concept of toxicology applies a multidisciplinary approach, combining pharmacology, biochemistry, and pathology. Toxicology thus includes safety evaluation of the injurious effects of chemicals, drugs, natural products, and physical agents on the physiological states and pathological conditions of cells and tissues in plants, animals, and man.

We enjoy unmatched nutritional abundance and a superior level of health in every great part because of the inventiveness of chemistry in reshaping our food supply and our environment. Indeed, man can and must control his total environment in order to survive. Our interest today is not only in the pace of chemical synthesis, but in the character of it. To consideration of acute toxicity of chemicals, we must now add concern with chronic and cumulative reactions. Another very important problem is that of one or more chemicals acting in a way that interferes with or augments the effect of another chemical. Only recently have we begun to understand the chemical-chemical interactions that contribute to metabolic toxicities.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. If the distinguished Senator from Texas should withdraw his amendment, will that prejudice the right of another Senator to introduce the same amendment?

The PRESIDING OFFICER. Will the Senator restate his point?

Mr. CURTIS. Should the distinguished Senator from Texas withdraw his amendment, would that prejudice the right of any other Senator to introduce the same amendment?

The PRESIDING OFFICER. The answer is no.

Mr. CURTIS. I thank the Chair.

Mr. TOWER. Mr. President, what the distinguished Senator from Wisconsin has just presented is a dialog between himself and Mr. Kennedy, the head of the FDA, who does have some very strong views on the matter.

The testimony of other doctors engaged in diabetes management was referred to, but no evidence was presented by them or in their behalf before the committee.

I think that demonstrates the need to have a thorough look at this whole business of risk versus benefit ratio. The scientific community is obviously in disagreement on the matter. I believe in the orderly legislative process. Given the assurances made by the Senator from Massachusetts and the commitment by the distinguished majority leader, I am prepared to withdraw my amendment, because I have those assurances that the matter will be acted on in an expeditious way.

But I would hope that we could act in a timely way, and in the absence of that, obviously there are those of us who are going to be interested in looking at future vehicles that come to the floor to assert ourselves on this matter, that this very arbitrary step not be taken until such time as there is very conclusive proof that we would be risking the health and even the lives of citizens in terms of the risk-benefit ratio.

Mr. JAVITS. Mr. President, will the Senator yield briefly?

Mr. TOWER. I yield.

Mr. JAVITS. Mr. President, I would like to join the majority leader in saying that I appreciate what the Senator has done in stimulating discussion and keeping our feet to the fire. I would like to join the Senator from Massachusetts (Mr. KENNEDY) and the ranking minority member of the Health Subcommittee, the Senator from Pennsylvania (Mr. SCHWEIKER) in their assurance to the Senator from Texas of the most expeditious possible handling of this situation.

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. SCHWEIKER. Mr. President, I thank the Senator from Texas for taking this reasonable approach. As the Senator from Massachusetts has indicated, I have been active in our Health Committee and have basically advocated a position like that of the Senator from Texas, the Senator from California, and the Senator from Louisiana. We do have a bill in our subcommittee now that I think represents a reasonable approach to the saccharin issue, which delays the bar for 18 months. I have been assured, as the Senator from Texas has, that we are going

to have a reasonable timetable for committee action so that the Senate will have the opportunity to consider and act on saccharin legislation. I would like to say that the Senator from Massachusetts has been very fair in helping to expedite this matter, and there has been no attempt to delay or frustrate our efforts to get prompt action on saccharin-related legislation.

I am aware that there is a controversial feature in the bill before our subcommittee. I certainly am going to try to see if we can resolve this issue satisfactorily, so that that will not become a roadblock.

I believe it is vital that we have more studies in this area. As much as the new Canadian epidemiology study has made the headlines, other epidemiological studies have been done, for example, by Dr. Kessler and by Dr. Wynder, which say just the opposite, which have not found any association between saccharin use and human bladder cancer. These studies are subject to publication in the Federal Register for comment and evaluation, too.

In addition, the Ames test has been performed on the saccharin used in the Canadian rat study. The results of this test indicate that it may well be that saccharin is not the culprit but that some impurities in saccharin may cause the cancer. If that is true, an 18-month period will give us the chance to identify and isolate the culprit impurities, and perhaps still be able to use saccharin safely. Research on these impurities is mandated by the bill now before our subcommittee. I believe this kind of directed research to find out what is the true culprit, that is, the impurities in saccharin or saccharin itself, will give us a chance to see if we can save saccharin for diabetics who wish to use it. I know this is of great concern to the Senator from Texas, as it is to me. I very much appreciate the Senator's reasonableness in this matter and I want to say I will do all I can to further the understanding we have reached here today.

Mr. TOWER. Mr. President, given these assurances and based upon the debate we have had, I withdraw my amendment.

Mr. ROBERT C. BYRD. Mr. President, I express appreciation to the distinguished Senator from Texas for withdrawing his amendment.

I ask unanimous consent that on the amendment of Mr. DOLE, in order that the Senators may be conversant, Mr. DOLE may have 2 minutes and Mr. INOUYE have 2 minutes before the vote.

SACCHARIN

Mr. DOLE. Mr. President, the Senator from Kansas joins his colleagues in recognizing that the saccharin question has grown into one of the most controversial—and emotional—issues that has come before Congress in quite some time. There is strong support for each side of the issue, and no clear-cut, easy answer, as was demonstrated earlier today.

This matter is best understood, explained, and debated by scientific and medical experts. I do not intend to compete with their expertise. However, it is perhaps presented most clearly to the layman in terms of risks versus benefits. One side believes that recent saccharin studies reveal definite dangers associated with the intake of saccharin. Advocates of this position feel that the risk is sufficient to call for a total ban on saccharin.

The opposition will generally admit the possibility that saccharin may lead to cancer, but maintains that the benefits associated with saccharin far exceed any risk factor.

I do not propose to choose sides, but do suggest that before any ban is imposed, more time is needed to study the scientific data and to analyze the far-reaching effects that a saccharin ban would have on diabetic and obese Americans.

The House of Representatives adopted an amendment to the agriculture appropriations bill that would prohibit the Food and Drug Administration from banning saccharin for 15 months. I have difficulties accepting this approach, and would like to see Congress have an opportunity to tackle this problem in an orderly, rational manner. It needs more attention than such an amendment can provide.

While I am pleased that the Senate did not accept the House amendment, I recognize our responsibility to move quickly on legislation dealing with this issue. I am glad for today's assurances that the Senate and House authorizing committees are already working on legislation to deal with the saccharin controversy.

Mr. President, I would like to remind my colleagues that yesterday I reported to the Senate that I have requested the General Accounting Office to conduct an audit of the National Cancer Institute. The purpose of the audit is to evaluate the programs and functions of the Institute, and to review the methods used in cancer research.

In addition, I specifically emphasized my interest in the relationship between nutrition and cancer, and asked whether research in this area would be accented in the future. I am hopeful that such an audit might shed new light on the saccharin controversy.

I am reassured to hear that bills will soon be reported to the Senate and House which will allow us a chance to deal legislatively with this matter.

I look forward to working on this in the near future.

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that Barbara Washburn, of my staff, be granted the privileges of the floor during the consideration of the pending measure.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

UP AMENDMENT NO. 593

Mr. DOLE. Mr. President, there has been some discussion since the amendment was offered that I am trying to deprive producers of any payments under the sugar program. The Senator from Kansas felt it necessary to make very clear that we are not depriving producers. We are not suggesting that processors cannot get, say, $1 million in payments if they pass it on to producers.

All this amendment does is name the large corporate entities we have talked about so much in farm legislation on a unanimous basis in our committee. We ought to worry about farmers and not corporations. We ought to limit payments to $50,000. This was done in 1972 in this body with the amendment of the distinguished Senator from Indiana. It was done in 1971 and 1973.

The Senator from Kansas wants to make it very clear so there is no misunderstanding. The amendment was drafted by the counsel of the Senate Agriculture Committee. We are not suggesting that we are going to deny processors payments if those payments are passed on to producers. We are only suggesting that producers should not receive more than $50,000 from the Federal Treasury. That seems to this Senator to be a reasonable amount of money for the taxpayers to provide. The same provision is true for wheat, cotton, rice and feedgrains.

It does not do anything we do not do to other commodities, so far as limitations are concerned.

Mr. INOUYE. Mr. President, I yield my time to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I ask my colleagues in this body to save an industry which will go under if the Dole amendment is agreed to. We are asking equal treatment here. In 1976, corn cost the U.S. Treasury $184 million. Sugar received nothing.

We have an industry in Hawaii which directly employs 9,400 employees. If the Dole amendment is agreed to, that industry will go bankrupt.

We spend billions of dollars now trying to reduce the unemployment rate in this country. Surely, we would not want to put 9,400 additional employees on the unemployment.

The Dole amendment would reduce payments to Hawaii's producers from $42 million to less than $3 million. Right now, the sugar industry is operating below cost. Sugar is selling at less than what it costs to produce it. We are merely asking that the administration's program of providing 2 cents a pound any time the sugar price falls below 13.5 cents be approved by the Congress. As a matter of fact, the program has been approved under previous law.

The Dole amendment would treat the sugar situation, not only in Hawaii but in 21 other States, as though we have no law presently providing for such subsidy.

Sugar receives no subsidy now. Equal treatment would mean that we defeat the Dole amendment. I urge the defeat of the Dole amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that the distinguished Senator from Indiana (Mr. LUGAR) and the distinguished Senator from Iowa

(Mr. CULVER), be made cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Kansas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. NELSON). The Senate will be in order. All Members will cease their conversations in the well and in the aisles.

The Senate is not in order. The well will be cleared. Senators will take their seats and cease their conversations in the aisles and in the well.

The Senate is not in order.

The clerk will proceed.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The Senate is not in order. The rollcall will not proceed until all Members are out of the well, out of the aisles, and at their respective seats.

The Senate is not in order. Will the Members who are conversing in the aisles and in the rear of the Chamber take their conversations to the cloakroom or resume their seats?

The rollcall will not be resumed until the aisles are cleared, the well is cleared, and the Members are in their respective seats. If they wish to carry on their conversations, they will please retire to the cloakroom.

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators will listen to the Chair. The Chair is trying to get order. The Senate is just being delayed in its work by virtue of the disorder.

The PRESIDING OFFICER. There are still Members and some staff conversing in the rear of the Chamber. Will they please cease?

Mr. ROBERT C. BYRD. Mr. President, if I may make a helpful suggestion to the Chair, I have had experience in sitting in that Chair, myself, a few times, once for 22 hours without stopping. If the Chair uses that gavel, they will listen. And do not be afraid of breaking it.

The PRESIDING OFFICER. I thank the distinguished majority leader. I was going to use time instead, since I am not leaving until Saturday, anyway. (Laughter.)

The clerk will resume the rollcall.

The legislative clerk resumed the call of the roll.

Mr. DOLE. Mr. President, regular order.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—54

Abourezk	Bellmon	Case
Allen	Brooke	Chafee
Anderson	Byrd, Harry F., Jr.	Clark
Baker	Cannon	Culver
Bayh	Danforth	Curtis
Dole	Javits	Proxmire
Domenici	Kennedy	Ribicoff
Durkin	Laxalt	Roth
Garn	Leahy	Schmitt
Goldwater	Lugar	Schweiker
Hansen	Mathias	Scott
Hart	McGovern	Stevens
Haskell	Melcher	Stevenson
Hatch	Metzenbaum	Thurmond
Hatfield	Nelson	Wallop
Heinz	Packwood	Weicker
Helms	Pearson	Zorinsky
Humphrey	Pell	
	Percy	

NAYS—44

Bentsen	Hathaway	Muskie
Biden	Hayakawa	Nunn
Bumpers	Hollings	Randolph
Burdick	Huddleston	Riegle
Byrd, Robert C.	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Johnston	Sparkman
Cranston	Long	Stafford
DeConcini	Magnuson	Stennis
Eagleton	Matsunaga	Stone
Eastland	McClure	Talmadge
Ford	McIntyre	Tower
Glenn	Metcalf	Williams
Gravel	Morgan	Young
Griffin	Moynihan	

NOT VOTING—2

Bartlett	McClellan

So the amendment was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, it is my understanding that those are the last known amendments on the bill.

Mr. SCOTT. Mr. President, I have an amendment.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 476

Mr. SCOTT. Mr. President, I call up my amendment No. 476.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment No. 476.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 13, after "$275,743,000" insert a colon and the following: *Provided*, That no portion of these funds may be utilized for the promulgation or enforcement of any prohibition of the continued use of saccharin as a food additive at existing levels, which would be in effect prior to September 30, 1978".

Mr. SCOTT. Mr. President, may we have order in the Senate?

I will be very brief.

The PRESIDING OFFICER. The Senate will be in order. Members who are discoursing in the aisles or in the rear of the Chamber will please retire to the cloakroom.

The Senator from Virginia.

Mr. SCOTT. Mr. President, I do not believe that any lengthy explanation of my amendment is needed. It provides simply—and it is just one sentence—to insert a colon, and the following:

Provided, That no portion of these funds may be utilized for the promulgation or enforcement of any prohibition of the continued use of saccharin as a food additive at existing levels, which would be in effect prior to September 30, 1978.

Mr. President, while we have a quorum on the floor, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, I understand that earlier today there was some discussion of the prohibition of the use of saccharin as a food additive.

Mr. President, I yield, for a unanimous request, to the Senator from Idaho.

Mr. MCCLURE. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that Frank Cushing of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that Kelton Abbot of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Mr. SCOTT. Mr. President, I believe that every Member of the Senate is familiar with the proposed action of the Food and Drug Administration to ban the use of saccharin as a food additive.

I believe that we are all familiar with the basis for this determination by the Food and Drug Administration. I think that perhaps the law may require certain modifications, so I do not lay the blame entirely with the Food and Drug Administration But I believe that the people of this country want the right to decide for themselves whether or not they should use saccharin. I believe that the regulation of the Food and Drug Administration, regardless of its purpose, is contrary to the overall public interest and that it should be remedied at this time. This is an opportunity to remedy it by restricting the use of Federal funds for such proposed ban for a year.

Once again. I could talk at length about this matter, but I do not believe that I would add at all to the information that the Members of the Senate already have.

(Mr. BURDICK assumed the chair.)

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. SCOTT. I yield.

Mr. NELSON. I ask the Senator from Virginia whether he is aware that in the colloquy this morning on the amendment of the Senator from Texas, it was pointed out that a bill to postpone the ban on saccharin was pending at that very moment in the Subcommittee on Health; that it was the intention of that committee to report a bill, and that it was the intenion of the majority leader to set aside time for that matter after the recess.

Mr. SCOTT. I am aware of that, and I understand that because of the commitments that were made, the Senator from Texas withdrew his amendment. I am not willing to go that far. I believe that the Senate should vote on this mat-

ter, because the bill that is now pending may or may not become law; and I believe that a majority of the people of this country do not support the proposed ban by the Food and Drug Administration. This is the only way to do it, at least temporarily.

This is just an amendment to an appropriation bill that would not have effect beyond the funds that are included in this bill, and it would not interfere with further action being taken by the Senate. I believe it is a good amendment, which was adopted recently by the other body, and it does seem to be a reasonable approach for the Senate to adopt, under the circumstances.

We can go ahead and change the basic law. I have a bill of my own that would amend the Food, Drug, and Cosmetic Act and would require Federal authorities to consider the beneficial effects of the continued use of saccharin. People who are overweight and many others need to use a sugar substitute for health or medical purposes. We could argue that the merits of this, that we should not just limit or ban saccharin sales on the basis of questionable testing of Canadian rats. We could talk about the quantity that a person would have to reasonably consume in order for it to be harmful. We could talk about many things related to this issue.

I do not intend to talk at length. I know that there are a number of measures that the Senate wants to consider. I believe that the distinguished Senator is fully familiar with the pros and cons, as I am and as every other Member of the Senate is. I am just asking for a vote on this amendment, and Senators can vote their convictions.

It does not in any way interfere with action to be taken by the distinguished Senator from Massachusetts on this bill. I believe we can vote on this, we can express our will, and then we can go ahead in the regular legislative manner and consider it as permanent legislation.

I am glad to yield to the distinguished Senator from Massachusetts, if he is seeking the floor.

Mr. KENNEDY. Mr. President, I was interested, in listening to the Senator from Virginia, to hear him say, "Let's go ahead and vote on this bill."

From the time of the consideration of the Tower amendment to now, we have polled the Subcommitte on Health and have moved that matter up to the full committee and have a time certain for action by the Labor Committee in the week we return from the 4th of July recess.

It is interesting to me—and I cannot restrain myself from making some comment—that the Senator from Virginia is willing to act so expeditiously on this particular item. About 2 hours ago, in the Judiciary Committee, he was prepared to read a 32-page report and deny the Judiciary Committee an opportunity to vote on another matter that had gone through very extensive hearings. So it is interesting to me to listen to him talk now about how important it is that we move quickly to vote.

I can give the assurance to the Senator from Virginia that we are going to examine with him his view and his understanding about this particular issue. I should like to start off by asking him about his interpretation of the Canadian study as it applied to human beings. What conclusions does the Senator from Virginia draw from that?

Mr. SCOTT. Mr. President, a personal reference has been made by the distinguished Senator from Massachusetts. He is referring to a proposed constitutional amendment for the direct election of the President. He is referring to a matter that would change the basic law that has served this country well for more than 200 years. I feel that a matter of that nature is not in the same category at all as the action of the Food and Drug Administration in regulating a prohibition on the use of saccharin.

I believe that the Senator is fully aware of this, and he does not need me to explain to him the action of the Food and Drug Administration. It may be that he is attempting to provide a test of my own knowledge of this matter.

It is my understanding, I say to the distinguished Senator—and I am willing to be corrected if I am wrong in this—that the present law does indicate that you can consider the adverse effect on both humans and animals. However, the fact that someone might have to drink several hundred bottles of diet cola a day in order to have injurious cancer-causing effects is a matter that was not appropriately concluded, in my opinion. I have a proposal under which the Federal Government would be required to consider the quantity of saccharin or any other food additive that would have to be consumed by an individual to be deemed unsafe and the beneficial effects of continued use of such additive. I do not believe that under the present law the Food and Drug Administration has adequate flexibility to consider the beneficial effects of food additives in certain situations.

There is no purpose in the distinguished Senator and I getting into any prolonged discussion. Each Senator is generally familiar with the matter, even though he might not be familiar with every "t" being crossed and every "i" being dotted. I believe each Senator has his own views as to what should be done.

My amendment is short. It says, after the amount of money that is appropriated, that a colon would be inserted and the following would be added:

Provided that no portion of these funds may be utilized for the promulgation and enforcement of any prohibition of the continued use of saccharin as a food additive at existing levels which would be in effect prior to September 30, 1978.

To me, it is a simple amendment. If the distinguished Senator, who referred to my attempt to have extended debate on a constitutional amendment that was before the Judiciary Committee, wants to have extended debate on this matter, I will be glad to sit here and listen to anything the Senator has to say.

But, Mr. President, I made my point. I believe the Senators know what the amendment is. I am prepared to vote on the amendment.

Mr. KENNEDY. Mr. President, I would like to ask the Senator what his understanding of the increased threat of cancer to the American population is, based upon the Canadian study; what conclusion does the Senator from Virginia draw?

Mr. SCOTT. Of course, as the Senator from Massachusetts knows, I am not a physician, I am not a scientist. I am a lawyer by profession, and we do not learn matters like that in law school.

Mr. KENNEDY. Is the Senator suggesting——

Mr. SCOTT. I would not be qualified to testify as an expert on this matter.

Mr. KENNEDY. To give in layman's language the conclusion of the Canadian study.

Mr. SCOTT. In layman's language I believe a person can reasonably use saccharin, can use it safely. Sometimes I use a little saccharin when I have a cup of coffee. Many people throughout the country prefer using a sugar substitute, such as saccharin. My mail has been very heavy against the proposal of the Food and Drug Administration to ban saccharin.

I have no hesitancy to vote on this matter and; frankly, I do not believe any Senator has any hesitancy to say whether he is in favor of this prohibition or against this prohibition.

Mr. KENNEDY. Was the Senator knowledgeable that the tests that were done in Canada were not limited to animals?

Mr. SCOTT. I will be glad to have the distinguished Senator from Massachusetts enlighten me on the entire matter just as in the nature of a demurrer, I just assume I do not know anything about it; and I would be glad to have the distinguished Senator inform me. I assume the Senator is using the time of the opposition, and I will sit down for a while.

Mr. KENNEDY. There is no time limit.

Mr. SCOTT. The Senator can tell me whatever he wants to tell me.

The PRESIDING OFFICER. There is no time limit on the amendment.

Mr. KENNEDY. No time limit.

I am just interested in whether the principal proponent of this amendment is mindful of the most important evidence that has been raised on this particular issue in terms of the cancer-forming qualities that have been revealed in the Canadian study.

I understand from his response that he is either unfamiliar with it or he has not read it or he does not know whether it is—whether the Canadian study indicates that saccharin has been—cancer-forming in terms of the normal use by those who have been surveyed.

Mr. SCOTT. It is my understanding that, in the first Canadian study made several months ago, huge amounts of saccharin—an unreasonable quantity—would have to be consumed in order for people to obtain cancer. Some experts believe the studies conducted in Canada should not be the proper basis for this country to issue a prohibition against the continued use of saccharin in light of conflicting scientific evidence and research findings brought to public attention in recent months.

I did not bring an aide with me here on the floor; I did not bring the material

I have in the office. One reason I did not do so was because I was told we were getting to the place where we were going to have final passage, and wanted my amendment to be considered by the Senate, so I came on over to vote on the Dole amendment and offered my amendment at the very time that the manager of the bill said he understood there were no more amendments. If the Senator was at his desk at that time, he is quite aware of this.

Now, if we need prolonged debate on this matter, and I see no need for it, I will be glad to get material from the office and debate this at length with the distinguished Senator.

Mr. KENNEDY. Mr. President, I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Mr. Joseph Kinney of my office, be accorded the privileges of the floor during the consideration of the pending legislation and votes thereon as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I make the same request for Ernie Garcia and Shiela Burke of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair.

Mr. NELSON. I wonder if the Senator will yield for just 30 seconds for a comment to the Senator from Virginia.

Mr. KENNEDY. I yield.

Mr. NELSON. The Senator said he would be prepared to get his material.

Mr. SCOTT. I have requested my staff come over and bring me the material we have in the office in the event it is felt the Senate needs further enlightenment.

Mr. NELSON. Let me say to the Senator that I consider this a major issue, probably the most important health issue before this Congress since the 1962 Kefauver amendments.

There is no way we can intelligently deal with this question without at least 2 days, and maybe 3 days, of debate, and when we are through I have some reservations about whether, given the attitude around here, we will deal intelligently with it.

But if the Senator intends to debate it I just want it stated thoroughly to everybody in the Senate there will be no vote without a cloture motion on the amendment of the Senator before the recess.

Mr. SCOTT. Let me say I have no intention of attempting to prolong the action of the Senate. I do want a vote. I will be glad to sit here and listen to what the distinguished Senator or any other colleague has to say. For the most part, I have made my statement, and we do have the yeas and nays on the amendment, and I want a vote on it.

If the Senator wants to enlighten the other Members of the Senate, why, that is his privilege, of course, and he can talk, under the rules of the Senate, barring cloture, just as long as he cares to talk.

Mr. President, I yield the floor at this time.

Mr. KENNEDY. Mr. President, I would like to suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. KENNEDY. I withhold.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. KENNEDY. I withhold.

Mr. ROBERT C. BYRD. Mr. President, I had hoped the distinguished Senator from Virginia would withdraw his amendment. Senator TOWER called up an amendment earlier, and there was considerable debate on the amendment. Senator KENNEDY and others on the committee gave assurances that the measure would be reported—it has already been reported from the subcommittee and an executive session of the full committee is scheduled upon the return of Members from the Independence Day holiday. I have given assurance as majority leader that the measure will be, as soon as reported, as soon as we can possibly schedule it for floor action, we will do so, and every Member will have an opportunity at that time to express his viewpoint pro and con, vote in accordance with his conscience, and the Senate will be able to work its will up or down.

If the Senator will just withdraw his amendment, I give him that assurance again.

Mr. SCOTT. Mr. President, I would ask the distinguished majority leader, is not my amendment the same as the one the House has already adopted?

Mr. ROBERT C. BYRD. It may or may not be true. I am not conversant with the verbiage of the Senator's amendment. All I am saying here is we are on an appropriation bill, we are about to vote on an amendment that many of us need more time to study, and we need the advantage of the hearings and the committee report, and we would all be in a better position to cast a vote on this very important measure if we could wait until the legislative process has worked its way, as it normally does, and as majority leader I will assure the Senator from Virginia at the very earliest point I can possibly schedule that measure, keeping in mind there are other measures that have to be scheduled, too, but assuring the Senator so far as I am concerned the Senate will have its opportunity to work its will on this matter in due course if he would take his amendment out, and I would personally appreciate it.

Mr. SCOTT. Mr. President, I am prepared to vote. I believe my mail has been quite heavy against this ban on the use of saccharin, and if the distinguished majority leader feels as he does, there is nothing wrong with the majority leader, with the influence he has in the Senate, to vote down the amendment. That is perfectly all right with me. I am going to vote for it. I know it will get one vote. It may well get a majority of the votes, and I feel we should proceed to vote on it at this time. The majority leader can call his troops together and just swamp me with a rollcall vote. Maybe that would be the preferable vote, but I do want an opportunity for us to vote on the amendment.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator, I may, when the vote comes, be on his side on the measure which comes out of the committee. I do not know where I will be on it. But my mail is as the Senator's mail. My mail from West Virginia is the same, but we will not have a vote on this measure today, and I do not want to see the Agriculture appropriation bill held hostage to this amendment, when I have given the Senator assurance that the Senate in due time will work its will on this subject matter.

This bill will be held hostage for the rest of the day and tomorrow, and I am not going to stand for that. We will either take the bill down or I will have to move to table the Senator's amendment, and I do not know how my constituents will interpret that motion, but I will have to do it.

Mr. SCOTT. That is perfectly all right.

Mr. ROBERT C. BYRD. I do not want to do it.

Mr. SCOTT. Perhaps that is the better way to solve it because the distinguished Senator, the majority leader of the Senate, would be exercising his authority both as a Senator and as majority leader. I have no objection at all to a motion to table, and that would bring the matter to a head, and I would concur with the Senator. Why not just go ahead and move to table?

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. YOUNG. I think my position is the same as yours. A motion to table I do not think would be a representative vote. I would probably vote to table, myself, although I am on the Senator's side, because I think we have to get these appropriations bills with the commitment that we vote on this soon. Therefore, I would be in a difficult position.

Mr. SCOTT. Mr. President, when the distinguished majority leader, representing that side of the aisle, and my distinguished friend from North Dakota, our senior Member of the Senate on this side, both ask me to withdraw my amendment, I shall ask unanimous consent to withdraw the amendment.

Therefore, Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. ROBERT C. BYRD. I thank the Senator.

ADDITIONAL STATEMENTS SUBMITTED

Mr. MUSKIE. Mr. President, the Senate has before it H.R. 7558, the Agriculture and Related Agencies Appropriations bill for fiscal year 1978 which provides funds for farm income stabilization; agriculture research and services; conservation, rural development and assistance; domestic food programs, including food stamps and child nutrition; the food for peace program; the Farmers Home Administration; and related agencies.

I take this opportunity to comment on the relationship between this bill and the targets set out in the first budget resolution for fiscal 1978.

This bill provides $12.5 billion in budget authority and $13.8 billion in outlays for fiscal 1978, including $2.1 billion in outlays from prior year authority.

Under section 302(B) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays to it under the budget resolution.

The funds provided in this appropriation bill are within the totals allocated to the Subcommittee on Agriculture and related agencies pursuant to section 302 (B) of the Budget Act. That allocation is $14.9 billion in budget authority and $14.4 billion in outlays. Together with action already completed, this appropriation bill is $1 billion in budget authority and $0.6 billion in outlays below the amounts allocated to the subcommittee.

Later requirements for items not provided in the bill will likely reduce the remaining allocation by $0.1 billion in budget authority and outlays, leaving the subcommittee well under its allocation. I ask unanimous consent that a table indicating the relationship of this bill to the subcommittee's allocation be included in the RECORD at the end of my remarks.

This bill is generally consistent with the assumptions of the first budget resolution.

I should point out that the possible later requirements which I have already mentioned relate to agriculture research and services and amount to $0.1 billion in both budget authority and outlays. These amounts would be in function 350—Agriculture. While they are consistent with assumptions for budget authority in the first budget resolution for function 350, they could exceed outlay assumptions of that resolution by $0.1 billion. I mention this because there are already potential entitlement outlays from S. 275, the Senate-passed farm bill, which if enacted will lead to a much larger breach of the target outlay totals in function 350—an excess of at least $0.5 billion. This is a significant matter as we proceed to consider both the conference report on the farm bill and any supplemental appropriations for agriculture programs. I should make it clear that the potential excesses in function 350 caused by the farm bill are within the direct spending jurisdiction on the Agriculture, Nutrition, and Forestry Committee and do not affect the section 302(B) allocation of the Subcommittee on Agriculture and Related Agencies.

I wish to commend the distinguished chairman of the Subcommittee on Agriculture and Related Agencies, Senator EAGLETON, for his dedicated efforts in bringing in a bill within the allocation made to his subcommittee. I would point out that it is critically important to save the funds remaining within the subcommittee's allocation because they are required to help the full Appropriations Committee to stay within its total allocation, since some other subcommittees will be oversubscribed when later requirements known at this time are taken into account.

I wish to also commend the distinguished chairman of the appropriations committee, Senator MCCLELLAN, for his assurance several days ago that the Appropriations Committee expects to be able to stay within the full allocation made to the committee under the first budget resolution, including all possible later requirements known at this time.

I trust that all of the remaining regular and supplemental appropriations bills for fiscal 1978 will enable us to maintain the discipline of the budget process and live within the target totals of the first budget resolution.

H.R. 7558, Agriculture and Related Agencies Appropriation, 1978

Relationship to Subcommittee Allocation

[In billions of dollars]

	Budget authority	*Outlays*
Subcommittee section 302(b) allocation	14.9	14.4
Other actions completed	1.3	----
H.R. 7558	12.5	13.8
Remaining allocation	1.0	0.6
Possible later requirements: Agriculture research and services	0.1	0.1
Possible amount over (+) or under (—) Subcommittee allocation	—0.9	—0.5

NOTE.—Details may not add to totals due to rounding.

Mr. HUMPHREY. Mr. President, I would like to commend the distinguished Senators from Arkansas (Mr. MCCLELLAN) and Missouri (Mr. EAGLETON) for their leadership in the Committee on Appropriations in assuring this Nation that we will continue to have an agriculture that will be second to none on this planet.

I would like to share with the Members of this Chamber my belief that this is one of the most outstanding appropriations bills to come before this body.

This bill will play a significant role in strengthening American agriculture. I need not remind my colleagues how important agriculture is to America. The people of this country have nutritious food at reasonable prices. Also, we are able to export significant quantities of food to all corners of the globe. And, I might add, without these exports our ability to import oil would be drastically reduced, our balance of payments would be a shamble. Agriculture, I dare say, is at the heart of America and its economic wellbeing.

The bill that we have before us enhances agricultural research, augments important grain inspection efforts, builds our conservation efforts, improves the quality of food regulatory functions and strengthens our rural housing programs.

I do not want to belabor my colleagues with my remarks. I have shared my views on agriculture with the Members of this body on a number of occasions. I am a believer in American agriculture, have always been since my boyhood in South Dakota, and always will be.

I am somewhat reluctant to single out any portion of this bill for commentary here. I do not want my colleagues to feel that I believe that one segment is more important than another. However, I would like to talk about a few specific programs.

One of the issues that shocked this Nation last year was the grain inspection scandal. Congress reacted quickly, deciding to federalize the grain inspection function. Our response was to build a grain inspection service in the Department of Agriculture. There has been some misunderstanding about the need for inspectors in interior locations by the House of Representatives. This bill, in my opinion, recognizes the need for inspection services at these interior points.

The Farmers Home Administration is also enhanced by the bill we have before us. Even with this strengthened measure, the quality of rural housing will still be inferior. We must do more for rural America. But this is a good beginning. It will give us new housing for rural Americans, it will strengthen water and sewer facilities in this Nation's small communities, and give the FmHA some desperately needed personnel.

I would like to speak on one more item, a rather small piece of this bill but one that may hold enormous potential for the health and well-being of all our people.

This bill has increased funding for human nutrition research by about $17 million. Contained within that increase is funding for an expansion of human nutrition research at the Grand Forks Laboratory in North Dakota, and the planning for two new institutes at Tufts University in Boston and Baylor University in Texas. The Tufts Institute would focus on nutrition for the aging, while Baylor would focus on nutrition for the young.

Mr. President, it is now clear that many of our most serious and basic health problems are related to nutrition. From youth to old age, heart disease, high blood pressure, diabetes, simple obesity—are plaguing our population. Nutrition research may be the key to eliminating that plague.

I know that both Senator EAGLETON and Senator BELLMON, the very knowledgeable ranking minority member of the Subcommittee, feel strongly that nutrition research is now a priority. That is why they have increased funding for it.

But I also know that some Members of the House do not feel this way, and that the House has only provided for a minimal increase in this area. I know that our representatives in the conference with the House are going to make every effort to hold this critical increase in human nutrition research, and I just want to say as one Member of the Senate that I am willing to stand behind them fully in fighting for what is a relatively small amount of money—but an amount that may have an enormous payoff for the health and well-being of the American people.

Mr. HATCH. Mr. President, the farmers and ranchers of my State are facing a critical situation with respect to the cost of obtaining adequate supplies of feed for their livestock. This is due to a combination of poor livestock prices which has stressed the industry, repeated drought conditions which have depleted the feed value of forage grown on their own land, and the cost of purchasing and shipping feed from areas which have such stocks available. May I ask the distinguished Senator from Oklahoma about what can be done to help these producers?

Mr. BELLMON. Mr. President, the Agricultural Stabilization and Conservation Service currently administers a program funded though the Federal Disaster Assistance Administration to assist producers in obtaining feed at reasonable cost. Additionally the Farmers Home Administration provides insured and guaranteed loans to producers to help them through the financial hardships imposed by the adverse weather and marketing situation.

May I say to the Senator from Utah that, as a response to his concern, I am directing the subcommittee staff to fully review these programs and to determine if supplemental appropriations are necessary to adequately help producers.

Mr. HATCH. I appreciate the remarks of the Senator from Oklahoma and I will work with the committee to evaluate this situation.

Mr. HEINZ. Mr. President, I will probably support the Agriculture and Related Agencies Appropriation, but I do want to express concern about some of its provisions—aside from the matters of saccharin and sugar subsidies which, depending on the form of amendments, I may address separately.

I do wish it were appropriate in consideration of this bill to continue to register my protest against the exorbitant price supports for certain commodities that the Senate endorsed last month in the farm bill. Reluctantly, I joined a minority of my colleagues at that time in opposing it on such a basis. The way commodity entitlements work, however, this appropriation is to some extent just replenishing the Commodity Credit Corporation for payments it has already made, which I am relieved to say have at much more reasonable levels in the past. Because of this ambiguity, and because some more meritorious items are involved in this $12½ billion bill, I am not sure another protest vote would be productive.

In any case, I continue to hold out hope that when the farm bill is tested on the House floor and then in conference a bit more reason will prevail on these particular target prices and loan rates.

I am also concerned about a number of increases over budget requests contained in this bill for rural housing programs and for various grant programs and staff allotments of the Farmers Home Administration. Farmers in my home State have often expressed to me their disillusionment that Government programs for farmers, rather than concentrating on direct producer-related matters, seem at times to be burgeoning welfare programs.

I do want to commend the Appropriations Committee for the funding it has restored for the Federal Grain Inspection Service and the Agricultural Research Service, and the money that has been added above the budget request for the Animal and Plant Inspection Service. These are programs that can benefit both producer and consumer and where Government involvement does not have to mean Government intervention.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. ROBERT C. BYRD. Yes.

Mr. BELLMON. Yes, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 7558) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to H.R. 7558.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. EAGLETON, Mr. STENNIS, Mr. PROXMIRE, Mr. ROBERT C. BYRD, Mr. INOUYE, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. MCCLELLAN, Mr. BELLMON, Mr. YOUNG, Mr. HATFIELD, and Mr. STEVENS conferees on the part of the Senate.

MILITARY CONSTRUCTION APPROPRIATIONS, 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 7589, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 7589) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Time for debate on this bill is limited to one hour, to be equally divided and controlled by the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Alaska (Mr. STEVENS) with 30 minutes on any amendment, and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the matter now before the Senate is H.R. 7589, making fiscal year 1978 appropriations for military construction programs of the Department of Defense, and for other purposes.

As reported by the Committee on Appropriations, this measure provides $3,130,630,000 in new budget authority for the fiscal year beginning October 1, 1977. This is $115,030,000 above the amended budget request, and $311,129,000 over amounts passed by the House. I would add, however, that it is also almost $331 million below fiscal year 1977 appropriations.

As previously mentioned, the $3.1 billion recommended for new appropriation is about $115 million more than the amended budget request. This is actually the net result of many adjustments which fall into three general categories

First, reductions of almost $153 million have been made to the budgeted program As an offset, approximately $268 million in additional projects have been recommended for funding. These include $78 million for abatement of air and water pollution at numerous military bases, $75 million for programs to conserve energy resources, and $115 million at various permanent locations for high-priority operational efforts which contribute to personnel safety and improved mission effectiveness.

The specific projects added by the committee are for valid military requirements and will be undertaken at bases which will be in existence for the foreseeable future. While military need was our basic criterion for these actions, an important byproduct also resulted in that construction planned within the United States has been increased by over $200 million.

With respect to the content of the bill, I would say that there are no new single projects of large magnitude, and nothing that I would characterize as highly controversial in nature. There are several areas, however, which are worthy of note:

(In millions)	
Trident support complex	$126
Air and water pollution abatement	101
Energy conservation	95
Nuclear and chemical weapons security	131
National Guard and Reserve construction	176
Planning and design	199
Hospital and medical facilities	109

In addition, the committee has also recommended a total of $1.3 billion for the defense family housing program. The bulk of this amount, over $1.2 billion, supports the operation and maintenance of more than 388,000 housing units now in the inventory. Only 956 new units are planned for construction in the fiscal year 1978 program.

This, Mr. President, generally summarizes the scope and content of this year's military construction appropriations bill. I would like to conclude by saying that this is very austere program, the lowest in several years, but one which should adequately meet the most urgent construction requirements at our military facilities.

I ask unanimous consent that certain tabular material be printed in the RECORD immediately following my opening remarks. This will display the committee's recommendation, by appropriation, in comparison with prior appropriation, the budget request, and House allowances.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Mr. President, I will be glad to answer any questions that the Senators may have concerning specific aspects or provisions of the bill.

EXHIBIT 1

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1978

Agency and item	New budget (obligational) authority, fiscal year 1977	Budget estimates, new (obligational) authority, fiscal year 1978	New budget (obligational) authority recommended in House bill	Recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with— Appropriations, new (obligational) authority, fiscal year 1977	Budget estimates, new (obligational) authority, fiscal year 1978	House bill, new (obligational) authority
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Military construction, Army	$597,664,000	$601,800,000	$483,659,000	$583,059,000	−$14,605,000	−$18,741,000	+$99,400,000)
Military construction, Navy	570,265,000	465,600,000	425,686,000	523,279,000	−46,986,000	+57,679,000	+97,593,000
Military construction, Air Force	808,079,000	398,900,000	379,044,000	451,233,000	−356,846,000	+52,333,000	+72,189,000
Military construction, Defense Agencies	41,396,000	34,400,000	32,314,000	59,659,000	+18,263,000	+25,259,000	+27,345,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	( )	( )	( )
Military construction, Army National Guard	61,128,000	49,400,000	49,400,000	49,400,000	−11,728,000		
Military construction, Air National Guard	37,200,000	43,300,000	43,300,000	43,300,000	+6,100,000		
Military construction, Army Reserve	53,804,000	50,500,000	50,500,000	50,500,000	−3,304,000		
Military construction, Naval Reserve	23,600,000	21,700,000	21,700,000	21,700,000	−1,900,000		
Military construction, Air Force Reserve	10,773,000	11,200,000	11,200,000	11,200,000	+427,000		
Total, military construction	2,203,909,000	1,676,800,000	1,496,803,000	1,793,330,000	−410,579,000	+116,530,000	+296,527,000
Family housing, Defense	1,370,035,000	1,451,640,000	1,435,538,000	1,451,640,000	+81,605,000		+16,102,0010
Portion applied to debt reduction	−112,547,000	−115,840,000	−115,840,000	−115,840,000	−3,293,000		
Subtotal, family housing	1,257,488,000	1,335,800,000	1,319,698,000	1,335,800,000	+78,312,000		+6,102,000
Homeowners assistance fund, Defense		3,000,000	3,000,000	1,500,000	+1,500,000	−1,500,000	−1,500,000
Grand total, new budget (obligational) authority	3,461,397,000	3,015,600,000	2,819,501,000	3,130,630,000	−330,767,000	+115,030,000	+311,129,000

Mr. STEVENS. Mr. President, the distinguished chairman of our subcommittee (Mr. JOHNSTON) has provided us with the detail of the major items contained in the fiscal 1978 appropriations bill for military construction. Due to the time constraints placed on the Appropriations Committee, it was necessary for us to report a bill without benefit of final conference action on the annual authorizing legislation. Therefore, the amounts we have provided for the individual projects are subject to modification once the armed services conferees have completed their work. I understand that the conference has been completed, but their conference report has not yet been submitted to either body.

I would emphasize that the President's budget request for military construction for the coming fiscal year was almost 15 percent below the fiscal 1977 allowance. Considering inflation factors in the construction industry, this, conservatively, represents at least a 20 percent program reduction. In recognition of the current base study which is underway, our committee has limited increases over the budget primarily to the areas of energy conservation and water pollution abatement. Expenditures in these areas are usually recouped through reduced operating costs within 2 or 3 years. As any proposed restructuring or closure of bases would take time to effect, the committee felt justified in including funds for these projects in the bill.

I would hope that the Department of Defense will have completed the base utilization study prior to submitting the estimates for the 1979 fiscal year so that the committee may begin to address the huge backlog of military construction requirements—now estimated at almost $25 billion—in an orderly manner. It would also be in our interest for the Department of Defense to proceed in a more orderly, planned manner in the area of overseas construction. We are continually faced with sizeable requests which could be financed through the NATO infrastructure program had the necessary negotiations taken place on a timely basis. Such action, in the future, would enable us to allocate a greater percentage of the constrained military construction budget to urgently needed projects here at home.

The bill now before us closely follows the Senate authorization bill; so I would urge its acceptance by the Senate.

Mr. MUSKIE. Mr. President, the Senate is now deliberating H.R. 7589, the Military Construction Appropriations bill for fiscal year 1978. I support this bill and take this opportunity to comment on the relationship between the bill and the allocations by the Committee on Appropriations to its Military Construction Subcommittee.

Pursuant to section 302(b) of the Budget Act, the Committee on Appropriations allocated to the Military Construction Subcommittee $3.1 billion in budget authority and $3.6 billion in outlays, including $2.6 billion in outlays from prior year authority. The funds provided in this appropriations bill are identical to the subcommittee's 302(b) allocation and are generally consistent with the first budget resolution targets. Although the bill has my support, I urge my colleagues to resist floor amendments calling for significant funding increases because the bill is at the subcommittee's allocation level.

I wish to extend my appreciation to my good friends, the distinguished Senator from Louisiana, Mr. JOHNSTON, who is not only handling his first Military Construction Appropriations bill as chairman of the subcommittee, but is also a valued member of the Budget Committee, and to the distinguished chairman of the Committee on Appropriations, Mr. MCCLELLAN, for their dedicated efforts in bringing before us a bill consistent with the guidelines established in the first budget resolution.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment, without waiving points of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 596

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 596:

On page 6, lines 5 and 6——

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, lines 5 and 6, strike "construction, for debt payment, and for energy consumption metering", and substitute in lieu thereof "construction and for debt payment".

Mr. JOHNSTON. Mr. President, this amendment is simply of a technical nature and a conforming nature. It strikes language indicating purposes for which funds have not been appropriated, and has no other effect.

I yield back the remainder of my time.

Mr. STEVENS. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

BROOKE ARMY MEDICAL CENTER

Mr. BENTSEN. Mr. President, I urge the conferees on the military construction bill, to add funds for Brooke Army Hospital, Fort Sam Houston. The House bill provides for $10 million in authorization authority for urgently needed repairs and improvements. I believe the Senate conferees will agree to this House action and the subject will then become a topic for the conference on the military construction appropriation bill. I urge the Senate conferees to appropriate the authorized funds.

The Brooke Army Hospital is well recognized as an outstanding medical treatment and research facility. For instance, the Brooke Burns Center recently received worldwide attention when victims of the Canary Island 747 collision were sent there. However, if this record of service to the San Antonio military and civilian community, as well as to the Nation, is to continue, immediate action must be taken. Otherwise, Brooke might lose its hospital accreditation.

What is needed are funds to make improvements in the fire safety protection system at the hospital: wiring insulation, alarm and sprinkler system, and fire doors. These improvements would correct the deficiencies revealed by the Joint Commission on Hospital Accreditation 1976 evaluation. The amount I have recommended would take care of only the minimum requirements of Brooke and would assure its accreditation.

Much more work should be done at Brooke. One of the hospital's buildings was a troop barracks in 1931. The main hospital predates World War II. But these projects are for the future. Presently, we need to avoid the tragedy and supreme irony of allowing one of the world's finest burn treatment centers to lose its accreditation due to a lack of fire safety systems.

The PRESIDING OFFICER. Who yields time? The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of this bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 597

Mr. HATHAWAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY), for himself Mr. KENNEDY, and Mr. MUSKIE, proposes an unprinted amendment No. 597.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 12, immediately after "Act" insert the following: "and the terms, conditions, and requirements of Section 612 of the Military Construction Authorization Act, 1977 (Public Law 94-431) and Section 612 of the Military Construction Authorization Act, 1978".

Mr. HATHAWAY. Mr. President, this amendment modifies section 111 of the pending measure to require that none of the funds appropriated or otherwise made available under this act shall be obligated in connection with any base realinement or closure activity until all of the terms, conditions and requirements of section 612 of the Military Construction Authorization Act of 1977 or section 612 of the Military Construction Act of 1978 have been complied with, with respect to each such activity.

Section 111, as it has appeared in each of the last two Military Construction Appropriation Acts, and as it appears in the pending measure, stipulates that no appropriated funds can be utilized for purposes of a base closure or reduction until the requirements of the National Environmental Policy Act have been complied with. My amendment is consistent with that provision and consistent with prior actions of the Senate. It is, however, necessary to be included in the pending measure to once again underline the concern of this body that it be consulted and be given 60 days to act prior to final implementation of any base closure or reduction, as mandated in section 612. This will, without ambiguity, provide assurance that the various provisions that we have enacted into law or are about to enact into law will certainly apply to this appropriation.

This amendment is also necessary lest the Department of Defense, or any subordinate departments be tempted to avoid the directives contained in the two sections 612 contained in the 1977 and 1978 military construction authorization legislation through artful dodging of congressional intent.

To better illustrate my point in this regard, Mr. President, I ask unanimous consent that, first, section 612 of the 1977 legislation, Public Law 94-431 be printed in the RECORD at this point, and subsequent to that, section 612 of the Senate version of the 1978 authorization measure, S. 1474 as it passed this body on May 13, 1977, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BASE REALIGNMENTS

SEC. 612. (a) Notwithstanding any other provision of law, no funds authorized to be appropriated in this Act may be used to effect or implement—

(1) the closure of any military installation;

(2) any reduction in the authorized level of civilian personnel at any military installation by more than one thousand civilian personnel or 50 per centum of the level of such personnel authorized as of March 1, 1976, or the end of the fiscal year immediately preceding the fiscal year in which the Secretary of Defense or the Secretary of the military department concerned notifies the Congress that such installation is a candidate for closure or significant reduction, whichever occurs later; or

(3) any construction, conversion, or rehabilitation at any other military installation (whether or not such installation is a military installation as defined in subsection (b)) which will or may be required as a result of the relocation of civilian personnel to such other installation by reason of any closure or reduction to which this section applies; unless—

(A) the Secretary of Defense or the Secretary of the military department concerned notifies the Congress in writing that such military installation is a candidate for closure or significant reduction; and then

(B) the Secretary of Defense or the Secretary of the military department concerned complies with all terms, conditions and requirements of the National Environmental Policy Act; and then

(C) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the House of Representatives and the Senate his final decision to close or significantly reduce such installation and a detailed justification for his decision, together with the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or reduction; and then

(D) a period of at least sixty days expires following the date on which the justification referred to in clause (C) has been submitted to such committees, during which period the Secretary of Defense or the Secretary of the military department concerned may take no irrevocable action to implement the decision.

(b) For purposes of this section, the term "military installation" means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

(1) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(2) at which not less than five hundred civilian personnel are authorized to be employed.

(c) For purposes of this section, the term "civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(d) This section shall not apply to any closure or reduction if the President certifies to Congress that such closure or reduction must be implemented for reasons of any military emergency or national security or if such closure or reduction was publicly announced prior to January 1, 1976.

SECTION 612—SENATE VERSION

BASE REALIGNMENTS

SEC. 612. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement—

(1) the closure of any military installation;

(2) any realignment involving a reduction in the authorized level of civilian personnel at any military installation by more than one thousand civilian personnel or 50 per centum of the level of such personnel authorized at the time that the Secretary of Defense or the Secretary of the military department concerned notifies the Congress that such installation is a candidate for closure or significant realignment; or

(3) any construction, conversion, or rehabilitation at any other military installation (whether or not such installation is a military installation as defined in subsection (b)) which will or may be required as a result of the relocation of civilian personnel to such other installation by reason of any closure or realignment to which this section applies;

unless—

(A) the Secretary of Defense or the Secretary of the military department concerned publicly announces and notifies the Committees on Armed Services of the Senate and the House of Representatives in writing that such military installation is a candidate for closure or significant realignment.

(B) the Secretary of Defense or the Secretary of a military department concerned complies with the requirements of the National Environmental Policy Act of 1969;

(C) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the Senate and the House of Representatives his final decision to close or significantly realign such installation and a detailed justification for his decision, together with the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or realignment; and

(D) a period of at least sixty days expires following the date on which the justification referred to in clause (C) has been submitted to such committees, during which period the Secretary of Defense or the Secretary of the military department concerned may take no irrevocable action to implement the decision.

(b) For purposes of this section—

(1) The term "military installation" means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

(A) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(B) at which not less than one thousand civilian personnel are authorized to be employed.

Such term does not include any facility used primarily for civil works; rivers and harbors projects or flood control projects.

(2) The term "civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(3) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions but specifically excludes reductions in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances or other similar causes.

(c) This section shall not apply to any closure or realignment if the President certifies to Congress that such closure or realignment must be implemented for reasons of any military emergency or national security or if such closure or realignment was publicly announced prior to October 1, 1977.

(d) Section 613, Public Law 89-568 is repealed.

Mr. HATHAWAY. Mr. President, these two sections are essentially the same, but have a couple of key differences.

The lead-in language to section 612 of the 1977 authorization states:

Notwithstanding any other provision of law, no funds authorized to be appropriated in this Act may be used to effect or implement . . .

The lead-in language to section 612 of S. 1474, now in conference, states:

Notwithstanding any other provision of law, no action may be taken to effect or implement . . .

Thus, the 1977 authorization language, unless given broader applicability in the future, applies solely to the uses to which funds authorized to be appropriated in that act may be put. In other words, standing by itself, this language, since it is contained in that 2-year authorization bill, applies to funds expended from October 1, 1976 to September 30, 1978.

The 1978 authorization language is worded to become permanent law, to be effective without any time limit. I was pleased to learn yesterday that the conferees have determined to retain this section intact, and that it will, therefore, become permanent law.

There is, however, one potential loophole in the meshing of these two sections, which the pending amendment would plug. That loophole is the difference between the language in subsection (c) of section 612 in S. 1474 and subsection (d) of section 612 in Public Law 94-431.

The 1977 authorization act states:

(c) This section shall not apply to any closure or realignment . . . if such closure or realignment was publicly announced prior to January 1, 1976.

S. 1474 states:

(d) This section shall not apply to any closure or realignment . . . if such closure or realignment was publicly announced prior to October 1, 1977.

So, the permanent law to be contained in the final version of the 1978 military construction authorization would apply only prospectively, subsequent to the beginning of the 1978 fiscal year, on October 1, 1977, and only with respect to base closures or reductions announced after that date. Further, the 1977 authorization legislation, strictly construed, applies only with respect to the expenditure of 1977 and 1978 fiscal year moneys, and only with respect to base closures or reductions announced after January 1, 1976.

Thus, there is a loophole whereby closures or reductions which were announced prior to October 1, 1977 would no longer be protected by the provisions of section 612 of the 1977 authorization legislation subsequent to the end of the 1978 fiscal year and likewise would not be governed by the 1978 authorization language. The Defense Department, the Army, the Navy, or the Air Force could arguably avoid the mandate of section 612 of the 1977 authorization legislation as well as section 612 of the 1978 authorization legislation by simply announcing base closures and reductions at any point prior to October 1, 1977 and carry out all of the activities necessary to implement closures subsequent to October 1, 1978, using 1979 and subsequent fiscal year money.

This scenario is most disturbing indeed and would go against the clear intention of the Congress in enacting section 612 last year and the intention of the Senate in approving the revised version of this section this year. I would hope that any court examining these two provisions would find congressional intent to be the overriding factor, and not succumb to any attenuated arguments concerning effective dates or triggers.

In fact, during the floor debate on section 612 of the 1977 measure, it was made quite clear which proposed closure actions or realinements were intended to be captured by those provisions, and a number were so listed. But because at that time it was not contemplated that permanent legislation, to be enacted this year, would have a different trigger date, the pending amendment is a desirable one to underline continuing Senate interest and concern. Further, it will likely be a necessary amendment in connection with the 1979 appropriation legislation to insure that such legislation relates back to the 1977 authorization language. By including such language in the pending measure, the Senate will be underlining the importance of the provisions in section 612, and will be smoothing the way toward their inclusion in future legislation, thus eliminating any conceivable loophole.

Now, Mr. President, I want to explain the background of this situation and review the reasons why I, along with my colleague from Maine (Mr. MUSKIE) and the senior Senator from Massachusetts (Mr. KENNEDY), acting upon the concerns of Maine and Massachusetts, attached section 612 to the past two authorizing bills.

Simply stated, we were faced with a substantial reduction at Loring Air Force Base in Aroostook County, Maine.

The Air Force, while agreeing to follow the processes of the National Environmental Protection Act, as required by former sections 111 of prior years, was unprepared or unwilling to confront issues of costs, savings, and the consequences to our military abilities in the event Loring was finally reduced as proposed.

So, Mr. President, I felt that we were left with no choice but to exercise our constitutional duty to oversee the workings of the military establishment. The Senate agreed with us, and the House of Representatives likewise agreed.

Our authorizing amendment will this year become permanent law and, as I have already mentioned, this amendment to the appropriations bill merely nails down those provisions to prevent a potential loophole which we in no way had intended.

If the Senate accepts my amendment, as I hope it will, it will also be a strong, unmistakable signal to the Air Force and to the whole military establishment, that the Senate intends to take and exercise to a greater and greater degree its oversight powers so that military bases, their tremendous investment, and the

sacrifice of local citizens are not treated as so many toys by the military.

Furthermore, I wish to put the Senate on notice that I shall review any final decision which the Air Force may make in this matter and I shall not hesitate to invoke a full Senate review, commencing within the 60-day period of review provided by section 612.

And by review, I mean to obtain a thorough and exhaustive inquiry into the reasons by which the Air Force proposes to justify its intended action.

It seems to me that when we build bases like Loring AFB, we do so because there is a reasonable need for them and because, by virtue of their location, they provide us with a military advantage which is both useful to our strategic forces, and threatening to our enemies.

Mr. President, unless these factors are out-of-date—factors which were good enough in the late 1940's and early 1950's to convince Congress to spend hundreds of millions of dollars to design, build, stock, arm, man and maintain Loring AFB—then I want to know why this action is necessary.

Citizens throughout the State of Maine have protested this proposal of the Air Force. Just a couple of days ago, for example, I received a resolution from the Maine Democratic State Committee on this matter. And I ask unanimous consent that the letter from Harold Pachios, containing the text of this resolution, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAINE DEMOCRATIC STATE COMMITTEE,
Augusta, Maine, June 22, 1977.

Senator WILLIAM HATHAWAY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HATHAWAY. June 19th, 1977 the Maine Democratic State Committee passed the following resolution in support of Loring Air Force Base.

Whereas, on March 11, 1976, the United States Air Force announced plans for an 83 percent reduction of Loring AFB at Limestone; and

Whereas, Loring AFB has been an integral part of Limestone; Van Buren, Fort Fairfield, Caribou, and Presque Isle; and

Whereas, the proposed cutback will result in a loss of $126,000,000 in gross state product and an increase in the Aroostook County unemployment rate to 23 percent; and

Whereas, the proposed cutback will have a substantial impact upon the strategic capabilities of our armed forces; and

Whereas, the Save the Loring Committee is attempting to prevent the reduction of Loring Air Force Base; now be it

Resolved That the Maine Democratic State Committee meeting in Presque Isle hereby express its support of the Save Loring Committee's efforts and ask that the Maine Congressional delegation to assure President Carter and the Pentagon consider every alternative to the closing of Loring Air Force Base.

I felt this should be brought to your attention.

Sincerely yours,

HAROLD C. PACHIOS,
Chairman, Maine Democratic Party.

Mr. HATHAWAY. Mr. President, a few weeks after the initial news of the Air Force plan, I chaired the Maine congressional delegation's hearing into this matter.

A citizens' group, the Save Loring Committee, had already been formed. The testimony of its chairman, Paul Haines, impressed me on that occasion and I find it is still relevant, as is the statement of Severin Beliveau. I ask unanimous consent that they be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF PAUL HAINES, CHAIRMAN, SAVE LORING COMMITTEE, ACCOMPANIED BY SEVERIN BELIVEAU AND KENNETH HAYES

Mr. HAINES. Senator Hathaway, Congressman Cohen and Congressman Emery, I am pleased to appear before you this morning as spokesman for the Save Loring Committee to express our appreciation for the support that we have received from you and your staff and for your willingness to participate in this public hearing.

We truly believe that this hearing will be the beginning of a successful effort to convince the U.S. Air Force that its decision to curtail its commitment to Loring Air Force Base by 83 percent is unsound militarily, technically, economically and socially.

As you know, on March 11, 1976, the U.S. Air Force announced an 83-percent reduction in military and civilian personnel and inactivation of the 42d Strategic Bomb Wing.

The reaction in Aroostook County ranged from shock to outright indignation since the announcement was totally unexpected and never anticipated.

After several days of informal discussions and meetings between governmental and business leaders of the county, we decided to form a committee to analyze the problem and to recommend a positive course of action. We also recognized the need to generate community support for our position and for the financial resources required to wage an effective effort.

The committee concluded that it should retain legal, economic, and military experts to assist you in analyzing the rationale offered by the Pentagon. We are encouraged by the strong expressions of financial support from several municipalities and businesses that will be directly affected by the curtailment at Loring. We are also pleased with the overwhelming effort being made by the citizens of Aroostook County in support of our decision to proceed in a positive manner.

As a result of our decision to seek outside experts, the committee has retained the services of the Social Science Research Institute of the University of Maine at Orono. Their preliminary report has been circulated to you. The Institute has initiated an extensive analysis of the economic and social costs resulting from an 83-percent reduction at Loring. (The report appears in the appendix, p. 139.)

Their findings include the following:

The shortrun impact will be one of serious economic dislocation.

The longrun impact will affect the future growth and viability of all the communities in northern Maine. The base during 30 years of existence has become integrated in the business structure of northern Maine.

Specifically, local businesses are dependent upon Loring Air Force Base for 20 percent of their direct sales.

An estimated 12,000 jobs will be lost if the planned reduction of 83 percent occurs.

The economic impact will be felt much more severely in communities within 15 miles of the base.

Social institutions including churches and local charities will be greatly impacted. In 1975 Air Force personnel contributed $100,000 to local churches and $50,000 to the United Fund.

Real estate values, property taxes, local government taxing sources, county taxes, and States taxes will be adversely affected.

Of greatest importance will be the reduced income from loss of jobs. The Institute estimates this figure to be about $120,000,000 per year, not including base personnel.

Senator HATHAWAY. Does your study show the net effect? The reduction in taxes is presumably a reduction in services.

Mr. HAYES. It does not reflect that.

Senator HATHAWAY. But it will?

Mr. HAYES. It will, hopefully.

Mr. HAINES. The Social Science Research Institute concludes: "Such a magnitude of job losses superimposed on a chronically high-unemployment area will spell economic disaster."

Additionally, the committee has retained the services of O'Connor and Hannan, a Washington, D.C., law firm, and Beliveau and Beliveau, an Augusta law firm, to assist us in assuring that all Federal laws, Department of Defense directives, and Air Force regulations are fully complied with.

We have also retained a Washington consulting firm to review the military and strategic reasons advanced by the Pentagon to justify the proposed curtailment.

We are also greatly concerned with the apparent Federal policy to move military installations out of the northeast to the south. In a memorandum prepared for New England Congressional Caucus, Jill A. Schuker states:

"The regularity of military facility closeouts in the northeast over the past decade and the Federal employment shortfall in the northeast particularly suggests that such a concerted policy may underlie the decisions. Northeast military closures have resulted in much reduced civilian employment."

We urge our delegation to support whatever legislative initiatives that are available to assure that social economic consideration play a role in Federal policy in this area.

We also deplore the obvious shortfall in Federal jobs in New England and encourage our delegation to assure that Maine receives its fair share of Federal civilian employment.

Finally, Mr. Chairman, we are hopeful that the extremely favorable relationship that has existed since 1953 between Loring, its civilian and military personnel, and the citizens of Aroostook County will continue for an indefinite period of time. It is important to remember that unlike other military installations, Loring has never experienced any difficulty from special interest groups in opposition to its presence in Limestone.

Again, we greatly appreciate your presence here today and we are certain that the combined efforts of our congressional delegation and our committee will result in the continuation of Loring Air Force Base at its present level of operation.

STATEMENT OF SEVERIN BELIVEAU

Mr. BELIVEAU. Mr. Chairman, members of the Maine delegation, I must expand briefly on what Paul Haines has stated. Our role in this effort would be limited to reviewing very carefully the procedure that the Air Force is required to follow under the National Environmental Policy Act of 1969.

As you know, and it has been mentioned several times here this morning, the Air Force is required to file an environmental impact statement. In his letter of April 1 of this year, Major General Maclioni outlined generally what the Air Force intends to do to comply with the statute.

We intend to make certain that the Air Force complies in every sense to the letter of the law.

We also have reviewed and are reviewing all of the Pentagon directives, the Air Force regulations, to make certain that the manner in which the Air Force proceeds in this case complies fully with the Administrative Procedure Act.

And, of course, if we conclude at some point that there is a basis to proceed in court, we will not hesitate to do so.

Our involvement with the committee is limited solely to a review of the statutory and regulatory areas that apply in this case. We will continue to consult and advise the committee regarding the legal remedies.

Senator HATHAWAY. Thank you.

Mr. HATHAWAY. Mr. President, the impact of an adverse decision would of course be disastrous to the region. And it is not altogether clear that the Air Force will save substantial amounts of money, since a reduction and its forces result in other costs to the Treasury.

In this regard, I think my colleagues would be interested to review an editorial titled, "Too Costly to Close," which appeared in the June 18, 1977 edition of the Portland Press Herald.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD at this joint.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TOO COSTLY TO CLOSE

Much as we support efforts to reduce unnecessary defense spending, it becomes increasingly difficult to justify the proposed cutbacks at Loring Air Force Base in northern Maine.

A new study, prepared with funds from a citizens group in Aroostook County, predicts that the costs of the Loring cutbacks could be as much as $105 million over the next five years.

The Air Force, in its desire to cutback the Loring operation by about 80 per cent, projects five year cost savings of about $95 million. But the Air Force study did not include federal costs which would result from the economic impact of the cutback.

It may boil down to this: regardless of whether it's militarily prudent to make sizeable cutbacks at Loring, the short-term costs resulting from the cutbacks may more than offset savings in the defense budget.

The economic impact of cutbacks at a base such as Loring, which serves as a significant industry in the area, are plainly more severe than if the base were located in an economically healthier area.

In short, however costly Loring may be to keep, it may well be too expensive to close.

Mr. HATHAWAY. Mr. President, for all of these reasons, the Maine delegation, the Maine Legislature, the Governor, the Save Loring Committee and virtually every concerned citizen and group in the State of Maine has stood up to be counted in support of Loring AFB unless and until there is shown to be some reasonable basis for its reduction.

So far, we have persuaded the Air Force that its draft environmental impact statement—DEIS—was in error owing to the geographical area which the Air Force included as the area of significant impact.

I am confident, Mr. President, that before this matter is over, other issues deserving of reconsideration will have been brought to the Air Force's attention. It is worth noting in this connection that the Air Force will conduct a hearing next Thursday, July 7, in Limestone, Maine on the latest DEIS. Businessmen, Federal, State, county and municipal officials, the Maine delegation, military and strategic experts and others will be in attendance to give a very different picture from the one painted by the Air Force of Loring AFB. I look forward to being at this hearing and I expect to gather additional insights into this problem and new information which will ultimately be of use to the Senate when it reviews this matter.

I have discussed this with the floor manager of the bill. I believe it is acceptable to him.

Mr. JOHNSTON. Mr. President, this amendment simply makes clear that the appropriation shall be subject to section 612 of the authorization act regarding base closings. We are glad to accommodate the Senator by making that crystal clear and giving it added emphasis by putting it into this appropriation bill. We will accept the amendment. I yield back the remainder of my time, Mr President.

Mr. HATHAWAY. I yield back the remainder of my time, Mr. Prsident.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time? Are there further amendments?

AMENDMENT NO. 474

Mr. PROXMIRE. Mr. President, I call up my amendment No. 474 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment No. 474.

At the end of the bill add a new section as follows:

SEC. 112. Notwithstanding any other provision of this Act, the sums appropriated by this Act shall not be available for obligation in excess of the amounts requested in the most recent budget requests for the Department of Defense and related agencies for which funds are appropriated in this Act, submitted to the Congress by the President.

Mr. PROXMIRE. Mr. President, this amendment reduces the funds in the bill back to the level requested by the President. At the present time this bill is $115 million over the amount requested by the President and Department of Defense. It is a huge $311 million over the amount passed by the House.

Now there are several issues at stake here. The first is can these reductions be made in a logical and reasonable manner? Can we find excesses in this bill? The answer is a clear yes. Why? Because the increases are add-ons beyond what the Secretary of Defense thinks is necessary for an adequate military construction program. And because the House has clearly shown that not only this modest cut can be achieved, but even far greater cuts can be made. The House cut $196 million below the request. If the members of the House committee can find almost $200 million in savings in this bill, then I challenge the Senate to find just a portion of that amount.

Now, Mr. President, this is a clear opportunity for the Senate to go on record with an economy vote. The President has called for economy. He says he is moving toward a balanced budget by fiscal year 1981. The domestic economy cries out for a cutback in Federal spending. The last thing this Congress should be doing is taking a Presidential request and adding to it.

Yet that is precisely what we are doing in this bill. We are going $115 million over the President's budget and $311 million over our colleagues in the House.

May I point out that in addition to being over the President's budget, this appropriation is above the committee allocation under the first concurrent resolution. In budget authority the allocation to this subcommittee was $30 million lower than the total reported in this bill and $21 million lower in outlays. In other words, this bill is $30 million above the allocation of the first concurrent resolution in budget authority and $21 million over in outlays. These are small amounts compared to how much this bill is over the President's budget and the vast amount it is over the House bill but they show that in every category, that judged by all budget measures, this bill is excessive.

No amount of talking about how this bill is lower than that of last year—$330 million—will dislodge the stark fact that it is $115 million over the largest figure recommended by the Secretary of Defense. No amount of discussion that this bill has been reviewed in depth can overturn the fact that the House committee found $311 million more in savings than we did. No amount of debate will change the precise way in which this amendment seeks to bring us back within the President's budget.

In sum this is an opportunity to practice economy at home. If we cannot stop increases over the President's budget how will we ever keep the budget in line? If we cannot cut back on excessive spending in health education and welfare, or military construction with the same degree of consistency, then we have lost that thread of fiscal responsibility that is so critical to the health and survival of our Nation.

Every cut in a program is painful. Every change provokes concern from the interested parties. But, Mr. President, if we find it difficult to cut back on a program that already is over budget—both the President's and our own—then how much more difficult it will be to cut below the President's program when we need to.

Let us take the first step by holding the line on increasing Federal spending by reducing this bill to the President's request.

In closing, Mr. President, let me address what I think will be the main argument of the manager of this bill. I believe he will point out that this bill is over the President's budget, because the Senate committee has added $153 million for pollution abatement and energy

conservation. The Defense Department did not request these funds this year, because it is studying what bases to close, which to consolidate, and which to increase in size. The Secretary of Defense argues that to spend money at bases that might be closed is a terrible waste. Therefore, the Pentagon wants to delay these expenditures, which are worthy of support, for another year.

Mr. President, I want to reiterate that point. The Defense Department takes a completely plausible and logical position, that they have not decided which bases to close. They have not decided where they will spend these antipollution funds. Therefore, for us to force these funds on them in the guise that this is an environmental position, seems to me to be unwise. Of course, we have to take whatever steps are necessary to provide for pollution abatement and energy conservation. My argument is that we will do it in a much more sensible, logical, economical way if we do it on the basis of when the agencies are ready for the funds and where they think that money can be spent most wisely and carefully.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. GOLDWATER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am glad my colleague from Wisconsin has anticipated what is a perfectly logical argument. That is, that of the $115 million increase, some $78 million is for 36 pollution abatement projects. That $78 million is needed to bring these installations into compliance with Federal, State, and local air and water quality standards.

Mr. President, this very Congress provided for those standards, and for us to say, as a Federal Government, which sets the standards for the Army, the Navy, and the Air Force, that our facilities need not meet those standards in water pollution abatement and air pollution abatement, I think, is entirely inconsistent with our role.

Second, $75 million was added for 96 energy conservation projects which have the added economic benefit of a payback in 6 years or less.

The argument of our friend from Wisconsin is that the Army is making a survey to determine whether or not these bases are going to be closed. Mr. President, without going through the list of bases and where these additions were made, let me say that the committee very carefully considered these bases and we have not picked any base which is scheduled for possible closure in the foreseeable future.

Anything is possible, Mr. President. We could close Andrews Air Force Base tomorrow. But it is not very likely, and it is the kind of prudent expenditure which I think the Senate ought to make.

Mr. President, this bill is not a bloated, large military construction bill. Quite to the contrary. This bill is $331 million less than the fiscal year 1977 military construction bill. In fact, it is the lowest military construction appropriation since fiscal year 1975.

The President's budget level is approximately $1 billion below ongoing levels for construction within the United States. That is due to the moratorium on domestic construction while base requirements remain stable. Mr. President, we did not intend to undo that moratorium on domestic construction, but we did very carefully go through this bill and, in those areas which were below the Federal air and water pollution standards, and at those bases not scheduled for closure, we thought it was not only a violation of Federal law, not only a bad example for the Federal Government to set, but also a very poor environmental policy for us to fail to put in the standard equipment in those military bases.

The same is true with the conservation projects. This money is not being spent in areas that are scheduled for possible closure.

Mr. President, with respect to the budget resolution, we are within the budget resolution. The Senator's allegation that we are $30 million over the budget resolution is simply a function of what we call, in the Budget Committee, rounding. In other words, we round off figures to the closest tenth of a billion dollars, and the $30 million provided here simply did not show up. This is not considered by the Committee on the Budget to be outside of the budget resolution.

Mr. President, I think this bill is, if anything, a very conservative, a very small bill, certainly, in comparison with past years. Any cuts such as that being proposed by the Senator from Wisconsin, I think, would be bad policy for the Government—from a defense standpoint, from an environmental standpoint, and from a conservation standpoint.

Mr. GOLDWATER. Will the Senator yield?

Mr. JOHNSTON. Yes, I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am sort of sitting in for Senator STEVENS.

My objection to the approach to this by the Senator from Wisconsin is that it is what we call a meat-ax approach. I admit that the sum is larger than it was last year. Probably, it does exceed the President's budget.

Mr. JOHNSTON. If the Senator will yield, it is actually lower than it was last year.

Mr. GOLDWATER. I beg the Senator's pardon. I meant to say that, but it is above the President's request.

In looking through this, particularly the Air Force area, I find many, many things that are needed by the Air Force. For example, near my own home, Williams Air Force Base has a school that is practically falling down. We estimate it will take $600,000 to reconstruct it, and there is not a penny in here for that. I suggest to the Senator from Wisconsin that, if he wants to make these cuts, he go through and pick out the cuts that he feels are necessary. I think the chairman of the Senate committee has very intelligently outlined that a very large part of this increase goes for things that we, in this body, voted for. I did not happen to vote for them, but, nevertheless, the majority prevailed.

Therefore, instead of just saying, let us cut the amount of money to be in conformity with the President's budget—I cannot buy that, even though I believe in spending less money. I want to know why we are reducing it. I suggest that the Senator from Wisconsin go through the bill carefully and come back and say, "I want to cut $50,000 here, $100,000 here, $10,000 there." He would probably find a good supporter in me. But I just cannot see using the meat ax on such a bill as this—which I feel, frankly, has had very good treatment in view of the fact of the added expenses that we in Congress have deemed necessary. I do not happen to agree, but Congress has.

Mr. JOHNSTON. I thank the distinguished Senator from Arizona.

A bill of this kind is difficult to argue about, frankly, because it is made up of so many individual items. In my argument a moment ago, I talked about the $78 million added for 36 pollution abatement projects. When we get down to talking about each of 36 pollution abatement projects, it is difficult, within the constraints of time and the interests of the Senate, to make a whole picture emerge regarding what the committee did over a period of days and days of hearings and weeks of staff study.

Suffice it to say that this committee has very carefully gone over literally hundreds of projects and expenditure items in the Department of Defense. We think that we have been very prudent and very conservative in spending the Federal dollar here. Really, as I say, the difference between this bill and the President's budget is only $115 million, out of over $3 billion, a very small percentage. That small amount is more than made up with pollution control expenditures required by Federal law and by energy conservation measures that will be paid back, within a period of less than 6 years, at bases that are not scheduled for closure.

I hope the Senate will reject the amendment of the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, what I should have said at the beginning and I want to say now is that the distinguished Senator from Louisiana (Mr. JOHNSTON) has done an outstanding job on this bill. I do not say that simply as a matter of form. I say that because I mean it. These were very thorough, very good hearings. It is one of the best reports I have read in a long time, with good explanatory material and excellent detail. It is very clearly written. I think he deserves great commendation for it.

I do not criticize him or the subcommittee in any way. However, I do feel that the position my amendment takes is completely logical. If money is needed for environmental protection and energy, why not wait until it is called for? Why not wait until the Defense Department knows exactly where it is supposed to go?

Furthermore, if the managers want to fund these bills in advance, before they are requested, before the Department of

Defense asks for them, why not do what the House did and find other parts of the bill where they can make cuts? The House was able to do that. The House is some $311 million under this bill. So there are other places that can be reduced.

I point out that, 2 years ago, the distinguished Senator from West Virginia, the majority leader, Mr. ROBERT C. BYRD, came in with a transportation appropriation bill that was $3 million over the budget. He did what I am trying to do here; he simply made a 3-percent cutback to the budget level.

Senator GOLDWATER said that he hoped that, instead of this kind of reduction, we would go through the bill and make specific cuts in individual areas, maybe a cut out of Louisiana, another cut out of Virginia, another cut out of Wisconsin, a cut from Kentucky. I think Members know why I do not do that. For one thing, this is something that the committee worked very hard on. The President and the Office of Management and Budget and the Defense Department have worked hard in this area. They have made their decisions. I think we have to go along with either the committee itself or the Office of Management and Budget and the agencies that have made their requests.

So it seems to me this is more logical. What I have done on this bill is exactly, precisely, what I did yesterday on the HEW appropriation bill.

The distinguished Senator from Louisiana, I am proud and happy to say, supported me, as did the distinguished Senator from Arizona. Both of them felt that was the logical reduction, the logical approach.

I simply say that what is sauce for the goose is sauce for the gander.

I hope this statement does not mean they will not support me ever again when I make this attempt.

But this is one legitimate way of making a reduction, and it is a modest reduction. I think the distinguished Senator from Lousiana would show remarkable statesmanship if he would accept it.

Mr. JOHNSTON. To the effect of the meaning of the amendment, when the Senator says, "The sums appropriated by this act shall not be available for obligation in excess of the amounts requested," when he uses the term "sums and amounts," is the Senator referring to line items or to an overall amount?

Mr. PROXMIRE. It refers to the figures presented in the President's budget.

Mr. JOHNSTON. On a line item basis or on an overall basis?

Is the Senator talking about the figure "$3,000,000,000," for example, or is he talking about——

Mr. PROXMIRE. I am talking about the Senator's report, the back of page 64. I am referring to the numbers itemized on that page which provide for the budget estimates in the Senator's obligational authority in column 3.

Mr. JOHNSTON. In other words, the amounts and the sums the Senator was talking about are the overall sum for Army, Navy, Air Force, defense agencies, Army, National Guard, et cetera. The Senator is not talking about line items within those amounts?

Mr. PROXMIRE. The Senator is correct.

Mr. JOHNSTON. If the committee or if the Congress under the Senator's amendment wanted to spend the same amount of money, but thought it more appropriate to spend more in the Army and less in the Navy, the Senator's amendment would prohibit us from doing so?

Mr. PROXMIRE. The Senator is correct.

Mr. JOHNSTON. In some respects, it would render the Congress a little bit superfluous or, certainly, the committees a little superfluous in their activities, would it not?

Mr. PROXMIRE. No, for several reasons.

One, it would not do that because, of course, any reductions the committee has made or the Senate has made would stand and there are reductions below the President's budget request, so we would go below the budget request.

Furthermore, as the Senator just made very clear, within those big categories of military construction, Army, Navy, Air Force, defense agencies, the reductions might very well stand, but the overall figure would be reduced.

Mr. JOHNSTON. I thank the Senator.

Mr STEVENS Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. STEVENS. I want to join the subcommittee chairman, the distinguished Senator from Louisiana, in opposing the amendment and again point out, as I did in my opening statement, the tremendous backlog of military construction items in our country. I believe we reject the inflation in the construction area in general. In my State, in particular, we just witnessed a $900 million pipeline costing $7.6 billion.

This item is not that much over the last year's level, even to keep up with the inflationary spiral still going on in the construction area.

So I would oppose any reduction in this bill.

I know we will have to lose some items in conference. I suggest by the time we get back to the floor after conference, we will be well within the President's budget.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, before I yield back, I told the majority leader I expected to get a rollcall vote on this. I do not know if there are enough Senators on the floor.

So I will yield back the time with the understanding we will put in a quorum call and try to get enough attendance to get the yeas and nays.

With this understanding, I yield back the remainder of my time, if the manager will.

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 34, nays 64, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—34

Abourezk	DeConcini	Pell
Biden	Eagleton	Proxmire
Brooke	Haskell	Randolph
Bumpers	Hatfield	Ribicoff
Byrd, Harry F., Jr.	Heinz	Riegle
Chafee	Kennedy	Roth
Church	Leahy	Sarbanes
Clark	Lugar	Schweiker
Cranston	Mathias	Scott
Culver	McGovern	Stevenson
Danforth	Metzenbaum	Wallop
	Nelson	

NAYS—64

Allen	Hansen	Moynihan
Anderson	Hart	Muskie
Baker	Hatch	Nunn
Bayh	Hathaway	Packwood
Bellmon	Hayakawa	Pearson
Bentsen	Helms	Percy
Burdick	Hollings	Sasser
Byrd, Robert C.	Huddleston	Schmitt
Cannon	Humphrey	Sparkman
Case	Inouye	Stafford
Chiles	Jackson	Stennis
Curtis	Javits	Stevens
Dole	Johnston	Stone
Domenici	Laxalt	Talmadge
Durkin	Long	Thurmond
Eastland	Magnuson	Tower
Ford	Matsunaga	Weicker
Garn	McClure	Williams
Glenn	McIntyre	Young
Goldwater	Melcher	Zorinsky
Gravel	Metcalf	
Griffin	Morgan	

NOT VOTING—2

Bartlett	McClellan

So the amendment was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. RIEGLE). The bill is open for further amendments.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. Will the Senator suspend for just a moment until the Senate is in order?

The Senator from New Hampshire.

Mr. DURKIN. I thank the Chair.

Mr. President, I want to commend both the chairman of the full committee and the chairman of the subcommittee, as well as Senators McINTYRE, HATHAWAY, and MUSKIE, who have worked so diligently on the military construction appropriations bill. I particularly want to commend them and the committee for including $2,650,000 authorized for the dredging of port facilities to accommodate repair and overhaul of the SSN–688 class submarines at the Portsmouth Naval Shipyard in New Hampshire. Those funds have been deleted by the House Military Construction Subcommittee.

The Portsmouth Naval Shipyard has a long and distinguished record of excellent work, particularly in the area of overhaul and conversion of nuclear submarines. The $2,650,000 included in the fiscal year 1978 military construction request for dredging at the Portsmouth-Kittery Naval Shipyard is to provide that shipyard with the capability to overhaul and repair SSN–688 class submarines. This project is part of the Navy's long-established strategic requirement to establish three naval shipyards on the east coast capable of overhauling SSN–688 class submarines.

The Portsmouth-Kittery Naval Shipyard is particularly suited to fulfill this mission of overhaul and repair of our newest class of attack submarine as it is the only naval shipyard devoted exclusively to submarine overhaul and repair, rather than to new construction. The House and Senate versions of the military construction authorization bill for fiscal year 1978 include the $2,650,000 requested for this project.

The House committee questioned the necessity of this three-yard requirement, noting that three private shipyards on the east coast are capable of overhauling this class of submarine. The Navy has testified that the amount of overhaul work these private yards can handle is limited in two cases by drydock availability and in one case by a large new construction workload. Dependence on private yard capability would be unwise because of private sector exigencies which so often occur on relatively short notice, and because of the general orientation of these private yards toward new construction rather than toward overhaul and repair work.

The House committee also questioned the timing of this military construction request vis-a-vis the availability of SSN–688 submarines requiring overhaul or repair. The Navy has testified that as early as 1980, three Atlantic Fleet-based SSN–688 submarines will be ready to enter a shipyard for work. Further, a delay in adding this capability to the Portsmouth-Kittery Shipyard is undesirable because of the negative effect this would have on orderly completion of the overall modernization project ongoing at this shipyard.

Mr. President, the reasoning of the House Military Construction Subcommittee led to the deletion of $2,650,000 for dredging at the Portsmouth Naval Shipyard. I am gratified that the Senate Appropriations Committee acting at the urging of Senator TOM MCINTYRE, Senator HATHAWAY, and Senator MUSKIE, has demonstrated a deep understanding of the importance of the Portsmouth Naval Shipyard and its extremely valuable contribution to our defense mission by reinserting those funds.

I thank the Senator from Louisiana and the Senator from Alaska.

UP AMENDMENT NO. 598

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 598.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 14: Add the following new section:

"Sec. 112: No part of any appropriation contained in this Act shall be used to enforce the provisions of section 4346(a) of title 10, United States Code, with respect to the eligibility of Marcus Bruce Paine, of Anchorage, Alaska, for admission to the United States Military Academy with the class entering the Academy in July 1977."

And renumber the succeeding sections accordingly.

Mr. STEVENS. Mr. President, I yield to the Senator from California for a unanimous-consent request.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that my staff member Jan Olson be permitted access to the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that my staff assistant, Joe Pete, be permitted on the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, one of my constituents, Marcus Paine, visited the U.S. Military Academy while researching an article defending the honor code at service academies. Marc was so impressed with what he learned at West Point that he applied to my office for a nomination to enter the Military Academy in July 1977.

Unfortunately, according to the law governing admission requirements, Marc will be several months too old by the time he enters the Academy. Because of his sincere desire to serve our country in military service, I would like to assist this fine young man. I believe that he would be an asset to the Academy.

With our all-volunteer military force, we must establish incentives for young people such as Marc to enter the military service. I request your assistance in waiving the age requirement for Marc. He deserves to have the opportunity to compete with the other qualified candidates from my State seeking an appointment.

In order for him to enter the Academy with the July 1977 class, I urge my colleagues to act quickly in approving this measure.

Very briefly, Mr. President, this amendment deals only with a technicality in the admission to the U.S. Military Academy concerning the age requirement. I have a bill introduced, S. 647, which is this amendment. I have explained it to the manager of the bill. I would hope he would take it to conference and see what the Members of the House would think about this provision as it affects just one young man and his admission to the Military Academy.

Mr. JOHNSTON. Mr. President, this does involve a technicality concerning the age requirement for admission to the academy, and we would be willing to take it to conference. We do not know what attitude the conferees would take on it but we are happy to accommodate the Senator by accepting it at this time.

I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

THREAT TO RESERVE FORCES

Mr. ANDERSON. Mr. President, I am very concerned about the potentially negative impact of continuing efforts by some in the Congress to dilute the strength and effectiveness of our National Guard and other Reserve components. I am particularly concerned about a recommendation of the House Appropriations Committee that 11,000 reservists be transferred from pay categories A and B to pay category D, which provides for only 2 weeks annual active duty training. The skill areas affected by this action include the specialized fields of civil affairs, law/legal, chaplain, public affairs, and research and development officer and enlisted personnel.

This proposal, if enacted, would essentially mean the end of a viable Reserve program as these highly skilled and dedicated professionals provide indispensable support to their service and country. The loss of any one component would critically impair the readiness of the reserve force and seriously question their ability to fulfill their most important mission.

Also of concern to me is the negative impact the proposed action will have on our ability to retain qualified reservists. Based on a Department of Defense survey of naval reservists on this issue, 61 percent of the junior officers and enlisted members indicated that they would resign from the Reserve program entirely. Only slightly more than 12 percent indicated they would continue to drill without pay.

I strongly urge my colleagues to reject this effort to weaken the strength of our Reserve forces and support 48 drills and 2 weeks annual training for these 11,000 members in the Reserve components.

REPORT LANGUAGE ON EAST COAST RANGE AND FIRST COLONY FARMS' PEAT PROGRAM FOR ENERGY

Mr. MORGAN. Mr. President, I would direct the attention of the Members of the Senate to page 24 of the Senate committee report on the military construction appropriations legislation. I refer

specifically to the language regarding the East Coast Range.

I am very happy to see this language, and I greatly appreciate the assistance of the members of the Appropriations Subcommittee on Defense in having it included in their report.

Mr. President, the East Coast Range is located in my State of North Carolina on approximately 45,000 acres of land presently owned by First Colony Farms, Inc. The report language to which I have alluded states briefly and clearly my chief concern in this matter, but I would like to give my colleagues a background sketch of the situation so that they might better understand the great potential which First Colony's peat deposit represents, especially in this time of energy debate and uncertainty.

As I mentioned, the acreage which the Air Force is using for their East Coast Range is now owned by First Colony Farms, Inc., and is under lease to the United States as a bombing and strafing range for Air Force and Navy jet aircraft.

First Colony has discovered that the property contains a deposit of peat of over 400 million tons, nearly 150 million tons of which are within the boundaries of the range.

Every study which First Colony has contracted has yielded very encouraging results regarding the peat's potential as a source of energy. On a Btu basis, the total deposits equal 825 million barrels of oil, approximately 12 percent of the estimated reserves of the North Slope. The peat reserve can operate a 400-megawatt electric generating plant for 150 years, four 400-megawatt units for 35 years, or an 80 million cubic feet per day gasification plant for 48 years. The peat supply would increase North Carolina's generating capacity by 10 percent, and would supply enough electricity for 588,000 homes for 40 to 45 years. When dry, the peat averages 10,000 Btu's per pound compared with slightly over 12,000 for coal. Peat is also very acceptable by environmental standards. Tests by the Bureau of Mines revealed a low sulfur content of 0.27 percent and also a low ash content. Studies by Ebasco Services, Inc., of New York, show that peat compares economically with coal, oil, and nuclear power. Through gasification, peat can be converted to ammonia and other useful byproducts. First Colony has already invested nearly $500,000 of its own funds in research on the potential of the peat for energy.

Mr. President, the peat is particularly important to North Carolina, because my State lacks other local sources of energy. Support for the continuance of the peat program has come from North Carolina's Gov. Jim Hunt, the Governor's energy assistant, the U.S. Energy Research and Development Administration, the Research Triangle Institute, the aforementioned Ebasco Services, Inc., and the Minnesota Gas Co. In addition, Senator HENRY JACKSON has shown great interest and support, as have Senators INOUYE, JOHNSTON, and STEVENS on the Appropriations Subcommittee on Defense. I thank these of my colleagues again for their support.

Mr. President, this peat could mean a great deal for North Carolina, and it is my hope that if the project is successful in determining the feasibility of using the peat as a substantial source of energy, other peat deposits in America might also be developed as alternate sources of energy, either through direct combustion and use as electricity, or through gasification.

As I stated, Gov. Jim Hunt of North Carolina has demonstrated his strong support of the peat program. In fact, in his presentation of the North Carolina energy program to Dr. Schlesinger on March 21, 1977, Governor Hunt specifically mentioned the peat deposit and its potential.

Mr. President, the United States, through the Air Force, and First Colony Farms have reached an agreement regarding the land on which the East Coast Range is located. I am very hopeful that the military mission of the East Coast Range and the peat/energy development can both go forward. The report language will be of great help in achieving those two worthwhile goals.

Mr. President, I ask unanimous consent that I may insert some copies of correspondence in the RECORD at this point to reiterate the interest which has been generated by the peat project.

I thank the Senate for giving me the opportunity to share this information with them.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 31, 1977.

Mr. BEN YAMAGATA,
Committee on Energy and Natural Resources, Washington, D.C.

DEAR MR. YAMAGATA. I would like to bring to your attention a matter that is of acute interest to the state of North Carolina. The U.S. Air Force intends to condemn a large tract of land in Eastern North Carolina and use the property for a permanent practice bombing range. The USAF now leases the property for that purpose. I would like to see that decision delayed.

The 45,000 acres affected belong mostly to First Colony Farms of N.C., and First Colony is in the process of evaluating the possibility of harvesting its peat reserves as a fuel source. The farming operation has spent about $500,000 already on the project, and it feels confident that the peat can be developed either as a direct fuel for boiler generators or as a source for liquid gas.

North Carolina has almost no energy reserves of its own. Hydroelectricity is our only native energy supply. First Colony, however, has conducted scientific surveys that show its property has up to 400 million tons of peat. Approximately 150 million tons of that amount are located on the 45,000 acres to be condemned.

The state's interest, of course, is in the potential energy development. If developed as a gas, for example, the peat could supply North Carolina tobacco farmers with much needed fuel during the summer curing season. Likewise, it could be used in producing badly needed fertilizer. The farm's gassification tests are not complete, and that is one reason why the state feels that the Air Force's action is precipitous. Also, the Air Force's lease doesn't expire until 1979, so there is no imminent danger that the armed forces will lose a bombing range if there is a delay.

President Carter has emphasized to state governments the importance of developing energy programs that will help reduce our dependence on foreign fuel imports. Peat development in North Carolina offers that prospect, and the state urges you to postpone the Air Force's condemnation and acquisition of one of North Carolina's few energy reserves.

Sincerely yours,

BARLOW HERGET,
Special Assistant.

MARCH 24, 1977.

Senator ROBERT MORGAN,
Dirksen Office Building, Washington, D.C.

DEAR SENATOR MORGAN: I have been informed by Mr. R. N. Campbell, Jr., Vice President of First Colony Farms, Inc., that the U.S. Army Corps of Engineers advised them that plans are being made to use some of their land as a practice military bombing range. Mr. Campbell said that you and Senator Jackson were aware that the land contains extensive deposits of peat and that his company had been investigating the use of peat to produce electricity or natural gas.

Mr. Campbell asked that I inform you of our activity in relation to the use of peat to produce synthetic natural gas. Minnegasco has been investigating peat as a source of energy for 2½ years and I am convinced that it will be economically feasible to use peat as a source of synthetic natural gas, fuel to generate electricity, or as feed stock for production of chemicals.

On June 30, 1976, Minnegasco was awarded a 1.2 million dollar contract by the Energy Research and Development Administration, to investigate conversion of peat to synthetic natural gas. Progress under this ERDA grant has been very encouraging and satisfactory.

Senator Humphrey, Senator Anderson, and Vice President Mondale are all aware of Minnegasco's activity in developing peat as a source of energy, and of the general interest and enthusiasm of the people in Minnesota in the development of peat to help relieve the energy shortage.

I am enclosing a copy of our proposal which was presented to ERDA in connection with our research grant. This proposal contains information in relation to the magnitude of peat deposits in the United States and of their value to help relieve the energy shortage.

I personally feel that it would be highly undesirable to commit land which contains large quantities of peat deposits to use which would exclude using the peat as a source of energy.

Sincerely,

A. M. RADER,
Assistant Vice President, Research.

MARCH 29, 1977.

Mr. SIMON B. RICH, Jr.,
President, First Colony Farms, Inc., Creswell, N.C.

DEAR MR. RICH: The Energy Research and Development Administration (ERDA) is vitally interested in developing potential energy sources to alleviate this country's energy needs. One of the sources under active investigation by ERDA is peat.

The main deposits of peat in the United States are located in states which have few or no local sources of energy and which must import energy from other states. Development of peat for fuel, either by direct combustion or gasification, would assist these states in meeting their energy requirements. ERDA presently is engaged in a program with Minnesota Gas Company to develop peat as an energy source in Minnesota. We are also interested in peat because usually it is low in sulphur and ash, and thus is an acceptable fuel from an environmental viewpoint.

I understand that First Colony Farms has recoverable peat deposits of over 400 million

tons. Tests by the Bureau of Mines, requested by First Colony, revealed that First Colony's peat without moisture has an energy content of 10,000 Btu's per pound and 0.27 percent sulphur content. You have informed me that First Colony is preparing a peat harvesting operation, is acquiring harvesting equipment from Russia, and is seeking industry proposals for a prototype plant for converting peat to energy by direct combustion or gasification. These programs are being undertaken with private funds. You have invited an ERDA representative to view First Colony's peat operations.

We believe that peat is a feasible and important energy source, and development of peat reserves in the United States should be pursued. We hope that First Colony will continue its proposals to harvest and utilize its peat resources, and will inform ERDA of the progress of its peat program.

Sincerely,

WAYNE MCCURDY,
Chief, Direct Combustion.

MARCH 23, 1977.

Senator ROBERT MORGAN,
Dirksen Office Building,
Washington, D.C.
Senator HENRY JACKSON,
Russell Senate Office Building,
Washington, D.C.

We were directly involved in a recent study of the technical feasibility and economic comparison of peat versus competitive fuels for power generation. The results of our study indicate that installation of a mine-mouth type power plant located on a major peat field such as the First Colony Farms is a viable concept. A detailed evaluation of the techniques and cost involved to harvest and fire peat in large boilers indicates that it is both practical and economic. We firmly believe that the government should make a prompt and thorough investigation of the merits of using peat for power generation as a means of meeting our national energy needs.

R. R. BENNETT,
Chief Consulting Mechanical Engineer,
Ebasco Services Inc.

(NOTE.—The foregoing message was sent by Western Union telegram on March 23, 1977.)

MARCH 25, 1977.

Hon. ROBERT B. MORGAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORGAN: The attached letter, which is reasonably self-explanatory, was directed to Senator Jackson, because I believe he has expressed concern over the seeming insistence of the Department of Defense to acquire a large tract of First Colony Farms land in Dare County for continued use as a military weapons range.

Because of the importance to North Carolina of this issue, I knew you would want to have a copy of the letter. Naturally, we also would be happy to provide the study results to you and your staff.

I am glad there was an opportunity to have you visit RTI several weeks ago. It was good to see you again.

With warm personal regards, I am,

Very truly yours,

GEORGE.

MARCH 25, 1977.

Hon. HENRY M. JACKSON,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR JACKSON: Although not a constituent, I am taking the liberty of writing to you because it is my understanding that, as a member of the Committee On Armed Services, you have evidenced interest in the intentions (apparently very determined intentions) of the Department of Defense to acquire approximately 45,000 acres of First Colony Farms (FCF) land in Dare County, North Carolina, for permanent use as a military weapons range.

My purpose in writing is to acquaint you and your staff with one critically important finding of a comprehensive land development plan which Research Triangle Institute recently completed for FCF. In addition, our study examined some economic and environmental consequences of DOD's intended use of the land which were not included in the environmental impact assessment prepared by, and for, the Air Force. We would be happy, of course, to make the complete study findings available to you or your staff.

Briefly, First Colony Farms is an economically viable undertaking with considerable resources. The farm has over 150,000 acres of mineable fuel peat that should yield over 400 million tons of high quality fuel. A considerable amount of this total is located in the Dare County property and could not be effectively exploited if the Department of Defense is permitted to implement its plan to acquire the land.

Based on our studies, the use of the FCF peat as an energy source is not only feasible but an attractive venture. Economic analysis indicates that use of FCF peat in on-site electric generation is more than competitive with other available alternations. It also is much cleaner. In addition, there are indications that the peat can be readily gasified to relieve some of the severe natural gas shortages occurring now in the region. Further study would certainly seem warranted before this valuable resource is committed to other uses.

If you would like more detailed information, we would be happy to provide your staff with the study results.

Very truly yours,

GEORGE R. HERBERT,
President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall it pass?

The bill (H.R. 7589) was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to H.R. 7589.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. JOHNSTON, Mr. MCCLELLAN, Mr. INOUYE, Mr. HUDDLESTON, Mr. SASSER, Mr. STEVENS, Mr. YOUNG, and Mr. BELLMON conferees on the part of the Senate.

LABOR-HEW APPROPRIATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 7555, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 7555) making appropriations for the Department of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Under the previous order the Senator from Oregon (Mr. PACKWOOD) is recognized to call up an amendment.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I yield to the Senator from New Hampshire.

Mr. McINTYRE. I thank my good friend from Washington, the manager of the bill.

I notice on page 82 of the committee report the statement:

The Committee is not interested in continuing to fund the same schools year after year if need does not justify it.

Did the committee see a problem with the financial distress program that led them to this specific language?

Mr. MAGNUSON. The committee is simply saying that we should not be funding the same schools year after year with financial problems, until they put their own ships in order.

Mr. McINTYRE. It is my understanding that of the final 12 schools eligible for funding this year, 11 were institutions that had previously received funding, and some for as many as 6 consecutive years. Is that what the committee had in mind when it drafted the language?

Mr. MAGNUSON. Yes, it was.

Mr. McINTYRE. Then am I correct in assuming that the committee is suggesting to the program managers that the intent of financial distress funding is to assist previously well-established schools who for some unforeseen circumstances find themselves in distress and who, with a minimum short-term investment by the Government, promise to again be self-supporting.

Mr. MAGNUSON. That is correct.

Mr. McINTYRE. I thank my good

friend from Washington for the interesting colloquy.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

Mr. CHILES. Mr. President, I wonder if the Senator would withhold that for a moment, so that I may have a short colloquy with him.

Mr. MAGNUSON. If the Senator from Florida will withhold it for just a little bit, I am waiting for Senator PACKWOOD and Senator BROOKE.

Mr. CHILES. I just wanted to ask the Senator a question.

Mr. MAGNUSON. One question? I would like to wait until they get here, because then I have to leave immediately for at least a half-hour. I am on a conference on State-Justice-Commerce right now, and they are waiting for me. As soon as those Senators show up, we can proceed with the bill. We will have our colloquy later.

Mr. CHILES. I just wondered if we could do it before they get here. It will only take 1 or 2 minutes.

Mr. MAGNUSON. I appreciate that and regret I must leave right away. But I will be back as soon as I finish with the conference, and we can have it then.

Mr. CHILES. Very well.

Mr. MAGNUSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consert that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. BROOKE. On this matter which the distinguished chairman discussed with the Senator from New Hampshire (Mr. MCINTYRE), I just want it to be understood that that does not indicate any intent on our part not to give consideration to those schools that are most in need. That is still going to be our criterion, is it not?

Mr. MAGNUSON. I hope we made that clear. We are only suggesting that there might be some schools that are not doing as much as they should do for themselves.

The ones in need unsually are ones that are in need due to circumstances beyond their control. That is what we meant by it, and that we should be helping those with truly a temporary fiscal problem that we can tide them through.

Mr. BROOKE. I thank the distinguished chairman. I just wanted the RECORD to be clear on that matter.

UP AMENDMENT NO. 599

Mr. MAGNUSON. Mr. President, Senator BROOKE and I have an amendment that we intend to submit. However, I want to explain the amendment first.

The PRESIDING OFFICER. If the Senator will suspend for a moment, under the previous order the amendment of the Senator from Oregon is next in order for consideration.

Mr. MAGNUSON. This will take just about 30 seconds.

Mr. PACKWOOD. Mr. President, that was only an order for last night, anyway. Mr. President, I ask unanimous consent that the order of last night be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 599:

On page 2, line 18, strike "$3,644,930,000" and substitute "$3,619,930,000."

Mr. MAGNUSON. Mr. President, the Senator from Massachusetts and I submit an amendment which would cut $25 million from the bill, and ask for its immediate consideration.

This amendment would reduce the Secretary of Labor's discretionary funds from $109 million down to $84 million.

The House-passed version of this bill wipes out the Secretary's discretionary fund altogether. This is clearly too severe, since some flexibility is needed to respond to various emergency situations such as the recent weather and fuel crisis and the drought crisis in the Western States. However, since last year's discretionary fund was only $72 million, I feel $84 million this year provides an adequate increase, rather than the full $109 million approved in committee.

Mr. President, I urge adoption of the amendment.

Mr. BROOKE. Mr. President, I support the distinguished chairman on this amendment. I believe it is a sound amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, the way we left it last night, as I recall, we would now begin discussion on the so-called abortion amendments. The Senator from Oregon very graciously last night accepted the will of the Senate that we had worked a long, hard day and he would postpone his amendment until today.

I ask unanimous consent, Mr. President, to go back to the original order in which the Senator from Oregon would be recognized.

Mr. PACKWOOD. Reserving the right to object for just a moment, Mr. President——

Mr. MAGNUSON. Mr. President, I want the record to show that it is absolutely necessary that the Senator from Washington not be on the floor for at least the next half hour while other Senators are discussing this amendment. I believe I am knowledgeable about it. I have listened to it over and over again. We do have a highly important conference concerning the State, Justice, and Commerce appropriations bill underway and I am required to be there. I will return as quickly as I can. I wanted the record to show that.

The Senator from Massachusetts will take over as far as this amendment is concerned.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Michael Hammond, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 600

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) on behalf of himself and Mr. JAVITS, proposes an unprinted amendment No. 600.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the period and insert the following: "; however, nothing herein shall be construed to limit Federal financial participation in court-ordered retroactive payments or in audit exceptions or adjustments to prior year costs provided that the amount in such audits or adjustments does not exceed 5 percent of the gross amount previously claimed for that period.".

Mr. CRANSTON. Mr. President, this amendment is known to the managers of the bill. It has been discussed with them.

The purpose of this amendment is to allow States to continue to receive reimbursement for their valid expenditures claimed as a result of court-ordered retroactive payments, audit exceptions and adjustments to prior year cost. Since the decisions of a court ruling or audit review often follow the initial expenditures by several years, certain claims for reimbursement may be delayed in reaching the Federal Government. For example, a Federal audit finds that certain expenditures under title XX from prior years are nonreimbursable. A State may then submit new and different claims for reimbursement if such expenditures were incurred during the same payment period and were for valid activities.

This amendment simply allows the continuation of this practice in such cases, with the imposition of a 5-percent cap on any claims for audit exceptions and adjustments to prior year cost. The

cap will permit the Treasury to project, within 5 percent, current Federal outlays for prior years, while still permitting the States to claim expenditures duly authorized under Federal provisions.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished Senator from California, and he has also discussed it with the distinguished chairman, Mr. MAGNUSON. We are willing to accept this amendment.

Mr. CRANSTON. I thank the Senator, very much. I yield back whatever time remains.

Mr. BROOKE. I move its adoption, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 477

Mr. ALLEN. Mr. President, I call up amendment No. 477 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself and Mr. SPARKMAN—proposes amendment No. 477.

Mr. ALLEN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . Any payment made pursuant to the paragraph entitled "Health Resources" under chapter VII of the Act entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 1977, and for other purposes", approved May 4, 1977 (Public Law 95-26), to the Tuskegee Institute, Tuskegee, Alabama, for construction assistance for its school of veterinary medicine may be made without regard to the requirements of section 722(a)(1) of the Public Health Service Act, relating to the Federal share of the grants authorized pursuant to section 720(a)(1) of that Act.

Mr. ALLEN. Mr. President, earlier this year Congress appropriated $1 million to Tuskegee Institute under the Public Health Service Act for the upgrading of its veterinary school, to aid it in construction and building at the school. This was necessary to avoid the withdrawal of accreditation of this fine veterinary school, which has turned out some 92 percent of the black veterinarians that are practicing in the country today. It was contemplated that this was an appropriation that did not require any matching funds. Subsequently, it has been found that the requirement is that there be $250,000 of matching funds by the local institution. Tuskegee Institute is not in a position to make this local contribution and the matter has been discussed with HEW. I feel that they are friendly to this amendment, which would not appropriate any additional funds over the amount already appropriated, but would waive the requirement for local participation. The appropriation has already been made. There is no additional money being appropriated, but Tuskegee would be relieved, under this amendment, of coming up with these local funds.

I have discussed this with the chairman of the committee and the ranking minority member. I believe they are sympathetic with the amendment. I hope the Senate will accept it.

Mr. BROOKE. Mr. President, Senator MAGNUSON and I have discussed this amendment with the distinguished Senator from Alabama. We are well aware of the needs of Tuskegee Institute. As the Senator has said, they will not be able to make the matching funds, so actually, they will not be the recipient of the $1 million which has already been appropriated. We believe this is a sound amendment and we are prepared to support it.

I move the adoption of the amendment.

Mr. ALLEN. I thank the distinguished Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. I thank the Chair. I thank the distinguished Senator from Massachusetts (Mr. BROOKE) and also Mr. MAGNUSON, who gave his consent to bringing up the amendment.

UP AMENDMENT NO. 601

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY) proposes unprinted amendment No. 601.

On page 23, line 12, strike out "$642,425,000" and substitute $643,425,000, of which $3 million shall be available until expended for carrying out the programs of Section 625.

Mr. HUMPHREY. Mr. President, it has come to my attention that the regional education programs authorized by section 625 of the education of the handicapped amendments are in danger of being seriously underfunded in the bill before us.

The regional programs funded under this section in Washington, California, Minnesota, and Louisiana have provided an excellent program of education. Despite growing enrollments and heavy inflation, however, funding in the fiscal year 1978 bill remains static at the same level as that of 1976 and 1977. In effect, a cutback is mandated.

Of the $2 million line item for section 625 programs, it is my understanding that only $1,068,577 was available to these four programs in last year's budget. Yet a commitment has been made to these schools that they would be funded according to a 5-year plan. Under the 5-year projection, enrollment will rise 8 percent this year. Adding 12 percent to compensate for inflation would require at least $400,000 more—and we are speaking only in terms of conserving progress made, and expansion already undertaken in conformance with the approved plan.

In this era, when we are accustomed to hearing stories of monumental waste and mismanagement, especially in military procurement, that cost the taxpayer millions of dollars, it seems almost trivial to quibble over $1 million.

These programs have been remarkably successful, and have more than justified our hopes and expectations at a very modest cost. They are cost effective. They are a blue chip investment in this country's human resources.

I have been most directly acquainted with the excellent program at the St. Paul Technical and Vocational Institute. The 383 graduates of this program paid a combined cumulative total of $269,292 in taxes last year, almost equivalent to TVI's current grant of $281,746. Without training, many of these people would have had no opportunity to complete their schooling and acquire marketable skills. Many would be dependent on public assistance.

The graduates of St. Paul's TVI and other schools have become productive, contributing members of society. That is what they and their families want. And all they required was a helping hand.

It is important to emphasize that regional centers serve the entire Nation. St. Paul TVI's enrollment represents 33 States, with only a quarter from within the State. Every State has at least one student enrolled in one of the four regional centers for the deaf.

Nine other centers have been established for the handicapped generally. The added funds I propose would be allocated among 13 programs, with $400,000 destined specifically for the four original programs, and the balance to permit the expansion of the remaining projects serving other handicaps.

The 625 programs are an extremely useful model for efforts that will be required of postsecondary educational institutions generally as the Rehabilitation Act's section 504 is implemented and enforced.

Again, let me emphasize that this increase of funds will enable the original four centers to meet their minimum capacities as projected under the 5-year plan which was prepared at the specific request of the Bureau of Education of the Handicapped.

It should be our goal and our commitment to assure that not one qualified applicant is turned away from these schools. We have all heard and said a lot about our commitment to the handicapped this year. Let us be sure that we demonstrate, through a reasonable and sorely needed increment in the resources of these centers that we are truly prepared to help courageous and ambitious Americans overcome their disabilities and take their place proudly in our work force.

Mr. President, the bill, as it is presently written, would, I think, seriously jeopardize the functioning of some pilot projects that are underway in the States of Washington, California, Minnesota, and Louisiana. These projects have an excellent record in terms of the education that they are offering for the handicapped.

Nine additional centers are going to be coming into operation, with the same amount of appropriation for the 13 as there were for the four. What we do

with this extra million dollars is, really, merely hold the ground that we have already occupied for the four thus far.

I say to the Senator from Massachusetts that I think the record in these four States is nothing short of outstanding. It is a truly excellent performance. It does not really expand any of those programs, but it does take into consideration that we are opening up some additional demonstration projects in some additional States. It leaves the funding for those States that have already proven themselves to be at a sort of current status.

Mr. BROOKE. Mr. President, I certainly do agree with the distinguished Senator from Minnesota that the record has been an excellent one. I think that his amendment is a sound one. I have discussed it with the distinguished chairman, and he and I agree that this is an amendment which we can take and support. Therefore, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I thank the able Senator from Massachusetts for his consideration and the Senator from Washington with whom I have discussed this matter.

UP AMENDMENT NO. 602

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment No. 602.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, beginning on line 6, strike all down through line 14.

Mr. PACKWOOD. Mr. President, in one sentence, this amendment strikes section 209 of the bill which will be found on page 42. Section 209 is the restriction in the bill that severely limits the use of funds for abortions.

I say again, this amendment strikes all language, so that if this amendment is successful, Federal funds will be available for use in abortions.

Mr. President, we have debated this issue extensively. Certainly, since the Supreme Court decision of 1973, we have debated it extensively.

I have been involved this year in politics, active politics, for a quarter century. Abortion is the most divisive basic issue I have run across in my experience. It far outweighs, in terms of its supporters and its opponents, gun registration, fluoridation, or any other issue of temporary or permanent significance.

I would like to have thought at the time of the Supreme Court decision the issue was then behind us. It obviously was not.

It did not still the efforts to have a constitutional amendment to overturn the decision. It has not stilled the efforts even under the decision to limit the use of public funds, either State or Federal, for abortion.

I want to review for a moment the history of abortion, if I can, the history of the attitudes toward abortion, the history of how the law looked at abortion.

Our background, of course, is, by and large, common law, Anglo-Saxon, and at common law, abortion was not a crime. Certainly, it was not a crime prior to what was known as quickening of the fetus, which normally occurs between 16 and 18 weeks. It was not a crime, it was not a misdemeanor, it was not a felony or a crime, nor was it depraved, either morally or ethically.

It was commonly practiced, commonly accepted, and legal.

We will hear many speeches. We will hear many more on the Fourth of July about the history of the country, the Founding Fathers, our patriotism, and return to the moral values this country was founded under.

I want to emphasize again that at the time this country was founded, abortion was legal, moral, ethical.

It was not until 1807 in England when a statute was passed somewhat limiting abortion rights that we started to see the legislative history of the narrowing of the right of a woman to an abortion.

Between 1850 and 1950 in this country most of the States passed laws very severely restricting abortion.

Only two jurisdictions did not join in that trend. One was the District of Columbia, the other was Alabama. Both of those jurisdictions, by and large, kept more moderate, more relaxed abortion laws.

I want to emphasize that period prior to 1950 when we had the most severe abortion laws on the books of all of the States. It was the era in which most of us were raised. The era, at least, in which most of us were children, in which our views were formed, and we were raised to think that abortion was bad. We were raised to think homosexuality was bad. We were raised to think that men had superior rights to women. Those are very hard views for many of us to shake as we grow older.

Abortion is not the only difficult adjustment for many people. We are certainly going to face the issue again of homosexuality.

All I am emphasizing is that as we grew up, we grew up conditioned to the assumption that abortion was bad.

Starting in the 1960's, the attitude of this country began to change. In 1965, Colorado passed what was known as the first liberal abortion statute, and they said a woman could have an abortion if she were pregnant because of rape or incest or if the child might be both deformed or genetically defective or—and this is the big exception—if the mental or physical health of the woman would be endangered by the pregnancy.

Under that interpretation, Colorado became the most liberal State in the Union on abortion.

Not long after that, New York, Alaska, Hawaii, by legislative act, followed suit legalizing abortion, and the State of Washington by a vote of the people, straight up and down vote on the issue of abortion on the ballot, voted to legalize abortion.

These were all before the 1973 Supreme Court decision. They were a clear indication that the attitude of the public was again changing—changing, really back to what it had been 200 years ago, namely, that abortion was legal, moral, and ethical.

We can see it in every poll that is taken today, the difference between the attitudes of our contemporaries and our children and their contemporaries.

By an overwhelming margin, the youth of this country, Protestant, Jewish, Catholic alike, support the right of a woman to have an abortion.

As we move up in the age categories in the poll, that difference narrows until we get to the age category even older than most of us and we find that age category still opposes abortion.

I say again, it is understandable. It is the era in which we were raised.

Now we come to 1973 and the Supreme Court decision.

Mr. PERCY. Before the Senator gets to 1973, will he yield for a question?

Mr. PACKWOOD. Yes.

Mr. PERCY. Is it not true that in all this period there was no question about the fact that premarital sex resulting in an unwanted child, an unplanned child, a child that could not be cared for and would interfere with the life of the young girl that had it, was always looked upon as wrong, always looked upon as immoral, as a very impractical thing to allow?

Mr. PACKWOOD. Absolutely.

Mr. PERCY. So we have abortion versus this other phenomenon—we do not like abortions, but we do not like the other one even more. The general accepted practice hundreds of years ago was simply that when this occurred, an abortion might be the only recourse, enabling a greter ill to be overcome by what was then considered to be a lesser ill.

Mr. PACKWOOD. The Senator from Illinois is absolutely right.

I might emphasize, during this entire 100 years the law against abortion did not stop abortions. The fact that they were illegal did not stop one from going to her sister-in-law and using a coat hanger, and she might become infected and die.

Mr. PERCY. But did it not really prevent a girl from going to her own doctor and asking him to perform an illegal operation? Did it not prevent that young woman from getting the benefit of any kind of counseling? Did it not prevent that young woman from placing herself in the hands of someone she had confidence in and could go to as a friend and with the patient-doctor relationship that should exist?

What it did was to force her into the so-called back alley operation. It forced her to go to an abortion factory whose sole business was performing illegal abortions. It was done by those who were engaging in an illegal, illicit practice and it forced her to pay a great deal more money than she would have to pay if she could do it legally.

Mr. PACKWOOD. The Senator is correct.

Mr. PERCY. The most hideous crime of all is that many times, particularly if she was into the second or third trimester, she could have been counseled to avoid the abortion and could have handled the problem in some other way. But, by going to someone whose only business was to perform abortions, that is all she got.

With so many now proclaiming against abortion, that is the situation from a practical standpoint in the real world in which we live.

Mr. PACKWOOD. Abortion was the biggest single cause of death. After the fact, any doctor knew that an abortion had indeed been done, knew that the woman had become infected and in many cases died. They could tell the results of the abortion. That is one of the reasons why these laws were passed from 1850 to 1950. They were not passed because of moral reasons but because of health reasons, because abortions were dangerous. Many people died from them.

Now we get to 1973 and the Supreme Court decision on abortion. People sometimes misread that case, I think, on both sides, both those who support abortion and those who do not.

We often hear it said that the Supreme Court says you have a right to an abortion. I am not sure that I read the case that way, even in 1973. But the Court indicated very clearly last week what they meant by their 1973 decision. What they said was that every woman has a right to make a decision as to whether or not she wants an abortion—the right to make a decision.

The Federal Government and the States cannot deny to a woman the right to decide whether or not she wants an abortion, but the Court apparently has said that the Government, State or Federal, has no obligation to fund an abortion. That would be consistent with most of the other Rights—and I use with a capital "R"—that exist in the Constitution. The fact that you are entitled to freedom of the press does not mean the Government has to buy you a printing press. The only time when the court has forced the Government to fund the defense of a right is when the Government is trying to take it away from you. Normally, in the situation of trials or reviews from trials, where you are an indigent defendant and the Government is prosecuting you, the Supreme Court has said that you cannot have a fair trial in this country if you cannot have counsel; and if you cannot afford it, it is the obligation of the Government to provide it for you. So that that right, indeed, can be protected.

The Court has not gone very far beyond that in saying that we have an obligation to fund constitutional rights, although I say again that the Court did say that a woman has a right to decide whether or not she wants to have an abortion.

Obviously, I support abortion. I have supported abortion for years. I supported it when I was in the State legislature in Oregon. I introduced bills to legalize it there. I introduced bills for a national legal abortion right, prior to the Supreme Court decision. I did that because I thought a woman should have a right to choose whether or not she wanted an abortion. All the Court did in 1973 was to corroborate that conclusion.

I have never supported abortion—and arguments may be made—just because it is cheaper than pregnancy. The argument often is made, with respect to the 250,000 to 300,000 abortions, that it is a lot cheaper than carrying those pregnancies to term, having the babies on welfare, and all that. It probably is cheaper. But the logical extension of that argument is that it is a lot cheaper to execute people when they get old or they are in retirement homes, that it would be a lot cheaper to get rid of them. I am not using that argument.

I do not use the argument that we need abortion for population control. An obvious concomitant of abortion is that many women have legal abortions who would not otherwise have them and it has an effect on population. But if you were to say that abortions are right because we have a population problem, the corollary would be that when we stabilize our population, we would no longer allow women to have a right to have an abortion.

(Mr. CULVER assumed the chair.)

Mr. PERCY. Mr. President, will the Senator yield for a comment or a question, before we leave the subject of cost?

Mr. PACKWOOD. I yield.

Mr. PERCY. Is it not true, though, that even if you do not debate this issue solely on a dollar and cents basis—because there are many more humanitarian and psychological aspects involved that are far more important than just dollars and cents—often those who take such an adamant position against abortion are sometimes the very ones who are constantly in the forefront of condemning welfare in every way possible?

Is it not a fact of life that if that unwanted child is born to a mother who already has 7 or 8 children, she not only cannot adequately take care of additional children, but also, from a practical standpoint, that child is going to end up as a ward of the Government for 15, 16, 17, or 18 years? If those children are raised in a ghetto, in a life surrounded by crime, the chances are great that they will be drawn into the multibillion dollar business of crime.

So those who are against welfare programs should at least look at the dollars-and-cents aspect of this issue, even though it is not the most important issue. It is, however, an issue to which we cannot shut our eyes. It exists and cost has frequently been raised in this debate.

Mr. PACKWOOD. The Senator is absolutely right. It is indeed cheaper to fund abortions for women who want them than to force them to bear unwanted pregnancies to term. There is no doubt that it is cheaper. The Senator is absolutely right.

The Supreme Court having said that a woman has a right to decide—and I emphasize over and over the right to decide—do we in Congress have any obligation to fund abortions? Not a constitutional obligation, a moral obligation.

Let us be very clear about it. If we do not fund abortions, these 250,000 to 300,000 women who now receive abortions, paid for by Federal or State moneys under medicaid, are either going to have babies they do not want or are going to go to backroom abortionists. There is no question that the poor are going to be discriminated against. It does not mean that we have an obligation to help them, but should we?

What else do we do for the poor? We provide them food, through food stamps and other Federal programs. We provide them housing, through public housing. We provide them a whole variety of health services, through medicaid and other Government-funded medical programs. We even provide them legal services. I am not talking about legal services to defend yourself against prosecution by the Government. I am talking about legal services so that a poor person can sue his landlord.

We provide them with education, because we think it is right in this country that the rich and the poor have a reasonably equal chance for education.

Yet, in every one of the items I have cited—education, legal services, medicine, food, and housing—the Supreme Court never once has said, "You have a right to those." They have never even raised it to the dignity of the right of a woman to decide whether or not she wants an abortion. Yet, we are willing to fund for the poor all those programs, and we do it gladly, to the limit we can afford, because we think it is the decent and moral thing to do.

But now we come to abortions. Now we come to the thing that is perhaps more critical to a poor woman than any of the others I have mentioned, that will have a greater effect on her life than any of the other things I have mentioned; and we say, "Oh, no. We have no obligation to fund abortions for the poor. No, we do not have any obligations." We do not have any obligations to feed, house, or educate them, either.

What is the reason why we do it for those other things and not for abortions? I will tell Senators why, and they all know why.

It is not that we lack compassion for the poor. It is that we personally think that abortions are immoral, and because we think they are immoral we are going to impose our standard of morality on the poor, and the fact that the poor, in many cases, do not think that abortions are immoral is tough luck. That is the standard.

Before we are done with this debate we will hear stories about killing little children and murder. I am saying that is not the issue. The issue is a passionately divided issue, one that people in this country hold very strong feelings on, but

one in which one section of this country that holds strong feelings should not attempt to impose its views on the rest of this country who do not share those feelings.

If we want to deny abortions to the poor because we do not have the money that is a decision we have to weigh in light of our finances. If we want to deny abortions to the poor and say it is more important that they have legal services or public housing that may be an unfortunate but necessary balancing of our priorities.

But to say that we are going to deny abortions to the poor because we disapprove of them is a disdainful, haughty arrogance that should not demean this Congress.

Are there people, are there groups, concerned with human liberties, concerned with human rights, concerned with life that support abortion? You bet there are. The American Civil Liberties Union in this country that singlehandedly has done more for American individual freedom and liberty than any other organization, they have fought for the rights of the Nazis, the John Birch Society, radicals, and others to have access to the due process of the courts of this country, and they have fought that battle well and proudly, they support legalized abortion, and they support it because they are a defender of individual liberty.

The American Bar Association, the oldest, most prestigious legal association in this country, one certainly concerned with the legal rights of individuals, all individuals, one that even concerned itself with the legal rights of the unborn in terms of tort law and other injuries prior to birth, supports legalized abortion.

A host of medical associations, medical organizations, including the American Medical Association, which certainly has a reverence for life, support legalized abortion.

The fact that medical groups, legal groups support it, the fact that groups like the American Civil Liberties Union support it, to me is not as telling as the religious groups that support it.

I want to read the current list of those who endorse legalized abortion:

National Federation of Temple Sisterhoods.
Commission on Social Action of Reform Judaism.
Clergy Consultation Service on Abortion.
Episcopalian Church.
American Baptist Churches.
American Friends Service Committee.
National Council of Jewish Women.
Connecticut Council of Churches.
Church Women United.
Presbyterian Church in the U.S., Committee on Women's Concerns and General Assembly.
Lutheran Church in America.
B'nai B'rith Women.
Moravian Church in American, Northern Province.
Council of Churches of Greater Washington.
Federation of Protestant Welfare Agencies.
Connecticut Conference of the United Church of Christ.
Board of Homeland Ministries, United Church of Christ.
Center for Social Action, United Church of Christ.
Council of Churches of the Mohawk Valley Area.
Women's League for Conservative Judaism.
United Church of Canada General Council.
American Humanist Association.
American Jewish Congress, Women's Division.
Board of Church and Society, United Methodist Church.
Church Women United of Connecticut.
Church and Society Unit, Women's Program Unit and Washington Office, United Presbyterian Church, USA.
Church of the Brethren.
Pennsylvania Council of Churches.
Baptist Joint Committee on Public Affairs.
Women of the Episcopal Church.
National Association of Laity.
American Ethical Union.
Young Women's Christian Association.
American Lutheran Church.
Reorganized Church of Jesus Christ of Latter Day Saints.
Central Conference of American Rabbis.
Unitarian Universalist Association and Unitarian Universalist Women's Federation.
Christian Church (Disciples of Christ).
Friends Committee on National Legislation.
United Methodist Church, Women's Division and Board of Global Ministeries.
Union of American Hebrew Congregations.
American Ethical Union, National women's Conference.
Reformed Church in America.
Catholics For a Free Choice.
United Synagogue of America.
American Jewish Congress.
United Methodist Church, General Conference.

Those are organizations every bit as concerned with human life and morality as any church any of us might belong to.

What they illustrate is that there is indeed a strong division of opinion in this country, an honest division of opinion, on th issue of abortion. But by their stand in favor of legalized abortion what they are saying is that it is not the business of a government to put its particular stamp of morality on abortion. It is the business of Government to keep its hands off the business of abortion.

So the only decision we have to make, the only decision we have to make, let me repeat, is whether or not under this bill we are going to fund abortion, and if we choose no, there is only one reason we can reach that conclusion, and it is because we are going to put our personal stamp of morality, antiabortion, on legislation. and we are going to force our particular view of morality, antiabortion, on the people of this country who do not agree with it and, as far as the poor are concerned, who will have no choice, we are going to force our view of morality on them, like it or not, and the rich will have abortions if they want them, and the poor will have babies whether they want them or not, and I would like to think that is not what this Senate is prepared to do.

Mr. President, I yield the floor.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. PERCY. During the course of this colloquy—and I think it is an excellent colloquy—the question has been raised as to whether we have adequate public funds to provide for abortions.

What would the average cost be—if it is determined that a young girl or woman needs an abortion for any one of a number of reasons—of an abortion incurred in the first trimester?

Mr. PACKWOOD. If done in the first trimester, the first 3 months of pregnancy, when most of them are done, about $200.

Mr. PERCY. About $200. Yet, the question is raised whether section 208 is a cost cutting measure. If we espouse the position that cutting medicaid funds for abortions saves the taxpayer 200 needless dollars each time an "immoral" woman gets herself in trouble, does the Senator from Oregon have an estimate of how much it might cost the taxpayer if she is prevented from getting an abortion? How much might it cost to maintain that child for up to 18 years, taking into account the average number of children that may get into trouble in the future and thereby cause the expenditure of additional funds by the Government?

Mr. PACKWOOD. For the first year after birth—I do not have the lifespan, but the first year after birth—the estimated costs are $2,200 for 1 year.

Mr. PERCY. The Senator from Illinois has just calculated that, over a period of 18 years, it would probably cost around $60,000. In fact, I have further estimated that the cost could rise to $100,000 when we realize that the Government would be borrowing that money. We need to add on top of the first $2,200 the compound interest which would accrue on every year's additional increment.

If we can avoid a $100,000 cost for a $200 investment—and make a humanitarian investment at the same time—what sense does it make to say "We cannot afford $200 for this expenditure"? That is one of the poorest economic arguments I have ever heard, to the extent that economics is a factor in this vital matter.

Mr. PACKWOOD. Financially, it would make no sense, and I do not think seriously the argument should be made that we should not fund these abortions, because we are going to have money. If we pass this bill, and not fund any abortion, we will fund welfare at the snap of a finger at whatever it is going to cost us, give or take a billion dollars, to take care of the problem that is caused by the fact that we prohibit abortion, and we will pay that money, and we will not hear any argument made about was there any comparative way to save it.

Mr. PERCY. I wish to ask another question of the Senator because he has been a student of this subject for a long time. Is it not true that if we prohibit the use of medicaid funds for abortions, this country would be regressing, turning the clock back, and causing a series of unnecessary hardship? Would we not be going against the plans of action adopted by the United Nations World Population Conference, held in Bucharest and the International Womens' Year Conference held in Mexico City? Is it not true that the rest of the world is at long last beginning to realize, as a result of the 30 to 40 years of discussion on this subject under American leadership, that there is a real world population problem that has to be looked at on global terms?

And does it not seem a little contra-

dictory of the United States to put approximately $100 million into our foreign aid program for population planning and, yet, to take away the access of poor American women to $200 abortion? I might add that our efforts on foreign aid population planning were spearheaded by the Rockefeller Foundation and other forward looking organizations that had the courage to deal with this issue long before us politicians.

Does it not seem strange to the Senator that, as the rest of the world is catching up with our leadership in this area, suddenly we become regressive, emotional, and throw away all the facts that society has given us and that technology has taught us? I feel we cannot retreat from the gains that we have made in the population planning area. We would be doing so, and more, if we prevent a low-income woman from access to an abortion, particularly when it is in her medical interest, or when she may have been a victim of rape or incest. This is particularly unacceptable when abortions are available for those who can afford it.

Is this not an incongruous situation that we now face?

Mr. PACKWOOD. I think it is incongruous. As the Senator knows I served for 2 years on the Population Commission chaired by John Rockefeller, and the problem of world population has not ceased. The problem of U.S. population really has not stabled down. We have not reached stable population.

If we are talking about one country, all we have to do is look at Mexico, with a burgeoning birth rate, with illegal aliens coming across the border in hordes. I do not know if the Senator has seen those pictures taken with the night scopes. It almost reminds me of the pictures we saw of the Chinese hordes in Korea coming over the hills going across so fast.

And for those who say the answer is to give Mexico some economic public works so the people will have jobs down there, we could not possibly give them enough money for them to provide the jobs. Their only hope is population stabilization.

The Senator is absolutely right from a world standpoint. The Senator is absolutely right from the standpoint of the United States.

Mr. PERCY. Let us also consider the positions of domestic religious groups.

Is it not true that within religious groups, which have long opposed abortion or birth control, there is a tremendous amount of movement and study being done? Is it not true that there are sincere debates ongoing within religious groups and that they are moving toward greater acceptance of family planning, birth control, and contraception in a way that, a dozen years ago, they never thought possible?

Mr. PACKWOOD. Not only are they moving that way, but I allude again to the polling figures I cited about the age groups of those who support family planning, population research, and legalized abortion in every religion.

Mr. PERCY. It appears, then, that most religious groups are gradually accepting the principle of population control.

The odd thing about it, again, is that I see so many people who are adamant on this subject but who are also deeply concerned about the growing number of people of low income—people who cannot contribute adequately to their children's educations, for example, or their other needs. Therefore, why should we not have available the option of abortion, which may be the least favorable option but is a last ditch one? None of us like it. When we stand here and support the right of abortion as upheld by the Supreme Court, we are constantly taking the risk that we are going to be misinterpreted as strong advocates of abortion itself.

I hate abortion, and I would advise against it and have counseled strongly against it except in extreme cases. But I think it is an option that we cannot deprive from one particular group of women simply because it is the one medical expense that we are going to exclude from this bill. We approve all other medical expenses to the indigent, but this one we are going to exclude.

The rationale given for excluding it is something on which I need the counsel and advice of my distinguished colleague, the Senator from Oregon (Mr. PACKWOOD), who has been in this field a long time and has been a pioneer in it. He has been a great leader who has worked closely with the population commission headed by the distinguished and able John Rockefeller III, and he has been highly regarded by every member of that commission.

But here, sometimes the argument comes up that you are a murderer if you support the right of women to have abortions. I shall refer to the most recent discussion that I had with constituents on abortion. I am frequently picketed in Illinois on this issue, as recently as this past Sunday afternoon in Oak Park. There I met a group which was characterized by its relatively small size, only 14 people, ranging in age from 6 years old up to 60. I am not sure how much the 6 year old understood about why he was out there picketing me, but the group had their human life truck and were picketing and passing out literature to everyone who came into the Independent Voters League meeting that I was attending.

So, as I always do, after I had finished my presentation to the meeting, I went out to talk to the pickets and listen to their point of view.

To be accused of being a murderer or advocating murder is a pretty serious charge to make on a Sunday afternoon, particularly after I had just gone through a grueling political debate of other heated issues like busing, gun control, and legalizing marijuana.

How does the Senator from Oregon, who must also be favored with such pickets, answer such groups? I find them, for the most part, lovely people who are earnestly seeking the truth. However, they are deeply convinced that they have a direct source to the truth and are absolutely unshakable in the belief that they are right, that they are on the right moral grounds, and that God is on their side.

How does the Senator answer the same distinguished groups that greet him with welcome signs when he appears any place in Oregon?

Mr. PACKWOOD. I know how zealous they are. I know how sincere they are. I know they are convinced that God has said this is murder. They believe it honestly.

They are so right in their belief, in their own minds. They remind me a bit of that old minister in the small midwestern town—you know, in those old towns there were always two clerics, a Methodist minister and a Catholic priest, and they were at opposite ends on everything.

One morning the minister was walking down the street, and saw the reverend father approaching. As they approached one another, the reverend father greeted the minister and said, "Reverend, I guess we are far apart on many things, but surely we can agree that we are both engaged in God's work."

The minister replied, "I suppose that is true; you in your way, and I in His."

I see that sort of attitude on both sides on this issue. I see it on both sides.

All I am saying is that if this is murder, there is not one of these religious organizations I have read about that would think of it as endorsing murder. They do not regard it as murder.

What it amounts to is one group of people, and they are not a majority in this country, if the polls are accurate, trying to impose their view on the majority in the country that does not share it. I hope that the Senate is not catering to them.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. PERCY. Could I just finish this comment? All I had to go on is that I suppose the Supreme Court did the best job it could, brought in all the available expertise it could, and has simply said that, in the first trimester, this is a constitutional and legal thing; it is not beyond that, other than for highly specialized conditions which are understandable.

It would seem to the Senator from Illinois that this is the crux of the matter, that we have got to have some standard to go by. The standard that I have decided upon is the one established by the Supreme Court. I simply adhere to that.

In the literature that the group of pickets used on Sunday and that they had used the previous Sunday and the Sunday previous to that, there is a picture of an 18-week-old fetus. Obviously it does have a human form, and there is some question as to whether it has rationality or a developed brain—which is really the distinguishing characteristic between man and an animal.

I cannot imagine an animal holding an abstract thought—but a human being can hold one. When that rational element of the personality, which certainly to me is God-given to man, begins to function, that is, to me, when an infant starts to become a human being.

The time frame of the Supreme Court during which a woman can exercise her option to get an abortion without interference by the States is the first trimester of pregnancy. However, groups such as the one which picketed me, many times use the illustration of an 18-week-old fetus, which is, of course, in the second trimester.

What is the position of the Senator from Oregon on that? Does he maintain that the first trimester, in agreement with the Supreme Court decision, is legalized abortion under the right circumstances, and that beyond that point it is not, except for stringent circumstances that have been laid down, for instance to protect the life of the mother?

Before you answer my question, Senator, I ask unanimous consent to have printed in the RECORD at this point, the syllabus of the 1973 Supreme Court decision, Roe against Wade, to which I have been referring.

There being no objection, the syllabus is ordered to be printed in the RECORD, as follows:

ROE ET AL. *v.* WADE, DISTRICT ATTORNEY OF DALLAS COUNTY

[Appeal From the United States District Court for the Northern District of Texas]

No. 70–18. Argued December 13, 1971—Reargued October 11, 1972—Decided January 22, 1973.

A pregnant single woman (Roe) brought a class action challenging the constitutionality of the Texas criminal abortion laws, which proscribe procuring or attempting an abortion except on medical advice for the purpose of saving the mother's life. A licensed physician (Hallford), who had two state abortion prosecutions pending against him, was permitted to intervene. A childless married couple (the Does), the wife not being pregnant, separately attacked the laws, basing alleged injury on the future possibilities of contraceptive failure, pregnancy, unpreparedness for parenthood, and impairment of the wife's health. A three-judge District Court, which consolidated the actions, held that Roe and Hallford, and members of their classes, had standing to sue and presented justiciable controversies. Ruling that declaratory, though not injunctive, relief was warranted, the court declared the abortion statutes void as vague and overbroadly infringing those plaintiffs' Ninth and Fourteenth Amendment rights. The court ruled the Does' complaint not justiciable. Appellants directly appealed to this Court on the injunctive rulings, and appellee cross-appealed from the District Court's grant of declaratory relief to Roe and Hallford. *Held:*

1. While 28 U.S.C. § 1253 authorizes no direct appeal to this Court from the grant or denial of declaratory relief alone, review is not foreclosed when the case is properly before the Court on appeal from specific denial of injunctive relief and the arguments as to both injunctive and declaratory relief are necessarily identical. P. 123.

2. Roe has standing to sue; the Does and Hallford do not. Pp. 123–129.

(a) Contrary to appellee's contention, the natural termination of Roe's pregnancy did not moot her suit. Litigation involving pregnancy, which is "capable of repetition, yet evading review," is an exception to the usual federal rule that an actual controversy must exist at review stages and not simply when the action is initiated. Pp. 124–125.

(b) The District Court correctly refused injunctive, but erred in granting declaratory, relief to Hallford, who alleged no federally protected right not assertable as a defense against the good-faith state prosecutions pending against him. *Samuels* v. *Mackell*, 401 U.S. 66. Pp. 125–127.

(c) The Does' complaint, based as it is on contingencies, any one or more of which may not occur, is too speculative to present an actual case or controversy. Pp. 127–129.

3. State criminal abortion laws, like those involved here, that except from criminality only a life-saving procedure on the mother's behalf without regard to the stage of her pregnancy and other interests involved violate the Due Process Clause of the Fourteenth Amendment, which protects against state action the right to privacy, including a woman's qualified right to terminate her pregnancy. Though the State cannot override that right, it has legitimate interests in protecting both the pregnant woman's health and the potentiality of human life, each of which interests grows and reaches a "compelling" point at various stages of the women's approach to term. Pp. 147–164.

(a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician. Pp. 163, 164.

(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health. Pp. 163, 164.

(c) For the stage subsequent to viability the State, in promoting its interest in the potentiality of human life, may, if it chooses, regulate, and even proscribe, abortion except where necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Pp. 163–164; 164–165.

4. The State may define the term "physician" to mean only a physician currently licensed by the State, and may proscribe any abortion by a person who is not a physician as so defined. P. 165.

5. It is unnecessary to decide the injunctive relief issue since the Texas authorities will doubtless fully recognize the Court's ruling that the Texas criminal abortion statutes are unconstitutional. P. 166.

314 F. Supp. 1217, affirmed in part and reversed in part.

BLACKMUN, J., delivered the opinion of the Court, in which BURGER, C. J., and DOUGLAS, BRENNAN, STEWART, MARSHALL, and POWELL, JJ., joined. BURGER, C. J. *post*, p. 207, DOUGLAS, J., *post*, p. 209, and STEWART, J., *post*, p. 167, filed concurring opinions, WHITE J., filed a dissenting opinion, in which REHNQUIST, J., joined *post*, p. 221. REHNQUIST, J., filed a dissenting opinion, *post*, p. 171.

Mr. PACKWOOD. Well, the Supreme Court divided its decision into three parts. The first trimester, unlimited right to abortion; the second trimester, the Supreme Court put limitations on how it is performed, not can you have it but how it is performed; and the third trimester, a very limited right for a woman to have an abortion.

I agreed with the Supreme Court decision. I thought it was a very well-reasoned and well-written decision.

Mr. PERCY. Again, we go back to the reasoning of the Supreme Court in this matter. I ask my colleagues to take into account that our argument today is not on abortion as such; that issue has been settled by the Supreme Court and the proper remedy for those who oppose it is to propose and support a constitutional amendment. I would oppose such an amendment, and will oppose it as long as I have the understanding of the problem that I do, but they have the right to offer it. But here, in a HEW bill, a provision that just arbitrarily takes low-income women and discriminates against them; a provision that says, "You cannot apply for funds for a right given to you by the Supreme Court," I just feel that that is improper and immoral. I certainly could not support it; and I am honored and pleased to support the amendment offered by my distinguished friend from Oregon.

I will come back in a few moments and add a few more thoughts.

Mr. PACKWOOD. I thank the distinguished Senator for his support.

Mr. GARN. Mr. President, will the Senator from Oregon yield?

Mr. PACKWOOD. Yes.

Mr. GARN. Did the Senator from Massachusetts wish me to yield to him?

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I shall not take a great deal of time. The amendment of the Senator from Oregon, as he outlined it to begin with, is very simple. It simply seeks to strike section 209, which has nothing to do with anything except funding.

Yet for nearly an hour we have heard both the Senator from Oregon and the Senator from Illinois make all the case for legalizing abortion. It is legal in this country, whether I or anyone else agrees with it; so why, in their eloquence—and they have been eloquent in presenting their positions—they have drifted so far away from the issue of the amendment to something that is not before the Senate today I do not know, and I do not intend to get involved in that argument.

I do happen to be the sponsor of the Garn amendments (which were the Buckley amendments last year) which propose amending the Constitution to prohibit abortion except to save the life of the mother. If they were before us today, then I would be happy to get into the fact that I disagree totally with everything that was said in a moral, ethical, and every other way. But I shall not do that. If my colleagues want to debate that issue so passionately, let us bring the constitutional issue before this body, and then we will discuss legal abortion; but today I would hope we can confine it to funding.

The Senator from Oregon has talked a great deal about imposing our morality on someone else. That certainly is not being done in this way. The Senator seems to agree with the Supreme Court concept on legalizing abortion, but the decision that took place today and last week does not seem to be meaningful to him, about having a legal obligation to perform; and I want to know about my rights as a taxpayer and those of millions of people around this country who feel the same way I do about legal abortion, and do not believe their money should be taken involuntarily to fund

something they feel is a heinous crime, and that they are opposed to.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. GARN. Not yet. I listened quite patiently for a long time.

That is the issue here today, plain and simple: Do we or do we not fund them? It is not the issue of legalized abortion or not. Let us bring that before the Senate. I would love to debate it. I am not going to engage in a big colloquy about that. Other people want to speak.

I will say something that perhaps should not be said on the Senate floor. I am disappointed in my distinguished colleague, the Senator from Illinois. In his presentation, he certainly has a right as a Senator to stand up for his position and passionately state it. The Senator from Utah frankly resents the sarcasm, the innuendos, and the laughter that was caused by some of the Senator's statement in deriding some of our positions.

Stand up and say, "I oppose. I think JAKE GARN and everybody else is wrong."

I do not intend to ridicule anybody's position. Debate the facts.

But I sat here having a hard time to contain myself because of the sarcastic nature. I believe in my views, too, Senator, as passionately as you do. I disagree with you. But you have a right to your opinions, and the millions of others around this country have the same right to our moral decisions, and the right to debate them on the floor without deriding those positions or being sarcastic, or making the galleries laugh about them.

That is all I have to say today. Someday maybe we will have the right to bring out the constitutional amendment I propose and to debate the merits of legalized abortion. Today why not stay on the merits of deleting section 209, which I oppose and will vote against.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. GARN. I am through.

Mr. PACKWOOD. Mr. President, I am curious if the Senator from Utah is suggesting that anyone in this country who is morally opposed to some government expenditure does not have to pay taxes. There were millions who were genuinely opposed to the Vietnam war, but we made them pay taxes. If they did not pay them, we put them in jail.

The normal process in a republican form of government is elections. If you lose the election, you play by the rules of the game, and you try to change it at the next election.

I hope the Senator is not seriously suggesting that we will henceforth adopt the standard of personal morality for payment of taxes. If the Government spends it on something I do not like, I do not have to pay my taxes? Is that what the Senator is suggesting?

Mr. GARN. Obviously not. I expected the Senator to come back with that. You can cite examples all over the place. This is one that is rather more deeply felt than other issues, and the Senator has stated that in his opening statement. He made very clear how divisive it was.

Obviously, there are some issues that my tax money is taken for, things that I do not support. But I hardly feel as strongly about it as I do about the taking of human life. I am one who does feel that it is the taking of human life.

Mr. PACKWOOD. Is the standard, therefore, how personally deeply a taxpayer feels about the issue? There are others who feel about other actions of this Government and against them as deeply as the Senator feels on abortion.

Mr. GARN. Has the Supreme Court ruled in these other areas that the amendments we passed last year were correct, that we were not required to fund abortions? Have they?

Mr. PACKWOOD. I have not taken argument that we are required to fund abortions. That is a straw man that the Senator is putting in this argument. I have never said that in this whole debate today.

Mr. GARN. That is correct, the Senator did not.

Mr. BROOKE. Will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. BROOKE. I thank the distinguished Senator for yielding.

Mr. President, this proves that we have an issue which will stir the emotions and which is of great import to this Nation. But we are not here to discuss, as the Senator from Utah has said, the constitutional amendment against abortions. We are here to discuss and to debate a motion offered by the distinguished Senator from Oregon (Mr. PACKWOOD) which would strike the language contained in the Senate bill restricting the use of Federal funds for abortions.

Mr. President, I urge the Senate to support the amendment striking all restrictions on the use of medicaid funds for the performance of abortions. Such restrictions are a blatant case of legislating on an appropriations bill, a most unwise practice and one which I adamantly oppose regardless of the subject.

However, I oppose restrictions on medicaid abortions for other equally valid reasons. First, the Senate should not through a funding decision in effect deprive our most vulnerable and helpless citizens, the poor, of an established constitutional right. Second, the Senate should not so thoughtlessly try to impose simplistic solutions on so complex an issue. And third, the Senate should not legislate in a medical area in which we have absolutely no competence and dictate medical decisions which a physician and a physician alone is trained and capable to make.

Four years ago the Supreme Court ruled that the question of abortion was a private matter between a woman and her doctor, a constitutional right free from government interference.

The Supreme Court decision of last week left this right completely intact for the woman who is able to pay for her own abortion. But the right of the poor woman it left in practice to our, the Government's, sense of justice and courage.

If we now restrict or ban medicaid funds for abortions, the Government will accomplish for poor women indirectly what the 1973 opinion expressly forbade it to do directly. For as the Court said in Singleton against Wulff in 1976:

> For a doctor who cannot afford to work for nothing, and a woman who cannot afford to pay him, the State's refusal to fund an abortion is as effective an "interdiction" of it as would ever be necessary.

A right without access is no right at all. If we now vote to restrict medicaid funds for a poor woman's abortion, we make a mockery of her right.

To say that the Government does not finance all constitutional rights and that the rights of the poor are always less numerous than those of the well to do may be true. But it does not excuse a country with democratic aspirations from trying at least to assure those basic, necessary rights to all its citizens.

To say that we do not deprive a poor woman of her constitutional right if we withdraw medicaid funding because she can still obtain an abortion if she pays for it herself is as unrealistic as it is insensitive. For as Mr. Justice Frankfurter wrote in another court decision in 1956,

> To sanction such a ruthless consequence, inevitably resulting from a money hurdle erected by the State, would justify a latter day Anatole France to add one more item to his ironic comments on the "majestic equality" of the law. "The law in its majestic equality forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread". . .

We are now asked to decide whether or not "the majestic equality" will once again strike the poor. I argue that we should absolutely respect the constitutional right of poor women by refusing to place restrictions on medicaid abortions.

But furthermore I argue the difficulty, no, the impossibility of legislating fair, humane abortion restrictions for any woman. For the more we thoughtfully consider the question of abortion and Government funding of abortion, the more we come to realize the practical as well as constitutional wisdom of the Court's decision in 1973 that abortion is an intensely personal and private decision which should and must be left totally to a woman and her doctor, the poor woman as well as the rich woman.

Many demand that we, a group of 100 men, now ban or restrict funding for abortions or legislate under what circumstances a poor woman will be aided by the Government in obtaining an abortion. But the Senate cannot know the thousands of individual or family situations which cause a poor woman, any more than a well-to-do woman, reluctantly to decide that an abortion is the only tenable alternative for herself and her family. The Senate cannot gauge the desperation, fear and hopelessness which might drive a woman to such a decision.

The vast majority of Senators realize this and oppose an absolute ban on abortion funds, allowing no exceptions. But when we do attempt to list those mitigating circumstances under which we will sanction a poor woman's obtaining an abortion, we soon realize the impossible complexity of the issue and our limitations in attempting to impose solutions.

Few Senators could bring themselves

to oppose funds for abortions when the life of the pregnant woman is endangered. Are we to be insensitive, then, to pregnancies which might seriously or permanently endanger her health—a situation ignored in the present bill? Are we to be insensitive to the victims of rape and incest, which the amendment by the Senator from North Carolina would have us ignore? Are we to be insensitive to the plight of a 12- or 13-year old pregnant girl?

Do we wish to show mercy to a woman only when her own life or health is at issue? The amendment by the Senator from North Carolina would also have us remove an exception which I added in committee, permitting funds for abortions in cases where disease would seriously deform or debilitate the fetus. But does the Senate, for example, want to take the responsibility for denying parents the right to decide whether or not to bring a child into the world suffering from Tay-Sachs disease, a child, in all probability, very much wanted but condemned to a short life of nothing but great suffering with no hope of help or cure? And if we offer mercy to these parents, will we deny it to parents whose baby would be condemned to suffer horribly from sickle cell anemia? Do we force a mother with cancer to forego the chemotherapy which might save her life because we would deny her the abortion of a fetus which that chemotherapy would damage—again a situation ignored in the bill before us.

We attempted to deal with the question of restrictions in the Appropriations Committee when we drafted the bill before us. That bill stands as a testament to the limitations and the unfairness of any such efforts. And nowhere are those limitations clearer than when the Senate attempts to make medical decisions, decisions which only a doctor is qualified to make.

Doctors have questioned me as to why only two medical conditions affecting the health and not the life of the pregnant woman, multiple sclerosis and renal disease, are allowed as exceptions in the Senate bill. There are other medical conditions and diseases which have a far greater detrimental effect on the health of a pregnant woman.

Shall we tell doctors, and poor women, that women with these two diseases were to be permitted abortions solely because a member of the House delegation to the conference on last year's bill insisted that his concern for these two conditions be expressed in the report language accompanying the bill? And that the Senate Appropriations Committee this year simply voted to incorporate last year's limited report language into this year's bill? Are we to tell doctors all across the country that this is the rational and knowledgeable way the Senate dictates decisions which affect them and the health of their patients?

There is no alternative: We must either allow doctors to make the decisions only they are qualified to make or have medical decisions determined by chance, the chance of persuading individual Senators or Congressmen to offer amendments excepting particular diseases or medical conditions from the ban on abortion. The latter would be intolerable.

If we do insist upon denying poor women the funds for abortions, we shall not prevent abortions among poor women. We shall only be denying them safe abortions. We shall only be forcing them once again into dangerous self-induced or back-alley abortions. We shall only be forcing them again into abortions through coathangers, lye, a quart of alcohol, an "accidental" fall. And, incredibly, after we have done this, we will then allow the 25,000 poor women each year who, the Department of HEW estimates, will suffer serious complications from such dangerous abortions medicaid funds to correct the botched abortions we forced them into.

For all these reasons I have discussed and many more, congressional restrictions on medicaid funding of abortions are unfair, unwise, and beyond the competence of Congress to determine. I urge my colleagues to support the amendment now before them which would entirely remove these unwarranted, unjust, and unconscionable restrictions.

Mr. HELMS and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I think I have never been quite so intrigued with arguments presented on this floor as I have this afternoon. I listened with great interest to my able colleague from Illinois (Mr. PERCY) and my equally able colleague from Oregon (Mr. PACKWOOD). They dragged out all the clichés, carefully avoiding the bottom line. It is well that they should, because it is understandable that they do not want to confront the inevitable basic question, the only one that really matters. And that, Mr. President, is the deliberate termination of an innocent human life.

It is just as simple as that, Mr. President. If my distinguished colleagues can persuade me that they are not advocating that the taxpayers be forced to furnish the money to terminate innocent human life, then this argument will be over, and I will not even submit my amendment.

But they cannot get around the basic question. So, instead, they talk about the population explosion, and they offer the remedy of killing human beings who have never had the right even to be born.

Talk about defenseless people. Who is less able to defend himself or herself than a tiny human being, yet waiting to be born? Why do the pro-abortionists not pick on somebody their own size, Mr. President? If we are going to make a random list of groups to be exterminated in order to reduce the population, there would be a lot of taxpayers in this country who might be tempted to start with the Congress of the United States.

No, we are talking about the deliberate termination of human life. When we stray from that basic starting point, Mr. President, we are ignoring the issue, the only fundamental issue.

Now, I am not going to discuss the tenor of the colloquy that occurred here a little while ago. I was not quite as offended as my able friend from Utah, perhaps because I have been here a little longer than he has, and have heard more of the cliches and more of the platitudes. But I think it is rather interesting that, while they were talking, a card was sent in to me, asking if I would step out to the lobby for about 2 minutes to speak with a distinguished citizen of the State of Maine. I went. His name is Edward J. Hughes, M.D., chief of pediatrics, St. Joseph's Hospital, in Bangor, Maine. He had prepared a letter which he handed me. It was headed "An Open Letter to the Senate." Dr. Hughes said at the outset that he has been following the debate here today, and then he said:

> I feel that I must offer for the Record my personal views and experiences as a pediatrician for the past 20 years. I also practiced obstetrics for over 2 years before beginning my child-oriented practice. As an M.D., I was always aware that with a pregnancy I was treating two patients—the mother and the baby.

I shall get back to Dr. Hughes' letter in just a moment, Mr. President.

We hear so much conversation about "the right to control my body." That is fine. Let every woman control her body, including the time that she conceives or prior thereto. But after that time, there are two lives involved. Then the right to control her body, but there is another life, another body, that has some rights too—including the right to live. That is the question: Does she have the right to use tax funds to terminate another life for the sake of convenience? I say no, Mr. President.

Dr. Hughes continues his open letter to the Senate as follows. He asks us, Members of the Senate:

> Are you willing to stand for the rights of the children and the mother, or will you continue to vote that the mother has the right to say that she doesn't want the baby or can't afford it!
>
> Pediatricians and Obstetricians all over the world agree with the eminent Dr. C. Edward Koop who spoke at the Annual Meeting of the Academy of Pediatrics just last October. Please listen to my summary of what he said. There is medical care for all newborns. Medical science is advancing so rapidly that there are very few diseases that we cannot help. He also stated that sterilizations and abortions lead eventually to euthanasia, infanticide, and on and on.
>
> I can assure you that there are literally no diseases, mental or physical, that we cannot save a mother from as a result of her pregnancy, be it the artificial kidney that we need, the sedatives, the subtle explanations of alternative, etc.

In his open letter to the Senate, Dr. Hughes concludes by saying:

> Please—vote your conscience—but only after you have listened to all the facts.

That is a reasonable request, Mr. President.

Last year or the year before on this floor, the distinguished Senator from Oregon and the Senator from North Carolina engaged in a debate. I listened to the same arguments on that occasion as he has again presented today, and he listened patiently to the same arguments that I am presenting today.

I said to him, "Senator, I can draw

only one conclusion, that you consider that it is cheaper to kill unborn children than it is to let them be born."

If that is the measurement, Mr. President, if that is the level to which this country has sunk, then we had better examine ourselves.

I am going to submit an amendment in the nature of a substitute presently and I will discuss that amendment at that time. But I do hope that we will not forget the basic point, that what we are talking about is the deliberate termination of innocent human life.

I say again that if any Senator can persuade me that this is not what happens in the event of any and every abortion, then we will have no further argument.

I thank the Chair.

Mr. DOMENICI. Mr. President, I am going to take very little time at this point. I just want to make a couple of observations and say a few things to my good friend from Oregon. Indeed, he is my good friend. I regret very much that on this issue I basically disagree, and I hope he understands that. But I do want to commend the Senator from Oregon for one thing today.

It is not his position, as I understand it, that he believes we should use tax dollars to abort for the poor, because that is cheaper than supporting them, if we have to, as taxpayers.

I understood he said that he was not basing his argument on cost benefit and economics, and I say that I commend him for that.

If he had said it last year, as the good Senator from North Carolina says he did, I am delighted that he does not base his argument on that today.

Mr. PACKWOOD. Nor did I last year, no have I ever.

Mr. DOMENICI. I commend the Senator for his position on that from the beginning because there are many people who feel as he does. I do not, but many do. Many of those who feel as he does absolutely say that we, as American people, should not support the Senator from Oregon's position on the basis that it is cheaper to get rid of the unborn children of the poor than it is to pay for them.

I rise to commend the Senator on that, because I hope no one in this body who supports his position does it for that reason.

Distinguished papers in this country, including one in this city, have editorialized on the Senator's side and have cautioned, and said that it is not, because of the cost benefit theory. In fact, they have called that theory—it is cheapest for the State to abort—monstrous.

I agree with them on that and I agree with the Senator on that.

I say to my friends in the Senate that anyone who thinks we ought to use tax dollars to abort the unborn children of the poor because, in fact, it is cheaper for the taxpayer, then they better read a little bit of history, because it is not far fetched that a society that passes judgment on human life based on whether or not it is devoid of value will bring upon it such instances as what Hitler did to the Jews in Germany.

I am not going to go into the history of why and how. But suffice it to say that there is at least one group of historians that propose that the reason that an Adolf Hitler found it easy to do what he did was because 30 years prior to his rising to power, two prominent geniuses, intellectual giants in the Republic of Germany, published a thesis. The thesis was, indeed, a good one; their theory was called the release or the destruction of life which is devoid of value. This resulted in sterilization since they thought their progeny would be devoid of human value.

From that came the killing of infants who had diseases that they thought would be too much of a burden on society. And indeed, from that came the destruction of adults who were too sick and medical science said that they could not be saved; it was too costly; they were devoid of human value.

From that, say some historians, came a presentation to the Fuehrer that since he thought that about the Jewish people, this thesis fit perfectly, for they were devoid of human value, and it was easy for a maniac to follow it and its insidious logic.

So I hope no one here in this body is talking about welfare versus killing or aborting, whichever way we want to call it, poor people, because they are devoid of some kind of social value.

Where would America be if we thought we were smart enough to separate out the children of the poor and say that since they are poor and since they are dependent upon the part of society that is not, we do not want them around.

Where would the greatness of this country be? How many of them served our country? How many produced for our country? How many turned out to be not so poor when it came to talent, when it came to accomplishments? How many of them lived through the poverty that preceded this era and that was far worse than this as we grew from a young country to the country we are today? What was their value?

So I compliment the Senator on that issue for refusing to fall into that trap.

I have just one other observation for the Senator from Oregon, whom I respect greatly. The Senator will recall that when the nomination of Secretary Califano was before the Senate—that is the most recent occasion on which the Senator took the floor on this issue—I am kind of proud to say that I supported him; and I predicted that there was no right, that there was no responsibility, to pay for abortion. The Senator and I had a little argument about that. He thought that maybe there was. I said that a right cannot be confused with a responsibility or a duty, and the Senator, in his good way, said that I was trying to create a difference where there was not one. But I think the Supreme Court just ruled that there is one; that indeed, because rights exist in America, whatever they may be, it is a legislative judgment in most instances as to whether you want to help someone in whole or in part to exercise it.

That is why we are here today. I will tell the Senator why I think we are in the muddle we are in, on the floor of the Senate. It is because the U.S. Congress passed a medicaid law, general in nature, at a point in history when they have to admit they never contemplated paying for abortions, because the U.S. Supreme Court had not written its first decision on the matter, and most States prohibited it, for the most part. We sat here, in Washington, D.C., and watched medicaid evolve as a result of an interpretation of our Constitution, and we wonder why there is such confusion.

I say to my good friend from Oregon that we should not be funding abortions here today, when no committee of either House of Congress has ever had the courage to conduct a hearing on authorizing legislation to look at the dimensions of abortion. This is not an appropriation decision. This is a decision to be made after hearing: What age? How many times do we provide counsel?

All the kinds of things we are talking about here and taking for granted have never been heard by an appropriate committee of Congress; because once the Supreme Court ruled, we thought it would go away, and it went away for a few years and then came back. They said to the legislators at the national level—and I believe at the State level—"If you want to prohibit the match of State funds with the Federal program, go ahead and say it can or cannot be done."

So they put the role of the taxpayer back into the hands of the legislator; and from this Senator's standpoint, I am not going to vote for an appropriation that will pay for abortions. I do not believe it is right. The Senator knows that I feel as sincerely about that as he does. It is my judgment that I have no duty to do it, and I certainly would never do it on the basis that it will be cheaper in the long run to make sure that we do not have more people around.

Mr. BROOKE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PACKWOOD. I yield.

Mr. BROOKE. Mr. President, I ask unanimous consent that the vote on the Helms substitute amendment occur at 5:15 and that if the Helms amendment should fail to be adopted, the vote then occur on the Packwood amendment at 6 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I just want to make sure that no other intervening amendments will be offered.

Mr. BROOKE. That is right.

Mr. HELMS. May I make an inquiry of the Senator from Oregon?

Mr. PACKWOOD. Yes.

Mr. HELMS. When would it be appropriate, in his view, for me to offer my substitute?

Mr. PACKWOOD. Right away.

Mr. HELMS. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATCH. Mr. President, I have listened to this debate with a great deal of interest and enjoyment. I have waited a long time to be able to stand up and

say a few words, and I suppose that is only fitting for a freshman Senator.

One rather universal observation that I have been able to make in these debates on abortion is that the only persons who argue for abortion are those who are already born.

The Senator from Illinois (Mr. PERCY) has made some comments here today. As I recall his background, he came from a rather economically poor background, as I did. He had to work his way through college, as I did. He might not be here if his views were accepted 57 years ago.

I know a lot of other great people who might not be here today, because they were born into families that were categorized as economically poor.

I think it is a crass observation to think that simply because people are poor, if abortion laws are not granted or the right to abortion is not granted or the right to life is granted, they would not have their children or would not bring them up properly or would not give them the opportunities of growth or the opportunities to become something in this world.

I have deep respect for the Senator from Oregon and the Senator from Illinois. I particular compliment the Senator from Massachusetts for his very good remarks on this subject, representing his particular beliefs in this matter, and I have no doubt that there are sincere beliefs on both sides of this matter. I have no doubt that those sincere beliefs are heartfelt. I think both sides should be willing to admit that.

I do think there has been an element of sarcasm here, but I also think it is easy to get sarcastic in this issue, because both sides do feel very deeply about it.

I, for one, believe that the people of this country have some rights. I believe that the majority of the people of this country are against abortion except to save the life of the mother. I really believe that. I believe they are against it on moral and religious grounds that have made this country the greatest country in the world and will keep it there as long as we believe in moral values and religious grounds.

I believe that the reason great countries fail is that they become immoral, because they bring in prostitution, vice, obscenity, pornography, violence. They fail to work hard. They fail to try to provide jobs for the poor. They use the poor as a great national constituency by keeping them bound down, by not letting them have jobs, by having "minimum wages" which prevent the poor from getting jobs.

I think we have that particular danger right now in this country. We have become a country that is on the verge of becoming morally bankrupt, because of some of these things I have mentioned. I think abortion fits into that category.

I am just as sincere as any man who ever lived in saying, as Senator DOMENICI said, that I believe it is wrong. I do not care how much money someone might think we might save by doing away with some welfare. I think it is a little sarcastic to think that all people are going to remain on welfare because they are born into poor families.

I was born into an economically poor family, but a spiritually rich family. I am glad that my mother was not confronted with the question of whether or not to have me. I am glad she did. I have reason to believe that, before I end my career here, a lot of other people are going to be glad she did. At least, I have high hopes. There are those who would say it would have been better for society had I been aborted 43 years ago, but I hope they are in the minority.

I think it is a moral crime that we have more than 1 million abortions in America a year and that approximately 300,000 of those have been paid for by Federal tax dollars, much of which have been paid into the Federal Treasury by people who do not believe in abortion for purely religious grounds or for moral reasons.

To impose abortion on these people, I think, is wrong. I have heard the argument that it was wrong to impose Vietnam. Well, that may be. I cannot fault that argument in retrospect. That is still in retrospect, where we have the benefit of the past.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. HATCH. Yes.

Mr. PACKWOOD. I am curious about this argument. You are not saying you ought to avoid paying taxes because you morally object to what the Government is doing?

Mr. HATCH. No, I am not saying that.

I want to compliment the distinguished Senator from Oregon, my friend and my colleague, as did Senator DOMENICI, for precisely the same reasons as Senator DOMENICI did. I do not think there is anybody here who would not be willing to pay the costs of welfare to keep a life alive, and to pay $200 for an abortion. But I think it is wrong to think that just because somebody is born into an economically poor family they are going to be on welfare.

There was another thing I would like to correct, because I felt a little bit upset about the comments, and that is that the conservatives are those who are against abortion—yes, against abortion; that they are the ones who are against this type of legislation. I hope that is true. But I sure have many liberal friends who feel exactly the way I do and just as strongly as I do. I think it is an eclectic measure.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HATCH. I would be delighted to yield.

Mr. BAYH. I know you do not have time to do that right now, but I would suggest after we have disposed of this issue, my distinguished colleague and friend and member of the Judiciary Committee, ask his staff to research and see the remarkable similarity between people who oppose the right of a mother to choose abortion and the votes of those same individuals who vote against increased Head Start programs, increased money for food and medical assistance for children, increased money for public housing, increased money for rat control so you can keep the babies who are born from being bitten by rats.

I would not for a moment want to suggest that we have a single Member of this body who would not want to see every baby born in this country grow and prosper as most of our children are able to prosper.

But I say to my distinguished colleague there is a remarkable parallel between those who think that a child once conceived had an inalienable right to be born, and yet do not have that same degree of sensitivity to the quality of life of that child after he is born.

Mr. HATCH. I would like to say to my distinguished colleague there is a remarkable similarity between many of those who believe in abortion and who are spending us into bankruptcy, and who now have us with an $800 billion total national debt and a $4 to $6 trillion unfunded debt, and who are bankrupting this country monetarily.

I think there is a remarkable similarity between many who are for abortion—not all, just like not all of the conservatives fit into the category that the Senator is trying to list—between those who vote for abortion and those who keep this marvelous national poor constituency by making them always come to the Federal Government to solve their problems, and those who make it easier to be on welfare than to give them a job or an opportunity for a job.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HATCH. And those who are for a $3 minimum wage so that 50 percent of our young black people in our society cannot get a job.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HATCH. You know we talk about pseudo arguments all day long, not that this is a pseudo argument. What I am trying to say, Senator, and I say to my distinguished friend, the Senator from Indiana, and I feel deeply toward him, is do not use that argument on me, because I think the biggest problem in our society with the poor is that we have become a public government, a centralized government, society that is overregulated to death, and this is another approach that brings the poor down to subjection and overregulation.

Several Senators addressed the Chair.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HATCH. Yes, I yield.

Mr. BROOKE. I thank the distinguished Senator from Utah.

I would just like to remind my colleagues that the Senator from North Carolina has been most generous and gracious on his time, but he has a time limitation on his amendment, and he has not even introduced it. He has been very generous, and I wish you would yield the floor to the Senator from North Carolina.

Mr. HATCH. I will take another minute and then I am finished.

Mr. BAYH. I would like to have some time—it is equally divided—to answer the Senator. If you spend money to inoculate kids to prevent disease, that is getting bankrupt? That is the same position we have gotten ourselves into now.

Mr. HATCH. Nobody ever accused me

of that. But let us not use those kinds of arguments when we know what the liberals have done to this country. They have wrecked it.

Mr. BROOKE. Could the Senators take that conservative-liberal argument and pursue it later, Mr. President?

Mr. HATCH. Let us talk about eclecticism and doing what is right, regardless of what it costs us.

Mr. BAYH. I only brought this up because, I say to my colleague, he said nobody on this floor would be unwilling to spend $200 to save a life. The fact is there are some who are unwilling to spend money to supply the ingredients of life to children who are born under conditions over which they have no control.

Mr. HATCH. There is nobody unwilling to spend for welfare in order to save a life, I will tell my friend.

Let me just finish this.

I have appreciated this argument. I have appreciated the remarks of our colleagues on both sides. All I want everybody to know is that there are an awful lot of people in this country, and I believe the vast majority, who do not believe in abortion except to save the life of the mother, and there are an awful lot of us who will fight right down to the wire because of those beliefs.

To make an argument that there is only one viewpoint with regard to abortion, I think is wrong, or that the fact that people feel deeply and religiously about this makes them somehow or other less humane, I think is wrong and begs the issue.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BELLMON. Mr. President, as I am sure my colleagues will agree, the abortion issue which is before us today is probably as emotional and as difficult to deal with as is any question that will ever come before a legislative body. The 1973 U.S. Supreme Court decision seems to have settled the question that abortions are permitted at least through the first 3 months of pregnancy. However, the question now before the Congress, the so-called Hyde amendment, is whether or not Federal funds may be used in welfare cases to pay abortion-related costs in certain circumstances.

Mr. President, the issues here are that those who oppose abortion feel strongly that their tax money should not be used for this purpose which they consider to be immoral. The opposing view is that without Federal funds, low-income women will be forced to continue bearing unwanted babies.

Mr. President, my main objection to the issue of Federal funding for abortions has been the danger that social workers may use their authority to coerce women into undergoing abortions against their will. As my colleagues may remember, during the 94th Congress, I offered a "preservation of freedom of choice" amendment to S. 66, the Nurse Training Act. This amendment is now a part of Public Law 94–63 (40 U.S.C. 300a–8) making it a Federal crime for any person who is involved either directly or indirectly in the administration of a welfare program which is in whole or in part federally funded to coerce an individual who is receiving or has applied for benefits and services under such welfare program to undergo an abortion or a sterilization procedure as a condition for receiving benefits for which the person is rightfully entitled. In other words, this particular criminal statute preserves the freedom of choice regarding abortion or sterilization for those individuals who are rightfully entitled to the various welfare benefits which are made available through Federal funds. The statute carries a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

Mr. President, the language in the fiscal year 1978 Labor-HEW appropriations bill states:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of multiple sclerosis or renal disease, or other diseases which would seriously deform or debilitate the fetus, or the termination of an ectopic pregnancy or for the treatment of rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

While I supported this compromise amendment in the full Senate Appropriations Committee, I also supported the motion to strike the "Hyde amendment" from the appropriations bill. As a result of this, I offered language to be inserted in the committee report which further calls attention to the "preservation of freedom of choice" amendment. This language which was unanimously accepted by the full Senate Appropriations Committee is as follows:

The Committee is concerned with preserving the freedom of choice of a woman who is receiving or has applied for benefits and services under such welfare programs to undergo an abortion or sterilization. There is great danger that a welfare recipient who is ill-prepared to defend her personal rights will be persuaded against her will to undergo an abortion or sterilization as a condition of receiving welfare payments. The Committee believes it is absolutely essential that no woman regardless of her education, social or economic background be forced against her will into having an abortion or sterilization. To this end, the Department of HEW is instructed to establish regulations and procedures paid for under this Act be voluntarily requested by the recipient.

Mr. President, I feel it is necessary to call this committee language to the full Senate's attention so that as positions are formed on this most complex, controversial, and highly emotional issue of abortion, that my colleagues will bear in mind that we are doing our best to guarantee the preservation of freedom of choice regarding abortions or sterilizations.

FEDERAL FUNDING OF ABORTIONS

Mr. STENNIS. Mr. President, I rise in support of the committee's proposal to restrict the use of Federal funds to pay for abortions on demand.

As far as I am concerned this is more than a question of Federal funding of elective abortions. It is a fundamental question of right or wrong—of morality or immorality. Many years ago I served as district prosecuting attorney. I prosecuted and obtained convictions of individuals who had abortions just because a child was unwanted. I am still opposed to abortions except under special and mitigating circumstances. I am even more opposed to spending millions of tax dollars for the unnecessary slaughter of innocent unborn children.

I certainly realize that subject to certain limitations, the Supreme Court has legalized the right to abortions and that the legal rules under which I operated when I was district attorney are no longer applicable. However, the Court has also made it very clear in the cases decided very recently that a pregnant woman does not have a constitutional or legal right to reach into the public treasury and force the taxpayer to pay for a voluntary abortion on demand.

I support the committee's proposal on this issue although I would perhaps have made it somewhat more restrictive. However, I am willing to go along with the majority vote of my committee and see what can be worked out in a conference with the House. I hope the majority of the Senate will concur.

Let me say again that there is no legal or constitutional right to receive an elective abortion at public expense. The right of privacy which the Supreme Court has upheld, is not the affirmative right to be provided with an abortion at the taxpayer's expense but rather the lesser right to be free to seek abortion services without Government obstruction or interference. The Government has no constitutional or legal obligation to facilitate the right to an abortion financially or otherwise. Its constitutional duty is merely to refrain from violating such a right.

We now spend about $50 million a year to pay for about 300,000 abortions under medicaid. I cannot understand the logic of the argument that the taxpayers should be forced to pay for any woman's elective abortion let alone 300,000 such abortions a year. Millions of taxpayers of this Nation, and certainly many of the people of my State, have a deep and personal moral aversion to voluntary abortions and an even deeper personal and moral aversion to using public funds to pay for them.

I recognize, Mr. President, that the problem of the unwanted child is a tragic human problem. However, as I see it, the violent act of abortion is not the proper solution. In fact it represents a complete failure to look for and find a solution. In my view, false and unfounded rationalization is required to think of abortion as anything but the taking of a human life.

I think we should face up to the fact that an abortion is not merely the termination of a pregnancy but is the calculated killing of an innocent, inconvenient human being. When a pregnant woman, who should be the natural protector of the unborn child, becomes its deadly adversary then we certainly have the obligation to at least restrict the use of tax funds, which are taken from individual Americans, so that they cannot be used indiscriminately for this purpose without good cause.

It is argued that the restriction of the use of Federal funds for abortions on de-

mand discriminates against the poor. It is contended that our Government has the responsibility to abort the unborn of the poor and that if we do not provide this "service" then we discriminate against our underprivileged citizens. Let me say that I believe that the Government has the fundamental responsibility to protect the basic rights of its citizens and to provide them with decent employment opportunities, freedom from hunger and accessible education. However, I believe that it is discrimination of the worst kind against any taxpayer who opposes abortions—on religious grounds or otherwise—to make that taxpayer finance elective abortions. I simply do not believe that this country has the responsibility to use our taxpayers' money to provide citizens, rich or poor, with the means of aborting their unborn simply because the child is unwanted.

I simply cannot ask the taxpayers of this country to foot the bill to end the lives of unborn children simply as convenience to those responsible for them. Congress has no obligation, and, in my view, no right, to tax the American people to provide such a convenience.

The provision which the House adopted on this proposition is rigid indeed as it prohibits the use of Federal funds to pay for abortions under any and all circumstances. However, the recommendation of the Senate Committee on Appropriations is entirely different. Although the committee's recommendation would restrict the use of Federal funds to pay for most abortions it does provide some plausible exceptions—for example, where the mother's life is in danger or where pregnancy results from rape or incest. In my opinion this is a very reasonable position and certainly would not cause the hardships that might result from the provision adopted by the House.

The concept that a women has the right to be free to seek abortion services without governmental obstruction or interference is completely separate from the question of whether the Government has or should have a legal obligation to pay for such abortions on demand. I urge the Senate to adopt the position recommended by the Senate Appropriations Committee to that we can go to conference with the House on this question.

THE ABORTION QUESTION

Mr. McGOVERN. Mr. President, the effect of the Supreme Court opinions handed down on June 20 is to send the issue of whether to provide medicaid funding for abortions back to the Congress.

In essence, the Court has decided that medicaid funding for abortions is a matter of public policy, not a constitutional issue. Although the Court upheld a woman's right to choose an abortion, the Court also decided that the Constitution does not require the Congress to fund abortion services for indigent women. However, the Court also said "we leave entirely free both the Federal Government and the States, through the normal processes of democracy, to provide the desired funding." Therefore, the Members of the Senate, along with the House, must decide the issue.

The issue here is one of equity—if the Congress prohibits the use of Federal medicaid funds for elective abortions, then poor women will be unable in fact to exercise their right to choose whether to terminate a pregnancy. We are not deciding whether there will be abortions. Even in its recent decision the Supreme Court affirmed a woman's right to choose to have an abortion. We are deciding whether these abortions will be available equally to poor as well as nonpoor women.

I feel that on equity grounds alone, we should vote to reject the Hyde amendment. In addition, there are a number of other reasons. The Hyde amendment would:

Effectively discriminate against minority women who are more heavily dependent than other women on medicaid for their medical care;

Interfere with a doctor's ability to prescribe treatment according to the doctor's best medical judgment;

Cause an increase in the number of cheap illegal abortions and a resulting increase in medical complications and deaths;

Especially hurt teenagers who rely on medicaid for their medical care because they are most vulnerable physically and emotionally to the effects of an unwanted pregnancy; and

Impose one moral viewpoint upon all poor women, who are not in a position to make their views known.

I ask unanimous consent that an editorial on this subject appearing in the Washington Post of June 24, 1977, be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE ABORTION ISSUE

The Supreme Court's decisions this week put the abortion issue squarely back into the public arena—which is to say, the U.S. Congress and state legislatures. That may be the best place to resolve it in a democracy, for it is an issue in which religion and emotion and deep personal conviction count for more than a literal and arbitrary reading of the law. True, the solution is not much easier to legislate than it is to adjudicate. But we have some sympathy with the Court's decision to hand back to the legislative process a problem that legislators, out of their own desperation, had tried to pass off to the courts. Elected officials, in our view, have acquired a bad habit in recent decades of bucking to the judges the more divisive questions of the day.

The Court has left the abortion issue in a relatively straightforward position with respect to the law. What the court is saying is that 1) women have a clear constitutional right to terminate pregnancy by abortion, at least through the first three months; 2) government cannot stop them from having abortions for any reason that may appeal to them; but 3) the government is not required to provide either the funds or the facilities that make abortions financially possible for many women. Left somewhat ambiguous by the Court's decisions are whether a government can deny funds and facilities for abortions that a doctor certifies are medically necessary or whether government can define "medically necessary" so narrowly as to eliminate almost all abortions.

There is much logic and history to support the Court's central determination that the equal-protection clause is not abridged by the refusal of government to fund abortions for the poor, although this is a retreat from some of the language in past decisions. The ruling does, however, create a fundamental—and, in our view, unacceptable—inequity. It leaves a state of affairs in which poor women may be unable to exercise their right to an abortion while rich women can. Justice Powell's opinion does present a convincing argument that the Constitution does not require government to support financially the exercise of all rights even though it is barred from interfering with their exercise. Government, for example, is not required to provide a forum from which you can exercise the right of free speech or a printing press so that you can exercise freedom of the press.

But we are stunned, nonetheless, by the casualness with which the Court used this principle to justify its decision that a city or state may close its public hospitals to nontherapeutic abortions. The Court did so in an unsigned opinion of less than three pages, which provided precious little explanation of its ruling and gave no consideration at all to its implications. What it has done in those communities where publicly owned hospitals are the only ones readily available is to put the ability of all women to exercise their right to an abortion up to the decision of a government official or to a popular vote. It is rare in American judicial history for the Court to subject the exercise of an acknowledged right to such vagaries.

There is a solution. It is for Congress to face the abortion issue squarely—to accept it as a problem that, for better or worse, is not going to be entirely resolved in a fair and effective manner by the courts. Once that's accepted, the Congress has no choice, in our view, but to direct that Medicaid funds be made available to pay for abortions, rather than trying to put limitations and restrictions on such operations. Any other action will create a class distinction based solely on wealth.

The law is now clear: The decision on whether to have an abortion during the first three months of pregnancy rests with the women concerned. Some women have the means to make that decision freely, insofar as the cost of the necessary medical care and facilities is a factor. But those without the means—those dependent on government programs for their medical needs—cannot choose freely unless the government or someone else makes the funds and facilities for abortions available. A decision by Congress to restrict abortions would write into American law the "majestic equality" about which Anatole France wrote so bitterly. It would state, as the policy of the U.S. government, that women in this country have a constitutional right, upheld by the Supreme Court, to choose for themselves to have an abortion if they want one, but only if they have the money—or can beg, borrow or steal enough to pay for it. Such a policy would not do credit to a nation that prides itself on the individual right of its citizens to live freely and to determine, to the utmost extent possible, their own destinies.

Mr. BELLMON. Mr. President, I ask unanimous consent that a statement relating to this amendment by the distinguished Senator from Oklahoma (Mr. BARTLETT) be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DEWEY F. BARTLETT

A few years ago, this debate on federal funding of discretionary abortions would have been an absurd impossibility. It was generally recognized that abortion is the taking of a human life. This was not a religious issue, not a denominational matter, not a dogmatic statement. It was simple

fact. Before this medical procedure, there are two lives. Afterwards, there is only one.

But that has changed. It has become convenient to pretend that abortion is nothing but an operation on a single human being. Were that assertion true, abortion would be no business of the Congress. But, in fact, when we debate this issue on the floor of the Senate, we are discussing nothing less than the federally subsidized extermination of hundreds of thousands of lives.

Albert Schweitzer long ago warned, "If a man loses reverence for any part of life, he will lose his reverence for all life." We have seen that happen with ghastly results in one country after another. Now I fear it is occurring in our own country.

Public officials have dared to argue that it is cheaper for the federal government to abort a baby than to pay its mother additional welfare. How long will it take them to figure out how much cheaper it would be for Medicaid to hasten the death of the aged and infirm rather than support them in nursing homes?

Last year, when this same issue was before us, it was solemnly argued that it would be unconstitutional to deny to poor women the "right" to abort discovered by the Supreme Court in 1973. I doubt we will hear that argument today, for the Court has recently made clear that neither the states nor the federal government have any obligation to pay for elective abortions. It has taken the court eight months to reach that decision. And all the while, because of the personal preference of a single judge, federal funds have continued to pay for the elimination of certain unwanted Americans.

The House of Representatives has already taken appropriate action to continue the prohibition of federal funding of discretionary abortions. The Senate should concur. It would be a tragic mistake to force tens of millions of taxpayers to pay for an act which is, to them, nothing short of murder. The Supreme Court has assured us we need not do it. And I hope our conscience will tell us we should not do it.

I strongly support the amendment offered by the Senator from North Carolina which would maintain in Fiscal 1978 the same prohibition against federal funding of discretionary abortions which the Congress legislated last year.

(This concludes additional statements submitted on UP amendment No. 602.)

UP AMENDMENT NO. 603

Mr. HELMS. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of myself, Mr. BARTLETT, Mr. EAGLETON, Mr. GARN, Mr. HATCH, Mr. SCHWEIKER, and Mr. ZORINSKY, and I ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) and others proposes an unprinted amendment No. 603 in the nature of a substitute.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 9, beginning with ", or in the case of" strike out all through page 42, line 14, and insert in lieu thereof a period.

(Later the following occurred:)

Mr. HELMS. Mr. President, I am advised that the clerk read the wrong amendment. I ask that it be in order to submit the proper amendments. It is just a technical change.

The PRESIDING OFFICER. Without objection, it is so ordered.

(This concludes proceedings which occurred later.)

The amendment is as follows:

UP AMENDMENT NO. 604

On page 42, strike out all of SEC. 209 and insert the following:

"SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

Mr. HELMS. Mr. President, this morning the U.S. Supreme Court ruled the Hyde amendment constitutional. Consistent with its decision in the Maher case last week which held that a State could not be required to finance nontherapeutic abortions, the Court expanded its holding to include Congress.

In vacating the judgment of the district court, the Supreme Court determined that the decision of Congress to limit funding of abortion to those situations where the life of the mother is "endangered" is constitutional.

Mr. President, millions of Americans oppose the use of their tax dollars to pay for the performance of convenience, nontherapeutic abortions. It is not socially desirable and it is not constitutionally necessary for Congress to compel taxpayers to finance a form of killing that millions of taxpayers consider nothing short of murder.

Approximately 85 percent of the public hospitals in the United States refuse to perform convenience, nontherapeutic abortions. Many will allow abortions to be performed only where there is a grave threat of death or injury to the mother.

Of those States which provide financial assistance through their medicaid programs for nontherapeutic abortions, many do so only because of Federal court orders, which in light of the recent U.S. Supreme Court decisions must now be overturned. Even the Supreme Court which 4 years ago first articulated the constitutional right to an abortion, could not accept the radical demand that State and local governments be required as a matter of constitutional law to finance abortion on demand.

The Supreme Court ruled just last week that the medicaid program does not require; that the equal protection clause of the Constitution does not require; and that the Court's own abortion decisions do not require that State governments provide financial assistance for convenience abortions.

I recognize that some Members of the Senate declined to support the Hyde amendment in the past because of the sincere belief that the Constitution required Congress to finance the performance of nontherapeutic abortions. Certainly, members of this body can have no higher duty than to preserve the Constitution and measure any proposed legislation by its principles. However, the Supreme Court has clearly ruled that the decision by government to make childbirth a more attractive alternative than abortion does not violate any constitutional principle.

In the case of Maher against Roe, the plaintiffs attacked a Connecticut welfare department regulation that limits medicaid benefits for abortions which are medically necessary. The plaintiffs asserted that the equal protection clause requires a government welfare program which finances the expenses of childbirth to also finance the performance of convenience abortions.

The Supreme Court did not agree. It ruled that such a decision "involves no discrimination against the poor." The Court went on to say that the decision by government not to finance the performance of elective abortion—and now I quote from the Court's opinion directly:

Places no obstacles—absolute or otherwise—in the pregnant woman's path to an abortion. An indigent woman who desires an abortion suffers no disadvantage as a consequence of (the) decision to fund childbirth . . . The State may have made childbirth a more attractive alternative, thereby influencing the woman's decision, but it has imposed no restriction on access to abortions that was not already there.

Mr. President, let it be clear that by the terms of the Hyde amendment which was accepted by both the House and the Senate last year, Congress prohibited funding for abortions which were not medically necessary. Medically necessary abortions, those necessary to prevent the death of the mother or when the mother's life is endangered, were not prohibited by the Hyde amendment. Proponents of abortion on demand now insist, however, that tax dollars be used to provide nontherapeutic, convenience abortions.

With the slogan, "every child should be wanted," the proponents of subsidized convenience abortions maintain that abortion must be recognized as simply a backup method of birth control in family planning.

Indeed that has been suggested in the debate and colloquy in this Chamber this afternoon. They insist that the Senate repudiate existing congressional policy as embodied in the Family Planning Services and Population Research Act, that Federal tax dollars not be used to provide abortions as a method of family planning.

Proponents of free abortions at taxpayers' expense insist that women should not be "burdened" with an "unwanted" child, as if a child that is unwanted is somehow less than human. The right to life of any child should not depend on whether or not he is wanted by someone else. That is the crassest sort of reasoning, Mr. President. And I do hope that the United States has not sunk to that level in its thinking.

Certainly, many factors of modern society make abortion appear convenient and easy in the short term, but the humane and positive response—the response of Government—should be to encourage life.

Many of those who would force taxpayers to provide convenience abortions through the medicaid program rely upon an economic rationale. They maintain that poor women must be provided with State-subsidized abortions because, otherwise, society will have to share the costs of caring for these children. In other words, they would have Congress accept the proposition that elective abortions should be funded because it is cheaper for the State to kill the unborn

children of the poor than it is to let them be born.

Even the Washington Post, in a recent editorial, rejected the argument that bargain abortions are the answer for the poor of this country. The Post termed the bargain abortion rationale "a terrible argument" and that "its implications are monstrous."

Its implications are monstrous indeed. The lives of thousands of innocent human beings cannot be subordinated to the monetary interests of the State in such a fashion. If we today accept the rationale that innocent human life may be disposed of to save the Government money in regard to child care, an extension of that rationale would support the awesome argument that the old, the feeble, the infirm, and the handicapped should similarly be disposed of. Once the basic fallacy is accepted that there is such a thing as a life not worth living, it is not a great step from disposing of the unborn children of the poor to disposing of other socially and perhaps even politically undesirables.

The lesson of Nazi Germany is indelibly clear on the point. The mass extermination camps there began with the decision several years earlier to institute extermination clinics to dispose of those undesirables with an incurable illness.

Of course, the beginnings at first are merely a subtle shift in emphasis in the basic attitude of society. It starts with the acceptance of the idea that there is such a thing as a life not worth living. In its early stages, this attitude concerns itself only with the so-called "hard cases" in which the victims, because of age or illness or mental capacity, are unable to speak for themselves. Gradually, this category is enlarged to include the socially unproductive and the ideologically unwanted.

Mr. President, in order to avoid the repetitious and time-consuming debate over the language of the Hyde amendment which dominated last year's Labor/HEW Appropriations Act, I am submitting compromise language regarding Federal financing of abortions.

My amendment restores language identical to that passed last year by the Senate and is consistent with the recent U.S. Supreme Court holdings that similar prohibitions on funding of abortions are constitutional.

As Senators may know, the House of Representatives, by a vote of 210 to 155, passed a prohibtion of abortion funding which contained no exceptions.

None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

The Senate Appropriations Committee proposes language to permit funding of abortions performed to treat alleged cases of rape and incest and when performed as a means of fetal euthanasia. The prior history of the Hyde amendment indicates that the Senate Committee language is totally unacceptable to a majority of the House.

Mr. President, the Senate committee suggestions that the Hyde amendment be amended to provide for abortions necessary because of an ectopic pregnancy stems from a misunderstanding of the medical nature of that problem.

Procedures to treat cases where the fetus is dead, where cancer necessitates the removal of the uterus, and where implantation has occurred outside the uterus, as in an ectopic pregnancy, are not considered as abortions. Rather these situations are treated as emergencies requiring major abdominal surgery.

For example, the annual abortion surveillance conducted by the Center for Disease Control of the Department of HEW specifically excludes from consideration as an abortion such procedures as the termination of molar or ectopic pregnancy.

Mr. President, Congress should not provide funding of abortions for purposes of eugenics or euthanasia. "Fetal euthanasia," as a solution to the handicapped child in the womb, is being promoted by the Senate committee proposal. Dr. Watson Bowes of the University of Colorado Medical Center has observed that such a proposal amounts to "treating a disease by killing the patient with the disease." Abortion in these circumstances is nothing less than euthanasia.

An exception clause to provide for abortion in the case of rape is both unnecessary and unenforceable. As a practical matter, the problem does not exist.

Studies of thousands of cases of rape in both New York and Minnesota reported no resulting pregnancies over periods as long as 30 years. Dr. Carolyn Gerster observes that there are two irrefutable arguments against making such an exception. First, pregnancy from reported, medically treated rape is zero, rendering the exception clause unnecessary. Second, unreported rape, after all evidence has disappeared and without corroborating witnesses, cannot be proved, rendering the exception clause unenforceable.

Rather than promote abortion in cases of rape, we should encourage victims to seek medical attention and report offenses. I hope this increased attention will lead to improvements in society's treatment of the rape victim. A society which promotes justice, as well as compassion, will support more severe penalties for the rapist and more humane treatment for his victim rather than encourage the killing of the innocent child conceived during the criminal act of another.

Opposition to the Hyde amendment sometimes rests upon the false assumption that anything less than Federal financing of nontherapeutic abortions will result in an epidemic of maternal deaths. This specter of an epidemic because of "backroom" abortion is simply unfounded.

During the 35 years preceding the 1973 Supreme Court abortion cases, when very few legal, nontherapeutic abortions were performed; maternal deaths from abortion were reduced by over 90 percent. In 1971, United States Vital Statistics reported there were only 120 maternal deaths from abortion, including legal abortion.

There is no reason to suppose that if Congress does not finance nontherapeutic abortions, maternal deaths due to backroom abortions will increase beyond what they were before their legalization.

Mr. President, I would emphasize that we are discussing only maternal deaths related to abortion. In reality, for every two human beings who experience an abortion, only one is left alive.

Mr. President, in an attempt to avoid a long conflict between the House of Representatives and the Senate when this measure goes to conference, Senators BARTLETT, DANFORTH, EAGLETON, GARN, HATCH, SCHWEIKER, ZORINSKY, and I are submitting this amendment to restore to the committee proposal the identical language of the Hyde amendment as it passed the Senate last year by a vote of 47 to 21. The language is very simple. It read as follows:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

I hope that our colleagues will join us in supporting this compromise language so that we may avoid repetitious and time-consuming debate and deal expeditiously with this issue.

One final comment, Mr. President, and I shall be through.

About 4 weeks ago on a Sunday morning I paid a visit to Duke University Medical Center in Durham, N.C., to visit a friend of mine who is in charge of the Children's Hospital portion of that great hospital.

He took me to the intensive care section of the Children's Hospital. There must have been 50 beds there, tiny little beds with even tinier babies, born prematurely, being given all sorts of life supporting treatment with millions of dollars worth of sophisticated equipment and technology.

And across the corridor in the waiting room I saw mothers and fathers sitting there, one couple praying that their child would live; others waiting hopefully for an encouraging report from the physicians and the nurses.

It occurred to me that what a contradiction this is. Here is the expenditure of millions of dollars, dedicated service by highly trained medical personnel, struggling to save the lives of those little ones. Meanwhile, back in Washington, D.C., there are efforts constantly to use the taxpayers' money to exterminate the lives of literally hundreds of thousands of innocent unborn children.

What a contradiction, Mr. President.

Where are we headed?

We boast of our technology—we should be proud of it—in saving lives, but we turn right around and, based on the most specious of arguments, say it is all right to use the taxpayers' money to deliberately terminate the lives of innocent unborn children, denying them the right to be born, the right to live productive lives, bring joy and happiness. The proposal would wipe all of that away simply because the mother is poor, or because she does not want to bear the child she has conceived—so we are asked to tax the people of this country to provide funds to kill an innocent child.

Who knows how many Senators, how many Presidents, how many doctors and lawyers, how many scientists might be in the group of innocent unborn children whose lives could be terminated deliberately through the use of tax money?

Mr. President, I do hope the Senate will act quickly on this issue. Needless to say, I hope that my amendment in the nature of a substitute for the Packwood amendment will be approved.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I have some remarks to make here, though I am not eager to speak on this subject.

Mr. JAVITS. Mr. President, will the Senator from Indiana yield to me for just 1 minute? I am in a meeting of a conference, and I just wanted to state my position on the amendment.

Mr. BAYH. I yield.

Mr. JAVITS. Mr. President, I shall vote for the Packwood amendment and against the substitute of our distinguished colleague from North Carolina.

My reason, Mr. President, is this: The Supreme Court has decided, in the Roe case, that abortion is a woman's private right. The Supreme Court has decided in the Maher case that the Federal Government may place restrictions upon the medical aid which it gives, even though that aid is supportive of that private right of the woman.

I do not agree with the Court, but that question of constitutionality is immaterial, because if we act we are constitutional, which is all we have to worry about. We are talking about policy, not the constitutionality of either a State or a Federal statute.

I believe that as a matter of policy we cannot deny to the poor woman what we grant very clearly to the person who can afford it. As has been properly said, if you can afford to have children you can afford an abortion. If you can afford to have children, you may not need an abortion, or may not want one.

So the proposition in policy contradicts itself, and I believe the law should not inhibit this exercise of this private right by those who can least afford it, and therefore need Government assistance.

I thank the Senator for yielding.

Mr. BAYH. Mr. President, I suppose of all the issues the Senator from Indiana has had the opportunity of struggling with during most of a lifetime of public service, none has really pulled at the very fibers of my being like this one. As the chairman of the Senate Subcommittee on Constitutional Amendments, I had the opportunity to sit for months, hour after hour, listening to witnesses on both sides of this question, listening to personal real life experiences, the kind of experiences that really keep one awake in the middle of the night.

After having had the opportunity to really struggle with the issue, I came to the personal decision that I thought we were talking about life when we discuss the fetus.

Some people who will applaud my vote on the Helms amendment will not applaud this statement, because they reach an opposite conclusion. The reason why I am opposed to the Helms amendment and the reason why I am opposed to a constitutional amendment on this subject is that I think people have a right to differ on this issue.

The evidence presented was not clear and unequivocal. Questions were raised by, I think, the Senator from Illinois, as to the moment of conception, what impact certain birth control substances have on the human body, and the possibility that those very steps taken by some to prohibit the need to have an abortion might in and of themselves be classified as abortifacients.

But the question here today is a broader one. It would seem to me that the Senate would be much better situated from a standpoint of equity to be debating the constitutional question as to whether all American women have a right to choose or not, than the issue which is now presented to us. That question is not whether we are going to establish a standard of conduct for all of the people of the country to determine right and wrong—what is moral and what is not.

At least if we tread into this mine field, it seems to me we would be well advised to apply whatever rule we apply to all of the people of the country, all of the mothers, all of the 13-year-old girls, all of the parents confronted with the tragedy of an unexpected pregnancy.

But that is not what we are doing. We are saying here that the impact of this legislation, if the Senator from North Carolina is successful, the impact of the Helms motion to strike and insert, would be to say, "We are going to separate out a certain group of Americans, a minority of Americans, those on the low end of the economic scale, those who do not have the financial resources to exercise the constitutional right which the Supreme Court says they have." Thus, in essence, we are saying that those who have the resources to enjoy their constitutional right may do so. Those who do not have the financial resources have the constitutional right, but a right without the ability to use it is absolutely worthless.

To me the question is not one of convenience. It is not one of cost. I listened to the very impassioned and, I think, sincere appeal of our distinguished colleague from New Mexico, and I found great sympathy with it. Frankly, I think abortion for convenience alone is tragic. Certainly if we are just going to apply an economic barometer to whether we have an abortion or not, that lowers us to the lowest form of humanity. It seems to me that we need to ask some basic questions that are much more important than cost or convenience.

The first question we need to ask concerns the rationale of those who say, "All right, we are going to support the Helms amendment, and that is going to stop abortion for poor people; it is not going to stop abortion for middle income and rich people."

One reason, I suppose, is that they are going to say, "We are going to take away Federal funds and deny this particular part of a health package to poor women, and that way we are going to stop poor women from having abortions."

Who are we kidding? We are not going to stop poor women from trying to have abortions. What we are going to do is put them on a slaughter block. We are going to put them on a kitchen table with a butcher knife or a bed in the back room with a hanger. That is what went on before the Supreme Court decision.

I believe the Senate should understand the consequences of this act. What we are going to do is to go right back to the tragic deaths of people who were so torn with frustration, so desperate with an unwanted pregnancy. They did irreparable harm to themselves.

I do not think it is an accident. I say to my colleagues there has been a 90-percent reduction in deaths from illegal abortions since the Supreme Court decision in 1973.

I think it is only fair to say that if we go back to that time when poor women had no recourse but to the hanger and the butcher knife, that is exactly what we are going to have. They will reach a point of desperation where they will do anything even if it does, in the final analysis, cause their death.

Mr. LONG. Will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. LONG. It seems to me the Senator has a valid point there. The amendment does not have the effect of forbidding abortions. As a practical matter, it just forbids an abortion in a hospital performed by a doctor. The abortion would still be available, but not under safe conditions. It would be under conditions where the woman risked her life needlessly. That is what may very well be the effect in a great number of cases.

I do not think any of us would want that. I am sure the sponsor of the amendment had all good intentions. He wants to protect the life of the future child. But we have to look at what is actually happening in a great number of cases. In desperation, people do turn to abortion, and when they do it is tragic that it either costs a life or permanently impairs the health of the person on whom the abortion is being performed.

I believe the Senator is making a good argument.

Mr. BAYH. I appreciate the observation of my friend from Louisiana.

As I said, I chaired these hearings. I went through an experience I never had in my life. I listened to women who have had experiences, the likes of which I have never witnessed firsthand. No woman I have ever known personally has gone through the agony, either the agony of an unwanted pregnancy and then an abortion, which has to be a wrenching experience.

I do not for a moment impugn the motives, the desires, or the good intentions of our colleagues, the Senator from North Carolina, the Senator from Utah, the Senator from New Mexico, and others. I can sympathize with that. As I said a moment ago, in my own personal decision, I believe we are talking about life.

But I am not prepared to say to others who are confronted with the situa-

tion that probably nobody in this body has ever been confronted with, that here in all our omnipotence we are going to put down the decision, we are going to go into the kitchen, into the hospital, and into the bedrooms, and we are going to say to those who are in much difference circumstances than any of us here, "We know better."

Frankly, I struggled trying to determine what the right decision is for myself. I like to say I always know. I have to confess I do not, but at least I understand that for me and my family, we will make those decisions for ourselves. But for us to stand here and make a collective decision for individuals everywhere else, I think is the ultimate in audacity.

I want to go one step further. I appreciate my friend from Louisiana emphasizing that what we are doing is really not stopping abortions. We are taking them out of the medically safe atmosphere, the hygienic atmosphere, and we are thrusting them back. We can well expect a 90-percent increase in deaths related to this kind of abortion, just as we had before the Supreme Court decision.

What we are seeing also is that if it is a well-off person whose daughter is attacked on the street at night and becomes pregnant, it is not going to lead to an unwanted pregnancy.

Some people whose daughters are confronted with a situation like that, or some who are wives, will say, "Look, if that conception is the result of a rape that is just as much a life as if it were done voluntarily." But that should be their decision.

What we are saying is, "If you are poor in this situation you cannot even make that decision. If you are wealthy, you can make a decision after a rape pregnancy. You can either have an abortion or a live birth. If you are poor, you cannot. You have no alternative but to have that child."

What we are saying is, "If you have a member of the family who becomes pregnant as a result of incest, if you are poor, there is nothing you can do about that."

The response to our very well-intentioned folks on the other side is, "Well, Senator, how many rapes result in pregnancy? How many rapes result from incest?"

I have to say not a great many. Some, but not a great many.

I have to say, however, if it were my daughter or my wife, I would not care if there was another one. The whole thrust of my argument, let me say to my colleagues, is that each individual in tragic circumstances like this should make that decision for herself. I think if we break it down and look at it as to how we would react if it were in our family, we might take a little more personal view of this.

If we happen to be from the particular strain of Eastern European Jewish heritage, subject to the Tay-Sachs gene, the odds on carrying a genetically damaged child are very high. Tay-Sachs is a disease which, I fear, is not covered by the well-intentioned language of the committee, and if we are unsuccessful with the language of the Senator from Oregon to strike I think it is important for us to go and correct that.

Tay-Sachs does not really result in a fetus being deformed. It is genetic abnormality. A Tay-Sachs child is born like any of our children, alive, full of life, and bright-eyed. Sadly, at 1 year old, degeneration begins. There is no cure for it. We find the parent going through the tragic atrophying of a dream.

Through the advent of medical science, by withdrawing fluid from the womb of the mother close to the fetus, we are now able to determine whether that fetus is carrying that gene or not.

Given that situation, we can let the parents decide whether they should have an abortion or give life to a child sure to die.

We are talking here about the right to live. I have to tell you that one of the most compelling witnesses I have had in my life in the legislative process is a young woman by the name of Katz. Mrs. Katz had a Tay-Sachs child born and saw it disappear. After that pregnancy and birth and death, science developed the test that I mentioned a moment ago. She told, in very personal and compelling terms that I really cannot—try as I will—of the struggle that she and her husband had as to whether they should have other children, having seen one born and disintegrate in front of them. Better to have no more children than to risk having this happen again.

She told us—and I believe it—that if it had not been for the ability to test pregnancies and have given the option of abortion, she and her husband would never have had any more children. And running around that room kicking up their heels, causing the chairman some concern, full of life, as any little child would be, was one young, full-of-life Katz boy, born after the earlier Tay-Sachs child had been destroyed. He would not have been alive today if that mother and father had not been given that right to choose whether they wanted to have other children or not.

How many Tay-Sachs children are there in America today? I do not know. It is far from a majority. But if we are talking about the United States of America, it seems to me that a couple that is confronted with that kind of situation ought to have the right to make that decision for themselves and not have all of us here, sitting in the U.S. Senate, say, "You cannot have a choice. If you have a Tay-Sachs pregnancy, you are going to have to have that child born and live and die, or have no children at all, because those are the options."

What we are saying is that if we are rich and have a 13-year-old daughter or 14 or 15 who, much to our chagrin, becomes pregnant, we can choose what the course should be. If we are poor, we cannot. I think it is important for us to remind ourselves that, of all the kinds of abortion we are talking about that would be directly affected by the amendment of our friend and colleague from North Carolina, one-third of them involve pregnancies of young women 15 years or under.

I am not saying that a 15-year-old girl who becomes pregnant should not give birth to that child. I have to say that ought to be a matter of consultation between her and her parents. In my judgment, I am not prepared to sit here, in the U.S. Senate, and say, "OK, if you are wealthy, you can have that consultation and opt yea or nay. If you are poor, you are precluded from that kind of decision whatsoever."

Mr. PERCY. Will the Senator yield for a question?

Mr. BAYH. I have just about concluded, and if I could just continue for a moment, the Senator has been very kind. I see that urge in the eye of the Senator from North Carolina to say something.

If the Senator will permit me another minute, I shall be through.

It seems to me we all have to make this judgment. Just as we are not prepared to make this judgment for others, I am not suggesting that any of my colleagues, or all, have to accept the same set of values that the Senator from Indiana has tried to put on this and other issues. I think it is important for us to understand just exactly what we are talking about here.

We are not talking about a constitutional argument. As the Senator from New York said a moment ago, and others, from what the Supreme Court has said, we have every right to act or not to act. I am not talking about constitutionality. We may not like to face it, but what we are talking about here is whether we are willing to discriminate or not.

Are we willing to have a national policy which has, as its logical and real consequence, a situation in which poor women cannot avail themselves of a constitutional right that is available to other women?

The Supreme Court has said there are other sources. But, as Justice Brennan pointed out in his very logical dissent, where are they? Who are they? The fact of the matter is they do not exist.

The fact of the matter is that we are the court of last resort. As we vote, let us recognize that consequence. Let us not wait for some white rabbit to pop out of a hat and suddenly bring a bundle of cash into the dusty living room of a poor family with no money for an abortion, because it is not going to be there. We are either going to make that available in the event the choice is made, or we are not.

Well intentioned as we are, I think we had better look to a quote that I think is right on the mark here, that is quoted often, but never has it been more appropriately used than, first, by Mr. Justice Frankfurter and, more recently, by Mr. Justice Brennan in his dissent. He went back to that old Anatole France quote that many of us have heard, time and time again. It is so on target here. Anatole France said:

> The law in its majestic equity forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.

I think that pretty well sums it up. I yield the floor.

Mr. PERCY. Mr. President, the Senator from Illinois would like 6 or 7 minutes.

Mr. BROOKE. Could the Senator take

4 minutes so that the Senator from Pennsylvania may have 3 minutes?

Mr. PERCY. Yes.

Mr. BROOKE. Mr. President, I yield 4 minutes to the Senator from Illinois and 3 minutes to the Senator from Pennsylvania.

Mr. PERCY. Mr. President, first, I was unaware, in previous colloquy, that I in any way derided any individual or group of individuals, or used sarcasm or innuendos or ridicule. If it has been interpreted that way, I deeply regret it. In fact, in referring to people on the opposite side of this issue, I have, many, many times, referred to them as people who are well intentioned, sincere, earnest, and moral people, who deeply believe that they are absolutely right.

In previous colloquy that we have had, in looking at a transcript of it, I did refer to a group of people who picketed me as, for the most part, lovely people, earnestly seeking the truth, but deeply convinced that they have a direct source to the truth and absolutely unshakable that they are right, they are on the right moral grounds, and God is on their side.

I reiterate, once again, that I have deep respect for those who are on the opposite side of this issue.

Mr. President, once again, I rise in support of Senator PACKWOOD's motion to strike section 209, which would prohibit the use of funds in H.R. 7555 to pay for abortions and against the pending substitute.

The major effect of section 209 is to deny medicaid abortions to poor women, leaving them to choose between unsafe abortions or the birth of children they do not want or cannot afford. Well-to-do women would not be affected; they would not have to make this choice. They do not depend on public funds and facilities when they choose to have abortions. Under section 209, only poor women would be affected.

This section does not stop abortions. It only denies poor women equal access to this medical service. It is estimated that 70 percent of the women who today get legal and safe abortions would still get abortions even if they had to resort to unsafe means. The effects of forcing women to make this choice would be tragic. Deaths due to improperly conducted abortions would rise sharply.

Because abortion has been legal nationally for only 4 years, information on the national impact of the law is sketchy. Existing statistics are mainly from New York and California, where abortion laws took effect in 1968 and 1970, respectively. Although we cannot assume that the experiences of two States will be duplicated nationally, changing trends are apparent—

The number of women admitted to hospitals for post-abortion treatment has declined. In one San Francisco hospital, such cases decreased by 68 percent in two years following abortion reform. Abortion complication cases in one Los Angeles facility declined by 88 percent in one year. And statistics from ten New York City hospitals indicate a 52 percent drop in abortion complications in the first three years of legalized abortion.

In my home State, the Illinois General Assembly 1969 Family Study Commission report showed that the Cook County hospital alone admitted approximately 4,000 women annually from 1962 to 1968 for medical care following criminal abortions; in April and May of 1973, however, the Chicago Board of Health found less than five such cases per month at the same facility—

Abortion-caused maternal deaths have declined as a result of legalized abortion. In California in 1967, there were 20 such deaths per 100,000 live births. In 1971, after liberalization of the law, there were only 2 abortion-caused maternal deaths per 100,000 live births. In New York City, only 4 maternal deaths from abortion were reported in 1972–73, while 22 had been reported in 1970.

Although abortion has been a major cause of maternal mortality, many women, who in the past did not have the alternative of legal abortion, were actually endangered because of their pregnancies. Young teenage girls, women nearing menopause, women who have had many or problematic pregnancies, and women with medical handicaps all are at risk during pregnancy and childbirth. The number of women who die from all of these causes has also dropped since the liberalization of abortion laws. The New York City Department of Health reports a 51-percent decline in maternal deaths from 1969 to 1972, and in California, a 45-percent decline has been reported in the 4 years following abortion reform.

Today, using figures from the Center for Disease Control, deaths due to illegal abortions have been reduced 90 percent since 1972. There is no doubt in my mind that pasage of section 209 would undoubtedly cause a reversal of that trend, resulting in the unnecessary deaths of many women. Illegal abortionists rarely, if ever, provide counseling services. As a result, by severely limiting the contacts of poor women with institutions that provide safe abortions, this section will pose further barriers to adequate family planning services.

There is a growing need for a much greater Federal family planning effort. In Illinois alone, the family planning clinic caseload increased 155 percent between 1968 and 1974, an increase in patients from 38,900 to 99,000 women. However, even with that increase, an estimated 172,500 low-income women still did not have access to these services. Last year, there were 1 million pregnant teenagers between the ages of 15 and 19, and an additional 30,000 pregnant teenagers under 15 years of age. Teenagers comprise the only age group with an increasing birth rate. Unfortunately, teenagers have the least access to family planning services. It is estimated that only 25 percent of teenagers who need family planning services receive these services. We need to increase funding for counseling, information services, clinical services, and other means of family planning.

Section 209 does not take away the right of all women to have abortions; it only makes it difficult, if not impossible, for certain women, specifically poor women, to obtain abortions. In 1973, the Supreme Court affirmed that right in Roe against Wade. On June 20 of this year, it reaffirmed the finding in rulings on three separate cases. In its June 20 rulings, the Supreme Court declared that it is up to Congress and the States to decide whether public funds could be used to help women get abortions. As a result, Congress has a responsibility to provide poor women with the opportunity to obtain safe abortions.

If we do not vote to strike section 209, we shall be abrogating our responsibility to protect the rights of all Americans. Even the improvements contained in the Schweiker-Johnson amendments which the committee added do not address themselves to the central issue, which is nondiscrimination against poor women. Therefore, I strongly urge my colleagues to support the Packwood motion and vote to strike the section 209 from this bill and to therefore oppose the pending Helms substitute.

Senator HELMS' amendment would prohibit use of medicaid funds to perform abortions except where the life of the mother would be endangered. But, what about the woman who becomes pregnant because of an incestuous relationship forced upon her? What about the woman who suffers rape? According to the FBI, there were 56,093 rapes in 1975—one rape every 10 minutes. If the Helms amendment is enacted, even these women would not have access to medicaid funds to get an abortion. They would be required to bear a child forced upon them, forced upon a woman against her will by someone she possibly hates or detests. What a cruel fate society would impose upon an innocent woman.

The major effect of section 209, which the Packwood amendment would strike, is to deny medicaid abortions to poor women, leaving them to choose between unsafe abortion or the birth of children they do not want or cannot afford.

Well-to-do women would not be affected. They would not have to make this choice. They do not depend on public funds and facilities when they choose to have abortions.

Under section 209, only poor women would be affected. This section does not stop abortions. It would only deny poor women equal access to this medical service.

It is estimated that 70 percent of women who today get legal and safe abortions, would still get abortions if they had to resort to unsafe means.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PERCY. It is tragic. Deaths due to improperly conducted abortions would rise sharply.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PERCY. Mr. President, I would only ask my distinguished colleague from Utah (Mr. HATCH) who is on the floor now to reiterate again the statement he previously made.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Pennsylvania is recognized.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr.

JOHNSTON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. That is on the Helms amendment?

The PRESIDING OFFICER. That is on the Helms amendment. That is right.

Mr. SCHWEIKER. Mr. President, I am a cosponsor of the amendment of the Senator from North Carolina. I also led the fight for this very same amendment in the Senate Appropriations Committee just last week, and last year in the House-Senate conference on this bill, where we were successful in writing this exact language into the conference report. In fact, this very same amendment was the only basis that we could agree upon between our respective bodies on exactly what taxpayers' dollars could do. It was the one point of common ground we could reach on how to resolve our respective honest beliefs and differences over this issue.

That is why I, frankly, hate to see us move away from it so quickly. It is a common principle that we worked out in the year past. Also, it is obvious from the recent Supreme Court decision that they are going to let this principle stand.

The Court has said that a person can have an abortion, but it has also said that a legislative body, be it local or State, or, obviously, Federal, has the right to say that the taxpayers do not have to pay for that abortion. That is what the Supreme Court has just ruled.

I think this is not a matter of discrimination, as some people have so eloquently argued. There are many rights which you do not get provided at Government expense. We have a right to drive a car, but it does not mean everybody has the right to own a Cadillac car. We have a right to have an elective operation or cosmetic surgery, but it does not mean the taxpayers have to foot the bill for somebody to have a hair transplant or cosmetic surgery or a facelift or braces on their teeth. I list these simply as examples, to point out that medicaid does not pay for all medical procedures. Obviously abortion is not the same as a facelift, but the principle is that somebody has to choose what is covered and what is not.

If this amendment prevails, exactly the same freedoms and rights will prevail as there always has been. People will not get an abortion done at taxpayers' expense. They can freely go to a local agency and get it financed.

There is not discrimination here any more than saying everybody should have braces on their teeth and we ought to pay for it, or everybody ought to drive a Cadillac car because one of us can.

There is a great difference in honest opinion about the ethics and morality of this issue. I happen to be on the side that abortion is ethically and morally wrong. I happen to feel that I do not have a responsibility to finance other people who feel differently. The Court said those other people who feel differently have the right to have that abortion and that is not the issue here.

The question is only whether we should pay for others abortions, and I do not think we do.

I urge the Senate to agree to the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 33, nays 65, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—33

Allen	Ford	Proxmire
Biden	Garn	Randolph
Byrd, Harry F., Jr.	Griffin	Roth
	Hatch	Schweiker
Curtis	Hatfield	Sparkman
Danforth	Helms	Stennis
DeConcini	Huddleston	Stone
Dole	Johnston	Thurmond
Domenici	Laxalt	Young
Durkin	Lugar	Zorinsky
Eagleton	McClure	
Eastland	Melcher	

NAYS—65

Abourezk	Hart	Muskie
Anderson	Haskell	Nelson
Baker	Hathaway	Nunn
Bayh	Hayakawa	Packwood
Bellmon	Heinz	Pearson
Bentsen	Hollings	Pell
Brooke	Humphrey	Percy
Bumpers	Inouye	Ribicoff
Burdick	Jackson	Riegle
Byrd, Robert C.	Javits	Sarbanes
Cannon	Kennedy	Sasser
Case	Leahy	Schmitt
Chafee	Long	Scott
Chiles	Magnuson	Stafford
Church	Mathias	Stevens
Clark	Matsunaga	Stevenson
Cranston	McGovern	Talmadge
Culver	McIntyre	Tower
Glenn	Metcalf	Wallop
Goldwater	Metzenbaum	Weicker
Gravel	Morgan	Williams
Hansen	Moynihan	

NOT VOTING—2

Bartlett	McClellan

So the amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Oregon, with a vote thereon to occur at 6 o'clock.

The Senator from Oregon is recognized.

UP AMENDMENT NO. 602

Mr. PACKWOOD. Mr. President, let me assure——

The PRESIDING OFFICER. Wait a minute. There is not order in the Chamber. Will Senators please take their seats.

Mr. MAGNUSON. I do not think many of the Senators heard what the Chair said. Now we are going to discuss the Packwood amendment, and the vote will occur at 6 o'clock; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. All right.

The PRESIDING OFFICER. Senators will please take their seats. The Senator from Oregon is entitled to be heard.

Mr. PACKWOOD. Mr. President, during most of this afternoon this debate has been carried on between no more than six to seven Senators principally, and many of the arguments that were made this afternoon have been made before and they will be made again in future years on this issue.

But before we vote at 6 o'clock on my motion to strike all of section 209 of this bill, which would prohibit money to be used for abortions—and if my amendment passes we would be allowed to use money to fund abortions—I want to give a little background on how we got to where we are, because there was some allusion by one of the previous speakers that we never would have been in this situation, never would have been fighting about whether medicaid funds can be used for abortion, if at the time we passed medicaid we had had the Supreme Court decision——

Mr. NELSON. Mr. President, can we have order?

The PRESIDING OFFICER. Let there be order in the Chamber. Will Senators please take their seats and please carry their conversations to the cloakroom.

Mr. PACKWOOD. I thank the Chair.

First, let us look at abortion in perspective, because over and over and over this afternoon the statement was made by opponent after opponent of funding of abortion that it is wrong, that it is immoral, that it violates the basic premises and tenets of this country and the premises upon which this country was founded.

Well, this country in terms of its morals, in terms of its law, draws a great deal from England, and under the common law abortion was neither immoral nor illegal. It was a common practice. It was not a crime. It was not a misdemeanor. And, at the time this country was founded, it was not a crime, be it a felony or misdemeanor, nor was it immoral. It was a commonly accepted practice in this country.

So when we talk about going back to the principles on which this country was founded, let us remember, at least at the time this country started, abortion was an accepted part of our life.

We started in the early 1800's in various States passing laws against abortion for a variety of reasons, interestingly enough as you read the history, part moral, but only part moral. By far the more prevalent reasons, as you read the debates, fragmentary as they are from the State legislatures in those days, were, first, medical. Abortion was a dangerous procedure. Women were dying by the scores, by the hundreds, by the thousands from abortion—not from illegal abortions, you understand, because until these laws were passed, they were legal, but abortion was a dangerous process.

There was not good medicine, there were not good antibiotics, and women, principally from an infection, died by the thousands.

Then, as you read the debates this also creeps into it: the manifest destiny and in the growing expansion of this coun-

try, a feeling that we wanted to populate this country, we wanted to move West, we wanted to settle the territories, we wanted to get the land before other foreign countries could get it, and abortions might discourage population growth.

So for all of those reasons, starting roughly in 1850, this country passed laws against abortion, and by 1950 every State, with the exception of two, had very, very restrictive laws against abortion. The two exceptions were the District of Columbia and Alabama, which still had reasonably tolerant abortion laws.

Now, it is interesting as you look at our age, our age, when we were born and raised, what the attitude of this country was. Most of us were born and raised into the major parts of our professions before 1950. We were raised in an era when abortion was regarded as wrong, immoral.

We all recall the backroom abortionists or heard about them, or heard about the poor rich woman who had to go someplace, and "was it not a terrible thing that happened to Mrs. Jones' daughter—it was a sin."

We grew up with a lot of other prejudices in those days, a prejudice against women generally. Men had some kind of a superior right to jobs. We find now that we were changing that attitude.

We grew up in an era very adverse to homosexuality, and we find that an issue we never realized would have been an issue 15, 20, or 30 years ago.

All I am saying is that the age of this group is an age that grew up at a time when abortion was regarded as wrong, and it is hard for us to throw off old prejudices.

What happens now? You take a look at the attitude of the country today. Take a look at the polls that are taken on abortions for every religion, Protestant, Jewish, Catholic. You look at the age breakdown on whether they favor or oppose abortion. The largest support for abortion is among the youngest; it closes as you get older, until finally when you get to the age group above 60, you find opposition to abortion again in all of the religious classifications.

Well, this country began to change, and it did not start to change with the Supreme Court. This country started to change in the early sixties. Colorado in 1965 passed what was then a very liberal abortion law. They said a woman could have an abortion if she was pregnant as the result of rape or incest, or if the fetus was likely to be genetically deformed, or—and this was an important exception—if the mental or physical health of the woman was likely to be impaired by the pregnancy. Under that exception, many, many abortions were done in Colorado. Then shortly on Colorado's heels came New York, Alaska, and Hawaii, all of whom legalized abortion by legislative act.

Then came the State of Washington, which legalized it by an issue on the ballot, where the people had a right to decide whether or not they wanted legalized abortion, and they voted overwhelmingly for it.

This is all before the 1973 Supreme Court decision.

Then came the 1973 Supreme Court decision, and what did the Court say in that decision?

Some say that it guaranteed a woman a right to an abortion. The Court has since clarified, if indeed there was any real misunderstanding, that they said the constitution guaranteed the right of a woman to decide whether or not she wanted an abortion. It did not guarantee that she could get an abortion.

And I must say in fairness to the Court, that is the normal attitude they take on constitutional rights. Just because we have freedom of the press does not mean that the Government has to buy you a printing press.

About the only time the Court has moved in and said that the Government must finance a right is where another branch of the Government is trying to take it away from you. Normally in criminal procedure, you are entitled as a constitutional right to a fair trail, but you cannot have a fair trial if you cannot afford an attorney. So the Court has said you have to be given an attorney at public expense so that your right can be guaranteed.

But as far as abortion, and as far as most of the other "rights" are concerned, what you have is a right of access to it, not necessarily a right that the Government fund it.

After the Supreme Court decision, the real battle on abortion started, because up until that time, apart from a few people, myself included, who had been advocating legalized abortion—and I introduced a national abortion bill—it was not a great issue. Most of the States did not allow it, by and large. The courts had not found a constitutional right for a woman to decide for herself whether or not she wanted an abortion.

But after that Supreme Court decision the debate started in earnest. And I do not care how you split it. I do not care how you argue it. It comes back to the fundamental moral issue, the moral issue of whether or not we should fund something that some people find obnoxious and objectionable.

Many organizations in this country, many of them concerned with human life and civil liberties, in fact the overwhelming preponderance of organizations that have taken a stand have taken a stand in favor of legalized abortion.

The American Bar Association, the most prestigious, oldest legal association in the United States, supports it. The American Civil Liberties Union, over the years, in my estimation, has done more for the protection of individual liberty than any other organization. They have been willing to defend radicals of the left, Nazis of the right, to make sure that everyone in the country was assured access to fair legal procedures and a fair hearing. They support legalized abortion.

The medical associations suppport abortion, more medical associations than you could list on two pages; but at the top the American Medical Association, certainly an association concerned with life.

But we do not really regard all of these as moral organizations. So take a look at the list of religious organizations that support legalized abortion.

I want to pause here to say these two speakers this afternoon made reference to legalized abortion possibly leading to euthanasia, possibly leading to genocide, and saying it was this kind of a philosophy that led Hitler to try to exterminate the Jews. As I read this list, Senators will note that in terms of the respective numbers that we have in this country, there are more Jewish organizations that support legalized abortion than any other particular kind of religious organization.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. PACKWOOD. No. I wish to continue, if I may.

Mr. BROOKE. I would wish the Senator to yield some time for opposition to this amendment.

Mr. PACKWOOD. I do not think I am going to because I said nothing on the other amendment, and I agreed to this half hour. I wanted a chance to go through this, and there was no time limit on it.

Mr. BROOKE. There was no time limit, but I thought we had sort of a gentleman's agreement that there would be some time left for opposition to the Senator's amendment because we talked on the Senator's amendment about an hour before we even got to the Helms amendment.

I appeal to the Senator's fairness to allow some time for the opposition to talk.

Mr. PACKWOOD. Then I shall ask this. I ask unanimous consent to extend the time to 6:15 p.m., and I wish to have the right to close on my argument, and I will cease now if I may have the floor back at 6 p.m.

Mr. LONG. Mr. President, reserving the right to object, some of us wish to hear the Senator's speech. Why does the Senator not let the other side have the last 15 minutes?

Mr. PACKWOOD. I would rather close.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the vote on the Packwood amendment which was at 6 p.m. be terminated and that the vote on the Packwood amendment now be at 6:15 p.m., with 15 minutes to be used by the opposition to the Packwood amendment, the time to be controlled by the Senator from Pennsylvania (Mr. SCHWEIKER) and the final 15 minutes to be used by the Senator from Oregon (Mr. PACKWOOD).

Mr. BAKER. Mr. President, reserving the right to object, and I do not plan to object, but I wonder if my friend from Massachusetts will withhold that request for a few minutes until I clear with a couple people.

Mr. BROOKE. I withhold the request for a few minutes.

In the meantime may the Senator from Pennsylvania have the floor?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. Mr. President, while he is clearing that, I am willing to yield to the Senator from Pennsylvania.

While Senator BAKER is clearing this,

I make this request. I will yield to the Senator from Pennsylvania for 2 minutes, as long as it takes Senator BAKER to clear this request. But I ask unanimous consent that it not be out of my time, that it be an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized for not to exceed 2 minutes.

Mr. SCHWEIKER. Mr. President, the amendment that the distinguished Senator from Oregon has offered is basically an abortion-on-demand amendment. It would delete all language in the bill. It would leave absolutely no restraint whatsoever, and it means that we would state as the policy of this Government that Federal funds could be used for any abortions, no questions asked.

That really is the basic issue. The amendment supplants the language of the Committee on Appropriations which is in the bill, and while the language is not my preference, it is very limiting language that specifically limits abortions to certain cases:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of multiple sclerosis or renal disease, or other diseases which would seriously deform or debiltate the fetus, or for the termination of an ectopic pregnancy or for the treatment of rape or incest victims.

As much as some of us may differ with the exact language, that is a specific limit in the bill as it now stands.

And it is the intention and obvious purpose of the Senator from Oregon to delete that. It means there will be no constraint, no limit, no qualification whatsoever on the kind of abortions that can be paid.

I think it is interesting to note what the Supreme Court said just last week on this issue. They ruled in the Pennsylvania case, the case from my own State, where there was a statute, very similar to the language we are debating now, which said that abortions cannot be financed through medicaid except for the medical necessity of preserving the life of the mother. The Supreme Court has just ruled that the State had every right to make that determination, that notwithstanding other court rulings on abortion, the State of Pennsylvania, the people of Pennsylvania, and the legislature of Pennsylvania had the right to make that decision. It also ruled on a Connecticut case.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BROOKE. Mr. President, if I understand correctly the reservation has been withdrawn, so I now propound the same unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Massachusetts?

Mr. BROOKE. The unanimous-consent request is that the Senator from Pennsylvania, who will speak in opposition to the Packwood amendment, will be permitted to do so until the hour of 6 p.m. and then the Senator from Oregon will speak from 6 p.m. to 6:15 p.m. so we terminate the unanimous-consent agreement that we have the vote at 6 p.m. and now vote at 6:15 p.m. on the Packwood amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. The second case was the Connecticut case, where a very similar question was raised. It was in the nature of a constitutional challenge, but the issue was the same.

The State of Connecticut paid for only those abortions that were necessary to preserve the life of the mother. So here is a second decision which says it is perfectly appropriate for a body such as this to decide what the limits of abortion payments shall be.

Then a third case was decided this past week that affected the city of St. Louis. They had a city hospital, supported by local tax funds, and St. Louis said it was not going to use those local tax funds to finance abortions.

Basically, here again the Supreme Court upheld the right of the representative government of the city of St. Louis to say, "That is a policy decision you have a constitutional right to make."

So it is not a constitutional question here at all. The constitutional question was resolved by the court, in saying that the State of Pennsylvania, the State of Connecticut, and the city of St. Louis have a perfect right to restrict and restrain the kind of abortions that taxpayers will fund.

So we then get back to the basic issue that is really before us by the amendment of the Senator from Oregon. Do we want to make it Federal policy to encourage, support, and increase the abortions in this country?

That is the issue, because obviously anything we subsidize, anything we pay for, anything for which we say it is OK to send the bill to Uncle Sam, we are going to encourage, promote, and foster. Do we think it is in the national interest to encourage, to foster, to increase, to support abortions?

I think that is the key issue here, and it is different from the issue voted on just a moment ago, because there it was a question of the language of the Senator from North Carolina versus the language of the bill. Now the Senator from Oregon is saying, "We do not want the language of the bill, we do not want the constraints of the bill, we do not want any limit whatsoever; we want to see anyone be able to walk in and get an abortion for any reason whatsoever, and the taxpayers will pay the entire amount."

That is truly abortion on demand. That is unlimited abortion. That is truly saying we are going to use the taxpayers' funds for any situation of any kind, including abortion.

I said a moment ago that the issue of the person's right to have an abortion is no longer a question. That is not the issue here. The Supreme Court decided that question sometime back. But in these new cases, the Court has said a legislative body, either a local body or, obviously, the Federal Legislature, has the right to say, "There are some limitations on whether we will ask people to put their money into a common fund and support, encourage, and foster a policy of this kind."

I think very strongly, Mr. President, that this amendment for unlimited abortions, with no consideration for the taxpayers' funds as a basis for that policy, should be defeated, and I oppose the amendment.

Mr. PACKWOOD. Mr. President, I do not know if anyone else wants time. If no one does, I would be glad to take the Senator's last 2 or 3 minutes to close, but I do not want to foreclose anyone else from speaking.

Just before the unanimous-consent agreement was changed, I was about to read a list of religious organizations that support legalized abortion. They are:

National Federation of Temple Sisterhoods.
Commission on Social Action of Reform Judaism.
Clergy Consultation Service on Abortion.
Episcopalian Church.
American Baptist Churches.
American Friends Service Committee.
National Council of Jewish Women.
Connecticut Council of Churches.
Church Women United.
Presbyterian Church in the U.S., Committee on Women's Concerns and General Assembly.
Lutheran Church in America.
B'nai B'rith Women.
Moravian Church in America, Northern Province.
Council of Churches of Greater Washington.
Federation of Protestant Welfare Agencies.
Connecticut Conference of the United Church of Christ.
Board of Homeland Ministries, United Church of Christ.
Center for Social Action, United Church of Christ.
Council of Churches of the Mohawk Valley area.
Women's League for Conservative Judaism.
United Church of Canada General Council.
American Humanist Association.
American Jewish Congress, Women's Division.
Board of Church and Society, United Methodist Church.
Church Women United of Connecticut.
Church and Society Unit, Women's Program Unit and Washington Office, United Presbyterian Church, USA.
Church of the Brethren.
Pennsylvania Council of Churches.
Baptist Joint Committee on Public Affairs.
Women of the Episcopal Church.
National Association of Laity.
American Ethical Union.
Young Women's Christian Association.
American Lutheran Church.
Reorganized Church of Jesus Christ of Latter Day Saints.
Central Conference of American Rabbis.
Unitarian Universalist Association and Unitarian Universalist Women's Federation.
Christian Church (Disciples of Christ).
Friends Committee on National Legislation.
United Methodist Church, Women's Division and Board of Global Ministries.
Union of American Hebrew Congregations.
American Ethical Union, National Women's Conference.
Reformed Church in America.
Catholics for a Free Choice.
United Synagogues of America.
American Jewish Congress.
United Methodist Church; General Conference.

My fellow Senators, that is a list of organizations concerned with morality, with human life, with dignity. They do

not regard abortion as immoral. They think a woman is entitled to an abortion.

I support abortion. I have for the last 15 years, since I have been in elective politics. But I do not support it for some of the reasons that have been attributed to me, or at least to supporters of abortion.

I do not support it for population reasons. If your policy argument for abortion is that we have a population problem, if we then stabilize the population you will lose the basis for your argument. Abortion is a right a woman ought to have.

I do not support abortions because they are cheaper. The argument was made during the afternoon that it is cheaper to have an abortion than it is to have the woman have the baby, put it on welfare, and have it grow up to be on welfare the rest of its life. Granted it is cheaper, but that is a crass argument I am not going to use. And I am not going to argue that we should support abortions because there is a Constitutional Right to abortion—I use that with a capital R.

I support the funding of abortions, and that is what this bill is about, because it is decent, because in good conscience we should do so, because it is fair.

Let us take a look at what we do in terms of a whole variety of other programs we support for the poor, every one of which is more expensive than the money we would spend for abortions: Food and food stamps; housing; medicine; education; legal services.

Every one of these we provide Federal funds for because we feel in this country that it is not fair that those kinds of services should be denied to people simply because they cannot afford them. Not because they have a constitutional right to them. Not one of those I mentioned—housing, medicine, education, legal services, food—has ever been raised to the dignity of a constitutional right. No Federal court in this country has ever said the Constitution gives you a right, or even a choice, to have these things. We fund them because we think we should, because it is unfair to deny them to people who cannot afford them.

What happens when we come to abortion? The only issue that we talk about, out of all of these, and the only one that the courts have raised to the dignity of a Right to make a choice, we say, "Oh, no, no funds for the poor for abortion."

Not because we cannot afford it. We can afford it. We can afford every one of these other programs for the poor, the cheapest of which costs eight times as much as the medicaid funds for abortion. It is not for lack of money.

When we say, "No, we are not going to fund abortions," we say it for one reason and one reason only, and that is because some Members of this body think it is wrong, think it is immoral, and if they can, they are going to impose that view on everyone else in this country; and that is wrong.

I quote from some of the comments this afternoon: From the Senator from North Carolina (Mr. HELMS): "Abortion is the deliberate termination of human life."

From the Senator from New Mexico (Mr. DOMENICI): "I do not believe it is right."

From the Senator from Utah: (Mr. HATCH): "Abortions are immoral. I believe it is wrong."

From the Senator from Utah (Mr. GARN): "I disagree totally with abortion, morally, ethically, and every other way."

Mr. President, I support their right to those views, but I submit that the sole reason for their opposition is their own personal idea of morality.

It is not a view shared by a majority of the people in this country, if any of the polls we read are correct. It is not a view shared overwhelmingly by poor women, who will not have any other access to abortions unless we fund them.

We can say, "Sure, they can be funded privately. Sure, they can go to a back room abortionist. Maybe they can get their own family doctor to do it, if the doctor wants to, for nothing. They have plenty of opportunities. We do not need to fund it."

We do not raise those arguments on food, housing, medicine, or anything else. Let us not make a mockery out of the reasons that they are raised here. The sole reason that those who oppose funding do not want to fund abortions is their personal view of morality which they want to impose upon the rest of this country.

In conclusion, what is going to happen if this amendment fails? The Senator from Pennsylvania read a list of the exceptions in the bill, renal disease, multiple sclerosis, if the life of the woman happens to be in danger. Add up all of those exceptions in section 209 and they do not amount to 1 percent of the pregnancies in this country. They are a sop thrown in to make everybody else feel good; that to vote for section 209 as it is leaves all kinds of exceptions for women who are pregnant. There are not enough exceptions left to snap a finger at, because with the other 99 percent of the pregnancies which are not problem pregnancies, which will not produce a deformed child, that poor woman is going to have no choice.

Do we have the right, with a capital R, the power with a capital P, to take that choice away from her? You bet we do. The court said we have that power. We do not have to give that money for funding. In decency and in fairness, should we give that money?

Can anyone think of any reason that we should not, any reason that we should not, short of the personal moral beliefs of a minority of this country who want those beliefs imposed upon the rest of this country whether or not the rest of the country wants them?

I have yet to hear another reason advanced in the years of debate on this issue. I would hope that the Senate tonight would adopt this amendment and once and for all say that a woman's access to an abortion will at least rise to the dignity of her access to food, housing, medicine.

I will make a wager. Take these other five services I talked about, the education, the legal services, the housing, the food, the medicine, and say to a poor woman, "I will make you a deal. You can trade. If you want to give up the food stamps and use them for abortion, you can; if you want to find someplace else to live and save a couple hundred dollars on low-income housing for a couple of months, you can use that money for abortion." I will bet that every single woman in this country, without an additional cost to the taxpayer, would take the choice of having an abortion. The most important decision she would make is whether or not to have an unwanted child. She would exchange all of that money, the food stamps, the housing, the money for that right, she would exchange all of that for the abortion.

But this Senate says, "No, you will not have that choice." We middle-aged men, born before 1950, raised in a different era of morality, will impose our ideas on her.

I pray to God this Senate is not that haughty, not that disdainful, to think that somehow God has given us the right to impose our sense of morality on the rest of this country.

I yield the floor.

Mr. PERCY. Mr. President, I have known of the deep convictions of the Senator from Oregon (Mr. PACKWOOD) on this issue for a long, long time. I have known the depth of feeling he has about it, and I know the sense of compassion he has for the low-income women he talks about.

I have never heard him more eloquent and more moving in his statement. I agree completely with what he has said.

I believe the record we would be making would be disgraceful if we let our emotions yield at this stage and just go ahead because the trend seems to be against abortion.

All rationality, all the figures I have tried to give, all the studies and analyses that have been put into the record, based on actual cases, would lead us to believe that this would be really, in a sense, an inhumane approach for us to take.

I have no doubt at all about the deep convictions and the right of those who oppose this position to state their point of view. I never would question their motives or their attempt to reason it through. It is a deep, moral issue.

At this moment I certainly commend the distinguished Senator from Oregon for the leadership he has provided, for the courageous position he has taken, and the abuse he has taken on occasion. I believe he has acted today in the greatest tradition of the U.S. Senate in carrying on this debate.

Mr. GOLDWATER. Will the Senator yield 1 minute?

Mr. PACKWOOD. I will be happy to yield 1 minute and I believe the Senator from Michigan wanted some time.

Mr. GOLDWATER. Mr. President, I will not commit myself as to how I will vote. I will stand on this floor as one who is not ashamed of having been born before 1950. I am not ashamed of the morals that were taught me by my mother and my father. I am not ashamed of the morals I have, and I never intend

that any law of this country will change the way I feel about morality.

Mr. PACKWOOD. I will respond and then I will yield. I do not want anybody to change their morals, to change their beliefs, or to impose them on anybody else. I would be perfectly happy if we went back to the morals and standards of the founders of this country on abortion.

I yield to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Like the Senator from Illinois, I was able to hear the remarks of the Senator, particularly the most recent remarks today.

While I am not one who greatly favors abortion, I nevertheless strongly support the amendment the Senator is offering. More than that, I just want to say that I believe, particularly at this time and on this issue, it is difficult to offer leadership if one holds the view the Senator holds and which I hold. I appreciate the fact of the Senator's leadership, and I appreciate his articulating a point of view shared by many.

I would emphasize again that if anyone construes that to mean that one who might support that view is therefore an advocate of abortion, per se, in any and all cases, that would be a mistake. I commend the Senator for his courage and for his insight. I will be pleased to vote with him today.

Mr. PACKWOOD. I thank the Senator from Michigan.

Mr. President, if no other Senator desires to speak, and if the Senator from Massachusetts is prepared, I would be willing to yield back the remainder of my time.

Mr. BROOKE. Mr. President, a parliamentary inquiry. The unanimous-consent agreement was for a vote at 6:15?

The PRESIDING OFFICER. The Senator is correct.

Mr. BROOKE. Is it in order for a unanimous-consent request that that vote take place immediately?

The PRESIDING OFFICER. Is the Senator making that request?

Mr. BROOKE. I so make that request, if there are no further statements to be presented by any Member. I do make that request, Mr. President.

The PRESIDING OFFICER. Is there objection? No objection is heard.

Mr. BROOKE. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), is absent due to illness.

The result was announced—yeas 42, nays 56, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—42

Abourezk	Hart	Moynihan
Bayh	Haskell	Nelson
Bellmon	Hathaway	Packwood
Bentsen	Hayakawa	Percy
Brooke	Hollings	Ribicoff
Bumpers	Inouye	Riegle
Case	Jackson	Schmitt
Chafee	Javits	Scott
Clark	Magnuson	Stafford
Cranston	Mathias	Stevens
Culver	Matsunaga	Stevenson
Glenn	McGovern	Tower
Gravel	Metcalf	Weicker
Hansen	Metzenbaum	Williams

NAYS—56

Allen	Ford	Morgan
Anderson	Garn	Muskie
Baker	Goldwater	Nunn
Biden	Griffin	Pearson
Burdick	Hatch	Pell
Byrd, Harry F., Jr.	Hatfield	Proxmire
	Heinz	Randolph
Byrd, Robert C.	Helms	Roth
Cannon	Huddleston	Sarbanes
Chiles	Humphrey	Sasser
Church	Johnston	Schweiker
Curtis	Kennedy	Sparkman
Danforth	Laxalt	Stennis
DeConcini	Leahy	Stone
Dole	Long	Talmadge
Domenici	Lugar	Thurmond
Durkin	McClure	Wallop
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky

NOT VOTING—2

Bartlett	McClellan

So the amendment was rejected.

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 605

Mr. BROOKE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself, Mr. JAVITS, Mr. BAYH, and Mr. PACKWOOD, proposes an unprinted amendment numbered.

Mr. BROOKE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, strike lines 6 through 14 and substitute the following:

Sec. 209. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or where medically necessary, or for the treatment of rape or incest. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

Mr. BROOKE. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate must show the manager of this bill the courtesy of being able to be heard.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. CANNON. Mr. President, I ask unanimous consent that Bruce Eggers, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. MAGNUSON. Mr. President, many Senators have been inquiring about the time situation. I ask the Senator from Massachusetts how long he thinks his amendment will take?

Mr. BROOKE. Mr. President, in response to the distinguished chairman, I have a two-page statement on this amendment. We have been discussing abortion since 3 o'clock today. I think all Senators know how they want to vote on this amendment. I just would like to submit it, and I am prepared to put it to a vote.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. BROOKE. I yield.

Mr. ROBERT C. BYRD. Does the Senator know how many other amendments there are, once we get by the issue of abortion?

Mr. BROOKE. We have some money amendments.

Mr. ROBERT C. BYRD. I will address my question to the distinguished manager of the bill.

Mr. MAGNUSON. I want my colleague to join me in this.

We do not have too many amendments. We have two or three colloquies. I think that when we are through with the so-called abortion amendments, we can finish this bill in one-half hour.

Mr. ROBERT C. BYRD. Are there any amendments?

Mr. MAGNUSON. There are two or three minor money amendments, and I am always glad to talk about money amendments on this bill.

Mr. ROBERT C. BYRD. Does the Senator know of any amendments dealing with OSHA?

Mr. MAGNUSON. I ask the Senator from Kansas if he has an amendment on OSHA.

Mr. DOLE. Yes, but I will take about 5 minutes.

Mr. MAGNUSON. May we have unanimous consent for 10 minutes on the Senator's amendment, 5 minutes to a side?

Mr. JAVITS. Mr. President, reserving the right to object, I would like to know what the amendment is before I agree to 10 minutes. What is it?

Mr. MAGNUSON. It is one of these amendments, an illegitimate amendment (laughter), that does not belong on the bill; but it relates to policy on OSHA.

Mr. JAVITS. I would like to know what it is.

Mr. ROBERT C. BYRD. Does the Senator from Virginia have an amendment?

Mr. HARRY F. BYRD, JR. Yes.

Mr. MAGNUSON. Mr. President, I withdraw that request. The Senator from New York and the Senator from Kansas can talk about it while we are discussing this abortion amendment.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. CRANSTON. I also have an amendment that will not take much time.

Mr. MAGNUSON. I said we have two or three minor money amendments, and I think we should not take more than a half-hour. We will have a rollcall vote on final passage.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, if I may have order, we can dispose of this amendment very quickly.

Mr. President, I offer an amendment allowing funding for abortions where the life of the mother is endangered, where medically necessary, or for the treatment of rape or incest. The amendment would also place no prohibition on the use of drugs or devices to prevent implantation of the fertilized ovum.

I would emphasize that my amendment differs from the language in the committee bill solely in that it would substitute the words "where medically necessary" for the four medical conditions now specified in the bill.

We all agree that medical exceptions must be made. But there is not one doctor among us. We do not have the competence to make medical decisions which a doctor and a doctor alone is trained and qualified to make.

The committee bill language which I wish to amend stands as a testament to the absurdity and tragedy of what occurs when we do attempt to make medical judgments.

Doctors have questioned me as to why only two medical conditions affecting the health and not the life of the pregnant woman, multiple sclerosis and renal disease, are allowed as exceptions in the Senate bill. For there are other medical conditions and diseases which have a far greater detrimental effect on the health of a pregnant woman. Shall we tell doctors, and poor women, that women with these two diseases were to be permitted abortions solely because a member of the House delegation to the conference on last year's bill insisted that his concern for these two conditions be expressed in the report language accompanying the bill. And that the Senate Appropriations Committee this year simply voted to incorporate last year's illogical report language into this year's bill. Are we to tell doctors all across the country that this is the rational and knowledgeable way the Senate dictates decisions which affect them and the health of their patients.

There is no alternative: We must either allow doctors to make the decisions only they are qualified to make or have medical decisions determined by chance, the chance of persuading individual Senators or Congressmen to offer amendments excepting particular diseases or medical conditions from the ban on abortion. The latter would be intolerable.

My amendment would leave medical decisions where they so clearly belong, with the doctors. I am sure that after careful consideration my colleagues will agree that this is the only appropriate course. For us to do otherwise would be an arrogance which will have the most tragic consequences. For us to do otherwise would show a disregard for the health of thousands.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. BROOKE. I am very pleased to yield to the Senator.

Mr. HATFIELD. May I ask the Senator as to the words "medically necessary," if this is to be organic or if it is purely inclusive of psychological?

Mr. BROOKE. The language which I have included is the language used in the social security laws or in other Federal laws pertaining to matters where medical funds are used for medical purposes.

It says, "medically necessary," so whatever the doctor would determine to be medically necessary would be covered by this amendment.

Mr. HATFIELD. Will the Senator yield further?

Mr. BROOKE. Yes.

Mr. HATFIELD. In other words, if we should suggest a hypothetical case, there is a woman who might indicate to her physician that she did not feel that she was emotionally or psychologically prepared to go through the completion of the fetus, that the doctor then could consider the possibility and actually perform an abortion?

Mr. BROOKE. I would think the doctor——

Mr. HATFIELD. If he agreed with the patient.

Mr BROOKE. I think the doctor would have to make the medical determination.

Mr. HATFIELD. Is it within the Senator's intent, as we have to understand the terminology used in the amendment, to include psychological and emotional circumstances that could then justify the performance of abortion, because it would be medically necessary?

Mr. BROOKE. It is the Senator's intent that the doctor would have to make a medical determination and would not take the word of the pregnant mother. He would have to make a medical determination as to whether it would be necessary.

Now, if that would include a psychological problem, I do not know. But it would be the doctor's determination and not the expectant mother's determination.

Mr. HATFIELD. I understand. But is it the intent of the author of the amendment that a doctor could make such a medical determination as it related to a psychological or emotional matter?

Mr. BROOKE. Yes; I would not rule that out.

Mr. HATFIELD. One further question

Is there any criteria at all as to what the author of this amendment, the Senator from Massachusetts, intends the doctor to follow in making the determination of medical necessity, is there any criteria whatsoever?

Mr. BROOKE. I would think we would not want to subject the doctor to our determination as to what is medically necessary. I do not know that I am competent to make that decision, or that the Senate is competent to make that decision. I do know in the language presently in the bill we do except two diseases, one is renal disease and the other is multiple sclerosis.

I see no reason why we should except two diseases when there are other diseases which are much more dangerous to the life of the mother and to the fetus itself.

So what I would do here is leave it up to the determination of the doctor as to what is medically necessary. That is all.

Mr. HATFIELD. In other words, the Senator agrees that there is a criteria that we have established to a point when we excepted two diseases?

Mr. BROOKE. Yes.

Mr. HATFIELD. And that, the way it is, is a parameter?

Mr. BROOKE. It gives the idea of what we are talking about.

Mr. HATFIELD. By the language "medically necessary," in effect, we have an open end situation that the doctor can make any determination, within his scope of competence to determine, whether or not an abortion should be permitted?

Mr. BROOKE. It would be within the scope of the doctor.

Several Senators addressed the chair.

Mr. CURTIS. Will the Senator yield for a question?

Mr. BROOKE. Yes.

Mr. CURTIS. Medically necessary is what? Medically necessary to prevent a headache, or death?

Mr. BROOKE. Medically necessary to save the life of the mother or to see that the fetus would not be endangered.

Mr. SCHWEIKER. In understanding that language, "medically necessary," would it be possible under the Senator's amendment to have an abortion if the life of the mother or the life of the child was not in danger?

Mr. BROOKE. Yes.

Mr. SCHWEIKER. So the mental health or well-being or demeanor——

Mr. BROOKE. The Senate has already acted on that, that was the Helms amendment, which is the life of the mother was not in danger.

This would go beyond that. It would not go as far as the Packwood amendment.

It would mean that if it is medically necessary, then the abortion could be performed, but it would be a determination by a medical doctor.

Mr. DOMENICI. Are the words "medically necessary" words of art in the medicaid bill?

Mr. BROOKE. They are words of art that are used throughout medical legislation. They are used for all social security funds and for all medical funds.

Mr. DOMENICI. The doctor finds that there is something for him to do, and he is just a doctor.

Mr. BROOKE. No, not at all. That is certainly not the intent of this proposal, the intent of this amendment. And I think the legislative history is clear

from what I said to the distinguished Senator from Oregon (Mr. HATFIELD).

Mr. DOMENICI. We have already got in the bill that we will perform them where the life of the mother is endangered.

Mr. BROOKE. Yes.

Mr. DOMENICI. That would be medically necessary by definition of the Congress.

Mr. BROOKE. That is correct.

Mr. DOMENICI. What other justifications can doctors find and hold it medically necessary?

Mr. BROOKE. You also have in the bill renal disease, multiple sclerosis.

Mr. DOMENICI. What is renal disease based on? Is it not based on—I do not know that I agree with it, but it is based—on the fact that the mother cannot carry the baby if she has renal disease? That is not for the fetus, it is for the mother.

Mr. BROOKE. That is correct.

Mr. DOMENICI. How about multiple sclerosis? That is for the mother, is it not?

Mr. BROOKE. Yes.

Mr. DOMENICI. So the Senator is adding for the well-being of the fetus.

Mr. BROOKE. Not at all, because in addition to that we have other language in the bill, if the Senator will read the bill, which says—it goes beyond renal disease and multiple sclerosis.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. BROOKE. It says:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of multiple sclerosis or renal disease, or other diseases which would seriously deform or debilitate the fetus,

Now, all I am saying to the Senator is why should we accept multiple sclerosis and renal disease, because there are other diseases which would seriously deform or debilitate, because there are other diseases more dangerous?

Mr. JAVITS. Mr. President, will the Senator yield on that point?

Mr. BROOKE. Yes.

Mr. JAVITS. We have gone through genetic diseases, Tay-Sachs disease——

Mr. BROOKE. Right.

Mr. JAVITS (continuing). Which are very serious.

Mr. BROOKE. Sickle cell anemia.

Mr. JAVITS. Exactly. Those are other diseases.

Mr. BROOKE. And there are 2,000 or 3,000 genetic diseases.

Mr. JAVITS. Exactly. And the term "medically necessary" is very widely used.

The Senator has mentioned the Social Security Act. As a matter of fact, we use it in the grant for medicare, that is, we authorize grants for medicare to meet the cost of necessary medical services.

It is in the Peer Review Act; it is in the Hospital Utilization Act, they are very widely used words of art.

I would say it would have to be a serious and good-faith medical finding by a doctor that it is necessary in this particular case for sound medical reasons to abort.

Mr. BROOKE. That is correct.

Mr. JAVITS. In order to justify the definition.

Mr. BROOKE. The Senator is correct.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BROOKE. Yes, I yield.

Mr. MAGNUSON. It could be that the life of the mother is not endangered but the pregnancy could leave her in such a serious health condition that her life might be worthless, or dramatically altered.

Mr. BROOKE. The Senator is absolutely correct.

Mr. MAGNUSON. But a doctor would have to make that decision.

Mr. BROOKE. Make that decision.

Mr. MAGNUSON. Make that examination and make that decision, is that correct?

Mr. BROOKE. The Senator is absolutely correct.

Mr. MAGNUSON. She does not necessarily need to die.

Mr. BROOKE. That is correct.

Mr. MAGNUSON. Or have to die.

Mr. BROOKE. Correct.

Mr. MAGNUSON. It might just be all kinds of complications.

Mr. BROOKE. And sometimes there are diseases that are so devastating that life is worse than death, as the Senator very well knows.

Mr. MAGNUSON. I am talking not about emotional or psychological, but physical diseases.

Mr. BROOKE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished minority leader. Mr. President, I ask unanimous consent that all rollcall votes during the remainder of the day be limited to 10 minutes, with the warning bell to be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. The Senator from Indiana would like to make a few observations. I do not want to interrupt the Senator from Massachusetts.

Mr. BROOKE. No, I yield for that purpose.

Mr. BAYH. Mr. President, it seems to me that the committee and, indeed, the Senate, by its vote has recognized that complete access to abortion is not the desire of the Senate. It did that by voting down the amendment of the Senator from Oregon.

The Senate prior to that, in voting down the Senator from North Carolina's substitution, suggested that this body felt there were circumstances where just the life of the mother was not enough.

I think everybody in this body recognizes the critical nature of the decision anyone has to make as far as an abortion is concerned.

As I said when there were only two or three people here—and I will not repeat everything I said—I would just like to suggest that in the process of holding hearings I came to the conclusion that personally I was opposed to abortion. But if you look at those individual circumstances that this amendment is designed to reach, I was not prepared, and am not now prepared, to take away the individual choice of individuals who are confronted with the circumstances, and I pray to God none of us in this body ever will be. We are now sitting as judge and jury imposing our assessment on women of this country who have been and who will be confronted with the circumstances.

As I see it, we are talking about four categories where exceptions are going to be made. First, we are concerned about the life of the mother and we are concerned about certain types of diseases that will lead to increased chance of death or impairment of the health of the mother.

Unfortunately, the two examples we used in trying to struggle with this in the committee were not the two greatest examples where health would be impaired. What we meant to reach was placenta tumors, heart disease, narrowing of the aorta, arterial aneurysms, hypertension, pulmonary tuberculosis, cancer of the bladder, the ovary, and the cervix, all of these diseases when a woman is pregnant which significantly threaten her health. We also meant to cover cystic fibrosis, certain types of brain tumors, other diseases when a pregnancy would significantly reduce the longevity of the mother.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. BROOKE. I yielded to the Senator for an observation without losing my right to the floor.

Mr. JOHNSTON. Will the Senator from Massachusetts yield so that I may ask a question of the Senator from Indiana?

Mr. BROOKE. Yes.

Mr. JOHNSTON. My question is this: The Senator is suggesting these diseases just outlined, including narrowing of the aorta, and so forth, would not be covered by the present language and present exception in the bill. Is it true all of those diseases which endanger the life of the mother of whatever kind or nature are included in the exception "presently contained in the bill as reported by the committee?"

Mr. BAYH. I am not too sure that is the case, particularly when we pick out renal disease as an example, and there are others that are more serious.

Mr. JOHNSTON. Would the Senator further yield, Mr. President, for one more observation?

Mr. BAYH. Yes.

Mr. JOHNSTON. Is it not true that the committee, in coming up with the amendment, stated that the purpose of the amendment was to include the language from the committee report, the language from that committee report which made an exception of where the life of the mother would be endangered as in the case of multiple sclerosis or renal disease, and in picking up that language, too, put in statutory form we simply took renal disease and multiple sclerosis not as an exclusive list of those diseases which endanger the life of the mother, but as examples?

Is it not true that there was not intent on the part of the committee to make those two examples the exclusive

diseases which would endanger the life of the mother, but rather simply as examples?

Mr. BAYH. That is true. But I will say to my friend from Louisiana, and I joined him in this effort, that we were trying to reach, I think, the same goal since neither of us nor any member of the committee had medical expertise, I think we picked bad examples.

It seems to me it just shows when we start picking and choosing and get to play doctor, we are not serving our purpose well. That is why I think the term "medically necessary" makes a lot of sense.

Now, one avenue or one incidence of credibility I think we have ignored here as far as the use of those words of art are concerned, we have talked about various statutes, but we have ignored the fact that in the recent Beal case the Supreme Court reiterated their broad objection of medically necessary. "Medically necessary" was a legitimate ground for abortion.

Now, let me just move on to other exceptions that we included in the language where we talk about "deform or debilitate the fetus." Frankly, I do not think that covers Tay-Sachs, I really do not. I think the language of the amendment of the Senator from Massachusetts will—there is some question, it mentioned genetic diseases, but I do not think anybody has mentioned rubella, nobody has mentioned thalidomide. I am not saying if a mother has had rubella or has used that drug thalidomide that she ought to have an abortion.

But I am here to say that I am not prepared to say she should not at least be permitted to choose, and what we are saying is that even if she has been subjected to that very high risk she should not be given the chance to make that judgment for herself.

So I must say that I am going to support the amendment of the Senator from Massachusetts. I would much prefer if the amendment of the Senator from Oregon had carried because I think this is such a personal thing we should let every woman, every family wrestle with it and not have us impose that judgment on them.

Mr. BROOKE. I thank the distinguished Senator from Indiana.

UP AMENDMENT NO. 605

Mr. President, I ask unanimous consent that I may modify my amendment to include the word "victim" after the words "rape or incest." The amendment should read "for the treatment of rape or incest victims," which is language contained in the bill.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

On page 42, strike lines 6 through 14 and substitute the following:

SEC. 209. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or where medically necessary, or for the treatment of rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment will be so modified.

Mr. KENNEDY. Mr. President, I am opposed to abortion on demand. This opposition is based on deep moral and religious beliefs. I am opposed whether the abortion is to be paid for by private funds or public funds; whether the subject is rich or poor; whether the location is Roxbury or Lincoln, Mass.

I do believe that abortions may be legitimately required by certain medical conditions. In those cases of genuine medical necessity, the availability of abortions is equally important for all women—regardless of economic status.

The law we are considering here does not apply to all women. It applies only to the poor, the most powerless segment of our society. The Hyde amendment would impose upon them a standard which no other women would have to live up to.

We know what the effects of the Hyde amendment will be on these women—thousands of medical complications and hundreds of deaths each year. This is a burden that most of the women in this country do not carry. It is a burden that medicaid recipients should not carry.

The real question is how to develop a standard under the medicaid law which eliminates abortions of social convenience and allows those procedures which could be justified for all our citizens. I believe medical necessity is such a standard.

This has been my consistent view over the past several years. Last year, after months of controversy, I voted for a House-Senate conference report which banned the use of Federal funds for financing abortions, except where the mother's life would be endangered. Although the language was not totally satisfactory, I accepted the assurances of the conferees in their statement of managers that the intent of the legislation was—

To limit the financing of abortions under the medicaid program to instances where the performance of an abortion is deemed by a physician to be of medical necessity and to prohibit payment for abortions as a method of family planning or for emotional or social convenience.

This statement is a standard against which all abortions can be judged, and I continue to support that intent.

We have spent a lot of time and energy debating abortion in this Chamber. I wish we would devote equal time and energy to developing positive programs for effective family planning, and pre- and post-natal care for those citizens who cannot afford it.

By devoting equal time, only then will we be able to reduce the economic and social pressures which result in poor women seeking nontherapeutic abortions. No woman in the richest nation on Earth should be forced to make the moral choice of aborting a pregnancy because she is too poor to carry, then care for her child. There should be better educational services, for example, for unwed mothers, many of whom are students, to erase the social stigma with which much of our society still brands single parenthood.

And I believe that maternity coverage for dependent minors or unmarried women should be available at the same cost that medical insurance policies presently provide for abortions. Simply, the focus should be on the services required to support a woman through a pregnancy, rather than on the provision of abortion. There is no question of the need for such services. My hope and efforts in the coming months will be directed toward such positive programs because I share the view of the American Citizens Concerned for Life, Inc. which hold that—

Women must not be forced by circumstances to seek an abortion because of the lack of an acceptable alternative and an implied national policy against life.

Mr. BROOKE. Mr. President, I am prepared to have a vote on my amendment.

Mr. DOMENICI. Mr. President, I have a perfecting amendment to the amendment of the Senator from Massachusetts.

Mr. HELMS. Will the Senator withhold? I advise the sponsor of the amendment that at the appropriate time, not wishing to cut off any Senator, I am going to raise a point of order on this amendment.

Mr. BROOKE. I understand that and the Senator realizes he is raising a point of order on the question that this is legislation on an appropriations bill. Practically all of the votes that we have had today have been legislation on an appropriations bill. Most of the votes we had yesterday were legislation on an appropriations bill. The vote on the Senator's amendment was legislation on an appropriations bill, which I did not raise a point of order to. If he raises the point of order, the Senator knows I have to raise the question of germaneness which will require a further vote by the Senate. But I understand the Senator's right to raise this question at this late hour, even though he has had an amendment which was subject to a point of order which I did not make, because I recognized that the Senator should have had an up and down vote on his amendment, which he had.

I just want the record to show that.

I yield.

Mr. DOMENICI. Mr. President, I just say to the Senator from Massachusetts my amendment is a simple one. I will merely strike from his substitute the words "or where medically necessary."

Mr. BROOKE. That is all I put in, so the Senator would get the same vote if he just voted up and down on my amendment and saved the Senate's time.

Mr. DOMENICI. I really appreciate the Senator's consideration generally, but I have read his amendment and that is not what he has done. In fact, I think if we do vote on his amendment and accept it with my language then we have exactly the best thing going because we have stricken renal disease and the other items talked about by the Senator's amendment and we are talking only about where the life of the mother would be endangered because the rest of it is out of the bill by the Senator's own amendment.

Mr. BROOKE. Then the Senator's

amendment, as I understand it, would even further weaken the committee's bill. Is that correct?

Mr. DOMENICI. My amendment, as I understand it, would permit the Senate to vote up or down on a very basic issue. If they accept the Senator's language as modified by mine, we would then be saying we will pay for with tax dollars abortions of the type the Supreme Court said were a matter of right and this is all.

Mr. BROOKE. The Senator's perfecting amendment would, in effect, go almost back to the Helms amendment which was soundly defeated by the Senate earlier today. I hope the Senate understands that.

Mr. DOMENICI. I am not sure that it does. When I offer it I will read the amendment in toto so they will understand.

Mr. BROOKE. The Senator has a right.

UP AMENDMENT NO. 606

Mr. DOMENICI. I send to the desk a perfecting amendment and ask that the clerk state it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes unprinted amendment numbered 606.

Mr. DOMENICI. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, strike lines 6 through 14 and substitute the following:

Beginning on line five of the amendment of the Senator from Massachusetts strike: "or where medically necessary".

Mr. DOMENICI. On the Brooke amendment, if Senators will refer to the third line of it, I have stricken the words "or where medically necessary". If my amendment is accepted we will have an amendment saying, "None of the funds * * * shall be used to pay for abortions except where the life of the mother would be endangered if the fetus were carried to term, or for the treatment of rape or incest. This section does not prohibit the use of drugs or devices to prevent the implantation of the fertilized ovum."

I think that is substantially different from the Helms amendment and it is my serious concern that the Senator from Massachusetts by adding those words "medically necessary" has put us in a position that we do not know what that means. We have been here all afternoon trying to express our desire, and it seems to me if nothing else we have wanted to limit the type of abortions that we are going to pay for with tax dollars.

I submit his amendment brings it right back where it was. We can do almost anything because what is "medically necessary" we do know and he would say trust the doctors.

I assume all the abortions that doctors have been doing are medically necessary in one sense or another. The lady feels badly. The doctor certainly is not doing an abortion because it is medically unnecessary. He is finding it is medically necessary. So I submit under the guise of a very simple amendment, the Senator from Massachusetts would have Senators vote on an amendment that would completely abolish all the debate we have had and have us trust what "medically necessary" means.

I am not going to read the Supreme Court case, but I believe if the Senator has it here he will find that they have held in talking about the right to abortion, not whether we pay for it, that psychological grounds are medically necessary. They are synonymous. I believe the Senator is opening that door, too. I just want to clarify it and make sure the Senator understands that if we strike it we are limiting it to the kind of things the Supreme Court said we had to do as a matter of right.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. DOMENICI. I am delighted to yield.

Mr. MAGNUSON. The Senator just said what I was going to ask him. I want the Senator to understand that if his amendment carries it is a limitation to only those two diseases mentioned. It is not a suggestion that those two diseases are illustrative of what might happen to the life of a woman. So it is a limitation and it should be considered as such, and that is all the Senator from New Mexico is doing. If Senators voted against the amendment of the Senator from Massachusetts they would accomplish the same purpose that the Senator has in his amendment. We are just complicating the whole thing.

Mr. DOMENICI. I appreciate the distinguished manager's explanation.

Mr. MAGNUSON. It is a limitation.

Mr. DOMENICI. It is a limitation, but I do not believe it does what the distinguished manager says it means.

Mr. BROOKE. Will the Senator yield?

Mr. DOMENICI. I yield the floor.

Mr. BROOKE. Mr. President, I must oppose the perfecting amendment, so-called, by the distinguished Senator, Mr. DOMENICI.

Mr. President, this is the language we have been working on:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of multiple sclerosis or renal disease, or other diseases which would seriously deform or debilitate the fetus, or for the termination of an ectopic pregnancy or for the treatment of rape or incest victims.

The Senator has said that his little simple amendment would merely cut out the words which I have added in my amendment "medically necessary." But it would be perfecting my amendment which already would cut out such language as "in the case of multiple sclerosis or renal disease, or the other diseases which would seriously deform or debilitate the fetus, or for the termination of an ectopic pregnancy * * *" All of that would be out of the bill if the Senator's so-called perfecting amendment were to pass. So it is not just cutting out two words. What he is cutting out are the words which are in the bill I cut out by substituting "medically necessary" so we do not have a list of all the diseases in the world because there are many, many other diseases, as I have said time after time, which are much more dangerous both to the mother and to the fetus than multiple sclerosis or renal disease.

Mr. President, I move to table the so-called perfecting amendment of my distinguished colleague.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

Mr. GOLDWATER. Regular order, Mr. President.

The result was announced—yeas 59, nays 36, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—59

Anderson	Hathaway	Moynihan
Baker	Hayakawa	Muskie
Bayh	Heinz	Nelson
Bellmon	Hollings	Nunn
Bentsen	Huddleston	Packwood
Biden	Humphrey	Pearson
Brooke	Inouye	Percy
Bumpers	Jackson	Ribicoff
Burdick	Javits	Riegle
Byrd, Robert C.	Kennedy	Sarbanes
Case	Leahy	Sasser
Chafee	Long	Scott
Church	Magnuson	Stafford
Clark	Mathias	Stevens
Cranston	Matsunaga	Stevenson
Culver	McGovern	Tower
Glenn	McIntyre	Wallop
Hansen	Metcalf	Weicker
Hart	Metzenbaum	Williams
Haskell	Morgan	

NAYS—36

Allen	Ford	Randolph
Byrd, Harry F., Jr.	Garn	Roth
	Goldwater	Schmitt
Cannon	Griffin	Schweiker
Chiles	Hatch	Sparkman
Curtis	Hatfield	Stennis
Danforth	Helms	Stone
DeConcini	Johnston	Talmadge
Dole	Laxalt	Thurmond
Domenici	Lugar	Young
Durkin	McClure	Zorinsky
Eagleton	Melcher	
Eastland	Proxmire	

NOT VOTING—5

Abourezk	Gravel	Pell
Bartlett	McClellan	

So the motion to lay on the table was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WALLOP. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROOKE. Mr. President, the distinguished Senator from North Carolina did say he might consider raising a point of order on my amendment. He is not on the floor at the present time. I therefore suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I yield to the Senator from Pennsylvania who wishes to offer a motion to table my amendment.

Mr. SCHWEIKER. Mr. President, we know Senators are getting restless and it is getting late. I will make this short. In a moment I will move to table the amendment of the Senator from Massachusetts. The issue will be clear. If Senators want a big loophole, a barn door opened, if Senators want abortions for any purpose, vote not to table.

On the other hand, if Senators vote to table, they will be voting for the language of the bill.

While I was not originally in support of that language, I believe it is far superior to what the Senator from Massachusetts has proposed.

Therefore, to bring matters to a head, I move to table the amendment of the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

Mr. GOLDWATER. Could I ask a parliamentary inquiry?

Mr. BROOKE. I yield for a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Pennsylvania withhold his motion?

Mr. SCHWEIKER. As long as I do not lose my right to the floor.

The PRESIDING OFFICER. That is understood.

Mr. GOLDWATER. Is this amendment germane? Can we legislate on an appropriation bill?

The PRESIDING OFFICER. The Senator from Arizona raises two questions. One is whether or not the amendment is germane, an issue which must be submitted to the Senate. If the Senator is raising the question as to whether it is legitimate on an appropriations bill, that is an issue that can be raised on a point of order.

Mr. GOLDWATER. That is the point of order I wanted to raise. I wanted an opinion from the Chair as to whether it was proper to offer this type of an amendment to an appropriations bill.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield for a point of order?

Mr. SCHWEIKER. I yield, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? There is no objection. Does the Senator from Arizona raise the point of order?

Mr. GOLDWATER. Yes; I do raise the point of order, if the Chair holds that it is not germane. I raise the point of germaneness, Mr. President.

Mr. BROOKE. Mr. President, what is the parliamentary procedure?

The PRESIDING OFFICER. If the Senator from Arizona is raising the question of germaneness, that issue must be submitted to the Senate and voted upon by the Senate.

Mr. GOLDWATER. I make a point of order and submit it to the Senate for decision. I ask for the yeas and nays.

Several Senators addressed the Chair.

Mr. BROOKE. A parliamentary inquiry, Mr. President. As I understand it, the Senator from Arizona is raising a point of order. Is that correct?

The PRESIDING OFFICER. The point of order that the Senator from Arizona is apparently raising is that the amendment is not germane.

Mr. BAYH. Mr. President, I move that we submit the question of germaneness to the Senate.

Mr. BROOKE. Mr. President, I am still on my parliamentary inquiry, if I may.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. I just ask the question, is the Senator from Arizona raising a point of order?

Mr. GOLDWATER. That is what I am attempting to do, on this ground, in Senate procedure:

> An amendment to an appropriation bill legislative in nature is in order if it is offered to House-passed language that is also legislation provided the question of germaneness is raised and the Senate sustains that contention.

That is what I am attempting to do.

> If a point of order is made against legislative language in an appropriation bill and no question of germaneness is raised, the Chair is required to rule unless he should submit the point of order to the Senate.

That is what the Chair has done.

Mr. BROOKE. Mr. President, has the Chair ruled on the point of order?

The PRESIDING OFFICER. The Chair could not rule on a point of order of germaneness. Under rule XVI, that issue must be submitted to the Senate.

Mr. BROOKE. Then it is a question of germaneness. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BROOKE. Then, Mr. President, I ask for the yeas and nays on the question of germaneness.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. To sustain germaneness, the vote is aye; is that correct?

The PRESIDING OFFICER. Under Senate rule XVI, the question before the senate is: Is the amendment germane or relevant to the subject matter of the House-passed bill?

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. Mr. President, if the germaneness is not sustained, is it only the Brooke amendment that falls, or does the entire language, as passed by the Senate Committee on Appropriations, also fall?

The PRESIDING OFFICER. If the amendment is ruled not germane, the Brooke amendment would fail and only the Brooke amendment would fail.

Mr. BROOKE. Just that.

Mr. HEINZ. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania will state it.

Mr. HEINZ. As I understand it, the point of order is made on the germaneness and it is not being made on the basis that this is legislation on an appropriations bill. Is that correct?

The PRESIDING OFFICER. The Senator from Pennsylvania correctly states the position of the Senator from Arizona, as the Chair understands it.

Mr. HEINZ. I thank the Chair.

Mr. BROOKE. Mr. President, I ask for the vote.

Mr. MAGNUSON. Mr. President, the Senator from New York started this, but nobody answered him.

A vote "yea" would be a vote that the amendment is germane, is that correct? And a vote "nay" would be that it is not germane.

That is what the Senate is now going to vote on.

The PRESIDING OFFICER. The question before the Senate is: Is the amendment germane? A vote "yea" would indicate that the amendment is germane. A vote to the contrary would indicate that it is not.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT) is necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The yeas and nays resulted—yeas 74, nays 21, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—74

Allen	Culver	Leahy
Anderson	DeConcini	Lugar
Baker	Dole	Magnuson
Bayh	Eagleton	Mathias
Bellmon	Glenn	Matsunaga
Bentsen	Griffin	McClure
Biden	Hansen	McGovern
Brooke	Hart	McIntyre
Bumpers	Haskell	Melcher
Burdick	Hathaway	Metcalf
Byrd, Harry F., Jr.	Hayakawa	Metzenbaum
	Heinz	Morgan
Byrd, Robert C.	Hollings	Moynihan
Cannon	Humphrey	Muskie
Case	Inouye	Nelson
Chafee	Jackson	Nunn
Church	Javits	Packwood
Clark	Kennedy	Pearson
Cranston	Laxalt	Pell

Percy	Sasser	Stevenson
Randolph	Schmitt	Talmadge
Ribicoff	Schweiker	Tower
Riegle	Sparkman	Wallop
Roth	Stafford	Weicker
Sarbanes	Stevens	Williams

NAYS—21

Chiles	Garn	Long
Curtis	Goldwater	Proxmire
Danforth	Hatch	Stennis
Domenici	Hatfield	Stone
Durkin	Helms	Thurmond
Eastland	Huddleston	Young
Ford	Johnston	Zorinsky

NOT VOTING—5

Abourezk	Gravel	Scott
Bartlett	McClellan	

The PRESIDING OFFICER (Mr. METZENBAUM). On this vote, the yeas are 74, the nays are 21. The amendment is germane.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. MOYNIHAN. Mr. President, I have given a great deal of consideration to both the moral and legal implications of the current laws on abortion. Constituents from across my State have telephoned, written, and visited my office offering their views and creating a genuine dialog on this issue.

I am indeed grateful for their willingness to share their views with me in such a responsible manner. My conclusions will please some; I would ask those who are displeased to accept that I have not come to these conclusions lightly.

In my view, decisions about birth and abortion are moral and religious decisions, which must be left to each individual or family to make. That at all events is the law.

In this context I believe there should be a minimum of social provision which makes this freedom of choice meaningful. This extends to the payment of medical costs for the indigent. I stated this position during my campaign for election to the U.S. Senate.

For this reason I support the Packwood amendment.

Mr. METZENBAUM. Mr. President, the issue before the Senate today is not whether abortions should, or should not, be performed; nor is it the appropriateness of the 1973 Supreme Court decision which granted pregnant women the right to have abortions during the first trimester of their pregnancy.

Rather, the issue before us is whether poor and indigent women should be able to receive medicaid funds to make it possible for them to exercise those rights established by the Supreme Court—the same rights exercised by affluent women today.

The amendment's very design—to withhold Federal funds for abortions—flies in the face of all notions of fairness and equality. The amendment does not say: "Abortion is illegal." Rather, it has the effect of saying: "You can have an abortion—if you can afford it, but not if you can't." The result of this provision would be that affluent women would continue to have abortions performed by high-priced specialists in modern hospitals, while poorer women would be forced to seek out cheap, and often unsafe, abortions.

I find this to be a wholly inequitable result and will therefore vote against amendments to accomplish this objective.

(This concludes additional statements submitted.)

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I announced my intention and retained the floor prior to the point of order from the Senator from Arizona. I am going to renew my tabling motion in just a moment.

In essence, my motion will give the Senate a very clear-cut choice whether it prefers the Brooke amendment with "medical necessity" in it or the original Senate language, which I feel in this case is far more preferable since it does specifically define and limit under what conditions abortion will be financed.

In view of the fact we have had so much debate on it, I will cut it short, Mr. President, by moving to table the amendment of the Senator from Massachusetts and asking for a rollcall vote.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), and the Senator from Arkansas (Mr. MCCLELLAN), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT) is necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 37, nays 58, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—37

Allen	Eagleton	McClure
Biden	Eastland	Melcher
Byrd, Harry F., Jr.	Ford	Pell
	Garn	Proxmire
Cannon	Goldwater	Randolph
Chiles	Griffin	Roth
Church	Hatch	Schweiker
Curtis	Hatfield	Stennis
Danforth	Helms	Stone
DeConcini	Huddleston	Thurmond
Dole	Johnston	Young
Domenici	Laxalt	Zorinsky
Durkin	Lugar	

NAYS—58

Anderson	Byrd, Robert C.	Hart
Baker	Case	Haskell
Bayh	Chafee	Hathaway
Bellmon	Clark	Hayakawa
Bentsen	Cranston	Heinz
Brooke	Culver	Hollings
Bumpers	Glenn	Humphrey
Burdick	Hansen	Inouye
Jackson	Morgan	Schmitt
Javits	Moynihan	Sparkman
Kennedy	Muskie	Stafford
Leahy	Nelson	Stevens
Long	Nunn	Stevenson
Magnuson	Packwood	Talmadge
Mathias	Pearson	Tower
Matsunaga	Percy	Wallop
McGovern	Ribicoff	Weicker
McIntyre	Riegle	Williams
Metcalf	Sarbanes	
Metzenbaum	Sasser	

NOT VOTING—5

Abourezk	Gravel	Scott
Bartlett	McClellan	

So Mr. SCHWEIKER's motion to lay on the table Mr. BROOKE's amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT) is necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—56

Anderson	Hayakawa	Nunn
Baker	Heinz	Packwood
Bayh	Hollings	Pearson
Bellmon	Humphrey	Percy
Bentsen	Inouye	Ribicoff
Brooke	Jackson	Riegle
Bumpers	Javits	Sarbanes
Burdick	Kennedy	Sasser
Byrd, Robert C.	Long	Schmitt
Case	Magnuson	Sparkman
Chafee	Mathias	Stafford
Clark	Matsunaga	Stevens
Cranston	McGovern	Stevenson
Culver	McIntyre	Talmadge
Glenn	Metcalf	Tower
Hansen	Metzenbaum	Wallop
Hart	Morgan	Weicker
Haskell	Moynihan	Williams
Hathaway	Nelson	

NAYS—39

Allen	Eastland	Melcher
Biden	Ford	Muskie
Byrd, Harry F., Jr.	Garn	Pell
	Goldwater	Proxmire
Cannon	Griffin	Randolph
Chiles	Hatch	Roth
Church	Hatfield	Schweiker
Curtis	Helms	Stennis
Danforth	Huddleston	Stone
DeConcini	Johnston	Thurmond
Dole	Laxalt	Young
Domenici	Leahy	Zorinsky
Durkin	Lugar	
Eagleton	McClure	

NOT VOTING—5

Abourezk	Gravel	Scott
Bartlett	McClellan	

So Mr. BROOKE's amendment was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 478

Mr. CRANSTON. Mr. President, I call up my amendment No. 478 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and others, proposes amendment numbered 478.

The amendment is as follows:

On page 43, line 13, strike out "$117,260,000." and insert in lieu thereof "$121,660,000, of which $1,400,000 (or such other sum as may be certified by the Director of the Agency as necessary to carry out section 5 of Public Law 94-130) shall be used for carrying out section 5 of Public Law 94-130.".

Mr. CRANSTON. This amendment is cosponsored by the Senator from New York (Mr. JAVITS), the distinguished ranking minority member of the Human Resources Committee—the authorizing committee for the domestic volunteer service programs administered by the ACTION Agency—and the Senator from New Jersey (Mr. WILLIAMS), the chairman of the Human Resources Committee and a strong supporter of the ACTION Agency program, as well as by Senators RANDOLPH, KENNEDY, HATHAWAY, RIEGLE, HUMPHREY, PERCY, and HASKELL.

The PRESIDING OFFICER. Will the Senator suspend for a moment until there can be order in the Senate. Will Members of the Senate retire to their seats and the attaché to the rear of the room.

Mr. CRANSTON. Mr. President, our amendment would add an additional $4.4 million to the appropriation for the ACTION Agency, over the amount recommended by the Appropriations Committee, raising the total from $117.26 million to $121.66 million. The additional money would be used for two purposes, the first of which would, as required by the authorizing legislation, section 5 of Public Law 94-130, be earmarked specifically in the bill.

First, $1.4 million would be used and would be so earmarked for such purpose to provide an increase in the VISTA end-of-service allowance—stipend—from the current $50 per month to $75 per month to correspond generally with the increase granted Peace Corps volunteers over a year ago—beginning April 1, 1976. Although $1.4 million is the best estimate available from the agency of the cost of such a stipend increase for the anticipated approximately 4,700 volunteers to serve during fiscal year 1978, we have provided flexibility in the earmark so that if a somewhat different amount is required, the director could so certify to the Congress, thereby satisfying the section 5(b) earmarking requirement.

Second, $3 million would be used to enable the ACTION Agency to fund three discretionary programs which we strongly support—an Urban Service Corps, which Senator JAVITS will detail in his remarks, demonstration efforts to assist "displaced homemakers," and efforts to provide financial counseling services to senior citizens on fixed incomes.

That is what the amendment does.

JUSTIFICATION FOR VISTA STIPEND INCREASE

Mr. President, we believe that the $1.4 million increase for the VISTA stipend increase should be provided not only as a recognition of the fine work and accomplishments of VISTA volunteers, but as a matter of simple equity. Let me explain by providing the background for this proposal.

During the 93d Congress, in May of 1974, we joined then-Senator MONDALE in sponsoring what was an unsuccessful attempt to increase by 50 percent—to accommodate partially the cost-of-living rise since 1965—the authorized maximum monthly payment for both the VISTA and Peace Corps end-of-service allowances. This amendment was adopted as part of the 1975 Peace Corps Authorization Act, but was not accepted by the House.

Subsequently, during the 94th Congress, we were successful in securing enactment of this legislation as part of the 1976 Peace Corps extension legislation—Public Law 94-130. I had introduced legislation in May of 1975—S. 1789—providing authority for such increases which Senator JAVITS then offered as an amendment during Foreign Relations Committee consideration of the extension legislation. As enacted in November of 1975, that law, at the same time that it amended the Peace Corps Act to increase the Peace Corps stipend from $75 to $125 per month, amended the Domestic Volunteer Service Act of 1973 to increase the VISTA stipend from $50 per month to $75 per month, dependent upon a specific earmarking in the Appropriations Act for that purpose to insure that no program moneys would be used to pay for the stipend increase.

As a result of Public Law 94-130, funds to increase the Peace Corps end-of-service allowance to $125 per month, retroactive to April 1, 1976, were appropriated in the fiscal year 1976 Foreign Assistance Appropriations Act—Public Law 94-330.

Today, as we consider the fiscal year 1978 Labor-HEW Appropriations Act, VISTA volunteers are still waiting for for their long-overdue corresponding increase.

Mr. President, the authorizing committee, the Human Resources Committee, strongly supports the VISTA stipend increase. For the past 2 years, in our committee's May 15 submission to the Budget Committee, we have included provision for the stipend increase. For the past 2 years, as chairman of the subcommittee having oversight responsibility for the domestic volunteer programs of the ACTION Agency—now the Subcommittee on Child and Human Development—I have recommended that funds for the increase be provided in the Labor-HEW appropriations measures. Today I lay the case before my colleagues in the full Senate and ask that they join with Senators JAVITS, WILLIAMS, me, and others in approving our amendment to provide equity for the VISTA volunteer antipoverty workers who serve our country with so much dedication and effectiveness.

JUSTIFICATION FOR INCREASE IN DISCRETIONARY PROGRAM MONEYS

Mr. President, part C of title I of the Domestic Volunteer Service Act of 1973 provides the ACTION Agency with its only discretionary money to test innovative approaches which involve volunteers in meeting a broad range of human needs. During fiscal year 1977, the ACTION Agency expended $2.325 million under the part C authority. This year the administration and the Committees on Appropriations in both bodies have recommended a $2.5 million level of funding—$5.5 million less than the full authorized level of $8 million.

We are proposing to increase the level of part C funding to $5.5 million—$3 million above the committees' recommendation but still $2.5 million below the full authorized amount. We propose that the additional $3 million be added to provide expansion in three program directions which the ACTION Agency, in its fiscal year 1978 budget submission to Congress, indicated it would like to pursue: displaced homemaker projects, Urban Service Corps projects, and fixed-income counseling projects. Both the Agency Director and Deputy Director expressed strong interest in these program directions at their confirmation hearings earlier this year.

DISPLACED HOMEMAKERS

Mr. President, the distinguished Senator from Indiana (Mr. BAYH) has introduced legislation, S. 418, to establish centers across the country to assist in counseling and finding jobs for displaced homemakers—those who have been dependent upon their spouses' earnings and who find themselves either suddenly widowed or divorced and unable to enter the job market for one reason or another. A companion measure has been introduced in the House of Representatives by my good friend and colleague, YVONNE BURKE. A very successful program to assist displaced homemakers is currently operating at Mills College in Oakland, Calif., funded chiefly with State money and assisted with a grant from the ACTION Agency. Both these sources of funding, however, are scheduled to terminate in the near future.

Mr. President, we in the Congress will be hearing more from this group of women and their advocates in the coming months. They are a group largely overlooked by present federally supported employment and social services programs, yet they are a group with serious needs which must be addressed. The success of the Mills College program in finding jobs for displaced homemakers convinces me that we would be making a wise investment by enabling the ACTION Agency to increase its efforts in this area. Such demonstration initiatives should help us prepare to evaluate and to develop the Bayh-Burke legislation and to develop the best possible ap-

proach for meeting our responsibilities to this overlooked segment of our society. Continuing and expanding the ACTION Agency's involvement in innovative programs leading to gainful employment for displaced homemakers is thus one of the three activities which would be supported out of our proposed $3 million increase for part C programs.

URBAN SERVICE CORPS

Mr. President, last year, during our consideration of the fiscal year 1977 Labor-HEW Appropriations Act, Senator JAVITS first expressed his interest in having the ACTION Agency budget increased to provide for an urban service initiative program. Such a plan would emphasize the use of volunteers in their own urban neighborhoods in augmenting community services, such as block security and safety, environment, sanitation, parks and beautification, recreation, education, youth, housing, neighborhood development, senior citizen activities, and child care. I fully support such an approach, and urge my colleagues to join with us in our very modest proposal to provide funding for the ACTION Agency to develop such a program.

FIXED-INCOME COUNSELING

Mr. President, I have long supported the development of programs within the ACTION Agency to utilize the services of volunteer business persons in counseling senior citizens on fixed-incomes on how to best stretch their dollars and take advantage of social services programs established for their benefit. When the Service Corps of Retired Executives—SCORE—and Active Corps of Executives—ACE—program participants were a part of the ACTION Agency—these programs have since returned to the sole-sponsorship of the Small Business Administration—I worked for the development of such an effort in conjunction with SCORE and ACE. The small beginnings of such a project were so successful that the Agency later proposed to finance fixed-income counseling workshops with part C money. However, there is just not enough part C money to launch a nationwide fixed-income counseling effort, although I must confess that California was the fortunate recipient of support for a pilot project developed by SCORE counselor and my good California friend, Art Kraus.

The sponsors of the amendment we are now considering agree that in order to enable the ACTION Agency to develop a meaningful fixed income counseling program which can serve a realistic number of senior citizens across the Nation, additional funds must be made available. For this reason, we have included the fixed-income counseling program among the three targeted program directions for which we propose an additional $3 million be allocated.

OLDER AMERICAN VOLUNTEER PROGRAM LEVELS

Mr. President, before concluding my remarks today, I wish to thank the Appropriations Committee members, and particularly the chairman of the Labor-HEW Subcommittee (Mr. MAGNUSON), and its distinguished ranking minority member (Mr. BROOKE) for their responsiveness in meeting the funding needs of the ACTION Agency programs. I am particularly pleased that the committee has given recognition to the value of the senior companion program by increasing its budget level to $7.0 million—$3.8 million more than was provided for the previous fiscal year. I also applaud the committee's action in increasing the RSVP program level to $20.1 million and the foster grandparent program level to $34.9 million. Together, these levels fall short by just $3 million of the fully authorized levels which I had recommended in my May 13 letter to Chairman MAGNUSON. But they represent a total increase of $4 million over the previous fiscal year's appropriations. I am hopeful that these increases, despite inflationary factors, can still provide for program growth for these very fine older American volunteer programs, and also begin to make a long overdue increase—albeit of necessity a modest one given the amount to be appropriated—in the $1.60 an hour stipend now provided for the participants in the foster grandparents and senior companion programs.

I hope that we have been successful in convincing the distinguished floor managers of the value of adding the additional $4.4 million to H.R. 7555 to provide for the VISTA stipend increase and the discretionary program increase for the three demonstration programs I have discussed today.

I urge adoption of our amendment.

Mr. HASKELL. Mr. President, I strongly urge support of the amendment offered by the distinguished Senator from California, Mr. CRANSTON, to increase funding for programs administered by ACTION, including the fixed-income counseling program.

The object of this worthwhile and important program is to help those individuals on modest fixed incomes stretch their dollars further. That goal is accomplished by a variety of innovative means including classes, group counseling, and one-to-one outreach. The chief beneficiaries of this program are the elderly, the disabled, and the ill-educated who are least able to obtain maximum value for their spending capacity. In the end, however, it should be obvious that all taxpayers benefit from such a program, which attempts to insure that people have the kind of purchasing "savvy" to become better fed and better clothed and housed for less money. Knowledge of proper nutrition and money-wise purchasing habits can help improve the quality of life for those living on modest fixed incomes.

My own constitutents in Colorado are well-acquainted with this program which has successfully functioned in Denver for some time. An article from the Denver Post from 1975 illustrates the methods and the techniques our Colorado program has employed to bring this program of dollar-saving advice to the people who need it most. I ask unanimous consent that the article be printed in the RECORD at this point, and I again urge the support of the Senate for this important program.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIXED-INCOME COUNSELING STRETCHES DOLLARS FOR THOSE IN NEED

(By Lois Cress)

To help Denver residents on low or fixed incomes make their few dollars go farther is the objective of the Fixed Income Counseling (FIC) program, a one-year pilot service undertaken in April.

Funded by ACTION and administered by the Denver Commission on Community Relations, FIC trains volunteers for counselor roles and develops teams to provide information on Medicare, Social Security, budgeting, investments, taxes, nutrition, transportation and other topics related to economic survival in an inflationary economy.

The FIC office also makes available pamphlets and brochures on these topics.

Mrs. Annette Finesilver, program coordinator, emphasizes that she and her limited staff aren't trying to do the counseling job alone. She quickly acknowledges the assistance and cooperation of banking, business and utility-company sectors, schools, private organizations and government agencies, as well as concerned individuals with useful knowledge and practical experience to share.

IN FOOD-STAMP LINE?

FIC counseling, Mrs. Finesilver adds, isn't always done in what might be considered a customary counseling setting. Who, for instance, would think of offering verbal and written suggestions on nutrition and food shopping to individuals in a foodstamp line? That is just one of the ways FIC seeks to share the information it has collected.

Among FIC's growing number of volunteer counselors, totaling 71 in early November, are men and women of various ages and backgrounds, some of them professionals, some former FIC counselees. Some are bilingual, as is Barbara Talarico, Mrs. Finesilver's assistant, who participates directly in the counseling.

One recent afternoon at the Food Stamp Center at 106 Byers Place, volunteers moving among the throng of food-stamp applicants included two staffers from the Colorado State University Extension Service office—Mary Ann Peterson, Extension Agent in nutrition, and Susan White, community worker in nutrition; three former FIC counselees—Charles Espinoza, a Metro State College student, Chris DeHerrera, and Nita Russell—and Miss Talarico.

The need for bilingual printed materials has become so great in the FIC program, Mrs. Finesilver says, that more than 1,000 pieces of such information are provided monthly through FIC to the CSU Extension Center, the Emily Griffith Opportunity School and the East Side Action Center.

She explains that FIC coordination is meeting Opportunity School's need for recipe translation for about 500 persons enrolled in the school's neighborhood Kitchen Classes, which are designed to combat malnutrition and hunger and to teach the use of supplemental foods provided under government programs.

The language department at Metro State College has undertaken the translation of such materials, using this activity as a teaching tool. And the student translators may be picking up a little fixed-income information as a fringe benefit. The college's Chicano Studies Department has provided student volunteers, who receive credit for FIC counseling.

SMART SHOPPING TIPS

Single-sheet "Smart Shopping Tips for Sharp Shoppers" are printed in English on one side and in Spanish on the reverse side under the heading, "Sugerencias para Compradores Astutos." The Spanish-speaking, for instance, are reminded that good fresh-fruit

buys for November (Buenas Compras en Noviembre) are mazanas, naranjas, arandanos, platanos and calabazas (apples, oranges, cranberries, bananas and pumpkins).

Mrs. Finesilver emphasizes the Fixed Income Counseling program's role as a clearing-house and coordinator and speaks enthusiastically and with some surprise about the program's developing ramifications, such as the practical application of bilingual abilities to meet the need for English-Spanish translation.

The FIC's ranging influence is illustrated in a recent four-session presentation on "Banking Basics" and "The Clothing Dollar" for junior high and high school students in the Metro State College's "Upward Bound" program. FIC was the catalyst, bringing counselors and counselees together. Anne Taylor of the First National Bank of Denver's community-affairs office offered the banking information, which didn't cease with her final presentation. It will be continued by the Upward Bound instructor, using materials provided by the bank.

Ideas for extending a wardrobe by mixing and matching jackets, pants and sweaters were shared by May-D&F's fashion director LaVelle Olexa in her discussion of "The Clothing Dollar."

On another day recently, FIC counselors met at Clare Gardens, 2626 Osceola St., with a group of young married women on fixed incomes, who are taking the suggestions growing out of the idea-exchange to others on fixed incomes. This illustrates the FIC's "ripple effect," which both Mrs. Finesilver and Miss Talarico regard as one of the program's important ways of spreading its message.

The FIC's counseling effort isn't 100 percent successful, Mrs. Finesilver readily concedes. "I don't want to sit here and tell you that everything has been marvelous," she said in an interview in her office in the Zook Building, 431 W. Colfax Ave.

BAD LOGISTICS

"There were a couple of sessions where we bombed," she said. The reasons, she explained, were mostly "bad logistics—too many people—unhappy—too filled with anxiety—bad lighting—non microphone."

But these few less-than-successful sessions were also learning experiences for the FIC team. Since then, there has been an effort to limit the numbers of persons in an audience to 30, to break up the big group into smaller ones, rotating the counselors among them, encouraging give and take, listeners sharing their own hints on menus, shopping, money-saving.

"It can be a little bit of our timing that's off," Mrs. Finesilver observed. But it doesn't happen too often because we're really trying to be sensitive to the needs of a group. We talk over every counseling session the day before. And we make up our minds how we're going to proceed, and then we immediately change when we get there, because you know nothing is written in cement."

Sometimes, the counseling sessions spawn spontaneity that makes a serious subject more palatable. Such was the case when Larry Boyd, who is on a fixed income, accompanied Miss Talarico to a counseling session at Clare Gardens. Ten women were in the listening group. Boyd sat down at the piano and began playing, singing his original impromptu lyrics on how to survive economically.

"They loved it," Miss Talarico said. "He was able to relate with tips on freezing and storing deer meat." It was, she added, one of FIC's "best sessions." It was "a sharing of ideas . . . just a general great group discussion."

Boyd, a work-study at Metro State College, is a member of the staff of the Commission on Community Relations.

Miss Talarico, 30, a junior sociology major at MSC, is earning five hours' credit for her FIC participation under the commission's administrative intern program.

The FIC program is aimed at Denver's 60,000 persons who are attempting to live on fixed incomes (Social Security, Old Age Pension or other retirement income) and the 11,000 families in the Denver area who are below the poverty line.

"Many of the elderly poor," Mrs. Finesilver said, "became poor after reaching old age because of the cut in income brought by retirement from the labor force, and had little or no preparation for the limited income they would be living on."

Besides offering counseling sessions for groups, the FIC also does one-to-one counseling via telephone. Some of FIC's callers have complaints. "We direct them (the callers)," Mrs. Finesilver said. "But we usually can help them, so they're no longer complaints."

Rent rebates for qualifying disabled and elderly persons were discussed at a recent FIC-arranged session at which Melvin Gude, assistant supervisor to the County Treasurer's Office, spoke to about 50 persons.

After the session, Gude said he was surprised to find that most of those in the audience had "too much income" to qualify for the housing rebate. Among the limitations are a maximum $5,000 total annual income for single persons, and $6,900 for married couples. There also are rebate provisions for disabled and elderly homeowners.

Application forms for the rebates are available from the FIC office, as well as from the Special Accounts Section Treasury Division, Room 315, City and County Building, Denver 80202.

FIC has played a coordinating role with the Adult Education Tutorial program in planning a Nov. 18 session, 7 to 9 p.m. at Good Shepherd Lutheran Church, 770 S. Federal Blvd. The fixed-income counseling will involve three languages—English, Spanish and Vietnamese. The program will be given in English on a basic level. An American fluent in Vietnamese will be present to offer back-up assistance for the "new settlers from Vietnam," Mrs. Finesilver indicated. Hispano parents will be given coloring books on nutrition, with Spanish and English text for their children.

One of FIC's first sessions—at the Cathedral of the Immaculate Conception—attracted more than 50 individuals—mostly women, the eldest 95 years old. "It was the most swinging group of people you have seen," Mrs. Finesilver said. The three-hour session included a "high-nutrition, low-cost lunch so that we could show them what they could eat over a period of a day—that they didn't have to stand over a sink with a piece of toast and a cup of tea." On the menu were two pieces of chicken, potato salad, a roll, honey, dessert and beverage.

Four speakers rotated among the participants, divided into four small groups, in the discussion of nutrition, Medicare, Social Security, banking and credit.

FIC also presented four half-hour sessions for Goodwill Industries. "Of course, we ended up staying about eight hours (total)," Mrs. Finesilver said, "because the participants were so excellent and so anxious to have this information given to them."

A PROTOTYPE CITY

Denver was selected as one of three cities across the United States to be "a prototype city to try to implement workshops, counseling sessions, seminars for people on low or fixed incomes," Mrs. Finesilver said.

She explained that the Denver Commission on Community Relations' "good success" with other areas involving volunteers in counseling programs was instrumental in ACTION's designation of the commission as the implementer for Denver's Fixed Income Counseling program.

ACTION, a federal-government agency, provided an $18,000 grant for the Denver FIC program. In addition, Mrs. Finesilver said the program received $15,000 of "inkind services . . . that means the commission pays my salary, gives me an office, a secretary, a telephone, a desk."

Mr. HASKELL. I yield to the distinguished floor manager of the bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator from New York.

Mr. JAVITS. I thank my colleague for yielding.

The Urban Service Corps is designed to encourage precisely the kind of volunteer effort which has brought 8,000 volunteers into assisting municipal services in New York City and has been partially the reason why it has been possible to dispense with the services of about 80,000 municipal employees.

What we have learned is, of course, throughout the country we have these problems with the older big cities and so a model demonstration of what an Urban Service Corps can do would be extremely useful in this area.

Mr. President, I ask unanimous consent that a letter from ACTION Director Sam Brown and Deputy Director Mary King, supporting this idea, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ACTION,
Washington, D.C., March 11, 1977.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: We have chosen to send one answer to the question which we were each asked by you at confirmation hearings. It is a question which we welcome.

We, too, are concerned about the problems which threaten to overwhelm our cities, especially those in the Northeast which, like New York, face accelerated rates of deterioration, drastic shrinkages in their economic base, and reductions in the provisions of municipal services which have come to be expected.

As you know, Sam has been actively involved with neighborhood governments, especially in trying to develop valid options and alternatives for local control. Mary shares this interest and we both share your concern for the future of our cities as well as your optimism about the role ACTION can play in trying to help solve some of the more acute problems.

Volunteers have always played a significant role in urban life, albeit a sometimes invisible one. What is needed now, especially during this time of crisis, is a fresh approach to the question of how urban volunteers can be used most effectively so that urban needs can be met imaginatively and efficiently. We have the basis for significant volunteer assistance for cities in existing ACTION legislation and projects. To release this potential energy for urban revitalization we simply need a change in emphasis and Congressional support. Your idea of an Urban Service Corps may be just the change in the point of departure needed to turn things around. If 8,000 volunteers are keeping the libraries of New York open, it is evident there is abundant willingness for constructive, concerted voluntary effort. It can be focused successfully on supporting other vital community services self-help efforts.

We intend to begin immediately to explore the possibilities of an Urban Service Corps component of ACTION by creating and fund-

ing as soon as possible model projects upon which larger-scale, effective operations can be based in the future. In addition, refurbishing of VISTA programs would be an immediate approach.

We are also interested in working with city governments and neighborhood organizations to build mutually supportive relationships in exploring these possibilities. An Urban Service Corps can begin to bridge part of the social gap caused by the financial plight of so many of our urban communities. Volunteer efforts could substantially augment—but not duplicate—normal municipal services, as well as maintaining existing human services to the poor.

We welcome your question. It allows us early articulation of a concern which will continue to motivate us as we seek to reactivate citizen approaches to the serious problems of our day.

Sincerely,

SAM BROWN,
Director.
MARY E. KING,
Deputy Director.

Mr. JAVITS. Mr. President, the important thing here is that we can get back many dollars for every dollar we spend in these volunteer programs of the kind which are described in this amendment as well as in the VISTA program. We seek to increase the monthly stipend of the VISTA volunteer. By the way, this stipend is long overdue, it being way out of line with the Peace Corps and way out of line with inflation and any increase that anyone can think of in terms of what it costs to live.

These efforts are so modest, Mr. President, that I express the hope that the managers may see fit to accept the amendment.

Mr. MAGNUSON. Mr. President, will the Senator from California modify his amendment?

Mr. CRANSTON. Mr. President, the Senator from Washington, the distinguished chairman of the committee, has suggested a modification which I am willing to do after we discuss it for one moment, provided certain assurances are given.

Mr. President, I will ask unanimous consent to modify my amendment to a $1.4 million increase if the following assurances are provided by both the distinguished floor managers of the bill and if this is acceptable to the principal cosponsor of the amendment, the Senator from New York. These are the assurances.

First, that the floor managers will do their utmost to secure in the conference the full $4 million for the VISTA stipend increase.

Second, that the floor managers will recommend during committee markup of the first fall supplemental appropriations bill our proposal to add the full $3 million for the three special volunteer programs we are seeking to expand, and to seek these funds with us even without an administration supplemental budget request.

Can the floor managers, Senators MAGNUSON and BROOKE, provide me with these assurances?

Mr. MAGNUSON. I might say, Mr. President, that the $1.4 million is very acceptable to the Senator from Massachusetts and myself because there is an inequity involved and that should take effect immediately.

The other three programs, although they are very worthy, they are sort of new in a sense, and we do not have too much testimony on them. We wish to take a look at them, and can assure the Senator that if I think the testimony is going to be as suggested by the Senator from California we would be more sympathetic to putting the money in the supplemental.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BROOKE. In response to the request of the Senators from California and New York, first, that we do our utmost in conference for the full $1.4 million, which the chairman accepted and I can accept, we can assure him that we will.

And as to the second request, as I understand it, that we give sympathetic consideration to funding the other three programs in a future bill. We are going to hold hearings on this anyway, and we feel as the chairman has said, that if they make a strong enough case these programs will be given serious consideration for funding in the supplemental.

Mr. JAVITS. Mr. President, I abhor "serious consideration" but if the case sustained the programs the two managers would recommend them if the case sustained it. It is only another way of saying it. But "serious consideration" I have been kissed off with around here for over 20 years, most often with no result.

So I urge, if the floor managers could, and I hope they can, that they tell us that if the case is sustained they will both recommend it.

Mr. BROOKE. I have great affection for the distinguished Senator from New York, and I am not attempting to kiss him off. I did not intend to do so in saying that we would give this matter "serious consideration." I assure him if the case is sustained, as far as I am concerned, I shall recommend it.

Mr. JAVITS. I thank my colleague.

Mr. BROOKE. If the case is sustained.

Mr. MAGNUSON. All right.

Mr. CRANSTON. Mr. President, I, therefore, because of those assurances, ask unanimous consent to modify my amendment by striking out on line 2, $121,660,000 and inserting in lieu thereof $118,660,000.

The PRESIDING OFFICER (Mr. EAGLETON). The Senator does not have to have unanimous consent to modify the amendment.

The amendment is, therefore, modified.

The modified amendment is as follows:

On page 43, line 13, strike out "$117,260,000." and insert in lieu thereof $118,660,000, of which $1,400,000 (or such other sum as may be certified by the Director of the Agency as necessary to carry out section 5 of Public Law 94-130) shall be used for carrying out section 5 of Public Law 94-130.".

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 607

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk and amendment for myself and the Senator from Nebraska (Mr. ZORINSKY), the Senator from Indiana (Mr. LUGAR), the Senator from South Carolina (Mr. THURMOND), the Senator from North Carolina (Mr. HELMS), and the Senator from Kansas (Mr. DOLE), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.), for himself and Mr. ZORINSKY, Mr. LUGAR, Mr. THURMOND, Mr. HELMS, and Mrs. DOLE, proposes an unprinted amendment No. 607.

Mr. HARRY F. BYRD, JR. The President, I ask unanimous consent that reading of the amendment be dispensed with

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, after line 20, add the following new section:

"None of the funds appropriated or otherwise made available in this title shall be obligated or expended for the Elementary and Secondary School Civil Rights Survey: School Year 1977-78 in the case of any school district which has completed the Elementary and Secondary School Civil Rights Survey: School Year 1976-77."

Mr. HARRY F. BYRD, JR. Mr. President, if we may have order we can proceed.

The PRESIDING OFFICER. May we have order in the Chamber, please. When we have order in the Chamber the business will be expedited. All Senators please take their seats.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment would forbid the use of Federal funds for the purpose of requiring school districts which have completed civil rights surveys during the 1976-77 school year to complete substantially identical surveys during the upcoming school year.

Over 16,000 school districts have just spent an estimated 810,000 person-hours at a cost of $7,514,000 in order to complete the 1976-77 survey. This comes to an average of about 17 cents per pupil.

And I might say that the figure that I have cited are those which have been compiled by the National Association of School Boards, and it is the estimate of that group.

To now require, Mr. President, that 3,500 of these same school districts spend comparable amounts of time and money in order to prepare identical data seems to me to be the height of foolishness.

Resources expended in the completion of useless paperwork can only detract from the amount of money available to school districts for the education of our children.

Dr. John W. Porter, president of the

Council of Chief State School Officers, last year stated this, and I quote him:

The data burden is excessive, requiring hundreds of thousands of person-hours to provide information we believe goes far beyond what is reasonably necessary to comply with the law.

I might say that the Senator from Virginia became interested in this subject not only because of the many complaints which he had from the school officials in the State of Virginia. At the beginning of the session when the new Secretary of Health, Education, and Welfare came before the Finance Committee for confirmation, two new members of that committee, the Senator from Nebraska (Mr. ZORINSKY) and the Senator from New Mexico (Mr. SCHMITT) both individually brought to the attention of Mr. Califano the widespread complaints that each of those Senators had from their States. They had both just gone through statewide campaigns and each had covered his State thoroughly.

So this is not a matter that is of great concern to a particular area; it is of nationwide concern that the Department of Health, Education, and Welfare is making unreasonable demands on the school systems throughout our Nation.

This amendment, Mr. President, would do only this: It says that HEW shall not require those school districts which have already, just this year, completed this very voluminous report—school districts which have just completed that report for the school year 1976–77—shall not be required to do the same thing over again for 1977–78.

Mr. President, a northern Virginia school superintendent has written this:

Statistical data obtained from our division has not changed in character in the past half-dozen years. It would seem that the good spirit of our intent to comply with required desegregation program should have been established by now. Monitoring on a bi-annual or tri-annual time schedule should seem adequate.

A Tidewater area superintendent wrote this:

I cannot think of any reason whatsoever that would make it necessary for a federal agency to embark again on a mission of this kind and with such frequency. Not only is this burden which is placed on local school administrators excessive and unreasonable, but it removes key professional personnel from their roles and responsibilities which are intrinsic to the instructional process.

According to the North Hampton, Va., superintendent, George W. Young, that district's report weighed 21 pounds. Superintendent Young points with irony to a brochure which he had received from the General Services Administration, advertising the sale by the Federal Government of 23,850 tons of wastepaper.

Mr. President, I have a letter from Mr. Dan Roberts, the superintendent of schools in the city of Newport News, a city of about 150,000 persons in Tidewater Virginia. This is a part of the superintendent's letter. He said:

The data burden of completing these forms is excessive, requiring at least 500% more time than is estimated by the agency. A conservative estimate of the time required to collect the data for the 1976–77 reports for Newport News is 970 man-hours. The majority of these hours (over 600) were spent by principals which means they could not carry on their primary function which is supervising the instructional program.

Maintaining this data requires many indirect hours and also data processing time which could be spent more advantageously on things connected with instruction of children instead of filling filing cabinets with data which is of questionable value.

The volume of paper connected with our report was such that it took 10 large envelopes to send to the Office for Civil Rights. There were 38 individual reports of 9 pages, 7 copies of each (2394 sheets of paper). In addition there was 7 copies of each page of the school division report.

We think the data provides information that goes far beyond what is reasonably necessary to comply with the law.

Then, there is another communication from the division superintendent in the rural county of Nelson, a county of about 25,000 population. One sentence from his letter is this:

From conversations with one of our principals it was estimated that it took over eighty hours of personnel time to complete Form OS/CR 102 in that particular school.

I have another communication from another rural county in Virginia. I quote one sentence from that letter:

The demands of H. E. W. are often unreasonable and destructive in that they rob school administrators of valuable time which could be spent on more worthwhile projects which would benefit the children.

A letter from the superintendent of schools in a large metropolitan county in Virginia says this:

The amount of paper work, the vast majority of which is completely unnecessary and in so many instances a duplication, is unbelievable. We are inundated by reports.

From a city of about 50,000 population in the State of Virginia, the superintendent of schools writes this:

The data burden being imposed on local school divisions is, indeed, becoming a monumental undertaking.

Mr. President, I think this amendment is a reasonable one. As all of our colleagues know, that report which was made by 16,000 school districts last year was a very voluminous report. It took very many hours and much money to compile. All this amendment says is that those school districts which have compiled that report and filed that report with the Department of Health, Education, and Welfare for the school year 1976–77 shall not be required to make the identical report for the upcoming school year. I hope it will receive the favorable attention of the managers of the legislation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise in support of the amendment of the distinguished Senator from Virginia. Of all of the issues on which school boards, school superintendents, and those responsible for public education in Indiana have written to me, this particular issue has been singled out as the least productive of their time, and certainly the best demonstration of excessive paperwork in public education in America today.

The intent of the amendment is modest. A part of the damage has already been done; namely, that the forms have been filled out for 1976–77. The amendment of the Senator from Virginia is simply to ask that the schools of America not be required to repeat this exercise again, with all the voluminous data already on hand at HEW.

I wrote to Secretary Califano on March 21 of this year, pleading the case, in this instance, of the schools of Indiana, and he replied on May 31 of this year that he appreciated the burden, but felt compelled by the law, as he read it, to proceed, with some thought of giving some urgent attention to cutting back on forms, but no assurance that would be the case.

It seems to me clear that the Senate can indicate its feelings with regard to this situation by the adoption of the amendment, and I am hopeful, in behalf of all the school corporations of America, that we will do precisely that, and agree to this amendment this evening.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I would ask the distinguished Senator from Virginia to respond to a few questions.

It is my understanding that there has been a requirement made by HEW that school districts, after having filled out a survey earlier this year, in February of 1977, have now been required by HEW to fill out another civil rights survey which they have to have in by no later than the end of September of this year. Is that correct?

Mr. HARRY F. BYRD, JR. The latest statement I have seen from Mr. Califano says that the new report—the identical report, incidentally—would be required to be filed next March for the year of 1977–78. He also says in his statement that no new questions will be added to the form. In other words, it is an identical form already filled out by the school districts. He wants them to fill it out again for the upcoming year, which seems to me to be very unreasonable and is so considered, I believe unanimously, by the school officials throughout our Nation.

Mr. LUGAR. When does my good friend from Virginia understand the last report had to have been due, or the one that would precede the March 1978 report? What would be the report immediately precedent to the March 1978 report?

Mr. HARRY F. BYRD, JR. That was for the school year 1976–77, and the deadline for that was April 30 of this year, just 2 months ago.

Mr. HEINZ. If the Senator's amendment becomes effective, is my understanding correct that his use of the term 1977–78 school year would mean that the Secretary of Health, Education, and Welfare, upon the close of the school year, be it May 15, June 1, June 15, the close of the school year in which the children are in school, could then require a report? Is my understanding of the Senator's amendment correct?

Mr. HARRY F. BYRD, JR. Yes, probably so. The amendment is directed at the upcoming school year which begins,

of course, in September in most places and would apply until the end of that school year next May or June, whenever it might be. This amendment would apply only to the upcoming school year. It would not apply beyond that.

Mr. HEINZ. I understand the appropriation we are discussing only runs until September 30, 1978. So whatever is done would be terminated at that time. I thank the Senator for clarifying his amendment.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the amendment of the distinguished Senator from Virginia.

On January 7 of this year, our South Carolina delegation held a meeting at the State House in Columbia, which we do annually. At that time, the school administrators and superintendents appeared before the delegation and emphasized their stiff opposition to this survey which was being made. They said it contained 35 pages, over 700 questions, and was redundant and repetitious in the questions asked.

This survey has cost the people over the Nation, in the 1,600 districts, $7.5 million.

The school personnel went ahead and filled out this questionnaire. As was stated, it was first asked to be filed by February of this year. The time was extended finally until April because there was so much opposition and it required so much unexpected work.

Now our school officials are being called upon to fill out another form and to go through the same procedure again. They will have to recompute all of the figures for the past year to supply the information. It is estimated it will cost our taxpayers another $7.5 million.

It seems to me this money could be better spent in some other way. These forms are unduly complicated. They have aroused great opposition among all the school superintendents and principals who have come in contact with us. It would seem this amendment is in order and should be adopted.

I might say, Mr. President, I talked to Mr. Bert Lance, Director of the Office of Management and Budget, who has impressed me as a very able and fine budget officer, about this matter. He expressed his displeasure and stated that President Carter was deeply concerned over this paperwork being requested by HEW. We had hoped that some directive bringing HEW in line would come through before now, but that has not yet happened. It appears the only sure way we are going to get results will be to adopt the amendment of the able Senator from Virginia.

Mr. President, I ask unanimous consent that the directive issued in November 1976 and also the directive issued in December 1976 which set forth the requirements for the recently completed survey be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, in closing I just want to say that we can save $7.5 million a year by alleviating this burden on the schools of this Nation. Since it is so unnecessary that it be done, I hope this amendment will be adopted and we can grant relief to the schools of this country, which so badly need it.

EXHIBIT 1

MEMORANDUM FOR CHIEF STATE SCHOOL OFFICERS

Subject: OS/CR 101 Survey of Elementary and Secondary Schools—Fall 1976.

This is to inform you that the Office for Civil Rights (OCR) with the Department of Health, Education, and Welfare (HEW) will conduct a survey of all public elementary and secondary schools which receive Federal financial assistance during the 1976–77 school year. As in previous years, your constituent local education agencies are required to fill out and submit the Report Forms OS/CR 101 and 102 pursuant to Section 80.6(b) of the Department's Regulation (45 CFR 80).

During the past year, the Elementary and Secondary Education Division of the Office for Civil Rights, in conjunction with the Committee on Evaluation and Information Systems (CEIS) of the Council of the Chief State School Officers and other civil rights related agencies, both within and outside of the Federal Government, have revised and field tested the instruments for this year's survey. Copies of the questionnaires are enclosed for your information.

REVISED SURVEY'S SCOPE

As a consequence of HEW's broadened responsibilities, the survey requests much new information. Formerly, HEW's Office for Civil Rights collected racial and ethnic information under Title VI of the Civil Rights Act of 1964 prohibiting discrimination on the basis of race, color, or national origin. Title IX of the Education Amendments of 1972, and its implementing regulation, and Section 504 of the Rehabilitation Act of 1973 extend similar enforcement obligations to HEW regarding the prohibition of discrimination based on sex and handicapped conditions, respectively. Because of these extensions of responsibilities, the Office for Civil Rights is collecting data from many additional school districts not ordinarily included in the previous Title VI surveys. This will allow the Office for Civil Rights to obtain a data base from which to plan its future activities in these new areas of responsibility. The Department does not expect that data will need to be collected on such an extensive basis for each ensuing year.

The combined district and school forms of the 1976–77 survey ask for information on the enrollment and treatment of students in various programs and classes. This is basic, preliminary information on the extent to which students have access to various educational programs and benefits equal to those afforded all other pupils.

Wherever it appears that groups of students do not have equal access, i.e., when discrimination on the basis of race, color, national origin, sex, or handicap may be involved, OCR may conduct a more detailed compliance review to determine the cause of such inequities.

Because of the change in scope and format of the survey from previous survey years and since we will be later than usual implementing it, we plan to conduct four, one-day regional orientation sessions for you or your designees. We hope that these orientation sessions will render better understanding of this Office's data collection requirements and help to minimize problems later on in the conduct of the survey. Details about these sessions will be disseminated to you shortly.

SPECIFIC FORMS TO BE COMPLETED

"School System Summary Report," Form OS/CR 101, which will be completed by all districts, requires aggregated information. This includes student data on enrollment in vocational educational programs, on discipline actions, and on those students whose primary or home language is other than English, as well as data on those students enrolled in bilingual or English-as-a-Second-Language programs. Data are also requested on handicapped persons.

"Individual School Campus Report," Form OS/CR 102, is being distributed to about 3,500 districts which have a substantial enrollment of students covered by the authorities administered by OCR; a random sample of districts will be included on this list to enable us to make national, regional, and State projections.

School districts receiving the "Individual School Campus Report" will complete one set for each school campus in their district. This form requests data on the racial/ethnic origin and sex of pupils, the total number of pupils transported at public expense, the number of vocational education programs, enrollment in home economics and industrial arts, the number of pupils who have dropped out and the number who received high school diplomas or equivalents in the previous year. There are two major sections on student discipline and special education, and a final section asks for data on pupil classroom assignment for a sample of classes.

For the 1976–77 survey, if some schools in a system demonstrate that they do not have sufficient information to adequately respond to a particular question, the Office for Civil Rights will be happy to discuss alternate data reporting approaches. School systems will be expected to retain such data for future biennial surveys. For example, during the pretest some school officials expressed concern that they did not possess some of the information requested on Form 102 in questions 14c and 14e (pupils suspended 1–3 consecutive days, 4–10 consecutive days, and over 10 days) and questions 14g and 14h (pupils receiving corporal punishment and pupils referred for disciplinary action to the court of juvenile authorities).

INTENDED USE DATA

In addition to targeting for compliance reviews, the survey has several other functions: targeting districts to receive "Individual School Campus Report" forms in the next biennial survey (1978–79), providing basic information for investigating complaints against specific districts, and outlining the nature of civil rights problems in the Nation's schools.

The information gathered from the current survey will be available to the public in a variety of ways once the reports have been prepared. Citizens can check the report from their district in your office, or in the local superintendent's office, or in HEW's regional office. School districts can use the information to evaluate their own performance; some Affirmative Action Officers in school systems already do this in order to make needed improvements.

Press releases will be issued and conferences will continue to be held by HEW to convey information about civil rights problems and enforcement.

DISTRIBUTION AND COLLECTION OF DATA

Normally, HEW mails report forms directly to the school district surveyed, and the districts return their reports directly to HEW, with a copy of each report to their Chief State School Officer. For such districts, HEW return labels will be provided. In some States, however, the State Education Agency mails the form to the local education agencies and they, in turn, return the completed reports to the State Agency. Ms. N. M. Chau, School Survey Manager, will be in contact with your office concerning the conduct of the survey and the arrangements for mailing the survey forms. If you have any questions or problems, please contact her at Area Code 202/347–3755.

Pupil membership data should be reported as of January 7, 1977 or the nearest convenient date. Completed reports are due to HEW by February 1, 1977. Pupil membership data already collected as of October 1, 1976, will be acceptable provided OCR is properly notified.

Since this survey will be conducted biennially in the future, school systems will be required under the provisions of Section 45 CFR 80.6(b) of the Code of Federal Regulations to record and maintain similar records for the non-survey years.

Your cooperation is appreciated.

MARTIN H. GERRY,
Director, Office for Civil Rights.

MEMORANDUM FOR SUPERINTENDENTS OF ELEMENTARY AND SECONDARY SCHOOL DISTRICTS

Subject: 1976–77 Elementary and Secondary School Civil Rights Survey.

The Office for Civil Rights (OCR) within the Department of Health, Education, and Welfare (HEW) survey forms OS/CR 101 and 102 collecting racial information for the 1976–77 school year are being sent to you. During the past year, HEW's Elementary and Secondary Education Division of OCR in conjunction with the Committee on Evaluation and Information Systems (CEIS) of the Council of Chief State School Officers and other agencies, both within and outside HEW, have revised and field tested the survey instruments. As in the past years, your district is required to fill out and submit the report forms pursuant to Section 80.6(b) of the Department's Regulation (45 CFR 80).

REVISED SURVEY'S SCOPE

As a consequence of HEW's broadened responsibilities, the survey requests much new information. Formerly, HEW's Office for Civil Rights collected racial and ethnic information under Title VI of the Civil Rights Act of 1964 prohibiting discrimination on the basis of race, color or national origin. Title IX of the Education Amendments of 1972, and its implementing regulation, and Section 504 of the Rehabilitation Act of 1973 extend similar enforcement obligations to HEW regarding the prohibition of discrimination based on sex and handicapping conditions, respectively. Because of these extensions of responsibilities, the Office for Civil Rights is collecting data from many additional school districts not ordinarily included in the previous Title VI surveys. This will allow the Office for Civil Rights to obtain a data base from which to plan its future activities in these new areas of responsibility. The Department does not expect that data will need to be collected on such an extensive basis for each ensuing year.

The combined district and school forms of the 1976–77 survey ask for information on the enrollment and treatment of students in various programs and classes. This is basic, preliminary information on the extent to which students have access to various educational programs and benefits equal to that afforded all other pupils.

Wherever it appears that groups of students do not have equal access, i.e., when discrimination on the basis of race, color, national origin, sex, or handicap may be involved, OCR may conduct a more detailed compliance review to determine the cause of such inequities.

SPECIFIC FORMS TO BE COMPLETED

"School System Summary Report," Form OS/CR 101, which will be completed by all districts, requires aggregated information. This includes student data on enrollment in vocational educational programs, on discipline actions, and on those students whose primary or home language is other than English, as well as data on those students enrolled in bilingual or English-as-a-Second-Language programs. Data are also requested on handicapped persons.

"Individual School Campus Report," Form OS/CS 102, is being distributed to about 3,500 districts which have a substantial enrollment of students covered by the authorities administered by OCR; a random sample will be included on this list to enable us to make national, regional, and State projections.

School districts receiving the "Individual School Campus Report" will complete one set for each school campus in their district. This form requests data on the racial/ethnic origin and sex of pupils, the total number of pupils transported at public expense, the number of vocational education programs, enrollment in home economics and industrial arts, the number of pupils who have dropped out, and the number who received high school diplomas or equivalents in the previous year. There are two major sections on student discipline and special education and a final section asks for data on pupil classroom assignment for a sample of classes.

For the 1976–77 survey, if some schools in a system demonstrate that they do not have sufficient information to adequately respond to a particular question, the Office for Civil Rights will be happy to discuss alternate data reporting approaches. School approaches. School systems will be expected to retain such data for future biennial surveys. For example, during the pretest some school officals expressed concern that they did not possess some of the information requested on Form 102 in questions 14c and 14e (pupils suspended 1–3 consecutive days, 4–10 consecutive days, and over 10 days) and questions 14g and 14h (pupils receiving corporal punishment and pupils referred for disciplinary action to the court or juvenile authorities).

INTENDED USE OF DATA

In addition to targeting for compliance reviews, the survey has several other functions: targeting districts to receive "Individual School Campus Report" forms in the next biennial survey, providing basic information for investigating complaints against specific districts, and outlining the nature of civil rights problems in the Nation's schools.

The information gathered from the current survey will be available to the public in a variety of ways once the reports have been prepared. Citizens can check the report from their district in your office, or in the State Education Office, or in HEW's regional office. School districts can use the information to evaluate their own performance; some Affirmative Action Officers in school systems already do this in order to make needed improvements.

Press releases will be issued and conferences will continue to be held by HEW to convey information about civil rights problems and enforcement.

DISTRIBUTION AND COLLECTION OF DATA

Normally, HEW mails forms directly to the school district surveyed, and the districts return their reports directly to HEW, with a copy of each report to their Chief State School Officer; for such districts, HEW return labels are enclosed. In some States, however, the State Education Agency mails the form to the local education agencies and they, in turn, return the completed reports to the State Agency. The State Agency then retains its copy and forwards HEW copies to the address below.

Pupil membership data should be reported as of January 7, 1977, or the nearest convenient date. Completed reports are due to HEW by February 1, 1977. Pupil membership data already collected as of October 1, 1976, will be acceptable provided OCR is properly notified. If additional forms are needed or if questions arise which the Chief State School Officer cannot answer, please write to:

School Survey Manager (Nguyen Minh Chau), Office for Civil Rights, Department of Health, Education, and Welfare, Post Office Box 14195, Benjamin Franklin Station, Washington, D.C. 20044. Telephone: Area Code 202/347–3755.

Since this survey will be conducted biennially in the future, school systems will be required under the provisions of Section 45 CFR 80.6(b) of the Code of Federal Regulations to record and maintain similar records for the non-survey years.

Your cooperation is appreciated.

MARTIN H. GERRY,
Director, Office for Civil Rights.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. DECONCINI. Will the Senator from Virginia yield for a question, Mr. President?

Mr. HARRY F. BYRD, JR. I yield.

Mr. DECONCINI. Will this preclude HEW from making any kind of inquiries or further surveys based on any violation or information that they had accumulated from the original survey?

Mr. HARRY F. BYRD, JR. No. That is not the intent.

Mr. DECONCINI. This would only stop duplication within the next year; is that correct?

Mr. HARRY F. BYRD, JR. That is the purpose of it; yes.

Mr. DECONCINI. I thank the Senator.

Mr. MAGNUSON. Mr. President, I thoroughly agree with what has been said about the amount of paperwork. I do not know that this amendment is necessary because of the testimony of the Secretary of Health, Education, and Welfare. He said he is not going to look into anything more this year. This amendment takes care of this particular school year.

Mr. HARRY F. BYRD, JR. This upcoming school year?

Mr. MAGNUSON. That is correct.

I have mixed emotions about it. The Secretary promised in the hearings that he would not conduct any surveys this particular year. They have been conducted on a biennial basis in even-numbered years. That is how they have been conducted.

It is essential for OCR to be allowed to gather information relating to compliance with civil rights laws. It may not be that they would have to go to all the school districts. I wonder if we could work out something giving the Secretary the right, where he believes there is a violation or where there is ample cause to believe there are civil rights violations, to then ask for a survey in that particular case.

I think this is too limited, it would tie him down too much. He says that there will not be an elementary and secondary school civil rights survey during the 1977–78 school year. He said there probably would not be any large-scale survey during the 1977–78 school year.

Mr. HARRY F. BYRD, JR. May I ask the Senator, what is that date and when did he say that?

Mr. MAGNUSON. He said that in testimony before our committee.

We had some hearings in April and HEW witnesses, including the Secretary, discussed the survey at some length, so much so that the Senator from Maryland has been designated by the Committee on Appropriations to begin a series of real, in-depth hearings on this matter of excessive paper work. He is going to

start, I think, in September with a hearing in Maryland. He will notify the committee.

That is my only problem with the amendment. We have to be sure that the school districts are in compliance with the civil rights laws. We also have to know if they are not in compliance. We should not hamper a Secretary from finding out about this. However, I do not think we need to go into this nationwide, very expensive, very cumbersome paperwork each school year for each and every school district in the Nation.

(Mr. MATSUNAGA assumed the chair.)

Mr. HARRY F. BYRD, JR. The Senator is right. It is very cumbersome, very heavy.

Mr. MAGNUSON. I have had these complaints from my own State. The Washington State superintendent of public instruction has personally talked to me about this. But still, as long as the law is there, the Secretary cannot be hampered in trying to gather information when and where he thinks there might be or where it is obvious that there has been some civil rights violation.

Mr. HARRY F. BYRD, JR. This does not affect that at all, I say to the Senator. HEW has just gathered the information. It has only been 2 months ago that this vast amount of surveys and forms has been returned. What we are trying to prevent is its being done again immediately, which the Senator himself says would not be desirable.

Mr. MAGNUSON. Certain hot spots which he will need to look at may crop up. That is my problem; I do not want to hamper the Secretary too much in his efforts to assure that school districts are in compliance with these civil rights laws.

Maybe something could be worked out that would keep within the Secretary's office the authority to make certain surveys under certain conditions if the need develops, without a complete, nationwide survey. He says he is not going to do another nationwide survey this year or, probably, not even next year.

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. I yield the floor.

Mr. BROOKE. Apparently, the concern of the distinguished Senator from Virginia, which others have as well, has been heard by the Department of Health, Education, and Welfare, because, as our chairman said, when Secretary Califano appeared before the committee, he gave us certain assurances. One was that, in future years, the elementary and secondary school survey would only be conducted every 2 years.

He also announced that increased technical assistance will be provided to schools which are required to fill out the forms in the future. Our committee, in its report—I direct the Senator's attention to our committee report on this bill.

Mr. MAGNUSON. On page 128 in the report, we direct ourselves to this.

Mr. BROOKE. The report has directed that the surveys be less complex and easier to fill out. The report also urges the Office for Civil Rights to cooperate more closely with the chief State school officers and local educational agencies.

The number of schools that will be required to fill out the annual survey form in future years will be greatly reduced and there is a good chance that there will be no major elementary and secondary school survey in 1977 and 1978, which concerns the Senator.

I ask the Senator, Will he agree to a modification of his amendment? That modification would be that "none of the funds appropriated or otherwise made available in this title shall be obligated or expended unless the Secretary determines such expenditures to be necessary for the elementary and secondary schools." Would this accomplish the Senator's desires?

Mr. HARRY F. BYRD, JR. I say to the able Senator from Massachusetts that I assume he feels it is necessary now or he would not be going through that.

Mr. BROOKE. I am not quite so sure. I think what has happened in the past is that that is a procedure which they have been doing. But I think we have a change in that procedure under the new Secretary. I think that, by directing him in strong report language such as we have included plus my suggested bill language, it would be much better. We could accept this amendment with that modification.

Mr. HARRY F. BYRD, JR. If I may say so, the reason I think it is necessary for Congress to take some action is this: The committee is sure that Health, Education, and Welfare will not make another survey of the same time for the upcoming year.

Mr. MAGNUSON. That is correct.

Mr. HARRY F. BYRD, JR. But I received a letter from Mr. Califano, dated June 13, 2 weeks ago. It says:

> The Department's current policies and plans with respect to the 101/102 survey of school districts for 1977 and future years are guided by my February 17 statement on this and related issues, a copy of which I enclose for your reference.

In that, he clearly says this:

> The Department has decided, 8 months in advance of the due date, that filing of forms 101 and 102 will also be required for the 1977–78 school year by 3500 school districts. The districts surveyed include the largest in the country plus a sampling of others in order to permit state and national statistical projections to be made.

Although this memorandum was prior to the April date, he mailed it to me on June 13, and he says it still stands.

Mr. MAGNUSON. Well, in his April testimony, he stated—I think frankly—we do not have the testimony here because it is thousands of pages long. He stated that he did not expect to do this. I hope that the Senator will take the suggestion not to bottle him up completely and I am sure that he will find that he will go along with the Senator's suggestion and will not do it unless it is absolutely necessary. But he would be derelict in his duty if he thought there might be some violations of the law, and he did not seek to gather the necessary information.

Mr. HARRY F. BYRD, JR. I say to the Senator from Washington, he is not doing it on that basis of any violation of law. He said himself he is going to require 3,500 school districts, at random, to complete the survey during school year 1977–78. That is 25 percent of all the school districts in the country.

Mr. BROOKE. Why can we not require that the Secretary certify to the committee 30 days before he intends to make any survey and his reasons therefor? Then we would be in a position to have oversight, if that is what the Senator is concerned about. We could do that.

Mr. HARRY F. BYRD, JR. It seems to me, I say to the Senator from Massachusetts, that HEW, unless it has some congressional restraint, is not going to cease harassing these school people with these tremendous paperwork burdens.

Mr. BROOKE. I think we ought not to have harassment. We ought not to have paperwork burdens, either.

Is the Senator's concern that the surveys have already been done in 1977? Is that his point?

Mr. HARRY F. BYRD, JR. Yes.

Mr. BROOKE. And that we ought not tc have any future surveys for 1977?

Mr. HARRY F. BYRD, JR. For this upcoming school year.

Mr. BROOKE. Why cannot we apply that?

Mr. HARRY F. BYRD, JR. It does. This applies to the whole school year.

Mr. BROOKE. The Senator is talking about 1977. I am talking about 1978. If the survey has already been taken in 1977, why cannot we provide that no funds can be used for surveys in 1977? Does the Senator follow me?

There might be a problem, as the chairman pointed out, if we were to tie the Secretary's hands entirely. There may be a necessity to take some surveys in some places, we do not know where. There is discretion for that. We say that, since surveys have been taken in 1977, there will be no further surveys with funds under this bill, that we will restrict these surveys from being taken in the calendar year 1977.

Mr. LUGAR. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. LUGAR. I concur with what the distinguished Senator from Virginia is saying, that, really, nothing less than the passage of this amendment will signal to HEW the disgust of school systems throughout the country with redundant paperwork.

I am as sympathetic as any Senator with the need for data for racial purposes, or for handicapped child purposes. That data is there. This amendment simply insures that HEW will not go through all of this during the coming year.

I was given no such assurance by Secretary Califano and we proceeded in a reasonable manner and got a bureaucratic brushoff. That is precisely what occurred to the Senator from Virginia.

The committee may have gotten some assurance that perhaps HEW would not do very much of that during the coming year, but the data is there to enforce the law now, and nothing less than a prohibition of HEW going through this for another year is going to get them to change it.

I think it is very important we vote on this, that we make certain HEW knows that the school systems of this

country are tired of this, and so is the Senate of the United States, representing a lot of people who feel the same way.

Mr. MAGNUSON. Will the Senator from Indiana yield?

Mr. LUGAR. Yes.

Mr. MAGNUSON. I hope the implication is not conveyed that the Senator from Indiana or the Senator from Virginia are the only ones around who are tired of this. I have had a great many complaints about this survey from the school superintendents of Washington State. There is no one more tired of paperwork down at HEW than the members of the Subcommittee of the U.S. Senate on Appropriations, and there is no one who dislikes paperwork more than that.

But there are also laws, civil rights laws.

Now, I do not want to tie the hands of someone who has the responsibility to enforce those laws. It is like saying to a prosecutor, "We won't let you find out the facts before you make the indictment."

Now, we have worked on this whole situation. We have worked hard; we are going to continue to work with HEW on it.

The paperwork is the plague of the country. There is no question about it, and we get it from HEW more than anywhere else.

However, some days I feel that if they do not want the paperwork, they could just say, "We don't want the money," and skip the Federal Government. But they will not do that, will they?

They do not have to take all this paperwork, they can just throw it in the wastepaper basket and not accept the Federal money.

Mr. STEVENS. Will the Senator yield?

Mr. MAGNUSON. But we are going to give them the money as part of our Federal aid to education.

But can we say to a Secretary that he cannot do anything in the compliance area for one particular school year?

I am going to vote for the amendment if the Senator from Virginia will modify it to the extent he can do it under certain circumstances.

Mr. HARRY F. BYRD, JR. May I say to the Senator from Washington, there is nothing in this amendment that prevents him from going to any school district and seeking information if he has reason to believe there is anything wrong in that school district.

All this says is to put that in it, send out these identical forms, these mass forms, mass surveys that take hours and hours of work.

Mr. MAGNUSON. I know all about it. It is not peculiar just to the Senator.

Mr. HARRY F. BYRD, JR. I understand that.

Mr. MAGNUSON. It is peculiar to every State, including the State of Washington. I do not like it.

But what I am trying to say is, let us stop the repeat of this massive survey in 1977–78, but let us not tie the Secretary's hands so completely that he cannot enforce these civil rights laws. The best way to do it is to put something in the amendment. Should we say the amendment does not intend to totally tie his hands? Let us say so.

Mr. HARRY F. BYRD, JR. The forms have just been submitted, less than 2 months ago. He wants the same forms submitted 10 months from that point. That is 8 months from now. That is not reasonable.

Mr. MAGNUSON. He says he is not going to do that.

Mr. HARRY F. BYRD, JR. That is only what he told the committee.

Mr. MAGNUSON. Why does the Senator not have in the amendment that he can report to Congress and we will stop it?

Mr. HARRY F. BYRD, JR. We have a means of stopping it tonight, with the Senate's support.

Mr. MAGNUSON. Stop everything tonight, sure. The trouble is that your amendment may be stopping too much.

Mr. HARRY F. BYRD, JR. No one is suggesting that. The Senator from Washington knows that.

Mr. MAGNUSON. I know, but there has got to be some information to the Federal Government.

Mr. HARRY F. BYRD, JR. We are talking about these precise forms—these detailed surveys. The Senator from Washington knows what we are talking about. He has seen them.

Mr. MAGNUSON. I have seen them many times; I know what they are. Many school districts in my State have complained about them and complained about them.

Mr. HARRY F. BYRD, JR. As the Senator from Indiana says, the only way to remedy the situation is for Congress to take some action.

Mr. STEVENS. Will the Senator yield?

Mr. MAGNUSON. I think we might take some action. I would like to vote for it, but I am afraid the amendment just ties the hand of the Secretary so he cannot do anything where he has the responsibility to do it.

Mr. HARRY F. BYRD, JR. It does not tie his hands at all in that respect.

Mr. STEVENS. Will the Senator yield?

Mr. HARRY F. BYRD, JR. Yes.

Mr. STEVENS. I have great respect for my friend from Washington, but, as I understand this amendment, it clearly says a school that completed this survey for this school year cannot be required to complete a survey for the next school year.

Not every school in the country did it. It just tells them not to go back to the same place this next year.

I would hope the Senator from Washington would accept that.

Mr. HARRY F. BYRD, JR. That is correct.

Mr. STEVENS. That is a reasonable thing. He has taken about a third of them. Here it says, "Don't go to the same school 2 years in a row when you have two-thirds more to go to."

If I understand the amendment of the Senator from Virginia, it does not bar them going to a school which was not asked to complete the survey in the last year; is that correct?

Mr. HARRY F. BYRD, JR. Any school that has not completed the survey during the school year 1976–77 can be required to complete and file that.

Mr. STEVENS. I say to my good friend, it seems to me when they have already gone through this, they ought to go to schools that have not been asked to comply before they go back to those that have done it.

Mr. MAGNUSON. I do not disagree with that.

Mr. STEVENS. It is very reasonable. The Senator from Virginia is saying, "Let's call the Secretary and tell him in this law he is not to do what he told us he would not do."

He told us he would not do that, I say to the Senator from Virginia, so why not put it in the law and say he cannot do it?

Mr. MAGNUSON. If the Senator from Virginia will make it clear that the Secretary is not prohibited from enforcing the civil rights laws, I could support his amendment.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. I guess the Senator might use the words, "is not prohibited in cases that he deems special," or words of that kind, to go ahead with a survey he thinks may be needed, or report to us when he is going to do it.

We can take the amendment and go to conference with it and carry it.

Mr. HARRY F. BYRD, JR. If Secretary Califano has told the committee he is not going to require completion during 1977–78, what is the objection to putting it into law then?

Mr. MAGNUSON. The only objection is the same objection about this whole bill. This is subject to a point of order, if I want to make it, but I am not going to make it.

Mr. HARRY F. BYRD, JR. May I say to the Senator from Washington, it would be subject to a point of order if I amend it as the Senator suggests I amend it, but it is not subject to a point of order as it is written now.

Mr. MAGNUSON. I do not think that will make it any different, but I do not want to do that. We are trying to legislate things here that, again, belong in a legislative committee.

I am sympathetic with this, but if the Senator will assure me there is no intention to stop the Secretary from investigating certain cases that he deems necessary, or words to that effect, I think we can go along with his amendment.

Mr. HARRY F. BYRD, JR. That is certainly my intent. I have no intention of stopping him from investigating cases in school areas where he has reason to believe there should be investigation.

All this says is that he cannot go out to vast numbers of school systems and require them to do exactly the same they they completed only 2 months ago.

Mr. MAGNUSON. I heard the Senator. I understand that. We are trying to stop that. I am worried about the other implications. That is all I am worried about.

Mr. JAVITS addressed the Chair.

Mr. MAGNUSON. Sometimes we can interpret language, but I want it clear in this dialog that he would not be precluded from doing things that he is required to do by law.

Mr. HARRY F. BYRD, JR. The only thing he would be precluded from doing by this amendment would be to go to the same school districts and require them to fill out the same forms that they just concluded filing 2 months ago.

Mr. MAGNUSON. For 1 year?

Mr. HARRY F. BYRD, JR. For 1 year, only for the upcoming school year. Only for 1 year.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. MAGNUSON. I yield the floor.

Mr. JAVITS. Is the Senator stating as a fact that the Secretary did or did not go to every school district for this survey?

Mr. HARRY F. BYRD, JR. The information I have is that he went to 16,000 school districts.

Mr. JAVITS. That is what I understand is the total.

Mr. HARRY F. BYRD, JR. Then he proposes, this upcoming year, to go to 3,500 of those, selected at random, and require that an identical survey form be filled out.

Mr. JAVITS. So that the statement made by Senator BROOKE is correct. He has gone to every school district and there are none left.

Mr. HARRY F. BYRD, JR. I say to the Senator from New York that that does not mean that all the school districts have complied. Those which have not complied—those which have not sent in the forms—will not be affected by this amendment, if it is adopted.

Mr. JAVITS. But we do not know tonight how many those are.

Mr. HARRY F. BYRD, JR. It does not make any difference how many there are.

Mr. JAVITS. It makes a difference whether there are a few or many.

Mr. MAGNUSON. I think there are 16,000 school districts in the United States.

Mr. HARRY F. BYRD, JR. They have to fill out these forms.

Mr. MAGNUSON. And the Senator from Virginia is suggesting that the ones which have done it do not need to do it again.

Mr. HARRY F. BYRD, JR. Do not need to do it again this coming year.

It means that those that did it last year will not be required to do it this upcoming year, just for the 1 year.

Mr. JAVITS. Is it not a fact that the survey of which the Senator complains is a survey for 1976–77 and that the survey he is seeking to inhibit is the survey for a totally different year, 1977–78?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. JAVITS. Is it not also correct that all these school districts complete the survey in order to qualify for Federal funds? In other words, they are getting Federal funds and that is why they are completing the survey. There is no law that says they have to do so. Many school districts reject Federal funds.

Mr. HARRY F. BYRD, JR. Any school district receiving Federal funds will have to complete the survey.

Mr. JAVITS. Exactly, and that is the most important argument of all. In other words, if we have civil rights laws, we have to monitor their enforcement, because we do not propose to give money for Federal aid to education unless the civil rights laws are complied with.

This is characteristic of what Senator MAGNUSON was talking about when he was talking about legislation on appropriations bills. We have managed to struggle through many of them, but this is a particularly sticky one, for the reason we are discussing. We do not know—we are flying absolutely blind. The Senator wants us to completely omit a school year in terms of this survey.

Personally, I do not like the paperwork business, either. Unless the Secretary could convince me—and I think it is true of my committee—that there is some real purpose to be served by this survey, I would be against it. But I know nothing tonight. We just have scraps of information as to whether he needs it or not, as to whether he has a legitimate case or not, as to whether the very broad language contained in the amendment—which, by the way, is not qualified, as the Senator says it is; at least, I do not read it that way. It just says:

> For the elementary and secondary schools civil rights survey, school year 1977–1978.

There is no qualification as to what piece of information you are going to get or not going to get or how much of it you will allow or will not allow.

So, Mr. President, it seems to me that one of two things can be done, I say to Senator BYRD, and I speak as a friend. I do not think I have ever been accused of trying to look for unnecessary work for anybody. We might do one of two things: We can leave it to Senator WILLIAMS and myself to bring in the Secretary. I am really shocked, and we have heard this many times before, where a Senator could not get the time of day from a Secretary. Senator WILLIAMS and I have done this before. We have gotten the Secretary up on the carpet very fast and we heard from him, and we made disposition of the matter in the right way. We can either do that: Let us undertake a solemn commitment to the Senator from Virginia to handle this, and we will have the help of the Appropriations Committee, as they have just said; or we can amend it to read as follows. We can leave the language as it is, but at least give us this protection:

> Unless the Secretary certifies to the appropriate committees of Congress 30 days in advance the necessity for such survey and reasons therefor.

We will have him by the neck, and we will find out what this is really all about, in some kind of intelligent way, instead of flying blind on this amendment.

Mr. HARRY F. BYRD, JR. Some kind of intelligent way? I do not think anything is unintelligent about this way. The Senator from New York does not have the facts. The chairman of the Appropriations Subcommittee just gave the facts to the Senate. The chairman just said that the Secretary of HEW told him that he was not going to use this survey; he was not going to use it for the upcoming school year.

Mr. JAVITS. If the Senator is taking the Secretary's word for it, what does he need the amendment for, with all the implications of the breadth of this language to inhibit him from any inquiry into the facts and figures?

Mr. HARRY F. BYRD, JR. I will tell the Senator exactly why. The Senator from Indiana has stated the case ably, but I will state it again, less ably.

On the 13th of June, I received a letter from the Secretary:

> The Department's current policy and plans with respect to the 101/102 survey of school districts for 1977 and future years are guided by my February 17 statement on this and related issues.

He enclosed his statement, and he said in the course of this:

> The Department has decided 8 months in advance of the due date that filing of the forms 101/102 will be required for the 1977–1978 school year by 3,500 school districts.

Then he goes on to say on the next page:

> No new questions will be added to the forms for the 1977–1978 school year.

This requires 3,500 school districts to do exactly the same thing that those school districts have just completed doing on the 30th of April of this year.

Mr. JAVITS. That is not completed. That is what I point out to the Senator. They have not completed doing the same thing, because they reported on a totally different year—to wit, the year past, not the year prospective. Yet, the amendment reaches the year prospective. That is exactly what we are arguing about. He is not reasking the same question.

Mr. HARRY F. BYRD, JR. He is reasking the same questions.

Mr. JAVITS. He is not. He is asking it for a totally different school year. I cannot understand how the Senator can reiterate that he is asking the same question. It is not about the same question.

Mr. HARRY F. BYRD, JR. He is asking the same questions for a different year.

Mr. JAVITS. He is going to ask them until kingdom come, so long as we say we want to put up any money so long as civil rights laws are obeyed.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. STEVENS. I thank the Senator.

Mr. President, I have great respect for the Senator from New York. There are schools in my State that would not survive without Federal funds. The Federal funds are provided because of a Federal responsibility—either to Indians, under the Johnson-O'Malley Act, or because of impact funds, or to military personnel in my State.

For the Senator from New York to say that because Congress provide funds to meet a Federal responsibility, we then can put on these kinds of strings and require redundant information year after year after year, to find out that school districts are not violating the law, not because OCR have any indication that they are violating the law, I think is what is leading this Government down the road to all this bureaucratic wasted paperwork effort.

I would urge the Senator from Virginia—and I do not get involved in these debates very often—to pursue this amendment. I have urged the managers of the bill to take it. I think it is a very responsible amendment to say that if you ask these people for information one year at least allow time to digest it first. There is no indication in this record if the Secretary has any indication that any school district is in fact violating the civil rights laws that he cannot ask them for specific information and get it.

But to send out a redundant questionnaire again to any one of these school districts that has just completed one, I think is foolish. I have another amendment, I am waiting here to offer an amendment, because of what I consider to be the really flagrant attitude, violent attitude, of this Office of Civil Rights in terms of the way they are dealing with States.

My State has submitted five different plans to comply with the requirements under the bilingual education portion of the bill. They have now threatened to bring my State into administrative court and have a hearing, despite the fact that all the State is trying to do is check out the last plan with the very people that the act was intended to benefit, the Indian, Eskimo, and Aleut people of the State.

We have asked for a little bit of time, and they will not give it. They have created a system of bureaucracy the audacity of which just staggers the American imagination, and I think it is time the Congress stood up and said, "We passed these laws to prevent people from violating the civil rights, not to give the bureaucracy the opportunity to time after time after time ask people who are obeying the law if they are in fact obeying it."

I am really upset to hear my good friend from New York saying that because we provide funds to meet a Federal responsibility, these bureaucrats have the right to continue to ask these questions.

I urge my friend from Virginia to persist in this, and again I say to my good friend from Washington, there is nothing wrong with this amendment, in my opinion, and I have sat with the Senator and chaired those hearings year after year and listened to these people as they develop more and more forms to create more and more jobs to review more and more forms to get more and more information and create more and more forms.

Now, somewhere we have got to draw the line, and I say this is it. Tell them they must develop information based on these forms as to whether anybody is in fact violating the law. If they are, we will back to the *n*th degree.

Mr. HARRY F. BYRD, JR. That is an excellent statement, one of the finest statements I have heard on the floor of the Senate, and I want to congratulate the Senator from Alaska for such an excellent statement.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I have the floor and I do not yield.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I will yield in a moment.

I yield to the Senator from Arizona.

Mr. DECONCINI. I would like to join the Senator from Alaska in urging the chairman of the subcommittee and the ranking minority member here to accept this.

I have listened to the debate and I have looked at the amendment very carefully. I think it is reasonable. I am not satisfied with the statement by the distinguished Senator from New York that he and his colleague, Senator WILLIAMS, will call the secretary in "on the carpet," and clarify this. I think there is more to that than meets the eye.

I, for one, am like the Senator from Indiana, and have yet to have a telephone call returned, a call of some 3 months ago, from the secretary. That is quite all right. It was not on this subject matter. But I think this is a realistic approach and a very moderate attempt to not thwart the Civil Rights Act. I hope the committee will see fit to accept this. I thank the Senator.

Mr. HARRY F. BYRD, JR. I want to point out that on page 128 of the committee report the appropriation for the Office of Civil Rights has been increased in this bill by $4,456,000, an increase of 15 percent.

This legislation now before us adds 100 new positions to this one office. And, as the Senator from Alaska said so ably, and the Senator from Indiana said so ably, and the Senator from Arizona said so ably, the Congress of the United States must be willing to stand up and be counted—to say to the people in these bureaucracies here in Washington, "You do not run the whole Government; you cannot de exactly what you want to do without any regard for the school officials, the schoolchildren, and the people of our Nation which you continually harass." I think it is time for the Senate and the Congress to take action, and this is one opportunity we have to take action.

There will be many, I realize, who will not vote for this amendment, and that is all right. But there are some who want to vote for it, and I think we should put this amendment on this bill. If we do not do that, the people in the school districts of our country are going to be harassed more and more as time goes by.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield now?

Mr. MAGNUSON. I have the floor. Will the Senator yield the floor?

Mr. HARRY F. BYRD, JR. I yield to the Senator from New York.

Mr. MAGNUSON. Is the Senator through?

The PRESIDING OFFICER. The Senator from Virginia yields to the Senator from New York.

Mr. MAGNUSON. He does not have to yield. He yields the floor.

Mr. JAVITS. I would like to take the Senator from Virginia and the Senator from Alaska (Mr. STEVENS) at your words. Will you add to this amendment the following, and I will read it very slowly:

Provided, however, That whenever the secretary has reason to believe that there may be a violation of the civil rights laws he may take an appropriate survey thereon.

Mr. HARRY F. BYRD, JR. That is totally unnecessary. Besides that, it would be susceptible to a point of order.

Mr. JAVITS. I do not think it is susceptible to a point of order any more than a dozen other things have been here.

Mr. HARRY F. BYRD, JR. No, the amendment is not susceptible to a point of order.

Mr. MAGNUSON. I want to say to the Senator from Virginia I do not like a Senator standing up and saying that the committee does not want to accept these things to stop paperwork. We are trying to do it, and we are doing the best we can.

I want to vote for the Senator's amendment. But the Senator is making it difficult. If the Senator would just accept this amendment, it will not hurt his amendment at all, we would be sure that what he and I had discussed here would be in the bill, and then we can accept it or everybody can vote for it and the Senator wins his point. It is not only his point but it is a point by everybody in the Senate. Why does not the Senator take that amendment?

The PRESIDING OFFICER. Does the Senator from Virginia accept the modification?

Mr. STEVENS. Mr. President, will the Senator yield? I might suggest to my friend from New York that he did not call my hand because I have no objection to his seeking information about a particular violation. I have an objection that upon information based upon a particular violation he decides to take a survey of 35 schools.

Mr. JAVITS. I agree.

Mr. STEVENS. If the Senator is talking about seeking information about that violation on which he has information I would urge my friend from Virginia to accept it.

Mr. JAVITS. That is what I mean.

Mr. STEVENS. But no more surveys grand scale.

Mr. HARRY F. BYRD, JR. That is what we are getting. That is not what I understood the Senator from New York to say.

Mr. JAVITS. That is what I said, and no more.

Mr. HARRY F. BYRD, JR. Does the Senator have a copy?

Mr. JAVITS. I will write it out.

Mr. MAGNUSON. That is what the Senator from Washington is suggesting, so we will do what the Senator wants to do.

I might say the Senator showed me that amendment earlier today and I thought it was a pretty good amendment. But we looked at it and there were these things where there might be some difficulty in interpretation, and

this amendment would clear it up, and we could all vote for it.

The PRESIDING OFFICER. Will the Senator from Virginia send the modification to the desk?

Mr. KENNEDY. Mr. President, I have just a very brief amendment that was going to be accepted which I would like to propose while the Senator is working out negotiations. Mr. President, if I could ask unanimous consent to set aside the amendment of the Senator from Virginia with the understanding that we will not take more than 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Probably less.

Mr. MAGNUSON. I object to that, Mr. President, setting it aside.

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from Massachusetts?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I ask unanimous consent, so we can get on with this bill, and it will just take about 2 minutes, that the Senator from Massachusetts be given the right to propose an amendment, and we will come back to the amendment of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I do not understand what the request is.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. I do understand that request.

Mr. MAGNUSON. I am requesting that temporarily we set aside the Senator's amendment.

The PRESIDING OFFICER. The unanimous-consent request is that the amendment of the Senator from Virginia be laid aside for 2 minutes to permit the Senator from Massachusetts to make a statement or call up his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, I have no objection, but I suggest it is very difficult to hear the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

UP AMENDMENT NO. 608

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 608.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, lines 14–15, strike out "$773,091,000" and insert in lieu thereof "$793,091,000".

Mr. KENNEDY. Mr. President, this is a very simple amendment.

Congress, in the Health Professions Personnel Act of 1976, declared that this Nation suffers from the maldistribution of health professions personnel, both as to geography and specialty. The program which will have the greatest impact on the problem of geographic maldistribution is the National Health Service Corps scholarship program. To do anything less than fully fund its authorization of $75 million is to neglect the urban and rural underserved areas.

By adding an additional $20 million, we can provide awards to about 7,500 students instead of 5,500 students.

Mr. President, I ask unanimous consent to print in the RECORD at the conclusion of my remarks table 1 reflecting these figures.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, this year because of the future physician needs, scholarships to other health professions students are limited to 50 awards for dental students, 40 to undergraduate nurses in baccalaureate programs, and 200 to students in some six other graduate-level nursing and associated health programs. The Public Health Service needs health teams for effective care to our underserved on Indian reservations, in urban ghettos, in migrant camps, and in small rural towns.

Mr. President, President Carter has called for the passage of national health insurance during his administration. He has proposed to have legislation ready for submission to the Congress by early next year. I am very concerned that one of the major problems which this Nation will face in implementing national health insurance will be the absence of trained health professionals in many of our urban areas and sparsely populated rural communities.

National health insurance will be a bitter pill to swallow for those millions of Americans who cannot find a doctor or a dentist when they need one. To avoid this problem, we must act now to train the health professionals we need and to help subsidize their education, which grows more expensive each year, in order that they will be ready to help provide high quality service to the people who will need those services the most. That is what the National Health Service Corps scholarship program is all about. The training of health professionals is lengthy and complicated. After completing undergraduate education, a young man or woman must then complete 4 years of undergraduate medical education, which is then followed by 3 or more years of residency training.

There is, Mr. President, a "pipeline problem" here that we cannot afford to ignore. It is essential in my judgment to fully fund the National Health Service Corps scholarship program into the foreseeable future. And, as chairman of the Senate Subcommittee on Health and Scientific Research, I intend to continue to impress the importance of this matter on the Congress and HEW.

Mr. President, I am hopeful that the distinguished chairman of the Labor-HEW Appropriations Subcommittee, my dear friend, the Honorable WARREN MAGNUSON, will find it possible to accept this amendment on behalf of the committee, and beyond that, I hope he will vigorously defend full funding for the scholarship program for the forthcoming conference with the House of Representatives. Senator MAGNUSON had the foresight at the beginning of this decade to author the legislation which led to the creation of the National Health Service Corps. His imagination and creativity is what has led us to this point in time when, with full funding, the corps can become the foundation upon which the American people can look forward to an adequate supply of health professionals committed to meet the health care needs of all of the American people. I call for the adoption of the amendment.

I talked to the chairman of the committee about it. It is primarily directed toward underserved areas in rural communities and inner cities. I also talked to the minority member. It is the program initially sponsored by the Senator from Washington, and he is very familiar with the program, and it would achieve the objectives of the Senator from Washington.

EXHIBIT 1

TABLE 1

Committee allowance: $55 million.
New awards—3,315.
Continuations—2,130.
Proposed amendment: plus $20 million.
New awards—5,295.
Continuation—2,130.

Mr. MAGNUSON. Mr. President, my colleague from Massachusetts and I feel that this particular amendment will be accepted.

We got fairly rushed on our time schedule, and we wanted to bring this up. We accept the amendment because I think that this is absolutely necessary in view of the legislation that has been passed since we had the hearings.

Mr. BROOKE. Mr. President, I support the amendment.

Mr. KENNEDY. I am prepared to yield back theremainder of my time.

Mr. MAGNUSON. I yield back the back the remainder of my time.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that we go back to the amendment—is he ready?

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I will not ask that. We can talk about it now.

The PRESIDING OFFICER. The Senate will be in order. The Chair cannot hear the Senator from Washington.

Mr. MAGNUSON. All right.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. The Senator from Kansas has an amendment, and if he presents it now I think we can dispose of it very quickly.

The PRESIDING OFFICER. Is there objection to the Senator from Kansas offering his amendment at this time?

Mr. JAVITS. Mr. President, reserving the right to object, as far as I know I am going to have to object to the amendment of the Senator from Kansas because it is on OSHA, and that is my problem.

Mr. HARRY F. BYRD, JR. Mr. President, can we finish the other amendment first?

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Mr. President, I ask unanimous consent that we go back to the Harry F. Byrd, Jr., amendment.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. We are back on that amendment.

Without the unanimous-consent request being agreed to, we are back on the Harry F. Byrd, Jr., amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

UP AMENDMENT NO. 609

Mr. JAVITS. Mr. President, I send an amendment to the Harry F. Byrd, Jr., amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes unprinted amendment No. 609 to the Harry F. Byrd, Jr., amendment No. 607.

Mr. JAVITS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. HARRY F. BYRD, JR. Mr. President, I wish to hear the amendment read.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. JAVITS. I will read it. I do not think he can.

The assistant legislative clerk proceeded to try to read the amendment.

Mr. JAVITS. Mr. President, I think it is just a matter of my reading my own handwriting.

Is it all right with the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) that I read the amendment?

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Senator from New York read the amendment. [Laughter.]

Mr. JAVITS. Mr. President, I will read it rather slowly to Members of the Senate.

At the end of unprinted amendment No. 607 add the following:

Provided, however, That whenever the Secretary has reason to believe that there may be a violation of the civil rights laws in a particular school system and so certifies, he may take an appropriate survey in respect to that particular school system.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment (No. 609) was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the amendment, as amended.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Senator from Georgia (Mr. NUNN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Senator from Rhode Island (Mr. PELL) and the Senator from Arizona (Mr. DECONCINI) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, as long as the Senator from Washington is going to accept the amendment, will the Senator from Virginia add me as a cosponsor?

Mr. GOLDWATER. Mr. President, I wish to be added as a cosponsor also.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Senator from Washington (Mr. MAGNUSON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. WALLOP) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Senator from Utah (Mr. HATCH), the Senator from Delaware (Mr. ROTH), the Senator from Wyoming (Mr. HANSEN), the Senator from Pennsylvania (Mr. HEINZ) ——

Mr. JAVITS. And me.

Mr. HARRY F. BYRD, JR. And the Senator from New York (Mr. JAVITS) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. All right.

Mr. STEVENS. Mr. President, can we void the yeas and nays now?

Mr. MAGNUSON. We do not want the yeas and nays.

Mr. STEVENS. Can we void the yeas and nays, I say to the Senator from Virginia?

Mr. HARRY F. BYRD, JR. Let us take the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. We do not need them.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHILES. Who objected?

The PRESIDING OFFICER. The question is on agreeing to the amendment, (No. 607) as amended.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend. The Senate will be in order. The clerk is unable to hear the responses. The Senate will be in order. Senators will please cease their conversations.

The clerk may proceed.

The rollcall was resumed.

Mr. FORD. Mr. President, may we have order? Will Senators clear the well, so that other Senators can see what is going on down there?

The PRESIDING OFFICER. The clerk will suspend. The Senate will be in order. Senators will please take their seats.

The clerk may proceed.

The call of the roll was resumed and concluded.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Mississippi (Mr. STENNIS), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT), is absent due to illness.

The result was announced—yeas 78, nays 11, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—78

Allen	Griffin	Muskie
Baker	Hansen	Nunn
Bayh	Haskell	Packwood
Bellmon	Hatch	Pearson
Bentsen	Hatfield	Pell
Bumpers	Hayakawa	Percy
Burdick	Heinz	Proxmire
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schmitt
Chiles	Javits	Schweiker
Church	Johnston	Sparkman
Curtis	Laxalt	Stafford
Danforth	Leahy	Stevens
DeConcini	Long	Stevenson
Dole	Lugar	Talmadge
Domenici	Magnuson	Thurmond
Durkin	Mathias	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Williams
Ford	McGovern	Young
Garn	McIntyre	Zorinsky
Glenn	Melcher	
Goldwater	Moynihan	

NAYS—11

Anderson	Cranston	Kennedy
Biden	Culver	Metzenbaum
Brooke	Hart	Ribicoff
Clark	Hathaway	

NOT VOTING—11

Abourezk	Metcalf	Stennis
Bartlett	Morgan	Stone
Gravel	Nelson	Weicker
McClellan	Scott	

So Mr. HARRY F. BYRD, JR.'s amendment, as amended, was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE and Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 610

Mr. DOLE. Mr. President, for myself, Mr. WALLOP, Mr. HANSEN, Mr. DOMENICI, Mr. THURMOND, Mr. HUMPHREY, and Mr. ALLEN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and others, proposes an unprinted amendment numbered 610:

On page 8, line 9, insert "(1)" after "unless".

On page 8, line 11, insert the following immediately before the colon: "and (2) the Administration consulted with the violator on possible actions to correct the violations as soon as possible after the initial discovery of the violations and the violations have not been corrected within a reasonable time".

Mr. DOLE. Mr. President, I have discussed this OSHA amendment with the floor managers. They find it not acceptable, but I can say to those in the Chamber that I plan to take only 2 minutes on the amendment. I think I can summarize it very clearly.

It just says that before an employer is fined, he ought to be consulted; he ought to have a chance to come into compliance. That is all my amendment says.

It seems to me it is a very important amendment. We have had debate here for 5 hours on a very delicate social issue abortion. I suggest to my colleagues that my amendment addresses a very delicate economic issue. It is very important to small businessmen and farmers all across this land.

I would suggest, Mr. President, that the amendment goes one step further than the language contained in the bill as a result of a House amendment. If an employer has 10 or fewer violations, the House language says you cannot impose any penalty unless it is serious or willful.

My amendment goes just one step further. If the employer should have 11 light bulbs out instead of 10, which could be the case, no penalties may be assessed against him if he voluntarily comes into compliance in a reasonable time. That reasonable time is determined by the Administrator. It is not an arbitrary limit set by the person who may not be in compliance. That is all the amendment does.

Mr. President, the amendment that I am proposing is in line with current thought about the Occupational Safety and Health Administration. No one disagrees with the premise of the Occupational Safety and Health Act which is that American workers should have safe places to work. The honest area of disagreement is on the proper method on achieving this goal.

The bill before us takes several steps to make the administration of OSHA laws less obnoxious to most businessmen and more workable. The bill, in both the House and the Senate Appropriations Committee versions, exempts from coverage under the act farms with 10 or fewer employees. This is an exception which the Senator from Kansas has long pushed for and fully supports.

The present language of the bill also restricts the issuance of penalties in first instance violations. This will provide businesses which are cited for minor violations some monetary relief. No penalty may be assessed in the first instance unless 10 or more violations are detected. I believe that this amendment goes part of the way in encouraging voluntary compliance by employers, but does not go far enough.

CONSULTATION BEFORE CITATION

The amendment that I have offered would require that before penalties are imposed for any first instance violation, OSHA must consult with the employer on possible methods to bring the plant into full compliance. If the employer corrects the violations within a reasonable time, the fine may not be imposed at all.

ADDITIONAL CONSULTATION NEEDED

This amendment goes one step farther than the committee approved language on first instance violations. Even if the employer has 10 or more violations, no penalties may be assessed against him if he voluntarily comes into compliance in a reasonable time. Those employers with multiple violations are precisely the ones who need the help the most in meeting OSHA standards. If the employer does comply within a reasonable time, my amendment would insure that he is not penalized for his efforts. Like the committee amendment, my amendment does not apply to serious or willful violations. Employers who allow these violations to occur will suffer the full consequences of their actions.

What I propose in increased consultation through which the owner of the business would have a better opportunity to voluntarily comply. It has been my observation that he would much rather do this than to have some Federal bureaucracy penalize before he has a chance to identify his shortcomings and act to correct them. I assure that the businessman would feel much better toward the Federal Government.

NO ADDITIONAL COST

This amendment would not require any additional appropriation in this bill. The funds are available for inspections performed by OSHA, $62 million of the total appropriation for OSHA of $136 million. Also, OSHA inspectors can offer advice to employers after issuing a citation if they wish. The only statutory prohibition is against consultation outside of the inspection process. The only change my amendment would make is that OSHA experts would be compelled to give advice and if this advice is followed, the employer may not be fined.

Since the money for inspections is available in this bill, the only possible impact on spending of this amendment would be to decrease the number of inspections made. The focus should not be on the number of inspections but on the increase in safe working places. President Carter has instructed OSHA to concentrate on substantial violations and major health hazards. Even if fewer inspections are made, the positive results of the inspections should be greater by removing more safety and health hazards.

AMENDMENT WOULD ENCOURAGE COMPLIANCE

The major compliance problem with the vast majority of businessmen is not an unwillingness to follow the regulations put out by OSHA, but an inability to know when a workplace is not in compliance. OSHA regulations, like most products of a bureaucracy, are not written to make compliance easy for the average employer.

IMPACT ON SMALL BUSINESS

Smaller-sized employers have a greater burden in trying to achieve full compliance with the act. For the smaller employer, economically unable to afford the specialized talents of safety and health consultants, on-site consultation may be the only way to secure assistance in meeting health and safety standards. The current situation where a citation is the only on-site contact an employer may have with OSHA experts merely emphasizes the punitive nature of OSHA rather than its stated goal of achieving greater safety in the workplace for all employees.

REGULATIONS HARD TO UNDERSTAND

The whole idea of this amendment is that we already have a rather sizable staff of Federal compliance officers available to perform inspections of business operations and cite them for any health or safety deficiencies. Since every successful businessman has at least a basic concern for a healthy and safe working environment for his employees, the great majority of those citations result simply from a lack of knowledge and understanding regarding the maze of OSHA regulations and requirements. OSHA regulations take up more than 1,240 pages in the Code of Federal Regulations. I can well understand the problems businessmen may have in interpreting these regulations.

REGULATIONS ARE OBSCURE

One example is the regulations on providing proper exits for employees in the case of fire or other emergency. These regulations apply to every business under OSHA's jurisdiction. These regulations take up five pages in the Code of Federal Regulations. Included in the definition of terms in this section is the definition on "exit discharge." This is defined as "that portion of a means of egress between the termination of an exit and a public way." I imagine that most members of this body would be hard pressed to find the "exit discharge" from the Senate chambers and most businessmen find themselves in a similar situation with their businesses.

AVOID COURT ACTIONS

Another way in which this amendment might encourage voluntary compliance is that employers who want to comply would not resist the entrance of OSHA inspections. Currently, numerous cases are pending in various courts concerning the right of OSHA inspectors to inspect a business without a warrant. If the employer knew that he could avoid a fine by complying voluntarily within a rea-

sonable time, the incentive to take OSHA to court would disappear.

IN LINE WITH PRESIDENT'S STATEMENT

President Carter and other members of the administration have recently voiced their discontent with the past actions of OSHA. The feeling is that the Agency should not be heavyhanded and focus on small, insignificant problems. President Carter has said that we need more emphasis on consultation, education, information, and voluntary compliance. He has proposed the same attitude be taken toward problems within OSHA that the Senator from Kansas is proposing in this amendment. Both of us want to have businessmen deal with OSHA on a basis which will encourage actions to make workplaces more safe and healthy. I believe that this amendment fits in with the President's publicly announced feelings on the proper role of OSHA.

RESULTS WOULD BE SAFER BUSINESSES

What we are saying is that OSHA can never really reach its ultimate goals without the element of acceptance on the part of those subjected to its numerous and complex standards. By changing the scope of the law's implementation to encourage compliance, we can realize much greater progress toward fulfillment of the Occupational Safety and Health Act's very purpose.

I am convinced, Mr. President, that advice and assistance are the keys to having any Federal program work. If we are to have an Occupational Safety and Health Act, it should be administered in just such a spirit as my amendment holds out. I hope that increased attention by OSHA to consultation which would be made possible by this amendment will be a significant contribution to the goals which we all seek, safer and more healthy places for all Americans to work.

Mr. President, the Senator from Kansas reserves the remainder of his time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, this amendment impresses me as unwise. In view of the new administration of the Occupational Safety and Health Administration, and the way the administrator is straightening out that agency and improving its procedures, I believe this amendment is most unnecessary. The law right now says to a violator who has less than 10 violations that he has a free ride, that there will be no penalty. What the Senator from Kansas now suggests is that the violator with more than 10 violations can get a free ride also. There is no threat of penalty at all, under this amendment. Then the amendment imposes another layer of enforcement, another inspection to see whether the violations have been abated within a specified period of time.

I find a lot of problems right there in requiring this return trip to see if there has been an abatement. I would suggest to the chairman of the Appropriations Subcommittee that this would create the need for a lot more staff—perhaps not a doubling of the staff—but substantially more staff to come back and check to see if there has been abatement.

What goes to the heart of the problem, as I see it, is that we are just expanding the opportunities for people to easily violate the law. Without the possibility of a penalty there would be no incentive to voluntarily comply with the law. If there is that possibility of penalty in this area, or in any area, people are stimulated to comply. The amendment reduces that possibility, and nearly eliminates it, as I see it, for first-instance violations, no matter how many violations are found.

We have a new administration of this program. One of the first things which has been done by the new administrator is the elimination of picayune, nonsensical citations and penalties. There is now no penalty assessed for violations of a very minor nature. OSHA will now only assess a penalty if the violation warrants a penalty of $50 or more.

It is a new shop over there. The administrator, Dr. Bingham, is doing a superb job in my judgment. And that is a critical judgment. I would think we would be unwise to start chipping away at OSHA. We should instead let the administrator have the opportunity to make this an effective agency which truly deals with the real safety and the real health problems of America.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. WILLIAMS. I yield.

Mr. KENNEDY. As I understand, there are only sufficient funds in this legislation for inspection of 7 percent of the plants and factories in this country, is that correct?

Mr. WILLIAMS. That is correct.

Mr. KENNEDY. The fact that only 7 percent of our Nation's firms can actually be inspected makes voluntary compliance essential. But this amendment can only discourage voluntary compliance. Why would an employer comply if he knew that the worst that could happen would be having to hear a lecture from a consultant? This amendment would deter voluntary compliance, and I join the Senator from New Jersey in opposing it.

Mr. MAGNUSON. Will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. MAGNUSON. Another feature is that in the Appropriations Committee we did increase substantiailly the amount of money for consultants, so they are readily available throughout the country.

Mr. WILLIAMS. And that money goes to the States. So there is consultation already provided by the law. As the chairman says, we already provide money to go to the States for consultation.

Mr. JAVITS. May I ask about one other point? This says if the violations have not been corrected within a reasonable time. The Senator, when he spoke, said that was up to the administration. I do not read it that way at all. A reasonable time is subject to all kinds of collateral attack. In my judgment, it is a major imperfection.

Mr. DOLE. Mr. President, the Senator from Kansas would add to the amendment "as determined by the Administrator."

The PRESIDING OFFICER (Mr. LEAHY). The amendment is so modified.

Mr. DOLE. That takes care of that argument.

It seems to the Senator from Kansas, who traveled around a lot last year but did not get much out of it [laughter] that one thing that concerns the American people and the American businessman is OSHA. Everywhere I went they asked me about OSHA. I have since studied it. I found out how difficult it was to be in business in this country. We have had all kinds of examples.

When I went to a businessman's convention, they told me they originally used wooden ladders then they had to change ladders because OSHA said you could slip from wooden ladders.

Then OSHA changed again requiring metal ladders. The then discovered metal ladders conducted electricity, and now they are changing back to wooden ladders.

Then there was the case on the construction site where they had to have backup alarms on their trucks and also wear earplugs. If a person was run over by a truck, because they could not hear they were in compliance but that person had still been run over by a truck.

It seems to the Senator from Kansas this amendment applies a little common sense, right in line with President Carter's directive.

It seems to the Senator from Kansas, there should be one more blow struck for freedom, one more blow struck for freedom for the small businessman who fills out paper until he is up to his ears We are not suggesting that repeating violators have any special benefit. If it is a willful or serious violation or a repeated violation, they should be fined. But if I have 11 light bulbs out instead of 10, what is wrong with OSHA suggesting to me that I put in the 11th light bulb before they fine me? There is a motto around here which says, "If it doesn't move, tax it and if it does move regulate it."

We ought to reverse that trend. I think it is a commonsense amendment. I believe we have made the case.

SEVERAL SENATORS. Vote! Vote!

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Kansas. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), the Sen-

ator from Montana (Mr. MELCHER), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 61, nays 27, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—61

Allen	Ford	Matsunaga
Anderson	Garn	McClure
Baker	Goldwater	Nunn
Bellmon	Griffin	Packwood
Bentsen	Hansen	Pearson
Bumpers	Hart	Randolph
Burdick	Haskell	Roth
Byrd, Harry F., Jr.	Hatch	Sasser
	Hatfield	Schmitt
Byrd, Robert C.	Hayakawa	Schweiker
Cannon	Heinz	Sparkman
Chafee	Helms	Stafford
Chiles	Huddleston	Stevens
Church	Humphrey	Stevenson
Curtis	Inouye	Talmadge
Danforth	Jackson	Thurmond
Dole	Johnston	Tower
Domenici	Laxalt	Wallop
Durkin	Leahy	Young
Eagleton	Long	Zorinsky
Eastland	Lugar	

NAYS—27

Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Javits	Pell
Case	Kennedy	Percy
Clark	Magnuson	Proxmire
Cranston	Mathias	Ribicoff
Culver	McGovern	Riegle
DeConcini	McIntyre	Sarbanes
Glenn	Metzenbaum	Williams

NOT VOTING—12

Abourezk	Melcher	Scott
Bartlett	Metcalf	Stennis
Gravel	Morgan	Stone
McClellan	Nelson	Weicker

So the amendment, as modified, was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, the Senator from Alaska has an amendment.

UP AMENDMENT NO. 611

Mr. STEVENS. Mr. President, I have an amendment at the desk which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 611.

Mr. STEVENS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, after line 20, insert the following:

"SEC. 211. None of the funds appropriated by this title to the Office of Civil Rights shall be available for use unless all hearings held by that agency, pursuant to section 1232(1) of title 20 of the United States Code are held at such time as would afford interested and affected parties an adequate and reasonable opportunity to review the matter upon which such hearings shall be held and to present testimony at the hearing.".

Mr. STEVENS. Mr. President, since March 1976, the department of education in Alaska has been embroiled in an administrative battle with the Office for Civil Rights involving an alleged violation of title VI of the 1964 Civil Rights Act as it relates to bilingual education.

Alaska has submitted five different plans to the Office for Civil Rights in an effort to comply with the requirement they imposed, and five have been rejected.

My State has been threatened with administrative hearings and a possible penalty of the loss of all Federal education funds. The State department of education has now reached a general consensus on a compliance plan with HEW, but they need more time to have the plan reviewed by the affected school boards.

The Office for Civil Rights has refused to date to grant the extension of time and still insists on a full blown administrative hearing on July 20. We feel this hearing is too soon.

The people who are affected, the regional school board people, the village people, are out hunting and fishing. This is the time they are away from their homes.

They insist on having this plan approved before July 20 and it would be impossible. These people cannot get back to their villages by July 20.

My amendment is an effort to delay the hearing until the affected school districts and board members have had an opportunity to review the plan.

But it has more general application because it requires that in all administrative proceedings to enforce this portion of the civil rights act adequate time be provided for affected individuals or entities to review the proposed action.

As the Senate knows many residents of Alaska still live off the land, depending for their survival on hunting and fishing. If the hunting and fishing seasons are bad they face very serious deprivation. That is the situation of many of the board members who must review this compliance plan that HEW is forcing on the people of Alaska; They are presently out fishing or hunting for the food they and their families will need to live through the next year. They simply do not have the time to come back to town and sit down to review this plan. The choice is to deal with some bureaucrat in Washington or to have enough food to survive next winter and I think given that choice most Senators would opt to go hunting or fishing.

All they ask is a reasonable delay into the fall to permit these people to review the plan, talk to the parents of the schoolchildren who will be affected, and carefully consider it. HEW says no; they have to decide now—before July 20. The truth of the matter is they simply cannot decide by then. Therefore Alaska is faced with the problem of going into a hearing that they really only want delayed.

The State board of education met yesterday and I am informed that that board expressed no real reservations about the substance of the plan. They want to comply and do not seek to avoid the requirements of the law. Indeed, they passed several resolutions taking steps the plan requires, including seeking added funding from the State legislature and beginning the assessment process. But the State board does not object very strongly to this effort to push the plan through without adequate review. The Board has asked for a delay—at least until fall—so they can promulgate the proposed plan as a regulation, hold public hearings on it and get the views of the school board members and the public who will have to live with it. This is not too much to ask.

My amendment would provide them that time. I would require adequate time for affected parties to consider the plan. It is only reasonable that OCR recognize that a plan must have broad approval if it is to be complied with.

I have discussed this with my good friend from Washington and I am going to rely upon his statement. I understand he will make a statement that he will assist the State of Alaska this time, as he has in the past.

Mr. MAGNUSON. I understand that situation up there. We have the same problems in Seattle.

We have talked to the Director of the Office of Civil Rights and we have assurances from him—and I have no reason to believe he will not carry it out—that they will accommodate the State of Alaska and postpone this for a reasonable time.

I did not ask the exact date.

Mr. STEVENS. All we ask is a reasonable delay, Mr. President.

I am not going to press the amendment at this time, but we will be back before the 20th, and if that date is not extended, I will offer an amendment to the first bill that comes through this Senate after the recess.

Mr. MAGNUSON. Be assured we will get hold of him if he does not live up to it.

Mr. STEVENS. I thank the Senator.

Mr. President, I ask unanimous consent that a letter from the Commissioner of the Department of Education, and two telegrams dealing with this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF ALASKA,
DEPARTMENT OF EDUCATION,
Juneau, Alaska, April 15, 1977.

Hon. TED STEVENS
U. S. Senate
Russell Building, Washington, D.C.

DEAR SENATOR STEVENS: As you are undoubtedly well aware, Alaska is currently embroiled in an administrative enforcement proceeding with the Region X Office for Civil Rights over an alleged violation of Title VI of the Civil Rights Act, as it relates to Bilingual Education. In March of 1976 the Alaska Unorganized Borough School District was determined by OCR to have failed to adequately assess the language dominance

characteristics of its students, a process necessary under the Lau Remedies.

When OCR indicated that the finding of non-compliance would be transferred to each of the REAA's in an unprecedented determination of school district (REAA) noncompliance without investigation, the Department of Education interceded in behalf of the REAA's to obviate the necessity of each of the 21 new districts being obliged to spend their formative months devoting all their resources toward the development of individual compliance plans. My intent was, and remains, to develop a broad Lau Compliance Plan for all school districts in the state to address all inequities in classroom instruction that districts could, at their option, adopt for implementation.

We have been attempting to bring this notion to fruition since August of 1976, and it now appears that we need your assistance. OCR has rejected five successive proposed plans. The agency remains adamant in its refusal to accept our language assessment process even though it cannot suggest an alternative and in spite of the fact that some of the most highly respected linguistic and bilingual education scholars in the nation endorse our process as being as valid and effective as any they have seen. Additionally, a comparative analysis of two compliance plans found by OCR to be acceptable and Alaska's plan reveals that Alaska's plan, in the judgment of several senior faculty members of Stanford and Berkely, is superior to both of the other plans in many areas, and in terms of fulfilling the requirements of the Lau Remedies, at the very least, Alaska's plan exceeds one and comes close to the other. This leads me to conclude that Alaska's plan is being held to capriciously higher standards than those applied to other plans. We will soon have incontrovertible documentary evidence substantiating our contention that in view of the plans heretofore accepted by OCR, Alaska's plan is clearly acceptable and meets the requirements of the Lau Remedies.

At this time in the Administrative Enforcement proceedings we are rapidly approaching the hearing process. We are bending every effort to resolve the differences between OCR and the Department to spare the REAA's the financially burdensome hearing, but OCR's inflexible position concerning our assessment process and the agency's casual treatment of our last plan leave us no recourse but to seek your assistance. We submitted our last plan on March 11. OCR indicated at that time that their comments on the plan would be forthcoming within 10 days. It has now been five weeks and we still have not received those comments. We are powerless to act in a fashion that will bring a speedy resolution to both the enforcement proceedings and the attendant deferral or district funds until we receive some cooperation.

On behalf of the school children of this state I would deeply appreciate any assistance you could render in this matter.

The persons with whom we have been working in OCR are Virginia Badlerama and Lynda Baril. Thank you for your assistance and interest in Alaska education.

Sincerely,

MARSHALL L. LIND,
Commissioner of Education.

[Telegram]

JUNE 23, 1977.

Mr. DAVE TATEL,
Director, HEW–Office of Civil Rights, Washington, D.C.

Understand administrative hearing on Alaska's implementation of LAU requirements is set for July 20. Urgently request delay until September 1.

The proposed compliance plan cannot be acted upon until late August. Regional schoolboard members have dispersed for summer and cannot be assembled to review plan. Also am told your office has not yet completed terms of consent agreement.

July 20 hearing date will require attorneys and superintendents to prepare for hearing and challenge plan. This seems unnecessary in view of tentative agreement between you and DOE. Trust you recognize need for delay.

TED STEVENS,
U.S. Senator.

[Telegram]

Mr. DAVE TATEL,
Director, HEW–Office of Civil Rights, Washington, D.C.

Regret your busy schedule for the last two days has precluded our communicating. Extremely important the respondents in noncompliance administrative enforcement proceedings be granted extension of administrative hearing date until September 1. As you know, OCR and DOE have reached tentative agreement on compliance plan, but many REAA boards have adjourned for the summer. In some cases boards will not meet until mid to late August and due to remote nature of subsistance activity locations members cannot even be contacted. The boards will need time to meet, review the plan and consent agreement and solicit input from communities. If no extension is granted, attorneys and superintendents will be forced, due to time constraints, to prepare for hearing, or file injunctions, rendering substance of negotiated plan meaningless and moot. Additionally OCR still has not completed the terms of the consent agreement. There can be no final settlement until the board has been afforded the opportunity to carefully consider that to which it is being asked to bind itself. In any case, the state board will be reluctant to agree to final settlement until the districts have had the chance to review both the plan and agreement memorandum.

MARSHALL L. LIND,
Commissioner of Education.

Mr. STEVENS. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

SEVERAL SENATORS. Third reading!

Mr. MAGNUSON. I do not know of any further amendments.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HARRY F. BYRD, JR. addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the total amount of this bill is much too large, I shall vote against it.

It calls for budget authority of $60.7 billion, exceeding the President's request.

And bear in mind, the $60.7 billion in this bill does not include the expenditures of trust funds such as social security. Everything in this legislation comes from the general funds of the Treasury.

It will make a major contribution to the inflationary $65 billion deficit which is projected for the year beginning October 1.

It represents an actual increase in spending by the Department of Health, Education, and Welfare of 12 percent over the current year. In dollars, it will mean almost $6 billion of additional spending.

Enactment of this bill will result in a 76.4-percent increase in HEW spending over fiscal year 1974, and a 222 percent increase over fiscal year 1970.

Let us look at some of the increases which the bill contains over fiscal year 1977—the current year.

Health care systems are up $148 million, or 74 percent.

Education for the handicapped is up $173 million, or 37 percent.

Child development is up $180 million, or 35 percent.

The National Institute of Education is up $19 million, or 27 percent.

Aging programs are up $96 million, or 24 percent.

Title I education programs are up $450 million, or 20 percent.

Bilingual education is up $20 million, or 17 percent.

Higher education is up $289 million, or 9 percent.

These huge increases are only examples, but they add up to more than $1.37 billion.

The Department of Labor also benefits in this bill from an increase of $722 million or 14 percent. This figure results from discounting fiscal year 1977 for the economic stimulus appropriation and the advances to the unemployment trust fund and other funds.

Now I can well imagine what will be said to me as I cite these figures:

"Senator, how can you be so cruel? How can you be against children? How can you oppose education? How can you speak in opposition to health care?"

The answer is that I am doing no such thing.

To oppose enormous increases in programs is not to oppose the programs themselves.

What I am trying to bring to the attention of the Senate is that the bill before us represents runaway spending—an abdication of fiscal responsibility.

The goals of the programs in this bill are to relieve hardships. But the fiscal excess it represents is the cause of our enormous deficits—and those deficits, mounting year after year, are the main cause of our high underlying rate of inflation.

And what is inflation? Inflation is a tax—a cruel and hidden tax, which hits hardest those on fixed incomes and those in the lower and middle income brackets.

There are many worthwhile programs included in this bill. They deserve to be continued.

But they must be continued within the means of the people who pay taxes—the hard-working men and women of this country who represent the only real source of Government revenue.

At the end of each month, most American families find it necessary to reckon up accounts and put off some desirable purchases for another day.

In like fashion, the Congress should take account of the financial situation of the Government and put off for another time those increases in programs which are beyond the real fiscal capability of the country.

Because of the excessive spending

which this legislation embodies, I am compelled to vote against it.

I ask unanimous consent that a table showing the history of appropriations for the Department of HEW be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

History of Appropriations

[Dollars in thousands]

Fiscal year	Appropriation
1970	$17,105,875
1971	21,238,828
1972	26,524,727
1973	31,183,385
1974	31,260,898
1975	37,019,730
1976	43,805,392
1977	49,335,964
1978	*55,115,948

* FY '77 appropriation reduced by $1.5 billion to reflect carry-over of these sums to FY '78 and are included in this year.

ADDITIONAL STATEMENTS SUBMITTED

Mr. KENNEDY. Mr. President, I want to express my support for many of the provisions of this bill, and commend the distinguished Senator from Washington for his continued support for so many vitally important social programs contained in this legislation.

While I hope the committee will maintain a close watch in some areas in the event that a subsequent supplemental appropriation is necessary, I want to express my accord with many of the actions taken by the committee. I am particularly pleased that additional appropriations were provided in a substantial number of programs in which I had expressed my own views to the committee.

EDUCATION

The overall actions of the committee in the area of education deserve special recognition, $324 million in appropriations is recommended for emergency school aid, nearly $30 million over the House allowance and the budget request. The additional funds for magnet schools are especially heartening to me, as this is a provision I sponsored in the authorization bill. This program has been given strong support by many communities and educational authorities, as well as the U.S. Civil Rights Commission.

Boston, and other communities cited in the committee report, desperately need these funds to improve the quality of their educational programs.

The committee also took note of the special needs of children with limited English-speaking ability. The committee has recommended $135 million for this bilingual education program, nearly $20 million over last year's appropriation.

While I applaud the recommended appropriation levels for education in this bill, I am deeply concerned with the Eagleton-Biden amendment as it utilizes a long disapproved practice of legislating on an appropriation measure.

This amendment bypassed the legislative initiative process that traditionally guarantees an opportunity for issues to be heard, considered with all points of view having been expressed. This process must not be circumvented by Members of Congress.

In recent months, the President and Congress have reaffirmed the U.S. position for worldwide human rights. The Eagleton-Biden amendment raises a serious question about our human rights position both at home and abroad. If we can pass joint resolutions in Congress mandating our negotiators in Belgrade to stand firm on the human rights issue, we should be consistent and defeat any acts which would decimate the implementation of desegregation in our public schools at home.

Further, the Eagleton-Biden amendment raises serious constitutional questions and conflicts with title VI of the Civil Rights Act of 1964. As well, this amendment will severely limit HEW discretion to require innovative solutions to desegregation cases.

In Massachusetts, Federal funds have eased the desegregation process and enabled educators to bring in resources that have significantly impacted on the process of desegregation. These funds have better enabled us to address the needs of our students and staff, in such areas as basic skills, guidance and counseling and in-service training for teachers. The availability of Federal funds has encouraged broader parent participation in the educational process. We cannot allow this type of educational growth and development to be stunted.

For these reasons, I joined with my colleagues who voted to strike the Eagleton-Biden language.

ELDERLY

The elderly fared well in this appropriations bill, $200 million is provided for community service employment for older Americans, a $50 million increase over fiscal year 1977. I know that the Senate conferees will stand firm on this figure. These funds will provide 50,000 job opportunities for the elderly. My colleagues know that it is a highly successful program, which not only provides employment and training for older Americans, but also valuable services to the community.

I am particularly pleased with the increased appropriation for the nutrition for the elderly program.

It has been 6 years since I sponsored legislation to establish this program. At that time I stressed the extraordinary need for the title VII program. I pointed out that a significant percentage of the then 20 million elderly Americans live on meager income and that for these elderly citizens the final chapter of their lives was a bitter struggle for survival, one that was virtually ignored by the vast majority of our fellow citizens.

The title VII program has played a role in brightening the dreary picture I presented 6 years ago. Today, this program provides approximately 400,000 meals daily to elderly Americans. Today there are more than 800 title VII projects and 6,150 congregate meal sites throughout the country. The title VII program has been a most successful venture providing not only meals but social contact and an end to isolation for many of our elderly.

We still have a long way to go, however. The elderly population of 20 million that I spoke of in 1971, has increased to over 30 million, and of that number many millions still live in poverty. The demand and need for the title VII program is more apparent than ever. This is why I am pleased to see that the Appropriations Committee has increased title VI funds for fiscal 1978 to $250 million.

Mr. President, I think it is important, at this time, to emphasize our intent that all moneys appropriated for title VII in fiscal 1978 be obligated and spent in fiscal 1978. I make this point because, in the past, the expenditure of title VII moneys has been delayed. Initially this approach may have been acceptable since title VII began as a forward-funded program. However, in the past 3 years, we have made it clear that title VII appropriations are not to be forward-funded, but rather, appropriations for a particular fiscal year are to be obligated and spent in that year. It is crucial to reiterate this intent once again: The $250 million we are appropriating for title VII fiscal 1978, is to be obligated and spent in fiscal 1978.

This means that HEW and the Administration on Aging should allot title VII fiscal 1978 appropriations immediately after passage of this bill. Similarly, State offices on aging should obligate their fiscal 1978 allotments as soon as they receive them. Finally, local projects, to which fiscal 1978 moneys have been obligated, immediately should begin spending these funds by providing hot meals to the elderly. In addition, while all moneys appropriated for title VII prior to fiscal 1978 should have been obligated and expended, certainly, by the end of fiscal 1977, to the extent that such funds remain unspent, they too must be used in fiscal 1978. This program provides valuable, and in some cases, life-sustaining benefits to many of our senior citizens. These benefits should not be limited by the failure to use available title VII moneys.

HEALTH

The Subcommittee on Health and Scientific Research, which I chair, will be undertaking a major review over the next 2 years of the public health services act. The present appropriations bill funds these programs at a level that will enable them to continue a current services operation until we finish this review. There are many good programs under the PHS Act and I am hopeful that during this review we can explore adequately their needs and their effect on a national health insurance program.

The bill now pending addresses the needs expressed in Public Law 94-484, the Health Manpower Act. This law takes effect in fiscal year 1978. In it there is the opportunity for the first time, to effectively combat the health manpower problems which beset the Nation.

The Health Subcommittee will also in the next year be looking closely at the research community. Our efforts in this area need to be revitalized. We have begun hearings in this area and hope to introduce legislation this fall.

COMMUNITY SERVICES ADMINISTRATION

The final area—one that I believe deserves greater attention—is the Community Services Administration.

I had hoped that increased funds for Community Economic Development under title VII of the Community Services Act would have provided. The program now supports 39 special impact projects through the Community Development Corporation mechanism. CDC's from across the country have contacted me to express their strong support for this program which encourages the development of economic enterprises in communities with a high concentration of poor. We should continue to carefully evaluate this program and, if successful, provide supplemental appropriations.

Another program, administered by the Community Services Administration, has been highly successful at providing desperately needed services for our Nation's poor. That is CSA's weatherization program. This program holds out substantial potential for conservation, a point recognized by the committee when it agreed to provide $82.5 million in this year's supplemental appropriations bill. The bill before us today provides $65 million for this program; the House bill provides $45 million. I should point out that the case for keeping this program under the Community Services Administration is strong. CSA provides a decentralized approach—the funds can be distributed quickly to the people who need them most.

I am hopeful that the Senate conferees will remain firm on this point, and provide CSA the primary responsibility for administration of the program.

Again, Senator MAGNUSON and his colleagues on the committee must be commended for their determined efforts.

Their work has provided an appropriations bill which will continue strong support to important social service programs. I urge my colleagues to support this bill.

Mr. GLENN. Mr. President, after 2 full days of extended and controversial debate we are about to vote on final passage of this massive bill. I would like to express my support for this bill and to comment upon several of the key labor, health, and education features of the bill that perhaps have been lost sight of in the heat of debate over abortion, busing, and other emotional issues.

The bill provides funding for 1,500,000 summer youth jobs, a continuance of our efforts to deal with the protracted problems of youth unemployment.

H.R. 7555 provides ample funding for community health services such as maternal and child health grants to States, expanded assistance with respect to the sudden infant death syndrome, hypertension, and more. Also in the health assistance area H.R. 7555 provides continued strong support for NIH research institutes, preventive health projects, alcohol, drug abuse, and mental health as well as funds for health planning, student assistance, and public health projects and traineeships. Also, specifically, I commend the committee for its work and support that offers hope of further progress in combatting cancer, heart disease, diabetes, and other debilitating diseases and afflictions.

In the educational area, this bill provides strong support for elementary and secondary schools, particularly in title I funds, which are badly needed for disadvantaged students located primarily in the inner cities. H.R. 7555 also supports education for the handicapped, library resources, and higher education. In the higher education area, the bill strongly supports the basic opportunity grants and student loan financial aid programs. I am particularly pleased at the high funding levels for emergency school aid and particularly for my provision authorizing assistance for development of magnet school programs. I am particularly hopeful that a substantial amount of this ESAA aid will go to the large number of school districts in Ohio undergoing school desegregation. Of course, I am referring to large cities such as Cleveland, Columbus, Dayton, and Cincinnati as well as smaller communities such as Warren and Lima.

I also strongly support the committee's support of the Head Start program. I am hopeful that some of the recommended increase will go to those communities in southeastern Ohio they are losing ARC child development funds this year.

In other areas, I support the CSA funding provisions and of course, the funding for aging programs that is in the committee bill.

THE FISCAL ISSUE

Mr. President, I am aware that there is at present considerable controversy over the funding levels sugested by the President as opposed to the recommendations of the Congress. I understand fully the need for fiscal restraint. However, this bill is within the spending levels of the first concurrent resolution. Surely there are areas of this bill that may be cut. However, Congress should not accept a meat-axe approach to cuts and I am confident that the conferees and the administration will reach a fair, equitable, and meritorious understanding on this issue.

OTHER ISSUES

Mr. President, my views on many of the other issues in this bill appear elsewhere in this debate. In general, I have resisted efforts to use this appropriations bill as a means of modifying civil rights laws and of deciding the merits of grave constitutional questions. This continued practice is bad practice and bad public policy.

I commend the chairman of the Labor/HEW Appropriations Committe, Mr. MAGNUSON, and the distinguished ranking minority member, Mr. BROOKE, for their hard work, dedication, and perseverence in mananging this bill. I urge its passage. It is a good bill for Ohio and for the Nation.

FUNDING OF HEW ENTITLEMENT PROGRAMS

Mr. CHILES. Mr. President, I think the committee has made a serious error in changing its normal practice and budgeting HEW's entitlement programs out of savings from a prior year. To follow normal practice of 1-year funding, we would have to add $800 million of budget authority for public assistance and $500 million for supplemental security income. We would also have to remove the bill language allowing unexpended funds from fiscal year 1977 in those accounts to be carried forward into fiscal year 1978. We really ought to reflect the actual costs in this year of these programs, and to close a budgetary loophole. I recognize that during any year we are likely to have reestimates up or down for entitlement costs, and the budget process lets us take care of those in a second resolution. Nor does it seem objectionable to me to take advantage of cost savings in the year they occur.

I do think it is misleading to apply cost savings from 1977 to the 1978 bill. We add up the budget authority in this bill and tell the public we are spending $60.6 billion. We are actually spending $1.3 billion more than that. When we go to make up next year's budget, we are going to work off the higher cost base of $62 billion.

One of the reasons for creating the congressional budget process was that in the past we had no total accounting for what all the appropriations bills and other spending measures added up to. For 3 years now we have been able to give an accurate picture of the cost of legislation. We have criticized presidents from both parties when they submitted unrealistic figures or tried to make the deficit appear lower by juggling estimates. I think the Budget Committee has a responsibility to get involved any time bad estimates or questionable accounting procedures cause a misleading impression.

It turns out that this is a problem affecting several appropriations bills, not just Labor-HEW. Entitlement funds are provided on a carryover basis for veterans' programs and for Department of Agriculture nutrition programs. We have a particular problem with HEW, because the Committee has departed from its normal practice in funding these programs, and thus created confusion in comparing the appropriations bill to the budget resolution and to the President's budget. The Appropriations Committee's March 15 report to he Budget Committee was prepared on the assumption of requiring 1978 funds for 1978 costs, and the budget resolution was developed on that basis. Now in midstream the Appropriations Committee is creating a loophole by changing accounting procedures. HEW strongly opposes this change, because it creates accounting difficulties for the Department as well as giving a misleading impression of costs.

As I mentioned, there is a potential problem in other bills as well, but the other subcommittees have followed normal practice so there has been no problem this year except in HEW. I hope that before next year both the Appropriations and Budget Committees will go into this issue in depth and much as possible put all entitlements on a 1-year funding basis. I hope at this point I can get the assurance that the chairmen of the Appropriations Subcommittees involved and that the chairman and ranking member of the Budget Committee will join in this effort.

Mr. MAGNUSON. The Senator from Florida knows that our intent at the subcommittee was not to mislead anybody, but just to take advantage of cost savings that seem to be occurring. I do see that carrying over cost savings from one year to another could cause some confusion. Now that we have discussed this, since the Senator from Florida has raised the issue at Appropriations Committee, I think people are less confused about where the money is coming from and what the costs actually are. I am glad that Senator CHILES has pointed out that no-year funding of entitlements is a practice followed in other bills as well as Labor-HEW. I think all the bills ought to be treated in the same way to be fair. I will be happy to work with the Senator from Florida, with the other subcommittee chairmen, and with my colleagues on the Budget Committee to try and come up with a uniform system for next year.

Mr. CHILES. Mr. President, I am pleased to have the assurances of my distinguished colleagues on the Appropriations and Budget Committees that we will correct this situation. I think the Appropriations Committee and the Congress deserve praise for living within the budget ceilings since the budget process went into effect. We have made many hard choices and we have gained a lot of public credibility for doing so. I am pleased to see recent figures showing that public opinions about Government economic policy have climbed steadily from their low level in February 1974. It seems to me that the Congress ability to set an economic policy and a total spending level, and then to live within that policy, have played a major role in changing public opinion. However, while public confidence is improving, it is still not very good. Only 20 percent think Government is doing a good job on economic policy and 57 percent think it is only fair. Leaving ourselves open to criticism from the administration that we are playing numbers games is no way to improve confidence.

Mr. BELLMON. Mr. President, the Senator from Florida raises an important concern. Rolling forward unused budget authority from fiscal year 1977 to 1978 as is proposed here will create confusion about the levels of spending for AFDC, SSI, and medicaid. This will depart from the established practice in these programs. The statement on page 115 in the committee report that there is "ample precedent" for this roll forward is misleading. My staff has talked with GAO and HEW about this. There has only been one case that even remotely resembles what the committee recommends. That involved use in fiscal year 1974 of $600 million in supplemental public assistance funds appropriated late in fiscal year 1973. HEW tells us that experience created confusion with the States and even between the executive branch and Congress, and that they went back as quickly as possible to the practice of canceling out unused budget authority at the end of the fiscal year.

Mr. President, there is plenty of budget authority available to the Appropriations Committee under the first budget resolution to cover these programs. There is no real reason for us to distort the fiscal year 1978 picture by carrying over unused budget authority from fiscal year 1977.

Admittedly, there are other programs in which budget authority has traditionally remained available until used, but the practice of canceling out unused budget authority at the end of each fiscal year and having each new year stand on its own is both established practice and eminently sensible for programs of the type we are dealing with here.

I would like to ask Senator CHILES a few questions to make sure we have a clear understanding of the problem he raises.

Would you say that the change the Appropriations Committee proposes will make it harder for Congress to have a clear picture of growth in medicaid and public assistance spending from year to year?

Mr. CHILES. Yes; funding entitlement programs on other than a 1-year basis will make it difficult to see the year-to-year changes. It will obscure them in two ways. This year, when we have a carryover, the bill underestimates the costs by $1.3 billion. Next year, if we have no excess to carry over, the cost increase will look $1.3 billion larger than it actually is.

Mr. BELLMON. Will the Appropriations Committee's approach save the Federal Government any money?

Mr. CHILES. No; the actual cash outlays will be $1.3 billion higher than the new budget authority appropriated.

Mr. BELLMON. Assuming the position of the Appropriations Committee is ratified by both Houses after the conference on this appropriation bill, what do you think we should do about this when we come to the second budget resolution in September?

Mr. CHILES. I would hope we will follow the request of the Secretary of Health, Education, and Welfare and that the conference will keep to the normal practice and not adopt carryover funding. Should the conference adopt carryover funding, I would hope that the second budget resolution would reduce budget authority accordingly. As I mentioned in my statement, the Appropriations Committee's March 15 report did not mention carryover funding, and the budget resolution totals were developed on the assumption that we would need 1978 budget authority for 1978 costs. In the past we have always increased the second budget resolution to reflect uncontrollable cost increases in entitlements, so we should certainly do the same when we get a decrease.

Mr. BELLMON. I again commend Senator CHILES for raising this concern. If there is not some change on this matter as a result of the conference with the House, I believe the Senate must reduce the budget authority available to the Appropriations Committee by the $1.3 billion rolled forward from fiscal year 1977 when we act on the second fiscal year 1978 budget resolution in September. As ranking minority member of the Budget Committee, I shall certainly advocate such a reduction.

Mr. MUSKIE. Mr. President, the confusion over the meaning of the funding levels for certain programs in appropriations bills is a problem we should try to resolve. I ask unanimous consent that a table listing the various possibilities for appropriating funds for entitlement programs be inserted in the RECORD.

This table shows that a number of entitlements, not just in the Labor-HEW bill, but in several other appropriations bills, can have budget authority from prior years or the current fiscal year used in the coming fiscal year. The difficulty this situation poses for us in trying to reconcile appropriations bills with congressional budget resolutions and the President's budget should be avoided. I hope the Appropriations Committee and the Budget Committee can consider the alternative means for funding entitlements and come up with a uniform approach we can all use in a consistent manner.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENTITLEMENTS REQUIRING APPROPRIATIONS ACTION

[Dollars in millions]

Program	FCR assumptions		Type of funding
	Budget auth.	Outlays	
Retired pay, Defense (97-0030-0-1-051)	9,003	9,007	One-year.
Claims, Defense (97-0102-0-1-051)	87	86	One-year, but had 1976-77 carryover.
Oregon and California grant lands (14-5136-0-2-302)	44	36	No-year.
Dairy and beekeeper indemnities (12-3314-0-1-351)	4	4	One-year, but had 1976-77 carryover.
Retired pay, Coast Guard (69-0241-0-1-406)	157	157	One-year.
Public assistance grants (75-0581-0-1-506)	3,041	2,941	Multi-year—may draw down next year's authority in last quarter of this year.
Vocational rehabilitation grants (75-1636-0-1-506)	760	760	One-year.
Retirement and medical benefits, Public Health Service (75-0379-0-1-551).	60	58	One-year indefinite.

Program	FCR assumptions: Budget auth.	FCR assumptions: Outlays	Type of funding
Medicaid (75-0581-0-1-551)	11,513	11,513	Multi-year—may draw down next year's authority in last quarter of this year.
Food stamp program (12-3503-0-1-604)	5,354	5,358	No-year.
Special supplemental food (WIC) (12-3510-0-1-604)	250	346	No-year.
Child nutrition programs (12-3539-0-1-604)	1,466	2,810	No-year.
Aid to families with dependent children (AFDC) (75-0581-0-1-604).	6,441	6,441	Multi-year—may draw down next year's authority in last quarter of this year.
Supplemental security income (SSI) (75-0406-0-1-604)	5,808	5,772	Multi-year—may draw down next year's authority in last quarter of this year.
Special benefits for disabled coal miners (75-0409-0-1-601).	968	966	Multi-year—may draw down next year's authority in last quarter of this year.
Federal unemployment benefits and allowances (FUBA) (16-0326-0-1-603).	1,200	1,200	Multi-year—may draw down next year's authority after September 15 this year.
Advances to the unemployment trust fund (16-0327-0-1-603).	44	465	Multi-year.
Special benefits, Employment Standards Administration (16-1521-0-1-601).	319	319	Multi-year—may draw down next year's authority after September 15 this year.
Regional rail transportation protective account (60-0110-0-1-604).	50	50	No-year.
Veterans' compensation and pensions (36-0102-0-1-701)	9,844	9,810	No-year.
Veterans' insurance and indemnities (36-0120-0-1-701)	2	3	No-year.
Veterans' readjustment benefits ("G. I. Bill") (36-0137-0-1-702).	3,683	4,140	No-year.
Supreme Court (10-0100-0-1-752)	8	8	No-year—"as Chief Justice may approve."
Court of Customs and Patent Appeals (10-0300-0-1-752)	1	1	No-year—"as approved by chief judge."
Customs Court (10-0400-0-1-752)	3	3	No-year—"as approved by the court."
Court of Claims (10-0505-0-1-752)	3	3	One-year, but had 1976-77 carryover.
Courts of Appeals and District Courts (10-0200-0-1-752)	31	31	One-year, but had 1976-77 carryover.
U.S. Tax Court (23-0100-0-1-752)	8	7	One-year, but has carryover authority.
Compensation of the President (11-0001-0-1-802)	*	*	One-year.
Claims, judgments, and relief acts (20-1895-0-1-806)	52	52	One-year.
Payment to general revenue sharing trust fund (20-2111-0-1-851).	6,855	6,855	No-year.
Refunds under the Renegotiation Act (47-0515-0-1-902)	---	1	No-year.
First Concurrent Resolution Total	67,050	69,202	
Summary by type of funding:			
One-year (11 programs)	10,165	10,165	
Other than one-year (21 programs):			
Multi-year (8 programs)	29,330	29,617	
No-year (13 programs)	27,560	29,420	
Subtotal	(56,890)	(59,037)	

Mr. CHILES. Mr. President, I would like to spend a few minutes discussing several aspects of the Labor-HEW appropriations bill for 1978 that I think deserve the particular attention of the Senate.

I am very concerned with the total size of the bill—over $60 billion—and how it relates to the overall budget. Certainly the President's veto threats indicate that there is concern in many quarters about the continued rate of growth in many of these programs. I supported increases for many high priority areas, but I think we could have done a better job in offsetting those increases by savings in other programs. Unless we can really begin to make those hard choices, we are not going to be able to either slow the growth of Federal spending or divert our efforts into areas with the highest priority.

The total bill is well within the total spending targets which the Congress set in our First Budget Resolution for 1978. I would have liked to see those budget targets set lower, but I think it is essential that we use congressional targets, rather than the President's budget, as our guideline for whether any spending bill puts too much of a strain on the budget. The Budget Act of 1974 was both a reassertion of Congress constitutional responsibility for spending decisions and a challenge to develop a new sense of fiscal discipline. I think Congress has made real progress toward achieving that discipline over the last 2 years. To keep the process credible we must keep it whole, and not pick out any one bill because it exceeds the President's budget proposal if it fits within the congressional budget totals. I have voted against other bills because they exceed the budget totals. Real spending and deficit totals are actually lower in the congressional budget resolution than in the President's budget. There is considerable difference in priorities, however, with Congress deciding to spend more on health and education and less on some other programs. We ought not to yield to Presidential priorities and attack any one bill as a budget-buster if it fits within the congressional budget resolution.

The first area is public service jobs, which we funded through fiscal year 1978 in the economic stimulus supplemental. This bill does not provide forward funding into 1979. Rather, we deferred that issue until we get a clear reading on how well the new expanded program is working. We put in our report a detailed requirement for the Department of Labor to report back to us on how fast people are actually being hired, who is getting hired, what kinds of jobs they are getting and what happens to them after they leave the program. I have supported increased spending to get people back to work, but I think we need a clear picture about what is happening to the $7 billion we are spending before we put in any more.

The second major area is community health services, where we have expanded an initiative in child health which I sponsored last year, and added a new initiative for immunization. For the last 2 years we have been requiring HEW to give us a mission budget, which sorts out programs of similar purposes across the different parts of the department. One of the key areas where we have found both duplication and deficiencies is child health. For the first time, we have been able to add up all the different grant programs oriented to child health and also split out the amount of medicaid being spent on children. What we have found is that children have been getting a declining share of the Federal health dollar. This includes all types of service, physicians and dentists as well as hospitals. The incentives which make it profitable to provide medical care for adults just do not exist for children. We have found it necessary to increase the Federal grant programs for child health, since medicaid is not doing the job. At the same time we have put in strong language requiring the Assistant Secretary for Health to pull together all the planning, operations, regulations, entitle-

ment and grant financing and research and demonstration activities contributing to the child health mission. We found that the different child health programs in HEW were competing and conflicting, rather than meeting the congressional intent that they reinforce each other. Our initiatives in child health have demonstrated how the mission budget approach can help us to get a clear focus on priorities and also to improve program operations.

The new immunization program is another example of how the mission approach enables us to focus our attention on top priority needs and find better solutions. We received testimony from the Department of HEW that the rate of immunization among children had declined seriously, but they had no large-scale delivery mechanism to quickly serve the need. We looked at our child health mission budget breakdown, and found that we could set aside funds in four grant programs plus medicaid and come up with the $40 million necessary to serve the estimated 20 million children in the United States who are not adequately immunized. We directed the Assistant Secretary for Health to undertake a coordinated program with these funds, reaching out into schools, clinics, and other community locations.

I am particularly pleased that the committee increased the funding for alcoholism by $1.3 million for research and $9.5 million for community treatment and prevention programs. Alcohol abuse is one of the most pervasive problems in the country, and we are just beginning to develop a national awareness of its effects and a national commitment to overcome them.

The financing of education for health professions has been a major topic of concern in Congress for the last few years. The passage of the Health Professions Educational Assistance Act of 1976 marked both a renewed commitment to this objective and a major shift in Federal policy. Earlier Federal policy was oriented to increasing the total supply of personnel, and capitation payments to educational institutions was an effective mechanism to achieve that goal. We have now come to realize that our major problem is not to create more doctors and nurses, but rather to get more of them into underserved areas. We also need to get more doctors into primary care rather than limited specialties. I have therefore proposed, and the committee has accepted, that we hold capitation payments at last year's level and direct increases to grant and scholarship programs which achieve these new goals. In recognition of the rapidly rising costs of medical school tuition, we have increased the funds available for loans and service scholarships. I think that qualified students should not be denied access to medical school because they cannot afford it.

However, I think we also have to recognize that most medical students come from middle and upper income families, and that they go on to achieve the highest average income of any occupation. It is therefore only fair that they pay back some of the cost of their education, either by serving a few years in an underserved area or by paying back a loan. Most people do not realize that the Federal Government already pays over half the cost of medical education, and most of it is through service and research funds. Student tuitions and capitation payments represent only a small portion of Federal support. I therefore hope that Congress will continue this new direction in health professions educational assistance.

I have supported increased funding for long-range health promotion activities as well as the more immediate disease prevention activities like immunization. Florida is one of the more advanced States in developing school health education programs, and Federal assistance has enabled it to undertake these efforts. We have a lot further to go in using the school as a resource. We can do a lot more to teach people how to maintain both physical and mental health. We can do a lot just by teaching children about nutrition. And we should be getting into programs to teach people how to be efficient consumers of medical service. If people learn more about what kinds of care are available, and what they cost, they can ask doctors better questions and make more informed decisions about what tests and procedures they consume. Attitudes about health and medical care are formed at an early age and we ought to utilize the opportunity to educate children in preparation for this important aspect of their adult life.

I have been very concerned about the lack of knowledge and Federal effort in the area of nutrition. When I chaired hearings on the food stamp program, I found out that we have no good information about what areas and populations groups suffer malnutrition. Little basic research is available to show directly how income relates to food consumption, how food consumption relates to nutrition levels in the blood, and how nutrition levels relate to health and disease. Some beginning efforts are underway. The National Center for Health Services Research is beginning to analyze health and nutrition data on a national sample. Medicaid does a nutrition test in its child screening program. The Center for Disease Control has funded some pilot projects in nutrition surveillance, where persons found to have nutrition-related problems are actually referred for services. These efforts are nowhere near the scale of the problem, however, and they are not coordinated into a coherent strategy. At my urging, the committee has directed the Assistant Secretary for Health to report back in 90 days with a proposal for a comprehensive nutritional status monitoring system which will include an assessment system to determine the extent of nutrition-related health problems in the United States; a surveillance system to identify nutrition-related health problems in individuals or local areas, in such a manner as to tie detection to direct intervention and treatment; and program evaluations to determine the adequacy, effectiveness and efficiency of Federal nutrition programs in reducing health risks. It is my hope that we can then hold hearings and move forward with improvements in both authorizing and appropriations acts next year to undertake a comprehensive effort on nutrition.

I am particularly pleased that we have been able to make room in a tight budget for major increases in aid to education. The Budget Committee singled out education as a top national priority when we reported out the budget resolution for 1978. This appropriations bill translates that broad priority and funding target into specific program increases. Overall, the bill provides $10.2 billion for education programs. Our top priority was a $450 million increase in title I grants for the disadvantaged. Nationally, we are only serving 57 percent of eligible children. In Florida, we are reaching less than 40 percent. If we are going to make the promise of equal educational opportunity meaningful, we are going to have to maintain our commitment to compensatory education. This is the longrun key to social and economic opportunity as well. We have also provided a 17-percent increase in funds for bilingual education, with report language reaffirming the use of these funds to overcome educational deficiencies.

Education for the handicapped is a program which I have long supported, and has now come to be accepted as a major area of national responsibility. The committee recommendation provides the full amount of funds authorized—10 percent of the cost of instruction for the latest count of eligible pupils. In dollars, this amounts to $642 million, an increase of $173 million, or 37 percent over 1977. This clearly demonstrates the congressional commitment to providing an adequate public education for the handicapped and allowing them to fulfill their potential as useful members of society.

The increased costs of college have placed a particular burden on low and moderate income students. The committee has therefore recommended substantial increases in assistance for higher education: $166 million over 1977 for basic educational opportunity grants, a $20 million increase for supplemental grants to very low income students, and a $60 million increase for work-study programs.

I am disappointed that the committee did not accept the President's recommendation to offset these increases by a reduction in the old direct loan program. The basic and supplemental grants program has grown to $2.4 billion over the last 4 years and provides a funding base for low and moderate income students that is far more equitable and comprehensive than the old direct loan program it was intended to replace. We have continued the guaranteed loan program for middle income students and straightened out some of its administrative programs. College work study has grown to the substantial size of $450 million. At some point we have to exert the discipline to cut out the old programs when we start new ones. When we are faced with tight Federal budget constraints, continuing outmoded or duplicative programs simply squeezes out our ability to meet new challenges and new needs.

HUMAN RIGHTS IN ACTION

Mr. HUMPHREY. Mr. President, I think that it is important, in the heat

of the debate on some of the more controversial provisions, that we not lose sight of the primary focus on this appropriation.

This measure, even with all of its shortcomings, is a meaningful expression of our commitment to the furtherance of human rights—of our concern for young people without jobs, of our compassion toward the handicapped, of our interest in a quality education for all of our children—and of our desire to provide a better life for all of our citizens.

The passage of this bill is another step in achieving human dignity for all our people.

It means more community health centers in all parts of our country.

It means increased health services to high-risk and underserved populations.

It means better maternal and child health services.

It means additional jobs for our young people.

It means better libraries for everyone's use.

It means better education for our bilingual children.

In short, we have put real meaning into the term human rights by making possible the legitimate goals of our people. It is a new commitment to the realization that our capacity for justice is a prerequisite for progress.

This is not to say that by passage of this bill we have somehow solved all of our Nation's problems or realized the goals of the Preamble to our Constitution.

When our Founding Fathers met in Philadelphia 200 years ago, they gave us and the world a set of promises—promises and hopes that would be sacred to us always as we moved toward a more perfect union, not the perfect union. Among those promises is to promote the general welfare and secure the blessings of liberty to ourselves and our posterity.

America is a promise and a hope in the minds and hearts of all those who cherish liberty, justice, equal opportunity and human rights.

What we have accomplished with this legislation gives fresh strength to that promise.

Mr. President, I wish to speak on a part of the Labor-HEW appropriations bill that is personally disappointing to me and will be discouraging to many Americans. The House approved $1 million for clinical law programs, but the Senate's version of the bill provides no money for that purpose. I believe that much of the reason for the neglect of that program was misinformation. That program, mislabeled as an effort to educate more lawyers, was dismissed in committee. The point of view expressed in committee was that the Federal budget need not support the training of additional attorneys.

I want to clear up that misconception.

Clinical law education serves two purposes. It provides advocates for poor people, usually poorly represented in juvenile, magistrate, and small claims courts. In so doing, it trains law students in procedures for those courts which normally get the least priority in a legal education.

The training given to students in those programs is more than incidental. A traditional legal education emphasizes representation of business and moneyed clients. The market dictates that kind of training. There is very little concentration on the kinds of issues important to those who lack economic leverage. A lawyer who chooses to do that kind of work, either as his primary business or as an adjunct to something that pays better, is left with few avenues for developing the skills needed for adequately representing those clients.

Let me describe a law school clinical program. It generally takes the form of a working law firm. A professor or practicing lawyer appears in court while students back him up as associates, doing research and preparing briefs. The clients are those who would not normally be represented or who would be inadequately represented. Instead of relying on a heavily burdened legal aid attorney, or on no one at all the client has the resources of a large firm to draw on and access to the enthusiasm and knowledge of law school professors and students.

The House appropriated the $1 million, then, for a serious public purpose. The clinical law program will not train more lawyers. It will not add to the number of lawyers coming out of school. It simply helps some lawyers get the training they need to serve that part of the population with few resources. The knowledge and skills they gain through the program will not make them wealthy, but it will make them more responsive and more responsible to all levels of society.

I am hopeful that the Senate conferees, in conference with the House, will reconsider the committee's position and recede in favor of the House position. In the event that the Congress fails to make any appropriation in the bill, we should return to this subject in the next supplemental appropriation to be considered.

Mr. BROOKE. Mr. President, I would like to raise one further point for clarification with regard to the limitation in our bill on filing of State claims for AFDC, medicaid, and social service expenditures.

It is my understanding, Mr. Chairman, that this provision will not preclude States from filing estimated claims for current-year expenditures and adjusting them later in the year on the basis of final fiscal records. Does that conform to your understanding of the provision?

Mr. MAGNUSON. Yes; it does.

VOCATIONAL REHABILITATION FACILITIES

Mr. ALLEN. Mr. President, I understand the House-passed version of the Labor-HEW appropriations bill contains $900,000 for the Lakeshore Hospital in Birmingham, Ala. I would like to ask Senator MAGNUSON to explain the Senate Appropriation Committee's rationale for apparently deleting funds for this excellent, multi-disability rehabilitation facility.

Mr. MAGNUSON. The committee's action was not based on the merits of the specific Lakeshore Hospital rehabilitation facility in Alabama. We similarly deleted construction funding added by the House for the Eastern Carolina Sheltered Workshop and Vocational Center in Greenville, N.C. I am sure these are both very worthwhile projects. However, we had Senators' amendments to earmark funds for several other rehabilitation construction projects in their respective States. I even have one in my home State of Washington that needs funding. We decided in full committee it would be a bad precedent to earmark funding for a long list of specific projects; otherwise, we could be deluged by requests to add other deserving projects to this list.

The problem is that the budget request for rehabilitation construction is zero. Therefore, we decided in full committee to include report language encouraging HEW to submit a supplemental budget request, so that the best projects could be funded, on a competitive basis.

Mr. ALLEN. I thank the distinguished chairman for that explanation. It is evident that the committee's decision was without prejudice to the Lakeshore Hospital project in Alabama. Instead, the committee refrained from choosing among the many requests for rehabilitation construction funds. Rather than deciding that there is no need for construction funds the committee merely left the matter in the hands of HEW to make a subsequent budget request and determination as to which institutions, on the basis of merit, should be funded.

I would hope, however, that you will take another look at this matter in conference, to consider restoring the rehabilitation construction funds in the House version of the bill.

Mr. MAGNUSON. We will certainly take another close look at this matter in conference.

Mr. EAGLETON. Mr. President, may I take just a moment to inquire as to the impact of the action taken earlier today by the Senate to reduce the Secretary of Labor's discretionary funds by $25 million. Could you spell out for me which programs under that fund would receive less than contemplated by the committee when it approved the $109 million level.

Mr. MAGNUSON. Let me assure the Senator from Missouri that it is not our intent to reduce the amount of discretionary funds available to continue elderly enrollees previously funded under title X of the Public Works and Economic Development Act. Nor are we suggesting any reduction in drought assistance efforts, as detailed in the Senate committee report. We are merely scaling down the size of the increase in discretionary funds from last year's level.

Mr. EAGLETON. Since the House version of the bill completely eliminates available discretionary resources, it was my hope to reach a conference agreement to retain at least $84 million of the $109 million House cut. By reducing the funding to $84 million on the Senate floor, I hope the House will recognize that we are already reaching a compromise, which the conferees could agree to, in the interest of holding down the overall bill totals to a reasonable level.

Mr. MAGNUSON. I agree with the Senator from Missouri that a funding level of $84 million for the Secretary of Labor's discretionary fund should be the amount agreed to in the final version of the bill. And we will do everything we can to keep this figure—I know the Secretary can certainly use this—and it is needed.

LABOR DEPARTMENT BILL LANGUAGE ON ILLEGAL ALIENS

Mr. MAGNUSON. Mr. President, yesterday we received a statement from the Labor Department concerning illegal aliens, which I included in the RECORD. Overnight we have had the opportunity to review this material, and have found it to be a good analysis of the problem and the committee's intent in agreeing with the House amendment.

I just wanted to make the record clear on this.

Mr. GLENN. Mr. President, yesterday I voted to strike the Biden-Eagleton amendment to the Labor-HEW appropriations bill. I did so because I felt that this amendment is a misguided and counterproductive effort that has the potential of actually contributing to the problem that it purports to solve.

The amendment prevents HEW from ordering pairing and clustering and grade restructuring as part of desegregation plans. The proponents of this amendment and much of the media has termed this an "antibusing" amendment. In fact, in the long run, it might lead to more busing than it stops.

Mr. President, no State in the Nation has as great a number or as extensive a school desegregation problem as my State of Ohio. Our major cities such as Cleveland, Columbus, Dayton, and Cincinnati are all grappling with these complicated, emotional, and expensive problems. These major cases all involve court orders and transportation requirements. HEW is not involved at all in most of Ohio's major disputes.

Consequently, the Biden-Eagleton amendment has virtually no impact on most of Ohio. Further, in those areas not yet touched by court orders, this amendment takes away mild and educationally sound desegregation remedies such as pairing and clustering and thus increases the likelihood of litigation, court orders, and large-scale transportation orders that often destroy neighborhood schools.

I have always believed that the more we can move toward voluntary alternatives to massive transportation orders, the better off we would be. I was successful last year in enacting the magnet schools provision that this bill provides substantial funding for. I am pleased to be supported in this positive effort to provide real alternatives to transportation orders by my colleague from Ohio, Mr. METZENBAUM. Perhaps we in Ohio, with such a massive problem, realize that we must provide positive solutions to our problems rather than symbolistic rhetoric that accomplishes virtually nothing and that offers no real hope for stopping busing while raising false hopes that it does.

Those who are concerned about the immediate and real problem of the extent of courts' transportation orders would be better advised to look at the Supreme Court's decision on Monday in the case of Dayton, Ohio. The Court ruled, by 8 to 0, that the scope of the remedy in desegregation cases must match the particular constitutional violation. Thus, the Dayton case might well result in reduced busing orders in many cities in Ohio.

Mr. EAGLETON. Mr. President, I was delighted that the committee made specific reference to the University of Mid-America in its committee report. As you will recall, the committee specifically directs that up to $2.6 million be allocated to continue to support UMA's course development work so that the concept of open learning can be substantially expanded in this country. In my view, the open university concept being developed by UMA is key, in my judgment, to the people of this country's need for lifelong learning.

In 1975, the National Institute for Education approved a 5-year plan for UMA, which indicated that NIE would provide roughly $9 million in funding for UMA in its first 3 years. In fact, only $4 million has been obligated. In August 1976, UMA requested a level of support of $2.7 million. Some 7 months later, in March 1977, NIE awarded only $1.2 million. In the intervening time, UMA was unable to accurately plan its program of development. The continuing uncertainty of the level of funding and the length of time taken to make the determination of the level has seriously hampered UMA's ability to efficiently and effectively build its program.

Mr. MAGNUSON. I thoroughly agree with the Senator from Missouri. I assure the Senator from Missouri that the committee will closely follow NIE's contract negotiations with UMA.

Mr. EAGLETON. Thank you, Mr. Chairman. I too will follow this matter closely to insure that the Senate directive is carried out.

CENTER FOR DISEASE CONTROL

Mr. McGOVERN. The Nutrition Committee is very pleased to see strong emphasis throughout last year's and this year's Labor-HEW Subcommittee appropriations reports with respect to nutrition.

However, I understand that the appropriation bill has reduced CDC's disease surveillance and control budget by $9 million. My concern is that such a cut might lead to the elimination of nutrition surveillance because it is an administratively instituted program within CDC's disease surveillance and control programs.

Given the recent number of studies, reports, and bills, which recognize in some way the potential usefulness of a more comprehensive, timely, and specific nutritional health assessment in this country, we feel a reduction in surveillance emphasis or scope at this time would be counterproductive.

Therefore, even though the appropriation report language in the disease surveillance section does not mention nutrition surveillance, am I to assume that the overall nutrition emphasis in the report language indicates support for continuance of nutrition surveillance at CDC?

Mr. MAGNUSON. Yes, I agree.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MAGNUSON. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

I further announce that, if present and voting, the Senator from Mississippi (Mr. STENNIS) would vote "nay."

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 71, nays 18, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—71

Anderson	Griffin	Muskie
Baker	Hart	Nunn
Bayh	Haskell	Packwood
Bellmon	Hathaway	Pearson
Bentsen	Hayakawa	Pell
Biden	Heinz	Percy
Brooke	Hollings	Randolph
Bumpers	Huddleston	Ribicoff
Burdick	Humphrey	Riegle
Byrd, Robert C.	Inouye	Roth
Cannon	Jackson	Sarbanes
Case	Javits	Sasser
Chafee	Johnston	Schmitt
Chiles	Kennedy	Schweiker
Church	Leahy	Sparkman
Clark	Long	Stafford
Cranston	Magnuson	Stevens
Culver	Mathias	Stevenson
DeConcini	Matsunaga	Talmadge
Dole	McGovern	Thurmond
Durkin	McIntyre	Williams
Eagleton	Melcher	Young
Ford	Metzenbaum	Zorinsky
Glenn	Moynihan	

NAYS—18

Allen	Danforth	Goldwater
Byrd, Harry F., Jr.	Domenici	Hansen
Curtis	Eastland	Hatch
	Garn	Hatfield

Helms	McClure	Wallop
Laxalt	Proxmire	
Lugar	Tower	

NOT VOTING—11

Abourezk	Metcalf	Stennis
Bartlett	Morgan	Stone
Gravel	Nelson	Weicker
McClellan	Scott	

So the bill (H.R. 7555) was passed.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. MAGNUSON, ROBERT C. BYRD, PROXMIRE, HOLLINGS, EAGLETON, BAYH, CHILES, BURDICK, MCCLELLAN, BROOKE, CASE, SCHWEIKER, MATHIAS, and YOUNG conferees on the part of the Senate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN MIDDLE EAST POLICY

Mr. CASE. Mr. President, the State Department statement on Monday on the Middle East was unwise, unhelpful and unnecessary.

The Department has violated a basic tenet of American Middle East policy.

We should act as "honest brokers," we must never get into the posture of either dictating terms or of ourselves negotiating with the parties.

Real peace will only come as a result of negotiations among the Middle East countries themselves. We must not interfere with that process.

Mr. President, I ask unanimous consent that an editorial on this subject published in this morning's New York Times be printed in the RECORD at this point, and following that, the State Department's statement to which I have just referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 29, 1977]

GIVE VISION A CHANCE IN THE MIDDLE EAST

The trouble now brewing between Israel and the United States can be attributed to a single, regrettable fact: President Carter refused to quit while he was ahead in the Middle East maneuvering.

Goaded by applause and criticism, now from Arabs, now from Israelis, and then startled by a new and inexperienced Israeli Government that was clearly determined to take a harder line in negotiations, Mr. Carter and his spokesmen kept explaining and defining their vision of a peace until a lofty set of principles could be misapprehended as American terms for a settlement. No wonder the Arab capitals are now cheering; the Israelis are being crowed toward a "solution" without a single responsible proposal or offer from Egypt, Syria or Jordan. And no wonder that Israel's fervent supporters in the United States are shouting their alarm.

The President set out to make himself the "catalyst" for negotiations and he stands in danger now of becoming their main and perhaps only conductor. Instead of the parties being led to tell each other what they expect from peace, they have been encouraged to demonstrate their bona fides to Washington as if the White House intends to decide what they deserve. Fortunately, there is still time before Israel's new leader, Menachem Begin, visits the President on July 18 to clear the air. Mr. Carter needs to recapture the eloquent invitation to peace he offered last March, the essence of which we reprint in our Notebook below.

His propositions then were plain; they can only be deminished by embellishment:

(1) The Arab nations must recognize Israel's right to exist in peace and commit themselves to full and normal relations of every kind.

(2) The permanent borders of Israel must be negotiated by the parties, with all the territories occupied by Israel since the 1967 war open to negotiation.

(3) A homeland for Palestinian refugees must be part of the settlement, with the issue to be negotiated first among the Arab countries, who disagree about it, and finally put to Israel.

(4) The role of the United States will be to spur the parties into negotiation *with one another*.

There is no reason to budge from this excellent formulation. The trouble started when some officials in Washington began to ignore proposition 4 and to toy with meanings, implications and reactions on items 1, 2 and 3. The Arabs helped their cause by ignoring Mr. Carter's very first principle and jumping all over items 2 and 3—talking up the 1967 borders as settled and an independent Palestinian state in the West Bank as just around the corner. The Israelis, caught up in an election campaign, hurt their cause by overlooking the President's extraordinary definition of peace and objecting to the concessions implied in his items 2 and 3. When the victorious Mr. Begin implied that a West Bank withdrawal was unthinkable, impatient Washington hands began to crank out policy statements that only caused Israel's supporters in the United States to wonder whether the State Department was really content with the Carter formula.

The new Israeli Prime Minister has since moderated his public utterances, saying that nothing was foreclosed from negotiation but wondering how he could bargain with nations that still refuse to say "good morning" to any of his diplomats. This is reasonable enough. But there is some basis for Washington's suspicion that Mr. Begin is learning fast to move not toward real territorial concessions but rather toward a diplomatic failure that could be blamed on the Arabs. These concerns provide a useful agenda for the Carter-Begin talks, but not for the tens of communiqués now being exchanged by their foreign ministries.

The result has been a demeaning of the Carter vision. Whereas in March the President spoke of a lasting peace with open borders, travel, tourism, trade and a commingling of populations as "the first prerequisite of peace," his State Department opined this week that peace, besides security arrangements to guarantee borders, "involves steps toward the normalization of relations." There are enough lawyers in Israel to understand that between March and July something was lost here in translation. If that kind of legalistic maneuvering becomes typical of the American contribution, a great deal more will be lost before this critical year is out.

There has always been some tension on Middle East policy between a President and the State Department. The crude view is that Presidents are more responsive to the pro-Israel lobby in Congress and the electorate while State is filled with Arabists worrying about a dozen or more countries with enormous wealth and strategic position. But the strains also reflect a subtler distinction. It is the job of diplomats to settle conflict, to compromise for the success of negotiation, to stay on good terms with all. It is the job of a President to lead toward an objective, with or without successful negotiation.

The American objective in the Middle East is not a "settlement," this year or ever; it is a peace that can last—and, peace or war, a secure Israel.

[From the New York Times, June 28, 1977]

U.S. STATEMENT ON MIDDLE EAST

WASHINGTON, *June 27.—Following is the text of a statement on the Carter Administration's Middle East policy, read today by a State Department spokesman, Hodding Carter 3d, at his regular news conference:*

We believe strongly that progress toward a negotiated peace in the Middle East is essential this year if future disaster is to be avoided.

We also believe that the only true security for any country in that troubled area is a true peace negotiated between the parties. Fortunately, we don't begin our efforts in a vacuum. A starting point exists in United Nations Security Council Resolution 242 of November 1967, which all the governments involved have accepted.

The United States policy since 1967 has consistently sought to apply the principles agreed upon in that resolution through the process of negotiations called for in Security Council Resolution 338 of October 1973, which all the parties have also accepted.

The peace foreseen in these resolutions requires both sides to the dispute to make difficult compromises. We are not asking for any one-sided concessions from anyone. The Arab states will have to agree to implement a kind of peace which produces confidence in its durability.

In our view, that means security arrangements on all fronts satisfactory to all parties to guarantee established borders. It also involves steps toward the normalization of relations with Israel.

The peace, to be durable, must also deal with the Palestinian issue. In this connection, the President has spoken of the need for a homeland for the Palestinians whose exact nature should be negotiated between the parties.

Clearly, whatever arrangements were made would have to take into account the security requirements of all parties involved.

Within the terms of Resolution 242, in return for this kind of peace, Israel clearly should withdraw from occupied territories. We consider that this resolution means withdrawal from all three fronts in the Middle East dispute—that is, Sinai, Golan, West Bank and Gaza—the exact borders and security arrangements being agreed in the negotiations.

Further, these negotiations must start without any preconditions from any side. This means, no territories, including the West Bank, are automatically excluded from

the items to be negotiated. To automatically exclude any territories strikes us as contradictory to the principle of negotiations without preconditions.

Nor does it conform to the spirit of Resolution 242, which forms the framework for these negotiations.

Every administration since 1967 has consistently supported Resolution 242 and it has the widest international support as well.

CONFEREE CHANGE—H.R. 5262 AND H.R. 6884

Mr. SPARKMAN. Mr. President, due to an error, the senior Senator from South Dakota (Mr. McGOVERN) was named as a conferee on H.R. 5262 and H.R. 6884.

I ask unanimous consent that Senator McGOVERN's name be removed as a conferee on both these bills. Senator McGOVERN is familiar with this request and has no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:36 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed without amendment the bill (S. 964) to provide that the salaries of certain positions and individuals which were increased as a result of the operation of the Federal Salary Act of 1967 shall not be increased by the first comparability pay adjustment occurring after the date of the enactment of this act.

The House disagrees to the amendments of the Senate to the bill (H.R. 692) to amend the Small Business Act and the Small Business Investment Act of 1958 to increase loan authorization and surety bond guarantee authority; and to improve the disaster assistance, certificate of competency and Small Business setaside programs; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. SMITH of Iowa, Mr. STEED, Mr. DINGELL, Mr. CORMAN, Mr. ADDABBO, Mr. LAFALCE, Mr. RUSSO, Mr. CONTE, Mr. STANTON, and Mr. McDADE were appointed managers of the conference on the part of the House.

The House disagrees to the amendments of the Senate to the bill (H.R. 7556) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. SLACK, Mr. SMITH of Iowa, Mr. FLYNT, Mr. ALEXANDER, Mrs. BURKE of California, Mr. EARLY, Mr. MAHON, Mr. CEDERBERG, Mr. ANDREWS of North Dakota, and Mr. MILLER of Ohio were appointed managers of the conference on the past of the House.

At 5:05 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. TRAXLER, Mr. BAUCUS, Mr. STOKES, Mr. BEVILL, Mrs. BOGGS, Mr. BURLISON of Missouri, Mr. ALEXANDER, Mr. MAHON, Mr. COUGHLIN, Mr. McDADE, Mr. YOUNG of Florida, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 6:45 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills:

H.R. 6668. An act to amend the Age Discrimination Act of 1975 to extend the date upon which the United States Commission on Civil Rights is required to file its report under such Act, and for other purposes.

S. 964. An act to provide that the salaries of certain positions and individuals which were increased as a result of the operation of the Federal Salary Act of 1967 shall not be increased by the first comparability pay adjustment occurring after the date of the enactment of this Act.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following communications which were referred as indicated:

EC–1569. A letter from the Secretary of Commerce transmitting a draft of proposed legislation to amend the National Weather Modification Policy Act of 1976 to extend the date for the submission of the report of the Secretary of Commerce on weather modification (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–1570. A letter from the Acting Administrator of the Energy Research and Development Administration transmitting, pursuant to law, a report entitled "A National Plan for Energy Research, Development and Demonstration" (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–1571. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on sales of refined petroleum products for the month of February, 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–1572. A letter from the Acting Assistant General Counsel for International, Conservation, and Resource Development Programs of the Federal Energy Administration transmitting, pursuant to law, notice of a meeting related to the International Energy Program (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1573. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, the quarterly report for the period of January through March 1977 concerning energy information (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–1574. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a proposed contract with Hydronautics, Incorporated, Laurel, Maryland, for a research project entitled "Evaluation of Coal-Associated-Rock Cutting by the Civitating Water Jet" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1575. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a proposed contract with Flow Industries, Inc., Kent, Washington, for a research project entitled "Field Test of Hydraulic Borehole Mining Systems in Shallow Uranium Sands" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1576. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Social Security Act to strengthen and improve procedures for reviewing and controlling the utilization of medical services under Medicaid and for other purposes (with accompanying papers); to the Committee on Finance.

EC–1577. A letter from the Office of Personnel and Manpower of the Agency for International Development of the Department of State transmitting, pursuant to law a report on amendments to AID's systems of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–1578. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "More Emphasis Needed on Data Analysis Phase of Space Science Programs" (PSAD–77–114) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1579. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The Swine Flu Program: An Unprecedented Venture in Preventive Medicine" (HRD–77–115) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1580. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Dredging America's Waterways and Harbors—More Information Needed on Environmental and Economic Issues" (CED–77–74) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1581. A letter from the Deputy Director of the Administrative Office of the United States Courts transmitting, pursuant to law, the annual report of the Director of the Administrative Office of the United States Courts for the fiscal year 1976 (with

an accompanying report); to the Committee on the Judiciary.

EC–1582. A letter from the Administrator of the Veterans Administration transmitting a draft of proposed legislation to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes (with accompanying papers); to the Committe on Veterans Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 211. A resolution amending Senate Resolution 78 with respect to the Budget Committee budget.

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Without amendment:

S. Res. 212. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1307. Referred to the Committee on the Budget.

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation:

Without amendment:

S. 854: A bill to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Incorporated, and for other purposes (Rept. No. 95–314).

By Mr. CANNON, from the Committee on Rules and Administration:

With amendments:

S. 1331. A bill to provide for the establishment of a Center for the Book in the Library of Congress (title amendment) (Rept. No. 95–315).

With an amendment:

S. 1608. A bill to abolish the Joint Committee on Congressional Operations and for other purposes (Rept. No. 95–316).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Without amendment:

H.R. 5638. An act to amend the Fishery Conservation Zone Transition Act in order to give effect during 1977 to the Reciprocal Fisheries Agreement between the United States and Canada (Rept. No. 95–317).

By Mr. JACKSON, from the Committee on Governmental Affairs:

S. Res. 213. An original resolution to permit withdrawal and release of certain documents, papers or other information pertaining to possible criminal activities.

S. Res. 214. An original resolution to permit withdrawal and release of certain documents, papers or other information pertaining to possible criminal activities.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Thomas P. Sullivan, of Illinois, to be U.S. attorney for the northern district of Illinois.

Harold D. Hardin, of Tennessee, to be U.S. attorney for the middle district of Tennessee.

Emmett W. Fairfax, of Missouri, to be U.S. marshal for the western district of Missouri.

George R. Grosse, of Florida, to be U.S. marshal for the middle district of Florida.

Francis J. Boyle, of Rhode Island, to be U.S. district judge for the District of Rhode Island.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Lt. Gen. Martin G. Colladay (age 51), U.S. Air Force, to be placed on the retired list in the grade of lieutenant general; and Maj. Gen. Volney F. Warner, U.S. Army to be lieutenant general; and Maj. Gen. Arthur J. Gregg, U.S. Army, to be lieutenant general. Also Maj. Gen. James A. Knight, Jr., U.S. Air Force, to be lieutenant general; and Maj. Gen. Thomas M. Ryan, Jr., U.S. Air Force, to be lieutenant general; and Lt. Gen. Donn A. Starry, U.S. Army, to be general; and Lt. Gen. Samuel V. Wilson, U.S. Army (age 53) to be placed on the retired list in the grade of lieutenant general. Also, Vice Adm. Joe Williams, Jr. (age 54) U.S. Navy for appointment on the retired list in the grade of vice admiral; and Lt. Gen. Wilbur L. Creech, U.S. Air Force, for appointment as senior U.S. Air Force member of the Military Staff Committee of the United Nations; and Maj. Gen. Eivind H. Johansen, U.S. Army, to be lieutenant general. Also, Maj. Gen. Robert J. Baer, U.S. Army, to be lieutenant general; and Lt. Gen. Jack C. Fuson (age 56) U.S. Army, to be placed on the retired list in the grade of lieutenant general; and Lt. Gen. George Sammet, Jr. (age 57), U.S. Army, to be placed on the retired list in the grade of lieutenant general; and Col. Edward C. Binder, Army National Guard, to be brigadier general. Also, Rear Adm. Wesley L. McDonald, U.S. Navy, for appointment to the grade of vice admiral; and Vice Adm. Robert L. J. Long, U.S. Navy, for appointment to the grade of admiral; and Maj. Gen. Thomas M. Rienzi, U.S. Army, to be lieutenant general. Also, there are 24 Reserve officers for appointment as Reserve commissioned officers of the Army in the grade of major general and brigadier general (list beginning with Paul S. Oliver, Jr.); and Maj. Gen. Eugene F. Tighe, Jr., U.S. Air Force, to be lieutenant general. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, there 1,810 in the Marine Corps and Marine Corps Reserve for permanent and temporary appointment to the grade of lieutenant colonel and below (list beginning with William R. Abele, Jr.); and there are 228 in the Marine Corps and Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel and below (list beginning with Andrew B. Adams); and there are 66 in the Navy for temporary and permanent appointment to the grade of commander and below (list beginning with Douglas E. Atkins). Also, there are 670 in the Regular Army for promotion to the grade of colonel and below (list beginning with Paul M. Adams); and there are 78 in the Air Force, for appointment to the grade of lieutenant colonel and below (list beginning with Thomas P. Mathews); and there are 1,846 for appointment in the Regular Air Force to the grade of captain and below (list beginning with Karl W. Barmann); and there are 140 for promotion in the Army to the grade of lieutenant colonel and below (list beginning with Calvin G. Dodd). Also, there are 316 for reappointment and appointment in the Army in the grade of colonel and below (list beginning with Billy R. Godall); and there are 598 in the Reserve of the Navy for temporary promotion to the grade of commander (list beginning with Ronnie J. Ackerman). Also, there are 889 in the Navy for temporary promotion to the grade of chief warrant officer (list beginning with Leroy E. Addison II). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 18, May 19, May 24, June 6, and June 15, 1977, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent the second time, and referred as indicated:

By Mr. JAVITS:

S. 1776. A bill to amend section 1673(d) of title 38, United States Code, relating to the approval of the enrollment of veterans in certain courses under chapter 34 of such title; to the Committee on Veterans' Affairs.

By Mr. RIEGLE:

S. 1777. A bill for the relief of Maroun Khalil and his wife Wardieh Khalil; and

S. 1778. A bill for the relief of Luzbella Y. Imasa, M.D.; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1779. A bill to exempt the Rio Grande project, New Mexico-Texas, from the acreage limitation provisions of Federal reclamation laws which limit the acreage of irrigable land which may receive irrigation benefits from, through, or by means of Federal reclamation works; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. BELLMON, Mr. RANDOLPH, Mr. MAGNUSON, Mr. NUNN, Mr. JACKSON, Mr. PACKWOOD Mr. HAYAKAWA, Mr. ALLEN, Mr. HEINZ, Mr. SCHMITT, and Mr. ZORINSKY):

S. 1780. A bill to reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State and local administration of the programs, and for other purposes; to the Committee on Human Resources.

By Mr. ANDERSON:

S. 1781. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide education for

himself, for his spouse, or for his dependents; to the Committee on Finance.

By Mr. MOYNIHAN.

S. 1782. A bill to amend part A of title IV of the Social Security Act so as to provide, for a one-year period, further Federal financial participation in State programs carried out pursuant to plans approved under such part; to the Committee on Finance.

By Mr. ANDERSON:

S. 1783. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Finance.

By Mr. WILLIAMS (for himself and Mr. CHURCH):

S. 1784. A bill to amend the Age Discrimination in Employment Act of 1967 to protect older workers from involuntary retirement, to raise the age limitation for coverage under such Act, and to provide for a study of the effects of changes in the age limitations for such coverage; to the Committee on Human Resources.

By Mr. KENNEDY (for himself, Mr. CLARK, and Mr. STAFFORD):

S. 1785. A bill to require public disclosure of certain lobbying activities to influence issues before the Congress and the executive branch, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HATFIELD:

S. 1786. A bill for the relief of Steven M. Finkel; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with the above introduced bills and joint resolutions are printed at the conclusion of Senate proceedings today.)

ADDITIONAL COSPONSORS

S. 285

At the request of Mr. BENTSEN, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 285, the Pension Investment Act.

S. 1421

At the request of Mr. MELCHER, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1421, the Comprehensive Veterans' Readjustment Assistance Act of 1977.

S. 1578

At the request of Mr. BENTSEN, the Senator from New Mexico (Mr. DOMENICI), was added as a cosponsor of S. 1578, to protect the confidentiality of the identities of certain employees of the CIA.

S. 1692

At the request of Mr. MELCHER, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1692, to reform the Postal Service.

S. 1726

At the request of Mr. NELSON, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1726, the Small Business Economic Policy and Advocacy Reorganization Act.

S. 1763

At the request of Mr. MCINTYRE, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1763, the Civilian Secretaries Information Act.

UP AMENDMENT 601

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of unprinted amendment No. 601, proposed to H.R. 7555, the Labor-HEW Appropriations Act.

SENATE RESOLUTION 212—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 1307

(Referred to the Committee on the Budget.)

Mr. CRANSTON, from the Committee on Veterans' Affairs, reported the following resolution:

S. RES. 212

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1307. Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The regulations implementing the Department of Defense Special Discharge Review Program were not published in the Federal Register until April 26, 1977. These regulations have the effect of upgrading discharges which, under the usual discharge review guidelines, would not have been upgraded. Those whose discharges are upgraded under these new regulations automatically become eligible for veterans benefits. This issue of veterans benefits for previously unqualified individuals, which could not have been foreseen prior to May 15, created the requirement for legislation to deal with the question of veterans benefits for those with administrative discharges, especially those whose discharges are upgraded under the Special Discharge Review Program.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1307 as reported by the Committee on Veterans' Affairs.

AMENDMENTS SUBMITTED FOR PRINTING

PUBLIC WORKS APPROPRIATIONS, 1978—H.R. 7553

AMENDMENT NO. 480

(Ordered to be printed and to lie on the table.)

Mr. MCINTYRE (for himself, Mr. DANFORTH, Mr. PROXMIRE, Mr. BROOKE, and Mr. CLARK) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7553) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes.

AMENDMENT NO. 481

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. PERCY, and Mr. RIBICOFF) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7553), supra.

AMENDMENT NO. 484

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. CRANSTON, and Mr. PERCY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7553), supra.

NUCLEAR ENERGY AUTHORIZATIONS

AMENDMENT NO. 482

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS (for himself, Mr. HART, Mr. FORD, Mr. DURKIN, Mr. MCINTYRE, Mr. LEAHY, Mr. HATFIELD, Mr. ABOUREZK, Mr. HASKELL, Mr. MATSUNAGA, and Mr. CRANSTON) submitted an amendment intended to be proposed by them.

Mr. BUMPERS. Mr. President, I plan to offer an amendment to the ERDA Authorization Act of 1978—Civilian Nuclear Energy Application—which will reduce the authorization for the Clinch River Breeder Reactor from $150,000,000 to $33,000,000. The President announced on April 7 that the United States will not proceed with nuclear technologies that present a high risk of proliferation. He recommended that the United States defer indefinitely commercial reprocessing and recycling of plutonium, as well as the commercial introduction of the plutonium breeder. The President proposed redirecting the funding for the existing breeder program towad the evaluation of alternative breeders, advanced converter reactors, and other fuel cycles, with emphasis on nonproliferation and safety concerns. The President has recommended cancellation of the Clinch River Breeder Reactor demonstration project and all component construction, licensing, and commercialization efforts. Cancellation of the project will require an appropriation of $33 million in fiscal year 1978.

The Clinch River project is not primarily an R. & D. program. It is an essential part of a program to produce a commercial breeder. To examine whether to proceed with this project, it is necessary to consider the need for a commercial breeder. The most critical factors affecting when a commercial breeder is needed are the projected nuclear power capacity and the amount of uranium resources available to provide fuel for light water reactors.

The forecast for nuclear power growth has been declining. When the Congress approved the Clinch River Breeder project in 1972, the AEC estimated that by the year 2000 the United States would have 1,200,000 megawatts of nuclear power generating capacity. In 1975 the estimate had dropped to 800,000 megawatts. The current estimate is that the United States will have between 300,000 and 400,000 megawatts of nuclear power in the year 2000. This reduction was not

primarily a revised estimate of the attractiveness of nuclear power, but rather a result of a drop in the estimated total power demand.

The current estimate for nuclear capacity in the year 2000 is less than one-third of what the estimate was when the Clinch River Breeder project was authorized.

The other major factor is the amount of uranium available. There is considerable debate over what amount of uranium can be produced at a given cost. However, there is considerable confidence that 1.8 million tons of uranium oxide can be mined in the United States. The ERDA resource estimate includes an additional 1.8 million tons of potential uranium resources.

The substantial reduction in projected need for uranium, coupled with the uranium resource estimates, permits a pause in the commercialization program. The long range ERDA program had concentrated on the LMFBR as the next major source of electrical energy. The analyses justifying this program were based on assumptions that led to requiring an early decision date for the breeder. However, there are alternate assumptions that lead to later dates.

In the recent review of the breeder program by the administration, a case was examined using assumptions of 3.7 million tons of uranium, 400,000 megawatts of nuclear capacity in 2000, and a 3.3 percent growth rate in electrical power in the 3 years past 2000. This led to the first breeder being required in 2000, 7 years later than in the current program.

I believe commercialization of the LMFBR should be deferred and the construction of the Clinch River breeder reactor should be canceled. The Clinch River breeder reactor cannot be justified solely as an R. & D. project. To proceed now requires being fairly confident this type of breeder is going to be used as the next large source of energy and that it will be needed in the early 1990's. There are now serious doubts that that scenario is appropriate. The President proposes to seek alternatives to this breeder but also to maintain a base program for the LMFBR. The United States has the time to examine alternative methods to meet future energy needs and, in particular, to develop approaches that may reduce the dangers of proliferation. If we cannot find desirable alternatives, there will be time to return to the LMFBR.

The President has proposed to change many facets of national energy planning. He has stressed conservation, the increased use of coal, and the development of alternative energy sources. He has also expressed his deep concern over the proliferation of nuclear devices.

The United States is in an excellent position to postpone implementing the breeder option. We have plenty of other fuels including coal and uranium to produce electricity in the near term, and are just beginning to make headway on much more benign renewable technologies such as solar, wind, ocean thermal, and biofuels for the middle and long term. I am convinced that putting anything close to what we have spent on the breeder into these areas will produce viable electrical and other energy sources which will not have the problems associated with the breeder.

In 1945, the fast breeder reactor was given an exceedingly high priority, due to the fact that with the limited uranium supplies that were in prospect at that time, it did not seem that a sizable contribution to energy production could be obtained in any other way except if fast breeders were developed. In 32 years it has become very clear that the fast breeder is an exceedingly difficult technical project. It is not certain when the fast breeder will attain a status where large scale use can be made of it. The capital costs will be so high that there is doubt whether it will become, in the foreseeable future or even at any time, a truly competitive possibility for producing energy.

We have focused our attention on availability of raw materials and in the process we have tended to forget the importance of the size of the capital investment needed. Indeed, when you talk about gas storage today, the fuel is important, the capital investment relatively unimportant. When you talk about nuclear reactors, it is the capital investment that is important and the fuel that, at least, today tends to be cheap.

The CRBR, which began in 1969, was estimated by the AEC to cost $699 million, with about $250 million to come from utility sources. Current estimates now exceed $2 billion, with nearly all of the cost increases to be borne by the Government.

Full funding of the entire fission program will dramatically increase the size of future energy research and development budgets. By the time such a program funding level reaches its projected peak in 1981, the fission power reactor program will exceed $2 billion in annual budget authority and consume about 31 percent of the entire fully funded energy research budget. The problem for the longer term will be the number of alternative fission breeder and converter technologies that can be investigated at increasing scales.

I am strongly opposed to proceeding now with the construction of the CRBR simply because we do not yet know what role, if any, that type of reactor should play in meeting our long-term demands for energy. My primary concern about large scale deployment of nuclear power systems in the United States and the rest of the world relates to their possible connections with the risks of nuclear war and the acquisition and use of nuclear explosives by terrorists or other types of criminals. The CRBR was not designed with these risks clearly in focus. Furthermore, I am not aware of any set of clearly stated design criteria related to these risks that have been generally accepted within our Government. Before we proceed with major commercialization steps for a new generation of nuclear power systems after our present light water reactor systems operating on a once-through fuel cycle, such criteria must be formulated and used in detailed assessments of alternative nuclear and nonnuclear strategies for meeting our long term energy needs. If this is not done, I believe we shall be in grave danger of drifting, along with the rest of the world, toward a future in which the frequency and intensity of acts of nuclear destruction will far exceed what they would be if we and the rest of the world had chosen other alternatives.

I ask unanimous consent that the text of the amendment be printed in the RECORD immediately after this statement.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 482

At the appropriate place in the bill, insert the following new Section:

"SEC. . Notwithstanding any other provision herein contained, there is authorized to be appropriated for the Clinch River Breeder Reactor Project $33,000,000. This sum may be expended to terminate the project."

SCHOOL LUNCH AND CHILD NUTRITION—S. 1420

AMENDMENT NO. 483

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 1420) to amend the National School Lunch Act and the Child Nutrition Act of 1966.

HEARING CANCELLATION NOTICE

Mr. NELSON. Mr. President, this is to give notice that the hearing previously scheduled for 10 a.m. on Thursday, June 30, by the Subcommittee on Government Regulation and Small Business Advocacy of the Senate Small Business Committee on the subject of "The Impact of Fuel Oil Tax Rebate Proposals on Small Businesses and Consumers" has been cancelled.

ADDITIONAL STATEMENTS

(Additional statements are printed at the conclusion of Senate proceedings today.)

WAIVER OF CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 6415

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 287, which is a budget waiver resolution respecting H.R. 6415, extending the Export-Import Bank Act of 1945, as amended.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 200) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6415, extending the Export-Import Bank Act of 1945, as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6415. Such waiver is necessary because operating authority for the Export-Import Bank will expire under the existing statute on June 30, 1978, three months prior to the end of the 1978 fiscal year. In order to bring the bank's operating authority into conformity with the budgetary fiscal year, the Committee on Banking, Housing, and Urban Affairs is recommending adoption of H.R. 6415, as amended. The bill provides for a three-month extension of the Export-Import Bank Act of 1945, as amended. The Bank receives no appropriated funds, but is subject to statutory limits placed on its authority to commit funds derived from its operations. H.R. 6415 does not authorize increases in the annual ceilings placed on the Bank's authority to commit funds, and should cause no change or delay in the appropriations process. The extension of the Bank's operating authority was contemplated at the time the First Concurrent Resolution on the budget for Fiscal Year 1978 was considered and will not affect the congressional budget. The press of major legislative business before the Committee on Banking, Housing, and Urban Affairs prevented the committee from taking up the extension prior to May 15.

EXPORT-IMPORT ACT EXTENSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 259, H.R. 6415, the Export-Import Bank Act extension.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment on page 1, line 3, following "That" strike through and including "Sec. 4." on page 5; so as to make the bill read:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That Section 8 of the Export-Import Bank Act of 1954 is amended by striking out "June 30" and inserting in lieu thereof "September 30".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, as I understand this measure, it makes no change in the existing law insofar as the Export-Import Bank is concerned.

Mr. STEVENSON. The Senator is correct. This is a simple 3-month extension of the Export-Import Bank Act for the purpose of placing the Export-Import Administration Act on the new fiscal year.

There are no changes of any kind in the legislation which governs that agency. It is my expectation that there will be hearings and an opportunity to consider changes next winter, when we take up the longer term extension.

Mr. HARRY F. BYRD, JR. This measure would extend the Export-Import Administration to what period of time?

Mr. STEVENSON. Through the end of fiscal 1978.

Mr. HARRY F. BYRD, JR. A year from now?

Mr. STEVENSON. That is correct. A year from next September or October.

Mr. HARRY F. BYRD, JR. I ask the Senator whether the committee has given consideration as to what it will recommend in regard to the loan to the Soviet Union. There is now a ceiling on the amount of loans that can be made to the Soviet Union—$300 million.

What I really want to ask is whether the committee would be inclined to adhere to that ceiling or whether there is any indication the committee might want to change that ceiling.

Mr. STEVENSON. Mr. President, in recommending this extension of 3 months, the Committee on Banking, Housing and Urban Affairs has not considered any of the provisions in the proposed legislation. It will do so when it considers a longer term extension, and those provisions to be considered will include the present congressional review procedures for credits to the Soviet Union.

This legislation now provides that if the administration seeks more than $300 million in addition to the outstanding credits to the Soviet Union, it first will have to obtain congressional approval. But for the moment, and until the legislation is considered again, that question is moot; because provisions in the Trade Act prohibit any credits at all to the Soviet Union. So Congress will have an opportunity to consider the Ex-Im legislation along with any possible amendments to the trade legislation before any credits under either would become possible.

Mr. HARRY F. BYRD, JR. So the $300 million ceiling in existing law, when the measure that is before the Senate tonight is passed and becomes law, would remain in effect until September 1978.

Mr. STEVENSON. The Senator is correct.

Mr. HARRY F. BYRD, JR. I assume that the new legislation which the Senator from Illinois and his committee will submit will be legislation that would take effect October 1, 1978.

Mr. STEVENSON. The Senator is correct.

Mr. HARRY F. BYRD, JR. The Senator from Virginia is very much interested in maintaining a ceiling on the amount of credit to the Soviet Union. When the committee considers this matter, I would appreciate if the able Senator from Illinois would give me an opportunity to express a view, in the event there is any indication of change in the ceiling.

Mr. STEVENSON. Mr. President, the distinguished Senator from Virginia was of great help in formulating this legislation. He was one of the authors of the present ceiling, and I can assure him happily that he will have such an opportunity when legislation is once again considered in the Banking Committee.

Beyond that, I share many of his concerns about uncontrolled credits for the Soviet Union or credits for that country that are beyond any control or review by the Congress. So that he would not only have that opportunity but I hope when the time does come that we can adopt once again either a ceiling or some form of congressional review in order to continually involve the Congress in the whole question of extending credits to the Soviet Union through the Export-Import Bank.

Mr. HARRY F. BYRD, JR. I say to my friend and colleague from Illinois I thank him very much.

Mr. STEVENSON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY EXTENSION OF CERTAIN FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate House Joint Resolution 525.

The Presiding Officer laid before the Senate House Joint Resolution 525, a joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the joint resolution be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the joint resolution.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WITHDRAWAL AND RELEASE OF CERTAIN DOCUMENTS PERTAINING TO POSSIBLE CRIMINAL ACTIVITIES—SENATE RESOLUTION 213

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 213.

The Presiding Officer laid before the Senate Senate Resolution 213, to permit withdrawal and release of certain documents, papers or other information pertaining to possible criminal activities.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 213), together with its preamble, is as follows:

S. RES. 213

Resolution to permit withdrawal and release of certain documents, papers or other information pertaining to possible criminal activities

Whereas, the United States Department of Justice, through the United States Attorney for the Central District of California, is carrying out an investigation of alleged criminal activities of certain individuals; and

Whereas, the United States Department of Justice has formerly requested by letter dated June 8, 1977, that the Subcommittee transmit to the United States Attorney for the Central District of California certain transcripts of testimony received by the Subcommittee in executive session and copies of documentary evidence provided in connection with such testimony bearing on the subject matter of the Department's investigation; and

Whereas, in the course of their duties as employees of the Senate certain staff members of the Permanent Subcommitee on Investigations received information on alleged activities of such individuals which information is relevant to the inquiry of the United States Attorney; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, information secured by staff employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate, therefore, be it

Resolved that the Permanent Subcommittee on Investigations is authorized, at the discretion of and at the direction of its Chairman, to provide the United States Attorney for the Central District of California, with copies of transcripts of executive session testimony and any information in its possession relevant to alleged illegal activities of certain individuals currently under investigation by that office.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the United States Attorney for the Central District of California.

WITHDRAWAL AND RELEASE OF CERTAIN DOCUMENTS, PAPERS, OR OTHER INFORMATION PERTAINING TO POSSIBLE CRIMINAL ACTIVITIES — SENATE RESOLUTION 214

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 214.

The PRESIDING OFFICER laid before the Senate, Senate Resolution 214, a resolution to permit withdrawal and release of certain documents, papers, or other information pertaining to possible criminal activities.

The PRESIDING OFFICER. Is there objection to the Senate proceeding to consider the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 214), together with its preamble, is as follows:

S. RES. 214

To permit withdrawal and release of certain documents, papers or other information pertaining to possible criminal activities

Whereas, Stephen B. Elko and Patricia Brislin were the subjects of a Federal grand jury indictment returned June 9, 1977; and

Whereas, in the course of their duties as employees of the Senate certain staff members of the Permanent Subcommittee on Investigations received information on certain transactions from which the indictment of Stephen B. Elko and Patricia Brislin arises, which information is relevant to the case being prepared for trial by the United States Attorney; and

Whereas, the United States Attorney for the Central District of California has requested by letter dated June 13, 1977, that the subcommittee transmit to it certain documents, papers, or other information which it might have with regard to the subject transactions and individuals; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, information secured by staff employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate, therefore, be it

Resolved that the Permanent Subcommittee on Investigations is authorized, at the discretion of and at the direction of its Chairman, to provide the United States Attorney for the Central District of California, with any information in its possession relevant to the activities of Stephen B. Elko and Patricia Brislin.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the United States Attorney for the Central District of California.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. JACKSON be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR JACKSON

I report today two Resolutions to permit the withdrawal and release of documents, testimony and other information obtained by, and in the possession of, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

By letter of June 8, 1977, the United States Department of Justice requested that the Subcommittee supply the U.S. Attorney for the Central District of California with copies of transcripts of executive session testimony and materials received by Subcommittee staff during the course of a Subcommittee investigation into the activities of the Morgan Arms Corporation, which activities were focussed upon as part of our inquiry into the alleged illicit movement of weapons from the United States to narcotics traffickers and violence prone groups in Mexico. The U.S. Attorney's office is pursuing possible criminal violations by certain principals in the corporation for presentation to a grand jury.

The other responds to a letter of June 13, 1977, from the U.S. Attorney for the Central District of California requesting that the Subcommittee supply his office with certain documents obtained by Subcommittee staff during the course of its investigation into the Federal guaranteed student loan program pertaining to the transactions of certain individuals, which transactions are pertinent to a seven-count indictment recently returned in the U.S. District Court for the Central District of California entitled *United States of America* v. *Stephen B. Elko and Patricia Brislin*.

Pursuant to Rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, such information, documentation and testimony may not be released without a Resolution of the Senate.

Accordingly, I report the following Resolutions, approved by the Committee on Governmental Affairs, and ask that these Resolutions be adopted.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move that both resolutions be reconsidered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I move to reconsider the votes by which the resolutions were agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER REFERRING S. 1750

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MAGNUSON, I ask unanimous consent that if and when S. 1750 is reported by the Committee on Human Resources that the bill be subsequently referred to the Committee on Commerce, Science, and Transportation until July 27, 1977, to consider that portion relating to broadcast advertising.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be so referred, with the committee to consider that portion.

Mr. ROBERT C. BYRD. Mr. President, S. 1750 is the Saccharin Study, Labeling and Advertising Act introduced by Senators KENNEDY, SCHWEIKER, PELL, RIEGLE, and STAFFORD on June 23, 1977. The bill was referred to the Committee on Human Resources. Inasmuch as the bill, in its current form, would have a substantial impact on broadcast advertising, which is within the jurisdiction of the Committee on Commerce, Science, and Transportation, this unanimous consent request will give the Commerce Committee some opportunity to examine the impact of the legislation on advertising.

HIGHWAY SAFETY AND TRAFFIC SAFETY—MESSAGE FROM THE PRESIDENT—PM 90

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

The tenth annual reports on the administration of the Highway Safety and

National Motor Vehicle and Traffic Safety Acts of 1966 are transmitted for your consideration. The volume on motor vehicle safety includes the reporting requirements of Title I of the Motor Vehicle Information and Cost Savings Act of 1972. It also mentions the responsibilities with respect to automotive fuel economy in the Energy Policy and Conservation Act of 1976. The highway safety document briefly describes developments in those aspects of traffic safety in which Congress expressed an interest in the Highway Safety Acts of 1973 and 1976.

These reports are based upon traffic program activities in effect prior to my term of office.

JIMMY CARTER.

THE WHITE HOUSE, *June 29, 1977.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the President of the United States, transmitting the 10th annual report on the administration of the Highway Safety and National Motor Vehicle and Traffic Safety Acts of 1966, be jointly referred to the Committees on Commerce, Science, and Transportation and Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 1420

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 285, the resolution of waiver on S. 1420, the Child Nutrition and School Lunch Act.

The resolution (S. Res. 197) waiving sec. 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1420, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) are waived with respect to the consideration of S. 1420, a bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to revise and extend the summer food program, to revise the special milk program, to revise the school breakfast program, to authorize the Secretary of Agriculture to carry out a program of nutrition information and education as part of food service programs for children conducted under such Acts, and for other purposes. Such waiver is necessary to permit consideration of statutory authority to extend and improve, through strengthened administration, the summer food program, to provide for the extension of other expiring provisions of the child nutrition programs, and to provide necessary administrative improvements in the child nutrition programs.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—S. 1420

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1420, the Child Nutrition School Lunch Act, is before the Senate there be a time limitation thereon of 1 hour, to be equally divided between Mr. McGOVERN and Mr. DOLE, that there be a time limitation on any amendment thereto of 30 minutes, a time limitation on any debatable motion, appeal, or point of order of 20 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF S. 1420 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators have been entered into on tomorrow, the Senate proceed to the consideration of S. 1420, the Child Nutrition School Lunch Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

GEN. DRAZA MIHAILOVICH MONUMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 275, S. 244.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 244) to authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, District of Columbia, in recognition of the role he played in saving the lives of approximately five hundred United States airmen in Yugoslavia during World War II.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 3, strike out:

Such monument shall be located on public land within the District of Columbia, to be located according to plans approved by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

and insert in lieu thereof:

Such monument shall be of appropriate design and shall be located on Federal public land within the District of Columbia or environs. The design and location of the monument shall be subject to approval by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 2 of this bill, the Secretary of the Interior shall permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain a monument to General Draza Mihailovich, in recognition of the role he played in saving the lives of approximately five hundred United States airmen in Yugoslavia during World War II, as described in such committee's petition to Congress concerning the authorization of such monument. Such monument shall be of appropriate design and shall be located on Federal public land within the District of Columbia or environs. The design and location of the monument shall be subject to approval by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

SEC. 2. The National Committee of American Airmen Rescued by General Mihailovich shall accept private funds which shall be the sole source for the construction and maintenance of such monument. The Secretary of the Interior shall only permit such committee to begin the construction of such monument when he determines that such committee has sufficient funds to complete such construction and to provide for such maintenance; except that such committee must have such funds no later than two years after the date of enactment of this Act.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, shall the bill pass?

The bill (S. 244) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WAIVER OF CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 1341

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 286, the budget waiver resolution respecting S. 1341, a bill to authorize appropriations for the Energy Research and Development Administration for military programs.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 199) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1341.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the resolution (S. Res. 199) was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1341, a bill to authorize appropriations to the Energy Research and Development Administration for military programs with potential civilian energy applications, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the

case may be, on or before May 15 preceding the beginning of such fiscal year.

As a result of S. Res. 4, jurisdiction over most matters relating to the Energy Research and Development Administration was divided between the Committees on Armed Services and Energy and Natural Resources, S. 1341 relates to those programs where jurisdiction is shared between the two committees and the required joint action of two committees made it impossible in the first year of jurisdiction to report by the May 15 deadline.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1341 as reported by the Committee on Armed Services and Energy and Natural Resources.

ERDA AUTHORIZATION ACT OF 1978—JOINT APPLICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 258, S. 1341.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1341) to authorize appropriations to the Energy Research and Development Administraiton for military programs with potential civilian energy applications, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committees on Armed Services and Energy and Natural Resources, jointly, with amendments as follows:

On page 2, line 9, strike "$101,000,000" and insert "$106,100,000";

On page 2, beginning with line 16, strike through and including line 18, and insert in lieu thereof:

(1) Project 78–4–a, high energy laser facility (NOVA), Lawrence Livermore Laboratory, California (A–E, limited construction, selected long-lead time procurement), $8,000,000.

On page 3, beginning with line 1, strike through and including line 12;

On page 3, line 14, strike "103" and insert "102";

On page 3, line 23, strike "104" and insert "103";

On page 4, beginning with line 5, insert the following:

(1) Project 78–21, general plant projects, $2,800,000.

On page 4, line 7, strike "(1)" and insert "(2)";

On page 4, beginning with line 10, insert the following:

SPECIAL CONSTRUCTION AND ACQUISITION AUTHORITY; TITLE TO PROPERTY

On page 5, line 1, insert the following:

RESTRICTIONS ON THE USE OF FUNDS

On page 5, beginning with line 23, strike through and including page 6, line 19, and insert in lieu thereof:

PROJECT COST VARIATION PROVISIONS

SEC. 203. (a) The project authorized in section 101(b)(1) may not be started if the current estimated cost of such project exceeds by more than 25 per centum the amount authorized by law for such project.

(b) At any time the current estimated cost of any project under construction exceeds by more than 25 per centum the total amount authorized by law for such project, the Administrator of the Energy Research and Development Administration shall (1) promptly notify the appropriate committees of the Congress of such fact and include in the notification an explanation for the increased cost of the project and the revised current estimated cost figures for such project, and (2) not proceed unless and until additional funds for such project are authorized by law.

(c) The provisions of this section shall not apply to any project which has a current estimated cost of less than $5,000,000.

AUTHORITY TO MERGE FUNDS

SEC. 204. Subject to the applicable requirements and limitations of this Act and to the extent specified in appropriations Acts, amounts appropriated to the Energy Research and Development Administration pursuant to this Act for operating expenses or for plant and capital equipment may be merged with any other amounts appropriated for operating expenses or for plant and capital equipment, respectively, pursuant to any other Act authorizing appropriations for the Energy Research and Development Administration.

FUNDS TO REMAIN AVAILABLE UNTIL EXPENDED

SEC. 205. To the extent specified in appropriations Acts, amounts appropriated pursuant to this Act for operating expenses or plant and capital equipment may remain available until expended.

On page 8, line 3, insert the following:

AUTHORIZATION TO PERFORM CONSTRUCTION DESIGN SERVICES

On page 8, beginning with line 17, strike through and including page 9, line 8, and insert in lieu thereof:

AUTHORITY TO USE CERTAIN MONEYS AND FEES

SEC. 207. To the extent specified in appropriations Acts, any moneys received by the Energy Research and Development Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 (42 U.S.C. 2301) and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98) and fees received for tests or investigations under the Act of May 16, 1910 (30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

AUTHORITY TO TRANSFER FUNDS TO OTHER AGENCIES

SEC. 208. To the extent specified in appropriations Acts, funds appropriated to the Energy Research and Development Administration for operating expenses may be transferred to other agencies of the Government for the performance of work for which such funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which transferred.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "ERDA Authorization Act of 1978—Joint Applications".

SEC. 2. In accordance with section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration for fiscal year 1978, subject to titles I, II, and III of this Act the following:

TITLE I—FOR LASER FUSION, SPACE APPLICATIONS, AND NAVAL REACTOR DEVELOPMENT PROGRAMS

LASER FUSION

SEC. 101. (a) For operating expenses, $106,100,000.

(b) For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and fabrication of capital equipment not related to construction, a sum equal to the total of the following amounts:

(1) Project 78–4–a, high energy laser facility (NOVA), Lawrence Livermore Laboratory, California (A–E, limited construction, selected long-lead time procurement), $8,000,000.

(2) Capital equipment not related to construction, $13,200,000.

SPACE APPLICATIONS

SEC. 102 (a) For operating expenses, $31,700,000.

(b) For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, the following amount:

(1) Capital equipment not related to construction, $3,400,000.

NAVAL REACTOR DEVELOPMENT

SEC. 103. (a) For operating expenses, $211,700,000.

(b) For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, the following amount:

(1) Project 78–21, general plant projects, $2,800,000.

(2) Capital equipment not related to construction, $15,150,000.

TITLE II—GENERAL PROVISIONS

SPECIAL CONSTRUCTION AND ACQUISITION AUTHORITY; TITLE TO PROPERTY

SEC. 201. (a) Funds appropriated pursuant to title I of this Act may be used for the construction or acquisition of any facilities or major items of equipment, which may be required at locations other than installations of the Energy Research and Development Administration, for the performance of research, development, and demonstration activities.

(b) Title to all such facilities and items of equipment shall remain in the United States, unless the Administrator of the Energy Research and Development Administration or his designee determines and states in writing that the research, development, and demonstration authorized by this Act will best be implemented by permitting title or other such property interests to be in an entity other than the United States.

RESTRICTIONS ON THE USE OF FUNDS

SEC. 202. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act,

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless (A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator of the Energy Research and Development Administration containing a full and complete statement of

the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

PROJECT COST VARIATION PROVISIONS

SEC. 203. (a) The project authorized in section 101(b)(1) may not be started if the current estimated cost of such project exceeds by more than 25 per centum the amount authorized by law for such project.

(b) At any time the current estimated cost of any project under construction exceeds by more than 25 per centum the total amount authorized by law for such project, the Administrator of the Energy Research and Development Administration shall (1) promptly notify the appropriate committees of the Congress of such fact and include in the notification an explanation for the increased cost of the project and the revised current estimated cost figures for such project, and (2) not proceed unless and until additional funds for such project are authorized by law.

(c) The provisions of this section shall not apply to any project which has a current estimated cost of less than $5,000,000.

AUTHORITY TO MERGE FUNDS

SEC. 204. Subject to the applicable requirements and limitations of this Act and to the extent specified in appropriations Acts, amounts appropriated to the Energy Research and Development Administration pursuant to this Act for operating expenses or for plant and capital equipment may be merged with any other amounts appropriated for operating expenses or for plant and capital equipment, respectively, pursuant to any other Act authorizing appropriations for the Energy Research and Development Administration.

FUNDS TO REMAIN AVAILABLE UNTIL EXPENDED

SEC. 205. To the extent specified in appropriations Acts, amounts appropriated pursuant to this Act for operating expenses or plant and capital equipment may remain available until expended.

AUTHORIZATION TO PERFORM CONSTRUCTION DESIGN SERVICES

SEC. 206. The Administrator of the Energy Research and Development Administration is authorized to perform construction design services for any construction project of the Energy Research and Development Administration whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by such administration, and (2) such Administration determines that the project is of such urgency in order to meet the needs of national defense or to protect life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

AUTHORITY TO USE CERTAIN MONEYS AND FEES

SEC. 207. To the extent specified in appropriations Acts, any moneys received by the Energy Research and Development Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 (42 U.S.C. 2301) and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98) and fees received for tests or investigations under the Act of May 16, 1910 (30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

AUTHORITY TO TRANSFER FUNDS TO OTHER AGENCIES

SEC. 208. To the extent specified in appropriations Acts, funds appropriated to the Energy Research and Development Administration for operating expenses may be transferred to other agencies of the Government for the performance of work for which such funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which transferred.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and adopted en bloc.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 1341) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IN COMMEMORATION OF HENRY FORD, AUTOMOBILE PIONEER

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution introduced by Mr. RIEGLE and Mr. GRIFFIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 215) commemorating Henry Ford, automobile pioneer.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRIFFIN. Mr. President, this resolution honors a unique industrial giant, the late Henry Ford, who founded in my home State the Ford Motor Co. which began its 75th year of operation this month.

For me it is a special pleasure to sponsor and support this resolution. I grew up in Garden City, Mich., just a few miles from the Ford home. I went back and forth to high school along Ford Road, right past the Ford property. The name of the high school I attended was Fordson, named for Henry Ford.

Of course, the automobile was actually conceived and born in Europe in the closing years of the 19th century. Yet, I venture to say that if people around the world were asked the question, "Who invented the automobile?", the most frequent answer would be—"Henry Ford."

This popular misconception is a tribute to the man who, more than any other, made the automobile available to millions of people—not only in the United States but the world over.

Henry Ford did far more than attach four bicycle tires to a frame and a tiny engine in his little shop on Bagley Avenue. Henry Ford's special genius was that he combined the skills of a master mechanic with the vision of an industrial prophet.

It was young Henry Ford's goal to build cars, as he put it, for "the great multitude." He had grown up on a farm and had seen how machinery could ease the burden of work. Henry Ford saw the automobile as a machine that would make the life of the average person easier and more enjoyable.

Henry Ford did more than devise a revolutionary machine and an even more revolutionary method of production. He did more, even, then revolutionize the transportation system of America and most of the world besides. More than all this, he revolutionized the whole American economy.

In providing the first truly mass-produced motor vehicle, Henry Ford provided the people of this Nation with a freedom of movement that has become the keystone of our style of life. At the same time, he helped pioneer an enormous industry that has provided direct employment for hundreds of thousands of people—and indirect employment for many hundreds of thousands of others in businesses and industries which supply and support the auto industry.

In the course of his work, Henry Ford was confronted by many failures, massive and determined opposition, desertion by his partners—even bankruptcy. But he persevered.

And one reason he ultimately succeeded in accomplishing so much was that his own philosophy was revolutionary in its simplicity; he was determined to produce a better and better product in lower and lower prices to more and more customers.

By sharing his profits, first with his customers and then with his workers, Henry Ford reshaped the American economic landscape.

It may be a paradox of genius that the same man who said, "History is bunk," managed himself to change the course of history.

Because, for all his personal eccentricities—including, for example, his stubborn insistence that all Ford cars be painted black—Henry Ford probably opened more doors of economic opportunity to more Americans than any other private citizen in the history of our country.

In these days, when it has become so fashionable in some quarters to throw darts at the automobile in the name of "consumerism," it may be appropriate to recall that Henry Ford, his product, and his revolutionary brand of consumer-oriented capitalism truly—and in more ways than one—put the consumer in the driver's seat—as never before.

Mr. President, I ask that a statement prepared by the news department of the Ford Motor Co., be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

Ford Motor Company entered the business world without fanfare on June 16, 1903, when the late Henry Ford and 11 associates filed incorporation papers at Michigan's State Capitol in Lansing.

With an abundance of faith, but only $28,000 in cash, the pioneering industrialists gave birth to what was to become one of the world's largest corporations.

The company had anxious moments in its infancy, balancing the scale of bankruptcy precariously. But one month after incorporation a ray of hope shone when the first car was sold to a Chicago dentist named Pfennig. A worried group of stockholders, skeptically eyeing a bank balance that had dwindled to $223.65, breathed easier, and the young Ford Motor Company had taken its first step.

During the next five years, young Henry Ford, as chief engineer and later as president, directed a development and production program which started in a converted wagon factory on Mack Avenue in Detroit and later moved to a larger building at Piquette and Beaubien Streets. In the first 15 months, 1,700 cars—early Model A's—chugged out of the old wagon factory.

Between 1903 and 1908, Henry Ford and his engineers used about 10 different letters of the alphabet to designate their creations, although some of the cars were experimental and never reached the public.

The most successful of the early production cars was the Model N, a small, light, four-cylinder machine which went on the market at $500. A $2,500 six-cylinder luxury car, the Model K, sold poorly.

The Model K's failure, along with Mr. Ford's insistence that the company's future lay in the production of inexpensive cars for a mass market, caused increasing friction between Mr. Ford and Alexander Y. Malcomson, a Detroit coal dealer who had been instrumental in raising the original $28,000. As a result, Mr. Malcomson left the company and Mr. Ford acquired enough of his stock to increase his holdings to 58½ per cent. He became president in 1906, replacing John S. Gray, a Detroit banker.

Disputes among the stockholders did not threaten the young company's future as seriously as did a man named George Selden. Mr. Selden had a patent on "road locomotives" powered by internal combustion engines. To protect his patent, he formed a powerful syndicate to license selected manufacturers and collect royalties for every "horseless carriage" built or sold in America, attempting to monopolize the industry.

Hardly had the doors been opened at the Mack Avenue factory when Selden's syndicate filed suit against the Ford company which bravely had gone into business without a Selden license.

Faced with the choice of closing the doors or fighting a battery of attorneys who already had whipped bigger companies into line, Henry Ford and his partners decided to fight.

Eight years later, in 1911, after incredibly complicated court proceedings Ford Motor Company won the battle which freed it and the entire auto industry from Selden's strait jacket.

Despite harassment from Selden's syndicate, the fledgling company kept improving its machines and reached the Model T in 1908. A considerable improvement over all previous models, this car was an immediate success.

Nineteen years and more than 15,000,000 Model T's later (1927), Ford Motor Company was a giant industrial complex that spanned the globe. Its vehicles had started an urban revolution. Its $5 day and the philosophy behind it had started a social revolution. Its moving assembly line contributed to an industrial revolution.

During this 19 years of hectic expansion, Ford Motor Company:

Moved to a much bigger plant in Highland Park, Mich. (1910).

Established the industry's first branch assembly plant in Kansas City, Mo. (1911).

Started new plants to keep up with demands in Philadelphia, Minneapolis, Long Island City and Buffalo (1913).

Began producing trucks and tractors (1917).

Mass-produced the World War I "Eagle" boat submarine chaser (1918).

Became wholly owned by Henry Ford, his wife, Clara, and his son, Edsel, who succeeded his father as president after a conflict with stockholders over the millions to be spent to build the giant Rouge plant in Dearborn, Mich. (1919).

Bought the Lincoln Motor Company (1922).

Built the first of 196 Ford Tri-Motor airplanes used by America's first commercial airlines (1925).

By 1927, time had run out on the Model T. Improved, but basically unchanged for so many years, it was losing ground to more stylish, more powerful machines being offered by Ford competitors. Starting in May, Ford plants began to close down for six months while the company re-tooled for the Model A.

It was a vastly improved car in all respects. More than 4,500,000 Model A's, in several body styles and a wide variety of colors, rolled onto the nation's highways between late 1927 and 1931.

The Model A, too, eventually reached the end of the line when consumers demanded even more luxury and power. Ford Motor Company was ready with plenty of both in its next entry—the Ford V-8—which the public saw for the first time on April 1, 1932. Ford was the first company in history to cast a V-8 engine block in one piece and mass produce it successfully. Experts told Mr. Ford it couldn't be done. It was many years before Ford's competitors learned how to mass-produce a reliable V-8. In the meantime, the car and its powerful engine became the darling of performance-minded Americans.

In 1938, six years after the V-8 was introduced, production started on the Mercury which became Ford's entry in the growing medium-price field.

In February, 1942, civilian car production came to a halt as the company threw all its resources into the U.S. war effort. Initiated by Edsel Ford, this giant wartime program produced in less than three years 8,600 four-engined B-24 "Liberator" bombers, 57,000 aircraft engines and over 250,000 jeeps, tanks, tank destroyers, and other pieces of war machinery.

Edsel Ford died in 1943 just as his program was reaching its maximum efficiency. A saddened Henry Ford resumed the presidency until the war's end when he resigned for the second time. His oldest grandson, Henry Ford II, now chairman of the board, became president on Sept. 24, 1945.

Even as Henry Ford II drove the industry's first postwar car off the assembly line, he was making plans to reorganize and decentralize the company. Losing money at the rate of several million dollars a month, Ford Motor Company was in critically poor condition to resume its pre-war position as a major factor in a fiercely competitive auto industry. In much the same manner as his grandfather had faced problems at the company's beginning, Henry Ford II tackled the job of building an automobile company all over again.

Having relinquished his company's operation to his grandson, Mr. Ford lived quietly with his wife, Clara, until he died on April 7, 1947, at the age of 83.

Henry Ford II's postwar reorganization plan rapidly restored the company's health. In the expansion program Ford added 24 manufacturing plants, 13 assembly plants, 21 parts depots, two proving grounds and 21 engineering, research and office buildings in the United States.

Paralleling Ford's domestic growth has been a foreign expansion program which got its start in 1904, just one year after the company was formed. On August 17 of that year, a modest plant opened in the small town of Walkerville, Ont., with the imposing name of Ford Motor Company of Canada, Ltd.

From this small beginning has grown an overseas organization of manufacturing plants, assembly plants, parts depots and dealers with Ford represented in over 200 countries and territories around the world.

The company now not only produces automobiles to fit individual markets, but also light, medium and heavy trucks, farm and industrial tractors, industrial engines and construction machinery. Besides substantially increasing vehicle production facilities, the company has established itself in financing, insurance, automotive replacement parts, electronics and space technology.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 215) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 215

Whereas the late automobile pioneer, Henry Ford, developed the first practicable mass-produced motor vehicle in history, providing increased personal mobility to successive generations of Americans, expanding opportunity for travel and commerce, and contributing to a spirit of national unity and identity;

Whereas the efficient production of a universal product, priced within reach of virtually all Americans, provided a major and long-lasting stimulus to the entire economy, benefiting consumers and workers alike;

Whereas by his personal labors, Mr. Ford further contributed to the social, economic and cultural fabric of American society, establishing the then-unprecedented $5.00 per day wage for his employees, and founding the world-renowned historical collection at Greenfield Village to help preserve our national heritage: Now, therefore, be it

Resolved that the United States Senate marks the occasion of the 75th anniversary of the enterprise founded by the elder Henry Ford as an appropriate time to recognize his unique industrial statesmanship.

ORDER TO HOLD AMENDMENT AT DESK—SENATE RESOLUTION 78

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that an amendment by Mr. MUSKIE amending Senate Resolution 78 with respect to the Budget Committee budget be held at the desk pending further disposition.

Mr. BAKER. Mr. President, reserving the right to object, is that S. 211 that I have on my desk?

Mr. ROBERT C. BYRD. Yes, it is Senate Resolution 211.

The PRESIDING OFFICER. Without objection, it is so ordered.

REASSIGNMENT OF CERTAIN BILLS AND RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senate bills and resolutions introduced or submitted prior to February 11, 1977, which includes: S. 1—S. 716, Senate Joint Resolution 1—Senate Joint Resolution 20, Senate Concurrent Resolution 1—Senate Concurrent Resolution 10, and Senate Resolution 1—Senate Resolution 81, not already passed or agreed to prior to February 11, be considered as having been reassigned as of that date to the appropriate committee.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, might I ask the majority leader is it not so that this is necessary because of the special characteristics of the computer program that has been installed and we are affected by the latest reorganization legislation with respect to a bill that had not yet been reported from the committee?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 7553

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of H.R. 7553, calendar order No. 278, making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes, titles II, III, IV, and V and amendments thereto, be considered and disposed of before title I, and amendments thereto, are in order.

Ordered further, that the Senate then proceed to the matters contained in title I, and the amendments thereto, with the exception of the Clinch River breeder reactor project, and amendments thereto, which will not be considered automatically until after the Senate disposes of the ERDA Authorization Act of 1978—civilian nuclear energy applications.

Ordered further, that immediately upon the disposition of the ERDA Authorization Act of 1978—civilian nuclear energy applications, the Senate resume consideration of H.R. 7553, with no further amendments or motions thereto in order, except those dealing with the project aforementioned.

Mr. BAKER. Mr. President, reserving the right to object, I am delighted that we have this request for this unanimous-consent agreement. I think it will greatly expedite the consideration of this appropriation bill, and still preserve for another time and, in my view, a more logical time, the consideration and disposition of the breeder reactor project.

I would ask the majority leader if the language which he formulated relating to the consideration of title I, "which will not be considered automatically until after the Senate disposes of the ERDA authorization act of 1978," if that means that if in fact the ERDA authorization bill is passed, we would proceed next, without any other intervening matter except by unanimous consent, to the consideration of title I of the public works appropriation bill.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. But that otherwise the only way that title I of the public works appropriation bill could be reached would be by motion?

Mr. ROBERT C. BYRD. Yes, or by unanimous consent.

Mr. BAKER. Or by unanimous consent.

Mr. President, I have no objection to this, and I will not object. I would only say that it is in the nature of this agreement that we hope to proceed in an orderly and logical way, that is to say, to pass the authorization legislation before we proceed to consider the appropriations relating to title I; and I think that this unanimous-consent agreement is appropriate to that aspiration, and there will be no objection from our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 7553 (Order No. 278), making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes, titles II, III, IV, and V and amendments thereto, be considered and disposed of before title I, and amendments thereto, are in order.

Ordered further, That the Senate then proceed to the matters contained in title I, and the amendments thereto, with the exception of the Clinch River Breeder Reactor Project, and amendments thereto, which will not be considered automatically until after the Senate disposes of the ERDA Authorization Act of 1978—Civilian Nuclear Energy Applications.

Ordered further, That immediately upon the disposition of the ERDA Authorization Act of 1978—Civilian Nuclear Energy Applications, the Senate resume consideration of H.R. 7553, with no further amendments or motions thereto in order, except those dealing with the project aforementioned.

ORDER FOR CONSIDERATION OF H.R. 7553, THE PUBLIC WORKS APPROPRIATION BILL, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Child Nutrition Act tomorrow, the Senate proceed to the consideration of H.R. 7553, the Public Works appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STEVENS AND SENATOR MATHIAS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of the two leaders on tomorrow or their designees, Mr. STEVENS and Mr. MATHIAS be recognized each for not to exceed 15 minutes, at the conclusion of which orders the Senate will proceed to the consideration of the child nutrition bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, was the motion to reconsider made with respect to the passage of the Export-Import Bank bill? I am confident that it was, but I just want to be certain for the record.

The PRESIDING OFFICER. Yes, it was.

Mr. ROBERT C. BYRD. And the motion was laid on the table?

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:15 tomorrow.

The motion was agreed to; and at 10:25 p.m. the Senate recessed until Thursday, June 30, 1977, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate June 29, 1977:

DEPARTMENT OF STATE

Gerard C. Smith, of the District of Columbia, to be Ambassador at Large and U.S. Special Representative for Nonproliferation Matters, and to be also the representative of the United States of America to the International Atomic Energy Agency.

Frank V. Ortiz, Jr., of New Mexico, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados.

Frank V. Ortiz, Jr., of New Mexico, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Grenada.

THE JUDICIARY

T. F. Gilroy Daly, of Connecticut, to be U.S. district judge for the district of Connecticut vice Robert C. Zampano, retired.

DEPARTMENT OF JUSTICE

Joseph F. Dolan, of Colorado, to be U.S. attorney for the district of Colorado for the term of 4 years vice James L. Treece, resigned.

D. Lee Rampey, Jr., of Georgia, to be U.S. attorney for the middle district of Georgia for the term of 4 years vice Ronald T. Knight, resigned.

Peter E. Corning, of New York, to be U.S. attorney for the northern district of New York for the term of 4 years vice James M. Sullivan, Jr., resigned.

James J. Gillespie, of Washington, to be U.S. attorney for the eastern district of Washington for the term of 4 years vice Dean C. Smith, resigned.

Charles E. Graves, of Wyoming, to be U.S. attorney for the district of Wyoming for the term of 4 years vice James P. Castberg, resigned.

Edward N. Kelilkoa, of Hawaii, to be U.S. marshal for the district of Hawaii for the term of 4 years vice Thomas K. Kaulukukui, resigning.

Hubert T. Taylor, of West Virginia, to be U.S. marshal for the northern district of West Virginia for the term of 4 years vice Walter M. Garrison, Jr.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of lieutenant (junior grade):

John J. Ryan	Peter C. Blaisdell
Ronald E. Chapman	Roger D. Defauw
James W. Dunlap	Francis L. McClain
Paul D. Luppert	James N. Meisner
William C. Hall	Stephen W. Rochon
Timothy W. Goldsmith	Peter Mason
Randall D. Shaw	Robert C. Buckles

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with bills and joint resolutions introduced today are as follows:)

By Mr. JAVITS:

S. 1776. A bill to amend section 1673 (d) of title 38, United States Code, relating to the approval of the enrollment of veterans in certain courses under chapter 34 of such title; to the Committee on Veterans' Affairs.

Mr. JAVITS. Mr. President, today I am introducing a bill which will restore rights both to veterans and institutions of higher learning. By amending title 38, this legislation will revise what is termed the "85–15 rule," which denies benefits to veterans, interferes with institutional rights to determine admission and transfer policies, and imposes data requirements which institutions are unable to meet.

The "85–15" requirement restricts veterans participation in a course of study to no greater than 85 percent of the total students enrolled in the course.

It was conceived to eliminate institutional abuses such as the creation of college classes of questionable academic value for veterans in order to bolster institutional budgets with Federal benefits. It denies Veterans' Administration approval for enrollment of eligible veterans in any course in which more than 85 percent of enrolled students are having all or part of their tuition, fees, and other charges paid to or for them by the educational institution, by the VA, or by any other Federal agency. This percentage count includes BEOG and SEOG recipients.

In order to implement the rule, an 85–15 percent ratio must be computed for each course of study or curriculum leading to a separate approved educational or vocational objective. Courses or curricula which are offered at separately approved branches or extensions must have an 85–15 percent ratio computed separately from the same courses offered at the parent institution.

After the initial computation, continuing 85–15 percent ratio certifications for each course must be received by the VA no later than 30 days after the beginning date of the term or before the beginning date of the next term, whichever occurs first. New enrollments of eligible veterans in a course are processed based on the most recent available computation and certification of the 85–15 percent ratio. Upon receipt of information that either the initial or any subsequent computation shows that the 85-percent limitation is not met for a course, VA processing of enrollments in that course is discontinued immediately.

Two temporary waivers are now in force. First, a temporary waiver has been granted to exclude counting recipients of BEOG and SEOG as federally supported students for purposes of 85–15 percent ratio requirements. This temporary waiver ends June 30, 1978. The second grants station directors authority to waive 85–15 percent computations to institutions which certify that 35 percent or less of their enrollment receives Veterans' Administration educational assistance. Such certifications must be provided to the VA on a continuing basis. While this waiver is not specified as temporary, the context indicates that the inclusion of BEOG and SEOG computations after June 30, 1978, will apparently negate the waiver. At that time, a school may waive computation of the 85–15 percent ratio for any course offered by a school if 35 percent or fewer of the students in the course receive VA educational benefits and the percentage of VA-supported students in the course, plus the percentage of the school's total enrollment receiving BEOG and SEOG, totals 85 percent or less.

There is an additional waiver possibility for courses not meeting the 85–15 percent requirement generally as a result of high BEOG and SEOG enrollments. The documentation required and procedures involved would almost certainly discourage a school from seeking this relief.

Mr. President, disfunctions in implementing these provisions abridge veterans' rights and threaten to impose data requirements which cannot be met by institutions of higher learning. The inclusion of BEOG and SEOG students in the 85-percent enrollment counts denies benefits to veterans in urban areas, in graduate programs, and in many institutions with large numbers of BEOG grants and Federal fellowships for education.

If the temporary BEOG and SEOG waivers were to lapse, already staggering administrative and data requirements would skyrocket. Even highly sophisticated management information systems serving as models for other colleges and universities would be unable to generate data meeting VA requirements. Costly reprogramming and revision of higher education administrative procedures would be necessary to allow for admission and transfer decisions based on the distribution of financial resources of other enrollees, rather than the educationally sound criteria of students needs, abilities, and program capacity.

My bill will help solve problems caused by BEOG and SEOG counts and problems related to extensions of temporary waivers by eliminating students receiving grants from other Federal agencies for the purposes of the 85 percent determination.

The elimination of this language will ease tension between institutions of higher learning and the Veterans' Administration. Such tension has produced—at last count—over 20 costly lawsuits against the VA on issues of institutional authority and state legal responsibility.

Veterans' entitled rights are also denied by the "Catch 22" nature of the 85–15 rule, which puts the VA in an incongruous position. There exist programs initiated and supported by VA grants and contracts which are specifically designed to train paraplegic patients, mostly veterans, in such occupations as dental laboratory technology. Under the 85–15 ruling, paraplegic veterans, otherwise unable to afford such training, would be ineligible for veterans' benefits in these programs and denied the opportunity for useful participation in society. This bill solves these programs by removing the discretionary powers of the Administrator in such matters and guaranteeing veterans' benefits for special restorative training.

While protecting the rights of veterans and those of institutions of higher education, the provisions of the bill insure against abuses of Federal moneys in several ways. First, courses paid for by veterans' benefits must lead to a standard college degree and must be offered by a proprietary profit or nonprofit educational institution. Second, the limitation on enrollment at 85 percent of students having all or part of their tuition, fees, or other charges paid to or for them by the educational institution still stands with respect to nonstandard degree courses, thus limiting the creation of questionable veterans' courses by a small number of institutions in an attempt to preserve institutional budgets at the taxpayers' expense.

Today, the Committee on Veterans' Affairs is conducting hearings on the subject of benefits under the GI bill. The members of the Veterans' Affairs Committee will be the beneficiaries of telling testimony from Gordon M. Ambech who is presently Executive Deputy Commissioner of the New York State Education Department, who will be invested as Commissioner of Education on July 1. The New York State Education Depart-

ment stands firmly behind this legislation, which will insure against abuse of Federal funds while protecting the rights of education institutions to make educational policy or of veterans to make academic choices.

In total, the bill represents a well-reasoned, constructive solution to Veterans' Administration supervisory problems and to the problem of protecting both the academic freedom of our educational institutions and the rights of our veterans who have served our Nation so well.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1779. A bill to exempt the Rio Grande project, New Mexico-Texas, from the acreage limitation provisions of Federal reclamation laws which limit the acreage of irrigable land which may receive irrigation benefits from, through, or by means of Federal reclamation works; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I am sending to the desk for appropriate reference a bill dealing with the Bureau of Reclamation's Rio Grande project.

In 1952 the Secretary of the Interior entered into one or more recordable contracts with landowners in the Elephant Butte Irrigation District. The contracts authorized the Secretary to sell any and all "excess land" over 160 acres in the hands of the owner for which the construction charges were not paid in full within 10 years from the date of the contract. The effect of this contract was to eliminate the burden of a landowner having to sell his excess lands if the construction charges were prepaid or paid within the 10-year period. The normal payout time for the construction charges is 40 years. The landowners executing such agreements have relied upon the same and have expended great amounts of capital in developing their lands for the efficient production of agricultural crops. The result represents a substantial economic base for the communities involved.

At the time that these contracts were entered into, it was assumed that such arrangements were legally acceptable, but that conclusion no longer appears to be tenable in view of the recent decision in United States against Tulare Lake Canal Co. In this case the court held that initial payout of project construction costs by water users did not relieve them of the excess land provisions of reclamation law.

Mr. President, the 160-acre limitation is totally unrealistic and impractical for the people in the Rio Grande project as well as the State of New Mexico. While the social and other considerations in 1902 and perhaps for a period of time thereafter, may have had merit at the time, such no longer bears any relationship to the conditions which exist today.

In 1902 there was a public interest in developing the arid States in the West into farming communities and providing small farms for a great number of people. Today, it would not be economically feasible for a family unit to survive on 160 acres in the Rio Grande Project District.

In order to operate a farm now there is an intense need for capital. The cost of farm machinery, seed and supplies has risen. The farmer can no longer utilize relatively inexpensive labor to produce and harvest his crops. As a result, the farmer has turned more and more to machinery to produce and harvest his crops.

This has given rise to the advent of larger farming operations which enhance the ability of the farmer to effectively and efficiently produce from a larger number of acres. I submit that if through the enforcement of the 160-acre limitation the larger farms were broken up, the production would be greatly reduced causing disastrous results within the United States and the world.

Agriculture represents one of the three major economic factors in the Mesilla Valley, and contributes significantly to the general overall economy of the State of New Mexico. If the relatively small number of large farms—those in excess of 160 acre limitation—were required to be broken up and sold, such would not benefit the people, but to the contrary, would have an adverse effect upon their welfare. For example, one of the larger farms in the Mesilla Valley, if required to be sold in 160-acre tracts, would result in about 21 additional farm units of 160 acres each. It is questionable such small units could operate economically and provide a means of living for the owner.

In comparison, farmed as a unit this operation provides employment for over 450 people with an annual average payroll of over $2,500,000. The operation provides rent-free housing for its employees, and this includes the employees' families which means housing for a total population on the farm of approximately 3,600. Add to that medical and hospital insurance, bonuses, profit sharing, and pension benefits. The result is not only a great many more jobs than would be provided if the farm was broken up, but also a decent living for a great number of people who are given the opportunity to support their families.

Mr. President, the situation as exists today is vastly different than in 1902 when the act was adopted. Experience has shown that far better production, more jobs, better pay, and better benefits can be achieved in this area through larger economic farming units. The small farmer as well as the larger farmer has benefited from these efforts. No one has suffered and everyone has gained.

By Mr. DOMENICI (for himself, Mr. BELLMON, Mr. RANDOLPH, Mr. MAGNUSON, Mr. NUNN, Mr. JACKSON, Mr. PACKWOOD, Mr. HAYAKAWA, Mr. ALLEN, Mr. HEINZ, Mr. SCHMITT, and Mr. ZORINSKY):

S. 1780. A bill to reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State and local administration of the programs, and for other purposes; to the Committee on Human Resources.

Mr. DOMENICI. Mr. President, today I introduce legislation on behalf of myself and my esteemed colleagues including Senator HENRY BELLMON from Oklahoma, Senator JENNINGS RANDOLPH from West Virginia, Senator WARREN MAGNUSON and Senator HENRY JACKSON, both from the State of Washington, Senator SAM NUNN from Georgia, Senator BOB PACKWOOD from Oregon, Senator S. I. HAYAKAWA of California, Senator JOHN HEINZ of Pennsylvania, Senator JAMES ALLEN of Alabama, Senator HARRISON SCHMIDT of New Mexico, and Senator EDWARD ZORINSKY of Nebraska.

The purpose of this legislation is to reorganize and consolidate a number of Federal education programs. Our goal in developing the bill has been to improve State and local administration of Federal education programs as a means of improving the services to children that are provided by those programs. The act permits greater flexibility in the use of funds, simplifies the categorical requirements, and places greater decisionmaking responsibility at the State and local levels. Programs are reorganized and consolidated by educational functions and are specifically targeted to the special needs of populations to be served. Participation in the consolidation is optional with States choosing either to administer programs according to this act or according to the current categorical legislation.

This bill has been written with the help of educators and those interested in education from around the country. In initiating this bill, Senator BELLMON and I sought out the opinions and the help of hundreds of persons with knowledge and experience in education, particularly those with experience with Federal education programs. We have listened to local school districts personnel—teachers, principals, Federal program directors, superintendents, and members of school boards. We have listened to State education agency personnel—program administrators, chief State school officers, members of State boards of education.

We have listened to other State officials with educational responsibility—financial officers, State legislators from education and finance committees, and Governors. We have listened to representatives of education interest groups. This bill has been formulated with the help of those responsible for educational services for children. More than ninetenths of those services for children are paid for from State and local funds. Less than one-tenth are paid for from Federal funds. We have listened to those responsible for administering the ninetenths and the one-tenth. We have listened and we have learned. This bill represents the combined efforts of all the good peple who took their time and effort to study the problems and give us advice. We have talked to scores of people in person and on the telephone and we have received letters from, quite literally, hundreds of people.

Many educators from around the country have endorsed the bill, and several national organizations have expressed enthusiastic support for the concept including: the National Conference

of State Legislatures, the National Elementary School Principals Association, the National School Boards Association, the Council of Chief State School Officers, and the Education Commission of the States.

I have letters from several of these organizations which I ask unanimous consent to have printed in the RECORD at the end of the introductory statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the bill we are introducing today is an important new approach to Federal education programs. Almost everyone agrees that Federal programs in the area of education have become an administrative nightmare for State and local educators. The large number of programs with different funding cycles, separate needs assessments, proposals and reporting requirements, and different sets of rules and regulations have seriously eroded the effectiveness of the programs.

There have been proposals in the past which have attempted to address this critical problem. Unfortunately, these proposals appeared to undermine the original congressional intent for providing funding in the area of education. The unique approach which we propose today will solve many of the problems surrounding Federal education programs while maintaining the primary Federal goal of serving specific populations who have special needs. This bill will preserve the integrity of this Federal role.

Title I encompasses the special needs of high cost populations. This title identifies three such populations and targets funds to each of the three. Part A of title I consolidates several programs for educationally disadvantaged children. Funds derived from title I, parts A and B of the Elementary and Secondary Education Act of 1965 will flow through to local education agencies according to the low-income formula established in part A of title I of the 1965 act. Once the funds are in the local school district, they must be used for educationally deprived children. The local agency will determine how and where such services will be provided in the comprehensive planning process. Requirements for use of the funds include an excess cost provision, a prohibition against supplanting which applies to the entire act, and maintenance of effort which is applied by title to the entire act. Programs for migrant children, neglected and delinquent children, and children in Headstart and Follow Through programs are also included in this part.

Part B consolidates several programs which serve handicapped children. The provisions of this part guarantee the right of a handicapped student to a free appropriate education and maintain procedural safeguards which protect those rights. All funds in this part must be spent on excess costs for handicapped programs.

Part C consolidates several programs which provide services to persons of limited English-speaking ability. The Census Bureau has recently taken a census of such persons so that funds can be allocated to the State based on the actual number of such students. States can distribute the funds to locals on either a formula or a project grant basis depending on the nature and needs of the State's population of such children. This program is also subject to the excess cost provision.

Title II, parts A and B is an option within the option for those States which have a separate vocational education agency. Title II, part C is an option within the option for all States. Title II, part A consolidates all vocational education programs. All funds pursuant to this part must be spent for vocational education, and a minimum of 75 percent of the funds must be distributed to local school districts or area vocational schools. Title II, part B consolidates adult and community education.

Title II, part C provides a bonus for local education agencies which jointly fund training programs with a prime sponsor under the Comprehensive Employment and Training Act. The purpose of this provision is to provide an incentive to coordinate services available to the same clientele.

Title III consolidates programs that deal with specific curricular areas. Part A libraries and learning resources flows to the local education agencies and must be used to purchase equipment and materials. Part B funds will be distributed to local education agencies based on criteria developed in the comprehensive State plan. Guidance and counseling which is a part of libraries and learning resources in the present law was moved to this consolidation of curriculum programs where it more logically belongs. The programs from the Special Projects Act which was created by the Education Amendments of 1974, will not become a part of the consolidation until fiscal year 1979. This is consistent with the original intent for these programs as indicated in the report which accompanied that legislation. This part will allow States and local school districts to determine priorities within the curricular areas which have been identified for special emphasis. The title III consolidation has several provisions which should remedy the problems incurred in administration of title IV of Public Law 93–380.

AUTHORIZATIONS AND ALLOCATIONS

This act does not repeal the categorical legislation which remains in force for States which choose not to consolidate. Since those laws will remain in effect, it is possible for us to incorporate by reference provisions from those acts into this bill. Since this act is optional, we have chosen to incorporate all authorizations and the allocations to States that are made by formula. This will work very simply. The Appropriations Committee will appropriate funds each year for all the categorical programs just as they always do. The Commissioner of Education will then develop State tables for those funds which are currently given to States by formula.

The Commissioner will reserve the share of funds for each State which chooses the consolidated option. For funds that are currently given to States on a project grant basis, the Commissioner will determine and reserve a State share for each State choosing the consolidation based on the ratio of schoolage population in the State to the total schoolage population in all States. The Commissioner will then take the funds reserved for a State, organize it according to this act, and award grants to the State as directed in section 402. By authorizing and allocating the funds in this manner, States which choose the consolidation are assured of their share of funds.

One of the main concerns expressed by educators focuses on the rigid Federal requirements which often cause Federal programs to be administered as appendages that are not coordinated with the regular school program or even with other Federal programs. Each Federal program requires its own needs assessment, planning, administration, and evaluation. Separate rules and regulations, procedures and requirements have been devised for State and local educational agencies to follow in carrying out activities for each Federal program. These activities are often completed in total isolation from other programs which serve the same students.

Perhaps the most significant consolidation in this act is the provision for one set of administrative procedures, one process which the State and local school districts must follow in administering all the Federal programs reorganized by this act. Only one comprehensive State plan will be prepared by the State educational agency and by each local education agency. This means that the State and local agencies will conduct one comprehensive needs assessment of all the children in the State. This assesment will identify the students with special educational need, the services these students are receiving, and the need for continued, additional, and related services. Special curricular needs and priorities will also be determined. Programs can then be planned based on this needs assessment.

A comprehensive plan must be prepared every 4 years and updated annually. Our bill directs that programs under this act will be coordinated with each other, with other Federal programs, and with State and local programs. The current proliferation of inflexible Federal education legislation has resulted in enormous waste, duplication of effort, and inefficiency. By establishing one comprehensive process, this waste can be eliminated. One process for assessing needs of students, for planning programs to meet these needs, for administering and evaluating programs will lead to more effective and efficient use of Federal funds.

Another important aspect of the planning process should also be noted. States are directed to obtain in the development of the plan, the participation of local education agencies, appropriate State and local government agencies, and interested citizens and organizations.

PLANNING GRANTS

It will not be an easy task to develop the comprehensive plan. A great deal of time and effort must be expended and a

certain level of expertise will be necessary. For this reason, we have included provision for a planning grant for which a State may apply. Any State planning to choose the consolidated option offered by this act will be eligible to receive a grant which will offset cost to the State of implementing the comprehensive planning process, of writing the plan and regulations, and the cost of gearing up for administration of the consolidation. A State may receive a maximum of $1 million and a minimum of $200,000 for such purposes.

FEDERAL ADMINISTRATION

Federal administration of this act will be carried out by one separate and identifiable administrative unit within the Office of Education. Thus, a State will deal with only one office, and all contacts with the State can be coordinated. This will be a vast improvement over the current system where a State must deal with numerous administrative units, none of which are aware of what the others are doing or requiring of the States. This unit will be staffed by the number and type of personnel deemed necessary by the Commissioner for carrying out the functions mandated by the law. While it will be necessary to add staff to the Office of Education to establish a core staff for consolidation, the Commissioner is directed to transfer additional staff to the unit from the units administering categorical programs, based on the number and size of States which select the option to consolidate.

The Federal responsibility will include annual monitoring in each participating State. Such monitoring will include review of the development and implementation of the State plan for conformity with the act. When noncompliance is found, the commissioner and the State will establish procedures to modify the State plan and/or its implementation. If a State does not follow such procedures and remains out of compliance, the Commissioner has the authority to withhold funds. The Commissioner may withhold 5 percent of the funds across the board or for serious violations, may withhold all funds pursuant to a particular section or part, or for the entire act.

The act contains an appeals process for both State and local educational agencies. Civil rights requirements are specified as well as provisions for the participation of nonpublic schoolchildren.

Mr. President, this is a comprehensive act and it deserves careful consideration by the Senate. There has been a great deal of discussion about reorganization of Government. The initial reorganizations planned by the administration are at the Federal level affecting the agencies of Government. If reorganization is to be effective, we must take the next necessary step of reorganizing delivery of services. The clamor for reform of Federal programs comes from people who are frustrated by these programs at the point of service delivery. Local educators, those at the point of delivery of educational services to children have told us that Federal programs must be reorganized, simplified, and consolidated. This bill does exactly that.

The entire Elementary and Secondary Education Act will be reauthorized next year. Hearings have been scheduled for this summer and fall on various provisions of ESEA. The distinguished senior Senator from Rhode Island, Senator PELL, the chairman of the Education Subcommittee, has told me that this optional simplification can be marked up as a part of the reauthorization if there is enough support for the approach. I am convinced that the support exists. There is growing support on Capitol Hill, and there is overwhelming support at the grassroots where education services take place.

I fully expect this simplified option to become law, and I urge my colleagues in the Congress and in the administration to join together to reach that end.

Mr. President, I ask unanimous consent to have a summary of the provision of this bill appear in the RECORD immediately after my remarks. I also ask unanimous consent for the bill to be printed in full at the close of all introductory statements by cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUMMARY OF THE PROVISIONS OF THE OPTIONAL EDUCATIONAL SIMPLIFICATION ACT

Purpose: To reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State and local administration of Federal education programs for the States that choose the consolidated option authorized by this Act. The Act permits greater flexibility in the use of funds, reorganizes and consolidates programs by educational functions and by populations to be served, simplifies the categorical requirements, and authorizes States to develop regulations for compliance with the Act.

Authorizations: The separate authorizations contained in the programs reroganized by this Act will remain in force. This Act authorizes States to use their allocations from appropriations for these programs according to the functional reorganization and consolidation. Authorization for a one time State planning grant for those States interested in the consolidated option is included at 1 percent of the State's allocation under categorical programming.

Distribution: The allotment of funds to States and the distribution by States to local education agencies is established so that States and local education agencies are entitled to at least the amount under reorganization that they would have received under categorical assistance.

State and Local Requirements: This bill provides for a four-year needs assessment and comprehensive program plan with an annual update to be developed by the States and each local education agency. Provisions are made for participation in planning by all agencies, organizations and individuals in the State interested in Federal educational programs. The use of Federal funds must be coordinated with the use of State and local funds for similar purposes.

The States will be required to perform an annual fiscal audit, an annual evaluation and an annual report to the Commissioner of Education. The Office of Education is responsible for program monitoring and technical assistance to States while States perform the same services to local education agencies. Also provided are enforcement procedures, civil rights requirements, and participation of non-public school children.

The supplementary nature of Federal education programs is preserved for all programs consolidated by the Act. Excess cost provisions are included for programs for educationally deprived children, handicapped children, and bilingual children. Maintenance of effort is assured by Title on either an aggregate or per pupil expenditure basis from non-Federal funds derived by the State and local education agencies.

TITLE I—SPECIAL EDUCATION NEEDS

Part A—Educationally Deprived Children:

SEC. 101—Consolidates ESEA Title I, Sections 103, 123, and 126.

SEC. 102—Consolidates Headstart and Follow Through.

SEC. 103—Migrant Education.

Part B—Handicapped Children: Consolidates authorizations under Part B of the Education of the Handicapped Act as amended including Sec. 611 and 619, ESEA Title I Sec. 121 and ESEA Title IV Sec. 403(a)(8)(B).

Part C—Children with limited English Speaking Ability: Consolidates ESEA Title VII, Sec. 708(c) of the Emergency School Aid Act, and the bilingual authorization in the Vocational Education Act.

TITLE II—VOCATIONAL AND ADULT EDUCATION AND TRAINING

Part A—Consolidates all Parts of the Vocational Education Act of 1963.

Part B—Consolidates programs under the Adult Education Act, that portion of ESEA Title I, Sec. 123 as relates to Adult Education and Sec. 405 of ESEA Title IV.

Part C—Provides a bonus for cooperative funding and administration with CETA prime sponsors of training programs.

TITLE III—SPECIAL CURRICULUM PROJECTS

Part A—Libraries and Learning Resources under ESEA, Title IV, Part B.

Part B—Consolidates Innovation and Support authorized under ESEA Title IV, Part C with Guidance and Counseling from ESEA Title IV, Part B, the Environmental Education Act, the Alcohol and Drug Abuse Education Act, ESEA Title IX as relates to Ethnic Heritage, Title V of the Higher Education Act relating to Teacher Corps, and ESEA Title VII relating to the National Reading Improvement Program. Programs from the Special Project Arts will be included in the consolidation in fiscal year 1979 and thereafter including Sec. 403 relating to metric education, Sec. 404 relating to gifted and talented children, Sec. 406 relating to career education, Sec. 408 relating to women's educational equity, and Sec. 409 relating to arts in education.

TITLE IV—GENERAL PROVISIONS

Contains administrative requirement and authorizations for Planning Grants and for a Supplemental Grant.

Mr. BELLMON. Mr. President, I am very pleased to join the senior Senator from New Mexico in introducing this legislation. His initiative in designing this proposal demonstrates the value which relatively new members of this body bring to the Senate, and it reflects the concerns and insights of one who has had significant experience in State and local affairs. This proposal, which has attracted so much comment and attention, has enormous potential as a solution for the problem of improving Government services and streamlining the Federal role.

It may be worthwhile to review the influences which prompted our joint proposal. Over the years, the Federal Government has focused its assistance to the States on the provision of educational opportunities for those with special needs and upon special projects. The Federal role has come to be that of identifying problems and possibilities which ordinarily do not receive sufficient attention by the Nation's educational es-

tablishment, then providing the means and direction to address these needs. At the time of their initiation, many of these legislative efforts were unquestionably useful and served to insure that efforts were undertaken which were much needed. But, with the passage of time and the proliferation of numerous categorical grant programs, other consequences have emerged which counter the appropriateness of such a specifically directed Federal effort. The Federal role has produced piecemeal legislation which now adds up to a crazy patchwork quilt of proposed requirements, guidelines, reporting obligations, eligibility standards, and regulations which enormously confuse and confound the daily job of educating the Nation's children. The impact of Federal regulation and reporting requirements on our schools is as substantial as it is elsewhere in our society, and it validates the recent conclusion of the Federal Paperwork Commission that reducing these complexities in all areas of Federal regulation could result in annual savings of $1 billion.

This growing Federal burden cannot be dismissed as simply a redtape nuisance affecting only school administrators. Anyone familiar with the dynamics of public education knows that the daily operation of a learning institution is complex and interrelated and is aware that such matters as the appropriateness of the educational experience as well as teacher morale can be adversely affected by a heavy and clumsy Federal hand. With only about 7 percent of all funding for elementary and secondary education coming from the Federal Government, the influence of Federal requirements resembles that of the "tail wagging the dog."

Federal requirements have imposed a bureaucratic burden upon State and local educational agencies which saps the vitality of the educational effort. Basic decisionmaking has become remote and insulated from the realities of everyday school life. Administrative rigidities have been created which prevent intelligent adaptation to local educational needs and conditions. State planning and responsibility have been short circuited as Federal legislation has become more specific.

As a response to these problems, the concept of block grants for education has been advanced from time to time. Earlier attempts at consolidations and education block grants have met with limited success, for several reasons. First, block grants have been attempted which would have cut the total Federal economic commitment to education. Senator DOMENICI and I are proposing a consolidation which will provide a State with 10 percent more money for educational programs than it would receive under normal categorical programing.

Second, previous block grant approaches have been mandatory for all States, which may not be appropriate for the range of conditions and capabilities existing among the States. Our proposal makes the consolidation an optional choice, allowing States to make an early shift to State and local administration, or to wait and see what the experience of more adventurous States will be, or to remain under categorical programing and Federal administration. This sort of flexibility more nearly fits current State desires and capacities.

Third, block grants have sometimes seemed illogical from the point of view of the educator or administrator at the State and local levels. Our proposal logically groups Federal programs for consolidation and administrative purposes, and thereby sharpens their impact. This is legislation with which State and local education agencies can live.

Fourth, previous block grants have contained few assurances that Federal funds would be used to serve the populations or purposes originally targeted by Federal legislation, thus raising concern among many educators and others that needed efforts would be diminished or lost. Our proposal contains ample safeguards against the relexation of important efforts and the diversion of funds to extraneous needs.

Finally, previous block grant attempts have seldom provided requirements that effective planning must precede State and local assumption of responsibility, and they have seldom included checks and balances which will insure a strong State effort. Our proposal provides a planning grant to be utilized over a 1- or 2-year period during which open planning involving all affected parties must occur and during which rules and regulations for the administration of the funds must be developed. In addition, our proposal mandates an annual fiscal audit, an annual evaluation, and an annual report to the Commissioner of Education. The Office of Education will provide program monitoring and technical assistance to the States. In addition, this legislation requires the Comptroller General to conduct an evaluation of the consolidation experience and submit it to the Congress no later than the end of fiscal year 1932 with recommendations for subsequent legislation. This is an important safeguard against the perpetuation of ineffective legislation.

It should be clear, therefore, that we do not offer a block grant in the customary usage of that term, but rather a carefully shaped consolidation of Federal programs which will insure more flexibility at the State and local levels while protecting the purposes and populations originally identified by Congress.

This proposed legislation can be viewed in another light. There is a common and significant theme running through much of the criticism leveled at Federal legislation and programs these days. It is that the effect of Federal direction and control imposed upon States and localities is to mandate social program standards and styles which are uniform in every State and, therefore, unsuited to the many and varied local communities and problems which compose this Nation. Insistence upon uniform programs and regulations designed to fit an average or typical American community where these simply cannot apply has the effect of wasting resources and undermining confidence in the ability of Government to operate in a sane manner. When one adds the geographic and social remoteness of the Washington bureaucracy to this fundamental problem of governance in a plural society, it is easy to see why there is so much disaffection across the country with the Federal effort.

One of the advantages of the legislation which Senator DOMENICI and I offer today is that, even if only a very few States choose to try the consolidation offered, there will be a number of pilot programs testing the efficacy of restructuring Federal-State relations so that decisions can be made closer to the people affected. These experiments will be important ones to watch, since we have few tested alternatives to offer as remedies for inappropriate Government. We need to know what works best in Government as we approach the 21st century, so that we can make the changes that will be required by new circumstances.

Mr. President, in summary, we feel that the option to receive Federal education assistance as a consolidation is an important choice for the States to have. It would put State and local education agencies in the driver's seat, permitting an intelligent flexibility which has been lacking in present categorical arrangements. It would push educational program decisionmaking down to the State and local levels, where the influence of the citizenry could not be ignored. It would allow States and local education agencies to develop their own capabilities, instead of merely following directions from on high. It would reduce costly paperwork, freeing educators to contribute to the learning process. It would strengthen responsibility at the grassroots level through accountability requirements. It would engage the States in full-fledged planning, a capability which might be transferable to other State activities. It would carry with it evaluation requirements which will protect the taxpayers. It would not impose consolidation upon any State which did not want it or did not find itself ready to undertake such a responsibility. It would create a series of laboratory experiments of new governmental arrangements which could prove valuable elsewhere.

Mr. NUNN. It is a pleasure for me to join Senators DOMENICI, BELLMON, and RANDOLPH, and others in introducing the Optional Educational Simplification Act, a bill which will provide much needed flexibility in our Federal assistance programs to public education. I would especially like to commend my good friends from New Mexico and Oklahoma for their innovation and leadership in the formulation of this measure.

I doubt that there is a Member of this body who had not heard from public educators regarding the restrictions and requirements imposed on their local and State systems by the Federal Government. This excessive paperwork, conflicting requirements and complexity of rules and regulations have often resulted in chaos in our local schools and a reduction in real educational services to our children. These requirements, which seem to multiply yearly, are in exchange for approximately 10 percent of the funding for the average school system.

I feel that the primary purpose of Federal involvement in public education is welcomed by most people who are interested in equal educational opportunities for all our citizens. Certainly, Federal educational programs have had a tremendous impact on the efforts to bring quality education to our citizens with special needs. Unfortunately, this Federal participation in public education all too often results in Federal dominance. Such dominance makes public education remote, with much of the decisionmaking powers removed from the hands of those who know the community and could more accurately address its needs. Instead of predominantly providing educational services to the individual region or community, the State and local educational officials must constantly address the never-ending task of completing forms, meeting eligibility requirements, and complying with exacting and often conflicting guidelines.

In response to these legitimate concerns of State and local educators, numerous block grant educational programs have been proposed. But these past proposals have often been shortsighted, failing to protect our equal opportunity goals, cutting the Federal financial commitment, requiring that all States immediately participate, and unrealistically grouping all educational programs into one category. While having a worthwhile goal, these proposals would not have been acceptable to a majority of the Congress.

The bill which we are offering today is based upon the careful deliberations of citizens from every segment of the educational community. This measure incorporates the suggestions and reflects the concerns of those who work with education on a daily basis. In formulating this bill, the problems of the past have been analyzed, and hopefully, the pattern for future Federal educational participation will be established.

This bill is not a block grant proposal, but rather, a consolidation of programs that will upgrade and reinforce State and local participation and responsibility while insuring that Federal goals for education continue to receive the priority they deserve.

For State systems which choose to participate, this measure consolidates Federal educational programs into three basic groups: First, special educational needs—such as the educationally deprived, handicapped, and non-English, speaking children; second, vocational and adult education and training; and third, special curriculum projects—library resources, gifted children, environmental education, et cetera. Each State and local school system will prepare only one comprehensive plan based on one assessment of the overall needs of the students. This provision will allow State and local educational officials to realistically evaluate their needs, openly formulate an educational plan to address these needs, and administer a straightforward and coordinated program that will efficiently and effectively utilize Federal funds without duplicative paperwork and unrealistic expectations. Obviously, the formulation of a comprehensive State plan is a difficult task; therefore, any State opting for this procedure can apply for a grant to assist with the planning effort.

Of equal importance is the change in the Federal administration under this act. One separate and identifiable unit will be established in the Office of Education. Thus, State and local educational agencies will work with only one Federal office—an office that is familiar with the State and local plans and is not subject to the conflicting regulations of the numerous categorical programs.

Unlike many block grant proposals of the past, this measure does not decrease the Federal financial commitment to education. In fact, this bill provides an increase in the form of a planning grant, to those States which choose to assume the additional responsibility that accompanies the consolidation. Adequate safeguards, through evaluation and accountability, are also included in this bill to protect the major goals of the Federal educational effort.

Mr. President, I believe that this measure offers an opportunity for major reform in our Federal educational programs. Our State and local education agencies deserve the chance to develop their capabilities, to have flexibility in making decisions which affect their schools and to respond to the concerns of the citizenry who foot the bill for public education. Our Nation's children also deserve to have educators who can devote more time to the learning process, who can focus on long-range educational goals without being blinded by a maze of paperwork and conflicting requirements, and who can make sensible adaptations to the specific needs of the area's citizens. This bill gives the States, at their option, the opportunity to pursue a new relationship with the Federal educational bureaucracy. I believe that this new relationship will be rewarding to us all.

Mr. PACKWOOD. Mr. President, today, I join with my distinguished colleagues Senators DOMENICI and BELLMON in introducing the Optional Educational Simplification Act of 1977. This act, I believe, presents a revolutionary first step in reducing the massive weight of Federal redtape and paperwork which threatens to break the back of our local elementary and secondary school systems.

More importantly, Mr. President, by providing for the reorganization of Federal education programs at the point of service delivery, the bill returns decisionmaking to where it should and must be made—at the State and local level. Too long we have assumed that decisions affecting the most basic local interest can be better made here in Washington. This bill begins a return to local decisionmaking—a process we have waited too long to start.

Under our proposal, the mushrooming number of Federal categorical programs are consolidated and reorganized into three basic groups: First, special educational needs—targeting funds to populations such as the disadvantaged, handicapped, and bilingual; second, vocational and adult education training; and third, special curriculum projects—libraries and learning resources, reading improvement, alcohol and drug abuse education.

States will have the option of participating in the new consolidated program or continue receiving their Federal funding through the current categorical programs. States which do decide to participate will draw up one comprehensive plan analyzing the educational needs of its citizens. This comprehensive plan will be based on a needs assessment provided by local officials, thus assuring local participation.

The creation of this one comprehensive plan, I believe, will give local and State officials the opportunity to decide exactly what the educational priorities of their citizens are, formulate an educational plan to attack these priorities, and administer a comprehensive educational program without being overly burdened by Federal regulations and paperwork requirements.

State and local budget planners also need not be concerned by the possible expense of the planning required under the act. Unlike prior block grant proposals, States opting for the consolidated approach will be entitled to at least the same amount of funds under the reorganization as they would have received under the current categorical programs. Further, each State will be eligible for a planning grant to aid in implementing the option.

Mr. President, educators like this proposal. Two weeks ago, I had the privilege of speaking to a group of 650 school administrators in my home State of Oregon. Their response to the approach provided for in the bill was enthusiastic. They were relieved that the Federal Government will continue its long-term commitments to local education systems at at least its current funding levels. They were encouraged that decisionmaking will begin the long return from Washington to Oregon where it belongs.

In conclusion, I would like to take this opportunity to thank Senators DOMENICI and BELLMON for the leadership they have provided in the development of this innovative response to our Nation's critical educational problems. This bill provides an opportunity for a positive change in the relationship between local educators and the Federal education bureaucracy. It is an opportunity which cannot be ignored.

Mr. EAGLETON. Mr. President, there are few, if any, in this Chamber who would quarrel with the stated goals of the Optional Education Funding Simplification Act—to reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State administration of the programs.

President Carter, HEW Secretary Califano, U.S. Education Commissioner Boyer have all pledged to take action to reduce unnecessary Federal paperwork and redtape. Congress, too, must focus its attention on the ever-increasing complexities of Federal education program requirements as it begins its work on the extension of the Elementary and Secondary Education Act.

In my view, Senators DOMENICI and BELLMON have brought forward an approach to such simplification worthy of study which, in permitting greater flexibility in the use of Federal education funds, may hold promise of reducing the enormous burden of Federal paperwork while not eliminating accountability mechanisms.

Mr. President, I do have some reservations about the Optional Education Funding Simplification Act. As has already been discussed by the sponsors of the bill, it would allow States to choose between using Federal grants for purposes specified by Congress—categorical aid—or far greater State decisionmaking within broad consolidated categories of programs. It may be instructive to look back at the consolidation enacted by Congress in the Education Amendments of 1974. At that time, three programs—school library, guidance and counseling, and supplementary education centers programs—were consolidated into a new title IV of the Elementary and Secondary Education Act. Although this action was clearly an effort to simplify administration of the three programs, the Office of Education, in promulgating regulations to implement the new consolidated program, managed to thwart that intent. It did not develop a new set of regulations applicable to the new program, but rather, it retained virtually all of the old regulations promulgated under the three separate authorities, adding new regulations to the existing plethora. Rather than simplification, the school districts were faced with additional administrative burdens.

Despite my reservations, I do believe that it is important to fully explore the provisions proposed in the Optional Educational Funding Simplification Act, and I will await with interest the response of the administration and the education community throughout the States.

S. 1780

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Optional Educational Simplification Act".

STATEMENT OF PURPOSE

SEC. 2. (a) It is the purpose of this Act to afford the States the option of consolidating and reorganizing certain programs of assistance to State and local educational agencies for elementary, secondary, vocational, and adult education into three broad categories:

(1) Special educational needs programs including programs authorized on the date of enactment of this Act—

(A) under subpart 1 of part A of title I and part B of title I of the Elementary and Secondary Education Act of 1965, those portions of subpart 2 of part A of the Elementary and Secondary Education Act of 1965 as relates to neglected and delinquent children and migratory children, and the Headstart and Follow Through Acts;

(B) under part B of the Education of the Handicapped Act as amended by Public Law 94-142, section 121 of the Elementary and Secondary Education Act of 1965, and under section 403(a)(8)(B) of the Elementary and Secondary Education Act of 1965;

(C) under title VII of the Elementary and Secondary Education Act of 1965, section 708(c) of the Emergency School Aid Act, and subpart 3 of part B of the Vocational Education Act of 1963.

(2) Vocational education programs including programs authorized on the date of enactment of this Act—

(A) under the Vocational Education Act of 1963, and section 811 of the Elementary and Secondary Education Act of 1965 relating to consumer education;

(B) the Adult Education Act and section 405 of the Education Amendments of 1974 relating to community schools;

(C) a bonus grant for projects jointly sponsored by prime sponsors under the Comprehensive Employment and Training Act of 1973 and agencies conducting elementary and secondary, adult or vocational education.

(3) Special emphasis projects including programs authorized on the date of enactment of this Act under—

(A) parts B and C of title IV of the Elementary and Secondary Education Act of 1965;

(B) section 403 of the Education Amendments of 1974 relating to metric education, section 404 of the Education Amendments of 1974 relating to gifted and talented children, section 406 of the Education Amendments of 1974 relating to career education, section 408 of the Education Amendments of 1974 relating to women's educational equity, section 409 of the Education Amendments of 1974 relating to arts and education; the Environmental Education Act, the Alcohol and Drug Abuse Education Act, title IX of the Elementary and Secondary Education Act of 1965 relating to ethnic heritage, title V of the Higher Education Act of 1965 relating to the Teacher Corps, title VII of the Education Amendments of 1974 relating to the national reading improvement program (except sections 721 and 722).

(b) It is the further purpose of this Act to permit the States that select the consolidation program authorized by this Act greater flexibility in the use of Federal educational assistance and to bring about a simplification of the categorical requirements contained in the provisions of law authorizing each such program.

PROGRAM SELECTION

SEC. 3. Each State desiring to participate in the consolidation program authorized by this Act shall select the consolidation authorized under title I and title III of this Act and may select the consolidation authorized under title II of this Act, except that in any State desiring to participate in which a single State agency is responsible for elementary, secondary and vocational education, that State shall select the consolidation authorized under title II.

APPLICABILITY TO EXISTING LAW

SEC. 4. Except as provided in this Act, no other provision of law authorizing a program consolidated under this Act shall apply to the provision of financial assistance to a State having a comprehensive State plan in compliance with the provisions of this Act, with respect to the programs covered by that plan. All administrative regulations shall be consistent with the provisions of this Act for States participating in consolidation.

TITLE I—SPECIAL NEEDS PROGRAMS

PART A—EDUCATIONALLY DEPRIVED CHILDREN

CHILDREN FROM LOW-INCOME FAMILIES

SEC. 101. Each State desiring to participate in the consolidation program authorized by this Act shall within the limits of available Federal funds, in the comprehensive State plan required under section 406, provide for a program designed to—

(1) address the special educational needs of educationally deprived children in local educational agencies having high concentrations of children from low-income families, and through such local education agencies arrange to meet the needs of such children in private nonprofit schools on an equitable basis unless prohibited by law;

(2) address the special educational needs of neglected and delinquent children in State operated programs.

CHILDREN IN FOLLOW THROUGH AND HEADSTART PROGRAMS

SEC. 102. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth within the limits of available Federal funding and consistent with other programs for similar purposes a program designed to provide comprehensive health, educational, nutritional, social, and other services primarily for children from low-income families, including such handicapped children who have not reached the age for compulsory school attendance, and primarily for children from low-income families in kindergarten and primary grades including such children enrolled in private nonprofit elementary schools who were previously enrolled in Headstart, Follow Through, or similar programs.

EDUCATION PROGRAMS FOR MIGRATORY CHILDREN

SEC. 103. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth within the limits of available Federal funds a program designed to address the special educational needs of migratory children of migratory agricultural workers and of migratory fishermen, including the preschool educational needs of such migratory children.

PART B—HANDICAPPED CHILDREN

EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

SEC. 111. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth a program designed to—

(1) provide in the least restrictive environment, special education and related services for handicapped children,

(2) meet the special educational needs of handicapped children for which the State agency is responsible,

(3) provide special or innovative programs and projects for the education of handicapped children as authorized under part C of title IV of the Elementary and Secondary Education Act of 1965, and

(4) establish standards for educational programs for handicapped students.

APPLICABILITY; STATE ASSURANCES

SEC. 112. (a) Each State desiring to participate in the consolidation program authorized by this Act may, in the comprehensive State plan required under section 406 set forth a program providing for special education and related services for handicapped children aged three to five.

(b) Each State desiring to participate in the consolidation programs authorized by this Act and described in this part shall assure that—

(1) the State has in effect a policy that assures all handicapped children the right to a free appropriate public education,

(2) consistent with State law, there is established (i) a goal of providing full educational opportunity by 1978 to all handicapped children ages three through eighteen, and by 1980 for handicapped children ages three through twenty-one, (ii) a detailed timetable for accomplishing such goals, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such goals; and

(3) the State will comply with all the provisions of section 615 of the Education of the Handicapped Act, relating to procedural safeguards or shall develop a similar

procedure designed to protect the rights of children and their parents and guardians.

PART C—CHILDREN WITH LIMITED ENGLISH-SPEAKING ABILITY

BILINGUAL EDUCATION PROGRAMS

SEC. 121. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth—

(1) a program of instruction designed for children of limited English-speaking ability in elementary and secondary schools;

(2) a program designed to meet the needs of children who are from an environment in which the dominant language is other than English, and who because of language barriers and cultural difference, do not have equality of educational opportunity; and

(3) a program of instruction designed for adults of limited English-speaking ability carried out in coordination with adult education programs and vocational education programs;

(4) bilingual vocational training programs for persons of limited English-speaking ability who—

(A) have completed or left elementary or secondary school and who are available for education by a postsecondary educational institution;

(B) have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

(C) need training allowances to participate in bilingual vocational training programs subject to the same conditions and limitations as are set forth in section 111 of the Comprehensive Employment and Training Act of 1973;

but the requirement of this clause (4) shall apply only to States selecting the consolidation under title II of this Act; and

(5) a program of training to prepare instructors, aides, or other ancillary personnel for programs designed for persons of limited English-speaking ability.

PART D—DISTRIBUTION OF FUNDS TO LOCAL EDUCATIONAL AGENCIES

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 131. (a) From the funds provided to a State attributable to section 101 of this title for any fiscal year, the State shall allocate to each local educational agency in that State based on the number of students from low-income families at least the amount which each local educational agency would have received had the distribution of such funds been made under the provisions of law authorizing part A of title I of the Elementary and Secondary Education Act of 1965.

(b)(1) From the funds provided to a State attributable to section 102 of this title for any fiscal year, the State shall allocate such funds on a project grant basis within the State among the local educational agencies and other eligible agencies in the State as set forth in section 514(a) and section 551 (a)(4) of the Headstart and Follow Through Act.

(2) The State shall give special consideration in the designation of Headstart and Follow Through agencies to any agency which is receiving funds for such purposes on the date of enactment of this Act. The State shall determine before giving such consideration that the agency involved meets program and fiscal requirements established by the State.

(c) From the funds provided to a State under section 103 of this title for any fiscal year, the State shall allocate such funds on an equitable basis taking into account the number of eligible students in local educational agencies having migrant education programs. A State may serve such students directly.

(d) From funds provided to a State attributable to section 111 of this title (relating to education programs for handicapped children) for any fiscal year, the State shall allocate to each local educational agency and intermediate educational unit in that State an amount not less than the amount which each such local educational agency and intermediate educational unit would have received had the distribution of such funds been made under the provisions of law authorizing the program consolidated in that section.

(e) From the funds provided to a State attributable to section 121 of this title (relating to bilingual education programs) for any fiscal year, the State shall distribute such amount on either a formula or a project grant basis taking into consideration the number and needs of students in that State who have limited English-speaking ability.

TITLE II—VOCATIONAL, ADULT AND CONTINUING EDUCATION AND EMPLOYMENT TRAINING

PART A—VOCATIONAL EDUCATION

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this part to assist States in improving planning in the use of all resources available to them for vocational education and manpower training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of the vocational education plans. It is also the purpose of this part to authorize Federal grants to States to assist them—

(1) to extend, improve, and, where necessary, maintain existing programs of vocational, homemaking and consumer education,

(2) to develop new programs of vocational education,

(3) to develop and carry out such programs of vocational education within each State so as to overcome sex discrimination and sex stereotyping in vocational education programs (including programs of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

(4) to provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis,

so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade their skills or learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

VOCATIONAL EDUCATION

SEC. 202. (a) Each State selecting the option to participate in the consolidation program authorized under this title shall set forth provisions for programs to carry out the purposes described in section 201 in the comprehensive State plan required under section 406, and provisions for consumer education.

(b)(1) Funds attributable to the program consolidated by this section may be used for—

(A) vocational education programs;

(B) work study programs;

(C) cooperative vocational education programs operated by local education agencies with the participation of public and private employers;

(D) energy education programs for training of personnel in the areas of coal mining and solar energy;

(E) construction of vocational education school facilities if such facilities are not for individuals assigned as the result of delinquent conduct or in which students are segregated by race.

(F) support of full-time personnel to perform the duties described in section 104 (b) of the Vocational Education Act of 1963;

(G) the provision of stipends, which shall not exceed reasonable amounts, as prescribed by the Commissioner pursuant to regulations, for students entering or already enrolled in vocational education programs, if such students have acute economic needs which cannot be met under work-study programs;

(H) placement services for students who have successfully completed vocational education programs;

(I) industrial arts programs where such programs will assist in meeting the purposes of this Act;

(J) support services for women who enter programs designed to prepare individuals for employment in jobs which have been traditionally limited to men, including counseling as to the nature of such programs and the special problems which may be encountered by women in such programs, and job development and job follow-up services;

(K) day care services for children of students in secondary and postsecondary vocational education programs;

(L) vocational education for—

(i) persons who had solely been homemakers but who now, because of dissolution of marriage or other reasons, must seek employment;

(ii) persons who are single heads of households and who lack adequate job skills;

(iii) persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and

(iv) women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered job areas for males;

(M) special programs for disadvantaged students in areas of the State having high concentration of youth unemployment and school dropouts;

(N) research programs;

(O) exemplary and innovative programs;

(P) curriculum development programs;

(Q) provision of guidance and counseling services;

(R) provision of pre-service and in-service training;

(S) grants to overcome sex bias;

(T) consumer and homemaking education as described in section 150 of the Vocational Education Act of 1963; and

(U) research, demonstration, or pilot projects in consumer education as described in section 811(a)(1)(B) of the Elementary and Secondary Education Act of 1965.

(2) Not more than 20 per centum of the funds attributable to this section in any fiscal year may be used for purposes described in clauses (O) through (T) of paragraph (1) of this subsection.

(3) At least 35 per centum of the funds attributable to this section in any fiscal year shall be used to serve—

(A) persons who have academic or economic handicaps and who require special services and assistance in order to enable them to succeed in vocational education programs;

(B) handicapped persons; or

(C) persons of limited English-speaking ability.

(4) Five per centum of funds attributable to this section in any fiscal year shall be used

for purposes described in clause (T) of paragraph (1) of this subsection.

PART B—ADULT, CONTINUING AND COMMUNITY EDUCATION

ADULT AND COMMUNITY EDUCATION PROGRAMS

SEC. 211. (a) Each State desiring to participate in the consolidation program authorized by this Act and including this title shall, as part of the comprehensive State plan described under section 406 shall provide for a program designed to meet the needs for adult basic education, and neglected or delinquent children in adult correctional institutions, and in planning, establishing, expanding, and operating community education projects.

(b) Programs in adult correctional institutions shall be coordinated with other educational programs provided for such children.

PART C—EDUCATION PROJECTS AUTHORIZED UNDER EMPLOYMENT TRAINING PROGRAMS

EDUCATION TRAINING PROGRAMS

SEC. 221. (a) Each State selecting the option offered by this title shall describe, in the comprehensive State plan required by section 406, how the activities in the plan relate to manpower programs conducted by the prime sponsors established under the Comprehensive Employment and Training Act of 1973, to assure a coordinated approach to meeting the vocational education and training needs of the area or community.

(b)(1) Any local education agency which engaged in the previous fiscal year in a cooperative training project with the prime sponsor serving the area in which the local education agency is located shall be eligible to receive a bonus grant equal to the amount of funds the local education agency contributed to the project. Each grant received under this subsection shall be used for the same or other cooperative projects with the prime sponsor.

(2) The State shall accept applications for funds from local education agencies and shall certify to the Commissioner the amount of funds for which local education agencies in the State are eligible, which certification shall accompany the certification required in section 404 (a)(4).

(3) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1982, such sums as may be necessary to carry out the provisions of this section.

(4) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the amount to which each State is entitled under this section for such fiscal year, the amounts which all States may receive under this section for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

PART D—DISTRIBUTION OF FUNDS TO LOCAL EDUCATIONAL AGENCIES

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 231 (a) From the funds provided to a State attributable to parts A and B of this title for any fiscal year, the State shall allocate at least 80 per centum of such funds to local educational agencies and other eligible institutions in that State, based on enrollment and other criteria set forth in the comprehensive State plan required under section 406.

(b) From the funds provided to a State attributable to Part C of this title for any year, the State shall allocate all funds to local education agencies based on the certification furnished under section 221.

TITLE III—SPECIAL EMPHASIS PROJECT

PART A—LIBRARIES AND LEARNING RESOURCES

LIBRARIES AND SUPPORT SERVICES

SEC. 301. (a) Each State desiring to participate in the consolidation program authorized by the Act shall carry out a program for making grants to local educational agencies, which program shall be described in the comprehensive State plan submitted under section 406, provide for—

(1) the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private nonprofit elementary and secondary schools; and

(2) the acquisition of instructional equipment (including laboratory and other special equipment, and audiovisual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment.

(b) No personnel may be employed by a local educational agency with funds provided by this part.

PART B—SPECIAL CURRICULUM EMPHASIS, GUIDANCE AND COUNSELING, INNOVATION, AND SUPPORT PROJECTS

SPECIAL PROJECT PROGRAM

SEC. 311. (a) Each State desiring to participate in the consolidation program authorized by this Act shall, in accordance with subsection (b), carry out a program for providing services and making grants to local educational agencies for—

(1) innovation and exemplary programs to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling or lease of necessary facilities) to serve as models for regular school programs;

(2)(A) programs of counseling and guidance services for students in elementary and secondary schools, including—

(i) occupational, vocational guidance, personal social counseling, and information services,

(ii) pupil appraisal,

(iii) pupil motivation for academic success,

(iv) postsecondary placement assistance,

(v) research, evaluation, and followup activities, and

(vi) staff development;

(B) programs of testing students in elementary and secondary schools; and

(C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools;

(3) demonstration projects by local educational agencies or private educational organizations designed to improve nutrition and health services in public and private nonprofit elementary and secondary schools serving areas with high concentrations of children from low-income families and such projects may include payment of the cost of—

(A) coordinating and evaluating nutrition and health service resources in the areas to be served by a project,

(B) providing supplemental health, mental health, nutritional, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, and

(C) nutrition and health programs designed to train professional and other school personnel to provide nutrition and health services;

(4) the carrying out by such agencies in schools located in urban or rural areas, which have a high percentage of children from low-income families, and have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education;

(5) strengthening the leadership resources of State educational agencies and assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of the State;

(6) encouraging educational agencies and institutions to prepare students to use the metric system of measurement;

(7) advancing the education of gifted and talented children;

(8) programs, projects, and leadership for career education at elementary and secondary schools designed to—

(A) develop information on the needs for career education for all children,

(B) reassess the status of career education programs and practices including assessment of stereotyping career opportunities by race or by sex,

(C) provide for the demonstration of exemplary career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches, and

(D) provide for the training and retraining of persons for conducting career education programs;

(9) activities to provide educational equity for women;

(10) assisting and encouraging the use of the arts in elementary and secondary school programs;

(11) establishing and supporting drug abuse and alcohol prevention and control projects, including projects for primary prevention and early intervention conducted in elementary and secondary schools;

(12) development of curriculum materials and dissemination of such materials in the elementary and secondary schools relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of any ethnic groups and the contributions of those ethnic groups to American heritage;

(13) strengthening the education opportunities available to children in areas having high concentrations of low-income families, through improved programs of training and retraining for personnel eligible for the Teacher Corps including teachers, teacher aides, other educational personnel, teacher-interns, and volunteers who give instructional assistance in such areas through cooperative arrangements among State and local educational agencies and institutions of higher education for such training;

(14)(A) carrying out projects for schools having large numbers or high percentages of children with reading deficiencies, involving the use of diagnostic testing, individualized learning, innovative methods, systems, materials, bilingual materials when appropriate, vacation reading programs, or projects which show promise of overcoming such reading deficiencies, including projects for preelementary school children, and

(B) carrying out projects—

(i) to develop comprehensive programs and State leadership to improve reading proficiency and instruction in reading in the elementary schools of the State,

(ii) to arrange for and assist in the training of special reading personnel and specialists,

(iii) to furnish reading assistance and instruction to youths and adults who do not otherwise receive such assistance and instruction or to make grants for such reading academies to eligible institutions;

(15) environmental education activities at elementary and secondary education levels, including the development of curriculums (including interdisciplinary curriculums) in the preservation and enhancement of environmental and ecological balance, the dissemination of information relating to such curriculums and to environmental education generally, appropriate education training programs, and the planning of outdoor ecological study centers; and

(16) assistance to local educational agencies in strengthening the leadership resources of such agencies and to assist such agencies in the establishment and improvement of projects to identify and meet the educational needs of the school districts of such agencies.

(b) Each State program developed and carried out under subsection (a) of this section shall reflect the needs and priorities established by the local educational agencies in the comprehensive needs assessment conducted pursuant to section 405(a).

PART C—DISTRIBUTION OF FUNDS TO LOCAL EDUCATIONAL AGENCIES

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 321. (a) From the funds provided to a State attributable to clauses (1) and (2) of section 301(a) of this title for any fiscal year, the State shall allocate to each local educational agency in that State an amount based primarily upon enrollment and any other relevant factor to be determined by the State such as tax effort, numbers or percentages, or both, of students whose education imposes a higher than average cost per child upon the State or local education agency, and the ability of the local education agency to finance public education. The formula for such distribution shall be included in the comprehensive State plan required by section 406. The local educational agencies, based on needs of public and nonpublic school children, will be given sole discretion in determining how such funds will be divided among the various purposes described in section 301.

(b) From the funds provided to a State attributable to section 311 for any fiscal year, the State agency designated pursuant to section 404(a)(1) shall allocate funds to local educational agencies in the State in accordance with criteria developed in the comprehensive State plan, after a consideration of the needs assessments required by section 311(b) for the purposes described in such clauses. Amounts attributable to clauses (2), (5), and (14)(B) of section 311 may be retained by the State for programs conducted by the State education agency.

TITLE IV—GENERAL PROVISIONS

RESERVATION OF FUNDS FOR CONSOLIDATED PROGRAMS

Sec. 401. (a)(1) From the amounts appropriated for the fiscal year 1978 and for each fiscal year thereafter ending prior to October 1, 1982, to carry out programs consolidated by this Act, the Commissioner shall reserve an amount equal to the aggregate amount necessary to make allotments under section 402 to States selecting the option under this Act with respect to programs covered by the comprehensive State plan for each such State.

(2) In reserving funds under this section, the Commissioner shall use formulas for the distribution of funds among the States in provisions of law authorizing programs consolidated by this Act. Wherever State formulas do not exist for programs consolidated by this Act, the Commissioner shall reserve the amount of funds for all such programs which bears the same ratio to such amount as the number of children aged five through seventeen in the States which choose the option to consolidate bears to the number of children in all States except that funds for bilingual education programs will be reserved in accordance with the criteria under section 402 (a) (4) of this Act, funds for community education programs will be reserved in accordance with section 402(b)(3)(B) of this Act, and funds for consumer education will be reserved in accordance with the criteria under section 402(b)(2)(B) of this Act.

(b) From the amount appropriated to each State under section 402, the Commissioner shall pay to each State having exercised the option to consolidate programs authorized by this Act an amount equal to the amount expended in that State in carrying out a comprehensive State plan adopted pursuant to this title.

ALLOTMENTS

SEC. 402. (a)(1) From the amounts reserved under section 401 to carry out title I of this Act for any fiscal year, the Commissioner shall determine the amount attributable to parts A, B, and C of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amount reserved under section 401 to carry out title I of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State to be expended solely for the purpose contained in part A, the sum of—

(A) an amount equal to the amount which each such State would be entitled under—

(i) subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965, for all local educational agencies within that State,

(ii) part B of title I of the Elementary and Secondary Education Act of 1965,

(iii) that portion of subpart 2 of part A of the Elementary and Secondary Education Act of 1965 as relates to neglected and delinquent children, and migratory children,

subject to section 144 of the Elementary and Secondary Education Act of 1965, in each case; and

(B) an amount equal to the amount which such State would have received under part A of title V of the Economic Opportunity Act of 1965 and an amount determined by the Commissioner to be equitable with respect to grants made under part B of such title V, if such State were receiving financial assistance under such title V.

(3) From the amount reserved pursuant to section 401(a) for title I of this Act and determined attributable to part B, for any fiscal year, the Commissioner shall allot to each State to be expended solely for the purposes contained in part B, the sum of an amount equal to the amount to which each such State would be entitled under—

(A) part B of the Education of the Handicapped Act, including funds under section 619 for States that provide direct services;

(B) section 121 of the Elementary and Secondary Education Act of 1965; and

(C) section 403(a)(8)(B) of the Elementary and Secondary Education Act of 1965.

(4) From the amount reserved pursuant to section 401 for carrying out title I of this Act and determined attributable to part C of such title for any fiscal year, the Commissioner shall allot to each State to be expended solely for purposes contained in part C, the sum of an amount which bears the same ratio to such amounts as the number of limited and non-English-speaking children aged five to seventeen in the State, as identified by the Bureau of the Census, bears to the number of such children in all States, for funds available under—

(A) title VII of the Elementary and Secondary Education Act of 1965;

(B) section 708(c) of the Emergency School Aid Act; and

(C) subpart 3 of part B of the Vocational Education Act of 1963.

(b)(1) From the amounts reserved under section 401 to carry out title II of this Act for any fiscal year, the Commissioner shall determine the amount attributable to parts A, B, and C of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amounts reserved under section 401 to carry out title II of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State to be expended solely for purposes contained in part A, the sum of an amount equal to the amount to which each such State would be entitled under—

(A) Part A of the Vocational Education Act of 1963; and

(B) an amount equal to the amount which bears the same ratio to the amount attributable to consumer education as the number of children age fifteen to seventeen, inclusive, in each State bears to the number of such children in all States.

(3) From the amount reserved under section 401 to carry out title II of this Act and determined attributable to part B for any fiscal year, the Commissioner shall allot to each State to be expended solely for purposes contained in part B, the sum of an amount equal to the amount to which the State would be entitled under—

(A) the Adult Education Act; and

(B) an amount which bears the same ratio to the amount attributable to community education as the population in each State bears to the population in all States.

(4) From the amount reserved under section 401 to carry out title II of this Act and determined attributable to part C for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which each such State is entitled in accordance with the criteria under section 221 of this Act.

(c)(1) From the amounts reserved under section 401 to carry out title III of this Act and for any fiscal year, the Commissioner shall determine the amount attributable to parts A and B of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amount reserved under section 401 to carry out title III of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State to be expended solely for purposes contained in part A, an amount equal to the amount to which each such State would be entitled under part B of title IV of the Elementary and Secondary Education Act of 1965 (other than the amount attributable to guidance and counseling).

(3) From the amount reserved under section 401 to carry out title III of this Act and determined attributable to part B for any fiscal year, the Commissioner shall allot to each State an amount equal to the sum of the amount to which each State would be entitled under—

(A) part C of title IV of the Elementary and Secondary Education Act of 1965 less the 15 per centum set aside for handicapped education in section 403(a)(8)(B) of such title;

(B) that portion of part B of title IV of such Act attributable to guidance and counseling; and

(C) an amount equal to the amount which bears the same ratio to the amount attributable to clauses (6) through (16) of section 311(a), as the number of children age five to seventeen, inclusive, in such State bears to the number of such children in all States selecting to participate in the programs consolidated under title III of this Act.

(4) For the purpose of paragraph (3) of this subsection the Commissioner shall de-

termine the number of children age five to seventeen, inclusive, on the basis of the most satisfactory data available to him.

(d)(1) For the purpose of this section, "all States" means for any fiscal year all States selecting the option to consolidate authorized by this Act for that year.

(2) For the purpose of subsection (b) of this section, the term "State" does not include Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(e) Any funds granted to a State under any program consolidated under this Act prior to the consolidation which remain available for expenditure during the succeeding fiscal year pursuant to section 412 (b) of the General Education Provisions Act, shall be available for use by that State during that year for the purpose for which they were originally granted or for carrying out the State's consolidated plan for that year under this Act.

(f) Any expenditures made to close out any programs consolidated by this Act may be included as administrative expenses under section 404(c)(1) of this Act.

PLANNING GRANTS

SEC. 403. (a) Any State desiring to participate in the consolidation program authorized by this Act, may in order to prepare a consolidated plan in accordance with the provisions of this Act, receive a planning grant for use in a maximum of two program years. Each State desiring to receive a planning grant under this section shall file an application at such time, and in such manner, and including such information, as the Commissioner may reasonably require consistent with the provision of this section. Each such application shall be submitted together with a certification of intent by that State to select the consolidation program authorized by this Act (with or without the optional consolidation program authorized by title II of this Act). Each such application shall include provisions which—

(1) describe the objectives to be achieved in the development of the State plan with assistance made available under this Act,

(2) set forth procedures to assure an opportunity for comments to be submitted by the chief executive of the State,

(3) set forth assurances that the comprehensive State plan required under section 406 will be prepared in accordance with section 405, and

(4) describe procedures for the promulgation of regulations for the State administration of the programs consolidated by this Act.

(b) The maximum amount of a grant which a State may receive under this section is equal to not more than 1 per centum of the total allotment of that State under programs consolidated by this Act, for the fiscal year preceding the fiscal year for which the determination is made, except that no State shall receive less than $200,000 nor than $1,000,000.

(c) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1981, such sums as may be necessary to carry out the provisions of this section.

STATE ADMINISTRATION

SEC. 404. (a) Each State desiring to receive a grant for the consolidation program authorized by this Act for any fiscal year shall—

(1) designate, as provided by the laws of the State, the State educational agency, and if the State selects the consolidation under title II, the State educational agency and the State board for vocational education (if applicable), within the State to administer the financial assistance made available under this Act;

(2) develop and publish prior to the first year of assistance made to that State under this Act, and each fourth year thereafter, a four-year comprehensive State plan which—

(A) is developed in accordance with the procedures described in section 405, and

(B) contains the provisions designed to meet the requirements of section 406.

(3) develop and publish an annual update of the comprehensive State plan, and

(4) submit to the Commissioner for his approval the comprehensive State plan or annual update in accordance with the provisions of this title.

(b) A State desiring to receive a grant for the consolidation program authorized by this Act for any fiscal year shall, in addition to the requirements of subsection (a)—

(1) provide for an audit of expenditures for each program year in accordance with generally accepted accounting principles, conducted, as determined by the State by—

(A) an auditor of the State, using certified public accountants, or

(B) a private certified public accountant or auditing firm utilizing certified public accountants;

(2) provide for an annual evaluation of the implementation of the State's final comprehensive plan, and any amendment thereto, adopted under section 405;

(3) submit to the Commissioner for his approval the procedures established by the State to carry out the provisions of clauses (1) and (2) of this subsection, with such supporting material as the Commissioner may require; and

(4) prepare and submit an annual report of that audit and evaluation which report shall include—

(A) such information as the Commissioner may reasonably prescribe consistent with the consolidation and provisions of this Act, and

(B) assurance that funds were expended in accordance with this Act and the comprehensive State plan.

(c)(1) The Commissioner shall pay to each State for the proper and efficient administration of the consolidation program authorized by this Act an amount, in one grant award, equal to the amount such State would have received for administration of each program subject to the consolidation program and selected by that State under this Act plus an additional amount equal to 1 per centum of the aggregate of that State's allotment for the fiscal year for which the determination is made.

(2) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1982, such sums as may be necessary to carry out the provisions of this section.

PROCEDURE FOR DEVELOPING THE COMPREHENSIVE STATE PLAN

SEC. 405. Each State shall in the development of the comprehensive State plan establish procedures designed to assure that—

(1) a comprehensive assessment is conducted of the educational needs of the children of that State aged five to seventeen, inclusive, for educational services, the needs of children below aged five eligible for services under this Act, the needs of adults in that State for basic educational and continuing educational services, and for vocational education programs, the local labor market requirements, the current status of employment and the economy, the location of training facilities, and the needs of the individuals to be served. Particular attention shall be given to the identification of children with special educational needs, the services which the students are receiving, and the need for continued, additional, and related services for each of the programs specified in titles I, II (if applicable), and III of this Act,

(2) local education agencies will determine priorities as part of the needs assessment process,

(3) there is participation of interested citizens, local educational agencies, units of general local government, appropriate State agencies and organizations, and, if appropriate, prime sponsors under the Comprehensive Employment and Training Act of 1973, prior to and during the development of the comprehensive plan,

(4) the legislature of the State will be informed of the development of the procedures required by this subsection,

(5) as a part of the comprehensive planning process priorities will be established for the use of funds under section 407,

(6) the use of funds for purposes described in titles I, II (if applicable), and III of this Act will be coordinated with the use of State and local funds extended for similar purposes,

(7) the use of funds for purposes described in title I, title II (if applicable), and title III of this Act will be coordinated with each other and other Federal programs to avoid duplication of effort,

(8) the proposed comprehensive State plan or the annual update thereof will be submitted to the Commissioner and will be published at least ninety days prior to its effective date and such plan or update thereof will be available to interested parties and to local educational agencies within the State. Comment relating to such plan must be accepted for a minimum of forty-five days after such publication,

(9) a final comprehensive State plan, or annual update thereof, will be published and made available prior to its effective date together with a summary of the comments received and an explanation of the differences between the proposed plan and the final plan and the reasons therefore,

(10) any amendment to the final comprehensive State plan prepared by the State educational agency or other agency designated pursuant to section 404(a)(1) will be published as a proposed amendment on which the public may comment for a period of at least twenty days, and thereafter the final amendment, together with a summary of the comments received and the action taken on such comments will be published,

(11) regulations and rules established, amended, or repealed by that State will be established, amended, or repealed with the counsel of local education agencies and consistent with State administrative procedures and due process,

(12)(A) Local education agencies may agree to join together and form consortiums for the purpose of carrying out any of the programs authorized by this Act, and

(B) such consortiums will be considered as a local educational agency for the purpose of distribution of such funds.

PROVISIONS OF THE COMPREHENSIVE STATE PLAN

SEC. 406. A comprehensive State plan meets the requirements of this section if that plan—

(1) sets forth the procedure used and the results of the needs assessments conducted pursuant to section 405(a)(1);

(2)(A) sets forth the goals to be achieved under the plan, the basic program objectives and a description of the programs to be assisted in accordance with the provisions of title I, title II (if applicable), and title III;

(B) sets forth the type of individuals to be served in each such program together with the services or activities to be supported and the estimated enrollment for each such program;

(3) sets forth the policies and procedures to be followed by the State to assure that the distribution of funds under titles I, II (if applicable), and title III of this Act to local educational agencies and other appropriate agencies and organizations within the State is in accordance with the provisions of each such title;

(4) contains a description of the organizational structure through which the program consolidated by this Act will be administered;

(5) sets forth the procedures for monitoring activities of the local educational agencies within the State including a provision for technical assistance by the State to each such local educational agency;

(6) contains a description of the process that the State will use to insure that any local educational agency in the State which receives funds under this Act will annually develop or update a comprehensive plan for the use of such funds, that an advisory council will be established at each program site for programs pursuant to sections 101 and 121 to advise in the development of the plan for such programs; and that the plan will be made available to the public for comment in a manner consistent with the manner and provisions required for the comprehensive State plan under this title;

(7) provides, consistent with State law and practice, for audit of local educational agency expenditures under this Act;

(8) sets forth procedures to assure that—

(A) the aggregate amount, or

(B) the amount of the average per pupil expenditure,

whichever is less, to be expended by the State and its local educational agencies from funds derived from non-Federal sources for the consolidation program under each title of this Act for any fiscal year will not be less than the amount so expended for the preceding fiscal year;

(9) sets forth procedures to assure that funds made available under this Act will be used so as to supplement the level of State and local funds expended for the purposes described in the plan and in no case to supplant such State and local funds;

(10) sets forth procedures to assure that funds under sections 101, 111, and 121 of this Act will be used for the excess costs for providing programs to meet the special needs defined in those sections;

(11) provides that the only applications for funds for programs under this Act in addition to the local comprehensive program plan which a local educational agency shall make to the State are for programs under the State plan which are competitive;

(12) sets forth procedures to be used by the State to eliminate unnecessary paperwork and duplication of informational requests in regard to local educational agency applications, evaluations, and reporting;

(13) provides due process procedures to be taken by the State in regard to a local educational agency which has failed to develop or implement a comprehensive plan, including due process procedures for withholding of funds;

(14) provides a local educational agency appeal process within the State for any local educational agency which is dissatisfied with the State's action with respect to the State's compliance with substantive and procedural provisions of the Act.

EVALUATIONS

SEC. 401. (a) The Commissioner after consulting and with the assistance of State agencies designated pursuant to section 404(a)(1) shall prepare and design several models for evaluation of program effectiveness which will be consistent with the purposes of the consolidation program authorized by this Act and the purposes of each program described in title I, title II (if applicable), and title III of this Act. Evaluation of local educational agency programs should focus on the services provided for students, the number of students served by each program, and the effect or results of such services.

(b)(1) Each State participating in the consolidation program authorized by this Act shall (A) select one of the models developed under subsection (a) of this section, or (B) use a model developed by that State, and shall be responsible for the use of that model in program evaluation of the consolidation program authorized by this Act. Each such evaluation design shall involve participation by local educational agencies of that State.

(2) An evaluation report consistent with the procedures established pursuant to this section and the State comprehensive plan shall be prepared annually by each local educational agency and submitted to the State agency designated pursuant to section 404(a)(1). No other evaluation reports for programs authorized by this Act may be required of local educational agencies by the State educational agency or by the Commissioner.

(3) The annual State agency evaluation report prepared pursuant to this subsection shall be submitted to the Commissioner on such date as the Commissioner shall establish. The Commissioner shall analyze the State evaluations received under this paragraph and shall, not later than March 1 in the year succeeding the year in which the evaluations are submitted, prepare and submit to the Congress a report on such evaluations.

(c) The Comptroller General shall conduct an evaluation of the programs authorized by this Act and not later than the end of the fiscal year 1982 shall prepare and submit to the Congress a report on such evaluation together with such recommendations, including such recommendations for legislation, as the Comptroller General deems advisable.

MONITORING AND TECHNICAL ASSISTANCE

SEC. 408. (a) The Commissioner shall conduct annually such monitoring programs in each State selecting the consolidation program authorized by this Act as he deems appropriate. The monitoring program authorized by this section shall include review of the development of the comprehensive State plan for compliance with the provisions of this title. Monitoring shall also include review of implementation of programs for conformity with this Act and with the comprehensive program plan. Each State shall be notified in advance of monitoring visits.

(b) Whenever as a result of monitoring activities conducted pursuant to this section, the Commissioner identifies areas of noncompliance, the Commissioner shall establish procedures with the appropriate State agency designated under section 404(a)(1) for the necessary modifications.

(c) The Commissioner shall provide advice, counsel, and technical assistance upon request of State and local educational agencies.

INTERSTATE COOPERATION

SEC. 409. (a) The Commissioner shall carry out a program of making grants to States which have elected to consolidate under this Act for the purpose of interstate cooperation.

(b) Such grants for cooperation among States shall be for the purpose of addressing common administrative problems under this Act and for educational planning and research.

(c) There are authorized to be appropriated $3,000,000 for each of the fiscal years ending prior to October 1, 1982, to carry out the provisions of this section.

FEDERAL ADMINISTRATION

SEC. 410. (a) The consolidated program authorized by this Act shall be administered by a separate identifiable administrative unit to be established within sixty days after the date of enactment of this Act by the Commissioner in the Office of Education. Original staffing requirements shall be determined by the Commissioner.

(b) Additional personnel to be employed in the administration of the consolidation program authorized by this Act shall be transferred to such unit from program units administering the categorical programs consolidated under this Act. Such transfer shall be based on the number and size of the States which selected the option to consolidate.

(c) The Commissioner shall establish procedures to eliminate all unnecessary paperwork in regard to information required of State and local educational agencies.

(d) The Commissioner shall establish procedures of State plans submitted in accordance with section 404(a)(4) of this Act. In exercising his authority under this section, the Commissioner shall apply only the provisions of this Act and shall have no power of approval concerning substantive educational policy established by the State educational agency.

(e) The Commissioner shall establish procedures to permit a local education agency to appeal to the Commissioner a State's final ruling on an appeal to the State by that local education agency under clause 14 of section 406.

(f) Requests from State educational agencies for information concerning legality of State actions under this Act shall be answered by the Commissioner of Education within 45 days.

(g) It is the intent of Congress that if the consolidation effort initiated by this Act is not extended beyond the termination date set by this Act that the Commissioner will establish orderly procedures for the termination of the program and the phase-in of regular administrative procedures. Such phase-in shall not exceed a three-year period.

DELEGATIONS, TRANSFERS OF FUNDS, AND CONTRACTS BY THE STATE AGENCY

SEC. 411. The State agency designated pursuant to subsection 404(a)(1) may, to the extent necessary to carry out the provisions of this Act—

(1) delegate their administrative functions, under this Act to other appropriate State agencies,

(2) transfer to such agencies administrative responsibilities and any funds provided to the State under this Act, and

(3) enter into contracts with public and private agencies, organizations, and institutions for carrying out activities authorized under this Act.

Any arrangements entered into under this subsection for any fiscal year shall be set forth in the comprehensive State plan for that year.

ENFORCEMENT

SEC. 412. (a)(1) No payment may be made under section 401(b) to any State that has failed to provide the certification required by section 404(a)(4).

(2) In the case of any State that has provided certifications, if the Commissioner, after reasonable notice and opportunity for a hearing to the State, finds that the comprehensive plan fails to comply with the requirements of sections 405 and 406, or the State has failed substantially to comply with any provisions of that plan or title I, title II (if applicable), or title III, or has failed to inform the Commissioner of any substantial failure to comply with any provision of that plan or those sections, the Commissioner shall—

(A) reduce the amount otherwise payable to the State under section 401(b) until he is satisfied that there is no such failure, but not in excess of 5 per centum of the amount payable to the State, or

(B) make no further payments to the State under section 401(b) for all or any part of such funds until he is satisfied that there will no longer be any failure of the plan to comply with the requirements of sections 405 and 406 or of the State to certify or com-

ply with the plan of such titles I, II (if applicable), or III.

(3) In the case of any State that has provided the comprehensive State plan required by section 404(a)(4), if the Commissioner, after reasonable notice and an opportunity for a hearing to the State—

(A) disapproves, or withdraws his approval, of the procedures submitted under section 404(b)(3), or

(B) finds that the State has substantially failed to comply with the procedures approved under section 404(b)(3),

the Commissioner shall notify the State that further payments will not be made to the State under section 401(b) until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(b)(1) If any State is dissatisfied with the Commissioner's final action with respect to any action taken under this section, the State may within sixty days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(c) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, in the exercising of their authority under section 434(a)(2) of the General Education Provision Act may only audit activities undertaken within the State with funds provided under this Act, and such other activities as are necessary to verify compliance with this Act.

CONSTRUCTION

SEC. 413. Funds paid to a State under this Act shall be available for construction of any facilities for which funds would have been available under any program consolidated in this Act. For the purposes of this Act, the term "construction" means the erection, acquisition, alteration, remodeling, or improvement of facilities, including the acquisition of land necessary therefor, and the cost of construction includes the cost of architect's fees.

CIVIL RIGHTS REQUIREMENTS

SEC. 415. (a) Funds made available under this Act shall be subject to title VI of the Civil Rights Act of 1964 (42 U.S.C. 1691–1686), title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) Whenever the Secretary of Health, Education, and Welfare determines, pursuant to the procedures applicable to any of the provisions in subsection (a) of this section, that one or more local educational agencies in a State are not in compliance with any of those statutory provisions, none of the funds provided to that State under this Act shall be made available to such local educational agencies during the period of noncompliance; and the allotment to that State under section 402 for that period shall be reduced by the amount of such funds received by those districts in the fiscal year prior to the year in which determination of non-compliance was made.

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

SEC. 415. (a) The State educational agency or agencies designated under section 404(a)(1) of any State and local educational agencies receiving a grant under this Act shall provide that—

(1) to the extent consistent with the number of—

(A) children enrolled in private nonprofit elementary and secondary schools who reside in areas of the State eligible to be served by programs assisted under this Act, and

(B) children in Indian tribal elementary and secondary schools in the State, who have need for the services provided by those programs.

Such children shall be given, after consultation with the appropriate private school officials, an opportunity to participate, on an equitable basis, in activities assisted under this Act; and

(2) title to and control of funds received under this Act and other property derived therefrom will remain in one or more public (including Indian tribal government) agencies.

(b) The means by which the requirements in subsection (a) will be met within a State shall be set forth in the plan of the State adopted under section 406.

(c) If a State is prohibited by law from providing for the participation of children enrolled in private nonprofit or Indian tribal elementary and secondary schools, or if the Commissioner determines, after affording notice and opportunity for a hearing, that a State has substantially failed to provide for such participation, he shall waive the requirements of subsection (a)(1) and he shall arrange, by contract or otherwise, for such children to receive, on an equitable basis, services similar to those provided under this Act to public school children in the State. The cost of providing those services for any fiscal year shall be paid from the allotment of the State under section 402.

DEFINITIONS

SEC. 416. For the purposes of this Act—

(1) The term "adult basic education" means education for adults above the age of sixteen whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability.

(2) The term "area vocational education school" means any such school as defined in section 195(2) of the Vocational Education Act of 1963.

(3) The term "Commissioner" means the United States Commissioner of Education.

(4) The term "educationally deprived children" refers to those children deemed to be eligible under section 103 of the Elementary and Secondary Education Act of 1965.

(5) The term "free appropriate education" means special education and related services which have been provided at public expense without charge and under public supervision and which meets the standards of the State education agency.

(6) The term "gifted and talented children" is used as defined in section 801(1) of the Elementary and Secondary Education Act of 1965.

(7) The term "handicapped children" means the children defined in section 602(1) of the Education of the Handicapped Act.

(8) The term "local education agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction or a public elementary or secondary school.

(9) The term "migratory children" refers to those children deemed to be eligible under section 122 of the Elementary and Secondary Education Act of 1965.

(10) The term "State" includes, in addition to the several States of the Union and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(11) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision for public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(12) The term "vocational education" means the programs defined in section 195(1) of the Vocational Education Act of 1963.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, D.C., June 14, 1977.

Hon. PETE V. DOMENICI,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR DOMENICI: We are writing on behalf of the National Conference of State Legislatures (NCSL) to applaud the recent introduction of the Optional Education Simplification Act of 1977 co-sponsored by yourself, and Senators Bellmon, Nunn, Randolph, Hayakawa, Packwood, Jackson, and Magnuson. This far-reaching legislation deserves serious consideration by the Congress and the Administration since it offers the concrete promise of a stronger state-federal partnership in the financing of elementary and secondary education, a partnership which is urgently needed in light of the rising fiscal pressures that many states are experiencing because of the proliferation of categorical education programs and the onerous fiscal mandates implied in P.L. 94–142 and Section 504 of the Vocational Rehabilitation Act of 1973.

As you undoubtedly know, NCSL has long supported the concept of educational block grants. We do so since we feel that these block grants would continue to provide aid for "special needs" pupils but within the framework of state education finance systems which will insure coordinated delivery of state and federal education aids to these pupils. This consolidation would do much to end conflict and duplication between state and federal programs and invariably maximize the impact of such funds on those who benefit most from those programs—the classroom teacher and the child.

We are mindful of the fact that past education block grant proposals had been formulated with an eye to reducing the federal contribution to education. That, undoubtedly, is why they met with such resistance in the Congress. We are also aware that some states may not desire to receive their federal aid in a block grant and that a few still have to make much needed reforms in their basic aid systems so that they can constructively participate in a block grant program. This is precisely why the optional block grant program has such a promising appeal for both state and federal governments. States that are interested in receiving their

federal education in block grant form will be able to do so.

An most of the states that will be interested in consolidated block grants will most likely be those that have reformed or consolidated their own basic funding systems. Several states—Florida, Maine, Utah and New Mexico to name a few—have already consolidated basic and special needs programs and stand ready to exercise further, responsible oversight in the administration of federal education aid programs, something that may never occur unless states are given a rightful opportunity to receive federal education aids on a block grant basis.

In conclusion, we feel that your optional education grant consideration legislation can mark a new step in more positive federal-state relations. State governments have and will continue to carry the prime responsibility for equitably and adequately funding our nation's school system. States, as the record of their recent school finance reforms indicates, can meet their constitutional mandates of providing equal educational opportunity for normal and disadvantaged children. Some states have progressed farther than others in this matter; that is to be expected in a federal system. However, the true foundation of a strong educational funding system in this country lies with state governments; we urge the national government, through this truly progressive education grant consolidation proposal, to build their policies on such a foundation.

The National Conference of State Legislatures through its Education Committee and Washington staff stands ready to assist the Senate in its future deliberations on the subject.

Sincerely,

Senator JOHN D. CAEMMERER,
New York, Chairman, State-Federal Assembly, National Conference of State Legislatures.

MARTIN O. SABO,
President, National Conference of State Legislatures.

Representative TOM C. MASSEY,
Chairman, NCSL Education Committee.

NATIONAL ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS,
Arlington, Va., February 25, 1977.

Hon. PETE V. DOMENICI,
U.S. Senate,
Dirksen Building,
Washington, D.C.

DEAR SENATOR DOMENICI: On behalf of the National Association of Elementary School Principals, I want to commend you for your leadership in tackling the ever-present and awesome task of providing an equitable and effective local/state/federal partnership in education funding and programming. Your proposed legislation, the "Optional Educational Simplification Act," goes a long way toward making that necessary partnership a productive one for students of all ages.

We have greatly appreciated our opportunities to work with you and Senator Bellmon on this legislation. Your cooperation with those in the field who are ultimately responsible for implementing federal legislation has certainly impressed our membership.

Your bill is in harmony with our several positions on federal aid to education. It encompasses responsible solutions to those problems encountered by earlier consolidation proposals and makes possible a more flexible approach to local/state/national cooperation in the delivery of services than has existed to date.

The NAESP feels that your proposal embodies the concepts essential to federal progress in education and hopes that bipartisan support in Congress for this truly non-partisan proposal will be realized.

Again, we commend you for initiating this comprehensive effort, for allowing us to share its growing pains with you, and for your continuing desire to strengthen the federal role in a true partnership with state and local educational agencies.

We look forward to working with you as the bill moves through the legislative process.

Sincerely yours,

BERTHA G. MAGUIRE,
President.

By Mr. ANDERSON:

S. 1781. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide education for himself, for his spouse, or for his dependents; to the Committee on Finance.

TUITION TAX RELIEF ACT OF 1977

Mr. ANDERSON. Mr. President, today I am introducing a bill to provide a tax credit or deduction for tuition costs of education. There have already been several bills introduced on this subject during this session. I support these bills and, in fact, am a cosponsor of several. S. 1781 embodies my concept of the most desirable way to deal with the problem of rising educational expenses for American families.

S. 1781 gives a taxpayer a choice between a tax credit or a deduction for tuition paid for education. The credit would start at a maximum of $250 next year and gradually increase to $500 in 1980. The alternative of a deduction would start at $500 and gradually increase to $1,000 in 1980.

I have provided the option of a credit or a deduction for two reasons. First, I wanted a credit because of the different effects of a deduction for people of different incomes. With our progressive tax rate structure, the value of a deduction increases with income level. A credit, however, assures that low income families could receive the same level of benefit as those with higher incomes. Second, it is possible that in a court action a tax credit will be rejected but a deduction upheld. Thus, I have included in S. 1781 the deduction provision as a fallback, if such a legal determination is made.

Mr. President, I believe very deeply in the adequate funding of both public and private education. I attended public schools for my entire education. As a legislator in Minnesota and later as Governor, I was a strong supporter, and remain a strong supporter today, of increased funding for public education.

But I believe strongly that society benefits from giving parents a choice of which school their children attend. I believe it is proper that those who wish a different kind of education can obtain it. I believe we ought to realize that parents who send their children to private schools make a real sacrifice. They relieve the public system of the costs of educating their children, but continue to pay taxes to support public education, and then must themselves pay the tuition and fees of the private schools.

I do not, and would not, advocate that private schools receive the same amount of public funding as public schools. They would quickly become public schools if that were to happen. But it does make good sense to me to relieve parents of part of the burden of the tuition costs of private education.

S. 1781, however, is not intended exclusively for aid to those with children in private schools. This bill provides tax relief for tuition costs at all levels of education; elementary, secondary, vocational-technical, and higher education, public or private. Public elementary and secondary schools seldom charge tuition. So, the bill does not affect them. But many public higher educational institutions do charge tuition, and sometimes very heavy tuitions.

Mr. President, education is a good investment for individuals and for society. The individual learns new knowledge and skills that make him more productive and more satisfied with his life. Society benefits from the improved skills and ability of its members. I do not like it when tuition discourages young people from gaining as much knowledge and training as they wish. I believe they and our society lose when they do not pursue their education as far as they would like.

It is true that we have scholarships for students. But scholarship money will always be limited. Scholarship funds must be reserved for the most in need. This means that many middle income families face a heavy tuition burden, particularly if several of the children are of college age at the same time. Such a family is not poor enough for scholarship aid nor rich enough to easily afford the burden. For them the tax relief provided in S. 1781 will be very important. It would also be particularly helpful for those students who are paying their own way through college.

Mr. President, I am pleased to introduce S. 1781, the Tuition Tax Relief Act of 1977, to help millions of Americans to afford a good education.

By Mr. ANDERSON:

S. 1783. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Finance.

THE HOMEMAKER RETIREMENT ACT OF 1977

Mr. ANDERSON. Mr. President, I am today introducing S. 1783 dealing with retirement funds for homemakers. S. 1783 is identical to H.R. 4649 introduced by Representative PAUL S. TRIBLE. This legislation responds to the growing problem of a great many homemakers.

Many homemakers are faced with a very difficult problem when they reach retirement age. This problem occurs, of course, because a homemaker's work, though often arduous, is unpaid. The homemaker as an unsalaried worker has a great deal of trouble establishing any vested retirement rights. It is true that many homemakers have worked for wages for some period in their life. If they have worked long enough they may have earned some vested retirement benefits in the form of eligibility for minimum social security benefits or a minimum private pension. This gives them some security. However, minimum benefits are just that, minimal.

Others have not worked at a salaried position long enough to vest retirement benefits. They must depend solely on the retirement income of their spouse being

adequate for both of them. In addition, even when the homemaker's spouse has a retirement plan, the homemaker must face the uncertainty of what will happen if the spouse dies first. Not all retirement plans provide adequate retirement benefits for the surviving spouse and some do not provide survivor benefits at all.

Perhaps the most difficult problem, however, comes from the less stable nature of the family these days. Marriages, including marriages of long-standing, dissolve much more frequently than before. Often a homemaker who was counting on sharing in the retirement benefits of the spouse who worked for wages will find that after a divorce the unsalaried partner in the marriage has been left without any security for retirement. To a certain extent divorce settlements and alimony are used to make up for this situation but they are uncertain and unreliable ways to deal with the security people want when facing retirement.

Mr. President, there always is one final fallback for the homemaker who in retirement has no sources of income. Our welfare system will provide a minimal existence. I am not satisfied that the reliance on the welfare system is the best way to take care of homemakers who may be left with inadequate income in retirement. First, the benefits will likely always remain minimal. Second, many of the recipients are unhappy that they have, even if through no fault of their own, been forced to accept tax paid charity

I believe that we ought to provide avenues for unpaid homemakers to develop assured retirement benefits. This can be done by an expansion of the current IRA program, as provided in S. 1783. The Congress established individual retirement accounts some years ago to give those who are self-employed or who are employed at firms that do not provide qualified retirement plans an opportunity to establish a retirement plan that possessed some of the tax advantages of employer-paid retirement plans. Essentially an IRA is a tax deferral plan. The income paid into an IRA account is dedeductible from gross income for tax purposes. The interest earned on the investment is also nontaxable as long as the interest is kept in the IRA. When the fund are withdrawn after retirement, however, the income is fully taxable. The effect will be a considerable tax advantage as usually the income from other sources is reduced in retirement so the taxes due when the funds are withdrawn are much less than if the taxes had been paid at the time the funds were originally put into the IRA. This is the same treatment that is afforded the employer paid portion of an ordinary pension plan. The employer paid portion is not taxed as income to the individual when it is paid into the retirement fund, but is taxable when it is withdrawn.

Currently most homemakers are not allowed to set up an IRA. Basically, the eligibility criteria for setting up an IRA is that an individual must be self-employed or working for wages and not eligible to participate in a qualified retirement plan at work. The homemaker whose full-time job is at home is not eligible because the work is unpaid. There is a provision in the current law that allows a homemaker to establish an IRA if his or her spouse is eligible for an IRA. However, this does not affect very many homemakers and, in any case, this plan is limited to a maximum investment into the IRA of $875 each year for each spouse. Normally the limit for investment in an IRA is $1,500 a year.

Relatively minor changes in the law are needed to allow all homemakers who do not receive wages to become eligible for use of IRA's at the maximum of $1,500 per year. My bill would amend the law and allow homemakers to count as their own income the compensation of their spouse. This will give the homemaker an artificial wage base which will recognize the economic contribution of a homemaker's work. The homemaker could then invest an IRA under the current provisions of 15 percent of income to a maximum of $1,500 a year. The IRA account would be only in the name of the homemaker and would remain as security for her or him no matter what the vicissitudes of life.

Mr. President, I believe this approach will allow many homemakers to provide security for their retirement under conditions which provide for dignity, certainty, and a minimum of governmental involvement. The funds in the IRA account will always belong to the homemaker, no matter what happens to the salaried spouse, to the spouse's retirement plan, or the status of the marriage. The IRA, as provided in S. 1783, will allow the homemaker to face retirement without recourse to our welfare system.

I do not believe that this bill provides special tax breaks or special treatment for homemakers. I believe it provides equal treatment. The salaried worker can receive the benefits of tax deferral by participation in a retirement plan where the employer pays into the fund. Under social security, the employer-paid portion of the benefits are, in fact, taxed neither when they are paid in or withdrawn. The self-employed and employed who do not qualify for a retirement plan are given the opportunity to use the IRA as a way of assuring their economic security in retirement. It is only the homemakers who do not work for wages, though the work is real enough, who are currently left out. The time has come, Mr. President, to end unequal treatment of homemakers and recognize the economic value of their work and their need to provide for their own retirement.

Mr. President, I request unanimous consent that the text of S. 1783 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (2) of section 219(c) of the Internal Revenue Code of 1954 (relating to retirement savings) is amended to read as follows:

"(2) MARRIED INDIVIDUALS.—

"(A) MAXIMUM DEDUCTIONS.—The maximum deduction under subsection (b)(1) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(B) INDIVIDUALS WHO RECEIVE LESS COMPENSATION THAN THEIR SPOUSES.—If any individual—

"(i) has less compensation for the taxable year than the compensation of the spouse of such individual for such year; and

"(ii) is qualified under this section, or would so qualify except for the fact that such individual has no compensation for the taxable year,

then such individual shall, for purposes of this section, be treated as having compensation includible in the gross income of such individual equal to the compensation includible in the gross income of the spouse of such individual.

"(C) DETERMINATION OF MARITAL STATUS.—For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a)."

SEC. 2. (a)(1) Section 220 of the Internal Revenue Code of 1954 (relating to retirement savings for certain married individuals) is repealed.

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 220.

(b)(1) Paragraph (10) of section 62 of the Internal Revenue Code of 1954 (relating to adjusted gross income defined) is amended by striking out "and the deduction allowed by section 220 (relating to retirement savings for certain married individuals)".

(2) Paragraph (6) of section 219(b) of such Code (relating to retirement savings) is repealed.

(3) Paragraph (2) of section 408(c) of such Code (relating to individual retirement accounts) is amended by striking out "(or spouse of an employee or member)".

(4) Paragraph (4) of section 408(d) of such Code (relating to excess contributions returned before due date of return) is amended by striking out "or 220".

(5) Subsection (a) of section 415 of such Code (relating to limitations on benefits and contributions under qualified plans) is amended—

(A) by striking out "Except as provided in paragraph (3), in the case" in paragraph (2) and inserting in lieu thereof "In the case"; and

(B) by striking out paragraph (3).

(6) Paragraph (12)(D) of section 3401 (a) of such Code (relating to definition of wages) is amended by striking out "or 220(a)".

(7) Section 4973 of such Code (relating to excess contributions to individuals' retirement accounts, etc.) is amended—

(A) by striking out "or section 220 (determined without regard to subsection (b)(1) thereof), whichever is appropiate" in the last sentence of subsection (a);

(B) by striking out "or 220" in subsection (b)(1)(B); and

(C) by striking out "or 220", "or section 220(b)(1) (without regard to the $1,750 limitation)" and "or $1,750" in subsection (b)(2) and the sentence following such subsection.

(8) Subsection (d) of section 6047 of such Code (relating to other programs) is amended by striking out "or 220(a)".

SEC. 3. The amendments made by the first section and section 2 of this Act and the repeals made in section 2 of this Act shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. WILLIAMS (for himself and Mr. CHURCH):

S. 1784. A bill to amend the Age Discrimination in Employment Act of 1967 to protect older workers from involun-

tary retirement, to raise the age limitation for coverage under such act, and to provide for a study of the effects of changes in the age limitations for such coverage; to the Committee on Human Resources.

Mr. WILLIAMS. Mr. President, today I am introducing legislation to amend the Age Discrimination in Employment Act of 1967. These amendments would expand the act's coverage and substantially strengthen the protections which it affords older workers.

When the Congress enacted the Age Discrimination in Employment Act a decade ago, it determined that it would be our national policy to promote the employment of workers between the ages of 40 and 65 by preventing discrimination in hiring, firing or other conditions of employment based solely on age. Our experience with the concept of age discrimination since that time has demonstrated that while some progress toward this goal has been made, a number of critical problems must still be addressed.

This bill is designed to rectify the two most serious of these problems—discrimination against workers over 65 and the mandatory retirement of employees who are covered by employee benefit plans.

Therefore, my bill would extend the upper age limit of the act from 65 to 70 years of age in three steps over a 2-year period.

In 1967, when the Age Discrimination in Employment Act was signed into law, the age 65 was not considered to be an arbitrary point at which to cut off the act's protections. At that time it was assumed that most people wished to retire at 65. Indeed, this view was so widespread in our society that it had been embodied into numerous statutes which provide entitlements for older Americans. But since 1967, the problem of aging has become the subject of more far-reaching examinations. We have now learned that our prior assumptions were at least in some respects incorrect. Many Americans either want to or, of necessity, must work after the age of 65.

Gerontological experts agree that one of the most fundamental emotional needs which older persons have is to remain active, contributing members of society. For those who wish to work, employment opportunities can provide a vital sense of personal purpose.

Raising the age limit would also aid those older individuals whose retirement incomes are inadequate to cope with the ever-increasing costs of life's basic necessities. Fair employment opportunities would afford them additional financial security and a higher standard of living. For many, income from employment can mean the difference between poverty and relative comfort.

Chronological age alone is a poor indictor of an individual's job proficiency. We must realize that the maturity, dedication and experience of older workers rank them among the most valuable of all employees. The ability or inability of older Americans to continue working should be measured by their skill and desire rather than arbitrarily established by reference to their chronological age.

My bill would achieve that goal. It would raise the upper age limit to 66 120 days following the effective date. Thereafter, it would raise the upper age limit to 68 and 70, respectively, over the next 2 years.

The second major objective of this bill is to clarify the act's intent with respect to mandatory retirement provisions contained in many employee benefit plans. The circuit courts of appeals have split over the meaning of section 4(f)(2) which exempts the terms of a bona fide employee benefit plan from the act's coverage.

The third and the fifth circuits have held that 4(f)(2) permits mandatory retirement prior to the age of 65. However, the fourth circuit in *McMann* v. *United Air Lines*, 542 F.2d 217, held to the contrary. It found that the section's sole purpose is to encourage the employment of older workers by permitting employers to reduce fringe benefit packages which would otherwise make the hiring of older workers more costly. The Supreme Court has agreed to hear the McMann case, and a decision resolving these conflicting interpretations of 4(f)(2) is expected in the fall.

I believe the Congress should resolve this issue now. My bill makes it clear that the fourth circuit has correctly interpreted the will of Congress. By acting expeditiously Congress can insure that, in the event of an unfavorable ruling by the Supreme Court, the employment rights of older workers will not be undermined by an employers' stampede to amend their pension plans before Congress has an opportunity to act.

The bill also directs the Secretary of Labor to conduct a study of the effects of the changes which the bill mandates and, in light of that experience, to make recommendations concerning the complete removal of the upper age limit. This study, which will be submitted to Congress 3 years after the bill's effective date, will also focus on age discrimination faced by younger workers. There is some evidence that an increasing number of men and women workers in their thirties are suffering loss of employment opportunities on account of their age. This occurs through discharge or failure to be considered for promotions or new positions. It is my hope that through a comprehensive examination of this issue we in the Congress will be able to make a sound judgment on the extent to which this is, in fact, a problem which requires congressional action.

Older workers are a valuable national asset, and comprehensive protection of their legitimate employment rights is a priority of the highest order. Each year, however, hundreds of thousands of older Americans are turned out of their present jobs or denied opportunities for new employment. This loss of employment works severe, unjust injuries against the health and financial welfare of aged individuals.

It is time that the Congress completed the promise of the Age Discrimination in Employment Act of 1967 by enacting these important strengthening amendments. Their enactment will complete the statutory framework of insuring that older citizens who desire work will not be denied employment opportunities solely on the basis of age.

Mr. President, I now ask unanimous consent that the full text of this proposed legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Age Discrimination in Employment Amendments of 1977".

SEC. 2. (a) Section 4(f)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) is amended by inserting after "individual" a comma and the following: "and no such seniority system or employee benefit plan shall require the retirement of any individual specified by section 12 of this Act because of the age of such employee".

(b) The amendment made by this section shall apply with respect to any action taken by any employer, employment agency, or labor organization on or after the date of enactment of this Act, and to any discrimination by any employer, employment agency, or labor organization which occurs on or after such date.

SEC. 3. (a)(1) Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by striking out "sixty-five" and inserting in lieu thereof "sixty-six".

(2) The amendment made by this subsection shall be effective 120 days after the date of enactment of this Act.

(b) Effective one year after the effective date of subsection (a), section 12 of the Age Discrimination in Employment Act of 1967 is amended by striking out "sixty-six" and inserting in lieu thereof "sixty-eight".

(c) Effective two years after the effective date of subsection (a), section 12 of the Age Discrimination in Employment Act of 1967 is amended by striking out "sixty-eight" and inserting in lieu thereof "seventy".

SEC. 4. (a) The Secretary of Labor is directed to undertake a study, directly or by contract or other arrangement, of the effects of raising the upper age limitation under section 12 of the Age Discrimination in Employment Act (as provided in section 3 of this Act). Such study shall be completed within one year after the limitation of seventy years of age becomes effective, and the results of such study shall be reported to the Congress. The study shall focus on—

(1) the effect of raising the limitation to seventy years of age;

(2) the feasibility of raising the limit above seventy years of age; and

(3) the feasibility of lowering the minimum age for coverage under such Act.

By Mr. KENNEDY (for himself, Mr. CLARK, and Mr. STAFFORD):

S. 1785. A bill to require public disclosure of certain lobbying activities to influence issues before the Congress and the executive branch, and for other purposes; to the Committee on Governmental Affairs.

LOBBYING REFORM ACT OF 1977

Mr. KENNEDY. Mr. President, on behalf of Senators CLARK, STAFFORD and myself, I send to the desk the Lobbying Reform Act of 1977.

Mr. President, I ask unanimous consent that our joint statement explaining the bill, a summary of the bill, and the text of the bill may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT OF SENATORS KENNEDY, CLARK, AND STAFFORD PROPOSING THE LOBBYING REFORM ACT OF 1977

We are joining today in introducing in the Senate a new lobbying reform proposal, the "Lobbying Reform Act of 1977." The purpose of the bill is to overhaul the 31-year old Federal regulation of Lobbying Act, by requiring broad public disclosure of lobbying activities designed to influence Congress or the Executive Branch, and by establishing an effective enforcement mechanism to police the new disclosure requirements.

Each of us has been involved in previous lobbying reform efforts in the Senate. In a sense, we are picking up today where we left off last year. Congress came close in 1976 to accomplishing the goal of lobbying reform. Both the Senate and the House passed separate bills to achieve such reform last year, but the end of the session was near and time ran out before a conference could be held to reconcile the Senate and House bills.

We believe that the current Congress must complete the job. We are pleased with the progress now being made on the issue in the House of Representatives, and we are hopeful that the Senate will also act promptly, so that lobbying reform can take its place this year among the other major institutional reforms that are helping to make the Federal Government work more effectively in the interest of the people.

The bill we are proposing is designed to remedy the four most serious flaws in the lobbying law that Congress passed in 1946 and that is now a generation out of date:

First, the current law is applicable only to those whose "principal" purpose is lobbying. As a result, many organizations have been able to mount massive lobbying campaings outside the law's requirements, because lobbying is not the organization's principal purpose.

Second, the current law is applicable only to lobbying of Congress. It entirely omits any coverage of lobbying of the Executive Branch, even though massive lobbying campaigns are frequently aimed at executive decisions, especially in the award of lucrative government contracts or grants.

Third, the current law is applicable only to "direct" communications with Congress. It does not apply to "indirect" or "grass roots" lobbying, by which organizations solicit others to communicate with Congress. But some of the most widespread and effective lobbying campaigns are carried out in this way, using computerized direct mailings, newspaper advertisements, radio or TV broadcasts, or other modern techniques of mass communictaions.

Fourth, the current law has a weak and inadequate enforcement mechanism, with enforcement lodged in the Secretary of the Senate and the Clerk of the House. A much more effective procedure is needed to coordinate the requirements of disclosure and to police the law.

As a result of these and other defects in the 1946 Act, vast amounts of lobbying activity go unreported and undisclosed; vast unseen resources are spent by special interest groups desperate to win the rich favors that government can bestow.

Recently, for example, AT & T reported to the Federal Communications Commission that it spent over $1 million in a single calendar quarter in 1976 in lobbying for a communications bill—the so-called "Bell Bill"—which would enhance AT & T's dominance in the field, make it more difficult for other firms to compete, and reverse the FCC's current policy for promoting competition in communications. Yet none of these lobbying expenses were reported under the current Lobbying Act.

Earlier, El Paso Natural Gas had reported to the Federal Power Commission that it spent nearly $900 000 in 1971, including a $350,000 fee to a Washington, D.C. law firm, in lobbying for a bill involving divestiture of a pipeline company. But El Paso filed no report under the Lobbying Act covering these activities.

On many other issues, the current Lobbying Act has become a caricature of proper legislation. The daily headlines describe hotly contested battles over the President's energy plan, with literally tens of billions of dollars at stake. Health associations and hospital groups are vigorously resisting the President's hospital cost control proposal. The airline industry is opposing the President's proposals for deregulation. And it is obvious that the President's comprehensive tax reform proposals will meet serious resistance from well-heeled special interest groups anxious to keep their loopholes.

But few if any of these enormous lobbying activities will be disclosed under current law. In the past Congress, the Senate Government Operations Committee estimated that less than one-tenth of one percent of all lobbying expenditures are reported under the current Federal lobbying law. The 1946 Act does not even reveal the tip of the iceberg of modern lobbying. It would be more accurate to say that the iceberg is completely submerged where lobbying is concerned.

The bill we are proposing is intended to remedy the most glaring defects of the present law. It will apply the same even-handed standard to all lobbyists. Those engaged in lobbying for business, labor, public interest groups, and special interest groups will all be subject to the same requirements of reporting and disclosure. In this way, Congress and the country will have accurate and useful information on all the major lobbying activities that seek to influence legislation.

Attached is a fact sheet which describes in detail the various provisions of the bill we are introducing. In essence, the proposed legislation is a compromise version that attempts to build on the experience of the Senate and House debates in 1976 and the bills we passed last year. Our goal is to preserve the key reporting and disclosure requirements for Congressional and executive lobbying activities, while avoiding burdensome provisions on individuals and organizations who are not intensive lobbyists.

The principal provisions of the legislation are as follows:

The most important new concept in the legislation is the establishment of a two-tier system for reporting and disclosure of lobbying activities. Those who engage in relatively minor lobbying will be required to file only a "short form"—usually a page in length—identifying their lobbying activities. Organizations engaged in more extensive lobbying will file a "long form," giving a more detailed picture of their activities and expenditures.

Only organizations with paid employees or with outside lobbyists will be required to register. To minimize the burden on individual lobbyists, they will not be required to register directly, but their activities will be included in the reports of the organizations employing them.

Similar reporting and disclosure requirements will apply to organizations engaged in lobbying of Executive Branch employees in circumstances involving grants or contracts worth $1 million or more.

The Comptroller General is given broad enforcement powers to carry out the Act.

Exceptions from coverage of the Act include communications by Federal employees and by State and local officials; communications with Senators or Congressmen serving the organization's metropolitan area; and communications by organizations consisting solely of unpaid volunteers.

We believe these measures are workable and effective steps to bring about reform of the lobbying laws. In proposing these changes, we emphasize the valuable and essential role that lobbying plays in both the Legislative and Executive Branches of government. Lobbying is an important constitutional right, protected by the First Amendment. But the public interest requires that significant lobbying activities be disclosed to public view.

We do not seek to prohibit or curtail the activities of lobbyists. We do seek, however, to end the secrecy in which lobbying is often cloaked, and which breeds cynicism and suspicion—if not outright corruption—of government. The public is entitled to know the source and scope of the major private influences that are brought to bear on Congressional and Executive decisions. The reforms we propose are designed to achieve this goal.

In recent years, Congress has taken important strides toward reforming government and restoring the confidence of the people in the institutions of our democracy. The Budget Reform Act has brought a new measure of control and discipline to the Federal budget. Public financing has ended the corruption and the appearance of corruption of large special interest money in Presidential election campaigns; a major reform bill now on the Senate calendar will do the same for Senate and House elections. Both the Senate and House have adopted strict new codes of ethics, and have reorganized their archaic committee systems to deal more effectively with modern issues. In these and other ways, Congress has established a significant record of worthwhile reforms in many different areas.

But so far, lobbying reform has been the missing link. It is perhaps the most important remaining item on the unfinished agenda of government reform. We urge the Senate and the House to close the gap by enacting effective lobbying reform legislation this year.

SUMMARY OF KENNEDY-CLARK-STAFFORD LOBBYING BILL

Who must register

Organizations with paid employees, not individuals or organizations composed of volunteers.

Lobbyists required to register will use either a "short form" or a "long form" for registration and disclosure, depending on the degree of lobbying activity.

"Short form" lobbyists

Organization makes 15 or more oral lobbying contacts in a quarter

Registration Form:

Identification of the organization

Approximate number of member individuals and organizations

Quarterly Disclosure Requirements

Gifts over $35

Receptions costing over $500

Description of the organization's ten most important lobbying issues

Grass roots solicitations reaching $500 persons, 100 employees, 25 officers or directors, or 12 affiliates

"Long form" lobbyists

Tests for coverage of organization:

Spends $1250 or more a quarter to retain outside lobbyists

At least one employee spends 24 hours a quarter in lobbying, or two employees spend 12 hours or more in lobbying

Spends $5,000 or more a quarter in soliciting others to lobby.

Registration Form.

Same as short form, plus:

Identification of retained lobbyists and associates.

Identification of employees who spend 12 hours or more a quarter in lobbying.

Disclosure of dues or contributions of $3,000 or more a year, if lobbying expenses exceed 1% of the organization's budget; disclosure by categories of value.

Description of the methods by which the organization decides its lobbying positions.

Disclosure Requirements.

Same as short form, plus:

Total expenditures for lobbying, with percentages for direct lobbying and grass roots lobbying.

Lobbyists retained by the organization for each issue and the fees paid.

Description of the organization's 30 most important issues and the officers and employees who lobbied on each.

Executive branch lobbying

Applicable to grants or contracts of $1 million or more.

Disclosure requirements similar to those for "long form" lobbyists.

Exceptions

Contacts with Senators or Congressmen representing the home state of the organization or the SMSA in which the organization is located.

Communications by Federal employees or State and local officials.

Public testimony to Congress.

Public speeches, articles or broadcasts other than paid advertisements.

Individuals acting to redress grievances or express opinions.

Activities covered by Federal election laws.

Communications made in person by one registered organization to an affiliated organization which is registered under the Act.

Personal travel expenses up to Federal per diem.

Regular publications of voluntary membership organizations, where the publication is not primarily devoted to lobbying.

Enforcement

By Comptroller General and General Accounting Office.

Compile and cross-index reports.

Investigate violations.

Issue advisory opinions.

Initiate civil proceedings to compel compliance.

Penalties

Civil penalties up to $5,000.

Criminal penalties up to $10,000/2 years.

S. 1785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Lobbying Reform Act of 1977."

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds—

(1) that the enhancement of responsible representative government requires that the fullest opportunity be afforded to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government; and

(2) that the identity and extent of the activities of organizations which pay others, or engage on their own behalf in certain efforts, to influence an issue before Congress or the Executive Branch should be publicly and timely disclosed in order to provide the Congress, the Executive Branch, and all members of the public with a fuller understanding of the nature and source of such activities.

(b) It is the purpose of this Act to provide for the disclosure to the Congress, the Executive Branch, and to all members of the public, of such efforts without violating the right to petition the Government for a redress of grievances or other constitutional rights.

DEFINITIONS

SEC. 3. As used in this Act

(a) "affiliates" includes organizations or other groups of persons which are associated with each other through any type of formal relationship, such as through ownership, the election of officers or directors, through franchise agreements, through common funding, or through common adherence to a charter or organization bylaws, whether or not one such person controls the policies or actions of the other, but does not include an informal or ad hoc alliance or coalition.

(b) "Chief executive officer" means the individual with principal authority to influence the overall direction of the organization's policies and activities.

(c) "Comptroller General" means the Comptroller General of the United States.

(d) "Expenditure" means—

(1) a payment, distribution (other than normal dividends and interest), loan, advance, deposit, or gift of money or other thing of value, made—

(A) to, on behalf of, or for the benefit of a Federal officer or employee; or

(B) for mailing, printing, advertising, telephones, fees, salary, travel, educational materials or the like which are attributable to activities related to lobbying communications or solicitations, or to communications described in section 8; and for costs attributable partly to such activities, where such costs may, with reasonable preciseness and ease, be directly allocated to activities related to such communications and solicitations, except that (i) costs partly attributable to such activities shall not be included if they are incurred for a regular publication of a voluntary membership organization where such publication is primarily devoted to purposes other than lobbying solicitations; and (ii) costs shall not include the salary of any employee who spends less than 12 hours in any quarterly filing period engaging in lobbying communications or lobbying solicitations or in the actual preparation of such communications or solicitations, or who spends less than an average of one hour a week during the period engaged in communications described in section 8 or in the actual preparation of such communications; or

(2) a contract, promise, or agreement, whether or not legally enforceable, to make disburse, or furnish any item referred to in paragraph (1).

The term "expenditure" shall not apply to any practices or activities regulated by the Federal Election Campaign Act of 1971, any loan made on terms and conditions that are no more favorable than those available to the general public, or any gift or loan to any individual who is an immediate member of the family of the donor or lender.

(e) "Federal officer or employee" means—

(1) any Member of the Senate or the House of Representatives, any Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico in the House of Representatives;

(2) any officer, employee, or consultant of the Senate or the House of Representatives, or any employee or consultant of any Member, committee, or officer of the Congress; or

(3) any employee of the executive branch of the Government listed in sections 5312 through 5316 of title 5, United States Code, or holding a position within the scope of the General Schedule for grades 15 and above (5 U.S.C. 5332) or holding a commission within the scope of pay grade 0–6 and above (37 U.S.C. 1009).

(f) "Identification" means—

(1) in the case of an individual, the name and personal or business address of the individual, and any position held in the organization identifying the individual pursuant to the registration and reporting requirements of this Act; and

(2) in the case of an organization, the name and address of the organization, the principal place of business of the organization, the nature of its business or activities, and the names of the chief executive officer and the directors of the organization, regardless of whether such officers or directors are paid.

(g) "Lobbying communication" means an oral or written communication directed to a Federal officer or employee to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation, but does not mean—

(1) a communication (i) made by any employee of the Federal Government or (ii) made in the form of public testimony given before a committee or office of the Congress or submitted for inclusion in the public record;

(2) a communication by an individual, acting solely on his own behalf, for redress of his personal grievances, or to express his personal opinion; or

(3) practices or activities regulated by the Federal Election Campaign Act of 1971.

(h) "Lobbying solicitation" means an oral or written communication intended to influence the resolution of any issue before Congress by urging, requesting or requiring another person to communicate with a Federal officer or employee with respect to such issue, but does not mean—

(1) a communication by an individual, acting solely on his own behalf, for redress of his personal grievances, or to express his personal opinion;

(2) a communication made through a public speech or address, through a newspaper, magazine, book, periodical, or other publication distributed to the general public, or through a radio or television broadcast: *Provided,* That this exemption shall not apply to an organization responsible for the purchase of a paid advertisement in such publication or broadcast;

(3) practices or activities regulated by the Federal Election Campaign Act of 1971; or

(4) a communication made in person by one organization registered under this Act to an affiliated organization registered under this Act.

(i) "Organization" includes any corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, organization of State or local elected or appointed officials (excluding any Federal, State or local unit of government or Indian tribe, any Federal, state, or local unit of government of another country, any national or State political party, and any organizational unit thereof), group of organizations, or any group of individuals, which has one or more paid officers, paid directors, or paid employees.

(j) "Paid officer, paid director, or paid employee" means an officer, director, or employee who receives income for his services, other than personal travel expenses, at a rate equal to, or in excess of, the standard federal minimum wage. An officer, director, or employee who is not employed on a full-time basis is included within this definition if the effective hourly rate at which such individual is compensated exceeds the effective hourly rate of a full-time employee who receives income at a rate equal to, or in excess of, the standard federal minimum wage.

(k) "Personal travel expenses" means any sum expended by any organization in payment or reimbursement of the cost of any transportation for any agent engaging on behalf of the organization in activities related to lobbying communications, plus any sum received on an occasional basis by such agent as a per diem allowance as is not in excesss of the maximum applicable allowance payable under section 5702(a) of title 5, United States Code, to employees of the executive branch subject to such section.

(l) "Principal Operating Officers" means the individuals employed by an organization on a full-time basis charged with managerial responsibility for the conduct of the orga-

nization's affairs who (1) report directly to the organization's chief executive officer or (2) are members of the organization's highest managerial policy-making body responsible for the direction of the organization's day-to-day operations.

(m) "Quarterly filing period" means any calendar quarter beginning on January 1, April 1, July 1, or October 1.

(n) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

APPLICABILITY OF LOBBYING REGISTRATION AND REPORTING REQUIREMENTS

SEC. 4. (a) The lobby registration and reporting requirements of section 5(a) and 5 (b) and section 6 shall apply to any organization which, acting through its own paid officers, paid director, or paid employees, engages in fifteen or more oral lobbying communications in any quarterly period.

(b) The lobbying registration and reporting requirements of section 5 and section 7 shall apply in their entirety to any organization which

(1) makes expenditures of $1,250 or more, other than personal travel expenses, in any quarterly filing period for the retention of one or more other persons to engage in lobbying communications or for the actual drafting of such communications, where each such person makes one or more oral or written lobbying communications on behalf of the organization: Provided, That this paragraph shall not apply to expenditures made to an individual in his capacity as an officer, director, or employee of the organization; or

(2) employs at least one paid officer, paid director, or paid employee who spends a total of 24 hours or more in any quarterly filing period, or employs two or more such individuals, each of whom spends 12 hours or more in any quarterly filing period, making oral or written lobbying communications on behalf of the organization, including any time expended by such individuals in the actual drafting of material for use in such communications; or

(3) expends in any quarterly period in excess of $5,000 to engage directly or through any other person in a lobbying solicitation effort of the kind reportable under section 7 (b)(5).

(c) For purposes of this section an oral lobbying communication which is made simultaneously in the course of a single meeting or conversation to more than one Federal officer or employee, or which involves more than one paid officer, paid director, or paid employee of the organization, shall be treated as a single oral lobbying communication.

(d) For purposes of this section, a communication by a paid officer, paid director, or paid employee of the organization to a Member of the Senate or the House of Representatives, or to an individual on the personal staff of such Member, shall not be considered a lobbying communication if the organization's principal place of business is located within the State or congressional district represented by such Member, or within the Standard Metropolitan Statistical Area represented in part by such Member, so long as that organization does not act at the suggestion, request, or direction of any person that is not an affiliate of such organization.

REGISTRATION OF LOBBYISTS

SEC. 5. (a) Each organization shall register with the Comptroller General not later than fifteen days after engaging in activities described in section 4.

(b) The registration shall be in such form as the Comptroller General shall prescribe by regulation, and shall contain the following, which shall be regarded as material for the purposes of this Act:

(1) an identification of the organization, except that nothing in this paragraph shall be construed to require the disclosure of the identity of the individuals who are members of a voluntary membership organization; and

(2) the approximate number of individuals and organizations that are members of the organization; and the names of any affiliate of the organization;

(c) Any registration filed by an organization engaged in activities described in section 4(b) shall also contain the following, which shall be regarded as material for purposes of this Act—

(1) an identification of any person retained under section 4(b)(1), including the individuals associated with such person with primary responsibility for such activities, and any employee described in section 4(b)(2);

(2) a separate schedule listing the name and address of each organization or individual from which the registered organization received $3,000 or more in dues or contributions during the year preceding the year in which the registration is filed, where (i) the dues or contributions were expended in whole or in part by the registering organization for activities described in section 4, and (ii) the total lobbying expenditures of the organization in the year preceding the year in which the registration is filed exceeds 1 per centum of the total budget of the organization. The organization shall indicate the amount of the dues or contributions provided by such organization or individual: *Provided*, That the organization may, if so chooses, state such amount in the following categories: Category A—$3,000 to $10,000; Category B—$10,001 to $25,000; Category C—$25,001 to 50,000; Category D—$50,001 to $100,000; Category E—$100,001 to $250,000; Category F—over $250,000.

(3) in the case of a voluntary membership organization, a general description of the methods by which such organization arrives at its position with respect to those issues which it seeks to influence through lobbying communications or solicitations.

(d) A registration filed under this section in any calendar year shall be effective until January 15 of the succeeding calendar year.

ABBREVIATED LOBBYING REPORTS

SEC. 6. (a) Each organization required to register solely by reason of the provisions of section 4(a) shall file a report with the Comptroller General not later than thirty days after the last day of each quarterly filing period in which the organization engaged in the activities described in such subsection. Each report shall be in such forms as the Comptroller General shall prescribe by regulation.

(b) Each report required under subsection (a) shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) an identification of the organization filing such report;

(2) a record of any expenditure in the form of a gift of money or thing of value, including a loan or honorarium, in excess of $35 made during the quarterly period, to or for the benefit of any Federal officer or employee, and the identity of the recipient of such gift, where the gift is (i) by the organization or by the person employed or retained by the organization who is reimbursed for the expenditure, or (ii) by an officer, director, or employee of the organization if such individual has taken, or will take, such gift, in whole or in part, as a deduction under section 162 or 212 of the Internal Revenue Code;

(3) an itemized listing of each expenditure made during the quarterly period for any reception, dinner or other similar event in whole or in part for Federal officers or employees paid for by the reporting organization where the total cost of the event exceeds $500;

(4) a description of the issues concerning which the organization filing such report engaged in lobbying communications, through its own paid officers, paid directors, or paid employees, except that if the number of such issues exceeds ten, the organization may describe the ten issues on which it spent the greatest proportion of its efforts and provide a general description of the categories of any other issues concerning which the organization engaged in such communications;

(5) in the case of written lobbying solicitations, or solicitations made through an advertisement paid for by such organization, where such solicitations reached or could be reasonably expected to reach, in identical or similar form, five hundred or more persons, one hundred or more employees, twenty-five or more officers or directors, or twelve or more affiliates of such organizations—

(A) a description of the means employed to make the solicitation, the issue with which such solicitation was concerned, and an indication whether the recipient was in turn asked to solicit others, except that the requirement of describing the issue involved may be satisfied, at the discretion of the reporting organization, by filing a copy of the solicitation;

(B) if the solicitation is conducted through a paid advertisement in a newspaper, magazine, book, periodical, or other publication, or through a paid radio or television advertisement, an identification of the publication, or radio or television station, where the solicitation appeared; or, if the solicitation is conducted through the mails, the approximate number of persons directly solicited.

FULL LOBBYING REPORTS

SEC. 7. (a) Each organization required to register by section 4(b) shall file a report with the Comptroller General not later than thirty days after the last day of each quarterly filing period in which the organization engaged in the activities described in such subsection. Each such report shall be in such form as the Comptroller General shall prescribe by regulation. The information required by this subsection shall be regarded as material for the purposes of the Act.

(b) Each report required under subsection (a) shall contain the information required in section 6(b) (1), (2) and (3), and the following additional information—

(1) the approximate amount of the total expenditures which such organization made during the quaterly filing period with respect to lobbying communications and with respect to lobbying solicitations reportable under this section including the approximate percentage related to such lobbying communications, and the approximate amount related to such lobbying solicitations;

(2) an identification of any person retained by the organization under section 4 (b)(1) and a disclosure of the following information for each person—

(A) a description of each issue as to which that person engaged in lobbying communications on behalf of the organization, identifying each officer, director, partner or employee of that person, and of any other person, to whom expenditures were made by the retained person to make one or more such lobbying communications; and

(B) the approximate amount of money received by the person from the organization in connection with each such issue: *Provided*, That if the person is under a general retainer he shall have the option of reporting the amount of the retainer.

(3) an identification of any paid officer, paid director, or paid employee described in section 4(b)(2);

(4) a description of the issues concerning which the organization filing such report engaged in lobbying communications,

through its own paid officers, paid directors, or paid employees, identifying with respect to each issue any employee described in section 4(b)(2), and the chief executive officer and any principal operating officer who engaged in lobbying communications on that issue; except that if the number of such issues exceeds thirty, the organization may describe the thirty issues on which it spent the greatest proportion of its efforts, and provide a general description of the categories of any other issues concerning which the organization engaged in such activities;

(5) in the case of lobbying solicitations made or paid for by such organization, where such solicitations reached or could be reasonably expected to reach, in identical or similar form, five hundred or more persons, one hundred or more employees, twenty-five officers or directors, or twelve or more affiliates of such organization—

(A) a description of the means employed to make the solicitation, the issue with which the solicitation was concerned, and an indication whether the recipient was in turn asked to solicit others, except that the requirement of describing the issue involved may be satisfied, at the discretion of the reporting organization, by filing a copy of the solicitation;

(B) an identification of any person retained to make the solicitation; and

(C) the approximate number of individuals, and organizations, including the approximate number of affiliated organizations solicited, or if the solicitation is conducted through a paid advertisement in a newspaper, magazine, book, periodical or other publication, or through a paid radio or television advertisement, an identification of the publication, or radio or television station, where the solicitation appeared, and the total amount expended on any solicitation conducted through one or more such advertisements, where the amount exceeds $5,000.

REPORTS ON ACTIVITIES WITH RESPECT TO GOVERNMENT CONTRACTS OF GRANTS

SEC. 8. (a) Any organization that submits a written bid on a government contract or grant or seeks to modify an existing government contract or grant shall file with the executive agency responsible for the award of such contract, at the time such bid is submitted, a report containing the information required in subsection (b). Not later than 30 days after the last day of each quarterly period following the submission of the bid or proposal for modifying the contract or grant, until such time as the contract or grant is entered into by the government, modified by the government or not modified, such organization shall file with the executive agency responsible for the award of such contract or grant or modification additional reports containing the information required in subsection (b).

(b) Each report required by subsection (a) shall contain the following information about those activities of the organization concerning such contract or grant which were conducted prior to the time the report is filed or, in the case of quarterly reports, during that quarterly period—

(1) an identification of the organization filing the report;

(2) a description of the contract or grant upon which the organization has bid, including, in the case of a contract or grant which has been awarded to the reporting organization, an indication of the amount of the contract or grant awarded;

(3) an identification of each paid officer, paid director or paid employee of the organization who sought to influence the award of the contract or grant by engaging in one or more communications with a federal officer or employee if the officer, director, or employee of the organization is—

(A) a former employee of the executive agency responsible for the award of the contract or grant and the communication is with a federal officer or employee of that agency; or

(B) the chief executive officer or a principal operating officer of the organization; or

(C) an individual who has spent during the period covered by the report an average of 1 hour or more a week engaged in communications intended to influence the award of government contracts or grants, including any time expended by such individual in the actual drafting of material for use by the individual in such communications;

(4) an identification of any person other than an officer, director, or employee of the organization filing the report who received income from such organization to engage in one or more communications with the executive branch to influence the award of the contract or grant, the total amount of income received to date by such person in connection with such communications, and an indication whether such person, or a member or employee of such person who made one or more such communications, is a former employee of the executive agency responsible for the award of the contract or grant;

(5) in the case of any former employee of an executive agency identified as such by paragraph (3)(A) or (4), an indication of the position most recently held by the individual in such agency;

(6) the approximate amount of the total expenditures which such organization made during the period covered by the report with respect to communications with the executive branch to influence the award of the contract or grant;

(7) a record of any expenditure in the form of a gift of money or thing of value, including a loan or honorarium, in excess of $35 to any federal officer or employee of the executive agency responsible for the award of the contract or grant; and the identity of the individual who received such gift, where the gift is (i) by the organization or by any person identified in paragraph (4) of this subsection who is reimbursed for the expenditure, or (ii) by an officer, director, or employee of the organization if such individual has taken, or will take, such gift, in whole or in part, as a deduction under section 162 or 212 of the Internal Revenue Code, and (iii) there is no record of the gift on a prior report filed by the organization pursuant to this section; and

(8) an itemized listing of each expenditure during the period covered for any reception, dinner, or similar event in whole or in part for federal officers or employees of the executive agency responsible for the award of the contract or grant, where the total cost of the event exceeds $500.

(c) A copy of the report filed pursuant to subsection (a) of this section shall be filed with the Comptroller General. Any organization required to file a quarterly report with the Comptroller General under section 6 or 7 of this Act shall include as part of such report any quarterly report it is required by this subsection to file with the Comptroller General.

(d) The executive agency with whom the reports required by this section are filed shall preserve the originals or reproductions of such reports, filed according to the name of the contract, for the same length of time, and make them available to the public in the same manner, as prescribed in sections 11(a)(3) and 11(a)(4) of this Act.

(e) For purposes of this section—

(1) the term government contract or grant shall mean a contract with, or a grant or other benefit from, the United States or an executive agency of the United States, involving an obligation of $1,000,000 or more, or a proposed modification or revision of $1,000,000 or more in such a contract, grant or other benefit;

(2) the term "former employee of the executive agency" includes any person who was employed at any time within the last 5 years by an executive agency at a rate of compensation in excess of the highest rate for grade GS–11 of the General Schedule under section 5332 of title 5, United States Code, or at a rate of compensation in excess of the highest rate for pay grade 0–4 or W–2, as the case may be, under chapter 3 of title 37, United States Code, while any such person served as a member of a uniformed service; and

(3) the term "federal officer or employee" shall include, in addition to any person described in section 3(e) of this Act, an employee of the executive branch whose principal responsibility is the drafting, revising, or letting of government contracts or grants.

PREPARATION OF REGISTRATIONS AND REPORTS

SEC. 9. (a) Each organization required to register or to report under Sections 5, 6, 7, or 8, and each agent or other person retained by such organization, shall maintain, for each quarterly filing period such records, in accordance with regulations prescribed by the Comptroller General, as may be necessary to enable the organization to file the registrations and reports required by this Act; except that the Comptroller General may not require by rule or otherwise that any organization which is not registered pursuant to this Act, or which is registered only pursuant to section 4(a), to establish or maintain any records other than those records normally established or maintained by the organization, in order to enable the Comptroller General to determine whether such organization is, in the case of an unregistered organzation, required to register, or, in the case of an organization registered only pursuant to section 4(a), required to register pursuant to section 4(b). Any officer, director, employee, or retained person of any organization shall provide to such organization such information as may be necessary to enable the organization to comply with the recordkeeping and reporting requirements of this Act. Any organization which shall rely in good faith on the information provided by any such officer, director, employee, or retained person shall be deemed to have complied with this subsection.

(b) The records required by subsection (a) shall be preserved for a period of not less than five years after the close of the quarterly filing period to which such records relate.

(c) Each registration filed pursuant to section 5, and each report filed pursuant to sections 6, 7, or 8 shall be signed by an officer or director of the organization who shall certify that the information certified therein is accurate and complete to the best of his knowledge and belief.

(d) Whenever an organization is required under sections 6 or 7 to describe an issue, the description shall include, where feasible, the bill or other identifying number, and, in the case of any issue involving communications with the executive branch, the name of the agency. The description shall disclose the general subject matter which is of interest to the organization.

(e) Whenever an organization is required to approximate in the registration or reporting forms numbers of persons or amounts of expenditures, the organization shall provide the information in a manner prescribed by regulations issued by the Comptroller General.

(f) If a reporting organization requires an affiliate which is not required to register under this Act to engage in a lobbying solicitation, or reimburses such an affiliate for expenses incurred in such a solicitation, then such organization must report the solicitation as if it were initiated, or paid for, by such organization.

(g) If an affiliate of a registered organization engages in activities described in sec-

tion 4(a) or 4(b), the affiliate need not file the registration and reports required by sections 5, 6, and 7 if the registered organization files the required information on behalf of the affiliate. Where the reporting organization calls, organizes, or finances in whole or in part a meeting or conference of its affiliates who are not otherwise required to report under this section and one function of the meeting or conference is to coordinate a program of in-person lobbying communications by the affiliates, the reporting organization may, by filing the following information in lieu of separate reports by those affiliates, satisfy the reporting requirements of this Act applicable to such in-person lobbying communications engaged in by the affiliates during the duration of the conference or meeting:

(1) the dates on which the meeting or conference took place;

(2) the full name and mailing address of the affiliates that attended;

(3) the issue or issues on which oral lobbying communications were made; and

(4) the expenditures made by the reporting organization in connection with the meeting or conference.

POWERS OF THE COMPTROLLER GENERAL

SEC. 10. The Comptroller General, in carrying out the provisions of this Act, is authorized—

(a) to informally request or to require by subpoena any person to permit the Comptroller General to examine, or to submit in writing to the Comptroller General, such reports, records, correspondence, and other documentary evidence, and such answers to questions, as the Comptroller General may consider necessary to carry out the provisions of this Act, within such reasonable period of time and under oath or such other conditions as the Comptroller General may require;

(b) to administer oaths or affirmations;

(c) to require by subpoena the attendance and testimony of witnesses and the production of documentary evidence;

(d) in any proceeding or investigation, to order testimony to be taken by deposition before any person designated by the Comptroller General who has the power to administer oaths and to compel testimony and production of evidence in any such proceeding or investigation;

(e) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States; and

(f) to petition any United States district court having jurisdiction for an order to enforce subpenas or orders issued pursuant to this section.

DUTIES OF THE COMPTROLLER GENERAL

SEC. 11. (a) It shall be the duty of the Comptroller General—

(1) to conduct investigations with respect to any registration or report filed under this Act, with respect to alleged failures to file any registration or report required under this Act, and with respect to alleged violations of this Act and otherwise to employ his powers under this Act to ensure compliance with it;

(2) to develop filing, coding and cross-indexing systems to carry out the purposes of this Act, including but not limited to

(A) a cross-indexing system which (i) for any person identified in any registration or report filed under this Act, other than those listed pursuant to section 5(c)(2) discloses each organization identifying such person in any such registration or report and (ii) for any such person retained by two or more registered organizations to make lobbying communications or solicitations discloses the information concerning such person provided by such organizations pursuant to section 7(b)(2), 7(b)(5), and 8(b)(4);

(B) a cross-indexing system to be developed in cooperation wtih the Federal Election Commission which discloses for any person identified in any registration or report filed under this Act, other than those listed pursuant to section 5(c)(2), each identification of such person in any report filed under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), including the amounts and recipients of any campaign contributions made by such person; and

(C) a cross-indexing system to be developed in cooperation with the Department of Justice which discloses for any person identified in any registration or report filed under this Act, other than those listed pursuant to section 5(c)(2), each identification of such person in any report filed pursuant to the Foreign Agents Registration Act. (22 U.S.C. 611 et seq.);

(3) to make copies of each registration and report filed with him under this Act available for public inspection and copying, commencing as soon as practicable after the date on which the registration or report involved is received, but not later than the end of the fifth working day following such date and to permit copying of such registration or report by hand or by copying machine or, at the request of any person, to furnish a copy of any such registration or report upon payment of the cost of making and furnishing such copy, which cost shall be limited to reasonable standard charges for the direct cost of a document search and duplication; documents shall be furnished without charge or at a reduced charge where the Comptroller General determines that waiver or reduction of the fee is in the public interest;

(4) to preserve the originals or accurate reproductions of such registrations and reports for a period of not less than five years from the date on which the registration or report is received;

(5) to compile and summarize, with respect to each quarterly filing period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of the activities described in the registrations and reports filed under this Act; to the extent the Comptroller General determines that it is meaningful and practicable to do so, the compilation and summary shall include information on all lobbying activities by organizations subject to this Act pertaining to a particular issue, and the total lobbying activities under this Act by organizations who share an economic, business, or other common interest;

(6) to make the information compiled and summarized under paragraph (5) available to the public within 45 days after the close of each quarterly filing period, and to publish such information in the Federal Register at the earliest practicable opportunity;

(7) to furnish assistance, to the extent practicable, to any person who requests assistance in the development of appropriate accounting procedures and practices to meet the recordkeeping and reporting requirements of this Act; the Comptroller General shall issue regulations prescribing the minimum segments of an hour which any person may utilize in recording the length of any communication or the drafting of such communications in connection with the registration and reporting requirements of this Act; and

(8) to prescribe such rules and regulations, and such forms, as may be necessary to carry out the provisions of this Act in an effective and efficient manner, and to prevent the evasion of the requirements of this Act.

(b) For purposes of this Act, the duties of the Comptroller General described in subsections (a)(1) and (a)(8) of this section shall be carried out in conformity with chapter 5 of title 5, United States Code, and any records maintained by the Comptroller General under this Act shall be subject to the provisions of section 552 and 552a of title 5.

COMMERCIAL USE OF INFORMATION DISCLOSED

SEC. 12. No information contained in any registration or report filed under this Act shall be sold or utilized by any person for the purpose of soliciting contributions, or for any commercial purpose.

ADVISORY OPINIONS

SEC. 13. (a) Upon written request to the Comptroller General by any person, the comptroller General shall, within a reasonable time, render a written advisory opinion with respect to the applicability of the recordkeeping, registration, or reporting requirements of this Act to any specific set of facts directly involving the person requesting such opinion.

(b) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provisions of this Act to which such advisory opinion relates. The Comptroller General may modify or revoke any such advisory opinion, but any modification or revocation shall be effective only with respect to action taken after such person has been notified in writing, of such modification or revocation.

(c) All requests for advisory opinions, all advisory opinions, and all modifications or revocations of advisory opinions shall be published by the Comptroller General in the Federal Register, except that upon the request of any person seeking the advisory opinion, the identity of such person shall not be disclosed, directly or indirectly in any information made public by the Comptroller General pursuant to this subsection.

(d) The Comptroller General shall, before rendering an advisory opinion under this section, provide any interested person with an opportunity, within such reasonable period of time as the Comptroller General may provide, to transmit written comments to the Comptroller General with respect to such request for an advisory opinion.

(e) Any person who has received and is aggrieved by an advisory opinion from the Comptroller General may file a declaratory action in the United States district court for the district in which such person resides or maintains its principal place of business.

ENFORCEMENT

SEC. 14. (a) The Comptroller General shall use his authority under section 11 to investigate possible violations of this Act by any person. Whenever the Comptroller General commences such an investigation of any person, he shall so notify the person of the investigation, unless the Comptroller General determines that notice would interfere with effective enforcement of this Act. Any investigation shall be conducted expeditiously, and with due regard for the rights and privacy of the person involved.

(b) If the Comptroller General determines, after an investigation under subsection (a), that there is reason to believe that any person has engaged in any acts or practices which constitute a civil violation of this Act, he shall endeavor to correct such matter—

(1) by informal methods of conference or conciliation; or

(2) by referring such apparent violation to the Attorney General.

The Attorney General shall act upon any referral made pursuant to this subsection in as expeditious a manner as possible.

(c) The Attorney General may institute civil enforcement actions for relief, including a permanent or temporary injunction, restraining order, or any other appropriate re-

lief, in the United States district court for the district in which such person is found, resides, or transacts business.

(d) The Comptroller General shall refer apparent criminal violations of this Act to the Attorney General. In any case in which the Comptroller General refers such an apparent violation to the Attorney General, the Attorney General shall act upon the referral in as expeditious a manner as possible.

(e) If the Attorney General fails to bring a civil or criminal action within 60 days of the date the Comptroller General refers an apparent violation to him pursuant to this section, the Comptroller General may bring an action described in subsection (c) in his own name, and through his own attorneys.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 15. The Comptroller General shall transmit a report to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Comptroller General in carrying out his duties and functions under this Act, together with recommendations for such legislation or other action as the Comptroller General considers appropriate.

SANCTIONS

SEC. 16. (a) Except as provided in subsection (c), any person violating section 5, 6, 7, 8, 9, or 12 of this Act shall be subject to a civil penalty of not more than $5,000 for each such violation.

(b) Any person who knowingly and willfully violates section 5, 6, 7, 8, 9, or 12 of this Act, or who, in any statement required to be filed, furnished or maintained pursuant to this Act, knowingly and willfully makes any false statement of a material fact, omits any material fact required to be disclosed, or omits any material fact necessary to make statements made not misleading, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, for each such violation.

(c) No organization shall be subject to civil sanctions for failing to register for the first time under section 5, unless the failure of the organization to register constitutes a knowing violation of the requirements of this Act.

REPEAL OF FEDERAL REGULATION OF LOBBYING ACT

SEC. 17. (a) The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.), and that part of the table of contents of the Legislative Reorganization Act of 1946 which pertains to title III thereof, are repealed.

(b) All documents, papers, and other information in the custody or control of the Clerk of the House of Representatives or the Secretary of the Senate obtained or prepared pursuant to the provisions of the Federal Regulation of Lobbying Act are hereby transferred to the custody and control of the Comptroller General. The Senate and the House of Representatives consent to the transfer of such documents, papers, or other information.

SEVERABILITY

SEC. 18. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances, shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATES

SEC. 20. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the first day of the first calendar quarter which begins more than one hundred and fifty days after enactment of this Act.

(b) The provisions of this Act requiring the issuance of regulations to implement this Act shall become effective upon enactment.

DISCRIMINATION ACT

Mr. CHURCH. Mr. President, I am pleased to join Senator WILLIAMS in sponsoring legislation to improve and strengthen the Age Discrimination in Employment Act.

Ten years ago the Congress enacted the age discrimination law to promote employment of older persons based on their ability. The act also protects workers 40 to 64 years old from job bias, because of age concerning hiring, firing, and other conditions of employment.

Over the years the Age Discrimination in Employment Act has helped to open the doors to employment opportunities—employment opportunities not otherwise available—for middle-aged and older workers.

The act, however, has two major exceptions. First, employers may legitimately consider age when it is a bona fide occupational qualification reasonably related to the job. Second, section 4(f)(2) permits employers, employment agencies or labor organizations "to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purpose of this act, except that no such employee benefit plan shall excuse the failure to hire any individual."

Two Federal appellate courts have reached differing results concerning the effect of this exception. In McMann against United Airlines, Inc., the Fourth Circuit Court of Appeals held that the employer's pension plan—requiring retirement at age 60—violated the controlling purpose of the Age Discrimination in Employment Act. The court further held that the section 4(f)(2) exception was no defense.

However, in a similar case—Zinger against Blanchette—the Third Circuit Court of Appeals reached the opposite result, upholding mandatory retirement prior to age 65 under a pension plan.

The bill that we introduce today is designed to clarify congressional intent concerning section 4(f)(2). Our proposal would prohibit mandatory retirement under pension plans prior to the upper age limit of the Age Discrimination in Employment Act. It would not—and I want to emphasize this point—prohibit labor unions and management from bargaining collectively to provide early retirement, provided the employee would have the option of retiring at an earlier age. Management and labor would also be free to provide mandatory retirement at a specific age under a pension plan, but this age may not be lower than the upper age limit of the age discrimination law.

About 26 million workers are covered under the Age Discrimination in Employment Act. As of September 1973, about 19 million were employed in plans requiring compulsory retirement. Of this total, about 324,000 were in plans with a maximum retirement age under 65.

Many mature workers, probably several million more, participate in plans where the employer may unilaterally require retirement below age 65 or permit the worker to continue to 65.

Workers who are involuntarily retired at an early age may find themselves facing an economic buzz saw. They are ineligible for social security retirement benefits before age 62. Thus, they may be forced to live, for all practical purposes, on their pension. Dr. Marc Rosenblum, a research scientist for the Center on Work and Aging of the American Institutes of Research, described involuntary retirement at age 60 in this manner:

> It is like being cast adrift on the rapids of inflation with only one oar.

Hearings conducted by the Committee on Aging make it clear that many middle-aged and older workers are being eased out of the job market. Nearly 96 percent of all white males 45 to 54 years old were employed in 1966. Ten years later the labor force participation rate for this group dipped to 75 percent. The situation is even worse for nonwhite men. Almost 91 percent of all nonwhite men in the 45 to 54 age category were employed in 1966, compared with only 66 percent for these same individuals in 1976.

This provision would also have other important benefits:

It could protect conceivably millions of older workers from any sudden change in mandatory retirement age under so-called bona fide pension plans.

It would help to clarify retirement policy by establishing a floor for legal retirement which would not interfere with early retirement options and agreements between workers and employers.

Second, our bill would increase the upper age limit of the Age Discrimination in Employment Act: To 66 within 120 days after enactment of this legislation, to 68 a year later, and to 70 after 2 years. Then a Commission would report to the Congress about the feasibility and desirability of removing the upper age limit entirely.

Almost 11 percent of our total population is now 65 or older. Yet, older Americans constitute only 3 percent of the entire civilian labor force.

Each day about 5,000 Americans reach their 65th birthday. Many of these individuals believe that advancing age shuts them off from purposeful activity. Increasingly, older Americans believe that their age deprives them of their right and ability to function normally in society.

This point was made convincingly in a Harris poll conducted for the National Council on Aging. The study concluded:

> Most older people have the desire and the potential to be productive, contributing members of society. They do not want to be put on the shelf, warehoused, and excluded from social and economic activities.

Many older Americans need to work to supplement inadequate retirement benefits. Others want to work to remain active or because they find it fulfilling.

More Americans are beginning to challenge the notion that a person should

stop working at 65. A recent article in Money magazine sums it up well:

While many workers are finding it too costly to quit at 65, some employers are finding it increasingly expensive to allow them to. One reason is that people are living longer, which pushes up the aggregate pension payments and can make comptrollers want to push up the retirement age.

As chairman of the Senate Committee on Aging, I have long maintained that function capacity, not chronological age, should determine whether a person is hired, fired, promoted, or demoted.

A job should not be off limits simply because a person turns 65 years old. No nation can ever hope to achieve its full potential if some of its most experienced and talented citizens are forced prematurely to the sidelines. Much more can be gained through comprehensive and flexible policies to promote employment opportunities for all persons, the old as well as the young.

For these reasons, I urge approval of this bill.

ADDITIONAL STATEMENTS

EDUCATION FOR GI'S

Mr. ANDERSON. Mr. President, last Friday the Committee on Veterans' Affairs began its comprehensive oversight hearings on the GI bill education program, which plays such a critically important role in the future of our Nation's veterans. The committee's activities center around the protection of one of this country's wisest investments—the education of young men and women who have served in our Armed Forces. It is a good investment not only in human terms, but economically as well. For every dollar spent for veterans' education benefits, the Government gets back four in higher taxes once veterans are employed. I look forward to working with the committee to insure responsive, efficient education programs for veterans.

The University of Minnesota, which serves 5,000 students under the GI bill, has also been working to insure this responsiveness and efficiency, and I am very pleased that Vice President Frank B. Wilderson and James B. Preus, coordinator of student support services have agreed to share the university's unique experiences in this effort with the committee during hearings today. I request unanimous consent that Dr. Preus' statement be printed in the RECORD for the information of my colleagues.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF JAMES B. PREUS

I shall attempt to meet two objectives in presenting testimony: First, I will summarize the experience we have had at the University of Minnesota in attempting to comply with the Veterans Administration (V.A.) and Minnesota State Approving Agency (SAA) regulations established prior to the enactment of P.L. 94–502. My objective is to demonstrate the extent to which V.A. and SAA policies and regulations can change and can have a serious negative impact on veterans without any change in basic legislation which supports those policies.

Second, I will provide some comments on P.L. 94–502 from the point of view of one major public institution attempting to cooperate with regulations and suggest ways in which the legislation might be changed. My objective is to influence the Committee to consider modifications of P.L. 94–502 which will help avoid future difficulties such as we have encountered to date in enforcing V.A. and SAA regulations, and which will avoid both serious inequities to student veterans and unnecessary administrative burdens for educational institutions.

BACKGROUND

Since World War II, thousands of veterans have completed degree programs at the University of Minnesota under provisions of the several veterans benefits laws. A spirit of cooperation existed between the V.A. and the University of Minnesota. The V.A. audited veterans' academic records. Regularly established standards of academic progress of the 30 University colleges were reviewed by the State Approving Agency and were enforced as provided for in U.S.C. 38, section 1674. Problems which were encountered related to clerical and mechanical errors, and no overpayment claims were pressed against the University.

For the last two years, however, serious disturbances in that relationship have occurred over issues of standards of academic progress and classroom attendance.

1975–76—STANDARDS OF SATISFACTORY ACADEMIC PROGRESS

In early 1975, concern was expressed nationally about "rip-offs" by student veterans. In response, the Minnesota State Approving Agency (SAA) established a statewide standard of satisfactory academic progress which all higher education institutions were required to enforce if they hoped to be approved for veteran training programs by the SAA. The authority for that action was V.A. Circular 20–75–84, which called on SAA's to set "broad and minimum standards of academic progress" against which the standards of individual educational institutions were to be judged.

The University evaluated the effect such standards would have on its student veterans and provided the following information to the SAA and the V.A.:

(1) A comparison of randomly-selected samples of 500 student veterans and 500 comparable non-veterans pursuing degree programs on the Minneapolis campus demonstrated that veteran students completed coursework at a slightly higher rate than non-veteran students. That observation is even more dramatic if one considers that the returning veteran might be expected to need a period of adjustment to college study.

(2) The SAA standards, if applied, would disqualify approximately 22 percent of the University's undergraduate veterans.

(3) The University has many standards of academic progress in its colleges. Each included faculty judgments in making the decision to discontinue a student for unsuccessful academic progress.

The University also made two attempts to negotiate an all-University standard with the SAA. Despite University attempts, one University campus was temporarily disqualified for failure to enforce the SAA standard, and the Minneapolis campus was threatened with the same action.

Following a march to the state capitol by student veterans and the assistance of Governor Anderson's Office, a statement of standards was adopted by statewide systems of higher education. In addition to earlier requirements, the agreed-upon statement contained the provision that the V.A. would provide counseling to veterans prior to termination of their educational benefits, a satisfactory safeguard to student veterans in our judgment. The V.A. had not been a direct party to the agreement and, subsequent to its approval by educational systems, the V.A. determined that its regulations would not permit it to comply with the new provision. Educational benefits would have to be terminated immediately upon receipt of a report of unsatisfactory academic performance under SAA standards from an educational institution.

The University's dilemma was clear: enforce external standards of academic progress which we believed to be unrealistically stringent, or refuse to do so and jeopardize benefits for all student veterans as the result of threatened disqualification of the University of Minnesota.

We chose to comply with the state standard. Over the course of the 1975–76 academic year and the fall quarter, 1976, some 1,235 veterans were reported to the V.A. and SAA for failure to meet the SAA standard. They lost educational benefits as a result. Reports were accepted by the V.A. regional director with the acknowledgement that the standard under which they were reported was external to the University of Minnesota and applied only to student veterans. The 1,235 veterans represented approximately one-fourth of the fall, 1975, veteran student enrollment at the University of Minnesota. All but a few of the 1,235 students were eligible to continue at the University of Minnesota under faculty standards of satisfactory academic progress. Nearly one-half of the 1,235 students were juniors and seniors, and three-fourths had a "C" or better grade average.

Fraudulent use of V.A. educational benefits may have existed on the part of some of the University's 5,000 student veterans. While we do not have documentation of the extent, I believe it was minimal in comparison to the number of veterans who lost educational benefits.

Neither do we have good evidence on what happened to the veterans whose benefits were terminated by the V.A. We do know that in February, 1977, only 178 of the 1,235 were in attendance at the University. Of the 178, 114 were again receiving V.A. educational benefits.

In retrospect, an arbitrary rule established by an agency external to the University became an operational definition of the veteran "ripping-off" the Veterans Administration and the Government, to the disadvantage of over 1,000 reasonably successful student veterans who were forced to discontinue their educations at the University of Minnesota.

1976–77—ATTENDANCE PROCEDURES

In October, 1976, the University was informed by the SAA and the V.A. that its standards of progress were unsatisfactory because no proof-positive system had been developed to take attendance in University classes. University of Minnesota instructors do not generally take attendance. We explained to the two agencies the procedures students use to withdraw from classes, agreed to report withdrawals by student veterans in a timely way, and proposed to bring the benefits of early withdrawal to the attention of student veterans (to their advanage in avoiding unsatisfactory grades). The Veterans Administration insisted that an attendance tracking system be developed, and the University arranged to identify veterans to instructors. Instructors were asked to report non-attendance of student veterans according to regularly established attendance standards for their individual classes.

Though found satisfactory to the V.A. (after central office review), the attendance system was viewed with alarm by student veterans and was the subject of a campus rally by student veterans who urged the University not to comply with either the attendance provision of the previous standard of academic progress, even though decertification of the University might result from that re-

fusal. The University chose to comply with the V.A. requirement to protect the benefits of all student veterans at the University. The attendance system was instituted spring quarter, 1977.

Our difficulties in Minnesota have centered on policies and procedures established by the State Approving Agency. From the perspective of the educational institution, matters of policy formulation, and responsibility and authority for decisions has been confounded between SAA and V.A. I have assumed that the Veterans Administration, since it would take any negative action to decertify an institution, and since it contracts for State Approving Agency services, is the controlling authority and is ultimately responsible for all regulations which affect V.A. educational benefits.

The regulations pertaining to satisfactory academic progress and to classroom attendance were established prior to the enactment of P.L. 94–502 in an attempt by the V.A. and the SAA to prevent abuses of the V.A. educational benefit program. The impact of student veterans was far in excess of any demonstrated problem at the University of Minnesota.

COMMENTS ON P.L. 94–502

My comments apply only to those provisions of P.L. 94–502 which bear on the administration of veterans educational benefit programs and other related requirements of educational institutions. I will share several points of view based on my own experience with student veteran problems which provide the basis for my comments on the provisions of P.L. 94–502:

(1) An aggressive attempt to identify and correct instances of fraudulent use of V.A. educational benefits must be maintained. Educational institutions must accept that responsibility. Regulations of the V.A. and SAA will be ineffective by themselves in correcting problems.

(2) The position of the original GI Bill, that benefits are provided to enable veterans to make a reasonable attempt to take advantage of educational opportunities, should be reaffirmed. Veteran students should have every opportunity provided to non-veteran students.

(3) Due process safeguards should be provided to student veterans who are in danger of losing V.A. educational benefits.

(4) Responsibilities of State Approving Agencies, the Veterans Administration, and educational institutions for the provision of educational benefits should be clarified and overlap of responsibilities reduced to the greatest extent possible.

(5) Administrative expenses to educational institutions in complying with the provisions of the Veterans Administration should be reduced to the lowest level consistent with the intent of Congress in enacting P.L. 94–502.

In my following remarks, I will comment on the need to clarify responsibilities and the possible uses of a compliance study, then suggest some changes in specific sections of P.L. 94–502.

CLARIFYING RESPONSIBILITIES

There is confusion and overlap in responsibilities of the three parties involved in the administration of veteran educational benefits. They should be clarified.

(1) State Approving Agencies should be responsible for determining the legitimacy of educational programs. They should be guided by appropriate accreditation standing of the institution. For institutions not appropriately accredited, SAA's must make a decision. The SAA's should not make determinations of the extent to which educational institutions meet VA regulations; the VA should do that.

(2) Educational institutions should be responsible for establishing a base criterion of satisfactory academic progress. Educational institutions should provide advising/counseling to students who fail to meet the standard and report to the VA in a timely way the progress and extenuating circumstances of students who fail to meet it. Discontinuation of benefits should follow a faculty judgment that the veteran student is not likely to complete the educational program he/she is pursuing.

(3) The Veterans Administration should be responsible for determining that the progress of student veterans is being judged by reasonable standards. The VA must conduct compliance studies (U.S.C. 38 1793). Following such study, the VA should decide whether or not the objectives of the VA educational benefit program are being served by the institutional procedure. If they are, no further review should be necessary until the time of the next compliance study. If they are not, the VA should assume responsibility for certification and counseling services for individual student veterans. If the VA assumes such responsibility, institutional support funds provided for certification services should be terminated.

THE COMPLIANCE STUDY

The ability of educational institutions to make good judgments about the academic progress of students, including veterans, represent the unique contribution they can make to the process of providing benefits. If that is not being done appropriately in the view of the V.A., institutions can provide the necessary information for the V.A. to make such decisions. Essentially, the institution can evaluate progress according to institutional standards. The V.A. can better evaluate academic progress according to V.A. standards, and there is no point in forcing educational institutions to administer V.A. and SAA regulations which they do not understand and with which they disagree. The compliance study could be turned into a thorough discussion between V.A. and educational institution representatives of how student veteran progress is being evaluated.

TITLE II, SECTION 205(4)—THE 85–15 RULE

In our view, the 85–15 rule is of less concern in the administration of veterans services than are some other provisions of P.L. 94–502. It requires an unreasonable reporting requirement, and its intent is unclear. For example, review of University of Minnesota degree program veterans in February, 1977, showed that 2,857 veterans were enrolled in 459 of the University's 510 major programs. Of the 2,857, only 15 were in seven major programs where the percentage of veterans exceeded 35 percent. Only 33 total students (veterans and non-veterans) were enrolled in the seven majors; for example, 2 of 5 students in one major were veterans. We have been informed that we cannot enroll new veterans in such programs, but surely that misconstrues the intent of the legislation. To meet V.A. and educational institution objectives, the following wording should suffice:

The Administrator shall waive the requirements of this subsection if the institution demonstrates that fewer than 35 percent of all students at the institution receive any combination of V.A. educational benefits, BEOG or SEOG support.

TITLE II, SECTION 206, SECTION 207

The effect of regulations promulgated to enforce these sections is to require veterans to meet a standard of progress higher than about half of the students at the University. The regulations appear to require student veterans to complete an average number of credits each quarter. By requiring the student veteran to make average progress, the veteran must complete a higher percentage of work than those below average, which of course constitute roughly 50 percent of all students. Institutional standards of satisfactory academic progress based on grades achieved should provide adequate control of veteran academic progress and more specific regulations about the numbers of credits completed are unnecessary. The sections should be deleted.

TITLE V, SECTION 504

Section 504 requires institutions to certify the content and policy contained in catalogs and bulletins. Each of the University's forty or so bulletins requires extensive preparation; the implication of Section 504 is that they must be monitored continually. Two changes would reduce effort to a reasonable level:

Insert: ". . . in content and policy, *at the time of printing*, by . . ."

Add: In cases of demonstrated misrepresentation of institutional policy documented by the Veterans Administration, institutions shall provide current information on institutional policy and/or procedures to the Veterans Administration.

TITLE V, SECTION 505(4)

The effect of regulations promulgated by the V.A. in response to this section is to require student veterans at the University of Minnesota to repay educational benefits which they have already received for courses not completed satisfactorily. The regulations change the basic purpose of providing V.A. educational benefits . . .

From: Educational benefits are provided to support the student veteran during his/her reasonable attempt to complete an educational program.

To: Educational benefits are provided to student veterans only for academic work completed with satisfactory grades.

Our study of veteran progress, cited earlier, showed that veteran students complete coursework at a better rate than non-veteran students. Sincere and hardworking students, whether veterans or not, do not always complete academic work satisfactorily. Many who fail specific courses go on to complete degrees. The regulation promulgated by the V.A. remove needed flexibility for student veterans and set a higher standard for veterans than exists for other students. The control of unsatisfactory progress should be through application of reasonable institutional standards of academic progress. The section should be deleted.

TITLE V, SECTION 507

The statement: "The date of interruption or termination will be the last date of pursuit or . . ." has been interpreted by the V.A. to require complex attendance check procedures by educational institutions.

Recognizing that 1) the reason to be concerned about class attendance is that poor attendance *may* result in unsatisfactory academic performance (which is itself evaluated through other procedures); 2) that the cost and possible inequities in doing attendance checks for veterans far outweigh possible savings in cases of identified fraudulent use of educational benefits; and 3) formal withdrawals are already reported to the V.A. in a timely manner; institutions should not be required to make special attendance checks for student veterans. The sections should be amended as follows:

". . . serviced by the school, *according to regularly established procedures used by the school to determine last date of pursuit.*"

TITLE V, SECTION 510

Section 510 appears to overturn the provisions of the Federal Educational Rights and Privacy Act as well as institutional policy on

students' rights to privacy. Confidentiality of student records received extensive review by the Congress and by the higher education community. Unnecessary access to student records by government investigators at the University of Minnesota was strongly criticized by students and faculty alike. The President of the University student body recently urged the Minnesota Congressional delegation to work for a change in this provision.

Responsible institutions will provide summary information to the V.A. for comparisons of the progress of student veterans with non-veteran students. Recognizing that there may be instances where the V.A. must question the accuracy of those summaries, it would seem wise to provide protection from unnecessary searches of student records and place responsibility for such access with the central V.A. office. The section should be amended as follows:

". . . duly authorized representatives of the Government, *upon personal order signed by the Administrator*."

TITLE V, SECTION 512(B)

This section requires educational institutions to maintain a complete record of materials used with prospective students. Consider the administrative task of maintaining a complete record of print, media, and audio-visual materials for the University's 30 colleges, 166 Graduate programs, five campuses, numerous residency and internship programs, evening programs, and other publications. The rationale is unclear. How will the V.A. determine the validity of such materials upon inspection? I believe the V.A.'s purposes can be accomplished by replacing the section with the following language:

In cases of misrepresentation of educational programs documented by the Veterans Administration, the Administrator may suspend further enrollment of veteran students until misleading materials are changed. Educational institutions may appeal V.A. decisions in such matters to a central office board comprised of V.A. central office officials and representatives of the higher education community.

Based on discussion with representatives of the Veterans Administration, I can understand the need for, and purpose of V.A. regulations. I realize that the perspective of a large and complex institution may raise unique concerns, but V.A. regulations are being applied uniformly and specifically to institutions with 57,000 enrollment as well as to problem schools to which the regulations appear to be directed.

We are eager to return to a cooperative relationship with the Veterans Administration in the solution of the problem of fraudulent use of V.A. educational benefits, but that objective will not be accomplished by promulgating regulations which cannot be applied realistically to a solution of the problem. In the meantime, the attempt to reduce fraudulant use of V.A. educational benefits has resulted in the loss of those benefits for over a thousand student veterans at the one institution I represent.

I hope that in implementing the provisions of P.L. 94-502 we can avoid some of the difficulties which we faced with regulations related to the previous legislation.

Thank you for this opportunity to present my views to the Committee on behalf of the University of Minnesota.

PROTECTING CIA EMPLOYEES

Mr. DOMENICI. Mr. President, I am pleased to cosponsor what I believe to be a very important bill, S. 1578, introduced recently by the distinguished Senator from Texas (Mr. BENTSEN). This bill is to protect the confidentiality of the identities of certain employees of the Central Intelligence Agency.

I am supporting this bill for several reasons. First, I believe that this country must maintain a strong intelligence collection service. We must not let our memories become so faded that we forget that intelligence disaster which happened to us just prior to World War II.

Second, Mr. President, I firmly believe that we cannot maintain an effective foreign intelligence capability by merely keeping our agents at home sifting through the information available here. Without question such analytic skills play a critical role in intelligence production; however, we cannot afford to limit our capabilities to such activities. We can have the most accurate and complete information about our enemies' and potential enemies' capabilities, but without knowing the intentions of their leaders we lack a most important piece of the information puzzle.

Gathering accurate and reliable intelligence as to our potential enemies' intent may be the most difficult intelligence task we face. Without question, we have, on occasion failed miserably to achieve this goal in the past. The fact that the task is difficult or that we have failed at it in the past should not, however, be reason to abandon the effort or conclude that it is not worth pursuing.

If it is agreed that collection of intelligence relating to the intentions of the leaders of our potential enemies is necessary, I believe it follows that the collection of such intelligence by trusted and proven human sources is a key method toward this objective. Clearly, some information in this regard is available through analysis of the highly visible public actions of these leaders, but I think we have all experienced the fact that we can better predict one's intentions if we have personal contact or access to individuals with personal contact with that individual.

If there is agreement with my arguments to this point, I think logic dictates that no CIA employee or agent could hope to operate successfully abroad if his identity was publicly known. And more importantly, as Senator BENTSEN has so succinctly described, his life may be endangered. I believe that if this country is going to ask its own citizens and others loyal to our form of government to risk their lives for the protection of our survival, we should be willing to give these individuals at least a reasonable degree of protection. I am of the view that S. 1578 is a good start toward that goal.

Mr. President, I believe this matter is clearly above partisan concerns and I am happy to lend my support to this measure. I will urge others in my party to lend their support and I am hopeful that all the Members of this distinguished body will do likewise.

OECD-WIDE YOUTH EMPLOYMENT CONFERENCE

Mr. HUMPHREY. Mr. President, last week the Organization for Economic Cooperation and Development (OECD) conducted an important ministerial level meeting in Paris. The industrial world has a number of serious difficulties to wrestle with—inflation, adequate growth rates, energy, and many others. But in particular my eye has been on the widespread problem of youth unemployment that confronts all of the industrialized world.

I am very pleased, therefore, that the final communique of the OECD meeting includes the following recommendation:

In the efforts to reduce unemployment, particular attention should be paid to the unemployment of young workers. Special measures have been taken in many countries and more may be needed. Ministers instructed the Organization to strengthen its exchange of experience and to organize urgently a high-level conference for this purpose.

All I can say is hallelujah!

The OECD decision to hold a conference on youth unemployment was no accident. In early February, 17 Senators joined me in sending a letter to the President asking him to "call a Conference on Youth Unemployment for the member nations of the Organization for Economic Cooperation and Development." The President expressed his interest as did a number of Cabinet officers.

A number of us continued to toil in the youth employment vineyard throughout the spring. Following April hearings held to focus on the London summit of major industrial powers, the Joint Economic Committee issued a report specifically recommending that "the problem of youth unemployment be explored at an OECD-wide conference to be held in the fall of 1977".

Mr. President, I also want to express my gratitude to Secretary of State Vance for his continued articulate support, on behalf of the United States, of efforts to resolve the youth employment crisis. In his remarks to the OECD Ministers on June 23 he said:

We must overcome both unemployment and inflation which sap our economic strength and imperil support for our political institutions. Since unemployment hits the young especially hard, the United States favors the convening of an OECD sponsored "Conference on Jobs for Youth."

I am very proud of the leadership which the administration has taken on this crucial issue in this important international forum. I encourage our representatives at the OECD, in cooperation with the Secretaries of State, Labor, and the Treasury, to move promptly to arrange for this conference. As we begin to embark on a major new comprehensive youth employment program it is imperative that we fully understand the experience of other nations.

Mr. President, the OECD deserves praise for moving quickly to treat a disease that has been attacking all of the industrial economies. In country after country, young, idle hands are not only a tremendous economic loss to the national economy, but also a terrible social

loss as well. If the Western democracies are not able to provide jobs for their young, they will be putting their very freedoms we cherish in peril.

Eventually, concrete action will have to be taken at the national level to alleviate the youth unemployment problem. The U.S. Congress has already begun to move in the right direction. There will soon be a bill on President Carter's desk that will be a solid first step in opening up more job opportunities for America's young people. I am proud that a good deal of Humphrey work and more than a little Humphrey thinking went into producing this youth employment bill.

Hopefully, the proposed OECD conference will point the way to further action by the United States and other industrial countries. It has been said many, many times before but it retains the ring of simple truth—a country that ignores its youth has abandoned its future.

Mr. President, I ask unanimous consent that the text of Secretary Vance's address to the OECD Ministers Conference on June 23, and an article from the Wall Street Journal by Eric Morgenthaler on the European youth employment problem, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERVENTION BY HON. CYRUS R. VANCE

As we begin our important deliberations today, it is worth keeping in mind how far we have come over the past thirty years.

Many of our nations three decades ago faced basic questions:

Could democratic forms of government survive?

Could we overcome the ravages and divisions of war and build a system of cooperation to foster prosperity and peace?

Could the industrial nations hope for any kind of constructive relationship with emerging new countries?

Did those new nations have, in turn, any real chance for survival?

If we view our problems today against problems of *that* time, and the progress we have made in resolving them, we can conclude that the future holds promise for us.

Our hope of thirty years ago and the impulse that led to the founding of the OECD and this organization was our common dedication to an ideal of human progress.

I believe that it is that hope and dedication which hold us together still. I value this meeting as an occasion to confirm the commitment of the Carter Administration to the OECD. We consider this oragnization unique and its role essential. It is the major forum for economic management and coordination among the industrial democracies.

That, we recognize, is a major undertaking. The challenge before us is great: not just to nourish our own well-being, but to make the world economy work better—with growth, equity and justice for all.

We are entering a new political and economic era in the world. In that era, North-South confrontation and northern rivalries must be replaced by new policies based on cooperation and common action. This will mean:

Improved economic cooperation among the industrialized nations;

A new relationship with the developing nations; and

Increased discourse with the state-trading nations.

POLITICAL IMPERATIVE FOR THE OECD NATIONS

A new relationship with the South and new discourse with the East depend, first, on the state of our own nations. We bear the main responsibility for assuring the kind of economic recovery that translates into a better life for individuals everywhere.

Economic decisions are only part of that enterprise. A fundamental dimension is political. Can we bring our shared values, traditions and aspirations to bear on our economic problems? I believe that we can and will.

We have taken steps to confirm that resolve. Democracy has been tested—and found working. All our members today enjoy representative government. Portugal, Spain and Greece have our support, as they strive to strengthen their democratic institutions.

Our commitment to economic cooperation has been tried—and found unshaken. The Downing Street summit and other recent meetings of heads of government reflect significant collective endeavor. We look forward to maintaining the momentum attained at those meetings.

Let me sketch a few items, some of which Secretary Blumenthal will discuss further tomorrow.

We must assure sustained economic recovery. We should establish national targets for economic growth and objectives for stabilization, together with our OECD commitment to more rapid growth this next year.

We must overcome both *unemployment* and *inflation* which sap our economic strength and imperil support for our political institutions. Since unemployment hits the young especially hard, the United States favors the convening of an OECD-sponsored "Conference on Jobs for Youth."

We must reject protectionism and expand *trade.* We believe this ministerial should renew the OECD trade pledge and determine how best to resolve trade problems affecting our domestic industries *before* they become crises. We will press for substantial progress this year in the Multilateral Trade Negotiations, and advance work to prohibit improper conduct and illicit payments in international commerce.

We must address key questions of finance. Both surplus and deficit countries must take domestic steps to bring about external adjustment. We are now engaged in efforts to increase the resources available to finance balance-of-payments deficits through the International Monetary Fund. If, contrary to our expectations, these efforts are not successful, then we should jointly examine present and projected financial facilities in the IMF and consider what should be done about the OECD Financial Support Fund. Under these circumstances we would be prepared to consider all available alternatives including the OECD Fund.

Energy, finally, is a particular challenge to the political purpose and cohesion of the industrial nations. Over-dependence on imported oil underscores our political and economic vulnerability. The outlook is not good—unless we intensify efforts within and among our nations.

President Carter is firm in his determination to implement our national energy plan. He knows that we must reduce vulerability to embargo and price increases, and that we must begin to adjust now to the post-petroleum age.

We must also match our domestic programs with stronger international efforts—both to conserve energy and to increase and diversify sources of supply. We must exchange vital technology and enter into joint research and development. The October ministerial of the International Energy Agency should confirm our commitment to targets for reduced dependence on imported oil.

We should urge the COMECON countries to join us in seeking genuine, apolitical solutions to problems of global economic development. To be more specific:

They can improve the quality and increase the amount of their development assistance, through both bilateral and multilateral programs.

They can contribute to world food security by participating in arrangements sought under the auspices of the International Wheat Council.

They can help establish equitable multilateral arrangements for commodities.

RELATIONS WITH DEVELOPING NATIONS

It is not enough to worry about our own welfare or seek more cooperation from the East. That limited perspective overlooks more than half of the world's population and a far greater percentage of countries. Solutions to our problems rest on the realization that our problems are linked to those of the Third World—and that the aspirations of our citizens are similar to theirs.

Let me be clear on two points:

First, the goals and values of our societies—economic, political and humanitarian—cannot be achieved fully, in isolation from trends in developing nations.

Second, we must understand that in relations between developing and developed nations, what one side gains is not necessarily the other side's loss.

Relations between developed and developing nations need not spawn conflict. We have concluded an era when the central question was whether to cooperate. We have begun a period in which we must develop the means and institutions for cooperation.

That is the corner we have turned at CIEC. The OECD must now take part in this new start. Together we must maintain continuing cooperation among curselves and with our counterparts in the developing world.

We therefore urge the Secretary General of this organization to bring about more effective coordination of OECD efforts in North-South issues, to propose options for discussion in the United Nations Third Development Decade and to formulate longer-term strategy and initiatives of mutual benefit to the North and South.

We also recommend that this conference endorse the proposed declaration on relations with developing nations. This declaration expresses our shared political commitment to the search for more beneficial methods of cooperation. It, too, could signal a new beginning.

An important part of the declaration stresses increased attention to the basic human needs of all the peoples of the world. The old agenda for economic development and many of the old issues for negotiation are no longer enough. We need more focus on that part of the world population that lacks essential food, water, shelter and health care, as well as employment and education. We must direct our efforts to meet more effectively the needs of the poorest peoples in the developing world.

The case for more concerted action is clear. Almost one billion people live in absolute poverty. The problem is growing. Increases in GNP for many developing countries have *not* meant increased benefits for the poor. For many, in fact, life is worse. Development has too often not "trickled down."

Knowledge about the development process and the ability to overcome poverty are now within our grasp. What we miss is the joint recognition by developed and developing nations that the North-South dialogue is about *human beings* and that "equality of opportunity" for a fuller life makes sense for *people*, not just states.

Let me suggest how we might begin.

First, we must marshal a sense of our means and priorities. For that purpose, I propose that the OECD establish a special working group mandated to design a "program for basic human needs." That program should profit from the work in the Development Assistance Committee and should be presented for discussion at the Executive Committee in special session by the end of this year. The program should include:

Projections of domestic and international resources required to implement a successful approach to basic human needs;

Proposals for sharing costs among developed and developing nations;

Agreement on measures needed to use those resources most effectively.

Second, we must engage the interest and expertise of the developing nations themselves. We need to share perspectives on a shared problem. No strategy for development can succeed without requisite political will within Third World nations. For that purpose, we should encourage consultations and efforts to identify the kinds of policy changes required to address basic human needs and suggest means for judging progress.

Third, we must move swiftly to expand on specific proposals for an agenda on basic human needs. It should include the following fundamental elements:

Rural development and food production: We must give greater priority to the development of the Third World's rural areas where the great majority of the poorest people live. We must begin with an integrated strategy which emphasizes increased food production and better nutrition in these areas.

Health: At the same time we must emphasize preventive medicine, family planning, prenatal care and other forms of medical assistance which, with minimal cost, could mean the most for the poorest. Again, the relation to an overall strategy for rural development is key: increases in productive employment and crop yields can help make better nutrition possible and bring better health for more people.

Education: Education deserves a similar priority. We should stress primary and secondary education and promote "on-the-job" technical training. The goal is to enhance the capacity for productive employment and provide a way out of absolute poverty.

Two areas related to any human-needs strategy of import in their own right:

Women: Although poverty strikes all, in many countries women suffer more than do men from poor health, little or no schooling and meager diet. Their traditional roles often keep women out of the paid work force and lock them into low status. There is a direct relationship between higher education and employment opportunities for women and smaller families. High birth rates both reflect the specific situation of many women and reinforce the general cycle of poverty. Release from rural poverty may well begin with the real economic and social emancipation of women.

Ecological disaster: Finally, a substantial part of absolute poverty stems from the toll taken over time by ecological disaster, as in the Sahel. The poor bear a disproportionate burden when overpopulation, economic underdevelopment and ecological overstress interact. Developing nations, with two-thirds of the world's population, suffer 90 percent of disaster-related deaths.

The OECD has a unique opportunity to support emerging efforts in the United Nations and to work with developing nations on means to provide longer-term allevation of ecological disaster. Efforts at early warning and access to food reserves are among measures which address the core of basic human needs.

Obviously, attention to basic human needs is only part of a broader strategy for development. It should not supplant other important efforts at economic advancement which this organization has supported and which have contributed to economic development in the Third World. To supplant other ongoing efforts is not our purpose. We wish to add a vital dimension. If we do not do so, we run the risk of losing the support of our legislative bodies and peoples.

It is in meeting the challenge of fulfilling basic human needs that both developed and developing nations can more firmly establish their joint commitment to individual human dignity. We thus look forward to making this concern more central to the new relationship and to moving toward more specific programs for implementation by the time we meet next year.

At the beginning, I pointed to the progress we have made together. It has been a long, hard but rewarding road we have traveled.

But, we have left one destination without reaching another. We are in transit to a new era of cooperation and common action.

In practical terms our journey will involve going beyond new directions for industrial democracies, new discourse with state-trading nations and new relationships with developing countries. It will take us to a firmer focus on people. It is the individual and collective hope of people, their rights and their needs that deserve the fullest measure of our dedication.

[From the Wall Street Journal, June 21, 1977]

THE IDLE THREAT—EUROPEAN YOUTHS, HARD HIT BY UNEMPLOYMENT, ARE POSING MAJOR POLITICAL AND SOCIAL PROBLEMS

(By Eric Morgenthaler)

CAMBRIDGE, ENGLAND.—Peter Read sits at a high worktable, with a blueprint tacked to the wall in front of him, and assembles parts for scientific analytical devices known as spectrophotometers. He works with the same quiet assurances as other technical workers here at Pye Unicam Ltd., a major electronics concern.

Peter isn't just any worker, however. For one thing, he's only 17 years old. Also, he spent eight of the past 12 months drawing jobless benefits while looking in vain for a job. And Peter, unlike the other workers, is paid by the British government.

He is employed under a new "work experience program" sponsored by the government and business. Under the $32 million program, jobless youths aged 16 to 18 are selected by private companies for up to six months of training. The program promises only training, plus the government-paid, tax-free wage equivalent to about $27.50 a week. But Peter's employer likes his work, and he probably will be offered a permanent job.

The most unusual thing about Peter's story, moreover, may be that it seems headed for a happy ending. Some seven million young people—"virtually a nation," according to the International Labor Organization—are out of work in industrialized Western nations and Japan. In terms of absolute numbers, that's more than have ever been unemployed before, the United Nations agency says, and the outlook, particularly in Europe, is dismal.

"NO. 1 NATIONAL PRIORITY"

Indeed, to a growing number of governments, the issue of youth unemployment is, as French President Valery Giscard d'Estaing recently put it, the "No. 1 national priority." In the communique issued after last month's economic summit meeting in London, leaders of the seven participating nations said that they are "particularly concerned" about jobless youths and that they have agreed to "an exchange of experience and ideas on providing the young with job opportunities."

Although youth joblessness is a major problem in the U.S., too, it's considered more of a political and social threat in much of Europe, and countries here have been more active in designing programs for unemployed youths. Many of the approaches differ from what has been tried in America—particularly in their fusing of government and business efforts—and they are being watched in Washington for signs of possible usefulness in the U.S.

In European countries, the repercussions of youth unemployed are no longer merely theoretical.

In France, where 49% of the 1.1 million jobless are under age 25, politicians say voting by unemployed youths played a big role in the upset scored by leftists in recent municipal elections. The government, one official says, worries that if the jobs problem isn't solved, these youths will swing to the Communist-Socialist bloc in the general election next March. So the government recently introduced, and parliament approved, some special measures aimed at getting young people employed. However, the left has branded the measures as insufficient.

VIOLENCE IN ITALY

In Italy, the dearth of jobs for university graduates was a key reason that students took to the streets this spring in flag-waving demonstrations that turned violent in most major cities. Italy's problem is acute, and it isn't being resolved: The country will turn out 132,000 university graduates next year, and only 75,000 suitable jobs will be available for them, one study finds.

The problem has been growing for much of a decade, as the postwar babies have reached working age; but it has been intensifying since the recession began in 1974. In Britain, for instance, the number of jobless under age 18 last summer increased 156% from the summer before, and it was more than seven times the 1974 level.

Youths have been hit harder by the recession than other groups. In countries belonging to the Organization for Economic Cooperation and Development—a group of 24 leading Western nations, including the U.S.—youths account for about 40% of unemployment even though they represent only 22% of the work force. In the European Community last year, more than a third of all the unemployed were under 25. And the length of time youths spend looking for work has been increasing as well. (In the U.S., 17.9% of teen-age workers were jobless in April, more than double the 6.9% rate for the work force as a whole.)

"A lot of young people are going straight out of school, into the labor force and becoming unemployed," says an OECD analyst in Paris. "As these young people become middle-aged workers, what's going to be the impact on their employability from their never having had a suitable first job?" And Peter Melvyn, an ILO researcher, asks, "Do we sacrifice a generation? What's going to happen to these people?"

TANGLE OF ISSUES

The problem involves a tangle of complex economic, social and educational issues, and most remedies, the OECD analyst says, have been "on a small scale and experimental." No one's really sure how many youths have been reached by such pro-

15% or 20%" of the seven million or so jobless in the Western nations.

Some countries are trying to attack geograms, but one expert estimates "probably graphical imbalances in employment. France—where youth unemployment is centered in the cities—pays a bonus equal to about $970 to any youth moving to the hinterlands to take a vacant job. Recently, it extended the inducement to jobs taken abroad with a French concern.

Efforts also have been made to aid the young by encouraging older workers to retire. An act passed last year in Belgium requires employers to hire unemployed workers under 30 to replace anyone who opts for early retirement. Those leaving early—a man can retire early at 62 and a woman at 58—get an extra pension, on top of normal benefits, for the years between early retirement and the normal retirement ages of 64 for men and 60 for women.

Some experts, however, criticize many programs as being prepared too hastily. "Governments are under considerable political pressure to do something about youth unemployment," the ILO's, Mr. Melvyn says, "so they think up these measures in a hurry. They tend to be short-term, and they tend to be inconsistent."

UNCERTAINTY OVER CAUSE

Part of the problem is that experts really don't know what's causing the job troubles. They don't agree on whether the problem is a cyclical one or likely to persist long after the economies rebound. And so many people defend "firefighting" measures as the only short-run option.

"You can defend them on sheer humanity," an OECD expert says. "You can defend them on social expediency—there would be social unrest if you didn't have them. There are political grounds—you'd have problems with voters of 18. And there's the economic argument."

West Germany has taken a different approach. An apprenticeship law passed last year says that if enough apprenticeships aren't available to meet demand, a special levy will be raised among large companies and used to offer subsidies to any concern offering more apprenticeships than in previous years. And the French government recently agreed to shoulder an employer's social-welfare payments—usually amounting to 35% of a wage—until July 1, 1978, for youths hired before the end of 1977.

HELP FROM BUSINESS

Governments also are turning to business for training programs. The British "work experience program," which placed Peter Read at a workbench, encourages businesses to develop six-month training programs for jobless youths. "The days are gone when companies can't afford to have a social conscience," says Charles Rex, chief training officer at GEC-Marconi Electronics Ltd. in Chelmsford. The company now has 20 work-experience trainees.

The program, begun last September, is designed to help youths make the adjustment from school to work by introducing them to a business routine. It also seeks to help break what Mike Hanson, a director of the program, calls "this vicious circle of 'you need experience to get a job.' " About 2,700 employers—from manufacturers to retailers to law firms—have agreed to participate in the program, which requires them to offer the youths counseling and training. In return, the concerns get essentially free, albeit untrained, labor, plus the chance to take a long look at potential employees they otherwise probably wouldn't have considered.

So far, the program hasn't drawn as many trainees as expected. Only about 8,000 young people have signed up—far below the 16,000 places already being offered. That's probably due partly to the low wage; the tax-free $27.50 a week considerably trails the average weekly earnings of nearly $46 for a boy under 18 late last year. And sponsors also blame confusion over the program itself; Britain, like many countries, has so many youth-employment programs that it's hard to tell them apart. (A government commission recently recommended that the various programs be consolidated into a single, coordinated program by September 1978.)

It's too early to evaluate the program. However, an aide at the Manpower Services Administration, which runs it, says "very, very early indications" are that the first youths to complete six-month programs are finding work, either with the companies training them or elsewhere, by the end of the period. Employers mostly praise the program, although some say the time involved in counseling and training generally offsets any immediate financial benefits from the government-paid labor.

DR. GLEN P. WILSON RETIRES FROM U.S. SENATE

Mr. GOLDWATER. Mr. President, after 22 years and 6 months of service in the U.S. Senate, Dr. Glen P. Wilson is retiring. He is the only professional staff member to have served continuously on the Aeronautical and Space Sciences Committee from its beginning in 1958 until its jurisdiction was made part of the Commerce, Science, and Transportation Committee in 1977. From Sputnik, through Apollo, to the start of the Space Shuttle, Glen Wilson served the Nation ably, provided continuity for the space program, and established a reputation for fairness and competence. Senators from both sides of the aisle benefited from his dedication. We thank Glen Wilson for his loyal service and wish him well in his future endeavors.

NORMALIZING RELATIONS WITH RED CHINA

Mr. GOLDWATER. Mr. President, the whole idea of normalizing relations with Red China is fraught with many problems and great dangers to the concept of freedom and human rights as we understand them in this country. Such a process, if it were to be finalized, would involve American recognition of tyranny on the Chinese mainland and the desertion of our friends on the island of Taiwan, to name just two. I hope that when Secretary of State Vance visits Peking later this year he will bear in mind that an overwhelming number of Americans look with great disfavor on the possibility that we will normalize relations with Communist China on her terms.

Mr. President, the problems involved in any attempts to normalize relations with Red China were recently outlined in stark and realistic terms in an article which appeared in the Wall Street Journal on June 24, 1977. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT PRICE "NORMALIZATION"?

(By Paul Seabury)

A tour of Quemoy is a strange experience for an American traveler these days. This anomalous island is part of a world with which, elsewhere, Washington pursues policies of "normalization" with old adversaries. Here, however, abnormality is frozen in amber.

Together with three other American scholars visiting Taiwan, I was recently allowed a day's visit to this beleaguered offbeat spot, where 19 years ago the fate of world peace hung in the balance briefly and where, as we now know, the Sino-Soviet alliance first began to come apart at the seams.

Foreign visitors nowadays rarely come to Quemoy; there are no commercial flights, and civilian space on military ones is limited. Taiwan's profile in world politics is low, but that of its "offshore islands" now is almost invisible. The profile of our DC6 plane was equally modest: On our approach across the Straits of Taiwan it flew at an altitude of 500 feet, so as to escape detection by Communist Chinese radar.

This tiny island is three miles distant from the mainland at the closest point. Its seaward side has a long, Caribbean-like beach washed by gentle waves; its dunes bear the sparse foliage of scrub pine. But as one proceeds inland, this bleak frontage gives way to a semi-tropical emerald foliage; small ancient villages appear, similar in smell and appearance to those of an old Mediterranean island. The narrow roads between them are lined by wispy pine trees; on each side, in flatlands, are fields of corn, wheat and rice, water buffalo, ancient wells and toiling peasants. In village courtyards one hears a buzz of cicadas. This is a very old civilization.

But one notices also that this is not merely a traditional Chinese community; it is an Asian Sparta. Soldiers are everywhere; each road is dotted with work platoons and sentries. At crossroads, one comes upon manned antiaircraft-gun emplacements camouflaged by lovely trellises of flowering vines. The island is laced with trenches and redoubts. Hillsides are pocked by tunnel entrances and gun emplacements. Beneath the surface of this green and gentle island is a vast system of underground fortifications—a veritable Verdun. Air force units operate from caves tunneled into hillsides. Even the island's power plant is burrowed in the earth. Everywhere is camouflage and shielding.

ASIAN SPARTA

For years here, both sides have adopted a ritualized posture of symmetrical belligerence. Every other day, at precisely 6:30 p.m., shelling takes place, but with cannisters filled with propaganda rather than explosives. On in-between days, there is a tacitly agreed cease-fire. At the northeast tip of Quemoy, set in a rocky promontory, a giant loudspeaker encased in a concrete bunker blares news toward the mainland, while from far across the water a Communist loudspeaker replies with loud music.

Near the island's southwest tip, we are led through a long tunnel into a deep bunker, from which we can peer out across the waters through narrow apertures. This is an old command post, its walls festooned with battle maps depicting a long-ago victory over invading Communist troops. As we come out into the daylight we notice that the barbed wire entanglements and iron spikes in ditches along the beaches are well rusted with age. In this strange outpost, one is reminded of Hobbes' famous remark about war: that it "consisteth not in battle only; but in a tract of time, wherein the will to contend by battle is sufficiently known. . . ."

The radio transmissions from Fukien beamed toward Quemoy and Taiwan have a new theme: The Americans are getting ready to abandon you. What happened in Vietnam will soon happen here; why not settle up now, before it is too late?

Here and in Taiwan one senses the slippage of U.S. power and influence in East

Asia. In Taiwan the question put to us was how far this influence would recede, not *whether* it would. What price will the Americans now pay for normalization with Peking? How far will the process of derecognition of the Republic of China proceed, as part of the process of the recognition of the People's Republic of China?

Considering its pariah status in world politics, Taiwan today is an astonishing sight. It has been expelled from the international organizations of the world. It has been reduced to the diplomatic status of a basket case. But it has become one of the social and economic marvels of Asia.

Years ago it was written off as a viable political entity, yet it enjoys a political stability that is the envy of most other Asian countries. Its living standards have doubled in a decade. Its industries thrive. Its foreign trade annually exceeds in value that of India. Japan's trade with it exceeds Japanese trade with mainland China. The integration of the mainlanders with the indigenous Chinese population is spurred by the extraordinary mobility that growth inspires. Intermarriages are now common.

The benign authoritarianism of the government, to outward appearances, resembles that of Spain in the last years of Franco's regime. The press prides itself on the degree of freedom which it does enjoy. In the south, the giant shipyards of Kiaosiung produce a new merchant fleet. The island has become one of the principal entreports of Asia.

What here is being born is a prosperous civil and commercial society filled by people of extraordinary industry, intelligence and skills. Its sophisticated intelligentsia is as committed to the values of free societies as is that of any Western nation. The contrast between conditions here and on the mainland—between two parts of the Han people—is profound.

There can be a cruel logic in a *Realpolitik* that searches for reconciliation with ideological enemies; one obvious price of Washington-Peking normalization could be Taiwan itself. (In announcing recent plans for air force expansion, Peking justified it as necessary not merely to counter Soviet power, but as part of a plan to liberate Taiwan.)

ENSUING DEMORALIZATION

With the wind blowing toward Peking, it well may be imagined that the ensuing demoralization here would entail disinvestment in Taiwan, the flight of capital and an economic crisis which could severely test the morale of any industrial society, much less one so beleaguered as this. These prospects have been anticipated already by some Chinese who have hedged investments in the U.S. They certainly have been anticipated by Peking's functionaries.

Such thoughts inspire other reflections. How much should the *Realpolitik* triangular relationship of Washington-Peking-Moscow be permitted to dominate America's Far Eastern policies? How should that relationship in turn be weighed and valued against the relationship America still enjoys with its non-Communist friends in Asia? What advantages are to be derived even in terms of American security from a search for closer links with Peking? What benefits to American interests have been reaped since the Nixon-Kissinger visit in 1972 commenced this "process of normalization"? (In the year following the Nixon visit, Peking actually stepped up its delivery of aid to Hanoi.) In other parts of the world, Peking still seeks to rally Third World extremists against the West.

If the price America might pay for normalization is to entail derecognition of Taiwan and abrogation of our mutual security treaty, would such a price enhance the security of East Asia? The advantages which America and the West now enjoy from Sino-Soviet rivalry (22 Soviet and 2 East German divisions diverted to Siberia from the European theater), we now enjoy cost-free with no "normalization." What more can we ask?

Since Peking's leaders already regard America as decadent and cowardly, would the spectacle of U.S. abandonment of Taiwan in order to curry favor with them notably change their estimate of us? As retrenchment of U.S. power further proceeds in Korea, Taiwan and the Philippines, will their estimate of America as a power capable of playing triangular politics increase or diminish?

APPEASING PEKING

In Washington, some who now toy with normalization on Peking's terms may find intricate formulae by which to disguise such appeasement. Could the U.S.-Taiwan security agreement be scrapped and replaced by some new supportive congressional guarantee, such as the Tonkin Gulf Resolution? (Forget it.) Might the United States follow the sly Japanese formula of derecognition, followed by establishing covert commercial missions? (No one more forcefully opposes this than the Japanese themselves.)

Many of these questions may be answered before Secretary Vance flies to Peking later this summer to take up such matters. But in the meantime, the Taiwanese and others wait.

One is left with a question: What form of American *Realpolitik* should take priority in this critical region of the world? Nixon's detente with Peking was a crutch his administration needed when the Vietnam experience had crippled domestic support for any American posture in Asia. But that is behind us; an observer might think a new U.S. posture in the Far East should give priority to normalization with friends rather than adversaries.

The disappearance of 16 million Taiwanese into the limbo of totalitarianism might be regarded as a more significant setback for human rights than the arrest of a few Soviet dissidents. But, then, when has Washington recently spoken to the matter of human rights on the Asian mainland?

THE NEED FOR NUCLEAR LICENSING REFORM

Mr. STONE. Mr. President, responsible energy forecasts—by those in industry, in the academic community, and by national and international government agencies—indicate, in the bluntest of terms, the continuation and acceleration of an era of major world dislocations caused by rapid and deteriorating changes in the world's energy supply system.

Long lines at gasoline stations in 1973, and closed schools, factories and unheated homes this winter were visible manifestations of the growing crisis, but the less visible effects are no less destructive.

Staggering energy-caused economic debts are accumulating in nation after nation which can threaten the viability of the world's economic structure. Competition for available resources may be a growing source of friction and conflict among nations. And social progress and development plans are being substantially reduced in almost all parts of the world as supply uncertainty and economic fear seemingly overwhelm attempts to provide for still growing populations.

These are not projections of future possibilities but can be seen today in the actions of both developed and developing nations caught in the bind of an energy transition for which few were prepared and the end of which is now impossible to foresee.

In this context, President Carter's energy message was a courageous and forthright statement that the American people cannot ignore. The magnitude of the Nation's energy problems is large and growing, and the stakes are too high to indulge ourselves in fantasies or wishful thinking.

Whatever are the energy sources that will be developed for use in the next century, only energy supply systems now in being will provide the energy needed to pass the next 23 years before the year 2000 and beyond. It is clear that no single energy source and no single energy technology can be developed and implaced on a massive enough scale in this time frame to by itself alleviate our energy problems.

It is important that all of us recognize the importance of beginning now to develop more secure and longer term energy resources than we presently have available. Perhaps the only clear guidepost on this venture in an era of widespread change will be the maintenance of a high level of flexibility both in our institutional response to emerging problems and in our pursuit of new energy technologies.

It is particularly important that we have a reasonably clear idea of what is required. First, we must in effect replace the energy-using systems in a large portion of the capital stock of the Nation—in our homes, in our transportation systems, in our commercial and retail establishments and in our manufacturing and industrial facilities. The consuming systems must be replaced with new equipment and facilities, some existing, some awaiting future development, which will be less energy intensive and more energy efficient in their operation. This will be a mammoth undertaking and will require not only trillions of dollars of investment but a level of technical ingenuity and boldness, compressed into a time frame of decades unprecedented in the Nation's history, only paralleled in our commitment to rebuilding Europe through the Marshall plan after World War II.

Second, to provide the time necessary to accomplish these tasks and to assure the availability of sufficient capital, we must reduce the annual growth rate in energy usage, and in particular energy we import from overseas, which will require a dedicated and prolonged commitment to conservation.

Third, we must increasingly use our available/near-term energy alternatives, namely coal, oil and gas, and nuclear power, which can provide a large amount of our continuing and growing energy needs. In that we have such alternatives, the Nation is exceedingly fortunate. That each has detriments—strip mining, black lung disease and air pollution in the case of coal, environmental hazards in connection with oil and gas production and transportation, and radioactive waste management, fear of proliferation possibilities and safety considerations in the case of nuclear power is true. But to a man drowning, a leaky lifeboat is better than none at all, and if he can be given the tools and resources to plug the leaks,

the journey can be continued in relative safety.

And fourth, we must pursue and develop in our universities, laboratories, and industrial organizations those new energy sources that offer good promise of providing new energy alternatives in the years ahead.

To be paralyzed by fear of the possible impact of using today's energy alternatives would be a prescription for neurosis. To ignore the risks would be irresponsible. If our alternatives are few, however, it would be equally irresponsible not to use those we do have to the maximum that is possible. If there are risks, let us acknowledge them and do all possible to minimize them; if there are better future alternatives, let us vigorously develop them; but let us not forget that our responsibility to the present is no less sacred than our responsibility to the future, and if there is to be a hopeful future, we must use today's resources to get there.

In particular, I want to address the problem of putting into operation nuclear powerplants. Today, nuclear power accounts for over 2.5 percent of the Nation's total energy usage and some 9.5 percent of its electrical generation. Sixty-five nuclear powerplants are now in operation, three in my State, providing electricity at a lower cost than either oil or coal. Having spent some 30 years developing the technology to safely use uranium in electric generation and developing the industrial capacity to deliver 21 nuclear reactor vessels a year, last year the Nation put seven plants into operation. But only three new orders were announced last year, while two previous plant orders were cancelled, and 80 were delayed.

It now takes 10 years from the starting point to begin operation of a nuclear powerplant. In Japan, only 5 years are required. In France, 6 years. Since the actual construction time of a plant is on the order of 5½ years, the remainder of the time is largely spent in complying with myriad regulations generated by a growing list of State and Federal regulatory agencies.

If each page of each report and each agency's interest enhanced safety and required nonduplicatory information, reduction in the time to complete this process would not be desirable. But I find it hard to believe, with over 60 plants operating in the United States, and 110 in the rest of the free world, that at least some of the questions and some of the proceedings could not be eliminated without reducing safety and that some of the agency needs could not be shared in a manner that reduces the time and cost of compliance.

Each 1,000 MWe nuclear powerplant that can be put into operation provides the electrical energy needs of a city of some 600,000 people. If this electricity were generated using oil, over 10 million barrels would be required. And the amount of uranium that must be mined to support a 30-year lifetime of a nuclear power station is roughly equal to the mining requirements to operate a coal-fired plant for just 1 year. I know we have all heard of the huge amounts of money required to build a large-sized nuclear powerplant—close to a billion dollars. But half of that cost is the cost of money and escalation that occurs during the 10-year regulatory and construction process. If the 10-year process could be reduced by just 1 year, approximately $85 million of cost can be saved, with the consumer being the ultimate beneficiary.

I would hope that we, working with the administration, and with a President that has unique understanding of nuclear power, can creatively devise procedures that, while still responding to legitimate concerns and expectations, nevertheless reduces both the time and expense required to place such new facilities into operation. In his energy message to the American people in April the President has recognized the importance of nuclear licensing reform. I understand that he has directed Dr. Schlesinger to set up a task force for the purpose of reviewing present licensing policy and recommending reforms. I commend the President for this effort.

If we begin the task of devising and installing new energy-using equipment, conserving energy not vital to our well-being, fostering production of remaining oil and gas supplies, maximizing the safe use of now available energy alternatives, and vigorously pursuing the research, development, and demonstration of new energy sources and technologies, I am confident that we will have exercised our responsibility well. And this responsibility is to those Americans now looking to us for leadership as well as to those Americans yet to be born, who must rely on our wisdom and dedication to provide them a legacy of alternatives appropriate to the needs and problems they must face.

HAPPY BIRTHDAY, FORMER SENATOR MURPHY

Mr. HAYAKAWA. Mr. President, I ask my colleagues to join me in wishing a happy birthday to a former Senator and friend to so many of us on both sides of the aisle, George Murphy.

George will be 75 years old on the Fourth of July.

His term serving the people of California as a Republican Senator was marked by a firm sense of duty, personal conscientiousness and that kind of spirit which enlivens the solemn duties of this Chamber.

Senator Murphy earned an Oscar and many other prestigious awards in the performing arts before coming to the Senate. Since I have come to the Senate, he and I have frequently been linked in newspaper columns as aficionados of tap dancing. If I may add my personal accolade—and set the record straight—I assure my colleagues that it is George who is the pro.

Happy birthday, George. I am all in favor of longevity.

PROTECTION OF HUMAN RIGHTS IS A TRADITIONAL AMERICAN CONCERN

Mr. PROXMIRE. Mr. President, once again I ask the Senate to ratify the Genocide Convention. The convention was drafted with care and circumspection. Every precaution was taken to safeguard the contracting parties from becoming entangled in political disputes or from forfeiting vital elements of their sovereignty.

The convention gives contemporary relevance to traditional American ideals. It is an expression of opposition toward those people and philosophies which have little regard for human rights. Our failure to ratify the convention is utterly without justification in either domestic law or policy and makes possible the association of our country with such other nonratifiers as South Africa and Yemen, whose regard for the rights of individuals is hardly the cause for envy.

Concern for the welfare of all peoples has been a principle feature of our foreign policy. Throughout our history, the United States has considered human rights in other countries to be a matter of our deepest interest and consistent with the profound commitment to the heritage of freedom which has fortified us.

Indicative of our national commitment to human rights was President Taft's abrogation of a trade treaty with czarist Russia in 1911 because of that country's discriminatory practices directed against Jews.

The United States also intervened on behalf of oppressed religious minorities of the Ottoman Empire in 1840; in Morocco in 1863; in Romania in 1872; and in Poland in 1918.

America's historic commitment to the protection of human rights found further expression in the efforts of President Taft in 1913 to obtain guarantees for minority rights in the peace treaties that followed the Balkan Wars. President Woodrow Wilson urged a similar course in the peace treaties of 1919 involving Central and East European countries.

No doubt it was this distinctive humanitarian character of American tradition in foreign affairs that enabled American statesmen to be the first to recognize during World War II that the ultimate consequence of international suppression of freedom was external aggression and, therefore, that peace and human rights are necessarily and inextricably linked together.

Mr. President, human rights are indeed a traditional American concern. There is no reason for the Senate's failure to ratify the Genocide Convention. We must change the unfortunate route chosen by this body 28 years ago. We must ratify, and reassert our concern for all peoples.

ENVIRONMENTAL POLLUTION

Mr. DOMENICI. Mr. President, earlier this week, at a hearing before the Subcommittee on Environmental Pollution, I was privileged to hear testimony from an old friend and neighbor. The witness was William Ruckelshaus, former Administrator of the Environmental Protection Agency.

Today Bill is working in the private sector. His testimony on the clean water amendments came to the subcommittee from an individual who has had enormous experience in the environmental field, who was the first high-level public

official to confront these difficult issues head-on, and who, more recently, has gained additional perspective as a corporate executive in the forest products industry.

His testimony, in my judgement, contains a rare and valuable melange of philosophy, balance, and reason rooted in many years of first hand experience. I request unanimous consent that Mr. Ruckelshaus' statement be printed in the RECORD so that my colleagues in the Senate may share in its wisdom.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BEFORE SENATE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION BY W. D. RUCKELSHAUS

Mr. Chairman: It has been over four years since I last testified before your Committee as Administrator of the Environmental Protection Agency. Much has happened to our country in that period of time—ranging from the unprecedented national tragedy of the Watergate to the perplexing mix of issues of energy supply, economic growth and environmental improvement.

Of course the debate over air and water pollution continues unabated. As I have watched this debate from outside the Government, I have been struck by how little we have progressed in our ability as a people to cope politically with the problem of pollution.

Shortly after the passage of the Clean Air Act in 1970 and the almost simultaneous creation of EPA, I became convinced that by 1975 we would be addressing pollution in a much calmer, more rational way. By then, I believed the American people would have concluded that sufficient technology existed to virtually eliminate pollution if we want to spend enough money to do it. The remaining question for the country would be what level of air or water quality we want at what cost and at what pace.

I was wrong. This is 1977 and we are still treating the problem of pollution as one of the vested interests versus the people. We still tend to view environmental laws as tough or weak and often fail to ask ourselves the more relevant question whether they are wise. Industry and the environmentalist continue to confront one another using Congress, the courts, the Administrative branch and the media as battlegrounds. In truth, much progress has been made since 1970 in cleaning up the air and water. Unfortunately, that progress has been largely obscured by the smoke rising from the battle.

Industry has spent billions of dollars to clean up the air and water, the taxpayer billions more in constructing municipal sewage treatment plants. We aren't home, but we're headed there and at a pace satisfying few but remarkably swift given the magnitude of the task.

The credit for much of our progress, Senator Muskie, is yours. You have worked hard, long and in the beginning almost alone on this problem. The solutions you fashioned in the air and water laws were controversial and complex but they have resulted in solid progress. For that alone the American people are in your debt.

You have asked me to testify on Public Law 92-500—the Clean Water Amendments of 1972. I assume by your request, Mr. Chairman, that you and the members of your subcommittee want to seriously examine this law, now in its fifth year of application, to see how well it is working.

It is my sincere desire to be helpful here today and in the future if possible. Though I am presently employed as a Senior Vice President at Weyerhaeuser Company in the State of Washington, I am not testifying as a representative of industry, but rather as a private citizen with considerable governmental experience in administering environmental laws at both the State and Federal level.

Lest anyone doubt it, Mr. Chairman, let me make it clear that my company will be affected directly by what this Committee does. If there is no change in the law, Weyerhaeuser will spend millions of dollars to meet new and ever more stringent standards. The company will not go out of business whatever happens and it will comply with the law.

What should concern this Committee is not a particular cost to Weyerhaeuser Company but the public interest. My comments on the law are directed to that public interest as I understand it and I hope that it is in that context that my statements will be judged. If Weyerhaeuser or any other company is economically harmed and the public is commensurately benefited, the law can be justified. No citizen either corporate or individual can function in a free society without restraint where that restraint is necessary to protect the common good. Likewise, in my judgment, in a free society it is not in the public interest for the Government to restrain conduct where a commensurate public benefit is not derived.

Any governmental mandate on how an individual or company must use its financial resources is a restraint. It is whether Public Law 92-500 is causing too much governmental restraint without commensurate public benefit that I believe this Committee must seriously examine.

The Water Pollution Amendments were passed in a time of high emotion and concern in the country about what we were doing to our waterways. Prior to 1972, we had left to the states the responsibility for enforcing water quality standards. The Federal government's role was to administer a rather modest municipal sewage treatment grant program and prod the states into a more vigorous enforcement posture. In the Congress in 1972, there was disenchantment with the complexity of the use of water quality as an element of the enforcement mechanism. A simpler tool was sought. There was mistrust of the Administrative branch by the Congress and for many industry was clearly the villain of the piece.

The result of this social and institutional climate was, not surprisingly, a law that sought to remedy the perceived causes of water pollution. Since the states apparently could not do the job alone the Federal government was given a much larger role—particularly in enforcement. A national abatement program was created requiring each industrial and municipal discharger to obtain a permit specifying the levels of pollution to be tolerated in their effluent. Rigid time schedules for compliance were spelled out in the Act and in turn in the permits. The traditional standard setting-enforcement scheme was retained but water quality standards were downplayed and by 1983 all dischargers were to have in place the best available technology (BAT) regardless of water quality needs. 1983 was the second of the three phase process starting with a lower technological or water quality requirement in 1977 (whichever was tougher). By 1985, no discharge of pollutants was our national goal. The Act thus reflected a bias against using the water, as opposed to the land or air, as a medium for disposal of any waste.

In response to other perceptions, little flexibility was given the Administrator of EPA. The Act not only set many standards and goals but coupled that with strict time frames for their nationwide achievement.

But the heart of the Act was the three phase abatement program which became ever more reliant on what technology could achieve rather than what the water needed.

Mr. Chairman I had my doubts about the wisdom of this approach when I was still Administrator of EPA. After the bill passed the Senate and was pending in the House, I testified as follows:

"In three stages the Senate bill goes from best practicable control technology currently available in 1976 to no discharge of pollutants or best available technology in 1981 to no discharge of pollutants in 1985.[1]

"Thus, the social benefit we are all seeking—high quality water—is eliminated from the equation and technology is substituted in its place.

"We believe that in completely obliterating the admittedly complex relationship between municipal and industrial effluent and water quality, the Senate may have sacrificed wisdom for simplicity. It is simpler to address the problem in terms of available technology than in terms of complex treatment and ambient water quality relationships. But it is my conviction that in the environment as elsewhere, the renunciation of known complexity on the altar of simplicity is the essence of bad government policy.

"Water quality standards need to be strengthened and expanded to cover all waters—interstate and intrastate. They also need to be achieved. Effluent limitations are a means for achievement. They should not become an end in themselves, nor should they be defined in statutory law solely in terms of the technology needed to achieve them." (House hearing on Senate Bill, December 7, 1971—Senate Bill 2770).

I'm really not here today to say I told you so because I'm not certain I can, to your satisfaction. The plan fact is if you and the members of this Committee are not satisfied that a change is needed it matters little what I said in 1972 or think today.

As I said before, much progress has been made. Most of industry has met the 1977 standard (the Commission established by the 1972 law to examine the 1983 and 1985 standard and goal estimated that 90% of industry will have met the 1977 standard). Far fewer municipalities have complied due primarily to a lag in Federal funding and the administrative complexities involved in any major public works project of this kind. The 1977 standard, will be met—soon by industry, somewhat later by municipalities. The public remains strongly committed to our nation's goal of clean water.

The crucial question for the Committee is whether it is in the public interest to push forward to the 1983 BAT standard for all dischargers, industrial and municipal, for all parameters of water pollution. I say "all parameters" because it may well be, as the President has declared in his environmental message, that it will be necessary to bring all of our technological know how to bear on removing toxic pollutants from the waste stream.

It is, however, my present belief that to continue to require in every case that the same 1983 effluent standards for the more traditional, non-toxic constituents of water pollution, such as BOD, TSS or PH, regardless of receiving water needs, would not be in the public interest.

For instance, BOD, or biochemical oxygen demanding material, decomposes by bacterial action. The bacteria use up oxygen in the receiving water and thus deplete the dissolved oxygen necessary to sustain aquatic life. It is not toxic in the sense that term is used in the Act.

Water is as good a medium for disposing of limited quantities of these non-toxic wastes as the air or land. The refusal to use water for waste disposal purposes when no harm is done to that water makes no sense as a statement of national policy. Yet that

[1] The dates of 1976 and 1981 which were in the Senate Bill at the time were later changed by the Congress to 1977 and 1983.

is the effect of the 1983 standard in the case of some dischargers on some bodies of water. The cost of this policy can be enormous and the benefit miniscule. Here are two examples:

Weyerhaeuser Company has had since 1931 a large pulp facility at Longview, Washington near the mouth of the Columbia River. The average effluent flow from the plant to the river is 98 million gallons per day. In 1974 the BOD loading of the discharged wastes was 180,000 pounds per day. With the completion of the additional secondary treatment required to meet the 1977 standard the BOD discharge will be reduced to 27,000 pounds per day—an 85% reduction. The system to achieve this level of treatment has cost $52.5 million.

The low flow of the Columbia River at this discharge point is 100,000 cubic feet per second. The dilution of the discharge is 800:1, during the low flow period. The water quality standard for dissolved oxygen to the river is 8 mg/L. This standard fully protects the sensitive salmon fishery in the river, as it should.

Weyerhaeuser's constant monitoring shows that we have never depressed the oxygen levels below the standard even before installing the required abatement technology. The discharge of 180,000 pounds per day of BOD to the river has never depressed the dissolved oxygen level more than 0.1 mg/L, outside of the outfall mixing zone.

In achieving the 1983 standard as presently promulgated, we would reduce our discharge of BOD from 27,000 pounds per day to 18,000 pounds per day—an additional 5% reduction. There would be no measurable impact on the Columbia River from this reduction. The cost would be from $25–$45 million, over and above the $52.5 million already spent since 1972.

A second example—I now live on the shores of Lake Washington in Seattle. That lake has long been cited as one of the great success stories in the environment. In the late 1950's it was so badly polluted that citizens living around the lake caused the creation by the State legislature of a Metropolitan sewer authority to address their problem. Sewage being discharged into Lake Washington was collected, given appropriate levels of primary and in some cases, secondary treatment, and discharged into Puget Sound into 230 feet of water. The result was a dramatic improvement in the water quality of Lake Washington.

The 1972 law now mandates that Seattle metro must provide secondary treatment by 1977 for all its sewage being discharged into Puget Sound. The present executive director of Seattle Metro, Richard Page, testified on June 6 in Seattle before this Subcommittee that providing secondary treatment for discharges of BOD into Puget Sound would have no impact on dissolved oxygen levels in the Sound except in a very localized area near the outfall. This would have *no* effect on the substantial fishery in Puget Sound. The cost of secondary treatment to the City of Seattle would be $130 million. One Hundred and Thirty Million Dollars of public funds spent for no measurable public benefit.

It was similar testimony given to me in 1971 as Administrator of EPA by Mr. Page's predecessor, Thomas Gibbs, that first convinced me that a single nationwide approach to water pollution, treating all pollutants and all bodies of water alike, was unwise.

These two examples are not isolated cases. It is true that other examples could be cited where the need to control toxic substances or BOD mandate a stricter standard than even BAT if the water is to be able to support fish life. Weyerhaeuser has a plant on the heavily industrialized and often damned Wisconsin River where precisely such a situation may exist. There, as in the Mahoning River Valley in Ohio, difficult social judments may have to be made between water quality, technological capability and the overall well-being of the local citizenry.

The case that concerns me is where the law seeks through the imposition of the 1983 standard to ignore every social concern including water quality in the name of technological capability. The standard is only inferentially related to water quality. The standard is for all to employ the best available technology. The standard is not what we ought to do but what we can do.

My assumption is that the people of our country will through the imposition of this standard, be forced to spend hundreds of millions of dollars for no, or minimal public benefit.

My plea to this Committee is to test my assumption. I sympathize with the members of this Committee. At that same Seattle hearing on June 6, Robert O. Sylvester, a professor of Sanitary Engineering at the University of Washington testified contrary to Mr. Page and Mr. Ellis. He contended that Puget Sound was not rich in oxygen in every location and any additional discharge that depleted the oxygen should be controlled. He pointed out that secondary treatment also reduces toxic substances. Mr. Page and Mr. Ellis did not quarrel with the need to remove toxic substances.

Professor Sylvester has his detractors even among his university colleagues but it is little wonder that Senator Anderson found it difficult to know who or what to believe.

My plea to this Committee is not to let this dispute remain unresolved. My own examination has led me to believe that without adjustment the 1983 law will cause hundreds of millions of public and private dollars to be spent for little benefit. I could be wrong. The evidence supporting my belief is strong enough that it cries out for review by this Committee.

For this Committee to satisfy itself on this question will not be easy. In the 1972 law a Commission was established to examine "all aspects of the total economic, social and environmental effects of achieving or not achieving the effluent limitations and goals set forth for 1983 . . ." Sec. 315 P.L. 92–500. The Commission was composed of 5 members of the Senate, 5 members of the House and 5 members appointed by the President.

The Commission spent 2 years and $17 million and made a recommendation that the 1983 standard be postponed for 5 to 10 years. Mr. Chairman, you dissented from the recommendation. I would have also, but for different reasons. I would have faced the issue square on and recommended the abolition of BAT as a single nationwide, all pollutants, all dischargers standard.

If the Commission created by the Congress and having 10 of its members on it has failed to dent Congressional opinion who or what can succeed? How can my assumption that we are embarked on a course to spend needlessly hundreds of millions of taxpayers and consumer dollars be tested?

It will take a mechanism that will produce a result credible to this Committee, the members of Congress, and the American people. Two people testifying as to their opposite conclusions on dissolved oxygen in Puget Sound will not suffice. I strongly recommend that the Committee establish for itself a credible mechanism to test my assumption. I will be happy to assist the Committee in any way I can to effect this result. As I said, if the evidence I am relying on is defective and commensurate benefits will result then no change is warranted.

Frankly, what follows if the Committee agrees with my assumption does not concern me. I am confident that we are a wise enough people to devise a means of achieving our shared goals of water quality that will avoid excessive waste of always limited resources.

The solution may be a combination of technology based standards for toxic substances and water quality standards for nontoxics.

If the Congress concludes our present course will result in an enormous waste of taxpayer and consumer funds I am convinced a fair, effective and sensible program to address our remaining problems will be forthcoming.

PLANNING FOR CONVERSION

Mr. McGOVERN. Mr. President, Seymour Melman, professor of industrial engineering at Columbia University and cochairman of SANE, has long been interested in economic conversion and has written and edited a number of books and articles on the subject.

I believe his article, "Planning for Conversion," which appeared in the spring 1977 issue of Working Papers, presents an excellent summary of this complex and challenging problem. I recommend it highly to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PLANNING FOR CONVERSION

(By Seymour Melman)

People who depend for their livelihoods on military spending are understandably wary of policies that would reduce Pentagon budgets. So are representatives, senators, and others who are called upon to ensure Pentagon funds for bases and firms in their areas. The possibility of reversing the arms race founders on people's fear of listing their jobs.

Those in the White House and the Pentagon who control the military economy have to date opposed planned conversion to civilian undertakings. (Their fear seems to be that if people had an opportunity to work outside the military economy, they might choose to take it.) Yet without the possibility of conversion, organized labor joins governmental and corporate managers in supporting or at least participating in the military economy. Only last February, for example, the AFL–CIO executive board came out in favor of the B–1 bomber.

What is needed, simply enough, is federal legislation mandating planning for economic conversion. This legislation should include the following key elements: first, planning new capital outlays; second, planning conversion at individual factories and bases; third, guarantees to individual employees; and fourth, the formation of a National Economic Conversion Commission.

NEW CAPITAL OUTLAYS

In the Report of the Council of Economic Advisers to the President in 1969, an appendix on the economy after Vietnam detailed an agenda of public activities that deserved continued federal financing. The list included the familiar "neglected priorities"—health, education, urban development, and the like—and amounted to $39.7 billion a year. In 1976 values this would come to more than $50 billion a year.

New capital outlays of this size, planned in advance and sustained over time, are equivalent to a major list of new markets for which industrial firms could bid. They also represent new job opportunities for millions of people. The 1969 agenda could be updated and civilian investment planning extended to include not only federal but also state, county, city, enterprise, and regional (including ex-military-base) planning.

If all these units prepared and published realistic plans, the total activity called for would probably far exceed the capacity of the U.S. economy. The plans would therefore boost confidence in the future of a nonmilitary economy. The translation from new investments to jobs can be reasonably estimated: assuming $12,000 as the average cost of a person-year, then $50 billion generates 4.5 million jobs directly. A conservative allowance for multiplier effects would double that figure.

PLANNING FOR CONVERSION

To be effective, conversion planning for self-sustaining civilian work must be done well in advance, and by the people directly involved. At least a year is required to plan the necessary changes in machines, tools, materials, skills, production organization, and marketing—to plan, in short, the production and marketing of a new product. Such plans should be required of every industrial contracting firm and military base administration with, say, more than 25 employees. The cost should be charged to the military contract or base operating budget at a rate of not more than $50 per employee.

Conversion planning itself should be the responsibility of a three-part committee at each plant and base: one-third named by management, one-third by the employees, and one-third by the local community. These committees would have the built-in strength of self-interest. Placing planning authority and responsibility in their hands would give the groups both credibility and real power; a central authority to oversee the planning would probably be unnecessary as well as costly and unwieldy. Local plans should be updated every two years.

INDIVIDUAL GUARANTEES

Even the most conscientious and imaginative conversion planning efforts will involve dislocations for some people in the work force. Some military contracting firms, for example, employ three times as many engineers per worker as civilian firms. Many military bases are so specialized, and their locations so remote, that conversion to civilian operations would be inordinately difficult.

So prudence requires that individual employees be backstopped economically. Three forms of support are important. First, the federal government should guarantee some income for two years, based on the employee's last year of earnings: say 90 percent of the first $20,000 per year and 50 percent of the next $5,000 per year. (An engineer earning $24,000, for example, would get $20,000 a year for two years.) These amounts should include all other support payments from employer, union, or government, and the program should require registration with the state employment service.

Second, provisions should be made for job retraining, particularly for administrative and technical employees. Their professional habituation to the military economy needs changing if it is to be compatible with civilian undertakings.

Third, new civilian employment opportunities will require some people to relocate their families. A schedule of allowances for relocation should be built into the law.

All these guarantees to individual employees could readily be administered through existing state employment officers. No new organization needs to be set up for this function.

A NATIONAL ECONOMIC CONVERSION COMMISSION

The commission would encourage the economic planning outlined above and oversee blueprint readiness for the capital outlays scheduled by each government department. It would prepare and issue manuals to guide the base and company committees in their work, convenue national and regional meetings, and prepare bulletins that report experience and help tie together local efforts. (None of this need imply supervision over the local conversion committees.)

The members of this commission should include the secretaries of commerce, labor, and other appropriate federal departments, plus representatives of management and labor.

WHO IS RESPONSIBLE FOR THE FUTURE OF CHESAPEAKE BAY?

Mr. HATFIELD. Mr. President, on April 27, 1977, Senator MATHIAS spoke to Bi-State Conference on the Chesapeake Bay sponsored by the Chesapeake Research Consortium. The address, entitled "Who Is Responsible for Chesapeake Bay?" dealt with the need to preserve the environmental integrity of one of the region's most valuable natural resources. Senator MATHIAS also paid tribute to the efforts of the many citizens' groups and governmental agencies involved in preserving Cheseapeake Bay both for commercial as well as recreational use.

Mr. President, I ask unanimous consent that Senator MATHIAS's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

WHO IS RESPONSIBLE FOR THE FUTURE OF CHESAPEAKE BAY?

When the Chesapeake Research Consortium asked me to give you an overview "with a summary of the various agencies" at work in the Chesapeake Bay, I accepted with some misgivings. My exact words were: "That's a tall order, but I'll make a stab at it".

Well I did make a stab at it. And the result was such a tedious and confusing text that you would have been justified in walking out on me halfway through—or sooner. Even if I could have counted on you being polite enough to stick it out, I couldn't bring myself to give such a boring recitation.

In the process of amassing the details for that talk, I came to feel like Gilbert and Sullivan's "very model of a modern major general" who knew "the kings of England and (could) quote the facts historical from Marathon to Waterloo in order categorical". I even toyed briefly with the idea of working all the Chesapeake Bay agencies' acronyms into some kind of patter song or doggerel. But the truth is there are too many different organizations at work on the bay to encompass in any concise, coherent way.

And there's the rub.

There are just an awful lot of people in the act and no ringmaster.

Happily, the Chesapeake Bay Subcommittee of the Interagency Committee on Marine Science and Engineering in July 1976 published a comprehensive survey of "Institutions concerned with the water and related resources in the Chesapeake Bay".

The information it contains is encouraging or discouraging depending on how you read the equation between effort and results in the Bay, the study reveals that:

It takes three pages of very small print just to list the names and addresses of organizations concerned with the Bay,

It takes 14 pages to describe what to do,

There are 10 Federal agencies with some jurisdiction over the Bay,

There are five interstate agencies and commissions.

Maryland and Virginia together have 31 State agencies dealing with the Bay, and

There are seven Maryland and Virginia colleges and universities studying the Bay.

Even this booklet, useful as it is, doesn't tell the whole story. Many of the actors in the Bay drama have not found their way into its pages.

And there is no head count of how many people in the organizations that are listed actually work on the Bay. My own informal study came up with the rough estimate that more than 1,000 Federal employees and about 750 Maryland employees concern themselves either full or part-time with the Bay.

In addition, there is no mention of the Members of the United States Congress or of the Maryland and Virginia legislatures who get into the Bay act from time to time. I stand before you as the living proof, having authored the proposal for the Environmental Protection Agency's current five-year $5 million-a-year study of the Bay.

Nor are private organizations listed. I don't have the complete figures for Virginia but in Maryland there are more than 30 citizens groups that concern themselves with some aspect of the Bay, without counting national groups with no local chapter.

You can get a rough idea of the scope of citizen interest from the fact that the Citizen's Program for the Chesapeake Bay, Inc. publishes an eight page directory of its 83 participating organizations. There is some overlap, however, because several Federal and State groups are advisory members of this organization. But still, the array of participating non-profit organizations and business and industry groups is impressive.

Last month I spoke at the annual meeting of one citizens group—the Chesapeake Bay Environmental Protection Association—and, if any of you think that people power can be easily dismissed, just listen to what the Washington Post wrote about CEPA's campaign to control nuclear power plant construction on the Bay:

"All parties agree that CEPA's years-long tenaciousness has been at least partially responsible for changes in State and national government standards and regulations for nuclear power plants and even landmark court rulings requiring that environmental considerations be part of the official licensing process "

So, in addition to federal, state and scholarly activities concentrated on the Bay, you have a tremendous citizen interest and activity as well.

And, you also have the vital concern of thousands and thousands of Marylanders and Virginians who make their living from the Bay. Surely these are the most important ingredient in any equation, or overview, that describes the Bay.

The Baltimore Evening Sun in its exhaustive ten-part series on the Bay this February pulled together these statistics about people who earn their living on the Bay:

The Maryland seafood industry provides jobs for 13,000 licensed commercial crabbers, 5,000 oystermen, 1,800 commercial netters, 260 soft-shell clammers,

The number of trappers who work in the marshes is estimated between 20,000 and 30,000,

Approximately 4,500 people work in Maryland's almost 300 seafood processing plants,

Tidewater sports fishing has a $100 million annual impact. Pleasure boating contributes another $150 million to the economy,

One of every 10 jobs in Maryland is generated by the Port of Baltimore. Port facilities provide 170,000 jobs, the Port generates two-and-a-half billion dollars in cross products and $400 million in taxes.

And since no picture of the Chesapeake Bay would be complete without some mention of the recreational interests involved, here are a few Maryland statistics on that:

An estimated 904,000 sports fishermen fish the Bay,

More than 50,000 waterfowl hunters gun the Bay and its tidal marshes every year,

Sports crabbers are estimated to number 250,000; sports oystermen 1,000, and

About 133,000 outboard engines are in use in Maryland with 125,000 of these in tidal waters.

I apologize before a consortium of this sort not to give similar statistics for Virginia. But I am sure Virginians here will attest that the Bay is equally crucial to their State's economic well-being.

So, what we see here is an increasing focus at many levels—federal, state, local, citizen, vocational, and even vacational—on Chesapeake Bay.

But the question is: where does it get us?

I just quoted to you from a *Baltimore Evening Sun* series on the Bay written in February of this year. Let's take a backward glance at what the Sun said in its 1969 series on the Bay:

It warned of the dangers of thermal wastes, of inadequately treated sewage, of interstate effluent from the Susquehanna and of pollution from the heavily used shipping lanes,

It documented the nascent effects of pollution on shell and fin fish and waterfowl,

It warned of increasing shoreline erosion and of the degradation of wetlands and marshes,

It described the proliferation of red tape that was beginning even then to strangle efforts to deal with the Bay's problems, and,

It identified as a problem area the growing antagonism between scientists who study the Bay's problems and the officials who manage it.

That was the assessment eight years ago. But, I don't think any of us can honestly say the situation has changed for the better in the intervening years. Admittedly, we know a great deal more now about what's going on in the Bay that we did in 1969. But, we have new problems too. The disappearance of marsh grasses for one. So, I think, we must ask ourselves whether proliferating red tape and perhaps escalating rivalries do stand in the way of capitalizing on our increased knowledge.

I am tempted to say they do. But this conference encourages me to hope that I am wrong. I am particularly encouraged that you are devoting your final program to a debate on "Coordination in Bay Management".

It is obvious to me that single great flaw in our array of programs, laws, research projects, citizens' lobbies, and even space age technology such as Landsat, that come to bear on the Bay, is that federal, state, local and private agencies still have no workable way to coordinate their stewardship of the Bay.

The Bay is an organic whole. If one part is damaged all parts are affected. It is of little use to study one link in an environmental chain without relating it to the whole: If the Chesapeake Bay is to survive it must be addressed as an entity, as a total system, without duplication and without omission. Even the superficial overview I have sketched shows quite clearly that there is something missing in our approach to the Bay.

We sorely need a mechanism that can coordinate the activities and organizations involved in the Bay—that can offer some promise that the hopes and aspirations we all have for the Bay can be realized.

It would not be seemly for me to press my own personal preference for a coordinating mechanism in view of your final day's agenda. But it is no secret to any of you, I'm sure, that since my five-day tour of the Bay in 1973, I have been urging the establishment of a Title II Commission as provided by the Water Resources Planning Act of 1965. That Act placed coordination of federal, state, interstate, local and non-governmental plans for development of water and related resources under the jurisdiction of a presidentially established commission. Such commissions keep current a comprehensive, coordinated joint plan for resource development and recommend long-range schedules of priorities for data collection and for investigation, planning and construction of projects.

There are six Title II Commissions now operating successfully across the country covering all or part of 32 states. They include:

The Pacific Northwest Commission founded in 1970,

The Upper Mississippi River Basin Commission founded in 1971,

The Missouri River Basin Commission founded in 1972,

The New England River Basins Commission founded in 1972,

The Ohio River Basin founded in 1972, and,

The Great Lakes Basin Commission founded in 1973.

As I said, I am prejudiced, but experience proves that such commissions can provide the review process, the planning techniques, the public focus, the educational attention and the coordinated recommendations that are so badly needed on a Bay-wide basis.

Such a Commission could join Maryland and Virginia in a partnership with the federal government in management of the Bay. Most of the fresh water for the Chesapeake runs in from Maryland rivers; salt water flows off the Virginia capes. The two states are common sharers and common contributors and common stewards. They have an equal interest and an equal responsibility. To a lesser degree, but still a considerable degree, Delaware and Pennsylvania also have an equity in the Bay. A Title II Commission could join all these forces gracefully and without coercion.

But, other proposals designed to accomplish the same objective have also been made. Congressman Bauman of Maryland has introduced legislation into this session of Congress entitled the Chesapeake Bay Research Coordination Act, and Senator Boyer several months ago proposed to the Maryland House of Delegates that a Chesapeake Bay Authority, including Delaware, be established.

It is your job to sort out these proposals and to evaluate them. This conference could perform no more vital service than to examine the full spectrum of proposed coordinating mechanisms and then to decide definitively on one.

I would like to lock you up here, as they do the College of Cardinals while it is electing a Pope, and not let you out until you have made that decision. The College of Cardinals announces by a wisp of smoke that it has chosen a Pope. As good environmentalists, we might have to devise a more ecologically pure signal for you, but the essential thing is that you reach a decision.

With every year that passes, the Chesapeake Bay is diminished. There is no time left to grope for solutions. If you decide that a Title II Commission is not the best answer, then so be it. But at least decide because, unless we can get together to intercede, someday soon the wear and tear on the Bay will prove too much.

Not long ago Bill Mullins, Assistant Director of the Chesapeake Bay Foundation, in an editorial in the *Bowie News*, posed the critical question: "Who is ultimately responsible for the future of the Bay?"

I say that each one of us in this room is. The Chesapeake Bay is our legacy, more precious to us than anything man has made. If we cannot find a method for coordinating our efforts to save the Bay, it may within our lifetime become a dead sea. Today, we hold its life in our hands.

HART COMMENDS HOUSE ACTION TO DELAY COAL PIPELINE BILL

Mr. HART. Mr. President, I would like to commend the action taken Monday by the House Interior and Insular Affairs Subcommittees on Mines and Mining and on Indian Affairs and Public Lands. The subcommittees rationally and responsibly voted to postpone any further consideration of proposals granting coal pipeline firms eminent domain rights until next year.

Rather than legislating without any knowledge of the consequences of such legislation, the subcommittees acted to protect the interests of all American citizens by postponing action until the facts are in. And the facts about the effect of coal slurry pipeline development on Western railroads, jobs, water, environment, and States' rights are being gathered and analyzed at this very moment by the Congressional Office of Technology Assessment. This important study will be completed in plenty of time before the second session begins—time we can well afford with such potentially detrimental legislation.

During the Senate's debate on the strip mining bill May 19, my colleague from Louisiana (Mr. JOHNSTON) announced that he, too, felt that Congress could afford to postpone action on coal pipeline legislation until we better understand its consequences. The Senator's comments on page 15610 of the RECORD regarding coal pipelines, however, contained some inadvertent inaccuracies. I would like to correct that information for the RECORD.

First, the Senator mentioned some possible environmental problems associated with increased use of coal unit trains. I would agree that the noise pollution associated with railroads, especially unit trains, is an important consideration. This potential problem could be substantially alleviated if unit trains were routed around towns and other populated areas.

It is not accurate to state that railroads are "spewing out tons of coal dust." The fact is that unit train haulage of coal creates a minimal dust problem. The Four Corners Regional Commission funded a study by URS Co. to look into the questions surrounding increased unit train traffic. Entitled "Coal Train Assessment," page V–15 concludes:

> It is likely that in an otherwise "clean" atmosphere, the introduction of a brief concentrated dose of pollutants emitted by trains which pass every 60 or 90 minutes will not be enough to push the hourly average concentration beyond the (national ambient air quality standards)). It is therefore unlikely that the standards will be violated due solely to the increase in the number of coal unit trains.

And, of course, the current, minimal coal dust emissions can be eliminated by covering the coal once loaded.

Traffic tieups can be reduced by routing the trains around population centers and by underpasses and overpasses.

But what about the environmental problems associated with coal slurry pipelines? The Energy Transportation Systems, Inc., proposed pipeline from Wyoming to Arkansas, at any given time would contain about 855,000 tons of slurry. If, for any reason, the line had to be purged, ETSI's own plans call for pumping some or all 855,000 tons of it into open dumping ponds along the

route. The proportions of this sort of possible environmental disaster are still largely unknown.

Regarding cost, Senator JOHNSTON commented that the price of transporting coal by train would be double that of pipeline transportation. These figures were supplied by a coal pipeline firm.

The exact opposite conclusion was reached by the University of Illinois Center for Advanced Computation. This study, entitled "The Coal Future," states:

Where roadbed is already available, even if the most elaborate upgrading is required to sustain a minimum loaded train speed of 50 mph, the resultant transportation cost is only one-half that of a new slurry pipeline.

According to the study:

Abandoning railroads in favor of a slurry pipeline, such as the one proposed for shipment from Wyoming to Arkansas, would be a wasteful policy error.

Water for the proposed Wyoming to Arkansas pipeline, as Senator JOHNSTON correctly stated, would probably be acquired from the Madison Formation. This water, however, is neither very saline nor unusable. Representative TENO RONCALIO of Wyoming testified before the House Committee on Interior and Insular Affairs on March 19, 1975, that—

At the time the (Wyoming) State legislature made its decision (to grant water rights to ETSI) it was led to believe that water obtained from the Madison for carrier purposes in a slurry pipeline was brackish water and was unpotable. It has now been learned that at certain depths, the water is potable and usable for domestic and municipal water needs and is, in fact, better water than the city system in Gillette, Wyo., which people drank and used to live by.

On the effect of withdrawing 15,000 to 20,000 acre-feet of water every year from the Madison, the Department of the Interior's water for energy management team states:

No estimate of the annual rate of recharge to the aquifers is currently available; however, it is a reasonable certainty that the withdrawal of 20,000 acre feet of ground water for an individual site would be greatly in excess of local annual recharge and would reflect extensive local groundwater mining.

Senator JOHNSTON is correct that coal pipelines have been around for quite a while in this country. The first pipeline was shut down, because it could not compete with cheaper rail rates. The only other existing U.S. coal pipeline is the Black Mesa, which traverses about 270 miles of rough terrain from Arizona to Nevada. The terrain is too rough, in fact, to be crossed by conventional railways. The Black Mesa has not been problem-free.

The problem with coal slurry pipeline legislation should be clear by now. For every study supporting coal pipelines, a study by equally capable and recognized sources concludes the opposite. Truly objective studies on the issue are few and far between, if any exist at all. The comprehensive inquiry now in progress by the Office of Technology Assessment is the first positive congressional step toward obtaining the reliable and objective information we must have before responsibly considering coal pipeline legislation.

I am not opposed to coal pipeline development, per se. I am strongly opposed, however, to any congressional action encouraging their development until we have a better understanding of the consequences of that action. The OTA study will help us achieve that understanding.

INDEPENDENT REGULATORY AGENCY REPRESENTATION IN CIVIL ACTIONS

Mr. MAGNUSON. Mr. President, on Tuesday, June 28, 1977, the Senate passed S. 1532, 1535, and 1536, bills providing for interim regulatory reform of the Federal Maritime Commission, Federal Power Commission, and Federal Communications Commission. In the consideration of those bills, an amendment offered on behalf of Senator EASTLAND was adopted concerning agency representation in civil actions. This amendment deleted provisions of the bills providing for the agencies to represent themselves. The amendment was the result of discussions between the Department of Justice and the committee staff concerning a method for resolution of the problems which agencies have had in representation by the Department of Justice.

The solution, as set forth in a letter from the Associate Attorney General, is for the Department and the agencies to enter into memorandums of understanding which delineate the responsibilities of each party involved in litigation involving the agency. This method has been adopted by the Department for its relationship with the Environmental Protection Agency and may well prove to be the best solution, rather than a legislative solution.

The Associate Attorney General indicates that he hopes to complete these negotiations within 6 months, and needless to say, the Committee on Commerce, Science, and Transportation anxiously awaits the outcome.

Mr. President, I ask unanimous consent that the letter from the Associate Attorney General and a copy of the DOJ–EPA memorandum of understanding be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
June 29, 1977.

HON. WARREN G. MAGNUSON,
Chairman, Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On June 23rd representatives of this Department and your committee met and discussed the Department's objections to section 5 of the following bills: S. 1532 (Federal Maritime Commission), S. 1535 (Federal Power Commission), S. 1536 (Federal Communications Commission), and S. 1537 (Civil Aeronautics Board). As you know, section 5 of each of these bills would authorize the affected agency to conduct agency litigation in the agency's name and with agency attorneys if the Attorney General fails to take action on the litigation within forty-five days. Each agency would be able to bring a preliminary injunction or initiate the defense of an action and to continue to do so until the Attorney General has acted or failed to act.

Although the Attorney General is opposed to any legislation which would transfer litigation responsibilities to other agencies, he is sensitive to any agency complaint about the Department's handling of that agency's litigation. At our June 23rd meeting we discussed the usefulness of a negotiated agreement between the Department and each of the above agencies. Such an agreement was concluded earlier this month between the Department and the Environmental Protection Agency. A memorandum of understanding, a copy of which I have attached, will soon be published in the Federal Register.

Both the Antitrust and the Civil Divisions, the two affected offices in the Department, have agreed to meet with the agencies named in your legislation for the purpose of discussing the past and future handling of agency litigation. Such meetings would be entered by the Justice Department in a spirit of resolving the problems that have led the agencies to seek their own litigating authority. We feel that this individualized and more comprehensive approach to resolving past difficulties with individual agencies is preferable to the automatic forty-five day option set out in the bills. We anticipate that these discussions will be successfully concluded within the next six months. Our Office of Legislative Affairs is prepared to keep your staff advised of the progress of these talks.

If this arrangement meets with the approval of you and your committee, we would hope that you would amend the bills to delete section 5.

An identical letter is being sent to Senator Pearson.

Sincerely,

MICHAEL EGAN,
Associate Attorney General.

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF JUSTICE AND THE ENVIRONMENTAL PROTECTION AGENCY

Whereas, the Department of Justice conducts the civil litigation of the Environmental Protection Agency;

Whereas, the conduct of that litigation requires a close and cooperative relationship between the attorneys of the Department of Justice and of the Environmental Protection Agency;

Whereas, the achievement of a close and cooperative relationship requires a clarification of the respective roles of the attorneys of the Department of Justice and of the Environmental Protection Agency;

Whereas, the Attorney General may decline to represent the Agency in particular civil actions, in which case the Agency may be represented by its own attorneys; and

Whereas, most challenges to and enforcement of regulatory standards and procedures adopted by the Environmental Protection Agency involve scientific, technical, and policy issues and determinations developed in lengthy rulemaking proceedings in which the Agency's attorneys have been involved and can provide the necessary expertise.

Now, therefore, the following memorandum of understanding is entered into between the Attorney General of the United States and the Administrator of the Environmental Protection Agency for the purpose of promoting the efficient and effective handling of civil litigation involving the Environmental Protection Agency;

1. The Attorney General of the United States (hereinafter referred to as the "Attorney General") shall have control over all cases to which the Environmental Protection Agency (hereinafter referred to as the "Agency") or the Administrator of the Environmental Protection Agency (hereinafter

referred to as the "Administrator") is a party.

2. When requested by the Administrator, the Attorney General shall permit attorneys employed by the Agency (hereinafter referred to as "Agency participating attorneys") to participate in cases involving direct review in the Courts of Appeal and shall also permit such attorneys to participate in other civil cases to which either the Agency or the Administrator are a party; *Provided, however*, That:

(a) the Administrator or his delegate shall designate a specific Agency participating attorney for each case and shall communicate the name of such attorney in writing to the Attorney General;

(b) such Agency participating attorney shall be subject to the supervision and control of the Attorney General; and

(c) if required by the Attorney General, an Agency participating attorney shall be appointed as a Special Attorney or Special Assistant United States Attorney and take the required oath prior to conducting or participating in any kind of Court proceedings.

3. Agency attorneys shall not file any pleadings or other documents in a court proceeding without the prior approval of the Attorney General.

4. It is understood that participation by Agency attorneys under this memorandum includes appearances in Court, participation in trials and oral arguments, participation in the preparation of briefs, memoranda and pleadings, participation in discussions with opposing counsel, including settlement negotiations, and all other aspects of case preparation normally associated with the responsibilities of an attorney in the conduct of litigation; *provided*, however, that the Attorney General shall retain control over the conduct of all litigation. Such control shall include the right to allocate tasks between attorneys employed by the Department of Justice and Agency participating attorneys. In allocating tasks between the Department's and the Agency's attorneys, the Attorney General shall give due consideration to the substantive knowledge of the respective attorneys of the matter at issue so that the Government's resources are utilized to the best advantage.

5. In the event of any disagreement between attorneys of the Department of Justice and of the Agency concerning the conduct of any case, the Administrator may obtain a review of the matter in question by the Attorney General. The Attorney General shall give full consideration to the views and requests of the Agency and shall make every effort to eliminate disagreements on a mutually satisfactory basis. In carrying out such reviews, the Attorney General shall consult with the Administrator. In implementing this provision, it is understood that the Attorney General will not be expected by the Administrator to interfere with the direction of any trial in progress.

6. The settlement of any case in which the Department of Justice represents the Agency or the Administrator shall require consultation with and concurrence of both the Administrator and the Attorney General.

7. The Administrator and the Attorney General shall make an annual review of both the Department's and the Agency's personnel requirements for Agency litigation. The Attorney General and the Administrator will cooperate in making such appropriation requests as are required to maintain their respective staffs at a level adequate to the needs of the Agency's litigation.

8. The Attorney General shall establish specific deadlines, not longer than 60 days, within which the Department's Attorneys must either file complaints in Agency cases or report to the Attorney General why any such complaint has not been filed. In the event any Department Attorney does not file a complaint, he shall thereafter submit further periodic reports to the Attorney General until the complaint is filed or a decision is reached that it shall not be filed. Copies of the reports required by this section shall be provided to the Agency if requested.

9. If the Attorney General fails to file a complaint within 120 days of the referral of a request for litigation and a litigation report by the Agency to the Attorney General, then the Administrator may request the Attorney General to file a complaint within 30 days. Failure of the Attorney General to thereafter file a complaint within the said 30 days may be considered by the Administrator or his delegate to be a failure of the Attorney General to notify the Administrator within a reasonable time that he will appear in litigation for purposes of Section 305 of the Clean Air Act, 42 U.S.C. 1857h–3, Section 506 of the Federal Water Pollution Control Act, 33 U.S.C. 1366, or Section 1450 of the Safe Drinking Water Act, 42 U.S.C. 300j–9; *provided*, however, that the failure of the Attorney General to file a complaint within the time period requested by the Administrator in a case in which the Administrator requested immediate action under Sections 311(e) and 504 of the Federal Water Pollution Control Act, 33 U.S.C. 1321, 1364; Section 303 of the Clean Air Act, 42 U.S.C. 1857h–1; or Section 1431 of the Safe Drinking Water Act, 42 U.S.C. 300i; to protect public health may also be considered by the Administrator to be a failure of the Attorney General to so notify the Administrator under Section 305 of the Clean Air Act, 506 of the Federal Water Pollution Control Act or Section 1450 of the Safe Drinking Water Act.

10. All requests of the Agency for litigation shall be submitted by the Agency through its General Counsel or its Assistant Administrator for Enforcement to the Assistant Attorney General for the Land and Natural Resources Division or for the Civil Division, except matters requiring an immediate temporary restraining order may be submitted by regional Administrators of the Agency simultaneously to a United States Attorney and the appropriate Assistant Attorney General. All requests for litigation shall be accompanied by a standard litigation report which shall contain such information as shall be determined from time-to-time by the Attorney General to be necessary in order to prosecute Agency litigation. Similar reports shall also be provided for suits in which the Agency or the Administrator is a defendant, as requested by the Attorney General.

11. The Agency shall make the relevant file of any matter that is the subject of litigation available to attorneys for the Department of Justice at a convenient location when a request for litigation is submitted or when the Department is required to defend the Agency or the Administrator.

12. The Administrator shall undertake to review the Agency's procedures for the preparation of the record in cases involving direct review in the Courts of Appeal, including analyses of such matters as assembly, indexing, pagination, timing of preparation, and the allocation of tasks between the Agency and the Department. The Administrator shall consult with the Attorney General on the re-examination of these procedures.

13. The negotiation of any agreement to be filed in court shall require the authorization and concurrence of the Attorney General.

14. In conducting litigation for the Administrator, the Attorney General shall defer to the Administrator's interpretation of scientific and technical matters.

15. Nothing in this agreement shall affect any authority of the Solicitor General to authorize or decline to authorize appeals by the Government from any district court to any appellate court or petitions to such courts for the issuance of extraordinary writs, such as the authority conferred by 28 CFR 0.20, or to carry out his traditional functions with regard to appeals to or petitions for review by the Supreme Court.

16. In order to effectively implement the terms of this Memorandum, the Attorney General and the Administrator will transmit copies of this Memorandum to all personnel affected by its provisions. This Memorandum shall not preclude the Department and the Agency from entering into mutually satisfactory arrangements concerning the handling of a particular case.

17. This Agreement shall apply to all cases filed on or after the date of approval of this Agreement by the Attorney General and the Administrator.

18. The Attorney General and the Administrator may delegate their respective functions and responsibilities under this Agreement.

19. The Department and the Agency shall adjust the conduct of cases arising before the effective date of this Agreement in a manner consistent with the spirit of this Agreement.

ELECTION DAY REGISTRATION

Mr. ANDERSON. Mr. President, soon the Senate will be taking up S. 1072, the bill to provide the opportunity for citizens to exercise their right to choose who shall rule over them by registering and voting on election day. This bill has continued to be subjected to much criticism by people who have never worked under an election day registration system. Just recently I received a letter from the St. Paul League of Women Voters urging support of S. 1072. The league has had an opportunity to see how the election day registration system really works, because this system has been used in Minnesota since 1973. I request unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 20, 1977.

Hon. WENDELL R. ANDERSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ANDERSON: We are writing in favor of the Universal Voter Registration Act (S. 1072). The experience of St. Paul in the last election showed that many more people will vote if allowed to register on election day.

Our survey of election judges shows that most difficulties in the last election were procedural, for instance, lack of enough forms, space and workers to take care of all the prospective voters. The concerns of the election judges regarding opportunities for fraud are, we believe, adequately covered in current amendments to the bill.

It should be the responsibility of government to make it as easy and convenient as possible for all qualified voters to vote. The Universal Voter Registration Act is a valuable step in that direction and we urge your support.

Yours truly,

JOAN F. NEWARK,
Voter Service.
SALLY PATTERSON,
President.

PRESIDENT CARTER AND FARM PRICES

Mr. ANDERSON. Mr. President, it seems obvious that the Federal Government has quietly abandoned the notion that farmers deserve a "parity" price for the commodities they produce. Instead, the new catch phrase seems to be "cost of production." This relatively new standard is not as favorable to farmers because cost of production is less precise than parity. We already know what parity is, because no matter what year is chosen as the parity year, there is a fixed standard against which to measure current farm prices. The cost of production is more elusive. Economists, farmers, Congressmen, and others disagree on what it costs to produce a bushel of wheat or a bushel of corn.

What bothers me about the administration's farm program is that not only has it abandoned the parity concept, but it does not even pretend, at least for 1977 and 1978, to fix support prices on wheat and feed grains equal to the cost of production.

That is why the Senate last week passed Senate Resolution 193 urging the Secretary of Agriculture to raise the loan price of wheat and feed grains, as the law permits the Secretary to do at his discretion as long as he does not exceed the parity price.

The resolution passed by unanimous consent. The administration, however, has said that it will not consider what the Senate recommends. In other words, loan prices for wheat and feed grains will remain where they are—at painfully inadequate levels—unless President Carter can be persuaded to permit the Department of Agriculture to change its mind.

For this reason, the distinguished senior Senator from Colorado, Mr. HASKELL and I sent a strongly worded note to President Carter questioning the administration's decision to ignore last week's Senate resolution. It is our hope that the President will reconsider the position taken by the USDA and give our farmers a fighting chance to recover their cost of production come harvest time.

I request unanimous consent that our letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 28, 1977.

HON. JIMMY CARTER,
President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last week the Senate passed a resolution urging the Secretary of Agriculture, as the law permits, to raise the loan price for wheat and feed grains. This resolution passed with the unanimous consent of the Senate, primarily because market prices for these commodities are far below the farmer's cost of production.

I am distressed that the Administration, speaking through the Department of Agriculture, has already indicated that the Senate resolution will be ignored and that the 1977 loan prices will remain at their inadequate level. The USDA argues that raising the loan levels now, particularly those for wheat, would be unfair to farmers in the South who have already harvested their crop.

This logic, in my judgment, has two failings. First, given the depressed market price of wheat, we doubt that many farmers have sold their wheat on the open market. Second, even if some wheat has already been sold, it does not make sense to insist that all farmers share in the misery. Refusing to raise wheat and feed grain loan rates to more realistic levels earlier this year was a grave mistake. Refusing to do so now compounds the error.

An increase in the loan prices will not do damage to your notable effort to balance the budget. For example, a modest increase of 60 cents in the loan price of wheat would cost less than $200 million. A 20-cent increase in the loan price of corn would cost about $100 million. These are small prices to pay to help thousands of farmers remain solvent for another year while they wait for the market to improve.

We urge, Mr. President, that you reconsider the position articulated by the Deputy Secretary of Agriculture in the June 17 letter to Senator Muskie. Those of us who strongly supported S.R. 193 find the USDA's position entirely unacceptable.

If you were to allow the Secretary of Agriculture to raise the loan rates on wheat and feed grains, as the Senate recommended, you would give the American family farmer a sound assurance that he is not being abandoned during an agricultural depression of crisis proportion.

Thank you for your careful attention to our request.

Warmest regards.

Sincerely,

WENDELL R. ANDERSON,
U.S. Senator.

FLOYD K. HASKELL,
U.S. Senator.

INCENTIVES FOR ECONOMIC GROWTH IN AMERICA

Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management, of which I am chairman, of the Finance Committee has during the months of May and June conducted a series of four hearings on the issue of incentives for economic growth in America.

These hearings have been helpful in exploring the alternative ways in which our tax and economic policy can be structured to provide for greater capital investment by American businesses.

Witnesses presented differing solutions to the complex problem of capital formation in America.

The views expressed by two well-known economists, Eliot Janeway and Dr. Pierre Rinfret, were especially interesting and provocative. An analysis of the testimony of these two economists was made in a recent edition of the Journal of Commerce.

I ask unanimous consent that the June 15, 1977 article by Tom Connors in the Journal of Commerce relating to the testimony of Mr. Janeway and Dr. Rinfret before the Subcommittee on Taxation and Debt Management be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INVESTMENT: ECONOMISTS DIFFER
(By Tom Connors)

WASHINGTON.—Two of the nation's best known private economists disagreed sharply Tuesday on the kind of problems impeding capital investment and the value of tax changes as a solution.

Economic consultant Eliot Janeway told a Senate finance subcommittee that capital markets are glutted and it is not a lack of business confidence—as many allege—that is preventing these funds from being invested.

Instead, he argued, it is the "cost" of using this capital in the face of government-mandated investment requirements and other regulatory impacts which "is the obstacle to the use of the capital already in place, but not ready to go to work."

Accordingly, Mr. Janeway advocated tax reforms, including a step to reduce the double taxation of corporate dividends, as a means to encourage investment.

But economic consultant Pierre Rinfret told the subcommittee his major corporate clients don't want this particular change in the tax laws.

His testimony on the double taxation issue was in marked contrast not only to that of Mr. Janeway but also with that of most business and economist witnesses which the subcommittee has heard in the past few weeks.

The subcommittee, chaired by Sen. Harry F. Byrd, Independent-Va., has been holding exploratory hearings on this and related issues in the expectation that the tax reform program President Carter will send Congress in a few months will focus on such questions.

Dr. Rinfret began his comments by agreeing on the availability of capital for investment. He estimated that corporations have sufficient cash flow to permit, according to past historical patterns, about $40 billion more in investment this year than the $139 billion he now expects them to spend.

In interviews with clients, whom he said represented more than $50 billion in sales in 1976, Dr. Rinfret found that the idleness of this capital stemmed in great part from a lack of business confidence or uncertainty about inflation, the future of small business, and particularly about the government action.

Calling this last factor the "legislative uncertainty," Dr. Rinfret said it had created a "nightmare" for American business in the fields of taxes, energy, and pollution laws.

One of the Rinfret solutions involved a "grandfather clause" principle which would permit a company to invest or accumulate capital with such investment to remain under the laws and regulations in effect at the time it was made.

He also recommended retention and liberalization of the current depreciation and depletion laws while rejecting the idea of eliminating double taxation of dividends at either the corporate or stockholder levels.

Dr. Rinfret said his clients opposed such a change because they can find the money to invest and they "don't want to get into the dividends payment rate" which they think would result and produce increased pressures on corporate financial structures. He said his clients would much prefer a cut in the basic corporate tax rates.

Mr. Janeway suggested use of the stockholder route to gradually reduce taxes on dividend recipients. Specifically, he proposed an "installment plan" effort which over time would give individuals the same tax credit available to corporations on their dividend income. Under this credit, only 15 percent of dividend income is taxable to corporations.

ROD CAREW OF THE MINNESOTA TWINS

Mr. ANDERSON. Mr. President, I would like to acknowledge the outstanding efforts this season of the Minnesota Twins, and in particular Rod Carew.

The Twins suffered a severe blow early in the season when two of their promising young pitchers, Don Carrithers and Mike Pazik, were injured in an automobile accident and unavailable to the team for most of this season. In spite of this loss, the Twins have been playing spirited and consistent baseball all season long, and are currently leading the American League West Division. Although their success this year can be attributed to fine management and a great team effort, Rod Carew is a player that deserves special recognition.

Rod Carew, as of June 29, is batting a phenomenal .407, easily outdistancing the second-leading American League hitter, Lyman Bostock, also of the Twins. Besides leading the league in batting average, Rod Carew is also leading the league in hits, 118, and triples, 13. Rod Carew has already won five American League batting championships, and many observers expect that Rod may be the first player to hit over .400 since Ted Williams accomplished that feat some 36 years ago.

Mr. President, I know that my colleagues join me in congratulating Rod Carew and the Twins on an excellent record for the first half of the season and wish them the best of luck the remainder of this year and in the future.

Mr. President, I request unanimous consent that two newspaper articles on Rod Carew and the Twins, "Rod Carew: Will He Be Baseball's Next .400 Hitter," by Shirley Povich in the Washington Post, June 29, 1977, and "Meanwhile Out In Minnesota," an editorial in the Washington Star on June 29, 1977, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 29, 1977]

ROD CAREW: WILL HE BE BASEBALL'S NEXT .400 HITTER?

(By Shirley Povich)

For all aspirants to baseball's Hall of Fame, there is one certain. direct path. Simply hit .400 and in due time report to Cooperstown. The plaque and the niche are yours. You have joined the most exalted society in the major leagues. You are now the batsman extraordinaire. There have been only eight of your breed since 1901. And none at all in the 36 years since Ted Williams did it.

But for Hall of Fame dreamers, there is an admonition. Keep your nose clean, Joe Jackson didn't and the .408 he hit in 1911 was in vain. Jackson, the blackguard, became a member of the infamous 1919 Chicago Black Sox. Baseball voted a pox on their memory so one .400 hitter is missing from Cooperstown, rejected for perpetual veneration.

So hark now to the bat of Rod Carew. The next .400 hitter may be among us. As today dawned in Minnesota country, Carew was at a fascinating .407 It is true that only the fool-happy would predict a final .400 for anybody with more than half a season to play. But if it is to happen this year, nobody in either league is more likely than Carew to break the 36-year barrier.

The .400 average as a hallmark is as honored by the names of those who failed to attain it as by those giants of the game who did. And who were the achievers? Their names are Nap Lajoie and Ty Cobb (three times), Jackson and George Sisler (twice), Rogers Hornsby (thrice) and Harry Heilmann, Bill Terry and Williams.

They built baseball tradition. They all served notice they could be .400 hitters by producing high-average seasons before they moved into the nearforbidden circle. Williams did it in merely his third season with the Red Sox, with his rousing .406 in 1941. But Ted The Kid was already showing precocity. He hit .327 his rookie year and .344 the next, alerting admirers to the wonders in store by him.

Carew, too, has served notice his may not be an empty bid. He already has notched five AL batting titles, with a lofty .364 to his credit a couple of years ago. Can he hunch it all the way to .400 this year? It merits strict attention.

He has the most admired bat control in the majors, even better than Pete Rose's or Joe Morgan's. He is a lefthander who goes to all fields. He's a problem child for pitchers, infielders and outfielders. He can leg out hits and sometimes he hits homers. In nine years they've never learned how to pitch to him, and he's danger with a bat in his hand.

It isn't easy to hit .400. Babe Ruth couldn't and Joe DiMaggio didn't. Nor Honus Wagner, who is sometimes rated a greater player than Ty Cobb. Nor Lou Gehrig, Tris Speaker, Jimmy Foxx or Al Simmons in their years of dedication to the job.

For the .400 hitters, there has been no standard batting style. Lajoie, they tell me, was a stand-up hitter.

Cobb was a croucher with a choke grip. Jackson and Sisler were classic plate crowders. Heilmann and Terry were tall men who crouched a bit. Hornsby took his outlandish stance as far away from the plate and as deep in the batter's box as the umpires would allow. Williams was a stand-up, fidgety and loose.

Were they lefthanders or righthanders? Half of them batted left and the other four right, so nothing is to be made of that. But only two were National Leaguers, Hornsby and Terry, which perhaps affirms that the NL for a decade was known as a pitcher's league.

Of the lot, Williams was the only big number home run hitter, which is perhaps a special tribute to him. All of them were disadvantaged compared to the modern batters who have more opportunity to leg out ground hits on the artificial infields that were unknown in Williams' time and before.

On that score, Carew's average is to be the more admired because he plays in a league that numbers fewer artificial fields than in the NL, where most of the playing surfaces make blue darters of ordinary ground balls. The small company of .400 hitters makes Cobb's three-time achievement all the more glorious. He hit .400 for the third time in 11 years after the first time. His .420 ties George Sisler as the best average ever in the AL; Hornsby's .424 for the Cardinals in 1924 tops them all.

How would you like to hit .359 and lose the American League batting title by 47 points? That is what happened to Cecil Travis of the Senators in 1941, when he finished second to Williams who was putting on his .406 show for the Red Sox. The fact that Williams is the only .400 hitter of the last 47 years tells something of the difficulty quotient of the task.

Perhaps this is why Williams has a special place in baseball. His friend and business manager, the late Fred Corcoran, used to say, "Put a camera on Ted, and he rises to the occasion."

The cameras went on Williams in that last week of the 1941 season when, with his average at .406, Boston manager Joe Cronin offered to bench him to protect it.

"If I'm a .400 hitter," Williams told Cronin, "I'm a .400 hitter for the whole season, not for a part of one."

With one day of the season left, Williams' average dropped to .399. Now a doubleheader with the Athletics would be the crucible for Williams. It would finish off the year. He made four hits in five at-bats in the first game. He got two of three in the second game, for a six-for-eight day that also included his 37th homer and put him at his remembered .406.

[From the Washington Star, June 29, 1977]

MEANWHILE, OUT IN MINNESOTA

So in disjunction do the planets swirl that it requires poise to be confident whether one's head or heels are uppermost. One of the annoying times of our signs is that the sports pages decreasingly offer solace from lowering issues of state, but rather contribute to the sense of dislocation.

The baseball season, if you will. Large egos and small minds have chased each other down newspaper columns and up the television news. A staff member from Family and Child Services should be included on the roster of each big league club, apportioning his counseling between dugout and front office. Billy Martin should be sent to bed without supper and Reggie Jackson spanked on national television by Mrs. George Herman Ruth. Let those two gentlemen represent the infantilism that has been, if not pervasive this season, well, wonderfully conspicuous.

But, then, as the driver of the eight-cylinder diatribe is about to exceed 90 in a 25 mile zone, almost unwillingly his foot eases off the gas pedal. While the sulkers and the skulkers of baseball tumble over each other in pyrotechnic disputation, a solid reminder comes that the game will not be eclipsed by clowns, brats and plastic autocrats.

So raise your glass of carrot juice, please, to Rod Carew. As of the close of baseball business on Monday, the Minnesota first baseman was batting .408—a feat, even at mid-season, comparable to Bowie Kuhn's tying his shoelaces without imprisoning both thumbs.

He has, of course, won six American League batting championships and gives promise of securing a seventh. Admittedly it is a long march to the season's conclusion, but he also might be the first ballplayer in 36 years to bat over .400—since 1941 when Ted Williams swatted .406. Mr. Carew is sizzling—47 hits in his last 99 times at bat.

During this time, to the best of our knowledge, he has not whined, screamed or thrown a public tantrum over the hardships of pursuing his career in a world he never made. He has not, we believe, enlivened a single game by threatening to rearrange his manager's physiognomy or called a press conference to question his employer's morals or intelligence.

As fine a ballplayer as he is, Mr. Carew clearly is deficient in understanding the canons of celebrityhood. It is a deficiency, however, for which we are grateful. He has gone quietly about his business—of being perhaps the premier hitter in the game and a gentleman journeyman.

Thanks, Rod, we needed that.

ALASKA WANTS THE ALL-AMERICAN GASLINE

Mr. STEVENS. Mr. President, I want to take this opportunity to reaffirm the position held by the overwhelming majority of the citizens of Alaska regarding the transportation of Alaskan North

Slope natural gas to the south 48 States: Alaska wants the All-American Trans-Alaska route proposed by the El Paso Alaska Co.

Following the May 2 recommendation of the Federal Power Commission that an overland route through Canada be selected and the May 9 report of the Berger Commission of Canada that the Arctic Gas pipeline through the northern Yukon should never be built, many here in Washington have presumed that Alaska's support would swing to the Alcan route, which seemed to be gaining ground.

But that is not the case.

There is an article from the May 19 issue of the Southeast Alaska Empire which I would like to bring to the attention of the Senate. In this article, Bob LaResche, State commissioner of natural resources, is quoted as saying:

When you look at the FPC report it really is one where the President could easily justify his selection of the El Paso route. The commissioners did not vote for El Paso but they did rate the project the best on several key points.

The FPC stated in its recommendation that the El Paso proposal is feasible and that it can economically deliver Alaskan gas to markets throughout the United States. This contradicts the assertions of many behind either of the other two proposals that only an overland route through Canada can deliver gas to the Midwest and Northeast.

At the same time, the FPC rated El Paso best of the three proposals by most of its criteria—highest net national economic benefit, lowest capital requirements, least vulnerability to cost overruns, and easiest financing. It is surprising that the FPC did not recommend the El Paso project.

Mr. President, I ask unanimous consent that the article from the Empire be printed in the RECORD, along with a resolution of the Ketchikan Gateway Borough in favor of the trans-Alaska line, as I feel that these represent the sentiments of the people of Alaska.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE FIRM ON EL PASO PROJECT

(By Chuck Kleeschulte)

The recommendations of the Berger Commission, the Canadian commission investigating native land claims in the Northwest and Yukon Territories have nearly ended the chances for selection of the Arctic Gas pipeline project, a high-ranking state official said recently.

More importantly, the official said, the decline in the chances for selection of the Arctic project—the only totally unacceptable route for state interests—has decreased the chances of the state ever switching its support from backing the El Paso Natural Gas project.

Commissioner of Natural Resources Robert LeResche made both comments late last week.

"Unless I miss my guess the Berger Commission report just about kills the Arctic project. Those recommendations were well thought out and researched and it is going to be tough for the Canadian Parliament to dismiss the findings," LeResche said.

LeResche was referring to the findings of a two-year study by Justice Thomas Berger of the British Columbia Supreme Court. The findings, released May 9, recommend that no pipeline be built along the Mackenzie River valley for at least 10 years to allow time for native land claims in Canada to be settled. The recommendation by Berger also proposed that a permanent ban be placed on construction of any pipeline from Alaska crossing the environmentally sensitive frontier regions of the northern Yukon.

The Arctic project involves running a pipeline directly east from Alaska's Prudhoe Bay, crossing the 14,000-square-mile Arctic National Wildlife Range and then following the Mackenzie River Delta south.

Arctic's project has been the main opposition for both the competing projects, the El Paso pipeline-tanker system, and the proposed Alcan project which would run a pipeline paralleling the trans-Alaska oil line to Delta Junction and then follow the Alcan Highway through the southern Yukon.

LeResche said the state, if the Arctic project is no longer a serious contender, never will have a reason to support construction of the Alcan project over the El Paso project. "The only reason we would ever have switched to support the Alcan project was to try to derail the Arctic project. If Arctic is dead, and it may or may not be, then we'll stick with El Paso," LeResche said.

"When you look at the FPC report it really is one where the President could easily justify his selection of the El Paso route. The commissioners did not vote for El Paso but they did rate the project the best of several key points," LeResche said.

The commission split on a 2-2 vote between recommending the Arctic and Alcan projects. None of the members selected El Paso as their first choice, but all the members said the project was "viable" and would be the easiest project to finance, the least suspectible to cost overruns and have the fewest problems with Native-Canadian issues.

The next milestone on the path to a decision on which of the three lines will be certified will probably come in late June or early July when the National Energy Board of Canada releases its choice between the two trans-Canadian lines.

Federal agencies in the United States will have to July 1 to make their recommendations on the project to President Carter who then will have until September to make a recommendation to Congress. The Congress is required to act on the recommendations to affirm or reject within 60 days.

The recommendations of the Berger Commission, much like the FPC recommendations in the U.S., are not binding on Canadian leaders or Parliament. But LeResche said they clearly will be a key factor in reaching of a final decision on the issue.

KETCHIKAN GATEWAY BOROUGH RESOLUTION No. 251

A resolution of the Assembly of the Ketchikan Gateway Borough, Alaska, supporting the concept of a trans-Alaska pipeline; and establishing an effective date

The assembly of the Ketchikan Gateway Borough, Alaska, Resolves, as follows:

Section 1. The Assembly of the Ketchikan Gateway Borough, Alaska, urges the President of the United States to recommend approval of the all-Alaska, all-America gas pipeline and urges the Congress to approve such a recommendation from the President.

Section 2. The Clerk is directed to send copies of this resolution to the Honorable Jimmy Carter, President of the United States, the Honorable Walter F. Mondale, President of the United States Senate, and the Honorable Thomas. F. O'Neill, Jr., Speaker of the United States House of Representatives; and to the Honorable Ted Stevens and the Honorable Mike Gravel, United States Senators, and to the Honorable Don Young, United States Representative, members of the Alaska delegation to the United States Congress.

Section 3. This resolution is effective immediately.

ENERGY CONSERVATION

Mr. RIBICOFF. Mr. President, while it is essential that this Nation try to develop new sources of energy, it is equally important that we take steps to reduce our present level of energy consumption. That is why I am so encouraged whenever I learn of efforts by users of energy to promote conservation. One such effort has been initiated by the Travelers Insurance Cos. headquartered in Hartford, Conn.

Edward H. Budd, president of the Travelers Insurance Cos., is proud of the Travelers voluntary initiatives to promote energy conservation. The Travelers has every right to be proud of its conservation initiatives. I hope that eventually all American businesses and industries will be as responsive to the need for conservation practices.

On June 20, 1977, Mr. Budd sent my office a report on progress the Travelers had made in the energy conservation field. Mr. President, I ask unanimous consent that Mr. Budd's report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

We have been concerned about energy conservation and have pursued programs designed to reduce consumption since 1973. We have two methods of saving energy: first, in the prudent operation of our buildings and, second, in the promotion of our employee car pooling and a bus subsidy program.

We have a Home Office complex of buildings in Hartford, totaling more than 2 million square feet. The savings in this complex for 1976 compared to the actual consumption of energy in 1973 is as follows:

Electricity—25 percent,

Steam (for heating)—29 percent.

Chilled water (for airconditioning)—62 percent.

The accumulated savings in dollars and equivalent gallons of fuel oil are very significant. These totals are now more than $3.8 million and the equivalent of 7.7 million gallons of fuel oil. Obviously, there is an economic incentive.

In January 1974, the car pool subsidy program (free parking for cars with three or more people) was instituted. The bus subsidy program (discounted monthly tickets) was made available in mid-1974.

Prior to the energy crisis (1973), 1,000 employees rode the bus and 840 employees were car pool riders. In 1976, we averaged 2,216 bus riders and 1,703 car pool riders—an increase of 1,216 and 863 respectively.

This increase has saved 30.1 million passenger miles since 1974 (11.4 million miles in 1976) which is equivalent to 2.5 million gallons of gasoline (9 million gallons in 1976).

Our Company participates in the FEA and the Department of Commerce voluntary conservation programs. We were presented the FEA Award of Excellence for our documented efforts in energy savings. We endorse the "Total Energy Management" handbook and concept which was developed by the Department of Commerce.

The Travelers received Connecticut's first Public Transportation Award in February from Governor Grasso for our bus subsidy program.

We believe that a national energy policy, if it emphasizes voluntary conservation and a minimum of controls, will be in the best interests of our Country.

CHINA AND THE UNITED STATES TODAY

Mr. DOLE. Mr. President, there is growing apprehension among many Americans about the Carter administration's policy approach to the two China issue. At stake is the future of the government of free China, and the integrity of the United States as a dependable ally. There has been widespread concern about this administration's moves toward restoring full diplomatic relations with Vietnam, Cuba, and other Communist regimes. I feel compelled at this time to comment on the President's political gestures toward Communist China, and to caution against precipitous action in dealing with the volatile China issue.

The President and his foreign policy spokesmen have, on several occasions, reiterated the intent of the administration to normalize our relations with the Communist-governed People's Republic of China. The obvious and inescapable consequence of such a move would be the termination of political and security ties with the Republic of China—free China as it is known to many. Such action would immediately throw into question the future not only of a traditional and faithful national ally, but of 16 million Chinese residents on the island of Taiwan. Formal diplomatic recognition of Communist China is not a step to be undertaken lightly. It is not a step to be taken without full and careful attention to the many relevant aspects bearing on the United States and the two Chinas.

THE SHANGHAI COMMUNIQUE AS A MODEL

The so-called "Shanghai Communique" released at the conclusion of President Nixon's historic visit to the People's Republic in 1972 laid the foundation for an American policy posture toward the China issue for the immediate future. While not having the force or the authority of a treaty, the communique did reflect a realistic understanding of the problems and prospects associated with normalizing U.S. relations with Communist China. It was not an unqualified commitment by the United States to recognize the People's Republic of China and simply abandon the Chinese Government in Taiwan to the whims of fate.

The United States did declare that it acknowledged the existence of one China and that progress would be made toward the normalization of relations between the United States and China. But there was a clear and explicit quid pro quo contained within that understanding: Our Government reaffirmed its interest in a peaceful settlement of the Taiwan question, and affirmed that the Chinese should reach that settlement among themselves. With this prospect in mind, the United States identified the ultimate objective of withdrawing U.S. forces and military installations from Taiwan as the tension in the area diminishes. Subsequent statements by both former President Richard Nixon and former Secretary of State Henry Kissinger have confirmed the conditional intent of this accord on normalization. The Chinese themselves understand the subtleties of that communique and the strength of our commitment to a peaceful resolution of the two-China issue. But the Carter administration, in its restless and impatient manner, appears ready to plunge forward into full diplomatic relations with the People's Republic prior to a satisfactory settlement of the future status of Taiwan and its Government.

The Shanghai Communique was a useful and constructive document. It identified the principal points of contention between the United States and the People's Republic of China and thus established a basis for future contacts. It set the stage for cultural exchanges and limited trade between our two countries that has been mutually beneficial. It ended a 25-year period of isolation between the world's most powerful nation and the world's most populous nation.

But the communique did not constitute desertion of Taiwan by the United States. It did not breach our relationship with the Republic of China. Instead, it sought to encourage a peaceful and satisfactory resolution of the China question that would protect the rights and interests of all who are directly concerned.

A "CLOSED MIND" POLICY

The Chinese are known for their infinite patience, and for their shrewd political skills. The Carter administration, on the other hand, is becoming increasingly known for its abrupt and unconventional foreign policy style. The prospects for the Carter administration's China policy are not optimistic if the President chooses to move directly into formal relations with the People's Republic without certain prior understandings with that Government. I believe such a unilateral initiative at this time would be detrimental to the political and security interests of the United States, and would meet with substantial opposition in Congress.

The unilateral concession of certain American interests, without reciprocal and equal concessions by the Government of Communist China, would be a mistake of immense proportion. Will President Carter stand by the communique's commitment to a peaceful resolution of the two China question as a precondition to normalization, or will the administration unilaterally concede this point—as well as other points of U.S. interest—and make a sudden move toward restoring full diplomatic relations with the People's Republic of China? A number of statements by the President and his foreign policy spokesmen during the past few months suggest that this administration has already made up its mind to move blindly forward into an undefined formal relationship with the Chinese Communist Government in the not-too-distant future.

And, thus we see a regrettable movement from the open door policy of the Nixon-Ford administration, to the closed mind policy of the Carter administration.

WE HOLD THE BARGAINING CHIPS

The Chinese Communist government, though patient and cautious in its approach to international politics, is desirous of the technology and industrial development which relations with America could facilitate. It seeks, as well, a deterrent to the Soviet political and military challenge. I have said before on several occasions that the Communist governments throughout the world have as much and more to gain from improved relations with the United States, as we have to gain from the arrangements. We, as a Nation, have much to offer and much to expect in return. Concessions on our part must be fully matched by substantive, reciprocal concessions on the part of those with whom we would deal. It is a serious mistake for this administration, or any other, to forge ahead with unilateral commitments of aid, trade, or formal diplomatic relations until major differences have been fully explored and discussed.

ISSUES IN NEED OF RESOLUTION

It is, as I have said, vital that there be full discussion of the future of Taiwan, as well as firm assurances regarding peaceful resolution of the two China question, prior to establishment of formal diplomatic relations with the People's Republic of China. At present, we remain one of the strongest trading partners and military allies of the Republic of China, and its economic and political future will be put in serious jeopardy if any immediate steps are taken to recognize the People's Republic of China.

Of equal significance are the issues of expropriated American property taken by the Communists in 1949, and the continued atmospheric tests of nuclear weapons by the People's Republic of China in defiance of the 1963 Atmospheric Test Ban Treaty. The U.S. Foreign Claims Settlement Commission has determined that almost $200 million worth of American properties were taken by the Communist Chinese without any compensation at the time they came to power in 1949–50. The majority of U.S. claimants are either individuals, corporations, or nonprofit organizations. At the same time, certain Chinese assets in America were frozen by the U.S. Government in December of 1950, in response to the seizure of American holdings on the mainland.

These frozen assets total approximately $76 million dollars in current value. This outstanding matter should be resolved before we agree to formal political ties with the mainland.

It is essential that the Chinese Communist Government agree to comply with normal standards of international conduct if it expects U.S. diplomatic recognition, and this should certainly include cooperation in limiting their atmospheric nuclear bomb tests. The continued testing of Chinese hydrogen bombs in the atmosphere is a danger to the health of individuals around the world, including some of our own citizens in the United States. Chinese nuclear bomb tests in September and November of 1976 raised radiation levels within the United States

when huge clouds nuclear debris passed over the Nation. I think this matter should be fully discussed and a satisfactory understanding reached before there is further talk of normalizing relations with the People's Republic of China.

It is worth noting that the Chinese themselves are insisting on certain concessions from the United States as a precondition to full diplomatic relations. On more than one occasion, high-ranking Communist Chinese officials have insisted that normalization is impossible unless three specific conditions are met by the United States: Withdrawal of all American troops from Taiwan; abolition of the United States-Republic of China Defense Treaty; and a complete break in United States-Republic of China diplomatic relations. It is these conditions that the Carter administration is expected to agree to if it intends to proceed to full diplomatic ties with the People's Republic. And it is this inflexible demand by the Communist Chinese which makes it all the more important that we, in turn, insist upon guarantees for the security of Taiwan, and resolution of the unsettled claims and nuclear test issues before concluding in such an agreement.

POLITICAL TURMOIL IN THE PEOPLE'S REPUBLIC

Mr. President, I think it is important to say a few words about the two China governments themselves—their political stability and attention to human rights and freedoms. The measure of domestic political stability in any nation will, of course, have an impact upon its international relations. Domestic stability, then, is an important factor which other nations should take into consideration as they develop their policies toward that nation and its government.

The long record of political stability in Taiwan has contributed greatly to that nation's extensive economic and technological development. Taiwan, under the jurisdiction of the Republic of China, has become an exemplary model of the degree to which technological development and individual freedom can flourish in Asia and the Pacific area.

The People's Republic of China, on the other hand, has been wracked by dissension and political upheaval throughout its 30-year history. This domestic instability was a major factor in the relative isolation of the People's Republic of China from the rest of the world during its first two decades of government. Reports of severe domestic turmoil at both the national and provincial levels continue to reach the western world, and without Chairman Mao at the helm, it is difficult to perceive just how consistent the China of the future will be with the China of the past. With major rivalries at the highest levels of power in the ruling hierarchy, and with civilian administration in the provinces torn by factions, both the domestic and international profile of the People's Republic remains fluid. This extensive degree of political instability makes the Chinese government an unknown quantity, both at the present time and for the foreseeable future. The nature of that government may be very different a year or two from now from what we are currently dealing with. For this reason as well, it is important that the United States proceed with care and caution in developing long-range policy toward the mainland China government. The establishment of diplomatic relations with the present government of Communist China does not guarantee that those relations would be respected by successor governments—particularly if the radical wing of the Chinese Communist Party should gain the upper hand. Given the continuing uncertainty about this factor, it would be risky for the United States to take precipitous action on recognition so soon after the demise of Communist China's long-time leader, Chariman Mao.

HUMAN RIGHTS OBSERVANCE A FACTOR

In accord with the concern expressed by the Carter Administration, and by this Congress, with respect to the observance of human rights on an international basis, appropriate attention should be given to that factor in determining any immediate changes in U.S. foreign policy towards China. There are limits to the permissible expression of political opposition to the ruling party in the Republic of China. There has been a notable absence of free national elections for top-level government positions in Taiwan. While these factors cannot be condoned, they can be better understood when one realizes that the government has been resisting active communist efforts to destroy it for more than 50 years. Despite the limits on domestic political opposition, there has been extensive freedom of access and movement both within the republic and in combination with other nations.

While one can find fault with certain repressive tendencies in the Republic of China, a comparison with the minimal individual freedoms in the People's Republic leaves no doubt as to how the two Chinese governments measure up on this point. The latest freedom house "survey of freedom", published in January of this year, lists the Chinese Communist Government as being among the least free governments of the world, ranked according to both the political rights and civil rights of its citizens. In both topical areas, the Republic of China in Taiwan ranks significantly higher. In a report on "The Human Cost of Communism in China" prepared for the Senate Judiciary Committee in 1971 by Prof. Richard L. Walker of the Institute of International Studies at the University of South Carolina, startling statistics were presented on the severity of repression in Communist China. While acknowledging the difficulty in arriving at accurate statistics on the cost of communism in China, Professor Walker's carefully researched conclusion was that approximately 50 million Chinese have lost their lives as a direct result of the actions of the Communist movement begun in China in 1921. The figures themselves are only an indication of the extensive human sacrifice which has accompanied the rise to power and the administration of government by the Chinese Communist Party.

Assaults against human rights and individual freedoms continue on the mainland. According to the June 1977 issue of Amnesty Action, published by Amnesty International, a number of executions of counterrevolutionaries was conducted in the People's Republic earlier this year. There continue to be numerous reports that the campaign has led to the widescale crackdowns on political dissension throughout mainland China.

If the United States is to be concerned about human rights and political freedoms on a consistent basis, we cannot ignore the blatant and excessive forms of repression taking place within the People's Republic of China. If we are to condemn our traditional allies in Latin America, Africa, and Asia for their violations of internationally recognized standards of human rights, can we be any less attentive to the flagrant violations which abound in Communist-governed nations?

A RESPONSIBLE CHINA POLICY

Mr. President, it is no less incumbent upon us today to take a realistic and responsible policy position toward the China question than it has been in the past. A mutually beneficial avenue of contact has been opened with the People's Republic of China, and we want to see regular contacts, exchanges, and trade with that country continued. We want to keep the channels of communication open. The People's Republic of China governs more than 800 million people and is a principal participant in the strategic balance of power on the international scene. I have myself introduced legislation to extend U.S. Commodity Credit Corporation credit terms to Communist China, in order to encourage and facilitate purchases of American grain and other agricultural products by the People's Republic. But until certain issues are resolved, there should be no establishment of full political ties with that regime.

Practical international politics dictate attention to a final resolution of the China Government issue, and the United States must encourage—not subvert—a peaceful resolution of that issue by the Chinese themselves. The Republic of China is a well-established force on the island of Taiwan and has been a faithful and trusted ally of the United States for more than 65 years. We have a responsibility to ourselves and to our allies to act in a responsible manner with respect to the issue at hand.

We must, in short, adhere to the principle set down in the Shanghai Communique affirming that the People's Republic of China must commit itself to peaceful negotiations with the Chinese Nationalists. We should encourage the Republic of China to respond in a cooperative manner to such efforts when they take place, to the extent that it does not threaten the freedom and basic rights of the residents of Taiwan. The Carter administration should, for the present time, keep its channels of communication and formal ties with the Republic of China intact. The President should permit the Secretary of State to meet with the Ambassador of the Nationalist Chinese Government, and permit the Republic to replace its present Ambassador

at such time that it desires to do so. It is both morally and politically indefensible to worry that we may "offend" Peking by maintaining our present level of relations with the Republic of China. We do not seek to dictate the future of China's internal affairs, but neither do we intend to abandon with disregard a loyal and trusted ally.

Time will contribute to a resolution of the China issue. Impatience on our part can only lead to grave mistakes of judgment and failure of national purpose. I trust that the President will not undertake dramatic initiatives toward full political ties with the People's Republic of China until there has been a resolution of outstanding issues to our own satisfaction, and to the benefit of international peace.

CONTROL DATA AND THE CYBER 76

Mr. ANDERSON. Mr. President, Control Data, which has its headquarters in Minnesota recently negotiated to sell a CYBER 76 computer to the Soviet Union for use in forecasting weather. The Department of Commerce upon the recommendation of the President on June 23 denied Control Data's application for an export license for this computer.

On June 27, Mr. Robert D. Schmidt, executive vice president of Control Data Corp. testified on this matter before the International Economic Policy and Trade Subcommittee of the House Committee on International Relations. I ask that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ROBERT D. SCHMIDT

Mr. Chairman and members of the Committee, my name is Robert D. Schmidt. I am executive vice president of Control Data Corporation and a member of its board of directors.

Control Data is a worldwide corporation with some 42,000 employees and more than $2 billion in annual revenues. We are known as a world leader in the supply of data services, computer peripheral equipment, consulting and maintenance services, financial services and computer-based education. For many years we have also enjoyed a reputation for designing and manufacturing some of the world's most powerful computers for use in scientific, engineering and research applications, including the CYBER 76 which Control Data introduced nearly 10 years ago and which is the subject of this hearing.

With me here today is Mr. Hugh P. Donaghue, vice president and assistant to the chief executive officer of Control Data. Mr. Donaghue and I have been involved thoroughly and intimately with the development of this particular CYBER 76 sale and with sales of other computer equipment to the Soviet Union and to other Communist countries that have been approved by the United States Government in past years.

Mr. Chairman, before I begin to deal specifically with the issues in question here I want to express Control Data's most sincere appreciation for this opportunity to present our views to Congress through this appropriate committee. At the same time, we wish to express our regret and to protest the lack of opportunity to face our critics within the Executive Branch. This is a complex and serious subject and it deserves no less than full, serious, open debate. The refusal of the United States government executive agencies with responsibilities in this matter to allow us to correct the misunderstandings of the case should be seen for exactly what it is: an evasion of their statutory responsibilities. I say statutory because in the language of the Export Administration Act and in its legislative history, denial of an export license on national security grounds is to be made only when the export would make such a significant contribution to the military potential of the importing country as to be detrimental to our national security. Control Data Corporation has not been informed by the executive agencies of the reasons for their judgment that this export would jeopardize our national security. We simply cannot accept the premise that our national security is so precariously balanced and thinly protected as to be threatened by the export of this computer.

Furthermore, we find equally unacceptable the proposition that we cannot be informed of the security classification of the information. We would like you to know and the record to show that both Mr. Donaghue and I have had TOP SECRET clearances for many years and that these clearances are in effect at this moment. We are certain, Mr. Chairman, that you appreciate our deep concern in this matter while TV, radio, and newspapers have carried misinformation and gross distortions of fact to the public. Our company has been denied the right of meeting its critics either in an open or classified forum. My company and its thousands of employees are just as concerned for the security and well-being of our country as are those who oppose this transaction.

With this introduction, permit me to turn to our statement for the record which contains six main points: 1) That there is an important and legitimate need for a computer of the size and capability of the CY BER 76 to be installed in Moscow. 2) That we have every reason to believe that the USSR will use the computer for the stated end-use, and only for that purpose. 3) That conditions and safeguards can be applied to the computer that will minimize the possibility that operation of the machine could be diverted from its authorized weather data function, and to assure that any diversion, should it be attempted, would be detected and all Control Data support for operation of the machine would be withdrawn, including spare parts, causing the machine in a short time to become inoperable. 4) That a much clearer perspective is needed on the question of what constitutes significant output of a computer and on the role of the CYBER 76 in activities of a strategic nature. 5) That this transaction involves no transfer of technology, and 6) That there are many other considerations that should be brought to bear on this decision—among them, social and economic.

In support of our first point, I would like to call your attention to the Control Data publication called "Application Report" that is attached to your copies of our testimony. It was produced last year as one of a regular series of reports to customers on the role of Control Data equipment and services in various types of applications.

This one is devoted entirely to weather applications and it shows how our company, ever since 1960, has become more and more deeply involved in supplying high-capacity computing power to national and international weather organizations—not only for local and regional weather forecasting but for exchanging and compiling weather data transnationally. The text describes weather-dedicated installations of Control Data computers, including several CYBER 76's, in many countries of the world.

The inside pages contain a kind of map portraying the global weather communications system that has been the goal of the member nations of the World Meteorological Organization (WMO) practically ever since that organization was formed under United Nations auspices in 1951. You will note that virtually every land area of the world and outlying oceans are intended to be tied in to this system through 150 national weather centers, which feed data to 22 regional centers—including three in the Soviet Union—which, in turn, provide data for final processing and dissemination from the three major centers in Washington, Melbourne, Australia and at the Hydrometeorlogical Research Center (Hydromet) in Moscow. The world weather community estimates that about 95 per cent of the necessary resources for this project are committed. The remaining 5 per cent—the Moscow link—is critical.

Of course, the essential Moscow link does not now exist. That is the reason we are all here today—I hope—to review the events that have transpired since we began our efforts to supply the Moscow link and thus be able to derive the benefits of the first truly global and timely weather forecasts, without in any way jeopardizing the security interests of the United States.

To appreciate why the Soviet Union's participation in this global network is essential, and why such participation requires computing power in the range of the CYBER 76, it is helpful to read several paragraphs from the back page of the weather publication:

"Today, weather data is processed at speeds in the order of 20 to 25 million operations per second. Weather models and prediction systems of the 1980's are estimated to require 500 million operations a second to achieve desired accuracy and speed.

The requirement for millions of operations each second is necessitated by the fluidity of weather: unless the prediction of a major storm can outrun the event, the forecast is of no use.

The collection of observational data over the World Meteorological Organization's communications network requires approximately five hours.

Ideally, the normal time for the forecast model should not be more than one hour for each 24 hours of forecast. To produce an ideal operational weather model, meteorologists say, data should be collected from:

Grid points at 30-mile intervals in the Northern Hemisphere and 60-mile intervals in the Southern Hemisphere—76,000 grid points.

Twenty layers in the vertical, extending from the deep ocean to the earth's outer atmosphere.

One thousand computer instructions per time step at each layer and grid point.

Two to four minute time step.

Such a model for a 24-hour forecast would require 2.2 thousand billions of instructions to be executed—or 40 times the ability of a large-scale computer such as the CDC CYBER 76—to produce the 24-hour operational forecast in one hour.

By simplifying the mode, the processing time can be brought into tolerable range; however, the precision of the forecast is degraded, and still requires five hours to produce a 24-hour forecast.

The requirement for ever-increasing computer capability, such as that provided by the very large scale CDC STAR-100, becomes obvious if we are to truly understand and predict the forces that create our weather."

To help you understand more precisely the importance of this computer linkup, we are attaching to our testimony a paper called "Statement on USSR Computer Requirements In Support Of International Meteorological Programs" prepared by the National Oceanic and Atmospheric Administration of the United States Government. Here are several paragraphs from that paper:

"The National Oceanic and Atmospheric Administration (NOAA) is responsible for implementing meteorological programs designed to reduce the economic and social

impact of natural disasters, promote the Nation's welfare and economy, and preserve and enhance the environment. Because of the complexity and global scale of atmospheric phenomena and their interactions with the world's oceans, NOAA is dependent upon international cooperation to help meet these objectives.

Another major mechanism for international meteorological cooperation is the Global Atmospheric Research Program (GARP) organized by the WMO and the International Council of Scientific Unions. GARP has two major objectives: (1) extending the range, scope, and accuracy of weather forecasts and (2) understanding the physical basis of climate and climatic fluctuations. Both of these objectives require special international cooperation in investigating the complex physical processes and in mounting the necessary observational experiments required to formulate and test theories and models."

"Significant computational resources are needed to produce meteorological forecasts. The numerical forecasts of the Soviet Union verify consistently poorer than do those of the U.S. primarily because of the lack of a sufficiently large computer. The computational resources of the Hydrometeorological Center are significantly inferior to the three fourth-generation computers used in NOAA. It is NOAA's judgment that USSR computer resources, equivalent to or in excess of a fourth generation machine, are required to support near-term international meteorological programs.

The direct benefits to the U.S. from Soviet acquisition of such a computer include: an improved world weather watch supplying higher quality data for the U.S. forecast models, U.S. reception of greatly improved USSR satellite data from their two polar-orbiting satellites and their first geostationary satellite, and improvements to U.S. forecast models through comparative evaluations of advanced USSR forecast models.

The use of a fourth generation computer will also benefit the U.S. by enabling the Soviet Union to make a more substantial contribution to the First Global Experiment of the Global Atmospheric Research Program. Several hundred million dollars have been committed by Member countries of the World Meteorological Organization to establish the principal elements of this First Global Experiment. The U.S. has a major investment in the global experiment. In addition to their commitments to the WWW Global Observing System, the USSR plans to provide the satellites mentioned above, 10 or more oceanographic research vessels, and several of the data centers in the data management hierarchy."

At this point I would like Mr. Hugh P. Donaghue to give you a pictorial presentation of the Global Telecommunications Network which serves the World Weather Watch. Mr. Donaghue:

Before presenting two charts I would like to describe the activities of the Hydrometeorological Research Center, or Hydromet. It was established in Moscow in 1965 as the main research, procedural and operational institution of the USSR in the field of weather forecasting.

In addition to Hydromet's domestic responsibility the Center serves as one of three World Meteorological Centers. As such they have weather forecasting responsibility for several areas of the world, and are also major contributors to all significant world experimental and research programs. They assumed this additional responsibility under a World Wide Weather (WWW) plan that was approved by the Congress of World Meteorological Organization (WMO). That plan defined three interlocking global systems:

The Global Observing System (GOS).

The Global Telecommunications System (GTS).

The Global Data Processing System (GDPS).

A word about each of these three systems:

The GOS was established to provide meteorological and related environmental observations from all parts of the globe as required by WMO members for observational and research purposes.

The GTS provides telecommunications facilities for the rapid and reliable collection, exchange and distribution of observational and process information between various elements of the communication network.

The GDPS provides processed information required by the WMC with a minimum of duplication. It comprises both real-time and non real-time applications.

At present Hydromet is unable to meet those support obligations due to the limited capacity of its data processing facilities.

This first chart depicts the entire global telecommunications system of the WMO and shows the three major centers in yellow and the 22 regional centers in green and orange. In addition there are approximately 150 national weather centers that are part of the network. The Moscow center has data processing responsibility at three levels—global, regional, and national.

The second chart depicts a number of the operational centers and their data processing capabilities. You will note that there are a number of regional centers that have machines equivalent to our greater than the CYBER 76. Associated with each of these centers you will see a figure of merit that can be related to the computer processing power of that center, and that is its cumulative performance expressed in millions of instructions per second (MIPS). The chart shows, for example, that regional centers such as Offenbach, Paris and Montreal all have computing capabilities greatly exceeding those of Moscow. As a matter of fact, Moscow's computing power is the lowest of the group. It is for this reason that NOAA stated in their paper that "the numerical forecasts of the Soviet Union verify consistently poorer than do those of the U.S. primarily because of the lack of a sufficiently large computer." The addition of a CYBER 76 computer to the Moscow center would do no more than bring it into line with other regional centers having significantly less operational responsibility within the World Wide Weather Service. And now Mr. Schmidt will conclude our statement.

As described in the previous section, the performance of its weather assignments alone would fully occupy the capabilities of the CYBER 76 and any neglect of those functions would be evident immediately to other members of the world weather system, including Washington. In addition, however, a number of other precautions and safeguards will apply to this installation.

A 17-page description of those safeguards is attached to this statement. But before discussing its elaborate and unique features, many of which were devised especially for this installation, a brief historical background on safeguards might be useful, which will support our second point.

For more than 10 years now, Control Data personnel have regularly maintained and monitored computer equipment installed in the Soviet Union with the approval of and under the required surveillance of the United States government. In all of that time, there has not been a single instance of failure on the part of the Soviets to comply with the required procedures.

I was asked recently how the Soviet customers react to that situation. After all, it was pointed out, they bought and paid for the computer, but we're telling them what they can and cannot do with it. My answer was that the customer doesn't like it at all—no more than you or I would if someone were continually looking over our shoulder, with a constant reminder of their distrust of our integrity. Nevertheless, they acknowledge those agreed-upon procedures as a condition of having the computer, and they submit to them, although not cheerfully.

On the third point, for the CYBER 76 installation under discussion, several unusual additional safeguard features have been devised, as described in the attached paper.

Briefly, they are:

(1) Control Data will maintain, full-time, both a systems analysist and a field engineer at the Hydromet site to implement the safeguard functions. Qualified backup personnel will also be provided.

(2) Machine locks and split-second time meters installed on the equipment will allow only Control Data personnel to start operation of the computer and will log all time when the machine is on or off.

(3) The normal operating software code, without which no computer can function, for this installation has been modified extensively to make it totally unique. The only copy of this code will be in the hands of the resident Control Data analyst. Any attempt to operate the system with invalid software will halt the system and will be recorded automatically on the System Information File.

(4) The System Information File provides a wealth of data on the computer's operation on a per-job basis, including the time used, memory and storage usage, type of job performed and identification of all files involved. It cannot be tampered with without detection and can be accessed only through the use of special passwords. Contents of the System Information File will be delivered periodically by Control Data to the U.S. Embassy in Moscow for analysis.

(5) A special analyzer program will identify and record any attempt to perform a large job by segmenting it into a series of small jobs.

(6) Selected programs used on the computer, both routine and developmental, will be taken by Control Data personnel for analysis. It is extremely unlikely that any strategic application would be attempted because of the exposure to U.S. personnel.

(7) There are other inspections, logs and reports provided for, but finally, in the extremely unlikely event of failure of these safeguards, withdrawal of spare parts by Control Data would bring about rapid degradation and ultimately complete closing down of the system. (The critical and unique components of the system can be produced only by Control Data in Minnesota and cannot be procured elsewhere.)

Any serious attempt to overcome or circumvent these safeguards would require tremendous expenditures of time, money and specialized personnel and would have to involve overt, physical force—and would, of course, be detectable immediately.

The fourth point on which there seems to be an almost total lack of understanding involves the present role of the CYBER 76 in United States activities of a strategic nature, and in light of what it actually does, a realistic appraisal of its potential value to Soviet strategic programs (provided, of course, that operation of the machine could be diverted to those purposes).

Part of the fear that is expressed over this question undoubtedly arises from the generally low level of understanding of how computers work and what they do. For our purposes, it is sufficient and accurate to say that a computer is simply a very fast doer of arithmetic—additions, subtractions, multiplications and divisions—and no more. Because that is not well understood, and because of exploitation of that ignorance chiefly by science fiction writers, people have come to ascribe to computers almost supernatural powers. Nor are people generally aware of the millions of hours that are required of highly skilled experts to organize complex strategic problems in terms of basic arithmetic, and to program and adapt the

machines so that they will work on the problems in such a way as to turn out useful answers. Without that knowledge, there is a widespread tendency to believe that large computers such as the CYBER 76 can do almost miraculous things, practically by themselves. That, understandably, causes poorly-informed people to be suspicious and fearful of "powerful black boxes".

Thus, in recent public references to this proposed installation, we have seen descriptions of the CYBER 76 as "the 'brain center' of the Pentagon, the Air Force, the National Security Agency and NASA." Another says it is "20 years ahead of anything the Soviets can produce," and "could be turned against us to track U.S. missiles and decode sensitive U.S. intelligence". Another says, "Selling the Russians the CYBER 76 will allow them to build better nuclear weapons, more efficient missiles and will permit them to interconnect all their air defenses . . ." Yet another warns it will "give the Soviets the means to destroy us."

All that from one 10-year old machine! (Which, not incidentally, has been superceded in power, speed and capability by a whole new generation of computers made by several companies, including Control Data with our STAR 100.)

I would like to show you a list of the currently marketed systems from U.S. and Japanese manufacturers that are in the large and super computer classes. The performance of these systems is described by millions of instructions per second and the size of the memory. At the bottom you see the large computers that are equivalent to the CYBER 76 and the two computers that have been ordered by the Chinese Weather Service from Japan.

The Fujitsu M200 computer that is shown on the list of large computers, is the computer that is shown in the charts Mr. Donaghue presented as the weather computer in Tokyo.

At the top of the chart, you see Control Data, Cray Research, Burroughs and Texas Instruments all with one or more new machines in the manufacturing cycle and being delivered to customers. All are in the super computer class, with power, in terms of millions of instructions per second, more than 3 to 40 times greater than the power of the CYBER 76.

It is obvious from this chart that the CYBER 76 does not represent significant computer power compared to other machines that are being used today in weather and many other kinds of applications.

One would have to acknowledge, of course, that nearly any product or substance—a truck—could be used for military purposes. To be meaningful, however, the question must probe the level of significance of that utility. We are told, for example, that the interagency committee that has recommended against the Hydromet installation based its decision in part on the allegation that occasional one-tenth-of-a-second bursts of unauthorized use could be sneaked, undetected, from the CYBER 76 to the detriment of U.S. strategic interests.

The absurdity of such a statement becomes discernible when one considers some of the uses to which the machine is currently dedicated *on a full-time basis.*

In U.S. government cryptographic work, which requires large blocks of continuous computer running time, the total of Control Data equipment involved constitutes only five per cent of the computer power devoted to this task.

In U.S. government nuclear work, programs now being run on our STAR 100 computer require 150 hours of running time. On the CYBER 76 they would take 450 hours to run. More important, development of these programs required 2,500 hours on the computer and 28 man-years of program development time It was reported recently that one nuclear laboratory runs a particular program 350 hours per month.

In one missile tracking program, after several years of totally dedicated work by several CYBER 76's and CYBER 77's (these are dual 76's), and after hundreds of millions of dollars spent on computer hardware and software plus millions of person-hours on software development, the program is as yet only semi-operational.

The point of all this is two-fold: First, no program of any strategic significance can even be approached on the basis of short, occasional bursts of computer time, and second, the computer time required to work on programs of any significance would be quickly and easily detected.

Regarding technology transfer, computers, like the CYBER 76, are an application of technology rather than technology itself. The technologies associated with computers are the management and technical aspects of how to design, develop, manufacture and distribute hardware and software. Installation of the CYBER 76 will not expose or transmit any of this information to the Soviets.

It is naive to believe that the Soviets are not rapidly developing an indigenous computer industry. A review of the literature will show that the installed base of computers in the Soviet Union was in excess of 25,000 in 1976 and that annual production is in excess of 5,000 systems per year.

Finally, Mr. Chairman, comes our sixth point, that of the other important considerations that should be brought to bear on this decision—but which have been ignored.

For one thing, it may be helpful to consider this issue as one that is broader than simply the sale of a single computer, for surely it has implications for the agreements entered into in 1972 and 1973 by the United States and the Soviet Union to expand technological cooperation and trade. As recently as last year, we sat in a White House meeting and were urged to work diligently to expand our trade with the Soviet Union.

Additionally, for the first time in many generations the United States needs technological help in achieving more timely solutions to major societal problems. These include the need for alternate energy sources, improved energy conservation, greater environmental protection, more efficient water conservation, better health care, more efficient education and improved productivity. Additionally, technological innovation is the wellspring of new jobs and solutions to these major problems over time will provide the new jobs that our society so badly needs. Americans generally are uninformed of the vast Soviet resource of available technology that could be used in aiding solutions. The Soviets for some time have been making the largest investments of any nation in the world in terms of money, people and facilities devoted to basic research.

An example that illustrates this point appeared in the news just two weeks ago in an article headlined, "U.S. Gains From Soviet Technology," a copy of which is attached to this statement. I would like to read a small portion of it. It begins, under a Moscow dateline from the Associated Press:

"Despite a chill in detente, American and Russian scientists are working on a revolutionary way to produce electricity. United States sources say it is an example of the West's benefiting from Soviet technology.

" 'We think it will be the most significant event in U.S.-Soviet scientific cooperation since Apollo-Soyuz,' said one source, comparing the project to the 1975 joint Soviet-American space flight."

The article goes on to describe a joint project in magnetohydrodynamics, a relatively new development of potentially vast proportions that may well provide a badly-needed alternative energy source.

The article ends on this note:

"Critics of scientific cooperation have argued that the Soviets have gained far more from the exchanges than the United States.

"But an American scientist in Moscow argued that in the case of magnetohydrodynamics, 'It's really been the other way around.'

" 'We don't have anything like the equipment they have at the Institute of High Temperatures,' he said, describing Soviet cooperation in the project as 'marvelous'."

The most impressive aspect of this, I think Mr. Chairman, is that this kind of information is so startling to most Americans that it is almost unbelievable. Yet it is well known to those of us who are familiar with Soviet research and technology.

The article I quoted is pertinent to this discussion because the Hydromet sale is but one element in a broad, long-term agreement between Control Data and the Soviet Union under which the United States would acquire other important new technologies.

Our agreement, entered into in 1973 under the United States-Soviet umbrella agreement listed a number of Soviet objectives including the purchase of computers for use in scientific, seismic, weather and education applications. In return, in addition to payment for equipment, Control Data expects to receive technology in computerized process control and education and, through seminars in the United States by Soviet scientists and through Control Data's worldwide technology exchange service, to expand greatly U.S. industry use of the results of Soviet research. Denial of the Hydromet sale will undoubtedly hinder progress of such cooperative activities.

Directly measurable and more broadly felt will be the negative impact on job-creation opportunities in the United States. The CYBER 76 sale alone represents nearly 600 jobs for one year at Control Data alone—a high proportion of them skilled jobs. In addition, more than 100 jobs are created in companies that supply parts to Control Data. Seven hundred good jobs certainly are not insignificant, but they are but a small part of what will be denied in the aggregate.

To the best of our knowledge, the Soviets are self-sufficient in meeting their strategic computer requirements. In the commercial and industrial fields, Communist computer capabilities have reached the point of virtual self-sufficiency for small and medium-sized computers. The RYAD 1040 computer, their largest model in full production, is made in Dresden in a modern assembly plant. The output is a quality product. We know because we have been operating one for more than a year in our Vienna, Austria data center.

Peripheral equipment technology in the Eastern Bloc is also progressing and it is clear that the level of technology, while not as advanced as in the U.S., has reached a point where any key equipment required could be produced within the next year or so.

Clearly, over-restrictive U.S. export policies and administration have caused the Communists to accelerate the development of their own computer industry. The future rate and extent of development is a simple matter of priorities with them.

The only part of the Communist computer mainframe market, estimated at $1.5 billion per year in 1976, which is not fully met with existing production, is for large computers at or above the performance level now allowed by COCOM guidelines, but which will be raised periodically as technology advances. It is estimated that in two or three years

COCOM guidelines will include computers equivalent to the 7600.

According to Control Data research, the large computer market opportunity for non-Communist suppliers is now about 25 per year with a value of $75 to $100 million. This segment will grow. In the ten years ahead, we estimate that the value of the Communist-installed computer base, exclusive of mini-computers, will be $43 billion. This represents an $8 to $10 billion market opportunity for U.S. companies over this ten-year period. By 1985, the U.S. could enjoy sales in excess of $2 billion per year—a level of 100,000 jobs in 1985. By way of comparison, this is about the same number of jobs as in the U.S. semiconductor industry today.

Within the Communist countries, large computers are under development and production is planned within 24 months. The major portion of this market for large computers could be retained by U.S. manufacturers if an installed base were established because that would avoid the very large and complex task of converting programs from one software system to a different one. New computer applications added to the extensive software base presently available with U.S. computer systems would add to the staying power of U.S. computers.

Another of the major opportunities for U.S. manufacturers is in peripherals. That market is now at $300 million per year and growing. In the ten years ahead, it will grow to a 1985 market opportunity of some $1.2 billion, unless we force them to produce their own. This translates to an additional 50,000 jobs in 1985, and that level would rise.

The Communist Bloc has the basic technology to become self-sufficient by 1980 and have significant export capability by 1985. As the Communist computer industry builds this capability and capacity, it will capture an increasing share of the third world market. Small and medium-sized Communist computer systems are now being delivered into this market at an annual rate estimated at $50 million. This third world market will expand to an estimated installed value of $7 billion worth of computer systems in the next ten years, and offers a market opportunity for U.S. suppliers in 1985 of about $1 billion—a level of 40,000 jobs in 1985.

In addition to the competition from Communist Bloc countries, the Japanese and German competition is going to be tough during these years in both third world and Communist Bloc markets; so we should do everything reasonable now to avoid giving these competitors additional advantages. The decisions being made at this time will largely determine whether or not U.S. computer manufacturers will be able to achieve the potential reasonably available to them.

These combined markets will represent a level of jobs in excess of 200,000 per year by 1985—108,000 for the Communist Bloc peripheral market and 44,000 for the third world systems market, for a total of 202,000.

It nets down to meeting the present Communist needs for about two dozen large computers a year and certain peripheral equipments for the next three or four years or losing most of those 200,000 jobs.

Denial of the export license for Hydromet will have adverse consequences on future U.S. computer sales. Meanwhile, Hydromet will certainly get a computer—either the most powerful one that is available from the West or one that will be developed in the Soviet Union.

That brings us back squarely to the need for a competent, broad view evaluation of this computer sale instead of deciding it on the absurdly narrow question of whether it could be diverted secretly for a tenth of a second.

I mentioned at the beginning of my testimony our concern at the misinformation that has been circulated about the CYBER 76 Soviet weather application. Without the kind of background and detail I have attempted to provide to you today, a large number of members of the House signed a petition to the President to bar the CYBER 76 export license. Nine of them were members of the parent International Relations Committee.

What this means to me is that we at Control Data have a very serious and tremendous task to communicate to the Congress and to the public on the facts. I regret that we did not have or take the opportunity to present these facts at an earlier date. In the final days of the evaluation process the Department of Commerce asked Control Data if we had any final comments on the CYBER 76 export license application and on the report of the safeguard committee. Control Data vice president George Bardos documented our response to Mr. Rauer Mayer, director of the Office of Export Administration. We have included Mr. Bardos' letter in our submission. In our letter we were very specific on a number of points that were raised by the safeguard committee. But since the points raised were broad conclusionary statements it is not possible to pin-point the problems. There are different ways of meeting objections if only we knew what they were. I trust you will feel free to call on Control Data in the future when clarifying information is desired. We stand ready to be of service to you. Finally, Mr. Chairman, we ask your permission to make copies of this statement available to the public.

ROY WILKINS—A JOB WELL DONE

Mr. BAYH. Mr. President, I think it appropriate that we take a few brief moments to honor one of the greatest Americans to ever live. As you are aware, tonight marks the end of the long and successful career of Mr. Roy Wilkins as executive secretary of the National Association for the Advancement of Colored People—NAACP. For the past 46 years, Mr. Wilkins has been in the lead for the civil rights of all minorities. It is only fitting that his career end and the torch be passed in his own home State of Missouri. And let me just add, Mr. President, that I feel the torch is being passed to a very able and competent successor, Mr. Benjamin Hooks. I feel strongly that Mr. Hooks will continue to lead the struggle for the civil rights of all Americans just as Mr. Wilkins has done in the past.

Mr. President, as we all know, leadership can be a very difficult and tiring job. But to be the leader of a civil rights organization that has been criticized and abused by both white racists and black militants calls for a special kind of talent as well as a special kind of strength. That is the kind of leadership that Mr. Wilkins gave to his organization. He quietly went about the task of leading the struggle for civil rights. He did not take to the streets and shout "burn baby burn." He did not attempt to undermine the American political system. Instead, he ingeniously used that system to better the conditions of his people. He took his case to the courts in a number of legal battles. And in case after case, he won. Just as Mr. Wilkins and the NAACP utilized the legal structure to gain rights for black people, he also utilized the great offices of the United States. Mr. Wilkins played an instrumental role in the signing into law of the Civil Rights Act of 1964, and he was a key factor in much of the social legislation of the late 1960's. He counseled U.S. Senators from the North as well as the South. And he advised Presidents, both Republicans and Democrats.

Yes, Mr. President, Roy Wilkins has done his share to make this a better country for all Americans. And he has done it through the appropriate channels. Now, as he retires after 46 years of service to his country, let us not forget his cause. Let us not forget that equality is not yet a reality for all Americans. If we fail to continue to strive toward equality, then all of us must look shamefaced at Mr. Wilkins and admit that we are not made of the same stuff as he. We must admit that we have not learned a lesson from his 46 years of struggle. Only when we erase all traces of bigotry and prejudice, and only when we assure all Americans of an equal education and job opportunity, can we then look Mr. Wilkins straight in the eyes and say to him, a job well done.

PROTECTING THE HOUSATONIC RIVER

Mr. RIBICOFF. Mr. President, last fall the Congress enacted legislation I had authored to place the Housatonic River in western Connecticut on the study list of the National Wild and Scenic Rivers System. This important urban river system clearly warrants designation as a "wild and scenic river," particularly as three State parks, a State forest and two State fish and game sites are located within the Housatonic corridor.

In November 1976 the Interior Department's Bureau of Outdoor Recreation launched its study of the Housatonic. A number of public information meetings have been held in communities along this beautiful stream. A series of followup meetings are scheduled to begin today in Falls Village and later in Kent and Brookfield.

I am delighted to learn that the BOR's study team, following the initial assessment, concluded that—

> The Housatonic River from the Massachusetts/Connecticut border downstream to Boardman Bridge, has been found eligible for the National Wild and Scenic River System.

The BOR report continued that—

> This eligibility of a 41 mile stretch of river has been based on its generally free-flowing natural conditions, its high water quality, its capability to support water-related recreation and its outstandingly remarkable archeological value, historical resources and excellent fish and wildlife habitat.

Affirmative steps to preserve and protect this rich natural resource must be taken without delay, particularly as the Housatonic is being seriously threatened by industrial pollution, primarily polychlorinated biphenyls—PCB's. PCB's are being discharged into the Housatonic by a General Electric plant at Pittsfield, Mass. Even though General Electric apparently has the necessary permits from the Environmental Protection Agency, I am distressed to learn that trout taken from the Housatonic just last week were found to have two to three times more PCB than permitted by Federal regula-

tions. The quality and basic integrity of the Housatonic must be guaranteed and I am hopeful that the Interior Department will expedite its study of this river and move to complete its designation as a "wild and scenic river."

Mr. President, I ask unanimous consent that two editorials dealing with the presence of PCB's in the Housatonic and the need to protect the river, which appeared in last Sunday's Hartford Courant, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

HOUSATONIC POLLUTION

One of Connecticut's most beautiful rivers —the Housatonic—has been polluted by a toxic industrial chemical known as PCB (polychlorinated biphenyl), highly suspect as a cause of cancer in human beings because it has been proved a cause of cancer in animals.

Most of the PCB in the river is thought to come from a General Electric plant, in Pittsfield, Massachusetts. Incredibly, GE still holds a 1975 permit from the federal Environmental Protection Agency allowing the plant to discharge a quarter of a pound of the chemical in the river each day.

In 1975, fish taken by the EPA from the river downstream of the plant had high levels of PCB—seven times the allowable federal limit for meat consumed by the public.

Then, last week, the preventable disease section of the Connecticut health department found that trout taken from the river at Cornwall had two to three times more PCB than the federal limit allows.

State health officials have since decided to warn the public that fish caught in the river should not be eaten because they are a health hazard. The state is also considering restrictions on fishing in the river. (In several river and lake regions across the nation, including New York, PCB contamination has forced officials to close those waters to fishing.)

Meanwhile, federal EPA has been working on a new standard for the permit issued GE—a permit that would allow GE to continue to dump PCB in the river, but reduce the limit to one-sixth of a pound per day. GE has indicated it may discontinue any discharging of PCB in the Housatonic, even without an EPA order to that effect; but GE has made no firm commitment on this.

EPA has been considering its proposed new limit for a year and a half. That is a long time to permit a poison to be dumped, particularly in view of the fact that scientists have found that, even if the discharge is cut off completely, PCB remains in the environment of the river—in sludge, fish, and other wildlife that eat the fish—for many years into the future.

Immediate federal action must be taken to stop the PCB pollution of the Housatonic River—to protect the health of the public and wildlife in the river's environment.

A quarter of a pound of poison per day is not much to keep from the river, and contain. But once it gets into the Housatonic it is as difficult to contain as the river itself . . .

NEEDS FEDERAL ACTION

Federal action to halt the discharge of PCB into the Housatonic is urgently needed, but a proposal to designate a 41-mile section of the river as part of the National Wild and Scenic River System is needed as well.

That section is from the Massachusetts-Connecticut border downstream to Boardman Bridge in New Milford.

That section of the river was found to be eligible for the federal designation after a study team recognized the Housatonic's free-flowing natural condition, including its "good" water quality, its recreational value, the "outstanding and remarkable value" of its archeologic and historic resources and its value as an excellent fish and wildlife habitat.

If the river through most of its course through the state is to be accepted in the federal wild-and-scenic river system, the towns along the river and state and federal agencies will have to develop a master plan for the future management of the river, to preserve its many attributes.

The wild-scenic river designation, created by an act of Congress, also requires a cooperative effort by local, state and federal agencies to improve the quality of the river once the designation is approved.

Approval also would mean the river would get additional protection from federal agencies—including protection from the development of federal public works projects, or any projects licensed or funded by the federal government that might detract from the river's value as a wild and scenic resource. The designation would also mean the river would be given a high priority for federal financing of projects that would improve the river and its watershed.

And it would give federal and state agencies the "added compulsion,"—as one federal official put it—to improve the water quality of the river.

It is that kind of compulsion that is of urgent need now, because of the PCB pollution problem that is a serious threat to the health of persons who eat fish taken from the river, as well as a threat to the fish and other wildlife within the river valley.

Moreover, the continuing PCB problem is evidence enough that the public cannot rely solely on one federal agency—or perhaps any single agency—for a solution to such problems.

The proposed federal "wild-and-scenic river" designation would mean that the health and environmental "watchdog" agencies at all levels would be coordinated in their efforts to preserve the river.

Thus they would be watching one another, while they would be looking for any problems that might harm the Housatonic—wild, scenic and (except for the PCB poisons) of benefit to people, and to all of God's other creatures, great and small, that live within its reaches.

HOWARD CALLAWAY'S CRESTED BUTTE, COLO., SKI AREA

Mr. HASKELL. Mr. President, because of the nature of the July Harper's magazine article on my Senate subcommittee hearings into the proposed expansion of Howard H. Callaway's Crested Butte, Colo., ski area, an analysis of its contents seems in order.

The article appears to have been written at Mr. Callaway's request to try to disprove what the evidence proved to the subcommittee that Mr. Callaway acted improperly in using his own high public office in trying to influence the decisions of a Federal agency in his own interests.

The author, Jim Hougan, seeks to prove that the investigation's sole purpose was political, orchestrated to bring down President Ford's campaign manager and pave the way for a Democratic victory last November. Mr. Hougan attended none of the hearings. He did not interview me, ignoring an invitation twice extended by one of my staff. He did not interview Owen Malone, the Interior Committee's senior counsel and the man who conducted the investigation. He did not interview Steve Quarles, subcommittee counsel. He quotes from the hearing record in fragments, ignoring it completely when it suits him.

Jim Polk, the Pulitzer prize-winning reporter whose investigation unearthed much pertinent information about the Crested Butte matter, did attend the hearings. He gave the Rocky Mountain News these comments about the article: "He's, Hougan, done a very good job of extracting from the hearings sets of facts that would support his contention and omitting quotations that would not," said Polk. He accused Hougan of "practicing selective journalism and the distortion he accuses the other side, Haskell, of practicing." Polk said Hougan used "cheap shot tactics" and said it appeared the author "sat down to do a hatchet job."

Hougan raised questions of timing and procedures to make the case that there was no justification for the hearings. But he ignores several critical issues which contradict that argument. He ignores, for example, what the record clearly shows: that in 1973, Mr. Callaway successfully intervened with high-ranking Agriculture Department officials on behalf of his own ski area.

Forest Service personnel had repeatedly said that a 140-acre tract of public land—known locally as Tony's parking lot—could not be added to the resort's existing permit to operate on public lands. Mr. Callaway's October 5, 1973, Pentagon phone log shows that he called an old Georgia friend, Deputy Agriculture Under Secretary Richard Ashworth, to set up a meeting on October 9 between ski area and Forest Service representatives in Washington. A Forest Service memo summarizing the meeting notes that "Bo Calloway, sic, Secretary of the Army, is one of the developers." Unable to convince Forest Service field personnel to reverse their professional judgments, Mr. Callaway simply did what most citizens cannot do—he went over their heads. The decision on Tony's parking lot was reversed shortly and the land was added to the Crested Butte permit.

Mr. Hougan also makes the statement on page 38 of his article that—

Callaway has never been publicly accused—by anyone—of breaking any law or violating any policy governing the demeanor or actions of a public official.

My subcommittee made no such allegations, of course. It did, however, set out to answer a series of questions which were troubling many Crested Butte residents. And they were not the only ones troubled by questions about Mr. Callaway's conduct. By the time the subcommittee investigator got to Colorado, many files from the regional and district Forest Service offices had already been boxed up and shipped to the Justice Department in Washington for its own lengthy criminal investigation of Mr. Callaway.

The Justice Department finally recommended against prosecuting Mr. Callaway. But, according to press reports, it coupled that with a strong recommendation that the vague—unenforceably vague—conflict-of-interest statutes be redrawn to cover such situations.

Mr. Hougan did not bother to mention the Justice Department investigation. He also ignored investigations being con-

ducted by the Agriculture Department's Office of Investigations and another by the Civil Aeronautics Board. The CAB was looking into contacts Mr. Callaway made with CAB Commissioners as they were considering a decision which would directly—and seriously—affect his ski area, the matter of charter ski flights from Atlanta to Gunnison, the airport which serves Crested Butte.

The CAB said it found no certain violation of conflict-of-interest regulations in Mr. Callaway's contacts but it did say that his actions represented poor judgment and left the appearance of a conflict of interest.

So Mr. Callaway's actions in the Crested Butte matter were sufficiently questionable to interest not only a Senate subcommittee but three executive agencies—in a Republican administration.

There was ample evidence to show hearings were warranted from the time the Forest Service published its draft environmental impact statement on the East River unit of the Gunnison National Forest in December 1975. And we had scarcely begun to learn of all the behind-the-scenes activity preceding that reversal.

My interest in the Crested Butte matter began 2 months earlier, in October 1975. Two public officials from that town, Mayor Tom Glass and County Judge John Levin, told me they—and many other Crested Butte residents—feared political pressure was being brought to bear on the Forest Service in connection with its preparation of a multiple use plan for the East River unit of the Gunnison National Forest, part of which was under permit to Mr. Callaway's ski resort.

They detailed a chain of events, facts and circumstances which they said led them to fear the Forest Service was being pressured to change a tentative plan issued on January 20, 1975. At issue was the expansion of the ski resort from Mount Crested Butte to the adjacent Mount Snodgrass. The tentative plan cited several reasons for its recommendation against expansion. Among them:

First. Room remained to expand facilities on Mount Crested Butte to meet increased demand.

Second. The ability of local governments to cope with more ski-related growth was a serious question.

Third. Additional Forest Service soil tests were necessary on Mount Snodgrass to determine whether it was even suitable for ski development.

The mayor and the judge said that after the tentative plan was issued, the three local Forest Service staff people involved in the plan were transferred. The new regional forester was from Georgia, as was Mr. Callaway. The Crested Butte residents said they expected the Forest Service to reverse the earlier decision in a draft environmental statement due shortly.

I told Mayor Glass and Judge Levin that if the Forest Service did, in fact, reverse the decision, I would look into it. I further told them that, if that happened, I would like to have a written account of everything they had told me during our discussion.

When the draft statement was issued on December 16, 1975, it reversed the earlier tentative plan and recommended the expansion to Snodgrass. And the draft statement—the public document which, if approved, would govern the Forest Service's administration of the public lands in the East River unit—included the ski corporation's master plan for the disposition of Mount Snodgrass—Forest Service officials later testified that such an inclusion was rare if not unique.

It was also significant that only one of the reasons against the expansion was discussed in the document. The Forest Service used revised figures to show that Mount Crested Butte was nearing ski capacity. But the new capacity figures, revising earlier ones downward by 50 percent, were supplied by the ski corporation and accepted without question by the Forest Service—even though the regional recreation specialist for the agency urged that the figures be verified. The questions of soil tests and the local governments' ability to cope with additional growth were not discussed.

The Harper's article makes much of the timing of what happened from this point forward, seeking to make the case that everything was timed for maximum political advantage. The author wonders why I waited 5 months to ask the Forest Service any questions about the Crested Butte matter. There was no 5-month delay. I first met with the Crested Butte officials in mid-October. The reversal—without which all their fears were groundless—actually occurred in mid-December. It was mid-January—3 months after the first meeting—before I got the written account from Mayor Glass and Judge Levin. They had asked Myles Arber, a local newspaperman, to prepare it. After making some revisions in it, they assured me its substance accurately reflected their concerns.

I wrote the Forest Service on February 19, 1976, asking for a detailed explanation. Two and a half weeks later, after receiving only a routine acknowledgement of my letter, I determined the matter warranted a subcommittee investigation. I asked for one and on March 8 set hearing dates.

The Forest Service response arrived 3 days later. Even then, it did little to answer questions the Crested Butte residents had brought to my attention. Its answers were incomplete and one question—dealing with Forest Service conflict-of-interest policies—was ignored.

Within days, NBC's Jim Polk and other reporters discovered far more questionable activities than I had any inkling of when I called the hearings.

Among the most serious was the meeting Mr. Callaway held in his Pentagon office with Agriculture Undersecretary Ashworth—the same Mr. Ashworth whose help had been so valuable in the Tony's parking lot addition—and an Undersecretary of Agriculture, Phil Campbell, also an old Callaway friend from Georgia.

The Harper's article adheres faithfully to Mr. Callaway's version of that meeting. It was, he says, a perfectly innocent courtesy call from two old friends who wanted to wish him well and goodbye on his last day at the Pentagon before he moved to the President Ford campaign headquarters—which, incidentally, were much closer to the Agriculture Department than the Pentagon is.

And, according to Mr. Callaway, the two friends also came by to "bring him up to date" about the situation with the Crested Butte ski area expansion.

To that end, they had in tow the second ranking official in the Forest Service, Rex Resler, a career official who hoped one day to be the Chief of the Forest Service. During the course of that "courtesy call," the Georgians put Resler on the phone with Ralph Walton in Crested Butte.

The scene, then, was this: There, in the Pentagon office of the Secretary of the Army, sat the Deputy Chief of the Forest Service, discussing Forest Service decisions with an applicant by phone—all under the watchful gaze of two superiors from the Forest Service's parent agency and the Secretary of the Army, soon to become campaign manager for the President of the United States.

Reasonable people might assume Mr. Resler was acutely aware of his surroundings and his audience while he listened to Mr. Walton plead his case for a reversal of the tentative plan's decision against designation of Mount Snodgrass for skiing. I and the other members of the subcommittee certainly wanted to pose that question. During the hearings, Mr. Resler characterized the meeting as unique in his experience. Forest Service Chief John McGuire testified he was unaware of another case like it.

The author of the Harper's article argues that the phone call did little good, noting that Mr. Callaway later wrote Walton that—

> I really couldn't get too much out of Rex Resler. Every time I thought I had him pinned down, something else came out . . .

That seems a clear statement that Mr. Callaway was after something at that meeting, later dismissed, as a "courtesy call" by old friends.

One of author Hougan's most obvious distortions is his interpretation of the recess in the hearings so the three Crested Butte citizens could testify. Hougan argues it was done simply to prolong Mr. Callaway's agony and to make the most political mileage from the hearings. Neither is true. And to know that, one has only to read the hearing record.

Shortly before the hearings began, Mr. Callaway wrote me to request that Arber, Glass, and Levin be called to testify and "required to spell out all allegations in detail," so I asked the three to come to Washington. They did so voluntarily. But before they were to testify, they learned that Mr. Callaway's brother-in-law, Ralph Walton, and several others associated with either the ski area or the town of Crested Butte, were planning to sue them for slander, defamation of character or some similar charge.

With those charges in the mind, the three said they would be happy to testify but wanted to go through the formality of being subpoenaed. The subcommittee

counsel asked Jerris Leonard, Mr. Callaway's attorney, if he still wanted all three to testify. The committee was willing to issue the subpoenas if Mr. Callaway wished. The attorney, Jerris Leonard, said that Mr. Callaway did not want the three to testify and withdrew the request in writing.

But when Mr. Callaway testified, he criticized the committee, charging he had been denied an opportunity to "confront his accusers" and so was handicapped in preparing his "defense." He repudiated his own attorney. I again asked Mr. Callaway whether he wished all three to testify. He said he would settle for one, Mr. Arber, who was present. Levin and Glass had returned to Colorado, and that he would "waive all his rights," all he wanted was to get the hearings over with.

In my view, Mr. Callaway was deliberately laying the groundwork for a later charge that the subcommittee was unfair, regardless of what happened. I saw no alternative except to recess the hearings and subpena Arber, Glass, and Levin. I had never discussed the Crested Butte matter with Mr. Arber. I thought it imperative that if the origins of the investigation were to be discussed, the subcommittee hear from the two officials who first contacted me.

Mr. Hougan does not bother to point out that the hearings could not have been concluded that day—April 12—anyway. The subcommittee wanted to question Agriculture Secretary Earl Butz who was out of the country. We simply recessed the hearings to allow testimony from the three Crested Butte residents and Mr. Callaway on May 13—the day we had already scheduled to hear from Secretary Butz.

A final example of the author's refusal to consider anything which did not conform to his own view of the hearings is his interpretation of the committee's approval of the final report on the hearings. Mr. Hougan contends that a second vote was held to allow Senator FRANK CHURCH, for political reasons, to vote in person rather than by proxy as he had originally. This is incorrect and Mr. Hougan knew it to be incorrect. He asked a member of my staff why there were two votes. My staff person carefully explained to him, after checking with subcommittee counsel Steve Quarles, the reason for the second vote. He ignored it.

The first committee meeting to consider the final report occurred during the last days of the 94th Congress. It is customary for committees to meet while the Senate is in session but unanimous consent of the Senate must be given. Such consent is routinely sought and routinely granted.

But on this occasion, one Senator objected to allowing any committee meetings. His objection was not aimed at our meeting but at another, entirely unrelated, committee session. Because he objected to all committee meetings, unanimous consent was denied. The Senate leadership neglected to inform the committee in time either to postpone the meeting or to interrupt it; the vote had occurred and the meeting had adjourned.

We learned later that the unanimous consent request to hold committee meetings had been denied. Therefore, neither the meeting nor the vote taken at it was official. Another meeting and another vote were necessary. They were held at the insistence of the Interior Committee counsels. Neither Senator CHURCH nor any other Senator asked for the second meeting.

Before the hearings were concluded, the Subcommittee discovered ample evidence that Mr. Callaway had used the trappings of his office to try to influence decisions favorable to his ski area—calls from his Pentagon office, letters on Army Secretary stationery and at least one meeting there.

The Harper's article notes that, had Mr. Callaway really sought to use his "political influence," he would have used President Ford's campaign letterhead.

Of course, Mr. Callaway did that too, as author Hougan would have discovered had he bothered to read the full record. Mr. Callaway wrote at least two letters to reluctant lenders, one on Crested Butte ski area letterhead with the return address of the Ford campaign headquarters typed in, the other on Ford campaign stationery. Both letters are reproduced in the appendix to the hearing record.

There are so many distortions, omissions and factual errors in the article that they can only be explained as willful. Mr. Hougan, for example, claims the investigation and hearings would never have been held if Mr. Callaway had not been who he was—Secretary of the Army and President Ford's campaign manager. That may be true. Improper political influence necessarily involves people who are politically influential. And had Mr. Callaway been just another citizen he would have had little with which to attempt to coerce Forest Service officials to rule in his favor. He would have been left with the ordinary citizen's remedies when public policy interferes with private interests.

But because of who and what he was—and, perhaps more importantly, how he viewed his responsibilities as a public official—Mr. Callaway was able to go far beyond that. In neither the Tony's parking lot nor the Mount Snodgrass matters did Mr. Callaway even bother to exhaust normal channels of appeal from local Forest Service decisions. He did not have to. He skipped all the steps provided for ordinary citizens and went as close to the top as he could get. Lacking direct connections in the Forest Service—an agency long known for the integrity of its personnel and procedures—Mr. Callaway went to the Agriculture Department where old Georgia friends were altogether too anxious to help.

When the issue first arose, I carefully considered the virtual certainty that our inquiry would be labeled a political hatchet job. But I was also faced with the question of how our ignoring the situation would be viewed. Too many people harbor a deep-seated view that the Government responds only to the powerful, the influential, and the well placed.

On balance, it seems to me the subcommittee had a duty to investigate the Crested Butte matter. The hearings were necessary to show those who mistrust Government officials that their suspicions were groundless, or—if their suspicions had some basis in fact—that there is some accounting for the abuses of power and position.

So the hearings went ahead. And the record compiled during those hearings stands on its own.

The final report also made 18 recommendations designed to improve Forest Service procedures, speed decisions, clarify conflict of interest regulations for Federal officials and agencies, and insure full public participation in decisions involving public lands.

Several of the recommendations were included as amendments in a bill I had introduced earlier and which the Senate passed last July 2. The House of Representatives did not act on that bill. I reintroduced it in this Congress and the Energy and Natural Resources Committee reported it to the full Senate in mid-June.

SALUTE TO THE SUMMER INTERNS

Mr. MATHIAS. Mr. President, today's temperature—92 degrees in the shade—is a forcible reminder that summer is not the best season for legislators, at least not as far as climate is concerned.

But, in another way, it is by far our best season, for it is the time of year when almost every office on Capitol Hill is enriched by the talents and energies of summer interns. The young people who come to Washington to participate in these summer programs bring with them fresh enthusiasms and new insights that invigorate us all. Every year I look forward to their arrival and invariably when they leave again in the fall the office seems a little flat.

But, just as inevitably as they leave, these interns also leave behind them a legacy of legislation, or research, or an improved office infrastructure that quite simply would not have been possible without them. I hope that they leave here feeling that it has been a worthwhile learning experience, too. But I always end up fearing we have gotten much more than we have given.

These Capitol Hill interns are in the best tradition of American voluntarism. They provide an added dimension to our work that volunteers throughout the United States and from the earliest beginnings of American history have provided in the many areas to which they have devoted their concern and their time.

On June 9, 1977, Maryland held its First Conference on Voluntarism in Baltimore. Close to 600 men and women attended this conference at which I was privileged to speak. Although most of them were deeply involved in the volunteer sector, I have since learned that some of the material incorporated in my talk was not easily accessible to them and so I thought that perhaps my colleagues too would be interested in some of these facts on voluntarism. For that reason, and as a salute to the many volunteers among us for the summer, I ask unanimous consent that my address

to the Governor's First Conference on Voluntarism be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR CHARLES McC. MATHIAS, JR.

It is always very satisfying to be in on the beginning of something important, and Maryland's First Conference on Voluntarism is something very important and very timely indeed.

There has been a remarkable expansion of voluntary organizations and of volunteerism in Maryland over the past two decades. Demand for the services of voluntary agencies and of volunteers has also expanded dramatically. This conference, therefore, can be extremely important in several ways:

First, as a means of recognizing and publicizing the tremendous contribution the voluntary sector and volunteers are making today to the quality of life in every corner of Maryland,

Second, as a way of organizing an effective exchange of ideas and experience on which further exchanges can be built, and

Third, as a vehicle for promoting coordinaton of volunteer services in Maryland.

It is a pleasure to be here. It is a privilege to address the people who are, in my opinion, the real lifeblood of our society. I salute you and all your works.

I must admit, however, that if you stay on Capitol Hill for too long at a time, you get to thinking that Congress is the hub of the universe—that the legislative process is the "be all and the end all" of our democracy. So it's refreshing to look out at all of you and to get my perceptions back in focus.

There's no doubt that the law has a unique place in our society. It always has. But, to use a fashionable phrase, let's look at the bottom line. There, it's not the law you see. There you see the dedicated, active, committed citizen who keeps our society—our democracy—working and well.

The bottom line is you.

Jean Jacques Rousseau predicted that:

"As soon as public service ceases to be the chief business of the citizens, and they would rather serve with their money than with their persons, the state is not far from its fall."

From the turnout here today, I'd say our state still is in pretty good shape. There are other encouraging signs too. An ACTION report, based on 1974 Census interviews, estimates that 37 million Americans volunteer their services yearly at a rate of nine hours a week. This means that about 24 percent or close to one in every four Americans over 12-years-old is volunteering regularly. Twelve years ago only 18 percent of this same group of Americans was participating in voluntary programs.

Another good development is that, while the typical volunteer is still relatively affluent, 12 percent of all volunteers now come from families with incomes of less than $4,000, and 17 percent of the unemployed donate their time. So, the volunteer base is not only expanding numerically, it is becoming more inclusive as well.

Women still have a slight edge over men in number of volunteers—59 percent are women. But, the end result is pretty close because men average ten volunteer hours a week to eight for women.

You can measure the importance of voluntary action by the fact that even five years ago more than 500 institutions of higher education had officially recognized student volunteer programs. I can testify firsthand to the value of these programs because my legislative staff and I have benefited enormously from a succession of college student volunteers. As is typical of voluntary action generally, the college students who have worked with me have helped accomplish things that otherwise might not have been possible.

Just this spring we had a good example of that. A volunteer law student from Antioch played a very key role in researching and drafting a bill I submitted in the Senate to prohibit the use of children in pornography. This crucial legislation—S. 1585, The Protection of Children from Sexual Exploitation Act—would have been seriously delayed without the skilled and dedicated work of that young Antioch student.

This, to me, is a very significant aspect of volunteerism. In every community in our nation today, in governmental institutions, in voluntary organizations, volunteers perform functions and provide services that simply would not exist otherwise. And they bring with them a range of skills and experience that also would not be available otherwise.

Contrary to what some believe, only 15 percent of volunteer time is spent in areas that involve paid labor, according to ACTION's study. This is not a very serious overlap in the total employment picture. And when you consider that volunteers and voluntary agencies are either doing tasks left undone when public money runs out, or are identifying new, and unmet needs and pioneering programs to meet them, the question of overlap becomes even less pertinent.

The urban problems that plague this nation, combined with mounting inflation, have pushed the cost of city services practically out of sight. And as economy measures have been applied, volunteers have moved to fill the void. A Report of the Municipal Research Services Center of Washington State forecasts that our cities will look more and more to citizen volunteers to help them meet their mounting costs. The Report cites national statistics for a recent five year period that show:

Urban sanitation costs are up $319 million,

Parks and recreation costs are up $474 million,

Fire protection costs are up $551 million, and

Police costs are up $1.1 billion.

I can assure you that the old solution of hiking taxes up a little to cover these new expenses just won't work any more. I get an average of 1500 letters in my Washington office every week. About half of them express emotions, ranging from concern to outrage, about rising taxes and inflation. I'm sure you all share the general taxpayer concern about the mounting costs of government—both federal and local.

In this atmosphere, there is just no way that our social needs are all going to be met by publicly funded programs. Our situation today reinforces Abraham Lincoln's judgment that:

"Government should do for the people only what the people cannot do for themselves, either as individuals or through various associations that they form to serve one or the other non-political purpose."

Everyone here in this room testifies to the wisdom of that judgment. You are the people doing for themselves, and for each other, individually and collectively. In the process, you perform work estimated to be worth somewhere between $29 and $70 billion annually. David Horton Smith, of the Association of Voluntary Action Scholars, has pointed out that:

"The total of American volunteer service time has a dollar value that is larger than the dollar value of all paid work producing goods and services in many of the countries of the world . . ."

That is really something to think about and something to be proud of too.

But, putting a monetary value on the contribution of America's volunteers and voluntary organizations—no matter how high the figure is—misses the mark by a mile.

The most important dimension volunteerism adds to our society is love. Some people call it caring, some call it filling a need; others put a reverse twist on it and say they feel a need to be needed. A national Harris poll of all volunteers in correctional agencies reveals that 54 percent "feel a need to help others".

This, I think is the crux of volunteerism. The need to give, the need to be needed, the need to be associated with a worthwhile goal.

Not long ago, President Carter spoke of the "right and responsibility of every American" to volunteer. I agree wholeheartedly. But, it is not enough to speak of these rights. We must clothe them with reality.

As a nation we can no longer afford, whether by design or by accident, to exclude anyone from organized volunteerism. We must not inhibit anyone's full participation by maintaining outdated standards, or by relegating anyone to a particular type or class of volunteer service.

Everyone can contribute to the solution of society's problems and everyone—regardless of age, or sex, or race, or religion, or ethnic background—can learn and develop new skills which will enable them to contribute even more.

Many of our institutions in the past were organized on the basis of age. Now we must bring the vitality of youth, the experience of the middle-aged and the wisdom of the elderly together in innovative patterns of volunteer service.

In recent years we have seen a rapid growth in the development of public programs to meet the needs of our citizens. There has also been a substantial mingling of public and private funds to support private sector programs. But there has been too much duplication and too much competition. The time has come for less competition and for greater collaboration and cooperative planning between public and private institutions and organizations.

Maryland's Executive Director of the Department of Human Resources, Charles G. Tildon, Jr., and James C. Thompson, Jr., of the Maryland Service Corps, in their very valuable study "Forms and Formalization of Volunteerism: An Historical Perspective" suggest that governmental action has changed the composition and broadened the purpose of universal volunteerism. These changes have, in turn, transformed volunteerism's style, and expanded its objectives.

They write:

"Until government stepped into the field of volunteerism, the organized, universal type was essentially closed to these (blacks, Chicanos, American Indian) minorities."

Now, I believe, volunteerism is remaking its image. After many generations of describing our nation as a melting-pot, we are now able to recognize and celebrate our pluralism. You who are here today, must forge a philosophy of voluntary service and citizen participation which reflects our new awareness of ourselves. It must encompass a wide range of motivations, a variety of objectives and rewards, and it must embrace a panorana of volunteer forms and styles which can serve as prototypes of the America we might become, if we try hard enough.

I wish you good luck in a great endeavor.

ORDEAL: YOUNG AMERICANS IN MEXICAN JAILS

Mr. CHURCH. Mr. President, the treatment of U.S. citizens imprisoned in Mexico has become a major issue in the normally amicable relations between our two countries. The plight of these young Americans is the subject of an article by Carl J. Migdail in the June 27 issue of

U.S. News & World Report. The article is particularly timely because of the pending treaty with Mexico on the exchange of prisoners.

Under the treaty, Americans in jail in Mexico and Mexicans in jail in the United States would be allowed to choose to serve the remainder of their sentences in their respective countries. I hope that this treaty, which represents a new approach in dealing with a troubling situation, will be promptly approved by the Foreign Relations Committee and that enabling legislation to implement it will soon be enacted.

Mr. President, I ask unanimous consent that the article entitled "Ordeal: Young Americans in Mexican Jails" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ORDEAL: YOUNG AMERICANS IN MEXICAN JAILS

(It's a story of torture and wasted years. For this report, Carl J. Migdail of our staff talked to American prisoners held behind bars.)

MEXICO CITY.—In both the U.S. and Mexico, a belief is growing that the years of suffering by 482 young Americans in Mexican jails for drug offenses are already full payment of their debt to society.

Many have been beaten and tortured. Thousands of dollars have been extorted from their families. And the brutal conditions under which they serve their sentences in Mexican prisons have now touched off outcries in protest in the United States.

The bitterness was reflected as far away as Washington. Senator Jacob Javits (Rep.), of New York, called for action by President Carter to improve the treatment jailed Americans receive in Mexico.

TOP-LEVEL ISSUE

"It really comes down to whether the Mexican Government is superior to its police," Javits said. "I really think the time has come to ask the President of the United States to make the most urgent representations to the new Mexican President."

The Mexican Government itself has begun to reappraise the situation, and since January 1, has released 37 Americans. They were freed under President José López Portillo's policy of leniency for all prisoners, Mexicans and foreigners, convicted for possession of small amounts of marijuana for personal use.

The remaining 482 Americans continue to serve out their sentences of five to 12 years, even though the Government does not regard them as hardened criminals or members of international drug-smuggling rings.

"They are just poor, stupid kids," says Attorney General Oscar Flores. "They were offered money if they would carry a package from one country to another—and they were caught."

An estimated 80 percent of the Americans were college students. Many of them were arrested at the Mexico City airport while en route from Bogotá, Colombia, to destinations in the United States. Police in the U.S. and Mexico had been tipped off that they were smuggling cocaine.

Sentences for drug offenses are widely considered to be harsh. First offenders are not given special treatment. And it usually makes no difference to judges whether the accused was carrying 2 ounces or 2 pounds of a drug when arrested.

"Possession of a joint or two of marijuana brings a five-year sentence in Mexico, while in the United States the same offense in most cases would result in either a fine or a three to six-month term," one American official points out.

Other grave accusations are made by some of the 41 American women and 59 men being held in Santa Marta Prison, a model jail on the outskirts of the capital. They complain bitterly about extortion and the way police work closely with local lawyers to get as much money as they can out of the prisoners.

"Our families have all been bled," says Robyn Everman, 31, of San Francisco, who has served four years of a seven-year sentence. "Our parents paid from $20,000 to $50,000 to get us out of prison and we're still here."

There is general agreement among the prisoners that the most dangerous time for an American arrested in Mexico is during questioning or while being transferred from one prison to another.

PRISONERS' TALES

Billy Joe Smith, 31, of Hawaii, a Vietnam veteran who has finished 3½ years of his six-year sentence, was picked up at the capital's airport. Then, he says, "I was beaten, handcuffed to a shower head in a bathroom, my clothes were torn off, and I was tortured with an electric cattle prod."

This from Regina Thedford, 26, of Tyler, Tex., now halfway through her seven-year term: "I was interrogated for 12 hours in Spanish when I was arrested. I was tortured all over my body with cattle prods. I finally signed a statement in Spanish I didn't understand."

Karen Harrison, 26, of Santa Ana, Calif., who has spent three years in prison but still has almost four more years to go, says: "They're sadists."

After she was arrested at the Mexico City airport, she added, "I was beaten up, and my earrings were yanked from my pierced ear lobes."

From James Redley Douglas, 26, of Austin, Tex., who has finished three years and nine months of a seven-year sentence: "They're mean; they get pleasure out of it."

The Americans tell stories of female prisoners who had been raped, men whose heads were forced repeatedly into water-filled toilets and guards who played Russian roulette with their pistols pointed at the heads of prisoners until they signed confessions.

Although conditions have improved in recent months, Americans at Santa Marta—who keep contact by mail with their countrymen in other jails—air complaints about isolated cases of torture.

An American couple, they say, was picked up several months ago in the State of Oaxaca and charged with possession of drugs. The woman, the prisoners say, was raped. The man's mouth was taped and water poured into his nose—a process that is similar to drowning.

ON THE POSITIVE SIDE

The Americans at Santa Marta know they are better off than many of their jailed countrymen. Observes one of the prisoners:

"We are not beaten here. We've been put out to pasture."

Many of them still recall, however, the beatings they got at Mexico City's infamous Lecumberri Prison, the "Black Palace," which was closed down by the Government last year.

"You had to pay between $2,000 and $3,000 for a cell at Lecumberri," says James Douglas. "And if you refused or didn't have the money," Billy Joe Smith interjects, "you were stripped and beaten up by the other prisoners and put to work scrubbing bathroom floors with a brick."

The most flagrant cases of Mexican police brutality took place during former President Nixon's war on drugs. As Washington brought pressure on Mexico to crack down on the flow of drugs across the border, the police here resorted more and more to beatings and torture to get confessions.

Attorney General Flores, who concedes "there's sometimes brutality in police work everywhere," insists that "our Government condemns brutality. When we hear of it and we can prove it, we punish those responsible."

American officials in this capital praise President López Portillo and his Government for their reform efforts. Salaries of guards are being increased to reduce the temptation to commit extortion and to attract "better" people to prison work. Nevertheless, in areas where law enforcement is in the hands of local authorities, abuses—such as "framing of evidence"—continue.

An example: Mexican policemen in Matamoros, across the border from Brownsville, Tex., "planted" marijuana in the car of an American university student and then arrested him. The student's father in the U.S. was notified that for $20,000 his son and the car would be released. When the father arrived in Matamoros with only $14,000, his son was freed, but not the car. A complaint to the U.S. Consul brought quick action by the Mexican Government—but the policemen went into hiding.

MEALTIME

All of the Americans complain bitterly about Mexican prison meals that give them "food poisoning." All prisoners are permitted, if they can afford it, to buy special food from outside suppliers. Families of Mexican prisoners, carrying baskets of food, can be seen lined up outside prison gates every day waiting to feed their relatives.

"Mexico has a low standard of living," Attorney General Flores explains. "If you were in the jail in Acapulco, which is fairly primitive, would you prefer to eat the prison fare or, if you can pay for it, to have your ham and eggs sent in from a restaurant?"

The American prisoners buy not only their food but also toothpaste, blankets, shirts, sheets and uniforms.

"We have to pay three times as much as Mexicans for the same items because everybody thinks Americans are rich," says Patricia Bartz, 26, of Milwaukee, who has served three years and seven months of a seven-year term.

From Susan Jones, 25, of Sacramento, Calif., who has put in two years and four months of a more-than-eight-year sentence: "We can't afford to live in this jail. I lived a lot cheaper on my own in the U.S."

The prisoners calculate that it costs each of them a minimum of $100 a month to stay in Santa Marta.

"We are a serious and persistent drain on our families and friends," Texan James Douglas points out.

The Americans make serious charges about being ignored by their country's diplomatic representatives.

Says Karen Harrison: "I did not see an American consul for three months after I was arrested."

An even more bitter complaint from Douglas: "When we were picked up, it was in the Nixon period and the consuls were a surly bunch who were not anxious to help. They called us cry babies."

The prisoners now seem to agree that the American diplomats are "doing what they're supposed to do."

CARTER'S IMPACT

U.S. Consul General Vernon McAninch says that President Carter's emphasis on human rights has raised the level of official concern about what happens to Americans overseas.

"It's no longer enough to be sure that Americans are not being discriminated against, compared with the way nationals of Mexico are treated," says McAninch. "We are now charged with protecting the interests and welfare of American citizens in foreign jails."

In the meantime, the Americans are sweating out a treaty, approved by Mexico but not

yet ratified by the U.S. Senate, calling for an exchange of American prisoners held in this country for Mexicans held in U.S. federal jails. The treaty would allow prisoners on both sides—1,200 of them Mexicans—a choice between staying where they are or returning to their home countries to serve out sentences.

Since most of the Americans imprisoned in Mexico have already completed one third of their sentences, they would be eligible for parole. Mexican law does not permit parole for drug offenders.

A feeling widespread among the American prisoners here was expressed by Jane Rusk, 30, of Houston, who is more than halfway through her six-year term.

"We know we broke the law, but we've paid for it," she says. "Now we want to go home."

Says Consul General McAninch: "It's possible that one or two of the prisoners is innocent. But even if all are guilty as hell, it's still in the interests of Mexico and the U.S., and of the prisoners themselves, for the exchange to take place and for them to go home."

TRIBUTE TO MARGARET CHALMERS BOBO

Mr. THURMOND. Mr. President, the death of a respected former teacher brings with it a unique kind of shock and sadness. This almost universal experience results, I believe, from the special relationship that develops between a teacher and a student. This relationship, ideally, is like that between a parent and a child. The student looks upon the teacher as a being of a different order—a hero, an ideal, an unfailing source of guidance and inspiration.

The relationship does not change as time goes by. Just as parents are still parents to their children, long after the children have ceased being boys or girls, so teachers are still teachers to their students. The students may become wealthy or famous, they may accumulate years and wrinkles in abundance, but the feeling of awe and respect persists.

This feeling is reflected in the way we address our former teachers—the truly influential ones, I mean. Seldom does the Mr. Jones who untangled the mysteries of algebra for us become "Bill," or the Mrs. Smith who gave us an appreciation for the English language become "Mary." We would just as soon call our parents by their first names. The Mr. and Mrs. are the lifelong tribute we pay to those who have helped lead us to maturity. Like our parents, they are always there, always looking over our shoulder—in thought if not in fact. They seem invulnerable.

Sadly, they are not. When death comes, as it must, we are caught completely unprepared. It is not like losing a friend. It is like dying a little bit ourselves. As long as our parents and teachers are alive, we can maintain the comfortable illusions of childhood. Without their benevolent and reassuring presence, we must confront our own vulnerability, our own mortality. We grieve for ourselves when we grieve for them.

Mr. President, this is the double grief which has lately afflicted my home town of Aiken, S.C. Marget Chalmers Bobo, who passed away on June 13, was just the kind of teacher I have been describing. In fact, as the innovative yet demanding arbiter of English at Aiken High School from 1951 to 1973, she was a special teacher not just to certain individuals, but to the whole community. Her death has occasioned deep, personal sorrow in the homes of hundreds of former students.

It is impossible for me to describe Mrs. Bobo the teacher as accurately as I could wish. Like most great teachers, she developed a style all her own. She was like nobody else. Dignity, grace, imagination, persistence—these qualities were components of her character and her personality. Yet no bare recital of virtues could give a picture true to life. Margaret Bobo was the kind of teacher you had to know—in fact, that you had to know in the classroom—to appreciate fully.

The best measure of her achievement, then, is the affection and esteem she inspired in her students. These sentiments are clear for all to see in several articles that appeared in the Aiken Standard & Review shortly after her death, and in the eloquent tribute delivered at her funeral by the Rev. Jerry Robinson. In order that my colleagues may have access to these materials, I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, I would like, also, to offer a word of consolation to those whom the death of Mrs. Bobo has caused so much and such conspicuous distress. These include, besides the legion of former students, her mother, Mrs. Orella Cromer Chalmers, and her brother, Thomas C. Chalmers of Newberry. Death may carry away our loved ones and our benefactors, but it cannot destroy their influence. Robbed of their company, deprived of their support, we nevertheless retain the gifts—material, intellectual, and moral—with which they have endowed us. Mrs. Bobo was so bountiful with her gifts that those who enjoyed them need not despair. She taught life along with language and literature. The world may be a little more uncertain, a little more fearsome, a little more difficult without her, but those who really learned the lessons she offered them will be able to meet the challenge.

EXHIBIT 1

[From the Aiken Standard & Review, June 17, 1977]

MARGARET CHALMERS BOBO

For 22 years, until her retirement in 1973, Margaret Chalmers Bobo was a teacher of English at Aiken High School. To those who passed through the school during those years, she was a legendary figure.

"Bobo's English" was feared almost unanimously by freshmen, sophomores and juniors. Seniors attaining that lofty height, however, soon realized they had entered upon a new adventure.

The requirements were stiff; the best students were channeled into her classes. She promised them no bed of roses, but those who persevered soon realized—many for the first time—the joy of learning.

She was a champion of English as it should be spoken and written. She could not tolerate a comma splice or a misplaced modifier. Her methods were imaginative and innovative; a favorite assignment for her pupils—but not their parents—was to prepare a written description of downtown Aiken in the wee hours of the morning.

The rewards were many for those who completed her courses. Students moving on to college found that the knowledge and experience gained in Bobo's English put them in good stead. They also found that they had in Mrs. Bobo a lifelong friend whose interest in their progress continued long after high school.

Upon her retirement, the school fittingly named its annual award to the top English student in honor of Mrs. Bobo.

Her death last Monday after a relatively short illness is a shock to hundreds of Aiken High School alumni and to friends in Aiken. She left a priceless gift to those who studied in her classes.

[From the Aiken Standard & Review, June 20, 1977]

SCHOLARSHIP FUND HONORS MRS. BOBO

(By Sandra G. Evans)

To the Editor:

The following is a tribute given by Dr. Durward B. Pridgen at the services held in memory of Mrs. Margaret C. Bobo:

"I do not claim that my thoughts are representative of Bobo's students. I would think that just about anyone who knew Bobo would be up here, each with varying impressions; for Bobo is an institution unto herself.

At the Aiken High that I knew, senior English was a matter of waiting three years in purgatory, expecting to spend one year in Hell, and then, for me, several years later, coming to the realization that I had been exposed to a little bit of Heaven. To me, this glimpse of Heaven was the philosophy of "right is right." A "comma splice" is a simple construction error, but one would not get you an A in her class. "Refer back to" I hear nearly every day now, but not in Bobo's class. Why? Because Bobo represented no compromise of "right is right"; and by no means, of course, was she the only follower of this tenet.

For Ms. Bobo, "a rose is a rose is a rose"—"right is right."

She may well have been a Lady Macbeth, goading us to "Screw our courage to the sticking place," but most of all, she was a lady of virtue in the purest meaning of the word.

"For who can find a virtuous woman? Her price is above rubies—we love and we honor you."

A scholarship fund in her honor has been initiated, and donations may be mailed to the Margaret C. Bobo Fund, Aiken High School, 211 Rutland Drive, Aiken, S.C. 29801.

[From the Aiken Standard & Review, June 13, 1977]

RETIRED TEACHER, MRS. BOBO, DIES

Mrs. William (Margaret Chalmers) Bobo, well known Aiken County educator of 1121 South Boundary Avenue, died today in an Augusta hospital.

Funeral services will be held tomorrow at 3 p.m. at George Funeral Home Chapel with the Rev. Jerry Robinson officiating. Burial will be in Bethany cemetery.

Mrs. Bobo was a native of Newberry and was a graduate of Newberry College and Appalachian State University. She had taught at Aiken High School since 1951 before retiring in 1973. Prior to that, she had taught in North Augusta. She was head of the English Department at Aiken High School, the advisor to the National Honor Society and served on the State Textbook Adoption Committee. She was a member of Aiken First Presbyterian Church.

Survivors include her mother, Mrs. Orella Cromer Chalmers, and one brother, Thomas C. Chalmers, Jr., Newberry.

COMMENTS OF REV. JERRY ROBINSON

OUR TASK

I wove one time a lovely piece
With shimmering silken thread.
The pattern was so intricate,
My heart was filled with dread
Lest I should skip one tiny string
Or knit it here or there,
Spoiling the plan prepared for it
And mar its beauty rare.

More precious far than any cloth
Of woven silk or gold
Are boys and girls we have in trust
To lead, and teach and mold,
May we with earnest, godly care,
Weave in the good and pure.
Help build the pattern meant for them
With things which will endure.

What shall I say of Bobo? First, of course, that she was a teacher; and a good one because she taught far more than just the subjects that she was assigned. She taught people how to live honestly and normally. She taught more generations than she would want me to remind you of today. I am sure many of you here had the privilege and responsibility of studying with her. She was a teacher, but she was also a teacher who loved to teach. It was more than a job for her. It was an honored profession, as distinguished as it was in the days of Plato or Aristotle. And she relished her work because she realized that if she did not love her work, few of her students would ever really learn to love to learn. So, as a teacher, she was a psychologist and a counselor and a task master and a guide and a real humanitarian. For she gave to many the desire to achieve.

But what else was she? She was a lady. Dignity seemed to be a settled and comfortable way for her. It was not artificial. It was, perhaps, a bit prudish by modern standards, but it was refreshing in a society that seems to have gone far too far in the other direction. In addition, I believe, she was, to the end, a student herself. A seeker after knowledge and wisdom. I know that she continued to seek a deeper knowledge of God and a deeper faith in Him. It seemed elusive, somehow, to her; not like other subjects where everything was down in black and white. She knew He was there and that in some mysterious way He cared for her and loved her. It was the kind of relationship not too many of us have. We feel Him to be far off when He is really very near and very much more interested in our lives here and now and eternally than we can ever know until we meet Him. We can take comfort, though, for we are told in the passage I read from Deuteronomy that those who seek for the Lord with the whole heart shall find Him; and if they seek and find they will discover Him to be the God who will never fail and who will never forget the promises He has made.

She was a leader, a lady, a student, a seeker after truth, and she was more. She was a child of God and, because she was a child of God, she was a true friend. I know she was older than most of us; wiser in many ways, but still a child in her faith. She demonstrated the fact that she was His by being a friend, by being loving, considerate, kind, understanding. She was a caring person and because she touched so many lives, these lives can never be totally unloving again.

She was a teacher, a lady, a seeker after truth, a friend. Now she is something else again. She is His. She knows everything now, all the answers to every question. For He has called his child home and made of her a mature, glorified part of His kingdom forever.

She has taught and learned, sought and found, and He is what He claimed to be—light and love forever. She knows it, and even in death, she can teach us still that we can know Him, too.

VIDEOCONFERENCES VIA SATELLITE: OPENING CONGRESS TO THE PEOPLE

Mr. STEVENSON. Mr. President, the July issue of Science contains an article about the potentials of satellite communications for the Congress. It should be of interest to the Members, and so I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIDEOCONFERENCES VIA SATELLITE: OPENING CONGRESS TO THE PEOPLE?

The 3½-hour legislative hearing conducted 8 June by the Senate Subcommittee on Science, Technology, and Space was like no other ever held by this or any other congressional committee. Senator Adlai E. Stevenson (D-Ill.) and the other three senators participating were seated in their usual places in the Commerce Committee hearing room in the Dirksen Senate Office Building in Washington. But the several panels of scientists and other witnesses taking part were 800 miles away, in the federal courtroom in Springfield, Illinois. The hearing was a videoconference, with the senators and the witnesses engaged in a two-way visual and audio exchange via the new U.S.-Canadian Communications Technology Satellite (CTS), which the National Aeronautics and Space Administration placed in synchronous orbit 22,300 miles above the earth in January of 1976.

This was, as one senator put it, a "historic first" in the use of television in the legislative process. The hearing happened to be about a bill to improve U.S. capabilities in forecasting the weather and climate trends, but, the important thing on this occasion was the communications technology which was being employed and what it presaged.

"By this device," said Senator Stevenson, referring to the CTS, "Congress may be able to conduct hearings in all parts of the world without leaving the Capitol or requiring witnesses to travel to the Capitol." He suggested that the videoconference via satellite would ultimately lead to significant savings in both time and money for members of Congress and witnesses—and to a much fuller public involvement in legislative deliberations.

The videoconference on the climate bill, which came off smoothly except for some distracting scratchiness in the audio system at the Washington end, required use of NASA's Portable Earth Terminal (PET), a television van which the agency has been moving about the country to accommodate a variety of CTS experiments in educational TV, refresher medical courses for rural doctors, and the like. The PET was parked outside the Federal Building in Springfield to exchange signals with the CTS, which was similarly linked with the Goddard Space Flight Center at Greenbelt, Maryland. Goddard and the hearing room in the Dirksen Building on Capitol Hill were connected by telephone lines and microwave.

This videoconference was the second of three demonstrations of congressional applications of the videoconference-CTS technology which have been planned by Fred B. Wood of George Washington University. The first demonstration arranged by Wood, who is director of the university's program of policy studies in science and technology, took place 15 April. Representative Charles Rose (D-N.C.), holding forth at a small studio at NASA headquarters in Washington, engaged in a lengthy closed-circuit videoconference discussion with some high school students and local officials assembled in the library of a high school in Raeford, North Carolina, a small town in his congressional district.

The students, about 150 of them, had chosen a panel of five to put most of the questions to Rose, and observers say that this interview was anything but stage-managed. The panel's questions ranged from pot and abortion to energy and the social security system. More than once, Rose, who is said to be an adept user of the tube, had to confess he was at a loss for an answer. "From a political point of view, I think Rose came out ahead because he was open and forthright and did not pretend to know things which he didn't know," observes Wood, who believes that this videoconference met its aim of achieving an open dialog betwen congressman and constituents.

An extremely ambitious demonstration of applying the videoconference-CTS technology to the problem of making a busy member of Congress more accessible to the press in his home district or state is planned for 21 July. At 11 a.m. on that day, Senator Howard Metzenbaum (D-Ohio) will conduct, from the NASA studio in Washington, an hour-long press conference with what evidently will be a good cross-section of virtually the entire press corps of Ohio The reporters will gather at the studios of eight different television stations which, located in various cities across the state, constitute a microwave-linked educational TV network. This network will be linked to the CTS via the NASA ground terminal at the agency's Lewis Research Center in Cleveland, Although the press videoconference will be by closed circuit, it will be taped for showing statewide the next Friday (Friday, 22 July) at 10 o'clock over the Public Broadcasting Service.

In view of these demonstrations, Senator Lee Metcalf (D-Mont.), chairman of the Joint House-Senate Committee on Congressional Operations (which 3 years ago held hearings on Congress and its use of existing and emerging communications systems), is highly enthusiastic about the potential the videoconference-CTS technology holds for helping to overcome what he regards as a deep malaise affecting relations between members of Congress and their constituents. Following the videoconference on the national climate program legislation, Metcalf spoke thus:

"For too many years the federal government has been seen to be remote, unresponsive, insulated, and untrustworthy. All of us sense the feeling of distrust whenever we are able to return to our home states, visits which have become more and more infrequent over the years as congressional sessions have steadily lengthened and the workload has continued to expand. In these circumstances, there are compelling reasons for us to be looking for new ways of relating the work of the Senate to the people, for bringing more citizens into our hearings as participants, for listening to voices other than those of the professional witnesses we tend to hear year after year in the development of legislation. Ultimately, if we can realize the use of this [communications satellite] technology and gain routine access to [it], the Senate and individual senators could schedule "town meetings" with groups of constituents on a reasonably frequent basis.

". . . Yesterday's experiment by the science subcommittee was limited to a closed circuit link between the Senate hearing room and the witnesses in Springfield. But the same technology can be used to direct public service broadcasts to local stations, allowing live or delayed telecasting of hearings or debate in any state or region which may be affected by a particular bill or committee investigation.

"I believe this opens the prospect for a new era in representative democracy."

Videoconferences are, of course, already familiar to viewers of both commercial net-

work and Public Broadcasting Service (PBS) news programs—for instance, a few months ago PBS reporters arranged a discussion of western drought problems between Secretary of Agriculture Bob Bergland in Washington and Governor Jerry Brown in California, with the reporters also participating. Such videoconferences, generally transmitted by commercial land lines, have entailed up to several thousand dollars an hour in transmission charges. But Wood says that transmission of videoconferences via one or more commercial satellite channels leased by the Congress on a continuing basis could be relatively cheap, perhaps averaging well under $100 for each hour a channel is actually used if a brisk demand for this service develops.

But the videoconference is still so new that development of a substantial congressional demand for this kind of communications service may have to await more pioneering effort and demonstration projects. According to Wood, more than a dozen senators and representatives—out of about 20 who were approached—were interested in participating in his project, but, given limitations of time and money and the complexity of scheduling the videoconferences, it has thus far been possible to arrange only the three already described. Once these have been completed and fully evaluated, it will then apparently be up to interested members of Congress such as Rose and Stevenson to try to bring about further congressional use of videoconferences.

Already Congress has put some of its old-fashioned ways behind it and become more receptive to the idea of applying modern communications technology to its activities. For instance, the House is just now winding up a test of closed-circuit television coverage of its floor proceedings, a test which has allowed members with offices in the new Rayburn House Office Building (which is completely wired for closed-circuit TV) to follow debates even when not on the floor themselves. Furthermore, an unofficial bipartisan group of about 75 members of the House known as the "Clearinghouse on the Future" —behind which Rose has been a prime mover —has asked Western Union and RCA to submit proposals for selling to Congress, at bargain rates, satellite channel time in nonpeak hours which could be allocated among interested committees and members for video-conferences.

The CTS, which cost $80 million to develop, build, and launch, may reach the end of its useful life within another year. But it was designed strictly as a research and demonstration device and was never intended to become part of an operational system. If NASA and the Congress do as the National Research Council (NRC) has recommended in a recent report, the agency will continue its support of R & D on developing uses of communications satellite technology in the public sector. As Wood points out, the NRC has in particular called for NASA to develop a new generation of public service satellites that would pick up where the CTS and another existing communications satellite, the ATS–6, leave off.

Wood, together with many of the members of Congress who have commented on congressional use of videoconferences, are mindful that such use and the televising of congressional proceedings can be subject to bad abuse. Senators and representatives and committees could very well contrive to conduct videoconferences for wide public viewing which would be masterpieces of stage management and "PR." One safeguard against this would be for the House and Senate to adopt rules denying use of videoconference facilities to any individual member or committee who could not vouch for the legitimacy of the planned event in terms of balance in the points of view to be presented and of equal access—especially in campaign seasons—for political rivals. Another safeguard would be to place the videodistricts and states under the management conference facilities in the members' home districts and states under the management and control of authorities who can be counted on to demand political fair play and a serious and balanced treatment of public issues.

It is of course true, given even the best of rules for their conduct, that videoconferences could offer a political advantage to the senator or representative who handles himself particularly well on camera. Yet the qualities of intelligence, articulateness, forthrightness, and force of character that make for a convincing performance on television are not all that different from those that most citizens look for anyway in a public man or woman.

In sum, as Senator Metcalf has suggested, the same on-rush of technology that has produced an increasingly complex society and an enormous workload for Congress has led to new possibilities in communications which, if properly used, may put even the busiest senators and representatives back in closer touch with their constituents. To speak of a "new era in representative democracy" may be going pretty far, but the communications satellite and the videoconference technology can plainly make it easier for citizens to have a say on pending issues and to keep better tabs on their members' attitudes and performance.

ROY WILKINS STEPS INTO HISTORY

Mr. MATHIAS. Mr. President, Roy Wilkins did not step down this week as reported in the press. He stepped into history.

One of the cherished momentos of public service in my office is a certificate that he and other members of the Civil Rights Council presented to me a number of years ago. I appreciated it at the time, but considered it to be like other such certificates that come to us from time to time.

With the perspective of a decade, however, it is clearly seen as a genuinely historic document that bears the autographs of the American patriots, including Roy Wilkins who brought about revolutionary change in America without a revolution and who changed the law without violating the law.

In reflective moments I sometimes consider the vast and positive change in race relations in America that has occurred within my lifetime. No one deserves more credit for this change than Roy Wilkins. Equally important is that the peaceful character of the change was also a major contribution made by Roy Wilkins.

It is hard to assess today how much we owe him. In a hundred years when America has been free of racial strife and when the increased contributions of black Americans resulting from their increased participation can be measured, then perhaps the county will know its debt.

For today, we can only say "Thank you, Mr. Wilkins, and best wishes for many years to contemplate the good work you have given us."

This morning's Washington Post carried an article by Jacqueline Trescott with some incidents from Mr. Wilkins' career. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

END OF AN EPOCH

(By Jacqueline Trescott)

ST. LOUIS.—"Mr. Wilkins," asked a young reporter, is the civil rights movement dead?"

For a moment all grew silent at what Roy Wilkins had called his last press conference Sunday. The muscles in Wilkins' long, oval face tensed and his voice, faltering a minute before, grew crisp.

"I don't think that question has any validity," said the outgoing head of the NAACP, the elder eminence of the civil rights movement. Then Roy Wilkins, 46 years on the job, sat down and trained his eyes on the row of feet before him.

When the NAACP board demanded last summer that Wilkins resign at the beginning of 1977, he had responded bitterly. It would be where and when he wanted. So at the NAACP 68th convention this week in St. Louis (Wilkins' birthplace 75 years ago) the pageantry of the torch passing to former FCC commissioner Benjamin Hooks was acted out—mostly Wilkins' way.

The change of leadership marks the end of an epoch, for Wilkins has been one of the most visible, and most enduring, black spokesmen for the past quarter-century. He has been condemned, first as a militant, later as a conservative. Still, he has survived: Jim Crow and Black Power and organizational coups and countless marches and too many funerals. He has survived—methodical, low-key, like his organization, hewing to the philosophy of quiet persuasion. It has been no easy career—but it has had its moments.

THE BROWN DECISION

He came home late that night. After 23 years his wife, Aminda, still remembers that. But she didn't fuss because the day was May 17, 1954, the day the Supreme Court declared segregated schools unconstitutional.

Wilkins had been sitting in the NAACP's national headquarters in New York. Thurgood Marshall, then one of the NAACP attorneys whose lawsuits led to the decision and who had argued Brown vs. the Board of Education, came bounding through the halls, jumping, whooping.

He kissed Wilkins and both men walked through the office shaking hands, but Wilkins didn't shout. "Our children will have equality of education," he told a staff member. "They will have a chance in the race of life without being penalized before they are born.'"

Now, Wilkins says without hesitation. "I think my accomplishments are wrapped up in Brown. It summed up the long fight against inequality." His long, soft hands run over the thin track of white hair in the middle of his head. He seems lost for a minute, perhaps thinking that the day seemed as far away as his once-wavy brown hair. "I thought Brown meant a revolution in the conduct of race relations."

MISSISSIPPI-BOUND

He put on a pair of faded overalls, scuffed up his shoes and practiced a southern drawl. It was December, 1932. Wilkins was going south to Mississippi, the state that had given life to his parents but that he had never seen and now he was going disguised as a migrant worker to investigate conditions on a federally funded levee project.

He slept in the cabin, and instead of the 10-cents an hour salary, got credit for molasses and chewing tobacco at the commissary. His companion, George Schuyler, was run out of the state when his identify as a newspaper reporter was uncovered. But Wilkins survived. "Hey boy," Mistuh Somebody asked Wilkins one morning, "why are your hands uncalloused, where did you get that northern accent?" Wilkins didn't look up but muttered, "I've been working up north as an elevator operator, Mistuh." When Wilkins returned to Kansas City, Mo., where he worked for a black weekly, The Call, he

wrote that slavery was still in existence under the United States flag. His writings touched off a Senate investigation.

"NO COLORED SERVED"

The young Roy Wilkins observed and absorbed racism, rather than experiencing the sting directly. When Roy was 4, his mother died and his father, the Rev. William D. Wilkins, sent him and two younger children to live with an uncle in St. Paul, Minn. Wilkins grew up playing softball with the neighborhood white children and recalls, "The schools in St. Paul were free of prejudice. The restaurants more or less free, the beaches free." However the childhood protection quickly faded. While a student at the University of Minnesota, Wilkins could only get a job as a dining-car waiter, red-cap and cleanup man in a stockyard.

On a trip to the West Coast in the late 1930s, several years after he joined the NAACP full-time as the assistant secretary, Wilkins stopped at a restaurant outside Salt Lake City. "Sorry folks, don't serve colored here," the owner told them. They drove until they saw a Chinese restaurant. Again, no colored served. "I remember screaming, 'I hope Japan wrecks your country,'" recalls Mrs. Wilkins, the social worker who had married Wilkins in 1929, but her husband kept his rage inside.

"It was the first time I remember being totally as mad as hell," says Wilkins. "About the same time I went to a restaurant in Greenwich Village with two friends and we were refused. But we all sued and received a $200 judgment each."

And today? "There are no encounters like that any more,' he says softly, but then quickly adds. "That doesn't mean it hasn't been there. I don't feel it as keenly as before."

Glimpses of Wilkins at the convention: slipping into the coffee shop of the Stouffer's Riverfront Towers for a mid-afternoon dish of ice cream; reading his address to the youth delegates, urging "We need all the protests we can muster . . . we need you to sing," and moments later cracking up as the teen-age girls squealed when it was announced that Billy Dee Williams would be at the convention later in the week; waving his right index finger when annoyed; sitting at the table in his suite preparing a speech in small script on a yeallow pad.

"WAIL ON, MR. WILKINS"

While the Supreme Court decision of 1954 pushed equality forward, it didn't erase racism. Soon the pictures of school children being shouted at and spat upon in Little Rock, Nashville and Charlotte began to haunt Wilkins.

One night, Chet Huntley, the television newsman, proposed that the NAACP withdraw from the school desegregation battle in the South. Because of the outcry the statement generated Wilkins asked for equal time and received it. "We cannot do it, and we shall not do it," said Wilkins. "As for violence we have been the victim not the perpetrators." For those televised moments. Wilkins became the stuff of local legends. The story is told that in a Harlem bar a man watching the television shouted, "Wail on Mr. Wilkins."

A GREAT DAY

All the captains and generals of the March on Washington for Jobs and Freedom were sitting around a table in a hot and uncomfortable room. Aug. 26, 1963, was only days away. Everyone was arguing about the sound system. Martin Luther King Jr. wanted speakers that would carry the sounds from the Washington Monument to the Capitol building. "How much will it cost?" asked Wilkins. "It doesn't matter," someone else said. "Yes it does. Let's get the best but let's find out how much it costs first," said Wilkins. They did it his way.

The day arrived and a sea of black and white faces from all over the country looked up to Wilkins from the sides of the Reflecting Pool. "I want to thank all of you for coming here today because you saved me from being a liar," Wilkins said to the crowd estimated at 250,000. "I told them you would be here. They didn't believe me because you always make up your minds at the last minute. And you had me scared. But isn't it a great day?"

"I saw it as another milestone, the outpouring of citizens petitioning their government for their rights," says Wilkins now. But didn't King steal the day and didn't you feel some jealously? Wilkins is asked. "There was no jealousy. He had been assigned to the cleanup spot. He was to nail down all the others and summarize all of our intentions."

FIRE BOMBING

The police took a photograph of everyone going into the voter registration rally at the Centennial Baptist Church in Clarksdale, Miss., that day in 1965. Suddenly the lights went out. Then a fire bomb was tossed through the window. People panicked and began to run out the door. Wilkins took the mike and said firmly, "We are establishing our rights."

"Yes, Roy was afraid," remembers Aaron Henry, president of the Mississippi state NAACP. "But he didn't show it, and we all felt more secure with the fact that Roy was the point man. We didn't encounter any trouble because he was calm and he was there. Those white folks understood who he was. The truth of the matter is we have worn out Roy Wilkins."

1960'S MILITANCY

"Roy Wilkins is Roy Weak Knees," said Adam Clayton Powell. Wilkins called the late '60's black power movement "reverse Mississippi, a reverse Hitler, a reverse Ku Klux Klan."

After a revolutionary black power group's plot to assassinate Wilkins was revealed in 1967, he still refused either a bodyguard or to unlist his telephone number. Privately, he expressed great contempt for the extreme black power groups of the '60s which he called the shouters. He even laughed at some of the "gestures" such as the black power handshake, which he called a "ritual." But one time, when Wilkins went South for the funeral of a field worker he was met at the airport by the Deacons For Defense and Justice, a motorcycle-riding group which espoused violence. "I'll tell you, Roy didn't mind seeing them greet him. They didn't talk but he knew they were protecting him," says a friend.

Was the accusation of being an Uncle Tom painful? "It hurt. The remarks were untrue, but it hurts when someone calls you an Uncle Tom, it's pretty tough to take," Wilkins says now. His thoughts on the black power movement have mellowed. "The militancy of the '60s had its good points. They took pride in their color but they confused the end result with the method. I just didn't see it that way. I was patient but never complacent because I have never seen patience as sitting still."

"NOT ENOUGH"

Wilkins and the Presidents. As an adviser to all the Presidents since Franklin Roosevelt, Wilkins has enjoyed a mutual wooing and bickering.

When Dwight Eisenhower called for patience on school integration Wilkins said "We respectfully differ with the President of the United States. We have been patient and moderate and all we get for it is a kick in the teeth." After another Eisenhower statement Wilkins once replied, "Blah, blah, blah."

At a White House reception for 1,000 blacks, John Kennedy took Wilkins aside and said, "What a long way we've come in race relations." Wilkins replied, "Not enough." Lyndon Johnson called Wilkins often, paging him at the airport, calling him in the middle of the night. It was a productive relationship, Wilkins recalls, but on the day the Voting Rights Act of 1965 was signed Wilkins got his pen and left the reception early because he was miffed at the arrangement.

Richard Nixon and Gerald Ford called Wilkins too. In 1970 when an NAACP official attacked the Nixon administration, Wilkins was under tremendous pressure to correct the official. "The NAACP has never sought to be popular. We are ready for any battle," was Wilkins' reply.

"Oh, things go up and down. The Supreme Court goes one way, legislation goes another, the White House another. We are experiencing another cycle," says Wilkins when asked if he shares the pessimism many blacks feel, sensing civil rights gains slipping away. "I will say the Carter administration is trying hard to come up to the expectations of Negroes. I can't say it has completely justified them yet."

SENSE OF HISTORY

Wilkins has been many things, a writer, a lecturer, a presidential adviser, a delegate to international conferences and a jail bird. He's been arrested twice. But probably the thread that ties all those parts together is his sense of history.

In 1967, the Kerner commission was meeting in the treaty room of the old Executive Office Building. "The cause of the riots was frustration. I think we should include a historical perspective that shows that racism over and over again destroys the system," Wilkins, a commission member, said. Someone around the table said, "show me." Then Wilkins carefully outlined the links between the past and the present, detailing how blacks were sent overseas in World War I but returned home to segregated towns and menial jobs.

When his staff would get lathered up over a crisis, attacking it like it was the first instance of racism in the world, Wilkins would say, "Don't get burned out, you have to be around for the next fight."

BAD TIMES

The low points:

—Medgar Evers. The killing of Medgar Evers in 1963 was the nadir of Wilkins' career. "I can't remember feeling more hopeless."

—The passage of a 1957 civil rights bill. "It was the first civil rights bill in 82 years but it didn't mean anything. The legislators acted like it was the greatest thing that ever came down the pike." Did he tell the congressmen that it was a dried-up olive branch? "No, we were glad to get anything. Clarence (Mitchell) and I were castigated for accepting it but we felt that it wouldn't disturb the constituents of those key congressmen and we should push for something much stronger the next time."

He doesn't mention last year's convention when the factions that have been trying to retire him triumphed. This week he's trying to forget that and just have a good time with the 8,000 delegates that have made his last official convention the biggest ever.

But last year he was angry and told the convention, "I suppose I should laugh when one man says I am dishonest and a hundred honor me for my integrity. I suppose I should laugh at the stories about my falling out of a chair, or bed, or maybe the Empire State Building—but how does one laugh when his heart is breaking?"

A STEADY SHIP

Last night was an evening of emotional and tumultuous tributes for Wilkins. Hooks, his successor, brought the audience of 5,000 people to their feet with a crescendo of superlatives ending with "I wish you hadn't

done so well. It wouldn't be so hard to follow you." His remarks were followed by a spontaneous rendition of the NAACP song, giving the assembly the spirit of an old-fashioned church meeting.

In her very personal remarks, Aminda Wilkins talked about a little known operation for cancer that Mr. Wilkins had in 1946. "Apparently God wanted to leave him for something else," she said. When Wilkins himself came to the microphone he spoke briefly of the past, generously about the friends who had helped through the years. He predicted a good future for the NAACP. "The NAACP ship is able and steady—as long as there is a breath in my body, I shall be with you in this fight . . . There is unfinished business for us to take care of."

"I JUST GOT MAD"

"Roy is an introvert, he's very modest, almost shy except in the pursuit of this one thing, then he's inspired, aggressive," says his wife, who is known as Minnie. "He doesn't see the NAACP work as his personal accomplishment, he sees it as a general gift. I'm here to remind him what he's done."

In his office at the NAACP headquarters in New York, Wilkins hangs his photographs and watercolors instead of a dozen honorary degrees and citations. For years one of his pleasures has been driving a white Triumph and he could recite every railroad schedule in the country, where the water tanks were, where the gauges were.

What does he read? "Oh, I don't know," he says hesitantly. "Who-dunits, modern detective stories."

"Tell the truth, you fall asleep with one almost every night," interjects his wife. He looks totally embarrassed, but then smiles. "You know where I would like to go on vacation? New Zealand." Why? "I don't know."

What's next for him? Work on an autobiography and consulting with the NAACP.

Is there anything you would have done differently with your life? "Nothing," he says quietly. "Make some money," said his wife. And Wilkins shakes his head negatively, smiling with the glow of a soft amber light under a raw silk cocoa shade. "Nothing," he repeats. "I never place myself above others, I didn't feel any particular pride being a leader. I just got mad, got angry and resented the overall prejudices facing blacks. I just acted like I thought I should."

CORPORATION FOR PUBLIC BROADCASTING FUNDS DRAMATIC PRESENTATIONS OF RECENT EVENTS

Mr. KENNEDY. Mr. President, every congressional office spends a good deal of time assisting local residents and firms to obtain funds from the Federal Government and in assessing the potential impact of Federal spending. Frequently, after appropriations have been authorized, we hear little about the results of these legislative efforts.

I was thus extremely pleased the other day to hear from Tom McCann, a Boston producer of dramatic documentary programs for public television. Mr. McCann has a success story to tell which I believe should be shared with all Members of Congress: How the Corporation for Public Broadcasting provided an initial grant for reenactment of contemporary events which grew into a series of programs in which recent events are dramatized for the viewing public. In this particular case, of course, I am pleased that Mr. McCann's firm has become the State's largest employer of actors, and I am confident that public response to his programs will lead to their expansion and to the expansion of opportunities for a number of our residents to become involved in this worthwhile effort.

So that my colleagues can read firsthand of the success of someone who has been on the receiving end of a Public Broadcasting grant, I ask unanimous consent that Mr. McCann's letter and an article by Lana Henderson describing his Eyewitness programs be recorded in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 9, 1977.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I'm sure that each day your mail brings a new assortment of problems, complaints, requests, etc., so this letter might be somewhat refreshing because my only purpose in writing is to tell you something good that has happened to Massachusetts and to public television viewers in America as a result of a grant I received from the Corporation for Public Broadcasting. Since the Congress is responsible for funding the activities of the Corporation for Public Broadcasting, I thought you'd like to hear the firsthand experience of someone who has been on the receiving end of a CPB grant.

Two years ago, following the success of the program we produced entitled "The White House Transcripts," our work came to the attention of the people who run our country's public television programming and we were awarded a small grant to do the necessary research and development on a program idea I had for a reenactment of contemporary events. A few months later that initial grant led to a larger grant to produce a pilot program entitled "EYEWITNESS." Once the pilot was produced and tested, CPB decided to fund four additional programs which will air in late summer and early fall of this year. If the viewer response matches the test results, it will become a continuing series in 1978.

Without going into too many of the details, let me just say that almost all of the approximately half a million dollars which CPB has invested in this project has been spent by us here in the Commonwealth in the form of wages, taxes, goods and services purchased, etc. We have become the State's largest employer of actors and "EYEWITNESS" will do a great deal to convince other film and television people that Massachusetts has a great deal to offer people in our business. And, finally, the fact that "Eyewitness" is a high quality, innovative program and a Boston production will redound to the credit of our State.

I thought you'd just like to know a few of these facts and putting them before you in this way is my way of saying thank you to you and the other members of the Congress who vote money for the Corporation for Public Broadcasting from what I can see, it's money well spent.

Cordially,

THOMAS P. MCCANN.

EYEWITNESS

(By Lana Henderson)

There is no fantasy, just cold, hard fact, as you hitch a ride on a jetliner bound for disaster. As you take a front-row seat at a trial where man attempts to delineate that thin line between life and death. And as you look with absolute clarity into the stormy minds of four deadly assassins.

Just by tuning your television set to Channel 13 at 8 pm on March 10, you can become an "Eyewitness" to some of the most spectacular news events of your lifetime. In a way, it will be like stepping into a time machine. You will step back into recent history, and everything about the events—the characters, the dialogue, the drama—will be just as it was.

You will feel helpless in the cockpit of a DC-9 jetliner as the inattentive pilot and copilot of Eastern Airlines Flight 212 chitchat about school busing, the growth of government, the foibles of former President Gerald R. Ford and the Arabs' reach for world power and let their plane and 82 passengers and crew plunge into an open field three miles short of the runway. "Yeah, we're ready," you can hear the perplexed captain tell the control tower just seconds before the firey crash. "All we got to do is find the airport."

You will get your own opportunity to decide if Karen Quinlan, the comatose young woman now confined to a nursing home in New Jersey, is alive or not as you sit in the courtroom and listen to eminent experts present convincing evidence on both sides of the fragile euthanasia issue. "The single most temporal quality we have in life," the judge will tell you and the rest of the court in denying the request to turn off Karen's respirator. "And this court will not take that life from her."

And you will watch, almost as if you were by their sides, as Lee Harvey Oswald, the accused assassin of President John F. Kennedy, attempts to take his own life in a lonely Russian hotel room because he is denied Soviet citizenship; as Sirhan B. Shiran, under hypnosis in his jail cell, admits killing Sen. Robert F. Kennedy; as Arthur Bremer stalks former President Richard M. Nixon and finally takes aim at Alabama Gov. George Wallace; and as Sara Jane Moore confesses in a courtroom statement to the attempted murder of former President Ford. "The most revealing words are those of the assassins themselves," the "Eyewitness" moderator says. "On occasion, any one of us might feel the same anger and frustration they felt, but not everyone picks up a gun."

A 90-minute pilot program produced jointly by KERA/Channel 13 and Thomas McCann and Associates of Boston. "Eyewitness" brings a new dimension to the major historical events of our time. It utilizes a combined documentary-drama approach, moving in a magazine-style format from real news anchorpersons to true-to-life dramatizations by actors who closely resemble their historical counterparts.

In every "Eyewitness" segment, the dialogue comes directly from diaries, court transcripts, tape recordings and other verifiable documents to present as authentically as possible the intimate portraits of contemporary history makers who previously were only names in the newspapers or fleeting images on the television screen. There is no commentary or analysis.

"Every day, there are significant news stories which conventional TV fails to cover adequately," says McCann. "In some cases, the broadcast media are barred from recording an event with cameras. Some stories are too complex for a newscast's typical visuals and two-minute summaries. Others offer no visual possibilities, sometimes because there are no cameras present when they happen. For these stories, TV coverage is often just a cut above a bulletin service.

"Take the Karen Quinlan case, for example. From the night she got sick through the court battles, the story is complicated by moral, religious, ethical, medical and legal issues. There is no way Walter Cronkite could deal with this thing in 45 seconds We devote 40 minutes to the Quinlan case, and people have told us they come away with a better feel for the issues. It gives them something to think about.

"Often, too, such events are unconvincingly visualized in fictionalized television dra-

mas, and the personalities are reduced to schoolbook stereotypes. When fleshed-out with imaginary dialogue supplied by screenwriters who are more interested in colorful action than historical fact, these stereotypes are the stuff that legends—and lies—are made of."

To fill that void between sketchy television news, and distorted Hollywood drama, McCann originated the "docu-drama" concept of programming. He and his partner, Webster Lithgow, first utilized the concept in 1974 when they produced the television re-enactment of "The White House Transcripts," reducing the 1,300 pages of raw material into a 90-minute special, and again in 1975 when they produced "The Watergate Cover-Up Trial," bringing dull, hard-to-read transcripts to life for millions of Americans who might otherwise never have known their contents.

Because of the success of those two programs on KERA as well as other stations around the country, Channel 13 invited McCann to Dallas in the spring of 1975 to discuss possible joint production ventures. Out of those discussions grew "Eyewitness." Subsequently the Corporation for Public Broadcasting funded the development of this 90-minute pilot, and after judging its success, CPB allocated grant money (to be supplemented by Channel 13) for four one-hour segments to be shown on the Public Broadcasting System sometime later this spring.

Work began on the pilot 18 months ago, with a large portion of that time dedicated to the selection of topics and the editing of the script material. "The range of subjects for the show is diverse and almost inexhaustible," says McCann, "and editing is an extremely complex task. Material is selected on the basis of importance, interest value and legal significance. There is a heavy burden on the producer and director to make sure we get the meat of the story without distorting the facts."

McCann feels the American public is more ready now than ever before to accept the realistic view of life that shows like "Eyewitness" are able to provide. "The Watergate episode and other revelations coming out of Washington and the business world have made the public more aware and more interested at getting at the facts," he says philosophically.

"And since television has become the main source of news for most people, it is the responsibility of the television industry to do everything in its power to enhance the public grasp of contemporary events."

Ron Devillier, former Channel 13 program director, now PBS Director of Program Acquisitions, and a prime mover for "Eyewitness," believes this emerging philosophy of television realism signals the genesis of a new era for the industry. "People are tired of poor programming," he says. "I think they're tired of senseless things—an endless string of rapes and murders. They know life is really not like that.

"I think television is going to start listening to the people, telling them about the real world rather than relying on mindless story lines. The success of 'Roots' is evidence of that. ABC ran a real risk when they ran eight straight nights of it, and as we look back now, seeing how great it was, everybody is saying 'I would have done it.' But for ABC, it was a real adventure—letting America read the book simultaneously on the same nights. Those kinds of bold steps indicate to me that television is trying to find new ways of presenting itself."

"Eyewitness" is another of those bold, adventuresome steps. And test audiences set up by CPB in New York, Boston, Birmingham, Des Moines and Seattle, representing a cross-section of social, educational and age groups, indicate that it is a step in the right direction. General reactions were "very positive," and the program was perceived as being informative, believable, unbiased and emotionally involving.

The docu-drama format impressed people. "It had real impact," said some. "Seeing it acted out made it real," said others. The program also received high marks for objectivity.

Each of the segments affected people strongly in a variety of ways. The air crash: "I was all hyped-up. I wanted somebody on the ground to stop it at the last minute." The Karen Quinlan case: "I felt glued to that program; I was very touched." The assassins: "I don't know he (Oswald) tried to commit suicide because of Russian citizenship." Sirhan acted out of frustration and the inability to understand the American government." Sara Jane Moore could be the lady next door. She looked and acted so normal, it was frightening."

Upcoming "Eyewitness" segments are expected to deal with the thalidomide babies; the original trial of Tokyo Rose; Mao Tse-Tung; excerpts of trials of con artists; Lynn McClure, the East Texas youth who was fatally injured during Marine training; and Fred Doan, an accused male prostitute from Boston who was aquitted on a law that says only a woman can be a prostitute.

Devillier is especially excited about the segment on Mao Tse-Tung. "Mao was one of the most powerful figures to live in the 20th century," he says, "and he probably is the least well known by western civilization. From his writings, we are creating a mini-biography of the Chinese leader and his philosophy, and if he spoke what he meant, 'Eyewitness' will capture a fair share of what he was."

Although "Eyewitness" has yet to make its public debut, the producers are forecasting nothing but success for its future. "I expect the series will be the most talked about thing on public television this spring," says a confident McCann. I predict that PBS will want more and that we will be in business with 'Eyewitness' for a long, long time."

"We will give something to people that they can't get anywhere else," adds Devillier. "We are lifting up public documents for public inspection on television, and we are doing it in an interesting, thought-provocative way."

As most who have seen it would agree, "Eyewitness" is more than a television show. It's an adventure—probably the closest you'll ever come to a trip in a real time machine. Moderators Lee Clark of Channel 13's "13 Report" and Andrew MacMillan of WOR-TV in New York will lead your way into the historical realm that few people have a chance to visit personally. You're invited to step inside.

MINORITIES IN SCIENCE AND ENGINEERING

Mr. KENNEDY. I would like to enter into the record today an important document relating to the development of our Nation's technically trained human resources. This document is a "Statement of Purpose Regarding the Pre-College Preparation of Minority Students for Careers in Science, Engineering, and Technology." It was prepared by the Committee on Minorities in Engineering, which is part of the Assembly of Engineering of the National Research Council, the operating arm of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine. Unlike academy committees which are funded by Government contract, this committee is supported by the private sector. A National Advisory Council on Minorities in Engineering (NACME), consisting of leading individuals in industry, education, and civil rights groups, has supported this effort in many ways, including financial support for the committee's activities by the advisory council's nearly three dozen industrial members.

The Committee on Minorities in Engineering, which was established in 1973, has as its goal the stimulation of a tenfold increase in the number of minority engineers by the late 1980's. It is seeking as an intermediate objective an increase to 18 percent—which is projected to be equal to the minority percentage of the college-age population—in minority representation in the freshman engineering class of 1982. Through the national efforts which the committee is a part of, the minority participation reached 7 percent in the entering class of 1976.

The committee's approach is based on the premise that the major barrier to minorities entering and completing college science and engineering programs is the lack of adequate preparation at the secondary school level. Adequate preparation includes having the necessary skills in mathematics and science and an awareness of the opportunities that will be available or foreclosed depending on those skills. The academy is attempting, therefore, to increase dramatically as early as junior high school the pool of minority students who are qualified and motivated to pursue science and engineering in college.

I want to congratulate the National Research Council of the Academies for taking this approach. The participation of minority group members in virtually every aspect of our society but especially in the technical, professional, and managerial positions, in which they have been most severely underrepresented, depends on access to the necessary preparation.

The combination of analysis of the basis of the problem and suggestions for dealing with it will be useful to the Congress, and especially to my Subcommittee on Health and Scientific Research, in considering and determining legislative priorities. I applaud the academy for taking such leadership and urge that it continue to provide presentations of alternatives as we consider our national need for technically trained human resources and the responsibility of the Federal Government to assist in the response to those needs.

I ask unanimous consent that this document be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

STATEMENT OF PURPOSE REGARDING THE PRE-COLLEGE PREPARATION OF MINORITY STUDENTS FOR CAREERS IN SCIENCE, ENGINEERING AND TECHNOLOGY

Engineering, the nation's second largest profession, with almost a million practitioners, is an occupational area where job opportunities are generally good. Because of its size and the fact that many trained as engineers eventually enter sales, management, and related fields, a yearly turn-over of over 40,000 jobs is not unusual. Consequently, the demand for engineering graduates in recent years has remained high compared with other professional groups This is not surprising when one considers

where the demands originate, fully 40% of the nation's upper level management personnel have engineering backgrounds; half of all federal employees GS 14 and above fall in the same category; and the nation's research and development efforts depend on technically-trained manpower. It is increasingly apparent that mastery of technical skills and ability to resolve technical problems are becoming prime prerequisites for full participation in economic and governmental affairs.

Minorities (Blacks, Mexican-Americans, Puerto Ricans and Native Americans) have always been seriously under-represented in the technical professions. At present they constitute less than 2% of the nation's engineering forces. Their numbers among students in engineering colleges and universities have never been commensurate with their population ratios. In 1973 the number of minority freshman engineering enrollees was 2,900, about 3% of the total freshman engineering enrollment. In 1975 the number had increased to 5,350 or about 7% even though the total size of the entering class had grown in the interim. In 1976 minority enrollments increased to over 6,300.

These enrollment gains over the past few years have been achieved through the identification and recruitment of talented minority students at the eleventh and twelfth grade levels by engineering college representatives and others. Lack of preparation in mathematics and science has proven a major obstacle to many minority students who professed an interest in pursuing engineering and/or scientific careers. It has been felt that had these students begun taking courses in these subjects in the 7th, 8th, or 9th grades their chances of having been admitted to the technical colleges and curricula would have been enhanced dramatically. There are no adequate data to show that continuing current recruitment efforts at the higher secondary school levels will increase the pool of academically prepared minority students. If efforts are begun in the early junior high school years, however, past experiences indicate a promise of much greater success.

During junior high school years, students can be exposed to engineering career information even though they cannot be expected to make decisions about engineering careers other than in general terms. Preparing for careers in engineering at this stage is about the same as preparation for any other science, mathematics or technology-based career. Therefore, setting a goal of increasing the number of minorities in engineering can open up a whole range of educational options for minority students. With this in mind, the Committtee on Minorities in Engineering has set a goal of achieving parity for minority students among entering freshman engineering students in 1982 by concentrating the Committee's efforts at levels where the aspiration, interest, and academic pursuit capabilities indicate the greatest promise for future success—i.e., among 7th, 8th and 9th grade students. Given a national projected freshman enrollment of 75,000 students in engineering in 1982 with an estimated 18% proportion of minorities among the 18–24 year old age group, a target has been set to have 13,500 minority students in engineering courses that begin in 1982.

To reach this goal a number of basic issues relating to the preparation of minority students for engineering must be seen in perspective and dealt with accordingly. Among these are the following.

Most minority students have limited educational experiences which restrict their knowledge of technical occupational areas

Minority and majority students differ in ways which not everyone understands. In general, minority students have more circumscribed educational and career experience than are commonly found among majority youth. Their parents do, in many instances, place a high value on seeing that their children have good educations. However, the fact that many minority parents themselves have not had a college education limits their awareness of what is involved in seeking a college degree. Similarly, their involvement with and understanding of the scientific and technological worlds are narrow and often erroneous. Some of this naivete may be due to the locale in which the minority child resides, either urban or rural, and both urban and rural minority students often have limited educational resources and programs available from which they might make choices in preparation for adult careers.

Early identification of any student who has an aptitude for mathematics or science is not easy

The somewhat limited techniques now available for early identification of the potentially able or gifted student have been developed and used with majority students, very little work has been done with minority students. The few experiences with this kind of testing among minority youth has done little more than demonstrate and reinforce builtin biases characteristic of most aptitude and achievement tests. Research also shows that teachers frequently have preconceived notions about what it means to be a bright child and often make even more serious misjudgements about the potential of minority students because of their limited knowledge about such students' life styles. Many teachers think that because science and mathematics require high levels of achievement only "gifted" children should be sought out and encouraged to pursue "difficult curricula." The fact is, this "seeking out" is not a common practice in largely minority schools and so there is little information as to how this "seeking out" can best be done. The informal screening practices of many teachers probably forestall and eliminate many minority youth from considering careers in science simply because they seldom, if ever, get a chance to know about these future possibilities.

For example, many minority youth encouraged to take Business Math because of the promise of jobs after high school graduation are shunted away from the college preparatory track. Language deficiencies are also inhibiters when the identification spotlight is focussed on the minority child. This deficiency often leads to the students being denied opportunity or even being pushed out of school. Add to these the economic stresses prevalent in the minority community, the loss of as many as 90% of an entering high school class before graduation three years later, and the loss becomes catastrophic.

Math and science "enrichment programs" are often found in high schools where there is a definite college orientation. The enrollees are generally majority students. By contrast, remedial programs with their attached stigma are the ones most available to the minority student.

Teachers play the paramount role in the educational system. They control and direct the teaching/learning process. Nationally, it appears that teachers in the critical junior high school math and science areas are not up to date in their preparation nor particularly effective in teaching minority students, although some individuals within a given school or school system are highly motivated, even compelled by some inner drive to assure themselves that their offerings encompass the widest possible range of opportunities for their charges.

Exposure to programs and activities outside of the schools are extremely important for creating an awareness of engineering career opportunities, perhaps even more than subject matter content and counseling, yet there is very little evidence that this occurs to the degree that it should. In the minority school the dearth of such activities is the rule, not the exception. Research has shown that exposure to university and industrial settings, interaction with practicing minority engineers and scientists, carrying out scientific projects of a practical nature can and does stimulate minority youth and directs their attentions to the high school and college curricula necessary for careers in science and enginering. Most of this research has demonstrated that teacher/parent/community coordination is extremely influential in emphasizing the importance of math and science to students once the student has been alerted to opportunities which may be open to him as an adult in scientific and related fields.

The responsibility for increasing the number of prepared minorities is a shared one

This Committee believes that educational institutions have a major responsibility for providing opportunities for minority youth that are at least equal to those provided for majority youth; that it is the responsibility of educational officials to ensure that the educational needs of minorities are being met, particularly in math and science, irrespective of origin and background; and that resources must be allocated to facilitate the academic training and the social sensitivity of all who work with minority students wherever they may be found.

At the college level, this involves presidents and deans of engineering institutions and departments. At the secondary level, this includes state and local school superintendents and principals. And of course, at all levels, it includes teachers who come into direct contact with minority students in any school population.

The Committee further believes that foundations, business, industry, government, labor an professional organizations have their own very necessary peculiar and particular role in this search for talent which might other vise be wasted.

PROGRAM STRATEGIES

To meet its targets of 13,500 minority freshman engineering enrollees by 1982, the Committee could take a narrow approach, a broad approach or a combination of the two. The narrow approach would involve stimulating the development of projects in various cities with large minority populations so that perhaps the top 10% of minority students would be contacted during junior high school with the expectation that a large proportion of them would go into engineering in college. The broader approach would be to have an impact on the mathematics and science preparation of possibly 50% of minority students in junior high school and assume that a sufficient number from among them will choose to go into engineering.

The Committee believes a dual approach will yield the best results. Within a limited framework it will encourage the creation and support of projects designed to work intensively with limited numbers of promising minority students. This should increase the pool of prepared minority students and, if successful, will have a demonstration effect in showing what is possible with this kind of effort. The Committee will also attempt to influence the mathematics and selected schools throughout the nation in a variety of ways. Both approaches will require institutional changes to insure that the work of the Committee will be contributory and long lasting.

The Committee believes that it's concentrated efforts to find 13,500 minority precollege engineering students by 1982 will have a spill-over effect and uncover talented youth who will pursue academic and vocational goals in other fields such as art, the humanities, etc. To implement this dual ap-

proach, the Committee plans the following programmatic strategies:

Field Work: The Committee will provide guidance and technical assistance to new local projects designed to increase the pool of prepared minority students. It will stress the need for projects to begin at the junior high school level and to be comprehensive in involving industry, community, school system and university participation. It may seek to initiate certain kinds of model projects. It will share information on existing efforts with individuals and groups interested in this effort.

Policy Analysis: The Committee will provide for giving assistance in analyzing, developing and advising on policies and programs of government agencies which can or do affect minority students. At the Federal level, this will include NSF, HEW, DOL, DOD and mission-oriented technical agencies which both directly hire and fund contracts involving the employment of minority engineers, including the legislation which authorizes their activities. At the State level, guidelines for the use of both Federal and State education funds will be developed. At the local level, especially in localities with large minority populations, policies and programs will be reviewed, supported, and augmented as they impact on the educational goals of the young.

Applied Research: The Committee will conduct and/or support applied research which can lead to the more effective development and implementation of projects, policies and programs. This may include research on the way the present system of producing qualified minority high school graduates works, assessments of the effectiveness of existing projects, and developing demonstration projects involving Federal-State-local cooperation.

The Committee recognizes that to provide leadership to the pre-college area it must continue its contacts with the whole range of professional, minority, university and other groups which have been involved in its earlier activities and maintain a close articulation between the pre-college and college-level programs. Among the national groups with which it interacts most consistently are the National Advisory Council on Minorities in Engineering (NACME), the Engineers Council for Professional Development (ECPD), the Minority Engineering Education Effort (ME³), the National Fund for Minority Engineering Students (created by NACME members), the Sloan Foundation, and the National Coordinating Center for Curriculum Development at SUNY Stony Brook.

At the local level, the Committee is working closely with the Philadelphia Regional Introduction for Minorities in Engineering (PRIME), the Texas Alliance for Minorities in Engineering (TAME), the Committee on Institutional Cooperation (CIO+) in Chicago, the Committee to Increase Minority Professionals in Engineering, Architects and Technology (CIMPEAT) in Atlanta, and the California Consortium for Minorities in Engineering.

IMPLEMENTATION ROLES

The Committee will continue to carry out its pre-college field work, policy analysis and applied research activities as a group. Individual members are expected to also initiate or carry out projects in their respective areas in support of the Committee's goals. Nationwide, many agencies and groups which are, or can be, instrumental in implementing the Committee's activities will be the object of continued Committee and staff liaison and support. These include:

Federal Government. Federal legislation and agency policies and programs can be a key part of implementing the Committee's strategies and will receive a significant degree of attention. The Committee is giving first priority to NSF and HEW.

State Government. State education agency officials can play a significant role in developing model projects, providing leadership and directing funds to local programs. State legislators can initiate legislation which affects regulations, funds, and effective personnel utilization. The Committee is working with the Council of Chief State School Officers, the Education Commission of the States, the National Alliance of Black School Educators and similar groups to obtain a coordinated approach in resolving this aspect of its educational concerns.

Local School Officials. Local superintendents and principals of specialized schools are recognized as the critical factors in the success or failure of new projects. The Mays Academy for Math and Science being planned in Atlanta, Georgia, the School-within-a-school in the Malcolm X Shabazz High School in Newark, New Jersey, and the High School for the Engineering Professions in Houston, Texas, are projects which local school officials initiated and which the Committee hopes will serve as models for others.

Teachers. Teachers are taking increasing responsibility for their own professionalism and through their organizations can "make or break" special projects. The National Science Teachers Association (NSTA), the NEA and other national teacher organizations are being brought into active participation in implementing the Committee's strategies.

Counselors. Counselors have the potential when provided with adequate information, to reach students in effective ways. The American Personnel and Guidance Association (APGA) is an organization to which the Committee will turn for advice and help in reaching counselors with appropriate information which will enhance chances of achieving the 1982 goal.

Parents and Community Groups. Parents, community leaders and organizations, and older friends have great influence on career choices of students. The National Urban League, LULAC, the NAACP and other such organizations have the capacity to work with and through parents and local chapters to reach minority students. The Committee has made and will continue to make direct approaches to enlist the aid of these and other organizations in its pursuit of talent.

Media. The media can be effective in building demand for engineering education by providing information and images about the rewards and opportunities it offers. The minority press, television and radio would be an especially effective vehicle for influencing parents and students. The Committee needs to find an effective *entree* to utilizing these resources.

Engineering Schools. Engineering schools define the standards which students must meet and can provide early contact and stimulation through their own faculty and student resources. The Committee will continue to encourage and seek ways to enable these schools to become integral parts of a community's guidance activities, as well as closely associated with academic programs.

Professional Societies. Engineering professional societies can affect both institutions and students. The Engineers' Council for Professional Development (ECPD) and the American Society for Engineering Education (ASEE) provide information nationally. Minority engineering societies such as the Mexican American Engineering Society and the National Technical Association can provide role models at the local level.

Philanthropy. Private foundations, including the Sloan Foundation, the Hewlett Foundation and many industrial education foundations, have supported projects for minorities in engineering. Likewise, scholarship organizations, e.g., the National Fund for Minority Engineering Students (created by NACME members) and the National Achievement Scholarship Program of the National Merit Scholarship Corporation, have supported minority engineering students. Private philanthropy has been a major factor in developing the minorities in engineering effort.

Industry. Industry has already demonstrated that it can provide resources of many kinds to local projects. This includes role models, where practicing minority engineers and scientists become visible to communities; leadership roles in project initiation; providing usable scientific equipment; and opportunities for better informing teachers, parents and students about engineering. Member companies of NACME as well as the National Alliance of Businessmen are currently involved.

NEED FOR LONG-TERM COMMITMENT

The Committee recognizes that producing institutional and social change requires long-term commitment. It will seek in every way possible to direct its efforts and those of the other groups involved in implementing this strategy toward making long-lasting improvements in the preparation of minorities for participation in technical careers.

IN MEMORIAM—PHIL HART AND JOHN BLAIR

Mr. KENNEDY. Mr. President, during the past few months it has been my sad privilege to make several statements concerning the loss to the Senate of our beloved former colleague, Philip Hart, several of which have appeared in the RECORD. Today, I wish to call to the attention of my colleagues a statement by Dr. Walter Adams of Michigan State University which appeared in the March 1977 issue of the Journal of Economic Issues and in which he pays tribute to Phil Hart and to John Blair, chief economist of the Antitrust Subcommittee from 1957 to 1970.

Those of us whose Senate careers go back before 1970 will remember John Blair, who was chief economist for the subcommittee under Senator Kefauver as well. The hearings which he directed on the drug industry culminated in the 1962 amendments to the Food, Drug, and Cosmetic Act. These amendments, known as the Drug Industry Antitrust Act established standards for drug advertising, for efficacy, and standards which facilitate the use of generic names in the prescribing of drugs.

John Blair was a strong believer in the ability of capitalism to be a workable economic system if left unhampered by government or by monopoly. The whole series of hearings on economic concentration which he directed for the subcommittee shows his conviction that the forces of monopoly were working to the disadvantage of the average consumer, who would benefit most if competition were encouraged. The continuing interest of the Antitrust Subcommittee is petroleum and other forms of fuel springs from Blair's argument that it was the consumer who suffered most as the result of the "bigness" of the petroleum industry.

As chairman of the Antitrust Subcommittee, following in the footsteps of my two predecessors, I want to express the subcommittee's appreciation of the many years of service which John Blair gave to this group and to the Senate.

It is a curious coincidence that John Blair and Philip Hart died within a few

days of each other. John Blair will be missed, as will Phil Hart—each for his contributions to the fight for the same goal: a free and democratic society. I ask unanimous consent that Dr. Adams' statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOHN M. BLAIR AND PHILIP A. HART

IN MEMORIAM

Christmas Week 1976 was marred by the loss of two prominent fighters for a free and democratic society.

Philip A. Hart, the gentle man from Michigan, animated by deep moral convictions, and rightly recognized as the conscience of the United States Senate consistently stood in the forefront of the civil rights battles for human dignity and the antitrust battles for economic freedom. Like Estes Kefauver, his predecessor as chairman of the Subcommittee on Antitrust and Monopoly, Philip Hart helped us understand the significance of concentrated economic power and the threat it poses to a free society. An unassuming, unassertive, patient teacher, Senator Hart seemed blithely immune to the organized pressure of vested interests, obeying to the very last the command of Micah: to do justly, to love mercy, and to walk humbly with thy God.

John M. Blair fought for the same ideals, but in a markedly different style. A charismatic, flamboyant, and often cantankerous person, with populist roots in the American heartland, Blair exercised a profound influence on official Washington for more than 30 years. Combining an all-consuming interest in the study of political economy with a penchant for public interest activism, he left an indelible mark on the orientation of the economics profession and the thinking of government policy makers. He was the prototype of the incurably curious scholar and the incorruptible public servant.

Blair's career in Washington started in 1938, amidst the electrifying excitement of the New Deal, and was one long, tumultuous battle against industrial monopoly and eslishment economics. He was a young economist with the Temporary National Economic Committee (the Joint Congressional Committee which produced the landmark hearings and reports on economic concentration), with the U.S. Smaller War Plants Corporation, and later chief economist with the Federal Trade Commission. The captains of industry and the spokesmen for special interests quickly (and justifiably) came to regard Blair as an able analyst and articulate gadfly who was prepared (as Paul Douglas once noted on the Senate floor) to struggle valiantly and against considerable odds to "preserve the system of competitive capitalism from the encroachments of monopoly."

Blair reached the acme of his government career when, in 1956, he became chief economist of the Senate Subcommittee on Antitrust and Monopoly. With the firm support, first of Senator Kefauver and later Senator Hart, he was the central motive force behind the subcommittee's extensive investigations of the structure, conduct, and performance of such industries as steel, automobiles, drugs, and oil. He made the subcommittee a prime forum for collecting evidence on administered pricing and its implications. Following Gardiner C. Means, much to the chagrin of the conventional wisdom in economics, he sought to demonstrate that administered prices were perversely raised in the face of falling demand and deepening recession in order to meet predetermined profit targets. He tried to show how such perverse pricing tended to vitiate conventional monetary and fiscal policy and to aggravate the problem of inflation in the midst of recession—a problem for which traditional economic theory had no satisfactory explanation or cure. The subcommittee's record, produced under Blair's guidance and contained in some 50 volumes, will be a treasure trove for scholars and government officials for years to come.

After his retirement from the Washington scene, Blair wrote Economic Concentration, a widely used textbook in industrial organization, rich in data and replete with insights growing out of his government experience. The Control of Oil, published within a week after his death, represents the culmination of Blair's quarter-century interest in the oil industry, dating back at least to 1952, when the Federal Trade Commission issued its "Repcrt on the International Petroleum Cartel," prepared under his direction and rated by friendly and hostile critics alike as of historic importance. In the book, Blair argues that the Seven Sisters of the international oil industry exercise pervasive monopoly control of supply and markets which is so inimical to the public interest that it must either be controlled by effective regulation or, preferably, neutralized through comprehensive dissolution, divorcement, and divestiture.

John M. Blair was an institutional economist par excellence. He was a soldier in "that small but brave army of men who preferred to see the truth obscurely and imperfectly rather than to maintain error, reached indeed with clearness and consistency and by easy logic but based on hypotheses inappropriate to the facts." The ranks of that army are woefully depleted by the deaths of John Blair and Philip Hart.

WALTER ADAMS,
Michigan State University.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

James P. Buchele, of Kansas, to be U.S. attorney for the district of Kansas for the term of 4 years, vice E. Edward Johnson, resigning.

Robert B. King, of West Virginia, to be U.S. attorney for the southern district of West Virginia for the term of 4 years, vice John A. Field III, resigned.

Kenneth J. Mighell, of Texas, to be U.S. attorney for the northern district of Texas for the term of 4 years, vice Michael P. Carnes, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, July 6, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

EXTENSIONS OF REMARKS

SUPREME COURT RULING CONTRADICTS STATE DEPARTMENT STAND ON RHODESIAN OFFICE

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, June 29, 1977

Mr. HARRY F. BYRD, JR. Mr. President, in its editions of Sunday, June 26, 1977, the Baltimore News American published an excellent article on the State Department efforts to close down the Rhodesian Information Office in Washington, D.C.

The article was written by Kingsbury Smith, national editor for the Hearst newspapers. I ask unanimous consent that this article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUPREME COURT RULING CONTRADICTS STATE DEPARTMENT STAND ON RHODESIAN OFFICE

(By Kingsbury Smith)

WASHINGTON.—The State Department's contention that the United States is obliged by the United Nations to close down the Rhodesian Information Office in Washington appears to be in direct contradiction with the position of the United States Supreme Court.

Responding to the request of 44 members of the House of Representatives for a "full explanation" of the administration's plan to close the information office, Secretary of State Cyrus Vance informed the congressmen that "as a signatory to the United Nations Charter, the United States is obliged to observe sanctions pased by the Security Council."

Virginia's independent Sen. Harry F. Byrd, Jr., made available to The Hearst Newspapers information which showed that in 1973 the U.S. Supreme Court upheld decisions of two lower courts that the American government was not obligated to adhere to UN resolutions, and especially not if Congress opposed such resolutions.

Ten days ago the Senate expressed strong opposition to the closing down of the Rhodesian Information Office on the grounds that it would curb the free flow of information. By a voice vote, the Senate adopted an amendment to the State Department authorization bill which said: "It is the sense of the Congress that any foreign country should be allowed to maintain an information office in the United States."

Both Sen. Byrd, who denounced the administration's support for the UN resolution as demonstrating "a dangerous lack of concern for the very principles upon which this nation was founded," and Rep. Richard H. Ichord, D.-Mo., one of the sponsors of the letter to Secretary Vance, said the State Department's position was contrary to the Supreme Court's ruling.

That ruling, Ichord added, "certainly contradicts Secretary Vance's letter to us."

Byrd and Ichord, as well as other members of both houses, believe the closing down of the Rhodesian Information Office would also be a violation of a 1973 act of Congress. That act declared it to be the policy of the United States "to promote the rights of freedom of opinion and expression, including the free-

dom to seek, receive, and impart information and ideas through any media and regardless of frontiers."

The act further said the promotion of "open communication of information and ideas among the peoples of the world contributes to international peace and stability" and "is in the interests of the United States."

"Closing down the Rhodesian Information Office would fly in the face of that act," Rep. Ichord said. "It would be in direct contradiction with it."

Sen. Byrd recalled that in 1972 the Senate adopted his amendment to exempt the United States from the United Nations economic sanctions against Rhodesia. Rep. Charles C. Diggs, D-Mich., challenged the amendment in court.

On June 19, 1972, the U.S. District Court ruled that "the proposition that the United States has somehow surrendered its sovereignty to the United Nations is soundly rejected.

"Congress," the court added, "has the constitutional authority to abrogate in whole or in part the treaty obligations of the United States. This was a political, economic and foreign policy determination. It is not for this court to strike it down."

On Oct. 31, 1972, the U.S. Court of Appeals for the District of Columbia upheld the lower court's ruling with the comment: "It is settled constitutional doctrine that Congress may nullify in whole or in part a treaty commitment." On April 16, 1973, the United States Supreme Court let stand the rulings of both lower courts.

Sen. Byrd pointed out that when the Senate last March re-imposed the ban on the shipment of Rhodesian chrome into the United States, it also approved his amendment giving the president authority to lift American sanctions against Rhodesia "if he determines that such suspension would encourage meaningful negotiations."

The senator said the president therefore has plenty of authority to exempt the United States from the UN Security Council's action calling for the closing down of the Rhodesian Information Offices in all UN member states.

Stanley L. Sonnerfield, acting director of the Treasury Dept.'s Foreign Assets Control Division, told The Hearst Newspapers last week that he was awaiting a presidential executive order to close down the Rhodesian Information Office in Washington. That would be done on the grounds that the Rhodesian government had no right to transfer funds to this country, and no Rhodesian official or agent had a right to operate in the United States.

However, it was learned that State Dept. lawyers are exploring other legal possibilities for closing down the information office without the issuance of an executive order.

In view of strong congressional and public (mail) opposition to the curbing of the free flow of information, it is apparently thought it would be better to spare President Carter the attention that would be focused on him if he issues an executive order closing down the information office.

To date, the President and the State Dept. seem determined to carry out the commitment made to the United Nations when the United States supported the Security Council action on May 27.

FARMERS AND SENIOR CITIZENS PAY FOR INFLATION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. NOLAN. Mr. Speaker, the following letter was sent to me by William Claussen of Hardwick, Minn. Hardwick is a small farming community in the southwestern part of the State.

Mr. Claussen makes a simple and eloquent plea for reordering our budgetary priorities so that agriculture and senior citizens are not shortchanged by an inflationary military spending policy that remains unchecked.

The letter follows:

Oat prices down, corn prices down, soybean prices down and wheat prices down. Last year, 1976, we celebrated the two-hundredth anniversary of our nation, and although none of us living today were around then, history tells us that people did without many of the things we take for granted today. But one of the things they could not do without then was food, nor can we do without it today. Yet, after two-hundred years or more of producing that absolutely necessary commodity, after everyone else has taken their bite, it seems the American farmers get the crumbs.

It is said the farmers are a minority and cannot do anything about it. Yet, it is this minority that is producing enough food for our nation and half the world besides! While other segments of the economy are raising their prices and salaries to offset inflation, the farmers have no control and cannot set their prices to offset their staggering and inflated cost of production.

And while we are on the subject of inflation, I believe it was in the latter part of 1974 when Gerald Ford was president that he said inflation was our worst enemy—but three years later, with a defense budget of, I believe, one-hundred and eleven billion dollars, how much of it is allocated to fighting inflation?

It seems to me that inflation is a cancer eating away at our economy and must be stamped out. It is especially hard on the elderly who worked hard to make our nation great and saved a small nest egg to travel and enjoy life after their working years were over, only to see their nest egg eaten away by inflation and hardly stretching their social security check from month to month for a bare living. Can they help but feel frustrated and let down?

Also, I have often wondered if our brilliant scientists who have made it possible for men to walk on the moon and to send landers all the way to Mars and manipulate them from the earth might not be able to come up with an alternate or substitute for oil as the day of the oil wells running dry is getting nearer.

THE NEED TO PRESERVE THE WEST LAKE AREA OF BROWARD COUNTY, FLA.

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. BURKE of Florida. Mr. Speaker, today, I am introducing a bill which I hope will assure the preservation, conservation, and protection of the natural scenic, hydrological, floral, faunal, and recreational values of the West Lake area of Broward County, Fla., which is in my congressional district.

There is a popular song that we have all heard entitled "Don't It Make You Want To Go Home," that laments the changes time and prosperity have brought to the environment we knew as children. I think the lyrics say in a poetic way what we all feel. The popularity of the song seems to indicate that many people identify with the emotions expressed therein:

"There's a drive-in show where the meadow used to grow
And the strawberries used to grow wild.
There's a drag-strip down by the riverside
Where my grandma's cow used to graze.
Now the grass don't grow and the river don't glow
Like it did in my childhood days."

Mr. Speaker, my district is one of the fastest growing areas in the country and it seems that each time I return to it, I am confronted with dramatic changes. Although I welcome progress and growth because I know that it means more people will be able to enjoy living in Florida, I also feel a sense of loss for what used to be. It is not as easy to love a concrete building as it is to love the beautiful tropical scenes and wildlife. It makes me sad to know that future generations will not experience the beauty of undeveloped Florida land with its palm trees, banyan trees, exotic flora, and fauna. I hope there is still time to save the important parts of the land in its natural state.

I had hoped that existing Federal and State programs would be sufficient to save the land included in my bill in its present state, but my inquiries to the Department of the Interior were discouraging. First, the National Park Service advised that it felt the themes of prime significance represented by West Lake were already well represented in the National Park System by Everglades National Park and Biscayne National Monument.

Second, the National Wildlife Refuge System advised that an area must be essential to the preservation of an endangered species or migratory birds, or a unique area of national significance, which West Lake is. But it went further and stated that West Lake does not rank high enough on the national scale—whatever that is—to be considered for acquisition as a national wildlife refuge.

Third, the Bureau of Outdoor Recreation—Land and Water Conservation Fund—advised "projects must be in accordance with the comprehensive statewide outdoor recreation plan and must be open to the general public for outdoor recreation use." Since the West Lake area is a mangrove swamp it is not suited to recreation in the ordinary sense of the word.

Mr. Speaker and my colleagues, a strange situation exists regarding this land. Nobody questions that the area should be preserved, but no existing program at the Federal level quite protects it. It is not big enough, or novel enough, to be a national park. It does not have an abundance of rare species to be a national wildlife refuge. Nor, in all honesty, does it lend itself to recreation as we usually think of it. Therefore, no Federal funding is available under existing law. Ironically, West Lake has many truly outstanding features, yet none are in sufficient quantity to qualify for any of our existing programs.

There is a study presently being conducted by the Department of Interior with regard to the need for Federal urban parks legislation which is supposed to be completed and given to Congress by December 1977. In my opinion, West

Lake qualifies as an ideal example of the need for Federal legislation to preserve undeveloped land in rapid growth areas. Broward County had few more than 50,000 residents when I moved there in 1949 but today it has a population of almost 1 million. Many of these new residents live in high-rise condominiums in densely populated areas. The State, county, and city funds available for the purchase and maintenance of park land are slow to accumulate. However, the increased demands for land drive up costs daily. The result is the gap between money available for parklands, and the cost of acquisition grows instead of diminishing with time.

Furthermore, Mr. Speaker, a majority of the elected officials in Broward County favor preserving West Lake in its natural state because it is the last stand of mangrove of any size in the entire county.

To be more specific, West Lake is a 1,500-acre tract in southeast Broward County, Fla. Before man entered the scene digging canals, replacing the natural flora with a mosaic of structures, roads, and depleting the area of its fresh water supply, the West Lake area was basically a sawgrass marsh. With the digging of canals and wells, a fresh water head was lost, forcing the West Lake area to succumb to the new front of salt water that accompanied the opening of the Port Everglades Inlet and the digging of the Intracoastal Canal. With this the sawgrass basin began to be overtaken by a mangrove community that slowly pushed its way westward, to be stopped by the scrub pine and man's development. Although the West Lake habitat has changed drastically and suddenly from its original flora, a sawgrass marsh could never be restored.

Salt water intrusion has caused a stable mangrove community. Despite the fact that West Lake is somewhat artificial in its birth as a mangrove-dominated system of flora, it remains an invaluable resource to southern Florida and the entire country.

In addition to such tangible benefits as nutrient uptake by plants preventing excessive water pollution, and primary food production for marine, avian, and terrestrial food chains, there is also the intangible benefit to people of a peaceful oasis in an urbanized area.

Few people complained when stands of mangrove along Florida's southeast coast were replaced with seawalled housing developments and shopping plazas. Mangroves are not beautiful trees. The few aerial roots which, like spider legs, prop up the mangrove, make the swamps seem forbidding. Swarms of mosquitos and clinging crab-like creatures lurk within the swamps.

Bacteria and fungi begin to colonize the red mangrove leaves even before they fall. Different fungi live on the leaf at different times. As the leaf particle becomes more and more infested with microbial life it becames richer in protein. The particles may be eaten and excreted and eaten again many times by different animals; sea worms, little mollusks, shrimp, crabs, and crustaceans. These animals become prey for small fish, like grunts, pinfish, and snappers, that in turn, are eaten by larger fish. Some larger fish, notably the commercially important striped mullet, feed on mangrove detritus directly.

In 1969, two biologists at the University of Miami, Eric Heald and William Odum, demonstrated that in estuaries the red mangrove is actually the basis of an elegant food chain which supports much of southern Florida's unique animal life. Red mangroves were shown by these two scientists to shed more than 3 tons of leaves an acre each year. As these leaves decompose, they are eaten by the little crabs, worms, and other creatures that form the lower links of the food chain. In some Florida mangrove estuaries leaves provide a large percentage of the diets of these animals. The little creatures in turn become prey for many of Florida's fish and tropical birds.

Red mangroves offer more than food. They provide a safe wildlife habitat both on land and around their roots in the water. Moreover, they break up storm waves, and their roots stabilize land vulnerable to the sea.

Almost all the game fish and commercial species in the Florida mangrove go back to the open sea to spawn. The most commercially important of these are the pink shrimp which as adults support an $18 million a year industry. One female pink shrimp may produce 500,000 or more eggs per year. Although hatched in the Dry Tortugas these eggs make an incredible migration from the Dry Tortugas back to the Florida estuarian marshes to mature.

Mangrove life is a major part of the juvenile pink shrimp's diet. In turn, the red fish or channel bass relishes eating pink shrimp. It is estimated that 75 percent of the game fish and 90 percent of the commercial species of Florida depend on the mangrove system.

The food chain does not end in the water. Many of the birds of Florida rely on mangrove—for example, the roseate spoonbill gets its striking pink coloring from a chemical in shrimp and other crustaceans which it eats. The snowy egret eats by filter feeding small fish found around mangrove trunks.

West Lake vegetation is a portion of the vast mangrove forest which once stretched along the east coast of Florida. Regrettably, it is the last significant stand of mangrove left in Broward County. All four kinds of mangrove are found there although the red mangrove and the white mangrove are most common.

West Lake has an interesting bird population. The wood stork which is on the endangered species list can be found there. The brown pelican and osprey which are on the threatened species list in the State of Florida can be found there. The little blue heron, the common egret, the snowy egret, the Louisiana heron, the yellow crowned and white heron, and the white heron, the royal osprey, the royal tern and the black skimmer are residents in the area.

Mr. Speaker, 86 species of plants were found during a recent plant survey including 24 species of trees, 11 species of shrubs, 37 species of herbs, 9 species of vines, and 5 species of ferns. The greatest value of the flora is its support of wildlife and marine and terrestrial and avian food chains. At least 60 species of birds have been observed feeding at West Lake. Several species of animals, including marsh rabbits, possums, raccoons, and monkeys are also found. Reptiles and amphibians include the red rat snake, the yellow rat snake, the black racer, scarlet king snake, garter snake, Cuban amole lizard, geko lizard, and the Cuban tree frog.

In summary, West Lake amount to an island of nature in a sea of urban development. As wetland, it is temporarily protected by existing law from further development without permits from the U.S. Army Corps of Engineers. However, waste and run-off from adjoining developed areas continue to have an adverse impact and it is the feeling of most concerned environmentalists in Broward County that the land should be in the public domain to insure its preservation in a natural state.

THE ANNIVERSARY OF THE POZNAN RIOTS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Ms. MIKULSKI. Mr. Speaker, today is a source of pride to everyone of Polish heritage. Since the Second World War, Poland has lived under the oppression of a Communist regime. But throughout that time, the people of Poland have retained their desire for freedom and their fierce independence.

June 29 is the anniversary of a day which symbolizes the underlying resistence of the Polish people to their Communist rulers. On this day in 1956, industrial workers in the city of Poznan spontaneously rioted in the streets, demanding bread and freedom.

The revolt was quickly subdued: 53 people were killed and 200 wounded. But as a symbol of the underlying tension in Poland, the riots forced the Communist leaders into a broad alteration of the Polish Government. Press and religious freedoms were increased, farmers were no longer controlled by forced collectivization, workers were given a greater role in the management of industry. In sum, the Poznan revolt led to a greater independence for the people of Poland.

The riots symbolized to the world the struggle for freedom going on within Poland. It sparked resistence in Hungary which led to the anti-Communist revolution in that country.

Today the legacy of the Poznan riots lives on. On this, the 21st anniversary of the revolt, we are drawn to remember the courage of those individuals who fought for their country's freedom.

THE CLINCH RIVER BREEDER REACTOR IS A NECESSITY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. TEAGUE. Mr. Speaker, the debate over this Nation's energy problems has been continuous since the 1973 Arab oil embargo with few significant decisions and none that have offered this Nation a secure energy supply for the future.

We need clean energy at a price Americans can afford.

The reserves of oil and natural gas are limited. No matter what they are, they are being exhausted rapidly.

In spite of this, the administration would like to delay the only technically mature solution to the energy shortage. They suggest that we wait until most of the oil is gone before making a decision to build the Clinch River breeder reactor. They discuss energy reserves in terms of supply, not in terms of the price people will have to pay for that energy.

The OPEC nations exert tremendous influence over the pocketbooks of U.S. citizens. This Nation's most unfavorable balance of trade, in its entire history, occurred the first quarter of this year. This unfavorable balance is a direct result of our increasing petroleum imports from the OPEC nations.

Even uranium, the fuel of present-day nuclear powerplants is limited. According to the January 1977 ERDA report, the recoverable uranium resources was estimated at 0.8 million short tons—known resources; 1.0 million short tons—probable resources; and 1.9 million tons—speculative resources. The National Academy of Sciences has assessed the probability that our resources are actually equal to or greater than the speculated amount, at only 3 percent. Disregarding this minimal probability, Dr. Schlesinger, the President's Energy Adviser, uses this speculative amount of uranium to delay the construction of the Clinch River breeder reactor.

In contrast to this, a group of six independent geologists in a study now in progress for the National Academy of Sciences have selected the 1.8 million short tons of known plus probable resources as a prudent planning base.

At present, the United States has stockpiled, in three locations, the equivalent energy of one trillion barrels of oil. This energy is in the form of uranium-238 which is the waste product of the uranium enrichment process. This is also equal to 700 years of electrical power production at the rate electricity was consumed in the United States in 1976. While the administration asks for conservation, and I agree we should stop wasting energy, they do not want to use this stockpiled energy. The breeder reactor can put this present waste uranium to work for us in 25 years if we continue to gain experience in generating power from breeder reactors. That is what the Clinch River breeder reactor will demonstrate.

In the face of these facts, the Clinch River breeder reactor is a necessity and should be supported by all Members of Congress.

CLEAN AIR

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. WAXMAN. Mr. Speaker, recently the House voted to permanently relax the automobile emission standards first established in 1970. In so doing, it chose to condemn the next generation of Americans to hundreds of thousands of excess cases of respiratory disease caused by automobile. The House also adopted a provision which would significantly weaken the protection we sought to provide our Nation's national parks. The amendment adopted on the floor will allow, as Representative ROGERS pointed out during the debate, the construction of a new city of a half million people on the lip of the Grand Canyon. The House amendment would effectively permit significant deterioration of air quality in those areas of the country where the air is cleaner than the law requires.

George Will, the Pulitzer prize-winning columnist, has recently reviewed these two issues. House and Senate conferees will shortly begin their work on the Clean Air Act amendments. I believe it is important that as we work toward an agreement, we keep in mind what is really at stake in the Clean Air Act; the health of the American people, and their ability to continue to enjoy, for generations to come, their pristine recreation and wilderness areas.

I wish to commend Mr. Will's column to the attention of my colleagues:

[From the Washington Post, June 26, 1977]

ANOTHER SETBACK IN THE QUEST FOR CLEAN AIR

(By George F. Will)

It is a moment for unminced words. If the House of Representatives gets its way with amendments to the Clean Air Act of 1970, Congress will have chosen to increase the incidences of various respiratory ailments. And it will have committed a retrograde act against the nation's natural beauty.

Three times since 1970 Congress has delayed implementation of automobile emissions standards. Now the House has voted a fourth delay. Worse, it has voted to weaken standards for carbon monoxide and nitrogen oxide, and has created a mechanism for indefinite weakening of even the weakened nitrogen oxide standards in the future. The Senate has voted for less delay, and for no weakening of carbon monoxide standards. Furthermore, although the Senate has voted to weaken nitrogen oxide standards, it has not provided a mechanism for indefinite weakening.

To some extent, society chooses its disease rates. Societies, like individuals, constantly choose between health and competing goals and pleasures. The House has made an unacceptable choice against the health of Americans who breathe.

For example, the House would allow a five-fold increase in nitrogen oxide emissions over what would be required under existing law. About 40 percent of nitrogen oxide pollution comes from vehicles, and the percentage is substantially higher in urban areas. Such pollution may produce the carcinogenic (cancer-causing) chemicals called "nitrosamines."

The automobile industry says it does not know how to meet the present, unrevised standards. But the industry has a dismal record of asserting what can't be done, and an admirable record of doing what it is forced to do. The lash of necessity concentrates the mind.

Automobiles should be the focus of the fight for clean air because they are the most pervasive source of pollution. And it is easier to shape the decisions of four automobile companies than it is to deal with scores of thousands of fuel-burning industries. But advocates for the automobile industry say that unless pollution standards are relaxed, jobs will be lost because automobile prices will rise unreasonably, and production may be disrupted.

The House bill is an attempt to secure jobs at the expense of the health of millions, especially children and the aged. But more permissive automobile pollution standards will be an obstacle to industrial growth in many areas.

Where pollution already is the maximum permitted, only a decrease in automobile pollution can make possible increased industrial pollution. So the House bill sacrifices other industries, as well as the breathing public, to the automobile industry.

Some advocates for the automobile industry seem to have learned their science from the tobacco industry. They argue that there is little "scientific proof" of the connection between automobile pollution and particular diseases. Such arguments deny the undeniable: statistical patterns that demonstrate a correlation between high pollution and heart disease rates.

The House bill is especially unacceptable, given President Carter's energy program. Carter's plan to substitute coal for oil means increased nitrogen oxide pollution from stationary sources. So a compensatory decline in automobile emissions is imperative.

Another provision of the House bill, if it survives the House-Senate conference, would justify a veto. If enjoyment of natural beauty is, as I believe, important to the serenity of one's soul, then the House bill jeopardizes the nation's spiritual as well as physical well-being. It undoes the policy that prevents "significant deterioration" of the air in several categories of clean-air regions.

The House did this to permit construction of a gigantic coal-fired generating plant in Utah to provide power for Los Angeles. The plant would be near Capitol Reef National Park, not far from Bryce Canyon and near enough to Arches and Canyonlands National Parks to cast haze over them on many days. And this House provision threatens all national parks and wilderness areas where air is supposed to be preserved in its natural pristine quality.

This provision might mean a dramatic decline in scenic values. Rep. Paul Rogers (D-Fla.) says it would be the pollution equivalent of putting a city of 500,000 next to a national park. Rep. Bob Eckhardt (D-Tex.) dryly suggests that "it will be difficult to tell which of our mountain ranges should be called the Great Smokies."

To govern is to choose, and to choose is to reveal values. If the House gets its way, we shall have glimpsed a dark future.

MAJ. BUSTER GLOSSON REASSIGNED

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. WHITEHURST. Mr. Speaker, I am very sorry to report to the House that

next month the Armed Services committees will be losing the services of an extraordinary young officer in the office of the Director of Air Force Legislative Liaison. Maj. Buster Glosson is being reassigned to attend the Armed Forces Staff College in Norfolk, Va.

The chance to attend this prestigious military graduate school represents a significant milestone in the career of an officer, and certainly Major Glosson deserves such an opportunity. Yet, I cannot help but reflect on how difficult it is going to be for General Blanton and the Air Force to fill his shoes after the job he has done, not only for the Air Force and the Congress, but for our country over the past 3 years.

It has been my privilege to work closely with Buster Glosson during that period and I can only say that he personifies all the things that are right about today's Air Force. He exemplifies the quality of leadership present in the Air Force today and typifies the "can do" spirit and technical competence necessary to get a vital job done. Even while functioning as a spokesman for the Air Force, Major Glosson has managed to retain the kind of objectivity necessary to provide unbiased information for the use of the Congress. Buster is an officer who understands that his mission in Air Force legislative liaison is to serve two matters equally well—the Air Force and the Congress.

I have traveled all over the world—from Somalia to Japan—on committee business with Major Glosson and I can tell you that his efficiency and expertise are going to be sorely missed by those of us who came to rely on him so heavily during our travels.

I hasten to add, however, that I intend to follow his career closely in the future because the Congress loss is my gain. In his new assignment, Major Glosson will be a constituent of mine. And I expect I will continue to hear great things about my friend, Buster Glosson.

CONGRESSMAN PEPPER'S REMARKS PERCEPTIVE AT FSU COMMENCEMENT

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. FUQUA. Mr. Speaker, recently my distinguished colleague and good friend from Florida, Representative CLAUDE PEPPER, was the keynote speaker at commencement exercises for the 1977 graduating class of The Florida State University in Tallahassee.

His remarks were extremely perceptive and especially appropriate in this day and age of challenge. Congressman PEPPER, a former U.S. Senator who has served the State of Florida in various public offices since 1929, was made an honorary alumnus of The Florida State University. He is a long-time supporter of FSU and visited its campus on many occasions.

I feel his thoughtful comments will be of benefit to all the Members of this body. Therefore, I would like to take this opportunity to share Congressman PEPPER's remarks with you.

They are as follows:

COMMENCEMENT SPEECH

President Sliger, Reverend Clergy, Members of the Board of Regents, Chairman of the Board, members of the Faculty, members of this great graduating class of FSU of 1977, families, friends, ladies and gentlemen. I was delighted to hear that very excellent speech by Miss Brewster and I predict that she'll either be a professional leader of the ERA or faculty leader or member of the legislature or member of Congress or maybe the first lady governor or president, before very long.

Thank you very much President Sliger for those kind words of introduction. Particularly I thank you for the honor and the pleasure you give my wife and me to share the delight and the inspiration of this occasion, as it were, to attend the going away part for a lot of great people who are about to embark upon long, challenging, and eventful adventure; the voyage of life.

While we here are concerned primarily about the problems of institutions of higher learning, I heard a problem the other day that took place at the secondary level in the public school system. One morning a son said to his mother, "Well I'm not going to school today." The mother said, "What do you mean you're not going to school today?" "Well," he said, "Those kids out there don't like me and I don't like them either." The mother said, "Well that hasn't got anything to do with it." You are going to school today and I'll tell you two reasons why you are. The first is: you're forty-seven years old; and the second is: you are the principal of the school."

Well yesterday there was a great event which took place on this campus, meaningful not only for Florida State University, but for the cause of higher education in this state and nation—the installation of Dr. Sliger as the new president of this great institution. Now I heard a little new slant upon the duties and the attitudes of presidents of universities the other day when the presidents of the independent colleges and universities of Florida came up to Washington and had a luncheon with our delegation in the Congress. And one of those presidents told this story: He said, one day in a religious oriented institution a professor asked one of the students who tore down the walls of Jericho. The student indignantly replied, "Well I didn't do it, why do you pick on me?" Well the poor professor was so taken back that he pondered over the matter for a bit and decided that maybe he'd tell the dean about it. And he did. The dean didn't seem to be too much responsive to the inqury, so the professor decided he'd go tell the president about it. So he sought out the president and he said, "Mr. President, I thought you ought to know about this episode that occurred in one of my classes the other day. I asked a student who tore down the walls of Jericho and he indignantly replied, "Well I didn't do it, what do you pick on me for." The president said, "Professor, who was that student?" He said, "It was Jim Smith." The president said, "Now listen Professor, I know Jim Smith and I know his family and if he told you he didn't do it, he's telling you the truth." The president added as the poor professor was about to go away, "But listen, Professor, see if you can get hold of this fellow Jericho, tell him I am mighty sorry about all the trouble he's had with his wall, and if there is anything I can do to help him tell him just to let me know."

Well, it is an exciting experience that you've been having in the years that you have been in lower grades, in High School—now in this university. You are receiving your degrees from this institution, many of them graduate degrees. Those have been meaningful years to you. They've been years of competition, of character building, years of experimentation, years of a considerable amount of adventure, years when you've been poking into all kinds and forms of knowledge to which man has been heir in his long past. You've had the guidance of learned men and women to aid you in that search. You've begun to get the feel of knowledge and you've begun to take on the consciousness and the responsibility of one who has to live a life, and perform the duties of a member of the human race.

Now you are just about to depart upon the greatest adventure of all, the one for which you've been so long preparing, to which you have so long, so anxiously looked forward. Well, the kind of a world into which you are about to embark—you don't need to be told by me—is a very challenging world, a very competitive world, a very enigmatic world in many respects, and one that is constantly going through kaleidoscopic change and variation. In fact I heard my wife's minister the other day say that a man born in 1900, as I was, had more in common with Plato and Aristotle than he does with his grandchildren. So, since most of you are about the age that my grandchildren would be, I suppose I am expected to be looking out here vacuously and wondering who all you strange people are that I see out there in front of me. Perhaps you are looking up here and saying, "What is that standing before us making those strange noises?"

Well, it is true that in my lifetime the world has been completely changed from what it was when I was born. Dr. Sliger was kind enough to mention the visit of some of the members of your faculty to my office in Washington. There are two pictures on my office wall that, to a rather dramatic degree, emphasize the change which has occurred in our world in my lifetime. While I was in the Senate, one day, Orville Wright, the first man to fly an airplane in human history, came unannounced into my office and very humbly asked me if I would introduce a bill for the Congress to declare his birthday, August the 19th, as National Aviation Day. I told him, of course, I'd be honored to do so. I got the bill through the Congress, the president signed it, issued the proclamation. A couple of days later, Mr. Wright came back and from an envelope that he had under his arm, he pulled forth a picture and handed me a photograph of that first human flight in a heavier than air craft at Kitty Hawk, North Carolina, in 1903, autographed to me by him. I have that picture proudly displayed. But just above that, I point out to my visitors, is an autographed photograph from some of the astronauts who went from Florida and walked on the moon and returned to Florida. Many men did that before the end of the sixties. That too occurred in my lifetime. So in my lifetime, Man's ability to get off of the ground—to transverse the air—has increased from a few hundred feet and a few seconds above the sand dunes of North Carolina to walking on the Moon and coming back to tell the story to Florida and the world. And that's just symbolic of the change that is likely to occur in your lifetime. It challenges the fertility of your imagination. So that if you were to write down a description of the world you now know and show it to your grandchildren, they would, no doubt, be amazed at the relatively obsolete, archaic times when you came to your full maturity.

Well, there are a lot of things to do in that new world upon which you are about to embark. We still haven't found the cause and cure of cancer or heart disease. People still gasp their life away seeking to breathe with the infliction of emphysema. There are many other disabilities and limitations from which humans suffer. Maybe one of you will find the answer to some of these problems—will be the one who offers hope, where today only despair can be found in the hearts of those

who suffer. So there will be many challenges for you to face.

One of the things that I would urge you to do is to concern yourself about the peace of the world. A few days ago, all over America, people huddled under our great flag listened to taps which honored our patriotic dead, and pledged eternal fidelity to their memory. But, if we could honorably have avoided war, those precious lives could have been saved and they would not be a lost asset to this and to other generations. I do not say a peace at any price, but a peace which rests upon strong military and economic power in our country; a peace resting upon the best institutions and organizations that man can devise for the solution of the problems of mankind; a peace related to the progress, the economic well-being of all people who belong to the human race; a peace based upon better understanding among people. My wife and I, returning with a congressional delegation from Australia a bit ago from an international conference, stopped for a little while in Taipai, in Taiwan. Attending the one breakfast while we were there were about a half a dozen members of the American Congress and about half a dozen outstanding businessmen of Taipai and Taiwan who were all Christians. We talked about our religious experiences in our own churches, and finally we told about the satisfaction we derived from our old hymns which are part of our faith and our services. Well, one of our members was a good harmonica player, a fellow from Texas named Jake Pickle. He brought out his harmonica, we refreshed our memories of the words of *Amazing Grace* and *Bless Be the Tie that Binds* and here in far away Taipai half a dozen American Congressmen and half a dozen Chinese businessmen sat around the table and to the tune of a harmonica sang *Amazing Grace* and *Bless Be the Tie that Binds*. I couldn't help but think that if we could just get all the people of the world singing old hymns, getting to know one another, exchanging views, talking about one another's problems, it would be one of the best ways to bring and preserve peace for mankind.

Now let me say a word to you individually. Many of you will achieve outstanding success—money, fame, distinction. Many of you will know some of the best and greatest satisfactions of life. All of you will perhaps not be fortunate enough to have that good success; but I want to tell every one of you that you can be an important person in the human race, in your country, in your state, in your community. You can be a meaningful individual. You can be a success. You have it within your own power to do it. Now what do I mean by that? I heard a minister the other day say, "Be ashamed to die until you have won a victory for mankind." Then he asked the question, "Who is your hero?" and the next question, "What kind of a hero are you to others and will you be to those who follow after you?" Have you already learned that it is important just to be a great person as well as to achieve success that men esteem and envy. Not a single human being lacks the capacity—certainly one who has had your great advantages, belongs to your preferred class intellectually, possesses your knowledge of the past, has your capacity to devine much of the future—to make a valuable contribution to everything that transpires in the annals of man, community wise, state wise, nationally, and in the world. You can be the kind of person whom neighbors will feel comfortable with; whom friends will cherish; upon whom they can depend. President Johnson used to describe a man that was a dependable friend as a man you could go to the well with, a man who could go with you into the darkness of the night and would stand by you if an attack occurred.

I mean by that you've now had the education that Dr. Robert Manard Hutchins spoke about; the primary concern of which is to teach you how to educate yourself the rest of your life. Now you have the tools of knowledge within your use and grasp—an enormous power to exercise in the counsels of men, perhaps of nations. In order to be—and too often in America in the long past, we have put too much emphasis on getting, rather than being—but in order to be a well rounded human being, reflecting credit upon self, family, school, college, and country, one needs to have that comprehensive grasp of the values of life which you have acquired here and which has been a part of your education.

I don't know of any better description of a well rounded man or woman than that definition of a liberal education given by Huxley when he said, "I consider that man to have had a liberal education whose body has been so trained in his youth that it does with ease and pleasure the work that as a mechanism it is capable of; one whose intellect is a clear, cold logic engine with all of its parts of equal strength and in smooth running order, ready like the steam engine, to be turned to any kind of work, to spin the gossamers as well as to forge the anchors of the mind: one whose mind is stored with the knowledge of the vast and fundamental laws of nature and the laws of her operation; one who, no stunted ascetic, is full of life and fire, but whose passions are trained to come to heel by a vigorous will, the servent of a tender conscience; one who has learned to love all beauty, whether of nature or of art, to hate all selfishness, to put away all vileness, and to respect others as himself. Gentlemen, I hope the well rounded man will become your hero, the one whom you will attempt to emulate. Ladies, I hope the well rounded woman will be your ideal, the one you will try to emulate.

Now, in conclusion, let me pass on to you something that I heard in 1921 from a professor at the University of Richmond, who delivered the Phi Beta Kappa address at the University of Alabama, where I was a graduate. I've never forgotten those words that that professor uttered. It was a benediction and I pass it on to you in the same spirit as that in which he transmitted it to us. He said that in the ancient days when the Scandinavians, those hearty people of the North, were about to set sail from their home shores upon their long and adventureous voyages, they gathered, before they entered upon their boats, up upon the seashore, surrounded by their loved ones and friends bidding them good-bye. Their minister was there and when the moment of departure came, the minister stretched his hands over their heads and said, "May the Lord bless thee and keep thee. Grant thee favoring winds, a prosperous voyage, safe harbors, and stout hearts for the storms."

Thank you.

NEW YORK STATE TO JOIN OTHER STATES IN DECRIMINALIZING MARIJUANA

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. KOCH. Mr. Speaker, I am pleased to report that last night the New York State Senate approved legislation to reduce to a civil fine the penalty for possession of small amounts of marijuana. Governor Carey, who was the major force in pushing this legislation through the legislature, is expected to sign the legislation into law shortly. This measure is an important victory for those of us who have been working for reasonable marijuana laws which earn the respect of the public. New York becomes the ninth State to enact marijuana law reform.

I believe that it is important that this issue be addressed at the national level. I am sponsoring legislation, H.R. 432, which would reduce to a civil fine of up to $100 the penalty for possession of up to an ounce of marijuana in Federal jurisdictions. In hearings before the Select Committee on Narcotics Abuse and Control in March, the Carter administration expressed support for decriminalization.

Some argue that our marijuana laws are honored in the breach and that there is no real urgency to change the laws, as they affect only a small number of people. A recent study by the New York State Division for Criminal Justice Service indicates that in New York law enforcement resources are being wasted in arresting those possessing small amounts of marijuana. The study states that in 55 of the State's 62 counties—excluding New York City—between 73 and 99 of every 100 drug arrests was for possession of marijuana. (New York City records show that between 40 and 63 of every 100 drug arrests involved possession of marijuana.)

Division chairman Frank Rogers, as quoted in today's Daily News made the point that police were not concentrating on pursuing drug traffickers. He said,

The new statistics belie the notion that the state's law enforcement agencies are concentrating their arrest energies on marijuana sales: 24,192 or 83.5% of all marijuana arrests were for possession.

It makes little sense to mar the lives of many otherwise law-abiding young people by arresting them and giving them criminal records for simple possession of small amounts of marijuana. I am delighted that New York has seen fit to correct that inequity, and I hope that the Congress will soon follow.

PRESIDENTIAL IMAGE BUILDING

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent, Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on President Carter's efforts to build his image at home and abroad.

The article follows:

PRESIDENTIAL IMAGE BUILDING

(By Henry Huglin)

As most new Presidents, Jimmy Carter is working to build his leadership image at home and abroad.

This image-building has been particularly important for him. He has not long been widely known in this country, and even the election campaign resulted in many ambivalent feelings about him. Also, he was little known abroad when he took office.

So far, he has proved to be a skilled image-builder. This is good and important, be-

cause much hinges on the way people at home and abroad assess our President. But he still has some way to go to establish a clear image based on solid accomplishments.

A good presidential image is dependent on proved leadership. And leadership is dependent on such things as earned trust and the public's feelings about character, wisdom, integrity, skill, and coolness and toughmindedness in crises.

Domestically, an image of respected leadership in a President can have major effects on such things as the mood, confidence, and dynamism of our country.

And the success which Mr. Carter achieves in gaining the confidence of the public will affect the clout he will have with the Congress on the differences and confrontations they are bound to have.

When a President doesn't have a strong image, Congress will often buck him in overasserting its prerogatives and sometimes intruding into the President's prerogatives. And our system seems to work best when a President has an edge on the Congress but does not dominate it.

In his conduct of national security affairs, including his highly important role of Commander-in-Chief of our armed forces, the degree to which Mr. Carter achieves public confidence in his judgment will be a vital factor.

In foreign affairs the President has to conduct our diplomacy, through his representatives and directly at times with other nations' leaders. But he also has to get Congress' support on many issues, including economic and military aid, policy on arms sales abroad, and ratifying treaties, such as the new ones being negotiated on the Panama Canal and on strategic arms limitations.

Further, the support Mr. Carter gets from Congress and the public will be a major element in his effectiveness in diplomacy and in dealing with crises abroad.

This is especially true in dealing with the Soviets, which is one of the most important areas of foreign and national security affairs. What counts greatly with the Soviets and our other adversaries—and indeed with the leaders of other nations as well—is the evident backing of the President by the people and by Congress.

Of course, an initial factor in strengthening or eroding a President's credibility and image is the degree of his carrying out campaign pledges.

Mr. Carter has made much—probably too much—over fulfilling what he pledged in the campaign. Yet, some of what he pledged cannot prudently be carried out, and therefore should not be, in light of the circumstances he now faces in office.

The pledged cut of $5 billion or more in the defense budget is a case in point. It has not been carried out, because it would have been foolhardy and irresponsible to do so, in light of the Soviets' on-going heavy military buildup and hard-nosed attitude in the strategic arms limitation talks.

President Carter is apparently finessing some of his unfulfilled promises, which is the sensible thing for him to try to do. This is expected by most of us of most politicians. But it is harder for him to do, because of the emphasis he made during the election campaign and early this year about carrying out all his promises.

There will likely be some disillusionment and flak over his over-promising and underfulfilling. However, his image will not suffer long or appreciably if, in important domestic and foreign areas, he shows his competence and worthiness of trust, by virtue of demonstrated wisdom, good sense, sound judgment, and decisiveness—which he has yet fully to demonstrate.

So far, President Carter can be given high marks for his image-building efforts. He has made a generally favorable impression on the majority of Americans and on foreigners as well. But he still has to produce solid accomplishments—substance beyond style—and perform well in crises.

Regardless of our party affiliations, we ought to hope that Jimmy Carter does prove to be a strong, wise, and trusted President, because so much for all of us depends on whoever is President being so.

Of course, we still ought to feel free to criticize him when we feel he deserves it. But our criticism ought to be constructive, designed not to carp but to influence him in performing more effectively on behalf of all of us.

WILL TO WIN: VITAL ELEMENT TO VICTORY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. McDONALD. Mr. Speaker, Americans who fought in the Korean and Vietnam wars had great feelings of frustration. The one ingredient that is built into American life and particularly American sports was missing: the will to win. In both wars, American soldiers were stage managed. In Korea we arbitrarily stopped advancing after a so-called truce line was set up. In Vietnam we were never really allowed to hurt the enemy. In both wars, the enemy enjoyed sanctuaries and certain airfields and other targets were off limits to our bombers.

With this sort of managed conflict being very alien to our traditions, naturally great discontent arose among the fighting men and the general population during both conflicts setting up opportunity for subversive elements, which they did not fail to exercise. In both wars, we lost men, equipment and equally as important, morale in the process. Never again should American fighting men be sent into a no-win war. Brig. Gen. Andrew J. Gatsis, retired, an officer with considerable combat experience, recently wrote on the subject of "will to win" in the April 1977 issue of Army magazine. I commend his article to the attention of my colleagues:

WILL TO WIN: VITAL ELEMENT TO VICTORY

(By Brig. Gen. Andrew J. Gatsis, U.S. Army, Retired)

The furor generated today by public officials and some senior military men over the status of American defense posture is creating an aura of uncertainty about national security and has so clouded the issue that ordinary citizens do not know what to believe.

This confusion stems, in part, from a lack of understanding by the average American as to what are the elements essential to making up military power capable of victory. It is further aggravated by those legislators and officials who, for various reasons, feel that our defense posture must be downgraded.

It is understandable that most congressmen and government civilian officials are not experts in this field and, consequently, cannot appreciate as readily as military professionals the real meaning of defense. Not easily understood and certainly inexcusable is the fact that many do not care whether they know what constitutes a credible defense and place more importance on other issues less vital to our survival, such as providing economic aid to countries inimical to the United States.

In any event, it is the solemn duty of our senior military officials, who have sworn to defend the United States against all enemies, foreign and domestic, to assure that those responsible for our national security know what makes a winning capability and to warn the American people of our Achilles' heel.

Instead, many play follow-the-leader with Congress and their civilian superiors, focusing predominantly on the military budget, the size of our combat forces, their combat readiness and requirements for weapons systems.

Certainly these considerations are absolute necessities for the development of military force, but they by themselves do not satisfy the demand for ultimate military victory.

As a result, the American public is misled to believe that acquiring proficiency in these areas alone keeps U.S. security intact. Nothing could be further from the truth, for military success results from a combination of many things.

In addition to superior weaponry and high-quality, trained personnel, which we hear so much about today, other factors which influence the outcome of military conflict are leadership, sound strategy, battlefield environment, the enemy's capability, allied support, time needed to mobilize, some luck and, most of all, the will to use power.

Usually, one of these factors is more dominant than the others, but none is as important as the last. A case in point is the momentum of Allied forces in World War II. Our overwhelming number of weapons and men combined with an uncanny wartime production capability overpowered the enemy. Under these circumstances momentum canceled out the need for highly qualified personnel. The hurry-up training cycles recruits underwent were ample proof of this.

Another extremely important element overriding many of the others, which greatly contributed to the favorable outcome of the war, was the advantage of adequate mobilization time—a benefit which will not be enjoyed in the future if we wait for the commencement of hostilities before developing the framework for rapid transition into full military potential.

However, if this power of the United States and its Allies had not been exercised with sufficient intensity, victory in World War II could not have been realized, even though all of the vital ingredients mentioned for success were present.

The Vietnam and Korean wars are striking examples of failure because of the timidity with which we used force available to us. The same essential subsystems for success were in our favor: ample manpower, much better trained than the American fighting men of World War II; weapons and firepower, in the main far superior to those of the enemy.

There was no shortage of military leadership and plenty of time to build up our forces. Production capability clearly surpassed that of our adversaries and the environment, as an obstacle, was easily overcome by an airmobile capability and complete control of the air space over the battle zone.

Yet, we failed to gain a decisive victory in Korea and lost the war in Vietnam because we did not have the fortitude to use that necessary force at the right place. There were many ways U.S. might could have been applied.

An example of a concept offered and rejected was to launch a ground offensive in North Vietnam and attempt to starve the country into submission by bombing the dikes and flooding their rice paddies.

Instead, we spent billions of dollars in Vietnam by bringing overwhelming firepower

into play defensively and applying air strikes in North Vietnam with such restrictions that they were totally ineffective. Needless to say, the tremendous cost of these fruitless operations was bad enough, but there were also the lives of our pilots and crews that were lost for the sake of missions not designed to break the back of the enemy.

In the south, our troops were continuously wasting billions of rounds of ammunition by firing into areas in which there was no intelligence to confirm enemy presence. This was known as "reconnaissance by fire."

There were even such extremes as making air strikes with 500- and 750-pound bombs against a lone sniper hidden in the jungles. It was like killing ants with a hammer. On top of this travesty, the U.S. Army was told by government officials that, since the military phraseology "search and destroy" for counterinsurgency operations sounded too horrible to the American public and the world, all references for such maneuvers would have to be expressed in more docile terms, such as "search and clear."

This was hardly a catalyst for motivating the fighting spirit of the American soldier. Placed in this position by their own government, the armed forces were compelled, for a lost cause of our own making, to wage war in the most inefficient and costly way possible.

The Chinese communists, who supported the North Vietnamese, put it very aptly in the Peking Review when they said, "Throughout the Vietnam war, the U.S. troops have become famous in the history of war as an army which spends the most money, wastes the largest quantity of ammunition and launches operations which constitute the heaviest drain on manpower and material resources."

National security cannot be measured in terms of dollars and cents; neither can it be measured alone in terms of weapons, ships, aircraft and manpower. Something more is needed for winning—something that will cost nothing and will in the long run save lives.

To ignore this most basic and critical principle of all, resolution to apply needed force, places the United States on the brink of disaster. To wield power in military operations overrides all other considerations related to a credible defense, for if we do not exercise force when the time comes, why have it at all?

Obviously, if we demonstrate reluctance to take strong action when it is called for, U.S. credibility diminishes in the eyes of its enemies as well as it allies, and our deterrent effect, so often relied upon for preserving peace, becomes latent and ineffectual.

My concern is that public officials today are so enmeshed in the ABCs of what makes up a defense posture that they lose sight of the most important facet of all—development of a strong policy for full utilization of force when required.

Do not confuse this policy requirement with military strategy. If anything has not been neglected, it is strategy. To be convinced of this, one needs only to see the volume of global plans developed and constantly revised for all kinds of situations.

The irony here is that these plans are seldom valid when the time comes to implement them since conditions and circumstances change. Adopting such a policy also does not mean making a show of force by deploying a task group to the vicinity of confrontation with no intent to back it up if the need arises. This kind of action only fortifies the world's opinion of U.S. weakness in character.

The genuine requirement is a policy which will provide the responsible military commander with the authority to use that conventional force needed to win. He is the high priest of warfare and knows more of what it takes to succeed on the battlefield than do his civilian superiors.

The opposing view will be, of course, that diplomatic or foreign policy considerations may preclude use of an exorbitant amount of force and that military action must be shaped around State Department policy. The shallowness of this position is quite apparent when it is recognized that the only reason the armed forces have been called to fight is that State Department policy has failed.

War is always the last resort for settling affairs of nations and is an instrument of policy. When this stage is reached, the fighting should be left to the experts and nothing spared to obtain victory. To say that war is too important to leave to the generals alone is like saying surgery is too risky to be left to the surgeons.

Make no mistake about it, I do not advocate the free use of awesome power when lesser means will suffice. But if we are going to fight, we had better do just that with the resolve to win. This means pull out all stops required for that ultimate victory.

Winning, obviously, demands adequate resources to do the job. It only follows then that requirements must be developed from a factual perspective. Statistics show that there are serious shortfalls across the board in our conventional forces.

U.S. military capability is at a lower ebb, in comparison with that of the Soviet Union, than it has ever been before. Even those who say our defense is strong talk only in terms of military sufficiency or parity, rather than military superiority. History clearly shows military supremacy, not parity, gives victory.

It is therefore, only logical, where precious commodities such as freedom and liberty are at stake, that we would want the best insurance coverage possible to keep from losing them.

Yes, we are in dire need of sophisticated weapon systems such as the B-1 bomber, the Trident submarine, a highly mobile tank with great battlefield reliability and other modernized equipment when our main adversary is closing the military gap on us quantitatively, qualitatively and in production capability.

We Americans have the ingenuity and professional knowledge for developing all of the essential ingredients for maximum military potential. With some luck and the will to use strength as required, the odds would be overwhelmingly in our favor to win. Courage to go all the way and a steadfast adherence to the axiomatic principle of reinforcing success rather than failure are mandatory for winning.

The use of power must be bold, but it must also be applied where it is needed. Wrong direction of this force will only hasten disaster. Vietnam is an excellent case of misapplied force. The armed forces, greatly expanded, brought tremendous power to bear upon the enemy, but reinforced failure by continuously fighting a defensive action in the South after reaping fruitless results for years with such tactics.

Continuous negative results only triggered a greater effort in applying those same old methods proved totally ineffective in the early years of the war: Never once was any meaningful attempt made to change the strategy and redirect the weight of our power toward the enemy's heartland, his war-making potential and his willingness to fight.

These targets could be found only in North Vietnam. The net consequence of clinging to this ludicrous concept of operations was an attrition effect which produced a defeatist attitude among Americans and sapped the will to fight of our own forces.

In the final analysis, our Waterloo lies not so much in the shortfalls of military hardware and adequate manpower, but is embeded in the failure to flex the muscle of our military might when the time comes and direct it offensively at the heart and core of the enemy, with the objective of destroying him.

Failure to take these measures at the right time and in the right place or to use too little force on the right target will, surely, invite our own destruction.

Too many times we forget that history shows affairs of nations are not determined by almsgiving and goodwill toward men but by power and the will to use it. Is America not going to heed these lessons? Are we going to throw our freedom and liberties away, although we have the capability to meet all of the requirements for defending them?

Someone once said, "A nation that will not defend itself shall not survive and, furthermore, does not deserve to survive."

I believe most Americans have the desire to win and will fight for their country, accepting nothing short of victory, if their leaders will come forward with that strong leadership so badly needed today.

WILDLIFE SANCTUARY PLANNED OFF VIRGINIA

HON. PAUL S. TRIBLE, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. TRIBLE. Mr. Speaker, as many of my colleagues are aware, the Nature Conservancy has recently acquired 13 barrier islands off the eastern shore of Virginia in my district. I consider this a significant milestone in national efforts to preserve wildlife.

The Nature Conservancy, a private, nonprofit organization with headquarters in Arlington, Va., has, in acquiring these islands, created the largest privately managed wildlife sanctuary in the United States.

Because of the importance of this action, I would like to take this opportunity to share with my colleagues the following article which appeared in the New York Times:

WILDLIFE SANCTUARY PLANNED OFF VIRGINIA: NATURE CONSERVANCY ACQUIRES MOST OF THE LAND ON 13 ISLANDS NEAR THE STATE'S EASTERN SHORE

(By John C. Devlin)

The Nature Conservancy has announced acquisition of all parts of 13 islands along the Virginia coast for what it says will be the nation's largest privately managed wildlife sanctuary.

The Nature Conservancy, a private, nonprofit agency that has preserved more than 1.1 million acres in 1,800 projects in this country, Canada and the Caribbean, began acquiring the islands in 1969, when commercial developers planned to acquire the land. The sanctuary will be called the Virginia Coast Reserve.

The conservationists were aided in the acquisition by $4.7 million provided by the Mary Flagler Cary Charitable Trust, another private nonprofit agency.

William D. Blair, chairman of the Conservancy, announced at its headquarters in Arlington, Va., that, while most of the islands would be open for such activities as nature study, surf fishing, hiking, photography, and bird watching, "our primary concern must be with the complex, dynamic natural system itself."

The islands serve as a barrier to protect the rich marshes in the state's Eastern Shore, which are essential to the development of

shellfish and other varieties for commercial and sport fishing. It has been estimated that 90 percent of the fish caught in the area are dependent at least part of their lives on the local marsh system.

Consideration was given to transferring the acquisitions to the state, Mr. Blair said, but the Conservancy, a private conservation organization chartered for scientific and educational purposes, decided to supervise the islands itself.

The islands, from the north to south along 45 miles of the Eastern Shore of Virginia, are: Metomkin, Cedar, Parramore, Revel's, Sandy, Hog, Rogue, Cobb, Godwin, Ship Shoal, Myrtle, Mink and Smith. With the exception of major portions of Cedar and small parts of Hog and Smith, the islands are owned entirely by The Nature Conservancy.

Mr. Blair said that the newly formed Friends of the Coastal Reserve would provide the $50,000 a year needed to offset the cost of maintaining the islands, which are between one and eight miles offshore and can be reached only by boat.

The islands are noted for their large concentrations of more than 200 species of shore birds, sea birds, and migrating and wintering waterfowl and other species. Ten species of hawks find refuge on the islands, and include the endangered pelgrine falcon, pigeon hawk, or merlin, and, the osprey.

THE NATIONAL HEALTH SERVICE CORPS AT WORK

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. OBEY. Mr. Speaker, lately we have all been hearing a great deal of criticism about the medical profession. Way too many doctors are going into high-paying specialties and practicing in cities where there are plenty of doctors. While there may be enough doctors country-wide, there are many areas of the country, especially inner cities and rural areas where there are no doctors at all. In 1971, Congress instituted the National Health Service Corps to bring doctors into medically underserved areas. The following article from the American Medical Association publication American Medical News concerns two young Corps members who are practicing in Greenwood, Wis., and shows how a pair of doctors with the support of a larger medical center can provide excellent care for an area which would otherwise be without a doctor. The Marshfield Clinic which provides support services for these two doctors also provides support services for a number of other Corps members in northern Wisconsin:

TWO MDs TAKE TIME OUT FROM ACADEMIA FOR PRACTICE EXPERIENCE

Halfway through the residency program, most young physicians wonder what they will do when their training is complete. The possibilities are exciting, but the responsibilities somewhat awesome.

The physician could apply for a fellowship and become a subspecialist, or join a group, or begin a solo practice. It is an important decision that will influence, even determine, an entire career, but it comes at a time when the physician is caught up in the rigorous demands of residency training and has little time for detached consideration.

Stuart Grossman, MD, met this challenge in an unusual way. He knew that he wanted to continue his studies in internal medicine, perhaps as a fellow in immunology, and thought that he would want to teach eventually.

Before committing himself to further study, however, he wanted some practical experience as a practicing internist. To gain that experience, he became a volunteer for the National Health Service Corps.

Today he and a friend of like mind, Thomas Rahilly, MD, are the service corps physicians of the Greenwood Clinic in Greenwood, Wis., a town of 1,000 some 140 miles north of Madison. The clinic also is served by Dr. Grossman's wife, Linda Grossman, MD, a pediatrician who splits her time between the clinic and mothering a nine-month-old daughter.

Dr. Grossman says the decision has been good professionally. "I had been offered a fellowship, but I wanted to spend a few years in actual practice before making that decision.

"I wanted to get away from the strong role models in medical schools, and I wanted some time away from the hectic pace of my residency. With more time for myself and practice experience, I thought I would be better able to decide what I really wanted to do."

Most National Health Service Corps physicians practice in designated medically underserved areas as part of an obligation to repay the federal government for support received through medical school.

Some physicians, like Drs. Grossman and Rahilly, volunteer for the corps to gain the benefits of an on-going practice without assuming the liabilities of setting up the practice themselves.

Dr. Grossman emphasizes that he and Dr. Rahilly did not want to practice in a randomly assigned site. They actively searched for one that would permit them to practice the medicine they had been trained to offer.

"We're both board-certified internists, and we wanted to practice as internists," he says. "We did not want to be responsible for delivering babies, setting bones, or assisting at surgery. We wanted to gain experience doing what we felt best qualified to do."

Greenwood meets their needs perfectly. Although it is a long way from Madison or Milwaukee, it is only 26 miles away from the Marshfield Clinic, a sophisticated center staffed by a 170-member subspecialist group. The clinic serves as an excellent referral source, and provides extensive laboratory backup.

At noon each day, a courier picks up samples for processing at the Marshfield Clinic. Results that suggest major problems are telephoned to Greenwood that afternoon. More routine results are written and returned the following day.

"We're practicing medicine in the way we were trained to," Dr. Grossman says. "We have the equipment we need, a staff that's a real pleasure to work with, and a mix of patient problems that have been professionally challenging."

Dr. Rahilly echoes Dr. Grossman's praise for the Greenwood site. "Most service corps sites don't have this kind of backup," he says. "I know I wouldn't be comfortable practicing medicine without the support we receive from Marshfield.

"I can work up patients with complex problems, and stay with them after admission to the clinic's hospital since we have staff privileges at Marshfield."

Dr. Rahilly says he joined Dr. Grossman as a service corps volunteer because he wasn't quite sure which direction to pursue after the residency program. "I was at a crossroads and not sure which way to turn," he says.

"Then I thought what could be better than to gain practice experience. I wanted to see how I would like it. Now I've been accepted for a fellowship in nephrology in Denver for next year, but I've learned that I don't want to get locked off in a subspecialty area. I'll always want to keep up a practice in general internal medicine."

Both physicians are gratified by the new-found time they have. At last they are able to do some of the reading that had to be postponed while immersed in post-graduate study. They also are able to spend more time with their families. Each lives only minutes away from the Greenwood Clinic and is able to go home for lunch, and to pursue hobbies.

"The day of the solo general practitioner is past," Dr. Grossman says. "That physician had to devote 110% of his life to medicine. I don't think it was fair to the physician or the patient.

"I think physicians are more useful to to their patients if they lead something like a normal life, if they read more, go fishing, or work in their gardens like their neighbors."

He adds that he and Dr. Rahilly work hard to continue their medical education, participating in grand rounds at the Marshfield Clinic, sharing information on difficult cases, and attending at least one medical meeting each year.

The Greenwood experience represents a dramatic change in lifestyle for the physicians. Dr. Grossman was born and reared abroad, the son of an international economist. He was graduated from a high school in New Delhi, India, and completed undergraduate study at Harvard College. His wife attended Radcliffe, and from Cambridge the two traveled to Rochester, N.Y., completing medical school and residency programs at the U. of Rochester Medical School.

Dr. Rahilly was reared in southern Florida, did his undergraduate work at Columbia U., and went to the U. of Miami Medical School. He did his residency training at Rochester, where he met the Drs. Grossman.

All are pleased with small-town life, although they've sometimes startled by the somewhat public nature of their life in Greenwood. "Patients will say, 'I see you cut your grass today,' and I'm often caught off guard," says Dr. Grossman. "I'm surprised that they would notice or care."

For their part, the townsfolk are delighted with the young physicians, says Dick Adler, co-ordinator of the clinic. "People say they're the nicest fellows," he says. "When they went in for physicals, they were gone over from top to toe, and felt they'd really been checked out. Word of that got around quickly."

Adler says people were puzzled at first by the fact that the physicians wouldn't set bones or deliver babies. "They figured that's what all doctors did," he says. "Now they're beginning to understand that they're specialists, and they don't mind the 30 minute drive to Marshfield for deliveries or emergency care."

The physicians do prenatal care up to the eighth month. Dr. Grossman says mothers understand when he explains that he wants an obstetrician to deliver the baby at the Marshfield facility in the rare event that a complication might develop.

Greenwood had been served for some 40 years by William Olson, MD, who decided a few years back that he wanted to retire. For a time the community, which includes some 15,000 people in a 15-mile radius, tried to get by with part-time physicians, volunteers from nearby Neillsville or Marshfield, who would take turns spending an hour or two per day at the Greenwood Clinic.

The community wanted to have another solo practitioner, but found it impossible to attract a physician. Finally, with help from physicians and others at the Marshfield Clinic, the community applied for and gained approval of their designation as a mentally underserved site.

After approval, the community pitched in to completely renovate the old clinic building, investing some $50,000 in new facilities and equipment as well as time and physical labor by volunteers.

The renovated clinic opened last July when Drs. Grossman and Rahilly arrived. Dr. Rahilly will leave next year, having completed two years of service, and the Drs. Grossman will stay on for at least a third year.

Dr. Grossman says he will want to apply for a fellowship, but adds that his practice experience has helped clarify the area of further study.

"I was interested in immunology, but now I recognize that my interest was influenced more by role models than anything else. Now, after 10 months of practice, I will apply for a fellowship in pulmonary medicine.

"When you are a resident, the easiest thing to do is take a fellowship. It's not easy to leave the academic setting. The service corps offered another alternative, a way to get into private practice without the headaches of bookkeeping or getting set up. It's an alternative I'm glad I took."—James Stacey.

GI BILL TUITION EQUALIZER

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. CONTE. Mr. Speaker, in the years since the end of the Vietnam war, I have expended a great deal of time and energy in working toward the goal of identifying the special problems of the Vietnam-era veteran and then finding solutions to those problems.

In 1973, as cochairman of the Special Veterans Opportunity Committee of the National League of Cities/U.S. Conference of Mayors, I delivered a white paper report to the Congress and to the President on the recommendations of our committee on ways we could address the particular needs of this segment of our veteran population.

Since that time, too few of our recommendations have been heeded. But I want to speak today of only one of the problem areas our report addressed, an area with which I can personally identify. That is the problem our Vietnam-era veterans are having in utilizing GI bill education benefits.

As my colleagues may be aware, I received my college education under the GI bill after my service in World War II. But anyone who thinks that today's GI bill bears any relation to the program that saw and tens of thousands of returning soldiers through college in the 1940's and 1950's is just not familiar with the program. Therefore, today, I am introducing a bill that I think will begin to give the Vietnam-era veteran what his counterpart in World War II received. But more than that, the bill would not only put the veteran of this conflict on a more even par with his father's generation, it would put all veterans in this country on an equal footing.

In examining GI bill usage we have discovered that only 33 percent of eligible Vietnam-era veterans have taken advantage of GI bill benefits. But in looking further, it has become apparent that there are wide regional disparities in the percentages of use.

In California, the GI bill use rate is 52 percent; in Texas it is 37.4 percent; but in Massachusetts, it is 28.9 percent, and in Connecticut only 23.9 percent. These disparities are apparently resulting from differences in the cost of education from State to State, from region to region. In the Western and Southern States with extensive low-cost public 2- and 4-year college systems, GI Bill usage is relatively high. But in the Eastern and Midwestern States, which have traditionally relied on private colleges and smaller public systems, the percentage of usage falls.

The bill I am introducing today would provide a supplemental tuition allowance to veterans to offset State differences in educational costs. The amount of supplemental tuition allowance payable on behalf of any veteran for a school year may not exceed $800 and would be computed by having the veteran pay the first $400 of the tuition costs from his regular GI bill payment, with the Veterans' Administration paying 80 percent of the next $1,000 of the tuition for the year to the educational institution.

While this bill does not duplicate the World War II program under which veterans received a subsistence payment and a separate tuition payment geared to the cost of the educational program they were pursuing, this measure will at least provide that our Vietnam-era veterans across the country, who were called upon to make the same sacrifices in combat abroad are given the same benefits in school at home. I believe we must give all veterans equal educational opportunities for equal military service and one way we can achieve that is through this tuition equalizer bill. I invite the cosponsorship of my colleagues.

INAUGURATION OF DR. CHARLES W. McQUARRIE

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. KETCHUM. Mr. Speaker, it is with the greatest of pride that I ask my colleagues to join with me in paying tribute to my constituent, Dr. Charles W. McQuarrie, who is about to be inaugurated as president of the 20,100-member American Optometric Association.

Dr. McQuarrie is an outstanding citizen of Lancaster, Calif., who has worked diligently to serve the people of his community. Examples of his dedication to others include his years of service as president of the Lancaster YMCA; the Lancaster Kiwanis Club; the Antelope Valley Fair board of directors; and the Community Chest of the North Antelope Valley.

Now, Dr. McQuarrie is giving that same selfless service to the people of our country, as he assumes the leadership of an organization representing most of the optometrists in the United States.

On this important occasion in Dr. McQuarrie's public service career, I commend him for his past achievements and I encourage him in his future efforts to lead his profession in finding new and more efficient ways to bring quality optometric care to all Americans.

GAS AT LOWEST PRICE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. COLLINS of Texas. Mr. Speaker, America is concerned with getting gas for the consumer at the lowest price. This is only possible through a deregulation, open market system. Here is why.

When a homeowner gets his gas bill it consists of 20 percent covering natural gas wellhead price and 80 percent is the cost of pipeline and distribution expenses. If the natural gas is not available, the other costs go right on. So the cost will be much higher unless the pipeline is kept full of gas coming from the well.

It has been estimated that natural gas will run $1.95 mcf after deregulation. The alternative is importing natural gas which is shipped in a frozen liquefied state known as LNG which costs $6 mcf.

Ninety-one percent of the energy in the United States will come the next 10 years from coal, oil, and gas. Oil and gas are the only commodities in the United States that are now under price control. Gas sells for half the Btu of coal and oil is three-fourths the price of coal. In order to change the emphasis of this country toward using more coal we must price oil and gas at the same level as coal.

Unless we go now to the open market, America should realize that we will have the same disaster that happened after our 1969 oil experience. In 1969, Congress raised our 21 percent oil import level to have more foreign oil come in at a price of $1.80 to $2.20 with domestic oil selling at $3. Since then this price of foreign oil has increased to where it is now $14.50 a barrel and we are now 55 percent dependent on imports on foreign oil. Instead of paying $3 billion for our foreign oil imports as we did in 1969, we are exporting $45 billion to pay for our foreign oil in the United States.

Take this $45 billion over the next 8 years, and you can see it represents $360 billion of American money that will go abroad. It should be spent in the United States on jobs, pipes, tanks, railroads, as American industry develops its own energy.

The great future for gas discoveries is in the deep wells with vast gas reserves. Only 1 percent of drilling last year was in the 15,000 foot and deeper wells. But these deep wells cost around $2 million. It costs five times as much a foot to drill deep wells as it does shallow wells. And the deeper wells are very expensive. But once gas is a completed discovery, the life of these wells should run over 30 years.

There is no way the Government can classify every new well that produces and every industry cannot be assigned a priority. There is only one energy solution and that is to go to the open market and have America produce its own oil and gas.

"YOUTH GOVERNOR OF ILLINOIS" OFFERS CONGRESS ADVICE ON ENERGY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. HYDE. Mr. Speaker, I am proud to share with my colleagues an essay prepared by Michael Pizzuto, a young man from Cicero, Ill., who will be entering the University of Illinois this fall.

Michael has the proud distinction of being elected "Youth Governor of Illinois", by some 800 participants in the National YMCA Youth Governor's Conference, and has been spending some time in Washington, D.C., familiarizing himself with governmental problems and the legislative process on the national level.

His essay on energy shows a deep awareness of the problems facing our country and I am sure my colleagues will find it of interest:

CONSUMER CONTROLS

The nature of the pending energy crisis is of supreme importance, for our nation is truly in mortal danger. Our nations future shall depend on our ability to develop responsible, effective energy policies. If the nation fails to act on today's energy problem, government will be forced to impose strict controls, industry may face shut downs, and we shall experience a radical downgrading in living standards. Starting now we must provide incentives for delevoping our own energy resources and so that we may be adapted to changing circumstances that will help reduce our demands on the worlds limited supply of fuel.

The oil and gas that make up about three fourths of America's fuel were created in limited supply millions of years ago. At the rate we are consuming fuel we should deplete our sources around the year 2000, give or take a decade or so. Oil production will probably peak in the 1980's. There is no certainty that when our energy sources go into steep decline, power sources such as solar, thermonuclear fission, geothermal and derived fuels shall be available.

If the world's use of oil continues at present rates, it has been predicted, demand will exceed international production by the early 1980's. Just to remain even would require, "the production of a new Texas every year, an Alaskan North Slope every nine months, or a new Saudi Arabia every three years." The U.S. bill for imported oil increased from $2.7 billion in 1970, to $34 billion just last year. During the first two months of this year the U.S. imported $6.5 billion worth in oil. This huge spending drains from the country badly needed purchasing power to create jobs.

Oil and gas production are obviously declining. Since the Arab oil embargo, our natural gas production is down almost 10 percent, while our coal has increased only about a disappointing 10 percent. Since the mid 1950's onward, 85 percent of the growth of the entire energy market was accounted for by the use of natural gas. This was caused because Federal Power Commission action has kept the price of natural gas attractively low.

The percentage of petroleum we import has increased from about 35 percent, at the time of the embargo, to about 43 percent at present. A lot more petroleum remains to be produced. Shale oil remains a researcher's dream and a problem for economists. More railroads have gone out of business and the situation in the Middle East remains unstable. The embargo was the cause of the loss of over a half million U.S. jobs and $10 billion to $20 billion in goods and services.

Coal production is up, but hardly up to expectations. The problem is not lack of coal. The U.S. has nearly half the world's deposits. According to experts, coal reserves will last anywhere from 90 to 400 years into the future. The hangup is that because of environmentalists' concerns, coal cannot be used in a widespread sense to bridge the sharp fall in energy.

Nuclear power as an alternative is also not faring for the better. Rapidly rising costs, and intense social objections have slowed production. Even alternatives such as solar, geothermal, wind power, and the rest, have been slow to appear. Environmentalists are concerned that an energy policy will be nothing more than a screen for business favoritism. Experts who have studied the question at length say that the energy efficiency of the U.S. is only about 10 percent.

Although we may develop a method of improved energy use, we will barely be able to meet the demands for energy in the coming decades. Basically, there are two feasible choices. The country can take the road that involves hard decisions, compromise, discipline, and exceptance of economic realities or it can go on the way it has until it is too late.

So that the people of our country can have adequate energy, environmental protection, and economic stability, we must create comprehensive energy policies. These policies must allow all people to aspire to, and strive for, a higher standard of living. An energy plan is needed for the future to avoid setting nation against nation and the regions of the U.S. against each other. If we demand responsible leadership from all our public officials and if we demand policies based on scientific facts, we can overcome the problems that face us today. Most of all we must demonstrate the same reliance, confidence, and good sense that we have demonstrated in helping build a better world.

Without an energy policy the end result will be economic, social, and political catastrophe, both at home and abroad. We cannot merely cut back on energy consumption. A thorough study has indicated that if we cut back energy production 2 percent by 1985 it could mean a loss of 900,000 jobs. If present energy consumption continues, our accustomed lifestyles could be in jeopardy. If we continue our do-nothing policies our dependence on oil exporting countries will increase. The U.S. could be placed in a politically dangerous spot of bidding for oil against our own allies.

Americans can't imagine what life might be like when the fuel starts running out. What can we do to prevent this now? Consumer controls will be the nation's biggest asset in planning to conserve our remaining reserves of energy for the future. Let us not find ourselves in the future saying, "If we had only started twenty years ago." Let's start now, before it's too late.

A WORD OF ADVICE ON RHODESIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. McDONALD. Mr. Speaker, the Washington Post of June 23 published a very outstanding letter to the editor, in my view, from the president of the Oxford University Monday Club, Mr. Oliver Ridgway Bloor. His subject was Rhodesia and he reminded the U.S. readers of some cogent parallels to the short history of independent Rhodesia to those of our 13 colonies which rebelled against England in 1776. It can only be hoped that some of our "busy readers" on the African Desk at the Department of State read this letter. The item follows:

A WORD OF ADVICE ON RHODESIA

While the United States aids Britain and the African nations in seeking a peaceful settlement in Rhodesia, I think that it would be useful to point out that there is a historical precedent for this problem.

Some years ago, a crown colony (believing itself to be the victim of numerous injustices under imperial rule) made a unilateral declaration of independence. Britain applied military sanctions, but failed to regain the colony.

The regime then controlling the colony refused to institute universal suffrage for all races, and (unlike Rhodesia) permitted Africans to be held as the slaves of the (white) ruling class.

Last year, that country celebrated the 200 anniversary of its independence, but I did not notice any lack of enthusiasm for the celebrations on the part of those in the U.S. Government who are now trying to destroy one of the few non-Marxist governments left in Africa.

I do not ask the U.S. government to actively support Rhodesia's present constitution, but that it should not try to disrupt what may, in the future, become a fully democratic country—as the U.S.A. is now. Should Soviet-orientated guerrillas be allowed to gain control, then neither black nor white stands any chance of retaining either freedom or democracy in Rhodesia, and the Soviet stranglehold in central Africa will have tighened yet another notch.

OLIVER RIDGWAY BLOOR,
President,
Oxford University Monday Club.
OXFORD, ENGLAND.

GOD STILL PERFORMS MIRACLES

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. YOUNG of Florida. Mr. Speaker, from time to time we hear that the age of miracles is past, that past miracles recorded in religious history were for a purpose but not really applicable in today's modern world.

Mr. Speaker, believe me, God works miracles in our lives today every bit as much as during those early time periods I mentioned earlier.

At about 7 a.m. 2 days ago, on the morning of Monday, June 27, my daughter-in-law Carol and my grandsons, Bradley and Adam, dropped off my son Terry at his job in the mountains of West Virginia.

As they usually do about once each week, they were to return home, prepare for a rather busy day and tend to the many items of family business that build up and require periodic attention.

Things were different this misty morning. Within seconds of starting down the mountain, all plans for that day were forgotten and put aside. For the next thing Carol realized was that the edge of the rain-soaked mountain road had given way and she and Bradley and Adam and their pickup truck were in

midair, falling to the bottom of the gorge, 100 feet straight down.

A miracle? Yes, they are alive today. When I received notification of this accident while here on the floor of the House Monday, Marian and I left immediately to be with them and our son.

That they survived is nothing but a miracle. The cliff they went over has walls that go straight down for at least 100 feet with no ledges or slope to break the fall. Their pickup truck was demolished. Carol and the boys found themselves on the ground, bleeding, bruised, hurt, scared, and confused, but alive.

Somehow, after 2 hours of slipping, sliding and falling—carrying two very young and very scared and very blood sons, Carol found her way to an old logging road. For some reason, one of the workers on Terry's job was 2 hours late coming to work and found them alongside the road. Why did he happen to be just 2 hours late on this particular day? That has to be part of the miracle, for otherwise they could have been lying alongside of that isolated road all day long.

Mr. Speaker, people are good and that morning, many good people did a lot of good things. With everything happening so fast, details became a little hazy, but Terry got Carol, Bradley, and Adam to the hospital 25 miles away, meeting the ambulance, which his coworkers had called by radio, on the way.

Although badly bruised and requiring many stitches, they will live with no permanent injury.

Mr. Speaker, when I learned the details of this accident, I thanked God over and over again because I know that they live today only because of His intervention. Even at this point however, I obviously had not realized the full impact of what had happened. Only yesterday, when I had the chance to stand on that lonely mountain road, peering down to the bottom of the gorge, seeing pieces of that pickup truck strewn about—and being so far away they looked like pieces of a child's toy—only then did the full impact of God's miracle hit me.

I am thankful Mr. Speaker that, whether we deserve it or not, our Lord does love us enough to allow us the benefit of His miracle. And if anyone ever tells you that miracles are a thing of the past, please ask them to let me tell them about the good news, that God still does perform miracles for us.

CONSUMER AGENCY ILL-ADVISED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Oxnard Press Courier opposing the proposed Consumer Protection Agency. The article states good reasons to oppose this agency:

CONSUMER AGENCY ILL-ADVISED

President Carter wants more protection for the consumer. To this end, he has proposed establishing the Consumer Protection Agency and has called ill-advised opposition to the plan.

Carter claims the agency would not be a boondoggle as has been feared. He also says the agency would eliminate 13 other government offices and 180 jobs to enable a savings of $10.4 million a year. If reorganization were all that mattered, Carter would have a point, albeit a shaky one, since the new agency would cost $15 million in its first year.

But reoragnization is not all that matters, nor, for that matter, is symbolism. Carter believes the new agency initially would have a psychological benefit.

Surely the President's pollster, Patrick Caddell, has something else to offer as a form of symbolism. This proposed consumer protection measure would be uncomfortably substantial once it became reality. The agency would be able to intervene in the way "regulations and decisions are made and carried out"; take part in "proceedings before federal agencies"; and horn into the affairs of other government agencies and private concerns.

This forebodes an unprecedented litigious future, one which Rep. Paul McCloskey has seen clearly. McCloskey tried vainly last month to get the House Government Operations Committee to redesign the agency so as to eliminate its power to sue other government agencies. McCloskey correctly labeled the prospect an "absurdity."

The agency is a bad proposal simply because it addresses the wrong problem. Government should be more concerned in this instance with the marketplace. The consumer already has plenty of protection.

The fewer the barriers to market entry and free competition, and the lesser the tax take on business, the more consumer interests are served. That in itself offers the consumer a ready form of protection. The difficulty with the proposed agency is that it is designed to concentrate exclusively on prices and not, as it should be designed, on the context in which those prices rise—the marketplace.

So, contrary to the President's urging, opposition to the Consumer Protection Agency is not ill-advised, it is necessary. The proposal is idling in Congress and should be allowed to die there.

PORNOGRAPHY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for June 29, 1977, into the CONGRESSIONAL RECORD:

PORNOGRAPHY

Most Americans are outraged by pornography, but the Congress and the courts are just not sure what they can or should do about it.

There can be little doubt that America is entrenched in pornography. It has proliferated across the land. Many newsstands are a combination of smut shop and legitimate bookstore. Every major American city has a grubby area for sex shops, dirty bookstores, massage parlors, prostitution, and peek shows. In Washington such an area is only a few blocks from the White House. According to one national magazine, pornography is an ordinary topic of conversation in the suburbs and is "socially acceptable."

For well over a century Americans have been anxious about pornography. What is it? What effect does it have on people? What can be done about it? The answers to these questions do not come easily, but a feeling is strong among many Americans that something has gone awry in our efforts to deal with it and the search for answers to it continues.

The Supreme Court has held that obscenity is outside the free speech protection of the First Amendment to the United States Constitution, but the Courts and the Congress have had great difficulty in determining whether certain material is obscene. In 1957 in the Roth case the Supreme Court said what was sexual was not necessarily obscene and laid down the standard, "Whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interests."

In 1966 the Supreme Court went still further and said that to be obscene the material had to be "utterly without redeeming social value." This standard, which reflected a strong reluctance by judges to allow governmental interference with free expression, opened the flood gates of pornography, and in 1973 the Court, trying to reverse the tide, modified the Roth case with a test of obscenity based on three elements: (1) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to prurient interests; (2) whether the work depicts or describes in a patently offensive way, sexual conduct specifically defined by applicable state law; and (3) whether the work taken as a whole lacks serious literary, artistic, political or scientific value.

The court indicated that the community standards could be local and not national. Since local juries would have to decide what offended their standard of taste, and convict violators if these standards applied, this was a much easier guideline for prosecutors. No longer was it necessary for them to show that a work was utterly without redeeming social value.

Even with that standard, pornography continued to flourish for several reasons: community standards were changing, police were arguing that pursuing perpetrators of victimless crimes represented a misuse of their limited resources, and legal procedures were cumbersome, expensive and often pointless because fines were light.

In recent years a large number of bills have been introduced in the Congress to protect the public from pornography. The major problem continues to be the difficulty of drafting legislation that would control pornography without violating First Amendment rights, as interpreted by the Supreme Court. The most successful legislation to date is an amendment to the postal laws to stop mailing of sexually oriented commercial advertisements to persons who indicate that they do not want to receive them. This law gives citizens some measure of protection against unsolicited sex mail. Hundreds of bills introduced in the Congress to protect people from unwanted pornography seek to include a broader class of material as obscene but the problem of how to define obscenity still remains. At the moment the Congress is giving a considerable amount of attention to legislation that would prohibit the manufacture or sale of pornography using children.

Another approach to dealing with pornography is through zoning laws to limit sex establishments—laws which have been upheld by the Supreme Court. The containment of these establishments seeks to protect the community and the individual from being confronted by offensive material. Many communities have learned that zoning can be a powerful tool in a community's arsenal to control pornography.

I recognize the dangers of limitations on the free dissemination of ideas, and I acknowledge the necessity of proceeding with utmost caution in developing any such limitations. In a sense, pornography is one of the prices we pay for genuine, free speech. I personally, however, object to the circulation of obscene material and will support in the Congress constitutional measures to stop the flow of it. Certainly immediate steps are needed to protect minor children and the majority of Americans must be able to associate with one another without unwillingly being contaminated by pornography.

It seems to me we can regulate where and how pornographic materials are sold. In the long run, as Justice John Paul Stevens suggested in a recent Supreme Court opinion, we must rely on "the capacity of the free marketplace of ideas to distinguish that which is useful or beautiful from that which is ugly or worthless."

DENIS D. EGGLETON—RED CROSS CERTIFICATE OF MERIT

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. SARASIN. Mr. Speaker, who knows what any of us would do if a friend were dying before our eyes? We would probably pray that we had the skills and the presence of mind to save that lingering life. But how much of any life-saving training could we recall at such a moment? Would we freeze, or instinctively shy away from such a confrontation with death?

Mr. Denis D. Eggleton of Waterbury, Conn., did not. On August 7, 1976, he was visiting his brother when his brother's 2-year-old daughter strayed from the adults. The adults searched the area rapidly and finally found the girl nearly drowned in an above-ground swimming pool she had fallen into. Seeing that her skin was very pale and her lips were blue, and being trained in Red Cross first aid, Mr. Eggleton began mouth-to-mouth resuscitation at once.

Though he was trained, the pressure of having only one chance, one try, at administering this life-saving technique must have been staggering. But he did keep his presence of mind, and he saved the young girl's life.

Within minutes she was stirring. When the ambulance arrived, she was fully conscious. Without a doubt, she would have died of drowning had not Mr. Eggleton acted so promptly and effectively.

For his actions, he was awarded the highest honor given by the Red Cross, the Red Cross Certificate of Merit. This certificate bears the original signatures of the President of the United States; honorary chairman, and of Frank Stanton; chairman of the American National Red Cross.

A nation is, of course, its people. No one could have saved that girl except an individual, one person on the scene with the proper training. So, I am sure that more than just Connecticut is proud of this genuinely exemplary and heroic action by Mr. Eggleton.

AQUACULTURE—A NEW NATIONAL PRIORITY!

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. LEGGETT. Mr. Speaker, as most of my colleagues know, I am a strong advocate for, and believer in, the future of aquaculture in this country. For more than 2 years, my Subcommittee on Fisheries and Wildlife Conservation and the Environment and JOHN BREAUX's Subcommittee on Oceanography have been engaged in an active effort to bring legislation on aquaculture to fruition. Our subcommittees have held extensive hearings, commissioned a study by the Library of Congress, toured aquaculture facilities in the United States and abroad, participated in aquaculture seminars, and picked the brains of many experts in the field in order to determine what the needs are and how best to fill them.

During our hearings, we discovered that the world's fishery resources, once thought to be unlimited, are now estimated at a maximum level of global harvest of 100 to 150 million metric tons per year; more conservative estimates rarely exceed 100 million metric tons. In 1974, the world fishing catch was nearly 70 million metric tons. The National Oceanic and Atmospheric Administration has projected that the oceans can sustain an annual catch of only 100 million metric tons, a catch figure they expect to be reached by 1980, only 3 short years away.

Approximately one-fifth of the world's fishery resources are located within 200 miles of the U.S. coasts. Already, increased fishing has caused acute pressure on some stocks, depleting the supply and threatening their existence. About 20 species of fish and shellfish, including abalone and Pacific salmon, are believed to be seriously depleted.

An article in the June 1 Washington Post indicates that Japan has adopted a 7-year program that calls for spending more than $600 million to foster the expansion of fish farming. Japan's goal for the year 2000 is to catch all the fish needed to fulfill one-half of the protein requirements of its population within 200 miles off its coasts. The Japanese fishery officials expect to achieve this goal by turning their coastal areas into "sea farms," that is, aquaculture.

The Library of Congress aquaculture study indicated that in 1965 Japan obtained over 6 percent of its total fish and shellfish production from aquaculture, while the United States obtained less than one-half of 1 percent. By 1974, Japan had increased aquaculture's share of its fish and shellfish production to 10 percent, while the United States had increased its share to only 3 percent. Further, the Japanese cultured more oysters by weight in 1974 than our combined culturing of clams, oysters, salmon, shrimp, and trout.

The Post article notes that—

. . . in the last ten years, conservation and the world's most advanced hatchery techniques have trebled Japan's salmon production and it may double in the next ten.

The implications of this fact should more than pique the interests of my colleagues from the Pacific Northwest who are seeking a solution to our own Pacific salmon resource problems.

Mr. Speaker, although this article pertains to Japan, it does present a brief for the mind-boggling potential of aquaculture. I urge my colleagues to peruse this article and to support my legislation, H.R. 1833, the passage of which will allow this country to achieve its aquaculture potential.

The article, as it appeared in the Washington Post of June 1, 1977, follows:

JAPAN LOOKS TO THE FUTURE OF FISH FARMS

(By John Saar)

CHITOSE, JAPAN.—Even the salmon-master of the Chitose River found it an awesome sight. Seven million tiny salmon—whirling inch-long chips of black and silver—churned the waters under hatchery director Eiichi Sakano's fascinated gaze.

The thaw is coming, and soon the salmon will leave the friendly waters where they were raised from eggs under Sakano's care, to tumble 50 miles downriver to the sea. Three in a hundred will survive and grow in the North Pacific until, in four years time, the mysterious spawning instinct brings them fighting back up the Chitose River, where the females will lay 3,000 eggs apiece to replenish the hatcheries.

"The salmon's life is a divine activity," said marine biologist Sakano with slow-spoken precision. "Without man's help it cannot survive."

Man and nature in partnership for once. Yet, Sakano's hatchery in the starkly beautiful Hokkaido snow-country is something else—the bottom line on Japan's highly publicized anguish over fishery problems. In the last 10 years, conservation and the world's most advanced hatchery techniques have trebled Japan's salmon production and it may double in the next 10. The spectacular success with salmon is part of a massive fish-farming program to stock the seas around the Japanese archipelago and systematically harvest protein.

Japan has resisted the introduction of 200-mile fishing zones, claiming it could lose almost half its 10.6 million ton annual catch. The Japanese are heavily dependent on fish—seafood supplies half the protein intake for the population of 112 million. Negotiations for fishing rights in the new zones, first with the United States and currently the Soviet Union, have caused an alarmed public to worry about future fish supplies.

Meanwhile, fishery agency officials who long ago anticipated the international struggle over fishing grounds were forging a $600 million plan that should allow Japan to catch all the fish it needs within 200 miles of its own coast by the year 2000.

In Hokkaido, fish-farming specialist Toshio Uasa explained: "Now we know we shall be kicked out of other people's sea, we must cultivate fish in our own waters."

"The coastal areas will be a sea farm," he added.

Backed by a nationwide research and development program, the aim is to replenish exhausted fishing grounds, create new ones with underwater "apartment houses" for fish, and reduce industrial pollution of the seas.

Only a fraction of the available coastal waters are now used for what is termed aquaculture, but the catch from the man-

made fishing grounds has zoomed 500 per cent in the last seven years. Hokkaido fishermen took up 13,000 tons of clams in 1971. After four-years of scientifically guided artificial cultivation, production is up to 45,000 tons a year.

Other delicacies now being cropped on a large scale are oysters, crabs, shrimp, edible seaweed and various free-swimming fish. The favored method and the one expanding fastest is the raising of fry from fish eyes for release in coastal waters. The high-priced fish favored in the nation's 40,000 sushiyas or raw fish restaurants, are pampered and fattened in floating enclosures. The process is very wasteful. It takes eight tons of sardines to produce a single ton of the specially tasty yellowfish and the search is on for a cheaper feed.

Even tuna, the fish prized above all others by sashimi-eaters for its buttersoft flesh, is now being grown at a third of its retail cost.

Research specialist Ichiro Asano says the rapid onset of 200-mile proclamations by the United States and other countries has accelerated the Japanese program for increased domestic production. "Our catchphrase now," he said, "is that we have to change from catching fish to making them."

After experimenting with sunken ships and old cars, the Japanese are now creating new fish beds with concrete cylinders pierced with windows. Dropped in groups of 4,000 in 150 feet of water, they rapidly attract shoals of fish. The cost is not low—new 21-ton concrete triangle units cost $130,000 each—but government officials believe they will last forever.

Oddly enough, large-scale artificial production of fish is not the latest Japanese mass production process, but the first, Eiichi Sakano's salmon hatchery is 90 years old and a painting in his office shows his predecessors of Emperor Meiji's time raising salmon at the same site. "I'm proud of the past," he said, but he went on to emphasize the rapid improvements made possible by modern research.

When the spawning salmon were netted in Hokkaido's 80 major rivers last fall, about 10 per cent of their eggs were fertilized and sent to the hatcheries. The deliberately damp, gloomy building at Sakano's Chitose hatchery simulates the conditions of nature. A mountain stream running over pebble beds eventually carried the tiny fish out into the daylight over a four-month period.

Once an hour a woman worker sprays a fine powder of fishmeal and vitamins into the tanks and the fish turn the surface of the concrete tanks silver as they feed in tens of thousands. Protected from shock and predators, the fish graduate to the river in far greater numbers than if nature were allowed to take its course.

Of the 15 million salmon Sakano is releasing this year, he expects 150,000—half of them females—to return. A shy man of 52 in a tweed jacket and grey slacks, Sakano said: "When they go its like seeing our sons off for the first day at a new job. The most satisfying thing is when they come back because we know they are our children."

Some of the Japanese salmon are traveling farther than they can ever know. The Chitose hatchery workers were readying the last of a 2 million egg shipment for Chile. Japan has also agreed to share its technology with the Soviet Union in a new hatchery at Sakhalin on Russia's Pacific coast.

If the plan to bring Japan's 470,000 fishermen home by 2000 works, it will complete a 50-year cycle of industrial evolution. After World War II, when the Japanese people were desperately poor and hungry, indiscriminate overfishing exhausted the coastal waters. The trawler fleets then moved to the rich fishing grounds of other nations and eventually the reckless pillage by Japanese and others led to a cry for resource protection and the 200-mile zones.

Active conservation of coastal waters began about 10 years ago and the results are startlingly good. Catches are increasing and after long years of decline, the fishing villages are showing a new prosperity. Industrial pollution of the sea, which reached a peak with the Minamata mercury poisoning of several hundred people, is now receding. Fish are returning to the Inland Sea and fishery agency officials estimate that in 10 years the notorious Sea of Japan coast will be returned to the relatively low pollution levels of 1960.

Aquaculture provides 8 per cent of Japan's total fish catch and that share is expected to show a sharp increase. Each of the 40 coastal prefectures has a fishery research center either planned or under construction. The Japanese intend to map the thermal currents, the condition of the seabed and then stock the waters with the right fish—all to extend the concepts of livestock farming on land 200 miles out to sea.

BRICK TOWN ENERGY POLICY STATEMENT

HON. EDWIN B. FORSYTHE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. FORSYTHE. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues a statement prepared by the Brick Town Chamber of Commerce in New Jersey. The chamber of commerce has prepared an energy policy statement outlining initiatives that could be taken to alleviate the energy problems faced by New Jersey and the United States.

I am very proud of Brick Township's Chamber of Commerce for not only grasping some of the complexities of the energy crisis, but also for taking the initiative of providing Government officials and the public with a constructive energy proposal. I would like at this time to request that the Brick Township Chamber of Commerces' energy policy statement be included in the RECORD of today's proceedings:

ENERGY POLICY STATEMENT

INTRODUCTION

The Brick Township Chamber of Commerce is mindful of the present energy production shortage in the United States and two recent energy messages of the President of the United States. It is further recognized that the production and consumption of various forms of energy have a great impact upon each county and state of the United States. The Board of Directors of the Chamber of Commerce, individually and as a collective body, propose the following energy policy statement for the consideration of the local, state and federal government.

The residents and business people of Brick Township and Ocean County are substantially dependent on a high degree of mobility for jobs, business, recreation and entertainment due to the proximity of New York City and surrounding metropolitan areas and Philadelphia. A high percentage of the residential population depend on motor vehicle transportation to commute to their jobs in distant towns and cities. The business community is increasingly dependent on motor vehicle transportation to bring their products or services to the public and other businesses. Tourism, the second largest industry in New Jersey and extremely important to Ocean County, also is dependent on the mobility provided by motor vehicle transportation. And, last but not least, recreation and entertainment are dependent upon a high degree of mobility. This is particularly true of the boating industry, recreational craft industry and fishing industry which are also a very substantial basis for the local economy. These industries are dependent on the mobility provided by the consumption of oil and gas in motor vehicles, boats and airplanes.

ECONOMIC STABILITY

Therefore, this highly mobilized society must be maintained at a minimum cost to other competitive needs or forces such as energy conservation, ecology protection and social and economic development of our community and the entire country.

The local, state and federal government policies should be aimed at maintaining and encouraging this mobility by motor vehicles and other forms of transportation in order to prevent the local and state economy to become further depressed from its present poor condition. The President's proposed policies could restrict the mobility to such an extent as to further depress the local economy and inhibit economic growth. Mass transportation methods should be further developed and increased to reduce energy consumption for more efficient transportation of the population. In New Jersey, a north-south route should be further developed for railroad, bus or other forms of mass transportation to serve the commuters working in the metropolitan area as well as developing a county mass transportation system to accommodate local residents.

ENERGY PRODUCTION

Essential to the mobility and standard of living that we are accustomed to is the production of energy sources. Government policies should encourage the exploration and production of usable energy sources in the most efficient manner possible. This is particularly true with respect to oil and natural gas deposits and reserves within the land and its offshore limits. President Carter's message does not emphasize production enough and overemphasizes the reduction of energy consumption, although it is recognized that wasteful consumption must be greatly reduced. The production of oil and natural gas offshore along New Jersey is acceptable and encouraged if adequate safeguards can be insured to protect against oil spills which will damage our beaches and destroy the fish and other sea life. The on-land support facilities for drilling should be kept at a minimum with the larger facilities maintained as far inland as possible, utilizing existing oil refinery facilities as much as possible.

The nuclear generating capacity for electrical production should be increased as much and evenly throughout the country as possible. The Chamber of Commerce opposes any clusters of nuclear generating facilities in Ocean County due to the posed danger to the ecology and air pollution. An offshore nuclear generating facility is favored for medium range energy needs of the state and local areas as long as adequate ecological safeguards are insured. Research and development for nuclear generation by the fusion process should be supported for a long-range answer to our energy needs.

RESEARCH AND DEVELOPMENT

Research and development of other energy sources such as solar and thermal energy should proceed as fast as possible for economical use in the near future. The country's advance technology should also be employed to maximize the efficiency of consumer and capital goods that consume a generated source of energy.

CONSERVATION AND ECOLOGICAL PRESERVATION

And finally, our resources must be conserved and the delicate ecology preserved for Ocean County. This requires a delicate balancing of competing needs for the maxi-

mum use of our limited land resources and the economic and social growth of the county.

A responsible energy policy also requires responsible administration and regulation of the highest order. The New Jersey Department of Environmental Protection and the New Jersey Board of Public Utility Commissioners, not to mention the appropriate Federal Administrative bodies, must be responsible and responsive to the total energy needs, ecology and conservation of limited resources consistent with our economic, social and political needs and philosophies.

BUILDING AND CONSTRUCTION

In addition, local and state governments must encourage the construction of homes and buildings that are more efficient in energy consumption for the lowest possible cost. They should aggressively support experimentation and development of energy conserving new modes of construction.

The Chamber of Commerce further recommends that state and local government policies be developed to encourage the maximum use of local labor to effectuate a voluntary redistribution of the labor force to local job opportunities and therefore, reducing energy waste from commuting to other work centers. In addition, local, state and federal policies should encourage the recycling of products and elimination of wasteful packaging in order to reduce energy consumption in the production and disposal processes.

Respectfully submitted,

PHILLIP L. LUCAS.

SANTA BARBARA COUNCIL FOR THE RETARDED—SILVER ANNIVERSARY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. LAGOMARSINO. Mr. Speaker, as was so well stated in the United Nations in 1956 "all of the human family without distinction of any kind, have equal and inalienable rights of dignity and freedom," so the developmentally disabled population of our Nation must continue to enjoy these inalienable rights.

The Santa Barbara Council for the Retarded has labored mightily for the past 25 years for the rights as well as the obligations of the mentally retarded. From humble and struggling beginnings through thousands of volunteer hours, unselfishly given, and 25 years of patience, dedication and devotion the SBCR has been a major spokesman for the developmentally disabled and has compiled an enviable list of accomplishments for the betterment of the community.

Any silver anniversary is a special occasion but for the SBCR, founded during the summer of 1952 by three concerned parents of developmentally disabled individuals, at extreme personal sacrifice, this anniversary is both a culmination and a beginning; great strides have been made and much remains to be done.

Because of the unusual dedication of this council and its many volunteer members, because of their legislative efforts on both the State and Federal levels in seeing that the developmentally disabled are recognized everywhere as persons having rights and obligations and enjoying basic civil liberties, I ask the Members of the House to join with me in extending congratulations to the Santa Barbara Council for the Retarded and best wishes for continued success.

CRISIS IN SOCIAL SECURITY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. McDONALD. Mr. Speaker, the impending depletion of the social security trust fund has spawned numerous reform proposals. Invariably, however, these proposals deal only with the immediate problem of how to get more money into the system—should we raise the social security taxes or transfer funds from general revenues?

It is refreshing, therefore, to read an analysis of the crisis in social security by the noted economist Hans Sennholz which looks at the nature and history of the whole system, identifies the real problems it faces, and comes up with realistic proposals to deal with them. The approach of Professor Sennholz could lead to a permanent solution, as opposed to proposals designed to coverup the immediate problem with the hope that somehow the real problem will go away or at least go unnoticed until after the next election.

Following is Professor Sennholz's article, which appeared in the June 1977 issue of Private Practice:

CRISIS IN SOCIAL SECURITY

In most of its endeavors the welfare state accomplishes the very opposite of what it sets out to achieve. The Social Security system, with all its noble intentions, is probably the most spectacular failure of them all. Born during the Great Depression it was to be a full-employment measure that would retire older workers and afford more jobs for younger workers. But the unemployment problem is still with us, with all its urgency and severity, although Social Security is supporting more than 30 million Americans. Despite its efforts and countless other employment measures, some seven to ten million Americans are walking the streets in idleness and dejection.

Social Security was to endow every person with the right to a minimum income upon retirement; lest he should become dependent upon his family and others. But it undoubtedly has weakened the will to independence, and has subjected most retireds to the discretion and benevolence of politicians.

The Social Security system has generally abandoned the principle that benefits should be based on the amount of contribution. Each worker's old age claim is related to "need" as defined by government in accordance with its current conceptions of adequacy. In other words, politicians are the judges of need and adequacy. It is they who bestow the right to define benefits. This is clearly illustrated by the fact that, from time to time, government raises the benefits to workers in retirement who, of course, no longer contribute to the system.

Politicians determine the conditions of eligibility. They define the concepts of "covered employment," retirement age, limits of earned income, the tax rates on covered workers and employers, ceilings on taxable wages, etc. They define the rights of a covered worker's dependents to additional benefits. In other words, there is not a single phase of our Social Security program that does not depend on the politician's notions of social justice and economic adequacy.

This dependence of the beneficiaries on the good will of legislators is the logical outcome of the provisions that separate individual benefits from tax contributions. If they were actually linked to each other in order to establish a "contractual right" to old-age income, the present benefits would be so pitifully low that the lack of actual security to the beneficiary would become apparent immediately.

PUBLIC ASSISTANCE OR EARNED BENEFITS?

Simple calculation easily ascertains that almost every present beneficiary soon withdraws what he contributed since the initiation of the system. After he receives the equivalent of his own contribution, the "right" to old-age income obviously constitutes the right to support by the state and ultimately by his tax-paying fellowmen. The term "insurance," in this respect, means public assistance.

Let us assume that a married person who regularly paid his taxes since the initiation of the system retired after twenty years of coverage on January 1, 1957. Let us also assume that he contributed the maximum payable under the law. From 1937 through 1949, he contributed one percent on $3,000 annual income, $30 per year, or a total of $390 in 13 years. In 1950, he paid 1½ percent on $3,000, or $45. From 1951 through 1953, his payment amounted to 1½ percent on $3,600 annually, or $162. In 1954, he was taxed two percent on $3,600, or $72. In 1955 and 1956, his taxes amounted to two percent on $4,200, or a total of $163. Altogether he paid no more than $837 during the first 20 years of coverage. If we add an equal amount of "employer contribution," which actually came out of his pay, his total contribution to the system amounted to $1,674.

In 1957, this payment entitled a retiring couple to receive $162.80 in monthly benefits, which since then have been raised to $397.50 per month. In other words, in 1957 they received in 10 months and eight days the equivalent of their total contributions. His life expectancy, however, amounted to approximately 13 years, hers to 18 years. If they are still alive today, twenty years later, they are collecting every four months and six days what they paid in since the beginning. Their total benefits have exceeded $50,000 on total contributions of $1,674, or 30 times more than they paid in.

For most old-timers this ratio of benefits to contributions is even greater since only a few contributed the maximum amount.

How can the Social Security Administration pay many times more in benefits than it actually receives in contributions? For many years, it merely extended the compulsory coverage to an ever-widening circle of taxpayers. As long as additional millions of workers were added to the rolls, who were taxed but remained ineligible for payments because they had not yet reached retirement age, the means for the beneficiaries' support were secured. But the system created ever more future liabilities in order to stay solvent for the moment. Moreover, both the tax rates and the taxable income of the working population were raised sharply, which barely yielded revenue needed for current outlays. At the present, payroll taxes again are falling short of the benefits. And, according to the Social Security Administration itself, the actuarial deficit, or unfunded liability, amounts to more than $2.1 *trillion*, which forebodes much higher payroll taxes in the future.

A TRANSFER SYSTEM BUILDS ON VICTIMS

This ominous development should not surprise us. If it is true that the first generation

has received a multiple of benefits over its contributions, the following generations must bear the burden of debt and receive less than they pay in. Like so many other political programs, the Social Security system is promoting consumption and benefits for the present generation at the expense of future generations. On a massive scale it redistributes income and wealth from young taxpayers to old beneficiaries.

The Social Security system, as so many other redistribution programs, divides society into two distinct classes—the beneficiaries and the victims. Physicians, dentists, attorneys, corporate executives, and other professional people, together with independent businessmen, almost invariably belong to the class of victims. In spite of their accumulated contributions they lose their rights to monthly benefits if they continue to earn $250 in monthly fees. Only when they reach an age of 72 are they entitled to their benefits. But it should be obvious that any physician who, at age 65, is on his feet and in possession of his faculties, is earning more than $250 per month, and therefore is promptly denied his benefits. But how many are reaching the ripe old age of 72 when they finally begin to draw the promised benefits? Surely very few can expect to live long enough to collect what they paid in during a long professional career.

The Social Security program taxes the professional class in order to support lower-income retirees. But even among the latter it injures the active and diligent who prefer to continue to work after 65. The laborer, too, loses his right to monthly benefits if he should earn more than $250. In other words, to many workers after 65 it is more profitable to work only a few days of the month, merely earning the permissible wage that does not deprive them of their benefits. Many others, especially the unskilled and untrained, do not work at all because the potential labor income is too small when compared with Social Security benefits. In both cases, the system supports and encourages the inactivity of less productive workers with funds that are taken from active professional people. These continue to be taxed, regardless of age, as long as they are rendering services and earning labor incomes. In 1977, self-employed people are paying 7.9 percent of the first $16,500 of earnings, or $1,303.

The Social Security system must be censured because it violates standards of equity and justice. It redistributes earned income from one social class to another, and thereby breeds hostility and conflict. It encourages idleness rather than fruitful activity, political dependence rather than self-reliance, spending rather than thrift. And, above all, it has incurred a $2 trillion deficit that it has placed on the backs of future generations.

In the coming years the Social Security system will undergo many changes and alterations. No system can forever live beyond its means and shift an ever-growing burden of debt to future generations. Sooner or later the victim generations may resent the shifting and endeavor to lighten the load through realistic reductions in benefits or outright repudiation of inherited tax liabilities via inflation or other default devices.

There can be no genuine reform of the Social Security system until we, first of all, become aware of the truth of the massive redistribution. To this end we are proposing the following reforms:

1. To restore realism, every recipient of Social Security benefits should be informed of the nature and source of his benefits. Every check should carry a stub that reveals the dollar amount contributed to the system and the amount of benefits received as of that day.

2. When the total benefits exceed the contributions by one thousand percent, the recipient should undergo a means test. A retired worker with sufficient income and means of support should forfeit his benefits; lacking such means, his future payments should be truthfully called "public assistance."

3. At this point of tenfold benefits over contribution, the children of a retired worker should be called upon to contribute to the support of their parents. As the parents are responsible for their children, so are children responsible for their parents. No Social Security system should eradicate this moral law and commandment.

4. The system should not violate the religious and moral principles of conscientious objectors. Even in such a vital matter as national defense, American society has always respected the principles of those who refuse to bear arms or participate in military service. The same respect should be accorded to all religious and moral objectors to Social Security.

5. To grant relief to the primary victims of the system and abate the frantic shifting of burdens to future generations, we should seek to protect our youth. No worker should be forced to contribute more than twice the amount he would pay to a private insurer for identical coverage and benefits.

6. To grant relief to those victims who choose to work after 65 and thereby forfeit their right to benefits, their obligation to contribute should cease at the same time.

The financial dilemma of the Social Security system is giving rise to numerous reform proposals. Many turn out to be new concoctions of the same old redistribution medicine, prescribing new victims for old beneficiaries. We are proposing to begin with truth and information, the seeds for a true reform, without making an open assault to uproot that which is already existing. Reformation is a work of time. A national institution, however wrong and harmful it may be, cannot be totally changed at once. We must rebuild and regenerate its moral foundation so as to slowly bring people to adopt what would offend them if it were introduced by legislation and force.

MEDICAID PROGRAM

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. ROGERS. Mr. Speaker, I am introducing today a proposal developed by the administration to alter the requirements of the medicaid program for review of care delivered in various long-term care institutions. This set of recommendations for change in the medicaid statute is the legislation that was promised by Secretary Califano of HEW when he recently announced $142 million of reductions in medicaid payments to some 20 States, because of their failure to meet the requirements of the current law.

The Committee on Interstate and Foreign Commerce expects to report to the House shortly as part of H.R. 3 their recommended proposal for delaying the imposition of the announced reductions and allowing States an additional 6 months to meet the requirements of the current law. Under the recommended amendment, if a State is in compliance at the end of the year for 1977, the Secretary would waive previously assessed reductions under section 1903(g) of the Social Security Act. Adoption of this proposal will provide the Congress sufficient time to consider carefully the changes in the law recommended by the administration.

In introducing the administration proposal, I would be remiss if I did not note my concern about a number of their recommendations. I am reluctant to remove requirements that physicians periodically reassess the condition and need for care for medicaid patients in long-term care institutions, particularly in the light of another facet of their proposal which allows medical and independent professional review to be performed on only a sample of patients. I am concerned about the elimination of utilization review in intermediate care facilities, particularly since the administration has also recommended as part of H.R. 3 that PSRO review of care in ICF's would not occur unless the State is not performing the review in ICF's that is required by the law adequately. While I commend the approach which relates reductions in medicaid payments to the proportion of institutions where review has not been adequately performed, I am not satisfied that an approach which withholds certification to participate in medicaid from the institution involved is a fair one.

I believe these and other concerns will have to be explored carefully before we move ahead on the proposals. We will be seeking the views of interested parties—including groups representing the aged and disabled, State medicaid agencies, physicians, and others concerned with long-term care—as we proceed.

I am attaching a summary of the legislation for the information of the Members:

SECTION-BY-SECTION SUMMARY

The first section of the bill would provide the short title of the Act—"The Utilization Control Amendments of 1977".

Section 2 of the bill would repeal provisions of title XIX of the Social Security Act which currently require the State agency responsible for administering the Medicaid plan to establish a program of medical review of the care provided by skilled nursing facilities and mental hospitals and a program of independent professional review of the care provided by intermediate care facilities. The bill would make the administration of these programs a function of the licensing agency in each State, which under current law, is already responsible for surveying State health institutions and for certifying that they meet the requirements for participation in the Medicare and Medicaid programs. Under the bill, each health care facility participating in Medicaid, as a condition of its annual certification for such participation, would have to meet the standards established by the State's licensing agency for medical review (MR) or independent professional review (IPR). This amendment, by making MR and IPR a part of the certification process, would make the quality of medical care a standard by which institutions would be determined eligible for participation in Medicaid. Furthermore, it would provide a clear sanction—decertification—whenever the State standards are not met. Finally, by placing responsibility for several aspects of the survey, medical review and evaluation, and certification processes in one agency, some of the duplication of effort which currently results from a division of responsibility between two agencies would be eliminated. The amendment also refers specifically to the role of nurses in medical review of skilled nursing facilities.

Section 3 of the bill would modify the fiscal sanctions currently required to be imposed when a State does not have adequate

programs of utilization review (UR), medical review, and independent professional review. Section 1903(g) of the Social Security Act now requires a one-third reduction of federal Medicaid payments with respect to long-stay cases (institutionalization in a hospital, skilled nursing facility, or intermediate care facility in excess of sixty days or institutionalization in a mental hospital in excess of ninety days) in the case of any State which lacks an effective program of control over utilization of institutional health care services (UR, MR, and IPR). This reduction is required for all such payments for long-stay cases in any fiscal year in which the State fails to make a showing satisfactory to the Secretary that is in compliance with the provisions of the statute that require a program of control over utilization of health care services. This rather substantial penalty is unrelated to the extent of the failure once it is determined that a State is out of compliance, the State has no opportunity to correct any program deficiencies in order to avoid the imposition of payment reductions.

Section 3 of the bill would relate the amount of any fiscal reduction required on account of a State's failure to have an adequate program of control over utilization of health care services to the degree of noncompliance. Specifically, no federal financial participation would be available to cover the cost of services provided by a health facility for which the State did not provide an adequate program. The reduction would be applied on a quarterly basis, beginning with the quarter following notification to the State of noncompliance. Finally, the Secretary would have the discretion to postpone the penalty for up to six months to give a State the opportunity to correct its failure. The "penalty provision" currently in the law would be repealed retroactively to July 1, 1973, and the new provision would be effective beginning January 1, 1978. However, in the case of any State which the Secretary determined was not complying with the review requirements in the law during the second quarter of fiscal year 1977, any payment reduction required under the current law through that quarter would be made by the Secretary if he determines that the State did not correct its deficiencies by the end of this calendar year.

Section 4 of the bill would modify the utilization review requirements in current law. In addition to medical review and independent professional review, which are annual activities conducted by each State, the law requires a continuous program of screening of every medical facility admission, and the medical evaluation of a sample of those admissions. Standards are specified in the law pertaining to the personnel who may conduct such screenings and evaluations. Section 4 would clarify the language currently in section 1903(g) of the statute, make a few minor changes in the requirements, and make the standards a part of the State plan requirements. Finally, it would require utilization review as a condition of full federal reimbursement under Medicaid only in hospitals. The bill would retain, as State plan requirements, utilization review in skilled nursing facilities and physician certification of each patient admission to a health facility. The bill does not amend title XI of the Social Security Act, pertaining to Professional Standards Review Organizations (PSRO's). As a result of Department of Health, Education, and Welfare regulations and clarifying amendments in H.R. 3 (section 5(a)), once a PSRO assumes utilization review responsibilities the title XIX review requirements shall not apply.

Section 5 of the bill would authorize States to conduct medical review and independent professional review on a sample basis. Sampling is already permissible (and would be retained under the bill) for utilization review. The bill would include a similar provision for MR and IPR, and, like UR, would be subject to regulation by the Secretary (to assure proper procedures and adequate sample size.)

A bill to amend the Social Security Act to strengthen and improve procedures for reviewing and controlling the utilization of medical services under medicaid, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Utilization Control Amendments of 1977."

FINDINGS OF MEDICAL REVIEW AND INDEPENDENT PROFESSIONAL REVIEW AS STANDARDS FOR CERTIFICATION

SEC. 2. (a) Section 1902(a) of the Social Security Act is amended by striking out paragraphs (26) and (31); by redesignating paragraphs (27) through (30) as paragraphs (26) through (29), respectively; by redesignating paragraphs (32) through (36) as paragraphs (30) through (34), respectively; by striking out "and" after paragraph (33), as redesignated by this subsection; by striking out the period after paragraph (34), as redesignated by this subsection, and inserting instead ", and"; and by adding after paragraph (34), as redesignated, the following new paragraph:

"(35) provide that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform for the State agency administering or supervising the administration of the plan approved under this title the function of determining whether institutions and agencies meet the requirements for participation in the program under such plan; which determination shall, among other things, be based on the findings resulting from (A) the licensing agency's program of medical review (including medical evaluation of each patient's need for skilled nursing facility care or, in the case of individuals who are eligible therefore under the State plan, need for care in a mental hospital), which program shall include (i) review of the written plans of care for each patient, and where applicable, plans of rehabilitation prior to admission to a skilled nursing facility; (ii) periodic inspections of all skilled nursing facilities and mental institutions (if the State plan includes care in such institutions) within the State by one or more medical review teams (composed of physicians, nurses, and other appropriate health and social service personnel) of (I) the care being provided in such nursing facilities (and mental institutions, if care therein is provided under the State plan) to persons receiving assistance under the State plan, (II) with respect to each of the patients receiving such care, the adequacy of the services available in particular nursing facilities (or institutions) to meet the current health needs and promote the maximum physical well-being of patients receiving care in such facilities (or institutions), (III) the necessity and desirability of the continued placement of such patients in such nursing facilities (or institutions), and (IV) the feasibility of meeting their health care needs through alternative institutional or noninstitutional services; and (iii) the making by such team or teams of full and complete reports of the findings resulting from such inspections together with any recommendations to the State agency administering or supervising the administration of the State plan and to the licensing agency and (B) the licensing agency's program of independent professional review (including medical evaluation of each patient's need for intermediate care), which program shall include (i) review of written plans of service prior to each admission or authorization of benefits in an intermediate care facility as determined under regulations of the Secretary; (ii) periodic on-site inspections to be made in all such intermediate care facilities (if the State plan includes care in such institutions) within the State by one or more independent professional review teams (composed of physicians or registered nurses and other appropriate health and social service personnel) of (I) the care being provided in such intermediate care facilities to persons receiving assistance under the State plan, (II) with respect to each of the patients receiving such care, the adequacy of the services available in particular intermediate care facilities to meet the current health needs and promote the maximum physical well-being of patients receiving care in such facilities, (III) the necessity and desirability of the continued placement of such patients in such facilities, and (IV) the feasibility of meeting their health care needs through alternative institutional or non-institutional services; and (iii) the making by such team or teams of full and complete reports of the findings resulting from such inspections, together with any recommendations to the State agency administering or supervising the administration of the State plan and to the licensing agency."

(b) Section 1902(a)(31) of such Act, as redesignated by subsection (a) of this section, is amended to read as follows:

"(31) provide that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of medical assistance under the plan in order to provide guidance with respect thereto in the administration of the plan to the State agency established or designated pursuant to paragraph (5) and, where applicable, to the State agency described in the second sentence of this subsection; and".

(c) The penultimate sentence of section 1902(a) of such Act is amended by striking out "(29), (31), and (33)," and inserting instead "(28), (31), and (35),".

(d) Section 1903(b)(1) of such Act is amended by striking out "1902(a)(34)" and inserting instead "1902(a)(32)".

(e) Section 1908 of such Act is amended by striking out "1902(a)(29)" each place it appears and inserting instead "1902(a)(28)".

(f) Section 1910(a) of such Act is amended by striking out "1902(a)(28)" and inserting instead "1902(a)(27), provided that the State licensing agency referred to in section 1902(a)(35) has determined that the institution meets the standards of the medical review program referred to in section 1902(a)(35)(A)".

(g) The amendments made by this section shall become effective January 1, 1978.

MODIFICATION OF PENALTY PROVISION

SEC. 3. (a) Section 1903(g) of such Act is not effective with respect to fiscal quarters beginning after June 30, 1973, and before December 31, 1977. However, with respect to any State whose payment under section 1903(a) for any quarter beginning after June 30, 1973, and before March 31, 1977, would have been reduced on account of section 1903(g) but for the preceding sentence, such payment for any such quarter shall be so reduced notwithstanding the preceding sentence if, by January 1, 1978, such State has not made a showing satisfactory to the Secretary that it has corrected its failure to comply with section 1903(g) (as that section read prior to enactment of this Act) which would otherwise require a reduction in its

payment for the quarter ending March 31, 1977. For purposes of the preceding sentence, the Secretary shall determine that a State has corrected any such failure if, with respect to each institution for which such State failed to perform the medical review or independent professional review required to be performed during the quarter ending March 31, 1977, pursuant to the law in effect during such quarter, the State makes a showing, satisfactory to the Secretary, that such review for each such institution was performed prior to January 1, 1978.

(b) Effective January 1, 1978, section 1903 (g) of such Act is amended to read as follows:

"(g) The Secretary shall periodically validate State compliance with the requirements of paragraphs (29)(A) and (35) of section 1902(a). Validation procedures may include sample onsite surveys of public and private institutions in which recipients of medical assistance may receive care and services pursuant to a State plan approved under this title. Whenever the Secretary determines, pursuant to such validation procedures, that, with respect to one or more institutions in the State, the State did not adequately perform its responsibilities under paragraphs (29)(A) or (35) of section 1902(a), the Secretary shall notify the State that the amount payable to such State under subsection (a) of this section for each succeeding fiscal quarter shall be reduced by the amount which would otherwise be payable on account of medical assistance provided by such institution or institutions under the State plan during each such quarter, until the State shows, to the satisfaction of the Secretary, that it is meeting its responsibilities under such paragraphs with respect to such institutions. Until the Secretary is so satisfied, he shall make any reduction referred to in the preceding sentence, except that, if the State has developed a plan, satisfactory to the Secretary, for complying with paragraphs (29)(A) and (35), the Secretary may postpone the effective date of any reduction required, for a period of time not exceeding six months, to allow the State, pursuant to the plan, to fully comply with the requirements of such paragraphs."

MODIFICATION OF UTILIZATION REVIEW REQUIREMENTS

SEC. 4. (a) Section 1902(a)(29) of such Act, as redesignated by section 2 of this Act, is amended to read as follows:

"(29)(A) provide such methods and procedures relating to the utilization of care and services provided by hospitals under the plan (which methods and procedures meet the requirements imposed by section 1861 (k) for purposes of title XVIII) so as to safeguard against unnecessary utilization of such care and services, including utilization review whereby (I) in each case in which services are provided under the State plan, such services are furnished under a plan established and periodically reviewed and evaluated by a physician, and (II) each hospital admission and continued stay is screened by appropriately trained personnel who do not have a significant financial interest in the hospital providing the care involved and are not themselves directly responsible for the care of the patient involved, in accordance with criteria established by medical personnel and, where appropriate, other professional personnel, who do not have a significant financial interest in the hospital providing the care involved; and the information developed for such screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients, is used as the basis for establishing the size and composition of the sample of admissions and continued stays to be subject to review and evaluation by medical personnel, and where appropriate, other professional personnel, who do not have a significant financial interest in the hospital providing the care involved and are not themselves directly responsible for the care of the patient involved, and the Secretary may, by regulation, require any such sample to be of any size up to 100 per centum of all admissions or continued stays, but such sample must be of sufficient size to serve the purpose of (I) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (II) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted;

"(B) provide for such methods and procedures relating to the utilization of care and services provided by skilled nursing facilities under the plan which methods and procedures meet the requirements imposed by section 1861(k) for purposes of title XVIII;

"(C) provide that in each case for which payment is made under the State plan, a physician certifies at the time of admission, or if later, the time the individual applies for medical assistance under the State plan, that services under the plan are or were required to be given on an inpatient basis because the individual needs or needed such services; and

"(D) provide such methods and procedures relating to the payment for care and services available under the plan to assure that payments (including payment for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care;".

(b) Section 1903(i) of such Act is amended by striking out "; and" after paragraph (3) and inserting instead a period and by striking out paragraph (4).

(c) The penultimate sentence of section 1902(a) of such Act is amended by striking out "and of section 1903(i)(4)," by inserting "(29)," after "(28),".

(d) The amendments made by this section shall become effective January 1, 1978.

AUTHORITY TO USE SAMPLING PROCEDURES FOR MEDICAL AND INDEPENDENT PROFESSIONAL REVIEW

SEC. 5. (a) Section 1902(a) of such Act is amended by adding at the end thereof the following:

"Notwithstanding the requirement in paragraph (35) that medical review and evaluation or independent professional review and medical evaluation be performed with respect to each patient, a State may fulfill that requirement by conducting such reviews and evaluation on a sample of patients, provided that the sample is of sufficient size to serve the purpose of identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and the Secretary may, by regulation, require any such sample, consistent with the preceding proviso, to be of any size up to 100 per centum of the patients. The preceding sentence shall not apply to the requirement in paragraph (35) that each patient have a written plan of care."

(b) This section shall become effective January 1, 1978.

RADIO BROADCASTING—KDKA—BORN IN TURTLE CREEK, PA.

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. GAYDOS. Mr. Speaker, the Pennsylvania Historical Commission and the National Register of Historical Sites have officially recognized the birthplace of radio broadcasting.

I am extremely proud to say it took place in the 20th Congressional District of Pennsylvania.

Mr. Speaker, the world's first scheduled broadcast was made by KDKA radio on November 2, 1920, from a tiny, makeshift shack shop atop building K of the Westinghouse Electric Corp. in Turtle Creek, Pa. That historic first consisted of flashing to the world the news that Warren Harding had become the 29th President of the United States by defeating James Cox in the election.

A plaque commemorating this event was dedicated June 17, 1977, climaxing Turtle Creek's official observance of the Nation's Bicentennial. However, the Harding-Cox broadcast was just the first of many firsts for KDKA since much of its early history actually is the early history of radio. The firsts KDKA recorded also were firsts for the industry as well.

For example, KDKA aired the first Presidential inauguration speech—President Harding's—the first regular church broadcast, the first blow-by-blow description of a boxing match—Johnny Ray versus Johnny Dundee, no decision—and the first play-by-play report of a baseball game—Pittsburgh defeating Philadelphia.

On hand for the dedication ceremony were several of KDKA's early employees, including H. W. Arlin, acknowledged as the world's first full-time radio announcer; T. F. Harnack, a broadcaster, and Gene Morie, one of the first singers of the airwaves.

Joining these "oldtimers," were present-day officials of KDKA and the Westinghouse Broadcasting Co.: G. E. Wallis, regional vice president of Westinghouse; A. B. Hartman, general manager of KDKA radio, and William Steinbach, the station's top newsman.

Also participating were representatives of Westinghouse Electric Corp.—N. A. Beldecos, vice president and general manager of LRA division; T. H. New, administrative assistant to Mr. Beldecos and president of Westinghouse Valley Chamber of Commerce—and Turtle Creek Borough officials, led by Mayor D. L. Harper and William Hopbell, chairman of the community's Bicentennial commission.

Mr. Speaker, on behalf of the Congress of the United States I extend our sincere appreciation to the pioneers of radio and to those individuals who wisely decided to record the history of the airwaves on the pages of history.

LOW TAXES BUILD PROSPERITY

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. COLLINS of Texas. Mr. Speaker, how do you end the everlasting problem of unemployment? Experience proves that low taxes build prosperity. Government was never intended to pro-

vide jobs for its people; bureaucrats function poorly in such a role.

What America needs is a reduction in taxes. Reduced taxes help new businesses develop and create incentives for already established businesses to increase employment. New Hampshire, for example, in the heart of the generally depressed Northeast, has neither an income tax nor a general sales tax. Per capita combined State and local taxes are the lowest in the United States. And taxes on business profits are at a rate lower than any Northeast State—a flat 7 percent, compared with 9½ percent in Massachusetts and 10 percent in Connecticut and New York. The result has been a surge in employment to a point where new jobs are created at a rate of more than 15,000 a year and where the State now has one of the best records in job growth while simultaneously holding unemployment to one of the lowest levels. This strong work ethic also discourages welfare, which finds New Hampshire with the least number per 1,000 of any State in New England.

A decrease of tax revenues, however, necessarily entails a decrease in expenditures. As veteran observer Donn Tibbetts, statehouse bureau chief for the Manchester Union Leader, sees it, "We in this State don't give every possible service we could provide. But I don't drive a Cadillac either. You always have to compromise somewhere." And compromise we must. Lower taxes create more jobs. But lower taxes without a simultaneous decrease in expenditures is fictitious.

New Hampshire's success in decreasing its unemployment has resulted from a basic frugality that has characterized the State's entire government. New Hampshire has the lowest per capita public debt in New England. Its surging economy can be attributed not to a never-ending effort to make work for its people but to a healthy business atmosphere created by low taxes. In Texas, we believe in low taxes and incentives to help business grow and prosper. Low taxes and low government spending are the base of success whether one lives in Dallas, Tex., or Manchester, N.H.

FIRST-TIME OWNERS OF HOMES DECLINING

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. KASTEN. Mr. Speaker, that headline from the Sunday New York Times could very well serve as an advertisement for the Young Families Housing Act of 1977.

While our Nation may be in the midst of a housing boom, soaring prices are making it increasingly difficult for the young person or family just starting out to afford their first home.

As the article from the Times points out, the percentage of people buying houses for the first time is dropping sharply. As recently as 4 years ago, the housing market was evenly divided among families who were buying their first homes and families who were using the equity in houses they already owned as a down payment. According to the latest statistics, this year only about 35 percent of houses are being purchased by first-time home buyers.

The trend promises to worsen. Without some relief, young families, regardless of the economic sacrifices they are willing to make, may soon find it impossible to purchase their first home. I am sure my colleagues would share my concern about this disturbing trend and seek to find a remedy.

The Young Families Housing Act offers a solution. This bill would permit a first-time home buyer to save for a down payment through a tax-free savings account. The bill would also provide for graduated monthly mortgage payments, which would more closely reflect a family's income growth over the duration of the mortgage.

I wish to commend to the attention of my colleagues the New York Times article which illustrates very well the need for legislative action:

FIRST-TIME OWNERS OF HOMES DECLINING—RISING PRICES CAUSE DIFFICULTIES FOR MANY YOUNG PEOPLE

(By Robert Lindsey)

LOS ANGELES, June 25—America is in the midst of its biggest single-family housing boom in history, but soaring prices are forcing adjustments for a generation of young people trying to realize the dream of home ownership.

And, despite the sacrifices many are willing to make, the percentage of people buying houses for the first time is dropping sharply.

Perhaps typical of some of those people to find the money to become buyers are James Minor, the United States Public Health Service pharmacist here, who is 29 years old, and his wife, Yvonne, 28. For months, they watched the price of homes climb seemingly into the stratosphere while their $240 apartment rent left them with only a monthly receipt.

MEDIAN PRICE IS $49,000

This spring, Mrs. Minor went to work at a local savings bank, the couple plunged deeper into debt than either of them had ever imagined, and they moved into a 14-year-old home in suburban San Pedro, for which they paid $52,000.

"It was a tremendous price by the standards we were used to in North Carolina where we grew up," she recalled, "but we wanted our own home. It takes two salaries to keep a house going these days—it's a necessity for women to work if you want to own your own home."

Price increases have brought the national median cost of a new home to almost $49,000 and caused a steadily widening gap between home prices and average income. A recent Federal survey concluded that the median value of a single-family home had risen 73 percent between 1970 and late 1975, while the median income rose 40 percent. Some experts believe that the gap has widened even more since 1975.

Proportionately, there are now fewer first-time buyers than there used to be. As recently as four years ago, according to Government data, the housing market was evenly divided among families who were buying their first homes, and families who were using the equity in houses they already owned as down payments. This year, according to a survey by the Federal Home Loan Bank Board, only about 35 percent of houses are being purchased by first-time home buyers, with the balance being purchased by owners who can parlay inflated equities in previous homes into new ones.

Most housing experts expect at least 1.5 million new homes to be started in 1977, about 20 percent more than in 1972, the previous record year.

HOW ARE THEY DOING IT?

So, while the price trend has forced many young families out of the housing market, many others are buying homes at prices that only a few years ago seemed in the luxury class. How are they doing it? Interviews with developers, real estate agents and scores of young families in 14 cities during the last two weeks have indicated some fundamental changes in the living and home-buying patterns of the 20-to-35 generation:

More wives are working to buy a home. Few young couples can afford a home on one salary; the need for the wife's paycheck is contributing to the reduced birth rate and causing more mothers to take jobs outside the home.

Many younger couples are going more deeply into debt than their parents did to support the mortgage payments, taxes and other housing expenses. While monthly payments equal to 20 to 25 percent of income were typical in the past, the average now is more likely to be 25 to 30 percent, and monthly payments that take even a greater proportion of income are not uncommon.

These proportionately higher payments are leaving more and more first-time buyers in financial squeezes that could get them into trouble if one of the two paychecks is lost. Some couples are being forced to cut down on expenses for food, vacations and other items.

Many younger couples can find homes they can afford only far from city jobs, lower their expectations for their first house; instead of a bright new home in a sparkling suburb, more and more are buying older "handyman special" homes in the suburbs and, increasingly, more are moving into older homes in cities.

Many younger couples can only find homes they can afford far from city jobs, which means long, energy-consuming trips to work.

In California and other communities where housing costs are higher than even the national average, prices are increasingly prompting some younger people to move away to low-cost rural communities or to other states where housing prices are still relatively low, such as Arizona or parts of the Middle West or South.

TYPICAL OF TRENDS

A recent study by the Irvine Company, one of California's largest developers, whose offer of property in Orange County south of here led to bidding wars that raised the median price to more than $100,000, perhaps indicates the national trend:

In 1973, wives worked in 31 percent of the families that bought a home at Irvine; this year, the ratio is 50 percent. In 1973, 39 percent of buyers were purchasing their first home, the balance using equities from previously owned homes; now the percentage of first-time buyers is down to 31 percent. And the average age of buyers is increasing to 38.5 years from 55 years in 1974.

In years past, many lending institutions refused to recognize a wife's income in computing eligibility for a mortgage, largely because of an expectation that she would become pregnant. Now, partly because of birth control technology and partly because of the fear of legal action, more and more lenders are giving full weight to a woman's salary sometimes even if the man and woman acquiring a home are unmarried.

Typical of today's first-time home buyers are Robert McDonald, 25, and his wife, Diane, 26. He works for a bank in New York City and she is a secretary for a Greenwich, Conn., company. After saving all of her salary for

several years to accumulate a down payment, they recently moved from their Yonkers apartment to a new house in Yorktown Heights.

"My mother comes from the old tradition where you get married and have kids right away," he said. "I tell her, 'Ma, there is no way you do that.'"

Another Westchester couple, Timothy and Chris Herlihy have two children, 6 and 3 years old, and, for now, have given up hope of buying a home on his salary at a Mount Kisco fuel company. "Today, with anybody I know," Mrs. Herlihy said, "you have to have somebody helping you—or you are both working."

ECONOMICS PLAYS PART

In Huntington, L.I., Carl S. Burr Sr., a real estate agent, said:

"It's a startling change, having both work. And I guess it's not just women's lib, but economics. Of the last 100 deals we handled, 20 were first-time buyers—all young couples with no children, and in only two or three cases were the wives at home."

Many realtors note the inflated aspirations of the buyers. "Many suffer from a champagne taste and a beer pocketbook," said William M. Tryder 3d, a realtor in suburban Boston. "What they must realize is that a $20,000 home of five years ago would be in the low to mid-thirties today. Those who are buying at the lower price range are being faced with homes 20 years or older."

"Young people are having to locate further away from the major city," William Abraham, another Boston area realtor, said. "They don't want to buy there but they have to; you can save almost $1,000 on a house for each mile you drive out from Route 128. But they lose some of it back paying for gasoline to work."

OLDER HOMES REHABILITATED

The Federal Home Loan Bank Board sees some benefit in the economic pressure to buy older homes. "To an increasing degree," the board said recently, "first-time home purchasers appear to be using existing homes more often for their first homes, and expenditures and remodeling have been accelerating; thus, there is an important improvement in the quality of the existing housing stock that is not measured in looking at housing starts."

For all the young families who are managing to buy their own home, there are many, particularly in one-salary blue-collar families, who are despairing. If present conditions continue, some housing experts believe, the large number of baby-boom generation Americans who have been priced out of the American dream could become a political force to be reckoned with.

"We used to think my husband made a good salary," said Nancy Weingartner, the wife of a 28-year-old aerospace engineer who lives near San Diego, "but now by the time we pay the rent and the gas bill and so forth, his full paycheck is almost gone. We're willing to make sacrifices for a house, but still that wouldn't be enough. By the time we could save $6,000 for a house, we would need $10,000 or $15,000 more."

However, many young Americans are managing to get the money together. Thomas Prin, a New York City fireman, and his wife, Karen, who recently moved into the Levitt House development in Medford, L.I., face a long commute, some sacrifices on his $17,000-a-year salary and some part-time work for her.

But, Mrs. Prin said, "We wanted to be able to say something was ours. It's nice here; quiet. No pollution. Our dream house? Maybe not. But it's something we can afford and it's great for a starter."

TRAPPED INTO HYPOCRISY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by William Randolph Hearst, Jr., editor in chief of the Hearst newspapers. Mr. Hearst's commentary analyzes the lack of consistency in the Carter foreign policy in terms of U.S. relations with Cuba and Rhodesia:

TRAPPED INTO HYPOCRISY

(By William Randolph Hearst Jr.)

NEW YORK.—Even as the Carter administration steps up its efforts to embrace the Communist and atheist government of Cuba and moves ahead with friendlier dealings with the atheist and Marxist dictatorship in Vietnam, it may come as news to many Americans that our policy in Africa is taking the form of increased efforts to crush and silence the anti-Communist Christian white minority in Rhodesia.

The statement of UN Ambassador Andrew Young that he does not fear communism as much as he does "racism"—something he ascribes to widening numbers of white leaders, including Abraham Lincoln—has apparently pervaded the high councils of the Carter White House until it has come to dominate African policy.

Thus it transpired that in the ebb in the flow of news over the recent three-day Memorial Day weekend a small story out of the UN, with major and serious implications, virtually escaped the notice of much of the nation's major press—although as head of editorial operations for The Hearst Newspapers, I am proud to report that alert reportage and editorial comment caused these newspapers to be among the few publications to bring this startling story to the attention of the public and officialdom in Washington.

In brief, the United States government has joined with the UN Security Council in ordering the Rhodesian government to close its Information Office in Washington by June 30, thus silencing the voice of their white minority in our nation.

On Friday, May 27, the UN Security Council voted unanimously to adopt a resolution demanding the closure of the few remaining offices of the Ian Smith government abroad. The decision is aimed mainly at the Rhodesian Information Office in Washington since similar offices in Paris and Sydney have already been closed. Since the U.S. co-sponsored the resolution the measure obviously had the backing of the Carter administration—a fact that has since been verified by both the President and by Secretary of State Cyrus Vance.

It is customary for the UN Security Council to meet at 3 p.m. Thus, when the vote was finally taken, it went out into the comparative void of the long Memorial Day weekend, and the item attracted but scant attention.

Not until the following week did some editors reread the little story and have some second thoughts about it. Was it not, they asked, in violation of our Constitution's First Amendment which guarantees access of information and the rights of a Free Press?

By the end of this past week many others, including some prominent congressional spokesmen in Mr. Carter's own party, wondered if it was not virtually the epitome of hypocrisy to prohibit Rhodesia from disseminating information in this country, while we allow, for instance, the Palestinian Liberation Organization, which is not a government, to maintain an information office in New York.

After all, informational services of many other countries spew forth information about wide-ranging ideologies and philosophies, in this country, and we welcome the exchange of views. Why not Rhodesian?

The most important principle here, it would seem to me, is America's traditional support of the free flow of information. It is being undermined. Fidel Castro, with whom Mr. Carter wishes to negotiate, has stated bluntly that he will never allow a free press in Cuba. Yet information about Cuba which Castro wants disseminated in the U.S. is distributed through the Cuban mission to the United Nations. Rhodesia has no such mission.

Shutting down the Rhodesian Information Office in Washington—though it results almost mechanically as a consequence of the Anglo-American pact on Rhodesia—does violence to the American tradition of freedom of speech.

In this nation, "the land of the free," which Mr. Carter is holding up as the citadel of human rights, we are supposed to believe in an open exchange of opinions, of free and open debate. We are supposed to cherish the idea that all sides of discussion, even the most unpopular or unpleasant, deserves a fair hearing.

Is this to be the American policy for everyone but Rhodesians?

An encouraging voice vote was recorded by the U.S. Senate Thursday evening, taking sharp issue with President Carter over the administration's commitment to the UN to close down the Rhodesian Information Office. It should not be overlooked that the Senate is Democrat-controlled and that such a vote is a significant statement of policy. Moreover, Virginia Senator Harry F. Byrd, Jr., told The Hearst Newspapers that he is "very upset" with the administration's commitment to close the Rhodesian office and that he intends to speak on the subject in the Senate Monday.

Most members of the UN Security Council do not believe in the rights and guarantees about free speech, free press, and the free access to information. Thus they experience no twinges of guilt in voting sanctions and embargoes against Rhodesia, because its white settlers—who have been there nearly a century—are in a racial minority. It is not surprising to see these nations vote as they did. What is surprising, is how easily the United States accommodated itself to the majority.

The U.S. took an even more serious step against the Smith government in Rhodesia earlier this year when Congress revealed the Byrd Amendment which, in the past six years, had specifically authorized imports of chrome and some other metals in violation of the Security Council's economic embargo. Some other nations, notably Russia and Switzerland, which had also agreed to embargo Rhodesian strategic materials, were buying them anyway, mostly from South Africa.

It should be remembered that the Security Council first imposed selective sanctions against Rhodesia in December, 1966, one year after the white minority led by Ian Smith had proclaimed independence from Britain. Since then the Council has been gradually reinforcing the sanction system. At the time of the May 27 vote, all but the five Western delegations in the Security Council were urging total isolation of Rhodesia by cutting off rail, sea, air, postal, telegraphic, radio and other means of communications. The Western nations stopped this total sanc-

tion, at least temporarily, by voting to cut off funds for the Rhodesian Information Offices.

But let's just stick with the fundamentals. The United States is, we like to think, the most enlightened nation on Earth. We insist on the free flow of information, on the free exchange of ideas, opinions and philosophies, and on freedom of the press, for strictly selfish reasons. How else can we remain fully informed?

So aside from what this crackdown means to Rhodesia, let's consider what it means to us. It is already extremely difficult to get unbiased information from Africa, for it is filtered through the "Third World" communications system of the UN. The Rhodesian Information Office offered us alternative thoughts, and some alternative and additional facts and figures.

The "right" that has been violated by the vote of the UN Security Council and by the Carter administration's incredible support of that vote, is not just the "right" of a foreign government to lobby in Washington.

Rather, it is the "right to know" of the American people, and to learn as much as they can about a highly-charged, highly-explosive, transcendingly-important social and economic situation that will be occupying our attention for years to come.

Whether we like Rhodesia or not, it has as much right as any other nation to present its views to Americans. Thoughtful Americans have a constitutionally-guaranteed right to listen, if they so desire.

That is the issue, nothing less.

HELSINKI'S UNFULFILLED PROMISE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mrs. SCHROEDER. Mr. Speaker, in 1975 at Helsinki, the Soviet Government pledged to respect human rights and to assist in the reuniting of families across political borders. Each day in this Chamber, Members hear another case demonstrating that the Soviet Government has not lived up to that pledge.

Originally, I had planned to tell the story of Ludmilla Slutskaya. I was going to say that Ludmilla, a Soviet mechanical engineer, first applied to emigrate in November 1972. I was going to explain that she was denied permission for "security reasons," because she worked in a sporting goods plant which also happened to supply items to the military. I was going to say that she had lost her job because her supervisor learned of her desire to emigrate.

However, yesterday I found out that Ludmilla has received permission to emigrate. She and her 5-year-old daughter are right now making preparations to leave the Soviet Union and join her husband in Israel.

Ludmilla Slutskaya is proof that Soviet authorities respond to pressure from outside. It is crucial that we keep up that pressure.

We cannot remain silent until the promise of Helsinki is fulfilled.

SAVING FREE ENTERPRISE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. ABDNOR. Mr. Speaker, preservation of the free enterprise system, which for over 200 years has given the citizens of this Nation the highest degree of personal freedom as well as the highest standard of living in the world, is a matter of great concern as we enter our third century.

As part of a continuing program to promote awareness of the free enterprise system and the merits as well as the means for its preservation among young people, the South Dakota Stockgrowers Association conducts an annual essay contest. Among those awarded prizes in the 1977 competition was the following:

HOW THE FREE ENTERPRISE SYSTEM CAN BE SAVED

(Nancy J. Larson, Washington Senior High School)

Free enterprise is the heart and the driving force of America's unique form of government. Democracy and each of its guaranteed freedoms for the individual are inexorably tied to our system of a free market and profit, for without the stimulation of competition and the highest reward for the best man, there would be little reason for all the people themselves to play such a major part in the governing of our country. Yet if all this is true, if we claim democracy to be the best and only form of government for us, then why is the only economic system that can be the result of a true democracy being attacked and downgraded here in our own country? What conditions have led our country to the point where too many of its people are dissatisfied with the system that has only their best interests as it purpose?

The first place to look for problems is at business itself. Many people might disagree, saying, "But I never hear any complaining or dissatisfaction from the businessman!" And this is exactly my point; the businessman himself is to blame if the public never hears of his problems. The media is always quick to tell us of the enormous profits of some companies, of the huge salaries of its top employees, and of course of all the scandals that may happen within a large, successful corporation.

Only occasionally does one hear references to the myriad of government regulations that are being imposed on the largest, most successful businesses, and never is a protest heard from the men who are affected by such regulations. If labor, for example, has a grievance about anything at all, one can be sure that it will make itself heard one way or another. Labor is well organized with a large and influential lobbyist group in Washington that can practically dictate its wishes to an equally large number of Congressmen. Labor has an efficient political machine in all the industrial and many other states as well that can elect practically any man that it pleases. But does business have any counterpart to all these successful, influential devices that labor employs? Yes, claim the businessmen, pointing to the National Association of Manufacturers and the Committee for Economic Development, which is composed of and financed by businessmen. Yet the NAM has little if any influence in Congress or anywhere else, and the CED's true interests have been questioned by those who know it.[1] The truth is that business, the heart of American free enterprise and democracy, has sadly neglected its duty of informing the public of its motives and problems. The public opinion will follow, for the most part, what it hears and reads in the national media, and when what little it hears about big business is derogatory, deceiving, or even down-right dishonest, then how can it be expected to have big business' best interests at heart?

The place where business and economic education should first take place is, of course, the school. The opinions and prejudices learned in school, especially high school, are likely to remain with a person most of his life. But it would be safe to say that no such course is required until at least the senior year, and even then it is merely a subjective comparison extolling the greatness of our system without ever explaining objectively the reasons why democracy, along with free enterprise is essential to keep the freedoms we all take for granted (obviously, I speak through experience). The people of our country must understand our system and the consequences of losing it before it can be honored and defended as it must be to survive.

What has resulted from the public misunderstanding of the vital functions of our economic system and the problems of big business is probably the most backward feeling that could appear in a capitalistic, democratic society: the fact that the businessman has come to the point where he is afraid to admit that he makes a profit. Supposedly, one works and lives to be successful at whatever one chooses to do. Therefore, it would be theoretically logical that the more success that is achieved, the better and happier one's life should be. The successful businessman would naturally be making a profit that reflects his amount of success. Yet the public opinion of a man who makes "too much" money is a sneering, jealous one.

Our society has come to believe that not only are all men created equal, but that all men should remain equal regardless of their ambitions and success. Granted, a great deal of wealth is inherited—but wealth is rarely a thing that is self-perpetuating if in the wrong hands. The great injustice that is occurring today in our country is that people have come to expect something for nothing. They expect that if they have no ambition or drive, then it is the duty of those who do have drive, who are successful, to take care of the lazy and inept. We are taught from early childhood that just as great, rich America must pay to feed most of the rest of the world, so must the rich and successful businesses of our nation be scorned and degraded for helping those who cannot or will not help themselves. Thus the word "profit", which is synonymous with success, has become a dirty word in most people's language. Those who make too large a profit must hide it or lose it to the government in the name of equality.

Now, that the reasons for the decline and misunderstanding of the free enterprise system have become clear, the solution to the problem becomes equally clear. Business must make it a point to educate the public about the free enterprise system and its es-

[1] In a report put out by the CED that could be used as a textbook for economics instruction, the following phrases appeared: "The problem of enforcing reasonable competition is a complex and difficult one." "Individual economic incentives in the Communist countries do not differ greatly from those in the American economy." . . . "those countries . . . that have adopted Socialism . . . are not any less democratic in their form of government."

sential link to democracy. Business must not be afraid to have its own lobbyists, its own pressure groups, and its own friendly sources in the media. Business cannot go on having more and more restrictive regulations imposed upon it. Business cannot have only its taxes raised higher and higher—it isn't the job or duty of business to pay for the very government which is attempting to overrestrict it. The public must be aware that big, rich business is vitally important for everyone, that business needs public support and appreciation of its problems to operate efficiently. There is no reason why each and every American citizen should not be able to tell why he needs democracy and free enterprise—but I believe that it would be safe to bet that a large majority of the people have never even given it a thought.

My own beliefs in the will of the majority of the people prevailing while keeping the right of the individual intact is so strong that I will defend democracy in any manner possible. And since free enterprise is the only economic system that can exist in a true democracy, then free enterprise is as valuable to me as the freedoms I enjoy under a democratic government. The trouble in America is that too many people take these basic liberties which exist only in America completely for granted. As has happened in too many other countries, no one realizes what a good thing they have had until it's gone—and then, it is usually too late. Maybe the American people haven't been earning their liberty; maybe they don't really care. But certainly if everyone has the chance to learn a little, to realize that they "can't have their cake and eat it, too", then maybe free enterprise will still have a chance to survive in its first and ultimately last refuge. I hope the people of America can change their attitudes before they lose what I hope is their most prized possession—the freedom of their minds.

FORRESTER URGES MEMBERS TO CONSIDER INTERRELATEDNESS

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. BRECKINRIDGE. Mr. Speaker, on May 11, Dr. Jay Forrester of the Massachusetts Institute of Technology, spoke to over 50 of our colleagues as part of the "Dialogues on America's Future" series sponsored by the Congressional Clearinghouse on the Future.

Professor Forrester is a pioneer in computer technology and is founder of the systems dynamics group at MIT. He enlightened and enlivened us, Mr. Speaker, as he urged us in the Congress to view our problems more wholistically.

I am delighted to have the opportunity to insert into the RECORD today part of the transcript of our session with Dr. Forrester. The conclusion of the doctor's remarks will be in the next issue of the RECORD. And I urge all of our colleagues to read it.

The text of the presentation follows:

JAY FORRESTER'S OPENING REMARKS

Good evening ladies and gentlemen, and thank you very much for asking me to participate in this exciting series. I would like to begin by saying that the industrial countries are in a period of growing economic instability. Symptoms of social and economic stress appear in such forms as the deepest recession since World War II and in simultaneous inflation and unemployment. Such economic cross currents create political confusion and public disenchantment with national leaderships. In times like these, causes and remedies are urgently sought. But the economic system is complex, conflicting theories abound, and a desperate search for simple solutions can easily lead to wrong answers.

The search for answers has concentrated on the most apparent characteristic of national economies—the short-term business cycle, which exhibits peaks of activity at intervals of three to seven years. Business cycles are familiar; most people have experienced several; changes during the business cycle occur fast enough to be readily observed; and economic research has focused on business cycles while neglecting longer-term economic behavior. But familiarity need not be equivalent to importance.

As a consequence of over-emphasis on business cycles, almost all variations in economic behavior have been attributed to the business cycle.

But these assertions may be incorrect. If so, it is because the business cycle is but one aspect, and probably the least important aspect, of present economic turbulence.

Two time horizons, both much longer than the business cycle, are necessary to understand the present environment for industrial enterprise. The longest frame of reference is the life cycle of growth within which population and industrialization expand until restrained by environmental limits. The intermediate frame of reference is a long-wave fluctuation in capital accumulation and technological change that expands and contracts over a period of some fifty years.

Implications of the life cycle of growth underlie many current issues. The life cycle process involves a collision between growing human demands and environmental limits.

The life cycle of growth is the central theme of World Dynamics and Limits to Growth, two books that show how it has now become possible to improve understanding of social and economic change. Industrial nations are entering the mature phase of their life cycle in which the historical forces of growth in population and industrialization are being subdued by the counter pressures from limits to land, food, resources, energy, water, and capacity to dissipate pollution. The resolution of the clash between man and nature must eventually come by man's learning to live within nature's boundaries. The fundamental tradeoff is between population and standard of living.

During the last five years, the dynamics of growth have indeed penetrated into business thought and debate in the press. But the intermediate dynamics of long wave economic changes have received far less attention than they deserve.

From recent work at MIT with computer models of the processes of economic change, we are coming to believe that a long wave exists in the market-type of industrial economies. The disturbance recurs at intervals of about 50 years between peaks. Very little agreement yet exists about the long-wave phenomenon. Many people deny that it exists. I will give you my personal current understanding arising from research that is still in progress. Future work may alter some of the ideas I will present.

THE LONG WAVE

The long wave has been treated most extensively in the literature by the Russian economist Nikolai Kondratieff.

Dynamics of the long wave can be seen by starting with the industrial economies in 1945. After the Great Depression and World War II, every aspect of capital plant was inadequate. Consumer durables, housing, office buildings, factories, transportation systems, and schools were old and inadequate. To rebuild the depleted capital stock in a short time, like 20 years, construction of housing and equipment rose to a rate higher than would be needed in the long run for replacing the physical depreciation of capital plant. But when adequate capital plant had been created, a time that may have occurred in the 1960's, tremendous forces persisted to sustain capital accumulation. Labor unions wanted to continue construction, companies in the capital sector sold their output more effectively and extended more credit, banks had been successful in loaning on new capital plant and wanted to continue, and Central Banks increased the money supply in the name of sustaining economic growth. The result has been an unbalancing of the system with too much capital expansion and too much debt. Eventually, momentum must falter as capital plant becomes more and more excessive. It is probable that enough capital plant now exists to sustain consumption output for one or two decades with little new additional investment. I believe excess capital plant explains why capital expenditure has been weak in the present recovery. The need for capital plant is far less than 20 years ago.

Using the long wave and the life cycle of growth as perspectives beyond that provided by the business cycle, the present social and economic environment takes on new dimensions.

ISSUES WE FACE

1. Monetary control of business cycles. Until recently people believed business cycles had been suppressed by skillful management of the money supply. But the evidence may have been misinterpreted. During the rising phase of the long wave, capital plant is inadequate, demand presses against supply, capital shortage suppresses the tops of the business cycles, and cyclic corrections in inventories and employment are minor. The situation may have been like the coincidence of the ancient Chinese observing that firecrackers drove away eclipses of the moon. In each minor recession monetary adjustments were made and a business upturn followed. But it may only have been coincidence. Business would have had a strong and quick recovery anyway from the buoyancy caused by the underlying wave of capital accumulation.

2. High unemployment. Present unusual level's of unemployment probably arise more from the long wave than from the business cycle. Unemployment seems most severe in construction and those industries closely associated with capital investment. If so, the problem is not temporary, nor should it be treated by temporary measures. The signals suggest need for a major shift of people from capital goods and finance into consumer products and agriculture. But government-created job programs motivated by belief that unemployment is temporary may trap a generation of people as wards of the government and isolate them from effective participation in the economy. Instead, a clear vision of a viable future must be created toward which the economy can move. Temporary social assistance should help, not hinder, inevitable realignments within the economy.

3. Stimulation of national economies. Conventional wisdom and political expediency combine to exert pressure for increasing financial credit. Behind such pressures lies a belief that more capital construction will revive the economy and that more money will induce more capital expenditure. But such ideas, if ever valid, applied to a time of shortage in physical capital. More freely available credit has little leverage where unused equipment and floor space stand idle.

4. Inflation. But increasing money supply can have an effect. Even if it does not reduce unemployment, it can produce inflation. The idea that a tradeoff exists between inflation and unemployment is a hypothesis taken from the context of the short-term business cycle. When transported into the context of the long wave, increasing money supply prob-

ably generates inflation to accompany the unemployment, without reducing unemployment.

5. Bank vulnerability. Banking is caught in pressures created by the long wave. Early in the upswing, as in the 1950's, loans were made for high return-on-investment purposes and limited availability of credit restrained loans for lower quality purposes. As need for plant and equipment was met, return-on-investment declined, fewer opportunities became available for secure high-yielding loans, money supply increased, and loans were made for purposes that did not generate the capacity to pay back the debt. In the extreme case, loans were channeled for support of current consumption as in consumer credit, loans for current municipal expenses, and loans to support current consumption and social welfare programs in underdeveloped countries. Measures of banking strength have declined as a result of financial institutions attempting to loan as aggressively in the last part of the long wave upswing as they had safely been able to do at the beginning of the upturn.

6. Social pressures. Businessmen complain of increasing government regulation and public hostility. But such changes cannot be understood from a short-term perspective. Some changes in social values appear cyclical and rise and fall in step with economic pressures of the long wave. There is some indication of 50-year cyclic changes in conservative vs. liberal politics, women's liberation movements, anti-trust action, and political isolationism. Other of today's social pressures on business arise from the life cycle of growth. Environmental concerns, falling birth rate, and pollution legislation are best interpreted as belonging to the transition from growth to equilibrium. Much of government regulation has been precipitated by the growth of industrial enterprises and by the crowding of people into limited space that increases friction and litigation.

ENERGY

7. Energy policy. In energy we have had the wood-burning cycle, the coal-burning cycle, and the oil-burning cycle. Each of these has reached a crest, fallen to minor usage, and been replaced by a new energy source and new technology. We are near the end of the oil cycle. The peak of the next energy technology is probably some 50 years ahead. Our problem today is to look that far ahead and know what to do now. Traditionally the dilemma has been solved by struggling through a major depression, letting the old technology wear out, and waiting until sporadic development and experimentation had demonstrated the road up the next wave of capital investment. If we do not want to live through the traditional process of faltering and recovering, we must succeed in looking across the 50-year valley, perceiving the structure of the future, and beginning to build now. That is far different from the usual industrial practice of building directly on current technology. Present failure to establish effective energy policy arises from trying to build on a past that cannot survive, while looking no more than a decade or two into the future where only decline of the present system is clearly visible. Guidance lies further out where we must think in terms of a society with energy of a different kind, built around a new infrastructure of technical support systems and social relationships.

8. Capital vs. Labor. Present industrial enterprises have developed over three decades of sustained emphasis on capital-intensive production and replacing people with machinery. But to believe such capital-intensive emphasis will continue is based on a short view of history. The upswing in the long wave is characterized by capital-intensive production. While the capital sectors are growing, they attract labor from the consumer sectors, produce a labor shortage, and raise wages. Labor shortage and higher wages create incentives for more capital plant and the capital sectors grow still faster. But in time the capital needs are met, even overfilled. Excess capital plant develops in the consumer sectors and labor becomes available from decline in the capital sectors. After the peak of the long wave, production in consumer sectors can be increased more efficiently by adding labor rather than by adding capital. Emphasis shifts to more labor-intensive production. The shift from adding capital to adding labor seems now to be happending in some industries.

9. Productivity. Much concern is currently expressed because labor productivity is not rising as in the past. Productivity has usually risen at the beginning of a business-cycle recovery, but has not shown much improvement in the present recovery. The answer may lie in the long wave. During the 1950's and 1960's productivity rose because capital plant was inadequate and added capital increased productivity. But now it is probable that capital needs are mostly satisfied and in only a few places will more capital plant increase productivity. At the same time, as capacity exceeds demand, the social incentives for more output are weakened. Deliveries are good, backlogs are low, pressure to produce is moderate, and slow production seems to spread work into the future and protect jobs. Circumstances at the top of the long wave are very different from those in the early phase of the upswing.

10. Communications. Two questions arise in connection with dynamics of change that run their course over a period of decades. First, can such dynamic modes have persisted for almost two centuries in the presence of faster and better communication? To answer, the long-wave behavior depends on the time to plan and acquire capital plant, the life of capital plant, the lifetime of people, and the length of time it takes people to acknowledge and accept change. These elements in the socio-economic system have not been altered substantially by faster communication. And the second question, will not better communication make information more timely and lead to better decisions? The reverse can occur. The media provides a flood of information—too much information. Information of fleeting interest drives out and submerges information of enduring significance. It can be shown in behavior of a social system that information can do harm as easily by being too fast and excessive as by being too late and insufficient. I believe we now suffer from too much superficial information. Long-term changes in our economic system are more important than those that come and go quickly. The historical perspective from which to judge major trends and reversals is lost in the flood of daily details.

UNCERTAINTY

11. Uncertainty. We are bothered by the unpredictable, like bad weather, if we have created a socio-economic system that is increasingly sensitive to random events; by contrast, a system with slack and reserves can absorb uncertainty without trauma. Economic behavior is uncontrollable to the extent that we do not devote skill and effort to understanding the system and finding the leverage points that can make it better behaved. I believe such better understanding is now possible.

12. Threat. Historically, nations have perceived threat in the form of military invasion. But in times of great social and economic stress, the greatest threat comes from internal breakdown.

The principal threat is internal political breakdown. Yet all nations spend vastly more to protect against external military threat than to understand and relieve internal social and economic threat. Military research and socio-economic research are grossly out of balance.

CUBA'S POLITICAL PRISONERS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. McDONALD. Mr. Speaker, the National Observer recently reported in an article dated July 4, 1977, that Fidel Castro has more political prisoners per capita than does the Soviet Union. This is not surprising to those of us who follow events in Cuba.

What is surprising, however, is the seeming deaf, dumb, and blind approach of the Carter administration to recognition of Communist Cuba. In spite of his recent release of some Americans held on drug charges, Castro has released no noted political prisoner. The litmus test was and is Huber Matos. On December 18, 1976 the Chilean Government offered to trade the former leader of the Chilean Communist Party Jorges Montes for Huber Matos. There was no response. Two different groups of Congressmen sent letters to Castro asking the release of Matos—the last one containing the signatures of 100 Members of Congress. Chile finally turned Montes over to East Germany in return for 11 West Germans held in East German jails. Castro has not and will not reform. He only wants our American money to bail out his sagging economy. The article from the National Observer of July 4, 1977, follows:

CUBA'S POLITICAL PRISONERS

(By Frank Calzon)

Watched closely by soldiers, they travel in huge army convoys, often sleep on bare floors, eat only watery soup, and work more than 80 hours a week. When there are no roads to build, they cut sugar cane, work in quarries, construct houses or prisons, or—waist deep in swamps, their skins puffy and eyes swollen by mosquito bites—they toil in drainage projects.

Their belongings fill a bag the size of a pillow case. Many have lost their teeth because of poor diets and lack of dental care. Some have died during the grueling *cordilleras*, or convoys.

According to official Cuban publications, their output is worth several hundred million dollars a year, making them Cuban Premier Fidel Castro's most-productive labor force.

They are Cuba's "rehabilitated" prisoners, those who have recanted anti-Castro political ideas and have pledged loyalty to the Havana regime. They are the better off of Cuba's two categories of political prisoner.

MORE THAN RUSSIA

The *plantados*, the group, are those who refuse to co-operate with Castro's government. They receive especially harsh treatment, which may include no visits by family, confinement to dark cells for months, no regular correspondence, and often no medical treatment. And because of their "dangerousness," their prison terms may be extended when their sentences are completed.

The plight of political dissidents in such countries as Russia and Chile has gained world-wide attention, particularly since President Carter began his human-rights crusade. Yet, according to Castro's own figures, Cuba holds five to eight times as many political prisoners per capita as does Russia. And most neutral observers peg Castro's figures as far too low.

In a recent interview on U.S. television, Castro said Cuba had between 2,000 and 3,000

political prisoners. President Carter put that figure at between 15,000 and 20,000. Prof Edward Gonzalez of the University of California at Los Angeles, after visiting Cuba, wrote in 1974 that Castro's jails held between 25,000 and 80,000 political prisoners. Soviet dissident Andrei Sakharov estimates that Russia, with a population of 250 million to Cuba's 9.5 million has about 10,000 political prisoners.

UNDERPOPULATED JAILS?

Official Cuban reports also cast doubt on Castro's figures. For example, Havana has acknowledged it has 56 prisons and jails, 23 work camps, and 108 penal farms. If so, that would mean that by Castro's figures each institution holds only 10 to 15 prisoners.

Bohemia, a Cuban-government publication, reported that political prisoners, "besides their contribution to agriculture and specifically the sugar harvest," were involved in the following projects in 1973:

In Havana Province, they built 3 high schools, 135 dairy farms, 6 cattle-raising centers, and 344 housing units and other projects.

In Pinar, del Rio Province, they were building 48 housing units and 8 high schools as well as working in a prefabricated-materials factory, 2 carpentry shops, and 4 state establishments.

In Matanzas Province, they built a dairy farm, pig-breeding farm, prefabricated-panels factory, mortar factory, and carpentry shop, and enlarged two penal institutions.

The labor needed for such projects would indicate that Castro's jails hold many more political prisoners than he has acknowledged.

More than half of Cuba's political prisoners are peasants unhappy with Castro's agrarian policies. Most reportedly are serving terms ranging up to 20 years.

Punishment can be severe for those who rile Castro. Rene Dumont, a French leftist who once served as an agricultural consultant in Cuba, tells about one young peasant in his book *Is Cuba Socialist?* "A young sentinel guarding some new rice plantings had one night let cows graze amidst them, and Castro wanted to have him shot," Dumont wrote. Castro "was restrained with difficulty by being reminded that the grazing would in fact encourage plant growth. Once over his rage, Castro agreed to have the sentence changed to 15 years in a prison farm."

Even after a political prisoner completes his term and presumably affirms his loyalty to Castro, his freedom is limited. Generally a political prisoner is barred from returning to his original province and from access to higher education. If he was a professional, generally he can't practice that profession—medicine is an exception—but is required to work on a farm or at a menial industrial task.

The travails of Sakharov and other Soviet dissidents have long been reported outside of Russia. But the plight of several Cuban plantados—from a Spanish word meaning "to stand firm"—only recently has come to light.

NUDE FOR TWO YEARS

One is Huber Matos, a former major and provincial military commander in Castro's army who played a key role in the guerrilla campaign that brought Castro to power on Jan. 1, 1959. Later that year Matos was sentenced to 20 years in prison for resigning his commission to protest the growing number of Communist cadres in Castro's government.

According to a document Matos' wife, Maria Luisa, presented in 1975 to the United Nations Commission on Human Rights, Matos "has been kept incommunicado for periods of more than one year. He has been the victim of countless abuses and humiliations. Because he refused to accept a program of indoctrination, he was forced to live nude for two years. In February of 1970 he was isolated in a dark cell with a small window covered with a heavy cloth stitched to the bars. I do not know if the situation persists since for the past five years he has not been allowed to receive visitors."

More than 100 U.S. congressmen wrote twice to Castro earlier this year pleading for Matos' release. They received no response. More than 40 members of the Venezuelan Congress recently appealed to Castro for the release of Armando Valladares, a 40-year-old poet imprisoned since 1960.

CELL ROW NO. 12

In February 1970 Valladares was transferred to Boniato Prison in Oriente Province, where, according to his wife, "beatings, starvation, physical and mental tortures were taking place." Mrs. Valladares says her husband's cell block was sealed by metal plates that blocked windows and doors. He was transferred to La Cabana Prison, two years later.

At La Cabana, according to the Organization of American States' Inter-American Commission on Human Rights, "44 Cuban political prisoners were punished and deprived of food and medical assistance in cell row No. 12. . . . Some of them were gravely ill." Because of lack of food, says Mrs. Valladares, "six men were paralyzed by polyneuritis. . . . Armando Valladares was one of them."

Valladares is now confined to a wheel chair. "My husband's paralysis can be cured by adequate nourishment, therapy, and exercises, which have not been provided because of his refusal to accept the government's rehabilitation plan," says Mrs. Valladares.

PRISON RIOT

Pedro Luis Boite, who served as a student leader and urban-underground organizer in Castro's guerrilla war, also was a plantado. "In May of 1972," according to the OAS' human-rights commission, "Pedro Luis Boitel, still a prisoner in the El Principe Castle in Havana, was seriously ill as a result of maltreatment and torture to which he continued to be subjected. . . . On May 28, the commission received a communication informing it that he had died in prison."

Boitel died without medical attention, while his fellow prisoners, unable to save him, rioted, burning their mattresses. The National Catholic News Service reported that "prison officials damaged his spine during beatings . . . when he went on a hunger strike he was transferred to a security cell and told, 'This time we will let you die, no doctors.'"

By the time of his death, Boitel had become a symbol inside Cuba. In a poem smuggled out of prison, Miguel Sales, now serving a 20-year sentence, wrote, "They finally killed your 96 pounds of pure bone and heart . . . they walled up your smile . . . with hunger they blocked off your eyes . . . they drowned your name-legend. May your assassins rest in peace."

TWICE AN ESCAPEE

Nine years old when Castro came to power, Sales is a poet who has twice escaped from Cuba. The first time, in 1968, he fled with 11 others on a motorboat, but was picked up by a Soviet trawler off the Florida coast. Returned to Cuba, he was sentenced to prison until his 21st birthday.

The second time, in 1975, he swam for seven hours at night before reaching the U.S. base at Guantanamo. After being reunited with his parents in Florida, he decided to return to Cuba to rescue his wife and baby daughter. He was captured and sentenced to 25 years in prison. His poetry has won a prize in an American competition. One section entitled *Celular* (an allusion to Cuba's prison cells) is dedicated to his fellow prisoners who died in jail.

Theodore Jacqueney, an American journalist who visited Cuba last year as a guest of the Havana government, interviewed several dissidents and former prisoners. "As in the men's prisons," he wrote, "the women political prisoners report deplorable medical inattention, with deprivation of health care sometimes used to coerce prisoners." Jacqueney tells of one woman prisoner who was not permitted to have a desperately needed cancer operation "until she promised to change her political ideas and attitudes."

And thus, a relative of the woman told Jacqueney, "she was rehabilitated."

WHO OWNS THE PRESS?

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. CHAPPELL. Mr. Speaker, on April 2 of this year I rose to voice my concern over the increasing phenomenon of independent media outlets—newspapers, TV and radio stations—being absorbed into a comparatively few centralized chains. To underscore my own concern, I introduced into the RECORD the newspaper article, "Who Owns the Press?" by journalist Charles B. Seib, writing for the Washington Post.

The gist of Mr. Seib's thought-provoking article was that centralized ownership of newspapers and broadcast facilities was becoming a prevailing occurrence throughout the country; newspapers and stations were increasingly unable to compete financially on an independent basis. The article was meant not as a criticism of chain ownership, per se, but rather as a warning against one of its potential dangers: Loss of local autonomy as an independent paper or station was swallowed up by a conglomerate communications "empire." Ownership implies the opportunity to control, and the ominous result could be a kind of communications dictatorship, wherein what we were allowed to read and hear would be determined by a handful of industry "barons." Freedom of press and speech could be, in effect, limited to those few. I can see that implication as a very real threat, and I wanted to call it to the attention of my colleagues so that we all might recognize the potential danger.

To serve its community effectively, a newspaper or TV/radio station must be reflective of that community—local philosophies and local issues must be responded to. If a newspaper or announcer presents only the views and policies formulated by the central owner, who may be many thousands of miles away both geographically and philosophically, the community is not being properly served. Moreover, it would be neither fair nor healthy for a chain ownership to force its viewpoints upon local communities. To wit, a chain ownership headquartered in a large metropolitan area may not always be able to perceive the concerns of smaller cities, towns, or rural regions. A degree of local automony is essential to successful operation of any media outlet. Without that autonomy, the audience ceases to identify with the media and comes to distrust and disbelieve what it reads and hears.

However, it is by no means true that the threat has become reality in every case of a chain-owned media outlet. Many newspapers and broadcast stations

have been absorbed into chains without being "swallowed up." They have successfully retained local independence—in editorial policies and management philosophies. As a result, they have profited from their affiliation, achieving the best of both worlds.

In fact, many independent outlets have deferred affiliation with a chain until local autonomy was guaranteed. The individuals who operate these outlets are to be commended, not only for their professionalism but for providing us with evidence of how chain ownership or outlet affiliations can and should work within our communications industry.

I can cite cases of such success within my own congressional district. There are numerous examples of newspapers in the Fourth District of Florida that have wrought the best aspects of chain membership, while retaining the necessary independence to make the paper meaningful to and reflective of the local community. The major key to their success is the integrity, professionalism, and assertiveness of the people who actually put out those papers—the local editors, publishers, and reporters. I am sure that the majority of my colleagues could point to many similar examples within their own districts, and I am certain the explanation would be the same: courage and hard work by the local journalists to maintain local independence and relevance in the service of their communities.

When I originally introduced the subject of chain ownership within the media, my intention—like that of the article's author, Mr. Seib—was not to categorically condemn a trend, but to warn against one dangerous implication of that trend. Today I applaud those individuals who have managed to exercise their independence within the boundaries of chain membership and whose dedication and professional integrity have successfully maintained first amendment rights and prevented our local communities from becoming mere fiefdoms in comunications "baronies." I hope this independence will be the pattern for the present and future.

Unfortunately, we also have evidence that in some cases the hazard has become reality. I offer for the record another newspaper article, taken from yesterday's Washington Star-News. The piece, I believe, speaks for itself, and thus I will not further comment except to say once again that with more and more centralized ownership goes the "opportunity" for more and more centralized control.

EDITORS FIRED FOR REFUSING MCGOFF EDICT

LANSING, Mich.—John P. McGoff, who heads companies that publish eight daily newspapers and more than 40 weeklies in several states, has discharged two of his Michigan editors after they failed to obey orders to run provocative articles that were highly critcal of President Carter.

One of the articles said the President condoned promiscuity among members of his staff. The other suggested he was grooming his wife, Rosalynn, to be a future vice president.

They were written by George Bernard, New York bureau chief for McGoff's Panax newspaper chain, and were distributed to his newspapers two weeks ago along with a front-office memorandum labeling them "explosive" and urging that they be given front-page display.

A number of McGoff's editors followed orders last week and gave prominent display to the two articles written by Bernard, a 38-year-old former writer for the National Enquirer and more recently a public information officer for CBS Radio News.

Two who balked, however, were Robert N. Skuggens, 34, editor of Mining Journal, a 19,000-circulation daily in Marquette, Mich., and David A. Rood, 51, editor of the Escanaba Daily Press, which has a circulation of 11,000.

Rood, dismissed last Monday, said later that the material in Bernard's articles "was taken out of context and was full of half-truths, insinuations and every other innuendo you can think of."

Skuggen, who was notified June 19 that his undated resignation had been accepted, said, "That type of journalism I can't stomach. I wouldn't be able to shave in the morning."

Both editors had won journalism awards in recent Michigan news writing contests, and both were well respected in state press circles.

McGoff, 52, acknowledged as much later this week but said they were discharged because they had ignored his orders. He described his action as "one that any good leader should exercise."

(Panax this year acquired the Globe-Advertiser weekly publications in suburban Washington. The Globe ran both stories on June 9, while the Advertiser ran only the one about Mrs. Carter on June 8.)

The first article carried a Washington dateline and began: "President James Earl Carter condones promiscuity—affairs with other women—for the male staffers who work for him."

The contention was based on a "leak to Panax newspapers" from Peter Bourne, who, according to Bernard's article, is "a psychiatrist who is on the administration's payroll to make Jimmy Carter look good."

In Washington, Bourne, a special assistant to the President for mental health and drug abuse, said, "I can't recall saying anything to anybody about that subject."

The second article quoted a New York psychologist, William Van Precht, as saying that Carter was giving his wife "inordinate power" and "has in mind a hidden objective."

Van Precht was further quoted as saying, "My careful analysis says that Jimmy Carter is grooming wife Rosalynn for the vice presidency in 1984. And if Walter Mondale's health does not hold out through the ominous year of 'Big Brother,' Carter will push his bride to become the president of the United States."

Bernard worked for five years in the 1960s for the National Enquirer, a tabloid dealing with celebrities and sensational topics.

Bernard later worked for CBS Radio News as manager of press services, leaving in 1972.

ONE WAY TO PROTECT AGAINST TORNADOES

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. YOUNG of Missouri. Mr. Speaker, one of the great natural disasters that regularly though unpredictably is inflicted on our citizenry is the tornado, which wreaks countless damage, destruction, and death. Though no part of the country is immune, tornadoes' impact tends to be forced in the Midwestern States, ranging from Texas to Michigan. Several years ago, my own home in St. Ann, Mo., a St. Louis suburb, was damaged by a tornado.

We have just ended what might be called the "tornado season"—the months of May and June, when a large percentage of all such storms can be expected to occur. But for future reference, I found a great deal of interesting and useful information about tornadoes and what can be done to protect people from their devastating whim, in the May 1977, issue of Science Digest magazine.

Because of the dangers implicit in the tornado threat, I was particularly attracted to the article, entitled "Here Is How To Use Your Own TV To Locate Twisters." The essentials of this informative article are offered here for the benefit of American citizens everywhere to help them protect themselves. I believe that the publication of the article is a genuine service, which I commend:

Twenty years ago, a self-taught Des Moines engineer, Newton Weller, started studying the electrical properties of tornadoes. At the time, his goal was to invent and patent an electronic tornado detector that could take him out of his basement workshop and make him rich.

However, Weller ran into a problem that plagues most inventors: he could not afford the equipment he needed to build his prototype. Not to be defeated, he tried to adapt the chassis from an old television set.

Weller soon realized that the circuits in the TV chassis can be used just as they are. In fact, after researching the scientific literature on tornadoes, he discovered that any working television set can be adjusted to detect tornadoes by picking up high-frequency electrical pulses, which they emit in abundance.

In 1968, Weller published his technique for adjusting television set controls for tornado detection. Only days later, a vicious tornado struck nearby Orange City. Many a resident, having read of the method, adjusted his own set, saw the "Weller effect," and became a convert.

The Weller Method—as it is now called—can be used by anyone. It requires no special tools and can be done by adjusting any black-and-white or color set, using the controls on the front. Do not open the set or use controls located in the back. Here is how to do it:

First, warm up the set. Turn up the "contrast" control all the way so people look like silhouettes. Then turn to channel 13—it doesn't matter whether or not channel 13 carries a picture. Using the "brightness" control, darken the picture so it is almost black.

At that point, you change to channel —— again, it doesn't matter if channel 2 receives broadcasts in your area—and you are set to watch for tornadoes.

According to Weller, a ground-level tornado strong enough to do damage will make the screen light up and glow brightly when the tornado is 15 to 20 miles away. If channel 2 is broadcasting a picture, he says, it will come on brightly and stay on. Should this happen, don't sit there staring at the screen in amazement at how the technique worked. Take cover: In the bottom of your house, away from windows.

Weller also advises that windows be opened an inch to relieve the severe air pressure generated by tornadoes. And, he says, you should turn off the television set, and take a portable radio with you to listen to news broadcasts telling you when the tornado alert is over.

PUBLIC LAW 93-82

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. HILLIS. Mr. Speaker, when the Congress passed Public Law 93-82, the Veterans' Health Care Expansion Act of 1973, it mandated that the Administrator of Veterans' Affairs enter into a contract with the National Academy of Sciences to conduct "an extensive review and appraisal of personnel and other resource requirements in Veterans' Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to insure the provision to eligible veterans of high quality care in all hospitals, medical, domiciliary, and nursing home facilities."

Earlier this month, the Academy submitted their report on this study to the House and Senate Veterans' Affairs Committees. While there has not been enough time to fully review the results of this study, many of the conclusions and recommendations made by the Academy are extremely disturbing. Perhaps the most disturbing recommendation made by the Academy was that "VA policies and programs should be designed to permit the VA system ultimately to be phased into the general delivery of health service in communities across the country."

The findings and conclusions the Academy made which lead to this recommendation are voluminous and complex. Many of the findings made in the Academy's report will prove beneficial to the Veterans' Administration in the continuing effort to improve the quality of care available to our Nation's veterans. Nevertheless, I believe the Academy made a major mistake by departing from past policies and recommending the incorporation of VA health services with community health services.

The Congress and past administrations have supported the independence of the Veterans' Administration medical system since World War I when it was first established. This support is based on the belief that our veterans deserve special consideration and compassion. To place VA medical services in the same category as medicare and medicaid would only result in the elimination of the special treatment which is only available in VA facilities.

It would be premature at this point to discuss in detail any specifics. However, I would like to remind the Congress that a recent study made by the VA showed that—

An overwhelming majority of patients in Veterans' Administration hospitals and clinics believe they are receiving the best care possible.

In my opinion, this would not be true if the Academy's recommendations were adopted by Congress.

Due to the complexities involved with this issue, and to the nature of the Academy's recommendations, the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits, of which I am a member, should hold oversight hearings on this subject before the Congress recesses in August. I, therefore, urge the leadership of the Veterans' Affairs Committee to work expeditiously toward this goal.

ARCHITECTURAL BARRIERS ON CAPITOL HILL—THE FIGHT GOES ON

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. KOCH. Mr. Speaker, 2 years ago, after a disabled constituent in a wheelchair faced great difficulty and embarrassment in trying to visit me in my office in the Longworth Building, I launched an investigation into the architectural accessibility of facilities on Capitol Hill. At that time, I found that barriers at building entrances and restrooms facilities and sidewalk curbs combined to discourage greatly any handicapped person using ambulatory aids from attempting to visit their elected Representatives or their Nation's Capitol Building.

Since then, extensive modifications have been taking place to increase architectural accessibility on Capitol Hill. Most evident has been the removal of curbs at street cross sections and the installation of ramps at building entrances. Nonetheless, I recently received correspondence from a disabled author and scholar, who is a resident of Maryland, regarding the difficulties he has faced in using another facility here on Capitol Hill—the Library of Congress. Knowing of my deep concern and past actions in opposition to architectural barriers, he contacted me with his observations and problems in using the Library.

I am appending copies of his correspondence with the Library, and my subsequent letter to Dr. Daniel Boorstin, Librarian of Congress, to point out that although some steps have been taken to be sensitive to the needs of disabled citizens who are confronted with architectural barriers, the fight must continue until all Federal facilities can be freely used by all persons.

JUNE 29, 1977.

Hon. DANIEL J. BOORSTIN,
The Librarian of Congress,
Washington, D.C.

DEAR DR. BOORSTIN: I am writing to bring your attention to an issue I know you are as concerned about as I am, which is the equal accessibility of the nation's library, the Library of Congress.

For disabled individuals and many elderly citizens, architectural accessibility is an absolute requirement if they wish to enjoy the same freedom of movement and access accorded other Americans. I understand from the enclosed correspondence from Mr. Hugh Gallagher, a disabled author, and Mr. Edmund L. Applebaum, Library Director, that plans for increasing architectural accessibility of the Library are underway. These modifications are long-overdue accommodations to the needs of our handicapped citizens and I commend your efforts in this direction.

At the same time, I urge you to continue to remain sensitive to the needs of disabled Library users, and to consider expanding your program of parking proximate to the facility to include spaces for weekday hours. This would be of great help to disabled Library users who are working on extended projects that require weekday work, and those who need the resources of your Library research staff, who are not available on weekends, holidays, or evenings.

I am glad that the Library of Congress is taking active steps to remedy the problems of architectural access of their facility, and hope for continuing progress in the future. I would appreciate being advised as to your views on this parking facility proposal.

All the best.

Sincerely,

EDWARD I. KOCH.

H. G. GALLAGHER,
Cabin John, Md., May 12, 1977.

DR. DANIEL J. BOORSTIN,
The Librarian of Congress, Library of Congress, 10 First Street SE., Washington, D.C.

DEAR DR. BOORSTIN: I write to you concerning the problems faced by handicapped, citizens who wish to make use of the Library of Congress. I know of your interest in improving the accessibility of the Library. I know that there is now an accessible toilet stall in the major rest rooms, and I am pleased that a lap board is available for the use of wheelchair scholars. These are small but helpful steps in the right direction. Since the passage of the Bartlett Act in 1968 it has been the law of the land that federal buildings, including those of the legislature, should be accessible to the handicapped. The Act has been strengthened by the Congress, and the recent regulations issued by Secretary Califano provide impressive guidelines for the use of executive agencies. The Architect of the Capitol, acting at the direction of the Congress, has done a great deal over the last several years to improve matters in the Congressional buildings. I am sure that the Library wishes to keep pace with the progress being made by the Congress and the executive branch.

I am a writer and a scholar, and I have been confined to a wheelchair for over twenty years. Because I make regular use of the Library I believe that my observations may be of help to you as you consider means for improving Library services to handicapped users.

There are three obvious, serious complaints to be made:

(1) The ramp at the west entrance is exceedingly dangerous. It is pitched at something close to a 45 degree angle, and exceeds GSA ramp angle specifications by something like ten-fold. Even with the assistance of two able-bodied persons it is dangerous to attempt to push a wheelchair up that ramp. It is clearly impossible for the unassisted independent handicapped person to use.

(2) You were kind enough last year to allow the handicapped to make use of your own reserved parking place when you yourself were not using it; i.e., in the evening and on Sundays. Unfortunately, the parking lot guards do not know this.

Many of the guards will not allow a handicapped person to park in an available spot, even in the evening or on weekends. This week, in fact, my driver and I were not allowed the time necessary for me to get from my car to the wheelchair, even though my driver had made it clear to the guard that he intended to park my car elsewhere.

(3) Although there is a parking space reserved for the handicapped on evenings and Sundays, the space is in the west parking lot and the sole Library ramp which conforms to GSA standards (and is therefore usable by the unassisted independent handicapped person) is at the northeast entrance of the building. This means that the handicapped person must roll his wheelchair for

a distance of three city blocks. This is obviously too long a distance for the unassisted crippled. Furthermore, the northeast door is not open in the evenings.

There are several things which can be done to make easier the lot of the handicapped employees and scholars who make use of the Library. The following suggestions do not require the expenditure of appropriated funds; in fact, they require only an interest, an awareness, and a sensitivity to the problem.

(1) There should be some sort of Library-wide awareness program to acquaint all Library employees who must deal with the public with the Library's policy of providing assistance for the handicapped. This is really a form of "sensitivity training" which is badly needed. I am informed by Mr. Howard Biancheri of your Administrative Department that at present there are no regulations or instructions given the Library guards concerning the parking needs of the handicapped, and that, in fact, the Library guards have received no instructions whatever concerning so simple a matter as allowing the handicapped the time necessary to even get in and out of their cars and assisting them or their drivers in parking reasonably close to the building.

(2) A Library-wide review is needed by someone aware of the needs of the handicapped to point out the modest and rational means by which ramp placement, parking arrangements, and door schedules may be altered for the convenience of the handicapped.

(3) Guards at the east parking lot should be instructed to grant permission—perhaps after telephone request, as at the Smithsonian—to allow the severely handicapped to park in the lot, leaving their keys in the car so that it may be moved if necessary. There should be a small cut made in the 12-inch high granite edging which separates the east parking lot from the northeast entrance so that those in wheelchairs or with difficulty in walking would not have to proceed the 150 yards now required to circumvent this stone edging. The northeast entrance, at present the only adequately ramped entrance to the Library (and this includes the Jefferson Building), should be open whenever the Library itself is open.

The National Gallery and the Kennedy Center recently have undertaken an awareness program such as the one I have described. Their programs have been remarkably successful. I know that the Library of Congress, so important to tourists and scholars, will wish to do the same.

At your convenience, may I have a report from you on what steps are being undertaken to make the Library accessible to all Americans and not just the temporarily able-bodied.

Sincerely,

H. G. GALLAGHER.

JUNE 2, 1977.

DR. DANIEL J. BOORSTIN,
The Librarian of Congress, Library of Congress, 10 First Street, SE., Washington, D.C.

DEAR DR. BOORSTIN: I look forward to having your report and reply to my letter of May 12 concerning facilities for the use of the handicapped at the Library of Congress.

Enclosed your will find a copy of a theater program for the Kennedy Center. You will note the paragraph which outlines Kennedy Center provisions for the handicapped. The Center allows cars with license plates bearing the wheelchair symbol to park without notification opposite the entrance. Any car bearing a handicapped person may park in the basement lot after prior notice is given by telephone.

Several years ago while I was at work on my book on Senate policy the Librarian allowed me to make use of the east lot, providing only that I leave the keys to my car with the guard on duty so that the car could be moved as required. Perhaps some such provision could be worked out for the general use of the functional independent handicapped after prior notification by telephone. Whatever parking arrangements are made, it seems to me to be most important that the guards on duty are made aware of the arrangements, and that printed notification is suitably displayed and distributed so that handicapped persons resident in the area and visitors will be made aware of the available facilities.

The present arrangement is not working at all. It is generous of you to allow the use of your own parking place in the evenings and on weekends by the handicapped. Unfortunately, the guards on duty are not aware that this space is available. I have yet to find a guard who will allow me to make use of it—and I have tried repeatedly. Also, I have been told there is a portable sign reserving a spot for the use of the handicapped, but I have yet to see it.

Sincerely,

H. G. GALLAGHER.

THE LIBRARY OF CONGRESS,
Washington, D.C., May 27, 1977.

DEAR MR. GALLAGHER: Your letter of May 12, 1977 regarding Library of Congress accessibility for the handicapped has been referred to me for attention.

First, please accept my apologies for your experience with our Special Police. Instructions are on the books as to proper and courteous service and assistance. These instructions have now been reemphasized strongly and I trust that there will be no recurrence of your previous experience.

Although I am very sorry that it was necessary for you to write once again concerning the problems which limit accessibility of the Library's facilities to handicapped persons, I do appreciate your advising us of the difficulties you encounter so that we may take appropriate remedial steps. With reference to your suggestions and comments, I can report that the following actions have now been taken to make the Library buildings and grounds more accessible to the handicapped.

Three parking spaces have been reserved evenings (after 5 p.m.) and weekends and holidays for handicapped people in the Library's northeast quadrant parking facility. Signs are being made to so indicate. These spaces are convenient to the northeast entrance to the Library of Congress Building. A ramp leading to this doorway is presently provided. Arrangements have been made with the Office of the Architect to make necessary curb cuts between this parking facility and the sidewalk leading to the entrance ramp. The northeast entrance to the Library of Congress Building will be kept open hereafter during the hours the building is open to the public. A Special Policeman will be stationed at this entrance to assist visitors, to handle emergencies, and to provide for other essential entrance control requirements.

As you know an architectural consulting firm engaged by the Architect of the Capitol has recently conducted a survey of existing conditions on our buildings and grounds and has submitted compreshensive recommendations for providing facilities for the physically handicapped. The report which resulted from this survey provides a basis for the development of a barrier free environment. We expect that there will be further improvements as a consequence.

The question of the front door ramp, I am told, is complicated by the fact that its pitch can only be improved by extending the ramp further, and this is impossible without bringing the ramp directly and dangerously into the footpath. The ramp is used primarily to move heavy items in and out of the Library. A sign will be prepared to indicate this.

Please be assured of our interest in improving Library accessibility and usefulness and again, please accept my sincere personal apologies for any discourtesies that you may have experienced from Library of Congress staff members.

Sincerely yours,

EDMOND L. APPLEBAUM, *Director.*

DR. VINCENT V. LA BRUNA MADE KNIGHT COMMANDER OF THE SOVEREIGN ORDER OF CYPRUS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. BIAGGI. Mr. Speaker, I should like to present to this distinguished representative body, highlights of a ceremony conferring distinction upon one of New York State's foremost doctors of dental surgery, Vincent V. La Bruna.

The ceremony was celebrated recently in the Ecumenical Chapel of the Sovereign Order of Cyprus, New York City. In the presence of a number of distinguished prelates and public officials, Dr. La Bruna was invested as a knight commander of the Sovereign Order of Cyprus.

The American branch of this preeminent order, only 49 members strong, is chartered by the State of New York, in which its purpose is stated as follows:

To strive for the maintenance of Christian ideals and Western Humanism, the liberty and dignity of Man, and to oppose all forms of oppression.

I take great pride in having been invested as a Knight Commander myself this year.

The Sovereign Order of Cyprus, one of the four oldest orders of chivalry, was founded in the year 1192 by Guy de Lusignan, King of Cyprus and Jerusalem, and confirmed by his Holiness in the year 1200, investing the order with the dual apostolate of spreading the Christian faith, and serving as the bulwark of Christendom in the Eastern Mediterranean.

Modelled after the Hospitaller and military orders of the Temple and of St. John, as established in the Holy Land, it paved the way for subsequent foundations and other orders such as the Order of the Holy Sepulchre of Jerusalem Byzantine which continues to serve mankind to this very day.

The first investiture of the order took place on the Island of Cyprus where Guy de Lusignan received 300 noblemen into the order and awarded them the red, eight pointed crusader's cross, and commissioned them to defend the island route to the Holy Land, and ward off the attacks and infiltration attempts of the infidels.

From the very outset, the order comprised of men-at-arms, chaplains, and serving brothers, who with the knights, were organized into commanderies. Members were distinguished by the blue mantle with the red cross of the order.

The order attracted to its ranks some of the most vigorous nobles of Christen-

dom. These knights shared a very noteworthy historical, cultural, and spiritual patrimony. They took an active interest in the affairs of the Holy Roman and Byzantine Empires, in addition to their defense of pilgrims and their charitable works.

Under a succession of able grand masters for more than three centuries, the deeds and influence of the Sovereign Order of Cyprus were enormous, and its members played an important role in the stabilization of the cultural and political life of the ages it shared.

Mr. Speaker, it is understandable that through the centuries, totalitarian and atheistic states have been openly hostile to traditional chivalry, by either trying to destroy it, or to reorient it. However, a soul cannot be destroyed, nor can an ideal founded essentially upon principles of love and charity be nullified.

It may be asked why such an ancient organization, with presumably superficial thoughts and out of touch with the present, is called upon by those who live today. It is for one reason, and one reason alone. The perennial nature of the order reflects its profound and stimulating ideals. Indeed, its tradition serves as a basis for reasonable and valid action allowing the order to remain the ideal representation, the "city" if you will, of all hope.

About us we witness the attacks and decay of what is dearest for us to preserve. Materialism dehumanizes and depersonifies man, similar to a cancer. The hatred of God hides under dry rationalism, and fundamental intolerances are masked under hypocritical words of appeasement.

The Sovereign Order of Cyprus undertakes as its task, to defend the values of our Western civilization, a dedication which involves courage and self-sacrifice. The order singles out, and invites to membership, men of science who are still sensible, artists whose works can serve as examples for others, thinkers who are not afraid to defend the values of Western humanism, and those who strive for a better world for us to enjoy. It honors leaders of the free world from all walks of life, regardless of race, creed, color, or national origin.

As a modern organization, the Sovereign Order of Cyprus, based on ancient principles and traditions, is dedicated to the building of schools, hospitals, churches, and other charitable, spiritual, and educational institutions.

Mr. Speaker, these are the essential components covering the ideals and objectives of the order to which Dr. Vincent La Bruna has been received.

The American branch of this order is headed by His Excellency the Most Reverend Lorenzo Michel de Valitch, grand chancellor and heir to the rich traditions of this ancient order, who is also the General Apostolic Administrator of the Ecumenical World Patriarchate, an apostolic church, dedicated to the reunion of all Christians, under modern principles.

The magistral seat of the order is in Rome, Italy, and enables the U.S. commandery to enjoy certain diplomatic privileges for the purpose of propagating the order as a subject of international law in those countries where it functions. The order also enjoys the right of active and passive diplomatic representation, and the right to guarantee and direct such representation in each and every place where its credentials have been presented. It may appoint ambassadors, ministers, and consular representatives with specific districts, and accordingly issue appropriate diplomatic credentials pursuant to international custom.

To our fellow New Yorker, Dr. La Bruna, and the Sovereign Order of Cyprus, our congratulations, and best wishes in your work.

Mr. Speaker, I should also like at this time to congratulate all the outstanding members of this order, in these United States and abroad, reaching as it does into all walks of life, and following those principles which we all hold dear, and reaffirming continuity of Christian effort against terror and injustice. Members are such dignitaries as sovereigns, heads of state, princes of the church, and numerous princes, scientists, educators, artists, industrialists, and leaders of the free world of every race, color, creed, and national origin. In closing may I commend His Excellency The Most Reverend Archbishop Lorenzo Michel de Valitch, for his humanitarian efforts, and wish him and the Sovereign Order of Cyprus, of which he is grand chancellor, sustained success in their worthwhile endeavor.

JOHN RATHBUN YOUNG TO CELEBRATE BIRTHDAY

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. BADHAM. Mr. Speaker, it is my pleasure today to bring to the attention of the body that July 18 is the birthday of John Rathbun Young of Newport Beach, Calif.

A big man of warm heart and intense pride in his home State of California, Mr. Young has often been referred to with the same name as that animal which represents the State of California, the bear.

John R. Young on the 18th of July will be 44 years old having been born in 1933 in Illinois and moving to California in that year.

Each year a group of prominent Newport Beach citizens gather to pay tribute to John R. Young on the occasion of his birthday. This fine warm person, usually in honor of his own birthday, engages in acts of charity and contribution to society in remembrance of his birthday, and it is largely because of this and his previous success in business as a partner/owner of Young and Lane Tire Co., that causes friends to fete his birthday with frolic and festivity including from time to time helicopter messages of congratulations towed across the skies.

It is because of his contributions to his community and society that I honor Mr. Young on his 44th birthday and bring this to the attention of my colleagues so that they might join me in congratulating Mr. Young of Newport Beach.

U.S. POLICY ON ISRAEL AND THE MIDDLE EAST

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. STEERS. Mr. Speaker, there can never be real peace in the world until there is a reduction of tensions in the Middle East. So long as these tensions exist, the threat of world conflict likewise exists. Peace in the Middle East will eliminate a major threat to world peace and will also make it possible for Israel and her Arab neighbors to devote their energies and resources to their own peaceful national purposes.

Central to the United States Middle East policy must be a firm commitment to the independence and security of the State of Israel. We must continue to provide Israel with diplomatic support and sufficient military and economic assistance so that it can remain strong and able to defend itself at all times.

In 1948, our country was one of the first to recognize the independence of the State of Israel. At that time, we were inspired by the perseverance of those who had labored so hard and so long for the establishment of a Jewish homeland. We remembered Dachau and the other horror camps. Israel was committed to the same moral concepts and principles of democracy, justice, and freedom to which we adhered and shared our values in the Judeo-Christian heritage.

Since that time, Israel has emerged as an open and democratic society and should be applauded for its impressive political and economic development and for its incredible ability to defend itself against overwhelming odds.

Israel is a valuable ally for the United States. It is a barrier against Soviet expansion into the vital Middle East area. It offers protection on the fringe of NATO. Providing military aid for Israel is in our national interest. We receive excellent value for this expenditure. In Congress, I will vote for the funds required to insure that Israel always has the weapons to defend itself.

In dealing with the complexities of the Middle East, we must be realistic and pragmatic. We must not permit an arms race to develop. Our country should not provide sophisticated arms to the Arab States, including Egypt. The aid which we provide to them should be limited to economic assistance.

Direct negotiations between Israel and her neighbors are essential to the resolution of tensions in the Middle East. Peace cannot be imposed from without. It must develop from within. Direct negotiations between Israel and the Arabs is the only way to achieve secure and defensible borders. And the Arabs will never negotiate seriously with Israel if they believe that they can defeat Israel militarily, erode her economically, or isolate her politically.

The Suez Canal should be opened to free passage of shipping of all nations, including Israel.

Our representatives in the United Nations must continue to work against efforts to separate Israel from the family of nations and they must vigorously oppose all efforts to dscriminate against Israel in the world community.

Similarly, our Government must oppose with more effective legislation and more vigorous action the Arab boycott against Israel. The Arab boycott of Israeli goods is bad enough, but there is little we can do about it. However, when Arab countries extend that boycott to include countries and firms that deal with Israel, we can and should react. I am referring, of course, to the secondary and tertiary boycotts employed by the Arabs.

In the Maryland State Senate, I sponsored the Foreign Discriminatory Boycotts Act. The purpose behind this legislation was to purge from all commercial transactions occurring in Maryland the foreign imposition of terms and conditions which discriminate against our citizens because of their national origin, race, or religion.

In Congress, I voted for legislation that will make it illegal for American firms to knowingly comply with the secondary or tertiary Arab boycotts. Legislation of this kind should be worded as strongly as possible to effectively kill this insidious and vicious form of economic warfare.

As a member of the Select Energy Committee, I also intend to take an active role in encouraging national programs designed to conserve energy and to create viable new energy sources. We must strive for American self-sufficiency in the long run so as to eliminate the danger of Arab oil blackmail.

Israel has demonstrated that international terrorism can be defeated. But there is a simpler way. Our Government should strive to obtain an international agreement denying landing rights to the airlines of those nations who provide a haven for terrorists. I am a sponsor of a House Resolution that attempts to secure international cooperation in combating terrorism. The release of Arab terrorist Abu Daoud by the French, which I protested on the floor of the House, should never happen again since it only served to encourage those in the world who rely on terrorism as a means to attract attention to their political views. Only when terrorists know that they have no sanctuaries will terrorism disappear.

I am also very concerned about the welfare and treatment of non-Israeli Jews living in the Middle East, specifically Syria. I have written President Carter urging that he bring the issue of Syrian Jewry before President Assad of Syria.

U.S. CITIZENRY NEEDS TO BE PREPARED FOR SURVIVAL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. GOODLING. Mr. Speaker, the debate over American preparedness for a nuclear confrontation has grown into a national controversy. Newspaper headlines tell the story of concern over the effectiveness and costs of such items as the cruise missile and the B–1 bomber. These stories, however, only touch on the extent and complexity of this growing debate.

One issue which I feel has not been adequately addressed during these heated discussions is civilian preparedness for a national emergency of nuclear-war magnitude. We are debating the readiness of our military and are sadly neglecting the ability of our friends and neighbors to prepare for such an emergency.

The International Relations Committee, of which I am a member, often hears of the intense efforts of other countries to prepare for a nuclear confrontation. To balance out the picture, I am anxious for my colleagues to read an analysis of America's current civil defense capabilities. It is a frightening counterpart to any report on other countries' efforts.

I hope each Member finds this report, prepared by John Bex, director of region 2 of the Defense Civil Preparedness Agency, as informative and unsettling as I have. We must face up to our current civil defense capabilities and take steps to reverse the trend toward indecision and inaction.

I include the region 2 Civil Defense position paper to be inserted into the CONGRESSIONAL RECORD:

CIVIL DEFENSE POSITION PAPER

The purpose of this paper is to provide an assessment of the mismanagement and neglect which has existed in the Federal Government in preparing the United States citizenry for survival and recovery under national and local emergency conditions and to propose a different direction.

CAUSES

An inadequate and ineffectual civil defense policy

We are lacking a basic national policy and direction which would provide for survival of the nation and which would serve to guide the efforts of all federal agencies involved and provide a model for state and local governments to follow.

Proliferation of authority and responsibility

The House Armed Services Committee Report No. 94–39 states that, "It is apparent . . . that civil defense, or emergency preparedness in a broader concept, has no settled place in the Federal Government." The Federal Civil Defense Act of 1950, as amended, authorizes a system of civil defense for the protection of life and property from an attack. To administer this act there has been a succession of agencies—FCDA, OCD, OCDM, OCD and now DCPA—which have been established to take certain actions in preparation for an attack situation.

The National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, the Federal Civil Defense Act of 1950, as amended and related Executive Orders causes the General Services Administration, Federal Preparedness Agency (GSA/FPA) to be responsible for Federal Agency coordination, policy guidance and planning related to attack and recovery.

The Disaster Relief Act of 1974 and related Executive Orders causes the Federal Disaster Assistance Administration (FDAA) to be responsible for administering and coordinating certain planning and relief programs related to natural disaster situations.

In all there are 11 Federal Departments and 28 or more Federal Agencies that have emergency preparedness assignments involving national preparedness and our ability to survive.

Leadership in the Executive

Not since May 25, 1961, President Kennedy's Civil Defense message to Congress, has a Chief Executive publicly addressed the need for civil defense. Civil Defense is a part of our total strategic deterrent posture. It is a primary element for national survival. But the need for survival planning and its acceptance as an essential way of life in the nuclear age have not been articulated convincingly to the public from the executive level.

EFFECTS

1. Lack of national purpose and direction has resulted in little more than a holding action on United States civil defense. The defense part of the offense/defense equation has been continuously deemphasized. The civil defense part of the defense posture has suffered out of proportion to all other elements. Of the $114.9 billion projected for FY 77 National Defense Budget, only $82.5 million (.07%) of the National Defense Budget was set aside for civil defense.

2. The lack of national priority, unified management and supervisory controls has resulted in duplication of effort, disparity in actions, waste of money, and inefficient accomplishment of the nation's emergency needs. Confusion due to the splintered federal effort is reflected at State and local government levels. These jurisdictions find it extremely difficult to ascertain which federal agencies are doing what and for whom. In recent hearings on Civil Preparedness and Limited Nuclear War, before the Joint Committee on Defense Preparedness, General Otto Nilson, Jr. (Retired) stated that ". . . numerous governmental agencies . . . have . . . an emergency or crises role as an extension of their everyday duties and responsibilities. What is needed is for this to be spelled out and organizational means developed to assure that this is done, that the work is monitored to assess performance, and that the pieces are put together on the basis of some workable coordination effort."

3. Apathy at State and local levels reflects the lack of Federal resolution and purpose on a national scale. The defense of the country and the protection of the people are elements of the common defense as provided for under the Constitution and are primarily a federal responsibility. The general public reacts to a national situation in the way in which their leaders react. Apathy and indifference at the federal level cascades and permeates all political levels making the prospect of providing adequately for the common defense an insurmountable task. Cuts in the federal budget for civil defense are echoed in the budgets of State and local governments. The result is widespread atrophy. For example, there is erosion in the National Shelter System, Radiological Defense System and Emergency Public Information System. At the same time, we are only able to effectively warn about 47% of the national population and have a "minimum" nuclear disaster operational capability for about 36% of the national population.

4. Avoidance of the issues by recent Chief Executives has left the public confused, uncertain, fatalistic and virtually uninformed as to the value of civil defense as an instrument of national survival. The result is a weakness in our national will to sustain crises, and survive attack, inviting coercion or blackmail in our strategic posture. Former Secretary of State Kissinger said that "A thermonuclear war which broke over a psychologically unprepared population might lead to a loss of faith in society and government."

What needs to be done

1. The Congress and Executive should undertake coordinate action to establish and

promulgate a policy of emergency preparedness and survival. This policy should cover the complete spectrum of emergency preparedness from local natural and accidental disasters to that of a nuclear attack upon the country, since there is a large element of commonality in the systems and services which are invloved in such situations.

2. Emergency preparedness functions and services presently under the 3 agencies (DCPA, GSA/FPA and FDAA) should be combined into a single agency to provide for management control and operational efficiency. This agency should be placed in the Department of Defense (at the Secretary of Service level) so that a balanced effort between offensive and defensive priorities can be achieved. Primary responsibilities would be vested in the Department of Defense with other Federal departments and agencies providing directed support.

3. In order for civil preparedness to be successful, the Secretary of the new agency must be a strong leader who is dedicated and firmly committed to the survival mission. He must have the confidence of the President and Secretary of Defense, must be experienced in effecting rapport with the Congressional, State and local leadership. He must be unencumbered in his personal commitment to a viable civil preparedness and readiness posture. This position requires a creative manager dedicated to change.

4. Adequate funding support is required for Civil Preparedness and national emergency support functions to assure a viable program which can develop into a significant element of national strategic defense and provide civilian protection from the effects of a national calamity.

5. While we cannot keep the American populace continuously mobilized for war, we must keep the people informed and do a better job of educating them to the kind of austerity and commitment that they would be called to undertake in a nuclear emergency.

FEDERAL FINANCING OF CONGRESSIONAL CAMPAIGNS

HON. JAMES A. S. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. LEACH. Mr. Speaker, election abuses have shaken public confidence in the integrity of our political system and have accentuated the need for tightening Federal election laws. Accordingly, I have today introduced H.R. 8092, the Congressional Election Finance Reform Act of 1977 establishing a procedure for limited Federal financing of congressional campaigns.

Federal financing of the Presidential election functioned reasonably well last year. However, large group contributions, substantially barred from the Presidential campaign, were in turn concentrated on congressional election races. In fact, a Common Cause survey shows that over $22 million was expended on congressional campaigns in 1976, an amount double that spent in 1974.

Interestingly the vast majority of this money went to one definable group; namely, incumbents. Fred Wertheimer of Common Cause has described the situation succinctly. He has noted:

In Congress today, we have neither a Democratic nor a Republican Party. Rather we have an incumbency party which operates a monopoly.

Monopolies in the political arena apparently can only be broken up by the exercise of countervailing monopoly power or by placing restrictions on the exercise of that power.

With these thoughts in mind, I would like to briefly outline several differences in approach between the Anderson-Udall bill and the public financing bill I have introduced. First, my bill applies to primary as well as general elections. The matching fund provisions come into play once $10,000 is raised in contributions under $250 and once an opponent raises $10,000 in any size amounts. In House races where no incumbent is involved, the maximum Federal matching contribution is $50,000 and in Senate races it is $100,000, except in larger States where by a formula related to the voting population the amount may be higher. In races involving an incumbent, the challenger(s) in either a primary or general election is entitled to a 50 percent greater Federal matching contribution—that is, $1.50 for each eligible $1 raised privately.

In addition, my bill restricts contributions to individual residents within a given electoral district and limits these individual contributions to $500 in any election cycle. Emphasis is placed where I feel it should be—that is, on small, individual contributions from within a congressional district or State. We do not have representative democracy when we allow citizens from outside a State or congressional district to contribute to campaigns in other districts and regions of the country.

Effectively speaking, out-of-State contributions give a significant policy voice to people who have no ties with the State from which an individual Congressman or Senator is elected. An elected official who receives outside support owes a certain allegiance to concerns which may not be identical with those of the constituents who actually voted in his election. I would like to be clear that I am not speaking about an unrealistic, theoretical issue. In my home State of Iowa, a State primarily of rural and small town concerns, we have had a number of recent elections where the winning candidates have received the majority of their financial support from outside the State and this support was not just of an "equalizing nature" but allowed these candidates to outspend their opponents approximately 2 to 1. This is wrong and in my judgment is one reason why increasingly the voting records of elected officials do not philosophically reflect the people who elect them.

It is no accident that we have a Congress of the United States indebted to either big business or big labor, a Congress where the small businessman, the farmer, the worker and ordinary citizen are only secondarily represented. Hence also, it is no accident that the middle class bears a heavier tax burden than the rich; that small companies lack the tax advantages of the integrated oil companies; and that inflation is the economic issue of the day. I would like to stress this last point; inflation is not unrelated to campaign financing abuses.

The roots of inflation begin in Federal spending and Federal spending begins in promises and obligations, and all this begins with politicians. It begins, in fact, in the way campaigns are run. It begins in politics as usual, in commitments to large contributors, no matter who they are. The most effective way for a candidate to achieve support in a bid for legislative office is to isolate every identifiable group—especially moneyed groups—and announce support for the group's vested interest. Unfortunately, going along with the most powerful interest groups inevitably leads either to the proliferation of Federal programs or to the weakening of the tax structure. Fiscal balance and equitability are impossible to maintain after lawmakers, that is, the successful candidates, have committed themselves in advance to support specific tax advantages or Government programs favoring those having made generous campaign contributions. America may be a society of individuals, but power groupings—not individuals—are represented in legislative bodies where money is a key determinant of election outcome.

In addition to the out-of-State and out-of-district limitation, my bill prohibits group contributions of any nature. It is simply a fact of life that when big money in the form of group contributions enters the political arena, big obligations are entertained. Groups seldom reflect the same collective judgment as all their members. More importantly, decisions for organizations frequently occur at the top not the bottom and the abdication of local control over funds leads to the aggrandizement of leadership power within organizations and thus within any Government channel where the organization's impact is felt. Individuals who control other peoples' money become power brokers in an elitist society. Their views, not the small contributors to their association, become the views that carry influence.

Clearly there also is need for full disclosure of all campaign contributions, monetary or in kind. Currently loopholes exist in Federal campaign reporting laws which allow candidates to refuse to itemize certain donations and to accept a large numbers of gifts at the end of a campaign so the public does not know the sources of campaign funds until after the election. It seems to me that the only way to deal with this problem is to require that all contributions of any size whatsoever be disclosed by name, amount, date, and place of residents, and that those over $100 include the occupation and the principal place of business. Sometimes it is claimed that such disclosure is an impossible thing to put into place. While I admit that this is not altogether easy, it can reasonably be done and, in fact, we did so during the two campaigns in which I was a candidate. Parenthetically, I might add that in my two campaigns for Congress we also placed restrictions against all out-of-State and group contributions and it would be my judgment that the placement of these limitations gave impetus to increased individual campaign participation, in terms of volunteer activity as well as campaign giving.

In conclusion, I would like to reiterate my support for limited public campaign financing. A Government of the people, by the people and for the people cannot be a Government where influence is purchasable through large, private campaign contributions. The subordination of individual rights to indiscriminate moneyed influence is the subordination of representative democracy to institutional oligarchy.

I recognize that limiting campaign contributions to constituents of candidates places certain restrictions on nonconstituents which may be considered to infringe first amendment rights. However, I believe an argument on first amendment grounds against placing such a restriction misconceives the nature of a campaign contribution. A campaign contribution, in my judgment, should be conceptualized as part of the "narrowing process" identified by the Supreme Court. As such, it is proper—indeed it may even be required—that the process be limited to constituents.

Just as a party nomination is in fact, but not in law, necessary to election, so too adequate campaign finances are essential. This makes the individual who signs a nominating petition or votes in a primary election analogous to the individual who contributes money. And just as those who sign petitions and vote in primaries must be constituents, so ought those who contribute.

Admittedly this requires a reorientation of the traditional conceptualization of the campaign financing process. Over the years we have recognized the electoral process as including more and more activities. This is a conceptual change which is long overdue if our elections are to produce representatives who reflect the constituents of their district.

It can also be argued that exclusion of group contributions entails an unconstitutional abridgment of the freedom of individuals to associate in groups for political purposes.

First let it be noted that in the approach I advocate group political activity per se is not excluded. A wide range of organizational activity is still open: groups may communicate with their members, may organize voter registration drives and may politic in the community. They are only precluded from giving direct contributions to the campaign committee of a candidate.

Based on the abuses we have witnessed in the past, I believe this restriction is quite reasonable. The balance we must strike in legislating proper restrictions on campaign giving is between the marginal value of group contributions to individual candidates, given the opportunities for both individual contributions to the campaign and group activities in direct communication, and the possibility that enormous conflicts of interest may arise from the acceptance of such contributions.

In my judgment, Congress is justified in concluding that the threat of improper activities is of such a magnitude as to override the marginal value of such contributions and that the integrity of the electoral process cannot be upheld absent a ban on group contributions.

OPPOSED TO CONGRESSIONAL PAY RAISE

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. STEERS. Mr. Speaker, I am opposed to the congressional pay raise. I am in support of the Federal executive pay raise. But the manner in which these two distinct issues were brought to the floor today—as a package with one tied to the other—did not allow me the opportunity to vote on these two items as separate items.

I think that today's vote is one more argument in support of separating congressional pay matters from Civil Service pay matters.

In my 6 months as a Member of Congress, I have spoken against the congressional pay raise at every opportunity. I have pointed out to my constituents that I do not believe that Congressmen need a pay increase, nor is this the proper time to adopt a 28-percent increase. In private industry, managers know whether or not they are offering a sufficient salary for vacant positions by the number of applicants for those positions. Applying that standard to congressional "jobs," I think that the salary is sufficient in light of the fact that there were 22 "applicants" for the seat I now hold. I have voted against the congressional pay increase at every opportunity—until today when I was forced to join the 2-to-1 Democratic majority—and the other Members representing suburban Maryland and Virginia—in voting in favor of H.R. 7932.

I had voted for this bill because I support a pay raise for Federal executive employees and had indicated to my constituents that I would support them even if it meant that I had to vote for a congressional pay increase. Many of the top-level civil servants affected by today's vote live in my congressional district. Over 7,100 of them live in the Washington metropolitan area. It may be popular to denigrate the workings of the Federal bureaucracy and to portray Federal workers as lazy, dim-witted paper pushers and regulation writers. But I think that we all know that this portrait is neither accurate nor fair.

I support a pay raise for the top-level bureaucrats—those who have heavy responsibilities and many of whom have advanced degrees and vast experience in their fields—because they have not had a single pay increase in 8 years and have only received one cost-of-living increase—which was only 5 percent. During this same 8-year period, the Consumer Price Index has increased by 60 percent and private industry wages have increased by 70 percent. No matter how we look at it, the situation is totally intolerable. From a Government efficiency standpoint, the situation is almost criminally negligent, for many of these highly qualified individuals have had to quit Government work because they could not keep up with the cost of living and were offered more financially rewarding positions in private industry. We have lost experience and expertise because of the shortsighted policy of capping Federal wages. The only good thing about today's vote on H.R. 7932 is that this situation has at long last been rectified.

It is unfortunate that the Democratic leadership has refused to allow these two issues—congressional salaries and civil service salaries—to be considered individually on their merits. The rule for consideration of this bill—which I voted against—required that these issues be considered jointly. Once again voters are denied the opportunity to see how their Member of Congress would have voted on the congressional pay raise had it been considered as a separate item of business. And adoption of this rule also denied me the opportunity to cast my vote once more against the congressional increase.

NATIONAL FOOD RESERVE

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. WEAVER. Mr. Speaker, today I am reintroducing H.R. 7871—the Stocks Management and Reserve Act of 1977. This bill provides for a farmer owned and held national food reserve of 25 to 35 million metric tons. This reserve system will remove grain from the market in periods of oversupply and return grain to the market whenever serious production setbacks occur. H.R. 7871 also adopts that provision of the Senate farm bill which establishes an "International Emergency Food Reserve" of 2 million metric tons to be used for foreign disaster and famine relief.

I would also like to submit for the RECORD letters of endorsement of H.R. 7871 by three prominent national consumer organizations. As all informed consumers acknowledge, their interests are integrally linked to those of the farm community, and the attached statements reveal a clear understanding of these joint interests:

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., June 23, 1977.

Hon. JAMES WEAVER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WEAVER: After examining the provisions in H.R. 7871 we wish to express our support for this national farmer held grain reserve.

With the present inordinately large carryover of grain stocks and this history of boom and bust agriculture, it is not only essential, but an ideal time to establish a reserve system which will protect both the producer and the consumer from the subsequent extreme price fluctuations. Our concerns with giving farmers a fair return for their labor and protecting both consumers and farmers from inflationary conditions presently rampant are all met in this reserve plan.

We thank you for addressing this issue and will be watching eagerly for a favorable outcome.

Sincerely,

KATHLEEN F. O'REILLY,
Executive Director.

PUBLIC CITIZEN,
June 24, 1977.

Hon. JAMES WEAVER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WEAVER: As you are aware, we recognize the urgent need for a workable national grain reserve system. It is our feeling that the "Stocks management and Reserve Act of 1977" (H.R. 7871) adequately meets this need. The provision for release prices provides a shelter for the consumer from the high prices of low production years, and gives support to the farmer in years of overproduction as we have presently.

We offer our enthusiastic support of this bill and hope that it will be met with equal enthusiasm by your colleagues.

Sincerely,

FRANCES A. ZWENIG.

COMMUNITY NUTRITION INSTITUTE,
Washington, D.C., June 24, 1977.

Hon. JAMES WEAVER,
1238 Longworth Office Bldg.,
Washington, D.C.

DEAR MR. WEAVER: Thank you very much for sending us the copy of H.R. 7871 for our comment. As you know, we are interested in the issue of reserves for several reasons, especially as they influence food prices.

We have carefully examined the "Stocks Management and Reserve Act of 1977" (H.R. 7871), and it is a good method for handling food reserves. We hope you and the other members of Congress who have joined in this effort are successful in getting this proposal adopted. We are available to assist you in any way we may.

In most American homes, the cost of food is the largest single item in the family budget. Over the last eight years, rising food prices have been a major source of concern, and have caused many families to reduce expenditures for other family needs or to change diet patterns and increase the health risks for children and parents.

The price pattern since 1970 is clear, inexorable and painfully obvious. Price increases for raw commodities are quickly passed on by processors, but price decreases rarely have the same effect. While wheat prices have dropped by nearly 50 percent, the price of bread has not decreased. We are told that a decline in commodity prices makes it possible for the middleman to absorb increased costs elsewhere, but all the family knows is that the cost of food goes up and does not come down.

This means the system works for everyone except the consumer, and the less the income the more painful is the experience. It is doubtful that increased food costs can be avoided altogether, but we should be able to do better than we have in the past.

One way to moderate price fluctuations, and ease the rachet effect of higher prices, is to create a system of basic food reserves. A food reserve system is simple to understand because it operates on an ancient and simple principle. Food reserves are accumulated during periods of surplus when farm prices are low, held off the market when supplies are normal, and used when food shortages occur. Food reserves help to support farm income when it is low, and to keep food available at reasonable cost when crops are poor.

Sincerely,

RODNEY E. LEONARD,
Executive Director.

WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. CHAPPELL. Mr. Speaker, 2 weeks ago the White House Conference on Handicapped Individuals was held here in Washington. Over 2,500 persons—the handicapped, parents of the handicapped, and professionals working with them—came together to discuss the problems of the 28 million Americans whose disabilities exclude them from full participation in our society. While this Conference was a laudable effort to focus attention on the problems of these citizens who have more often been the recipients of pity and rhetoric, than of meaningful attempts to understand their problems and to integrate them into the mainstream of American life, I regret that reports reaching me indicate otherwise.

Apparently, despite the dedicated labors of many fine people, the handicapped have once again been denied the opportunity to be heard by the government and to speak for themselves. Perhaps the planners of the Conference themselves fell victim to the age-old myths about the incompetence of the handicapped and lacked confidence or faith in the ability of the disabled to know their own needs and arrive at a consensus about what should be done to meet them. This consensus was the intent of Congress, as expressed in title III of Public Law 93-516, but it did not happen, and through no fault of the handicapped.

From the beginning, the Conference seemed to lose track of its central mission. I understand that its executive director stated, on more than one occasion, his belief that the handicapped were not yet able to advise us concerning their needs and priorities for the future. Thus the Conference was billed as "educational." According to representatives of the handicapped, the keystone of this Conference has been "custody and care" rather than "democratic self-expression and contribution."

What it amounts to, Mr. Speaker, is that many delegates feel they were brought to Washington to put a rubber stamp on conclusions already reached by the Conference staff. They feel that they were coddled and cared for in a way that, far from aiding their cause with the Government and the public, contributes to the already-held false notion that the handicapped are incapable of independence and participation in daily life.

The State-level conferences which were held to select issues and delegates to the national conference showed these same negative attitudes. The selection of delegates was made almost entirely discretionary, and the result was a heavy preponderance of professional providers of services to the disabled, who have a strong vested interest in the status quo.

When the delegates arrived in Washington, they found little chance for open discussion and fresh input. They were assigned to workshops with predetermined agendas. More than 3,500 issues were to be discussed, with 2-minute time limits on each speaker. The decisionmaking process was a computerized "prioritizing" of the 3,500 issues. Quite understandably, hundreds of the delegates objected to this, arguing for the more conventional and open democratic debating and voting process typical of large conferences and the Congress itself.

The discontent with the preplanned structure was so widespread that the Conference planners were forced to hold a plenary session where resolutions could be presented by delegates and voted on. But the shift in approach came too late for any meaningful decisionmaking to occur.

As I have mentioned, the arrangements for handling the delegates have also received criticism from the handicapped. A private consulting firm was hired to organize the Conference and to channel the hundreds of thousands of taxpayers' dollars spent on these special arrangements. The travel schedule of each delegate was established by the Conference, and upon arival in Washington, they were watched over and herded at every point. Even the delegates' meals were planned for them, with no choice as to restaurant or type of food. The result, many handicapped delegates felt, has been to further ingrain in the public mind an image of the disabled as requiring all of this special treatment and constant care—an image incompatible with their independence and capacity to carry on employment or normal living.

Beyond this, a number of the arrangements undertaken by the Conference staff are so far from normal Federal conference procedures and so favorable to a few private firms, that I am asking the General Accounting Office to investigate the Conference. An example is the meal plan I just mentioned. It took the protest of several State Governors to relax the requirement for eating all meals at the Conference hotel. Even so, under the White House Conference plan, the hotel received $28 per day for meals, while the delegates who resisted the Conference meal plan were reimbursed only $16 per day for their meals away from the hotel.

I am also asking the General Accounting Office to investigate the justification for the Conference's use of a private firm to handle logistics and travel arrangements when a large staff of Federal employees had already been assigned. I find it disconcerting that rather than being allowed to make their arrangements independently, all travel arrangements were made by the Conference logistics contractor.

However, Mr. Speaker, not all of the results of this Conference have been negative. In fact, one result has been very positive, and it is an indication that there is real movement in this sector of

the population which has too often been willing to accept custodial treatment. I refer to the fact that a large number of the handicapped delegates resisted the arrangements set up for them, and declared their right to speak for themselves. I am informed that a substantial number of the handicapped—about 400—withdrew from attendance in the structured Conference sessions in order to discuss and hammer out their own report of issues and concerns. These delegates met on two occasions. They formed a writing committee and discussed and adopted a remarkable document—a concise but comprehensive statement of their needs and their recommendations for change, both legislatively and in terms of society's attitudes. This indicates to me that the handicapped have their own voice and that they know how to use it. Nothing could be a more encouraging sign that their integration into society is likely to come about, for experience with minorities has shown that only when they speak for themselves—not when those with a vested interest in the status quo speak for them—do meaningful change and real progress occur.

I have been privileged to be acquainted with the remarkable progress the blind of this Nation have made in this direction, and I think many of my colleagues share this acquaintance. Since 1940 the blind, organized into the National Federation of the Blind, have been in the forefront of the movement to create for the disabled a voice in their own destiny. The blind were a part of the dissatisfaction with the White House Conference. They have felt among the most damaged by the degrading image of all handicaps spread to the media by the staff of the Conference. But I am happy to say that their philosophy of basic normality and self-determination is now abroad in the whole field, and though there were fewer than 30 members of the federation at the Conference, they were joined by hundreds of other disabled persons representing virtually every other handicap.

Thus, Mr. Speaker, while the consolidating of the spurious computer printouts and the ballots by mail into a final report is likely to occupy many weeks yet, there is now available for our consideration an alternative report which in every sense is closer to what Congress had in mind when it mandated the Conference. This report speaks concisely, clearly and eloquently to the real concerns of the handicapped citizens of America. It is the result of their free and open discussions and democratic voting, in the best tradition of our country. It should be carefully considered by the Congress and the executive branch as we formulate specific programs to aid this important segment of our citizenry to become an integral and vital part of society. I ask permission to make a summary of this alternative report of the White House Conference a part of the record. I plan to ask that the full report be distributed by the staff of the White House Conference as part of its official and final report to the President and the Congress.

As President Carter said in his speech to the opening session of the Conference, "The time for discrimination against the handicapped is at an end." Let us show our concurrence by joining with the handicapped themselves, not as their keepers, but as their coworkers and supporters, as we move forward in the years ahead to develop meaningful programs for their total integration and independence:

ALTERNATIVE REPORT OF THE HANDICAPPED PERSONS ATTENDING THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

On Wednesday and Thursday, May 25 & 26, at the White House Conference on Handicapped Individuals, a group of about 400 of the 2500 in attendance at the Conference met to discuss their dissatisfaction with the format of the Conference and to determine if anything could be done. This group was made up of the handicapped themselves, rather than the group gathered for the general Conference which was dominated by providers of services and professionals in the field. The dissatisfied group decided to write an alternative conference report, one which would reflect the direct and pressing needs of the handicapped.

The group—which called itself the Representatives of the Handicapped for an Alternative Conference Report—appointed a writing committee which worked steadily during the 24 hours between the two meetings, and produced a document which was discussed and amended when the group met again on Thursday. Jack Smith, the executive director and architect of the White House Conference, at a Friday (May 27) press conference, stated that the handicapped are "not sophisticated enough about the issues" to do more than be put in contact with each other and be educated. In contradiction to this, a consensus on the Alternative Report was easily reached, and there was no question in the minds of the handicapped persons participating that they did indeed know what they need, and that the only major division in the field is between the handicapped themselves and the professionals with a vested interest in programs as they now exist.

The complete report will be distributed in the next week, but a summary of the positions in it is given below. For copies of the complete report, call (202) 785-2974, or write to National Federation of the Blind, 1346 Connecticut Ave. NW., Suite 212, Washington, D.C. 20036. Kenneth Jernigan, president of the NFB, who was elected chairman of the meetings which produced the report, offered the services of the NFB for this distribution.

SUMMARY OF THE ALTERNATIVE CONFERENCE REPORT

The overriding issue of the report was the need for direct consumer input and consultation in all services for the handicapped. It was declared that at least 50% of all governing and policy-making boards of private and public agencies serving the handicapped should be consumer representatives. It was also declared that the directors and staff of such agencies should be handicapped persons.

The report also stressed that each disability group has unique and specific needs which could only be served by maintaining distinct programs with goals and staff directed to these specific needs. This recommendation condemned the trend toward conglomeration of services for the convenience of bureaucrats, but to the detriment of meaningful services.

In the area of financial support systems, it was noted that the current welfare structure contains strong disincentives for the handicapped to try to become employed. In many cases employment results in financial loss. It was declared that support programs (particularly medical assistance programs) should be structured so there is no loss of income or medical benefits for becoming employed.

Regarding employment, the recent nondiscrimination statutes passed by Congress (sections 501, 503, and 504 of the Rehabilitation Act of 1973, as amended) were criticized for not requiring goals and timetables for the employment of the handicapped. It was declared that the handicapped should be involved directly in the implementation of these sections, and that the sections should be strengthened to require specific goals.

Civil rights clearly assumed a high priority among the handicapped. It was unanimously felt that the Civil Rights Act of 1964 and all other civil rights and affirmative action laws and regulations should be amended to include the handicapped. The handicapped are a minority, just as blacks and women are minorities, and they suffer already from being treated as a class apart. The feeling was that the current legislation aimed at protecting the civil rights of the handicapped was separate from and therefore not equal to legal protections for other minorities.

It was declared that programs for Ombudspersons should be established and staffed by the handicapped to monitor all programs for the handicapped.

With regard to Education, it was recommended that alternatives be made available. Mainstreaming (placement of the handicapped in regular classrooms and giving them access to all educational and recreational programs) was supported as a right, but this was seen as meaningless unless full support services were provided to children availing themselves of this right. But the need of some handicapped children for separate programs was also supported as a right. The deaf in particular felt the need for separate and strongly supported residential schools where constant communication for deaf children could occur to develop communication skills and end isolation.

Communication barriers received separate consideration, and it was declared that alternate modes such as sign language and Braille be supported and expanded. The expansion of Right-to-Read programs for cultural minorities was also recommended.

With regard to architectural and transportation barriers, the need for Total Environmental Design rather than merely the removal of barriers was stressed. Full use by the mobility impaired is the goal rather than merely access. Accessibility to all public transportation was recommended, with immediate and strengthened goals. Again, consumer input and monitoring were seen as important elements of this, as well as expanded powers for both federal and local compliance boards.

With regard to mental health and the rights of those termed mentally ill, the total banning of electro-shock therapy and psychosurgery were urged, as well as the banning of the overuse of drug therapy. Institutionalization was seen as a major barrier to successful emotional therapy, and it was recommended that no new mental institutions be constructed, urging instead the setting up and funding of small, community-located, consumer-directed facilities. Also the employment barriers created for those who have been institutionalized or labeled mentally ill were hit hard, and the report criticized the mental health industry as having a stake in certain therapies and practices which are not helpful to patients.

The necessity for changing public attitudes toward the handicapped was emphasized, with all forms of media being urged to present the handicapped realistically rather than as objects of pity. The goal was seen

not to be the liking of all the handicapped, but rather the possibility of their being seen as people with certain characteristics, and being judged on their own merits.

It was unanimously declared that all handicapped persons working in sheltered workshops should be guaranteed the minimum competitive wage mandated for industry, and that workers in these shops be granted the other rights and benefits of workers in open industry.

Other resolutions at the Thursday meeting of the group urged that future White House Conferences address the problems of handicapped women; that pregnancy records be saved by hospitals to aid in the treatment and control of birth defects; and that medicines clearly and understandably warn users of their possible dangers.

QUOTED FROM THE COMPLETE ALTERNATIVE CONFERENCE REPORT

Background

As the delegates and other participants in the national White House Conference on Handicapped Individuals arrived in Washington, D.C., and learned in more detail of the structure and operation of the Conference, a growing wave of dissatisfaction spread. By Wednesday, May 25th, a sizable number of delegates and participants determined that something must be done for the benefit of the Conference and of all handicapped individuals. A large group (approximately 350) assembled, and its members were generally labeled as "those dissatisfied with the Conference." In large part the reasons for the dissatisfaction were these:

(1) State White House Conferences—

We felt that the state conferences selecting delegates to the national Conference were not structured to allow a truly representative consensus of the needs and wishes of the handicapped. There seemed to be an over-representation of professional service providers. In many (if not most) instances, the delegates were not actually elected at all, but rather, they were chosen by select committees or individuals. This was seen as an undemocratic process.

(2) Issues/Recommendations Structure—

We felt that the approach to developing issues and recommendations was similarly undemocratic. It seemed as though the White House Conference staff had no faith in the basic capacities of handicapped persons to come together to hammer out their own agenda of national priorities. That this should be done by checking boxes and "prioritizing" 3500 separate recommendations (many of which duplicated one another and others of which were unclear in meaning or impact) speaks to this lack of faith. The White House Conference staff claimed that the issues grew out of the state conferences, but even at that level, we were presented with "awareness papers" stating "what we already know," accompanied by long lists of issues which formed the basis of the polling to be done at the state and national conferences. The overly-structured reporting forms for state White House conferences, the delegate workbooks, and computerized voting system for the national conference inhibited the freedom of choice and the ability of the delegates to exercise their best judgment.

(3) Custodial Care of Handicapped Delegates and Participants—

There were several elements in the grand logistics plan for the National White House Conference which were reminiscent of the kind of custodialism that the Conference itself should have been designed to bring to an end. For example, participants in the Conference were pressured into staying in a single hotel and eating all of their meals in the hotel under a meal ticket system. Normally, delegates to federal conferences are given a per diem amount to provide their own lodging and meals. At first, this arrangement was to be mandatory, but after massive protest, including letters from the governors of several states, delegates were permitted to make other arrangements but not alternates or observers. Even so, those eating away from the hotel were given $16 per day, while the hotel received $28 per day per delegate for meals. Delegates were asked to fill out detailed medical forms, and dossiers containing this information were sent to the airlines carrying them to the Conference. Some delegates received airline tickets accompanied by a specimen ticket made out to "John P. Doe", with this labeled, "Your Name." We as representatives of the handicapped feel that such treatment was, in most cases, unnecessary and undesirable and will further damage our image with the general public, and, in doing so, will impede the goals of the White House Conference itself.

THANKS GOVERNMENT FOR HELP

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. JONES of Tennessee. Mr. Speaker, all too often, we Members of Congress pass bills authorizing new programs that we send down to the executive agencies to administer. After that, we do not often hear about the program again until its shortcomings or abuses greet us in the morning paper. I want to take just a moment today to do something a little different. I want to share with the distinguished Members of this body a letter of thanks I just received from one of my constituents.

Danny Falkner just received his masters degree in religious education using the Veterans' Administration education program. His father passed away several months ago after a lengthy and expensive illness. His mother now has cancer and must receive frequent medical treatments. Through all of this tragedy, he still has found the time to express his thanks to the Congress for programs such as medicare, food stamps, and the GI bill. This is what he has to say to all of us:

FIRST ASSEMBLY OF GOD,
Camden, Tenn., June 19, 1977.

Hon. ED JONES,
House of Representatives, Congress of the United States, Washington, D.C.

DEAR MR. JONES: Though this letter may seem a little unusual, I want to express my sincere appreciation for a number of things to the Federal Government, rather to the Congress of the United States.

I am first appreciative for the help my mother and dad have received under the medicare program. Up until dad's death a few months ago, he had to receive medical treatment on a frequent basis. Mother continues to use the program now herself. She also uses the stamp program and the S.S.I. Mother has cancer and must see the doctor also on a frequent basis. I just don't know how we could have managed without the help of the medicare and stamp program.

Secondly, I have just recently received my M.A. in Religious Education, primarily through the help that I received through the V.A. Educational program.

Mr. Jones, I am sincere when I say I appreciate the help that we have received. Myself, for the educational help, and for my parents, for their help through the medicare program. Thank you very much.

In some way, I wish you could express to Congress my appreciation for this help my mother and dad, as well as myself, have received.

Respectfully yours,

DANNY R. FALKNER.

EUROPE AND THE PLUTONIUM AGE: PART TWO

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. BROWN of California. Mr. Speaker, yesterday I inserted the first of three articles on Western Europe's plutonium breeder plans. Today I would like to insert the second of these articles which focuses on the issue of nuclear safeguards and security.

The key question that must be answered is, in the words, of this article: "In a world where obscure South Moluccan terrorists can capture and hold hostages in a train and a school for days on end, for example, how can the security of commercial plutonium shipments be insured?"

President Carter's proposed deferral of the plutonium breeder is an effort to seek and negotiate answers to just this type of question. The deferral of the Clinch River breeder reactor project is closely related to these negotiations.

Mr. Speaker, at this time I wish to insert the second article in the CONGRESSIONAL RECORD.

The article follows:

[From the Los Angeles Times, June 16, 1977]

PLUTONIUM SAFEGUARDS SAFE ENOUGH?—"THE BUNKER"—LOOK OF NUCLEAR FUTURE

(By Robert Gillette)

WOLFGANG, WEST GERMANY.—Ringed by a double line of barbed wire fence and coils of razor-sharp concertina wire, a squat, concrete building in this industrial suburb of Frankfurt offers a grim vision of a nuclear future.

"We call it The Bunker," explained Wolfgang Stoll, the managing director of ALKEM, a German nuclear fuels firm. "It is our Ft. Knox for plutonium."

A marvel of security engineering, The Bunker seems aptly named. Its concrete walls and floor, 6 feet thick, are packed with so many hundreds of tons of steel reinforcement that the building will deflect the needle of a nearby compass.

Company officials claim the two-story, windowless structure could resist an airplane crash and withstand attack by any non-nuclear weapons for at least 20 minutes.

"We have a hot line to a police station just down the road," Stoll said. "We can have 300 people here within 10 or 15 minutes. If we have any political or union troubles, we can just seal the place up."

When construction is completed in October, the $8 million bunker will have a storage capacity of 5 metric tons or 11,000 pounds of plutonium oxide, enough to make more than 500 atomic weapons. (Present plans, however, are to store only about one ton at a time.)

The plutonium, of course, is destined not for weapons but for fuel in German nuclear power plants. Looking to a time, perhaps a decade ahead, when the imported uranium it depends upon may become scarce, West Germany is already separating small amounts of plutonium from spent reactor fuel and recycling it experimentally in fresh fuel rods as a partial substitute for uranium.

Over the last 13 years, officials say, the ALKEM fuel fabrication plant here has recycled about 600 kilograms or 1,300 pounds of plutonium into fresh fuel, which has been burned in German reactors.

This is not enough to make any difference in uranium needs but it is enough, Stoll and others contend, to prove the technical feasibility of recycling plutonium as a peaceful atomic fuel.

Although France and Britain are storing their plutonium for use in breeder reactors, at least four other nations besides Germany—Japan, Sweden, Spain, and Belgium—are planning to recycle it in existing reactors as a uranium substitute.

To many American arms control authorities, however, this kind of emerging commerce in plutonium raises grave questions of international security.

In a world where obscure South Moluccan terrorists can capture and hold hostages in a train and a school for days on end, for example, how can the security of commercial plutonium shipments be ensured?

And even if shipments, storage depots and fabrication plants can be made impregnable to frontal assault, is it possible to prevent embezzlement of weapons-grade nuclear fuels from within?

Virtually all civilian nuclear facilities, such as ALKEM's storage bunker, are under safeguards supervised by the International Atomic Energy Commission (IAEA) in Vienna. Critics, however, note that these safeguards empower the IAEA's inspectors to audit the inventory books each facility keeps as a means of detecting thefts and, it is hoped, of deterring them.

But international agencies have no power to enforce minimum standards of physical security. This, like the security of airports and trains, remains the province of each national government.

Although Germany's plutonium bunker may be as assault-proof as modern technology can make it, there is at present no way of ensuring that similar repositories in France, Britain, Spain, Argentina or any other country with a plutonium stockpile will be equally secure.

With this important limitation in mind, one senior American nuclear official described present international nuclear safeguards as no more effective than a "fig leaf."

A former director of nuclear safeguards for the Common Market, Enrico Jacchia, is equally blunt. For all practical purposes, Jacchia said in a commentary in the International Herald Tribune recently a strict nuclear security system "does not exist."

"The ways to cheat international safeguards are innumerable, like the ways of the Lord," he said. "They can be devised in the manner which is most appropriate for each particular situation."

Such questions and criticisms are familiar to German government and industrial authorities who, nevertheless, express a high degree of confidence that their bunker will meet any test.

Perhaps as a measure of this confidence, ALKEM officials described their security precautions in considerable detail to a group of visitors. They asked only that certain details not be photographed, such as the pair of 9-ton doors made of steel, ceramic and vulcanized rubber that guard the only entrance to the inner vault.

Adjacent to the bunker is a small, hermetically sealed fuel fabrication plant. Inside about 150 workers mix powdered uranium and plutonium oxide, press and bake the mixture to form cylinders of fuel that look like slate-gray rabbit pellets and load the pellets into long metal tubes for shipment to reactors.

Asked how workers would be prevented from walking out with small quantities of plutonium, Stoll pointed to a device at the plant's entrance called a gamma lock. The lock is painted yellow and looks like a telephone booth, but with two sets of doors.

Workers leaving the plant must step through the booth one by one, Stoll explained. If radiation detectors pick up gamma rays emitted by plutonium, the doors lock automatically, trapping the worker until security guards arrive.

The gamma lock is said to be capable of detecting as little as 0.3 grams of plutonium in someone's pocket. If a would-be thief were to shield stolen plutonium in several pounds of lead, Stoll said, he might escape with as much as 3 grams, providing that metal detectors (which have not yet been installed) did not reveal the lead shielding.

Three grams of plutonium is less than one-thousandth the amount needed to make a bomb. It could, however, be used to lend credibility to a nuclear blackmail hoax.

When the plant and its storage bunker are in full operation, ALKEM officials noted, a resident inspector from Euratom, the Common Market's nuclear agency, will be checking the plutonium accounting ledgers against actual inventories. And the IAEA in Vienna will in turn monitor Euratom's audit.

Even so, room for uncertainty remains.

According to a paper on safeguard problems that two German government researchers presented at an international nuclear fuel cycle meeting at Salzburg, Austria, last month, the only certain way at present to verify a nuclear theft is a complete inventory of all nuclear materials at a facility.

This requires not only weighing the plutonium or uranium on hand, but also taking random samples of stored fuel to determine their fissionable content by laboratory analysis.

This, the researchers said, is time-consuming, expensive, intrusive and hampers normal plant operations. "All these difficulties have automatically led to a strong reservation on the part of facility operators and to a reduction in the frequency of physical inventory taking."

Nuclear facilities were said typically to permit no more than one or two complete inventories a year. But according to a training manual the IAEA has prepared for its safeguards inspectors, diverted plutonium or weapons-grade uranium can be converted to weapons in a matter of days, thus raising a question as to whether safeguard accounting procedures can provide timely warning of nuclear theft.

In many respects, ALKEM's fuel fabrication plant and storage bunker are typical of industrial plutonium plants that international inspectors will be monitoring in the future. One important difference, though is that the volume of plutonium it handles is much smaller than that of plants now on the drawing boards in several European countries.

ALKEM officials said the company expects to be able to account for at least 99 percent to 99.5 percent of the 400 kilograms of plutonium expected to pass through the plant each year. This, they acknowledged, means that the amount of "material unaccounted for," or MUF in nuclear jargon, could be as large as 4 kilograms in a year.

When a visitor noted that this was close to the amount needed for an atomic bomb, Stoll, the managing director, said he was convinced that the combined effect of security measures—such as the gamma locks at the entrance and statistical analyses of trends in the MUF—would make it possible to tell the difference between accounting errors, accidental losses and a theft before the missing amount added up to a bomb.

"What if? What if? Stoll said with a dismissive gesture. "One can play this game endlessly."

In Bonn, an official of the Ministry of Research and Technology, Wolfgang Schmidt-Kuster, summed up a view widely shared by the European and American nuclear industries:

"Recycling plutonium back into the reactor is the safest way of storing and disposing of plutonium."

American and some European arms control authorities strongly disagree. They would prefer that plutonium be left in the protection of intensely radioactive fuel rods and not separated out in pure form—at least not until international safeguards can be strengthened.

In marked contrast with German authorities, French and British officials refuse to discuss any details of plutonium security.

The subject, nevertheless, is becoming a topic of lively discussion in Britain, where critics have focused on two concerns: the difficulties of keeping plutonium out of the wrong hands and the possibility that doing so may require increasing government infringement of personal freedom.

Both problems were raised forcefully last fall in a broad critique of nuclear power published by a royal commission whose chairman, Sir Brian Flowers, is a director of the government's Atomic Energy Authority.

Observing that plutonium appears to pose "unique and terrifying potential for threat and blackmail against society," the Flowers report, as the critique has come to be known, said that necessary security measures may entail wiretaps, informers, the opening of mail and probing of bank accounts, all in "secret surveillance of members of the public and possibly of employes who may make 'undesirable' contacts."

"We regard such activities as highly likely and indeed inevitable," the commission said.

Nuclear industry authorities in Europe and the United States, pointing to security measures that already surround nuclear weapons programs, tend to dismiss such fears as exaggerated.

They are not, however, hypothetical. Or so the case of Klaus Robert Traube suggests.

One of West Germany's most prominent nuclear researchers, Traube, in February, 1976, was quietly dismissed from his job as manager of plutonium breeder reactor research at the Interatom Co. after German intelligence authorities told the firm they suspected him of associating with international terrorists.

According to a recent article in the news magazine Der Spiegel that disclosed the episode, German security agents broke into Traube's home illegally without a court order on New Year's Day in 1976 and planted a listening device in his desk.

Government officials, in confirming essential details of the magazine's story, said the bugging was justified by fear that Traube might provide terrorists with blueprints to power plants and other nuclear facilities.

His former employer, Interatom, is a subsidiary of Kraftwerk Union, West Germany's leading vendor of nuclear power plants and the principal shareholder in ALKEM, the plutonium fuel company.

Government officials have also said that an earlier tap on Traube's telephone revealed an asociation with Inge Hornischer, a Communist lawyer retained by jailed members of terrorist organizations.

Through her, the government said, Traube struck up a friendship with Hans-Joachim Klein in the summer of 1975.

That December, Klein turned up as one of six terrorists who shot their way into the Vienna headquarters of the Organization of Petroleum Exporting Countries, killed three persons, and kidnaped more than 30 hostages, including several oil ministers.

After disclosure of the wiretap and bugging two months ago, Traube acknowledged knowing Hornischer and Klein but denied any wrongdoing and demanded an apology from the government.

West German Interior Minister Werner Maihofer has since said that Traube is no longer under suspicion. Though he has exonerated, Traube has not been rehired.

It might be argued that he exercised poor judgment in picking his friends and that German security agencies were acting out of prudence. But the episode lends a measure of prophecy to concerns expressed a year ago by Britain's royal commission.

"What is most to be feared," its report said in discussing nuclear security and civil liberties, "is an insidious growth in surveillance in response to a growing threat as the amount of plutonium in existence, and familiarity with its properties, increases."

Next: the problem of nuclear waste disposal.

THE JUNE ANNIVERSARIES IN LITHUANIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. DERWINSKI. Mr. Speaker, earlier this month, I inserted into the RECORD a statement commemorating the tragic suffering of the Baltic peoples in June 1940, when the Soviet Armies occupied Lithuania, Latvia, and Estonia.

Today, I would like to insert an additional editorial from the June edition of the ELTA Bulletin, published by the Information Service of the Supreme Committee for Liberation of Lithuania, which I feel merits the Member's attention:

THE JUNE ANNIVERSARIES IN LITHUANIA

Students of history usually associate the phrase "June Days" with the bloody events in Paris during the Revolution of 1848. Since 1940, however, "June Days" has acquired another meaning in the East European context. For Lithuanians, especially, the phrase evokes a destruction and a loss much greater than the people of Paris could have imagined 120 years ago.

It was on June 15, 1940, that the Red Army assaulted Lithuania and extinguished the nation's freedom and independence. One year later, on June 14–20, 1941, the Soviets resorted to mass terror in the occupied country. Some 5000 Lithuanians were murdered, while 35,000 men, women and children were deported to Siberia. Mass deportations continued into the early 1950's and, coupled with terror inside Lithuania, claimed some 400,000 victims. The Gulag Archipelago became a mass cemetery for the Lithuanian people.

Deportations and terror have been reduced in scale but not in kind since those early June days. As the Lithuanian underground periodical Aušra (No. 5, February 16, 1977), described in this issue, puts it:

"Arrests, trials began, the glorious past of the nation was ignored, its cultural values destroyed . . . 500,000 Lithuanian freedom fighters as well as their supporters perished during the armed national resistence. . . . Physical genocide, as during the period since the beginning of the occupation until Stalin's death, is impossible today. . . . However, Moscow's plan remains the same: to russify the Lithuanian nation, to melt it in the colorless sea of colonists, to displace its language, ethics, to level its customs and culture. . . ."

Soviet prisons and labor camps are today filled with Lithuanians who are trying to defend their culture and religion. A mere attempt to exercise the rights guaranteed by the Universal Declaration of Human Rights or by the Helsinki Accords brings intense Discrimination at best, Gulag at worst. Even folkloristic or ethnographic activities bring down a swarm of K.G.B. men.

This year, the Lithuanian June anniversaries coincide with the international meeting in Belgrade, a follow-up to the Helsinki Conference. Between Helsinki and Belgrade, the Soviet Union has been constantly invoking "non-interference into the internal affairs" in an attempt to ward off any investigation of Moscow's massive violation of human rights in Lithuania and elsewhere. Lithuanians at home and abroad expect that the Western Powers, notably the United States, will raise the issue of constant Soviet interference into the internal affairs of the countries of East Europe. To do less would mean condoning the Soviet double standard on human rights and on national sovereignty.

MEDICARE IN RURAL AMERICA

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. RUPPE. Mr. Speaker, under medicare, payment for a physician's service is based on what is determined to be a reasonable charge for the service provided. However, medicare's definition of reasonable charge discriminates against physicians serving in rural areas and acts as a very real disincentive to quality medical care in rural America.

For example, in my State of Michigan, a doctor in an urban area is reimbursed for an initial office visit based on a $25 fee while in rural Michigan that same visit is reimbursed based on a $10 fee. Reasonable, it seems, is defined not on the actual cost to provide the service but is determined strictly by locality. Equally trained, equally competent physicians are not paid on the basis of training, knowledge, experience, or ability, but solely on the criteria of where they live.

This discriminatory reimbursement policy has traditionally been defended on the grounds that the cost of living is greater in an urban area and because of the myth that the cost of running a medical practice is greater in Detroit than in northern Michigan. Recent studies refute this however: costs are closely parallel in all parts of the State.

Reinforcing irrational urban-rural, regional, and specialty differentials has several unfortunate consequences. First of all, it encourages an already alarming doctor shortage. In northern Michigan there is 1 physician for every 1,267 persons in contrast to the State average of 1 physician for every 782 persons.

Furthermore, because the medicare reimbursement is inadequate, fewer and fewer doctors are accepting it as their full fee. The result is that beneficiaries—the elderly, those on limited incomes—are forced to pay the sometimes substantial difference between the medicare-mandated "reasonable charge" and the actual charge of the physician.

The legislation I am introducing today accomplishes several things. First or all it establishes a simplified method of reimbursement for physician services for each State on the basis of a uniform fee schedule. Second, it encourages doctors to accept the medicare payment as the full charge by authorizing reimbursement to participating physicians in the full fee schedule amounts and by providing for a simplified multiple-billing procedure.

Equalizing statewide reimbursement for physician services under medicare is a wise and necessary step toward insuring quality medical care in rural America. Rural health care problems are serious, demand our attention, and should not bear the burden of discriminatory reimbursement rates.

VOCATIONAL INTERN SPEAKS

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. PRESSLER. Mr. Speaker, during my first term in Congress I attempted to bring a vocational education student into my Washington office under the LBJ internship program. I inquired into the eligibility of such students and learned that vocational institutions are not considered "institutions of higher learning" and therefore, vocational education students could not qualify for internships under the program.

Discrimination against vocational education students in our society must stop and Congress should be the first to set an example. In an effort to provide equal status to vocational students in the internship program I have introduced an amendment which would provide the same opportunity to postsecondary vocational students as their college counterparts to learn about their Government.

Last year I initiated my own program, utilizing a vocational education student intern in my Washington office during the summer. This year, Mary Hansen from the Lake Area Vocational-Technical Institute in Watertown, S. Dak., was chosen to work in my office. She has written an article on her experience as a vocational education intern which I would like to bring to the attention of my colleagues:

During the past month I have been working in Congressman Larry Pressler's office. In South Dakota I have been studying at Lake Area Vocational Technical Institute to be a Medical Assistant and I am thankful that the South Dakota Advisory Council on Vocational Education provided the money to enable me to have a chance to visit the Nation's Capitol.

Even though I am not a college student, the knowledge I have gained here is invaluable. Vocational Education strives to give a definite meaning to students by relating training to specific occupational goals. It is unique in that it develops abilities, understanding attitudes, work habits, and appreciations which contribute to a fulfilling and productive life. My experience in Congressman Pressler's office provided me with an

appreciation of how a well-organized office runs. My month also gave me first hand experience working with other people, taking orders, and running office machines I otherwise probably would have not have gotten training on.

The Vocational Education Act of 1963 assisted states "so that persons of all ages in all communities of the State . . . will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training." It is my opinion that all Vocational-Technical students can highly profit from time spent at the Nation's Capitol, and I hope my coworkers in Congressman Pressler's office feel that I contributed my part.

As a citizen, I was enlightened as to how the legislative branch of our government operates. People often complain that "nothing is being done in Congress." My month here has shown me just how well the system operates and that our Congress really does quite well considering all the functions that it performs.

In closing, I would like to thank Congressman Pressler and his staff for having me in their office. They provided me with a chance to learn, see, and do many things which I probably would otherwise not have had an opportunity to do so.

THE CLINCH RIVER BREEDER REACTOR IS A NECESSITY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. TEAGUE. Mr. Speaker, in an effort to list the most frequently stated misunderstandings concerning the Clinch River Breeder, I have summarized this factual response which can be verified by consultation with unbiased scientists and engineers experienced in nuclear engineering.

From the New York Times, June 16, 1977. editorial page, I quote:

Plutonium, unlike uranium reactor fuel, can be used to make nuclear bombs. Anyone with a breeder reactor and a reprocessing facility, or merely the ingenuity to steal plutonium could produce nuclear weapons."

The facts, presented by the Office of Technology Assessment are that,

Low technology devices can be fabricated from any fissile material that has sufficient concentrations of uranium 235, uranium 233 or plutonium.

Furthermore, according to the Office of Technology Assessment,

With respect to radioactivity and handling characteristics, uranium 235 clearly offers the least difficulty. Uranium 233 is considerably more radioactive, and this problem is compounded by a small impurity content of uranium 232, which decays through a long chain to thallium-208, which emits penetrating and intense gamma radiation. Finally, causes plutonium dust to be very toxic when plutonium presents serious handling problems principally because its alpha radiation inhaled.

Knowledgeable people are needed to handle plutonium in special facilities in order to assure its safe application.

The administration and some Members of Congress, clearly want to scuttle Clinch River. The basic retort that opponents use is the Clinch River would foster the spread of nuclear weapons. I therefore, will now turn to the press. Not for technical assessment, but for news. I have attached two articles from the Philadelphia Inquirer for your review. In reading these articles I ask you to consider two points:

First, since uranium can be used to make weapons who now has the stolen cargo of uranium and is not this proliferation? Has not the potential to divert uranium for weapons production not existed for many years?

[From The Philadelphia Inquirer, May 22, 1977]

LOST URANIUM SHOWS ATOMIC SECURITY GAP

(By William Drozdiak)

BRUSSELS.—On the fog-shrouded dawn of Nov. 17, 1968, the West German freighter Scheersberg chugged out of Antwerp harbor bound for Genoa with 560 drums of uranium oxide in its hold. The boat never reached its planned destination, but docked 16 days later in a Turkish port, shorn of its sensitive cargo.

The story of the missing uranium was confirmed recently by European Economic Community officials, but it still remains an enigma.

Despite Israeli denials, the most common conjecture is that the 200 tons of uranium turned up in Israel for use at its nuclear-power facilities in Dimona. But how the shipment got there, if it ever did, still baffles European security experts.

Rome sources say that the ore—enough to make 30 nuclear bombs—was hijacked in the Mediterranean and rerouted to Israel's port, Haifa. Other experts, however, point to clues that could indicate that the cargo was secretly intended for Israel all along.

Yet another guess postulates that the uranium ended up in the hands of Palestinian terrorists.

A number of puzzling questions also have surfaced concerning the original transaction behind the uranium shipment.

Asmara Chimie, a West German petrochemical company, purchased the uranium oxide from the Brussels-based Societe Generale des Minerals for $3.7 million in March 1968. The ore had been mined in Zaire's Shaba Province.

The sale license stipulated that the cargo was solely intended for "non-nuclear purposes," according to company officials. Under terms of the contract, Asmara would send it to its Milan-based partner, SAICA, to process for use as catalysts in the petrochemical industry.

Three days after the Scheersberg left Antwerp, Asmara cancelled its deal with SAICA (which subsequently received $30,000 from Asmara as compensation). Thirteen days later, the ship showed up in Iskendrum, Turkey, minus the ore, and, with a different crew.

The failure to track the lost uranium shipment has riveted attention on the need for strict policing in the transport of nuclear materials in Europe. The security services of Euratom, the European nuclear development agency, and those of the nations involved were not only helpless in preventing the alleged theft but also unable to find out where the uranium went.

Moreover, none of the investigating terms ever determined the full involvement of the various companies in the uranium deal. Euratom officials admit that Asmara's role was never explained satisfactorily.

How the uranium actually vanished also remains open to speculation. One guess is that the cargo was heisted from the Scheersberg in a mid-sea holdup. A more plausible theory, one Euratom official says, is that the ship was simply diverted to a Middle Eastern port and stripped of its uranium load before being sent back to sea.

Since the ship's original crew has not been traced, no witnesses have ever been produced.

Second, how does U.S. support for a nuclear plant in Communist Yugoslavia illustrate our concern in preventing proliferation?

[From the Philadelphia Inquirer, May 22, 1977]

MONDALE PROMISES TITO AID FOR NUCLEAR PLANT

BELGRADE.—Vice President Walter F. Mondale said yesterday that the United States had approved plans for an American firm to complete work on Communist Yugoslavia's first nuclear power plant.

The announcement, made during Mondale's talks with President Tito, appeared to clear a major stumbling block in relations between the two countries.

It will allow Westinghouse to go ahead with plans to equip and fuel the 632-megawatt plant at Krsko, which originally was slated for completion in 1979.

Work was delayed after the U.S. government ordered a halt in the delivery of vital parts, demanding that Yugoslavia provide additional guarantees that the plant would not be used to make nuclear weapons. Yugoslavia refused, and the matter appeared at an impasse.

Tito, head of the Communist Party in Yugoslavia, has followed a strategy of nonalignment, treading a careful path between the East and West.

Officials said the leaders were expected to discuss the situations in southern Africa, the Middle East and the Mediterranean and East-West detente.

Mondale had met with South African Prime Minister John Vorster in Vienna for two days. He is to leave today for London, winding up his 10-day five-nation European tour.

Mr. Speaker, the Committee on Science and Technology is deeply concerned about proliferation. Many of my colleagues and I want to do something constructive about it. We want to demonstrate nuclear antiproliferation safeguard system at Clinch River. While the administration talks about thorium, we want to demonstrate its feasibility at Clinch River. Proliferation has been with us since World War II. On May 25, 1945 Canadian scientists became upset when denied data on plutonium chemistry. The United States then agreed to send a limited amount of irradiated uranium to Canada so that they could develop methods for plutonium separation and purification.

I am vitally interested in preventing proliferation. This subject is extremely complex and will require the combined effort of the administration and Congress to determine the most effective antiproliferation measures. The Clinch River Breeder Reactor is only one facility that I want to see used for this purpose.

The administration and some Members of Congress claim that the proliferation issue is directly related to Clinch River. Terminating Clinch River in their eyes means no proliferation. The Experimental Breeder Reactor, a small reactor in Idaho, has been producing plutonium for 14 years. While it is presently being used as a converter, it has

and can still be operated as a breeder. The "N" Production Reactor in Washington State which is approaching obsolescence is much larger than Clinch River. It is a plutonium producer for military purposes. It produces heat rated at 4000 MW thermal and it even produces commercial electrical power up to 800 MW. It has been in operation since 1963. The modern breeder reactor, Clinch River, is needed to demonstrate the technical performance and economic performance of the design and construction of this latest generation of nuclear power systems.

The Clinch River Breeder Reactor is a necessity because we need clean energy at a price Americans can afford. All Members are urged to support Clinch River, an important step in demonstrating the next generation of nuclear power systems.

H.R. 7993 TO HELP RELIEVE DOCTOR SHORTAGE IN THE MILITARY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. CARTER. Mr. Speaker, last Thursday, I introduced legislation, H.R. 7993, to reinstate the tax-exempt status for amounts received by individuals under the Public Health Service/National Health Service Corps and Armed Forces Health Professions Scholarship programs. As I stated, in the extension of remarks on June 23, this legislation is needed to help assure that the public service objectives of these programs are realized. Taxation of these funds could seriously undermine the attractiveness of these scholarship programs to future health professions students. In a June 25 letter to the Washington Post, a Georgetown medical student urged support for legislation to restore the tax-exempt status as a means of relieving the doctor shortage in our Nation's military. I am inserting a copy of his letter in the RECORD, and I hope that my distinguished colleagues will give this matter careful consideration:

HOW NOT TO DEAL WITH THE PHYSICIAN SHORTAGE

Although the military is facing the worst shortage of physicians in its history, the only "preferred" solutions cited in a front-page article of the June 7 Washington Post were "bonuses" to military physicians and "tax-free scholarships" to medical students. The former is clearly ineffective since doctors are leaving the armed forces at an alarming rate. Moreover, the article was in error as the legislation providing tax-exempt status for the scholarships expired in 1976, so that all portions of the Armed Forces Health Professions Scholarship, the bulk of which is paid directly to the school to cover tuition and books, are considered taxable income.

With the recent climb in medical-school tuitions, some already above $10,000 a year, taxes alone on this "invisible" income may exceed the only part of the award actually paid directly to the student, a monthly stipend for living expenses. The loss of the stipend in taxes makes medical school unaffordable for some scholarship recipients, despite their willingness to practice in the Armed Forces after graduating in exchange for the support received during their education. Other students, deciding between the military scholarships and educational-loan programs as the primary means to finance their training, are unquestionably swayed to the latter by the loss of the scholarships' tax-exempt status. A concomittant increase in the availability of such educational loans, provided by the 1976 Health Manpower Act, will further divert students from selecting the enlistment option. Together, these two recent developments severely compromise the Armed Forces Scholarship Program, currently the most important source of young physicians entering the military.

In view of the shortage highlighted in the June 7 article, it is incredible that no serious attempts were initiated on Capitol Hill to maintain the integrity of the scholarships when the laws protecting them from taxation expired last December. We hope that future congressional efforts aimed at relieving the shortage will include the support of proposed legislation, currently in the House, which seeks to return the scholarships' previous tax-exempt status. Failure to establish such legislation will certainly reduce the number of physicians entering the uniformed services, aggravating the shortage that is so rapidly becoming a major crisis.

MICHAEL O'LEARY,
Georgetown University School of Medicine, Class of 1980.
JAMES YORK,
Class of 1980.

Washington.

ENERGY TAX PROGRAM

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mrs. HOLT. Mr. Speaker, in its consideration of the energy tax program, H.R. 6831, the House Ways and Means Committee has adopted a provision that is both weird and outrageous. I refer to proposed repeal of the Federal income tax deduction for payment of State gasoline taxes.

In effect, the Ways and Means Committee has voted to place a tax on State transportation programs, including, in some States, the development of energy-saving mass transit services.

Even worse, however, it is another blow against the middle-income taxpayer, who is increasingly ravaged by inflation and taxation. First he is taxed by the State for development of transportation services, and now the Federal Government proposes to tax that same portion of his income which has already been taken by the State gasoline tax. This would be a grave injustice. It would be double taxation.

Mr. Speaker, until this time we have pursued a sane and just policy of allowing taxpayers to deduct the major State and local taxes from the Federal income tax base. Deductions are allowed for property taxes, sales taxes, income taxes, and gasoline taxes paid to the State and local governments.

It is easy to understand the reason for these deductions. The personal income taken by State and local taxes should not also be taxed by the Federal Government. This policy is especially important when we consider that States and localities provide nearly all the essentional services of government, while the Federal role in domestic affairs is to supplement those efforts.

It is extremely unfair and a bad precedent for the House Ways and Means Committee to propose eliminating the deduction for payment of State gasoline taxes.

RURAL POSTAL SERVICE PROTECTION ACT OF 1977

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mrs. SMITH of Nebraska. Mr. Speaker, I have recently introduced a bill, H.R. 8048, that I believe will be of great interest to my colleagues who have rural areas and small communities in their districts.

The bill is the Rural Postal Service Protection Act of 1977 and its goal is to prevent the rapid deterioration of mail services to rural areas.

As most of my colleagues know, the U.S. Postal Service—in the name of efficiency and savings—has been waging an intensive campaign to cut back on mail service in rural America. I believe this to be false economy and neglect of the Postal Service's mission to bring quality service to all portions of our country.

To combat this activity, H.R. 8048 would:

Mandate a public hearing and a vote by Postal Service patrons before any existing post office could be closed or rural route consolidated;

Require 6-day delivery service to towns under 100,000 in population and to rural areas;

Insure that each county seat of government has a post office, and

Require an accounting of all Postal Service funds spent on mail services to rural areas and small towns.

Our rural areas, which are oftentimes neglected when Federal services are provided, need some special protection to insure that one of the most vital Federal services—the mail—is not systematically phased out.

To a great extent, the Postal Service management in Washington, D.C., has been insensitive to the needs of rural America. That is why I believe legislation is needed to protect the interests of our farmers, ranchers, and small communities—which are the very heart of America.

So my colleagues and others interested in this important matter might become familiar with the provisions of H.R. 8048, the text of the bill follows:

H.R. 8048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 404 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The Postal Service may not—

"(A) close any post office which regularly serves 30 or more households in any rural area or small community or town; or

"(B) consolidate any existing rural route; unless households who are regularly served by such post office or rural route approve such closing or consolidation in accordance with paragraph (2) of this subsection.

"(2)(A) If the Postal Service proposes to close any post office which regularly serves 30 or more households in any rural area or small community or town, or consolidate or eliminate any existing rural route, the Postal Service shall—

"(i) post a public notice of such proposed action at least 90 days before such action takes effect;

"(ii) conduct a public hearing in the area affected by such action for the purpose of—

"(I) presenting information with respect to the proposed action;

"(II) explaining alternatives to the proposed action which may be taken by the Postal Service; and

"(III) affording interested persons an opportunity to present their views with respect to the proposed action; and

"(iii) conduct a balloting procedure in accordance with subparagraph (B) of this paragraph.

"(B) The Postal Service, before taking any proposed action referred to in subparagraph (A) of this paragraph, shall distribute ballots to households in the area affected by the proposed action. Each household shall be given an opportunity to return such ballot during the 10-day period immediately after the date upon which the ballot is received. The Postal Service may not carry out the proposed action unless at least two-thirds of the households returning ballots approve such action.".

(b)(1) Section 404(b)(1) of title 39, United States Code, is amended by inserting after "any post office" the following: "(other than a post office subject to subsection (c) of this section)".

(2) Section 404(b)(2) of title 39, United States Code, is amended by inserting after "a post office" the following: "(other than a post office subject to subsection (c) of this section)".

(3) Section 404(b)(3) of title 39, United States Code, is amended by inserting after "a post office" the following: "(other than a post office subject to subsection (c) of this section)".

(4) Section 404(b)(4) of title 39, United States Code, is amended by inserting after "a post office" the following: "(other than a post office subject to subsection (c) of this section)".

(5) The first sentence of section 404(b)(5) of title 39, United States Code, is amended by inserting after "post office" the following: "(other than a post office subject to subsection (c) of this section)".

SEC. 2. Section 1001 of title 39, United States Code, is amended by redesignating subsection (c) through subsection (e) as subsection (d) through subsection (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) The Postal Service shall appoint a postmaster to serve as the chief administrative officer of each separate postal facility called a post office established or maintained by the Postal Service. No person, other than a postmaster, may act as the chief administrative officer of any such post office."

SEC. 3. Section 2401 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of this title, the Postal Service shall not reduce the frequency of mail delivery service for any user of the mail residing in any rural area, or in any city or town with a population of less than 100,000, below the frequency of such service which is in effect for such user on March 15, 1977.

"(2) Notwithstanding any other provision of this title, the Postal Service shall not reduce the frequency of mail delivery service for any user of the mail residing in any city with a population of 100,000 or more unless the Postal Service submits a proposal relating to such reduction to the Postal Rate Commission in accordance with section 3661 of this title.

"(3) As used in this subsection, the term 'frequency of mail delivery service' means the number of days in any calendar week on which any delivery of mail is made by the Postal Service.".

SEC. 4. Section 2401(g) of title 39, United States Code, is amended—

(1) in paragraph (3) thereof, by striking out "and" at the end thereof;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a listing of the total expenditures and obligations incurred by the Postal Service in connection with providing postal services to rural areas and small communities and towns for the most recent fiscal year for which information is available, and an estimate of the total expenditures and obligations to be incurred by the Postal Service in connection with providing postal services to rural areas and small communities and towns during the fiscal year for which funds are requested to be appropriated; and".

SEC. 5. (a) Subchapter IV of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3663. Location of post offices

"The Postal Service shall take such action as may be necessary to assure that a post office is established and maintained in the seat of government of each county in any State. Any such post office shall not be subject to any closing or consolidation under section 404 of this title or under any other provision of this title.".

(b) The table of sections for subchapter IV of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"3663. Location of post offices.".

CONGRATULATIONS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. SOLARZ. Mr. Speaker, it was a well-deserved honor for you on May 22 when you received the honorary doctor of laws degree at the University of Notre Dame.

As you know, under the leadership of Deans Thomas L. Shaffer and David T. Link, the University of Notre Dame Law School has become one of the most respected law schools in the Nation, in terms of the scholarship of its faculty, the success of its alumni, and its continuing contribution to the advancement of the legal profession.

There are, Mr. Speaker, two law reviews published at Notre Dame Law School: Notre Dame Lawyer, which is properly respected for its studies in case law, and the Journal of Legislation, which specializes in law, legislation, and public policy and has become one of the most influential law reviews in the Nation in terms of its scholarship and its influence on public policy.

I am pleased to serve as a member of the board of advisers of Notre Dame Law School's Journal of Legislation, and to have been able to review legislative matters and questions of public policy with the journal's editors. I was very pleased to learn that Senator BIRCH BAYH of Indiana, and my respected colleague, Representative RONALD M. MOTTL of Ohio, have been elected to this board of advisers.

I rise, Mr. Speaker, in order to extend well-deserved congratulations on your having been awarded the doctor of laws degree at Notre Dame, and in order also to extend congratulations and best wishes to my colleagues, Senator BAYH and Representative MOTTL, on their election to the Notre Dame Journal of Legislation's board of advisers.

A PAY RAISE OR A PAY REDUCTION

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. STANTON. Mr. Speaker, earlier this year Members of Congress, Federal judges, and 23,000 Federal officials received a substantial pay raise.

My objection to the pay increase was based on the way it was manipulated by the Democrat leadership in such a manner that we had no opportunity to vote on the increase. My opposition took several forms. I testified before the Special Ad Hoc Subcommittee on Presidential Pay Recommendations and stated that I felt it was wrong to increase the salary of a public official who has been elected to a specific term for a specific salary. As in previous years, I have sponsored legislation that would delay a pay raise from taking effect until a general election has intervened between the time the raise is voted and the time that it is implemented. This requires the official to stand accountable for the salary increase along with other issues on election day. The Ohio State Constitution contains this provision and I think it should also be a part of Federal law.

After the pay raise took effect, I, personally, was responsible for adjusting the salary of five employees on the minority staff of our committee. The majority of these employees had had their salaries frozen for a number of years because their salary limit is determined in relationship to the salary paid to Members of Congress. One staff member had his salary frozen for 7 years. Another inequity that resulted from this freeze was the fact that we had the staff director, the assistant director, the chief counsel, and another employee all making the same salary. It was a poor way to run a ship.

On April 26 of this year, an amendment was offered to a legislative authorization bill to delete the amount of money for the pay increase for Congressmen only.

Mr. Speaker, I voted for this amendment.

Today, Mr. Speaker, we are faced with an entirely different situation and circumstance. We are asked to vote for an

amendment that would have the effect of reducing our own salary in October 1977, and reducing the salary of 23,000 Federal employees. (In this amendment, you cannot reduce one without the other.) Yes, after having a salary increase for 7 months thousands of employees would be returned to the salary they were making the first part of the year! Is this a vote on a pay raise or is it a vote on a pay reduction?

Mr. Speaker, I have thought about this vote for a long time and have reached the conclusion that I must vote against the amendment for the following reasons:

1. The amendment would reduce the salary of five men I know who have worked hard and faithfully for me these many months back to the salary they had at the beginning of the year. I know of no employer in the private sector in my Congressional District who would willingly make such a decision that is so contrary to honesty, decency and fairness.

2. The amendment would mean that for the first time in the history of our country there would be a different salary for Members of the House of Representatives and the United States Senate. The Constitution never meant for this to be the case. The Senate has already defeated such an amendment and our actions today will not change that.

3. There is a strong case for some increase in salary. I personally think the increase is too high. However, the increase is less than half the percentage of increase in the cost of living since 1969 (61%). It is also less than half the percentage of pay increase received since 1969 by blue collar workers (70%), civil service employees (66%), news reporters and broadcasters (over 80%) and business executives (60%).

4. Since the salary increase took effect, Congress has passed the strongest conflict of interest and full disclosure legislation ever imposed on a public body. In this legislation outside earned income is limited to 15% of one's salary. No other legislative body in the world that I know of has such stringent rules and regulations. I strongly supported this legislation. Without the salary adjustment, this law would not have passed.

Finally, Mr. Speaker, I will write to one and all of my good friends and constituents who want to know why I voted against the amendment and ask them the question: What would you have done in my place if you had given a long overdue pay raise for 7 months to 23,000 people and then been asked to reduce it?

WOMEN IN POLITICS

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mrs. BOGGS. Mr. Speaker, I would like to take a few minutes to share with my colleagues some ideas expressed this spring at a luncheon hosted by the American Newspaper Women's Club. The theme of the event was "Women in Politics" and the Congresswomen who attended made some observations about trends supporting the increasing participation of women in public service.

Today more young women, often with children, are involved in civic and political activities, contributing their considerable energy and talents to a wide variety of causes.

The American Newspaper Women's Club has long been making an important contribution to the effort to get women involved. By their example as competent and professional women, the members of the club are role models worthy of any young woman. Newspaper women have been especially helpful in writing and encouraging their editors to allot space to stories covering issues of importance to women. The strong presence of women in the press corps—here in Washington and throughout the country—insures that the public is becoming aware that American women are a vital resource to all professions, including that of politics.

By reporting on the successes of women in all professions, the members of the American Newspaper Women's Club give young women more confidence in their future and older women more pride in their considerable accomplishments.

As my distinguished colleague SHIRLEY PETTIS remarked to the club, there is an old saying "that while the cock may croweth, it is the hen that always delivers the goods."

CONGRESSIONAL MEDAL OF MERIT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. GILMAN. Mr. Speaker, it was my pleasure recently to award Congressional Medals of Merit to 34 outstanding high school seniors from throughout the 26th Congressional District.

The Congressional Medal, which is awarded to students on the basis of outstanding citizenship, was presented individually during the schools' honors assemblies and graduations, marking the end of the academic year. Each school participating in the Medal of Merit program nominated as their recipient, an outstanding graduating senior who made some notable contribution to his or her school and community. The congressional award consists of a medal and a Congressional Certificate of Merit.

Mr. Speaker, I call to the attention of my colleagues the remarkable accomplishments of the following list of young people to whom the Congressional Medal of Merit was presented in the interest of good government and community service for having demonstrated capabilities in both community and school life while maintaining a high scholastic record:

Peter Whitfield—Albertus Magnus High School.

Rivka Kahan—Bais Yaakova High School of Spring Valley.

Dennis F. Giza—John S. Burke Catholic High School.

John Battiato—Chester High School.

Perri Schwimmer—Clarkstown High School North.

William Bracco—Clarkstown Senior High School South.

Karen Lugg—Cornwall Central High School.

Mark Ernest Thompson—Goshen Central High School.

Kim Kozaczek—Malboro Central High School.

Sally Fellenzer—Middletown High School.

Robin Hassenmeyer—Minisink Valley High School.

Joseph Frandino—Monroe-Woodbury Senior High School.

Debra Ann O'Connell—Mount Saint Mary High School.

Michael Roth—Nanuet Senior High School.

Peter A. Lowry—Newburgh Free Academy.

William Charles Nocera—North Rockland High School.

Mary Grogan—Nyack High School.

Jonathan Todd Harris—James I. O'Neill High School.

Stacy Saetta—Pearl River High School.

Robert James Orr III—Pine Bush Central High School.

David Farace—Port Jervis High School.

Timothy Haines—Ramapo Senior High School.

Mary Ellen D'Andrea—Rosary Academy.

Dorren Thompson—S. S. Seward Institute.

Regina L. Phillips—Spring Valley Senior High School.

Rita Ann Collins—St. Mary's Villa Academy.

Gabriel Hieronymi—Suffern High School.

David Gonzales—Sugar Loaf Union Free School.

James C. Torres II—Tappan Zee High School.

Teresa Brennan—Tuxedo High School.

Nicholas F. Fowler—Valley Central High School.

Kevin Geiger—Wallkill High School.

Richard H. Scheuermann—Warwick Valley High School.

James Scot Tarvin—Washingtonville High School.

PAY RAISE

HON. BILL LEE EVANS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. EVANS of Georgia. Mr. Speaker, in the course of public conduct it is sometimes necessary for a public official to explain his action on matters of great public interest.

Several months ago, Members of Congress, among many other Federal employees including judges, received a pay increase. I tried to get the matter brought before the Congress for a public vote and publicly stated that I would oppose the increase.

However, since that time the House adopted a strict code of ethics which I cosponsored and totally supported. The ethics bill included a provision limiting outside earned income for Members of Congress to 15 percent above the salary.

In view of this limitation, I feel that a rollback of salaries at this point would work a great hardship on Members of Congress and would be unjustified. Primarily because of the increase in pay and because serving in the Congress is a full-time job I supported the ethics bill.

I do not feel that deletion of the funds from the Legislative Appropriations bill to continue at the present level, salaries for Members of Congress, the Vice President, the White House, and other executive branch officials is proper and I oppose the amendment seeking to accomplish this action.

NEW YORK TIMES REVIEWS MR. EILBERG'S GRAND JURY REFORM

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. ROSENTHAL. Mr. Speaker, on Sunday, June 26, the New York Times provided a comprehensive review of efforts underway in Congress to reform the the Federal grand jury system.

The Times focused on three areas: The provisions of a bill introduced by our colleague from Pennsylvania (Mr. EILBERG), the Grand Jury Reform Act of 1977, H.R. 94; the control of grand juries by prosecutors; and current activity in California, one of 29 States which proceeds in criminal cases without using a grand jury.

Because I believe this article is a thoughtful analysis, I commend it to the attention of my colleagues:

THE GRAND JURY UNDER EXAMINATION; IT HAS FALLEN ON HARD TIMES

NOTE.—The grand jury—a panel of citizens empowered, and in Federal law and that of 21 states solely empowered, to bring criminal indictments—has recently fallen if not into disrepute at least into controversy. In New York, for example, a number of indictments voted by grand juries advised by former special prosecutor Maurice H. Nadjari have been dismissed for causes including insufficient or illegally obtained evidence and improperly presented cases. Federal prosecutors have allegedly used grand juries to harass radical causes.

A bill introduced in Congress by Representative Joshua Eilberg, Democrat of Pennsylvania, is due for subcommittee hearings this week. The bill would reform Federal practice in several ways—for example, by permitting witnesses to have lawyers in the grand jury room and by providing review of indictments by a judge before trial. Similar reforms are proposed in New York, where a new law that went into effect last week now requires grand jurors, who were formerly volunteers, to be picked from the same pool as trial jurors.

(The articles on this page examine three areas of current concern; the more or less complete prosecutorial control of the grand jury; a number of the reforms now contemplated by state and Federal legislators; and the manner of bringing criminal charges in California, one of the 29 states that have found it possible to proceed in criminal cases without using the grand jury.)

MR. EILBERG'S BILL CALLS FOR REFORM IN THE FEDERAL PRACTICE

(By Tom Goldstein)

Since the grand jury was imported to this country from England during the Colonial era, an intricate and sophisticated body of law has developed that attempts to balance the interest of individual freedom with the interest of the state in uncovering criminal activity. In the last few years, critics of the grand jury contend that the balance has tipped against the individual, and dozens of proposals to change the grand jury have been made. The following represents some of the issues presented in Congressman Eilberg's bill and in other legislation introduced in Congress and state legislatures:

Protecting the witness

At the urging of the Nixon Administration, Congress in 1970 narrowed the Federal immunity law. That law, which was immediately copied by half the states, grants a grand jury witness "use" immunity—the witness may be compelled to testify but his compelled testimony may not be used against him in a criminal proceeding.

A year later, New York enacted a "transactional" immunity statute that is broader than the Federal one. Efforts to adopt a similar law on the Federal level are now under way. Under "transactional" immunity, a witness who is compelled to testify may not subsequently be prosecuted—even upon totally independent evidence—for any transaction mentioned in his testimony.

Many prosecutors feel that "transactional" immunity leaves open the possibility that a heinous crime could go unpunished because, during grand jury testimony, a witness who was the perpetrator gave peripheral evidence concerning it. Opponents of "use" immunity argue that it leaves a witness excessively exposed to further prosecution. New witnesses may be found and new information may be gathered as a result of the witness's own testimony before the grand jury.

Allowing lawyers inside

In Federal courts and in most states, lawyers are excluded from the grand jury room. But a lawyer can remain outside the door, and his client can excuse himself from the proceeding to confer with him. Most prosecutors want it that way. Otherwise, they argue, there would be too much opportunity for obstruction and delay.

Defense lawyers want in. They feel it makes little sense to have a witness traveling in and out of the grand jury room. The mere presence of a lawyer, they say, would curb improper questioning by a prosecutor.

Replacing the prosecutor

A variety of proposals would replace or supplement the prosecutor as legal adviser to a grand jury. Instead, there would be an independent office of the grand jury counsel to instruct the grand jury on the law and pass on the admissibility of evidence and competency of witnesses.

Proponents of such an office say that it is unfair to allow the prosecutor to control all the legal information received by a grand jury, especially since the grand jury should be at liberty to disobey a prosecutor's wishes. Opponents say there is no guarantee that the advice of this impartial counsel will be any better than a prosecutor's or that he will be any less likely to abuse his office.

Guarding against leaks

Grand jury proceeding are secret, but periodically there have been unauthorized disclosures. The news that someone is a target of a grand jury investigation—especially if he is never indicted—can be devastating to his reputation.

Some states make it unlawful for anyone but witnesses and lawyers to reveal what has taken place in the grand jury; in Federal court, leaking of information by prosecutors, stenographers or grand jurors is punishable by contempt of court.

Only rarely has anyone been punished for grand jury leaks, and in order to deter them there have been several proposals to stiffen the penalties. But many prosecutors say that the difficulty in investigating and prosecuting violations of secrecy is unrelated to the severity of the penalties imposed. The principal reason, they say, is that the investigation inevitably collides with the protection of a free press guaranteed by the First Amendment.

Since it is not unknown for an errant prosecutor to do the leaking himself, there have been propcsals to empower the court to appoint special independent prosecutors to investigate the leaks.

Screening indictments

With the current emphasis on prosecutorial abuse, proposals for greater judicial oversight of grand juries have emerged. One suggestion would have a judge—but not the judge who empaneled the grand jury—screen all indictments before they are filed. If the judge found insufficient evidence or improper procedures used in the grand jury, the indictment would be dismissed before it was made public, thus sparing the defendant publicity that might damage his reputation.

But most prosecutors feel this would unnecessarily encumber the proceedings. There are not enough grand jury reporters and typists to transcribe all the minutes and not enough judges to review all the proceedings, they say. Moreover, they argue, only a minuscule—though highly publicized—number of indictments are dismissed for legal insufficiency.

Changing the grand jury size

No one is quite sure how the number developed, but from its origins in England a grand jury has consisted of 23 citizens. That number has been carried over to Federal courts and to many state courts. Twelve votes are required to return an indictment, and 16 jurors make up a quorum.

There are those who argue that the current size is more a matter of historic precedent than necessity. They feel that reducing a grand jury's size would be economical and would focus greater responsibility on individual grand jurors. Opponents of this change feel it would make it harder to obtain a quorum and inhibit the expression of divergent views on the jury.

THE PROSECUTOR SEEMS TO HAVE TAKEN OVER

(By Marvin E. Frankel and Gary P. Naftalis)

The notion of the grand jury as a shield for the innocent—presumably at the heart of the reasons for its inclusion in the Bill of Rights—is continually echoed in judicial opinions. Relatively recently the Supreme Court stated:

"Historically [the grand jury] has been regarded as a primary security to the innocent against hasty, malicious and oppressive persecution; it serves the invaluable function in our society of standing between the accuser and the accused . . . to determine whether a charge is founded upon reason or was dictated by an intimidating power or by malice and personal ill will."

Apt as that description may have seemed for the People's Panel in the 18th century, it certainly is not much realized in practice in the 20th. Day in and day out, the grand jury affirms what the prosecutor calls upon it to affirm—investigating as it is led, ignoring what it is never advised to notice, failing to indict or indicting as the prosecutor "submits" that it should. Not surprisingly, the somewhat technical, somewhat complex, occasionally arcane language of indictments is drafted by the prosecutor and handed to the grand jury foreman or forelady for the necessary signature, which is almost invariably affixed. As Federal judge William J. Campbell points out: "Today, the grand jury is the total captive of the prosecutor who, if he is candid, will concede that he can indict anybody, at any time, for almost anything, before any grand jury."

It could not more than rarely be otherwise. In a busy, densely populated, elaborately organized society—where crime is rife, criminals are tough, many wrongs are mysterious and concealed from laymen—law enforcement is inescapably for professionals. The very notion of the grand jury as beneficent for a free society would be subverted by a band of amateurs engaged in sleuthing, summoning, indicting, or not indicting as their "independent" and untutored judgment might dictate. Privacy, security, and reputation would be in steady jeopardy. Sophisticated criminals would be safe; innocent citizens would be less safe.

Those the grand jury "refuses" to indict are likely to be people the prosecution does not want indicted. Many of the cases ending

with a "no true bill" are actually instances where a prosecutor feels the need for such backing to support his own view that further proceedings should not be held.

There is nothing necessarily sinister in this. On the contrary, some cases in which a "crime" has literally been committed—the youthful seducer of a female legally too young to consent; the impulsive, seemingly one-time shoplifter—are for one reason or another difficult for the law-trained official to overlook. The grand jury's dispensing power, kin to the power of a trial jury to acquit the technically "guilty," supplies some needed play in the joints of a system not always supple. But saving graces of this sort do not alter the fact that the grand jury rarely stands in the path of a prosecutor determined to indict. Perhaps it is not realistic to hope for anything sharply different. Indeed, few reformers urge the serious pursuit of this theoretical function.

On the other hand, there is active dissatisfaction that the grand jury seldom does *more* than the prosecutor asks. It is possible that Watergate, at least temporarily, has added impetus to this sentiment. Rightly or wrongly, it was thought that the Washington grand jury was not being led to sweep broadly or dig deeply in the months before the first trial at which Judge John J. Sirica presided. It appeared to at least some observers that if not for the unusual circumstance of the judge himself insisting upon more intensive inquiries, profound misdeeds might never have come to be prosecuted.

Though they seldom occur, perplexing and dramatic cases sometimes arise when the several main participants—prosecutor, grand jury, and judge—disagree about whether a prosecution should properly be instituted or dropped. The grand jury has an absolute veto over whether to indict. Does the same apply to the prosecutor? So-called runaway grand juries in state courts have succeeded from time to time in bringing prosecutions without the aid, or even over the opposition, of the regularly designated prosecutor.

So, too, special prosecutors have been appointed where the regularly elected or appointed officials have failed to act. The corrupt political machine of Boss Tweed in New York City was successfully pursued by a grand jury that acted independently of, and in spite of, the district attorney. Some 50 years later, Thomas E. Dewey was appointed special prosecutor in New York City because of the seeming nonfeasance of the regularly elected district attorney.

Such unusual cases characteristically involve matters of bitter conflict in the community. Like most "hard" or "great" cases, they tend to make somewhat special, unique, or possibly "bad" law. In any event, state courts remain unclear, and perhaps are shifting even now, on whether judges have the power to appoint special prosecutors to pursue cases the grand jury, but not the regular prosecutor, deems appropriate.

In the Federal picture, the court-appointed special prosecutor has been substantially unknown. In recent times, a Federal rule of criminal procedure has required that an indictment be "signed by the attorney for the government." This sounds like an inescapable and unambiguous barrier to the grand jury's proceeding without that attorney. But people learned in the law have seen means of escaping and possibly overriding barriers that appear insurmountable at first. While the barriers here still stand, the debate may not be over.

On occasion, judges have tried to intervene and prevent prosecutors from dropping cases. But the practical upshot of recent Federal court decisions seems to be that prosecutors can end prosecutions substantially without judicial interference—unless some plain impropriety or dereliction is discovered. The reservation stands as a cautionary sign, a warning that there may always be a demand for an explanation and an exposure of the prosecutorial decision to public view. But the usual response of a judge to a prosecutor's decision to withdraw an indictment is likely to be relatively unquestioning acquiescence.

In the foreseeable future there will probably be few run-away grand juries and few instances of interference by judges with the prosecutor's plenary control over decisions to begin or withdraw criminal cases. The exceptions will probably arise in situations of uncommonly deep and bitter conflict—where alignments are not predictable and it is not possible to know in advance whose will be the voices of the good or bad guys.

For that among a host of reasons, the precise lines of grand jury and prosecutor authority may never be drawn with finality. The uncertainty has to date been reasonably tolerable. It may even be healthful for the pertinent law to stay a little loose and incomplete, rather than try to freeze an unknown future too hard too far in advance.

CALIFORNIA HAS LEARNED TO SIDESTEP THE SYSTEM

(By Robert Lindsey)

LOS ANGELES.—Almost 20,000 felony cases will be prosecuted in the Superior Court of Los Angeles County this year. But only about 50—one in 400—will be heard by a grand jury. For the vast majority, this is the procedure followed in Los Angeles County and the 57 other counties in California:

Within 48 hours of a defendant's arrest on a felony, he must be arraigned before a municipal court judge, who will schedule what is called a "preliminary hearing" for him, usually within a week of his arrest. The defendant may or may not be released on bail.

At the preliminary hearing, the defendant's lawyer is present. The district attorney is required to bring a complaint against the defendant, producing evidence sufficient to convince a municipal court judge that a crime has been committed, and that there is reason to believe the accused person committed it and should stand trial in superior court.

At the hearing, the defendant may question witnesses and challenge the substance and legality of the evidence—whether it was seized unlawfully, for example. On occasion, judges dismiss cases as too weak during these preliminary hearings. But in practice, most prosecutors present enough evidence to persuade a judge. And most judges appear to give the prosecution the benefit of the doubt in determining whether there is sufficient cause to believe the accused should stand trial.

Nevertheless, defendants under this system appear to have an edge over those processed by grand jury. "There are tremendous advantages," Kenneth Kahn, a Los Angeles criminal lawyer observed. "It lets the defense in on the ground floor. You can cross-examine witnesses, you see the evidence they have against you, and only legally admissible evidence is permitted. In a grand jury, they can use all kinds of garbage as evidence, and the grand jury becomes simply a rubber stamp for the prosecution."

Once the accused person has been bound over to face trial in the Superior Court, which handles felony trials, the district attorney must file a document that legally is the equivalent of a bill of indictment—a list of allegations called an "information." Based on these allegations, the defendant is arraigned in Superior Court, enters a plea, and the trial process begins.

What about the other 50 cases a year? In California, because of statutes and tradition reaching back to the Gold Rush era more than a century ago, grand juries spend most of their time not as prosecutorial organs indicting accused criminals, but as community watchdogs to review the operations of county government and attempt to uncover inefficiency, waste and corruption. Only in a small fraction of felony cases do they indict the alleged criminals.

But the district attorney has the option to bring cases to trial through a grand jury if he chooses. According to Joseph Siler, the legal adviser to the Los Angeles County grand jury, the jury here generally becomes involved in criminal cases only in the following categories:

Major frauds and other complex white-collar crimes involving expensive documents or bookkeeping records, many suspects and many lawyers, or other complicating factors that make presentation of allegations difficult or cumbersome at a preliminary hearing.;

Crimes alleged to have been committed by public officials or policemen.

Cases in which the prosecution wants to keep an investigation secret, usually to protect witnesses who might be fearful of their safety, where there are still some suspects at large and it is deemed necessary to keep the prosecution secret. Major organized crime cases usually fall in this category.

Cases involving prominent people or those in which the district attorney has other reasons to believe extensive publicity from a preliminary hearing might make it difficult to find an impartial jury. Many of Southern California's most famous defendants of the recent past—Sirhan Sirhan, the murderer of Robert Kennedy; Charles Manson and his crime clan; Patricia Hearst, and other celebrities and those involved in highly publicized cases—have been processed through the grand jury rather than in the "information" procedure.

Because many cases that go before the grand jury are complex financial frauds, jurors can spend up to 40 percent of the time hearing criminal cases, Mr. Siler said. But he said most effort goes into local government. "California has a reputation for extremely honest local government, and I think one of the reasons for this is our grand jury systems," he said.

LAND ACQUISITION AND WILDLIFE MANAGEMENT IN SOUTH DAKOTA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. ABDNOR. Mr. Speaker, reprinted in the June 10 (page 18551) and June 20, 1977, (page 19867) issues of the CONGRESSIONAL RECORD is my correspondence with Mr. Nathaniel Reed, Assistant Secretary for Fish, Wildlife and Parks of the Department of the Interior, and Mr. John Popowski, secretary of South Dakota Game, Fish and Parks, concerning wildlife management in South Dakota.

The following correspondence with Mr. Robert Herbst, who has succeeeded Mr. Reed, deals with the wildlife management policies of the Carter administration.

It is of interest to my constituents that although only 5,000 of the estimated 300,000 acres of wetlands lost per year are in our State, it appears a disproportionately large percentage of the acquisitions will occur within our borders. It is also of interest that the right of eminent domain is available for these acquisitions.

The correspondence follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 3, 1977.

Mr. ROBERT L. HERBST,
Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, Washington, D.C.

DEAR MR. HERBST: The proposal in the President's message on the environment for a $50 million budget increase over the next five years to purchase waterfowl habitat is of interest to South Dakotans. I have noted that it is estimated there were 120 million acres of wetlands in the 1950's, that there are only 70 million today, and, further, that wetlands are still being lost at the rate of 300,000 acres per year. Would you please furnish similar estimates for South Dakota?

Please tell me the implications of the President's suggested budget increase. How many additional acres will the increase allow to be purchased? Do you intend to acquire more than the 110,000 acres (40% of 275,000 in the Central Fly-way) Mr. Reed indicated would be purchased in South Dakota over the next 10–15 years? If so, how much more? Do you intend to acquire easements on more than the 220,000 acres Mr. Reed indicated were scheduled for such protection in our state. If so, how many more?

Do you believe all projected wetlands acquisitions and easements can be acquired from willing sellers? Do you feel the right of eminent domain will be required, and do you intend to seek such authority? Do you believe current in lieu of tax payment provisions are adequate, or will you support legislation to provide additional consideration to local governments to protect them against the loss of tax revenues? Will comprehensive economic analyses be undertaken to complement the environmental studies and to ensure that the interests of the affected states and localities are fully considered?

Finally, I am enclosing a copy of my May 7, 1973, letter to your predecessor, Nathaniel Reed, and his reply of August 3, 1976. Would your responses to the questions I directed to him differ in any substantive way? If so, please give me your responses.

Thank you for your prompt attention to these issues of great importance to my constituents.

Sincerely,

JAMES ABDNOR,
Member of Congress.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 24, 1977.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: This responds to your June 3 letter about our wetlands acquisition program.

According to the best information available, at least 300,000 acres of wetlands in prime waterfowl breeding and wintering areas are being lost annually as indicated by President Carter in his environmental message. In South Dakota, the estimated wetland losses due to private drainage efforts were about 48,900 acres during the period 1964–74, or about 5,000 acres per year.

The $50 million increase referred to by the President for acquiring waterfowl habitat over the next five years does not imply any change in the Fish and Wildlife Service's national or regional acquisition goals proposed by this Department during House and Senate hearings on the Wetland Loan Extension Act of 1976, P.L. 94–215. Addition of these funds affirms this Administration's support for the program and provides a part of the funding necessary to help achieve its previously stated objectives. These objectives are nationwide in scope and include acquisition, through fee title and easement purchases, of approximately 1,950,000 acres of key waterfowl breeding and wintering habitat, principally wetlands, during the next 10–15 years. The $50 million will purchase approximately 160,000 acres; combined with annual income from the sale of migratory bird hunting and conservation stamps at the present price of $5.00, the acreage figure will perhaps double. Within the Central Flyway portion of the glaciated prairie pothole region, located in two Dakotas and eastern Montana, our 10–15 year objective is to acquire as waterfowl breeding habitat 275,000 acres in fee title and 550,000 acres of wetland easements. Based on the proportion of unprotected prairie pothole habitat in these three States, about 40 percent of the fee and easement acreage objectives is proposed for acquisition in South Dakota, primarily as small Wetland Production Areas. The actual percentage will depend upon the threats to this habitat and the availability of other means of assuring its preservation.

To date all fee and easement purchases of Waterfowl Production Areas have been from willing sellers. Although we have authority to exercise the right of eminent domain, we intend to continue a policy of buying only from willing sellers. While we cannot rule out condemnation, we do not anticipate that its use will be needed to achieve our objectives if the interest of private landowners in selling habitat to the Service continues at present levels. The requirement that our acquisition proposals receive approval by the Governor or appropriate State agency serves as a check on abuse of condemnation authority.

Payments are provided to countries under the Refuge Revenue Sharing Act. In some countries, payments exceed lost tax revenues; however, there are inequities to others. The current source of funds cannot be depended upon to provide continually increasing payments to countries as land values escalate. A bill introduced in the 95th Congress, H.R. 1341, would provide an alternative formula for in lieu of tax payments as well as a dependable source of funds. I believe that local governments should be compensated fairly for loss of tax revenues resulting from Federal acquisitions.

A final environmental impact statement on the National Wildlife Refuge System was issued by the Service in November 1976. The statement included an analysis of the impact on economic conditions of proposed future acquisition and management of refuges and Waterfowl Production Areas. Although we do not plan to conduct a comprehensive economic analysis on individual purchases, which are generally small units of less than 200 acres, the program was designed to minimize economic impacts on local governments. This was done by introducing the use of easements to preserve wetlands and still retain private ownership and agricultural output from farm units. Approximately three acres have been placed under easement for every acre purchased in fee title and placed in Federal ownership. The Water Bank Program, administered by the Department of Agriculture and coordinated with the Fish and Wildlife Service's acquisition program, is a related approach to preserving and enhancing habitat with a minimum of interference with the local economy.

I have reviewed my predecessor's August 3, 1976, reply and in substance, the Service's land acquisition and management policies continue as stated. My responses to those questions would not differ appreciably from Mr. Reed's. We did recently institute certain changes in the wetland easement document requiring that each wetland covered by the agreement be specifically delineated on a map and recorded with the title. This measure clarifies the location of all wetlands covered by the easement. This was one area where some controversy and confusion existed previously.

I appreciate the opportunity to comment on this important program and hope the information is useful to you and your constituents.

Sincerely yours,

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

FOREIGN FISHERIES "END-RUN" 200-MILE LIMIT

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. AuCOIN. Mr. Speaker, foreign involvement in the U.S. fishing industry continues to capture the headlines.

Most recent are articles by Business Week magazine and the Christian Science Monitor. The Business Week story is the second which that well-known publication has printed in the past 2 months—evidence of its growing interest in the impact these developments will have on our domestic fishing industry.

A hearing on the legislation which Congressman STUDDS and I have introduced to control foreign involvement in our fishing industry is now scheduled for July 18. In view of this I urge my colleagues to take a few moments to read these articles, which are reprinted below:

[From the Christian Science Monitor, June 3, 1977]

FOREIGN FISHERIES "END-RUN" 200-MILE LIMIT—LOOPHOLES IN U.S. LAW ALLOW SIDESTEPPING FOR VESSELS, PLANTS

(By Ward Morehouse III)

BOSTON.—From the crab- and pollack-thick waters off Alaska's Aleutian islands to the scrod- and squid-rich Georges Bank off New England, a small but growing number of foreign-run fisheries are gathering fresh steam from loopholes in America's new 200-mile fishing limit.

The loopholes may allow foreign investments in the U.S. fishing industry to increase well beyond the current level of 60 partly or fully foreign-owned U.S.-flag fishing vessels and fish processing companies. Fishing industry spokesmen and a coterie of congressmen warn that the loopholes will allow foreign countries a legal bypass of fishing quotas established for the 200-mile fishing zone.

"Theoretically, the Russians could buy the whole New Bedford, Massachusetts, fishing fleet" and the Soviet Union and other nations could "distort the whole intent of the 200-mile limit," because of loopholes, says U.S. Rep. Gerry E. Studds (D) of Masschusetts.

Mr. Studds was the prime sponsor of the Fishery Conservation and Management Act of 1976, which took effect on March 1. The act is widely hailed as a bonanza for the tempest-tossed U.S. fishing industry.

But the 200-mile limit law, which provides strict quotas for foreign fish catches, also allows foreign firms to own U.S. fishing vessels and processing plants, with two restrictions: The boats have to be made in the United States, and U.S. citizens must make up a majority on the boards of directors of these foreign-owned fishing and processing firms.

Faced with sharply reduced catches because of the 200-mile limit, the Japanese, Korean, Soviet and other foreign firms are scrambling to buy into or increase their control over parts of the U.S. fish business.

"No question about it—foreign investment in the U.S. fishing industry has stepped up

in the wake of the 200-mile limit" in an "end run around the legislation," says Gayle Charles, as economist with the New England Fisheries Steering Committee, a fishing industry group.

Representative Studds and Rep. Les AuCoin (D) of Oregon have filed legislation to limit future foreign investment in U.S. fisheries.

"We oppose the amendment on the grounds that the need for the exception it would make to our general policy on investment has not been established," says Albert Zucca, director of the State Department's Office of fisheries affairs. "Under that policy foreign investors are generally accorded . . . treatment no less favorable than that accorded domestic investors under comparable circumstances."

Against this background, these developments are taking place:

In the cold waters off the Pacific Northwest and the Gulf of Alaska, Korean and Soviet fishing interests want to buy pollack and hake from U.S. fishing boats to avoid having the fish counted toward their own fishing quotas.

The prospective investors have applied to the U.S. Commerce Department for permits to obtain the fish. The Pacific Fishery Management Council, set up by the 200-mile-limit law, opposes granting the permits.

In New England, Spanish diplomats recently asked some New Bedford fishing boats to sell them squid on the high seas, the overtures were rejected.

The Korean Marine Industrial Development Corporation has purchased fifty 86-foot stern trawlers from the Bender Shipbuilding Corporation in Mobile, Alabama, and "the likelihood of them using the boats on the American coasts is greater every day," says Thomas Casey, manager of a fisheries association on Kodiak Island.

The proposed Studds-AuCoin legislation would put a 25 percent cap on all new foreign investment in U.S. fishing boats. As currently drafted it says that if foreign ownership rises above 25 percent, the fish caught by the vessel would have to be counted toward the quotas of the foreign nations.

[From Business Week magazine, June 6, 1977]

THE WAR OVER ALASKA'S FISHERIES

"We didn't invite you here today because we thought the news media would be interested in an Alaska seafood plant expansion announcement," said C. Reid Rogers, president of Seattle-based New England Fish Co. (NEFCO), to a group of reporters last week. The bewildered journalists might have wondered if they heard him right—until he came to the punch line. "The time has come," Rogers continued with emphasis, "to reverse the stagnation of the American fishing industry and meet the challenge presented by the new 200-mi. fisheries zone."

What Rogers was talking about was economic war—a no-holds-barred scramble, with NEFCO on one side and a giant Korean fish-packing company on the other, to gain control of the huge bottom-fish processing business in the Gulf of Alaska and the Bering Sea. And the stakes may be high enough to warrant an all-out effort. NEFCO maintains that the potential value of the bottom-fish business in Alaska could hit $2 billion annually within eight years. The $1.7 million processing plant expansion on Kodiak Island that Rogers announced in Seattle was NEFCO's signal that the company thinks it has won the scramble.

THE 200-MILE LIMIT

In 1974, the last year for which complete figures are available, 5½ billion lb. of bottom fish—principally pollock—were taken from within 200 mi. of Alaska. Of that amount, only 30 million lb. of bait fish and halibut were taken by Americans. The bulk of the rest was scooped up in Russian, Japanese, and Korean nets. Huge factory ships filleted and froze the pollock, which was then shipped home, where it is a major source of protein. A significant amount of the fish pulled out by foreign ships also found its way back into the U.S. as a prime component of frozen fish sticks and fillets. Only a negligible American bottom-fish industry could exist while supermechanized factory ships employing labor at 30c an hour plied the coastal waters.

But with the advent of the 200-mi. limit on Mar 1 of this year, Americans were guaranteed as much as they wanted of the total allowable catch for any species. Thus, NEFCO reasoned, if foreigners could be kept out by law, the company could move into the market with an insured source of pollock that it would process and market under its own brand name, Ship Ahoy. NEFCO also could sell frozen fish to other U.S. processors such as Mrs. Paul's Kitchens Inc., of Philadelphia, which buys more than 50 million lb. of pollock each year. Ultimately, NEFCO foresees an export market to both Japan and Korea.

But the company could not proceed with its plans unless control of the pollock fishery by Americans was assured, and that is where NEFCO ran into the Korean Marine Industry Development Corp. (KMIDC). Faced with a tight pollock allocation of 75,800 metric tons this year, the Koreans sought permission to buy American-caught fish and then process them abroad KMIDC's three factory ships within the 200-mi. limit. KMIDC signed a contract with exporter R. A. Davenny & Associates Inc., which called for Davenny to arrange for 130,000 metric tons of pollock to be delivered to the Korean ships by U.S. fishermen each year.

REAPING THE SPOILS

NEFCO moved at once, claiming that such a deal would be illegal under the new fishery law. Among other violations, said NEFCO, the KMIDC arrangement would double the total pollock quota artificially, thus dangerously depleting the fishery.

The U.S. company turned the problem over to consultant Edward W. Furia Jr., a lawyer and a former Environmental Protection Agency regional administrator. Furia put together a coalition of Kodiak fishermen, Alaskan environmentalists, and labor leaders and lobbied from Kodiak to the banks of the Potomac against government approval of the deal. With the help of Thomas A. Casey, manager of the United Fishermen's Marketing Assn. on Kodiak Island, Furia prevailed upon the North Pacific Fishery Management Council in Anchorage to veto the Korean proposal. Unless it is overturned by the Commerce Dept., the decision is final.

In explaining its vote, the fishery council made it clear that it regarded the nurture of the Alaskan state economy as its prime concern. Harold Lokken, the council vice-chairman, said he was worried that the deal would "replace to a considerable extent American labor with Korean labor" and that the size of the proposed operation would inevitably bring "outside" fishermen to Kodiak.

MORE JOBS

Lokken and the others may also have had in mind some of NEFCO's rosier estimates of the total economic impact of developing U.S. control of the fishery. Specifically, the company claims, protection for American interests would bring 25,000 jobs to Alaska and another 10,000 to Washington state.

Not everyone in Alaska is convinced that NEFCO, which reports $250 million in annual sales from its worldwide processing operations, has won such a great prize. Only one company, Icicle Seafoods in Petersburg, Alaska, is processing bottom fish today, and most of the 15 other major Alaskan fish processors seem wary of the pollock business. They point out that the fish is extremely perishable and that it might not be feasible for a land-based processor always to receive a catch within the maximum 18 hours it can wait until processing. More important, Alaskan labor costs are high, and NEFCO may not be able to process pollock at a competitive price. "We certainly will be buying substantial quantities of fish produced by Americans, but at world prices," says Edward J. Piszek, president of Mrs. Paul's "If Americans want us to pay more than the foreigners, we'll buy from the foreigners."

NEFCO is investing in sophisticated West German equipment for its new plant and says that it will be able to hold costs low enough to compete on the world market. It also has two more processing plants planned for Alaska—evidence of the company's plan to process an increasingly large share of the bottom-fish catch. As NEFCO sees it, the rise in American processing will reduce foreign influence, and that will help turn around the $1.8 billion balance-of-trade deficit that the U.S. suffers annually from seafood imports alone. The NEFCO plant on Kodiak Island will be able to process 30 million lb. of bottom fish in its first year.

"WE'VE GOT THE FISH"

For its part, KMIDC has not yet given up. Chairman Shim Sang-Joon has taken up his case with Alaskan Governor Jay S. Hammond as well as with a covey of officials in Washington, D.C. He is known to hold exclusive rights to import all pollock above the official quota to Korea, and the lure of that potential business has even led him to argue directly to NEFCO that its plant cannot make any money. Shim is now proposing that a scaled-down "pilot" project be allowed.

While New England Fish Co. seems to have won its battle for now, other American processors and fishing companies face a different threat—takeover by the foreigners (BW—May 9). Some 60 U.S. fishing companies are now owned at least in part by foreign interests, and the number is growing. Under existing regulations, these companies need only have an American board of directors and use American-built boats to fish in order to avoid taking out licenses or worrying about foreign quotas. What is more, American subsidiaries of foreign-owned companies can send their catch back to the parent corporation's home country for subsequent re-import into the U.S.

This situation has moved Representative Les AuCoin (D-Ore.) to propose legislation mandating that, once foreign ownership rises above 25%, the company must register itself as foreign and fish under the quotas for its country of origin. The law, though not expected to pass this term, would be retroactive to Jan. 27 of this year.

The foreign companies and their American subsidiaries are already resisting the AuCoin measure. They regard their access to American fisheries as vital. By the same token, other domestic companies besides NEFCO are beginning to understand what American control and management of the 200-mi. zone can mean in profits. Estimates run as high as $6 billion for the annual balance-of-trade surplus from the export of American fish, as compared with the $3.9 billion realized last year from wheat.

"It is a simple matter of developing a natural resource," says Furia, "much the same as the OPEC nations have with their oil. We've got the fish, and we ought to capitalize on that fact."

RADICAL POLICIES OF THE ILWU

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. ASHBROOK. Mr. Speaker, the International Longshoremen's and Warehousemen's Union. under the direction of its leftist President Harry Bridges,

has been at the forefront of left-wing politics in America. Harry Bridges is retiring this year, but apparently the radical policies of the ILWU will continue. He has never hidden his admiration and support of communism.

The ILWU recently held its 22d Biennial Convention. The policies and resolutions adopted at the convention show the leftward tilt of this union.

Let's take a look at some of the policies endorsed by the ILWU. One resolution calls for a restoration of full relations, including trade with Cuba, Vietnam, and the People's Republic of China. In particular, the ILWU "calls upon the Carter administration to immediately end the U.S. economic embargo against Cuba and for the restoration of full diplomatic trade and travel relations with Cuba." It also states its support "for full normal diplomatic and trade relations with China" and warns that the "United States continues to intervene in China's internal affairs by maintaining troops and military installations on Taiwan."

This is hard to believe. It is not in our national interest to restore full relations, including trade, with Vietnam, Cuba, and Red China. These nations have no respect for human rights or democratic principles. Nor should we bow to Red Chinese pressure and abandon our friend and ally the Republic of China on Taiwan.

The ILWU also urges repeal of the Jackson-Vanik amendment which blocks granting of most-favored-nation trade status to the Soviet Union until its citizens are given the right to emigrate. In addition it urges that the ILWU "act as a force within the labor movement to shore up support for a peaceful, nonexpansionist U.S. foreign policy. Specifically, we should use whatever influence we have to promote certain pro-détente policies."

And this is just the beginning. The ILWU proposes a $13.6 billion cut in the U.S. military budget. According to one resolution:

> The arms race burdens us with an outrageous military budget to further enlarge an arsenal that could kill the world many times over, and to develop even more sophisticated superweapons of destruction like the B-1 Bomber, the Cruise Missile, and the Trident Submarine.

Despite what the ILWU says, now is simply not the time to slash military expenditures. The Soviet Union has been engaging in a major arms buildup. We cannot afford to stick our heads in the sand and ignore the growing Soviet threat.

In addition, the ILWU endorses the Humphrey-Hawkins bill, a blueprint for a Government-controlled economy. It urges adoption of a national health insurance plan that would run $80 billion or more a year. It also calls for a massive increase in Government expenditures for public service employment at a cost of $30 billion.

Support for a nationwide consumer boycott of all U.S. corporations and their subsidiaries doing business in South Africa or Rhodesia, support for repeal of the right-to-work laws, support for increased use of the United Nations to channel funds between nations, the list goes on and on. It all adds up to a leftist agenda for America.

PRESBYTERIANS IN NEBRASKA PLEAD FOR FAMILY FARM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. SIMON. Mr. Speaker, recently, I had the privilege of meeting briefly with J. Marvin Weems, an attorney in Ord, Nebr.

He sent me a copy of a resolution adopted by the First Presbyterian Church of Ord, Nebr.

It contains a message that is important to all Americans, not just those who live in rural areas.

I urge my colleagues to read this resolution which the Presbyterians in this small community in Nebraska so thoughtfully adopted:

OVERTURE ON THE FAMILY FARM, WORLD HUNGER, AND FOREIGN AID BY FIRST PRESBYTERIAN CHURCH, ORD, NEBR.

1. Whereas, nearly ⅓ of the indebted family farmers in 9 states face foreclosure unless they survive an impending Farm Price Credit Crisis.

2. Whereas, Farm foreclosures will have a major adverse impact on the rural community, the small church, the national economy and the cost of food to the consumer because:

(a) Farm foreclosures cause unemployment among farmers, merchants, factory workers and all others economically interrelated with the farmer. Our cities are already overcrowded with unemployed people.

(b) Farm foreclosures tend to relpace independent family farmers with investors. As with energy a significant combination of food investors will have the capability of setting food prices at this crisis level.

3. Whereas, immediate action must be taken because:

(a) 1978 will be too late. Bankers are no longer waiting for adequate prices. They are requiring borrowers to cut losses. Bankers are insisting their borrowers sell livestock and commodities at current inadequate prices to finance 1977 seed, fuel and fertilizer. In addition, they are requiring borrowers to voluntarily agree to sell out by March 1, 1978 if profit is not generated by then.

(b) Farmer's Home Administration (FmHa), a Governmental lending agency of the last resort, is out of money.

(c) Most Farmers who have repayment problems would not qualify for FmHA loans. They already owe more than the current FmHA limit.

4. Whereas, the American Family Farmer has demonstrated he can provide the consumer food for less than half of what it costs consumers elsewhere. The average American family only spends 16% of its disposable income for food. This compares with 50% in Russia and 82% in Asia. Necessity has forced the family farmer in our country to become extremely efficient in order to earn a meager living and survive.

5. Whereas, the family farm and the rural community produce more than their share of honest, industrious and inventive citizens and the quality of American life is dependent on maintaining this source of these key human resources.

6. Whereas, the consumer and the farmer have a vital common interest in seeing to it the family farmer is paid his cost production and a reasonable profit instead of paying the investor what the market will bear.

7. Whereas, ⅔ of humanity is hungry and the American family farmer has the capability of feeding a major portion of that humanity if he can be compensated for his cost of production and a reasonable profit.

8. Therefore, the session of the First Presbyterian Church of Ord, Nebraska in an emergency session on May 29, 1977 calls upon General Assembly, the Synod of Lakes and Prairies, all of their respective judicatories and members of the United Presbyterian Church in the United States of America to:

(a) Recognize the family farm should be preserved and the Family Farmer must be paid his cost of production plus a reasonable profit if this is to be accomplished.

(b) Encourage the Congress and the President of the United States of America to immediately enact and implement the emergency Farm price support and credit legislation needed to preserve our family farms.

(c) Encourage the Congress and the President of the United States of America to recognize the World Hunger Problem and enact farm programs and foreign aid programs which will enable the American Family Farmer to satisfy that need.

(d) Utilize all available resources to inform the public, the Congress and the President of the family farm price and credit crisis and how that crisis can be resolved.

RIGHT-TO-WORK PRIZE-WINNING ESSAY

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. WHALEN. Mr. Speaker, I ask unanimous consent to have reprinted in the CONGRESSIONAL RECORD the prize-winning essay of my constituent, Mr. Scott Wyerman of Coatesville, Pa., discussing the right-to-work issue.

Scott is a high school student at the Coatesville Area Senior High School, Chester County, Pa. Approximately 400 students from our State competed in the Pennsylvanians for Right-to-Work Contest with several prizes offered, the first one a $500 savings bond. In addition, the Coatesville Chamber of Commerce offered two prizes with the first prize a $100 savings bond. Scott won both first prizes with his essay. I feel it is most deserving of being reprinted in the RECORD and heartily recommend it to my colleagues:

RIGHT-TO-WORK ISSUE

In the 200 years of our nation's existence, the Commonwealth of Pennsylvania has always been at the forefront of the crusade for justice that best exemplifies the spirit of the American nation and the principles upon which it was founded. But our state is in danger of losing this honored position by not coming to terms with and acting upon a serious issue. The rights of the individual continue to be trampled upon by a power whose abuses are often accepted—organized labor and its leaders.

Unions and their bosses wield tremendous influence in the fields of economics and politics—and even possess the ability to cripple the entire country for long periods of time. Originally organized to protect the workingman's rights, unions have come to occupy an opposite position and now seek to deny individuals the right to work—a fundamental American freedom.

Compulsory unionism is wrong because it is contrary to our democratic system to force a man to join any kind of organization and contribute to its financial support. According to the Chamber of Commerce, "No majority, whether it be a slim 50.1 per cent or a whopping 99.9 per cent, should be able to compel the minority by a popular vote to join or support the majority—whether in a church, a club, or any private organization. The same principle applies to a union."

Right to Work laws also contribute to a state's economic well-being. According to Department of Labor statistics, states with Right to Work laws outstripped other states in the rate of industrial expansion, creation of new jobs, and the rate of improvement in hourly wages.

One of the main issues here is the power of organized labor as a national institution. There have been all too many incidents of union abuses. This misuse has its origins in the 1930's and 40's, the time when organized labor first emerged as a major influence in our society. It was during this time that the concept of the "closed shop" came into being. Under a "closed shop" contract, an employer agreed to hire only persons who were already members of the union.

Then in 1947 came the Taft-Hartley Act, which permitted the "union shop." This gives an employer the right to hire anyone, but the new employee must then join the union after a short waiting period. Many clamored that it was improper for any worker to be compelled to join a union as a condition of his employment. Congress replied by approving 14–B, a single sentence of 44 words, which permits individual states to pass Right to Work laws outlawing the "union shop." Organized labor has put millions of dollars into repealing 14–B, as yet to no avail.

Twenty states have already met the challenge by passing Right to Work reforms. Such a Pennsylvania law would prove immeasurably that our Commonwealth still regards the protection of rights as imperative. The dehumanization of individuals by bureaucratic labor unions must be stopped. We must never lose sight of the common man amidst the tumult of today's world. The pervasive influence of union monopoly must be curbed. The rights of the individual—such an integral part of our American democracy—must be protected.

INTERNATIONAL ASPECTS OF AMERICAN EDUCATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. SIMON. Mr. Speaker, I note with regret that the recently approved HEW appropriation bill makes no provision for funding section 603 of title VI of the National Defense Education Act or the International Education Act of 1966.

Both these acts are concerned with the international aspects of education. They are based on congressional findings that—

A knowledge of other countries is of the utmost importance in promoting mutual understanding and cooperation between nations; that strong American educational resources are a necessary base for strengthening our relations with other countries; that this and future generations of Americans should be assured ample opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and that it is therefore both necessary and appropriate for the Federal Government to assist in the development of resources for international study and research . . . to meet the requirements of world leadership.

Just this month the Helsinki commission came to similar conclusions in a resolution urging the President to name a commission to recommend how international education could be strengthened in this country. And President Carter, in his April 14 speech to the Permanent Council of the Organization of American States, announced that the United States was going to expand cultural and educational exchange programs.

But what is really happening? Both section 603 of the National Defense Education Act and the International Education Act of 1966 are again left unfunded despite their importance and the repeated authorizations of Congress. Similarly, the Fulbright-Hays program is being allowed to diminish. In terms of 1967 dollars, the Fulbright-Hays program is today 30 percent smaller than it was 10 years ago. Furthermore, even though the 1978 Fulbright authorization was increased somewhat specifically to respond to the challenge of the Helsinki agreements, that increase was denied in a separate appropriations bill.

The results of this neglect are becoming increasingly serious. For example, only 5 percent of the students enrolled in teacher education programs are receiving any foreign area instruction; foreign language instruction enrollments dropped 30 percent between 1963 and 1974 and are still doing so; only 24 percent of American high school students were studying a foreign language in 1975 and most of them never got beyond the second year; and the list could go on.

It is time that this stopped. We can no longer afford it. The world is too interdependent.

Next year I plan to make a serious effort to secure increased appropriations for these programs. I invite the assistance of interested Members in doing so.

Mr. Speaker, this is an important issue, and I invite the attention of my colleagues to a perceptive article by S. Frederick Starr, secretary of the Kennan Institute at the Woodrow Wilson International Center for Scholars, on this subject which appeared in the chronicle of higher education which I am inserting in the RECORD at this point:

NEEDED: A CURE FOR PROVINCIALISM

(By S. Frederick Starr)

Is provincialism on the rise in the American university? Recent evidence suggests that it may be. The number of undergraduates studying foreign languages has declined by 15 percent in the past five years, with the major languages of international communication showing the sharpest drops. Study of foreign languages today claims barely half the percentage of total undergraduate course enrollments that it did in the mid-1960's. Monolingualism, always strong, is spreading.

Nor is the study of foreign cultures booming. The number of foreign-area-studies programs has plummeted. In the process, many faculty positions formerly held by persons with a deep familiarity with a specific foreign society have been turned over to generalists. The American Council on Education estimates that about one in 20 undergraduates enroll in courses that consider foreign peoples and cultures in any way. This is roughly equivalent to 2.5 percent of the 18-to-21 year olds in the population as a whole.

Such developments have been followed closely by specialists at a number of institutions, among them the Modern Language Association and the World Studies Data Bank. All corroborate the same gloomy conclusion—that American higher education is increasingly inclined to ignore languages, cultures, and political systems of most of the other 91 percent of the earth's people.

It cannot be denied that the serious study of such crucial areas as China, the Soviet Union, and Africa is going forward on more campuses now than a generation ago. Foreign-area studies are thus quite decentralized today, a far healthier situation for our education as a whole than that which existed in the past. Moreover, a number of state systems—notably those in California, Wisconsin, and New York—maintain programs on an impressive scale. If one includes student fees, the total investment in international studies has advanced steadily to the present. And if the numbers studying the major international languages is diminishing, an upsurge of interest in Arabic, Persian, and Tagalog is also taking place. Such factors must be weighed against the evidence of decline.

The true picture, however, may actually be worse than the indexes suggest. After all, to say that several million undergraduates are studying foreign languages is to say very little indeed, since the majority of students never get beyond the first-year level. A measurement of language competence at the time of graduation would be far more significant—and more depressing. Only a minuscule number of American college graduates can read, write, and speak effectively in any language other than English, and all available evidence suggest that the number is dropping.

For all the progress made in recent decades, the greatest strengths are still concentrated in the study of just a few major world areas. Others, scarcely less important, remain grossly neglected. Thus, while nearly 300 million people speak Hindi, fewer than 300 Americans are studying the language. There are another half-billion people on earth whose languages together claim the interest of fewer than 500 American students.

All this, added to the severely reduced number of American students and faculty members studying abroad and a corresponding drop in the number of foreign scholars on American campuses, reinforces the conclusion that the current generation may be even less adequately prepared to function in an interdependent world than its predecessors. If not corrected, the situation will be perpetuated by an entire generation of teachers. A survey in 1973 indicated that only 5 per cent of those studying in teacher-education programs received any foreign-area training, while only 53 percent of those receiving Ph.D.'s today are expected to demonstrate even a reading knowledge of a foreign language.

Are we observing the delayed impact of the post-Vietnam isolationism? The debacle in Southeast Asia may have hastened the decline of academic interest in the rest of the world, but it did not initiate it. Indeed, many of the tendencies that strike us so forcefully today were already present before the Tet offensive. Thus, the 58-percent increase in the study of modern foreign languages at colleges and universities between 1960 and 1970 coincided with a much larger increase in the student body. The percentage of undergraduates choosing to study foreign languages peaked as early as 1963 and has been declining steadily ever since. Clearly, then, the causes of the decline in the study of foreign peoples lie deeper than yesterday's headlines.

Many factors contribute to the universi-

ties' neglect of international education, not least of them the behaviorist revolution in the social sciences. But if provincialism is being perpetuated on the American campus, it was surely not created there. Few American newspapers print more than three columns of foreign news during an entire week, and even fewer maintain foreign-affairs specialists on their staffs. A 1973 UNESCO study found that less than 2 per cent of the programming on commercial television touched on foreign themes. The cultural isolationism that our physical separation from other nations once fostered has been perpetuated in a world of instant communication and interdependence.

Students understand without being told that an educated person in this country is not expected to be closely acquainted with any culture but his own. With the help of student pressure, the requirement that a reasonable level of competence in a foreign language be gained before graduation was eliminated between 1966 and 1974 at one out of five American colleges and universities surveyed by the Modern Language Association.

Moreover, some 90 percent of our colleges and universities today have no foreign-language requirements for admission, even for applicants who have studied at high schools that offer excellent programs of instruction. The impact on high-school programs has been predictably disastrous.

The cost to us of our neglect of foreign-language and area studies is immense. Such fields as government, business, law, and journalism are denied the steady flow they deserve of new recruits with broad, yet specific, foreign-area training. Now that we are regularly negotiating with many of the 141 governments in the United Nations over matters of vital concern to our domestic well-being, self-interest requires that we be better informed than even in the past. As President Ford put it in a speech at Notre Dame University last year, "This nation can no longer afford to be isolationist."

By far the largest part of the estimated half-billion dollars a year needed to sustain foreign-area programs in the United States is borne by state educational systems, private endowments, and student fees. The federal contribution, which never surpassed 15 percent of the total, is nonetheless crucial and has declined steadily. But no member of the present Administration has put forward a seriously conceived program for implementing the President's thesis in the field of education. Given this, it may be useful to bring together some of the more promising proposals that have been circulating widely in other quarters. Surprisingly, they do not all require vast outlays of funds.

As a first step, it may be necessary to reintroduce some form of requirements to reverse the quantitative decline in the study of key foreign languages and to give the cue to secondary and primary schools to reassess their programs in the area. Requirements are no panacea, however, and, without other changes, they could do as much harm as good. Drastic revisions in the methods of instruction will in all likelihood be necessary if the qualitative picture is to be significantly affected.

It is probably impossible, for example, to bring large numbers of students to a high level of competence in foreign languages when their studies are constantly interrupted by the simultaneous demands of three or four other courses. It would be far better to compress the process into a single, focused semester or year. Consortia of universities might decide to pool resources to create a series of super-intensive off-campus centers to which students could retire for short periods with the reasonable expectation of coming to grips with a foreign tongue.

Once acquired, a foreign language should be applied immediately. Under the present system, this is rarely possible, since only the most senior students have acquired sufficient mastery of a language to use it regularly in their work. Hence, at even our greatest universities, most study of foreign peoples and international issues is carried out entirely through English-language sources, the main exception being courses on foreign literatures. Were professors and deans to encourage and assist students to use their language skills throughout their program of study—whatever the field of concentration—the languages would be reinforced and the education as a whole deepened.

How much foreign-language and area education is enough? Clearly, if one is confronted in one's work with a problem that has an important international dimension, it is important to be able to recognize that dimension and to possess the full range of skills needed to explore it further. Beyond that, it is important that there exist *somewhere* in the United States a self-sustaining group of experts on the languages and cultures of practically every society on earth. Though central to the concept of the original National Defense Education Act, this principle has never adequately been implemented. Nor can it be without a greater degree of federal coordination and support than has heretofore existed.

All discussions of the present and future pool of people with foreign-language training are rendered so imprecise as to be virtually useless by the absence of accurate and widely accepted standards for measuring competence in foreign languages. Until such measures are developed and applied nationally, we will have no choice but to continue to depend on the nonqualitative measures of enrollment that are now used. As things stand, what passes for near-fluency at one school may not pass muster as kitchen chatter at another. Indeed, the measures by which foreign-language skills are evaluated are far less standardized than are those by which karate *aficionados* rank their peers.

These are a few of the more obvious demands of the moment. The *sine qua non* for addressing successfully the issue of provincialism and monolingualism as a whole, however, is not only one legislative or administrative act, but for our expectations in the area to be significantly raised. A whole series of double standards with which we have long rationalized away our failures will have to be abandoned in the process.

It must be freely admitted that such a change in expectations does not correspond to the immediate aspirations of most students. Numerous national commissions, study groups, and individuals experts in diverse fields have argued that it corresponds to the long-range interests of students, however, and certainly to the broader needs of American society as a whole, of which university students are a privileged part.

NUCLEAR POLICY IN TROUBLE

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. GOLDWATER. Mr. Speaker, the administration's proposal to deter our breeder reactor program and the reprocessing of spent nuclear fuel has been predicated on one major concern—the potential proliferation of nuclear weapons. While I, too, am concerned over this subject, I have argued that self-denial of advanced nuclear technology by the United States is not the most effective way for us to influence the actions of other nations.

This is now becoming clear as evidenced by an article in the July 4, 1977 issue of U.S. News & World Report, entitled "Carter's Nuclear Policy: Running Into Trouble." The article establishes that our current policy "is meeting with flat rejection from other nuclear nations." Why then do we continue?

Mr. Speaker, it is evident to me from my service on the Science and Technology Committee and on the Ad Hoc Energy Committee that this Nation needs to develop all the energy sources it can. If one of these sources should have some problem associated with it, then we need to solve that problem. Relegating the energy source to the junk bin is not the answer.

The U.S. News & World Report article shows further that whatever benefit may have appeared possible by a U.S. withdrawal from nuclear power leadership is not likely to be achieved.

CARTER'S NUCLEAR POLICY: RUNNING INTO TROUBLE

(In the U.S. and abroad, opposition is building against the President's bid to block a big and potentially perilous step in nuclear development.)

Jimmy Carter's international nuclear policy is off the ground, but it isn't flying quite the way he wants it to.

His central goal is to get the U.S., along with Western Europe and Japan, to reduce the dangers of proliferating atomic weapons by banning widespread processing and marketing of plutonium for power generation.

That idea is meeting with flat rejection from most other nuclear nations. It is mired down in Congress, too, and is being widely criticized by energy planners and industrial leaders around the world.

On the other hand, Carter's initiative has been a smashing success in at least one way: He has made the world more aware of the lethal hazards of an energy system based on plutonium.

ACCORD WITH CARTER, BUT * * *

Even the critics find little wrong with Carter's goal of reducing the risk of runaway nuclear proliferation. But they part company with him on methods and say that the sacrifices he calls for are unrealistic.

For some countries, restraining nuclear-power development in any way is not regarded as just a sacrifice, but close to economic suicide.

If you pay attention to the heads of European energy agencies, you discover uniform opposition to Carter's plan, all revolving around the critical role they believe that atomic power will play in giving them a measure of energy independence.

President Carter is proposing that the rest of the world rely on the U.S. to enrich uranium for them. European leaders adamantly refuse to put their economies at the mercy of Americans. They have learned a painful lesson trying to deal with the "on again, off again" supply of nuclear fuel coming from the U.S., and they don't intend to repeat.

Recent disclosure of uranium price fixing by a cartel of world suppliers, including Canada, Australia and South Africa, is just one more reason dependent nations are uncomfortable with Carter's policy that relies on an abundance of reasonably priced uranium.

Along with the Japanese, the Europeans are looking to the day when they will move into a plutonium economy with its two key elements:

1. Recycling their own nuclear fuel to get as much energy out of every pound of uranium as possible.

2. Generating electricity with new reactors, called "fast breeders," that make far better use of limited uranium supplies than today's reactors.

With these two critical technologies in hand, Europeans believe that they can drastically reduce their reliance on Mideastern oil and nuclear fuel from the U.S. and Canada.

But these technologies have a problem: They require the isolation of plutonium, a prime material for making nuclear explosives, and a deadly poison as well. The President believes that widespread knowledge of how to isolate plutonium—it's done when spent fuel is reprocessed—along with routine shipment of the material worldwide pose a terrifying threat to global security.

To combat the risk, Carter is calling for the U.S. to drop plans for reprocessing spent fuel and to kill a project that was to demonstrate commercial feasibility of a fast-breeder reactor at Clinch River, Tenn.

In addition to reforms at home, the Carter Administration has been putting pressure on other countries to follow suit.

Canada became the President's best ally by making it tough for other nations to buy uranium without agreeing to limit what will happen to that fuel once it has been used up. The Canadians do not want it reprocessed.

Resistance to the policy has come not only from such key industrial powers as Japan, West Germany, France and Britain, but also from a large number of developing nations.

These smaller countries, in fact, are arguing that the U.S. position is violating the Nonproliferation Treaty, which says countries must be given access to all peaceful nuclear know-how. If not given this access, some developing countries threaten to withdraw from the Treaty, cenceling their promise not to build atomic weapons.

In other words, Jimmy Carter's campaign to limit access to key nuclear technologies, ones that might increase the risk of nuclear-weapons potential, may end up creating a shambles of the world's most important weapons-restraining Treaty.

While the Carter move may be having some unforeseen side effects, it has already scored some key successes.

Before the President announced his policy initiative in April, there were two major export deals of great concern on the world market. One was an agreement for France to sell a fuel-reprocessing plant to Pakistan. The other was an arrangement for West Germany to sell Brazil a reprocessing plant, a facility to enrich uranium, and a few reactors.

WHITE HOUSE VICTORIES

The first Carter success was to extract from France and Germany an informal promise not to sell any additional reprocessing plants to other nations. American negotiators did not succeed, however, in persuading West Germany and France to cancel the agreements they already had on the books. In late May, Carter got a second pleasant surprise. The French revealed they were holding up their deal, ostensibly because of the unstable political situation in Pakistan.

Before the French announcement, key German officials in Bonn told U.S. News & World Report that Germany would hold firm with its Brazilian sale as long as France did not break ranks and cancel its agreement with Pakistan. The Germans are not expected to back down on their deal, however, as long as France calls its latest move a delay rather than a cancellation.

A third success that Carter people can claim is the extent to which the President's stand has made the world aware of the risks of plunging willy-nilly into the second phase of nuclear development, the phase that relies on plutonium.

One aspect of the move that European officials don't appreciate is the added legitimacy Carter's stand has given to antinuclear protesters. Japan, Germany, France, Italy and the Netherlands, in particular, already were having serious problems with antinuclear demonstrations.

All the successes are tempered by a drawback. The Carter policy is encountering a credibility gap regarding U.S. motives and purposes in the three key points of his program: to kill the breeder reactor, drop plans for reprocessing in the U.S. and offer the world a steady supply of American enriched uranium.

THE BREEDER

A nuclear engineer at Britain's fast-breeder reactor in Dounreay, Scotland, just chuckled when asked why he didn't believe the U.S. was honestly getting out of the fast-breeder business.

"Even without the Clinch River demonstration project," he said, "the U.S. will be spending 10 times more on breeder research than any nation in Europe."

Point of fact: The British are spending about 44 million dollars a year on their breeder programs, and the United States—minus any funds for the Clinch River demonstration plant—will spend 450 million.

But the Clinch River project, the building of a 350-megawatt breeder, is far from dead despite Carter's attempts to kill it. Congress is pushing ahead with plans to fund the project with up to 150 million dollars this year.

This gives the Europeans more than a little reason to balk at the notion that they should dismantle their fast-breeder programs. They simply don't believe the U.S. will do it either.

REPROCESSING

President Carter may be successful in delaying for a number of years the reprocessing of spent fuel in the U.S.

What the Europeans point out, however, is that the U.S. Government has been reprocessing for nearly 30 years in its weapons program.

Thus, despite the President's claim that the United States will not get into the business of reprocessing spent fuel from power reactors, the Europeans know that the technology already exists in America. If a country in Europe hopes to stay competitive, planners in France argued, they cannot afford to stop reprocessing just because an American President is worrying about its hazards.

FUEL SUPPLY

Not only are the Europeans and Japanese reluctant to rely on the U.S. for a steady supply of enriched reactor fuel, they also are deeply concerned about how much uranium there really is left in the ground.

President Carter's entire nuclear policy of breeder reactors is based on recent, and radically different, estimates of uranium reserves.

The President says there is plenty of uranium left. European energy planners don't believe him.

This means that while Jimmy Carter has created quite a stir with his nuclear policy in the global community, he has a long way to go before his policy becomes theirs.

EARTHQUAKE HAZARDS REDUCTION ACT OF 1977

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. DORNAN. Mr. Speaker, I rise in strong support today of forthcoming legislation, the Earthquake Hazards Reduction Act of 1977.

I come from an area, southern California, that is prone to earthquakes. The last major earthquake in the United States occurred in southern California in 1971. That quake took 65 lives and cost over half a billion dollars in property damage. Although the loss of life and damage was relatively small when compared to the devastation of foreign earthquakes in recent years, I can assure all of my colleagues that the effect on life in California was very traumatic. Anyone who has experienced an earthquake of any magnitude finds it an unforgettable and terrifying event. There is a feeling of helplessness that is indescribable when the ground shakes below your feet. Panic in such a case is a natural reaction, but there is no place to hide.

To date we here in the United States have been fortunate that widespread devastation on the order of the San Francisco earthquake and fire of 1906 has not occurred more frequently. However, there is little doubt that we can expect another large earthquake soon. There is a vast area of land surrounding the San Andreas Fault in California lifted 25 centimeters above its normal elevation. This uplift may be the precursor of an earthquake, and the area is under intensive study. The U.S. Geological Survey has announced that it believes another great earthquake in the area is inevitable and may possibly occur within the next decade. The purpose of the Earthquake Hazards Reduction Act which we have before us today is to develop the research and prediction capabilities that will lessen the impact of that next great earthquake.

Earthquake hazards reduction programs have high priority in the State of California. Efforts have been stepped up since the 1971 San Fernando quake. The Office of Emergency Services develops programs and coordinates emergency planning, training, and the mutual aid response of all State agencies and local governments. The Emergency Services Act of the California Government Code confers emergency powers on chief executives of the State, including the Governor, chairmen of county boards of supervisors and city mayors, in the event of a disaster, and requires them to be prepared to mitigate the effects of earthquakes which threaten life, property, and the resources of California.

The California State government is monitoring the development of earthquake-forecasting techniques and preparing to modify the emergency-preparedness efforts in the light of new scientific information that might become available. H.R. 6683 is the logical extension to bolster the efforts of States such as California, as well as other States which may be less well-prepared. I would remind my colleagues that California is not alone when we speak of the threat of earthquakes. All told, 39 States, with nearly 35 percent of the U.S. population, lie in zones subject to major damage, and all 50 States are subject to some earthquake hazards. Enactment of this bill will benefit all States.

Mr. Speaker, I would like to point out two concerns I originally had about this

bill and which have been answered by the version we are now considering. First, I was concerned that the Congress was legislating another program that would be forced on State and local governments. I have already described the extensive earthquake programs of California. A federally run program with the usual strings attached could have disrupted the State efforts. I am pleased to say that this is not the case. H.R. 6683 strikes the proper balance of providing a coordinated approach to reducing the hazards of earthquakes without impinging on State initiatives. Instead, the program encourages Federal-State cooperation since the principal responsibility for using the knowledge rests with State and local governments and private individuals.

Second, this bill originally contained the seeds for the growth of another Federal bureaucracy that would grow continually in the future. By doing away with several advisory committees and new offices which were contemplated, this version of the bill eliminates the creation of a new bureaucracy. Instead, greater coordination of present Federal earthquake-related efforts will be achieved without a huge increase in unnecessary personnel.

Mr. Speaker, I hope my colleagues will join me in supporting H.R. 6683 when it comes to the House floor next week.

THE HONORABLE "BUD" BROWN EXPLAINS THE HIGH COST OF NOT DEREGULATING NATURAL GAS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. KEMP. Mr. Speaker, our distinguished colleague from Ohio, "BUD" BROWN, is well known as one of the top experts on energy in the Congress today. As the ranking minority member of the Energy and Power Subcommittee he has been working extremely hard to pass a rational energy plan which will adequately supply our country's energy needs at reasonable cost.

In the article he points out that there is no way to ultimately get the price of energy down other than by increasing supply. And there is no way to get additional supplies without increasing the incentive for exploration and drilling. The alternative—interestingly—will be higher and higher prices for energy, as we are forced to rely on exotic energy sources like synthetic fuel, and more shortages that will cost America jobs, growth, and high prices.

The article follows:

[From the Washington Post, June 18, 1977]

THE COST OF NOT DEREGULATING NATURAL GAS

(By Clarence J. Brown)

Few Americans south or west of Philadelphia have any choice about using the family car to get to work. Most resent being asked to pay unavoidable taxes on gasoline—particularly when it is hinted their tax money will go to welfare or tax reform. Similarly, many Americans in the Northeast know that federal regulation of the price of natural gas made it impossible for them to get that gas last winter and that the shortage closed their factories and schools and left their homes and hospitals cold.

On the latter point, they have no better authority than President Carter himself. In the middle of that crisis last winter, he proposed and Congress passed an emergency bill to permit the purchase of natural gas at prices above the federally controlled price in order to relieve gas-short areas. His campaign letter to the governor of Oklahoma a few months earlier said:

"The decontrol of producers' prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital. Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas."

These were the voices many members of Congress were listening to last week when House committee votes killed the stand-by gasoline tax, severely restricted the auto tax and opted for deregulation of new natural gas instead of a price ceiling.

Based on the last Congress, last week's votes might have been anticipated by the White House. Two years ago the House rejected a gasoline tax and the Senate voted 58 to 32 for a much broader deregulation bill, which the House barely failed to pass, 205 to 201.

Then it was a two-to-one Democratic Congress with a Republican President recommending deregulation of both petroleum and natural-gas prices, and suggesting that the domestic production thus encouraged might help achieve energy independence. This year it was a Democratic President recommending "world-market" prices on oil, to be achieved by taxation, and "below-market" price ceilings on natural gas in both intrastate and interstate markets on the theory that there is no more domestic oil or gas to be produced before 1985 by higher prices.

But many congressmen clearly discount the "timely" CIA study that supports administration pessimism because every other study of any scholarship indicates supply response at higher prices. And even the most pessimistic of those studies notes the need to balance demand and supply through the price mechanism to stretch domestic oil and gas until coal, nuclear and more exotic fuels can be brought on line. The more optimistic studies indicate such strong supply response to prices as to obviate (or at least delay) expensive and environmentally costly conversions to coal called for in the President's plan.

When an administration spokesman suggested an eight-year, "$71 billion ripoff" cost of gas deregulation, no mention was made of the estimated $50 billion cost of public utilities' converting gas boilers to coal in the President's program—not counting the additional cost of needed antipollution systems.

Nor did he mention the $610 million in wages lost last winter by 1.2 million workers idled by shortages of natural gas—shortages that can be laid to the federally frozen price of $1.42 per thousand cubic feet.

Nor did he mention the cost to gas consumers of using synthetic gas at $4.14 because federal regulation prohibited them from buying natural gas for $2, the price at which demand was being fully met in the unregulated intrastate market. An American Gas Association white paper estimates the cost of substitutes needed to fill in for natural-gas shortages at current regulated prices will total $30 billion in the next eight years.

The point is that many members of Congress are beginning to suspect that the costs of not deregulating implicit in the President's program may far exceed the costs of deregulating. Treasury Secretary W. Michael Blumenthal conceded in hearings before the House Ad Hoc Energy Committee last month that the gross new taxes to be paid under the President's energy proposals in eight years would be $132 billion without the potential $50 billion annual gasoline tax. That is equivalent to an increase of 15 per cent in federal taxes!

This huge federal revenue windfall from energy taxes in the National Energy Act gives the administration great flexibility to pay for expensive new social programs, balance the budget or reduce taxes. In fact, this $132 billion in new taxes may be the only way to achieve those apparently contradictory promises of the 1976 campaign.

As awareness of the tax dimensions in the President's energy plan grows, more and more Americans seem to be concluding that—if they must pay higher conservation-inducing energy prices—they would rather contribute to energy production than to discretionary federal tax revenues. If energy companies don't re-invest in finding new energy sources, then Uncle Sam can tax the money away from them. If those energy-tax revenues were then spent on mass transit, at least some Americans could avoid paying higher energy costs.

Most members of Congress have been reluctant to criticize the President's energy proposals because there is an energy crisis and it is important that it be addressed successfully. After the failures of the War on Poverty and the Vietnam War, such federal credibility as remains may hinge on our nation's ability to win the Energy War.

But studies by the General Accounting Office and the Congressional Budget Office have both recently pointed out the errors in the premise, underestimated goals and overstated results in the administration plan. Examination of the program by congressional committees has raised questions that have gone unanswered or to which contradictory answers have been given. Part of the reason is that few of the federal agencies with specialized knowledge on energy matters were in on developing the plan. The Federal Power Commission testified it had not been consulted until the proposals were ready to be submitted. The Consumer Product Safety Commission testified that it had not been consulted and still has concerns about the safety of most of the products now used for insulation for which the administration recommends tax credits.

No one is pleased with such anomalies. But faced with those realities, dismissal of last week's House votes as "preliminary" seems to miss the point. And clearly the White House contention that members were voting in subservience to oil, gas and auto lobbyists is a discouraging sign. Because they were not participants in the drafting of the plan, few members of Congress feel any responsibility of paternity, although all want a successful result. It is time for the White House to talk with people involved in the energy issue rather that at them.

ISRAELI "DEFENSE LINES": THE RHINELAND ANALOGY

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Ms. HOLTZMAN. Mr. Speaker, recent administration policy statements on the

Middle East feature prominently the suggestion that Israel withdraw to its pre-1967 borders, but that defense perimeters be established within the formerly occupied territories for Israel's protection. The following letter, which appeared in the New York Times of June 28, cites one instance in which such an arrangement was attempted and was tragically unsuccessful:

ISRAELI "DEFENSE LINES": THE RHINELAND ANALOGY

To the EDITOR:

From Vice President Mondale's speech of June 17 it is clear that the Administration's principal tactic in getting Israel and its supporters in the United States to accept Israel's withdrawal to the pre-1967 borders is the distinction between "recognized borders" and "separate lines of defense." This is a promising direction for thought about a settlement. But it should not be uncritically accepted without considering how similar solutions have worked in the past.

There is one great example in the 20th century of such a plan: the Treaty of Versailles. After the First World War, Marshal Foch and other French leaders wished to assure the security of France by separating the Rhineland from Germany, by "recognized borders." On the initiative of the United States and Britain, a solution by "separate lines of defense" was adopted instead: The Rhineland was to be occupied by the armies of the United States, Britain, Belgium and France until the year 1935, when passions would have cooled on both sides, somewhat as the Carter-Mondale plan apparently intends. Afterward, German troops were to remain excluded from the Rhineland. The world remembers how this scheme did not work out.

As time went on, France's allies began to feel that the presence of foreign troops on the territory of a sovereign state was an affront to international normalcy and an inconvenience to their own selfish interests. France was now faced with the dilemma of sacrificing the defensive-line solution in one way or another or losing the diplomatic and military support of her allies. Moreover, the presence of their army on German soil tempted the French to occupy new territory to punish German treaty violations—as Israel would be tempted to respond to terrorism—causing an immediate upheaval in Germany and antagonizing the allies of France. The United States, losing interest in French security, evacuated its zone as early as 1923. Finally, the French too agreed under intense British and American pressure (including the threat of unilateral British withdrawal) to evacuate the remaining area five years early.

All the while the humiliation of foreign troops on German territory festered in the mind of Germany, poisoning relations with France. The denouement came when Hitler came to power three years before the Rhineland had been due to be evacuated, with France now exposed by the disintegration of the "defensive lines" solution and isolated from allies long exasperated by her insistence on that unstable solution.

The historical setting of the Rhineland case obviously differs in many ways from the contemporary Middle East. But the earlier case does suggest that, when it functions in an atmosphere already fearful and antagonistic, a solution relying on the distinction between recognized boundaries and separate defense lines can easily lose international legitimacy. For this reason, and simply because a defense line is so much less firmly rooted and protected by other realities than a state boundary, it can ignite hopes for its premature removal among Arabs and corresponding fears among Israelis. This kind of settlement may provide tinder for future conflicts rather than pacify them.

(Asst. Prof.) CHARLES FAIRBANKS,
Political Science, Yale University
NEW HAVEN, *June 19, 1977.*

POLYURETHANE PADDING EMITS TOXIC FUMES

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 29, 1977

Mr. DODD. Mr. Speaker, this morning's Norwich Bulletin, as the result of investigative journalism, alerted the Nation through a series of articles, to the dangers inherent in the institutional use of polyurethane padding which, when burned, emits particularly toxic fumes.

One can only wonder if immediate action had been taken across the Nation, as it was in my State of Connecticut in light of the information developed by the Bulletin, whether some of the lives lost in this weekend's Tennessee prison fire might have been saved.

I submit this editorial in national recognition of the public service being performed by the Norwich Bulletin and to call attention, as I have done in a letter to the President, to the need for Federal standards governing the institutional use of polyurethane:

CPSC's BLOODY HANDS

In a period of about two weeks, 62 persons have died as a result of burning plastic foam used for mattresses or wall padding in penal institutions. Yet the nation is still without adequate standards of flammability for such products, particularly those used in institutions of confinement, such as prisons, mental hospitals or general hospitals.

Last year, in an extensively researched series, The Bulletin brought to public attention the extreme fire hazard of polyurethane mattresses, many of them in current use in Connecticut institutions and throughout the nation. Connecticut was prompt in its reaction to exposure of the danger. It embarked on a massive program to replace all such mattresses with products that meet far higher standards of safety.

But there has been no action at all on the national level, although national standards might bring about a uniform standard of safety. The Bulletin has learned that pleas and petitions from Congressmen and fire officials have been turned down by the Consumer Product Safety Commission, an agency that has boasted of its diligence but shown little in the way of constructive performance. Claims that the major task of CPSC has been public relations, rather than attention to consumer safety, are apparently more than justified.

Were the CPSC to refuse to alter its standards for strictly consumer products, those sold only to the public, it might be excused for its leniency. The public, after all, makes its purchases voluntarily, and is probably subjected to a far smaller degree of risk than the inmate of an institution.

But the institutional inmate is captive to the lack of concern of officials for stringent standards. He is the victim of an imposed risk. And the comparative instability of the institutional inmate multiplies that risk, a fact that was starkly demonstrated in the prison fire Sunday in Columbia, Tenn.

It is not difficult to appreciate the frustration of Connecticut Congressmen Christopher J. Dodd and Stewart B. McKinney at being rebuffed by the CPSC in their appeals for higher safety standards for institutions. Their plea was not a political issue nor an attempt to curry favor for special interests. The protection that was requested was for those who are rendered helpless by incarceration and confinement. It is tragic that their point had to be driven home again by unnecessary deaths during the past two weeks. But it has been proved, beyond argument, that the danger of which they warn is both real and pressing. Now they have taken their case to President Carter, who cannot join in the general apathy that has greeted their request to date.

CPSC standards for flammability of mattresses have little to do with the reality of institutional dangers. A mattress would meet CPSC criteria if a burning cigarette does not set it aflame. That has no relationship to, for example, a crazed prison inmate or a mental patient fascinated with fire. It does not address, for another example, the peril of a hospital patient who has inadvertently ignited a waste basket near his bed. It does not encompass the increased hazard of a fire that is started elsewhere in an institution and spreads to mattresses or wall padding.

In all cases, state and local officials cannot be absolved of blame for the tragedies that have occurred from flaming polyurethane. They, too have been alerted to the dangers by professional colleagues and by the stories of tragedy that have appeared in the national news media. They do not have to wait for national action to protect their own charges. Connecticut, for example, did not wait once it learned of the dangers.

But inaction on the part of an agency charged with protection of the public is inexcusable. The President's task now is to delve into the mentalities of the appointees who constitute the Consumer Product Safety Commission and to replace those whose indifference has killed so many in cold blood.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 30, 1977, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 1

9:30 a.m.

Environment and Public Works
Environmental Pollution Subcommittee
To continue oversight hearings on the implementation and management of the Clean Water Act (Public Law 92-500).
4200 Dirksen Building

Veterans' Affairs
Health and Readjustment Subcommittee
To hold hearings on S. 1775, to amend the Veterans' Physician and Dentists' Pay Comparability Act.
Until noon 6202 Dirksen Building

10:00 a.m.

Budget
To hold hearings on the new concept of advance budgeting.
357 Russell Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1393, to authorize the Justice Department to initiate suits to enforce constitutional and other federally guaranteed rights of institutionalized persons.
2228 Dirksen Building

JULY 6

10:00 a.m.

Government Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on alleged irregularities in certain spending practices of the Small Business Administration.
3302 Dirksen Building

JULY 7

10:00 a.m.

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on alleged irregularities in certain spending practices of the Small Business Administration.
3302 Dirksen Building

JULY 8

10:00 a.m.

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on alleged irregularities in certain spending practices of the Small Business Administration.
3302 Dirksen Building

JULY 11

10:00 a.m.

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.
5302 Dirksen Building

2:00 p.m.

Conferees
On H.R. 6655, authorizing funds for housing and community development assistance programs for fiscal years 1978 through 1980.
Room to be announced

JULY 12

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee and Consumer Subcommittee
To hold joint hearings on the auto fuel economy section of S. 1469, proposed National Energy Act.
224 Russell Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings to evaluate information upon which the FDA based its decision to ban Laetril from interstate commerce.
Until noon 4232 Dirksen Building

Human Resources
Handicapped Subcommittee
To resume hearings on proposed extension of the Vocational Rehabilitation Act of 1973, Education of Handicapped Children Act, and S. 1596, to establish a National Center for the Handicapped.
6202 Dirksen Building

Veterans' Affairs
To consider pending calendar business.
412 Russell Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.
5302 Dirksen Building

* Commerce, Science, and Transportation
To hold hearings on the designated nomination of Richard A. Frank, of Nebraska, to be Administrator of the National Oceanic and Atmospheric Administration in the Department of Commerce.
5110 Dirksen Building

Foreign Relations
To hold hearings on the Vienna Convention on the Law of Treaties, (Exec. L., 92d Cong.; 1st sess.).
4221 Dirksen Building

1:30 p.m.

Select Ethics
Open, to be followed by a closed session.
1417 Dirksen Building

2:00 p.m.

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 1077, to assure that essential maritime transportation is provided to Alaska, Hawaii, and certain U.S. territories.
5110 Dirksen Building

JULY 13

9:30 a.m.

* Human Resources
* Handicapped Subcommittee
To continue hearings on proposed extension of the Vocational Rehabilitation Act of 1973, Education and Handicapped Childen Act, and S. 1596, to establish a National Center for the Handicapped.
1318 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on S. 1381, setting standards for State no-fault benefit plans to compensate motor vehicle accident victims.
5110 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the international telecommunications system.
235 Russell Building

Foreign Relations
To review the operation and effectiveness of the War Powers Resolution of 1973.
4221 Dirksen Building

Human Resources
To consider S. 1750, Saccharin Study, Labeling, and Advertising Act, and other committee business.
Until 11:30 a.m.
4232 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To hold hearings on S. 1682, to implement the treaties with Mexico and Canada on the execution of penal sentences.
6226 Dirksen Building

JULY 14

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To receive a report from the National Commission on Supplies and Shortages on materials policy research and development.
5110 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the cost of drugs.
Until noon 4232 Dirksen Building

Human Resources
Handicapped Subcommittee
To continue hearings on proposed extension of the Vocational Rehabilitation Act of 1973, Education of Handicapped Children Act, and S. 1596, to establish a National Center for the Handicapped.
6202 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the international telecommunications system.
457 Russell Building

Foreign Relations
To review the operation and effectiveness of the War Powers Resolution of 1973.
4221 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings on S. 1682, to implement the treaties with Mexico and Canada on the execution of penal sentences.
6226 Dirksen Building

2:00 p.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee and Consumer Subcommittee
To resume joint hearings on the auto fuel economy section of S. 1469, proposed National Energy Act.
5110 Dirksen Building

JULY 15

9:30 a.m.

Veterans' Affairs
To consider pending calendar business.
412 Russell Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To resume hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

Commerce, Science, and Transportation
To resume hearings on S. 1381, setting standards for State no-fault benefit

plans to compensate motor vehicle accident victims.
6226 Dirksen Building

Finance
Social Security Subcommittee
To resume hearings on proposals for maintaining the financial soundness of the Social Security system.
2221 Dirksen Building

Foreign Relations
To review the operations and effectiveness of the War Powers Resolution of 1973.
4221 Dirksen Building

JULY 18

10:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 1381, setting standards for State no fault benefit plans to compensate motor vehicle accident victims.

Select Small Business
To resume hearings on administrative reporting and investment policies under the Employees Retirement Income Security Act; S. 285, diversification of investment of private pension fund assets; S. 901, to eliminate dual Treasury and Labor Department jurisdiction of ERISA; and S. 1745, to facilitate the establishment of employee retirement plans by small businesses.
424 Russell Building

JULY 19

8:00 a.m.
Agriculture
Agricultural Research and General Legislation Subcommittee
To resume hearings on the Federal Government's role in food safety and quality.
322 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To review a report from the National Commission on Supplies and Shortages on materials policy research and development.
5110 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To resume hearings on biomedical research programs.
Until 1 p.m. 4232 Dirksen Building

10:00 a.m.
Budget
To hold hearings on the Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

Foreign Relations
To hold hearings on the following five tax treaties: Convention with Israel (Exec. C, 94th Cong., 2nd sess.); Convention with Egypt (Exec. D, 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K, 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P, 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C, 95th Cong., 1st sess.).
4221 Dirksen Building

JULY 20

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue hearings on biomedical research programs.
Until 1 p.m. 4232 Dirksen Building

Veterans' Affairs
To consider pending calendar business.
412 Russell Building

10:00 a.m.
Budget
To continue hearings on the Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

Commerce, Science, and Transportation
To resume hearings on S. 1381, setting standards for State no-fault benefit plans to compensate motor traffic accident victims.
5110 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1162, to repeal section 222 of the Communications Act of 1934, which governs the inter-relationship among communications common carriers providing international record services.
235 Russell Building

Foreign Relations
To hold hearings on the following five tax treaties: Convention with Israel (Exec. C. 94th Cong., 2nd sess.); Convention with Egypt (Exec. D. 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K. 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P. 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C. 95th Cong., 1st sess.).
4221 Dirksen Building

JULY 21

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the Railroad Revitalization Act of 1976 (P.L. 94–210) and amendments proposed thereto.
5110 Dirksen Building

10:00 a.m.
Budget
To continue hearings on the Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 1162, to repeal section 222 of the Communications Act of 1934, which governs the interrelationship among communications common carriers providing international record services.
235 Russell Building

10:30 a.m.
Commerce, Science, and Transportation
To consider pending calendar business.
235 Russell Building

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
To resume oversight hearings on the Railroad Revitalization Act of 1976 (P.L. 94–210) and amendments proposed thereto.
5110 Dirksen Building

JULY 26

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume oversight hearings on the cost of drugs.
Until 12:30 p.m.
4232 Dirksen Building

10:00 a.m.
Foreign Relations
To hold hearings on protocol to the Convention on International Civil Aviation (Exec. A, 95th Cong., 1st sess.), and related protocols (Exec. B, 95th Congress, 1st sess.)
4221 Dirksen Building

JULY 27

9:00 a.m.
Veterans' Affairs
Health and Readjustment Subcommittee
To hold oversight hearings on a study by the National Academy of Science on health care for American veterans.
6226 Dirksen Building

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue oversight hearings on the cost of drugs.
Until 12:30 p.m. 4232 Dirksen Building

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings in the role of the halfway house in the rehabilitation of alcoholics.
Until noon 1202 Dirksen Building

JULY 29

10:00 a.m.
Budget
To mark up Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

AUGUST 1

10:00 a.m.
Budget
To continue mark up of Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

AUGUST 2

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume oversight hearings on the effectiveness of antitrust laws enforcement.
2226 Dirksen Building

10:00 a.m.
Budget
To continue mark up of Second Congressional Budget Resolution for fiscal year 1978.
357 Russell Building

AUGUST 3

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue oversight hearings on the effectiveness of antitrust laws enforcement.
2226 Dirksen Building

AUGUST 4

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue oversight hearings on the effectiveness of antitrust laws enforcement.
2226 Dirksen Building

SEPTEMBER 21

9:30 a.m.
Veterans' Affairs
To hold hearings on S. 364, Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1 p.m. Room to be announced

SEPTEMBER 28

10:00 a.m.
Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
412 Russell Building

HOUSE OF REPRESENTATIVES—*Thursday, June 30, 1977*

The House met at 10 o'clock a.m.

Rabbi Hillel Cohn, Congregation Emanu El, San Bernardino, Calif., offered the following prayer:

O God, we seek blessings upon this Nation and its people's representatives. Let us learn from the question posed centuries ago:

אם לא עכשן, אימתי

"If not now, when?" (Ethics of the Fathers.)

The attainment of a truly just America in which the rights of individuals and minorities are a primary concern summons our recommitment. If not now, when?

The advocacy of democracy through its real application in every community and the support of democratic nations throughout the world beckons our reconsecration. If not now, when? The pursuit of Shalom, a total peace, where persons need not fear for the future demands our rededication. If not now, when? O God, may the godliness in each of us that makes good dreams possible cause that question ever to be before us—if not now, when? Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 525. Joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1532. An act to authorize appropriations for the Federal Maritime Commission, to require the Commission to recodify its rules, and for other purposes;

S. 1535. An act to amend the Federal Power Act to authorize appropriations for the Federal Power Commission, to require the Commission to recodify its rules, and for other purposes; and

S. 1536. An act to amend the Communications Act of 1934 to authorize appropriations for the Federal Communications Commission, to require the Commission to recodify its rules, and for other purposes.

The message also announced that Mr. McGOVERN was removed as a conferee on H.R. 5262, U.S. participation in international financial institutions, and H.R. 6884, International Security Assistance Act.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7556, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1978

Mr. SLACK. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7556) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

HAPPY BIRTHDAY TO TOM IORIO, A DEDICATED SERVANT OF THE HOUSE

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADDABBO. Mr. Speaker, it is my happy privilege and pleasure to announce to the House this morning that we are celebrating the birthday today of Tom Iorio, a dedicated officer of the House, who has served us well both as a friend and employee of the House.

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of our good friend, Tom Iorio.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

STATEMENT OF REPRESENTATIVE FRANK HORTON ON THE INTRODUCTION OF THE JOINT RESOLUTION TO PROCLAIM "PACIFIC ASIAN/AMERICAN HERITAGE WEEK"

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, today I am honored to introduce with the distinguished Congressman from California, NORMAN MINETA, a resolution authorizing the President to annually issue a proclamation designating a week during the first 10 days of May as "Pacific Asian/American Heritage Week." The proclamation would recognize the distinguished contributions of Pacific Asian/Americans to the United States and its territories. It is consistent with previous resolutions which have recognized the contribution of Spanish-speaking Americans and black Americans.

Mr. Speaker, since the country was founded we have witnessed a truly remarkable accommodation of the social, political, and cultural differences of millions of people from all over the world. Americans of Pacific Asian/American heritage have contributed significantly to their community, to their Nation, and to the social, scientific, economic, and cultural growth of our people. Over 1.4 million people presently live in the United States whose ancestors started their lives in various parts of the Pacific world. It is only fitting that we recognize the contribution of many such great individuals including the cosponsor of this resolution, Representative MINETA. Other prominent Americans of Pacific Asian ancestry include Senator DANIEL INOUYE; Senator SPARK MATSUNAGA; Senator S. I. HAYAKAWA; former Congresswoman Patsy Mink; Representative ANTONIO BORJA WON PAT of Guam; the present Governor of Hawaii, George R. Ariyoshi; Mrs. March Fong Eu, secretary of state for California; former Senator Hiram Fong of Hawaii, the first Pacific Asian/American to ever be a Member of Congress. This resolution is also supported by the National Coalition for a Pacific Asian/American Heritage Proclamation, chaired by Mrs. Jeanie F. Jew, and comprised of many associations of Pacific Asian/Americans and the Pacific Asian Congressional Caucus, chaired by Miss Ruby G. Moy.

Mr. Speaker, we have previously sent a "Dear Colleague" to all Members of the House. To obtain approval by the Post Office and Civil Service Committee, we need 218 cosponsors in the House. I urge my colleagues to join with us in sponsorship of this resolution.

SMITH COLLEGE, NORTHAMPTON, MASS.

Mr. VANIK. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1404) for the relief of Smith College, Northampton, Mass., with Senate amendments thereto, and concur in the Senate amendments.

I want to say that the bill is essentially in the form in which it passed the House, but there were some amendments added by the other body relating to public assistance and to medicaid.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, after line 11, insert:

FOOD STAMP ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS

SEC. 3. Effective July 1, 1977, section 8 of Public Law 93-233 is amended by striking out "June 30, 1977" where it appears—

(1) in the matter preceding the colon in subsection (a)(1), and in the new sentence added by such subsection, and

(2) in subsections (a)(2), (b)(1), (b)(2), (b)(3), and (f),

and by inserting in lieu thereof in each instance "September 30, 1978".

EXTENSION OF FEDERAL FUNDS FOR CHILD SUPPORT COLLECTION AND PATERNITY ESTABLISHMENT SERVICES PROVIDED FOR PERSONS NOT RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 4. Section 455(a) of the Social Security Act is amended by striking out "June 30, 1977" in the matter following paragraph (2) and inserting in lieu thereof "September 30, 1978".

EXTENSION OF TIME FOR MAKING REPORT BY SECRETARY REGARDING CHILD DAY CARE SERVICES STANDARDS

SEC. 5. Section 2002(a)(9)(B) of the Social Security Act is amended by striking out "July 1, 1977" and inserting in lieu thereof "April 1, 1978".

DEFERRAL OF IMPLEMENTATION OF CERTAIN DECREASES IN MEDICAID MATCHING FUNDS

SEC. 6. Notwithstanding the provisions of subsection (g) of section 1903 of the Social Security Act, the amount payable to any State for the calendar quarters during the period commencing April 1, 1977, and ending September 30, 1977, on account of expenditures made under a State plan approved under title XIX of such Act, shall not be decreased by reason of the application of the provisions of such subsection with respect to any period for which such State plan was in operation prior to April 1, 1977.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I wonder if my colleague from Ohio could dissuade me of the notion I had, as I listened, that there is something nongermane about these amendments.

Mr. VANIK. If the gentleman will yield to the gentleman from California and the gentleman from Florida, they will be happy to explain what was added by the other body.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Further reserving the right to object, I shall be glad to yield.

Mr. ROGERS. What was added in the Senate was an agreement that the committees that have the jurisdiction over medicaid have agreed to. There is a provision in the medicaid law that State inspections must be made of all health facilities within a State; otherwise, the State would be subject to a penalty, a withholding of some of the medicaid funds. If a State failed to inspect only one facility, it would nevertheless incur a very severe penalty.

This amendment simply provides that for the first quarter, in order to allow us time to act, there will be no penalty levied. That is all that the amendments do.

In H.R. 3, which will be brought to the House shortly, and which has now been approved by the Ways and Means Committee and by the Committee on Interstate and Foreign Commerce, we handled it in a 6-month period with set requirements with which States must comply at the end of that time. All this amendment does, and it certainly has the agreement of our committee and the Ways and Means Committee, is simply say that the Secretary may not impose penalties for three months, pending congressional action. The following letter which I sent to the chairman of the Ways and Means Committee, the distinguished gentleman from Oregon, sets forth my position on this issue.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 23, 1977.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you may know, the Senate Finance Committee has reported H.R. 1404 with an amendment relating to the Medicaid program. Specifically, the amendment provides that no reduction of Medicaid payments resulting from failure to meet the review requirements of the law will be imposed during the calendar quarters commencing April 1 and July 1 of this year. This amendment is necessary to avoid subtraction of some $142 million from the quarterly payments of 20 States. (HEW is currently in the process of sending out these payments for the upcoming quarter).

The Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce has added a provision to H.R. 3, as reported to the full Committee, which provides States with a six-month period, i.e., until December 31, 1977, to meet the review requirements of the law. If a State can demonstrate compliance with the law at that time, the Secretary of HEW would waive reductions previously assessed under Section 1903(g) of the Social Security Act. However, an unavoidable delay in bringing H.R. 3 before the full Committee has made it impossible to assure consideration and passage by both the House and the Senate before the reduction in the upcoming quarterly payments would take effect. Therefore, the temporary delay provided by the Senate amendment is urgently needed.

I wanted you to know that we have been consulted by the Finance Committee on their action, and endorsed their approach. Their amendment to H.R. 1404 accords with the action already taken by the Subcommittee, and will have my full support on the Floor. I am ready to assist in any way you think necessary to secure rapid approval of H.R. 1404 by the House.

Sincerely yours,

PAUL G. ROGERS, M.C.,
Chairman, Subcommittee on Health and the Environment.

Mr. ASHBROOK. Further reserving the right to object, Mr. Speaker, am I correct in my understanding that this was an action of the Senate which had no companion action in the House and agreeing to this unanimous-consent request would constitute the only House action on this particular measure?

Mr. ROGERS. Yes. All it is a postponement for three months of the levying of any fines against States which did not make all of their inspections within the 1-year period. That is all it does. It then enables us to go ahead and enact a 6-month additional time period which we have already written into H.R. 3, which will soon be brought to the floor. It must be done today because, under existing law, HEW must begin levying fines tomorrow.

Mr. ASHBROOK. One further reservation, Mr. Speaker. My colleague from Florida has always been direct and forthright. Is the gentleman indicating that is the only nongermane amendment, that is the only consideration involved, or are there other sections involved?

Mr. VANIK. If the gentleman will yield, the gentleman from California (Mr. CORMAN), the chairman of the Subcommittee on Public Assistance, will explain the public assistance amendments.

Mr. ASHBROOK. Further reserving the right to object, Mr. Speaker, I would be glad to yield to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. I thank the gentleman for yielding.

Mr. Speaker, there are three public assistance amendments on H.R. 1404.

The first one extends present law pertaining to food stamp eligibility for SSI recipients.

The Senate amendment is the same as the House provisions in H.R. 7200. It would extend until September 30, 1978, present temporary provisions pertaining to the eligibility of SSI recipients for food stamps.

Under current temporary provisions (Public Law 94-365), all SSI recipients are eligible for food stamps—except in California and Massachusetts where an increased State supplementary payment is made in lieu of food stamps. Upon expiration of this provision, on July 1, 1977, food stamp eligibility determinations will be made by relating current income to December 1973 income as required under Public Law 93-86.

Because of the administrative complications and costs that would result, the food stamp eligibility determination procedures required under Public Law 93-86 have never been allowed to go into effect. It has been the position of the House that these complex procedures should be further delayed and that the existing temporary provisions should remain in effect while the food stamp reform legislation is under consideration by the Congress.

The second amendment provides for an extension of the deadline for HEW day care standards study.

This Senate amendment is identical to a provision in section 301 of H.R. 7200 as it passed the House. When Congress enacted title XX (Public Law 93-647) the Secretary of HEW was directed to submit an evaluation of the appropriateness of the requirements for child day care established under the act. Such a study was also to include any recommendations for modifications of the requirements with such findings to be submitted to the Congress after December 31, 1976, but no later than June 30, 1977. The Secretary was also authorized to modify the day care requirements by regulation no earlier than 90 days after the submission of the report. The Department of HEW has requested that the submission date for the report be extended.

The amendment would give the Department until April 1, 1978 to submit its report. However, the Department is urged to submit the report at the earliest possible date prior to the deadline. An earlier submission would allow maximum time for public comment on the study and on any regulations the Secretary may propose to modify the current day care standards.

The third amendment extends the authority for federal funding of child support enforcement services provided to non-AFDC recipients.

The Senate amendment would provide for a straight extension, until October 1, 1978, of current provisions pertaining to Federal matching funds for costs of child support collection and paternity establishment services provided by States to individuals not receiving AFDC. Pressent authority expires on June 30, 1977.

The House provisions in H.R. 7200 would extend for 2 years, beginning October 1, 1977, Federal matching for costs of providing these services to non-AFDC recipients whose income are not more than double the State AFDC standard of need. The House provision also required States to charge application fees and deduct other administrative costs in the case of non-AFDC recipients who request child suport services, unless such fees or deductions would make the individual eligible for AFDC.

The simple extension provided in the Senate amendment was justified on grounds that there was insufficient time to act on the changes made by the House provision, and with the understanding that the House provision would be considered when the Finance Committee takes up H.R. 7200 later this month.

I urge the House to accept these provisions.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for his contribution.

Further reserving the right to object, Mr. Speaker, the thing which concerns many of us—and we recognize the Committee on Ways and Means is a hard-working committee—it seems that so many times they come in at the very last day, whether it concerns unemployment, food stamps, trade, or taxes, and they indicate that if we do not take this action today, tomorrow "x" will happen. I think we all recognize that is not the best way to legislate. At least it is one of the concerns which many Members have. I would only indicate that this seems to be a continuing modus operandi of the Committee on Ways and Means.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I would like to point out that the House acted on this legislation several weeks ago. We have no control over how expeditiously the other body handles legislation we send to it. We are before the House today quite simply because the Senate did not act on these matters until day-before-yesterday.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1404.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDING STATUTE OF LIMITATIONS PROVISIONS IN SECTION 2415 OF TITLE 28, UNITED STATES CODE, RELATING TO CLAIMS BY UNITED STATES ON BEHALF OF INDIANS

Mr. UDALL. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 539) to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, the procedure that is now before us is one to which I essentially believe I would like to add my support. However, I think some explanation is necessary for the record, in view of the unusual circumstances.

Mr. Speaker, the gentleman from Maine (Mr. COHEN) has expressed particular interest in this matter.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. Further reserving the right to object, I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, I thank the gentleman for yielding.

The essential purpose of this request bears on the fact that there is a very large suit now pending against the State of Maine which would have to be filed prior to July 18, 1977. There is a measure that we have tried to bring to the floor during the past few weeks, but because of the lengthy debate we have had on other matters, we have not gotten to it. The Speaker has scheduled that measure on the calendar for Monday, the day we return, which would leave a day or two before the Justice Department would be forced to file its suit.

This would affect 60 percent of the land mass of the State of Maine, and in turn it would precipitate a lawsuit against the State of Massachusetts. I understand there are several other lawsuits pending, one against the State of New York, one against the State of Rhode Island, and one against the State of South Carolina. We are told Wisconsin may have a substantial suit, and there are a number of major lawsuits which may be brought in the near future.

The measure would extend the statute of limitations for a period of 4½ years. There are several amendments which will be offered, one by the gentleman from Washington (Mr. FOLEY) to restrict that time limit, and one by myself to cut it back.

Time is running out, and there may be inadequate time to consider this matter when we return.

I understand the gentleman from Arizona (Mr. UDALL) is asking for an extension of the statute of limitations for a period of 1 month, until August 18, 1977, to give this body time to consider what in fact will be a recommendation to extend the statute of limitations for the filing of claims by the Justice Department on behalf of Indian tribes for monetary damages.

It should be clear to all those Members who are here today that we are talking about potentially thousands of lawsuits, and that is why this entire issue must be fully debated.

Mr. Speaker, I think the gentleman from Arizona (Mr. UDALL) is correct in bringing this measure to the floor in order to give this body adequate time to debate fully whether this House should in fact extend the statute of limitations for a further period of 4½ years.

Mr. UDALL. Mr. Speaker, will the gentleman yield to me?

Mr. KINDNESS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I am today introducing a joint resolution for the purpose of extending a statute of limitations affecting certain Indian claims for a period of 1 month. As you know the Senate passed a bill on May 27, 1977 (S. 1377) extending the Statute of Limitations in 25 U.S.C. 2415 for a period of 4½ years. It appears that the House may be unable to adopt legislation in time to avoid the necessity of filing thousands of claims before the statute expires on July 17, 1977, especially in the event that a conference with the Senate dealing with this subject should prove necessary. This resolution will simply maintain the status quo for 1 month so as to allow the House to consider the longer extension during the week of July 11.

This is a matter of some urgency. The Justice Department, at the request of the Interior Department, is preparing to file suit on or about July 13, 1977, against tens of thousands of landowners in Maine, New York, and perhaps in South Carolina and elsewhere. If such suits are filed it will cause great hardship because of the cloud that will be placed on land titles. Justice and Interior greatly prefer to settle these matters out of court.

If the statute of limitations is extended then Justice will not have to file suit, but will be able to work for a settlement.

Mr. COHEN. Mr. Speaker, will the gentleman yield further?

Mr. KINDNESS. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, let me ask this question: Do I understand that no further cases will be turned over from the Department of the Interior to the Justice Department for prosecution prior to August 18, 1977? Is that correct?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, that is the purpose of this legislation, to leave this issue exactly where it is today. We intend to schedule

this matter with the help of the leadership on July 11. That is the day on which it has been scheduled. I do not want this additional time to be used by either the Justice Department or the Interior Department to take advantage of the situation.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding.

I will say, Mr. Speaker, that I believe, as the gentleman from Arizona (Mr. UDALL) and others have said, that this is an appropriate action to take for the purpose of allowing the House to have full and careful deliberation and judgment on the pending legislation.

I am particularly pleased that the gentleman from Arizona (Mr. UDALL) has stated what I hope will be clear in the action of the House today on the adoption of this resolution, that the extension of 1 month is not to be used by the Department of the Interior or the Department of Justice or any other agency of the Government to advance any claims during this period or to take advantage of the time we are giving for consideration in order to change the relationship or give credence to any further potential or pending claims actions.

Mr. Speaker, I thank the gentleman from Arizona (Mr. UDALL) for that assurance, and I thank the gentleman from Ohio (Mr. KINDNESS) for yielding.

Mr. EMERY. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. Further reserving the right to object, I yield to the gentleman from Maine.

Mr. EMERY. Mr. Speaker, I thank the gentleman for yielding.

I should also point out that the proposed extension of 30 days is especially needed by the administration and its special appointee, Judge William Gunter, formerly of the Georgia Supreme Court, to fully evaluate this matter. Extensive study is being made not only of the situation we are faced with in Maine, but also of Indian claims generally in the many other States that are involved. They are making an extensive study in order to recommend to the Congress and the various departments and agencies a course of action that ultimately, we hope, will be fair and just to both the Indian and the non-Indian, keeping in mind the tremendous economic displacements and many other social problems that may arise from precipitous action.

One of the points I want to underscore so that everyone will understand our predicament, is that unless this extension is granted, one side or the other side may be forced into hasty actions, lawsuits, and the like which we all may regret later.

Mr. Speaker, the extension is very important so that we may continue to keep a level head and remain cool and proceed rationally and thoughtfully through this whole proceeding.

I hope that this joint resolution does pass this morning.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for his remarks.

I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 539

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the third proviso in section 2415(a) of title 28, United States Code, is amended by deleting the words "more than eleven years after the right of action accrued" therein, and substituting the words "after August 18, 1977" in their place.

(b) The proviso in section 2415(b) to title 28, United States Code, is amended by deleting the words "within eleven years after the right of action accrues" therein, and substituting the words "on or before August 18, 1977" in their place.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that Members may revise and extend their remarks in today's RECORD on each amendment debated during further consideration of H.R. 7933 at the point at which the amendment is debated.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1978

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 1, not voting 33, as follows:

[Roll No. 397]

YEAS—399

Abdnor	Anderson, Ill.	Badham
Addabbo	Andrews, N. Dak.	Bafalis
Akaka	Annunzio	Baldus
Alexander	Archer	Barnard
Allen	Armstrong	Baucus
Ammerman	Ashbrook	Bauman
Anderson, Calif.	Ashley	Beard, R.I.
Bedell	Ford, Mich.	Martin
Beilenson	Ford, Tenn.	Mathis
Benjamin	Forsythe	Mattox
Bennett	Fountain	Mazzoli
Bevill	Fowler	Meeds
Bingham	Fraser	Metcalfe
Blanchard	Frenzel	Meyner
Blouin	Fuqua	Michel
Boggs	Gammage	Mikulski
Boland	Gaydos	Mikva
Bolling	Gephardt	Milford
Bonior	Giaimo	Miller, Calif.
Bonker	Gibbons	Miller, Ohio
Bowen	Gilman	Mineta
Brademas	Ginn	Minish
Breaux	Glickman	Mitchell, N.Y.
Breckinridge	Gonzalez	Moakley
Brinkley	Goodling	Moffett
Brodhead	Gore	Mollohan
Brooks	Gradison	Montgomery
Broomfield	Grassley	Moore
Brown, Mich.	Gudger	Moorhead, Calif.
Brown, Ohio	Guyer	Moorhead, Pa.
Broyhill	Hagedorn	Moss
Buchanan	Hall	Mottl
Burgener	Hamilton	Murphy, Ill.
Burke, Calif.	Hammer-schmidt	Murphy, N.Y.
Burke, Fla.	Hanley	Murphy, Pa.
Burleson, Tex.	Hannaford	Murtha
Burlison, Mo.	Hansen	Myers, Gary
Burton, Phillip	Harkin	Myers, Michael
Butler	Harrington	Myers, Ind.
Caputo	Harris	Natcher
Carney	Harsha	Neal
Carr	Heckler	Nedzi
Carter	Hefner	Nichols
Cavanaugh	Heftel	Nix
Cederberg	Hillis	Nolan
Chappell	Holland	Nowak
Chisholm	Hollenbeck	O'Brien
Clausen, Don H.	Holt	Oakar
Clay	Holtzman	Oberstar
Cleveland	Horton	Obey
Cochran	Howard	Ottinger
Cohen	Hubbard	Panetta
Coleman	Huckaby	Patten
Collins, Ill.	Hughes	Patterson
Collins, Tex.	Hyde	Pattison
Conable	Ireland	Pease
Conte	Jacobs	Pepper
Corcoran	Jeffords	Perkins
Corman	Jenkins	Pickle
Cornell	Jenrette	Pike
Cornwell	Johnson, Calif	Poage
Cotter	Johnson, Colo.	Pressler
Coughlin	Jones, N.C.	Preyer
Crane	Jones, Okla.	Price
Cunningham	Jones, Tenn.	Pritchard
D'Amours	Jordan	Pursell
Daniel, Dan	Kasten	Quayle
Daniel, R. W.	Kastenmeier	Quie
Danielson	Kazen	Quillen
Davis	Kelly	Rahall
de la Garza	Kemp	Railsback
Dellums	Ketchum	Rangel
Derrick	Keys	Regula
Derwinski	Kildee	Reuss
Devine	Kindness	Rhodes
Dickinson	Kostmayer	Richmond
Dicks	Krebs	Rinaldo
Dingell	Krueger	Risenhoover
Dodd	LaFalce	Roberts
Downey	Lagomarsino	Robinson
Drinan	Latta	Rodino
Duncan, Oreg.	Leach	Roe
Duncan, Tenn.	Lederer	Rogers
Early	Leggett	Roncalio
Eckhardt	Lehman	Rooney
Edgar	Lent	Rose
Edwards, Ala.	Levitas	Rosenthal
Edwards, Calif.	Lloyd, Calif.	Rostenkowski
Edwards, Okla.	Lloyd, Tenn.	Rousselot
Eilberg	Long, La.	Roybal
Emery	Long, Md.	Rudd
English	Lott	Runnels
Erlenborn	Lujan	Ruppe
Ertel	Luken	Russo
Evans, Colo.	Lundine	Ryan
Evans, Del.	McClory	Santini
Evans, Ga.	McCloskey	Sarasin
Evans, Ind.	McDade	Satterfield
Fary	McDonald	Sawyer
Fascell	McFall	Scheuer
Fenwick	McHugh	Schroeder
Findley	McKay	Schulze
Fish	Madigan	Sebelius
Fisher	Maguire	Seiberling
Fithian	Mahon	Sharp
Flood	Mann	Shipley
Florio	Markey	Shuster
Flowers	Marks	Sikes
Flynt	Marlenee	Simon
Foley	Marriott	Sisk

Skelton	Taylor	White
Skubitz	Thone	Whitehurst
Slack	Thornton	Whitley
Smith, Iowa	Traxler	Whitten
Smith, Nebr.	Treen	Wiggins
Snyder	Trible	Wilson, Bob
Solarz	Tsongas	Wilson, C. H.
Spellman	Tucker	Wilson, Tex.
Spence	Udall	Winn
St Germain	Ullman	Wirth
Staggers	Van Deerlin	Wolff
Stangeland	Vanik	Wright
Stanton	Vento	Wydler
Stark	Volkmer	Wylie
Steed	Waggonner	Yates
Steers	Walgren	Yatron
Steiger	Walker	Young, Alaska
Stockman	Walsh	Young, Fla.
Stokes	Wampler	Young, Mo.
Stratton	Watkins	Young, Tex.
Studds	Weaver	Zablocki
Stump	Weiss	Zeferetti
Symms	Whalen	

NAYS—1

Mitchell, Md.

NOT VOTING—33

Ambro	Clawson, Del	Ichord
Andrews, N.C.	Conyers	Koch
Applegate	Delaney	Le Fante
Aspin	Dent	McCormack
AuCoin	Diggs	McEwen
Badillo	Dornan	McKinney
Biaggi	Flippo	Pettis
Brown, Calif.	Frey	Teague
Burke, Mass.	Goldwater	Thompson
Burton, John	Hawkins	Vander Jagt
Byron	Hightower	Waxman

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7933, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 28, 1977, the Clerk had read through line 24, page 25.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have offered this pro forma amendment in order to discuss with the Members of the Committee the problem that we have today. We reported, as you know, the $110 billion defense appropriation bill several days ago. It was reported by the committee. It has been discussed in the House for 2 days. This is now the third days the bill has been on the floor. There have been some delays. This is the day that we will recess for the July 4 work period. We need desperately to send this bill over to the other body, so that the other body will be ready promptly after we reconvene to take steps to pass it and get our work behind us with regard to the appropriation bill. This will complete all our bills, except the District of Columbia appropriations bill for which the necessary budget amendment has not been transmitted by the President.

Now, I have asked and secured unanimous consent that on each amendment that is offered, that at that point in the RECORD all Members have permission to revise and extend their remarks, whether it is on double dipping or MIA's or whether it is on any other subject. This right, this privilege will be extended. This will give an opportunity to all Members to make their views known.

Now, I am going to seek as far as possible to move rapidly with the consideration of amendments and ask for a limitation of time and move for a limitation of time, if necessary, in order to be cooperative with the Members who expect to get away from here today as soon as possible.

The maximum time we will be in session today would be 5 o'clock. We will see how we get along.

I just would like to have in the interests of all the best cooperation that we can get.

AMENDMENT OFFERED BY MR. EDWARDS OF ALABAMA

Mr. EDWARDS of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Alabama: On page 25, line 23, strike "3,895,517,000" and insert in lieu thereof "3,869,517,000".

Mr. EDWARDS of Alabama. Mr. Chairman, the committee has added $26 million to the bill to develop a new engine for the Navy's F–14 aircraft. This is the beginning of a $3 billion program. The purpose of my amendment is to delete those funds and to terminate the program.

The President has not requested funds to start this program. The $15 million we added to the bill last year for this purpose has not been spent. The Defense Department does not plan to spend it and will, in fact, rescind it. The Department has no intention of proceeding with this program because it makes no sense whatsoever.

The F–14 is a large, long-range interceptor built around the costly and complex Phoenix missile system. The F–14 was designed primarily for the fleet air defense mission, and the Navy says that this aircraft, as presently configured, will be fully capable of performing that mission throughout the 1980's.

So why is a new engine needed?

It is said that the present F–14 engine does not develop the kind of thrust needed for air combat maneuvering.

Let me say first of all that air combat is a secondary mission for the F–14, and we are going to buy the F–18, at a cost of $13 billion, to fulfill the Navy's need for a hot, air combat fighter. The F–18 should be available in significant numbers long before the first reengined F–14 would ever reach the fleet. But in any case the F–14 is already considered an excellent dogfighter. In the so-called Aimval/Aceval tests in progress in Nevada, the F–14 and F–15 have been against aggressor aircraft—F–5E's simulating the Soviet Mig threat. Both the Navy and the Air Force have been surprised to learn that the F–14 can turn with the F–15 in combat maneuvering, and the F–15 is undoubtedly the finest air combat fighter in the world today.

For the $3 billion that it would cost to re-engine the F–14, we could buy one nuclear-powered aircraft carrier and a full complement of aircraft to go on it; or 11 SSN–688 nuclear-powered attack submarines; or 16 F–18 squadrons.

This is just not the way to go. The idea of replacing an existing engine with a truly new engine of greater power and performance would be unique in the last 25 years of military aviation. It would be an unprecedented action. Past experience has shown that it is always better to improve the existing engine, and the Navy says the thrust of the present F–14 engine could be increased by 10 to 15 percent for about $200 million.

A new engine would cost $3 billion and provide 10 to 20 percent more thrust as compared to uprating the present engine for $200 million in return for additional thrust of 10 to 15 percent. The program to re-engine the F–14 cannot be justified.

We are buying the F–18. We are going forward with the V/STOL aircraft. We are talking about having a force of large nuclear-powered carriers and a number of smaller, conventionally-powered carriers. A combination of F–14's and F–18's will give the Navy all the fighter capability it will need for many years to come.

Our job is to get the most defense for the least dollars. We are not doing our job if we spend $3 billion on this unneeded engine. I would urge you to support my amendment.

Mr. MAHON. Mr. Chairman, I have listened with interest to the statement of the gentleman from Alabama. It is correct to say that no funds were recommended by the Department of Defense for the reengining of the F–14. The funds that were placed in the bill by the majority of the members of the subcommittee are unbudgeted.

Of course, Grumman, which makes the New York-based plane, the F–14, is interested in this program. Of course, the manufacturers of engines are interested in re-engining the plane. That would be Pratt & Whitney and General Electric, and of course that means jobs. I understand all of that. But, it disturbs me that we would be considering a new engine for the F–14, which would eventually cost us about $3 billion for engine development, engine production, airframe modifications, and installation costs.

It does seem to me that we ought to be working on new jet engines for our national defense purposes. We need to be up to date on engine technology, but to zero in on the problem of providing $3 billion for a new engine for a plane that has already been terribly expensive seems to me to be of doubtful value. I just rise to express these concerns that I have, which I am sure will be shared by many others; and there are many others, of course, who will share a contrary view that we ought to spend the $3 billion. But, I felt that as chairman of the committee and someone who is familiar with the situation and who knows that the Department of Defense is opposed to the reengining of the F–14, that these remarks should be made.

Mr. SIKES. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, since the very beginning of the F–14 program, we have heard repeatedly of the requirement to put a new engine in the airplane. The Navy has had difficulty making up its mind or perhaps the Navy was not given a choice by the administration. Nowadays, the decisions of the career bureaucrats seem to weigh more heavily than the recommendations of the Navy's

fighting men. In any event, budget limitations have caused the Navy to seek other weapons improvements ahead of the F–14 engine. That does not change the fact that the need for this engine is clearer today than it was when the program started 7 years ago.

There have been problems with the current engine. It has required costly updating and improvement. We hope that the problems are in the process of being corrected. Nevertheless, modernization of all weapons systems is continuously necessary and the new engine is a very important part of that modernization process. Sophistication in defense is keeping pace with and even getting ahead of offensive capability. These are the reasons the present F–14 engine will need replacement. We have delayed that program too long.

The F–14 is a great airplane but it must keep pace with the times. It must meet the threats of the future. The F–14 must play a critical role in the maintenance of air superiority through both its missile system and its maneuverability. Operational experience and new heat-seeking missiles show the need for increased maneuvering energy through higher thrust, especially during air combat.

The simple fact is the maximum potential F–14 maneuvering performance inherent in the swing-wing design is not obtained with the current engine. The vulnerability of today's F–14 is increased because the afterburner must be used in close-in combat. Adversaries armed with heat-seeking missiles can take advantage of this fact. With the new engine, the use of an afterburner will not be required in close-in combat and this will lessen vulnerability to the enemy heat-seeking missile.

The cost is large—so is the cost of all modern weapons. The simple point is that the F–14 with the new engine will be all that we ever hoped for, probably the finest airplane in its category in the world. When we cannot afford many aircraft, we should try to make certain that we have the best. With the impending loss of the B–1, every remaining aircraft, in whatever category, becomes more important.

The current F–14 engine, the TF–30, was intended to allow early flight test evaluation of the F–14 flying qualities, aircraft systems, avionics, and armament. The production of the F–14 was planned to incorporate the advanced technology engine then being developed. Financial and technical difficulties delayed the availability of that engine and forced the Navy to employ the existing engine, the TF–30, in production quantities. As a result, the F–14 aircraft has "dogfight" capabilities less than anticipated and less than desired.

This capability is extremely important against land based enemy aircraft in situations where the long range Phoenix missile system is not employable. Such a situation arose in South Vietnam during the recent war where visual identification of the enemy was required prior to engagement. That rule, visual acquisition, which was imposed to protect U.S. fighters from inadvertently shooting down friendly aircraft, could easily be imposed in similar limited wars or interdictions which are short of nuclear exchange.

The joint House and Senate Armed Services Committee action on June 25, 1976, agreed "that the problems with the current engine and the need for more power for the F–14 airplane dictates the need for a new engine." The currently installed TF–30 engine has inadequate thrust in the intermediate power range to successfully compete with the projected threat of the 1980's. Present engine reliability problems are being corrected by product improvement, but intermediate thrust remains inadequate.

The severity of this threat has not decreased since the requirement to replace the current TF–30 engines was recognized 8 years ago. Instead it has steadily increased. The amendment should be defeated.

IN SUMMARY

An accelerated engine development program reduces costs associated with prolonged and redundant testing.

Engine manufacturers have completed testing their candidate engines thereby reducing technical risk and advancing delivery dates.

Fiscal year 1978 program initiation can result in the installation of the advanced technology engine in many new production aircraft.

Sufficient data now exists for the Navy to make a technically and fiscally sound contractor selection.

Delay increases the cost impact of advanced technology engine retrofit.

Limiting or delaying advanced technology engine funding causes unnecessary expenditure in TF–30 procurement and operating costs.

The advanced technology engine provides improved F–14 dogfighter capability/effectiveness by more than 60 percent.

The advanced technology engine provides higher maneuverability, lower infrared signature, smaller visual signature, that is, higher survivability, lower maintainability, higher operational readiness, longer usefulness, and more cost effectiveness.

These should be reasons enough and more to reject the amendment.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman in the well. I have no parochial interest in where the F–14 engine or airplane is built, but I have a very parochial interest in where it is flown. It is flown right over the homes of my constituents every day at the Miramar Naval Air Station, in San Diego. We lost two more this week. Fortunately, the crews ejected safely and there was no loss of life. That has not been true in the past, and we have lost a lot of them, not in combat practice, but in fleet carrier landing practice, right in the pattern, right over the homes of my constituents. I do not know what the problem is technically, but I know there is something wrong with these engines. There is something fundamentally wrong. It is a marvelous airplane otherwise, with a long future and a capacity for multiple missions.

The CHAIRMAN. The time of the gentleman from Florida (Mr. SIKES) has expired.

(On request of Mr. BURGENER and by unanimous consent, Mr. SIKES was allowed to proceed for 1 additional minute.)

Mr. BURGENER. Mr. Chairman, will the gentleman yield further?

Mr. SIKES. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, these planes cost, I believe, some $20 million each, with the avionics and all the gear that is attached to them, so if we want to save a very valuable piece of defense equipment, we need this engine research.

It would seem to me it would be false economy to take any other action at this time or at any time in the future, because they may face restriction from flying them over inhabited areas if danger of a crash continues. It would seem to me to be false economy to throw away a marvelous weapons system when a new engine, costly as it might be, will in the long run save a very fine fighting machine.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BURLISON of Missouri. Mr. Chairman, I rise in support of the amendment.

The gentleman from Alabama (Mr. EDWARDS) is eminently correct when he says there is no justification for putting another $3 billion into the development of an engine that, by the time it is constructed and put into the F–14, will be in an obsolete aircraft frame. There is no way that we can justify it, and that is why the administration has been so adamant in its insistence that we not start on this new development.

Mr. Chairman, let me quote very briefly from a letter from the Secretary of Defense to the distinguished chairman of our full committee that was received just this last May 4. I quote from the letter as follows:

> The improvement and reliability program for the TF–30 engine, currently installed in the F–14, is underway and the engine is capable of meeting today's fleet air defense requirements. A program to reengine the F–14 would require funding of well over $2 billion and would increase program unit cost by over $4 million. Before such a decision is made, completion of on-going analysis of future airframe, engine and missile configurations is required.

The Secretary goes on to conclude in his letter as follows, and again I quote:

> As you can see, the total development cost could be as high as $575 million and the total program cost could be between $2 and $3 billion. In light of these potential overall costs, we are giving the program particularly close examination prior to formulation of the FY 79 budget request.

Mr. Chairman, before our Subcommittee on Defense of the Committee on Appropriations this past March 16, the top research and development man in the Defense Department, the Acting Director of Defense Research and Engineering, gave some very interesting tes-

timony. I will quote only a small part of his testimony. This, incidentally, appears on page 559 of our committee hearings. He stated as follows:

The aspect of replacing an existing engine with a truly "new" engine of greater power and performance, which we are considering now for the F-14 is unique for all practical purposes within my 25 years of experience. I know of no comparable case where a mature aircraft, in service use, was provided with a totally new engine, developed especially for it. The only "new" engine in a Navy fighter in the last 20 years was the decision to replace the Westinghouse engine in the first 40 F-3 Demon Aircraft with the Allison J-71 in the remaining 400 aircraft procured for service use. In this instance, the new engine was almost as much a disaster as the original engine. We did replace the J65 engine in the early A4 models with the J52 in the later models, but the J52 engine was developed for and installed in the A6, and the move was made for logistics reasons as much as for anything else. Air Force fighters show similar histories. Our past experience has shown that it is always better to improve the existing engine rather than replacing it with a new engine. I know of no example where we have initiated development for a new engine for an aircraft whose production would be terminated before the new engines would be ready. This is an unprecedented action which would result in our buying two complete sets of engines, spares and support equipments for one aircraft. This is the least attractive alternative I can imagine.

Mr. Chairman, it would just be foolish for us to put a $3 billion investment into an engine that will go into an obsolete aircraft in the middle to late 1980's.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to straighten out the record a little bit on this F-14 advanced technology engine.

In the first place, this is something that was authorized by the Committees on Armed Services in the conference on the authorization bill by both Houses, without any trouble at all. We authorized $26 million for this engine for fiscal year 1978. There is also $15 million which we appropriated last year for fiscal year 1977 which has not yet been spent.

Mr. Chairman, the fact of the matter is that there is nothing new about getting a better engine for the F-14. This was in the program from the very start. Everybody recognized that the TF-30 engine which the F-14 has in it now is underpowered. It does not have enough thrust, and it also has a very high fuel consumption rate.

Mr. Chairman, but the original plan was to develop a better engine, a stronger engine that could fully utilize the unique and remarkable capabilities of of the F-14 aircraft, the major combat aircraft of the U.S. Navy carriers. But because of costs, the idea of developing this new engine was put off.

So why are we reviving it? For the very simple reason that the present engine has proved to be a tragic failure.

I can remember 5 or 6 years ago when some of the earliest F-14's went off a carrier out in the South China Sea and then crashed into the drink. Thus began a succession of tragic accidents and losses with the F-14, because of engine failure.

I can remember when Adm. Bill Houser, who was then the Chief of Naval Aviation, appeared before the Committee on Armed Services. This must be at least 5 years ago.

We said, "Admiral, what are you doing about that F-14 engine?"

He said, "I think we have found out what the trouble is. We are correcting it. Everything is going to be fine. It will just take a little time to fix it up."

Mr. Chairman, it is now 5 years later; and as the gentleman from California (Mr. BURGENER) mentioned a moment ago, two more of these planes have just been in unexplained accidents. According to every indication, the failure of the TF-30 engine is once again responsible. What is the "fix" that the Navy is now proposing? They are going to put armor plate into the middle of the F-14 to prevent the failure of one engine on one side from destroying the engine on the other side.

Those who opposed the A-10 should remember that the F-14 is almost going to look like an A-10 down the middle.

Is that the kind of plane that we want as our top-flight combat aircraft in the Navy? Of course not.

Mr. Chairman, we have two alternative engines available. We have the Pratt-Whitney F-401 engine and the General Electric F-101X engine. Both of them provide 40 percent more thrust than the TF-30, and both of them would be in competition to see which one could do the job better.

Mr. Chairman, there has been a lot of talk here about a $3 billion expenditure for a new engine. That is nonsense. The actual cost differential, if we develop this engine to try to preserve what is a remarkable and a very capable plane, would be $500 million; and $200 million of that money would be for research and development on the engine alone, so that even if we never put it into the F-14, it would be $200 million well spent in advancing the engine technology.

Mr. Chairman, I think it would be a serious mistake for us to accept this amendment, deleting a mere $26 million, to get started on developing an engine that will keep this F-14 plane in operation and will avoid the serious and tragic repetition of its string of crashes. As a matter of fact, the reason the conference committee on the defense authorization bill suggested a reduction in future-year buys of F-14's was so that this new engine could be incorporated into the production line quickly. In fact, if this money is knocked out, there might have to be a reconsideration of the defense authorization conference report itself.

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we must clarify the facts on this matter.

The F-14 is not going to be obsolete in the 1980's; indeed, not in the 1990's. The F-14 is an aircraft that is designed to go into the year 2000 and beyond.

Mr. Chairman, this aircraft is one which does the job of any four other airplanes we have in the inventory—at least that much.

Mr. Chairman, I hate to disagree with my good friend the gentleman from Alabama (Mr. EDWARDS) on some of the facts; however, I must. This engine is a new technology engine. We are not starting from zero. The basic engines are already in existence. We now need to incorporate into them our most modern engine technology so that the engine will give to the F-14 the capability to do the job the F-14 was intended to do in the first place. In the beginning it was intended to mate the F-14 with a follow-on engine, the F-401. So we are not talking about going back to time zero.

We have heard some argument here about the thrust of the new technology engine as compared to the engine presently in the F-14. Mr. Chairman, let us visualize an engine thrust chart comparing the present engine when upgraded and that of the new technology engine so necessary in the intermediate and maximum thrust areas, whereas the upgraded present engine adds its thrust in the emergency or afterburner area.

Let us review some of the statistics so extremely important in this matter.

At 10,000 feet and mach 0.7 in the normal operating range of the engine, you get 42 percent more thrust with the new technology engine than you get from the improved present engine.

And in the maximum range, 25 to 30 percent more from the new technology engine than from the improved present engine at 20,000 feet, we still have better than a 40 percent greater thrust than with the improved present engine, in the intermediate range, that is in the normal operating range of this engine.

Someone has said that we are trying to develop a new engine just for the F-14 and that of course is not true. This new technology engine, is designed so it can be brought on line and can be mated with the F-14 in 22 months from the time the Navy moves forward with it, and it will not only be used for the F-14, but it can be used for the F-16, it can be used for the A7E, the V/STOL and a host of other aircraft.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CHAPPELL was allowed to proceed for 2 additional minutes.)

Mr. CHAPPELL. So, Mr. Chairman, I want to make it clear that we are talking about a new technology engine which is in essence a new generation of engines.

The F-14 now is an exceptionally good interceptor, there is no question about that, but it can do so many other things if we provide it with the thrust that it was intended to have in the first place. That means we give it a better turning radius and a higher rate of climb to better protect it and maneuver in a dogfight.

But make no mistake about it; we are talking about more than just an F-15 engine. This engine will give us the thrust where it is needed, not just in the afterburner which can be used for spurt power under an emergency situation. But to give it the opportunity to maneuver in the normal range and carry out the normal mission of the aircraft. The $2.8 billion to $3 billion cost mentioned by Mr. EDWARDS for the new engine program is the estimated total program cost for the most expensive of the three possible competitive engines. The least expensive alter-

nate is to complete the development of the F–401 engine, but it is in competition, and the Navy can decide that.

The manufacturer of one of the competing engines has offered in writing to the Navy to complete this development through qualification testing for less than $100 million on a firm fixed-price basis and on a time schedule that will permit equipping a sizable number of the new aircraft with the engine at the time of delivery, thus minimizing costly retrofit requirements.

So if we want to equip this plane to do what it was intended to do, if they want the advantage of new technology engines in other aircraft, then we will vote down this amendment. I urge a no vote on the Edwards amendment.

Mr. ROBINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just 2 days ago we were standing here debating the merits of whether or not to fund the procurement of the B–1 bomber at a cost of $1.5 billion. Now we are talking about a step that would take us in the direction of spending $3 billion for new engines for an airplane that is going to be "bought out" at the latest in 1982, and an engine that will not be available until 1984. For that reason, I think that it is not reasonable under any circumstances to fund this item, particularly in view of the fact that even though some of us opposed it, we voted the beginning of the F–18 program last year. This is the plane that is supposed to be the Navy fighter in the future, not the F–14 which is going to be a long-range interceptor carrying our Sparrow and Phoenix missiles. This action will reduce of demands on it with respect to its maneuverability. The F–18 is going to be the plane that is going to be doing the maneuvering.

In the second place, the TF–30 engine has functioned very satisfactorily in the F–111–B. It is not the engine, but rather the fact that it has been put in a plane that it does not suit thoroughly. This does not mean that the F–14 is not in every respect a superior fighter and interceptor as far as the Navy is concerned—better than anything in the air today.

So although it would be possible to upgrade, it is not necessary to upgrade it, particularly when we have the F–18 coming on line, and with $626 million to fund the F–18 in this budget.

Mr. Chairman, I now yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Mr. Chairman, we have heard that a contractor can complete his research for $100 million. That may not be so, but I would call to the Members' attention the fact that we have already spent $350 million on this program.

In 1970 the Navy started looking at the development of the F–401 engine, and by 1974 threw up its hands because it had so many serious problems that could not be worked out, and the Navy discontinued the program in 1974.

We have heard a lot of talk about F–14 accidents. For that reason, somehow we are supposed to put new engines in the F–14. Let me give the Members some example. As of April 1977, the F–14 had about 91,000 operating hours and had experienced 13 accidents. At a comparable point in its life the F–4 with 94,000 operating hours had 48 accidents, and the A–7, with 92,000 hours had 28 accidents.

The F–14 is a good airplane. It is doing a good job. It has got a good engine. The engine needs some modification; everybody agrees to that. The engine can be upgraded and get 10 to 15 percent more thrust, and all we can get by anybody's determination at this point from the new engine for $3 billion is only 10 to 20 percent more thrust. If the Navy only had the F–14, and there was no such thing as the F–18, I might not be making quite the same argument I am making today. But the fact is that the F–14's mission is to get out there with the Phoenix missile and perform an air defense mission and the F–18 is to be the fighter in the Navy. With that combination we are going to have the best two fighters we can have.

I stand here saying this as one who opposed going to the F–14. I have no parochial interest in it. I have no airplane manufacturers and no air frame manufacturers in my district, but when I look at the needs of the Navy and the dollar limits they have to operate within, I see we can save $3 billion on an engine that is not needed and an engine that is not proven and a engine that would not be ready until after the last F–14's come off the line with the TF–30 engines.

Do not think if we refit a plane like the F–14 that all we have to do is to pull out one engine and insert another. It is going to cost $7 million to pull out those engines and refit the F–14 with new engines.

Mr. ADDABBO. Mr. Chairman, I rise in opposition to the amendment.

Yes, the new engine will be used for the F–14 and it can also be used in the next generation aircraft. V/STOL, and when we upgrade the A7E. The F–14 airplane was built for this new engine. The problem that has developed was because it was an engine that was not intended to be incorporated into the F–14. There were only a few airplanes that were intended to take that engine. The greater thrust is needed in the engine. This plane purchase will not end in 1982. We have had so many planes that would end on paper and then 10 years later they were still needing to be funded. It should be built with the proper engine.

When we speak of an engine, a $26 million engine, development is for an engine we know what is intended for it. We are going to put them into the F–14's and they can go into other planes.

In this bill today we are funding $32.5 million for a nuclear propulsion technology for a new nuclear engine and we do not know what it is going to be used for. We appropriate $100 million for the same engine, a nuclear propulsion technology engine on another bill and for which we do not know what to do with. But here today we are being asked to fund an engine which we do know what the purpose will be, which will have a use, a needed use in our national defense if we are going to have a proper defense. To provide the proper national security we must put the proper engine with the proper plane and the newly developed engine will be the proper engine for the F–14.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I think the gentleman stated it clearly. The F–14, as the gentleman from Alabama said is a good plane with a good track record. As the gentleman from Alabama also knows, most of the difficulties are the result of malfunctions. This engine was only designed for the F–14A and not subsequent models. This is also correct.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. DOWNEY, and by unanimous consent, Mr. ADDABBO was allowed to proceed for 1 additional minute.)

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, the fact is when the F–14 was originally designed it was not only for air defense but also for air superiority. There was no F–18 waiting in the wings, so it had to perform long-range missions and had to perform a fighter mission as well. The F–18 is by no means a certainty. It seems to me we would want to hedge our bets and spend the $20 million on the F–14 and it will prove an adequate plane.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

(By unanimous consent, Mr. BURLISON of Missouri yielded his time to Mr. EDWARDS of Alabama.)

(By unanimous consent, Mr. SIKES yielded his time to Mr. STRATTON).

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment. I think that the competition between the F–18 and the F–14 really has been settled. I think both these aircraft have their missions, but I think we are pretty well decided the F–14 is a very expensive weapons system. It is underpowered. It needs to be beefed up, but we do not need to do it overnight.

The only objection I have to the whole program is that many times we try to build a new engine within various time constraints. We need to invent a new engine for the F–14. We need to give it adequate power.

Mr. Chairman, I would hope we defeat the amendment, that we might then put the money in to develop this engine, that we develop proper competition between the three engine manufacturers. We should take our time in this development and procure in due course the engine that will do the job for the F–14, but not break the bank.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman, I rise in opposition to the amendment offered by my colleague from Alabama, which would strike the committee's appropriation of $26 million for research and develop-

ment of a high technology engine for the F–14.

The F–14 has a proven capability, and is an important part of this Nation's defense program. If we are to continue improving our defense capabilities, we will not delay the F–14 engine replacement program any longer.

The new engines under consideration benefit from refinements in modern technology since 1959 when the standard engine, the TF–30, was designed. The new engine will weigh almost 500 pounds less than the existing engine and produce 40 percent more thrust. The F–14's performance will be improved across the board by the new engine—acceleration, rate of climb, maneuverability, fuel consumption, and perhaps most important, reliability. On the ground, the new engine will improve the F–14's operational readiness by requiring less maintenance.

The new engine program has been funded since 1969, and at present, the two competing manufacturers, General Electric and Pratt & Whitney, possess full scale, running prototypes derived from existing engines.

Last year, the Congress appropriated $15 million for the engine replacement program, but the Defense Department has been dragging its feet. It has not obligated the funds, nor has it requested a rescission or deferral of funds. The Committee on Appropriations has requested an additional $26 million, and has directed the Defense Department to step up the engine program. Further delays in the program will simply increase its eventual cost.

Mr. Chairman, recent actions taken by the Congress have served to severely weaken the F–14 program. Regardless of one's own views of the potential of the F–18 or other planes, the fact is that the F–14 is a working, valuable aircraft. I urge my colleagues to oppose this amendment, so that the F–14—and in turn our national defense—can be improved.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, I rise in opposition to this amendment. The F–14 is a good airplane, but it can be a better airplane. I do not know why so much of the Government seems intent, particularly in the last few days, to start a cutoff of new technology for our military systems. We have had an announcement that the President has decided against the B–1. That stops that technology advance.

Here we are trying to stop the development of a new engine. That just does not make any sense for the future security of our Nation.

I think this kind of amendment is a very shortsighted kind of policy for our Nation to pursue; so I ask the Members of this Committee to reject this amendment.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I totally concur with Mr. WYDLER's and Mr. LENT's assessment of this amendment. I think it would be a real mistake to cut the funds for the F–14's new engine.

As we are building fewer and fewer carriers today, we need right now a high-performance fleet defense aircraft and a new engine for the F–14 is vital in that defense effort and vital to maintaining the mission of a great combat plane, the F–14.

(By unanimous consent, Mr. BURGENER yielded his time to Mr. STRATTON.)

Mr. STRATTON. Mr. Chairman, I think we ought to recognize that, in a sense, this is an attempt to legislate on an appropriation bill. The legislative decision has already been made; the authorization has been examined by both the Senate and the House conferees. Because of the schedule, we have not had the bill up here as yet, but there will be no problem on this particular engine. So we ought to go ahead, not into any new unnecessary research program, but into what is essentially an urgent attempt to fix a major combat aircraft which has been in trouble. The F–14 needs a better engine, a more powerful engine, one that will not continue to fail and bring planes and pilots crashing down into the sea. The F–401 and the F–101X engines are both available. As a matter of fact, the F–401 engine has already had 22 flights, so that there is nothing particularly new or risky about moving into an advance technology engine.

But, what is even more important is that while it is true that some of the systems analysts in the Pentagon do not support the advanced technology engine for the F–14, every pilot, without exception, interviewed by the Research and Development Subcommittee and the Seapower Subcommittee of the House Armed Services Committee concurred in the urgent requirement to repower the F–14. That is what we get for this $26 million. Let us continue that program and let us keep our aircraft flying.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to my colleague from New York.

Mr. DOWNEY. Mr. Chairman, I would like to observe that this is probably one of the few occasions where the gentleman from New York (Mr. STRATTON), the gentleman from New York (Mr. ADDABBO), myself, and the gentlemen from New York (Messrs. KEMP and WYDLER) all agree on one issue. This shows that it is not a partisan issue, but one which is truly in the national interest.

Mr. STRATTON. I thank the gentleman.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield.

Mr. WYDLER. Mr. Chairman, just the other day I was on the floor when we were being told that another plane should be cut out of this program because the engines were not powerful enough. The next thing they will say is that the engines on this plane are not powerful enough, so let us get rid of this airplane.

Mr. STRATTON. The gentleman is absolutely correct. The Navy and the pilots all recommend that we spend this money, and we certainly ought to support them.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, I do not question any Members' motives in this House. It is not strange that we have had this combination that was referred to a while ago as opposing this amendment. All are from New York, where Grumman is located. If Members think that they are just going to pull one engine out and put another one in, they should disabuse their minds. There is going to be an awful lot of airframe work at the Grumman plant if we have to re-engine the F–14.

The engine failures which were referred to a while ago, the majority of them, were caused by engines, is just not true. There are three documented accidents caused by engine failure and one more probable, to make a total of four.

I think that the military ought to continue having an ongoing program of developing new engines for its airplanes. I am not suggesting that we have got all we need and that we ought to stop, but I am suggesting that it is foolhardy to take off on a $3 billion program where we are only doing an engine for one plane, when the increase in thrust we are going to get is only 10 to 20 percent, compared to 10 to 15 percent to rework the present engine. That is what it boils down to.

It is simply a waste of money to go this route. The F–14, as everybody from the State of New York says, is a great plane. It is built in their State. It is a great plane. It is doing a good job, but to put a new $3 billion engine in those planes is not going to make it any better than we can do by uprating the present engine. It is just as simple as that.

I urge a favorable vote on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON) to close debate.

Mr. MAHON. Mr. Chairman, the Congress gave the Department of Defense last year $15 million to start this engine program. Those funds have not been obligated. The Navy is very much interested in going forward with the F–18 combat fighter plane. To spend $3 billion on new engines for the F–14 could put the Navy in a very serious financial squeeze which could very well jeopardize the F–18 program.

To vote for this amendment would save $26 million immediately, and save probably $3 billion in the long run. As the gentleman from Alabama says, we do need to improve our technology in engines, but not just for this aircraft. While I have been torn as to what position to take on this issue, I am compelled to vote for the amendment offered by the gentleman from Alabama, save money, and cooperate with the Department of Defense.

Mr. ICHORD. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Alabama (Mr. EDWARDS).

The shortcomings of the F–14 engine have been long recognized. In fact they were known at the time that initial procurement of the aircraft began. There is no question that a problem exists and in fact within the past week two more F–14's have been lost.

However, putting aside the subject of the F–14, I would point out that engine technology has not kept pace with our

airframe development and in virtually all programs we find that the aircraft is underpowered and experiences engine difficulties. The gentleman from Alabama would lead you to believe that if you approve this $26 million you are committing yourself to a $3 billion program that is neither needed nor wanted.

I would contend that the development of an advanced technology engine most certainly is needed, as demonstrated by our experience, and has potential application far beyond the F–14.

If in fact fixes proposed to the current F–14 engine prove successful, we most certainly would not re-engine the aircraft. Consequently, merely developing the engine does not commit us to a $3 billion reengining program.

However, the future of our aircraft development programs will hinge on the availability of more capable engines. In this context alone the expenditure of this $26 million makes sense.

I urge you to vote against the amendment and approve a program that is both logical and necessary.

Mr. DICKS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Alabama, the ranking minority member of the Defense Subcommittee.

Although I have been a Member of Congress and the Appropriations Committee for a short period of time, I have learned two things which lead me to support this amendment:

First, I have learned to respect the independent judgment, commonsense, and detailed knowledge of the author of the amendment.

Second, I have learned that the Navy has developed the tendency to look at its requirements individually and not to look at the big picture. The gentleman from Alabama has told us that this new engine program would cost $3 billion. Where would these dollars come from? As I understand it, we are having enough trouble just figuring out where the dollars will come from to fill out the Navy's need for fighter aircraft.

It would be nice to have a new engine for the F–14; but given the cost and marginal utility involved, it seems to me that a wiser course of action would be to place our scarce dollars elsewhere. By not requesting these funds, the administration has apparently come to this same conclusion.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. EDWARDS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. EDWARDS of Alabama. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Alabama (Mr. EDWARDS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 122, noes 282, not voting 29, as follows:

[Roll No. 398]

AYES—122

Allen	Foley	Myers, Gary
Anderson, Calif.	Ford, Tenn.	Myers, Ind.
Anderson, Ill.	Forsythe	Nolan
AuCoin	Fountain	O'Brien
Baucus	Fraser	Panetta
Bedell	Frenzel	Patterson
Bolling	Gaydos	Pressler
Bonior	Gephardt	Pritchard
Breckinridge	Gibbons	Pursell
Broomfield	Goodling	Quayle
Brown, Mich.	Grassley	Quie
Broyhill	Gudger	Rahall
Buchanan	Hamilton	Railsback
Burke, Calif.	Hannaford	Richmond
Burlison, Mo.	Hyde	Robinson
Burton, John	Jacobs	Roe
Burton, Phillip	Johnson, Colo.	Rostenkowski
Butler	Jones, Tenn.	Roybal
Carr	Kasten	Ruppe
Clay	Kastenmeier	Ryan
Cohen	Keys	Sebelius
Conable	Kindness	Sharp
Conte	Kostmayer	Simon
Conyers	Krebs	Skelton
Corcoran	Leach	Smith, Iowa
Corman	Lederer	Stangeland
Cornwell	Levitas	Stark
Deliums	Long, Md.	Steers
Derwinski	Lundine	Steiger
Dicks	McClory	Stokes
Duncan, Oreg.	McDade	Thone
Edgar	Mahon	Treen
Edwards, Ala.	Mann	Vander Jagt
Eilberg	Marlenee	Vanik
Erlenborn	Metcalfe	Volkmer
Evans, Colo.	Mikva	Walker
Fary	Minish	Wampler
Fenwick	Mitchell, Md.	Weaver
Findley	Moorhead, Pa.	Wiggins
Flowers	Moss	Yates
	Murphy, Ill.	Young, Mo.

NOES—282

Addabbo	Brodhead	Dingell
Akaka	Brooks	Dodd
Alexander	Brown, Ohio	Dornan
Ambro	Burgener	Downey
Ammerman	Burke, Fla.	Drinan
Andrews, N.C.	Burleson, Tex.	Duncan, Tenn.
Andrews, N. Dak.	Caputo	Early
	Carney	Eckhardt
Annunzio	Carter	Edwards, Calif.
Applegate	Cavanaugh	Edwards, Okla.
Archer	Cederberg	Emery
Ashbrook	Chappell	English
Ashley	Chisholm	Ertel
Badham	Clausen, Don H.	Evans, Del.
Bafalis		Evans, Ga.
Baldus	Cleveland	Evans, Ind.
Barnard	Cochran	Fascell
Bauman	Coleman	Fish
Beard, R.I.	Collins, Tex.	Fisher
Beard, Tenn.	Cornell	Fithian
Bellenson	Cotter	Flood
Benjamin	Coughlin	Florio
Bennett	Crane	Flynt
Bevill	Cunningham	Ford, Mich.
Bingham	D'Amours	Fowler
Blanchard	Daniel, Dan	Fuqua
Blouin	Daniel, R. W.	Gammage
Boggs	Danielson	Giaimo
Boland	Davis	Gilman
Bonker	de la Garza	Ginn
Bowen	Derrick	Glickman
Brinkley	Devine	Gonzalez
Breaux	Dickinson	Gore
Gradison	Mattox	Satterfield
Guyer	Mazzoli	Sawyer
Hagedorn	Meeds	Scheuer
Hall	Meyner	Schroeder
Hammer-schmidt	Michel	Schulze
	Mikulski	Seiberling
Hanley	Milford	Shipley
Hansen	Miller, Calif.	Shuster
Harkin	Miller, Ohio	Sikes
Harrington	Mineta	Sisk
Harris	Mitchell, N.Y.	Skubitz
Harsha	Moakley	Slack
Heckler	Moffett	Snyder
Hefner	Mollohan	Solarz
Heftel	Montgomery	Spellman
Hillis	Moore	Spence
Holland	Moorhead, Calif.	St Germain
Hollenbeck		Staggers
Holt	Mottl	Stanton
Holtzman	Murphy, N.Y.	Steed
Horton	Murphy, Pa.	Stockman
Howard	Murtha	Stratton
Hubbard	Myers, Michael	Studds
Huckaby	Natcher	Stump
Hughes	Neal	Symms
Ichord	Nedzi	Taylor
Ireland	Nichols	Thompson
Jeffords	Nix	Thornton
Jenkins	Nowak	Traxler
Jenrette	Oakar	Trible
Johnson, Calif.	Oberstar	Tsongas
Jones, N.C.	Obey	Tucker
Jones, Okla.	Ottinger	Udall
Jordan	Patten	Ullman
Kazen	Pattison	Van Deerlin
Kelly	Pease	Waggonner
Kemp	Pepper	Walgren
Ketchum	Perkins	Walsh
Kildee	Pickle	Watkins
Krueger	Pike	Waxman
LaFalce	Poage	Weiss
Lagomarsino	Preyer	Whalen
Latta	Price	White
Leggett	Quillen	Whitehurst
Lehman	Rangel	Whitley
Lent	Regula	Whitten
Lloyd, Calif.	Reuss	Wilson, Bob
Lloyd, Tenn.	Rhodes	Wilson, C. H.
Long, La.	Rinaldo	Wilson, Tex.
Lott	Risenhoover	Winn
Lujan	Roberts	Wirth
Luken	Rodino	Wolff
McCloskey	Rogers	Wright
McCormack	Roncalio	Wydler
McDonald	Rooney	Wylie
McHugh	Rose	Yatron
McKay	Rosenthal	Young, Alaska
Madigan	Rousselot	Young, Fla.
Maguire	Rudd	Young, Tex.
Marks	Runnels	Zablocki
Marriott	Russo	Zeferetti
Martin	Santini	
Mathis	Sarasin	

NOT VOTING—29

Abdnor	Collins, Ill.	Le Fante
Armstrong	Delaney	McEwen
Aspin	Dent	McFall
Badillo	Diggs	McKinney
Biaggi	Flippo	Markey
Brademas	Frey	Pettis
Brown, Calif.	Goldwater	Smith, Nebr.
Burke, Mass.	Hawkins	Teague
Byron	Hightower	Vento
Clawson, Del	Koch	

Messrs. EVANS of Delaware, PEASE, EARLY, YOUNG of Texas, and BURLESON of Texas changed their vote from "aye" to "no."

Mr. LONG of Maryland changed his vote form "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, 1 year ago, on July 1, 1976, Congress passed the Department of Defense Appropriation Authorization Act of 1977 which declares it to be the policy of the United States that the weapons and equipment purchased for its forces stationed in Europe shall be standardized or at least inter-

operable with the equipment of its NATO allies.

While the language of this act clearly mandates a policy of standardization and interoperability, and requires the Secretary of Defense to seek action within NATO to establish a regular procedure and mechanism for determining common requirements, a preliminary review of the Defense Department's management of its responsibilities under this act by the House Government Operations Committee reveals that very little action has been taken during the past year to insure compliance with the intent of Congress.

Although I do not intend to address myself to the substance of our findings to date, I want to take this opportunity to underscore the seriousness with which the Government Operations Committee views the Department of Defense's failure to take strong action to secure greater standardization of NATO alliance weapons systems.

Next month, the Legislation and National Security Subcommittee of the House Government Operations Committee will hold the first day of a series of hearings designed to probe all facets of the Defense Department's effort to meet its responsibilities under the Defense Appropriation Authorization Act of 1977. At the conclusion of our hearings, the Department of Defense may have a greater understanding of the significance Congress attaches to the need for greater standardization of weapons systems utilized by the United States and our NATO allies.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $3,856,618,000 to remain available for obligation until September 30, 1979.

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am concerned about the action the Appropriations Committee has taken with respect to the surface effects ship and especially with the language of the report on pages 295–296 accompanying the bill.

The proposed budget for 1978 was $43.9 million. The committee has reduced it to $6 million. It has done this, according to the report, because of the high cost to develop and test a 3,000-ton SES. The committee views the SES as having antisubmarine warfare as its primary mission.

It further proceeds to compare the cost of utilizing attack submarine or aircraft for the fulfillment of that mission. This is not a valid comparison because what we are dealing with is a quantum jump in the surface speed of naval vessels.

Current technology constrains surface ships to something in the order of 35 to 40 knots. Technology employed here will produce lead ships with a surface speed of 80 to 100 knots. This is analogous to the quantum jump which occurred when we moved from subsonic to supersonic aircraft. If we had constrained our proposed mission of supersonic aircraft to a "primary" mode, either tactical or strategic, we would have never developed a supersonic aircraft.

The preeminent advantage of the United States in any competitive environment is in technology—and technology is the heart of this program.

About 40 percent of the total cost for the validation of this technology has been expended. It has been expended in accordance with predetermined schedules and cost estimates that almost, without failure, have been on the mark. To interrupt the development of the technology at this point for no basis other than what I believe to be deficient logic and factual error stated in the report is wrong.

The implication of the report is that a vessel of this type, in a production model, would be in the order of $500 million. This is not so. The projected production cost is in the order of $250 million per unit which places it in a cost range of the current 3,000-ton destroyer frigates.

The report further would lead one to believe that the construction of the vessel would not be complete until 1984. This is erroneous. The projected completion of the construction phase is 1982. All tests and engineering phases will be completed in 1984.

The report takes umbrage with the fact that the 1977 budget estimated a total cost of $612.3 million whereas the 1978 budget contemplates a total cost of $810.8. The implication is that there has been a prior underestimating of cost growth. This implication is inaccurate. The fact is that the testing program of the 100-ton SES program has been so successful that the Navy correctly decided to move to the construction of a 3,000 ton vessel rather that a 2,000 ton vessel. Obviously, the 3,000 ton vessel puts it into the lead ship category.

This decision, correctly made, reduces the time when an operational lead ship will be available for fleet deployment. Increasing the size to 3,000 tons adds approximately $40 million to the cost of the program. This size requires a larger engine and, as a result, there is an additional cost of a little over $20 million to retrofit the ship with a more powerful turbine engine.

Moving to an operationally practical prototype, rather than a test platform, has caused an increase of about $40 million. The testing and engineering programs for an additional year have added over $80 million.

The result of this program will be a validation and demonstration of technology which portends an 80 to 100 knot Navy.

The Secretary of the Navy and other responsible leaders of the Navy have indicated, in testimony before the committees of the Congress, that the surface effects ship is the most important ship development effort now in progress or contemplated.

If we are to maintain the technological advantage we presently have, we must move forward vigorously with this program.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we are all aware of the fact that the President of the United States has made a statement this morning that he wants to stop all production of the B–1 bomber and, instead, to press for the use of the B–52 bomber with the cruise missile as the third leg of our Triad.

I would like to say, speaking for myself only, of course, that I think the President has made a very serious mistake with his recommendation on the B–1. I think it is a mistake as far as maintaining an up-to-date defense of this country is concerned; but I think it is an even more serious mistake in indicating a dangerous willingness on the part of the United States to opt for an obviously inferior defense capability at the very time that the Soviet Union is pressing what has been called a relentless campaign for defense modernization or enhancement.

Fortunately, the last word on weapons systems is up to the Congress of the United States. As one Member of Congress, I shall certainly push hard to see that Congress continues the broad support that we gave just 2 days ago to the B–1 program and that we turn down the President's recommended rescission.

A number of Members do seem to be a little bit confused as to just where Congress stands with regard to the B–1. Three production models of the B–1 are included in the 1977 budget. Congress authorized the expenditure of this money at a rate of about $87 million per month up until the first of July 1, I believe it was. If the President now wants to stop those three production models—we are through with research and development, actually; we are now in production—then he is going to have to come up here with a rescission proposal under the Budget and Impoundment Act. Then, this House and the other body will have an opportunity to vote on that rescission.

When it comes to fiscal year 1978, this House has already approved the money for the B–1, and it will be up to the other body and to the conference as to whether the Congress accepts the President's recommendation on 1978 or not. I hope we turn down the 1977 rescission, and I hope we turn down the 1978 recommendation.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Texas.

Mr. MAHON. I say to my friend from New York that we are desperately seeking to conclude this big $110 billion defense appropriations bill, and if we are going to have a reenactment of debate about the B–1—and I am as surprised as the gentleman from New York about the decision of the President—those who

want to catch planes to return to their districts are going to find themselves in trouble.

Mr. STRATTON. I just wanted to explain my feelings. It seems to me that this is a serious matter.

Mr. MAHON. If we are going to have another long B–1 debate, then we cannot pass the bill today.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to my colleague from New York.

Mr. KEMP. Mr. Chairman, I agree with my Chairman, but I do want to congratulate the gentleman for taking the floor and bringing to the attention of the House the very serious implications of the unilateral action just taken by the President, in stopping the B–1. Particularly at a time when we are trying to negotiate a SALT agreement. It seems to me that this decision seriously compromises one full leg of our Triad deterrent. The President has made a poor decision at a poor time.

Mr. STRATTON. I am not seeking to prolong the debate. I just think it is important that the Congress of the United States know that we do have the last word in this matter, that we do still have some authority and responsibility as far as the defense of the Nation is concerned.

Mr. WIGGINS. Mr. Chairman, the President has made public his personal decision with respect to the B–1 bomber. As I understand it, the President is in favor of continued research and testing, but is opposed to the acquisition of a bomber fleet for deployment by the Air Force.

The personal views of the President are of obvious interest to the Congress and are entitled to due respect and weight by us. But his views are not the law. Only the Congress and the President acting in concert can make the law.

It is apparent that the House at least disagrees with the President with respect to the B–1 bomber. At this juncture, it appears that the Congress may send to the President a bill providing for the expenditure of public funds to acquire a significant number of B–1 bombers for inclusion in our military forces.

Upon receipt by the President of legislation enacted by Congress, the President has several options which have far greater legal significance than the mere expression of his personal opinion today. The President may if he wishes give meaning to his B–1 decision by vetoing the bill or he may sign it. If vetoed, Congress may of course reverse itself and agree with the President but, on the other hand, it may adhere to its present position. If the President signs the bill or if the Congress were to override his veto the law of the land will provide for the acquisition of a number of B–1 bombers, contrary to the President's personal preferences.

In that event, the President's options have not ended, however. He may propose a recession with respect to that portion of law requiring expenditures for the B–1 bomber. But here, too, Congress is given the final word. As the President has often stated, he is not above the law. He has several options under the law, but once those options have been ehxausted, I fully expect him to adhere to a national decision made pursuant to constitutional procedures that the B–1 shall be included in our defense forces.

I realize that the President may hold contrary views strongly. But, consistent with recent precedent, I fully expect and will insist that he faithfully execute the laws of the land, personal disagreement therewith to the contrary notwithstanding.

At an earlier time, a President might have been excused for impounding funds so as to impose his personal will on the Nation, contrary to the laws duly enacted by Congress and signed by him. Such was the historical precedent.

But times have changed. The historical precedents have been repudiated. The current President must look to recent history and its lessons are clear:

The Congress may, and I presume with evenhanded fairness could, invoke its awesome power to remove a President who willfully disregards the law of the land.

Mr. DAN DANIEL. Mr. Chairman, I have been shocked by the President's announcement this morning regarding the B–1 Bomber program. It is the most dangerous national security reconstruction made during my tenure in Congress. This recommendation by President Carter is in direct conflict with the deliberations and decisions of both Houses of Congress since 1970. What is of most concern to me as a Member of the House Armed Services Committee, who has deliberately and conscientiously studied the B–1 issue along with my colleagues and determined that it is a vitally needed weapon system, is the fact that the President has within less than 1 year reviewed and terminated a program which the Committees of Congress responsible for the Nation's defense have supported.

The President, this morning, discussed alternatives to the B–1, such as cruise missiles. However, those who have studied cruise missile alternatives in depth realize that there are inherent problems associated with structuring a strategic arm around cruise missiles alone. Though they appear to offer some cost savings when considered as individual weapons, any analysis of the total system requirement brings one immediately to the conclusion that the Nation could be faced with a significantly higher cost for an air-launched cruise missile force. Also, cruise missiles lack the target penetration capability of even the presently deployed bomber weapons.

What the President has done today may lead in the future to this Nation having to re-engine, re-wing, and put new electronics in the venerable B–52 bombers. What is so shocking to me is not just the fact that in the future we will have to depend on the less capable B–52, but is the fact that the costs to the taxpayer could exceed those for the B–1.

I began by stating my shock at the President's recommendation. We, in Congress, must realize that it is only a recommendation. The Congress has the responsibility to provide for the national defense and in exercising that responsibility we have to consider the President's announcement as a recommendation only. His announcement today is not a decision. The Congress has enacted legislation, The Budget and Impoundment Control Act, which requires the President to carry out the direction of the Congress for those funds which have been appropriated, and funds have been appropriated for 1977 production of the B–1 aircraft. Therefore, before this Nation inadvisably cancels production of the B–1, the Congress will have to act. I believe that it would be a serious mistake if the Congress accepts President Carter's recommendation by reversing the authorization and appropriation for both 1977 and 1978 for the production of the B–1. This year, again, the Congress has authorized and appropriated the funds requested for the production of the B–1 bomber. In fact, on Tuesday of this week, the House reaffirmed its support and directed production of the B–1 Bomber.

Mr. BOB WILSON. Mr. Chairman, during the debate on an amendment to reduce the buy of the A–10 from 144 to 96 there were a number of statements made that may have left the committee with the wrong impression regarding the airplane.

It is important for us to recall that this airplane was designed to carry a Gatling gun with an armor-piercing projectile capable of penetrating the armor of medium and heavy tanks. The gun fires at an extremely high rate and, as a result, has the capacity to defeat the Soviet Union's T–62 tank with one or two second bursts.

Given this mission, this airplane, after substantial competition has demonstrated extremely high rates of survivability; its reliability and repairability have exceeded the projections.

It was suggested in the floor discussions that because the engines are in the rear that this introduced an element of vulnerability beyond acceptable limits. The fact, of course, is that all tactical aircraft have engines in the rear. With respect to this particular engine, the high bypass engines are cool relative to most tactical aircraft engines. Additionally, the engines are separated by steel which increases survivability by being up and back. Lastly, the engine is masked by the airframe structure.

The aircraft has demonstrated operability at forward fields by being able to take off and land on 9 to 13 inches of powder having the consistency of talcum.

In a tactical environment, the spearhead of advancing forces would be tanks. Thus, because of its maneuverability and the Gatling gun, the aircraft would hit the lead elements of attacking tank forces and turn away before closing within range of low altitude antiaircraft guns.

In an operating mode, it is possible that two A–10's would operate together—one of which would have as its mission the destruction of the forward element

tanks—the other would stand off at a slightly higher altitude and fire Maverick missiles which, because of their longer range, would destruct other types of weapons systems in back of the lead tanks. In that conjunction, it was suggested in the debate that the A–10 could only carry two Mavericks. The fact is that the A–10 continues to be able to carry six Mavericks and performs according to projected levels.

It was suggested also that the aircraft did not have the capability of loitering because of high fuel consumption rates. The fact is that given the capacity for high maneuverability of the aircraft, the type of mission in which the aircraft would engage, it is highly unlikely that there would be any need for more than 15 to 17 engagements.

Aviation Week and Space Technology, in its issue of June 20, 1977, had a rather long article dealing with the A–10 and an extensive exercise in which it was engaged at Nellis Air Force Base in Nevada. A careful reading of this article leads one to the conclusion that the A–10 is an exceedingly fine airplane that will perform its mission under the most difficult circumstances and would contribute significantly in the environment for which it is designed.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEFENSE STOCK FUND

For the Defense Agencies stock fund, $4,300,000.

Mr. SIKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must express concern about the number of studies which are in progress on the utilization of military bases and facilities throughout the Nation. Each base with which I am familiar has been flooded with requirements to conduct studies on their present utilization, possible future utilization, consolidation and transfers, and so forth.

It would appear that new studies on base utilization have been a major requirement since the new administration took office. Most of these matters have been studied dozens of times previously. Surely the records are still available which would show all aspects of base utilization. Very little could have changed in the last year or two to justify a whole new set of studies.

These studies cost money. They require the use of large numbers of personnel and I doubt that most of them will reveal any new facts which will prove to be of value. If the proper committees of Congress were to initiate an inquiry into the cost of personnel and the time involved in these studies, the figures would probably be shocking. Such an inquiry should be conducted, and I intend to propose it. A very significant consideration is the fact that service personnel are required to neglect training and other military duties in order to carry on these new studies, regardless of cost or the effect on their assigned duties. I hope the Department will realize there is a limit to the value of these repeated inquiries. I am tempted to say they are now studying studies. And I want Congress to learn what is going on.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 853. None of the funds appropriated by this Act shall be available after December 31, 1977, for the pay of a prevailing rate employee, as defined in section 5342(a)(2), (A)–(B) of title 5, United States Code, that is greater than 100 percent of the prevailing rate determined under section 5343 of title 5, for the grade in which he is serving: *Provided*, That the pay of a prevailing rate employee who was employed on or before December 31, 1977, shall not be reduced by this limitation below that to which he was entitled based on his rate of pay on December 31, 1977, if the employee—

(A) continues to be employed after December 31, 1977, without a break in service of one work day or more; and

(B) is not demoted or reassigned for personal cause, or at his request.

AMENDMENT OFFERED BY MRS. SPELLMAN

Mrs. SPELLMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SPELLMAN: On page 52, strike out line 24 and all that follows through line 14 on page 53, and redesignate the following sections accordingly.

Mrs. SPELLMAN. Mr. Chairman, the amendment I have offered would strike section 853 of the reported bill which is the provision dealing with so-called Wage Board salary reform. This provision would deny funds appropriated in the act to pay the full salary for certain blue-collar Federal workers who are now provided for under existing law.

I want to point out to the Members that this provision does not provide reform since it addresses itself to only one part of the problem and would only be in effect for 9 months, from January 1, 1978, until September 30, 1978.

Under this provision, blue-collar workers working side-by-side would be paid different salaries for performing exactly the same work. It is totally discriminatory and does not solve the problem under the current wage grade system.

As the person newly elected to chair the subcommittee in the Post Office and Civil Service Committee which has jurisdiction over the subject matter, I want to advise my colleagues that we are aware of the problems in the blue-collar salary schedule. We are not ignoring those problems. We are actively addressing ourselves to them.

In fact, we have already held a field hearing and have scheduled three additional hearings to study this matter and to consider legislation which encompasses true reform of this pay system. We are using our upcoming recess to hold hearings instead of being able to enjoy those few days of respite to work in our own districts.

Let me impress upon you that this provision in H.R. 7933, although well intentioned, does not accomplish reform. Instead it creates inequity in the name of reform.

We note that the committee report ties section 853—the section which I ask be deleted—to section 852, which directs the Department of Defense to stop contracting out, and infers that contracting out is being utilized, because of blue-collar wage scales. Had the distinguished members of the committee had the opportunity to sit in on the hearings on another subcommittee of the Post Office and Civil Service Committee which is currently giving considerable attention to the whole subject of contracting out, they would be aware that most of it was undertaken by the various agencies, including the Defense Department, because of explicit policies and directives of the Nixon and Ford administrations.

As I have pointed out our committees are actively addressing the problems. Are we to make a mockery of those efforts? Are we to make a mockery of our committees? Are we going to abandon their attempts for well thought through legislation and substitute instead the piecemeal hacking away through appropriations measures?

The distinguished members of the Appropriations Committee are fully aware that they are unable to address this matter properly through this legislation. Listen to their own words in their report:

The committee cannot, through the appropriations process, fully address the complex problems involved in wage board reform.

It is obvious from their report that they were not aware of the work currently being done to take care of the problems. Their report states:

It is hoped that this proposal will encourage the appropriate legislative committees of the Congress to take some action on this matter.

I assure the committee and my distinguished colleagues that action is being taken.

This House has long prided itself in the committee system. I am becoming more and more concerned, as should other Members of this body, with the growing practice of limiting funds in appropriations bills as a "back door" method to legislation. This is not the proper way for the House to conduct its legislative business.

I urge the Members to adopt the amendment I have offered.

Mr. HARRIS. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I would like to rise in support, not only of the amendment and of the point made by the gentlewoman from Maryland (Mrs. SPELLMAN), but also in support of the philosophy that she expresses.

I believe I heard the gentlewoman talk about the work that has been done in her committee in scheduling these hearings across the country so as to deal in some sort of comprehensive and systematic way with the problem.

Mr. Chairman, I am wondering in my own mind what the argument is that would say that we should today pick out one small group of Federal employees?

The CHAIRMAN. The time of the gentlewoman from Maryland has expired.

(On request of Mr. HARRIS, and by unanimous consent, Mrs. SPELLMAN was allowed to proceed for 3 additional minutes.)

Mr. HARRIS. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I wonder if the gentlewoman from Maryland

could tell me what is the point that we are, at this point in time, on an appropriation bill, singling out a single group of employees? I know that they are the blue-collar workers. They are the ones that are the most hurt by inflation and have the most difficulty as far as their wage situation is concerned. Why just take this one group of employees and single them out and say that they must suffer? Why should we do this without dealing with the rest of the problems?

Mrs. SPELLMAN. The gentleman is absolutely right. There can be no reason for discriminating against the blue-collar worker. This measure fails to address the real problem. It does not even cover all blue-collar workers who are working for the Federal Government—only those who happen to be working in Defense, although that is a large number, to be sure.

It is my firm belief that the members of the Committee on Appropriations, at the time that they were working on this legislation, were of the impression that no committee was addressing itself, to the problems that we know may be inherent in the scales as they exist. I am hopeful that had the committee been aware of all my subcommittee's efforts and of our determination to get to the real root of the problem and work on it in a comprehensive fashion, that it might not have acted on this.

Mr. HARRIS. If the gentlewoman will yield still further, Mr. Chairman, I would just like to say that I rise in full support of what the gentlewoman from Maryland (Mrs. SPELLMAN) is trying to do through her amendment. I think the Committee on Appropriations now realizes how hard the subcommittee has been working on this problem, and with the great need to deal with it in some sort of a comprehensive manner. I would also point out the disrepute that would come upon us if we took this sector of the Defense Department and treated it differently, especially for the blue-collar workers, there just is no need to discriminate against them. I would hope that the Committee on Appropriations would reconsider and would in fact accept the amendment of the gentlewoman from Maryland (Mrs. SPELLMAN). I know that the gentlewoman from Maryland will continue her efforts in this regard, and soon will be reporting out legislation on this matter before this session is over.

Mrs. SPELLMAN. I thank the gentleman from Virginia. The gentleman has made a very good point. But I must add that one of the real problems at this point is that unless my amendment passes we will be hampered by this legislation in our attempts to come up with a real good comprehensive reform proposal.

Again I thank the gentleman from Virginia for his support.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Maryland (Mrs. SPELLMAN), and I do regret having to rise in opposition to that amendment but I am compelled to do so under the circumstances.

Many of the Members have been much concerned over the fact that the Defense Department is aggressively contracting out work to commercial companies costing Federal workers their jobs. We have written the Secretary of the Department and we have appealed to the officials of the Government to quit contracting out a lot of these functions which they are presently contracting out in many of the Members' districts, including my district and nearly every other district. And the reason they are doing this, contracting these things out, is because they are trying to make the defense dollar go further. The wage board salaries are often above the prevailing wage in the area. Therefore, by contracting out, the Defense Department gets what it considers to be more for the money. So officials have been contracting out a lot of work, and, as a result, a lot of Federal workers have lost their jobs and will probably continue to lose their jobs because of pay rates that are higher than the prevailing level.

The bill language does not bring about any reduction in pay for any blue-collar worker, but it starts the machinery rolling to where the Government worker is more competitive with private enterprise. Therefore, we will be able to stop this very damaging trend which in the long run is detrimental to the Federal worker.

So I rise in support of the Federal worker, not in opposition to the best interest of the Federal worker. It is better for the Federal workers to face up to this situation and hold on to the positions that they have now, rather than have more and more contracting out and more lost jobs.

Without any solicitation from me, the Department of Defense wrote me this statement, and this is a statement delivered to my desk this morning:

The Department of Defense is for section 853—

That is the section we are talking about—

and against any action which would delete it from the fiscal year 1978 DOD appropriation bill. Section 853 represents a significant step toward the legislative reform which this Department supports.

This we support in the Committee on Appropriations.

It would bring the wages of prevailing rate employees in line with those paid in the non-Federal sector and is consistent with the comparability principle, the keystone of the prevailing rate system. While it affects only DOD—

Department of Defense—

people, it does affect 80 percent—

I emphasize 80 percent—

of all prevailing rate or wage board employees. We would assume Congress would shortly impose similar limitations on the pay of the remaining 20 percent of the prevailing rate employees.

So the amendment offered by my friend, the gentlewoman from Maryland (Mrs. SPELLMAN)—in my opinion is against the long-range best interests of the Federal worker. The actions of the Committee on Appropriations were taken after a lot of consideration and thought and recommendations by a Presidential Panel on Federal Compensation, the GAO and a Manpower Commission. This is a provision which, as the Department of Defense stated, will bring about more equity and will not cost people their jobs. It will come nearer to reassuring them that their jobs will not be contracted out.

So I am going to urge the Members of the House to vote against the amendment of the gentlewoman from Maryland.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

I join the chairman in opposition to this amendment. I want to reiterate the fact that this committee is not trying to cut back on the salaries or wages of employees. We on the Committee on Appropriations feel a certain sense of frustration on these significant manpower issues, and this is one of them. We feel that frustration because in many cases the authorizing committee does not take a stand, or take a position, or do the work necessary to resolve these problems.

As the committee report suggests, we do not say that we have the perfect solution or that we are the perfect committee to bring it about, but in our frustration we try to address some of these problems. The very fact that $550 million of the $660 million involved is funded in the defense budget gives us a vital interest in trying to get the most defense for the least dollars that we can as far as our bill is concerned. So we have this frustration.

We are also mindful of the fact that we do not do anything to cut back those who are presently employed at a certain level. This is in effect triggered as of December 31, 1977. That gives the gentlewoman and her committee the rest of the year to work on this problem. I would hope that they would go forward with it. If they come up with a solution that is fair and will keep the Federal employees working, and keep them from contracting everything out, we will be standing shoulder-to-shoulder with them.

I thank the gentleman again for yielding.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. I thank the gentleman for yielding.

Mr. Chairman, is it not true that this provision in the bill is really there for the purpose of carrying out the intent of the basic legislation to insure equal pay for comparable work between the blue-collar workers in the military and those in the private sector in the same area of the country?

Mr. MAHON. The gentleman is correct.

Mr. BURLISON of Missouri. I thank the gentleman.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. SIKES. Mr. Chairman, reserving the right to object, I was seeking recog-

nition to speak on this amendment, and unless I may have the 5 minutes, I object.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 6 minutes.

Mr. SIKES. Five minutes for me?

Mr. MAHON. The gentleman from Florida is the only Member standing, so he would have no problem.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SIKES. Mr. Chairman, at the time of the markup of the bill, the committee and the staff, in all sincerity, felt that this was an area in which funds probably could be saved. Misgivings were expressed at the time the matter was considered. Those misgivings have been confirmed in subsequent explorations of the actual effect of the language in the bill. Hardships will be worked. The action of the committee is, in my opinion, improper and the section should be deleted.

What was not realized at the time of the markup is that the step increases in wages are the only means by which many persons in the blue-collar establishment can get promotions. For instance, if a person is employed as a carpenter at a WG-9, I am advised that he must stay in that grade and that he has no chance for promotion to a higher grade in his field. Let me remind the committee that a minimum of 6 years of satisfactory service is required to advance through steps 2 to 5. An employee can, if the amendment is adopted, continue as he does at present, to progress through certain steps within his grade and thereby obtain increases in pay comparable to those that are expected by persons who are not blue-collar workers. He will not be discriminated against.

In summary, section 853 would have the effect of prohibiting employment above step 2 in any wage grade of any employee hired after December 31, 1977; and preventing employees on the rolls before that date from being promoted above step 2.

I do not share the apprehension so ably expressed by the distinguished chairman of the committee about additional contracting-out. That contingency is covered by language against additional contracting-out in the legislative bill from the Armed Services Committee and in the appropriation bill now before the House.

Adoption of the amendment will prevent the injustice that would otherwise be done to Defense Department wage grade employees—the large blue collar group—paid from this appropriation; and allow the appropriate legislative committees to address themselves to this complex problem, including the conduct of full public hearings during which all interested parties could be heard.

Section 853 abolishes step increases for pay purposes within grade and the section should be eliminated.

The amendment should be adopted.

Mr. MAHON. Mr. Chairman, I believe 1 minute remains.

Mr. Chairman, I rise in opposition to the amendment and in support of the committee bill and in support of the Department position, the action which the committee recommends, and I ask for a vote.

Mr. GONZALEZ. Mr. Chairman, I rise in support of the amendment offered by the gentlelady from Maryland.

Section 853 has the effect of placing severe limitations on the pay of blue-collar employees in the Department of Defense. The aim is to save some money—no estimate is available—but the effect is unfortunate, because this provision creates unjust and unreasonable conditions for the hourly-paid employees of the Department of Defense.

The provision is attractive, at least on its face, because it seems simply to limit Federal defense workers to the prevailing pay in a particular area. But what this really does is to vitiate a provision in law that recognizes that a limitation like that provided for in section 853 simply does not work. It may look good, but it does not work.

There are many areas of the country where complex industrial type activities are being done, where the local wages are not sufficient to allow the Government to hold onto highly skilled workers. In these cases, if we accept section 853, we will be returning to a situation in which a Federal installation will hire and train a skilled person, only to see that person move off to take the same type of job in another area. The Government loses all its investment in the training of that person—why?

Simply because section 853 limits a defense employee to a local wage that may be far, far below the wage that prevails in the aircraft industry. We should not be so concerned about meeting local wage averages, when in fact the problem is to pay wages that prevail in a given industry. That is what the Monroney amendment recognized and provided for, and that is what this amendment would vitiate. It would return us to a situation in which the Government cannot retain highly skilled workers, because those workers can find and will move toward areas where they can command better wages. The Monroney amendment cured this, by allowing defense workers to receive pay that is typical of their particular industry—rather than local averages that were not necessarily reflective of that industry or their level of skill.

Second, this provision is inequitable. Section 853 would create limitations on Defense employees that do not apply to similar employees who happen to work for other agencies. This provision would allow a person of identical skills in, say, the GSA, to be paid more than an individual who is working for the Department of Defense. In this way, the provision does not allow for like workers to receive like pay—a basic inequity that denies even the most basic kind of economic justice.

Third, restricting pay to 100 percent of the local prevailing rate does not recognize that the local prevailing rate is an average. Some people in that locality are going to be paid more than the average, and some are going to be paid less. But this provision only allows a Defense blue-collar worker to be paid the average rate or less. He cannot earn more, no matter what his skills are, no matter what—unless he advances to a higher grade. The result of this curious restriction is that the Department of Defense will eventually be forced to promote employees in order to give them some incentive to perform, some incentive to excel. The result would be a kind of forced grade creep, which would have exactly the opposite result that the authors of section 853 intend.

These unfortunate effects show clearly that it is not wise to write into an appropriation bill language that amounts to legislation. The scope within which we must operate only allows for limitations—it does not allow us to deal with the real issue. The real issue here is how pay should be structured. By dealing only with restrictions, we will create more problems than are solved; we will worsen the situation that concerns the Appropriations Committee, not improve it.

I urge adoption of the Spellman amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The question was taken; and on a division (demanded by Mr. SIKES) there were—ayes 19, noes 11.

Mr. MAHON. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the last word.

Mr. Chairman, after passing the subject of research, development, test, and evaluation, Army, which appears on page 25, it was determined that the committee should not have cut out $1.5 million from the $215 million for the advanced ballistic missile defense system. Had this determination been made prior to reaching that point in the reading of the bill, I would have offered an amendment to increase the amount by $1.5 million. Having passed that point I would like to say to the House that the committee does support the full amount of $215 million.

I personally would urge the Army to look for ways through reprograming or otherwise to provide the necessary money to keep this program at its fully authorized level.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Chairman, I fully concur with the statements of my distinguished friend, the gentleman from Alabama. The committee should have included the additional $1.5 million and I hope it can be corrected as the gentleman suggests.

The full amount of the authorization should have been funded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 856. None of the funds appropriated in this Act shall be available to pay the compensation of any civilian technician authorized to be employed under section 709 of title 32, United States Code, in support of the National Guard or of any similar civilian technician employed in support of any other reserve component as defined in Section 101

of title 37, United States Code (other than Coast Guard Reserve or the Reserve Corps of the Public Health Service), unless such technicians are so employed on or before September 30, 1977.

AMENDMENT OFFERED BY MR. JENRETTE

Mr. JENRETTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JENRETTE: On pages 54 and 55, strike out section 856 and redesignate the following sections accordingly.

Mr. JENRETTE. Mr. Chairman, as we have heard many times from the well, this is a very simple amendment. It strikes what I believe to be a discriminatory section that applies to the technicians that operate on a day-to-day basis in the National Guard throughout the Nation. I served for a number of years in the National Guard, and had the opportunity to employ about half a dozen individuals as technicians in units in which I served as a company commander.

I believe this is a hasty decision by the committee on an issue that has not been adequately studied, at least not by the authorizing committee, the Committee on Armed Services. It should be given additional time for review. The figures are comprehensive, I might say, as to what it will do as far as the Army is concerned. But let me mention briefly that often these civilian technicians do, indeed, just handle the day-to-day work and maintenance of the Army.

These individuals are the link between the community and the National Guard that is called upon by the Governor of any State or by the President of the United States. I believe that this link in the community is a vital one. We all know of the many times when the National Guard has been called out in response to a disaster in order to assist mayors and Governors of States to work together very closely to overcome the effects of that disaster.

I think that what the committee proposes to do is to place in these community-linking activities full-time military personnel commanded by someone at some far away place.

So, I say to my friends on the committee, I think the matter deserves additional study. I believe very strongly that we should accept this amendment to strike section 856 now, and wait for the results of the Department of Defense manpower study. The Armed Services Committee and the Post Office and Civil Service Committee should look into the matter. Next year, and after completion of these studies, we can determine where to make the cuts, and in what way.

I would not be opposed to such cuts if a thorough study by the appropriate committees convinced me that they were the best possible way to reduce spending. Let us give the technicians throughout the Nation an opportunity to be heard on this very important matter.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. JENRETTE. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I want to be associated with the gentleman's remarks. I think it is a very good idea. There should be further study on this drastic step that would affect the technician program, and I think probably the Armed Services Committee should look into the matter.

I hope the amendment will be adopted. what the gentleman is saying is really the position of the National Guard Association and National Guard Technicians Association.

Mr. JENRETTE. I appreciate the comments of the gentleman from Mississippi. I just would hope that we could move along, adopt this amendment, and finish up the bill today, and look at it next year.

Mr. EDWARDS of Alabama. Mr. Chairman, I rise in opposition to the amendment. The committee recommendation to gradually phase out the dual status reserve technician program is based on four relatively straightforward propositions:

First, the dual status technician costs more than an active duty military man who does the same job. The committee report shows that the technicians cost $350,000,000 more per year than active duty military personnel. This does not include the future retirement costs, but a technician receives three retirement checks from the Federal Government: Civil service, military, and social security; some get a fourth State retirement check.

Second, more than half of the technicians are unionized. This introduces into the military the influence of unions which dilutes military command authority and responsiveness. This union problem is of grave concern to the committee.

Third, the technicians in the reserves perform generally one job for a long period of time. For this reason, they become very proficient at the one job. But in the process they do not acquire any broadening military experience and generally no command responsibility. So they may be very skillful, but that skill is only in one military occupation.

Finally, and most importantly, the committee could not identify any military function or activity that a technician can do that a military man cannot do. Technicians do the same job, in the same way and at the same place as military personnel do.

This combination of factors led the committee to recommend that the dual status technicians be gradually phased out and replaced with active duty military personnel. This was the recommendation of the Defense Manpower Commission in its report made after extensive review of the technician program.

An important element of the committee's recommendation is that we do not intend to change the local nature of the Guard and Reserve. One of the primary strengths of our reserve components is their local orientation and we have no desire to change that.

The committee proposal provides for a gradual transition through attrition. No conversion of current technicians to active duty military is proposed. No one will lose their technician job, promotion opportunities or retirement. The result will be, over a long period of time, lower cost full-time support to the reserve components and improved quality of service.

I would also like to add, Mr. Chairman, that again we are told that there are studies ongoing. And that is good. But again I would say, as I have said on several other occasions here during the debate on this bill, that the committee has become, to some extent, frustrated by the fact that nothing seems to ever get done in these areas. So here we are again, with an imperfect amendment, an imperfect provision in a bill, an inapprorpiate committee offering it, and yet feeling that this is the only way we can get at the issue and that is why it is in the bill today.

Mr. Chairman, I would urge defeat of the amendment.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment which has been offered in regard to reserve technicians who are civil service employees and members of reserve units. These reserve technicians provide day-to-day management, administration, training and maintenance for the reserve units.

There are about 65,000 of these technicians. Technicians do the same thing that active duty military people do—they repair tanks and trucks, they keep financial records, they plan training exercises, and so forth. These technicians, however, have a dual status—they are paid as both a civilian employee of the reserve and as a military member of the reserve unit itself when they are on reserve duty. Consequently, the costs of providing full-time personnel support to the reserves are higher with dual-status technicians than the costs of paying only for the single salary of an active-duty military man to do the same job. We want an active-duty military man to do this job. The committee estimates that this dual pay for the same job costs $350 million more per year than it would cost to have active-duty military personnel.

A second aspect of the technician program is that a very significant proportion of the technicians are members of unions. That provides a problem with respect to mobilization in the event of war. The Defense Department estimates that 85 percent of nonsupervisory technicians in the National Guard are represented in dealings with management by labor unions. The influence here is not what it should be, in the opinion of the committee.

Finally, the committee position is essentially identical to the recommendation of the Defense Manpower Commission, which said that the technician program should be gradually phased out and the technicians replaced by active-duty military personnel. And that is what we are proposing here—a phaseout, not a cutoff, but a gradual phaseout. The general provision included in this bill provides for this gradual transition. Only about 1,300 technicians annually leave their jobs. This is less than 2 percent of the total of 65,000 technicians. At a turnover rate of 2 percent annually, it would take 50 years to phase out the technician program. This is certainly an adequate period.

In summary, the committee position provides for a gradual phaseout through attrition of the dual-status Reserve technician and their replacement with active duty military personnel. This has no ef-

fect on current technicians. It does not affect the employment of civilians who are not members of the Reserves for clerical or other jobs. Because these active duty people will be solely military, there is a high likelihood that the readiness of the Reserve components will improve.

Under these circumstances, Mr. Chairman, I urge that the amendment be defeated.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. JENRETTE.)

The question was taken; and on a division (demanded by Mr. JENRETTE) there were—ayes 20, noes 13.

RECORDED VOTE

Mr. MAHON. Mr. Chairman I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 288, noes 119, not voting 26 as follows:

[Roll No. 399]

AYES—288

Abdnor	Daniel, Dan	Holland
Akaka	Daniel, R. W.	Hollenbeck
Alexander	de la Garza	Holt
Allen	Dellums	Holtzman
Ambro	Derrick	Howard
Anderson, Calif.	Devine	Hubbard
	Dickinson	Huckaby
Andrews, N.C.	Dicks	Hyde
Andrews, N. Dak.	Dodd	Ichord
	Drinan	Ireland
Applegate	Duncan, Tenn.	Jeffords
Armstrong	Early	Jenkins
Ashbrook	Edwards, Calif.	Jenrette
Badham	Edwards, Okla.	Johnson, Calif.
Bafalis	Eilberg	Jones, N.C.
Baldus	English	Jones, Okla.
Barnard	Ertel	Jones, Tenn.
Bauman	Evans, Ga.	Jordan
Beard, R.I.	Evans, Ind.	Kasten
Beard, Tenn.	Fisher	Kastenmeier
Benjamin	Fithian	Kazen
Bevill	Flood	Kemp
Blanchard	Florio	Ketchum
Boggs	Flowers	Keys
Boland	Flynt	Kindness
Bonior	Ford, Mich.	Krueger
Bonker	Ford, Tenn.	Lagomarsino
Bowen	Fountain	Latta
Brademas	Fowler	Leach
Breaux	Frenzel	Lederer
Breckinridge	Frey	Levitas
Brinkley	Fuqua	Lloyd, Calif.
Brooks	Gammage	Lloyd, Tenn.
Brown, Mich.	Gaydos	Long, La.
Brown, Ohio	Gibbons	Long, Md.
Broyhill	Gilman	Lott
Buchanan	Ginn	Lujan
Burgener	Glickman	Luken
Burke, Calif.	Goldwater	Lundine
Burke, Fla.	Gonzalez	McCormack
Burleson, Tex.	Goodling	McDade
Byron	Gore	McDonald
Carney	Grassley	Madigan
Carter	Gudger	Mann
Cavanaugh	Hagedorn	Marks
Chisholm	Hall	Marlenee
Clay	Hamilton	Marriott
Cleveland	Hammer-schmidt	Martin
Cochran		Mattox
Cohen	Hanley	Mazzoli
Coleman	Hansen	Meyner
Conyers	Harkin	Mikulski
Corman	Harrington	Mikva
Cornell	Harris	Milford
Cornwell	Harsha	Mineta
Cotter	Heckler	Minish
Crane	Hefner	Mitchell, Md.
Cunningham	Heftel	Mitchell, N.Y.
D'Amours	Hillis	Moakley
Montgomery	Roe	Symms
Moore	Rogers	Taylor
Moorhead, Calif.	Roncalio	Thompson
	Rooney	Thornton
Moorhead, Pa.	Rose	Treen
Moss	Rousselot	Trible
Mottl	Rudd	Tsongas
Murphy, N.Y.	Runnels	Tucker
Murphy, Pa.	Russo	Udall
Murtha	Ryan	Ullman
Myers, Gary	Sarasin	Van Deerlin
Myers, Michael	Satterfield	Vento
Myers, Ind.	Sawyer	Volkmer
Natcher	Schroeder	Waggonner
Neal	Schulze	Walgren
Nichols	Sharp	Walker
Nix	Shipley	Wampler
Nowak	Shuster	Watkins
Panetta	Sikes	Weiss
Patten	Simon	Whalen
Pattison	Sisk	White
Pease	Skelton	Whitehurst
Pepper	Skubitz	Whitley
Perkins	Slack	Whitten
Pickle	Smith, Iowa	Wilson, Bob
Poage	Snyder	Wilson, Tex.
Pressler	Spellman	Winn
Preyer	Spence	Wolff
Pritchard	St Germain	Wright
Pursell	Staggers	Wylie
Quayle	Stangeland	Yatron
Quillen	Stanton	Young, Alaska
Rahall	Steed	Young, Fla.
Railsback	Steers	Young, Mo.
Regula	Steiger	Young, Tex.
Rhodes	Stokes	Zablocki
Richmond	Stratton	Zeferetti
Rinaldo	Studds	
Risenhoover	Stump	

NOES—119

Addabbo	Emery	Miller, Calif.
Ammerman	Erlenborn	Miller, Ohio
Anderson, Ill.	Evans, Colo.	Moffett
Annunzio	Evans, Del.	Mollohan
Archer	Fary	Murphy, Ill.
Ashley	Fascell	Nedzi
AuCoin	Fenwick	Nolan
Baucus	Findley	O'Brien
Bedell	Fish	Oakar
Beilenson	Foley	Oberstar
Bennett	Forsythe	Obey
Bingham	Fraser	Ottinger
Blouin	Gephardt	Patterson
Bolling	Giaimo	Pike
Brodhead	Gradison	Price
Broomfield	Guyer	Quie
Burlison, Mo.	Hannaford	Rangel
Burton, John	Hughes	Reuss
Burton, Phillip	Jacobs	Roberts
Butler	Johnson, Colo.	Robinson
Caputo	Kelly	Rodino
Carr	Kildee	Rostenkowski
Cederberg	Kostmayer	Roybal
Chappell	Krebs	Scheuer
Clausen, Don H.	LaFalce	Sebelius
	Leggett	Seiberling
Collins, Tex.	Lehman	Smith, Nebr.
Conable	Lent	Solarz
Conte	McClory	Stark
Corcoran	McCloskey	Stockman
Coughlin	McFall	Thone
Danielson	McHugh	Traxler
Derwinski	McKay	Vanik
Dingell	Maguire	Walsh
Dornan	Mahon	Waxman
Downey	Markey	Weaver
Duncan, Oreg.	Mathis	Wiggins
Eckhardt	Meeds	Wirth
Edgar	Metcalfe	Wydler
Edwards, Ala.	Michel	Yates

NOT VOTING—26

Aspin	Dent	McKinney
Badillo	Diggs	Pettis
Biaggi	Flippo	Rosenthal
Brown, Calif.	Hawkins	Ruppe
Burke, Mass.	Hightower	Santini
Clawson, Del	Horton	Teague
Collins, Ill.	Koch	Vander Jagt
Davis	Le Fante	Wilson, C. H.
Delaney	McEwen	

Messrs. WOLFF, D'AMOURS, MARRIOTT, and EDWARDS of California changed their votes from "no" to "aye."

Messrs. WIRTH, MAGUIRE, and KELLY changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that it may be in order for the gentleman from New York (Mr. GILMAN) to offer an amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: Page 58, immediately after line 7, insert the following new section:

SEC. 862. None of the funds appropriated by this Act may be obligated or expended to conduct any review of the status of United States military personnel listed as missing-in-action in Southeast Asia other than—

(1) a review with respect to which the Federal officer or employee conducting such review has physical evidence of the actual fact of death, and

(2) a review under chapter 10 of title 37 of the United States Code which is requested by any individual who is a dependent of any such personnel so listed and who is receiving monetary benefits from the United States by reason of being a dependent of such personnel.

The CHAIRMAN. The gentleman from New York (Mr. GILMAN) is recognized for 5 minutes in support of his amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, I hope I was on my feet before the Chair recognized the gentleman. I would like to reserve a point of order against this amendment.

The CHAIRMAN. The Chair advises the gentleman from Alabama he is too late. The gentleman from New York has been recognized.

Mr. GILMAN. Mr. Chairman, the subject of status reviews of missing in action in Southeast Asia has been dealt with similarly by both the Ford and Carter administrations. Due to the extraordinary circumstances of the Vietnam conflict. President Ford imposed and President Carter continued a moratorium on status reviews based on "presumptive" findings of dealth—a conclusion by the Secretary that information received, or a period of time without any information establishes a reasonable presumption of death.

Yet, inconspicuously tucked away in the voluminous committee report accompanying H.R. 7933, the Defense Department appropriations bill, is an exceedingly ill-advised policy recommendation, having ramifications far more adverse than its brief treatment in the report would imply. The Appropriations Committee states its concurrence "with the conclusion that status reviews must commence and be concluded in a timely and orderly fashion."

I call to the attention of my colleagues that half of the Members of the House Select Committee on MIA's disagreed with that conclusion. Nor has the administration indicated that it believes status reviews to be appropriate at this time. And yet, without affording the Congress the opportunity to address itself to the question of status reviews of our missing by the service secretaries, we have before us, buried in the committee

report, language which, if adopted, would signal a major reversal in both administrative and congressional policy concerning our missing in action.

The appropriations committee states that there are still 730 servicemen currently listed as missing in action.

The Appropriations Committee's report cites several conclusions supporting its recommendation for MIA status reviews, one of which states that "There is no evidence that any Americans are still alive and being held against their will." It would be far more accurate to state that the United States has not yet obtained sufficient evidence to substantiate such a conclusion. The Woodcock Commission, the Presidential fact-finding team sent to Indochina in April 1977, asserted that the "Vietnamese have not yet given us all the information they probably have." Indeed, the Woodcock Commission stated that Vietnam "has established a specialized office to seek information on missing Americans and to recover remains." Moreover, that Commission reported that "The Vietnamese had noted that they had substantially increased their budget for this work." Since these reported initiatives may lead to new information about our MIA's, the time could hardly be more inappropriate to commence such status reviews.

I fully recognize the difficulty in securing a "total accounting for all persons listed as MIA." However, rather than being influenced and intimidated by the difficulty imposed by the terrain of the region and by reluctant governments, we should support and encourage all responsible attempts to intensify our search efforts, including sophisticated technology and refined methodologies not available during or following World War II and the Korean war. Only in this manner can we responsibly and expeditiously resolve the question of our MIA's status.

The Appropriations Committee's conclusion that a change in the status of MIA's will not prevent the governments of Southeast Asia or the United States from seeking a more detailed accounting, is difficult to understand and is certainly not an accurate assessment of the practical aspects of this issue. Initiating status reviews, which result in presumptive changes in status of our MIA's, would deemphasize the importance of this issue, would weaken our Nation's negotiating position and would diminish the possibilities for a full accounting.

The suggestion that the Woodcock Commission recommended that "the time has come to once again begin the status reviews required by the Missing Persons Act," is blatantly incorrect. At no point does that Commission address the delicate question of ending the present moratorium on status reviews. The President, only this past February, informed the National League of Families, that he had instructed the Defense Department not to initiate any status reviews based on presumptions.

The bill before us is an exceedingly inappropriate vehicle for changing policy and effecting what would amount to a major reversal within the framework of this Nation's attempt to obtain information concerning its MIA's, as well as formulating the course of future relations between the United States and Vietnam.

Mr. Chairman, conceivably, we are on the threshold of obtaining much more information about our MIA's. We are beginning to open the doors of this long, lingering, painful issue. To recommence status reviews at this time and force those MIA families—who have for so long, patiently awaited information—to go through a memorial service resulting in "presumptive" finding of death and then a second funeral if remains are repatriated, would be an unconscionable and grievous affront, not only to those who gave so much for all of us, and to their families, but to the entire Nation.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I rise in support of this amendment, and congratulate the gentleman for offering it.

I serve on the Subcommittee on Defense Appropriations and I agree with the gentleman's assessment that a presumptive determination of death would foreclose any opportunity of getting more information on the 750 still missing in action for the families of all the gallant men they represent.

I have many families in my district and many throughout New York in the League of Families with whom I have talked and they are fully in support of the gentleman's efforts to keep alive our hope for more information.

Mr. Chairman, I thank the gentleman, not only for his work on this amendment, but for all his efforts in this tragic but vital cause. He and I have met numerous times with former POW's and members of the League of Families. I value their advice and counsel as well as their friendship.

I vowed a long time ago that I would never turn my back nor would I allow the Congress to turn its back on the men who were prisoners or were missing in Southeast Asia.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from New York, not only for his kind remarks, but his consistent efforts in this very worthy endeavor.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding to me. Is it true that under the gentleman's amendment, a family could continue to request a determination that the missing person is deceased.

Mr. GILMAN. Precisely. This amendment does not prohibit that.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(On request of Mr. LAGOMARSINO and by unanimous consent Mr. GILMAN was allowed to proceed for 1 additional minute.)

Mr. LAGOMARSINO. I would like to commend the gentleman for his amendment. I think that while certainly this is not a black or white issue—it is an unclear issue—certainly this is something that we should try to work out between the families and Government, and not impose upon them a legislative fiat declaring their loved one is deceased. I know that families feel very strongly about this.

Mr. GILMAN. I thank the gentleman for his remarks and for his efforts on behalf of the missing in action.

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are 716 Americans still classified as missing in action. In effect, what the Gilman amendment will do will be to freeze in place for 1 year these 716 missing. They cannot be classified from missing in action to killed in action. There are two exceptions in his amendment.

I would like to point out that the House Select Committee, which the Members authorized and which came in with a very fine, accurate report, said that these Americans are not coming home; they have lost their lives in combat. We recommended in our report that the Defense Department start a case-by-case review of these Americans still missing in action. I might say that these Americans have been missing for an average of 10 years. I wish they were coming back. It is a sad report, but someone had to bite the bullet, and we in the House Select Committee spoke out and said that these fellows are not coming back, and for the good of the families the status should be changed from missing in action to killed in action.

The Presidential Woodcock Commission, upon which I had the great privilege of serving, went to Hanoi. We did everything possible to find out if any Americans were alive. This Commission was unanimous in stating that these Americans had lost their lives in the service of their country.

The thing that worries me the most about the Gilman amendment is that it is unfair to the families. If we adopt this amendment, we, in effect, give these families hope that these Americans are alive. This is totally unfair, to give any hope that these men are coming home.

The amendment does have an exception that the next-of-kin can make a request that the Defense Department make a status change. The wives I have talked to—many of them next-of-kin—do not want this responsibility, and they are correct. They feel this should be up to the Defense Department. So, why put the responsibility on them? We have experts in the Defense Department who can look at these cases.

What I said earlier applies, that we would completely freeze in for a year a continuation of these missing Americans. It is also unfair to the 55,000 Americans who have lost their lives and who have been classified as killed. We should have all these 716 moved into the status of killed in action such as we have done with the other 55,000.

Of the total numbers who lost their lives in World War II, 22 percent of the remains were not recovered. In the Korean war, among those who lost their lives, 22 percent of the remains were not recovered. In this war, only 4 percent of the remains have not been recovered. Actually, we have done a better job of recovering our remains and finding out

what happened to the Americans than the French did in the Indochina War.

If the Members have respect for the House Select Committee which made the MIA final report, and if they have respect for the Woodcock Commission, and if they have confidence that we did a fairly good job, you will vote down this amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman not only for his statement but for what he has done in the area of trying to resolve the MIA question. There is nobody in this House or in this country who has felt any more strongly about this than the gentleman in the well. I know when the gentleman in the well finally came to the conclusion written in his committee's report that this is as far as he could go. He did some deep soul searching before he put his signature to that report. So I think this House should heed what the gentleman says. Our subcommittee is not trying to be unfair to anybody. This has gone on so long that it is entirely unprecedented in the history of this country. We are just simply saying in our committee report that now is the time for the Defense Department to get on with the business of concluding its study. That is all we are saying.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. MONTGOMERY) has expired.

(On the request of Mr. EDWARDS of Alabama and by unanimous consent, Mr. MONTGOMERY was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of Alabama. If the gentleman will yield further, they are not just going to terminate the status. They are going to review each one. But now they are going to start the study and get it over with. That is not unreasonable, it is not inhumane. In fact, I think it is the humane way to go on this issue.

Mr. Chairman, again I commend the gentleman for his stand on this issue.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. MONTGOMERY) has again expired.

(On request of Mr. MAHON and by unanimous consent, Mr. MONTGOMERY was allowed to proceed for 5 additional minutes.)

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I would like to have a colloquy with the gentleman from Mississippi (Mr. MONTGOMERY), who has spent so much of his time and effort in trying to be helpful in the many problems associated with our missing-in-action. He has made innumerable trips to Vietnam and he has been very helpful. Many of us have felt that we should follow his leadership. We do not want to be unfair to the mothers and fathers who gave up their sons in combat and whose remains were recovered. The Committee on Appropriations realizes that this is a sensitive matter and an emotional matter. We have tried to be as careful and proper in handling these matters as possible. The Committee on Appropriations did not put a specific line in this bill about the MIA's. There is a discussion in the report. But the report is sugesting that the Defense Department should make a case-by-case review and make determinations.

Mr. Chairman, I want to commend the gentleman from Mississippi (Mr. MONTGOMERY) and thank him very much for yielding to me, and I hope we will not impose upon the Defense Department the amendment which has been suggested by the gentleman from New York (Mr. GILMAN).

Mr. MONTGOMERY. Mr. Chairman, let me say also that under the Gilman amendment we completely tie the hands of the Defense Department. They cannot do a case-by-case review. We have the experts there, and this is the way to do it. We just cannot continue to carry these men missing in action.

These families are entitled to start new lives, and I think that this today will be one of the key votes we will have to cast for a long time. But we should close out this sad issue and let these families start new lives.

We can settle up with the families. They will be well taken care of. There are funds to which they will be entitled, and financially this will not hurt them.

But to me, that is not the important thing. I think the important consideration is the false hope that this amendment gives the families of the MIA's, and these Americans are not coming back.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Iowa (Mr. HARKIN), who has served with me on the Select Committee on Missing Persons in Southeast Asia.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

I just want to say that I did have the privilege of serving with the gentleman in the well on the House Select Committee on MIA's. I cannot say that it was a pleasure because the task we were about to perform was not a very pleasurable task.

But I do know of the commitment of the gentleman from Mississippi (Mr. MONTGOMERY) to this entire area of resolving the conflict on the MIA's. The gentleman in the well spent hours, days, and months of his time and personal effort on this issue. I know that when we finally reached the conclusion we did in this committee, we had left no stone unturned in our efforts and in the personal efforts of the gentleman from Mississippi (Mr. MONTGOMERY) in this regard.

I agree with the gentleman in the well that it is really cruel to try to hold out for a longer period of time, after this period of 10 years, to these wives, mothers, fathers, sons, and daughters the idea that somehow there is some kind of hope they are still alive, because we know that there is not any hope. There comes a point in time when we simply have to face reality.

So, Mr. Chairman, I oppose the amendment and support the position of the gentleman in the well, who is very correct in his position and who has spent so much time and effort in searching out all the aspects of this MIA situation.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from California (Mr. McCLOSKEY), who served as the ranking minority member of the Select Committee on Missing Persons in Southeast Asia.

Mr. McCLOSKEY. Mr. Chairman, I thank the gentleman for yielding.

I would like also to commend the gentleman in the well, Mr. MONTGOMERY, and speak reluctantly against this amendment, because I know of the depth of feeling and sincerity which our colleague, the gentleman from New York (Mr. GILMAN), as shown in offering it.

But let us bear in mind that the present law of the United States, adopted by this Congress and recently reviewed and approved by the Select Committee on MIA's, provides that there be a status determination by the Defense Department in the case of each MIA.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. MONTGOMERY) has expired.

(On request of Mr. McCLOSKEY and by unanimous consent, Mr. MONTGOMERY was allowed to proceed for 5 additional minutes.)

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield further?

Mr. MONTGOMERY. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, the proceedings under this law that provides for a status review were interrupted largely at the request of this House which felt that neither the administration nor the Defense Department was properly looking after the interests of the MIA relatives.

Because we intervened, the Defense Department held up the continuing status review procedures that had been followed for several years. They held them up until the select committee rendered its report to this House early this year. In our report we said that we felt, after pursuing every rumor we could and every possible lead, that we had reached the reluctant conclusion there was no credible evidence that any MIA's in Southeast Asia were still alive.

That left 716 families with individuals still listed as MIA's. But worse than that, it left these families in an almost incredibly cruel position, particularly those families where the wife believed that her husband was deceased but the parents still clung to the belief their son might be alive. That put the wife in the position that while she could ask for a change of status, she was then believed by her in-laws and the grandparents of her children to, in effect, be executing a death warrant for her husband.

I have talked with more than 70 wives of MIA's who are in this category. The overwhelming majority of these wives do not want to take affirmative action to ask that their husbands be declared dead. They cannot remarry; they are in a situation in which they are receiving pay

and benefits for a husband who is believed to be dead as if he were alive. These wives do not want to antagonize the parents of their MIA husbands and the grandparents of their children by, in effect, taking action to have their husbands declared dead. It is an incredibly cruel situation.

I see no reason for Congress to interfere with a law that is now being properly administered, a law that was carefully debated and enacted overwhelmingly by this Congress. I agree that there should be a careful, thoughtful determination in the case of each MIA, and that every effort should be made to determine whether there is a possibility that the individual involved is still alive.

I am reluctantly of the opinion, however, that there is no credible evidence to justify the conclusions that any MIA is still alive. More than that, I do not think that we should continue this impossible position in which the wives of men who gave so much to their country find themselves.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I have listened with interest to the comments; and I must reluctantly disagree with my friend, the gentleman from Mississippi (Mr. MONTGOMERY).

I have listened to the gentleman from Iowa (Mr. HARKIN) indicate that he was sure that we have received all of the bodies. I do not think any of us can be sure, because of the nature of the people with whom we are dealing, that we received all of the bodies.

In fact, all of a sudden, 20 more bodies are accounted for.

The Communist Government of Vietnam has not even complied with the most rudimentary procedures of international law or with the Geneva Convention. They have used the MIA's for bargaining purposes. They have used them as threats.

Mr. Chairman, we have no way of being certain about this matter. I do not think it is a question of the credibility of this committee. I think it is a question of the credibility of the government with which we are dealing. I myself cannot take the position that they have been honest with us.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for his comments.

Let me say that a year after the end of World War II hostilities it was determined that 79,000 Americans were missing. The Defense Department declared those Americans as killed in action. Not one out of the 79,000 has come back.

Of the 5,000 in the Korean war whom we declared as missing a year after the hostilities, not one of those has come back.

After we got our men back in 1973, we probably should have declared the missing Americans dead a year later. This would have cleared up the situation.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield further.

Mr. MONTGOMERY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, there is a basic difference between what was the fact at the end of World War II and what we are talking about now. The allies occupied the lands where the soldiers fought during World War II. We had a reasonable way in which to determine whether or not they, in fact, were alive or had been killed, buried, et cetera.

We do not have that same ability now, and we do not have that same assurance from the Government of Vietnam.

Mr. MONTGOMERY. We have a better accounting from the Vietnamese.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. MONTGOMERY) has expired.

(On request of Mr. MAHON and by unanimous consent, Mr. MONTGOMERY was allowed to proceed for 3 additional minutes.)

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Texas.

Mr. MAHON. Is it correct that if the Department of Defense should conclude a person missing in action is dead and that person should subsequently return, he would still receive the benefits that would ordinarily be received by a returning veteran?

Mr. MONTGOMERY. That is correct. Ten Americans were classified as killed in action between 1967 and 1973. Ten Americans came out from Vietnam and from Laos. Their families, in the meantime, had been paid the insurance and other benefits.

The precedent has been set. To answer the gentleman's question, each one of these Americans—and I would hope that all 716 would come out; but I am afraid they will not—would be given the benefits. They would not have to pay back the insurance.

Only one commercial insurance company which had paid off the claims of one who did come back required the family to pay back 25 percent of the policy. Other than that, none of those funds have been demanded.

Therefore, if some of these Americans did come back, the precedent has been set so that they would not have to pay back the insurance or other benefits already given.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. FISH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DORNAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The Chair will state that the Chair will have to allocate time before the gentleman is recognized.

Mr. DORNAN. Mr. Chairman, I make the point of order, in lieu of a recorded vote, that a quorum is not present.

Mr. Chairman, I must have 5 minutes to speak on this subject. I have worked on it for 12 years.

The CHAIRMAN. The Chair will state that the gentleman's point of order is not in order, as there is no question pending.

The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

(Mr. ASHBROOK asked and was given permission to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Chairman, I support the amendment of my colleague from New York. I have a deep interest in this issue as a former member of my staff never returned from the war in Southeast Asia.

For 10 years after World War II, the Polish Communist Government declared that all Polish POW's had been returned from the Soviet Union. When Radio Free Europe beamed the names of Polish POW's into Poland in 1955, over 6,000 nonexistent POW's returned to Poland before the end of the year. In 1956 over 30,000 more were repatriated; in 1957 over 93,000 came home.

On November 17, 1962, the North Vietnamese Government announced over Hanoi radio that they had agreed to repatriate French POW's still in North Vietnam—8 years after the end of the war.

In September 1976, I wrote to the State Department about a Laotian general now in the United States who claimed to have information concerning 200 American pilots shot down in Laos, only two of whom were returned. As far as I know, the State Department still has not contacted him.

A former member of the Hanoi Parliament, now in Japan, claims, according to a VOA broadcast, that he has "information on missing American prisoners of war." The Subcommittee on International Organizations of the House is trying to have him brought to the United States for a hearing.

I join the gentleman from New York in his opposition to any presumptive findings of death concerning our missing servicemen in Southeast Asia. Dependents of MIA's who receive monetary benefits from the U.S. Government will still retain their right to change status from MIA to KIA if they so desire. This amendment is in the best interest of these dependents and should be passed.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DORNAN).

(By unanimous consent, Messrs. EDWARDS of Alabama, EDWARDS of Oklahoma, MCCLOSKEY, and JOHN L. BURTON yielded their time to Mr. DORNAN.)

Mr. DORNAN. Mr. Chairman, I thank the gentlemen for yielding me the additional time.

Mr. Chairman, I have been deeply impressed over the years with the efforts that have been put forth by so many of

my colleagues in reference to this tragic missing-in-action issue. The Pentagon has told me that no Member has worked harder or longer than the gentleman from California (Mr. McCLOSKEY) and that he has spent more time over there than any other member of the committee, searching through the records and trying to find any glimmer of hope.

I have talked to hundreds of POW/MIA family members about the gentleman from New York (Mr. GILMAN) and to the gentleman from Ohio (Mr. GUYER) concerning their assistance to the families, and no one has been closer to them than they have. The families have regarded them almost as their own sons or brothers.

Going back years to 1969 when I first came to this hill as a news man, an Air Force Reserve officer who had best friends as POW's and as a friend of the families to lobby on the subject, SONNY MONTGOMERY was the first one to take the lead and to welcome the family members into his life. He opened his office to us and ran interference with the bureaucracy. Defense officials dealing with this subject looked to SONNY as the top spokesman in Congress for POW families.

But, I have spent over a decade on this tragedy and I have talked with the met as many family members as anyone I know. I have traveled around the world 4 times with POW/MIA wives and mothers on this. I have met with Mrs. Indira Ghandi, and with Pope Paul VI on the missing. I have been in Communist countries pleading for Geneva Convention treatment for our POW's and missing. All but China itself, Romania, Poland, Hungary, Czechoslovakia, the U.S.S.R. itself twice—many trips to Vietnam, to Laos, to Cambodia, everywhere. I have traveled with these courageous mothers and with wives.

Mr. Chairman, I will tell you that in all of those months of travel away from my family, and I was away longer cumulative than the B-52 pilots who were shot down in 1972 spent in captivity before they were freed, and in all that time I have never found a family member, among hundreds I dealt with, who was in this for a few lousy dollars of benefits. Not one. A few may exist. Maybe, but I have never met one.

Recent events have not given them false hope but there is some signs the North Vietnamese are slightly moving away from their inhuman hard line. Do not dash the hopes of the families by changing the current situation for 1 year please. People said in this House last year no one was alive. Definite statements no one was alive, and yet Tucker Guggleman was alive in a Saigon jail rotting in a Communist cell at that very moment. Some of you who were wrong before, just might be wrong again at this very moment.

One of our Members, the gentleman from California (Mr. McCLOSKEY)—you know he was on the select committee—and, I do not mean to get emotional on this—but, as the gentleman from California (Mr. McCLOSKEY) was a decorated combat Marine. officer, so was Tucker Guggleman. When he was captured, however, he was a civilian. He had been, after his Marine service, with the CIA for years before retiring. But had gone back to Vietnam at the end to help his friends. "Greater love has no man" it says in scripture. He was taken the last day before Saigon fell. Then he laid in a Communist cell in Saigon rotting, while some Congressmen maintained no one lived and I am sure his last thoughts were, "Does anybody know I am here? Does anybody care?" He was alive and broken and slowly he perished, maybe tortured to death, and made some statements of "no one's alive" correct—after the fact.

Some of our distinguished Members here were wrong. I do not, frankly, hold out much hope for any of my friends any longer, but I will tell the Members why I am singing an old song that they have heard before: "One more year, just one more year." Because no one has one shred of evidence that the three dozen known POW's are executed. I will tell the Members why, because there is a slight hope, for example, in Laos, where there may be some men hanging on.

I have interviewed men who were held in caves in Laos, where there were seven or eight or nine other pilots alive. None of them have come home. I will tell the Members a horrendous fact. Not a single man ever came home who was held by the Pathet Lao. I repeat. Not one man home from Laos. There were 320-plus missing in action there. At one time a Pathet Lao leader told me they had 100 pilots.

Nixon was had in March of 1973. He was given seven military men—and three civilians referred to as Laos-held prisoners. None were ever held in Laos except for Ernie Brace and he for only 3 weeks at Dien Bien Phu. The other men when captured were immediately turned over to the Vietnamese troops and taken straight to the Hanoi, repeat Hanoi, prison system.

You cannot write off the families with men missing in Laos particularly. You just cannot. They are entitled to at least 1 lousy year more. Dr. Kissinger alone cost them 2½ years when he refused to even meet with them. Do not cut them off now. They will feel betrayed and they will be correct.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ROUSSELOT yielded his time to Mr. DORNAN.)

Mr. BENNETT. Mr. Chairman, although I do not take the gentleman's position, I ask unanimous consent to yield my time to him.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. DORNAN. Mr. Chairman, all I am asking for the few family members who still have hope is this: One year for a long shot, a breakthrough. I met at the Embassy in Paris just a few weeks ago with the Assistant Secretary of State, Mr. Richard Holbrooke—who is coming up to speed fast on this issue. He admits he knew little about it, until this year. He is coming up to speed fast and doing an excellent job. I gave him this POW to show to the Vietnamese negotiators in Paris to let them know some Senators and Congressmen had not given up hope.

He feels some hope now himself, at least on the return of remains. My colleagues, I helped to start this POW bracelet. I still wear the first one. No. 1 has not been off my wrist in 11 years. It raised over $10 million for our POW's. Everything from free bumper stickers and buttons welcoming them home to funding MIA family offices. This second bracelet I wear for a man by the name of Ed Atterberry who was a Hanoi-held POW. For escaping overnight he, together with Col. John Dramesi, was stripped naked, spread-eagled on a floor cell and beaten, scourged with huge strips of rubber off truck tires for days. Atterberry died after 8 days of beating. He was an open wound from the top of his hairline down to the soles of his feet. Colonel Dramesi survived an incredible 38 days of scourging. We can't do anything for Atterberry but we can keep faith with his friends who may just be hanging on in Laos. There were two Cuban torturemasters in that Hanoi hellhole called Hoa Loa. Our pilots called them behind their backs, "Fidel" and "Chico."

"Fidel" beat some men into a state of insanity. Did the North Vietnamese return one deranged man? No. What did they do? Execute them? We simply do not know.

Some men were so brutally tortured and beaten the Pentagon uses code names in the records concerning the vicious brutality inflicted upon them—the code name of Egan comes to mind, a man tortured to insanity with indescribable sadism. The code name is supposed to protect the mental stability of his children so that they will not carry the emotional scars of knowing the sheer agonizing hell of their dad's last days on this Earth. What happened to this pilot known only as Egan in the nightmarish record of the "Hanoi Hilton."

The North Vietnamese kept careful Nazi-type records of every bailout, most men killed in the villages, and every man driven insane. They always had access to Laos records. They are holding back information. Mr. Holbrooke also believes this. Please do not take the pressure off drawing out the truth by defeating this amendment.

The CHAIRMAN. The time of the gentleman has expired. Time has been set.

(By unanimous consent, Mr. EDWARDS of Oklahoma yielded his time to Mr. DORNAN.)

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

I wish the gentleman would tell us in the last 20 seconds what all of this has got to do with the Defense Department.

Mr. DORNAN. All right; I will tie it up in the remaining time.

We are dealing with one of the most brutal enemies we ever faced in battle. They have hegemony over Laos far more than they do over Cambodia. They are now starting to come forward with bags of bones, as they did with the French for over two decades and still do.

Presumptive-finding-of-death against the will of MIA dependents tells the Viet-

namese we believe everyone is dead. Take your time. The pressures off. We must keep this issue alive and not deny hope to the family members who are hanging on, who will not sign a death certificate yet, who have been given no evidence their man is dead. We have not given the full measure of concentration to this issue of Laos that we should have. In spite of all of the excellent work done to date by many of you we have not fulfilled our sacred commitment to the sons and daughters, moms and dads, and some lonely wives who still serve by waiting. We were lucky to have such fine men. One more year, please.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I certainly cannot match the emotional rhetoric of the gentleman who just spoke, but I would like to set the record straight on Mr. Guggleman. Our committee knew all about him. He was never an MIA. He was not a military man; he was a civilian. He went back to Vietnam right toward the end of hostilities looking for a Vietnamese girl. He was caught up in the hostilities—a former CIA agent—captured, and kept in prison by the Vietnamese. We knew all about him all along. He was never an MIA.

But I think the gentleman from Alabama hit the nail on the head when he said the argument the gentleman from California was making has nothing to do with what we are talking about. What we are talking about is, once and for all, adhering to the law that was set here a long time ago.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MIKVA yielded his time to Mr. HARKIN.)

Mr. HARKIN. After the Second World War and after the Korean war, the law said if there is no further evidence after 1 year and 1 day of a person being listed missing in action, that person would be then classified as KIA.

We did not follow that after the Vietnam war. We, in fact, changed the law to reflect what people said was the character and nature of the enemy. We did that, but it has been 10 years now that these MIA's have still been missing. Not one shred of evidence has ever come before this body or before the Select Committee on MIA's to show that even one person was still alive anywhere.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, this is essentially a policy change we are talking about, a worthy policy that was embarked upon by President Ford in declaring a moratorium at the request of the families of the MIA's to try to keep those issues alive before the entire world and to try to help resolve the issue. President Carter has continued that moratorium. By endorsing this committee report we would be changing policy. We will be dissipating the entire issue of our missing, sweeping it under the rug, at a time when we are beginning to make some headway. Through the work of the MIA Select Committee and by way of the pending negotiations with the Vietnamese, we are beginning to get some hard facts. For the first time we are beginning to see some light at the end of the tunnel. Let us not put any damper on this progress—let us not close this door on our MIA's.

Accordingly, I urge my colleagues to support this amendment to prevent the resumption of presumptive findings of death of our missing.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, this is a subject we all approach with great sadness. Our hearts go out to all the families involved. But we must accept the inevitable. The MIA's are not coming back alive. I have studied all the records. Every effort has been made to find the missing, to learn any facts from every source that we possibly can. Any evidence that can possibly serve a useful purpose has been sifted, analyzed, and studied. There just is nothing to be gained by further delay.

My area has been among those hardest hit and yet with regret and a heavy heart I support this amendment.

Mr. MOAKLEY. Mr. Chairman, I rise in support of the bill (H.R. 7933) making appropriations for the Department of Defense and related agencies. But I do wish to express my concern over language contained in pages 66 and 67 of the report (H. Rept. 95–451) to accompany the bill concerning the status of missing-in-action personnel in Southeast Asia.

While I agree with the committee that missing personnel cannot be carried in that category indefinitely, I would hope that the administration would move with more caution than recommended in the report.

At the present time, the United States and Vietnam are engaged in discussion over normalization of relations and the President has stated that he considers the fullest possible accounting to be a sine qua non for any kind of rapprochement. I think it is important that Congress not go on record as officially agreeing to accept any less than the fullest accounting while these negotiations are going on.

During the previous Congress, I served on the Select Committee on Missing Persons in Southeast Asia. My experience has convinced me that Congress should allow the President the widest possible latitude in dealing with this issue and I insert for the information of my colleagues a letter I sent to the President in this regard shortly after his inauguration:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., February 1, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I would like to express my deep personal appreciation for the amount of time and attention you are giving to the problem of missing persons in Southeast Asia so early in your Administration. Since I was unable to join the other Members of the House Select Committee yesterday, I hoped I could send a letter to present a few thoughts on the issue.

The Committee's final report presents two findings and recommendations which go to the heart of the controversy. The Committee concluded that there are no Americans alive in Indochina and recommended that the Administration proceed with immediate status reviews.

I think it is important to note that outright dissent to both were expressed in Separate Views by two Members of the Committee and I filed Additional Views, taking a far more cautious position, which were supported by two other Members. This even split must be seen as representing the true views of the Committee.

Fate of the Missing: The Committee report stresses the statistical interferences which led to the Committee's "gut reaction" in assuming that there are no Americans alive in Indochina. But the Committee has presented no additional proof. It is only a hunch. It should not have served as the basis for Committee findings and it would be most unfortunate if it were used as a basis for foreign policy and DoD status decisions.

Status Reviews: No one argues that the Department of Defense can continue to carry missing personnel in MIA or POW categories indefinitely. But we consistently encountered reactions from Vietnamese authorities which indicated their belief that real progress could be made if you were elected President. I would strongly urge that you reach your decision on status reviews only after some diplomatic contacts have been made and you have some basis for weighing the long term prospects for an accounting.

Vietnam: I would strongly urge your Administration to undertake negotiations with Vietnam at the earliest possible opportunity. I think it is important to realize that no progress can be made outside the context of diplomatic contact. But we have seen clearly the willingness of the Vietnamese to exploit our anguish over the MIA issue and our policy, I hope, will be based only on withdrawable gestures—which would not include UN membership.

But, above all, I would urge you to reach no decision until you have discussed these issues personally with the real experts. Our Committee worked for 15 months on the MIA issue but the families have lived with the issue, in some cases, for more than a decade and I sincerely hope that they can be given the same opportunity afforded to our Committee.

Again, my sincere thanks for your concern.

Sincerely,

JOHN JOSEPH MOAKLEY,
Member, Select Committee on Missing Persons in Southeast Asia (94th Congress).

Mr. LENT. Mr. Chairman, I rise in support of this amendment, and commend my friend and colleague from New York (Mr. GILMAN) for his continued leadership on the MIA issue.

I am but one of many Members of this body who has felt that the MIA issue should take a major place in the negotiations between this Government and the government of the Socialist Republic of Vietnam. Those talks are proceeding, and some progress has now been made. This is simply not the time to undermine the importance of the MIA issue at the Paris negotiations. If we upho'd the language in H.R. 7933 and allow status reviews to continue and be concluded in an orderly and timely fashion, the cause of obtaining an accurate accounting of our MIA's will be further weakened.

I urge approval of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and on a division (demanded by Mr. GILMAN) there were—ayes 23, noes 70.

RECORDED VOTE

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 246, not voting 27, as follows:

[Roll No. 400]

AYES—160

Abdnor	Gilman	Myers, Michael
Alexander	Glickman	Myers, Ind.
Ambro	Goldwater	Nix
Anderson, Calif.	Goodling	Nowak
	Grassley	O'Brien
Anderson, Ill.	Guyer	Oakar
Andrews, N. Dak.	Hagedorn	Ottinger
	Hammer-schmidt	Panetta
Applegate		Pressler
Archer	Hannaford	Pursell
Armstrong	Hansen	Rangel
Ashbrook	Harrington	Regula
Bafalis	Harsha	Rhodes
Bauman	Heckler	Rinaldo
Beard, Tenn.	Hefner	Rooney
Blanchard	Holt	Rose
Boggs	Horton	Rousselot
Boland	Hubbard	Rudd
Bonior	Hyde	Runnels
Breaux	Jeffords	Ryan
Brown, Mich.	Jenrette	Sarasin
Brown, Ohio	Kasten	Satterfield
Buchanan	Kazen	Scheuer
Burke, Fla.	Kemp	Schulze
Byron	Kildee	Sebelius
Caputo	Kindness	Sharp
Carter	Kostmayer	Skubitz
Cavanaugh	Krueger	Snyder
Clausen, Don H.	Lagomarsino	Spellman
	Latta	Spence
Cleveland	Leach	Stanton
Cohen	Lederer	Stockman
Coleman	Lent	Symms
Collins, Tex.	Levitas	Taylor
Conte	Lloyd, Tenn.	Ullman
Corcoran	Long, La.	Van Deerlin
Coughlin	Lujan	Vander Jagt
Crane	McClory	Walgren
Cunningham	McDade	Walker
D'Amours	McDonald	Walsh
Delaney	McHugh	Watkins
Derwinski	Madigan	Wilson, Bob
Dodd	Marks	Wilson, Tex.
Dornan	Marlenee	Winn
Duncan, Tenn.	Marriott	Wolff
Early	Mikulski	Wright
Edwards, Okla.	Milford	Wydler
Eilberg	Miller, Ohio	Wylie
Emery	Mineta	Yatron
English	Minish	Young, Alaska
Fenwick	Mitchell, N.Y.	Young, Fla.
Fish	Moakley	Zablocki
Florio	Moore	Zeferetti
Forsythe	Moorhead, Calif.	
Frey		
Gammage	Myers, Gary	

NOES—246

Addabbo	Burton, John	Ertel
Akaka	Burton, Phillip	Evans, Colo.
Allen	Butler	Evans, Del.
Ammerman	Carney	Evans, Ga.
Andrews, N.C.	Carr	Evans, Ind.
Annunzio	Cederberg	Fary
Ashley	Chappell	Fascell
AuCoin	Chisholm	Findley
Badham	Clay	Fisher
Badillo	Cochran	Fithian
Baldus	Conable	Flood
Barnard	Conyers	Flowers
Baucus	Corman	Flynt
Beard, R.I.	Cornell	Foley
Bedell	Cornwell	Ford, Mich.
Benjamin	Cotter	Ford, Tenn.
Bennett	Daniel, Dan	Fountain
Bevill	Daniel, R. W.	Fowler
Bingham	Danie'son	Fraser
Blouin	de la Garza	Frenzel
Bolling	Dellums	Fuqua
Bonker	Derrick	Gaydos
Bowen	Devine	Gephardt
Brademas	Dickinson	Giaimo
Breckinridge	Dicks	Gibbons
Brinkley	Diggs	Ginn
Brodhead	Dingell	Gonzalez
Brooks	Downey	Gore
Broomfield	Drinan	Gradison
Brown, Calif.	Duncan, Oreg.	Gudger
Broyhill	Eckhardt	Hall
Burgener	Edgar	Hamilton
Burke, Calif.	Edwards, Ala.	Harkin
Burleson, Tex.	Edwards, Calif.	Harris
Burlison, Mo.	Erlenborn	Heftel
Hillis	Moffett	Seiberling
Holland	Mollohan	Shipley
Hollenbeck	Montgomery	Shuster
Holtzman	Moorhead, Pa.	Sikes
Howard	Moss	Simon
Huckaby	Mottl	Sisk
Hughes	Murphy, Ill.	Skelton
Ichord	Murphy, N.Y.	Slack
Ireland	Murphy, Pa.	Smith, Iowa
Jacobs	Murtha	Smith, Nebr.
Jenkins	Natcher	Solarz
Johnson, Calif.	Neal	St Germain
Johnson, Colo.	Nichols	Staggers
Jones, N.C.	Nolan	Stangeland
Jones, Okla.	Oberstar	Stark
Jones, Tenn.	Obey	Steed
Jordan	Patten	Steers
Kastenmeier	Patterson	Steiger
Kelly	Pattison	Stokes
Ketchum	Pease	Stratton
Keys	Pepper	Studds
Krebs	Perkins	Stump
LaFalce	Pike	Thone
Leggett	Poage	Thornton
Lehman	Preyer	Traxler
Lloyd, Calif.	Price	Treen
Lott	Pritchard	Trible
Luken	Quayle	Tsongas
Lundine	Quie	Tucker
McCloskey	Rahall	Udall
McCormack	Railsback	Vanik
McFall	Reuss	Vento
McKay	Richmond	Volkmer
Maguire	Risenhoover	Waggonner
Mahon	Roberts	Wampler
Mann	Robinson	Weaver
Markey	Rodino	Weiss
Martin	Roe	Whalen
Mathis	Rogers	White
Mattox	Roncalio	Whitehurst
Mazzoli	Rosenthal	Whitley
Meeds	Rostenkowski	Whitten
Meyner	Roybal	Wiggins
Michel	Russo	Wirth
Mikva	Santini	Yates
Miller, Calif.	Sawyer	Young, Mo.
Mitchell, Md.	Schroeder	Young, Tex.

NOT VOTING—27

Aspin	Hanley	Nedzi
Bellenson	Hawkins	Pettis
Biaggi	Hightower	Pickle
Burke, Mass.	Koch	Quillen
Clawson, Del	Le Fante	Ruppe
Collins, Ill.	Long, Md.	Teague
Davis	McEwen	Thompson
Dent	McKinney	Waxman
Flippo	Metcalfe	Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Del Clawson for, with Mr. Thompson against.

Mr. McEwen for, with Mr. Teague against.

Mr. Quillen for, with Mr. Burke of Massachusetts against.

Mr. Ruppe for, with Mr. Biaggi against.

Mr. FORD of Tennessee changed his vote from "aye" to "no."

Messrs. GAMMAGE, HAMMERSCHMIDT, MARRIOTT, MILFORD, EMERY, SHARP, EARLY, and CHARLES WILSON of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BENNETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take this time to discuss the requirements for ship designs that the Congress is placing on the Navy. Specifically, the conferees on the authorization bill provided $40 million to be used in the advanced ship development element of the research development test and evaluation funds, Navy. These funds are for conceptual and preliminary design work on new types of carriers. The amounts of these funds which had been carried by the Senate in ship developing engineering for contract design were removed by conferees from that element and put into the ship development advanced element as I have said.

Mr. Chairman, I would direct attention to the language which will be passed by the Congress in the conference report on H.R. 5970 which will require that the $40 million will be used only for the purpose of conducting comprehensive evaluation studies of the costs and combat effectiveness of sea-based aircraft platforms for both short- and long-term needs of the Navy.

This statutory language provides a direct limit upon the funding of the element in the R. & D. program. These studies can be conducted only in the ship development advanced element.

The CHAIRMAN. The Clerk will read.

SEC. 857. Effective October 1, 1977, no appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1977, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State.

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ: On page 55 strike lines 3 through 15 and redesignate the following sections accordingly.

Mr. SKUBITZ. Mr. Chairman, my amendment would simply strike out section 857 of the bill.

Section 857 provides for the termination of ROTC facilities on college campuses—if certain arbitrarily selected enrollment criteria is not met.

Mr. Chairman, much of the language contained in this section is virtually identical to that which was rejected by this body when we considered last year's defense appropriations bill. The arguments against this provision of the committee bill are virtually the same as they were last year and like last year's bill—this section should be rejected.

The major reason why this section should be rejected is that every college and university in the United States—which has an ROTC program—will be affected by its enactment—not just 20 colleges and universities as the committee report would lead us to believe. If you accept the committee report—then it is true that only 20 schools are affected—but if you take the language of the bill and apply it—at least 100 colleges and universities could have their programs terminated.

Let me read a portion of section 857. It says:

Effective October 1, 1977, no appropriation contained in this act shall be available to fund any costs of a senior reserve officers' training corps unit—except to complete training of personnel enrolled in military science 4—which in its junior year class (military science 3) has for the four preceding academic years, and as of September 30, 1977, enrolled less than (a) seventeen students where the institution prescribes a four-

year or a combination four and two-year program: or (b) twelve students where the institution prescribes a two-year program.

The intent stated in the report is not controlling over the law—if the law is clear and definite. It is clear and definite that students enrolled for the previous 4 years is a requirement of this section.

Last year the chairman of the committee said this section was worded this way to avoid a point of order and that it was the "intent" of the legislation that mattered. I submit that we can have the best intentions in the world, but so long as the language is clear, the executive branch must abide with what is clearly written into law, and the courts will not go behind the law to the report to determine legislative intent as the law is clear.

My next point has to do with the Army contract now in effect with these schools. A 1-year evaluation period is contractually mandatory before termination of an ROTC program can be effected. This proposed bill directs program termination in violation of this contractual agreement and will certainly cause a breach of faith with the educational community—students—and their parents.

The remarks cause me to ask the question: Why is it desirable to struggle to support those institutions hosting ROTC? The answer is simple and concise: The Army must provide 10,000 officers annually to support the requirements for the Active Army, Army National Guard, and the U.S. Army Reserve. Legislation of this type adversely impacts on the Army's ability to achieve this 10,000-officer objective.

Mr. Chairman, ROTC is the poor man's military academy—I urge adoption of my amendment.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I say to the gentleman from Kansas (Mr. SKUBITZ) that this is not at all the intent of the committee.

Mr. SKUBITZ. It may not be the intent of the committee.

Mr. MAHON. And that is not how the language reads.

Mr. SKUBITZ. Mr. Chairman, I agree with what is said in the report, but I do not agree with the language of the bill.

Mr. MAHON. They would have to have 17 students at one time in the 4-year period.

Mr. SKUBITZ. Shall I read this section again? It reads:

. . . no appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1977, enrolled less than (a) seventeen students. . . .

Mr. Chairman, one can read it once and he gets one meaning. If he reads it a second time, he gets another meaning. I suggest that what we ought to do is strike the language, as we did last year; and let the committee come forth with some language that all of us can understand.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, I think that language is just as clear as a bell. It says that if a college ROTC detachment has 17 or more students in Military Science 3, it is all right. If it does not have 17 or more at least one time in 4 years, that is not all right.

That is exactly what that language says. Even a good old southern boy could understand that language.

Mr. SKUBITZ. I read it. It says, "which in its junior year class * * * has for the four preceding years * * * less than 17 students."

Mr. Chairman, I ask the committee to strike this section.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I think the gentleman is absolutely correct.

What the committee forgot to do is to add the words "each of" on line 7. Then it would do what the committee wants to do. In other words, it should read, "which in its junior year class has for each of the four preceding academic years enrolled less than 17 students."

Otherwise it is as the gentleman said, 17 students for all 4 years.

Mr. SKUBITZ. Therefore, Mr. Chairman, I ask the Members to keep the ROTC programs going on the college campuses to help those boys who want to continue to try to carry out a military career, those boys who want to serve their country and who could not get an appointment to the regular military academies through their Congressman or Senator.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask the gentleman from Kansas (Mr. SKUBITZ) whether, if I should offer an amendment to put the words "each of" in the bill, that would satisfy the gentleman.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield, it might satisfy some Members; but I would suggest that we strike the whole section, as we did last year.

Mr. EDWARDS of Alabama. Mr. Chairman, we have been through this thing before.

We have learned that there have been many schools throughout the country over the years that have had so few graduating ROTC students that we, in fact, end up with as many instructors as students in some schools.

Mr. Chairman, I will come back to what I have said time and again during the debate on this bill. We are charged with the responsibility of getting the most defense for the least dollars.

We cannot justify an ROTC program in a school where we have only 12 students costing, perhaps, $80,000 to $100,000 for each ROTC graduate, just to get that student through ROTC.

There must be a better way to commission officers when the situation gets this bad. I admit that a lot of schools are doing a good job.

We have got some communities or cities where they have more than one college and where they are pooling activities for the ROTC and they are doing a good job. The committee is going along with this approach. But there is no way we can justify an ROTC program where they have so few students that, economically, it is an extreme waste of the taxpayers' money. That is all we are trying to cure here. That is all we tried to cure last year. I would urge the committee to oppose the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

Mr. MAHON. Mr. Chairman, would the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I would just add that if we do not watch ourselves we will have more people doing the training than we have students in some of these detachments.

It would seem to me that the committee has taken a very reasonable approach with respect to this matter. I sincerely hope that the motion to strike the provision contained in the amendment offered by the gentleman from Kansas (Mr. SKUBITZ) will be voted down.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I am glad to yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, just let me say that I have no disagreement with our chairman, the gentleman from Texas, (Mr. MAHON), in what the gentleman would like to do, but I do disagree with the fact that he does not place it into law and he tries to fix it up in the report.

Mr. EDWARDS of Alabama. Mr. Chairman, this gentleman from Alabama believes that the legislation as written in the bill is clear. In case there is some lack of clarity in it I will state to the House that the clear intention of the committee was that if they had 17 or more students for one of those 4 years in Military Science 3, that they are not going to lose the ROTC program.

Mr. MAHON. Will the gentleman yield further?

Mr. EDWARDS of Alabama. I yield further to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I wish to join in that statement made by the gentleman from Alabama (Mr. EDWARDS), that if any school has 17 students for any one of those 4 years, they meet the requirements.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 858. None of the funds appropriated by this Act shall be available after September 30, 1977, to pay the retired or retainer pay of any officer, warrant officer or enlisted member of a regular or reserve component of the armed forces for any period for which the officer, warrant officer, or enlisted member is entitled to receive pay as an officer or an employee of the Federal Government or a Member of Congress or a congressional employee, as defined in section 2104, 2105, 2106, or 2107 of title 5, United States Code, or as

a person excepted from the provisions of chapter 51 of title 5.

(b) None of the funds appropriated by this Act shall be available to pay that portion of the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, which is attributable under section 6330(d) of title 10 to time which, after December 31, 1977, is not actually served by such member.

AMENDMENT OFFERED BY MR. BOB WILSON

Mr. BOB WILSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOB WILSON: Page 55, strike out line 16 and all that follows through line 10 on page 56, and redesignate the following sections accordingly.

Mr. BOB WILSON. Mr. Chairman, my amendment will delete section 858 of H.R. 7933. This section would require all military retired personnel who become employed by the Federal Government after October 1 of this year to forfeit the entire amount of military retired pay to which they are entitled.

This provision has not been given the careful consideration normally provided to an issue of such importance and with such far-reaching implications. The section of the bill that my amendment will delete strikes at an entitlement earned through long years of dedicated service to the Nation by our military personnel. The impact of such an action should be given the most thorough examination and fullest deliberation possible through the established legislative processes of the House—not rammed through in an appropriations bill.

I am not taking the position of either advocating or opposing this issue of dual compensation—double dipping—my point is this issue is complicated and our decision on it will affect the future career decisions of tens, probably hundreds, of thousands of our citizens presently serving our country in the military.

An issue of this magnitude, of such far-reaching implications requires, in fact, demands, to be set aside from our deliberations on this appropriations bill and studied most carefully by the appropriate committees of this House. It should certainly not be treated as it is being done here and now in this quick-fix manner.

My greatest concern is the undue burden this provision will place on our enlisted personnel. Of the 141,000 retirees from every State presently working for the Government, almost 80 percent are former enlisted men and women. It is our enlisted people who will risk taking the biggest financial beating if they go to work for the Government in the future.

Now listen to this, the average retired pay for enlisted members is $5,670 a year. For those retiring today, the amount is just over $6,100. Compare this to the Census Bureau's poverty level income of $5,820. These retirees must work. They cannot live on their retired pay.

The Appropriations Committee in their report estimates that about 68,000 people will retire this fiscal year from the military. What the committee's provision would have us do is to play fast and loose with the career decisions of these men and women, just to test a theory that the dual compensation system is an inequitable proposition.

As my good friend and colleague from Alabama (Mr. EDWARDS) acknowledged last Friday in his statement on the defense appropriations bill, this bill is not the normal vehicle in which to decide such policy. As he said today this is an inappropriation way to legislate. My esteemed colleague also commented that the committee made this move out of a sense of frustration, that other committees that would most properly have jurisdiction had taken no action and that the Appropriations Committee thought it time that action was taken.

Mr. Chairman, this issue is and has been under study. In fact, the entire subject of military compensation will be taken up by the President's own blue-ribbon panel announced this week. I am sure that the recently completed Defense Department quadrennial review will serve to give substantial input into the panel's examination.

Additionally another distinguished gentleman from Alabama (Mr. NICHOLS) has pledged that this Military Compensation Subcommittee will work tirelessly on retirement legislation. Our colleagues on the Post Office and Civil Service Committee have shown much interest in the dual compensation question. This is my whole point. The matter is being looked at. The results will be brought to the House for reasonable and rational discussion with all the facts, all the effects, all the implications available to aid us in making our decision. Why do we have to rush? Why do we have to decide now, today?

If this proposal of the Appropriations Committee is allowed to stand it will have a devastating effect on the quality and quantity of people willing to dedicate their lives to a military career. People are still the most important element of defense, and any denigration in this area will directly affect our national security. Legislating in this fashion can only fuel the fires of those who say that only a union, a military union, will protect the rights and benefits of the serviceman.

To repeat, Mr. Chairman, what we are saying is not that dual compensation is or is not good or bad. What we are saying is that based on the scanty information given us by the Appropriations Committee and the ramrod approach taken, today is not the day and the bill before us is not the proper vehicle to legislate this sort of a decision. We are deciding the futures of thousands of our most dedicated citizens. Let us not legislate in haste.

I strongly urge my colleagues on both sides of the aisle to defeat this ill-advised, hastily drawn attempt to make a far-reaching change in the laws governing retired military personnel and to support this amendment to delete section 858 from the appropriations bill.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman from California (Mr. BOB WILSON) for yielding.

Could the gentleman explain to me and the House how the deletion of the prohibition against a retired military person working in government and taking retirement pay at the same time directly affects our national security?

Mr. BOB WILSON. I think in many instances jobs that were held by people in the military are the same jobs now held in Government. Those jobs have to be filled by someone, and they are better filled by people who are trained in the military in the very skill which is required on the job.

Mr. ADDABBO. If the gentleman will yield further, then what is happening here is that when a man is in the military service, he finishes his 20 years; he goes next door, changes his military hat to a civilian hat; and he then continues to do the same job but receives civilian pay while he receives the retirement pay for a job that can be done by another qualified man or was in some instances created for the retiree.

Mr. BOB WILSON. That is the gentleman's interpretation. That really is not the case.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. YOUNG of Florida, and by unanimous consent, Mr. BOB WILSON was allowed to proceed for 3 additional minutes.)

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman for bringing this issue before us. I would like to provide the Members an example of exactly what he is talking about. I have an employee in my congressional office here in Washington whose responsibilities are administrative. He is a good office manager. He keeps things moving. This is the same type of job he had at the Pentagon for some of the 20 years he served in the Navy.

The point I make is that he does a good job for me but if he did not have this some $5,000 a year coming from retirement—that he actually earned through both wartime and peacetime service—if he did not have that coming, I would have to pay him at least $5,000 more in his congressional salary.

So, in this case we are not going to save anything by doing as the committee suggests. The gentleman's amendment is a good amendment.

Mr. BOB WILSON. I thank the gentleman.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I think it is important we realize that this amendment does address the issue whether or not the disruptive action in the bill would affect the career decisions of numerous military people. I agree the appropriate position on retirement programs is not clear at this time for some

of us. I personally question the advisability of military members being allowed to retire from the military and then accrue a new Federal retirement program. It is not a question of whether or not they should be able to benefit from their military retirement while working. We should realize that members of the military are retired and put out at an unfortunate time of their life and they have to pick up other careers or jobs at points often where they would be far below positions they would have if they had gone into the civilian life, rather than the military.

Those who go into private employment would be able to have the full benefit of the retirement program, and this provision in the bill would affect only 10 percent of the military retirees.

Mr. BOB WILSON. It is less than 10 percent involved.

Mr. Chairman, I urge my colleagues to give favorable consideration to this amendment.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of the amendment.

The Congress and this committee, the Appropriations Committee through section 858 has launched an attack on what is called double dipping. To be sure, the term "double dipping" is a tricky phrase as a buzz phrase and it sort of catches the eye and ear and conjures up a negative connotation.

But what are we talking about? Mr. Chairman, whenever our servicemen enlisted, we induced them to enlist by offering them certain benefits. We say when they retire they will be given medical benefits for themselves and their family and while they are on active duty they and their families will have medical benefits. They are also told that at the end of 20 years they will be able to retire and immediately start drawing their retirement. There was no bar as to what they could do once they earned their retirement. It is considered that is part of the inducement for coming into the service and putting on the uniform of the country and serving in time of need. It is part of the package deal.

That is why many of the people who came into the service were willing to serve at a compensation, at a rate of pay considerably lower than their counterparts in the civilian sector, because this was an inducement and it was a fringe benefit which they earned and which was promised them.

So they came into service and they served their 20 years and now by legislating on the appropriation bill without any hearings I know of we are going to say: "Hey, we did not tell you this little catch, but we are going to treat you different from anybody else. If you retire from the military you cannot go to work for the Government. Other people can but you cannot."

The fact is that this is a right that these people have earned and we should not tamper with it.

We are concerned, Mr. Chairman, with the threat, and I say it is a threat, of the unionization of our armed services. Is this a fanciful threat? Is this some figment of the imagination or is it real? It is real, I am here to tell the Members. And when we start eroding away the rights and benefits and the privileges and the inducements which we have offered to these people to come into the service—and I am talking about commissaries, for one thing—and when a man retires he picks his place of retirement nearby to a military base to be able to get the benefits he has been promised all through the years, and when we say his medical benefits are eroded, what happens?

We have not only retirees, but now active duty servicemen who are being told, "Well, we don't have enough doctors. You will have to get your medical benefits through CHAMPUS. If CHAMPUS does work, one shouldn't be required to pay a part out of one's pocket, but one must.

When you see medical benefits eroded away, when you see commissary privileges eroded away, and now we have another benefit being eroded away, we see the specter of unionization looming larger and larger and we are just pushing it over the edge here.

So, Mr. Chairman, I think we would be terribly foolish to go forward with this, without knowing the impact of it.

Our subcommittee has jurisdiction. The committee of the gentleman from Alabama (Mr. NICHOLS) has jurisdiction. The gentleman has already said that the gentleman will have full-scale hearings. The Committee on Post Office and Civil Service is interested. They can have hearings; but for us to precipitously today, just through one amendment added to the overall appropriation bill, to take away the rights of the servicemen is wrong. I think we are taking away a right that they have and they have earned. We should not be tampering with it today.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, I rise in strong support of the amendment of the gentleman from California (Mr. BOB WILSON). The House Appropriations Committee has traditionally taken a reasonable and responsible stand with respect to the military community and the military retirees. But this time around, the committee bill (H.R. 7933) indeed has provisions in it that are callous and insensitive to the persons in uniform.

Mr. Chairman, it is capricious and cruel to have section 858 in this bill which would arbitrarily, and without due process, prohibit a military retiree who becomes a Federal employee after October 1 this year from keeping his retired or retainer pay. This is a premature treatment of a small portion of the military retirement and compensation problem. The President's Blue Ribbon commission is looking into the entire structure.

When a man or woman in uniform first joined the service 20 or so years ago—in 1957—some did so voluntarily; some, and I suspect a great many of the men, came in through the induction route of the military draft. They have made their careers in the military depending on the promises made to them about the benefits they would be entitled to upon retirement. Those of our colleagues who were already elected to Congress then; and most of our predecessors, recognized in their wisdom and compassion that our men and women in uniform were entitled to certain benefits, because of their dedicated and unique service to our Nation. Some of the men in uniform went to fight and die on a distant battlefield in alien lands, on some strange sea, or in the sky over a remote ground. Some came back maimed and crippled.

Mr. Chairman, now that the Selective Service has been put in deepfreeze, there is a sudden aloofness and arrogance that seems to emanate from some quarters of Congress. That is the way it appears to me and that is the way it appears to many of my constituents; and I am sure to the affected constituents of my colleagues.

At a time when this Congress and the administration are trying their utmost to make the all-volunteer force and the total force concepts viable and workable, here comes section 858—torpedoing the promises made to our servicepersons, and shattering the hopes and dreams of those who are in their twilight years of arduous and devoted active military service; and who plan to retire in the near future—that come end of fiscal year 1977, after October 1, they must steer away from Federal civilian employment. Otherwise, forfeiture of retired or retainer pay shall be the penalty.

Mr. Chairman, as the gentleman from California so succinctly put it, section 858 is going to hurt mostly the low-ranking retirees. Now, they constitute 80 percent of the retirees on Federal payrolls. Sure, they will be grandfathered and protected. However, the group of retirees that section 858 will discriminate against are those who served in the Korean war and Vietnam war era. I cannot fathom why this should be the case.

Mr. Chairman, let us not kick our men and women in uniform below the belt as they plan and look forward to retirement and hopefully another career. Many of them still have to send children to college or make payments on home mortgages. Let us not make it harder for them to go into postretirement careers. Many of them retire not because they want to, but because they have to. Let us not shortchange them by reneging the pledges made long ago by others who were privileged to represent them in this Chamber—that military service and military retirement are to be looked upon with honor and dignity. And certainly, it does not mean a sacrificial push into the chasm of poverty or near-poverty.

Mr. Chairman, I plead with my colleagues to support the Wilson amendment and to resoundingly delete this section 858 from the fiscal year 1978 defense appropriations bill.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I rise in strong support of this amendment. I think it should be adopted. I associate myself with the remarks of the gentleman in the well.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, we talk about the number of people who were induced to go into service, because of their right to work for the Government at a later time. The truth is that only 10 percent of those people who do military service ever draw a penny of retirement pay. Only 10 percent of those retirees, we are told, and that is just a small number, is involved in double dipping, that is, working for the Federal Government, which means that is about 1 percent or less of those who join the service end up working for the Federal Government. That is not very much, we are told.

We are talking about retirement costs of $1 billion that go to military retirees who are also drawing a paycheck from the Federal Government. When you get right down to it, a retirement check is a retirement check. It contemplates retirement. If a person is not ready to retire, then he ought not to be drawing his retirement check. The civil service employees cannot do it. The social security retirees are very limited in what they can earn.

It is this committee's view that we ought not to be doing this.

Now, my friend, the gentleman from California (Mr. BOB WILSON) said we do not know whether it is good or bad. That is probably true. We do not know whether it is good or bad, because the committee that ought to be looking into it does not look into it. That, once again, is the reason this subcommittee has tried to face up to a knotty problem and get somebody off dead center and try to get some action on it.

I confess again, as I have on some of these other issues, that we are unable to come in with all the details that ought to be brought into a situation like this as far as legislation is concerned. It is not our job to write law; but it seems nobody else around here is willing to do it. Nobody is willing to go into a study and then come up with some answers, or at least come back with a study that shows we are all wrong and that we ought to have double dipping.

Some day this Congress has got to face up to these issues. I know that the politics behind the issues we have been talking about today in here is all against what we are trying to do. I know when the phones start ringing and the letters start coming and the National Guard and the Reserves and the unions call in and say, "For goodness sakes, you can't let that crazy Appropriations Committee run away with all these things we hold dear."

Yet, we come to a point where somebody has to stand up and be heard. That, in a small way, is what we have been trying to do today. I tell the Members quite frankly, I do not think we are going to win this, but we have been heard, and as we come out of this debate today on these various issues, perhaps a legislative committee will start to work on some of them in earnest. Then, I am going to feel that we have done a day's work.

Mr. Chairman, I urge defeat of the amendment.

Mr. GIAIMO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I want to commend the committee for coming out with this elimination of double dipping. I think it is time, as the gentleman from Alabama says, that we in Congress face up to some of the realities of what we are doing. We are paying $9 billion a year—$9 billion a year—in military pensions.

This committee amendment says that if you are getting a military pension from the Government, and if you go to work for that same Government, you do not draw both your pay and your pension. You tell me what is wrong with that. What is wrong with that?

There is not anything wrong with it. We are not breaking any word. We are not breaking any commitment. It is all well and good to say that we are going to have committees study this thing. I know what the pressures are. We feel them every time we try to cut out any sweet little edge—and that is what it is, an edge. We even have double dippers here in the House of Representatives, I am told, and I do not think that is right either.

Somehow or another, we have to start trying to save money if we are going to accomplish some of the things we want to do, if we want to pay for the kind of defense we should have. It is a small amount of money involved, about $26 million if I am correct. but do the Members know what it will cost in about 5 years? We will save about $2.5 billion. That is not peanuts—or hay, I might add.

That is what the committee is trying to do. We have to get about this work. There is no injustice involved. Both this President and the President before him understand the problem. In recent years, studies and reports addressing manpower policies and compensation have been made, such as the President's Panel on Federal Compensation; Defense Manpower Commission; Third Quadrennial Review of Military Compensation; studies by the Brookings Institute, the Congressional Budget Office, congressional committees, and individual Members. These studies and reports call for changes in the management of defense manpower, particularly military retirement and salary reform.

The administration also indicates concern with these areas, and established a Presidential commission to review the findings of the Third Quadrennial Review of Compensation and provide recommendations to the President.

In addition, the Department of Defense has submitted military retirement reform legislation proposals to this Congress. Of course, nothing has been done in the Congress to implement any of these recommendations. I submit to the Members that practically nothing will be done in the Congress to implement these recommendations. I commend the Appropriations Committee for seeing this injustice and attempting to remedy it. I hope this action acts as a catalyst to prompt more comprehensive reform by other congressional committees. Personnel costs are already more than half of the defense budget.

Think of it. More than half of the budget of $116 to $120 billion goes for personnel costs. Action is needed now to slow down retirement costs if we are ever to provide weapons modernization which we need in the future. The recommendations of the committee are simple. They should be supported. They will treat military retirees in the same manner as we treat retired Federal employees and retired workers on social security. It does not impact upon military retirees currently working for the Federal Government, because it does not go into effect until October 1 of this year.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. Mr. Chairman, it does not limit employment opportunities. It does not prohibit employment of retired military personnel by the Federal Government. It is not intended to affect any of the other benefits that accrue to retired military personnel.

Mr. Chairman, this effort by the Committee on Appropriations may be the catalyst to prompt comprehensive congressional review of the entire retirement issue. This is without any question a ripoff. Presidents have recognized it as such, and they have asked us to accomplish this reform. This committee is trying to do it. This is the only way, I submit, in which we are going to eliminate what I consider to be a ripoff of the taxpayers' money, to the tune of savings of billions of dollars over a 5-year period.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to state my opposition to the prohibition against the so-called double dipping for military retirees. I believe that this is highly discriminatory and in effect is penalizing men and women who have served their country and want to continue to serve their country.

This prohibition against double dipping seems to be something of an overkill to me. The vast majority of the military—some 80 percent, I believe—who are working in the Federal Government are retired enlisted men with the average annual retirement pay of $5,670. I understand that the Appropriations Committee has computed a higher rate, but I believe that this figure is a more accurate one as it is computed on the basis of the average pay of all enlisted retirees rather than just those who are working for the Federal Government. These are the people who are not highly visible, the ones whose average annual income in retirement is below the Bureau of Census poverty level income of $5,820 for an urban family of four.

As a member of the Select Committee on Aging I have become very aware of

the problems faced by retirees, and I believe it is time we stop passing legislation that discriminates against retired people and prevents them from earning a decent living. The earnings limit on social security is another example of this kind of discrimination. We place people in double binds these days. We mandate that they retire at a certain age or as in the case of the military after a certain number of years in service, and then we turn around and say, but no, you can not work here or there or earn over a certain amount and still collect your pension or social security, because that is not fair or it costs the system too much, or some other reason with no real justification.

There is no question about the fact that our social security system is in trouble, and that our Federal civil service retirement system is in need of an overhaul. The President has addressed himself to these problems, and I hope will have some recommendations that will prove to be equitable to all. He has also appointed a Blue Ribbon Commission on Compensation and Retirement in the military to study their system, and I believe that the fair thing would be to wait for this panel's recommendations concerning military retirees and the problem of double dipping. But in the meanwhile why should we penalize these retirees unjustly at this time.

Mr. Chairman, at first I was very opposed to the double dipping amendment, because I was under the impression that these people had a pension of $10,000 or $15,000. But the fact is that 80 percent have a pension of $5,670. I feel that we ought to eliminate all the discrimination that goes on for those who are on fixed incomes and those who are on social security.

Mr. Chairman, I do not agree with my colleague when he says that we ought to treat them the same way that we treat the people on social security. I think we ought to permit the person on social security—who earned that money and put all of that money into that pension fund—we ought to permit that individual to work and to still keep his or her social security benefit. So I want all of the Members who I am going to support on this amendment to remember that they will be asked, when the bill comes up, to support the older American who wants to work for a living and still retain his or her pension. I hope the Members will feel the same way about them as they feel about the military. I agree with those Members on this issue, but let us not forget the other people who are discriminated against. We in Congress can change that around, also.

Mr. BOB WILSON. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to point out that these so-called savings are specious. There are no savings which are going to be exacted by the passage of this legislation as written by the Committee on Appropriations. You are still going to have the jobs to fill. You are going to hire somebody else besides military persons to fill them. There are many jobs in this area, such as parachute rigging, pipefitting, and so forth, for which people have been trained in the military, and those men and women are still going to be drawing their retirement pay and working in some civilian occupation. If there is any idea that there is going to be any saving, get it out of your mind. The big fault is the retirement system itself. As the chairman of the Subcommittee on Military Compensation, the gentleman from Alabama (Mr. NICHOLS) knows that we need to look at the retirement system of the military, to see what can be done to improve it, to get the military a vested interest in their retirement. But that is not going to be done by this legislation.

Ms. OAKAR. Mr. Chairman, I want to point out to the gentleman that I agree with him about the military, but I hope we are including that whole area of individuals who cannot earn more than a couple thousand dollars and they are living on less than $3,000 a year.

They are living on less than $3,000 a year, and they are discriminated against also.

So I hope, Mr. Chairman, just as I am supporting the gentleman in this effort, that when our bill comes up for those poor souls who are forced to retire and still want to work, the gentleman will give us his support.

Mr. BOB WILSON. Mr. Chairman, I agree with the gentlewoman from Ohio (Ms. OAKAR). In fact, I have introduced similar legislation to accomplish what the gentlewoman has in mind.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I just want to say that I commend the gentlewoman on her statement, and I, too, will support the gentlewoman totally in her efforts.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope we can come quickly to a vote on this issue.

This limitation in the appropriation bill before us would not, of course, become effective with respect to employment by retirees until October 1 of this year. It is true there are many complexities involved in the measure.

The amendment before us now is simply an amendment to strike the provision recommended by the committee in this regard. The House will, of course, work its will with regard to that. If the amendment should be voted down, then other amendments would, of course, be in order.

It seems to me this is the time to face up to this issue. There is a lot of room for improvement in the dual-compensation area. The question of disabled veterans must be considered carefully.

It seems to me that there is some hope in the fact that we have been assured by the gentleman from California (Mr. BOB WILSON) that the Committee on Armed Services will look into this matter and try to come to some sort of appropriate resolution of it.

We have 150,000 retired military people who are so-called double dippers, and about 80,000 or 90,000 of these are employed by the Defense Department. There is undoubtedly considerable abuse in connection with the program. It ought to be tightened up, the matter ought to be thoroughly explored, and we ought to have some legislation on the subject that would be meaningful, appropriate, and fair to all concerned. It is not easy, of course, to construct limitation language in an appropriation bill to achieve these kinds of goals.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I appreciate the gentleman's yielding to me.

There is one question I want to clarify for the legislative record.

When an individual retires under the military retirement system, he usually fills out a form that permits a deduction of a portion of his retired pay to pay for annuity protection for his spouse in the case of his death. That is the survivors' benefits program. Now, under the committee bill, an individual who retires from the military and takes a job in the Federal Government is going to have his retired pay completely eliminated. But unless we make specific provisions this would appear to wipe out his privilege of making any provision for his wife under the survivor benefit program.

I wonder if the committee chairman could assure me that the language of the appropriation bill would not in fact eliminate that particular benefit, and that although a recipient might not receive his own retired pay during employment in the civilian branch of the government, his retirement program would still be in effect insofar as the protection to his wife's survivor benefits would be concerned, and could also be resumed on his release from government employment.

Mr. MAHON. Mr. Chairman, I concur with the gentleman that his observation is entirely correct.

We have no intention to work any undue or improper harm on anyone in connection with this matter, or to affect any of the other benefits that accrue to military retirees. We make that clear in the committee report.

Mr. STRATTON. Mr. Chairman, I appreciate the gentleman's statement.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take more than 2 minutes. I know we want to get this finished, and I do, too.

I rise in strong support of the amendment offered by the gentleman from California (Mr. BOB WILSON), but for a different reason. The way the bill is written, I think unquestionably any veteran with a 10-percent disability is prohibited from coming to work for the Federal Government, and that is the point of having the 10-point veterans' preference.

As it is written, this bill effectively removes the 10-point preference in hiring. This is what some have been trying to

do for years. In this case it is not intentional but just as effective.

However, we simply cannot take this chance.

Therefore, Mr. Chairman, I hope that the Members will vote it down, and then we will have an opportunity for the proper committee to make the necessary decision.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

(By unanimous consent, Messrs. FLYNT, EDWARDS of Alabama, and BOB WILSON yielded their time to Mr. NICHOLS.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, this amendment concerns a matter popularly but falsely labeled as "double dipping." I want to explain briefly why I contend it should better be known as "equal justice." That equality of justice not only affects every man and woman now in military service, but also every taxpayer in this country.

The bill would propose penalties on every person now in service who might wish to continue to serve our country in a civil service job after he completes his military duty. There was no warning on entry into the military that there would be restrictions such as those proposed here. No recruiter and no reenlistment officer told them that they would be targets of discrimination when they finished 20 or 30 years of military service or less if they retired with disability. Despite occasions when they worried about erosion of benefits, I believe most of them thought they had earned the respect and appreciation of their fellow citizens.

Yet now we are proposing to tell them that they are not to have the retirement rights they have earned, if they choose to continue working for the Federal Government. We are asked to introduce discrimination, because we do not limit their employment in the private sector nor even decree penalties if they go to work for a State, a city, a school board or some other unit of local government.

I say we are also asked to deal from the bottom of the deck to all taxpayers. We are asked to say that the Civil Service cannot get the best return on every tax dollar it spends, because we would strike from the rolls of job applicants those people who do not wish to sacrifice part of their retirement pay, even though some of them may be better qualified for a particular civil service job than anyone lacking service experience.

I am not unaware that we have had some questionable cases of the "buddy system" causing some job descriptions to be tailored to make a place for some retiring admiral or general. I decry such incidents. But I would argue that those occasions are the faults of the agencies or departments where they occur, and I would welcome attention to such incidents by the congressional committee having legislative oversight responsibilities. But I do not think we have to load a congressional cannon when sharpshooting is what is needed.

Let me also stress that I am not making this argument in behalf of retired generals and admirals. There are some 150,000 military retirees now in the civil service—and not one in a thousand of these men and women ever reached star rank. Only 1 percent of them earned more than $36,000 in service, and pensions, as you know, run less than half of active duty pay.

Many of those who get out after 20 years' service could not support their families on their pensions, let alone educate their children. They have skills, discipline and dedication that the Civil Service can use well, and yet we are asked to say they have got to pay a price for the time they served the Nation in uniform.

If we feel that a change must be made, that as the bill suggests this country cannot afford its contractual obligation to these people, then let us be fair about it. Let us not discriminate against those who are now serving—the major with 19 years' service, or the warrant officer or sergeant with 18. In fact, let us be fair to all those men and women dedicating their first careers to the Nation.

Mr. Chairman, this amendment should be adopted.

(By unanimous consent, Mr. KAZEN yielded the balance of his time to Mr. NICHOLS).

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. NICHOLS) for 5 minutes.

Mr. NICHOLS. Mr. Chairman, I rise in support of the amendment and will speak to it, but first let me say that the issue of military retirement is a matter that gives the Armed Services Committee and the Subcommittee on Military Compensation, which I chair, a great deal of concern.

I would be the first to agree that the entire military retirement program is going to have to be reappraised in the light of its overall cost in today's military budget. Some weeks ago on the floor of this House, I gave this body my assurance that I expected to hold preliminary hearings on this very complicated subject following the August District Work Period. I likewise assured this House that the subcommittee expected to go into more detailed hearings on the entire matter upon receipt of the report from the administration's Blue Ribbon Committee. You will recall this committee has been assigned the task of reviewing the entire military retirement program and they are expected to report back to the President early next year.

Mr. Chairman, let me address my remark to one particular group of the retired military and that is those members who are receiving retired pay not because they served 20 years, but because they are eligible for retirement pay due to disabilities incurred in the military service of their country and I submit the following figures.

Of the 1,243,000 present military retirees some 157,000, 12 percent of all retirees, were retired for disability reasons. Many of these individuals were injured in combat. Others were injured in training accidents while in service and are relatively young, having served on the average only 11 years in the uniform of their country. The average disability retired pay for this group computed as of June 1976, was $6,048 per year, certainly a figure insufficient for a man and his family to live on and so invariably these disabled military retirees must engage in some type of gainful employment. This is an economic necessity and a great deal of emphasis today is placed on rehabilitating both military and civilian disabled people in order to make them self-supporting, productive citizens.

Let me give you a typical case representative of this group. An E–5 who was either drafted or enlisted and saw service toward the end of the Vietnam war and had the misfortune of losing a leg, and who has now been fitted with an artificial limb, is generally rated 40 percent disabled by the military retirement board. Since he served 4 years he is entitled to receive disability retirement from the military in the amount of $223.23 per month as a retired E–5.

Prior to entering service this man worked as a lineman with a utility company and because he can no longer climb utility poles he must seek less demanding employment and so he applies for a vacancy as a mail clerk in the Post Office or as a maintenance employee in a Veterans hospital at a GS–5 level with a salary of $9,303 per year. The Congress in its wisdom has seen fit to give preferential treatment to these veterans when they seek Federal employment and so he passes the examination and because of his 10-point veterans preference from Civil Service he is offered the job at $9,303 and with his $2,678 per year from his military retirement this man has a new start in life toward caring for his wife and family.

Now what sort of a law would this be to deny this disabled veteran who has served his country well, the right to his disability retirement pay?

Mr. Chairman, I submit this is wrong and I do not believe the very able chairman of this committee nor members of his committee, nor Members of this body want this to happen. Much emphasis is placed on rehabilitating this man physically, socially, and economically, and I cannot believe that this Congress would want to take from one who has served his country well and I respectfully seek the vote of this House in support of this amendment.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, as the only Member of the House who is a retired career military officer, I would like to comment on the so-called double dipping provision in the defense appropriation bill. I will vote "present" on the issue because of possible conflict of interest, but I urge my colleagues to consider the ramifications of this proposal, rather than the publicity value.

The prohibition against double dipping contained in an appropriation bill is, in my opinion, the wrong place to re-

solve this complex problem. By banning double dipping for those currently leaving the military, we will be breaking a commitment made 20 years ago.

Stories have been circulated about highly pensioned generals and colonels taking top level civil service jobs with a total income of $50,000 to $60,000 per year. What we do not hear about is the majority of retirees—the staff sergeants who receive $455 a month in retirement before taxes. The same staff sergeant with 20 years of service began his career with a monthly income of about $75. His service spanned the Vietnam conflict. This retired serviceman fills a job with the Federal Government at the midlevel, let us say GS–9 with an income of $14,000 a year. Total yearly income is under $20,000. Repaying 20 years of service, and using skills and experience in the Federal Government for $20,000 a year seems hardly worth the furor over get rich quick double dippers.

We made a promise to servicemen 20 years ago, and I think we should keep that promise.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. CHAPPELL).

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, I rise in opposition to the amendment and urge that the committee's well-thought-out provision be retained. The proposal in this year's Defense Appropriations Act to prohibit all future double-dipping by retired military personnel in the Federal Government is a commendable and necessary step to eliminate one of the most unjustifiable provisions of the military retirement system. I have no argument with the payment of a military pension to a serviceman who is retired. But what we have here is the payment of retired pay to people who are not retired. And this retired pay is going to people who are generally in their late thirties or early forties.

To permit military retirees to receive both their full retirement pay and a full civil service salary is simply unfair to the American taxpayer. The important point to remember is that the military retirement system is funded annually from general revenues and not from a trust fund set aside for that purpose. Thus, double-dipping is a direct drain on every taxpayer in the country. There is no other Federal retirement system that allows a Government retiree to collect both his retired pay and a Federal salary. The social security system does not allow this when an individual makes more than $3,000 annually. Even the Veterans' Administration cuts off a disability pension to military retirees who make more than a specified income each year.

Double-dipping costs more than $1 billion annually over and above the civil service pay of these retirees. This is a cost to the Government for which there is no justification. Civil service pay alone is very generous, as is the civil service retirement system. I can find no reason to continue the practice and I urge that this amendment be defeated. This may be a losing cause. Capitol Hill is peppered with double-dippers. They constitute a powerful lobby. Nevertheless, I hope reason will prevail and that this amendment will be rejected.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise in strong support of the amendment offered by my esteemed colleague, BOB WILSON of California. Mr. Wilson's amendment would strike section 858 from H.R. 7933, the Department of Defense appropriations bill for fiscal year 1978. The section of the bill I join my colleague in opposing would, if adopted, deny retirement pay to military retirees who accept Federal civil service employment after October 1, 1977.

This radical change in the opportunities available to our retired military personnel is presented to us this afternoon as part of a $110 billion appropriations bill. I submit that this is a substantive policy issue with many serious implications for the military personnel system and ought not to be treated so lightly.

Additionally, I want to point out to my colleagues that the implications of such a provision have not enjoyed the benefit of hearings, study, or adequate input from the affected Government agencies. President Carter has appointed a Blue Ribbon Commission on Military Compensation to provide just such executive branch input. It appears to me that the Appropriations Committee has jumped the gun and the House would be wise to wait for the President's Commission to conduct its study and issue its report before we act. To adopt the bill before us including section 858 would be a disservice to the deliberative procedures of the House. We do not need to act so hastily.

Mr. Chairman, in addition to my procedural objections, I believe the merits of the issue itself clearly argue for support of Mr. Wilson's amendment. If this provision is not deleted, the largest group that will be adversely affected are retired enlisted personnel. Of the 141,000 military retirees currently employed by the Federal Government, over 111,000 are former enlisted men and women who served on active duty for at least 20 years. Their average retired pay is $5,670 a year. This compares with the Bureau of the Census poverty-level yearly income of $5,820 for an urban family of four. This by no means qualifies as a lavish retirement. You can readily see why these "retirees" need to work.

The proponents of this section quite correctly state that this will reduce the number of former military personnel working for the Federal civil service. They argue that this is a worthwhile policy objective. In my opinion, the exact opposite is true. The plain fact of the matter is that these retired military personnel have hard to find management and technical skills in high demand by civilian agencies. In many ways, permitting retired military personnel to continue Government service represents a bonus for the taxpayer, considering our investment in 20 to 30 years of experience and training which has especially qualified the retiree for the needs of many of our agencies.

Mr. Chairman, I will also like to address the question of equity for military personnel. For years we have told them that they could compete for Federal civil service jobs upon their retirement. To radically alter our civil service ground rules in this area with only 3 months' notice is simply not fair. We cannot treat our military personnel in such a cavalier fashion and expect to recruit and retain qualified people for our Armed Forces. Given the rigors of military life and the many dislocations the military family experiences, we must make every effort to make military service as attractive as possible.

Mr. Chairman, while I am critical of the provisions of section 858, I appreciate the effort by the Appropriations Commitee to begin reexamining our military retirement system. I share the committee's view that substantial changes need to be made in our military personnel retirement policy.

However, the Appropriations Committee approaches this issue from the perspective of the prerogatives military retirees are to enjoy once they have left the uniformed services. I believe a much broader question needs to be addressed. I am very disturbed that we waste so much talent and expertise in the military by forcing qualified personnel out after 20 years. Our current military retirement system, as the committee report points out, encourages retirement after 20 years of service. Additionally, our "up-or-out" promotion system forces many military personnel into retirement.

The cost to the military are considerable in replacing the skills, training, and professionalism developed over a 20-year career. In my opinion, we must restructure our military personnel and retirement system so that we retain these highly qualified personnel. It makes no sense to keep a system that turns out a competent employee in his early forties when he has many more contributions to make. We only waste the vast resources we have spent to train our military personnel if we continue the current system. Lastly, our experience has shown that command, control, and communications can be handled as well, if not better, by older, more experienced personnel.

I trust that these broader issues as well as proposals such as that contained in section 858, will be addressed by the President's blue ribbon panel. I believe we would be prudent to wait for their recommendations before we act on these issues. Adopting section 858 as contained in this bill would clearly be unwise and I hope my colleagues will defer judgment on this proposal and support Mr. WILSON's amendment to delete this language from the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON), to close the debate.

Mr. MAHON. Mr. Chairman, I ask for a vote on the amendment.

Mr. BAUMAN. Mr. Chairman, I rise in support of the amendment to delete section 858 from the defense appropriations bill. Prohibiting payment of earned retired pay to military retirees who become employed in the Federal Govern-

ment, is the rankest type of discrimination against a single group that should be praised instead of attacked.

Let us look at the effect of this provision from the perspective of the service member, for a change. Consider the E–7 with 22 years of service as he approaches retirement. He may have had a distinguished career in the service, served in Vietnam, experienced frequent moves, worked long hours, received substandard pay for much of his career, been separated from his family for a total of 6 of his 22 years. When he retires, he can expect $6,411 per year. Can he "retire" at age 40 or 41 on his military retired pay? His children may be just reaching their college years. Because he is now just settling down, he decides to buy a house. I think we must conclude that he must find a job in order to exist.

Put yourselves in his shoes. If he is offered a job in the private sector, and a similar job in the Federal Government—say as an administrative assistant at a salary of $12,000 per year—which job would he take? By selecting the Government job he experiences a $6,400 cut in pay. Because of his training, his experience, and his demonstrated commitment to the Nation, it seems to me that the Federal Government would want to provide, at least, a slight incentive for this individual to continue his career of Government service. This is exactly counter to what section 858 does.

Perhaps there is a problem with the military retirement system. But the barring of payments of military retired pay to retirees employed in the Federal Government will not solve that problem. We would be applying an inappropriate solution to a relatively small number of military retirees who, for whatever reason, choose to offer their continued services to the Nation.

I think this is inequitable, I think this is ill-conceived, and I urge strongly support the amendment.

Mr. GONZALEZ. Mr. Chairman, I rise in support of the amendment to strike section 858.

One military retiree out of 10 winds up working for the Federal Government. These are the so-called double dippers.

The enactment of section 858 would create two classes of military retirees—one class that could receive retirement pay, and another that could not.

This section says that if a military retiree works for anybody else except the Federal Government, he can still get his retirement pay. The 10 percent who do work for the Federal Government would be barred.

Now it is possible that there is some reason for this kind of discrimination, but I do not see it. Under this provision, a retiree who works for a State or county or local government will still receive his full retirement pay. He will receive that pay even if the State or local or county job he holds is being paid for out of Federal funds. But if he works for Uncle Sam, he is fined—penalized, by the withholding of his retirement pay. It is a fine that amounts to an average of $5,700 a year for a retired enlisted person.

Now if we want to reform the military retirement system, that is a different matter. Perhaps it should be changed and made less costly. This amendment, however, is no way to approach the subject.

You cannot reform a system by making it discriminatory; you cannot save money by attaching the rights of a few, or by ignoring the concepts of basic equity.

I support the amendment, because it corrects a basic error in this bill. For I cannot see why we should penalize a few people who retire from the military and then work for the Federal Government, thereby making them different from all other retirees. It is beyond any concept of reason to deny retirement pay for a sergeant who retires and takes a job as a GSA guard, if his neighbor can retire with full benefits and work at a federally funded job, under a State or local sponsor. They may both be guards, and will both receive all their income from the Treasury—but the circumstance of employment only, would deny $5,700 of income to one, and allow it to the other. That is no reform; it is injustice.

Mr. HARRIS. Mr. Chairman, I am pleased to support today the amendment to remove from the defense appropriations bill the provision in the bill requiring military personnel who accept employment with the Federal Government to forfeit military retirement pensions.

WILL UNDERMINE MILITARY MORALE

This provision, in my view, is a shortsighted budget-cutting device that will undercut the morale of our Armed Forces. Denying retirement pay, which was part of the bargain expected upon entering service and rightfully earned from duty to our country, will mean we are breaking faith with our military people. It will dishearten those many loyal military people who served their country in the armed services and wish to serve their country in the civil service. We should not agree to a "contract" and then break it. It is that simple.

It is inequitable because they earned their retirement pay through many long hours of work and many sacrifices. It is inequitable because we are asking no other group to forfeit other forms of income earned previously when they enter the civil service. As Col. Minter L. Wilson, Jr., of the Retired Officers Association has put it—

> It would be sheer effrontery to suggest that all persons who have earned retirement incomes from any previous employment forego all or a part of it merely because they are now willing to offer their experience and talent to the government. Is it any more fair or honest to single out the regular military officer for such treatment?

WILL KEEP TALENT OUT OF GOVERNMENT

This provision, should it become law, will deprive the Federal Government of the talent and knowledge of many capable individuals. If an ex-military person has to give up his or her income for public service, he or she will be less likely to work for the Government. Our Government cannot afford to close the door to proven manpower resources. Retired military personnel can bring to our Government expertise that few other individuals have. The Federal Government must have incentives to attract the best possible work force—not disincentives to keep them away.

I am also convinced that this action was taken by the Appropriations Committee without consideration by either the Post Office and Civil Service Committee or the Armed Services Committee, the two House committees which have jurisdiction over the subjects of civil service pay and retirement pay. These committees are carefully scrutinizing our pay and retirement systems. Additionally, the Department of Defense is now conducting its legally required third quadrennial review of the military compensation system and President Carter has asked a civilian panel to review the study when it is completed. This will be accomplished by October 1, 1977. Since this is a major investigation and analysis of the entire military pay and retirement system, I believe that the Appropriations Committee's action is not only inappropriate, it is premature. Surely, any committee needs the analysis that this overall study will provide us before making policy decisions of this great import.

ISSUE DISTORTED

The facts surrounding the issue of double dipping have been greatly exaggerated, in my view. Out of the Federal Government's 2.8 million Federal employees, there are 141,817 uniformed services retirees employed in the Federal Government, according to the Civil Service Commission. Of these retirees, only 27,682 are former officers; that leaves 111,793—the vast bulk—as former enlisted personnel. The Commission's study shows a mere 0.6 percent of the military retirees in the civil service are earning over $36,000 and that most of the retirees are in the $10,000 to $17,999 range.

I call on my colleagues to vote "aye" on the Wilson amendment and to stop this attack on our dedicated military men and women. It is time for this Congress to stop precipitously reacting to slogans and to look at the facts for what they are.

Mr. CHAPPELL. Mr. Chairman, when I first supported the provision in the committee, my intention was to focus on the situation where the man had changed from a uniform sitting at a desk one day and the next day coming in as a civilian and occupying the same desk with the same duties and the same responsibilities. However, there is a grave situation encompassed in this provision as it is now and I think we would be making a serious mistake to go ahead as we are attempting to do here. I for one will be satisfied with the recommendations of the committees of the Congress on this subject. I believe that would be a whole lot better way to approach the matter than we are attempting here.

I urge the adoption of the amendment offered by the gentleman from California (Mr. BOB WILSON).

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BOB WILSON).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk continued to read the bill.

AMENDMENT OFFERED BY MR. BURLISON OF MISSOURI

Mr. BURLISON of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURLISON of Missouri: General Provision 859. Add a new General Provision numbered 859, and worded as follows:

SEC. 859. None of the funds appropriated in this act may be obligated for the purpose of planning or executing any assassinations plots against any officials of any foreign governments or political parties of countries not at war with the United States.

Mr. BURLISON of Missouri. Mr. Chairman, this amendment can certainly be debated without divulging classified information. Everything I know about the subject has been gleaned from documentation provided by the Senate Church Investigating Committee, former officials of the CIA, through their writings, and other publications, all of public record and freely available to the public. I have not received nor sought information on this point from the Agency, other than the assurance that our Government is not now engaged in this business.

It is a matter of public knowledge that the CIA has had a part in assassination plots involving numerous foreign government leaders. Several of those leaders met violent deaths. There is no credible evidence tying the CIA to any of these deaths. But the American people consider it shameful that an Agency of our Government would think about killing foreign leaders in time of peace.

The record, as documented by the Church Senate Select Committee report, is tragic. There was Lumumba of the Congo, Trujillo of the Dominican Republic, the Diem brothers of South Vietnam, Allendé and Schneider of Chile, Duvalier of Haiti, and Sukarno of Indonesia. Perhaps the most flagrant example is that of Cuba's Castro. Through the administrations of Presidents Eisenhower, Kennedy, and Johnson, the CIA worked with the Mafia in various and sundry efforts to dispose of him.

No constructive purpose would be served by going into the lurid details of these cases here, nor is there time. Suffice it to say that in those days assassination plots were so much a part of the CIA that they were institutionalized as the "executive action" program of the agency. These operations, obviously, were counterproductive. The negative impact from such revelations are devastating to our country, not to mention the mounting evidence, and inferences to be drawn therefrom, that our role may have provoked actions terminating in the death of a governing President.

Opponents of this amendment will say no good can come of it. They will point to Executive Order 11905, promulgated by President Ford and still in effect. They will remind us of President Carter's promise to stay out of the assassinations arena and his plans to issue further pronouncements thereon. As a matter of fact, in the full Committee on Appropriations markup, my amendment was watered down by substituting the language in the Executive order for mine. I say to you that Presidential Executive orders and Presidential promises do not discharge our legislative responsibility. Assassinations and attempts threat should be wrong as a matter of law.

Evidently, the House next week will establish an intelligence authorizing committee. Perhaps it will be appropriate for that committee to look into this matter in the months to come. In the meantime, my amendment ought to be in place.

Mr. MAHON. Mr. Chairman, I am sure that all of us are opposed to assassinations. Assassination within the United States is of course against the law—it is murder. Assassination performed in other countries, of course, is against the law in those countries.

President Ford on February 18, 1976, issued an Executive order in regard to this matter and that Executive order is still in effect and has been carried forward by President Carter. That Executive order is entitled: "Prohibition of Assassination: No Employee of the United States Shall Engage in or Conspire to Engage in Political Assassination." That is the existing Executive order.

I had not thought that the amendment was necessary, but now that it is before us I fully support it.

I yield to the gentleman from Alabama and ask if he feels that the amendment should be approved.

Mr. EDWARDS of Alabama. Mr. Chairman, we can accept the amendment. I wish the gentleman had not felt it necessary to offer the amendment, and I wish the gentleman had not offered it, but I am unwilling to be put in the position of being for assassinations, and so of course I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. BURLISON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WHALEN

Mr. WHALEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHALEN: Page 58, immediately after line 7, insert the following new section:

SEC. 860. None of the funds appropriated in this Act shall be used for any form of aid or trade, either by monetary payment or by the sale or transfer of any goods of any nature, directly or indirectly to Cuba.

Mr. MAHON. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Texas reserves a point of order against the amendment.

The gentleman from Ohio (Mr. WHALEN) is recognized in support of his amendment.

Mr. WHALEN. Mr. Chairman, the cynics in this body may term this "the Tongue in Cheek Amendment of 1977."

Some of the liberals of this Chamber—a rapidly vanished breed, I might add—might label it "the antihypocrisy amendment of 1977."

Mr. Chairman, I prefer to call it "the legislative consistency amendment of 1977." I do so because this amendment conforms to two previous actions taken by the House.

On June 23d, we voted overwhelmingly to prohibit the use of Federal funds for any form of aid or trade—I emphasize the word "trade"—directly or indirectly with Cuba. A similar amendment was adopted on May 12.

Mr. Chairman, H.R. 7933 violates these strictures.

First, $4,085 in Federal funds are paid annually to Cuba for rental of the Guantanamo Naval Base. Parenthetically, at today's prices this may well be the first instance in which the United States is a recipient, rather than a donor of foreign aid.

Second, the Department of Defense expends funds to employ 149 Cuban nationals at this installation.

Third, Federal funds are appropriated to maintain 2,433 military personnel, 279 American civilian employees, and 2,134 U.S. dependents in Cuba.

I urge adoption of this amendment for three reasons.

First, it would reaffirm this body's determination to prevent any trade between the United States and Cuba.

Second, terminating our military alliance with the Castro government would reinforce this objective.

Third, by withdrawing our forces from Cuba, we would provide moral strength to our argument that Cuban troops be removed from Angola.

Mr. Chairman, I see the author of the two amendments on the floor and I yield to the gentleman from Ohio (Mr. ASHBROOK) and ask for his support of this amendment.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman for his belated support of the concept of cutting of aid or trade to Cuba.

I think my friend left out another payment. Do we not pay for water in Cuba?

Mr. WHALEN. No. We supply our own water.

Mr. ASHBROOK. I thought they could cut our water off.

Mr. WHALEN. No. We supply our own water.

I would certainly welcome any support my friend could give this amendment.

Mr. ASHBROOK. If my friend could convince me that we take away in this way any aid or trade, our own or somebody else's, from Mr. Castro, I might support the amendment.

I think the key word is trade. Quite obviously, when we rent facilities, that represents trade. When we employ civilians of the host country, that also represents trade.

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield, I would think that is more of a contractual arrangement. I would say that with most of our trade, we give it away.

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. MAHON. Mr. Chairman, I had not read the amendment when I reserved the point of order. Now I have read the amendment and as I see it, the amendment is not subject to a point of order. I withdraw my reservation.

Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman. I understand the Navy employs about 145 Cuban Nationals at Guantanamo Bay in Cuba. I would not want to see our operation and

control of this base jeopardized. Certainly I have no desire to aid the Castro government. How would the gentleman propose that we proceed with his amendment?

Mr. WHALEN. Mr. Chairman, I would suggest maybe a voice vote.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, is the gentleman saying that by adopting this amendment we would no longer be empowered to deal with Cuba insofar as maintaining our base at Guantanamo is concerned?

Mr. WHALEN. That would be my interpretation of it, yes.

Mr. EDWARDS of Alabama. Mr. Chairman, if the gentleman will yield further, I am not quite prepared to say we should pull out of that base at Guantanamo.

Is the gentleman also saying we would not be permitted to pay Cuban Nationals who work at the base at Guantanamo?

Mr. WHALEN. That would be my interpretation. We also would be precluded from paying rent.

I might add additionally that the Cuban Government has not deposited our checks, so that might be a moot issue.

Mr. EDWARDS of Alabama. Mr. Chairman, is the gentleman aware that most of the Cubans that work at Guantanamo are virtual exiles?

Mr. WHALEN. They commute. They go between the base and the mainland.

Mr. EDWARDS of Alabama. Mr. Chairman, if the gentleman will yield further, I think the gentleman's intention is well meaning, but I would not be inclined to support the gentleman's amendment, if it means on such short notice as this that we would make a decision to pull out of Guantanamo at this time.

Mr. Chairman, I urge the gentleman to withdraw the amendment.

Mr. WHALEN. Mr. Chairman, I realize it is a very grave move. I am just really doing it in the interest of consistency.

Mr. EDWARDS of Alabama. Mr. Chairman, having been consistent, would the gentleman now withdraw the amendment?

Mr. FLYNT. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I hope the committee will reject this amendment. I am certainly not willing on 5-minute notice to surrender the principal naval base and naval air station that we have in the Caribbean. The facilities we have there are more essential to the southern command than anything that we have in that entire area. I am not willing to buy such a spur-of-the-moment thing and surrender the most important facility we have in that area.

Mr. ROBINSON. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to my friend the gentleman from Virginia.

Mr. ROBINSON. Mr. Chairman, would the gentleman agree that it would be most inappropriate at this point in time if we would even consider it, when we are on the verge of giving away the Panama Canal, our only other base in the Caribbean, to give away the base at Guantanamo?

Mr. FLYNT. I certainly agree with the gentleman from Virginia. I urge that the amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WHALEN).

The amendment was rejected.

Mr. DOWNEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in colloquy with the gentlewoman from Massachusetts (Mrs. HECKLER) and the chairman of the committee the other day, I discussed the $13.4 million that was going to be expended in this bill for food research which the Army does in Massachusetts. At that time I asked a number of questions with respect to what that research money was going to be used for, and I was attempting to determine what improvements, if any, there had been in the diet of our servicemen after the expenditure of tens of millions of dollars which we have spent in the appropriations in the last 20 years with respect to food experimentation.

I have not had a whole lot of time to conduct research on this subject. I am not going to ask for a separate vote in committee, but I think it is important to lay the groundwork for future action.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield.

Mr. ASHBROOK. Mr. Chairman, I think the members of the committee ought to give very close attention to this subject. I have had an opportunity to review this report once it was brought up, and I think the gentleman from New York is completely on target. I think that pershaps we should let it go through without a vote today, but we should certainly give a subject of this importance the closest scrutiny in the future.

Mr. DOWNEY. I thank my friend from Ohio. I would just like to tell him that in the last 5 or 6 years we have spent over $20 million for food irradiation research conducted by both Energy Research and Development Administration and the Department of Defense. This process involves placing a piece of meat or potato at the end of a linear electron accelerator and bombarding it with Gamma and Beta rays. I am sure Members would prefer their potatoes with sour cream.

The fact is that the FDA has never once allowed any of this experimental food to be permanently placed on the market because it does not meet FDA standards; so, the Army has been and will be spending $6 million on this program to feed livestock experimentally. If that is not bad enough, there is a $2.3 million request in here for an experimental food facility. In 1972, over one-third of the servicemen were not eating at bases, but were taking their allowances and going outside to commercial restaurants. In response, the Army decided to set up a fast food line and a regular food line to accommodate the servicemen interested in the McDonald-type or Burger King-type fast food operation.

This new $2.3 million study involves a pre-preparation program to fast freeze the food in order to make it dispensable to the bases, which while decreasing the cost, will substantially lower the quality of the food. Clearly, the present system barely meets the needs and desires of military personnel; the new system would only exacerbate the problem.

All I am suggesting is that this $13.4 million—and when we talk about a $110 billion dollar bill, it is not much—we are spending on this research, No. 1, does not make a darn bit of difference to the diet of the individual serviceman; and No. 2, it is done extensively already by other agencies. In 1 day, we were able to get a document from the University of Texas, from the Lyndon B. Johnson School of Public Affairs, funded by NASA, which is doing this sort of research. Birds Eye, Howard Johnson's and every other type of private fast food or frozen food system can do exactly what they have been experimenting with in the Army in the last 10 years with these frozen foods.

Therefore, I would suggest to the committee that the next time this appropriation comes up, we give it closer scrutiny.

The CHAIRMAN. The Clerk will read.

The Clerk concluded reading the bill.

Mr. MAHON. Mr. Chairman, concern has been expressed by the distinguished gentleman from Florida (Mr. BENNETT), the chairman of the Seapower Subcommittee of the House Armed Services Committee, relative to the requirements for ship designs that the Congress is placing on the Navy.

My friend, of course, has a right to his opinion. I do not fully agree with his views on the matter, nor does the Committee on Appropriations. I spoke on this subject on last Tuesday. My position has not changed.

As the gentleman knows, neither the authorization bill nor the appropriation bill provides authorization and funding for specific ship programs on a line item basis. We permit sufficient flexibility to the Navy on the use of ship development funds in recognition of the fact that requirements for ships may change during any given year. This flexibility is necessary because of the ever changing threat to our naval forces. The Navy must be prepared to meet changed ship requirements by properly designing ships the Navy may require in future years. So we never try to tie down the Navy too tightly on ship design money.

As you know, in order to carry out the mandate of the authorization bill language with respect to comprehensive evaluation studies of the cost and combat effectiveness of sea-based aircraft platforms, certain ship design effort is required. Without such ship designs, the cost of certain ships cannot be determined with any degree of accuracy. And such costs are necessary if comprehensive evaluation studies of the cost and effectiveness of sea-based aircraft platforms are to be meaningful.

In summary, therefore, I believe the appropriations bill provides sufficient funding flexibility to permit the Navy to comply in a broad sense with the authorization bill language agreed to by the conferees on that bill.

Mr. MAHON. Mr. Chairman, I move that the committee do now rise and re-

port the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. GIAIMO. Mr. Speaker, I demand a separate vote on the so-called Bob Wilson amendment.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 55, strike out line 16 and all that follows through line 10 on page 56, and redesignate the following sections accordingly.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker being in doubt, the House divided, and there were—ayes 39, noes 28.

Mr. GIAIMO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 219, nays 174, answered "present" 4, not voting 36, as follows:

[Roll No. 401]

YEAS—219

Abdnor	Burton, John	Evans, Del.
Alexander	Butler	Evans, Ind.
Allen	Caputo	Fary
Andrews, N.C.	Carter	Fenwick
Andrews, N. Dak.	Chappell	Fisher
	Clausen, Don H.	Fithian
Archer		Flood
Armstrong	Cochran	Florio
Ashbrook	Cohen	Flynt
Badham	Coleman	Ford, Mich.
Bafalis	Conable	Forsythe
Barnard	Corcoran	Fountain
Bauman	Cunningham	Frey
Beard, R.I.	Daniel, Dan	Gammage
Beard, Tenn.	Daniel, R. W.	Gaydos
Bennett	de la Garza	Gibbons
Bevill	Derwinski	Gilman
Boggs	Devine	Ginn
Breaux	Dickinson	Goldwater
Breckinridge	Dornan	Gonzalez
Brinkley	Duncan, Tenn.	Gradison
Brooks	Edgar	Gudger
Brown, Calif.	Edwards, Okla.	Guyer
Buchanan	Eilberg	Hall
Burgener	Emery	Hammer-schmidt
Burleson, Tex.	Ertel	
Hanley	Milford	Seiberling
Hansen	Miller, Ohio	Shipley
Harris	Mineta	Sikes
Harsha	Mitchell, N.Y.	Sisk
Hefner	Mollohan	Skelton
Heftel	Moore	Slack
Hillis	Moorhead, Calif.	Smith, Iowa
Holt		Smith, Nebr.
Horton	Murphy, N.Y.	Snyder
Howard	Murphy, Pa.	Spellman
Hubbard	Murtha	Spence
Hughes	Myers, Gary	St Germain
Hyde	Myers, Michael	Stangeland
Ireland	Myers, Ind.	Steed
Jenrette	Natcher	Steers
Johnson, Calif.	Neal	Stump
Johnson, Colo.	Nichols	Symms
Jones, N.C.	Nix	Taylor
Jones, Okla.	O'Brien	Thone
Jones, Tenn.	Oakar	Thornton
Kazen	Panetta	Treen
Kelly	Patten	Trible
Kemp	Pepper	Tucker
Ketchum	Perkins	Van Deerlin
Kindness	Poage	Waggonner
Krebs	Pressler	Walgren
Krueger	Preyer	Walsh
Lagomarsino	Price	Wampler
Leach	Pritchard	Watkins
Lederer	Pursell	Weaver
Leggett	Quie	Whalen
Levitas	Rahall	White
Lloyd, Tenn.	Railsback	Whitehurst
Long, Md.	Regula	Whitley
Lott	Rhodes	Wilson, Bob
Lujan	Risenhoover	Wilson, C. H.
Luken	Roberts	Wilson, Tex.
McClory	Robinson	Wright
McCloskey	Roe	Wydler
McDade	Rooney	Wylie
McDonald	Rose	Yatron
McFall	Rostenkowski	Young, Alaska
Madigan	Rousselot	Young, Fla.
Marriott	Rudd	Young, Mo.
Mathis	Santini	Young, Tex.
Mattox	Sarasin	Zablocki
Meeds	Satterfield	Zeferetti
Meyner	Sawyer	
Michel	Schroeder	

NAYS—174

Addabbo	Derrick	Maguire
Akaka	Dicks	Mahon
Ambro	Diggs	Mann
Ammerman	Dingell	Markey
Anderson, Calif.	Dodd	Marks
	Downey	Martin
Anderson, Ill.	Drinan	Mazzoli
Annunzio	Duncan, Oreg.	Mikulski
Applegate	Early	Mikva
Ashley	Eckhardt	Miller, Calif.
AuCoin	Edwards, Ala.	Minish
Badillo	Edwards, Calif.	Mitchell, Md.
Baldus	English	Moakley
Baucus	Evans, Colo.	Moorhead, Pa.
Bedell	Evans, Ga.	Murphy, Ill.
Bellenson	Fascell	Nedzi
Benjamin	Findley	Nolan
Bingham	Flowers	Nowak
Blanchard	Foley	Oberstar
Blouin	Ford, Tenn.	Obey
Boland	Fowler	Ottinger
Bonior	Fraser	Patterson
Bonker	Frenzel	Pattison
Brademas	Gephardt	Pease
Brodhead	Giaimo	Pike
Broomfield	Glickman	Quayle
Brown, Mich.	Goodling	Rangel
Brown, Ohio	Gore	Reuss
Broyhill	Grassley	Richmond
Burke, Calif.	Hagedorn	Rinaldo
Burke, Fla.	Hamilton	Rodino
Burlison, Mo.	Hannaford	Rogers
Burton, Phillip	Harkin	Roncalio
Byron	Harrington	Rosenthal
Carney	Heckler	Roybal
Carr	Holland	Runnels
Cavanaugh	Holtzman	Russo
Cederberg	Ichord	Ryan
Chisholm	Jacobs	Scheuer
Clay	Jenkins	Schulze
Cleveland	Jordan	Sebelius
Collins, Ill.	Kasten	Sharp
Collins, Tex.	Kastenmeier	Shuster
Conte	Keys	Simon
Conyers	Kildee	Solarz
Corman	Kostmayer	Staggers
Cornell	LaFalce	Stanton
Cornwell	Latta	Stark
Cotter	Lehman	Steiger
Coughlin	Lent	Stockman
D'Amours	Lundine	Stokes
Danielson	McCormack	Studds
Delaney	McHugh	Thompson
Dellums	McKay	Tsongas
Udall	Walker	Wirth
Vander Jagt	Waxman	Wolff
Vanik	Weiss	Yates
Vento	Wiggins	
Volkmer	Winn	

ANSWERED "PRESENT"—4

Jeffords	Stratton	Ullman
Lloyd, Calif.		

NOT VOTING—36

Aspin	Fuqua	Moffett
Biaggi	Hawkins	Montgomery
Bolling	Hightower	Moss
Bowen	Hollenbeck	Mottl
Burke, Mass.	Huckaby	Pettis
Clawson, Del	Koch	Pickle
Crane	Le Fante	Quillen
Davis	Long, La.	Ruppe
Dent	McEwen	Skubitz
Erlenborn	McKinney	Teague
Fish	Marlenee	Traxler
Flippo	Metcalfe	Whitten

The Clerk announced the following pairs:

On this vote:

Mr. Pickle for, with Mr. Fuqua against.

Mr. Montgomery for, with Mr. Metcalfe against.

Mr. Teague for, with Mr. Burke of Massachusetts, against.

Mr. Marlenee for, with Mr. Moffett against.

Mr. McEwen for, with Mr. Traxler against.

Mr. Del Clawson, for, with Mr. Hawkins against.

Mr. Fish for, with Mr. Koch against.

Mr. Erlenborn for, with Mr. Motti against.

Until further notice:

Mr. Davis with Mr. Biaggi.

Mr. Dent with Mr. Whitten.

Mr. Le Fante with Mr. Long of Louisiana.

Mr. Huckaby with Mr. Bowen.

Mr. Moss with Mr. Flippo.

Mr. Quillen with Mr. Aspin.

Mr. Ruppe with Mr. Hollenbeck.

Mr. Skubitz with Mr. McKinney.

Messrs. COLLINS of Texas, REUSS, MURPHY of Illinois, BOLAND, CORMAN, COTTER, GLICKMAN, AMMERMAN and LENT changed their vote from "yea" to "nay."

Mrs. LLOYD of Tennessee, Mrs. SCHROEDER, Mrs. MEYNER, Messrs. LUKEN, CAPUTO, PRESSLER, FORD of Michigan, WALGREN, HUBBARD, REGULA, RAILSBACK, LEACH, McDADE, GUDGER, and PATTEN changed their vote from "nay" to "yea."

Mr. NEAL changed his vote from "present" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FORSYTHE

Mr. FORSYTHE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. FORSYTHE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FORSYTHE moves to recommit the bill H.R. 7933 to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. EDWARDS of Alabama. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 333, nays 54, not voting 46, as follows:

[Roll No. 402]

YEAS—333

Abdnor	Eckhardt	Kindness
Addabbo	Edgar	Krebs
Akaka	Edwards, Ala.	Krueger
Alexander	Edwards, Okla.	LaFalce
Allen	Eilberg	Lagomarsino
Ambro	Emery	Latta
Ammerman	English	Leach
Anderson, Calif.	Ertel	Lederer
	Evans, Colo.	Leggett
Anderson, Ill.	Evans, Del.	Lehman
Andrews, N.C.	Evans, Ga.	Lent
Andrews, N. Dak.	Evans, Ind.	Levitas
	Fary	Lloyd, Calif.
Annunzio	Fascell	Lloyd, Tenn.
Applegate	Fenwick	Long, Md.
Archer	Findley	Lott
Ashbrook	Fisher	Lujan
Ashley	Fithian	Luken
Bafalis	Flood	Lundine
Barnard	Florio	McClory
Bauman	Flowers	McCloskey
Beard, R.I.	Flynt	McCormack
Beard, Tenn.	Foley	McDade
Benjamin	Ford, Mich.	McDonald
Bennett	Ford, Tenn.	McFall
Bevill	Fountain	McHugh
Bingham	Fowler	McKay
Blanchard	Fraser	Madigan
Boggs	Frenzel	Mahon
Boland	Frey	Marks
Bonker	Gammage	Marriott
Brademas	Gaydos	Martin
Breaux	Gephardt	Mathis
Brinkley	Giaimo	Mattox
Brooks	Gibbons	Mazzoli
Broomfield	Gilman	Meeds
Brown, Calif.	Ginn	Meyner
Brown, Mich.	Glickman	Michel
Brown, Ohio	Goldwater	Mikulski
Broyhill	Gonzalez	Milford
Buchanan	Gore	Miller, Ohio
Burgener	Gradison	Mineta
Burke, Fla.	Grassley	Minish
Burleson, Tex.	Gudger	Mitchell, N.Y.
Burlison, Mo.	Guyer	Moakley
Butler	Hagedorn	Mollohan
Byron	Hall	Moore
Carney	Hamilton	Moorhead, Calif.
Carter	Hammer-schmidt	Moorhead, Pa.
Cavanaugh		
Cederberg	Hanley	Murphy, Ill.
Chappell	Hannaford	Murphy, N.Y.
Clausen, Don H.	Hansen	Murphy, Pa.
	Harris	Murtha
Cleveland	Harsha	Myers, Gary
Cochran	Heckler	Myers, Michael
Cohen	Hefner	Myers, Ind.
Coleman	Heftel	Natcher
Collins, Ill.	Hillis	Neal
Collins, Tex.	Holland	Nedzi
Conable	Holt	Nichols
Conte	Horton	Nix
Corcoran	Howard	Nowak
Corman	Hubbard	O'Brien
Cornwell	Hughes	Oakar
Cotter	Hyde	Panetta
Coughlin	Ichord	Patten
Cunningham	Ireland	Pease
D'Amours	Jacobs	Pepper
Daniel, Dan	Jeffords	Perkins
Daniel, R. W.	Jenkins	Pike
Danielson	Jenrette	Poage
de la Garza	Johnson, Calif.	Pressler
Delaney	Johnson, Colo.	Preyer
Derwinski	Jones, N.C.	Price
Devine	Jones, Okla.	Pritchard
Dickinson	Jones, Tenn.	Pursell
Dicks	Jordan	Quayle
Diggs	Kasten	Quie
Dingell	Kazen	Rahall
Dodd	Kelly	Railsback
Dornan	Kemp	Regula
Downey	Ketchum	Rhodes
Duncan, Oreg.	Keys	Rinaldo
Duncan, Tenn.	Kildee	Risenhoover
Roberts	Smith, Iowa	Walgren
Robinson	Smith, Nebr.	Walker
Rodino	Snyder	Walsh
Roe	Solarz	Wampler
Rogers	Spellman	Watkins
Roncalio	Spence	Waxman
Rooney	St Germain	Whalen
Rose	Staggers	White
Rosenthal	Stangeland	Whitehurst
Rostenkowski	Stanton	Whitley
Rousselot	Steed	Whitten
Rudd	Steers	Wiggins
Runnels	Steiger	Wilson, Bob
Russo	Stratton	Wilson, C. H.
Santini	Stump	Wilson, Tex.
Sarasin	Symms	Wolff
Satterfield	Taylor	Wright
Sawyer	Thone	Wydler
Schulze	Thornton	Wylie
Seiberling	Treen	Yates
Sharp	Trible	Yatron
Shipley	Tucker	Young, Alaska
Shuster	Udall	Young, Fla.
Sikes	Ullman	Young, Mo.
Simon	Van Deerlin	Young, Tex.
Sisk	Vander Jagt	Zablocki
Skelton	Vanik	Zeferetti
Slack	Waggonner	

NAYS—54

AuCoin	Dellums	Ottinger
Badillo	Drinan	Pattison
Baldus	Early	Rangel
Baucus	Edwards, Calif.	Reuss
Bedell	Forsythe	Richmond
Bellenson	Goodling	Roybal
Blouin	Harkin	Scheuer
Bonior	Harrington	Schroeder
Brodhead	Holtzman	Stark
Burke, Calif.	Kastenmeier	Stokes
Burton, John	Kostmayer	Studds
Burton, Phillip	Maguire	Thompson
Caputo	Markey	Tsongas
Carr	Mikva	Vento
Chisholm	Miller, Calif.	Volkmer
Clay	Mitchell, Md.	Weaver
Conyers	Oberstar	Weiss
Cornell	Obey	Wirth

NOT VOTING—46

Armstrong	Fuqua	Mottl
Aspin	Hawkins	Nolan
Badham	Hightower	Patterson
Biaggi	Hollenbeck	Pettis
Bolling	Huckaby	Pickle
Bowen	Koch	Quillen
Breckinridge	Le Fante	Ruppe
Burke, Mass.	Long, La.	Ryan
Clawson, Del	McEwen	Sebelius
Crane	McKinney	Skubitz
Davis	Mann	Stockman
Dent	Marlenee	Teague
Derrick	Metcalfe	Traxler
Erlenborn	Moffett	Winn
Fish	Montgomery	
Flippo	Moss	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Metcalfe against.

Mr. Burke of Massachusetts for, with Mr. Moffett against.

Mr. Biaggi for, with Mr. Koch against.

Mr. Pickle for, with Mr. Hawkins against.

Until further notice:

Mr. Fuqua with Mr. Patterson.

Mr. Le Fante with Mr. Long of Louisiana.

Mr. Breckinridge with Mr. Davis.

Mr. Dent with Mr. Del Clawson.

Mr. Badham with Mr. Skubitz.

Mr. Winn with Mr. Ruppe.

Mr. Marlenee with Mr. Sebelius.

Mr. Stockman with Mr. Fish.

Mr. McEwen with Mr. McKinney.

Mr. Hollenbeck with Mr. Erlenborn.

Mr. Quillen with Mr. Crane.

Mr. Flippo with Mr. Hightower.

Mr. Huckaby with Mr. Mann.

Mr. Montgomery with Mr. Moss.

Mr. Mottl with Mr. Nolan.

Mr. Traxler with Mr. Ryan.

Mr. Bowen with Mr. Aspin.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE TECHNICAL CORRECTIONS IN THE ENGROSSMENT OF H.R. 7933, DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1978

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Clerk may be permitted to make technical corrections by renumbering the sections in title VIII, General Provisions, in the engrossment of the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. SPARROW, one of its clerks, announced that the Senate had passed without amendment bills concurrent and joint resolutions of the House of the following titles:

H.R. 4585. An act to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes;

H.R. 4992. An act to amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian business development program;

H. Con. Resolution 267. Concurrent resolution providing for an adjournment of the House from June 30 until July 11, 1977, and a recess of the Senate from July 1 until July 11, 1977; and

H.J. Res. 539. Joint resolution to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6415. An act to extend and amend the Export-Import Bank Act of 1945; and

H.R. 7589. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The message also announced that the Senate insists upon its amendments to

the bill (H.R. 7589) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. MCCLELLAN, Mr. INOUYE, Mr. HUDDLESTON, Mr. SASSER, Mr. STEVENS, Mr. YOUNG, and Mr. BELLMON to be the conferees on the part of the Senate.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT, JULY 8, 1977, TO FILE LEGISLATIVE REPORTS ON H.R. 7691, H.R. 2176, AND S. 213

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, July 8, 1977, to file legislative reports on H.R. 7691, Federal Grant and Cooperative Agreement Act; H.R. 2176, GAO audit of banking agencies; and S. 213, GAO audit of IRS.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST FOR APPOINTMENT OF CONFEREES ON H.R. 3722, SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION, FISCAL YEAR 1978

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3722) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from Texas (Mr. ECKHARDT) explain to us why we need unanimous consent for this action?

Mr. ECKHARDT. Mr. Speaker, if the gentleman will yield, it is just for the purpose of appointing conferees.

Mr. ROUSSELOT. Will the gentleman explain it further? Suppose I objected; what would happen?

Mr. ECKHARDT. Well, I suppose we would have to wait until this matter came up in its regular order.

Mr. ROUSSELOT. Mr. Speaker, this is what I am wondering: Why is this unanimous-consent request so necessary, now that we are about to adjourn? Why can we not do this in the normal process?

What will occur while we are away during the July 4th week that makes this necessary? Why can we not wait until we get back?

Mr. ECKHARDT. This is, of course, the customary process.

Mr. ROUSSELOT. The customary process would be to do this in the normal manner; it would not be customary to ask for unanimous consent for the appointment of conferees at this time. Why is it necessary to get unanimous consent for this purpose now?

Mr. ECKHARDT. I did not quite understand the gentleman's question.

Mr. ROUSSELOT. Why is it necessary to do this on a unanimous-consent basis?

Mr. ECKHARDT. Mr. Speaker, if the gentleman will yield further, it is done in this manner ordinarily, as I understand it.

Mr. ROUSSELOT. Well, not hardly. Ordinarily we would just go to conference. Why do we need unanimous consent?

Mr. ECKHARDT. This is being done in order to bring it up at this time.

Mr. ROUSSELOT. By what rule is the gentleman so committed to getting unanimous consent for this purpose? Why is it so urgent?

Mr. ECKHARDT. It is urgent for committee staff of both the Senate and the House. We want to prepare this matter so that we may proceed with the conference expeditiously.

This is nothing but the authorization for the Securities and Exchange Commission, and these authorizations must be done, as I understand, by the 18th of next month.

The SPEAKER. The gentleman from California (Mr. ROUSSELOT) is aware, is he not, that this request is a normal one to go to conference?

Mr. ROUSSELOT. Yes, Mr. Speaker, the gentleman is.

However, Mr. Speaker, further reserving the right to object, could the gentleman tell us why this matter could not be deferred until we return? The conferees are not going to meet over the weekend; is that correct?

Mr. ECKHARDT. We would simply do this at that time.

Mr. ROUSSELOT. That is fine.

Mr. Speaker, I object.

The SPEAKER. Objection is heard.

AMENDING THE ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1468) to amend the Energy Supply and Environmental Coordination Act of 1974, with the Senate amendment to the House amendments thereto and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Resolved, That the Senate agree to the amendments of the House of Representatives to the bill (S. 1468) entitled "An act to amend the Energy Supply and Environmental Coordination Act of 1974," with the following Senate amendment to House amendments: Page 6, line 5, of the House engrossed amendment, strike out "$500,000,000" and insert: "$1,210,000,000".

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. SYMMS. Reserving the right to object, Mr. Speaker, would the gentleman from Michigan (Mr. DINGELL) explain to me whether this is a sort of way back around the track in order to get that $700 million that the gentleman tried to put in the House bill?

Mr. DINGELL. If the gentleman will yield, Mr. Speaker, the differences between the House bill and the Senate bill are that the Senate bill or the Senate amendments to the House bill contain additional money for the strategic oil storage program.

Mr. SYMMS. In other words, is this the same amendment which the gentleman from Michigan wanted to ask unanimous consent to introduce when we were under suspension?

Mr. DINGELL. This is substantially identical to that proposal.

Mr. SYMMS. What would be the procedure if there is an objection raised? What would happen?

Mr. DINGELL. Then we will go to conference.

Mr. SYMMS. How long would it delay the matter?

Mr. DINGELL. I cannot prophesy how long the delay would be.

Mr. SYMMS. Mr. Speaker, the gentleman from Idaho understands that the gentleman from Michigan has the votes to do this, and I do not wish to be dilatory; but is there any way that the FEA could be wiped off the books so that we could get rid of those people by an objection today?

Mr. DINGELL. The answer to that question is no.

Mr. Speaker, there are a few points which I believe should be made clear in the course of our approval of this legislation today. The Energy Supply and Environmental Coordination Act authorities to require the conversion of certain installations to coal would have expired at midnight today, had it not been for this action. We have, however, extended the expiration date of that legislation 18 months, until December 30, 1978, in order to give the Congress adequate opportunity to review and rework that legislation—as is in fact happening in the course of committee consideration of the administration energy legislation at the moment.

I do not want anyone to have the slightest doubt that the ESECA authorities are extended, and that it is the very clear intention of the Congress that this extension will continue existing authorities in place, notwithstanding any time gap that may take place between today and the date that the President may sign this measure. No such gap exists. This legislation is intended to relate back to the time of expiration of the present ESECA authorities, and to prevent any such interruption from taking place. Congress intent in this regard could not be clearer.

I have already spoken with members of the Appropriations Committee about the funding of the expanded strategic petroleum reserve. It is not yet certain that this expansion can be funded through this year's regular appropriation bill, but I believe that a supplemental request will be submitted by the

administration at an early date—assuming that today's bill is approved—and I will support any such initiative and I believe that my colleagues will as well.

Mr. SYMMS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR WEEK OF JULY 11, 1977

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire as to the program for the balance of the week and for the week following the Fourth of July district work period.

Mr. MINETA. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. MINETA. At the close of business today, there is no further business for this week.

On our return on Monday, the 11th of July, we will be voting on the following suspensions:

House Joint Resolution 24, National Lupus Week; H.R. 2960, memorial for Declaration of Independence signers; and H.R. 5023, Indian claims statute of limitations provisions, under an open rule, with 1 hour of general debate.

On Tuesday, July 12, we have 8 suspensions.

First we will consider H.R. 6827, the Safe Drinking Water Amendments of 1977; then H.R. 7678, Assignment of Retired Military Personnel to American Battle Monuments Commission; next H.R. 7658, special adapted housing benefits for veterans with total and permanent service-connected disabilities.

H.R. 7345, Veterans and Survivors Pension Adjustment Act of 1977.

H.R. 186, international regulations for preventing collisions at sea.

H.R. 7462, to amend Federal Aid Highway Act.

H.R. 7738, Presidential powers in wartime or national emergency.

And H.R. 7792, limitation on the use of the frank.

Following those eight suspensions we will consider H.R. 4963, the maritime authorization for 1978.

On Wednesday, July 13, the House will meet at noon and will take up H.R. 2777, National Consumer Cooperative Bank Act and H.R. 3816, Federal Trade Commission Amendments of 1977.

On Thursday, July 14, we will take up House Resolution 658, creation of Select Committee on Intelligence and H.R. 4287, mining health and safety.

On Friday, July 15, the House will meet at 10 o'clock a.m. and we will take up H.R. 7171, the Agricultural Act of 1977.

Mr. RHODES. Mr. Speaker, could the gentleman from California (Mr. MINETA), please inform the House as to whether it is still the plan of the leadership on the majority side to ask permission for the House to meet at 10 o'clock a.m. on Thursday, 12 o'clock noon on Wednesday and 10 o'clock a.m. on Friday?

Mr. MINETA. If the gentleman will yield further, I do have a privileged resolution to that effect that I will send to the desk.

Mr. RHODES. I thank the gentleman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague, the gentleman from Arizona (Mr. RHODES) yielding.

Mr. Speaker, I would ask the gentleman from California if there is to be a new schedule of some kind on Fridays or are we still going to get out at 5:30 o'clock on Thursdays and 3 o'clock on Fridays?

Mr. MINETA. Mr. Chairman, if the gentleman from Arizona will yield still further, it is the intention of the leadership to still adjourn at the time that has been followed up to this point, and that is at 3 p.m. on Fridays and 5:30 p.m. on Thursdays.

Mr. ROUSSELOT. That would be for the rest of this session?

Mr. MINETA. That is correct.

Mr. ROUSSELOT. Is it still the anticipation that we will be out of here in October?

Mr. MINETA. Will the gentleman from Arizona yield still further?

Mr. RHODES. I do.

Mr. MINETA. Yes; it is the hopeful intent of the leadership to do that.

Mr. ROUSSELOT. Hope is the purpose of intent.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS, AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES AUTHORIZED BY LAW OR BY THE HOUSE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, July 11, 1977, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE, AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED BY THE TWO HOUSES AND FOUND TRULY ENROLLED, NOTWITHSTANDING ADJOURNMENT

Mr. MINETA. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, July 11, 1977, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING OF THE HOUSE FROM JULY 1, 1977, UNTIL THE END OF THE FIRST SESSION

Mr. MINETA. Mr. Speaker, I send to the desk a resolution, House Resolution 671, setting the hour of meeting of the House from July 1, 1977, until the end of the first session, and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That until otherwise ordered and from July 1, 1977, until the end of the first session, the hour of meeting of the House shall be, 12 o'clock meridian on Mondays, Tuesdays, and Wednesdays, and 10 o'clock antemeridian on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANOTHER VOICE IN SUPPORT OF 6-DAY MAIL DELIVERY

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, in a recent article columnist Andrew Tully makes some very sensible observations on the folly of Postmaster General Benjamin Bailar's intent to further increase postal rates and also cut back home delivery service from 6 to 5 days a week.

As Mr. Tully correctly suggests, the U.S. Postal Service, is, in fact, a vital service to the American public, and must be preserved even though Government subsidy is inevitable.

What is needed immediately of course is congressional action to return some degree of accountability for postal management decisions to the President and Congress. Legislation which I have cosponsored with Mr. HANLEY, of New York; H.R. 7700, would accomplish this. Hopefully that bill will move expeditiously through the legislative process this year.

Mr. Tully's article follows:

POSTMASTER GENERAL'S NEW FRANTIC GIMMICKS

(By Andrew Tully)

WASHINGTON.—Postmaster General Benjamin Bailar's announcement that the Postal Service "expects" to increase postage rates and eliminate Saturday mail deliveries makes mandatory reference to a recent editorial in the Montgomery, Ala., Advertiser by a soul mate named John Bitter.

Commenting on the Postal Service's frantic gimmicks to rip off the plain citizen, Bitter told a tale about the method used by certain Oriental villagers to ascertain the marrying age of their maidens. The young ladies were made to stand in a barrel. If they could see over the top, they were judged old enough for matrimony. If they couldn't, the village elders sawed off the top until they could.

That, Bitter suggested, "may be the direction the U.S. Postal Service is taking in its futile efforts to get itself on a paying basis."

Bailar's latest ploy is in the fine old tradition of the Oriental Solution. Like those canny village elders, Bailar puts the blame on the barrel used to measure the public's assumption that his outfit is a service, not General Motors.

So Bailar plans to punish us naughty working stiffs—again. He proposes to increase first class rates from 13 cents to either 15 or 16 cents sometime next year. The 15-cent rate would go into effect if deliveries were reduced from six to five days per week, at an estimated savings of $412 million a year. Once more, the Postal Service would give its patrons less at a higher price.

Bailer also wants to reduce the number of post offices in rural communities, which he calls "redundant." He noted that "we have rural letter carriers that go down almost every rural road in the country. They deliver mail and sell stamps. They are like having a post office on wheels."

Just so. But I am not convinced that the Postal Service necessarily should operate in the black. If possible, that would be nice, but Bailar's approach singles out his outfit as the only government service that should not be supported by the taxpayers.

It is as if Defense Secretary Brown announced that henceforth the military establishment would be required to pay its own way by eliminating basic training for its forces and selling off some of its battleships, aircraft carriers, warplanes, and nuclear bombs. We do not ask police and fire departments to be self-supporting. Nor do we order that public school classes be reduced to two days a week.

Indeed, Benjamin Franklin originally conceived the fetching and carrying of mail as a free service to the fledgling nation. He argued that nothing was more important to a country than a publicly supported system of communication, "in order that the people might be informed and thereby participate more fully in the affairs of their government."

Government subsidization of the Postal Service is not merely an ideal, it is a practicality—especially in an age when people look too much and read too little. It is a boon to the economy, an important and often vital service to business. A postal Service at modest cost to the user is as much a government responsibility as police protection.

SENIOR CITIZENS IN THE INTERN PROGRAM ON CAPITOL HILL

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HILLIS. Mr. Speaker, I think all of us in this distinguished body know that internships on Capitol Hill have customarily and traditionally focused on young people, and that thousands from all over the country come to Washington to work in the offices of their Representatives or Senators. I believe we like to think of the many bright, young minds this practice has helped encourage toward a better understanding of our democratic system and how it works.

Five years ago a former colleague, Pete Biester, and I began something a little different with the intern concept. It started on a shoestring, so to speak, when but a handful of Members sponsored internships for 11 senior citizens from our respective congressional districts. At that time, we were not sure where this little experiment would take us. Here was a completely different age group, with unique interests all their own, and obviously having a perspective on their futures and their lives quite far removed from those of their mostly college-age counterparts.

Since that initial "baptism," the program has grown. This year, for example, there were over 90 senior citizens who gathered here in mid-May, representing some 52 Members of the House and Senate.

To those Members who have participated in this program, I do not think I need to describe the kind of experience sponsoring a senior citizen can be. To those of you who have not participated for reasons of space, facilities, or expense, I cannot adequately relay what it means to participate in this program. All I know, and I think I speak for those in this body who know what I am talking about, is I have learned an invaluable lesson about what our senior citizens can contribute to our society.

Earlier in my remarks I spoke of bright young minds. And, when I think of the gentleman from my congressional district who was my senior intern this year, I want to rephrase that description somewhat—to "bright, mature minds." The gentleman in my office was Lee Walters of Kokomo, Ind., a retired educator, a teacher, and principal. He was named the outstanding senior citizen in my home county and he is active, tremendously active in community affairs at the ripe "young" age of 74. This man has returned home after his 2-week visit with us, and he is sharing the knowledge he learned here with his friends and contemporaries. He is helping them know of all the laws and legislative programs affecting social security, consumer affairs, housing, public transportation, and related issues of special concern to the retired and elderly.

Thanks to all the help and participation by other Members, staff, Federal agencies, administration personnel and many others, the congressional senior citizen intern program has become a most meaningful, enlightening, and educational experience for these senior citizens who, often at great inconvenience, willingly come to Washington for this program. But it is not a one-way street, it is equally enlightening to those Members who have taken part. I think they would tell you how we have also learned, and how we as Members of Congress have benefited in gaining insights into their particular, problems, concerns, and needs as we never have before.

I believe this is the time to make the congressional senior citizen intern program an official one. Mr. Speaker, today I am introducing legislation to create an official senior citizen intern program within the House of Representatives. Having coordinated this effort for the past 5 years, I see a real need, now, for Congress to provide the mechanism for all Members to participate in a broadened, comprehensive, and coordinated program. The bill I introduce today has 61 cosponsors. I hope and urge that this will get prompt attention so that we may strengthen the bonds between Members of Congress and our senior citizens and so that we may be more responsive to their special needs.

THE BREEDER REACTOR DECISION

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE. Mr. Speaker, grave new responsibilities have devolved on a number of committees with the changes in committee jurisdiction brought about by the changes in the House rules adopted on January 4. One of the most fortunate aspects of the rule changes was the assumption by Chairman OLIN TEAGUE of the Science and Technology Committee of nuclear energy research and development responsibilities. In this short while they have accomplished a great deal.

To top off the recent intensive series of hearings on nuclear matters, Mr. TEAGUE made a strenuous and searching trip to find out just what foreign countries are doing to try to obtain control of their energy supply destinies. This he did for two important reasons: First, we do not have a corner on the knowledge market and, since most leading industrial nations have similar, but more serious energy problems than we do, we probably can learn from their planned solutions; and second, since a number of things which our administration has proposed in the nuclear field is principally aimed at influencing programs abroad, we should find out the reaction to our efforts.

Our esteemed colleagues have been very successful in getting answers to these questions. Mr. TEAGUE and his colleagues were eminently successful in getting answers for us on these important matters. I included his first report on his findings in the June 20 RECORD starting on page 19861.

Unfortunately, practically no media notice was given to the important facts he brought back which were that our foreign friends see no alternative to nuclear power, which is synonymous to the breeder reactor, and that their plans have no vacillations in them from these goals. It was encouraging to note in yesterday morning's New York Times that Mr. TEAGUE and the ranking minority member of his committee, JOHN W. WYDLER, are trying to get media notice of their findings. These gentlemen sent a letter to the New York Times which attempts to correct media misstatement on the matter of nuclear energy.

I would like to bring their letter to the attention of all of my colleagues by including it at the close of my remarks. Please keep in mind that our esteemed colleagues worked hard to obtain the best information we have concerning international plans for the civilian atom. Their letter you will see, is critical of some of the views which have been presented to us by administration officials. Considering the writers and their sources, their comments warrant our special attention.

OF BREEDER REACTORS AND "NUCLEAR ISOLATION"

To the Editor:

We are writing to express our views about the Clinch River Breeder Reactor Demonstration Plant, which was the subject of your editorial on June 16.

It appears that you have uncritically swallowed the Administration's arguments. The issue is complex and offers several opportunities for distortion and misinformation. Regrettably, the Administration seems to be following its heart on this issue. We are surprised that The Times endorses the concept of nuclear isolation, and at the same time fails to look at the ways that nations can better work together to overcome the serious proliferation dangers presented by nuclear energy and by technology advances.

Our committee has recently completed an intensive review of the breeder reactor technology and weighed the pros and cons of the Clinch River Demonstration Plant. We also recently returned from an oversight trip to Europe, where we spoke candidly with European leaders, including the International Atomic Energy Agency.

We can report that there is general agreement on the issue of proliferation of nuclear weapons—no nation is in favor of that—but there is almost uniform disagreement with the U.S. approach to achieve this objective.

In our meetings we did not find any officials who claimed to understand the Carter position. (1) The world is not possessed of vast amounts of uranium, they pointed out; (2) other nations do not have the fossil resources possessed by the U.S.; (3) other nations are further along in breeder and reprocessing technologies; (4) plutonium is dangerous, but international cooperation must be effected, and technology development cannot be halted. The day your editorial was printed, claiming that ". . . other potential builders, including West Germany, Japan and Britain, can still be influenced by American policy and example," the lead on a story by Andrew H. Malcolm filed from Tokyo read, "A new and *unexpected difficulty* [emphasis added] has arisen in the Japanese-American negotiations over carrying out President Carter's controversial policy to prevent the spread of nuclear weapons." We hope that our letter serves to alert you and your readers so that other foreign reactions will not be viewed as unexpected difficulties.

The breeder is a more efficient way to use scarce resources. The challenge, we feel, is to move ahead with the task of addressing the technical approaches to make it an acceptable technology, politically and economically. The Time's conclusion that we can hold back has serious consequences. Unless we are operating a test or demonstration facility, we lose not only the technological initiative but the basic understanding of how best to attack the problem—a base program just will not do it. Furthermore the logic we find in moving ahead is to offer incentives for cooperation with others, rather than provide disincentives for development.

OLIN E. TEAGUE, M.C.
JOHN W. WYDLER, M.D.

WASHINGTON, June 20, 1977.

SECOND STATUS REPORT PURSUANT TO HOUSE RESOLUTION 252

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, in accorance with the policy of the Committee on Standards of Official Conduct, I submit for inclusion in today's RECORD the second report on the status of the committee's ongoing investigation pursuant to House Resolution 252. This report supplements the committee's report submitted on June 7, 1977 (CONGRESSIONAL RECORD *p.* VGGBF and covers the period through today.

House Resolution 252 directed the committee to investigate allegations that the Government of South Korea, either directly or through agents, has sought to influence congressional action by conferring things of value on Members of Congress or their families or staffs.

For obvious reasons, this report does not include names of witnesses who have been subpenaed or for whom subpenas have been authorized. Nor does it contain statements and information obtained from witnesses. Such information will be forthcoming at the proper time if an affirmative vote of seven members of the committee so decides in compliance with the Rules of the House of Representatives.

This report is current as of June 30, 1977. Additional reports will be made periodically.

I assure my colleagues that the committee is diligently and effectively carrying out the responsibilities assigned to it by House Resolution 252.

The report follows:

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF JUNE 30, 1977

This is the second report of the Committee on Standards of Official Conduct on the status of the investigation mandated by House Resolution 252 adopted on February 9, 1977. The first report covered progress up to May 31, 1977, and was printed in the Congressional Record of June 7, 1977, page 17726.

House Resolution 252 directed this Committee to investigate allegations that the Government of the Republic of Souh Korea, directly or otherwise, sought to influence Congressional action by gifts of money or other things of value to Members of Congress, their families or their staffs.

The Committee has engaged a Special Staff to conduct this investigation. The staff is headed by Philip A. Lacovara and consists of a team of lawyers, investigators and clerical assistants. The names of the professional staff members and a brief description of their qualifications were included in the Committee's first report. Also included in that report was the text of a resolution adopted by the Committee outlining the scope of the investigation.

The Committee has approved a comprehensive Manual of Offenses and Procedures outlining the nature of possible violations being investigated and the standards to which the Committee believes Members of Congress should adhere. Copies of the Manual are available in the Committee's office.

The Committee and the staff have made contacts and held meetings with representatives of the Department of Justice and other government agencies which have been investigating similar allegations.

While the policy of the Committee is to seek information from witnesses through voluntary cooperation rather than through coercive means, it has not hesitated to authorize the issuance of subpoenas when necessary. As of this date, the Committee has authorized 83 subpoenas for testimony and 62 subpoenas for the production of documentary and other evidence.

Members of the Special Staff have conducted interviews with 98 witnesses, including employees of the United States Government, former employees of the Government of the Republic of South Korea, Members and former Members of Congress, business associates of Tongsun Park, and others.

An order of immunity has been obtained from the United States District Court for the District of Columbia in order to receive testimony from a witness who refused to testify without such an immunity grant. Requests for additional orders of immunity have been authorized by the Committee.

The Committee has obtained and reviewed approximately 15,000 documents from Members and former Members of Congress, banks, credit card companies, telephone companies and various other businesses and individuals.

It sent questionnaires to 718 individuals who served as Members of Congress since 1970. More than 500 responses have been received.

As the Committee noted in its first report, much of the investigative work still remains to be done. Public hearings will be held at the earliest possible date.

The Committee believes that to conduct public hearings prematurely would result in unwarranted injury to reputations of individuals whose names have been mentioned in allegations under investigation and certainly would result in a poorly organized presentation of the facts.

U.S. CANAL ZONE SOVEREIGNTY RESOLUTION

(Mr. MURPHY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, we have been embroiled for years in the battle over the possibility of negotiating a new treaty with Panama over American rights and sovereignty in the Panama Canal Zone. Dozens of Members of the House have recounted time and time again the undeniable case for a continued American presence and retention of rights for which we have paid nearly $7 billion over the brief life of the canal.

Yet the State Department persists in attempting to negotiate what is, at best, an unsupportable treaty to give up all our rights and control in this strategic waterway. What is worse, the Department of State now tells the media that it will have a treaty ready by August 1—a treaty which up until a few months ago, they contended was very far from being in a workable and acceptable form.

Even worse, although such a treaty would have to be ratified by a two-thirds vote of the full Senate, and would require enabling legislation from the House of Representatives for the divestiture of Federal property, the language of the proposed draft treaty is apparently being leaked to everybody except the House

and Senate. The newspapers and wire services report on its contents, the Panamanian Government speaks publicly on its provisions, and the lobbyists and pressure groups scramble to either support or decry the language of the proposals, yet we in Congress have yet to see any material, pertinent or not, which is neither third-hand information nor biased speculation.

The result of such a treaty would be the loss of American influence and control over the only water passage between the Atlantic and Pacific Oceans. The economic and strategic costs of such a loss would be immeasurable. I have attached for inclusion in the RECORD two letters to the President, one from Senate cosponsors of a similar resolution, and from four of the most outstanding names in recent American military history: Arleigh Burke, Thomas Moorer, George Anderson, and Robert Carney, all former Chiefs of Naval Operations, who conclude that the Panama Canal should remain under American sovereign control, as provided in the existing treaty. Yet the State Department, apparently oblivious to such sound judgment, continues its attempted giveaway with no authorization from Congress for such negotiations.

The resolution I offer today on behalf of myself and 24 colleagues should come as no surprise to anyone here, although I sometimes think the State Department might not be aware of our responsibilities. Over 50 Members of Congress have already cosponsored identical resolutions, but I felt that as chairman of the Merchant Marine and Fisheries Committee, which has jurisdiction over the Panama Canal, it was imperative that I initiate immediately this call to action. One of our most urgent responsibilities is that immediate need to reinforce the congressional stance which leaves no doubt that the Panama Canal should not and shall not be surrendered to a Communist influenced dictatorship on the brink of bankruptcy and political revolution.

The rushed deadline for the State Department version of a new treaty simply indicates their realization that opposition is growing rapidly stronger, and that last ditch effort to railroad a hastily prepared, and so far "secret treaty" through Congress will be met with a growing awareness that such a proposal will meet with an immediate and resounding defeat.

I believe that it is no coincidence that the new treaty is expected to be made public at a time when the Congress takes a month-long summer recess. You may be certain that these tactics, as well as this ill-conceived treaty proposal, will not go unanswered.

I also wish to include in my remarks at this time the resolution along with its cosponsors, also an article from the editorial page of Barron's, the national business and financial weekly which is one of the most highly respected journals in the Nation. It points out quite clearly that from almost every conceivable point of view—financial, political, military, historical, strategic, and simply common practicality—there is no justification for relinquishing control of the Panama Canal.

H. RES. —

Whereas United States diplomatic representatives are presently engaged in negotiations with representatives of the de facto Revolutionary Government of Panama, under the declared purpose to surrender to Panama, at an early date, United States sovereign rights and to abandon its treaty obligations, as defined below, to maintain, operate, protect, and otherwise govern the United States-owned canal and its protective frame of the Canal Zone, herein designated as the "canal" and the "zone", respectively, situated within the Isthmus of Panama; and

Whereas the United States is obligated by international agreement to regulate, manage, and protect a ship canal, guaranteeing its neutrality to the shipping of all nations at equal toll rates, to wit:

The Hay-Pauncefote Treaty of 1901 between the United States and Great Britain, under which the United States adopted the principles of the Convention of Constantinople of 1888 as the rules for operation, regulation, and management of the canal; and

Whereas title to and ownership of the zone, under the right "in perpetuity" to exercise sovereign control thereof, were vested entirely and absolutely in the United States and recognized to have been so vested in certain solemnly ratified treaties by the United States with Panama and Colombia, to wit:

(1) The Hay-Bunau-Varilla Treaty of 1903 between the Republic of Panama and the United States, by the terms of which the Republic of Panama granted to the United States in perpetuity the use, occupation, and control of the zone with full sovereign rights, power, and authority over the zone for the construction, maintenance, operation, sanitation, and protection of the canal to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority; and

(2) The Thomson-Urrutia Treaty of April 6, 1914, proclaimed March 30, 1922, between the Republic of Colombia and the United States, and under which the Republic of Colombia recognized that the title to the canal and the Panama Railroad is vested "entirely and absolutely" in the United States, which treaty granted important rights in the use of the canal and railroad to Colombia; and

Whereas the United States, in addition to having so acquired title to and ownership of the zone by constitutional means pursuant to congressional authorization, purchased all privately owned land and property in the zone, making it the most costly United States territorial possession; and

Whereas the United States since 1904 has continuously occupied and exercised sovereign control over the zone, constructed the canal, and since 1914, for a period of more than sixty years, operated the canal in a highly efficient manner of reasonable toll rates to the vessels of all nations without discrimination under the terms of the above-mentioned treaties, thereby honoring its obligations; and

Whereas from 1904 through June 30, 1974, the United States made a total investment in the canal, including defense, at a cost to the taxpayers of the United States of over $6,880,370,000; and

Whereas the investment of the United States in the canal includes the sacrifices of many thousands of United States citizens who have worked to construct the canal, to keep it operating smoothly and efficiently, and to protect it; and

Whereas the canal is of vital and imperative importance to hemispheric defense and to the security of the United States and Panama; and

Whereas approximately 70 per centum of canal traffic either originates or terminates in United States ports, making the continued operation of the canal by the United States vital to its economy; and

Whereas the people of the United States have exhibited strong support for retention of full and undiluted jurisdiction over the canal and zone, and the Constitution insures the supremacy of the people; and

Whereas Panama has, under the terms of the 1903 treaty and the 1936 and 1955 revisions thereof, been well compensated for the sovereign rights, power, and authority it granted to the United States, in such significantly beneficial manner that said compensation and correlated benefits have constituted a major portion of the economy of Panama, giving it the highest per capita income in all of Central America; and

Whereas the long established friendly and cooperative relations between the United States and the Republic of Panama as a consequence of the benefits flowing from the present treaty structure are prone to deterioration by the dilution of any United States sovereignty or jurisdiction in the canal and zone; and

Whereas the present negotiations pursuant to the February 7, 1974, "Agreement on Principles" signed without congressional authorization by United States Secretary of State Henry A. Kissinger, and by Panamanian Foreign Minister Juan A. Tack, constitute a clear and present danger to the hemispheric security and the successful operation of the canal by the United States under its treaty obligations; and

Whereas the present treaty negotiations are being conducted under a cloak of unwarranted secrecy, thus withholding from our people and their representatives in Congress information vital to the commerce and security of the United States; and

Whereas the United States House of Representatives on February 2, 1960, adopted House Concurrent Resolution 459, Eighty-sixth Congress, reaffirming the sovereignty of the United States over the zone territory by the overwhelming vote of three hundred and eighty-two to twelve, thus demonstrating the firm determination of the people that the United States should maintain its indispensable sovereignty and jurisdiction over the canal and the zone; and

Whereas under article IV, section 3, clause 2, of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress, which includes the House of Representatives; and

Whereas the Communist regime in Cuba has made that country a satellite of the Union of Soviet Socialist Republics in violation of the Monroe Doctrine; and

Whereas the proposed surrender of United States sovereign control over the zone and canal to Panama, which is unable to defend them, would invite the Union of Soviet Socialist Republics to establish its power still more firmly in the strategic center of the Americas and threaten the operations and projected modernization of the canal; and

Whereas such a takeover would transform the Caribbean-Gulf of Mexico into a strategic Soviet stronghold; and

Whereas the Congress of the United States is invested with constitutional responsibilities to provide for the common defense and general welfare of the United States, to regulate commerce with foreign nations, to raise and support armies and provide and maintain a Navy, to make all needful rules and regulations respecting the territory of the United States, and to make all laws necessary and proper for carrying into execution these and other powers, all of which denote that it is the solemn duty of Congress to safeguard the interests of the people of the United States in the canal and zone: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives of the United States of America that—

(1) the Government of the United States should retain unimpaired and protect its sovereign rights, power and authority, and jurisdiction over the Panama Canal and the entire Canal Zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any such sovereign rights, power, authority, jurisdiction, territory, or property, all of which are indispensably necessary for the maintenance, operation, sanitation and protection, and for the proposed major modernization of the Panama Canal, as well as the security of the United States and the entire Western Hemisphere; and

(2) there be no relinquishment or surrender of any presently vested United States sovereign right, power, or authority in the Canal Zone without prior authorization by the Congress; and

(3) there be no rescession or cession or other divestiture of any United States territory or property in the Canal Zone, tangible or intangible, to Panama or any other entity, country or international organization, without prior authorization by the Congress (House and Senate), as provided in article IV, section 3, clause 2, of the United States Constitution.

COSPONSORS OF THE RESOLUTION

Mr. MURPHY, of New York, for himself and Mr. DANIEL, of Virginia; Mr. GUYER, of Ohio, Mr. YOUNG, of Florida; Mr. WINN, of Kansas; Mr. STUMP, of Arizona; Mr. ENGLISH, of Oklahoma; Mr. ROBERTS, of Texas; Mr. HUCKABY, of Louisiana; Mr. D'AMOURS, of New Hampshire; Mr. FLOOD, of Pennsylvania; Mr. GAYDOS, of Pennsylvania; Mr. MCDONALD, of Georgia; Mr. STANGELAND, of Minnesota; Mr. SNYDER, of Kentucky; Mr. GINN, of Georgia; Mr. ZEFERETTI, of New York; Mr. BIAGGI, of New York; Mr. BOWEN, of Mississippi, Mr. HUBBARD, of Kentucky; Mr. LENT, of New York; Mr. JONES, of North Carolina; Mr. BURGENER, of California; Mr. DINGELL, of Michigan; Mr. YOUNG, of Alaska; and Mr. ROUSSELOT, of California.

U.S. SENATE,
Washington, D.C., June 15, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are enclosing a most important letter from four former Chiefs of Naval Operations who give their combined judgment on the strategic value of the Panama Canal to the United States.

We think you will agree that these four men are among the greatest living naval strategists today, both in terms of experience and judgment. Their letter concludes:

"It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty."

We concur in their judgment and trust you will find such action wholly consistent with our national interest and will act accordingly.

Sincerely,

JOHN L. MCCLELLAN,
HARRY F. BYRD, JR.,
STROM THURMOND,
JESSE HELMS,
U.S. Senators.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As former Chiefs of Naval Operations, fleet commanders and Naval Advisers to previous Presidents, we believe we have an obligation to you and the nation to offer our combined judgment on the strategic value of the Panama Canal to the United States.

Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this inter-oceanic waterway is as important, if not more so, to the United States than ever. The Panama Canal enables the United States to transfer its naval forces and commercial units from ocean to ocean as the need arises. This capability is increasingly important now in view of the reduced size of the U.S. Atlantic and Pacific fleets.

We recognize that the Navy's largest aircraft carriers and some of the world's supertankers are too wide to transit the Canal as it exists today. The super-tankers represent but a small percentage of the world's commercial fleets. From a strategic viewpoint, the Navy's largest carriers can be wisely positioned as pressures and tensions build in any kind of a shortrange, limited situation. Meanwhile, the hundreds of combatants, from submarines to cruisers, can be funneled through the transit as can the vital fleet train needed to sustain the combatants. In the years ahead as carriers become smaller or as the Canal is modernized, this problem will no longer exist.

Our experience has been that as each crisis developed during our active service—World War II, Korea, Vietnam and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transits of our naval units and massive logistic support for the Armed Forces. The Canal provided operational flexibility and rapid mobility. In addition, there are the psychological advantages of this power potential. As Commander-in-Chief, you will find the ownership and sovereign control of the Canal indispensable during periods of tension and conflict.

As long as most of the world's combatant and commercial tonnage can transit through the Canal, it offers inestimable strategic advantages to the United States, giving us maximum strength at minimum cost. Moreover, sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense capability, with enormous potential consequences for evil.

Mr. President, you have become our leader at a time when the adequacy of our naval capabilities is being seriously challenged. The existing maritime threat to us is compounded by the possibility that the Canal under Panamanian sovereignty could be neutralized or lost, depending on that government's relationship with other nations. We note that the present Panamanian government has close ties with the present Cuban government which in turn is closely tied to the Soviet Union. Loss of the Panama Canal, which would be a serious set-back in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive.

For meeting the current situation, you have the well-known precedent of former distinguished Secretary of State (later Chief Justice) Charles Evans Hughes, who, when faced with a comparable situation in 1923, declared to the Panamanian government that it was an "absolute futility" for it "to expect an American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of (the) rights which the United States had acquired under the Treaty of 1903," (Ho. Doc. No. 474, 89th Congress, p. 154).

We recognize that a certain amount of social unrest is generated by the contrast in living standards between Zonians and Panamanians living nearby. Bilateral programs are recommended to upgrade Panamanian boundary areas. Canal modernization, once U.S. sovereignty is guaranteed, might benefit the entire Panamanian economy, and especially those areas near the U.S. Zone.

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security. It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty.

Very respectfully,

ARLEIGH A. BURKE,
THOMAS H. MOORER,
ROBERT B. CARNEY,
GEORGE ANDERSON.

[From Barron's, June 27, 1977]

COMBAT ZONE? THE U.S. OUGHT TO HARDEN ITS STANCE ON THE PANAMA CANAL

Call it coincidence, call it intuition, call it what you will. On just two occasions in the past 20 years or so, we have somehow been minded to write about one or another of the world's great waterways. Both times political upheaval or worse promptly followed. To illustrate, on June 25, 1956, in an editorial on the Suez Canal, we wrote: "For the better part of a century, the big ditch linking the Red Sea with the Mediterranean has served as a major artery of global commerce. But the Canal today is something more. Privately owned and operated, it has become an enduring monument to the daring and vision of venture capitalism. Equally significant, since by general consent its facilities are open to ships hailing from any port, it stands as a rare and valuable symbol of international goodwill. On all counts, however, the sands may be running out . . ."

Barely five months later, the second Arab-Israeli war, which effectively demolished both the statue of Ferdinand de Lesseps and the monument to capitalism, broke out. Again, on April 1, 1968, Barron's carried a piece headlined "Storm Over Panama—The U.S. Shouldn't Give an Inch on the Canal." In October came a military coup which toppled the duly elected government in favor of the regime of Omar Torrijos, leftist dictator who continues to rule—some fear to the brink of ruin—that strategic and troubled isthmus.

"Today is history," our promotion mavens like to say. "Tomorrow is Barron's." Be that as it may, the third time around it takes no crystal ball to call the turn on impending disaster. Indeed, throughout the Canal Zone (which has been U.S. territory since 1903), as The Christian Science Monitor reported last week, trouble of sorts is already afoot. According to its Latin American correspondent, a growing exodus of "Zonians," as they are known, notably such skilled workers as pilots and tugboat masters, has reached alarming proportions. "With the 'quit rate' of U.S. citizens currently running 50 percent higher than normal, officials, including Harold Parfitt, say the Canal's Operating efficiency could be in jeopardy." And the ugly trend seems to be feeding on itself: "the more that leave, the more that think about leaving."

The wave of departures, of course, reflects the local perceptions of the progress of negotiations on a new Panama Canal treaty, which has been going on for many months between the U.S. and Panama. Launched by former Secretary of State Kissinger, without so much as a by-your-leave to Congress (which, one way or another, will have the final say), the talks, conducted on behalf of our side by Ambassadors Ellsworth Bunker and Sol Linowitz, start from the premise that this country, after a stipulated length of time still to be agreed on and subject to cer-

tain provisos, would turn over the Canal—lock, stock and barrel—to the Panamanian government. Meanwhile, the U.S. is prepared to accept a much earlier surrender of sovereignty in the Canal Zone, and to share with the Torrijos regime responsibility for operation and defense of the vital waterway.

"You drive a hard bargain," muttered Peter Minuit to the Manhattan Indians. Thus, despite the incredible concessions which, with fine bipartisanship, both Republican and Democratic administrations have been moved to offer, the Panamanians persistently have sought more. To the dismay of the U.S. State Department, which has been a vocal proponent of treaty revision, the talks have been punctuated by repeated threats from the other side of sabotage and guerrilla warfare. Yet, as a solid bloc in both houses of Congress, not to mention the overwhelming majority of the American people, time and again have reaffirmed, it is and ought to be, no deal.

There are good and sufficient reasons, practical and philosophic alike, for taking an unyielding stance. On the first count, it has made no sense from the word go to negotiate with General Torrijos. Though the State Department—"hostile to our friends, friendly to the neutrals and neutral to our enemies"—diplomatically overlooks the fact, his government, apart from its dubious origins, also happens to be repressive, Marxist and bitterly opposed to this country. Torrijos aside, the Panama Canal (in a world which, despite official disclaimers, grows increasingly dangerous and hostile) still commands much of its strategic and military importance; to weaken in any way the U.S. hold upon it is to run an unacceptable and needless risk. Charges to the contrary notwithstanding, finally, the U.S. position in Panama—and the mighty achievement to which it gave rise—should be a source not of shame but of pride. In the course of time, monuments topple, but the builders should be the last to lend a helping hand.

Thanks to the State Department, however, the wreckers have been hard at work. Demolition began in early 1974, when Secretary Kissinger launched negotiations which, at the outset, offered to yield control. Since then, to the mounting disapproval of the American people, which in poll after poll of public opinion has voted heavily against any change in the status quo, they have proceeded in secrecy. Chief negotiators for the U.S., as noted, are Messrs. Bunker and Linowitz, who, whatever their other undoubted merits, are a curious choice for the task. Ambassador Bunker once distinguished himself by handing over Dutch New Guinea to the leftist Indonesian dictator, Sukarno, while Linowitz, according to Rep. Daniel J. Flood (D., Pa.), served as a "registered agent of the Allende Marxist government of Chile from June 1972 through December 1972." In any case, given their original brief, even the hardest of hardliners would be hard put to protect the national interest.

On this score, Panama, economically and politically, would be more of a liability than an asset. Left-wing oligarchs rarely know how to meet a payroll, and General Torrijos has proved no exception. According to a memo from the U.S. Embassy, economic conditions in Panama have steadily worsened. The report cited year-to-year declines in manufacturing, construction and foreign trade, basically reflecting excessive labor costs—the banana republic boasts a minimum wage twice as high as any other Central American land—and low productivity.

In an update, S.J. Rundt & Associates, consultants on international business, recently observed: "The economy ground to a standstill in 1976." Meanwhile, external borrowings have climbed relentlessly, to the point where debt service now constitutes neary 40% of current revenue. Panama isn't exactly broke; indeed, it just succeeded in cadging another $100 million on very favorable terms. But its credit, like its credibility as a partner in running the Canal, grows increasingly strained.

So much for dollar diplomacy. From a political standpoint, the Torrijos regime looks even worse. After the coup in the fall of '68, it swiftly filled its ministries with Marxists. According to the Pulitzer Prize-winning columnist, Charles Bartlett, "two queasy figures with Marxist links, Diaz Herrera and Antonio Noriega, are moving with the president's support into dominance over the national guard." Totalitarianism runs rampant: people are jailed and beaten without access to a lawyer or judge, while scores of businessmen, on one pretext or another, have been forced into exile. On the issue of human rights, Rep. Benjamin S. Rosenthal (D., N.Y.), longtime advocate of a revised Canal treaty, last week sounded a warning.

"According to recent press reports and information I have received from people close to events in Panama, there are ominous signs of growing anti-Semitism," notably following a visit by the Chief of State to Libya, where he signed several pacts on economic and military cooperation. "In establishing our relations with Panama on a more solid footing," added the Congressman, "we must not be unmindful of increasing allegations of human rights violations in that country." Nor should we be unmindful of the blatant anti-Americanism, underscored by repeated episodes of forcible entry into the Canal Zone, flag-burning, illegal detentions, bombings and the like, which invariably are the other side of the Marxist coin.

Other considerations, military and strategic, loom equally large. Despite claims to the contrary, most of the Navy (which remains a one-ocean fleet with a two-ocean mission) still can use the Canal; its loss would thus be a blow to national security. Diplomats may argue that giving it away would enhance this country's prestige; however, in a world which respects firmness and strength above all, such a move is likelier to lead to demands for the evacuation of Guantanamo and to a global lessening of U.S. clout. And while legal scholars may differ on the issue, we are satisfied that after nearly 75 years, the U.S. need not apologize for the $7 billion which it has invested in the Canal and the vast amount of good, not least for Panama, it thereby has achieved.

"In the history of finance capitalism, in the history of medicine," writes David McCullough in his new book, "The Path Between the Seas," the Panama Canal "was an event of signal consequence. . . . And yet (it) marked the resolution of a dream as old as the voyages of Columbus" Pity to see it all go down the drain.—*Robert M. Bleiberg.*

HELSINKI'S UNFULFILLED PROMISE

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. BLANCHARD) is recognized for 5 minutes.

Mr. BLANCHARD. Mr. Speaker, I am pleased today to join the gentleman from Massachusetts (Mr. DRINAN) in his project entitled "Helsinki's Unfulfilled Promise," which is continuing on behalf of Soviet Jewish families and individuals who are being forcibly detained within the U.S.S.R.

The timing of this particular statement is especially fitting, since the United States and U.S.S.R. are currently meeting in Belgrade, Yugoslavia, along with other signatories to the Helsinki Final Act.

The purpose of their meeting is to review adherence of the signatories to the act, which recognizes the universal right of freedom to emigrate.

Mr. Speaker, Mikhail Strugach of Leningrad, a Soviet Jew whose relatives live in my own congressional district, is living proof that the Soviet Union has betrayed the promise of Helsinki.

For over 3 years, Mikhail Strugach has been denied exit visas because of "regime reasons" or access to state secrets. These denials—the latest of which occurred June 3—have taken place despite the fact that some of Mikhail's coworkers have been allowed to emigrate in the past.

Since his application for permission to emigrate, he has been essentially unemployed except for a brief stint as a night watchman, although he was trained as a mathematician and engineer.

Life has not been easy for Mikhail in the last three years. Twice he was arrested for "hooliganism"—Jewish activity—and on both occasions spent 15 days in jail. He and his family have been subjected to house searches by the secret police, during which copies of his dissertation and other valuable papers were taken.

During the last several months, my own staff and others have been continuing to work to obtain permission for Mikhail, his wife and his son to emigrate.

Officials of the nursing home in New York where Mikhail's ailing 83-year-old aunt resides have written to the Department of Visas, asking that he be given permission to visit her.

Congregation Beth Shalom, in my district, last year sponsored a mass mailing of New Year's greetings to the Strugach family.

I have written to the State Department and to the Soviet Embassy, and the State Department has indicated that it is pursuing the matter.

For his part, Mikhail has not given up. The most recent letter of which a copy is in my possession, dated early this month, includes the following passage:

Of course, it is very sad. We could have had our new child born in the USA, and he would be a citizen of the United States. . . . So, we must fight for emigration longer. But how?

Saddest of all is the fact that all of these efforts have been made necessary by one thing—the Soviet Union's failure to live up to its international agreements. Because of that failure, the Strugaches and thousands of others like them must continue to wait—and wait, for a promise which has yet to be kept.

A TRIBUTE TO HON. MELVIN PRICE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

Mr. BOB WILSON. Mr. Speaker, I would like to take a few minutes to make a most appropriate and gratifying announcement. Tomorrow, on July 1, 1977, the Non Commissioned Officers Association of the USA (NCOA) will present its coveted "L. Mendel Rivers Award for Legislative Action" to the distinguished chairman of the Armed Services Committee, the Honorable MELVIN PRICE of Illinois.

The presentation will be made at the association's 16th annual international convention banquet in San Antonio, Tex.—the site of NCOA's international headquarters.

The gentleman from Illinois will join such distinguished former recipients as the previous chairman of the Committee on Armed Services, now retired, the Honorable F. Edward Hébert; retired First District of Virginia Congressman, the Honorable Thomas N. Downing; and the Honorable Messrs. STROM THURMOND and JOHN TOWER of the U.S. Senate.

Chairman PRICE will be the second recipient who previously served in the U.S. Armed Forces as a noncommissioned or petty officer. The first was Senator TOWER of Texas, a U.S. Navy veteran and now a chief petty officer in the Naval Reserve.

Chairman PRICE was a corporal in the Army Quartermaster Corps when he was elected for the first time to the Congress of the United States.

It is befitting that the NCOA, the world's largest enlisted military association, has chosen MEL PRICE as its 1977 honoree. He has distinguished himself in the House of Representatives through exemplary, dedicated service and devotion to his beloved country.

He has worked long and hard to see that the well-being of our citizens and our military personnel are uppermost in the minds of his colleagues.

He has devoted himself to a strong national defense and has contributed greatly to its solid posture.

MEL PRICE is the epitome of the purpose behind the award—"to be presented to a legislator who, in the opinion of the NCOA governing body, is most worthy of recognition for his or her efforts in furthering the ideals of democracy, freedom and patriotism on behalf of the United States of America."

There is no other Member of this August body who is more deserving of the award than MEL PRICE. He has upheld the high morality, the patriotic responsibilities and love of country so vital to the continued success and growth of our great Nation.

Like his friend, Mendel Rivers, after whom the award is named, the chairman brings greater glory and recognition to the Armed Services Committee. He is his own man and has placed his record before the public as one that stands by itself—supported as have his predecessors', only by those who serve or have served on that committee.

Mr. Speaker, as an honored recipient of last year's "L. Mendel Rivers Award for Legislative Action," I join the Noncommissioned Officers Association, its president, James O. Duncan; its board of directors; and its staff director, national capital office, "Mack" McKinney, in saluting MEL PRICE of Illinois for his devotion to God and country.

I hope my colleagues will also join me in paying tribute to this great American.

B–1 TERMINATION IS DEAD WRONG

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

Mr. GOLDWATER. Mr. Speaker, I am astounded at the President's decision to terminate the B–1 bomber program. I can think of only two sources of happiness and celebration over this decision—the Kremlin and those who do not understand that national security and influence in the world is based on more than moral stance and suasion.

To my deep regret and concern, the decision to terminate the B–1 program confirms what I have feared all along—President Carter has surrounded himself with some of the most misguided but vociferous softliners on national defense in the Nation.

I am convinced that this administration has gotten its lessons of history confused. Diogenes wandered around Greece searching for an honorable man. His example of honesty and morality was as well known then as now. But, he had to rely on others to implement his goals and aspirations. Apparently this administration is using his example as a model for our foreign policies and national defense. Most Americans, however, find more inspiration and comfort in the example of Soloman, who was fair, wise and strong enough to defend his nation and its values.

Make no mistake about it. In one gesture, Mr. Carter has placed this Nation at a tremendous disadvantage.

Andrew Young is no substitute for the B–1.

The President cites program expense and the adequacy of the B–52 and the cruise missile as the justification for his decision. He also indicates that his decision should be interpreted as a signal to the Russians on our intentions in the SALT negotiations. I have discussed the importance of the B–1 program before and believe that a recapitulation is warranted.

I rise to express my complete opposition to any postponement of the B–1 bomber program.

Most of the opponents of this important defense preparedness program—those who are currently advocating its postponement—are trying to cloak their efforts in the mantles of "economic sense" and "military nonnecessity."

In both cases, their arguments simply do not make sense. They are not supported by the facts.

Regarding the military facts, I find the case in support of the B–1 bomber program overwhelmingly compelling. The Soviet Union, in spite of détente and the SALT negotiations, is clearly pursuing a military posture of preemptive nuclear first strike capability; strategic nuclear and conventional superiority; a war-winning, war-surviving capability; and the ability to engage in nuclear blackmail for both tactical and strategic purposes.

In spite of SALT, a policy that in my opinion has acted as an halucinogenic on our national commonsense and fortitude, the Soviet Union has deliberately pursued the development and deployment of five new weapons systems and at least five new strategic capabilities that were either circumscribed or prohibited by the agreements. First, they have gone ahead with the development of three new ICBM rocket systems. Second, they have not only made these systems multiple payload and target capable, but they are currently MIRV'ing their intermediate missile systems as well. Third, they have aggressively pursued the development of an intercontinental manned bomber, the Backfire, and will clearly deploy it. Fourth, they are pressing the development of a land-mobile ICBM missile system that they intend to be both nuclear and MIRV capable. I might add at this point that a land-mobile system rather effectively defeats one of the previously reliable qualities of our own nuclear missile force, and that circumvents one of the prime potential effects of the cruise missile. Fifth, they are aggressively pursuing the development of a 4,000-plus-mile submarine-launched missile system. This program is substantially ahead of our own Trident missile system.

I ask you, do these activities and dedicated programs strike you as ones a nation interested in peaceful coexistence and détente and nuclear parity would pursue? Can such strategic capability be for use only if they are attacked first? Can the Soviet Union be developing and deploying such a military capability because of their concern for the Chinese, as one of my colleagues has blithely suggested? Aside from the facts, commonsense tells you the answer is clearly "No."

It should be pointed out that the Soviets have also been diligently working on killer satellites to destroy our own tracking, detection, and surveillance satellites. They have been developing a vastly improved and expanded surface fleet. The recently deployed *Kiev* aircraft carrier, equipped with vertical takeoff and landing, heavily armed attack planes, is only one example of this activity. They have been exporting military assistance to all corners of the world; from Ireland—yes, Ireland—to Angola, to Ethiopia, to Somalia, to Cuba, to Asia, and elsewhere. They have also been directly involved in political activities in Portugal, Iceland, Panama, Chile, Italy, Afghanistan, India, Indochina, and the Philippines, to name a few.

All of these activities are not those of a wrongfully misunderstood nation indulging in a grand social-economic experiment. They are clear manifestations of a nation pursuing an aggressive, worldwide manifest destiny—a destiny they believe ordained by history—that will by force and deceit crush and defeat any unprepared and irresolute opponent.

The B–52, which has been the manned airborne element of our three-part military defense system, has served us well. Unfortunately, it has been overtaken by the same things that rendered the long bow first marginally effective and then obsolete. The passage time has brought age. It has also brought improved counter technologies to our enemies—enemies who are clearly not content with equal strength and capability. By the 1980's the Soviet Union will be able to effectively defense the B–52. They will possess superior strategic nuclear power and delivery capability. Our missiles, locked in silos, will not be either a valid deter-

rent or reliably safe from pre-emptive knockout. Thus, a manned bomber with the flexibilities and capabilities of the B–1 will be essential.

Well, what about alternatives in function and mission to the B–1? Simply put, the cruise missile will not be ready for deployment under the best of circumstances until the late 1980's or early 1990's. Our need to replace the B–52 will exist well before then. Even if the cruise missile proves to be a more cost-effective weapons system, the savings will provide little more than food for a momentarily comforting thought if we are trying to act in the world from a position of strategic inferiority. If the last 50 years are any indication of the Soviet willingness to refrain from exploiting the weakness of an opponent, only the beknighted would deliberately opt for making the United States strategically inferior.

Now, what about the economics of this situation? In terms of our domestic economy, a recent study by Chase Econometric Associates, Inc. provides some very revealing insights into the impact of the B–1 program. Regarding impact on the GNP, the study concludes that for $17.2 billion spent, the GNP will be boosted by $49.1 billion for a multiplier effect of 2.85 for the B–1 production program. The report goes on to demonstrate that even if the B–1 funds were returned to the economy in the form of a tax cut or through welfare transfer, the effect on the total health of the economy would be the same except that the latter approaches would not assist the employment or manufacturing sectors in the same, broader based way, the employment factor takes on an added dimension when it is realized that for every aerospace job that is created, five additional jobs are generated in the economy. These jobs in most cases will last throughout the life of the program, or for 10 years. There is not one federally subsidized employment program that can achieve this result. The tax cut or the welfare return would provide between 1,000 and 4,000 fewer jobs a year.

The Chase study also reveals that the B–1 program will: First, generate or support an average of 291,000 jobs per year over the next 10 years; second, increase the after tax disposable income by $38 billion; and, third, return $25.6 billion Federal and State tax revenues, with some $6.3 billion being generated for State and local governments alone.

The B–1 pays its way in our economy while at the same time significantly contributing to our national security.

But, as significant as these economic impacts are, they should not overshadow the fact that the B–1 is being built to contribute to and enhance our national defense and strength. It is this function that is of prime concern to me and it is this function that will mean the most for this Nation.

Recently, the Los Angeles Times published an excellent article on the B–1 program. This paper is not noted for hasty or sloppy journalism. I would like to quote from two sections of that article:

The United States is certain to lose equivalence in the early 1980's if we do not push on with the existing (B–1) plans while preparing new initiatives in both force modernization and arms control proposals. The only new systems we can deploy by that date are those now underway: not only the B–1 but also the Trident subs and their missiles.

The B–1 clearly is the best bomber for its purposes that can be built now . . . delay would assure the Russians' reaching superiority in the 1980's.

At this reasonable cost—244 planes at $1 billion a year in 1976 dollars, the B–1 has a far better chance to maintain our capability for assured retaliation and flexible options against improving Soviet air defenses than the far less capable B–52, which would require an estimated $40 million per plane, three-quarters of the cost of the B–1, for modernization and rebuilding so that it could keep flying for one-half of the life of the B–1.

For all these reasons, Congress should decide to get on with B–1 production—not because the Air Force pilots want it, not because it would provide jobs, but because it is a plane that can do what is required in time to help meet the mushrooming Soviet threat and to help provide the essential strength from which the United States can try to negotiate acceptable arms-control agreements.

For the Congress to take any other course of action would be sheer folly. The B–1 is not an option among many comparable, viable alternatives. There are no reasonable, cost-effective alternatives that give this Nation the strategic strength and flexibility that is required.

I urge my colleagues to reject any attempt to postpone or stop the production of the B–1.

CONGRESSMAN WHALEN LAUDS AMBASSADOR RAMSBOTHAM

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, the city of Washington, D.C. loses the presence of a distinguished Ambassador and one of the finest gentlemen I have met since assuming office in January 1976 when Sir Peter Ramsbotham boards a British Airways plane on Saturday.

Ambassadors come and go but Peter Ramsbotham is one who will be long remembered by the many people who had the pleasure of meeting him and getting to know him and his charming wife. While I look forward to meeting his successor, I am saddened by his departure. He did a superb job in representing Great Britain. To use the word the English are so fond of, Ambassador Ramsbotham was "super."

In my view, there are basically two criteria by which to judge ambassadors.

First is how well they represent their countries.

As I already have indicated, Sir Peter gets the highest grades in both categories. He has been Her Majesty's representative during times that have been very difficult indeed for the United Kingdom. The last several years have seen that fountainhead of the English-speaking peoples approaching economic disaster but fortunately averting it and resuming the road to recovering. It takes a special kind of person to represent a nation during such a period, to be able to explain its circumstances forthrightly, and to indicate what can and possibly should be done to reverse the adversity at hand

Sir Peter acquited himself admirably in these instances. In so doing, it has seemed to me and to others that he exemplified the best of the British spirit, the indomitability, intelligence and grade which distinguish our cousins from the rest of Europe. These same characteristics typied the British during World War II and enabled the inhabitants of that small island to withstand the all but overwhelming threat facing them on all sides at that time.

In a visit to my district, Dayton, Ohio, Sir Peter made a tremendous impact. I was certain that he would. However, the degree to which he succeeded, I must admit, did surprise me. I also recall my executive assistant, Bill Steponkus, remarking similarly about the Ambassador's performance as the speaker at a luncheon meeting of the RAMS, an association of top Republican House and Senate staff people. The group, hardly one to be easily impressed by anyone, was totally captivated by Sir Peter. I am sure that this is typical of so many other events in which he has participated during his term of office here.

It is worth mentioning also that Washington is a hard town in which to come out on top in the diplomatic circle because of the tremendous competition. Once again, it is fair to say that Ambassador Ramsbotham has done himself and his country proud.

We will miss his warmth, his erudition, his charm, his personality, and even the fact that he speaks a brand of elegant English that Americans can easily understand. It is all of a piece because this career foreign service officer is all of those things and more. The British Government could do worse in assigning an Ambassador here. But it would have great difficulty in doing better.

Mr. Speaker, I wish Ambassador Ramsbotham well, as do all of us in this House, as he proceeds to his next assignment in Bermuda. He takes with him our respect and admiration.

COMMENDING SPECIALIST FIVE ROSAIRE ALBERT COTE

The SPEAKER. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, our newspapers are filled daily with accounts of the wrongs people commit, so it is especially important for us to take time to commend those individual acts of courage that help make our land the great one it is.

The enclosed resolution, drafted by Berlin, N.H., Mayor and State Senator Laurier Lamontagune, was adopted by the New Hampshire State Senate on June 20; it eloqeuntly states the facts of such a case. I add my own congratulations to Specialist Five Rosaire Albert Cote, whose quick action deserves the praise of all of us.

I certainly want to take this opportunity to commend him and to bring his

meritorious act to the attention of my colleagues.

New Hampshire Senate Resolution 7 follows:

SENATE RESOLUTION No. 7 COMMENDING SPECIALIST FIVE ROSAIRE ALBERT COTE

Whereas, Rosaire Albert Cote is a specialist five in the New Hampshire Army National Guard; and

Whereas, on June 14, 1976, upon seeing that two members of his unit needed aid and upon realizing that said members of his unit may have been victims of an electrical shock, Specialist Five Cote went to the aid of the two victims, administering mouth to mouth resuscitation to one, instructing another member of his unit to administer cardiac pulmonary resuscitation and employing prompt and correct first aid; and

Whereas, as a result of Specialist Five Cote's actions, the life of one of the victims was saved; now, therefore, be it

Resolved by the Senate:

That the Senate commends Specialist Five Rosaire Albert Cote for his quick thinking and actions in saving the life of his fellow soldier; and

That a copy of this resolution shall be sent to Specialist Five Rosaire Albert Cote.

PRESIDENT CARTER IS TAKING GRAVE RISKS WITH AMERICAN SECURITY IN ORDER TO REDEEM A HASTY CAMPAIGN PROMISE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, today, the President announced his intention to terminate the production program for the B–1 bomber despite his hints to the effect that he would make a favorable deployment decision.

It is by now, no secret that the Soviet Union is building its Tu–26 Backfire bomber at the rate of five aircraft per month or more with 85 already deployed with Soviet forces. Moreover, the Soviet Union has added uprated air defense radars of the phased array type, and has improved the acceleration of its air defense missiles. Thus, the existing bomber aircraft, the 1948-designed B–52 will become vulnerable to Soviet air defenses in the coming decade. The result is that one leg of the strategic nuclear forces which has maintained the credibility of deterrence for two decades will be allowed to atrophy. The failure of the President to permit improvements in the survivability of our land based ICBM force appears to indicate a similar intention with respect to these forces as well. In short, the President is laying the basis for the unilateral disarmament of the United States by the slow wastage of our existing forces.

The failure of the President to rise above a campaign promise to the political left within his party represents a serious threat to our credibility around the world and at SALT. No President in the past, has placed future American security at risk for the sake of tranquilizing a political faction.

THE PRESIDENT'S DECISION TO OPPOSE B–1 COMES AS A SHOCK

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, frankly, I feel deceived. The President's decision to oppose the funding of the B–1 Peacekeeper comes as a great shock to me personally and I am sure to the majority in this body who voted in favor of B–1 funding only 2 days ago.

I am shocked, and quite frankly, worried for our country. It is a terrible decision which our President has made. NORAD chief General Daniel "Chappie" James, has said the Congress has "chosen to leave America virtually defenseless." Well, I believe the President has crippled our deterrent for the 1980's and 1990's.

Without the B–1, we cannot defend ourselves against the Soviet might. Our triad of defense may be fatally weakened. The Communists will not be frightened of our bare-boned Air Force now. They will not be frightened of our cruise missiles which are still on the drawing board. They will not be frightened of our old B–52's—no matter how we try to camouflage their age and remodel them. They will not be frightened of our 747's: They are overweight albatrosses waiting to be shot out of the sky by the sleek, fast Soviet MIG 25 "Foxbats" or better.

I am frightened because I do not—and I cannot—trust the Soviets. I do not understand why the President thinks that he can. He knows what they plan for us. He has read their war plan described in the Foreign Intelligence Advisory Board's report to him. The Soviet Union's strategic nuclear doctrine seeks victory, not deterrence; superiority in weapons rather than sufficiency; and offensive pre-emptive operations rather than retaliation. He has been told this to his face. Mr. Carter knows we need to arm ourselves to ward off and discourage the Soviets to keep them at bay in the 1980's and 1990's to buy time for peace. But without the B–1, the Soviets have no need to think twice before attack. They have no fear of successful retaliation. The United States cannot get through the Russian defenses without the B–1 and so the Soviets run no risk when they move to implement their war plan.

Why does the President trust the Soviets? Why? Who has told him to trust them?

In a recent editorial in the Los Angeles Times the anxiety that so many Americans must now feel was voiced with clarity. In referring to the case of Russian dissident, Anatoly Shcharansky, the Los Angeles Times said:

It is but one of many cases that bear witness to an order and a policy that can only create distrust of the Soviet Union in all it does. A country that cannot be counted on to protect the minimal human rights of its own citizens invites suspicion of the integrity with which it will honor all relationships. The distrust it sows at home inevitably also infects its relations abroad.

It is strange that none of that distrust has been sown in the White House.

Frankly, Mr. Speaker, I am frightened for this country. I pray for our Nation's safety, and I pray the President will somehow find the courage to reverse this decision.

GEN. JOHN R. KELLY, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, today Gen. John R. Kelly, Jr., is relinquishing command of Kelly Air Force Base—one of the largest and most important installations of the Air Force. It is not unusual for a command to change hands, but it is unusual to find a commander of the quality of Gen. John Kelly.

The installation that he has commanded for the past 3 years is as much an industrial complex as it is a military organization. Military officers, good ones, at least, must be able to lead and motivate people. General Kelly has been able to do this in a superb manner. He has an immense civilian work force—18,000 people—and he has been able to inspire the highest level of efficiency and performance by this work force. It takes a person of unusual ability and talent to make such an immense force feel a sense of real pride and personal interest in the success and mission of the organization. General Kelly has done this.

But an installation like Kelly Air Force Base requires skillful management, as well as personal leadership.

Kelly Air Force Base is responsible for the management of 17 different kinds of aircraft, totaling 4,500 airplanes around the world. The base is responsible for management of more than half of all the jet engines used by the Air Force. Kelly manages all fuels, oils, and lubricants of the Air Force; and it manages all special weapons.

Taken together, the equipment that this base is responsible for represents an investment of $3.4 billion. There are not many industrial enterprises of this scope and complexity. General Kelly has managed all of this with remarkable skill and acumen. It is very uncommon to find a person who possesses all the skills of human leadership and managerial ability that I have observed in General Kelly.

In his 3 years in San Antonio, General Kelly has earned the admiration and respect of the community. He has won the genuine affection of the people who work for him. He has contributed significantly to the effectiveness of the installation he commanded, and to the efficiency and effectiveness of the Air Force, and so to our own national security.

No military commander stays permanently in one place, and so the day has inevitably come when General Kelly relinquishes command and moves on to another post. I am sorry that the day has come. John Kelly will be missed in San Antonio. Our community is better for his stay, and Kelly Air Force Base the better for his service.

DENIAL OF HUMAN RIGHTS IN NORTHERN IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. WOLFF. Mr. Speaker, I rise today as I have so often in the past to call the attention of this House to the situation

in Northern Ireland, where the minority population continues to have its human rights denied by the majority.

Mr. Speaker, I make these points today because the House has just approved a defense appropriations bill. A memorandum of understanding exists between the United States, Great Britain, and the Government of Northern Ireland which is intended, in effect, to spread the wealth of NATO contracts for research and development among our close allies.

This is certainly a laudable intent, and I applaud the concern of our Government for the economic well-being of our allies.

I just, however, might say I have visited Northern Ireland and toured the Ballymurphy district of Belfast. I found areas where some 50 percent of the population was unemployed, and has been for many years. Not just young people, as in our own inner cities—and this is tragic and dangerous enough—but fully grown, educated, intelligent, and desperate adults who are unable to support their families with anything but the meager help of the dole. This is really outrageous.

This has been true for much of the 20th century, and the inescapable conclusion of most observers is that the majority population and the Government have been only too happy to keep it this way. Just one specific example which I myself witnessed: In the Wolf Shipyards, which unfortunately has the same name I bear but with which I have no connection, only a dozen or so of the more than 10,000 employees are of the minority population, which is Catholic.

I think that it is important that we understand the question of human rights is not a selective one and that we here in this Nation have to take to task our friends as well as those who are not our friends when it comes to the question of discrimination.

In my tours of Northern Ireland I have been told by some that the minority population has grown fond of living on the dole and that the people are constitutionally lazy and do not want to work.

As we in the United States have learned through our civil rights movement, and the equal opportunity legislation which to our credit we have approved and implemented, there is no such social phenomenon as an entire race or class of people who can be slandered by such an absurd contention—"they don't want to work."

Mr. Speaker, I hold for the House a memorandum of understanding which specifically makes provision for Northern Ireland to get special attention. I think that this memorandum of understanding should be set aside.

Actually, if we are to really pursue the matter of human rights, I think we have to see to it that such a memorandum of understanding which was concluded in 1975 and then re-issued to the defense contractors of the United States in November, 1976, that such memoranda do not articulate U.S. policy.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I would like to commend the distinguished gentleman from New York (Mr. WOLFF) for his consistent concern in trying to help bring peace to Ireland and for taking this time on the floor of the House to discuss this important issue.

Mr. Speaker, the minority population of Northern Ireland, men and women like any other men and women, want and need and deserve gainful employment. They have been systematically denied these and other basic human rights for years, and it would be a tragedy if we in this House failed to take action taking their interests to heart.

In recent weeks we have been enforcing the expressed concern of our President in the area of human rights, with great frequency and consistency when it comes to certain nations. We have adopted several significant amendments in the area.

Today, the battle moves a little closer to home, and I hope that this House will be equally forthright, and equally true to its convictions that the rights of men and women everywhere should not be impaired with the official sanction of the U.S. Government.

Accordingly, I urge our colleagues to support the request by the distinguished gentleman from New York (Mr. WOLFF), to set aside the Defense Department's memorandum of understanding with the United Kingdom and Northern Ireland, based upon these discriminatory employment practices.

Mr. WOLFF. Mr. Speaker, I thank the gentleman from New York for his contribution. I know the gentleman has been in the forefront of activity trying to bring to the attention of the House the height of discrimination and the discriminatory practices that have been existing in Northern Ireland. Neither one, nor any of us, condones violence. I think also, however, we must see to it that the attention of the House is drawn to this very unfortunate situation that exists and continues to exist.

U.S. CANAL ZONE AND PANAMA CANAL: FORMER CHIEFS OF NAVAL OPERATIONS URGE RETENTION OF FULL SOVEREIGN CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, as a member of the Subcommittee on Defense of the House Committee on Appropriations for many years, I have become fairly well informed on the post-World War II military and naval needs of the United States and acquainted with most of the highest leaders of our Armed Forces.

One of the crucial elements in the seapower of the United States is the Panama Canal with its indispensable protective frame of the Canal Zone. Their undiluted sovereign control is absolutely essential for the protection of not only the United States but also the entire Western Hemisphere and other parts of the free world. The loss of such control would be a calamity of the gravest consequence and probably involve the United States in the affairs of the Republic of Panama to a far greater extent than any previously experienced.

As is well known, high active officers of the Armed Forces are not free to express their opinions publicly on such matters as U.S. Isthmian Canal policies unless their statements conform to "official policy." Those on the retired list are not so constrained but can speak out publicly; and four former Chiefs of Naval Operations have done so in a clear and forceful manner in a letter to the President dated June 8, 1977. This letter was forwarded to the President with a cover letter dated June 15 by four distinguished members of the U.S. Senate: Senators JOHN L. MCCLELLAN, HARRY F. BYRD, JR., STROM THURMOND, and JESSE HELMS, all of whom have studied the Isthmian Canal question.

The high ranking naval officers who wrote the President are not "Johnnies come lately" on the canal question as are many others who are so stridently expressing themselves but some of the ablest strategists of the modern Navy that our country has produced and have been tested in war as well as in peace: Adm. Robert B. Carney, Arleigh A. Burke, George W. Anderson, and Thomas H. Moorer. The last was also Chairman of the Joint Chiefs of Staff. Moreover, their views are supported by other experienced officers, both active and retired, as well as by leading civilian authorities on the canal issue. A number of former naval Commanders in Chief, Pacific, such as Adm. John S. McCain, have stressed that such operations as the Korean and Vietnam wars could not have been effectively conducted except for the logistic support made possible by the Panama Canal.

Since the latest information on the treaty negotiations indicate that the negotiating diplomats have proposed a scheme for partial internationalization of the Panama Canal, it is pertinent to quote what former President Theodore Roosevelt said about this idea on December 2, 1918, shortly after it was first voiced during the 1917 revolution in Russia:

> The Panama Canal must not be internationalized. It is our Canal; we built it, and we will protect it, and we will not permit our enemies to use it in war. In time of peace, all nations shall use it alike but in time of war our interest becomes dominant. (H. Doc. No. 474, 89th Congress, p. 388.)

Mr. Speaker, were Theodore Roosevelt and other great leaders of his time, such as Adm. John G. Walker and A. T. Mahan, Secretaries Elihu Root and W. H. Taft, and former Assistant Secretary of State John Bassett Moore here today, I am sure that they would strongly support the views so ably expressed by the four former Chiefs of Naval Operations. To enable the Congress and the Nation to know the considered judgment of the four distinguished naval officers and the Senators who support them, I quote both of the previously mentioned letters as parts of my remarks and urge that they be read:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 15, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are enclosing a most important letter from four former Chiefs of Naval Operations who give their combined judgment on the strategic value of the Panama Canal to the United States.

We think you will agree that these four men are among the greatest living naval strategists today, both in terms of experience and judgment. Their letter concludes:

"It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty."

We concur in their judgment and trust you will find such action wholly consistent with our national interest and will act accordingly.

Sincerely,

JOHN L. MCCLELLAN,
HARRY F. BYRD, JR.,
STROM THURMOND,
JESSE HELMS,
U.S. Senators.

JUNE 8, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As former Chiefs of Naval Operations, fleet commanders and Naval Advisers to previous Presidents, we believe we have an obligation to you and the nation to offer our combined judgment on the strategic value of the Panama Canal to the United States.

Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this inter-oceanic waterway is as important, if not more so, to the United States than ever. The Panama Canal enables the United States to transfer its naval forces and commercial units from ocean to ocean as the need arises. This capability is increasingly important now in view of the reduced size of the U.S. Atlantic and Pacific fleets.

We recognize that the Navy's largest aircraft carriers and some of the world's supertankers are too wide to transit the Canal as it exists today. The super-tankers represent but a small percentage of the world's commercial fleets. From a strategic viewpoint, the Navy's largest carriers can be wisely positioned as pressures and tensions build in any kind of a short-range, limited situation. Meanwhile, the hundreds of combatants, from submarines to cruisers, can be funneled through the transit as can the vital fleet train needed to sustain the combatants. In the years ahead, as carriers become smaller or as the Canal is modernized, this problem will no longer exist.

Our experience has been that as each crisis developed during our active service—World War II, Korea, Vietnam and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transits of our naval units and massive logistic support for the Armed Forces. The Canal provided operational flexibility and rapid mobility. In addition, there are the psychological advantages of this power potential. As Commander-in-Chief, you will find the ownership and sovereign control of the Canal indispensable during periods of tension and conflict.

As long as most of the world's combatant and commercial tonnage can transit through the Canal, it offers inestimable strategic advantages to the United States, giving us maximum strength at minimum cost. Moreover, sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the over-all U.S. defense capability, with enormous potential consequences for evil.

Mr. President, you have become our leader at a time when the adequacy of our naval capabilities is being seriously challenged. The existing maritime threat to us is compounded by the possibility that the Canal under Panamanian sovereignty could be neutralized or lost, depending on that government's relationship with other nations. We note that the present Panamanian government has close ties with the present Cuban government which in turn is closely tied to the Soviet Union. Loss of the Panama Canal, which would be a serious set-back in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive.

For meeting the current situation, you have the well-known precedent of former distinguished Secretary of State (later Chief Justice) Charles Evans Hughes, who, when faced with a comparable situation in 1923, declared to the Panamanian government that it was an "absolute futility" for it "to expect an American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of (the) rights which the United States had acquired under the Treaty of 1903," (Ho. Doc. No. 474, 89th Congress, p. 154).

We recognize that a certain amount of social unrest is generated by the contrast in living standards between Zonians and Panamanians living nearby. Bilateral programs are recommended to upgrade Panamanian boundary areas. Canal modernization, once U.S. sovereignty is guaranteed, might benefit the entire Panamanian economy, and especially those areas near the U.S. Zone.

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security. It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty.

Very respectfully,

ROBERT B. CARNEY.
GEORGE ANDERSON.
ARLEIGH A. BURKE.
THOMAS H. MOORER.

A PILOT FULL EMPLOYMENT PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SIMON) is recognized for 5 minutes.

Mr. SIMON. Mr. Speaker, I would like to bring to my colleagues' attention the Pilot Guaranteed Employment Opportunities Act, H.R. 7193, which I introduced on May 13, 1977.

This legislation, which has been cosponsored by a bipartisan group of 23 Congressmen, would establish an experimental program of guaranteeing jobs for all unemployed people in 20 selected counties throughout the country. It would provide us, as legislators, with essential data for analyzing the impact of full employment policies.

Since the passage of the Full Employment Act of 1946, this country has engaged in a long- and wide-ranging debate over what our ultimate employment policy should be. This debate has intensified in recent years as consideration of full employment has focused on the Humphrey-Hawkins bill—the Full Employment and Balanced Growth Act.

Few bills in recent years have generated as much discussion as has Humphrey-Hawkins. Charges and countercharges have been circulated. I am a cosponsor of it, and I hope we move ahead with the Humphrey-Hawkins concept.

If full employment is indeed the route we should be taking—which I am convinced it is—then the successful results of an experimental full employment program will neutralize the complaints of critics. On the other hand, if the results indicate that there are still problems that need to be worked out with full employment, we can work those problems out.

Mr. Speaker, I would now like to outline the experimental program that is developed in H.R. 7193.

This legislation directs the Secretary of Labor to choose 20 counties to participate in the experimental guaranteed jobs program. He will base his decision primarily on the number and percentages of unemployed people in the county and the amount of public assistance benefits paid to people in the county. Applications will include data on the county's population, criminal activity, welfare recipients, unemployment, and employment opportunities. This information will assist in the eventual evaluation of the program.

The bill currently limits eligibility to 20 counties with populations of 20,000 or below. This limitation may need to be reevaluated as the legislation is further considered, however.

My reason for inserting the 20,000 limitation into the legislation is that it reduces appreciably the costs of this experimental program. In addition, there are a great number of rural counties which have urban characteristics, so that the statistical data gathered would have applicability to both rural and urban areas. But, if my colleagues in the House would want to modify the bill to include one or two urban areas, I would be willing to consider such an amendment if the economic consequences of such an amendment would not jeopardize the chance of the bill passing and becoming law.

To be eligible for guaranteed employment under H.R. 7193, a person must be at least 18 years old, a resident of the county involved at the time of the law's enactment, unemployed for 3 weeks, and a member of a family that did not earn over $700 in the previous month. No more than two people from the same family are eligible for the guaranteed employment program.

The bill establishes a three-tiered system of guaranteed employment in the participating counties. The primary emphasis is on the private sector. The Federal Government will reimburse private businesses in participating counties at the rate of 50 percent of the minimum wage for newly hired eligible employees. This reimbursement will be made for a maximum of 32 hours per week and will last for 1 year after the date of employment.

The number of new employees for whom an employer is entitled to reimbursement depends on the size of his business. An employer with 1 to 10 employees could be reimbursed for 1 new worker. If he had between 11 and 30 employees, he could be reimbursed for 2 workers, and if he had between 31 and 60 employees he could be reimbursed for 4 new workers. This scale continues until an employer with more than 100 employees could be reimbursed for 10 new workers.

Strict provisions are included in the bill to insure that no employees are fired or suspended so that an employer can take part in the program. The bill also protects employees from being fired without sufficient cause within a 90-day period after the subsidy for his job ends. These requirements will insure that the program contributes to overall long-term employment in the counties involved.

As with Humphrey-Hawkins, H.R. 7193 envisions the maximum possible use of the private sector. The real answer to our unemployment problem is to stimulate new jobs in the private sector. This is where permanent jobs can be best created with maximum benefits to our economy and our social and political systems.

However, in some areas and in some instances, the private sector cannot adequately meet the demand for jobs. In these cases, the Government must step in. If the private sector cannot meet the needs of a participating county under H.R. 7193, State and local governments might provide jobs.

The Federal Government will reimburse State and local governments for new employees at a rate of 50 percent of the minimum wage, again for 32 hours per week. The same restrictions on substitution that apply to private businesses also apply to State and local governments.

Finally, when sufficient jobs cannot be provided by the private sector and State and local governments, the Federal Government will step in and fill the gap directly by providing minimum wage jobs for 32 hours per week.

This three-tiered system will guarantee full employment in the participating counties. Not only will it make a positive contribution to the quality of life in these areas, but the results of the program will allow us to make much more informed decisions about full employment policies.

H.R. 7193 requires that the Secretary of Labor report to the Congress on the effects of the pilot guaranteed employment program. The report will describe the cost of administering the program in each participating county. It will also analyze the effect of the program on at least the following factors: unemployment insurance and welfare costs, criminal activity, Federal revenues, State and local revenues, public school attendence and population changes.

Mr. Speaker, unemployment still stands at nearly 7 percent. Approximately 6½ million Americans want jobs but cannot find them, and that does not count the more than 1 million categorized as "discouraged workers," who have just given up hope of getting a job. The threat to the long-term fabric of our economy and our society of continued joblessness is immense. So is the drain on the Federal Treasury. Every 1 percentage point of unemployment represents an increased Federal deficit of about $16 billion—$14 billion because of reduced tax receipts and $2 billion because of Federal payments to support the unemployed.

I do not contend that H.R. 7193 is a panacea for these ills. Nothing can be. My bill is a suggestion. It is open to constructive change. Enactment of this or similar legislation would be a significant step toward a fuller understanding of what we need to do to achieve full employment in this country, and toward achieving full employment itself.

A copy of H.R. 7193 follows. I urge my colleagues to carefully consider this bill and the idea it represents. A column on my proposal written by Clayton Fritchey, which appeared in the Washington Post in January 1976, is reproduced below:

H.R. 7193

A bill to require the Secretary of Labor to establish a pilot program for the provision of guaranteed employment opportunities in selected counties of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be referred to as the "Pilot Guaranteed Employment Opportunities Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "business concern" means any commercial or agricultural business enterprise which employs at least one employee;

(2) the term "designated county" means any county designated by the Secretary under section 3;

(3) the term "eligible employee" means any individual who meets the requirements established by section 4;

(4) the term "Federal minimum wage" means the appropriate minimum wage in effect from time to time under section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206);

(5) the term "family" means any group of related individuals residing together;

(6) the term "local government" means any local unit of government, including a county, municipality, city, town, township, or a school or other special district created by or pursuant to State law;

(7) the term "pilot program" means the pilot program established by the Secretary under section 3(a);

(8) the term "Secretary" means the Secretary of Labor;

(9) the term "State" means the several States, Guam, Puerto Rico, the Virgin Islands, and any territory or possession of the United States; and

(10) the term "chief executive officer" means the person designated by the Secretary to be the chief administrator of this Act within a designated county.

ESTABLISHMENT OF PILOT PROGRAM

SEC. 3 (a) (1) The Secretary shall establish and maintain a pilot program to provide a guaranteed employment opportunity to any eligible employee in accordance with the provisions of this Act.

(2) The pilot program required in paragraph (1) may be established and maintained by the Secretary in not more than twenty counties in the United States. The Secretary shall designate such counties from among counties which transmit applications to the Secretary under subsection (b). Any such designation shall be based in part upon—

(A) the number of unemployed persons in the county involved; and

(B) the amount of public assistance benefits paid to persons residing in such county.

(b) Any county of the United States having a population of twenty thousand or less, as determined by the most recent census taken by the Secretary of Commerce under section 141(a) of title 13, United States Code, may transmit to the Secretary an application, in such form and according to such procedures as the Secretary may prescribe, for participation in the pilot program. Such application shall include information relating to—

(1) the resident population of such county;

(2) the number of individuals in such county receiving public assistance benefits;

(3) the incidence of criminal activity in such county;

(4) the number of employed and unemployed persons in such county; and

(5) the nature of public and private employment opportunities in such county.

ELIGIBILITY

SEC. 4. (a) Except as provided by subsection (b), any individual who—

(1) is eighteen years of age or older;

(2) is a resident of the designated county in which he is applying for employment under this Act on the date of the enactment of this Act;

(3) has not engaged in full-time employment during the three-week period immediately before the date of his application for employment under this Act; and

(4) is a member of a family whose total income did not exceed $700 in the previous month;

shall be considered an eligible employee for purposes of private sector employment under section 5 and public service employment under sections 6 and 7.

(b) No more than two individuals from the same family may be considered eligible employees for purposes of private sector employment under section 5 and public service employment under sections 6 and 7.

PRIVATE SECTOR EMPLOYMENT

SEC. 5. (a) (1) The Secretary shall, in accordance with the provisions of subsection (b), reimburse any business concern in an amount equal to 50 per centum of the Federal minimum wage for each eligible employee employed in a designated county by such business concern.

(2) Such reimbursement shall be made for the one-year period following the date of employment of an eligible employee and shall be made for a maximum of thirty-two hours of work by such eligible employee during any workweek.

(b) A business concern shall be entitled to reimbursement for the following number of eligible employees—

(1) one eligible employee, if the business concern employs between one and ten employees on the date of its application under this section;

(2) two eligible employees, if the business concern employs between eleven and thirty employees on such date;

(3) four eligible employees, if the business concern employs between thirty-one and sixty employees on such date;

(4) six eligible employees, if the business concern employs between sixty-one and eighty employees on such date;

(5) eight eligible employees, if the business concern employs between eighty-one and one hundred employees on such date; and

(6) ten eligible employees, if the business concern employs more than one hundred employees on such date.

Except as provided by section 8, any entitlement of a business concern established on the date of its application under this section shall not be affected by any decrease in the number of persons employed by such business concern occurring after such date.

(c) Any business concern in a designated county may transmit to the Secretary or to the chief executive officer established under this Act an application, in such form and according to such procedures as the Secretary may prescribe, for reimbursement under this section. Any such application shall include—

(1) the total number of employees employed by the business concern;

(2) the number of employees for whom the business concern seeks reimbursement under this section, together with information relating to such employees which is sufficient to enable the Secretary to determine whether such employees are eligible employees;

(3) the number of hours during which any employee listed under paragraph (2) is employed during any workweek with respect to which the business concern seeks reimbursement under this section; and

(4) such other information as the Secretary considers necessary to carry out the purposes of this Act.

(d) The Secretary or chief executive officer shall determine, no later than ninety days after the receipt of any application transmitted by a business concern under subsection (c), the extent to which such business concern is entitled to reimbursement under this section.

PUBLIC SERVICE EMPLOYMENT

SEC. 6. (a) The Secretary shall, in accordance with the provisions of this section, reimburse any State or local government in an amount equal to 50 per centum of the Federal minimum wage for up to thirty-two hours for each eligible employee employed in a designated county by such State or local government. The provisions of section 5(a)(2) shall apply with respect to any such reimbursement.

(b) A State or local government shall be entitled to reimbursement for any eligible employee who is employed—

(1) directly by such State or local government in a designated county; or

(2) in any program or activity, in a designated county, which—

(A) receives funding from such State or local government; and

(B) is designed to improve the physical condition or appearance of the community involved, or to provide recreational or cultural enrichment to such community.

(c) Any State or local government may transmit to the Secretary or to the chief executive officer of the county selected pursuant to this Act an application, in such form and according to such procedures as the Secretary may prescribe, for reimbursement under this section. Any application shall include a description of any program or activity which meets the requirements of subsection (b)(2) and which is in existence or is to be implemented, together with such other information as the Secretary considers necessary to carry out the purposes of this Act.

(d) The Secretary or the chief executive officer shall determine, no later than ninety days after the receipt of any application transmitted by a State or local government under subsection (c), the extent to which such State or local government is entitled to reimbursement under this section.

ADDITIONAL EMPLOYMENT OPPORTUNITIES

SEC. 7. (a) The Secretary or the chief executive officer of each designated county, shall, with the advice of the advisory council established under section 9, have the responsibility of creating jobs for those who are not employed as provided in sections 5 and 6. Those employed under this section shall be reimbursed by the Federal Government in an amount which does not exceed the Federal minimum wage.

(b) The work opportunities created by the chief executive officer and the advisory council shall meet the standards provided in section 6(b)(2)(B).

(c) The chief executive officer in each county shall employ such staff as may be required by this Act, subject to limitations imposed by the Secretary.

(d) Employment offered to those eligible under section 4 shall not exceed thirty-two hours per week.

RULES RELATING TO ELIGIBILITY FOR REIMBURSEMENTS

SEC. 8. A State, local government, or business concern shall not be entitled to any reimbursements under this Act if the Secretary determines that such State, local government, or business concern—

(1) has terminated the employment of any employee, or has suspended any employee, for the purpose of replacing such employee with an eligible employee; or

(2) has terminated the employment of any eligible employee without sufficient cause during the ninety-day period immediately after the one-year reimbursement period applicable with respect to such eligible employee.

ADVISORY COUNCILS

SEC. 9. (a) The chief executive officer of each designated county shall establish an advisory council to assist in the administration of this Act in the designated county.

(b) The chief executive officer of each designated county shall appoint twelve members to the advisory council established under subsection (a). Such members shall be selected under subsection (a). Such members shall be selected from among individuals who are residents of the designated county involved and are representatives of major political parties, business, labor, and civic affairs groups in such designated county.

(c) Each advisory council established under subsection (a) shall assist the chief executive officer of the designated county responsible for the administration of this Act with respect to appropriate programs and activities under section 6(b)(2) and with respect to other matters relating to the administration of this Act.

(d) Each advisory council established under subsection (a) shall transmit quarterly reports to the Secretary and to each House of the Congress. Each such report shall contain a description of the nature of assistance furnished by such advisory council under subsection (c) and shall include a discussion of the effects of the pilot program in the designated county involved.

REPORTS

SEC. 10. (a) The Secretary shall transmit to each House of the Congress quarterly reports which shall review the administration of this Act in each designated county, with a view toward determining the effect of this Act upon the economic conditions in each designated county.

(b) The Secretary shall transmit to each House of the Congress a report no later than one year after the date of the enactment of this Act. Such report shall include—

(1) a description of the cost of administering this Act in each designated county;

(2) an analysis of the effect of this Act upon—

(A) any expenditures for unemployment insurance and welfare programs or other similar programs in each designated county;

(B) the incidence of criminal activity in each designated county;

(C) internal revenues of the Federal Government;

(D) State and local revenues;

(E) student attendance at public schools in each designated county;

(F) any change in the population of each designated county; and

(3) any other information, findings, or recommendations which the Secretary considers necessary or appropriate.

RULES

SEC. 11. The Secretary shall prescribe such rules as he considers necessary or appropriate to carry out the purposes of this Act.

COOPERATION WITH FEDERAL AGENCIES

SEC. 12. The Secretary shall take such action as he considers necessary or appropriate to encourage any available Federal funds, in addition to any amounts appropriated under section 13, to defray costs relating to administration, equipment, supplies, support services, and supervisory personnel necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) There is authorized to be appropriated to carry out the purposes of this Act $80,000,000 for each of fiscal years 1978 and 1979.

(b) Not more than 25 per centum of any amounts appropriated under this Act may be used by the Secretary and by chief executive officers of designated counties for administrative expenses, equipment, supplies, support services, and supervisory personnel. Not less than 75 per centum of such funds shall be expended for wages and employment benefits for eligible employees.

[From The Washington Post, Jan. 17, 1976]

(By Clayton Fritchey)

UNCLE SAM: EMPLOYER OF LAST RESORT?

It is better to pay people to work than pay them to do nothing. While this simple, seemingly incontrovertible, proposition is not yet effective U.S. policy, it's finally on its way to acceptance, maybe before 1976 is over, but certainly soon after the next election.

Congress and the American people seem to be learning the hard way that even semiproductive work is better for the country than totally unproductive idleness, and less costly as well to the taxpayers.

The involuntary idleness of 8 to 10 million unemployed Americans is costing the taxpayers about $40 billion a year in unemployment compensation, welfare payments, food stamps, subsidized housing and other benefits, which is more than it would cost to put almost everybody to work through government-guaranteed full employment.

Belated recognition of that fact is changing the political scene. The idea of the government accepting the responsibility of being the employer of last resort has long been resisted on the assumption that it would be a burden on the taxpayers, but now at last it is dawning on the public that there is nothing so costly, so extravagant, so utterly wasteful as unemployment and plowed-under manpower.

So the welcome change in attitude is not so much a burst of compassion for the jobless as a realization that everybody's pocket is picked by mass unemployment. Part of the change is due to the leaders of organized labor who have discovered that the economy loses about $16 billion a year for every million out of work, to say nothing of the billions in tax revenues that are also lost through reduced payrolls.

Since President Ford has resisted most job-creating proposals introduced in Congress, it is not likely that legislation guaranteeing full employment can be put into effect while he still has the power to veto, but it may be possible to adopt a pilot plan advanced by Rep. Paul Simon (D-Ill.), which would pave the way for a subsequent national program.

Simon's novel bill would establish a two-year experimental guaranteed-jobs program in 20 high unemployment counties throughout the country, with the idea of convincing even skeptics that there can be a practical and constructive way of putting the jobless to work and rejuvenating the economy.

The legislation would require the Secretary of Labor to study the effects public service jobs on such things as unemployment compensation, criminal activity, welfare payments, sales and income tax revenues, and a variety of other factors affected by creation of new jobs.

"We may find," Simon says, "that by making government the employer of last resort we will both save some money and eliminate or substantially reduce some of the social costs of unemployment."

Jobs would be created in several ways, one being government subsidy of new private enterprise jobs created especially for the program. There also would be federal subsidy of new state and local jobs, along with specially created federal jobs to improve community living standards.

Any employer who now employs one to 10 persons would be able to add one worker and be reimbursed by the government for one-half of the minimum wage of that person for one year. An employer with 11 to 20 people could add two employees, and this scale would continue up to a maximum of 10 who could be added. Basically the same provisions would apply to local and state governmental units.

By limiting the program to a two-year trial, and applying it to only a handful of small counties, Simon says, "we can stop it if it is a failure." The estimated cost of a year's trial would be only $45 million.

Except for the old Works Progress Administration (WPA), which tackled unemployment in a limited way during the Great Depression more than 40 years ago, the United States has had little experience with government-guaranteed full employment. The WPA effort became the butt of many pejorative jokes during its brief life, but in retrospect the record looks impressive.

It left the nation a legacy of 600,000 miles of highway (new or rebuilt), 116,000 bridges and viaducts (built or repaired), 110,000 schools, libraries and auditoriums, 600 airports constructed, 8,000 parks and 13,000 playgrounds created, millions of trees planted, countless swamps drained, many sewer and water systems provided.

That only scratches the surface of the record, Simon says. "There is no question that we also are a richer nation culturally because of the WPA experience." And, as he might have added, we are certainly a poorer nation because of the present unemployment experience.

PROHIBITION AGAINST MILITARY UNIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. ICHORD) is recognized for 5 minutes.

Mr. ICHORD. Mr. Speaker, in January of this year I introduced legislation which would prohibit union organizing and union membership among members of this Nation's armed services for the purpose of collective bargaining.

The movement toward unionization of the Nation's Armed Forces is a relatively new phenomenon. Discussions about military unions only came to public light in the last year or two, and since that time, military unionization has been actively supported by the American Federation of Government Employees, the National Maritime Union, and the Association of Civilian Technicians.

As a strong proponent and supporter of this Nation's military men and women and their vital mission, I strongly believe that we must provide equitable compensation and benefits to our military personnel and have supported past actions directed toward this goal. However, I do not believe that unionization of the military is in the best interest of this Nation. I stress that my concern, however, lies only in unionization of men and women serving in their military capacity. I am not opposed to unions in any way, shape or form but only object to their incompatibility with the military mission. My bill, H.R. 51, in no way, however, would impair the ability of servicemen or reservists to join labor unions as a result of their off-duty, civilian employment nor would the bill impair any service man's or woman's right to petition Congress or exercise the first amendment right to Freedom of Speech.

There are several basic concerns which motivate my introduction of this bill. In the first instance, members of the Armed Forces are public employees. When union workers in private enterprise win increased salaries and benefits, the industry can either absorb the increased payments or pass them on to the consumer which then has the choice at that point to buy or not to buy. In the case of public employees, the taxpayers have no alternative. They must absorb the increases and at the same time are also the consumer. Thus, the taxpayer must not only fund the increased salaries and benefits through an increased tax assessment each year but also must absorb the results of those pay increases through funding the rising costs of defense. In the case of the armed services, there is the added point that as a consumer faced with increased costs, the taxpayer has no alternative system for defense services.

Another concern which is raised by military unions lies in the potential incompatibility of unions with the military mission. The military by its very nature demands discipline and at times unquestioned decisions and compliance, particularly in wartime. These are matters which cannot be subject to collective bargaining or grievance procedures. Certainly safeguards for complaint procedures and outside legal counsel already are open to service men and women on a case-by-case basis to insure proper protection of individual rights. We all receive numerous service cases which testify to the fact that existing grievance procedures are well-known and utilized. Members of the military are also afforded rights of petition, peaceable assembly, and free speech.

Military duty, by its very nature, often entails hardship, unwanted family separations, compliance with often seemingly arbitrary commands, and at times, uncomfortable working conditions. These facts of military life, however, are well known by those choosing military life in today's all-volunteer service and to subject these realities to union negotiation would impair, in my opinion, our overall combat effectiveness. A command decision to be effective must be unswerving. It can be protested to current review boards and possibly overturned but to subject such a decision to on the spot debate can only bring disruption to the entire military system. For better or worse, the military services cannot be a wholly democratic organization. National defense requires a direct command authority which can only be impaired by military unionization. As Mr. Justice Powell stated in a concurring opinion to *Greer* v. *Spock* (44 LW 4380, 4387):

> A military organization is not constructed along democratic lines and military activities cannot be governed by democratic procedures. Military institutions are necessarily far more authoritarian; military decisions cannot be made by vote of the interested participants. . . . (T)he existence of the two systems (military and civilian) (does not) mean that constitutional safeguards, including the First Amendment, have no application at all within the military sphere. It only means that the rules must be somewhat different.

Also the Supreme Court has stressed the unique character of the Armed Forces and its correlation with first amendment protections:

> While the members of the military are not excluded from the protection granted by the First Amendment, the different character of the military community and of the military mission requires a different application of those protections. The fundamental necessity for obedience, and the consequent necessity for imposition of discipline, may render permissible within the military that which would be constitutionally impermissible outside it.

A third matter which is raised by military unions is the reality—albeit rare—that military personnel may, on occasion, be required to assist or replace existing local civil enforcement personnel in instances of civil unrest or some similar situation. With such potential existing, it would seem in the best interests of all that military personnel not be affiliated with any national or international organization representing other employees in other fields of employment.

The bill I introduced is a simple prohibition of union organization or membership among personnel of the Armed Forces in their military capacity. The bill applies only to active members of the armed services. The bill does not apply to military retirees or to union membership pertaining to civilian employment. For any individual who knowingly violates the prohibition of this bill against enrolling, soliciting, or otherwise encouraging any member of the Armed Forces to join any labor organization the penalty is a fine of not more than $1,000 and/or 1 year in jail for each offense. For any organization found in violation of this bill, said organization shall be fined not more than $50,000 per offense. For any member of the Armed Forces who violates this bill, the offense shall be deemed a violation of the Uniform Code of Military Justice and the violator shall be subject to suitable punishment set forth by a court-martial review.

I urge and welcome my fellow colleagues to join me in cosponsorship of this legislation and ask that the text of my bill, H.R. 51, to be printed at this point:

H.R. 51

A bill to amend title 10, United States Code, to prohibit collective bargaining with the Armed Forces, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That (a) chapter 49 of title 10, United States Code, is amended by adding after section 974 the following new section:

"§ 975. Collective bargaining with armed forces prohibited

"(a) It shall be unlawful for any individual not subject to section 892a of this title or for any organization to enroll any member of the armed forces (other than a member in a retired status) in, or to solicit or otherwise encourage any member of the armed forces (other than a member in a retired status) to join, any organization which has as its purpose, in whole or in part, engaging in collective bargaining with any civilian officer or employee of the Department of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, the Department of Transportation or with any member of the armed forces, concerning grievances or other terms and conditions of service in the armed forces.

"(b)(1) Any organization violating subsection (a) shall be fined not more than $50,000.

"(2) Any individual violating subsection (a) shall be fined not more than $1,000 or imprisoned not more than one year, or both."

(b) The table of sections for chapter 49 of title 10, United States Code, is amended by adding at the end the following new item:

"975. Collective bargaining with armed forces prohibited.".

SEC. 2. (a) Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 892 (article 92) the following new section (article):

"§ 892a. Art. 92a. Union organizing and membership

"Any member of the armed forces (other than a member of the armed forces in a retired status) who forms, joins, or belongs to any organization, or who solicits or otherwise encourages any other member of the armed forces (other than a member of the armed forces in a retired status) to form, join, or belong to any organization which has as its purpose, in whole or in part, engaging in collective bargaining with any civilian officer or employee of the Department of Defense or, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy, the Department of Transportation or with any member of the armed forces, concerning grievances or other terms and conditions of service in the armed forces shall be punished as a court-martial may direct.".

(b) The table of sections for subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after the item relating to section 892 (article 892) the following new item:

"892a. 92a. Union organizing and membership.".

CONGRESS SHOULD PAY ATTENTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 5 minutes.

Mr. CORMAN. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial which appeared in the Los Angeles Times on Tuesday, June 28, concerning the Clinch River breeder reactor project.

Mr. Speaker, both Houses of Congress must deal with the breeder reactor issue shortly after the July 4 recess. Our decision, fraught with politically and scientifically explosive implications, will reverberate around the word. Other nations await our vote. We, in the Congress, have an opportunity, as well as an awesome responsibility, to stand back and carefully examine where and what this energy technology could lead to. I believe the Congress should support the President in his request to cancel construction of the Federal Government's demonstration breeder reactor.

An opportunity to do so will arise in the form of an amendment offered by Representative GEORGE BROWN to the ERDA appropriations legislation. Mr. BROWN's amendment will strike $117,000,000 from the $150,000,000 operating expenditures proposed for the Clinch River project. This is identical to President Carter's April budget proposal. The amendment is not meant to end the breeder program, or signal rigid opposition to the breeder concept. Rather, it is meant to face the reality that numerous factors have changed dramatically since the original breeder commercialization schedule was planned in the early 1970's.

New ideas of breeder design and demonstration have emerged in the intervening years. More design changes may be indicated by operations of the fast flux test facility, which is just beginning to provide test data. Most of all, awareness of proliferation dangers has suggested the need for a pause to develop an international framework for any eventual plutonium use. A pause, before large-scale breeder commercial demonstration, will provide time for such negotiations and needed modernization of design, and is fully compatible with timetables suggested in any case by nuclear demand and uranium resource projection.

The Los Angeles Times editorial follows:

CONGRESS SHOULD PAY ATTENTION

The Lawrence Livermore Laboratory is one of two scientific centers that do most of the research and development work on nuclear weapons for the U.S. government. It follows that when the laboratory's bomb-making experts warn, as they have done, that plutonium produced in civilian nuclear power plants could be used to make nuclear weapons, Congress should listen.

But the warning is not being heeded in Congress. That is evident in the strong opposition on Capitol Hill to President Carter's decision to stop the Clinch River breeder-reactor demonstration project—opposition that has been stoked by lobbyists for nuclear-equipment manufacturers, electric utilities and their trade associations.

Breeder reactors are designed to run on a mixture of plutonium, reprocessed from the spent-fuel elements of conventional nuclear reactors, and uranium. In the process of generating electric power, breeders will supposedly produce more plutonium than they consume.

Alternatively, plutonium separated from spent-fuel elements can be reused as fuel in the conventional reactors themselves.

The use of plutonium as reactor fuel, therefore, holds out the promise of squeezing a lot more usable energy from each pound of uranium—a characteristic that makes it attractive to electric-utility executives and to some energy planners worried about the long-range cost and availability of uranium.

Unfortunately, plutonium can also be used to make nuclear weapons, and no foreseeable system of international controls can prevent such diversions from occurring.

For this reason, Carter's energy plan calls for the extensive use of conventional power reactors, but for a ban on the separation of plutonium and an indefinite moratorium on the development of the plutonium-burning fast-breeder. The President, accordingly, announced his intention of halting the $2.2 billion project at Clinch River. The United States is making a major diplomatic effort to persuade other countries to follow the American lead.

Considering the perils that would arise from more and more countries gaining a nuclear-weapon capability, it is extremely important that this diplomatic effort succeed. And, indeed, some progress is being made; the West Germans, for example, announced two weeks ago that they would no longer export sensitive nuclear technology.

But the Carter Administration still faces an uphill fight, and its job will be made impossible if the breeder-reactor advocates continue to prevail on Capitol Hill.

The Senate Energy Committee, ignoring entreaties from the Administration, voted Monday to authorize $150 million to keep the Clinch River project going. The House Science Committee took similar action earlier this month.

Pro-breeder lobbyists have had considerable success with their argument—presented to congressmen and newsmen—that reactor-grade plutonium cannot, as a practical matter, be used in weapons.

The Lawrence Livermore Laboratory, as disclosed by Times reporter Robert Gillette on Sunday, strongly disagrees. It is self-evident that the laboratory knows more about what it takes to make a nuclear weapon than do utility executives and reactor manufacturers.

We urge the California congressional delegation to use its considerable weight to support the President and to oppose those who, for reasons of self-interest, would facilitate the spread of nuclear weapons in the world. If the pro-breeder forces nonetheless prevail, we urge Carter to use his veto.

PRESIDENT PROMISES TO MONITOR CLOSELY ROMANIA'S HUMAN RIGHTS AND EMIGRATION PERFORMANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, last month along with 54 other Members of the House I wrote the President concerning the extension of most favored nation trade treatment for the Socialist Republic of Romania. In our letter, we expressed concern that Romania had not fully complied with the terms of the Jackson-Vanik amendment to the Trade Act of 1974, which requires "nonmarket economy" countries such as Romania, who receive most favored nation treatment pursuant to that act, to maintain a free emigration policy.

In addition, the Jackson-Vanik amendment and the subsequent Helsinki Final Act, signed by both the United States and Romania, make not only free emigration but also human rights, such as the treatment of dissidents and minority groups, the proper subject of review in appraising trade and other relations between the United States and Romania. In our letter to the President, we asked that President Carter carefully review

the emigration trends from Romania, which appear to be particularly disappointing this year, and also to evaluate the treatment of dissidents and national minorities such as the Hungarian-speaking minority.

Although the President recommended on June 2 that most-favored-nation treatment be extended to Romania for another year, I am encouraged that the President's recommendation does appear to be sensitive to the problems mentioned in our letter. I am also pleased with the response that I have recently received from Frank Moore, the President's Special Assistant for Congressional Liaison, and I want to share it with my colleagues.

In his letter, Mr. Moore reiterates the administration's pledge to "monitor closely Romanian compliance with the objectives of section 402" and states that "should performance not accord with the intent of this provision" that the President "would want to reconsider this recommendation." The letter goes on to say that the Department of State has raised the question of emigration and human rights with the Romanian Government, and that the Department has received certain assurances from the Romanian Government with regard to emigration and that the Romanians have also taken steps to ease the tension caused by the arrest of a number of dissidents in Romania.

Specifically the Romanians have released over 19,000 prisoners in a general amnesty, and reduced the sentence of 9,500 others. Included in those released during May were several noted dissidents, including writer Paul Goma, Prof. Vlad Georgescu, and Baptist Iosif Ton.

I am also pleased that Mr. Moore's letter specifically indicates that the administration is "aware of and concerned about the charges of discrimination against the Hungarian minority in Romania." I urge the President to instruct the State Department to investigate these charges carefully and make a complete and fair report on the question of discrimination against the Hungarian minority.

As the Congress considers whether to exercise its option under the Jackson-Vanik amendment to disapprove the extension of MFN treatment for Romania, the forthcoming, cooperative, and candid assessment of the situation provided by the administration, as exhibited by this letter, will be of great assistance.

I am appending a copy of the letter that I sent to the President along with 54 other colleagues, and the response that I received from Frank Moore:

HOUSE OF REPRESENTATIVES,
Washington, D.C. May 18, 1977.

HON. JIMMY CARTER,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: One element of your announced policies which has met with almost unanimous approval in both Houses of Congress is your principled stand on the role of human rights in our foreign policy. We would like to call your attention to a particular situation where our foreign policy seems to conflict with our respect for fundamental human rights. . .

As you know, Romania is the only country which enjoys United States most-favored nation trade benefits subject to the human rights and free emigration conditions of Section 402 of the Trade Act of 1974. These trade benefits were granted in part because Romania, while remaining within the Communist bloc, allegedly was pursuing a foreign policy somewhat independent of the Soviet Union.

On June 3 of this year, the terms of Section 402 require your recommendation on whether the United States should continue to grant Romania a waiver from the free emigration requirements of the Trade Act. As you know, the law allows a waiver where it will substantially promote the human rights objectives of Section 402, and where you have received assurances that the emigration practices of Romania "will henceforth lead substantially to the achievement of the objectives of this section."

During the first two years of the United States-Romania Trade Agreement, the Romanian record on emigration has been highly unsatisfactory, according to evidence presented in the summer of 1975 and again last fall at Congressional hearings. During the most recent nine-month period (July, 1976 through March, 1977) the number of visas issued by Romania for emigration to both the U.S. and Israel has dropped precipitously when compared to the previous year's period. The number of visas to the U.S. dropped from 1054 to 715, and for Israel, from 2,157 to 1,146. Even those of us who supported the renewal of MFN last fall were disappointed in Romania's continued frustration and harassment of those seeking to emigrate. These latest figures are even more disappointing.

Moreover, last year very serious charges were raised about human rights violations against the several million minority inhabitants of Romania, including approximately 2.5 million Hungarians. Some of these allegations were substantiated by reference to official Romanian sources, and it appears that some of Romania's minority policies violate the Helsinki Agreement and other international covenants, all ratified by Romania. We feel that this question is also relevant to continuation of Romania's MFN status and request that you make representations to the Romanian Government accordingly.

Finally, the recent crackdown on dissidents as reported by the Associated Press, including the arrest of human rights leader Paul Goma, alleged beatings and "work assignments" in labor camps should also be taken into account when the extension of MFN is considered.

We do not want to prejudge this situation in advance of your recommendations, but before you make those recommendations, we hope that you will look into each of these human rights questions. We hope that the Romanian government can provide some evidence of its good faith by granting permission to emigrate to those who have been waiting long periods, by ceasing its harrassment of those who apply to emigrate, and by simplifying emigration procedures. While we are concerned about those who seek to emigrate, we are also concerned about the even larger number who will remain in Romania. We hope that in preparing your recommendation concerning a waiver of Section 402, you will be able to focus the attention of both the Romanian and our own government on the importance of human rights.

Thanking you for your kindness and cooperation, we are,

Sincerely,

EDWARD I. KOCH, CHRISTOPHER J. DODD, ROBERT F. DRINAN, JOSEPH P. ADDABBO, JEROME A. AMBRO, HERMAN BADILLO, JONATHAN B. BINGHAM, JAMES J. BLANCHARD.

DON BONKER, SILVIO O. CONTE, PHILIP M. CRANE, THOMAS J. DOWNEY, MICKEY EDWARDS, JOSHUA EILBERG, ALLEN E. ERTEL, DANTE B. FASCELL, JAMES J. FLORIO, DONALD M. FRASER, CHARLES E. GRASSLEY, MARJORIE S. HOLT, HAROLD C. HOLLENBECK.

FRANK HORTON, JAMES J. HOWARD, WILLIAM J. HUGHES, JACK F. KEMP, PETER H. KOSTMAYER, NORMAN F. LENT, ELLIOTT H. LEVITAS, CLARENCE D. LONG, STANLEY N. LUNDINE, LARRY MCDONALD, STEWART B. MCKINNEY, RALPH H. METCALFE, BARBARA MIKULSKI.

NORMAN Y. MINETA, JOE MOAKLEY, JOHN M. MURPHY, MARY ROSE OAKAR, RICHARD L. OTTINGER, DONALD J. PEASE, CLAUDE PEPPER, CHARLES B. RANGEL, MATTHEW J. RINALDO, ROBERT E. BAUMAN, FRED B. ROONEY.

JOHN H. ROUSSELOT, STEPHEN J. SOLARZ, NEWTON I. STEERS, JR., HENRY A. WAXMAN, THEODORE S. WEISS, LESTER L. WOLFF, JOHN W. WYDLER, GUS YATRON, HENRY J. HYDE, ED JENKINS.

THE WHITE HOUSE,
Washington, D.C., June 23, 1977.

HON. EDWARD I. KOCH,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN: The President has asked me, in consultation with the State Department, to respond to your letter of May 18 regarding the application of the Jackson-Vanik amendment to Romania and the role of human rights in United States foreign policy. As you know, the President is strongly committed to an American foreign policy based on the fundamental principle of respect for human rights. He is determined to conduct U.S. foreign policy—in cooperation with the Congress—in a way that upholds that principle.

The President's decision to recommend a further extension of the Section 402 waiver applicable to Romania was made after careful consideration of the issues raised in your letter. He determined that, despite concern over certain areas of Romanian performance, the objectives of the Jackson-Vanik amendment would be promoted by the continuation of most-favored nation tariff status for Romania. However, he has made it equally clear in his recommendation that this Administration intends to monitor closely Romanian compliance with the objectives of Section 402 and, should performance not accord with the intent of this provision, he would want to reconsider this recommendation.

With specific regard to emigration performance, we are encouraged that the overall trend of emigration approvals since the initial extension of most-favored nation tariff status has been favorable. However, we have noted with concern that an appreciable number of those who seek to emigrate to the United States or Israel have not yet been permitted to do so, and both our Embassy in Bucharest and the Department of State here in Washington have discussed that matter with high-level Romanian officials. These discussions have been received in a positive spirit by the Romanians, who have assured us that emigration cases will be treated in a humanitarian manner. The President has directed that, should Romanian actions or emigration trends fail to conform to such Romanian assurances, the Department of State will bring this to the attention of the Romanian Government.

Your letter also refers to recent reports of human rights violations in Romania. These reports were of concern to the President personally, and he directed the Department of State to raise our concern with high-level Romanian officials. We have since received indications that the Romanian authorities are well aware of the potential negative consequences of a pattern of increasingly repressive actions and that they have taken steps to relieve the tense atmosphere which prevailed in April.

On May 8 President Ceausescu announced a sweeping amnesty which provided for the release of approximately 19,000 Romanian prisoners and reduction in the sentences of 9,500 others. Several noted dissidents, in-

cluding writer Paul Goma, Professor Vlad Georgescu and Baptist Iosif Ton, have been freed from jail or detention. Some of those who signed Goma's petition and had encountered difficulties have been allowed to leave the country. To the best of our knowledge, none of the leading personalities involved in either religious or intellectual dissent is now being detained. We are therefore encouraged that our expressions of concern have been understood by the Romanian officials. We are also aware of and concerned about the charges of discrimination against the Hungarian minority in Romania.

Let me once again assure you that the Administration wishes to work closely with Congress in carrying out its foreign policy objectives. The President welcomes your initiative in bringing to his attention your concerns and, should you have further questions on this subject, we would be glad to address them.

Sincerely,

FRANK MOORE,
Assistant to the President for Congressional Liaison.

WILDERNESS LEGISLATION AFFECTING MONTANA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

Mr. BAUCUS. Mr. Speaker, today I place in the RECORD a series of questions and answers regarding wilderness legislation affecting Montana:

BAUCUS. I would like to talk about one of the most important issues facing Western Montana—what land should be classified as wilderness. As we all know there are some areas in Western Montana that are presently included in the national wilderness system. In Congress today, there are two legislative proposals to study other Montana areas for possible inclusion in the wilderness system. The first proposal, introduced by Congressman Morris Udall, is called the American Endangered Wilderness Bill. The second proposal, S. 393, was introduced by our senior Senator Lee Metcalf. S. 393 proposes studies for nine areas in Montana.

QUESTION. Well let's start with a general overview of the present situation. How much land is involved in all the various wilderness proposals?

BAUCUS. Montana has about 16.7 million acres in national forests. Of that total, 2 million acres are designated wilderness. Under study are the Elkhorn, Great Bear and selected roadless areas also totalling about 2 million acres. S. 393 proposes for study nearly 1 million more acres. Finally, H.R. 3454 recommends in the neighborhood of about 100,000 acres for wilderness study in Montana.

QUESTION. That sounds like a lot of land. I am curious as to what kind of impact the wilderness bills will have on forestry in Montana.

BAUCUS. That question goes to the heart of the dilemma that we face in Western Montana. How much of our land base can be designated as wilderness before our state's economy and wood products industry is adversely affected? We shouldn't forget that in Western Montana about 51 percent of our economy is dependent either directly or indirectly on the forest products industry.

The wilderness issue, in my judgment, depends almost entirely on how well we manage our forests. Currently our timber base is declining; production is declining as well. If we are to maintain current levels of production on existing roaded lands we must increase federal support for management of those lands.

QUESTION. With the problems of low production plus the incentives to try to keep our wilderness areas, what can be done to solve the problems of decreased production?

BAUCUS. Nearly every Montanan wants to maintain our high quality of life. We want to keep our mountains majestic and our streams clear. At the same time, we all want a good solid economic base. So the question is, "To what degree can we have both?" In order to achieve both, we must increase as much as possible federal support to forest management in Montana. This support should be directed toward our productive forests. That is, we should not place dollars in those areas in Montana which are low-productive sites or low yield. Instead, we should direct increased timber management budgets on high-productive sites.

This year, with my active support, the House Appropriations Committee increased the funding levels for timber management. The House increased the level up from 75 to 85 percent of full funding. This is $265 million above last year's Forest Service budget. For timber management alone, we increased Region I's budget by more than $19.5 million—about half of which (or nearly $10 million) would go to Montana's forests. This means that if we maintain the increased funding level—and I have assurances that we will—we'll be able to increase the Region's allowable harvest by about 200 million board feet by 1980. We should be able to increase sales in Montana in the neighborhood of about 100 million board feet.

So the point is, if we increase the intensity with which we manage our forests, we can actually increase timber yields and production without continuing to intrude on existing roadless areas. In other words, it is my hope, grounded upon some convincing evidence, that we will be able to save much of the wilderness areas in western Montana we value so highly.

QUESTION. What did you do in arriving at the decisions you made regarding the wilderness study areas?

BAUCUS. Well, I've devoted considerable time studying the subject. In the first place, I conducted a lot of town meetings in western Montana—Plains, Thompson Falls, Dillon, Missoula, Hamilton, Helena, Bozeman—areas that are all close to potential wilderness study areas. Obviously, questions regarding wilderness came up and that gave me a good chance to talk to people and get their views of whether they support or oppose more wilderness lands. Second, I travelled to most of the study areas myself. This gave me a better feel for each. Third, I talked with Forest Service officials. I also spoke with environmentalists to get their views, and I've spoken with timber industry people. In addition, I spoke with people who represent snowmobilers, off-road vehicle users, farmers and ranchers who own stock that now grazes on potential wilderness.

QUESTION. Well, getting back to the two bills, can you tell us a little about the Congressional situation?

BAUCUS. Right now, we're really talking about two major bills. The first is the American Endangered Wilderness bill introduced by Congressman Udall which includes three areas in Western Montana—Welcome Creek outside of Missoula, McGregor-Thompson between Thompson Falls and Kalispell, and Mt. Henry near Libby. That bill is now before the Public Lands Subcommittee in the House.

The second bill, S. 393 sponsored by Senator Metcalf, includes nine potential study areas. That bill passed the Senate and is now spending in the House. The House will probably be considering S. 393 within the next month.

QUESTION. On both of these bills—do they call for studies or do they designate areas as wilderness?

BAUCUS. Both are study bills. Neither would allocate one acre of wilderness. Since we don't have enough information to know whether the areas are in fact wilderness, they should be studied. Although the Carter Administration recommended instant wilderness classification for the three areas in Congressman Udall's bill (i.e., Mt. Henry, Welcome Creek and McGregor-Thompson), I don't think we know enough yet about the wilderness qualities of these areas or about the economic impacts that withholding these areas from development would have on adjacent communities.

QUESTION. So you are saying that both bills call for study, but the Administration wants to make instant wilderness out of the areas in the Endangered bill?

BAUCUS. That's right.

QUESTION. I understand that you are going to propose a major revision in Senator Metcalf's S. 393. Can you tell us what that revision would do?

BAUCUS. That bill calls for a five year study period. At the end of that period, the Forest Service has two more years to make its recommendations to the Congress. Thus, there is as long as a seven year period before Congress will get an opportunity to consider whether additional wilderness should be designated. In my judgment, that is just too long. Some of these areas have been partially studied. I feel it makes sense to reduce the study period. My amendment would shorten it from seven to three years.

QUESTION. During the study period, what happens to the wilderness areas themselves?

BAUCUS. This has been one question that has bothered me for some time. During previous studies, no uses were permitted. Thus, snowmobilers were not permitted to snowmobile during the study period; ranchers were given a hard time grazing cattle; and off-road vehicle users weren't allowed to drive in these areas.

I don't think we want to damage the land to the point that it can not longer be called wilderness. On the other hand, it seems to me that the Forest Service, during a study period, should permit, as many interim uses as possible, provided they don't jeopardize the area's wilderness potential.

QUESTION. What are your recommendations going to be to the Committee? Can we review the two different bills starting out with the Endangered bill first and then going on to S. 393 and can you then tell us what you are going to recommend to the Committee?

BAUCUS. In the first place, I disagree with the Carter Administration's proposal that McGregor-Thompson be designated instant wilderness. In fact I believe that the Forest Service has done a very good job in developing its land management plan in the McGregor-Thompson area. Because there is so much private holdings in McGregor-Thompson, there would be serious problems managing the area as wilderness.

Second, in the American Endangered Bill I also feel that Welcome Creek should not be included. It should not be designated as instant wilderness. I think that can be included in the Forest Service Rare II program (i.e. the Forest Service's recently announced program which will re-evaluate all the roadless areas during a fifteen month period). They are going to do that right now and I think that is the proper time for the Forest Service to look at Welcome Creek under Rare II.

The third area in the Endangered bill is Mt Henry. I think that Mt. Henry should be deleted from this bill, but retained in S. 393

QUESTION. Let's go then to S. 393. It has not only Mt. Henry but eight other Montana areas as well. What is your recommendation for the areas in S. 393?

BAUCUS. We can start with the Sapphire proposed study. That includes about 94,000 acres in the Deer Lodge and Beaverhead National Forests. I recommend that the Sapphire be included for wilderness study. I think that the Forest Service during its inventory of the Sapphires looked at units

which were much too small. They divided up the area into a number of little parcels and really didn't give the wilderness potential much of a chance. I think, therefore, that the Forest Service should restudy the area and make its recommendation within the three year period as to whether or not it should be designated as wilderness.

QUESTION. What about the Big Snowies area?

BAUCUS. Big Snowies and the Middle Fork of the Judith are actually located pretty close together. Both are located in the Lewis and Clark Forest in the Eastern District of Montana. The town closest to the areas is Lewistown.

The Big Snowies area totals about 91,000 acres in the Lewis and Clark forest. I recommend that it be included for wilderness study. Its impact on timber potential would be minimal. Also, it is located in an area where there is no other wilderness nearby. I think we should at least study it to see if it should be included.

The second area, the Middle Fork of the Judith, totals about 81,000 acres. I think it should also be studied as wilderness study. Like the Big Snowies area, the timber impact in the Middle Fork of the Judith would be relatively insignificant during the study period.

In both of these areas, I think it is imperative that the Forest Service draft reasonable regulations so that interim uses can be continued so long as the potential wilderness characteristics are not jeopardized. I mention that, with particular emphasis on the Judith area, because I understand there are nearly 70 miles of jeep and other improved roads.

QUESTION. Okay, let's go on to the Hyalite Porcupine Buffalo Horn. What should we do with that area?

BAUCUS. Hyalite Porcupine Buffalo Horn includes 151,000 acres in the Gallatin National Forest. The area is south of Bozeman down the southern portion of Western Montana. I think the wilderness potential there is significant. It should be studied. Also, the timber impact there would be minimal.

QUESTION. What about the Taylor-Hilgard area?

BAUCUS. Taylor-Hilgard is one of the more unique areas in Western Montana. It is about 289,000 acres in the Beaverhead and Gallatin National Forests. It is near Yellowstone National Park and has very significant wildlife characteristics in the area.

I think it should be studied. We need more information to see whether it should be included in the National Wilderness System.

QUESTION. What about the Ten Lakes area?

BAUCUS. The Ten Lakes is in the Kootenai National Forest and totals about 34,000 acres, and the timber impact really in the area is not significant. There are some planned sales. The real question there is not so much what the boundaries should be, but whether it should be scenic or wilderness. The area is near Glacier National Park and there are significant wildlife values there. I think we need a few more facts, so I recommend that it be included for wilderness study.

QUESTION. What about the Bluejoint area?

BAUCUS. The Bluejoint is about 61,000 acres. It's in the Bitterroot National Forest, the area south of the southern end of Ravalli County, down near Darby. I think it should be studied. There are no significant timber sales planned during this study period, and I think it should be studied.

QUESTION. Getting down to the last area in the Metcalf bill, what do you think about the West Pioneers area?

BAUCUS. The West Pioneer study area is probably one of the most difficult ones on which to make a decision. The area includes about 151,000 acres in the Beaverhead National Forest. I have flown over and walked through the area. I looked at it fairly extensively.

The Forest Service recently announced its plan which sets aside about 90,000 acres as proposed wilderness. Thus, the additional acreage would be around 60,000 under S. 393.

Beaverhead County has a very delicate economy. It is very dependent upon its livestock industry, and the town of Dillon has a sawmill which is very dependent upon a diminishing supply of timber.

The question in my mind is whether the inclusion of the West Pioneers into a study and perhaps into the wilderness system would have an adverse effect on Beaverhead's economy. All that being said, my judgment is that we should include the West Pioneers into a study; conduct the study as quickly as possible; and tell the Forest Service to pay particular attention to the economic aspects of the area.

QUESTION. What are your recommendations going to mean to the forest products industry?

BAUCUS. The essential question is the degree to which these recommendations will affect the forest products industry. One might think that it will have an adverse effect on the industry because during the study period (although it should be only three years) we would be taking a significant amount of acreage away from the timber land base. There are several points to keep in mind. In the first place, even though the acreage is in the neighborhood of 900,000 acres in the proposed study areas, most of it is in very low timber producing areas. Although estimates vary, it is clear that there is very little commercial forest land in these areas.

So the economic effect is probably not going to be very great at all. To make doubly sure that the effect on the timber industry is not significant during the study period, we are adding additional federal funds to national forest management, particularly in Montana. As I mentioned before, the Forest Service tells me that according to its figures, with the additional funds Congress is providing this year, we will be able not only to maintain, but probably increase the allowable harvest and the annual sales in Western Montana, even if about 900,000 acres of land are not logged during the study period.

QUESTION. Let's get in a little bit on the impact of what this will mean for Montana wilderness.

BAUCUS. Well, I think it is hard to say because this is a study bill. It is not really a bill to designate lands as wilderness. It will give Western Montanans a chance—probably for the last time in our state's history—to look at a significant acreage and decide whether it should be included in the American Wilderness System for ourselves, for the future, and for our children and grandchildren. Our land base is rapidly diminishing, and with each passing year, there are more and more intrusions into roadless areas—large parts of which are by and large wilderness. So what we are doing, during this study period of three years, is deciding, probably for the last time in Western Montana, whether these acres should be included in a wilderness system and therefore, whether they will be protected for ourselves and for our future.

STATUS OF MUTUAL SAVINGS BANKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 5 minutes.

Mr. HANLEY. Mr. Speaker, it is my pleasure to resubmit this legislation today with the welcome cosponsorship of 24 of my colleagues on the full Banking, Finance, and Urban Affairs Committee. As was pointed out at the time of the first filing of this bill, then designated H.R. 7179, this is an effort to bring parity of opportunity for the mutual savings banks which would be able to choose either a Federal charter or a State charter organizational mode.

The bill is quite straightforward—it grants no new powers and allows no expansion of savings banks outside States presently chartering such institutions. It does seek to establish the dual chartering option for savings banks such as is now available to commercial banks, savings and loan associations, and credit unions.

Mr. Speaker, at this time I request that my statement in the RECORD of May 13, 1977, be repeated so that a fuller outline of the context for the legislation may be available for our fellow Members. Also, as further commentary and analysis becomes available, I will update the dialog on this important matter.

The statement follows:

STATEMENT OF MR. HANLEY

Mr. Speaker, an imbalance has existed within the financial institutions structure of this Nation vis-a-vis the status of mutual savings banks. Despite the duality of our banking system in other regards, there is not any provision which will allow a State chartered mutual savings bank to solicit or be granted Federal chartering privileges.

On other occasions in the past both this House in its wisdom and our sister body have both moved to redress this disparity of opportunity. However, fate or circumstance has always seemed to intervene and frustrate this effort at establishing equity.

Mr. Speaker, the bill which I reintroduce today may well be a vehicle for the renewal of this long overdue adjustment in the banking system. Hopefully, the House Banking, Finance, and Urban Affairs Committee through its financial institutions supervision, regulation and insurance subcommittee can deal with this matter expeditiously and fairly.

Not that there is not some historical resistance to this Federal chartering, Mr. Speaker. There has been opposition in the past. However, a fresh look at this matter will disclose that refinements and stricter conditions have met the major objections of the past.

Unlike prior Federal charter proposals, this one would clearly restrict Federal savings banks to those States which charter mutual savings banks. Moreover, no institution which is not a State mutual savings bank at the time of its conversion to Federal charter could call itself a Federal mutual savings bank. The FHLBB could not charter de novo any institution to be called a Federal mutual savings bank.

Section 3 "grandfathers" the service powers and investment authority of converting state mutual savings banks but imposes a limitation on the extent of equity, corporate bond and consumer loan investments.

Section 6 is a necessary technical amendment which would provide positive Federal authority for state-chartered savings banks to convert to Federal charter.

This bill differs from its predecessors not only in that it limits Federal mutual savings bank charters to institutions that were state mutual savings banks at the time of conversion, but in addition would confer no new powers on converting savings banks. Indeed, the recommended grandfather clause in Section 3 would limit investment alternatives to some extent because State-chartered institutions would not be subject to the 5-year floating average.

The Congress should enact legislation to provide a federal charter alternative for ex-

isting state-chartered mutual savings banks. Such action would complete the dual banking system, correct a long-standing inequity in the nation's financial structure and provide significant long-run benefits to consumer savers and home mortgage borrowers.

Mutual savings banks operate as state-chartered institutions in 17 states and do not have the option of being chartered and regulated by the federal government. Commercial banks, savings and loan associations and credit unions, by contrast, have long had the choice of being chartered and regulated by the various states or by the federal government.

The benefits to the public of such a dual chartering system in promoting progessive financial legislation and regulation, financial innovation, increased competition and improved services in financial markets are widely recognized. There is no logical reason to deny mutual savings banks, and the consumers and communities they serve, equal access to the benefits of a dual system that are available to all other depository institutions.

Providing a federal alternative and the benefits of a dual system for existing state-chartered mutual savings banks is widely supported. There is no known opposition to this noncontroversial public-interest goal. Providing a federal alternative could easily be accomplished, moreover, by a few simple amendments to the federal savings and loan law. These amendments would, in effect, give existing state-chartered mutual savings banks the option of converting into federal savings and loan associations.

Those savings banks which might choose to exercise this option would be known as federal mutual savings banks and would be permitted to maintain certain assets and consumer services available to them at the time of conversion, in order to make a federal alternative a real possibility. Federal mutual savings banks would not be authorized in those states which do not authorize state-chartered mutual savings banks.

These simple amendments to provide a dual system for existing state-chartered mutual savings banks would confer no new powers. The availability of existing federal savings and loan powers—especially with regard to branching and full access to the Federal Home Loan Bank System's advances mechanism—could be attractive to some state-chartered savings banks. Future changes in federal savings and loan powers, moreover, would apply equally to federal mutual savings banks, and would provide continuing incentives for progressive savings bank legislation and regulation at the state level.

By establishing a progressive framework for the future evolution of savings banking within a dual system, a federal alternative for existing state-chartered savings banks would strengthen their long-run viability and reduce future pressures to convert into commercial banks. The preservation of strong mutual thrift institutions in the financial system is the best long-run guaranty that consumers will earn the maximum long-run return on their deposit savings, and that the nation's critical housing credit needs will be met.

These long-run benefits to the public argue strongly for Congressional action to provide a federal charter alternative for existing state-chartered mutual savings banks. In view of the widespread support for a federal alternative, there is no reason to delay any longer in extending the dual banking system to mutual savings banking.

Providing a federal charter alternative for existing state-chartered mutual savings banks is the least controversial issue in the entire area of structural reform for depository institutions. This is clearly evident in the extensive record of hearings on the Senate-passed Financial Institutions Act of 1975, on the FINE Study "Discussion Principles" and on the Committee Print of the Financial Reform Act of 1976, which all provided such an alternative. This record reveals no opposition to a federal alternative for state-chartered savings banks and widespread support for such a provision.

It is particularly significant that a federal alternative for existing state-chartered savings banks has been supported in recent testimony before the House Banking Committee by the major trade associations of the commercial banking, savings and loan, credit union, home building and real estate industries.

The American Bankers Association in December 1975 testified:

"The Association does not oppose Federal chartering of mutual savings banks but would limit the availability of Federal charters to states which specifically authorize the formation of mutual savings banks." [1]

The National Association of Home Builders in March 1976 testified:

"We are also, of course, in support of granting mutual savings banks the power to obtain Federal charters . . ." [2]

The National Association of Realtors in March 1976 testified:

"We are in agreement with extending the principle of the dual system of both Federal and State charter options now applicable to commercial banks and savings and loan associations to mutual savings banks . . . Such a system applied to mutual savings banks, will in our opinion, significantly strengthen the mortgage market. . . ." [3]

The United States League of Savings Associations in December 1975 strongly endorsed dual chartering systems and testified:

"We believe the public has been well-served by the dual system of chartering and examination . . . we remind the Subcommittee that the differing types of financial institutions—savings and loan associations, commercial banks, mutual savings banks and credit unions—need differing types of supervision." [4]

The National Savings and Loan League in March 1976 testified:

"The League also supports the conversion of mutual savings banks to Federally-chartered institutions . . ." [5]

The Credit Union National Association in March 1976 testified:

"The proposal for federal chartering of mutual savings banks opens the door for even more competition in the consumer credit and savings market." [6]

The record of recent testimony before the House Banking Committee also shows that a federal alternative for savings banks is supported by the federal regulatory agencies. For example:

The Federal Reserve Board in January 1976 testified:

"We support the proposal which would permit Federal chartering of mutual savings banks." [7]

The Chairman of the Federal Deposit Insurance Corporation in March 1976 testified:

"I have previously testified for the Corporation in general support of the objectives and provisions of the Senate-passed Financial Institutions Act, particularly those provisions which would enlarge the asset and liability powers of thrift institutions [and] provide a Federal charter option for mutual savings banks. . . . Naturally, the Corporation would favor those same provisions in the House bill. . . ." [8]

Support for a federal alternative for savings banks was also expressed in recent testimony before the House Banking Committee by the Conference of State Bank Supervisors and by individual state banking regulators. For example:

The Conference of State Bank Supervisors in March 1976 testified:

"CSBS supports the federal charter option for mutual savings banks in those 17 states in which they operate today under state charter, or in other states in which state administrations and legislatures may in the future choose to enact enabling legislation relative to mutual savings banks." [9]

The New York State Superintendent of Banks in March 1976 testified:

"The existence of a federal option for savings bank chartering is an essential part of the dual banking system. . . . I support this federal chartering and conversion option for mutual savings banks." [10]

Consumer groups have supported a federal alternative for savings banks.

The Kennedy, Johnson, Nixon and Ford Administrations have supported a federal alternative for savings banks.

The House Banking Committee has supported a federal alternative for savings banks. In 1967, the Committee voted to report the Federal Savings Institutions Act (H.R. 13718), which provided such an alternative.[11] A federal alternative for savings banks was again recommended by the Committee's staff in August 1973, in a comprehensive report on financial institutions.[12]

The Senate voted in December 1975 to provide a federal alternative for savings banks when it passed the Financial Institutions Act of 1975 by an overwhelming margin.

Finally, it is highly significant that a federal alternative for savings banks was recommended by three major study groups charged with examining the overall efficiency of the nation's financial system in recent years—the privately-sponsored Commission on Money and Credit in 1961; President Kennedy's cabinet Committee on Financial Institutions in 1963; and the Hunt Commission in 1971.[13]

FOOTNOTES

[1] American Bankers Association, testimony on the FINE Study "Discussion Principles" presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, December 17, 1975, page 24.

[2] National Association of Home Builders, testimony on the Committee Print of the Financial Reform Act of 1976 presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, March 23, 1976, page 7.

[3] National Association of Realtors, testimony on the Committee Print of the Financial Reform Act of 1976 presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, March 23, 1976, page 2.

[4] United States League of Savings Associations, testimony on the FINE Study "Discussion Principles" presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, December 18, 1975, page 32.

[5] National Savings and Loan League, testimony on the Committee Print of the Financial Reform Act of 1976 presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, March 4, 1976, Addendum, page 7.

[6] Credit Union National Association, Inc., testimony on the Committee Print of the Financial Reform Act of 1976 presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, March 9, 1976, page 5.

[7] Robert C. Holland, Member, Board of Governors of the Federal Reserve System, testimony on the FINE Study "Discussion Principles" presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, January 22, 1976, page 12.

[8] Frank Wille, Chairman, Federal Deposit Insurance Corporation, testimony on the Committee Print of the Financial Reform Act of 1976 presented to the House Subcommittee on Financial Institutions Supervision, Regu-

lation and Insurance, March 16, 1976, pages 1–2.

[9] Conference of State Bank Supervisors, testimony on the Committee Print of the Financial Reform Act of 1976 presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, March 16, 1976, page 19.

[10] John G. Heimann, New York State Superintendent of Banks, testimony on the Committee Print of the Financial Reform Act of 1976 presented to the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, March 16, 1976, page 17.

[11] *Federal Savings Institutions*, Report on H.R. 13718, House Report No. 1042, Committee on Banking and Currency, House of Representatives, 90th Congress, 1st Session, December 13, 1967, page 6.

[12] *Financial Institutions: Reform and the Public Interest*, Staff Report of the Subcommittee on Domestic Finance of the Committee on Banking and Currency, House of Representatives, 93rd Congress, 1st Session, August 1973, page 89.

[13] *Money and Credit: Their Influence on Jobs, Prices and Growth*, the Report of the Commission on Money and Credit, Prentice-Hall, Inc., Englewood Cliffs, New Jersey, June 1961, page 164; *Report of the Committee on Financial Institutions to the President of the United States*, U.S. Government Printing Office, Washington, D.C., April 1963, pages 33–35; *The Report of the President's Commission on Financial Structure and Regulation*, U.S. Government Printing Office, Washington, D.C., December 22, 1971, pages 59–60.

RESTORING SERVICE TO THE POSTAL SERVICE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am reintroducing the "Postal Service Act of 1977." This bill is identical to that introduced by Representatives JAMES M. HANLEY and CHARLES H. WILSON on June 8, 1977. I hope that this bill will help to provide both the President and the Congress greater opportunity to establish and to monitor postal policy, and to restore the concept of "Service" to primary in the conduct of the U.S. Postal Service.

Seven years ago, I was among those who supported the legislation which eliminated the old Post Office and replaced it with a new, quasi-independent corporation. I hoped that removing politics from the postal service would result in improved service and in more efficient operations. I was wrong.

Over the course of the past 7 years, rates have soared while service has been severely curtailed and has become increasingly unreliable. We are now told that Saturday deliveries will have to be ended. When will Friday deliveries suffer the same fate? Meanwhile, this reduced service costs all of us more—both through higher postal rates and through higher Federal Government subsidies.

I do not believe that Americans will—nor should they—tolerate increased rates and deteriorating service. It is a hardship upon business and private citizen alike. For low income groups and for the elderly, higher rates and service cutbacks impose special hardships and further isolate them from the world at large.

It is incumbent upon the Congress that we take measures to correct this situation. That is why I would like to take this opportunity to reintroduce the legislation of Mr. HANLEY and of Mr. WILSON as a gesture of my support for the goals of their bill.

URGENT NEED FOR CHILEAN REFUGEE BILL

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the following questions and answers with regard to my Chilean refugee bill (H.R. 5969), cosponsored by 30 of my colleagues (H.R. 7347 and 7366), prepared by Blair A. Ruble, a very able intern who has been working on my staff, illustrate dramatically the need for this legislation.

QUESTIONS AND ANSWERS

Q. Do we need a special law for Chilean Refugees?

A. Yes. It has been over three-and-three-quarter years since the government of President Salvadore Allende was overthrown. Since that time, nearly 30,000 people have fled Chile. These Chileans, as well as many of their countrymen still inside of Chile, have faced, and continue to face, severe difficulties. Amnesty International reports that over 1,500 Chileans has disappeared since the September, 1973 coup; another 5,000 have been executed. In Argentina, during the past two-and-one-half years, between 3,000 and 30,000 persons have disappeared. Many of these people were Chileans. The Amnesty report concluded by observing:

"There are about 12,000 Latin American refugees in Argentina registered with the UNHCR/United Nations High Commission for Refugees/ and possibly as many as 100,000 in all (mainly unregistered). Many of these people are Chileans who fled from Chile after the coup there in September, 1973 and were caught up in a similar, if not worse wave of terror and repression in Argentina. Many have been intimidated, abducted, tortured, and even killed . . . Chilean refugees . . . are not only the target for the DINA/Chilean secret police/ but also for Argentine security forces and extreme right-wing groups such as the Argentinian Anti-communist Alliance (AAA)."

The threat of sudden separation from one's family, torture and even death is but a limited aspect of the refugee's life. In addition, Chileans face a myriad of day-to-day problems, perhaps the most pernicious being the necessity of moving from one country to another. The coup in Chile created a new band of migrants moving across Latin America. Receiving permission to live in Ecuador for six months, in Venezuela for three, families are never allowed to settle down. Such disruptions are particularly hard on the children of refugees. Special measures are needed if such uncertainty is to come to an end.

Finally, special legislation is needed to overcome prejudices existing within the United States Immigration and Naturalization Service against refugees from right-wing governments. During the past three-and-three-quarter years, the United States has admitted approximately 1,600 Chilean refugees. Meanwhile, over 130,000 refugees from Indochina have immigrated to the United States, and, since 1961, over 650,000 Cuban refugees. These figures reflect a bias which exists not only in the Immigration and Naturalization Service, but also in Congress. During recent hearings on proposed amendments to the Immigration Act, some members distorted facts to reflect their preference for refugees from left-wing dictatorships. Questions were often exclusively framed with reference to the experience of refugees from Hungary, Czchoslovakia, and Indochina. Moreover, questioners misrepresented American financial aid to the United Nations High Commission for Refugees as financial assistance to move Chilean refugees all over Latin America. In addition, some belittled the considerable efforts of the Canadian government to help refugees. Without special legislation such as the Chilean Refugee Bill (H.R. 5969, 7347, 7366) prejudices such as those reflected in the actions of the Immigration and Naturalization Service and in the statements of some members of Congress can never be overcome.

Q. Hasn't the terror in Chile come to an end?

A. No. The Human Rights Commission of the Organization of American States reported in May, 1977 that while fewer persons are being arrested than in the past, the current military government continues to violate regularly the most basic human rights of its citizens.

Q. Aren't there thousands of Chilean refugees?

A. Yes, the United States Committee for Refugees reported that, at the beginning of 1977, there were approximately 10,000 Chileans in Argentina and approximately 10,000 in other Latin American countries. While the United States can not be expected to absorb all of these people, the American government should be willing to take in its fair share.

Q. Aren't all of the refugees Communists and Marxists?

A. No. While some Chilean refugees may be Marxists, many more are not. Spokesmen for Amnesty International are willing to testify that the current military government has sought to quiet a broad spectrum of democratic dissent, including that of non-Marxists as well as that of Marxists. The Chilean Refugee Bill (H.R. 5969, 7347, 7366) does allow consular officials to determine the degree to which the political views of a specific refugee might disqualify the applicant under current statutory restrictions.

Q. Hasn't there already been a Parole Program to assist Chileans?

A. Yes. In June, 1975, the United States established a program to assist Chileans in Chile. In October, 1976, a similar program was begun to help Chileans in Argentina. Under the initial program, 400 heads of family (about 1600 people in all) have been allowed to enter the United States. In addition to these persons, 40 more heads of family have been accepted pending expansion of the numerical limitations by Congress.

While both programs represent first good steps, much more remains to be done. The International Committee for European Migration reported that, as of April 1, 1977, additional opportunities for 1,000 prisoners and their dependents now in Chile were needed in order to complete the prison release program. In addition, there are thousands of Chileans already in the United States and in countries other than Chile and Argentina who could benefit from legislation such as the Chilean Refugee Bill (H.R. 5969, 7347, 7366).

In creating new programs to help these people, or in extending the old programs, Congress must be particularly aware of the difficulties faced by hundreds of Chileans who applied for entrance to the United States under existing law. For example, there has been a dangerously long waiting period from the time of application to the time of entry.

The first refugees under the 1975 program did not arrive in the United States until October, 1976; and the last families are only now arriving. Moreover, under the 1976 Argentine Parole Program, not one refugee has entered the United States as of May, 1977. This would not be unusual or noteworthy were it not for the fact that every day the application of a Chilean is delayed could cost that Chilean his or her life. This threat also often applies to whole families.

Under the current Parole Program, Chileans in Chile can apply only when they are actually under detention. Chileans are not eligible if they are under threat of arrest, or if they are picked up by the police, tortured, and released. Upon approaching the United States Embassy in Buenos Aires, those Chileans who did manage to flee to Argentina were told to register first with the Office of the United Nations High Commission for Refugees. However, that office has been broken into on no less than two occasions, with the files containing the identity and the whereabouts of Chilean refugees being stolen. Several individuals whose files were removed during these breakins soon disappeared. Thus, it is imperative that the application process for any program designed to assist Chileans be as expeditious as possible.

Finally, the application process remains quiet complex. This complexity creates a bias for those Chileans sophisticated enough to deal with American "Red Tape". Yet, if the United States is truly interested in the plight of political refugees in Latin America, or, for that matter, around the globe, Congress must design programs which will benefit not only the rich, the powerful, and the worldly, but also the poor, the weak, and the unsophisticated. For this reason, new programs must be carefully implemented so as to avoid unintentional discrimination often found in previous efforts.

Q. Do we know that Chilean refugees would want to come to the United States?

A. Yes. Representatives of the United States Committee for Refugees, of Amnesty International, and of a number of other groups directly concerned with the plight of Chilean refugees are ready to testify that a significant number of Chileans would be interested in coming to the United States if a quick, simple, and direct application process could be established.

Q. Wouldn't a program to help Chilean refugees cost the American taxpayer a great amount of money?

A. No. A new Chilean refugee program would not cost the American taxpayer anything. Transportation to the United States would continue to be paid for by the Intergovernmental Committee for European Migration. In addition, both national and community church-related organizations have offered to assist the refugees once they arrive in the United States. On May 31, 1977, John E. McCarthy, Director of Migration and Refugee Services of the United States Catholic Conference wrote Congressman Richard L. Ottinger that:

"It has been our privilege over the past years to provide resettlement opportunities without any costs to the United States Government for some hundreds of Chilean nationals who wish to establish new lives for themselves and their families in the United States. We have found these refugees to be hardworking, dedicated, and most anxious to become integral and contributing members of their communities."

"You can therefore be assured that we truly support your endeavors and are ready to provide for the resettlement opportunities of those who may be admitted to the United States . . ."

In addition, Mr. Patrick Taran, Program Coordinator of the Seattle Chilean Refugee Resettlement Program has written that his group would be very interested in assisting more Chileans. In short, it appears that a number of groups, religious and secular, national and local, would be willing to assist refugees. Chilean refugees need not become wards of the state.

Q. Can't the Chileans go elsewhere?

A. Yes. For example, the Canadian government continues its program under which representatives of the federal Ministry of Manpower and Immigration have been dispatched to Chile, to Argentina, to Panama, and to other Latin American countries to search out, to relocate, to retain, and to find Canadian employment opportunities for Chileans threatened by the present government in Chile. On June 14, 1977, the Canadian Government announced that the number of Chileans to be allowed to enter Canada under this program would be increased from 6,000 to 7,000. Thus far, Canada, a country whose population is but one-tenth of our own, has admitted nearly two-and-one-half times the number of Chilean refugees as the United States has. Canadian government officials are ready to testify that these refugees have been assimilated into Canadian society with relative ease. In addition, France has taken in 4,000 Chilean refugees while Italy, Sweden, and Switzerland have admitted smaller numbers. The time has come for the United States to accept its fair share, as well.

Q. Isn't the authority that the Chilean Refugee Bill (H.R. 5969, 7347, 7366) would grant to consular officials unprecedented?

A. Yes. As the answer to each of these questions indicate, the plight of Chileans is also unprecedented. This fact has been recognized by several social service organizations in the United States which has established special programs to assist Chileans, as well as by several of our allies, which have established unprecedented programs of their own. What everyone concerned with this problem agrees on is that swift application procedures are absolutely necessary for any program to succeed. One way in which that application process can be streamlined would be to grant to consular officials the authority provided in the Chilean Refugee Bill to make immediate determination concerning the application of a Chilean.

Q. Has there been any interest in Congress for such measures?

A. Yes. On May 23, 1977, Mr. Ottinger reintroduced the Chilean Refugee Bill (H.R. 5969) with thirty cosponsors:

H.R. 7347: Mr. Badillo; Mr. Bedell; Mr. Bonior; Mr. Brown of California; Mr. John Burton; Mr. Conyers; Mr. Downey of New York; Mr. Edgar; Mr. Edwards of California; Ms. Fenwick; Mr. Fraser; Mr. Harkin; Mr Harrington; Mr. Kastenmeier; Mr. Koch; Mr. LaFalce; Mr. McCloskey; Mr. McHugh; Ms. Meyner; Ms. Mikulski; Mr. Miller of California; Mr. Mineta; Mr. Mitchell of Maryland; and Mr. Moakley.

H.R. 7366: Mr. Moffett; Mr. Patterson of California; Mr. Simon; Mr. Stark; Mr. Waxman; and Mr. Weiss.

Mr. Speaker, the text of the Chilean refugee bill (H.R. 5969) can be found in the CONGRESSIONAL RECORD of April 4, 1977 on pages 10296–10297, or copies can be obtained from the office of Congressman RICHARD L. OTTINGER (202) 225–6506. The CONGRESSIONAL RECORD insert also contains his remarks on introducing H.R. 5969, and a section-by-section analysis of the bill.

THE WATERGATE SPECIAL PROSECUTOR FORCE HAS FAILED TO ACCOUNT FOR THE WORK OF THEIR OFFICE

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, in October 1975 the Watergate Special Prosecutor Force issued a report on the activities of that office. Shortly afterward I made a detailed analysis of questions left unanswered by that report and the many new questions it raised.

I was very disturbed that the final report issued on the closing of the Special Prosecutor's Office last week shed no further light on any of these matters.

I would like to insert in the RECORD the memorandum I prepared in December 1975:

MEMORANDUM: THE INADEQUACIES OF THE OCTOBER 1975 REPORT OF THE WATERGATE SPECIAL PROSECUTION FORCE

The Office of the Watergate Special Prosecutor was given the responsibility for conducting the most important criminal investigation ever undertaken in the history of the United States. Its mandate was clear: To prosecute all crimes arising out of the break-in at the Democratic Headquarters on June 17, 1972, and to investigate criminal charges against the then-President of the United States, Richard M. Nixon, and his staff.[1] The Office itself had been created in response to a national concern that the traditional law enforcement agencies were covering up the truth about criminal activities of government officials.

The report of the Watergate Special Prosecution Force, issued on October 16, 1975, fails to meet the requirements of informing the public about the historic mission of the Special Prosecutor. In fact, the report raises many new questions about the thoroughness of the Special Prosecutor's investigations, in addition to failing to answer the old questions—including those that gave rise to the formation of the Special Prosecutor's Office in the first instance. We still don't know who ordered the Watergate break-in and why, or what was President Nixon's precise role in the Watergate break-in and other illegal acts.

It is significant that Archibald Cox, in testimony during Senate hearings on Elliot Richardson's confirmation as Attorney General, promised the Senate and the American people that the report would include:

". . . the reasons for not bringing prosecution or reason for not indicting other figures, the exculpatory facts, if there were any—about other figures. . ."

If Archibald Cox had told the Senate at the time: "I will not prosecute any higher ups for the Watergate break-in, and I will not at the end of my investigation tell you who ordered the break-in and why it was ordered," the Senate of the United States would never have accepted that proposition or confirmed Elliot Richardson. It is plain that the Special Prosecutor was created expressly to answer those questions and to report the answers to the American public. Distressingly, the Report issued by Henry Ruth unilaterally abrogates the commitment made

---

[1] The Special Prosecutor was mandated to have ". . . full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General." Nomination of Elliot L. Richardson to be Attorney General, Hearing before the Committee on the Judiciary of the United States Senate, May 21, 1973 pp. 144–145.

by Mr. Cox to the United States Senate and flouts the expectations of the American public that, at the end of the investigation, criminal responsibility would be clearly assigned.

The Report is also defective for the following reasons:

1. The Report does not provide sufficient information to determine if the Special Prosecutor thoroughly and fairly discharged the broad responsibility given to his Office. "Was the investigation itself adequately completed?" remains an open question.

2. The Special Prosecutor was charged with investigating crimes committed by Richard M. Nixon. In early September, 1975, the Special Prosecutor presented to President Ford a memorandum of ten areas (in addition to the Watergate cover-up conspiracy) in which President Nixon's criminal culpability was being investigated. Yet, incredibly, there is not one word in the Report about the role that Mr. Nixon played in any criminal activity other than the cover-up. Nor do we learn whether the pardon issued to Richard Nixon aborted the ten investigations of Nixon's other possible criminal activities then in progress or aborted investigations of others who may have been implicated as cohorts.

3. Ambiguous descriptions of several investigations where no prosecutions resulted raise serious questions about the soundness of the Prosecutor's decisions.

4. The Report is remarkably uninformative, even with respect to matters in the public domain. It fails even to summarize the evidence on which defendants were ultimately convicted.

5. Certain policies of the Special Prosecutor may have resulted in fewer prosecutions than were warranted. While these policies may be the result of appropriate prosecutorial discretion, they may also demonstrate a questionable desire to preserve a perfect batting average in court. Specifically, these policies were: not to bring additional charges against defendants convicted of one serious crime; to allow defense attorneys prior to indictment to raise arguments against prosecution; and to use a stricter standard for bringing indictments than that of the American Bar Association Prosecutorial Standards.

A more detailed discussion of these problems follows.

I. THE WSPF REPORT DOES NOT PROVIDE SUFFICIENT INFORMATION TO DETERMINE IF A THOROUGH INVESTIGATION WAS MADE

A. Lack of information on Presidential tape recordings requested and listened to

Presidential tape recordings were the critical pieces of evidence at the Watergate cover-up trial; and disclosure of the June 23rd tape was the motivating factor in Nixon's resignation. Although the report elaborately describes the tapes requested before the pardon, it does not state which requests remained outstanding at the time of Nixon's resignation.

For the post-resignation period, the Report elaborately describes the methods used to review the Special Prosecutor's requests for tapes and documents, but gives no information about which tapes were actually requested and received after the resignation. It may well be true that the Special Prosecutor obtained all relevant information, but one lesson learned from Watergate is that neither the public nor the Congress should have to accept on faith alone that public officials did their jobs.

B. Was the investigation into President Nixon's criminal liability completed?

On September 3, 1974, Deputy Special Prosecutor Ruth prepared a memorandum, subsequently made public, stating that 10 matters were "still under investigation" which "may prove to have some direct connection to activities in which Mr. Nixon is personally involved." Significantly, the Special Prosecutor's Report does not state whether the investigation of these matters was completed or whether, as a result of the pardon, the investigations were halted in midstream. The Report gives no information about Richard M. Nixon's personal involvement, or lack of involvement, in any of these 10 matters. Indeed, it fails even to list the items covered in the memorandum.

Since the Special Prosecutor's Office was set up expressly to resolve the question of charges against Mr. Nixon, the public and the Congress should be told whether investigations of all criminal charges against him were completed. The Report is inexplicably silent on this subject.

In addition, curtailment of these investigations could have imapired investigations of persons associated with Nixon. Yet, here too, the Report's silence is deafening.

C. Was there at least tacit agreement that no indictment would follow a pardon?

The Report tells us that the Special Prosecutor examined the pardon to see whether it was issued pursuant to Presidential powers, and whether these powers were limited by the Special Prosecutor's charter. As a general matter of common law, even though a person may be legally empowered to issue a pardon, it may be invalid if obtained by bribery, fraud, or misrepresentation. Nowhere does the report assure us that those possibilities were examined.

In fact, the following passage in the Report seems to indicate that Mr. Jaworski felt that if a pardon were issued, there would be nothing further to investigate—about the pardon or Mr. Nixon.

"Jaworski had made it plain to staff members that he would not seek the former President's indictment if President Ford intended to pardon him. Accordingly, he met with Philip W. Buchen, President Ford's counsel on September 4. Jaworski reported later to staff members that during this meeting he had advised Buchen that the President's statements at the press conference had put the Special Prosecutor in a 'peculiar position' since the President's comments suggested that any action taken by WSPF against former President Nixon might prove to be futile.' "

This statement is disturbng. It seems to imply that the meeting was called by Mr. Jaworski; yet Mr. Buchen and Mr. Ford both stated that the meeting was initiated by Mr. Buchen. Also Mr. Ford and Mr. Buchen both stated that no commitments regarding prosecution were received from the Special Prosecutor prior to the pardon. This passage seems to indicate that Mr. Jaworski at least left an impression that there would be no indictment if Nixon were pardoned. The nature of the "peculiar position" in which Mr. Jaworski felt himself placed is mysterious, since Mr. Jaworski's mandate was to investigate and prosecute and let the chips fall where they might.

The ambiguity of this passage is particularly troubling in light of the serious questions which have been raised about President Ford's role, while still in the House of Representatives, in blocking a 1972 pre-election investigation of the Watergate break-in by Representative Wright Patman's Banking Committee. At hearings on Ford's confirmation as Vice President, Mr. Ford denied that his actions had in any way been motivated by White House requests. Yet a September 15, 1972 White House tape later revealed that President Nixon had clearly ordered H. R. Haldeman to see that Representative Ford was instructed to try and stop the investigation.

Furthermore, in an affidavit submitted to the House Judiciary Committee in November 1973, William Timmons flatly denied any communication with Mr. Ford regarding the Patman hearings. Yet Mr. Ford testified that he had talked in general terms with Mr. Timmons about the investigation. At these November hearings, I asked Mr. Ford to turn over to this subcommittee all tape recordings of conversations between Mr. Ford and Mr. Nixon. Mr. Ford avoided the question, saying the Attorney General had indicated the tapes belonged to President Nixon and that they were "being held for the benefit of the Special Prosecutor." Has the Special Prosecutor listened to these tapes?

Given that the nature of any commitments between Mr. Ford and Mr. Nixon were already in question, the specific details of the meeting between Mr. Jaworski and Mr. Buchen should be set forth in detail and all ambiguities resolved.

E. What was the basis for the decision not to indict Richard Nixon?

In regard to the decision not to indict Richard Nixon, the Report says:

"The Special Prosecutor concluded that the Supreme Court, if presented with the question, would not uphold an indictment of the President for the crimes of which he would be accused." (p. 122)

Yet on the previous page, the Report says that the staff's examination of ". . . the Constitution, relevant case law, and the historical and contemporary arguments" suggested that there was no constitutional basis for concluding that the President was immune from criminal process.

If the WSPF staff concluded that Richard M. Nixon could be indicted, and the Special Prosecutor reached the opposite conclusion his basis for doing so should be explained.[2]

F. Inadequate and confusing description of investigations

The Special Prosecutor's Report describes several investigations and the reasons for not commencing criminal prosecutions in some of them. The reasons given for failing to prosecute are not persuasive in all cases. For example:

1. Transcripts submitted to the House Judiciary Committee

The Report claims that no one was prosecuted for submitting incomplete Presidential transcripts to the Judiciary Committee because no criminal intent could be found. The WSPF reached this conclusion by deciding that President Nixon had made a bona fide offer to allow the Chairman of the House Judiciary Committee Mr. Rodino, and the ranking Republican member, Mr. Hutchinson, to verify the transcripts submitted to the Committee.

The Report concludes:

". . . all the available evidence indicated that the verification offer made by the White House to the Committee was made with the full expectation that the offer might indeed be accepted." (p. 55)

Therefore, the Report assumes that the offer could realistically have resulted in verification.

This conclusion is nonsense. In fact the Judiciary Committee rejected this offer for two reasons:

1. The authenticity and completeness of the tapes heard could not be verified since no technical experts would be allowed to examine them.

2. The time factor involved in having two people listen to the tapes—even assuming that all tapes had indeed been presented—was unrealistically long.

The Nixon verification offer applied to 23 tapes of 35 hours of conversation which covered 1308 pages of typed transcript. A former Judiciary Committee staff member has said that a "conservative estimate" of the time it took Judiciary staff members to transcribe the eight tapes submitted to the Committee in October 1973 was two hours per each min-

[2] Mr. Jaworski indicated in press reports that the decision was based on "politics of impeachment."

ute of tape.[3] At that rate, had Chairman Rodino and Ranking Minority Member Hutchinson undertaken to verify the tapes, and done nothing but listen to them eight hours per day, five days per week, verification would have taken two years. The impeachment inquiry would not have been resumed until President Nixon's term had expired.

To claim that such an offer was bona fide—as does the Special Prosecutor—strains credibility.

2. Wiretaps

The Report states that no prosecution occurred for any wiretap that might at any time have been construed as related to national security (p. 65). This policy is questionable, especially since the Report admits that at least one wiretap clearly became purely political soon after it was begun. Even more disturbing, the Report states that no prosecutions were brought on two wiretaps entirely unrelated to national security. In these instances, it claims, there was "insufficient evidence to bring criminal charges particularly when weighed against other matters under inquiry by WSPF as to some of the subjects of the wiretap investigation." (p. 65)

What does this statement mean? How can there be "insufficient evidence particularly when weighed against" something else? Was the evidence insufficient or not? This smokescreen of words raises serious doubts about the legitimacy of the prosecutor's decision.

3. Misuse of Internal Revenue Service

In January 1975 hearings, the members of the Special Prosecutor's staff testified that the Report would include information on federal agency abuse by the White House.[4] Such abuses vitally concern us as a nation, since Watergate greatly shook our confidence in the proposition that federal agencies are unbiased and nonpolitical.

Yet the Report contains virtually no useful information in this regard.

As to alleged misuse of the Internal Revenue Service by the White House for political purposes, we are told:

"It was concluded ultimately, however, that there was insufficient evidence and/or substantial legal problems mitigating [sic] against the bringing of any criminal charges." (p. 67)

If there was sufficient evidence to justify prosecution, the Report should have stated this, and, without naming names, made clear whether the persons involved were IRS or White House officials. If legal problems blocked prosecution, they should have been specified. In any event, the Report should have described in some detail the respective roles of White House and IRS officials.

Instead, as so often in the Report, what we read is a description of the problem, followed by a complete lack of specifics, and a defense of the prosecutor's conclusion.

4. Assault upon anti-war demonstrators

The Report tells us merely that "On the basis of several factors cited in Chapter 2, no criminal charges were brought" (p. 69) against those who allegedly assaulted anti-war protestors. This means, in effect, that any one of the 11 factors listed in Chapter 2 could have been responsible for the refusal to prosecute—including the health of a potential defendant or his wife. To conceal the evidence collected and the process whereby the WSPF decided that criminal prosecution was unwarranted by merely enumerating 11 diverse possible reasons for inaction is inexcusable.

5. Hughes and Rebozo

Serious questions remain unanswered about Howard Hughes' alleged $100,000 contribution held by Bebe Rebozo. A complete description of certain facts could have been set forth without compromising the parties' rights, and would have given us a better basis on which to judge the wisdom of the decision not to prosecute. For example, according to the publicly-distributed Senate Select Committee Report, Bebe Rebozo refused to produce a number of financial records for the Senate Select Committee. (p. 1071). Were these materials obtained by the WSPF?

After the Senate Select Committee Report, it appeared that a crucial piece of evidence in the Rebozo investigation was information possessed by Thomas Wakefield, a lawyer who claimed to have represented both Rebozo and Nixon. Wakefield claimed that this material was protected by the attorney-client privilege. Was this information obtained? If not, did the WSPF challenge the claim of privilege in court? If not, why not?

On September 21, 1975, the *New York Times* reported that Bebe Rebozo and Robert Abplanalp were never taken before the grand jury. The Congress and the public have a right to know if the report is true, and if so, why this decision was made.

II. Uninformative and Sometimes Misleading Nature of Report

A. NO BASIS FOR INFERRING SUBCOMMITTEE ACTION

In Appendix E, the WSPF describes Messrs. Ruth, Jaworski and Vorenberg's testimony on the WSPF final report before the Criminal Justice Subcommittee of the House Judiciary Committee on January 30, 1975. They then comment:

"In light of the arguments by the prosecutors against the proposed bills that would require release of raw investigative files, the Subcommittee on Criminal Justice decided not to proceed with legislation that would specify what WSPF reports should contain." (p. 216)

Nothing in any public record supports this inference about the Subcommittee's reasoning. Furthermore, no member of the Subcommittee suggested releasing the "raw investigative files." This statement is totally unsupported and conclusory; and casts doubt on the soundness of other conclusions in the report.

B. NO INFORMATION ON CASES IN WHICH COX AND RUTH RECUSED THEMSELVES

Specifics are offered only for Leon Jaworski's recusals (p. 40, fn. 2). We should also be told about cases in which Mr. Cox and Mr. Ruth did not participate.

C. NO SUMMARY OF IMPORTANT EVIDENCE

It would have been useful to the general public if the WSPF had summarized briefly the evidence in cases in which convictions were obtained or prosecutions brought.

D. UNSIGNED GRAND JURY INDICTMENTS

The Report should state if the Special Prosecutor refused to sign any indictments returned by the grand jury.

III. Troublesome Policies of the WSPF

A. REFUSAL TO BRING ADDITIONAL CHARGES AGAINST CONVICTED DEFENDANTS

The Special Prosecutor states that it was a matter of policy not to bring any additional charges against persons already convicted of a "serious crime" (p. 40).

The implications of this policy are most disturbing, since American prosecutors have not shown the same reluctance to prosecute thousands of less highly-placed offenders for multiple crimes when their involvement in multiple episodes could be proven.

If public officials have committed a serious crime, why should their further crimes be overlooked?

The inadequate justification given for dealing in this manner with public officials who abused the public trust is that second convictions would only have produced concurrent sentences. First, this cannot be said with certainty. More important, when cases involved misconduct of public officials, even if no additional penalty were imposed, the Special Prosecutor could have sought guilty pleas. Acknowledgment of the officials' guilt would have given the Congress and the public the definitive answers they expected.

B. DECISIONS NOT TO PROSECUTE

The Report states that prospective defendants' attorneys were invited to present arguments against prosecution. (p. 40) The WSPF acknowledges that this is a "departure from many federal prosecutors' normal practice." Since numerous risks are involved in this policy, including perjury, there is a need to know in greater detail the manner in which the policy worked, and its consequences. How many prosecutions were dropped as a result? Had evidence already been presented to the grand jury in these cases? Had the grand jury recommended an indictment? What was the nature and gravity of crimes involved? What types of arguments were found convincing?

C. QUESTIONABLE PLEA BARGAINING

Often policies described by the Report do not seem to explain particular results. We are told that defendants were generally required to plead to a felony charge carrying at least a five-year penalty. (p. 45) Nowhere is it explained why an exception was made for Richard Kleindienst.

The Report notes that perjury charges were waived when statements were not clearly perjurious or when defendants had pleaded guilty to a crime about which conflicting stories were told (pp. 36, 46). Neither of these policies seems to explain the disposition of Richard Kleindienst's case.

The Report states that plea bargaining did not cover undisclosed past crimes. When the January 8, 1973, tape played at the Watergate cover-up trial indicated Charles Colson had given conflicting testimony before the House Judiciary Committee, why was no prosecution commenced?

D. STANDARDS FOR SEEKING INDICTMENT

"The WSPF describes its attempt to approach a standard of seeking indictments only when all the available evidence, including a defendant's explanations, seemed likely to produce a guilty verdict at trial." (p. 37)

The Report admits that this is a different standard from the one required by the American Bar Association. To support its decision, the WSPF cites several sound considerations, but what were the consequences of applying a higher standard of prosecution in these cases than that used in hundreds of thousands of cases involving less well-known citizens?

The different standard of prosecution raises the question of a double standard of American justice—one for the highly placed and another for ordinary people. The sensitivity of this issue makes it vitally important to recount in detail the actual results of choosing a different standard of prosecution.

[3] Tapes from the Executive Office Building were of very poor quality; some portions had to be listened to nine or ten times. Tapes were reviewed by at least three people in order to reconstruct their substance.

[4] These hearings on the October 1975 Report were conducted by the Criminal Justice Subcommittee of the House Judiciary Committee.

ADMINISTRATION STATEMENTS JEOPARDIZE ISRAEL'S SECURITY AND PEACE IN MIDDLE EAST

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, I am deeply concerned that recent statements

by high administration officials signal a very dangerous shift for American policy in the Middle East—a shift that reduces chances for peace and threatens the security of Israel.

Until recently, this country's Middle East policy was based on four fundamental principles.

First, that while we would seek to mediate and facilitate discussions, a true peace could be arrived at only through face-to-face negotiations among the parties.

Second, that the basis for such negotiations would be Security Council Resolutions 242 and 338.

Third, that any true peace settlement would necessarily include permanent, recognized borders for Israel within which it could assure its own security, normal diplomatic and trade relationships among the parties, and an end to propaganda and trade warfare against Israel.

Fourth, that the United States would continue to provide Israel with the military and economic assistance it needs in order to protect itself.

In my judgment, statements by Vice President MONDALE, State Department spokesman Hodding Carter—speaking on behalf of the White House as well as the Department—and others in the past several weeks indicate that the administration is abandoning these very sound principles.

Instead of allowing the Arabs and Israelis to reach their own settlement, the administration seems to have decided what the settlement should be and is seeking to impose it on the parties. Instead of assuring that Israel has secure borders, the administration talks of "defense lines" outside of Israeli territory which would be maintained by international supervision. Instead of stating a genuine and complete peace as a final goal, the administration proposes only "steps by the Arabs toward the normalization of relations with Israel." Instead of guaranteeing continued American support for Israel, the State Department has reportedly sought to convey to the newly elected Israeli leadership that if Menachem Begin continues to express Israel's serious and justified concern over an independent Palestinian state on the west bank of the Jordan, he should forget about visiting this country in the next few weeks. Finally, instead of encouraging the parties to move toward negotiations at a pace which all sides can accept, the administration has said, that progress on peace "is essential this year if future disaster is to be avoided."

As Middle East policy, this set of positions is dangerous folly. Israel and its neighbors have been at war for 30 years. The administration cannot simply dictate a timetable for settlement, as it announces timetables for its own proposals. We are not dealing with welfare reform or tax reform or an energy package here. We are instead confronting infinitely delicate and complex issues of national survival.

Nor can the administration dictate the terms of the settlement, particularly when the terms outlined by its spokesmen suggest to the Arabs that they need not negotiate with Israel at all, that the United States will give them all they want. If the Arabs are encouraged to believe that they do not have to negotiate, and the Israelis are made to fear that they will be asked for impossible concessions, the result will be increased intransigence on all sides.

In enunciating the goal of a just and lasting peace in the Middle East, the President has spoken for all of the American people. I believe this administration now must recognize that this goal cannot be achieved instantly, and that this country cannot impose the settlement. Only the parties involved can determine the elements of an agreement that will protect their essential national interests. We can best help them reach such an agreement by showing patience, moderation and a continued adherence to the fundamental principles of our Middle East policy set forth earlier.

HELSINKI'S UNFULFILLED PROMISE: BORIS PENSON

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, earlier this month the signatories to the Helsinki agreement met to begin preparations for this fall's review of compliance with the accords. It will not take intensive study to reveal that the Soviet Union's repressive emigration policy and wanton disregard of human rights belies that government's supposed commitment to observance of the accords.

Like many other prisoners of conscience in the Soviet Union, Boris Penson has been persecuted solely because of his desire to emigrate to Israel. Initially arrested at age 17, Boris was sentenced to 3½ years at hard labor, gaining his release in 1968. Subsequently, he embarked on a career as an artist, and, according to those who have studied his paintings, his works understandably evoke moods of anguish and desperation.

Boris was arrested a second time in June 1970, accused of trying to escape across the Finnish border to Israel. In testimony at his trial 6 months later, he described the unbearable frustrations of repeatedly applying for and continually being denied an exit visa to Israel. Despite his testimony, at the prosecutor's request he received a 12-year sentence in a strict regime camp for his "crimes" of "betrayal of the fatherland" and "misappropriation of state or public property." Two of his codefendnats were sentenced to death, although Boris was among those who appealed to the court to spare their lives.

As a result of public condemnation of the harsh sentence, Boris' term was reduced to 10 years at forced labor, hardly an overwhelming act of mercy.

There is ample cause for concern about Boris' treatment in prison. Soviet authorities have been uncooperative about providing information as to his condition, and his mother was routinely denied the opportunity to visit him at the work camp. Boris has been warned recently by camp officials that if he continues to participate in hunger strikes with other prisoners of conscience, he will be transferred to another labor camp under harsher conditions.

Boris Penson's mother emigrated to Israel last year and subsequently visited the United States seeking support for her son's release. She has recently written an eloquent letter to Soviet authorities, pleading for a pardon for Boris:

> No matter what kind of violation of law my son has committed, I am sure that he is not a criminal to have earned such a hard punishment. He did not shed any blood, was not a spy or a saboteur, did not engage in any propaganda against the Soviet Union, did not call for the overthrowing of the Soviet regime; he did not rob anyone and did not use violence against anyone. Is it possible that the long years of separation from his mother, the hard times in prison, the difficult life conditions and the separation from his vocation—art, is it possible that he did not atone for his crime, no matter how heavy it was, by these difficult seven years that he has lost?

Mr. Speaker, Boris Penson has committed no crime. He is simply a Jew who wishes to emigrate to Israel. His imprisonment is unconscionable; it is further evidence of the Soviet Union's callous failure to facilitate the free movement of peoples and the reunification of families required by the Helsinki agreement.

It is our responsibility to focus the world's attention on the Soviet Union's contemptuous attitude. Our own commitment to the struggle for freedom of emigration for Soviet Jews and human rights around the world must never be in doubt. It is my hope that Boris Penson will be the beneficiary of this commitment and will soon join his mother in Israel.

CONFERENCE REPORT ON H.R. 7556

Mr. SLACK submitted the following conference report and statement on the bill (H.R. 7556) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95-476)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7556) "making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 7, 21, 25, 29, 34, 36, and 68.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 8, 9, 12, 14, 16, 18, 19, 22, 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 51, 55, 56, 57, 59, 60, 82, 83, 84, 85, 86, 87, 88, and 89, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$65,500,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree

to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$12,200,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: ", including $10,000,000 for antitrust enforcement grants to the States authorized by section 309 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

And the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$39,785,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$179,075,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$266,450,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$259,576,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$647,250,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

For expenses necessary to carry out the provisions of title II of the Public Works and Economic Development Act Amendments of 1976, as amended, $750,000.

And the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$45,235,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$382,500,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "26,825,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$65,947,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$607,506,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$50,822,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,480,000"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$77,050,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$61,400,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$205,000,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,100,000"; and the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$605,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 32, 33, 52, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, and 90.

JOHN M. SLACK,
NEAL SMITH,
JOHN J. FLYNT, JR.,
BILL ALEXANDER,
YVONNE BRATHWAITE BURKE,
JOSEPH D. EARLY,
GEORGE MAHON,
ELFORD A. CEDERBERG,
MARK ANDREWS,
CLARENCE E. MILLER,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
THOMAS F. EAGLETON,
DANIEL K. INOUYE,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DECONCINI,
LOWELL P. WEICKER, JR.,
EDWARD W. BROOKE,
MARK O. HATFIELD,
TED STEVENS,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7556) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

Salaries and expenses

Amendment No. 1: Appropriates $604,000,000 as proposed by the Senate instead of $598,200,000 as proposed by the House. The amount approved includes funds to establish passport agencies in Houston, Texas; Detroit, Michigan; and in the State of Connecticut.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

Contributions to international organizations

Amendment No. 2: Appropriates $325,979,000 as proposed by the House instead of $306,729,000 as proposed by the Senate.

The amount approved includes funds for technical assistance which the Senate proposal would not have allowed. Approval of such funding, however, does not mean that the conferees condone the present situation with respect to such funds.

The conferees are concerned over the growing tendency of United Nations specialized agencies to increase their assessed budgets to finance technical assistance programs. The Committee firmly believes that technical assistance should be financed through voluntary contributions, and not by substantial increases in regular assessed budgets of international organizations. In particular, technical assistance activities should be voluntarily financed by the United Nations Development Program.

The conferees believe it is time to go beyond encouraging the Secretary of State to express concern with the international organizations funding technical assistance programs in the assessed budgets. The State Department should recognize and develop new policies to account for the fact that many of the large specialized agencies have become development institutions providing technical assistance as well as common purpose organization fostering technical cooperation, that distinctions between assessed budget and voluntary budget activities have become obscured, and that more rationality, planning, and sense of overall objectives have to be injected into the budgeting and programming process for both assessed and voluntary contributions. The conferees instruct the Department to report on how it intends to deal with this problem in the next budget cycle.

These comments should serve as a warning to the UN and other international agencies that the continuation of current funding trends threatens to call into doubt the basic understandings necessary to preserve the willingness of large donors to honor assessed contributions.

MISSIONS TO INTERNATIONAL ORGANIZATIONS

Amendment No. 3: Appropriates $10,144,000 as proposed by the Senate instead of $9,900,000 as proposed by the House.

INTERNATIONAL COMMISSIONS

American sections, international commissions

Amendment No. 4: Appropriates $2,232,000 as proposed by the Senate instead of $2,200,000 as proposed by the House.

EDUCATIONAL EXCHANGE

Mutual educational and cultural exchange activities

Amendment No. 5: Appropriates $65,500,000 instead of $66,500,000 as proposed by the House and $64,500,000 as proposed by the Senate.

CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

Amendment No. 6: Appropriates $12,200,000 instead of $11,000,000 as proposed by the House and $12,600,000 as proposed by the Senate.

GENERAL PROVISIONS—DEPARTMENT OF STATE

Amendment No. 7: Deletes proposal of the Senate to insert language requiring that no less than $165,000 of the amount appropriated to "Salaries and Expenses" be available only for six additional positions in the Bureau of Oceans and International Environmental and Scientific Affairs.

The conferees have deleted this proposal without prejudice. They are agreed, however, that such funding is included and that six additional positions are to be assigned to the Bureau of Oceans and International Environmental and Scientific Affairs to support the creation of a policy assessment group in order to give that Bureau a long-range planning capability.

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

Salaries and expenses

Amendment No. 8: Appropriates $26,067,000 as proposed by the Senate instead of $25,067,000 as proposed by the House.

Amendment No. 9: Designates $2,000,000 for the Federal justice research program as proposed by the Senate instead of $1,000,000 as proposed by the House.

LEGAL ACTIVITIES

Salaries and expenses, Antitrust Division

Amendment No. 10: Designates $10,000,000 for antitrust enforcement grants to the States, as proposed by the Senate, but deletes "not to exceed" language.

Amendment No. 11: Appropriates $39,785,000 instead of $29,785,000 as proposed by the House and $41,678,000 as proposed by the Senate.

Although $1,893,000 of the increase proposed by the Senate has not been approved, the conferees are concerned about additional requirements of the Antitrust Division. The Appropriations Committees of the House and the Senate will entertain a supplemental request for the Antitrust Division in the event the Administration determines that sufficient funds are not available to vigorously prosecute major antitrust cases.

Salaries and expenses, United States attorneys and marshals

Amendment No. 12: Inserts language concerning supervision of United States prisoners in non-Federal institutions, as proposed by the Senate.

Amendment No. 13: Appropriates $179,075,000 instead of $178,300,000 as proposed by the House and $179,300,000 as proposed by the Senate. The increase over the House amount will fund 25 positions transferred from the Bureau of Prisons, plus 10 additional positions for maintenance of contracts for and inspection of non-Federal detention facilities.

SUPPORT OF UNITED STATES PRISONERS

Amendment No. 14: Appropriates $21,000,000 for support of United States prisoners in non-Federal institutions, as proposed by the Senate. This account has been transferred from the Federal Prison System in accordance with the realignment of responsibility for support of certain United States prisoners in non-Federal institutions.

IMMIGRATION AND NATURALIZATION SERVICE

Salaries and expenses

Amendment No. 15: Appropriates $266,450,000 instead of $269,500,000 as proposed by the House and $260,350,000 as proposed by the Senate.

The amount approved is $10,138,000 more than the budget request. The increase will fund 454 additional positions distributed as follows: 100 for inspections, 150 for border patrol, 36 for investigations, 23 for detention and deportation, 45 for immigration and naturalization records, and 100 for dealing with additional workload brought on by the Western Hemisphere legislation. The increase above the budget request also includes funds for additional sedans, trucks, radios, night viewing devices, fence and lighting in the Chula Vista sector, and intrusion sensors.

The conferees are agreed that three of the additional positions allowed are to be assigned to the processing of applications for border cards at the ports of entry at Nogales, Arizona. These are in addition to positions presently assigned to Nogales.

FEDERAL PRISON SYSTEM

Salaries and expenses, Bureau of Prisons

Amendment No. 16: Inserts language concerning support of United States prisoners in non-Federal institutions, as proposed by the Senate.

Amendment No. 17: Appropriates $259,576,000 instead of $234,040,000 as proposed by the House and $264,650,000 as proposed by the Senate.

The conferees support the efforts of the Department of Justice in trying to work out arangements with the Department of Defense to establish prison camps on military installations and urge the Department to proceed as expeditiously as possible. The conferees expect the Department to report to the Appropriations Committees of the House and the Senate by October 1, 1977, on progress made in this effort. The Committees will be pleased to consider budget requests for establishing and operating such camps when firm arrangements have been made.

BUILDINGS AND FACILITIES

Amendment No. 18: Appropriates $38,850,000 as proposed by the Senate instead of $54,400,000 as proposed by the House.

SUPPORT OF UNITED STATES PRISONERS

Amendment No. 19: Deletes proposal of the House to appropriate $35,063,000. The language and appropriation have been transferred to other accounts in accordance with the realignment of responsibility for support of certain United States prisoners in non-Federal institutions.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Salaries and expenses

Amendment No. 20: Appropriates $647,250,000 instead of $700,000,000 as proposed by the House and $694,500,000 as proposed by the Senate. The amount approved includes $100,000,000 for the juvenile justice and delinquency prevention program, $30,000,000 (plus an additional $10,000,000 from prior appropriations) for the law enforcement education program, $15,000,000 for the community anticrime program, and $15,000,000 for carrying out the Public Safety Officers Benefits Act.

Funds are included in this appropriation item for grants under Part E of the Omnibus Crime Control and Safe Streets Act. These grants are for correctional institutions and programs, including the construction of local jails. The conferees feel that, in considering proposals under this program, proper weight should be given to the requirements of local communities. The conferees urge that LEAA, in applying standards for jail construction as part of the project approval process, give consideration to the needs of local communities, and where State standards exist use those standards in the certification of funding for local jails.

Amendment No. 21: Deletes proposal of the Senate to insert language setting forth the declarations and purposes of the Omnibus Crime Control and Safe Streets Act of 1968.

TITLE III—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

Salaries and expenses

Amendment No. 22: Appropriates $15,750,000 as proposed by the Senate instead of $15,725,000 as proposed by the House.

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Amendment No. 23: Appropriates $750,000 as proposed by the Senate, but deletes language making funds available until September 30, 1979.

BUREAU OF THE CENSUS

Salaries and expenses

Amendment No. 24: Appropriates $45,235,000 instead of $44,560,000 as proposed by the House and $45,560,000 as proposed by the Senate.

Funds are included within the total amount provided to carry out the social indicators program. Funds are also included to carry out the survey of residential alterations and repairs and the survey of State and local government finances on a semiannual basis.

BUREAU OF ECONOMIC ANALYSIS

Salaries and expenses

Amendment No. 25: Appropriates $13,475,000 as proposed by the House instead of $13,749,000 as proposed by the Senate.

The conferees are agreed that the program to measure the quality of life may be carried out within the total amount provided.

ECONOMIC DEVELOPMENT ADMINISTRATION

Economic development assistance programs

Amendment No. 26: Appropriates $382,500,000 instead of $360,000,000 as proposed by the House and $405,000,000 as proposed by the Senate.

The conferees are agreed on the following distribution of the total amount provided:

Activity	*Conference agreement*
Public works	$184,000,000
Business development	68,000,000
Planning, technical assistance and research	35,500,000
Section 304 grants to States	20,000,000
Economic adjustment	72,000,000
High Plains study	3,000,000
Total	382,500,000

The conference agreement includes $15,000,000 to begin the Section 204 redevelopment area loan program authorized by the Public Works and Economic Development Act Amendments of 1976. Of this amount 50 percent is to be spent in redevelopment areas with populations under 100,000 including nonstandard metropolitan statistical areas and 50 percent is to be spent in redevelopment areas with populations exceeding 100,000.

In addition, $3,000,000 is provided to study the depletion of natural resources of the High Plains region and to develop plans to increase water supplies in that area; and $500,000 is provided out of the $2,500,000 for research for the regional economic development internship program.

The conferees are also agreed that out of the funds for the technical assistance program, EDA should provide technical assistance grants for the planning, development and implementation of center city industrial parks in major U.S. cities.

ADMINISTRATION OF ECONOMIC DEVELOPMENT

Assistance programs

Amendment No. 27: Appropriates $26,825,000 instead of $26,725,000 as proposed by the House and $26,925,000 as proposed by the Senate.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Operations and administration

Amendment No. 28: Appropriates $65,947,000 instead of $65,775,000 as proposed by the House and $66,250,000 as proposed by the Senate.

The conferees expect the foreign buyer program to be maintained and the Sydney Trade Center to be kept open and operated within the total amount provided in this appropriation.

UNITED STATES TRAVEL SERVICE

Salaries and expenses

Amendment No. 29: Appropriates $14,190,000 as proposed by the House instead of $14,500,000 as proposed by the Senate.

The conferees are agreed that the multilingual receptionists program should be maintained at the current level of funding within the total amount provided in this appropriation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Operations, research, and facilities

Amendment No. 30: Appropriates $607,506,000 instead of $595,000,000 as proposed by the House and $620,290,000 as proposed by the Senate.

The amount appropriated includes $1,000,000 to expand East coast marine resource surveys; $500,000 for East coast whale studies; $906,000 to expand the environmental assessment program in the Southeast region; $200,000 to maintain the *Oregon* in an active status; and $3,430,000 to fund various aquaculture programs including the construction and operation of a research facility at Oregon State University, expansion of the National Marine Fisheries Research Laboratory at Milford, Connecticut, and expansion of Alaska salmon ocean ranching research. In addition, a total of $3,750,000 is provided for the OCEAN LAB project, $500,000 for undersea research; $700,000 for deep ocean data buoys; $3,476,000 for funding portions of various programs required to be absorbed within the House allowance; and $31,767,000 for the Sea Grant program. The conferees are agreed that of the $4,000,000 provided above the budget request for the Sea Grant program, $2,000,000 is to be allocated to the basic program and $2,000,000 to national projects, Sea Grant fellowships and international cooperation assistance.

The conferees are agreed that a snow pack analysis program using aerial gamma radiation survey techniques shall be carried out within the total amount provided.

COASTAL ZONE MANAGEMENT

Amendment No. 31: Appropriates $50,822,000 instead of $44,800,000 as proposed by the House and $57,000,000 as proposed by the Senate.

The amount provided includes $11,028,000 for program development grants; $17,690,000 for energy impact formula grants; and $3,592,000 for program management costs.

In addition, the conferees expect that sufficient funds will be made available through a fiscal year 1977 reprogramming to enable the State of Ohio to acquire the Old Woman Creek Estuarine Sanctuary site.

CONSTRUCTION

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for the design and construction of facilities at Sand Point, Seattle, Washington.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$15,500,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

Operations, research, and facilities

Amendment No. 34: Appropriates $13,850,000 as proposed by the House instead of $15,850,000 as proposed by the Senate.

PATENT AND TRADEMARK OFFICE

Salaries and expenses

Amendment No. 35: Appropriates $89,500,000 as proposed by the Senate instead of $89,590,000 as proposed by the House.

MARITIME ADMINISTRATION

Research and development

Amendment No. 36: Appropriates $18,325,000 as proposed by the House instead of $20,725,000 as proposed by the Senate.

Operations and training

Amendment No. 37: Appropriates $54,200,000 as proposed by the Senate instead of $53,000,000 as proposed by the House.

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

Care of the building and grounds

Amendment No. 38: Appropriates $800,000 as proposed by the Senate instead of $825,500 as proposed by the House.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

Salaries of judges

Amendment No. 39: Appropriates $39,700,000 as proposed by the Senate instead of $39,797,000 as proposed by the House.

Salaries of supporting personnel

Amendments Nos. 40 through 44: Condense language, as proposed by the Senate, concerning grade ceiling for secretaries and law clerks. The meaning of the proviso is not changed by these amendments.

TITLE V—RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

Arms control and disarmament activities

Amendment No. 45: Appropriates $13,600,000 as proposed by the Senate instead of $13,255,000 as proposed by the House.

BOARD FOR INTERNATIONAL BROADCASTING

Grants and expenses

Amendment No. 46: Appropriates $65,900,000 as proposed by the Senate instead of $60,660,000 as proposed by the House.

COMMISSION ON CIVIL RIGHTS

Salaries and expenses

Amendment No. 47: Appropriates $10,480,000 instead of $10,540,000 as proposed by the House and $10,420,000 as proposed by the Senate.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Salaries and expenses

Amendment No. 48: Appropriates $347,000 as proposed by the Senate instead of $325,000 as proposed by the House.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Salaries and expenses

Amendment No. 49: Appropriates $77,050,000 instead of $76,800,000 as proposed by the House and $77,150,000 as proposed by the Senate.

Funds are included for moving to Dallas, Texas the litigation center now located in Denver, Colorado.

FEDERAL COMMUNICATIONS COMMISSION

Salaries and expenses

Amendment No. 50: Appropriates $61,400,000 instead of $61,300,000 as proposed by the House and $61,500,000 as proposed by the Senate.

The conference agreement provides $100,000 over the amount in the House bill for four additional positions to assist the Federal Communications Commission in developing policy options concerning various communications issues.

FEDERAL MARTIME COMMISSION

Salaries and expenses

Amendment No. 51: Appropriates $9,424,000 as proposed by the Senate instead of $8,950,000 as proposed by the House.

INTERNATIONAL TRADE COMMISSION

Salaries and expenses

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

INTERNATIONAL TRADE COMMISSION

Salaries and expenses

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $11,500,000: *Provided*, That no part of this appropriation shall be used to pay the salary of any member of the International Trade Commission who shall hereafter participate in any proceedings under sections 336, 337, and 338 of the Tariff Act of 1930, wherein he or any member of his family has any special, direct, and pecuniary interest, or in which he has acted as attorney or special representative: *Provided further*, That no part of the foregoing appropriation shall be used for making any special study, investigation, or report at the request of any other agency of the executive branch of the Government unless reimbursement is made for the cost thereof.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

LEGAL SERVICES CORPORATION

Payment to the Legal Services Corporation

Amendment No. 53: Appropriates $205,000,000 instead of $217,000,000 as proposed by the House and $195,000,000 as proposed by the Senate.

SECURITIES AND EXCHANGE COMMISSION

Salaries and expenses

Amendment No. 54: Appropriates $58,100,000 instead of $58,000,000 as proposed by the House and $58,290,000 as proposed by the Senate.

SMALL BUSINESS ADMINISTRATION

Salaries and expenses

Amendment No. 55: Deletes a line of the heading as proposed by the Senate. That line in the heading is no longer necessary since no funds are to be provided by transfer.

Amendment No. 56: Appropriates $164,000,000 as proposed by the Senate instead of $43,150,000 as proposed by the House.

Amendment No. 57: Deletes proposal of the House to transfer $110,000,000 from the revolving funds, since that amount is included in the direct appropriation provided in amendment number 56.

Business loan and investment fund

Amendment No. 58: Appropriates $605,000,000 instead of $750,000,000 as proposed by the House and $520,000,000 as proposed by the Senate. The amount provided includes $190,000,000 for 7(a) direct and immediate participation business loans, as well

as funds to carry out a 7(a) guarantee program of $2,750,000,000.

Disaster loan fund

Amendment No. 59: Appropriates $115,000,000 as proposed by the Senate instead of $120,000,000 as proposed by the House. The amount approved by the conferees is to enable the Small Business Administration to provide loans at the following levels: $70,000,000 for disaster loans, $30,000,000 for displaced business loans, and $180,000,000 for other non-physical disaster loans.

UNITED STATES INFORMATION AGENCY

Acquisition and construction of radio facilities

Amendment No. 60: Appropriates $13,032,000 as proposed by the Senate instead of $2,952,000 as proposed by the House.

TITLE VI—SUPPLEMENTAL APPROPRIATIONS, 1977

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts heading and language making supplemental appropriations included in the bill for fiscal year 1977 available immediately.

DEPARTMENT OF STATE

Amendments Nos. 62 through 64: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate which insert headings and appropriate $145,000 for "Missions to international organizations" and $20,000 for "American sections, international commissions."

DEPARTMENT OF JUSTICE

Amendments Nos. 65 through 67: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate which insert headings and appropriate $147,000 for "Salaries and expenses, general administration", to be derived by transfer from "Salaries and expenses, Community Relations Service", and $1,000,000 for the Antitrust Division to provide antitrust enforcement grants to the States as authorized by section 309 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

Amendment No. 68: Deletes proposal of the Senate to appropriate $1,617,000 for salaries and expenses, Antitrust Division.

THE JUDICIARY

Amendments Nos. 69 through 75: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate which insert headings and appropriate $41,000 for the Court of Customs and Patent Appeals; $73,000 for the Customs Court; $159,000 for the Court of Claims; $4,300,000 for "Salaries of judges"; $249,000 for "Salaries of supporting personnel"; $450,000 for "Salaries and expenses of United States Magistrates"; $1,435,000 for "Salaries and expenses of referees"; $53,000 for the Administrative Office of the United States Courts; and $20,000 for the Federal Judicial Center.

RELATED AGENCIES

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts heading.

ARMS CONTROL AND DISARMAMENT AGENCY

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $220,000 for "Arms control and disarmament activities".

BOARD FOR INTERNATIONAL BROADCASTING

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $3,350,000 for "Grants and Expenses" to cover losses incurred by Radio Free Europe/Radio Liberty, Inc. as a result of unfavorable fluctuations in foreign currency exchange rates.

SMALL BUSINESS ADMINISTRATION

Amendments Nos. 79 through 81: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate which insert headings and appropriate $500,000 for "Salaries and Expenses" by transfer from the Disaster Loan Fund and $200,000,000 for the "Disaster Loan Fund" to remain available without fiscal year limitation.

TITLE VII—GENERAL PROVISIONS

Amendments Nos. 82 through 88: Change title and section numbers to conform with new title VI inserted earlier in the bill.

Amendment No. 89: Prohibits the obligation or expenditure of funds made available in the Act for making a commitment to provide any reparations, aid or credits to Vietnam, Cambodia, or Laos, as proposed by the Senate.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the use of funds contained in the Act for the purpose of negotiating a settlement of United States claims against private property confiscated by the Cuban Government at less than the principal value, giving full consideration to the amounts certified by the United States Foreign Claims Settlement Commission on July 6, 1972.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 amount, the 1978 budget estimates, and the House and Senate bills for 1978 follow:

New budget (obligational) authority, fiscal year 1977	$13,315,030,802
Budget estimates of new (obligational) authority, fiscal year 1978 [1]	7,477,556,500
House bill, fiscal year 1978	7,606,119,500
Senate bill, fiscal year 1978	7,706,415,000
Conference agreement	7,709,432,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1977	−5,605,598,802
Budget estimates of new (obligational) authority, fiscal year 1978	+231,875,500
House bill, fiscal year 1978	+103,312,500
Senate bill, fiscal year 1978	+3,017,000

The total new budget (obligational) authority for fiscal year 1977 recommended by the Committee of Conference, with comparisons to the 1977 budget estimates, and the House and Senate bills for 1977 follow:

Budget estimates of new (obligational) authority, fiscal year 1977 [2]	212,575,000
House bill, fiscal year 1977	----------
Senate bill, fiscal year 1977	213,132,000
Conference agreement	211,515,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1977	−1,060,000
House bill, fiscal year 1977	+211,515,000
Senate bill, fiscal year 1977	−1,617,000

[1] Includes $45,343,000 of budget estimates not considered by House.

[2] Not considered by the House.

JOHN M. SLACK,
NEAL SMITH,
JOHN J. FLYNT, JR.,
BILL ALEXANDER,
YVONNE BRATHWAITE BURKE,
JOSEPH D. EARLY,
GEORGE MAHON,
ELFORD A. CEDERBERG,
MARK ANDREWS,
CLARENCE E. MILLER,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
THOMAS F. EAGLETON,
DANIEL K. INOUYE,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DECONCINI,
LOWELL P. WEICKER, JR.,
EDWARD W. BROOKE,
MARK O. HATFIELD,
TED STEVENS,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. MCEWEN (at the request of Mr. RHODES), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPUTO), to revise and extend their remarks, and to include extraneous matter:)

Mr. BOB WILSON, for 5 minutes, on June 30.

Mr. EDWARDS of Oklahoma, for 1 hour, on July 12.

Mr. GOLDWATER, for 5 minutes, today.

Mr. WHALEN, for 5 minutes, today.

Mr. CLEVELAND, for 5 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. KEMP, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Mr. WOLFF, for 10 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. SIMON, for 5 minutes, today.

Mr. ICHORD, for 5 minutes, today.

Mr. CORMAN, for 5 minutes, today.

Mrs. SPELLMAN, for 60 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. BAUCUS, for 10 minutes, today.

Mr. HANLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL, in two instances, and to include extraneous matter.

Mr. WIGGINS, following the remarks of

Mr. STRATTON on the B–1 bomber, in the Committee of the Whole on H.R. 7933 today.

Mr. BROWN of Ohio, following the remarks of Mr. KEMP on the B–1 bomber, in the Committee of the Whole on H.R. 7933 today.

Mr. BOB WILSON to extend his remarks following the remarks of Mr. STRATTON on the B–1.

Mr. DAN DANIEL to revise and extend his remarks regarding the B–1 following the remarks of Mr. STRATTON.

(The following Members (at the request of Mr. CAPUTO) and to include extraneous matter:)

Mr. RHODES in two instances.
Mr. STEIGER.
Mr. GRADISON.
Mr. MARRIOTT.
Mr. YOUNG of Florida in three instances.
Mr. MICHEL in two instances.
Mr. BADHAM.
Mr. HAMMERSCHMIDT.
Mr. SARASIN in two instances.
Mr. WYDLER.
Mr. LAGOMARSINO in three instances.
Mr. ASHBROOK in three instances.
Mr. KETCHUM.
Mr. LEACH.
Mr. STEERS.
Mr. RUDD.
Mr. ROUSSELOT in three instances.
Mr. CUNNINGHAM.
Mr. SEBELIUS.
Mr. DERWINSKI in two instances.
Mr. COLLINS of Texas in two instances.
Mr. CRANE.
Mr. REGULA.
Mr. TRIBLE.
Mr. JEFFORDS.
Mr. TREEN in two instances.
Mrs. FENWICK.
Mr. ABDNOR.
Mr. GILMAN in three instances.
Mr. ANDERSON of Illinois.
Mr. KEMP in three instances.
Mr. MILLER of Ohio in three instances.
Mr. PRESSLER.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. DAN DANIEL.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mrs. SCHROEDER.
Mr. MINETA.
Mr. MCDONALD.
Mr. MILFORD.
Mr. MAZZOLI in two instances.
Mr. ADDABBO.
Mr. BLANCHARD.
Mr. FORD of Tennessee in two instances.
Mr. CAVANAUGH in two instances.
Mr. TRAXLER.
Mr. DRINAN in five instances.
Mr. SATTERFIELD.
Mr. BOWEN.
Mr. BONKER.
Mr. MITCHELL of Maryland.
Mr. FARY in two instances.
Mr. SOLARZ.
Mr. FLOOD.
Mr. WALGREN in two instances.
Mr. WON PAT in two instances.
Mr. BINGHAM.
Mr. NOLAN.
Mr. RODINO.
Mr. BAUCUS in two instances.
Mr. FISHER.
Mr. MAGUIRE.
Mr. PEPPER in three instances.
Mr. JONES of Tennessee.
Mr. ROGERS in five instances.
Mr. TSONGAS.
Mr. TEAGUE.
Mr. WAXMAN.
Mr. BREAUX.
Mr. EDGAR.
Mr. OBERSTAR.
Mr. KOSTMAYER in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1535. An act to amend the Federal Power Act to authorize appropriations for the Federal Power Commission, to require the Commission to recodify its rules, and for other purposes; to the Committee on Interstate and Foreign Commerce; and

S. 1536. An act to amend the Communications Act of 1934 to authorize appropriations for the Federal Communications Commission, to require the Commission to recodify its rules, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1404. An act for the relief of Smith College, Northampton, Mass., and for other purposes;

H.J. Res. 525. Joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes; and

H.J. Res. 539. Joint resolution to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1437. For the relief of Soo Jin Lee;

H.R. 3838. For the relief of Tulsedei Zalim; and

H.R. 4246. For the relief of Hee Kyung Yoo.

ADJOURNMENT

Mr. WOLFF. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. In accordance with House Concurrent Resolution 267, 95th Congress, the Chair declares the House adjourned until 12 o'clock noon on Monday, July 11, 1977.

Thereupon (at 4 o'clock and 44 minutes p.m.), pursuant to House Concurrent Resolution 267, the House adjourned until Monday, July 11, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1798. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1977 for Foreign Assistance and the Department of Justice, and amendments to the request for appropriations for the fiscal year 1978 for the Department of Commerce and the Department of Justice (H. Doc. No. 95–174); to the Committee on Appropriations and ordered to be printed.

1799. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1977 for the legislative branch and the Department of the Interior, and amendments to the request for appropriations for fiscal year 1978 for the legislative branch (H. Doc. No. 95–175); to the Committee on Appropriations and ordered to be printed.

1800. A communication from the President of the United States, transmitting the second annual report on executive branch activities under the Privacy Act of 1974, covering calendar year 1975, pursuant to 5 U.S.C. 552a(p); to the Committee on Government Operations.

1801. A letter from the Comptroller General of the United States transmitting his review of the deferral of budget authority contained in the message from the President dated May 18, 1977 (H. Doc. No. 95–158), pursuant to sectibn 1014(b) of Public Law 93–344 (H. Doc. No. 95–176); to the Committee on Appropriations and ordered to be printed.

1802. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1803. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during May 1977, to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

1804. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with three Spanish electric utilities—Empresa Nacional de Electricidad, Empresa Nacional Hidroelectrica del Ribagorzana, and Electricas Reunidas de Zaragoza, which exceeds $60 million, pursuant to section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

1805. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Act No. 2–44, To provide procedures for the conduct of an election to consider amendments to the Charter of the District of Columbia in November 1977, by the District of Columbia Board of Elections and Ethics; to the Committee on the District of Columbia.

1806. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Act No. 2–49, To provide for the appointment of individuals to fill vacancies on Advisory Neighborhood Commissions, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

1807. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to change from a fiscal year to a school year basis certain provisions of the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes; to the Committee on Education and Labor.

1808. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting a report describing efforts by the Office of Education to promote establishment of guaranteed student loan insurance programs and responses received as of the date of transmittal, pursuant to section 421(c) of the Higher Education Act of 1965, as amended (90 Stat. 2100); to the Committee on Education and Labor.

1809. A letter from the Deputy Administrator-Designate, Agency for International Development, Department of State, transmitting notice of proposed changes in the Agency's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1810. A letter from the Administrator, Small Business Administration, transmitting notice of proposed changes in the Small Business Administration's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1811. A letter from the Secretary of State, transmitting a report on U.S. conventional arms transfer policy, pursuant to sections 202(b) and 218 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329); to the Committee on International Relations.

1812. A letter from the Secretary of Transportation, transmitting a proposed final rule to amend the Federal motor vehicle safety standard on occupant restraint systems, pursuant to section 125(c)(4) of Public Law 89-563 (15 USC 1410b(c)(4)) (H. Doc. No. 95-177); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

1813. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's final report on bank-sponsored securities services, pursuant to section 11A(e) of the Securities Exchange Act of 1934, as amended (89 Stat. 117); to the Committee on Interstate and Foreign Commerce.

1814. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of March 1977, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

1815. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of April 1977, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

1816. A letter from the Counsel to the Pacific Tropical Botanical Garden, transmitting a report on the audit of the Corporation for calendar year 1976, pursuant to section 10(b) of Public Law 88-449; to the Committee on the Judiciary.

1817. A letter from the Acting Administrator, U.S. Environmental Protection Agency, transmitting the national water quality inventory report for 1976, pursuant to section 305(b) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

1818. A letter from the Comptroller General of the United States, transmitting a progress report on the development and implementation of a national dam safety program (CED-77-94, June 29, 1977); jointly, to the Committees on Government Operations, and Public Works and Transportation.

1819. A letter from the Comptroller General of the United States, transmitting a report concerning the funding of the Washington, D.C. Metrorail system (PSAD-77-123, June 29, 1977); jointly, to the Committees on Government Operations, the District of Columbia, and Public Works and Transportation.

1820. A letter from the Chairman, Commission on Administrative Review, U.S. House of Representatives, transmitting the semiannual report of the Commission providing information on House administrative units, Members' offices and committees and leadership offices, pursuant to section 5 of House Resolution 1368, 94th Congress (H. Doc No. 95-178); Ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as foillows:

Mr. BROOKS: Committee on Government Operations. Report on Federal Trade Commission oversight-rulemaking, advertising, and consumer access (Rept. No. 95-472). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on real estate leasing practices of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (Rept. No. 95-473). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 6503. A bill to amend the Intercoastal Shipping Act, 1933, and for other purposes; with amendment (Rept. No. 95-474). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 3755. A bill to provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes. (Rept. No. 95-475). Referred to the Committee of the Whole House on the State of the Union.

Mr. SLACK: Committee of conference. Conference report on H.R. 7556; with amendment (Rept. No. 95-476). Ordered to be printed.

Mr. LEHMAN: Committee on Post Office and Civil Service. House Joint Resolution 372. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; with amendment (Rept. No. 95-477). Referred to the House Calendar.

Mr. LEHMAN: Committee on Post Office and Civil Service. House Joint Resolution 24. Joint resolution to provide for the designation of a week as National Lupus Week (Rept. No. 95-478). Referred to the House Calendar.

Mr. NICHOLS: Committee on Armed Services. H.R. 8011. A bill to extend for 1 year the special pay provisions for physicians and dentists in the uniformed services and to reinstate the special pay provisions for optometrists and veterinarians in the uniformed services (Rept. No. 95-479). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROGERS:

H.R. 8121. A bill to establish a transitional system of hospital cost containment by providing for incentives and restraints to contain the rate of increase in hospital revenues, to establish a system of capital allocation designed to encourage communities to avoid the creation of unneeded and duplicative hospital facilities and services, to provide for the publication and disclosure of information useful to the public in making decisions about health care, to provide for the development of permanent reforms in hospital reimbursement designed to provide incentives for the efficient and effective use of hospital resources, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. ABDNOR:

H.R. 8122. A bill to require research into the comprehensive and various uses of grain or grain products, and wood and other forest products in the development and use of fuels, and for other purposes; to the Committee on Science and Technology.

By Mr. ALLEN:

H.R. 8123. A bill to reform electric energy ratemaking of the Tennessee Valley Authority, to authorize certain pilot and demonstration programs, and for other purposes, by amending title 16, section 831, United States Code, the Tennessee Valley Authority Act of 1933, as amended; to the Committee on Public Works and Transportation.

By Mr. ANDERSON of California (for himself, Mr. JOHNSON of California, Mr. HARSHA, Mr. HAMMERSCHMIDT, Mr. LEVITAS, and Mr. TAYLOR):

H.R. 8124. A bill to provide for noise compatibility programs for airports, to provide assistance to aircraft operators to comply with noise standards, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ANDERSON of Illinois (for himself and Mr. AuCOIN):

H.R. 8125. A bill to amend title 28 of the United States Code to provide for the appointment of a special prosecutor in appropriate cases, to require the Attorney General to make a preliminary investigation of alleged improper foreign influence in Congress to determine whether or not such a special prosecutor should be appointed for any cases arising therefrom, and for other purposes; to the Committee on the Judiciary.

By Mr. BADILLO (for himself, Mr. ADDABBO, Mr. HANLEY, Mr. CAPUTO, Mr. MURPHY of New York, Mr. WALSH, Mrs. CHISHOLM and Mr. LENT):

H.R. 8126. A bill to amend the Clean Air Act to permit the revision of certain transportation control plans, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BADILLO (for himself, Mr. CONYERS, Mr. DELLUMS, Mr. DRINAN, Mr. HAWKINS, Mr. STARK, Mr. BONIOR, Mr. BRODHEAD, Mr. PHILLIP BURTON, Mr. CLAY, Mr. HARKIN, Mr. PATTERSON of California, Mr. REUSS, Mr. STOKES, Mr. THOMPSON, and Mr. WEISS):

H.R. 8127 A bill to prevent abuses of power by the intelligence agencies of the Federal Government, to limit the jurisdictions of the Federal Bureau of Investigation and the Central Intelligence Agency, to regulate dissemination of information by intelligence agencies, to amend the Freedom of Information Act to promote greater public access to the operation of intelligence agencies, to punish deception of Congress or the public by officials of intelligence agencies, to establish procedures for assuring compliance with the foregoing measures, and for other purposes; jointly, to the Committees on

the Judiciary, Banking, Finance and Urban Affairs, Armed Services, and Government Operations.

By Mr. BINGHAM (for himself, Mr. BADILLO, Mr. BEILENSON, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. ROSENTHAL, Mr. ROYBAL, Mr. STARK, Mr. VAN DEERLIN, Mr. WAXMAN, and Mr. WON PAT):

H.R. 8128. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs; to the Committee on the Judiciary.

By Mr. BLANCHARD:

H.R. 8129. A bill to amend section 9441 of title 10, United States Code, to provide for the budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Force; to the Committee on Armed Services.

By Mr. BONKER (for himself and Mrs. COLLINS of Illinois):

H.R. 8130. A bill to establish an African Development Foundation; to the Committee on International Relations.

By Mr. BRODHEAD:

H.R. 8131. A bill to amend title XIX of the Social Security Act to permit State medicaid plans to provide medical assistance for individuals who no longer receive SSI benefits because they have worked longer than their trial work period; to the Committee on Interstate and Foreign Commerce.

By Mr. BROYHILL:

H.R. 8132. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Overmountain Men Victory Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mr. CAVANAUGH (for himself, Ms. OAKAR, Mr. LEACH, Mr. REUSS, Mr. ROUSSELOT, Mr. PATTERSON of California, Mr. DERRICK, Mr. HANNAFORD, Mr. PATTISON of New York, Mr. VENTO, Mr. BARNARD, Mr. CAPUTO, and Mr. STARK):

H.R. 8133. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of certain financial information by depository institutions to governmental agencies, and for other purposes; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. DON H. CLAUSEN:

H.R. 8134. A bill to establish a program of comprehensive medical, hospital, and dental care as protection against the cost of ordinary and catastrophic illness by requiring employers to make insurance available to each employee and his family, by Federal financing of insurance for persons of low income, in whole or in part according to ability to pay, and by assuring the availability of insurance to all persons regardless of medical history, and on a guaranteed renewable basis; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. COHEN (for himself and Mr. CORRADA):

H.R. 8135. A bill to provide for quality assurance and utilization control in home health care under the medicare, medicaid, and social services programs in accordance with a plan to be developed by a commission specifically established for that purpose; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CONABLE:

H.R. 8136. A bill to amend the Internal Revenue Code of 1954 to provide rules for the tax treatment of employees under certain profit-sharing plans; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 8137. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide that if epidemiological studies show that any food additive which is found to induce cancer in animals does not induce cancer in humans, regulations permitting the use of such additive may be issued; to the Committee on Interstate and Foreign Commerce.

By Mr. ERTEL (for himself, Mr. YATRON, Mr. MURPHY of Pennsylvania, Mr. EILBERG, Mr. DENT, Mr. MURTHA, Mr. GAYDOS, Mr. CLEVELAND, Ms. MIKULSKI, Mr. HOWARD, Mr. NIX, Mr. GEPHARDT, Mr. KILDEE, Mr. CONTE, Mr. ICHORD, Mr. DERRICK, Mr. D'AMOURS, Mr. RODINO, and Mr. TSONGAS):

H.R. 8138. A bill to amend the Tariff Schedules of the United States to repeal, in the case of certain wearing apparel and nonrubber footwear, the special tariff treatment accorded to articles assembled abroad with components produced in the United States; to the Committee on Ways and Means.

By Mr. FORD of Michigan (for himself and Mr. HANLEY):

H.R. 8139. A bill to amend title 39, United States Code, to establish a reduced rate of postage for certain mail matter of private individuals; to the Committee on Post Office and Civil Service.

By Mr. FUQUA (for himself and Mr. SIKES):

H.R. 8140. A bill to provide for a Veterans' Administration outpatient clinic at an appropriate location in northwest Florida; to the Committee on Veterans' Affairs.

By Mr. GILMAN:

H.R. 8141. A bill revising repayment schedules and eligibility requirements for emergency loans; to the Committee on Agriculture.

By Mr. GOODLING (for himself, Mr. GLICKMAN, and Mr. NOLAN):

H.R. 8142. A bill to establish under the direction of the Secretary of Housing and Urban Development a State-administered program providing financial assistance to individuals and families for the purpose of purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HAMMERSCHMIDT (for himself, Mr. GUYER, Mr. KINDNESS, Mr. ROE, Mr. PATTERSON of California, Mr. EILBERG, Mr. ERTEL, and Mr. HAGEDORN):

H.R. 8143. A bill to amend the Airport and Airway Development Act of 1970 to require the establishment of a system of automated flight service stations; to the Committee on Public Works and Transportation.

By Mr. HAMMERSCHMIDT (for himself, Mr. GOODLING, Mr. ICHORD, and Mr. MANN):

H.R. 8144. A bill to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HANLEY (for himself, Mr. MOORHEAD of Pennsylvania, Mr. ANNUNZIO, Mr. MITCHELL of Maryland, Mr. FAUNTROY, Mr. NEAL, Mr. PATTERSON of California, Mr. HUBBARD, Mr. LAFALCE, Mrs. SPELLMAN, Mr. AUCOIN, Mr. TSONGAS, Mr. DERRICK, Mr. HANNAFORD, Mr. EVANS of Indiana, Mr. LUNDINE, Mr. BADILLO, Mr. PATTISON of New York, Mr. VENTO, Mr. BARNARD, Mr. BROWN of Michigan, Mr. MCKINNEY, Mrs. FENWICK, Mr. EVANS of Delaware, and Mr. CAPUTO):

H.R. 8145. A bill to improve the flow of funds for mortgage credit, to expand competition and the dual banking system, and to provide improved consumer services; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HANLEY (for himself, Mr. REUSS, Mr. OTTINGER, and Mr. ASHLEY):

H.R. 8146. A bill to improve the flow of funds for mortgage credit, to expand competition and the dual banking system, and provide improved consumer services; to the Committee on Banking and Finance and Urban Affairs.

By Mr. HARRIS (for himself and Mrs. HOLT):

H.R. 8147. A bill to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HEFTEL:

H.R. 8148. A bill to authorize the Secretary of the Navy to convey to the State of Hawaii certain lands within the Fort Ruger Military Reservation, Hawaii, for educational purposes; to the Committee on Armed Services.

By Mr. JONES of Oklahoma (for himself, Mr. VANIK, Mr. HOLLAND, Mr. JENKINS, and Mr. FRENZEL):

H.R. 8149. A bill to provide customs procedural reform, and for other purposes; to the Committee on Ways and Means.

By Mr. JONES of Tennessee (for himself and Mr. JEFFORDS):

H.R. 8150. A bill to provide for the maintenance or enhancement of the quality of water in rural areas; to the Committee on Agriculture.

By Mr. KASTEN:

H.R. 8151. A bill to provide that polling and registration places for elections for Federal office be accessible to physically handicapped and elderly individuals; to the Committee on House Administration.

By Mr. KOCH (for himself, Mr. COHEN, Mr. ADDABBO, Mr. APPLEGATE, Mr. BADILLO, Mr. BONIOR, Mr. BRODHEAD, Mr. CARNEY, Mr. DIGGS, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EILBERG, Mr. FORD of Tennessee, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. LEACH, Mr. LEHMAN, and Mr. MAZZOLI):

H.R. 8152. A bill to establish a system for promoting the creation of independent living centers for handicapped individuals, and for other purposes; jointly, to the Committees on Education and Labor, and Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. COHEN, Ms. MIKULSKI, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. NOLAN, Mr. PANETTA, Mr. PURSELL, Mr. QUIE, Mr. RICHMOND, Mr. RODINO, Mr. SANTINI, Mr. SIMON, Ms SPELLMAN, Mr. VENTO, Mr. WALGREN, Mr. WAXMAN, and Mr. WIRTH):

H.R. 8153. A bill to establish a system for promoting the creation of independent living centers for handicapped individuals, and for other purposes; jointly, to the Committees on Education and Labor, and Interstate and Foreign Commerce.

By Mr. KREBS:

H.R. 8154. A bill to amend the Immigration and Nationality Act to provide that before an alien who is likely to become a public charge may be admitted into the United States, such alien must have an immigration sponsor post a $5,000 bond on such immigrant's behalf, and for other purposes; to the Committee on the Judiciary.

By Mr. LEACH:

H.R. 8155. A bill to prohibit any person from raising as a defense to any proceeding commenced under the laws of the United States that such person was compe led by a foreign state to take the action which is the basis of the proceeding; to the Committee on the Judiciary.

By Mr. LEACH (for himself, Mr BEDELL, Mr. HAGEDORN, and Mr. NEAL):

H.R. 8156. A bill to amend section 18 of the Federal Deposit Insurance Act; to the Committee on Banking, Finance and Urban Affairs.

By Ms. MIKULSKI (for herself and Mr. HILLIS):

H.R. 8157. A bill to repeal the changes made by the Tax Reform Act of 1976 in the exclusion for sick pay; to the Committee on Ways and Means.

By Mr. MIKVA:

H.R. 8158. A bill to amend title II of the Social Security Act to liberalize the condition governing eligibility of blind persons to receive disability benefits thereunder; to the Committee on Ways and Means.

By Mr. MURPHY of New York (for himself, Mr. BIAGGI, Mr. BREAUX, Mr. STUDDS, Mr. BOWEN, Mr. EILBERG, Mr. DE LUGO, Mr. HUBBARD, Mr. ZEFERETTI, Mr. HUGHES, Mr. BONIOR, Mr. AKAKA, and Mr. TRIBLE):

H.R. 8159. A bill to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes; jointly, to the Committees on International Relations, Interstate and Foreign Commerce, and Merchant Marine and Fisheries.

By Mr. NIX:

H.R. 8160. A bill to provide for loans for the establishment and/or construction of municipal, low-cost, nonprofit clinics for spaying and neutering of dogs and cats, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. OBERSTAR (for himself, Mr. BONKER and Mr. STUDDS):

H.R. 8161. A bill to amend the Fish and Wildlife Coordination Act, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. OTTINGER:

H.R. 8162. A bill to amend title 39, United States Code, to establish congressional review of postal rate decisions, to increase congressional oversight of the U.S. Postal Service, to abolish the Board of Governors of the U.S. Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER (for himself, Mr. AKAKA, Mr. BADILLO, Mr. BENJAMIN, Mr. BLANCHARD, Mr. BLOUIN, Mr. CAPUTO, Mr. CORNELL, Mr. CORRADA, Mr. D'AMOURS, Mr. EILBERG, Mr. FAUNTROY, Mr. FLORIO, Mr. HANNAFORD, Mr. KOSTMAYER, Mrs. LLOYD of Tennessee, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. PATTERSON of California, Mr. QUIE, and Mr. ROSE):

H.R. 8163. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself, Mr. AKAKA, Mr. AUCOIN, Mr. BADILLO, Mr. BAUCUS, Mr. BENJAMIN, Mr. BLANCHARD, Mr. BLOUIN, Mr. CAPUTO, Mr. CORNELL, Mr. CORRADA, Mr. EILBERG, Mr. FAUNTROY, Mr. FLORIO, Mr. HOLLENBECK, and Mr. KOSTMAYER):

H.R. 8164. A bill to amend title XVI of the Social Security Act to provide for the payment of a special housing allowance to each recipient of supplemental security income benefits whose housing expenses exceed an amount equal to 25 percent of his or her income, so as to reduce such expenses to that amount; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself, Mr. SIMON, Mr. SPENCE, Mr. STARK, Mr. VENTO, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, and Mr. CHARLES H. WILSON of Texas):

H.R. 8165. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself, Mr. LENT, Mr. MURPHY of Pennsylvana, Mr. PATTERSON of California, Mr. ROSE, Mr. SIMON, Mrs. SPELLMAN, Mr. VENTO, Mr. WAXMAN Mr. WEAVER, Mr. WEISS, and Mr. WOLFF):

H.R. 8166. A bill to amend title XVI of the Social Security Act to provide for the payment of a special housing allowance to each recipient of supplemental security income benefits whose housing expenses exceed an amount equal to 25 percent of his or her income, so as to reduce such expenses to that amount; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself, Mr. MURPHY of Pennsylvania, Mr. PATTERSON of California, Mr. REUSS, Mr. ROSE, Mr. SIMON, Mr. SISK, Mrs. SPELLMAN, Mr. STARK, Mr. TRAXLER, Mr. TRIBLE, Mr. VENTO, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, Mr. CHARLES WILSON of Texas, and Mr. WOLFF):

H.R. 8167. A bill to amend title XVIII of the Social Security Act to include hearing aids and dentures among the items and services for which payment may be made under the supplementary medical insurance program; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. OTTINGER (for himself, Mr. AKAKA, Mr. AUCOIN, Mr. BADILLO, Mr. BALDUS, Mr. BAUCUS, Mr. BENJAMIN, Mr. BLANCHARD, Mr. BLOUIN, Mr. CAPUTO, Mr. CORNELL, Mr. CORRADA, Mr. D'AMOURS, Mr. EILBERG, Mr. ERTEL, Mr. FAUNTROY, Mr. FLORIO, Mr. HANNAFORD, Mr. HOLLENBECK, Ms. HOLTZMAN, Mr. KOSTMAYER, Mr. LENT, Mrs. LLOYD of Tennessee, Ms. MIKULSKI, and Mr. MONTGOMERY):

H.R. 8168. A bill to amend title XVIII of the Social Security Act to include hearing aids and dentures among the items and services for which payment may be made under the supplementary medical insurance program; jointly to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. PEPPER:

H.R. 8169. A bill to amend the Tariff Schedules of the United States to repeal the special tariff treatment accorded to articles assembled abroad with components produced in the United States; to the Committee on Ways and Means.

By Mr. ROGERS:

H.R. 8170. A bill to amend the Federal Salary Act of 1967 to remove Members of Congress from its provisions; to amend the Legislative Reorganization Act of 1946 to eliminate the cost-of-living adjustment provisions for Members of Congress; to set the salary for Members of Congress at the level in effect before October 1, 1976; and to require that any increase in the level of salary for Members of Congress not take effect until the next Congress; to the Committee on Post Office and Civil Service.

By Mr. ROUSSELOT:

H.R. 8171. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RUSSO:

H.R. 8172. A bill to amend the Department of Transportation Act and the Regional Rail Reorganization Act of 1973 to extend the eligibility for financial assistance under the rail service assistance programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SANTINI (for himself, Mr. NEAL, Mr. EDWARDS of Oklahoma, Mr. GILMAN, Mr. EDWARDS of California, Mr. PEASE, Mr. PRESSLER, Mr. HARRIS, Mr. JEFFORDS, Mr. LUNDINE, Mr. JENRETTE, Mr. MOFFETT, Mr. MANN, Mr. REUSS, Mr. HOLLENBECK, Mr. DOWNEY, Mr. RUPPE, Mr. FLORIO, Mr. WINN, Mr. WHITEHURST, Mr. PATTERSON of California, Mrs. SPELLMAN, Mr. SYMMS, and Mr. BENJAMIN):

H.R. 8173. A bill to limit the use of limousines, chauffeurs, and passenger motor vehicles by Government agencies; to the Committee on Government Operations.

By Mr. SANTINI (for himself, Mr. HANLEY, Mr. JONES of Oklahoma, Mr. MEEDS, Mr. KREBS, Mr. FREY, Mr. BRODHEAD, Ms. OAKAR, Mr. STUDDS, Mr. GRADISON, Mr. RAHALL, Mr. JOHN T. MYERS, Mr. MITCHELL of New York, Mr. EILBERG, Ms. HOLTZMAN, Mr. CORCORAN of Illinois, Mr. HYDE, Mr. ERTEL, Mr. GLICKMAN, Mr. CLEVELAND, Mrs. BURKE of California, Mr. HUGHES, Mr. MILLER of California, Mr. TRIBLE, and Mr. HARKIN):

H.R. 8174. A bill to limit the use of limousines, chauffeurs, and passenger motor vehicles by Government agencies; to the Committee on Government Operations.

By Mr. SATTERFIELD (for himself and Mr. HAMMERSCHMIDT):

H.R. 8175. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 8176. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SOLARZ:

H.R. 8177. A bill to amend title 39, United States Code, to permit an individual to send certain mail matter at no cost to Members of the Congress and to the President; to the Committee on Post Office and Civil Service.

By Mr. STANGELAND:

H.R. 8178. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period; to the Committee on Veterans' Affairs.

By Mr. TRAXLER (for himself, Mr. ADDABBO, Mr. WINN, Mr. MAZZOLI, Mr. EILBERG, Mr. GIBBONS, Mr. FRASER, Mr. HANNAFORD, Mr. CLAY, Mr. MITCHELL of Maryland, Mr. CEDERBERG, Mr. WALKER, Mr. CHARLES WILSON of Texas, Mr. RISENHOOVER, Mr. VENTO, Mr. BRECKINRIDGE, Mr. MURPHY of Pennsylvania, Mr. PEPPER, Mr. HOLLENBECK, Mr. ICHORD, Mr. BLANCHARD, Mr. ROE, and Mr. D'AMOURS):

H.R. 8179. A bill to amend title 38, United States Code, to provide that a member of a Reserve component of the Armed Forces shall not be denied certain employment because of membership in such Reserve component; to the Committee on Veterans' Affairs.

By Mr. TREEN (for himself, Mr. HYDE, Mr. DAN DANIEL, Mr. BURGENER, Mr. DUNCAN of Tennessee, Mr. SEBELIUS, Mr. MANN, Mr. JOHN L. BURTON, Mr. LEDERER, and Mr. ARMSTRONG):

H.R. 8180. A bill to amend the provisions of the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 which relate to the adjustment of the salary rate for Members of Congress, and for other purposes; jointly, to the Committees on Post Office and Civil Service, and Rules.

By Mr. TRIBLE (for himself, Mr. LONG of Maryland, Mr. MARKS, Mr. MARTIN, Mr. MAZZOLI, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MICHEL, Mr. MILLER of Ohio, Mr. MITCHELL of Maryland, Mr. MOORE, Mr. MURPHY of Pennsylvania, Mr. JOHN T. MYERS, Mr. NEAL, Mr. O'BRIEN, Mr. PEPPER, Mr. PERKINS, Mr. PURSELL, Mr. RAHALL, Mr. RHODES, Mr. RICHMOND, Mr. RUDD, Mr. SCHULZE, Mr. SHARP, and Mrs. SMITH of Nebraska):

H.R. 8181. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payment into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

By Mr. TRIBLE (for himself, Mr. ADDABBO, Mr. AUCOIN, Mr. BEARD of Tennessee, Mr. BEDELL, Mrs. BOGGS, Mr. BRECKINRIDGE, Mr. CEDERBERG, Mr. DON H. CLAUSEN, Mr. COLEMAN, Mr. DICKINSON, Mrs. FENWICK, Mr. FORSYTHE, Mr. GLICKMAN, Mr. DE LA GARZA, Mr. GUYER, Mr. HAGEDORN, Mr. HANNAFORD, Mrs. HECKLER, Mr. HOLLENBECK, Mr. HUCKABY, Mr. HUGHES, Mr. HYDE, Mr. LAGOMARSINO, and Mr. LEACH):

H.R. 8182. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

By Mr. TRIBLE (for himself, Mr. SPENCE, Mr. SYMMS, Mr. THOMPSON, Mr. THONE, Mr. BOB WILSON, Mr. BURGENER, Mr. ROBINSON, Mr. CAPUTO, Mr. MCCLORY, Mr. TSONGAS, and Mr. THORNTON):

H.R. 8183. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purpcses; to the Committee on Ways and Means.

By Mr. TSONGAS (for himself, Mr. BEDELL, Mr. BLOUIN, Mr. D'AMOURS, Mr. DERRICK, Mr. DRINAN, Mr. ERTEL, Mrs. FENWICK, Mr. FRASER, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HOWARD, Mr. HUGHES, Mr. MAGUIRE, Mr. MANN, Mr. MAZZOLI, Ms. MIKULSKI, Mr. MIKVA, Mr. MILLER of California, Mr. PATTISON of New York, Mr. SIMON, and Mr. CHARLES WILSON of Texas):

H.R. 8184. A bill to foster competition and consumer protection policies in the development of product standards, the testing and certification of products, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Science and Technology.

By Mr. WEAVER (for himself, Mr. MITCHELL of Maryland, Mr. ZABLOCKI, Mr. CONYERS, Mr. BADILLO, Mr. EDWARDS of California, Mr. PRITCHARD, Mr. BUCHANAN, Mr. TSONGAS, Mr. HAWKINS, Mr. LLOYD of California, Mr. COTTER, Mr. MINETA, Mr. YATES, Mr. HUBBARD, Mrs. BURKE of California, Mr. STUDDS, Mr. CAPUTO, Mr. LUNDINE, Mr. MCHUGH, and Mr. PATTISON of New York):

H.R. 8185. A bill to assist in the marketing and handling of 1977, 1978, 1979, 1980, and 1981 crops of wheat and feed grains; to the Committee on Agriculture.

By Mr. CHARLES H. WILSON of California:

H.R. 8186. A bill to amend title 39, United States Code, to provide that the U.S. Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970; to the Committee on Post Office and Civil Service.

By Mr. WOLFF (for himself, Mr. FAUNTROY, Mr. DERWINSKI, Mr. GUYER, Mrs. BOGGS, Mr. HARRINGTON, Mr. PEPPER, Mr. EILBERG, Mr. RAHALL, Mr. PANETTA, Mr. HAWKINS, Mr. MIKVA, Mr. COUGHLIN, Mr. BEDELL, and Mr. RYAN):

H.R. 8187. A bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to eligible veterans and dependents; to revise the criteria for nonaccredited courses; to provide alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period; to provide for a conditional extension of the delimiting period for certain Vietnam era veterans; to provide for the development of additional educational, employment, and readjustment assistance programs for veterans; to provide for the correction and preclusion of, and protection against, abuses and misuse of veterans benefits; and to otherwise enhance and improve the effectiveness, integrity, and utilization of veterans readjustment assistance programs; to the Committee on Veterans' Affairs.

By Mr. WOLFF (for himself, Mr. HANNAFORD, Mr. WALSH, Mr. MURPHY of Pennsylvania, Mr. CONYERS, Mr. LENT, Mr. DUNCAN of Tennessee, Mrs. COLLINS of Illinois, Mr. CHARLES WILSON of Texas, Mr. WINN, Mr. MOAKLEY, Mr. MINETA, Mr. VENTO, Mr. ROYBAL, Mr. BEDELL, Mr. BYRON, Mr. FRASER, Mr. RYAN, and Mr. WIRTH):

H.R. 8188. A bill to restore to certain institutions of higher learning their rights to determine academic standards of progress with respect to veterans and to provide counseling to veterans whose educational assistance allowance is discontinued under certain circumstances, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WOLFF (for himself, Mr. ADDABBO, Mr. AMBRO, Mr. BADILLO, Mr. BOWEN, Mr. CORNELL, Mr. CORNWELL, Mr. CORRADA, Mr. DOWNEY, Mr. EILBERG, Mr. ERTEL, Mr. FAUNTROY, Mr. KEMP, Mr. LAGOMARSINO, Mr. LENT, Ms. MIKULSKI, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. OBERSTAR, Mr. PEPPER, Mr. ROYBAL, Mr. SKELTON, and Mr. VENTO):

H.R. 8189. A bill to provide coordinated veterans readjustment training and supportive services, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WOLFF (for himself, Mr. RODINO, Mr. CHARLES WILSON of Texas, Mr. WIRTH, Mr. RYAN, Mr. BEDELL, Mr. GILMAN, Mr. BINGHAM, and Mr. ENGLISH):

H.R. 8190. A bill to provide coordinated veterans readjustment training and supportive services, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HORTON (for himself and Mr. MINETA):

H.J. Res. 540. Joint resolution authorizing the President to proclaim annually a week during the first 10 days in May as Pacific/Asian American Heritage Week; to the Committee on Post Office and Civil Service.

By Mr. NOLAN (for himself, Mr. BAUCUS, Mr. BLOUIN, Mr. BONIOR, Mr. BRADEMAS, Mr. BROWN of California, Mr. CAVANAUGH, Mr. COHEN, Mr. DOWNEY, Mr. FAUNTROY, Mr. FINDLEY, Mr. FLOOD, Mr. GIBBONS, Mr. HORTON, Mr. HOWARD, Mr. JEFFORDS, Mr. MAGUIRE, Mr. MINETA, Mr. QUIE, Mr. RICHMOND, Mr. RODINO, Mr. ROE, Mr. STOKES, Mr. WHITEHURST, and Mr. YATRON):

H.J. Res. 541. Joint resolution authorizing the President to proclaim the third week of July of 1977, 1978, and 1979, as National Architectural Barrier Awareness Week; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of New York (for himself, Mr. EDWARDS of Oklahoma, Mr. DAN DANIEL, Mr. WHITEHURST, Mr. MCCLORY, Mr. KEMP, Mr. EILBERG, Mr. MOIL, and Mr. BADHAM):

H. Con. Res. 272. Concurrent resolution expressing the sense of the Congress that the United States take no action to withdraw U.S. ground forces from the Republic of Korea until the Congress has had an opportunity to examine the American security commitment to the Republic of Korea and the effects such a withdrawal would have on the stability of the Korean peninsula; to the Committee on International Relations.

By Mr. SHUSTER:

H. Con. Res. 273. Concurrent resolution to disapprove Federal motor vehicle safety standard 208 transmitted June 30, 1977; to the Committee on Interstate and Foreign Commerce.

By Mr. SIMON:

H. Con. Res. 274. Concurrent resolution relating to broadening the observance of Thanksgiving to an occasion of sharing our plenty with the hungry of other lands; to the Committee on Post Office and Civil Service.

By Mr. CRANE (for himself, Mr. DUNCAN of Tennessee, Mr. THONE, Mr. HALL, Mr. ARCHER, Mr. VANDER JAGT, Mr. KINDNESS, Mr. RUNNELS, and Mr. HAGEDORN):

H. Res. 672. Resolution insisting upon retention of undiluted U.S. sovereignty over the Canal Zone and the Panama Canal; to the Committee on International Relations.

By Mr. HILLIS (for himself, Mr. SISK, Mr. PEPPER, Mr. FISH, Mr. PRITCHARD, Mr. FAUNTROY, Mr. DERWINSKI, Mr. CORCORAN of Illinois, Mr. LEVITAS, Mrs. BURKE of California, Mr. LAGOMARSINO, Mr. EDWARDS of Oklahoma, Mr. MITCHELL of Maryland, Mr. WYDLER, Mr. REGULA, Mr. WALSH, Mr. JOHN T. MYERS, Mr. RICHMOND, Mr. ERTEL, Mr. EILBERG, Mr. EDGAR, Ms. MIKULSKI, Mr. DOWNEY, Mr. CAPUTO, and Mr. OBERSTAR):

H. Res. 673. Resolution to create a congressional senior citizen intern program; to the Committee on House Administration.

By Mr. HILLIS (for himself, Mr. RHODES, Mr. RUPPE, Mr. COLEMAN, Mr. HOLLENBECK, Mr. RAILSBACK, Mr. ROBINSON, Mr. OTTINGER, Mr. MITCHELL of New York, Mr. JOHN L. BURTON, Mr. BLOUIN, Mr. LUNDINE, and Mr. KELLY):

H. Res. 674. Resolution to create a congressional senior citizens intern program; to the Committee on House Administration.

By Mr. HILLIS (for himself, Mr. SCHULZE, Mr. MAZZOLI, Mr. FORD of Tennessee, Mr. LEACH, Mr. LEHMAN, Mr. MANN, Mr. RUDD, Mr. BURKE of Massachusetts, Mr. VENTO, Mr. BE-

DELL, Mr. BRODHEAD, Mr. HUGHES, Ms. OAKAR, Mr. COCHRAN of Mississippi, Mr. GILMAN, Mr. MAGUIRE, Mr. MARKS, Mr. AUCOIN, Mr. WALGREN, Mr. ROE, Mr. TAYLOR, Mr. ROYBAL, Mr. DRINAN, and Mr. ABDNOR):

H. Res. 675. Resolution to create a congressional senior citizen intern program; to the Committee on House Administration.

By Mr. MURPHY of New York (for himself, Mr. DAN DANIEL, Mr. GUYER, Mr. YOUNG of Florida, Mr. WINN, Mr. STUMP, Mr. ENGLISH, Mr. ROBERTS, Mr. HUCKABY, Mr. D'AMOURS, Mr. FLOOD, Mr. GAYDOS, Mr. MCDONALD, Mr. STANGELAND, and Mr. SNYDER):

H. Res. 676. Resolution relative to the U.S. retention of the Panama Canal; to the Committee on International Relations.

By Mr. MURPHY of New York (for himself, Mr. BREAUX, Mr. KETCHUM, Mr. ROUSSELOT, Mr. GINN, Mr. ZEFERETTI, Mr. BIAGGI, Mr. BOWEN, Mr. HUBBARD, Mr. LENT, Mr. JONES of North Carolina, Mr. BURGENER, Mr. DINGELL, and Mr. YOUNG of Alaska):

H. Res. 677. Resolution relative to the U.S. retention of the Panama Canal; to the Committee on International Relations.

By Mr. ROGERS:

H. Res. 678. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

206. By the SPEAKER: Memorial of the House of Representatives of the State of Michigan, relative to the closing of military installations; to the Committee on Armed Services.

207. By Mr. CUNNINGHAM: Memorial of the House of Representatives of the State of Washington, relative to the shipment or trading of Alaskan crude oil; to the Committee on International Relations.

208. Also, memorial of the House of Representatives of the State of Washington, relative to the disbanding of the 365th Civil Affairs Brigade; to the Committee on Armed Services.

209. Also, memorial of the Senate of the State of Washington, relative to development of hydroelectric and multi-purpose projects in the Middle Snake River; to the Committee on Interior and Insular Affairs.

210. Also, memorial of the Senate of the State of Washington, relative to retaining the veterans hospital facilities in Vancouver, Wash.; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 8191. A bill for the relief of Bernarda G. Hermosura; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 8192. A bill for the relief of Andree McGiffin and Jean-Manuel Henry; to the Committee on the Judiciary.

By Mr. LEVITAS:

H.R. 8193. A bill for the relief of C.M.Sgt. J.C. Westmoreland; to the Committee on the Judiciary.

By Mr. TSONGAS:

H.R. 8194. A bill for the relief of Joseph Haddad, Jr.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

137. By the SPEAKER: Petition of the Public Service Commission of Indiana, Indianapolis, Ind., relative to telecommunications regulatory policies; to the Committee on Interstate and Foreign Commerce.

138. Also, petition of the Executive Committee of the Board of Directors of the Chamber of Commerce of Greater Berwick, Inc., Berwick, Pa., relative to telecommunications regulatory policies; to the Committee on Interstate and Foreign Commerce.

139. Also, petition of the Miletus Church, Inc., Wayzata, Minn., relative to obtaining a special third-class postal rate status; to the Committee on Post Office and Civil Service.

140. Also, petition of the American Fishing Tackle Manufacturers Association, Chicago, Ill., relative to marine recreational fisheries research; jointly to the Committees on Merchant Marine and Fisheries, and Science and Technology.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5400

By Mr. FRENZEL:

Page 22, line 15, insert ", any primary election," after "election" the first place it appears therein.

Page 22, line 15, strike out "general".

Page 22, line 16, strike out "general".

Page 23, line 4, strike out "general".

Page 26, line 17, strike out "general election" and insert in lieu thereof "elections".

Page 33, line 5, strike out "general".

Page 33, line 15, strike out "general".

Page 33, line 16, strike out "general".

Page 26, strike out line 15 and all that follows down through page 27, line 7, and insert in lieu thereof the following new paragraph:

(2) States and units of general local government shall not be required to comply with the provisions of paragraph (1) with respect to any Federal election which is held before the general election for Federal office held in 1980.

Page 28, beginning on line 6, strike out "if additional identification is required by the State or unit of general local government involved,".

Page 26, line 8, strike out "shall" and insert in lieu thereof "may".

Page 26, strike out line 15 and all that follows down through page 27, line 7.

And redesignate the following paragraph accordingly.

Page 20, strike out line 14 and all that follows down through page 21, line 19, and insert in lieu thereof the following new section:

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby declares that it is the purpose of this Act to provide financial and other assistance to encourage States to provide expanded opportunities for voter registration before and on the date of Federal elections and State or local elections, and to modernize the administration of elections and voter registration.

Page 40, line 25, insert after "section 6" the following: "(in the case of any State receiving financial assistance under section 7)".

Page 31, beginning on line 20, strike out "section 6(a)(1) and section 6(b)" and insert in lieu thereof "sections 6(a)(1), 6(b), 10(c)(1), and 10(c)(2)".

Page 32, beginning on line 2, strike out "section 6(a)(1) and section 6(b)" and insert in lieu thereof "sections 6(a)(1), 6(b), 10(c)(1), and 10(c)(2)".

Page 32, beginning on line 8, strike out "section 6(a)(1) and section 6(b)" and insert in lieu thereof "sections 6(a)(1), 6(b), 10(c)(1), and 10(c)(2)".

Page 33, line 10, insert "(A)" after "(2)".

Page 33, after line 17, insert the following new subparagraph:

(B) No State shall receive any payments under paragraph (1) unless such State has complied with the requirements of section 10(c)(1) and section 10(c)(2).

Amend the title so as to read as follows: "A bill to provide grants to States to establish programs which permit individuals to register to vote and vote on the date of Federal elections.".

H.R. 3816

By Mr. LEVITAS:

Page 45, after line 8, insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

SEC. 10. (a) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a (a)(1)) is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (1), the".

(b) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(1)(1) Notwithstanding any other provision of this Act, simultaneously with prescribing any rule under this Act, the Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule prescribed by the Federal Trade Commission dealing with the matter of , which rule was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of the 60 calendar days of continuous session of Congress after the date on which a rule is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.".

And redesignate the following sections accordingly.

H.R. 7073

By Mr. LEVITAS:

On the first page, after line 11, add the following new section:

SEC. 2. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding the following new paragraph at the end thereof:

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation including an emergency rule, under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation, other than emergency rules, shall not become effective, if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of , which rule or regulation was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(ii) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) CALCULATION OF TIME PERIODS.—For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) DEFINITION.—For the purposes of subparagraphs (A) and (B) of this paragraph, 'emergency rule' means a rule which is temporarily effective without the expiration of the otherwise specified periods of time for public notice and comment and which was duly promulgated by an agency pursuant to a finding that delay in the effective date would—

"(i) seriously injure an important public interest,

"(ii) substantially frustrate legislative policies and intent, or

"(iii) seriously damage a person or class of persons without serving an important public interest.

"(E) EFFECT OF CONGRESSIONAL INACTION.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule."

H.R. 7171

By Mr. BOWEN:

Page 20, strike out lines 21 through 23, and page 21 strike out lines 1 through 18 and insert in lieu thereof the following:

"Sec. 601. Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended shall not be applicable to upland cotton of the 1978 through 1981 crops."

Page 22, line 7, strike out "paragraphs (1) and (2) of subsection (e)" and insert in lieu thereof "paragraphs (1), (2), (3), and (4)(A) of section (e)".

Page 23, strike out the sentence beginning on line 15 and ending on line 24.

Page 26, strike out the sentence beginning on line 20 through line 25 and on page 27, strike out lines 1 through 20 and insert in lieu thereof the following:

"If the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for cotton to cotton or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the smaller of (i) the acreage intended to be planted to cotton, or (ii) the acreage planted to cotton for harvest (including any acreage which the producers were prevented from planting to cotton or other nonconserving crop in lieu of cotton) in the immediately preceding year multiplied by 75 per centum of the program yield established by the Secretary for the farm for the current year times a payment rate equal to 33⅓ per centum of the established price for the crop. If the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of cotton which the producers are able to harvest on any farm is less than the result of multiplying 75 per centum of the program yield established by the Secretary for the farm for such crop during the current year times the acreage planted to harvest for such crop in such year, the Secretary shall make a farm disaster payment to the producers at a rate equal to 33⅓ per centum of the established price for the crop for the deficiency in production below 75 per centum for the crop. Compensation made under the foregoing provisions of this paragraph for disaster loss with respect to prevented planting and low yield shall not be regarded as payment for purposes of section 101 of the Agricultural Act of 1970, as amended. In the event payments authorized in the first sentence of this paragraph are required to be made for any crop of upland cotton, the payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the acreage planted to cotton is ten acres or less, or on which the farm program payment yield times the acreage planted to cotton is five thousand pounds or less), (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased 30 per centum.".

"(3)(A) In the event payments are required to be made for any crop of upland cotton under the first sentence of paragraph (2) of this subsection, such payments shall be made to producers on each farm on (i) the farm program acreage determined in accordance with subparagraph (D) times (ii) the farm program payment yield determined in accordance with subparagraph (E).

"(B) The Secretary shall establish for each of the 1978 through 1981 crops of upland cotton a national program acreage. Such national program acreage shall be announced not later than December 15 of the calendar year preceding the year for which such acreage is established. The national program acreage shall be the number of harvested acres the Secretary determines (on the basis of the estimated weighted national average of the farm program yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. The national program acreage shall be subject to such adjustment as the Secretary determines necessary, taking into consideration the estimated carryover supply, so as to provide for an adequate but not excessive total supply of cotton for the marketing year for the crop for which such national program acreage is established. In no event shall the national program acreage be less than 10 million acres.

"(C) The Secretary shall determine a program allocation factor for each crop of upland cotton for which payments are to be made as provided for in the first sentence of paragraph (2). The allocation factor (not to exceed 100 per centum) shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested from such crop.

"(D) The individual farm program acreage for each crop of upland cotton shall be determined by multiplying the allocation factor by the acreage of cotton planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the cotton acreage eligible for payment on a farm shall not be further reduced by application of the allocation factor if the producers reduced the planted acreage on the farm from the previous year by at least the percentage recommended by the Secretary in announcing the national program acreage. In carrying out the foregoing provision, the Secretary shall provide fair and equitable treatment for producers on farms on which the acreage planted to cotton is less than the preceding year but the reduction is insufficient to exempt the farm from the allocation factor. In establishing the allocation factor under subparagraph (C) the Secretary is authorized to make such adjustment as deemed necessary to take into account the extent of exemption of farms under the foregoing provisions.

"(E) The farm program payment yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre on the farm for the preceding three years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producers. In case farm yield data for one or more years are unavailable or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area for which data are available.".

"(4)(A) The Secretary shall provide for a set-aside of cropland if he determines that the total supply of upland cotton will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payment on upland cotton, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage as determined by the Secretary (but not to exceed 28 per centum), of the acreage planted to upland cotton on the farm in the year for which the set-aside requirement is established. The set-aside acreage shall be devoted to conservation uses in accordance with regulations issued by the Secretary which will assure protection of such acreage from wind and water erosion throughout the current calendar year; however, the Secretary may permit, subject to

such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to sweet sorghum, hay and grazing or to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income. The Secretary may limit the acreage planted to cotton on farms by establishing a factor which shall be multiplied by the highest acreage planted to cotton on the farm (including any acreage not planted to cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in any one of the preceding five years. Such limitation shall be applied on a uniform basis to all cotton producing farms. Producers on a farm who knowingly plant cotton in excess of the permitted cotton acreage for the farm shall be ineligible for cotton loans or payments with respect to that farm.".

Page 28, lines 4 through 7, strike out all that appears after "SEC. 604." and insert in lieu thereof the following:

"(a) Section 408(b) of the Agricultural Act of 1949, as amended, is amended effective for the 1978 through 1981 crops by changing the second proviso to read as follows: "*And provided*, That for the 1978 through 1981 crops of upland cotton a cooperator shall be a producer who has set aside on the farm the acreage required under section 103(e).".

Page 28, line 12, strike out "Sections 378, 379, and 385" and insert in lieu thereof "Sections 379 and 385".

Page 28, line 20, strike out "section 408" and insert in lieu thereof "Section 408(1)".

Page 28 immediately after line 26, insert the following new subsections:

"(g) Section 101(f) of the Agricultural Act of 1949, as amended, is amended by striking out the words "Middling one-inch" appearing in the first sentence and inserting in lieu thereof "Strict Low Middling one and one-sixteenth inches".

"(h) Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended, shall again become effective as preliminary allotments for the 1982 crop."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of June 15, 1977 (page 19131).

H.R. 2401. January 26, 1977. Public Works and Transportation; Interstate and Foreign Commerce. Amends the Federal Aviation Act of 1958 to authorize reduced air fares on a space-available basis to individuals 65 years of age or older. Amends the Interstate Commerce Act to authorize common carriers subject to such Act to offer reduced fares on a space-available basis for such individuals.

H.R. 2402. January 26, 1977. Ways and Means. Allows a limited tax credit, under the Internal Revenue Code, for a percentage of the part-time employment expenses incurred by the taxpayer with respect to any qualified part-time employee.

H.R. 2403. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, nonrefundable tax credit for additional employment provided new or previously employed workers during taxable years ending after 1976 and beginning before 1981.

H.R. 2404. January 26, 1977. Ways and Means; Education and Labor. Amends the Internal Revenue Code and the Comprehensive Employment and Training Act to provide a tax credit for employers paying for the compensation and education of youth in qualified apprenticeship programs certified by the Secretary or Labor.

H.R. 2405. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for amounts they pay into employee's retirement trusts, or for annuity contracts.

H.R. 2406. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to require an automatic cost-of-living adjustment in the income tax rates, the amount of the standard deduction, personal exemption, and depreciation deduction, and the rate of interest payable on certain obligations of the United States.

H.R. 2407. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to require an automatic cost-of-living adjustment in the income tax rates, the amount of the standard deduction, personal exemption, and depreciation deduction, and the rate of interest payable on certain obligations or the United States.

H.R. 2408. January 26, 1977. Government Operations. Requires the Secretary of the Treasury to prepare and make public annual consolidated financial statements for all expenditures of the United States, utilizing the accrual method of accounting.

H.R. 2409. January 26, 1977. Government Operations. Requires the Secretary of the Treasury to prepare and make public annual consolidated financial statements for all expenditures of the United States, utilizing the accrual method of accounting.

H.R. 2410. January 26, 1977. Government Operations. Requires the Secretary of the Treasury to prepare and make public annual consolidated financial statements for all expenditures of the United States, utilizing the accrual method of accounting.

H.R. 2411. January 26, 1977. Veterans' Affairs. Provides for a burial allowance to be paid: (1) to any State or political subdivision thereof for burying a veteran in any cemetery owned by the State or subdivision if such cemetery or section thereof is used solely for the interment of veterans; or (2) to a person prescribed by the deceased veteran if burial is in a cemetery other than the kind described.

H.R. 2412. January 26, 1977. Veterans' Affairs. Directs the Secretary of the Army to establish a national cemetery in each State in which there is no national cemetery and to provide for the maintenance and care of each such cemetery.

Directs the Administrator of Veterans' Affairs to pay, in addition to any other burial allowance to be paid, an additional burial allowance of $400 for any deceased veteran interred in other than a national cemetery.

H.R. 2413. January 26, 1977. Veterans' Affairs. Removes the requirement that a veteran die in the service in order to be entitled to a memorial headstone or marker when his remains have not been recovered or identified, or have been buried at sea.

H.R. 2414. January 26, 1977. Veterans' Affairs. Transfers jurisdiction over, and responsibility for, Arlington National Cemetery from the Secretary of the Army to the Administrator of Veterans' Affairs.

Directs the Administrator to permit the burial in Arlington National Cemetery of any veteran and any of his survivors entitled by law to burial in national cemeteries.

H.R. 2415. January 26, 1977. Judiciary. Authorizes the issuance of 25,000 special immigrant visas to British citizens who are residents of Northern Ireland and who are seeking admission to the United States to avoid the consequences of armed conflict or persecution. Allows an alien already in this country on a nonimmigrant visa who is eligible for a visa under this Act to adjust his status to that of a permanent resident.

H.R. 2416. January 26, 1977. Judiciary. Requires formal public rulemaking with respect to procedures and policies concerning public property, loans, grants or benefits. Requires agencies to reimburse specified individuals participating in agency rulemaking proceedings. Waives the sovereign immunity of the United States in suits where relief other than money damages is sought. Requires the establishment of enforcement procedures for grant-in-aid programs.

H.R. 2417. January 26, 1977. Interior and Insular Affairs. Directs the Office of Technology Assessment to conduct a comprehensive five-year study of the nuclear fuel cycle.

H.R. 2418. January 26, 1977. International Relations. Amends the Export Administration Act of 1969 to prohibit the export of any agricultural commodity pursuant to an agricultural commodity export agreement unless the exporter has obtained an agricultural export license from the Secretary of Commerce. Prohibits approval of such license unless the Secretary of Commerce determines that: (1) there will be a sufficient domestic supply of the commodity for a 12 month period; (2) the proposed transaction will not increase consumer prices; and (3) the proposed transaction will not increase domestic unemployment. Exempts from this Act exports in a quantity for which the price is less than $10,000,000.

H.R. 2419. January 26, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to include tobacco products within the definition of food as contained in such Act thereby subjecting such products to the same regulation as food under such Act.

H.R. 2420. January 26, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husbands' and widower's insurance benefits; (2) to reduce from 20 to 15 the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 2421. January 26, 1977. Public Works and Transportation. Amends the Federal-Aid Highway Act of 1976 to increase and extend the appropriations authorized under such Act for the Federal-aid primary system. Increases the Federal share of the cost for construction projects financed with primary funds on the Federal-aid primary system.

H.R. 2422. January 26, 1977. Government Operations. Amends the Budget and Accounting Act of 1921 to authorize the Comptroller General to request and receive all necessary documents relating to any expenditure by a Federal agency to determine whether such expenditure was, in fact, made and was authorized by law.

H.R. 2423. January 26, 1977. Government Operations. Amends the Budget and Accounting Act of 1921 to authorize the Comptroller General to request and receive all necessary documents relating to any expenditure by a Federal agency to determine whether such expenditure was, in fact, made and was authorized by law.

H.R. 2424. January 26, 1977. Public Works and Transportation. Revises the definition of "bridge" for purposes of programs relating to the availability of Federal funds for the alteration of bridges obstructing navigation to include within such definition bridges which were lawful at the time of their construction but whose elevation has changed through no action or fault of its owner or users.

H.R. 2425. January 26, 1977. Public Works and Transportation. Modifies the project for

the Houston Ship Channel in Texas to direct the Secretary of the Army, acting through the Chief of Engineers to perform dredging operations to maintain the depth of the channel at a specified level.

H.R. 2426. January 26, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to provide for the establishment in the State of Pennsylvania of the Edgar Allan Poe National Historical Park.

H.R. 2427. January 26, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to apply the safety standards under such act and other specified standards to all vessels entering into the U.S. Fishery Conservation Zone established under the Fishery Conservation Management Act of 1976. Requires (previously allowed) the Secretary of the Department in which the Coast Guard is operating to implement the safety standards specified in such act. Transfers the duty of investigation of navigation accidents from the Secretary to the National Transportation Safety Board.

H.R. 2428. January 26, 1977 Agriculture; Ways and Means. Establishes a base domestic price for sugar and an adjustment formula for such price.

Amends the Tariff Schedules of the United States to establish variable customs duties on the importation of sugar. Exempts such imports from the general preference system. Repeals the special rates for sugar imported from Cuba. Prohibits the exportation or importation of sugar, except under certain determinations by the Secretary of Agriculture regarding domestic supply.

Imposes civil penalties for violation of this act.

Requires the President to find that modification of such duties would not interfere with purposes of this act, prior to making any such modification.

H.R. 2429. January 26, 1977. Post Office and Civil Service. Abolishes the Commission on Executive, Legislative, and Judicial Salaries established by the Federal Salary Act of 1967.

H.R. 2430. January 26, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to repeal the increase in salaries of Members of Congress authorized by the act of August 9, 1975.

H.R. 2431. January 26, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to repeal the increase in salaries of Members of Congress authorized by the act of August 9, 1975.

H.R. 2432. January 26, 1977. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 2433. January 26, 1977. Ways and Means. Amends title II (Old-age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 2434. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative twelve months of their employment.

H.R. 2435. January 26, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal particiaption in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 2436. January 26, 1977. Banking, Finance and Urban Affairs. Establishes a Solar Energy Loan Administration to provide financial assistance for the purchase and installation of solar hardware. Requires that such solar equipment meet minimum standards prescribed under the Solar Heating and Cooling Demonstration Act of 1974.

H.R. 2437. January 26, 1977. Interior and Insular Affairs. Revises the boundaries of the Manassas National Battlefield Park in Virginia. Authorizes the Secretary of the Interior to acquire additional lands for the battlefield and to make minor revisions in the boundary. Establishes procedures to allow owners of property within the boundaries of the battlefield to retain a right of use and occupancy.

H.R. 2438. January 26, 1977. Judiciary; House Administration. States that the right of a citizen of the United States who otherwise is qualified, to vote in any election for Federal office shall not be denied or abridged because he has committed a criminal offense unless such citizen is imprisoned in a correctional institution or facility at the time of such election.

H.R. 2439. January 26, 1977. Judiciary. Authorizes the Attorney General to bring a civil action in any United States district court for the relief of any institutionalized person whenever the Attorney General has cause to believe that the constitutional rights of such person are being violated pursuant to a pattern or practice of such violations. Requires the Attorney General to give the officials of such institution a reasonable time to correct such violation. Makes any person who causes such a violation liable for redress to the institutionalized person whose rights have been violated. Permits the issuance of an injunction or other preventive relief.

H.R. 2440. January 26, 1977. Judiciary. Forbids permitting Federal or District of Columbia prisoners to be subjects of medical research.

Requires a State, in order to receive assistance for correctional institutions under the Omnibus Crime Control and Safe Streets Act of 1968, to include within its comprehensive State plan assurances that no State prisoner will be allowed to be the subject of such research.

Prohibits the Director of the Bureau of Prisons from contracting with any State, territory, or political subdivision of any State or territory for the imprisonment and care of Federal offenders unless such assurances are given.

H.R. 2441. January 26, 1977. Judiciary. Establishes on Offender Rehabilitation Fund within the Treasury. Authorizes the Attorney General to make loans from such fund to released Federal prisoners in need of assistance.

H.R. 2442. January 26, 1977. Appropriations. Makes appropriations for the survey of the Great Lakes and Saint Lawrence Seaway and for the demonstration program of the practicability of extending the navigation season on such waterways pursuant to the River and Harbor Act of 1970.

H.R. 2443. January 26, 1977. Public Works and Transportation. Amends the Interstate Commerce Act to include owner-operated motor vehicles as an exempt class under such Act. Prohibits such drivers from collecting any fare lower than the lowest fare specified in their tariffs filed with the Interstate Commerce Commission.

H.R. 2444. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the Secretary of the Treasury may not prescribe regulations which limit the number of educational grants by private foundations to specified portions of their applicants in order to qualify as nontaxable expenditures.

H.R. 2445. January 26, 1977. Ways and Means. Establishes on the books of the Treasury a fund to be known as the "United States Olympic Committee Fund." Allows an individual taxpayer to designate one dollar of his income taxes for the Fund.

Provides that amounts in the fund shall be paid to the United States Olympic Committee, which shall report on the uses made of these funds.

H.R. 2446. January 26, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the customs duty on the importation of horses, and to repeal the exception for race horses exported from and returned to the United States which permits duty-free entry of such horses.

H.R. 2447. January 26, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 2448. January 26, 1977. Science and Technology. Authorizes the Secretary of Health, Education, and Welfare to make grants for research and development of new methods of research, experimentation, and testing which minimize the use of, and the pain inflicted upon, live animals.

H.R. 2449. January 26, 1977. Education and Labor; Judiciary. Establishes a Commission on School Integration to study the results of, and other questions relating to, the racial integration of public schools, and the use of busing to achieve such integration.

H.R. 2450. January 26, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to require the Secretary of Health, Education, and Welfare to make grants to public or nonprofit entities for research projects in fertility and sterility in humans and the human reproductive process.

H.R. 2451. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 2452. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married person filing a separate return to the amount actually earned by that individual.

H.R. 2453. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 2454. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 2455. January 26, 1977. Ways and Means. Amends Title IV (Child Welfare Services) of the Social Security Act to authorize States to provide day treatment and in-home services to any child or family experiencing problems which such services would assist in solving, and to any other child or family where parental difficulties may jeopardize the physical, emotional, or psychological condition of the child.

H.R. 2456. January 26, 1977. Merchant Marine and Fisheries. Prohibits vessels transporting petroleum or petroleum products from Alaska to any port in California which is east or south of the Santa Barbara Channel Islands of San Miguel, Santa Rosa, Santa Cruz, and Anacapa from using any route through any territorial or international waters which lie between such islands and the coast of California.

H.R. 2457. January 26, 1977. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 2458. January 26, 1977. Banking, Finance, and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers and specified educational, medical or social service centers.

Directs the Secretary to serve as a national clearinghouse for local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 2459. January 26, 1977. Public Works and Transportation. Authorizes States or political subdivisions which issued bonds the proceeds of which were used for projects on the Interstate Highway System to partially recover the interest payments made on such bonds from the Federal Government.

H.R. 2460. January 26, 1977. Post Office and Civil Service. Excludes from the definition of "letter," telegrams, letters sent in bulk, and other items not generally considered to be letters. Limits such definition as narrowed by this Act to postal law provisions dealing with private carriage of letters, illegal carriage of letters, and prompt delivery of mail from a vessel. Permits the carriage of mail by private carrier not otherwise permitted if such mail is addressed to such carrier or if the Postal Service determines that such private carriage is in the public interest.

H.R. 2461. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to exclude Federal retirement benefits from the income tax to the same extent the beneficiaries would have been entitled to exclude benefits and income under the Social Security Act.

H.R. 2462. January 26, 1977. Judiciary; Banking, Finance and Urban Affairs; Ways and Means. Amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 to set mandatory minimum terms of imprisonment for individuals convicted of certain opiate traffic related crimes.

Amends the Federal Rules of Criminal Procedure to require a separate sentencing hearing when a person is convicted of a crime for which such sentences are authorized.

Subjects to forfeiture proceeds of and money intended to be used in opiate violations.

Revises reporting requirements relative to (1) importation or exportation of cash and (2) vessels upon arrival in United States ports.

H.R. 2463. January 26, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's, or parent's insurance benefits or reduce the amount thereof.

H.R. 2464. January 26, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to increase the maximum acreage allotment under Federal reclamation laws for lands of lesser productive potential.

H.R. 2465. January 26, 1977. District of Columbia. Establishes three retirement funds encompassing: (1) District of Columbia firefighters and police officers; (2) District of Columbia teachers; and (3) District of Columbia judges.

Establishes the District of Columbia Retirement Board to manage the retirement funds created by this Act.

Details provisions relating to the administration of such funds and revises provisions relating to specified retirement and disability benefits under the retirement programs of such personnel.

H.R. 2466. January 26, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 2467. January 26, 1977. Post Office and Civil Service. Changes the dates of observance of Memorial Day and Veterans Day.

H.R. 2468. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax deduction for agency fees, court costs, attorneys' fees and other necessary costs and fees incurred in the adoption of a child.

H.R. 2469. January 26, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 2470. January 26, 1977. Armed Services. Stipulates that no veteran may be denied care or treatment under the CHAMPUS program for any service-connected disability solely because care or treatment for such disability is available at Veterans' Administration medical facilities.

H.R. 2471. January 26, 1977. Interstate and Foreign Commerce; Judiciary. Amends the Federal Trade Commission Act to prohibit the application of a per se rule of illegality under the antitrust laws in the case of territorial market allocation agreements made as part of a licensing agreement: (1) for the manufacture, distribution and sale of a trademarked soft drink product; or (2) for the distribution or sale of a trademarked private label food product.

H.R. 2472. January 26, 1977. Veterans' Affairs. Revises the eligibility requirements for mustering-out payments to qualified members of the Armed Forces who served on active duty for 90 days or more during the Vietnam era and who were discharged or released under conditions other than dishonorable. Increases payment amounts for specified classes of eligible persons.

H.R. 2473. January 26, 1977. Veterans' Affairs. Reduces the number of items excluded in the determination of income for veterans who have a non-service-connected disability. Sets flat pension rates for specified categories of such veterans and also for widows and children of Mexican border period, World War I, World War II, Korean conflict or Vietnam era veterans. Provides for continuance, even though income status changes, of amounts paid to veterans with a permanent and total disability rating or who are in need of regular care and attendance. Requires cost-of-living increases in the rates payable to persons affected by this Act.

H.R. 2474. January 26, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to make annual adjustments in monthly rates of disability compensation and dependency and indemnity compensation according to cost-of-living changes in the Bureau of Labor Statistics Consumer Price Index.

H.R. 2475. January 26, 1977. Veterans' Affairs. Provides that pension or compensation payments made to a hospitalized incompetent veteran will not be terminated unless his estate exceeds $3,000 (currently $1,500); and in the event of such termination, payments will be resumed when such veteran's estate has been reduced to $1,000 (currently $500).

H.R. 2476. January 26, 1977. Veterans' Affairs. Permits certain veterans with service-connected disabilities, regardless of disability rating, who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from either.

H.R. 2477. January 26, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 2478. January 26, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 2479. January 26, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 2480. January 26, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to include Mississippi among the States which may provide coverage for policemen and firemen under their voluntary agreements for coverage of State and local employees.

H.R. 2481. January 26, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to direct the Federal Power Commission to exempt from regulation sales of natural gas to companies with insufficient supplies to fulfill the requirements of high-priority consumers of natural gas.

H.R. 2482. January 26, 1977. Interstate and Foreign Commerce. Requires the Federal Trade Commission to establish the Office of Consumer Redress to establish programs, and to aid and cooperate with State programs, for the administration and adjudication, of controversies involving consumers.

H.R. 2483. January 26, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to permit any United States district court to define an unfair or deceptive practice when the Federal Trade Commission, having been petitioned to so define a specified practice, has failed to do so within 120 days.

Imposes a civil penalty upon any person who refuses to provide reports, evidence, or testimony to the Commission when required to do so.

Directs the Commission to determine if the advertising of distilled alcoholic beverages constitutes unfair or deceptive trade practices.

H.R. 2484. January 26, 1977. Ways and Means. Amends the Trade Act of 1974 to make eligible for the trade adjustment assistance programs workers who filed for such assistance before April 4, 1976, and who did not receive timely notification of the program requirements.

H.R. 2485. January 26, 1977. Agriculture. Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Agriculture.

H.R. 2486. January 26, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to grant a one-year extension from best practicable technology effluent limitations for point sources receiving research grants for the development of new technologies where such research project was unsuccessful.

H.R. 2487. January 26, 1977. Banking, Finance and Urban Affairs. Amends the Housing Act of 1949 to increase relocation payments to individuals, families, and business concerns displaced from urban renewal areas.

H.R. 2488. January 26, 1977. Education and Labor. Authorizes the Commissioner of Education to make reimbursements to eligible institutions of higher education that offer a reduced tuition plan to persons over 60.

Requires the Secretary of Labor to collect certain data relating to the employment of

older Americans and to maintain a computerized job data bank and matching program for older persons.

H.R. 2489. January 26, 1977. Judiciary. Requires the Director of the Administrative Office of United States Courts to examine methods for improving scheduling of criminal cases in district courts.

Directs the judges of each district court to establish and make public sentencing guidelines. Requires the court to state in the record the reasons for any deviation from such guidelines.

Reduces the number of preemptory jury challenges.

H.R. 2490. January 26, 1977. Post Office and Civil Service. Directs the Secretary of Commerce to conduct surveys to determine the number, sex, race, and age of individuals not counted by the most recent census. Requires that such information be used in determining the amount of aid available under Federal assistance programs which are based on population statistics.

H.R. 2491. January 26, 1977. Public Works and Transportation. Amends the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act to change the name of the J. Edgar Hoover F.B.I. Building to the "Federal Bureau of Investigation Building."

H.R. 2492. January 26, 1977. Ways and Means. Amends the Internal Revenue Code of 1954 to permit the full deduction of medical expenses incurred for the care of individuals 65 years of age or more, without regard to the three and one percent floors.

H.R. 2493. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited, refundable tax credit to persons age 65 or over for the real property taxes, or 25 percent of the rent, they pay for their principal residences.

H.R. 2494. January 26, 1977. Ways and Means. Amends Title I (Grants to States for Old-Age Assistance and Medical Assistance for the Aged), Title IV (Aid to Families with Dependent Children), Title XIX (Grants to States for Aid to the Permanently and Totally Disabled), and Title XVI (Supplemental Income for the Aged, Blind, and Disabled) of the Social Security Act to insure that recipients of aid or assistance under specified Federal-State public assistance and Medicaid programs or recipients of assistance under any other federally assisted program will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits.

H.R. 2495. January 26, 1977. Judiciary. Post Office and Civil Service. Extends to three years the time during which certain former officers and employees of the executive branch, independent Federal agencies, or agencies of the District of Columbia are prohibited from appearing before any Federal court, department, or agency for anyone other than the United States in proceedings connected with their former duties.

Prohibits certain Federal employees paid under the Executive Schedule from accepting positions with independent regulatory authorities and other executive agencies within any 12 month period.

H.R. 2496. January 26, 1977. Judiciary. Grants a Federal Charter to the United States Submarine Veterans of World War II.

H.R. 2497. January 26, 1977. Interior and Insular Affairs. Reinstates as federally supervised and recognized Indian tribes the Modoc, Wyandotte, Peoria and Ottawa Indian Tribes (all of Oklahoma). Authorizes the Secretary of the Interior to prescribe regulations necessary to carry out the provisions of this Act.

H.R. 2498. January 26, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to formulate and administer a utility stamp program under which, at the request of any State chief executive, any eligible household which has at least one member over age 60 shall have the opportunity to offset a portion of its utility bill with coupons amounting to an allotment of $25 monthly.

H.R. 2499. January 26, 1977. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to increase the amount authorized to be appropriated under such Act.

H.R. 2500. January 26, 1977. Interstate and Foreign Commerce. Authorizes the President to declare natural gas emergencies and to order the transfer of supplies of natural gas from one pipeline system to another in order to alleviate the effects of severe natural gas shortages. Stipulates that activities undertaken pursuant to this Act shall be exempt from regulation under the Natural Gas Act and exempt from antitrust laws.

H.R. 2501. January 26, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to perform a survey in order to eliminate a conflict between the official cadastral survey and a private survey of the boundaries between specified private lands and the surounding lands of Medicine Bow National Forest, Wyoming.

H.R. 2502. January 26, 1977. Interior and Insular Affairs. Extends the time period for certain oil and gas leases committed to a specified development plan, under the authority of the Secretary of the Interior.

H.R. 2503. January 26, 1977. Public Works and Transportation; Ways and Means. Establishes the United States Air Traffic Services Corporation as an independent corporation of the United States. Transfers to the Corporation the functions and duties of the Secretary of Transportation under specified laws relating to civil aviation including those of the Administrator of the Federal Aviation Administration. Authorizes the Corporation to change the rates of tax imposed under the Internal Revenue Code relating to taxes on special fuels, taxes on the transportation of persons and property by air, and taxes on the use of civil aircraft.

H.R. 2504. January 26, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for rural health clinic services pursuant to the program of Supplementary Medical Insurance Benefits for the Aged and Disabled of such Title.

H.R. 2505. January 26, 1977. Education and Labor. Establishes an Office of Child Development in the Department of Health, Education, and Welfare to coordinate and promote programs in child development. Requires the Secretary of Health, Education, and Welfare to promulgate Federal Standards for Child Development Services and a uniform minimum code for facilities.

Repeals and revises related provisions in the Economic Opportunity Act of 1964. Amends the Higher Education Act of 1965 to authorize grants for the training of personnel for child development programs.

Establishes a National Center for Child Development to develop and evaluate research programs in the area of child development.

H.R. 2506. January 26, 1977. Education and Labor. Amends the Higher Education Act of 1965 to exclude institutions of higher education and vocational schools from participating in the reduced-interest student loan insurance program under such Act unless such institutions or schools carry out a refund policy prescribed by this Act.

Prohibits any educational institution or vocational school from receiving Federal financial assistance under such Act unless the refund policy of such institution is disclosed to its students prior to payment of tuition.

H.R. 2507. January 26, 1977. Interstate and Foreign Commerce. Creates a Federal Energy Commission to regulate rates and charges for energy resource products. Prohibits persons engaged in commerce in the business of refining energy products from acquiring an interest in energy resource product extraction, energy pipeline, or energy marketing assets.

Directs the Attorney General and the Federal Trade Commission to independently examine the relationship of those engaged in one or more branches of the energy industry.

H.R. 2508. January 26, 1977. Interstate and Foreign Commerce. Requires that all motor vehicles used on the public streets, roads and highways be insured under a policy of no-fault insurance. Establishes a system and standards for the issuance of such insurance.

H.R. 2509. January 26, 1977. Intertate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to require the States to carry out specified measures to improve the enforcement of standards for nursing homes established by Title XIX.

H.R. 2510. January 26, 1977. Judiciary. Prohibits the manufacture or impact for purposes of sale within the United States of any handgun having basic structural components made from materials below certain specifications relative to melting point, tensile strength and density.

H.R. 2511. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to rename the earned income credit the "negative income tax." Increases such credit and makes it permanent.

H.R. 2512. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to require the Secretary of the Treasury to establish specific criteria and procedures to audit returns and to report certain information regarding audits completed in the previous 12 months to the Joint Committee on Taxation.

H.R. 2513. January 26, 1977. Agriculture; Ways and Means. Amends the Social Security Act by authorizing the Secretary of Health, Education, and Welfare to formulate and administer a food allowance program for the elderly.

H.R. 2514. January 26, 1977. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Midcareer Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 2515. January 26, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 2516. January 26, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by directing the Secretary of Labor to (1) render on-site consultation and advice to any employer, upon the request of such employer, concerning compliance with the Act; and (2) establish programs for the education and training of employers and employees concerning hazards in particular industries.

H.R. 2517. January 26, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by directing the Secretary of Labor to (1) render on-site consultation and advice to any employer, upon the request of such employer, concerning compliance with the Act; and (2) establish programs for the education and training of employers and employees concerning hazards in particular industries.

H.R. 2518. January 26, 1977. Education and Labor. Requires the Secretary of Health, Education, and Welfare to develop and enforce Federal children and youth camp safety standards.

Establishes an Office of Youth Camp Safety and an Advisory Council on Youth Camp Safety within the Department of Health, Education, and Welfare to assist in the implementation of the provisions of this Act.

H.R. 2519. January 26, 1977. Rules; Government Operations; Ways and Means; Education and Labor. Provides for the periodic expiration of budget authority for all Government programs and activities. Amends the rules of the Senate and House of Representatives to provide periodic reviews of all government programs' efficiency and accomplishments.

Requires that each bill and concurrent resolution include an estimate of the proposal's cost.

Amends the Internal Revenue Code to reduce personal income and estate taxes. Increases specified exemptions and deductions.

Amends the Small Business Act to increase the financial assistance available to small businesses. Amends the Comprehensive Employment and Training Act to provide additional incentives for the employment of youths and the chronically unemployed.

H.R. 2520. January 26, 1977. Banking, Finance and Urban Affairs. Directs the Secretary of the Treasury to strike medals in commemoration of the two hundredth anniversary of the encampment of the American Army at Valley Forge, Pennsylvania.

H.R. 2521. January 26, 1977. Agriculture. Makes the Poultry Products Inspection Act applicable to domesticated rabbits slaughtered for human consumption and the persons and establishments processing such rabbits.

Allows a State two years in which to pass its own regulations controlling such establishments or have such intrastate activity come under Federal regulation.

H.R. 2522. January 26, 1977. Ways and Means. Amends the Internal Revenue Code to provide a two cents per gallon refund of the gasoline tax on gasoline using cereal grain alcohol ("gasohol") as a substitute for lead. Limits the refund to vendors who have passed on the tax savings to purchasers.

H.R. 2523. January 26, 1977. Ways and Means. Amends the Trade Act of 1974 to extend to two years the period within which workers separated from adversely affected employment may apply for trade adjustment assistance.

H.R. 2524. January 26, 1977. Agriculture. Provides, under the Consolidated Farm and Rural Development Act, that aliens legally admitted to the United States for permanent residence are eligible for emergency loans if they are established farmers, ranchers or persons engaged in aquaculture. Makes eligible for such loans domestic corporations or partnerships primarily engaged in farming, ranching or aquaculture which have stockholders or partners who are aliens legally admitted for permanent residence.

H.R. 2525. January 26, 1977. Agriculture. Expands the emergency spending authority of the Secretary of Agriculture with respect to aiding and transporting persons who are lost, seriously ill, injured, or who die within the National Forest System.

H.R. 2526. January 26, 1977. Education and Labor. Amends the National School Lunch Act to require that all goods purchased for distribution pursuant to such Act conform to the Buy American Act.

H.R. 2527. January 26, 1977. Interior and Insular Affairs. Authorizes the Secretary of Agriculture to convey certain lands in the Sierra National Forest, California, to the Madera Cemetery District.

H.R. 2528. January 26, 1977. Government Operations. Authorizes Federal employees under the Freedom of Information Act to disclose any information which an agency is required to make available to the public under the Act, and any information which is requested in writing by a Member of Congress when disclosure is not subject to the Act. Prohibits the dismissal, transfer, or other adverse personnel action or threat of such action in retaliation for such release of information by such employee.

H.R. 2529. January 26, 1977. Interstate and Foreign Commerce. Requires major corporations to file with the Federal Trade Commission cost justifications of price increases which would result from compliance with Federal regulatory requirements.

H.R. 2530. January 26, 1977. Post Office and Civil Service. Makes National Zoological Park police eligible for the civil service pension program.

H.R. 2531. January 26, 1977. Post Office and Civil Service; Rules. Requires the Civil Service Commission to submit any proposed increase in rates charged under civil service health benefits plans to Congress not later than 30 days before the date such increase is proposed to become effective. Disallows a proposed increase if either House of Congress adopts a resolution of disapproval before such increase's effective date. Details rules relating to the consideration of such resolution of disapproval in Congress.

H.R. 2532. January 26, 1977. Judiciary. Amends the Civil Rights Act of 1968 to allow the Secretary of the Department of Housing and Urban Development to initiate civil actions to enforce the provisions of such Act. Extends from 30 to 60 days the period during which no civil suits may be initiated and the Secretary must make efforts to obtain voluntary compliance with such Act.

Permits courts to award attorneys' fees to prevailing plaintiffs without regard to financial ability to assume such fees.

H.R. 2533. January 26, 1977. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to direct the President to call a National Leadership Conference on Energy Policy during 1977.

H.R. 2534. January 26, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make loans to homeowners and builders to assist them in purchasing and installing solar heating or solar heating and cooling equipment, and directs the Secretary to provide individuals with all current information on such equipment upon request.

Directs the Energy Research and Development Administration to: (1) establish procedures for inspecting and evaluating solar heating and cooling equipment; (2) review new equipment as developed; and (3) periodically review certifications of such equipment for validity.

H.R. 2535. January 26, 1977. Ways and Means. Provides a two-year extension of time for the payment of so much of any income tax as is attributable to the application to 1976 of the change made by the Tax Reform Act in the exclusion for sick pay.

H.R. 2536. January 26, 1977. Ways and Means. Allows a tax credit, under the Internal Revenue Code, for a percentage of the expenses incurred by the taxpayer for employment training expenses of employees enrolled in apprenticeship programs or cooperative education programs or job-related programs of education.

H.R. 2537. January 26, 1977. Interior and Insular Affairs. Amends the Cape Cod National Seashore Act to prohibit the allowance of use and occupancy privileges to property owners who have constructed homes during a period of suspension of the authority of the Secretary of the Interior to acquire land by condemnation.

Requires that new standards issued by the Secretary be incorporated into existing zoning by-laws.

H.R. 2538. January 26, 1977. Agriculture. Directs the Secertary of Agriculture to make loans to agricultural producers who sustain losses incurred on or after January 1, 1973, as a direct result of their food crops, animal feedcrops, livestock (including poultry), or livestock products being quarantined or condemned by a Federal or State official because such crops, livestock or products contain quantities of toxic chemical dangerous to the public health.

H.R. 2539. January 26, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to enter into land transactions on behalf of the Confederated Tribes of the Umatilla Reservation, and individual Indians. Requires that lands acquired pursuant to this Act be taken in the name of the United States in trust for the Confederated Tribes of the Umatilla Reservation, or for the individual for whom the land was acquired. Allows the Confederated Tribes of the Umatilla Reservation to execute mortgages.

H.R. 2540. January 26, 1977. Interior and Insular Affairs. Sets forth rules governing the interstate succession of all interests in trust or restricted land within the Umatilla Reservation, Oregon.

H.R. 2541. January 26, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 2542. January 26, 1977. Banking, Finance and Urban Affairs; Judiciary. Prohibits any United States entity or representative from obtaining copies of, or access to, information contained in the financial records, toll records, or credit record of any of any customer of a financial institution, communication common carrier, credit card issuer, or consumer reporting agency. Lifts such prohibition if: (1) the records are described with sufficient particularity; and (2) the customer has authorized disclosure, the disclosure is obtained in response to an administrative subpoena, search warrant, or judicial subpoena, or disclosure is in compliance with specified provisions of the Fair Credit Reporting Act. Restricts the use of mail covers and the interception of wire and oral communications for purposes of supervisory observing by communication common carriers and others.

H.R. 2543. January 26, 1977. Interior and Insular Affairs. Designates a unit of the Big Thicket National Preserve, Texas, as the Ralph Yarborough Unit.

H.R. 2544. January 26, 1977. Interior and Insular Affairs. Grants the United States Government the right to immediate possession of specified real property within units of the Big Thicket National Preserve. Makes provisions for the rendering of just compensation for such lands. Permits the Secretary of the Interior, in his discretion, to initiate eminent domain proceedings against improved property if such lands are subject to uses which are detrimental to the stated purposes of this Act.

H.R. 2545. January 26, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend until September 30, 1978, the period of time during which funds allotted to States for the construction of treatment works shall remain available.

H.R. 2546. January 26, 1977. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act by designating a portion of the Salt River, Arizona, for study as a potential addition to the National Wild and Scenic Rivers System.

H.R. 2547. January 26, 1977. Government Operations. Directs the Administrator of General Services to purchase property which is suitable for use as a training facility by the Texas National Guard equal in value to the interest held by the Texas National Guard Armory Board in specified property. Directs the Administrator and the Texas National Guard Armory Board to exchange such purchased and presently owned properties for one another.

H.R. 2548. January 26, 1977. Post Office and Civil Service. Entities to survivor annuities widows or widowers of certain deceased an-

nuitants who had previously made such annuities available to a former spouse to whom such annuitant was married at the time of retirement.

H.R. 2549. January 26, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act by replacing Medicare with a national health care program under which the cost of covered medical services provided to all United States residents and certain non-resident aliens shall be paid by the Federal Government. Establishes an independent Social Security Administration to administer this program, Old-Age, Survivors, and Disability Insurance, Supplemental Security Income, and the health standards provisions of the Federal Coal Mine Health and Safety Act.

Amends the Internal Revenue Code to impose a tax on wages, self-employment income, and certain unearned income for purposes of the national health care program.

H.R. 2550. January 26, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 2551. January 26, 1977. Judiciary. Directs the Civil Service Commission to pay a certain individual a lump sum as the equivalent of a survivor annuity to which she is deemed to be entitled.

H.R. 2552. January 26, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2553. January 26, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 2554. January 26, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2555. January 26, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 2556. January 26, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 2557. January 26, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual for damages suffered by such individual as a result of erroneous actions by a certain Federal agency.

H.R. 2558. January 26, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2559. January 26, 1977. Judiciary. Directs the Secretary of Agriculture to recovery a patent to a certain individual.

H.R. 2560. January 26, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 2561. January 26, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2562. January 26, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2563. January 26, 1977. Judiciary. Provides that a certain individual be deemed to have made a timely election for purpose of providing a civil service survivor annuity for his wife.

H.R. 2564. January 27, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to redefine "vessel of the United States," and to require the Secretary of Commerce to submit to Congress an annual report regarding foreign investment in the United States fishing industry.

H.R. 2565. January 27, 1977. Public Works and Transportation. Requires the Secretary of the Army, acting through the Corps of Engineers, to alter the Shepherdstown Bridge as part of the river navigation project for Yazoo River, Mississippi. Authorizes the appropriation of not more than $3,000,000 to alter such bridge.

H.R. 2566. January 27, 1977. Judiciary. Authorizes the issuance of immigration visas to aliens who are natives of the Philippines, who served in any United States Armed Force during World War II and who were separated from such service under honorable conditions.

H.R. 2567. January 27, 1977. Judiciary. Amends the Immigration and Nationality Act to allocate the colonies of foreign states a greater number of the visas available to such foreign state if denial of admittance to an immigrant born in such colony resulting from quota limitations pertaining to such colony would result in severe hardship to the family of such immigrant.

H.R. 2568. January 27, 1977. Post Office and Civil Serivce. Allows any Federal employee or Member of Congress who is a Japanese American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 2569. December 27, 1977. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 2570. January 27, 1977. Agriculture. Revises the eligibility requirements for food coupons under the Food Stamp Act of 1964 to exclude individuals who receive one-half of their income from an individual who is not eligible for food coupons.

H.R. 2571. January 27, 1977. Education and Labor. Amends the Occupational Safety and Health Act to prohibit the assessment of a civil penalty for the initial citation of any employer for a violation of any standard or regulation imposed by such Act unless such employer fails to abate such violation within a specified time.

Permits the Secretary of Labor to inspect such employer and issue a citation, if necessary, to insure the abatement of any initial violation.

H.R. 2572. January 27, 1977. Ways and Means. Increases to $6,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under Title II (Old-Age, Survivors, and Disability Insurance Benefits) of the Social Security Act.

H.R. 2573. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional income tax exemption for a taxpayer or his spouse who is deaf.

H.R. 2574. January 27, 1977. Post Office and Civil Service. Increases the salary of the Director of the Office of Management and Budget to the annual rate of pay prescribed for level I of the Executive Pay Schedule.

H.R. 2575. January 27, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to shorten the term of members of the Board of Governors of the Federal Reserve System from 14 to 8 years. Empowers the President to remove any member of such Board for cause.

H.R. 2576. January 27, 1977. Judiciary. Amends the Bankruptcy Act to include among debts which have priority specified debts to consumers based on deposits of money made in connection with the purchase, lease, or rental of goods or services for personal or household use not delivered on the date of bankruptcy or on account of a cause of action based on the breach of an implied or express warranty in connection with goods or services.

H.R. 2577. January 27, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 2578. January 27, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize free or reduced transportation rates for persons over 65 and handicapped individuals and their attendants. Amends the Urban Mass Transportation Act of 1964 to give funding priority under such act to public bodies which offer reduced rates to such individuals. Authorizes the Secretary of Transportation to prescribe standards for facilities funded under such Act to insure ready access to such facilities by these individuals. Amends the Older Americans Act of 1965 to authorize a grant program for special transportation research and demonstration projects for such individuals.

H.R. 2579. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 2580. January 27, 1977. Ways and Means. Increases to $5,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 2581. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 2582. January 27, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 2583. January 27, 1977. Interstate and Foreign Commerce; Judiciary. Amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 to set forth mandatory minimum terms of imprisonment for individuals convicted of certain narcotics traffic related crimes.

Amends the Federal Rules of Criminal Procedure to require a separate sentencing hearing when a person is convicted of a crime for which such sentences are authorized.

Specifies standards for conditions of release and preventive detention of narcotics violators.

Subjects to forfeiture proceeds of and money intended to be used in narcotics violations.

H.R. 2584. January 27, 1977. Interstate and Foreign Commerce; Judiciary. Amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 to set forth mandatory minimum terms of imprisonment for individuals convicted of certain narcotics traffic related crimes.

Amends the Federal Rules of Criminal Procedure to require a separate sentencing hearing when a person is convicted of a crime for which such sentences are authorized.

Specifies standards for conditions of release and preventive detention of narcotics violators.

Subjects to forfeiture proceeds of and money intended to be used in narcotics violations.

H.R. 2585. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform

Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 2586. January 27, 1977. Interstate and Foreign Commerce; Government Operations; Rules; Judiciary. Establishes a commission to study the impact of Federal regulatory activities on the United States economy. Requires Federal agencies to prepare a cost-benefit assessment of all proposed and specified existing rules which involves public costs. Requires agency rules to be subject to Congress disapproval. Directs the United States to pay the attorney's fees of defendants who prevail in a civil action in which the United States is a plaintiff.

H.R. 2587. January 27, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize the Administrator of the Environmental Protection Agency to make grants to States to defray costs incurred in reducing asbestos levels in the interior of school buildings.

H.R. 2588. January 27, 1977. Ways and Means. Amends the Trade Act of 1974 to prohibit the President from designating a country as a beneficiary developing country, for purposes of tariff preferences (under the President's authority to confer such designation when he determines it to be in the national economic interest), when such country has participated, or is participating, in withholding supplies of any vital commodity resource from international trade.

H.R. 2589. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; and (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation.

H.R. 2590. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; and (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation.

H.R. 2591. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; and (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation.

H.R. 2592. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; and (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation.

H.R. 2593. January 27, 1977. Interstate and Foreign Commerce. Requires that medical records maintained by programs assisted by the United States or insurance companies engaged in business in interstate commerce be kept confidential and be disclosed only according to this Act.

H.R. 2594. January 27, 1977. Appropriations. Appropriates $15,000,000 for fiscal year 1977 for the purpose of making grants to increase and improve museum services pursuant to the Museum Services Act.

H.R. 2595. January 27, 1977. Banking, Finance and Urban Affairs; Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of projects, by means of contracts with public and private employers and institutions of higher education, to: (1) increase employee participation in decisionmaking and gains due to increased productivity; and (2) demonstrate programs and guidelines to maintain employment levels and improve the quality of working life.

Establishes a Human Resources Advisory Council to furnish advice and assistance in the administration of such projects.

Authorizes the Secretary to guarantee loans made to small businesses to enable them to participate in projects under this Act.

H.R. 2596. January 27, 1977. Banking, Finance and Urban Affairs; Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of projects, by means of contracts with public and private employers and institutions of higher education, to: (1) increase employee participation in decisionmaking and gains due to increased productivity; and (2) demonstrate programs and guidelines to maintain employment levels and improve the quality of working life.

Establishes a Human Resources Advisory Council to furnish advice and assistance in the administration of such projects.

Authorizes the Secretary to guarantee loans made to small businesses to enable them to participate in projects under this Act.

H.R. 2597. January 27, 1977. Banking, Finance and Urban Affairs; Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of projects, by means of contracts with public and private employers and institutions of higher education, to: (1) increase employee participation in decisionmaking and gains due to increased productivity; and (2) demonstrate programs and guidelines to maintain employment levels and improve the quality of working life.

Establishes a Human Resources Advisory Council to furnish advice and assistance in the administration of such projects.

Authorizes the Secretary to guarantee loans made to small businesses to enable them to participate in projects under this Act.

H.R. 2598. January 27, 1977. Judiciary. Grants a Federal charter to the Italian American War Veterans of the United States.

H.R. 2599. January 27, 1977. Post Office and Civil Service. Awards one preference point to National Guard and Armed Forces Reserve Veterans applying for employment in the civil service.

H.R. 2600. January 27, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 2601. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited income tax credit for the purchase and installation of qualified insulation and heating improvements in the taxpayer's principal residence.

H.R. 2602. January 27, 1977. Agriculture. Provides that any individual who is 18 years of age or is enrolled in an institution of higher education, and who is receiving half of his income from any member of another household which, because of its income and other financial resources, is not eligible to receive food stamps shall not be considered as a member of household for purposes of the Food Stamp Act of 1964. Permits any State agency to exempt any individual from this disqualification if the agency determines that such individual should be exempted because of severe hardship conditions.

H.R. 2603. January 27, 1977. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 2604. January 27, 1977. Banking, Finance and Urban Affairs. Directs the Administrator of the Energy Research and Development Administration to assist communities in developing solar energy community utility programs. Establishes a revolving fund for continued financing of such program.

H.R. 2605. January 27, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish multipurpose service programs for displaced homemakers in order to provide them job, health, financial, and legal services.

Directs the Secretary to prepare and furnish to the Congress a study of the feasibility of and appropriate procedures for allowing displaced homemakers to participate in (1) programs established under the Comprehensive Employment and Training Act of 1973, (2) work incentive programs under the Social Security Act, (3) related, Federal employment, education, and health assistance programs, and (4) programs established or benefits provided under Federal and State unemployment compensation laws.

H.R. 2606. January 27, 1977. Education and Labor. Directs the Secretary of Labor to enter into a contract with Opportunities Industrialization Centers, Incorporated, in order to provide comprehensive employment services and jobs for unemployed persons through such centers.

Requires the head of each Federal agency administering programs under specified Federal Acts to make arrangements with local agencies to assure that special consideration will be given to Opportunities Industrialization Centers for the provision of comprehensive employment services and job opportunities for the unemployed pursuant to such programs.

H.R. 2607. January 27, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to make it an unlawful employment practice for an employer to either: (1) request any employee or applicant for employment to provide copies of military discharge papers or other service records; or (2) make inquiries relative to the military discharge of any employee or applicant for employment.

H.R. 2608. January 27, 1977. Education and Labor. Amends the Higher Education Act of 1965 to establish the Office of Lifetime Learning within the Office of Education. Directs the office to carry out a program of Federal assistance for lifetime learning programs.

H.R. 2609. January 27, 1977. Education and Labor. Authorizes the Commissioner of Education to provide Federal aid to those State teacher retirement systems which allow retirement credit to teachers for out-of-State teaching service.

H.R. 2610. January 27, 1977. House Administration. Authorizes and establishes procedures for public financing of primary and general election campaigns of candidates for election to Congress.

H.R. 2611. January 27, 1977. International Relations. Prohibits the Nuclear Regulatory Commission from licensing and the Energy Research and Development Administration from engaging in or allowing any export of nuclear fuel or technology to a country (1) which furnishes uranium enrichment or nuclear fuel reprocessing plants to a country not party to the Nuclear Nonproliferation Treaty, or (2) which is not a party to such treaty and develops any enrichment or reprocessing plant without concluding an agreement for safeguards against diversion of nuclear material with the International Atomic Energy Agency or Euratom.

Permits such export upon a Presidential determination that it is in the interests of national security.

H.R. 2612. January 27, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prescribe the procedures for and the circumstances under which private communications can be disclosed in response to a subpena. Eliminates the provision of the Act allowing such disclosure on demand of other lawful authority.

H.R. 2613. January 27, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish

a National Diabetes Advisory Board to insure the implementation of a long-range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 2614. January 27, 1977. Interstate and Foreign Commerce. Amends the Federal Power Act to require that rate increases for the interstate sale of electricity not be granted until public hearings on such increases have been completed by the Federal Power Commission.

Requires 30 days' notice of all rate changes by a public utility to the Commission and to the public.

H.R. 2615. January 27, 1977. Interstate and Foreign Commerce. Prescribes minimum national standards for utility rate structures in order to alleviate burdens imposed on low-income consumers. Establishes requirements for full evidentiary hearings on proposed rate increases, with adequate representation of consumer interests.

Establishes an Electric Utility Ratemaking Assistance Office within the Federal Energy Administration to provide assistance with respect to ratemaking procedures.

Amends the Federal Power Act to require utilities to comply with standards designed to assure a reliable supply of electric energy.

Authorizes appropriations for grants to State regulatory authorities. Establishes procedures for planning and coordination in the siting of bulk power facilities.

H.R. 2616. January 27, 1977. Interstate and Foreign Commerce. Establishes a National Commission on Regulatory Reform to study and make recommendations on the activities and effect on the economy of certain Federal regulatory agencies.

H.R. 2617. January 27, 1977. Interstate and Foreign Commerce. Amends the Community Mental Health Centers Act to direct the Secretary of Health, Education, and Welfare, to establish, within the National Institute of Mental Health, an administrative unit to be known as the National Center for the Prevention and Control of Rape to study existing laws dealing with rape, the attitudes of those who formulate such laws, the treatment of rape victims, and the causes of rape.

H.R. 2618. January 27, 1977. Judiciary. Establishes the National Commission on Victimless Crime to survey Federal, State, and local laws with respect to victimless crime; to study the effect of such laws on the criminal justice system; and to consider whether such laws should be repealed or modified.

H.R. 2619. January 27, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 2620. January 27, 1977. Judiciary.

Grants certain rights, including the right to counsel, to Federal grand jury witnesses.

Revises procedures for, and sets forth defenses relative to, finding recalcitrant grand jury or district court criminal witnesses in contempt.

Entitles witnesses compelled to testify before a Federal court, Federal grand jury, Congress, or executive agency to transactional immunity.

Specifies guidelines regarding the rights and authority of a Federal grand jury, including the power to initiate independent inquiries.

H.R. 2621. January 27, 1977. Judiciary. Revises provisions imposing penalties for the commission of rape, including carnal knowledge of a female under age 16, within the special maritime and territorial jurisdiction of the United States to (1) set forth penalties for any unconsented sexual contact or penetration; (2) proscribe sexual contact or penetration with any person under age 18; (3) detail sentencing guidelines; and (4) prohibit introduction of evidence regarding a victim's prior sexual conduct absent a ruling by the court after an in camera hearing.

H.R. 2622. January 27, 1977. Judiciary. Revises provisions imposing penalties for the commission of rape, including carnal knowledge of a female under age 16, within the special maritime and territorial jurisdiction of the United States to (1) set forth penalties for any unconsented sexual contact or penetration; (2) proscribe sexual contact or penetration with any person under age 18; (3) detail sentencing guidelines; and (4) prohibit introduction of evidence regarding a victim's prior sexual conduct absent a ruling by the court after an in camera hearing.

H.R. 2623. January 27, 1977. Government Operations. Requires that meetings of Federal agencies be open to the public except as stipulated in this Act. Requires agencies to make a public announcement, at least one week before the meeting, of the date, place, and subject matter of the meeting, and whether it is to be open or closed to the public. Requires that edited transcripts of all meetings be made available to the public. Prohibits ex parte communications during on-the-record agency meetings.

H.R. 2624. January 27, 1977. Post Office and Civil Service. Sets forth a time schedule for the required introduction of part-time jobs in each grade in each Federal agency, at a rate of two percent each year for five years.

H.R. 2625. January 27, 1977. Rules. Amends the Legislative Reorganization Act of 1970 to require that each committee report accompanying a public bill or resolution contain a paperwork impact statement estimating the number of reports which would be required of private business enterprises, the complexity of the forms which would be required, and the cost and time which would be required in making and keeping such reports.

H.R. 2626. January 27, 1977. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to assist certain totally disabled veterans, including hemiplegics, in acquiring suitable housing units with special fixtures.

H.R. 2627. January 27, 1977. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 2628. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to provide for the reimbursement of all of a taxpayer's reasonable litigation expenses, including attorneys' fees, in any legal action commenced by the Government, or any action instituted by a taxpayer contesting the accuracy of a deficiency assessment or claiming a refund, in which the taxpayer substantially prevails, or the Government withdraws.

H.R. 2629. January 27, 1977. Ways and Means. Declares all income tax returns to be confidential and prohibits the disclosure or inspection of such returns unless specifically authorized by this Act.

Increases the criminal penalties for unauthorized disclosure of the information contained in tax returns.

Makes it a felony to knowingly receive any such information or material which is criminally disclosed.

H.R. 2630. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlord.

H.R. 2631. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited tax credit in an amount of $250 for each individual who is at least 61 years of age before the beginning of the taxable year, whose principal place of abode during the taxable year is the principal residence of the taxpayer, and who is not a lodger with the taxpayer.

H.R. 2632. January 27, 1977. Government Operations; Rules. Abolishes within three years of the enactment of this Act, or three years after they have been established, all Federal regulatory agencies unless the President and Congress determine that such agencies should continue to exist.

H.R. 2633. January 27, 1977. Judiciary; Rules. Requires any rule proposed by any Government agency to be submitted to Congress with a full explanation of such rule. States that such rule shall become effective no later than 60 days after submission to Congress unless either House adopts a resolution disapproving such rule.

H.R. 2634. January 27, 1977. Small Business; Banking, Finance and Urban Affairs. Amends the Small Business Act to authorize the Small Business Administration to make loans to individuals and home-builders for the purchase and installation of qualified solar heating or solar heating and cooling equipment from small business concerns.

Directs the Energy Research and Development Administration to: (1) establish procedures for inspecting and evaluating solar heating and cooling equipment; (2) review new equipment as developed; (3) periodically review certifications of such equipment for validity; and (4) transmit pertinent data to the Small Business Administration for its use in certifying equipment for purposes of the loan program created by this Act.

H.R. 2635. January 27, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for diagnostic tests and examinations given for the detection of breast cancer under the supplementary medical insurance program.

H.R. 2636. January 27, 1977. Interstate and Foreign Commerce. Amends the Uniform Time Act of 1966 to make daylight saving time effective on a year-round basis.

H.R. 2637. January 27, 1977. Armed Services. Authorizes the Secretary of the Air Force to enter into contracts to include cargo airlift characteristics suitable for defense purposes in new civil aircraft being manufactured for passenger and cargo use and to modify existing civil passenger aircraft to incorporate such characteristics for such purpose.

Stipulates that such aircraft shall be used for defense purposes in the event the full Civil Reserve Air Fleet is activated.

H.R. 2638. January 27, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 2639. January 27, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to extend for five additional calendar quarters authorization for the appropriation of funds for payments to States and local governments for the maintenance of basic services to assure that Federal efforts to stimulate economic recovery are not hindered.

Increases the base amount authorized to be appropriated for each calendar quarter for such payments.

H.R. 2640. January 27, 1977. Ways and Means. Amends the Internal Revenue Code

to restrict the tax exclusion of proceeds on industrial development bonds to certain types of issues, the proceeds of which will be used within economic development areas. Allows national banks to deal in, and underwrite, such bonds.

H.R. 2641. January 27, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that whenever cost-of-living increases are made in benefits, such amounts shall be further increased for individuals residing in high cost areas by a formula set forth in the Act.

H.R. 2642. January 27, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 25 percent of the amount of rent paid by the taxpayer which is equal to the taxpayer's proportionate share of the local and State property taxes imposed on the land and building in which his dwelling is located.

H.R. 2643. January 27, 1977. Banking, Finance and Urban Affairs. Establishes minimum national standards for disclosure and consumer protection in condominium sales and conversions.

Allows the establishment of condominium regulation by any State or unit of local government. Empowers the Secretary of Housing and Urban Development to make grants to States to assist condominium regulation.

H.R. 2644. January 27, 1977. Judiciary. Establishes criteria for the imposition of the death penalty for specified explosive related offenses.

H.R. 2645. January 27, 1977. Education and Labor. Prohibits the Secretary of Labor from applying regulations affecting permanent housing for agricultural workers to mobile housing in the range sheep industry or temporary range cattle camps.

H.R. 2646. January 27, 1977. Ways and Means. Amends the Tariff Schedules of the United States (1) to repeal the customs duty on the importation of cordage of hard (leaf) fibers measuring ¾ inch or over in diameter which are not made from abaca or sisal (2) to permit the duty free entry of binder twine and baler twine of manmade fibers, and (3) to impose a specified customs duty on other cordage of manmade fibers.

H.R. 2647. January 27, 1977. Small Business. Amends the Small Business Act and the Small Business Investment Act to increase loan limitations and to increase surety bond authorizations.

H.R. 2648. January 27, 1977. Interstate and Foreign Commerce. Amends the Uniform Time Act of 1966 to establish the first Sunday of February as the starting date, and the first Sunday after the first Monday of November as the ending date of daylight saving time.

H.R. 2649. January 27, 1977. Agriculture. Repeals the Food Stamp Act of 1964 and establishes a new food stamp program.

H.R. 2650. January 27, 1977. Government Operations. Establishes the Commission on the Reorganization of the Executive Branch of the Government to study all instrumentalities of the Government except those of the Legislative or Judicial Branches to determine what changes are necessary to eliminate duplication and improve efficiency. Requires the Commission to submit to the President and Congress a final report by December 31, 1978, at which time the Commission shall cease to exist. Permits the President to submit to Congress reorganization plans to implement any recommednation of the Commission until January 1, 1980.

H.R. 2651. January 27, 1977. International Relations; Education and Labor. Establishes a Commission on Proposals for the National Academy of Peace and Conflict Resolution to study the establishment of such academy and alternative proposals which would assist the Federal Government in promoting peace. Directs the Commission to review the theory and techniques of conflict resolution and the institutions for conflict resolution in international relations, race relations, community relations, and family relations.

H.R. 2353. January 27, 1977. Education and Labor. Amends the Education Amendments of 1972 to exempt sex segregated gymnastics classes from the prohibition against sex discrimination contained within such act.

H.R. 2353. January 27, 1977. Education and Labor. Excepts musical and social programs and activities designed for parents and students from the prohibition against sex discrimination in federally assisted educational activities imposed by the Education Amendments of 1972.

H.R. 2654. January 27, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2655. January 27, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2656. January 27, 1977. Judiciary. Relieves a certain individual of liability to the United States for a certain sum.

H.R. 2657. January 27, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2658. January 27, 1977. Judiciary. Authorizes classification of a certain individual as an immediate relative of a United States citizen for purposes of the Immigration and Nationality Act.

H.R. 2659. January 27, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2660. January 27, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 2661. January 27, 1977. Judiciary. Provides that a certain individual is conditionally admitted to the United States for permanent residence.

H.R. 2662. January 27, 1977. Judiciary. Provides that a certain individual is conditionally admitted to the United States for permanent residence.

H.R. 2663. January 31, 1977. Education and Labor. Permits the Commissioner of Education to provide financial assistance to local educational agencies determined to be within an area in which an emergency has occurred prior to July 1, 1978, or which has had its public elementary or secondary school facilities destroyed or seriously damaged prior to July 1, 1978.

H.R. 2664. January 31, 1977. Interior and Insular Affairs. Amends the Indian Claims Commission Act of 1946 to empower the Court of Claims to review and enter judgment upon a Commission decision adjudging that certain Sioux lands were taken without just compensation.

H.R. 2665. January 31, 1977. Post Office and Civil Service. Grants a Federal employment preference to employees of the Bureau of Indian Affairs and the Indian Health Service who have been adversely affected by Federal law giving Indians preferential treatment in the competitive service. Changes the hiring procedures of the Departments of the Interior and Health, Education, and Welfare with respect to these employees. Requires the Civil Service Commission to review certain decisions made by appointment officers.

H.R. 2666. January 31, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Bankruptcy Act to repeal provisions of the law allowing automatic cost-of-living adjustments in the salaries of Members of Congress, persons paid pursuant to the Executive Schedule, the Vice President, and specified judicial positions including bankruptcy referees.

H.R. 2667. January 31, 1977. Armed Services. Stipulates that no veteran may be denied care or treatment under the CHAMPUS program for any service-connected disability solely because care or treatment for such disability is available at Veterans' Administration medical facilities.

H.R. 2668. January 31, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 2669. January 31, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits.

H.R. 2670. January 31, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to entitle disabled widows and widowers to receive unreduced widow's and widower's benefits without regard to age. Increases the amount of earnings allowed an individual under the earnings test when determining excess earnings. Permits adopted children to qualify for benefits without regard to time of adoption. Provides for the issuance of duplicate benefit checks where the initial checks are lost or delayed. Expedites benefit payments to disability beneficiaries.

H.R. 2671. January 31, 1977. Ways and Means. Revises Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to: (1) eliminate the five-month waiting period for disability benefits; (2) permit adopted children to qualify for benefits without regard to time of adoption; (3) eliminate the reconsideration stage in benefit determinations; (4) provide for the issuance of duplicate benefit checks where the initial checks are lost or delayed; and (5) provide for expedited benefit payments to disability beneficiaries. Increases the amount of outside earnings which an individual may earn without a deduction in benefits under Title II of the Social Security Act.

H.R. 2672. January 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to include physician extender services.

H.R. 2673. January 31, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 2674. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 2675. January 31, 1977. Interior and Insular Affairs. Amends the Energy Reorganization Act of 1974 to require that the Energy Research and Development Administration notify legislatures of affected States of plans to explore sites for radioactive waste storage facilities. Prohibits the Administra-

tion from contracting for construction of any such facility at a site where the State legislature has indicated its disapproval.

H.R. 2676. January 31, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such compensation reduced because of increases in social security benefits.

H.R. 2677. January 31, 1977. Judiciary. Permits the furnishing of accommodations to judges of the courts of appeals, upon approval by the appropriate judicial council, at any place where Federal facilities are available regardless of whether court terms are authorized to be held at such locations.

H.R. 2678. January 31, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member to the Armed Forces in any labor organization or for any member to encourage others to join or to actively support any military labor organization. Sets forth penalties for violation of this Act.

H.R. 2679. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from gross income the first $5,000 received by an individual for service during less-than-30 days periods as a member of the National Guard or a reserve component of the Armed Forces.

H.R. 2680. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books, and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 2681. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax credit for the tuition paid to a private, nonprofit elementary or secondary educational institution for the education of a dependent.

H.R. 2682. January 31, 1977. Judiciary. Amends the Hobbs Act to impose penalties for interfering with commerce by willfully causing property damage of at least $2,000 at or near a factory, construction site, or other place where work or business of an employer or owner is carried on or where such employer or owner transports, stores, or maintains property.

Stipulates that a violation of such provision or of the provision prohibiting interference with commerce through robbery, violent acts, or extortion shall not be nullified or mitigated by certain factors.

H.R. 2683. January 31, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to add to population-density factor to the definition of urban county.

H.R. 2684. January 31, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to approve user charge systems based upon ad valorem taxation if specified requirements are satisfied.

H.R. 2685. January 31, 1977. Armed Services. Requires recomputation at a specified rate of the retired pay of any person who completed service as a sergeant major of the Marine Corps before September 16, 1967.

H.R. 2686. January 31, 1977. Armed Services. Makes specified pay and eligibility adjustments in the Retired Servicemen's Family Protection Plan and the Survivor Benefit Plan of the Armed Forces.

H.R. 2687. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited tax deduction for amounts paid by the taxpayer to a tax exempt educational institution for the tuition of the taxpayer, his spouse, or a dependent.

H.R. 2688. January 31, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income Program) of the Social Security Act to extend benefits to Puerto Rico, the Virgin Islands, and Guam on the same basis as the States.

H.R. 2689. January 31, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to extend to residents of Puerto Rico, the Virgin Islands, and Guam, benefits for specified uninsured persons who have attained age 72 before 1968.

H.R. 2690. January 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to extend specified public assistance benefits to Guam and the Virgin Islands on the same basis as other States.

H.R. 2691. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, refundable income tax credit for 50 percent of the wages paid new employees working in the United States. Provides for future assessments of this credit by the Secretary of the Treasury.

H.R. 2692. January 31, 1977. Ways and Means. Amends the Tariff schedules of the United States to suspend for two years the customs duty on wood excelsior imported from Canada.

H.R. 2693. January 31, 1977. Judiciary. Imposes penalties upon any Federal employee who willfully: (1) procures or inspects business or private records without a warrant or consent or for other than specified purposes.

Repeals the authority of the President to intercept communications for national security purposes. Repeals the authority of certain State and local law enforcement officers to intercept communications without prior court approval for national security purposes or with respect to activities characteristic of organized crime.

H.R. 2694. January 31, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) permit Federal courts to impose an additional term of imprisonment upon anyone using or carrying a firearm during the commission of a felony which may be prosecuted in a Federal court, (2) require Federal courts to impose such a sentence for a second or subsequent such conviction, and (3) classify felons using or carrying firearms as dangerous special offenders.

H.R. 2695. January 31, 1977. Post Office and Civil Service. States that effective July 1, 1977, the number of civil service employees in each Federal agency may not exceed the number so employed by such agency on July 1, 1975. Requires the Civil Service Commission to promulgate rules to carry out the requirement of this Act and to report to Congress by the fourth week in April, 1977, regarding the means and extent by which the level of Federal employment has been reduced under this Act.

H.R. 2696. January 31, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize free or reduced transportation rates for persons over 65 and handicapped individuals and their attendants. Amends the Urban Mass Transportation Act of 1964 to give funding priority under such Act to public bodies which offer reduced rates to such individuals. Authorizes the Secretary of Transportation to prescribe standards for facilities funded under such Act to insure ready access to such facilities by these individuals. Amends the Older Americans Act of 1965 to authorize a grant program for special transportation research and demonstration projects for such individuals.

H.R. 2697. January 31, 1977. Public Works and Transportation. Amends the Tennessee Valley Authority Act to allow credits against required power investment pollution control facilities.

H.R. 2698. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books, and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 2699. January 31, 1977. Judiciary. Directs the Attorney General to make grants to qualified State programs for the compensation of victims of crime.

Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of such grant program and to the compensation of victims of crime.

H.R. 2700. January 31, 1977. District of Columbia. Restates the charter of the George Washington University, Washington, D.C., in its entirety.

H.R. 2701. January 31, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 2702. January 31, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 2703. January 31, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 2704. January 31, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 2705. January 31, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to make eligible for registration, as being of United States nationality, aircraft owned by a citizen of a foreign country who has been lawfully admitted for permanent residence into the United States.

H.R. 2706. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to exempt government chartered air museums operated exclusively for the care or use of antique, custom-built, racing, military or other special types of aircraft from the excise taxes on special fuels and the use of civil aircraft.

H.R. 2707. January 31, 1977. Interior and Insular Affairs; Armed Services. Directs the

Secretary of the Treasury to make payments to local governments under present law based upon lands within the jurisdiction of such local government on which are located semiactive or inactive installations retained by the Army for mobilization purposes and for support of reserve component training.

H.R. 2708. January 31, 1977. Rules. Establishes within the House of Representatives a Select Committee on Mexico-United States Relations to study matters including: (1) Mexican nationals illegally present in the United States; (2) economic interrelationships; and (3) illegal narcotics traffic between the two countries.

H.R. 2709. January 31, 1977. Ways and Means. Amends the Tariff Schedules of the United States to establish a value limit for personal articles which may be imported duty-free by residents returning from a contiguous country with an annual per capita income of less than $2,000 as of January 1, 1977.

H.R. 2710. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for handicraft items purchased in Mexico between 1975 and 1981.

H.R. 2711. January 31, 1977. Judiciary. Provides for appointment of a special prosecutor relative to alleged violations of criminal law involving abuse of office, fraud against the United States, obstruction of justice, or campaign finance by any of specified Federal officials or campaign managers.

Directs the Attorney General to promulgate regulations requiring employees of the Department of Justice to disqualify themselves from investigations or prosecutions which may result in a conflict of interest or the appearance thereof.

H.R. 2712. January 31, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to exempt from regulation sales and related activities involving transfers of emergency supplies of natural gas to high-priority consumers. Terminates Federal Power Commission authority to regulate sales of new natural gas except gas produced from offshore Federal lands and transactions between natural gas companies and affiliates.

Imposes restrictions on the use of natural gas as boiler fuel. Directs the Federal Power Commission to prohibit the curtailment of supplies of natural gas for essential agricultural purposes.

Grants standby authority to the President to allocate propane during natural gas shortages.

H.R. 2713. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers of 50 persons or less to forward payroll taxes quarterly.

H.R. 2714. January 31, 1977. Education and Labor; Ways and Means. Amends the Employee Retirement Income Security Act and the Internal Revenue Code to allow specified banks and credit unions to make loans to the participants or beneficiaries of defined contribution plans using such contributions as security.

H.R. 2715. January 31, 1977. Government Operations. Requires the Secretary of the Treasury to prepare and make public for each fiscal year, a consolidated financial statement for the United States based on accrual accounting procedures.

H.R. 2716. January 31, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 2717. January 31, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to terminate Federal Power Commission authority to regulate the sale or delivery of new natural gas in interstate commerce, except where excessive rates or charges are made by natural gas companies in dealing with affiliates.

H.R. 2718. January 31, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,800 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 2719. January 31, 1977. Interior and Insular Affairs. Removes the time limitations upon the authorization of appropriations under which the Secretary of Interior is authorized to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

H.R. 2720. January 31, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to revise the method of computation of annuities for certain retired employees and their surviving spouses.

H.R. 2721. January 31, 1977. Judiciary. Relieves a certain conservancy district of all liability to the United States for construction, operation and maintenance of a reclamation project.

H.R. 2722. January 31, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Service and labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing procedures which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 2723. January 31, 1977. Armed Services. Authorizes the Administrator of General Services to dispose of a specified amount of tin now held in the national and supplemental stockpiles.

H.R. 2724. January 31, 1977. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to require that specified issuers of municipal securities prepare annual reports and distribution statements.

H.R. 2725. January 31, 1977. Ways and Means. Directs the Secretary of Labor to reimburse States for unemployment compensation paid to a member of a group of employees certified by the Secretary as having a significant number or proportion of members totally or partially unemployed or threatened with such unemployment, primarily due to the inability of an employer to obtain an adequate supply of natural gas.

H.R. 2726. January 31, 1977. Education and Labor. Amends the Act which established the Youth Conservation Corps to direct the Secretaries of Agriculture and Interior to jointly expand the Youth Conservation Corps so as to make possible the year-round employment of young adults.

Extends the program under which grants are made to States for conservation projects carried out by young people.

H.R. 2727. January 31, 1977. Judiciary. Directs the President to appoint, by and with the advice and consent of the Senate, additional district court judges to specified judicial districts of the United States.

H.R. 2728. January 31, 1977. Veterans' Affairs. Entitles veterans of the Mexican border period and of World War I and their widows and children to pensions on the same basis as veterans of the Spanish-American War and their widows and children. Increases the pension rate for all these veterans and their survivors.

H.R. 2729. January 31, 1977. Agriculture. Directs the Secretary of Agriculture to enter into agreements with owners and operators of land in the Great Plains area to promote conservation of soil and water resources through the conversion of cropland from soil depleting uses to conserving uses including the production of soil conserving cover crops.

H.R. 2730. January 31, 1977. Banking, Finance and Urban Affairs. Extends, for one year, the authorization of regulation of maximum interest rates on deposits and accounts on deposits and accounts in depository institutions and of open market operations in agency issues by Federal Reserve Banks.

H.R. 2731. January 31, 1977. Post Office and Civil Service. Repeals the laws permitting the private carriage of letters. Exempts letters and packages carried by private express from the requirement that all letters and packages carried by a vessel in interstate commerce be delivered promptly to the local post office upon arrival in a port.

H.R. 2732. January 31, 1977. Post Office and Civil Service. Requires each Federal agency to establish a flexible scheduling or compressed work schedule program on an experimental basis.

H.R. 2733. January 31, 1977. Post Office and Civil Service. Prohibits Government officials in positions which affect a special interest from participating in any policy decision or other action involving a special interest in which such official has a substantial involvement. Requires all such officials to list all such special interests with which they are substantially involved at the time they begin employment in such a position. Requires immediate dismissal of anyone violating this Act and confers upon any person the right to seek a writ of mandamus to have such person dismissed.

H.R. 2734. January 31, 1977. Judiciary; Education and Labor. Amends the Walsh-Healey Act to permit government contractors to have their employees work a four-day workweek consisting of four ten-hour days.

Amends the Contract Work Hours Standards Act to revise overtime guidelines to accommodate such a workweek.

H.R. 2735. January 31, 1977. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 2736. January 31, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income Program) of the Social Security Act to set benefits under such Title at poverty level. Allows each spouse in an eligible couple to receive such benefits in his or her own right. Reduces from 65 to 60 the age of eligibility for such benefits. Provides for the issuance of duplicate benefit checks where the initial checks are lost or delayed.

Directs the Secretary of Health, Education, and Welfare to establish an outreach program to make information concerning the program easily accessible. Requires that any application for benefits under this Title shall be acted upon by the Secretary within 30 days after it is filed.

H.R. 2737. January 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to remove the present ceiling on the contribution and benefit base. Increases the primary insurance amount under such Title. Provides full benefits at a reduced age for members of groups with less than average life expectancy. Repeals the earnings test. Requires that Federal employees be covered by Title II. Decreases the number of years a divorced woman must have been married to an insured individual in order for her to qualify for wife's or widow's benefits on his wage record.

H.R. 2738. January 31, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 2739. January 31, 1977. Banking, Finance and Urban Affairs. Establishes the Reconstruction Finance Corporation to make loans and loan guarantees to business concerns which would otherwise be unable to obtain needed financing.

Authorizes the Corporation to issue notes, debentures, bonds, and other such obligations which will be fully guaranteed by the United States.

H.R. 2740. January 31, 1977. Education and Labor. Prohibits except upon the express approval of the board of education, the assignment or compulsory attendance of any student at any school, or the establishment, reorganization, or maintenance of any school district, school zone, or attendance unit, on account of race, creed color, or national origin.

Excepts religious or denominational educational institutions from the prohibitions of this Act.

H.R. 2741. January 31, 1977. Interstate and Foreign Commerce. Increases from three to five years the term for which a license to operate a radio broadcasting station may be issued, and for which such licenses may be renewed under the Communications Act of 1934.

Establishes procedures to be followed for the renewal of broadcasting licenses.

H.R. 2742. January 31, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 2743. January 31, 1977. Judiciary. Requires the Supreme Court to issue a full written opinion whenever it reverses a State criminal conviction which had been upheld by the highest State court.

H.R. 2744. January 31, 1977. Repeals the Postal Reorganization Act. Reenacts provisions relating to the postal service which were in effect immediately prior to the enactment of such Act.

H.R. 2745. January 31, 1977. Veterans' Affairs. Establishes a mortgage protection life insurance program for veterans unable to acquire commercial life insurance because of service-connected disabilities.

H.R. 2746. January 31, 1977. Veterans' Affairs. Allows an action to be brought in United States District Court in the event of a disagreement with respect to any claim for compensation under any law administered by the Veterans' Administration on account of disability or death incurred or aggravated in line of duty while serving in the active military or naval service.

H.R. 2747. January 31, 1977. Veterans' Affairs. Authorizes and directs the Administrator of Veterans' Affairs to pay a pension to a veteran of World War I or his widow without regard to his or her annual income derived solely from payments of social security benefits, railroad retirement benefits, or pensions.

H.R. 2748. January 31, 1977. Ways and Means. Amends the Internal Revenue Code of 1939 with regard to the deductions for dental and medical expenses.

H.R. 2749. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a deduction the ordinary and necessary expenses paid during the taxable year for the repair or improvement of property used by the taxpayer as his principal residence. Permits an owner of rental property to amortize expenditures for the restoration of rental housing.

H.R. 2750. January 31, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from gross income all proceeds on series E United States savings bonds where the bond's purchasing power at redemption is less than the price paid for the bond.

H.R. 2751. January 31, 1977. Judiciary. Prohibits the use of appropriated funds or funds made available to a wholly owned Government corporation to pay for any communication to influence any member of any State electorate to favor or oppose, by vote or otherwise, any legislation or legislative issue in the ballot in such State unless expressly authorized by Congress.

H.R. 2752. January 31, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend until September 30, 1978, the period of time during which funds allotted to States for the construction of treatment works shall remain available.

H.R. 2753. January 31, 1977. Judiciary. Amends the Immigration and Nationality Act to remove specified aliens from the class of aliens whose status may be adjusted to that of an alien lawfully admitted for permanent residence.

Makes it unlawful to knowingly hire an alien not lawfully admitted into the United States Requires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

H.R 2754. January 31, 1977. Judiciary. Amends provisions imposing additional penalties upon persons committing Federal felonies with the use of, or while illegally carrying, a firearm to increase sentences thereunder and to prohibit a suspended or probationary sentence with respect to a first conviction.

H.R. 2755. January 31, 1977. Judiciary. Directs the Secretary of Labor to consider any claim filed by a certain individual for personal injuries suffered in the course of employment during 1944.

H.R. 2756. January 31, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2757. January 31, 1977. Judiciary. Provides that a certain individual may retain certain rights and privileges notwithstanding his conviction of firearms offenses.

H.R. 2758. January 31, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 2759. January 31, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 2760. January 31, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 2761. January 31, 1977. Judiciary. Authorizes classification of a certain individual as a natural born alien son of certain U.S. citizens for purposes of the Immigration and Nationality Act.

H.R. 2762. January 31, 1977. Judiciary. Relieves a certain individual of all liability to the United States for payment of charges arising from treating his mother in United States Air Force hospitals.

H.R. 2763. January 31, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2764. January 31, 1977. Judiciary. Directs the Foreign Claims Settlement Commission to reopen and redetermine the claims of a certain individual against the Government of Poland.

H.R. 2765. January 31, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 2766. February 1, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of, a firearm to (1) increase the penalties thereunder, (2) encompass State crimes and (3) prohibit a suspended, probationary or concurrent sentence with respect to a first conviction.

H.R. 2767. February 1, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any pension already paid) a monthly pension of $150 to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 2768. February 1, 1977. Rules. Terminates budget authority for all Federal programs. Requires Congress to consider whether any such programs merit continuation on the same, a greater, or a lesser level, or termination.

Requires the Comptroller General to identify inactive or inefficient programs.

H.R. 2769. February 1, 1977. Rules. Terminates budget authority for all Federal programs. Requires Congress to consider whether any such programs merit continuation on the same, a greater, or a lesser level, or termination.

Requires the Comptroller General to identify inactive or inefficient programs.

H.R. 2770. February 1, 1977. Judiciary. Permits the furnishing of accommodations to judges of the courts of appeals, upon approval by the appropriate judicial council, at any place where Federal facilities are available regardless of whether court terms are authorized to be held at such locations.

H.R. 2771. February 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a refundable credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 2772. February 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deduction for a percentage of the amounts paid by the taxpayer in acquiring recycled solid waste materials. Provides an amortization deduction with respect to the amortizable base of any solid waste recycling facility based on a 60-month period.

H.R. 2773. February 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deduction for depreciation on capital expenditures incurred in connecting a sewage line from the taxpayer's residence to a municipal sewage system.

H.R. 2774. February 1, 1977. Judiciary. Directs the President to appoint, by and with the advice and consent of the Senate, a specified number of additional district judges to the United States District Court for the Southern District of Florida.

H.R. 2775. February 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 2776. February 1, 1977. Agriculture. Authorizes the Secretary of Agriculture to distribute, upon request and without cost, up to three packages of seeds per household for use in home gardening to produce food for the personal consumption of the household.

H.R. 2777. February 1, 1977. Banking, Finance, and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-help Development Fund, and the Cooperative

Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 2778. February 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for the services of optometrists related to the treatment of aphakia under the supplemental medical insurance program.

H.R. 2779. February 1, 1977. Judiciary. Establishes criteria for the imposition of the death penalty for specified explosive related offenses.

H.R. 2780. February 1, 1977. Banking, Finance, and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 2781. February 1, 1977. Judiciary. Establishes a Crime Victims Compensation Commission to make grants to qualified State programs for the compensation of victims of crime.

H.R. 2782. February 1, 1977. Judiciary. Sets forth penalties for the robbery or attempted robbery of any narcotic drug from any pharmacy.

H.R. 2783. February 1, 1977. Ways and Means. Amends the Internal Revenue Code to establish the Internal Revenue Commission to administer the internal revenue laws. Transfers all functions relating to the administration and enforcement of the Internal Revenue Code from the Secretary of the Treasury or his delegate, to the Internal Revenue Commission.

H.R. 2784. February 1, 1977. Ways and Means. Declares all income tax returns to be confidential and prohibits the disclosure or inspection of such returns unless specifically authorized by this Act.

Increases the criminal penalties for unauthorized disclosure of the information contained in tax returns.

Makes it a felony to knowingly receive any such information or material which is criminally disclosed.

H.R. 2785. February 1, 1977. Ways and Means. Interstate and Foreign Commerce. Amends the Internal Revenue Code to provide a refundable tax credit for expenses incurred in providing health insurance for the taxpayer, his spouse and dependents. Extends the income tax deduction for medical care to include all expenses greater than $500. Amends Title XIX (Medicaid) of the Social Security Act to allow States to furnish private health insurance plans approved by the Secretary of Health, Education, and Welfare. Directs the Congressional Budget Office to make, and submit to Congress before October, 1980, a report concerning the feasibility of the credit allowed under this Act as a replacement for other Federal health assistance programs.

H.R. 2786. February 1, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 2787. February 1, 1977. Interstate and Foreign Commerce. Amends the National Gas Act to terminate Federal Power Commission authority to regulate the sale or delivery of natural gas by producers of new natural gas.

H.R. 2788. February 1, 1977. Interstate and Foreign Commerce. Amends the Federal Energy Administration Act of 1974 to direct the Federal Energy Administrator to require disclosure of possible conflicts of interest or unfair competitive advantages resulting from contracts entered into pursuant to such Act. Prohibits the Administrator from entering into such contracts unless such conflict has been avoided or mitigated.

Creates the position of Inspector General in the Federal Energy Administration to conduct audits and investigations of the programs and operations of the Administration.

H.R. 2789. February 1, 1977. Ways and Means. Amends the Internal Revenue Code to exclude long-term care facilities from the excise taxes on private foundations' investment income and undistributed income.

H.R. 2790. February 1, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 2791. February 1, 1977. Ways and Means. Amends the Internal Revenue Code to remove the one and three percent floors for the medical care tax deductions in the case of persons age 65 or more.

H.R. 2792. February 1, 1977. Banking, Finance and Urban Affairs. Directs the Secretary of Housing and Urban Development to require any lease or rental agreement entered into or renewed by a person aged 62 or over with respect to a dwelling unit assisted by a Federal housing program shall contain provisions entitling such person to terminate, without penalty, the lease or rental agreement if such person or his or her spouse dies or incurs any mental or physical disability during the period of the lease or rental agreement.

H.R. 2793. February 1, 1977. Education and Labor. Amends the Older Americans Act by establishing in any State real property tax relief programs by the Secretary of Health, Education, and Welfare for qualifying persons age 65 or older.

H.R. 2794. February 1, 1977. Education and Labor. Amends the Higher Education Act of 1965 to establish within the Office of Education a National Student Financial Assistance Data Bank to identify sources of financial assistance for students seeking higher education.

Directs the Commissioner of Education to collect all available information with respect to financial assistance for attendance at institutions of higher education and to provide, free of charge, to any applicant a list of all financial assistance for which such applicant is eligible.

H.R. 2795. February 1, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to train veterans with paramedical experience to serve as medical assistants in long-term health care facilities.

H.R. 2796. February 1, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to require any nursing home, which provides services under State plans approved under such Title, to fully disclose to the State licensing agency the identity of each person who has any ownership interest in such home or is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such home.

H.R. 2797. February 1, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants and enter into contracts with public or nonprofit colleges and universities for the purpose of developing graduate programs for nurses in geriatrics and gerontology.

H.R. 2798. February 1, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 2799. February 1, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to colleges and universities to assist them in the establishment and operation of programs training nurse practitioners to provide primary health care in nursing homes.

H.R. 2800. February 1, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to prohibit the Secretary of Health, Education, and Welfare from imposing maximum potency limits on vitamins or minerals and from classifying a vitamin or mineral as a drug on the basis of potency.

Creates certain exceptions from these prohibitions.

Imposes certain labeling requirements on foods for special dietary use and subjects such foods to the prohibition and penalties imposed for the misbranding of food subject to specific exceptions.

SENATE—*Thursday, June 30, 1977*

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, make ready the hearts and minds of all the people for a sacred celebration of the birth of the Nation, that the noble event be not corrupted, debased, or abused. We give Thee thanks for the work of philosophers and prophets, of patriots and fighters, who purchased by blood and sweat and toil and tears our precious freedom. As they labored and struggled to establish the Republic so make us worthy of the inheritance.

As at the beginning a summons to prayer united the diverse people, so when comes the new week may we be bound together mind to mind, heart to heart, soul to soul as a nation at prayer, that justice and peace and brotherhood may be the way of our daily lives. As we commemorate political independence give us grace to renew our dependence upon Thee.

W. P. Merrill, 1911: "Standing in the living present, memory and hope between, Lord, we would with deep thanksgiving, praise Thee most for things unseen."

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 30, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, June 29, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

Mr. STEVENS. Mr. President, reserving the right to object, we have an objection to the Judiciary Committee meeting. I ask that the majority leader delete the Judiciary Committee.

The ACTING PRESIDENT pro tempore. Objection is heard to the Judiciary Committee meeting.

Mr. ROBERT C. BYRD. Mr. President, I so modify my request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may have until 6 p.m. tomorrow to file committee reports and also that they may file reports between the hours of 12 noon and 3 p.m. on Wednesday next.

The ACTING PRESIDENT pro temport. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized to file reports on Tuesday next between the hours of 3 p.m. and 5 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. STEVENS. Mr. President, it is my intention to use the minority leader's time personally and to yield the remainder, a portion of the 15-minute order that I have, to my successor on the floor when he arrives.

So I yield myself the minority leader's time at this time.

Mr. ROBERT C. BYRD. Would the distinguished Senator like any time from the majority leader's time?

Mr. STEVENS. I thank my friend. I have a 15-minute order, I believe, that follows the minority leader's time.

Mr. ROBERT C. BYRD. So the Senator thinks that will be sufficient?

Mr. STEVENS. That will be fine.

Mr. President, I ask unanimous consent that Steven Silver, my legislative assistant, and Marlee Monroe of my staff be granted privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ALASKA NATIONAL INTEREST LANDS ACT—S. 1787

Mr. STEVENS. Mr. President, today I introduce legislation which could well be the most important legislation introduced on behalf of my State, since Alaska's days as a territory. My bill, the Alaska National Interest Lands Act, will establish 25 million acres of new national parks, wildlife refuges, forests, and wild rivers within Alaska. Additionally, the legislation I introduce today provides the framework for a program of cooperative management between Federal, State, and private landowners to provide protection for complete ecosystems. Landownership patterns in Alaska are in a process of continuous evolution, and Congress is in a unique position to involve itself as a partner with State and private landowners in a program of land management which will allow sound and rational land management to occur throughout the 49th State, which as you will recall, is one-fifth the size of the rest of the Nation.

This bill which embodies the position supported by Alaska's Governor, Jay Hammond, Representative DON YOUNG, Alaska's sole Congressman, and me, represents a true consensus of the vast majority of Alaskans who want to see a rational and well-reasoned congressional decision on what has come to be called the d–2 lands issue. As you know, section 17(d)(2) of the Alaska Native Claims Settlement Act, authorized the Secretary of the Interior to withdraw up to 80 million acres of vacant, unreserved, and unappropriated Federal public lands for study as potential additions to the National Park, Wildlife Refuge, Forests, and Wild and Scenic Rivers Systems. Congress authorized these withdrawals to continue through 1978, at which time they will terminate by operation of law. Thus, unless this time frame is extended, Congress has approximately 18 months to make a "final" decision on the disposition of these lands.

I use the word "final" advisedly. For only now are we realizing the immensity of the decision which we created for ourselves in the passage of section 17(d)(2). As we approach consideration of this decision in earnest, Members of Congress on both sides of the Hill are beginning to realize the tremendous burden that has been placed on us by an artificial deadline. While there may be a need to provide immediate protection for some d–2 lands, it is becoming obvious that it is neither necessary nor wise to make a final decision for all time on all d–2 lands in Alaska.

This is the heart of the d–2 question. Congress is called upon to pass final judgment on an area which exceeds the combined size of the States of California and Washington and is over five times the size of the acreage presently under the administration of the National Park System which Congress has created by individual acts or legislation over the past 100 years. The question is whether Congress, in 5 years, will make a well-reasoned decision on five times the amount of acreage it has taken over 100 years to deal with in the past.

At the opening of my remarks today, I stated that this legislation may be the most important for Alaska since the passage of the Alaska Statehood Act. This is true because the congressional decision on d–2 lands will affect far more than the Federal lands which Congress deals with directly in the legislation. The indirect impacts of d–2 legislation are tremendous, and the birthright of the State of Alaska and Alaska's Natives, as established in the Statehood and Settlement Acts, can be realized only if d–2 legislation is drafted with such impacts in mind. Therefore, we deal not only with Federal lands, but also State and private lands, and we must watch carefully to insure that our final decision properly safeguards the decisions we have made in the past.

What Congress must seek in d–2 legislation is balance which adequately achieves the dual goals of environmental protection and providing for appropriate and necessary development of Alaska's resources. Without this balance, Congress will have done a disservice to the Nation. This balance must be struck with the knowledge that Congress can never hope to have all the information it needs to make a final decision in perpetuity. What we are looking for is a system which will allow decisions to be made, yet still provide flexibility so that future generations can deal with their problems and priorities without the stigma of dismantling our most treasured systems of protection for natural, scenic, and historic areas.

Alaska is at the same time the Nation's final storehouse of wilderness and resource values. Natural wonders abound and scores of species of wildlife flourish in unparalleled numbers throughout the State. Natural resources also are found in quantities not available elsewhere in the Nation. Thus, Alaska is called upon to be America's principal source of supply for natural resources, and also its primary showcase for wilderness and wildlife values. These demands cannot be met to everyone's satisfaction, but this does not mean that a reasonable balance between both goals cannot be struck. That balance can be found, and it is up to Congress to find it.

Not surprisingly, Alaskans have long realized the need for this balance. The nature of the Alaskan lifestyle is one in which utilization and protection of Alaska's land and resources go hand in hand. Consequently, the Alaska congressional delegation and the Governor first looked to other Alaskans for guidance in

the development of a balanced position on d–2 lands.

Over a 6-month period members of the delegation and the Governor have met with every Alaskan group or individual who to our knowledge has expressed a desire to be heard on the d–2 lands issue. Our initial meeting occurred late last year prior to the announcement of a tentative position by the Governor, Congressman YOUNG, and myself. In a series of meetings in Alaska, we met with virtually all Alaskan groups with an interest in d–2 lands, including representatives of Alaska's Natives, business and tourist interests, recreational groups, resource development interests, and preservation groups.

What emerged from our meetings was a broad consensus that certain d-2 lands in Alaska which are presently under pressure should be protected, but for the vast majority of Alaska's d–2 lands, a balanced system providing flexibility in management should be developed to allow future decisions to be made as further information becomes available and as circumstances not foreseeable today develop. It is this system which Governor Hammond, Congressman YOUNG, and I present today in my introduction of this legislation.

Observers of the continuing process of this legislation's development will note significant changes from our tentative position announced 3 months ago. These changes were made following exhaustive analysis of comments received from Alaskans and other interested parties on the tentative position we announced in March. Let me now detail the specifics of the proposal.

ADDITIONS TO EXISTING MANAGEMENT SYSTEMS

The legislation will establish approximately 25 million acres of new national park, wildlife refuge, forest, and wild river units in Alaska. Within the National Park System, two national parks, in the Gates of the Arctic and Wrangell-St. Elias Mountains areas will be created, each of which, is far larger than the largest areas now administered by the National Park Service. It is interesting to note that three of those five largest existing areas, Glacier Bay National Monument, Katmai National Monument, and Mt. McKinley National Park, are also located in Alaska.

The bill also creates substantial additions to Mt. McKinley National Park and Katmai National Monument, which is further designated as a national park, in addition to creating three national monuments in nationally significant historic and natural areas; First, Aniakchak-Caldera National Monument which protects one of the finest examples of volcanic activity located on the Alaska Peninsula; second, Cape Krusenstern National Monument which preserves an area long recognized as a principal portion of the Bering Land Bridge over which the migration to North America of early man occurred thousands of years ago; and third, Kobuk Sand Dunes National Monument which protects a truly signficant natural feature, sand dunes located, surprisingly enough, above the Arctic Circle.

Following the passage of this legislation, approximately half of the land under the administration of the National Park Service would be located in Alaska, including the five largest areas in the National Park System. While acreage figures cannot quantify the contribution of a given piece of legislation to a management system such as the National Park System, nevertheless, let it be noted that this legislation proposes a truly significant increase in the size of the National Park System.

The same can be said for the areas proposed for inclusion in the National Wildlife Refuge System. Alaska is famous for its abundance of wildlife, particularly in its migratory waterfowl population. Already, the six largest units of the wildlife refuge system are located in Alaska, including the Arctic National Wildlife Range, which comprises almost 9 million acres, or nearly a third of the total refuge system.

Most of these refuges were established at the suggestion or behest of Alaskans. For example, the Arctic National Wildlife Range was originally a suggestion of the Fairbanks Women's Garden Club. The Clarence Rhode National Wildlife Refuge, the refuge system's third largest unit, was named for a distinguished Alaskan most responsible for its establishment. I can address this matter with firsthand knowledge because I served as Solicitor of the Department of Interior and helped draft the Executive orders which established a number of these refuges.

Nearly three-quarters of the Nation's wildlife refuges are already located in Alaska. Alaska certainly does its part in the protection and propagation of America's wildlife. Still, our bill establishes eight new refuges comprising nearly 8 million acres, including the Yukon Delta and Koyukuk units of 3.60 and 1.58 million acres, respectively. The addition of the two aforementioned units will result in the location of the Nation's eight largest refuge units in Alaska. Additionally, the enactment of this legislation will increase the wildlife refuge system over 25 percent and result in the location of nearly 80 percent of the Nation's wildlife refuges in Alaska. The contribution of this bill to the protection of America's wildlife is apparent.

The bill further proposes the establishment of approximately 5 million acres of national forest lands in Alaska, the bulk of which are located in the interior of the State which has long been noted for its agricultural and timber potential. The establishment of these areas will provide a flexible management system for the development of a yet unrealized contribution of Alaska's interior to our Nation's agricultural and timber needs.

Forestry and related uses under the National Forest Management and Policy Act have long played a major role in Alaska. America's largest forest unit, the Tongass National Forest, is located in southeastern Alaska, and another of the Nation's large forests, the Chugach National Forest, is located in the south-central part of the State. With the establishment of the Yukon Flats and Porcupine National Forests and two additions to the Chugach National Forest as proposed by this bill, a balanced system of management by the U.S. Forest Service will be at long last be established in Alaska.

The d-2 debate in this Congress has revolved primarily around the establishment of park, wildlife refuge, and wilderness units in my State. However, section 17(d)(2) specifically charges the Congress with the responsibility of looking at the forestry needs of Alaska as well as park and refuge needs. This bill addresses those needs and establishes necessary units of the national forest system.

Three national wild rivers are also established by this legislation. Pursuant to the Wild and Scenic Rivers Act, the Noatak National Wild River will be managed by the U.S. Fish and Wildlife Service which manages the Federal cooperative land unit within which the Noatak unit is located. The Charley River unit will be managed by the National Park Service, the designated manager of the Charley River Federal cooperative lands, and the Birch Creek National Wild River will be managed by the Bureau of Land Management.

LANDS DESIGNED FOR COOPERATIVE MANAGEMENT

FEDERAL COOPERATIVE LANDS

As stated previously, this bill provides the framework for a system of cooperative management among Federal, State, and private landowners. The history of land management in Alaska has been one of allocating lands to specific owners. In 1867, following the transfer of sovereignty over Alaska from Russia to the United States, the Federal Government owned 100 percent of Alaska, subject to the final adjudication of rights to land by Alaska's Natives, as provided for in the Treaty of Cession.

During the ensuing 90 years, a small amount of individual tracts became available to private landowners under the public land laws. These lands were primarily homesteads, trade and manufacturing sites, and headquarters sites. The amount of land conveyed to private individuals under the public land laws was minimal, less than 1 percent of the 375 million acres comprised by Alaska's total land mass.

In 1958, Congress passed the Alaska Statehood Act which authorized the State of Alaska to select approximately 103.5 million acres of public lands to provide an economic base for the State's future development. Following nearly a century of struggle to achieve recognition of their claims, in 1971, Alaska's Natives received an entitlement of nearly 44 million acres under the Alaska Native Claims Settlement Act. Selection of lands by the State and Alaska's Natives has been ongoing since the passage of the Statehood and Settlement Acts, respectively.

Not surprisingly, the land management pattern in Alaska is both confusing and complicated. Consequently, the establishment of d–2 lands in Alaska defies the standard South 48 orientation of delineating Federal management units separate and apart from the State and private lands which are managed on an individual basis without coordination among the different landowners. Such

coordination is essential to the successful management of lands in Alaska, and the protection of complete ecosystems. This bill provides the framework for a program of cooperative management.

Approximately 58 million acres of Federal lands are designated as potential cooperative management lands. These lands are the remainder of the lands withdrawn under section 17(d)(2) for study, but which we have identified as lands not under immediate pressure for protection and inclusion in one of the four systems. Instead, these lands will be managed by existing Federal management agencies in conjunction with State and private lands also dedicated to the program of cooperative management.

Let me emphasize that under my bill, these are and will remain, in perpetuity Federal lands to be managed by the Federal Government.

What the cooperative management concept does is to create a program of linkage with related State and private lands to allow the protection of complete ecosystems regardless of the ownership within which the ecosystems are located. If the goal of Congress is to provide for rational management of not only d–2 lands, but land in Alaska in general, then this is the mechanism to achieve that goal. Without the establishment of this cooperative management approach, the existing land management pattern of the South 48 may well be continued in the State of Alaska.

Nearly half of the Federal lands in America are located in Alaska. Therefore, it is appropriate that this unique concept of management be enacted for Alaska to provide well reasoned land use decisions for these Federal lands. It should be emphasized that the cooperative management concept is not a fifth system. This bill does not create an additional Bureau of Land Management, National Park Service, or other Federal management agencies. The management of the Federal cooperative lands is left to existing line agencies as designated by Congress on a unit by unit basis in this bill. Thus, management continuity by existing agencies is assured.

ALASKA COOPERATIVE LANDS

The State of Alaska is a sovereign entity under the Constitution of the United States. Therefore, it is the responsibility of the State of Alaska to designate its cooperative lands under its own State laws. The State administration and the State legislature have shown themselves to be well reasoned and enlightened in the area of land management and I am confident that this concept of cooperative management will appeal to Alaska State legislators, as I hope it will appeal to Members of the Senate.

As cooperative management has been discussed in the past few months, concerns have been raised as to the specific amount of lands which the State must contribute in order to participate as a partner in cooperative management. Rather than set arbitrary figures, this bill leaves it to the Secretary of Interior to find that a substantial amount of State lands has been dedicated to cooperative management by the State of Alaska. Facts and circumstances will determine precisely what this amount will be, but the bill provides guarantees and protection to both the United States and the State of Alaska, by leaving the details of designation of Alaska cooperative lands to the State of Alaska and preserving the right of the Secretary of Interior to find that the State's designation is adequate to justify initiation of the program of cooperative management. In this way, the initial designation will begin the partnership that must be formed to insure that the cooperative management system will work and provide a well reasoned system of land management throughout the State of Alaska.

PRIVATE COOPERATIVE LANDS

Private cooperative lands are also provided for by this legislation. Private landowners may dedicate their lands to cooperative management for periods of not less than 10 years. These lands will continue to be managed by private landowners, just as State and Federal lands will continue to be managed by State and Federal management agencies. But, the private landowner must agree to manage his lands in conjunction with Federal and State lands or his lands may not be dedicated as private cooperative lands. If the private landowner dedicates his land to cooperative management, with the concurrence of the State of Alaska, the lands shall be exempt from State and local real property taxation and assessment so long as such lands are not developed or leased to third parties.

This tax exemption is the incentive for private landowners to become involved in the cooperative management system. In fact, this land bank concept was presented to us by the representative of the largest group of private landowners in Alaska, Alaska's Natives. In our meeting with the Alaska Federation of Natives, the fear that the enactment of State and local real property taxes on the tremendous acreage the Natives receive title to under the Settlement Act will require the sale of some lands to pay taxes was expressed. The AFN proposed that a system be created in which landowners, the bulk of whom would be Native Corporations, but not exclusively so, would be able to designate lands that would be tax exempt so long as they were not revenue producing. This seemed to be a reasonable idea to us, and we have incorporated it in our proposal.

In all instances, private landowners would be liable for taxes on lands that are revenue producing, but they could dedicate lands to cooperative management for periods of 10 years and receive a tax exemption. If the landowner were to withdraw his lands prior to the expiration of the 10-year period, he would become liable for accrued local and State property taxes and assessments during the entire period. This is a substantial incentive for private landowners to become involved in cooperative management, and I am confident that many landowners will do so.

THE ALASKA LAND CLASSIFICATION COMMISSION

To insure the coordination of the cooperative management concept an Alaska Land Classification Commission is created by this legislation, but only upon a finding by the Secretary of Interior that the State of Alaska has designated a substantial amount of State lands as Alaska cooperative lands. This Classification Commission shall be charged with the development of land classifications for Federal, State, and private lands dedicated to cooperative management. The Commission shall consist of four member appointed by the President, with the advise and consent of the Senate, one of whom shall be a Native, as defined by the Settlement Act, and four members appointed by the Governor of the State of Alaska, one of whom, we assume, will be a Native. All Commissioners shall serve full time and the Commission shall be directed by a Federal cochairman and a State cochairman, designated by the President and Governor, respectively.

In essence, the Commission becomes a planning and zoning commission for the cooperative lands. Management shall continue by existing line agencies of Federal and State governments and by the private landowners, but shall be pursuant to classifications for the land established by the Commission. In this way, the coordination of cooperative management is assured without the creation of a new bureaucracy to manage the lands themselves.

To some, the Alaska Land Classification Commission will seem akin to the presently existing joint Federal-State Land Use Planning Commission for Alaska. Some functions are similar, but the major difference between the two commissions is found in their authority. The present land use planning commission is purely advisory. The land classification commission contemplated by this legislation would have the power to classify lands dedicated to cooperative management for the best use or uses, subject to a veto on Federal lands by the Secretary of Interior or the Secretary of Agriculture as appropriate and on State lands by the Governor. Thus, the new Commission really will decide what uses should take place on the lands.

This coordination of land planning at such a high level will enhance the cooperation between State and Federal land managers. The key to success of cooperative management rests with the assurance that State and Federal landowners, both of whom are sovereign entities, will abide by decisions made in consultation with one another. The Alaska Land Classification Commission will insure that cooperative management will work by creating a partnership between the two governments.

Cooperative lands dedicated under this act shall be open to diversified uses subject to classifications of the Commission and applicable Federal and State laws. The Classification Commission will have the power to decide the best use or uses for specific areas of land, pursuant to land-use plans developed under this legislation. It is our judgment that the 25 million acres of d–2 lands designated as immediate additions to the four systems are those lands which shall be protected under the traditional management systems. Those other lands are under no specific pressure and should be available

for diversified uses, except as determined otherwise by the Commission, pursuant to this legislation.

MANAGEMENT AND ADMINISTRATION

A number of specific management principles are addressed by the legislation. It is here that the difference between this legislation and other d–2 legislation pending before Congress becomes most apparent. My discussion of the management principles provided for in this bill will also touch on certain inadequacies incumbent in that other legislation.

(1) ACCESS

The Commission is charged with providing for necessary access. This may be the most important issue involved in d–2 lands legislation. Without a provision for access, there is no guarantee that necessary public access will be provided. Alaska is a land containing numerous mountain ranges, lakes, and rivers. Not surprisingly, key mountain passes, river crossings, and other access routes have been, and will continue to be identified as a transportation system as Alaska develops. The location of d–2 lands often overlap these all important access routes, and d–2 legislation must contain a guarantee of access through them.

The appropriate development of Federal, State, and private lands in Alaska is dependent upon access. Resource development on these lands will continue if there is a way to get the resources to market. Take a look at any map of Alaska and note the location of d–2 land withdrawals. They are adjacent to and between State and Native selections. Without this guarantee of access, Congress will be taking away with the left hand what it gave with the right hand.

Congress passed the Statehood and Settlement Acts to guarantee the State of Alaska and Alaska's Native Corporations the right to develop as economically viable entities. Without access, the entitlements guaranteed by these two acts are meaningless. We must have access or we will be landowners who are unable to use our lands.

I cannot emphasize strongly enough the importance of assuring access in d–2 legislation. It cannot be discretionary; it must be guaranteed. The future of the State of Alaska and Alaska's Natives will be determined by the access provision contained in d–2 legislation. The provision in this bill will guarantee that future.

On the other hand, the establishment of tremendous wilderness areas, as proposed by other legislation pending in the Senate, will prohibit access and destroy the entitlements of the State of Alaska and Alaska's Natives. There is no access in a wilderness area. A wilderness area is defined in the Wilderness Act of 1964 as an area in which "Man is a visitor and does not remain." Access, by its very nature, is anathema to wilderness.

I say to you that wilderness designation of d–2 lands on a massive scale will result in a de facto wilderness designation for all lands in Alaska. This was not the intent of Congress in the section 17 (d) (2) of the Settlement Act which did not even mention wilderness. The tremendous implications of wilderness on access is brought to your attention to insure that all Members of the Senate understand the alternative to the system proposed by this legislation. The alternative, quite simply, is no access at all.

(2) MINERAL DEVELOPMENT

Alaska remains America's final storehouse of mineral resources. According to the Bureau of Mines, 28 out of 37 mineral commodities imported into the United States are found in Alaska. Eighteen of these have been mined in the past, or are known to be present in potentially mineable deposits. Additionally, 16 of 18 minerals listed on the strategic commodity list by the Federal Government, are found in sufficient quantities to justify commercial mineral extraction. In an age of escalating shortage and dwindling sources of supply, Alaska holds out the possibility of easing America's burden for the supply of needed mineral resources.

There are problems with mineral development in Alaska, and the major problem is lack of information. The U.S. Geological Survey, the Federal agency charged with supplying the Federal Government with information regarding mineral location on its lands, conducts a four-level study to determine the availability of minerals on Federal lands. To date, some level 2 studies for d–2 land withdrawals have yet to be completed. This level of study is very basic and is designed only to develop quantitative estimates of mineral resource potential on a general basis.

It is not until level 3 studies are completed that any sense of real knowledge is available. Even then, the level 3 studies map quadrangle areas as identified by the USGS on a scale of 1 inch to 4 miles. At that rate, a township of 36 square miles is represented by a square of 1½ inches on a side. I submit to you that this is less than the most desirable information needed to make a truly sound decision as to whether a specific area of land should be precluded from mineral development. Presently, only 50 percent of the d–2 withdrawals have been mapped at level 3. Even more distressing is the fact that only 5 percent of the USGS quadrangles have been mapped at the level 4 stage, which provides the information needed to make substantive decisions on mineral development.

The U.S. Geological Survey estimates that it will finish this mapping program, known as the Alaska Mineral Resource Assessment Program or AMRAP, for the d–2 land withdrawals in 1990. Unfortunately, this is 12 years after the statutory deadline for the congressional decision on d–2 lands expires. It is here that a flexible management program, such as the cooperative concept proposed by my legislation, can be of assistance. The Commission can classify lands for mineral exploration and development based on USGS data as it becomes available. Additionally, private mineral exploration can continue while the USGS compiles this information.

While the exploration and extraction of leasable minerals, such as sand and gravel, will continue to be governed by the Mineral Leasing Act of 1920 and the act of July 31, 1947, often referred to as the Mineral Materials Act, a change in the development of hardrock minerals is recommended by this legislation. Cognizant of the efforts by many to amend the mining law of 1872, we propose that within these specific Alaska lands only, the exploration and development of minerals currently subject to location under the mining law of 1872, shall be governed by a modified location-lease system which is currently being developed. This is a superior approach to burdening the Secretary with the duty to develop a permit and lease system as proposed in other d–2 legislation.

There is no desire on our part to fight the battle of amending the mining law of 1872 within the d–2 context. It is realized that d–2 lands are different from public domain land, and it is not inconsistent to establish a specific system for hardrock mineral development that differs from the mining law of 1872, so long as it is understood that this system is endorsed only for development on the lands designated by this act.

The most important issue is to insure that mineral exploration and development can resume on d–2 lands. For almost 10 years, these lands have been closed to private exploration and development except for valid existing rights. It is time once again to allow the miners of America to develop Alaska's minerals for the good of the country. This new system, quite similar to the Alaska State laws, governing hardrock mineral development, will provide the ability for such development and still insure the protection of the land demanded by its special status as d–2 lands.

It should be noted that other proposals pending before Congress would preclude mineral development on over 145 million acres of Federal lands in Alaska. These include the 80 million acres withdrawn under 4–2 authority and an additional 65 million acres. It is argued that wilderness only preserves options for a later date, but I must point out that the definition of wilderness prohibits, for all practical purposes, any conclusive exploration or development of mineral resources. The Wilderness Act of 1964 does provide for mineral exploration until 1983, but practical experience shows that private mineral exploration companies will not spend money to explore an area that will be closed in a matter of years.

The exploration and development of mineral resources takes time, commitment, and money. Congress must state plainly that it desires mineral resource development to continue in Alaska. A wilderness designation states just the opposite. The establishment of large areas of parks and refuges also deals with mineral development in a prohibitive fashion. Mineral development is precluded by statute in national parks. Practical experience with wildlife refuge management has shown that refuge managers are unwilling to allow compatible mineral exploration, particularly for hardrock minerals, on refuges.

Congress must guarantee that, mineral exploration will continue on the bulk of d–2 lands which are under no immediate pressure. The system established by this bill will provide that guarantee.

(3) WILDLIFE MANAGEMENT

One of the most controversial issues involved in the consideration of d–2 lands relates to wildlife management. Under this bill, the traditional relationship between State and Federal agencies is reaffirmed. The taking of fish and game would be regulated by the State of Alaska in accordance with applicable State law. The Federal Government would retain its right to insure the protection of habitat on Federal lands and would not be involved in the day-to-day management of fish and game resources.

This dichotomy is of paramount importance and affects all 50 States. This is one area where all States agree. The right of the State to regulate the taking of fish and game must not be altered in d–2 legislation. If it is, the regulation of the taking of fish and game on other Federal lands, in Alaska and the other States, is placed in jeopardy. The language in this legislation is similar to that found in the Sikes Act. This separation of Federal and State responsibilities has worked well and must be retained.

Other legislation pending in the Senate would take from the State the right to manage the taking of fish and game and place this with the Secretary. Under the guise of providing for subsistence hunting in rural Alaska, the Secretary is granted the right to manage the day-to-day taking of fish and game on d–2 lands. This is a mistake, and I totally oppose such a provision. Federal land management agencies are not equipped to assume the daily management of fish and game. Shortly following the assumption of such responsibilities the agencies will be hard pressed by their constituencies to halt the taking of fish and game entirely. To those who think subsistence would be best protected by Federal land managers, I say that you are making a grave mistake. Instead, you will find that subsistence hunting will be eliminated entirely.

My proposal does provide for a subsistence preference in the taking of fish and game which is consistent with the Alaska State constitution. If there is a conflict between some consumptive uses of fish and game caused by depletion of the resource, as determined by the State of Alaska, preference shall be granted to local residents of the area affected. The specific details of determining depletion, local residency, and other matters relating to the preference are reserved for State administration. It must be emphasized that this is not any type of mandate for the Federal land management agencies to become involved in taking of fish and game. The Sikes Act distinction remains and is reaffirmed by this legislation.

(4) EFFECT ON STATE SELECTION

A result of the d–2 study process has been to delay the availability of Federal lands for selections by the State of Alaska under the Alaska Statehood Act. Congress spoke to this problem by authorizing the State of Alaska to identify potential selections within d–1 withdrawal areas should those lands not be ultimately included as additions to the existing systems. D–2 lands are not the only lands which are unavailable for State selection. Other lands in Alaska, including those withdrawn under section 17(d)(1) of the Settlement Act and the Classification and Multiple Use Act of 1964, are also unavailable at this time for State selection.

This legislation proposes to solve the problem of lands being unavailable for State selection by requiring that within 90 days following the enactment of this legislation, the Secretary shall make available to the State of Alaska for selection all Federal lands in Alaska except those established as d–2 areas, including the Federal Cooperative Lands, existing Federal reserves, such as military reservations, native selections pursuant to the Settlement Act, and specific lands in the area of the Yukon-Kuskcokwim Delta described in public land order 5184 which were agreed to in an out-of-court settlement relating to State selection by the Department of Interior and the State of Alaska. This legislation can provide great assistance in the resolution of land allocation problems in Alaska by making available sufficient lands to this State so that it can finish its entitlement.

Of even greater importance is the need to insure that existing State selections will not be jeopardized by the d–2 legislation. Incredible as it may seem, d-2 legislation pending before Congress actually revokes existing State selections. State selections are valid existing rights established by Congress for the purpose of insuring a State's economic viability. To revoke State selections is to reject the Federal system itself and say that in all aspects, the Federal Government is paramount. Much of Alaska's lands remain unsurveyed, and tentative approval under the Settlement Act, status has been recognized by courts as the passing of equitable title pending patent following a survey. Therefore, the revocation of tentative approval is in violation of the Fifth Amendment of the Federal Constitution. The Federal Government cannot revoke a selection over which it has no legal title.

(5) WILDERNESS REVIEW

The bill I propose requires that the Secretary of Interior and Agriculture make recommendations with respect to areas of the National Park, Wildlife Refuge, and Wild and Scenic Rivers systems which are suitable for inclusion in the National Wilderness Preservation system within 5 years of the date of enactment of this act. The criteria and procedure for recommendation shall be similar to those specified in the Wilderness Act of 1964.

This is a reasonable approach to the designation of wilderness areas in Alaska. Section 17(d)(2) did not deal with wilderness and was not intended as a springboard for the designation of massive amounts of wilderness in Alaska. Yet, some d-2 legislation designates over 145 million acres as "instant wilderness" without adequate study of the areas to justify the designation. The Wilderness Preservation System was established by Congress to provide a means to place special lands throughout the country in a completely protected status in which no man-made intrusion of any kind may take place. It was not the intent of the Wilderness Act to set aside as wilderness almost one-third of any State, much less in the State of Alaska where one-third of the State is as large as the combined areas of California and Washington.

Let me describe to you what the designation of wilderness in such a proposal would mean. In the Gates of the Arctic National Park proposed by other legislation, 13,600,000 acres are designated as wilderness. That means in an area twice the size of Maryland, there will be no roads, no visitor facilities, no airstrips, no means of access across, to, or from the area except by aircraft. To get to the Gates of the Arctic National Wilderness Park, you would have to fly hours in a twin engine float plane and land on a specially designated lake or river. To get anywhere within the park, you would have to walk or canoe, and you would have to have lots of time to do that. How many Americans would be able to afford the luxury of time and money it would take to visit this area?

The draft environmental impact statement for the Gates of the Arctic National Park, prepared by the Department of the Interior, dealt with only a 10-million-acre park and estimated that the park would host approximately 4,000 visitors per year. That works out to about one person per 1 million acres per day. I do not think that the impact of other uses within the 10 to 13 million acres proposed by other legislation for this park would create such adverse impact as to destroy the park's values.

What my proposal does is establish a 5-million-acre park, which would still be the largest park in the National Park System by over 1 million acres, and dedicate the remaining acreage to Federal cooperative land status. In this way, the Commission would be able to make ongoing decisions as to the best uses of the surrounding lands. If it needs to protect certain lands to insure the park's values, it could. But, if other uses are more necessary, those uses would also be allowed. When you compare the different proposals, I think mine makes a lot more sense.

(6) AGRICULTURE DEVELOPMENT

Alaska contains lands which have been identified as having high potential for agricultural development. One of these areas is the Yukon Flats region of the upper Yukon River. It has been estimated that proper development of this region could provide wheat and related grains to feed up to 10 million people. This region has been designated as a national forest to insure that such potential can be realized. Agricultural development, including cultivation and grazing, would be allocated by means of a long-term leasing system. The ownership of Federal or other lands upon which agricultural development takes place would not change. On cooperative lands, the Commission could determine what lands should be used for agricultural development.

(7) EFFECT ON NATIVE SELECTIONS

Quite simply, there would be no effect on Native selections. The Native selection conveyance process would continue and any lands within a specific unit which are selected by a Native corporation but not conveyed would be added to the unit upon final relinquishment.

D-2 TRUST FUND

One of the questions asked in the d-2 process is what stake do citizens of the other 49 States have in the development of Alaska Federal lands? One answer, of course, is that to a large extent the resources developed on these lands will benefit them directly or indirectly through the manufacture and delivery of goods and services of which these resources are a part. Many believe that this in itself provides a justification for a reasonable and appropriate development of Federal lands in Alaska.

To insure that there is no question regarding the stake of the other 49 States in the appropriate development of Federal lands in Alaska, this bill proposes that a trust fund be established which will provide for the purchase of privately owned lands which have been authorized to be included in the National Park, Wildlife Refuge, and Wild and Scenic River Systems in States other than Alaska, but which cannot be purchased because of lack of Federal appropriations. There is a backlog of these lands throughout the country. The backlog is so great that it cannot be reasonably expected that these lands will soon be purchased solely through Federal appropriations. Therefore, to the extent that certain environmental goods are balanced by reasonable and appropriate development on Federal lands in Alaska, the Federal share of proceeds derived from such development and 50 percent of the State of Alaska's share of the revenue derived from mineral leasing activity on Federal lands will be placed in a special fund reserved solely for the purchase of these backlogged lands.

I say to you quite frankly, if there is an environmental loss from this development, it is regained through the purchase of lands in the other 49 States. I suspect there is no loss, and the Nation gains two ways; first, through reasonable and appropriate development of Federal lands in Alaska, and, second, through the purchase of backlogged lands in the other 49 States.

CONCLUDING REMARKS

The consideration of d-2 lands is one of the most crucial resource decisions that Congress will ever make. Thus far, it has been billed as a wilderness decision. But it is much more than that. It is a resource decision, with all its accompanying implications. Alaska remains America's last storehouse of natural resources. Fifteen sedimentary basins, all of which are potential oil-producing areas, has been identified in Alaska: Only one, the area in which Prudhoe Bay, America's largest proven reserve, is located, has been adequately explored. Additionally, development of timber resources, agricultural potential, hardrock mineral resources, and other appropriate development of Federal lands in Alaska must be given a chance.

The answer to the d-2 decision is not to "save all of Alaska's land now because this is our last chance." It is interesting that this clarion call is being heard so loudly throughout Washington, D.C., but not in the State of Alaska. Alaskans know that most land in Alaska is under no direct pressure. Alaskans will join with Congress in proposing protection for those lands which really do need to be preserved, but we will not rush headlong into a precipitous decision which Congress will only have to undo later.

There will come a time when resources which have been identified in Alaska will be available to the United States only in those deposits. An example is chromite, which can only be obtained from the Soviet Union, following the repeal of the Byrd amendment. I implore you not to put the chromite discovered near Mt. McKinley Park into the park as an addition. The day will come when we have to get to that chromite and to do so, an act of Congress removing the deposit from the national park will have to be passed.

The danger to the National Park System is apparent. By unwisely placing resources we will need later in a national park now, we run the risk of dismantling the park system, not only in Alaska, but throughout the United States at a future point in time. The national park system is not a land and resource bank. It is a system established by Congress to protect those lands which we have determined should never be invaded for other uses. Such a statement requires that Congress exercise great responsibility in establishing units of the National Park System. The same analogy applies for the Wilderness System and other existing units of the management systems. What Congress must do now is make only those decisions which must be made in this Congress and create a framework to allow an ongoing decision-making process.

Mr. President, before I conclude my remarks, let me ask that a statement I delivered before the House Committee on Interior and Insular Affairs, which describes the history of section 17(d)(2), be included in the RECORD as part of my statement.

In conclusion, I would point out two matters of interest to Congress. Eight years ago, my good friend, former Secretary of the Interior, Stewart Udall, proposed to President Johnson that certain lands in Alaska be added to the National Park and Wildlife Refuge Systems by Executive Order. Of the 8 million acres proposed by Secretary Udall to be created as additions to those two systems, President Johnson declined to act on all but 94,500 acres.

At that time, Secretary Udall urged the President to create a 3½ million acre Gates of the Arctic National Monument and a 2.2 million acre extension of Mt. McKinley Park, because in his words, "it is the last chance to preserve the land for park purposes * * *." Eight years later, the same argument is used to argue for creation of not 8 million acres of park and refuge land in Alaska, but 115 million acres.

What has changed? President Johnson refused to sign these proclamations because the additions were too large. Have circumstances changed so greatly that where 8 million acres was too large 8 years ago, 115 million acres is now the right figure? The answer is unquestionably no! Congress must act wisely and rationally as President Johnson did and not rush to judgement on the future of these lands. My proposal includes the bulk of Secretary Udall's proposals and more. It is an environmentally sound proposal which will still provide for appropriate and reasonable development of Alaska's lands. This is the goal we all are attempting to reach.

Finally, let me comment on the attitude that Alaskans should have no say in what happens to these lands because they are Federal lands. There is no argument that the lands withdrawn under section 17(d)(2) are Federal lands. But that does not mean that Alaskans should not be listened to regarding their final disposition. I remember the statehood fight of 25 years ago and more and more the d-2 debate takes on the tenor of the statehood debate.

At that time, it was said that Alaskans should not be listened to because Alaska was only a territory. Well, Alaska is now a State and Alaskans hope that they will be listened to regarding the future of Federal lands in their State, just as Washingtonians expect to be listened to regarding the future of Federal lands in Washington, as Californians expect to be listened to regarding the future of Federal lands in California, or any State citizens expect to be listened to regarding the future of Federal lands in their State. It is true these are Federal lands, but we Alaskans are the ones who will be most directly affected by congressional action. We do not say that Congress should not listen to the rest of the Nation, but we do say that Congress should also listen to us.

Please do not treat Alaska as a territory again. We fought hard for statehood and we treasure its benefits. The most important benefit of all is to be treated on an equal basis with the other 49 States.

Mr. President, this concludes my introductory statement for the bill I introduced today. I ask unanimous consent that the proposed legislation and attached documents relating to the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska National Interest Lands Act".

SEC. 2. Congressional Findings, Policy, and Purposes

(a) Findings—The Congress finds and declares the following:

(1) It is necessary to create a program of management for Alaska's national interest lands which protects significant natural, scenic, recreational, wildlife, and other values of national interest;

(2) It is in the national interest to continue to inventory resource values on lands designated by this Act;

(3) The promotion of cooperative management of Federal, State, and private lands in Alaska under sound and comprehensive land use plans is necessary to protect complete ecosystem and is in the national interest.

(b) Policy and Purposes—It is therefore declared to be the policy and purposes of the Congress under this Act to protect the national interest by establishing lands as new units or as additions to existing units of Federal management systems and by establishing a program of cooperative manage-

ment with State and private landowners to provide flexibility in land management not inherent in existing systems.

SEC. 3. Definitions as used in this Act, the term—

(1) "Commission" means the Alaska Land Classification Commission established by title XXXXII of this Act;

(2) "Classification" means a determination pursuant to regulations and a land use plan promulgated by the Commission that specific lands under its authority shall be used for a specific purpose or purposes;

(3) "exigent circumstances" means any event or occasional combination of circumstances which constitute an emergency calling for immediate action or remedy;

(4) "land use plan" means a plan respecting land, which the Commission develops through:

(a) use of its resource inventory;

(b) use of a systematic interdisciplinary approach involving an examination of physical, biological, ecological, economic, social, and other information;

(c) consideration of present and potential uses of the land;

(d) consideration of the relative scarcity of the resource values involved and the availability of alternative sources;

(e) the weighting of short- and long-term benefits and costs to the public; and

(f) consultation and coordination with the general public and with government agencies and private landowners which have proprietary and/or regulatory responsibility for affected areas;

(5) "resource inventory" means the quantitative and qualitative study and compilation of the characteristics of lands, their resources and values;

(6) "Secretary" means, unless specifically designated otherwise, the Secretary of the Interior;

(7) "Settlement Act" means the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.); and

(8) "wilderness", as used in section 4306 (a) of this Act, shall have the same meaning as such term has in section 2(e) of the Wilderness Act (16 U.S.C. 1131).

TITLE I—ANIAKCHAK-CALDERA NATIONAL MONUMENT ESTABLISHMENT

SEC. 101. (a) There is hereby established the Aniakchak-Caldera National Monument of approximately 0.18 million acres. This area shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Monument, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Commission and in the Office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the *Federal Register* and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 102. Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 101 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Park System, including, but not limited to, the Act of August 23, 1916 (30 Stat. 535 *et seq.*), as amended and supplemented (16 U.S.C. 1 *et seq.*), and in accordance with the provisions of this Act.

TITLE II—CAPE KRUSENTERN NATIONAL MONUMENT ESTABLISHMENT

SEC. 101. (a) There is hereby established the Cape Krusenstern National Monument of approximately 0.19 million acres. This area shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Monument, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Commission and in the Office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the *Federal Register* and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 102. Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 101 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Park System, including, but not limited to, the Act of August 23, 1916 (30 Stat. 535 *et seq.*), as amended and supplemented (16 U.S.C. 1 *et seq.*), and in accordance with the provisions of this Act.

TITLE III—KOBUK SAND DUNES NATIONAL MONUMENT ESTABLISHMENT

SEC. 301. (a) There is hereby established the Kobuk Sand Dunes National Monument of approximately 0.10 million acres. This area shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Monument, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Commission and in the Office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 302. Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 301 of general applicability to other areas comprising a unit of the National Park System, including, but not limited to, the Act of August 23, 1916 (30 Stat. 535 et seq., as amended and supplemented (16 U.S.C. 1 et seq.), and in accordance with the provisions of this Act.

TITLE IV—GATES OF THE ARCTIC NATIONAL PARK

ESTABLISHMENT

SEC. 401. (a) There is hereby established the Gates of the Arctic National Park of approximately 3.55 million acres. This area shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary May, National Monument, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Commission and in the Office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 402. Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 401 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Park System, including, but not limited to, the Act of August 23, 1916 (30 Stat. 535 et seq.), as amended and supplemented (16 U.S.C. 1 et seq.), and in accordance with the provisions of this Act.

TITLE V—KATMAI NATIONAL PARK

ESTABLISHMENT

SEC. 501. (a) There is hereby established the Katmai National Monument Addition of approximately 0.40 million acres. The monument, with the addition, is hereinatfer designated as a National Park. This area shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Park, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Commission and in the Office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the *Federal Register* and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 502. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 501 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Park System, including, but not limited to, the Act of August 23, 1916 (30 Stat. 535 *et seq.*), as amended and supplemented (16 U.S.C. 1 *et seq.*), and in accordance with the provisions of this Act.

TITLE VI—MOUNT McKINLEY NATIONAL PARK ADDITION

ESTABLISHMENT

SEC. 601. (a) There is hereby established the Mount McKinley National Park Addition of approximately 1.13 million acres. This area shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Park, Alaska, dated ----------, 1977, which shall be on file and available for public inspection in the principal office of the Commission and in the Office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the *Federal Register* and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 602. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 601 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Park System, including, but not limited to, the Act of August 23, 1916 (30 Stat. 535 *et seq.*), as amended and supplemented (16 U.S.C. 1 *et seq.*), and in accordance with the provisions of this Act.

TITLE VII—WRANGELL-ST. ELIAS NATIONAL PARK

ESTBALISHMENT

SEC. 701. (a) There is hereby established the Wrangell-St. Elias National Park of approximately 4.90 million acres. This area shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Park, Alaska, dated ---------, 1977, which shall be on file and available for public inspection in the principal office of the Commission and in the Office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 702. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 701 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Park System, including, but not limited to, the Act of August 23, 1916 (30 Stat. 535 et seq.), as amended and supplemented (16 U.S.C. 1 et seq.), and in accordance with the provisions of this Act.

TITLE VIII—ALASKA COASTAL NATIONAL WILDLIFE REFUGE

ESTABLISHMENT

SEC. 801. (a) There is hereby established the Alaska Coastal National Wildlife Refuge of approximately 0.15 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Wildlife Refuge, Alaska, dated ---------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 802. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 801 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Wildlife Refuge System, and in accordance with the provisions of this Act.

TITLE IX—INNOKO NATIONAL WILDLIFE REFUGE

ESTABLISHMENT

SEC. 901. (a) There is hereby established the Innoko National Wildlife Refuge of approximately 0.60 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Wildlife Refuge, Alaska, dated ----------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embraces other physiographic features.

ADMINISTRATION

SEC. 902. (a) Subject to valid existing rights, lands, waters and interests therein comprising the area established by section 901 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Wildlife Refuge System, and in accordance with the provisions of this Act.

TITLE X—KAIYUH NATIONAL WILDLIFE REFUGE

ESTABLISHMENT

SEC. 1001. (a) There is hereby established the Kaiyuh National Wildlife Refuge of approximately 0.19 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Wildlife Refuge, Alaska, dated ----------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1002. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1001 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Wildlife Refuge System, and in accordance with the provisions of this Act.

TITLE XI—KANUTI NATIONAL WILDLIFE REFUGE

ESTABLISHMENT

SEC. 1101. (a) There is hereby established the Kanuit National Wildlife Refuge of approximately 0.43 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Wildlife Refuge, Alaska, dated ----------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1102. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1101 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Wildlife Refuge System, and in accordance with the provisions of this Act.

TITLE XII—KOYUKUK NATIONAL WILDLIFE REFUGE

ESTABLISHMENT

SEC. 1201. (a) There is hereby established the Koyukuk National Wildlife Refuge of approximately 1.58 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Wildlife Refuge, Alaska, dated ----------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1202. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1201 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Wildlife Refuge System, and in accordance with the provisions of this Act.

TITLE XIII—SELAWIK NATIONAL WILDLIFE REFUGE

ESTABLISHMENT

SEC. 1301. (a) There is hereby established the Selawik National Wildlife Refuge of approximately 0.73 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Wildlife Refuge, Alaska, dated ---------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1302. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1301 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Wildlife Refuge System, and in accordance with the provisions of this Act.

TITLE XIV—SHISHMAREF NATIONAL WILDLIFE REFUGE

ESTABLISHMENT

SEC. 1401. (a) There is hereby established the Shishmaref National Wildlife Refuge of approximately 0.76 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Wildlife Refuge, Alaska, dated ---------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descripiton may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1402. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1401 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Wildlife Refuge System, and in accordance with the provisions of this Act.

TITLE XV—YUKON DELTA NATIONAL WILDLIFE REFUGE

ESTABLISHMENT

SEC. 1501. (a) There is hereby established the Yukon Delta National Wildlife Refuge of approximately 3.60 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Wildlife Refuge, Alaska, dated ---------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the *Federal Register* and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1502. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1501 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a unit of the National Wildlife Refuge System, and in accordance with the provisions of this Act.

TITLE XVI—COLLEGE FJORD ADDITION TO THE CHUGACH NATIONAL FOREST

ESTABLISHMENT

SEC. 1601. (a) There is hereby established the College Fjord Addition to the Chugach National Forest of approximately 0.72 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Forest, Alaska, dated ------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary of Agriculture.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary of Agriculture in the *Federal Register* and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1602. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1601 of this title shall be administered by the Secretary of Agriculture under the laws of general applicability to other areas comprising a unit of the National Forest System, and in accordance with the provisions of this Act.

TITLE XVII—NELLIE JUAN ADDITION TO THE CHUGACH NATIONAL FOREST

ESTABLISHMENT

SEC. 1701. (a) There is hereby established the Nellie Juan Addition to the Chugach National Forest of approximately 0.28 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Forest, Alaska, dated ----------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary of Agriculture.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary of Agriculture in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1702. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1701 of this title shall be administered by the Secretary of Agriculture under the laws of general applicability to other areas comprising a unit of the National Forest System, and in accordance with the provisions of this Act.

TITLE XVIII—PORCUPINE NATIONAL FOREST

ESTABLISHMENT

SEC. 1801. (a) There is hereby established the Porcupine National Forest of approximately 2.59 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Forest, Alaska, dated ---------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary of Agriculture.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary of Agriculture in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1802. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section

1801 of this title shall be administered by the Secretary of Agriculture under the laws of general applicability to other areas comprising a unit of the National Forest System, and in accordance with the provisions of this Act.

TITLE XIX—YUKON FLATS NATIONAL FOREST

ESTABLISHMENT

SEC. 1901. (a) There is hereby established the Yukon Flats National Forest of approximately 2.13 million acres. Those areas shall consist of the lands, waters, and interests therein generally depicted on the map entitled Boundary Map, National Forest, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary of Agriculture.

(b) As soon as practicable after the date of enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary of Agriculture in the FEDERAL REGISTER and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 1902. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 1901 of this title shall be administered by the Secretary of Agriculture under the laws of general applicability to other areas comprising a unit of the National Forest System, and in accordance with the provisions of this Act.

TITLE XX—BIRCH CREEK NATIONAL WILD RIVER

ESTABLISHMENT

SEC. 2001. (a) There is hereby established the Birch Creek National Wild River of approximately 0.20 million acres. This area shall consist of the lands, waters, and the interests therein generally depicted on the map entitled Boundary Map, National Wild and Scenic Rivers, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Commission and the office of the Secretary.

(b) As soon as practicable after the date of such enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the FEDERAL REGISTER and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2002. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 2001 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a wild river of the National Wild and Scenic Rivers System, and in accordance with the provisions of this Act.

TITLE XXI—CHARLEY NATIONAL WILD RIVER

ESTABLISHMENT

SEC. 2101. (a) There is hereby established the Charley National Wild River of approximately .40 million acres. This area shall consist of the lands, water, and the interests therein generally depicted on the map entitled Boundary Map, National Wild and Scenic Rivers, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Commission and the office of the Secretary.

(b) As soon as practicable after the date of such enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2102. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 2101 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a Wild River of the National Wild and Scenic Rivers System, and in accordance with the provisions of this Act.

TITLE XXII—NOATAK NATIONAL WILD RIVER

ESTABLISHMENT

SEC. 2201. (a) There is hereby established the Noatak National Wild River of approximately .40 million acres. This area shall consist of the lands, waters, and the interests therein generally depicted on the map entitled Boundary Map, National Wild and Scenic Rivers, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Commission and the office of the Secretary.

(b) As soon as practicable after the date of such enactment of this Act, a map and a legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2202. (a) Subject to valid existing rights, lands, waters, and interests therein comprising the area established by section 2201 of this title shall be administered by the Secretary under the laws of general applicability to other areas comprising a Wild River of the National Wild and Scenic Rivers System, and in accordance with the provisions of this Act.

TITLE XXIII—KATMAI FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 2301. (a) There is hereby established the Katmai Federal Cooperative Lands of approximately 1.59 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2302. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The National Park Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the director of the National Park Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Katmai Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXIV—GATES OF THE ARCTIC FEDERAL COOPERATIVE LANDS ESTABLISHMENT

SEC. 2401. (a) There is hereby established the Gates of the Arctic Federal Cooperative Lands of approximately 3.55 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2402. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The National Park Service shall manage and regulate uses within this unit in accordance with Com-

mission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisons made by the director of the National Park Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Gates of the Arctic Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: Provided, however, That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXV—MT. McKINLEY FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 2501. (a) There is hereby established the Mt. McKinley Federal Cooperative Lands of approximately 1.96 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2502. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The National Park Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the director of the National Park Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Mt. McKinley Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXVI—WRANGELL-ST. ELIAS FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 2601. (a) There is hereby established the Wrangell-St. Elias Federal Cooperative Lands of approximately 8.74 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public insection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2602. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The National Park Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the director of the National Park Service, or his designee, shall be in accordance with laws and regulations which generally govern the functions of such agency.

(b) The Wrangell-St. Elias Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights. the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXVII—LAKE CLARK FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 2701. (a) There is hereby established the Lake Clark Federal Cooperative Lands of approximately 3.49 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2702. (a) Classification of this area shall be the responsibility of the Commission in accordance with title XXXXII and the other provisions of this Act. The National Park Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of title XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Director of the National Park Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Lake Clark Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXVII—CHARLEY RIVER FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 2801. (a) There is hereby established the Charley River Federal Cooperative Lands of approximately 0.99 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2802. (a) Classification of this area shall be the responsibility of the Commission in accordance with title XXXXII and the other provisions of this Act. The National Park Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Director of the National Park Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Charley River Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXIX—INNOKO FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 2901. (a) There is hereby established the Innoko Federal Cooperative Lands of approximately 1.24 million acres. This area shall consist of the lands, waters, and inter-

ests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 2902. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The United States Fish and Wildlife Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Director of the United States Fish and Wildlife Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Innoko Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXX—CHANDALAR FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3001. (a) There is hereby established the Chandalar Federal Cooperative Lands of approximately 8.27 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3002. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The United States Fish and Wildlife Service shall manage and regulate uses within this unit in accordance with the Commission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Director of the United States Fish and Wildlife Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Chandalar Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXI—SHISHMAREF-IMURUK FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3101. (a) There is hereby established the Shishmaref-Imuruk Federal Cooperative Lands of approximately 1.84 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3102. (a) Classification of this area shall be the responsibility of the Commission in accordance with title XXXXII and the other provisions of this Act. The United States Fish and Wildlife Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Director of the United States Fish and Wildlife Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Shishmaref-Imuruk Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXII—CAPE NEWENHAM FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3201. (a) There is hereby established the Cape Newenham Federal Cooperative Lands of approximately 0.24 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3202. (a) Classification of this area shall be the responsibility of the Commission in accordance with title XXXXII and the other provisions of this Act. The United States Fish and Wildlife Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Director of the United States Fish and Wildlife Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Cape Newenham Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXIII—NOATAK FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3301. (a) There is hereby established the Noatak Federal Cooperative Lands of approximately 11.47 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977 which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3302. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The United States Fish and Wildlife Service shall manage and regulate uses within this unit in ac-

cordance with Commission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the director of the United States Fish and Wildlife Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Noatak Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXIV—YUKON DELTA FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 401. (a) There is hereby established the Yukon Delta Federal Cooperative Lands of approximately 1.50 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated ---------, 1977, which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3402. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The United States Fish and Wildlife Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of Title XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the director of the United States Fish and Wildlife Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Yukon Delta Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXV—ANDREAFSKY FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3501. (a) There is hereby established the Andreafsky Federal Cooperative Lands of approximately 3.50 million acres. This area shall consist of the lands, waters, and interests therein, generally depleted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated ---------, 1977 which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3502. (a) Classification of this area shall be the responsibility of the Commission in accordance with title XXXXII and the other provisions of this Act. The United States Fish and Wildlife Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the director of the United States Fish and Wildlife Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Andreafsky Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed or upon finding that exigent circumstances exist.

TITLE XXXVI—ILLIAMNA FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3601. (a) There is hereby established the Illiamna Federal Cooperative Lands of approximately 2.80 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated ----------, 1977 which shall be on file and available for public inspection in the principal office of the Secretary.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3702. (a) Classification of this area shall be the responsibility of the Commission in accordance with title XXXXII and the other provisions of this Act. This United States Fish and Wildlife Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the director of the United States Fish and Wildlife Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Illiamna Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXVII—CHUGACH FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3701. (a) There is hereby established the Chugach Federal Cooperative Lands of approximately 1.77 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated ----------, 1977 which shall be on file and available for public inspection in the principal office of the Secretary of Agriculture.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3702. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The United States Forest Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Chief of the United States Forest Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Chugach Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXVIII—PORCUPINE FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3801. (a) There is hereby established the Porcupine Federal Cooperative Lands of approximately 3.40 million acres. This area

shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977 which shall be on file and available for public inspection in the principal office of the Secretary of Agriculture.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3802. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The United States Forest Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of Titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Chief of the United States Forest Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Porcupine Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXIX—YUKON RIVER FEDERAL COOPERATIVE LANDS

ESTABLISHMENT

SEC. 3901. (a) There is hereby established the Yukon River Federal Cooperative Lands of approximately 0.54 million acres. This area shall consist of the lands, waters, and interests therein, generally depicted on the map entitled Boundary Map Federal Cooperative Lands, Alaska, dated _____, 1977 which shall be on file and available for public inspection in the principal office of the Secretary of Agriculture.

(b) As soon as practicable after the date of the enactment of this Act, a map and a legal description of the area established by this title shall be published in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

ADMINISTRATION

SEC. 3902. (a) Classification of this area shall be the responsibility of the Commission in accordance with Title XXXXII and the other provisions of this Act. The United States Forest Service shall manage and regulate uses within this unit in accordance with Commission classifications and the provisions of titles XXXXII and XXXXIII of this Act. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use and management decisions made by the Chief of the United States Forest Service, or his designee, shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(b) The Yukon River Federal Cooperative Lands shall be open to all uses authorized under the public land laws except disposal under those laws authorizing the conveyance of title from Federal ownership: *Provided, however,* That, subject to valid existing rights, the Commission may close lands to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201 or upon finding that exigent circumstances exist.

TITLE XXXX—ALASKA COOPERATIVE LANDS

STATE LANDS

SEC. 4001. (a) Following designation under Alaska state law and upon a finding by the Secretary of compliance with the substantiality requirement of section 4201(a), there shall be established Alaska Cooperative Lands. The location and boundaries of such lands shall be determined by mutual agreement of the Secretary and the State of Alaska. Prior to such agreement, the Secretary shall consult as necessary with other federal officials, including but not limited to the Secretaries of Agriculture, Defense, Transportation and State. Upon designation, Alaska Cooperative Lands shall be classified and managed in accordance with Titles XXXXII and XXXXIII of this Act and applicable laws of the State of Alaska. Following consultation with the Commission, the State of Alaska may substitute other lands for lands initially designated pursuant to this section provided that the Secretary finds continuing compliance with the requirement of substantiality under section 4201(a) of this Act.

(b) As soon as practicable after the date of designation pursuant to subsection (a) of this title, a map and legal description of the area established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made. Whenever possible, cadastral surveys and boundaries shall follow or approximate hydrographic divides or embrace other physiographic features.

TITLE XXXXI—PRIVATE COOPERATIVE LANDS

PRIVATE LANDS

SEC. 4101. (a) With the approval of the Commission, and subject to valid existing rights, private landowners may dedicate their lands for periods of not less than ten years as Private Cooperative Lands. Upon dedication, such lands shall be classified by the Commission and managed by the landowner in accordance with such classification and other provisions of this Act.

(b) With the concurrence of the State of Alaska, privately owned lands designated as Private Cooperative Lands under this title shall be exempt from State and local real property taxation and assessment so long as such lands are not developed or leased to third parties. For purposes of this subsection, development shall mean any disturbance of the land which results in the production of revenue. The Commission shall promulgate regulations to supplement the meaning of development for purposes of this section.

(c) Private Cooperative Lands shall be open to all uses, except that the Commission may close areas to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 4201, or upon a finding that exigent circumstances exist: *Provided, however,* That lands dedicated pursuant to this title may, upon notification to the Commission, be removed from the designation of Private Cooperative Lands, and effective upon such removal, the provisions of this title shall no longer be applicable to such land so removed: *Provided further,* That if such lands are removed from the designation of Private Cooperative Lands prior to the expiration of each ten-year period, such landowner shall be liable for accrued local and State property taxes and assessments which would have been owing on such lands but for their designation as Private Cooperative Lands, together with interest thereon in an amount to be determined at the rate charged by the appropriate taxing agency for delinquent property taxes.

TITLE XXXXII—ALASKA LAND CLASSIFICATION COMMISSION

COMMISSION

SEC. 4201. (a) Upon a finding by the Secretary that the State of Alaska has designated a substantial amount of State land as Alaska Cooperative Lands pursuant to title XXXX, there shall be established the Alaska Land Classification Commission, whose members shall be selected as follows:

(1) four members appointed by the President, with the advice and consent of the Senate, one of whom shall be designated by the President, at the time of appointment, as Co-Chairman, and one of whom shall be a Native as that term is defined in section 3(b) of the Settlement Act; and

(2) four members appointed by the Governor of the State of Alaska, one of whom shall be designated by the Governor, at the time of appointment, as Co-Chairman.

(b) Members shall serve at the pleasure of the appointing authority. A vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(c)(1) The Federal Co-Chairman shall be compensated at a rate to be determined by the President but not to exceed the rate provided for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2) The other Federal members of the Commission shall be compensated at a rate to be determined by the President, but not to exceed the rate provided for GS-16 of the General Schedule under section 5332 of title 5, United States Code;

(3) The State Co-Chairman and the State members of the Commission shall be compensated in accordance with applicable State law.

(d) Five members of the Commission shall constitute a quorum.

(e) With respect to all Federal lands subject to this Act, the Secretary or Secretary of Agriculture, with respect to lands managed by the United States Forest Service, may veto a decision of the Commission. With respect to all State lands subject to this Act, the Governor of the State of Alaska may veto a decision of the Commission.

(f) The Co-Chairmen, acting jointly, shall have the power, in accordance with regulations prescribed by the Commission, to create and abolish employments and positions, including temporary and intermittent employments as they deem necessary for the purposes of the Commission; to fix and provide

for the qualification, appointment, removal, compensation, pension and retirement rights of employees; and to procure needed office space, supplies and equipment.

(g) The Commission is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement. Each department and agency of the Federal Government may cooperate fully with the Commission in making the services, equipment, personnel, and facilities of such department or agency available to the Commission.

(h) The Commission is authorized to accept donations, gifts, grants, and other contributions and to utilize the same in carrying out its functions under this Act.

(i) The Commission shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(j) The Federal Government shall pay 50 per centum of the costs and other expenses incurred by the Commission in any one fiscal year.

(k) The principal office of the Commission shall be located within the State of Alaska.

(l) All Commission meetings shall be public and shall be duly noticed at least fifteen days prior to the date when the meeting is to take place.

(m) It shall be the function of the Commission—

(1) to provide for the inventory of lands under its jurisdiction using, where appropriate, information obtained from other agencies including, but not limited to, the United States Geological Survey, Bureau of Mines and Alaska State Department of Natural Resources;

(2) to develop comprehensive land use plans with respect to lands under its jurisdiction of the Commission;

(3) to make land classifications pursuant to such plans:

(4) to provide advice and other assistance, upon request, in the development and review of land-use plans for lands selected by Native Corporations under the Settlement Act and by the State under the Alaska Statehood Act;

(5) to review existing withdrawals of Federal and State lands and to recommend to appropriate officers of the government of the United States and the State of Alaska such modifications of such withdrawals as the Commission deems necessary;

(6) to make recommendations to appropriate officers of the governments of the United States and the States of Alaska as to necessary changes in laws, policies, budgets, and programs relating to the public lands of Alaska;

(7) to make recommendations to appropriate officers of the governments of the United States and the State of Alaska to insure that economic growth and development are orderly, planned, and compatible with State and national environmental objectives, with the public interest in the parks, forests, wildlife refuges, wild and scenic rivers, and other public lands in Alaska, and the economic and social well-being of the residents of the State of Alaska; and

(8) to make recommendations to appropriate officers of the governments of the United States and the State of Alaska to improve coordination and consultation between said governments in making resource allocation and land use decisions.

(n) Notwithstanding any other provision of law, the Joint Federal-State Land Use Planning Commission for Alaska shall cease to exist upon the expiration of the one-hundred-and-twenty-day period following the establishment of the Commission pursuant to this Act. Immediately upon the expiration of such period, all property of the Joint Commission and all unexpended funds appropriated to that Commission are hereby transferred to the Commission established by this Act.

(o) In the event that the State of Alaska fails to comply with subsection (a) of this title, the agencies designated to manage Federal Cooperative Lands established by this Act shall inventory, classify, plan, and manage those lands in accordance with subsections (m) (1), (2), and (3) of this title, Title XXXXIII, and other provisions of this Act. In addition, the appropriate agency shall carry out any other responsibility assigned to the Commission by this Act, including but not limited to the guarantee of necessary public access as provided in section 4301.

TITLE XXXXIII—MANAGEMENT AND ADMINISTRATION

ACCESS

SEC. 4301. The Commission shall take such action as may be necessary to guarantee needed public access across lands designated pursuant to this Act. The location and mode of such access shall be in accordance with land use plans developed pursuant to section 4201. The Commission is authorized to acquire by donation, purchase with donated or appropriated funds, condemnation, or exchange, lands, waters, and any interest therein, of the State of Alaska, its political subdivisions, or of any private landowner, as the Commission determines necessary to carry out its functions under this section.

MINERAL DEVELOPMENT

SEC. 4302. Mineral exploration and development shall be permitted in accordance with the provisions of this Act. With respect to such activities, the provisions of the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*) and the Act of July 31, 1947 (30 U.S.C. 101 *et seq.*) shall apply to lands open or classified for such purposes pursuant to the provisions of this Act. With respect to said lands, exploration and development of minerals currently subject to location under the General Mining Laws (30 U.S.C. 21 *et seq.*) shall be governed by the location-lease system provided for in Title XXXXV.

BOUNDARY ADJUSTMENTS, PROHIBITION OF CERTAIN ADMINISTRATIVE ACTS

SEC. 4303. (a) Following reasonable notice in writing to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and after publication of notice in the Federal Register, the appropriate Secretary may make minor revisions in the boundaries of the Federal units established by this Act.

(b) Except as provided in subsection (a) of this section, the Secretary, the Secretary of Agriculture, and the Commission are prohibited from administratively establishing in Alaska any new units or additions to units of the systems referred to in this Act.

WILDLIFE MANAGEMENT

SEC. 4304. The taking of fish and game on all lands subject to this Act shall be regulated by the State of Alaska in accordance with applicable State law, including, but not limited to, the regulation of seasons, bag limits, means and methods, the administrative structure for wildlife management and regulation, the determination of resource depletion, and the definition of subsistence use and local residency. Where there is a conflict caused by depletion, the taking of fish and game for subsistence purposes shall be given preference over the taking of fish and game for other purposes. Such preference shall be granted to the local residents of the area affected by a conflict between consumptive uses. Nothing in this section shall be construed to require that hunting or fishing be permitted where depletion of the resource would dictate a complete prohibition of such activities.

AGRICULTURAL DEVELOPMENT

SEC. 4305. Agricultural development, including but not limited to cultivation and grazing, shall be permitted in accordance with the provisions of this Act. Agricultural rights shall be allocated by means of a long-term leasing system developed jointly by the Secretary and Secretary of Agriculture, following consultation with the Commission.

WILDERNESS REVIEW

SEC. 4306. (a) Within five years of the date of the enactment of this Act, the President of the United States, after consultation with the Commission and the Secretary or the Secretary of Agriculture, as appropriate, shall make recommendations to Congress with respect to areas of National Parks, National Forests, National Wildlife Refuges, and National Wild Rivers established by this Act which are suitable for inclusion in the National Wilderness Preservation System. The criteria and procedure for such study shall be those specified in the Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*)

(b) With respect to areas designated as part of the Federal Cooperative Lands by this Act, the Commission is authorized, but not required, to make recommendations to the President respecting areas which it determines should be included in the National Wilderness Preservation System under the criteria specified in the Wilderness Act of 1964. This subsection (b) shall relieve the appropriate managing agency of the necessity to undertake a wilderness review pursuant to existing authority.

TRUST FUND TO PURCHASE CERTAIN LANDS

SEC. 4307. With respect to the areas referred to in titles I–XXXIX of this Act, the Federal share of proceeds derived during each fiscal year from Federal leases, contracts, permits, rights-of-way, easements, and other Federal interests in the State of Alaska, together with 50 per centum of the State of Alaska's share of the revenues derived from the Mineral Leasing Act of 1920, shall be paid into a trust fund to be maintained on the books of the United States Treasury. The trust fund shall be invested by the Secretary of the Treasury for use by the Secretary in conjunction with but separate from the Land and Water Conservation Fund, in purchasing privately owned lands in States of the United States, other than Alaska, for inclusion in units of the National Park, National Wildlife Refuge, or Wild and Scenic Rivers Systems. Moneys in the fund shall be available to the Secretary in such amounts as may be provided in Appropriation Acts.

EFFECT ON STATE SELECTIONS

SEC. 4308. (a) No provisions of this Act shall be construed to revoke or otherwise adversely affect any valid selection, tentative approval, or patent made or received by the State of Alaska pursuant to the Alaska Statehood Act or other authority prior to the effective date of this Act, nor shall any provisions of this Act be construed to prohibit the State from receiving tentative approval or patent to lands selected by it prior to the effective date of this Act but not yet tentatively approved or patented.

(b) Within 90 days following the enactment of this Act, and for a period of not less than two years thereafter, the Secretary shall make available to the State of Alaska for possible selection by it pursuant to the Alaska Statehood Act, all Federal lands in Alaska except:

(1) lands encompassed within existing or new units of the management systems established by this Act;

(2) lands reserved or withdrawn for a particular purpose other than existing or

future classification pursuant to section 17(d)(1) of the Settlement Act, the Classification and Multiple Use Act of 1964 (43 U.S.C. 1411–18), the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1701 et seq.)

(3) lands segregated for possible conveyance to a Native corporation pursuant to the Settlement Act: *Provided, however,* That except as otherwise provided in this section, segregated land shall be made available for State selection upon the final relinquishment of Native selection rights, such availability to continue for a period of not less than one year from said relinquishment; and

(4) lands described in Public Land Order 5184, relating to an area of the Yukon-Kuskokwim Delta.

EFFECT ON NATIVE SELECTIONS

SEC. 4309. (a) No provision of this Act shall be construed to adversely affect any otherwise valid selection or patent made or received by a Native corporation or individual pursuant to the Settlement Act.

(b) Immediately upon the final relinquishment by a Native corporation of selection rights granted pursuant to the Settlement Act, any affected lands which are located within the boundaries of a unit referred to in this Act shall hereby be added to and incorporated within the appropriate unit to be administered under the provisions of this Act and the laws of general applicability to such unit.

COOPERATIVE AGREEMENTS

SEC. 4310. (a) The Secretary, the Secretary of Agriculture, and the Commission, after necessary consultation, are authorized to cooperate and seek agreements with the heads of other Federal agencies and the owners of lands and waters within, adjacent to, or related to areas described in this Act, including, without limitation, the State of Alaska or any political subdivision thereof, any Native corporation, village or group having traditional cultural or resource-based affinities for such areas, and, with the concurrence of the Secretary of State, the governments of foreign nations. Such agreements shall have as their purpose the assurance that resources will be used, managed, and developed in such a manner as to be consistent with the preservation of the environmental quality of such areas. The agreements may also provide for access by visitors to and across the lands which are the subject of the agreements.

(b) The heads of any Federal agency, other than agencies that are parties to cooperative agreements established in accordance with the provisions of subsection (a) of this section, having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within, adjacent to, or related to areas described in this Act, and the head of any Federal department or interdepartmental agency, other than parties to such agreements, having authority to license any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, afford the Secretary, the Secretary of Agriculture, or the Commission, as appropriate, a reasonable opportunity to comment with regard to such undertaking.

PROPERTY ACQUISITION

SEC. 4311. (a) Within the boundaries of the Federal areas established by this Act, and consistent with the laws of general applicability to such units, the Secretary and the Secretary of Agriculture, in the performance of their respective functions under this Act, are authorized to acquire lands, waters, or interests therein by donation, lease, purchased with donated or appropriated funds or exchange: *Provided, however,* That, except as provided in section 4301, property owned by the State of Alaska, including its political subdivisions, or by a private landowner may be acquired only with the concurrence of the appropriate owner.

(b) In exercising his authority to acquire property by exchange, the Secretary of Agriculture, as the case may be, may accept title to any non-Federal property located within the State of Alaska and may convey to the grantor of such property any federally owned property under the jurisdiction of that Secretary within said State. The property so exchanged shall be approximately equal in appraised fair market value: *Provided, however,* That the appropriate Secretary may accept cash from or pay cash to the grantor in order to equalize the value of the properties exchanged: *Provided further,* That where the properties to be exchanged are not equal in appraised fair market value or where such value cannot be ascertained with reasonable certainty, the appropriate Secretary may enter into an exchange if he finds that the appraised fair market value of the property to be received, together with the value of other public benefits, equals or exceeds the value of the property which the Federal Government will relinquish. To the extent authorized by Alaska State law, and notwithstanding the prohibition contained in section 6(g) of the Alaska Statehood Act, the State may transfer mineral rights in a land exchange executed pursuant to this title.

(c) At least ninety days (not counting days on which the Senate and the House have adjourned for more than three consecutive days) prior to the consummation of an exchange for other than equal appraised fair market value, the Secretary involved shall notify the appropriate committees of Congress of such exchange, and he shall provide the committees with a report which contains relevant background information and the justification for the exchange. Such Secretary is authorized to execute the proposed exchange unless, within the ninety-day period provided in the preceding sentence, the Congress has adopted a concurrent resolution expressing disapproval.

TITLE XXXXIV—MISCELLANEOUS

REGULATIONS

SEC. 4401. The Secretary, Secretary of Agriculture, and the Commission are authorized to promulgate such regulations as may be necessary to carry out their functions under this Act.

SAVINGS CLAUSE

SEC. 4402. To the extent that there is a conflict not specifically provided for herein between any provision of this Act and any other Federal law, the provisions of this Act shall govern.

SEPARABILITY

SEC. 4403. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

APPROPRIATIONS

SEC. 4404. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Such appropriations are deemed by the Congress as critical to the successful administration and management of the lands referred to herein.

TITLE XXXXV—LOCATION-LEASE SYSTEM FOR HARDROCK MINERAL EXPLORATION AND DEVELOPMENT

INTRODUCTION OF THE ALASKA NATIONAL INTERESTS LANDS ACT, JUNE 30, 1977

(Statement by Senator TED STEVENS)

The most significant issue facing the State of Alaska in the 95th Congress is the so-called "d-2" lands issue which deals with final disposition by Congress of some 80 million acres of Federal public lands in Alaska withdrawn for study as potential additions to the National Park, Wildlife Refuge, Forest, and Wild and Scenic River Systems. The legislation I introduce today will establish 25 million acres of new parks, wildlife refuges, forests, and wild and scenic river units in Alaska, and, if enacted, will be the largest single piece of legislation ever introduced by an elected representative of a State dealing with the establishment of units of these systems within his own State.

Fifty-eight million acres of d-2 lands are designated as lands to be involved in a program of cooperative management with State and private lands to be designated under the provisions of the legislation. In total concept, the legislation provides for a unique program of management for Federal lands in Alaska which will serve the dual goals of protecting nationally significant natural, historic, and scenic values and providing a framework for the appropriate and reasonable development of Alaska's natural resources. The management of these Federal lands will be the responsibility of existing Federal agencies, including the National Park Service, United States Fish and Wildlife Service, and United States Forest Service, as designated by Congress, pursuant to a classification and planning process carried out by the Alaska Land Classification Commission created by this legislation.

This legislation will increase the area under the jurisdiction of the National Park Service by approximately 40 percent; 10.45 million acres will be added to the approximately 25 million acres now under the administration of the National Park Service according to the Government publication, *Public Land Statistics—1976*. Following passage of this legislation, approximately half the land under the administration of the National Park Service will be located in Alaska, including the 5 largest areas in the National Park System.

The 6 largest existing units of the National Wildlife Refuge System are also located in Alaska, and following the enactment of the legislation I propose today, 8 new refuges comprising nearly 8 million acres will be added to the refuge system in Alaska, resulting in the location of the Nation's 8 largest wildlife refuges in my State. According to Public Land Statistics—1976, the addition of these refuge units will increase the National Wildlife Refuge System by over 25 percent to a total of 38 million acres, 30 million, or 75 percent, of which will be located in Alaska.

The bill further proposes the establishment of approximately 5 million acres of National Forest units in Alaska, the bulk of which are located in the interior of the State which has long been noted for its agricultural and timber potential. The establishment of these areas will provide a flexible management system for the development of a yet unrealized contribution of Alaska's interior to our Nation's agricultural and timber needs. With the establishment of the Yukon Flats and Porcupine National Forests and two additions to the Chugach National Forest by this bill, a balanced system of management by the United States Forest Service will at last be established in Alaska.

Three national wild rivers are also established by this legislation, the Noatak, Charley, and Birch Creek Wild River units.

The 25 million acres of additions to the existing four management systems make this bill, to my knowledge, the single most significant piece of legislation ever introduced by an elected representative of a State regarding the establishment of units of these systems in his State. Alaskans have always been conscious of the need to protect the lands located within their State, and this bill reflects that realization. Alaskans are also conscious of the need to establish a flexible management system for the vast majority of lands designated for study under d-2 authority to insure that future genera-

tions will be able to make decisions based on information relating to the lands as it becomes available and on priorities for the use of the lands as these needs develop.

In response to this need for flexibility in management, the bill I introduce today provides the framework for a system of cooperative management among Federal, State, and private landowners. This program of cooperative management is essential to insure protection of complete ecosystems which are owned in part by Federal and State governments and private landowners. Under this program of cooperation, Federal, State, and private landowners may dedicate lands to management in coordination with one another. Management of the lands will be carried out by existing Federal and State management agencies and private landowners, respectively.

Providing direction to the land managers will be the Alaska Land Classification Commission, which will be created by this legislation upon a finding of the Secretary of the Interior that the State of Alaska has dedicated a substantial amount of State land to the cooperative management program. The commission will have the duty of classifying land dedicated to cooperative management for use or uses under a comprehensive program of land-use planning. In this way, the South 48 concept of delineating individual Federal, State and private landholdings to be managed without coordination will be replaced with a well-coordinated concept of cooperative management.

Nearly half of the Federal lands in America are located in Alaska. Therefore, it is appropriate that this unique concept of management be enacted for Alaska to provide well-reasoned land-use decisions for these Federal lands. Approximately 57 million acres of Federal lands are designated as potential cooperative management lands. These lands are the remainder of the lands withdrawn under Section 17(d)(2) for study, but which we have identified as lands not under immediate pressure for protection and inclusion in one of the four systems.

It should be emphasized that the cooperative management concept is not a fifth system. This bill does not create an additional Bureau of Land Management, National Park Service, or other fat Federal management agencies. The management of the Federal cooperative lands is left to existing line agencies as designated by Congress on a unit-by-unit basis in this bill. Management continuity by existing agencies is assured.

The State of Alaska shall designate lands for cooperative management under its own State laws. The cooperative management program will not become effective without a substantial amount of lands to the program of cooperative management. Private landowners may also participate in cooperative management by dedicating their lands for periods of 10 years to cooperative management. Incentive for participation in cooperative management is provided to the private landowner through a tax exemption from State and local real property taxes so long as the lands dedicated are managed according to commission classifications and not developed or leased to third parties. Should the landowner remove his lands from cooperative management prior to the expiration of the 10-year period, he becomes liable for accrued local and State property taxes and assessments during the entire period.

The Alaska Land Classification Commission established to insure coordination of cooperative management by this legislation shall consist of four members appointed by the President, with the advice and consent of the Senate, one of whom shall be a Native as defined by the Alaska Native Claims Settlement Act, and four members appointed by the Governor of the State of Alaska. All commissioners shall serve full time and the commission shall be directed by a Federal Co-Chairman and a State Co-Chairman designated by the President and the Governor, respectively. In essence, the commission will function as a zoning and planning commission for the cooperative lands by establishing classifications for the use of those lands which shall be implemented on a daily basis by Federal and State management agencies and by the private landowners.

This coordination of land planning at such a high level will enhance the cooperation between State and Federal land managers. The key to success of cooperative management rests with the assurance that State and Federal landowners, both of whom are sovereign entities, will abide by decisions made in consultation with one another. The Alaska Land Classification Commission will insure that cooperative management will work by creating a partnership between the two governments.

A number of specific principles of management and administration are dealt with directly by the legislation. A brief description of these principles is provided below:

1. Access—Necessary public access to, from, and across d–2 lands is essential to insure the use of these lands and those State and private lands which are located adjacent to d–2 lands. To insure this access, the commission is directed to guarantee access as needed and to determine the location and mode of such access across d–2 lands.

2. Mineral Development—Alaska remains America's largest storehouse of mineral resources. According to the Bureau of Mines, 28 of 37 mineral commodities imported into the United States are found in Alaska. Eighteen of these have been mined in the past, or are known to be present in potentially minable deposits. Additionally, 16 of 18 minerals listed on the strategic commodities list by the Federal Government are found in sufficient quantities to justify commercial mineral extraction. In an age of escalating shortage and dwindling sources of supply, Alaska holds the possibility of easing America's burden for the supply of needed mineral resources.

It is recognized that d–2 lands are different from public domain lands. Consequently, this legislation proposes that the exploration and development of hard rock minerals be governed by a modified location-lease system which is currently being developed. This system is intended to apply only on the d–2 lands and is not to be confused with efforts to amend the Mining Law of 1872 for use on public domain. The exploration and extraction of leasable minerals, such as oil and gas, and mineral commodities, such as sand and gravel, will continue to be governed by the Mineral Leasing Act of 1920 and the Act of July 31, 1947, often referred to as the Mineral Materials Act.

3. Wildlife Management—The bill retains the traditional relationship between State and Federal agencies in which the State of Alaska shall regulate the taking of fish and game in accordance with applicable State law and the Federal Government retains its right to insure the protection of habitat on Federal lands. Additionally, under applicable State law and consistent with the State Constitution, the taking of fish and game for subsistence purposes is identified in the legislation as the priority beneficial use of fish and game where depletion of the resource creates a conflict between consumptive uses. Specific details of determining depletion, local residency, and other matters related to the implementation of the preference are reserved for State administration.

4. Effect on State Selections—The legislation provides that land selected, under tentative approval, or patented to the State pursuant to the Alaska Statehood Act shall not be affected by the establishment of d–2 lands. Additionally, a system to make lands available to the State of Alaska so that it may complete its selections under the Alaska Statehood Act is set up by the legislation.

5. Wilderness Review—A 5-year program of wilderness review with respect to areas of the National Park, Wildlife Refuge, and Wild and Scenic River Systems, which are established by this bill, is provided for in the legislation. The criteria and procedure for recommendations shall be similar to those specified in the Wilderness Act of 1964.

6. Effect on Native Selections—The legislation will not affect the Native selection process under the Alaska Native Claims Settlement Act

7. Agricultural Development—Alaska contains lands which have been identified as having high potential for agricultural development. Such agricultural development shall be allocated by means of a long-term leasing system to be developed jointly by the Secretary of Agriculture and Secretary of the Interior.

8. D–2 Trust Fund—To insure that the appropriate and necessary development of resources on d–2 lands is directly tied to the enhancement of the National Park, Wildlife Refuge, and Wild and Scenic River Systems, Federal proceeds from such development and 50 percent of the State's share of Mineral Leasing Act revenues on Federal lands in Alaska shall be placed in a trust fund to be established for the purchase of privately owned land which has been authorized to be included in the National Park, Wildlife Refuge, and Wild and Scenic River Systems in States other than Alaska. There is a backlog of these lands throughout the country, and adequate Federal appropriations to purchase these lands are not anticipated in the near future. Consequently, the funds obtained from the development of these lands will directly enhance the existing management systems by providing the means to purchase these backlogged lands.

The consideration of d–2 lands is one of the most crucial resource decisions that Congress will ever make. The future of Alaska's d–2 lands is tied directly to the future of the Nation. The legislation I introduce today provides for the largest increase in National Park, Wildlife Refuge, Forest, and Wild and Scenic River Systems ever enacted in one piece of legislation. The Nation's environmental goals will be well-served by the enactment of this legislation. Additionally, a program of management to insure that Federal, State, and private lands are managed in coordination will allow the protection of complete ecosystems, which has been identified as a major environmental goal during the d–2 debate. The key to a congressional decision is striking a balance which will serve the dual goals of environmental protection and providing for flexibility in management for future decisions. My legislation does that, and I am hopeful that Congress will share my view and enact its provisions.

SUMMARY OF "THE ALASKA NATIONAL INTEREST LANDS ACT"

(Introduced by Senator TED STEVENS, June 30, 1977)

This briefing paper outlines the details of legislation embodying principles of the d–2 position, agreed to and supported by Governor Jay Hammond, Senator Ted Stevens, and Congressman Don Young of Alaska. The position represents a consensus arrived at following a series of meetings held over the past six months, the announcement of a tentative position in March 1977, and review of comments on that position received over the past three months. The legislation was introduced in the Senate by Senator Stevens on June 30, 1977, pursuant to Section 17(d)(2) of the Alaska Native Claims Settlement Act which authorizes the Secretary of the Interior to withdraw up to 80 million acres

of vacant, unreserved, and unappropriated Federal public lands for study as additions to the National Park, Forest, Wildlife Refuge, and Wild and Scenic River Systems. Congress reserved to itself the right to make final decisions on the lands withdrawn for study, and the legislation introduced by Senator Stevens proposes final disposition for those withdrawn lands. The proposed legislation is summarized below.

1. Additions to Existing Management Systems—Twenty-five (25) million acres of new national parks, wildlife refuges, national forests, and wild and scenic rivers are created in Alaska by this legislation. Included among these additions are two new park units, the Gates of the Arctic and Wrankell-St. Elias National Parks, located in the central Brooks Range and South Central Alaska, respectively. These two units are both substantially larger than any existing unit of the National Park System. Additionally, major additions to Mt. McKinley National Park and Katmai National Monument, which is designated as a park by this bill, and the establishment of three important national monuments are proposed by this legislation. In all, the National Park System is increased by 10.45 million acres, a nearly 40% increase in that system.

Eight wildlife refuges totaling 8.04 million acres would be created by this legislation. The refuge units are located throughout the State in prime areas of migratory waterfowl habitat to insure the continued protection and propagation of nationally and internationally significant bird populations which migrate from the Western Hemipshere and Asia to nest in Alaska. The addition of these refuges increases the acreage in the present refuge system by more than 25 percent.

The proposal also establishes two major national forests in Alaska's interior. The areas comprising the Porcupine and Yukon Flats National Forests have been identified as containing high potential for agricultural development and timber harvest, and the establishment of these areas as forests would allow this potential to be developed. Additionally, three wild rivers are proposed by this legislation, the Noatak, Charley, and Birch Creek Wild Rivers.

Federal Cooperative Lands—Approximately 58 million acres of other lands withdrawn under Section 17(d)(2) will be designated as Federal Cooperative Lands to be managed by existing Federal agencies, including the National Park Service, the United States Fish and Wildlife Service, and the United States Forest Service. These lands would be managed in conjunction with the lands designated for cooperative management by the State of Alaska and private landowners under the classification authority of the Alaska Land Classification Commission which is also established by this legislation. The location of these lands generally conforms to the boundaries of d-2 recommendations submitted to Congress by former Secretary of the Interior, Rogers Morton, in 1973.

The establishment of these lands as areas dedicated to cooperative management would be contingent upon a finding by the Secretary of the Interior that the State has designated a substantial amount of State acreage to cooperative management. Without this finding, these Federal lands would be managed by existing Federal agencies as designated by Congress.

3. Cooperative Management—The State of Alaska and private landowners may voluntarily dedicate all or part of their lands to a program of cooperative management with Federal lands designated by Congress. The management of these lands would be under the classification authority of the Alaska Land Classification Commission, but actual management of the lands will be carried out by the respective landowner. In effect, the Classification Commission will function similarly to a planning and zoning commission for lands under its jurisdiction.

There is considerable incentive for the State of Alaska and private landowners to dedicate lands to cooperative management. Without the dedication of a substantial amount of State lands, the cooperative management program will not be created and lands would continue to be managed by the Federal Government without any Alaskan participation in management and classification decisions. Private landowners will be granted an exemption from State and local real property taxation and assessment so long as such land is dedicated to cooperative management and not developed or leased to third parties. Under this system, State and private landowners retain the ultimate decision on the use of their lands through voluntary dedication but are encouraged to dedicate appropriate lands to cooperative management through the incentives described above.

4. The Alaska Land Classification Commission—An eight-member commission will be established by this bill to classify lands dedicated to cooperative management. Four of the commissioners shall be appointed by the President and four by the Governor of the State of Alaska, and each commissioner shall serve on a full-time basis. The commission shall be directed by a Federal Co-Chairman and a State Co-Chairman, to be designated by the President and Governor, respectively.

As stated previously, the commission shall serve as a policy-making and classification body. Specific management on a daily basis will be carried out by existing line agencies of the Federal Government, the State of Alaska, or by the private landowners. The Governor and the Secretaries of Interior and Agriculture, as appropriate, retain an ultimate veto over commission decisions made concerning State and Federal lands, respectively.

5. Lower 48 Trust Fund—To insure that the national interest is served by the appropriate development of natural resources on lands dedicated to cooperative management, the funds derived from this development will be placed in a special trust fund to be used exclusively for the purchase of private lands in the other 49 States which have been or will be designated as part of the National Park, Wildlife Refuge or Wild and Scenic River Systems. There is a backlog of these lands and sufficient funds to purchase these lands are not anticipated to be appropriated by Congress in the near future.

All proceeds derived from Federal leases, contracts, rights-of-way, easements, and other Federal interests on d-2 lands, along with 50 percent of the State of Alaska's share of revenue derived from the Mineral Leasing Act of 1920 shall be paid into this trust fund which would be managed in conjunction with but separate from the Land and Water Conservation Fund. From these funds, Congress may authorize the purchase of these private lands in the other 49 States. This trust fund provides the means to purchase these lands and closely ties the national interest in the appropriate development of resources on Alaska's d-2 lands to the further enhancement of the National Park, Wildlife Refuge, and Wild and Scenic River Systems elsewhere in the United States.

6. Management and Administration—Specific provisions in the bill dealing with management and administration are summarized below:

A. Wildlife Management—Taking of fish and game will be regulated by the State of Alaska in accordance with applicable State laws. Pursuant to State laws and consistent with the Constitution of the State of Alaska, the legislation establishes taking of fish and game for subsistence purposes, as defined by State law, the priority beneficial use of fish and game should a conflict occur because of depletion of the resource, also as determined by the State of Alaska.

B. Agricultural Development—The Secretaries of Interior and Agriculture are directed to consult and develop a long-term leasing system for the allocation of agricultural rights, including grazing and cultivation, on lands designated by this Act which are open or classified for such purposes.

C. Access—Public access across d-2 lands shall be guaranteed by law. The location and modes of such access shall be determined by the commission which is authorized to use the power of eminent domain to acquire land needed for access in accordance with its planning process. The guarantee of public access is an important legal distinction and differs from the discretionary authority which is normally vested in the Secretary of Interior or Agriculture under traditional management systems.

D. State Selections—Existing State selections, selected lands under tentative approval, and lands patented to the State shall not be affected by this proposal. Additionally, the legislation directs the Secretary to make specific lands available to the State for selection within 90 days following the enactment of this act. This will allow the State to complete its selection process within the remaining years authorized by the Alaska Statehood Act.

E. Wilderness Review—In five years, the commission shall make recommendations to Congress concerning the additions to the National Park, Forest, Wildlife Refuge, and Wild and Scenic River Systems which it feels are suitable for inclusion in the National Wilderness Preservation System. Criteria and procedure for study of these units and any recommendations shall conform to guidelines established by the Wilderness Act of 1964. The commission is also authorized, but not required to make recommendations for wilderness designation respecting Federal lands designated as Federal Cooperative Lands.

7. Effect on Native Selections—No portion of the legislation shall affect the selection process of Native corporations established under the Alaska Native Claims Settlement Act. Following the relinquishment of selections by Native corporations, those selections located within the boundaries of a unit of the four systems or the Federal Cooperative Lands shall become a part of that unit.

8. Changes from the Tentative Position—On March 26, 1977, Governor Hammond, Senator Stevens, and Congressman Young announced a tentative position from which this d-2 legislation was derived following considerable revision. The bill introduced today reflects major changes made in the tentative position based on comments received from Alaskans, Members of Congress, the Secretary of the Interior, and other interested parties.

Originally, the additions to the existing four systems were designated to become part of those systems in the year 2000. However, it became clear that all parties felt the need for core areas to be dedicated to the four systems immediately. Consequently, the "for the future" concept has been eliminated.

Additionally, the establishment of a fifth system has been eliminated to insure that no Federal management agency would be created by this legislation. As stated previously, the management of the lands will be carried out by existing line agencies, which will not require any creation or start-up. Other revisions made include individual boundary changes which have been modified pursuant to suggestions received following the announcement of the tentative position.

Summary of areas established by the Alaska National Interest Lands Act

[Approximate acreage in millions]

National parks and monuments:	
Aniakchak-Caldera	.18
Cape Krusenstern	.19
Kobuk Sand Dunes	.10
Katmai (additions)	.40
Gates of the Arctic	3.55
McKinley (additions)	1.13
Wrangell-St. Elias	4.90
National park subtotal	10.45
National wildlife refuges:	
Alaska coastal	.15
Yukon Delta	3.60
Innoko	.60
Kaiyuh	.19
Kanuti	.43
Koyukuk	1.58
Selawik	.73
Shishmaref	.76
National wildlife refuge subtotal	8.04
National forests:	
Porcupine	2.59
Yukon Flats	2.13
Chugach (additions)	1.00
National forests subtotal	5.72
Wild rivers:	
Noatak	.40
Charley	.40
Birch Creek	.20
Wild rivers subtotal	1.00
Total additions to four systems	25.21
Federal cooperative lands:	
Name and Manager	
Gates of the Arctic, National Park Service	3.55
Katmai, National Park Service	1.59
Mt. McKinley, National Park Service	1.96
Wrangell-St. Elias, National Park Service	8.74
Lake Clark, National Park Service	3.49
Charley River, National Park Service	0.99
Innoko, Fish and Wildlife Service	1.24
Illiamna, Fish and Wildlife Service	2.80
Shishmaref-Imuruk, Fish and Wildlife Service	1.84
Cape Newenham, Fish and Wildlife Service	0.24
Noatak, Fish and Wildlife Service	11.47
Chandalar, Fish and Wildlife Service	8.27
Yukon Delta, Fish and Wildlife Service	1.50
Andreafsky, Fish and Wildlife Service	3.50
Chugach-Copper River, U.S. Forest Service	1.77
Porcupine, U.S. Forest Service	3.40
Yukon River, U.S. Forest Service	0.54
Federal cooperative lands subtotal	56.89
Totals	
Additions to four systems (including national parks, national wildlife refuges, national forests, and wild rivers	25.21
Federal cooperative lands	56.89
Total	82.10

Increase by legislation on park and refuge systems

[In acres]

Present acreage under National Park Service Administration	* 25,084,750
National park areas proposed under Alaska National Interest Lands Act	10,450,000
Total upon enactment (40% increase)	35,534,750
Present acreage under Fish and Wildlife Service Administration	*30,281,190
Wildlife refuges proposed under Alaska National Interest Lands Act	8,040,000
Total upon enactment 26% increase)	38,321,090

*Source: Public Land Statistics—1976, Bureau of Land Management.

The present 10 largest areas under jurisdiction of the National Park Service

[Size in acres]

Name	
Glacier Bay National Monument*	2,805,296.49
Katmai National Monument*	2,792,137.00
Yellowstone National Park	2,219,822.70
Death Valley National Monument	2,067,966.93
Mount McKinley National Park*	1,939,492.80
Lake Mead National Recreation Area	1,486,139.87
Everglades National Park	1,400,533.00
Glenn Canyon National Recreational Area	1,234,180.00
Grand Canyon National Park	1,218,375.00
Glacier National Park	1,013,598.40

*These areas are located in Alaska.

The present 10 largest areas under jurisdiction of the U.S. Fish and Wildlife Service

[Size in acres]

Name	
Arctic Wildlife Range*	8,994,624
Nunivak Wildlife Refuge*	3,330,632
Clarence Rhode Wildlife Refuge*	2,887,026
Aleutian Islands Wildlife Refuge*	2,720,225
Kodiak Wildlife Refuge*	1,815,000
Kenai Moose Range*	1,730,000
Desert National Wildlife Range	1,588,000
Cabeza Prieta Wildlife Refuge	860,000
Charles Russell Wildlife Refuge	855,407
Kofu Game Range	660,000

*These areas are located in Alaska.

The 10 largest areas under jurisdiction of the National Park Service upon enactment of the Alaska National Interest Lands Act

[Size in acres]

Name	
Wrangell-St. Elias National Park *	4,900,000.00
Gates of the Arctic National Park *	3,550,000.00
Mount McKinley National Park *	3,069,492.80
Glacier Bay National Monument*	2,805,269.49
Katmai National Park *	2,792,137.40
Yellowstone National Park	2,219,822.70
Death Valley National Monument	2,067,966.93
Lake Mead National Recreational Area	1,486,139.87
Everglades National Park	1,400,533.00
Grand Canyon National Pork	1,218,375.00

The 10 largest areas under jurisdiction of the U.S. Fish and Wildlife Service upon enactment of the Alaska National Interest Lands Act

[Size in acres]

Name	
Arctic Wildlife Range *	8,994,624
Yukon Delta Wildlife Refuge *	3,600,000
Nunivak Wildlife Refuge *	3,330,632
Clarence Rhode Wildlife Refuge *	2,887,026
Aleutian Islands Wildlife Refuge *	2,720,225
Kodiak National Moose Range *	1,815,000
Kenai Moose Range *	1,730,000
Koyukuk Wildlife Refuge *	1,588,000
Desert National Wildlife Range	1,588,000
Charles Russell Wildlife Refuge	855,407

* These areas are located in Alaska.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I yield the remainder of my time to the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Maryland has a total of 32 minutes, with the Senator from Alaska's time and his own time.

Mr. MATHIAS. Mr. President, I yield myself at this moment 15 minutes, and I ask that the Chair notify me at the conclusion of that time.

I ask unanimous consent that Mr. Lloyd Faulkner, Mrs. Margaret Nalle, and Mr. Gabe Sucher, of my staff, have the privilege of the floor during the morning hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF HEALTH—S. 1788

Mr. MATHIAS. Mr. President, I send to the desk a bill and ask for its reference to the appropriate committee.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

Mr. MATHIAS. Mr. President, the bill I have sent to the desk, the Department of Health Act, would establish a Department of Health removed from the existing Department of Health, Education, and Welfare and headed by a Secretary who would serve as a member of the President's Cabinet.

I do this because I believe Government has no more solemn responsibility than the health of the American people. Good health is primary to the enjoyment of all of life's other blessings. Yet, the absence of effective Federal health organization and policy has thrown the Nation's health enterprise into disarray verging on chaos.

No other major developed nation has sandwiched health, education, and welfare into one department or ministry. HEW has grown far beyond the simple purposes envisioned by the Congress when the Department was created in 1953. HEW is a governmental mastodon incapable of dealing with the Nation's burgeoning health dilemma.

In the last dozen years, the Federal role in health care has increased by leaps and bounds. Many of the new health programs which the Congress has enacted suffer from lack of central direction. There is no centralized health policy mechanism; consequently, existing health policy is no more than a patchwork of health objectives and goals without a unifying strategy.

HEW's double-digit budget growth has kept pace with the costs of health

care, and like the current system of health delivery, HEW is failing to meet America's health needs. No Secretary can be logically expected to keep track of what is going on, much less control the operation and policymaking apparatus of such a behemoth. Federal health dollars are being lost through the cracks of inefficiency, lack of coordination, and overlapping programs.

One of the principal benefits of establishing an independent Department of Health would be cutting the umbilical tie between health and welfare. Federal health service was originally designed to meet the needs of the poor. When a public assistance system evolved, it became meshed with the system providing health services to the poor. These two Federal programs have so increased in complexity that we now face the imperative of remaking both if we are to salvage either.

The forced union between health and welfare has been destructive to the entire health effort. It deflects the Federal health effort from its proper target: overseeing the health needs of all citizens. With separate departments, welfare reform may be considered on its own merits, and Federal health policy can be developed through sound actuarial considerations, planning and implementation of preventive strategies, along with guarantees of access and quality for all Americans.

The size and importance of this Nation's health care system demand the full-time attention of a Secretary heading a department staffed by officers prepared through training, experience, and knowledge to administer the Federal health role—a role that calls for the service of experts. The health industry is the third largest employer in the Nation, providing jobs for 6 percent of the labor force. These include: 365,000 active physicians in whom the Nation has invested an estimated $1.9 billion for training; almost a million trained nurses; and 3 million workers performing health-related tasks in hospitals, schools, physicians' offices, and clinics.

Health consumes nearly 12 percent of the Federal budget and accounts for nearly 9 percent of the gross national product. The pharmaceutical and medical supply industry has a cash flow of $10 billion.

The Nation's health care system is rushing toward economic collapse as a result of uncontrolled health costs. But nowhere in the Federal Government today is there a source of knowledgeable, credible leadership that might gain the cooperation of the private health sector in devising a health strategy and a sound regulatory framework for the benefit of the public and the health care system itself.

Much of the problem in the private health sector can be traced to the Federal Government, which has become the Nation's biggest and most undisciplined health spender. We have failed to provide long-range health planning, and bad planning results in higher prices to the consumer of health care. The consumer pays the price of programs enacted in the absence of clearly articulated health policy and strategy.

We need a spokesman for health and health alone in the President's Cabinet. To many of our citizens, it appears that Uncle Sam pays more official attention at the Cabinet level to the health of the Military Establishment, highways, agriculture, and energy than to the health of 220 million Americans. If the energy crisis and the clear Federal responsibility to deal with it justify a Department of Energy, can the health of the American people deserve less than a Department of Health?

Now, Mr. President, we have to acknowledge that this will bring a concommitant problem. It will bring one more black Cadillac on the streets of Washington. But even that price is worth paying for a better health policy for the Nation.

Our concept of the kind of medicine that America needs is changing. There is a convincing body of evidence indicating that our traditional system of treating individual ills is not improving the health of the population. The evidence suggests that we must balance individual medical care with attention to preventive health maintenance and correcting the causes of poor health.

While there is much yet to learn about preventive health practices, putting what is already known into effect would provide significant social benefits. For instance:

An estimated 23 percent of children have not been vaccinated against measles;

An estimated 15.5 million children have not been vaccinated against diphtheria, whooping cough, and tetanus—although Congress has budgeted $4 million more than HEW requested for immunization programs; and

More than 100 million Americans live in communities lacking the basic protection of full-time, adequately staffed health departments.

Americans suffer from grave inequities and serious gaps in the coverage of health programs. Improving the environment in which we live and work, minimizing the causes of disease, and handcuffing such killers as cancer, hypertension, and birth defects will bring improvements in the health of our people.

We clearly must assign additional resources to preventive medicine, environmental control, and disease-oriented programs that focus on the causes of illness and arresting the progress of disease at the earliest possible stage. Preventive health maintenance and early identification and treatment of disease should effect cost savings. These savings will allow curative medicine to improve the quality of services to patients without large increases in the proportion of the gross national product going to medical care.

The goals of preventive medicine cannot and will not be reached without addressing the total interrelationship of environment, the food chain, and man's biological interaction with other organisms. To merely address the end of the biological chain—man—would be a mistake. Man is dependent upon a very complex series of events which draw heavily upon his dependence and interrelationship with other forms of life. For example, veterinary medicine plays a vital role in understanding and controlling the complexities of environmental health.

A comprehensive national preventive health program needs the enthusiastic support of all the health professions, the health insurance industry, and individual citizens—who must assume a greater responsibility for their own well-being. To complete this new health alliance, Government must have a Secretary of Health to provide leadership and a Department of Health to provide planning, guidance, incentives, and resources. With such a partnership, an improved health care system can be created for this generation and those to follow. An independent Department of Health will serve as a focus for coordinating all health programs in the Government and energize Government's response to public demands for better and more comprehensive health programs at reasonable cost.

Structural changes in the delivery system must precede or accompany any comprehensive Federal health program, and these necessary modifications can best be initiated and evaluated by a Department with a total, undivided commitment to improving health services. Creating a Secretary of Health will demonstrate that Congress is determined to meet urgent national health problems head-on and to provide the health leadership that is desperately lacking, now.

My bill provides for:

An independent Department of Health headed by a Secretary of Health appointed by the President with the advice and consent of the Senate;

No more than seven Assistant Secretaries, appointed by the President with the advice and consent of the Senate, to serve the Secretary in staff functions;

Line functions to be administered in a programs branch headed by a medical director and a regulatory branch headed by a regulatory director. The Directors would be appointed by the Secretary and would administer their respective branches under the direct supervision and guidance of the Secretary;

Transfer of all health functions in HEW to the new Department of Health. The President could transfer Federal health programs from other agencies to the new Department within a year; and

Studies and recommendations by the existing National Council on Health Planning and Development to improve the organization of health programs in the Federal Government and to develop a detailed national health plan for meeting the Nation's health needs for the next 10 years.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Health Act".

ESTABLISHMENT OF DEPARTMENT

SEC. 2. (a) There is established at the seat of government an executive department to be known as the Department of Health (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Health (hereinafter in this Act referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary (or, during the absence or disability of the Under Secretary, or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary or the General Counsel, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of, the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary. The Under Secretary shall perform such functions as the Secretary shall prescribe from time to time.

(c) There shall be in the Department no more than seven Assistant Secretaries and a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time.

(d) The Department shall be divided into a Programs Branch and a Regulatory Branch.

(1) the Programs Branch shall be administered by a Medical Director appointed by the Secretary.

(2) the Regulatory Branch shall be administered by a Regulatory Director appointed by the Secretary.

TRANSFERS TO SECRETARY AND CHIEF MEDICAL OFFICER

SEC. 3. There are transferred to the Secretary all health functions of the Secretary of Health, Education, and Welfare as determined by the Director of the Office of Management and Budget.

REDESIGNATION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 4. (a) The Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, the Under Secretary of Health, Education, and Welfare, the Assistant Secretaries of Health, Education, and Welfare, the General Counsel of the Department of Health, Education, and Welfare, and the Assistant Secretary of Health, Education, and Welfare for Administration shall on and after the effective date of this Act be known and designated as the Department of Education and Welfare, the Secretary of Education and Welfare, the Under Secretary of Education and Welfare, the Assistant Secretaries of Education and Welfare, the General Counsel of the Department of Education and Welfare, and the Assistant Secretary of Education and Welfare for Administration, respectively.

(b) Any reference in a law, regulation, document, or other record of the United States to the Department of Health, Education, and Welfare or an office the title of which is redesignated by subsection (a) of this section shall be held and considered to be a reference to the Department of Education and Welfare or to such office as so redesignated.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) In addition to the authority contained in any other Act which is transferred to the Secretary, the Secretary is authorized, subject to the provisions of title 5, United States Code, relating to appointments in the competitive service and to classification and General Schedule pay rates, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out his functions and to prescribe their authority and duties.

(b) The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the rate in effect for grade GS–18 of the General Schedule, unless otherwise specified in an appropriation Act.

(c) The Secretary may, in addition to the authority to delegate and redelegate contained in any other Act, in the exercise of the functions transferred to the Secretary by this Act, delegate any of his functions to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions.

(d) So much of the positions, personnel, assets, liabilities, contracts, property, records, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by section 3 of this Act as the Director of the Office of Management and Budget shall determine shall be transferred to the Secretary. Except as provided in subsection (e), personnel engaged in functions transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(e) The transfer of personnel pursuant to subsection (d) of this section shall be without reduction in classification or compensation for one year after such transfer.

(f) In any case where all of the functions of any office or agency are transferred pursuant to this Act, such office or agency shall lapse.

(g) The Secretary is authorized to establish a working capital fund to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such fund shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for less or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund.

(h) The Secretary may approve a seal of office for the Department, and judicial notice shall be taken of such seal.

(i) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) Emergency medical services and supplies;

(2) Food and other subsistence supplies;

(3) Messing facilities;

(4) Motion picture equipment and film for recreation and training; and

(5) Living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary, and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(j) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department.

(k) The Secretary is authorized to appoint, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, such advisory committees as may be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(l) The Secretary is directed to place a renewed emphasis on the integration of the contributions of all health professions into the Department's total health effort. The role of veterinary medicine in safeguarding the health of human beings shall be given particular regard.

(m)(1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or individuals for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this subsection.

(3) Nothing contained in this subsection is intended to amend, modify, or repeal any provision of law administered by the Department which authorizes the making of contracts for research.

THE NATIONAL COUNCIL OF HEALTH PLANNING AND DEVELOPMENT

SEC. 6. (a)(1) The National Council on Health Planning and Development (hereinafter referred to in this section as the "Council") established under Public Law 93–641 (88 Stat. 2228) shall, in addition to its other duties, conduct a study of the various programs and activities of the Depart-

ment and shall, within one year after the date on which funds first become available to carry out this section, submit to the President, the Secretary, and to the Congress—

(A) a comprehensive report on its study and investigation under this subsection, including recommendations;

(B) a plan for an effective management structure of the Department; and

(C) such proposals for legislation and administrative action as may be necessary to carry out its recommendations submitted pursuant to clauses (A) and (B).

(2) The Council shall conduct a study on the various health-related programs of each agency of the Federal Government except those programs of the Department of Health, and shall, within one year after the date on which funds first become available to carry out this section, submit to the Congress an evaluation of these programs and recommendations as to which of these programs, if any, should be transferred to the Secretary.

(3) The Council shall conduct a study of the current and future health needs of the United States. Based upon this study and the studies conducted pursuant to paragraphs (1) and (2) of this subsection, within two years after the date on which funds first become available to carry out this section, the Council shall submit to the President and the Congress a final report which shall contain a detailed national health plan for meeting the current and future health needs of the United States for the next ten years. The plan shall—

(A) set forth national goals and priorities for making comprehensive, high quality health care and treatment available at reasonable cost to any person in the United States;

(B) recommend such actions as the Council determines are necessary to carry out the plan;

(C) provide for the effective and efficient coordination and application in regions, States, or political subdivisions of all health-related activities carried out in such regions, States, or political subdivisions; and

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations, and groups concerned with health services, facilities, or manpower and for cooperative efforts between such agencies, organizations, and groups and similar agencies or organizations.

(b) Total expenditures of the Council shall not exceed $6,000,000.

ANNUAL REPORT

SEC. 7. The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year.

SAVINGS PROVISIONS

SEC. 8. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of any function transferred by this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) This Act shall not affect any proceedings pending at the time this section takes effect before any officer, any function of whom is transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the officer before whom they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity shall abate by reason of the enactment of this Act. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this Act takes effect, any officer in his official capacity is a party to a suit, and under this Act any function of such officer is transferred to the Secretary, then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the officer who was a party to the suit prior to the effective date of this Act).

(d) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any officer, any function of whom is so transferred shall be deemed to mean the officer in whom this title vests such function after such transfer.

(e) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the officer exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

(f) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the officer exercising such functions immediately preceding their transfer, and the Secretary's actions in exercising such functions shall have the same force and effect as when exercised by such officer.

CODIFICATION

SEC. 9. The Secretary is directed to submit to the Congress within two years from the effective date of this Act a proposed codification of all laws which contain functions transferred to the Secretary by this Act.

DEFINITION

SEC. 10. For purposes of this Act, the term "function" includes power and duty.

CONFORMING AMENDMENTS

SEC. 11. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education and Welfare", and by inserting before the period at the end thereof the following: ", Secretary of Health".

(b) Section 101 of title 5, United States Code, is amended by striking out "Health, Education," and inserting in lieu thereof "Education" and by inserting below the last paragraph the following:

"The Department of Health".

(c) Subchapter II (relating to executive schedule pay rates) of chapter 53 of title 5 of the United States Code is amended as follows:

(1) Section 5312 is amended—

(A) by striking out "Health, Education," in paragraph (10) and inserting in lieu thereof "Education";

(B) by redesignating paragraph "(13)" as paragraph "(14)"; and

(C) by adding immediately below paragraph (12) the following:

"(13) Secretary of Health.".

(2) Section 5314 is amended by striking out "Health, Education," in paragraph (6) and inserting in lieu thereof "Education", and by adding below paragraph (65) the following:

"(66) Under Secretary of Health."

(3) Section 5315 is amended by striking out "Health, Education," in paragraphs (17) and (41) and inserting in lieu thereof "Education", and by adding after paragraph (113) the following:

"(114) General Counsel, Department of Health.

"(115) Assistant Secretaries of Health (7)."

(4) Section 5316 is amended by striking out "Health, Education," in paragraphs (24), (52), and (53) and inserting in lieu thereof "Education".

(5) Section 5317 is amended by striking out "34" and inserting in lieu thereof "36".

EFFECTIVE DATE: INITIAL APPOINTMENT OF OFFICERS

SEC. 12. (a) This Act and the amendments made by this Act shall take effect ninety days after its enactment, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates authorized by this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act.

Mr. MATHIAS. Mr. President, I yield 5 minutes to the distinguished Senator from Kansas (Mr. DOLE) and then I yield the remainder of my time to the distinguished Senator from Utah (Mr. HATCH).

Mr. DOLE. Mr. President, I thank the distinguished Senator from Maryland.

A STABLE FOOD SUPPLY: THE CASE FOR A 1977 FARM BILL

Mr. DOLE. Mr. President, in recent weeks, the Food and Agriculture Act of 1977, as passed by the Senate on May 24, 1977, has come under attack from the administration, some Members of Congress, and certain elements of the news media. The Senator from Kansas is gravely concerned that the 1977 farm bill, and all that is of importance in it to the American farmers and to the Nation as a whole, could become the victim of ill-advised and short-sighted public policy and of political duplicity.

Since the Senate has worked its will on this legislation, the fate of the farm program now lies in the hands of the House of Representatives. Ultimately, the fate of the farm bill will rest with President Carter.

As the farm bill moves through the

legislative process, it will undoubtedly be greatly affected by what the public thinks of our farm problems and the need for a farm program. Yet the public has been continuously bombarded with conflicting views on the conditions in agriculture. Earlier this week, I read an article describing corn and soybean farmers as millionaires who ride tractors with air-conditioned cabs outfitted with tape decks or TV's. The public may wonder why farmers like that need assistance. It may be difficult for the public to understand why we need a new farm program when we have an abundance of food and in some cases, such as wheat, even an over-abundance of production.

My purpose here is to try to clear up some of the confusion and to set the record straight on what we are trying to accomplish with the 1977 farm bill.

Mr. President, the 1977 farm bill as passed by the Senate is a moderate and reasonable program to maintain stability in the U.S. food supply. It would provide some basic price and income assurance so that farmers will be able to maintain production in the years to come.

The critics of this legislation seem to suggest that it is some kind of special interest bill. Such criticism is totally false. The 1977 farm bill is designed to fully protect the interests of consumers and taxpayers. It is a bill of interest and importance to the Nation as a whole.

Much of the criticism of the 1977 farm bill has been directed at the commodity price support program, even though there is much more in this legislation besides the commodity programs. Criticism of the commodity programs is unfortunate because price support in commodity production—especially for wheat, corn, and feed grains—is what farmers need most.

At a time when farm prices have been declining, cost of production figures have continued to rise. In Kansas, a tractor that cost $23,000 2 years ago now costs $30,000. The price of propane gas that was 23 cents a gallon 2 years ago is now 32 cents a gallon. Wages paid by farmers are up approximately 14 percent and interest to finance their debt is up 17 percent.

At the same time the cost of production has been spiraling upward, the prices of wheat, corn, and feed grains have been going steadily downward. In 1975, the season average market price for wheat that was received by farmers was $3.69 per bushel. In May this year, the average price farmers received was $1.94 per bushel. That amounts to a 47 percent decline in the price of wheat—about half what they had before. There have also been sharp declines in the price of corn and feed grains.

The result is that while farm income has been declining, farmers have been going deeper and deeper in debt. Farm indebtedness has gone up from 65.4 billion in 1973 to 101.5 billion at the start of 1977. More recent figures may even be more startling

In April, a special USDA survey of the farm financial situation revealed that 6 percent of our farmers in Kansas, Nebraska, and Oklahoma were unable to pay their debts and 26 percent had to refinance or dispose of their assets. Let me emphasize this information was based upon figures obtained in February and March and published in April. The fact is, the farm cost-price squeeze is getting to be more like a bear hug.

While it may be true that farmers are worth more than they have been in the past, the increased wealth is on paper, and it does little good to a farmer in meeting his debts. The increased wealth in agriculture is due to increased land prices. In recent years, land has skyrocketed in value. So while a farmer who owns his land may be worth a million dollars, the value of the land in itself does not necessarily help him meet his payments for any length of time. A farmer must be able to meet his basic overhead costs, or face the possibility of losing his land holdings. That is what we are trying to prevent.

CRITICAL TO YOUNG FARMERS

But the high cost of land does have one very critical impact on agriculture. Young farmers who are trying to get into the industry find it extremely difficult. It is virtually impossible to make land payments on land bought at today's prices, given the existing prices for grain.

What we are talking about here is the future generation of farmers. If we are to have a stable and productive agriculture in the future, young farmers must be able to stay in business. We need to provide some basic income assurance so that those young farmers entering the industry can have a chance of making their land payments and of staying in business.

Young farmers need some incentive to get into farming. There is nothing in this bill that will provide any attractive incentive as far as making a profit. All we are trying to do in this legislation is to provide some assurance in those years when a profit is not possible so a farmer can have some basic income that will help him stay in business until a profit is possible.

Without this basic protection, the young and the small farmers will probably be forced out of the business. The efficiency and the competitiveness of the industry as we know it today will almost certainly decline. The impact will ultimately be felt by consumers in higher food prices and reduced availability of food supplies.

CONSUMER INTEREST AT STAKE

The importance of this issue to consumers may not be fully realized. Only in the United States do consumers spend as little as 17 percent of their net disposable income for food. Anyone who has traveled abroad recently was undoubtedly shocked at the food prices they saw.

The cost of food in every other industrialized nation in the world is substantially higher than in this country. There is the example of Japan where menus featuring $30 steaks and $10 melons. European food prices are likewise astounding.

While we may have some so-called consumer advocates who continuously complain about food prices, I think most consumers are generally satisfied with the wide variety and abundance of food that is provided at competitive prices. My concern is that consumers may not understand the full relationship of the 1977 farm bill to future farm prices. Without an adequate farm bill as the Senate has passed, consumers are likely to see restricted availability and higher prices for food in the years to come.

AGRICULTURE AND THE ECONOMY

Beyond the direct importance of agriculture to consumers, agriculture is also extremely important to the economic well-being of our Nation. I think just a few figures may illustrate that. Last year, farmers spent almost $81 billion to produce crops and livestock. These expenditures went for equipment, machinery, seed, fertilizer, petroleum, property taxes, and other items which generate economic activity, especially in small towns and rural communities.

Sales of livestock and crops produced a total of $94.8 billion in our national economy. There was additional economic activity related to the transportation, processing, packaging, manufacturing, wholesaling, and retailing of agricultural products.

Agriculture is the Nation's largest industry. About 4.3 million individuals are employed in agriculture, which is almost as many as the combined employment of the transportation, the steel, and the automobile industries.

Farming and the industries which support it account for about one-fourth of our gross national product. In many areas of our country, the local economy is directly dependent upon agriculture, so the effect of the 1977 farm bill extends beyond simply the farm interest.

In 1975, purchases by farmers included: $5.4 billion for new farm tractors and other vehicles, machinery, and equipment; $5.6 billion for fuel, lubricants, and maintenance of equipment; $15.1 billion for feed and seed; and $6.8 billion for fertilizer and lime.

Estimates show that about one out of every five jobs in private employment is related to agriculture. About 2 million people have jobs providing the supplies farmers use for production; 8 to 10 million people have jobs storing, transporting, processing, and merchandising the products of agriculture.

The point I am trying to make is that when agriculture declines, much of the rest of the economy is affected. When farmers in Kansas and Nebraska and Oklahoma and other farm States stop buying tractors and equipment and automobiles and trucks, workers in other States will be put out of jobs. So what we are trying to do with a reasonable support level in the farm bill is of great importance to a large portion of the Nation, even beyond the part directly related to farming.

REASONABLE COST

By way of comparison with the importance of this legislation to the Nation, we should take a look at the cost of the bill to the Nation's taxpayers. When we look at cost, we should look at the programs where farmers would actually receive benefits. The primary benefit comes from the commodity programs for wheat, feed grains, cotton, and rice.

In fiscal year 1978, the first year that significant payments would be made

under this bill, the normal weather estimate for direct payments under the commodity programs is $1.4 billion according to CBO. Over the 5-year period covered by the farm bill, the average annual sum of payments is estimated at $3 billion. By comparison, that is less than 1 percent of the total Federal outlays we approved earlier this year in the budget resolution.

And when we place the commodity programs in the context of outlays of $40 billion for natural resources, environment, and energy; $44.3 billion for health; and $43 billion for interest on the national debt, what we are trying to achieve for the farmers is a paltry sum.

Not long ago, the President signed an economic stimulus program of $20 billion. That legislation included $2.6 billion for employment and training assistance, $6.8 billion for temporary employment assistance under the Comprehensive Employment and Training Act of 1973, and $4 billion for local public works.

Now the President has arbitrarily chosen a figure of $2.2 billion—equal to 0.48 of 1 percent of outlays in the budget resolution—as a limit on what he would accept for average annual payments under the commodity programs in the farm bill. By comparison, the bill passed by the Senate has an estimated annual cost for the commodity programs of $3 billion. It is simply incomprehensible to me that the President is threatening to veto this entire bill that is so vital to farmers and to the Nation over a difference that is extremely small when we look at welfare and unemployment programs.

Over the past several years, payments to farmers—especially wheat and feed grain producers—have been negligible. It just seems to me that during the time of greatest need, we can afford to allocate more than one-half of 1 percent of our Federal budget to a sector so vital to our national well-being.

LOWER COST POSSIBLE

It is entirely possible that the cost of the commodity programs may fall below even the President's own arbitrary and restrictive figure. The level of payments under the commodity programs can vary greatly in response to several factors, including administration discretionary actions, the weather, and exports. In fact, the Department of Agriculture has estimated the cost of commodity programs in S. 275 to vary between $2.002 billion under variable conditions to $3.923 billion under favorable weather conditions.

The administration itself has the discretionary authority to take actions that would reduce the cost of the commodity programs. On June 27 for example, Agriculture Secretary Bob Bergland said the Government might establish a set-aside program for wheat growers that would reduce acreage by 10 to 20 percent. A set-aside program would reduce the amount of wheat production and would raise the market price. The result would be a lower amount of commodity payments. The farm bill passed by the Senate retains this flexibility for the Secretary of Agriculture to reduce the cost of the program.

The level of payments can also be reduced by improving the market through increased exports. The administration has the flexibility under the farm bill passed by the Senate to take a number of actions to increase exports. The administration can extend export credits to foreign buyers for example. They can maximize sales for export under the Public Law 480 food for peace program. The administration can intensify sales promotion activities overseas. The farm bill passed by the Senate provides authority for the administration to take these actions.

The weather can also be a major factor in the level of commodity program payments. Poor weather means scarcer supplies, higher prices, and lower payment levels. There is no assurance that we will continue to have favorable weather throughout the growing season. The weather conditions in this country and throughout the world will have a great bearing on the level of payments. It is simply too early to tell at this point what weather conditions will be like and what impact they will have on the farm situation.

Just as farm prices have declined sharply in the past several months, farm prices could rise just as sharply in the coming months and the reduction in commodity payments would be proportional. Farm prices are probably the most volatile in the entire economy. That is why the agriculture budget can vary so sharply. It is important that we have the flexibility in the budget to accommodate such changes. That is the very reason why the Congressional Budget Act was designed with a second concurrent resolution later in the year so as to accommodate unforeseen changes.

So we have the flexibility to accommodate the farm bill in the congressional budget system. We have provided the flexibility for the administration to hold down the cost of the program. Yet, the President has taken an arbitrary position that he would veto the 1977 farm bill if the estimates exceed the unrealistic $2.2 billion figure he has chosen.

CAMPAIGN PROMISES

Not too many months ago as a candidate for President, Mr. Carter made this statement:

> If I am elected, we will make sure that our crop support prices are at least equal to the cost of production. That will not guarantee a profit—no real farmer wants that—but it will give the determined farmer a chance to stay in business. . . .

Although we have made an effort to set target prices somewhere close to the average cost of production, few would suggest that the target price levels we have chosen would exceed the cost of production for wheat, we have set the target price for 1977 at $2.90 per bushel and for 1978 at $3.10 per bushel. Recently the Congressional Budget Office published data showing a total cost of production for wheat with the average land cost included to be $3.16 per bushel. That is 26 cents per bushel higher than the target price we have provided for this year. More significantly, the total average cost of production for wheat with land at current value is $3.56 per bushel. That is what our new young farmers are facing when they are buying land and trying to get started. This bill is not an excessive bill that will be a bailout for farmers. It is a bill that provides a minimum level of support which will not even cover the basic cost of production for most farmers.

Yet President Carter wants us to lower target prices even more.

The discrepancy between what President Carter said he would do as President and what he is actually doing now as President is even more striking. For example, when campaigning in the State of Kansas last fall, Mr. Carter's running mate, then—Senator MONDALE, spoke explicitly of the need for wheat farmers to recover their production costs of "at least $3 a bushel."

With a record like that, it just seems incomprehensible to me that the administration would veto the farm bill as passed by the Senate. What is unbelievable to me is that they are even criticizing this bill, which is less than what they promised only a few months ago.

However, President Carter may not be the only politician around with a short memory.

RECORD OF CONGRESS

It becomes even more apparent that the farm bill of 1977 is a moderate and reasonable piece of legislation when we look at the record of Congress in this area. In March and April of 1975, the Congress overwhelmingly passed the emergency farm bill of 1975. The target price for wheat provided in that bill for 1975 was $3.10 per bushel. That figure outstrips the target price for 1977 that was in the bill we recently passed in the Senate.

After 2 years of inflation in the cost of production and 2 years of declining farm prices, we approved a target price for 1977 that was lower than the target price we approved for 1975. The comparison shows that we are taking a very moderate approach. This is certainly not a bail-out for farmers. It is not a raid on the Treasury. It is a bare minimum level of support that we should provide for farmers.

The disparity is even greater when we look at the target prices that would have been in effect for 1977 and 1978 under the bill we passed in 1975 and compare them to the comparable target prices we recently approved in the 1977 farm bill.

I ask unanimous consent that a table showing this comparison be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Comparison of target prices provided in the 1975 and 1977 farm bills for crop years

	1975 bill	1977 bill
Wheat (per bushel) 1977	$3.73	$2.90
Wheat (per bushel) 1978	3.82	3.10
Corn (per bushel) 1977	2.77	1.70
Corn (per bushel) 1978	2.85	2.28
Cotton (per pound) 1977	0.57	0.478
Cotton (per pound) 1978	.58	.511

Mr. DOLE. Mr. President, the figures, which were prepared by the Congres-

sional Research Service, show that the target price for wheat in 1977 under the 1975 bill would have been $3.73 compared to $2.90 which we recently approved. For 1978 the comparison was $3.82 per bushel in the 1975 bill compared to $3.10 per bushel in the 1977 bill. Similar comparisons exist for the other programs.

The facts show that we are not moving forward—we are moving backwards. The comparison shows that this is a very moderate bill we are considering this year. It is the bare minimum support.

There is no doubt in my mind that there was a very strong political factor that resulted in the level of target prices in the 1975 bill. I think it had something to do with the difference between the majority party in Congress and the party holding the White House. The fact remains that a strong majority in Congress viewed the 1975 farm bill as responsible legislation. We recognized that there was a serious farm problem at that time which needed to be addressed. We said a farm bill should be passed which would provide farmers the protection indicated by the target prices I have listed.

Let me emphasize, Mr. President, that support for the 1975 farm bill was bipartisan in nature. Two years ago, I urged the leader of my own party, President Ford, to sign the 1975 act. It was not easy. to take issue with his veto.

My good friend, Senator HUMPHREY said of the 1975 bill "the issues involved in the bill was whether anything could be done to bring some degree of stability to the farm community and economy in 1975. The response of Congress was to tailor the measure which was both responsible and responsive to today's needs."

The chairman of the Agriculture Committee, Senator TALMADGE, said at that time:

> This bill would have done a great deal to restore confidence in a badly shaken world economy.

Senator JACKSON associated himself with the provisions of the 1975 farm bill and expressed opposition to the President's veto when he said:

> The President's decision has plowed under congressional hopes for stability in food prices for 1975.

In addition, the present Secretary of Agriculture Mr. Bob Bergland, then a Member of the House of Representatives, commented:

> The failure of the House to override the President's veto of the Emergency Farm Bill on yesterday was a great disappointment to me.

Then Congressman Bergland went on to say:

> American farmers simply cannot meet the exploding world food needs which will probably increase by 50 percent in the next 20 years barring any unexpected change in population growth patterns. American farmers can, however, help the world feed itself, but government planning and aid is essential to this effort. Farmers simply cannot bear the enormous risks being forced upon them by the administration's policy.

Now we are 2 years further down the road. Farm prices are even lower than they were in 1975—about half for wheat—and production costs have risen even higher. The problem is much more serious than it was then.

The bill as passed by the Senate is the bare minimum Congress should approve. It provides much less to farmers and would have a much lower cost for taxpayers than what we approved in 1975.

Hopefully those Members of the House of Representatives in whose hands the fate of the future farm program lies will remember their actions and their statements in 1975. They should reject the arm-twisting tactics and the unrealistic limitations of the administration. We should approve a program that is meaningful to the farmers who are facing severe economic conditions.

MAJOR PROVISIONS OF THE FARM BILL

As I mentioned earlier, there is a great deal more in the 1967 farm bill than simply the farm commodity programs.

Food stamps: The bill includes much needed major reforms in the food stamp program. The food stamp provisions are a vast improvement over the present program. Participation in the program should should be greatly enhanced by the elimination of the purchase requirements. This change will allow greater accessibility to program benefits for those in need of assistance. At the same time, we tightened up the program to reduce participation of those who can afford to provide for themselves.

The program will be significantly simplified and streamlined by establishing standard deductions. In addition, a proposal I sponsored to allow a deduction for dependent care should be a work incentive for those who have a responsibility of caring for dependents.

Agricultural research: A major thrust to increase food and agriculture research is incorporated as a title in the Senate's farm bill. It authorizes funds for agricultural research and related activities; it establishes the Department of Agriculture as the lead agency in food and agricultural research; it creates a joint panel of Federal, State, and private research groups and research users advisory board to improve coordinating; it gives the Secretary of Agriculture authority to make grants to agriculture experiment stations and land-grant universities to support the Federal-State cooperative research program. These provisions for a greater emphasis on agricultural research are long overdue.

Federal grain inspection service: The farm bill also contains much needed amendments to the Federal Grain Inspection Service Act. The provisions included in the bill, which I sponsored, will make the Federal grain inspection service more workable and will reduce the cost to farmers.

Dairy program: The farm bill provides that prices for manufactured milk will be supported at not less than 80 percent of parity, adjusted semiannually for cost of production increases.

It should be noted that the present administration in this area has made good on a campaign promise of President Carter in which he stated:

> A recent study by the University of Wisconsin said it (dairy price support) should be 90 percent of parity. I don't know but it should be tied to whatever it costs to produce the product.

I hope the Members of the House will reflect on this action as they consider other commodity programs. They should adopt price support levels that will maintain consistency in the 1977 farm bill with President Carter's other promises.

Reserves: The farm bill also includes a title for grain reserves. This portion of the bill includes a producer storage program for wheat, a provision for participation in an international reserve, a disaster reserve in the event of national disaster, and a program of improved farm storage facility loans.

Public Law 480: Several provisions are included to expand the Public Law 480 food for peace program and to make it more workable. Historically, this program has been a great boon to countries in need of food assistance, and the bill passed by the Senate would make an even greater amount of food assistance available. The bill also established a new program to offer U.S. food to assist developing countries in developing their economies. If successful this program could help develop commercial markets for U.S. farm products.

Rural development and soil conservation: The bill includes several important provisions to improve the rural community fire protection program and the watershed and soil conservation programs.

As we can see, there are a great many provisions in the 1977 farm bill that are of importance to many sectors of the Nation even beyond agriculture. It is a very moderate and reasonable bill. It would be totally unrealistic for the President to contemplate vetoing this bill. It would be inconsistent for the Congress to pass commodity programs less meaningful than approved in the Senate-passed bill. It is my hope that we can maintain the minimum levels of assistance we have provided when we pass this legislation in final form.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 1420

Mr. DOLE. Mr. President, I ask unanimous consent that Dr. Lenora Moragne, Claude Alexander, and Mary Wheat, of my staff, be entitled to the privilege of the floor during consideration and votes on the Child Nutrition Act of 1977.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Utah.

PRIVILEGE OF THE FLOOR—S. 1420 AND H.R. 7553

Mr. HATCH. Mr. President, I ask unanimous consent that Andrew Nokes, Michael Hunter, and Robert Hunter, of my staff, be accorded the privilege of the floor not only during the Child Nutrition Act of 1977, but also the public works bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I make the same request for Nancy Anderson, of Senator Case's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I make the same request for Lori Hansen and Alan Stone, staff members of the Committee on Agriculture, Nutrition and Forestry.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the consideration of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:50 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed the following bill and joint resolution in which it requests the concurrence of the Senate:

H.R. 7932. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1978, and for other purposes;

H.J. Res. 539. A joint resolution to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 1404) for the relief of Smith College, Northampton, Mass.

The message further announced that the House has agreed to the concurrent resolution (H. Con. Res. 267) providing for an adjournment of the House from June 30 until July 11, 1977, and a recess of the Senate from July 1 until July 11, 1977, in which it requests the concurrence of the Senate.

At 5:10 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1468) to amend the Energy Supply and Environmental Coordination Act of 1974.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1404. An act for the relief of Smith College, Northampton, Mass., and for other purposes.

H.J. Res. 525. Joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes.

H.J. Res. 539. Joint resolution to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians.

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following communications which were referred as indicated:

EC–1583. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report on the deferral of $31.8 million in budget authority appropriated to the Energy Research and Development Administration for the Clinch River Breeder Reactor Project contained in the President's twelfth special message (with an accompanying report); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Energy and Natural Resources, and ordered to be printed.

EC–1584. A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to change from a fiscal to a school year basis certain provisions of the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC–1585. A letter from the President of the Export-Import Bank of the United States transmitting, pursuant to law, a statement with respect to the transaction involving U.S. exports to Spain concerning the purchase of a U.S. nuclear power plant and initial fuel core; to the Committee on Banking, Housing, and Urban Affairs.

EC–1586—A letter from the Chairman of the Securities and Exchange Commission transmitting, pursuant to law, the final report of the Securities and Exchange Commission on Bank Securities Activities (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–1587. A letter from the Chairman of the National Transportation Safety Board transmitting, pursuant to law, a copy of a letter to the OMB requesting rescission of $850,000 in the Safety Board's FY 1977 appropriation of $13,800,000 (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–1588. A letter from the Acting Administrator of the Environmental Protection Agency transmitting, pursuant to law, the National Water Quality Inventory Report for 1976 (with an accompanying report); to the Committee on Environment and Public Works.

EC–1589. A communication from the President of the United States transmitting, pursuant to law, the second annual report of the executive branch activities, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–1590. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Need to Resolve Metro Funding" (PSAD–77–123) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1591. A letter from the President and Principal Investigator of the Policy Research Incorporated, and the Director of the Center for Technology Assessment, New Jersey Institute of Technology transmitting, pursuant to law, a comprehensive study of the ethical, legal, and social implications of advances in biomedical and behavioral research and technology (with an accompanying report); to the Committee on Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

With amendments:

S. Res. 198. A resolution entitled "Human Rights and Belgrade Conference" (Rept. No. 95–318).

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

H.R. 1551. An act granting the consent of Congress to an amendment to the Sabine River Compact entered into by the States of Texas and Louisiana (Rept. No. 95–319).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Without amendment:

S. Res. 216. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1811, a bill to authorize appropriations for fiscal year 1978 for ERDA—civilian nuclear energy applications. Referred to the Committee on the Budget.

S. 1811. An original bill to authorize appropriations for the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes.

By Mr. CURTIS, from the Committee on Agriculture, Nutrition, and Forestry:

Without amendment:

S. 409. A bill to designate the Meat Animal Research Center located near Clay Center,

Nebraska, as the "Roman L. Hruska Meat Animal Research Center" (Rept. No. 95–321).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 212. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1307 (Rept. No. 95–322).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

With an amendment:

S. 71. A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, and for other purposes (title amendment) (Rept. No. 95–323).

By Mr. HASKELL, from the Committee on Energy and Natural Resources:

With amendments:

S. 1338. A bill to provide for the issuance and administration of permits for commercial outdoor recreation facilities and services on public domain national forest lands, and for other purposes (Rept. No. 95–324).

MEDICAID KICKBACKS—REPT. NO. 95–320

Mr. CHURCH. Mr. President, I am pleased to offer for printing a report from the Senate Committee on Aging, "Kickbacks Among Medicaid Providers." Members of our committee and the Senate Committee on Rules have agreed to a resolution to have our study printed as a Senate report.

The report summarizes the evidence received by our committee in its 7 years of investigating fraud and abuse in the medicaid program. More specifically, it relates to that most common and least prosecuted form of fraud, described as "kickbacks."

A kickback is the practice whereby a pharmacist or other professional is forced to pay a certain percentage of his medicaid fees with a second provider as a precondition of providing services for the other.

As our report points out, the practice of kickbacks is clearly illegal and yet kickbacks continue to be a widespread and significant problem. Only 20 prosecutions and convictions involving such cases could be found in the United States since the beginning of the medicaid program.

Our report calls upon the Department of Health, Education, and Welfare to intensify its prosecution of fraud and abuse. It also recommends more aggressive action by the Department of Justice and the States to eradicate this serious problem.

Mr. President, I ask unanimous consent to have this document printed as a numbered report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary.

M. Carr Ferguson, of New York, to be an Assistant Attorney General.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Russell G. Clark, of Missouri, to be U.S. district judge for the western district of Missouri.

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Claud Anderson, of Florida, to be Federal Cochairman of the Coastal Plains Regional Commission

F. Kenneth Baskette, Jr., of Colorado, to be Federal Cochairman of the Four Corners Regional Commission.

J. Joseph Grandmaison, of New Hampshire, to be Federal Cochairman of the New England Regional Commission.

George D. McCarthy, of the District of Columbia, to be Federal Cochairman of the Old West Regional Commission.

Patsy Ann Danner, of Missouri, to be Federal Cochairman of the Ozarks Regional Commission.

Patrick J. Vaughan, of Idaho, to be Federal Cochairman of the Pacific Northwest Regional Commission.

Cristobal P. Aldrete, of Virginia, to be Federal Cochairman of the Southwest Border Regional Commission.

William R. Bechtel, of Wisconsin, to be Federal Cochairman of the Upper Great Lakes Regional Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

John Gaines Heimann, of New York, to be Comptroller of the Currency.

Richard Stephen Page, of Washington, to be Urban Mass Transportation Administrator.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The following bill was read twice by its title and referred to the Committee on Appropriations:

H.R. 7932. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1978, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, June 30, 1977, he presented to the President of the United States the following enrolled bill:

S. 964. An act to provide that the salaries of certain positions and individuals which were increased as a result of the operation of the Federal Salary Act of 1967 shall not be increased by the first comparability pay adjustment occurring after the date of the enactment of this act.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent the second time, and referred as indicated:

By Mr. STEVENS:

S. 1787. A bill relating to the classification of certain lands within the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 1788. A bill to establish as an executive department in the executive branch a Department of Health; to the Committee on Governmental Affairs.

By Mr. ABOUREZK:

S. 1789. A bill to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands; to the Select Committee on Indian Affairs.

By Mr. LAXALT:

S. 1790. A bill to amend section 205 of the Federal Power Act in order to revise the procedure for establishing new schedules of rates, charges, classifications, or services; to the Committee on Energy and Natural Resources.

By Mr. NUNN (for himself and Mr. TALMADGE):

S. 1791. A bill to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ABOUREZK:

S. 1792. A bill to amend the Administrative Conference Act; to the Committee on the Judiciary.

By Mr. LONG (for himself, Mr. MAGNUSON, and Mr. STEVENSON):

S. 1793. A bill to make amendments to certain laws regarding railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 1794. A bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. TALMADGE:

S. 1795. A bill to amend title IV of the Social Security Act to encourage increased employment among recipients of aid to families with dependent children, and for other purposes; to the Committee on Finance.

By Mr. STEVENS:

S. 1796. A bill for the relief of Yamashita, Seizo;

S. 1797. A bill for the relief of Nomura, Hitoshi;

S. 1798. A bill for the relief of Sunada, Etsuo;

S. 1799. A bill for the relief of Kobayashi, Yoshio;

S. 1800. A bill for the relief of Yonesaka, Tetsoo;

S. 1801. A bill for the relief of Hanaya, Kiyomitsu;

S. 1802. A bill for the relief of Oomi, Akihito;

S. 1803. A bill for the relief of Sato, Hitoshi;

S. 1804. A bill for the relief of Fajita, Akio;

S. 1805. A bill for the relief of Ymekawa, Fumiharu;

S. 1806. A bill for the relief of Ookaiwa, Tooru; and

S. 1807. A bill for the relief of Tsuchiya, Takumi; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S. 1808. A bill for the relief of Hugo Hansen, Mikael Hansen, Peter Hansen, Esben Hansen, and Sebastian Hansen; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 1809. A bill to amend the Perishable Agricultural Commodities Act, 1930; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1810. A bill to amend the Strategic and Critical Materials Stock Piling Act in order to prescribe the method for determining the quantity of any material to be stockpiled under such act, and for other purposes; to the Committee on Armed Services.

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. 1811. An original bill to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Enery Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes. Placed on the calendar.

By Mr. NELSON (for himself, Mr. HASKELL, Mr. ABOUREZK, and Mr. METCALF):

S. 1812. A bill to supplement and clarify the Federal reclamation laws, to promote the settlement of family farmers in Federal irrigation projects, to provide for acreage equivalency between class 1 lands and lands of lesser productive capability, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 1813. A bill to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits; to the Committee on Governmental Affairs.

By Mr. EAGLETON (for himself, Mr. DANFORTH, Mr. PEARSON, and Mr. DOLE):

S. 1814. A bill to amend the Natural Gas Act to provide certain limitations on gas curtailment plans; to the Committee on Energy and Natural Resources.

By Mr. NELSON (for himself, Mr. McINTYRE, and Mr. WEICKER):

S. 1815. A bill to amend the Small Business Investment Act of 1958, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 1816. A bill to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of quayule rubber production and manufacture as an economic development opportunity for the southwestern States; to the Committee on Environment and Public Works.

By Mr. HELMS:

S. 1817. A bill to prohibit the taking of land by condemnation in connection with any proposed Mount Mitchell National Park in the State of North Carolina, if hereafter authorized and established by the Congress, and to prohibit the curtailment of the hunting, fishing, and gathering rights currently enjoyed in any areas included within any such proposed park if such park is hereafter so authorized and established; to the Committee on Energy and Public Works.

By Mr. WILLIAMS:

S. 1818. A bill to amend the Immigration and Nationality Act to facilitate the adoption of more than two unrelated children, and for other purposes; to the Committee on the Judiciary.

By Mr. DeCONCINI (for himself, Mr. ABOUREZK, Mr. KENNEDY, and Mr. THURMOND):

S. 1819. A bill to reduce the cost of operating the Federal criminal justice system, reduce the criminal caseload of the Federal courts, and establish alternatives to criminal prosecution for certain persons charged with nonviolent and, in selected instances, violent offenses against the United States, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with the above introduced bills and joint resolutions are printed at the conclusion of Senate proceedings today.)

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. KENNEDY, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponor of S. 3, the Health Security Act.

S. 431

At the request of Mr. CHILES, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 431, the Federal Grant and Cooperative Agreement Act.

S. 1014

At the request of Mr. DOMENICI, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1014, to amend the Internal Revenue Code.

S. 1307

At the request of Mr. THURMOND, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 1307, to amend title 38 of the United States Code.

S. 1437

At the request of Mr. McCLELLAN, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1427, to reform title 18 of the United States Code.

S. 1556

At the request of Mr. HANSEN, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1556, authorizing a program of assistance to States for veterans' purposes.

S. 1585

At the request of Mr. CULVER, the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CLARK), the Senator from Kentucky (Mr. FORD), the Senator from Utah (Mr. GARN), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. GRIFFIN), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. McINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), the Senator from Alaska (Mr. STEVENS), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 1585, a bill to protect children against sexual exploitation and for other purposes.

S. 1623

At the request of Mr. McGOVERN, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 1623, to amend the Energy Reorganization Act of 1974.

S. 1736, S. 1737, AND S. 1738

At the request of Mr. LEAHY, the Senator from North Carolina (Mr. MORGAN) and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1736, S. 1737, and S. 1738, the Solar Energy for Homes Acts.

S. 1750

At the request of Mr. KENNEDY, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1750, the Saccharin Study Act.

S. 1768

At the request of Mr. KENNEDY, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1768, the Voluntary Retirement Act.

S. 1785

At the request of Mr. KENNEDY, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1785, relating to disclosure of lobbying activities.

SENATE CONCURRENT RESOLUTION 31—SUBMISSION OF A CONCURRENT RESOLUTION DISAPPROVING FEDERAL MOTOR VEHICLE SAFETY STANDARD 208

(Referred to the Committee on Commerce, Science, and Transportation.)

Mr. GRIFFIN submitted the following concurrent resolution:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That the Congress disapproves the Federal Motor Vehicle Safety Standard transmitted to Congress on June 30, 1977.

SENATE RESOLUTION 216—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 1811

(Referred to the Committee on the Budget.)

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following resolution:

S. RES. 216

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are

waived with respect to the consideration of such waiver is necessary because on April 20, 1977, the President submitted a fiscal year 1978 budget which proposed major restructuring in ERDA's civilian nuclear energy programs. The Energy and Natural Resources Committee has made a good faith effort to report the entire ERDA authorization by May 15th and did in fact report the non-nuclear portion of the authorization before the May 15th deadline. However, because of the late changes in the President's budget for nuclear programs the Committee was unable to report legislation authorizing ERDA's civilian nuclear programs until June 27, 1977.

The Public Works Appropriation Act for FY 1978 is pending before the Senate awaiting action on this bill.

This authorization was contemplated in the first Congressional Budget Resolution for FY 1978 and estimates to anticipate the authorization were included in the report of the Committee on Energy and Natural Resources commenting to the Budget Committee on the FY 1978 budget outlook.

OUTER CONTINENTAL SHELF LANDS ACT—S. 9

AMENDMENT NO. 486

(Ordered to be printed and to lie on the table.)

Mr. MAGNUSON. Mr. President, I submit for printing an amendment to S. 9, a bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The amendment would delete section 506 of the bill which is essentially an amendment to the Coastal Zone Management Act of 1972, as amended, and concerns that Act solely. This provision was added in markup by the Committee on Energy and Natural Resources without hearings or full consideration.

Under the recent Senate committee reorganization, the Committee on Commerce, Science, and Transportation was given exclusive jurisdiction over the Coastal Zone Management Act. Therefore, section 306, which radically changes an important provision in the Coastal Zone Act, is entirely outside the jurisdiction of the Energy Committee.

Therefore, because of the need to maintain jurisdictional integrity in the Senate and to gain greater in-depth analysis of the impact of the proposed amendment to the Coastal Zone Management Act, I will offer this amendment when the Senate considers S. 9. I take no position with regard to the merits of section 506 of S. 9. But I feel that the committee of competence ought to examine the pros and cons of this new, and possibly far-reaching, provision.

AMENDMENT NO. 487

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON (for himself, Mr. DANFORTH, Mr. PEARSON, and Mr. DOLE) submitted an amendment intended to be proposed by them to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

Mr. DOLE. Mr. President, I am pleased to introduce an amendment, along with my distinguished colleagues from Missouri, Senators EAGLETON and DANFORTH, and my distinguished senior colleague from Kansas, Senator PEARSON. This amendment would provide that in the event there are further curtailment plans of natural gas, residential users will receive the highest allocation priority.

The Federal Power Commission in a recently issued opinion has declared that the Cities Service Gas Co. may not make residential natural gas hookups after January 1, 1978. Unless this order is reconsidered, it is very doubtful that homebuilders in Kansas will be able to obtain the necessary electrical or other equipment for the construction of thousands of homes each month on such short notice. To further aggravate the situation, the additional cost of constructing new all-electric homes is estimated to be between $800 and $2,000.

There is little doubt that the energy crisis in this country is serious. However, it appears that residential users have less flexibility to fund alternative sources than do large commercial and utility users. The homeowner cannot afford to convert his residence use to cheaper energy alternatives.

The Commission, in taking its position, directly overruled the decision of the administrative law judge. Because of diminishing supplies, the FPC believes its decision is justified. However, there is substantial evidence that new gas supplies will be available from regional pipelines.

The amendment provides that the Federal Power Commission establish a priority position for residential hook-ups. It is essential that residential dwellings be provided a source of fuels. Denying natural gas for residential use will skyrocket most utility bills. This comes at a time when the Congress is considering a comprehensive energy program.

I believe that our primary responsibility lies with protecting the residential user. The Senator from Kansas will do everything possible to insure adequate supplies at reasonable prices. Denying natural gas to residential users is not the solution.

I have written a letter to the Chairman of the Federal Power Commission, asking that they reconsider their decision. I ask unanimous consent that it be placed on the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 25, 1977.

Hon. RICHARD L. DUNHAM,
Chairman,
Federal Power Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: The problems created by your opinion and Order Number 805 (Docket No. RP 75-62) of June 14, 1977, far outweigh any urgency in making such a decision.

Kansans and other midwest residents cannot understand being denied new residential gas connections after January 1, 1978 when there is every reason to believe that Cities Service Gas Company will be able to produce significant new supplies of natural gas and distribute them before the 1977-78 winter. Unless the order is reconsidered, it is very doubtful that homebuilders in Kansas will be able to obtain the necessary electrical or other energy equipment necessary for the construction of thousands of homes each month on such short notice. Moreover, the additional cost of constructing new all-electric homes is estimated to be from $800 to $2,000 and monthly utility bills could rise substantially.

I understand that natural gas is in short supply on a nationwide basis. But the people of Kansas should not be forced to bear this burden when there are adequate supplies of new natural gas available from regional pipelines.

I urge the Commission to reconsider its decision in this case.

Sincerely yours,

BOB DOLE,
U.S. Senate.

AMENDMENTS SUBMITTED FOR PRINTING

MARINE PROTECTION ACT—S. 1425

AMENDMENT NO. 485

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (S. 1425) to amend section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to extend the authorization of appropriations.

PUBLIC WORKS APPROPRIATIONS—H.R. 7553

AMENDMENT NO. 488

(Ordered to be printed and to lie on the table.)

TO DELETE FUNDS FOR THE BARNWELL REPROCESSING PLANT

Mr. KENNEDY. Mr. President, I introduce a revised amendment to the Public Works appropriations bill (H.R. 7553)—on behalf of myself, Mr. CRANSTON, Mr. PERCY and Mr. RIBICOFF—to delete $13 million for the plutonium reprocessing plant in Barnwell, S.C. I remind my colleagues that this amendment does not affect an additional $1 million appropriated for nonplutonium alternatives at the site.

I also ask unanimous consent to have printed in the RECORD a letter I received today from James R. Schlesinger, assistant to the President, in strong support of our amendment. It confirms the opposition of the administration to spending any money for work at the Barnwell reprocessing facility, while endorsing a $1 million in-house study of alternative uses that can be made of this plant.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., June 30, 1977.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I understand you intend to offer an amendment that would remove $13 million for work at the Barnwell reprocessing facility. The Administration strongly endorses such an amendment.

As proposed recently by Congressman Butler Derrick, it would be appropriate to have an in-house study of the alternative uses that might be made of such a plant. I understand that your amendment would retain $1 million to be spent for such a government study. This could be used to evaluate alternates within the framework of the International Fuel Cycle Evaluation Program. The Administration does endorse such a study, while reaffirming opposition to the $13 million government funding of the Barnwell facility.

Not only would such a step be inconsistent with the President's non-proliferation policies, it could link the government into a half-billion dollar commitment.

Sincerely,

JAMES R. SCHLESINGER,
Assistant to the President.

AMENDMENT NO. 489

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (H.R. 7553), making appropriations for public works, and for other purposes.

NOTICE OF HEARING

THE CLINCH RIVER BREEDER REACTOR

Mr. HART. Mr. President, on the morning of July 11 the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works will be holding a hearing on the environmental and safety aspects of the Clinch River breeder reactor.

On June 22, 1977, the Washington Star contained a disturbing article by John Fialka entitled "Secret Memo Hits Clinch River Breeder Project." I ask unanimous consent that this article be printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. The purpose of this hearing, Mr. President, will be to answer some of the questions raised by that memo. Since the memo is 4 years old, it is quite possible that many of the concerns expressed there have been answered in the meantime. However, that is by no means certain. And, there may be other questions which arise in the course of our hearing.

Although the President has proposed cancellation of the Clinch River breeder reactor project, that proposal was based primarily on the safeguards and nonproliferation concerns associated with the commercial use of plutonium. Those concerns are exceedingly important but this particular hearing is intended to focus on the environmental and safety questions rather than questions of nonproliferation.

Hopefully, this hearing will help the committee in its legislative oversight responsibility over the Nuclear Regulatory Commission and its licensing activities, since the license application for construction of the Clinch River breeder reactor is pending before the Commission. It should also provide additional objective information on the environmental and safety aspects of this reactor which may be useful as the Congress considers how this project fits into the overall breeder reactor research program.

In order that the committee may have the most complete information possible available to us, it is suggested that interested parties contact the subcommittee staff at 224–7861 prior to the hearing.

The article follows:

SECRET MEMO HITS CLINCH RIVER BREEDER PROJECT

(By John Fialka)

A secret corporate memorandum for officials within the engineering firm that holds the $175 million government contract to design the controversial Clinch River Breeder Reactor predicted four years ago that because of the mismanagement, confusion, design mistakes and politics surrounding it "the project results will be extremely poor."

Among other things, the memo states that a former commissioner of the Atomic Energy Commission was the source of "inside information" for the engineering firm, which is both architect and engineer for the Clinch River breeder.

Construction of the $2.2 billion breeder, a demonstration plant for what was once thought to be the nation's primary energy source for the future, was to have begun this year at a site near Oak Ridge, Tenn. President Carter has asked Congress to terminate the project for the foreseeable future, however, as part of his nuclear nonproliferation initiative overseas. Introduction of the breeder would result in widespread use of plutonium, an atomic bomb material, as fuel.

The memorandum on Burns & Roe letterhead, a copy of which was obtained by The Washington Star states that "The Clinch River site selected for the LMFBR (breeder) demonstration plant is one of the worst sites ever selected for a nuclear power plant based on its topography and rock conditions" and predicts delays and mounting costs as a result.

It states that James T. Ramey, who resigned as an AEC commissioner and the agency's chief expert for the breeder program in 1973, "was our highest level contact in the AEC and source of inside information."

The memo adds that although Burns and Roe was "told orally" by unnamed AEC officials that "we should not comply with" certain AEC safety regulations, there were many other serious problems involved with the breeder.

Clinch River's overall management is called the Project Management Corp. (PMC), which is a joint effort, controlled by the AEC's successor, the Energy Research and Development Administration with help from private utilities.

The memo, written by W. H. Young, vice president and deputy director of the company's breeder reactor division in July 1973, states: "The PMC general manager has privately advised Burns and Roe to get out of the LMFBR (which stands for liquid metal fast breeder reactor) job now, since it does not have a chance of success and could harm us badly."

Nevertheless, the memo, sent to a number of the engineering firm's highest officials, suggests the firm should go ahead with its contract for the project because of "that project's key position relative to our future growth." Noting that the firm's fees would be based on a percentage and could go up or down depending on an estimate of the project's overall costs, the memo adds. "A firm, well handled fee negotiation could mean $1 million to us."

A spokesman for ERDA said that while the Burns and Roe contract was signed in January 1973, it did not go into effect until January 1974. So far, he said, the company has drawn $51 million from the government.

Asked for a comment, Ramey, currently vice president for Stone and Webster, a company which has the $500 million contract to construct Clinch River, denied that he had given Burns and Roe any inside information which would have aided their efforts to win the design contract.

"There were a lot of what you would call informal discussions all the time," said Ramey, who was an AEC commissioner for 11 years. However, he denied any disclosure of information to Burns and Roe which would have violated the agency's disclosure regulations.

Ramey said he was not sure whether he had any dealings with Young, the author of the memo. Ramey added: "Some guys who haven't been around very much would want to imply that they had a relationship with a high office. It would give them a leg up, so to speak."

Young did not respond to the Star's efforts to reach him yesterday and today. Instead, Francis J. Browning, the company's manager of public relations, read a written statement which said that "an appraisal of the CRBR (Clinch River Breeder Reactor) was made in mid-1973 in a Burns and Roe internal memorandum which may be the document to which you refer."

However, the Star's copy of the memo, he added, might be "abridged, doctored or otherwise incomplete," so the corporation could not be certain of its authenticity. Asked for a point by point comparison of specific passages of the 30-page memo over the telephone, Browning repeatedly refused, saying that the "statement we have read you over the telephone is the only one we are prepared to make at this time."

"In any event," the company's statement to the Star concluded, "under no circumstances does Burns and Roe authorize you to publish or use in any way any confidential document purporting to have been prepared by Burns and Roe or any of its officials, and any attribution to Burns and Roe or such officials is expressly prohibited."

The Clinch River breeder was intended to be the first commercial-sized demonstration that a nuclear reactor could "breed," or create more plutonium fuel than it consumed at the same time it generated electricity.

In the early 1970s the breeder concept was absorbing most of the nation's energy research funds. A forerunner to the Clinch River plant, a test facility known as the "Fast Flux Test Facility" (FFTF) at Hanford, Wash., which is now completed, had huge cost overruns, and the estimates for Clinch River, which was supposed to be a much more sophisticated facility, began to balloon from $700 million to the present $2.2 billion.

Critics of the breeder, including some Carter administration officials, have argued that the Clinch River was not really much of an advance over FFTF and was being championed by the AEC and the nuclear power industry only as a way to preserve the "momentum" for the breeder concept.

The Burns and Roe internal memo appears to bear them out. It states that the AEC was forcing project managers to use many FFTF design concepts in the Clinch River design. "We know that some aspects of the FFTF design are abortions," the memo adds, alleg-

ing design mistakes and "distortions in project efforts because of inadequate estimates and funding problems."

Suggesting that, in the end, the Clinch River plant might not be an advance over the FFTF test facility, the memo adds, "There are indicators that utility representatives are starting to question why they should contribute $250M to add a balance of plant and steam generator to an FFTF."

Under the initial concept of the Clinch River breeder, the electric utility industry was expected to share about half of the project's costs. As the cost estimates of the facility soared, however, the federal government absorbed all of the increase. Despite some prodding from ERDA, the industry has refused to contribute more than its initial promise of $250 million.

The memo blamed some of the project's problems on Westinghouse, the designer of the breeder hardware. "Westinghouse also is more interested in playing politics with the AEC and the schedule than it taking on the hard issues necessary and being straightforward with the utilities regarding the status of the project."

The cover sheet of the memorandum, listing a number of high Brown and Roe officials who were to receive copies, states: "Because of the sensitivity of the information contained herein you are requested not to discuss its contents with anyone other than those on the distribution list for this memo, nor to leave this paper any place where it might be sighted by others." The memo is stamped "company controlled information."

As part of his company's prepared statement to The Star, Browning asserted that many of the problems surrounding the design of Clinch River "were subsequently aired and resolved" through design changes and management reorganizations since the memo was written.

James Schlesinger, President Carter's top energy adviser, has recently disputed this.

FEDERAL CRIMINAL DIVERSION ACT OF 1977

Mr. DECONCINI. Mr. President, I wish to announce that open public hearings have been scheduled before the Subcommittee on Improvements in Judicial Machinery on S. 1819, the proposed Federal Criminal Diversion Act of 1977.

The hearings will be held on July 11 and 15, 1977, in room 2228 Dirksen Senate Office Building, beginning at 9:30 a.m. each day.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 Dirksen Senate Office Building, 224-3618.

ADDITIONAL STATEMENTS

(Additional statements are printed at the conclusion of Senate proceedings today.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CHILD NUTRITION ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1420, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1420) to amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to revise and extend the summer food program, to revise the special milk program, to revise the school breakfast program, to authorize the Secretary of Agriculture to carry out a program of nutrition information and education as part of food service programs for children conducted under such Acts, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Chair would advise the Senate that the time on this bill is limited to 1 hour, to be equally divided between and controlled by the Senator from South Dakota (Mr. McGOVERN) and the Senator from Kansas (Mr. DOLE), with 30 minutes on any amendment and 20 minutes on any debatable motions, appeals, or points of order.

Mr. McGOVERN. Mr. President, let me preface my remarks on this bill with a salute to the exceptional chairman of the Committee on Agriculture, Nutrition, and Forestry, Senator TALMADGE. As the Members of the Senate are aware, the Agriculture Committee has in recent months been engaged in the process of writing comprehensive agricultural policy legislation. Producing this legislation proved to be an enormous project. Outstanding leadership was required to insure that the proper diligence be applied to complete the task. Chairman TALMADGE provided the guidance through that process. Just 3 days after the reporting of the omnibus farm bill, the chairman guided the committee through the markup of the bill the Senate is taking up today—S. 1420.

Let me thank the chairman for his wisdom in recognizing the need for child nutrition legislation that goes beyond simple extensions for the programs. In addition, I commend Senator DOLE, the ranking minority Member, and the other members of the committee for their efforts to improve our child nutrition programs.

As always, our efforts in this nutritional field, whether involving the Select Committee on Nutrition or the full standing Committee on Agriculture, Nutrition, and Forestry, have been totally bipartisan in character, and frequently the Senator from Kansas and I have teamed up in efforts to improve the child nutrition programs.

I also wish to pay tribute right at the start, Mr. President, to the members of our staff who have worked on the legislation now before us, including two staff members from the Select Committee on Nutrition staff, Mr. Alan Stone and Ms. Lori Hansen, as well as those able staff members on the Committee on Agriculture, Nutrition, and Forestry, including our very competent staff director, Mr. Mike McLeod.

The committee bill is not a major bill, in that no new food programs are created. The bill is, however, a comprehensive package which makes reforms, revisions, and updates in several of our food programs.

S. 1420 amends the National School Lunch Act and the Child Nutrition Act in order to revise and extend the summer food program, the nonfood assistance program, and the commodity distribution program. This bill also revises the special milk program, the school breakfast program, the regulatory authority of the Secretary of Agriculture concernnig competitive foods, and State administrative expenses. In addition, the bill establishes a nutrition education component as part of child nutrition programs.

The bill is a no-cost bill. In fact, when compared to current law, the bill as a package results in savings of $6 million in fiscal year 1978.

During the past 8 years or so, I, along with many of my distinguished colleagues, have attempted to bring a special focus on and attention to the problems of hunger and malnutrition in this country. The Agriculture Committee and the Congress have responded to these unmet human needs. We have established several food programs designed to reach the most vulnerable groups with special problems. We have also made significant steps toward combining the food aspects of our food assistance programs with an emphasis on the health, and preventive health, aspects of a nutritionally adequate diet. I believe the WIC program is an excellent example of our present ability to be target specific, providing health support as well as food to those in need of nutritional supplements.

This is not to suggest, however, that our food programs are now perfect, or that they are reaching all those who are eligible and in need of the various program benefits. There is still much work to be done in making sure that programs reach and are available to those that they were intended for.

Some of our leading social scientists have said that the progress in these various nutritional programs, including the food stamp program and the child nutrition program, represent the most important social breakthroughs since the passage of social security more than 40 years ago.

That is why a month or so ago the Senate attempted to reform the food stamp program. We know there have been some abuses in that program. There has been some cheating in the food stamp program. There has been some breakdown in the way the program has been administered. I think as a consequence of what the Congress is going to do this year, that program will work more justly and more efficiently. But there is still much work to be done in making sure that these nutrition programs reach and are available to those for whom they were intended.

Of course, the reverse of that is that they should not be exploited by those who are not in need of such assistance.

The bill before us today represents the committee's efforts, frankly, to clean up some of the problems various programs are experiencing either administratively

or in reaching people who are eligible for these programs who are not now participating.

We have reached a point where we must evaluate our food programs and respond to their problems. These child nutrition amendments are a result of the monitoring efforts the committee conducts on a regular basis.

Mr. President, as I mentioned before, the committee bill does not increase overall child nutrition program expenditures in the fiscal year 1978. The committee found that by correcting old problems in the child nutrition program, some of them, very frankly, improper monitoring and administration of these programs, the Congress can afford to assist other programs with the money saved in improved administration.

Therefore, the committee bill contains a major section authorizing nutrition education and training without increasing overall expenditures for food programs. The committee consensus was that nutrition education was a sound investment in the Nation's future, and that in the long run it would be worth its cost many times over. However, as a component of the committee bill, the cost of the nutrition education component is absorbed by savings made elsewhere.

Let me just briefly sketch in some of the major provisions of the legislation now before us.

SPECIAL MILK PROGRAM

In recent months the committee has become increasingly aware that schools and institutions, administrators and food service personnel have had serious difficulties administering the free milk provisions of the special milk program. These difficulties center in part around preserving the anonymity, or the privacy, of children receiving free milk. The committee bill will eliminate those administrative problems and, in the process, will save $30 million, while continuing to insure the availability of free milk during snack time for kindergartners and for schools without a school lunch program.

The Congressional Budget Office has estimated that this provision in the bill will save $30.7 million in fiscal year 1978 over current law.

I might just add parenthetically, Mr. President, that it is this savings, in what we believe will be an improved administration of the special milk program, which we will use to finance the cost of the child nutrition education program.

NUTRITION EDUCATION AND TRAINING

The first recommendation of the education panel of the White House Conference on Food in 1969 was to develop a comprehensive nutrition educational program for the Nation's schools.

Mr. President, that was 8 years ago. Still, we have no nutrition education program.

In fact, in fiscal year 1977 the only direct line item appropriation for nutrition education was $700,000 for nutrition education training and surveys. I think it goes without saying that $700,000 is not a nutrition education prgoram. It is not even a pilot program.

All members of our society could benefit from greater dietary knowledge and that, of course, is the fundamental purpose of this provision of the bill.

We need to understand, Mr. President, that the malnourished include not simply people who are hungry or underfed. The malnourished include those who are overweight, who fill up on what we call empty calories, those of us who consume too many processed foods, and those who may eat enough but eat the wrong kinds of food and do not have a balanced diet.

The malnourished, in fact, can include most of us and most of our children, and too many of those whom we consider healthy.

I regret to say that massive numbers of Americans are eating improperly, not because they cannot afford a better diet, but either because they are ignorant of what is needed to keep themselves healthy or are unwilling to follow the information they do have.

The ever increasing ranks of the malnourished require a new program of nutrition education, and this bill is a good beginning. It is the result of years of research and long hours of hearings and investigations. I have heard the mounting evidence of the seriousness of this problem. I believe this is the third year we have had a measure something along the line of this one introduced by me or other Members of the Senate.

We end up as a Nation losing billions of productive work hours, and needlessly spending tens of millions of dollars to repair ill health which could be prevented through better diet.

HEW predicts that health care expenditures will reach $230 billion by 1980. We establish intensive coronary care units to take care of people after they have had a myocardial infarction; but essentially, spend no money on the prevention of cardiovascular disease. We spend billions on the treatment of disease and illness after they have occurred, and virtually nothing on preventing them.

Health is not something to be achieved by medical care. It is something to nurture through good habits in nutrition, exercise, and sufficient rest.

Mr. President, I cannot think of any other program which would be as cost beneficial as the educational sector of this bill, especially when combined with other good food programs.

The total costs of the malnutrition, of over nutrition and poor nutrition are simply beyond calculation. Numbers might be able to calculate the premature loss of productivity. We can get some rough estimate of how many job hours are lost by people who are unable to work because of illness. No number can convey the human dimensions of an early death or a debilitating or crippling illness.

What we need are nutritionally literate consumers, who can adjust their food selections to a changing food supply, who can make wise decisions about dietary choices, and, most importantly, who understand the relationship between nutrition and health.

Tax dollars spent to give consumers a sensible, scientific guide as to how to spend their food dollars is an investment as well as an expenditure. It is an investment in our schools, our children, our system of health care, in ourselves, and in life itself. It is an investment with a dollars and cents return. Spending more for prevention now will mean less sickness and lower costs later.

Mr. President, this bill represents a major step forward, but it is also just the first step of many we must take. For example, any national health insurance system should reimburse schools for nutrition services to children, including nutrition education. Nutrition must be conceptually integrated with health care, for neither can be as effective separately as both could be together.

We must use the results of years of nutrition study and research to end the abuse and misuse of food. Industry advertises food out of self-interest. We can educate about food in the national interest.

We have the energy, the expertise, and the resources to start in the classroom. We can make the school lunchroom a laboratory for nutrition education. Nutrition education is among the most practical subjects the schools can teach. It is a skill that all Americans could apply everyday. This bill will help impart those important skills to children, so that as consumers they may choose nutritious and healthy foods.

SUMMER FOOD PROGRAM

The summer food program has undergone substantial criticism during the past year. There have been numerous allegations concerning program mismanagement, abuse, and fraud. Many of these problems have been attributed to the failure of the Department of Agriculture and the State to administer and monitor the program effectively. The Agriculture Committee was very concerned about these reports, and has, therefore, through S. 1420, attempted to prevent future program abuses.

The committee bill clearly spells out the Federal, State, and local responsibilities for the summer food program. The Secretary will have the authority and direction to administer the program in a manner which will reduce the potential for fraud and abuse.

Strict accountability requirements are imposed on both sponsors and vendors, food quality is stressed throughout, and fraud provisions are included. Authorization for the program is extended for 3 years, in order to provide the stability and continuity for effective budgeting, planning, and development of program standards. This program remains as an entitlement program.

Using CBO projections, current law continuation of the summer food program would have cost $251.2 million in budget authority for fiscal year 1978. The committee bill has been estimated by CBO to cost $240.9 million—or a savings over current law continuation of $10.3 million.

Two other important components of the Committee bill should be mentioned. A new formula for the distribution of State administrative moneys is established. The formula for distribution, and the resulting increase in moneys avail-

able under this section, will provide the States with more money to effectively administer the additional responsibilities imposed on the States by child nutrition legislation passed in the last 3 years. The cost of this section for fiscal year 1978—$4 million—is absorbed by savings made elsewhere.

In addition, the committee bill returns to the Secretary of Agriculture the authority to regulate the sale of competitive foods. Many parents, food service personnel, nutritionists, school administrators, and teachers believe the Secretary should have the authority to regulate the sale of competitive foods, especially nonnutritious foods, that directly compete with the nutritious meals the Federal Government attempts to make available through the child nutrition programs.

Mr. President, I believe S. 1420 is a fine example of the Agriculture Committee's commitment to making reforms, revisions, updates and additional improvements in our child nutrition programs. This has been done without increasing the total expenditures in child nutrition programs, and in fact produces an estimated $6 million savings.

I am looking forward to working with the new Administration on the continual improvement of all our food and nutrition programs. It is my strong hope that these programs will be viewed in a totally different light and will be given much more commitment and attention than we have witnessed from previous administrations in recent years.

SPECIAL MILK PROGRAM

In 1973, the Congress passed an amendment to the National School Lunch Act, the special milk program, which stated that:

> Children that qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk.

This provision has created serious administrative problems for schools and institutions participating in the special milk program.

These administrative problems revolve around the fact that children receiving free milk must be assured anonymity, which is exactly the same requirement as in the school lunch and breakfast program. School administrators and food service personnel claim that even after the administrative actions have been taken and costs incurred it is still quite obvious that some children receive two milks on their lunch tray and others receive only one. In addition, there is the question of whether children will actually consume two free milks at lunchtime.

The Department of Agriculture in a preliminary report entitled "Impact of the Free Milk Provision on the Special Milk Program," states that between January 1974 and January 1975, over 4,300 schools with a total enrollment of over 2.3 million students discontinued participation in the special milk program. Almost 80 percent of these schools were at the elementary level. This hurts not only those children eligible for free milk, but also those children paying a small price for milk.

S. 1420 will eliminate the administrative problems, while continuing to insure the availability of free milk for snack times and kindergartners. Also, milk for schools without a school lunch program will continue to be available.

The Congressional Budget Office has estimated that these changes will save $30.7 million in fiscal year 1978 over current law.

NUTRITION EDUCATION

The first recommendation of the education panel of the White House Conference on Food in 1969 was to develop a comprehensive nutrition education program for the Nation's schools. It is 8 years later, and still we have no nutrition education program. In fact, in fiscal year 1977, the only direct line item appropriation for nutrition education was $700,000 for nutrition education training and surveys.

All members of our society could benefit from greater dietary knowledge. Too many of us eat enough, but still are not well fed.

The malnourished include those who are overweight, who fill up on empty calories, and those of us who consume too many processed foods and an unbalanced diet. The malnourished can include most of us, most of our children, and too many of those whom we consider healthy.

The ever-increasing ranks of the malnourished require a new program of nutrition education. This bill is a good beginning. It is the result of years of research and long hours of hearings and investigations. As chairman of the Senate Select Committee on Nutrition and Human Needs, I have listened to the range of experts. I have heard the mounting evidence of national malnourishment.

In testimony before the select committee in 1972, Dr. George Briggs, professor of nutrition at the University of California, Berkeley, estimated, based on a study by the Department of Agriculture, that improved nutrition might cut the Nation's health bill by one-third. The Department of Health, Education, and Welfare's "Forward Plan for Health, Fiscal Years 1978–82" reports that health care expenditures in the United States in fiscal year 1975 totaled about $118.5 billion and predicts the cost could exceed $230 billion by fiscal year 1980.

We end up, therefore, spending billions of dollars wastefully. We establish intensive coronary care units to take care of people after they have had a myocardial infarction; but, essentially, spend no money on the prevention of cardiovascular disease. Health is not something to be achieved by buying medical care; it is something to nurture through good habits of nutrition, exercise, and sufficient rest.

I cannot think of any other program which would be as cost beneficial as nutrition education, especially when combined with food programs. The total costs of the new malnourishment are beyond calculation. Numbers may be able to calculate the premature loss of productivity. No number can convey the human meaning of an early death or a debilitating illness.

What we need are nutritionally literate consumers who can adjust their food selections to a changing food supply, who can make wise decisions about dietary choices, and most importantly who understand the relationship between nutrition and health.

A tax dollar spent to give consumers a sensible, scientific guide to spending their food dollars is an investment as well as an expenditure. It is an investment in our schools and our children, in our system of health care, in ourselves, and in life itself. It is an investment with a dollars-and-cents return. Spending more for prevention now will mean less sickness and lower costs later.

This bill represents a major step forward. But it is also just the first step of many we must take. For example, any national health insurance system should reimburse schools for nutrition services to children, including nutrition education. Nutrition must be conceptually integrated with health care—for neither can be as effective separately as both could be together.

We must use the results of years of nutrition study and research to end the abuse and misuse of food. Industry advertises food out of self-interest. We can educate about food in the national interest.

We have the energy, the expertise, and the resources to start in the classroom. We can make the school lunchroom a laboratory for nutrition education. Nutrition education is among the most practical subjects the schools could teach. It is a skill that all Americans could apply every day.

This bill will help impart those important skills to children, so that as consumers they may choose nutritious and healthy foods.

SUMMER FOOD PROGRAM

The summer food program has experienced substantial criticism during the past year. There have been numerous allegations concerning program mismanagement, abuse, and fraud. Many of these problems have been attributed to the failure of the Department of Agriculture and the State to administer and monitor the program effectively. The Agriculture Committee was very concerned about these reports and has, therefore, through S. 1420, attempted to prevent future program abuses.

The committee bill clearly spells out the Federal, State, and local responsibilities for the summer food program. The Secretary will have the authority and direction to administer the program in a manner which will reduce the potential for fraud and abuse. Strict accountability requirements are imposed on both sponsors and vendors, food quality is stressed throughout, and fraud provisions are included. Authorization for the program is extended for 3 years, in order to provide the stability and continuity for effective budgeting, planning, and development of program standards. This program remains as an entitlement program.

The Senate Nutrition Committee has focused special attention on the problems experienced in the summer food program. The committee has spent many hours with administrators, local officials,

advocates, and vendors involved in the program. Visits have been made to various programs throughout the country. This legislation is a product of that concerted effort. Following are some of the major revisions and clarifications the committee bill makes in the summer food program:

First. Sponsors who have been seriously deficient in past program operations or who cannot demonstrate adequate administrative and financial responsibility will not be eligible for program participation. Sponsors must also offer a year-round service to the community, unless such sponsors are the only institutions available to serve needy children.

Second. Much stronger vendor controls are imposed. All vendors would be required to register with the State agency, disclosing their corporate status, their meal production capability, their past relationship with the program, and to certify that local health, safety, and sanitation standards have been met. The USDA will be required to keep a central registry of all vendors, so that States will have access to vendor performance records.

Third. USDA is given the authority to modify the reimbursement rate structure, which is now part of the program, after thorough study of food cost operations, site costs and administrative costs.

Fourth. Limitations are placed on the amount of advance credit any sponsor may receive.

Fifth. The funding formula for administrative expenses is restructured.

Sixth. A requirement for competitive bidding and a standard form of contract is imposed.

Seventh. A requirement that model meal quality specifications and food standards be included in all contracts is imposed.

Eighth. Priority is placed on sponsors who prepare meals on-site and in schools.

Ninth. Reimbursements for food costs to summer camps will be made only for those children eligible for free or reduced price meals.

Tenth. Earlier publication of regulations, guidelines, and handbooks is mandated.

Eleventh. Tough criminal penalties for fraud are implemented.

Current law continuation of the summer food program would have cost $251.2 million in budget authority for fiscal year 1978. The committee bill has been estimated by CBO to cost $240.9 million—or a savings over current law continuation of $10.3 million.

Mr. President, I ask unanimous consent that a document concerning cost estimate, prepared by the Congressional Budget Office, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Cost Estimate (C.B.O. Figures)

[Fiscal year 1978 in millions]

Budget authority:	
Summer food program (—10.3)	*$240.9
Special milk program	—30.7
School breakfast program	3.3
State administrative expenses	4.0
Nutrition education	27.7
Total	189.8

*Because the authority expires for this program at the end of FY '77, the cost estimates show the full cost of the program. Under current law, program costs would have been $251.2 million. The Committee bill reduces the cost of the Summer Food Program by $10.3 million.

Over current law the costs and savings are as follows:

Summer food	—$10.3
Special milk	—30.7
School breakfast	3.3
State administrative expenses	4.0
Nutrition education	27.7
Total	—6.0

Mr. McGOVERN. The committee bill extends the authority for commodity purchase under section 14(a) of the National School Lunch Act through 1982. This authority has been used as a "standby" authority for the Secretary to purchase commodities in case of insufficient supply from other sources.

In addition the committee bill authorizes appropriations for the purchase of commodities for elderly nutrition projects under title VII of the Older Americans Act. This authority reflects the committee intent that funding for such commodities as are necessary to maintain traditional levels of support should come from direct appropriations when made available. If direct appropriations are not made available for this purpose, the committee bill provides that permanent—section 32—appropriations must be used to finance the necessary commodities. Thus the bill insures the necessary commodities will be purchased.

S. 1420 also requires the Department of Agriculture to establish procedures to improve commodity distribution, solicit and utilize the views of States and school districts with respect to the types, timing, and quantities of commodities needed.

The date by which the Department of Agriculture must make final estimates on commodity deliveries is moved from February 15 to May 15.

STUDY OF KANSAS CASH-IN-LIEU PROGRAM

The committee bill directs the Department of Agriculture to study the impact of cash in lieu of commodities (Kansas) in comparison to a State receiving commodities. The study is to include an assessment of the administrative feasibility and nutritional impact of cash payments in lieu of commodities; the cost implications thereof, including additional costs imposed; the impact on Federal agricultural programs; and the impact on quality of food and plate waste.

STATE ADMINISTRATIVE EXPENSES

In recent years, the Congress has imposed additional administrative burdens on the States. The funds appropriated for State administrative expenses, however, did not increase in proportion to these new administrative requirements; nor did they increase in proportion to overall expenditures in child nutrition programs.

To insure effective administration and adequate accountability in State administration, it is important that an adequate level of Federal assistance be provided. The committee bill, therefore, provides that State administrative expenses be based on a percentage of funds utilized by the State for the school lunch program, child care food program, school breakfast program, special milk program, and equipment assistance in the second previous fiscal year preceding the fiscal year for which administrative expenses are to be paid. This percentage is 1 percent in fiscal year 1978, and 1½ percent in fiscal years 1979 and 1980.

This section also requires the Secretary of Agriculture to develop State staffing standards. These standards would act as guidelines to the States in making sure that adequate staff are available for the administration of these programs.

COMPETITIVE FOODS

Parents, food service personnel, nutritionists, school administrators, teachers, and Members of Congress have expressed great concern over the sale of competitive foods in schools. These concerns are based on the belief that the sale of nonnutritious foods during school hours contributes substantially to increased plate waste, low participation in the school lunch program, and an increase in the consumption of nonnutritious foods in schools.

It is counterproductive for the Federal Government to attempt to provide nutritious, health-supporting meals through the child nutrition programs, and, at the same time, permit foods of low nutritional value to compete directly with nutritious meals.

The Los Angeles school district nets over $4 million annually from candy and pop sales. At the same time, the Nation spent over $1.5 billion in fiscal year 1976 for dental services for children.

The committee bill would restore to the Secretary of Agriculture the authority to regulate the sale of competitive foods. The bill would permit the sale of nutritious foods, such as fruits and vegetables, dairy products, pure fruit and vegetable juices, eggs, poultry, meat and other foods determined to be nutritious.

The Secretary would have the authority, however, to regulate the sale of foods of limited nutritional value. The general category of foods that have limited nutritional value includes gum, candy, pop, and foods that, event though they may be fortified with vitamins, are too high in sugar and caloric content to be wholesome. Foods such as fruit juices, fruits, vegetables, and so forth, can provide quick energy, fiber, and nutrients without contributing to tooth decay and obesity.

Restoration to the Secretary of the regulatory authority over competitive foods will help point out the role of good nutrition in health care, and help instill good future eating habits in children.

Mr. President, I believe S. 1420 is a fine example of the Agriculture Committee's commitment to making reforms, revisions, updates, and additional improvements in our child nutrition programs. This has been done without increasing the total expenditures in child nutrition programs, and in fact produces an estimated $6 million savings.

I am looking forward to working with the new administration on the continued improvement of all our food and nutrition programs. It is my strong hope that these programs will be viewed in a totally different light and will be given much more commitment and attention than

we have witnessed from previous administrations in recent years.

I did want to add one item on a matter that has been of concern. That is the summer food program, Mr. President, just to stress the fact that we are aware of the unfavorable publicity that was associated with some abuses of that program. We think this bill speaks directly to that problem in such a way as to correct the difficulty.

Mr. President, as I said before, a key figure in all these deliberations on nutrition and agriculture has been the distinguished chairman of our committee. It has been my privilege to serve on that committee now for almost 15 years. I yield to our distinguished chairman, at this point, such time as he may need.

Mr. TALMADGE. I thank my distinguished friend, the chairman of the subcommittee and the floor manager of the bill.

Mr. President, I rise in support of S. 1420, the Child Nutrition Act of 1977.

Pursuant to Senate Resolution 4, the name of the Committee on Agriculture and Foresty was changed to the Committee on Agriculture, Nutrition, and Forestry. This change in name simply recognizes the work that the committee has been engaged in over the years in the areas of the child nutrition programs and the food stamp program.

This year, the committee established a new Subcommittee on Nutrition chaired by the distinguished Senator from South Dakota (Mr. McGOVERN). S. 1420 is the first legislation that the Nutrition Subcommittee has developed, and it is a fine beginning.

S. 1420 makes needed changes in the summer food service program for children to eliminate program abuses and otherwise strengthen the administration of the program. The summer program is extended for 3 years.

The Secretary's authority to purchase agricultural commodities for donation to the child nutrition programs, when acquisitions under other agricultural authorities are not available, is extended for 5 years, fiscal years 1978–82. The bill also requires the Secretary to establish procedures to assure that donations of agricultural commodities to the child nutrition programs are more responsive to the problems and needs of local school districts.

Revisions are also made in the special milk program, the school breakfast program, the food service equipment assistance program, and the provision authorizing appropriations for State administrative expenses.

A study of cash in lieu of commodities is mandated.

A nutrition education and information program is authorized by section 11 of the bill. Grants would be made to State educational agencies for the purpose of encouraging effective dissemination of scientifically valid information about food and nutrients to children participating in the school lunch related child nutrition programs.

S. 1420 is balanced legislation which recognizes the link between American agriculture and the child nutrition programs.

The provisions of the bill will help assure the continued vitality and improvement of the programs.

I urge my colleagues to join me in supporting S. 1420.

I wish to have the attention of both the distinguished manager of the bill and the ranking minority member for the purpose of making some legislative history.

I realize that there is a great deal of concern among State education officials regarding the provision in S. 1420 allowing the Secretary of Agriculture to establish staffing standards and patterns for the State administrator of these programs.

Mr. Jack P. Nix, the Georgia State superintendent of schools, has conveyed his concerns over the provision to me. It was certainly not the committee's intent to disrupt on-going successful State education programs. I can appreciate Mr. Nix's apprehension over the provision.

I would like to ask the distinguished Senator from South Dakota and the distinguished Senator from Kansas if it is the intent of this provision to impose excessive staffing requirements on the States? For instance, requiring one supervisor for each child nutrition program or one supervisor for each school district.

Is it the intent of this provision to disrupt successful child feeding programs as we have in the State of Georgia?

Mr. McGOVERN. Let me say to the Senator from Georgia, first of all, that he is quite correct about the operation of these programs in Georgia. It is one of the best-run programs in the Nation.

The staffing standards requirement provided for in the bill is not a rigid one. The requirement is designed, actually, to assist the States in doing a better job in administering these programs. Obviously, not every State will have the same staffing needs. There is no arbitrary standard that is set in this bill that every State has to comply with. These guidelines could be and should be adapted, on a State-by-State basis, to meet the local needs and the local concerns of that State.

There is no set number of administrators that is going to be required. The director of the program at the Department of Agriculture may make suggestions that, for so many thousands of students participating in a program, there needs to be an auditor, or there needs to be somebody to monitor the program. But nowhere does the legislation attempt to spell out rigid or arbitrary standards that would be a burden on the States. Quite to the contrary, this ought to make it easier for the States to do an effective job.

Mr. TALMADGE. Does the distinguished Senator from Kansas share that view?

Mr. DOLE. The Senator from Kansas does share that view and shares, of course, the general concern expressed by the distinguished chairman of our committee.

As I look at it, State staffing standards should serve as guidelines to States as to how many personnel are necessary to administer a program, without any imposition of whom they might be or by whom they would be filled.

For example, I think the Secretary could establish a guideline which says that, for every 500 schools in the lunch program, the State must have one field representative and one auditor. He could establish a standard which says that for every 10,000 participants in the summer food program there should be a full-time, year-round position. But I do not look upon this as any effort for the Federal Government to come in and take over what, in the Senator's State and my State and other States, is a successful operation.

The PRESIDING OFFICER (Mr. CHILES). The Senator's 5 minutes have expired.

Mr. McGOVERN. I yield another minute.

Mr. TALMADGE. Even if this provision were removed from the bill, would not the Secretary still have the power to refuse the State plan of operation if adequate staffing was not provided by the State?

Am I correct in my assumption that the Secretary's standards would only be minimum staffing standards?

Mr. McGOVERN. Yes, the Senator is correct. This simply points up the need for closer attention by the Department to see that the kind of abuses that developed in the summer food program do not happen again.

Mr. TALMADGE. Does the Senator from Kansas concur in the views of the distinguised floor manager of the bill?

Mr. DOLE. Yes, I concur completely in that statement.

Mr. TALMADGE. I thank both my colleagues. I concur fully in the statements they have made, to establish this legislative history, that we do not want any unwarranted interference from Washington with State school operations.

At this point, I ask unanimous consent to have printed in the RECORD a letter addressed to me by Carol Tucker Foreman, Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C.

HON. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN. The Department has been advised that when S. 1420 reaches the Senate floor, an amendment may be offered to remove the provision authorizing state standards for administration. We are opposed to such an amendment. The federal government provides states with large sums of money through openended entitlement programs. The federal government further provides states with funds to help defray a significant portion of the costs of administration. We believe it is entirely proper for the Department to prescribe minimal standards for state administration in order to help assure that these federal dollars are spent efficiently and effectively. We would note that the food stamp title of the farm bill recently passed by the Senate (S. 275) contained such standards for state administra-

tion for precisely these same reasons. We believe it would be inconsistent to provide for such standards in S. 275 but to delete them in S. 1420.

We should note that it would not be our intention to overregulate the states, or to tell a state what to do with each employee. We seek only to establish broad basic standards to assure proper administration and proper use of federal funds.

The Office of Management and Budget advises that there is no objection to the transmittal of this letter from the standpoint of the Administration's program.

Sincerely,

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

Mr. ALLEN. Will the Senator yield?

Mr. McGOVERN. I wonder if the distinguished Senator from Kansas would yield on his time, since I think I have used about all of the majority's time.

Mr. DOLE. I am happy to yield to the distinguished Senator from Alabama.

Mr. ALLEN. I want to pursue this matter a little bit farther that has been raised by the distinguished chairman of the committee.

I am wondering about the language that was in the Senate bill, as introduced, which was on page 28, section 7(f), which says that each State agency shall submit to the Secretary for approval by October 1 of each year an annual plan for the utilization of State administration expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

I would think that provision would be adequate and that the language of the House bill, which I believe is in the committee version of the bill, saying that the Secretary is directed to develop State staffing standards for the administration by each State of sections 4, 11, and 17, National School Lunch Act, and sections 3, 4, and 5 of the Child Nutrition Act of 1966.

That would seem to me to give a Secretary authority to set up State staffing standards of a uniform nature and it would allow the State agency to have the flexibility that might be desired or might be more practical.

I wonder if it would not be sufficient for the Secretary to have the power that is conferred in section 7(f) of the bill as introduced under which the State agency submits to the Secretary for approval by October 1 each year an annual plan, but that would not allow the State agency to have a more flexible plan. They might approve something in a particular State that had worked well and would not require the State agency to conform to a uniform standard that might not work as well in a particular State.

Mr. McGOVERN. Let me say to the Senator from Alabama, I do not feel that either formula is going to destroy the bill. I could live with this legislation either way. But I do think that the committee language is somewhat better. It certainly does not preclude, and as a matter of fact, I do not see any other way it can work than for the Secretary to confer with the States in developing these guidelines.

It would be subject to the usual rulemaking procedures where we have a give and take between the State agency that is going to run the program, or various agencies that are going to run it, and the Department of Agriculture.

We are simply calling on the Department to develop a more systematic way of handling this program.

As the Senator may recall, one of the reasons for this State staffing standard requirement was the abuses that developed in the summer feeding programs where we found that there was, I think, a kind of negligence on the part of both the States and the Federal Government in really thinking through the kind of guidelines that would insure an effective operation.

The PRESIDING OFFICER. All time of the Senator from South Dakota has expired.

Mr. McGOVERN. We yielded on the time of the minority. Maybe the Chair did not hear but I asked that this last colloquy be yielded out of the time of the minority.

In any event, I point out to the Senator from Alabama, with due respect to the concern he is expressing, that these child nutrition programs now cost in excess of $3 billion, and I think, with that many Federal dollars flowing into the States, the Department really ought to assume some obligation in trying to think through at least suggested staffing guidelines that they would work out in conjunction with the States.

I hope we have made the legislative history very clear here that we are not going to permit the Federal Government to veto the appointment of particular people. We are not going to interfere with the appointive power of State and local governments, but simply to lay out as commonsense a series of guidelines to help make this a more efficient program.

Mr. ALLEN. Would it be possible then for one State to suggest a plan that would be approved by the Secretary that would differ in material respects from the plans of other States?

Mr. McGOVERN. Absolutely.

Mr. ALLEN. If they had been found to work satisfactorily in a particular State, it would be the Senator's understanding that such plan, at variance with the norm, so to speak, might well be approved?

Mr. McGOVERN. Absolutely.

I hope that the Senator's colloquy here today with me will help make that clear to the administrators of the program, that we are not suggesting rigid standards, but should develop in consultation with the States, a workable way to administer these programs.

Mr. ALLEN. In other words, what might be needed in New York, Texas or California, might not be what was needed in Alabama?

Mr. McGOVERN. I would think it not only might not be needed, but probably would be a different situation.

Mr. ALLEN. That is correct.

And it would not be the contemplation of the Senator that the bill would require the same system as to each State, is that correct?

Mr. McGOVERN. That is correct.

There would be certain minimal guidelines that I assume the Secretary would work out in consultation with the States, just as they did on the food stamp program.

The Senator will recall we mandated that.

Mr. ALLEN. Yes.

Mr. McGOVERN. We said there were certain abuses in the program and there would have to be certain things done.

That is what we are trying to do here.

Mr. ALLEN. The Secretary would take into account a particular system had worked well in a State submitting a plan.

Mr. McGOVERN. Absolutely.

Mr. ALLEN. Therefore, he might approve something and that would differ from what he might approve in another State.

Mr. McGOVERN. That is my understanding of our intent.

Mr. ALLEN. And it would be recognized that what is sought is to have a State plan operated by local people under plans that they think would do the best job with the least redtape?

Mr. McGOVERN. Yes.

Mr. ALLEN. And with the most efficiency.

Mr. McGOVERN. I have the same understanding the Senator does.

Mr. ALLEN. And the greatest economy, is that correct?

Mr. McGOVERN. That is correct.

And any guidelines that the Department would put out would have to be printed in the Federal Register for reactions and approval, the same as any other rulemaking procedure.

Mr. ALLEN. Would it be the thought of the Senator that the Secretary would name certain slots that had to be filled?

Mr. McGOVERN. No, that would not be my understanding.

Mr. ALLEN. In general, what would be covered by a State plan, that is, as promulgated by the Secretary?

Mr. McGOVERN. The main guidelines, as I see it, and I think the Senator can appreciate that it is difficult to spell out everything in advance that the Department might arrive at, but I would suggest, for example, if we have as many as 10,000 students participating in a summer feeding program, the State ought to provide at least an auditor to look at that program and to keep it under control, to manage the funds, in other words, and to minimize the danger of fraud.

If some States feel more than that is needed or want to make the case in a particular instance somewhat less than that, I see no reason why that could not be done.

Let me just read the Department's position on this to the Senator, if he will defer to me.

Mr. ALLEN. Yes.

Mr. McGOVERN. Carol Tucker Foreman, the Assistant Secretary for Food and Consumer Services states in a letter which I will read only a part of:

We believe it is entirely proper for the Department to prescribe minimal standards for state administration in order to help assure that these Federal dollars are spent efficiently and effectively. We would note that

the food stamp title of the farm bill recently passed by the Senate (S. 275) contained such standards for state administration for precisely these same reasons. We believe it would be inconsistent to provide for such standards in S. 275 but to delete them in S. 1420.

That is the bill now before us.

Yet in all of my conversations with the Department, they have stressed they are not trying to build in redtape or upset a good ongoing State program.

In fact, they would be relieved to find programs functioning well that do not require anything further.

Mr. ALLEN. In other words, there is no desire or effort to circumvent the established Government structures as determined by the people and in the State legislatures in the various States?

Mr. McGOVERN. That is correct.

Mr. ALLEN. If we do have a truly State-administered program, why is it necessary that national standards be established for the administrative framework within each State, especially in view of the fact that the Senate language would have given the Secretary the authority to approve State plans which have to be submitted annually? Why would he need the additional authority?

Mr. McGOVERN. As I said to the Senator, I do not think it is a life-and-death matter. It is a case of where we have built this program up to a point now where it involves an expenditure of some $3 billion annually. I think the people of the country would feel better, when we are handing out that much Federal money, if we at least gave the Federal agency that is administering those funds the responsibility to see that some minimum guidelines are adhered to. But I assure the Senator that I do not think anyone envisions those guidelines being carried to the point where they would disrupt a good ongoing State program. I do not see why they cannot provide for more diversity in the way the program is run.

Mr. ALLEN. In other words, would it be possible that a State plan that is equal to or better than the plan promulgated by the Secretary might well be accepted, even though it was not entirely in line with the guidelines?

Mr. McGOVERN. I think that is a fair interpretation.

Before the Senator came to the Chamber, I was making the point that the State of Georgia is noted all over the country for having an outstanding child nutrition program. It is one of the best run that I know of anywhere in the country. I cannot conceive of the Department of Agriculture interfering with the operation of that one. It may be that Alabama has one just as good.

Mr. ALLEN. I think they do.

Mr. DOLE. Mr. President, I do not want to cut off the Senator from Alabama, but I have not made my opening statement.

I refer the Senator from Alabama—perhaps it is not a good suggestion—to page 65, subparagraph (b), where it says, "The Secretary shall develop State staffing standards."

Mr. ALLEN. Yes.

Mr. DOLE. I am speculating. If the language said, "The Secretary, in cooperation with the several States, shall develop State staffing standards," would that be enough emphasis? I think everyone understands, as the distinguished chairman has pointed out, that some States are different. Certainly my State of Kansas and the Senator's State of Alabama are much different from the State of New York.

Mr. ALLEN. Yes.

Mr. DOLE. That would insure, if we have not done it by the legislative history, that that is what we intend.

Mr. ALLEN. I think that would be helpful, of course. I still do not think it would answer the problem I have outlined. Is the Senator suggesting that that be added?

Mr. DOLE. I am just suggesting that it might be a possibility. I would not have any objection. I have not discussed it with the distinguished Senator from South Dakota.

Mr. McGOVERN. There is no problem. I see no problem with adopting that, if it will reinforce the colloquy I have had with the Senator from Alabama.

Mr. ALLEN. Will that be added, then?

Mr. DOLE. Yes. The Senator from Kansas will draft that amendment and send it to the desk.

Mr. ALLEN. It is also part of the legislative history that the guidelines would not impose standard procedures and mechanics and a staffing structure that would not permit a variation in the various States. That is correct, is it not?

Mr. McGOVERN. That is correct.

Mr. ALLEN. The Senator has given some good assurances to allay some of my fears that the States will not be able to have truly State-administered programs, but that the Federal Government, in effect, will be taking over the State administered programs and mandating requirements that are not necessary and that are not in line with the thinking of the State agency.

I had planned to offer an amendment knocking out the House language which is now in the Senate committee bill and going back to the Senate bill provision. The floor manager of the bill would not be willing to go back to the Senate bill language, requiring the language "presentation and approval of a plan." Would that not accomplish the same thing?

Mr. McGOVERN. I say to the Senator that I prefer to stick with the language now, with the understanding we have.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, the Child Nutrition Act of 1977 increases the funding to the States for administrative expenses to insure that the States will have the adequate resources to administer the national school lunch program. However, this legislation, without the modification that emerged from the colloquy involving the Senator from Georgia and the Senators from South Dakota, Kansas, Alabama, and North Carolina, would have gone too far beyond providing additional funds for the administration of the program in section 7(b) by requiring the Secretary to develop national State staffing standards for the administration by each State of the national school lunch program.

Mr. President, I am not aware of any other Federal legislation that mandates the Secretary of HEW or the U.S. Commissioner of Education to set State staffing standards. Federal education programs, however, do require State plans to outline how the States will administer the programs and give the Commissioner of Education the authority to disapprove any plans that do not meet the purposes of the authorizing statutes.

Section 9(f) of S. 1420 requires each State to submit an annual plan for the utilization of State administrative expenses including a staff formula for personnel. The Secretary of Agriculture is given the authority to approve or disapprove any plan that he determines is inadequate. Requiring the States to submit a plan for administering this program and authorized the Secretary of Agriculture to withhold funds if the objectives of this act are not met, negates the need for section 13(1)(2) and section 7(b). The Secretary has ample authority to insure that the program is properly administered.

These two sections do not consider that each of the 50 States has different staffing and personnel policies and that currently in many States there are hiring freezes. These sections involve the Federal Government more directly in the State administration of the program and establish an unwarranted precedent. Giving the Secretary authority to sign off on State plans allows the Federal Government to recognize State difference without attempting to legislate national State standards.

The issue before the Senate is simply: Should the Federal Government become more involved in administration of the school lunch program or should the Congress allow each State to continue to administer the school lunch program without national State staffing standards as it has done in the past? I believe that the legislative history made on this point, during the colloquy here this morning, will take care of the situation. The Secretary of Agriculture will know the will and intent of the Senate and will, I am sure, be governed by it.

Mr. President, I had intended to call up amendment No. 483, which would allow each State to continue to develop its own staffing standards, rather than requiring the Secretary of Agriculture to develop national State staffing standards for the administration of the national school lunch program as required by S. 1420.

The colloquy that has ensued on the floor appears to give me sufficient assurance that we will be protected on that. Therefore, I will not call up that amendment. I thank the distinguished Senator from South Dakota for making clear in the RECORD the legislative history on this point.

Mr. McGOVERN. I thank the Senator from North Carolina.

Mr. President, I ask unanimous consent that the amendment of the Committee on Agriculture, Nutrition, and Forestry to S. 1420 be agreed to and that the bill, as amended, be considered as

original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture be allowed the privilege of the floor during the consideration of this bill and all rollcall votes thereon: Mike McLeod, Carl Rose, Karen Schubeck, Steve Storch, Dale Sherwin, Alan Stone, Lori Hansen, and Lenora Moragne.

I make the same request with respect to Mr. Joe Kenny, of Senator HUMPHREY'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Kansas has 12 minutes, and the Senator from South Dakota has 1 minute.

Mr. DOLE. Mr. President, today we are considering a bill which demonstrates how this body can constructively amend existing law in order to improve the efficiency and effectiveness of federally supported programs. The bill amends the School Lunch Act and Child Nutrition Act of 1966.

Over the past several years, our staffs have worked diligently to put together an impressive package, designed to strengthen the administrative procedures and nutritional impact of the child nutrition programs. I commend our distinguished committee chairman, Senator TALMADGE, and the distinguished Senator from South Dakota, who has been in the forefront of the campaign on nutrition for many, many years. I also commend the members of the staff for their effective assistance, those mentioned by the Senator from South Dakota as well as Dr. Moragne, Mary Wheat, and others who have worked long and hard on this legislation.

There is one provision in this bill which I think may stir up some controversy. It is a provision that the distinguished Senator from New Jersey (Mr. CASE) has had a long-time interest in, one which I introduced in the subcommittee—the Case amendment.

THE SALE OF COMPETITIVE FOODS

A provision of this bill which I have particular interest in, one which I introduced in subcommittee, gives back to the Secretary of Agriculture the authority to regulate the sale of foods sold in competition with school meals.

This authority to regulate is being returned to the Secretary because prior to 1972 the Department of Agriculture, and thus school cafeteria personnel, were responsible for regulating the sale of foods sold in schools participating in the national school lunch and school breakfast programs.

Both these programs offer students high quality, nutritious meals based on standards set by the Department. My concern is that too often a student does not get the full benefit of these nutritious meals. Too often a student gives up his half dollar and his appetite en route to the cafeteria.

This provision—commonly referred to as the Case/Dole amendment—seeks to provide some semblance of sanity or guidance to the kinds of foods available for that student to purchase. Is the food being sold going to compete with the well balanced food items the child nutrition programs are providing? Or, is the food being sold going to support and enhance the nutritional benefits of these programs.

PROVISION FOR NOT AGAINST

It is important for us to realize that in spite of what many individuals and groups have tried to lead the public to believe about this competitive foods provision, it is not against anything. It is not against vending! It is not against confections! It is not against selling foods in schools for revenue purposes.

The provision is for everything. It is a positive venture. It is for bringing order back into the process of selling foods in schools participating in the federally supported school meals. It is for insuring the sale of foods that support and enhance the nutritional quality of school meals.

THE DENTAL PROFESSION IS CONCERNED

Correspondence from the dentists and dental hygienists—professionals well versed in the causes of dental cavities and caries—reiterate over and over again their concern about the large quantity of confections or so called "empty calorie" foods being sold in our school corridors, locker rooms, gym floors, and study halls.

I found it rather alarming to learn that although 1 American in 2,000 is completely free of tooth decay and remains so, every year America's dentists fill half a billion cavities and another billion teeth with cavities remain unfilled for one reason or another. Some 25 million Americans have lost all their teeth by middle age; another 25 million will have lost half their teeth.

I think we will all agree these are sobering statistics, and it certainly suggests an urgent need for taking preventive measures where we can. What better place to start than in our schools?

Mr. President, for the RECORD, I would like to submit some figures which let one compare: First, fiscal 1976 appropriation figures for child feeding programs; and second, 1976 costs of health care with; third, 1976 manufacturers' wholesale cost figures for three common confections. Just let me recite one or two: Dental services for children 19 years of age and under in fiscal year ending June 1976 amounted to $1.5 billion. That same year we spent $2.9 billion in wholesale costs for candy. We spent $580 million on the school lunch program in fiscal year 1976. We spent $576.4 million in wholesale cost figures on chewing gum in 1976.

I ask unanimous consent that this table be placed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

A. Appropriations for child feeding programs, fiscal year 1976 figures

All child nutrition programs (billion)	$3.3
School lunch program (million)	580.0
School breakfast program (million)	184.0

SOURCE.—CRS.

B. Public health care expenditures, year ending June 30, 1976—For children 19 years old and under

[In billions]

Hospital care	$5.2
Physicians' services	5.1
Dentists' services	1.5

For the total population, comparable 1974 national health care costs are $43.5 Billion, $20.7 Billion, and $7.1 Billion respectively.

SOURCE.—U.S. Social Security Administration, 1976.

C. Manufacturer sales figures—1976—wholesale not retail figures

Soft drinks (1975) (billion)	$9.4
Candy (billion)	2.9
Chewing gum (million)	576.4

SOURCE.—U.S. Census Bureau.

Mr. DOLE. So I only cite these figures to indicate we do have a problem that should be addressed, a problem that is being addressed by the inclusion of the Case amendment in this legislation.

If we look at all the child nutrition programs, $3.3 billion, they amounted to only one-third of the wholesale prices paid out for soft drinks, $9.4 billion. We are looking at a massive food program. But if you compare that with what we spend alone for soft drinks in America—and I am not quarreling with anybody in that business, I am suggesting we do have a need to at least try to make our children understand the necessity for eating balanced, nutritious meals, and not so much of the other.

Appropriations for school lunch alone, $580 million, almost equalled the wholesale price for chewing gum—not the retail price but the wholesale price. The cost for services from dentists for children under 19 years of age, as I indicated, is about $1.5 billion, about one-half the wholesale cost figures received for candy that same year. If we add the retail price it would be much, much higher.

I just suggest there is a need to reassess the priorities and take a close look at preventive health care measures which can be taken in the child feeding programs.

When we are talking about Government involvement and Government expenditures, Government control or whatever, if the Government is going to spend $3 or $4 billion on school feeding programs, we ought to make certain that the food is being eaten and not thrown away. We have had story after story in the Chicago Tribune and other papers which talk about millions and millions of dollars in so-called plate waste, where young students and other students decide it is better to have a candy bar and a soft drink rather than eat some meal that is subsidized by the Federal Government.

I am not suggesting that in every case they may not have made the right choice. Maybe the way the food was

prepared, maybe there was not much of an alternative, but we are hoping in this bill, with funds for training cafeteria personnel, funds for nutrition education, that we will go a long way in remedying some of the faults and some of the defects in the program.

If it does not taste good we do not eat it ourselves, so we cannot ask our children to eat it just because some benevolent Federal Government is subsidizing the program.

NUTRITION EDUCATION FOR THE STUDENTS AND TEACHERS

The nutrition education section of this legislation is long overdue. Some here may have heard me say before—it is a concept whose time has come. The bill calls for providing refresher courses for teachers on the principles of teaching nutrition and teaching nutrition to students.

Food selection begins early in life. Food selection is basic to life itself. Nutrition scientists tell us that what we choose to eat helps determine our nutritional status, and influences our growth and development and general well-being. You are all aware of much testimony presented to the Select Committee on Nutrition, on diet-related disease due to poor food habits. More knowledge and understanding of the principles of good nutrition will eventually improve food selection practices.

The nutrition education section of the bill is a test of the fact that we are ready to think in terms of preventative health care in our child nutrition programs.

TRAINING CAFETERIA PERSONNEL

In addition to: First, teaching students about food, nutrition, and the relationship between good food and good health; and second, instructing teachers in the principles of nutrition education in order to assure a cadre of well qualified and highly motivated individuals to help our kids improve their food habits, this legislation gives high priority to; and third, the training of cafeteria personnel in all areas of quantity food service, that is food purchasing, record keeping, meal planning, sanitation and safety.

I mean we want qualified personnel, not someone who is related to some Republican or some Democrat who might get them a job if they belonged to the right party.

The need for upgrading the food reproduction skills and know-how of the cafeteria personnel has been documented. A recent USDA survey of over 8,500 school food service managers and workers revealed that:

Only 3 out of 10 employees completed training in the past 10 years.

Almost half, or 44 percent of the more than 8,500 survey respondents indicated a desire for more training. Principle reasons given for wanting more training were: "To improve my total performance," "to increase my knowledge," and "to learn more food service techniques."

Mr. President, I ask unanimous consent to be printed in the RECORD a summary of the USDA survey referred to here, which further reiterates the need for training the cafeteria people who prepare and serve school meals. These individuals are asking for help. And provisions in this bill provide for this training.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

PROFILE OF SCHOOL FOOD SERVICE PERSONNEL

The lack of adequate information on the level of education, experience and training of school food service personnel prompted this study effort. A national questionnaire mail survey of food service personnel from selected schools throughout the United States was jointly undertaken and conducted by the Evaluation and Technical Services Group of the Nutrition and Technical Services Staff, FNS, and Information Planning Associates, Inc., a private contractor. Two separate questionnaires were prepared, one for completion by the food service managers and the second by school food service personnel.

A sample of 2,300 schools was selected and screened and a pre-test program was undertaken. Ultimately, 1,126 manager questionnaires and 7,386 personnel questionnaires were received and tabulated for subsequent analysis in the survey: Following are highlights of the findings of the survey analysis:

5 percent were private schools;

Two regions provided 56 percent of the respondees;

63.3 percent of the students participated in the NSLP;

43 percent of the lunches served were free lunches;

5.7 percent of the lunches served were reduced price lunches;

Average price of a lunch is 47 cents;

Average price of a reduced price lunch is 18 cents;

97.3 percent of the schools served free lunches;

91.6 percent of the schools served reduced price lunches;

74 percent of the schools offer the Special Milk Program;

Approximately 90 percent of the schools reported on-site preparation of meals;

Approximately 30 percent of the managers were unaware of food service certification programs in their district;

Managerial duties accounted for approximately 58 percent of the managers' time;

13 percent manage more than 5 food service units;

56.3 percent of the managers were involved in nutrition education; and

Less than 6 percent of the responding managers have employees who cannot read or write English.

The school food service personnel provided the bulk of the data that was analyzed. Numerous characteristics were explored in detail, as were combinations of these characteristics. Particular attention was placed on the education, experience, training completed and training desired aspects. Upward mobility was examined in detail and an extensive study of the motivational factors associated with training was undertaken.

The outgrowth of this extensive analysis has been the accumulation of a wealth of knowledge on school food service personnel previously never compiled in such a complete and detailed manner. The major findings are as follows:

Profile of a typical food service worker:

45–50 years of age;

High school graduate;

Semiskilled worker;

Has approximately 8 years' experience;

Earns $2.73 per hour.

43.6 percent of the participants belonged to a food service association.

The ratio of managers to skilled to semi-skilled participants was 2:3:4.

41 percent of the respondents worked 31–40 hours/week and another 32 percent worked 21–30 hours/week.

The mean number of hours worked per week for full-time employees was 31.8; for part-time employees 19.4; and

Respondents had a mean age of about 45 years.

Overall mean salaries were:

Managers, $3.45 per hour.

Skilled, $2.59 per hour.

Semi-skilled, $2.58 per hour.

Employees in larger schools earned more than their counterparts in the smaller schools.

Training was examined in detail. It was of interest to note that better than 6 out of 10 food service managers were promoted or were hired as managers without prior training. Other pertinent findings are as follows:

The Midwest region had the lowest percentage of managers with prior management training (28 percent).

The Northeast region had the largest proportion of managers with prior training (53.3 percent).

Most available courses were provided by state (30 percent) and local school districts (29 percent).

Approximately one-half (50.2 percent) of the managers reported that training was required.

Approximately 75 percent of the skilled and semi-skilled workers reported that training was required.

Approximately 75 percent of those participating reported that on-the-job training was required (as opposed to training courses).

Top five subject areas in which training has been received in the last 5 years were:

Sanitation/Kitchen Safety;

Use and Care of Equipment;

Quantity Food Preparation;

Nutrition; and

Menu Planning.

No apparent differences in the type of courses in which training has been received were noticed when examined across skill level groupings, grade groupings or geographic locations.

Only 3 out of 10 food service employees completed training in the past 10 years.

Most recent training was taken prior to 1975.

Most identified reason why training was taken was the desire to "Improve Job Performance."

There was no consensus as to why employees had not taken training.

The analysis of the respondents desire for more training revealed the following:

44 percent of the respondents indicated a desire for more training.

The most desired courses for more training were "Nutrition," Quantity Food Preparation," and "Menu Planning."

Interest in more training increased with years of service up to the 10th year, then dropped off significantly.

The summer was the overwhelming choice of the respondents as a time for more training, rather than afternoon or evening.

Principal reasons for wanting more training were to:

Improve Job Performance;

Increase Knowledge; and

Learn New Techniques.

Suggestions for improving the training courses attended included:

Easier access to training site;

Greater frequency of classes;

Better course quality, and

More subject variety.

The degree of upward mobility prevalent in the food service program was measured in two parts; (1) those employees who have had a change in skill level and (2) those employees who did not change skill level.

Approximately one-third of the managers indicated advancement from a semi-skilled job.

Approximately one-third of the managers had advanced from a skilled job.

A little less than one-third of the skilled employees were previously classified as semi-skilled.

Upward mobility is evidenced for employees with less than 10 years of service but not for employees exceeding 10 years of service.

There were several notable differences when the data were examined on an FNS regional basis. Some of the particulars noticed about the personnel within each region are as follows:

Northeast region

A large salary variance especially among managers.

Only a small proportion of its workforce with less than four year's experience.

Large proportion of its employees had 20 or more years of service.

Limited interest expressed in future training.

Apparent low upward mobility record.

Southeast region

Workforce had less experience than those in Northeast, Midwestern and Western region.

Only 5 percent of the employees had training beyond high school.

West Central region

Findings very similar to those of the Southeast region.

Workforce had less experience than Northeast, West Central and Western region.

Only 5 percent of employees had training beyond high school.

Midwestern region

Sixty percent of personnel had 10 years or less experience in school food service. Eighty percent had 15 years or less experience.

Respondents expressed limited interest in future training.

Ratio of training courses taken per food service worker (0.94) below the norm.

Western region

Lowest percentage of respondents to the survey.

Has a large proportion of its workforce with less than 10 years in their present positions.

Largest percentage of employees with education beyond high school.

In summary, the following recommendations are being provided to FNS:

Encourage States to assess and investigate if the benefits of formal training and its impact on upward mobility is realized by the average food service worker.

Evaluate why upward mobility is working for some regions and not for others.

Establish an effective public relations program through the State Offices advocating training and the linkage it has with upward mobility.

Evaluate the feasibility of establishing a career development program for food service workers. Training grants could possibly be used as the vehicle for establishing such a program.

Recommend to local school districts that formal training become a prerequisite for advancement.

Provide guidance to state agencies for developing materials for training courses.

Encourage the Regional and State Offices, in cooperation with the colleges and universities to consider developing a plan for providing college credits for successfully completed formal training courses.

Encourage the development of college training programs for school food service workers.

Develop a close working relationship with states in developing a training course sponsor appraisal program.

Work with the state and local school districts to make training more available and accessible to the food service workers.

Make food service worker training program more people-oriented via

Offering courses during working hours with pay.

Subsidize costs of courses and transportation.

Mr. DOLE. Finally, Mr. President, another amendment I have been very interested in, the national school lunch program, provides a balanced type "A" lunch which meets about one-third of a child's daily nutrient needs. Federal cash subsidies and commodities donated to school districts are based on the number of type "A" lunches served.

Kansas is the only State eligible to receive all cash in lieu of any donated Federal commodities. Let me take just a couple of minutes to review how Kansas became a cashout State.

In December 1973 the Department informed officials in Kansas and other States that commodities for schools and institutions would be sharply reduced or discontinued. This, along with the passage of food stamp legislation requiring all counties to have a food coupon program by July 1, 1974, convinced Kansas school food service officials to disband the State's commodity distribution system. It was just an added cost we did not need. We have enough expense in the State of Kansas.

In an effort not to penalize Kansas for this action, the Department issued regulations to allow States which had phased out their commodity distribution systems before June 30, 1974 to receive all cash in lieu of any commodities. Kansas was the only State to qualify.

In recent years there has been a lot of discussion on whether this is a more effective program, whether it saves money, whether it is the best way to go. We believe it is, and we have not yet persuaded other members of the committee, but I believe that Kansas' record indicates we can save a great deal of taxpayers' funds, and we can provide better meals, we can better train our personnel, and that we still help those on a State level insofar as their different economies are concerned.

COMMODITY STUDIES

Now we have addressed this in the bill by providing for a study. We hope this study will give us some experience so we can make a decision sometime in the near future, perhaps in the next couple of years, on whether or not we should extend the cash-out program. It just seems to me it helps the program. It makes it more efficient, more responsive to the needs of young people and, of course, less expensive.

I understand the House Education and Labor Committee has received a communique from the Secretary of Agriculture acknowledging his concern about the commodity program to schools; stating that the program has not worked well, and emphasizing his commitment to improve the operations. To date some three reports addressed this issue of cash payments in lieu of commodities:

First. A February 1977 report by the USDA of the Costs of Foods Purchased by the USDA and Local School Systems During 1973–74";

Second. A January 1977 GAO report to the House Committee on Education and Labor, on "The Impact of Federal Commodity Donations on the School Lunch Program;" and

Third. A March 1977 "Cost Analysis of Providing Type A School Lunches in Kansas and Oklahoma," undertaken by Kansas State University and funded in part by a grant from the National Frozen Food Association.

I have here some major findings from these studies for submission into the RECORD. In short:

(1) The February Department study concluded that "there appears justification that substantial economies of scales exist in the procurement between the largest and smallest school systems. Given the size of food purchases involved ($1.8 billion annually), the potential exists for saving the Nation's school several hundred million dollars by more effective procurement practices."

(2) The GAO study (which by the way included only three of Kansas' 306 school districts) concluded that although improvements are needed, the Department's surplus removal and price support programs go a long way toward meeting the needs of local school districts.

(3) The Kansas University study reported that for all Federal programs there was basically no differences in the cost of the school lunch, no difference in teachers' assessment of lunches meeting the general requirement, and no differences in average costs.

None of these reports really answer the question this body needs to make an objective decision on which system—cash and/or commodities—is best for an area, from the point of view of program administration and nutrition impact?

Questions have been raised about the methodology of some of the studies and the many qualifying clauses surrounding the research findings and conclusions that leaves one to question their total value.

STUDY OF CASH IN LIEU

In both the Senate and House bills an objective, unbiased study by the department on the cash versus commodity system is being requested. We have asked for data on:

First. Administrative feasibility and nutrition impact;

Second. Cost savings, if any, which may be affected at the Federal, State, and local levels;

Third. Any additional costs that may be placed on programs or on students;

Fourth. Impact on Federal agricultural programs designated to give farmers an adequate income;

Fifth. Impact on the quality of the foods served; and

Sixth. Impact on plate waste in school.

The report back to Congress should be most helpful in the final deliberations on this issue.

Mr. President, there are many fine provisions in this bill of which we can all feel proud. It stands to reason that our children and ultimately the Nation will benefit from this piece of legislation.

UP AMENDMENT NO. 612

Mr. President, in the minute I have remaining, if I have a minute remaining, in line with the colloquy and discussion with the distinguished Senator from Alabama, I send an amendment to the

desk, unprinted and maybe illegible, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 612: Page 65, line 6, after the word "Secretary" add the following: "in cooperation with the several states".

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Has the amendment been reported?

The PRESIDING OFFICER. The amendment has been reported.

If there is no further discussion on the amendment, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 613

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Minnesota (Mr. HUMPHREY), who is on his way to the Chamber, and myself, Senator ANDERSON, Senator BURDICK, and Senator RIEGLE, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himsef and Mr. HUMPHREY, Mr. ANDERSON, Mr. BURDICK, and Mr. RIEGLE proposes unprinted amendment No. 613.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, between lines 11 and 14, strike subsection (j) and insert in lieu thereof the following new subsection:

(j) For the fiscal years beginning October 1, 1977 and ending September 30, 1982, grants to the States for the conduct of nutrition education and information program shall be based on a rate of 50 cents for each child enrolled in schools or children in institutions within the State, except that no State shall receive an amount less than $75,000 per annum. Enrollment data used for purposes of this subsection shall be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.

Mr. DOLE. Mr. President, in an effort to accommodate the distinguished Senator from Minnesota, who is on his way, and still not hold up action on the bill, I ask unanimous consent that the amendment be laid aside temporarily and that we move to the consideration of the amendment of the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 614

Mr. BELLMON. Mr. President, I have four amendments at the desk, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes four amendments as unprinted amendment No. 614.

Mr. BELLMON. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, between lines 17 and 18, insert a new paragraph (4) as follows:

"(4) Nothing within this section shall prohibit state or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section."

On page 73, line 15, strike the period, substitute a comma, and insert the following: "and to coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds."

On page 67, between lines 10 and 11, insert the following:

"(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and"

On page 67, on line 11, redesignate paragraph (4) as a new paragraph (5).

On page 69, lines 1 and 2, insert a comma after "education", strike "and health agencies", and insert the following: "health and State Cooperative Extension Services agencies."

Mr. BELLMON. Mr. President, first of all, I congratulate the distinguished Senator from South Dakota (Mr. MCGOVERN) and the distinguished Senator from Kansas (Mr. DOLE) for the work they have done on this legislation S. 1420 and for the creative and original ideas that this legislation embodies.

I have, as they have, sat through many hearings of the Nutrition Committee and heard many prominent authorities in the field of medicine testify as to the serious health consequences of improper nutrition.

This legislation, in my judgment, is a major step, perhaps the first major step in the history of this country, toward alleviating serious health problems through the education of our citizens and through the encouragement of proper eating.

My amendments are intended to help accomplish the objective which the authors of this legislation have in mind.

The bill, as presently drawn, is aimed primarily at young people, primarily at students through the school system. Unfortunately, no matter how much a student may wish to consume a nutritious diet and no matter how well informed the students may be, unless the adults, unless the parents of the students are also well informed and desirous of proper eating habits, there is no way a student can have the kind of nutrition that may be desired.

So the purpose of these amendments is twofold:

First, to help give access to nutrition education to adults and, second, to help coordinate these programs that the bill will create.

Mr. President, this legislation, as I say, makes no provision for adult education in nutrition and so no matter how knowledgeable children may become through this legislation, they are likely to have little freedom of choice so far as their home eating habits are concerned unless their parents understand the importance of good nutrition and know how to achieve it. Unless the parents purchase nutritious foods and prepare attractive balanced meals, even children who are most knowledgeable about nutrition may find themselves in a helpless position so far as having a nutritious diet is concerned. At the very least, parents need to have the opportunity to learn as much about nutrition as their children.

Mr. President, it makes absolutely no sense for a school system to prepare a course of education concerning nutrition and deny access to this information to parents and other adults. The fact is that there is a large and growing desire on the part of American adults to avoid obesity and the many health problems which result from malnutrition. The progress of such organizations as TOPS, take off pounds sensibly, Weight Watchers, and diet centers, often referred to as "fat farms," indicates that American adults realize the need for nutrition education. Our public school system is in the best possible position to fill that need for both children and adults. Two of my amendments are intended to help accomplish this objective. The other two amendments will help insure that the planning and conduct of nutrition education under this act will be effectively coordinated at the State level.

AMENDMENT NO. 1

Mr. President, this amendment is offered to clarify the language in S. 1420 so that there will be no doubt among State and local education agencies about the extent to which curriculum materials developed under this authorization may be used for adult education purposes. A cautious administrator might seek to restrict utilization of the educational materials to the school-age population, even though classroom materials developed for secondary education purposes may be quite appropriate for adaptation and use in ongoing adult education programs.

We must remember that the Federal funding input to elementary and secondary education programs is a relatively minor portion of the total bill—an average of 8 percent nationally—and that the State and local education agencies are something more than passive partners in the education undertaking. We should not unduly restrict the utilization of Federal resources so that agencies which deliver the education product can operate flexibly and to the maximum advantage of the populations which they serve. That there is already a vigorous program of adult education underway in the United States is borne out by the statistics for adult basic education. In fiscal year 1973, for example, there were 37,832 evening classes in adult basic education and 16,706 classes were being held during the day.

Another reason for offering this amendment is the concern that Congress should not inadvertently put school dis-

tricts in the uncomfortable position of performing an end-run on the parents of the Nation. This act urges nutrition for teachers, students, and food service personnel, but it ignores parents. The amendment would allow the use of curriculum materials for parents and other adults.

AMENDMENT NO. 2

Mr. President, this amendment fixes responsibility for coordination of the school nutrition education program authorized by S. 1420 with other similar programs funded by State and Federal aid. It clearly identifies the State coordinator for school nutrition education as the person responsible for seeing to it that the programs undertaken as a result of S. 1420 are designed and conducted with full knowledge of other ongoing nutrition education programs in the State. While the act elsewhere requires provisions for such coordination, the individual responsibility is not fixed.

If this legislation is to be effective, we must not have different agencies competing for the same audiences, seeking to extend their jurisdictions regardless of the need to make effective use of limited resources. By requiring the State coordinator for school nutrition education to take the lead in coordinating efforts, this amendment provides some assurance that nutrition education efforts undertaken through this authorization will not be duplicative.

AMENDMENT NO. 3

Mr. President, this amendment expands the findings section of S. 1420 to stress the fact that parental influence on nutritional habits is significant. Certainly this factor is one which emerged during the recent hearings held by the Select Committee on Nutrition and it has important implications for public education. While S. 1420 does not directly address the need for parental education, State and local education agencies may do so, and this amendment may serve to stimulate some such activity.

This amendment is consistent with the first unprinted amendment I offered, allowing the use of nutrition education materials for adult education purposes.

AMENDMENT NO. 4

Mr. President, this is in the nature of a perfecting amendment. The present language of S. 1420 at one point states that the program of nutrition education is to be coordinated at the State level with other nutrition activities conducted by education and health agencies. That language omits the important programs now conducted through State cooperative extension services, including the expanded food and nutrition program which provides extensive nutrition education for families living in poverty.

I am certain that this omission was inadvertent, and I offer the amendment to prevent any unnecessary misunderstanding or ambiguity.

Mr. President, I believe that both the author and the ranking minority member are familiar with the amendments, and I believe they will find them desirable.

Mr. McGOVERN. Mr. President, Senator BELLMON, the Senator from Oklahoma, took the lead in this particular area in the committee and, as a matter of fact, brought to the attention of the committee when we were marking up the bill the importance of extending any nutritional educational benefits to the parents and the adults in the community where one of these programs is in operation. At my request he agreed to defer action on that in the committee until the staff had a chance to work with his staff in arriving at mutually acceptable language.

I think that this comprehensive amendment that the Senator now offers does strengthen the bill. It is simply a commonsense effort to provide parents the same nutritional knowledge that is available to their children so we will have a consistent emphasis both in the home and in the school.

I not only am pleased to accept the amendment but I think it strengthens the bill.

Mr. DOLE. Mr. President, I share the thoughts just expressed by the distinguished floor manager. This was a matter that Senator BELLMON discussed in the committee at great length, and there was a great deal of effort by Senator BELLMON and his staff and the committee staff. It seems to me that it is a very good suggestion, one that does not develop programs or materials for parents or adults. It just says that they may participate and they can learn. It seems to me that this series of amendments is excellent.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question recurs on the adoption of the amendments as considered en bloc.

The amendments were agreed to en bloc.

AMENDMENT NO. 462

Mr. CLARK. Mr. President, I call up my amendment No. 462 and ask for its immediate consideration.

Mr. DOLE. Mr. President, I ask further unanimous consent that we continue to lay aside the Humphrey-Dole amendment until Senator HUMPHREY arrives.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CLARK) proposes amendment No. 462.

Mr. CLARK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, line 2, immediately before the closing quotation mark insert the following: "In purchasing commodities under this Act for programs carried on under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to insure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.".

Mr. CLARK. Mr. President, I am proposing this amendment to S. 1420 to enhance the quality of food commodities used by the school lunch and breakfast programs.

This amendment authorizes the U.S. Department of Agriculture to evaluate the past and present patterns of sanitary practices of commodity producers under consideration for Federal contracts in these two child nutrition programs before us today.

On April 17, 1977, the Des Moines Register was, I think, the first to point out that the USDA commodity distribution program had contracted to purchase hamburger and canned beef from a packing firm which has had "persistent and serious sanitation problems" and has exhibited a longstanding pattern of noncooperation with inspection officials.

However, despite this company's questionable operating practices, it has provided an increasing percentage of the meat used by the school lunch program. In light of this situation we should provide the USDA with the discretionary authority to eliminate from consideration, any firm which has a record of marginal compliance with inspection requirements, even though it may qualify as one of the lowest bidders.

The House Subcommittee on Elementary, Secondary, and Vocational Education completed an extensive oversight hearing on this problem and concluded that the USDA must be granted the authority I have proposed today. The House of Representatives subsequently attached this amendment to H.R. 1139, the House-passed version of the Child Nutrition Act Amendments.

If we are to insure that commodities will be of top quality and that children participating in the school lunch and school breakfast programs receive nutritionally sound meals, then we must adopt this amendment to the Child Nutrition Act as the House of Representatives has done.

I have discussed the amendment with the managers of the bill.

Mr. President, I yield the floor.

Mr. McGOVERN. Mr. President, I think the amendment of the Senator from Iowa makes sense. It simply directs the Department of Agriculture to consider the past and present sanitary conditions in meatpacking plants and other providers of commodities used in school lunch and other child nutrition programs.

It does speak to some abuses, frankly, that have developed in the program in recent years. As I say, I think the amendment makes eminent good sense, and I am pleased to accept it.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. CLARK. I yield back the remainder of my time.

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. McGOVERN. Mr. President, I yield such time as I have left on the bill to the Senator from Illinois.

The PRESIDING OFFICER. Is there a further unanimous-consent request from the Senator from Kansas?

Mr. DOLE. Yes; I ask unanimous consent that the Humphrey-Dole amendment continue to be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, first I take this opportunity to compliment the distinguished chairman of the Nutrition Subcommittee of the Committee on Agriculture, Nutrition, and Forestry (Mr. McGOVERN), the chairman of the full committee (Mr. TALMADGE), the ranking minority member of both the full committee and the subcommittee (Mr. DOLE), and the members of the committee for the careful work which they have done to bring about the improvements in this program that we are now discussing.

I repeat a statement that I made before the Nutrition Subcommittee that this bill is timely, necessary, and cost-effective, and makes savings all at the same time. We cannot find a better combination, and I urge my colleagues to vote in favor of it.

So, Mr. President, it is my pleasure to rise in support S. 1420, the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1977. It is a particularly meaningful bill for me because it establishes, for the first time, a national program of nutrition education in our schools. I have long been an advocate of nutrition education as a means of preventive health care in this country, and serious consideration of it by the Congress is timely, if not overdue.

Certainly the hearings Senator McGOVERN and I have held in the Select Committee on Nutrition and Human Needs have proven beyond the shadow of a doubt that there is a tremendously close correlation between good nutrition and good health.

As I see it, the need for nutrition education cannot be overemphasized. Several years ago Margaret Meade, the brilliant anthropologist, testified before the Select Committee on Nutrition and Human Needs and confirmed our fears that nutrition is the only area of human activity in which the population as a whole has regressed. There is no doubt in my mind that we know less about good nutrition today than during World War II when necessity forced us into good eating habits.

In fact, more recent hearings of the select committee have shown a clear link between the Nation's diet and 6 of the 10 leading causes of death in this country: heart disease, cancer, cardiovascular disease, diabetes, arteriosclerosis, and cirrhosis of the liver. Nutrition education efforts aimed at improving our eating habits are necessary. More informed food choices could well help avoid the pain, suffering and impaired abilities associated with the diseases. As a matter of fact, expenditures on nutrition education probably will result in long-term savings for the United States. In addition to savings of life and health, better nutritional habits could help cut back on health care costs and cut losses in national productivity caused by diseases related to diet. Finally, where a general lack of knowledge about what constitutes a well-balanced and healthy diet and ignorance of the benefits of sound nutrition have been prime contributors to plate waste in school food programs, nutrition education should help reduce that waste and thereby save food and dollars.

At this time, I would like to focus on the section of the bill which revises the summer food service program. I have been concerned, as have been my colleagues, by reports over the past few years of alleged abuses and fraud in the program. Stronger regulations for this summer's program from USDA will help relieve some of these problems. S. 1420 will do more to improve the program and will give a firmer legislative basis for the regulations. Some of the improvements which this bill would bring about follow.

Tougher requirements for sponsor eligibility should help prevent the kinds of ripoffs that we have seen occasionally in past years. The requirements should weed out sponsors who are only interested in making a profit and bring forward sponsors with proven capabilities and commitment to efficient and nutritious food service. Further, mandated State technical assistance should help sponsors, new and old, to do better jobs.

New vendor registration requirements will help cut back on opportunities for fraud and abuse in the private sector. Such registration will provide information nationwide on all vendors, on their capabilities or lack thereof, and on past program performance. Thus a bad vendor will find it more difficult to switch to a new territory to obfuscate past program abuses. By the same token, good vendors will find it easier to take their good name with them. Similarly, mandated standard contracts in each State will make it easier for sponsors to maintain the integrity of their programs and assure and develop the rights they should have by contract.

S. 1420 would limit the amount of advance funding that any sponsor could be paid to $40,000 unless the States determine that more was necessary for the effective operation of the program. This will prevent the sorts of situations that have occurred in the past where sponsors have received excess advance payments which the Government has yet to recover.

Finally, this bill emphasizes and encourages onsite preparation of the meals in the summer food programs, and similarly gives priority in distributing funds for school food service equipment to the establishment of onsite preparation capabilities. There seems to be good evidence to show that meals prepared onsite are more attractive, tasty, and nutritious and are accompanied by less waste—all quite desirable outcomes.

Mr. President, I again urge my colleagues to vote in favor of S. 1420, which will bring about all of the aforementioned benefits.

The PRESIDING OFFICER. All time on the bill has expired. The question recurs on agreeing to the Humphrey-Dole amendment, on which there is 30 minutes, 15 minutes to a side. Who yields time?

Mr. DOLE. Mr. President, I thank the distinguished Senator from Illinois, the ranking minority member of the select committee, and of course Julia Bloch, the minority staff director, who has been very helpful to all of us.

Mr. BELLMON. Will the Senator yield for a unanimous-consent request?

Mr. DOLE. Yes.

Mr. BELLMON. Mr. President, I ask unanimous consent that Dick Woods, of my staff, be granted the privilege of the floor during consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 613

Mr. HUMPHREY. Mr. President, the purpose of this amendment can be summed up in one word—continuity.

We all know that there is widespread support, both in the Committee on Agriculture and in the Congress, for an improved effort by the Federal Government and our State and local education departments to provide nutrition education.

The Senate Select Committee on Nutrition and Human Needs has compiled over the years a wealth of information that demonstrates conclusively how much this Nation needs nutrition education for its young.

The vast majority of the American people might well be considered "nutritional illiterates."

Correcting this problem will not be easy, and it will take time.

This provision in the committee bill is only a first step in the right direction, but it is a vital step.

Now there is some concern over the creation of a new entitlement program. Senator DOLE, who has joined me in support of making the nutrition education component an entitlement program, and I have discussed balancing the need for continuity on the one hand and the desire to subject nutrition education to the appropriation process on the other hand. In discussing this situation, we concluded that placing a 5-year limit on the program will provide for continuity while, at the same time, insuring that the program will be scheduled for periodic mandatory intensive congressional review. Five years, we felt, would give the program sound continuity.

Five years, I might note, is the duration of the farm bill that this body passed just last month.

Education, to be effective, must be sustained over a period of time. Education is not something you can start today and stop tomorrow.

If we want the schoolchildren of today to grow up nutritionally aware rather than ignorant, then we must make sure that nutrition education is an integral part of our child feeding programs. The way to accomplish this objective is to tie the funding for the nutrition education program integrally with the funding for the rest of the program.

We do not say now that if a hungry child comes to school and wants to be fed that we will take a look at the appropriations and see if there is enough

money available. We say that we will make sure the money is available.

We have decided that each child is entitled to good nutrition as a right. The same should apply to that child's nutrition education.

We can do this under the amendment that I and the distinguished Senator from Kansas (Mr. DOLE) have offered, which simply ties funding for nutrition education to the number of children participating in the program.

This kind of funding will give assurances to our educators at the State and local level that they should proceed in developing the very best nutrition education programs that they can devise. It will give teachers the assurance that if they develop a specialty in this area, there will be a continuing place for them in our Nation's schools. And by doing this, we will assure our children the knowledge they need to maintain their health and well being through the rest of their lives.

There is one final point I would like to make. This is a no cost bill. The funding for this provision comes from the revisions of the committee made in the special milk program. Passing the amendment Senator DOLE and I offer will effectively place a limit on funding. Statistics indicate that the population of school age youngsters is declining, not increasing. So, this amendment is not only consistent with sound policy, but is budgetarily responsible.

Mr. DOLE. Mr. President, I concur with the position of the Senator from Minnesota (Mr. HUMPHREY) that we make the nutrition education and training section of this bill an entitlement program for a 5-year period, from October 1, 1977 and ending September 30, 1982. I recognize that this position is not wholeheartedly endorsed by the department, who would prefer to retain the current language of the bill which calls for authorization for appropriations amounting to $27.7 million. I also recognize that this position is not wholeheartedly endorsed by those who feel services like nutrition education should not be made entitled programs for long periods of time.

NEED FOR CONTINUITY

Senator HUMPHREY has spoken about the need for continuity in the nutrition instruction program. That means a continuing, uninterrupted period where available funds would be guaranteed for teaching students, preparing teachers, and training kitchen personnel. To do this we must guarantee ongoing funds over a period of time. The appropriations process does not always allow for that.

CURRENT FEDERAL FUNDING LEVEL

If the Federal Government is going to continue to fund the child nutrition programs at the level that it currently is (this year fiscal year 1977, appropriations amount to almost $3.3 billion), then the Government should provide more assurance for reaping more nutritional benefits from these food assistance programs. That calls for education or instruction about the benefits of the foods being served.

School feeding and education go hand in hand. Nutrition education and school feeding are directly related to health and education. We must begin to make available instruction about food and health for our school children. Provisions of this bill provide for that. It calls for developing qualified teachers to do the nutrition instruction, the actual classroom teaching of students about foods and health, and classes for upgrading the cooking skills of the cafeteria personnel—so they can continue to provide nutritious and appetizing school meals.

This nutrition education and training section of the bill is a first step in making the cafeteria a real part of the educational programs of the school. Are we going to weaken this by not assuring—each year—the full moneys necessary to implement components of this nutrition education section of the bill? If nothing more, assuring that all necessary funds are available in the beginning to get this section on education off the ground is important.

PROMISES, PROMISES

The Department of Health, Education, and Welfare put out a paper, titled "Forward Plan for Health, Fiscal Years 1978–82." In it the Department reports that health care expenditures in the United States during fiscal year 1975 totaled over $118 billion. They went on to predict that this total would exceed $230 billion by fiscal year 1980. Gentlemen, we cannot continue to sit back and let costs like this mount up, at the expense of not taking constructive preventative health measures like nutrition education—now we cannot continue to sit back and wait for the opportune time to get serious about providing funds for teaching people about good nutrition. And what to do to improve eating habits.

The Select Committee on Nutrition, of which I am a member, recently released a comprehensive statement on the risk factors associated with the American diet. This too pointed out the need for more attention to instructing the American public about the relationships between what we eat and our health conditions. What better place to start than with our school age population.

I understand back in 1969 the White House conference on food, nutrition, and health came out with strong recommendations to the Federal Government, asking for funds to provide for the establishment of high quality nutrition instruction programs to reinforce school meals. That was in 1969 gentlemen. And that recommendation has not succeeded through the appropriations process.

The objective of nutrition education is to improve the nutritional status of individuals, by getting us to make wiser food choices. That is what many provisions of S. 1420 are all about.

Entitlement rather than authorization for appropriations for a period of time is one way of assuring that the Congress meets this challenge and its obligation—to respond to the public's request for more preventative health care measures in our schools.

Mr. President, I am not aware of any opposition to this amendment.

Mr. McGOVERN. Mr. President, if I might be recognized just for the purpose of commenting on what the Senator from Kansas has offered, this reflects what was nearly the majority position of the committee. We came very close to approving this language in the committee.

What it does is simply insure that the funds which the committee has authorized will be available for this purpose. There is no such section in the language of the bill from the other body, but at least we go to conference with a strong mandate from the Senate that we want the nutrition education program started and funded at an adequate level.

I have no objection to the amendment offered by the Senator from Kansas in conjunction with the Senator from Minnesota. I hope it will be agreed to.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. McGOVERN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

(The following proceedings occurred earlier in the day and are printed in the RECORD at this point by unanimous consent.)

Mr. DOLE. Mr. President, at this time I yield such time as he may require to the distinguished Senator from New Jersey, so that we might engage in a colloquy.

Mr. CASE. I thank the Senator.

First, Mr. President, I do want to say how much I appreciate what the Senator from Kansas and the Senator from South Dakota and their colleagues on the committee have done in regard to this legislation. They have been, I think, extremely wise and foresighted, and I congratulate them on a splendid performance.

I have had an interest in this area for a long time, and one of the facets of my interest has been regulation of the sale of competitive foods.

So, Mr. President, I hope very much that the Senate will agree to include the provision with regard to regulations on the sale of competitive foods in S. 1420, the School Lunch and Child Nutrition Act Amendments of 1977. This provision, which I sponsored as a separate bill, S. 1436, was offered as an amendment to S. 1420 in committee by Senator DOLE and is included in S. 1420 as reported by the Committee on Agriculture, Nutrition and Forestry.

Senators McGOVERN, CLARK, KENNEDY, STAFFORD, LEAHY, HUMPHREY, and METCALF joined me as sponsors of S. 1436. This provision of S. 1420 eliminates the language in the 1972 amendments to the National School Lunch Act which allows the sale of competitive foods in school cafeterias. Thus the Secretary of Agriculture would again have the authority to regulate the sale of competitive or so-called junk foods sold in vending machines in our school cafeterias.

A similar amendment has been agreed to by the Senate twice before, in each of the two previous Congresses. Unfortunately, although a section of my proposal authorizing funds for nutrition education in the schools was enacted, the vending machine portion of the amendment was deleted in conference between the House and Senate on both occasions.

As sponsors of the competitive foods provision of S. 1420 we recently circulated a letter to all our colleagues outlining some of the reasons why we support this provision. I ask unanimous consent, Mr. President, that the text of our letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 21, 1977.

DEAR COLLEAGUE: We understand that at the time of floor consideration of S. 1420, the School Lunch and Child Nutrition Act Amendments of 1977, an effort will be made to strike a provision in the bill with regard to the regulation of the sale of competitive or so-called junk foods sold in vending machines in school cafeterias. As the sponsors of this provision, we are very concerned that all our colleagues have correct information on which to base their votes.

Some are saying that our bill would ban vending machines. That is not the case. Others say that our bill would ban certain foods. That is also not true. The provision we have sponsored would simply restore to the Secretary of Agriculture the authority to regulate the sale of competitive or so-called junk foods sold in vending machines in our school cafeterias.

We believe that the Federal Government must act to insure and preserve the integrity of our nutrition programs in the schools, if they are to accomplish the goals and meet the standards set by Congress. Our efforts must be directed towards seeing that our school nutrition programs are a model of good nutritional practice.

The Senate Select Committee on Nutrition and Human Needs has found a high incidence of diet-related disease in its work this year, and this finding should give us all pause. For example, it makes no sense at all to have junk foods, loaded with empty calories, competing with nutritious food in the school programs.

Enactment of the provision regulating the sale of competitive foods in our school cafeterias will go a long way to assure that the Federal dollars spent in the school nutrition programs are in fact providing the best possible nutrition for the children of our country.

A similar proposal has been agreed to by the Senate twice before, in each of the two previous Congresses. Unfortunately, it was deleted in conference between the House and Senate on both occasions.

This provision of S. 1420 now has the support of the Secretary of Agriculture, along with the American School Food Service Association, the American Dental Association, the American Dietetic Association, the Society for Nutrition Education, the Society for Preventative Dentistry, the Community Nutrition Institute, the Children's Foundation, the Center for Science in the Public Interest, the Consumer Federation of America and many other groups concerned with health and nutrition.

We urge your support for the competitive foods provision of S. 1420.

Sincerely,

Clifford P. Case, George McGovern, Edward M. Kennedy, Patrick J. Leahy, Lee Metcalf, Robert Dole, Dick Clark, Robert T. Stafford, and Hubert H. Humphrey.

Mr. CASE. In addition to the support of the organizations listed in our letter, I have received letters from people all over the country supporting our proposal. I have heard from people from California, Nebraska, Oklahoma, Ohio, Illinois, West Virginia, Colorado, Maryland, Indiana, North Dakota, Iowa, Kentucky, Florida, New York, Arizona, Georgia, Mississippi, Virginia, Wisconsin, Tennessee, Arkansas and Missouri. And, of course, many of my own New Jersey constituents have written me about it.

An additional reason for inclusion of our competitive foods amendment in S. 1420 lies in the amount of plate waste in our school lunch programs. In the report accompanying the bill, the Senate Agriculture Committee states:

It is believed that the sale of nonnutritious foods during school hours contributes substantially to increased plate waste, low participation in the school lunch program, and an increase in the consumption of nonnutritious foods in schools. The Committee believes that restoration to the Secretary of the regulatory authority over competitive foods will help point out the role of good nutrition in health care, and help instill good future eating habits in children.

An article by Josephine Martin, president of the American School Food Service Association, in their June Journal, focuses on the need to eliminate waste in the national school lunch program. She refers to a resolution recently approved by the ASFSA board declaring a "War on Waste" and outlines a number of practical measures that can be taken to eliminate such waste, including the control of sale of competitive foods in the schools. I ask unanimous consent, Mr. President, that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CASE. In summary, I urge my colleagues to support inclusion of the competitive foods provision in S. 1420. It just does not make any sense to me to have the Federal Government spending an enormous quantity of money on nutrition programs in the schools on the one hand and on the other hand to sit quietly by while vending machines are dispensing products which compete with and undermine these programs.

EXHIBIT 1

HELP JOHNNY LEARN TO EAT

(By Josephine Martin, School Food Services Administrator, State Department of Education, Atlanta, Ga.)

Are you tired of bad public relations? Would you like to see the tide turn? The seventh mission for '77 is public relations. Have we ever had public relations this year—the Chicago Tribune, Newsweek, Reader's Digest, the New York Times, the Associated Press, NBC, and CBS!

Unfortunately, the public relations that made the biggest headlines did not increase public understanding and support for the program.

PR can be bad as well as good. If it is not planned it is often bad.

What are we going to do about the image of child nutrition programs? The 1976–77 school year has closed and we have an opportunity to make a decision about 1977–78.

A Georgia school foodservice director who has faced more than her share of administrative problems said, "It's like being in the middle of the ocean. You have a choice to make. You either sink or swim. I have decided to swim in spite of adversity."

And she added, "Nobody can stop us."

That spirit is the greatness in school foodservice members. That is the real fighting spirit needed if school nutrition programs are to achieve their potential.

We can turn the tide in PR. As the foodservice director said, "We will swim." Senator Humphrey expressed it a little differently when he spoke to participants in the March Legislative Action Conference. He admonished us to make challenges of limitations. When we compare the monies available from vested interests that fight our nutrition programs, in Senator Humphrey's words, "We have our challenges."

Now is the time to map out that PR program for 1977–78. How will you give information to parents on a regular basis? What is the message you want parents to receive? How will you involve students in meaningful ways? Will it be through nutrition education, youth advisory councils, taste panels? What are you going to do to make sure that the faculty understands and supports your programs?

Have you identified the real leaders on the faculty who you need to involve? Is the principal really sold on school nutrition? How will you introduce the new National School Lunch Week theme—Eat to Learn, Learn to Eat—to students, teachers, parents, and principals?

How much media coverage do you want next year? What kind do you want? When do you need to get radio and television spots scheduled? What is the best day of the week to secure newspaper coverage?

PR is everything, and yet it may result in no improvement in your program. Without a quality product, even a comprehensive public relations program will not produce lasting results.

Since March 1975 when plate waste was first mentioned at a hearing of the Education and Labor Committee of the Congress, there have been many media reports heralding the inferior quality of meals served and the amount of plate waste.

We in school foodservice have played the traditional role of defending and pretending—defending the status quo and pretending that plate waste is not a problem. We have talked about the need for good PR but we really haven't made a commitment to telling the story.

It is time we learn to swim. It is time to declare a War on Waste (WOW). Admit there is waste—more than we would like. Commitment to every child means nutritionally adequate meals *consumed* by every child. The meal doesn't make a difference to the child's nutritional status until it's eaten. It is time ASFSA declares a War on Waste. Nutritional intake is far too significant to the child to continue to permit excessive plate waste.

The problem of waste is not one that school foodservice people can solve alone, but it can be done. WOW is the answer. There are five components to the War on Waste.

1. Plan acceptable, student-tested and tasted menus.

2. Develop quality standards for food and control to safeguard those standards.

3. Implement a nutrition education program for parents and pupils.

4. Eliminate the sale of foods in competition with school meals.

5. Provide sufficient time for young people to eat and a happy enviroment in which to eat.

Now that we have the components identified to wage a War on Waste successfully, we need to look at the problem. It is complex, it involves many people.

Parts of the problem are the responsibility of school foodservice. Parts belong to the family. Part of the problem is in the community and part is with the principal. Someone has to initiate efforts to bring all groups together. In Reading, Pa., the American Association of University Women

launched a community project to eliminate plate waste—in the home, in the school, and in restaurants. Why couldn't your local school foodservice chapter initiate a similar project? When the entire community becomes involved in a solution to the problem, the blame for plate waste is shared, as it should be.

Look at each of the five components of the War on Waste.

First there is the need for menus that are acceptable to the students. The school district is responsible for employing managers and directors qualified to plan meals that are acceptable, nutritious, and within the budget. The menu is the control center for acceptability. The way the food looks, tastes, smells, and the way it is presented have a great deal to do with its acceptability.

Obviously, planning meals that meet these criteria requires a person with skills in menu planning, nutrition, and management. Menu makers must have skill in working with students to effectively involve them in planning menus. Development of this skill requires special training.

The second component of the War on Waste is production of menu items that are of standard quality and are in controlled portions. Within the school district, quality food production is the responsibility of the school foodservice director, the manager, or a person designated by the superintendent.

An advertising executive responsible for a major beef company account said that the president of the meat company tasted the food each morning. When asked why he did this, he replied that he could not control the quality if he didn't know how the food tasted. Is food tasted in the school lunch program daily before being served to students?

Many school systems purchase preplated meals to serve to students. The foodservice director has as much responsibility for quality control when this type of delivery system is used as does the director of an on-site system. Effectively implementing this component of the War on Waste requires a person skilled in quality food production, standard setting, specification writing, and personnel management.

School foodservice must write the specifications and advise industry of its needs. Industry will supply food according to our specifications when demanded. Research is needed to improve the technology used in preparing and packaging preplated meals.

The third component of WOW is the implementation of an educational program for pupils and parents. Children must learn to eat. This component will require cooperative effort, but there is no reason why the initiative cannot be taken by school foodservice. A PR executive speaking at ASFSA's public relations seminar in Vail suggested a three point PR program for parents:

1. Send a letter home to let the parents know program goals and available services.
2. Invite the parents to have a meal at school with their child.
3. Send a survey home to ask parents for suggestions about the school nutrition program and food preferences of their children.

There are many approaches to nutrition education. One new and exciting approach is the curriculum developed by the National Dairy Council (NDC). Mary Lou De Zeeuw, ASFSA director of nutrition and nutrition education, represented school foodservice on the advisory panel working with NDC in the development of that curriculum. Check with your dairy council early this fall to determine when the material will be available.

There are other excellent nutrition materials that have been described in *School Foodservice Journal*. The multicultural menu series that begins with this issue is another source of material. USDA also has nutrition education materials for school foodservice personnel and teachers. Don't forget to review the Food and Nutrition Information Center catalog for school nutrition materials (see "Media Review," April 1975 *Journal*, p. 50). Reading the FNIC catalog is more fun than going through the Sears and Roebuck catalog!

Implementing the educational components of WOW requires materials but it also requires some training for the nutrition education effort. Teachers and managers must learn to teach nutrition and they also must learn to work together as a team. Nutrition education is a vital key to eliminating plate waste.

The fourth component of WOW is the elimination of foods in competition with the school meal. You must plan a special strategy to convince the decision makers that food should not be offered in competition with the school meal. It is a well known fact that when a young person has a snack item that is high in carbohydrates only a short time before the meal is served, he will have a dulled appetite and will be likely to reject some or much of the food on the menu.

Aside from the harmful effects of snack type foods—refined sugar, high fat, etc.—wasted food causes the public to ask, "Why should the government support meals when children have money to buy snacks and meals are thrown in the garbage?"

Prepare the evidence for your decision maker. Do some research on your own on whether there are competitive foods available in your school. Measure the amount of plate waste when young people have snacked before meals or during meals. Compare it to plate waste when those snacks are not available.

Enlist the support of medical groups such as the dental association and parent groups in securing control of the sale of competitive foods. Standards of the Southern Association of Colleges and Universities for evaluating elementary schools prohibit the sale of snack foods and soft drinks in elementary schools.

Find out if there is a similar restriction in your state. Ask the curriculum director for a copy of the recently published "Dietary Goals for the United States" and share this with your administrator.

The fifth component of WOW is to ensure that children have sufficient time to eat and that they eat in a happy environment. Much of the responsibility for this component rests with the school principal. Your best sales effort will be required to convince the schedule maker that the children need 30 minutes to wash their hands and eat lunch. The schedule must be arranged so that children don't have to stand in line more than five minutes—if possible. When kids have to stand in line 15 minutes of a 20 minutes lunch period, you can expect plate waste. They don't have time to eat.

It also is important for the menu maker to consider the time it takes to eat a meal as a menu is planned. Some menus require too much time to eat. This is an important factor in controlling plate waste.

The cafeteria must be a happy place. There are excellent resources available to share with the school faculty regarding dining environment. Share articles and photos from *School Foodservice Journal* with your faculty.

In these few paragraphs it has been possible to mention only briefly some ideas for implementing WOW. I hope enough has been said to stimulate your interest to pursue some more. Declare war in your own school, district, or state on plate waste. The Houston convention program is filled with ideas for waging this war and offers ammunition for all of the battles.

Some members of Congress have provided weapons for the war if legislation is passed. Senate bill 1420 amends the National School Lunch Act. It contains a section on the school nutrition program and on provision of funds to assist states in carrying out nutrition education programs, authorization for the secretary of agriculture to restrict the sale of junk food, provisions for states to establish personnel and staffing standards to assure that personnel will be appropriately trained for the job, and emphasis on using nonfood assistance moneys for expanding school districts' preparation of meals. These weapons, contained in S. 1420, would provide a real boost toward winning the War on Waste.

WOW would be easier with this help. If you believe in the provisions would you let your congressmen and senators know immediately? Be sure to mention the bill number—S. 1420—and also mention the specific provision you wish to see enacted.

Mission seven for '77 is PR. Our success begins and ends with public information. All of the missions of '77 relate to PR. We the membership demonstrate our efforts through nutrition, professional growth, legislation, planning, and coordination. It is all tied together through public information and public information is dependent upon effective performance in the other missions.

A War on Waste in your community would reduce waste and provide an opportunity for some very good public relations before, after, and during the school year. The most important outcome of the War on Waste would be that Johnny had really good food at school and that we helped Johnny learn to eat. Isn't that what it's all about? That is our commitment to every child.

Mr. CASE. As the Senator from Kansas is aware, there has been much concern expressed by some that the competitive foods section of S. 1420 actually bans vending machines and the sale of junk food, but that was not the intent of S. 1436, the bill I sponsored. Is this a correct interpretation of the competitive foods provision in the committee bill?

Mr. DOLE. No, it is not a correct interpretation of the provision. S. 1420 simply returns the authority to the Secretary of Agriculture to regulate the sale of foods sold in competition with school meals. The language in the bill does not in any way ban the sale of any type of food or the use of vending machines.

There is no intent to prohibit the sale of any particular food or group of foods. But rather, to improve the health of children as well as their nutrition knowledge and understanding. I would think that the foods served and sold in schools would be toward this end—and complement school lunch and breakfast programs.

Mr. CASE. What types of foods does the committee mean by that?

Mr. DOLE. I believe the Agriculture Committee intended that foods sold in schools should be nutritious. In the Committee report it states: "It is counterproductive for the Federal Government to attempt to provide nutritious, health-supporting meals through the child nutrition programs, and, at the same time, permit foods of low nutritional value to compete directly with nutritious meals." S. 1420 would permit the sale of foods, such as fruits, vegetables, dairy products, full strength fruit and vegetable juices, and other items determined to be nutritious.

In addition, the foods sold should be ones which develop a child's food preferences, and broadens his or her exposure to a variety of foods. The stories about children thinking that fresh fruits come from plastic bags and that

milk comes from cartons are not always exaggerations.

Mr. CASE. Does this mean that a food product which is naturally low in nutrient values, but which is artificially fortified, would be considered to be a nutritious food?

Mr. DOLE. Foods fortified with vitamins and minerals are often too high in sugar and caloric content to be wholesome, and will not be acceptable just because they are fortified. Foods of limited nutritional value would include: chewing gum, candy, and soft drinks. Foods such as full-strength fruit juices and oranges can provide quick energy, fiber, and nutrients without contributing to tooth decay and obesity.

The fundamental purpose of the school lunch program is to provide nutritional meals to schoolchildren, making full use of the Nation's agricultural abundancies. The best way to accomplish this is by encouraging the consumption of natural, nutritious agricultural commodities—fruits, vegetables, dairy products, meat, poultry, grains, cereals, nuts, and so forth.

Let me say finally that I applaud the Senator's leadership in this area. It is a misunderstood amendment. As the Senator from Kansas said in his opening statement, it is not against anything. It is really for everything, and primarily for the benefit of the child. We appreciate the Senator's continued interest.

Mr. CASE. I am very much obliged to the Senator from Kansas for giving the extra time he has to the particular phase of the matter in which I have been so very much interested, as well as the whole subject before us. I congratulate him again, and I congratulate the committee. I am sure the Senate will follow their leadership in this matter.

Mr. DOLE. I thank the Senator.

Mr. President, I ask unanimous consent that a statement on competitive foods be printed in the RECORD and also that portion of a letter from Carol Tucker, former Assistant Secretary for Food and Consumer Service, dated June 28, 1977, related to competitive foods.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPETITIVE FOODS

The sale of competitive foods reduces participation in the lunch program and also *reduces revenues collected by the school* for the lunch program.

The school board in Dallas, Texas, banned the use of vending machines in secondary schools in 1975.

Prior to the ban, 3,356,517 children participated in the school lunch program. After the ban on vending machines, participation in the school lunch program rose to 3,721,428 or a gain of 365,000 children.

The Dallas school board also found that some schools gained as much as $100 per day in the lunch room when vending machines were not made available to students.

In some areas, plate waste in the school lunch program is as high as 30%. *The increase in vending machines is directly related to the increase in plate waste.* The availability of candy bars, soda pop and other foods of limited nutrition value before lunch, during lunch, and after lunch obviously plays a significant role in the throwing away of all or portions of a school lunch. If children are permitted to consume a high level of nonnutritious foods, then they are unable to consume the necessary amounts of nutritional foods.

It is very inconsistent to let junk foods be sold in competition with nutritious foods. Students are in school to be educated. They should learn about basic academic subjects and they must learn about living, including their bodies and how to take care of them. Nutrition education should be a part of that curriculum. Education is more than classroom activities and must be an integral part of the school environment. To say one thing in the classroom about proper eating habits then to say another thing by the presence of foods of low or no nutritional value, is not education. To quote a Chinese proverb, "I hear and I forget, I see and I remember, I do and I understand."

Foods and snacks such as fruit juices and fruits can provide quick energy, fiber and nutients without contributing to tooth decay and obesity.

Tooth decay—80% of dental caries begins in childhood, during the early formative years. The consumption of foods with a high sugar content is most detrimental to teeth. Every year the nation's dentists fill about a half a billion cavities and collect about $4 billion for doing it.

Obesity—excess calories are directly related to this problem. Obesity is the nation's number one health problem. Obese children run a great risk of remaining obese all their lives. Rutgers University reports that one out of every five children is overweight. It has been estimated that for obese children of age 12 the odds against being normal weight adults are 4 to 1 and if the weight loss is not accomplished by the end of adolescence, the odds rise to 28 to 1.

School districts could sell nutritious foods and still make a profit. The Los Angeles school district nets over $4 million annually from the sale of candy and pop. Ironically, the profits from these sales are often used to purchase athletic equipment.

Changing the type of food sold in schools will not necessarily remove a source of revenue for the school or student activities. Nutritious food may currently be low profit, but it is because of the competition with candy bars and soda pop. If foods of low nutritional value are removed, nutritious foods then become more profitable.

Parents, nutritionists, psychologists, teachers, school administrators and food service personnel are on record as believing that junk foods, because of their negative impact on physical and mental health, should be eliminated from schools. In testimony before the Select Nutrition Committee, Dr. Michael Lesser recommended, and it was substantiated by other witnesses, that junk foods be banned from our schools because of their potential to cause deviant or hyperactive behavior in some children.

The American Dental Association, the American Dietetic Association, the American School Food Service Association, the American Dental Hygienists Association, the Society for Nutrition Education, the Society for Preventive Dentistry, the Community Nutrition Institute, the Children's Foundation, the Center for Science in the Public Interest, the Consumer Federation of America, and many other groups concerned with health and nutrition are in thorough support of the provision in S. 1420, restoring the authority to the Secretary of Agriculture to regulate the sale of competitive foods.

Freedom of Choice. Students, like all of us, must learn to make proper choices. That means they must be exposed to opposite points of view. The school, through nutrition education and the making available only nutritious foods can present the nutrition viewpoint. The $4 billion food advertising business certainly presents the other vantage point. Students are not permitted to buy cigarettes in school, although they may be permitted to smoke at home. Likewise, the food available to the student at school should be wholesome, let them exercise freedom of choice at home.

Most school districts, and many states are not equipped to make decisions about what food should be sold in schools. Most lack the professional expertise, to determine what will contribute to the nutritional health of students. State and local districts are less able to withstand the big money power pressures applied by professional lobbyists. They are also less able to resist the offers of donation of equipment to schools by various "food" manufacturers—if they agree to sell their product in the school.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C. June 28, 1977.

HON. HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that S. 1420 will soon be on the floor of the Senate, and that possible amendments may be offered to the bill. We would like to convey to you the Department's position on several such amendments.

The Department is opposed to converting the nutrition education program authorized by S. 1420 into an uncontrollable, automatic entitlement program. The Department strongly agrees with the need for nutrition education. In fact, we recently requested from the Congress the appropriation of $1 million in fiscal 1978 for pilot nutrition education programs, and the Senate Subcommittee on Agricultural Appropriations complied with this request. However, we believe the program authorized by S. 1420 of nutrition education grants to States is untested, and may not turn out to be as successful an effort as its sponsors would hope. We believe such a program should be subject to the regular review of the appropriations process, and that the federal government should not be locked into an automatic and uncontrollable level of spending before the program has even been tried.

We would caution that nutrition education is extremely difficult to do well. For example, an Urban Institute study found that a considerable amount of nutrition education provided to WIC recipients in 1974 was of questionable value. Moreover, many state education agencies have not had prior experience in the nutrition education area.

For these reasons, we believe it would be unwise to establish this new and untried approach as an entitlement. If the program proves to be of significant value, it should not have difficulty securing funds through the appropriations process.

The Department also opposes raising the authorization ceiling for the nutrition education program above the $27.7 million authorized under S. 1420. This is a healthy sum of funds for a new and untried program. Again, if the program proves to be of substantial value, the Congress can always raise the authorization ceiling in future years.

COMPETITIVE FOODS

The Department is also concerned about a likely amendment to remove from S. 1420 a provision that would allow the Secretary to regulate the sale of foods in vending machines during the hours the school lunch and breakfast programs are in operation. We believe that it is proper for the Secretary to have such authority, and we support the provision of S. 1420 that would remove from current law the provision that prohibits the Secretary from acting in this area.

We can assure you that if the Department has such authority, it will use it cautiously and only after consulting with other federal agencies and concerned state and local officials involved in this area. We will not take

arbitrary or precipitous action in this area. But we do believe that the Department should have this authority, and should not summarily be barred from acting to safeguard the diets and health of children.

We therefore oppose amendments to remove from S. 1420 the provision restoring our authority to regulate the sale of such foods.

The Office of Management and Budget advises that there is no objection to the transmittal of this letter from the standpoint of the Administration's program.

Sincerely,

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

UP AMENDMENT NO. 615

Mr. McGOVERN. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SASSER). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted technical amendment No. 615.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, line 24, strike out "fiscal" and insert in lieu thereof "school".

On page 54, line 2, strike out "fiscal" and insert in lieu thereof "school".

On page 54, line 6, strike out "fiscal" and insert in lieu thereof "school".

On page 54, line 16, strike out "fiscal" and insert in lieu thereof "school".

On page 54, line 18, strike out "fiscal" and insert in lieu thereof "school".

On page 78, immediately after line 18, insert the following new sections 15 and 16:

"SEC. 15. Effectively July 1, 1977, the National School Lunch Act, as amended, is amended—

"(a) by striking out 'fiscal' the second and third time that term appears in section 6(e) of the Act and inserting in lieu thereof 'school'.

"(b) by amending section 7 of the Act as follows:

"(1) by amending the first sentence to read as follows: 'Funds appropriated to carry out sections 4 or 5 during any fiscal year shall be available for payment to the States for disbursement by State educational agencies, in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools of the States in supplying (1) agricultural commodities and other foods for consumption by children and (2) food service equipment assistance in furtherance of the school lunch program authorized under this Act.';

"(2) by striking out 'fiscal' the second time that term appears in the third sentence and inserting in lieu thereof 'fiscal or school';

"(3) by striking out 'fiscal' in the fourth sentence and inserting in lieu thereof 'fiscal or school';

"(4) by amending the sixth sentence to read as follows: 'For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 per centum of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 per centum of the matching requirement for the preceding school year.';

"(7) 'School year' means the annual period determined in accordance with the regulations issued by the Secretary.";

"(d) by striking out 'fiscal year' each time that phrase appears in the last sentence of section 17(e) of the Act and inserting in lieu thereof 'school year'.

"SEC. 16. Effective July 1, 1977, the Child Nutrition Act of 1966, as amended, is amended—

"(a) by striking out 'fiscal' the second and third time that term appears in the sixth sentence of section 3 of the Act and inserting in lieu thereof 'school';

"(b) by striking out 'thereafter, beginning with the fiscal year ending June 30, 1976,' in the sixth sentence of section 3;

"(c) by striking out 'fiscal' the first and second time that term appears in section 5(b) of the Act and inserting in lieu thereof 'school';

"(d) by striking out 'fiscal' each place that term appears in section 5(d) and inserting in lieu thereof 'school';

"(e) by inserting at the end of section 15 the following new paragraph (e):

'(e) "School year" means the annual period determined in accordance with the regulations issued by the Secretary.'; and

"(f) by striking out 'by January 1 of each year (by December 1 in the case of fiscal year 1976)' in the second sentence of section 17 (d) and inserting in lieu thereof 'each year by not later than a date specified by the Secretary'.".

Mr. McGOVERN. Mr. President, this amendment is a technical amendment required by the change from July 1 to October 1 in the beginning of the Federal fiscal year.

School food reimbursement rates are adjusted every July 1, and up until now the commodity donation rates have also been adjusted on July 1. However, the language of the current law calls for the commodity rates to be adjusted each fiscal year which would now require the rates to be adjusted each October 1 instead of July 1. This will split September off from the rest of the school year, and be administratively impractical.

This amendment retains the July 1 adjustment for commodities by requiring the adjustment to be made each school year rather than each fiscal year. This is necessary to provide continuity and coordination of Federal assistance with State and local administration and financial accountability of child nutrition program operations.

The amendment also moves to a school year basis certain provisions regarding State matching requirements and food service equipment assistance.

Finally, the amendment would authorize the Secretary to establish the date the State plan of operations for the special supplemental food program is required to be submitted. This change is proposed in order to conform with the change in the beginning of the fiscal year to October 1, and also to allow for the full implementation of OMB circular A-95 which provides 45 days for review of the plan by the Governor.

This amendment does not add to the cost of any program.

I urge its adoption and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 616

Mr. CHILES. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment No. 616.

Page 69, between lines 11 and 12, insert:

If a State education agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary of Agriculture, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary of Agriculture may make funds authorized in this section available to the Department of Health, Education, and Welfare to fund the nutrition education component of the State program without requiring an additional grant application.

Mr. CHILES. Mr. President, I want to add my congratulations to the committee on its support for the nutrition education program. Certainly, that meets a tremendous need. I have been trying to work in HEW appropriations to fund nutrition programs, including nutrition research and health education programs. I feel there could be a possibility of overlap and of duplication between this new program in the Department of Agriculture and the health education programs that are now in HEW. My amendment would create a mechanism to allow a single grant application to be made where there is a comprehensive health education program.

In many instances, local areas, including schools, are applying for comprehensive programs and there is no reason why they should have to have one grant for a health program and another for a nutrition program. The amendment would allow a mechanism whereby there could be cooperation between the Secretary of Agriculture and the Secretary of HEW and we could, perhaps, cut down some paperwork and have one program.

Mr. McGOVERN. Mr. President, if the Senator will yield, I think his amendment is another commonsense effort to improve the operation of our child nutrition programs.

He is quite correct that, if the State or community has a good, ongoing program in child nutrition, whether administered by the Office of Education or what have you, we do not want to overlay another program on top of it, but simply to supplement and strengthen the existing program.

I am more than pleased to accept the amendment of the Senator from Florida. I think it makes good sense.

Mr. CHILES. I thank the distinguished Senator from South Dakota.

Mr. DOLE. Speaking for this side, we have no objection. In fact, we think it is a good amendment. It is acceptable to us.

Mr. CHILES. I yield back the remainder of my time.

Mr. McGOVERN. I yield back the remainder of my time.

Mr. CULVER. Will the Senator yield

for me to ask unanimous consent to address the Chamber for 1 minute?

Mr. CHILES. I would prefer to adopt this amendment first.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 617

Mr. McGOVERN. Mr. President, I send to the desk a technical amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes unprinted amendment No. 617.

On page 42, line 19, strike out "15" and insert in lieu thereof "1".

On page 48, line 7, insert immediately before the period the following ": *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administrative costs need not be published until December 1 and February 1 respectively, so as to permit consideration of the studies prescribed in subsection (b)(4) of this section".

Mr. McGOVERN. Mr. President, the bill, as it now stands, requires proposed regulations for the summer feeding program to be published by November 1 and final regulations by January 1. This is to provide more leadtime for program planning.

There is one problem presented by this time frame, however. S. 1420 requires the Secretary to conduct a study on reimbursement rates for the summer feeding program, and then to make any necessary modifications in these rates by regulation. S. 1420 now requires this study by December 15. This would be 45 days after the proposed regulations are due.

To rectify this problem, the amendment requires the Secretary to issue the study by December 1—which is the earliest the Department of Agriculture believes it can be ready, and also, moves back to December 1, 1977, the publication date for those portions of the proposed regulations that deal with the reimbursement rates. Final regulations on the reimbursement rates would be due by February 1, 1978.

This will allow the public to participate in the rulemaking process governing the establishment of new reimbursement rates for the summer feeding program.

The amendment has no cost impact, since it is in the nature of a perfecting amendment. I ask unanimous consent that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHILES. Mr. President, I ask unanimous consent that I be allowed 5 minutes to make a statement on the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 613—MOTION TO RECONSIDER

Mr. CHILES. Mr. President, we just adopted by voice vote an amendment presented by the distinguished Senator from Minnesota and others to this program which has the effect of changing the thrust of the program from one in which it would be an authorizing program to one in which it will be an entitlement program.

I know there are good reasons for this program being an entitlement program and perhaps the Senator from Minnesota will speak to those reasons, but I think this would raise a problem that we should at least speak to, and that is that the thrust of the Budget Committee Act and the thrust of the work of the Appropriations Committee has been that we were going to stop entitlement programs and stop passing entitlement programs because those provide for uncontrollable funds.

We know now that only about 25 percent of the budget dollar is actually controllable in any one year and the other 75 percent has become uncontrollable. As we pass any additional entitlement programs, we are cutting down on that.

So one of the major thrusts of the Budget Act, and in coordination with the Appropriations Committee, was that we were going to try to go back to requiring authorizing programs for all new programs and even trying to look at old programs, of a number of those we took away some of their entitlement.

There is no education grant program to the States in an entitlement now.

So again, this is creating a little new ground in which for the first time we have an education grant program to the States that would become an entitlement program.

For these reasons, I feel that this amendment having been adopted today, it goes against what the administration position was on this bill, against what the committee had come out with on the bill, and neither the Budget Committee nor the Appropriations Committee has had an opportunity, really, because of the way this has come up on the floor, to know that this amendment was going to be presented and to have an opportunity to express their views on it.

For those reasons I think that the program coming on like this should have further consideration. I move now that we reconsider the vote by which the amendment was adopted and have an opportunity to have further debate on this particular amendment. have the people that might be involved in the Appropriations Committee and the Budget Committee have an opportunity to be involved in the debate.

Mr. President, I so request that we reconsider the vote by which the Humphrey amendment was adooted.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

Mr. HUMPHREY. Mr. President, before we go to that, I would like to have a chance to comment.

The PRESIDING OFFICER. The Chair will advise that there is 20 minutes for debate on this motion, 10 minutes to a side.

Mr. HUMPHREY. I thank the Chair.

Mr. President, it was impossible for me to be here earlier than this because of obligations with the Foreign Relations Committee.

I want to address myself to the principle of entitlement.

I think my good friend from Florida knows that we have a cap on this entitlement, 5 years, so that Congress has to review it.

Also, I am sure the Senator knows that the entitlement program is the best way for us to maintain continuity in a nutrition program.

Mr. CHILES. I wonder if the Senator would point out to me where the cap is?

Mr. HUMPHREY. It is my understanding that Senator DOLE added that cap to it September 30, 1982.

Mr. CHILES. I thank the Senator.

Mr. McGOVERN. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. McGOVERN. It is my understanding a 5-year cap in the amendment offered by the Senator from Kansas, in cosponsorship with the Senator from Minnesota, gives us a chance to review this program at the end of 5 years.

There is an almost absolute certainty that the amount of money will go down in that 5 years for the reason that it is attached to a formula that provides 50 cents for each enrolled school child.

As the Senator from Florida doubtless knows, the school age population now is going down. The World War II baby boom of the 1940's and 1950's is over with and, as a consequence, the number of children in school over the next 5 years will decline.

For that reason, we are in a very unique circumstance here where we can say to the Budget Committee and those who are rightfully concerned about the cost of Federal programs, that under the formula we have approved a while ago, and which I hope we will still use, we actually have a formula that will result in a slight decline in the cost of this program over the next 5 years.

Mr. HUMPHREY. In other words, what we have done, and I think it is very clear from the discussion that has taken place thus far, we tied funding for this program to the number of children participating in the program.

The best argument for the entitlement effort is that it provides continuity of operation. We have too much variability, year after year, with different appropriations, we have some programs that are dropped out, some that are started up, then we have an expansion program and then we have a retrenchment. I think it lends itself to wasteful use of public funds.

I grant the Senator from Florida, who is such a dedicated Member of this body and of the Budget Committee, that entitlement, if it becomes a pattern, can cause very serious difficulties. But we do have other entitlement programs, as the Senator knows. For example, veterans' benefits, social security, both are entitlement programs.

But in this instance, our State and local school officers tell us, and we have had prolonged and intensive hearings, that without the entitlement they have difficulty making plans, even in the number of facilities that they need, the space that they need, as well as the food products that they need.

I hope we maintain the action that has been taken already, because I think it is sensible. It may violate the spirit of the annual appropriation process, but the purpose of this body is to pass legislation that works, that gets the most out of the public dollar, that serves the people the best, and we have all the evidence we could ever hope to have that entitlement does just that.

Therefore, Mr. President, I hope we will not reverse our action. I think it would be most unfortunate.

So in offering the amendment with my good friend from Kansas, Senator DOLE, I think we have offered it not as something off the top of our heads but, rather, as a result of the reports that have come to us in hearings, the studies that have been made in the respective States, the advice and counsel of the administrators of this program, and teachers and other school people and the local governing officials.

Mr. DOLE. There is another practical reason why the Senator from Kansas voted against the entitlement provision of the committee.

In the present act there is authority to appropriate between $11 million and $14 million for nutrition education, studies, and surveys, and so forth, but the most we ever had appropriated in any one year was about a millon dollars—this year it was $700,000—for a nationwide nutrition education program. Even though the authority is there, the appropriations process has not worked. That, among other things, is what persuaded this Senator that we go on to an entitlement program. Everything in the program is pretty much entitlement.

I appreciate the thoughts expressed by the distinguished Senator from Florida. There are other considerations, as to how we might end up in conference, that persuaded the Senator from Kansas that this was the correct way to approach it.

Mr. HUMPHREY. As the Senator knows, we do have entitlements in the child nutrition programs. So this is not as though we were breaking new ground.

Mr. CHILES. Mr. President, I have a copy of a letter that was sent to the distinguished chairman of the committee, Mr. TALMADGE, from the Department of Agriculture, in which they state:

> The Department is opposed to converting the nutrition education program authorized by S. 1420 into an uncontrollable, automatic entitlement program.

They state further:

> . . . it would be unwise to establish this new and untried approach as an entitlement. If the program proves to be of significant value, it should not have difficulty securing funds through the appropriations process.

In fact, they say that they are for the bill, and the Department strongly agrees with the need for nutrition education.

I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
June 28, 1977.

HON. HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that S. 1420 will soon be on the floor of the Senate, and that possible amendments may be offered to the bill. We would like to convey to you the Department's position on several such amendments.

The Department is opposed to converting the nutrition education program authorized by S. 1420 into an uncontrollable, automatic entitlement program. The Department strongly agrees with the need for nutrition education. In fact, we recently requested from the Congress the appropriation of $1 million in fiscal 1978 for pilot nutrition education programs, and the Senate Subcommittee on Agricultural Appropriations complied with this request. However, we believe the program authorized by S. 1420 of nutrition education grants to States is untested, and may not turn out to be as successful an effort as its sponsors would hope. We believe such a program should be subject to the regular review of the appropriations process, and that the federal government should not be locked into an automatic and uncontrollable level of spending before the program has even been tried.

We would caution that nutrition education is extremely difficult to do well. For example, an Urban Institute study found that a considerable amount of nutrition education provided to WIC recipients in 1974 was of questionable value. Moreover, many state education agencies have not had prior experience in the nutrition education area.

For these reasons, we believe it would be unwise to establish this new and untried approach as an entitlement. If the program proves to be of significant value, it should not have difficulty securing funds through the appropriations process.

The Department also opposes raising the authorization ceiling for the nutrition education program above the $27.7 million authorized under S. 1420. This is a healthy sum of funds for a new and untried program. Again, if the program proves to be of substantial value, the Congress can always raise the authorization ceiling in future years.

COMPETITIVE FOODS

The Department is also concerned about a likely amendment to remove from S. 1420 a provision that would allow the Secretary to regulate the sale of foods in vending machines during the hours the school lunch and breakfast programs are in operation. We believe that it is proper for the Secretary to have such authority, and we support the provision of S. 1420 that would remove from current law the provision that prohibits the Secretary from acting in this area.

We can assure you that if the Department has such authority, it will use it cautiously and only after consulting with other federal agencies and concerned state and local officials involved in this area. We will not take arbitrary or precipitous action in this area. But we do believe that the Department should have this authority, and should not summarily be barred from acting to safeguard the diets and health of children.

We therefore oppose amendments to remove from S. 1420 the provision restoring our authority to regulate the sale of such foods.

The Office of Management and Budget advises that there is no objection to the transmittal of this letter from the standpoint of the Administration's program.

Sincerely,

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

Mr. CHILES. Mr. President, I note that in the committee report on this bill, it is stated that Secretary Bergland requested that the House committee and the Senate Committee on Agriculture not add any new child nutrition programs or program components this year. They said:

> We are not convinced that giving $25 million to $30 million a year in grants to State education departments will make an appreciable difference in this area. Nutrition education is difficult to do well.

I think that suggests all the more reason why we should start this through the appropriation process, through a pilot process, and let us determine whether it is going to do well. If it is, let us fund it. But right away we are starting it as an entitlement program; so, regardless of whether it works or not, for 5 years it is going to be on the record, and 5 years from now it will be lost. Like every other entitlement program, it will come up automatically for renewal. No one will ever get a chance to look at it.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. HUMPHREY. I know the Senator is concerned, but we have reviewed these nutrition programs every year, under the leadership of Senator MCGOVERN and Senator DOLE. I think we should make a commitment to the Senator from Florida that each year, under the entitlement program, we will review that program and we will report the results to the Senator from Florida. If there happens to be any abuse under the entitlement program or it is getting out of hand, I assure the Senator from Florida, and I give him my word—I think I can speak for the Senator from South Dakota and the Senator from Kansas—we will be the first to come in and ask that it be changed.

Mr. CHILES. I thank the distinguished Senator from Minnesota. I certainly accept his word on it and that the Senator from Kansas and the Senator from South Dakota would follow that.

I have to raise the point that every other committee says, "Let us pass entitlement programs. We are going to review them." We do not need an appropriations committee if we go in that direction. The Committee on Public Works can just say, "We are going to do the same thing with the highway program, so we ought to build another one on that." Everyone does it for their area, and before long there is no reason for having an appropriations committee. Right now, we are only handling 25 percent of the funds that go through. That is the main point.

I do not want to belabor this matter any further. I am ready for a vote on the question.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CHILES. I yield back the remainder of my time.

Mr. MCGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

The motion was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 618

Mr. HUMPHREY. Mr. President, I have an amendment which I have explained to the manager of the bill and the ranking minority member, and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY) on behalf of himself, Mr. DOLE and Mr. MCGOVERN proposes an unprinted amendment numbered 618.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, add a new section.

SEC. . Sec. 6(a)(3) of the National School Lunch Act is amended by striking "and for necessary surveys and studies of requirements for food service programs in furtherance of the other purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966," and inserting in lieu thereof ", for necessary surveys and studies of requirements for food service programs and to establish an Institute of Food Management and Technology in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966,"

Mr. HUMPHREY. Mr. President, this is an amendment to the pending legislation that I hope will improve the quality and efficiency of the Nation's school feeding programs. It is an amendment that will add little cost to the overall program but which can return large dividends.

We have all heard in recent years about waste and inefficiency that seem to plague many of our school food programs. "Why Johnny won't eat?" has become a slogan in some parts of the press. I believe that some of this criticism is inevitable in a $3 billion program to feed children. Much of it is exaggerated. But some of it is true. It would have to be. In a space of 7 years, the number of children participating in the program has increased by almost 10 million. Major cities have launched, practically overnight, programs to feed thousands, in some cases hundreds of thousands, of children.

The result is that children are being fed who were hungry before. But that does not mean we are feeding them in the best way possible. One of the glaring inadequacies in a child feeding program is research—research into how best to prepare and deliver the food to the table, as well as research into the results we are achieving.

There is some irony in this inadequacy of research. America is famed for its food service technology. Private industry invests millions of dollars annually in developing technology and management skills to run cafeterias all across the country. The Defense Department has invested millions in the Natick Laboratory to develop food preparation techniques. Yet, in the Nation's school feeding programs, we have been content to operate as if we were still a nation of one-room schools with a sink and a stove out back.

I believe that a constructive response to the current criticism of the program would be a small investment in research to provide our school feeding programs with the best management and food technology techniques that can be devised.

I have spoken to several knowledgeable individuals and organizations about this problem and they agree that a small but effective Institute of Food Management and Technology could provide the research we need to solve the problems of providing food service at one and the same time in situations as diverse as major metropolitan areas like New York or a small town in South Dakota. Dr. Jean Mayer, the coordinator of the 1969 White House Conference on Food, Nutrition and Health, now President of Tufts University, has assured me that Tufts, in cooperation with the University of Massachusetts and the Natick Laboratory, could establish such an institute and produce measureable results within a few years. Josephine Martin, the current president of the American School Food Service Association, has informed me that this institute, and the research it could undertake, is exactly what her membership, the frontline troops who plan and operate the program, need to become more effective. The association itself is launching a research journal to try to provide some of this information to its members. I believe that the effectiveness of this institute will depend greatly on a close working relationship and cooperation with the American School Food Service Association. It is the association's members who know most directly what the major management and technology problems are, and who may be able to help devise the solutions.

The Congress actually anticipated the need for this kind of research when it wrote section 6(a)(3) of the National School Lunch Act in 1973. This section authorizes the Secretary to use up to 1 percent of program funds, other than section 3, for grants in the areas of nutritional training, education surveys, and studies of requirements for food service programs. Unfortunately, this authority has never been drawn upon to provide the kind of research in management and technology we now need. My amendment would add to section 6(a)(3) a specific requirement that the Secretary use this authority to establish an Institute of Food Management and Technology. At current funding levels, section 6(a)(3) could provide between $13 and $15 million annually for research. I believe that the institute I am proposing could operate effectively for between $2 and $4 million.

So we have funds available. I hope the manager will accept this amendment.

Mr. McGOVERN. Mr. President, I am thoroughly familiar with the proposal which the Senator from Minnesota has made.

I believe members of this committee are familiar with Dr. Jean Mayer's leadership in the nutritional field. He currently is president of Tufts University.

This seems to me to be a reasonable proposal. Not only am I prepared to accept it, but also I should like to be associated with the Senator's proposal.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the name of the Senator from South Dakota be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. As a matter of fact, we have discussed it many times, and it is something we need.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. DOLE. Mr. President, the Senator from Kansas feels the same way, and I should like to be associated with the remarks made by the distinguished Senator from Minnesota.

As I understand, it would not preclude anyone else from applying for funds—for example, someone in Kansas or Minnesota.

Mr. HUMPHREY. It does not specifically state any one place. It provides funds.

Mr. DOLE. It is not an earmarking?

Mr. HUMPHRY. No, it is not an earmarking. The institute would have to be judged on its merits.

Mr. DOLE. I appreciate that, and I should like my name to be added as a cosponsor.

Mr. HUMHPREY. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Kansas be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I yield back the remainder of my time

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 619

Mr. McGOVERN. Mr. President, I send to the desk another technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes unprinted amendment No. 619.

The amendment is as follows:

On page 37, line 8, strike out "practicable" and insert in lieu thereof "practicable".

On page 39, line 17, strike out "programs" and insert in lieu thereof "program".

On page 55, line 3, strike out "parts" and insert in lieu thereof "Parts".

Mr. McGOVERN. This amendment simply corrects certain typographical errors in S. 1420, as reported.

I ask that the amendment be accepted.

The PRESIDING OFFICER. All time having been yielded back the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, today we have before this body one of the most important bills that the 95th Congress will have the opportunity to enact, the Child Nutrition Act of 1977.

It has been said since the beginning of history that children are at the heart of every society. This legislation will strengthen the welfare of this Nation's youth by assuring that the children of this country have an opportunity to participate in the thousands of child nutrition programs offered in the schools of this Nation.

The distinguished Senator from South Dakota (Mr. McGOVERN) is to be commended for his leadership in this field. I am pleased that S. 1420, a bill that I cosponsor, contains a number of provisions from bills that I introduced in this Congress, S. 928 and S. 720.

I am especially pleased that this bill lays the groundwork for a comprehensive nutrition education program for the youth of this country. The need for this program has been demonstrated for years by scores of witnesses before the Select Committee on Nutrition and Human Needs. This program will help curb the abusive dietary habits that so many children have. As such, it is not only a good program for today, but an investment in the future. I will examine this provision more later in my statement.

I am pleased to speak in favor of the committee's bill strengthening the summer feeding, commodity distribution and nonfood assistance programs. The committee's work on the summer food program is especially gratifying—the bill's provisions strengthen the program at the same time they provide for specific controls to insure that the well-publicized abuses of last year do not reoccur.

The bill accomplishes this in several ways. First, it continues the entitlement provisions of Public Law 94–105, insuring that eligible sponsors are entitled to participate in the program. At the same time, the bill very clearly sets forth guidelines for State agencies as to which sponsors are in fact eligible: those sponsors with adequate administrative and financial capabilities; sponsors which have not been seriously deficient in past program operation; and sponsors which provide a year round community service. This latter requirement may be waived where a low-income area would not otherwise be served by a summer food program. By specifically delineating requirements for eligible sponsors, we make it clear that those sponsors meeting the criteria are entitled to participate in the program.

We have also strengthened the controls State agencies have over vendors desiring to participate in the program. The committee bill requires that vendors register with the State agency, disclosing their corporate officers, their past relationship with the program and any terminations or disallowances of contract claims. Vendors which have been seriously deficient will not be permitted to register nor to participate in the program. To assist State agencies in obtaining information about vendors which operate in more than one State, USDA is required to maintain a central record, from which States may draw information when needed.

The bill also addresses the problem of program payments. The Secretary is directed to conduct a study of administrative costs, taking into consideration number of sites, children served and type of meal preparation—self-prepared or vended. The Secretary is authorized to establish new rates of reimbursement for administration costs, based upon the findings in the study, thus separating administrative from food service costs. The committee is hopeful that this separation will reduce tendencies to inflate program participation, leading to overpayment of program funds.

In addition, the bill makes it clear that advance payments to assist sponsors to conduct an effective program must be made available. In its concern to increase meal quality and encourage self-preparation of meals, a distinction has been made in the amount of advance funds a sponsor receives. An approved sponsor is entitled to 100 percent of the same month's program value for the previous year, or 50 percent of the current year's estimated program value for the month if the sponsor has contracted with a vendor, or 65 percent of current month's program value if the sponsor intends to self-prepare meals. These payments must be made by the State agencies to approved sponsors on the dates specified in the bill, June 1, July 15, and August 15. We believe access to advance funds is crucial in assisting sponsors plan, operate and expand and are hopeful the specific provisions in the bill will minimize the problems which have occurred in the past due to late payments to sponsors eligible to receive these funds, thereby curtailing program operation.

The committee has also clarified the responsibilities of State agencies, by setting forth specific items that must be included in all State plans of program administration. Providing the information required by the bill in a detailed and complete fashion will be of assistance to the State agencies in program planning, and will be of substantial aid to the Department of Agriculture in monitoring the program. It is clear that without aggressive monitoring on both the Federal and State levels, problems will continue to proliferate. Use of the State plan, with its detailed plans for accomplishing program goals—expansion to all needy children, fiscal and program integrity, technical assistance by the State, and encouragement of quality meal preparation—is an integral part of the monitoring process, and will enable the Department as well as interested persons in the community, to take effective steps to insure the program functions effectively.

To assist State agencies perform the responsibilities set forth in the bill, we have altered the formula for State administrative reimbursement, again, separating it from numbers of meals served. The formula insures sufficient funds available to smaller program States to assist them in taking aggressive steps to expand the program, at the same time it provides funds to larger program States in an amount large enough to permit them to continue their program effort.

I believe this bill is an excellent one—setting forth clearly the lines of accountability and providing necessary support for effective program action. Implementation of the provisions in this bill will insure continued growth of this important child nutrition program and provide needed nutritional benefits to low-income children during the summer months.

Early in my comments, I alluded to the provisions for nutrition education in this bill. I would like to again stress my beliefs concerning the needs for this provision. In my view, we need to develop a sound nutrition education program, and the obvious focal point to attack the problem should be the school system and the education we provide there in the early years.

Under this proposed legislation a system of grants to State educational agencies would be established for the training of food service and educational personnel in the principles of good nutrition and the development of comprehensive nutrition education programs. These comprehensive nutrition programs will utilize the existing school lunch and child nutrition programs as a learning laboratory.

The need for this type of approach has been recognized at all levels of government. In the October issue of the School Food Service Journal, President Carter said that—

> We must incorporate nutrition education into our child nutrition program. It is not enough just to feed our children today. We must educate them for tomorrow.

This provision is consistent with the principles of the National School Lunch Act that was passed just over 31 years ago. In passing this legislation, the Senate will be participating in an important piece of history of efforts to enhance our most precious commodity, the youth of this Nation.

Mr. President, I particularly commend the Senator from South Dakota and the Senator from Kansas for their leadership in this effort, and I am happy to be associated with it.

Mr. JAVITS. Mr. President, today the Senate is voting upon a very important and worthwhile piece of legislation—the National School Lunch Act and Child Nutrition Amendments of 1977. I would like to comment on several aspects of the bill that I feel are particularly important—the nutrition education program, the limitation on sale of competitive foods, and the summer food service program.

I commend my colleagues of the committee for creating strong nutrition components in the committee bill. Provision of food is not alone sufficient to meet the nutritional needs of our Nation's children; a nutritionally adequate diet is essential. Evidence abounds of the lack of knowledge in our Nation's youth about good nutrition. The committee bill ad-

dresses the problem through comprehensive programs in the States not only for nutrition education programs for the children but training for teachers and school food service personnel in the delivery of these programs. With a greater knowledge of proper nutrition, children will be less likely to reject nutritious foods for empty calories and will establish more appropriate eating habits that can be of lifelong benefit.

To reinforce the learning provided through the nutrition education programs, the committee bill empowers the Secretary of Agriculture to ban low nutritional competitive foods during periods Federal food programs are in operation. The Federal Government should not be spending millions to educate our children in proper nutrition while permitting food providers the privilege of counteracting these teachings through the sale of so-called junk foods. And such a ban would have a beneficial side effect in decreasing waste of food by children obtaining school lunches and yet filling up with low nutritional foods.

The summer food service program is also a vital part of our Nation's effort to guarantee adequate nutrition for millions of children. Yet it has been beset by abuses that throw a pall over its accomplishments. I commend the committee for its excellent work in favorably reporting a bill that addresses the needs of children and yet provides stringent administrative controls in order to prevent the reoccurence of last year's abuses.

The bill achieves this balance by insuring that all eligible sponsors are entitled to participate but requiring that they meet specific standards of competence. Sponsors must show adequate administrative and financial capabilities; they must have a clean record in past program operation; and they must provide year-round service to the local community. Yet the bill exempts from the year-round service requirement low-income areas which would not otherwise be served by the program.

In the case of sponsors competing to feed the same children, a priority system has been devised, giving preference to sponsors with good prior records, to sponsors with onsite meal preparation, and to those utilizing school food service facilities. These various requirements, and others which I will describe shortly, take away the false notion of license for anyone to do what they will with the program. Programmatic accountability has been firmly grounded in congressional understanding that all eligible sponsors are entitled to participate so that the effort to feed needy children can be undertaken carefully and promptly.

Some critics of the program point to the imbalance of funds reaching our major cities as opposed to our smaller cities and rural areas. The bill answers this argument by mandating that all States must develop, as part of their State plan, a vigorous outreach effort in all areas where needy children remain hungry during the summer months. To assist in this effort, the bill requires State agencies to provide approved sponsors advance funds by June 1, July 15, and August 15. An otherwise good local sponsor should not be discouraged from applying or expanding due to a shortage of initial capital. The amount of advance funds to be made available also reflects the concerns to increase meal quality and encourage self-preparation of meals. The bill also allows the Secretary to provide startup funds for use by sponsors to plan their program 2 months before operations begin. This money encourages sound local program planning, and I expect that the Secretary will strongly encourage States to provide such funds to interested sponsors at sufficient levels of funding. Lack of funds should not be a barrier to good planning.

Another problem which surfaced last year was the disbursement of sponsor administrative reimbursements. Because these funds were tied to the number of meals served, some sponsors took advantage of this system by overestimating the number of children participating at a meal site. I am pleased to point out that this bill does not overreact to this problem by cutting back administrative funding levels, but instead requires the Secretary to undertake a study of these costs by considering the number of sites, the number of children served and the type of meal preparation. The purpose of this analysis is to develop an equitable reimbursement system which separates administrative funds from food service costs. Administrative reimbursements must remain at levels sufficient to cover such expenses. All States will be required to monitor carefully sponsors' participation estimates through audits and onsite reviews. Similarly, the amount of administrative funds provided to each State has been derived from a formula which separates these expenses from the total number of meals served. Small and rural States will now receive sufficient funds to effectively expand and monitor the program.

Increasing State control and responsibility over local programs does not imply that the rights of local programs have been pushed aside. The bill contains an important provision which gives sponsors the right to appeal arbitrary decisions by a State which led to denial of participation or withholding of reimbursements and advance funds. A fair hearing has long been one of the keystones of our American system of justice and must not be neglected in this program. The hearing process itself must be expeditious, since the program is in operation only during the summer months. We expect the Secretary to prescribe hearing schedule guidelines, keeping in mind the necessity for a short timespan from the hearing request to a decision on the issue.

The bill also lays to rest the confusion faced by many States as to their responsibilities in administering and developing program expansion. To avoid last minute disorder as to what agency is responsible for conducting the program, a State agency must notify the Secretary of Agriculture by January 1 each year if it intends not to administer the program. This date will insure that the State agency, or USDA if necessary, will indicate its program commitment in sufficient time to develop effective planning. By February 15, the State agency is required to submit its detailed action plan. The plan will be an indispensable tool for USDA's monitoring efforts and will act as a valuable method for State self-assessment of program performance. Early implementation of the plan and adherence to its deadlines will avoid last minute decisions that hamper program effectiveness.

Once again may I commend my distinguished colleagues of the committee for their efforts and their concern toward meeting the nutritional needs of our Nation's children while improving administrative effectiveness.

Mr. CLARK. Mr. President. I rise to speak on behalf of the committee bill and to urge its passage by the entire Senate. The committee bill extends authorization for the summer food service program for children, the commodity distribution and the non-food-assistance. programs. The uniqueness of this bill lies in the determined effort of the committee members to meet the controversy regarding the summer food program head-on and to translate valid criticisms into reasoned reform. Strict accountability at the local, State, and Federal levels of program implementation has been introduced without aborting our commitment to the nutritional well-being of our Nation's children This bill is a tribute to the diligence of the full committee which sought to continue the fight against hunger and malnutrition while working equally hard against program ripoffs and abuse.

This bill reinforces our entitlement pledge as set down in Public Law 94–105 2 years ago under which all eligible sponsors are entitled to funding upon a demonstration of program eligibility. Eligible sponsors shall not be denied participation because of a limitation on funds and shall be able to provide needy children well-balanced meals during the summer months. This provision is not an open ticket to abuse, but is an affirmation of an informed commitment to eradicate hunger among the most vulnerable members of our society. Moreover, the bill strengthens that commitment by clearly defining specific criteria upon which sponsor eligibility will be determined: Adequate financial and administrative capability, a clean slate in past program operation, and a year-round commitment of service to the local community. It is the hungry child that suffers most directly by the abuses which have plagued this program. Misspent funds minimize the program's impact. Only sponsors with good records and proven administrative capability will be exempt from the year-round requirement in order to reach low-income areas not otherwise served by the program.

Each sponsor's program operation will be scrutinized against a list of possible program deficiencies through independent audits, periodic onsite reviews by the State agency, and submission of a detailed plan when applying. This bill means full disclosure of records as the rule and not the exception. Neither does the bill neglect tough standards for commercial vendors. Each State must establish a vendor registration list which contains the names of corporate officers and directors and a full description of the

vendor's past relationship with the program, including terminations or disallowances of contract claims. USDA must also maintain such a register in the event that vendors are or have been involved in more than one State, and this list must be made available to the State agencies. Because of these new standards for vendor and sponsor conduct in all areas of operation, the State's ability to prosecute promptly for fraud and to set stiff penalties has been greatly strengthened.

USDA retains final responsibility for the program, and I expect the Secretary to be vigilant in monitoring state and local programs both for abuse and for arbitrary decisions which seek to limit services from reaching needy children. State policies limiting sponsorship to select public or private agencies, or creating exclusive jurisdictions, inhibit program expansion and healthy competition between sponsors. This bill does not condone such restrictive policies. It specifically guards against arbitrary decisions concerning denial participation or withholding of advance and reimbursement funds by giving aggrieved sponsors an opportunity for a fair hearing before an impartial official. This hearing process should be instituted promptly in all States. Because the program generally lasts only several months each year, I expect that a fair schedule for the hearing process will be adopted. The time span between a request for a hearing and resolution of the issue must be short. Each State should follow the Secretary's guidelines for a hearing schedule. When there is competition between sponsors to feed the same children, a priority list, favoring sponsors with good records and with onsite meal preparation, has been written into the bill. A priority system rather than restrictive policies is the most equitable system for promoting and monitoring expansion.

This bill reforms a major source of controversy: administrative reimbursements. Funds allocated to State for this purpose will be based upon a formula which separates reimbursements from the total number of meals served. The formula provides each State sufficient funds to administer program operations. The Secretary is further directed to study administrative reimbursements for sponsors and devise a formula along the same lines: Separation of these costs from the number of meals served. Incentives to deliberately inflate the number of children receiving meals must be removed at the same time that sufficient reimbursement levels are maintained.

Strict accountability controls in order to expand and not limit program benefits from reaching needy children is the keynote struck again and again throughout this legislation. Sponsor estimates upon which advance funding is based are required to be carefully evaluated by each State. Advance funds are an integral part of program expansion, since they allow for participation by all sound sponsors and not just those with a large treasury. Approved sponsors, and only those approved by the State, will receive advance funds June 1, July 15, and August 15. The amount to be provided encourages self-preparation of meals. The bill also allows for the use of startup funds by sponsors to plan and prepare their program before operations begin. Many States did not offer these funds last year, but I expect the Secretary to make every effort to encourage allocation of this money at sufficient levels so that sound program planning at the local level will not be discouraged due to a shortage of funds.

Each State must submit to USDA a State plan of operation. The purpose of this plan is twofold: To assist USDA in monitoring State operations and, more importantly, to help States assess their own performance in expanding local programs. The plan must detail the administrative structure, outreach efforts and methods, a system for evaluating local sponsors, and a process for enforcing program regulations. States must also detail quality of meal standards to insure that meals served to children meet the Secretary's nutritional guidelines.

Now, a few short comments regarding funds for State administrative expenses. It has been apparent for some time that an increase in State administrative expense funds, or "SAE," is essential to reach our objective of increasing participation in quality food programs.

New responsibilities fell to State administrators with the passage of Public Law 94–105 in October 1975, which amended the National School Lunch and Child Nutrition Act. In the child care food program, family day care homes became eligible for meal reimbursements based upon a complicated formula similar to that which governs the school lunch program. In the school lunch and breakfast programs, nonprofit residential programs were made eligible for meal reimbursements, and all schools were required to offer reduced-price meals. The administrative funds formula in S. 1420 will increase the amount of money available to States reflecting the increase in their responsibilities. The provision does not detail how each State's total allocation of SAE will be divided to administer each child nutrition program. Consequently, the Department of Agriculture must design a method for each State to allocate the total SAE between each program which reflects their respective administrative costs. It would be unfair for one to receive more money than necessary for administration to the detriment of the other child nutrition programs.

While the Senate and the House have slightly different versions of the SAE formula, I believe there is total agreement on a small but significant provision, concerning audit costs for child care food program participants. Under this provision, each State administrative agency will receive money specifically for meeting these audit costs, which, beginning in 1978, must be conducted every other year. An audit improves program performance and accountability. Currently, it has been unclear who bears the responsibility for these costs: The recipient or the State. The provision solves this confusion by providing States an amount of money, up to 2 percent of total value of the child care food program in that State, to cover audit expenses of local programs. This provision achieves cost effectiveness and efficiency which should be encouraged in all Federal programs.

The summer food program is a good program which was allowed to operate too long without strict controls. It was a neglected program, neglected by the very agencies empowered to administer it. This bill is in large part a forthright response to this neglect, and I believe it does the job very well. In drafting this legislation, the committee did not allow itself the luxury of becoming overwhelmed with examples of program abuse to the detriment of children who need a decent diet. Instead, the committee wrote a bill for these same children, but detrimental to unscrupulous sponsors and vendors. I am very pleased to cast my vote for the committee bill.

Mr. LEAHY. Mr. President, over the last decade our scientific knowledge about the relationship between diet and health has increased enormously. In the last few years, thanks to the Select Nutrition Committee, this information has been presented to Congress on a regular basis. Unfortunately, most of it is not good news. Last summer the Assistant Secretary of Health reported that 6 of the 10 leading causes of death in the United States have been linked to our diet. Too much fat, too much sugar and salt, can be, and are linked directly to heart disease, cancer, obesity, and stroke. Scientific research has pinpointed a number of risk factors, including many which are diet related, that if abated or eliminated would significantly decrease the mortality rate of heart and vascular diseases—our Nation's No. 1 killer.

We have recognized in the past our responsibility to promote public health through food assistance. The cornerstone of our food assistance programs is our school lunch program. When we established this program in 1946 we declared that it was our policy "to safeguard the health and well-being of the Nation's children" by providing nutritious foods in schools. Presently, each day 20 million American children eat a federally subsidized lunch at the cost of $4 billion annually.

I believe these programs have significantly decreased malnutrition in this country and have raised the level of health of our children. Yet, we must recognize the limitations of simply providing food assistance. The problem of malnutrition is no longer the underconsumption of food, but the underconsumption of nutritious food and the overconsumption of filling, yet "empty", calories.

Our knowledge about the relationship between diet and health should tell us that there is too much at stake not to take the next step to providing nutrition education and examples in our schools. The bill before us now will make great strides toward such a policy.

S. 1420 proposes a system of nutrition education which will teach our children the benefits of good nutritional practice. Such education will be taken beyond the school lunchroom, hopefully to be with them always, no matter where and when they eat. Such nutrition education, taught in our schools and brought to

homes everywhere, is the key to a preventive medicine policy and may stem the ever increasing spiral of health care costs.

A second major aspect of this bill is the provision which will allow the Secretary of Agriculture to regulate the sale of competitive foods in our school lunch cafeterias, By regulating the types of foods in our schools we will be able to make our school lunches models of good nutritional practices. By allowing the Secretary to ban so-called "junk foods" from our school lunchrooms we not only help promote better eating habits, but we will cut down on much of the "plate waste." This "plate waste" has been a problem because many children fill up with empty calories from junk food available in vending machines and then throw away the food provided for them at a subsidized cost at lunch time.

I am also pleased to support this piece of legislation because it tightens up the administration of the much abused summer food service program for children. While it provides for stringent administrative controls, the bill still guarantees adequate nutrition for millions of needy children. The bill achieves this balance by renewing our commitment to the provision embodied in Public Law 94–105, which insures that all eligible sponsors are entitled to participate in order to feed needy children. In order to receive funds, a sponsor must demonstrate its eligibility in accordance with specific requirements set forth in this bill, which are strict. I am pleased to support these provisions because I believe they will restore integrity to this needed program.

I urge my colleagues to support this bill, because it is a well thought-out package which will bring us closer to the goal of freedom from malnutrition.

Mr. McCLURE. Mr. President, as you know, summer is the time when senatorial offices are invaded by many interns from the home State, so I thought this would be an excellent opportunity to get a first hand idea of what students who have had recent experience with the hot lunch program think of the food they have been eating the last few years in school. Too many times it seems that political decisionmaking bodies here in Washington only check with fellow Washingtonians regarding the effects of a pending decision, and fail to consult with the outside world.

When I asked the interns about the $27 million program to provide nutrition education, one replied:

> Sounds like a lot of money to teach kids what they already know—that "junk" food is bad for them. Most kids know by the second grade that oatmeal is better for them than candy, but they go ahead and eat it anyway.

I do not think this Nation has a nutrition problem simply because people do not have nutritional information available to them today. That kind of information has been available for years, to young and old alike. The real problem is that nutritionists refuse to accept the fact that people are choosing of their own free will to disregard good advice and eat "junk" because they want to. Twenty-seven million dollars or any other amount will not change that attitude.

The idea of free choice leads to another problem that the interns and I saw in this bill, regarding the provision which would allow the Secretary of Agriculture to decide which foods can be sold in competition to school lunches. My question is, since most schools are administered by locally elected officials, and these officials already have the authority to regulate food sales, why should this authority be usurped by someone on the Federal level? The local school boards have access to the same information as the Secretary of Agriculture. They know about nutrition, and about junk foods. Why not let local officials continue to consult with their constituents and reach a decision on the local level, instead of forcing it upon them from Washington?

Proponents of this amendment may come up with various and sundry reasons, but the real reason why they do not want this decision made on the local level is that they do not think the decision will be made locally the way they want it to be made. The purpose of this amendment is to use Federal law to remove from schools the foods the nutritionists find offensive, because so far attempts to do so on the local level have been somewhat unsuccessful. It seems parents and students do not want to be told what they can and cannot buy. It is hard for local officials to ignore the wishes of their community, so prohibitions of competing foods are few and far between. But it is easy for an arbitrary proclamation to be issued from Washington, where the local community is not made up of parents and students, but of lobbyists and benevolent bureaucrats. That is democracy, special interest style. If you cannot get people to agree with your views on the local level, have the Federal Government take away their right to decide, and limit a multitude of choices to just the one you prefer.

As one of my interns said, "Kids will just go outside schools to get 'junk' if they cannot buy it in schools, so they will eventually have to hire guards to frisk the kids as they come in to make sure they are not armed with any M. & M.'s or Twinkies." But I think the whole argument against this kind of law was aptly put when an intern said, "It is not right to protect people from themselves."

Mr. MATSUNAGA. Mr. President, I have long supported the basic concept and design of child nutrition programs, and am particularly pleased as a cosponsor of S. 1420, the Child Nutrition Act of 1977, to rise in its support.

Originally enacted in 1966 to strengthen the school lunch program, the Child Nutrition Act established a school breakfast program and a food service equipment assistance program as well. In 1968 the summer feeding program was added. Together these three programs supplement the already existing and successful school lunch program in adequately meeting the nutritional needs of America's school age youth.

The concept of the child nutrition program is excellent. Although recently there have been criticisms directed towards the programs—especially aimed at abuses in the summer feeding program—I am well pleased with the provisions of S. 1420. I believe this legislation squarely addresses the Nation's concerns about fraud and abuse in food service programs. It restores integrity to the child nutrition programs.

There are two items in this bill which I would like to bring to the attention of the Senate. First is the inclusion of a new section to the National School Lunch Act which would provide a nutrition education and information program. Second is the restoration of authority to the Secretary of Agriculture to regulate the sale of competitive foods.

S. 1420 amends the National School Lunch Act to include a new section, authorizing a nutrition education and information program. Under this provision, grants would be made available to State education agencies to foster the dissemination of scientifically valid information about food and nutrients to children participating in the school lunch and its related child nutrition programs.

These funds will be used to promote the training of teachers and school food service personnel, focusing on the relationships between food, nutrition, and health, and on educational methods, techniques, current issues relative to nutrition education, and principles and skills of food service management.

Most American consumers have remarkably little comprehension of the proper foods they should eat. Child nutrition education and information will provide our youngsters with an early understanding of sound dietary habits. A foundation in proper nutrition will in the long run aid in the delay—and perhaps the prevention—of serious health problems.

As revealed in studies and hearings pursued by the Senate Select Committee on Nutrition and Human Needs, there is an inadequacy of Federal efforts in nutrition education, particularly for the low-income and ethnic groups. Nutrition education plays a vital role in the total national preventive health policy. Early knowledge and understanding of good nutrition will foster the development and maintenance of proper dietary habits and lifestyles, which in later years will provide savings in health care costs, as well as food costs.

Linked with my concern for proper nutrition for children, I am pleased to note the bill's restoration of the Secretary's authority to regulate the sale of competitive foods in the schools.

I am in full accord with the statement of the Committee on Agriculture, Nutrition, and Forestry:

> It is counterproductive for the Federal Government to attempt to provide nutritious, health-supporting meals through the child nutrition programs and, at the same time, permit foods of low nutritional value to compete directly with nutritious meals. . . . Restoration to the Secretary of the regulatory authority over competitive foods will help point out the role of good nutrition in health care, and instill good future eating habits in children.

Mr. President, I believe S. 1420 is important and necessary legislation to assure valuable food and nutrition services to millions of children across our Nation.

I urge the passage of the Child Nutrition Act of 1977.

The PRESIDING OFFICER. If there be no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 1139, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the bill by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes.

Mr. McGOVERN. Mr. President, I move to strike all after the enacting clause and to insert in lieu thereof the text of S. 1420, as amended by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. McGOVERN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I ask unanimous consent, as requested by the leadership, that the rollcall on this measure occur at 1 p.m., and that paragraph 3 of rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. I yield the floor, Mr. President.

(The following proceedings occurred earlier and are printed at this point in the RECORD by unanimous consent.)

THE B-1 BOMBER DECISION

Mr. McGOVERN. Mr. President, as one who has for almost 8 years been trying to stop the further deployment of the B-1 bomber, I am personally deeply gratified that the President has announced within the last half hour his decision against the further deployment of this controversial plane.

I think it is not only a prudent decision from the standpoint of the country's national security, but it is one which will maintain and strengthen the credibility of the President.

He came out very clearly against this weapons system during his campaign for the Presidency when he referred to the system as the kind of wasteful defense expenditure which adds nothing to our real defense posture but simply wastes the taxpayers' money.

I believe the President is to be commended for making what I know was a very difficult decision for him. He was under great pressure from various people who were sincerely convinced that we needed the B-1 bomber, and from others who doubtless had a vested financial interest in seeing that plane constructed.

I believe the President has not only put the national interest first, but he has also underscored the value that attaches to his own personal credibility. I just wanted to interrupt the debate on this bill long enough to add my personal commendation and appreciation to the President for the action he has taken in stopping any further deployment of this needless and costly weapons system. I thank the Senator.

I ask unanimous consent that a statement issued by my office today on this matter be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

Senator George McGovern, who has been offering amendments to defeat the B-1 bomber since 1969, said today he is "delighted and gratified" by President Carter's decision to oppose production of the aircraft.

"This is an historic event—a choice on a weapons system based not on momentum, Pentagon lobbying, and contractor pressure, but upon a rational analysis of what our security requires.

"It means, too, that the President has kept faith with a campaign commitment; not alone with his description of the B-1 as wasteful, but with his determination to scrutinize arms programs just as carefully as the rest of the national budget. His credibility is greatly and quite properly enhanced. In the long run, that has far more to do with the security of the United States than any number of B-1's.

"I heartily commend President Carter for his prudence, his leadership, and his courage on this issue," McGovern said.

PRESIDENT CARTER'S COURAGEOUS DECISION ON THE B-1

Mr. CULVER. Mr. President, President Carter this morning announced his decision on the future production and deployment of the B-1 bomber, a decision made possible by legislation last year which afforded him the opportunity to make this decision.

The President's decision, in my judgment, is a great victory for commonsense. It is the most constructive and courageous decision on military spending in our time.

The President has recognized the enormous costs and limited benefits of this program, and his decision squares with the numerous defense experts who believe the B-1 is not justified.

Now that the President has spelled out the compelling evidence which led to his decision, I am confident that a majority in the Congress will support that action.

I plan to propose legislation to carry out the President's decision by deleting production funds when the defense appropriations bill comes to the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement issued by the President at the White House this morning, dated June 30, 1977.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

During the last few months I have done my best to assess all factors involving production of the B-1 bomber.

My decision is that we should not continue with deployment of the B-1, and I am directing that we discontinue plans for production of this weapon system. The Secretary of Defense agrees that this is the preferable decision.

The existing testing and development program now underway on the B-1 should continue, to provide us with the needed technical base in the unlikely event that more cost-effective alternative systems run into difficulty. Continued efforts at the research and development stage will give us better answers about the cost and effectiveness of the bomber and support systems, including electronic countermeasures techniques.

During the coming months we will also be able to assess the progress toward agreements on strategic arms limitation in order to determine the need for any additional investments in nuclear weapons delivery systems.

In the meantime we should begin deployment of cruise missiles, using air launch platforms such as our B-52's, modernized as necessary.

Our "Triad" concept of retaining three basic delivery systems will be continued with submarine launched ballistic missiles, intercontinental ballistic missiles and a bomber fleet (using cruise missiles as one of its armaments). We will continue thereby to have an effective and flexible strategic force whose capability is fully sufficient for our national defense.

Mr. McGOVERN. Mr. President, I commend the Senator on his statement. I wish he would include me as a cosponsor in his effort delete this from the military appropritation bill.

Mr. CULVER. I shall be honored to have the distinguished senior Senator from South Dakota join us as a cosponsor in this amendment.

I also wish to take this opportunity to say what a great debt every American owes for the leadership and the tenacity and the wisdom that have been evidenced by the distinguished Senator from South Dakota for his many years in opposition to this airplane and his view that this plane was not a cost-effective contribution to our overall security interest as a nation and as a people.

Mr. McGOVERN. I thank the Senator for his kind words.

A BAD DECISION

Mr. THURMOND. Mr. President, President Carter's announcement this morning that he desires to amputate one leg of the Nation's strategic Triad defense policy is a bad decision, badly timed and badly justified.

The last five Presidents have based our national security on the Triad concept, that being the three-legged strategic defense policy of having manned bombers, land-based and sea-based intercontinental missiles.

This approach deters a surprise

nuclear attack because it would be nearly impossible for the Soviets to destroy all three elements of the Triad in one blow.

President Carter's decision to oppose the B–1 means we will have to depend on the aged B–52 bombers which represent technology of the 1950's.

The B–52's lack penetration speed, resistance to nuclear effects, and terrain following maneuverability. They also present a large, slow radar cross section, vulnerable to enemy radars and defense missiles.

These aircraft, while still effective in certain low risk scenarios, could not penetrate Soviet defenses as early as the mid-1980's. The B–52 is equipped to carry only one-half the weapons payload of the B–1. Weapons payload is an important feature of the B–1, because twice as many B–52's would be needed to deliver the same payload on enemy targets. The B–52's have been in the force structure for over two decades, and modification would be costly, and in many cases, impossible because of the characteristics of the aircraft.

The limitations of the B–52's were illustrated in Vietnam when used against the generally unsophisticated defenses of the North Vietnamese.

Beginning in early December of 1972 President Nixon authorized attacks against industrial and supply areas in the Red River Valley near Haiphong and Hanoi. Flying into heavy concentrations of surface-to-air missiles and antiaircraft guns, the B–52's took heavy losses.

These losses were as high as 27 planes according to an Air Force officer recently resigned after 8 years of service.

This officer, Capt. Dana Drenkowski, now a free lance writer in Florida, claimed the losses were so demoralizing that some of the crews refused to fly more missions unless tactics were changed.

Mr. President, I ask unanimous consent at this point in my remarks that an article entitled, "Ex-Pilot Bares '72 Mutiny by B–52 Crews," which appeared in the June 27, 1977 issue of the Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EX-PILOT BARES '72 MUTINY BY B–52 CREWS

(By Ernest Volkman)

Most of the B–52 crews carrying out bombing raids over North Vietnam in 1972 mutinied and refused to fly any more missions because of the Strategic Air Command's refusal to change "inept" tactics, a former B–52 pilot charges in a forthcoming magazine article.

The mutiny, which led to the court-martial and discharge of one officer and the reprimanding of at least a dozen others, was hushed up by the Air Force, according to the former pilot. He says it ended only after the Air Force gave in and adopted the tactics suggested by the crews. The new tactics led to the devastating "Christmas bombing" of North Vietnam in December 1972, that led to the final peace agreement.

An Air Force spokesman said he could not comment on the alleged mutiny—which knowledgeable sources confirmed—without reading the entire article. However, the spokesman pointed out several inaccuracies in other aspects as the former pilot's account of the 1972 bombing campaign was described to him by a reporter.

The description of the alleged two-week mutiny is contained in a long article to be published in two parts in the next two issues of Soldier of Fortune, a Colorado publication specializing in military affairs. A shorter version will be published in July's Armed Forces Journal.

Journal editor Benjamin Schemmer said his staff had checked out the claims in the article he will publish. Robert Brown, editor-publisher of Soldier Fortune, said that, while his magazine strongly supported U.S. military policy in Vietnam, "when the government messes up, the people have a right to know it."

The article is written by former Capt. Dana K. Drenkowski, an Air Force Academy graduate who left the Air Force last year after eight years of service and is currently a freelance writer residing in Florida.

Various Air Force sources with Vietnam combat experience confirmed Drenkowski's account of the mutiny—which, under military law, is the willful refusal to carry out a mission.

In early 1972, President Nixon decided to unleash U.S. air power over North Vietnam to end a full-scale Communist invasion of South Vietnam. He authorized using a limited number of B–52s over populated industrial areas of North Vietnam for the first time, mining Haiphong Harbor, and lifting many restrictions on targets near population centers.

The B–52 strategic bomber carries 30 tons of radar-guided bombs, and in Vietnam a flight of 30 would drop 900 tons of bombs in a "box,' half a mile wide and three miles long. Everything in the box would be destroyed.

Beginning in early December 1972, B–52 strikes were authorized against industrial areas and against supply transshipment points in the Red River Valley, an area that includes Hanoi and Haiphong. Flying into heavy concentrations of surface-to-air missiles and antiaircraft guns, the B–52s took heavy losses. The Air Force never has released complete, official figures on the losses, but Drenkowski says at least 27 bombers were shot down. The Air Force would neither confirm nor deny that figure.

The losses, Drenkowski says, demoralized the B–52 crews, chiefly because SAC refused to change its tactics. Over South Vietnam, where the B–52s had been used for years, the bombers would fly in freely at 35,000 feet in perfect formation to release their bombs. However, there were no enemy missiles in South Vietnam. Over North Vietnam, the same formations made the B–52s "sitting ducks" for missiles, Drenkowski says.

Despite pleas by the B–52 crews to change tactics and formations to counter the North Vietnamese defense, Drenkowski says, the Air Force refused. The raids continued to be planned from SAC headquarters in Omaha, he says, and the crews on the scene were not consulted. At the B–52 bases in Utapao, Thailand, and in Guam, he says, a majority of the crews flatly refused to go on further missions, despite Air Force threats of court martial.

Drenkowski says many crew members feigned illness to the flight surgeons to avoid further missions. Finally, the Air Force relented, employing tighter formations and attacking from several different directions to confuse the defense.

The change came as the B–52s were grounded during a 24-hour "truce," then unleashed on Christmas Day, 1972, in a total effort ordered by President Nixon to break North Vietnamese "intransigence" at the Paris peace talks. That time, using new tactics, the B–52s almost completely smashed North Vietnam's industrial and transportation network in a furious, around-the-clock assault that lasted 12 days until the North Vietnamese agreed to sign a peace agreement.

Mr. THURMOND. Mr. President, the cruise missile is a great technological advance. I am pleased the President thinks so highly of it. But to see it as a substitute for a modern manned bomber is an illusion, and to depend on cruise-missile-equipped B–52's makes the third leg of our Triad very weak.

The cruise missile should enable us to make our strategic forces more powerful at a very reasonable cost. But due to its slower speed the cruise missile would not have the penetration power of the B–1.

The B–1 is designed to swoop in low, under enemy radar, at nearly the speed of sound. It then launches its supersonic, nuclear tipped standoff missile while 50 to 100 miles away from the target area.

This enables the B–1 to blunt the enemy defenses and at the same time deliver the ordnance on the targets. In this environment the B–1 can withstand some nuclear blast, whereas the B–52 is too soft to survive.

In conclusion, Mr. President, the B–I is the most feared weapon we have developed in years. The Soviets fear it and have tried to negotiate it out of strategic Triad. It is costly, very costly. However, dollars are cheaper than lives. Furthermore, I believe the American people are willing to sacrifice in other ways to provide the most modern weapons that are necessary to assure our security and keep our people free.

Mr. ROBERT C. BYRD. Mr. President, I commend President Carter on the wise and courageous decision he announced earlier today that we should not proceed with production and deployment of the B–1 bomber.

I am in strong agreement with the President's decision, which is based on careful and thorough consideration of all the factors involved.

In the final analysis, the President believes, as I do, that it is a question of the wisest use of our resources. Spending $100 billion or more on the B–1 in the years ahead is not the best allocation of public funds. There are less expensive and more credible alternatives and many unmet domestic needs—such as mass transit, energy research and development—for which the money can be better spent.

I was pleased that the President recommended that we proceed with the development of the cruise missile, using air launch platforms such as our B–52's; modernized as necessary. I am convinced that the concept of the standoff bomber, utilizing B–52's or wide-bodied jet aircraft, offers an immensely more cost-effective system than the B–1, and will be a more credible deterrent in the long run.

The President's decision also allows retention of our strategic triad of delivery systems—land, sea, and air. We will maintain the needed military strength and we will not be spending tens of billions of dollars on one unwise—or at least highly questionable—weapons system,

With the B–1 we were being asked, in effect, to put all our eggs in one basket and to gamble a massive amount of public funds on the B–1's being effective and invulnerable through the 1990's. The investment was simply too great to take that gamble.

Another important element of the President's decision is that it will allow

continuation of testing and development of the B–1. This is consistent with my own view that we should keep the technology alive. Other nations are certainly aware that we have the potential to proceed with this technology in the unlikely event that it should be justified. As President Carter noted, continued research and development will give us better answers about the cost and effectiveness of the bomber and support systems, including electronic countermeasure techniques.

The President's decision means that we are not locked out of military alternatives that are less costly. By proceeding with the B–1, we would have drastically reduced our ability to develop and fund other weapons systems as well as our conventional forces.

I am aware that one of the arguments used by supporters of the B–1—as with any major weapons system—is that it would create jobs. However, as I have previously pointed out, several studies have indicated that B–1 spending would have created far fewer jobs than would spending an equal amount on nearly any other Government program. One study indicates that per $1 billion expended, the B–1, at peak production, would generate 22,000 jobs—as compared, for example to 36,000 for housing and construction; 46,000 for health, welfare, and sanitation; or 52,000 for education. The jobs bill approved earlier this year will create an estimated 92,000 jobs per $1 billion.

I believe the President's decision is sound in every respect. The facts—economic and strategic—argue persuasively for the President's position.

I am pleased with his announcement and urge the public and the Congress to join in supporting this decision, which I believe is in our best national security interest and in the interest of world peace.

OUR DEFENSE POSTURE AND THE B–1 BOMBER

Mr. ZORINSKY. Mr. President, I was surprised and disappointed over the President's decision not to produce the B–1 bomber. I had hoped and expected that he would reach a decision which embodied a compromise to produce at least a minimum number of B–1's.

Obviously, the price of the B–1 was a big question. But we must avoid being penny wise and pound foolish. And the President has indicated that he is going to continue the research and development—R. & D.—on the aircraft. Continuing the R. & D. may be of some benefit. However, surely the aircraft can be produced cheaper today than in the future. If we make a decision down the road to build the aircraft, it is obvious that it will take more money to produce even a smaller number than at present. Moreover, keeping the research and development alive does not prevent the breakup of the team of experts that has been assembled in this Nation to produce the aircraft. If the President's decision is allowed to stand, the production team and all the expertise which has been assembled over several years will be dissipated. In reality, you cannot put such a production capability on ice for future use. A later production decision will mean more time, more money at a greater cost to the taxpayers.

Decisionmaking is not a perfected science, and none of us are perfect. Frankly, when you are dealing with our potential enemies and when it takes so much time to produce this type weapons system, I feel that our defense capability would be stronger and our national security better assured if we had even a limited number of B–1's. The Nation's budget resources are scarce and must be husbanded carefully. However, this Nation can afford and must spend whatever it needs to maintain a strong national security posture. Without an adequate national security posture, other activities which we take for granted pale into the haze. I believe that we should spend the necessary amount to produce this system so that this capability will be in our arsenal and we can count on it if the need arises. Otherwise we may find a situation that no amount of money will rectify because events have passed us by.

I am confident that the Congress will consider the President's recommendation. One of the strong points about our form of government is that responsibility for national security is not solely vested in one part of Government. The Congress holds a key position. Funding for the B–1 is already included in the Defense Authorization bills for fiscal year 1977 and 1978.

Our defense is built around the triad: the manned bomber, land based ICBM's and SLBM's. Thus the B–52 is an essential part of the defense triad. But the B–52 is a product of the technology of nearly 30 years ago. If we fail to produce the B–1 we will have no replacement for the aging B–52 and a key part of the defense triad is threatened. I am going to push for and I hope my colleagues will join me in working toward acquisition of at least a minimum number of B–1's in order to keep the triad healthy and to assure our national security posture for the uncertainties of the future.

(This concludes proceedings which occurred earlier.)

PUBLIC WORKS APPROPRIATIONS, 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 7553, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 7553) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Under the previous order, titles II, III, IV, and V and amendments thereto are to be considered and disposed of before the consideration of title I and amendments thereto will be in order.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Skip Walton of my staff have the privilege of the floor during consideration of H.R. 7553.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 3 minutes on other matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF STATUTE OF LIMITATIONS ON INDIAN CLAIMS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from South Dakota (Mr. ABOUREZK), I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 539.

The PRESIDING OFFICER (Mr. GLENN) laid before the Senate House Joint Resolution 539, a joint resolution to amend the statute of limitations provision in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the joint resolution be considered as having been read twice, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, the original extension of the statute of limitations for Indian claims was for 4½ years. We passed it in the Senate. The House of Representatives is having some trouble with it, and while working out their problems, they have agreed to an extension of the statute for 30 days while working the matter out.

The reason for that is that the statute will otherwise expire on July 18, as originally planned. If the Justice Department knows it is to expire, they would have to file, before that date, several hundred lawsuits on behalf of Indian tribes to fulfill their obligation as a trustee.

To avoid that contingency, we are attempting to obtain a 30-day extension as a temporary measure.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 539) was read the third time, and passed.

Mr. ABOUREZK. I move to reconsider the vote by which the joint resolution was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are six measures on the Calendar which have been cleared with the minority for action by unanimous consent.

First, I ask unanimous consent that the Senate proceed to the consideration,

en bloc, of Calendar Order Nos. 290, 291, and 292.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CONGRESSIONAL BUDGET WITH RESPECT TO CONSIDERATION OF S. 660

The resolution (S. Res. 208) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 660, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 660, a bill to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase, and/or lease by the United States of each nation's right and interests in the riverbed of the Arkañsas River, and for other purposes. Such waiver is necessary because the select committee wished to consider this measure, which authorizes new budget authority for the Bureau of Indian Affairs, in conjunction with other measures affecting the programs of the Bureau of Indian Affairs which did not involve the authorization of new budget authority and therefore were not required to be reported by May 15. Further, the select committee was engaged in substantial efforts to organize itself at the beginning of the Ninety-fifth Congress and was prevented from giving timely attention to the subject proposal.

WAIVER OF CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 4992

The resolution (S. Res. 209) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4992 was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 4992, a bill to amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian Business Development program. Such waiver is necessary because the select committee wished to consider this measure, which authorizes new budget authority for the Bureau of Indian Affairs, in conjunction with other measures affecting the programs of the Bureau of Indian Affairs which did not involve the authorization of new budget authority and therefore were not required to be reported by May 15. Further, the select committee was engaged in substantial efforts to organize itself at the beginning of the Ninety-fifth Congress and was prevented from giving timely attention to the authorization of appropriations for the Indian Business Development program.

WAIVER OF CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 4585

The resolution (S. Res. 210) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4585 was considered and agreed to, as follows:

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 4585, a bill to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes. Such waiver is necessary in order to insure that the Indian Claims Commission will be able to carry out its statutory duties during the fiscal year 1978, on the last day of which its final report is due. The authorization involved is sufficiently small that its consideration will not significantly affect the congressional budget. The select committee was engaged in substantial efforts to organize itself at the beginning of the Ninety-fifth Congress and was prevented from giving timely attention to the authorization of appropriations for the Indian Claims Commission.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider, en bloc, the votes by which the foregoing resolutions were agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate now proceed to the consideration, en bloc, of Calender Order Nos. 280, 281, and 282, which have been cleared with the minority.

The PRESIDING OFFICER. Without objection, the three measures will be considered en bloc.

ARKANSAS RIVERBED SETTLEMENT ACT

The Senate proceeded to consider the bill (S. 660) to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase and/or lease by the United States of each nation's right and interests in the riverbed of the Arkansas River, and for other purposes, which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to enter into an agreement or agreements with the Cherokee, Choctaw, and Chickasaw Nations of Oklahoma, individually or collectively, on such terms and conditions as may be agreeable to the Secretary and each such nation or nations which are a party to such agreement providing for the use, lease, or purchase by the United States of any or all of the rights of each of such nations in the bed of the Arkansas River.

(b) The Secretary shall utilize as a basis for the terms of the agreements with the Cherokee, Choctaw, and Chickasaw Nations of Oklahoma the value of the property rights of each such nation in the bed of the Arkansas River, as determined by appraisals conducted by the Secretary and accepted by each such nation which is a party to such agreement, and any such use, lease, or purchase agreement shall provide for payment to each nation of not less than the appraised value of the property rights involved.

(c) The Secretary shall take such action as may be necessary in order to immediately carry out any agreement or agreements entered into pursuant to this Act.

SEC. 2. There are hereby authorized to be appropriated not to exceed an aggregate of $177,000,000 for the purpose of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

INDIAN CLAIMS COMMISSION AUTHORIZATIONS, 1978

The bill (H.R. 4585) to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF THE INDIAN FINANCING ACT OF 1974

The bill (H.R. 4992) to amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian business development program, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider, en bloc, the votes by which the bills were passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC WORKS APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7553.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Corey Rosen of my staff be accorded the privilege of the floor during the consideration and voting on the public works appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. The pending business is H.R. 7553, the public works appropriation bill.

Mr. STENNIS. Mr. President, for the information of Senators, I shall have a brief opening statement on the bill, as will the Senator from Oregon (Mr. HATFIELD), who is the ranking minority member of our committee.

But first, Mr. President, I ask unanimous consent—and this is the usual request—that the committee amendments as to titles II, III, IV, and V be agreed to en bloc, and that those titles, as thus amended, be considered as original text for the purpose of further amendment, provided that no points of order shall be considered as having been waived by reason of such unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I thank the Chair and the membership. That does provide us with a starting point. Titles II, III, IV, and V were mentioned only

because there is a special agreement as to title I.

Mr. President, my opening statement on the bill as a whole will be brief. This is what is still known as the public works appropriations bill, appropriations for public works for water and power, including reclamation, but it has grown far beyond the concepts of the program I have just mentioned.

In this bill, the round number is $2.9 billion for the water development projects, including maintenance costs, whereas the full amount in the bill as a whole is $10,382,169,000 in new budget obligation authority, which includes not only the water projects but what has become known as ERDA, which is almost exclusively research in connection with the developing energy programs and policies, and also some national security programs.

We also have reclamation as part of the water projects. Also in this bill are funds for various agencies like the TVA, the regional power associations, the Appalachia program, and a few relatively minor amounts for other independent agencies.

Mr. President, I first want to especially commend and thank the leadership, the majority leader and all those who assisted him, which included his assistant, the minority leader and his assistant, and the many other Members of this body who have a vital interest in this bill for having reached this unanimous-consent agreement which will permit the Senate to proceed to the consideration of this bill.

May we have quiet in the Chamber, Mr. President? This is a matter of importance.

Any bill which has been considered as much as this one has, with such in-depth hearings and exchange of views and viewpoints, not only by the membership of the Senate but the House and the people at large—we literally had thousands of communications, hundreds of witnesses, and considerable exchange with the President with reference to many of these projects—any bill which has been considered as much as this bill has, revised and changed, is in fairly good shape when it arrives here. I believe the membership will find that as they pursue it.

Full reports are available and on file, and they are also on the desks of Senators, which cover every phase of the entire bill.

I especially thank the subcommittee members for their untiring work and consideration of this measure over the hearing period and then over the putting together of the bill. We met many times to get the matter in line.

Also in this bill is what has come to be known as the breeder reactor or Clinch River item, which is in contest.

There are many other ERDA research and development projects in the bill which relate to energy matters. They are not in contest, but they have all been gone over thoroughly.

Mr. President, this bill passed the House of Representatives on June 15, 1977 by a rollcall vote of 356 yeas and 54 nays, and was received in the Senate and referred to the Committee on Appropriations on that same date. The bill was reported to the Senate on June 25 after lengthy full committee consideration and action on June 22 and subcommittee markups on June 8, 10, and 15. I mention this committee and subcommittee action only to emphasize the thorough consideration given this measure, as is our duty.

The total amount of the bill is $10,382,169,000 in new budget obligational authority. This is $195,423,000 over the bill as passed by the House and only $14,058,000 over the President's budget estimates. The reason for the $195-million increase over the House-passed bill is because the committee disagreed with the House 3 percent across-the-board general reduction to each appropriation in the bill as provided by the House committee. This 3-percent House reduction totaled approximately $316 million and the House bill is about $171.4 million below the budget estimates, including this across-the-board reduction. Otherwise, the House bill would have been around $150 million above the budget estimates. The committee, of course, disagrees with this approach. Without this reduction by the House, the bill recommended by the committee would have been substantially under the House bill.

Mr. President, this bill has four titles and I will briefly summarize the committee's action under each of these titles.

TITLE I, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

For title I, the Energy Research and Development Administration, the bill provides a total of $6,072,765,000, a net increase of $189,701,000 over the House allowance and a net decrease of about $200 million from the budget estimates. Most of this decrease is comprised of reductions in programs other than those for energy research and development and demonstration or basic research and technology development.

Appropriations for some of the major energy R. & D. programs in ERDA include $358.5 million for solar energy development; $109.1 million for geothermal energy development; $433 million for fusion power research and development; $308.8 million for nuclear fuel cycle research and development; $600 million for the breeder reactor R. & D. program, including $150 million for the Clinch River breeder reactor project to become available only upon enactment into law of authorizing legislation; and $190 million for environmental research and development to assure that energy technologies are developed in a safe, clean, and environmentally acceptable manner.

The operating expenses appropriations to ERDA also include about $212 million for the naval reactor development program, $958 million for the uranium enrichment activities program, and about $1.6 billion for the national security program including the research development, testing and production of nuclear weapons to meet the national defense needs and requirements. For program management and support, the total is $357 million.

Mr. President, the committee's recommendations for this part of the bill represent a significant commitment of resources for the purposes of energy research and development. Energy self-sufficiency and continuing economic vitality cannot be achieved without such commitments.

TITLES II AND III, WATER RESOURCES AND POWER

Title II of the bill includes appropriations for the Army Corps of Engineers' civil works program. Many will recall this part of the bill as the old civil functions bill. Title III of the bill includes the Department of the Interior's Bureau of Reclamation and power agencies. Under these two titles, funds are provided for the Nation's major water resources development program.

For the nationwide programs of the Army Corps of Engineers, a total of $2,719,652,000 is recommended. This is $154 million over the budget estimates and $35 million over the House allowance. Major categories include $88 million for general investigations; $1,524,000,000 for advanced engineering and design, preconstruction planning and construction; $745 million for operation and maintenance; and $253 million for the Mississippi River and tributaries appropriation.

For the Bureau of Reclamation programs, which cover the 17 Western States, a total of $767,434,000 is included in the bill. Major appropriation categories and the amounts recommended are general investigations, $24.4 million; construction and rehabilitation, $362.6 million; operation and maintenance, $157.4 million; Colorado Basin project, central Arizona project, $78,145,000; and Upper Colorado River storage project, $70,066,000.

Mr. President, it is in these parts of the bill, titles II and III, dealing with water resources development projects, that the President deleted funds from his budget for 18 projects with the recommendation that these projects be deleted and deauthorized, and that 5 projects be modified. The Committee on Appropriations of course has no jurisdiction over deauthorization or modification except modification that can be accomplished within the present authorization for a project.

The committee agreed to delete funds on 9 of the 18 projects and concurs on 3 of the 5 projects proposed for modification. Funds have been restored on eight projects proposed for deletion and on two of the projects proposed for modification. The President's recommendations on these specific projects and the committee action are shown on pages 4, 5, and 6 of the report accompanying the bill with further comments on each of the projects under the appropriate section of the report.

In formulating these recommendations, each project was judged against criteria and procedures used for several years to determine whether funding is to be recommended for proceeding or continuing with construction of a project. Such factors as the benefit to cost ratio, status of local assurances and contractual agreements, status of actual physical construction, and local and State support, among others, are involved in making this judgment.

One or more of these factors affected the nine projects for which no funds are recommended. While all eight of the

projects recommended for funds in the fiscal year 1978 program met these criteria and procedures.

Additionally, the committee is recommending rescissions of fiscal year 1977 unobligated amounts on these projects which are not to receive fiscal year 1978 funding. The total amount of rescissions is $11,750,000. The detailed reasons for this action is of course spelled out in the report.

Now, as a part of the action on the water projects, the committee agreed to a policy of no new construction starts for fiscal year 1978. The new construction starts added by the House have been deleted. This policy was agreed to by the committee with the understanding and assurances that a number of highly meritorious and eligible projects, now awaiting appropriations to begin construction, will be given prompt and full consideration by the committee in the course of the next budget year.

Mr. President, the committee has taken all this action regarding the water resources projects in an effort to have a reasonable and balanced bill.

TITLE IV, INDEPENDENT RELATED AGENCIES

The total amount in title IV of the bill is $806,575,000, an increase of $29 million over the budget estimates and $23 million over the House bill. The major items included in this amount are—$325 million for the Appalachian Regional Commission and regional development programs; $285 million for the Nuclear Regulatory Commission; $43 million for the Federal Power Commission; and $138.5 million for the Tennessee Valley Authority.

Mr. President, this then is a brief summary of the bill. The activities and projects funded in this bill are an integral part of the basic physical support system required to provide for the needs and wants of the people of our Nation today and in the future.

Water and energy are the fundamental, inseparable subjects of this bill. Only with secure supplies of these, our most previous resources, can Americans be assured of a secure, stable, and prosperous future.

The Congress repeatedly has recognized and defined the Federal role and responsibility for substantial public investment in fundamental research and development and in water resources development, both of which are part of the foundation upon which our prosperity and well-being are built. Though relatively small in the context of the total Federal budget, the expenditures authorized in this bill are essentially a capital investment that returns significant economic and other benefits to the Nation. The significance of past investments in these programs is virtually immeasurable. But the tangible returns to the Nation as a whole and to communities throughout the country have been analyzed and found to be far greater than the costs of undertaking them.

We are the beneficiaries of the providence of our ancestors in establishing a strong Federal role in the development and managment of our water resources and in the conduct of essential energy research. Similarly, future generations are dependent on our carrying out this role with at least as much wisdom and foresight as the generations before us.

The committee agrees that wise use for current needs and thoughtful conservation for future needs are inseparable principles in the water resources planning and development and related programs and the energy research and development programs funded by this bill.

Mr. YOUNG. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. STENNIS. Yes.

Mr. YOUNG. Mr. President, I ask unanimous consent that Christopher Sylvester, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I want to refer now especially to a plan which was prepared by the subcommittee, which was taken in detail before the full committee, and which comes out of that group to this floor under a unanimous vote, first by the subcommittee and then by the full committee.

This refers particularly to the items in which the President has shown a special interest, and certainly he had a right to do what he did.

In February, I believe it was, in a message he sent to the Congress, a good number of the projects were taken out of the budget. Then there were hearings, to which he agreed and understood, in the areas of the projects. The President reconsidered that list and did change or modify his position on some of them.

In the meantime, developments occurred and some sentiment was generated of, "Well, they are old items. We will ignore the President's recommendations en bloc and we will put into the bill what we please. We will pass it over his veto, if necessary."

I say that was a sentiment. It was not the prevailing sentiment, I do not think.

Anyway, it challenged our subcommittee to see if there was some way we could give proper consideration to the President's position, and also give proper consideration to our position and our responsibility, to see if we could work out a plan that might meet the approval of those who advise the President, and eventually the President, for this fiscal year in this field of activity, to continue a large part of the work, and to give the President time for more consideration and study of his duties and responsibilities in this field.

We did not know whether we could agree among ourselves, but we did, unanimously, and we presented it to the full committee. They agreed to it unanimously. We went a little further than that. We had it fully understood that we would try, in a united effort, to get the bill passed by the Senate on these facts, have it intact, and then go to a conference where, of course, it is a new start then. We know better than to try to control that conference, but we have a program on which to work.

Basically, it amounts to this: We worked out some criteria of our own which were akin to what we have used every year in marking up the bill. It developed that, in numbers, about half of these projects met those criteria and about half failed to meet them. So those that did not meet that criteria of our subcommittee we dropped out of our bill. There were three that met them in part and we approved putting them in the bill with modifications. They were approved unanimously and then by the full committee in the same way.

Mr. President, we were working for a goal, let us be frank about it. We wanted to do our duty and let the legislative branch speak. We wanted, then, the President to meet us half waf and sign this bill, because we thought that everyone loses in a bill of this kind, especially if there is a veto. No one wins that vote, whichever way it goes. Everyone loses—people lose, taxpayers lose, the President loses, the Congress loses, as we viewed it.

Still, we have a duty to perform and we have tried to stick to that.

There was not one scintilla of sectionalism in these recommendations—north, south, east, or west—and no political divisions in the subcommittee or the committee. In the end, even though it was a hard step for some to take, there was a unanimous vote. We bring that bill to you here with that background and for those purposes.

We enlist the aid of the membership here to give us a chance to take this to the conference committee now, and then to the White House, in whatever form it comes, and see if we cannot get the benefit of this arrangement, so to speak, in the bill. There has been no promise by the President. I have not talked to him, he has not talked to me. This plan did not come from him or any of his associates. It is our getup, so to speak, to meet a special condition.

We added one thing more: We said that, for this year, fiscal 1978, we shall not approve any new starts for construction. I think, frankly, that is quite a concession to the President. He had said that he had no chance to consider new starts this year and that is true. He just came into office in January, with a multitude of things, national and international and domestic, to consider.

If the Senate follows our suggestion, we shall hold those new starts for construction in abeyance, give him a better chance to exercise his judgment and his constitutional responsibility as he sees it, and make a judgment and put in what he sees fit and leave out what he sees fit.

We say further that any project that any Senator has asked for and that was deferred will get our further consideration in future years or times. Rome was just not built in a day. No worthwhile water project was ever built in a day, or in one session of Congress. It takes continuing cooperation, as we see it, from the executive branch and Congress. The executive branch, after all, directs the building and controls the expenditure of the money within the law. To have these worthwhile projects, which are now among the great blessings of our Nation, has required the cooperation of Congress and the President. We believe that we can work this out for this first year and

hope he will respond to it. He will have a new start. I believe that is a concession to him, to a degree that he will not ignore and his advisers will not ignore.

I shall repeat that, Mr. President, as the attendance becomes better, just to be sure to get that part of the bill before us.

I hope the Senator from Oregon will ask for the floor next. I yield the floor, Mr. President.

Mr. SASSER. Will the distinguished Senator from Oregon yield for a unanimous consent request?

Mr. HATFIELD. Yes, I am happy to yield.

Mr. SASSER. Mr. President, I ask unanimous consent that Mike Walker of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Will the Senator from Oregon yield to me for a similar request?

Mr. HATFIELD. I yield.

Mr. HASKELL. I ask unanimous consent that Balvino Chaves and John Cevette of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, as usual, the very able Senator from Mississippi, chairman of our subcommittee, has outlined the measure that we are now about to consider. It is always a great pleasure to work with him. I know of no person in the Senate who extends himself in a more courteous way to accommodate a Senator's wishes and needs as does the Senator from Mississippi.

I think that we can say very easily today, without fear of contradiction, that this subcommittee has approached the vital matters within the scope of this bill with a deep sense of responsibility, and certainly, with a spirit of cooperation.

The subcommittee chairman has already discussed the bill in some detail. I would like to add just a few remarks of my own to emphasize some noteworthy parts of the bill and to mention some special concerns I have about it.

Title I of the bill provides funding for ERDA. The President's budget request reduced funding for certain energy technologies whose impact is not likely to be felt until around the year 2000. At the same time, he has increased funding for near-term technologies such as solar heating and cooling and geothermal energy conversion. In recognition of the fact that nonnuclear technology developments needed by the year 2000 must be undertaken on an accelerated basis today, the committee has included $7 million in additional funding for wind energy demonstratons and $31 million in additional funding for construction of a 10-megawatt central receiver solar-thermal powerplant. It should be noted that the funding now in the bill for this solar-thermal plant is still $24 million under the January budget request for this item.

Mr. President, this is the only kind of project of this kind in the world. It will add significantly to the technology for long-term development in solar electricity.

The lack of a Senate authorization bill for nuclear programs has constrained the committee's consideration of the merits of increased appropriations for programs such as fusion, nuclear research and applications, high energy physics, nuclear physics, and basic energy sciences. However, in the areas of funding for the Clinch River breeder reactor and the Barnwell reprocessing facility, the committee has provided increases without authorizations. I am not in agreement with the committee's position on these two increases, and shall speak further on these points at a later time.

There is another matter in regard to which I must, unfortunately, take exception to the committee's position: production of enhanced radiation weapons. I will address this issue later in the deliberations of the bill in the context of an amendment I now submit, and ask unanimous consent to have held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Offsetting the increases above the budget in title I are a $30-million cut in uranium enrichment expenses, a $19.4-million cut in weapons production, a $120-million increase in anticipated offsetting revenue from uranium enrichment and a $48-million cut in construction projects.

Title II of the bill provides funding for civil works projects by the Corps of Engineers. The bill provides for a $117 increase above the budget request for general investigations, planning, and construction. Many of the increases in this area were made in order to avoid inefficient and costly stretching-out of ongoing construction work.

Also, as the chairman has indicated, funding for 8 of the 18 Corps, Bureau of Reclamation, and TVA projects proposed by the President for deletion has been restored. Restoration of funding for these 8 and only these 8 projects was unertaken with careful forethought and full consideration of the merits of the 18 projects the President sought to delete. The committee's decision on these projects was guided not by the President's conclusions, but by criteria established and followed by the subcommittee over a period of years. Out of the 18 projects recommended for deletion, the 8 projects finally recommended for funding were the only ones which met our criteria.

The committee has deliberately and wisely refrained from earmarking funds for the Corps' Small Projects programs and the operation and maintenance in order to preserve the principle of funding these activities on the basis of need as objectively determined by the Corps.

Also included in title II is continued construction funding for two corps hopper dredges and initial construction funding for a third dredge. Tihs action will help prevent further decline in the Nation's ability to maintain its port and harbor projects.

Title III of this bill provides funding for the Department of Interior agencies dealing with water and power. The total increase above the budget for this title is $31 million.

Title IV of the bill provides funding for the Nuclear Regulatory Commission, TVA, the Water Resources Council, and several other commissions. The total increase above the budget for this title is approximately $29 million.

In total, this bill is only $14,058,000 over the administration's budget request and $280,116,000 over the amount appropriated in the fiscal year 1977 bill. I believe these increases are responsible and, indeed, modest in view of the total of $10.37 billion provided in the budget request.

The fiscal restraint exercised by the committee on this bill has not been easy to maintain. There were many worthwhile proposed add-ons with which some of us agreed but which could not be accepted without violating general standards we had decided, for the sake of fairness to all concerned, to abide by. I hope those who are contemplating further additions to this bill will not disregard the careful deliberations that have gone into bringing out a bill which has at least a chance of being both accepted in large part by the House and approved by the President.

Mr. YOUNG. Mr. President, I will have further comments later, but at this time I would like to make some comments with reference to the statement made by our distinguished chairman.

Mr. STENNIS. Mr. President, may we have quiet and may the Senator wait until we do have quiet?

The PRESIDING OFFICER. The Senate will be in order and the galleries will be in order so we can hear the Senator from North Dakota.

Mr. YOUNG. I would like to make a few comments with reference to the statement made by our distinguished chairman, the Senator from Mississippi.

Our committee was faced with a highly unusual situation. I can remember the time more than 20 years ago when one Congress refused to approve any new starts. It got the name of a "No New Starts Congress." That designation was one which caused the Members of that Congress considerable trouble. This year not only do we have no new starts, but we are faced with something new in public works projects. We are faced with the revising and stopping of some projects which are well underway; some which are half completed; some which are more than half completed; and some which are just getting started.

That presented the Appropriations Committee with a very difficult problem. I think the Senator from Mississippi (Mr. STENNIS) and others did a remarkable job in working out some kind of solution whereby we could continue at least a few of these projects. Of course, that, unfortunately, means deletion of some for the time being.

I cannot help but feel that most, if not all, of those projects being deleted now will be in the program next year or shortly thereafter. I cannot help but feel this whole situation will settle down and we will go back to our old procedures of following the law laid down by the Congress which establishes the criteria under which the projects are authored.

At first, there were some 30 projects

deleted by the President. Some were later reinstated by him. Our committee decided to reinstate eight, eight that were where most money had been spent, and where there was strongest local support.

We had to delete one project from my neighboring State of South Dakota mostly because of increased local opposition to it. I think sentiments will change in another year and a project such as that could well be put back in again.

But, Mr. President, the agreement reached on these eight projects was unanimous by the subcommittee and the full committee. It is unusual that this many Members—26 altogether—could agree unanimously to the procedure we are trying to follow now to save some of these most important projects.

I would like to vote to include them all, but I know that would at least invite and probably make certain a presidential veto.

There are others who would like to take out all of them. That would be most unfortunate.

Mr. President, I wholeheartedly support the position taken by the chairman of the committee.

ADDITIONAL STATEMENTS SUBMITTED

Mr. THURMOND. Mr. President, I would like to take this opportunity to commend the chairman of the Public Works Subcommittee of the Senate Appropriations Committee, the distinguished Senator from Mississippi (Mr. STENNIS), and the ranking minority member of this subcommittee, the distinguished Senator from Oregon (Mr. HATFIELD), for the outstanding leadership they have shown on this important legislation. The title by which the act is cited, "Public Works for Water and Power Development and Energy Research Appropriation Act, 1978" gives us some indication of the importance of this legislation during this period. As President Carter has described it, we are engaged in the moral "equivalent of war" because of the present threat of the energy crisis.

Mr. President, I think it is necessary to make it clear to the American people that the activities provided for in this legislation are an important element in the physical support system needed to provide many of the necessities and conveniences Americans want and have come to expect. The role and responsibility of the Federal Government in public investment in development of our nation's water resources is well-recognized. These expenditures are capital investments that return benefits to the citizens of our Nation which far outweigh the costs.

The impact of past investments is hard to measure in exact terms; however, I believe it is recognized that the past resource development projects have provided significant benefits which by far exceed the original cost of these investments. Presently, we are enjoying the benefit of the wise decisions of our ancestors who made the critical decisions regarding the development of water resources. Likewise, future generations will depend upon us to make the right decisions which will directly affect them. I feel that it is imperative that we face up to these decisions and make the right choices so our children can benefit as we have.

In my opinion, those who, in the past few years, have forced us to face-up to the potential damage of development projects have played an important role in making us look closer at all sides of the issue. However, this must not stop us from making the right decisions; that is, when it is clear that development activities, such as these water development projects, are in the best interest of the public, we must proceed with those projects.

In particular, Mr. President, I would like to call to the attention of my colleagues one of the projects for which funding has been restored, the Richard B. Russell hydroelectric project, located on the Savannah River between Georgia and South Carolina. I have been intimately familiar with the project since before the inception of the master plan. Even though this project was put on the "hit list" by the administration as one of the projects which should not be completed, I strongly believe that, after weighing all the costs and benefits, the project is in the best interest of the people of my home State and of the citizens of this country.

First, Mr. President, I believe it is even more imperative today than in the past, that we consider the potential of the contribution to power generation that can come from an efficient development of our natural water resources. When considering the extreme importance to conserve the limited supply of our nonrenewable energy supplies, we must seriously consider all possible alternatives for increasing the level of energy production at present, as well as potential, sites of hydroelectric projects. Many features of a hydroelectric project such as long plant life, low operating costs, recreation value of reservoirs, and so forth, make it an attractive energy source when environmentally sound. The Richard B. Russell hydroelectric project is a project of this type.

There has been discussion by opponents of the Richard B. Russell project as to the escalating cost of the project. On the other hand, very little has been said about the increase in the value of the benefit to be received from the power produced which we would expect when considering the current and potential energy situation. I believe, Mr. President, that the benefits to be received from this, and certain other projects, will actually increase at a greater rate than the cost of the project, making it even more economically feasible. Along this same line, one must remember that funds have already been spent on this project, and if it is halted now, these expenditures, for all practical purposes, will be lost. Consequently, economists tell me that when determining the appropriate benefit to cost ratio, it would be legitimate to compare expected returns to future costs. This would increase the benefit to cost ratio since some funds have already been expended.

I would also like to point out to my colleagues that the Russell project fits into a comprehensive plan for the Savannah River Basin, which calls for a dam to be built at Trotters Shoal, the site of the Richard B. Russell hydroelectric project. Mr. President, I am told that with the completion of this project, this segment of the Savannah River, which would then have hydroelectric projects at Hartwell, Clerk's Hill, and at Trotters Shoals, could become a model to be studied and admired for the efficient use of water resources for the production of power.

I would also like to take this opportunity to point out to those who question the value of the Richard B. Russell project that it has been studied many times by different individuals and groups. Even the most critical and conservative studies have found it to have a favorable benefit-to-cost ratio. These studies have convinced me that it would be in the best interest of the citizens of this country to build this project.

So far, I have discussed only the benefits received from the power produced by the Richard B. Russell hydroelectric project. However, additional benefits will be received from the recreation opportunities, flood control, and development in the areas surrounding the project in both Georgia and South Carolina. Permanent jobs will be created when jobs are needed, and these jobs will produce permanent improvements, not make-work jobs which are so often advocated for the unemployed.

Mr. President, I would like to point out to those who argue against this project, and seem to be against almost any project of this type, that they have enjoyed the high standard of living they do because of wise decisions regarding water resource development made by previous generations.

We simply cannot have it both ways. In my opinion, we cannot have a totally undisturbed environment and maintain the high standard of living enjoyed by Americans. I believe we must approach development of this type with balance, and attempt to weigh all sides, and I believe, when doing this, the Richard B. Russell hydroelectric project is worthwhile.

Mr. President, I have made these comments about this project in my home state because of my familarity with it. In summary, I would like to say that the Richard B. Russell project, like the others for which funds were restored, has a favorable benefit to cost ratio; is under construction with substantial investment made to date; meet requirements for local assurances and other authorization requirements; and has widespread local and State support.

Again, I would like to commend those on the committee who have had to make the difficult choices. They made those choices which were in the best interest of our country. I urge my colleagues to join me in support of this measure.

Mr. BELLMON. Mr. President, today the Senate turns its attention to H.R. 7553, the Public Works and Energy Research Appropriations bill for fiscal year 1978. This bill provides funding for a variety of programs including water resources development projects of the

Corps of Engineers and the Bureau of Reclamation, Energy Research—both civilian and military—and a host of smaller natural resource programs.

As a Budget Committee member, I am pleased to see that the bill, including possible later requirements, is consistent with the targets of the first concurrent resolution. In addition, the bill, and the anticipated later requirements, is essentially within the subcommittee allocations made by the Appropriations Committee under section 302(B) of the Budget Act. I congratulate the subcommittee chairman, Senator STENNIS, for his timely and effective work on this difficult legislation.

The legislation at hand reflects important commitments, or more accurately, "investments" by the Federal Government in the productive capacity of our Nation. These investments in water projects, flood control and energy research are prerequisites for future economic growth. That growth will be shared by this generation and by our children. Consequently, I would like to take this opportunity to comment briefly on those expenditures which are of an investment character and have been the basis for recent and widely publicized confrontations between the President and this Congress.

Initially, it is important to point out that such confrontations can become a test of wills between the executive and legislative branches. Should this occur, subsequent discussions of particular programs will lack both truth and logic. The struggle over water projects funded in this bill is a case in point. The position of the President appeared to be that all projects on the now famous "hit list" had no redeeming merit. On the other hand, the initial congressional response appeared to be that the completion of each and every project was a critical component of Federal investment in this Nation's productive innfrastructure.

The truth, as recognized in this bill, obviously lies somewhere in between. It is that truth and balance which future debate in this area must distill and subsequent legislation should reflect.

A sound Federal investment produces economic growth regardless of whether it is located in Oklahoma or in Maine. Conversely, an investment which is bad on either environmental or economic grounds is unlikely to be improved by further funding or through the increased tenacity of its original sponsors.

The time has come for us to reconsider our national water resources policy. Our action on this legislation could be a first step in the direction of policy emphasizing sound economics and environmental protection. Though we may choose not to interrupt the construction of ongoing projects, we should take every opportunity to carefully review and consider all new projects.

For example, projects that involve the construction of flood control measures in natural floodplains encourage development in these areas which are subject to periodic flooding. When a particularly large flood occurs, the protective structures are often breached and a major disaster follows. It does not seem logical to provide some protection from flooding, which leads to increased development, and which consequently invites disaster. Except in cases where there is no alternative, floodplain development should be discouraged. President Carter recognized this need in his May 23d environmental message.

Given the limited resources available to the Congress, we can surely find a more than adequate number of water projects which meet stern but sensible economic and environmental criteria. I believe that the bill which we are considering today with its reduced number of water projects is a good beginning in that it appears to represent a balance between economic and environmental requirements.

In the area of energy research, this bill also funds most completely those research efforts which are likely to produce energy sources capable of delivering adequate supplies in a timely manner relative to foreseeable demands. It does not over fund research efforts which even given the most optimistic projections fail to produce a sufficient energy payout consistent with national requirements. This is especially evident in funding for nuclear power research and demonstration. The President's proposals to abandon the breeder reactor are not well thought out. They presume a conservation burden which will prove ineffective and frustrating for all those who labor and produce in this economy.

The approach which the committee has adopted gives me reason to hope that future Federal investment efforts in public works and energy development will out-perform the investment which has been made in the past. Therefore, I intend to support H.R. 7553.

Mr. BURDICK. Mr. President, we are now considering the Senate Public Works Appropriations bill for fiscal year 1978.

The Senate Appropriations Public Works Subcommittee under its distinguished chairman, Senator STENNIS, has worked very hard to produce a bill that is realistic and reasonable under the present circumstances. I am very pleased that the committee reaffirmed its support of the Garrison Diversion Unit as it was authorized by congressional act on August 5, 1965. I believe that the committee has thereby recognized that the Congress has a responsibility to honor its past commitment to sound water development for the people of North Dakota.

I want to share with you the reasons I have supported Garrison Diversion for all of my public life as I believe that the case for sound water development in the Missouri Basin is very strong.

The people of North Dakota have been seeking dependable supplies of water for almost 100 years as North Dakota is a State with limited water resources. Geological surveys state that the climate varies from subhumid to semiarid, and even though 80 percent of our people depend on surface water to meet their water needs, the annual average rainfall is only 16 inches.

The drought of the 1930's was a disaster for North Dakota. Our farmers lost over a billion dollars in income, business failed, and population declined as people were forced to seek a better life elsewhere.

The people of North Dakota turned to Congress in an attempt to solve the problems of drought in the Upper Missouri River basin States. In response to drought in the upper basin States and floods in downstream States, Congress in 1944 approved a multipurpose plan known as the Pick-Sloan Missouri River Basin Plan. Significantly, it was the first attempt on the part of our government to bring about comprehensive development and use of land and water resources of a major river basin.

The passage of the Flood Control Act of 1944 brought the people of North Dakota and the Federal Government into contractual agreement. Even though this contract was weighted for the benefit of other States and regions beyond our own borders, we entered into the contract.

Briefly, here is how the agreement has worked out so far:

The people of North Dakota have performed their part of the contract. The amount of 566,000 acres of our land valued at $280 million now lie under the mainstem Garrison and Oahe Reservoirs. Other land acquisition has added a total of $7.8 million. In addition, the State of North Dakota has been very active in contributing irrigation research and the planning and development of recreational and fish and wildlife resources which are a part of Garrison Diversion.

Benefits realized by the downstream States have been massive—flood damages in the amount of $33 million have been prevented, improved navigation allows an average of 1.28 billion ton miles of freight on the lower Missouri River, streamflow stabilization has maintained the minimum flows necessary for municipal and industrial usage and has allowed for increased commercial and industrial developments in the flood plain area, and the generators in Garrison Dam are producing power that flows in greater quantities to our sister States than to our own. Minnesota, for example, receives more than half the power generated by this project.

In return for the sacrifice of land made by North Dakotans, and in consideration for the benefits to our neighboring States, North Dakota was given assurance that it would receive economic development benefits of irrigation, development of municipal and industrial water supplies, fish and wildlife development, and development of recreational facilities. These benefits have been a long time in coming. The Garrison Diversion project, promised in 1944 and authorized in 1965, is now but 20 percent complete. The benefits from sound water development are as necessary today as they were in 1944 and 1965, and the people of North Dakota have earned them.

Mr. President, objections have been raised based on the environmental impact and benefit/cost ratio. I do not believe that these objections are valid.

(At this point Mr. HASKELL called up his amendment No. 620. Proceedings thereon are printed subsequently in today's RECORD.)

CHILD NUTRITION ACT OF 1977

The Senate continued with the consideration of H.R. 1139.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, under the previous order, the Senate will now proceed to the consideration of H.R. 1139.

Several Senators addressed the Chair.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. EAGLETON. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk continued the call of the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. EAGLETON. I object.

Mr. HATCH. I want to make a unanimous-consent request.

Mr. EAGLETON. I cannot. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk continued the call of the roll.

(Mr. STEVENSON assumed the chair.)

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, may I ask the Chair, what is the pending order of business before the body?

The PRESIDING OFFICER. The final passage of H.R. 1139.

Mr. EAGLETON. Mr. President, I wish to make a point of order with respect to the pending measure under section 401 of the Budget Act. I ask unanimous consent that 15 minutes on this point of order be allocated 10 minutes to myself and Senator MUSKIE, and 5 minutes to Senator DOLE.

Mr. HASKELL. Reserving the right to object, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that?

Mr. HASKELL. I will.

Mr. ROBERT C. BYRD. I would hope the request of Senator EAGLETON would not be objected to. The question here is we have no time to delay. We are obligated to vote right now. But since we set the time for a vote to occur at 1 o'clock, certain Senators have felt constrained to raise a point of order about certain matters involved in the child nutrition bill. There is no time for debate on that point of order, which means the Senate would be voting without knowing what it is doing or what it is all about. The Senator is only asking for 15 minutes to discuss the point of order before the Senate votes.

Mr. EAGLETON. Then the vote will occur.

Mr. HASKELL. I understand we will have 15 minutes of discussion, then the vote, and then we will come back to this bill.

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Reserving the right to object, Mr. President, I ask unanimous consent that Kit Caples, of my staff, have the privilege of the floor during this pending measure and the appropriations measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I withdraw my reservation.

Mr. HATCH. Will someone yield for a unanimous-consent request?

Mr. EAGLETON. I yield to the Senator from Utah for a unanimous-consent request.

Mr. HATCH. Mr. President, I ask unanimous consent that the following staff members, from the offices of the Senators indicated, be granted the privilege of the floor during the consideration of the pending legislation, and also during the consideration of the public works appropriations bill: Nancy Bruns, of the office of Senator CASE; Mike Crisp, of the office of Senator BAKER; Jack Robertson, of the office of Senator HATFIELD; Gordon Jones, of the office of Senator GARN; Perry Pendley, of the office of Senator HANSEN; and Sam Ballenger, of the office of Senator LAXALT.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the request of the Senator from Missouri? Hearing none, it is so ordered.

Mr. EAGLETON. Mr. President, I make the point of order that this bill, in certain sections thereof, is in violation of section 401 of Public Law 93-334, the Budget Reform Act, because it provides new spending authority that has not been provided in advance by an appropriations act. Let me speak briefly to the point. Then I shall yield to my colleague from Maine.

As I understand what occurred on the floor of the Senate this morning with respect to this bill, it is that an amendment was added, making nutrition education an entitlement program, and therefore, a backdoor spending type of program, as that vernacular is sometimes used. Further, I understand that the Committee on the Budget did execute a waiver with respect to this bill, the general bill before the body. However, no request was made of the Budget Committee with respect to the amendment making nutrition education an entitlement program. That amendment came about on the floor after the Budget Committee waiver.

It is my belief that the procedure herein utilized does violence to section 401 of the Budget Reform Act. That is why I wanted to raise the matter with the Parliamentarian and with the body and to receive a ruling thereon.

I yield at this time to my colleague from Maine.

Mr. MUSKIE. Mr. President, I regret the necessity of saying what I am about to say, but I guess that, from the point of view of its impact on the bill now pending, what I have to say is probably going to be harmless. Given the ruling which is expected on the point of order, there is no way available to me at the moment to enforce the point I am about to make. Nevertheless, I think it is important to make the point.

I am appreciative to the distinguished Senator from Missouri (Mr. EAGLETON) for making the point and also of my colleague on the Budget Committee (Mr. CHILES), who earlier tried to raise the same questions.

I am generally in favor of the child nutrition amendments that are before us. I took the lead in the Committee on the Budget in reporting the waiver resolution on the bill as it was before us. This morning, I was informed that child nutrition amendments were to be on the floor. I was given a memorandum by the Budget Committee staff to the effect that the bill as reported raised no problems, that it was as it had been considered in the Budget Committee, that the waiver resolution had been reported and adopted routinely. So I paid no attention to the floor activity and I was tied up in the Environmental Pollution Subcommittee, trying to complete work on that important piece of legislation.

It was not until I arrived on the floor at 1:05 p.m. that I was apprised of this issue and this problem, at a time when I was powerless to do anything about it.

I want to register my objection, Mr. President, to the amendment which converted a proposed new nutrition education program into an entitlement. I realize the importance of greater efforts to improve our nutritional knowledge. I favor the authorization for a new program as the Agriculture Committee reported it in S. 1420. But I think it is bad budgetary practice to make this new effort an entitlement, for several reasons.

First, entitlements reduce the ability of Congress to control overall Federal spending, and new entitlements should not be created casually on a voice vote. The fact is that uncontrollable spending has risen every year until, for fiscal year 1978, it is 77 percent of the total budget. As uncontrollables rise, our ability in every session of Congress to impact on priorities and to direct Federal resources is diminished. So new entitlements are a form of uncontrollable spending that we ought not to adopt without carefully considering them in the context of our overall obligations and the flexibility that we wish to preserve for the future.

The procedure this morning, in my judgment, violated that policy objective.

Second, Mr. President, the proposed program is a new effort, the effectiveness of which the administration questions. A careful startup, subject to the Appropriations Committee's review, would, in my judgment, be sensible until we know how the program works. But we are making it an entitlement before we have that kind of opportunity for examining it. The amendment makes it an entitlement for 5 years, so it will not be until 5 years have expired that a review will be mandated before it can be continued.

Third, Mr. President, no education grant programs are now entitlements. This would be the first. Making this $28 million program an entitlement could set a precedent affecting billions of dol-

lars worth of other Federal spending on education.

Why not? If it is that easy to make this one an entitlement, why should we hesitate in making other entitlements, for the same laudable, humane reasons which prompted this one?

Mr. President, there are two additional reasons why I am concerned about the amendment. I find the amendment objectionable to the congressional budget process in two respects.

First of all, the Budget Committee just considered a waiver of the Budget Act, due to the reporting of this bill after May 15. We did it expeditiously, we did it under the urging of the sponsors that we needed to act on it before the recess. The committee met for that purpose. Members inconvenienced themselves for that purpose. We met on it and considered it and reported it, because we saw no problem in it, and this entitlement issue was not presented to us.

The committee reported the waiver request favorably, based on the version of the bill that included a new authorization, not a new entitlement, for nutrition education. I believe that the Budget Committee might have responded unfavorably if they had known the new program would be converted into an entitlement 2 days later.

Mr. McGOVERN. Will the Senator yield?

Mr. MUSKIE. If I may finish, then I shall yield.

Second, my colleagues know that reported bills that include entitlements must agree with each committee's allocations of budget authority and outlays by subcommittee and by program. If the bill's provisions do not agree with the allocations—I am talking about the Appropriations Committee's allocations—the bill is referred to the Appropriations Committee for that committee's consideration so that additional entitlements can be reviewed, before authorization, within the context of overall spending subject to appropriations.

The nutrition education program—if it had been reported as an entitlement—would have gone through that review process by the Appropriations Committee as required by the Budget Act. By adding the entitlement feature on the floor, the amendment sponsors have subverted this check on Federal spending which the Budget Act provides.

Mr. President, I shall vote for the bill, because, on balance, the overall 1978 funding proposed is in agreement with the budget and in agreement with my own sense of priorities. But I do so, I must say, with a great sense of frustration that this point of future budgetary control has been allowed to become overwhelmed by the parliamentary situation.

I repeat to the Senate what I have said to my good friend from South Dakota and my good friend from Minnesota earlier: It is not pleasant for me, personally, to raise issues and questions like this with respect to programs like this. I know their dedication to these programs. I know their motivations with respect to this amendment were impeccable from that point of view. But I am concerned that this amendment is going to prove that we are setting a precedent, and at this stage in the budget process, every precedent we set we have to regard as a precedent we shall have to live with, as a precedent that will be built upon by others whose objectives are not as laudable, by others whose motivations we might not be as approving of.

This one is hard to say no to, but others will follow if the precedents we set are unwise.

For those reasons, Mr. President, I support the point of order. I have an idea what the ruling will be. Nevertheless, I support the point for the purpose of making these observations for the record.

I am happy to yield to the Senator from South Dakota.

The PRESIDING OFFICER. All of the time of the Senators from Maine and Missouri has expired.

Mr. DOLE. Mr. President, let me take about 30 seconds. Then I shall yield to my distinguished colleague from South Dakota.

I want to confirm, first of all, what the distinguished chairman of the Committee on the Budget has said with reference to the waiver. It was at his urging and under his leadership that we did meet and did take action on the budget waiver resolution, which permitted us to bring this to the floor. There is no doubt about that. For that we are grateful.

The amendment was offered by the Senator from Kansas and the Senator from Minnesota. I want to put in a disclaimer that we did not, of course, intentionally subvert the Budget Act. As a member of the Committee on the Budget, maybe I should have understood that in offering the amendment, but somehow that failed me at the time.

Second, I only point out that it really was not known until this morning whether to try to increase the appropriations from $27 million to some higher figure or to go the entitlement route.

It was decided, I guess late last night or this morning, that we would go the entitlement route. That sets the record straight. It was not an effort to hide anything from the Budget Committee or the Appropriations Committee. In fact, when I offered the amendment, I felt if there would be resistance, I would withdraw it and try to increase the appropriation. But there was not any resistance.

Mr. President, I yield the remainder of my time to the distinguished Senator from South Dakota.

Mr. McGOVERN. Mr. President, I will make this very brief. I think the Senator from Minnesota may have something to say on this point.

I say to the Senator from Maine that when his Budget Committee staff told him that this bill now before us did not impact in any way on the Budget Act, they were telling him the truth.

That same verdict is true with reference to the amendment offered by the Senator from Minnesota and the Senator from Kansas.

I will read the conference committee report on the Budget Act on page 1893 which says:

> The conference substitute, like the Senate amendment, provides that it shall not be in order to consider entitlement legislation which would have an effective date before the start of the new fiscal year.

The additional language makes it clear that in view of the fact that this legislation will not go into effect until October 1, 1977, it, in fact, does not disrupt the budget procedure.

Beyond that, there is additional legislation in the Budget Act that provides very clearly that where the Congress authorizes by law a statute of this kind, to any person or government, the United States is obligated to make such payments.

So I think the Senator's staff was right when they advised him what we were doing in this measure does not disrupt the intended procedure under the Budget Act.

I respect the Senator's concern about the Budget Control Act and I think he has done a magnificent job in enforcing these disciplines on us, but in this case, we have a very carefully drafted amendment. It provides for 50 cents for each enrolled school child. That means that the total amount is going to go down over the next 5 years as school populations decline, which means we cannot go above 50 cents per child.

Then, as crafted by the Senator from Minnesota, it has a 5-year termination period, to the end of that period, with his pledge here on the Senate floor, and the rest of us that were in the colloquy this morning, the committee will review this annually to see we stay within responsible guidelines.

Mr. MUSKIE. Will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. DOLE. I yield.

Mr. MUSKIE. The Senator is right, the amendment is very carefully crafted to take advantage, I am sure, of the existence of a loophole in the Budget Act.

If this had been made effective the day before October 1, it would have been subject to the limitations of the act.

Mr. McGOVERN. The whole bill goes into effect October 1.

Mr. MUSKIE. I understand.

The point I am trying to make is that the question of controlling entitlements was subject to extensive debate at the time the Budget Act was before the Senate.

We had to carefully structure a procedure that would recognize the interest of authorizing committees from time to time to approve new entitlement programs and the necessity to have those programs subject to some kind of review by the Appropriations Committee.

We set the beginning of the next fiscal year as the trigger point. But now, with this precedent, everyone in the Senate is going to know that all we have to do is make an effective date of October 1 and we can attach any new entitlement program we want to on the floor of the Senate without going through the appropriations review process.

The PRESIDING OFFICER. All time has expired.

The Chair advises the Senator from Missouri that the point of order will not lie because it comes too late, the amendment having already been agreed to. The Chair could end here but wants to go on

to say that the amendment is not subject to a point of order under section 401 (b) (1) of the Budget Act, as providing new spending authority described in subsection (c) (2) (C), because the amendment does not become effective until fiscal 1978, and under section 401 (b) (1) it would not be in order to consider an amendment providing such new spending authority "which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported."

Therefore, the point of order is overruled.

Mr. HUMPHREY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. It is on passage of the bill, H.R. 1139.

Mr. HUMPHREY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. STONE. Mr. President, I ask unanimous consent that my aide, Bruce Rowan, be present during this vote and the next succeeding bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT) is necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—96

Abourezk	Goldwater	Moynihan
Allen	Griffin	Muskie
Anderson	Hansen	Nelson
Baker	Hart	Nunn
Bayh	Haskell	Packwood
Bellmon	Hatch	Pearson
Bentsen	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Hayakawa	Proxmire
Bumpers	Heinz	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hollings	Riegle
	Huddleston	Roth
Byrd, Robert C.	Humphrey	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Sparkman
Church	Kennedy	Stafford
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Metcalf	Zorinsky
Garn	Metzenbaum	
Glenn	Morgan	

NAYS—0

NOT VOTING—4

Bartlett	McClellan	Scott
Gravel		

So the bill (H.R. 1139) was passed, as follows:

That this Act may be cited as the "Child Nutrition Act of 1977".

SUMMER FOOD PROGRAM

SEC. 2. Effective October 1, 1977, section 13 of the National School Lunch Act, as amended, is amended to read as follows (except that the Secretary of Agriculture shall undertake to make the studies required by section 13(b)(4) as soon as practicable following the enactment of this Act):

"SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

"SEC. 13. (a)(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in institutions. For purposes of this section, (A) 'program' means the summer food service program for children authorized by this section; (B) 'sponsor' means nonresidential public or private nonprofit institutions, and residential public or private nonprofit summer camps, which develop special summer or school vacation programs providing food service for children enrolled in such institutions or attending such camps similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966; (C) 'areas in which poor economic conditions exist' means areas in which at least 33⅓ per centum of the children are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; and (D) 'children' means individuals twenty years of age and under.

"(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall utilize meals prepared at the facilities of the sponsor or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of sponsors and at such schools. From the moneys appropriated annually to carry out this section, $1,500,000 shall be used by the Secretary to formulate and carry out a program to assist sponsors which offer federally subsidized food service year-round, with equipment—other than land and buildings—for the storage, preparation, and serving of foods to enable such sponsors to establish, maintain, and expand onsite meal preparation.

"(3) Eligible sponsors entitled to participate in the program shall be limited to those that—

"(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

"(B) have not been seriously deficient in operating under the program;

"(C) either conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualify as residential camps; and

"(D) provide an ongoing year-round service to the community to be served under the program, except that an otherwise eligible sponsor shall not be disqualified for failure to meet this requirement if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program.

"(4) The following order of priority shall be used by the State in determining sponsorship where more than one eligible institution proposes to serve the same area:

"(A) sponsors which have demonstrated successful program performance in a prior year;

"(B) sponsors which prepare meals at their own facilities or operate only one site;

"(C) sponsors which utilize local school food facilities for the preparation of meals;

"(D) other sponsors which have demonstrated ability for successful program operation; and

"(E) sponsors which plan to integrate the program with Federal, State, or local employment programs.

"(5) Notwithstanding any other provision of this section, residential camps participating in the program may be reimbursed for the cost of food service operations only for meals served to children who meet the eligibility requirements for free or reduced price school meals under this Act and the Child Nutrition Act of 1966.

"(b)(1) Payments to sponsors shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments may not exceed (A) 85.75 cents for each lunch and supper served; (B) 47.75 cents for each breakfast served; or (C) 22.50 cents for each meal supplement served: Provided, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary shall make such adjustments in the maximum reimbursement levels as he determines appropriate after making the study prescribed in paragraph (4) of this subsection.

"(2) Sponsors shall be permitted to serve up to three meals per day of operation if at least one of the meals is a meal supplement: Provided, That residential camps and day camps shall be permitted to serve up to four meals per day of operation, if the camp has the administrative capability and the food preparation and food holding capabilities (where applicable), to manage more than one meal service per day, and if the service period of different meals does not coincide or overlap. Such meals may include a breakfast, a lunch, a supper, and meal supplements.

"(3) Every institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payments to sponsors for administrative costs shall equal the full amount of such State approved administrative costs incurred, except that such payments may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

"(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

"(i) an evaluation of meal quality as related to costs; and

"(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and

which site-related costs, if any, should be considered as part of administrative costs.

"(B) The Secretary shall also study the administrative costs of sponsors participating in the program and shall thereafter prescribe maximum allowable levels for administrative payments that reflect the costs of sponsors, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

"(C) The Secretary shall report the results of such studies to Congress on or before December 1, 1977.

"(c) Financial assistance shall be made available to sponsors only for meals served during the months of May through September, except that the foregoing provision shall not apply to sponsors which develop food service programs for children on school vacation at any time under a continuous school calendar.

"(d) Not later than April 15, May 15, and July 1 of each year, the Secretary shall forward to each State a letter of credit (advance payment) which shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance payments to sponsors in accordance with subsection (e) of this section. The Secretary shall also forward such advance payments, by the first day of the month prior to the month in which the program will be conducted, to States which operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section no later than sixty days following receipt of valid claims therefor.

"(e)(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each sponsor: *Provided*, That (A) the State shall not release the second month's advance program payment to any sponsor which has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (B) no advance program payment may be made for any month in which the sponsor will operate under the program, for less than ten days.

"(2) The amount of the advance payment for any month in the case of any sponsor shall be an amount equal to (A) the total program payment for meals served by such sponsor in the same calendar month of the preceding calendar year, (B) 50 per centum of the amount established by the State to be needed by such sponsor for meals if such sponsor contracts with a food service management company, or (C) 65 per centum of the amount established by the State to be needed by such sponsor for meals if such sponsor prepares its own meals, whichever amount is greatest: *Provided*, That the advance payment may not exceed the total amount estimated by the State to be needed by the sponsor for meals to be served in the month for which such advance payment is made or $40,000, whichever is less, except that a State may make a larger advance payment to a sponsor where the State determines that such larger payment is necessary for the operation of the program by such sponsor and the sponsor demonstrates sufficient administrative and management capability to justify a larger payment. The State shall forward any remaining payment due a sponsor no later than seventy-five days following receipt of valid claims. If the State has reason to believe that a sponsor will not be able to submit a valid claim for reimbursement covering the period for which an advance payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to sponsors which are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment which is under dispute may be subtracted from an advance payment.

"(f) Sponsors receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending institutions approved for operation under this section. To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and insure that all sponsors that contract for the preparation of meals with food service management companies include in such contracts menu cycles and food safety and quality standards approved by the State.

"(g)(1) Sponsors may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a sponsor pursuant to this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company pursuant to this section. Any food service management company shall, in its bid, provide the sponsor information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

"(2) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

"(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

"(B) disclosure of past and present company officers and directors, and their relationship, if any, to any sponsor or food service management company which received program funds in any prior fiscal year;

"(C) records of past contract terminations or disallowances in regard to program operations in prior fiscal years; and

"(D) the address of the company's food preparation and distribution sites.

No food service management company shall be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.

"(3) In order to assure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies and their program record for the purpose of making such information available to the States.

"(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by the sponsor to utilize small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts utilizing program funds.

"(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by sponsors and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between sponsors and food service management companies.

"(h) The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year: *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administartive costs need not be published until December 1 and February 1 respectively, so as to permit consideration of the studies prescribed in subsection (b)(4) of this section. In order to improve program planning, the Secretary may provide that sponsors be paid as startup costs a percentage of the administrative funds provided for in the administrative budget approved by the State pursuant to subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to sponsors pursuant to subsection (b)(3) of this section.

"(i) Each sponsor shall, insofar as practicable, utilize in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to sponsors, food available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1). Donated foods may be distributed only to sponsors which can utilize commodities efficiently and effectively, as determined by the Secretary.

"(j) If any State is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any sponsor in such State, the Secretary shall disburse the funds directly to sponsors in such State for the same purpose and subject to the same conditions as are required of a State disbursing funds made available under this section.

"(k) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

"(l)(1) The Secretary shall pay to each State for its administrative costs incurred pursuant to this section in any fiscal year an amount equal to (A) 20 per centum of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 per centum of the next $50,000 in funds distributed to that State for the program in the preceding fiscal year; (C) 5 per centum of the next $100,000 in funds distributed to that State for the program in the preceding fiscal year; and (D) 2 per centum of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts shall be adjusted by the Secretary to reflect changes in the size of State programs since the preceding fiscal year.

"(2) The Secretary shall develop State staffing standards and effective dates which will ensure sufficient staff and time for the planning and the administration of program operations. If the Secretary finds the State has failed without good cause (A) to meet any prescribed standards or (B) to carry out the approved State management and ad-

ministration plan prepared under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as he determines to be appropriate.

"(m) States, and sponsors participating in programs under this section, shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

"(n) Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (1) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing potential sponsors of the availability of the program; (3) the State's best estimate of the number and character of sponsors and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (4) the State's plans and schedule for providing technical assistance and training eligible sponsors; (5) the State's schedule for sponsor application; (6) the actions to be taken to maximize the use of meals prepared by sponsors themselves and the use of school food service facilities; (7) the State's plans for monitoring and inspecting sponsors, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (8) the State's plan and schedule for registering food service management companies; (9) the State's plan for timely and effective action against program violators; (10) the State's plan for determining the amounts of program payments to sponsors and for disbursing such payments; (11) the State's plan for ensuring fiscal integrity by auditing sponsors not subject to auditing requirements prescribed by the Secretary; and (12) the State's procedure for granting a hearing and prompt determination to any sponsor wishing to appeal a State ruling denying the sponsor's application for program participation, for equipment funds, or for program reimbursement.

"(o)(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, which receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets or property involved is not over $200, then the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both).

"(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(p) For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

COMMODITY DISTRIBUTION PROGRAM

SEC. 3. Effective October 1, 1977, section 6(b) of the National School Lunch Act, as amended, is amended to read as follows:

"(b) By no later than May 15 of each school year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authorized under subsection (e) of this section, the Secretary shall pay to each State educational agency, by not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programed for such State and the total level of assistance authorized under subsection (e) of this section. In any State in which the Secretary directly administers the school lunch program, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools under the school lunch program during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which he directly administers the school lunch program, shall promptly and equitably disburse such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural commodities and other foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in the regulations by the Department of Agriculture under title 7 of the Code of Federal Regulations, parts 210 and 220.".

PURCHASE OF FOODS FOR THE COMMODITY DISTRIBUTION PROGRAM

SEC. 4. Effective October 1, 1977, section 14 of the National School Lunch Act, as amended, is amended—

(1) by striking out "September 30, 1977" in subsection (a) and inserting in lieu thereof "September 30, 1982"; and

(2) by adding at the end thereof new subsections (c) and (d) as follows:

"(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 707(a)(4) of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f). There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

"(d) In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—

"(1) insure that the views of local educational agencies with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

"(2) solicit the views of States with respect to the acceptability of commodities;

"(3) insure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

"(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity which are suitable to the needs of local educational agencies; and

"(5) make available technical assistance on the use of commodities available under the commodity distribution programs.

Within eighteen months after the date of the enactment of this subsection, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities under this Act for programs carried on under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to insure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.".

STUDY OF CASH PAYMENTS IN LIEU OF COMMODITIES

SEC. 5. Effective October 1, 1977, section 16 of the National School Lunch Act is amended by adding at the end thereof a new subsection (c) as follows:

"(c) The Secretary shall conduct a study to analyze the impact and effect of cash payments in lieu of commodities authorized under this section, and report to Congress not later than eighteen months after the date of enactment of this subsection. The study shall be limited to a comparison between a State which phased out its commodity distribution facilities prior to June 30, 1974, and elected to receive cash payments in lieu of donated foods, with a State not eligible for cash payments in lieu of donated foods. Such study shall include an assessment of the administrative feasibility and nutritional impact of cash payments in lieu of donated foods, the cost savings, if any, which may be effected thereby at the Federal, State, and local levels, any additional costs that may be placed on programs and participating students, the impact on Federal agricultural programs designed to provide adequate income to farmers, the impact on the quality of food served, and the impact on plate waste in school lunch and breakfast programs.".

SPECIAL MILK PROGRAM

SEC. 6. Effective October 1, 1977, the fifth sentence of section 3 of the Child Nutrition Act of 1966, as amended, is amended to read as follows: "Children who qualify for free lunches under guidelines set forth by the

Secretary shall also be eligible for free milk, when milk is made available at times other than the periods of meal service in outlets which operate a food service program authorized under sections 4 and 17 of the National School Lunch Act and section 4 of this Act.".

SCHOOL BREAKFAST PROGRAM

SEC. 7. Effective October 1, 1977, section 4 of the Child Nutrition Act of 1966, as amended, is amended—

(1) by striking out the last sentence of subsection (b) and inserting in lieu thereof the following: "In cases of severe need, a maximum reimbursement of up to 45 cents may be made for each breakfast served to children qualifying for a free breakfast; the maximum payment for each reduced-price breakfast shall be 5 cents less than the maximum payment for a free breakfast. The maximum reimbursement level for cases of severe need shall be adjusted on a semi-annual basis each July 1 and January 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent six-month period for which such data are available. The initial such adjustment shall be made October 1, 1977, and shall reflect the change in the series for food away from home during the period November 1, 1976, to May 1, 1977."; and

(2) by amending subsection (d) to read as follows:

"(d) Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need where the rate per meal established by the Secretary is insufficient to carry on an effective breakfast program in such a school. Such eligibility standards shall be submitted to the Secretary for approval and shall be included in the State plan of child nutrition operations required by section 11(e)(1) of the National School Lunch Act. Pursuant to those State eligibility standards, a school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 per centum of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in the last sentence of section 4(b) of this Act, whichever is less.".

CONFORMING AMENDMENT

SEC. 8. Effective October 1, 1977, the National School Lunch Act and the Child Nutrition Act of 1966 are each amended by striking out "nonfood assistance" each time such phrase appears in such Acts and by inserting in lieu thereof "food service equipment assistance". The heading of section 5 of the National School Lunch Act is amended to read "FOOD SERVICE EQUIPMENT ASSISTANCE", and the heading of section 5 of the Child Nutrition Act of 1966 is amended to read "FOOD SERVICE EQUIPMENT ASSISTANCE".

FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 9. Effective October 1, 1977, section 5 of the Child Nutrition Act of 1966, as amended, is amended—

(1) by striking out the last sentence of subsection (b) and inserting in lieu thereof the following: "Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist schools which are especially needy, as determined by criteria to be established by each State and approved by the Secretary. States shall apportion their share of funds under this subsection by giving priority to schools without a food service program and schools without the facilities to prepare and cook hot meals. After making funds available to such schools, the State shall make the remaining funds available to schools with a food service program and with the facilities to prepare and cook hot meals at the school or at a kitchen operated by the local school district which serves the school for the purpose of purchasing needed replacement equipment. For the purposes of this section, the term 'schools without the facilities to prepare and cook hot meals' means schools without the facilities both to prepare and cook hot meals at the school or at a kitchen operated by the local school district which serves the school.";

(2) by amending subsection (e) to read as follows:

"(e) For the fiscal years beginning October 1, 1977, and ending September 30, 1982, 33⅓ per centum of the funds annually appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities to prepare and cook hot meals. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals to the number of children in all States enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals. In those States in which the Secretary administers the food service equipment assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare and cook hot meals in such State bears to the total number of children enrolled in all schools without a food service program and schools without the facilities to prepare and cook hot meals. The funds so reserved, apportioned, and withheld shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare and cook hot meals. If any State cannot so utilize all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States for use only in assisting schools without a food service program and schools without the facilities to prepare and cook hot meals. If after such further apportionments any funds reserved under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section to assist schools with a food service program and with the facilities to prepare and cook hot meals at the school or at a kitchen operated by the local school district which serves the school. Payment to any State of funds under this subsection shall be made upon the condition that at least one-fourth of the cost of equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools which are especially needy, as determined by criteria to be established by each State and approved by the Secretary."; and

(3) by adding at the end thereof a new subsection (f) as follows:

"(f) Funds authorized for the purposes of this section shall be used only for facilities that enable schools to prepare and cook hot meals at the school or at a kitchen operated by the local school district which serves the school, unless the school can demonstrate to the satisfaction of the State or, in the case of nonprofit private schools in States where the Secretary administers the food service equipment assistance program in such schools, to the satisfaction of the Secretary that an alternative method of meal preparation is necessary for the introduction or continuation of the school lunch or breakfast program.".

STATE ADMINISTRATIVE EXPENSES

SEC. 10. Effective October 1, 1977, section 7 of the Child Nutrition Act of 1966, as amended, is amended to read as follows:

"SEC. 7. (a)(1) The Secretary shall pay to each State agency for its administrative costs incurred pursuant to the administration of this Act and the National School Lunch Act for the fiscal year ending September 30, 1978, an amount equal to 1 per centum, and for each of the fiscal years ending September 30, 1979, and September 30, 1980, an amount equal to 1½ per centum, of the funds utilized by each State agency under sections 4, 11, and 17 of the National School Lunch Act and under sections 3, 4 and 5 of this Act during the second fiscal year preceding the fiscal year for which the amounts are to be paid: *Provided*, That in no case shall the payment to any State under this section be less than $75,000 per annum nor shall any State receive less than the amount allocated to it for fiscal year 1977. The percentages specified in the foregoing sentence shall apply only to the first $100,000,000 in funds utilized under the prescribed sections of law. For those funds utilized which exceed $100,000,000, the Secretary shall pay an amount equal to 1 per centum of such funds.

"(2) The Secretary shall make available to States administering the child care food program, for the purpose of conducting audits of participating child care institutions, an amount up to 2 per centum of the funds utilized by each State under section 17 of the National School Lunch Act during the second fiscal year preceding the fiscal year for which the amount is to be paid.

"(b) The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of sections 4, 11, and 17 of the National School Lunch Act, and sections 3, 4, and 5 of this Act, which will insure sufficient staff for the planning and administration of programs covered by State administrative expenses.

"(c) Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

"(d) In the event that any State agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions previously administered by the Department of Agriculture, an appropriate adjustment shall be made in the administrative funds paid to the State agency of such State.

"(e) The State agency may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.

"(f) Each State agency shall submit to the Secretary for approval by October 1 of each year an annual plan for the utilization of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

"(g) Payments of funds under this section shall be made only to State agencies which agree to maintain a level of funding out of State revenues, for administrative costs in

connection with programs carried out under this Act (except section 17 of this Act) and the National School Lunch Act (except section 13 of that Act), not less than the amount expended or obligated in the fiscal year of enactment of the Child Nutrition Act of 1977.

"(h) For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.".

NUTRITION EDUCATION AND TRAINING

SEC. 11. Effective October 1, 1977, the Child Nutrition Act of 1968, as amended, is amended by adding at the end thereof a new section 19 as follows:

"NUTRITION EDUCATION AND TRAINING

"SEC. 19. (a) Congress finds that—

"(1) the proper nutrition of the Nation's children is a matter of highest priority;

"(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

"(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition or how to convey this information so as to motivate children to practice sound eating habits;

"(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

"(5) there is a need to create opportunities for children to learn about the importance of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

"PURPOSE

"(b) It is the purpose of this section to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive teacher and personnel training and nutrition education programs. Such nutrition education programs shall fully utilize as a learning laboratory the existing school lunch and child nutrition programs.

"DEFINITIONS

"(c) For purposes of this section, the term 'nutrition information and education program' means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training school food service personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; and (D) developing and utilizing classroom materials and curricula.

"NUTRITION INFORMATION AND TRAINING

"(d)(1) The Secretary is authorized to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) the food service management training of school food service personnel, and (C) the conduct of nutrition education activities in schools and child care institutions.

"(2) The program is to be coordinated at the State level with other nutrition activities conducted by education. In formulating the program, the Secretary and the State shall solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; representative members of the American School Food Service Association; the American Dietetic Association; the American Public Health Association; the American Home Economics Association; the Society for Nutrition Education; and other interested groups and individuals concerned with improvement of child nutrition.

"(3) If a State education agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary of Agriculture, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary of Agriculture may make funds authorized in this section available to the Department of Health, Education, and Welfare to fund the nutrition education component of the State program without requiring an additional grant application.

(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 603, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417–19, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of teachers and school food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary teachers and food service personnel with respect to the relationship between food, nutrition, and health, educational methods and techniques, current issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

"(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, landgrant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417–19, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit education or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

"(6) Notwithstanding any other provision of this section, if, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools and institutions, the Secretary may administer the program with respect to such schools and institutions.

"AGREEMENTS WITH STATE AGENCIES

"(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the express provisions of this section, and issue such regulations as are necessary to implement this section.

"USE OF FUNDS

"(f)(1) The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for (A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (B) undertaking an assessment of the nutritional education needs of the State; (C) developing a State plan of operation and management for nutrition education; (D) applying for and carrying out planning and assessment grants; (E) pilot projects and related purposes; (F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (G) coordinating and promoting nutrition information and educational activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory existing child nutrition programs); (H) contracting with public and private educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section; and (I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

"(2) Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.

"(3) An amount not to exceed 15 per centum of each State's grant may be used for overall administrative and supervisory purposes in connection with the program authorized under this section.

"(4) Nothing within this section shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section.

"ACCOUNTS, RECORDS, AND REPORTS

"(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued thereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

"(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

"STATE COORDINATORS FOR NUTRITION; STATE PLAN

"(h)(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator for each State to make an assessment of the nutrition education needs

in the State as provided in paragraph (2) of this subsection, and prepare a State plan as provided in paragraph (3) of this subsection, and to coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.

"(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify useful State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

"(3) Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within such State. The Secretary shall act on such plan not later than 60 days after it is received by the Secretary. Each such plan shall describe (A) the findings of the nutrition education needs assessment within the State; (B) provisions for coordinating the nutrition education program carried out with funds made available under this section with any related publicly supported programs being carried out within the State; (C) plans for soliciting the advice and recommendations of the National Advisory Council on Child Nutrition, the State educational agency, representative members within the State of the American School Food Service Association, the American Dietetic Association, the American Public Health Association, the American Home Economics Association, the Society for Nutrition Education, interested teachers, food nutrition professionals, paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents and other individuals concerned with the improvement of child nutrition; (D) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; and (E) plans for using, on a priority basis the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417–19, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings.

"RESOURCES CENTER

"(i)(1) There is hereby established within the National Agricultural Library of the United States Department of Agriculture a Food and Nutrition Information and Education Resources Center. Such Center shall be responsible for (A) assembling and collecting food and nutrition education materials, including the results of nutrition research, training methods and procedures, and other materials related to the purposes of this section; (B) maintaining such information and materials and providing for their dissemination on a regular basis to State educational agencies and other interested persons; and (C) providing training for the State coordinator and for interdisciplinary personnel designated by the State coordinator who may need special training relating to nutrition education.

"(2) The Secretary may also utilize land-grant colleges, institutions of higher education, and other public or private nonprofit educational or research institutions or organizations to establish one or more regional resource centers, which shall also be responsible for carrying out the provisions of paragraph (1) of this subsection.

"(3) From the sums appropriated to carry out this section, not to exceed $1,500,000 may be used during each fiscal year to carry out the purposes of this subsection.

"APPROPRIATIONS AUTHORIZED

"(j) For the fiscal years beginning October 1, 1977, and ending September 30, 1982, grants to the States for the conduct of nutrition education and information program shall be based on a rate of 50 cents for each child enrolled in schools or children in institutions within the State, except that no State shall receive an amount less than $75,000 per annum. Enrollment data used for purposes of this subsection shall be the latest available as certified by the Office of Education of the Department of Health, Education and Welfare.".

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

SEC. 12. Effective October 1, 1977, section 15 of the National School Lunch Act, as amended, is amended—

(1) by striking out in the first sentence "fifteen" and inserting in lieu thereof "nineteen";

(2) by inserting immediately after "classroom teacher," in the second sentence the following: "two members shall be parents of one or more children in schools which participate in the school lunch program under this Act, two members shall be senior high school students who participate in the school lunch program under this Act,";

(3) by amending subsection (b) to read as follows:

"(b) The fifteen members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of two years, except that the appointments for 1978 shall be made as follows: Two replacements, one parent, and one senior high school student shall be appointed for terms of two years; and two replacements, one parent, and one senior high school student shall be appointed for terms of one year. Thereafter, all appointments shall be for a term of two years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Parents and senior high school students appointed to the Council shall be members of State or school district child nutrition councils or committees actively engaged in providing program advice and guidance to school officials administering the school lunch program. Such appointments shall be made in a manner to balance rural and urban representation between the parents and students. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary."; and

(4) by striking out the period at the end of subsection (h) and inserting in lieu thereof the following: ": *Provided*, That members serving as parents, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.".

REGULATIONS ON SALE OF COMPETITIVE FOODS

SEC. 13. Effective on October 1, 1977, section 10 of the Child Nutrition Act of 1966, as amended, is amended by striking out the second sentence thereof.

NATIONAL ADVISORY COUNCIL ON THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 14. Effective October 1, 1977, section 17(h)(8) of the Child Nutrition Act of 1966, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": *Provided*, That parent recipient members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.".

SEC. 15. Effective July 1, 1977, the National School Lunch Act, as amended, is amended—

(a) by striking out "fiscal" the second and third time that term appears in section 6(e) of the Act and inserting in lieu thereof "school".

(b) by amending section 7 of the Act as follows:

(1) by amending the first sentence to read as follows: "Funds appropriated to carry out sections 4 or 5 during any fiscal year shall be available for payment to the States for disbursement by State educational agencies, in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies, for the purpose of assisting schools of the States in supplying (1) agricultural commodities and other foods for consumption by children and (2) food service equipment assistance in furtherance of the school lunch program authorized under this Act.";

(2) by striking out "fiscal" the second time that term appears in the third sentence and inserting in lieu thereof "fiscal or school";

(3) by striking out "fiscal" in the fourth sentence and inserting in lieu thereof "fiscal or school";

(4) by amending the sixth sentence to read as follows: "For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 per centum of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 per centum of the matching requirement for the preceding school year.";

(c) by inserting at the end of section 12(d) of the Act the following new paragraph (7):

"(7) 'School year' means the annual period determined in accordance with the regulations issued by the Secretary.";

(d) by striking out "fiscal year" each time that phrase appears in the last sentence of section 17(e) of the Act and inserting in lieu thereof "school year".

SEC. 16. Effective July 1, 1977, the Child Nutrition Act of 1966, as amended, is amended—

(a) by striking out "fiscal" the second and third time that term appears in the sixth sentence of section 3 of the Act and inserting in lieu thereof "school";

(b) by striking out "thereafter, beginning with the fiscal year ending June 30, 1976," in the sixth sentence of section 3;

(c) by striking out "fiscal" the first and second time that term appears in section 5(b) of the Act and inserting in lieu thereof "school";

(d) by striking out "fiscal" each place that term appears in section 5(d) and inserting in lieu thereof "school";

(e) by inserting at the end of section 15 the following new paragraph (e):

"(e) 'School year' means the annual period determined in accordance with the regulations issued by the Secretary."; and

(f) by striking out "by January 1 of each year (by December 1 in the case of fiscal year 1976)" in the second sentence of section 17(d) and inserting in lieu thereof "each year by not later than a date specified by the Secretary.".

SEC. 17. Section 6(a)(3) of the National School Lunch Act is amended by striking "and for necessary surveys and studies of requirements for food service programs in furtherance of the other purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966," and inserting in lieu thereof ", for necessary surveys and studies of requirements for food service programs and to establish and Institute of Food Management and Technology in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966,".

Amend the title so as to read: "An Act to amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to revise and extend the summer food program, to revise the special milk program, to revise the school breakfast program, to authorize the Secretary of Agriculture to carry out a program of nutrition information and education as part of food service programs for children conducted under such Acts, and for other purposes.".

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. I move that the title of H.R. 1139 be appropriately amended to reflect the Senate action.

The motion was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that H.R. 1139 be printed as passed by the Senate and that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McGOVERN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. DURKIN) appointed Mr. TALMADGE, Mr. McGOVERN, Mr. HUMPHREY, Mr. CLARK, Mr. LEAHY, Mr. DOLE, Mr. BELLMON, and Mr. HELMS conferees on the part of the Senate.

Mr. McGOVERN. Mr. President, I ask unanimous consent that S. 1420 be indefinitely postponed.

poned.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING SENATE RESOLUTION 78

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution which has been cleared with the minority, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Senate Resolution 211, a resolution amending Senate Resolution 78 with respect to the Budget Committee report.

Resolved, That Senate Resolution 78, 95th Congress, agreed to February 11 (legislative day February 1), 1977, is amended on page 2, line 18 by striking out the amount "$22,750" and inserting in lieu thereof "$47,750."

The PRESIDING OFFICER. Is there objection? Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The resolution (S. Res. 211) was agreed to.

JULY NONLEGISLATIVE PERIOD

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 267.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 267, which will be stated.

The assistant legislative clerk read as follows:

A House Concurrent Resolution (H. Con. Res. 267) providing for an adjournment of the House from June 30 until July 11, 1977, and a recess of the Senate from July 1 until July 11, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask the clerk to read the resolution as it is written.

The assistant legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 30, 1977, it stand adjourned until 12 o'clock meridian on Monday, July 11, 1977, and that when the Senate recesses on Friday, July 1, 1977, it stand in recess until 1 o'clock postmeridian on Monday, July 11, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 267) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR— H.R. 7553

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members:

Mr. ZORINSKY: Chip Terrill; Mr. BAYH: Abbott Reed; Mr. FORD: Jane Matthias; Mr. McINTYRE: Michael Aylward and T. J. Oden; Mr. HART: Leonard Stewart; Mr. BUMPERS: Richard Arnold; Mr. DeCONCINI: Jerry Bonham; Mr. HATFIELD: Kirby Holt; Mr. DOLE: Bob Downen; Mr. BELLMON: Richard Hargis; Mr. CHAFEE: Millicent Feller; Mr. THURMOND: Michael Mishoe; Mr. HASKELL: Michael Hammond, Bill Smith, Martin Frank; Mr. HOLLINGS: Pat Windhan, Mike Joy, and Mary Jo Manning; Mr. ABOUREZK: Bill Wilka.

PUBLIC WORKS APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7553.

Mr. STENNIS. Mr. President, may we have order?

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Colorado (Mr. HASKELL).

(The following proceedings occurred earlier and are printed at this point by unanimous consent.)

UP AMENDMENT NO. 620

Mr. HASKELL. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an unprinted amendment numbered 620.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike lines 5 through 25 on page 6.
Strike lines 1 through 9 on page 7.
Strike lines 14 through 26 on page 11.
Strike all on page 12 and 13.
Strike lines 1 through 9 on page 14.
On page 6 after line 4 insert the following:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $526,020,000 to remain available until expended: *Provided*, That no part of this appropriation shall be used for projects not authorized by law or which are authorized by law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated: *Provided further*, That not to exceed $4,000,000 of the appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction; *Provided further*, That $1,000,000 be used for Grove Lake, Kansas; that $200,000 be used for Lukfata Lake, Oklahoma; that $100,000 be used for Arkansas/Red River Basin Chloride Control, Area X, Texas; and that $900,000 be used for Big Pine Lake, Texas.

On page 7 beginning with line 1 insert the following:

CONSTRUCTION, GENERAL

(Rescission)

Appropriations provided under this head in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1977, are hereby rescinded in the amount of $6,100,000.

After line 13 on page 11 insert the following:

CONSTRUCTION AND REHABILITATION

For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, to remain available until expended, $389,270,000, of which $245,000,000 shall be derived from the reclamation fund: *Provided*, That no part of this appropriation shall be used to initiate the construction of transmission facilities within those areas covered by power wheeling service contracts which include provision for service to Federal establishments and preferred customers, except those transmission facilities for which construction funds have been heretofore appropriated, those facilities which are necessary to carry out the terms of such contracts or those facilities for which the Secretary of the Interior finds the wheeling agency is unable or unwilling to provide for the integration of Federal projects or for service to a Federal establishment or preferred customer: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That of the amount therein appropriated not to exceed $400,000 for the Central Oregon Irrigation District shall be available on a rehabilitation and betterment program under the Act of October 7, 1949 (63 Stat. 724), as amended, to be repaid in full under conditions satisfactory to the Secretary of the Interior: *Provided further*, That not to exceed $2,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction: *Provided further*, That $16,960,000 be used for Oahe Unit, South Dakota; and that $9,700,000 be used for Narrows Unit, Colorado.

On page 13 beginning with line 1 insert the following:

UPPER COLORADO RIVER STORAGE PROJECT

For the Upper Colorado River Storage Project, as authorized by the Act of April 11, 1956, as amended (43 U.S.C. 620d), to remain available until expended, $84,760,000, of which $80,745,000 shall be available for the Upper Colorado River Basin Fund authorized by section 5 of said Act of April 11, 1956, and $4,015,000 shall be available for construction of recreational and fish and wildlife facilities authorized by section 8 thereof, and may be expended by bureaus of the Department through or in cooperation with State or other Federal agencies, and advances to such Federal agencies are hereby authorized: *Provided*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That $7,702,000 be used for Fruitland-Mesa, Colorado; and that $5,992,000 be used for Savery-PotHook, Colorado.

On page 14 after line 2 insert the following:

COLORADO RIVER BASIN PROJECT

For advances to the Lower Colorado River Basin Development Fund as authorized by section 403 of the Act of September 30, 1968 (82 Stat. 894), for the construction, operation, and maintenance of projects authorized by title III of said Act to remain available until expended, $78,295,000: *Provided further*, That $150,000 be used for the continued planning of the Hooker Dam under the Central Arizona Project.

Mr. HASKELL. Mr. President, what this amendment seeks to do is restore the water projects on the President's so-called hit list in the States of Colorado, Kansas, Oklahoma, Texas, South Dakota, and New Mexico.

It is my understanding that a separate amendment will be proposed concerning a project in the State of Kentucky.

Mr. President, my understanding of the time limit is that there are 2 hours on my amendment, equally divided between myself and the opponents; am I correct?

The PRESIDING OFFICER. There is no time limit.

Mr. HASKELL. I thank the Chair.

Mr. President, from the day the President's water project hit list was issued, many viewed the situation as a classic test of wills between the newly elected President and the Congress.

I think that view was unduly optimistic, but its appeal is obvious. It gave many rural Americans a reason to think they still had an advocate—the Congress—willing to fight for the promises the Federal Government had made over the years to build projects the newly elected President targeted for elimination.

After the House voted approximately 10 days ago the myth was alive, but barely, able only to sit up and take a little light nourishment, and the myth breathed its last when the Senate Appropriations Committee reported to the floor the bill that is now subject to debate.

The committee recommended the deletion of nine water projects, one-third of them in my own drought-stricken State, all but two of them west of the Mississippi River, only one of them in the South.

The committee restored eight projects.

Clearly, Mr. President, I am worried about the possible loss of the Colorado projects. So, I may say, are my constituents. Crops are failing and drinking water in many Colorado towns is in serious question.

But our concern is not so great that we cannot pause for a moment and give credit where credit is patently due.

Six of the eight water projects restored by the Senate Appropriations Committee are in States which have Senators on the committee.

The committee saw fit to preserve these worthy projects, weeding out only, of course, those which were truly lacking in merit.

The committee members subjected their projects to the tough scrutiny demanded by the newly elected President's new rules and found them, unlike most others, in compliance.

Certainly, the committee members cannot be blamed if all the bad projects are in someone else's State.

All water projects in this land, henceforth and forever more, shall be measured against the new and objective standards set down by President Carter. I think it would be helpful to take a look at a couple of the certifiable and certified good projects and see perhaps if we can sort out how these new standards are applied. It may help explain to some of my colleagues why their projects have been recommended for extinction.

Environmental soundness: This is the first precept of the administration's test against which all projects shall be measured. To illustrate this principle, let us consider the Tennessee-Tombigbee project. This project was on the original hit list—apparently by mistake. It is back in business now. Clearly, environmental soundness means just what it says: The project can be built to do a specific job without unduly disrupting the natural world in which it will be built. That, it seems to me, is a very simple and adequate definition of environmental soundness.

The Tenn-Tom, as it is lovingly known, involves linking at their headwaters two rivers which flow in opposite directions. What the project will do is provide a shorter route to the Gulf of Mexico—a route along which barges will carry coal from the energy-rich United States to the less fortunate, energy dependent nation of Japan.

The cost of this project is only $1.6 billion. For that amount, we get no flood control and no hydropower, of course; just a dandy ditch for barges.

To accomplish all this, the project will eliminate over 40,000 acres of prime hardwood timber and the wildlife habitat it represents. Seventeen thousand acres of farmland will be taken out of production. Actual construction, I am told, will involve moving more dirt than was moved to dig the Panama Canal. Disposal of the dirt is simple: they are going to fill half a hundred valleys with it.

Still speaking in environmental terms, Mr. President, if the Tennessee-Tombigbee project were a living creature, it would be subject to leash laws in all 50 States.

For the edification of my colleagues: If your project was killed and it is at least as environmentally sound as the Tennessee-Tombigbee, it probably had another problem. Maybe it was unsafe. Let us see what it takes to clear that test, because the President's second test was safety.

Safety: The $1.13 billion—not million, folks; billion—Auburn Dam in California serves best to illustrate this principle. Its primary purpose is to irrigate 29,000 acres. It will inundate 10,000 acres of wildlife habitat. Now, as we all know, life in California is as wild as anywhere in this country. But it could get a whole lot wilder downsteam from the Auburn Dam: That valuable project is sitting on a seismic fault. That means, in the words of the popular song, "I saw the earth move under my feet * * *"

I do not want to unduly alarm any of the 750,000 Californians who live downstream from the proposed Auburn Dam, but, well, do not buy anything on time.

[Laughter.]

If your project was killed and is not as devastating as the Tennessee-Tombigbee nor as shaky as the Auburn Dam, it likely suffered yet another problem: It probably cost more than it was worth. Let us measure another certified "good" project against the value standard and see where

our projects might have been found wanting.

This takes us to the President's third standard, by which good projects are determined, and this is called the benefit-cost ratio.

Benefit-cost ratio: This test translates simply into the following question: What do we get and what does it cost us? A good example to illustrate this principle is the Tallahala Creek project in Mississippi. This was another of the projects on the President's original hit list. But it, too, is back in business with scarcely a scar and I am sure the chairman of the full committee is greatly relieved; I would be. Tallahala Creek is designed to provide flood control, general recreation, and water quality. It will inundate 4,400 acres of bottom land and hardwood forest and eliminate 15 miles of river fishery. It does not have a lot of local support, according to the information available to me; opposition is mostly selfish, coming from the people who live where the reservoir will be.

Now, benefits versus costs: Under the old interest rates which applied when this project was originally authorized, Tallahala Creek would return $1.30 for every dollar it costs to build. Under the new interest rate rules declared by the Carter administration, Tallahala Creek will return only 90 cents for every dollar spent on it.

By those standards, Mr. President, Tallahala Creek really ought to be served with cornbread stuffing and cranberry sauce; it is a certified and pedigreed turkey.

That is the third and final test. And I will say to my colleagues, if your project does not involve revamping the surface of an entire region, if it is not located on an earthquake fault, if it pays its own way—and it still got killed in committee—perhaps you should consider the conclusion I have been forced to.

Simply, it is this: The new rules which we are told have been so judiciously applied, are even more arbitrary than the old ones. They are designed to kill a representative number of projects and any excuse will do. And that is my major objection to this entire exercise.

I can speak only of the projects in my own State when I point out that they have been on the boards for years—decades, in some cases. They have survived expert analysis by engineers, environmentalists and latter-day fiscal conservatives. They have been approved until this year. This is the year that the rules were changed—unilaterally, arbitrarily and, as I trink I have demonstrated, cynically and erratically.

Mr. President, all this business about cost-benefit ratios, safety considerations and environmental consequences is little more than a smokescreen. These projects have been examined and reexamined. They have survived. And as they have survived, farmers, other rural residents, State and local governments have relied on the promise of these projects.

They have spent their own money in seeing them through the process. They have tailored their plans, land use decisions and growth policies with these projects in mind. Now, the Federal Government comes along, utters an almighty "whoops," and starts finding flaws—and and any old flaw will do. The tactics are awfully transparent, Mr. President. Does either the committee or the President actually expect the American people to believe that these projects are being killed by any objective formula? That all the real boondoggles are west of the Mississippi River? That the Tennessee-Tombigbee project is responsible and the Narrows Unit, for example, in my State is not?

What is at work here, I am afraid, is the same kind of selfishness which ruled the little boy sent to the store to buy two identical ice cream cones: The one he dropped was his sister's. Well, in this case, Colorado and the West are the sister and we are upset. We do not object to the application of new standards to water projects so long as those standards are not made retroactive.

I would be delighted to work with the administration in drafting new standards against which to judge water projects. Such standards are long overdue. But in the name of fairness and commonsense let us apply those standards to all future projects, not to those which have been promised for years and which are, in many cases, substantially underway.

That approach is basic, Mr. President. The present approach puts the position of reneging on a promise—not a promise casually made, but one stated and restated for years.

(This concludes proceedings which occurred earlier.)

Mr. HASKELL. Mr. President, to resume discussion of the water projects that have been deleted. In summary, I had said that the President had developed three criteria: One being environmental concerns, one being safety, and one being cost-benefit ratio. I pointed out that the project in Tennessee, the Tombigbee basically was to connect the headwaters of two rivers flowing in the opposite direction, to remove a great deal of earth and to fill up a few valleys to create a ditch for barges to carry coal down to the Gulf of Mexico. Eventually coal would be shipped to Japan, which does not seem to be the most desirable environmental approach.

Next was to illustrate the application of the principle of safety.

I called attention to the project in California which cost in excess of $1 billion where construction is built on a seismic fault. I think that would make people uncomfortable. At least it would make me uncomfortable if I lived downstream.

As to the third safety cost-benefit ratio test I have pointed out to a project called the Tallahala project. When you apply the President's cost-benefit interest standards Tallahala has a minus cost-benefit ratio of 0.9.

Mr. President, I think it is entirely proper that we develop some kind of standards, but I think the standards should be uniformly and sensibly applied.

I would be delighted to work with the administration in drafting new standards. Such standards are long overdue. But in my view, Mr. President, I think those standards should apply to future projects, not to those which have been promised for years and which in many cases were substantially underway.

Mr. President, the approach is basic. The President's approach puts the Senate in the position of reneging on a promise, not a promise casually made, but one stated and restated for years.

We grant that a new broom sweeps clean. We have a new President, and he is likely to develop some new standards, but this still does not erase the history of a promise of these projects which has been restated for a decade and more in certain cases.

If we do go back on the promise to these various people in various States, what will we do next? Cancel veterans' benefits because they cost more than we anticipated? Eliminate other programs in yet another grandstand frugality play? Judging by the statements I hear made in the Chamber, we are all fiscal conservatives—to be sure some of us born again into that role. No one wants to perpetuate programs which are a poor value to the taxpayer. But on most occasions, we see the wisdom of phasing out programs rather than chopping them off.

Must all Federal projects pay their own way? That is a good question. What about the cancer subsidy we always renew in the form of price supports for tobacco growers? What is the cost benefit ratio of that subsidy? The rationale usually offered is that we have an opportunity through this subsidy to help support a rural way of life. We are told that hundreds of small farmers depend upon tobacco for their livelihood. We are told that without price supports, they will fail. And, with those arguments ringing in our ears, we renew the programs.

I am telling you, Mr. President, and the rest of my colleagues as well, that these water projects are vital to the West. Without them, many growers will go out of business. It is that simple.

The three projects in my State which the Appropriations Committee has asked us to kill are essential to a rural way of life. They reflect an ever-present fact of life in the West: The only way to get enough water is to store it. That fact is painfully evident this year, not only in Colorado but throughout the West. All we are asking is that the Federal Government keep its promises and allow us to store water where and when we can and at least gain a fighting chance against the drought that this year moved from omnipresent threat to reality.

The amendment I am offering gives the Senate the opportunity to do just that: To restore funds for projects in Colorado and other States upon which rural residents have been counting—led or misled by repeated promises—for years.

I do not plan to consume a lot of time pointing out that the Colorado projects are immeasurably less environmentally disastrous than the Tennessee-Tombigbee, safer than the Auburn Dam on its best day and as good a bargain as the Tallahala Creek project by any measure. All those comparisons are empty and all my colleagues know it. Indeed, it is about time we dropped the masquerade. It is

about time we conceded that some projects failed through a process no more responsible or scientific than the flip of a coin, the chance of geographic location. If good sense is beyond reach for us, let us at least be honest.

I have here a more detailed discussion of the Colorado projects, Mr. President. I ask unanimous consent that this be printed in the RECORD at the conclusion of my remarks so I can give others who support my amendment ample opportunity to speak on behalf of their own projects.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HASKELL. I would like to briefly discuss some Colorado projects that are of special significance. These were among those projects the President recommended for deletion from the list of projects Congress authorized to be constructed as participating irrigation projects under the basinwide, comprehensive plan of development approved in Public Law 485, the Colorado River Storage Project Act, for the Upper Colorado River Basin States of Colorado, New Mexico, Utah, and Wyoming.

Construction funds for these projects have also been omitted by our highly respected Committee on Appropriations, and construction money appropriated for fiscal year 1977 has been recommended for recission under the Budget and Impoundment Act of 1974. I am referring to the Fruitland Mesa project and the Savery-Pot Hook project. My amendment restores the construction funds for those projects.

The Fruitland Mesa project was authorized in 1964. As early as 1960, residents of the area formed a water conservancy district which has levied taxes ever since in anticipation of having the project in operation. The repayment contract between the Fruitland Mesa Conservancy District and the United States was executed in 1969 and is still in force. Funds to initiate construction were appropriated in 1971. Fund allotments to date amount to approximately $5.4 million. Right-of-way for construction was purchased, donated, and deeded by the conservancy district to the United States in 1971.

This is a multiple-use project that will provide supplemental water to 6,310 acres of land and a full supply of irrigation water for 9,409 acres. Recreation and fish and wildlife benefits will be provided. Plans include mitigation of wildlife habitat lost due to the project construction.

This project is absolutely essential to the preservation of economic values in the area and in neighboring commercial centers. The need for the holdover storage water that could be provided by the project reservoir can best be demonstrated by the drought situation of this year. For instance, the area completely depleted its water supply by May 21, and as a result of the drought, not one ton of commercial hay will be produced in 1977. Additional water from the project would have allowed for crop production in an area already known for low incomes and dwindling population.

The Savery-Pot Hook project on the Colorado-Wyoming border was also authorized for construction in 1964. Funds to initiate construction have been appropriated since 1971, but, due to budgetary impoundments of the previous administration and environmental requirements, little construction has been accomplished. This is also a multiple-purpose water development project that will provide a full supply of irrigation water to 14,410 acres of land and supplemental water to 14,330 acres of land now inadequately irrigated. Recreation, fish and wildlife, and flood control are additional benefits from the project. Plans have been made for mitigation of losses of wildlife habitat and have resulted in substantial increases in project costs. The project plan has also been revised to reduce the irrigated acreage by 3,500 acres to maintain existing wildlife habitat.

Because of questions about the safety of the original site, the proposed Savery damsite has been moved 8½ miles downstream.

This project is badly needed to stabilize the livestock industry in the area through the production of alfalfa, meadow hay, irrigated pasture, and small grains.

Mr. President, during the administration's review of these projects, arguments were expressed that these two projects would reduce the flows of the Colorado River, increase salinity and reduce water quality for irrigation and municipal use in the Lower Colorado River Basin. These arguments are specious and irrelevant. First, the amounts of water to be consumed by these projects are well within the legal water use rights given to the Upper Colorado River Basin by the Colorado River Compact and to the States of Colorado and Wyoming by the Upper Colorado River Basin Compact. These interbasin and interstate agreements, to which Congress gave its consent, are valid. They are enforceable. They must be respected. Second, the very minor contributions to salinity of the Colorado River—317 mg/liter for Fruitland Mesa and 4 mg/liter for Savery-Pot—Hook at Imperial Dam are insignificant when compared to the salt reduction from the under-construction and planned salinity control projects authorized by the Congress under the Colorado River Basin Salinity Control Act and the Colorado River water quality improvement program administered by the Interior Department.

Mr. President, under criteria now being advocated by Presidential advisers, the benefit-cost ratios for both of those projects fall below unity. This was not the case when the projects were carefully considered and authorized by the Congress. At that time the benefit-cost analysis demonstrated favorable results. It should be realized that the reduction in b–c ratio came about as no fault of the project sponsors. These reductions can be laid at the feet of interminable delays in funding, changes in project plans to accommodate environmental requirements demanded after the projects were authorized, and mitigation of losses of fish and wildlife habitats under other post-authorization laws. Failure to update and properly evaluate benefits in terms of present social and economic values is another contributing factor.

With respect to these projects, and others in the Upper Colorado River Basin, one might legitimately ask if a benefit-cost ratio should be given much weight. It has been aptly stated that unique situations require unique treatments. The Colorado River Basin presents a unique resource development situation. There is a great imbalance between the limited water resource and the other natural resources dependent upon water for their development and the populations of seven States that rely on the river for sustaining life. A unique water resource plan was required to go as far as possible in meeting the great demands on the river. This plan, carefully formulated and authorized after 50 years of study and debate among the States was the Colorado River storage project and participating projects plan authorized by the Congress in 1956.

At the time of enactment of the Colorado River storage project law, the project sponsors and the Congress were fully aware that the only way water and other natural resources of the Colorado River Basin in Colorado, New Mexico, Utah, and Wyoming could be made useful to man was to create an Upper Colorado River Basin Fund into which revenues from the sales of hydroelectric energy generated at large storage units—Glen Canyon, Flaming Gorge, and Curecanti Dams—could accrue and be utilized to repay the Federal Government for the costs of participating irrigation projects that would be beyond the ability of water users to repay. In compliance with general reclamation law the costs of power installations and municipal and industrial water supply facilities are repaid to the Federal Government with interest.

Mr. President, the Colorado River Storage Project Act is an intra-basin act. Revenue accruing in the Upper Basin Fund is earmarked exclusively for salinity control. These revenues can be used for no other purposes except those specified in the law. Furthermore, for the most part, citizens within the four States are the water users and power users under the Colorado River storage project. It was, and is, their desire to develop their basin resources under this plan, with the knowledge that some of the participating water development projects would be hard-pressed to meet rigid criteria if subjected to individual project benefit-cost analyses.

Mr. President, the people of the Upper Colorado River Basin knew in 1956, and they know in 1977, that the benefits to the project area, to the States of Colorado, New Mexico, Utah, and Wyoming, and to the Nation far outweigh any empty arguments over benefit-cost ratios.

Mr. President, I have taken the time to explain the history of the Upper Colorado River Basin Fund and its relationship to the Fruitland Mesa project and the Savery-Pot Hook project. I feel that the historical perspective is necessary to a complete understanding of

those projects. In short, they cannot be taken alone, but must be looked upon as components of a total river plan.

Within my amendment are other projects upon which I will not dwell at length, because of the need to continue the progress of this bill and others prior to this Friday. But I do wish to mention the importance of the Narrows unit and the Animas-La Plata project to the State of Colorado and the participating communities.

The Narrows Unit is not, as some would have us believe, a bad project. It suffers the misfortune of being opposed by a limited number of highly organized and vocal individuals, most of whom reside within the taken area. I can sympathize with their concern and desire to remain. But the fact remains that two water conservancy districts, the communities and counties downstream and the elected representatives of that area are all in favor of this project. The Governor of Colorado and the Colorado Department of Natural Resources have spent considerable time studying and restudying all aspects of this dam. They have, as I and my colleague from Colorado have, come to the conclusion that this is a needed project, one which will serve far more people than it will dislocate. It is the linchpin of continued agricultural utilization of northeastern Colorado.

The need for the water which this project will provide exceeds the supply. The project will serve and preserve small farms in the area served.

Local money has been spent and committed; the b/c ratio is favorable. Questions of dam safety have been raised, to be sure. As in many instances, it is easier to raise questions than it is to responsibly answer them. In the wake of the Teton Dam failure, such questions have taken on a somewhat compelling nature. No one wants an unsafe dam.

The Narrows Dam is the subject of reevaluation for safety. A report on the design analysis is expected within the next few months; the design analysis is being subjected to reevaluation and will be ready by August 1. An independent review panel is being formed by the Department of Interior and the State of Colorado. This project is in much the same situation as other dams whose safety is an issue, but been given the option of receiving construction funds subject to reevaluation. I think parity demands that funds be continued until a decision is reached on this matter.

The Animas-La Plata project, which is also an element of the Upper Colorado River storage project, and which is located in southwestern Colorado along the New Mexico border, is one which was added as a new construction start by the House of Representatives.

This project is located in La Plata and Montezuma Counties of Colorado and San Juan County of northern New Mexico. The project would provide irrigation water for lands in the La Plata River drainage for both Indian and non-Indian lands. Municipal and industrial water would also be provided for the Ute Mountain and Southern Ute Indian tribes and for Durango, Farmington, and small communities in their vicinity. The project would also provide significant recreation, fish, and wildlife benefits.

I ask that this project be included as the House of Representatives has provided. It is one which should not be subjected to delay. It is anticipated that the definite plan report will be completed, the final environmental statement filed, and the repayment contracts with the Colorado and La Plata, New Mexico Water Conservancy Districts will be approved in fiscal year 1978. In addition, memoranda of agreements with the Bureau of Indian Affairs and the Southern Ute and Ute Mountain Ute Indian tribes will be consummated. This project would be subject to delay if funds are not available until fiscal year 1979.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SUMMARY OF NARROWS UNIT, COLORADO

1. Narrows Unit is Needed: The Lower South Platte Valley suffers under annual water shortages as well as cyclical drought periods and rampant floods. The Narrows will furnish an important complement to the Colorado Big Thompson Project which has been in full operation since 1957. The Narrows will provide additional control of the erratic South Platte River, high quality farm lands, stabilize the regional economy, reduce flood damages and provide high quality recreation for the citizens of the metropolitan areas along the front range.

2. The Narrows Water is Wanted: The need for this water exceeds the supply. The two sponsoring water conservancy districts have contracted with the U.S. Government for the Narrows Project water. Local water users have filed requests for more water than can physically be developed by the project. The districts are actively pursuing contracts with local water users. The primary use of project water will be for agricultural purposes with about 15 percent to be available for future M&I uses.

3. Project Beneficiaries: The Narrows will serve and preserve small farms. Beneficiaries include agricultural water users in two conservancy districts. The Lower South Platte Water Conservancy District has contracted to purchase 87½ percent of the project water. Direct beneficiaries within this district (taken from project water request applications) include the 5750 farm people on the 787 farm units, covering 148,872 acres. The average farm size is 189 acres. This shows a very broad and general need for project water by all users within the district. Also about 27,000 residents of the municipalities will receive direct benefits from M&I uses. The general public will benefit as the result of public land provided for recreation and wildlife purposes which will provide a conservatively estimated annual 1,555,000 visitor days initially, and an estimated 2,100,000 visitor days ten years after project completion. This is considered very conservative considering the large population areas along the front range.

4. Project Financing: Well over $663,000 of local monies have been committed and spent. This project includes an escalation clause. The more commodities produced, the higher the amount reimbursed to the federal government. The more water captured, the more money repaid. The Narrows Unit will require an expenditure of $145,700,000. State and local interests have advanced $83,000 and have expended $580,000 in local monies on various project studies, project water rights and other local activities. The investment costs allocated to irrigation is $291 per acre, which is very low compared to many other projects currently approved by the administration and congressional committees. Fifty-six percent of the project costs have been allocated to irrigation, of this the irrigators will repay 47 percent if all project water is used for agricultural purposes. M&I uses could increase these percents. This would bring the direct repayment by local entities to the United States to about 70%. All other costs allocated to irrigation will be paid directly to the treasury by Missouri Basin power sales. The repayment is also very good compared to many other projects.

5. Benefit Cost Ratio: The Narrows unit has a very favorable B–C ratio. The last computation made on, "January 1976 data shows a direct cost to benefits ratio of 2.2 to 1 at the authorized discount rate of 3¼%." "When costs are analyzed at a discount rate of 6⅜ percent, the resulting ratio of direct benefits to cost is 1.3 to 1." Using total benefits the respective ratios are 2.6 to 1 and 1.5 to 1.

6. Safety/Seepage: There are no apparent problems with the Narrows Dam site. All geologic and seepage reports have verified initial studies about abutment permeabilities. The Narrows has been designated as the model project for future Bureau of Reclamation policy for establishing safety review criteria of all future dam projects. The Bureau and Governor Lamm of Colorado are in the process of choosing an independent panel to review the design criteria. The panel report is to be completed August 1977.

7. Platte River System: "The U.S.G.S. concluded that there would be no significant impact on the Wet Meadows complex." Within the last few months it has been suggested that the construction of Narrows plus other activities in the Platte River Valley would affect the nesting areas some 300 miles down stream of the Narrows. Several studies of the hydrology of the Platte River in Nebraska have been conducted. In some cases, the development and impacts of the Narrows Unit were considered. In particular a study by the Geological Survey in 1975 entitled "Review of Hydrologic Data and Interpretations, Nebraska Mid-State Diversion, Pick-Sloan Missouri Basin Program" included the impact of the Narrows Unit.

On page 7 of the Water Projects Review Report, it is stated: "Particularly critical are high spring flows which flood wet meadow areas along the river which, in turn, produce high quality plant and animal (invertebrate) food for foraging birds." The above-referenced Geological Survey report presented a rather thorough analysis of the impact of the Narrows Unit and concluded that there would be no significant impacts on the wet meadow complex due to the Narrows Unit. In this regard, there would be similarly no significant impact on waterfowl or wading birds.

The Geological Survey evaluated the significance of the hydrologic regime with respect to the maintenance of the channel morphometry. Their conclusion was that reductions in winter flows would not significantly impact the river, since the stage is relatively independent of discharge due to the effects of ice jams. Water return-flow studies of the use of project water indicate that the project will have a positive impact on winter flows, thus aiding in the maintenance of the sand bars.

8. Water Quality and Recreation: All studies show no significant problems. The Colorado Water Quality Control Commission testified that water quality is improving. Water quality pursuant to section 208 of P.L. 92–500 is being developed with the reservoir in mind. Currently there are several reservoirs along the South Platte River which are very popular for water contact sports. State water quality records show the current water is acceptable for all forms of recreation. Future clean up will insure recreational uses. The only quality problem to date is that the demand for water recreation is too great for the supply.

9. Flood Control Benefits: Flood control benefits are current and extensive. The Corps of Engineers have reevaluated the flood benefits within the past two years. This evaluation accounted for all flood control facilities up stream of the Narrows and even discounted the Narrows benefits to account for tributary flood damages down stream of the project. Annual flood benefits total $800,000.

10. Agricultural Irrigation Benefits: Annual gross commodity production will exceed $17 million. Colorado has many thousands of arable acres along the South Platte River and in the adjacent high plains area. These lands cannot be put into production because of the lack of a stable, reliable water supply. The Narrows Reservoir will provide supplemental water. Questions on the net agricultural benefits have been raised, so the State Department of Agriculture reevaluated the agricultural benefits. Their conclusion was that the increased production far out weighed the loss of production from the lands inundated by the reservoir, "we conclude that average annual net irrigation benefits for the Narrows Project from state perspective are as follows: Regional perspective: 6.4 to $8.9 million." The report also states that the Bureau estimate of $17 million in annual sales is conservative.

11. The President Recommendation: The President's recommendations for further study are not warranted. Many of the same questions raised in the President's Review have been studied and restudied. The sponsors have welcomed and assisted in many of these studies, because the facts have always borne out the need for the project, but we feel that the existing studies should be reviewed and that further time delaying studies are not warranted. Many of his statements and comments on the Narrows were in error and did not agree with the review team report. The project benefit-cost ratio is better than a great many projects such as the Lyman Project in Wyoming which he recommended be funded, and equal to most others, such as the Central Arizona Project and other approved Colorado projects. All environmental requirements have been met and there is no just cause to drop this project.

We sincerely request your assistance in providing funding for the Narrows Unit, Colorado fiscal year 1978.

Mr. HASKELL. Mr. President, I ask unanimous consent that both Wyoming Senators be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, will the Senator yield?

Mr. HASKELL. I yield to my colleague from Colorado.

Mr. HART. Mr. President, the fundamental factor that has plagued this unfortunate controversy over these water projects ever since it began has been the question of fairness and consistency. The reason many of us objected at the outset was because of the way in which the present administration chose to handle the matter.

Unfortunately, that situation has not changed once the arena has shifted to Congress, because there is still the plaguing question of fundamental fairness about the whole procedure. I think that still is the overriding concern in the remarks of my senior colleague, and it is certainly my own concern. We face a hard task in attempting to convince our own constituents that the factors and the criteria and the standards used in making these determinations as to what water projects will live and which ones will die are fair and consistent. Unfortunately, the people of Colorado still do not believe that, even though we are now in the Senate of the United States instead of arguing with the administration.

What I think we deserve here today is some explanation of what the standards were and how those standards are fair and consistent. Unfortunately, we have not heard that.

I would point out, for example, in the case of the Narrows unit in Colorado, quoting from the committee's language:

The President recommended deletion of funding pending re-evaluation of the project which may lead to reinstatement or modification.

Then there follow two sentences which, in effect, killed this project:

Several aspects of the project have been questioned in testimony before the Committee for the last three years.

I would challenge the committee to name one project that comes before Congress of any sort that does not have some sort of testimony questioning it. So that cannot be used as a justification.

Then there follows the second sentence, which I think is the grounds for the committee's decision:

Construction has not started, and the Committee agrees that further analysis and study is required, particularly resolution of the dam safety and seepage questions.

In that regard, Mr. President, I would only cite the fact that the present Secretary of the Interior, after the administration's water project review, has conceded that there is "no single overriding problem" connected with this project. That is a quotation from the Secretary of the Interior.

I would also call to the attention of my colleagues a letter directed to my senior colleague, myself, and the Governor of the State of Colorado, from the Commissioner of the Bureau of Reclamation, Department of the Interior, which states as follows:

This is in response to your request for Bureau of Reclamation assurances with respect to the safety and stability of the proposed Narrows Dam near Fort Morgan, Colorado. We believe that conditions at Narrows permit the design and construction of a safe structure.

That is from the Bureau of Reclamation. Are we to believe the Bureau of Reclamation or the subcommittee of the Appropriations Committee?

I would also call to the attention of my colleagues, two paragraphs below:

AUBURN-FOLSOM SOUTH UNIT, CALIFORNIA

The Committee has restored funds for the Auburn-Folsom South Unit. Construction is underway on some features of the project. Studies on the potential for seismic problems and design of Auburn Dam were initiated over a year ago. These studies will be reviewed also by the State of California. None of the funds made available are to be used to ward a contract to initiate construction of Auburn Dam until completion of the review and a final determination is made on the safety questions.

Why does the Auburn-Folsom unit live and the Narrows unit die? I think that is a question the answer to which the people of Colorado are entitled to have an answer.

I hope the answer is not, as my senior colleague suggested, that neither of us have had the opportunity of serving on this subcommittee. That is a conclusion that others may draw. I do not draw it, myself. But I think the plaguing question that is going to continue to affect us is, has the committee been fair and is it consistent? I do not think anyone can draw the conclusion that the committee and the subcommittee have acted in a fair and consistent way.

Unfortunately, they have not told us what their criteria were. I think we would like to hear them, and I think we would like to hear particularly, in response to the arguments made by my senior colleague, why some projects qualified and some did not.

Mr. GARN. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. GARN. I asked the junior Senator from Colorado earlier in this discussion, did he ever receive documentation from the President? I know that the Senators, in their request, emphasized freedom of information. Did they ever receive documentation as to the cost of conversion?

Mr. HART. As the Senator from Utah knows, after much scurrying around, the first round of that dispute resolved itself by the delivery of about three or four pieces of paper from three or four agencies of the Federal Government, which attempted to justify the President's original decision. They were obviously a mockery, and I think the Senator was present at a meeting with the President when we pointed that out to him: That under no set of circumstances and no stretch of the imagination could they have reached a decision about the viability of these projects based on the documents they sent to us.

Subsequent to that, later in the deliberations, we did receive a more complete documentation. I do not think even those documents really laid out the basis for the cancellation of the projects, particularly based on the fact that all of these projects were justified after years and years of consideration. As my senior colleague pointed out, with literally file cabinets full of justifying documents, to turn over a handful of pieces of paper that do not even establish anything, I think, is a mockery.

Mr. HASKELL. Mr. President, will my colleague yield so that I may comment to the Senator from Utah?

Mr. HART. I yield.

Mr. HASKELL. My colleague, Senator HART, and I and Representative EVANS of my State filed freedom of information requests, as my colleague indicated. We did receive fragmentary papers, but I would like to say to the distinguished Senator from Utah that nothing even close to an analysis of the projects was presented. It is the conclusion of this Senator that there was no such thing at the time the announcement was made.

Mr. WALLOP. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I will in a minute. For a question?

Mr. WALLOP. No, Mr. President, I would like to make a comment. So I will withdraw until the proper time.

Mr. STENNIS. Mr. President, if I may use just a little time here, I do not doubt the great sincerity and ability of the gentlemen who are presenting this amendment, and they have made some very timely remarks about the virtues of these items.

There are other projects in this bill that affect Colorado, and, now, I can wait, but if I may have the attention of the distinguished Senators, there is certainly evidence in this pending bill that someone gave attention to the items for Colorado, someone on our committee, some staff member, someone in the Bureau of Reclamation, and also in the Corps of Engineers, because in this bill already, for approval, recommended by the committee, projects in Colorado are tied in. For example, a part of it in Colorado, we have the Arkansas River above John Martin Dam project; and the Bear Creek Lake project; the first one, the total cost is estimated at $88 million and the second one at $66 million, $6 million of it in this bill; the Chatfield Lake project, $88 million total project, $4 million in this bill; Las Animas is $4.8 million with $2.7 million of it in this bill; the Trinidad Lake project is $44.5 million, and in this bill is $1.2 million.

In Reclamation, the Frying Pan-Arkansas project, the total amount of the project is almost $600 million. This bill has $37 million for it. The next one is San Luis Valley, a $30 million project, with $500,000 in this bill. Still in Reclamation, Animas LaPlata, a $115 million project, with $350,000 in this bill.

Understand, I am glad they are in the bill. They meet the requirements. They are sound, solid, and in keeping with the practice and the policy of Presidents and Congresses, one succeeding the other.

Dallas Creek, a $45 million project with $12 million of it in this bill; the Dolores project, $175 million project with $5.7 million in the bill.

The next one is San Juan-Chama project, a $93 million project with $600,000 in this bill; the San Miguel project, a $71 million project, with $317,000 in the bill; the West Divide project, a $105 million project, with $152,000 of it in this bill.

The total cost of these items which are now in this bill for the State of Colorado or connected thereto is about $1.5 billion. Someone, including the present two splendid Senators from that State, some committees, and some scientific committee people and staff, have been doing a lot of timely, energetic, splendid, and effective work on behalf of this area of the United States—Colorado. They could not find a better place to do a good job.

All this committee has said is simply this: On one of these projects, and I believe it is a good project, the Narrows unit, the President of the United States said:

I am going to look at it some more. It has a possibility of seepage. There is an uncertainty there. I will lay it aside temporarily.

That is all in the record. There is nothing final about it.

"I will temporarily lay it aside and look at it later and make a final judgment." That is what we say. Temporarily let us lay it aside, and we will look at it later and decide based on the facts.

I commend the Senator for being interested in the State and the fine work they have done for it, but in deference to them it seems to me that, as to this project, important as it is, to help meet this situation the Senators would not be at a loss to go that far, to say, "Well, let us give the President a little more time to make his final decision. Then we will ask the Congress to make its final decision, whether the President is in favor of it or not."

We have considered this project as still on our agenda.

In these last projects I read off, I meant to say in Reclamation the principal amount of that is repaid, as we all know. There is very little, if any, interest charged in connection with it. They are projects for which the Federal Government puts up the technical skill, know-how, and management, and puts up the money to build them.

I thank the Lord, and I mean every word of it, there have been men of vision in this body and in the House for almost a century who have subscribed to the philosophy, not without opposition from other places, of looking to the future in a constructive way and building for that future in such an effective way.

Can anyone imagine what the great West would be today without these water projects, all the way from the Mississippi River westward? Just try to imagine what it would be without these great hydroelectric power dams, the great reclamation projects. They are tremendous. I used to look forward to that season of the year when we were successful in adjourning in September or October while I was on this committee. It was my choice to go and see these projects as they were coming out of the ground, so to speak, building for the future.

Today, as we face this great crisis in power and in energy, we have to put at the top of the list these hydroelectric power units which have been built. Not all of them have been built in the West, but the West has the greatest number of them, because they had the sites for them.

Let us not stub our toe over two, three, four, five, or six or more projects which do have merit. Let us try to get this bill through the Senate, through the conference, and to the White House on the condition that we will avoid a veto. That is what I have said from the very beginning. I told the President that. That was our purpose, to try to build a sound bill which would give the President some solid ground on which to stand so he can honestly sign this bill.

I believe we have done far more for him if we hold back these new construction starts—and that is what the committee unanimously decided to do—so as to give him a chance—really, his first chance—to get in on a decision about what shall we do about projects of this kind in the future.

If the interest rate is not right, according to his judgment, what does he suggest? He is entitled to a judgment on it. I do not mean a final judgment as we have a say, but I am speaking in a practical matter for this year.

Do not ever think we can say, "Well, we will just pass it over his veto." I do not know whether we can or not. But if we do, every project in that vetoed bill which is passed over his veto is crippled for the life of a leader and executive behind it, pushing for it to be a success.

The subcommittee brought up this formula before the vote in the House, but since then there has been a vote in the House on this question of a veto. We have the figures. The vote there was 194 to 218. Percentagewise, that is approximately 52 to 48. Forty-eight percent in the House voted with the President's position on these projects. That was the issue. I am referring to all these projects he had put his hand upon in a negative way.

Then we say we can pass over his veto? It takes a two-thirds vote, as we all know, to pass over a veto.

I say, regardless of the merits of this project in Colorado, or the demerits, as alleged, of any other, we better get down to our knitting and pass this bill, giving the President something on which to stand, something respectable on which to stand, as the Chief Executive of this Nation, so he can sign this bill and let it be on its way.

Here, in our report, we set out in detail, the best we could, the guidelines and reasons of the consideration we gave to these projects. All the Senators know how busy they are as Members and they can imagine—these projects number in the hundreds, and have to be measured in some way. We would meet with two, three, four, or five Senators—sometimes, we had every single member of this subcommittee there, passing on these projects of one kind or another—an extraordinary situation. I have not seen a Member of this body yet who is totally against the idea of trying to get this bill to the President in such a way that it will be signed. If they are disappointed about a project, that is one thing, but as a broad proposition, I have not heard any serious objection.

It is with great deference that I say that.

Back on those projects, the distinguished junior Senator from Colorado—and one of my favorites, I may say, and I have reason to say that—that is both of them—calls for some kind of guideline, either by the President or by the membership of the committee for the evaluation of these projects. I do not want to discredit anyone, but the gentleman asked for it. Fruitland Mesa is one of the items we left out. The benefit-cost ratio is 0.5 to 1 at the authorized rate. The minimum benefit-cost ratio is supposed to be 1 to 1: $1 benefit to every $1 in cost. According to that official record, they have 50 cents benefit to $1 in cost.

The next one is Savery-Pot Hook. The benefit-cost ratio is 0.7 to 1. Those are the formulas by which those matters were left out and we applied it right down

the line—no looking to the West, the North, the South, or the East.

I yield to the Senator from Colorado.

Mr. HART. What is the benefit-cost ratio of the Narrows project?

Mr. STENNIS. Well, it is good.

Mr. HART. It is very good.

Mr. STENNIS. I am just giving the whole issue, because the Senator proposed it. I do not blame the Senator one bit. He has these projects on the list to go back in the bill, so that is a very relevant figure that he calls for.

We are up against the practical side. Everyone can vote as he sees fit, but I cannot see any better way to get at this thing than what I have tried to outline briefly.

At the expense of repetition, let me go back to the proposition of bringing a Senator in on the original decision as to whether or not construction will start in these projects, wherever they are. That is quite a concession to him and one that I think he will appreciate, though he has not told me so. I have not dealt with any idea of trying to make a deal. No one knows better than they do. They are under no promise to me. No threat has been made, except what was said in the paper.

Mr. HASKELL. Will the Senator yield?

Mr. STENNIS. Yes, I yield.

Mr. HASKELL. Mr. President, I should like to suggest to the distinguished Senator from Mississippi that he consider the equities involved in these projects. I might briefly say that this is my guess as to how things went in the White House. Judging from the material or lack of material shown to justify the President's elimination of projects, I suspect that somebody well down the line decided they wanted to get rid of a few projects. I suspect the memorandum kept rolling from desk to desk, gathering initials. Finally, it got to the top and, bingo, comes the kill. I suspect that, if the President of the United States knew the importance of these projects and the reliance and the work the local people have put into them, he would change his mind.

I do not want to belabor the Senator. He is very courteous to yield to me. I just want to point out one example. I can go to others, but it is not necessary.

The Fruitland Mesa project was first authorized in 1964. That is 13 years ago. In anticipation of the authorization, 4 years before that, in the year 1960, the residents in the area formed a water conservancy district and levied taxes. That was 17 years ago. For all these years, they have been counting on it. The repayment contract between Fruitland Mesa Conservancy District and the United States was signed in 1969 and is still in force. Funds to initiate construction were appropriated in 1971.

I stop there. In all equity and all fairness and decent dealing, it seems to me that we should not suddenly apply the criterion. I should think that, if the President of the United States understood the problem—I am sure we all consider him an eminently decent man—he would not want to take away from these people a thing they have had their eyes on for so long. I merely point this out to the Senator and hope he may be impressed by it.

Mr. STENNIS. The Senator makes a good point. If the President decides to approve the Narrows unit later, he will not have any trouble with us. But on this benefit-cost ratio, interest, and everything, we are all going to have to live with that, whatever it is. I think that the President, if he is going to change the interest rate, ought to pick a time before other people have put up money—I mean, ought to start that, in effect; as to that project, give it a real new start. If they have already put up money and put their money on the line in faith in the old rule, that ought to be given the greatest consideration.

Mr. HASKELL. If the Senator will yield——

Mr. STENNIS. Yes.

Mr. HASKELL. That is exactly the point that this Senator is trying to make; that, if we are going to have new rules, let them apply in the future, not where people have been counting on something and been led to count on something for 17 years.

Mr. STENNIS. I hope that would work out. I certainly cannot speak for the President, but if it comes around to us, I shall have a chance to consider that.

I can see the point. If we put in a lot of new starts, it appears to me it would be leaving many out here this year of that kind of project and that it would be better, as a matter of policy, in dealing with this whole problem, to hold up those new starts for this 1 year.

That does not mean we shall never consider them, but I am concerned that all of them would be on our agenda for next year. Of course, if we do not have the President's approval, they will not have the advantage.

I point out, too, that this bill must go on to conference. That is another level of legislation. I have always known better than to talk about what I was going to do at a conference. You do not do it that way; you only get what they agree to. But we would have a strong position to maintain, and with great weight, I think, if the Senators will let us try in conference with this bill.

There is another thing about the Senator's amendment. He also proposes to put in new starts for this year. If it passes, that will put the new starts that he is interested in in the bill. Of course, everybody else wants to put in their new starts. I would not blame them for that. But by the same formula, it will kill the bill, I think, as a practical matter.

Mr. HASKELL. Will the Senator yield for just a moment?

Mr. STENNIS. Yes.

Mr. HASKELL. I point out to the distinguished Senator. The three projects we are talking about, on the Narrows project, there were construction funds appropriated for the last 2 years; for Fruitland Mesa, there were funds to initiate construction appropriated in 1971; and for Savery-Pot Hook, also 1971.

Mr. STENNIS. Yes.

Mr. HASKELL. I hope the Senator will take these things into consideration and, possibly, rethink his position on this, merely in simple equity.

Mr. STENNIS. On the Narrows unit, as I understand it, only land had been bought and that is not a new construction start. That is a start in its way to get the land, but not a construction start.

We put money in this bill for planning, incidentally, and that gives the Senator a chance to move along, I mean, to other projects and get ready for the future.

But we would ask that no new construction starts for the reason I have given.

Mr. President, I will yield to the Senator from Wyoming for a question.

Mr. WALLOP. I thank my friend from Mississippi. It is a great courtesy.

Mr. STENNIS. I am glad to yield.

Mr. WALLOP. My friend mentioned the issue of cost-benefit. I am sure that he would agree with me that in the best of circumstances that is a very manipulatable formula, no matter how it is done. It depends who starts with it, what connections they draw from it.

On one project which has been reinstated, we were accused of not having spent enough money for recreation. It is a funny thing to be canceling a project, because of the cost of it and then being accused in the same breath of not having spent enough money, or authorizing enough.

Mr. STENNIS. Mr. President, there is noise, I cannot hear.

Mr. WALLOP. If we, as a Nation, use cost-benefit ratio as it is designed here, regardless of the price of developing an acre-foot of water, that price might be 10,000 times as much, it might differ and be a manipulated cost benefit. But what I am trying to say is that in using this formula no small community ever has a hope, a dream of getting Federal money to develop water and drainage.

We can get definitions, but what this really means is that we are making a Federal land use planning decision to forever move water to where the population centers are and not develop water where it is.

We are being asked to give the President something to stand on. I tried my very best. I have been in contact with the White House, I have been in contact with the Interior Department, and I got two different answers as to why Savery-Pot Hook—part of which is in my State and half of which is in the State of Colorado—was not on their list of projects that should be funded.

We wrote back, asked if there were environmental concerns, even pointed out some reports which we had heard about and asked if they were part of their consideration.

The answer was terrible: "We did not go into things in that detail, we merely looked at the cost and it did not look as good as some others."

I think, in all fairness, the President has plenty to stand on if he is, indeed, a man of agriculture, which he has claimed to be in this country, if he does, indeed, hope to go on with the hopes and dreams of drainage development.

He has plenty to stand on in justice and equity.

I think we make a grave error with the cost-benefit ratio as the full basis of judgment.

I hope this amendment will carry. I am very pleased my friend from Colorado has allowed me to join him as a cosponsor.

But I ask my friend if that is a legitimate reason, in the light of no other detrimental considerations to these projects, to use the cost-benefit ratio, in fairness?

Mr. STENNIS. I take it the Senator is making a strong argument for some future standards to be established.

We now have to operate under the standards required by law. By law passed by the Congress and signed by some President that the benefits shall exceed the costs in the first primary test. It is the first primary test and we act on what the technicians bring us. We cannot go out.

Mr. WALLOP. May I make a point?

Mr. STENNIS. Yes.

Mr. WALLOP. As my friend well knows, all over America there is a completely sick, almost dying, industry, with the exception of a few commodities.

This judgment is a variable. In a year, it could be substantially different.

I suspect if we really used cost-benefit ratio on that basis alone, probably the whole country would end up owing for even consideration of the projects, as weak as the livestock and grain markets are.

We cannot do that.

I think that cost-benefit ratio on that project is badly misrepresented. It really is, and when questioned, they admitted it was badly represented.

Mr. STENNIS. I appreciate the Senator's points. With great deference to him I do not believe the passing of this amendment will start him on his way, much less get him a better cost-benefit ratio written into the law.

But for these isolated places and thinly populated places, I certainly have a feeling for them. I live in one of them.

I will yield to the Senator from Colorado.

Mr. HART. I will wait until the chairman is finished.

Mr. STENNIS. Very well.

Mr. President, on these matters, I think that covers the case. It is filled out by these standards that have been generally applied for years and years and years. This was an effort to meet a situation, a condition, not a theory, a condition that we are faced with.

I believe this is a way to get a bill that is fair. It does not go all the way. As I said in the beginning, Rome was not built in a day. They tell me it was mud huts and after the first rain they built it in marble and it is still there.

But these are progressive year to year to year. I know by experience it takes a lot of patience.

I yield the floor, Mr. President.

Mr. HART. Mr. President, in response to my earlier remarks, the distinguished floor manager made several comments I would like to respond to. He responded to my questions, first of all, by citing the total amount of the value of all the Colorado projects presently under construction and contained in the first column of the charts in the committee bill—$1.5 billion. Obviously that is not the issue here. I did not raise that question.

I do not think the distinguished floor manager's response addresses the issue before the Senate. The fact of the matter is that one single project alone, the Tennessee-Tombigbee equals the value of all the Colorado projects the Senator cited—$1.4 billion.

So if we want to talk about the amount of money going into this project or into that project, or this State or that State, we can take the Tennessee-Tombigbee project and equate it with all the water projects in the State of Colorado.

A lot of those projects contained in the Haskell amendment were authorized years ago and a great deal of that money has already been spent.

Then, the floor manager cites as a benefit to the State of Colorado the Fryingpan-Arkansas project.

The total amount for that project was authorized in 1962, 15 years ago. That is not relevant here. If we wanted to go back and do a kind of balance sheet on the value of all water projects in all States, that might be interesting, but that is not the issue before the Senate.

The issue is, first of all, how did the committee reach its conclusion that the Narrows project was unsafe and the Auburn-Folsom project was safe? Nobody has answered that question. It is not answered in this report. It is an arbitrary conclusion, in one sentence, of each project.

The committee report indicates that the Narrows is not safe, or at least it is in question; that Auburn-Folsom, on a seismic fault, is safe. That is marvelous. That is conclusory. It does not tell us how the committee reached that conclusion.

In my previous statement, I offered quotations from the Commissioner of the Bureau of Reclamation saying that the Narrows project is safe. Why not put the $9.7 million in this bill and go forward with land acquisition while further steps to assure safety are taken? That is what is being done with Auburn-Folsom, sitting on a seismic fault. That is what I mean when I talk about what is fair and what is consistent.

I have yet to hear the criteria used by the subcommittee in deciding that some projects can survive a Presidential veto and three projects in Colorado cannot. That is the issue.

I should like the managers of this bill or the members of that subcommittee to explain to me why the projects which the subcommittee and the committee decided to put back in this bill are somehow safe from a Presidential veto but if you put one of those Colorado projects back in here, the President is going to veto the bill. Explain that logic. I think the people of Colorado are entitled to understand that. Can certain projects survive a Presidential veto; while others cannot?

The distinguished floor manager talks about the conference and what could happen in conference, and so on. I think the people representing the State of Colorado would feel a lot better about their chances in conference, if some of those Colorado projects were in this bill before it goes to conference.

I know that if I were a member of the Appropriations Committee and there were a project in my State, I would feel better about going into conference with that project in the bill than out of it.

Those of us representing the State of Colorado on three projects which were not put in this bill—no money for those projects this year—are entitled to know why some projects survived and some did not.

We talk about cost-benefit ratio, and we have cited the Tallahala project, which has a questionable benefit ratio. What are the standards?

We talk about safety. Auburn-Folsom is in; Narrows is out. I think that any person in the street looking at these projects knows that if you build a dam on a seismic fault, it is a lot less safe than one built on rocks in Colorado.

I think we are entitled to know what the criteria were and what makes a project veto proof and what does not. There is a strange inconsistency in the way those decisions were reached.

Mr. STENNIS. Mr. President, I did not want to ignore the Senator's questions.

As to these matters about the different projects, one compared with the other, the Auburn project is a kind of multipurpose, many-sided operation, some of which already is in motion and in being and on its way, and some contracts were made. It is a multisided proposition of various proportions. That made it altogether different.

I think the Senator has the wrong information as to the cost-benefit ratio. The Tallahalla project is 1.3 to 1, according to the figures we have from the U.S. Army Engineers.

I certainly think it is overdrawn to say that I was taking a position here that including the Narrows would cause a veto. That is out of proportion. My argument is that if we put all these projects back in here, I do not see how we can turn around then and turn down these new starts and put them in and then go to conference, where there are no restrictions. I do not want to make comments about a conference. If one has been at as many conferences as I have, he will find that he had better not say what he is going to require them to do. You cannot require people to do anything in conference. You get the best you can in the Senate bill.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. YOUNG. I say to my friends from Colorado that we are in deep trouble with these projects. The sooner we realize that, the better off we are.

The President has determined that we do certain things, and he told us what he would do. We are trying to work out something that he might sign. We do not know. We picked out, for the most part, projects where a lot of money has been spent already and left out the new starts. That would come nearer to satisfying the President than anything I know of. I do not agree with the President at all, but I am trying to deal with the realities of the situation.

I am glad the Senators from Colorado are continuing the tradition of Colorado. Wayne Aspinall, the former chairman of the House Interior Committee, had much

to do with all these projects. The people representing Colorado were always hard working and effective leaders in water conservation. The late Senator Johnson and the late Senator Millikin fought hard for Colorado and were the most able Members of Congress on water projects.

There also is money in this bill for navigation in the Middle West and the East and for the deepening of harbors. All this work has to be done, and it is a benefit to all of the people and makes for cheaper and more adequate transportation. Not all this money is being spent in the West; it is being spent all over the United States.

Mr. HASKELL. Mr. President, I say to the distinguished Senator from North Dakota and the distinguished Senator from Mississippi, the manager of the bill, that we talk about the President's veto. I have an awfully difficult time thinking that the President of this Nation would purposely disappoint citizens of this Nation who had been led to expect something for so many years. To do so, I think, would be cynical in the extreme.

For example, the Narrows project in Colorado was first authorized in 1944. For the last 2 years, they have had construction money. The Fruitland Mesa project was authorized in 1964. In 1971 they had construction money. The Savery project was authorized in 1964, and initial construction money has been appropriated since 1971.

I cannot believe that a man who has risen to the point of President of the world's greatest democracy would purposely go back on the promises of his predecesors if he understood.

What both my colleague and I are trying to convey here is what has been done, the inducements that have been made, the promises that have been made. I cannot believe that if that were communicated, he would go back on his promises.

That is why I am hopeful that the distinguished Senator from Mississippi and the distinguished Senator from North Dakota could see fit to accept this amendment. I cannot believe that the President, if he is a man of good conscience, would veto the bill.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. HASKELL. I yield.

Mr. HATFIELD. I would not want to embark upon the difficult role of trying to predict the President, after today's announcement of the B–1. But I do think that, unlike that particular issue, the President has been very clear not only in enunciating a policy toward water development and water projects but also carrying it beyond mere words by specifically setting forth what we in the West have come to call the "hit list," and even going so far as to unintentionally violate the law by trying to create a unilateral action against certain of these projects, until his advisers gave him better information and told him, in effect, that he did not have authority to take such unilateral action.

In addition the President has specifically said that he would veto a bill that came to his desk that had these projects all back in it. He has said that he did not know what he would do with a bill that would have fewer projects.

So that is the dilemma the committee is working within to try to anticipate or to read the President's intentions, and so by the deletion of these particular projects which did not fit the criteria of the committee and, by the way, may I say to the distinguished Senator from Colorado the committee and the subcommittee set the criteria before we began to look at the projects—in other words, we wanted to be able to have a criterion to which a project would either measure up or not measure up rather than being accused of yielding to pressure or for political purposes or other purposes to include certain projects and not include others.

So the committee went about its business in a way to try to maintain the integrity of the subcommittee as well as the integrity of the result of our work.

I would only say to the Senator that when he is making judgments on what the President will or will not do we are all in the same boat. But I think there is far more evidence on our side of the issue as to what can be expected as far as actions by the President are concerned than what the wishful thinking or the kind, generous characteristics attributed to the President by the Senator from Colorado on water projects.

We have heard, we have seen and we have not had to strain our senses to see or hear the President's viewpoints on these water projects.

The Senator knows this is not just something of recent origin, but the President very early in his administration, I think one of the first and probably one of the most significant acts he took in the administration, was to reevaluate the water projects. So it is of long standing and of long record the President has established as to his attitude.

We are not trying to say to the Senate, "We have a sure-fire formula," or "We have now determined those projects which will be acceptable." But we do feel we have gone a long way to meet the President's objections, and in the spirit of conciliation, in the spirit of compromise, we are of the opinion that the President will respond affirmatively, or hopefully he will, to what we have tried to do if we can sustain the Senate's position in the House conference committee, and we do not know, of course, what that conference committee will do.

As the Senator from Colorado knows, all the projects are in the House bill—all but one I am corrected—so, consequently, we are facing these measures to be resolved not by the action here necessarily on the floor as final action but what the conference committee will really do as final action.

I just wanted to explain to the Senator, I appreciate his role, and I would be doing the same thing I am sure if I were in the Senator's position. But I would only like to say I do not believe we can attribute all this great generosity to the President of the United States as to what he will do or not do about these projects if we should include them, as the Senator is asking the Senate to do, because I think the record is really contrary to that expectation.

Mr. HASKELL. Mr. President, I thank the Senator for his remarks. I admit that mind-reading is sometimes a difficult occupation.

I would only say that I come to the conclusion that I have, I say to my friend from Oregon, I suppose on the basis really of two things: No. 1, it is quite clear from the response to our freedom-of-information request that the President did not really have much knowledge of these projects, and probably acted a little precipitately.

Having done that, secondly, I believe the President is a big enough man to say he was wrong. Thirdly, I cannot imagine a man in the position of the Presidency who would back up or allow his Government to back up on somewhere between 10 to 17 years—in one case actually 23 years—of representations of the Government to individual people.

But I think I might say to my friend from Mississippi that probably we have talked as long as we can, and unless somebody wants to talk, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, first of all, I want to say a few words about the particular amendment, but I want to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. If the Haskell amendment passes, would it be in order to offer an amendment to strike one of the projects that is included in the Haskell amendment, after passage of the Haskell amendment, if that were to come about?

The PRESIDING OFFICER. Once this amendment is agreed to, amendments to it will be out of order.

Mr. HART. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ABOUREZK. I yield.

Mr. HART. Mr. President, I ask unanimous consent that Haven Whiteside of the Committee on Environment and Public Works have the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I ask the same privilege for Mark Edelman of Senator DANFORTH'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I want to speak specifically on the Oahe project in South Dakota. I have no particular interest in the other projects that are being discussed here, but the Oahe project is included.

Mr. STENNIS. Mr. President, may we have quiet? The Senator is entitled to be heard. I want to hear him, and others do.

Mr. ABOUREZK. I thank the Senator.

The Oahe project is included in the Haskell amendment destined to be re-

stored in that amendment if the Haskell amendment passes.

Mr. President, I happen to oppose the Oahe irrigation project and, if I might impose upon my colleagues for just a few minutes, I think it would be beneficial for them to learn the history of the project and the opposition to that project in the State of South Dakota which I would like to try to articulate today.

The project was first authorized in 1944, I think. It went along without funding until 1972 when the first construction funds were authorized.

There was near unanimous support in South Dakota for that project up until about 3 years ago. Then a group of farmers in the area that was to be affected by this irrigation project, combined with environmentalists from around the State of South Dakota, began to ask questions of the existing board of directors of the Oahe conservancy subdistrict, which is the contracting agency for the irrigation project, and of the Bureau of Reclamation which is the Government agency that is directing construction of the project.

The questions were never satisfactorily answered, at least to the satisfaction of those people.

The opposition by farmers and others continued to grow, and early last year, recognizing there were serious problems with continuation of the project, I proposed in South Dakota that a referendum be held in the 15½-county area that comprised the conservancy subdistrict.

The people who were in support of this irrigation project vehemently opposed a referendum, believing that the opposition was very minor and that it was more vocal than significant.

So the State legislature, failing to pass a referendum bill, the opponents of the project then decided to conduct what they considered was their own referendum. They ran as candidates for the board of directors of the Oahe conservancy subdistrict. Nearly every one of the opponents of the project won election to that board of directors.

This year, early this year, when they took over their positions as members of the board, they conducted a review of the project. They held hearings all around the area that was affected and, based upon those hearings, their own personal feelings and their campaigns for directors of the project, they voted. The first vote was 6 to 3 to ask that the Congress not fund the project.

If I might, Mr. President, I shall read pertinent portions from two letters.

The first one is dated June 16, 1977. It is from the Oahe Irrigation Subdistrict Board, John Sieh, chairman, Glenn Overby, vice chairman, Bill Piper, secretary, and Sieg Swanhorst, treasurer. Those are the signatures on this particular letter. It is addressed to me:

We are aware that the Senate Public Works Subcommittee on Appropriations deleted funding of the Oahe Unit Irrigation Project in action taken June 15, 1977.

As the local governing body holding contract for the project with the U.S. Government, the Oahe Board held seven public hearings on the Oahe Project and on May 21, 1977, adopted a final position that the project was not acceptable and unworthy of further congressional funding and asked that the Congress not provide funding. Therefore, on behalf of the Oahe Board, I would like to inform you that the Oahe Board supports the decision of the Senate Appropriations Committee in deletion of funds for the Oahe Unit Irrigation Project.

Mr. President, I ask unanimous consent that that letter be printed in its entirety in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 16, 1977.

Senator JAMES ABOUREZK,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR ABOUREZK: We are aware that the Senate Public Works Subcommittee on Appropriations deleted funding of the Oahe Unit Irrigation Project in action taken June 15, 1977.

As the local governing body holding contract for the project with the U.S. Government, the Oahe Board held seven public hearings on the Oahe Project and on May 21, 1977, adopted a final position that the project was not acceptable and unworthy of further congressional funding and asked that the Congress not provide funding. Therefore, on behalf of the Oahe Board, I would like to inform you that the Oahe Board supports the decision of the Senate Appropriations Committee in deletion of funds for the Oahe Unit Irrigation Project.

Sincerely,

JOHN SIEH,
Chairman.
GLENN OVERBY,
Vice-Chairman.
SIEG SWANHORST,
Treasurer.
BILL PIPER,
Secretary.

Mr. ABOUREZK. I have another letter dated June 20, which refers to a second amendment which Senator HASKELL may offer that would contain something of a study or modification, and if that is offered the Oahe Irrigation Board opposes that particular funding for any modification or study of the Oahe irrigation project.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 20, 1977.

Senator JAMES ABOUREZK,
Senate Office Building,
Washington, D.C.

DEAR JIM: We are aware that the Senate Public Works Appropriations Sub-Committee deleted funding for the Oahe Unit Irrigation Project in action taken June 15, 1977. As the local governing body holding contract for the project with the U.S. Government, and having adopted a position that the project is not acceptable and should not be funded, please be advised that the Oahe Board supports the decision of the Senate Public Works Appropriations Sub-Committee in their deletion of funds for the Oahe Unit Irrigation Project.

We also understand that Senator McGovern will be introducing an amendment to provide $750,000 for fiscal year 1978 which would be used in the Senator's words . . . "for continued planning for project modification" on the Oahe Unit. I have discussed this proposal with several Board members and initially the consensus is that the Oahe Board would not support such a proposal, for several reasons.

First of all, the Oahe Board made its final decision on the Oahe Unit based on seven full public review hearings held in the project area with the last of those hearings concentrating solely on alternatives. It was the Board's feeling as expressed in the position adopted May 21, 1977 that the project on the whole is so poorly planned and involves so many problems that it is not acceptable and not worthy of congressional funding and support even with alternatives considered.

Secondly, the Board feels that the problems surrounding the Oahe Project in South Dakota cannot be solved by congressional funding, rather the problems must be settled in South Dakota first. Congress could provide funds for technical people and studies but until South Dakotans have determined the course they desire to take, the money could well be misdirected.

For example, the Oahe Board outlined several specific areas of water resource development which we feel enjoy local support and merit consideration. We proposed that 600,000 acres of irrigable land lying adjacent to the Oahe Reservoir be examined for potential irrigation development. That a pipeline be funded to provide water to cities and rural areas. That watershed improvement, like preservation, and irrigation under the Small Reclamation Act be considered further.

We feel, given the opportunity, South Dakotan's can and will set the direction of water resource development for the future . . . but we must all focus on alternate accepted forms of development and realize that the plans of the 50's like the Oahe Plan are no longer acceptable to the people of the Oahe Conservancy Sub-District. During our hearings we were informed by Bureau officials and Senator McGovern himself that though the Oahe Project could be changed some what, any major change would require reauthorization. We tend to agree with that position. Therefore further efforts to modify Oahe would not be useful because Oahe would require such dramatic modification.

In order that we all might move forward on acceptable proposals we would ask if you would arrange a meeting between members of the Oahe Conservancy Sub-District Board of Directors and the Secretary of Interior Cecil Andrus. We feel it would be productive in the Board and Interior officials could discuss informally such proposals as Missouri River-side irrigation under the Small Reclamation Act and other proposals.

As always we would welcome your support of the Oahe Conservancy Sub-District Board and the wishes of the people of the 15½ county Oahe Sub-District.

Sincerely yours,

JOHN SIEH.
Chairman, Oahe Conservancy
Sub-District Board.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. HASKELL. I am very pleased to accept the Senator's amendment. He knows more about that South Dakota situation than I do. But it is my understanding the Senator's colleague takes the opposite view from that of the Senator.

Mr. ABOUREZK. Yes, that is true.

I think I am obligated to offer that kind of amendment because if the Haskell amendment passes that is the last shot that I would have at deleting that particular project.

Mr. HASKELL. I understand the Senator's position.

Mr. ABOUREZK. I wonder if Senator McGOVERN is around here. He was in the Chamber a few minutes ago. I think he should have a chance to speak on it, and I will wait. We can probably call him and have him come on over.

Mr. HASKELL. All right.

Mr. ABOUREZK. Mr. President, I reserve the right, however, to offer that amendment.

Mr. HASKELL. We will ask the cloakroom to call Senator McGOVERN.

Mr. ABOUREZK. All right.

Mr. HASKELL. If no other Senator wishes to speak on this I am going to suggest the absence of a quorum until Senator McGOVERN arrives.

Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I shall take just a few minutes because I think the outcome is probably not too difficult to predict, but there has been some discussion about how we might resolve some of this in conference. That is why the Senator from Kansas has a special case because the only project not put back in on the House side was Grove Reservoir, which is located in Topeka, Kans., in that area. And it is sort of special recognition to the State of Kansas.

It was my hope that perhaps even if the Haskell amendment should fail, which I trust it is not, but perhaps in an effort so that we might have at least a chance in the conference there might be some consideration given to including Grove Reservoir in the Senate bill so that when the conferees meet they will at least have a chance to look at all these projects which were on the President's hit list to start with.

Mr. President, I wonder if we might have order.

The PRESIDING OFFICER. The Senator is correct.

The Senate is not in order.

Mr. DOLE. We listened very carefully to all the arguments: "we understand"—"cost-benefit ratios"—"new starts"—I am not quite certain how the committee, and I have great respect for everyone on the committee, may have reached their final determination. We can always, of course, guess; and there is always a lot of conjecture and speculation.

I understand the great pressures applied by President Carter. He is applying the same pressures on the farm bill. He has indicated very strongly that we have to do this or that, or he will veto the bill.

Mr. President, I suggest he do veto the bill. It is not the responsibility of Congress to protect the President. He has a right to veto legislation; President Ford vetoed 50 some bills, and was applauded for it. Maybe President Carter should veto some bills also. I cannot understand why we find it necessary to accommodate and accommodate and accommodate. He has the veto authority; why not exercise it?

Mr. President, this project was authorized in 1962. Planning money came into the project in 1968. I would just hope, since it is the only project that is not in either bill, that there might be some consideration given, because as we look down the future, the city of Topeka, Kans., is going to be dependent on this for its water supply.

When questions were raised earlier this year about the economic justification for the project, I carefully reviewed the various factors associated with the project. Since that time, I have fully supported initiation of construction of Grove Reservoir and have been impressed by the strong support for the project among many area officials and residents.

The conservation of water and land resources in the State of Kansas, and the implementation of flood control measures, have long been matters of primary importance to the people of my State. With the encouragement and assistance of the Federal Government, we have seen tremendous accomplishments in these areas in the past. We look forward to continued cooperation, and further resource improvement in the years ahead.

Variable extremes of weather conditions make adequate preparation necessary to both the lives and livelihoods of our residents. It is important that efforts continue toward insuring an adequate supply of water in the Midwest for both private and industrial use. Significant strides have already been made in the planning and construction of State reservoirs and irrigation units in Kansas. In an area which experiences severe droughts and heavy usage of natural water resources, such projects have proven themselves to be of immeasurable aid at present, and valuable insurance for the future. As inducements to greater employment opportunities, and as methods for preserving our precious natural resources, these projects are, without question, sound investments for Federal dollars. In addition, implementation of flood control projects promise to save the Government millions of dollars in disaster relief funds in the future.

A QUALITY WATER SUPPLY

My support for construction of Grove Reservoir follows a careful analysis of the cost effectiveness of the proposed project and a review of public hearings held in the area last fall and earlier this year. The project has my support because it is an important part of the flood control plan for the Topeka area and the Kansas River Basin. The project would provide immediate flood protection for more than 3,000 acres of agricultural land, with supplemental protection for 626,000 agricultural acres and 39,000 urban acres.

Of equal importance is the fact that it is an important source of water for the city of Topeka, Kans., in the coming years. It is estimated that by the year 2000, the city of Topeka will require an additional 20 million gallons of water per day to meet its needs. Grove Reservoir would be adequate to supply this future need with a quality water supply. The Kansas Water Resources Board has expressed concern with saline content in existing water sources for the city, and they foresee treatment as well as supply problems for the city of Topeka well in advance of the year 2000. I feel these factors argue favorably in support of the construction of the Grove Reservoir project.

COUNTERING ADMINISTRATION OBJECTIONS

Mr. President, it is my understanding that the benefit-cost ratio for Grove Reservoir at the authorized rate prescribed by Federal law is 1.11 to 1, according to the Corps of Engineers report dated March 15, 1977. The variance between the benefit-cost ratio published by the Corps of Engineers and the one promulgated by the administration can be explained in terms of changes in philosophy and procedures adopted by the administration in determining such ratios. However, the attempt to impose a new evaluation technique at this late date raises a question of whether it is realistic to evaluate a project, reevaluate the project, and then reevaluate the reevaluation ad infinitum. It is necessary that reevaluations be terminated at some defined point, and historically this point has been at the initiation of project funding and the beginning of construction activity.

Questions have been raised about the need for a new water supply to the Topeka area. The quality of the present supply, coming from surface flows in the Kansas River, is far from ideal. A major problem is the high chloride content which occurs most of the time. Chlorides cannot be easily removed from water by normal treatment processes; removal requires the use of expensive desalting treatment processes. After investigating a number of options for future supply, the city of Topeka concluded that the most desirable and most economical of those options would be the Grove Lake project. It is my understanding that the city of Topeka has been in the process of negotiating a long-term water contract with the Army Corps of Engineers to insure repayment for local industrial and residential use. With respect to objections raised regarding environmental impact, it is commonly known that any public works project may adversely affect the enviornmental quality of an area. Whether a project is a highway, school, or a reservoir, it is important to quantitatively evaluate the impact. A proper balance needs to be struck between the needs of the citizens and the irreversible environmemntal impacts of a project. Otherwise, this Nation's entire public works program from waste treatment plants to water resource projects may grind to a halt. The Fish and Wildlife Service in Kansas is presently reviewing anticipated conditions at Grove and will provide recommendations for mitigation measures to offset the loss of upland habitat.

LOCAL SUPPORT

Mr. President, it is my understanding that the Grove Reservior project is supported by the Governor of Kansas, the Honorable Robert F. Bennett. I ask unanimous consent that the Governor's

letter to the distinguished chairman of the Senate Appropriatons Subcommittee on Public Works be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. The project is supported, of course, by my senior colleague, and he has a statement.

In addition, the project is supported by the Kansas Water Resources Board, the Missouri-Arkansas River Flood Control Association, and numerous others in the area.

It just seems, in the consideration of everything else, that the Senate ought to work its will, and I assume that we will work our will.

I understand the need to negotiate and compromise, but we are being told the same thing in connection with the farm legislation: That if we spend too much money, we will not get a farm bill.

I do not know about that. It seems to me that maybe President Carter ought to have to face up to a veto, and he should not be relieved of that burden by the Congress of the United States.

I have just this morning received telegrams from the Topeka Flood Control and Conservation Association, the Topeka Board of Realtors, Rural Water District No. 5 in Johnson County, some members of the Topeka City Commission, the Topeka Chamber of Commerce, and others urging the U.S. Congress to proceed with construction funding for Grove Reservoir. It is my sincere hope that we will not disappoint these hopes, and shortchange future generations which will depend so heavily upon water resources which we construct today.

EXHIBIT 1

STATE OF KANSAS,
OFFICE OF THE GOVERNOR,
Topeka, Kans., April 27, 1977.

Hon. JOHN C. STENNIS,
U.S. Senator, Chairman, Senate Appropriations Subcommittee on Public Works, Dirksen Office Building, Washington, D.C.

DEAR SENATOR STENNIS: It is with some concern I note the questions that have been raised regarding the justification of the Grove Reservoir and the proposed funding requirements for fiscal year 1978 construction. Consideration of the Grove Reservoir was the subject of a very intensive basin investigation conducted cooperatively between the Kansas Water Resources Board and the Corps of Engineers. This study was the result of the devastating flood in the Kansas Basin in 1951 followed by the severe drought period of 1952–56. As a result of the study, it was concluded that additional flood protection was warranted in the basin to assure that the ravages of the 1951 event would not be repeated. It was also agreed that where possible, conservation storage should be considered to assure an adequate and good water supply would be available for the Kansas Basin.

Subsequent to the study, three additional reservoirs plus additional local protection measures at the Kansas Cities were recommended to supplement the so-called existing-authorized system. These improvements would provide protection to the urban areas of the basin against a recurrence of a flood greater than that of 1951 and an adequate water supply capable of meeting water supply needs through a severe drought period. To a large extent, the objectives of the basin study have been met. However, one of the remaining elements of this plan is completion of the Grove Reservoir.

I note the message of the President in his statement that water development projects have played a critical role in developing the economy of the Nation. I further note his concerns that prior actions have resulted in projects being approved that may not meet continued updated standards. Grove Reservoir is one that apparently is in the latter category, particularly with respect to economic evaluation. A constant re-evaluation procedure could well result in a grinding halt to resource development. Some place in the evaluation process a point must be reached where the economic considerations are finalized in order to assure local interests that projects or programs can move ahead. It would appear that this point should logically be the initial appropriation by Congress and the approval of the President of construction funding. Further economic evaluation beyond this step would not be necessary.

I note one of the major requirements with respect to the Grove Reservoir is satisfactory compliance with the nonfederal repayment requirements associated with the cost allocated to water supply. Upon completion of a water supply contract satisfactory to the Secretary of Army and the City of Topeka, the State sees no reason why further delay should be experienced with respect to the development of Grove Reservoir. If the City of Topeka signifies its needs for water by entering into a long term water contract, I question if we should set in judgment on the issue of need for such a supply.

Very sincerely,

ROBERT F. BENNETT,
Governor of Kansas.

Mr. PEARSON. Mr. President, I associate myself with the remarks of my esteemed colleague. I wish to emphasize once again the great need for water supply in this particular part of the State of Kansas.

I rely not only on the statement and the references made by my distinguished colleague, but on a statement of the Kansas Board of Water Resources, a body that has gained nationwide recognition for its skill and ability to analyze and to look into these needs of our State, and take the long-term policy view as to what may be required.

That, together with the comments of the community leaders and the leaders of our State, not just the political leaders—my colleague has made reference to the Governor—but those people really skilled in this particular task. I have here a long memorandum report from the water resources board, which substantiates the great need for this particular project, and again I wish to underscore and associate myself with the statements of my colleague.

So, Mr. President, today I would like to voice my strong support for the Haskell amendment which would restore funding for Grove Lake near Topeka, Kans. According to reports from the Kansas Board of Water Resources, this reservoir is a crucial facet of the water supply program for this area. This project illustrates the planning that is essential by community leaders in order to insure long-term water resources. To delete funding for the project now would hamstring the ability to secure water supplies for the future.

The project has already been thoroughly studied. The conclusion has been that this approach is the most practical, most economical, and the most advantageous for the Topeka area.

In this regard Mr. President, I would ask that my colleagues support the Haskell amendment.

Mr. YOUNG. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I yield.

Mr. YOUNG. I note that my friend from Kansas challenges the President to veto the bill.

Mr. DOLE. No, no.

Mr. YOUNG. I think politically a veto would be a great thing for the Republicans. No Democratic Presidential candidate would carry those States if the President vetoed this bill and also vetoed the farm bill.

But we need these projects so badly that I am willing to compromise, and I think the compromise worked out by the committee is the only possible way we can get a bill through.

Mr. DOLE. I would be willing to compromise, too, if my projects were in, but my projects are out. If, as in the case of some other States I could mention, my projects were all tucked back in very carefully, I would want to compromise, and would be applauding the President for his restraint.

But I never noticed anyone in this Chamber seem sorry before because a President might veto some bill. I heard a lot of people criticize President Ford because he did veto legislation, but now we seem to be trying to protect the President.

I understand the pressures on the committee, and all the hours they spent, and I would not necessarily want to be on that committee. I am not suggesting that we have the best projects of the bunch; they would probably only rank second or third. But we do get special consideration, for some reason. Maybe, again, it was my great effort last year. [Laughter]. But Kansas is the only project that is not on either list.

I appreciate the recognition, and I know that the people of Kansas have mixed feelings about the project, like any other project, but as my senior colleague has said, it is not just the political leaders, it is the people in the area who are concerned.

I ask unanimous consent to have printed in the RECORD letters from the Water Commissioner of Topeka and the City Attorney of Topeka, and excerpts from certain telegrams.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CITY OF TOPEKA,
Topeka, Kans., April 21, 1977.

Hon. JOHN C. STENNIS,
Chairman, Public Works Subcommittee on Appropriations, U.S. Senate, Washington, D.C.

DEAR SENATOR STENNIS: The City of Topeka, Kansas, is earnestly negotiating with the United States Corps of Army Engineers toward the goal of entering a contract concerning the construction and funding of Grove Reservoir, a water storage and recreational lake proposed to be built approximately seven miles northwest of the City of Topeka. Although a contract has not been executed between the parties, negotiations have been

fruitful and the signing of such an agreement appears imminent.

A major factor retarding the execution of the contract is the uncertainty of whether Grove will be federally funded. It is our understanding that the Corps of Engineers cannot enter into a contract with the City until such time as Congress has approved funding for the project. In view of previously expressed Congressional concern with providing Americans safe drinking water and in view of the recent drought crisis affecting the nation, we request that you reconsider President Carter's recommendation not to fund Grove.

Thank you for your consideration of this matter.

Very truly yours,

DAN E. TURNER,
City Attorney.

CITY OF TOPEKA,
Topeka, Kans., March 8, 1977.

Senator BOB DOLE,
Topeka, Kans.

DEAR SENATOR DOLE: The citizens of Topeka and the office of the Water Commissioner thank you for your efforts on our behalf concerning Grove Reservoir. We are pleased that you have taken a personal interest in helping us to secure Grove as a future water supply, if it is at all possible. While I am not sure of the effect a letter to the President from a member of the "loyal opposition" will have, your intent is appreciated.

We have held a preliminary meeting with the Corps of Engineers concerning the signing of a contract to solidify our intentions and the Corps' duties. The meeting was extremely cordial, with both sides addressing the issues squarely. We do have some unanswered questions (one of which is the legal standing of Native American Indian water rights) that will require additional meetings.

I do not consider these additional meetings as a roadblock to an eventual agreement, but as the necessary precautions of thoughtful and prudent men. We are continuing with our negotiations. We will reach an agreement on the contractual issues. What we require is for the "powers that be" to view Grove in a favorable light.

You will be kept informed of our progress. Once again, thank you for your time and trouble.

Sincerely yours,

JACK ALEXANDER,
Water Commissioner.

Several Senators addressed the Chair.

Mr. STENNIS. Mr. President, let me say to the Senator from Kansas that one of those that the committee put back in the bill, Hillsdale Lake, Kans.—that is in the bill now——

Mr. DOLE. We appreciate that.

Mr. STENNIS. We may be fixing to knock it out here in a few minutes; the Senator had better stay on the floor, now.

Mr. DOLE. I am going to try to hold back the dam as long as I can.

I yield back the remainder of my time.

UP AMENDMENT NO. 621

Mr. ABOUREZK. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an unprinted amendment No. 621 to the Haskell amendment No. 620.

On page 3, line 8, beginning with "$16,960,000" strike all through "that" on line 9.

Mr. STENNIS. Will the Senator yield for a parliamentary observation?

Mr. ABOUREZK. I yield.

Mr. STENNIS. Mr. President, as to the parliamentary situation, as I understand it, the Senator from South Dakota has offered an amendment to the pending amendment. I have encouraged Members who wanted to leave to delay their departure. I wonder if we can have a very short explanation of this matter and agree to a vote after a very short period of time, asking unanimous consent that there be a back-to-back vote, a vote on this amendment to be followed by a vote on the Haskell amendment.

Mr. HASKELL. Mr. President, that would be satisfactory.

Mr. STENNIS. Five minutes to the side?

Mr. McGOVERN. I could not agree to that. This is a project, Mr. President, which directly affects the life of our State. There is not any issue which is going to come before the Senate this year that I am personally any more concerned with. I cannot agree to any brief time limitation on an amendment like this, which concerns a project we have been working on for 30 years.

Mr. STENNIS. May I make another inquiry? What time could we agree to, to be equally divided?

Mr. McGOVERN. Why not see how we get along with the argument. Maybe a little later we can agree on a time. I am not here to delay the Senate, but I want to be sure the arguments are heard.

Mr. STENNIS. It would be appreciated by all. Some are voting one way and some are voting the other way, so far as the Haskell amendment is concerned. This would certainly help the situation.

Mr. McGOVERN. As the Senator knows, the Oahe project is part of the Haskell amendment. In order to save time, I had not planned to take the floor today as I assumed we would be voting on the whole package. But since an effort is being made to strike out one project from this proposal, I have no other recourse as a Senator from South Dakota than to defend this project. It is very important to our State. I cannot permit this to come to a vote until we have discussed its merits.

Mr. ABOUREZK. Mr. President, I do not think my colleague was here at the time but the parliamentary situation is this: If the Haskell amendment were to pass, another amendment to strike any portion of the Haskell amendment would not be in order. That is the only purpose for my offering this amendment to strike at this time. I have to do it to the Haskell amendment; I have to do it before the Haskell amendment is voted upon.

I would have preferred to wait until afterward. However, the parliamentary situation prevents that. This will be very brief, as I have already spoken on this issue.

This is an amendment to delete construction money for the Oahe irrigation project in South Dakota. That is part of the Haskell amendment which is being sought to be restored because the subcommittee had deleted it. The Oahe project is one of their own hit list.

Mr. President, the reason I am doing this is that the board of directors of the Oahe conservancy subdistrict, which is the contracting authority with the Government for this project, has voted, by resolution, to ask the Congress to not put in funds for the Oahe irrigation project.

The reason that the board voted that way is that a majority of the farmers, a majority of the townspeople in that 15½ county area which comprises the subdistrict, have elected those people and have spoken in a free election against this project. They do not want it.

There are farmers out there who want it, but they are not in the majority. There are newspaper editors out there who want it, but they are not in the majority. There are chambers of commerce who want it, but they are not in the majority. And there are equipment operators, equipment salesmen, equipment companies—people who profit from the construction of an irrigation project of this nature—who are for it, but they also are not in the majority. It just so happens that the people who are in the majority are those who are opposed to the building of this project.

One of the major reasons for their opposition is that it proposes to irrigate 195,000 acres of land, but in order to do that, they will take out of population 110,000 acres of land—110,000 for 190,000. All of it is not productive farm land, but a great part of it is.

Very simply stated, the farmers in that area do not want the Oahe irrigation project.

I might say that they do support irrigation in other areas. They have supported other projects publicly, but they do not like this particular project. They do not want it.

I am obligated to the board of directors itself to convey their message to the Senate and express my opposition to funding for the Oahe irrigation project.

Before I yield the floor, I want to say about my colleague from South Dakota that I have never had a tougher assignment in my political life than to offer this motion to strike. The major reason for that is that my colleague, GEORGE McGOVERN, supports the project. He does so from many, many years of deep conviction, a deep belief in the value and benefits of irrigation.

GEORGE grew up in South Dakota during the depression period. He has a much more vivid recollection of that than have I, or than have a great many people in the Senate, in fact. He believes very deeply in it; he always has. It is the most sincere and deep-held belief in that kind of project. I would, very honestly, rather take a beating than have to oppose an old friend and political ally in this kind of issue. But, just as he is obligated to support it, I am obligated to go against it.

I yield to my colleague.

Mr. McGOVERN. Mr. President, first of all, I want to echo the sentiments that my colleague (Mr. ABOUREZK) has just expressed, that it is not comfortable for either one of us to be on opposite sides of any issue, particularly one that affects a project in our own State. I think this is the first time, in the years that we have served in public life together, that we have been on opposite sides of an issue of this kind. Of course, I respect the

views of my colleague (Mr. ABOUREZK). As he has said about me, I say about him that I know he speaks from conviction in the issue as he sees it.

Much of this question turns on the interpretation that one places on the degree of support for the project in our State. Indeed, the President's review commission largely resolved the question on that basis. They did not really look at the merits of the Oahe project. I think, in all due respect to the subcommittee, that they did not look so much at the merits of the project as they did the politics of it, which was an attempt to read what public opinion is in the State of South Dakota on this issue.

It is true that there is an elected subconservancy board, involving a handful of people who won an election a year ago, with some reservations about the Oahe project. But as I read the campaign statements, those winning members of the board, virtually without exception, did not come out against the Oahe project in any clear sense. They said they had certain questions about it, that they wanted to raise some questions about the present design.

I remember talking to some of these candidates at the time, who made it clear to me—and I think their public statements will indicate that was their position—that they did not ask the voters to elect them in order to kill this project; they asked for the right to look at some aspects of this project that could be modified or changed. But, once in office, this handful of people, I think, misread the mandate that they were given and joined in with a very well-organized minority in the State—and I think it is a rather small minority—in an effort to kill the entire project.

Mr. President, there is nothing about the way this project is moving along that bars the possibility of modification from time to time. It is a project that has been under consideraion for more than 30 years, going way back to the Flood Control Act of 1944. There was an agreement reached at that time that, if South Dakota would permit the flooding of some 500,000 acres of rich bottom land along the Missouri River for the purpose of building multipurpose dams—that would protect the downstream States from floods, that would provide hydroelectric power for the whole Missouri River Valley, that would provide recreational benefits, that would provide navigational support—in return for those benefits that are shared by all the States in the Missouri Valley, all the way down to the Mississippi River and from there on down to New Orleans, in return for the sacrifice of some 500,000 acres of land behind these four reservoirs, one of the benefits that would come to the people of our State would be irrigation.

There is no State in the Union that more desperately needs it. We almost burned up in the State of South Dakota last year. It cost us close to $2 billion in lost crops because of the absence of water in the State. We were importing hay from as far away as Canada in order to maintain our foundation herds. We have municipalities all across the State that virtually ran out of water, even for domestic use. My home town was threatened with a situation where we were making plans to import water by train, to bring it in just for drinking purposes and municipal purposes of that kind.

All of those communities were looking forward to replenishing their domestic water supply through this project.

My distinguished colleague has said that the Oahe Conservancy Board, this handful of men who were elected to this board—I think in a manner that was not fully reflective of the position that they are taking today—speaks for the entire State of South Dakota on this project, or, at least, for the farmers who are directly affected by the proposed irrigation. The truth of the matter is that, under State law, the South Dakota legislature speaks for the State on water matters.

It was the South Dakota Legislature that created the Oahe Conservancy Subdistrict Board in the first place. It has the power to abolish it or to modify it or to instruct it. That legislature, in its last session, by a nearly unanimous vote—and this is not a Democratic or a Republican issue at all, as illustrated by the fact that my colleague and I are both in the same party and are on opposite sides of the issue. But the South Dakota Legislature, which represents both parties by a nearly unanimous vote, endorsed the Oahe project in its last session. Then, because it believed that the Oahe Conservancy Subdistrict Board was not reflective of the wishes of the State and the best interests of the State, the legislature created an Oahe task force to work for the development of this project. In South Dakota, as I have said, it is the State legislature, acting as the State conservancy district for the whole State, that really speaks for our State on water development. That fact was verified by an official opinion of the South Dakota attorney general.

In addition, the composition of the Oahe board is even now being challenged in our State courts under the constitutional one man-one vote principle.

Mr. President, just today I received a communication from the two counties in the State that are most directly affected by this project and from the part of the State where we are going to have the principal irrigation users—these are the farmers that live in the West Brown County Irrigation District and the Spink County Irrigation District.

The chairman of those two irrigations districts in our State that will comprise a considerable part of this project asked me to read to the Senate a communication expressing the overwhelming support of the farmers in that area.

I am not going to read the entire message, but I would like to read this paragraph from the West Brown Irrigation District Board of Directors:

> Our people do want the project and over 70 percent of the qualified voters in the irrigation district signed a petition requesting immediate, prompt and speedy construction of the Oahe Diversion Project.

Almost exactly the same language from the Spink County Irrigation District in which the members of the board and their chairman refer to the 700 farm families of that district who wish this project to be implemented.

The author of this message says:

> I feel it is my responsibility as chairman of Spink County Irrigation District where two-thirds of the 190,000 acres of Oahe are located and where our farmers have indicated by over 70 percent approval of participating and security contracts their commitment to use the water and to repay the projects.

So, Mr. President, I hope very much that the Senate will keep faith with the State of South Dakota on this project. I am convinced as one who has followed the course of the Oahe project now for more than 20 years, since I was first elected to the House of Representatives in 1956, that the overwhelming majority of the farmers, of the people who live in the municipalities that will be served their domestic water needs by this project, by the overwhelming majority of the people in our State that feel they have a legal contract with the U.S. Government, that these irrigation benefits and municipal water benefits should be made available to our State.

Mr. HATFIELD. Will the Senator yield?

Mr. McGOVERN. Yes.

Mr. HATFIELD. I would like to make the record complete at this point because the Senator knows that I not only held a hearing before the subcommittee that related to this project some months back, but I had the opportunity to be in Mitchell, S. Dak., to talk to people directly about the project on a particular visit.

The subcommittee, of course, recognizes that this is a good project from a cost-benefit ratio. It is 1.6 to 1, which is a good ratio.

But we are really confounded with the legal problem that transcends all of the benefits or the merits of the project.

That is simply this, the Legislature of South Dakota created this conservancy subdistrict, provided the Organic Act by which the people of that district, the irrigators, could elect a board of directors and that board of directors becomes the contracting authority with the Federal Government through the Army Corps of Engineers.

As the Senator from South Dakota knows, the old board signed the contract and there was an election in which a new board was elected by the very people that would have to pay back that part of their contribution to the total project.

Now, the new board is saying to us, the subcommittee, and then to the Corps of Engineers, "We do not want this project."

In other words, we now have one party to the contract saying, "We will not perform," or, "We do not desire to perform the contract."

So Congressman ABDNOR came over to talk with me only a few days ago about this project. He was very upset about the role of the subcommittee. I explained to him that we had no alternative. We cannot impose a project upon an area where the major contractor says, "We don't want to perform." That performance will be determined at a State elec-

tion if they want to change their mind about the performance of that contract and elect a new board.

All I am suggesting is that, as I said to Congressman ABDNOR, we could wait for that action by the State legislature, or the new election, or whatever other local action might be taken, and handle this question, if there is a contrary position established later, through the supplemental.

But I say in all deference to the Senator from South Dakota, as sympathetic and empathetic as I may be to the project, and I have a very warm feeling toward the project, that we do not have any alternative at this time, as our legal counsel tells us, to try to impose a project where the major contractor in the local area says, "We do not care to perform."

Mr. McGOVERN. If the Senator will yield there, just to get to that legal point, since he accepts the merits of the project and agrees that substantively the project is a desirable one and one that has a favorable benefit to cost ratio, the question then does become one of legal interpretation, as I understand the Senator's argument, and the Senator is impressed by the fact that the subdistrict board he refers to is itself a creature of the South Dakota Legislature. It has no authority apart from the action of the legislature.

The same legislature in any given moment has the right to overrule any subdistrict board on questions that affect water development in South Dakota and, indeed, the State legislature in its last session by a nearly unanimous vote did that, in effect, when it came down in favor of the project and then created a new vehicle, the so-called Oahe Task Force, which is composed of elements in the State that are interested in the water issue, to work for the development of the project.

Beyond that, the irrigation process itself under which the Conservancy Board was elected is being challenged in the courts at this very moment.

So it would seem to me, if the Senator is concerned about the legal aspect of it, there is a very compelling case to be made that we can follow the directions of the South Dakota Legislature rather than one of its creatures.

Mr. HATFIELD. Will the Senator yield?

Mr. McGOVERN. Yes.

Mr. HATFIELD. The only point is simply that in this action the South Dakota Legislature did not diminish or withdraw any of the authority that they conferred upon this subdistrict when they first created it.

It is not the legislature with whom we contract. It is not the legislature that is going to pay the money back for this project. It is the irrigators within the district who has elected a board of directors to speak for them, and that is the major contractor—not the Governor, not the legislature, but the subdistrict.

So the legislature did take the action the Senator stated, but in so doing it did not in any way diminish the existing responsibility or authority of the subdistrict to be the major contractor.

So our legal counsel says that we do not engage in contract relationship with the legislature, but only with the conservancy subdistrict, and it is saying to us today, "We do not want the project."

So that is why we feel legally bound to not include it.

Mr. McGOVERN. I respect the Senator's argument, but I do not think there is any risk that the Government is taking in entering on the course I am recommending here today if we continue the funding of this project and continue its construction. It is a long-term construction project, as the Senator knows. We have already expended a considerable amount of money on the project.

The irrigators in the area have signed up for the benefits. It is broken down even on a county basis so that they have an organizational structure by which they can contract for the water, and they have done so.

I still would respectfully urge upon the Senator to reexamine the position that his legal counsel has taken.

Mr. HATFIELD. I am not an attorney.

Mr. McGOVERN. I am not an attorney, either.

Mr. HATFIELD. Therefore, I have to rely upon the legal counsel I receive.

I say to the Senator that I assure him that there would be a very sympathetic ear as well as a voice on the subcommittee, if there is a change in the local constituents' official policy as established by their official agency of the conservancy board in the future; especially as it may occur before the supplemental, to carry out this project on the supplemental, but I am only saying that as an individual. That would be predicated upon any change of official policy of the local people.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. I yield.

Mr. HATCH. Mr. President, I ask unanimous consent that Mary Goede, of Senator HAYAKAWA's staff, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I remind the Senator from Oregon of a couple of important matters. No. 1, the city of Mitchell, which he visited and where he talked to people, is not in the irrigation district at all. It falls outside of it. However, in 15 years or so, that community, as well as others, would benefit potentially from any water flowing down through the James River.

Mr. HATFIELD. I would not want to imply that I considered it otherwise. I merely stated that it was a place where I met with people who were involved. It is the closest community to that particular district I ever have been to.

Mr. ABOUREZK. I do not know the geography of Oregon, and I assume that the Senator from Oregon is in the same situation with respect to South Dakota.

The second thing the Senator from Oregon should be reminded of is that the South Dakota State Legislature rejected a move to take the powers away from that conservancy board. There was a vote on it, and it was defeated in the State legislature.

So, while the State legislature may be for the irrigation project, they are still in favor of the board running the project and making decisions based upon the election by the farmers—not only the farmers but also the people who live in the cities and towns within that district.

It is important to know that it is not only the farmers who elected this board—people who were not directly impacted by the irrigation project itself, people you would expect to benefit by virtue of having an expanded economy if there were a lot of construction there, who voted to elect directors who were opposed to the project.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, I thank the Senator from South Dakota.

Assuming that we get to this vote now, I was going to propose that after the completion of this vote, each side be allowed 3 minutes on the Haskell amendment, just to state the issues, and then we would proceed to a yea and nay vote on the Haskell amendment. I do not propose that at this moment.

Mr. HASKELL. If the chairman will make it 5 minutes to a side, I will agree.

Mr. STENNIS. All right. I thought the Senator from South Dakota would return.

Mr. ABOUREZK. I have asked someone to ask him if he wishes to speak any more on the issue.

Mr. STENNIS. Mr. President, I ask unanimous consent that at the conclusion of the rollcall vote on the Abourezk amendment, each side be allowed 5 minutes on the Haskell amendment, and that we then proceed to a yea and nay vote on the Haskell amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ABOUREZK. Mr. President, I ask my colleague if he wishes to speak on this issue.

Mr. McGOVERN. Mr. President, the arguments have been made. I am ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from

Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "nay."

The result was announced—yeas 69, nays 23, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—69

Abourezk	Eagleton	Moynihan
Allen	Eastland	Muskie
Baker	Ford	Nunn
Bayh	Glenn	Packwood
Bentsen	Goldwater	Pell
Biden	Griffin	Percy
Brooke	Hansen	Proxmire
Bumpers	Hatfield	Ribicoff
Burdick	Hathaway	Riegle
Byrd, Harry F., Jr.	Hayakawa	Roth
	Heinz	Sarbanes
Byrd, Robert C.	Helms	Sasser
Cannon	Huddleston	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Stafford
Chiles	Johnston	Stennis
Clark	Kennedy	Stevenson
Cranston	Leahy	Stone
Culver	Lugar	Thurmond
Curtis	Magnuson	Tower
Danforth	Mathias	Young
DeConcini	Matsunaga	Zorinsky
Domenici	McIntyre	
Durkin	Metzenbaum	

NAYS—23

Anderson	Humphrey	Nelson
Church	Laxalt	Pearson
Dole	Long	Randolph
Garn	McClure	Sparkman
Hart	McGovern	Talmadge
Haskell	Melcher	Weicker
Hatch	Metcalf	Williams
Hollings	Morgan	

NOT VOTING—8

Bartlett	Inouye	Stevens
Bellmon	McClellan	Wallop
Gravel	Scott	

So Mr. ABOUREZK's amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, what is the pending matter before the Senate? And I ask the Chair to state the unanimous-consent agreement if the Chair will.

The PRESIDING OFFICER. There are 5 minutes to each side. The Senator from Mississippi has 5 minutes, and the Senator from Colorado has 5 minutes.

Mr. STENNIS. And this is on the Haskell amendment?

The PRESIDING OFFICER. The Senator is correct, amendment No. 620.

The Senator from Colorado.

Mr. HASKELL. Mr. President, for those who were absent when the amendment was presented, what my amendment does is seek to restore the projects that the committee of the Senator from Mississippi did not restore at the committee level. The committee of the Senator from Mississippi restored I believe 8 out of 17 projects. That leaves seven projects which the President has asked to be deleted which are not in the bill.

Mr. President, could we have order in the Senate?

Mr. DOMENICI. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will please be in order. Senators will show courtesy to the Senator from Colorado and the Senator from Mississippi.

Mr. HEINZ. Mr. President, will the Senator yield for a unanimous consent request?

Mr. HASKELL. I yield.

Mr. HEINZ. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that Mr. Mark Bisnow, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Of course, this does not count against my 5 minutes.

The PRESIDING OFFICER. It does not.

Mr. GLENN. Mr. President, I make the same request for Tom Dougherty, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, in view of the fact I only have 5 minutes, unless I get unanimous consent that these do not count against my 5 minutes I will not yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I make the same request for James Hill of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. HASKELL. Mr. President, briefly the Appropriations Committee restored about half of the projects the President objected to. My amendment seeks to restore the remainder.

Mr. DOMENICI. May we have order, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico is correct. The Senate will be in order.

Mr. HASKELL. In my discussion earlier, Mr. President, I pointed out that there is a project in Tennessee which, for example, joins two rivers flowing the other way and at the very beginning of them they have to remove more dirt than the Panama Canal. It is clearly environmentally more objectionable. I pointed out in California there is a large project being established on a seismic fault and, therefore, the safety factor is somewhat in doubt. And I pointed to another project where the cost-benefit ratio was less than the projects in Colorado.

Mr. President, the main reason that I think these projects should be restored is that it is not fair to those people who have counted on them for many years to suddenly change the rules. For example, the Narrows project was originally authorized in 1944. Construction money has been given the last 2 years. The Savery project, if my recollection is correct, was authorized in 1972; construction money since 1971. The Fruitland Mesa project, the same situation.

People in these affected areas have been counting on these projects, and the United States of America has led them to spend their own money and to make their own plans, based upon these projects.

In simple fairness and equity, it is not right that they be removed, and that is why I urge colleagues to vote in favor of these projects.

Very little money is involved. It is nonsense to call their deletions budget balancing. That is pure poppycock.

I know other Senators wish to talk. I know my colleague from Colorado does.

Mr. HART. Mr. President, will the Senator yield?

Mr. HASKELL. I yield a minute to the Senator from Colorado.

Mr. HART. Mr. President there are two issues before the Senate on these projects. One is whether the Appropriations Subcommittee acted fairly and consistently, and the record does not indicate the standards of criteria used by the subcommittee in deciding that funds for some projects should be appropriated and some should be left out. The standards that have been suggested do not hold water because, as my senior colleague has said, on the major project in Colorado the funds are resisted because it was unsafe when funds were appropriated for a project in California on a seismic fault.

The second issue is whether the addition of these projects would invite a veto. No justification has been offered by the committee as to why the projects that were put in the bill in committee will not invite a veto and why the projects that were left out will invite a veto. That is the issue.

The issue is whether the committee's decision to put some projects in was fair, just, and equitable, and the justification for that decision has not been presented to the Senate.

Mr. HASKELL. Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, let me observe that the State of Wyoming has contributed around 39 or 40 percent of the total amount of funds that have gone into the reclamation fund under the Mineral Leasing Act of 1920. We happen to be at the head of the creek; whether you are looking down the Colorado River where the Green River is a tributary this particular stream being the one that will supply water for Savery-Pot Hook or you are looking at the Platte, the Yellowstone, or the Snake, which is a part of the Columbia River. Thus, the only way that the State of Wyoming can put to beneficial use the waters that have been reserved under compact with other States is through the implementation of these kinds of projects. If Congress were to fail to recognize this opportunity what in effect they have said to the people of Wyoming is, "You have the right to use the water but we are going to deny you the opportunity to exercise that right."

I hope very much that the Senate will support the amendment of the Senators from Colorado, of which Senator WALLOP and I are cosponsors, in trying to treat fairly the upper basin States.

I thank my colleague.

Mr. HASKELL. Mr. President, I reserve so much of the time I may still have remaining.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Mississippi has 5 minutes.

Mr. STENNIS. Mr. President, the

guidelines and the formulas that the committee carefully and exhaustively used in passing on these projects are all well known and the reasons are set forth in the report. They were enumerated in detail at the beginning of this debate by me. They are what we have followed largely for years, and are called the congressional guidelines or congressional formulas. Largely, these items that are left out were left out on the basis of those formulas.

Our good friend from Wyoming is certainly entitled to anything good that is going. But the project to which he referred here in Wyoming has a cost-benefit ratio of 0.7 to 1. It has to be 1 to 1, as Senators know. It just fell by the wayside, not by its own weight but because it did not have enough weight. It did not meet the formula.

Another one complained about had a cost-benefit ratio, a Colorado project, of 0.5 to 1. The congressional guideline that we follow generally is 1 to 1, as I have said.

Go all the way down the line, and there are serious points involved. There is no pressure here to be dropping these matters out, but under the rules we follow, largely, we would have done that had there been no considerations of the White House and the President's list.

Certainly there is no indication here of discrimination against any State. I will not repeat that now. This is a plan that has with it also the idea—and this was a concession to the White House—that we were trying to be practical and realistic, and meet a situation; and every single member of the subcommittee went into that and voted for the plan unanimously—not with joy, but trying to meet a situation. And then every single member of the full committee bought the idea of trying this plan. No new starts was a concession to the President, to give him a chance to be more in on the next budget, at least.

If we put these new starts in there, many other Senators have new starts. They will come rolling in with amendments, and I would not blame them. In order to get a bill that has some reasonableness, we are just going to have to buckle down here and see if we cannot get a bill out of conference somewhere in the neighborhood of this one, get it to the White House, and let it be signed.

I have no message for the President or anyone who works for him. This is a legislative question. We are trying to work out our own legislative salvation in this bill.

Mr. President, I yield what time I have—I hope I have some left—to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to reiterate the chairman's comments that we did not take these up project by project until we established a criterion. It was not a matter of big States or small States; it was under set criteria, and we let a project stand or fall on the basis of the criteria. We felt that this was the only equitable and fair way to go.

I would say to any Senator who has a project which is not included in the amendment but which is included in the bill that we are risking the entire bill, when the President has already indicated very clearly that he has little time for even the eight projects on his list that met our criteria. So I would urge the Senate to look at this carefully, because there are projects as worthy, if not more so, that have not been included in this amendment, and I think the committee bill does include the priority projects on which we hope the President will agree.

Mr. STENNIS. Mr. President, to use the half-minute that is left, just let me repeat this: I just say, clearly and openly, we want to avoid a veto. I do not know how many votes would go, but I know that in the House of Representatives, 48 percent of those present and voting on this issue voted with the President.

That is the very practical side of this thing.

And I say, we had worked this formula out beforehand. We are trying to get a bill, and we are convinced this is the proper method. Then everything can move along, and next year all these matters will be considered that Senators desire, and put in some kind of a bill if they deserve it.

Mr. HANSEN. Mr. President, I rise today in support of the amendment offered by the Senator from Colorado. I rise in particular support of the portion of his amendment which relates to the Savery-Pot Hook project encompassing parts of southern Wyoming and northern Colorado.

Mr. President, one of the sad features of the American landscape is the rapid disappearance of the family farm. Today less than 5 percent of America's population is engaged in farming—a far cry from what was the case a few short generations ago. There can be little question but that the family farm is truly a part of the American heritage. All of us have as our roots an America, rural in character, strong and steadfast against adversity, with a profound respect for nature.

I realize that the changing landscape—the disappearance of the family farm—is a part of this Nation's growth and development and that on a broad basis there is little this body can do—even if it desired—to stop such change.

Yet we have before us today, a project which has as part of its goal the establishment of a strong agricultural base and the maintenance of rural life-styles. The Savery-Pot Hook project will serve over 16,000 acres of agricultural land in Colorado and Wyoming, creating a decades-long investment in the well-being of individuals, communities and an entire region. It is clear to me that when Congress originally authorized this project, one of its considerations was the benefits to be derived from generations of families able to work the land and earn their way.

As we all know—many tool well—large parts of the West are now suffering through one of the most severe droughts in history. Large portions of my State of Wyoming are experiencing stream flows at 20 to 40 percent of normal. The snowpack, which was at its lowest level in recorded history is now gone, having had little impact on the moisture levels due to the dry soil conditions.

While approval of this project will have little impact during the present drought, such a step will assure to the people of this area far better protection from droughts of the future. It makes little sense to me, to pass through this body, the numerous pieces of drought related legislation which we have enacted while denying approval of a measure that could afford very real protection for the future.

Mr. President, there is another matter which deserves consideration. That is the question involving water rights.

The State of Wyoming has entered into numerous water compacts with other Western States. One of these, the Colorado River Compact entitles the State of Wyoming to the very waters which make up this project. The Savery-Pot Hook project will develop over 14,000 acre feet of water, making available to the residents of Wyoming an opportunity to utilize some of their legal water rights. Without this project, the State of Wyoming will be forced to watch its water resource on this particular drainage leave our borders without an opportunity to put the water to beneficial use.

Mr. President, this project has been subjected to lengthy and intensive scrutiny during the entire process of authorization and appropriation. The Congress has spoken time and again on this question and the people of the Little Snake and Pot Hook Conservancy Districts and the States of Colorado and Wyoming have echoed those sentiments and applauded those results.

It is time that we stop debating and redebating the same question. It is time to move ahead with a project needed and desired by the people of Wyoming and Colorado.

I would hope that this body, during its deliberation today, will add the Savery-Pot Hook project, thereby continuing the tradition of congressional support for the wise development of our natural resources and a continued commitment to the well-being of our rural area and farming citizens.

Mr. HASKELL. Mr. President, I ask unanimous consent that a statement by the Senator from Wyoming (Mr. BARTLETT) relating to my amendment be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BARTLETT

Shortly after President Carter's inauguration, he announced deletion of funding for a number of water projects across the nation. Included in the list of deleted projects is Lukfata Reservoir. This is a project authorized by Congress in 1958, and which has been reviewed both by the federal government and various interest groups.

There have been disputes as to the need for the reservoir and its location; however, in 1974, a compromise was reached which balances the need for flood protection, economic development, and environmental impacts.

The compromise site provides actual increase usage of the river in that there are presently an average of 10 days per year during the 5-month canoeing season available, and after construction there will be 10 days per month for the 5-month season.

Also, since the President's announcement, the Corps has reevaluated the project based on the Administration's recommended interest rate of 6⅜ percent. The original authorization is at an interest rate of 3¼ percent, and the cost benefit ratio at that interest rate is 1.4 for the immediate reservoir and 1.3 with adjacent properties and developments. The new interest rate, proposed by the President, provides a benefit cost ration of 1.11 and 1.02 respectively. This is still more than adequate to continue the project.

In citing the cost of water projects, the President ignores the tremendous economic impact. He overlooks the economic benefits from water supply, flood control, recreation, and tourism. These aspects are of a continuing nature.

The Corps of Engineers commissioned a study of Lukfata Reservoir prior to the President's announcement. This study analyzes additional water needs in McCurtain County for the expanded fish farming program. The results of this study do not show any substantial increase in need for this particular purpose: however, the study does not analyze the needs of the state of Oklahoma in general. This need is becoming increasingly severe, and the state will become increasingly dependent on all water supplies within its borders.

It is imperative that the United States generally, and particularly arid states such as Oklahoma, develop all of their available water resources. Although certain areas of my own state have an abundance of water, many communities within these areas are not presently served with adequate water for either human or industrial uses. These are communities adjacent to adequate supplies which have not yet been developed.

The western half of my state is even in a more severe situation. This area is constantly in need of water, and particularly in drought years, the need for additional water resources increases many times.

The need, with or without a drought, to use water from areas of abundance increases annually, and is a further strong justification for water resource development. Reservoirs like Lukfata have always had greater beneficial impact than that incurred in their immediate area, and the increasing demand for human, industrial, and agricultural uses makes them increasingly valuable.

Parts of Oklahoma, Texas, Kansas, New Mexico, Nebraska, and Colorado are running out of water for farming. To delay a project such as Lukfata might jeopardize the continued production of wheat that feeds a substantial portion of the world.

Without alternative sources, the American farmer in the High Plains area has a very foreboding future.

The High Plains area has only recently started to produce to its fullest capability, but with the depletion of its ground water resources it will quickly return to an arid, non-productive region.

Lukfata and these other projects have waited long enough. It is for the broad needs of my state and others that I support the reinstatement of funding for these projects, and I would like to congratulate Senator Haskell for his farsighted effort in bringing this amendment to the floor during the consideration of the Public Works Appropriation bill.

HASKELL AMENDMENT NO. 1—FULL FUNDING

Mr. McGOVERN. Mr. President, we have before us an amendment to restore funding for certain of the water development projects which have been eliminated by the Senate Appropriations Committee in the Public Works Appropriations bill for fiscal year 1978.

I must admit to some reluctance in supporting an amendment that takes issue with a bill managed by the distinguished chairman of the Senate Public Works Appropriations Subcommittee, Senator STENNIS. He has, quite rightfully I believe, always been regarded as a firm friend of water development as part of his continuing interest and concern in the wise use of our land and water resources. I am aware—and I am sure the Senate is aware—that the actions taken by the subcommittee were not entirely of their own making. Following the relatively close vote in the House of Representatives on an amendment to delete those water projects challenged by the President, it became apparent that some accommodation with the President's wishes might be necessary. The elimination of these water projects in the Senate's bill is a direct result of that effort.

Among those projects which were set down by this bill was the Oahe irrigation unit in South Dakota.

I cannot believe that the Senate subcommittee has objections to the substance of this project. Chairman STENNIS and his colleagues have, year after year, provided moneys for its construction, and wise counsel for its design and operational features. The subcommittee's decision was reached on procedural grounds. That is reflected in their report which adopts the argument of the administration that there is a lack of "local support and commitment" for the Oahe project.

Most Senators have, I believe, received a copy of my statement in the CONGRESSIONAL RECORD of June 24 in which I went into considerable detail on the issue of whether or not South Dakota wants the Oahe project.

It is true that the Oahe Conservancy Subdistrict Board has requested no funding for the project. But many of the members of that board who now take that position were not elected on that platform. Most said that they favored the project, but wanted some substantive modifications to it. After their election, they then became hard-line opponents. Their view, however, is not shared by the West Brown and Spink County irrigation districts which are responsible for the farmer by farmer implementation of the Oahe plan. The board's view is not shared by the municipalities of Aberdeen, Huron, and Mitchell and a host of smaller communities who would benefit from the transferral of Missouri River waters into the James River waters into the James River basin through this project.

In its last session, the South Dakota Senate Legislature, by nearly unanimous vote, endorsed the Oahe project and created an Oahe task force to work for its development. In South Dakota—it is the State legislature, acting as the State conservancy district—that speaks for our State on water development. This fact was verified by an official opinion of the South Dakota attorney general. In addition, the composition of the Oahe Board is even now being challenged in our State courts under the constitutional "one man-one vote" principle.

So I believe that the administration is using "tunnel vision" in looking only to the Oahe Conservancy Subdistrict Board as its sole source of "local support and commitment" on which they base their objection.

The President's Water Projects Review Panel made a series of recommendations on Oahe to the Secretary of Interior. The Secretary selected one of the alternatives that would eliminate the East Lake Plain portion of the project, but proceed with the rest of the construction, provided there was sufficient "local support and commitment." I think that the State has, on a continuing basis, indicated its support for the project.

This is not, after all, a project that has come upon us suddenly, without time for careful study and evaluation. Thirty years ago, the Bureau of Reclamation opened its field office in Huron, S. Dak., to begin work on the Oahe irrigation project. Successive Congresses and administrations have endorsed its general concept and its purpose.

The Flood Control Act of 1944 made a distinct commitment to the people of South Dakota that if the State gave up some 500,000 acres of bottom land for the giant dams on the Missouri River—that irrigation, of that envisioned by the Oahe project, would be carried forward.

That commitment—that promise—that pledge has remained in force until this year. Now we are on the threshold of telling the people of South Dakota that the Federal Government—and the Congress—do not keep their promises.

We are willing to accept the realistic modifications recommended by the administration.

I ask support for this amendment.

OAHE

Mr. President, there has been concern expressed by the administration and the Senate Appropriations Committee that there is a "lack of local support and commitment" for the Oahe irrigation project in South Dakota.

The Oahe task force, created by law by the 1977 session of the State legislature, has gone on record as supporting full funding. The West Brown County Irrigation District and the Spink County Irrigation District—representing those farmers most directly involved in the Oahe project—have notified me today of their continuing support for Oahe.

Mr. President, I ask unanimous consent that mailgrams from Virgil Locken, chairman of the West Brown Irrigation District and Kenneth Goodwin, chairman of the Spink County Irrigation District of South Dakota, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FRIENDS OF OAHE VIRGIL LOCKEN,
Aberdeen, S. Dak.

Senator GEORGE MCGOVERN,
Dirksen Senate Office Building,
Washington, D.C.

As chairman of the West Brown Irrigation District board of directors that represents over 500 farm families, that will receive irrigation water from the Oahe Project, I am deeply concerned about the mis-information contained in Senator Abourezk's letter of June 24, 1977 to his fellow Senators about the Oahe Irrigation Project.

Our people do want the project and over

70 percent of the qualified voters in the irrigation district signed a petition requesting immediate, prompt and speedy construction of the Oahe Diversion Project. This was brought to your and Senator Abourezk's attention in the board of directors resolution number 77-4 dated April 13, 1977.

It is unbelievable that Senator Abourezk would make a statement "that the people most directly affected by the project do not want it and it would be a travesty to impose it on them." After two years of very little rain and no crops it is a travesty for Senator Abourezk to even suggest that the Oahe Irrigation Project should not be built.

The Oahe Conservancy Sub-district Board and Senator Abourezk do not represent the majority of the people in the irrigation district and we respectfully request that you bring this to the attention of all of the United States Senators.

VIRGIL LOCKEN,
Chairman, West Brown Irrigation District.

FRIENDS OF OAHE VIRGIL LOCKEN,
Aberdeen, S. Dak.,

Senator GEORGE MCGOVERN,
2313 Dirksen Senate Office Building,
Washington, D.C.

Representing the Spink County Irrigation District Board and members as chairman of the board we respectfully request that the facts concerning the people most directly affected by the Oahe unit be told to the entire Senate prior to final consideration of the 1978 public works appropriations bill.

Furthermore we request that Senator Abourezk explain to the full Senate his desire to accept only the position of *six or seven members of the Conservancy Board and to ignore the over 700 farm families of the Spink county irrigation district not to say the over 100,000 people that could receive badly needed municipal water.*

Facts on the Oahe unit: (Based on resolution 77-3 April 26, 1977) 1. The irrigation district board represents the people most directly affected by the project the people who will pay directly for the project and irrigate the land. 2. "Irrigators in the irrigation distirct do not believe the project will cost them more than they will receive in benefits". 3. Farmers in the irrigation district do not have "doubts" that irrigation will be beneficial to the local farm economy. 4. Farmers in the irrigation district want the Oahe unit and it would be "a travesty" for a South Dakota Senator to take away the opportunity for people to join water and land resources for Agriculture. 5. We understand that most landowners directly affected by land acquisition for the Pierre Canal and Blunt reservoir agreed to sell without condemnation.

I feel it is my responsibility as chairman of the Spink county irrigation district where two-thirds of the 190,000 acres of the Oahe unit are located and where our farmers have indicated by over 70 percent approval of participating and security contracts their commitment to use the water and repay the project.

The Oahe conservancy sub-district takes our money and taxes and pays the Federal Government according to the master contract. They assist financially only during the development period and 30 cents per acre or $57,000 per year following this development period. Our farmers will pay over $10.40 per acre or nearly two million dollars per year.

I respectfully request your consideration of these facts and your support for funding of the Oahe unit for 1978. The farmers want the project and believe South Dakota still should be compensated for its contribution of over 500,000 acres of land lost to the mainstem dams as part of the Pick-Sloan Missouri Basin plans of 1944.

KENNETH GOODWIN,
Chairman, Spink County
Irrigation District.

WATER DEVELOPMENT

Mr. MCGOVERN. Mr. President. as we consider the public works appropriations bill for fiscal year 1978. it is important to note the heavy handed role that has been played in this matter by the administration.

Shortly after the election last fall, a transition team for the incoming administration surfaced a series of water development projects to which they objected. The majority of the members of this team were those who, in their past associations in the private sector, have been generally opposed to any form of water and power development. They appeared to follow the devil theory in that anyone who wished to divert waters for beneficial use from their natural water course was automatically in violation of certain perceived notions of what is proper in terms of water utilization and development.

Those who are in opposition to a public policy can, perhaps, be forgiven a certain amount of excess as they attempt to make their point on policy changes. But these people, in their new role on the transition team failed to make the personal transition between being challengers of public policy and those who actually formulate it.

That is certainly the case in water development. The transition team's recommendations were adopted by the White House with little or no consultation with the Congress or others who would be affected by their actions.

If one is to believe the reports of certain political policy memorandums that were circulating through the incoming administration, we can assume that the water project hit list was enbraced by the key strategists for the new President as yet another symbol of his desire to work for a balanced budget and as a nod in the direction of groups that had strongly supported him in the 1976 campaign.

After the announcement of the water project suspension, the White House was ill prepared for the firestorm of protest that came from the Congress and the States where the projects were located. In an effort to save face, a Water Projects Review Panel was hastily pulled together with instructions to put out the political fires that had been started.

As part of this effort, field teams from the panel were sent around the country to hold hearings on the merits of each individual project. I frankly don't know what the experience of other States has been in this exercise, but in South Dakota it was clear from those who participated in the meeting that the conclusions of the field team and their basic recommendations had probably been formulated before the actual hearing was held. The members of the field team had already decided that they would call for the abandonment of the Oahe irrigation project before they held their public meeting in Pierre last March.

By then, the President's prestige was on the line and it became, for the White House, impossible for them to back away from their recommendations for the termination of many of these projects. During April, a variety of lists were leaked to the press indicating that first one project and then another had been saved or abandoned or modified.

Substantive votes in the Congress clearly indicated that the House and Senate wanted these projects to continue The administration's position went far beyond the "no new starts" of the Eisenhower years—and called instead for backing away from projects that had long enjoyed the support and funding of successive sessions of the Congress and a number of national administrations.

I suggest that the administration's water policy planning is really no plan at all, but rather a series of reactions to a developing political symbolism that they themselves have created. We are told we cannot have water development in this country, but over $200 million will be appropriated for water development in foreign countries as part of our aid program. I am reminded of a comment of a company officer during the Vietnam war after his troops had flattened a small village. When asked why this was done, he said "we had to destroy the village in order to save it." This same kind of mentality appears to run through the ranks of administration water policy planners.

If the administration is serious about the need to reevaluate water development criteria—let us accomplish that goal through the legislative process.

Let them send up a bill with their new standards and let us hold hearings on it and consider it in an orderly and systematic way. The legislative process may have many faults, but at least it provides a forum and procedure for the people to have a voice in what is done. Or, let them appoint a Presidential Commission on Water Development Standards. Have that commission report to the President and the Congress on what should be done—and let legislative action flow from that report.

But to try to mandate a major change in national water development and utilization goals through a bobtailed effort on a public works appropriations bill is not only bad planning—but a cruel hoax on those in the public and private sector who have worked for years on the wise use of our land and water resources.

There should be no misconceptions about what is at stake here. Those whose projects are not now challenged in this bill should be aware that under the proposed new criteria advanced by the Secretary of Interior and those who speak for him—their funding may be in jeopardy in the future. If the new water development standards outlined by the Secretary are fully implemented, I seriously doubt if there will be any new projects undertaken in this administration. Had these same standards been in effect for the last half century—the great cities of California would be sleepy villages because there would be no water. The industrial development and substantive irrigation of the vast Columbia River Basin would not exist—and while the great rivers of the West might, as some have hoped, flow unused to the sea, the entire development of the Western United States as we know it today would simply not have taken place.

South Dakota has perhaps come too late into this kind of development. Although our Oahe irrigation project was pledged to us in the Flood Control—Pick/Sloan—Act of 1944, it has only been in this decade that construction has begun.

That construction was predicated on over a quarter of a century of planning by Federal and State agencies and approval by the Congress.

If the President is seriously concerned, as the Congress surely is, over the creditability of the Federal Government, his actions in relation to Oahe are not in keeping with that concern. The people of South Dakota were promised in 1944 that they would receive irrigation in return for giving up over 500,000 acres of productive agricultural land and wildlife habitat. The payback features of the contracts and the agreements that led to the construction of the giant Missouri River dams were based, in part, on irrigation development. By turning its back on Oahe, the administration almost guarantees that power rates in South Dakota—and other States utilizing Missouri River generated power will substantially increase. Farmers who signed irrigation contracts will not get water, cities who delayed their own water plans based on the eventual availability of Oahe irrigation project waters will now have to look elsewhere, subsurface water supplies that would have been recharged through Oahe waters will be drawn down beyond the danger point. Above all this, the administration signals the people of South Dakota that the promise, the pledge and the commitment made to them for over 30 years on the Oahe project is no longer valid. Who can they trust? Obviously, it cannot be the Federal Government.

I submit, as well, that the administration has not proceeded on this issue as a result of some carefully thought-out plan, but rather has only reacted on a day-to-day basis to political events that surfaced on the periphery of the basic question of water development.

And now in our apparent rush to avoid a possible veto of this bill, we are casting long-held convictions to the wind and abandoning projects we have previously approved. Personally, I do not fear a veto. Bills we have passed before have been turned down by the President—and they will be again. That is the way our system works. The Congress must respond to its constituencies and reflect its own perceptions on what should be the public policy of this country. The President must do the same. The Nation is ill-served if the legislative and executive branches of the Federal Government march in lockstep. We should certainly agree with the President when we feel he is right, but we should reserve the option to take issue with him—and to offer constructive criticism—when we feel he is following a misguided policy.

And that is the case. I think the President and his administration are dead wrong on water development. Water is not like energy. When petroleum supplies run short we can, hopefully, turn to coal, solar, and other resources. But there is no substitute for water. There is just so much to go around and it has to be used within a sound environmental framework. I submit that these water development projects are a good way to use that water—and recycle it for additional use—before it ultimately finds its way through natural water courses to the oceans and lakes where we may not apply it to beneficial uses for our people and our country.

Neither the President nor his policy planners have yet addressed the basic problem that exists, the need to strike a proper balance between water and power development and the environment. We cannot clearly have it both ways. There is no guns-and-butter option. We cannot have unchecked development, nor can we turn the country into some kind of a quasi-wilderness area. There is a middle ground that must be identified and staked out in terms of individual project proposals as they are tested against realistic and commonsense guidelines formulated from a reasonable policy base. Regardless of what happens to the specific water projects at issue here today, the long-term reluctance to address the really critical issue of the growing confrontation between development and environmental concerns may go down as the most significant failure of this administration.

But in terms of water development, if we carry the President's policy to its logical conclusion—we will give new meaning to the old phrase, "water, water everywhere—but not a drop to drink." That is where we are now in terms of the public works appropriations bill—and that is the specific issue that must be faced.

Mr. President, on May 3, 1977, I wrote to the Bureau of Reclamation with a series of 10 questions on what action would be taken and what liabilities would accrue if the Oahe project is terminated. On June 27, 1977, the Commissioner of the Bureau responded with the official Bureau reply to this inquiry.

Perhaps the most revealing of his comments on the effect of project termination is his statement that the end of Oahe would "foreclose on opportunity, in some cases the only opportunity, for a firm adequate water supply for many farms, small rural communities and major cities in central-South Dakota with a total population of about 100,000."

This is what has been at issue here in the discussion on Oahe and on the other water projects under consideration by the Senate in the public works appropriations bill for fiscal year 1978.

Mr. President, I ask unanimous consent that the letter from the Commissioner of the Bureau of Reclamation, his responses to the 10 questions I asked, and his chart on the proposed utilization of the $16.9 million requested for the Oahe project for fiscal year 1978 be printed in the RECORD.

BUREAU OF RECLAMATION,
Washington, D.C., June 27, 1977.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: This is in further response to your letter of May 3 regarding the Oahe Unit in South Dakota.

Our responses to each of your numbered questions will be as specific as possible. However, if construction of the unit is terminated, additional study will be needed to determine the best long-term strategy for the area, including possible State use of completed construction; possible future resumption; and determination of support from municipal, canalside, and Lower James Conservancy Sub-District interests for possible modification of the unit.

Attached are our responses to each of your 10 questions.

Sincerely yours,

R. KEITH HIGGINSON,
Commissioner.

Enclosure.

RESPONSES TO QUESTIONS IN A MAY 3, 1977, LETTER FROM SENATOR GEORGE MCGOVERN

Question 1. What liabilities, if any, would exist for individual irrigators, irrigation districts, the Oahe Conservancy Sub-District Board and/or the State of South Dakota as the Conservancy District if the project is terminated?

Response 1. It appears that the individual irrigators, the irrigation district, the subdistrict, or the State of South Dakota as the Conservancy District, would incur no liability to the United States if the project is terminated at the option of the United States.

Question 2. What responsibilities, if any, does the Federal Government assume upon project termination to those individuals, organizations and districts who have taken action and expended funds in reliance upon the fulfillment of the Oahe Master Contract?

Response 2. The Federal Government's responsibilities to the Conservancy Sub-District are contingent upon the congressional appropriation of funds, as stipulated in Article 42 of the Sub-District's Master Contract (14–06–600–10, 079) with the United States. Thus, if Congress failed to appropriate funds, a legal claim by the Sub-District would not appear to be supportable. Any equitable claim by the Sub-District would, of course, be rendered questionable by the Sub-District's request for a termination of funding.

The Federal Government's legal responsibilities to the contracting irrigation districts, and to third party beneficiaries, would similarly be contingent on the congressional appropriation of funds. However, the equitable claims of these parties may be subject to congressional consideration and relief in view of such parties' willingness to continue with implementation of the contracts involved.

Question 3. What responsibilities, if any, does the Federal Government have to restore the natural condition of the land which has been utilized for the first reach of the Oahe Project—essentially between the Missouri River and the Blunt Reservoir?

Response 3. The Federal Government would have no legal responsibility to restore the natural condition of the land which it has acquired; but, admittedly, Congress may be willing to consider the funding of restoration as partial compensation for the benefits which the community would forego if the project were not constructed.

Question 4: What use, if any, would be planned for the nearly completed Oahe Irrigation Pumping Plant facility?

Response 4: The nearly completed Oahe pumping plant would have no apparent use if all work is terminated in fiscal year 1978. It would obviously be available in the event construction of the Oahe Unit were to be resumed or it might be adaptable to some other water development plan.

Question 5: In dollar amounts, what would be the annual increase in cost for power from the mainstem dams if the Oahe Project is not completed?

Response 5: A portion of the Pick-Sloan Missouri Basin Program storage and power investment and operation and maintenance costs are now assigned to be repaid by the non-interest bearing function of the Oahe Unit. Reassignment of those costs to the interest bearing power function of the Pick-Sloan Missouri Basin Program would increase annual power costs by about $4.8 million.

Question 6: Assuming project termination, could any provision be made for former landowners to repurchase land, or would regular GSA surplus property disposal procedures govern its disposition?

Response 6: Normally, GSA property disposal procedures would govern; however, Congress could enact legislation for the repurchase of projects lands by the former landowners. Such repurchase privilege would appear to be administratively supportable, particularly for lands on which projects works have not been constructed.

Question 7: For accounting and budgetary purposes, how would the funds already expended for the Oahe Irrigation Unit be carried and/or "charged off"?

Response 7: Funds already expended for the Oahe Unit would remain in the Bureau of Reclamation accounts until such time as special legislation or treatment of those costs was clarified by congressional authority.

Should the project be terminated, the removal of authorized amounts from the repayable cost of the project must be by specific acts of Congress or Secretarial determination pursuant to congressional authority.

Question 8: Has the Bureau of Reclamation received any expression of interest in project lands from any other Federal agency or department in the event of project termination; If so, what agency or department has made the request?

Response 8: No.

Question 9: What action would Reclamation take in relation to the project if the Congress appropriates the $16.9 million requested for fiscal year 1978 for the Oahe Project?

Response 9: The enclosed tabulation shows the utilization of the $16.9 million requested for the Oahe Unit in fiscal year 1978.

Question 10: What other ramifications of project termination, other than those points mentioned above, does Reclamation foresee in relation to the Oahe Unit?

Response 10: Ramifications other than those addressed herein were outlined in former Commissioner Stamm's letter of November 7, 1975 (copy enclosed). However, an updated summary which is approximate and would depend on the precise instructions for termination of the project is as follows:

(a) Substantially reduce Reclamation staff in South Dakota. That involves up to 140 employees with 70 percent in Huron, 20 percent in Pierre, and the balance out of Redfield and other communities. The annual payroll is about $2.3 million.

(b) Contractor jobs affected in 1978 would be about 300 man-years onsite and 200 man-years offsite.

(c) Loss of over $300 million of Federal construction activity in South Dakota through the early 1990's with annual jobs lost increasing to a peak of about 1,000.

(d) Foreclose on opportunity, in some cases the only opportunity, for a firm, adequate water supply for many farms, small rural communities, and major cities in central South Dakota with a total population of about 100,000.

CONSTRUCTION AND REHABILITATION

PICK-SLOAN MISSOURI BASIN PROGRAM

OAHE UNIT, S. DAK.

Fiscal Year 1978

Work proposed, and program.

Oahe Pumping Plant, $3,900,000.

For continuing work on the completion contract, associated electrical equipment, and the discharge lines and structures. Installation of pumps and motors will be completed.

Blunt Dam, Reservoir, and Supply Canal, $10,310,000.

Construction on the Pierre Canal will continue and a contract awarded for Blunt Dam. Acquisition of right-of-way will be completed.

Cresbard Dam and Supply Canals, $800,000.

Acquisition of rights-of-way will be initiated on Highmore Canal and preconstruction work will be continued.

West Lake Plain Service Canals, $230,000.

James River Channel Improvements, $120,000.

West Lake Plain Irrigation Facilities, $470,000.

Preconstruction work will be continued. Included is $10,000 for work to be done by Fish and Wildlife Service.

Fish and Wildlife Facilities, $890,000.

Land acquisition will be initiated on Fish and Wildlife areas. Included is $160,000 for Fish and Wildlife Service.

Recreation Facilities, $20,000.

Preconstruction work will be continued.

Service Facilities, Depreciation, and Salvage, $130,000.

Provides for purchase of automobiles, laboratory, and office equipment, and for completion of materials and soils laboratory and service center building.

Other Project Costs, $90,000.

Provides for liaison with irrigation districts, landowners, municipalities, and other interested parties.

Total, $16,960,000.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Colorado. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "yea."

The result was announced—yeas 19, nays 73, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—19

Anderson	Haskell	Morgan
Dole	Hatch	Pearson
Domenici	Hollings	Randolph
Garn	Long	Schmitt
Goldwater	McClure	Tower
Hansen	McGovern	
Hart	Metcalf	

NAYS—73

Abourezk	Eastland	Muskie
Allen	Ford	Nelson
Baker	Glenn	Nunn
Bayh	Griffin	Packwood
Bentsen	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Hayakawa	Proxmire
Bumpers	Heinz	Ribicoff
Burdick	Helms	Riegle
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schweiker
Case	Johnston	Sparkman
Chafee	Kennedy	Stafford
Chiles	Laxalt	Stennis
Church	Leahy	Stevenson
Clark	Lugar	Stone
Cranston	Magnuson	Talmadge
Culver	Mathias	Thurmond
Curtis	Matsunaga	Weicker
Danforth	McIntyre	Williams
DeConcini	Melcher	Young
Durkin	Metzenbaum	Zorinsky
Eagleton	Moynihan	

NOT VOTING—8

Bartlett	Inouye	Stevens
Bellmon	McClellan	Wallop
Gravel	Scott	

So the amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 622

Mr. HASKELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. METZENBAUM). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes unprinted amendment No. 622.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all beginning on line 5 through line 25 on page 6.

Strike all beginning on line 14 through June 26 on page 11.

Strike all on page 12.

Strike line 7 to line 23 on page 13.

Strike line 3 to line 10 on page 14.

Insert the following on line 5 page 6:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $524,270,000 to remain available until expended: *Provided*, That no part of this appropriation shall be used for projects not authorized by law or which are authorized by law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now are hereafter authorized to be appropriated: *Provided further*, That not to exceed $4,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction; provided further that $350,000 be used for Grove Lake, Kansas for planning; that $100,000 be used for Lukfata Lake, Oklahoma for planning.

Insert the following after line 13 on page 11:

CONSTRUCTION AND REHABILITATION

For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, to remain available until expended, $363,960,000 of which $245,000,000 shall be derived from the reclamation fund: *Provided*, That no part of this appropriation shall be used to initiate the construction of transmission facilities within those areas covered by power wheeling service contracts which include provision for service to Federal establishments and preferred customers, except those transmission facilities for which construction funds have been heretofore appropriated, those facilities which are necessary to carry out the terms of such contracts or those facilities for which the Secretary of the Interior finds the wheeling agency is unable or unwilling to provide for

the integration of Federal projects or for service to a Federal establishment or preferred customer: *Provided further*, that the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That of the amount herein appropriated not to exceed $400,000 for the Central Oregon Irrigation District shall be available for construction on a rehabilitation and betterment program under the Act of October 7, 1949 (63 Stat. 724), as amended, to be repaid in full under conditions satisfactory to the Secretary of the Interior: *Provided further*, That not to exceed $2,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction; *Provided further* that $850,000 be used for Oahe Unit, South Dakota for planning: that $500,000 be used for Narrows Unit, Colorado for planning.

Insert the following after line 6 on page 13:

UPPER COLORADO RIVER STORAGE PROJECT

For the Upper Colorado River Storage Project, as authorized by the Act of April 11, 1956, as amended (43 U.S.C. 620d), to remain available until expended, $71,416,000 of which $67,401,000 shall be available for the "Upper Colorado River Basin Fund" authorized by section 5 of said Act of April 11, 1956, and $4,015,000 shall be available for construction of recreational and fish and wildlife facilities authorized by section 8 thereof, and may be expended by bureaus of the Department through or in cooperation with State or other Federal agencies, and advances to such Federal agencies are hereby authorized: *Provided*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument; *Provided* that $350,000 be used for Animas-La Plata for planning; that $500,000 be used for Savery-Pot Hook, Colorado for planning; that $500,000 to used for Fruitland-Mesa, Colorado.

Insert the following after line 2 on page 14:

COLORADO RIVER BASIN PROJECT

For advances to the Lower Colorado River Basin Development Fund, as authorized by section 403 of the Act of September 30, 1968 (82 Stat. 894), for the construction, operation, and maintenance of projects authorized by title III of said Act, to remain available until expended, $78,295,000; *Provided further* that $150,000 be used for the continued planning of the Hooker Dam under the Central Arizona Project.

Mr. ROBERT C. BYRD. Mr. President, will it be possible to get a time agreement on this?

Mr. HASKELL. I believe the distinguished manager of the bill, the Senator from Mississippi, and I can agree on a time of 10 minutes per side.

Does the Senator from Mississippi agree to 10 minutes per side?

Mr. STENNIS. Yes.

Mr. ROBERT C. BYRD. I make that request, if it is agreeable with the Senator from Colorado.

Mr. HASKELL. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on this amendment of 10 minutes to a side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, this is a very simple amendment; unfortunately, the Senate has seen fit not to restore the projects. However, I think, in deference to the people in the affected areas—as I pointed out earlier, in one case they have been counting on this for 27 years; in another case for 17 years—I think it is only proper and fitting that we provide for planning money. The total amount only comes to $3.3 million. This is so that the people in the affected areas can replan their projects in line with whatever may be the administration's guidelines. As I said earlier, I am not quite sure what they are, but, possibly, the administration will be able to formulate some.

Merely in deference to these people, this will allow them to keep themselves alive, allow them to get something for the taxes they have already paid—the ad valorem taxes. I suggest this is a simple and equitable solution.

I reserve the remainder of my time.

Mr. ABOUREZK. Mr. President, will the Senator from Colorado yield?

Mr. HASKELL. On whose time?

Mr. President, I ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABOUREZK. It is just a question I want to ask.

The Senator's amendment, which he just offered, originally proposed $850,000 for the Oahe project in South Dakota. Is that still in this amendment?

Mr. HASKELL. I am not sure of the figure. Mr. President, the Senator from South Dakota asked that I take out the planning money for the South Dakota project. My understanding is that the other Senator from South Dakota wants it in. It is still in, I say to my friend from South Dakota. Therefore, if it is to go out, this would have to be determined in some other way.

Mr. ABOUREZK. I wonder, in view of the Senate's vote on the project itself, if my colleague would agree to a voice vote on striking that part of it?

Mr. McGOVERN. Mr. President, I think one thing is clear in this body, that any water project, no matter how good it is, that has to stand alone and be voted on by Senators from all over the country is going to be defeated. The only way water projects have any chance of being approved is when they are dealt with in a package. I think we all know that. That is a fact of life.

We can bring up any water project here and the Senators from various parts of the country who are not affected by it will probably vote to terminate it. That seems to be the mood.

That is what happened to us on the vote a while ago. In my judgment, it was not a merit vote at all; it was simply an opportunity for a single project to be brought out here, stark naked, on the floor and knocked down. I got the message, loud and clear, on that. As far as I am concerned, the Senate can resolve this issue any way it pleases.

Mr. ABOUREZK. Mr. President, I move to strike the $850,000 for the Oahe irrigation project out of this amendment. I ask for a voice vote.

The PRESIDING OFFICER. Until the time has expired on the amendment, a motion to strike will not be in order.

Who yields time?

Mr. ABOUREZK. Mr. President, I ask unanimous consent that it be in order at this time to offer such a motion to strike.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, I beg the Senator's pardon. Would the Chair restate the question to which he asked if there is objection?

The PRESIDING OFFICER. There is unanimous-consent request to allow an amendment to strike before the time has expired.

Mr. STENNIS. If it is not chargeable to our time, it is going to take a little explanation, Mr. President.

What I have before me shows this Oahe unit in South Dakota still has carryover money. That can be used for planning.

Mr. ABOUREZK. That is carryover money.

Mr. STENNIS. Yes, carryover money. Is that what the Senator wants?

Mr. ABOUREZK. I do not want to deal with that. I want to deal with the $850,000 that is in the Haskell amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I move to strike the $850,000 from the Haskell amendment for the Oahe Unit in South Dakota.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

Mr. ABOUREZK. Mr. President, I withdraw that. I shall have to draft the amendment.

The motion was withdrawn.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, if the Chair will indulge me a minute.

I yield some time, Mr. President, on the Haskell amendment.

Mr. HASKELL. I have said everything I want to say, Mr. President. I reserve the remainder of my time.

Mr. STENNIS. Mr. President, I ask the attention of the Senator from Colorado so he can follow me.

According to my information, there is carryover money for the South Dakota project to which we have just referred. There is also carryover money for the Narrows Unit. That is what the technical staff thinks.

Mr. HASKELL. Will the distinguished Senator let me know how much planning money there is for the Narrows?

Mr. STENNIS. $300,000. The effect of the vote that we have taken, as I understand it, is to discontinue these units as such, as going concerns.

Mr. HASKELL. Will the Senator yield?

Mr. STENNIS. Yes, I yield.

Mr. HASKELL I certainly have no intention Mr. President. of asking for planning money where planning money exists. Possibly, what we can do is go to something else and have the two staffs get together, find out what planning money there is, and then modify the amendment.

Mr. STENNIS. I think that is a good suggestion, Mr. President. We have a set of facts here. They will not need money for some of these projects and they can clear that up.

Mr. HASKELL. I think, Mr. President, the best thing for me to do at this point is withdraw the amendment and confer with the Senator from Mississippi, get the figures, and let the next amendment go forward.

Mr. STENNIS. Withdraw without prejudice.

Mr. HASKELL. Without prejudice, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment was withdrawn.

AMENDMENT NO. 480

Mr. McINTYRE. Mr. President, for myself, Mr. DANFORTH, Mr. PROXMIRE, Mr. BROOKE, Mr. CLARK, Mr. LEAHY, and Mr. STAFFORD, I send to the desk amendment No. 480 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire, for himself, Mr. DANFORTH, Mr. PROXMIRE, Mr. BROOKE, Mr. CLARK, and Mr. STAFFORD proposes amendment No. 480.

On page 6, lines 13 and 14, delete "$1,523,820,000", and insert in lieu thereof "$1,470,120,000".

On page 6, line 25, after "construction" insert the following: ": *Provided further*, That none of the funds appropriated or otherwise made available under this paragraph shall be obligated or expended for land acquisition or construction for the following projects: Applegate Lake; Atchafalaya River and Bayous Chene, Boeuf, and Black; Hillsdale Lake; Richard B. Russell Dam and Lake; and Tallahala Creek Dam".

On page 7, line 15, delete "$253,081,000", and insert in lieu thereof "$251,081,000".

On page 8, line 5, before the period insert the following: ": *Provided further*, That none of the funds appropriated or otherwise made available under this paragraph shall be obligated or expended for land acquisition or construction for Cache Basin".

On page 13, line 10, delete "$70,066,000" and "$66,051,000", and insert in lieu thereof "$53,101,000" and "$57,116,000" respectively.

On page 13, line 22, before the period insert the following: ": *Provided further*, That funds appropriated or otherwise made available for the central Utah project, Bonneville unit, shall be limited to completion of the Currant Creek Reservoir and work on the rehabilitation of the Strawberry Tunnel and Provo Reservoir Canal".

On page 27, line 7, delete "$138,510,000", and insert in lieu thereof "$118,510,000".

On page 27, line 14, before the period insert the following: ": *Provided further*, That none of the funds appropriated or otherwise made available under this paragraph shall be obligated or expended for land acquisition or construction for Columbia Dam and Reservoir".

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. McINTYRE. I am happy to.

Mr. ROBERT C. BYRD. Would the distinguished Senator indicate whether or not it would be possible to get a time agreement on this amendment?

Mr. TALMADGE. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Members will return to their seats.

Mr. McINTYRE. Mr. President, I say to the distinguished majority leader that I would be willing to agree to a 1-hour time limit on the bill—on the appropriation bill—with 30 minutes on any amendment, with 15 minutes on each side.

I would be agreeable to that. However, I cannot speak for some who may oppose this amendment which, as we know, seeks to knock out all of these projects.

Mr. ROBERT C. BYRD. May I say, we cannot get a time limit on the bill. We cannot do that. We could get a time limit on the Senator's amendment.

Mr. McINTYRE. One hour on the Senator's amendment.

Mr. ROBERT C. BYRD. Yes, with a time limit on amendments on those, if that would be agreeable.

Mr. McINTYRE. That is agreeable to me.

Mr. BUMPERS. Reserving the right to object, what sort of time agreement, are we speaking of amendments in the second degree?

Mr. ROBERT C. BYRD. We are just getting to that. I was asking the Senator what he would suggest.

One hour on the amendment for himself and how much time for the managers of the bill?

Mr. HATFIELD. One hour each.

Mr. McINTYRE. I do not dare to do that. One hour on the amendment for proponents, 1 hour for the opponents. I do not think we will use all that time.

Mr. ROBERT C. BYRD. How much for the managers?

Mr. YOUNG. Reserving the right to object, and I will not object, if I can get 5 minutes.

Mr. ROBERT C. BYRD. Yes.

Mr. JOHNSTON. Reserving the right to object, I hope I will not have to, I would like to have 15 minutes in opposition to the amendment if that can be worked out.

Mr. ROBERT C. BYRD. Mr. President, I propose this request, that there be 2 hours, not to exceed 2 hours on the amendment itself, with 30 minutes on any amendment thereto, to be equally divided in accordance with the usual form.

Mr. JOHNSTON. With the understanding that—is the manager of the bill on the floor?

Mr. ROBERT C. BYRD. With the understanding Senator YOUNG would get 5 minutes from the managers of the bill and that the Senator from Louisiana would get 15 minutes from the managers of the bill.

Mr. STENNIS. How much would the manager of the bill have, Mr. President?

Mr. ROBERT C. BYRD. Not to exceed 1 hour.

Mr. STENNIS. Who yields time, I do not know. There may be 10 people wanting to speak.

Mr. JOHNSTON. Mr. President, 15 minutes is not a great deal of time. I would hope I could finish more quickly than that, but I would have to ask for at least 15 minutes.

Mr. ROBERT C. BYRD. I ask unanimous consent that if the managers of the bill out of all their time do not have 15 minutes after they have yielded, that the Senator would be allowed enough additional time to make the 15 minutes that he seeks.

Mr. BUMPERS. Mr. President, may I ask our distniguished majority leader to add one item to his request? That is, that I be allowed to offer a perfecting amendment without waiting until all the time has expired. I think the proponent of the amendment would agree to that.

Mr. ROBERT C. BYRD. If that is agreeable, then I add that.

Mr. LONG. Mr. President, reserving the right to object, if that perfecting amendment is offered, I assume there is a limitation on that one.

Mr. ROBERT C. BYRD. It was my understanding there would be 30 minutes on that, also.

Mr. LONG. I cannot agree. I do not have the slightest idea—

Mr. ROBERT C. BYRD. Will the Senator state what his amendment does?

Mr. BUMPERS. It is my understanding under the rules that a perfecting amendment, if there is a time agreement entered here, under the rules a perfecting amendment would not be in order until all time expired.

Mr. ROBERT C. BYRD. True.

Mr. BUMPERS. Is that correct?

Mr. ROBERT C. BYRD. That is correct.

Mr. BUMPERS. I am asking the majority leader to add to his unanimous-consent request the request that I be allowed to offer this amendment without waiting.

I am not going to just jump in and offer it at an inopportune time, but I do not want it to be when nearly all time has expired.

Mr. ROBERT C. BYRD. I would add that.

But the question is, what is the nature of the perfecting amendment, else he may want to object.

Mr. LONG. I am not objecting. They will offer it at any time. All I am concerned about is the time limit on the perfecting amendment, not knowing what it might be.

Mr. BUMPERS. My perfecting amendment deals with the project in my State.

Mr. LONG. No objection.

Mr. STENNIS. How much time?

Mr. BUMPERS. I understand it is 30 minutes on any amendment.

Mr. ROBERT C. BYRD. Thirty minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY addressed the Chair.

Mr. ROBERT C. BYRD. If the Senator will yield, for the benefit of the Senate, may I say that I have discussed with the managers of the bill their wishes as to how far they would want to proceed today. As Senators know, we have entered into an order which provides that the water projects be dealt with first.

Mr. PERCY addressed the Chair.

Mr. ROBERT C. BYRD. That that be followed by the consideration of the neutron bomb, that that be followed by consideration of whatever else is in the bill, with the exception of the Clinch River breeder project, and when the Senate reaches that, it is the intention of the leadership to go over until after the holiday for the consideration of that project.

The managers of the bill on both sides have indicated they would wish to complete action on the water projects section today and then be prepared in the

morning to proceed to the neutron bomb.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. I have not proposed a request. I was just stating——

Mr. BAKER. If the Senator will yield to me briefly——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. The majority leader and I have had some discussion about this sequence and order, as our colleagues know, there is a unanimous-consent order from last night establishing the sequence and procedures which the distinguished majority leader just outlined.

I notice now that it is 5:30. I notice that we have gotten time requests probably in excess of 2 hours, which would take us, say, to 7:30 or 8.

Could I have some estimate, could the majority leader favor me with some estimate of how much longer it might take after we dispose of the McIntyre amendment to complete the provisions of the bill, other than the neutron bomb and the other provisions that would be dealt with tomorrow, how late are we going to be in tonight?

Mr. ROBERT C. BYRD. I think that question could better be addressed to the managers because they are more aware of what other amendments dealing with water projects may be lurking around.

I understood a moment ago that once the action was taken on the amendment by Mr. McINTYRE, there probably would not be much left with respect to water projects.

Mr. HATFIELD. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HATFIELD. We had information there would be three other amendments offered. I know now that three of those three have been withdrawn or settled another way.

So I would like to ask the distinguished majority leader if we could ask for a hand showing of those who have amendments yet to present on the water resource bill.

Mr. BAKER. Mr. President, if the Senator will yield, in order to get a good reading on what we are up against tonight, there has to be more than just amendments to the water projects section because, as I understand it, we are talking about finishing everything tonight.

Mr. ROBERT C. BYRD. No, no.

Mr. BAKER. Except the neutron bomb and the Barnwell project.

Mr. ROBERT C. BYRD. No, just going through the water projects tonight.

Mr. MAGNUSON. If the Senator will yield, I think what both Senators want to know is how long we are going to go tonight.

Mr. ROBERT C. BYRD. That is what we are trying to determine.

Mr. MAGNUSON. I want to point out to the majority leader, I do not know how the Senator from Oregon feels or the chairman of the committee, but we are going to have to go into executive session on the neutron bomb.

Mr. ROBERT C. BYRD. That would be tomorrow.

Mr. MAGNUSON. So I do not think we should be taking that up tonight.

Mr. ROBERT C. BYRD. We are not advocating that. That will be tomorrow.

Mr. McINTYRE. Again, going a bit out into left field, I would think we could vote on this issue by 7 o'clock.

Mr. ROBERT C. BYRD. Very well.

Mr. McINTYRE. I would hope so.

Mr. CHILES. Reserving the right to object, is the majority leader talking about voting on the completion of the water projects by 7 o'clock?

If we have 1 hour on each side on the McIntyre amendment and 30 minutes on amendments, the way I add that up, that is already 7:30, and then we take the Senator from Arkansas' amendment in 30 minutes, that is 8 o'clock, and if there are any other amendments to the amendment and roll calls, we are at 9:30 again, or 10 o'clock, and it is the fourth night this week.

Mr. ROBERT C. BYRD. I think the manager of the amendment just indicated, if I read him correctly, he will not take the full 2 hours on his amendment.

Mr. McINTYRE. I say to the majority leader that we should be able to make the proponents' case for this amendment in 35 to 40 minutes. But I am not going to agree to 40 minutes, because I never can tell when my friend FRANK CHURCH will come in and say, "Give me 5 minutes."

Mr. CHURCH. Absolutely.

Mr. HUDDLESTON. Mr. President, I have an amendment that I am considering offering, and I will need 3 to 5 minutes for comments.

Mr. HASKELL. Mr. President, I advise the majority leader that on the amendment I withdrew, depending upon what the staff comes up with, I may have an amendment; but I am sure the Senator from Mississippi and I can agree to 10 minutes on a side.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. McINTYRE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McINTYRE. What is the time situation?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McINTYRE. What is the unanimous-consent agreement on the time?

The PRESIDING OFFICER. There are 2 hours on this amendment, 30 minutes on any amendment thereto.

Mr. McINTYRE. I thank the Chair.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield.

Mr. BAKER. Is that unanimous-consent request in effect?

The PRESIDING OFFICER. The answer is "Yes."

Mr. BAKER. Is there a unanimous-consent request that adds to that time on behalf of any other Senator?

The PRESIDING OFFICER. Thirty minutes on any second degree amendment.

Mr. BAKER. But no time allocated to a particular Senator?

Mr. ROBERT C. BYRD. Just in the usual form.

The PRESIDING OFFICER. Senator YOUNG has been guaranteed 5 minutes.

Mr. PERCY. Mr. President, I did not understand that the unanimous-consent request is in effect. I have the same confusion that the minority leader has on this request.

I am asking for recognition to get clarification on one point, which would take a second. I have an amendment that I had intended to offer and have discussed it with the minority floor manager of the bill. Rather than offer the amendment, I think I can dispose of it in a 4-minute colloquy. I should like the time as soon as possible. I could comment on the McIntyre amendment and then enter into this colloquy and dispose of it very quickly. With that understanding, I have no objection to the unanimous-consent request.

Mr. McINTYRE. Mr. President, I believe that we are well aware of the issues involved in the amendment I am offering today. The basic question we have before us is funding priorities. As we are so well aware, our budgetary process is primarily a weighing of options among a number of worthwhile expenditures. In the last few years we in the Senate, and our colleagues in the House, have recognized the extremely difficult task of setting budgetary priorities without a unified approach which forces each of us individually as elected representatives, and each body collectively, to make hard choices among the options presented to us. The question I am posing today is whether our budgetary pie has room to provide a possible $1.3 billion slice for the eight water development projects.

Specifically, my amendment will cut $92.5 million in fiscal year 1978 appropriations from the bill with an estimated ultimate savings of $1.3 billion by terminating funding for seven projects and limiting funding for one, the Bonneville unit of the central Utah project. The projects and funding cuts are as follows:

Applegate Dam, Oregon: $74 million.

Atchafalaya River and Bayous Chene, Boeuf and Black, Louisiana: $10 million.

Cache River, Bayou de View, Arkansas: $89 million.

Columbia Dam, Tennessee: $110 million.

Richard B. Russell Dam, Georgia and South Carolina: $255 million.

Hillsdale Lake and Dam, Kansas: $38.6 million.

Tallahalla Creek Dam, Mississippi: $52 million.

Central Utah Project, Bonneville Unit, Utah: $660 million.

As we are well aware, the House by a very close vote, narrowly failed to strike from the bill 17 water projects which the President recommended be deleted. The Senate Appropriations Committee, after careful study and deliberation has recommended that we do, in fact, delete funds for nine of the projects in question. The committee, in their collective judgments, also found that budgetary priorities warranted restoring funds for eight projects the President recommended deleting and agreed to reduce funding and possible modification of one project pending further study and analysis.

Mr. President, I do not question the worthiness of each of these water projects the Committee has agreed to fund. The reason for my amendment goes to the heart of our entire budgetary process. We, as an elected legislature, are given the responsibility by our Constitution for making the funding choices for the people. We, as an elected legislature, must make the hard choice of whether to fund

one worthwhile endeavor and to delay another. We, as an elected legislature, face serious budgetary restraints based on available revenues and when we determine that the sum total of our national revenue demands do not meet our desired outlays and expenditures, then we face the very difficult choice of either cutting back on our Federal programs or engaging in deficit spending. The issue before us today, as this Senator sees it, is one simply of weighing the priorities of our Federal budget.

The bill, as reported by the Appropriations Committee, provides a total of nearly $10.4 billion in new obligational budget authority. This figure is $195 million more than the total of almost $10.2 billion passed by the House. The Senate bill furthermore contains $14 million more than the budget estimates submitted by the President.

At first glance it would appear that the Senate committee and the President's budget request are right on line. A $14 million difference in a $10.4 billion appropriation bill is an insignificant amount. A closer examination of the committee's actions, however, shows that the figure of $10.4 billion was reached by cutting the President's budget request for ERDA, title I of the bill, by almost $200 million and then: First, increasing the Corps of Engineers in DOD, title II of the bill, by over $153 million; and second, increasing the Bureau of Reclamation in Interior by $31 million; and third, increasing independent offices—excluding ERDA—by $29 million. So what we have is a $200 million cut in the President's request for energy research and development and a corresponding increase of approximately $213 million for public works—the bulk of which are going to water projects. My amendment would cut approximately $92.5, or close to half of that amount.

I believe that we must make a hard choice today as to whether or not we will follow the recommendations based on the Presidential study and delete from this bill those projects found by that study to be unnecessary.

The President, in issuing his water projects report recommending these deletions, was cognizant of the difficulty he was placing before us. In submitting his recommendations to Congress he said and I quote:

> My decision on individual projects was a difficult one. I have tried to be fair and to give the benefit of the doubt on some projects which would certainly not be justified if they were proposed today. However, I have not hesitated to recommend termination or modification of projects which appeared justified when they were originally authorized.

The President recognized the difficult choices that must be made to restrain inflation and to place our budgetary process back in balance and I believe we in Congress have an even greater responsibility. The President can only recommend; we appropriate. The President has recommended after careful study that several water projects, however worthy, still do not meet the ultimate test of the budgetary give and take. He has found that some of the proposed water projects are wasteful or unsafe or economically unjustified or environmentally unsound. His conclusion is that we simply cannot continue to pursue this type of budgetary expenditure. The final and ultimate determination, however, must be made by Congress.

Is the President wrong? Are these water projects worthy? These are the questions. I believe the President's findings are correct. I believe we must make the hard choice and I know as surely as everyone in this body that we cannot construct these water projects and at the same time meet all our other pressing priorities. We in Congress have the ultimate responsibility. I only hope that we can find the courage and wisdom to make the right choice.

Mr. President, let me say to those of my colleagues who have citizens directly affected by the water projects we are debating today, that I do not question each and every project that I recommend deleting from the bill. But what I am questioning is whether we can afford to fund these projects and still be able to meet all of the other needs. The budgetary pie is finite and there are only a certain number of slices. Our question is how are we to cut it.

There are obvious tradeoffs involved, Mr. President, which we all recognize. If we are to fund these water projects, then undoubtedly other needs will go unmet.

The issue before us today is a good example of the hard choices we must face as we attempt to manage the Federal budget and still pay for necessary existing and new programs. Wasting money on questionable projects reduces our ability to spend more in other areas, and I recognize that ongoing programs are always the hardest to evaluate harshly. In conclusion, I say we now have a chance to make a change.

We cannot ask the taxpayer to buy everything for everyone. There are simply not enough tax dollars to go around. In taking a close look at water project spending, the President has raised a question of priorities which is only appropriate.

Can we afford to spend more than $100 million on an environmentally destructive dam with a return of only 80 cents on the dollar while people in this country are going without adequate health care?

Can we afford to spend more than $10 million on a project which benefits two major oil rig manufacturers at the expense of all the taxpayers, while many people in this country lack basic necessities such as adequate nutrition?

We have to be realistic and recognize the hard fact that the Federal Government is facing a deficit of $60 to $70 billion.

Proponents of some of these projects say we cannot take our supply of water for granted. But we cannot take our supply of money for granted either. Nothing in the Federal budget should be sacrosanct.

Water resource projects are capital-intensive and therefore create fewer jobs than spending on almost any other Federal programs, including mass transit, national clean water efforts and other construction. Just plain tax relief would create more and longer lasting jobs.

Now I expect to be one of the Members of Congress who will be very hard on President Carter if he does not fulfill the promise he made to the Nation and to the Congress that he is going to propose a balanced budget in fiscal year 1981. And that means I have an obligation to work with him—not against him—in striving for that goal.

We have to start with the hard job. If we can pass this amendment and say to the administration, say to the American people, and say to ourselves, "Yes, we are willing to make a sacrifice to balance the budget," then what we say in the future is no longer just rhetoric.

All of our taxpayers are being asked to foot the bill for these projects. We have an obligation to stand up and not force them to have to pay for projects which the President has found to be of marginal value and which raise serious questions as to economic benefits, environmental impacts and safety factors.

Mr. President, in conclusion let me say to my colleagues that we all realize the Federal budget must always be adaptable to change. We cannot insist that because funding for water projects was needed in the past, that it will always be needed.

There will always be desirable ways to spend money. But we must find ways to delete old projects if we are to fund new ones. We cannot do everything within the Federal budget.

Last year, budget spending increased by more than 12 percent and this year the increase is almost as much. Next year, in fiscal year 1978, the increase is likely to exceed 12 percent.

In the meantime, there is need to meet new budget demands. We must find a way to move toward a better system of health care. Whichever way we go, the need to face up to the higher costs of energy will place heavy burdens on the Federal budget. There is evidence that defense needs will remain high. The costs of improving our environment will continue to rise.

If we now say that we can give up nothing in the Federal budget; if we refuse to recognize that priorities must be shifted, then the Federal budget will rise at an ever-increasing rate. That we cannot afford. We must make these hard choices so that funds can be used where they are needed more and can do more good.

Mr. President, I ask unanimous consent that the full text of the President's recommendations on these various water projects that are contained with approval in the appropriation bill be printed in the RECORD at this point.

There being no objection, the text of the President's recommendations was ordered to be printed in the RECORD, as follows:

STATEMENT ON WATER PROJECTS

Today I am announcing my decisions on federal water resource programs:

I am recommending the deletion of funds for 18 projects, at a total savings of over $2.5 billion.

I am recommending modifications of 5 projects, at a total savings of almost $1.5 billion.

I am recommending the continuation of 9 projects without modification.

I am recommending the development of major policy reforms in the following areas:

1. more realistic project evaluation criteria;
2. dam safety;
3. cost sharing for federal projects;
4. water conservation; and
5. redirected public works programs.

In balancing the budget, cutting back on inflation and making the federal government more responsive to the needs of the people, difficult choices have to be made. Activities which are wasteful, unsafe or economically or environmentally unsound simply cannot be pursued. Water resource development programs of the Corps of Engineers, the Bureau of Reclamation and the Tennessee Valley Authority are a case in point.

In my budget recommendations to the Congress last February I initiated a major review of ongoing water resource projects. The review is now complete and I have specific recommendations for the Congress on the 32 projects which were subject to public hearings. They are based on reviews by the Interior Department, the Corps of Engineers and the Tennessee Valley Authority, with assistance from the Office of Management and Budget and the Council on Environmental Quality.

My decision on individual projects was a difficult one. I have tried to be fair and to give the benefit of the doubt on some projects which would certainly not be justified if they were proposed today. However, I have not hesitated to recommend termination or modification of projects which appeared justified when they were originally authorized.

In consultation with the Congress, state and local governments and the public, I intend to develop detailed policy recommendations to insure that our water-related needs are met in the best manner, and to use realistic criteria for water project evaluation. The review process I started during the first days of my Administration is not going to stop here; further work needs to be done and fundamental improvements need to be made in our water policies and programs.

The drought in the West and recent severe flooding in the East have shown us that despite the massive numbers of federally-funded water projects in existence, we are still as susceptible as ever to the ravages of the weather. Instead of proceeding down the same road of more and bigger structural projects, we need to rethink our policies.

In particular, I will work with Congress to develop policy reforms in the following areas:

1. Realistic assessment of both economic and environmental costs and benefits.

I will work with Congress to establish more realistic criteria and procedures to insure that initial development decisions are wise:

A more realistic interest rate must be used in calculating the costs and benefits of projects. Many of the projects I reviewed were authorized at such low rates that even though we are building them today, we are pretending that the cost of capital is still the same as it was many years ago. In times of a tight budget, we must be realistic about what it is actually costing the taxpayers of the nation to build these projects.

We must be more realistic in initial cost estimates for projects, to avoid the enormous cost overruns typical of so many water projects. Some projects are ending up costing many times what they were estimated to cost when the Congress originally authorized them.

We must scrutinize the beneficiaries of the projects to make sure that the general public is benefiting from projects, not merely narrow or special interests. One project I reviewed would have benefited only two companies; another would have spent over $1 million per landowner benefited with little repayment. Yet such projects are typically described as providing broad public benefits or helping family farmers.

Demonstrated need for projects must precede authorization and funding. Too often, exaggerated "benefits" and questionable claims of recreation value, fish and wildlife enhancement or area redevelopment have been used to justify otherwise marginal projects. All too often, valuable river recreation and fish and wildlife habitat have been destroyed in the name of "enhancement."

Alternatives, especially non-structural or small-scale solutions to specific problems such as floods, should always be investigated as substitutes for expensive and damaging projects which often do not provide effective solutions anyway. Interagency cooperation and encouragement of local solutions to local problems need to be an integral part of every water project analysis.

Through each aspect of analysis, environmental values must be a primary concern, to insure that irreplaceable natural resources are protected from needless degradation or destruction.

2. Dam safety:

I am taking action to upgrade our federal dam safety and inspection program, and I will work with the Congress to develop legislation to insure that every state has an adequate dam safety program. The recent Teton Dam tragedy indicates the importance of this problem and several of the projects examined during the review raised significant safety questions. This is a critical consideration for both existing and proposed dams.

3. Cost sharing for federal water projects:

The beneficiaries of federal water projects do not bear a fair share of the enormous capital and operating costs. An example of this problem is that the users of the nation's waterways pay nothing for their construction or maintenance. Today I am recommending continuation of some waterway projects, but I will work with the Congress to develop a system to recoup the costs from the beneficiaries. It is essential as a test of economic demand for existing and future facilities and in assuring a balanced transportation system that the beneficiaries of waterway projects pay their fair share of both construction and operating costs. I will also be recommending comprehensive reforms in other cost-sharing formulas. This action is essential to genuine water program reforms.

4. Water conservation:

In the arid West and across the entire nation, we must begin to recognize that water is not free—it is a precious resource. As with our energy problem, the cornerstones of future water policy should be wise management and conservation. Irrigation efficiency, water pricing, ground-water management and thoughtful land use decisions will help institute lasting protection from drought and lessen the need for expensive new water projects. Some of the 32 projects would bring water to areas where water use is not even metered and where there are no state groundwater management programs. And the General Accounting Office has recently shown that over half of the water delivered through Bureau of Reclamation Irrigation systems is completely wasted. This is unacceptable.

5. Redirected public works program:

The current heavy emphasis on expensive water projects is counter to the need for a more balanced public works program providing jobs where they are needed the most, at a cost we can afford, accomplishing necessary work. Water projects provide more expensive jobs than other government spending programs ($25,000 per job), and the current pattern of water project distribution is contributing to the federal dollar drain out of the heavily populated Northeast where economic stimulus is needed. Many of our water projects simply shift economic development for no apparent policy reason. I have proposed reforms in this area as part of my economic stimulus program, and I will also be developing suggested redirections for the Corps of Engineers and the Bureau of Reclamation.

My specific recommendations follow:

APPLEGATE LAKE—CORPS OF ENGINEERS, OREGON

Project description:

Dam and reservoir on Applegate River for flood control in the Rogue River Basin.

Major benefits claimed:

[In percent]

Flood control	55
Recreation	25
Water quality	10

Benefit/cost ratios:

Remaining costs and benefits at current rate (6⅜ percent): 64.

Total at authorized rate (3¼ percent): 1.34.

Financial data:

[In millions]

Estimated federal cost	$81.5
Allocated to date	7.5
Estimated local share	.4
Allocated to date	0

Total project is 9 percent complete including lands.

Construction is 6 percent complete.

Factors in decision:

Flatwater recreation is 25 percent of claimed benefits, yet maximum drawdown will expose up to ⅔ of the lake bottom.

80 percent of the flood control benefits are for future flood plain development, in contradiction of established federal policy for flood plain management.

EPA and others have raised concern about potential contamination of fish and drinking water from mercury deposits which the project would inundate.

The project would inundate several miles of high quality trout stream and about 3000 acres of forest and upland wildlife habitat.

President's recommendation:

Delete funding and deauthorize project.

ATCHAFALAYA RIVER AND BAYOUS BOEUF, BLACK AND CHENE—CORPS OF ENGINEERS, LOUISIANA

Project description:

Enlargement of navigation channels from Morgan City to the Gulf.

Major benefits claimed:

Navigation, 94 percent.

Benefit/cost ratios:

Remaining costs and benefits at current rate (6⅜ percent; 1.4 Total at authorized rate 3¼ percent): 2.2.

Financial data:

[In millions]

Estimated Federal cost	$20.3
Allocated to date	10.1
Estimated local share	1.8
Allocated to date	.5

Entire project is 50 percent complete.

Construction is 50 percent complete.

Factors in decision:

The project benefits would accrue to only a few companies, with the primary beneficiaries being two large corporations currently building large floating rigs for oil exploration. These companies are now using existing navigation channels to move these rigs; they also maintain shipyards in New Orleans with better access to the Gulf.

The inland segments of the project would eliminate or severely degrade over 7500 acres of productive wooded swamp, marsh and shallow open water, including habitat for the endangered southern bald eagle and the threatened American alligator.

Dredging and disposal of over 30 million cubic yards of spoil material would also disrupt highly productive marsh and wetland; annual fisheries losses would exceed 1 million pounds.

President's recommendation:

Delete funding, deauthorize remainder of project and maintain completed portion of project.

CACHE BASIN—CORPS OF ENGINEERS, ARKANSAS

Project description:

231 miles of stream channelization to reduce flooding and promote clearing and drainage of approximately 690,000 acres of bottomlands.

Major benefits claimed:

Flood control, 93 percent.

Benefit/cost ratios:

Remaining benefits and costs at current rate (6⅜ percent): 2.08. Total at authorized rate (3¼ percent): 3.6.

Financial data:

[In millions]

Estimated Federal cost	$93.2
Allocated to date	4.7
Estimated local share	11.4
Allocated to date	.5

Total project is 5 percent complete.

Construction is 4 percent complete.

Factors in decision:

The project would accelerate clearing and drainage of over 110,000 acres of bottomland forest and wooded swamp—one of the last such areas in Arkansas.

Much of this area is winter habitat for thousands of migratory water fowl traveling on the Mississippi flyway from eight upstream states and Canada.

The U.S. Fish and Wildlife Service has pointed out that the project would eliminate up to 90 percent of the existing fishery resources and would cause major adverse impacts downstream, reducing the value of the White River National Wildlife Refuge.

Benefits from increased soybean production may be overstated and are narrowly distributed (50 percent of the benefits to about 10 percent of the landowners); much of the land to be benefited is already productively farmed.

Adequacy of mitigation measures for wildlife has been questioned.

President's recommendation:

Delete funding, deauthorize project and consider needed protection of remaining bottomland habitat.

HILLSIDE LAKE—CORPS OF ENGINEERS, KANSAS

Project description:

Project would provide water supply and flood control in areas near Kansas City, Kansas; dam 75 feet high and reservoir.

Major benefits claimed:

[In percent]

Water supply	48
Flood control	23
Water quality	19
Recreation	9

Benefit/cost ratios:

Remaining costs and benefits at current rate (6⅜ percent): 1.08.

Total at authorized rate (3¼ percent): 1.2.

Financial data:

[In millions]

Estimated Federal cost	$55.7
Allocated to date	17.1
Estimated local share	0
Allocated to date	0

Project is 30 percent complete.

Construction is 23 percent complete.

Factors in decision:

Project would adversely affect upland wildlife habitat and fisheries; net economic benefits are insufficient to offset these losses.

Downstream flood control objectives are outweighed by loss of productive farmland.

One project purpose is to dilute downstream water pollution.

Most of the water storage is for doubtful projected future growth, rather than established need.

President's recommendation:

Delete funding and deauthorize project.

RICHARD B. RUSSELL—CORPS OF ENGINEERS, GEORGIA AND SOUTH CAROLINA

Project description:

Locate between Clark Hill and Hartwell Lakes on the Savannah River; a concrete gravity dam with four 75,000 KW hydropower units; reservoir storage would be 1.2 million acre feet.

Major benefits claimed:

[In percent]

Power	81
Recreation	13
Unemployment	6

Benefit/cost ratios:

Remaining costs and benefits at current rate (6⅜ percent): 1.3.

Total at authorized rate (2.2 percent): 3.25 percent.

Financial data:

[In millions]

Total estimated Federal cost	$276.0
Allocated to date	21.1
Estimated local share	0
Allocated to date	0

Total project is 8 percent complete.

Construction is 7 percent complete.

Factors in decision:

The project would inundate more than 26,000 acres of productive forest land and wildlife habitat and displace 60 families.

The last undeveloped reach of the Savannah River and 50 miles of tributaries would be flooded, eliminating existing recreational opportunities and trout and bass fisheries.

There would be potential water quality problems in Clark Hill Reservoir resulting from the project.

Project benefits for recreation may be overstated and the costs of mitigation measures may be underestimated.

President's recommendation:

Delete funding and deauthorize project.

TALLAHALA CREEK INLET—CORPS OF ENGINEERS, MISSISSIPPI

Project description:

Earth dam and reservoir to provide flood protection for areas along Tallahala Creek, and for recreation.

Major benefits claimed:

[In percent]

Recreation	42
Flood control	24
M&I water supply	10
Water quality control	10

Benefit/cost ratios:

Remaining costs and benefits at current rate (6⅜%): .9.

Total at authorized rate (3¼%): 1.3. (3¼%): 1.3.

Financial data:

[In millions]

Estimated Federal cost	$55.7
Allocated to date	3.7
Estimated local share	0
Allocated to date	0

Total project is 7 percent complete.

Construction is 11 percent complete.

Factors in decision:

Inadequate benefit-cost ratio; adverse impacts on upland wildlife habitat are not sufficiently offset by economic benefits.

Water quality risk is present from oil well brine and oil spills from oil and gas lines to be submerged by the reservoir.

Project will inundate 4400 acres of bottomland hardwoods and wildlife habitat.

President's recommendation:

Delete funding and deauthorize project.

COLUMBIA DAM—TENNESSEE VALLEY AUTHORITY, TENNESSEE

Project description:

One earth embankment dam and acquisition of 31,900 acres of land for regional development, flood control, water supply and recreation. Another dam (Normandy) in the area has already been completed.

Major benefits claimed:

[In percent]

Enhanced employment	37
Recreation	23
Water supply	15

Benefit/cost ratios:

Remaining benefits and costs at current rate (6⅜ percent): .8.

Total at authorized rate (4⅞ percent): .8.

Financial data:

[In millions]

Estimated Federal cost	$142
Allocated to date	32
Estimated local share	0
Allocated to date	0

Columbia Dam is 15 percent complete, including lands.

Factors in decision:

Benefit-cost ratio less than 1 at authorized or current rate.

Benefits claimed include 37% for "enhanced employment," which is questionable.

Several endangered species inhabit project site.

Project would eliminate 29,000 acres of productive farmland and would destroy or modify 25,700 acres of forest and upland habitat.

Project would flood 54 miles of free-flowing stream.

President's recommendation:

Delete funding and deauthorize project.

BONNEVILLE UNIT, CENTRAL UTAH PROJECT—BUREAU OF RECLAMATION, UTAH

Project description:

The project consists of a series of 10 new reservoirs, enlargement of 2 existing reservoirs, 140 miles of aqueducts, 3 power plants, and 9 pumping plants to divert water from the Colorado Basin to the Great Salt Lake Basin. The project would provide a full water supply to irrigate 29,370 acres of new land, a supplemental water supply to partially irrigate 213,170 acres, and 99,000 acre feet of water annually for municipal and industrial use, and 320 million KW hours of electric power annually.

Major benefits claimed:

[In percent]

Irrigation	25
Power	21
M. & I. water	46

Benefit/cost ratios:

Remaining Costs and Benefits at Current Rate (6⅜ percent): 1.0.

Total Costs and Benefits at Authorized Rate (3⅛ percent): 1.3.

Financial data:

[In millions]

Estimated Federal cost	$862.7
Allocated to date	154.4
Estimated local share	40.3
Allocated to date	18.1

Irrigation investment per acre: $1,434 ($4,295 at full service equivalent).

Total project is 19 percent complete including lands.

Construction is 19 percent complete.

Factors in decision:

High cost of the project—$862 million at current estimates and distinct possibility that operational plans and commitments cannot be met within authorization limits.

Marginal economic value—ratio 1.0:1 on remaining costs and benefits at current discount rate—and high cost of irrigation investment—$4295 per acre at full service equivalent.

Losses of high quality stream fisheries in Uinta Basin, habitat losses on Utah Lake, including destruction of 57 miles of high quality trout streams and 25,000 acres of marsh and water habitat.

Salinity impacts on downstream users in Colorado River Basin.

Potential impact on Indian water rights and interests, especially the Ute Tribe.

Questionable need for project and possible alternative water supply development in Bonneville Basin.

President's recommendation:

Modify the project to complete only the Currant Creek Reservoir and rehabilitation of Strawberry Tunnel and Provo Reservoir

Canal, permitting the development of 30,000–36,000 acre feet of water for irrigation in the Utah Lake area and municipal user in the Salt Lake City area. The best way to fulfill obligations to the Ute Indian Tribe are to be determined by the Interior Department and the Tribe. The total cost of this modification is estimated to be $27.8 million.

Mr. McINTYRE. I reserve the remainder of my time.

Mr. PEARSON. Mr. President, today I would like to reiterate my support for the Committee on Appropriations' public works bill that would include funding for Hillsdale Reservoir in Kansas. The water supply situation in the Hillsdale area is critical. Although the decision to fund Hillsdale will not affect today's water shortage, the crisis has illustrated the reservoir's role in meeting future needs. The citizens of this area see the reservoir as a means for planning ahead, and I urge my Senate colleagues to abet this effort.

According to the administration, the Hillsdale project has been planned on questionable figures of future growth. Yet the long-term outlook for Kansas shows that 47 percent of the population will be in this region and some of it surely will be industrial. This is the most practical, most economical means of assuring this community a future water supply.

The administration also argues that there are other water sources available. If there are, there are some frightened people in communities nearby who would like to know where. The committee has seen the logic in this argument and consequently has attached the necessary funds. I would ask that the full Senate approve this action.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I wish to speak in opposition to the amendment offered by the Senator from New Hampshire, Mr. McINTYRE, an amendment which would delete seven excellent water projects which have been, very carefully reviewed, by the Senate Committee on Public Works Appropriations. Many of these projects are multipurpose. They provide flood control, hydro-electric power generation, municipal water supply and irrigation, and recreation.

We in North Dakota are proud that reclamation and conservation of our natural resources originated with Teddy Roosevelt. We like to believe that it was during his approximately 2 years as a rancher in western North Dakota that he began to formulate his very strong views on the need for reclamation and conservation. These views became one of the hallmarks of his Presidency.

The first and basic reclamation act, the Reclamation Act of 1902, was sponsored in the Senate, by the late Senator Henry Hansborough of North Dakota, with Congressman Francis Newlands of Nevada as the sponsor in the House. The intervening years have proven President Teddy Roosevelt's wisdom. As a result of the availability of water, through reclamation projects, the West has grown into a tremendous empire.

Without the municipal water made available by these reclamation projects, there is not a major city in the West or Southwest which could sustain its present population.

Solely as a result of reclamation, California has become our No. 1 producer of agricultural commodities. It has also become the most populous State in the Nation. This would never have been possible had it not been for water made available for both irrigation and municipal needs. Much the same could be said for any other State of the West. Much of this area, which is now so productive and populous, would still be a desert, if it hadn't been for these water projects. Through them, opportunity has been provided for tens of millions of people.

The East and Midwest areas of the country have also benefited greatly from these projects. Very large sums of money have been expended by the Federal Government to improve navigation, to provide for locks and dams on our navigable rivers, and to provide improved harbor facilities. All of these expenditures by the Corps of Engineers have meant greatly increased transportation capability, and at much lower rates than would otherwise be possible.

Mr. President, this drive to cut the funds for these highly justified water projects, whether Corps of Engineers or Bureau of Reclamation projects are involved, just does not make sense.

While President Carter is urging the discontinuance of water projects, many of them well along in construction, he only this week, directed the State Department to plan a larger foreign aid program. The total cost of these water projects this year is less than $300 million. The President is planning a sharply increased foreign aid program even over the cost of the foreign aid program for the current year which is $5.3 billion. In addition, there are untold billions in loans being made to foreign countries which we now expect to be repaid.

Mr. President, grave concern is being voiced within the present administration and in Congress over high unemployment, and we have been urged to appropriate tens of billions of dollars to provide jobs in this country. What more effective means could there be of providing jobs than by continuing the construction of these badly needed, economically justified, and wealth creating projects?

Mr. President, in following national press stories for the past 5 months, statements out of the White House, and statements out of the Office of the Secretary of the Interior, one could get the impression that the Garrison Diversion irrigation project in North Dakota had suddenly sprung up full blown from the mind of some bureaucrat, with no thought being given to its overall impact and with no planning, design, or concern for our environment. That is the impression some would like to create.

Nothing could be further from the truth. The Garrison Diversion irrigation project is one of the oldest in concept and one of the most thorough engineeringly developed projects ever to be authorized by Congress. In fact, it has been authorized and reauthorized.

The people of North Dakota first sent a resolution to Congress in 1889 requesting the diversion of water for irrigation eastward from the Missouri River. The people of our State have continued from that time on to work for the project both within the State and with Congress. In 1938 Congress appropriated the first funds to investigate such a diversion and since that time Congress has appropriated funds every year for this proposed project. The funds were initially for investigations and later for its design and construction. Federal expenditures for Garrison Diversion are in excess of $171 million. In addition, the State has spent a sizable amount of money and has made a number of commitments for the project.

The Garrison Diversion irrigation project was first authorized as a part of the Pick-Sloan Plan in the Flood Control Act of 1944. Under this authorization North Dakota had to give up almost 500,000 acres of our richest, most fertile Missouri River bottom land to the Garrison Dam and Reservoir and approximately 100,000 acres of similar land to the Oahe Dam and Reservoir.

The five dams and reservoirs on the Missouri River, under the Pick-Sloan Plan, provided badly needed flood control on the Missouri and Mississippi Rivers, provided huge amounts of cheap hydroelectric power, and water for downstream navigation. In return North Dakota was assured, under the Pick-Sloan Plan, of 1 million acres of irrigation.

During the construction of the mainstream dams on the Missouri River the Department of Interior, contrary to what many would have us believe today, continued studying the Garrison Diversion project. During that time hearings were held in North Dakota by committees of Congress and by the Bureau of Reclamation. The Interior Committees of both the House and the Senate also held hearings in Washington which culminated in the reauthorization of the project in 1965. The reauthorized project provided 250,000 acres of irrigation and had the unusually good cost-benefit ratio of 2.91 to 1.

During all of this time, this project has been under continuing scrutiny by both the authorizing and appropriations committees of Congress. Public hearings have been held by these committees every year.

In addition, with the enactment of the National Environmental Policy Act in 1969, further studies were undertaken by the Bureau of Reclamation to develop an environmental impact statement of the project. This work took 4 years and involved 12.2 man years to complete. Since the completion of that environmental impact statement, the Bureau has expended an additional 25.8 man years in updating and further refining it. This includes only personnel of the Bureau of Reclamation. Additional personnel of the Department of Interior, notably those of the Fish and Wildlife Service, were involved in the preparation of the environmental impact statement.

Contrary to charges which have received considerable publicity, this environmental impact statement has been reviewed by the courts and has been determined by them to be adequate.

Late in 1972 Richard Madsen, an employee of the Audubon Society, and

Charles Dayton, a Minneapolis attorney representing the society, joined with the Committee To Save North Dakota in initiating a lawsuit in the Federal District Court of North Dakota (Committee To Save North Dakota against Morton). This suit challenged the adequacy of the environmental impact statement on the Garrison project. U.S. District Court Judge Bruce Van Sickle held that the environmental impact statement had been prepared in good faith and complied with the National Environmental Policy Act. This decision was appealed to the Eighth U.S. Circuit Court of Appeals, where the decision of the district court was affirmed.

Mr. President, notwithstanding the decisions of the U.S. District Court of North Dakota and the Eighth U.S. Court of Appeals, the National Audubon Society within a year and a half filed suit in the Federal district court in the District of Columbia before Judge Charles R. Richey—National Audubon Society against Andrus—again alleging noncompliance with the National Environmental Policy Act and seeking an injunction against the Garrison project. Although the State of North Dakota was not named as defendant, it was later permitted on its own motion to join as a defendant in this action.

In 1976 the Justice Department moved to dismiss the action on the basis that the parties involved were substantially the same as in the earlier action filed before the Federal District Court for North Dakota and that the adequacy of the environmental impact statement had been tested in that court and affirmed by the Eighth Circuit Court of Appeals. Judge Richey denied this motion and after the joining of the State of North Dakota as a defendant, as well as a series of procedural motions, this suit began to move toward a trial on the merits. It then developed that the National Audubon Society and the new Secretary of Interior and his representatives began to negotiate a settlement of the case. The State of North Dakota was in no way involved in these negotiations and continued to prepare for a trial of the case on the merits and was prepared to do so as late as May 10 and 11 of this year.

At that time the National Audubon Society and the Secretary of Interior presented to Judge Richey their out of court settlement of the case.

It should be emphasized that the State of North Dakota did not particpate in, was not a party to, nor did it agree in any manner to this out of court settlement which Judge Richey accepted.

On May 11 Judge Richey signed this out of court settlement between the National Audubon Society and the Interior Department as "so ordered." On May 11 Judge Richey withdrew his so ordered stipulation and agreement and, in lieu thereof, signed his name on the front page of the agreement after the word "approved." This document was filed with the Clerk of Court on May 19 of this year.

I ask unanimous consent that a copy of the stipulation and agreement with the so ordered signature page and the approved signature page, both carrying Judge Charles R. Richey's signature, be included at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. YOUNG. Mr. President, apparently we are witnessing the dawn of a new procedure where the court and some of the parties to a suit, without a trial on the merits but in a closed meeting, can decide to, in effect, gut a whole project. In the case of the Garrison Diversion project the court approved eliminating major features of great importance to the project. One of those features is furnishing water to 32 cities and two large Strategic Air Command bases.

So far as I can determine, this agreement represents a new procedure. Congress may want to deal with matters such as this in much the same manner as it did in the case of the Alaska Pipeline, where Congress made a legislative finding of compliance with the National Environmental Policy Act and took the matter out of the hands of the courts.

Mr. President, I have referred only briefly to the court proceedings involving the Garrison Diversion project. I ask unanimous consent that a brief chronology of this litigation and a memorandum describing it in more detail be included at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. YOUNG. As I have indicated, this project has a long history. However, I believe the report of the Senate Appropriations Committee accompanying this bill very accurately provides a history of this project. I ask unanimous consent that a copy of that section of the report be included at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. YOUNG. The report acknowledges our potential problem with Canada over certain features of the project. I would point out to my colleagues that when Mr. Cliff Barrett of the Bureau of Reclamation appeared on March 10 of this year before the Senate Appropriations Committee I asked him if, in his opinion, the Canadian objections to the Garrison project could be satisfied and he stated unequivocally "absolutely."

Mr. President, it is not my purpose to minimize the potential for a difference of opinion with Canada with respect to this project. I am merely indicating that knowledgeable experts are of the opinion that these differences can be overcome. I would like to point out, Mr. President, that differences along the Canadian border over water or air pollution are not limited to North Dakota. Presently the International Joint Commission is dealing with similar boundary problems along our entire boundary with Canada with the exception of the border between Alaska and Canada. The IJC has held many hearings both in the United States and Canada on Garrison diversion and is expected to make its report and recommendations to the governments of the two countries this fall. Since we have many similar differences along the border, it would seem very unwise for the President or the Congress to take any precipitous action until this report is available. We strongly believe that it will form the basis of resolving any Canadian objections to the project.

Mr. President, after the Federal Government has spent over $170 million on a project which the people of North Dakota have actively sought for over 90 years and which has been authorized twice by the Congress, it would seem absurd to summarily gut this project.

EXHIBIT 1

[U.S. District Court, District of Columbia—Civil No. 76-0943]

STIPULATION AND ORDER

National Audubon Society, Inc., Plaintiff, v. Cecil D. Andrus, et al., Defendants.

National Audubon Society filed its complaint in May 1976, raising issues relative to the environmental assessment of the Garrison Diversion Unit (the project) presented in a final environmental statement (FES 74-3, as supplemented by FES 74-21) issued in January 1974 by the federal defendants, the Secretary of the Interior and the Commissioner of the Bureau of Reclamation, as well as issues relative to alleged violations of the Fish and Wildlife Coordination Act and the Migratory Bird Treaty and Act. Pending before the court are cross-motions for summary judgment and plaintiff's motion for preliminary injunction, plus ancillary matters. The parties to this agreement recognize that the issues raised in the complaint are difficult and complex, and that their resolution in judicial proceedings is uncertain. A judgment entered in this case at this time may be a less than satisfactory conclusion for the parties, or any of them, due to the range of relief available to the court. In light of the difficulties associated with the litigation noted above and the uncertainties raised by the President's recommendation that the Garrison Diversion Unit be substantially modified, as well as the issues pending in regard to the Boundary Waters Treaty of 1909 between Canada and the United States, the parties deem a stay of this judicial proceeding to be warranted.

* * * * *

plaintiff may become altered as a result of the actions of the federal defendants under this agreement and subsequent congressional action.

Accordingly, to conserve judicial resources and afford the Secretary of Interior and the Commissioner of the Bureau of Reclamation an opportunity to undertake the commitments made herein, the parties agree to a stay of all proceedings in this action, in accordance with the following terms and conditions:

A. With the exception of the actions described in paragraph B, no further construction will be carried out; no further contracts will be entered into; no advertisement for bids on contracts will be published; no further land will be purchased, or otherwise acquired, or negotiated for; no survey will be made and no detailed engineering plans leading to the preparation of construction specifications shall be developed until the conditions set forth in paragraph D have been complied with.

B. Plaintiff agrees that:

(1) McClusky Canal may be completed, provided that: the headgates located at the west end of the McClusky Canal shall remain as presently sealed and the canal plugs located at Stations 3135+00 (between Hoffer Lake and Skunk Lake), 3173+00 (Skunk Lake), at the end of Reach 3A and in Reach

2 at the Chain-of-Lakes, and coffer dams implaced for repair of the large slide shall remain in place until Missouri River water is required for orderly development of irrigation service areas outside of the Missouri River Basin; but in any event, these barriers shall not be removed until the conditions described

* * * * *

of this agreement to prevent work related to McClusky Canal for the following and similar activities: slide repair, erosion control, road and utilities relocation, completion of the existing fish screen complex contracts, landscaping and parking areas, and operations and maintenance buildings.

(2) This agreement is not intended to prevent work related to or execution of contracts for research, operation and maintenance equipment, and office supplies, preparation of an environmental statement and preparation of studies supporting authorizing legislation.

(3) Further, acquisition of land relating to the Lonetree Reservoir from a maximum of eight landowners may be completed, provided that this land may only be acquired if the contracts for this acquisition have already been executed prior to the date of this agreement, the Department of the Interior notifies each landowner that he or she need not sell his or her land, and the landowners continue to desire to sell their land. Plaintiff will be notified of the names and addresses of each landowner, including, if more than one person has an interest in a particular piece of land, each such person. Plaintiff will have the right to discuss with each landowner whether he or she desires to sell the land. The Department of the Interior shall not acquire any such land until at least 14 days from the date of the above notification to plaintiff.

C. The federal defendants agree to complete a comprehensive supplementary environmental statement in compliance with NEPA that describes all reasonable alternatives for the project, including, but not limited to, the project as currently authorized by Congress, the project as proposed by President Carter (including modification of that proposal by elimination of the East Oakes Service Area and Taayer Reservoir), utilizing a sand filter for water entering the Red River Basin from the McClusky Canal (designated primarily for municipal and industrial use and perhaps other uses), use of a pipeline to connect the McClusky Canal to a point on the James River, use of the McClusky Canal without further significant construction, and no project. The Bureau of Reclamation, within its reasonable discretion, will consult with plaintiff and others concerning the scope and content of the environmental statement before and during its preparation. The draft environmental statement shall be completed on or about January 1, 1978, filed with the Council on Environmental Quality and accompany proposed legislation by the Secretary of the Interior to Congress requesting authorization of an option for project development described in the environmental statement, or reauthorization or deauthorization of the project. Defendants will endeavor to complete and transmit to Congress the final environmental statement within 90 days after filing of the draft with the Council on Environmental Quality. A fish and wildlife mitigation plan will be submitted with the proposed legislation to Congress. The plan will include a discussion of compensation for losses resulting from wetland drainage, stream channelization, cultivation of native prairie, creation of hazardous nesting cover, adverse impacts on national wildlife refuges, introduction of rough fish, increased flows, and alteration of water temperatures.

D. No action prohibited by paragraph A will be undertaken until the actions taken pursuant to paragraph C have been completed and Congress has thereafter reauthorized the project or authorized an option for project development, and an additional 60 days have elapsed.

E. The Secretary of Interior will notify Congress of this stipulation and order by transmitting a copy thereof to the appropriate committees of Congress. In the letters of transmittal, the Secretary will indicate that it is the belief of the parties that consideration of authorizing legislation relative to the Garrison Diversion Unit should await submittal and consideration by Congress of the proposed legislation and environmental statement described herein.

F. Nothing in this stipulation and order shall be construed as precluding any party from taking any position relative to the project or its alternatives it deems appropriate, or as conceding any of the legal issues or defenses thereto raised by the pleadings. The parties agree not to take any action to attempt to nullify this agreement.

G. All pending motions and responses thereto are hereby withdrawn without prejudice by the parties upon approval of this stipulation and energy of this order by the court. The pleadings shall remain filed.

H. This agreement is non-severable. If any portion of the agreement becomes unenforceable, is violated, or is nullified, the other party to this agreement may abrogate the entire agreement or any portion of it. This agreement shall be enforced by the United States District Court for the District of Columbia as part of the pending litigation.

EXHIBIT 2

CHRONOLOGY OF LITIGATION: GARRISON DIVERSION PROJECT

The proposal of irrigating land in eastern North Dakota with water from the Missouri River was first brought to the attention of the Congress by an irrigation conference held in North Dakota in 1889. There have been continuous appropriations for this purpose since 1938. The project was first authorized with 1 million acres proposed for irrigation by the Pick-Sloan Plan in the Flood Control Act of 1944, and reauthorized in 1965 with 250,000 acres authorized for irrigation. The project has been under construction for ten years and Federal expenditures now exceed $170 million.

December 11, 1972: *Committee to Save North Dakota v. Morton* filed in Federal District Court, Bismarck, North Dakota. This case alleged violations of the National Environmental Policy Act regarding the Garrison Diversion Unit.

June 12, 1974: Federal District Court dismissed the *Committee to Save* case and held that the Environmental Impact Statement was prepared in good faith and complied with NEPA.

January 15, 1975: The U.S. Court of Appeals for the Eighth Circuit affirmed the District Court decision.

May 27, 1976: *National Audubon Society v. Kleppe* (Andrus) filed in Federal District Court, Washington, D.C. (Judge Charles R. Richey). This case alleged essentially the same violations of NEPA as the *Committee to Save* case. The plaintiffs in both actions were different in name only.

June 28, 1976: Federal defendants in *Audubon* moved to dismiss the case for failure to join North Dakota as an indispensable party and on the grounds that the issues in Audubon had been previously decided in the *Committee to Save* case.

November 11, 1976: Judge Richey denied the Federal defendant's motion to dismiss contrary to direct evidence that the issues in both cases were essentially the same.

January 11, 1977: Immediately after Judge Richey's November, 1976, denial, Federal defendants moved to obtain the necessary certification from Judge Richey to appeal his denial. On this date Judge Richey denied the certification for appeal.

March 1, 1977: North Dakota petitioned to intervene in Audubon as a defendant, which was granted on March 7, 1977.

March 7, 1977: At the request of the defendants, the case was continued to April 29, 1977, when arguments were to be heard on pending motions for disposition of the case.

April 27, 1977: Judge Richey canceled the April 29, 1977, hearing and set the case for a full trial for May 10–11, 1977.

May 11, 1977: Judge Richey postponed the trial and continued the case indefinitely pursuant to a voluntary agreement entered into between Interior and Audubon and excluding North Dakota, which halted all major construction of the GDU as presently authorized. Judge Richey "so ordered" this agreement by his signature.

May 18, 1977: Judge Richey, apparently without notice to any of the parties, withdrew his "so ordered" signature and signed his name on the front page of the agreement between Audubon and Interior.

The issues in this case were litigated in the Federal District Court for North Dakota, which found in favor of the project, and this decision was upheld on appeal to the Eighth Circuit Court. Judge Richey entertained the suit in the Federal District Court for the District of Columbia, notwithstanding the fact that he had before him the previous decision of Judge Van Sickle of the North Dakota District Court and the Eighth Circuit's affirmation of that decision.

Judge Richey permitted the Audubon Society and representatives of the Interior Department to work out an agreement suitable to them but opposed by practically all North Dakota interests. It is unthinkable that such drastic changes were made without consulting North Dakota officials and contrary to both Congressional intent and statutory authority. Only Congress can make such changes.

MEMORANDUM FOR RECORD

Re: National Audubon Society v. Andrus, Civil No. 76–0943 (D.D.C. filed May 27, 1976)

Date: June 3, 1977.

On May 27, 1976, the National Audubon Society filed the above-referenced lawsuit in Federal District Court in the District of Columbia before Judge Charles R. Richey. The action alleged violation of the National Environmental Policy Act and sought to halt construction of the Garrison Diversion Unit.

An almost identical complaint was filed in Federal District Court in the District of North Dakota on December 11, 1972. (*Committee to Save North Dakota* v. *Morton,* Civil No. 1198 (D.N.D. Decided June 12, 1974, affirmed January 15, 1975).) Richard Madsen, an employee of the Audubon Society, and Charles Dayton, a Minneapolis attorney representing the Society, joined with the Committee to Save North Dakota in this lawsuit contesting the adequacy of the Environmental Impact Statement on the Garrison Project. The Court held that the Environmental Impact Statement had been prepared in good faith and complied with NEPA. The case was appealed to the 8th U.S. Circuit Court of Appeals, where the decision of the lower court was upheld.

The Audubon Society, which was directly involved and financed the previous action in North Dakota, raised similar issues in its new action in the District of Columbia. North Dakota was not named as a defendant but was later permitted on its motion to join as a defendant.

On discovery in the Audubon action in the District of Columbia it was revealed that

the National Audubon Society had contributed at least $1,000 and perhaps $2,000 toward the cost of legal fees and expenses in the Committee action in North Dakota. It was also revealed that the National Audubon Society provided considerable technical assistance in the prosecution of the Committee action.

On June 28, 1976, the Department of Justice on behalf of then Secretary Thomas Kleppe filed with Judge Richey a Motion to Dismiss the Audubon action for failure to join indispensable parties, namely the State of North Dakota and the Garrison Diversion Conservancy District, and a Motion to Transfer Venue to the District Court for the District of North Dakota.

The Justice Department represented in its Motion that the previous litigation in North Dakota regarding the Garrison Diversion Unit had finally determined the adequacy of the Environmental impact Statement under NEPA as affirmed by the Eighth Circuit Court of Appeals. The Justice Department represented that if the plaintiff National Audubon Society had any cause of action that issue should be determined by Judge Van Sickle in light of his previous review of the same issues under NEPA.

At oral argument before Judge Richey, on the Motion to dismiss and/or Transfer, held on September 27, 1976, the Court denied the government's motions and directed the plaintiff Audubon Society to prepare findings of fact, conclusions of law and order and an order for the Court's signature.

On November 11, 1976, Judge Richey signed the findings of fact, conclusions of law and order denying the government's motions to transfer and to dismiss as prepared by the attorneys for the Audubon Society. Judge Richey indicated in his findings that his Federal District has been involved in numerous cases regarding the National Environmental Policy Act and that the Garrison Diversion Unit was a project of national significance. Judge Richey also concluded, contrary to the evidence, that the factual and legal issues presented in the earlier action filed in Federal Court in North Dakota challenging the Garrison Diversion Unit, *Committee to Save North Dakota versus Morton,* were different from the present Audubon case. In his conclusions of law the Court suggested that the State and Conservancy District would not be precluded from asserting claims against the United States at some future date as a result of the Garrison Diversion Unit's suspension. The Court concluded therefore that the interests of the State of North Dakota and the Conservancy District would be protected and would not be impeded even if they were not parties to the Audubon litigation.

Judge Richey also concluded in his findings that the plaintiff Audubon was a separate and distinct plaintiff from the plaintiffs in the earlier litigation brought by the Committee to Save North Dakota even though the record clearly indicated that they had contributed considerable financial support and technical assistance to its prosecution.

Justice Department attorneys subsequently filed a second motion to transfer venue to the United States District Court for the District of North Dakota. On December 3, Judge Richey ordered that defendant's second motion to transfer venue be denied. Judge Richey indicated that even though defendant's assertions may be true, the Court would still deny the renewed motion.

The State and the Conservancy District urged an immediate appeal of Judge Richey's order denying the motions to transfer and to dismiss. The Interior Department supported that position and the Solicitor General of the United States authorized the Justice Department to seek an order from Judge Richey certifying the issue as a controlling question of law concerning the failure to join indispensable parties. The Justice Department filed its motion with Judge Richey for purposes of allowing interlocutory appeal to the Circuit Court of Appeals in the District of Columbia and on January 11, 1977, Judge Richey by order denied the government's motion for certification. The Court simply stated that certification would not be appropriate.

On January 19, the State again urged that an immediate appeal be authorized from the order of Judge Richey denying the motions to transfer and to dismiss. The Department of Interior again supported an appeal by means of a writ of mandamus to the Circuit Court of Appeals. On February 28th, the Acting Solicitor General, Daniel M. Friedman, advised Attorney General Olson that he had decided not to authorize the filing of a petition of mandamus in the Audubon case.

While the question of authorization of appeal was pending in the Solicitor General's Office, Judge Richey ordered that discovery in the Audubon case be closed on December 8, 1976, and directed a time table for the filing of motions for summary judgment. On December 22, 1976, Justice Department attorneys filed on behalf of Secretary Kleppe a motion for summary judgment on all causes of action. On February 7, plaintiff Audubon filed its response to the government's motion for summary judgment and on February 22, the Justice Department made its final reply to the motion for summary judgment.

Upon notice from the Solicitor General that he would not appeal Judge Richey's adverse ruling on the indispensable party issue, the State and the Conservancy District immediately petitioned for intervention as parties of right in the Audubon case. On March 7, Judge Richey granted the petition of the State and the Conservancy District to intervene as parties of right but advised from the bench that he would not welcome any actions by the State and the Conservancy District that would tend to delay the resolution of the issues before the Court. On that same date, Judge Richey granted the Justice Department's motion that the case be continued for purposes of hearing oral argument on the motions for summary judgment until April 29, 1977.

At a pre-trial conference on April 27, 1977, Judge Richey advised counsel for all parties that he did not consider it prudent for him to rule on motions for summary judgment and scheduled the case for trial on the merits on May 10 and 11, 1977. The State filed its witness list and findings in anticipation of trial on May 6, 1977. On May 9, attorneys for the Audubon Society and the Department of Interior advised Judge Richey that an agreement may be forthcoming between those two parties that could result in a stay of the proceedings. Judge Richey scheduled a hearing for Wednesday, May 11, to consider the proposals of Audubon and Interior.

At hearing before Judge Richey on May 11, he accepted the stipulation entered into between Cecil Andrus, Secretary of the Interior, and Charles Callison, representative of the National Audubon Society, which provided for a voluntary administrative halt to all construction on the Garrison Diversion Unit except minor construction on the McClusky Canal, and further provided for the development of a "comprehensive supplementary environmental statement" describing alternatives for the Garrison project, requiring new reauthorizing legislation. Judge Richey granted the stay of proceedings for an indefinite period of time and signed the stipulation and agreement between Audubon and Interior as "so ordered."

No trial has been held before Judge Richey, but the Audubon Society and the Interior Department reached agreement out of court, which Judge Richey approved. North Dakota did not participate in, was not consulted and did not agree to this out of court settlement.

On May 18, 1977, Judge Richey withdrew his "so ordered" signature from the stipulation and agreement and in lieu thereof signed his name on the front page of the stipulation after the word "approved." On May 19, 1977, Judge Richey filed the stipulation with the Clerk of Court.

EXHIBIT 3

GARRISON DIVERSION UNIT, NORTH DAKOTA

The Committee reaffirms its support of the Garrison Diversion Unit as authorized by the Act of August 5, 1965 (79 Stat. 433) and recommends an appropriation of $18,660,000 as originally requested to continue and complete construction on the McClusky Canal, Wintering Dam, and North Dakota State Highway No. 41 relocation; continue construction on the Lonetree Dam and James River dikes; complete right-of-way acquisitions on Lonetree Reservoir; initiate construction work on Oakes pumping plant and West Side irrigation facilities; continue with related fish and wildlife and recreation facilities; and continue with preconstruction planning in all other areas.

The Committee emphasizes that the recommended amount does not include or provide for work on project features that are disputed or alleged to have the potential to adversely affect waters flowing into Canada. These matters have been referred to the International Joint Commission for investigations and recommendations. The Committee has consistently taken the position that referral having taken place all parties are entitled to have the full considered report, views, judgments and recommendations of the IJC prior to any action one way or another. This is the fair, just, and democratic procedure usually adhered to in this country and the Committee believes all interests will be served by adhering to this procedure.

The proposal of irrigating land in eastern North Dakota with water from the Missouri River was first brought to the attention of Congress in 1889, and since 1938 there have been continuous appropriations to pursue this purpose. Beginning with the construction of Garrison Dam, which was authorized in 1944, the people of North Dakota finally believed that their dream would come true.

Approximately 466,000 acres of rich, agricultural bottom lands were taken by the United States to construct and operate the Garrison Dam and Reservoir. An additional 100,000 acres were given up by the people of North Dakota to the Oahe Dam and Reservoir. This total and final sacrifice of these land resources was made to provide the flood control, navigation, hydroelectric power, and dependable water supplies for downstream and other needs as they are served by these reservoirs. The downstream benefits have been enjoyed for more than twenty years. In return, the people of North Dakota were promised diversion of Missouri River water into eastern North Dakota.

The project was first authorized with one million acres proposed for irrigation by the Pick-Sloan Missouri Basin Plan in the Flood Control Act of 1944, and reauthorized in 1955 (the present authorization) with 250,000 acres authorized for irrigation. And while the primary project purpose has been irrigation, the Committee notes the compelling need now for municipal and industrial water also. Over 32 cities, towns, and communities have requested water from the project. The project has been under construction for ten years and Federal expenditures now exceed $170 million.

The President proposed certain modifications of the project and submitted a revised budget request of $15,260,000 in lieu of $18,660,000 for fiscal year 1978. The President

also stated that the recommendations of the IJC Report will be fully considered and that the modification proposed will undergo further analysis. The Committee has carefully reviewed the President's revised request and the accompanying testimony in connection therewith and is persuaded that the proposed revisions are not warranted.

The Committee is also aware of the extensive litigation that has taken place on the Garrison Diversion Project. Litigation first was brought in the Federal District Court, Bismarck, North Dakota in December, 1972 alleging violations of the National Environmental Policy Act regarding the project. In June, 1974, the Court held that the environmental impact statement was prepared in good faith and complied with the National Environmental Policy Act. In January, 1975, the U.S. Court of Appeals for the Eighth Circuit affirmed the District Court decision. In May, 1976, another case alleging essentially the same violations as the earlier case was filed in the Federal District Court in the District of Columbia. In November, 1976, this Court denied the Federal defendant's motion to dismiss the case for failure to join North Dakota as an indispensable party and on the grounds that the issues in the case had been previously decided in the earlier case. Further motions and petitions were presented to the Court up until May 11, 1977, when the Federal defendant (Secretary of the Interior) and the plaintiff (Audubon Society) entered into a voluntary, out of Court agreement to halt essentially all but minor construction on the Garrison Diversion Unit. This agreement, or "stipulation and order", was signed as "so ordered" by the Court on May 11, 1977. Subsequently, on May 18, 1977, the stipulation was "approved" in lieu of the previous "so ordered".

The Committee is concerned and disturbed over the manner and way in which these events have unfolded. In effect, the Administration is apparently disregarding the present authorization and appropriation laws providing for construction of the Garrison Diversion Project and has halted work until the Congress takes certain further action on the project, even though these public laws provide otherwise.

It now becomes the responsibility of the Congress to determine whether this project shall proceed. The Committee's recommendation to provide the full original budget request for fiscal year 1978 is that the project should proceed as authorized, and that the work for which the funds are provided should be undertaken in fiscal year 1978 notwithstanding the stipulation or agreement entered into by the Secretary of the Interior.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I had agreed to yield to the Senator from Louisiana next, but who else wants time so we can apportion this out a little more? How much times does the Senator want? All right, I yield 15 minutes. Does the Senator want that much?

Mr. JOHNSTON. Mr. President, is Senator McIntyre here? I see he is here. the reason I ask that is because the Senator is not a member of the Public Works Subcommittee or the Appropriations Committee. Indeed, of the numerous coauthors who are coauthors of the amendment not one is a member of the committee and, I assume from what has been said on this subject, that they are indeed innocent of the facts.

I say that with great respect and great affection for my friend from New Hampshire because I believe if my friend from New Hampshire will open his ears and listen to some facts, and listen to them fairly, he will withdraw his amendment. I do not say that in any innocence. I say that because it is true.

Do I have a parochial interest in this? You bet I do. We have got 14,800 employees at Morgan City, La., who are engaged in building oil rigs—that is what you called them, yes, offshore oil rigs—the largest in the world, the capital, if you will, of the offshore industry in this country, which is in Morgan City, La.

There are two principal firms, McDermott and Avondale that employ a substantial part of those 14,800 people, but there are also some 90 firms up there that are engaged in the building of these rigs.

We are talking about almost $1 billion backlog and in future orders, or to be exact $967 million worth of offshore rigs that are being constructed at Morgan City.

What are we talking about? We are talking about a navigation channel from Morgan City to the Gulf of Mexico, 20 feet deep, 300 to 400 feet wide.

The size of this project is $20.3 million, half of which or $10.1 million has been spent. It is over 50 percent complete.

I hope the Senator from New Hampshire is listening. The cost-benefit ratio is better than—well, it is 2.2 to 1 under the public works bill; it is 1.4 to 1 at the President's new percentage.

So by any stretch of the imagination, the cost-benefit ratio of this project is much more than unity.

Why is it necessary to build Bayous Chene, Boeuf, and Black? Is it just to line the pockets of two oil rig producers?

I submit to the Senator that without this widening and deepening of the channel to the gulf, Bayous Chene, Boeuf, and Black, we could have a navigational catastrophe at Morgan City.

I invite the distinguished Senator to look at this picture which I am sending him. It shows an oil rig and one of the older ones is 360 feet wide, going out to one of the stems in the Bayou Chene Channel. This rig is 360 feet wide. They are presently building one for the Cognac field which is 440 feet wide.

I ask the Senator to take a look at this picture and answer me if he thinks it is conceivable that they can get rigs 440 feet wide out of the mouth of Bayou Chene if in fact that rig is 360 feet wide.

I think the Senator will have to admit that would be totally impossible.

Keep in mind we are building $1 billion worth up there. What we are building now are the new third-generation rigs.

The one in the Cognac field is designed to drill in 1,050 feet of water, some 1,500 feet off the ocean floor, and they have to float those rigs out that narrow stem right there on the Bayou Chene.

Second, he says they also maintain shipyards in New Orleans with better access to the Gulf.

I show the distinguished Senator, and I hope he will look at this picture, where we have the two bridges in New Orleans pictured on this picture. One is the Huey Long Bridge which is 153 feet high. The other one is 170 feet high. The rigs now already having to go through are 425 feet high.

How did the President come to the conclusion that using existing yards of Avondale or McDermott they could build these rigs and get them under the Mississippi River bridge?

Mr. President, the fact is I do not know how they came to that conclusion. I do not know how they did, but it will not work, and it is not good enough to say let them eat cake, let them go building up on the Mississippi River. We have $1 billion worth of work, and we are just not talking about some corporate giant out there that we wish to make a little richer; we are talking about getting energy for the United States.

What else does the President say? He says that the inland segment of the project will eliminate or severely degrade over 700 acres of wood, marshland, and open water, including the habitat for the endangered bald eagle and the threatened American alligator.

That is not the biggest one we are going to build there. We have plans right now to drill out in 2,000 feet of water. It is only 1,050 feet from the Cognac Field.

How in the world could they ever get that out if they are trying to go through that narrow neck of the Bayou Chene? What happens, I ask my distinguished friend from New Hampshire, if in going out they get stuck, if the bottom of those barges on which that rig rests gets stuck on a sandbar or the sides get stuck on the trees on the side and they cannot move it? What happens to the $1 billion worth of work up at Morgan City? What happens to the trillions of cubic feet of gas out in the Cognac Field off the coast of Louisiana?

Mr. President, I have examined what the President has said with respect to why he has stopped this project. If the Senator from New Hampshire will listen, let me tell him that the President says that these companies, speaking of these two companies, are now using existing navigation channels to move these rigs, and I invite the Senator's attention again to that picture and for him to tell me whether they can get those rigs now under construction through that neck.

Mr. President, we are about as short of alligators down in Louisiana as we are of swamp mosquitoes. Mr. President, alligators are eating dogs. They are getting in people's swimming pools.

I asked my colleague from Louisiana how many alligators we had, and he said, "Well, I suppose there must be 3 or 4 million."

I do not know how many there are but, Mr. President, they are abounding in southern Louisiana so much that it is open season and the EPA says it is open season on alligators, and you can harvest them and yet this little piece of paper out of the White House—I do not know who wrote it—said this is the habitat of the threatened Louisiana alligator.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. JOHNSTON. I yield.

Mr. LONG. What is threatened is the poor nutria that were eating up the marshes, and now the alligator has consumed all the nutria which are practi-

cally gone because the alligators ate them all up.

Mr. JOHNSTON. Mr. President, I shall brush over this one project, and I make a point that as to this project because it is in my State and 14,800 jobs are on the line I have an interest there. With each one of these projects this committee considered and considered carefully, and the problem with trying to answer this sort of thing is you read one of these articles in the paper and they say two companies benefit and we are spending $10 million, and the public is outraged. They say, $10 million of the taxpayers' money going to pay for these oil rig manufacturers." And we know if you have "oil" in the name, even though it is an oil rig manufacturer, that makes them a bad thing for this country.

I can tell you, Mr. President, this thing was not thought out. It is the most flimsy, illogical construction I have ever seen, and I can tell you it is important for our State with 14,800 jobs worth, it is important for navigation down on the Atchafalaya River, but more important than that it is essential to solve the energy crisis of this country because without those rigs, without those rigs now being built, $1 billion worth of rigs, we are not going to be able to extract that oil out on the Outer Continental Shelf or the Gulf of Mexico or extract that oil up in the Gulf of Alaska.

I hope my friend from New Hampshire when he is given the floor will in all fairness give me an answer to those questions, tell me how we are going to get the rig out, tell me that the American alligator is threatened in southern Louisiana, and just tell me what we are going to do if we get a rig stuck in there.

I can tell the Senator what I am afraid of, and that is that the other countries that want to get in the business of building these rigs, England, Scotland, Australia, Norway, Holland, and Sweden, to name a few, will simply take the business away from us while Morgan City rots on the vine, while 14,800 people look for work elsewhere and while the Cognac Field in offshore Louisiana keeps its gas capped and keeps its oil underground while we are thirsty for that oil and gas in this country.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield to the Senator from Arizona 5 minutes.

Mr. GOLDWATER. Mr. President, I have participated in many debates on this subject since I have been here, and I am hearing the same old argument used again and again today.

What we are confronted with in this country, frankly, is the eastern part of the United States where they have too much water and the western part of the United States where we do not have any water.

Many people in this body look on these investments in reclamation projects and other projects as donations to the State.

Theodore Roosevelt Dam was the first dam built under the Reclamation Act of 1906, completed in 1911, believe me, at a cost of $11 million. That dam plus about five others that we have built out of our own purchasing of bonds for water companies in central Arizona produced last year over $400 million in taxes to the United States. You cannot say that that is a bad cost-benefit ratio.

It has also provided over 2 million people with a profitable living. It has made Arizona the fastest growing industrial section in the whole United States. And, Mr. President, there is no way in God's green world that these things could have been achieved without the reclamation projects that we have had built for us by the Government, and which we have paid back. All of them have been paid back except one.

When I hear people talk on this floor as if somehow these projects were gifts to the State, it does not amuse me; it concerns me. These are good investments, on the whole. I will admit that there has been some porkbarreling in the past; but the average projects, such as my friend from Louisiana is talking about, are absolute musts in this country, and we cannot ignore these musts if this country is to be fed. When we have a population, around the year 2000 or 2010, of more than 325 million people, every acre under cultivation today is going to have to produce 20 percent more produce, or we are going to have to find about 20 percent more acreage; and the only way we are going to find it is through better use and more use of our irrigated lands east of the Mississippi, and better use and more use of our reclaimed lands in the far West.

So I would hope, along with my friend from Louisiana, that the Senator from New Hampshire would think seriously about this.

I was very much concerned about the President's withdrawing approval of these projects, and I tried to find out who had advised the President. Lo and behold, in the case of one project in Arizona, it was a 24-year-old girl who had never been west of the Mississippi River; and she said it should be stopped because it endangered the lives of two American eagles. These two American eagles happened to be fish eaters, and if they did not have water, they would move some place else. If we built them the dam, they would have more water than they knew what to do with.

I would like to have an answer sometime during this debate from the chairman or the ranking Republican member as to who were the experts President Carter called in to advise him on whether or not these projects should be built. If we have to rely on 24-year-old girls—not that I have any objection to girls; but if we have to rely on 24-year-old girls who do not recognize a reclamation project when they see it, and put the whole blame on two good old bald eagles, then this country is in bad shape. Considering, Mr. President, the advice the President has been getting lately, I am not just worried about his sources; I am scared to death of them.

Mr. McINTYRE. Mr. President, I yield the Senator from Utah such time as he may require.

Mr. GARN. Mr. President, I will be very brief. I do not intend to get into any big difference about the Bonneville unit of the central Utah project, though I believe I can speak with authority about it, having been the director of that water system for 7 years.

But I do want to add to what the Senator from Louisiana and the Senator from Arizona have said, and to point out the unbelievable lack of documentation or common horsesense in these projects.

In this particular amendment, it picks up the language of the President, takes out the entire Bonneville project, and says:

> That funds appropriated or otherwise made available for the central Utah project, Bonneville unit, shall be limited to completion of the Currant Creek Reservoir and work on the rehabilitation of the Strawberry Tunnel and Provo Reservoir Canal".

First of all, Mr. President, the Currant Creek Reservoir is already 98 percent complete. Big deal: they are giving us 2 percent.

The rehabilitation on the Strawberry Tunnel and Provo Reservoir Canal are fine. But they omitted something in their research. Without the completion of the VAT Tunnel, which is 40-percent complete, they could only use the Currant Creek Reservoir and these tunnels a brief time per year, because it is designed to take out of the top of the reservoir, not out of the bottom but out of the top when it is full, to get into the Strawberry Tunnel and into the Provo Reservoir Canal.

At certain times of the year it would be full by itself, but without this diversion of water into it, it would be useless. Just think of that: what they are going to allow us to spend under the President's proposal and under this amendment would be useless most of the year.

I just wanted to make that point, Mr. President, to show the inadequacy. We could spend 3 or 4 days on this one project, showing the unbelievable stupidity of the President's advisers. This is just one little example of how they would allow us to totally waste money in this bill for something that could not be used most of the year.

Mr. STENNIS. Mr. President, I yield 1 minute to the junior Senator from Utah.

Mr. HATCH. Mr. President, I wish to associate myself with the remarks of my senior colleague.

My remarks today also concern the central Utah project, and particularly the Bonneville unit of CUP, one of the water projects in President Carter's "hit list." The central Utah project includes five separate authorized project units: Bonneville, Upalco, Uintah, Vernal, and Jensen. The central Utah project is intended to more effectively and efficiently use the water Utah has been allotted from the Upper Colorado River. Only 57 percent of Utah's allotment from the Colorado is now in use. The remainder, for the most part, is available only during the high spring runoff, and it can be beneficially used only if it is stored. This water is located in the Uintah basin area of eastern Utah and four of the five authorized units in the central Utah project will develop water only for use

in the Uintah basin; and even after all five authorized units have been constructed, over 21 percent of Utah's allotted share from the Colorado River would still be unused and undeveloped.

Only the Bonneville unit, the largest portion of the central Utah project, involves diversion of water from the Uintah basin area. Approximately 136,000 acre-feet of water—less than 10 percent of the water allotted to Utah—is to be diverted to the Bonneville basin, and 12 counties will receive benefits from the Bonneville unit. This unit involves 10 new reservoirs, enlargement of two existing reservoirs, 140 miles of aqueducts, tunnels and canals, and three powerplants. The initial phase of the Bonneville unit was authorized for construction as a participating project with the Colorado River Storage Act on April 11, 1956.

As of February 1, 1977, the Bonneville unit was 17 percent complete. Contracts have also been let for improvement of additional roads and tunnels. The Bonneville unit is scheduled to deliver approximately 100,000 acre feet of municipal, industrial water to the Wasatch front where 90 percent of Utah's population is located. More than twice that much irrigation water is also involved. About 320 million kilowatt hours of electricity would be generated and substantial water would be used to improve flow in fishing streams.

The Wasatch range of mountains runs in a north-south direction through approximately the middle of the State of Utah. The Wasatch front we refer to, where most of Utah's population is located, is on the west side of this mountain range. The central Utah project is primarily located on the east side of the range where much of Utah's water supply is situated.

Mr. President, over half of the water to be developed would come from streams in the Uintah basin of eastern Utah, and the rest of the water, approximately 150,000 acre feet, would come from diking Utah Lake near Provo to reduce evaporation and recapture flood waters and return flows in the Bonneville basin.

Of the total $863 million costs of construction and interest during construction, over 85 percent will be repaid by water and power users in the State of Utah. Three dams, four tunnels, and three access roads have been completed; two other primary tunnels, preconstruction activities on a dam, and a number of access roads and linking tunnels are presently under construction in the Bonneville unit. This unit, the very heart and the most important part of the entire central Utah project, is one of the projects which President Carter says must be cut out—after some $200 million has already been expended.

At hearings on the Bonneville unit held in Salt Lake City, Congressman GUNN MCKAY very pertinently observed:

> The Bonneville Unit of the Central Utah Project is the responsibility of Congress, not the Executive Branch. After careful study and extensive hearings, Congress authorized the Unit, and each year for several years appropriated money for its construction. Of course each year, the Administration recommends a funding level, but Congress appropriates the money and approves increases . . . Congress is responsible for making funding decisions for the Bonneville Unit, not the administration.

The consistent theme of the discussions relating to the central Utah project is Utah's quality of life. Impacts of the project will be felt by practically every person and business in the State of Utah. The project will develop water for municipal and industrial use, irrigation, hydroelectric power production, recreation, and fish and wildlife. It will also provide benefits to flood control, water quality control, and area development. The sentiments of the overwhelming majority of Utahans who have contacted me is well stated in Utah State Senate Concurrent Resolution No. 6, entitle "Central Utah Project," memorializing the President and the Congress to reinstate the funding for the Bonneville unit of the central Utah project and further soliciting Congress to authorize expenditures to expedite construction of all units of the central Utah project to meet the now existing and rapidly increasing water requirements for the people of the State of Utah. I request that this resolution be printed in the RECORD following my remarks.

The necessity of proceeding with CUP without further delay is now painfully understood by Utahans concerned with the continued economic well-being of the State. The severe drought conditions and critical energy shortage cannot be dismissed lightly.

Westerners, confronted with heavy spring runoffs and dry summers, long ago recognized the need for substantial and improved water storage if effective use would ever be made of that great natural resource—water. Further development of Utah's vast fuel deposits for energy uses throughout our country requires increased year-round use of great quantities of water. Mere continuation of present population levels the Wasatch Front mandates substantial improvement in means of water supply. The central Utah project was conceived over 20 years ago to meet these needs. Municipal and State leaders, businessmen, and indeed the people of Utah have relied on the promises of the Federal Government to complete construction of the CUP.

Mr. President, the propriety of the central Utah project has been reviewed by the Congress of the United States annually for nearly three decades as it authorized and funded various parts of the project. Utah's U.S. District Court and the Tenth Circuit Court of Appeals have judicially approved elements of the central Utah project only after thorough consideration of the many challenges raised by CUP opponents. In attempting to justify his actions with respect to CUP, President Carter suggested serious environmental problems. However, no report, study or investigation has been produced to raise any environmental issue of substance not previously raised and met in more than 20 years of congressional considerations and before both Federal trial and appellate courts. The environmental laws of the United States have been complied with and all other requirements have consistently been met by all parties involved with the central Utah project, except the Federal Government.

Substantial additional costs have been incurred by Government caused delays in construction. The original commitment was to a construction schedule that would have resulted in the first deliveries of water in 1970. By now most of the construction would have been complete, and the Jordanelle Reservoir would contain enough water to meet Salt Lake County's needs for 2 years. This is particularly crucial as Utah now faces a period of drought. The escalation in construction costs from 1974 to 1976 has averaged $7 million per month, The Federal Government finds itself in the position of delaying construction, which results in increased costs, and then using those increased costs as a justification for further delay and now even as an excuse to cancel the project. This circular approach underlies and underscores the irrationality that pervades the decisionmaking process pursued by the President and the Department of the Interior in the attempt to delete funding for the most significant part of the central Utah project.

One particular group of Utahans is greatly dependent upon the central Utah project—the Ute Indians living in the Uintah basin. These native Americans have once again relied heavily upon the promises of the Federal Government. After extended negotiations, the Utes and the Secretary of the Interior finally reduced to writing, in 1965, an agreement that the Government would develop Indian water as part of the central Utah project, if the Indians would refrain from using the water to which they have held legal title since 1862, pending completion of the central Utah project. The tribe fully supports the continued funding of the Bonneville unit and all other units of the central Utah project because the Utes have been promised that the CUP will provide the tribe with the necessary water storage and related facilities to develop all of its irrigable acreage in return for the tribe's promise to the United States not to develop more lands except as the irrigation of such lands is made possible through the central Utah project. The position of the Ute Indians is eloquently set forth in a letter dated March 4, 1977, from the tribe's attorneys to me and I request that a copy of that letter be included in the RECORD following my remarks.

The central Utah project also affects the States surrounding Utah. The Upper Colorado River Commission representing the States of Colorado, New Mexico, Utah, and Wyoming adopted a resolution on January 27, 1977, supporting appropriation of funds by the Congress for continuing the construction of the central Utah project as a major participating project authorized to be constructed by the Colorado River Storage Project Act of 1956. I ask unanimous consent that the Upper Colorado River Commission's resolution be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. To date the Federal Government has invested over $200 million in the Bonneville unit of the central Utah project. Reimbursement to the Government from users will amount to $739 million, approximately 86 percent of the cost of the entire Bonneville unit. This payback element is significant as it does indeed provide even further justification for the Bonneville unit as well as all other units in the project.

Mr. President, the heavy population growth and the severe drought conditions in the area which will be served by the central Utah project only accentuate the necessity for an accelerated completion of the project, and particularly the Bonneville unit.

EXHIBIT 1

RESOLUTION

Be it resolved by the Legislature of the State of Utah, the Governor concurring therein:

Whereas, the Central Utah Project was instituted by the Colorado River Storage Project Act with the Bonneville Unit having a cost of approximately $773 million and which would include 10 new reservoirs together with the enlargement of two more reservoirs, 140 miles of aquaducts, tunnels and canals, three power plants, nine pumping plants and 200 miles of pipe drains; and

Whereas, the adequacy of these Environmental Studies and findings portraying trade-offs and consequences of development were recently confirmed and upheld by the Federal District and Appellate Courts, and

Whereas, since 1956, approximately $200 million have already been expended toward the completion of this unit; and

Whereas, $32 million in federal funding was required for the fiscal year 1978 to maintain the completion schedule of this unit; and

Whereas, the importance of the Bonneville Unit of the Central Utah Project was particularly evident this year when a recent meeting of the governors of the western and midwestern states in Denver, Colorado, together with the Secretary of the Interior, Cecil Andrus, concluded that the western and midwestern states are facing the worst drought in the history of the United States; and

Whereas, the drought is expected to be devastating this year and to continue to cause severe water shortages for several years to come; and

Whereas, this country is currently in the midst of an energy shortage which even the President has indicated will not change in the forseeable future; and

Whereas, since 1956 the construction and development in Salt Lake County has been established on the basis of the completion date set for the Bonneville unit and, absent such construction, the persons living therein would face a severe water shortage even in good water years; and

Whereas, the termination of funds for this unit at this time, and in view of all of the foregoing, can serve only to extend the devastating impact which Utah and its surrrounding states are presently facing and enhance the energy and food shortage facing the United States; and

Whereas, if any steps changing this funding should be made, the funding should be increased at this time to speed up the completion of the unit in view of the energy shortage and drought facing this country,

Now, therefore be it resolved, that the 42nd Legislature of the State of Utah, the Governor concurring therein, memorializes the President of the United States to reconsider his deletion of funding for the Bonneville Unit of the Central Utah Project for the fiscal year 1978 and, if he feels further study on the unit is required, that the study be undertaken while the unit continues.

Be it further resolved that the Legislature urges Congress to pass a budget which will allow the usage of the funds for the continuation of the Bonneville unit, and that the construction of all units of the Central Utah Project should be expedited so that they can meet the existing and rapidly growing water requirements for both Indians and non-Indians within the State of Utah.

Be it further resolved, that copies of this Resolution be forwarded to the President of the United States, the Speaker of the House, the President of the Senate, and the Congressional Delegations of Utah and the other western and midwestern states, as an expression of the strong feelings of the people of this state in relation to this project.

[Exhibits referred to not printed in the RECORD.]

BOYDEN, KENNEDY, ROMNEY & HOWARD,
Salt Lake City, Utah, March 4, 1977.

Re The Ute Indian Tribe and
The Central Utah Project.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATCH: In response to your request, I am submitting a somewhat detailed review of the Ute Indian Tribe's position with respect to the Central Utah Project. I have attached numerous Exhibits to this letter with the view in mind of providing you sufficient reference material to lessen the need of your having to spend additional time researching the matter. It is the hope of the Tribe that it will be given the opportunity to personally present these views directly to the Administration.

UTE INDIAN WATER RIGHTS

The Uintah Valley Reserve or Uintah Indian Reservation was created by the Executive Order of October 3, 1861, and later confirmed by Congress by the Act of May 5, 1864 (13 Stat. 63). The foregoing dates are important since the "Winters Doctrine," based upon landmark case of *Winters v. U.S.*, 207 U.S. 564 (1908), and its progeny, stands for the proposition that as of the date an Indian reservation is created, the tribe secures a perfected water right to irrigate all lands within the reservation which are susceptible to irrigation. In other words, the Ute Indian water rights have a priority date of 1861, substantially senior to the first non-Indian rights acquired in 1906 and thereafter.

INITIAL TRIBAL INVOLVEMENT IN THE CUP

As early as 1946, the requirements of Indian irrigation in the Uintah Basin were furnished to the Bureau of Reclamation for inclusion in its report of "The Colorado River" of March 1946, published as House Document 419, 80th Congress, 1st Session, when the Bureau of Reclamation was first considering alternatives to developing Utah's entitlement to water under the Upper Colorado River Compact. On February 13, 1950, the Ute Tribe passed a resolution objecting to features of the proposed Central Utah Project which would divert water from the Uintah Basin to the Wasatch Front, in view of the fact that such water rightfully belonged to the Ute Tribe. These objections were also voiced by the Commissioner of Indian Affairs in his letter to the Secretary of the Interior dated May 1, 1950 (Exhibit 1).

On June 12 and 13, 1950, the Tribe met with the Bureau of Reclamation and other parties interested in Uintah Basin waters, wherein all parties agreed to attempt to find a solution to conflicting water interests so as to enable the Ute Tribe and other non-Indian water users of the Uintah Basin to obtain sufficient storage to satisfy their water requirements, thus enabling the transfer of excess water to the Bonneville Basin. During the ensuing five years the Tribe quantified all of its water requirements based upon an engineering report dated July 5, 1960, and revised October 1, 1961; other water rights were determined by various river adjudications in both federal and state courts which governed the balance of the non-Indian users.

COMPETITIVE WATER INTERESTS

The Ute Indian Tribe has the first right to any waters sought to be diverted by the State from the Uintah Basin to the Bonneville Basin. The Tribe has one hundred twenty-nine thousand (129,000) acres of land susceptible to irrigation. Such land requires a water duty of between 3.5 and 4 acre feet per acre annually which would require a minimum diversion of 451,500 acre feet annually for tribal purposes.

The State of Utah was anxious to develop its entitlement under the Upper Colorado River Compact. The majority of the tributaries of the Colorado River arise on the Uintah and Ouray Reservation in the Uintah Basin. Because of the high altitude of the Uintah Basin tributaries, the State favored a plan which would divert those waters to the heavy population areas of the Bonneville Basin where municipal, industrial and agricultural demands were greater than other parts of the State. The diversion of other tributaries to the Colorado River at lower altitudes would not have the same beneficial or economic impact as the diversion of waters from the Uintah Basin.

The non-Indian water rights in the Uintah Basin are inferior or secondary to the tribal water rights. Without storage facilities, the non-Indian secondary water users have diverted by direct flow the entire excess of the Uintah Basin waters not presently used by the Tribe. If the Tribe continues to develop its own lands, it will be necessary to take water from non-Indian lands, unless storage facilities are constructed. The extreme social consequences resulting from the Tribe taking water presently relied upon by non-Indians for their livelihood is obvious.

DEFERRAL AGREEMENT

In order to resolve the conflicting claims to the Uintah Basin waters, the following solution was proposed:

1. The Ute Indian Tribe would not develop any more water within the reservation by direct diversion or storage, thus preserving the status quo between the Indians and non-Indians.

2. The United States would develop storage facilities sufficient to allow the Tribe to develop all of its lands upon the completion of the storage facilities at no cost to the Tribe.

3. The Central Utah Water Conservancy District would be able to divert approximately 80,000 acre feet of water from the Uintah Basin to the Bonneville Basin.

4. The Tribe would receive full recognition of its water rights without resort to a court adjudication.

5. That the environment would be sufficiently protected by the construction of mitigating fish and wildlife features in the Central Utah Project.

6. All parties would work together for their mutual advantage to bring about the early completion of the project.

These foregoing considerations are discussed in the letter of the Area Director of the Bureau of Indian Affairs to the Commissioner of Indian Affairs dated May 11, 1965, (Exhibit 3), a Memorandum from the Commissioners of Reclamation and Indian Affairs to the Secretary of the Interior dated June 22, 1965, (Exhibit 4).

APPROVAL AND PARTICIPATION OF THE UNITED STATES

The Ute Indian Tribe was reluctant to enter into an agreement without being assured that the United States was a party to the

Agreement and that the Indian rights would be fully protected. Accordingly on the 20th day of September, 1965, the Ute Indian Tribe entered into an agreement with the United States of America through the Bureau of Reclamation and the Bureau of Indian Affairs and the Central Utah Water Conservancy District (Exhibit 5) after having received the prior approval of the Secretary of the Interior on September 2, 1965 (Exhibit 4 page 7). Said agreement specifically recognizes and confirms water rights claimed by the Tribe with a priority date of 1861. The deferment or non-use of tribal waters during the construction period of the Central Utah Project was specifically conditioned upon the development of water or tribal lands within the Central Utah Project. It was agreed further that the planning and construction for the development of tribal lands within the project should be commenced immediately and should be completed no later than the 1st day of January 2005; however, the date of January 1, 2005, was considered as the maxmium date of deferment and that the Central Utah Project will in good faith be diligently pursued to satisfy all Indian water rights at the earliest possible date. (See Exhibit 5 page 5 paragraph 5). Were it not for this commitment of the United States, the Tribe would have not entered into the agreement of September 20, 1965. (See Exhibit 4.)

FUNDING AND CONSTRUCTION

The Bonneville Unit of the Central Utah Project was authorized for construction over twenty years ago in the Colorado River Storage Act of April 11, 1956 (70 Stat. 105), as amended by the Act of September 30, 1968 (82 Stat. 897). The Act of September 30, 1968 (82 Stat. 896) also added the Uintah Unit to the initial phase of the Central Utah Project.

The Tribe appeared many times before Congress when authorization or appropriation hearings on the Central Utah Project were held. The Tribe has always given its best efforts to assure that the entire project be completed as soon as possible.

INDIAN CONCERNS

After giving its consent to the deferral of Indian water for present non-Indian use in the Agreement of September 20, 1965, the Tribe was alarmed by statements made by the Bureau of Reclamation as to the time of construction and feasibility of various aspects of the Central Utah Project directly affecting the Ute Indian Tribe. Less than one year after signing the Deferral Agreement the Tribe questioned the good faith of the United States by resolution of August 24, 1966, Exhibit 6. During the next two years the Tribe and the Bureau of Reclamation finally settled upon a satisfactory timetable and the United States reaffirmed its commitment to the Tribe in the Act of September 30, 1968 (82 Stat. 896), which reads in part as follows:

"[T]he planning report for the Ute Indian Unit of the Central Utah Participating Project shall be completed on or before December 31, 1974, to enable the United States of America to meet the commitments heretofore made to the Ute Indian Tribe of the Uintah and Ouray Reservation under the agreement dated September 20, 1965 (Contract No. 14-06-W-194). (Exhibit 7)

In 1968 the Bureau of Reclamation finished its feasibility report of the Uintah Unit to be constructed as the first part of the Central Utah Project's ultimate phase. A copy of that feasibility report is included herewith (Exhibit 8). Several agreements were perfected between the Tribe, the United States and various secondary water users involving the Starvation Reservior, Midview Reservoir and Bottle Hollow Reservoir, all of the Bonneville Unit.

Unfortunately, the Uintah Unit of the Central Utah Project was not timely certified by the Secretary of the Interior as being feasible. The Tribe grew uneasy as the Interior Department required an inordinate amount of time to finally certify the Uintah Unit's feasibility. On April 4, 1972 the Tribal Chairman wrote the Secretary of the Interior expressing the Tribe's concern over the undue delay in getting the project on line to benefit the Tribe. (Exhibit 9.)

On October 2, 1973, the Ute Indian Tribe called upon the Secretary of the Interior to re-affirm the commitments of the United States, or "to inform the Tribe as to how the United States could feasibly discharge its additional trust responsibilities to assist the Tribe in applying to beneficial use the water rights of the Tribe without the Central Utah Project as contemplated . . ." Tribal Resolution No. 73-296 (Exhibit 10).

ASSURANCES FROM THE UNITED STATES

In a Memorandum dated October 24, 1973, the Assistant Secretary—Indian Affairs wrote to the Secretary of the Interior in the following language:

"I assure you that the past and present officials of the Ute Tribe do in fact understand the full ramifications of the action taken in 1965, I fully concur with the Tribe's position and recommend that there be no action taken that will delay completion of the Central Utah Project as originally agreed to by the Ute Tribe." (Exhibit 11)

Shortly thereafter, on November 8, 1973, the Department of the Interior released a news release entitled "Secretary Morton Announces Construction of Bonneville Unit in Utah will Proceed" (Exhibit 12). On November 13, 1973, another news release was issued by the Department of Interior entitled "Secretary Morton Assures Ute Indians on Protection of Water Rights" (Exhibit 13), which states in part:

"I have conferred with representatives of the Ute Indian Tribe in Washington, D.C. today"

Secretary Morton said after his meeting in the office.

"I want to confirm that the Department of the Interior is fully committed to finding a particular way to deliver to the Ute Indian Tribe the water to which it is entitled under the Winters Doctrine as recognized in the Deferral Agreement of 1965. We are going forward with this program with all possible dispatch."

"Without intending to modify my previous announcement concerning the Central Utah Project, I have directed the Bureau of Reclamation to complete on an expedited basis the Uintah Unit Feasibility Report, which includes an analysis of the Uintah and Whiterocks Reservoirs. Further, we shall continue the investigation into the ultimate phase of the Central Utah Project."

The preceding news release appeared in the Salt Lake Tribune on Wednesday, November 14, 1973. (Exhibit 14.)

On August 13, 1975, the Ute Indian Tribe in Resolution No. 75-217 (Exhibit 15) requested a more specific and concrete commitment from the United States in regard to its Action Plan for Development in satisfaction of tribal water rights, inasmuch as the Uintah Unit had not as of that date been certified and the planning report for the Ute Indian Unit ordered by the Act of September 30, 1968, due to be completed September 31, 1974, was not submitted and was not scheduled for completion until 1978, and the Upalco Unit, although authorized, had not been funded for construction.

On August 21, 1975, the Uintah Unit received final certification by the Secretary of the Interior.

On February 2, 1976, the Secretary of the Interior wrote Senator Henry M. Jackson concerning the stages covering the decisions and actions of the Department of the Interior in response to the resolution of the Ute Tribe dated August 13, 1975 (Exhibit 16), wherein he states:

"It is my belief that these actions demonstrate our continued support of the Deferral Agreement and further underscore the commitment of this Department to both Indian and non-Indian elements of the Central Utah Project."

The letter included a report dated December, 1975, detailing all actions taken by the Federal government in protecting the Ute Indian water rights and fulfilling the commitments made in the Deferral Agreement. These commitments were again reaffirmed by the Secretary of the Interior on May 6, 1976, in a letter to the Tribal Chairman (Exhibit 17).

ENVIRONMENTAL CONCERNS

Several members of the Ute Indian Tribe filed a suit in the Federal District Court regarding the environmental impact of the Central Utah Project. A Planning Agreement involving the Ute Indian Tribe, the Secretary of the Interior, Central Utah Water Conservancy District, individual Ute Indians and the State of Utah was entered into on April 30, 1974, wherein all parties to the lawsuit agreed to work together in an effort to develop the water resources of the Ute Indian Tribe in such a way as to minimize any adverse effects upon the environment of the Uintah Basin (Exhibit 18). By Resolution No. 76125 dated December 8, 1976, the Business Committee of the Ute Indian Tribe unanimously approved a resolution pledging its continued support of the Central Utah Project and the Bonneville Unit upon the condition that certain measures be taken to protect the environment and protect the rights of the Tribe to the area.

ADMINISTRATION'S CHANGE OF POSITION

Secretary Cecil D. Andrus announced that the Bonneville Unit of the Central Utah Project was stricken from the President's budget for fiscal year 1978. The Tribe considers this not only a breach of the fiduciary duty of the United States to the Ute Tribe, but also a contractual breach which may be enforced by Court action, resulting either in specific performance or astronomical damages.

CONCLUSION

The Administration's decision has placed the Ute Indian Tribe in the hapless position of having no plan or reasonable prospect for the development of its water, of forcing the Tribe to sue the United States for breach of trust, and forcing the Tribe to shut off the water of its non-Indian neighbors. Such precipitous action by the United States in cutting off the funds for the Central Utah Project plunges the Tribe into an unnecessary struggle for its economic survival in an atmosphere already charged with heated prejudices. The United States alone must assume the ultimate responsibility for upsetting the delicate balance so laboriously struck between the Ute Tribe and the citizens of the State of Utah.

Sincerely,

STEPHEN G. BOYDEN.

RESOLUTION OF UPPER COLORADO RIVER COMMISSION

Re Construction of Central Utah Propect.

Whereas, the United States Congress authorized the Secretary of the Interior to construct the Bonneville, Jensen, and Upalco units of the initial phase of the Central Utah Project in the Colorado River Storage Project Act of 1956 (70 Stat. 105); and

Whereas, the U.S. Congress authorized the Secretary of the Interior to construct the Uintah unit of the ultimate phase of the Central Utah Project in the Colorado River Basin Project Act of 1968 (82 Stat. 885); and

Whereas, the construction of these urgently needed water development units and facilities has been delayed by a variety of adverse circumstances to the point that repayment obligations of the water users have been increased by tens of millions of dollars; and

Whereas, shortages of municipal, industrial, and agricultural water are now imminent due to lack of facilities for the collection, storage, and distribution of Central Utah Project water supplies; and

Whereas, the President in his budget delivered to the United States Congress on January 17, 1977 requested $43,084,000 for continuing construction of the Bonneville and Jensen units, advance planning of the Uintah and Upalco units, general investigations of the Ute Indian unit, drainage and minor construction of the Vernal units, and construction of facilities for recreation, fish and wildlife on various units of the Central Utah Project; and

Whereas, additional funding would expedite the construction of several critically needed units and facilities of the Central Utah Project:

Now, therefore, be it resolved by the Upper Colorado River Commission in special meeting convened this 27th day of January, 1977, at Denver, Colorado, that the Congress of the United States is hereby urged to appropriate sufficient funds for fiscal year 1978 for continuing the construction, planning, and investigations of the various units and recreational and fish and wildlife features of the Central Utah Project to fully utilize the capabilities of the Bureau of Reclamation assigned to said project including the initiation of construction of the Uintah and Upalco units in fiscal year 1978, as requested in resolutions of August 1975 and December 1976 of the Tribal Business Committee of the Ute Indian Tribe on the Uintah and Ouray Indian Reservation;

Be it further resolved that this resolution be transmitted to the Congressional delegations of the Upper Division States of the Colorado River Basin, members of the Committee on Appropriations of the U.S. House of Representatives and U.S. Senate, President of the United States, Secretary of the Interior, Commissioner of the Bureau of Reclamation, and other interested entities.

The PRESIDING OFFICER (Mr. SASSER). Who yields time?

Mr. HART. Mr. President, will the Senator from New Hampshire yield on the bill?

Mr. McINTYRE. I will be happy to yield the Senator 3 minutes.

Mr. HART. Five?

Mr. McINTYRE. Mr. President, I yield the Senator from Colorado 5 minutes.

Mr. HART. Mr. President, I wish to support the pending amendment offered by the Senator from New Hampshire.

Earlier, in connection with the amendment offered by my senior colleague, I asked the committee to describe the basis for the decisions made by the subcommittee in deciding which projects are viable and should be funded and supported, and why some projects would probably survive a Presidential veto while others would not. I think the record is eminently clear that the answers to none of those questions were given.

The Senator from Arizona has talked about how important water projects are in Arizona. The Senators from Colorado and other States have talked about the importance of water to their States.

There are three projects, proposed and under consideration in the State of Colorado for decades, that did not receive favorable treatment and consideration by the subcommittee and the full Appropriations Committee. Mr. President, I think the record fails to show why some of these projects deserve support and others do not. Is it not, then, in the interests of fairness and equity to make sure that all the projects opposed by the White House are given equal treatment, until it can be explained as to why projects in Colorado and other States did not deserve favorable consideration by the Senate and by the committee while others did. For my own part, I shall support the amendment offered by the Senator from New Hampshire.

It has been suggested by the managers of the bill that they are concerned about Presidential vetoes. If we are really interested in protecting ourselves against a Presidential veto, the best way I can think to do that is to adopt the amendment offered by the Senator from New Hampshire. If leaving out 8 projects, 3 of those in Colorado, will help assure that the President will not veto this bill, then I think leaving out 17 or 18 projects is additional insurance.

We have in the bill, as the Senator from Mississippi indicated, funding for certain projects in Colorado which did receive favorable treatment by the White House. I do not want to jeopardize those or subject those projects to a veto from the White House; and the best way I can think to avoid that is to support the amendment of the Senator from New Hampshire, and make sure that all the projects the President objects to are treated equally. That way I think we have the best chance of the bill receiving Presidential approval and a Presidential signature.

I do not see any other way that I can support the action by the Appropriations Subcommittee and the full committee which made the kind of determinations which seem to have so little factual basis.

Mr. McINTYRE. Mr. President, I thank the Senator from Colorado for his support.

I now yield to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I rise in support of the McIntyre amendment.

The appropriations bill before us funds hundreds of water development projects of the Corps of Engineers, the Bureau of Reclamation, and the Tennessee Valley Authority. After a thorough and detailed review the Office of Management and Budget and the Council on Environmental Quality, and the administration have recommended to us that a few of these projects should not be funded, because they do not measure up on environmental, economic or safety grounds.

To me this is an entirely reasonable recommendation. There are simply too many worthwhile projects—in the water development area and in a number of other areas of critical national need—for us to spend money on projects which may needlessly destroy the environment, are not justified by the benefits they create, or in some cases, threaten the safety of the public.

I do not know all the details of these projects. But I do know the competing demands on the Federal budget and I do know that protecting the quality of the environment in this country is challenging enough without making the job more difficult by building environmentally unacceptable projects which we really do not need.

A project in Arkansas—Cache Basin—which would be deleted by this amendment poses such a grave threat to the migratory waterfowl dependent on the area that I am advised nine States have objected to its construction. Some of these States have actually sued to halt the project. This channelization project would turn over 200 miles of a beautiful river into a ditch, and would encourage the clearing of valuable bottomland forest and wooded swamp simply to assist a few private parties in increasing their soybean production. The tax dollars of the many would go to the benefit of the few: 50 percent of this nearly $100 million project would go to only 10 percent of the landowners in the area, and much of the land is already being productively farmed.

A project in Louisiana—Atchafalaya River and Bayous Boeuf, Black and Chene—would eliminate or severely degrade more than 7,500 acres of productive wetlands at a time when we are increasingly recognizing the extremely high natural value of these areas. The pace of destruction of wetlands in this country is staggering—300,000 acres per year. To subsidize this destruction with Federal dollars is counterproductive in the literal sense of the word. This project involves the construction of a taxpayer-funded waterway for the principal benefit I understand of two oil rig manufacturers who are building rigs too large to fit in the existing channel.

A project in Tennessee—Columbia Dam—has a return of only 80 cents on the dollar. For a Federal investment of $142 million with this negative benefit ratio, 54 miles of free-flowing stream would be destroyed, almost 30,000 acres of productive farmland would be eliminated, and according to the Corps of Engineers, the principal objective of this project is "enhanced employment." If this is not needless make-work, I do not know what is.

We have a finite number of free-flowing streams which provide enjoyment and a quality environment for the people of this Nation. We have a finite amount of highly productive farmland, and our precious wildlife resources are depleted in many areas. Sometimes it is necessary to degrade the environment for compelling social reasons. But absent such reasons, it just does not make sense to needlessly destroy irreplaceable natural resources.

We have an opportunity to save a substantial sum of money and to protect our environment at the same time. I support the McIntyre amendment to eliminate eight unnecessary water projects out of the hundreds of projects contained in this bill.

Mr. President, I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HATFIELD. I yield 10 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Richard B. Russell Project on the Savannah River between South Carolina and Georgia. This project will provide hydroelectric power, fishing, general recreation, flood control, and area development. The benefits from this project in electric power would be $22,941,000 from conventional units, $19,248,000 from pumped storage. The value of recreation would be $3,597,300, flood control $104,500, fishing $70,500, redevelopment $1,597,200. This makes a total of $47,958,500.

Mr. President, this is a good project from the standpoint of cost compared with the return. This project, I understand, never would have been included on the list for funds to be deleted and was not included at first, but someone made the statement to President Carter, "You have not taken a project out of your own State." Later this project was taken out.

Mr. President, this is a good project. It was authorized in 1966. The money has been included each year. The project is under way. There has been about $20 million spent on it. There has been other money authorized and appropriated for it. We feel this project should go forward.

The project has 59,260 acres in it. Seven thousand acres will be for public use. The dam is 6,300 feet, of which 1,883 feet is concrete. The power that will be produced here from conventional units is 300,000 kilowatts; from the pumped storage units is a similar amount, 300,000, or a total of 600,000 kilowatts.

The cost of this project with the conventional units is $248 million; with the pumped storage it is $28 million more, or a total cost of $276 million.

Senators can see that this project gives a good return on the investment.

Mr. President, this project will also be a source of water for municipal, domestic, and industrial uses. It will increase the value of the lands adjoining the lake. Only about 5 percent of this power will be used in South Carolina, so this project would help other States. We do not have any coal, oil or gas in our State. We have to bring that from other States.

We will be in a position to provide power to go from South Carolina to help other States.

It is strategically located between the electric systems of the Carolinas and Virginia to the east and north and the systems of Georgia, Alabama, Mississippi, and Florida to the west and south.

With pumped storage power, the load carrying capacity will be greater than the other two dams now on the Savannah River, the Clark Hill and Hartwell projects.

This dam will complete the comprehensive development of the Savannah River Valley. The Clark Hill Dam was built first, the Hartwell Dam second, and now it is desired to build this dam to complete the development of the Savannah River Valley.

The power will go to both public and private systems. The electric coops all over the Nation, not just in South Carolina but all over the Nation, are intensely interested in getting this dam built so that power will be available.

I might say that the demand for energy will increase on an average of 85 percent and the net demand will increase an average of 82 percent between 1977 and 1986 in the project area.

Mr. President, the Southeastern Power Administration indicated in September 1976 that all of the capacity of the Russell Dam will be needed at the earliest possible date

Everyone who has had anything to do with this project says it is a good project, an excellent project. We feel it should go forward.

I might say that the population of the project area is entirely rural. Less than a dozen families live in this lake area. In some projects we would have to discommode a lot of families. Less than a dozen families live in this lake area, and only about 27 families in all will be discommoded by this project, 22 families from Georgia and 5 from South Carolina.

Mr. President, the economic conditions in this area are generally unfavorable. This project is needed. It is needed to provide employment. It will improve the economic conditions and provide jobs.

The Congress has been trying to find some way to give people jobs. Here is a chance, here is an opportunity, to provide jobs for people and at the same time provide a permanent improvement which will be not only beneficial to South Carolina and Georgia but to an entire Nation.

Mr. President, this project, as I stated, was authorized by the Flood Control Act of 1966. It is named for one of the most distinguished men who served in the Senate, Richard B. Russell.

This dam has met all the criteria of President Carter's special task force relative to economics, relative to environment, and relative to safety.

Mr. President, the country needs the power. We need the power in this country. We need more energy. This is one way we can get it. We can get it without any cost after this dam is built.

The water there will provide the power to furnish the energy here.

We not only need the energy, we need the jobs. During this construction, and throughout, there will be thousands of jobs provided to the people in the States of South Carolina and Georgia.

I want to say, too, that this dam will be built. It is part of the comprehensive development of the Savannah River Valley. It will be built sooner or later. Why not go ahead now before costs go up?

So, from the standpoint of power, the country needs the power, the people need the jobs, the dam can be built cheaper now than later. We feel that, since it has such a good benefit ratio—that is, the income compared with the costs—that there should be no delay and that this project should not be hampered in any way whatsoever.

All four Senators from Georgia and South Carolina favor this project. We hope the Senate will not see fit to remove the Richard B. Russell Dam from this bill.

Mr. NUNN. Will the Senator from South Carolina yield?

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Georgia.

Mr. NUNN. I shall not take but a moment. I think the Senator from South Carolina has expressed very well the sentiments of the junior Senator from Georgia and, I believe, also, the senior Senator from Georgia, as well as the senior Senator from South Carolina. I cannot speak for him; he is here on the floor.

I congratulate the Senator from South Carolina for an excellent statement. I think he has outlined in detail the reasons and justifications for what I consider to be a good project that is needed for the production of electricity in our part of the country.

My original support of the Richard B. Russell project in 1972 was based on the backing of the Georgia Department of Natural Resources and, in my opinion, the President's review process has not uncovered any information that has not been known and evaluated previously. Under the new discount rates, the dam still has a positive cost-benefit ratio.

The severity of this winter and President Carter's address to the Congress and American people have dramatically underscored the need for a sound national energy policy. I firmly believe that any such program must ultimately address the important need for America to become less dependent on foreign sources for our energy needs. If we are to begin to move toward this goal, the development of new domestic energy sources must be pursued. No one source, however, will provide the solution and it will be necessary to utilize coal, solar energy, geothermal, nuclear, and hydroelectric power as well as other potential energy resources.

Without this effort, our Nation's dangerous dependence on imported oil will continue to grow. Since the OPEC embargo in 1973, America's dependence on imported oil has grown by a million barrels per day at a total cost of about $34 billion in 1976 as compared to $7 billion in 1973. Our Nation cannot continue to increase our dependence on this expensive and uncertain source of energy.

The Richard B. Russell Dam will help to meet our Nation's energy needs, and I hope that Congress will continue funding of this hydroelectric energy source.

Mr. THURMOND. I am pleased to yield to the Senator from New Hampshire.

Mr. McINTYRE. I want the floor in my own right, Mr. President.

Does the Senator want to use up the balance of his own 10 minutes?

Mr. THURMOND. How much time do I have?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute remaining.

Mr. THURMOND. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Jack Odgaard of my staff may be accorded the privilege of the floor throughout the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I believe I have a half minute.

In closing, I want to say to the Members of the Senate that this is one of the most meritorious projects that has ever been contemplated to be built. We hope the Senate will not disturb this project. Let it go forward. The Nation needs this energy and needs it now. The people need the jobs now. It will be cheaper to build now. We hope there will be no delay.

Mr. McINTYRE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. SARBANES). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McINTYRE. I yield 5 minutes to the senior Seantor from Wisconsin.

Mr. PROXMIRE. Mr. President, in the 20 years I have been in the Senate, this is the first time I have seen this kind of amendment. It is a real man-bites-dog approach, and I congratulate the Senator from New Hampshire for being a pioneer.

It is about time we did this, about time we recognized the waste and extravagance in pork barrel projects of this kind. We should have done it long ago. We do it, of course, because we have a President of the United States who recognizes this kind of waste. Mr. President, I fully support the amendment, and I am glad to cosponsor it.

On February 14 of this year, I solicited the signatures of 73 other Members of Congress on a letter to President Carter urging him to make a serious effort to trim off the waste of tax dollars on unnecessary water projects. I have been delighted at his response. In my judgment, the President has done an outstanding job in following through on his campaign promise to reform the water resource policies of the Corps of Engineers and the Bureau of Reclamation.

In his April 18 statement, President Carter recommended deletion of funds for 18 Federal water resource development programs. That would save the taxpayers more than $2.5 billion. At the same time, he asked Congress to modify five additional projects at a savings of nearly $1.5 billion.

Mr. President, at long last Congress has a unique opportunity to reform pork barrel appropriations with Presidential support, something we have not had for many years, if ever. The Corps of Engineers and Bureau of Reclamation are the two biggest spenders of pork barrel dollars. These agencies have managed to pour an average of $2 billion a year for the last 5 years into power dams, flood control dams, navigation and irrigation projects. This year's Senate bill contains more than $3 billion for these two outfits alone. That is more than 1,000 times the amount of money available for the Council on Environmental Quality, which has responsibility for assessing the environmental impact of Federal projects. Yet a lot of this money, if not all of it is wasted on economically undesirable and environmentally destructive projects.

Not all public works projects are bad. The problem is that we have not stopped when the job was done. Hundreds of millions of tax dollars are squandered—yes, I mean squandered—on projects that benefit only a few while giving the water bureaucracy more work to sustain its existence.

The McIntyre amendment is our chance to apply some long needed brakes to this gravy train.

Mr. President, we recognize, in all fairness, that the distinguished chairman of the Public Works Appropriations Committee, Mr. STENNIS, has taken welcome steps in the right direction. I want to compliment him for his excellent work in cutting out funds for nine of the projects President Carter wanted deleted, and for concurring in three of the project modifications which were recommended. I am also glad that no new construction starts will be funded for the coming fiscal year.

Unfortunately, the other projects which were kept in the bill fall far short of the economic and environmental standards against which any public program of this sort should be measured. In my opinion, the President would have been entirely justified in seeking termination for all 32 of the water projects included in his original review. The 18 projects proposed for deletion in the fiscal year 1978 budget revision document and the five projects recommended for modification are a "bare-bones" minimum request. The decision to seek termination of the projects which remain in the bill before us was based on a careful and thorough review of the water resource development programs of the Corps of Engineers, the Bureau of Reclamation, and the Tennessee Valley Authority. There are sound reasons for getting rid of each and every one of these projects.

Mr. President, in closing, I want to note that the committee did delete construction funds for a project in my own State, the Corps of Engineers proposed dam and lake on the Kickapoo River in southwestern Wisconsin.

I originally supported that project, but I opposed it when it grew from a $15 million operation to a more than $50 million operation. I have fought against this project for the last 2 years on economic grounds, and I appreciate the committee's courtesy and cooperation in supporting my efforts to get rid of this Wisconsin project. But, frankly, Mr. President, it is hard to go back to my constituents who wanted this project so badly and for so long and explain to them why their project had to be killed, while others—many of which are far less economical and far more destructive—were allowed to survive. The McIntyre amendment would help remedy this inequity. It would cut out the funds for some of the most wasteful projects in the bill, and it would show the American people that Congress can pull in its belt and help control runaway spending of the kind that is the most difficult of all to stop. I urge my colleagues to support this amendment.

Once again, I congratulate the Senator from New Hampshire for his pioneering efforts to stop pork-barrel wasteful spending.

Mr. McINTYRE. I thank the Senator from Wisconsin who, more often than not, is in the forefront of these contests where we try to save a few dollars.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BAKER. Mr. President, I oppose the amendment of the Senator from New Hampshire. I believe the Senate Appropriations Committee has made a genuine effort under the difficult circumstances posed by the administration's arbitrary action against certain water resource projects to present the Senate with a constructive resolution of this issue.

The pending amendment would delete certain projects from the appropriations measure before the Senate, based upon the White House recommendation. I have serious questions regarding the wisdom and accuracy of administrative review which led to that recommendation.

One project in the present proposal is the Columbia Dam project in middle Tennessee. The President's recommendation to delete that project was based upon information which, as submitted to Congress, underestimated benefits by approximately $1.5 million a year, overestimated the acreage required for the project by 23,700 acres and totally omitted the $16 million of local participation.

In reality the Columbia Dam project will return $1.30 in benefits for every Federal dollar expended. It will afford several communities in middle Tennessee vital flood protection and water supply. It will enhance the diversity of recreational opportunity in those communities and lead to renewed industrial and commercial growth.

This project enjoys outstanding local support. Five communities have joined together in a joint water system, which will contribute $16.2 million toward the water supply costs of the project.

I am firmly convinced that the President has erred in his recommendation to delete this and other projects. From the data submitted to Congress, it is apparent that his staff has failed to develop full and accurate information regarding these projects.

The development of water resources involves significant environmental questions, which must receive careful attention, but these interests must be balanced against valid economic interests. Too frequently, I believe, this balancing has not been reflected in decisions regarding water resource projects. In this case, I believe, the administration has missed the mark and I urge my colleagues to reject the amendment to delete these additional projects.

Mr. BROOKE. Mr. President, we are all aware that, for years, the Congress has approved numerous large-scale dams in the districts of influential Members of Congress without giving serious consideration to the economic and environmental justifications for such undertakings. As a result, some projects have been approved which flood prime agricultural and forest land and destroy streams and rivers, and provide benefits to special interests while depriving the taxpayers of literally millions of dollars. Moreover, some of these projects have shown few

economic and energy benefits to justify the exorbitant costs.

This process has been repeated with such frequency that voters sometimes identify an elected official not by her or his stand on the issues, but rather by the number of dams or water projects she or he is able to provide for the district or State.

Of course, not all of these projects can be termed "pork barrel." Some of these water projects have provided clean, renewable hydroelectric power to consumers inexpensively at a time when we are all striving to conserve our rapidly depleting energy resources. Others have created prime irrigation and drinking water supplies. However, as the Federal Government continues to run large deficits, many of the questionable spending projects are at least coming under attack. President Carter, to his credit, has tried to lead a fight against funding the wasteful projects. Indeed not long after he took office, he originally recommended that the Congress delete funding for 34 water projects.

I was disappointed that under pressure from some Members of Congress, the President restored several projects to their previous full funding levels. Unfortunately, one such project was the Dickey-Lincoln Dam on the St. John River in Maine. For years I have opposed this white elephant in the Senate, as Congressman SILVIO CONTE has opposed it in the House. And for good reason. In return for a very small energy output for New England consumers, and at a cost of nearly a billion dollars, the dam would destroy more than 86,000 acres of woodland, 55 miles of the St. John River, and 210 miles of other waterways.

The President not only permitted the restoration of funds for the Dickey-Lincoln Dam, but he further revised his entire proposal. And as of this week, the administration budget terminates only 18 water projects. It is unfortunate that the administration has buckled under political pressures and approved full or partial funding for 14 projects it had previously questioned. The cost to the taxpayer for the President's failure to "hold the line" on the project cuts is over $1.6 billion.

It is more unfortunate that the House of Representatives provided funds for each of the remaining projects on the President's hit list. However, I am heartened that the President received more than enough votes to sustain a possible compromise.

The Senate Appropriations Subcommittee on Public Works has voted to kill nine major water projects, or half of those President Carter eliminated. Although I voted in committee for this action believing it to be the best result we could obtain, I would much prefer striking all 18 projects. For that reason, I am pleased to cosponsor Senator MCINTYRE'S amendment to accomplish this purpose.

And, for the long run we need a comprehensive review of our Federal water resource policies. I strongly favor the utilization of every hydroelectric site which can provide us with cost power without severe environmental damage. Although few large potential sites remain, I have been working with the Corps of Engineers to review the possibilities for new dams in New England. And I have worked to get new Federal research funds into promising technologies which can utilize the energy of small rivers and streams. But all such public works proposals should be subject to rigorous review to prove that the benefits outweigh the costs to the taxpayer. The era of the public works "pork barrel" should be brought to its long-overdue conclusion.

FUNDING FOR HILLSDALE RESERVOIR

Mr. DOLE. Mr. President, I am especially disappointed to see this effort to eliminate funding for Hillsdale Reservoir, which is located near Kansas City, Kans. Hillsdale Reservoir is already under construction and is 30 percent complete. Funds to proceed with construction during the coming fiscal year—in the amount of $14 million—have already been approved by the House of Representatives, and are recommended by the Senate Appropriations Committee. Area residents in Kansas are fully depending on this project as a major flood control and water supply source for the area.

A few weeks ago, I received copies of petitions signed by more than 3,000 residents of Kansas rural areas to be affected by the project, indicating full support for continued construction and completion of Hillsdale. In addition, resolutions were received from 11 cities and rural water districts fully supportive of the project. Just this morning, I have received telegrams from local Chambers of Commerce, several mayors, and numerous private citizens urging that this Congress proceed with plans to fund this vital source of water supply and protection.

KANSAS AT THE FOREFRONT OF DEVELOPMENT

Mr. President, 20 large Federal lakes have been completed in Kansas since the terrible dust storms of the depression era. What was once an area wracked by alternating droughts and floods had gradually been developed into an exemplary model of water resource management. Kansas was the first of the 50 States to agree to place water in storage in Federal Reservoirs at State expense, as authorized by the Federal Water Supply Act of 1958. Kansans voted a constitutional amendment in 1958 to clear the way for State water development. The State of Kansas recognizes that water is a finite resource which must be captured and controlled in time of surplus supply for years of deficient supply. This has led the State to enter into repayment agreements with the Federal Government on nine lakes at a first cost to the State of $62 million. Several Kansas cities, recognizing the need to store water, have entered into contracts with the Federal Government.

IMPORTANCE OF HILLSDALE RESERVOIR

In the case of Hillsdale Reservoir, nine entities and perhaps more will depend upon the lake for a water supply. It will assure the people in the area of a dependable water supply not now enjoyed.

The project will conserve valuable energy resources. Alternative water supply for the nine entities in the Hillsdale area is a pipeline to the Kansas River with a new energy demand of 12, increasing to 22 million kilowatt hours.

In January of 1974, the Kansas Water Resources Board, acting for the State, signed an agreement for storage for water supply purposes. The State is obligated to repay the Federal Government almost 35 percent of the project cost. Several studies suggest the population of tht lake-water service area may double before the year 2000 due to rapid growth and expansion of the Kansas City area. Alternative water supply systems are less desirable from both an economic and an energy standpoint.

COUNTERING THE ADMINISTRATION'S OBJECTIONS

The President wants to delete funding and deauthorize this project, after it is 30 percent complete. He claims that the loss of productive farm land and adverse impacts upon wildlife habitat outweigh the need for Hillsdale Reservoir.

In fact, the Hillsdale Lake would prevent flood damage in the reach immediately below the dam site and would share significantly in the total reduction of flood damage in Osage-Marais des Cygnes River system. It is my understanding that the net total area flooded by operations at Hillsdale Lake is 2,830 acres. The loss of productive farm land should never be diminished as a factor in considering any project. It can only be accepted, though regrettably, when it becomes a means toward preserving and protecting even greater areas from uncontrolled flood damage and drought.

The administration argues that Hillsdale Reservoir will adversely affect upland wildlife habitat and fisheries. However, a plan for mitigation of losses of this type has been prepared by the U.S. Fish and Wildlife Service and is being considered by the Corps of Engineers and appropriate agencies. The Fish and Wildlife Service estimates annual net fishery benefits of 69,100 fishing days in Hillsdale Reservoir, valued at $162,700. I understand there will be increased hunting opportunities on project lands open to the general public. Residential development already underway in the area will affect the current wildlife habitat area with or without the Hillsdale project. In general, all major impacts had been addressed in the environmental impact statement filed before the project was begun, and subsequent planning has recognized all the so-called major environmental impacts listed by the administration.

A WORTHY PROJECT

Mr. President, the Hillsdale Reservoir project has been under close scrutiny for more than a decade. It has undergone the close scrutiny of the Corps of Engineers in terms of its cost effectiveness. The environmental impact assessment has been found reasonable by judicial reviews. Substantial amounts of work and energy have already been expended in behalf of the project and rather large local commitments have been made relying on its future construction. I am frankly surprised that an effort would be made at this time to delete continued

funding for the project and certainly feel that such efforts should be rejected completely.

Mr. President, I ask unanimous consent that the text of a letter from the Governor of Kansas regarding the value of Hillsdale Reservoir be printed in the RECORD at the conclusion of my remarks, along with several telegrams I have received in support of the project.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 27, 1977.

Hon. JOHN C. STENNIS,
U.S. Senator, Chairman, Senate Appropriations Subcommittee on Public Works, Dirksen Office Building, Washington, D.C.

DEAR SENATOR STENNIS: I note with considerable concern the Administration's edict relative to the continuation of construction of Hillsdale Lake and Reservoir. For the record, I would remind you that the Hillsdale project was originally authorized as part of a system for control of floods in the Marais des Cygnes Basin in Kansas. Subsequent to this authorization, and as part of the advance engineering design stage, consideration was given to the need for conservation storage in the basin in the interest of providing water supply for municipal and industrial use, recreation and fish and wildlife, and water quality as well as low-flow supplementation. This action was taken in response to an amendment to our state constitution allowing the state to take advantage of the Federal Water Supply Act of 1958 and the policy of the Water Resources Board adopted in 1963 which provided for maximum development within accepted economic evaluations of the water resources of the state with special reference to conservation use. It is within the framework of this policy that the Water Resources Board ratified and endorsed the maximum development of the Hillsdale Reservoir.

Under authority of the Water Resources Board and the development of a state water plan study, an evaluation has been made of the water supply requirements of the Marais des Cygnes Basin and particularly the proposed developments in the basin which have been authorized by Congress. These studies were associated with the need for municipal and industrial water supplies under present and future conditions. The eastern portion of the basin has very limited groundwater sources and the cities and communities depend primarily upon surface sources of municipal and industrial use. Due to the proximity of the basin to the expanding metro area of Johnson County, Kansas and the Kansas Cities, the area has and is experiencing a very rapid increase in population which already is causing water problems during critical periods. Studies made by the Water Resources Board as part of the National Water Assessment activities requested by the Water Resources Council indicate that projected populations to the year 2020 for Johnson and Miami Counties could double the 1975 figure. Other studies by the Population Laboratory at Kansas State University indicate that the growth rate for this area could be even higher. To sustain this expected growth rate will require the development of additional surface water areas and the Hillsdale Reservoir is a logical source to satisfy demand.

During post authorization studies by the federal government on this project, it was determined that additional storage should be developed for municipal and industrial use in the study area generally covering the southeastern portion of Johnson County and Paola in Miami County. The study area included five municipalities and several rural water districts, all of which expressed a strong interest in obtaining water supply from the Hillsdale Reservoir. These municipalities have separate sources, several of which have been inadequate during critical periods and the water rationing was and is an accepted reality. Other areas, such as Paola, have not experienced as severe a problem yet are faced with a need to obtain an additional water supply source to meet future demands.

In light of this situation, the Water Resources Board adopted an assurance in August, 1969, covering 68,000 acre-feet of water supply storage to be incorporated in the Hillsdale Lake. This action was subsequently followed by an agreement between the state and the federal government specifying the terms and conditions for repayment of the allocated costs for the water supply storage. The agreement was signed by the Water Resources Board in January, 1974, and approved and signed by the Secretary of the Army in April, 1974. I have attached a copy of the agreement in which my office and the Kansas Legislature have pledged to repay the federal government, with interest, approximately 18 million dollars. This agreement is one of seven currently in force, and the state has initiated annual repayments on several of these. This I submit as an example of the interest my predecessors and my office have in providing needed water supply storage for the citizens of Kansas and the integrity of the state in meeting its financial obligations to the federal government.

Under provisions of K.S.A. 82a–1301, et seq., the Water Resources Board has authority to enter into repayment contracts with water users. To date, all of the municipalities and water districts in the service area have filed applications with the Board to purchase water supply which would be obtained from Hillsdale storage. The amount requested by these entities exceed the available yield that the reservoir can support. A copy of the Kansas Water Resources Board's Third Annual Report to the Governor and the Kansas Legislature discussing the State Water Storage and Marketing Program is attached. I would note within the last few days, I have signed a bill which will allow the various cities and rural water districts around Hillsdale to join together into a wholesale water district to develop a single water intake and treatment plant.

All of the entities experienced water shortages during the summer and fall of 1976. Water rationing was imposed. With the expansion of the rural water districts in the area, the present sources will not have the capability to continue to meet current demands. Today I am advised three municipalities in the area are currently experiencing water shortages and if the present drought conditions prevail through the summer season, I am advised severe shortages may again develop.

The State of Kansas is at a total loss to comprehend the reason the Hillsdale project was added to the Administration's cancellation list because of "adverse environmental impacts." The federal courts have examined the environmental impact statement and other environmental allegations.

Judge George Templar, U.S. District Court, rendered a decision in the case, "Save Our Invaluable Land, Inc. vs. Colonel William Needham, et al." in favor of Colonel Needham. Judge Templar denied an injunction sought by the plantiff to stop construction on the Hillsdale Dam. The opinion concluded the Corps of Engineers had been diligent and correct in carrying out congressional directives; and therefore, the court could find no basis for issuing an injunction. A number of cities, rural water districts, and organizations intervened on behalf of the Corps of Engineers.

The case was appealed to the U.S. Circuit Court of Appeals and the U.S. Supreme Court without success. On page 17 of Judge Templar's decree is the following interesting statement:

"Plaintiffs undertake to discredit the statement by suggesting that there is no discussion of a viable plan to offset the fish and wildlife losses that will be associated with the project. Actually, the statement describes in detail the existence of fish and invertebrates found in these slow-moving and intermittent streams and their replacement by a lake fishery which it is predicted will provide a larger variety of game and non-game fish. Evidence is hardly necessary to establish the well-known fact that fishing will improve substantially. This claim is not justified from the obvious facts. Nor is there anything contained in 33 U.S.C. s661, et seq., which changes this. The draft impact statement was submitted to the Bureau of Sport Fisheries and Wildlife and to the Kansas Forestry, Fish and Game Commission. Their comments are attached to the Environmental Impact Statement submitted by defendants. Recommendations of the agencies were adopted or received appropriate comment."

I find it very difficult to understand the rationale or reasoning behind the unilateral action of the Administration in considering the curtailment of construction funds for this project in Fiscal Year 1978. By actions of the United States District Court for Kansas and the U.S. Circuit Court of Appeals in Denver on the adequacy of the federal environmental allegations, the project has been tested relevant to environmental issues. By the actions of the State of Kansas in signing a repayment agreement with the federal government and obtaining a federally-required water storage right, and in accordance with Kansas law, I submit for the record that the State of Kansas has fulfilled the requirements of federal law. The State of Kansas and the federal government have been effective partners in water resources development within the State of Kansas and I solicit your support to allow this partnership to continue.

Very sincerely,

ROBERT F. BENNETT,
Governor of Kansas.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: I urge you to work for the completion of Hillsdale Dam as it is desperately needed for a water supply as well as for flood control. 60 days ago we were without water and today properties are flooded, Hillsdale would eliminate these problems.

Sincerely your,

MAYOR ROBERT P. BURTON,
City of Edgerton, Kans.

Senator ROBERT DOLE,
Capitol One, D.C.:

Continued funding for Hillsdale Dam vital to assure water for area residents and to provide flood control. 60 days ago water for human consumption was in short supply with several area cities and water districts were virtually out of water. During the past two weeks local floods have caused nearly two million dollars damage to farm and crops. Human rights and practical economics support the need for projects. Hard dollar benefits to area citizens and the U.S. Treasury warrant the Capitol expenditure. Respectfully urge you and the other Senators to vote for Hillsdale Dam.

L. M. SCHWARTZ,
Mayor, City of Paola, Kans. and President, Hillsdale Dam Area Association.

Senator ROBERT DOLE,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SIR: The Hillsdale Dam is a much discussed and important issue at the present time. Needs and concerns are heeded, advantages and disadvantages weighed. Following are facts:

1. Economy—water—recreation and flood control:

(a) Jobs involved, construction wise.

(b) Recreation a factor as people are gravitating in this area as industry in Northeastern Johnson County has been attracted.

(c) Water is needed and controlled.

2. Locations of water sources should not be concentrated nor similar in sources.

3. Your energy in keeping the Hillsdale Dam alive at least for further consideration will be greatly appreciated by many Southeastern Johnson County residents.

Most sincerely,

C. B. MASTERSON,
Mayor, Spring Hill, Kans.

Senator ROBERT DOLE,
Dirksen Senate Office Building,
Washington, D.C.:

The management and Board of Directors of the Rural Water District II, Miami County, understand that a motion to delete the Hillsdale Reservoir located in Miami County, Kans., will be made from the floor June 30. We are depending heavily upon this reservoir and the firm water supply. We and the other entities involved in water treatment and supply have designed and are presently constructing additions to our distribution system which cannot be utilized effectively without the Hillsdale Reservoir. We urge very strongly that any attempt to delete or postponement of the completion of our water supply and flood protection for area residents and the city of Paola be defeated.

Help.

RURAL WATER DISTRICT II, MIAMI COUNTY.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

Strongly urge continued support for Hillsdale Dam appropriations. Area farmers have lost over two million dollars in recent flooding which dam would have prevented. This followed long drought period which severely limited water use in half dozen cities in Hillsdale Dam area causing water hauling by farmers and harmful limitation of city fire protection. This transcends political considerations. It is a desperately nedeed project which stands on its merits.

KARL A. BRUECK,
Chairman, Miami County Democratic Central Committee, Paola, Kans.

Mr. HOLLINGS. Mr. President, I would like to state my very firm support at this time for the Richard B. Russell Dam and Lake project on the Savannah River between Georgia and South Carolina.

The Russell Dam, of course, is one of the water projects that President Carter seeks to halt, but funds for the project have been approved in the appropriate committees of the House, it has passed on the floor of the House, and in the Senate the votes have been unanimous in committee that the Russell Dam project should receive its full funding level—$21 million—in the fiscal 1978 budget.

There is a good reason for this support of Russell Dam by the Congress. The Russell Dam has been scrutinized by more Government officials over a longer period of time and has met more critical tests than any project of a similar nature I can think of.

Actual studies and hearings to check out the economic feasibility, the safety and the environmental acceptability of the Richard Russell Dam have been going on for 17 years. The Army Corps of Engineers, the Environmental Protection Agency, and the Bureau of Sport Fisheries and Wildlife have studied, considered, and reviewed every element of this project. The clear tests contained in the Environmental Policy Act and the Water Quality Control Act have been applied. The final environmental impact statement was filed with the Council on Environmental Quality in May of 1974. Each Governor of my State of South Carolina over the past 17 years has conducted an inquiry into Russell Dam. The Army Corps of Engineers have made over 30 talks to audiences in excess of 200 persons in South Carolina and Georgia, and there have been at least seven public hearings on the environmental questions alone.

The Congress and a score of Federal agencies and State officials have kept a critical eye on the project, and prudence and responsibility have been exercised.

Even today, the Corps of Engineers admit they can ask no questions with regard to Russell Dam which have not been asked and resolved before. On March 8 during hearings of the Appropriations Subcommittee on Public Works, I questioned Gen. John Morris, chief of the Army Corps of Engineers, and Gen. Ernest Graves, the corps' director of civil works, and they frankly admitted that the Russell Dam passed all the review criteria passed down by the White House. It has passed the economic questions, it has passed the safety questions, and it has passed the environmental questions.

The Russell Dam project is necessary to the future of my State. Our State and our country must find alternative energy forms. Our domestic oil is running low. Our natural gas is running out. Hydroelectric power represents an available and low-cost method for meeting our energy demands in future years. It is a clear option, a safe option.

On October 3, 1972, Gov. Jimmy Carter of Georgia called the Richard B. Russell Dam "one of the most important developments in Georgia's history." Mr. President, the Russell Dam remains today one of the most important developments in the shared history of South Carolina and Georgia. It will bring major economic benefits to an area severely in need of economic development. It will provide the two States with a major recreational area. Most importantly, it will provide additional hydro-electric power to our two States at a time when conventional energy resources in this country are fast being depleted.

I trust the Senate will understand and appreciate these facts in its deliberations on the Richard B. Russell Dam, and that it will agree to a full level of funding.

Mr. SASSER. Mr. President, I oppose the amendment of the distinguished Senator from New Hampshire.

The subcommittee spent long hours in hearings and mark-up in an effort to bring to the floor a balanced bill—a bill which, it is our desire, will not be vetoed.

I believe the bill before us today strikes the balance we endeavored to achieve.

The projects we recommended for funding are projects with merit.

I want to speak specifically about the Columbia Dam project in Tennessee.

This project has been under construction for a number of years. The Columbia Dam is part of the Duck River project. It is a two-dam project. The Normandy Dam has already been completed. The gates to that dam have already been closed.

The Columbia Dam is more than 24 percent complete. The entire project is approximately 50 percent complete.

I believe that a project which is substantially complete should be continued.

I want to point out that the Columbia Dam and the Duck River project have the almost unanimous support of the local citizens of the area.

The Columbia Dam is needed in view of the fact that the local communities are facing a real and growing water shortage.

The local citizens have proven their desire for the project. They have signed a contract to contribute $16.2 million plus interest as the local share of project costs. Since 1971 area families have been paying 5 cents per 1,000 gallons of water into a trust fund to meet the local obligations. More than $1 million has already been contributed in this manner into a trust fund.

It is my strong feeling that it would be a breach of faith to halt construction of this project. The local people have reasonable and justifiable expectations that the project, which was started in 1969 and which has been funded since that time by the Congress, will be completed.

This project is cost efficient. It does have a favorable cost-benefit ratio, based on the current method of assessment used by the Tennessee Valley Authority.

Perhaps, looking to the future, we should change the method of computing B/C ratios, but only for new projects—future projects.

Projects which are already underway and approved with a favorable benefit-to-cost ratio should be completed.

Mr. President, the Columbia Dam should be completed. It is a good project. It is supported overwhelmingly by the people of middle Tennessee.

At this point in the RECORD, I ask unanimous consent to include two editorials from the Nashville Tennessean and the Nashville Banner in favor of this project.

Mr. President, I must oppose the amendment which would delete funding for the Columbia Dam and other public works projects in this bill. I urge the amendment be defeated.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Nashville Banner, Apr. 18, 1977]

COLUMBIA DAM DECISION: IS LOSS THE GREATER WASTE?

It is difficult for anyone to understand why the federal government gives with one hand

and, a few years later, takes back—particularly in the field of public works.

Thus congressional proponents of various public works projects will continue to battle for full funding of those now remaining on President Carter's hit list. The Columbia Dam on the Duck River is of most concern to area residents; for the region, the blow is softened somewhat by approval of the Tennessee-Tombigbee link.

We certainly do not question Mr. Carter's right to order reviews of various projects. There are obviously two sides to the problem and taxpayers support any responsible approach toward cutting federal spending. And for years many of these projects have come to mean pork barrel.

And yet most projects originate with tne residents of an area before the politicians respond. In the case of the Columbia Dam and another completed dam near Normandy, the demand was generated by concern over disastrous flooding, by water supply regulation for nearby communities, and for the spinoffs of tourism and development. Area money was also committed for the project, and recently 300 Tennesseans journeyed to Washington to pitch for the Columbia Dam.

Obviously, a lot of people think it's needed. And they can make a good case when they see how federal money is doled out elsewhere, for public service jobs (what of the unemployment now caused by the Columbia decision?), for bureaucracy, for federal pensions, for political salaries. Pork barrel can cover a lot of things.

It isn't the sort of project that can be financed at just the community level. It's easy to understand the disappointment. Supporters are justified in seeking its continuation.

In the case of the Tenn-Tom project, the scope was of national interest. That does not make the decision, however, more comforting for Columbia Dam supporters.

What must bother many people is that these things get off the ground and then are cancelled. Is this, after all, the greater waste—the millions already invested that mean nothing? Do cost-benefit studies take this into account? What must also bother people is the uncertainty of every project, even when initially approved. Obviously, something has to be done. Agencies in conflict and fragmented decision-making have only bred confusion and anger.

And so with this latest decision involving the Columbia Dam, some may be hailing its savings. We, however, are more concerned with its losses.

[From The Tennessean, Apr. 25, 1977]

COLUMBIA DAM SHOULD GET FUNDING FOR COMPLETION

The Carter administration ought to reconsider the decision not to fund the Columbia dam, but if it does not the Congress should provide for its completion.

The Columbia dam is the second part of the Duck River project, which has long been advocated by the TVA, by local development figures and others for the comprehensive development of a whole area.

The $38 million Normandy dam near Tullahoma is virtually complete and wasn't under review by the administration. But the larger $142 million Columbia dam is only about a fourth complete.

It is designed to provide badly-needed flood control and industrial and municipal water supplies. It will also provide recreational opportunities and stimulate development of local economies.

The Carter administration has turned thumbs down on the dam because it claims the benefit-cost ratio is less than 1 to 1; that some expected benefits are questionable; that it would result in the loss of extensive acreage of farmland, and that there are several endangered species in the area.

In arriving at these conclusions, the administration seems to have added to the 24,000 acres of farmland that would be involved, and it has overstated the threat to the endangered species.

As to the benefits, the administration seems not to have allowed any secondary benefits in the new financial analysis it required of the TVA. If the secondary benefits—tourism, industrial growth, enhanced employment—are considered, the benefit-cost ratio would be above 1 to 1.

But one of the most important things that the administration seems to have overlooked entirely is the fact that the Duck River project includes a long-term, good-faith contract between government and the people.

The people, in the name of "The Upper Duck River Development Agency" have entered into a contract with the TVA by which they have promised to pay $16,200,000 to cover project costs related to water supplies for residents.

Residents in the area of the Columbia dam have willingly given up homesteads and dislocated themselves with the understanding that the dam would be built and that their sacrifices would be for the common good.

For the government now to say, "Sorry, but the dam can't be built," is to repudiate a legal contract with the people through their development agency, and to cause a breach of faith with those who were dislocated.

The people were led to believe that the dam would be built. Whether the TVA suppressed or juggled early figures, insofar as the people were concerned there was a brief that construction would proceed, that they would ultimately be spared the ravaging floods and that those who saw their springs drying up and their deep wells contaminated would have access to pure water. There is a human element here that does not neatly fit into cost-benefit ratios. There was an implicit promise from the government to the people that ought not be broken.

Tennessee's members of the House and Senate should use every persuasion to get Columbia dam funded, with President Carter's blessing if possible, but without it if necessary.

Mr. STENNIS. Mr. President, I have a memorandum by the chairman of the committee, Senator MCCLELLAN, expressing interest in a project in Arkansas, the Cache River Basin project which was one of the items we passed on.

I ask unanimous consent that the statement be printed in the RECORD prior to the McIntyre amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MCCLELLAN

I regret exceedingly that I am physically unable to be present and personally participate in the debate on this measure. Therefore I have requested Senator Stennis, Chairman of the Public Works Appropriations Subcommittee of the Senate Appropriations Committee to read this statement into the record for me. I want my colleagues to know how strongly I feel on this issue.

I announce my support for H.R. 7553, the Public Works Appropriation bill for Fiscal Year 1978. This is a bill which has been marked for controversy since February 21st, when the President first announced his plans to review all Corps of Engineers and Bureau of Reclamation water resource development projects presently under construction or planning for construction. Although a number of other issues have surfaced during the time this bill has been under subcommittee consideration, the primary focal point continues to be the water resource development projects recommended for deletion of funding and deauthorization by the President in his April 18th message to the Congress.

The President is quite right in seeking his stated goal of developing policy initiatives that will insure that our nation's water-related needs are met in the best manner. Congress has undertaken to develop realistic policy guidelines in this area through the scrutiny of its authorization and appropriation process over the several decades of experience it has had in water resource development. The Congressional authorization process has proven to be, in the vast majority of instances, the most valuable tool available in determining this policy and in identifying those projects worthy of the priority attention of this nation's energies and resources.

The appropriate committees in both chambers of the Congress have been diligent in their analyses of the President's conclusions and recommendations. The House of Representatives has made its determinations and has forwarded its version of this bill for Senate consideration. I am particularly proud of the efforts of the Senate Appropriations Subcommittee on Public Works, chaired by my longtime friend and colleague, Senator Stennis. This committee's recommendation is based on hours of testimony from expert witnesses and lengthy deliberation of all factors involved. Senator Stennis' subcommittee has been fair to all viewpoints, including accepting testimony from Congressional and outside witnesses during subcommittee mark-up. I am persuaded that the Committee recommendations contained in this bill represent a viable compromise that can and should be accepted by the Administration.

The bill contains construction money for a flood control project in my state of Arkansas, the Cache River Basin project. This project was recommended for deletion and deauthorization by the Administration.

The Cache River Basin project was one of four projects found to satisfy all criteria demanded in the Administration's review process. It met all required guidelines in the areas of safety, economics, and environmental questions. As an added review an additional public hearing was held on March 28 to further consider public input from the residents of the affected regions. The public support for this project was overwhelmingly demonstrated at this meeting. A total of 1,356 persons in attendance at that meeting signed registration cards indicating their support of the project, while only 93 signed registration cards in opposition. Of that 93 persons, 50 were non-area residents who have no property that will be affected by this flood control project. A total of 246 persons spoke at the meeting in support of the project, while only 24 spoke in opposition.

All of this information was transmitted to the Office of Management and Budget on April 8 in a report prepared by the Corps of Engineers, the Council on Environmental Quality, the Department of Interior and OMB.

On the basis of the findings of the Administration's own agencies and staff I find myself perplexed to understand the justifications given for the President's recommendation in this case. I have seen no concrete evidence that would indicate that this project ought to be terminated. A federal court has found the environmental impact statement to be adequate. A majority of the people who live and work in the basin have emphatically demonstrated their support for the project. My mail survey has ran better than 4 to 1 in favor of the project, including a 30 to 1 ratio by residents of the basin area. The project has a very high benefit cost ratio of 2.08 as figured by the President's chosen discount rate.

There have been critics of the distribution of benefits from this project. This is a project that will benefit the farmers of the region. At present it is estimated that 78% of the land in the benefited areas is held in tracts of 160 acres or less. Only 2% of the land is held in tracts of 1,000 acres or more. The majority of the people directly benefiting from this project are small farmers. I believe we must consider their needs first.

I therefore declare my strong support for this project, and for this bill. There is no justification whatsoever for not funding the construction of the Cache River Basin project. It is needed by the people affected—the landowners in the Cache River valley, the residents of this valley. It is supported and wanted by an overwhelming majority of these landowners. They have demonstrated their support of the project over and over. They should not be denied by our government the same consideration and support that it has given to countless other projects throughout the nation of comparable worth and benefit ratio. I solicit and urge my colleagues to support the Cache River Basin flood control project.

Mr. McINTYRE. Does the Senator from Arkansas wish to submit an amendment at this time.

UP AMENDMENT NO. 623

Mr. BUMPERS. Mr. President, I send an amendment, in the nature of a perfecting amendment, to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes amendment No. 623.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 5, change the period to a colon and add the following language: "*Provided further*, That none of the funds appropriated by this Act for the Cache River Basin Project Feature Mississippi River and Tributaries Project, Arkansas, shall be expended for purposes other than the mitigation authorized by Section 99 of the Water Resources Development Act of 1974, Public Law 93-251."

Mr. BUMPERS. Mr. President, I shall be brief on this and not use up the 15 minutes that have been allotted to me. I want my colleagues to know, and I certainly want the record to reflect, the reason for the amendment.

We have a river in Arkansas called the Cache River. We have a bayou called Bayou de View. The Cache River-Bayou de View project has been in the planning stages for many, many years. It is a 232-mile project, and the Corps of Engineers, as is their great penchant, naturally wants to channelize both streams. They want to dig it wide, cut the trees on both sides, and channelize it for flood relief. To my knowledge, they have never considered any other options for the variety of people in Arkansas—only flood relief.

The people are entitled to flood relief, and I applaud it. But the corps only has one mindset, and that is to channelize and do all the environmental damage they can do.

I have never been opposed to the project, and in 1971, my first year as Governor, the corps came to my office and said, "If you won't oppose this project, we will buy 120,000 acres of wetlands and hardwoods to offset the environmental damage we are going to do with this channelization project." I said, "OK, that's fine."

I checked with the game and fish commission of Arkansas, with the pollution control department, and incidentally the game and fish group never accepted that. They were always opposed to the project under any circumstances. But I agreed to it.

In 1971, the corps came back and said, "We'll have to reduce that from 120,000 acres to 100,000 acres, we just did an aerial survey and found there are only 116,000 acres of hardwoods and wetlands still left in the Cache River Basin."

I reluctantly agreed to that.

In 1974, the last year I was in the Governor's office, they said, "Governor, we've had to reevaluate this, we can only buy 70,000 acres."

Meanwhile, my distinguished senior colleague, who was the senior Senator, got an authorization bill through to provide for $6 million for the corps to buy this mitigation land, and the bill provided that a minimum of 20 percent of all the appropriations for the project must be used to accomplish this mitigation. The corps said that with $6 million, "We can either buy or get easements on 70,000 acres."

I am talking about a time span of 6 years. Six years since they talked to me about 120,000 acres, and as of last night they had an option to buy 120 acres.

My amendment simply says that of their 1978 appropriation of $2 million, the corps must use all of it to purchase mitigation lands before they proceed with the ditching, plus, of course, $835,000 of unexpended funds from prior years which the corps has earmarked for mitigation purposes.

Just this year, they channelized another 4 miles despite the President's open, hostile opposition to the project. They are doing it all on the southern end and it is just like a giant funnel. All the water in north Arkansas comes through the funnel into a spot, right down into southern Arkansas.

I can say that the people in that end of the State are not happy about the project.

I cannot make the corps tell the truth and keep them from lying. But we can help them keep their word, and they ought to be made to keep their word.

They ought not deceive me or the Game and Fish Commission or the people of Arkansas with all that talk, when they have not done one scintilla, not one crying thing, to keep their word. I think it is only fair.

I regret very much that my senior colleague who sponsored the original authorizing legislation on this in the Senate cannot be here today because of ill health. But I want Senators to know that those are my personal contacts and my personal relationship with the corps on this project.

I am not sure that 70,000 or even 120,000 acres of mitigation lands would ever mitigate the environmental damage this project is going to cause. But I am not talking about the project and saying I am trying to kill the project. I want to help the corps keep its word. If I succeed in doing that, it will be the first time in history anybody has done it.

Mr. McINTYRE. I thank the distinguished Senator from Arkansas; is there construction money in the amendment?

Mr. BUMPERS. I am sorry. I misunderstood the Senator's question.

No, this would not. This would not provide any construction money.

I had another amendment, which I mentioned to the Senator earlier, which would have taken the $2 million appropriated for this project and split it half and half, $1 million for construction, $1 million for mitigation.

But the amendment I offered now would not provide any funds for construction. It would be all for purchase of wetlands and hardwoods, and so on.

Mr. McINTYRE. If all the funds asked for in the Senator's amendment are for land acquisition, we will accept the amendment.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. McINTYRE. On the Senator's time.

Mr. STENNIS. I will let the Senator from Arkansas finish, but I want the Senator to yield to me before he accepts it.

Mr. McINTYRE. Yield to the Senator?

Mr. STENNIS. Yes.

Mr. BUMPERS. Mr. President, if I have time left, I will be happy to yield to the Senator from Mississippi in just a moment.

I would just like to make one other observation.

Mr. STENNIS. Yes.

Mr. BUMPERS. Here is a resolution that was passed by the Arkansas House of Representatives this year. I am not sure of the date, it is not shown on it, but I believe it was in March or April of this year.

It commends the President for cancellation of the Cache River project.

If the Senate will indulge me, it says:

Whereas, President Jimmy Carter has on his own initiative terminated the funds that would have been spent continuing the channelization of the Cache River; and

Whereas, the channelization of the Cache River is environmentally undesirable and would work a hardship on people and wildlife alike in the affected areas; and

Whereas, channelization would result in the elimination of streams and consequently fish life,—

It goes on and says:

Now therefore, be it resolved by the House of Representatives of the General Assembly of the State of Arkansas:

That President Jimmy Carter is to be praised and congratulated for his decision to suspend funds currently devoted to channelization projects, because of the negative effect of the projects on the environment and quality of life for people and wildlife alike.

That was passed, as I recall, by the legislature of Arkansas with only one or two dissenting votes.

Mr. President, I ask unanimous con-

sent that the resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION

Whereas, President Jimmy Carter has on his own initiative terminated the funds that would have been spent continuing the channelization of the Cache River; and

Whereas, the channelization of the Cache River is environmentally undesirable and would work a hardship on people and wildlife alike in the affected areas; and

Whereas, channelization would result in the elimination of streams and consequently fish life, and would also reduce the intensity and duration of overflooding which deprives waterfowl of their necessary habitat; and

Whereas, to continue channelization would be inconsistent with sound principles of flood plain management, and would result in flooding in other parts of the State and cause a decline in the quality of water in the White River; and

Whereas, other approaches to flood management, such as levied floodways should be fully explored and seriously considered before refunding channelization projects in Arkansas and in other states; and

Whereas, in view of the evidence available, President Carter has acted wisely in suspending funds for channelization projects,

Now therefore, be it resolved by the House of Representatives of the General Assembly of the State of Arkansas:

That President Jimmy Carter is to be praised and congratulated for his decision to suspend funds currently devoted to channelization projects, because of the negative effect of the projects on the environment and quality of life for people and wildlife alike.

Mr. McINTYRE. Does the Senator yield to the Senator from Mississippi?

Mr. BUMPERS. I do, indeed.

Mr. STENNIS. Mr. President, is there another amendment in connection with the Cache River?

Mr. BUMPERS. To tell the truth, it is like running for office. I had two amendments and I was reserving until the last minute the decision on which I would offer.

I did have another amendment, but I decided to offer this one.

Mr. STENNIS. Anyway, this is an item that is in the bill. Senator MCCLELLAN, as the Senator so thoughtfully said, is not able to be here today, and he is interested in this project.

The Senator stated his position, and I can understand his position fully. But I would have to speak up and object, because I think it is going to a consideration, really, that both sides should be heard on.

Mr. BUMPERS. Mr. President, if I may just proceed, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. How much time do I have left?

The PRESIDING OFFICER. The Senator from Arkansas has 6 minutes remaining, and the Senator from New Hampshire has 15 minutes remaining on the amendment.

Mr. BUMPERS. I would like to make the record clear that I have not in the past, nor am I today, opposing that project. I have very serious reservations about it. I certainly have reservations about the technology the Corps always uses.

There are a lot of people in the northeast part of my State that favor this project and worked for years on it, and, certainly, they need and are entitled to relief.

By the same token, I want everybody to understand that the Cache River represents one of the finest sanctuaries on the Mississippi flyway. It is one of the finest duck habitats in the world. There is no question that this project will do irreversible harm and damage to that flyway. Environmentalists, Ducks Unlimited, almost every organization that is sensitive to what we have been doing in this country environmentally, are opposed to the project.

I have never taken that irrevocable, categorical position. But I do want to make the case on the floor today that I am outraged by the conduct of the Corps of Engineers on this particular project. I am also outraged that they never seek to redress people's grievances in any way except a manner that is environmentally devastating.

I also recognize that my senior colleague has been instrumental in it. He has worked hard for it. I know he believes strongly in it. He cannot be here today. I am going to withdraw the amendment for that reason.

However, I would like to know that the Appropriations Committee would be willing to give me a fair hearing on this matter on future appropriations, which I certainly will be requesting.

Mr. STENNIS. Mr. President, on behalf of all, I can assure the Senator of that.

I regret that Senator MCCLELLAN cannot be here. I am presently chairman of the subcommittee which passes on public works. He is chairman of the full committee. I feel that he certainly would be willing to go into this matter with me. As for tonight, as the Senator says, he is not represented here fully, and I will speak for him to the extent I can, should it go to a real presentation. I assure the Senator that he will be considered and will be heard on any matter.

Mr. BUMPERS. It was Senator MCCLELLAN, at my request while I was Governor, who got the authorization language changed to require the corps to do this. But, as I said, as of this moment, after 6 long years of promises, they now have an option on 120 acres.

With that, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Who yields time?

Mr. STENNIS. Mr. President, how much time remains to each side?

The PRESIDING OFFICER. The Senator from Mississippi has 28 minutes remaining, and the Senator from New Hampshire has 33 minutes remaining.

Mr. STENNIS. I yield 15 minutes to the Senator from South Carolina, and I will reserve the remainder of the time for myself or others who may wish it.

Mr. HOLLINGS. Mr. President, I was going to try to answer after I heard the distinguished Senator from New Hampshire. I did not hear him on the floor. He is one of my best friends and colleagues. We sat together here for 4 years.

As I understood, he said yes, he would offer an amendment, but I was anxious to find who would really do this. He said it was on the basis of the budget. We finally had to get, on the one hand, a balanced budget and cut down on excessive spending or, on the other hand, cut down on pork barrel. Is that the reason?

If the Senator has a better reason, I will sit down and listen to the Senator from New Hampshire or ask him to answer.

Mr. McINTYRE. The whole purpose of this amendment is to bring to the attention of the Senate that there is only so much money that we can spend. We have problems ahead—social security, education, health. These projects that I am asking to be deleted are all, under good advice from the President's office and his experts, said to be marginal. We do not need them. That is what I am saying. Now, go ahead.

Mr. HOLLINGS. Mr. President, I went with the general of the Corps who made the study and submitted the list.

With respect to what the distinguished Senator from New Hampshire says, as to whether they are marginal, we should go to the hearing record as of May 24, before our own Appropriations Committee, because we wanted to find out whether or not they were marginal.

They started off with 292 projects and had a double review, as they call it. Some 55 had passed the criteria and were still on what they call the second phase screening. Then they had some that passed the second phase screening, and it came down to a list of 17—not 18. The testimony is on page 32. All but 17 passed the last muster, so to speak, of a total review.

General Graves said, "Yes." It was the same with General Morris.

But you have stated they were marginal. We passed with flying colors, as the general said, and I have the full testimony on that particular score with respect to environment, cost-benefit, and safety.

So the Russell Dam was not submitted by the Corps. I tried to press as to how it got in, and that is the mystery the administration does not want to talk about.

When Secretary Andrus went to the Governors' Conference, he submitted the list that did not include Russell Dam or Trotter Shoals.

It was not marginal. It was not submitted. But it was put in, as we thought at the time politically, to show the President was being fair. The best we can determine, it was a White House decision that added that particular project, saying, "Well, yes, I had to cut these projects out, but look, I'm fair, and I have cut out my own."

Now let us get to the money for health and for welfare and where we are cutting and where we are adding.

Mr. President, the Senator from New Hampshire seems to think that we have cut out dams under the President Carter proposal. Oh, no. There is a domestic issue or factor that goes into the computer, but then there is international politics.

We had a conference in May, and typical Uncle Sam, Daddy Santa Claus, had to come with some gifts to the economic summit in London. They always do. New Presidents like to make an impression.

As we on the Budget Committee try to balance the budget and get money into the inner cities, for welfare, for education, for the needs of America, look at what we find. All our programs are cut, including defense; but there was category 150.

If we look under category 150 of international affairs, we find that last year we had under the International Development Agency, in category 150, $5.1 billion. But what did President Carter ask for this year, looking for money for education, hospitals, cancer, welfare, the people's needs in the inner cities—and for New Hampshire, too? He asked for $7.8 billion, the only increase under this budget.

Senator JOHNSTON and I and others on the committee had to fight the administration, and we lost in the committee. We looked closely, and we found the World Bank annual report for last year. We found some 27 pages of projects. What kind? Irrigation, dams, water, pork barrel in Afghanistan, if you please. [Laughter]; a boondoggle in Brazil, if you please. Look at the various projects and see the amounts of money. Actually, $2 billion in hydroelectric projects.

Morocco: Through the construction of a dam and associated power facilities, electric power availability will increase—$167.1 million.

Money for Nepal, Katmandu—taxpayers' money.

We need money for welfare and health and urban affairs and to solve the crime problem, and they are sending the money to Katmandu—$68 million.

Then the good Democratic and Republican taxpayers, under human rights, are going to get the human right to tax themselves, to say that Communist Romania will get $250 million.

Romania: "A hydroelectric power project on the Riul Mare and Strei Rivers—including the construction of a reservoir, a tunnel to convey its waters to a power station, an underground powerplant and an aboveground powerhouse—will help the country meet its growing demand for power."

A growing demand for power; energy crisis. Sure, he says that we have got an energy crisis. But as Paul said in his letter to the Corinthians, ". . . if the trumpet give an uncertain sound, who shall prepare himself to the battle."

And, Senator from New Hampshire, who shall prepare for that? How do you add the moral imperative of war in this energy crisis and cut out hydroelectric dams in your own country, cut out the breeder reactor, cut out the reprocessing plants? What are we going to do, join the other side in this war? Give up? No siree.

I can tell you the amount you are striking under your amendment, Senator, if you are successful, is budgeted, budgeted, if you please, at $21 million. Not a letter that was sent around on $200 million-some-odd. This was budgeted by the Republican administration. It has been budgeted by Democratic administrations, and the increment for this particular year was $21 million and within the budget.

We never have heard on the floor of the Senate the amounts to break the budget and get to the dams that the President wants. He can get off and watch the boondoggle, watch the pork barrel that the press crowd up there write about. They will not bring it in unless you spoon-feed them. They will never tell the story, so they all say that President Carter wants to balance the budget and do away with boondoggles and pork barrels, or whatever the devil it is, because he is increasing it. These are valid projects in the main.

Senator GOLDWATER, I just listened to him, "The Conscience of a Conservative," and knowing out West, and I heard my Senator friend from West Virginia say that $9 billion was spent in this country in the last 50 years on reclamation projects, and they got the facts and figures to show, if you please, Senator, that in 1 year the crop value from the reclaimed land was $9 billion. That is a good payout, yes.

Yes; I want to save America. I want to save the taxpayers' money, and I want to face up to the energy crisis here with our hydroelectric renewable resource that even under the Senator's criteria or rather than President's criteria has passed with flying colors.

Now, Mr. President, I would like to try to answer the Senator because he comes in, and I would work with him. We tried to cut it out. I voted for the Byrd amendment. I voted for the Johnston amendment in the Budget Committee. Those who say they have a sincere desire on the House side never moved to strike this when they were in the Budget Committee. They tried to strike hydroelectric dams in the face of an energy crisis. That is no economy, and I can tell you here and now you cannot get by with it. You cannot sell this program when you know—yes, some are undesired in Wisconsin, as stated by the two Senators. In Missouri they said they did not want it, it was too high a payout; there was one in Oklahoma. We went over these. Your committee went over these one by one. We heard from the corps, we heard from staff. We looked at every one of the criteria and said, "Mr. President, there are some boondoggles, and we are going to give cognizance to the fact, and we are not going into any new starts." It is a new administration and that new administration will have a look-see at all of them, and we held the line. But where there were valid projects, do not come in now and call those boondoggle and pork barrel and then add money and increase the taxes and borrow at the exchange in New York funds to pay to finance pork barrel in Afghanistan, Nepal, Romania, and everywhere else around the world, 56 countries, and tell me you are sincerely up here trying to hold the money for the needed projects for the inner cities of America.

Senator STENNIS, I know and the other members of the subcommittee and the staff have worked diligently, prudently and objectively in reaching their decisions. The cuts that were made were difficult choices. But what we have recommended are the very best projects. They are quality projects in every regard. And I wish to commend the chairman for leadership and judgment.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. McINTYRE. I yield 5 minutes to the distinguished Senator from Missouri.

Mr. DANFORTH. Mr. President, I really do not think the President needs that much support from a member of the minority party, but I am willing to give it whether he needs it or not at this time because I think what is involved here is something that is very central to the credibility of the new administration.

I am not an engineer. I do not know anything about the project in Louisiana that the junior Senator from Louisiana was talking about so eloquently, or the project in Utah that the senior Senator from Utah was describing. But I have to believe that when the administration sets out, as it did, to analyze the various water projects to be retained or to be cut that they at least were able to do a competent job of it, and I think what has been challenged by the Senator from Louisiana and by the Senator from Utah is the competence, the technical ability, of those who are in the administration.

What I do think is involved here is something that is very crucial to this country and something that is very much at the heart of what this administration says it is trying to do, and that is to balance the budget by 1981. This is a major concern of the American people, and I do not believe we in the Senate are acting responsibly if in vote after vote we vote to increase the budget, not to hold the line at what the administration wants or to reduce it.

Last night we voted to increase what the administration wanted by $1.8 billion. Now we want to do it again. So I applaud the administration for doing something in this case which is highly unpopular, which certainly goes against the grain of a lot of local communities that have counted on these projects. But I think the time has come in this country for the sake of the health of the whole country and the total economy when we have to learn that we cannot say "yes" to absolutely everybody. We have to learn that sometimes government has to say "no."

Mr. PERCY. Mr. President, will the Senator from Missouri yield for just a comment? I think the Senator has very eloquently stated some of the deep concerns the Senator from Illinois has on these projects. The Senator from Illinois had intended to offer an amendment involving a project which is extraordinarily cost-effective, a flood control project in Milan, Ill.

I have just simply decided we all must hold back. I think that goes for every member of the committee involved. We just have to say "no" to something. I am going back home during this recess and will explain to the seven project areas in Illinois why I think it is in their inter-

est that we hold up funding for fiscal year 1978. If we stand back and say "everyone has got to sacrifice but us," how are we going to accomplish this job?

I agree with the Senator from Missouri. The principle ought to aim us toward a balanced budget. It means paring and cutting every appropriation, up and down the line. It begins with us. I am willing to take the consequences of going back and explaining the necessity of cutting back on these projects. I think the Senator from Missouri has very eloquently expressed a point of view that many of us share.

The PRESIDING OFFICER. Who yields time?

Mr. McINTYRE. Mr. President, I reserve the remainder of my time.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 17 minutes remaining; the Senator from New Hampshire has 29 minutes remaining on the amendment.

Mr. STENNIS. Mr. President, we are virtually through, and we yield back our time. The Senator from Oregon wants to say a word in summary.

Mr. HATFIELD. I will take just about 2 minutes.

Mr. STENNIS. I will take 2 or 3 minutes.

Mr. McINTYRE. You take 2 or 3 minutes, and you take 2 or 3 minutes, and I will take 2 or 3 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I only want to say, Mr. President, that to use inflammatory words such as "boondoggle" and "pork barrel" when it is a project that does not particularly fit one State's interests or is in some other State's interest is very easy to do.

I was interested to note that the Senator from Missouri—and I am sorry he has left the floor—has suggested that possibly these projects that are included in the McIntyre amendment are not worthy.

Yet the State of Missouri has 10 other projects for which this budget has, I think, about $150 million. Now, each one of those projects, I am sure, was authorized by a careful analysis, including cost-benefit ratios, including all the other criteria that were used at the time.

So it is very easy to say, "Well, these are justifiable projects because they are in my State." But I am not sure the Senator from Missouri would want to delete any of those ongoing projects that are now funded and are on their way to construction or nearing the finishing of the construction period.

I noted the Senator from Wisconsin remarks. It was very easy for him to say that not only these eight should have been deleted but perhaps we should have supported the President in the deletion of 32 others.

I think we are getting a little careless with our facts and, perhaps, our understanding of these projects. Again—I am sorry the Senator from Wisconsin has left the floor. Because included in the 32 projects which the Senator from Wisconsin said we should have gone ahead and deleted was a third powerhouse for Grand Coulee Dam in which we have already invested a half billion dollars and is more than 75 percent finished.

I do not know what kind of economic theory or what kind of economic educational background the Senator from Wisconsin has had that would justify an action to stop a project that is 75 percent finished, a project that will produce power and energy and on which we have already invested a half billion dollars.

I think these are but examples of how we tend, at this hour of night, to get a little less than accurate or to make such general broadside attacks that we are really not addressing the issue or the target.

Again, I must say that this committee has carefully analyzed each and every one of these projects. If someone wants to take them one by one, we would be very happy to go into the cost-benefit ratio, we would be happy to go into all these other criteria, instead of taking this broad sweep that somehow all these projects are unnecessary, that they represent pork barrelling or boondoggling or whatever it might be. Let us talk the facts. Let us talk specifics in these cases, because the committee has acted in that way. The committee has carefully studied each one of these and feels that they are justified.

So I do hope the Senate will consider the facts rather than the emotional appeal with such rhetoric that we have heard here in the Chamber tonight.

Mr. STENNIS. Mr. President, I shall detain the Senate only 2 or 3 minutes, just to sum up in this way, reiterating what the Senator from Oregon has said.

These are definite well-established projects here, that have been attacked as a whole, which is all right, but we could defend them or explain them on a one-by-one, two, three, four, five—down the line—basis, entirely satisfactory, I think, to virtually every Member of the Senate.

We have been in a general disagreement over the views in some degree with the President, and that is all right, also.

There has been a vote here, though, tonight that indicated rather clearly that a great majority of the membership thinks that the bill the committee brought up to the Chamber represents under the circumstances the better of the choices, and I am sure that some of that voting was done on the basis of attaching some importance to the getting of a bill, and I do not personally resent that, but I admit that I agree I do not like it so much for someone who happens to be in opposition to talk about pork barrel, boondoggling, and well, I shall just say this.

With my efforts since I have been in the Senate, I have not been able to participate in anything that as a whole is more constructive, looks more to the future, and means more to the generations that pay the bill and those to come than do these projects, beginning with rivers and harbors. Think of the harbors on the Great Lakes up around the area in Wisconsin. Think of their value. Think of the rivers and harbors, the hydroelectric plants, and everything else. Under any conditions and under any crisis they prove themselves every day. They have been a great investment.

This is not a perfect list. But under the circumstances I certainly hope the Senate leaves it as it is after we have worked on it all these weeks.

I thank the Senator.

Mr. McINTYRE. Mr. President, I yield myself such time as I may need to sum up very briefly.

First, I ask unanimous consent that the junior Senator from Pennsylvania (Mr. HEINZ) be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I hold here in my hands the statement of the water projects issued by the White House on April 18, 1977, in which 18 of these projects were criticized very severely.

In the House of Representatives one of these was deleted and the remainder stayed in on a very close vote.

The Appropriations Committee, our distinguished Appropriations Committee, this body, after careful examination, managed to delete some further of these, nine projects that the President had recommended, nine of them, and we now are looking at eight that have survived, eight approximately, because there is one that is hanging over.

Mr. President, I would not want the body of this Senate to really think that we are cutting out all of the water development resource projects in this country. I believe that in this bill as it comes to the Senate in this appropriation there are 475 water resources development projects which will total probably in the billions and billions of dollars before they are through.

But, Mr. President, the only issue that I have ever really raised is that of budgetary priorities. I cannot tell the distinguished Senator from Louisiana whether he can take that oil rig and manage to get it up through those bayous. It looked to me as a New Englander that if he squeezed a little, he might be able to get it by. But I am not here to argue that point.

The point we are making is this: We do not question the worthiness of the projects from Georgia, South Carolina, Louisiana, or Mississippi, whenever they be. The reason for the amendment goes to the heart of our entire budgetary process. We are beginning to reach the end of the road, it seems to the Senator from New Hampshire.

We, as an elected legislature, are given the responsibility by our Constitution for making the funding choices for the people. We as elected legislature must make the hard choice of whether to fund one worthy endeavor and to delay another. We, as an elected legislature, face budget restraints that I am sure many Senators in this body right now realize even further than I do.

We face these based on available revenues, and when we determine that the sum total of our national revenue demands do not meet our desired outlays and our expenditures, then we face the very difficult choice of either cutting back

on our Federal programs or engaging in deficit spending.

That is the issue here tonight. That is the issue that should be brought up time and time again, particularly when programs such as this are suspect, particularly when sometime later when we are trying to solve the social security problem we will be wishing we had this $1,400,000,000 that we can save by adopting this amendment.

So we do face a difficult choice. That is the issue here tonight. It is one simply of beginning to weigh the priorities in this country, and I say this amendment should be agreed to and should be agreed to overwhelmingly.

Mr. HOLLINGS. Mr. President, will the Senator yield me just 1 minute?

Mr. STENNIS. I yield 1 minute to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President as I listen I find no different in the philosophy of the Senator from New Hampshire and the philosophy of the subcommittee that did the work. The truth of the matter is that is it. We tried to set priorities. We began with agreeing with the President to let us hold all of them up until they get a thorough study. Let us not have any new projects.

Then, as we looked that list over and we agreed with some and we disagreed with some, we did not disagree with the philosophy of the President, if that is his as the Senator from New Hampshire explained it.

We are the ones who had to go time and again to hearings. I have been to five hearings on this one.

Mr. McINTYRE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. McINTYRE. I hope the distinguished Appropriations Committee does not think it has a corner on hearings and meetings.

Mr. HOLLINGS. No. We have all been worn out working hard this year.

We did not say to the Senator, in listening to the Senator, the chairman of the Committee on Armed Services, because he had those hearings on Armed Services, when it comes to the subcommittee it is a bipartisan fashion. We had a unanimous vote trying to settle these priorities. That is pretty good when colleagues who listen to the testimony, listen to the President, listen to the needs of the country, weigh the projects as they are proceeded or the ones just about to start, and all those other factors, and then come up unanimously with an agreed-upon priority and list—that is what we tried to do, and we were just trying to say that we agree with the philosophy that has been presented to the Senator from New Hampshire, and that is the reason no amendment should be agreed to.

SEVERAL SENATORS. Vote.

Mr. STENNIS. Mr. President, we yield back the remainder of our time.

Mr. McINTYRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment on which the yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have the well cleared?

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend until order is restored. Senators will please clear the aisles, clear the well, and take their seats.

The clerk may proceed with the call of the roll.

The call of the roll was resumed and concluded.

Mr. WILLIAMS (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Arkansas (Mr. McCLELLAN). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Minnesota (Mr. ANDERSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "nay."

The result was announced—yeas 34, nays 52, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—34

Allen	Eagleton	Morgan
Bayh	Glenn	Nelson
Biden	Griffin	Pell
Brooke	Hart	Percy
Bumpers	Heinz	Proxmire
Byrd, Harry F., Jr.	Helms	Riegle
Chafee	Huddleston	Roth
Clark	Kennedy	Stafford
Culver	Leahy	Stevenson
Danforth	Lugar	Weicker
Durkin	Mathias	Zorinsky
	McIntyre	

NAYS—52

Baker	Haskell	Muskie
Bentsen	Hatch	Nunn
Burdick	Hatfield	Packwood
Byrd, Robert C.	Hathaway	Pearson
Cannon	Hayakawa	Randolph
Case	Hollings	Sarbanes
Chiles	Humphrey	Sasser
Church	Jackson	Schmitt
Cranston	Javits	Schweiker
Curtis	Johnston	Sparkman
DeConcini	Long	Stennis
Dole	Magnuson	Stone
Domenici	Matsunaga	Talmadge
Eastland	McClure	Thurmond
Ford	Melcher	Tower
Garn	Metcalf	Young
Goldwater	Metzenbaum	
Hansen	Moynihan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Williams, for.

NOT VOTING—13

Abourezk	Inouye	Scott
Anderson	Laxalt	Stevens
Bartlett	McClellan	Wallop
Bellmon	McGovern	
Gravel	Ribicoff	

So Mr. McINTYRE's amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I do not know the situation now except to this extent. We had the Haskell amendment before us. We talked the thing over and found a situation which we believe will suffice. As I understand, it has been determined that the neutron warhead matter will not be coming up tonight. I urge that we finish all of these water projects. I believe we are almost through.

May I inquire if others have amendments concerning water projects?

Mr. BUMPERS. Mr. President, I have an amendment I would like to offer and engage in a short colloquy, probably withdrawing the amendment. It will not take more than 5 minutes.

Mr. STENNIS. Well, Mr. President, that is the situation. I do think this neutron warhead matter is important. I do not believe it will take a long time to present it in the morning. I assume there will be one or two votes on it anyway. There could be more.

The PRESIDING OFFICER. Will the Senator from Mississippi suspend for a moment until we can have order in the Senate?

Will Members please take their seats?

Mr. BAKER. Mr. President, will the Senator from Mississippi yield to me briefly?

Mr. STENNIS. If I have the floor, yes, I yield briefly to the distinguished minority leader.

Mr. BAKER. Mr. President, I want to ask the Senator from Mississippi to advise me, if he will, if he knows of any other amendments now, except for one by the distinguished Senator from Arkansas and the distinguished Senator from Colorado?

Mr. HASKELL. Mine, Mr. President, is not an amendment. I intend to engage in colloquy with the Senator from Mississippi.

Mr. STENNIS. The only thing we have definite notice about are the Haskell colloquy, the Case colloquy, and the matter which the Senator from Arkansas just stated.

Mr. BAKER. If the Senator will yield further, it seems to me, then, that we do not know of any other votes on amendments to the water projects section of the bill. Is that correct?

Mr. STENNIS. That is the standing as it is now, as I know it.

Mr. BAKER. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I wonder if we could give Senators that understanding, so that they will know that there will be no more rollcall votes tonight, so that they can know that the water projects section is nailed

down, and cannot be reopened except by unanimous consent? Is there any Senator who intends to call up an amendment on the water projects on which he will ask for the yeas and nays?

Mr. BAKER. If the Senator will yield, I know of no amendment on this side.

Mr. ROBERT C. BYRD. I see no indication on this side.

Mr. HART. Reserving the right to object, would that preclude an amendment relating to water projects tomorrow?

Mr. ROBERT C. BYRD. It would, except by unanimous consent.

Mr. President, I ask unanimous consent that, following the colloquy by Mr. HASKELL, the colloquy by Mr. BUMPERS, and the colloquy by Mr. CASE, the water projects section be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, every Senator here understands there will be no more rollcall votes on water projects amendments tonight, that there will be no amendments called up on water projects after tonight. Is that clear?

Mr. BAKER. Will the majority leader give me some indication of what time we plan to meet tomorrow?

Mr. ROBERT C. BYRD. What time do the Senators want to start?

SEVERAL SENATORS. Early.

Mr. ROBERT C. BYRD. Mr. President, are there any special orders entered?

The PRESIDING OFFICER. There are no special orders entered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW; FOR RECOGNITION OF SENATOR KENNEDY; AND FOR RESUMPTION OF CONSIDERATION OF PUBLIC WORKS APPROPRIATION BILL

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning; and that after the two leaders or their designees have been recognized under the standing order, Mr. KENNEDY be recognized for not to exceed 15 minutes; after which, the Senate will resume consideration of the public works appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. I thank all Senators.

Mr. STENNIS. Mr. President, may we have order? The Senator from Colorado has been patient.

The PRESIDING OFFICER. The Senator from West Virginia is seeking recognition.

ORDER OF PROCEDURE TOMORROW

Mr. RANDOLPH. Mr. President, I hope that this is an appropriate request. I would like to ask our distinguished majority leader, knowing the time we are coming in tomorrow, what is anticipated by him, if he can tell us, as to the length of the session tomorrow?

Mr. ROBERT C. BYRD. I am sorry, I cannot really give my distinguished colleague a very valid answer, except to say that I think it will probably take a couple of hours on the neutron bomb. Following that, perhaps the distinguished managers of the bill will know what other amendments are in the offing, so that we can clear out everything before we proceed to the Clinch River Breeder Reactor, which will go over until after the holiday.

Would it be a fair statement to indicate that, perhaps by 2 or 3 o'clock, we could finish easily?

Mr. KENNEDY. Mr. President, if the leader will yield, there will be an amendment, the Barnwell amendment. I understand that the leadership prefers to have the neutron bomb considered first. I hope that we can have this amendment follow it. I am glad to fit to whatever procedure the leadership desires, but I think it is important to understand that that will take some time.

I am not interested in having, and I do not think it will be, a prolonged debate, but I think we shall need some time to develop some positions.

Mr. STENNIS. May I inquire, does the Senator understand that we want to close down and have already closed down the water projects?

Mr. KENNEDY. This does not have very much to do with water projects. It does not have anything to do with them.

Mr. ROBERT C. BYRD. I have to say to my colleague that I cannot answer his question, because I do not know enough about the amendments.

Mr. KENNEDY. As a point of information, if I could direct a question to the floor manager, does he have any particular preference when that will be brought up?

Mr. STENNIS. I do not. I think we ought to get to the neutron warhead matter as soon as we can.

Mr. KENNEDY. Subsequent to that?

Mr. STENNIS. We can take up the neutron warhead first, and then that can follow.

Mr. KENNEDY. That will be fine. I shall notify the Senator from South Carolina, who had a particular interest.

Mr STENNIS. I appreciate the Senator's telling us what the amendment is.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HASKELL. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am reluctant to continue. I wonder if it is possible to change the time of meeting from 9 to 8:30 tomorrow morning.

Mr. ROBERT C. BYRD. No, we cannot do that, I say to my distinguished colleague. I would love to do it, but for certain reasons, I cannot.

PUBLIC WORKS APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7553.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HASKELL. Mr. President, if I may discuss a matter with the distinguished Senator from Mississippi, earlier this afternoon, I introduced an amendment to provide for planning funds.

Mr. STENNIS. Mr. President, let us hear the Senator from Colorado. He has waited a long while and cooperated greatly here tonight.

The PRESIDING OFFICER. Will the Members please take their seats and the staff clear the aisles? Conversations will be removed to the cloakroom.

Mr. HASKELL. Mr. President, earlier this afternoon, I presented an amendment to be sure that these projects that are not included in the bill before us would have sufficient money available to them so that they could replan, redesign, to meet what guidelines were set down by the administration and other parties. In discussing this matter, it was quite obvious, to both the Senator from Mississippi and this Senator, that we did not have the facts available. Since that time, the facts have been worked out. I should like to present my understanding of them and see if the Senator from Mississippi concurs.

First, I understand that, for the Narrows project in the State of Colorado, there exists $300,000 in previously appropriated funds, which can and shall be used for continuing planning.

Second, it is my understanding that, in the bill before us, there is $350,000 for planning in the Animas-La Plata project.

Then, under the category of general planning, it is my understanding, Mr. President, that there would be adequate funds available for the same type of work in connection with the Savery-Pot Hook project and the Fruitland Mesa project. It is my understanding that it is the Senate's intent that some portion of these moneys be used so that the people interested in those two projects can, in fact, do the same type of work that will be necessary to reexamine and redesign and possibly resubmit them.

Mr. President, I say to the distinguished Senator from Mississippi that that is my understanding of the factual situation and the intent of the Senate.

Mr. STENNIS. Mr. President, I think the facts are substantially what the Senator has stated with reference to those projects and the other projects that we have similarly dealt with.

That was my statement, to some degree, on the floor here in debate.

Mr. HASKELL. Mr. President, I say to the Senator, that was his statement. At that time, I was not in possession of all the facts.

Mr. STENNIS. I know that, but I just point that out, that is my understanding and that is my intention. I would feel bound by that very strongly because I made that statement to the Senate.

I cannot argue the technical rules that apply. But the Corps and the Bureau do have funds that are available generally, and the Senator has checked into it.

Mr. HASKELL. And which should be used for this purpose.

Mr. STENNIS. Can be used by them. Of course, it involves somewhat of a judgment by them, or someone. I could not just guarantee to what extent. But it is not our purpose to cut everything off. We want these things kept alive for

some time and some future consideration.

That is a judgment there and I cannot tell what it would be.

Mr. HASKELL. Mr. President, I realize, of course, the Senator from Mississippi is using a category of general planning and cannot be specific on amounts.

However, I have understood that these funds can, and I understand that it is our intention, that some portion should be used for this purpose.

Mr. STENNIS. Yes.

Mr. HASKELL. Would I be correct in that?

Mr. STENNIS. I think that is correct, yes, and this South Dakota project and the Narrows, too, in Colorado.

Mr. HASKELL. Right.

Mr. STENNIS. Statements have already been made by the President that he wants something further in those matters, and I would stand for anything reasonable although I will not be running the show.

We have to pick this up in conference and get all the conferees to understand it.

Mr. HASKELL. I think, Mr. President, that the understanding as stated by the Senator from Mississippi is completely satisfactory because our purpose is that these projects just should not die. Our purpose is that they should have at least a chance to relook, rethink, and redesign.

I thank the Senator from Mississippi very much.

Mr. STENNIS. I thank the Senator from Colorado. The Senator from Oregon joins in the sentiments of what we said.

The Senator from New Jersey has been promised that he would be next on this matter.

Mr. CASE. I understand the Senator from Arkansas will take 2 minutes.

Mr. STENNIS. All right.

UP AMENDMENT NO. 624

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 624.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, lines 13 and 14, strike the figure "$1,523,820,000," and insert in lieu thereof the figure "$1,524,320,000,"

and on page 7, line 3, strike the period, insert in lieu thereof a colon, and add the following: *"Provided further,* that $500,000 of this appropriation shall be expended by construction of Pine Mountain Dam, Arkansas and Oklahoma."

Mr. BUMPERS. Mr. President, this amendment is offered on behalf of my senior colleague (Mr. MCCLELLAN) and myself to provide $500,000 to begin construction of the Pine Mountain Dam in western Arkansas.

It is unusual in that the Corps of Engineers has not yet stated a construction capability for this project in fiscal year 1978. My most recent information is that approval of the general design memorandum and the environmental impact statement is not likely to occur until early in the next calendar year; the construction capability will not be stated until that time.

This is yet another delay in a long series of delays. The most serious such delay occurred in 1976, when the corps reversed a long-held position and insisted that a portion of the recreational costs associated with the project must be borne by local interests. The Pine Mountain Dam will be located entirely within a national forest, and Congress had directed—in Public Law 89–72—that cost-sharing for recreation should not be required in such situations; it was necessary, however, to amend the authorizing legislation—in Public Law 94–587, approved October 22, 1976, in order to resolve the controversy.

Because of the cost-sharing controversy, planning for the Pine Mountain Dam was delayed for 9 months. Because of the delay in planning, and other associated delays, it has not yet been possible for the corps to state a construction capability for fiscal year 1978. Absent any congressional action, construction can begin no sooner than October 1978, at least a year later than it should have begun.

Mr. President, this dam is of great importance as a source of water to a number of communities in western Arkansas—not the least of which is this Senator's hometown.

The project will fill a genuine human need at an acceptable cost. It is imperative that construction begin at the earliest possible date, which will probably be sometime in the third or fourth quarter of fiscal year 1978. Further delays should not be tolerated, and this message can be delivered most effectively by adding a small amount for construction, $500,000, to this bill. This is what my amendment is designed to do.

Mr. STENNIS. If the Senator is ready for my remarks, he has here a matter that looks as if it has merit. It is a new construction start, as the Senator related. Under our temporary ground rules, we would not be in a position to agree to it now, but it is a good time to start it on a journey and make a record on it.

Mr. BUMPERS. Mr. President, I thank the Senator.

I want to emphasize that there are dams and there are dams, and this dam is vitally needed in order to store a reservoir of water for human needs, which should take precedence over any other kind.

I say to the Senator that I appreciate his comments, and I will withdraw the amendment.

Before I actually withdraw the amendment, however, I would like to address a couple of questions to the distinguished chairman. Would the Senator join me in expressing hope that the Corps of Engineers will make an estimate of its capability for construction as soon as possible, preferably before the end of fiscal year 1978?

Mr. STENNIS. The Senator has stumped me now, I will have to refrain, as in all cases, from just promising what would be the fate of the supplemental bill, or just when there will be a supplemental bill.

Mr. BUMPERS. If the corps does make such a construction capability statement before such a supplemental appropriation is considered, does the Senator see any reason why it should not be considered?

Mr. STENNIS. Whatever ground rules we have to adopt and ask the Senators to go by, on these supplemental bills, as the Senator knows, sometimes it is almost necessary to just say that we have to limit this to a rather narrow field.

So we have to reserve judgment on those matters. But, certainly, he would be eligible to get these things done, to urge its consideration, yes.

Mr. BUMPERS. I thank the Senator.

I say to the Senator that the corps virtually promised my senior colleague and me in his office less than a year ago that they would do that.

Mr. STENNIS. Yes.

I think it is a very reasonable request the Senator has made. Subject, as is always true, to all the other requirements having been met, requirements by law with reference to local arrangements. environmental impact, contractual requirements, and contributions about land, and so forth, yes, I think it should proceed.

Mr. BUMPERS. I ask this question, if the corps is able to make such a statement, and if there is a supplemental appropriation bill later on for fiscal year 1978, would the Senator be of the opinion that this appropriation could be considered at that time?

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from New Jersey.

Mr. STENNIS. Mr. President, will the Chair indulge me for a moment?

Mr. CASE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, if the Senator from Mississippi will indulge my raising a point with him, I would appreciate it.

It is my understanding and that of the Senator from New York (Mr. JAVITS) that the bill before us makes an important improvement in the provision dealing with the New York-New Jersey harbor cleanup. We in New Jersey describe it as the New Jersey-New York harbor cleanup.

I would like to check our understanding of this with the Senator from Mississippi. As we understand it, the House bill contains language that earmarks portions of the funds provided by the bill for specific projects and creates the possibility that matching funds may not be available for all of the projects for which funds are provided. In the bill before us, on the other hand, we believe it is the intent of the committee that the funds should be made available to whatever harbor cleanup projects are ready to proceed and for which matching funds are available. Can the Senator from Mississippi tell me whether our understanding of this matter is correct?

Mr. STENNIS. The Senator from New Jersey is correct. It is not our intent to provide funds in this bill for which matching funds might not be available. It is our intent that the funds provided in the bill for the harbor cleanup project will be available for use on portions of the project for which matching funds are available.

Mr. CASE. I thank my colleague.

Mr. STENNIS. I hope the matter comes out very well. The Senator from New Jersey has been very understanding about it.

Mr. President, I know of no other matters. It is the understanding of the Senator from Mississippi that this closes the amendments to all the water resources provisions in the bill.

The PRESIDING OFFICER. Under the unanimous-consent order which was earlier entered into, the understanding of the Senator from Mississippi is correct.

ADDITIONAL STATEMENTS SUBMITTED

Mr. MUSKIE. Mr. President, the Senate has before it H.R. 7553, the public works and energy research appropriation bill for fiscal year 1978 which provides funds for water resources programs of the Corps of Engineers and Bureau of Reclamation, for the energy research and weapons programs of ERDA, and for several other smaller programs.

I want to comment briefly on the relationship between this bill and the first budget resolution we adopted in May.

As reported, H.R. 7553 provides $10.4 billion in budget authority with outlays estimated to be $9.8 billion including $4.5 billion in outlays from prior year authority.

Under section 302(b) of the Budget Act, the Committee on Appropriations divides among its subcommittees the budget authority and outlays allocated to it under the budget resolution.

Under this allocation process, the Subcommittee on Public Works was allocated $11.1 billion in budget authority and $10.0 billion in outlays. H.R. 7553, as reported, is within this allocation. The bill is $0.7 billion in budget authority and $0.2 billion in outlays below the amounts allocated to the subcommittee.

Later funding requirements for programs within the jurisdiction of the Public Works Subcommittee are estimated to be $0.4 billion in budget authority and $0.3 billion in outlays. Were these programs fully funded, the subcommittee would remain below its budget authority allocation by $0.3 billion but would exceed its outlay allocation by $0.1 billion. Mr. President, I ask unanimous consent that a table reflecting these amounts be inserted in the RECORD at this time.

Regarding the outlay situation, the distinguished chairman of the Appropriations Committee, Senator MCCLELLAN has given his assurance that the full Appropriations Committee expects to be able to stay within the full allocation made to his committee under the first budget resolution, including all possible later requirements known at this time. I commend him for this, and for his commitment to the budget process.

Regarding budget authority, I would point out that it is critically important to save the funds remaining within the subcommittee's allocation because they are required to help the full Appropriations Committee to stay within its total allocation since some other subcommittees will be oversubscribed when later requirements known at this time are taken into account.

Mr. President, let me conclude by saying that I support the bill. H.R. 7553 provides funds for necessary programs in the water resources area and in the field of civilian and military energy research. The bill is within the allocation to the Appropriations Subcommittee on Public Works. I realize how difficult it has been for the distinguished chairman of the subcommittee, Senator STENNIS, to bring this bill to the floor, and he has done so in a timely fashion. He deserves our commendation.

H.R. 7553 Public works/energy research appropriation bill relationship to subcommittee allocation

[In billions]

	Budget authority	*Outlays*
Subcommittee section 302(b) allocation	11.1	10.0
H.R. 7553	10.4	9.8
Remaining allocation	0.7	0.2
Possible later requirements:		
Energy programs	0.3	0.2
Miscellaneous water resource programs	0.1	0.1
Total possible later requirements	0.4	0.3
Possible amount over (+) or under (−) subcommittee allocation	−0.3	+0.1

Mr. PERCY. Mr. President, I would like to comment on the recommendations of the Senate Appropriations Committee on the water resources development sections of this bill. The committee deleted the fiscal year 1978 funding of $400,000 for a small flood project in Milan, Ill. I would like to stress the importance of this flood project in Milan and recommend that funding be re-included for fiscal year 1978.

Authorized in 1968 at a cost of approximately $6 million, the Milan project has received both State and local support. With $2.2 million of the total funding coming from State and local sources, over one-third of the project has been funded from non-Federal sources. For this community that has contributed much time and money to this project, discontinuing project funds comes as a bitter blow.

The Milan area has been continuously plagued by severe flooding. In 1965 and 1969, damage from severe flooding totaled an estimated $2 million in value. Light flooding, such as in 1971, persists in this area and goes unrecorded by the corps. There are no doubts that the benefits accrued in protecting this area are greater than the costs. For each dollar spent on this flood-control project, two dollars and twenty cents will be received in benefits. This high benefit-cost ratio of 2.2—using the current 6⅜ percent interest rate—illustrates the viability of the Milan project especially when considering that most water projects have a 1.3 to 1.4 benefit-cost ratio.

The project includes the construction of leaves, closure structure, interior drainage facilities, pumping plant and ponding area. They are vitally needed to protect the village of Milan and the Big Island conservation district from floods on the Rock River, Mississippi River, as well as the Mill, Kyte and Kckhardt Creeks. This project is small in comparison to others, both in funding and protection. However, for the 6,000 people and property owners who live in this area, the threat of flooding is most real and the funding for this project is crucial.

I disagree with the committee's recommendation that funding for all new construction starts be deleted for fiscal year 1978. In the past months there has been much discussion on the legitimacy of water projects. I support this review process but believe to constructvely criticize any of these projects, each project must be evaluated on its own merits, with each project entitled to this review. I am aware of the time constraints of the committee, particularly in light of the number of projects proposed for deletion by the President. Yet, the fact that the House included the Milan project in its construction allowance makes me believe that study of this project by the Senate Appropriations Committee was warranted:

The only criteria used by the committee for this deletion of the Milan project is that all new construction starts, including that of Milan, should be stopped for fiscal year 1978 and be considered in the next budget year. In its recommendation, the committee does not assess the Milan project by the standard indicators, such as benefit-costs of the Milan program, the flood potential of the Milan area, or the environmental impact of the project. When examining these factors, I find that the Milan project is a legitimate and necessary project and should receive funding for fiscal year 1978.

I trust that the Senate conferees will recede to the House on the inclusion of this cost-effective project.

Senator HATFIELD. Mr. President, the Senator from Illinois is correct that the reason the Milan project was not

funded in this bill is that it would be a new construction start. He is also quite correct that this project has a highly favorable benefit-to-cost ratio.

I should note that this project will be in conference and will receive our further consideration at that time.

Furthermore, I trust the subcommittee will be in a position next year to consider some new construction starts, and if we are, and if this project does not come out of conference with funding this year, I assure the Senator from Illinois that the subcommittee will then give full consideration to the merits of the Milan project.

Mr. McCLURE. Mr. President, my amendment today deals with the State of Idaho and does not ask for an increase in appropriations. This amendment is to allow the Idaho Fish and Game and the Corps of Engineers to continue working together on a vitally needed fish hatchery at McCall, Idaho, and it simply states that a portion of the moneys already appropriated be earmarked for this critically needed hatchery.

The McCall hatchery is the first needed under the Lower Snake River fish and wildlife compensation plan authorized by Congress in 1975 to mitigate for the fish losses due to the construction of Federal dams on the Snake River. But because of the drastic loss of the summer chinook run, expected funding is needed immediately to build the hatchery and begin summer chinook production.

Efforts have been ongoing since last year by the Corps of Engineers, the Idaho Fish and Game and the Pacific Northwest Regional Commission, representing the Pacific Northwest Governors, to get the McCall project expedited in order to save the dwindling run. The Regional Commission, with the approval of the Senate Public Works Committee and the agencies involved, granted the State of Idaho $150,000 for the design of the hatchery this past spring so that completion of the project could occur with fiscal year 1978 appropriations money. While both Senator CHURCH and I and the Idaho Fish and Game requested additional money from the committee, they limited the funding to $1.5 million. All we are seeking today is to earmark $700,000 of that $1.5 million appropriated for hatchery by the Idaho Fish and Game. We are not asking for an increase, only for a specific and critical use of the money.

Mr. President, the Lower Snake plan was passed to try and preserve our anadramous fishery in the Pacific Northwest after the lower four Snake dams were constructed. The mitigation is almost too late. While the plan states that almost all of the $58 million authorized should be used for hatchery production, no one thought we would be so long in getting the hatcheries into production. The corps report, based on fish returns from the later 1960's, early 1970's, states that of all the fish in danger, the summer chinook runs are in the greatest jeopardy. I might note that for all practical purposes the fall chinook run is virtually lost with only 1,000 or so fish returning each year. The summer chinook run is in a head dive in the same direction. Because of the critical situation, the corps and the State of Idaho started an emergency program 2 years ago at the old McCall hatchery to begin some summer chinook production. The corps said that the losses were so drastic that something had to be done immediately until further hatchery construction could begin. The report further concluded and recommended that a hatchery for summer chinook was so urgent that authorization and funding of the hatchery should be done simultaneously and immediately. This was several years ago and it was then that a concerted effort was made by all agencies involved to expedite the hatchery construction. PNRC gave the $150,000 to Idaho to begin design work early so that scheduling could be speeded up and the 1978 appropriations would be utilized immediately. This design is preliminarily completed. Water quality studies are all but completed. The EIS is scheduled and will be completed in 6 months, by the time the hatchery is ready to go in. The corps and Idaho fish and game have proven that McCall is an excellent site for chinook production.

There is no question that the summer chinook hatchery has the highest priority by all involved in this anadramous fishery crisis. But even with construction beginning this next spring, it will be 1983–84 before we can even begin to see a return of fish. Incubation and rearing takes a year and a half and cannot begin until the fall of 1979. The released smolts then take 2 to 3 years to return from the ocean to their spawning grounds. We are prepared to meet this schedule, money is available. We just need the endorsement of the Senate today to allow us to go ahead as planned and utilize the $700,000 for the McCall hatchery.

Our motivation behind the entire compensation plan is to save the fisheries that have suffered terrible losses because of the Federal dams constructed on the Columbia Basin rivers. We are late in passing this plan. Thus we must expedite its implementation if we are going to have a chance in saving the summer chinook run. Idaho Fish and Game with the cooperation of all agencies involved, have been gearing up for the past year to put this hatchery into production. They are prepared to do the job and all my amendment does is simply allow the State of Idaho to proceed as planned and get the hatchery constructed in time to save the summer chinook run.

Mr. President, I had hoped to be able to introduce this amendment today which would have provided funds for the development of a very critical fish hatchery in the State of Idaho. My amendment would not increase the appropriation bill but only earmark a portion of the funds already provided in the bill. I am disappointed that I cannot get the endorsement of the committee nor of other western Senators. I appreciate Senator HATFIELD's efforts on my behalf but I recognize the impossibility of getting such an amendment passed without both the Appropriation Committees support and that of my senior colleague. Therefore I have chosen not to offer the amendment.

This project is urgently needed if we are to avoid the permanent loss of the summer chinook run in Idaho. I will seek at the soonest possible opportunity funding for the development of the McCall fish hatchery.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Add at the end of Title II, the following new section:

$700,000 of the $1.5 million appropriated for the Lower Snake River Fish and Wildlife Compensation Plan shall be designated for the continuation of the planning and development of a fish hatchery at McCall, Idaho by the State of Idaho.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to the consideration of executive business.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, with respect to the first nomination, Calendar No. 250, I ask unanimous consent that at such time as that nomination is made the pending business before the Senate, there be a time limitation thereon of 1 hour and a half, to be divided between Mr. KENNEDY and the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Subsequently the following occurred:)

Mr. BAKER. Mr. President, could I interrupt for a moment to ask the distinguished majority leader in the case of the first item on the Executive Calendar, on which a unanimous-consent agreement was entered into providing controlled time, and the time presumably in support of the nomination was given to the minority leader or his designee, I assume Senator KENNEDY is in opposition to the nomination and, in that case, I wonder if the majority leader would consider amending that consent request so that the distinguished chairman of the Foreign Relations Committee would be in charge of the time and in support of the nomination?

Mr. ROBERT C. BYRD. Mr. President, I think that is a very good and thoughtful suggestion on the part of the minority leader, and I so amend my request.

The PRESIDING OFFICER. Without objection, the amended request is agreed to, and it is so ordered.

EXECUTIVE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nom-

inations on the Executive Calendar, beginning with the Department of Justice on page 1 and going through Department of Justice on page 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations will be stated.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of William T. Moore, Jr., of Georgia, to be U.S. attorney for the southern district of Georgia, and William L. Harper, of Georgia, to be U.S. attorney for the northern district of Georgia.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

DEPARTMENT OF AGRICULTURE

The second assistant legislative clerk read the nomination of Leland Earl Bartelt, of California, to be Administrator of the Federal Grain Inspection Service.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

The second assistant legislative clerk read the nomination of Esther Crane Wunnicke, of Alaska, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of William J. vanden Heuvel, of New York, to be the Representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Leonard Woodcock, of Michigan, to be Ambassador to the People's Republic of China.

Mr. BAKER. Mr. President, I commend the President of the United States for his nomination of Ambassador Woodcock.

Ambassador Woodcock had the courtesy to pay a call on me before his nomination was considered by the Committee on Foreign Relations. We had a good conversation on a wide-ranging spectrum of subjects. I am convinced that he will make an outstanding representative of the President of the United States to the People's Republic of China.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Philip Mayer Kaiser, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The second assistant legislative clerk read the nomination of John Newhouse, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Francis J. Boyle, of Rhode Island, to be a U.S. district judge for the district of Rhode Island.

Mr. PELL. Mr. President, it is with particular pleasure today that I give my wholehearted support to the nomination of Francis J. Boyle of Newport, R.I., to be U.S. district judge for the district of Rhode Island.

Mr. President, for over a year now there has been a vacancy on the U.S. district court for the District of Rhode Island, due to the retirement of senior Judge Edward W. Day. Chief Judge Raymond Pettine has had to tackle the work of two judges during this time, plus handle an expanding caseload. Despite his untiring efforts, Judge Pettine is in need of another judge to assist in handling this workload. Mr. President, I believe the President, in nominating Frank Boyle, has chosen the right person for the job.

I have known Frank Boyle as an attorney and a distinguished citizen for more than 20 years. He has been a highly respected legal practitioner for over 25 years, with particular experience as a trial attorney. He has handled a great number of complex legal matters covering a vast range of legal issues.

Not content merely to practice law, Mr. Boyle has devoted a substantial amount of his time to public and charitable service including his most vigorous service for the past 3 years as a member of the Rhode Island Board of Regents.

Mr. Boyle attended Providence College and the University of Michigan and received his law degree from Boston College School of Law in 1952, after having served in the U.S. Navy during World War II.

Throughout his career, Mr. Boyle has been a leading member of numerous civic, educational, religious and professional organizations. He is a partner in the Newport firm of Moore, Virgadamo, Boyle, and Lynch.

Mr. Boyle served for 5 years as president of the Newport County Bar Association and is a past director of the Newport County Chamber of Commerce. He has been a member of several prominent judicial and educational organizations. The Diocese of Providence awarded Mr. Boyle its Distingiushed Service Award for 1976.

Frank Boyle is a man of enormous respect for the law, coupled with a deep devotion for his family and his Church.

I know that some have opposed this nomination because of Mr. Boyle's representation of the so-called right-to life position in various matters in the State of Rhode Island. Frank Boyle and I have discussed the abortion matter on several occasions and I am firmly convinced that he knows the terribly important distinction between the advocate's role and that of the jurist.

Frank Boyle is a man of fairness, honesty, and decency. His word is an absolute surety. I know he holds the position of U.S. district judge in the highest regard and will, if confirmed by the Senate, carry out his responsibilities in the finest traditions of the Federal judicial system.

There can be no better expression of Francis Boyle's thoughts on this subject than the very words he wrote to me in a letter dated January 19, 1977, wherein he stated:

> The fact that I do not agree with the factual or legal conclusions of a court decision, does not mean that I am free to ignore that decision in the practice of law. United States Supreme Court opinions are the law until reversed by the United States Supreme Court. Neither Courts of Appeal nor District Courts may reverse or modify opinions of the United States Supreme Court. As a lawyer and, if appointed, as a United States District Judge, I am bound by the opinions of the United States Supreme Court. As a lawyer, I can represent clients who seek to modify or reverse those opinions, but as a United States District Court Judge, I cannot do so.
>
> Further, United States District Court decisions are subject to review by Courts of Appeal. It would be foodhardy to decide an issue contrary to a United States Supreme Court opinion, since it would be promptly reversed on appeal. The deliberate decision of a United States District Court contrary to a United States Supreme Court opinion, would, in my opinion, be good cause for impeachment.
>
> If my religious beliefs are pertinent, then you should know that I have a religious conviction, as well as a civic conviction, that an oath is a sacred act, calling upon God to witness the truth of the undertaking. As a United States District Court Judge, I would be required to take an oath to uphold the Constitution and Laws of the United States. If I were to act contrary to opinions of the United States Supreme Court, I would violate my oath, and, I would consider this to be a serious violation.
>
> It would also be a violation of my oath if I were to seek to impose my own personal convictions to arrive at any decision. I have too long lived with the principle that judicial disputes must be decided on the law and the facts, and that any other consideration results not in a judicial decision, but in a dictatorial fiat. If I were faced with a question which I could not determine without asserting my personal beliefs, I would be required, by my oath, and by my conscience, to withdraw from participation.

Mr. President, there is no question in my mind that Francis Boyle will be a fair and impartial jurist, one who will be a credit to the Federal judiciary.

I give him my strongest personal support and urge the Senate's approval.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nominations of Thomas P. Sul-

livan, of Illinois, to be U.S. attorney for the northern district of Illinois for the term of 4 years; Harold D. Hardin, of Tennessee, to be U.S. attorney for the middle district of Tennessee for the term of 4 years; Emmett W. Fairfax, of Missouri, to be U.S. marshal for the western district of Missouri for the term of 4 years; and George R. Grosse, of Florida, to be U.S. marshal for the middle district of Florida for the term of 4 years.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—U.S. AIR FORCE, U.S. ARMY, U.S. NAVY, AND MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force, U.S. Army, U.S. Navy, and nominations placed on the Secretary's desk in the Air Force, Army, Navy, and Marine Corps.

Mr. ROBERT C. BYRD. Mr. President, under the military, with the exception of calendar orders numbered 323 and 339, I ask unanimous consent that the nominations be considered and confirmed en bloc for U.S. Air Force, U.S. Army, U.S. Navy, and also nominations placed on the Secretary's desk in the Air Force, Army, Navy, and Marine Corps.

Mr. BAKER. Mr. President, reserving the right to object, I would advise my friend, the majority leader, that all of those nominations to which he referred are cleared on this side, and we have no objection.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and are confirmed en bloc.

Mr. ROBERT C. BYRD. With the exception of calendar orders numbered 323 and 339.

The PRESIDING OFFICER. With those two exceptions, the nominations are considered en bloc and are confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President of the United States be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF THE NOMINATION OF ROBERT HARRY NOOTER ON JULY 11, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on July 11, at the conclusion of the statements by the two leaders or their designees under the standing order, and the recognition of any Senators under orders previously entered, if there is to be such, and at the conclusion of routine morning business, if such be ordered, the Senate go into executive session to consider the nomination of Robert Harry Nooter, of Missouri, Calendar Order No. 250.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has the order been entered for the Senate to stand in recess until 9 a.m. tomorrow?

The PRESIDING OFFICER. The order was entered earlier to stand in recess until 9 a.m.

Mr. ROBERT C. BYRD. I thank the Chair.

The order has been entered for the recognition of Mr. KENNEDY for 15 minutes?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Very well, Mr. President.

Has it been established clearly that no further amendments dealing with water projects would be in order except by unanimous consent on the bill?

The PRESIDING OFFICER. That unanimous-consent request was made earlier and was reconfirmed by the chairman of the committee at the conclusion of considering all the pending matters with respect to the water projects. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER TO RESUME CONSIDERATION OF H.R. 7553 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the order for the recognition of Mr. KENNEDY tomorrow, the Senate resume consideration of the public works appropriation bill.

The PRESIDING OFFICER. That order has been entered and, without objection, reconfirmed.

Mr. ROBERT C. BYRD. Mr. President, at that time what will be the pending question before the Senate?

The PRESIDING OFFICER. At that time amendments to title I of the bill will be in order, and it has been indicated by the floor managers of the bill that the amendment relating to the neutron bomb will be before the Senate—will be offered and then be before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that be the order.

The PRESIDING OFFICER. Is the unanimous-consent request that the Senator from Oregon should be recognized to offer his amendment?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I guess that about states the situation. The Senate will come in at 9 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, Mr. KENNEDY will be recognized for not to exceed 15 minutes, after which the Senate will resume consideration of the public works appropriation bill, at which time Mr. HATFIELD will be recognized to call up his amendment on the neutron bomb.

Rollcall votes will occur throughout the morning and afternoon on amendments to and motions in relation to the public works appropriation bill.

The order has previously been entered that Clinch River reactor project is the last item to be considered in connection with that bill, and when the Senate completes its business tomorrow it will go over until Monday, July 11.

There is a clear understanding that the Clinch River breeder reactor project will not be taken up tomorrow, and that that will go over, and it is hoped and anticipated that all other matters in relation to the bill, with that one exception, being the Clinch River breeder reactor project, will be completed on tomorrow, and that the only remaining item will be the Clinch River breeder reactor project which, as I say, will be carried over until after the holiday.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. In that connection, it is my understanding of the consent order previously entered that not only will the Clinch River portion of the public works appropriation bill be carried over until we return on July 11, but that the ERDA authorization bill will intervene before we return, except on motion, to the consideration and final disposition of the public works appropriation bill.

Mr. ROBERT C. BYRD. The minority leader is preeminently correct, and I am glad he reminded me of that. This was agreed to by the parties who are concerned so as to avoid two fights, hopefully, on the Clinch River breeder reactor project. It was felt that the authorization should proceed in an orderly fashion on that matter prior to the appropriations action, and that is the understanding and that will be the intent of the leadership.

Mr. BAKER. I thank the majority leader.

The PRESIDING OFFICER. There is an order to that effect which has been entered.

Mr. ROBERT C. BYRD. I thank the Chair for reminding me.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 8:10 p.m. the Senate recessed until Friday, July 1, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 30, 1977:

DEPARTMENT OF STATE

W. Howard Wriggins, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka.

W. Howard Wriggins, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

DEPARTMENT OF JUSTICE

Harold M. Edwards, of North Carolina, to be U.S. attorney for the western district of North Carolina for the term of 4 years vice Keith S. Snyder.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Richard Asher Frank, of the District of Columbia, to be Administrator of the National Oceanic and Atmospheric Administration, vice Robert M. White, resigned.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Charles F. C. Ruff, of the District of Columbia, to be Deputy Inspector General, Department of Health, Education, and Welfare (new position).

NUCLEAR REGULATORY COMMISSION

Joseph Mallam Hendrie, of New York, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1981, vice William A. Anders.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Robert E. Buechler, [redacted]G, Air National Guard of the United States.

To be brigadier general

Col. Ervin H. Bucher, [redacted]FG, Air National Guard of the United States.

Col. James E. Darst, Jr. [redacted]FG, Air National Guard of the United States.

Col. Donald W. Forney [redacted]FG, Air National Guard of the United States.

Col. Orlando Llenza, [redacted]FG, Air National Guard of the United States.

Col. Ralph A. Skowron, [redacted]FG, Air National Guard of the United States.

IN THE NAVY

Adm. David H. Bagley, U.S. Navy, (age 56), for appointment to the grade of admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Shannon D. Cramer, Jr., U.S. Navy. (age 55), for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 30, 1977:

DEPARTMENT OF JUSTICE

William T. Moore, Jr., of Georgia, to be U.S. attorney for the southern district of Georgia for the term of 4 years.

William L. Harper, of Georgia, to be U.S. attorney for the northern district of Georgia for the term of 4 years.

DEPARTMENT OF AGRICULTURE

Leland Earl Bartelt, of California, to be Administrator of the Federal Grain Inspection Service.

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

Esther Crane Wunnicke, of Alaska, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.

DEPARTMENT OF STATE

William J. vanden Heuvel, of New York, to be the Representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

Leonard Woodcock, of Michigan, for the rank of Ambassador during the tenure of his service as Chief of the U.S. Liaison Office at Peking, People's Republic of China.

Philip Mayer Kaiser, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

John Newhouse, of the District of Columbia, to be an Assistant Director of the United States Arms Control and Disarmament Agency.

DEPARTMENT OF JUSTICE

Thomas P. Sullivan, of Illinois, to be U.S. attorney for the northern district of Illinois for the term of 4 years.

Harold D. Hardin, of Tennessee, to be U.S. attorney for the middle district of Tennessee for the term of 4 years.

Emmett W. Fairfax, of Missouri, to be U.S. marshall for the western district of Missouri for the term of 4 years.

George R. Grosse, of Florida, to be U.S. marshal for the middle district of Florida for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Francis J. Boyle, of Rhode Island, to be U.S. district judge for the district of Rhode Island.

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. James A. Knight, Jr., [redacted]R (major general, Regular Air Force), U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Thomas M. Ryan, Jr., [redacted]FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Wilbur L. Creech, [redacted]FR, U.S. Air Force, for appointment as senior U.S. Air Force member of the Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Eugene F. Tighe, Jr., [redacted]R (major general, Regular Air Force), U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Volney Frank Warner, [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Arthur James Gregg, [redacted], Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Donn Albert Starry [redacted], Army of the United States (major general, U.S. Army).

The follow-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Samuel Vaughan Wilson (age 53), [redacted]Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Elvind Herbert Johansen, [redacted]Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert Jacob Baer, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Jack Carter Fuson, (age 56), [redacted]Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. George Sammet, Junior, (age 57), [redacted] Army of the United States (major general, U.S. Army).

The following officer for appointment in the Adjutant General's Corps, Army National Guard of the United States under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. Edward Clarence Binder, [redacted].

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Thomas Matthew Rienzi, [redacted] U.S. Army.

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3384:

To be major general

Brig. Gen. Paul Shepard Oliver, Jr., [redacted].

Brig. Gen. Donal Lloyd Turkal, [redacted].

To be brigadier general

Col. Martin George Drinka, [redacted].
Col. Robert Coombs Gardner, [redacted].
Col. John Edward Gecks, [redacted].
Col. Robert Bruce Golbey, [redacted].
Col. Willard Eugene Hanshew, [redacted].
Col. Richard Moss Laskey, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Fletcher Clement Booker, Jr., [redacted].

Brig. Gen. James Arthur Daley, [redacted].

Brig. Gen. Herman Tenkin, [redacted].

To be brigadier general

Col. Horace Leighton Cheek, Jr., [redacted].
Col. Joseph Levy Dabadie, Jr., [redacted].
Col. William Sinclair Frye, [redacted].
Col. Phillips Nason Gordon, [redacted].
Col. Henry Bramlette Gray III, [redacted].
Col. Julian Milledge Marchant, [redacted].
Col. James Quimby Simmons III, [redacted].
Col. Ralph Taylor Tice, [redacted].
Col. Robert Warren Westphal, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. Claude Willis Biehn, [redacted].
Col. Lloyd Mortimer Price, [redacted].
Col. Gene Hal Williams, [redacted].
Col. William Rex Wilson, [redacted].

IN THE NAVY

Rear Adm. Wesley L. McDonald, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of Title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Vice Adm. Robert L J. Long, U.S. Navy, for appointment as Vice Chief of Naval Operations pursuant to title 10, United States Code, section 5085.

Vice Adm. Robert L. J. Long, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

IN THE AIR FORCE

Air Force nominations beginning Thomas P. Mathews, to be lieutenant colonel, and ending Cary A. Fisher, to be permanent professor, U.S. Air Force Academy, which nominations were received by the Senate on June 2, 1977, and appeared in the CONGRESSIONAL RECORD on June 6, 1977.

Air Force nominations beginning Karl W. Barmann, to be captain, and ending Robert W. Ziegler, Jr., to be first lieutenant, which nominations were received by the Senate on June 2, 1977, and appeared in the CONGRESSIONAL RECORD on June 6, 1977.

IN THE ARMY

Army nominations beginning Paul M. Adams, Jr., to be colonel, and ending Marc Snyder, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 24, 1977.

Army nominations beginning Calvin G. Dodd, to be lieutenant colonel, and ending Brenda L. Terrell, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 6, 1977.

Army nominations beginning Billy R. Godall, to be major, Regular Army, and lieutenant colonel, Army of the United States, and ending Ronald D. Williams, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 6, 1977.

IN THE NAVY

Navy nominations beginning Douglas E. Atkins, to be ensign, and ending David A. John, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 19, 1977.

Navy nominations beginning Ronnie J. Ackerman, to be commander, and ending Julius J. Zschau, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 6, 1977.

Navy nominations beginning Leroy E. Addison II, to be chief warrant officer, W-3, and ending Charles A. Zumbaugh, to be chief warrant officer, W-4, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 15, 1977.

IN THE MARINE CORPS

Marine Corps nominations beginning William R. Abele, Jr., to be lieutenant colonel, and ending Wilma L. Turner, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 18, 1977.

Marine Corps nominations beginning Andrew B. Adams, to be lieutenant colonel, and ending Paul T. Shaffer, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 18, 1977.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with bills and joint resolutions introduced today are as follows:)

By Mr. LAXALT:

S. 1790. A bill to amend section 205 of the Federal Power Act in order to revise the procedure for establishing new schedules of rates, charges, classifications, or services; to the Committee on Energy and Natural Resources.

Mr. LAXALT. Mr. President, section 205(e) of the Federal Power Act, allows the FPC to suspend the operation of any newly proposed rate schedule for up to 5 months. After that, however, the rates go into effect temporarily pending the outcome of a full hearing to determine the lawfulness of proposed changes. Thus, the present system allows the FPC by simple inaction to grant rate increases which violate at least the spirit of the Administrative Procedures Act and the requirements of due process in that they are passed through on an interim basis prior to any judgment as to their lawfulness.

As if this were not bad enough, the Commission's hearings and review process has become increasingly cumbersome and complicated with the result that consideration of many rate proposals frequently drag on for years. The FPC argues that wholesale purchasers forced to pay pending temporary rates have a right to refunds as do consumers should the proposed rate ultimately be determined to be unreasonable. But, in practice, refunding has frequently proven to be of little use to the consumer because, under present law, the refund provisions are optional at the discretion of the FPC and utilities frequently pancake additional requests one on top the other in such a way that final refunds are even further delayed, if they are granted at all. Of course, refunds, which may or may not come through at some future time, also do little to comfort the small business or residential consumer faced with mounting present bills.

To assist in dealing with some of those problems, I am today introducing legislation to expedite and render more equitable FTC procedures for handling rate increases. My bill would amend section 205(e) of the Federal Power Act in the following way:

First. It would provide for an interim hearing process to assess the lawfulness of any proposed rate increase prior to commencement of the initial hearing. This interim hearing would be between the FPC and the relevant utility for an assessment of reasonableness and would take place within the first 30 days of the filing of the rate increase schedule;

Second. It would require that full hearings be commenced within 90 days of the filing of the rate increase schedule;

Third. It would require, as opposed to leaving optional, the maintenance of accurate records and the granting of refunds in the event a proposed increase proved to be unlawful; and

Fourth. It would prohibit what has come to be known as pancaking; that is the procedure by which utilities seek further increases before the FPC has disposed of previous ones.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205(e) of the Federal Power Act (16 U.S.C. 824d(e)) is amended to read as follows:

"(e)(1) Whenever any such new schedule is filed the Commission shall at once, but upon reasonable notice, enter upon a preliminary hearing solely with the public utility or utilities filing such schedule concerning the lawfulness of such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the public utility or utilities affected thereby a statement in writing of its reasons for such suspension, shall suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, until the effective date of such decision which shall not be later than sixty

days after the date on which such schedule would otherwise go into effect. Following the completion of such preliminary hearing the Commission shall issue such temporary orders with respect to such schedule as it deems appropriate and within thirty days thereafter shall initiate full hearings upon such schedule and such temporary orders. Upon the completion of such hearings the Commission shall issue such final orders with respect to such schedule as are proper in a proceeding initiated after it has become effective. After any suspension pursuant to this subsection the proposed change of rate, charge, classification, or service may be placed into effect in accordance with such temporary orders as provided above, but in case of a proposed increased rate or charge, the Commission shall by order require the interested public utility or public utilities to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the full hearing and final decision shall by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.

"(2) A public utility may not file a schedule which seeks to increase a rate or charge so long as the Commission has pending before it for final determination any schedule previously filed providing for such an increase by such public utility.".

By Mr. NUNN (for himself and Mr. TALMADGE):

S. 1791. A bill to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA

Mr. NUNN. Mr. President, I rise today for the purpose of introducing, on behalf of myself and my senior colleague, Senator TALMADGE, legislation which would set aside a 48-mile stretch of the Chattahoochee River, near Atlanta, as a national recreation area. In an age of urban crowding it is increasingly important that we preserve the available open spaces in and near our large cities for recreational use. The preservation and protection of park lands and recreation areas throughout the Nation is becoming increasingly important as more and more Americans seek to participate in travel and outdoor activities. The history of the effort to preserve the 48-mile stretch of the Chattahoochee River from Buford Dam to Peachtree Creek is a long one and involves the efforts of many individuals who are dedicated to the task of preventing the loss of this area's natural and historic character.

The Chattahoochee begins as a small mountain stream in northeast Georgia, flowing southwesterly across the State where it enters Lake Lanier and is impounded by Buford Dam. The river then continues southerly, passing by the northwest boundary of metropolitan Atlanta and forms the boundary for the States of Alabama and Georgia, eventually flowing into the Apalachicola River in Florida and emptying into the Gulf of Mexico. Much of the lower portion of the river has been dammed to form a succession of reservoirs.

The proposed national recreation area extends for 48 miles from Buford Dam to Peachtree Creek, near the center of Atlanta. On September 14, 1970, the Secretary of the Interior selected this area, along with 13 other major areas, as having recreation potential in a metropolitan setting. The Bureau of Outdoor Recreation, cooperating with other Federal, State, and local agencies, completed a study of this section of the river which was published under the title "The Chattahoochee Recreation Area Study."

Beginning in the late 1960's and reaching a peak in 1971 when the Georgia General Assembly proposed legislation to place the river under the protection of a State agency, there has been considerable State, local government, and private citizen interest in planned recreational use and preservation of the Chattahoochee. In July of 1972, the Atlanta Regional Commission, a State planning agency, in cooperation with the North Georgia Mountain Authority and aided by a grant from the Department of Housing and Urban Development, published the "Chattahoochee Corridor Study" proposing controlled development along the river. This plan called for areas of private and public land ownership and recommended public acquisition of 6,000 acres along with planned unit developments of privately owned lands. Subsequently, then Georgia Governor Jimmy Carter worked with the Atlanta Regional Commission and local citizen's groups to draft legislation which would implement this concept.

In September of 1972, approval of a $1.89 million Land and Water Conservation Fund grant helped establish a 377-acre Chattahoochee Palisades State Park. To date, over 900 acres of land bordering the river, with a value in excess of $14 million, are publicly owned.

The 1973 session of the Georgia General Assembly passed the Metropolitan River Protection Act to regulate development within 2,000 feet of the river. This act now requires review by local governments and the Atlanta Regional Commission of any proposed changes in land or water use within the corridor.

During the 93d Congress, I introduced legislation, S. 1738, cosponsored by Senator TALMADGE, which would have accomplished the creation of the National Recreation Area contemplated by the bill which I am introducing today. Field hearings, chaired by Senator BENNETT JOHNSTON, were conducted on S. 1738, by the Committee on Interior and Insular Affairs in Atlanta on October 28, 1974. In the 94th Congress, I introduced similar legislation in the form of S. 661 and S. 2587, a bill to create a Chattahoochee urban recreation area. These bills were the subject of hearings in the Interior Committee's Subcommittee on Parks and Recreation on October 30, 1975, and the Senate subsequently passed S. 2587 in September of last year. Unfortunately, while the companion measure in the House, H.R. 3078, was reported by the House Interior Committee last year, final action on this legislation in the House of Representatives did not come prior to our adjournment.

In September of 1975, representatives of the National Park Services Advisory Board on National Parks, Historic Sites, Buildings and Monuments, visited the proposed recreation area, examining various sites along the river's banks, floating a 2-mile stretch of the river, and overflying the entire area from Standing Peachtree to Lake Sidney Lanier. As a result of this visit, the Advisory Board submitted a report to the Secretary of the Interior in which they made the following statement:

> The Subcommittee was extremely impressed with the natural beauty of the area, particularly since much of the most attractive portions of the River are within the city limits of Atlanta. The Chattahoochee is a unique resource; it obviously must be protected from the multitude of possible immediate encroachments, and it offers an extraordinary possibility to serve the recreation needs of the area. Presently, with no management at all, and often requiring citizens to violate private property, the River is extensively used. Atlanta public transportation and the interstate highway system provide easy access to the River for people in a five state area. Twenty percent of present usage is from outside the Atlanta area, and half of that from outside the State of Georgia. The Subcommittee was in agreement that the Chattahoochee Corridor more than met the established criteria for national recreation areas, and that private and state facilities for development have been exhausted. The Board thus recommends that the National Park Service proceed with the necessary preliminary study, building on the work of the Bureau of Outdoor Recreation, the Georgia Department of Natural Resources, and Friends of the River, with the intent of adding to the system the Chattahoochee River National Recreation Area.

Mr. President, this is a synopsis of the events which have taken place to date concerning the effort to preserve a 48-mile stretch of the Chattahoochee. At this point, I would like to mention a few of the reasons which caused me to believe that we should proceed with the formal steps necessary to designate this area as a national recreation area and provide the necessary funds to accomplish its preservation.

This 48-mile stretch of the river should be preserved and protected due to its natural, scenic, historic, educational, and recreational values. It is important, not only to the State of Georgia, but also to the entire Nation. While this is, to some extent, a subjective evaluation, there are several facts which support such a conclusion. According to the 1972 Census of Transportation published by the Commerce Department, half of all trips taken by Americans have a metropolitan area as their destination. This fact is of particular significance to this discussion because of the fact Atlanta is the hub of the South. Due to the intersection of I–75 and I–85 in Metropolitan Atlanta, virtually all North-South vacation traffic passes within view of the Chattahoochee. In a 1972 travel research study on Geor-

gia highways and vacation/recreation travel, the University of Georgia Division of Research estimated that the average vacation/recreation traffic volume on I–75 from Tennessee to Atlanta in 1970 was 4,000 cars per day. On I–85 from South Carolina to Atlanta, the average was 3,100 cars. More important, however, is the estimation that within 25 years the traffic on the I–75 corridor will reach 9,400 cars per day, while I–85 will produce traffic in the range of 6,200 cars per day. It is important to recognize that these figures represent only vacation/recreation related traffic.

Lake Lanier, which marks the beginning point of the proposed recreation area, has the largest visitation of any Army Corps of Engineers project anywhere in the United States. The 13.8 million individuals who visited the lake in 1975 also represented a larger visitation than at any single unit in the national parks system.

The seven-county area which would be touched by the proposed recreation area currently has a population in excess of 1.6 million persons. The Georgia Office of Planning and Budget estimates that within 25 years, the population will easily exceed 2 million and represent approximately 35 percent of Georgia's population.

During the summer, as many as 10,000 people have been surveyed to be using the Chattahoochee River for recreation on each weekend day. At least 20 percent of these users originate from areas outside of metropolitan Atlanta and half of these people are from out of State. This volume will certainly increase in the future as Americans continue to seek out natural areas for recreation. It is also important to recognize that this volume of individuals generally must obtain access to the river through privately owned property. In addition to providing a recreational outlet for citizens from outside the Atlanta metropolitan area, this stretch of river provides a vital outlet for the residents of the urban areas in Atlanta.

I want to emphasize my belief that this area possesses the requisite recreational potential, national significance, local significance, and historical importance, and natural significance to warrant designation as a national recreation area. Few, if any metropolitan centers have such a major natural resource which can still be preserved. As Jimmy Carter said in a July letter to the chairman of the Interior Committee's Subcommittee on Parks and Recreation, Senator JOHNSTON, and I quote:

> I am so convinced of the national significance of urban parks of this type (referring to the Chattahoochee River) and their role in creating equality of life for urban Americans . . .

While some portions of the corridor have already been acquired through such means as Federal land and water conservation grants, donation, and State funds, this form of "holding action" cannot be expected to prevent deterioration of this resource much longer. We must proceed with an organized preservation effort pursuant to the Atlanta Regional Commission study and a recently completed concept plan developed by the Georgia Department of Natural Resources in cooperation with the Atlanta Regional Commission and local citizen's groups.

The bill which I am introducing today contains two new provisions which I belive will address any remaining concerns regarding this legislation. First, it provides for the creation of an advisory commission which will consult with the Secretary of the Interior with respect to matters relating to the development of the recreational area. The membership of this commission will represent all interested viewpoints on the subject and will thereby provide a forum for all individuals concerned with the manner in which the area is developed.

The Secretary will appoint a total of nine members from recommendations submitted from several sources. Six members will be appointed from recommendations submitted by the Governor, two of which must be residents of the Chattahoochee Corridor and two must come from the membership of Georgia conservation groups. One member will be appointed from a recommendation submitted by the Secretary of the Army and two members from recommendations submitted by the Atlanta Regional Commission. Second, I have included a provision directing the Secretary to substantially complete acquisition of land for the area within 5 years from the date of enactment. While this language cannot totally assure completed acquisition within 5 years due to the many variables involved, it will assist in limiting what could otherwise be a perpetual cloud over the practical use of land contemplated for acquisition. Future Congresses will have to appropriate the money to accomplish the acquisition but this language expresses congressional intent to attain this goal within 5 years.

Mr. President, I believe that it is essential that we act evpeditiously in order to insure that this rare resource is appropriately preserved for the benefit of Georgians and all Americans. Expeditious action would also be in the best interest of all affected property owners in order to clarify the future of their holdings. As I said 4 years ago upon the initial introduction of legislation on this subject, at a time when open space continues to disappear under concrete blankets and high rise complexes, the preservation of an area of natural beauty, such as the Chattahoochee, for the future enjoyment of generations of Americans should be a top priority. Mr. President, I send the bill to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds the natural scenic recreation, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and certain adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them. In order to assure such preservation and protection for public benefit and enjoyment, there is hereby established the Chattahoochee River National Recreation Area (hereinafter referred to as the "recreation area"). The recreation area shall consist of the river and its bed together with the lands, waters and interests therein within the boundary generally depicted on the map entitled "Chattahoochee River National Recreation Area," numbered CHAT–20,000, and dated July 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. Following reasonable notice in writing to the Committees on Interior and Insular Affairs of the United States Congress of his intention to do so, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary of the recreation area by publication of a revised map or other boundary description in the Federal Register, except that the total area, exclusive of the river and its bed, within the recreation area may not exceed six thousand three hundred acres.

SEC. 2. (a) Within the recreation area the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase, with donated or appropriated funds, or exchange. Property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation.

(b) When a tract of land lies partly within and partly without the boundaries of the recreation area, the Secretary may acquire the entire tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the recreation area may be exchanged by the Secretary for non-Federal land within such boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such agricultural or residential purposes. The right retained may be for a definite term which shall not exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever occurs later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition less the fair market value of the term retained by the owner.

(d) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his detrmination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(e) As used in this section the term "improved property" means a detached, year-around noncommercial residential dwelling the construction of which was begun before January 1, 1975, together with so much of the land on which the dwelling is situated, the said land being in the same own-

ership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(f) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by this Act within five years after the date of its enactment.

SEC. 3. (A) The Secretary shall administer, protect, and develop the recreation area in accordance with the Act of August 25, 1916 (39 Stat. 535), and in accordance with any other statutory authorities available to him for the conservation and management of historic and natural resources, including fish and wildlife, to the extent he finds such authority will further the purposes of this Act. In developing and administering the recreation area the Secretary shall take into consideration applicable Federal, State, and local recreation plans and resource use and development plans, including, but not limited to, the Atlanta Regional Commission Chattahoochee Corridor Study, dated July 1972.

(b) The Secretary is authorized and encouraged to enter into cooperative agreements with the State or its political subdivisions whereby he may assist in the planning for and interpretation of non-Federal publicly owned lands within or adjacent or related to the recreation area to assure that such lands are used in a manner consistent with the findings and purposes of this Act.

(c) In planning for the development and public use of the recreation area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource development or flood control projects and that of the recreation area or complementary.

(d) In administering the recreation area the Secretary shall permit hunting and fishing on lands and waters under his jurisdiction in accordance with applicable State and Federal laws. The Secretary, after consultation with the appropriate State agency responsible for hunting and fishing activities, may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment and issue such regulations as he may determine to be necessary to carry out the provisions of this subsection. Except in emergencies, such regulations shall be put into effect only after consultation with the appropriate State agency.

SEC. 4. The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (16 U.S.C. 791a et seq.), on or directly affecting the recreation area and no department or agency of the United States shall asist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such area is established. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments upstream or downstream from the recreation area or on any stream tributary thereto which will not invade the recreation area or unreasonably diminish the scenic, recreational, and fish and wildlife values present therein on the date of approval of this Act; and nothing in the foregoing sentence shall preclude the upgrading, improvement, expansion, or development of facilities or public works for water supply or water quality enhancement purposes if such action would not have a material adverse effect on the values for which the recreation area is established. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such area is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without at least sixty days in advance (a) advising the Secretary in writing of its intention to do so and (b) reporting to the Committees on Interior and Insular Affairs of the United States Congress the nature of the project involved and the manner in which such project would conflict with the purposes of this Act or would affect the recreation area and the values to be protected by it under this Act.

SEC. 5. (a) There is hereby established the Chattahoochee River National Recreation Area Advisory Commission (hereafter referred to as the "Commission") which shall be composed of nine members to be appointed by the Secretary for terms of five (5) years as follows:

(1) Six members to be appointed from recommendations submitted by the Governor of the State of Georgia, two of which shall be residents of the Chattahoochee River Corridor Area, and two of which shall be from the membership of Georgia conservation groups;

(2) One member to be appointed from a recommendation submitted by the Secretary of the Army; and

(3) Two members to be appointed from recommendations submittted by the Atlanta Regional Commission.

(b) The Commission shall terminate ten years from the date of establishment of the Chatttahoochee River National Recreation Area.

(c) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term). The Chairman of the Commission shall be designated by the Secretary.

(d) The Commission shall act and advise by affirmative vote of a majority of its members.

(e) The Secretary or his designee shall from time to time, but at least semiannually, consult with the Commission with respect to matters relating to the development of the Chattahoochee River National Recreation Area.

(f) Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act upon presentation of vouchers signed by the Chairman.

SEC. 6. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $72,900,000 for the acquisition of lands, waters and interests therein, and not to exceed $500,000 for the development of essential facilities. No funds authorized to be appropriated pursuant to this Act shall be available prior to October 1, 1977.

(b) Within three years from the effective date of this Act, the Secretary shall, after consulting with the Governor of the State of Georgia, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the use and development of the recreation area consistent with the findings and purposes of this Act, indicating:

(1) lands and interests in lands adjacent or related to the recreation area which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, the estimated cost of acquisition and the recommended public acquisition agency;

(2) the number of visitors and types of public use within the recreation area that can be accommodated in accordance with the full protection of its resources; and

(3) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including their location and estimated cost.

By Mr. ABOUREZK:

S. 1792. A bill to amend the Administrative Conference act; to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, as chairman of the Administrative Practice and Procedure Subcommittee I am introducing today at the request of the Administrative Conference of the United States a bill regarding that agency's authorization ceiling. The subcommittee intends to hold a hearing on the bill in the first week of August. I ask unanimous consent that a May 11, 1977, letter from the conference to the President of the Senate and a copy of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 576 of title 5, United States Code, is amended to read as follows:

"576. Appropriations.

"There are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each fiscal year thereafter, to carry out the purposes of this subchapter."

MAY 11, 1977.

HON. WALTER F. MONDALE,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I enclose for your consideration and appropriate reference a proposal to amend the Administrative Conference Act, 5 U.S.C. 571–576.

The purpose of the proposed legislation is to remove for Fiscal Year 1979 and thereafter the ceiling of $950,000 now contained in the section authorizing appropriations for carrying out the purposes of the Act, 5 U.S.C. 576.

When authorization legislation for the Administrative Conference was last enacted, by P.L. 92–526 in 1972, Congress authorized appropriations in amounts increasing annually up to $950,000 for fiscal 1978 and thereafter. Clearly, Congress contemplated a review of the ceiling for Fiscal Year 1979 and thereafter.

(1) The American people are discontented with the complexity, remoteness, delays, inefficiency and perceived unfairness of the operations of government. They are demanding that the government put its own house in order. The President and the Congress have addressed these problems, thereby heightening the expectation that corrective measures will be taken. The Administrative Conference can continue to contribute significantly to bringing about corrective measures if it has the opportunity to justify the appropriated resources it requires to combat these problems.

The Administrative Conference Act of 1964, 5 U.S.C. 571–576, empowers the Conference to "study the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies" and to make rec-

ommendations for the improvement of those procedures, "to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest." The Conference was set up to be a sort of overseer and counselor with regard to the procedures of much of the government, and in fact it has proven to be a potent mechanism for the improvement of governmental processes.

Based on its substantial accomplishments and on the reservoir of expertise of its members and staff, the Conference is in a unique position, given adequate resources, to carry forward initiatives of the President and the Congress in such areas as the procedural aspects of reorganization, regulatory reform, simplification of regulations, reduction of paperwork and of administrative delay, and enhanceemnt of open and responsive government.

(2) As its work has become more widely recognized and appreciated, the Conference has increasingly been called upon by Congress and the Executive, and in several cases mandated by statute, to undertake substantial projects or consultative functions. But accompanying funds have not been supplied to carry out these assignments, which therefore have heavily diverted resources and priorities from basic work budgeted under the ceiling.

At the urging of the Chairman of the Senate Appropriations subcommittee having jurisdiction over both the Conference and the Internal Revenue Service, the Conference undertook a massive review of procedures of the IRS affecting individual taxpayers; this highly-acclaimed project resulted in 72 separate recommendations published in six sets (Recommendations 75–5 through 75–10). It cost $216,000 in direct contract fees plus substantial staff and other support during fiscal years 1974 and 1975. (Provision was made for most but not all of these costs in the fiscal 1974 and 1975 appropriations.) In each of those years expenditures for this project were substantially more than for all other research and project activities of the Conference put together.

The Magnuson-Moss Warranty—Federal Trade Commission Improvement Act of 1975 directed the Conference to study the operation of the complicated new trade regulation rulemaking procedures established by that Act, and report to Congress by July 1978. The Act made no provision for financing this demanding assignment. As with the IRS project, a team of consultants and researchers is conducting the extensive empirical work required to fulfill the statutory mandate. A total of $220,000 in direct contract fees has been obligated for this project in fiscal years 1976 and 1977; again, the expenditures for this project markedly exceed those for all other research and project activities of the Conference in the years in question.

The Government in the Sunshine Act of 1976 expressly requires the approximately 50 affected agencies to consult with the Office of the Chairman of the Administrative Conference in the preparation of their regulations to implement the open meeting requirements of that Act. Discharge of this responsibility took about two-thirds of the time of two of the seven lawyers on the Conference's staff for a period of over five months. Similarly, the detailed evaluation of the revised rules of practice of the Interstate Commerce Commission, for submission to Congress as required by the Railroad Revitalization and Regulatory Reform Act of 1976, occupied almost the full time of a senior staff lawyer for over a month. Several bills pending in the 95th Congress would assign responsibilities of a like nature to the Conference.

It is highly desirable for the Conference to be able to respond to such calls upon its special capacities and expertise, even where specific provision is not made for funding. This means that the Conference should have the budget capacity for such undertakings. It should not be forced to curtail or postpone activities to which it is committed by its basic mission. In the cases cited, the Conference had no choice but to divert substantial resources—both dollars and staff time—with the result that elements of its basic ongoing program have been cut back or deferred. The mandated activities, in other words, had to be fitted within the ceiling-limited appropriation, and furthermore had to be given priority to the full extent of their resource requirements.

When there is a ceiling the two- to three-year lead time needed to amend it has the practical result of making it very difficult to get provision in the ultimate appropriation for any given year for carrying out such assignments. It is not possible to foresee the specific needs early enough to make them part of the justification for a particular ceiling level for the year in question.

We believe these considerations justify favorable consideration of this request to amend the Administrative Conference Act to authorize appropriation of such sums as may be necessary to carry out the purposes of the Act.

I attach the proposed legislation and a section-by-section analysis.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this legislative proposal to the Congress.

Sincerely yours,

ROBERT A. ANTHONY,
Chairman.

SECTION-BY-SECTION ANALYSIS

The bill would amend section 576 of title 5, United States Code, which authorizes appropriations for the Administrative Conference of the United States. The authorization is now $950,000 for fiscal 1978 and each fiscal year thereafter. The bill would remove the authorization ceiling and authorize the appropriation of such sums as may be necessary for the fiscal year ending September 30, 1979, and for each fiscal year thereafter.

By Mr. LONG (for himself, Mr. MAGNUSON, and Mr. STEVENSON):

S. 1793. A bill to make amendments to certain laws regarding railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LONG. Mr. President, I am introducing, for appropriate reference, the Railroad Improvement Act of 1977. This bill contains several amendments to the Interstate Commerce Act, the Railroad Revitalization and Regulatory Reform Act, the Rail Passenger Service Act, and the Department of Transportation Act that may be needed to improve several of the Government's programs relating to rail transportation. The Surface Transportation Subcommittee of the Committee on Commerce, Science, and Transportation has scheduled hearings on July 21 and 25, and I hope to receive testimony on the legislative proposals contained in this bill as well as testimony relating to oversight of the existing rail programs.

Mr. President, I ask unanimous consent that the text of the Railroad Improvement Act of 1977 appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Improvement Act of 1977".

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT

SEC. 2. (a) Section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended as follows:

(1) Amend the first sentence thereof to read as follows: "The Federal share of the costs of any rail service assistance program shall be as follows: (1) 100 percent for the period from July 1, 1976 to June 30, 1977; (2) 90 percent for the period from July 1, 1977 to September 30, 1978; (3) 80 percent for the period from October 1, 1978 to September 30, 1979; and (4) 70 percent for the period from October 1, 1979 to September 30, 1981.".

(2) Amend the second sentence thereof by striking out "July 1, 1979 to June 30, 1981," and inserting in lieu thereof "October 1, 1979 to September 30, 1981,".

(3) Add at the end thereof the following: "In-kind benefits which a State provides for any period in excess of that State's share of project costs for that particular period shall be applied toward that State's share in any subsequent period. The date of initiation of any maintenance, rehabilitation, improvement, or acquisition project shall establish the period from which rail freight assistance to which a State is entitled shall be provided. Whenever the costs of an approved maintenance, rehabilitation, improvement, or acquisition project exceed the amount of rail freight service assistance to which a State is entitled for the period in which such project is initiated, the Secretary is authorized to provide assistance in any subsequent period to cover the costs of such project. Such assistance shall be provided for such subsequent period at the percentage level of the Federal share for that particular period as established by this subsection.".

(b) Subsection 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h) Each State which is, pursuant to subsection (j) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction whose numerator is the sum of the rail mileage in such State (1) for which the Commission has found that the public convenience and necessity permit the abandonment of, or the discontinuance of, rail service on the line of railroad (2) which was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761–763); (3) which is identified as 'potentially subject to amandonment' or as a line for which a carrier plans to submit an application for a certificate of abandonment or discontinuance as those terms are used in section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a)); and (4) lines for which an abandonment or discontinuance application is pending before the Commission; and whose denominator is the sum of all such rail mileages in all of the States which are eligible for rail service assistance under the section, except that the mileage of any line or portion of line shall not be included more than once in the calculation of the numerator of the fraction.".

(c) Section 5(k)(1) of the Department of Transportation Act (49 U.S.C. 1654(k)(1)) is amended by adding before the semicolon at the end of clause (B) thereof the following:

", or (C) the revenues attributable to the line of railroad which is related to such project are less than the sum of (i) the avoidable costs of providing rail service on such properties.'

(d) Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)), as amended by this Act, is further amended by (a) deleting the word "and" at the end of paragraph (1); (b) renumbering paragraph (2) as paragraph (3); and (c) inserting immediately after the end of paragraph (1) the following new paragraph:

"(2) the line of railroad which is related to the project is identified as 'potentially subject to abandonment' or as a line for which a carrier plans to submit an application for a certificate of abandonment or discontinuance as those terms are used in section 1a(5)(a) of the Interstate Commerce Act or is a line for which an abandonment or discontinuance application is pending before the Commission, in which case, the eligibility for financial assistance shall be limited to projects which have as their principal objectives the elimination of deferred maintenance and the rehabilitation of such rail line, with such line being ineligible for rail service continuation assistance unless and until such line becomes eligible pursuant to paragraph (1) of this subsection; and".

(e) Section 5(l) of the Department of Transportation Act (49 U.S.C. 1654(e)) is amended by adding at the end thereof the following: "The authorization of the appropriation of Federal funds or their availability for expenditure for the purpose of subsections (f) through (o) of this section shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The Secretary shall not withhold approval of a State rail freight program or project solely on the grounds that the State initiated the program or project without the prior approval of the Secretary. The provisions of subsections (f) through (o) of this section provide for a federally assisted State program.".

(f) Section 5 of the Department of Transportation Act (49 U.S.C. 1654) amended by redesignating subsections (n) and (o) thereof as subsections (p) and (q); and (2) by adding the following new subsection:

"(n) No funds received by a State pursuant to this section may be used to make a rail service continuation payment for a project solely eligible pursuant to clause (k)(1)(C) of this section unless (1) the railroad providing service on such line makes a cooperative assistance proposal to the State whereby it proposes not to apply to abandon or discontinue service on such line if within 90 days it receives an offer from the State of a rail service continuation payment covering 90% of the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line; and (2) the State makes such an offer within 90 days of its receipt of such proposal. Notwithstanding any other provision of this Act, a State, in accordance with procedures approved by the Secretary may, as a condition of making a rail continuation payment pursuant to this subsection, require that 10% of the non-federal sharing such payment be paid by a shipper, a local government or other responsible person other than an agency of the United States."

(g) The second sentence of section 5(o) of section 5 of the Department of Transportation Act (49 U.S.C. 1654(o)) is amended to read as follows: "Of the foregoing sums, not to exceed $10,000,000 shall be made available for planning grants during each of the five fiscal years ending June 30, 1976; September 30, 1977; September 30, 1978; September 30, 1979; and September 30, 1980.".

AMENDMENTS TO THE RAIL PASSENGER SERVICE ACT

SEC. 3. (a) The third sentence of section 303(d) of the Rail Passenger Service Act (45 U.S.C. 543(d)) is amended (a) by inserting immediately after "president" the following: "and one other officer"; and (b) by striking out "with respect to such officer" and inserting in lieu thereof "with respect to such officers".

(b) The third sentence of section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended to read as follows: "In fixing just and reasonable compensation for the provision of services ordered by the Commission under the preceding sentence, the Commission shall, in fixing all compensation in excess of incremental costs, consider quality of service as a major factor in determining the amount (if any) of such compensation, including reasonable adherence to the fastest practicable operations schedule.".

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 4. (a) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended by striking out ", in his absence, the Deputy Secretary of Transportation" and inserting in lieu thereof "the duly authorized representative of either of them".

(b) Section 201(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by striking out "the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Deputy Secretary of the Treasury, as the case may be", and inserting in lieu thereof "their duly authorized representatives".

(c) Section 201(h) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(h)) is amended by adding a new sentence at the end thereof as follows: "The Secretary and the Chairman of the Commission may act in such capacity directly or at any time through their duly authorized representatives.".

(d) Section 201(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(i)) is amended by striking out "Deputy Secretaries" and inserting in lieu thereof "duly authorized representatives".

(e) Section 201(j)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(j)(4)) is amended (1) by striking out "or, in his absence, the Deputy Secretary of the Treasury" and inserting in lieu thereoff ", or the duly authorized representative of either of them"; and (2) by adding immediately before the period at the end thereof, ", or the duly authorized representative of either of them".

(f) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended—

(1) by redesignating such paragraph (6) as paragraph (6)(A), and by redesignating clauses (A) and (B) in the first sentence thereof as clauses (i) and (ii), respectively; and

(2) by adding at the end thereof the following new subparagraph:

"(B) The Corporation shall make such premium payments as are necessary to maintain in effect all insurance policies providing medical or life insurance benefits to persons described in section 211(h)(1)(A)(viii) of this Act, and shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for such premium payments. For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such premium payments shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization.".

(g) The first sentence of section 402(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(b)) is amended to read as follows:

"(b) ENTITLEMENT.—(1) Each State in the region which is, pursuant to subsection (c) of this section, eligible to receive rail service continuation assistance is entitled to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the sum of the rail mileage in such State which are (A) those rail services of railroads in reorganization in the region, or persons leased, operated, or controlled by any such railroad, which the Final System Plan does not designate to be continued; (B) those rail services on rail properties referred to in section 304(a)(2) of this Act; (C) those rail services in the region which have been, at any time during the 5-year period prior to the date of enactment of this Act, or which are, subsequent to the date of enactment of this Act, owned, leased, or operated by a State agency or by a local or regional transportation authority, or with respect to which a State, a political subdivision thereof, or a local or regional transportation authority has invested (at any time during the 5-year period prior to the date of enactment of this Act), or invests (subsequent to the date of enactment of this Act), substantial sums for improvement or maintenance of rail service; (D) those rail services in the region with respect to which the Commission authorizes the discontinuance of rail services or the abandonment of rail properties, effective on or after the date of enactment of this Act; (E) those rail services which are identified as 'potentially subject to abandonment' or as lines for which a carrier plans to submit an application for a certificate of abandonment or discontinuance as those terms are used in section 1a(5)(a) of the Interstate Commerce Act; and (F) lines for which an abandonment or discontinuance application is pending before the Commission; and whose denominator is the sum of all such rail mileages in all of the States which are eligible for rail service assistance under this section, except that the mileage of any line or portion of line of railroad shall not be included more than once in the calculation of the numerator of the fraction.".

(h) Paragraph (2) of section 402(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(2)) is amended by (a) deleting "or" at the end of subparagraph (C); (b) deleting the period at the end of subparagraph (D), and inserting in lieu thereof "; or"; and (c) inserting immediately after such subparagraph (D) the following: "(E) those rail services which are identified as 'potentially subject to abandonment' or as lines for which a carrier plans to submit an application for a certificate of abandonment or discontinuance as those terms are used in section 1a(5)(a) of the Interstate Commerce Act or those lines for which an abandonment or discontinuance application is pending before the Commission; in which case, the eligibility for financial assistance shall be limited to projects which have as their principal objectives the elimination of deferred maintenance and the rehabilitation of such rail line, with such rail line being ineligible for rail service continuation assistance unless and until such line becomes eligible pursuant to subparagraph (B), (C), or (D) of this subsection.".

(i) Section 402(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(6) Two or more States that are eligible for local rail assistance under this subsection may, subject to agreement between or among them, combine their respective Federal en-

titlements under subsection (b) of this section in order to improve rail properties within their respective States or regions. Such combination of entitlements, where not violative of State law, shall be permitted, except that—

"(A) combined funds may be expended only for purposes listed in this section; and

"(B) combined funds that are expended in one State subject to the agreement entered into by the involved States, and which exceed what the State could have expended absent any agreement, must be found by the Secretary to provide benefits to eligible freight services within one or more of the other States which is party to the agreement.".

AMENDMENTS TO THE INTERSTATE COMMERCE ACT

SEC. 5. (a). Section 1a. of the Interstate Commerce Act (49 U.S.C. 1a) is amended (1) by renumbering paragraph (10) thereof as paragraph (11); and (2) by adding the following new subparagraph:

"(10) Notwithstanding any other provision of this section, if, (a) within 90 days of receiving a cooperative assistance proposal pursuant to section 5(n) of Title V of the Department of Transportation Act (49 U.S.C. 1654(n)), a State has not offered financial assistance (in the form of a rail service continuation payment) which shall cover 90% of the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) an applicable rail service continuation payment to be made pursuant to such section 5(n) is not paid when it is due, the Commission (within 30 days of receipt of an application to discontinue service on such line), upon finding (i) such a cooperative assistance proposal has been made, and that such valid financial assistance offer was made or (ii) that such payments have not been made, shall find that the public convenience and necessity permit the abandonment or discontinuance of such line of railroad.".

(b) Paragraph (3) of section 20 of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended to read as follows:

"(3)(a) The Commission shall issue regulations and procedures prescribing a uniform accounting and reporting system to the Commission for all common carriers by railroad subject to this part. This accounting and reporting system shall be in accordance with generally accepted financial accounting principles uniformly applied to all common carriers by railroad subject to this part, and all accounting and reporting to the Commission reports shall include any disclosure considered appropriate under generally accepted financial accounting principles or the requirements of the Commission or of the Securities and Exchange Commission.

"(b) In order that the Commission shall be able to determine rail carriers' costs relevant to its responsibilities to establishing fair and reasonable rates and for other regulatory areas of responsibility such as control of abandonment, the Commission shall define and require the accurate reporting of expenses for materials, labor, overhead, administration and other activities in a prescribed format that will permit the Commission to determine total and variable costs associated with any functional activity of a carrier, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services) and general administration.

"(c) The Commission shall, notwithstanding any other provision of this section, to the extent possible devise the accounting and reporting system to be cost effective, nonduplicative, and compatible with the present and desired managerial and responsibility accounting requirements of the carriers, and to give due consideration to appropriate economic principles. The Commission should attempt, to the extent possible, to require that such data be reported or otherwise disclosed only for essential regulatory purposes, including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

"(d) In order that the accounting and reporting system to the Commission established pursuant to this paragraph continue to conform to generally accepted accounting principles, compatible with the managerial responsibility accounting requirements of carriers, and in compliance with other objectives set forth in this section, the Commission shall periodically, but not less than once every 5 years, review such reporting and revise it as necessary.".

"(e) There are authorized to be appropriated to the Commission for purposes of carrying out the provisions of this paragraph such sums as may be necessary, not to exceed $1,000,000, to be available for—

"(i) procuring temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $250 per day plus expenses; and

"(ii) entering into contracts or cooperative agreements with any public agency or instrumentality or with any person, firm, association, corporation, or institution, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

AMENDMENT TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

SEC. 6. (a) In section 703(1)(A)(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(A)(i)), immediately after "operating on" wherever it appears, insert the following: "at least".

(b) Section 703(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(B)) is amended by striking out the last sentence.

(c) Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended by adding at the end thereof the following new subparagraph:

"(5) COMPATIBLE EQUIPMENT.—The development of equipment designed to be compatible with the track, operating, and characteristics of the travel market of the Northeast corridor. The Secretary, in consultation with the National Railroad Passenger Corporation, shall develop appropriate economical and reliable equipment for purchase for use particularly in the Northeast corridor and which will respond effectively to the intercity travel needs of the Northeast corridor and will facilitate the offering of various levels of service. The Secretary and the National Railroad Passenger Corporation shall submit needed requests for authorization of appropriations for the production of such equipment and shall include equipment planning in the reports required by subparagraph 703(1)(E)."

(d) Section 704(a)(2) of the Railroad Revitalization Reform Act of 1976 (45 U.S.C. 854(a)(2)) is amended by striking out "$150,000,000" and inserting in lieu thereof "$300,000,000".

(e) The table of contents of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by adding immediately after "Sec. 810. Rail bank," the following new item:

"Sec. 811. Acquisition of abandoned railroad rights-of-way for recreational uses.".

(f) Section 809(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 865(d)) is amended by (a) inserting "(1)" immediately before the first sentence thereof; and (b) adding at the end thereof the following new subparagraph:

"(2) In order to carry out the provisions of subsection (b)(2) of this section, there are hereby authorized to be appropriated to the Secretary of the Interior not to exceed $75,000,000 for the fiscal year ending September 30, 1979. Such sums are authorized to remain available until expended.".

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 1794. A bill to authorize appropriations for the Federal Fire Prevention and Control Administration to the U.S. Fire Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce today, at the request of the Department of Commerce, and on behalf of myself and my colleague, Mr. PEARSON, a bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration.

I ask unanimous consent that the text of the bill, the letter of transmittal, and the statement of purpose and need be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), is amended as follows:

(a) Section 17 is amended by striking out the words "except section 11 of this Act,", by striking out the word "and" after the words "September 30, 1977,", and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each of the fiscal years ending September 30, 1979".

(b) By striking out each time they appear in the Act the words "National Fire Prevention and Control Administration" and inserting in lieu thereof the words "United States Fire Administration".

SEC. 2. Section 16(b) of the Act of March 3, 1901, as amended (15 U.S.C. 278 f (b)), is amended by striking out the word "and" after the words "September 30, 1977,", and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each of the fiscal years ending September 30, 1979".

THE SECRETARY OF COMMERCE,
Washington, D.C., June 21, 1977.

HON. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill "To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration," together with a statement of purpose and need in support thereof.

The proposed "name change" amendment is necessary and timely to eliminate increasing confusion surrounding the identification and actions of the National Fire Prevention and Control Administration (NFPCA), a Federal agency, and the National Fire Protection Association (NFPA), a long-established private sector organization.

This proposed legislation has been reviewed by the Department in the light of

Executive Orders 11821 and 11949 and OMB Circular A-107 and has been determined not to contain a major proposal requiring evaluation and certification as to its economic impact.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress and further, that enactment would be consistent with the Administration's objectives.

Sincerely,

JUANITA M. KREPS.

STATEMENT OF PURPOSE AND NEED

The Federal Fire Prevention and Control Act of 1974 by creating the National Fire Prevention and Control Administration and the Fire Research Center within the Department of Commerce had as its objectives the reduction of the nation's losses caused by fire through better fire prevention and control; the supplementing of existing programs of research, training and education; and the encouragement of new and improved fire prevention and control activities by state and local governments.

To accomplish these objectives, the Secretary of Commerce is authorized to undertake certain acts among which are the taking of all steps necessary to educate the public and overcome public indifference to fire and fire prevention; to establish at the earliest practicable date a National Academy for Fire Prevention and Control in order to advance the professional development of fire service personnel and of other persons involved in fire prevention and control activities; to assure coordination at an appropriate organizational level with state and local government agencies; to assist state and local fire service training programs through grants, contracts, or otherwise; to conduct a continuing program of development, testing and evaluation of equipment for use by the nation's fire, rescue and civil defense services; to operate a comprehensive National Fire Data Center for the selection, analysis, publication and dissemination of information pertaining to fires of all types; to encourage and assist states in the establishment of master plans for fire prevention and control; to review, evaluate and suggest improvements on public and private fire prevention and building codes and regulations; to perform and support research on all aspects of fire with an aim to providing scientific and technical assistance applicable to the prevention and controlling of fires and to conduct a national claims program for the reimbursement of fire services for certain costs incurred by them in fighting fires on property under the jurisdiction of the United States.

The Federal Fire Prevention and Control Act of 1974, as amended by Public Law No. 94-411, authorized to be appropriated to carry out the programs of the National Fire Prevention and Control Administration, except section 11 of the Act, such sums as were necessary not to exceed $3,750,000 for the transitional fiscal quarter of July 1, 1976, through September 30, 1976; not to exceed $15 million for the fiscal year ending September 30, 1977; and not to exceed $20 million for the fiscal year ending September 30, 1978. Additionally, to carry out the research activities of the Fire Research Center, Public Law No. 94-411 authorized an amount not to exceed $1,275,000 for the transitional fiscal quarter of July 1, 1976, through September 30, 1976; not to exceed $5,500,000 for the fiscal year ending September 30, 1977; and not to exceed $6,000,000 for the fiscal year ending September 30, 1978.

The purpose of this bill is to authorize appropriations through the fiscal year ending September 30, 1979 of such sums as may be necessary for the continuation of the programs of the National Fire Prevention and Control Administration and the Fire Research Center.

Under current planning, the funds authorized to be appropriated would be utilized to carry out the programs of the National Fire Prevention and Control Administration and would include the administration of a claims program under section 11 of the Act and support of the research activities of the Fire Research Center.

This proposal specifically authorizes the funding of costs required to administer the section 11 claims program. While section 11 of the Federal Fire Prevention and Control Act of 1974 states clearly that actual payment of claims shall be from any monies in the Treasury not otherwise appropriated, the language of section 17 of that Act and its amendment, Public Law No. 94-411, could be read to exclude authorization of monies for administration of the claims program itself. This proposal would eliminate such ambiguity by making it clear that monies authorized by this bill would be utilized for the administration of a claims program.

This proposal does not provide authorizations for section 19 of the Act relating to research for treatment of fire victims which is administered by the Department of Health, Education, and Welfare.

Another feature of this proposal is that it would change the name of the National Fire Prevention and Control Administration to the United States Fire Administration. The purpose of this change of name is to eliminate extensive confusion in both public and private sectors between a federal agency, the National Fire Prevention and Control Administration (NFPCA), and a private sector organization, the National Fire Protection Association (NFPA), both of which organizations are involved nationally and internationally in addressing the fire problem. The confusion surrounding the identities and actions of NFPCA, the organization created by the Federal Fire Prevention and Control Act of 1974, and the NFPA, a well-established organization of some eighty years standing, is unfair and detrimental to the efforts of both organizations and the persons, organizations and public which they serve.

By Mr. TALMADGE:

S. 1795. A bill to amend title IV of the Social Security Act to encourage increased employment among recipients of aid to families with dependent children, and for other purposes; to the Committee on Finance.

Mr. TALMADGE. Mr. President, today I am introducing a bill to encourage increased employment among recipients of aid to families with dependent children (AFDC) and to provide an incentive for employed AFDC recipients to report their earned income to the welfare agency.

I believe it is important, Mr. President, to keep in mind the important role that employment and earnings have in the lives of welfare recipients. We hear all too often that welfare recipients are unemployable, that moving them into the labor force is an unreasonable and unattainable goal. I disagree with that assessment, and I believe that there is strong evidence to back up my views.

First of all, I would like to point out that many AFDC mothers, fathers, and youths are working and are earning income to support their families. They find jobs either through their own initiative or through the works incentive program.

The last survey of AFDC recipients showed that in the month of March 1975 about 16 percent of AFDC mothers were employed either full or part time. The experts estimate that in the course of a year as many as 40 or 50 percent of the mothers on AFDC have earnings. In my judgment, many of our present recipients could improve their employability and raise their family income even more than they are currently doing if we provide the proper kind of incentive.

The work incentive program is the mechanism designed by the Congres to help AFDC recipients find and keep jobs. The program provides manpower training, employment services and opportunities and supportive services, including child care, for WIN families.

Despite the economic recession, the WIN program has been working effectively, particularly in the service sector of the economy. Recent economic dislocations have hit manufacturing, construction and related industries the hardest, resulting in high unemployment rates in those sectors. However, the service sector has expanded and created jobs for those in a position to take advantage of them. WIN participants have been getting those jobs.

Statistics attest to WIN successes. In fiscal years 1973 through 1975, 297,000 WIN registrants entered employment. Of these, 139,000—and their families—were taken off the welfare rolls and 158,000 remained on welfare but received smaller grants. As a result of WIN-found employment, welfare spending—Federal and State—for those fiscal years was reduced by nearly $400 million.

In addition, in fiscal year 1976 and the following transition quarter, another 237,000 WIN registrants entered employment. Of these, 105,000 individuals, plus the children of these individuals, went off of welfare completely. Statistics for the first quarter of fiscal year 1977 indicate that this success is continuing. In that brief period, 59,000 AFDC recipients entered employment, and 30,000 of them, with their famililes, left welfare as a result of sufficiently high earnings.

Mr. President, I am hopeful that through this legislation we can make the WIN program work even better. The changes I propose today would not change the basic purpose or design of the program. They are aimed only at improving its workability.

Under the bill AFDC recipients who are not excluded by law will be required, as a condition of continuing eligibility for AFDC, to register for and participate in the kinds of employment related activities which the Secretary of Labor may establish to best meet the needs of WIN registrants. Specifically, the provision is aimed at making clear that those individuals who are required to register for WIN will be required to participate in the full range of employment related activities which are part of that program, including employment search.

There are 1,000,000 persons who are now registered for the WIN program but who are not enrolled in any placement, training, or employment program. I believe that with the requirement added by this bill, substantial numbers of these AFDC recipients will find jobs.

Mr. President, I believe that an individual who is employable has a responsibility to be actively seeking employ-

ment as a condition of continued eligibility for AFDC. I also believe, however, that the Win program has the responsibility to help recipients who are engaged in that activity. Thus, I expect that States would define standards for employment search in State operating plans, subject to approval under Federal regulations.

Although the individual has responsibility for seeking employment under the WIN program, this is not to be a random, nondirected activity. It is to be a planned employment search directed by professional manpower staff and supported by necessary transportation for the individual. It will be arranged to the maximum extent possible while children are in school or when other family demands are at a low level.

Employment related activities may be varied within different labor market areas within the State to reflect present labor market conditions, probably job openings and the basic employability characteristics of the WIN registrants.

To assure additional assistance to individuals who are required to participate in such activities as employment search, the bill would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in employment related activities and, for a period thereafter, as are necessary and reasonable to enable him to retain employment.

To further promote the availability of necessary social and supportive services, my bill would allow States to match the Federal share with in-kind goods and services, instead of being required to make only a cash contribution. In-kind matching is already permissible under present law with respect to employment and manpower services. My bill would simply extend this provision to cover supportive services, such as child care, as well.

The bill would further promote the administrative workability of the WIN program by providing for co-location of manpower and supportive services to the maximum extent feasible by eliminating the requirement for a 60-day counseling period before assistance can be terminated and by authorizing the Secretaries of Labor and HEW to establish the period of time during which an individual will not be eligible for assistance in the case of a refusal without good cause to participate in a WIN program. The bill also clarifies the treatment of earned income derived from public service employment.

A final provision of the bill is aimed at encouraging recipients to make a full and prompt report to the welfare agency of any earned income which they receive. Under present law in many States there is no incentive for a recipient to report earnings, because even if such earnings come to light at a later date, the income disregards are allowed as though the income had been reported, in determining the individual's benefit or overpayment.

The quality control program has found that earned income is one of the major causes of dollar errors. My bill seeks to address this problem by providing that in determining an individual's benefit for any month, the State agency shall not disregard any earned income of an individual who fails without good cause to make a timely report—as prescribed by the State welfare plan—of earned income in that month.

Mr. President, I look forward to prompt consideration of my proposal in committee and, hopefully, early action by the Senate.

By Mr. STEVENS:

S. 1796. A bill for the relief of Yamashita, Seizo;

S. 1797. A bill for the relief of Nomura, Hitoshi;

S. 1798. A bill for the relief of Sunada, Etsuo;

S. 1799. A bill for the relief of Kobayashi, Yoshio;

S. 1800. A bill for the relief of Yonesaka, Tetsoo;

S. 1801. A bill for the relief of Hanaya, Kiyomitsu;

S. 1802. A bill for the relief of Oomi, Akihito;

S. 1803. A bill for the relief of Sato, Hitoshi;

S. 1804. A bill for the relief of Fajita, Akio;

S. 1805. A bill for the relief of Ymekawa, Fumiharu;

S. 1806. A bill for the relief of Ookaiwa, Tooru; and

S. 1807. A bill for the relief of Tsuchiya, Takumi; to the Committee on the Judiciary.

Mr. STEVENS. Mr. President, I am today introducing several private bills. I would like to take this opportunity to make a short statement about these bills.

A recent innovation in Alaska's fisheries industry has been the processing of salmon roe. This product is highly valued in Japan and is a substantial export product for my State. It is an important part of Alaska's economy. Four canneries and over 350 Alaskan jobs, I am told, depend on this product. Unfortunately, Alaskans have not yet learned the very technical knowledge to sort this product. Therefore we must rely on Japanese experts to perform this critical process. I, as the Senate knows, am a strong supporter of the U.S. fishing industry and want to see Alaska develop this expertise as soon as possible.

These bills though are the result of an emergency situation which threatens this year's salmon roe export. The Japanese roe experts who have been hired apparently are threatened with deportation in 2 days, before the start of the season and other experts are not available for this year. The loss of these experts now would mean no roe would be processed this year and the Alaska fishermen who profit from this trade would suffer at a cost of $12 million. This would have a serious impact on my State. Therefore I am introducing these bills to protect this year's production of salmon roe. Because of the emergency nature of this problem and the fact that the Senate will recess tomorrow, I do not have the supporting material on this problem. Should the situation be other than as I currently understand, I will withdraw these bills.

By Mr. McCLURE:

S. 1809. A bill to amend the Perishable Agricultural Commodities Act, 1930; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. McCLURE. Mr. President, I am today introducing legislation to amend the Perishable Agriculture Commodities Act. It is intended as a companion bill to H.R. 4777 offered by Congressman SYMMS and referred to the House Committee on Agriculture. My particular legislation amends two points in PACA, bringing both license fees and small business exemptions into line with today's inflated costs and prices.

Since the enactment of PACA in 1930, the decreasing number of firms subject to license and the steadily increasing cost of administering this self-supporting act have rendered insufficient the current income from license fees. The present uniform fee of $100, in effect since 1969, is the maximum authorized by statute. Yet, at this current rate of assessment, a deficit of $170,000 for the fiscal year 1977 and substantially greater for 1978–79 is projected. Thus, the legislation I am proposing provides for a maximum PACA license fee of up to $300 as determined by the Secretary—a fee not considered to be excessive by those who fall under the act.

In addition, this bill provides for a $150,000, rather than $100,000, license exemption for small retailers and brokers, primarily to offset the increase in the wholesale price of fresh fruits and vegetables. From 1969 until February 1977, the wholesale price index for fresh and dried fruits and vegetables soared from 110.0 to 212.6, or over 93 percent. Since these commodities constitute roughly ¼ to ⅓ of an average store's business, an increased exemption would facilitate, and in some cases make possible, the continued solvency of small retail grocery stores and other small businesses.

For these reasons, I present this legislation for consideration and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. 499a), is amended by striking from subsection (6)(B) the figure "$100,000" and inserting in lieu thereof the figure "$150,000"; and by striking from subsection (7) the figure "$100,000" and inserting in lieu thereof the figure "$150,000".

SEC. 2. Section 3(b) of such Act, as amended (7 U.S.C. 499c (b)), is further amended by striking out in the third sentence the phrase "but in no event shall such fee exceed $100" and inserting in lieu thereof "but in no event shall such fee exceed $300".

By Mr. McCLURE:

S. 1810. A bill to amend the Strategic and Critical Materials Stock Piling Act in order to prescribe the method for determining the quantity of any material

to be stockpiled under such act, and for other purposes; to the Committee on Armed Services.

Mr. McCLURE. Mr. President, today I am introducing legislation establishing specific guidance with respect to the quantity of material which should be maintained in this country's strategic stockpile. This legislation sets forth stockpile goals directly related to the degree of this country's import dependence for each of the critical materials in our strategic stockpile.

If we are to have a strategic stockpile, and I believe it is in the vital interest to this country's security that we do, we must make sure such a stockpile meets our needs realistically and adequately provides us with a proper amount of the vital resources that would be in critical demand in times of emergency. The basic purpose of my bill is to bring some sense to stockpile goal-setting procedures so that we can be confident of our ability to meet emergency conditions.

The bill provides that the executive branch should continue to designate the materials that are needed for the stockpile. But, the bill recognizes that an order of priority exists with respect to the quantity of each material stockpiled and that fundamental to that priority is the dependency this Nation has on imports to meet raw material needs.

The United States is obviously most vulnerable to supply difficulties with respect to commodities which it does not produce in any significant quantities. In the bill these materials are designated as class A. A second group of commodities, those designated as class B, represent materials of which the United States has some production but is unlikely to achieve self-sufficiency even with severe rationing or substitution in time of national emergency. Finally the bill designates as class C materials those commodities which this country produces in substantial quantities but for which it has some import dependence. Thus the bill proposes that the stockpile objectives be equal to 3 years worth of net imports for those materials assigned to class A, 2 years of net imports for class B materials, and 1 year of net imports for class C materials.

The executive branch is authorized to designate the classification of the individual commodities under the terms of the bill and in so doing will be expected to calculate average annual U.S. net imports of each. These calculations will be based on the 5 calendar years immediately preceding and the calculations will be made at least once in each Presidential term.

It is clear, of course, that when the stockpile is buying imports will tend to rise; when the stockpile is selling imports will tend to fall. Thus, for example, when the tin stockpile was being acquired tin imports were far above normal. When the Treasury was selling silver in the late sixties the United States became a exported for a time even though domestic production is inadequate to meet domestic demand.

Therefore, in calculating net imports the bill requires that stockpile purchases be deducted and that stockpile sales be added to arrive at figures not influenced by stockpile activities.

The bill further recognizes that in some special cases the formula outlined may not yield a proper result. In such cases the executive branch has the right to propose a different objective, explaining the circumstances to the Congress, and the exception shall be permitted unless the Congress denies it within 90 days of submission.

Additionally this bill embodies requirements that funds appropriated for the acquisition of strategic and critical materials be specifically authorized by law. The bill establishes a separate fund within the Treasury to be known as the strategic and critical materials procurement fund and proposes within the General Services Administration a program to acquire strategic and critical stockpile materials through barter with foreign countries. These specific provisions are identical to those found in Congressman BENNETT's bill H.R. 4895 which passed the House on March 31, 1977. I included the provisions of Congressman BENNETT's bill because I felt that the aim of his legislation and of mine complement one another in purpose and practice by bringing a more direct involvement of Congress in the setting of stockpile goals and by establishing the ability to readily acquire critical materials when needed through a fund specifically for that purpose.

To explain my reason for introducing this legislation we must look back over the history of our stockpile. The concept of a stockpile was initiated in 1944 when it became clear that World War II was winding to a close and that large amounts of critical and strategic commodities, procured by the U.S. Government to insure adequate raw materials for the war effort, would be in the Government's possession at war's end.

Experience in World War II clearly showed that reserves of these materials were not only essential to the production of military weapons and ammunition—but that they also would constitute important reservoirs of manpower, transportation, and energy that would mitigate wartime shortages. Thus in 1948 a bill (50 U.S.C. 98h(a)) authorizing the stockpiling of critical and strategic materials, was passed with no real opposition and has remained on the books ever since.

Under terms of the original legislation both the designation of the materials to be acquired and the amounts to be held have been determined by the executive branch. Individual agencies have been designated from time to time to coordinate this work, but a large number of departments and agencies have been involved in the actual implementation of stockpile objectives.

Congress role has been limited to providing the funds for purchase of the materials, to holding hearings from time to time on the direction of the program, and to authorizing disposals of materials when the executive branch certifies that a surplus is on hand and should be sold.

Until 1962, neither Congress as a whole nor the public was informed as to the amounts of the stockpile objectives for individual commodities. When President Kennedy expressed the view that the amounts held in the stockpiles appeared excessive, congressional investigations began and the objectives for the first time became public knowledge. It became apparent that frequent changes in objectives had in fact occurred between 1944 and 1962. In the 15 years since 1962 still more changes have been made.

All of us recognize that conditions do change—that thinking as to the nature of future military and defense problems is certain to be affected by technological and political developments. But as one looks at the pattern of the changes in stockpile objectives for individual commodities over the last 33 years—since 1944—it is hard to escape the impression that considerations other than the national security have influenced the setting of the objectives. These considerations appear to include the purchase of materials to improve U.S. relations with other countries; the sale of commodities in an effort to control prices or reduce inflation; and the sale of commodities to help balance the national budget, since proceeds from sales revert directly to the general funds of the Treasury.

Each of these considerations may be of merit—but they are not authorized by the existing legislation and they may run counter to the avowed purpose of the program—which is the national security. The policy statement of the 1947 act was to decrease and prevent a "dangerous and costly dependence" on foreign nations for raw materials in case of war. Specifically the policy statement of the 1946 act read as follows:

> That the natural resources of the United States in certain strategic and critical materials being deficient or insufficiently developed to supply the industrial, military, and naval needs of the country for common defense, it is the policy of the Congress and the purpose and intent of this Act to provide for the acquisition and retention of stocks of these materials and to encourage the conservation and development of sources of these materials within the United States, and thereby decrease and prevent wherever possible a dangerous and costly dependence of the United States upon foreign nations of supplies of these materials in times of national emergency.

In reviewing the erratic history of the stockpile objectives, however, it is difficult to conclude that we have followed the original intent of the stockpile. Instead we see a pattern of stockpile goals that have proved costly and disruptive. Let me state a few examples.

Aluminum is obviously a commodity of the highest military significance—essential to the aircraft industry and of great importance for Army and Navy purposes. The United States is the world's largest producer of aluminum but 90 percent of its production is dependent on the import of bauxite or of the intermediate product—alumina—made from bauxite; 4 tons of bauxite will produce 2 tons of alumina which will produce 1 ton of aluminum. Stockpile expense can be minimized by stockpiling bauxite—currently 4 tons of bauxite would cost, landed, about $100. On the other

hand, stockpiling of alumina would have the advantage of conserving processing time, chemicals, and energy. Two tons of alumina would cost about $300. Alumina is more difficult to stockpile since it is a fine powdery material that readily absorbs moisture and hence must be stored indoors. Stockpiling aluminum metal would have the advantage that one would be stockpiling manpower and energy—both in short supply in terms of national emergencies—but it would be expensive. One ton of aluminum at today's market would cost $1,000—more than three times the cost of 2 tons of alumina and about 10 times the cost of 4 tons of bauxite.

What has been the record of the stockpile targets for these three related materials? In 1944 the objective for Surinam bauxite was 4,400,000 long tons—equal to 1,100,000 tons of aluminum. This objective was reduced early in 1950 to 3,250,000 tons and then after the Korean war broke out it was raised to 3,900,000 tons and a year later to 5,000,000 tons. By 1954 it reached 12,500,000 tons—equal to more than 3,000,000 tons of aluminum. Reductions made in 1958, 1959, and 1964 dropped the goal to 5,300,000 tons. In 1973 this objective was completely eliminated. The stockpile contains 5,300,000 tons of Surinam bauxite, all now considered surplus.

Another type of bauxite, produced in Jamaica, was first classified as strategic and critical in 1954—when an objective of 2,800,000 tons—equal to 700,000 tons of aluminum—was established. This rose by stages to a maximum of 5.000,000 tons of 1,250,000 tons of metal in 1964, was cut modestly in 1973, and sharply dropped in 1976 to 523,000 tons equal to 125,000 tons of aluminum. The stockpile holds 8,590,000 tons of Jamaica bauxite equal to about 2,100,000 tons of aluminum.

No stockpile objective existed for alumina until October 1, 1976. After being at zero for 32 years it was in 1976 suddenly established at 11,532,000—tons equivalent to about 5,750,000 tons of aluminum metal.

The first objective for aluminum metal was a modest 250,000 tons established in 1949. This rose to 700,000 tons in 1950, 2,000,000 tons in 1952, and 2,500,000 tons in 1954. It then started to recede—down to 290,000 tons in 1954, but being restored to 1,290,000 tons in 1959, dropping once again to 450,000 tons in 1963, and being completely eliminated in 1972. The actual stockpile holdings—once over 1,500,000 tons—have all been sold.

To summarize—if one adds the aluminum content of bauxite and alumina objectives to the objectives for the metal—the combined program for these materials began with a target equal to 1,100,000 tons aluminum; by 1954 it reached a peak equal to 6,350,000 tons of aluminum; by 1964 it was down to 3,000,000 tons equivalent; in 1973 it was only 1,150,000 tons—all in Jamaica bauxite; and in 1976 it climbed back to 5,875,000 tons—largely to be stocked in the form of alumina—a material that most industry experts consider unsuitable for stockpiling.

Copper is another defense essential but the United States is more self-sufficient in copper supply than it is in aluminum. At the end of World War II net imports amounted to one-quarter to one-third of U.S. requirements. Thanks to the development of added mining capacity in the United States, this has now been reduced to less than 10 percent.

Yet the history of copper stockpile objectives is as erratic as the history of the aluminum objectives. In 1944 the copper objective was set at 1,250,000 tons; in 1950 it was raised to 2,100,000 tons; in 1952 it was reduced tc 1,100,000 tons; in August 1954 it was increased to 1,600,000 tons and then the next month more than doubled to 3,500,000 tons. In 1958 this figure was dropped to 1,900,000 tons and in 1959 to 1,000,000 tons. Following President Kennedy's conclusion that stockpile objectives were excessive the figure was again cut to 775,000 tons in 1963 and remained there until 1973, when under the Nixon version the objective was completely eliminated. But in the October 1976 review a new figure of 1,299,000 tons was picked as the copper objective—just 49,000 tons more than the original 1944 target. Yet in the intervening period the figure has been as high as 3,500,000 tons—which at current market would be worth $5 billion—and as low as zero.

The actual maximum amount of copper held in the stockpile was about 1,250,000 tons. Most of this was sold during the Vietnam war or transferred to the mint for coinage. The last quarter million tons was auctioned off in early 1974 at prices far in excess of the 68-cent ceiling then imposed on domestic producers under price controls. Senator GOLDWATER will recall his own eloquent comments at that time on the double standard which the Government was following in this transaction. So there is no copper in the stockpile now.

A third example of shifting objectives is that for metallurgical chrome ore—an essential for the production of stainless steel. The United States has no domestic production. As the Senate well knows from debates on the Byrd amendment the principal sources of this material are Russia, Rhodesia, South Africa, and Turkey—all countries physically remote from us and replete with political problems. The metallurgical chrome objective was originally 2,352,000 tons in 1944, rose to a high of 6,160,000 tons in 1954, underwent six changes in the next 19 years, most of them downward, dropping to a figure of 2,910,650 tons before being slashed to 444,710 tons in April 1973. It was restored to 2,550,000 tons in 1976. Present holdings are 2,504,000 tons.

The history of lead, manganese, nickel, platinum, tin, tungsten, and zinc is similar to the three materials cited. These 10 basic metals and minerals accounted for more than two-thirds of the aggregate value contained in the stockpile when the congressional investigations of 1963–64 were undertaken. In each one there is a pattern of frequent and violent shifts in objectives.

A considerable share of the present value of the stockpile is represented by an 11th commodity—silver. There was no objective established for silver when the stockpile program began despite the numerous important military and essential civilian uses of this versatile metal. The reason for the omission was obvious—the U.S. Treasury then held huge reserves of silver, accumulated during the thirties under the terms of the Silver Purchase Act of 1933.

But by the mid-60's the Treasury's reserves had been drastically cut as world consumption of silver has consistently exceeded new mine production, and the gap was met largely by drawing on Government stocks—not only of the United States but also of other countries.

In 1965 during the Johnson administration, an initial silver objective of 165,000,000 ounces was established. This was reduced to 139,500,000 ounces in 1970, to 21,665,000 ounces in 1973, and to zero in 1976. This despite the fact that the U.S. mine production of silver is equivalent to only one-quarter of this country's industrial needs with another quarter being obtained through recycling of old silver scrap. Currently about half the country's silver requirements are imported.

Although the public tends to think of silver as an ornamental metal used for silverware, jewelry, and these days—limited coinage, the fact is that the greatest part of the demand for silver is industrial—for films, electrical contacts, brazing alloys, batteries, mirrors and a myriad of other applications.

During World War II, in addition to lend-leasing silver to our Allies in order to shore up confidence in their currencies, enormous quantities of silver—several hundred million ounces—were taken from Treasury stocks for direct war applications. Every military aircraft, for example, was so equipped that action films were taken whenever the guns were fired. Silver alone made possible the hundreds of millions of feet of film of actual combat which not only provided a permanent record of the action but also gave our military leaders an invaluable insight into the strengths and weaknesses of enemy equipment.

In the interests of time I will not elaborate on all the other military uses of silver but I will cite one additional example of silver's vital wartime role. Every lifeboat on U.S. naval craft and in the merchant marine was equipped with desalting kits to enable conversion of sea water into potable water. Silver chemicals made this possible and many millions of ounces of silver were required.

The Treasury today has minimal stocks of silver. The Congress in late 1976 wisely defeated a bill to authorize sale of the strategic stock—which is actually 139,500,000 ounces—in spite of the administration request to do so.

As the examples I have cited indicate, the frequent and violent shifts in stockpile objectives—occurring for reasons having little or nothing to do with defense—can not help but bring me to the conclusion that not only have we failed in providng a viable balanced stockpile but that the wide variance in stockpile ojectives have proved costly to the tax-

payer and extremely disruptive to industry where planning for expansion has been frequently deferred when the stockpile became an active seller; and on occasion the nonrecurring stockpile demand stimulated expansion that was not needed.

A final and most vivid example of this can be seen under the October 1976 stockpile goals. Here the taxpayer is being asked to reacquire at higher prices vast quantities of materials once in the stockpile but released when Congress was assured by the executive branch that they were no longer needed. I refer specifically to the critical metals: aluminum, copper, nickel, and zinc as four such items.

At the end of 1963 the stockpile actually held 1,980,805 tons of aluminum metal, 121,691 tons of refined copper, 228,361 tons of nickel and 1,581,000 tons of zinc. Since that date all of the aluminum, copper, and nickel has been sold by the U.S. Government. Of the zinc all but 347,000 tons has been sold. Now, under the October 1976 program, we are told that the stockpile needs to acquire 11,532 tons of aluminum, equivalent to 5,750,000 tons of aluminum. The objective for nickel was set at 204,000 tons and the objective for zinc has been set at 1,313,000 tons.

Thus the taxpayer is now confronted with buying quantities either equal to or in excess of the amounts previously held.

At the same time we were told we can safely dispose of large quantities of tin and all the silver in our stockpile—despite this country's proven dependence on both. How many years down the road will it be before we are advised of the need to reacquire silver and tin?

It seems to me that Congress should set the guidelines for the stockpile program and my bill embodies that concept. The provisions of my bill and the procedures proposed I feel will reduce if not eliminate the chaos of the past and will introduce stability into stockpile objectives.

Two additional factors must be explained about this bill. Because the bill calls for stockpile objectives based on import dependency the question may well be asked why net imports in peacetime should be considered an appropriate measure of wartime needs. Is it not a fact that wartime economy is a very different proposition from a peacetime economy? The answer to that question is of course in the affirmative. In war the country turns its efforts to military equipment and installations, to ammunition and military uniforms. It cuts back sharply on the production of automobiles, household goods, residential construction—and may even prohibit entirely the output of certain items.

Yet while basic materials may be used for different purposes the volume of basic materials used changes less drastically. The reason for this is clear when one considers the bottlenecks of manpower, transport, energy and fabricating capacity that inevitably introduce restraints on wartime demand for materials.

In recent correspondence an official of the Federal Preparedness Agency justified the proposed 11,532,000-ton objective for alumina because he said, the wartime need for aluminum would be 10,000,000 tons annually as against 7,000,000 tons in peacetime. One must question these figures. How would 10,000,000 tons of aluminum be consumed when present fabricating capacities are fully occupied? How would the possession of a large aluminum stockpile enable the country to produce additional aluminum when the reduction plants now in existence are working to capacity? How could the construction of energy-intensive additional aluminum reduction capacity be justified in wartime in view of the call for energy conservation?

Stockpiles are insurance against supply interruptions in times of national emergency. No one can insure against every conceivable emergency. A sound insurance plan is one that insures against probable risks at reasonable—but not excessive costs.

Calculations have been made as to the probable financial cost of implementing the bill I have introduced. Taking 15 of the most important commodities; including the 11 I have already mentioned, and assuming that the three proposed classifications are applied on the basis of present U.S. dependence, the cost of this proposal should prove to be less—at today's prices—than the cost of carrying out the program embodying the objectives announced in October of last year.

The following tabulation compares the costs for certain of the key materials which are involved in the stockpile program under two alternatives. The first alternative is the program announced on October 1, 1976 by the Federal Preparedness Agency. The second alternative is embodied in the legislative proposal I am introducing today.

Not all of the materials in the stockpile have been included in this analysis. However, the items included represent the largest part of the value of the present stockpile holdings or the proposed holdings under either the October 1, 1976 program or my proposal. Prices of these materials are constantly changing. The tabulation is based on prices prevailing as of February 25, 1977, based on information published in the trade press.

The October 1, 1976 Federal Preparedness Agency program called for very large purchases of alumina, copper, nickel and for substantial disposals of tin, silver, ferrochrome, and bauxite. The net effect of this program would have been—for the materials studied—a net cost of $1,475,000,000 assuming prices remained unchanged. However, in effect selling and buying the large quantities proposed would have been certain to have affected the market. Sales would have depressed prices and purchases would have increased prices so that in all probability the net cost would have been substantially greater.

Under my proposed legislation the quantities to be bought and sold would be substantially smaller and therefore the market effects would be considerably less disruptive.

My bill calls for classification of materials into three categories—"A," "B," and "C". These classifications are to be made by the executive branch.

If the executive branch adopts the classifications shown in the tabulation, the net cost of the program would be comparable with that of the FPA program. However, since the quantities to be bought and sold are substantially smaller, the market disruption would be less and the estimate, therefore, can be considered a more realistic one.

Three commodities—nickel, zinc, and silver—are shown in this tabulation as "B" categories. This classification is open to some question. The United States is heavily dependent on imports of these three materials but the chief source of imports is from North American neighbors. In the case of nickel Canada is by far the largest supplier. In the case of zinc and silver Mexico, as well as Canada, is a substantial supplier.

Therefore the executive branch in considering these three materials might well classify them as "C" items rather than "B" items.

The result under my proposal would be as follows if these three materials are classed in the "C" category:

Zinc (short tons)	289,894		$215,622,000
Nickel (short tons)	110,666		533,408,000
Silver (thousand ounces)	(50,274)	$232,015,000	
		232,015,000	749,030,000

Thus the net cost for these three materials would amount to only $517,015,000. When classed as "B" materials the cost for these three materials would total $1,947,592,000. Thus there is a difference of $1,430,577,000 depending on how the Executive Department classifies the three items. If nickel, zinc and silver are classified as "C" items my legislation would require no appropriation of new funds.

Mr. President, the procedures proposed in this bill will introduce stability into stockpile goals. If U.S. productive potential for a commodity increases, imports will decline and an orderly but gradual decrease in the objective will occur. If, on the other hand, domestic resources are depleted and production declines, imports will rise and the objective will also increase. To mitigate against frequent minor tinkering with objectives the bill proposes that objectives will be changed only when import levels of individual commodities as determined each 4 years have increased by more than 10 percent.

I believe the method of determining stockpile objectives that has been employed over the last 33 years has yielded an erratic pattern that could undermine national security; it has been expensive for the taxpayer; and it has been disruptive to industry. The proposal I am putting before you will avoid frequent

changes in the stockpile program, will prove less expensive in the long run, will enable industry to plan more intelligently, and will, most important of all, insure a sensibe level of protection for national needs.

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. 1811. An original bill to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes. Placed on the Calendar.

Mr. JACKSON. Mr. President, I report an original bill—S. 1811—to authorize appropriations for the fiscal year 1978 civilian nuclear energy applications research and development program conducted by the Energy Research and Development Administration. This bill is reported at the direction of the members of the Committee on Energy and Natural Resources. Earlier this month, the Senate approved a bill, S. 1340, to authorize appropriations for the nonnuclear research and development program. As originally introduced, S. 1340 contained authorization requests made by the President in February 1977, for both the nuclear and nonnuclear R. & D. programs.

Subsequent to the introduction of S. 1340, the administration had adopted a different policy with respect to nuclear energy which was reflected in a revised ERDA budget. Therefore, in order to handle a part of the ERDA program in a timely fashion, the committee completed its work on the nonnuclear portions of the budget leaving the nuclear energy R. & D. program, which had not heretofore been considered by the Committee on Energy and Natural Resources, for later consideration. This clean bill, which was ordered reported to the Senate by the Committee on Energy and Natural Resources on June 27, 1977, is reflective of the committee's consideration of the nuclear energy R. & D. authorizations contained originally in S. 1340.

Mr. President, I also report at this time a Senate resolution waiving section 402(a) of the Budget Act concerning this measure.

I ask unanimous consent that a letter to the chairman of the Senate Budget Committee explaining the circumstances which made the waiver necessary be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENERGY R. & D.,
April 21, 1977.

Hon. EDMUND S. MUSKIE,
Chairman, Senate Budget Committee, Washington, D.C.

DEAR SENATOR MUSKIE: As you are probably aware, President Carter further refined his policy on energy since his submission of a revised FY 1978 budget for the Energy Research and Development Administration on February 22. As a result of his statements on April 7th and April 20th, he will submit another FY 1978 ERDA budget to the Congress in about another week. This budget will propose major restructuring of the activities in certain programs rather than merely changing the level of support for existing programs.

In view of the magnitude of the proposed changes and the importance of the decisions to international and domestic energy policy, the Members of the Committee on Energy and Natural Resources have concluded that we can not responsibly report the full FY 1978 ERDA Authorization bill without further hearings and consideration of the Carter policies. As a result, although the Committee will proceed as expeditiously as possible, we probably will not be able to comply with the May 15th deadline established by the Budget Control and Impoundment Act and will need to seek a waiver from the Senate Budget Committee when the bill is reported. Our Committee may be able to complete action on the non-nuclear portion of the bill in time to report a separate bill for those programs by May 15th, and we will advise your Committee of our progress.

Sincerely yours,

HENRY M. JACKSON,
Chairman.
CLIFFORD P. HANSEN,
Ranking Minority Member.

COMMITTEE ON THE BUDGET,
Washington, D.C., May 4, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SCOOP: We have received your recent letter regarding the difficulties faced by the Committee on Energy and Natural Resources in meeting the May 15 reporting deadline for the fiscal year 1978 ERDA Authorization Bill. We are encouraged that you are optimistic you can meet the deadline for the non-nuclear portion of that bill.

As you know, the May 15 reporting deadline in the Budget Act is intended to aid the appropriations process by assuring timely enactment of authorizations required before appropriations can be made. Section 402 also provides for the possibility of a waiver of the May 15 deadline in appropriate cases. The legislative history of the Budget Act suggests strongly that such waivers are to be sparingly granted, since delays in the appropriations process derail the entire legislative schedule and can disrupt the functioning of both the Federal and state governments by delaying and confusing program funding. In fact, such waivers are termed "emergency waivers" in the provisions of the bill relating to the House of Representatives.

We think the Congress can be proud that all but one appropriation were completed prior to October 1 last year. This success, unparalleled in recent times, is the direct result of unprecedented cooperation in early reporting of authorizing legislation. The Appropriations Committee pursued its responsibilities under the Budget Act with great energy. The authorizing committees met their responsibilities to the Appropriations Committee and the Congressional budget process by reporting their authorizations before May 15. In fact, a total of only 22 authorizations (including four from the Committee on Interior and Insular Affairs) were reported after May 15 last year by the 14 authorizing committees of the Senate.

We are confident the members of the Budget Committee will be sympathetic to the difficulties you face in processing the energy legislation the President has so recently submitted. We encourage you, however, to report as much of that legislation as is possible prior to the deadline. We also encourage you strongly to report all other legislation your Committee contemplates for authorization of new budget authority for fiscal year 1978 prior to that deadline.

We and our staff at the Budget Committee stand ready to assist you in any way we can. Please do not hesitate to call upon us.

Sincerely,

EDMUND S. MUSKIE,
Chairman,
HENRY BELLMON,
Ranking Minority Member.

By Mr. NELSON (for himself, Mr. HASKELL, Mr. ABOUREZK, and Mr. METCALF):

S. 1812. A bill to supplement and clarify the Federal reclamation laws, to promote the settlement of family farmers in Federal irrigation projects, to provide for acreage equivalency between class 1 lands and lands of lesser productive capability, and for other purposes; to the Committee on Energy and Natural Resources.

RECLAMATION LANDS FAMILY FARM ACT

Mr. NELSON. Mr. President, Senators HASKELL, ABOUREZK, and METCALF are joining me today in introducing the Reclamation Lands Family Farm Act.

This measure would reaffirm that the primary purpose of Federal reclamation law is the settlement of family farmers on the land. It would also establish a class 1 equivalency formula, providing that up to 240 acres of lands of lesser productivity may be deemed the equivalent of 160 acres in projects subject to the 160-acre limitation on single ownerships. Additionally, the bill would allow an individual, having 1 or more dependents resident with him for 1 year prior to a purchase, to buy up to 320 acres of class 1 land or its equivalent in less productive lands.

Under this bill, with certain carefully drawn exceptions, federally supplied irrigation water would only be available to lands being farmed as family farms by family farmers living on the land or nearby. Among the exemptions from this rule would be land owned by retired family farmers resident on the land, land leased for not more than 2 of 10 years—or more in cases of exceptional hardship, and lands under recordable contract requiring sale as excess lands. The bill does not, however, bring within the 160-acre limitation any existing projects or divisions that have been exempted from that requirement by statute heretofore.

Land purchased priord to the act, or acquired by creditors or inheritors, would be allowed to receive water for a grace period of 3 to 5 years, while arrangements were made for sale of the land to the Secretary of the Interior or to a family farmer.

ANTISPECULATION PROVISIONS

When excess land is sold, under this bill its price could be no higher than its fair market value at the initiation of construction of the project or division, indexed by the Consumer Price Index. Excess land purchased by family farmers at a controlled price could not be resold at a higher price than the acquisition cost indexed by the Consumer Price Index until and unless it had been farmed as a family farm for 10 years, after which it could be sold at an uncontrolled market price.

WATER RATES RENEGOTIATION

The bill would also provide for the renegotiation of rates for federally sup-

plied water every 5 years. Of course, this provision would be prospective only, applying to projects or divisions which were the subject of a new contract or contract amendment after the date of enactment.

FAMILY FARMING ON GOVERNMENT-OWNED LANDS

The bill would create a $25 million fund for the purchase by the Secretary of the Interior of irrigated lands to be leased to family farmers unable to purchase the land themselves. The lease could be for no less than 2 nor more than 7 years. After 2 years, the lessee would have an option to purchase the land from the Secretary. The bill would also provide for financial assistance to qualified family-farmer lessees for operating costs and land-purchase costs by means of loans guaranteed by the Farmers Home Administration.

The bill would also provide for the lease to family farmers of agricultural lands located within the Lemoore Naval Air Station in California. These leaseholds would also be administered by the Secretary of the Interior; but title to those lands would remain with the Secretary of the Navy, and the Navy would, of course, retain the right to issue regulations for the farming of the land in a manner that would not interfere with the operation of the Lemoore Naval Air Station.

CLEAR RULES AND OPEN NEGOTIATIONS

The Reclamation Lands Family Farm Act would provide that all actions taken by the Secretary of the Interior to implement reclamation law must be made pursuant to formally published rules and regulations, issued under the Administrative Procedure Act. Finally, this bill would require that all negotiations of contracts and amendments to contracts between the boards of projects or divisions and the Department of the Interior be conducted in public, advertised sessions.

THE MAIN PURPOSE OF RECLAMATION

The original intention of reclamation law was to settle family farmers on land irrigated by federally supplied water. Providing that water costs the taxpayers a great deal of money, since irrigators generally repay only a fraction of the total costs of the project. The Federal investment and subsidy have been justified historically on two principal grounds: that they increase agricultural production and that they encourage an agricultural structure—family farms—that almost everyone considers desirable and efficient.

While most reclamation projects do increase agricultural production, all too often they do nothing to encourage family farming. Frequently the benefits of federally subsidized water go to large farm owners and operators. The law clearly states that water cannot be delivered to owners of more than 160 acres, but extensive investigations indicate that this law is easily and widely violated or avoided.

The Bureau of Reclamation has adopted a very loose and inclusive construction of the provisions of law concerning ownership of land. Consequently, there are numerous large farming operations based on various complex ownership and leasing arrangements, deemed lawful by the Bureau, in which most owners are simply investors. The Bureau has argued that the only intention of the law is to break up large ownerships. We find this argument to be not only historically inaccurate but bad public policy. Why should the Federal Government provide huge subsidies to generally wealthy investors in highly desirable farmland—land that thousands of family farmers would like to settle? As various courts have held, the original purpose of reclamation was to encourage family farming, not syndicate farming.

JOINT HEARINGS OF TWO COMMITTEES

Mr. President, these problems were studied in depth and detail during the 94th Congress in joint hearings before the Committee on Small Business and the Committee on Interior and Insular Affairs—now the Committee on Energy and Natural Resources. There were 2 days of hearings in Washington in July 1975 and 2 days in Fresno, Calif., in February 1976. Senator HASKELL, representing the Interior Committee, and I, for the Small Business Committee, cochaired those hearings.

The hearings focused on the Westlands Water District as a case-study example of some of the problems that have arisen in the Federal reclamation program. The record—which has now been printed with the exception of some detailed exhibits and appendixes from the Fresno hearings—contains some interesting facts.

Irrigators in the Westlands Water District will receive a subsidy of between $500 million and $1 billion. Yet in a district that is almost as big as Rhode Island, there are only a handful of family farms in the size range from 160 to 320 acres. In the entire district today there are fewer than 300 farms, averaging about 2,000 acres per farm. The record contains much testimony from agricultural experts and farmers themselves that a farm of 160 to 320 acres would produce a very good living in Westlands. The committees also heard from people representing hundreds of family farmers who wanted to move onto that land but could not get the opportunity to purchase it.

The provisions of the Reclamation Lands Family Farm Act, which I have already outlined, are intended to correct many of these abuses. A draft of this bill was circulated 2 months ago to many persons having particular expertise and interest in the subject. The version introduced today incorporates many suggestions received in that process that were acceptable to the sponsors as a matter of policy judgment. Nevertheless, we are well aware that this remains a draft, a working paper. It will undoubtedly require a considerable additional amount of study, but we intend to use our best efforts to see that it receives all the work and attention it may need. One of the cosponsors, the Senator from Montana (Mr. METCALF), anticipates that this measure will be the subject of hearings before his Senate Energy Subcommittee on Public Lands and Resources during the coming summer. Those having comments should communicate with that subcommittee, as well as with the cosponsors.

Mr. President, I ask unanimous consent to include in the RECORD at this point two articles on the problems of the reclamation program, followed by a summary and the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From New Times, Apr. 1, 1977]

GRAPES OF WRATH: 1977

(By Judith Strasser)

FRESNO, CALIF.—4 a.m., on a poor edge of town. A flashing sign washes the street with thin red neon. Ancient buses idle in a vacant lot next to the Jalisco restaurant. Men pull cars to the curb and hurry into the all-night cafe for a few brief words, a coffee-to-go. They come out, stomping their feet and warming their hands, to wait in the fog and cold.

Across the street, a busload of urban types stare from the windows of their yellow school bus. George Ballis a wiry leprechaun of a man, stands next to the driver and grins. "This is to give you a feel for a farmworker's life," he tells his sleepy audience. "If you want a job in this valley, you see the labor contractors now. They work out of that cafe." Ballis sits down. The air brakes sigh, the bus gears grind. The driver heads out of town toward the Westlands Water District, 40 miles across the San Joaquin Valley.

George Ballis and other staff members of National Land for People (NLP) have been guiding tourists through the heart of California's great central valley every month for the past two years. NLP, a Fresno-based group with about 1,200 members nationwide, runs these "seminars in reality" to illustrate the urgent need for land reform in the United States. The government has championed land reform programs in other countries, especially in Latin America and Southeast Asia, for many years. But to most of NLP's passengers, land reform at home seems a new and subversive idea.

The notion is not new. The basic idea dates back at least to 1776. The country's founders did not want the land to be held by a few very large and rich owners. Yet, despite the American Revolution and two centuries of strife, a few very large and rich owners still predominate. In rural counties, the top 20 landowners—less than 1 percent of the people—own 20–50 percent of the land. Tenant farmers and salaried managers work about 60 percent of all the agricultural land in Iowa and Illinois. They run farms owned by corporations and other absentee landlords. Twenty-four corporations—energy companies, timber companies and railroads—own or control mineral rights to over 122 million acres, or about 1 out of every 16 acres in the continental U.S.

Much of this concentration of ownership has occurred since World War II. But land monopoly in California built great fortunes even before the Gold Rush. Ownership patterns in the San Joaquin Valley, especially, have been traditionally bad. A bloody conflict between settlers and the valley's biggest landlord, the Southern Pacific Railroad, inspired Frank Norris' turn-of-the-century novel, *The Octopus*. During the Depression, John Steinbeck described the San Joaquin's migrant workers and landless poor in his best seller, *The Grapes of Wrath*.

But even monopoly played on a board eventually grinds to an end. No one knows, yet, who will win in the San Joaquin Valley. The present prolonged California drought could turn the rich land into a dust bowl. The conflict now centers on the Westlands Water District, an area two-thirds the size of Rhode Island stretching along the valley's

west side. In Westlands, the landlords and their government friends face a growing grassroots coalition.

Congress provided the fuel for this latest reform campaign when it passed the Reclamation Act 75 years ago. The 1902 law followed a long tradition of loophole-ridden legislation designed, more or less, to help family farmers tame an uncivilized continent. Many legislators intended the Homestead Act, the Swamplands Act, the Timber and Stone Act and others to grant small plots to pioneers who would settle and farm. But in practice these laws gave the country away to corporations and speculators.

The authors of the Reclamation Act spelled out exactly whom they meant to help when they authorized Congress to build water projects designed to reclaim arid land for agricultural purposes. Reclamation project beneficiaries were to own farms of limited size; the law allows each landowner only enough subsidized water to irrigate 160 acres or less. Landowners were to be resident, rather than absentee. They were to be farmers, not speculators: the law requires owners to sell excess land (over 160 acres per family member) in 160-acre parcels, at prices which do not reflect the value added by the federal water project.

This 1902 law set the rules for all future reclamation projects. It enabled Congress in 1959, to approve the San Luis Project, a $600 million system of reservoirs and canals to irrigate the west side of the San Joaquin Valley. The project's advocates quoted the Reclamation Act and promised that thousands of family farms would take root in the newly formed Westlands Water District. A handful of skeptics, including George Ballis, then the editor of a small labor paper, warned that the taxpayers' money would end up lining the pockets of the valley's land barons. In the late 1950s, Ballis remembers, hardly anyone cared. But now, he chuckles happily, "It's a whole different scene."

High food prices, energy crises, farm laborers' rising expectations and urban dreams of the good country life have all focused national attention back on "the country." The Westlands Water District cannot stand such close scrutiny. The San Luis Project is nearly complete; it has provided irrigation water to some land since 1968. The great westside ranches should, by now, have been broken into hundreds of smaller operations. But a two-month search in early 1976 by *San Francisco Examiner* reporters Lynn Ludlow and Will Hearst revealed only two small family farms in the whole 572,000-acre district.

No new small farms have been created since that time. Last August, U.S. District Judge Barrington Parker, impressed by NLP's documentation of the misuse of public funds, issued an injunction stopping virtually all land transactions in the Westlands Water District. Parker's decision followed on the heels of a congressional investigation that brought Senators Floyd Haskell and Gaylord Nelson to Fresno in February 1976. Governor Jerry Brown testified in person at those hearings.

The Westlands Water District is agribusinessland. Major corporations and multimillionaires own county-sized Westlands farms. Southern Pacific Transportation Company holds 106,000 acres, part of the western empire granted it in the 19th century by the federal government in return for building (and not building) railroad lines. Standard Oil of California owns 10,000 Westland acres. J. G. Boswell III, a member of Safeway's board of directors, owns 23,000 acres here. Producers Cotton Oil Co., a subsidiary of the conglomerate Bangor Punta, owns 10,000 acres and leases 7,000 more. (Other Bangor Punta subsidiaries make Piper aircraft, Smith & Wesson guns, and MACE.)

Westlands fields stretch to a horizon unbroken by houses or barns. Machines that can till 16 rows in one pass appear as tiny dots and puffs of dust in an unending sea of dirt. Biplanes drone above the fields, swooping down to release clouds of pesticide. In the dry season—from March to November—millions of feet of pipe, mounted on wheels, spray silver arcs of water, bringing life to the land.

Less than ten inches of rain fall here every year. Uncultivated acres look more like desert than fallow fields. Sparse grasses and tumbleweed barely cover the light brown, sandy earth. Dry, it's not good for very much. But irrigation unlooses the soil's fertility. Sprinkled with taxpayer's millions, these fields bring forth abundant wealth—for the few.

Russell Giffen is among those lucky few. Giffen went broke in the 1920s on a small farm on the east side of the San Joaquin Valley, still a stronghold of family farms. Undaunted, he started to buy up the cheap desert to the west. Knowledgeable Fresno ranchers watched and shook their heads. A man who failed on the wetter east side would never make it over there. Besides, who would want to live in such desolate wilderness?

Giffen ignored the scoffers. He sank wells, planted cotton and dryland wheat, and kept on buying land. Like most other westside ranchers, he chose not to live where he worked. He built his "home place" on the Kings River, 70 miles east. Giffen is an old man now, and he is selling out. Fresno gossip says he'd like to spare his kin a stiff inheritance tax. His 12,000-acre river ranch went on the market for over $6 million. The 77,000 acres he amassed in the Westlands brought $32 million more. People are still fighting over the land he was called a fool for buying.

Jessie de la Cruz is one who wanted to buy some of the acreage Giffen sold. She has worked California's land since early childhood. Her migrant family followed the ripening crops each year from Mexicali north to Sacramento and beyond. They made their home in tents surrounded by mud and blowing dust—when they could find a tent. For warmth, she huddled next to a fire in an old oil drum. Jessie got about four years of education in 45 or 50 different schools.

Neither marriage nor motherhood ended her work in the fields. She and her husband, Arnold, thinned, weeded and harvested cotton for Russell Giffen for 15 years. Then Giffen mechanized his operations. Jessie and Arnold found jobs picking grapes near Fresno every summer. Each winter morning they got up at 3 a.m., packed their lunches and rode the contractors' buses 100 miles to work on flower-seed farms. Their six children often went along. "We were forced to take them out of school to work," Jessie recalls.

Cesar Chavez changed Jessie's life. "I was a housewife when I wasn't working in the fields. Cesar said women had to get out of the kitchen and stand up and fight for what they believe." In the mid-1960s, her children grown, Jessie became an organizer for the United Farm Workers union. But as she talked with other farmworkers, she realized raising wages and improving working conditions for migrant laborers were simply not enough. "My grandmother always dreamed of owning the land she worked," she says. Organizing taught Jessie that *"all* farmworkers are ready to sink their roots in one place." Around 1970, Jessie and Arnold de la Cruz decided to get farmworker families together to try to buy some land.

In 1972 the de la Cruzes and several friends went to Russell Giffen. They asked to buy 160 acres to farm cooperatively. "Mr. Giffen said sure, he'd sell, if we could put down a half million dollars." Giffen's price included the cost of heavy equipment the families couldn't use on the small plot they wanted to farm. Jessie's brown eyes flash with anger.

Though they tried, the de la Cruzes couldn't find any other acreage in Westlands they could afford. Jessie mentioned their problem to George Ballis, a friend of the farmworkers' union. From Ballis she heard for the first time about the provisions of the 1902 Reclamation Act. She learned that, by law, Russell Giffen would soon have to break up his holdings into small family farms, since he took subsidized water from the new San Luis Reservoir. But she and Ballis also knew Giffen would not sell the small plots to farmworkers unless they organized.

Jessie, Ballis and several others formed National Land for People in 1974. They began to dig up the details of illegal sales of excess land. They organized "good humor bus tours" to introduce out-of-town strangers to the "stark reality" of life in the San Joaquin Valley. They raised money to sue some landowners and the Bureau of Reclamation for breaking the 1902 law. And after long days in the fields, Jessie took to Fresno's streets to talk about land reform. "We have been working the land all our lives," she tells every farmworker she meets. "We are the true farmers. The others just own the land."

The westside landlords did not expect to provoke such a reaction when, in the mid-1950s, they asked their friends in Congress to build them the San Luis Reservoir. Public criticism of the San Joaquin Valley ranchers had peaked during the Depression and pretty much died down. In the 1950s, the United Farm Workers had not yet revived liberals' emotions, nor raised rural laborers' hopes. And Russell Giffen and other owners had a tough problem they thought Congress could solve.

The landlords faced a water crisis: their irrigation methods were drying up the underground water supply. In some places the land surface had sunk as much as 30 feet. Ranchers complained that they couldn't afford new irrigation systems. Successful wells required expensive electric turbines to pump water up at least a thousand feet.

The landowners went to Fresno Congressman B. F. (Bernie) Sisk. Sisk repeated their tales of woe to his friends on the House Interior Committee in 1959. Unless Congress helps these farmers, Bernie Sisk said solemnly, "most of the cultivated land which is the basis of their economy will revert to desert. They will have to leave and seek livings and homes elsewhere."

Sisk proposed a project to keep a thousand landlords (virtually all of them absentee) from going broke. He reassured his fellow congressmen that the benefits of federal investment in irrigation would spread far beyond these few. He painted a glorious picture, "inevitable and historic . . . under the impact of reclamation laws." Congressional action would plant the Jeffersonian dream, agrarian democracy, in the western desert soil. Five thousand new family farms, Sisk promised, would sprout on the watered land.

Few American politicians could resist such a stirring vision. Sisk's rhetoric opened hearts and hands. Congress created the country's largest federally subsidized irrigation project to bring cheap water from northern California to Russell Giffen's fields. Today, westside landowners benefit from a subsidy worth more than a billion dollars, by conservative estimates. And right now the Westlands District sends water bills to just over 200 farms.

In February 1976, Senators Floyd Haskell and Gaylord Nelson came to Fresno at NLP's urging, to check on the public's investment. They sat at a long, microphone-cluttered table in the new auditorium at Fresno City College. Witnesses faced them from across the stage. The investigation proceeded California style. Witnesses spoke directly to their friends in the audience: Chicano farmworkers and long-haired freaks, or ranchers in dress-up cowboy boots. Cheers erupted whenever someone scored a good point.

Haskell and Nelson wanted to learn

whether family farms can exist in the Westlands Water District. Robert De Gravelles, a real estate salesman, testified. A dark and stocky man wtih a plain and open face, he lacks the flashy style of the stereotype realtor. De Gravelles thinks small farms could flourish in Westlands, given half a chance.

De Gravelles represents about 2,000 people, mostly white and middle class, who want to buy Westlands farms. His clients do not include poor farmworker families or NLP, the organization that speaks for them. But they recognize him as an ally; his Fresno testimony won their warm applause. There should, after all, be enough land in Westlands for De Gravelles' clients and NLP members too.

The realtor told the senators that he did not have to advertise to attract his large clientele. He learned about Westlands in the mid-1960s, and helped a couple buy some acreage there. Later, when he heard that Russell Giffen had some property up for sale, De Gravelles asked his clients if they knew anyone else who wanted to buy westside land. They did, and, De Gravelles said, "it just spread by word of mouth" that the broker would help people who wanted small Westlands farms. People from Wisconsin, Louisiana, Oklahoma, Oregon and Washington have all found their way to De Gravelles. But most of Giffen's property went, in large chunks, to other people's clients. "I was told that the only way to get land [from the big landlords] was to buy all of it," De Gravelles testified.

On behalf of his clients, De Gravelles offered to buy land from Southern Pacific at more than $600 an acre—a generous price, considering the provisions against speculation in the Reclamation Act. SP rejected these offers out of hand, De Gravelles told the senators. The price was not high enough.

SP public relations manager Henry Ortiz charges that greed inspired the offers; that greed inspires Robert De Gravelles' interest in land reform. Ortiz says, "The brokerage fees would make De Gravelles a millionaire overnight."

The realtor admits he would profit from the sales. SP's repeated attacks on his motives concern him so much, he says, that he has asked his clients if he should back down. "They all said, 'Listen, *we're* the ones paying you. Don't let Southern Pacific shoot you off the saddle.' "

De Gravelles asked Haskell and Nelson to make good Bernie Sisk's promise of land for small family farmers. "We plan that the Westlands Irrigation District will consist of the Michaelena farm, and the Ward farm, as well as the Norman farm, and the Swartz, and the De Gravelles, and the Vaughan farms, along with hundreds of other family farms," Robert DeGravelles told the senators and an audience hushed by the emotion in his voice. "We dream of farmers working their own property, buying their own tractors and sending their children to their schools at Cantua Creek, Three Rocks, Huron and Five Points. We want merchants in LeMoore and Helm and Tranquility welcoming these farm families and the agricultural business people who serve them. We dream of 4–H clubs, high school marching bands and local churches."

The vision tugs the strings of patriotic hearts. But other witnesses insisted that Westlands already has its family farms. "My family has been in farming for as many generations as anyone can remember," said John Harris, a young man with a movie cowboy's looks. "I live on our ranch in the same house I grew up in as a child."

Harris' grandfather, like Russell Giffen, developed westside wells in the 1920s so that he could grow cotton. Good luck and the hard work of three generations turned the desolate homestead into headquarters for a large and prosperous ranch. Over the decades, the Harrises won the respect and friendship of Westlands' biggest landlords. The representatives of Southern Pacific, Standard Oil, J. G. Boswell Co. and Bangor Punta sat quiet through the congressional hearings at which Harris testified. Just as ITT likes to hear small businessmen praise free-market competition, so Westlands' barons enjoyed hearing this young man speak about family farms. The Harrises, unlike these corporate giants, come close to meeting the Reclamation Act's requirements for subsidized water users. They work their own land and live on it, as the 1902 law demands.

But although Harris sounds like a family farmer, he speaks for monopoly. His family owns and irrigates several thousand acres more than the Reclamation Act permits. Their ranch fronts on Interstate 5 a monotonous road that cuts straight through the San Joaquin Valley's west side. Steel towers raise curving high-tension lines beside the Interstate. The California Water Project's concrete canal parallels freeway and power lines across endless acres of watered fields and untilled sage and dust. The view puts I–5 drivers to sleep, but Harris' family and friends find subtle beauty in the scene. Transportation, power, water: the taxpayer-financed infrastructure gilds the green and brown of their barely developed land.

Harris' cattle reek for miles before you actually see them along the Interstate: 60,000 head penned in the dirt, cow piss and dung of one of the largest feedlots in the world. Harris Farms grows its feed on 15,800 acres. The family owns nearly 4,000 acres and leases the rest from other landlords, chiefly Southern Pacific. The Harris operations include slaughterhouses near Fresno and San Francisco and a cotton gin company in Coalinga.

Like most of the other big Westlands owners, the Harrises have agreed to sell their excess land within ten years—after San Luis water fills their irrigation ditches. The Reclamation Act is indeed enforced, John Harris said in Fresno. He complained to Haskell and Nelson that compliance with the law requires "great personal sacrifice."

Harris and the big corporations insist the law is working, but they say it's archaic as well as unfair. "The concept of the family farm is based on a 1902 philosophy," Ralph Brody testified. Brody, chief counsel and manager of the Westlands Water District, earns over $80,000 a year—more than any other state official, including the governor. Brody is hired and paid by the irrigation district's board of directors, the representatives of the owners of the largest amounts of land. (In many water districts, voting power is proportional to the number of acres a landowner holds. Southern Pacific, for example, controls 20 percent of the Westlands votes.)

Despite the big landowners' repeated attacks on the Reclamation Act, the law has worked for them ever since it was passed. Their friends in Congress have used the provisions favoring small farmers to justify outrageously expensive water projects like the San Luis Dam and Reservoir. Once the projects have been built, federal bureaucrats have directed the subsidized water to the big landowners' crops.

The U.S. Bureau of Reclamation administers the Reclamation Act. Its employees are supposed to judge every sale of excess land against the standards set by the 1902 law. Last August, Judge Barrington Parker—studying evidence submitted by NLP and by the General Accounting Office—found such irregularities in the Bureau's practices that he ordered future sales of excess land suspended until the rules are publicly debated and revised. His injunction has withstood several legal appeals.

NLP has documented nearly 50 Bureau-approved sales in Westlands that violate the law: sales to absentee buyers, sales of huge parcels only nominally broken up to meet the 160-acre limit, and sales at prices considerably higher than unwatered land would fetch. Recently, NLP has found, the Bureau has called its approval of some illegal sales merely "tentative." Presumably, this will permit Bureau officials to escape when the heat comes down. But the land transfers go on whether the approval is final or tentative. After the transfers, the Westlands ranchers still control their thousands of excess acres.

After the congressional hearings, in a dark Fresno bar, a young commodity broker explained how the system works. "The excess owners go first to the people they know and trust—to their lawyer, their broker." The broker, whose Westlands clients include John Harris, spoke from experience. "They get real close with those people; their business relies on them. They want to do them favors. Like one of my clients told me, 'Your broker has to be the sort of person you'd want to join in bed!' "

The broker, who wishes to remain anonymous, works hard for his luxuries. His Westlands clients have been urging him to buy some of their excess land.

It is a hard favor to turn down. The land will be sold for less than its present value, although not as low as the Reclamation Law demands. It would be a sound investment with very little risk. The broker believes the great estates should be divided up; that the benefits of land ownership should spread. But he's the kind of person whose conscience needles him because he fudges his income tax. "To be honest, I don't feel I have a right to own 480 acres here."

Many similar sales have taken place with little consequence. In June 1975, a federal grand jury did indict Fresno developer John Bonadelle, three accomplices and Bonadelle's company, Land Dynamics, for turning a fast buck on some of Russell Giffen's excess land. Bonadelle allegedly paid twelve friends and relatives $1,000 each to buy more than 1,750 acres. Eleven days after the sales were complete, Bonadelle resold the land to another absentee landlord. He made $229,000 on the tidy but fraudulent scheme.

The federal prosecutor pursued only one of the indictment's 22 counts: conspiracy to defraud the government. The other charges were dropped because the Bureau of Reclamation land sale forms did not meet certain legal requirements. (George Ballis snorts, "You'd think in 70 years they could come up with proper forms.") On February 24, 1977, after hours of bargaining, Bonadelle copped a plea. He pled Land Dynamics guilty to one charge of conspiracy. The judge fined the company $10,000, and dismissed the indictment. Bonadelle and friends went free.

But Bonadelle is still an angry man. In an interview with the *Fresno Guide* after the indictment was dismissed, the developer charged the Bureau of Reclamation with applying a "double standard" in the Westlands Water District. He said the Bureau "gave us the green light" on the transaction before it actually occurred. "Even today," he charged, "the Bureau is allowing similar land transactions affecting thousands and thousands of acres of land. . . ."

George Ballis believes the Bureau of Reclamation and other Westlands owners made John Bonadelle a scapegoat. National Land for People has asked the grand jury to investigate the developer's claims that the law has been selectively enforced.

The transaction for which Bonadelle pled his company guilty resembles, among others, the sale of two sections (1,280 acres) that John Harris farms. Harris used to lease this land from Adolph and Mary Domingenes, excess owners themselves. After their deaths he rented from their estate. The Domingenes willed the land, in equal, undivided interest, to the Catholic Foreign Mission Society and to Santa Clara College, a Catholic school. Both charities sold their land to an Arizona family shortly after settlement of the estate.

But the land did not pass out of Harris' control. Both deeds requested that tax statements be sent in care of Harris Farms.

Eight months later, the Arizonans sold the land to a syndicate of four couples living in the suburbs of San Francisco. John Harris' lawyer arranged crop financing for the syndicate with Harris' cotton-ginning firm. Several of the syndicators "sold" their parcels again—to investment companies in the Netherlands Antilles, tiny tax haven islands in the Caribbean. Harris still counts those two sections in his enormous ranch. Bernie Sisk's vision of family farms hangs over Westlands, a shimmering mirage.

"Every Mexican-American has the potential of becoming a Chicano, once he swallows the bitter pill of reality." These words decorate the skeleton of a white school bus, abandoned beside a tomato field. The bus, the bulk of a junked truck-trailer and a few tarps strung between offer the only refuge from the relentless valley sun. This place is called Rancho Bracero, or the farm-workers' farm.

In 1973, after Russell Giffen refused to sell them land, Jessie and Arnold de la Cruz and five other families rented six acres near Fresno. They planted cherry tomatoes. For the first time in their lives they worked for themselves. That year the tomatoes brought in enough money to pay the families good wages and produce a cash profit. Four of the families used their share of the profits for a down payment on Rancho Bracero, 40 dusty acres just outside the Westlands Water District.

Again they planted tomatoes and other row crops. Their financial success in 1974 convinced dozens of other farm-worker families to rent land for small co-op farms. Westside Planning Agency, a community group funded by grants from the federal government and foundations, helped the families find financing and land, and arranged classes in marketing and farm management.

But the de la Cruzes and their friends have not done so well in the last two years. Rancho Bracero (like most of the co-ops) relies on a well for irrigation water, and the pump went out in the middle of the summer of 1975. The co-op lost part of its crop that year. It is still paying off the thousands of dollars it cost to have the pump replaced. The pump failure, Jessie de la Cruz says, shows why the co-ops need farms in Westlands, on land that draws its lifeblood from the San Luis Reservoir. "We have sunk our roots deep here," Jessie scoffs at Rancho Bracero's sandy loam. "But not so deep we won't move to Westlands if we can."

Sometimes it seems to Jessie that the move may be drawing near. NLP has won some real victories: Jerry Brown has committed his administration to creating small farms in the water district, Senators Haskell and Nelson are preparing legislation to reinforce the Reclamation Act, and federal courts have handed down five decisions that favor NLP's position in the past six months. But whether the state government, Congress or the courts will override the big landlords' power remains to be seen.

Brown and his administration, at least, have demonstrated that they have the will. Completion of the San Luis Project requires the signing of a Water Services Contract between Westlands Water District and the Bureau of Reclamation, covering such technical points as the nature of the connection between the ground water systems (wells) and the federally controlled surface delivery system. The contract must also be approved by California Treasurer Jesse Unruh. State officials want to withhold approval of the Water Services Contract until the Bureau of Reclamation accepts a second document: the Cooperative Agreement between the Bureau and the State of California.

The proposed Cooperative Agreement is unprecedented in the history of federal reclamation projects. It would involve state agencies in the approval of excess land sales, and it clearly spells out the criteria for approval. An individual owner could receive enough water for only 160 acres. Owners would have to live on the land, or in one of the small towns within 15 miles of the water district. Landowners would have to be "actively and personally engaged in farming the land."

The agreement has already met considerable resistance. Predictably, California Westside Farmers, an organization of Westlands ranchers and property owners, vehemently opposes the proposal. Some of its provisions, CWF maintains, "appear to be flagrant violations of the rights of private property owners and the Constitution." The Bureau of Reclamation, which has never rushed to show its concern for the small farmers' welfare, initially resisted cooperating with the state of California at all. The Bureau claimed that its authority to make cooperative agreements with states applied only to public lands (Westlands of course is all private property) But Brown's legal advisers apparently convinced the Bureau's lawyers that the authority does exist Last fall Bureau of Reclamation and California officials met once, for two hours, to discuss the proposed agreement. A second scheduled meeting was canceled after lame-duck Secretary of the Interior Thomas Kleppe announced that he had decided not to make any decision concerning Westlands before leaving office in January.

And there the matter stands. Cecil Andrus, the new Secretary of the Interior promised at his confirmation hearings to look into the Westlands problem. As of early March, however President Carter's nominees for commissioner of the Bureau of Reclamation, assistant secretary for Land and Water, and solicitor in the Department of the Interior had not received Senate confirmation. The people who fill these positions will supervise the review of Westlands policies. It remains to be seen whether they have the political will required to put small farmers on the land.

Senators Haskell and Nelson are now circulating a proposed "Reclamation Lands Family Farm Act," which they plan to introduce this spring. The current draft reportedly reiterates Congress' intention that family farmers benefit from reclamation projects, fixes the permitted size of holdings from 160 per person, based on a four-member family, to a limit of 640 acres for any number, and strengthens the residency requirements. The bill also provides for federal purchase of excess acreage for which no qualified buyer can be found. The government would then lease the land in small parcels to people who lack money to buy their own farms.

The Haskell-Nelson bill has far-reaching implications. It applies to 1.2 million acres of undivided excess land administered by the Bureau of Reclamation in 17 western states. But how much impact it will have in Westlands is a matter of some dispute. "Legislation clarifying or reinforcing the [1902] law would be in order," says Bill Press, director of California's Office of Planing and Research. Press, along with Brown aide Tony Kline, has been instrumental in drafting the proposed Cooperative Agreement. But neither Press nor George Ballis believes further legislation is really necessary to open Westlands to small-scale farms.

"It's a pretty good bill," Ballis says. But, he adds, there is already "adequate authority" in the Reclamation Act. "The key is the administration. If we get the likes of Harold Ickes in the Interior Department, maybe something will happen. If we don't, nothing's gonna happen, no matter what the hell you pass. We've made a lot more progress than we've ever made," he says. "But our members remind us we don't have the land for them. They say, 'That court decision was wonderful—but where is the dirt?'"

[From the Wall Street Journal, June 8, 1977]

GRASS-ROOTS ISSUE—U.S. WATER POLICY BIAS AGAINST LITTLE FARMERS IS CHARGED IN CALIFORNIA

(By William Wong)

FIREBAUGH, CALIF.—Willoughby Houk, a third-generation farmer here, is speeding along a bumpy road at better than 70 miles an hour in his blue pickup truck, pointing with pride to the homes and farms of his neighbors. "It's a growing, building community," he says.

But Mr Houk goes sour when he turns his gaze to the adjacent 570,000 acres of the Westlands Water District. It contains some of the most fertile farmland in America, and says Mr Houk with scorn, "You can go for miles there without seeing a home."

Big absentee landlords predominate in Westlands, Mr. Houk asserts. And thereon turns a decades-old controversy that once again is agitating family farmers, a number of corporations with farm holdings, and a clutch of local and Federal officials.

Who should have rights to Federal irrigation water in the arid western U.S.? It is a question that has come to focus on California's lush Central Valley, and particularly on Westlands, where farmers using cheap, Federal water grossed about $325 million last year. Without Federal water, one observer has said, the land would go back to 'jackrabbits and desert."

DOLING OUT THE WATER

Small farmers claim the Federal Government is failing to enforce a 75-year-old law, the National Reclamation Act, that was designed to spread Federal water benefits as widely as possible. They contend that large—often absentee—landowners have been the major beneficiaries of the act.

"The bottom line issue," says Mr. Houk, "is preserving the opportunity for family farmers to work the land." Behind the disputes about the law's intent and enforcement lies a broad philosophical dispute about farming in America.

"With family farms you're talking roots, family history, ties to the soil," says one small farmer. But an official of Southern Pacific Co., which owns 109,000 acres in Westlands, talks of "efficiencies of scale" that produce "more abundant, better quality and lower priced" goods for the consumer.

The National Reclamation Act of 1902 had two major provisions to encourage family farms. One limited to 160 acres the size of individual holdings that were to get Federal water. The other specified that such water was to go only to owners who were bona fide residents or living nearby.

THE LEGAL TANGLE

A 1926 amendment said that landowners with holdings larger than 160 acres had to sign contracts agreeing to sell the excess within 10 years—at a Government-approved price that doesn't include the value added by Federal water.

"The bureau observes the law," says a Washington, D.C., spokesman for the Interior Department's Bureau of Reclamation, the unit charged with administering the legislation. Some big landowners agree. "The bureau has been very strict," says Jack Woolf, who farms 8,000 acres in nearby Huron. "It's been very rigid. God, you can't get them to waver on anything."

Ralph M. Brody, manager and general counsel for the Westlands Water District says the process of breaking up large holdings is

working. "They didn't develop overnight; they're not going to break up overnight," he says. As of last year, asserts Mr. Brody, the average farm operation in the Westlands was 2,407 acres, compared to 4,640 acres in 1968.

Westlands farmers once relied on underground water, which is inferior to surface water due to high salt and boron content, and which in any case became scarce in the 1950s. Federal surface water began to flow here in the late 1960s after the government completed the $939 million San Luis canal and distribution system. That is when some large landholders began signing contracts promising to sell their excess holdings.

The small holders who claim lax enforcement are pressing their case through various legal actions here and nearby. A major bone of contention is the 1926 amendment; it failed to restate the original requirement that landholders be residents. Mr. Brody and other officials have interpreted that omission to mean that residency no longer is required.

IS SILENCE REPEAL?

This riles observers such as Paul S. Taylor, professor emeritus of economics at the University of California, Berkeley, and a longtime critic of the Government's reclamation administration. "Brody's argument rests on the legal claim that you can repeal a law by silence," says Prof. Taylor. "You won't find many lawyers who will accept his argument."

Critics of the Government are taking heart from some legal and political developments. The U.S. Supreme Court recently let stand a Federal Appeals Court ruling affecting one million acres adjacent to Westlands. The ruling said that landholders getting irrigation from the U.S. Army Corps of Engineers' Pine Flat dam must agree to sell holdings in excess of 160 acres. Some of the big holders had received Federal water benefits for 22 years without having to sign contracts to sell their excess.

Some legal observers say the ruling, by implication, affects some 90 other water projects of the Corps of Engineers. George Ballis, executive director of a Fresno-based group called National Land for People, calls the Pine Flat decision "a great psychological and political victory."

In another case, a Federal Court held in 1972 that the reclamation law's residency requirement applies to landholders getting Federal water in California's Imperial Valley. This case currently is before the U.S. Appeals Court in San Francisco.

President Carter's new Interior Secretary, Cecil Andrus, has pulled back for review a contract for water delivery to Westlands that had gotten preliminary approval from the Ford administration. It would have guaranteed about 1.3 million acre feet a year for 40 years—without requiring residency on the part of landholders with more than 160 acres.

Politicians such as Gov. Edmund G. Brown Jr. of California have taken up the small landholders' cause. Senators Gaylord Nelson of Wisconsin and Floyd Haskell of Colorado, both Democrats, are expected to introduce legislation soon that would include residency requirements and other proposals favored by Mr. Ballis and others.

Both sides are looking for the residency issue to be resolved in the courts, probably by the Imperial Valley case. Mr. Brody, the Westlands official, says that if the courts hold that residency applies to Federal reclamation sales, then it will be applied to Westlands.

Up to now, he maintains, "There's no illegality in what's been going on in Westlands." A possible explanation of why the officials haven't enforced residency requirements emerged in the Imperial Valley trial when a Reclamation Bureau official said "almost an unmanageable" bureaucracy would be needed to verify residence.

Excess land sales that have taken place in the Westlands so far, involving some 125,000 acres, haven't required that buyers become residents. In August the National Land for People group obtained a court injunction halting further sales on this basis.

Critics of policy in Westlands complain that the original legislation's intent has been violated in other ways. They note that persons holding title to a 160-acre farm may be relatives of actual purchasers who are absentee. And, in a few cases, foreign corporations hold title to 160-acre parcels.

"There's nothing in our system that says selling to relatives violates the intent of the law," says Mr. Brody. Mr. Woolf (whose 8,000 acres include eight 160 acre lots with himself, his wife, and each of his six children listed as owners) says, "What they (the small landowners) want is to put people of their own choice on the land."

Besides Southern Pacific, corporate landowners in Westlands include Anderson, Clayton & Co., Standard Oil Co. of California and Bangor Punta Corp. Advocates of smaller farms complain that big holders who are selling excess lands are reaping windfall profits.

Not least among the benefits has been the use of cheap Federal water for 10 years before a contract to sell excess land takes effect. But the biggest windfall may be the interest-free loan that made possible the entire Central Valley irrigation project of which the San Luis unit here is a part. Experts say that agricultural water users are repaying less than 20% of total project cost including interest, with power users and the federal Treasury picking up most of the bill.

Then there is the profit to be made selling the land. Southern Pacific has been deluged with "better than 1,000 proposals for purchase of our excess lands," says O. G. Linde, president of the company's land subsidiary.

"These haven't come from farmers, but from fast-buck speculators and syndicators," he says, adding that "we haven't dealt with them; we don't intend to." SP's excess lands, he vows, will go to "persons who will farm the land."

Government-approved prices, as required by the law in excess sales, have ranged from $500 to $700 an acre. But the market value of the land, with the Federal water, is roughly $750 to $1,000 an acre above those prices. And the purchasers of excess lands can turn around and sell at market value.

A major issue is the value of the Federal water. It is supplied at a third the cost of state-provided water, and small farmers argue that without it, Westlands acreage probably is worth $200 an acre or less. But big land interests point out that land adjacent to Westlands, without Federal water, has been fetching up to twice the sale prices of Westlands excess land.

Critics of Southern Pacific point out that the company got its Westlands acreage free, through land grants given to make possible the creation of a railroad system. "If SP got a buck an acre they'd make a profit," says Mr. Ballis.

Says Mr. Linde of SP, "There obviously is a profit in selling the land, but we don't see it as a windfall to SP." Other big holders generally acquired their land through conventional purchases.

SUMMARY OF THE RECLAMATION LANDS FAMILY FARM ACT

1. EXECUTIVE SUMMARY

The "Reclamation Lands Family Farm Act" reaffirms that the settlement of family farmers on the land is the purpose of reclamation law (Sec. 101 and 102). It establishes a class 1 equivalency formula (Sec. 201) and allows an individual to own up to 320 acres of class 1 land or its equivalent in lesser lands (Sec. 202). Land receiving water in Federal reclamation projects would only receive that water if farmed as a family farm (Sec. 102 and Sec. 301). Land in projects exempted by existing statute from the 160-acre limitation, and land owned by retired family farmers, land leased for not more than two of ten years, and land under recordable contract would be exempted (Sec. 301). Land purchased prior to the act, or acquired by creditors or inheritors would be allowed to receive water for a grace period of three to five years, while arrangements were made for sale of the land to the Secretary of the Interior or a family farmer (Sec. 301). Excess land would be sold at a price no higher than its market value at the start of construction of the project, indexed by the Consumer Price Index (Sec. 302). Excess land purchased by family farmers could not be resold at a price higher than the acquisition price indexed by the Consumer Price Index, unless farmed continuously as a family farm for ten years (Sec. 303). Water rates would be renegotiated every five years (Sec. 401).

A $25,000,000 fund would be created for the purchase by the Secretary of land to be leased to family farmers unable to purchase the land themselves. The lease would not exceed seven years, and after two years the lessee would have the option to purchase (Sec. 501). Financial assistance for operating costs and/or purchase costs could be made through the Farmers Home Administration by means of guaranteed loans (Secs. 601, 605). Land at Lemoore Naval Air Station could also be leased to family farmers by the Secretary, but title and the right to make regulations for the operation of the station would remain with the Navy (Sec. 502).

All actions taken by the Secretary of the Interior to implement reclamation law would be required to be made through rules and regulations subject to the Administrative Procedure Act (Sec. 604). All contract negotiations would be required to be carried on in public, advertised sessions (Sec. 603).

2. SECTION-BY-SECTION SUMMARY

Sec. 101 (a) (Findings). The administration of reclamation law has failed to accomplish the purpose of settling family farmers on lands receiving Federally subsidized water. The 160-acre limitation has not accomplished this purpose and is, moreover, inequitable when applied to less productive land.

Sec. 101 (b) (Purposes). It is the intent of Congress to assure that reclamation law is administered to settle family farmers on the land, that sounder repayment procedures be instituted, that the 160-acre limitation be made more realistic, and that financial assistance be provided to family farmers unable to purchase reclamation lands.

Sec. 102 (Definitions). Defines family farm as one economically self-sufficient, operated by a family farmer and not larger than 320 acres Defines family farmer as an individual who owns and operates, or leases and operates, a farm for his or her own account, lives on or near the farm and derives a major part of family income from operation of the farm. Defines qualified purchaser and qualified leaseholder as those individuals qualified to purchase reclamation lands who will own or operate such lands as active family farmers.

Sec. 201 (Acreage limitations and equivalency). Authorizes the Secretary of the Interior to make regulations which would change the 160-acre limitation to 160 acres of class 1 land or its equivalent in lands of lesser productivity, provided that in no case the equivalent acreage exceeds 240.

Sec. 202 (Purchase of land for dependents of qualified purchaser). A qualified purchaser could purchase, in addition to the 160 acres to which he is individually entitled, 160 additional acres for one dependent.

Sec. 301 (Rights to water and termination or suspension of rights; moratorium on sale of excess lands). One year after the date of enactment, water from any reclamation projects would be delivered only to project lands which comprise a family farm, or 1) are under recordable contract, 2) are owned by a former family farmer retired on the land, 3) are leased for not more than 2 of 10 years, or in instances approved by the Secretary on the basis of extreme hardship to that family farmer for more than 2 years of a 10 year period, 4) are acquired by a creditor, or 5) by inheritance, or 6) are purchased prior to this act. Land described in clauses 4 and 5 could receive water for three years, pending sale to a family farmer or the Secretary of the Interior. Land described in clause 6 could receive water for five years, pending such mandatory sales. The Secretary would notify those who would have their water delivery terminated, and would issue regulations for final determination of contested cases. No excess lands would be sold for one year after enactment, unless the Secretary determined that there was a severe hardship.

Sec. 302 (Disposition of excess lands). Sellers of excess land could choose their purchasers, provided they did not retain an interest in their land. If they could not choose a purchaser, the Secretary would determine who could purchase by lottery. The price of excess land would not exceed the price of the land prior to the start of project construction, indexed by the Consumer Price Index.

Sec. 303 (Speculation and profiteering prohibited). The resale of excess land by its family-farmer purchaser would be prohibited at greater than that original purchaser's costs indexed by the Consumer Price Index, except where such land had been operated as a family farm for 10 years.

Sec. 401 (Repayment of project costs). Water rates would be renegotiated every five years.

Sec. 501 (Purchases of excess lands by the Secretary in order to lease such lands to family farmers). An appropriation of $5,000,000 per year would be authorized for the next five years to establish a fund for the Secretary of the Interior to purchase land to be leased to those family farmers unable to purchase lands in reclamation projects. Rent would be set at rates sufficient to cover the costs to the Government other than interest. Leases would not exceed seven years, and after two years the lessee would have the option to purchase. Financial assistance, in the form of guaranteed loans, could be made available for operating costs or for purchase.

Sec. 502 (Leasing of Lemoore Naval Air Station land to family farmers). Agricultural excess land owned by the Navy at Lemoore Naval Air Station would be leased by the Secretary of the Interior to family farmers unable to purchase reclamation lands. Title to the land would remain with the Navy, which could make such rules and regulations as are necessary for the operation of the station.

Sec. 601 (Guarantees by Department of Agriculture of loans made by private lenders to qualified leaseholders). Financial assistance specified in section 501 would be made available through a guaranteed loan program to be administered by the Farmers Home Administration. The cumulative total of guarantees under this section would not exceed $50 million.

Sec. 602 (Copies and explanations of this act to be freely available). Explanations as well as texts of the act would be available in English and Spanish.

Sec. 603 (Negotiations of project contracts to be conducted in open sessions following public notice). Secret negotiation of contracts would be ended.

Sec. 604 (Secretary's rules and regulations to be published). Actions taken by the Secretary to implement reclamation law would be made by rules and regulations subject to the Administrative Procedure Act.

Sec. 605 (Department of Agriculture programs for family farmers). Provides that Department of Agriculture programs would be made available to family farmers in reclamation projects.

Sec. 606 (Authorization of appropriations). A general, permanent, and non-specific appropriation of funds would be authorized.

S. 1812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections in accordance with the following table of contents, may be cited as the "Reclamation Lands Family Farm Act".

TABLE OF CONTENTS

TITLE I—FINDINGS, PURPOSES, DEFINITIONS

Sec. 101. Findings and purposes.
Sec. 102. Definitions.

TITLE II—ACREAGE LIMITATIONS AND EQUIVALENCY

Sec. 201. Lands other than class 1 lands—acreage equivalency.
Sec. 202. Purchase of land for dependents of qualified purchaser.

TITLE III—EXCESS LANDS AND IRRIGATION RIGHTS

Sec. 301. Rights to water and termination or suspension of rights; moratorium on sale of excess lands
Sec. 303. Speculation and profiteering prohibited.

TITLE IV—REPAYMENT OF PROJECT COSTS

Sec. 401. Project cost repayment provisions of contracts.

TITLE V—LEASING OF CERTAIN EXCESS LANDS

Sec. 501. Purchases of excess lands by the Secretary in order to lease these lands to family farmers.
Sec. 502. Leasing of Lemoore Naval Air Station land to family farmers.

TITLE VI—MISCELLANEOUS

Sec. 601. Guarantees by Department of Agriculture of loans made by private lenders to qualified leaseholders.
Sec. 602. Copies and explanations of this Act to be freely available.
Sec. 603. Negotiations of project contracts to be conducted in open sessions following public notice.
Sec. 604. Secretary's rules and regulations to be published.
Sec. 605. Department of Agriculture programs for family farmers.
Sec. 606. Authorization of appropriations.

TITLE I—FINDINGS, PURPOSES, DEFINITIONS

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds that:

(1) a populous, prosperous rural society is essential to the preservation of the national character, and rural prosperity must be based on a pattern of broadly distributed ownership and operation of productive agricultural land;

(2) the purpose of reclamation law is and has been to encourage the settlement of federally irrigated land by family farmers living on or near their land;

(3) the administration of a substantial amount of the acreage currently affected by reclamation law has not accomplished and is not likely to accomplish the statutory policy of settling family farmers on the land;

(4) the construction of reclamation projects, by law, involves substantial subsidies to landowners; and that the subsidies are intended to provide landowners with an incentive to sell excess land, presumably to family farmers, but too often land has been sold instead to nonfarming investors;

(5) there are large numbers of potentially successful family farmers, both with and without financing, who, as a consequence of practices approved by the Secretary of the Interior for the sale of reclamation land, are unable to move onto the land and thus fulfill the original purposes of reclamation law;

(6) appraisal techniques to determine the approved selling prices of excess land do not fully exclude enhancements in value attributable to projects;

(7) while vendors of excess land can dispute price approval decisions of the Bureau of Reclamation, no procedure exists for prospective purchasers to challenge these decisions; and

(8) due to a variety of weather conditions, soil qualities, and other natural characteristics affecting the productivity of farmland, it is inequitable to apply the same acreage limitations to every parcel of land.

(b)(1) It is the purpose of this Act to reaffirm as law and policy that:

(A) the congressional intention in reclamation law is and has been to foster the settlement of bona fide family farmers living on or near the land in Federal irrigation projects;

(B) those who do not comply with this purpose should be excluded from the right to receive federally supplied water;

(C) the intent of the law is to exclude project benefits from the price at which excess land initially receiving federally supplied water is sold; and

(D) there should be established procedures to assure sounder repayment practices from those receiving federally supplied water.

(2) It is the further purpose of this Act to provide that—

(A) the one hundred and sixty acre limitation shall be applied to less productive lands in a manner, and in accordance with clear regulations, that will compensate for their less productive quality; and

(B) federal financial assistance shall be provided to potential family farmers who would otherwise be unable to own or operate the land.

DEFINITIONS

SEC. 102. As used in this Act, the term—

(1) "family farm" means a farm (A) owned and operated or leased and operated by a family farmer; (B) of a size small enough to be maintained and operated by such family farmer and members of his family or with hired labor; (C) which provides sufficient income by itself in average or better agricultural years to enable the farmer to meet necessary family and operating expenses, including the maintenance of essential chattel and real property and the payment of debts; and (D) which is within the acreage limits for farm ownership or operation as set forth in section 202 of this Act;

(2) "family farmer" means an individual who (A) owns and operates, or leases and operates for his or her own account, a farm; (B) lives on or near the land which constitutes the farm; and (C) derives a major portion of his or her income during periods of normal agricultural productivity from the operation of that farm. The term does not include an individual whose participation in farming operations is primarily limited to management decisions with respect to land rented or leased to another person; but the term may include an individual, otherwise meeting the provisions of this definition, who operates a family farm in the partnership or corporate form of business organization;

(3) "qualified purchase" means any individual who (A) is eligible under the Federal reclamation laws to purchase excess lands; (B) would be eligible, after having made

such a purchase, to receive from a project or division, water for the lands purchased; (C) certifies that lands purchased pursuant to the Federal reclamation laws, including this Act, will be used as a family farm, and that that individual will operate that farm as a family farmer; and (D) does not own land receiving or eligible to receive federally supplied water in any project or division subject to Federal reclamation laws;

(4) "qualified leaseholder" means any individual who (A) is eligible under the Federal reclamation laws to purchase excess lands; (B) would be eligible, after having made such a purchase, to receive from a project or division water for the lands purchased; (C) certifies that lands leased pursuant to this Act will be used as a family farm, and that that individual will operate that farm as a family farmer; (D) does not have the financial resources necessary to purchase a farm of an economically feasible size; (E) has been unable to obtain adequate financing to purchase such a farm; and (F) has the ability to farm those lands as a family farmer;

(5) "dependent" means a person dependent on another person for over half of his or her support, within the meaning of the Internal Revenue Code (26 U.S.C. 152);

(6) "Secretary" means the Secretary of the Interior;

(7) "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), as amended (43 U.S.C. 391), and Acts amendatory thereof or supplementary thereto, including this Act;

(8) "project" means a Federal irrigation project authorized by or subject to the Federal reclamation laws;

(9) "division" means a substantial irrigable area of a project designated as a division by order of the Secretary;

(10) "Administrator" means the Administrator of the Farmers Home Administration; and

(11) "class 1 land" has the meaning defined in paragraph 2.5.2, "Class 1", of chapter 2.5, "Land Classes", of part 2, "Land Classification", of volume V, "Irrigated Land Use", of the United States Department of the Interior Bureau of Reclamation Manual, or comparable definition contained in a subsequent manual that is officially designated as the successor in function to that manual.

TITLE II—ACREAGE LIMITATIONS AND EQUIVALENCY

LANDS OTHER THAN CLASS 1 LANDS—ACREAGE EQUIVALENCY

SEC. 201. (a) Notwithstanding any other provisions of law, the Secretary, for purposes of administering Federal reclamation laws, may establish the acreage of land held in private ownership by any one individual owner, which is eligible as nonexcess lands to receive project water from, through, or by means of project works, at one hundred and sixty acres of class 1 land, or the equivalent thereof in other lands of lesser productive potential: *Provided*, That in no case and for no class of land shall the equivalent acreage exceed two hundred and forty. Standards and criteria for the determination of land classes pursuant to this authority shall be based, where possible, on land classification surveys that have been made or shall be made in feasibility studies at or before the time the project involved was begun. Where previous land classification surveys do not exist, the Secretary may establish acreage equivalency formulas on a project-by-project basis. In any classification for equivalency purposes, including those cases where preproject surveys already exist, the Secretary shall hold public hearings in the area affected before promulgating regulations. The regulations will go into effect sixty days after their final promulgation. This section shall not apply to any project, unit, or division of a project, or repayment contracting entity located in an area in which the average frost-free growing season, as determined from published Department of Commerce records, exceeds one hundred and eighty days.

(b) The Secretary is authorized upon request of the holder of an existing contract under Federal reclamation laws to amend the contract to conform to the provisions of subsection (a) of this section, and to otherwise perform any and all acts appropriate to carrying out the purposes of this Act. All such amendments shall be negotiated and executed in keeping with the purposes and procedures set forth in sections 602, 603, and 604 of this Act.

PURCHASE OF LAND FOR DEPENDENTS OF QUALIFIED PURCHASER

SEC. 202. A qualified purchaser will be eligible to purchase, in addition to the one hundred and sixty acres for which he or she is qualified under reclamation law, one hundred and sixty additional acres for one dependent with whom he or she has permanently resided for a period of at least one year prior to the date of purchase.

TITLE III—EXCESS LANDS AND IRRIGATION RIGHTS

RIGHTS TO WATER AND TERMINATION OR SUSPENSION OF RIGHTS; MORATORIUM ON SALE OF EXCESS LANDS

SEC. 301. (a) One year after the date of enactment of this Act, no water from any project or division shall be delivered to any lands unless (1) those lands comprise a family farm, (2) those lands are described in subsection (b) of this section, or (3) those lands are within a project or division which prior to the enactment of this Act had been exempted by statute from the one-hundred-and-sixty-acre limitation. The Secretary, through the Commissioner of Reclamation, shall take appropriate steps to insure that water deliveries to lands not in compliance with the preceding sentence are terminated.

(b) In addition to lands comprising family farms, the following lands shall be entitled to receive or continue to receive water from a project or division:

(1) land currently under recordable contract;

(2) land owned by a former family farmer who has retired from active farming, who had farmed that land as a family farmer for five years or longer before retiring, and who continues to reside on that land;

(3) land owned by a family farmer who otherwise conforms and complies with the provisions of this Act, but who leases that land for not more than two years of any ten-year period, or in instances approved by the Secretary on the basis of extreme hardship to that family farmer, for more than two years of a ten-year period;

(4) subject to the provisions of subsection (c) of this section, land acquired by foreclosure or other process or procedure in satisfaction of a mortgage or any other legal instrument securing a creditor's rights;

(5) subject to the provisions of subsection (c) of this section, land acquired by inheritance or devise; and

(6) subject to the provisions of subsection (c) of this section, land not under recordable contract purchased prior to the date of enactment of this Act and actually receiving or lawfully entitled to receive water on that date.

(c) Lands that receive or are entitled to receive water pursuant to clause (4), (5), or (6) of subsection (b) of this section shall cease to receive or be entitled to receive water from any project or division unless those lands are sold to the Secretary pursuant to section 501 or to a family farmer to be operated as a family farm—

(1) in the case of lands described in clause (4) or clause (5) of subsection (b), three years after the date of acquisition of title to or other possessory rights in those lands by a person or persons not family farmers or for operation otherwise than as a family farm; and

(2) in the case of lands described in clause (6) of subsection (b), five years after the date of enactment of this Act.

(d)(1) Not less than sixty days prior to terminating deliveries or entitlement to deliveries of water to any lands pursuant to this section, the Secretary shall give notice by personal service or by certified mail to the record owner or owners of those lands, to any person or persons known to have a leasehold or other lawful possessory or security interest therein, and to the head or heads of any household or households of persons known to be resident thereon. The notice shall specify the legal reason or reasons for and the intended date of the termination. Each person having a right to receive such notice shall have a right, within the period after notice and prior to termination, to present to the Secretary or his delegate oral or written argument that those lands are in compliance with this section and that deliveries or entitlement to deliveries of water accordingly should not be terminated.

(2) The Secretary, by regulation, shall establish procedures for the settlement of contested rights to water under this section. Those procedures shall provide for final determination of such rights at the administrative level not later than one year after the issuance of the sixty-day notice of intended termination. While any such contest is pending, lands involved in that contest may receive water for the duration of the growing season during which the intended termination date fell. After that growing season has ended, no deliveries of water shall be made to those lands during the pendency of the contest at the administrative level or in the courts: *Provided*, That if the Secretary shall upon inquiry find and by order declare that, in a particular case, the termination of deliveries of water would cause hardships to the recipients of water that substantially outweigh the benefits to enforcement of the policy and purpose of this Act, the date of suspension of deliveries of water during the pending contest may be deferred for not to exceed two additional growing seasons. Thereafter, no water shall be delivered to those lands until they have been duly found or adjudged to be in compliance with this section.

(e) Not later than three months after the enactment of this Act, the Secretary shall publish proposed regulations for the administration of this section and shall provide for hearings on those proposed regulations during the following six months. There shall be at least one day's public hearing in each region of the Bureau of Reclamation. The Secretary shall also provide for the filing of written comments on the proposed regulations during the six-month period following their publication. The Secretary shall promulgate final regulations, taking into account testimony heard and suggestions received, not prior to six months, not later than one year, after the date of enactment of this Act.

(f) No excess lands in any project or division receiving or eligible to receive federally supplied water shall be sold for a period of one year following the date of enactment of this Act: *Provided*, That, if the Secretary, upon inquiry finds and by order declares that, in a particular case, the moratorium on the right to sell land would cause hardships to the owner or owners of that land which substantially outweigh the benefits of the moratorium to achievement of the policy and purpose of this Act, the moratorium on land sales shall be waived in that case.

DISPOSITION OF EXCESS LANDS

SEC. 302. (a) A seller of excess land shall have the right to determine to which purchaser he or she will sell his or her land if

that sale does not result in the retention of any interest other than purchase-money mortgages (or other equivalent purchase-money security instruments) on the part of the seller: *Provided*, That only qualified purchasers of that land may receive federally supplied water therefor under this Act and Federal reclamation laws. If the seller is unable or unwilling to choose among two or more offers for the same parcel of land from purchasers, the offer to be accepted shall be determined by lot, in accordance with subsection (b).

(b) The Secretary shall determine by lot which of two or more offers from qualified purchasers for the same parcel of excess land shall be accepted by the seller, when the seller is unable or unwilling to make a choice among competing offers from qualified purchasers. The Secretary shall promulgate regulations for the conduct of lotteries for that purpose. Those regulations shall provide that—

(1) Each prospective actual occupant of the excess land to be sold pursuant to a lottery among prospective qualified purchasers shall be entitled to one and only one chance in that lottery if that prospective occupant is a qualified purchaser or a dependent in whose right a qualified purchaser may purchase land pursuant to section 202.

(2) Persons who participated unsuccessfully in prior lotteries shall be entitled to separate, earlier chances in each new lottery for a different parcel of land, in accordance with their seniority as lottery participants. Whenever the Secretary is called upon to determine the purchaser of a parcel of excess land by lot under this section, he shall provide first for a lottery in which the chances drawn will be only those of the present qualified purchasers who have participated unsuccessfully in the greatest number of prior lotteries for the purchase of excess land, and only if no persons come forward in that class shall provision be made for a lottery in which the chances drawn will be only those of qualified purchasers who have participated unsuccessfully in the next-greatest number of prior lotteries. The Secretary shall prepare and maintain a roster of participants in lotteries for the purchase of excess land which shall indicate the lotteries in which each person has participated unsuccessfully, for purposes of carrying out this paragraph. Persons on that roster shall be given, at their last known address, direct-mail notice of each lottery until they indicate to the Secretary that they are no longer interested in purchasing excess land or have ceased to be qualified purchasers.

(3) Lottery chances and positions on the roster of unsuccessful participants in prior lotteries shall not be transferable in any manner.

(c) The appraisal of excess lands for sale thereof shall be made without reference to any chattel, fixture, or other property which can be liquidated by the seller in a sale unrelated to the sale of the lands, such as tractors, trucks, leasehold rights, securities and other items or materials. In all cases the price for excess land shall be no higher than the price the Secretary determines would result from taking the fair market value of the land at the initiation of actual construction of the project and indexing it by the Consumer Price Index for the period between the initiation of construction and the sale of the land.

(d) Disagreements between the seller and a qualified purchaser of excess lands covered by any recordable contract of sale as to price or any other condition of sale shall be resolved by arbitration. The Secretary shall promulgate regulations, pursuant to section 604, for the conduct of such arbitration.

SPECULATION AND PROFITEERING PROHIBITED

SEC. 303. After the date of enactment of this Act, no owner of land receiving or entitled to receive water from a project or division who purchased that land as excess lands and at a price limited by the Federal reclamation laws shall sell that land at a price greater than that owner's cost for the land, indexed by the Consumer Price Index for the period between that owner's purchase and sale of the land: *Provided*, That, if that owner has actually farmed that land as a family farmer for a period of ten years prior to that sale, the sale price may be at fair market value without reference to the Federal reclamation laws. The Secretary is authorized to approve or disapprove the price of land sold subject to this section and to institute such procedures, by regulations promulgated pursuant to section 604, as may be necessary to assure the settlement of family farmers on excess lands and to prevent speculation and profiteering in land receiving or entitled to receive water from any project or division, including speculation and profiteering by family farmers for a period of ten years.

TITLE IV—REPAYMENT OF PROJECT COSTS

PROJECT COST REPAYMENT PROVISIONS OF CONTRACTS

SEC. 401. (a) Notwithstanding any other provision of law, the Secretary, in the case of water right contracts or amendments to contracts entered into after the date of enactment of this Act, shall be required to stipulate in any such contracts that all rates and assessments to be paid by the contracting entity or the landowners in that entity shall be renegotiated every five years. The repayment capacity studies on which such rates and assessments may be based shall also be conducted every five years.

(b) Notwithstanding any other provision of law, the Secretary, in case of water right contracts or amendments to contracts entered into after the date of enactment of this Act, shall require that repayment for the distribution infrastructure systems shall commence for each section of the system when it begins regularly and permanently to deliver water. No section of the system shall be used to deliver water for more than one year unless repayment for that section has commenced.

TITLE V—LEASING OF CERTAIN EXCESS LANDS

PURCHASES OF EXCESS LANDS BY THE SECRETARY IN ORDER TO LEASE THOSE LANDS TO FAMILY FARMERS

SEC. 501. (a) (1) During the fiscal year beginning October 1, 1978, and each of the next following four fiscal years, the Secretary, subject to the availability of lands and appropriations, is authorized and directed to utilize all moneys appropriated for that purpose to purchase excess lands, and fixed equipment thereon, for lease to family farmers in accordance with the provisions of this section. The Secretary shall make no such purchases within any fiscal year in excess of the acreage he determines will be necessary to meet the demands of potential qualified leaseholders under this section during that and the next following fiscal year. Such purchases may be made in any size units which the Secretary determines to be necessary to enable the leaseholder thereof to farm such lands as a family farm in accordance with the provisions of this Act: *Provided*, That the ultimate division of such lands shall be consistent with the provisions of this Act concerning ownership.

(2) There is authorized to be appropriated for the fiscal year commencing October 1, 1978, and for each of the next following four fiscal years, the sum of $5,000,000 to carry out the provisions of this subsection.

(b) (1) The Secretary is authorized to lease lands purchased pursuant to subsection (a) of this section to any qualified leaseholder in an amount of acreage which the Secretary determines will be necessary to farm the land as a family farm: *Provided*, That leasehold acreages shall be subject to the same conditions and limitations as those which would apply under section 202 in the case of sales to qualified purchasers.

(2) Each such lease shall contain a requirement that the leasehold will be used as a family farm and the leaseholder will farm the lands as a family farmer.

(c) In determining the amount of rent which a leaseholder shall be required to pay, the Secretary shall require an amount sufficient to enable the Secretary to pay all costs, excluding interest, incurred in the ownership of land and the administration of the program established by this title. The Secretary, in determining the amounts, shall be authorized to adopt variable rental schedules in order to take into account both bountiful and natural-disaster conditions.

(d) Leases under this section shall not exceed, originally or by any extension or extensions, a total term of seven years, and in no case shall any such lease be issued for a term of less than two years. No leaseholder shall sublease lands covered by his or her lease unless approved by the Secretary on the basis of an extreme hardship to that leaseholders.

(e) The Secretary shall be authorized to terminate any lease for any failure to pay rents or other substantial violation thereof by the leaseholder in accordance with such regulations as he shall prescribe.

(f) In accordance with such regulations as the Secretary shall promulgate, a leaseholder shall be authorized, during the terms of that lease, to make improvements within a five-acre area approved by the Secretary for that purpose. Upon the termination of that lease, the Secretary shall compensate the leaseholder for such improvements in an amount not to exceed the fair market value thereof.

(g) In those cases where two or more qualified leaseholders make application for lease of the same tract of land, the Secretary shall determine which of those applicants shall be entitled to that lease by lot in the same manner as provided under subsection (b) of section 302 of this Act for choosing among competing offers from qualified purchasers.

(h) In any case in which a qualified leaseholder certifies in a manner satisfactory to the Secretary that he or she does not have the financial resources necessary to operate the lands covered by that lease as a family farm, including nonfixed assets, such as tractors, trucks, and other items or materials, the leaseholder shall be entitled to receive financial assistance in accordance with the provisions of section 601 of this Act.

(i) In any case in which the Secretary determines, on the basis of a qualified leaseholder's use of the lands covered by his or her lease during the term thereof and such other factors as the Secretary, by regulation, shall prescribe, that that leaseholder can successfully manage and operate the lands covered by the lease as a family farm, the Secretary shall, upon application of that leaseholder submitted to the Secretary within six months prior to the expiration of the term of that lease, sell those lands to that leaseholder at the same price the Secretary paid for the land at the time of its acquisition indexed by the Consumer Price Index for the period between acquisition and sale of the land. If the leaseholder certifies in a manner acceptable to the Secretary that he or she does not have and has been unable to obtain adequate financial resources to make the purchase, the leaseholder shall be entitled to receive financial assistance in accordance with section 601 of this Act. All proceeds of those sales shall be placed in a fund to be administered by the Secretary for the purpose of purchasing additional lands for lease under the provisions of this title.

(j) Upon the purchase of land pursuant to subsection (i), the former leaseholder shall be subject to all of the conditions, limitations, and restrictions imposed by the Federal reclamation laws, including in particular title III of this Act, on excess lands and qualified purchasers thereof, except that, for purposes of section 303, the former leaseholder may count up to five years of the term of his leasehold as if he had been the owner of that land during that period.

(k) Notwithstanding any other provision of law, a qualified leaseholder shall be entitled to contract for water for lands covered by the lease in the same manner and to the same extent as if that leaseholder were the owner of those lands.

(l) In any action of the Secretary involving the denial or rejection of an application for a lease under this title, the Secretary shall require that the applicant be notified of that action by both oral and written communications. If the applicant believes that the Secretary has wrongfully denied or rejected the application, the applicant shall have thirty days following that denial or rejection within which to file a petition for review of the application and denial. By regulations promulgated pursuant to section 604, the Secretary shall establish procedures for the initial processing, granting, and denial of those applications, and following rejection, for review thereof by a different authority.

LEASING OF LEMOORE NAVAL AIR STATION LAND TO FAMILY FARMERS

SEC. 502. Within ninety days following the date of enactment of this Act, the Secretary of the Navy shall transfer to the Secretary of the Interior administrative jurisdiction over the leasing of all lands owned by the Secretary of the Navy within the Westlands Water District which qualify as excess lands, for purposes of leasing those lands pursuant to this title. The Secretary of the Navy shall, however, be permitted to issue such rules and regulations as he may deem necessary for the operation of the Lemoore Naval Air Station, and the Department of the Navy shall retain title to the lands. On and after that transfer, those lands shall be available to the Secretary of the Interior for disposition under this title in the same manner and to the same extent as those lands purchased by the Secretary pursuant to section 501, except that those lands with respect to which the Secretary of the Navy retains title under this section shall not be available for purchase in accordance with subsections (i) and (j) of section 501. Notwithstanding the provisions of section 501(d) of this Act, the Secretary of the Interior is authorized, upon the expiration of any such lease, to renew the lease for a further term or terms.

TITLE VI—MISCELLANEOUS

GUARANTEES BY DEPARTMENT OF AGRICULTURE OF LOANS MADE BY PRIVATE LENDERS TO QUALIFIED LEASEHOLDERS

SEC. 601. (a) In order to furnish financial assistance for purposes referred to in subsections (h) and (i) of section 501, the Administrator may, in accordance with the provisions of this section, guarantee loans made by non-Federal lenders to qualified leaseholders for those purposes. No loan guarantee under this section for any such purpose may apply to so much of the principal amount thereof exceeds 90 per centum of the cost of carrying out any such purpose.

(b) Individuals seeking guarantees of loans under this section shall submit to the Administrator applications, in a form which the Administrator shall prescribe, containing such information and assurances as may be required by the Administrator. The Administrator may approve any such application only if—

(1) there are in the application satisfactory assurances that the applicant will, if the loan is granted, keep those records, and afford such access thereto, and make those reports in the form and containing the information, as the Administrator may reasonably require; and

(2) the Administrator determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed the per centum per annum on the principal obligation outstanding as the Administrator determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(c) In the case of any such loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any such guarantee, unless the Administrator for good cause waives the right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(d) Guarantees of loans under this section shall be subject to such further terms and conditions as the Administrator determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of those terms and conditions may be modified by the Administrator to the extent he or she determines such modification to be consistent with the financial interest of the United States.

(e) Any guarantee of a loan pursuant to this section shall be incontestable in the hands of an applicant on whose behalf the guarantee is made, and as to any person who makes or contracts to make a loan to the applicant in reliance thereon, except for fraud or misrepresentation on the part of the applicant or such other person.

(f) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section is authorized to be any amount not in excess of $50 million.

COPIES AND EXPLANATIONS OF THIS ACT TO BE FREELY AVAILABLE

SEC. 602. The Secretary, on request of any individual, shall furnish without cost to that individual a copy of this Act, together with a summary explanation of the provisions thereof written in simple English or in simple Spanish, as the requesting individual desires.

NEGOTIATIONS OF PROJECT CONTRACTS TO BE CONDUCTED IN OPEN SESSIONS FOLLOWING PUBLIC NOTICE

SEC. 603. After the date of enactment of this Act, all contract negotiations involving construction, reconstruction, enlargement, operation, repayment of costs, excess lands, rights to water, or other aspects of any project or division existing under or subject to the Federal reclamation laws, or any combination of those subjects, shall be conducted in public sessions and pursuant to public notice given in a form and manner calculated to provide the widest practical actual notice to interested parties. All parties conducting such negotiations, including but not limited to the Secretary and his delegates, shall share responsibility for implementing the policy of this section, to assure notice to and participation or observation by the public in all negotiations involving contracts, including amendatory and supplemental contracts, affecting projects or divisions.

SECRETARY'S RULES AND REGULATIONS TO BE PUBLISHED

SEC. 604. Beginning not later than one year after the date of enactment of this Act, the Secretary shall take no action pursuant to or in implementation of the Federal reclamation laws, except in accordance with published, formal rules and regulations promulgated by the Secretary. Those rules and regulations shall, in addition to other matters, be explicit in making provision for the disposition of excess lands. All such rules and regulations shall be published in the Federal Register not less than thirty days before becoming effective. All such rules and regulations, including amendments thereto, shall be subject to the provisions of subchapters I and II of chapter 5 of title 5, United States Code.

DEPARTMENT OF AGRICULTURE PROGRAMS FOR FAMILY FARMERS

SEC. 605. In order to facilitate the successful operation of the other titles and purposes of this Act, the Secretary of Agriculture is authorized and directed to make available, to the maximum extent authorized by law, to family farmers in each irrigation district, those benefits provided to farmers and stockmen under programs administered by the Farmers Home Administration, the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Federal Crop Insurance Corporation, the extension service, and by such other agencies and offices of the Department of Agriculture as may be appropriate.

AUTHORIZATION OF APPROPRIATIONS

SEC. 606. For the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. EAGLETON (for himself, Mr. DANFORTH, Mr. PEARSON, and Mr. DOLE):

S. 1814. A bill to amend the Natural Gas Act to provide certain limitations on gas curtailment plans; to the Committee on Energy and Natural Resources.

FPC CURTAILMENT PLANS

Mr. EAGLETON. Mr. President, I am today introducing legislation for myself and Senators DANFORTH, PEARSON, and DOLE, in the form of a bill and also an amendment to S. 9, which is pending on the Senate calendar. This legislation is designed to meet an urgent problem which has arisen in only the last 2 weeks, as a result of a Federal Power Commission curtailment ruling. It is essential in my opinion for Congress to remedy this problem to avoid serious hardship in the five-State area affected and to prevent similar problems from developing in the future.

Mr. President, on June 14, the Federal Power Commission issued an order in the Cities Service case which prescribes a new gas curtailment plan affecting some 500 communities in Missouri, Kansas, Oklahoma, Nebraska, and Texas. Incredibly, the order places large commercial customers, including hospitals, nursing homes, and some apartment complexes in a secondary priority below that of industrial process and feedstock uses. The order also establishes a virtual moratorium on new residential hookups even though there are excellent prospects that Cities Service supplies will increase in years ahead as the result of new gas discoveries. This means that gas which could and should be used for human

needs will instead be diverted for use as boiler fuel or other low-priority activities.

This FPC order is totally inconsistent with everything Congress has had to say on the matter. In the recently enacted Emergency Natural Gas Act of 1977, for example, human needs are accorded priority above all else and the President is authorized to divert gas from other areas of the country if necessary to meet those needs.

Obviously, there are other uses of gas which are of pressing importance including gas for industrial processes, feedstock, irrigation and grain drying and I believe those activities should be given a priority. But no use of gas should come ahead of human needs.

The priority categories of use which are contained in this measure are taken word for word from the high priority uses defined in the Emergency Gas Act of 1977. They are:

First, use of natural gas in a residence.

Second, use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or

Third, any other use of natural gas the termination of which would endanger life, health, or maintenance or physical property.

My bill simply says the FPC may not curtail these human need uses until or unless there has been a full curtailment of use in other, lower priority categories. State utility commissions, of course, would retain the authority to limit as necessary load growth even in priority categories.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The Natural Gas Act, 15 U.S.C. 717 et. seq., is amended by adding the following new section at the end thereof:

"SEC. 24. (a) No curtailment plan, applicable to a natural gas company that transports natural gas in interstate commerce, prescribed or approved by the Commission or successor agency pursuant to the provisions of this Act, shall directly or indirectly exclude or deny deliveries of natural gas to meet present or future high priority uses of natural gas prior to full curtailment of service to all other class or priority of uses prescribed or identified in such a curtailment plan.

"(b) For the purposes of this section the term 'high priority use' means—

(1) use of natural gas in a residence;

(2) use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or

(3) any other use of natural gas the termination of which would endanger life, health, or maintenance of physical property.

"(c) Nothing contained in this section shall restrict the right of state utility commissions to impose load limitations on high priority uses".

Mr. PEARSON. Mr. President, today I join my distinguished colleague, Senator EAGLETON, in introducing legislation that addresses several issues of growing and vital concern.

In this time of diminishing natural gas supplies many of our major interstate pipelines have experienced extreme difficulties in meeting the delivery requirements of their customers. Natural gas curtailments by these pipelines are projected to reach 3.8 trillion cubic feet for the period April 1977 through March 1978. For the winter heating season of November 1977 through March 1978 the Federal Power Commission projects that curtailments of natural gas by such pipelines will total 23 percent of firm requirements.

As a result of the growing shortfall of natural gas being experienced in our interstate market, the FPC for the past 5 years has acted on curtailment plans applicable to various pipelines that are unable to meet the needs of their customers. A concept that has been incorporated into a number of such curtailment plans is to place a load growth limitation on the subject pipeline. In other words, a pipeline is not permitted to deliver volumes of natural gas to its customers that exceed customer requirements as of a stated date or period.

An indirect result of these load growth limitations on interstate pipelines has been to seriously jeopardize the ability of communities throughout the country to gain access to available gas for new residential uses. Residential use of natural gas has been identified by the FPC as the highest priority use of our cleanest and most efficient fuel. Unfortunately, potential residential users have been denied access to natural gas because load growth requirements have locked-in existing uses on a pipeline's system. The effect has been to thwart community residential development while at the same time allowing less efficient uses of natural gas to continue.

The Natural Gas Act prohibits the FPC from exerting any jurisdiction over local end uses of natural gas. Only interstate pipelines are subject to Commission jurisdiction, leaving distribution companies which serve residential users subject to the authority of State of local regulatory agencies. The load growth limitation concept used in curtailment plans is an indirect and unwarranted preemption of this local authority.

The legislation which we introduce today only requires that present and future highest priority uses of natural gas not be affected by a curtailment plan prior to termination of service to all lower priorities. The term "high priority use" is defined to include use of natural gas in a residence; use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or any other use of natural gas the termination of which would endanger life, health, or maintenance of physical property. These high priority uses were sanctified under the Emergency Natural Gas Act passed by the Congress and signed by the President to meet last winter's emergency crisis. Obviously, the crisis is of an ongoing nature and highest priorities must continue to be protected.

We intend that this term be strictly interpreted. The language pertaining to life, health, or maintenance of physical property should be limited to hospitals, nursing homes, essential agricultural uses, and so forth. Whether a factory should be shut down in order to keep a school open is not decided by this proposal.

Our legislation also reaffirms the traditional authority of State and local utility commissions to impose direct load growth limitations on high priority uses. This safety valve will prevent arbitrary and indiscriminate expansions of high priority use where it cannot be justified. We firmly believe that State and local authorities will continue to exercise diligence and care in assuring that high priority gas is put to the best use.

Our legislation does not statutorily preempt any other existing use of natural gas. We are aware of the competing needs for this valuable energy commodity and anticipate that the FPC or its successor will continue to implement curtailment plans which assure equity in the servicing of various end-use categories. The Commission is to be commended for its past efforts in meeting this extremely difficult challenge.

In summary, we are proposing a means for addressing a number of issues in one policy proposal. The indirect impact of a Federal agency's actions on community development will be rectified. Safeguards are provided that will prevent unwarranted growth in residential demand for natural gas. The proper roles of the Federal Power Commission and State and local regulatory agencies will be reinstituted. Existing and future high priority uses of natural gas will be protected. This is, in our opinion, the best solution to a serious problem.

Mr. DANFORTH. Mr. President, I commend my colleague, Senator EAGLETON, for his statement and for his leadership in offering this legislation.

I had thought Congress made it clear in enacting the Emergency Natural Gas Act of 1977 that human needs for natural gas should be given first priority. Apparently, however, we were not clear enough for the Federal Power Commission. Therefore, the legislation now introduced again states the position of Congress that people come before institutions.

By Mr. NELSON (for himself, Mr. MCINTYRE, and Mr. WEICKER):

S. 1815. A bill to amend the Small Business Investment Act of 1958 and for other purposes; to the Committee on Finance.

SMALL BUSINESS VENTURE CAPITAL ACT OF 1977

Mr. NELSON. Mr. President, this measure is probably the most comprehensive single small business bill ever presented to the U.S. Senate. I am afraid that we are too often inclined to tackle multifaceted problems on a piecemeal basis and that approach almost always fails to achieve significant reform. The Small Business Venture Capital Act of 1977 is legislation designed to encourage the formation of new businesses; to permit the growth of existing concerns; and to encourage investment in small- and medium-sized firms.

Over the last 6 months of 1976, a blue-ribbon panel of businessmen, academicians, commercial and investment bankers, and venture capitalists surveyed the economic landscape and concluded that "It is alarming that venture and expansion capital for new and growing small businesses has become almost invisible in America today." This task force was appointed by the Administrator of the Small Business Administration last July and submitted its report to SBA, the Congress, and President Carter in January 1977. The distinguished chairman of the task force was William Casey, a lawyer and businessman of note who has also served as chairman of the Securities and Exchange Commission, as president and chairman of the Export-Import Bank and as Under Secretary of State.

This legislation goes beyond the narrow question of venture capital, however, since it would permit smaller firms to retain more of their earnings to plow back into their modernization and growth. In addition, our tax and securities laws would be amended to encourage individual and institutional investors to put more of their dollars into growing firms, rather than placing all of them in corporate giants. All told, there are 16 separate legislative proposals in the four titles of this measure.

Mr. President, I ask that a section-by-section analysis and the text of the legislation be printed at the conclusion of these introductory remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Title I contains four amendments to the Small Business Investment Act of 1958. For almost 19 years, the SBIC program has been the Federal Government's favored instrument for making long-term credit and equity capital available to new and small businesses. Over these years, SBIC's have channeled over $3 billion to some 50,000 small business firms. By itself this is a rather impressive number, but I can assure you that SBIC's are filling only a fraction of the legitimate needs of small business. With assets of only $1 billion, SBIC's are not able to fill the equity gap which is even more formidable today than it was in 1958 when the act was passed. The public securities market has been closed for new issues of any but the largest corporations. In 1969, for example, 548 small businesses raised almost $1.5 billion through first-time stock offerings. By 1975, the flow of such dollars had been all but completely cut off; in that year, only four smaller firms were able to go public for the first time and they raised only $16 million. That is a 99-percent drop in a 6-year period. I can also tell my colleagues that the figures for 1976 and 1977 are little improved from 1975.

To attract more private capital into the SBIC program and to give SBIC's more dollars to invest in the growth of small business, this legislation significantly amends the format of the industry. First of all, it would encourage SBIC's to make more investments by lowering their cost of leverage. The second change would greatly increase the ability of SBIC's to invest in start-up businesses by permitting SBA to guarantee up to 75 percent of such investments. At present, SBA guarantees 90 percent of bank loans to small business, but does not share any of the much greater risks incurred by SBIC's when they put their dollars in brand-new businesses. The third amendment to the SBIC Act would give the SBIC program its own Associate Administrator at SBA. From 1958 through 1972, the Associate Administrator for Investment devoted all of his attention to the SBIC program; since 1972, that official has also been assigned other important duties which have seriously impaired his ability to gain expertise in matters coming before the Investment Division and to work with the Administrator in solving SBIC problems. The fourth amendment is a rather technical amendment which would permit SBIC's to increase their capital structure through the recognition of gains and through the sale of capital notes.

It is my conviction that these changes in the Small Business Investment Act would result in large sums of additional dollars flowing into new and growing independent businesses within the next 3 or 4 years.

Title II of this legislation amends the Federal securities laws and would significantly increase the flow of investment dollars to small business. The first change would amend the Securities Act of 1933 by providing a statutory "private offering exemption" that would permit small businesses to raise equity capital from qualified investors without running afoul of SEC impediments or after-the-fact private litigation. The Commission's current rule 146 contains several features which seriously impede its value to small business, so this statutory change appears to be the best solution. The second amendment to the 1933 act would supersede SEC's rule 144 which has proven to be extremely inhibiting to small businesses and those who invest in such firms. I am convinced that neither of these proposals would in any way compromise the Commission's goal of stockholder protection; indeed, I believe that they would give both investors and independent business a significant advantage. The third section of title II would raise the regulation A simplified registration form from its present limitation of $500,000 to $3 million. Finally, section 204 would exempt publicly owned SBIC's from the Investment Company Act of 1940. The SEC would continue to regulate certain activities of public SBIC's under the Securities Acts of 1933 and 1934, but the SBA would be given the sole responsibility for regulations which is now jointly administered by SBA and the Commission.

Title III of my bill has only one purpose, but I believe it is a most important goal: it would permit managers of pension funds to invest in venture capital companies and in small and medium sized businesses. Prior to 1974, many millions of dollars of pension fund resources were invested in such businesses, but the passage of the Employees Retirement Income Security Act of 1974 shut down those investments completely. The "prudent man" rule of ERISA has meant that those who invest the $220 billion of pension fund assets have been restricted to the securities of the few hundred largest corporations. I believe that is not sound investment policy, not "prudent" in any sense of the word, and absolutely fatal to the continuation of our free enterprise system. The Senate Small Business Committee and the Finance Committee have held hearings on this subject and I believe the evidence is clear that the establishment of a 2-percent leeway for pension fund managers would be in the best interests of both the beneficiaries of pension funds and of our national economy.

Title IV of this legislation amends the Internal Revenue Code in six important ways. Section 401 provides for a six-step corporate income tax, in lieu of today's three steps. This graduation would greatly expand small businesses' ability to grow through retained earnings. Section 402 would offset one of the most destructive provisions in the code today: the tax-free corporate reorganization section. As matters now stand, the owner of a business who sells out to a major corporation and takes stock in the big business has to pay no taxes. On the other hand, if he sells his business to his children or to his employees or to another small business, he is heavily taxed on any gains he realizes. My proposal would overcome this incentive toward monopoly by giving a parallel deferral of capital gains taxation when the seller uses the proceeds of the sales to reinvest in another qualified small business concern.

This may well be the most important single provision of the entire bill. The third tax change would establish a greatly simplified method for computing depreciation allowances for businesses. At present, small firms seldom are able to utilize the complex provisions of the code which reduce the tax payments of major corporations. We should not allow the code to be so complicated that only the biggest and best informed can benefit from the tax savings which should be available to all businesses, large and small. Section 404 would restore the ability of smaller firms to attract competent managers by issuing qualified stock options; this method for offsetting the high salaries paid by big businesses was taken away from all corporations in 1976; I think it should be restored for small businesses. The fifth tax provision would double the standards under section 1244 of the code. Under this authority, investors in qualified small firms may deduct up to $25,000 a year from ordinary income for losses sustained on their investments in small business.

My bill would double that amount, and other standards in the current law. The sixth tax provision would make subchapter S flexibility available to many more businesses, by increasing the number of shareholders to 25, by permitting SBIC's to invest in subchapter S corporations, and by eliminating the passive income test now contained in section 1372 of the code. Finally, section 307 of my bill would permit all SBIC's to pass through income to their shareholders under subchapter M of the Internal Revenue

Code; now only publicly owned SBIC's may avail themselves of their flexibility.

Mr. President, it is apparent that this is indeed a comprehensive bill. On the other hand, all of its provisions have been advanced by authorities in the financial field and studied by members of the staff of the Small Business Committee. The majority of the proposals were recommended by the Casey task force to which I referred at the beginning of my statement. The major tax changes have been designed by the Council of Small and Independent Business Associations—COSIBA—a federation of eight national and regional small business organizations representing over 600,000 independent businesses. The National Association of Small Business Investment Companies has worked with the committee staff in formulating several specific SBIC concepts and has endorsed this entire package. I am sure many of my colleagues will recognize that much of this bill came from the excellent 1977 Washington presentation given Congress last month by five regional groups, including the Independent Business Association of Wisconsin.

If small business is to continue to be a major factor in the American economy; if small business is to continue to be the major employer in the United States; if small business is to continue to provide the American consumer with competition, better products and services and lower prices, we must remove Federal obstacles to small business birth and growth. I believe this legislation represents a major step toward that goal; I trust that every Senator will endorse the concepts of this bill, if not every specific provision.

I ask unanimous consent that a section-by-section analysis and the text of the bill be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS VENTURE CAPITAL ACT OF 1977 SECTION-BY-SECTION ANALYSIS

The Act, divided into 4 titles, amends the Small Business Investment Act of 1958, the Securities Act of 1933 and the Investment Company Act of 1940, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1954.

Title I amends the Small Business Investment Act of 1958 in the following respects:

Section 101. Provides that the interest rate on SBA-guaranteed funds borrowed by SBIC's shall be 3% per annum.

Section 102. Authorizes the Small Business Administration to guarantee up to 75% of the funds advanced by SBIC's to start-up small business concerns but limits the guarantee to not more than 25% of the private paid-in capital of an SBIC. "A start-up small business concern" is defined to mean (1) a concern not more than one year old, (2) a concern not more than five years old which has never earned a profit of whose gross revenues have not exceeded an average of $250,000 per annum over the last two complete accounting years, or (3) such other small business concerns as SBA by regulation would determine to be qualified as start-up small business concerns.

Section 103. Provides that the Associate Administrator for investment shall be responsible for the administration of the small business investment company program and shall have no other duties.

Section 104. Provides that the term "private paid-in capital and paid-in surplus" shall include non-cash gains realized by small business investment companies and the proceeds of the issuance of capital notes by such companies provided such capital notes have a maturity of at least ten years.

Title II amends the federal securities statutes as follows:

Section 201. Amends the Securities Act of 1933 to permit the issuance of securities without registration where the issuance qualifies as a "limited offering" as defined.

Section 202. Amends the Securities Act of 1933 to permit the sale of restricted securities without registration provided the issuer is a reporting company under the Securities Exchange Act of 1954, the securities are fully paid for and held for a minimum of 2 years before a sale and not more than 1% of the outstanding securities of the issuer of the same class is sold in any three month period. The quantity limitation on such sales is removed after the securities have been held a minimum of 5 years.

Section 203. Amends the Securities Act of 1933 to increase the small offering exemption from $500,000 to $3,000,000.

Section 204. Amends the Investment Company Act of 1940 to add small business investment companies to the classes of persons excepted from the definition of "investment company" under the Act.

Title III amends the Employee Retirement Income Security Act of 1974 as follows:

Section 301. Amends the Employee Retirement Income Security Act of 1974 to provide that the prudence requirement under the Act is not violated solely because an investment may be in a venture capital organization or in a small business provided investments of this nature do not exceed in value 2% of the market value of all assets in a defined benefit plan fund.

Title IV of the Act amends the Internal Revenue Code of 1954 in the following respects:

Section 401. Provides a 6-step corporate tax rate structure in lieu of the present 3-step structure, proposing a tax of 8% on net income not exceeding $30,000, increasing the tax rate at 8 point intervals for each additional $30,000 of net income with the maximum rate of 48% applying to net income of $150,000 or more.

Section 402. Provides that the gain from the sale of an interest in a small concern shall qualify as a non-taxable exchange provided such gain is reinvested within 2 years of sale in another eligible small concern.

Section 403. Provides a simplified method of computing depreciation with three categories of useful life: (1) two years for highway equipment, tools, dies, and the like; (2) five years for machinery, fixtures, office furniture, leasehold improvements, and rail, water and air equipment; and (3) ten years for depreciable real estate and real estate improvements. Categories 1 and 2 would be limited to $100,000 a year with no carryovers; category 3 would be limited to $200,000 a year with no carry-overs.

Section 404. Repeals the amendments pertaining to qualified stock options under section 422 of the Code as enacted by the Tax Reform Act of 1976, reinstates the former law and provides that it shall apply to stock issued by small concerns.

Section 405. Doubles the standards pertaining to the issuance of small business stock under section 1244.

Section 406. Amends subchapter S in three respects: (1) increases the allowable number of shareholders to 25, (2) permits an SBIC to be a shareholder in a subchapter S corporation, and (3) eliminates the passive income test pertaining to qualification of subchapter S corporations.

Section 407. Amends subchapter M of the Code to permit SBICs to elect to be taxed as regulated investment companies even though not registered under the Investment Company Act of 1940.

S. 1815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Venture Capital Act of 1977".

TITLE I—AMENDMENTS OF THE SMALL BUSINESS INVESTMENT ACT OF 1958

Whenever in Title I of this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Small Business Investment Act of 1958, as amended.

SEC. 101. INTEREST ON DEBENTURES.—Section 303 of the Small Business Investment Act of 1958 is amended by deleting the fifth sentence of subsection (b) and by substituting in lieu thereof the following new sentence:

"Such debentures may be issued for a term not to exceed fifteen years and shall bear interest at a rate of three (3) percent per annum.".

SEC. 102. (a) GUARANTEES ON START-UP FINANCING.—Sections 317 and 318 are repealed, and the following new section is inserted in lieu thereof;

"SEC. 317(a). In the case of a small business investment company providing financing to a start-up small business concern, the Administration is authorized to issue its guarantee as provided in Section 303(b) to such company on seventy-five (75) percent of each such financing, any losses to be shared on a pro-rata basis: *Provided, however,* That such guarantees shall not be available for start-up financings exceeding twenty-five (25) percent of the private paid-in capital and surplus of such small business investment company.

"(b) for purposes of subsection (a), a 'start-up small business concern' is defined to mean (i) any business less than one (1) year old, or (ii) any business less than five (5) years old which (A) has never earned a profit or (B) had average annual operating revenues of not more than $250,000 over the last two (2) completed accounting years, or (iii) such other classes of small business concerns as the Administration by regulation may determine."

(b) Section 319 is redesignated section 318

SEC. 103. ASSOCIATE ADMINISTRATOR FOR INVESTMENT.—Section 201 is amended by adding the following sentence at the end thereof:

"The Associate Administrator for Investment shall be responsible for the administration of the small business investment company program and shall have no other duties.".

SEC. 104. RECOGNITION OF NON-CASH GAINS AND CAPITAL NOTES.—Section 302(a) is amended by adding the following sentence at the end thereof:

"Private paid-in capital and paid-in surplus shall include cash, direct obligations of, or obligations guaranteed as to principal and interest by, the United States, non-cash gains realized by such a company in accordance with generally accepted accounting principles, proceeds from the issuance of capital notes by such a company provided that such notes mature in not less than ten years and such other securities or assets as the Administration by regulation may determine.".

TITLE II—AMENDMENTS OF SECURITIES ACTS

SEC. 201. LIMITED OFFERING EXEMPTION.—(a) Section 2 of the Securities Act of 1933 (defining terms used in the Act) is amended by adding the following new subsections:

"(15) The term 'limited offering' is one in which the following conditions are satisfied: (A) the initial buyers of the securities are

institutional investors or not more than thirty-five other persons or both; and (B) resales of any of the securities to persons other than institutional investors within three years after the last sale to any of the initial buyers other than institutional investors do not result in more than thirty-five owners of those securities (apart from any institutional investors and persons who become owners otherwise than by purchase) at any one time, unless the resales are pursuant to an offering statement, a distribution statement, or an exemption.

"(16) The term 'institutional investor' means (A) a bank, insurance company, small business investment company, or registered investment company, or a parent of any such person, or (B) any other person of a class that the Commission designates by rule on the basis of such factors as financial sophistication, net worth, and the amount of assets under investment management.".

(b) Subsection 3(a) of the Securities Act of 1933 (relating to exempted securities) is amended by adding the following new subparagraph:

"(12) Any security acquired pursuant to a limited offering.".

SEC. 202. TRANSFERS OF RESTRICTED SECURITIES.—(a) Section 4 of the Securities Act of 1933 (relating to exempted transactions) is amended by adding the following new subsection:

"(5) transactions involving the sale of any security exempt from registration under Section 5 provided (A) the issuer of the security is registered pursuant to the Securities and Exchange Act of 1934, (B) the transaction does not involve the sale of more than one percent of the outstanding securities of the same class in any three month period, and (C) said security has been held by the seller following full payment therefore for a period of at least two years. The limitation on the amount of sales hereunder shall expire where the seller has held such securities for at least five years.".

SEC. 203. SMALL OFFERING EXEMPTION.—Subsection 3(b) of the Securities Act of 1933 is amended by striking "$500,000" and by substituting in lieu thereof "$3,000,000".

SEC. 204. SMALL BUSINESS INVESTMENT COMPANIES.—Subsection 3(c) of the Investment Company of 1940 (identifying those persons excepted from the definition of "investment company") is amended by adding the following new subparagraph at the end thereof:

"(14) Any small business investment company licensed under the Small Business Investment Act of 1958, as amended.".

TITLE III—AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF THE PRUDENT MAN RULE TO DEFINED BENEFIT PLANS.—Section 404(a) of the Employee Retirement Income Security Act of 1974 is amended by adding the following new paragraph:

"(3) In the case of a defined benefit plan, as defined in section 3(35), the prudence requirement of paragraph (1)(B) is not violated solely because an investment may be in a venture capital organization or in a small business as defined under the Small Business Act and the regulations promulgated thereunder by the Small Business Administration, provided, however, that the market value of such securities, when added to the market value of all other such securities held in trust under the plan shall not exceed 2 percent of the market value of all assets held in trust under the plan.".

TITLE IV—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

Whenever in Title IV of this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 401. CORPORATE TAX RATES.—(a) Section 11 (relating to the tax on corporations) is amended—

(1) by striking out the first sentence of subsection (a) thereof, and by substituting in lieu thereof the following new sentence—"For taxable years ending on or before (1 day prior to 1 year following date of enactment of this Act), a tax is hereby imposed for each taxable year on the taxable income of every corporation.".

(2) by redesignation of subsection (e) as subsection (f), and

(3) by inserting a new subsection (e) as follows: "(e) GRADUATED CORPORATE TAX RATES:—For taxable years beginning on or after (date of enactment of this Act) a tax is hereby imposed on the taxable income of all corporations at the following rates:

"Taxable income:	Rate:
Up to $29,999	8%
$30,000 to $59,999	$2,400 plus, 16% of excess over $30,000
$60,000 to $89,999	$7,200 plus, 24% of excess over $60,000
$90,000 to $119,999	$14,400 plus, 36% of excess over $90,000
$120,000 to $149,999	$24,000 plus, 40% of excess over $120,000
$150,000 and Over	$36,000 plus, 48% of excess over $150,000.".

(b) Subsection (f) of section 11 (previously designated subsection (e)) is amended by striking the phrase "Subsection (a)" in the first sentence thereof and by substituting the phrase "Subsections (a) and (e)".

SEC. 402. SALES OF INTERESTS IN SMALL CONCERNS.—(a) Part III of Subchapter 10 of Chapter 1 of Subtitle A (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1040. SALES OF INTERESTS IN SMALL CONCERNS.—"(a) NONRECOGNITION OF GAIN.—If an equity or proprietary interest in a small concern is sold, gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the taxpayer's sale price exceeds the cost of replacement property purchased by the taxpayer within two years from the date of such sale.

"(b) DEFINITIONS.—For purposes of this section:

"(1) The term 'small concern' means a small business as defined in the Small Business Act and in the regulations promulgated thereunder by the Small Business Administration.

"(2) The term 'replacement property' means an equity or proprietary interest in a small concern.

"(c) LIMITATIONS.—

"(1) Subsection (a) shall apply only to the gain attributable to the sale of an interest which was in a small concern as defined at the time of the acquisition of such interest and as to which interest the taxpayer's holding period is more than 5 years.

"(2) Where the interest sold is evidenced by stock of a small concern, subsection (a) shall apply only to a sale of stock which, if such stock had been purchased by the issuing corporation, would have been treated as a redemption within the meaning of paragraphs (1), (2) and (3) of subsection 302(b).

"(d) BASIS OF REPLACEMENT PROPERTY.—The basis of replacement property shall be reduced by the amount of gain not recognized solely by reason of the application of subsection (a). If more than one item of replacement property is purchased, such reduction in the basis of the replacement property shall be applied to each such property in chronological order of purchase. The amount of the reduction applicable to each item of property shall be determined by multiplying the maximum gain not to be recognized pursuant to subsection (a) by a fraction the numerator of which is the cost of each replacement property and the denominator of which is the total cost of all replacement properties.

"(e) STATUTE OF LIMITATIONS.—If during a taxable year a taxpayer sells an interest in a small concern at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary or his delegate is notified by the taxpayer (in such manner as the Secretary or his delegate may be regulations prescribe) of—

"(A) the taxpayer's cost of purchasing replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase property within the period specified in subsection (2), or

"(C) a failure to make such purchase within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) Section 1223 shall be amended by designating paragraph (12) as paragraph (13) and by inserting a new paragraph (12) as follows:

"(12) In determining the period for which the taxpayer has held replacement property, the acquisiiton of which resulted under section 1040 in the nonrecognition of any part of the gain realized on the sale or exchange of an interest in a small concern, there shall be included the period for which such interest had been held as of the date of such sale or exchange.".

(c) A taxpayer electing under subsection (a) shall so signify on his return for the taxable year in which the election is made.

SEC. 403. ADJUSTMENT OF DEPRECIATION SCHEDULES.—(a) Subsection 167(b) (relating to use of certain methods and rates of depreciation) is amended—

(1) by striking the word "and" at the end of subparagraph (3),

(2) by redesignating subparagraph (4) as subparagraph (5), and

(3) by inserting after subparagraph (3) the following new subparagraph:

"(4) the practical cost recovery method, and"

(b) Subsection 167(c) (relating to limitations on use of certain methods and rates) is amended—

(1) by striking "and (4)" and by substituting in lieu thereof "(4), (5)", and

(2) by striking "3 years or more" and substituting in lieu thereof "2 years or more".

(c) Subsection 167(m) (relating to class lives) is amended by adding at the end thereof the following new subparagraph:

"(4) SPECIAL RULES FOR PRACTICAL COST RECOVERY METHOD.—

"(A) IN GENERAL.—An election to utilize the practical cost recovery method under subparagraph (b)(4) shall entitle the taxpayer, notwithstanding any other provision of this section, to assign useful lives to depreciable assets at not less than the following:

"(i) in the case of highway transportation equipment, tools, and dies, 2 years;

"(ii) in the case of machinery, rail, water, and air transportation equipment, office furniture, equipment and fixtures and leasehold improvements, 5 years; and

"(iii) in the case of real estate improvements and depreciable real estate, 10 years.

"(B) LIMITATIONS.—

"(i) The amount of property which shall qualify for the practical cost recovery method in any 1 year is limited as follows: (1) that in the case of assets described in subparagraphs (A) (i) and (ii), the amount shall

not exceed $100,000 in the aggregate, and for assets described in subparagraph (A)(iii), the amount shall not exceed $200,000, and (2) any excess shall not be subject to carrybacks or carryovers.

"(ii) These limitations shall apply to each taxpayer and, in the case of married taxpayers they shall be one-half of the amounts set forth in subparagraph (B)(1) for each spouse. For purposes of this limitation, controlled corporations, as defined by section 1536(a), will be treated as a single taxpayer.".

SEC. 404. QUALIFIED STOCK OPTIONS FOR SMALL CONCERNS.—(a) Section 603 of the Tax Reform Act of 1976 (changing the tax treatment of qualified tax options) is hereby repealed and prior provisions amended thereby are hereby reenacted.

(b) As reenacted, the provisions of section 422 shall apply to stock issued by a small business concern as defined under the Small Business Act and the regulations promulgated thereunder by the Small Business Administration.

SEC. 405. SMALL BUSINESS STOCK.—(a) Subsection (b) of section 1244 (relating to maximum amount of deduction for any taxable year) is amended by striking "$25,000" and "$50,000" and substituting in lieu thereof "$50,000" and "$100,000", respectively.

(b) Subparagraph (2)(B) of section 1244 (c) (defining section 1244 stock) is amended by striking "$500,000" and "$1,000,000" and by substituting in lieu thereof "$1,000,000" and "$2,000,000", respectively.

SEC. 406. AMENDMENTS TO SUBCHAPTER S.—(a) Section 1371(a)(1) (prescribing the allowable number of shareholders in a subchapter S corporation) is amended to read as follows:

"(1) have more than 25 shareholders;"

(b) Section 1371(a)(2) (defining eligible shareholders in a subchapter S corporation) is amended to read as follows:

"(2) have as a shareholder a person (other than an estate or a small business investment company licensed under the Small Business Investment Act of 1958 or a trust described in subsection (f)) who is not an individual;"

(c) Paragraph (5) of subsection 1372(e) (pertaining to terminations) is repealed.

SEC. 407. SMALL BUSINESS INVESTMENT COMPANIES.—Section 851 (defining regulated investment company) is amended by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR SMALL BUSINESS INVESTMENT COMPANIES.—Notwithstanding the provisions of subsection (a)(1) of this section, the provisions of this section shall apply to a small business investment company which is licensed by the Small Business Administration under the Small Business Investment Act of 1958, as amended.".

SEC. 408. EFFECTIVE DATE.—Except as otherwise specified, the amendments made by this Act shall apply to taxable years ending on or after the date of enactment of this Act.

By Mr. DOMENICI:

S. 1816. A bill to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States; to the Committee on Enivronment and Public Works.

Mr. DOMENICI. Mr. President, as you know, title V of the Public Works and Economic Development Act of 1965, as amended, established a system of regional action commissions for economic development throughout the United States. These commissions were patterned after the experimental Appalachian Regional Commission, which was well funded and quite successful.

The title V commissions have a broad mandate. They work in close concert with the various States within each region toward the successful exploitation of regional economic development opportunities. The enabling legislation provides that the commissions may, among other things, sponsor investigations, carry out research, and fund demonstration projects to foster regional productivity and growth.

During my term in office I have continuously attempted to identify opportunities for economic development in the arid Southwestern States. For the most part, Mr. President, these States, my State of New Mexico included, are in an economically depressed condition. In large measure this results from the lack of a suitable climate for agricultural development. The most critical limiting factor, of course, is water. In order for these arid regions to grow traditional agricultural crops, we must irrigate from the rivers or from our underground water supplies. River water is becoming less available and more saline. Fresh groundwater has been mined for decades in the Southwest and is being rapidly depleted. We need crops which can be grown with a minimum of irrigation and which will form the basis of an industry for our people.

Recently I became aware of a desert shrub, called guayule, which is native to Mexico and southern Texas, will grow in Arizona, New Mexico, and California, and is adapted to very dry regions. Guayule can be grown with minimal irrigation and contains commercial quantities of extractable latex—the raw material for the manufacture of natural rubber.

The United States imports between 700,000 and 800,000 tons of natural rubber every year at a cost of one-half billion dollars. Almost all of it comes from Southeast Asian rubber plantations of the tree Hevea braziliensis. This tree is virtually the only rubber-producing plant cultivated anywhere in the world.

Natural rubber is an essential and strategic commodity. It is required in the manufacture of all kinds of tires. Truck tires, for example, contain about 60 percent natural and only 40 percent synthetic rubber. Aircraft tires are essentially pure natural rubber. We depend totally upon foreign suppliers for this commodity. Incidentally, a recent article in Business Week magazine indicated that the natural rubber exporting countries are currently considering forming a rubber cartel.

During World War II, the U.S. Government's emergency rubber project produced large quantities of natural rubber from the guayule plant. As the war ended and the threat of an enemy cutoff of our Asian rubber supplies faded, the project was terminated. During the project a great deal of information on the cultivation and manufacture of guayule rubber was developed by the Government. This information, although still available, has never been used.

How does this all tie together? Well, Mr. President, it is my view that the development of a guayule rubber enterprise in the Southwest represents an economic opportunity which we would be foolish not to pursue. Furthermore, such a program falls clearly within the mandate of the title V commissions, of which I spoke earlier.

The Four Corners Regional Commission has just recently granted some seed money to the University of Arizona and New Mexico State University with which to begin a guayule rubber development project. This money, while sufficient to initiate a small program, is far from the quantity needed to commercialize this opportunity. Such a project will require about 5 to 6 years at a cost of about $5 to $7 million per year, according to estimates made by the National Academy of Sciences.

Today I am sending to the bench the Guayule Rubber Demonstration and Economic Development Act of 1977. This bill amends the Public Works and Economic Development Act by providing a continuous source of funds specifically for the development of the guayule industry in the Southwest, which I have alluded to. I urge my colleagues in the Senate to take affirmative action on this legislation. Not only would it serve the needs of people of the Southwest for economic improvement, but it would also be a step toward providing the Nation with a domestic source of natural rubber, thus freeing us from dependency on an unstable and increasingly expensive foreign supply.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the billl was ordered to be printed in the RECORD, as follows:

S. 1816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Guayule Rubber Demonstration and Economic Development Act of 1977".

SEC. 2. Title V of the Public Works and Economic Development Act of 1965 is amended by inserting at the end thereof a new section as follows:

"GUAYULE RUBBER DEMONSTRATION PROJECT

"SEC. 518. (a)(1) Congress recognizes that natural rubber is a commodity of vital importance to the economy, defense, and general well-being of the Nation. The United States is totally dependent upon foreign sources for its supplies of natural (Hevea) rubber, which total about 800,000 tons per year. Synthetic rubber, which is manufactured from petroleum feedstocks, cannot be substituted for natural rubber.

"(2) Congress further recognizes that certain plant species of the genus Parthenium (guayule), native to Texas and Mexico, are known to contain commercial quantities of extractable rubber. During World War II, through research carried out in the Emergency Rubber Project, the United States Demonstrated that guayule rubber is a promising and realistic substitute for Hevea rubber.

"(3) Congress further recognizes that the development of a natural rubber industry, based on the guayule plant, would convey substantial economic benefits to peoples living in arid regions of the United States. Such an industry would comprise the agricultural production of the guayule plant and the development of processing and manufac-

turing facilities to extract the rubber and convert it to a usable or salable form.

"(4) It is the policy of Congress, therefore, to provide for the development and demonstration of economically feasible means of culturing and manufacturing guayule for the extraction of natural rubber and other products to benefit the Nation as well as economically disadvantaged peoples of the Southwest.

"(b) As used in this section—

"(1) The term 'State' means each of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(2) The term 'Commission' refers to the Four Corners Regional Action Commission established pursuant to this title.

"(c) The Secretary, acting through the Commission, is authorized and directed to initiate and carry out research, development, and demonstration projects leading to and culminating in the commercialization of natural rubber from the guayule plant. The Secretary shall promote and sponsor basic and applied research, technology development and transfer, and economic development projects leading to effective and economical methods for large scale culturing of plantations and the extraction and production of rubber from such plant. Such projects may include, but shall not be limited to—

"(1) carrying out extensive seed collections from wild plants in Texas, Mexico and other areas and borrowing or purchasing seed from other sources;

"(2) developing a stockpile of guayule seeds, such stockpile to be appropriately classified and stored at a suitable facility;

"(3) carrying out breeding and selection programs for the purpose of improving yields, expanding insect and disease resistance, and broadening the ranges of cold and drought tolerance of the guayule plant;

"(4) establishing a system of experimental plantings in arid and semiarid regions of the United States having suitable climatic and soil conditions for the culture of guayule;

"(5) carrying out specific studies on the effects of irrigation on plant growth, rubber yield, and survival potential;

"(6) developing equipment needed to carry out nursery operations, planting, cultivating, harvesting, transporting the crop, and other necesary agricultural activities;

"(7) further refining present extraction and manufacturing techniques; and

"(8) developing the economic feasibility of private production and manufacture of guayule rubber.

"(d) The Secretary shall provide for the establishment and maintenance of a bank of all pertinent research data on natural guayule rubber including extant United States Government publications and records from the Emergency Rubber Project. Such data shall be made available to other Federal and State agencies and private persons who are interested or involved in natural rubber research, development, or manufacture.

"(e) The Secretary, in consultation with the Secretary of State, is authorized and encouraged to enter into cooperative projects with the Government of Mexico in order to accomplish appropriate aspects of the research and economic development provided for in this section. Such cooperative projects shall include, but not be limited to, projects to determine the economic feasibility of guayule-based agricultural and manufacturing enterprises.

"(f) The Secretary is authorized to accept financial or other assistance from any State or public agency to aid in carrying out the provisions of this section, and to enter into contracts with respect to such assistance and to enter into agreements with any State or public agency for the purpose of demonstrating, transferring, or applying results of research and economic development of guayule rubber.

"(g) In carrying out the provisions of this section, the Secretary is authorized to—

"(1) make grants to educational institutions, associations of educational institutions, and other scientific organizations and enter into contracts with such institutions and organizations and with industrial or engineering firms;

"(2) acquire the services of biologists, agronomists, foresters, geneticists, engineers, economists, and other personnel by contract or otherwise;

"(3) utilize the facilities of Federal scientific laboratories with the consent of the head of the Federal department or agency concerned;

"(4) establish and operate necessary facilities, pilot plants and plantations to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this section;

"(5) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land, and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation;

"(6) assemble and maintain pertinent and current literature and publications, patents and licenses, land and interests in land;

"(7) cause onsite inspections to be made of promising projects, domestic or foreign, and, in the case of projects located in the United States, cooperate and participate in their development when the Secretary determines that the purposes of this section will be served hereby;

"(8) foster and participate in regional, national, and international conferences relating to guayule culture and natural rubber manufacture;

"(9) coordinate, correlate, and publish information with a view of advancing the development of guayule rubber technology; and

"(10) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

"(e) In carrying out the provisions of this section, the Secretary shall insure that his activities are closely coordinated with the activities of other Federal departments and agencies such as the Department of Agriculture, National Science Foundation, Department of Interior, Bureau of Indian Affairs, Federal Energy Administration, Energy Research and Development Administration, Department of Defense, Treasury Department, Federal Preparedness Agency, and others in order to prevent duplication of effort, insure compatibility with ongoing programs and policies, and to fully exploit the opportunities inherent in the culture and manufacture of guayule rubber.

"(f) Relative to the definitions of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to this section, and notwithstanding any other provisions of law, the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908-9) shall, to the extent applicable, apply to the provisions of this section.

"(g) The Secretary may dispose of any natural rubber, resin, wax, pulp, and any other byproducts resulting from operations under this section. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts.

"(h) The Secretary may issue rules and regulations necessary to carry out the provisions of this section.

"(i) There is authorized to be appropriated for the fiscal year beginning October 1, 1979, and for each of the four succeeding fiscal years, the sum of $60,000,000 to carry out the purposes of this section, such sums to remain available until expended.".

By Mr. HELMS:

S. 1817. A bill to prohibit the taking of land by condemnation in connection with any proposed Mount Mitchell National Park in the State of North Carolina, if hereafter authorized and established by the Congress, and to prohibit the curtailment of the hunting, fishing, and gathering rights currently enjoyed in any areas included within any such proposed park if such park is hereafter so authorized and established; to the Committee on Energy and Public Works.

Mr. HELMS. Mr. President, title VII, section 701 of Public Law 94-518 requires the Secretary of the Interior, in consultation with the Governor of North Carolina and the Secretary of Agriculture, to transmit to the Committee on Insular Affairs of both the Senate and the House, by October 17, 1979, a feasibility study for a national park in the Black Mountain Range of North Carolina.

The intent of the bill was that of preserving the unusual environment of these, the highest mountains in Eastern America, but it has had some unforeseen and unfortunate social and economic effects also. As Public Law 94-518 reads now, much of the land that has been handed down family lines for generations might be condemned and many of the long-established privileges to the west of the surrounding forests could be curtailed in order to create a national park.

Mr. President, the bill which I am introducing today will indicate this Congress determination to avoid condemnation of ancestral homesteads and interference with time-honored traditions—while not interfering with the original bill's prime intent.

The Black Mountain Range extends some 20 miles linking the Blue Ridge on the east and the Unakas on the west. At 6,684 feet above sea level, Mount Mitchell is its highest peak and the high-point in the Eastern United States. Seventeen other peaks in the range are over 6,300 feet above sea level.

The upper portions of these mountains are densely forested and include the most extensive stands of Fraser fir in America. The mountains drain principally into three river valleys: The publicly owned Asheville Watershed and the Cane and South Toe River Valleys in Yancey County. These two river bottoms and the coves running part of the way up between the ridges on the mountains are widely farmed. Much of the wooded areas are devoted to lumber or pulpwood production.

Approximately 75 percent of the study area is already publicly administered.

The National Forest Service now controls approximately 75,000 acres of the 247,000-acre study area. With the exception of those areas selected by the National Forest Service for preservation, these acres are systematically lumbered. Nevertheless much of the land is virtually indistinguishable from park land. Recreation facilities include: 107 campsites, two hunting camps, 110 miles of trail, and other features.

All national forest land within the study area is cooperatively managed by the National Forest Service and the North Carolina Wildlife Resource Com-

mission which owns and manages the game animals. The National Forest Service manages the habitat.

The National Park Service manages 3,500 acres in the study area. Two developed areas are available in addition to the Blue Ridge Parkway: Crabtree Meadows Campground, with 93 campsites, a restaurant and nature trails; and Craggy Gardens, with a picnic area and information center.

Mount Mitchell State Park covers 1,500 acres and offers picnic facilities, an observation tower, 12 campsites, and connecting trails to National Forest System trails. Neither the National Park Service nor Mount Mitchell State Park allow hunting, fishing, or the taking of other forest products.

The city of Asheville, N.C., owns a 20,000-acre watershed within the study area and offers fishing, swimming, boating, and picnic facilities in the lower regions of the watershed.

The remainder of the lands in the study area are in private hands.

The National Forest Service is currently negotiating to buy from two private landholders, an additional 4,330 acres on the west side of the crest of the Black Mountains just north of Mount Mitchell.

A large tract south of the State park is owned jointly by the descendents of "Big Tom Wilson" and two North Carolinians whose principal interest is in preserving the land. While many of these private holdings are farmed, national forest officials in North Carolina estimate that the private lands together with the Asheville watershed contain approximately 980,000 million board feet of timber. In addition to the aforementioned public campgrounds, six private campgrounds provide 428 campsites.

Many of the residents of the Cane River Valley, and the South Toe River Valley, trace their ancestry in Yancey County as far back as five generations. Their intense affection for their family homesteads, cemeteries, and churches, and their determination that their traditional life style not be infringed, have been rather convincingly demonstrated.

Farming still accounts for a large portion of the income in Yancey County though most of the individual farms are small. Mica mining, pulpwood, lumber production, and tourism are also notable industries in the county.

Additionally, a number of residents supplement their income by gathering galax, ginseng, foxglove, and other plants in the forests. And, of course, hunting and fishing have long been sources of fresh meat and recreation for many mountain families.

The National Forest Service officials in North Carolina estimate that more than 75 families derive a large part of their income from gathering galax for sale to florists and nurseries.

Mr. President, the reason for my bill is that even though the feasibility study authorized by Congress has not begun, it has already had a number of effects on the area: According to the president of the Yancey Railroad, the threat of possible condemnation of land for a park has brought the prospect of desperately needed new industry to a "standstill." He states "we need a quick decision." "No industry is coming—so long as a possibility of condemnation exists." "At least the area must be defined." The chilling effect of the proposed park is serious when you consider that unemployment in Yancey County is slightly over 8 percent and most of the unemployed are heads of households. Until the uncertainty is over, Yancey County will probably be a poor candidate for investment and its unemployment problem will persist.

The study has also created uncertainty for the citizens living in the study area and for those who hold land there. The executive secretary of the Yancey County Chamber of Commerce states that the building industry is being hurt, because new construction and remodeling are being deferred.

But there is a more human side to the problem: Much of the privately held land in the study area has been handed down family lines for as many as five generations and is as personal an inheritance, for some of these people, as a wedding band or dining table. A case in point: The family of the legendary 19th century bear hunter "Big Tom Wilson" owns a vast amount of land near Mount Mitchell. In the early years of the 19th century, the family posted bond for a friend, who skipped out, and many acres had to be sold to satisfy the debt. Over two generations, the Wilsons sacrificed until they were able to buy back their ancestral lands. This family now faces the possibility of condemnation of that same land.

However, some of the residents also fear for their livelihoods because, as mentioned earlier, many families supplement their incomes by "galaking." None of these activities are allowed by the National Park Service. As one citizen of Yancey County put it:

> In the South Toe area they would be dead without galax. Some folks is too proud to take welfare. So they get galax, log moss, ginseng and all, to make out.

Local citizens have been extremely vocal in their opposition to the proposed national park. Our contact with 438 residents, representing 315 homes, revealed solid opposition to the park. Their dominant concern is that their lands and cemeteries be passed down to their posterity.

In addition to the opposition to the park within the citizenry, the Yancey County Chamber of Commerce, the town of Burnsville, the county commissioners of Yancey and the North Carolina Wildlife Commission are also opposed.

Mr. President, the ecologically unique Black Mountain uplands, with their stands of Fraser fir and near-Canadian vegetation, must be preserved for future generations of North Carolinians and Americans. At the same time, we must strive to preserve the ancestral homesteads and traditional way of life of the people of the Black Mountains region.

Let me summarize the facts: Seventy-five percent of the area under study is already publicly administered. Much of the remainder of the upland slopes is either held by landowners for the very purpose of its preservation or is actively being sought for purchase by the National Forest Service. It is apparent that there is no immediate threat that the stands of Fraser fir and the other unique qualities of the Black Mountains will be lost. At the same time the precise form of their long-term preservation, whether by national park, national forest, State park, private foundation, or whatever, is a proper concern and worthy of the proposed study.

It is evident, however, that the proposed study has had unfortunate and unintended results: The chilling of industrial and residential expansion, and the apprehension of the people that rights they have enjoyed for generations is being threatened. Among the most cherished of the traditional rights has been hunting bear and deer, fishing, gathering roots and herbs—indeed, living with the same free access to the neighboring mountains as their ancestors did 200 years ago.

Therefore, Mr. President, to satisfy these very pressing human and economic concerns, while at the same time permitting the study to proceed, I submit this bill to amend Public Law 94–518 in such a way as to, first, prohibit the involuntary taking of land for any proposed park in the Mount Mitchell study area, and second, to prohibit the curtailment of the hunting, fishing, and gathering rights currently enjoyed in the study area.

To recite the ecological characteristics by themselves does not fully state the uniqueness of the area, because the people became an integral part of the region long ago. Our legislation must preserve the unusual coexistence of Canadian-like vegetation and fifth generation homesteads and families that exist in and around the Black Mountain and Craggy Mountain Ranges, and provide that the protection of one does not interfere with the existence of the other. This bill will amend Public Law 94–518 to make just such provision.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of title VII of the Act entitled "An Act to authorize the study of certain areas by the Secretaries of Agriculture and the Interior", approved October 17, 1976, in no case shall such Secretaries transmit to the Congress, or any committee thereof, any recommendations, arising out of or in connection with any study carried out involving a proposed Mount Mitchell National Park, which would permit the acquisition of any lands for inclusion within any such park by condemnation, or which would curtail hunting and fishing, or gathering rights (such as the gathering of roots, herbs, galax, ginseng, foxlove, and other plants) currently enjoyed, in any areas recommended for inclusion within any such proposed park.

By Mr. WILLIAMS:

S. 1818. A bill to amend the Immigration and Nationality Act to facilitate the adoption of more than two unrelated children, and for other purposes; to the Committee on the Judiciary.

Mr. WILLIAMS. Mr. President, today I am introducing legislation to amend the Immigration and Nationality Act to facilitate adoption of more than two unrelated foreign-born children by American citizens.

Under current law, only two visa petitions to grant "immediate relative" status—I-600 petitions—to foreign-born orphan children may be filed with the Immigration and Naturalization Service. Additional "immediate relative" petitions may be approved for foreign-born orphans only when necessary to prevent the separation of brothers and sisters. Other than brothers and sisters, third and additional foreign-born orphan children adopted by American citizens can enter the country only as "nonpreference applicants." Nonpreference applicants are subject to the numerical limitations set by law on the number of immigrants that can enter the country in a year. General demand for immigration by aliens then determines the length of the waiting period before immigration. It is not unlikely that an American applying to adopt a foreign orphan today may have to wait as long as 3 years for the youngster to actually enter the United States under a nonpreference visa. Sadly, while awaiting immigration under a nonpreference visa, these youngsters often languish in substandard conditions likely to have a deleterious effect on their growth and development. Moreover, the length of time between the start of the adoption process and the culmination amounts, in many instances, to a bar on what might otherwise be successful adoptions since adoption agencies are reluctant to work with adoptive parents who are ineligible to file additional I-600 visas.

My bill would continue the current practices and procedures affecting the application for I-600 petitions for all such petitions up to four, instead of the current limit of two. In order to have more than four I-600 petitions approved, an individual or couple would have to obtain a waiver from the Attorney General which would only be granted after a hearing and under such terms, conditions, and procedures as the Attorney General prescribes.

Mr. President, enactment of this measure is necessary, because there are many individuals and couples who desire to provide care and a home for additional foreign-born orphans who cannot do so, because of the limit on I-600 petitions, unless private legislation is adopted on their behalf. Moreover, many applicants for a third I-600 visa in fact only have one foreign orphan child. This is due to the fact that once two approvals are granted, a third one cannot be granted even if the orphan and the prospective parents are never united or the child dies. One couple, for example, lost their second orphan child in the tragic crash of the jumbo jet that was evacuating orphans in the closing days of the Vietnam conflict. Yet because two of their petitions have been approved, they are ineligible to have a third approved. Although precise figures are not available there are, indeed, many families and individuals desiring to adopt additional foreign orphans. The broad support for a change in the current limit has been underscored for me by the many compelling calls, letters, and telegrams I have received since it became known that I was interested in this problem. It should also be pointed out that thousands of private bills to secure preference for visas for orphans have been introduced since the I-600 petition limitation went into effect.

Mr. President, the limit of two petitions was enacted when Congress became aware back in the late 1950's of certain abuses in the adopting of foreign orphans, including instances of racketeering involving the sale of alien children for adoption. Measures to completely lift the limit on the number of I-600 petitions which may be approved have been introduced in the last several Congresses. These measures have not moved through Congress due largely to the spectre of a recurrence of the abuses that originally spurred enactment of the two-petition limit.

I do not believe that large numbers of truly humanitarian people should be denied an opportunity to provide loving homes for foreign orphans, because of the actions of an unscrupulous few who would exploit the desires of people to provide love and care for children. With few exceptions, the record of Americans opening their hearts and their homes to alien orphans is an excellent one. However, it seems clear that we need an approach other than merely lifting the limit on the number of petitions which may be approved for any one petitioner.

Therefore, instead of completely lifting the limit and possibly allowing for some untoward abuses, my legislation would require that a hearing be held before any petitions in addition to four could be granted. Additionally, with respect to all petitions in excess of four, the Attorney General would be able to promulgate additional terms, conditions, and procedures, consistent with State and Federal policy, which petitioners must meet in order to have the four-petition limit on I-600 petitions waived. These procedures would subject cases wherein exploitation for economic gain might occur, to a more thorough, rigorous examination designed to preclude the possibility of a recurrence of abuses experienced earlier.

Because any abuses in the area compromise the integrity of the practice of adopting foreign orphans, many who support change in the I-600 petition limit have indicated to me that they favor additional procedures for the approval of a relatively large number of petitions. They do so realizing that parenthood through adoption of foreign orphans is undermined by abuses and negative publicity attendant thereto.

I believe that this legislation would allow the greater flexibility needed while retaining for the appropriate authorities enough discretion and control to allow them to administer a program of preference visas for foreign orphans consistent with the best interests of the children involved and the public policy objectives of the United States and the various States.

Mr. President, with so many homeless children in the world and so many families and individuals in this country who would like to care for another child, it is a tragedy that many families and individuals able to offer love and a good home to foreign orphans cannot do so under present law. All the children of the world are alike in the sense that they have the need for permanence, stability, continuity, and nurture during the development period of their lives. I urge the adoption of this measure to facilitate placing children in need of love and care with willing parents able to provide it.

By Mr. DECONCINI (for himself, Mr. ABOUREZK, Mr. KENNEDY, and Mr. THURMOND):

S. 1819. A bill to reduce the cost of operating the Federal criminal justice system, reduce the criminal caseload of the Federal courts, and establish alternatives to criminal prosecution for certain persons charged with nonviolent and, in selected instances, violent offenses against the United States, and for other purposes; to the Committee on the Judiciary.

Mr. DECONCINI. Mr. President, together with my distinguished colleagues from the Judiciary Committee, Senators ABOUREZK, KENNEDY, and THURMOND, I am introducing the Federal Criminal Diversion Act of 1977.

The purpose of this legislation is twofold. By establishing a diversion program at the Federal level, the criminal caseload backlog will be relieved and the overall functioning of our Federal courts will be rendered more efficient. At the same time, however, the purpose is also clearly humanitarian. Diversion is a viable alternative to traditional prosecution and incarceration which has proved its effectiveness in reducing recidivism in most of the local jurisdictions where it has been adopted. Unlike parole, diversion establishes a specific plan of service, education, employment and psychological counseling prior to any action being taken on the charges filed. If the individual successfully completes the program, the charges against him are dropped and no criminal record remains.

My personal experience with criminal diversion during my tenure as Pima County Prosecutor has been uniformly positive. Both the community and the offenders responded very favorably, and the recidivism rate we experienced was negligible. It had the additional benefit of freeing the time of prosecutors to pursue serious offenders, thereby increasing the effectiveness of the prosecutor's office.

In recent years the effort to keep our country's judicial machinery running smoothly has been an ever increasing challenge. A tremendous case backlog has developed in the Federal court system. This backlog has mushroomed over the past decade to a point where in many courts—both at the district and appellate level—cases have been docketed for several years without a hearing. According to the 1976 annual report of the Director of the Administrative Office of U.S. Courts, in the past year the district courts have had an 11-percent rise in civil filings and a 17-percent rise in cases pending. The same pattern is also true for our appellate courts. There are no indications that this trend will reverse. Diversion will aid in clearing the backlog of criminal cases, thereby enabling

prosecutors and judges to concentrate the full resources of their offices on other, more serious cases and, in addition, aid our courts in their effort to obtain current dockets in both criminal and civil cases.

Diversion is the voluntary use of supervision, much like probation, for an individual who has been charged with a crime, but has not yet been tried or convicted. It is designed to divert eligible persons who are accused of violating the criminal laws of the United States from the trial process.

As proposed in the Federal Criminal Diversion Act, diversion would work in the following manner:

First. At the time of arrest, or soon after, individuals would be screened to determine if they might benefit from diversion, an intensive program of supervision. Prior to these interviews, individuals with patterns of repeated criminal violations or assaultive and violent behavior would have been dropped from consideration.

Second. When a defendant has been found who would fit the program criteria, and treatment resources are available for him, the U.S. attorney would be asked if he would agree to a diversion period. If the U.S. attorney does not agree, the prosecution would continue in normal fashion.

If the U.S. attorney does agree, the individual would be asked if he would voluntarily participate in the program, which would include waving the statute of limitations and his right to speedy trial for a period of time. Defense counsel would play an important role here. The individual would agree to a plan for himself, which would include supervision, as well as such goals as learning a job skill, getting a job, attending school or college, and so forth. However, no defendant will be released to a diversion program until all persons injured by the offense for which he is charged have filed an agreement in writing with the administrative head of the diversion program in the district in which the case is pending.

Third. The U.S. attorney's recommendation and the individual's plan and voluntary agreement would then be presented to the committing officer of the U.S. court at the time of the bail hearing, or later. If agreed to, the criminal prosecution would be held in abeyance while the individual pursues his program.

Fourth. The individual's plan may be selected from the following types of diversion programs: Medical, educational, vocational, social and psychological services, corrective and preventive guidance, training, counseling, residence in a halfway house or other suitable place, rehabilitative services designed to protect the public and benefit the individual, restitution to victims of the offense charged, and/or uncompensated service to the community in which the offense occurred or to a community in the district in which the charge is pending.

Fifth. If the individual who has been diverted fails to live up to his agreement, or if he gets into further trouble or appears headed toward trouble, he may be immediately terminated from the program by the judge or magistrate in the case, at the recommendation of the U.S. attorney. In this case, the full criminal prosecution starts up again where it left off. The individual may also withdraw at any time, and prosecution would be resumed.

Sixth. If an individual lives up to his agreement, and if he is demonstrating a lawful lifestyle, the diversion period can be continued, up to a maximum of 1 year. If the individual successfully completes his obligations, he can have the charges against him dismissed. However, the U.S. attorney retains the power to resume prosecution upon a judicial finding that the individual has failed diversion.

The statistics of crime in America are inescapable. Crime has increased, and most crime is committed by recidivists—repeaters who are starting their second, third, or fourth trip through the criminal justice system. These statistics dictate that we seek new and effective ways of dealing with the people who commit crimes. Existing diversion programs throughout the country have proven themselves to be an effective tool in dealing with certain criminal defendants, and increasing the likelihood that they will return to a lawful life instead of a criminal life.

One of the purposes of this legislation is to put into the hands of prosecutors, judges and correctional officers in the Federal system an additional tool that will:

First. Reduce the backlog of criminal cases in our courts;

Second. Decrease future court related costs and increase public safety by improving the chances that certain criminal defendants can be turned away from future crimes; and

Third. Reduce the expense to the taxpayers by providing rehabilitation services as job training and employment at a lower cost than incarceration.

In 1972 and 1973 the Senate conducted hearings on the subject of diversion. From these hearings and from reports on the results of diversion programs already in existence, I have reworked the original legislation and have introduced this bill, which I believe is a necessary major new direction for the Federal justice system.

The concept of diversion legislation has long been supported by the American Bar Association, the National District Attorneys Association, the Chamber of Commerce of the United States, the Judicial Conference of the United States and major national and Presidential commissions on crime and corrections.

In 1967, the President's Commission on Law Enforcement and Administration of Justice said that:

> Prosecutors deal with many offenders who clearly need some kind of treatment or supervision, but for whom the full force of criminal sanctions is excessive; yet they usually lack alternatives other than charging or dismissing. In most localities programs are scarce or altogether lacking, and in many places where they exist, there are no regular procedures for the court, prosecutors, and defense counsel to take advantage of them.

In 1973, the National Advisory Commission on Criminal Justice Standards and Goals recommended objectives for State and criminal justice agencies. The Enforcement Assistance Administration Standards and Goals project of the Law in the Department of Justice recommended that diversion be available at every step of the criminal justice process—through law enforcement agencies and courts, as well as correctional agencies.

The Standards and Goals report included the following statement about diversion:

> Each local jurisdiction, in cooperation with related State agencies, should develop and implement by 1975 formally organized programs of diversion that can be applied in the criminal justice process from the time an illegal act occurs to adjudication.

Mr. Chairman, the Department of Justice's recommended goal for Federal diversion programs was 1975. It is already 1977 and we are still without a Federal program. This legislation is designed to rectify that situation and to ease the overburdening of our courts. I urge my colleagues to give the Federal Criminal Diversion Act of 1977 their careful consideration and am hopeful that it can be enacted during this Congress.

I ask unanimous consent, Mr. President, to print in the RECORD at this point the annual report of the Pima County attorney's adult diversion project. I also ask unanimous consent to include the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Criminal Diversion Act of 1977".

SEC. 2. Congress hereby finds and declares that the interest of operating the Federal criminal justice system efficiently, protecting society, and rehabilitating individuals charged with violating criminal laws can be served by creating innovative alternatives to prosecution; that such alternatives will reduce the criminal caseload of the Federal courts, and provide more effective and humane rehabilitation programs for eligible persons; that such diversion can be accomplished in appropriate cases without losing the general deterrent effect of the criminal justice system.

SEC. 3. As used in this Act, the term—

(1) "eligible individual" means any person who is charged with a non-violent offense against the United States, or a violent offense where no substantial physical injury to the victim occurs committed under circumstances such that it is reasonably foreseeable that the individual will not continue to commit violent offenses and where the violent act has not been part of a continuing pattern of violent behavior, and who is recommended for participation in a Federal criminal diversion program by the attorney for the Government in the district in which the charge is pending;

(2) "Federal criminal diversion program" may include, but is not limited to, medical, educational, vocational, social and psychological services, corrective and preventative guidance, training, counseling, provision for residence in a half-way house or other suitable place, and other rehabilitative services designed to protect the public and benefit the individual, restitution to victims of the offense or offenses charged, and uncompensated service to the community in which the offense charged occurred or to a community in the district in which the charge is pending;

(3) "plan" includes those elements of the

program which an eligible individual needs to assure that he will lead a lawful lifestyle;

(4) "committing officer" means any judge or magistrate in any case in which he has potential trial jurisdiction or in any case which has been assigned to him by the court for such purposes; and

(5) "administrative head" means a person designated by the Attorney General as chief administrator of a program of community supervision and services, except that each such designation shall be made with the concurrence of the Chief Judge of the United States District Court having jurisdiction over the district within which such person so designated shall serve.

SEC. 4. The administrative head of each Federal criminal diversion program shall, to the extent possible, interview each person charged with a criminal offense against the United States within the district whom he believes may be eligible for diversion in accordance with this Act and suitable for such program and, upon further verification by such head that the person may be eligible, shall assist such person in preparing a preliminary plan for his release to a program of community supervision and services.

SEC. 5. (a) The committing officer may release an eligible individual to a Federal criminal diversion program if he believes that such individual may benefit by release to such a program and the committing officer determines that such release is not contrary to the public interest. Such release may be ordered at the time for the setting of bail, or at any time hereafter. In no case, however, shall any such individual be so released unless, prior thereto, he has voluntarily agreed to such program, and he has knowingly and intelligently waived, in the presence of the committing officer and with the advice of counsel, unless counsel is knowingly and intelligently waived, any applicable statute of limitations and his right to speedy trial for the period of his diversion.

(b) In no case, however, shall a person charged with a criminal offense against the United States be released for diversion until all persons injured by the act or acts charged as offenses have filed an agreement in writing with the administrative head that the person charged may be so released.

SEC. 6. (a) The administrative head of a Federal diversion program shall report on the progress of the individual in carrying out his plan to the attorney for the Government and the committing officer at such times and in such manner as such attorney deems appropriate.

(b) In any case in which an individual charged with an offense is diverted to a program pursuant to this Act and such diversion is terminated and prosecution resumed in connection with such offense, no statements made or other information given by the defendant in connection with determination of his eligibility for such program, no statements made by the defendant while participating in such program, no information contained in any such report made with respect thereto, and no statement or other information concerning his participation in such program shall be admissible on the issue of guilt of such individual in any judicial proceeding involving such offense.

SEC. 7. (a) In any case involving an eligible individual who is released to a Federal criminal diversion program under this Act, the criminal charges against such individual shall be continued without final disposition for a twelve-month period following such release, unless, prior thereto, such release is terminated pursuant to subsection (b) of this section, or such charge against such individual is dropped within such twelve-month period. Such charge so continued shall, upon the expiration of such twelve-month period, be dismissed by the committing officer.

(b) The committing officer, at any time within such twelve-month period referred to in subsection (a) of this section, shall terminate such release, and the pending criminal proceeding shall be resumed, if the attorney for the Government finds such individual is not fulfilling his obligations under the plan applicable to him, or the public interest so requires.

(c) If the administrative head certifies to the committing officer at any time during the period of diversion that the individual has fulfilled his obligations and successfully completed the program, and if the attorney for the Government concurs, the committing officer shall dismiss the charge against such individual.

SEC. 8. (a) The chief judge of each district is authorized, in his discretion, to appoint an advisory committee for each Federal criminal diversion program within his district. Any such committee so appointed shall be composed of the chief judge, as Chairman, the United States attorney for the district, and such other judges or individuals with such district as the chief judge shall appoint, including individuals representing social services or other agencies to which persons released to a Federal criminal diversion program may be referred under this Act.

(b) It shall be the function of each such committee so appointed to plan for the implementation for any Federal criminal diversion program for the district, and to review, on a regular basis, the administration and progress of such program. The committee shall report at such times and in such manner as the chief judge may prescribe.

(c) Members of a committee shall not be compensated as such, but may be reimbursed for reasonable expenses incurred by them in carrying out their duties as members of the committee.

SEC. 9. In carrying out the provisions of this Act, the Attorney General shall—

(1) be authorized to—

(A) employ and fix the compensation of such persons as he determines necessary to carry out the purposes of this Act;

(B) utilize, on a cost reimbursable basis, the services of such United States Probation Officers and other employees of the Judicial branch of the Government other than judges or magistrates, as he determines necessary to carry out the purposes of this Act;

(C) employ and fix the compensation of, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such persons as he determines necessary to carry out the purposes of this Act;

(D) acquire such facilities, services, and materials as he determines necessary to carry out the purposes of this Act; and

(E) enter into contracts or other agreements, without regard to advertising requirements, for the acquisition of such personnel, facilities, services, and materials which he determines necessary to carry out the purposes of this Act.

(2) consult with the Judicial Conference in the issuance of any regulations or policy statements with respect to the administration of any Federal criminal diversion program;

(3) conduct research and prepare reports for the President, the Congress, and the Judicial Conference showing the progress of all Federal criminal diversion programs in fulfilling the purposes set forth in this Act;

(4) certify to the appropriate chief judge of the United States district court as to whether or not adequate facilities and personnel are available to fulfill a Federal criminal diversion program, upon recommendation of the advisory committee for such district;

(5) be authorized to provide technical assistance to any agency of a state or political subdivision thereof, or to any non-profit organization, to assist in providing programs of community supervision and services to individuals charged with offenses against the laws of any state or political subdivision thereof;

(6) provide for the audit of any funds expended under the provisions of this Act;

(7) be authorized to accept voluntary and uncompensated services;

(8) be authorized to provide additional services to persons against whom charges have been dismissed under this Act, upon assurance of good behavior and if such services are not otherwise available; and

(9) be authorized to promote the cooperation of all agencies which provide education, training, counseling, legal, employment or other social services under any Act of Congress, to assure that eligible individuals released to Federal criminal diversion programs can benefit to the extent possible.

SEC. 10. For the purpose of carrying out the provisions of this Act there is authorized to be appropriated for the fiscal year ending June 30, 1978, the sum of $3,500,000, and for fiscal years 1979, 1980, and 1981, $3,500,000 each year.

PIMA COUNTY ATTORNEY'S ADULT DIVERSION PROJECT'S THIRD ANNUAL REPORT

EXECUTIVE SUMMARY

This report reviews the third year of operation of the Pima County Attorney's Adult Diversion Project. This program deals with cases in which local law enforcement agencies and the County Attorney's Office have reasonable grounds to believe that the traditional criminal prosecution procedure does not serve the best interest of the local community, criminal justice system, and defendant.

A person who is accepted into the Adult Diversion Project takes part in an established program that may include any or all of the following: maximum or minimum supervision, participation in an Adult Diversion communcation skills group, payment of restitution, a victim-defendant meeting, community service work referral to the Project's Manpower Component, involvement with existing community resources.

Two unique aspects of the Program are the roles played by victims and law enforcement. In order for a person to participate in the Program, an applicant must not only meet the criteria of the County Attorney's Office, but must also have the approval of both the victim(s) and the arresting officer(s).

During 1976, the Adult Diversion Administration, in collaboration with local criminal justice administrators created three new programs to deal with:

1. Offenders charged with Unlawful Possession of Marijuana (Misdemeanor)
2. Offenders charged with City Misdemeanors
3. Problems which witnesses of crime encounter

The results of the statistics gathered indicate that the Adult Diversion Project screening process allows people into the Program who are compatible with its goals.

Since its inception, the Program has been concerned with research and organizing data for evaluation. During 1976, the Program has continued its efforts in conducting research in the following areas:

Exploratory studies

1. Victim-Defendant Relationships in an Adult Diversion Program;
2. Cost analysis of Adult Diversion and Average Superior Court Felony and Costs;
3. Staff Knowledge of why Clients Are Not Accepted Into the Program and What the Eventual Outcomes are in Felony Cases Rejected by the Diversion Program;
4. Perceived Staff Use of Time; and
5. Quarterly Caseload Reports.

Evaluation studies

1. Recidivism in a Diversion Program for Persons Charged With Unlawful Posesssion of Marijuana (Misdemeanor);

2. Recidivism in a Misdemeanor Diversion Program Conducted for the City of Tucson by the Pima County Attorney's Office;

3. A Cost Analysis of UPOM Cases in the Pima County Justice Courts;

4. A Second Stage UPOM Evaluation;

5. An Evaluation of Human Service Agencies Requesting Funding From The City of Tucson; and

6. An Assessment of Recidivism Occurring Among Persons Who Completed a Felony Diversion Program in 1974.

Program development studies

1. DWI Diversion (Driving While Intoxicated);

2. CRMT (Community Resources Management Team);

3. Felony Diversion Expansion; and

4. Maricopa County Diversion Program Technical Assistance.

CHAPTER 1: GENERAL PHILOSOPHY, GOALS, AND SPECIFIC RATIONALES

INTRODUCTION

The concept of formalizing the prosecutor's discretion to seek non-adversary alternatives to the disposition of criminal cases had been first promulgated nationally by the President's Commission on Law Enforcement and the Administration of Justice in their 1967 report. Thereafter, the National District Attorney's Association, American Bar Association, American Correctional Association, National Council on Crime and Delinquency, and National Advisory Commission on Criminal Justice Standards and Goals have endorsed the concept. Presently, there are growing numbers of politicians, academicians, practitioners, and lay residents advocating an expansion of diversion.

In contrast to the increasing support for diversion, there has also been a mounting number of critical questions raised by eminent academicians, and practitioners about the efficiency and efficacy of diversion programs currently in operation. In 1973, James Vorenberg, former Executive of the Commission of Law Enforcement and the Administration of Justice, asserted that there is chronic reluctance of operating agencies to subject themselves to intensive and possible critical evaluation.[1]

In 1974, Professor Nimmer declared that most division programs operate without studies of impact, therefore, the success of these programs remains largely a matter to be judged impressionistically.[2] In the 1974 National Conference on Pretrial Release and Diversion held in San Francisco, Daniel Freed, Professor of Law and Its Administration at Yale Law School, and Nancy Goldberg, Deputy Director of Defender Services, stated their concern about the lack of evaluative research on the effectiveness of diversion programs.[3] Consequently, there are many evaluative research questions that need to be scientifically answered before one can honestly assert that a particular diversion program benefits the local community, criminal justice system, and diverted defendants.

In the late 1960's the first structured, pretrial adult diversion programs were established—The Genessee County Citizen Probation Authority (1965), Manhattan Court Employment Project (1967), and Washington, D.C. Project Crosswords (1967).

There are numerous reasons why these three adult diversion programs and the ones that followed were instituted. The following five reasons are those most salient as far as the criminal justice system is concerned: the criminal court dockets have been extremely overloaded; the jails and prisons have been overcrowded and inadequate; the rehabilitation programs in most correctional agencies have been unsuccessful in attaining their goals; the prosecutors', public defenders' and probation officers' caseloads have substantially grown; and the financial cost to the taxpayers to operate the criminal justice system has increased to an exorbitant amount.

In October of 1973, the Pima County Attorney's Office instituted the Adult Diversion Project (ADP) to handle selected, first-time felony offenders. In addition to the stated reasons listed in the previous paragraph, the Pima County Attorney's Office added an additional reason for wanting to establish a diversion program. The County Attorney conjectured that if certain defendants were diverted, then the deputy prosecutors would be able to give more time and effort towards a speedy trial for most crimes of violence, consumer fraud, serious drug violations, and organized crime. The principal intent of this report is to present the philosophy, goals, organizational structure, new components, past and present evaluative research results, and future plans of the Pima County Attorney's Adult Diversion Project.

OVERALL OBJECTIVES AND SPECIFIC GOALS

The Pima County Attorney's Adult Diversion Project (ADP) is completing its third year of operation with the publication of this annual report. The Adult Diversion Project commenced on September 2, 1973, with the first client receiving diversionary status October 1. After three years of operation, the ADP still adheres to the basic philosophy upon which it was founded. The Project continues to address itself to cases in which the local law enforcement agencies and the County Attorney's Office have reasonable grounds to believe, from the evidence presented, that a person has committed a felony criminal offense within the Pima County, but in which the County Attorney's Office determines that the traditional criminal prosecution procedure does not serve the best interest of the local community, criminal justice system, and defendant.

The overall objectives of the Adult Diversion Project are:

1. To remove from the traditional system of adversary trial those accused of criminal acts who do not seriously contest their guilt and who are likely to benefit from the effective community-based program of habilitation;

2. to displace non-adversary cases from the traditional criminal justice system so that the courts may give more prompt and efficient attention to cases which must be tried and to defendants whose presence in the community pose a serious threat;

3. To eliminate the unnecessary burden of a criminal conviction upon defendants who are able to demonstrate the desire and willingness to participate in the habilitation program, thus better equipping them to compete for satisfactory employment, cope with personal problems, and other benefits important to their full habilitation;

4. To curtail the substantial time delay between apprehension and treatment for certain situational defendants, as is often not the situation with cases processed through the court system; and,

5. To diminish the high costs of prosecuting a defendant through the traditional criminal justice process by channeling the non-violent, and selected violent, situational defendants via the diversion process.

The Adult Diversion Project is continuously striving to attain three main specific goals with its client population;

1. To work with the participants on their personal and social problems so that they will not recidivate,

2. To assist the participants in up-grading their occupational skills and/or educational endeavors, and

3. To help the participants and their families in developing a more practicable level of self-acceptance and self-understanding.

CRITERIA FOR ACCEPTANCE

Defendants targeted for felony diversion in Pima County are those persons charged with a felony offense whose suspected offense does not present a "continuing pattern of anti-legal behavior." The Adult Diversion Project is designed to service only those individuals who do not have any prior felony convictions. Thus, referral policies and criteria "screen out" the person with an anti-legal behavior pattern and "screen in" the situational, temporary, impulse-oriented law violator.

While the Adult Diversion Project is basically a habilitation endeavor, the primary and overriding concern of the project is public safety. With certain cases, the ADP will accept a person charged with a certain violent act after thorough staff inquiry; because, the case is so exceptional that it does not reflect the normal circumstances that are usually associated with these types of offenses. Individuals charged with having committed the following offenses are automatically excluded from acceptance into the Diversion Project.

1. Murder.
2. Kidnapping.
3. Forcible Sex Crimes.
4. Sodomy.
5. Lewd and Lascivious Acts.
6. Violation of Public Officials Duty and Obligation.
7. Escape.
8. Incest.
9. Perjury or Subornation of Perjury.
10. Possession of a Weapon by a Convicted Felon.
11. Introduction of Drugs into an Institution.
12. Preventing Attendance of Witnesses.
13. Vehicular Manslaughter.
14. All Narcotics and Dangerous Drug Offenses (Except Unlawful Possession of Marijuana).
15. Organized Crime Offenses.

All applicants for diversion must be residents of Pima County or the surrounding area. Only legal adults (18 years or older) are eligible for deferred prosecution.

INTAKE PROCESS

Once a decision, based upon established criteria discussed in the preceding sections, has been made to refer a defendant to ADP, prosecution is temporarily held in abeyance. Referral, however, does not assure acceptance for ADP diversionary status and consequent dismissal of criminal charges. Upon receiving the referral from the designated deputy county attorney's liaison, the ADP intake officer requests a records check on the prospective client to ascertain if he/she satisfies the criteria of the Project. The defendant is then contacted via a standardized letter and asked to call the ADP Office and his/her attorney within five days if he/she is interested in being considered for Diversion. If the defendant does not contact the Project to make an appointment within the specified five-day-period, the intake secretary again attempts to contact the attorney and thereafter an additional three days is given to the defendant to respond.

In addition to providing efficient screening, the intake procedures have the additional advantage of offering an alternative system to the deputy county attorneys who are involved in the complaint/referral proc-

---

[1] Vorenberg and Vorenberg, "Early Diversion from the Criminal Justice System: Practice in Search of a Theory," in Lloyd E. Ohlin, Ed., Prisoners in America, 182 (Englewood Cliffs, New Jersey: Prentice-Hall, 1973).

[2] Raymond Nimmer, "Alternative Forms of Prosecution: An Overview of Diversion From the Criminal Justice Process," Chicago, Illinois, January, 1974, p. 2 (Manuscript).

[3] National Conference on Pretrial Release and Diversion, San Francisco, California, November, 1974.

ess. As a "public relations" function, the intake process will continue to contribute to the growing acceptance and support of the Project among the county's law enforcement personnel and the community at large.

PROGRAM PROCEDURES

A person who is accepted into the Adult Division Project has an established program that includes:

(1) Maximum/minimum supervision: A client is seen by his counselor on a weekly basis for the first three months of his/her program. In addition, each client is reassessed on a quarterly basis to determine the type of supervision necessary. During these visits, a counselor provides assistance and support.

(2) Participation in Adult Diversion Groups: A heavy emphasis has been placed on the group process. All clients are expected to participate in a six-to-eight-week group counseling skills session dealing with communications skills, problem solving, decision making, and values clarification. Groups are run by the staff members as well as by representatives of outside agencies.

(3) Referral to Manpower Services: Any client in need of training, job upgrading or more education is referred to the Diversion Manpower Component.

(4) Restitution: Part of any client's program is the payment of restitution equal to the victim's loss.

(5) Victim-Defendant Meeting: Whenever possible, a meeting is set for the victim to meet the defendant and deal directly with issues surrounding the offense.

(6) Community Service Work: All participants are expected to perform a minimum of forty (40) hours of voluntary community service work.

(7) Utilization of Existing Community Resources: The Diversion staff has developed contacts with related social service agencies and makes appropriate referrals to mental health, welfare, financial, alcohol, drugs or employment agencies.

UNIQUE FEATURES

The above is a description of the working components of the Diversion Program. The following are rationales for some of the unique features of the Diversion Program.

MANPOWER COMPONENT

The goals of the Manpower Component of the Adult Diversion Project are as follows:

(1) To provide job training and employment opportunities to a first-time offender, particularly for those who are economically disadvantaged, for those who are entering the labor force for the first time, and for those who are unskilled, inexperienced and/or have a poor history of employment.

(2) To provide employment to help a client fulfill restitution obligations and to become self sufficient, taxpaying community members.

(3) To pursue methods of financing the above goals, i.e., grant applications.

(4) To cooperate with already existing manpower agencies for training and job development.

(5) To identify areas in private business sector and obtain assistance in achieving our goals.

(6) To provide staff resources, time, and money to achieve the above goals.

Before a counselor can effectively work with a client's problems, (vocational placement, training or academic) education may be necessary. Since the inception of the Pima County Adult Diversion Program, client employment has been designated as a major priority.

Research with our clients has indicated that 40 percent are unemployed upon entering into the Program and another 30 percent are under-employed. Approximately 57 percent of our clients are 18 to 25 years of age and 85 percent are male. These clients are primarily persons of average or higher intelligence whose self concepts are inadequate. Further research has substantiated that other correctional programs locally and nationally have similar problems. This office has kept complete statistics on our unemployed clients since October of 1975. Approximately 85 percent of our unemployed clients have found employment, or received training or job up-grading since that time. The exceptional performance on the part of the manpower team has allowed ADP clients to take fuller advantage of the other Program services by removing the overwhelming pressure of unemployment from so many of them.

The following are procedures for working with manpower clients:

(1) All unemployed persons accepted into the Program are referred to the assistant director in charge of the manpower component.

(2) A complete detailed work history is obtained for each client with special attention given to past military service, education, prior training, work history, and needs

(3) Clients who are not considered job-ready are placed in a job-readiness group. In the group, they participate in exercises for confidence building and skills assessment. This is done using several counseling techniques, one of which is role playing.

(4) Clients re-entering the labor force are reviewed and referred to an ADP developer at the Department of Economic Security.

(5) Clients placed by the ADP job developer or manpower staff are contacted by the manpower component quarterly. Contact is also made on a regular basis with the employer to deal with any problems that arise.

(6) Clients are encouraged to take classes at evening schools to improve skills, education, and to update opportunities.

(7) Clients who secure meaningful employment are re-assigned through regular Diversion counselors. Clients who have been assigned to a regular counselor and who have subsequent need for manpower services refer back to the manpower team on a per-issue basis.

Some highlights in the progress and development of the Manpower Program are:

(1) 1974—Present:

Membership and involvement with the Tucson/Pima Manpower Consortium, which controls CETA funds.

(2) February, 1975—Present:

A $77,000 grant to place twenty-four clients in public service employment slots within the County for a six-month period was awarded to this program. These slots have been continued through March, 1977. The cost for these slots has been over $300,000 annually.

(3) September, 1975—Present:

A position of job developer within the Department of Economic Security (DES) was created for the express purpose of working only with Adult Diversion clients at DES.

(4) June, 1976—Present:

The Program received $48,000 funds from the Tucson/Pima Manpower Consortium for training slots in areas decided by manpower staff and the client.

(5) October, 1976—Present:

A proposal (Project Hope) by the Tucson/Pima Manpower Consortium in conjunction with DES was accepted. ADP was the initiator of the Project, which is to train fifty-two persons for positions at the new Kino Community Hospital. The final program was a joint effort of all local correction agencies.

(6) November, 1976—Present:

A commitment has been made by ADP to help victims of crime with employment problems through cooperation with the Victim-Witness Advocate Program.

Future plans include:

(1) The establishment of an advisory board made up of local business persons in the private business sector.

(2) Continuous involvement and participation with the Tucson/Pima Manpower Consortium.

(3) The pursuit of federal, state and local funds to provide new innovative services in the employment area.

(4) A coordination of efforts with the Victim-Witness Advocate Program to include employment services for victims.

(5) A concerted effort to work together with other correctional programs and educate the community about employing persons who have been arrested.

VICTIM AND LAW ENFORCEMENT PARTICIPATION

Two very unique aspects of the Adult Diversion Project that should be emphasized are the roles played by the victim and the law enforcement authorities. As cited earlier in the report, in order to participate in the Diversion Project, an applicant must not only meet the criteria of the County Attorney's Office, but must also have the approval of both the victim(s) and the arresting officer(s). This allows the Program to achieve credibility with law enforcement and the community at large.

After a defendant is referred to the ADP, the victim is contacted by telephone or in person by one of the intake officers. An explanation of how Diversion operates is given, and the victim is asked if he/she would be willing to allow the prospective Diversion defendant the opportunity to participate in the Project. If the victim approves, the intake officer encourages the victim to meet personally with the client to discuss the crime and restitution which is to be made. *Restitution* is very much a part of the participant's program in whatever damage has been done to a victim's property.

The results of these face-to-face confrontations have been quite positive and have resulted in a much clearer understanding by the victim of the surrounding circumstances related to the criminal act. In a few instances, victims have taken the time to involve themselves in the client's treatment plan.

The arresting officers have been very cooperative in helping the Diversion staff understand how the defendants involved are viewed by law enforcement. They have attempted to be objective with their recommendations and have displayed sensitivity along with deep concern for both the community and the defendants. In some instances, the law enforcement officer has met with the prospective Diversion client to share some of his/her impressions and be reassured that the client has accepted responsibility for his/her actions.

CHAPTER 2: THREE CONCOMITANT DIVERSION PROGRAMS

During 1975, the Adult Diversion Administration, in collaboration with local criminal justice administrators, created three new programs. Two of these programs received federal money to handle specific defendant populations at the pre-trial stage: Unlawful Possession of Marijuana defendant population and the Misdemeanor defendant population. The third program was designed to address the various problems that victims and witnesses of crime encounter. All three programs are being supervised by the Pima County Attorney's Adult Diversion Administration.

The three basic rationales for the pre-trial Adult Diversion Programs are:

The criminal court dockets have been extremely overloaded;

The financial cost to the taxpayer to operate the criminal justice system has increased in an exorbitant amount;

The deputy county and city prosecutors would like to devote more time and effort towards the speedy trial for serious criminal cases.

The organizational structure of both the Adult Diversion Project and these pre-trial diversion programs is the same. The third program, Victim-Witness Advocate Pro-

gram, is nearly separate from Diversion and evolved from a consciousness-raising process on the part of the professional Diversion personnel. Their daily contacts with Diversion clients' victims pointed up the multitude of problems that victims experience as a result of illegal activity.

A brief narrative on the three programs will give a prospective on how they are functioning within the existing program.

UNLAWFUL POSSESSION OF MARIJUANA (UPOM)

After eighteen months of operation, the program processed 228 individuals who had been arrested for unlawful possession of marijuana (under six ounces). This number exceeds the figure of 200 called for in the original grant. The UPOM Program was approved for second-year funding commencing August 15, 1976.

A recent decision has been made to commence formal evaluation of the Unlawful Possession of Marijuana Diversion Program. The overall plan is a two-by-two factorial design which will evaluate four (4) different combinations of the present screening/treatment modality combination. Eighty participants will be used. Implementation will be as follows:

(1) Upon receipt of UPOM referral from the County Attorney's Office, the secretary responsible for logging the cases in, will (using a table of random numbers) assign cases to one of the four groups used in this research design.

(2) Group A will follow normal intake procedures with normal counselor assignment and treatment methods.

(3) Group B will follow normal intake procedures but with no treatment program unless requested. At the end of six months, the client will return to the office and be successfully terminated unless a re-arrest has occurred.

(4) Group C will have a police records check but no intake interview. The Program will be explained including normal treatment methods.

(5) Group D will have a police check run but no intake or treatment requirements unless requested. At the end of six months, the client will return to the office to be successfully terminated unless a re-arrest has occurred.

Using results from the above design, future format of the UPOM Diversion Program will be established. It will be possible to objectively and accurately determine cost effective, efficient procedures from the UPOM Program to implement in the future.

CITY OF TUCSON ATTORNEY'S ADULT DIVERSION PROJECT

In June of 1975, the Tucson prosecutor's office submitted a one year grant proposal to ASJPA with the intent to divert approximately 200 misdemeanant defendants. The grant proposal requested two diversion counselors and one secretary to handle the misdemeanor caseload. In the grant proposal, the Tucson prsoecutor's office stated that the Pima County Attorney's Adult Diversion Project would staff and supervise the Misdemeanor Program via an inter-governmental agreement. On September 2, the ASJPA sanctioned a grant proposal and subsequently, the Adult Diversion Project established the City of Tucson's Misdemeanor Program. Second year funding began in September, 1976.

The prosecution has found that no significant change seems to occur as a result of typical punishment now levied for shoplifting and for petty theft. It is the hope of the Program that selected defendants might significantly alter their behavior pattern as a result of participation in the City Attorney Project.

During the one-and-a-half-years (1½) of the grant's operation, the Program has considered over 600 clients, far surpassing the figure originally stated in the grant. Of those 600, 193 cases have been successfully terminated.

It is felt presently, that the Program has:

(1) Reduced the trial load in the City Courts.

(2) Reduced the cost of processing the selected misdemeanants.

(3) Reduced the time spent in the court by law enforcement and victims (especially store security personnel).

(4) Reduced the cost of court-appointed attorneys.

(5) Given the City prosecutors a greater amount of time to prosecute more serious offenses.

(6) Re-educated and rehabilitated misdemeanants so as to allow them to become productive and responsible members of our society.

Two outstanding side effects have already grown directly from the Program. First, with a token restitution cost paid by any client arrested for shoplifting, Shoplifters Take Everyone's Money (S.T.E.M.) of Arizona has received over $3500.00 as of December, 1976. This has served to acquaint and educate the business community with the Program in a positive manner. Secondly, all participants have contributed to the community by giving a minimum of forty (40) hours of volunteer work in social service-type programs. This has totalled over 7,000 hours since the inception of the Program.

An evaluation of the Program will begin in January, 1977. The City of Tucson will be faced with a decision in fiscal 1977, whether to continue or discontinue this project as federal funds will be ending.

PIMA COUNTY ATTORNEY'S VICTIM-WITNESS ADVOCATE PROGRAM

The Criminal Division and the Diversion Project of the County Attorney's Office and the Tucson Police Department held several meetings in 1974 and 1975. After a concept paper dealing with the Program structure decided upon by the participants was sent to the Citizens' Initiative Division of LEAA's Office of Priority Programs, a grant proposal was prepared at their request. The grant proposed a comprehensive program designed to serve the victim-witness population in a number of ways:

1. Training law enforcement officers to identify and properly refer victims with problems resulting from a crime.

2. Providing severely traumatized victims and their family members with crisis intervention services on a 24-hour basis.

3. Training interested lay volunteers in crisis counseling and intervention techniques so that they could effectively assist professional staff.

4. Arousing community support for activities directed toward revealing the plight of victims and educating the public about the Criminal Justice System.

5. Providing needed research in the victim area and technical assistance to other jurisdictions attempting to deal with similar problems.

An evaluation of the Victim-Witness Advocate Program's first year of operation by Stanford Research Institute showed that these goals were largely met, and that the program has had impact on the national and State level as well as providing services to victims and witnesses in Pima County.

CHAPTER 3: 1976 CLIENT AND PROGRAM STATISTICS

* * * * *

IMPACT ON THE JUDICIAL SYSTEM

The importance of the ADP must be judged from several perspectives since the criminal justice system as a whole—and its judicial component in particular—are extremely complicated and dependent on many interrelated phenomenon. One measure of ADP's importance is the fact that nearly 15 percent of indicted felons are considered for acceptance and nearly 7 percent of all defendants were accepted. Since these persons are carefully screened to insure that they are guilty and have no previous record it is logical to assume that most of them would have received probation. In fact, several followup studies of those who were rejected shows this to be the case even for them. This short-circuiting of the normal judicial process serves several humanistic client-oriented purposes as well as several cost-related and system efficiency purposes.

The humanistic purposes of diversion are to avoid attaching to persons guilty of a felony—but who do not have serious personal or psychological problems—and whose previous behavior has not exhibited any propensity for anti-social or illegal acts—the legal, social and psychological consequences which attend the conviction of a felony.

The cost related and efficiency purposes of diversion are to decrease the handling involved in processing cases where the outcome is highly predictable and minimum corrective action necessary. This removes from crowded court prosecution and defense agencies those selected cases and allows more time and energy to be devoted to cases where the seriousness of the offense or other complicating factor, makes it necessary to invoke the fully panoply of the criminal justice system.

SUCCESSFUL—UNSUCCESSFUL TERMINATIONS

Since October, 1973, 750 (88 percent) persons have been successfully terminated from the Adult Diversion Project. During that same period of time, ninety-nine (12 percent) persons have been unsuccessfully terminated. Four (4 percent) percent of all cases accepted into the Program have been terminated for rearrest. The breakdown is:

Successful terminations	
Felony	387
UPOM	144
County misdemeanors	26
City misdemeanors	193
Unsuccessful terminations	
Felonies	61
Noncooperation	31
Rearrest	27
Voluntary	3
UPOM	11
Noncooperation	1
Rearrest	3
Voluntary	7
County misdemeanors	2
Noncooperation	1
Rearrest	
Voluntary	1
City misdemeanors	25
Noncooperation	12
Rearrest	6
Voluntary	7

The following are reasons for termination:

Noncooperation means that a client has not fulfilled these Diversion requirements: maintain contact with the office; make restitution payments; and follow through with a treatment;

Rearrest means that a person has been arrested for a misdemeanor or felony offense other than a parking or traffic offense except Driving While Intoxicated (DWI);

Voluntary means that a person feels that he/she would rather return to the court system than complete the Program;

A study is presently in progress comparing persons unsuccessfully terminated with those that were not accepted into the Program at intake. Also, to be reviewed, are the dispositions of cases sent back for prosecution after having been unsuccessfully terminated.

EXCEPTIONAL CASES

The criteria for Diversion acceptance has been carefully spelled out. Cases where extenuating circumstances exist have, on occasion, been referred for consideration in the Adult Diversion Project. This has only been done with approval by the County Attorney or one of the five trial supervisors in the criminal division.

From the beginning of the Program to December, 1976, there have been 59 cases on the felony or high misdemeanor level accepted into the Program in the category of exceptional cases.

FELONIES AS OF DECEMBER, 1976

Active, 24; Successful Terminations, 32; Unsuccessful Terminations, 3.

TYPES OF OFFENSES

Assault With a Deadly Weapon.
Carrying a Concealed Weapon.
Arson (1st, 2nd and 3rd Degree).
Aggravated Battery.
Exhibiting Deadly Weapon Not in Self Defense.
Aggravated Assault.
Rape (2nd Degree).
Statutory Rape.
Kidnap for Rape.
Indecent Exposure.
Molestation of a Child.
Armed Grand Theft.
Aggravated Battery While Armed.
Assault With a Deadly Weapon Not in Self Defense.
False imprisonment.
Grand Theft from a Person.
Armed Robbery.
Armed Burglary.
Aggravated Battery/Kidnap for Robbery.
Vehicular Manslaughter.

One can conclude that although the risk for rearrest would seem to be higher in the exceptional cases, these cases are maintaining a lower unsuccessful termination rate than the regular Diversion cases. Of the three unsuccessful terminations in the special category, none have been for rearrest. The County Attorney's Office is looking closely at these statistics to determine if there is sufficient reason to broaden the general admission criteria in any way.

We now turn to a brief report on two of the Adult Diversion Project's requirements for a client successfully completing his diversion program—restitution of losses to the victims of the crime committed and, completion of 40 hours of community service work by those accepted into the Program.

RESTITUTION

Restitution has been a highly successful part of the Adult Diversion Project. Clients who have caused damages or losses to victims have been obligated to repay those losses. No Diversion client has been successfully terminated until his/her restitution obligations have been fulfilled. The following are restitution figures compiled since October, 1973 through November, 1976.

Amount owed	$124, 513
Amount paid	70, 165
Amount outstanding	54, 348

COMMUNITY SERVICE WORK

Since the inception of the Adult Diversion Project, community service work has been part of a participant's program. It has only been in the last eighteen months that all Diversion clients are required to perform a minimum of 40 hours of volunteer work for the community. The figures indicate that 308 Adult Diversion clients have contributed 15,336 hours of volunteer services.

CHAPTER 4: ADULT DIVERSION RESEARCH EFFORTS

Since its inception, the Program has been concerned with organizing its data and conducting studies, and evaluating efforts for research and evaluation purposes. The Program has felt an obligation to the general public and to elected officials, as well as a professional obligation to open its operations to accepted evaluation and replication techniques. During 1976, the Program has continued its efforts for reasons of economy, however, only a short description of completed papers will be listed here—those persons who wish complete copies of any of the documents mentioned may obtain them by writing to the Adult Diversion Project's Office.

EXPLORATORY STUDIES

Studies in this group were designed either to open up an area new to the Program or to deal with data which could not be subjected to any detailed statistical analysis.

1. Victim-Defendant Relationships in an Adult Diverson Program:

The Adult Diversion Program (ADP) of the Pima County Attorney's Office is currently diverting between 6% and 8% of all indicted cases. Victim approval of the defendants in diversion has been a requirement from the inception of the ADP in 1973. Since less than 5% of victims indicate disapproval of the defendant being diverted, this paper initially deals with possible reasons for this low disapproval rate.

The ADP has also encouraged victim-defendant meetings where feelings could be ventilated, restitution negotiated, and defendants could be provided with an appropriate closure of their offense. Victims who participate in these meetings are given a before and after questionnaire which contains some questions related to their attitudes. The second half of the paper describes the victims and defendants who participated in such meetings (and were willing to fill out the forms) during 1976. Preliminary findings show that victims' punishment orientation diminishes after such meetings as does defendants' ability to depersonalize victims. (Presented at the National Conference on Criminal Justice Evaluation—Washington, D.C. 1977)

2. A Cost-Analysis of Adult Diversion and Average Superior Court Felony Case Costs:

In this study post arrest cost estimates for Adult Diversion and regular felony cases were made. A comparison of the differences shows that the average ADP cost per case was about one third of the average non-diverted felony case. An estimate of the cost savings shown to exist when a felony case was diverted was undertaken and parcelled out among the relevant county agencies. This analysis showed that both the per capita and percentage savings found were smallest for the County Attorney's Office because nearly all actual diversion costs were concentrated there.

3. Staff Knowledge of Why Clients Are Not Accepted Into the Program and What the Eventual Outcomes are in Felony Cases Rejected by the Diversion Program:

A University of Arizona student, under staff supervision, undertook the task of determining the outcome in all cases rejected by ADP from January 1, 1975 to June 30, 1975. The actual outcomes were then compared to various staff predictions in order to determine if ADP staff members knew what was occurring to these defendants after their rejection.

4. Perceived Staff Use of Time:

A survey asking staff members to define their use of work time and estimating the amount of time spent dealing with clients, other staff, other agencies, and completing required paperwork was conducted as part of the preparation for determining the advisability of using the CRMT Model.

5. Quarterly Caseload Reports:

A model form collecting demographic and program data on program clients was developed and used twice during 1976. The results of the data collection efforts are reported in Chapter 3.

EVALUATION STUDIES

The studies in this group were prepared so that the ADP management could evaluate the success or failure of various program components both for grants-management and for budgeting proposal purposes.

1. Recidivism in a Diversion Program for Persons Charged with Unlawful Possession of Marijuana (Misdemeanor):

The recidivism (re-arrest rate) for persons in an experimental (i.e., diverted) group and in a comparison (i.e., prosecuted) group were compared. The comparison group was selected prior to the beginning of the program using the same screening procedures used to select program participants. Because this was a non-random sample, the groups were compared with one another on a number of variables and no significant differences were found.

2. Recidivism in a Misdemeanor Diversion Program Conducted for The City of Tucson by the Pima County Attorney's Office:

This study concerns the City Diversion Program and follows essentially the same format as the UPOM Study listed above.

3. A Cost Analysis of UPOM Cases in The Pima County Justice Courts:

Determination of the cost differences between various case outcomes was conducted with the cooperation of the Justice Court Administrator. Striking cost differences between each Justice of the Peace Court were found although the relationship between the most expensive outcome (trial by jury) and the least expensive outcome (dismissal at the initial appearance) was constant across all courts studies. The handling of the diverted cases was found to be such that it was possibly more expensive to divert cases than to prosecute them.

4. A Second Stage UPOM Evaluation:

A simple two by two factorial design with random assignment to experimental groups is presently under way. This format is designed to determine the relationship between screening and treatment so that the most effective least expensive modality can be utilized.

5. An Evaluation of Human Service Agencies Requesting Funding from The City of Tucson:

A joint project with the Victim-Witness Advocate Program, this paper addresses the assessment by Criminal Justice System Agencies of Human Service Agencies. At the request of the Tucson City Council, a survey of local criminal agencies who referred clients to Human Service agencies was conducted and evaluated.

6. An Assessment of Recidivism Occurring Among Persons Who Completed a Felony Diversion Program in 1974:

The completion of complete police records checks on persons who completed their Diversion Program during 1974 showed little recidivism. These figures are compared with recividism rates in the general population, among convicted persons, persons placed on probation, and those committed to the Arizona Department of Corrections. The absence of a statistically sound comparison group does limit the importance of this data but even so, it represents the first evaluative effort in this area.

PROGRAM DEVELOPMENT STUDIES

Studies in this groups are designed to indicate the feasibility of and collect data in areas where the program may wish to concentrate its efforts, acquire new grants, or recommend new programs.

1. DWI Diversion.

The ADP is now considering the need for a program dealing with DWI cases. This paper proposes applying for Department of Transportation Alcohol Traffic Safety funds to run such an effort. An estimate of the seriousness, number and extent of problem drinker/drivers in Pima County is developed. A program outline with some preliminary budget estimates is also listed and some alternatives developed.

2. CRMT:

Before the adoption of the CRMT Model, some evaluation of the feasibility of CRMT, and a CRMT Model was developed by staff and management.

3. Felony Diversion Expansion:

Several alternative models with staffing recommendations were prepared for ADP and

county attorney management which discussed the feasibility of and extent to which expansion of the ADP Felony component is possible.

4. Maricopa County Diversion Program Technical Assistance:

Staff and ADP management has consulted with and assisted the Maricopa County Attorney's Office which was interested in implementing an Adult Diversion Program in their jurisdiction.

ADDITIONAL STATEMENTS

CANCELLATION OF THE B-1—A MISTAKE

Mr. HELMS. Mr. President, in my judgment the President's cancellation of the B-1 bomber is a serious mistake. Although the B-1 is undoubtedly an expensive aircraft, it is a completely new generation aircraft, replacing the 20-year-old B-52 which will soon be obsolete, and outperformed by the Soviets in the near future.

The United States has long patted itself on the back, proclaiming that the undoubted superiority of the Soviets in many, if not most, areas is a mere superiority of numbers, while the United States retains the edge in sophisticated technology It appears now that we are deliberately abandoning that sophisticated technology.

Of course, technology alone is not enough; a nation must have the will to survive and to maintain its liberty and independence. But a decision to abandon new technology and fall back on the technology of 10 or 20 years ago is itself a sign of the national will. It can only raise doubt in the minds of a potential enemy as to whether we will defend ourselves in a crisis.

The B-1 has capabilities superior to any bomber of its class; for all practical purposes, it is the only new major element in the U.S. strategic defense complex—the well-known "triad" of missile, air craft, and naval forces—that we have come up with in a decade.

Without a B-1, our deterrent force in the early 1980's will be in doubt. The B-1's low flight capability puts it under the radar screen—a capability which the B-52 lacks. The B-1's maneuverability, higher survivability factor, swing wing, improved avionics, air-to-surface missile equipment, and special electronic countermeasures make it an aircraft of the next generation.

Ironically, the high cost of re-fitting the B-52's—at a cost estimated to be 40 to 50 per cent of a B-1 fleet—is due in large part to the need to install new electronic equipment that was scheduled to be put on the B-1. If the B-52's are to remain the mainstay of our bomber force, they will need this refitting. Yet, after we have spent all the necessary money to refit the B-52's, we will still have an obsolescent airplane that is vulnerable to Soviet radar. Whereas the B-1 costs about $100 million per unit, retrofitting of the B-52's has been estimated at about $40 to $50 million per unit.

Undoubtedly, a new line of aircraft will be forced upon us anyway, if the future permits; thus the money spent on retrofitting the B-52's will have been wasted, at the same time reducing our security.

The argument that we don't need the B-1 since we have cruise missiles is irrelevant. The cruise missiles are not yet fully developed; and the B-1 was supposed to be the delivery vehicle that had the power to penetrate Soviet defenses to make the cruise missile feasible.

In fact, the B-1 would have given us the necessary lead time for filling in the gap in missile development. Our MX and our cruise missiles are no where near ready when compared to the new Soviet models such as the SS-18, the SS-19, and the SS-X-20. The B-1 would have given us an operating system to cover the gradual introduction of the Trident submarine, replacing the Polaris, which will reach the end of its useful life in the mid-80s.

Finally, Mr. President, the decision to drop the B-1 can only have a very bad effect on the SALT II negotiations. The B-1 is a major strategic system. The decision to abandon it amounts to a unilateral concession that will signal to the Soviets that there need be no Soviet concessions. The United States cannot enter into hard bargaining when the United States is in the middle of unilateral disarmament.

As a result of this decision, the President is making it difficult not only to get Soviet agreement on SALT, but to get Senate approval of any SALT agreement that may be reached. I am confident that the Senate will look upon any SALT agreement negotiated under these conditions with profound suspicion, and give it an extended scrutiny which the agreement may not be able to pass.

THE WEEKLY READER

Mr. TALMADGE. Mr. President, today's people are articulate and outspoken on many of the important issues which confront our Nation. They know what is going on in our country, and are well aware of decisions made at all levels of government. It is important for all of us to pay careful attention to their views and comments.

Today, President Carter is to meet with six student representatives from the Weekly Reader, a national scholastic newspaper with a readership of over 9 million. These young reporters, age 12–14, will interview the President on his views and policies over a full range of topics, including energy, crime, pollution, and unemployment. The results of their interviews will be reported to readers across the country in the Weekly Reader.

I am especially proud that a young Georgian was selected to participate in the meeting. She is Patricia Caldwell, a 12-year-old student at Ashford Park Elementary School in Chamblee, Ga. This outstanding young lady also represented the Weekly Reader in covering the President's inauguration in January.

I congratulate Patricia for her outstanding success as a student and reporter. I am encouraged to see young people who are concerned about the issues of the day and who actively participate in the decisionmaking process. I am confident that with the continued interest and concern of students such as Patricia and her fellow representatives, our country will face a bright future with wise and dedicated leaders.

THE ADMINISTRATION'S POSITION ON THE WAR POWERS RESOLUTION

Mr. McGOVERN. Mr. President, I rise today to express my serious concern that the Carter administration may be backing away from its previous acceptance of the war powers resolution.

Earlier, the administration indicated that it did not challenge the constitutionality of the resolution. During Secretary Vance's confirmation hearings before the Committee on Foreign Relations, he was asked by Senator JAVITS, "Do you or the new administration see any problem with the good-faith observance of that law?" Secretary Vance replied, "I do not." Senator JAVITS then asked, "Do you challenge it under the Constitution as to the President's power?" Secretary Vance responded, "No."

The President himself took essentially this same position. In his March 5 "telethon," he said that the war powers resolution—

> Is a reduction obviously in the authority that the President has had prior to the Vietnam War, but I think it is an appropriate reduction. My own attitude toward government is that I would never see our nation approach a time of war with any sort of predictability about it without discussing it thoroughly and letting the American people know what is going on.

Many of us who were involved in the debate on the Vietnam war and the war powers resolution were encouraged by these comments. Previous administrations had claimed broad power to commit the U.S. Armed Forces into hostilities without congressional consent. Relying on a divine-right-of-kings interpretation of the Commander-in-Chief clause, they usurped the war power vested by the Constitution in the Congress.

The response to that dangerous trend was the war powers resolution. Its premises are identical to those underpinning the Constitution: That except for emergency operations necessary to protect U.S. territory or its Armed Forces, U.S. military actions should be approved by the Congress.

Based on the administration's previous remarks, some of us concluded that at long last Congress and the executive branch saw eye to eye on this issue. It was with this in mind that Senator PERCY and I, as ranking member and chairman of the Subcommittee on International Operations, wrote to Secretary Vance on March 14 asking the administration to elaborate its views on the resolution. Because we assumed agreement on general principle, our goal was simply to insure that the executive branch clearly understood its responsibilities under the resolution, and to get that understanding in detail on the public record. Our questions and the Department's responses are as follows:

QUESTIONS AND ANSWERS

Please describe in detail—

(a) any constitutional objections the Administration may have to the War Powers Resolution:

The Department's Legal Adviser recently responded to a similar question from the Committee as follows:

The War Powers Resolution addresses certain difficulties arising from the respective constitutional responsibilities of the President and of the Congress in the sensitive area of use of the armed forces of the United States in hostilities. No legislation, of course, can alter constitutional powers, and the War Powers Resolution expressly disclaims any such intent.

The Resolution raises a few questions under the Constitution. For example, such questions are presented by Section 5(b), which the U.S. forces may be engaged in hostilities in the absence of a declaration of war, and by Section 5(c), which prescribes that U.S. forces be withdrawn from hostilities at any time that the Congress so directs by concurrent resolution. The issues involved are the compatibility of these provisions with the constitutional authority of the President as Commander-in-Chief, and the use of a concurrent resolution under Section 5 (c) to take action assertedly having the effect of law.

However, these questions would become real issues only in the event of a confrontation between the President and the Congress in a given case—an event which is not anticipated. The Department looks forward to an atmosphere of cooperation in the implementation of the War Powers Resolution so that confrontations may be avoided.

(b) the procedural mechanism in effect for ensuring full compliance with 1) the consultation requirements of Section 3 thereof, and 2) the reporting requirement of Section 4(a) thereof:

Section 3 of the Resolution requires that the President consult with the Congress "in every possible instance" before U.S. forces are introduced into hostilities or where imminent involvement is clearly indicated by the circumstances, and periodically thereafter until those conditions cease. Section 4(a) requires that the President make certain reports to the Congress within 48 hours of the introduction of U.S. forces into specified situations in the absence of a declaration of war. The President's responsibilities under these sections have not been delegated, so that the final decision as to whether consultation is possible and as to the manner in which consultations be undertaken or reports submitted rests with the President. We have, however, previously informed the Congress of standing arrangements between the Secretaries of State and Defense whereby the Legal Adviser of the State Department and the General Counsel of the Defense Department are jointly responsible for bringing to the attention of their respective Secretaries those situations where it would be appropriate for the latter to recommend to the President that a Section 4(a) report be submitted.

(c) in what specific situations the Administration believes that the President may introduce the armed forces into hostilities without approval by law or declaration of war. Please provide any suggestions that the Department may have for modifying the Resolution so as to ensure that its letter and intent may be carried out smoothly by the Executive Branch:

The only authority of the President as Commander-in-Chief to introduce troops into hostilities without approval by law or by declaration of war is that derived from the Constitution. Although the precise scope of that authority has never been fully delineated, there are situations in which the power of the President to employ the armed forces in the absence of a declaration of war or statutory authorization has been recognized. One example is the use of the armed forces to protect the lives of American nationals abroad in circumstances where their safety could not otherwise be ensured.

The Department does not at this time have any suggestions for modification of the War Powers Resolution. Procedurally, the Resolution seems to have been implemented in a positive manner in those few instances where it has come into play (all of which occurred during the prior Administration), and the Department looks forward to working with the Congress when future questions arise.

(d) whether study is being given to the feasibility of establishing a consultative procedure with the Congress in crisis situations:

We are actively considering ways in which mechanisms for consultations with the Congress might be improved.

Mr. President, for those who had hoped that the war powers question was essentially settled, this response was disconcerting. We all know that the resolution "raises a few questions under the Constitution"; it was the purpose of our letter to get the President's and Secretary Vance's reasons for having resolved those questions in the resolution's favor. My expectation was that the administration would respond to question (a) that it had no constitutional objection to the war powers resolution. But for the administration to state simply that the resolution raises constitutional questions—without indicating that it regards the resolution as constitutional—leads me to conclude that the administration questions its constitutionality.

This is regrettable, for it is reasonable to infer that the administration intends to act in accordance with that belief. Indeed, the administration virtually says as much when it states that the resolution was "implemented in a positive manner in those few instances in which it has come into play." Former President Ford—who now reveals that he never regarded the resolution as constitutional—may have thought that his administration implemented the resolution in a positive manner, but a number of us in Congress do not see it that way. Following the *Mayaguez* seizure, Senate Majority Leader Mike Mansfield said that he was "informed, not consulted"—as provided by the consultation requirement of section 3 of the resolution. Senator JAVITS, the chief Senate sponsor with Senator EAGLETON, stated his judgment that "advance consultation with the Congress by the President fell far short of the intentions of those who drafted" the resolution.

For my own part, as a cosponsor of the resolution, I can add that the four reports submitted by the Ford administration were cursory and uninformative, barely complying with the letter of the resolution and flouting its spirit. If this is how the new administration plans to implement the resolution, it is in for problems with the Congress.

While it is good to know that the administration looks forward to an atmosphere of cooperation, as we in Congress surely do, I am compelled to say that mere intent is not enough. Every recent administration has expressed its desire to avoid confrontation—through the Vietnam war, through the Cambodian invasion, through Watergate. We have heard the term "cooperation" used regularly over the last decade—along with "incursion," "protective reaction strike," and "executive privilege." I do not question the administration's good faith when it says that it does not expect the questions we posed to "become real issues." Neither do many of us in Congress—but we cannot as a result ignore them, just as we cannot assume that they are moot because over the next 4 years it is men of good will who could be called upon to answer them. If the administration refuses to adhere to its previous endorsement of the resolution, Congress must assume that, should a need to comply with the resolution ever arises, the President will not feel obliged to do so. If on the other hand the administration truly intends to conduct its military activities so as to avoid confrontation, then it will be operating within the limits set by the war powers resolution and it will not hesitate to endorse the resolution wholeheartedly.

The Committee on Foreign Relations has scheduled hearings on the War Powers Resolution on July 13, 14, and 15. Secretary Vance has been requested to testify, and I sincerely hope that such an endorsement is forthcoming. If the administration is ambivalent about the resolution, the time to resolve that ambivalence is now, not in the heat of crisis.

THE RURAL ELDERLY

Mr. CLARK. Mr. President, last August, I conducted hearings in Iowa, South Dakota, and Nebraska for the Senate Special Committee on Aging on the topic of "The Nation's Rural Elderly." Those hearings gave me a thorough understanding of the special problems that face older Americans who live in small towns and rural areas. I am pleased that the Aging Committee continued this effort with a hearing in Denver in March, and I hope further hearings on this subject can be arranged in other parts of the country.

Many of our Federal policies seem to be oriented more toward urban areas than rural areas, and this tendency is evident in programs affecting the elderly. Income maintenance programs, such as the supplemental security income program, do not adequately reach into small towns. Senior citizen housing—built with HUD section 202 funds—is concentrated in the urban centers of this Nation. The medicare program discriminates against the rural elderly, because it refuses to pay for services provided by rural health clinics in reas that lack physicians. And the key to the delivery of all services for the elderly—transportation—needs to be greatly expanded so that senior citizens in small towns have access to programs and services that other older Americans take for granted.

These deficiencies in Federal policies exist at a time when the elderly constitute an increasing proportion of the population in rural areas. While about 1 in 9 Americans are 65 years or older, the proportion in several rural Iowa counties is one in five.

A recent series of articles, appearing in the Des Moines d'ocese newspaper, The Catholic Mirror, described the problems of the rural elderly and the available programs to assist them. The

articles touch upon several areas of concern, including mandatory retirement, income security, attitudes toward the elderly, housing, health care, mental health, nutrition, and transportation. Because they will serve as a useful guide for senior citizens and for those concerned about their needs, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

POVERTY PLAGUES GROWING NUMBER OF RURAL ELDERLY

[From the Catholic Mirror, May 12, 1977]

(By Mary Jo Glanville)

Last fall an elderly Des Moines man shot and killed himself a few weeks after his wife had been accidentally electrocuted.

In Illinois an old man was found frozen to a bed in his unheated house after several days of bitterly cold weather.

Last winter a Texas couple was forced to get a divorce after 62 years of marriage because that was the only way the man could get welfare money to pay his wife's nursing home bills.

Loneliness, poverty and poor health are major problems for the elderly. Although newspapers often report the sensational tragedies, the daily circumstances of many elderly are also a tragedy. And as the percentage of persons over 65 increases, the plight of the elderly in the United States continues to worsen.

In February, Newsweek published a feature called, "The Graying of America." The article stated that in 1970 the median age of Americans was 28, in 1981 it will be 30 and by the year 2000 it will be 35. (Median age means half the people are above the age and half below it.)

A study released by the Census Bureau last spring, estimated that 17 percent of the population, or one out of six people, will be 65 or older by the year 2000. In 1976, 10.5 percent, or one out of 10, were 65 or older. Between 1960 and 1970, the 65-or-older population increased by 20-percent, while the population as a whole increased by only 13 percent, according to the report.

While Iowa's population has the second highest percentage of elderly in the country with 12.4 percent, counties in the Des Moines Diocese have even higher percentages. Wayne County leads the state with 21.9 percent of its population over 65.

Adair, Adams, Clarke, Decatur, Ringgold, Taylor and Union Counties (Area XIV) have an average of 18.3 percent elderly, according to research done by the Social Action Division of the Catholic Council for Social Concern in 1974–75. Natalie Reese, Social Action Director, and James Palozola, research consultant, conducted the study entitled, "Poverty and Aging in the Rural Areas of the Des Moines Diocese."

The shift to an older population means change is needed in America's economic and social institutions, as well as in attitudes themselves.

"The FIRST mistake we make with the elderly is treating them as a group, rather than as individuals," according to Reese. "Because of mandatory retirement at 65 a person is no longer considered useful or needed."

Mandatory retirement affects senior citizens and the way they see themselves. In an article in the "Gray Panthers" by Judith Martin of the Washington Post, a retired beautician was quoted as saying, "When the government puts you out of a job at the age of 55, because you're 'old', you're going to feel old."

"Old" often means a person becomes dependent on someone else For one thing, income drops dramatically. In addition, incomes of most elderly are unchangeable regardless of increases in housing, food and utility costs.

Social security is a main source of income for the elderly. However, as with other pension plans, the increasing elderly population is causing more people to collect and fewer people to contribute. At the current rate, Social Security Reserves will be exhausted in four years, according to the Newsweek article.

Many people who are on Social Security have trouble making ends meet. Reese described the situation of an 86-year-old woman who receives $78 a month. Her rent started at $55 a month and was raised to $80. She has been forced to supplement her income by sitting with sick people. It takes many hours of work, however, to pay for food, water and electricity.

Many elderly live on incomes below the poverty level. In 1975, Sr. Virginia Schwager, health affairs representative of the U.S. Catholic Conference (USCC), reported that with approximately 20 million senior citizens in the United States, between 18 and 20 percent live on incomes below the poverty level.

Information from the Iowa State Office of Economic Opportunity (OEO) also reveals this relationship between poverty and aging. For example, Wayne, Taylor and Decatur Counties have the highest percentage of elderly population and also have the greatest proportion of people with incomes less than the poverty level.

In Area XIV of the diocese, 36 percent of elderly live on fixed incomes below the poverty level, according to Reese's research. The per capita income in 1969 was $2,456 or $438 less than the state's per capita income. According to the OEO study, "Profile of Poverty," Decatur County had the lowest per capita income in 1970 at $1,982.

Problems of the elderly are compounded when they live in rural areas, which is the case in the Des Moines Diocese. In Area XIV, according to Reese's study, 77.5 percent of the population is rural. Iowa, as a whole is 42.8 percent rural.

Area XIV has only three towns with 2,500 people or more, and 60 percent of the people are scattered throughout towns having under 1,000 people.

Senior citizens living in rural communities are often isolated from doctors, grocery stores and social interaction. Unless they can provide their own means of transportation, it means loss of independence.

[From the Catholic Mirror, May 19, 1977]

A TIME OF LONELINESS—PREJUDICES IMPRISON THE ELDERLY

(By Mary Jo Glanville)

"Persons who are old, alone and poor are prisoners," according to Natalie Reese, director, Social Action Division, Catholic Council for Social Concern.

The elderly are trapped by their age. They live in a youth-oriented society where old age is synonymous with loss of income, status, dignity, firends and hope.

"What is old age?" or "Who is old?" are questions that should be asked, according to Don Bowman, a consultant in pre-retirement planning in Des Moines.

"Aging is always calendar-oriented, but if a number of years is an accurate perception of age. then we are doomed," he said.

People shouldn't be categorized because they are over 60 or 70 or 80.

"Older people are not a homogenerous group. In fact, they are more individualized than many other age groups," Bowman added.

While the elderly are diverse in their needs and abilities, stereotypes are common.

"Old people are senile."

"Old people can't learn."

"Old people are conservative, opposed to change."

"Old people are cantankerous."

"Old people are paranoid."

Explanations of these myths show that they aren't true for the entire over-60 population.

For example, some people say old people can't learn. In general terms, it takes longer for them to learn because the more experiences a person has the less willing he is to accept new experiences. If you can give an elderly person reasons to learn, persuade him to get involved, he can learn as much as the younger person, Bowman explained.

Other myths can be attributed to the elderly's status in society. For instance, Robert Butler, in his book, Why Survive?, explains that the old are sometimes labeled conservative because they don't vote in favor of school bonds for new schools or city improvement when in fact they may vote against such bonds because they can't afford increased taxes.

It is attitudes based on myths about the elderly that cause many of their problems.

Persons from 55 to 65 are required to retire. Job-training programs don't want the old, they're too hard to teach, besides employers won't hire them.

"During the cutbacks in employment, mass lay-offs, plant shutdowns and company relocations, the worker over 45 is less likely to find a new job than a younger worker," according to Butler.

Even if an older person can find a job, he can only make a limited amount of money, if he wishes to keep receiving Social Security checks.

The financial stress placed on the elderly affects where and how they live. According to Butler's book, the 1960 U.S. Census reported 30 percent of the elderly lived in dilapidated housing. And in 1972, six million elderly lived in substandard apartments or homes.

Poor housing isn't limited to large cities or heavily populated communities. According to statistics compiled by the Iowa State Office of Economic Opportunity (OEO) in 1973, slightly over 20 percent of the homes in Decatur County lacked some or all plumbing. Only two counties had higher percentages. Other counties in the Des Moines Diocese include: Ringgold, 19.8; Wayne, 17.2; Clarke, 15.7; Lucas, 15.7; and Taylor, 13.8.

Although the housing statistics weren't broken down according to age of homeowner, it is significant that Decatur, Wayne and Taylor Counties also lead the state in percentage of elderly population.

Because of fixed incomes, some elderly aren't able to repair or improve their homes, and sometimes can't pay increased electric, water or telephone bills.

Many of the senior citizens in this diocese live in small rural communities. At a time when they may want or need to see a doctor more often, they are often less able to do so.

The ratio of population to physicians in Iowa is 1,259 to one, according to OEO statistics. However, Mills County has the highest ratio with 3,863 people per doctor, and Ringgold and Adams Counties are fifth and sixth highest, respectively, with ratios of 3,186 and 3,161 to one.

Even in counties where the ratios are lower, some elderly have to travel 30 miles or more to see a doctor. Counties in the diocese and the number of physicians located in the counties are: Adams (2), Mills (3), Adair and Audubon (4) and Clarke (5).

At a hearing on "The Nation's Rural Elderly" conducted last year by Sen. Dick Clark, D-Iowa, in Winterset, the problem of transportation was brought up frequently. It is a major problem because food, health and medical care, church attendance, cultural activities, recreation and social contacts depend on the ability to get to them.

One witness testified, "I live alone on my farm. I'm very comfortable there. I have my flowers, garden and crops, but my eyesight is

poor so I can't drive. I feel like a nuisance imposing on friends to take me grocery shopping or to the dentist, doctor or lawyer."

Losing one's independence contributes to loneliness, boredom and frustration, which are the major psychological problems of the elderly, according to Bowman. These problems increase the vulnerability of the aged.

"Old people are gullible. When a salesman comes to the door, he gives them someone to visit with. He appears friendly, he acts interested. Afterwards the old person will admit, 'I knew I shouldn't have given him any money, but nobody else visits me.'" Bowman explained.

Statistics show that suicide rates increased with age. Twenty-five percent of all known suicides take place in the over-65 population (that is, among 10 percent of the nation's population), according to Butler.

[From the Catholic Mirror, May 26, 1977]

FEDERAL PROGRAMS PROVIDE HELP—ELDERLY SEEK BASIC, GOD-GIVEN RIGHTS

(By Mary Jo Glanville)

Senior citizens don't want to be coddled or ignored by a condescending and youth-infatuated society. They simply want to be treated like other human beings.

"We want to make the decisions that govern our lives. We want to be involved in life, which means we don't want to be put on a shelf. And, we want to be treated with dignity," Dr. Arthur S. Flemming, Commissioner of the Federal Office on the Aging, told the audience at a seminar on programs for the aged last summer.

A year ago the U.S. bishops issued a statement, "Society and the Aged: Toward Reconciliation." Explaining the elderly's rights, the bishops said, "The elderly do not forfeit their claim to basic human rights because they are old. But a brief look at the plight of many elderly people shows that they are in fact being denied those rights.

"The reconciliation we seek begins with recognition of our responsibilities to the elderly to insure their dignity and worth so they can enjoy their God-given rights."

Those basic rights, according to Pope John XXIII in his statement, "Peace on Earth," are "Every man has the right to life, to bodily integrity, and to the means which are suitable for the proper development of life; these are primarily food, clothing, shelter, rest, medical care, and finally the necessary social services.

"Therefore, a human being also has the right to security in cases of sickness, inability to work, widowhood, old age, unemployment, or in any other case in which he is deprived of the means of subsistence through no fault of his own."

A variety of programs are available for elderly in the Des Moines Diocese to help them meet their needs. For example, The Iowa Western Area XIII Agency on Aging, which is federally and state funded with local matching funds, serves senior citizens in Pottawattamie, Mills, Fremont, Page, Cass, Montgomery, Shelby and Harrison counties Nearly 34,800 persons within Area XIII are 60 years of age or over.

The Information and Referral Service is one of the programs offered by the Area XIII agency. Staffed by 125 volunteers, the service links senior citizens to existing services and seeks to develop new programs when needs aren't being met.

To increase the flow of information to the elderly, a column, "Project Info," published in 11 area newspapers, and a radio program, "Project Information," aired over three area stations, covered such topics as health care, disaster planning and crime prevention. Darlyne Frazeur, a staff person with the agency, supervises the programs.

The nutrition program, offered by the agency, includes meals, as well as an opportunity to visit with friends. In compliance with a federal mandate requiring some type of recreational or educational activity with the meals, the Area XIII agency subcontracts with Iowa Western Community College for coordinators to plan activity programs, according to Frazeur.

Catholic Social Service organizes the Handyperson Program, which is also funded by the Area XIII agency. Volunteers, from junior-high-school age to senior citizens, do minor home repairs and maintenance for the elderly, thus enabling many of them to retain their independent living situations.

Since transportation is a major concern in rural areas, the area agency purchased four mini-vans to provide access to health and nutrition services, social events and shopping for older residents.

Federal grant funds are used to purchase the mini-vans. In accepting a mini-van, the county must agree to provide full maintenance, operation and staff for a three-year period. After three years, the title and full ownership of the van reverts to the county, according to Frazeur.

Mini-transportation systems are very popular because they help the elderly retain their independence, according to testimony given at a hearing on the elderly, conducted by Sen. Dick Clark, D-Iowa, in Winterset last year.

One woman from Melcher, Iowa, reported, "We have so many wanting to go to Knoxville on Fridays, we have to make two trips."

Although the Area XIII agency has a variety of programs, they haven't been able to meet the demand for companion services, Frazeur said.

"Since more people are able to stay in their homes, they sometimes need someone to come live with them while they recuperate from an illness, but we just don't have the people to do it," she explained.

Such services may be expanded in the near future. On May 18, the Iowa Senate sent a bill calling for $1.6 million in additional nursing and homemaking services for low-income elderly to Gov. Robert Ray.

While there are a growing number of programs for senior citizens, Dr. Don Bowman believes problems won't be solved until people start preparing for their old age. Bowman is a consultant for preretirement planning in Des Moines.

"When we are working, our lives are highly structured. So, if we don't plan for retirement, we are left with time to feel lonely, bored and frustrated," he said.

Bowman suggests setting goals for retirement. For example, "If you like to organize things and want to get involved in civic activities, do so when you're young. You can't join a group when you turn 65 and expect everyone to stand up and listen."

Determine what your interests are and figure out ways to get involved with people and activities. Making new friends is important, because old friends are going to die, Bowman continued.

The key to a fulfilled retirement is to think positive, according to Bowman. Although some things are inevitable, for example, death of friends or a spouse, and loss of energy, each individual must make the most of his life.

In order to have a positive outlook, the elderly must feel needed and useful, which, in the long run, requires an attitudinal change by the young and old alike.

It won't be difficult, however, if society adopts Maggie Kuhn's description of old age. Kuhn, who is leader of the Gray Panthers, said, "Old age is not a disaster nor a disease. It's a time of fulfillment—a flowering of life."

THE HATCH ACT

Mr. THURMOND. Mr. President, I deeply regret the recent vote by the House of Representatives, to emasculate the Hatch Act. This law has served the country well since it was passed in 1939, and it is hard to understand what has prompted the current attack upon it. Since, however, the administration is leading this attack—and leading it effectively, as the House vote shows—the Hatch Act is clearly in danger. I sincerely hope that the Senate, figuratively speaking, will come to the rescue.

So do the editors of The State newspaper of Columbia, S.C. In a timely and cogently argued editorial from the issue of June 27, 1977, they point out the likely consequences of repeal of the Hatch Act—which, in effect, is what the President wants, and what the House has approved. These include the politicization of Federal workers as a group, and their manipulation and even coercion as individuals.

The editorial makes the further point—an excellent one, and one that has not received sufficient attention—that Federal workers, organized into a political pressure group 3,000,000 strong, would be able to accelerate the trend to bigger and more expressive government. That prospect, to me, is not just alarming, but terrifying.

The only respectable argument for modification of the Hatch Act is to the effect that, under its present provisions, Government workers are deprived of their rights as citizens. This is true only to a very limited extent. They can vote, they can contribute funds, they can speak out for the candidates of their choice. All they are really prevented from doing is running for office and campaigning.

It would be one thing if Federal workers were clamoring for these rights. Then the case for modification would deserve closer study. But the fact of the matter is that Federal workers are not concerned over this issue. They like the Hatch Act. A recent poll shows that 61 percent of nonunion Government workers, and 81 percent of those that do belong to unions, want to keep the Hatch Act the way it is.

Why is this? The answer is obvious. Government workers know that, in order to gain the freedom to run for office and to participate in partisan campaigns, they will have to give up the freedom to do their jobs without interference and harassment from activist leaders. The price is far, far too high.

These activist leaders are the only group that really stands to gain from repeal of the Hatch Act. Surely, the welfare of a few selfish politicians and union bosses is not to be valued above the best interests of the Nation. The Hatch Act must be preserved.

I would like my colleagues to read the editorial from The State to which I have referred. It may help those who are still undecided on the subject to make up their minds. It may even induce some of those who favor repeal—whether out of conviction or out of a desire to back the President—to rethink their positions. In any event, it presents the case for the Hatch Act in as clear and memorable a form as I know, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.) State, June 27, 1977]

HOPE FOR HATCH ACT NOW RESTS UPON SENATE

Unless the United States Senate reverses the June 7 action of the House of Representatives, Americans may see the vast federal bureaucracy transformed into a political mechanism capable of negating two-party politics and influencing the course of government.

This dire consequence is quite possible if the Senate goes along with the House in revising the Hatch Act so as to permit federal employes (and others paid with federal funds) to engage in partisan political activity.

Perhaps the word "engage" is misleading, for government workers now enjoy the rights of voting as they please, endorsing the candidates and causes of their choice, and contributing to campaigns. What they cannot do is run for office or play active roles in campaigning. Futhermore, they are rather effectively insulated by the Hatch Act from latent or overt pressure exerted by their superiors or by office-holders.

Unfortunately, President Carter, most (not all) of the Democrats in Congress, and organized labor are combining their forces in an effort to remove that insulation from almost three million federal workers. Once that is done, the next logical (although hardly laudable) step would be to convert that army of politically aware persons into a politically acitve group wedded to the Democratic party.

This is not to suggest that any such effort would be 100 per cent successful. Preservation of the secret ballot still would permit federal employes to *vote* as they please, and many might vote Republican or independent. But the mere fact that a Democratic administration is in power at the time would naturally give the Democrats inordinately strong leverage over the federal establishment. (The same results, in reverse, might be anticipated under a Republican administration.)

Another undesirable but likelihood consequence would be the probability of greater empire-building within the federal government. Once the bureaucracy is politicized, as would happen if the Hatch Act is gutted, then federal employes would enjoy considerably more power at the polls and could be expected, for the most part, to support those candidates who promise the continuation and growth of governmental programs.

It is not to the credit of South Carolina that all but two of the state's House delegation voted to liberalize the Hatch Act. Those two Reps. Floyd D. Spence of the Second District and James R. Mann of the Fourth. All others (Davis, Derrick, Holland, and Jenrette) sided with the Administration and with organized labor.

The exertion of raw pressure upon and by federal workers brought the Hatch Act into being back in 1939. But the rationale for its existence first was enunciated back in 1801 by President Thomas Jefferson, whose words still should be heeded:

"The President of the United States has seen with dissatisfaction officers of the general government taking on various occasions active parts in the elections of public functionaries, whether of the general or state governments . . . The right of any officer to give his vote at elections as a qualified citizen is not meant to be restrained, nor, however given, shall it have any effect to his prejudice; but it is expected that he will not attempt to influence the votes of others, nor take any part in the business of electioneering, that being deemed inconsistent with the spirit of the Constitution and his duties to it."

ALTERNATIVES IN LONG-TERM CARE FOR THE ELDERLY

Mr. CHILES. Mr. President, on June 15, the Committee on Aging completed 3 days of hearings, which I chaired, on "Health Care for Older Americans: The 'Alternatives' Issue."

The committee has watched the development of so-called alternatives to institutionalization for a number of years, and one reason we had these hearings is that I am afraid this development has not yet reached the dimensions and sophistication we had hoped to see by now. It has been 6 years since the 1971 White House Conference on Aging made establishment of a community-based spectrum of alternatives in long-term care a No. 1 priority for our Nation's elderly.

To begin these hearings, we gathered several persons from among those who have been laboring so long to develop a wide range of community options, to get their up-to-the-minute assessmen' of where we are, what we know, and what our next steps should be. Their testimony indicated that we have a long way to go, but we are more than ready to move ahead in a number of areas.

Another reason for having these hearings is our increased awareness of the real need for a range of long-term care options. The Congressional Budget Office recently issued a report which summed up the situation well. It estimated that 800,000 to 1,400,000 disabled persons of all age groups may receive no form of long-term care. At the same time, according to the report, there is evidence that 20 to 40 percent of our Nation's nursing home population could be cared for on less intensive levels if adequate community-based in-home care were available.

A third factor is simply one of timing. President Carter has often voiced his commitment to increasing the options for a better quality of life for our Nation's elderly, and this administration's commitment to reducing the costs of health care is well known. A major thrust in the development of less costly long-term care options within the community can help meet both these worthy goals.

The new director of the Health Care Financing Administration, Mr. Robert Derzon, readily acknowledged during the hearings, however, that the new HEW leadership has not yet adopted a clear focus or clear-cut positions on the complicated issues of alternatives in long-term care. He also readily acknowledged that although the Department had studied a great deal about alternatives, it had not systematically compiled its information in a way which would enable us to go on and make the necessary decisions to implement policy.

I think these hearings were highly successful in beginning to bring about that needed focus within the new administration. Mr. Derzon made a commitment to begin this process and offered to submit an action timetable to the committee. We welcome that commitment.

All of our witnesses during the first 2 days of hearings were unanimous in calling for totally different approaches to long-term care for the elderly.

They called for an end to the institutional and acute-care bias in long-term care and easier access to health care. The restrictions in our current methods of reimbursement under medicare and the bias toward more expensive acute care, whether or not it is appropriate for an individual's need, is evident when we realize that less than 1 percent of medicare and medicaid is expended for home health care and other in-home services.

This bias was perhaps best summed up by Mrs. Delores Wennlund, Public Health Nursing Program Supervisor, Florida State Department of Health and Rehabilitation Services:

Bias toward acute care permeates the health care system. This bias has sired regulatory controls that limit eligibility and funding for Medicare benefits. Many chronically ill persons require more than medical care . . . Federal regulations selected a series of medically-oriented tasks and observations, defined them as 'skilled' nursing care, and limited reimbursement eligibility to these tasks, thereby eliminating many preventive and maintenance services needed by the chronically ill. Judgments made by fiscal intermediaries fail to take into account extenuating circumstances that modify the level of care. For example, one patient who had eye surgery needed one drop of a rather potent medication instilled in each eye for an extensive period. The patient and her husband were both elderly, frail, and palsied. Neither one had the visual acuity or hand control needed to accomplish the treatment. Despite careful and repeated justifications, payments for visits were denied.

All witnesses put a high priority on the development of a managed, comprehensive system of long-term care in the community. They told us that management was the key and any design must manage people through the system according to differing levels of care needed. It must assure a broad assessment of level of care and service needed for each individual, and assure the availability of a wide array of alternative services in the community. In other words, we must find incentives to encourage the development of alternative services, to encourage meaningful assessment of the needs of the chronically ill patient by health professionals, and to encourage the medical and health system to use these services.

A number of witnesses felt that we now have the capability to assure this needed broad array of services, but there are too many obstacles standing in the way of their full development and utilization because of fragmentation in existing funding sources. A problem mentioned again and again by witnesses was the frustration experienced in trying to bring available reimbursement sources together to fashion the kind of "package" necessary to meet the needs of one patient in the most cost efficient and directly responsive way. It appears clear that we must move in the direction of developing nationwide home-care standards and reimbursement practices in all programs which are currently being utilized to provide long-term care services for the elderly. At a minimum, this

includes medicare, medicaid, and title XX of the Social Securty Act.

We had an opportunity during the hearings to examine an interesting experiment in Pennslyvania. The Berks County Office of the Aging, funded through the Older Americans Act and social service funds, is the central coordinating and contract agency for long-term care services. It provides a wide range of long-term care services on a contract basis with direct service agencies. Services available include personal assessment, health screening, counseling, adult day care, domiciliary care, skilled nursing, homemakers, home health aides, chore services, congregate meals and home-delivered meals, social and recreation services through a senior center, information and referral, legal services, and transportation. The elderly in the area can get service by entering the system through any one of the participating direct service agencies, but the Office of the Aging has overall, designated responsibility for monitoring the care received and moving the elderly person along through the long-term care system as needs change.

A proposal for demonstration of similar, locally based agencies has been advanced within the Department of Health, Education, and Welfare. I hope the administration will seriously consider the feasibility of large-scale capacity development in this area and work with Congress to develop appropriate legislative incentives for such an approach.

I believe we also need to develop supportive housing options, including congregate living arrangements and domiciliary care. We also need to look for ways to encourage small, private, nonprofit groups within a community to participate in the development of these options. As one authority put it: "We must think small on a large scale," and make it possible for community-based private, nonprofit agencies and organizations to develop small-scale, innovative programs. Currently there is not enough support and not enough meshing of program regulations from one part of the Federal bureaucracy to another to make this widely feasible.

At the same time, I believe we must examine and encourage new ways for our Nation's more able elderly to provide care to the more frail elderly. Again, as one witness, a New York City physician making house calls on the elderly, put it:

> Efforts should be made to utilize community talent and energy in providing supervised, trained, intelligent extra hands and heart in the home.

As we work to provide these incentives, and to mesh our major health and social service programs, we must address other problems.

Two witnesses spoke of the problems surfacing in their States as the restrictive home health provisions of medicare forced them to turn to title XX and medicare as funding sources without the benefit of clear guidelines for service standards or accountability.

Mr. President, at this point, I would like to insert in the RECORD a summary of reports received by the Committee on Aging on the extent of homemaker and chore services provided under title XX and medicaid through self-employed, or "individual providers." It appears that this kind of arrangement, in which an elderly person in need of help in the home receives money from the State to hire someone to help them, has emerged in areas where the availability of certified home health care agencies and homemaker/home health aide services is not enough to meet the need. I think you will see from this summary that the potential for abuse, both of our social service and health dollar and, more importantly, of the elderly we are trying to serve, could be great.

We have reports that a number of the State agencies who are administering these programs are struggling to build in some controls and standards, but I think this is a prime example of what happens when we do not meet our responsibility at the Federal level to develop clearly defined standards of in-home care across program lines and properly manage our long-term care system.

TITLE XX AND MEDICAID "INDIVIDUAL PROVIDERS"

Summary of reports to Committee on Aging:

In most States, both title XX and medicaid are utilized to some extent to provide in-home services—mostly chore and homemaker—to the elderly.

In 26 of 50 States and the District of Columbia, title XX funds are meeting at least part of this need through self-employed, or individual providers. These service providers receive compensation either directly from the State title XX agency or from their own client who is directly reimbursed by the State. Similar arrangements exist in some States under medicaid funding.

Of a group of 14 States which use individual providers, only one prohibited direct reimbursement for family members as the service provider; although many States have an official screening process which allows family-member reimbursement only when that family member would be employed elsewhere if he were not caring for the elderly relative.

There are no Federal standards for such services provided under title XX. In many States, there are no State standards and no training is offered to these individual providers. Nor are they supervised.

Without supervising agencies, there is no supervision of the care given other than that provided by the elderly client himself.

Some States view the program not only as a service for the disabled, but as an income maintenance program for providers.

There are often no legal or administrative protections for either the individual provider or the "patient."

Providers are often paid minimally and do not receive social security benefits or other employment benefits. Taxes are often not deducted from pay.

In some States, two-party checks are sent to the elderly employer for endorsement and delivery to the provider. There are often delays in processing, lost checks, and changes in provider which leave the provider without pay—or the elderly client without help.

Another result of our reluctance to officially define social services within the realm of long-term care options and our lack of managmeent has been the proliferation of medicare-only home health agencies, and the rise of for-profit home health agencies at the expense of private, nonprofit organizations.

According to Mrs. Wennlund's testimony at the hearing, there were nine public or voluntary home health care agencies in Florida for each private one in 1970. Today that ratio is reversed, with nine private agencies for each public or voluntary one. One health systems agency in south Florida reported that the private, for-profit agencies made twice the number of visits at twice the fee for visit, thereby costing four times that of the local visiting nurse association. Mrs. Wennlund reported that the rise in the number of private agencies which accept medicare only, coupled with the rigid interpetation of skilled care in medicare regulations, has resulted in a steady decrease in the percent of caseloads eligible for medicare reimbursement of the visiting nurse associations and county health departments and a rise in the percent of nonreimbursed visits. The number of accredited public and voluntary agencies is falling as they no longer receive medicare payment for skilled nursing and cannot find adequate funding sources for their other preventive and maintenance nursing services.

Mr. Derzon indicated during the hearing that he is also concerned about these problems. I was glad to hear that he will undertake a thorough examination of medicare and medicaid reimbursement practices.

We have learned a lot during these 6 years since the 1971 White House Conference on Aging, and I believe it is time we took much more positive and aggressive action to put our knowledge into practice.

There is still information coming, most notably in the area of devising ways to effectively measure the comparative costs of the range of alternatives in long-term care. It appears clear, however, that we are ready to move in many areas, and I do not believe we should wait any longer.

The Committee on Aging will shortly be issuing a comprehensive report on alternatives in long-term care for the elderly with recommendations for action by the Senate and the administration. I hope that good use will be made of it.

COMPREHENSIVE BAN ON NUCLEAR TESTS

Mr. McCLURE. Mr. President, for the past few years, there has been considerable discussion in this body about the wisdom of adopting a comprehensive ban on underground nuclear tests between the United States and the Soviet Union. Many have thought this step would be a logical extension of the "Threshold Test Ban" Treaty negotiated, but not ratified

with the Soviet Union. This agreement prohibits nuclear detonations with a yield in excess of 150 kilotons of TNT.

In an effort to examine the technical issues raised by a proposal for a comprehensive test ban—(CTB)—my colleague in the House of Representatives, JACK KEMP, has corresponded with the Directors of the Nation's two nuclear weapon design laboratories, Dr. Harold Agnew of the Los Alamos Scientific Laboratory, and Dr. Roger Batzel of the Lawrence Livermore Laboratory in California. Drs. Agnew and Batzel have the responsibility for the design of the nuclear components of all nuclear weapons in the Nation's arsenal. As a consequence, they are in a unique position to comment authoritatively on the effects a comprehensive test ban may have on our national defense posture in the coming years.

I ask unanimous consent that the text of the correspondence between the laboratory directors and Representative KEMP be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 29, 1977.

Dr. HAROLD AGNEW,
Director, Los Alamos Scientific Laboratory, University of California, Los Alamos, N. Mex.

Dr. ROGER BATZEL,
Director, Lawrence Livermore Laboratory, University of California, Livermore, Calif.

DEAR DRS. AGNEW AND BATZEL: There has been considerable recent discussion in the Congress about the subject of negotiating a comprehensive ban on nuclear weapons testing and/or nuclear explosions for any purpose. There are a number of important technical issues which require explanation and resolution prior to congressional evaluation of such test-ban proposals. As the nation's senior scientific officials with responsibility for our nuclear weapon development program, your views on these issues must be solicited.

(1) Is a comprehensive ban on underground nuclear explosions now verifiable by national technical means?

(2) If nuclear explosions cannot be detected and identified below some level of nuclear yield, what will be the military significance if the Soviet Union continues to conduct nuclear explosions that cannot be detected and identified?

(3) If the United States does not conduct any nuclear explosions of any yield, under the terms of a comprehensive test ban, what will the implications be for:

(a) Our national technology base? Could we preserve necessary scientific and engineering personnel with experience adequate to continue research in this field without testing?

(b) Our weapons stockpile? Can we preserve the ability of the United States to maintain confidence that existing weapons will operate properly if circumstances require their employment? Could we solve potential future stockpile problems without testing? Without testing, what alternatives would we have should stockpile problems develop? Could an aging stockpile confidently be rebuilt or replaced without testing? Would non-nuclear testing alone suffice in all cases?

(c) The stability of the deterrent balance? What is the result if the Soviets continue nuclear explosions below our capability to detect and identify them while the United States totally abstains from testing?

(4) If the Soviet Union were to conduct peaceful nuclear explosions (PNEs) while the United States abstained from any nuclear explosions, would it be possible for the Soviets to maintain a viable nuclear explosives technology base? Would this be sufficient to maintain and perhaps to improve the military effectiveness of their nuclear forces, at the theater or strategic level or both?

(5) To what extent has low-yield testing in the past been a factor in the development or maintenance of stockpile of weapons in the United States? Could testing at levels below the verification threshold be significant or critical in the future?

(6) Although this question is less narrowly technical than those posed above, I would be grateful for any observations you may care to offer as to the extent you believe that further limitations on testing should be linked to meaningful results in arms-limitation negotiations, specifically, the Strategic Arms Limitation Talks and the discussions on Mutual and Balanced Force Reductions, as well as other efforts to redress the Soviet-American military balance in the non-nuclear arena?

Sincerely,

JACK F. KEMP,
Member of Congress.

LOS ALAMOS SCIENTIFIC LABORATORY,
LOS ALAMOS, NEW MEX., *April 19, 1977.*

Hon. JACK F. KEMP,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KEMP: In response to your letter of March 29, 1977, and the specific questions which you raised, I have the following comments.

(1) I do not believe that a comprehensive ban on underground nuclear explosions is now verifiable by national technical means. However, I believe a threshold ban at a yield about five to ten kilotons in hard rock is verifiable unless deliberate evasion techniques are used. With low yields the probability of detection by national technical means becomes more and more unlikely. Higher yields, of course, could be tested in media having lower seismic coupling efficiency than hard rock.

(2) The military significance to either the USSR or the USA of conducting clandestine tests below five or ten kilotons is per se of relatively little importance today. More important are the long term implications of such activity which might be conducted by the USSR but not by the USA; such activity would enable the USSR to maintain a viable nuclear weapons design capability. I do not believe the USA can maintain a nuclear weapons design capability for more than a few years if nuclear device testing is not allowed.

(3) a. As mentioned in (2), I do not believe we can maintain a technology base or the necessary cadre of first-class scientists and engineers to enable the USA to have a nuclear weapons design capability for more than a few years if testing ceases.

b. I expect that with ample money, no restrictions on materials, and adequate non-nuclear testing the stockpile could be maintained as is for a period of at least ten years. However, stockpile problems do arise, as they have in the past, and in time there may be no experienced personnel available to assess the severity of the problems or with a background adequate to provide a fix if one is indeed possible. In addition, there are examples in the past where the fix has required nuclear testing.

c. Clearly, if the Soviets are in a position to test or equally important are able to maintain a cadre of trained personnel because of their planned society, they can assess potential problems and deal with them in a professional manner. This will assure to them a level of confidence in their nuclear forces that will eventually be denied to the U.S. if we were to lose our design capability.

(4) Again, the ability to test will enable us to maintain a weapon design capability. I don't believe testing below say five or ten kilotons can do much to improve (as compared to maintaining) strategic posture, but clearly it can provide improvements at the theatre level, where yields of less than five kilotons are important. Being able to test up to a few kilotons allows a dynamic program for maintenance and development of theatre nuclear forces. Also, if there is no restriction on PNE development or testing, then both a viable strategic and theatre nuclear weapons research and development program can be maintained.

(5) Tests at five kilotons and below have played a very important role in our past program, particularly in the realm of nuclear weapon safety and stockpile fixes. To me, the most significant aspect of continuing to test is the ability to maintain the nuclear weapon design and development capability on which much of our defense posture is now based.

(6) Unless really meaningful reductions are agreed to by the USSR both in nuclear delivery systems and in conventional forces, I would oppose any further restrictions on nuclear testing. So far, we have been able to counter the Soviet quantitative advantage in both nuclear and conventional weapon systems through our qualitative advantages. However, as Custer found out, there comes a time when there is no substitute for quantitative advantage.

I believe it is to our mutual advantage for both the USSR and the USA to agree to meaningful reductions in our nuclear and conventional forces. However, if such agreements are not forthcoming then I believe any restrictions on nuclear testing—even the proposed 150 KT TTB—will be to our disadvantage.

I trust that your colleagues in the Congress will appreciate that what is at issue is whether or not they wish the USA to maintain a viable nuclear weapons design capability and a nuclear weapon stockpile that is reliable. Clearly, if through SALT and a significant reduction in conventional forces we have no need for a nuclear stockpile or a nuclear design capability, then there will be no need for testing. But to me a limitation on testing without a real SALT and MBFR agreement would eventually be disastrous for the free world.

In a nutshell, if the USA wishes to have a nuclear weapon design capability and a reliable stockpile, then it must be able to conduct nuclear tests. If this capability is not desired, then forbid nuclear weapon testing with the understanding that a similar loss of capability may not be imposed on the Soviet Union.

Sincerely,

H. M. AGNEW,
Director.

LAWRENCE LIVERMORE LABORATORY,
April 11, 1977.

Hon. JACK F. KEMP,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KEMP: Thank you for your letter of March 29. The issues you raise concerning the comprehensive nuclear test ban are indeed of major importance. I will attempt to address them briefly in this letter. A great deal more can be said about each one of them, however, and I would be happy to provide more information on any of them.

(1) A comprehensive ban on underground nuclear explosions is now verifiable by national technical means for explosions with a yield of a few kilotons or more, if these explosions are carried out according to normal Soviet practices; that is, without any attempt at evasion and in rock hard geological formation. If the tests are carried out in a more absorbing geological formation, nuclear ex-

plosions cannot be detected and identified below ten to twenty kilotons. Appropriate geological formations are considered to be available to the Soviets for these yields.

The foregoing estimates are based on the best worldwide teleseismic methods. If the Soviets allow the use of seismic stations of our own design and at our own choice of emplacement in their country, the detection and identification level probably could be about one or two kilotons no matter what the geological formation in which the shot was carried out.

Non seismic means of verification, whether national or on-site, increase the costs and risks of cheating, but cannot give a high confidence of detection and identification.

Various evasion schemes, such as shooting in a natural earthquake or in a large pre-excavated hole, can make an occasional fairly large explosion (up to tens of kilotons) very hard to detect and identify. Such evasion: A somewhat more extensive discussion of them and of verification in general is enclosed.

(2) A program consisting of nuclear explosions with yields in the kiloton range, augmented with an occasional explosion with a yield of tens of kilotons, would allow the Soviet Union to fix many potential problems associated with stockpile aging, safety of handling, and vulnerability, as well as to make some limited adjustments in dimension and in the amount of special nuclear material used in each weapon. It would permit them also to maintain a variety of essential skills among the scientists and engineers working on nuclear weapons. Such a program would also permit the development of low yield weapons for battlefield use, naval defense use and close-in ABM. It would *not* permit them to design new strategic weapons or new tactical weapons above a few tens of kilotons. Nor could they carry out overall vulnerability tests of large structures such as missile silos.

(3) If the U.S. does not conduct any nuclear explosions of any yield, under the terms of a CTB:

(a) Our national technology base in the nuclear explosion area will decay within a few years, both because the most skillful people, especially the younger ones, will leave, and because the ones who are left will not be able to keep learning by experiment what they can and cannot do in nuclear explosives. It has been the universal experience also, so far as I know, that practitioners in any technical field who are not regularly faced with experimental results are unable to maintain any level of competence. In fact, they eventually become unable to recognize that they are becoming incompetent.

(b) It would be very difficult to maintain confidence that existing weapons would operate properly if circumstances required their employment. In theory, of course, as deterioration is observed in a deployed weapon (and in the course of a decade or two, deterioration of key components inevitably occurs) the weapon could be rebuilt exactly as it was built in the first place. In practice, changes are always made. These changes are dictated by such apparently trivial causes as unavailability of the old materials, more stringent requirements for safety, major economies to be effected in the systems by apparently minor modifications, and generally speaking, the pressure associated with maintaining a large scale nuclear weapon deployment under stringent budget restrictions and in an environment where the technologies that affect the performance of the system as a whole are constantly changing.

At present, minor changes are made in nuclear weapon systems sometimes with the help of nuclear test, sometimes without. When they are made without nuclear test, they are evaluated by groups of scientists and engineers who are constantly immersed in an on-going nuclear test program affecting items closely related to the one being changed. The judgment that a test is not required in order to effect the change can, therefore, be made with considerable confidence. Without tests, in my view, there would be no basis for such confidence.

In several cases in the past a nuclear test was needed solely to fix a stockpile problem. Many more cases would have occurred were it not for the fact that we have normally replaced existing nuclear weapon systems with new ones well before the nuclear warhead reached that age when it would begin to undergo significant deterioration.

Non-nuclear testing is, of course, very helpful. However, it is limited in its scope. Many of the changes which are made in nuclear warheads cannot be evaluated on the basis of non-nuclear testing.

The above is a brief summary of a very complex subject. I would be pleased to go into the necessarily clasified details of our history in this regard and into the detailed basis of my concern at any time you think appropriate.

(c) With regard to the stability of the deterrent balance, in the event the Soviets continue nuclear explosions below our capability to detect and identify them while the U.S. totally abstains from tests I find it very difficult to state a clear-cut conclusion. So many factors affect the stability of the deterrent balance, including historical accidents which no one can possibly foresee, that an assessment of its stability under these circumstances would necessarily be guesswork. All I can say is that we will be taking a chance of unknowable magnitude with regard to our nuclear capability. Such a chance might or might not turn out to be important, depending on what else happens.

(4) If the Soviets were to conduct peaceful nuclear explosions while the U.S. abstains from any nuclear explosions (PNEs), it would certainly be possible for them to maintain a viable nuclear explosives technology base. The design and improvement of explosives for PNEs taxes all of the capabilities necessary for designing and building nuclear weapons. Further, in many applications, it would be impossible to determine whether a special purpose explosive, useful only for PNEs, or a military weapon of appropriate yield had been used. Such is the case in particular for the so-called contained PNEs, in which all of the radioactivity remains underground, so that detailed diagnosis of the device design is impossible. The Soviet Union has several applications programs which utilize fully contained explosions: putting out gas well fires, creating storage cavities, etc.

As a result, a PNE program would be an excellent and detection-proof cover for carrying out a valuable military program aimed at maintaining nuclear forces and improving such things as nuclear material use, military effectiveness, etc. The program would be limited in that weapons with yields large compared to the yields appropriate to the peaceful applications could not be developed. The development of radically new weapons requiring extensive testing might also be limited, depending upon the limitations placed on testing new devices for PNE use.

(5) Low yield testing, that is from one kiloton to a few tens of kilotons, has in the past been a major factor in the development and maintenance of nuclear weapons in the U.S. We can provide you on a classified basis a graph showing how many weapons have been fired and at what yields. Testing at levels below the verification threshhold would certainly be significant and might be critical to our future capability.

(6) With regard to your last question, the existing limitations on testing associated with the Threshold Test Ban Treaty already foreclose some options, especially for new ballistic and cruise missile systems, which the country may have wished to pursue in its response to the Soviet build-up. Further limitations, and in particular, a drastic lowering of the yield threshhold would seriously limit our ability to deploy new nuclear weapon systems. It seems to me that we should not accept further limitations until it is clear what meaningful arms control measures can be obtained in negotiations with the Soviet Union, and what the scope and capability of their on-going deployment will be.

Sincerely,

ROGER E. BATZEL,
Director.

Enclosure.

EXHIBIT A

VERIFICATION OF A COMPREHENSIVE TEST BAN

A. INTRODUCTION

This paper explores the problems of verification of a comprehensive test ban (CTB). Several modes of evasion are discussed as well as means which might help in their deterrence. The weapons significance of evasive testing is explained.

B. VERIFICATION ASPECTS

Verification of adherence by another party to a CTBT can be attempted through three modes: national technical means, in-country monitoring systems, and on-site inspection.

1. National Technical Means

A. *Seismic*—Although a number of sources of data are available to the U.S. government through national technical means, the primary resource for monitoring nuclear testing activities in the Soviet Union is the Atomic Energy Detection System (AEDS) which consists of a number of seismic stations located around the world. This network of stations is designed to provide high quality data on events in the Soviet Union. Its capability for detecting, locating *and* identifying nuclear explosions in the USSR is generally regarded as adequate for events of magnitudes down to 4.0 or 4.5. This magnitude corresponds to a few to ten kilotons fired in hard rock. Tests of less than a kiloton in hard rock are likely to go undetected. Important limitations to the teleseismic verification capability exist, however, if explosions in other environments or configurations are considered, and are taken up next.

(1) *Low-Coupling Media.*—U.S. experience has shown that the teleseismic signal produced by a nuclear explosion is strongly affected by the geophysical properties of the surrounding environment. Specifically, the yield estimated from the teleseismic signals produced by nuclear explosion fired in dry, low density medium is reduced by more than a factor of 10 over that produced by a nuclear explosion fired in hard rock or below the water table. Although it is believed that there are no regions in the Soviet Union where such dry, low density media exist with sufficient depth for complete containment of a nuclear explosion with a yield exceeding the TTBT yield limit of 150 kilotons, many areas exist where smaller explosions could be fired. Such areas could be used to hide explosions smaller than 10 or 20 kilotons from teleseismic detection.

(2) *Decoupling Cavities.*—A nuclear explosion inside a large air-filled cavity is "decoupled" from the surrounding rock. Reductions in the teleseismic signal of a factor of 10 to 100 can be realized by this method. Cavities large enough to effect such reductions can be built most easily in massive salt formations. A number of Soviet peaceful nuclear explosions are known to have been fired in such formations and to have produced large standing cavities. Such cavities can also

be built by leaching or by mining. Practical problems will limit the size of cavities; hence the yield that can be decoupled in this manner is believed to be limited to about 50 kilotons.

(3) *Earthquake Simulation.*—By firing a group of nuclear explosions, appropriately located and timed, it is possible to produce a seismic signal that has many of the characteristics of an earthquake. By doing this in an area where earthquakes of similar magnitude frequently occur, it may be possible to test a nuclear explosive with a yield as large as 50 or perhaps 100 kilotons once a year or so. Such a technique has not been completely analyzed or tested as yet, and some argue that broadband recording and detailed analysis of the seismic signal will reveal the multiple explosion sources. However, detailed analysis of all seismic events of appropriate magnitudes occurring in the Soviet Union would present an enormous task. Since explosive failure might seriously alter the synthetic seismic signal and make it less earthquake-like, this technique would presumably only be used for tests in which there was high confidence that most explosives would give significant yield.

(4) *Hiding in an Earthquake.*—By firing a clandestine weapons test shortly after a very large earthquake occurs somewhere in the world, the tremors from the earthquake can be used to mask the seismic signals from the explosion. Explosions as large as 50 to 100 kilotons might be tested by this technique once a year or two depending on the frequency of sufficiently large earthquakes. It would require maintaining the nuclear test in a readiness status for perhaps many months and then firing within a minute or less of when the earthquake signals arrive. This would present no significant technical or operational difficulty.

B. *Non-Seismic.*—Other national technical means would be used in addition to the AEDS to detect evidence of attempts at evasion. Non-seismic national technical means of verification can be discussed explicitly only in a classified paper. They are hampered by the enormous area which must be monitored if the Soviet tests are carried out away from their normal location. They could, however, provide added deterrence to evasion or raise its cost.

2. In-Country Monitoring System

In an effort to improve the detection and identification capability of the AEDS seismic network, it has been suggested that a network of unmanned seismic observatories (USOs) be installed and operated on continuing basis in the Soviet Union (and the USA). These stations would have to be tamper-proof or tamper-detecting. If high-quality signals were obtained, they would serve to improve detection and identification capability as well as the ability to localize suspicious seismic events. It is believed that a network of 15–20 stations (assuming the Soviet Union would allow the U.S. adequate flexibility in location instrumentation, etc. . . .) could reduce our seismic detection, location and identification threshold by as much as a yield factor of 5–10 but probably not to a level much below one kiloton. The capability of such a system against evasion techniques discussed has not been evaluated.

3. On-Site Inspection

For many years the USA has required, as a basic element in any CTBT formulation, the right to make a number of inspection visits a year in order to confirm or deny a suspicious event detected by some other means. A variety of techniques has been suggested for use by the inspection team, including gas sampling of the air and soil, core drilling to obtain melt samples, and seismic listening for aftershocks. Such inspection rights would offer the only means of obtaining unambiguous evidence of a violation that could be used in the public domain. Unfortunately, the hope of finding evidence of a suspected event somewhere within a seismically-located area of a few thousand square kilometers is rather small, based on presently-conceived inspection techniques. Therefore, information from other national means is important in pinpointing the area to be searched. Given such information, on-site inspections can increase the price of evasion and will enhance deterrence.

C. VERIFICATION OF A PNE ACCOMMODATION

If a CTBT contains provision for accommodating peaceful nuclear explosions (PNEs), major additional questions regarding verification are raised. Assurances would have to provide that (1) the explosive used for the PNE does not provide weapons design information, (2) there have not been clandestine collateral explosions in conjunction with the PNE which were seismically hidden by the PNE, and (3) no weapons effects information has been obtained by the state carrying out the PNE. Although several procedures have been suggested over the years for accommodating PNEs to a CTBT, none of those which appear practical would provide any significant reassurance with regard to the above concerns.

In particular, any PNE conducted a CTBT provides some information of use to the design, adaptation or maintenance of weapons, and also serves to preserve some degree of technical and scientific competence in nuclear weapons technology.

D. BENEFITS FROM EVASION

Perhaps the most important national security concern relating to a CTB is the possible erosion of the reliability of the strategic nuclear weapon deterrent force. Nuclear weapons are typically constructed of materials whose chemical stability provides an ultimate limit on their lifetime. Exact rebuilds of deteriorated weapons may not be possible because of unavailability of materials, changes in health and safety regulations or a desire to make improvements in the weapon. Because of such modifications, or other reasons, the reliability of stockpiled weapons could be in doubt. One or a few nuclear tests of the whole weapon or some of its parts could verify its proper functioning.

Depending on its complexity, a new weapon system could be developed and weaponized with from one to a half dozen tests. One test could give crucial information on weapons effects or some suspected vulnerability

It is important to note that many weapons in our current stockpile, or those we may want to stockpile in the future, have yields or can be usefully tested at yields below ten or even one kiloton. It is reasonable to assume that the Russians are in a similar situation.

In conclusion, any testing can help maintain weapon competence and laboratory viability. One or a few tests can be utilized to develop new weapons. One test could be crucial for assuring the reliability of the strategic deterrent.

E. CONCLUSION

In summary, under a CTBT that provided for no in-country monitoring system, it is believed the Soviet Union could carry out a number of low-yield (5–10 kilotons) nuclear tests per year with only a small risk of detection by the United States using national technical (seismic) means. Tests of larger yields, up to 50–100 kilotons, might be carried out on a more infrequent basis using decoupling cavities, simulation of earthquakes, or by hiding in a large earthquake. Inclusion of in-country seismic stations could lower the above detection and identification threshold. Inclusion of on-site inspection rights are essential to provide solid evidence of suspected violations. These seismic techniques and on-site inspection must be used in conjunction with other national means. Inclusion of a PNE accommodation opens significant new evasion possibilities to a CTBT.

Any evasion would be expected to provide weapon benefits to the evader. It is quite conceivable that benefits from very limited testing could assure the reliability of weapon systems vital to strategic deterrence.

APPENDIX. VERIFICATION OF THE THRESHOLD TEST BAN TREATY

The Threshold Test Ban Treaty (TTBT) provides for verification of the 150 kiloton test limit by national technical means (NTM) supplemented by an exchange of certain geophysical and calibration data. The principal NTM is, in this case, teleseismic monitoring. It is believed that by this method, accuracies of a factor of two either way in yield can be achieved without putting reliance on the validity of the exchanged data. A caveat to this factor of two accuracy is that regional geophysical variations may have biased the present estimates by an as yet undetermined amount. Work is going on towards understanding the regional bias effect. Its effect may or may not be outside of the factor of two yield uncertainty. As time progresses, and experience is gained with TTBT verification, accuracies of a factor of 1.5 may be anticipated.

Peaceful nuclear explosions, as provided for in the Peaceful Nuclear Explosions Treaty (PNET), are limited to the same 150 kiloton individual yield threshold as are weapons test. The PNET has provisions (data exchanges, on-site verification and special local instrumentation) that allows measurement of the explosive yield at least as accurately as yield can be determined teleseismically from weapons testing allowed under the TTBT. Therefore, PNE's under the conditions of the TTBT and PNET cannot provide weapons benefits not otherwise legally obtainable.

If the TTBT yield limit were reduced below 150 kilotons, the following verification concerns could arise:

(1) Teleseismic yield inaccuracies would increase at lower yields. This effect has not been quantified yet, but might double the yield uncertainty for low thresholds.

(2) If the individual yield limit for PNE's is not reduced equally, weapon benefits could accrue from peaceful explosions between the two yield limits.

(3) Evasion possibilities, which at 150 kilotons are rather remote, become feasible at lower yields.

THE SUGAR PROGRAM VIOLATES DEMOCRATIC PLATFORM PRINCIPLES

Mr. McGOVERN. Mr. President, in 1976, the Democratic Party in convention assembled adopted a farm plank which included two basic elements:

1. Based on the family farm agricultural system which has served the nation and the world so well for so long;

2. We must assure parity returns to farmers based on costs of production plus a reasonable profit.

I use this forum to point up the solemn commitments which this administration made to our farm families regarding price assurances. The concept of cost of production plus a reasonable profit is of major concern to producers in my State who have suffered inordinately from drought and other natural disasters. They need adequate returns for their labor and investment. If we are to assure supplies of agricultural commodities to consumers at home and abroad, pro-

ducers need higher levels of return than they are now receiving for most commodities.

Just recently, the Senate passed S. 275 by a wide margin, after an effort by the administration to reduce the levels of support. We are now threatened with a veto unless the levels are reduced in conference. Personally, I do not feel that even the Senate bill's levels of support are at a level to attain "parity returns to farmers based on costs of production plus a reasonable profit." South Dakota producers need much better prices and returns from their production.

My basic purpose in rising in the Chamber today is the need to keep reminding the administration, just as I have done with previous administrations, that it is the farmer who takes the risks of production, and it is the family farmer who deserves the best of us who represent him here.

Moreover, in my mind, a level of support must be tied to fostering the family farm as the fundamental basis of American agriculture. Our actions in this body must promote the concept. It is the only concept that will enable us to be a part of the promotion of a sound food and fiber policy that will serve this Nation best.

The recently announced sugar program violates the two basic farm principles of the Democratic Party. I rise here today to protest the proposed sugar actions. I must hasten to add, Mr. President, that it is not too late to turn the program around, since as I understand it, it is still in the rulemaking stage.

In order to understand what is involved here, it is essential that all of us understand the real facts of the sugar situation.

On March 17, 1977, the U.S. International Trade Commission reported to President Carter that the domestic sugar industry is being threatened with serious injury by increased imports. This official Commission recommended that a specific annual import of 4.275 million ton quota be imposed "to relieve the threat."

The recommendations for import controls were the culmination of a rigorous 6-month impartial investigation conducted under the "import relief" provision of the Trade Act of 1974.

The President rejected the USITC recommendation out of hand and "instructed the Secretary of Agriculture to institute an income support program which would provide supplemental compensation to growers of up to 2 cents a pound for sales at market prices below 13.5 cents per pound." While the USITC feared serious injury, the President responded by in effect stimulating imports.

He then went on to state "13.5 cents is the estimated average break-even price for domestic sugar growers." Notice that there is no reference to "plus a reasonable profit" promised in the platform. Moreover, and this is even more important, there is no assurance that farmers will even get the 13.5 cent per pound break-even point.

I am shocked to read the regulations, and recognize just what they propose for the sugar growers' economic viability. Let me quote from the proposed regulations:

> If the average price received from the sale of sugar in the market place is less than 11.5 cents per pound, the level of support will be less than 13.5 cents.

In real terms, the only assurance that the producer has is 2 cents.

You should know that when USDA representatives are asked what is the minimum support price, they jokingly respond—2 cents. They then hasten to add, "This is not what we proposed."

Mr. President, do you not think that before $240 million are spent on a program, for which no hearings have been held, that we ought to have the perpetrators brought before the appropriate committee in order to find out the genesis and implications of this mistaken effort at an end run around the Congress? This is as brazen an effort at backdoor spending as I have ever seen. Could this actually have had the approval of the Office of Management and Budget?

Under the administration's program, there are 10 producer-processors who will get more than 25 percent of the total payment—$63 million. It can be conservatively said that $100 million—or over 40 percent of the money—will go to producers receiving payments of $500,000 or more. The Senate recently adopted a $50,000 payment limitation but we have no assurance that this will survive a conference with the House.

How does this expenditure help the family farm, when so large a proportion of the money goes to the largest producers? Actually, it goes counter to the whole concept, for it provides the financial means to buy out the small producers who are being supported at much less than the cost of production.

I am sure that Charles L. Schultze, the Chairman of the Council of Economic Advisers, knows this. For surely he has not forgotten the conclusion he reached in his Brookings Institution monograph of 1971 entitled, "The Distribution of Farm Subsidies—Who Gets the Benefits?" This was his basic conclusion:

> By their very nature, current farm programs tend to provide benefits—paid for by both consumers and taxpayers—primarily to those larger farmers who produce the bulk of agricultural output. Conversely, the very large number of small farmers, who in the aggregate produce only a modest fraction of total farm output, are helped relatively little by these programs.

The Senate has recognized the need to help family farms in recent farm legislation when we limited not only the level of payment, but also the types of farms eligible for payment.

At the time the President made his decision, he stated that he was announcing "a series of actions aimed at maintaining a viable domestic sugar industry * * *." Moreover, "The President noted that the United States is actively participating in negotiations now underway in Geneva for an ISA, which if successful would provide long-term assurance of greater stability in world prices and supplies. Successful implementation of an ISA would make further consideration of unilateral measures by the United States unnecessary."

It is now obvious that despite strenuous efforts and great willingness to compromise on the part of U.S. representatives that the negotiations ended in failure. It was not for lack of trying. Assistant Secretary of State Julius Katz stated at the end of the conference:

> It is a matter of special regret for my delegation that after 6 weeks of uninterrupted negotiation, preceded by a great deal of preparation, that this conference must be suspended without concluding an International Sugar Agreement.

The USITC recommendation meshes with the U.S. proposals for an ISA. The economic effects are the same as those recently provided for TV sets and shoes.

The President obviously left room for an alternate program in his May 4 press release. You will note that in his reference to the ISA negotiations, he said:

> Successful implementation of an ISA would make further consideration of unilateral measures by the United States unnecessary.

Also, in the same press release, we find the following:

> The President also directed the Special Trade Representative to continue to follow the sugar import situation closely and to advise him in consultation with the Secretary of Agriculture of any need for consideration of further actions.

That time has now come, Mr. President, for further actions. It is now time to implement the USITC recommendation or, in the alternative, for the Congress to move by enacting an effective sugar program.

IMPORTANCE AND SCOPE OF SOCIAL SECURITY PROTECTION

Mr. CLARK. Mr. President, Iowa ranks third among the States in terms of population aged 65 or older.

Nearly 1 out of every 8 Iowans is 65 or older.

For most of these individuals, social security is their primary source of support.

As of June 1976, 472,000 Iowans received social security benefits, including 342,000 aged 65 or older.

Beginning in July average monthly benefits will be $234 for a retired worker and $220 for an aged widow.

However, social security is more than a retirement program. Nearly 4 out of 5 workers aged 21 to 64 have disability protection. And 19 out of 20 mothers and dependent children have survivor protection if the father should die.

Last year, I inserted a statement in the RECORD to provide information for my constituents and other Americans about the importance of social security protection.

I recently obtained updated information from the Social Security Administration to reflect the impact of the 5.9 percent cost-of-living adjustment in July for social security beneficiaries.

Mr. President, I ask unanimous consent that this statement, reflecting recent changes in social security benefits, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

VALUE OF SOCIAL SECURITY PROTECTION

Mr. CLARK. Mr. President, the social security program is one of the Nation's most valued institutions. One out of every seven Americans receives a monthly social security check. These benefits replace, in part, the earnings that have been lost because of retirement, death, or disability. In addition, medicare protection is provided when people reach 65 or have been disabled for 2 years, or suffer from end-stage renal disease.

In all, social security currently pays more than $8.7 billion in benefits each month.

That fact is difficult to put into proper context. This amount—$8.7 billion a month—is useful in measuring social security's overall impact on the economy, but it does not fully illustrate the value of the protection provided for individual families. A few key facts, it seems to me, would make this point.

SURVIVORS INSURANCE PROTECTION

Survivors protection, for example, is an important part of social security. Social security monthly benefits are paid to a deceased worker's:

Unmarried children under 18—under 22 if full-time students.

Unmarried son or daughter 18 or over who was severely disabled before 22 and continues to be disabled.

Widow or widower 60 or older.

Widow, widower, or divorced wife if caring for the worker's child under 18—or disabled—who receives a child's insurance benefit.

Widow or dependent widower 50 or older who becomes disabled not later than 7 years after the worker's death or, in the case of a widow, within 7 years after she stops receiving checks as a widow caring for the worker's children.

Dependent parents 62 and older.

Divorced wife 60 or older if the marriage lasted 20 consecutive years or more.

Disabled divorced wife 50 or older if the marriage lasted at least 20 consecutive years and if she becomes disabled within the 7-year period described for disabled widows.

Grandchildren who were living with and dependent on the worker and whose parents are disabled or deceased.

Ninety-five out of every one hundred children under 18 and their mothers have survivorship protection if the father were to die.

The value of social security survivors protection for a family with young children depends largely on: First, the number and age of the children; and second, the earnings of the worker. For example, in the case of a young worker with average monthly earnings of $600 who dies in mid-1977 leaving a wife aged 32 and two children aged 3 and 5, the present value of social security benefits that will be paid to that family over the years—assuming that the children attend school until they reach age 22—is $128,860. And, it is guaranteed inflation-proof.

DISABILITY INSURANCE PROTECTION

Disability protection is another important part of social security. Monthly social security disability benefits are paid to disabled workers and the worker's:

Unmarried children 18—or under 22 if full-time student.

Unmarried children 18 or over who were severely disabled before 22 and who continue to be disabled.

Wives or [dependent] husbands 62 or over.

Wives under 62 who care for a covered worker's child under 18—or disabled—who received a benefit based on the [retired or] disabled worker's earnings.

Divorced wives 62 or older if the marriage lasted 20 consecutive years or more.

Grandchildren who are living with and dependent on the worker and whose parents are disabled or deceased.

Four out of five adults have disability protection under social security in the event of the breadwinner's long-term disability, either as insured workers or as dependents of insured workers.

The present value of the social security survivors and disability protection is about $131,400 for a man who:

Becomes disabled in mid-1977 at age 35;

Has a wife 32 and two children aged 3 and 5;

Has average monthly earnings of $600; and

Dies after being disabled for 5 years.

These benefits are also inflation-proof.

If the disabled worker in this example dies after being disabled for 20 rather than 5 years, the present value is about $155,500.

MEDICARE HOSPITAL INSURANCE PROTECTION

At age 65, medicare hospital insurance protection automatically goes with eligibility to social security or railroad retirement benefits for workers, dependents, or survivors. Also eligible for hospital insurance are disabled people under 65 who have been continually entitled to social security or railroad retirement benefits on the basis of a disability for 2 years. Insured workers and their dependents who have end-stage renal disease are eligible also. Finally, people 65 and over who are not eligible under any of these provisions can buy medicare hospital insurance protection, currently for $45 a month. It will go up to $54 this July.

Three types of care provided by participating organizations are covered: inpatient hospital care, posthospital extended care, and posthospital home health services.

Inpatient hospital care is covered for up to 90 days in a benefit period. A benefit period starts when a person enters a hospital and ends when the patient has been out of a hospital or skilled nursing home for 60 consecutive days. Medicare now pays all but the first $124 of the cost of covered services for the first 60 days. If hospitalization lasts longer than 60 days, the medicare beneficiary pays a $31 daily coinsurance charge for the next 30 days. In addition, a lifetime reserve of 60 days of inpatient hospital benefits is available to beneficiaries who have used up the 90 days of benefits in a benefit period. Here again, the patient must pay a $62 daily coinsurance charge.

The second, posthospital extended care, is covered for up to 100 days in a benefit period if the care is begun shortly—generally within 14 days—after a hospital stay of at least 3 days. Medicare pays all covered costs for the first 20 days and, after the 20th day, pays all but $15.50 a day. The services covered are the skilled nursing or rehabilitation services provided daily to inpatients of skilled nursing homes.

The third type of care covered by hospital insurance is post-hospital home health services. Medicare pays for covered services in full. Up to 100 visits by nurses, physical therapists, and other health personnel are covered if furnished within a year after discharge from a hospital—after at least a 3-day stay—or from a covered stay in a skilled nursing facility. A plan of home health care must be provided by a doctor.

The value of hospital insurance protection depends, of course, on a person's state of health. A person who enjoys continuing good health will stand to receive less benefits than the average. A person who is not that fortunate, on the other hand, could receive substantially more than the average. For fiscal year 1976 covered inpatient care in short-stay hospitals accounted for 95 percent of the total hospital insurance benefits paid. The average short-stay hospital benefit was $1,367. The average number of covered days of care for these stays was 10.9. The average present value of the lifetime value of hospital insurance benefits that can be expected to be paid for a couple, both reaching 65 now, is $29,000.

Here is another way to illustrate the value of medicare's hospital insurance protection: 15 percent of aged beneficiaries are expected to receive benefits for hospital services in excess of $1,000 in fiscal year 1977. Six percent are expected to receive more than $3,000 in benefits. The following chart shows additional examples.

Reimbursement greater than—	*Percentage of aged beneficiaries*
$0	23
$250	22
$500	20
$750	18
$1,000	15
$2,000	10
$3,000	6
$5,000	3

Thus, medicare hospital insurance is there when you really need it.

MEDICARE SUPPLEMENTARY MEDICAL INSURANCE PROTECTION

Medicare's supplementary medical insurance plan operates somewhat differently. Unlike the rest of social security, workers do not contribute toward medical insurance protection during their working years. People 65 and over—and people under 65 who are eligible for hospital insurance—who sign up for medical insurance pay monthly premiums for this protection. The current premium is $7.20 a month; it will increase to $7.70 this July. The Government more than matches the amount of premium to meet the full cost of the program. Now, the Government's monthly share is $14.20. This July it will be $16.90, more than twice what each beneficiary will pay.

There is an annual deductible of $60. After the deductible is met, the plan pays 80 percent of the reasonable charge for covered services. Special limitations apply to psychiatric care and services of independently practicing physical therapists.

Physicians' and surgeons' services are covered in the house, office, clinic, and hospital. Outpatient hospital services are covered if furnished by participating hospitals—or by non-participating hospitals for emergency outpatient services.

Home health services—the same as covered in medicare's hospital insurance—are also covered under the medical insurance plan, for up to 100 visits in a calendar year. After the $60 deductible has been met, the plan pays for home health services in full, rather than 80 percent of reasonable cost. No prior hospitalization is required.

Examples of other covered health services include outpatient physical therapy and speech pathology services, diagnostic tests, rental and purchase of durable medical equipment, and certain ambulance services.

The value of medical insurance protection also depends on a person's state of health. The average benefit paid per bill was $48 in fiscal year 1976. Over three-fourths of the medical insurance bills are paid for doctors' services. Over 1 in 10 bills is for outpatient hospital services.

Here is another way to illustrate the value of medicare's medical insurance protection: 11 percent of aged beneficiaries are expected to receive medical insurance benefits in excess of $500 in fiscal year 1977; 5 percent are expected to receive more than $1,000 in benefits. The following chart shows additional examples.

PERCENTAGE OF AGED ENROLLEES

Reimbursement greater than—	Percent
$0	58
$100	34
$200	24
$300	17
$400	14
$500	11
$750	7
$1,000	5

Thus, medicare medical insurance is also there when you really need it.

RETIREMENT INSURANCE PROTECTION

I have purposely left until last the illustration of the value of social security retirement benefits. Many people think of social security as only a retirement plan, but it is much more. It is also family security. In fact, only about 61 percent of all people getting monthly cash benefits are retired workers and their spouses.

Social security retirement benefits are paid to retired workers at 62 or older, and their dependents. The same rules generally apply for dependents under both the disability and retirement programs.

In January 1977, 93 percent of all people aged 65 or over either receive social security [Note: This actually includes survivors benefits to those over 65 which, generally speaking, can be considered "retirement" benefits], benefits or would receive them if they or their spouses were not working. By 1985, about 94 percent of the aged population will be eligible for benefits; the proportion is expected to be 96 to 98 percent by the year 2000.

The present value of social security protection is $91,300 in the case of a worker who—

Reaches age 65 upon retiring in January 1977;

Has a wife who reaches 62 in the same month; and

Has average monthly earnings of $634.

This figure includes the value of some survivor's protection for the wife, since the probability is that the worker will die before her. Once again, this protection is inflation-proof.

For people reaching 65 and retiring in the future, the value is, of course, much higher. Let me again use the example of the worker and his wife who are now aged 35 and 32. In the year 2007, they will be 65 and 62. Assuming the worker retires then, the value of their social security retirement protection including the wifes' survivor protection will be about $162,000 in 1977 dollars.

This valuation is based on the actuarial assumptions included in the 1977 report of the Board of Trustees of the social security trust funds. It assumes the same proportion of wage replacement as exists under present law in January 1977. It further assumes that the worker will earn the maximum salary counted toward social security. That amount is $16,500 this year and is expected to be about $28,700 in 2007, using constant dollars.

Constant dollars—that is, 1977 dollars—are used because the number of 2007 dollars is expected to be significantly higher because of inflation. I want to keep all the illustrations as consistent as possible for comparison purposes; using 1977 dollars helps do that.

WORK CREDITS REQUIRED

Before workers and their families can get retirement, survivors, disability, or hospital insurance protection, the workers must earn a certain amount of social security work credits. For each 3-month calendar quarter that a worker is paid $50 or more in a job covered by social security, he or she receives one work credit (quarter of coverage). Self-employed workers get four credits for each year they have a net profit of $400 or more.

The amount of work credit needed depends on the worker's age. For retirement and hospital insurance protection, a worker generally needs one work credit for each year after 1950 (or age 21, if later) and up to the year he or she reaches age 62. For example, a worker reaching age 62 in 1977 needs 26 credits. He or she will need 28 credits if 62 in 1979, 32 credits if 62 in 1983, and 40 credits if 62 in 1991 or later.

For survivors protection, a worker generally needs one work credit for each year after 1950 (or age 21, if later) and up to the year he or she dies. For example, a worker born after 1929 will need 13 credits if he or she dies at age 35, 20 credits if at age 42, and 28 credits if at age 50.

For disability protection, workers who become disabled at age 31 or later need as many credits as they would need if they reached 62 in the year they become disabled. In addition, though, they need 20 credits in the 10-year period just before they become disabled. The additional credits are not needed if the worker becomes blind.

Having enough credits means only that workers and their families can become eligible for checks. But the amount of the checks depends on the worker's average earnings over a period of years from jobs covered by social security. The higher the earnings, the higher the benefits.

NEED FOR ADDITIONAL PROTECTION

A final important point: Most people believe it is wise to supplement their social security protection with other insurance or pensions. We must remember that prices will rise in the future. Although social security benefits will increase with the cost of living, it is not too likely—in my opinion—that there will be any sizable future increase in the proportion of earnings replaced by social security benefits. So planning for some supplement seems to me to be prudent.

Finally, it should be emphasized that social security was never intended to be the sole source for replacing lost earnings because of death, retirement, or disability.

It, of course, provides valuable protection. And for most older Americans, social security is their primary source of support. But quite clearly, social security benefits should be supplemented by private pensions, insurance, savings, or other forms of protection.

FOSTER GRANDPARENT PROGRAM

Mr. CHILES. Mr. President, all too often this body as part of its responsibility must focus its attention on problems and deficiencies that exist in Federal programs. Not nearly enough do we have the opportunity to reflect on the success stories. One such success story is the Foster Grandparent program which is now in its 12th year of operation.

The Foster Grandparent program provides opportunites for lower income persons, age 60 and over, to offer supportive person-to-person services in health, education, welfare and related settings to children with special needs. This program is uniquely designed to help meet the needs of both older Americans and children with phvsical, mental, social or emotional problems. The older person is given the means for a continued contribution to the community while also earning a supplementary income. The child with exceptional needs has access to the individual and warm attention that is so necessary to his or her development.

The Foster Grandparent program has proven an important asset for our public education system. In Broward County, Fla., the program has been especially rewarding for both the grandparents and the children they help. I would like to share with the Senate the personal experience of teachers in the Broward County school system as to what the Foster Grandparent program has meant to their students. I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SCHOOL BOARD
OF BROWARD COUNTY, FLA.,
Plantation, Fla., May 23, 1977.

DEAR FOSTER GRANDPARENT PROGRAM:

Your program of providing grandparents to the Broward County Schools is excellent. I have taught for five years in West Virginia where no such program exists. I can definitely see a positive "plus" that the program adds to our school.

Mr. Alexenburg, the grandparent for third grade, works diligently with students reading 1 to 2 levels below grade level. He provides extra reinforcement of skills that these children need. He also helps to build a more positive self-concept in children who sometimes feel frustrated at not being able to remember basic vocabulary. Many of my children need the one-to-one help he provides. Mr. Alexenburg gives the special attention that only a grandparent can.

I would definitely like to have Mr. Alexenburg in my classroom next year. I feel that the grandparents are needed in the classrooms in Broward County.

Sincerely,

JACKIE HARLESS,
Third Grade Teacher.

THE SCHOOL BOARD
OF BROWARD COUNTY, FLA.,
Sunrise, Fla., May 31, 1977.

FOSTER GRANDPARENT PROGRAM,
Post Office Box No. 22606,
Fort Lauderdale, Fla.

TO WHOM IT MAY CONCERN:

Wendy is a tiny sensitive little girl. She is repeating second grade. Wendy has two older sisters and two younger sisters. Her parents were divorced about eight months ago.

Soon after the divorce, Wendy began having temper tantrums and became very frustrated and insecure in school. She is an affectionate child who needs a great deal of attention and love. I could not always give Wendy the individual attention, so I chose Wendy to work with our Foster Grandmother, Mrs. Dukeman.

There was instant rapport between Wendy and Grandma. Grandma was aware of Wendy's emotional problem. Mrs. Dukeman not only helped Wendy with her daily work; she praised her, encouraged her and genuinely loved her. Since Wendy has worked with Grandma, there has been a definite change in Wendy's attitude toward school and her peers.

As soon as Wendy comes into the classroom and sees "Grandma", she regains her self confidence for the day.

It has been a warm experience to see how one loving and understanding adult has affected the life of a beautiful child.

Sincerely,

SECOND GRADE TEACHERS.

THE SCHOOL BOARD OF
BROWARD COUNTY, FLA.,
Sunrise, Fla., May 31, 1977.

FOSTER GRANDPARENT PROGRAM,
Post Office Box No. 22606,
Fort Lauderdale, Fla.

GENTLEMEN: Mrs. Benson, my Foster Grandparent, has worked with Gloria Ford during the 1976-77 school year.

Gloria came to us with very poor skills in writing, numbers and letter sounds. She was

also somewhat immature in her behavior and work habits.

Mrs. Benson has helped Gloria to form her letters and numbers correctly, patiently working with her on reversals, spacing and the order of numbers. Gloria can now write legibly and identify most of the letter sounds.

Without Mrs. Benson's kind and loving help, Gloria would have been unable to make satisfactory progress.

Sincerely,

MARY SHEPARD,
First Grade Teacher.

THE SCHOOL BOARD OF
BROWARD COUNTY, FLA.,
Sunrise, Fla., May 31, 1977.

FOSTER GRANDPARENT PROGRAM,
Post Office Box No. 22606,
Fort Lauderdale, Fla.

GENTLEMEN: Mrs. Burnham, our Foster Grandmother had been assigned to work with four children for the 1976–1977 school term. She has helped them all, but the one that she is most proud of is Shirley Hughes.

Shirley started the year without pre-school or Kindergarten training. She did not recognize or know her letters, she did not hear beginning sounds, rhyming words or any of the little things that we take for granted that first graders should know.

Shirley had no knowledge of letter formation, or spacing words, but wtih "Grandma's" dedicated and untiring help, Shirley is now one among the top in her group in reading, phonics and writing.

Thanks to the Foster Grandparent Program, for sending us such a dedicated worker as Mrs. Burnham.

Sincerely,

EULA F. GORDON,
First Grade Teacher.

THE SCHOOL BOARD OF
BROWARD COUNTY, FLA.,
Hollywood, Fla.

I would like to make a few comments about my Grandma, Ms. Marie Salvino. Our Grandma is just fantastic. I really don't know what we would have done without her. She has been such a great help to me and to our children.

She spreads her love and warmth throughout the room and everyone just loves her. She gives that extra special attention that teachers can't always give when we are spread out so far.

Grandma has especially been a help to Jackie. Little Jackie has had so many problems both emotionally, socially, and academically. As far as Jackie is concerned Marie Salvino is her true adopted grandma.

If Marie is a foster Grandparent next year, please, may I have her again. I just can't say enough about her and how much she has helped in our class. I want Grandma Salvino again next year if at all possible.

CAROLYN RAMEY.

THE SCHOOL BOARD
OF BROWARD, FLA.,
Sunrise, Fla., May 9, 1977.

FOSTER GRANDPARENT PROGRAM,
P.O. Box 22606,
Fort Lauderdale, Fla.

GENTLEMAN: Derek Stum was assigned to Mrs. Kline, my foster grandparent, at the beginning of the school term for the school year 1976–77.

Derek is a very immature and shy child, who appears to have some degree of learning disabilities. He has been tested for a special class, but hasn't been placed in a special class or with a small group of children who have similar learning problems.

Mrs. Kline has worked with Derek constantly. Derek has learned to love and respect her, and due to her kindness, considerations and motivations, he has learned to read a few short stories, to share experiences and form some numbers correctly also recognize numbers.

Without Mrs. Kline's assistance, Derek wouldn't have been permitted to remain in a regular classroom situation.

Sincerely,

ARRIE HAMM,
First Grade Teacher.

ORANGE BROOK ELEMENTARY SCHOOL,
Hollywood, Fla., May 26, 1977.

TO WHOM IT MAY CONCERN:

This is to state that I have been assisted by Mrs. Ida Zinamon, a foster grandparent, for the past three years. For the first two years we worked in First Grade, and during the present school term we have served in kindergarten.

Mrs. Zinamon is invaluable to me. She takes the little immature, poorly adjusted ones, relate to them first, then begins to work on skills. She has excellent rapport with them in her quiet, dignified manner. They clamor (all of them) to sit by her at lunch: No matter what the activity, they stop it to greet her and bid her farewell as she enters and leaves the classroom for the day.

An excellent example of her endeavor is Sharon, a black child (Birthdate is 11/4/71) just four when she entered kindergarten in August. Sharon was shy, retiring, had virtually *no* background of experiences—academic or social. She did not share and take turns, her speech was practically monosyllables. She did not know her colors, numbers, letters or shapes.

Mrs. Zinamon has worked faithfully on an individual basis with Sharon for the whole year almost daily. Today she is pretty well adjusted to the group socially. She has a *close* friend, Alishia. She assumes the responsibility of writing her name and room number on her lunch tickets. Skill-wise she knows her colors, and *most color words*, most of the letters, upper and lower case, and most of the *sounds*, and numbers from 1–10. She is eager to learn.

This blossoming of Sharon would have been meager if it had not been for Mrs. Zinamon! And this is just *one* case of many on which we have worked cooperatively in these years we have been associated.

The money spent on the foster grandparent program is one of the best educational investments made.

Very Sincerely Yours,

LEILA W. COMITO.

THE SCHOOL BOARD
OF BROWARD COUNTY, FLA.,
Plantation, Fla., May 19, 1977.

From: Dr. Nell M. Lewis, Principal.
Subject: Foster Grandparent Program:

TO WHOM IT MAY CONCERN:

Earlier this morning we honored our Foster Grandparents with our "First Annual Super Grandparents Breakfast." Speeches were made and certificates of appreciation were presented. This was only a small gesture rendered by the Tropical Elementary School to our beloved Grandparents in appreciation for the warmth and service they bring to us.

The Foster Grandparent program is outstanding in its contributions to boys and girls. The sincere concern and interest these Grandparents show to the children with whom they work directly affects their academic progress as well as attitudes and behavior. Many children have been made to feel more important because their lives were touched by these caring adults.

Thank you for permitting our school to be a part of the program. It is hoped that every effort will be made to keep the Foster Grandparent Program active in Broward County and at Tropical Elementary School.

WELCOME TO THE PENNSYLVANIA BALLET

Mr. HEINZ. Mr. President, I would like to take this opportunity to commend to you and my distinguished colleagues the Pennsylvania Ballet, which will be performing at the Carter-Barron Amphitheater next week.

The Pennsylvania Ballet was formed in Philadelphia in 1964, and overnight became, as one UPI critic affirmed, "a major force in the world of dance." The ballet has received outstanding reviews from noted dance critics since its inception. Dancemagazine has written, "the Pennsylvania Ballet is second to none . . . what a good and beautiful company." Clive Barnes, of the New York Times, has called the ballet "absolutely one of the best troupes in the country."

Under the creative and inspiring guidance of executive artistic director Barbara Weisberger, whose genius and hard work was responsible for the formation of the company, and artistic director Benjamin Harkarvy, the ballet is in performance during most of the year, and has toured over 35 States and Canada. In terms of operating budget, it is the Nation's fourth largest company.

To witness a performance of the ballet is an exhilarating experience. The company strikes a pleasing balance between the classical traditions and modern works, leaving their own special imprint on each flawless performance.

My reasons for bringing the ballet to my colleagues' attention are two-fold. First, I do not want them to miss the chance to view one of the upcoming performances at Carter-Barron.

But I also do it as a reminder to all of us to support and encourage the arts in America. Many people say that the quality of our life is deteriorating. It is nothing you can see or put your finger on. It is more a feeling that our society is becoming more mechanistic and less encouraging of our creative talents. The arts have much to add to the quality of our life. I have been a strong supporter of the Pennsylvania Ballet and other creative endeavors in Pennsylvania, and of the arts generally. I ask all of my distinguished colleagues to lend their support, in their own way, so that the arts may survive to enrich the lives of our children, grandchildren, and all future generations.

SOUTH DAKOTA ON ALASKAN NATURAL GAS

Mr. McGOVERN. Mr. President, today the Members of the South Dakota congressional delegation have joined with South Dakota Gov. Richard F. Kneip in sending a letter to the President of the United States advising him of the position taken by our State in relation to the delivery system to bring Alaskan natural gas to the contiguous United States.

I believe that this position, jointly taken by our congressional delegation, and our Governor, on this important issue will be of interest to my colleagues.

Mr. President, I ask unanimous consent that the letter from Governor Kneip,

Senator ABOUREZK, Congressman ABDNOR, Congressman PRESSLER and myself, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF SOUTH DAKOTA,
Pierre, June 30, 1977.

Hon. JIMMY CARTER,
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing today to respectfully submit the position of the State of South Dakota in reference to the delivery of Alaskan natural gas into the contiguous United States.

It is our belief that the system to be selected for delivering natural gas supplies from Alaska must insure the equal availability of natural gas to all regions of the nation through the most economic means available.

To this end, we concur with the Federal Power Commission recommendation to you that an all-land pipeline route is the most desirable for the delivery of Alaskan natural gas to the lower 48 states.

The construction of an all-land pipeline system from the State of Alaska to the lower 48 states will require extensive construction through Canada, thereby requiring us to work closely with the Canadian government to develop a delivery system which can mutually satisfy both short and long term interests of both nations.

From the standpoint of long term availability of natural gas supplies and lower costs to consumers, it would appear beneficial to develop a delivery system that will not only allow for delivering Alaskan natural gas to the lower 48 states, but also Canadian natural gas to its eastern energy markets.

It is our collective opinion that of the three competing proposals, the Arctic consortium proposal is by far the more favorable system than either the El Paso or Alcan proposals. The Arctic system, by its route alone, offers a more economical means for natural gas movement to both countries, and would avoid the need for the construction of additional pipelines in the future into areas that no doubt will be developed.

Additionally, much of the testimony offered on each of the three competing proposals related to capital costs, construction time and environmental effects. These were estimates based on studies primarily conducted by the major sponsoring companies.

Arctic Gas has gone through the complexities of developing a supportive organization which is required to finance and construct such a large system. Neither El Paso nor Alcan sponsors can product fully adequate environmental materials supporting their applications, nor did they make application to the Department of the Interior for right-of-way permits. Arctic Gas has a large consortium of pipeline firms, a working financial plan, equity commitments and supporting organizations all of which are fundamental in moving rapidly after the appropriate decisions have been made.

A particular concern is the environmental effects. As you are aware, environmental groups have shown concern and opposition over the Arctic route and as a consequence, many have supported the Alcan proposal. Since the Arctic route transverses the northern side of the Alaskan Wildlife Range, it will have an effect upon the environment. However, this appears to be preferable to southern portions of the range which potentially might be considered in the future for development under the Alcan proposal. To date, neither El Paso nor Alcan sponsors have provided environmental data which would show superiority.

In our opinion, the criteria to be used in reaching a final decision must be based on the most economical, efficient, and environmentally compatible system which offers long-term supply availability and is also beneficial to Canadian-American relations. The Arctic Delivery Systems meets that criteria.

We, therefore, respectfully thank you for considering our position in this matter. With every best wish, we remain

Sincerely,

Senator GEORGE MCGOVERN,
Congressman JAMES ABDNOR,
Senator JAMES ABOUREZK,
Congressman LARRY PRESSLER,
Governor RICHARD F. KNEIP.

DAIRY INCOME GREAT FOR IDAHO

Mr. MCCLURE. Mr. President, out in the Pacific Northwest, bumper stickers are now making the rounds with a message that reads: "Make a Farmer Happy * * * Save Water * * * Drink Milk." While this message is indeed appropriate in light of the need to conserve water in the drought-ridden West, it is especially appropriate in emphasizing that June has been National Dairy Month.

This Nation's dairy farmers play an extremely important role in the overall economic growth of this country, and those dairy farmers in my own State of Idaho are no exception. Each year, some $600 million is channeled into the economy of Idaho by its 4,000 dairy farmers, and this figure seems to be rising steadily each year.

Mr. President, on Thursday, June 23, 1977, the Gooding County—Idaho—Leader carried an article which I feel effectively illustrates the economic importance as well as the great progress dairy farmers have made in the past 25 years in order to better serve this country's consumers. In recognition of their hard work and fine service to America, and in recognition of national dairy month, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DAIRY INCOME GREAT FOR IDAHO

Idaho dairy farmers contribute substantially to the economy of this State, according to Ray West, Administrator, Idaho Dairy Products Commission.

Each year, some 600 million dollars are pumped into Idaho's economy by its 4,000 dairy farmers. In 1976, dairymen received $135 million for milk they produced and approximately $60 million for cattle and calves sold as dairy beef. These dollars were spent right back here in Idaho for labor, taxes, machinery, equipment, gasoline, and various services, as well as for food and other living expenses. The merchants who received these dollars re-spent them for their supplies, labor, taxes, etc. This process continued over and over until the dollars left the State.

"Economic research studies show the interdependence of all people in all vocations to one another," says Neil Rimbey, Research Associate in Ag Economics, University of Idaho. Income multipliers, based on research studies in various areas of the country, have been developed by Drs. Roger Long and Joel Hamilton, U. of I. Agricultural Economics Dept. These multipliers vary from 3.18 to 5.94. This example is based on the low average multiplier of 4.

Approximately 75 percent of the milk produced by Idaho dairy farms is processed into cheese, butter, evaporated and nonfat dry milk and sold to consumers in other states. On a conservative basis, these dairy products sold out-of-state, brought at least $150 million into Idaho. These dollars, too, flow into the mainstream of Idaho's economy and also have a multiplier effect upon the economy of this State.

Dairy farmers have a huge investment in land, livestock, machinery, equipment, etc. Figuring the average at $200 thousand each, for the 4,000 Idaho dairy farms, means a total capital investment of $800 million. Adding to this the millions invested in processing plants, equipments, trucks, etc., indicates that Idaho's dairy industry represents a billion dollar investment.

The size of the dairy industry is tremendous as these facts show. Every day of the year, milk is produced by 11 million dairy cows on some 300 thousand U.S. farms (4,000) in Idaho. It is picked up by a fleet of about 20,000 trucks and moved to one of 1,600 fluid milk bottling plants or 3,000 dairy product manufacturing plants. Another 20,000 trucks are involved in milk and milk product distribution. Ultimately, some 500,000 retail outlets of all kinds dispense dairy products to consumers.

About 10 million or so people have something to do with producing, processing, marketing and selling dairy products to the 216 million Americans.

The improving efficiency of the dairy industry is indicated by the following facts:

The number of farms marketing milk in 1950 was 2 million. Today, it is less than 300,000. (In Idaho, there were over 20,000 dairy farms in 1959 and today there is slightly less than 4,000).

Milk cows on U.S. farms totaled 22 million in 1950 and today there are 22 million. (In Idaho, in the early 50's, there were about 200,000 cows producing less milk than the 143,000 cows did last year.)

Total milk production in 1950 was 116 billion pounds; last year, it was 120 billion pounds. (In Idaho, 1.2 billion pounds of milk were produced in 1950 while in 1976, 1.6 billion pounds were produced.)

In 1950, it took 2 hours and 38 minutes of labor for a dairy farmer to produce 100 pounds of milk. In 1975, it took only 32 minutes per 100 pounds.

In 1950, there were some 8,500 milk bottling plants (not including producer—handlers) and 9,737 manufacturing plants. Today, 1,600 and 3,000 respectively, process more milk than their more numerous counterparts did 25 years ago.

Despite a quadrupling of costs for taxes, energy, equipment, services, etc., the real price of dairy products to consumers is about one-half of what it was 25 years ago.

In 1950, it took 15.8 minutes of work to earn one-half gallon of milk; in 1975, it took 9.8 minutes. As a percentage of disposable income, consumer expenditures for dairy products declined from 4 percent in 1950 to 2.1 percent in 1975.

Nationally, Idaho ranks 5th in cheese production; 7th in condensed and evaporated milk; 11th in nonfat dry milk and 18th in butter, according to current statistics. Also, Idaho will become increasingly important as a dairy State in the future, according to leading dairy economists. They predict the dairying will be concentrated in a dozen or so States, including Idaho, within a few years.

NUTRITION AND MENTAL HEALTH

Mr. HUMPHREY. Mr. President, this past week the Select Committee on Nutrition and Human Needs in its nutrition and health series of hearings examined for the first time the links between nutrition and mental health and

development. The clearcut conclusion was that the current American diet is contributing to some mental illness, and therefore we must pursue a prudent diet to improve both our physical and our mental health.

Interestingly, the diet referred to in the testimony was very similar to the recommendations set forth in our committee report, Dietary Goals for the United States, which was directed primarily at improving the Nation's physical health.

According to the National Institute of Mental Health, 6.4 million Americans are under some form of mental health care and an estimated 10 percent of all Americans are in need of such care. That translates into over 20 million people, and if further research is undertaken along a nutritional line we could find that a significant number of mental health problems could be cured or prevented by better nutrition.

And yet, of all the many areas of promising nutrition research and knowledge, the relationship between nutrition and mental health and development is the least funded and probably the least well understood.

Achieving recognition of the relationship between nutrition and mental health is still very much a struggle. Established scientific thinking remains weighted against those few scientists and practitioners who are striving to understand the complex links between the food we consume and how we think and behave. For example, the newly appointed Mental Health Commission has no member with experience in this vital area.

I am raising these points today because I, like the majority of my colleagues, was not at this hearing, any thus missed some startling testimony. For example, the hearing record includes the testimony of an Ohio probation officer, Ms. Barbara Reed, who in collaboration with the court's judges requires all her assignees with low blood sugar to go on a nonjunk food diet, especially eliminating refined sugars. This diet is based on the theory that some people who have low blood sugar—hypoglycemia—tend to be violent. None of her parolees who has maintained the prescribed diet has been back in court over the 4 years in which the diet has been used as a probationary measure.

Three of the witnesses, Dr. Weiss, Dr. Lesser, and Dr. Brown, emphasized the current dilemma we all face of placing between 1 and 5 million of our youth, including very small children, on drugs to control, not cure, their hyperactivity problem. The implications to our society of such an expensive, long-term, noncurative regimen are overwhelming. Senator McGovern characterized such a process as setting a slow time bomb which will later explode into an untold number of schizophrenics who already occupy half of our hospital beds at an annual drug-oriented treatment cost of $14 billion.

As an example of the testimony given last week, and because it raises questions about why the Law Enforcement Assistance Administration is not examining diet and how it affects the behavior of this Nation's almost 3 million juvenile delinquents, I ask for unanimous consent that the following testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

TESTIMONY TO THE SENATE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

Mr. Chairman and Members of the Committee: I have come before your committee today as one who has worked for many years with delinquent children with learning and behavior disorders. I am here not with scientific evidence, but with the clinical and circumstantial experience of years of nutritional and related therapeutic work with these children. Finally, I am here not only to answer your questions as best I can, but above all to ask some questions—questions that my co-worker Michael Lerner and I have formulated as we have pulled together our experience with these children.

The Growing Mind operates three schools and a referral service for neurologically handicapped children in the San Francisco Bay Area. One of our schools is a residential center for delinquent adolescent boys with severe learning and behavior disorders. I serve as the Executive Director of The Growing Mind. Mr. Lerner serves as our Research Director, and as the Executive Director of Commonweal, where we are exploring the learning and behavior disorders of children in the context of nutrition, stress and chronic disease in the United States.

This work has led us to the formulation of a number of questions, which I would like to pose to you.

Let me ask you: if there were a significant increase in the proportion of American children with learning and behavior disorders, would Federal health statistics demonstrate it? Are there adequate time lines on adequate samples of children measuring hyperactivity, learning disabilities, and the subtle but devastating sensorimotor disorders that can cause school failure, a failure of self-esteem, and delinquency?

Suppose, for just a moment, that this increase in learning and behavior disorders was significantly related to the demonstrable increase in chronic health conditions in the United States. At a time when tens of millions of dollars were being poured into the exploration of learning disabilities and delinquency, would this fundamental relationship be appreciated or at least explored—or would the agencies concerned with delinquency consider it a health problem and the agencies concerned with health a delinquency problem?

Suppose, further, that the increase in subtle health problems that cause many learning and behavior disorders was related not to any single food additive, or even to nutrition alone. Suppose that the total environmental stress load on the population—nutritional, psychological, social, chemical, and the rest—had increased significantly over the past twenty-five years. Would the response of the scientific community be that this increase in environmental stress should not concern the American public because it was too pervasive a tendency to be quantifiable? Would the view be that no one should concern themselves with the total picture because it could not be properly scientifically defined? Or would this challenge be taken as an invitation to extend the scope of scientific inquiry to enable the knowledge community to respond to public issues of this scope?

These are some of my questions. We know, in reality, that there has been an enormous increase in reports of hyperactive, learning-disabled children across the United States. Part of that increase is undoubtedly the result of the creation of categories for labeling children, the continuing change in diagnostic categories, the interests of the drug companies in selling drugs for this market, and the creation of special programs into which children must be placed.

But although there has clearly been widespread abuse of the categories, is the enormous increase in reports of hyperactive, learning disabled children entirely the result of a new social mythology?

We might accept this position if we did not see so clearly that most of the children we see have an organically based learning disability as well as behavioral problems such as hyperactivity. Their family histories and physical condition strongly suggest to us that the learning and behavior problems are simply pieces in a broader picture.

The broader picture is a picture of increasing total environmental stress and a decline in what we might call the total nurturance available to the child—an increasingly unfavorable ratio of stress to nurturance in the family history creating, over two or three generations, a kind of biophysiological exhaustion.

If you accept the relationship between learning and behavior disorders and chronic disease, then it is almost impossible to believe that the increase in organically based learning and behavior disorders is completely unfounded. For we know that chronic health problems are becoming more pervasive, even among younger people; so this increase is independent of the aging of the general population.

And yet these connections between learning and behavior disorders, delinquency and chronic disease, has received little attention or exploration. Nor is the work that Hans Selye and many others have done, linking increase in total stress to the increase in chronic and degenerative conditions, applied to our present social dilemma.

As a non-scientist, I cannot understand completely why these linkages have not been made. I assume it is because concepts such as stress—particularly global concepts such as the total environmental stress experienced by a human being—defy adequate quantification, and therefore do not lend themselves to traditional research designs. Yet the total environmental stress that each of us experiences is what actually affects our health. I wonder whether, for a question as important as this, we could not modify our research strategies to enable us to look specifically, at what I can only report to you from my own experience: the relationship between stress, chronic health problems, and the apparent increase in the learning and behavior disorders of children.

Let us look for a moment, from this perspective, at a few interesting health and social statistics. The members of this committee know well the evidence of the increase in chemicals in the diet over the past twenty-five years, the increase in synthetic foods and other nutritional changes. During the same period we experienced the petrochemical revolution Barry Commoner has described, which increased environmental stress factors acting on the population through the water, the air, clothing and other contact points.

The same twenty-five years saw a substantial increase in radiation exposure, through nuclear testing, diagnostic tools, and energy production. There was also the dramatic change in our biological as well as psychological experience introduced by television, which entered 96% of American homes in the same quarter century, and in front of which little children now sit for an average of 3.4 hours a day.

What do we know about what has happened to the children that grew up during

these twenty-five years? We know that there was a six-fold increase in arrests of children under fifteen suspected of murder, nonnegligent manslaughter, aggravated assault and rape. The factor increase was three for 15–17 year olds, two for 18–25 year olds. We know that "accidents" resulting in death rose dramatically among the young, that divorce rates and illegitimacy rates have continued to increase, that suicides have been rising among the young people in comparison to the rest of the population. And we know that there has been an unprecedented 14 year decline in the scores of our most gifted children on the Scholastic Aptitude Tests, a decline from 478 to 429 average on the verbal SAT, from 502 to 470 on the math SAT, with a decline in half in the number of SATs over 700 since 1967.

During the eight years from 1958–1966, children under 17 with chronic health problems increased from 18.8 to 24.6 per cent. Those from 17 to 24 showed an increase from 39 to 44.4 per cent. In the whole population, people reporting no chronic health problems decreased from 58.6 to 50.9 per cent—six per cent in eight years. In a bare four years—from 1962 to 1966—heart conditions per thousand increased for those under 45 from 8.6 to 11.2, visual problems from 9.3 to 11.3, and orthopedic problems from 59.6 to 72.8.

Now clearly—although science cannot determine how all of the environmental stressors acting upon us actually interact, the end-point evidence of health and social indicators is at least suggestive. Our health statistics, organized around mortality and not morbidity, were not designed to answer the questions we are asking. The evidence is highly fragmentary and incomplete.

But as a non-scientist, I would like to ask you, Senators, when we know what has happened during the past twenty-five years in terms of the increase in nonnutritious foods, radiation exposure, television exposure, and exposure to environmental toxins—and when we know that the children born during that period show a dramatic increase in juvenile delinquency, arrest for serious crimes, chronic health problems, and low scores on Scholastic Aptitude tests—is it not at least a fair question whether we are exposing our children on the whole to an increasingly powerful set of environmental stressors that is producing a broad range of forms of biosocial decline?

I am not saying that this is true—I am merely asking whether the question should not be addressed. It is not a scientifically tractable problem. But it is a problem of the highest social significance. Nor am I saying that there is a unilateral movement toward biosocial decline. We are all familiar with the highly significant ways in which health has improved and in which some forms of stress on the population have been diminished. I am asking whether there is not a vitally important question here—one that would explain a great deal, if it were explicated, about the children I work with.

It is in the context that I have described above that we see our work with children with learning and behavior disorders. At this point, our nutritional explorations remain in a preliminary stage. We have seen dramatic improvement in some hyperactive, learning disabled children through an integrated therapy aimed at increasing nurturance, reducing stress to functional levels, and providing a structured educational and vocational program aimed at the identification of those channels for learning and work that still do function for these intelligent children.

Specifically, we have seen clear clinical evidence in individual children of food allergies and chemical hypersensitivities causing or exacerbating perceptual and behavioral disorders. And we have seen clinical evidence that nutritional therapies can play a significant role in helping these children. We are now proceeding with some work aimed at partially disentangling the effect of nutritional therapy from the effect of the other forms of nurturance we provide.

I can tell you, unequivocally, that nutritional therapy alone will not empty the juvenile halls of hyperactive, learning disabled children. While it is dramatically helpful to some children, and markedly useful to more, nutritional therapy does not remove learning disabilities in most cases we have seen, and it certainly does not remove the experience of failure and the socialization into the subculture of delinquency.

On the other hand, a diet free of chemicals, low in refined carbohydrates, free of synthetic foods, with a judicious and individualized program of nutritional supplementation—together with the avoidance of foods and chemicals to which the child is allergic or hypersensitive—can be a critical factor in reversing the personal decline of many of the children we have worked with. How critical the nutritional component is depends entirely on how central a role the nutritional stress factor plays in that individual child. A psychological factor like the loss of a mother can be equally central. Our perspective does not deny the importance of any source of stress or nurturance—psychological, social, educational, environmental or nutritional. We look at the whole child, and at each child individually.

If I close with a plea, Senators, it is this. The Select Committee on Nutrition and Human Needs has played a decisive role in educating the public and the government to the general relationship between nutrition and chronic health disorders. It is not time for the Law Enforcement Assistance Administration and H.E.W. to stop throwing the bill back and forth between each other as to responsibility for the evaluation of health and delinquency? We have suggested that hyperactivity and learning disabilities should be viewed in the context of chronic health disorders and that nutrition is one of the critical sources of stress—or nurturance—in the learning and behavior disorders of delinquent children. I would like to ask you who in the Federal Government is looking into the questions we have raised today? Has anyone looked at the validity—or educated us as to the invalidity—of the picture we have described?

GOOD NEWS FOR THE ALASKA COMMUNICATIONS INDUSTRY

Mr. STEVENS. Mr. President, I wish to speak today about a tremendous step forward in the Alaska communications industry. All Alaskans are grateful to the Federal Communications Commission for their decision to integrate Alaska long-distance telephone rates. The placement of Alaska telephone rates on parity with telephone rates in the contiguous 48 States is good news for the Alaska communications industry.

Most Members of Congress are unfamiliar with the unfortunate arrangements under which the citizens of the State of Alaska have paid for long distance telephone service in the past. Alaska, unlike the contiguous 48, has been considered foreign soil for purposes of telephone rates. Alaskan citizens have had to pay overseas telephone rates for calls between Alaska and the rest of the United States. The classification of long distance calls from Alaska to the contiguous 48 as overseas calls has forced the citizens of the State of Alaska to pay long-distance telephone rates in excess of 30 percent of the cost of similar calls in duration and distance placed between two cities in the Lower 48.

On July 20, 1976, the Federal Communications Commission decided to integrate Alaska's telephone system with the domestic telephone system of the rest of the United States. Phase II of the integration system will take effect on July 1 and will mean an effective reduction in interstate phone call rates for Alaskans of 30 percent. The July 1 interstate phone call rate reduction for Alaskans has been long awaited by my State.

Alaskans are rightly concerned that this cut in interstate rates not result in unfair increases in our intrastate rates. Alaska's communications industry cannot bear the entire burden of these lower longdistance rates. It is still a very small industry. I understand that the Federal Communications Commission has ordered RCA Alaska and A.T. & T. to work out a system which will equitably provide for division of revenues under the new interstate telephone rates. I will do all I can to insure that interstate phone rates to and from Alaska are reduced without resulting in an increase in intrastate phone call rates within Alaska. Alaskans should not have to subsidize interstate phone calls through an increase in intrastate Alaskan rates.

The final phase of Alaska's rate intergration will take place January 1, 1979, and Alaska's interstate phone rates will be reduced an additional 38 percent. On January 1, 1979, Alaskan citizens will, for the first time, pay phone rates commensurate with those of the citizens of the rest of the United States and will no longer be charged artificially high rates for our interstate phone service.

Mr. President, let me reiterate again how important the FCC's efforts to achieve rate integration are to the citizens of the State of Alaska and the Alaskan communications industry. This decision to impose Phase II of rate integration on July 1 will go down as a landmark decisicn in the history of Alaskan communications.

CONSUMERISM'S REWARD: FEDERAL FUNDS FOR OTHER VOICES

Mr. ABOUREZK. Mr. President, the Senate Judiciary Committee has just completed its 5th day of hearings on S. 270, the Public Participation in Federal Agency Proceedings Act. As chairman of the Subcommittee on Administrative Practice and Procedure I have chaired a number of these hearings. Having listened to the witnesses on this bill I have become increasingly convinced that this legislation will significantly improve the Federal agency decisionmaking process. After a thorough examination of criticisms of the FTC's program of funding participation in their rulemaking proceedings, I find these criticisms to be without basis. In fact, the more my colleagues hear about this bill the more I think they will understand the utility of this legislation.

In a recent article in Juris Doctor, Senator KENNEDY, the author of the original Public Participation in Federal Agency Proceedings Act and my prede-

cessor as chairman of the subcommittee, describes the benefits to be derived from a public participation program of the type envisioned in S. 270. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONSUMERISM'S REWARD: FEDERAL FUNDS FOR OTHER VOICES

(By John K. Higgins, Jr.)

Today, many public interest attorneys have found that, while modern legal proceedings are more civilized, they are often about as fair as lynchings—and considerably more expensive. The high cost of legal aid, and the withdrawal of support from foundations for public interest litigation, have driven many activist groups from the legal arena. They have also discouraged attorneys from embarking on public interest law careers.

This trend could well be reversed, however, if federal legislation to provide $10 million a year for public participation in certain legal proceedings becomes law. Chances are good that it will. The bill could reach a vote in Congress as early as July 1. With the Carter Administration committed to consumer rights, White House approval is anticipated.

The legislation (S. 270) authorizes all federal agencies, including cabinet units, to "award reasonable attorney's fees, fees and costs of experts, and other costs," to those who participate in agency rulemakings when such participation helps to promote "full and fair" consideration of issues. The bill provides similar litigation assistance to public intervenors seeking judicial review of federal agency actions.

The purpose of the bill is simple enough: to insure that the general public will be heard in agency decisions. There is no question of fee shifting in the first part of the bill, which deals with normal agency rulemakings. The second part does deal with some tricky issues, however, including the questions of fee shifting in judicial review of agency decisions. Thus the role of the "American rule" (that parties in litigation shoulder their own costs even if they win) is involved, as is the question of controlling the cost of legal service.

Despite these questions, backers of the bill, including chief sponsor Senator Edward M. Kennedy, argue that the thrust of the bill cannot be seriously challenged. "Even where the public has a right to participate," says Kennedy, "its ability to do so have been severely impaired by the enormously high costs of participation." Even some regulators support the measure. Says former Federal Trade Commission Chairman Calvin J Collier, "Financial aid for public participation is an idea whose time is now "

Increasing federal regulation—from securities to seat belts to airline prices to aerosol "bombs"—may have proved more burdensome to consumer activists than to industry. Old-line agencies may need the most attention, but some newer consumer-oriented agencies must also be checked to see that they stay on track, and that well-heeled special interests do not overpower them. Says David Lenny, associate director of the Ralph Nader-affiliated Public Citizen group: "Unfortunately, most federal agencies' jurisdictions are so broad that they no longer represent or advocate the public interest."

Continuous monitoring of agencies and participation in proceedings costs money, which most groups do not have. Some examples:

A Michigan environmental group fought for seven years to force the Atomic Energy Commission to adopt stricter rules governing plutonium distribution. The case shuttled between the agency and the courts until the environmental group finally abandoned the issue for lack of funds.

After an 18-month proceeding, the Federal Power Commission allowed natural gas producers a sizeable rate hike. The Consumer Federation of America, which had reason to believe the FPC had acted illegally, backed off a court appeal of the decision for financial reasons. Not only would the litigation itself have been costly, but CFA was legally barred from recovering costs from the FPC if it won; if it lost it might have had to pay the cost of intervenors siding with the FPC—the natural gas producers.

In a *pro-bono* case handled by the prestigious Washington law firm of Hogan & Hartson, more than 1,000 hours of professional time were spent pursuing a case against the Food and Drug Administration on behalf of mentally retarded children. Says Hogan & Hartson attorney Samuel R. Berger, "Those whose interests are most at stake could not effectively assert that interest if they were forced to bear the burden of attorney's fees."

The aim of the Kennedy bill is neither federal consumer advocacy agency which could enter proceedings before all other federal agencies.

Nor are public participants totally barred now from recovering costs of participating in some legal proceedings. But the main contribution of the proposed bill would be the establishment of a permanent, universal cost-recovery system to replace the present patchwork of confusing and contradictory rules of agencies, federal appeals courts, the Supreme Court, and the U.S. comptroller general.

Attempts to have such agencies provide public interest groups with funds have met with limited success. The Federal Power Commission, for example, claimed it had no power to assist intervenors whose work triggered an agency action to change the site of electrical transmitting facilities (*Greene County Planning Board v. FPC*, 1972). But the comptroller general ruled that, under its general mandate to uphold the public interest, the FPC could honor requests for cost recovery by intervenors. The FPC appealed, lost, and is now seeking a hearing before the Supreme Court to try to overturn the earlier decision.

Similarly, the Nuclear Regulatory Commission has resisted adopting such payment schemes. Last year it decided that the statutes it enforces do not provide for such aid. Once again the comptroller general ruled against the agency. But, in seeking such clarifications from courts or the comptroller, agencies are getting mileage out of delaying tactics.

"The public simply cannot be required to wait," says Senator Kennedy, "while each agency undertakes a lengthy proceeding to see if they have the authority the comptroller general says they already have." The agencies cleared by the comptroller to provide such aid are the FDA, the NRC, the FPC, the FTC, the Interstate Commerce Commission, the Securities and Exchange Commission, the Consumer Product Safety Commission, the Environmental Protection Agency, and the National Highway Traffic Safety Administration.

The proposed legislation eliminates the need for agency-by-agency determinations of such authority. It simply allows all agencies to make participation payments—provided the recipients contribute to the case, do not squander such funds in dilatory tactics, and prove both economic need and lack of significant economic gain from participating in a proceeding. Rulemakings, licensing, route awards, ratemaking, and all other administrative proceedings are covered by the bill. Each agency would determine its own eligibility standards and payment levels—but the bill puts a $75 per hour ceiling on attorney's fees.

The second element of the legislation deals with fee shifting, but only from government agencies to public participants seeking to overturn agency decisions through judicial review. It was the cost of such a review that scared the Consumer Federation of America away from appealing the FPC decision. Under the proposed bill, costs incurred by participants in such appeals would be paid on the same basis as those permitted in agency decisions—but only if the appealing party prevailed.

This second provision flies in the face of the American rule. It was once thought that fear of having to pay someone else's costs if a complainant lost his case discouraged people from using the legal system. Now it's the other way around—the hope that costs can be recovered by winning spurs public advocates to action.

Ruling that fee shifting was permitted as an exception to the American rule, the Supreme Court noted in 1968, "If successful plaintiffs were routinely forced to bear their own attorney's fees, few aggrieved parties would be in a position to advance the public interest by invoking the injunctive powers of the federal courts" (*Newman* v. *Piggie Park Enterprises*). That case involved the Civil Rights Act and, indeed, Congress last December approved a series of amendments broadening the availability of fee shifting in civil rights cases. But the Supreme Court in 1975 restricted the exceptions to the American rule to specific laws, such as the Civil Rights Act, which provided for such relief. Otherwise, it said, the American rule should prevail (*Wilderness Society* v. *Alyeska Pipeline Co.*).

About 60 specific statutes now provide American rule exceptions, from the Packers and Stockyards Act to the Freedom of Information Act. Proponents of the Kennedy bill see the *Alyeska* decision as only a temporary setback to eliminating the rule altogether.

Passage of the legislation, of course, will not only wipe away such legal cobwebs as the American rule, but will also breathe new life into public interest law. "With foundation money drying up, a lot of advocate lawyers are trying to make up in volume what they've lost," says an attorney for a leading national environmental organization. "They handle too many cases, so you get poor quality and a seedy impression of public interest law."

Rather than "subsidizing" radical groups, the participant funding program will provide a system for supporting public interest law. The bill contains safeguards to prevent abuse, and provides that funds will be used directly in specific cases. This way public advocates can control how best to use government support.

With other methods, such as "in-house" agency advocates or even a special advocacy agency, limits on staff or preoccupation with a certain type of law (health care, for instance) may hinder the effectiveness of such agencies in other areas. With the Kennedy cost recovery system, the priorities of fund allocation are left to the individuals and groups seeking the funds. Consumerists do not oppose other advocate plans, but they do hope that cost recovery will be a complementary program and that creation of other types of advocate programs will not jeopardize the fee recovery proposal.

Kennedy has recognized this danger and strongly advocates the participation financing program. "A public counsel," he says, "cannot, by himself, be expected to provide advocacy for the full range of citizens' interests. If we are to bring the unrepresented public directly into governmental processes, we must provide for government to shoulder part of the cost."

THE AMERICAN GI FORUM

Mr. TOWER. Mr. President, the American GI Forum of Texas will hold its 29th annual State convention this weekend in Odessa, Tex. A patriotic national veterans' family organization, the American GI Forum is open to all but composed mainly of Americans of Mexican ancestry.

The American GI Forum is well known to most of my colleagues. For those who may not be familiar with this national veterans' family organization, however, the following information may be helpful.

The American GI Forum of the United States was founded by Dr. Hector P. Garcia and other interested Texans on March 26, 1948, in Corpus Christi, Tex. Dr. Garcia, who had served in combat as an officer of the Medical Corps, joined with other concerned Texans to form an organization dedicated to protecting and furthering the opportunities for returning Mexican-American veterans which our country was extending at the same time to all other returning veterans of World War II.

This Texas chapter of the American GI Forum, like member chapters throughout the country has since expanded its original purpose and activities. Through grants and scholarships, this organization now provides deserving Mexican-American youth with invaluable opportunities to participate in the educational processes of our colleges and universities. Countless numbers of Americans of Hispanic heritage are rightfully taking their places in the professional and managerial fields in our competitive society.

In observing the 29th annual meeting of its State membership, the American GI Forum of Texas will also reflect upon the successes the organization has had in creating vital new business opportunities for minority entrepreneurs and other socially and economically disadvantaged persons. The business development organization or BDO perhaps has been the single most important vehicle which the American GI Forum has used successfully to bring minority business firms into the competitive free marketplace. More importantly, the BDO through its readily available management and financial expertise, as well as its interested and professional staff, has produced more than $8.6 million in approved loans and contracts for both new and existing minority businesses.

The membership will certainly reflect upon its successes in our State during this 29th annual meeting. Before it completes its work, including the election of new officers and the reaffirmation of its dedication to equal opportunities for all Texans, I am confident the American GI Forum of Texas will again renew its pledge to stand strong as a patriotic organization which has answered the calls of our Nation time and again in the name of freedom.

I commend the American GI Forum and all of our veterans' organizations for the contributions they have made on behalf of all of our Nation's citizens.

VERGIE CASS RETIRES

Mr. RIBICOFF. Mr. President. Vergie Cass, my first and only personal secretary since I came to the Senate in 1963, is retiring from public service next month.

Vergie Cass has served her Nation—in Government and in the Senate—for many years and now Vergie can look forward to a happy, active and much deserved retirement.

Her departure will leave a great void in my office, one that will be very difficult to fill. Vergie Cass has been such an integral part of my service in the Senate for the past 14 years—managing my appointments, schedule and calendar and handling the duties of office manager as well—that it is hard for me to believe that soon she will no longer be a participant in my work.

No one—no Senator, no staff member—is indispensable but Vergie Cass comes close. As I look back upon our long association, I take pause to consider some challenging moments in my Senate service when Vergie's competence, professionalism and sound judgment helped carry the day.

Vergie joined my staff after already establishing an impressive record in public service.

From an early job in Government with the U.S. Department of Agriculture, she transferred to the Denver regional office of the U.S. Bureau of Reclamation.

She came to Washington serving 6 years on the staff of Senator John A. Carroll, of Colorado. In 1963, she came to work for me when I opened up my Senate office.

Like every newcomer to the Senate, I began putting together what I hoped would be an efficient, reliable staff. I succeeded. And Vergie Cass was there from the beginning. Her recommendations, her advice, her high professional standards, the example she set for less experienced members of the staff—all of these were a tremendous help to me in my early days in the Senate.

As the years have gone by, Vergie has remained essential to my Senate work and continues to be one of my most trusted, most valuable assistants.

I have been fortunate in my career in Government and politics in having the benefit of able and loyal staff. Vergie fits that description perfectly. Moreover, though, there is another description of her that comes to mind. It was provided by a Colorado newspaper.

In 1962, the newpaper, reporting on Vergie's role with the Reclamation Bureau and then with Senator Carroll in the passage of a major Federal water project, described her as "a girl who grew up on the dry and windy plans of western Kansas" and who went on to make an important contribution to Government efforts to bring irrigation, flood control and power to the region where she had been raised.

Knowing Vergie as I do, knowing of the pride she takes in that great Mid- and Southwestern region of the Nation she comes from, but also knowing of the important contribution she has made to my own State of Connecticut, I would like to add something to that Colorado newspaper's description of Vergie. Vergie Cass, who did grow up on the dry and windy plains of western Kansas and who did serve admirably the region of her youth, then went on to serve with equal competence and dedication another part of the Nation, that part being Connecticut, a State where there are no dry and windy plains but where we will always be appreciative of dedicated and hard working public service, something Vergie Cass has given us for the past 14 years, something for which we will always be deeply grateful.

Mrs. Ribicoff, the entire staff, and myself wish her all the very best for many future years.

PAUL BUNYANS OF THE GREASE ORCHARDS

Mr. BELLMON. Mr. President, all too often we, the Members of Congress, debate the complex issues before us as abstractions. We forget that identifiable persons, not just "the people," are involved in every aspect of our debate. These individuals work day in and day out whether we debate or not. It is upon their labors that this Nation and the rest of the world is based.

One of the debates which Congress is now arguing is the so-called energy crisis and what we should do about it. Oil and gas production is very much a part of this discussion, but we discuss it in terms of barrels per day, of profit margins and of import requirements.

I recently read in the Daily Oklahoman's Orbit magazine a well written article which brings a portion of this debate into human terms. The article is headlined "Paul Bunyans of the Grease Orchards," and it follows the day of a roughneck on a rig in northwest Oklahoma.

This, in human terms, is oil exploration and production.

Mr. President, I ask unanimous consent that this article be printed in the RECORD as it will prove to be valuable reading for my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PAUL BUNYANS OF THE GREASE ORCHARDS

(By Bonnie Speer)

11 a.m.—get up.
11 to 11:30 a.m.—sober up.
Noon to midnight—work like hell.
Midnight to 3:30 a.m.—get drunk.
3 to 3:30 a.m.—beat hell out of them that's got it coming.
3:30 a.m.—go to bed.

That was the daily schedule an intrepid oil field worker jotted on the back of an envelope during Oklahoma's wild oil boom days.

The writer was probably typical of the roustabouts of his era, one who was rough and ready, a hard worker, drank heavily, caroused with women, and could lick his weight in wildcatters at the drop of a drill stem.

In the main, today's roughneck is reputedly no less rough and ready and a hard worker. Whether he lives up to the rest of his predecessor's reputation—well, that is up to the individual to decide.

More importantly in our present battle against the energy crisis, today's roughneck may be the least appreciated in the oil production chain. Recently I spent a day with a roughneck in western Oklahoma to find out and to see how his life compared with that of his forerunner.

Rick Hanlon, a husky, mustached driller for Austin Brothers of Seminole, is 24. He has been a roughneck since he was 18. He

lives with his wife Cheryl, 21, in a large mobile home at Camargo.

My day with Hanlon began when he arrived home at 12:20 a.m., dog-tired after working a "double." In oil field language, this means working 16 consecutive hours.

Such is necessitated by the fact that oil rigs, once they start drilling, operate around the clock, seven days a week. They also work with a tight crew.

When Hanlon got home that night, he went straight to bed with scarcely a hello. He rose next morning about 9:30 a.m. Still groggy, he pulled up on his boots and headed for the Camargo Cafe.

Here, he drank coffee, came awake and caught up on local gossip.

Leaving the cafe, Hanlon picked up the morning's mail, bought a box of Post Toasties, and headed home. Here, he glanced at the Vici Beacon, then settled back to view a soap opera on television.

"It's the only thing I get to watch," he explained somewhat sheepishly.

Cheryl filled him in on the episode he had missed yesterday while doubling.

I could already see that today's roughneck is definitely more settled than his predecessor. In early days, wells were often drilled 50 to 100 miles from nowhere. Wives and children were left behind, and the roughneck lived in ramshackle company camps. Now, with fast transportation and good roads, most live at home. They may drive a 100 miles to their jobs, though. Presently, Hanlon was working near Longdale, 50 miles away.

His work day began at 1:15 p.m. when he picked up his lunchbucket and left to pick up two riders with whom he takes turns driving. Each receives mileage. Other companies Hanlon has worked for pays the driller for driving, and he has to drive each day.

"For myself, I'd just as soon drive and get paid for it," Hanlon said.

Much to his annoyance, Hanlon's first rider failed to show for some reason or other. Keeping a full crew is one of the biggest headaches in the business. Each driller is responsible for hiring his own hands. Usually, this consists of two floor men and one derrick man. In turn, the driller is hired by the tool pusher, who is hired by the superintendent of drilling.

The turnover among oil field workers is notoriously high. They quit without notice and float from one rig to the next. The hiring hall is usually the nearest beer joint.

"Most of them that need a job will go there and leave their name," Hanlon informed me. "Some may go to a cafe or someone may tell them that so and so is not working and you call them. If looking for a hand that is usually where I go to find one."

But, this time, he was left shorthanded. He picked up his second rider, O. D. Hughes, a curly-haired young man from Vici, and sped down the highway, making up lost time.

Longdale lies between Selling and Fairview in northwestern Oklahoma. The way led over a desolate region of sandy hills covered with sumac and a scattering of dry grass.

But looks were deceiving. Abruptly, we arrived at the drill site, Martin Number Two, being contracted for Universal Resources Corporation of Oklahoma City. Within three miles of the Austin Brothers rig, the tips of four other rigs rose above the sandhills, presenting an exciting picture of future economic prosperity.

As we got out of the pickup, the steady, thunderous throb of the rig's massive engine and hydraulic pumps thumped, enveloping the senses, and making conversation difficult.

Thunka-thunka-thunka.

Hanlon and Hughes changed into their "greasers" in the doghouse and checked in. The third member of their crew, Fred Holsapple, a quiet, older man from Oakwood, was already there.

Hanlon went over the drilling log with the driller of the morning tour (pronounced tower, meaning shift). They were at 9,214 feet and had another 226 feet to go. They were making only two feet an hour.

Thunka-thunka-thunka.

"The bit's worn out," the daylight driller yelled above the sound of the engine. "Looks like as soon as that tool pusher gets back, you'll have to make a trip."

Listening, Hughes groaned. Making a trip—pulling the string of pipe from the well and putting it back—is the hardest part of a roughneck's job, that and rigging up and tearing down.

Hanlon glanced at the morning crew getting ready to leave. "I'm short-handed," he said. "Can anybody stay?"

For a moment, no one answered. Then Ronnie Payne, a tousled-headed young man from Watonga with a quick grin, stepped forward. "I can."

Hanlon nodded his acceptance and signed Payne in.

Hughes glanced at Payne. "You want to work the floor or derrick?"

"I'd just as soon take the derrick," Payne replied.

When making a trip, the derrick man must climb to the "board," a platform located about 85 feet above the derrick floor to handle the 90-foot strings of pipe as they are pulled from the well, and rack them in the fingerboard at the edge of the board. With a sharp wind blowing, it can get mighty cold up there, and the swaying of the tower is quite noticeable. Some don't mind the derrick, others do.

"That suits me fine," Hughes agreed quickly to Payne's offer.

The crew scattered to its routine chores as the daylight tour left. The roughneck is a combination plumber, electrician, motor mechanic and sample catcher. Any worth his drilling mud soon becomes expert at keeping broken equipment wired together until the tool pusher can get a new part to him. The motorman looks after the engines. The derrick man looks after the "mud."

The mud is a weighted chemical mix used on rotary rigs which circulates from the sump tanks, down the hollow drill stem, and back up, washing the cuttings to the surface.

The mud also plasters the sides of the hole to keep it from caving and water and gas from intruding. Too, it prevents the well from "blowing out," as it often did in earlier days, providing gushers and a tremendous waste of gas and oil. A special mud engineer controls the mixture of the mud.

The driller is king of the rig and what he says goes. He handles the drawworks when making a trip. By necessity, he must be responsible, self-reliant and quick thinking.

The tool pusher directs the more difficult drilling and testing operations and keeps the rig furnished with tools and material. He is on call 24 hours a day and may be responsible for more than one rig.

A geologist is also assigned to the rig, in this case Kurt Rottman, a sandy-haired young fellow from Oklahoma City, headquartered in a small trailer behind the rig.

As soon as the afternoon crew finished its initial chores, it gathered in the top doghouse to get out of the chill and await the tool pusher. In between routine chores, they spend much of their time here, perhaps reading, playing poker, drinking coffee, "shooting the bull" and keeping an eye on things.

Thunka-thunka-thunka.

Above the steady grinding of the kelly, the conversation drifted from how much time the men could get off, their experience on other rigs and how much other outfits might be paying.

Most roughnecks average from four to five dollars an hour with the driller receiving a little more. The men on this particular rig consider Austin Brothers a good outfit to work for because of the pay scale and the condition of the rig. The company also carries $15,000 life and accident insurance on the men.

Though accidents are infrequent, with all that heavy equipment, climbing, and slick floors, the potential is there. The necessity of sometimes using "worms" (inexperienced workers, called "weevils" in other areas) can add to that potential.

But there were no worms here this day. Hughes and Payne have been roughnecking about three years. Holsapple has been in the business "off and on" for about 15 years.

"I try to farm a little in the summer," Holsapple said, "but a farmer can't hardly make it any more, so I roughneck in winter."

"Someday, I'm going to be rich and travel," Hanlon said. Two years ago, he had bought a combine and gone north with the wheat harvest. He hopes to buy a larger combine and work at that in the summer and roughneck in the winter. "But who knows what I'll be doing," he added. "Tomorrow is another day."

"I'm taking flying lessons," Payne said. He volunteered the information that his wife is a music major at Southwestern State College. He was to have attended an opera concert there with her that evening.

I laughed. "That's why you were so eager to stay. So you wouldn't have to go to that concert."

Payne grinned sheepishly. "I got out of the last one, too," he admitted.

Thunka-thunka-thunka.

Rottman drifted in and out, reading the electric log, making calculations, and checking the search for "oil shows," and testing programs. Under a microscope and fluorescent light, he studies samples caught every 10 feet and anticipates the depth at which oil pay is likely to be reached.

When Rottman left, the others turned back to their conversation. They discussed the seven-day work week.

"After awhile it seems like you're out here all your life," Payne said, "but you get used to it."

The others agreed, but none of their wives liked the situation, they admitted.

"You can never do anything," Payne said.

"You can't do anything anyway without money," Hanlon noted.

Do they like their work?

"It's all right" Hanlon said.

"It's terribly hard work at times. At other times we don't do nothing . . . It's the best money I can make. And I'm my own boss to a certain extent."

"It's all right," Payne said. "I like being outdoors, but I don't expect to be a roughneck all my life."

Holsapple and Hughes said nothing.

Thunka-thunka-thunka.

Hanlon stepped out to check on the rig. Holsapple followed him. A pickup arrived and the toolpusher, Clarence Burrell, a neat, smooth-shaven individual from Enid, with sandy-hair and critical blue eyes, stepped out.

Burrell went over the drilling log with Hanlon and checked the current drilling rate. "I thought we could get on down with that bit," he said. "But we've hit some hard stuff. Well, you'd better start pulling pipe." He headed for his pickup to rustle up another drill bit.

Behind him, the inactivity suddenly ceased. Payne snapped on a safety belt and scrambled up the long steel ladder extending to the top of the derrick. Hanlon took his place at the control panel. Holsapple and Hughes hurried across the derrick floor.

Hanlon cut the engine and the mud pump and rotary table ground to a halt. The sudden change in tempo of the motor's rhythm provided a momentary relief to the eardrums.

Holsapple and Hughes readied the massive "tongs" for breaking the connections as the pipe came out of the well. Pushing a level, Hanlon lifted the kelly, a square, steel pipe 45-foot long that slides down through the rotary table, which in turn spins the drill pipe and rotary bit.

The men unfastened the kelly with the tongs and slipped the kelly into the "rat hole" which angled about 38 feet deep at the edge of the derrick floor.

Holsapple threw the "slip"—a wedge-shaped piece of steel used to grip the drill pipe coming out or going into the hole—around the pipe. Hughes washed the mud from the connection with water poured from a bucket, and Holsapple doped the interior threads. They fastened the elevator collar around the pipe and stepped back.

Hanlon touched the drawworks level and throttled the engine. With a thrust of power, belch of smoke, and creak of cable, the long section of pipe zoomed skyward. The slip clattered loosely around the sliding pipe. When it fell past the third joint, Hanlon halted the elevator, and Holsapple and Hughes quickly snapped the tongs in place. Holsapple tapped the joint above the connection with a hammer to see if it was mud-logged. Satisfied, he and Hughes broke the connection.

Hanlon touched the elevator control again. Above, Payne snagged the top of the string of pipe with a pull-back rope, and racked the pipe. He disconnected the elevator. The elevator descended. The process was repeated.

Thunka-thunka-thunka.

Over and over. One hour passed, then two. There was a sense of urgency in the mens' actions, for down-time from drilling is lost money for the company. Individual crews take pride, too, in the length of time in which they can make a trip.

A stiff wind sprang up from the south. It grew colder as the shadows lengthened. The men were working without coats, but they did not stop to get them. The usual supper hour came and went, but no one seemed to notice.

Fred E. Martin, retired school teacher and owner of the land, arrived to check the progress of the drilling, along with two grandsons, Kevin Keck, 14, and Page, of Tulsa.

"I heard the change in the sound of the motor," Martin said, "and I thought maybe they had drilled as far as they were going to and were pulling up pipe for good."

He and the boys watched the laboring roughnecks for awhile, from the safety of the doghouse, then left.

Night came. Burrell returned with the drill bit just as the final section of pipe cleared the well. Holsapple and Hughes unscrewed the worn bit and tossed it onto the floor. Payne scrambled down from the board. The men squatted around the damaged bit.

"Chewed all to hell," Hanlon noted.

Swiftly, Burrell unboxed the new bit and dumped it onto the iron doghouse floor, while the others grabbed their lunchboxes. Payne had no lunch. Usually when someone doubled, the others contribute to his lunch. This time I offered my lunch, thinking he needed it a lot worse than I.

Meantime, Burrell had run into a problem. The bit he had brought was a Hughes. The jet nozzles he was trying to insert in it would not fit. He and Hanlon hunted for another size. They found none. Burrell jumped back into his pickup and headed for a nearby rig to see if he could borrow some.

He returned shortly. But the nozzles still wouldn't fit.

"How long was I gone?" he asked.

"About 10 minutes," someone said.

Burrell dashed off again. The others grinned and stretched out their legs, glad for the extra time to relax. If they were lucky, the return trip might be delayed long enough for the morning tour to make it.

But no such luck. Another 10 minutes and Burrell was back. This time the nozzles fit. He screwed them in.

"There it is," he said.

The roughnecks snapped the lids on their lunchbuckets and headed back into the cold.

"Well," Payne stated philosophically, "it makes the time go by."

It took less than a minute for Holsapple and Hughes to attach the new bit to the end of the drill stem. Payne scrambled back aloft, still coatless, and Hanlon took his place at the control panel, released a lever, and pulled throttle.

Thunka-thunka-thunka.

The operation proceeded in reverse with an added step, the "throwing of the chain." This involves a 12-foot piece of small link chain which is thrown in such a way that it wraps around the drill pipe, allowing the men to screw the connection up quickly with the aid of the "cat head." Skillful roughnecks such as Hanlon soon develop a reputation for their ability to throw the chain.

Unskillful roughnecks are apt to find arms caught in the chain, or they may lose a finger in it, or get hit in the head.

I stood in the doghouse watching the men throwing the slip, lowering the pipe, throwing the chain, detaching the elevator collar. I marveled at their skill and the endurance I had seen exhibited as they worked steadily, handling nearly two miles of heavy pipe. I was tired just watching them.

Then, suddenly it happened. The elevator collar failed to latch completely on a stand of pipe. The drawworks lifted. The pipe snagged and fell from the collar, a real "biscuit cutter," as it was called in the days of wooden derrick floors, barely missing Hughes' right foot.

Hughes paled. For a second, no one said anything. Then Hughes laughed in relief.

"You'd better watch that stuff," Hanlon said above the steady roar of the engine. "You can lose a foot that way."

"You're telling me," Hughes said.

They returned to work without further concern.

I had seen enough. I closed my notebook and headed for town and a late supper.

Thunka-thunka-thunka.

The sound of the rig faded behind me. Beyond its range, the world seemed dreadfully quiet. As I glided down the smooth highway, I wondered how much the world appreciated the Herculean efforts of these unglamorous Paul Bunyans of the "grease orchards." Without the roughnecks, our engines would not run, our homes would have no heat, and a thousand other things dependent upon oil would be missing from our lives.

The crew I left behind me running pipe back into the ground worked on until 10:30 p.m., with time out to cope with a balky motor. Then the morning tour arrived to finish the trip. Hanlon and Hughes made the long drive back to Vici.

WORLD FOOD AND NUTRITION STUDY

Mr. HUMPHREY. Mr. President, there are few problems that confront mankind that are as perplexing as the world food problem. For the past three decades, this Nation has been a leader in the struggle against world hunger. After World War II, we poured billions of dollars and huge quantities of food into Europe under the Marshall plan to prevent mass starvation and to lay the groundwork for a strong Europe. This thrust, which has been credited with saving millions from hunger, was this great Nation's first significant step on the road in the effort to free mankind from the ravages of a food short world.

We, as a nation, have had our ups and downs in this battle. We have sent food that has fed millions. We have invested billions of dollars in the development of agricultural systems in virtually every corner of this planet.

But we have had failure as well. Sometimes our food has been wasted or squandered. Also, our investments have, on occasion, driven small farmers from the land they have farmed for generations while helping the rich.

Through it all America has been there, at the forefront of the battle, fighting hunger through title II of the food for peace program while, at the same time, trying to develop agricultural production in poor countries to meet tomorrow's food needs.

In the past couple of years, America, and the world, has learned an important lesson. This lesson was perhaps first notably discussed at the World Food Conference in Rome in 1974. This lesson is now fully documented and demonstrated by an important new study, the "World Food and Nutrition Study," by the National Academy of Science.

This report, addressed to the President, illustrates the need for world policymakers to think more in terms of consumption rather than production in the attempt to develop strategies to meet this need. The simple facts clearly prove that increasing the production of food, particularly among large farmers, does not of itself, assure that food will go to the poor.

The sad truth is that too many countries have increased the supply of food while consumption of food by the poor has declined.

Mr. President, this is intolerable. We must review our development strategy where this phenomena occurs. Development must benefit the poor.

At this juncture I would like to point out that Congress has become increasingly concerned with consumption trends in developing nations. In recognition of this concern, Congress has mandated that U.S. development efforts must be directed to helping the small farmer. We have done this not only because it is the surest way to seeing more food to the poor, but because it makes sense economically. Study after study shows that small farmers are the key to economic development in late developing nations.

It takes time to reverse a strategy that has favored production over consumption. And it takes a lot of political will on both the part of the donor and the recipient. It is easy to develop strategies to increase the production of food, it is difficult to develop strategies that redistribute the supply of food.

The world food problem is incredibly complex, perhaps the most difficult problem that we, as a nation face. There are no easy solutions.

The National Academy of Sciences study is an important effort to sort

through the complexity of the world food problem. This study not only helps us comprehend the task at hand, but it is a blueprint for charting a course to meet this problem.

The members of the World Food and Nutrition Study Steering Committee are to be commended for their effort. Participants in the study, Harrison S. Brown, David E. Bell, Elizabeth F. Colson, Paul F. Cornelsen, Ronald Freedman, James P. Grant, Howard H. Hiatt, D. Gale Johnson, Donald Kennedy, Thomas F. Malone, Emil M. Mrak, Nevin S. Scrimshaw, Sylvan H. Wittwer, and Sterling Wortman, as well as Joel Bernstein, study director—have served this Nation well.

This study raises a bold challenge to the Members of this body as well as to the citizens of this Nation. In a letter accompanying this report to the President, Philip Handler, President of the National Academy of Sciences, asserted:

The report indicates that the substantial research and development capabilities and educational resources of the United States can make a major contribution to the world capability to achieve markedly increased food availability and to minimize the age-old threats of hunger and malnutrition. At the same time, these efforts could benefit both the producers and consumers of food in our own country by lowering production costs, increasing agricultural profitability, and helping contain the rising cost of food.

This statement contains both a challenge and a promise. This statement should induce every Member of this body to examine this document very carefully. We must step ahead strongly in this battle. To do otherwise would be to fail our fellow man.

Mr. President, I ask unanimous consent that the summary of this study be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

1. DIMENSIONS OF THE WORLD FOOD AND NUTRITION PROBLEM

The world food system is not working adequately for either poor or rich countries. Large and increasing numbers of people are hungry and malnourished. Associated with hunger are other matters of increasing seriousness: rising costs of food production, unstable market conditions, and increasing evidence that the content of diets is a major contributor to health problems in virtually all countries, including the United States.

Human beings suffer from several kinds of malnutrition. They can be harmed by eating too little food, or too much food, or by the wrong amounts or balance of particular elements in their diet. These types of malnutrition are found in all countries, but undernourishment is particularly widespread in the poor countries, while the other kinds of malnutrition are prominent in rich countries like the United States.

Possibly as many as 450 million to a billion persons in the world do not receive enough food. Most of the hungry people live in the poor countries where populations are destined to grow rapidly for some time into the future.

Since World War II, the growth of population and of total income in most of the world has been unprecedented, and this has further increased demands for food. World population grew 60 percent from 1950 to 1975; 80 percent of this growth was in the developing countries. From 1950 to 1974, the gross national product (GNP) per person in both the developing and the high-income countries more than doubled. It is likely that by the turn of the century per capita GNP will have doubled again.

The immediate cause of hunger is the lack of resources with which to buy or produce enough food. Insufficient food interacts with disease, apathy, and other effects of poverty to foster malnutrition and lower productivity. Thus such problems as the inequitable distribution of income and unemployment are important aspects of the problem of world hunger.

Sharp fluctuations in world food supplies and prices aggravate problems of hunger and malnutrition. The variability in production due to weather, pests, and disease, and government policies to stabilize internal prices contribute to the instability of food prices and supplies.

Another important cause of malnutrition is the absence or weakness of policies, institutions, and programs to foster the best use of available food supplies for the purpose of improving nutrition. In poor and rich countries alike, governments, private organizations, and individuals continually make decisions that affect nutritional status with little or no knowledge of the nutritional consequences.

The most important requirements for the alleviation of malnutrition is for the developing countries to double their own food production by the end of the century. We are convinced that this can be done given the political will in the developing and higher-income countries.

Thus the problem of alleviating hunger and malnutrition in the world is a complex one Success will depend upon how effectively we undertake four major tasks: increasing the supply of the right kinds of food where it is needed, reducing poverty, improving the stability of food supplies, and decreasing the rate of population growth.

Increasing food supply

If the developing countries are to increase per capita food availability by at least 1 percent per year, they need to expand their food production over the next 25 years at an average rate of about 3 to 4 percent per year How much of the increase in food supply will be available to increase per capita consumption will depend on how fast the rate of population growth declines.

Expanding crop area and increasing crop production per hectare are the two ways to increase food production. Increases of crop area probably will not exceed an average of 1 percent per year over the next 25 years and may be appreciably less. Thus increases in yield need to average about 2.5 percent per year. This will not be easy to achieve and sustain, but it is encouraging that the developing countries collectively increased their food production by 38 percent during the period 1965 to 1975. Major efforts, organized around improved farming technologies, will be needed to achieve the necessary rates of increase.

This situation also will create pressures upon the United States to increase food production at an appreciable rate. Our population is still growing. Further, if the developing countries continue to import increasing amounts of their food from the United States, and if the import demands of Europe and Japan continue to rise because of growing affluence, increased U.S. productivity will be necessary to reduce rising pressures on U.S. food prices and production costs. This necessitates finding ways to increase our agricultural yields still further.

Reducing poverty

Two essential conditions for reducing poverty in the developing countries are rapid expansion of employment and an increased supply of food. Maximum use of the available work force simultaneously expands output and personal incomes, particularly at the lower end of the income scale. Expanding food supply fulfills the principal consumption needs of the poor at a lower cost and promotes the growth of national income. Simultaneously expanding national employment, food supply, and the well-being of workers depends heavily on introducing more productive technologies throughout the food system that make better use of workers. Direct food distribution programs can help alleviate poverty and correct the maldistribution of food.

Stabilization of food supplies

Local, national, and international measures are needed to prevent sudden drops in food supplies, market gluts that discourage production, and sharply fluctuating food prices. Improved technology can reduce food losses caused by weather and pests. Appropriate government policies also can reduce instability in food supplies and prices And national and international arrangements for food reserves can remedy cycles of glut and shortage.

Population growth

In the short run, gains in nutrition in low-income countries may increase population growth rates by decreasing mortality before fertility declines. However, there is evidence that the social and economic changes required for increased food production and better health also are conducive to reduced birth rates.

In the long run, no action is more important for improving the world food and nutrition situation than the reduction of birth rates. In view of this fact, *we strongly recommend that the U.S government sponsor a study to assess how U.S research capabilities can best be applied to help countries desiring effective means of reducing birth rates.*

The role of research and development

A strong research base is essential to all activities needed to increase the food supply, reduce poverty, and moderate the instability of supplies and prices. The role of research is to broaden the range of choices available to all those who affect world food supply and nutrition such as farmers, consumers, and government officials. In stressing this we do not assume that research and development will solve world food problems, only that it is an essential part of the solution

A broad spectrum of research and development activities, ranging from adaptation of existing technologies to the search for new scientific discoveries, is necessary to improve the performance of food systems. In this study we particularly stress the need for biological innovations, improved farming systems, improved technologies aimed at reducing risks, and improved development policies and organizations. We also emphasize research that concentrates on the effects of malnutrition. Finally, we stress the great importance of expanding basic food and nutrition research. Many of the improvements we visualize cannot be brought about unless our reservoir of relevant basic knowledge is enlarged.

The role of the United States

The United States, along with other high-income nations, can contribute to the solution of problems of hunger and malnutrition by providing capital assistance, cooperating in the formulation of development plans, and working for a more effective international environment in trade and the management of food reserves. Larger U.S involvement in these activities is desirable.

The United States can play a very important role in research and development Our experience in research and in the training of research workers could help the developing

countries build their own research capabilities. This is particularly important because many problems can be studied only in the environments in which they occur. Programs of a large number of research and educational institutions in the United States could be redesigned to include more studies of selected world food and nutrition problems.

The effect that research efforts by the United States could have on world food problems depends on the extent and quality of U.S working relationships with national and international research organizations in the developing countries.

Recommendations

In the light of our analyses, we recommend: (1) expanded research efforts to improve food and nutrition policies, increase food availability, reduce poverty, and stabilize food supplies; (2) actions to help mobilize and organize research and development resources in the United States and throughout the world; and (3) a U.S. government mechanism to better interrelate actions that affect food and nutrition situations both at home and abroad.

An opportunity

The challenge to U.S. research capabilities that is presented by world food problems is attended by many reasons for optimism.

Our most important reason for optimism is the increasing ability of many developing countries to address their own food problems. Many developing countries have made important progress in addressing the poverty and population growth factors that underlie malnutrition. In addition, the potential for improving agricultural yields in developing countries is clearly very large.

If there is the political will in this country and abroad to capitalize on these promising elements, it should be possible to overcome the worst aspects of widespread hunger and malnutrition within one generation. By the end of the century, grain production could be doubled in the developing countries and food production in the rich countries could be increased by more than the total grain production of the United States today.

We find these prospects exciting and worthy of strong national and international efforts.

2. HIGH PRIORITY RESEARCH

How priorities were established

The selection of major research areas and promising approaches for achieving them was based on their prospective effects on world hunger over the next few decades.

To establish priorities, 12 interdisciplinary study teams were assembled and asked to identify research and development areas with outstanding potential to help meet world food and nutrition needs. Three questions posed by the Steering Committee guided the selection of these areas:

What advances in knowledge will specific areas of research produce, and what is the scientific or technological significance of these advances?

If the research produces results, what effect would they likely have on reducing global hunger and malnutrition over the next several decades?

What supportive action will be required to conduct research for the accelerated activity recommended (e.g., more resources, policy changes, organizational changes)?

The priority areas identified by the study teams, which totaled over 100, were then evaluated by Study Team 13, which examined the important areas from a number of points of view, including near-term effects (less than 15 years) and longer term effects (more than 15 years). This ranking resulted in the designation of 22 priority areas. They were selected because of the likelihood that important advances toward the broad goal of each research area were feasible and would contribute significantly to improving the world food and nutrition situation. Particularly promising individual lines of research are identified within each priority area. The 22 selected priority research areas fall into four categories: nutrition, food production, food marketing, and policies and organizations. Some recommended priority lines of research promise possible widespread application within 5 to 10 years. Others will produce results only over the longer term. No rankings are made among the 22 areas; they constitute the minimum of a highly selected list of promising types of research requiring support.

We recommend that U.S. research support be increased for the lines of research identified within these 22 research areas:

Nutrition–Performance Relations.
Role of Dietary Components.
Policies Affecting Nutrition.
Nutrition Intervention Programs.
Plant Breeding and Genetic Manipulation.
Biological Nitrogen Fixation.
Photosynthesis.
Resistance to Environmental Stresses.
Pest Management.
Weather and Climate.
Management of Tropical Soils.
Irrigation and Water Management.
Fertilizer Sources.
Ruminant Livestock.
Aquatic Food Sources.
Farm Production Systems.
Postharvest Losses.
Market Expansion.
National Food Policies and Organizations.
Trade Policy.
Food Reserves.
Information Systems.

Food production

Research on food production can find the technical means for improving yields and stability of yields of the most important food plants. The low-income countries of the tropics particularly face difficult problems in achieving self-sustaining farming systems that produce high, stable yields with a minimum dependence on energy and capital. During this century, scientific advances have extended our ability to develop new crop and animal strains tailored to the needs of particular regions or special uses. Among the more obvious examples are high yielding hybrid corn and sorghum and the semidwarf varieties of wheat, rice, and barley. We suspect we are nowhere near the natural limits of plant productivity. New techniques of genetic manipulation will permit us to achieve much greater productivity in the future.

Plant Breeding and Genetic Manipulation.—Research support should be increased in three areas: revitalizing work on the "classical" genetics and plant breeding methodology of economic plants; work at the cellular changes and the development of methods to screen for agronomically important traits; and improving genetic stocks. This work requires collaboration among scientists in this country and abroad who are working in classical genetics and plant breeding, cell biology, and related fundamental scientific fields.

Biological Nitrogen Fixation.—Nitrogen is a critical element in protein and therefore in the growth of plants and animals. The large increases in yields over the past 25 years, particularly in the high-income countries, have resulted from the increased use of nitrogen fertilizers. Even so, two-thirds to three-fourths of the nitrogen fixed in association with world agriculture is estimated to occur biologically: microorganisms extract it from the air and fix it in soils and plants. The greater use of this source of nitrogen for plant growth is a reasonable prospect and should be a prime research goal.

Shortages of natural gas and petroleum and the rising costs of the raw materials used to produce chemical fertilizers are persuasive reasons for accelerating research on biological alternatives. Moreover, such research is likely to be useful in reducing the environmental contamination associated with chemical fertilizers.

There are several promising lines of research for increasing biological nitrogen fixation. These include identifying and improving the symbiotic associations between leguminous plants and microorganisms, inducing a similar association between microorganisms and cereal grains, and transferring the genetic capability for nitrogen fixation directly from bacteria to plants.

If cereal crops could fix nitrogen at 30 percent of the soybean rate, the additional nitrogen fixed would equal 36 million tons. This amount of nitrogen is more than five times the total amount currently used in the developing countries.

Photosynthesis.—Perhaps the greatest potential for using the sun's energy lies in increasing the efficiency with which crops fix solar energy through photosynthesis. Most plants capture no more than 1 to 3 percent of the solar energy they receive. What we know presently indicates a theoretical conversion potential of about 12 percent. Experts suggest that increases in the photosynthetic efficiency of plants could produce gains of 50 percent to well over 100 percent in agricultural yield after 15 years of intensive research.

Resistance to Environmental Stresses.—The principal causes of instability of food output are stresses on plants such as pests, weather aberrations, and chemical variations in soil. Notable in the latter case are aluminum toxicity and related nutrient deficiencies of acid soils, and salinity.

We assign high priority to several areas of research to reduce the vulnerability of crops to stress, including steps to identify, screen, and breed resistant plants.

Pest Management.—The losses from pests are known only imprecisely but, worldwide, they may average a third of potential production. Rice, the world's most important crop, suffers losses of perhaps 40 to 50 percent.

Three areas of research should have high priority: the use of agronomic practices to control pests (the foundation of improved pest management systems), breeding for resistance to plant pests, and the introduction of organisms that prey on particular pests.

Weather and Climate.—Fluctuations in weather and climate cause the largest variations in food production. World food reserves are insufficient to compensate for harvest losses due to the serious weather fluctuations that could occur in a single year. Thus efforts to alleviate problems arising from droughts, unseasonably high or low temperatures, and severe storms are crucial.

We give highest priority to two related areas of research. Our first priority recognizes that agriculture must make better use of weather and climate information. Research to this end would have three objectives: better use of statistical techniques for estimating weather and climate changes; development of more sophisticated models for handling farm risks; and improved management skills for dealings with the effects of weather variability. The second priority is research to improve the analytical techniques for predicting the effects of weather on crops, recognizing that, in large part, agriculture must adapt to the variability of weather and climate.

Management of Tropical Soils.—Most of the potentially arable land that is not farmed is in the tropics of Africa and South America, about 1 billion hectares or three-fourths again as much land is presently cultivated in the world. Seventy percent of this unused

arable land has acidic soil belonging to the groups called oxisols and ultisols. There are encouraging indications that these two soil types, if handled properly, can produce high crop yields. However, growing conditions in many tropical areas are far from ideal, and much research will be required before cultivated crops can be grown economically and without affecting the environment adversely.

The sequence of recommended research includes: classifying local soil types, establishing suitable land-clearing methods, identifying methods to correct deficiencies in soil composition which could be used in combination with new stress-resistant plant varieties, identifying measures to enhance water retention and root penetration, developing suitable cropping systems and/or forage-animal systems, and adapting technologies to local ecologic and socioeconomic conditions.

Annual crop production in these humid lands, if well-managed, could be raised to 150 to 200 percent of the temperate zone production per hectare.

Irrigation and Water Management.—Adequate water is indispensable for plant growth. Having enough water depends not only on average annual precipitation, but also on the reliability of supply. Farming systems can be highly productive on relatively small annual supplies, if the supplies are dependable or if the soil adequately stores water in relation to variations in rainfall. Unfortunately, precipitation is the most variable and least predictable element of weather.

Today, 14 percent of the world's farmed area is irrigated, and estimates suggest that the area irrigated could be more than doubled. However, as most of the world's farmers will not have access to irrigation, there is also a great need for improved water management in rainfed agriculture.

The recommended research priorities stress improving onfarm water management, supplemented by research and development on physical improvements and on new planning techniques to guide farmers.

Fertilizer Sources.—The use of chemical fertilizers is usually the most rapid means of increasing farm production. As we have seen, research on biological nitrogen fixation deserves high priority worldwide, but research on inorganic chemical nutrients also is needed.

Two research efforts are recommended to develop new sources of fertilizers: one is for less expensive methods of fixing nitrogen that do not use the increasingly scarce supplies of natural gas and petroleum, the principal raw materials for current production. The other is for the design of fertilizers that can be efficiently used in the tropics.

Other research includes the expanded use of rock phosphates and the use of larger percentages of phosphate ores, better provision for applying micronutrients that are important in the tropics, and the development of slow-release fertilizer.

Ruminant Livestock.—Animal products are a major part of the world's diet and could play a more important role in the developing countries. In the United States, different types of livestock supply two-thirds of the protein for human consumption. In the developing countries, animal products are a much smaller but still important part of the diet, providing 20 percent of the protein for human consumption. However, animal production has been rising rapidly and can increase severalfold in the future if research and development can overcome certain obstacles.

Two-thirds of the world's agricultural land is in permanent pasture, range, and meadow, of which 60 percent is not suitable for cultivation. These lands, where not claimed for other uses, are exploited best by large ruminant livestock, primarily beef and dairy cattle, which now produce almost half of the world's meat products and most of its milk products. Animals constitute an important stockpile of food and capital for the developing countries. The total caloric worth of worldwide animal stocks in 1974 was 50 percent more than that of grain stocks, and the animal stocks were more evenly distributed.

Animal yields can best be increased by three lines of research: improving feed supply from forage plants in the open ranges and other pasture situations; improving animal health by concentrating on the most damaging contagious disease; and increasing the offspring of animals that best use low quality diets and resist disease.

Aquatic Food Sources.—Fish are an important component of total human and animal food intake. In 1974, the world commercial production of food products from fresh and saltwater was about 70 million tons, excluding whales and seals. Five million tons were obtained from aquaculture, mostly in freshwater.

Fisheries and aquaculture differ. Fisheries are essentially gatherings of wild animals, whereas aquaculture employs varying degrees of direct animal management. The application of research to increase production of aquatic animals holds promise in both areas. Research for fuller use of the fish catch could produce early results that would benefit both the United States and the developing countries. It is estimated that the amount of fish protein directly consumed by humans could be doubled without increasing the present world catch.

Research on aquaculture will lead to greater yields. The annual yield of pond fish in Southeast Asia could be increased fivefold from the present average of 600 kilograms per hectare through polyculture coupled with the development of nutrition. This technical potential, combined with the developing countries' growing interest in aquaculture, promises substantial gains.

Genetic improvements will permit the larger-scale gains needed in the long run. Fish geneticists estimate that gains in production from selective breeding alone could soon amount to 2 to 5 percent per year.

Farm Production Systems.—The use of new technologies by farmers in the developing countries is inhibited because technology usually comes to them, if at all, in disconnected pieces. Thus they have difficulty fitting it effectively into their farming and social systems. Research on the structure of those systems is of high priority. Since farming systems comprise many factors, this research must be multidisciplinary

Research on farm production systems has excellent prospects for greatly increasing production, income, and social well-being. It should include:

Selecting crop combinations for the best total income and nutrition;

Introducing improved varieties of crops and animals that permit higher yields, increased annual production per farm, and more stable incomes through adjustments in the length, timing, and mixture of growing seasons;

Preserving the diversity of species and protecting soil resources for long-term production;

Experimenting with crop combinations, sequences, and improved cultivation techniques;

Designing equipment to meet the needs of small farmers for tillage and other cultivation, irrigation, food storage, and crop handling;

Improving the organization and administration of local services; and

Improving the management skills of farmers and housewives needed for the production, preservation, and consumption of food.

Food production on currently farmed land in the humid tropics can be increased, perhaps by as much as fourfold in the long run. The introduction of new farming systems requiring minimal inputs of resources should be important in this regard.

Food marketing

The quantity and quality of food available to consumers depend upon a chain of connecting services that determines how well the whole food system works. The chain can be very short, involving only the farmer and household members; or it can be long, as in the complex marketing services of high-income countries.

To improve the quantity and quality of food actually eaten in the developing countries and also the real income of both producers and consumers, a number of improvements are needed in these services:

Reduction of waste, which typically is very large;

Reduction of costs;

Better maintenance of food quality, or enhancement by fortification or other processing;

Wider and more even distribution of supplies over time and space; and

Better communication of consumer demands to producers.

It is estimated that in some parts of the world as much as 50 percent of the food supply from plants and animals is lost between harvest and consumption, especially in the humid tropics. The most immediate research need is to inventory the amount, location, and cause of food losses. Efforts should then be made to determine whether these causes are attributable to poor management, inappropriate pricing and policy, or lack of needed technology.

We recommend the following lines of research as especially promising: extending preharvest pest control to the postharvest phase, and improving food preservation technologies and storage for the humid and arid tropics, particularly for use at the farm and village levels.

Markets in the developing countries must be expanded to provide incentives for increased production, to give consumers a wider variety of foods at lower cost, and to reduce the food losses that occur when excess supplies cannot reach markets. One remedy is to expand the purchasing power of the consumer, especially of the poor consumer. A second remedy, applicable at any level of national income and purchasing power, is to expand the number of markets for farmers in the developing countries.

Research is recommended on means of increasing the purchasing power of poor people in the developing countries: increasing the efficiency of food distribution programs, pricing policies, and product promotion and design. The research needed to expand markets in the developing countries includes: improving transportation; improving intermediate marketing institutions; and adapting modern analytical techniques to the planning, organization, and management of major commodity systems.

The large size of the food sector in the economies of the developing countries and the fact that most of the costs involved in food losses occur after the food leaves the farm suggest that food savings could be considerable.

Policies and organizations

Science and technology alone cannot improve the world food and nutrition situation. Government policies and the organization affecting food must provide incentives and opportunities for increased production and better distribution of food. Hence research on social and economic policy is essential.

Illustrations of the effects of national policies and organizations are plentiful. Technology that permits farmers to grow more food at a lower cost per unit of output can be offset by government price, tax, or trade policies that influence the prices of farm products and inputs. These policies can make increased production unprofitable for producers, thereby discouraging use of the new technology. Inadequate credit and marketing services affect the dependability of

supplies of seeds, fertilizers, and machinery, and may discourage farmers from applying improved technologies.

International policies and organizations are critically important to the world's food supply. Poor countries would have more incentive to apply better technology in food production if they had better opportunities to expand sales into international markets.

The list of policy and organizational problems is long, and the specific content and relative importance of each differs according to time and place. Experience suggests that the individual developing countries often have common problems regarding their policies and organizations affecting food. Thus it is desirable to develop a number of widely applicable generalizations through comparative analysis of experiences in different countries. However, the size and difficulty of the research needed on policies and organizations require a large increase in current social science research capabilities, both in the United States and in the developing countries.

The developing countries depend upon international trade in food, and upon the principal commodities used to produce food such as fuel, fertilizers, and pesticides, to provide adequate food supplies for their people. The trade policies of both the developing and the high-income countries affect the abilities of the developing countries to meet their national goals.

There are many unknowns about the nature and extent of the interactions among the principal factors affecting trade. These unknowns limit the abilities of individual countries to make rational choices on trade policies and they impede productive dialogue on the international issues. Research is needed to better understand patterns of world food production and trade that take advantage of the resources indigenous to certain areas and that will reflect the real costs of food production in various parts of the world. Research also is needed to permit anticipation of technology and development trends and their implications.

Food reserves are an important means of ensuring the stability of food supplies. Most food stocks are grains, which can be stored and transported more easily than other foods. World grain markets are affected by the interactions of supply, demand, and stocks at national and international levels, and these relationships must be considered when establishing policies for the management of grain stocks.

One line of research would investigate the storage systems of particular developing countries—where stocks are held, who owns stocks, the losses during storage in various types of storage facilities, and the costs and gains from storage. Research should first more accurately describe and evaluate current systems and then evaluate how these systems could be improved.

Another line of research would examine the alternatives to holding grain reserves. For example, international trade may be a feasible alternative for achieving market stabilization and improved distribution. The extent to which food aid could be used to help the developing countries stabilize their food supplies needs to be investigated.

Decision makers need timely information to assess the likely effects of alternative decisions. Decision makers in the developing countries are often severely handicapped by a lack of data. For all countries, policies, programs, and research are beoming more diverse and complex year by year, and requirements for information expanded correspondingly.

The developing countries have many information problems and requirements that are similar to those of the high-income countries, although the data required and the complexity of the systems are less. The developing countries already spend sizeable portions of their scarce resources on information needs. The information is often unused, either because the wrong data are collected or because there is no way to disseminate the data. Appropriate research can help prevent both problems.

Promising new technology is rapidly being developed to improve information systems. This includes analytical systems for appraising the variables affecting food production, marketing, and nutrition; computer technology; and the capabilities for remote sensing. We can expect a growing number of low-cost systems for use by the developing countries.

Research is recommended on: the information needs of the producer, crop monitoring systems, international data bases for land and nutrition, and total information systems design.

3. HOW TO GET THE WORK DONE

Our analysis leads to three major conclusions:

First, a large part of the research needed will have to be carried out in the developing countries, where the most serious shortages of resources for food and nutrition exist. Consequently, the capacity of the developing countries for research and its application must be substantially enlarged.

Second, the international food and nutrition research centers and programs established in tropical countries over the last decade require continued strengthening.

Third, a large part of the research needed will have to be carried out in the high-income countries, where most of the relevant scientific resources are found. In order to undertake its share effectively, the United States should enlarge and reshape its research on food and nutrition.

These objectives need to be approached in combination, not separately, building working relationships among research groups in the high-income and developing countries and the international centers.

Research capacity in the developing countries

The capacity of the developing countries to conduct research and development on food and nutrition varies substantially from country to country, but all are far short of the scientific and technical resources they need. Those countries must provide the resources they need to build research capacity, but much can be contributed by others, including the United States. We conclude that the United States should, when asked:

Train researchers for the developing countries at U.S. universities and help build training institutions abroad;

Help the developing countries establish research facilities and institutions and apply research results; and

Encourage and support communication and collaboration among research workers in the developing countries, in the international and regional institutions, and in the United States on problems of common interest.

International research centers and programs

Perhaps the largest research contributions to reducing world hunger in recent years have been made by the international agricultural research centers such as the International Rice Research Institute in the Philippines. These centers have produced important research results, have become important training locations, and have contributed to building research capacity in a number of the developing countries. Such centers and programs have a great deal of potential, and they need to be continued and strengthened.

The United States should

Continue to provide 25 percent of the funding for the centers and programs sponsored by the Consultative Group on International Agricultural Research;

Join in supporting other high quality international centers, both those with which it is already involved and others for which it is not now a major supporter; and

Move vigorous and imaginatively to encourage collaborative relationships between international centers and research groups in the United States.

U.S. research on food and nutrition

U.S. research on food and nutrition should enable future U.S. food production and distribution to meet domestic needs at reasonable prices while permitting the continued export of major amounts of food. The research also should contribute to increasing food production and improving food distribution in the developing countries.

Specifically, we conclude that:

Major increases are needed in fundamental research in the natural and social sciences, particularly in those areas related to the enhancement of food production and nutrition;

A new and broader approach is needed for research on nutrition;

Much greater attention needs to be given by the U.S. research community to international objectives; and

Support for social science research relevant to food and nutrition should be increased sharply.

Recommendations for U.S. actions

The Federal–State System of Agricultural Research

Our first set of recommendations concerns the federal-state agricultural research system and the role of the Department of Agriculture (USDA). We consider these recommendations to be the most important we are making on organization and financing. They are intended to enable the Department of Agriculture, in cooperation with other groups, to make a much larger contribution to reducing world hunger and malnutrition than they have thus far. The Department of Agriculture and others involved in agricultural research will need to emphasize and support the entire spectrum of research related to food. They will need to mobilize scientific resources that have not previously been involved with agricultural research. They will need to add to their traditional focus on the United States a direct concern with hunger and malnutrition overseas. Thus the Department of Agriculture and others must develop a substantial and sustained international orientation. Further, they must work in close collaboration on food and nutrition problems with the Agency for International Development.

We recommend the appointment of an Assistant Secretary of Agriculture with responsibility only for research and education.

The Assistant Secretary should be a senior scientist of sufficient stature to attract the highest quality scientific participants.

We recommend substantial increases in federal funding for the traditional USDA research programs (including support for state programs), and we recommend funds to establish a new program of competitive grants for research on food and nutrition.

Increased funding will provide new vitality for the existing system and a stronger base for the accelerated research we recommend.

We recommend a first-year increase on the order of $120 million, something under 20 percent of the total of about $700 million of USDA *and state funds now devoted to food and nutrition research. We propose that the new funds be divided equally between the existing federal–state channels and the new competitive grants program. Thereafter, we recommend successive increases, after ad-*

justments for inflation, on the order of $60 million or approximately 10 percent per year in real terms for the next four years, also divided evenly between the existing programs and the new competitive grants program.

There is no doubt that funding increases on this scale are needed to attack the larger research agenda and to overcome the effects of the relative neglect of agricultural research in recent decades.

Three points are worthy of note. First, a substantial share of the increased funds will be needed to expand U.S. personnel. Second, we urge that a major new emphasis be placed on nutritional research by the Department of Agriculture. Third, we emphasize the importance of establishing a strong competitive grants program in the Department of Agriculture.

We recommend a five-year federal matching grants program for nonfederal research facilities and equipment. These grants should be available to other universities and private nonprofit institutions as well as to those in the land-grant group.

A large infusion of resources is needed for altering and replacing existing obsolete facilities. Additional facilities will be needed to carry out the proposed research agenda, including a few wholly new installations. Federal funds as large as $100 million per year might be well used.

We reemphasize that Department of Agriculture funds should be used to enable the U.S. scientific community concerned with food and nutrition to become involved in international efforts: to join in collaborative research with colleagues abroad, to conduct research overseas, to undertake training and postdoctoral fellowships in research centers abroad, and to invite foreign scientists to work at U.S. research facilities.

In our view, the Secretary of Agriculture speaks not just for the interests of American food producers but also for the broader interest of all American citizens.

Agency for International Development

Our recommendations propose substantial increases in the scale of and improvements in the substance of the activities of the Agency for International Development (AID) to: help establish research and development capacity in the developing countries, support further development of international research centers and programs, and support U.S. groups that wish to undertake food and nutrition research in the developing countries. Title XII of the Foreign Assistance Act of 1975 provides a new legislative base for these activities and for the participation of U.S. universities in them.

In recent years, AID has suffered a serious deterioration in its professional staff concerned with agriculture, and must rebuild is past competence. The resources of the universities cannot be mobilized and applied to the needs of the developing countries unless there is a high quality professional cadre in AID.

We recommend a larger and more systematic effort by AID to help the developing countries establish research and development capabilities for food and nutrition in both the natural and social sciences.

AID has been committing about $30 million per year for this purpose. In our view, that figure should be at least tripled as rapidly as possible.

We recommend a larger and better-designed AID effort to train research personnel for the developing countries.

Such an effort should have two main components. The first involves work with U.S. universities to improve the quality and relevance of their training for foreign students. The second involves helping to establish research training programs in the developing countries themselves.

We recommend the establishment of a joint AID-university committee on international training under title XII of the Foreign Assistance Act.

We recommend continuation of AID support for international research centers and programs, both those supported by the Consultative Group on International Agricultural Research and others of worldwide or regional scope that are likely to provide research results that are badly needed by the developing countries.

International research centers involve special risks but they also provide special opportunities. Such centers can contribute significantly to the build-up of research capacity in the developing countries. To achieve the potential advantages it is desirable to limit such centers and programs to those few that are clearly of unusual promise and to assure their working relationships with national centers in all parts of the world. U.S. contributions to those centers, which amount to about $20 million per year and are scheduled to rise by about $4 million per year over the next several years, are clearly money well spent.

We recommend that AID enlarge significantly its support for establishing operating relationships between U.S. research groups and those in the developing countries.

In recent years, the U.S. universities' knowledge of conditions in the developing countries, and their direct involvement in those countries, have been declining. We commend the concept, now being developed under Title XII, of support for research progroms linking U.S. and overseas researchers interested in a common problem, such as adapting soybean cultivation to tropical conditions.

Other forms of support also should be considered. AID should not hesitate to support research with middle-income countries such as Brazil or Mexico. Such countries offer some of the best opportunities for valuable and relatively inexpensive exchanges of research.

Finally, AID should provide encouragement for good university planning and management of international research. The universities, in turn, should recognize that the aim of Title XII is to help the developing countries primarily by supporting work there.

National Institutes of Health

The National Institutes of Health (NIH) is the largest source of federal support for research on human nutrition, spending about $60 million per year. Most of this research is oriented to the interrelationships between diets and diseases prevalent in the United States.

We recommend that NIH's support for nutrition research be reoriented to place greater emphasis on studies of human subjects, particularly using epidemiologic approach and behavioral and other social science skills.

We recommend that more effective arrangements be established for coordinating research on nutrition supported by the several Institutes and by other relevant agencies in the Department of Health, Education, and Welfare.

We recommend only modest increments in the NIH budget for nutrition research for the immediate future. Some funds from lower priority programs should be diverted to high priority purposes. In the longer run we have no doubt that larger funds will be required.

National Science Foundation

The central mission of the National Science Foundation (NSF) is to nurture the health of science and the increase of basic knowledge. Support for basic research related to food and nutrition concerns is relatively modest—about $40 million. Large and sustained increases are needed to enlarge as rapidly as possible the stock of fundamental knowledge on which future applied research will depend.

We recommend that the National Science Foundation substantially increase its support of fundamental research in biology and other natural science disciplines underlying work on food and nutrition.

We also recommend strengthened support by NSF for disciplinary research in the social and behavioral sciences relevant to food and nutrition.

We recommend that funding increases be complemented by increasing the size and duration of individual project financing.

The authorizing legislation for NSF for fiscal year 1977 places special emphasis on international scientific collaboration to assist in resolving critical world problems such as those of food and population.

We recommend vigorous action by NSF under this new mandate to promote international scientific collaboration.

The fiscal year 1977 authorizing legislation also puts new stress on training in interdisciplinary research, including research grants.

We recommend that a program of training in interdisciplinary research be undertaken because of its potential for dealing with food and nutrition problems.

Privately Supported Research

Currently, roughly half of U.S. research and development concerned with food and nutrition is financed in the private sector. Most of this activity is in business firms representing a wide range of industrial pursuits.

We recommend that AID enlarge its use of contracts to draw on the capacity of private companies to contribute to research and research training objectives in the developing countries.

We also recommend that the Department of Agriculture consider the possibility of making greater use of private resources, by contract, for needed aspects of food and nutrition research where that may bring effective results at equal or smaller public cost.

Two factors may inhibit the usefulness of normal market-oriented research and development by private business. The first is the possibility that government regulations established in the interest of health, safety, environmental protection, and other purposes may, through overlapping imprecision, or shortcomings, result in unnecessary or unwise limitations on research and development.

We recommend that coordination and simplification of regulations affecting research and development on food and nutrition be given early attention.

A second set of problems involves patent rights. Issues being raised in international forums challenge the validity, and therefore the effectiveness, of patents and other proprietary rights. There are other prospective problems concerning the adequacy of patent laws as these apply to research on plants.

We recommend an early evaluation of U.S. and international proprietary rights under the leadership of the Executive Office of the President.

Executive Office of the President

It is necessary to establish in the Executive Office of the President arrangements for designing and implementing a coherent strategy for research on food and nutrition. Such a strategy can be established only within the framework of a coherent general strategy for dealing with world food and nutrition problems. We think the operational authority, funds, and programs should be retained in the various departments and agencies. At the same time, a central capacity is needed to look ahead at overall problems.

There are various organizational alternatives for achieving these ends. The essential characteristics are capable leadership and an independent staff.

We recommend the establishment of these two entities in the Executive Office of the President: one to develop and maintain a coherent U.S. strategy for dealing with world food and nutrition problems; the other, subordinate to the first, to facilitate coordination of U.S. and international research activities on food and nutrition.

WYOMING'S SMALL BUSINESS PERSON OF THE YEAR

Mr. WALLOP. Mr. President, I believe that small business has been and will remain the basic strength and hope of the American future. Whenever anyone excels and is recognized for their excellence in the small business world, I feel that it should not go unnoticed by the U.S. Senate. I would like to pay tribute to Mrs. Clarence Law, owner and manager of the Antler Motel in Jackson, Wyo., who was recently presented the Wyoming Business Person of the Year Award.

Mrs. Law has developed a small operation into one of the largest, most successful motel-restaurant businesses in the Jackson area. When she is not toiling with her business she is taking care of her husband, Creed, and three children, taking an active role in the Morman Church, several civil organizations and financial boards, and a volunteer counselor to prospective and active business people in the Jackon Hole area.

Mrs. Law proves once again that an individual small business is the cornerstone of our free enterprise system and that our country is still the land of opportunity for those who want to persevere and work hard. I hope that if any of my colleagues or their constituents are in the Jackson Hole area this summer that they will stop in and enjoy some of Mrs. Law's fine Wyoming hospitality.

THE UNSIGNED GENOCIDE CONVENTION: A JULY 4 SLUR

Mr. PROXMIRE. Mr. President, on Monday, we will celebrate the 201st anniversary of the Declaration of Independence. At this time of rededication to the ideals upon which this great Nation was founded, the Senate's failure to ratify the Genocide Convention sounds as a strident discord to these high ideals.

In 1776, the founders of the United States dedicated themselves to the self-evident truths—"that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness." American colonists based their declaration on the inherent dignity of the individual: A new system of government was built upon the foundation of human rights.

And yet, Mr. President, the Senate still has failed to ratify the Genocide Convention, another document calling for the protection of human rights. It is our responsibility as Members of the U.S. Senate to live up to the example of our forefathers who fought for those basic, inalienable human rights. I have pleaded and shall continue to plead the cause of world peace through the ratification of the human rights conventions.

UNION CONTRIBUTIONS TO THE 1976 ELECTIONS

Mr. THURMOND. Mr. President, I have before me the first of a series of reports on union political activity prepared by the distinguished author, Douglas Caddy.

Mr. President, I believe this excellent analysis will be of interest to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

REPORT ON UNION POLITICAL ACTIVITIES

*AN IMPORTANT SUPREME COURT DECISION

Union contributions to the 1976 national elections

DEAR CLIENT: On May 23, the U.S. Supreme Court issued its decision in an extremely significant case in which the appellants protested the use of the union for political purposes of the charges, dues or assessments paid by employees. The Court's opinion in the case *Abood et al.* v. *Detroit Board of Education et al.* is purposely murky but on the whole can be viewed as a victory for organized labor.

In its *Abood* decision the Court first reviewed the question of whether an agency shop provision in a collective-bargaining agreement covering governmental employees is constitutionally valid. Appellants who are teachers had challenged the constitutionality of the agency shop clause in a collective bargaining agreement between the Detroit Board of Education and the Detroit Federation of Teachers which had been certified as the exclusive union representative of teachers employed by the Board. The protesting teachers complained they were unwilling or had refused to pay union dues, that they opposed collective bargaining in the public sector and that the union was engaged in various political and other ideological activities that the teachers did not approve and which were not collective bargaining activities.

The Court held, in its opinion by Justice Potter Stewart, that "insofar as the service charge is used to finance expenditures by the union for collective bargaining, contract administration, and grievance adjustment . . . (previous) decisions by this Court appear to require validation of the agency-shop agreement before us."

The Court then turned its attention to the union's use of nonunion members' fees for purposes other than collective bargaining, that is for political and ideological causes. The Court, still speaking through Justice Stewart, declared:

"Our decisions establish with unmistakable clarity that the freedom of an individual to associate for the purposes of advancing beliefs and ideas is protected by the First and Fourteenth Amendments. Equally clear is the proposition that a government may not require an individual to relinquish rights guaranteed him by the First Amendment as a condition of public employment. The appellants argue that they fall within the protection of these cases because they have been prohibited not from actively associating, but rather from refusing to associate. They specifically argue that they may constitutionally prevent the Union's spending a part of their required service fees to contribute to political candidates and to express political views unrelated to its duties as exclusive bargaining representative. We have concluded that this argument is a meritorious one."

After holding that constitutional principles "prohibit the appellees from requiring any of the appellants to contribute to the support of an ideological cause he may oppose as a condition of holding a job as a school teacher," the decision then gave limited sanction to the union's use of its treasury money for political purposes.

Declared the Court:

"We do not hold that a union cannot constitutionally spend funds for the expression of political views, on behalf of a political candidate, or towards the advancement of other ideological causes not germane to its duties as collective bargaining representatives. Rather, the Constitution requires only that such expenditures be financed from charges, dues or assessments paid by employees who do not object to advancing those ideas and who are not coerced into doing so against their will by threat of loss of government employment."

The decision then took the easy way out of the constitutional dilemma facing the court. In a footnote the decision states:

"A further reason to avoid anticipating difficult constitutional questions in this case is the possibility that the dispute may be settled by resort to a newly adopted internal union remedy."

Under the procedure newly adopted by the Detroit teachers union a dissenting employee may protest at the beginning of each school year the expenditure of any part of his agency-shop fee for "activities or causes of a political nature or involving controversial issues of public importance only incidentally related to wages, hours, and conditions of employment." The employee is then entitled to a pro rata refund of his service charge in accordance with the calculation of the portion of total union expenses for the specified purposes The calculation is made in the first instance by the union but is subject to review by an impartial board.

The Supreme Court opinion concluded, "In view of the newly adopted union internal remedy, it may be appropriate under Michigan law, even if not strictly required by any doctrine of exhaustion of remedies, to defer further justical proceedings pending the voluntary utilization by the parties of that internal remedy as a possible means of settling the dispute."

In a footnote to its concluding remarks the court noted: "We express no view as to the constitutional sufficiency of the internal remedy described by the appellees. If the appellants initially resort to that remedy and ultimately conclude that it is constitutionally deficient in some respect, they would of course be entitld to judicial consideration of the adequacy of the remedy."

Justices Brennan, White, Rehnquist and Stevens concurred in Justice Stewart's opinion

Justice Powell, in a concurring opinion joined in by Burger and Blackmun, declared:

"The Court today holds that compelling an employee to finance a union's 'ideological activities unrelated to collective bargaining' violates the First Amendment, regardless of any asserted governmental justification. But the Court also decides that compelling an employee to finance any union activity that may be 'related' in some way to collective bargaining is permissible under the First Amendment because such compulsion is 'relevant or appropriate' to asserted governmental interests. And the Court places the burden of litigation on the individual. In order to vindicate his First Amendment rights in a union shop, the individual employee apparently must declare his opposition to the union and initiate a proceeding to determine what part of the union's budget has been allocated to activities that are both 'ideological' and 'unrelated to collective bargaining'.

"I can agree neither with the Court's rigid two tiered analysis under the First Amendment, nor with the burden it placed on the individual."

What can be concluded from the Court's *Abood* decision? Well, it appears that a slim majority of the Supreme Court still adheres to the remedy the Court first evoked in *International Association of Machinists v. Street* (1961) in which members and agency fee payers of a union were allowed to seek restitution to each individual payer of that portion of his money that the union expended for political causes to which he advised the union he was opposed. As the intervening 16 years since *Street* have revealed, this remedy is more illusory than real. Union leadership makes little effort to reveal how union treasury money is spent for causes unrelated to collective bargaining and it is impossible for the average member to monitor these activities. Even if he did monitor and protest by seeking restitution, the reality of everyday life is that such a member would in effect be putting his job on the line in the short or long run.

It remains for critics of the internal rebate remedy system implemented by an increasing number of unions to document and expose the hypocrisy and deficiency inherent in such a system. Failure to concentrate on this task risks the possibility that the Supreme Court will continue to avoid facing difficult constitutional questions in this area and will take the easy way out by embracing the illusory internal rebate remedy as a means of protecting a union member's or agency fee payer's First Amendment rights.

UNION POLITICAL CONTRIBUTIONS IN 1976

A minimum of $10,588,555.74 in financial contributions was given by organized labor in direct, "in kind" and independent expenditures to candidates for the U.S. Senate and House of Representatives in the 1976 campaigns, according to a recent study by the Americans for Constitutional Action (955 L'Enfant Plaza North, S.W., Suite 1000, Washington, D.C. 20024).

"These figures," declared J. Charlene Baker, Chairman of ACA, "reflect and divulge only those contributions that were reported to the Federal Election Commission. They are minimum expenditures, since all reporting requirements are, as yet, not being fulfilled by many labor committees."

"We have included direct contributions, 'contributions in kind', independent expenditures (when reported), and communications with members for individual candidates (again, when reported)," according to Miss Baker.

"Included in the following figures are contributions by organized labor to the various Democratic and Republican committees supporting candidates," Miss Baker stated.

The Americans for Constitutional Action study shows:

Democrats received $10,208,015.46—and Republicans, $380,540.28 or Democrats, 96.5%, Republicans, 3.5%.

Candidates for the U.S. Senate received $3,709,319.92, of which the Democrats received $3,530,475.67 and the Republicans, $178,844.25.

In the House of Representatives the total labor contributions were $6,475,785.82. Of that total, the Democrats received $6,301,589.79 and the Republicans, $174,196.03.

The various Republican and Democratic committees, other than the candidates personal committees, received $403,450 of which the Democrats received $375,950 and the Republicans, $27,500, as pointed out by Miss Baker.

The above figures *do not include* monies paid to various deficits and to candidates after December 31, 1976. To cite an example, Senator Daniel Moynihan (D-NY) has received $26,579.78 in reported support since the first of 1977.

The following is ACA's breakdown of organized labor's larger financial support to 15 individual Senator candidates in the 1976 elections. (* indicates winner):

William Green (D-PA), $245,480.40; John Tunney (D-CA), $230,488.46; Daniel Moynihan (D-NY)*, $222,046.89; Vance Hartke (D-IN), $210,754.09; Harrison Williams (D-NJ)*, $205,008.10; Howard Metzenbaum (D-OH)*, $197,669.05; James O'Hara (D-MI), Lost Primary, $196,883.95; Paul Sarbanes (D-MD)*, $169,500.22; Frank Moss (D-UT), $145,546.35; James Sasser (D-TN)*, $138,839.29; Donald Reigle (D-MI)*, $138,046.61; Hubert Humphrey (D-MN)*, $125,321.13; Elmo Zumwalt (D-VA), $121,255.61; Joseph Montoya (D-NM), $101,425.32; Dennis De Concini (D-AZ)*, $92,717.25.

The following is ACA's breakdown of organized labor's larger financial support to 15 individual Congressional candidates in the 1976 elections:

Stan Lundine (D-NY 39th)*, $106,535.93; Lloyd Meeds (D-WA 2nd)*, $67,723.97; Jim Mattox (D-TX 5th)*, $66,250.47; Thomas O'Neill (D-MA 8th)*, $64,527.75; Bob Gammage (D-TX 22nd)*, $64,225.50; Martin Russo (D-IL 3rd)*, $58,337.95; Tom Ashley (D-OH 9th)*, $56,396.79; Robert Young (D-MO 2nd)*, $56,071.56; Michael Blouin (D-IA 2nd)*, $54,480.22; Pat Schroeder (D-CO 1st)*, $53,288.90; John Dent (D-PA 1st)*, $52,885.50; Floyd Fithian (D-IN 2nd)*, $51,789.65; Jim Lloyd (D-CA 35th)*, $51,417.65; Richard Vander Veen (D-MI 5th), $50,464.86; Mark Hannaford (D-CA 34th)*, $50,063.88.

FORMER CHIEFS OF NAVAL OPERATIONS ASK PRESIDENT TO RETAIN SOVEREIGNTY IN PANAMA CANAL ZONE

Mr. HELMS. Mr. President, the post of Chief of Naval Operations is one of the most critical in our Defense Establishment. Those who hold that post must be responsible for the combined operations of all our fleets. They must be men of extensive knowledge, both in strategy and operations; and they must have wide experience in sea command. In recent history, that post has been held by men of particular distinction and decisive judgment.

The post of Chief of Naval Operations is indeed the highest naval position in our services. From its vantage point, the CNO must face the practical problems of strategy—the logistics of moving fleet and supply vessels, the problems of time and distance, and the strategic value of sea lanes and narrow waterways. That is why the advice given by a CNO has particular value when it concerns the Panama Canal.

Mr. President, four distinguished former Chiefs of Naval Operations have written to the President offering their combined judgment on the strategic value of the Panama Canal. In a period when armchair diplomats and guilt-burdened journalists are pronouncing the canal undefendable and of no strategic value, the voices of these distinguished public servants, who have given their lives and careers to the defense of our Nation, rise together to attest to the value—even the ever-increasing value—of the canal to the defense of this Nation and the free world.

The four distinguished naval men are the following: Adm. Robert B. Carney, Adm. George Anderson, Adm. Arleigh Burke, and Adm. Thomas H. Moorer. Their terms of service cover the years 1953–55, 1955–61, 1961–63, and 1967–69. Admiral Moorer, of course, also served as Chairman of the Joint Chiefs of Staff from 1970 to 1974, and is at present the director of the Center for Strategic and International Studies of Georgetown University.

This period of service lasting over 20 years covers one of the most important in our history, including two wars and times of peace. We have no reservior of experience and judgment concerning naval strategy more valuable to us than this group of men.

This is what they say about the canal:

Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this interoceanic waterway is as important, if not more so, to the United States than ever.

The CNO's then go on to discuss the canal in the light of their experience in World War II, Korea, Vietnam, and the Cuban missile crisis. Moreover, they point out the importance of retaining sovereignty:

Sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the over-all U.S. defense capability, with enormous potential consequences for evil.

The CNO's conclusion is especially important:

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security. It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty.

Mr. President, this letter by the former CNO's was transmitted to the President by four members of this distinguished body, who have also given their wholehearted endorsement to it. The Senator from North Carolina had the honor of joining with the most capable and distinguished chairman of the Appropriations Committee, Mr. McCLELLAN, with the distinguished ranking minority member of the Judiciary Committee, Mr. THURMOND, and with my distinguished colleague on the Armed Services Committee, Mr. BYRD of Virginia. The letters have been brought to the personal attention of the President.

Mr. President, I ask unanimous consent that the letter of the former CNO's to the President, and the transmittal letter from the aforementioned Members of this body be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
June 15, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are enclosing a most important letter from four former Chiefs of Naval Operations who give their combined judgment on the strategic value of the Panama Canal to the United States.

We think you will agree that these four men are among the greatest living naval strategists today, both in terms of experience and judgment. Their letter concludes:

"It is our considered individual and combined judgement that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty."

We concur in their judgment and trust you will find such action wholly consistent with our national interest and will act accordingly.

Sincerely,

STROM THURMOND,
JESSE HELMS,
JOHN L. MCCLELLAN,
HARRY F. BYRD, Jr.,
U.S. Senators.

JUNE 8, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As former Chiefs of Naval Operations, fleet commanders and Naval Advisers to previous Presidents, we believe we have an obligation to you and the nation to offer our combined judgment on the strategic value of the Panama Canal to the United States.

Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this inter-oceanic waterway is as important, if not more so, to the United States than ever. The Panama Canal enables the United States to transfer its naval forces and commercial units from ocean to ocean as the need arises. This capability is increasingly important now in view of the reduced size of the U.S. Atlantic and Pacific fleets.

We recognize that the Navy's largest aircraft carriers and some of the world's supertankers are too wide to transit the Canal as it exists today. The super-tankers represent but a small percentage of the world's commercial fleets. From a strategic viewpoint, the Navy's largest carriers can be wisely positioned as pressures and tensions build in any kind of a short-range, limited situation. Meanwhile, the hundreds of combatants, from submarines to cruisers, can be funneled through the transit as can the vital fleet train needed to sustain the combatants. In the years ahead as carriers become smaller or as the Canal is modernized, this problem will no longer exist.

Our experience has been that as each crisis developed during our active service—World War II, Korea, Vietnam and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transits of our naval units and massive logistic support for the Armed Forces. The Canal provided operational flexibility and rapid mobility. In addition, there are the psychological advantages of this power potential. As Commander-in-Chief, you will find the ownership and sovereign control of the Canal indispensable during periods of tension and conflict.

As long as most of the world's combatant and commercial tonnage can transit through the Canal, it offers inestimable strategic advantages to the United States, giving us maximum strength at minimum cost. Moreover, sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the over-all U.S. defense capability, with enormous potential consequences for evil.

Mr. President, you have become our leader at a time when the adequacy of our naval capabilities is being seriously challenged. The existing maritime threat to us is compounded by the possibility that the Canal under Panamanian sovereignty could be neutralized or lost, depending on that government's relationship with other nations. We note that the present Panamanian government has close ties with the present Cuban government which in turn is closely tied to the Soviet Union. Loss of the Panama Canal, which would be a serious set-back in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive.

For meeting the current situation, you have the well-known precedent of former distinguished Secretary of State (later Chief Justice) Charles Evans Hughes, who, when faced with a comparable situation in 1923, declared to the Panamanian government that it was an "absolute futility" for it "to expect an American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of (the) rights which the United States had acquired under the Treaty of 1903," (H. Doc. No. 474, 89th Congress, p. 154).

We recognize that a certain amount of social unrest is generated by the contrast in living standards between Zonians and Panamanians living nearby. Bilateral programs are recommended to upgrade Panamanian boundary areas. Canal modernization, once U.S. sovereignty is guaranteed, might benefit the entire Panamanian economy, and especially those areas near the U.S. Zone.

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security. It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty.

Very respectfully,

ROBERT B. CARNEY,
GEORGE ANDERSON,
ARLEIGH A. BURKE,
THOMAS H. MOORER.

REMARKS OF SENATOR EDWARD M. KENNEDY AT THE UNITED AUTO WORKERS CONVENTION

Mr. CRANSTON, Mr. President, I would like to bring to the attention of the Senate the magnificent tribute paid to Leonard Woodcock by the distinguished Senator from Massachusetts (Mr. KENNEDY) in his address to the United Auto Workers Convention in Los Angeles on May 16.

In that address, Senator KENNEDY also reaffirmed his commitment to achieving a national health insurance program this Congress. As a cosponsor of S. 3, the Health Security Act, since it was first introduced in the 92d Congress I share Senator KENNEDY's conviction that we must move toward adoption of a comprehensive health program this Congress. I am pleased that at the same United Auto Workers Convention, President Carter also announced his intention to develop a legislative proposal for a national health insurance program for introduction in the second session of this Congress.

It is most fitting that these commitments were expressed by both Senator KENNEDY and President Carter at that convention which paid special tribute to Leonard Woodcock whose contribution to the development of the Health Security Act was most aptly described by Senator KENNEDY in his address:

But there is one area of his public service that surpasses all the rest, one issue that he has made his own, one issue where we must carry on his work—health care and national health insurance.

Mr. President, I ask unanimous consent that Senator KENNEDY's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TRIBUTE TO LEONARD WOODCOCK: UNITED AUTO WORKERS CONVENTION

It is a great privilege and honor for me to be here with all of you this evening and to be part of this special tribute to Leonard Woodcock.

As I told your officers in accepting the invitation, there is no way I would miss this occasion. I would follow Leonard Woodcock to the end of the earth, even to Peking—where I assume the next Woodcock tribute will probably be held.

More than a million auto workers around the nation are with us in spirit here this evening as we honor their leader. He has given a lifetime of service to the labor movement and the U.A.W. cause. His seven years as president have been enormously successful ones for this union, its members and their families. His achievements have earned him a place among the giants of the American labor movement. And in a larger sense, his courage, his conscience, and his commitment to the great social causes of our time have won him the respect and admiration, not only of working men and women in the U.A.W., but of all the citizens of the nation.

I remember that sad day seven years ago last Monday, when we heard that the plane had crashed, that Walter Ruther was dead. But Walter Reuther's dream for the labor movement and his country did not die. And it did not die because there was a person who understood the dream, a person who shared the vision of America that Walter Reuther held, a person who picked up the fallen standard and raised it high again, a person named Leonard Woodcock.

For the auto workers, he has been a skilled and highly effective negotiator. At the confrontations across the table from G.M. or Ford or Chrysler, the tough and effective Woodcock approach brought real results—the most successful bargaining rounds in the history of the U.A.W. and some of the brightest chapters in the history of collective bargaining.

He spoke softly and won big results. You know the achievements as well as I:

He worked to remove the ceiling on the COLA clause, to protect every auto worker against the soaring cost of living and the

ravages of double digit inflation we have endured in recent years.

His wise management and sound fiscal policies rescued the union treasury from the red ink of the past and produced the current healthy surplus.

Under his leadership, your health and pension and other benefits have made the U.A.W. package a model for many other unions and other programs in the nation. They tell me that the only paid holiday the auto workers do not get is Groundhog Day, and I gather you're working on that one, too.

When we call the roll of Leonard Woodcock's achievements, we must also look beyond his record of service to the auto workers, and praise his large accomplishments for the nation. Over the years, he has been a powerful voice for progressive leadership in America and for a deeper commitment to the nation's basic social goals in critical areas of foreign and domestic policy.

He understands America and the direction we ought to take. He was an early supporter of Jimmy Carter, and he helped to make him President of the United States. He was an early opponent of the Vietnam War and he helped to end our long and tragic struggle there.

And two months ago, after the wounds of war had finally begun to heal, President Carter turned to Leonard Woodcock to lead the mission to Vietnam and Laos, to negotiate an accounting for Americans missing in Indochina and to help bring relations back to normal between our nations.

The President's faith was well rewarded. There are few more poignant memories from the Vietnam era than the moment when the Woodcock mission received the remains of the twelve American pilots who gave their lives. Because of Leonard Woodcock, they could now begin the journey home to their final resting place.

Hanoi also gave its pledge to continue the search for other men still missing. In winning such a pledge, the Woodcock mission also won the gratitude of the thousands of M.I.A. families in the United States, who still carry on their vigil, who still wait for an answer to their prayers.

These special Woodcock skills have been felt on many public issues here at home. His frequent, forceful and persuasive testimony before our Senate Labor Committee and his grasp of complex issues have often helped to overcome obstacles to the passage of vital bills. Time and again, on virtually every major piece of legislation passed by Congress, his eloquent voice has been heard in the halls and committee rooms of Congress, and Congress has responded.

He was at the ramparts when it counted over the past eight years, protesting against the disastrous Ford and Nixon policy of rising prices and rising unemployment.

He has been a tireless leader for more effective economic programs, so that America can keep its workers on the assembly line instead of in the welfare or unemployment line. He has called for stronger health and safety rules for workers on the job, and for equal rights for men and women in the work place. He has called for pension reform and welfare reform, for tax reform and labor law reform. He has called for aid to our decaying cities, for civil rights, for crime control, for education, for protection of the environment, for an end to poverty in this rich land.

"Millions of Americans suffer from hunger and malnutrition," he once said, "not because we lack the means to end poverty, but because we do not care enough."

He is at the forefront now of our struggle to create a consumer protection agency, to represent the public interest and redress the balance that is tilted too far in favor of powerful special interest groups. He has charted a course for us to follow toward other goals where progress has been too slow, where America would be even farther behind than we are today without the clear vision and compassionate voice of Leonard Woodcock.

But there is one area of his public service that surpasses all the rest, one issue that he has made his own, one issue where we must carry on his work—health care and national health insurance. The U.A.W. leaders—first Walter Reuther in the late 1960's and then Leonard Woodcock throughout this decade—have been two of the greatest pioneers America has ever had on health.

They taught us the long neglected facts of America's health care crisis. They showed us the tragedies imposed on workers and their families by the failures of our health care system. In 1968, they formed the Committee for National Health Insurance, which has done so much in recent years to convince the nation that reform must come.

The goals we share are easy to understand:

Health should be a basic right for all Americans, not just an expensive privilege for the few.

We want Health Security for the people of America, just as we established Social Security over forty years ago.

Decent quality health care should be available to all at a cost they can afford to pay.

No mother should have to ignore her children's health because she cannot pay the cost of the deductible in the insurance policy. No mother should have to face the choice of deciding whether her child is $50 or $100 sick.

No American should have the tragedy of serious illness compounded by the fear of financial ruin because he can't afford the bill.

No American should lose his health insurance because he lost his job.

No American in a hospital emergency room or a doctor's office should have to stick out his wallet before he sticks out his tongue.

To achieve these goals, I introduced the Reuther-Woodcock Health Security Act in the 91st Congress. Since then, I have introduced the Health Security Act in the 92nd Congress, the 93rd Congress, the 94th Congress, and now the 95th Congress. Eight years have passed, eight years in which America's health care crisis continued to grow worse, eight years in which we faced the combined opposition of the American Medical Association, the private health insurance industry, and a hostile Administration in the White House.

The years of neglect by the Ford and Nixon Administrations took their toll on every aspect of the health care system. The ruinous impact of soaring hospital and doctor costs goes far beyond the financial burden placed on millions of Americans. By draining our resources, it diminishes our ability to care for our families and our children. It reduces our research effort to understand the causes of disease and find effective cures. It impairs our ability to provide health care to the elderly, the poor, the minorities, the inner-city residents, those in rural areas, and all the others who need the care the most.

As Leonard Woodcock keeps reminding us, we know that the United States is the only major developed nation in the world without national health insurance. Does anyone in this convention hall seriously believe that all these nations are out of step except the United States? We have been marching to different drums, but they are the drums of the A.M.A. and the private health insurance industry, and it is time we changed the tune.

We are paying dearly for our isolation. An auto worker in the United States works six weeks—gives up six whole weeks in wages—to pay for his health insurance under our inadequate present system. In Canada, which has had national health insurance for several years, his counterpart on the automobile assembly line works only half as long to pay for health. It is time that Americans, not just Canadians, not just the British and French, the Germans and the Italians, the Russians and the Chinese, had a comprehensive health care program our people can afford.

The current system is full of waste and inefficiency. It has no planning or direction. It has no cost controls. It has no incentives for preventive care. With every year that passes, the problem is worse than the year before. We have been running on a treadmill, and the treadmill has been winning.

During the years of frustration and discontent, a few have understood. Walter Reuther lit a candle in the darkness. More than any other person in our time, it was Leonard Woodcock, with the support and commitment of the U.A.W., who kept the flame alive, who preserved the dream of health security.

A year ago, the flame began to burn more brightly. We passed a crucial turning point. In the heat of the primaries last April, Jimmy Carter, with the encouragement of Leonard Woodcock, came to Washington and delivered a major address on health. He spoke to the Student National Medical Association. He called our health care system in America "a comprehensive catastrophe." He made clear that the years of frustration and discontent were over.

He had chosen his audience with care. He spoke to the ones who understood the problem best, because they had felt the crisis in their bones and daily lives—the association of black medical students and other minority groups across the nation. To them, as to all of us, the candidate for President held out the vision of a new health care system. He gave a promise for change, a commitment to better health care for all Americans.

It was a remarkable address, a statement full of hope and leadership, a solid foundation for action on which a new Administration can easily and quickly build.

He said that a national health care program should have universal and mandatory coverage. He said every citizen should be entitled to the same level of comprehensive benefits. He said that the benefits should be paid by a combination of methods, including employer and employee payroll taxes and general treasury revenues.

Hardly by coincidence, those are the very principles of the Health Security Act. At last, we had a signal that could not be misunderstood. And when the votes were counted, we knew we had a President who was committed to our goal.

The vision in Jimmy Carter's address in Washington was also Walter Reuther's vision. It is Leonard Woodcock's vision, too. It is the vision of the U.A.W. and all who care about the quality of health care in our land. Few things we will ever do will be more important to us, to our children and to future generations than to make that vision real.

Today, 116 days after the inauguration, President Carter and his Administration have made commendable progress in most areas in their effort to fulfill the major commitments of the 1976 campaign. But health has been left behind.

We know about their historic new commitment to human rights. We already have the fiscal stimulus plan, the energy plan, the election reform and voter registration plan, the Social Security plan.

We know about the balanced budget plan. We have received a firm commitment for a welfare plan by the middle of the summer. We have also received a firm commitment for

a comprehensive tax reform plan before the leaves begin to turn this fall, and possibly much sooner.

What we do not have so far is a commitment of this sort for action on national health insurance. Health reform is in danger of becoming the missing promise in the Administration's plans.

I hope that the Administration will move quickly to close the gap. Other major reforms are moving down the track. But health reform is still in the starting gate. With all respect, I say it is time for the Carter Administration to begin to carry out its commitment on national health insurance and health security.

We do not ask for a plan to be submitted now. The issues are complex, and the new Administration deserves an opportunity to analyze these details and prepare its own proposals, just as it has done in other areas.

But it is not too much to ask a firm commitment now from President Carter for comprehensive health reform. That commitment should include a target date this year for the submission to Congress of national health insurance legislation by the Administration.

They have taken this route on energy. They have taken it on welfare reform and tax reform. And it is time to take that route on health.

Some say that Congress is the bottleneck, that our agendas in the Senate and House of Representatives are already too crowded with other reforms to deal with health security. The American people should not tolerate delay on health by Congress, simply because other reforms are already lined up bumper to bumper at the door of the Finance Committee in the Senate or the Ways and Means Committee in the House of Representatives.

If the committee system is not equipped to deal effectively with all the important issues facing the nation, the solution is not for the committees to ignore the problem, but for Congress to change the committee system. It is time to end the traffic jam and get on with the nation's basic business.

The budget is not a problem, because no additional spending is required for health security. No new costs would be involved. In the early years, the same total amounts would be paid for health care, but we would get better health care in the bargain. And eventually, under health security, we would be saving billions of dollars a year compared to the soaring costs that will continue if we fail to act.

In fact, the role of health security in the federal budget is no different from the role of energy in the Carter Administration's package. By 1981, it is estimated that $75 billion in new revenues from energy will pass through the federal budget and be rebated to consumers. If it is not a problem for the Administration to recycle these large amounts of energy dollars through the federal budget, it will not be a problem for the dollars involved in national health insurance.

Even if health security were signed into law tomorrow, it would require substantial lead time to implement. It would not become a significant item in the federal budget until after 1981, the year when President Carter wants the budget balanced.

It is not always easy to follow the logic of those who say go slow. They do not always practice what they preach. They take the floor of Congress to lash out against the role that government would play under national health insurance. And then they drive out to Walter Reed Army Hospital or Bethesda Naval Hospital for the free medical and dental care the government provides.

They already have their national health insurance. If it's good enough for the President and the House and Senate, it's good enough for the U.A.W. and all the other taxpayers who already pay the bill.

Let me make my own commitment here, before this convention, before Leonard Woodcock and the U.A.W. where it all began.

We will act on health security in this Congress. Our Senate Health Subcommittee will report out legislation in the present Congress. Before this Congress adjourns for the elections in 1978, we will debate a national health insurance bill on the floor of the Senate of the United States.

I pledge to try to do all this and more, to see that national health insurance is passed by Congress and signed by President Carter. Our only regret will be that Leonard Woodcock, who led the fight so well and so long, will have to read about our success from his embassy in Peking.

Here in Los Angeles, as we honor Leonard Woodcock for his leadership in so many ways, let us reaffirm our commitment to one of his highest goals, the goal of health security.

We can have better health care in America. We can provide decent care to all who need it. We can do it at a cost the country can afford. And we can reach all thse goals in the present Congress, if we have the effective help and encouragement of the Carter Administration.

That's what the people of America stand for. That's what the United Auto Workers stand for. That's what Leonard Woodcock stands for, and I'm proud to stand here with him.

ON THE B–1 BOMBER

Mr. CASE. Mr. President, President Carter's decision on the B–1 bomber is a welcome move which could help strengthen our overall defenses in the long run. As a member of the Defense Appropriations Subcommittee, I have long felt that our defense dollars could be more effectively allocated to other weapons systems.

THE NEED FOR A CONSUMER AGENCY

Mr. RIBICOFF. Mr. President, on June 16, the Wall Street Journal illustrated the need for a consumer protection agency in an editorial. The editoral concerned the spiraling cost of building new homes and the large impact of Government regulation on that cost. While that newspaper evidently does not support the creation of a new consumer agency, it did make a point which I beileve supports it. The editorial concluded:

If one could think that a new consumer agency might take it as its job to put this kind of consideration before the rest of government, the spectacle might be worth the price of admission.

The President's Special Assistant for Consumer Affairs, Esther Peterson, commented on this editorial in a letter to the editor which was published in part on June 27. I think Mrs. Peterson's letter illustrates well as does the Wall Street Journal editorial the need for a consumer agency.

I have always believed that the consumer agency is not antibusiness, it is proconsumer. Where ill conceived regulation needlessly drives up the cost of new homes, consumers and business people alike have a common interest in eliminating such burdensome regulation.

I ask unanimous consent that the Wall Street Journal editorial and the full text of Mrs. Peterson's comment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROTECTING THE CONSUMER

The proposed Consumer Protection Agency—now known as the Agency for Consumer Protection or Agency for Consumer Advocacy—is running into some unexpected trouble in its progress through Congress. But in case the bill does survive all the assaults of good sense and become law, we already have an assignment for it. We note that a House committee has recently passed mandatory insulation standards for new homes, to take effect within five years. And it seems to us that this prospect raises a consumer issue of the first order.

Dr. George Sternlieb of Rutgers University has recently completed a study of how much government overregulation is contributing to the recent inflation in the costs of single-family homes. The consumer interest in the topic hardly needs stating. The median price of a single-family home in this country rose from about $23,000 in 1970 to almost $50,000 in 1976. During these years, the rise in family incomes lagged well behind these housing cost increases. In 1970, close to half of all families could afford a new, medium-priced, single-family house; but by 1975, the proportion had dropped to under a third.

Home builders have overwhelmingly pointed to government regulations as their most important source of aggravation in doing business, and there's been considerable evidence that such rules also add substantially to the final cost of their product. What Dr. Sternlieb did was to try—by examining the literature, by surveying regulations in randomly selected Northeast communities, through case studies and interviews—to make some overall dollar estimate of what government actually does add on.

He found that environmental controls, though by no means without their benefits, are administered in ways that cause expensive delays. He found that zoning requirements often make it impossible for a builder to contemplate producing more moderately priced housing. He found that subdivision controls and current building codes do indeed impose costs they don't have to—and that the proposed federal energy conservation requirements for housing may well do the same. And he found, finally, that regulation of settlement and financing costs, even apart from interest rates, adds still more excess costs to the purchase.

On that "medium-priced" $50,000 house—with three bedrooms, on a quarter acre—Dr. Sternlieb's preliminary findings estimate that excess costs of this kind could amount to as much as 16% of the total. Without the excess the same house could cost around $8,000 less and, according to one widely used rule of thumb, be available to about 5 million more families. These figures can vary considerably under different circumstances, but they are a pretty good indication that some substantial harm to consumers is being done.

It would be a welcome change if more Congressmen were to take a look once in a while at information like this, and just

as welcome if more such information existed. If one could think that a new consumer agency might take it as its job to put this kind of consideration before the rest of government, the spectacle might be worth the price of admission.

JUNE 20, 1977.

THE EDITOR,
The Wall Street Journal,
New York, N.Y.

DEAR SIR: Your June 16 editorial "Protecting the Consumer" is a welcome breath of fresh air. For eight years, supporters of the legislation to create an Agency for Consumer Advocacy (ACA) have hoped that a national business journal would illustrate the need for a consumer watchdog, as the Wall Street Journal did in this editorial.

Ever since the ACA was conceived, it has been a cause celebre for the big trade associations, pitching business against consumers. Supporters have perceived it more correctly, however, as a mutually beneficial measure. When government regulation is excessive, over-zealous, or anarchistic, it hurts business. But it also hurts the consumer since it is the consumer who ultimately will pay. Therein lies the parallel of interest.

The housing industry is one area where over regulation hurts both sellers and buyers. There are numerous other examples. ICC regulations which require trucks to operate empty on the backhaul increase transportation costs for business—and product costs for consumers. Likewise, when federal agencies set up impenetrable barrierrs to entry, inhibiting competition in the airline industry, both businesses and the consumer are hurt.

There is mutual interest, therefore, that binds the business community and the consumer community against unnecessary and burdensome government regulation. Instead, this has been the cornerstone of the consumer's argument favoring the ACA bill. Sadly, it has been a whisper among the screams of hysterical opposition.

One important need in Washington is better government. There is a heightened awareness prevailing in the country about the ramifications for both business and the consumer of thoughtless regulation. The mission of the ACA is to improve the governmental process by assuring that the consumer interest is effectively presented when decisions are being made.

In addition to the ACA, the President intends to institute various other regulatory reform measures which will relieve burdensome paperwork, standards that stifle competition and regulations whose costs far exceed their benefits. The ACA will be forced to operate in this enlightened environment. Its Administrator will be appointed by the President, he can be removed by the President, and he therefore must reflect the President's philosophy. Its actions will be checked by the Congress through annual budget reviews and oversight activities. Surely, the concerns of both the President and Congress for effective government, including the elimination of regulations which have outlived their usefulness, will be reflected in the activities of the ACA.

An Agency for Consumer Advocacy, with sufficient authority, will examine government regulation with a finely tuned microscope. The result of its activities will be better government decision making—for both business and the Consumer. Both groups should demand no less.

Sincerely,

ESTHER PETERSON,
Special Assistant to the President for Consumer Affairs.

HEALTH CARE IN AMERICA AND HOW TO IMPROVE IT

Mr. HEINZ. Mr. President, my good friend and distinguished colleague from Maryland, Senator MATHIAS, recently graced my State of Pennsylvania with his warmth and wisdom when he spoke at the Shrine National Hospitals Day in Philadelphia. In his talk, Senator MATHIAS reviewed the extraordinary humanitarian work of the Shriners, and for that reason alone I commend his address to every Member of this body.

The senior Senator from Maryland also discussed the condition of our Nation's health care system, and concluded as I do that it is in urgent need of reform. Senator MATHIAS clearly points out the need to assure that all Americans have access to decent, affordable health care, and he suggests a number of proposals to move us closer to that goal. One of those proposals, the creation of a separate Department of Health, is embodied in legislation that Senator MATHIAS introduced this morning.

As always, the comments of my friend from Maryland merit attention and serious consideration. For that reason, I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

HEALTH CARE IN AMERICA AND HOW TO IMPROVE IT

When Lou Ort asked me to speak at the Shrine National Hospital Day, I was greatly honored. As far as I'm concerned, no group of people in America—or in the whole world, for that matter—is doing more vital or more humanitarian work than the Shriners. I am proud to be one of you. I am proud to be here.

But, something funny happened to me in connection with this invitation. Several young people on the Hill expressed surprise that I had been asked to speak at a convention of Shriners. When I showed my own surprise at their surprise, they told me they thought Shriners would want someone funny like Bob Hope or Art Buchwald. It had never occurred to them that the Shriners would sit still for the likes of me.

I explored this feeling with one or two of them and found that these kids really had no idea of what the Shriners were all about. Their perception of Shriners began and ended with our red fezes.

So I told them a little about the work of the Shrine—about its unique contribution to the lives of children all over the world. They were absolutely amazed. Suddenly, they were also very enthusiastic about my coming here today.

My experience with those young people suggests to me that we must never pass up a chance to get the Shrine story before the public. And so today, I ask that you indulge me for a few moments while I recall some of the Shrine's outstanding achievements.

Each of you here surely has your own favorite Shrine success story. We could fill several books with them and it would make very inspirational reading. My own favorite is about a young boy Lou Ort discovered five years ago while on a trip to Puerto Rico. Lou learned of the boy—Daniel Ferreyra—from his Spanish teacher. He was told that Daniel was a congenital cripple—that he had never walked. The boy was 14 years old then.

Lou immediately recognized the urgency of the situation. Daniel's time was running out as far as the Shrine was concerned. He would soon be 15 and no longer eligible for a Shriners' hospital program. Not one to hesitate in an emergency, Lou called me and I, in turn, called the Shriners Hospital here in Philadelphia. Among us we managed to get Daniel into the hospital before he was very much older than when Lou had first seen him.

About a year later I got a call from Lou asking if he could bring a friend by to see me on Capitol Hill. That friend was Daniel Ferreyra. He came into my office on his own steam and never have I shaken hands with a happier boy. After 18 operations Daniel no longer wore leg braces. He was still using crutches but was well on his way to walking unassisted. He was ecstatic. Lou and I were pretty set up too.

That was back in 1972. Last year Daniel graduated from high school in Puerto Rico and today he is in Buenos Aires on his own studying law. Daniel Ferreyra's life was completely transformed by the Shriners. Today his prospects are very bright indeed; five years ago he had no prospects at all for a normal life. He could not walk.

As you all know, Daniel's story is not unique. Each of you here today could put a different name to similar facts. So could thousands of other Shriners all over the world. Miracle-working is a Shriner's stock-in-trade.

Thanks to the Shrine's 19 orthopedic hospitals and three burns hospitals, children's lives are being transformed every day. Since 1922, when our first hospital was founded, more than 200,000 children have been treated in Shrine hospitals—that's more than ten new children every day for 55 years. And let's not forget that the Shrine raised $335 million in those 55 years to finance its miracles, which is something of a miracle in itself.

$335 million is a lot of money. But even that figure doesn't tell the whole story. Dozens of individual Shriners reach into their own pockets regularly to take care of costs not otherwise covered. Recently, for instance, a Shriner paid $8,000 to hire a Lear jet to fly a badly burned child to a Shrine burns hospital because commercial airlines don't take passengers who cannot sit up.

The Shrine story is so remarkable that even the statistics which describe it are eloquent. Since 1922 Shriners Hospitals have not only treated 200,000 children, they have also:

Performed 303,000 operations;

Made 220,000 braces and prosthetic appliances;

Taken 2.4 million X-rays;

Given 5.5 million physical therapy treatments; and

Handled 2.1 million outpatient visits.

Last year these hospitals took 8,500 new cases, and provided 18 million patient days in the Orthopedic Hospitals and 300,000 patient days in the Burns Institutions. In this connection, it's interesting to note that through research and improved treatment methods, the average hospital stay has been reduced from 121 days in 1966 to 38 days in 1976.

This year our budget is $37 million and, as usual, not a cent of it will come from the federal government or anyone else. That in itself is a rare achievement.

I wish I could assure you that America's entire health delivery is as robust and successful as the 22 Shriners Hospitals for Crippled Children. But, in fact, the opposite is true. Health care is in serious trouble. For example:

Every year medical care takes a bigger bite from the dollar without any corresponding gain in the health of the American people.

One of every six Americans, and every third person over 65, will be hospitalized this year, and the average hospital bill will exceed $1,300—a heavy burden for our citizens.

Our priorities on health spending have gone awry. In 1976 the Nation spent $139.3 billion for health care—or $638 for every one of us. Forty cents of every health dollar goes for expensive hospital care but we spend:

Only three pennies on disease prevention and control;

Less than half a cent on health education; and

About a quarter of a cent on environmental health.

These figures show how far out of kilter our approach to health care has gotten.

Health care in America today is plagued by grave inequities and serious gaps in coverage. It is not only the poor and the near-poor who feel the effects of rising medical costs. All of us do. Lower take home pay, higher taxes, higher costs for goods and services, and reduced levels of health insurance coverage affect us all.

Millions of Americans without adequate health insurance are either deprived of necessary medical aid or face financial ruin if confronted with serious or prolonged illness. Not long ago the papers reported the plight of a man, with an income of $14,000, who was forced to divorce his dying wife and face bankruptcy in order to put her in a nursing home with medicaid support. This is outrageous. So too are these statistics:

The Congressional Budget Office estimates that over a third of all Americans have less than adequate protection against the devastating costs of catastrophic illness or accident;

Some 40 million Americans with incomes below $10,000 are either not covered at all, or are inadequately protected against medical costs and are ineligible for medicaid; and

Over five-and-a-half million families in this group will spend more than 15 percent of their income on uninsured medical expenses.

Government health programs and private health insurance have not provided ordinary, broad-scale primary health services. Far too much emphasis has been put on protection against the cost of hospital care. Indeed, doctors and patients alike tend to resort to high-cost hospital services, even when hospitalization is not indicated, simply because coverage for more appropriate, less expensive care is not available.

The law of diminishing returns has caught up with the delivery of medical care in the United States, and in all developed nations, as the strictly medical barriers to health and longevity have been lowered. Since 1900, the average life expectancy in the United States has jumped 25 years, from 47 to 72. These gains were achieved largely by conquering the major infectious and communicable diseases and by improvements in the living conditions of most, but not all, Americans. Now the greatest gains in the health of the American people can be made by extending health care and social benefits to the entire population and by adopting healthier lifestyles in a healthier environment.

We Americans give our automobiles better preventive maintenance than we give ourselves. Yet the best and cheapest health insurance for most of us is a healthy lifestyle.

We need public education aimed at convincing people that disciplined lifestyles are cost-effective and promise both health and longevity. People must learn that it is cheaper in monetary, physical and emotional terms to remain healthy than to rely on medical science for cures. We also need a clear national health policy. A national objective of improving the health of the American people, through programs to prevent illness, disease, and accidents and by assuring uniform access to quality health care for all Americans at a cost they can afford, has been clearly articulated for years. Yet, the Federal Government has not yet formulated a clear health policy to match its objective and goals.

Congress has passed hundreds of statutes dealing with health matters, but the legislative effort has never been effectively coordinated. National health policy has been bogged down in the bureaucratic morass of a Gargantuan, unmanageable Department of Health, Education, and Welfare in which health has taken the backseat.

We have suffered from the lack of a single, authoritative source of responsible leadership in health policy, health administration, and health evaluation. Health programs have been legislated piecemeal in the absence of central direction and guidance and without regard for the capacity of the system to provide the necessary services.

This week I intend to introduce in the Senate a bill which will provide for the focus and leadership that are so clearly lacking now in the area of health legislation and programming. My bill creates a separate Department of Health with a cabinet-level Secretary to give the nation clear, coherent and authoritative health direction.

The Department of Health, Education, and Welfare has served its purposes. Now, we must act forcefully to remove the obstacles to better health for all Americans. While a Department of Health will not instantly correct all the shortcomings of our present system it is the first, indispensable step toward establishing a sound national health delivery system.

If the energy crisis and the clear Federal responsibility to deal with it justify a Department of Energy, can the health of the American people deserve less than a Department of Health? A Secretary of Health will demonstrate our determination to meet urgent national health problems head-on and will provide the health leadership that is desperately lacking now.

A Department of Health would offer the hope that one day all Americans could face the future confident in the knowledge that adequate health care at reasonable cost was within their reach.

Shriners learn firsthand from the children in our hospitals what it means to be given hope. My aim through this legislation is to bring to all Americans the same kind of hope the Shriners bring to crippled and burned children—the hope for a better, healthier life.

I know I can count on your support in this important work. Thank you for giving me this opportunity to talk to you about it.

VALUE OF SOCIAL SECURITY

Mr. CHURCH. Mr. President, many people ask me from time to time about the value of social security protection.

This is an important question which merits thoughtful consideration. Unfortunately, the information needed to make an informed judgment is oftentimes not readily available to the public.

During this past month the Social Security Administration conducted three conferences in Dallas, New Orleans, and Syracuse to provide data for State and local governmental employees concerning the scope and value of social security protection.

Leading authorities on income maintenance programs, from public and private life, provided valuable information for conference participants.

They agreed generally that social security offers many advantages for today's retirees, as well as today's workers. They made several important points, including:

Many people view social security simply as a retirement program for the elderly, but it is much more. It is also family security. Today more than 100 million workers pay social security taxes. In return they are building disability, survivor, and retirement protection for themselves and their families. In addition, they are purchasing hospital insurance protection when they reach age 65 or become disabled.

The lifetime value of the medicare hospital insurance protection for a 65-year-old couple is now about $29,000.

Social security coverage is almost universal. Consequently, coverage follows the worker from job to job.

Social security beneficiaries also have protection against rising prices because of the automatic cost-of-living adjustment mechanism.

Another important consideration is that social security benefits are exempt from Federal income taxes.

A person retiring in 1977, who made maximum contributions since 1937, paid $7,763.10 through 1976. Based on current benefit rates, this individual would recover that contribution in 18 months—and in 12 months if married to a spouse entitled to benefits.

A publication was prepared for delegates at the conference which amplifies these major points as well as others.

Mr. President, I commend this document—entitled "The Value of Social Security"—to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

THE VALUE OF SOCIAL SECURITY

IMPORTANT ADVANTAGES OF SOCIAL SECURITY

Family protection—A worker's dependents are also protected when a worker retires, becomes disabled or dies. The type and level of benefits change as the worker's family status changes.

Protection against inflation—Social security benefits increase automatically as the cost of living goes up. Benefits have increased about 131 percent in the last 10 years.

Health insurance—Social security provides Medicare coverage at age 65, or younger if disabled, or in the event of permanent kidney failure.

Tax free—Social security benefits are exempt from Federal income taxes.

Portability—Because social security coverage is almost universal, the worker does not lose credit if he moves from one covered job to another. This portability is not possible under most State and local retirement plans.

Financial stability—The availability of funds to pay benefits in the future is virtually guaranteed by the taxing power of the Federal Government. While it is true that social security benefit payments presently exceed income in a year, this Administration has made certain proposals to correct the situation which are being studied by the Congress.

Refer also to the pamphlet, "Your Stake in Social Security as a Public Employee."

BENEFIT DISBURSEMENTS

Over 33 million Americans, nearly one in seven, get a social security check each month. Total benefit payments are about $6.8 billion per month. About 25.1 million persons have health insurance coverage under Medicare to help them pay costly hospital and doctor bills.

It is important to note that your social security tax dollar is allocated approximately as follows:

	Percent
Retirement benefits	55
Survivor benefits	20
Disability benefits	10
Medicare benefits	15

BENEFIT EXAMPLES

The following pages contain some examples of retirement, disability, and survivor benefits based on three different levels of earnings. Please refer also to the pamphlet, "Estimating Your Social Security Retirement Check."

No one denies that social security protection costs money.

The fact is that the same protection would be virtually impossible to obtain under any other system, and if it were possible, the cost would be prohibitive.

A person retiring in 1977 who has made maximum social security contributions since its inception in 1937, has paid in $7,763.10 through 1976. Based on current benefit rates, he will recover that amount in 18 months (12 months if his wife is also receiving benefits).

Intermediate typist

Sample Earnings

Year:	*Earnings*
1977	$5,200
1976	4,797
1975	4,487
1974	4,175
1973	3,941
1972	3,748
1971	3,447
1970	3,249
1969	3,090
1968	2,938
1967	2,746
1966	2,582
1965	2,473
1964	2,435
1963	2,362
1962	2,307
1961	2,213
1960	2,145
1959	2,056
1958	1,991
1957	1,928
1956	1,827
1955	1,728
1954	1,666
1953	1,644
1952	1,544
1951	1,462

INTERMEDIATE TYPIST

Examples of Benefits Based on Sample Earnings Record.

Retirement and survivors

For retirement 12/31/77—benefits 1/78.

Wage earner and dependents

Age 65, DOB 1/12/13:
Wage earner only, $243.70;
W/E and spouse*, $365.60; and
W/E, spouse and child, $381.20.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, $243.70; and
Spouse and 2 children, $381.20.

Disability and survivors

For disability—onset 11/77—benefits 4/78:

Wage earner and dependents

Example 1: Age 55, DOB 1/2/22.
Wage earner only, $238.70;
W/E and spouse****, $238.70; and
W/E, spouse and 2 children, $368.50.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***;
Spouse only (Disabled) $145.10; and
Spouse and 2 children, $368.50.
Example 2: Age 45, DOB 1/2/32.
Wage earner only $246.10;
W/E and spouse****, $246.10; and
W/E, spouse and 2 children, $388.40.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Spouse and 2 children, $388.40.
Example 3: Age 35, DOB 1/2/42.
Wage earner only, $285.60;
W/E and spouse****, $285.60; and
W/E, spouse and 2 children, $495.30.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Example 4: Age 25, DOB 1/2/52.
Wage earner only, $322.50;
W/E and spouse****, $322.50; and
W/E, spouse and 2 children, $595.10.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Spouse and 2 children, $595.10.
Spouse and 2 children, $495.30.

Deputy clerk

Sample Earnings

Year:	Wages
1977	$9,941
1976	9,438
1975	8,868
1974	8,184
1973	7,614
1972	7,254
1971	6,834
1970	6,354
1969	5,976
1968	5,622
1967	5,346
1966	5,154
1965	*5,028
1964	*5,070
1963	*5,112
1962	*5,004
1961	4,782
1960	4,554
1959	4,338
1958	4,134
1957	3,936
1956	3,750
1955	3,522
1954	3,258
1953	3,012
1952	2,784
1951	2,580

DEPUTY CLERK

Examples of Benefits Based on Sample Earnings Record.

Retirement and survivors

For retirement 12/31/77—Benefits 1/78:

Wage earner and dependents

Age 65—DOB 1/2/13:
Wage Earner Only $378.10;
W/E and Spouse* $567.20; and
W/E, Spouse and Child $688.70.
For survivors—Death 1/78:

Survivors**

No Survivors, 0;
Spouse Only, $378.10; and
Spouse and 2 Children, $688.70.

Disability and survivors

For disability—onset 11/77—Benefits 1/78:

Wage earner and dependents

Example 1: Age 55-DOB 1/2/22.
Wage earner only, $368.90;
W/E and spouse****, $368.90; and
W/E, spouse and 2 children, $675.10.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***;
Spouse only (Disabled) $224.20; and
Spouse and 2 children, $675.10.
Example 2: Age 45–DOB 1/2/32.
Wage earner only, $378.10;
W/E and spouses****, $378.10; and
W/E, spouse and 2 children, $688.60.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only 0***; and
Spouse and 2 children, $688.60.
Example 3: Age 35-DOB 1/2/42.
Wage earner only, $454.80;
W/E and spouse****, $454.80; and
W/E, spouse and 2 children, $795.60.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Spouse and 2 children, $795.60.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Spouse and 2 children, $795.60.
Example 4: Age 25–DOB 1/2/52.
Wage earner only, $495.30;
W/E and spouse****, $495.30; and
W/E, spouse and 2 children, $866.60.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Spouse and 2 children, $866.60.

---

*Supposition is that spouse is the same age as the W/E in each case.

**$255 death benefit available on each wage earner's record.

***Will be eligible for widow's benefits at age 60.

****Spouse's benefits will be payable at age 62.

(Above amounts include 5.9 percent benefit increase payable in July 1977.)

* Wages exceeded maximum of $4,800 creditable for social security purposes.

*Supposition is that spouse is the same age as the W/E in each case.

**$255 death benefit available on each wage earner's record.

***Will be eligible for widow's benefits at age 60.

****Spouse's benefits will be payable at age 62.

(Above amounts include 5.9 percent benefit increase payable in July 1977.)

Associate Civil Engineer
(Sample earnings)

Year	Wages	Maximum wages creditable for Social Security
1977	$23,984	$16,500
1976	23,262	15,300
1975	21,846	14,100
1974	20,172	13,200
1973	18,780	10,800
1972	17,886	9,000
1971	16,830	7,800
1970	15,636	7,800
1969	14,700	7,800
1968	13,998	7,800
1967	13,494	6,600
1966	13,014	6,600
1965	12,396	4,800
1964	11,778	4,800
1963	11,460	4,800
1962	11,460	4,800
1961	11,370	4,800
1960	11,058	4,800
1959	10,632	4,800
1958	10,038	4,200
1957	9,462	4,200
1956	9,096	4,200
1955	8,562	4,200
1954	7,878	3,600
1953	7,248	3,600
1952	6,666	3,600
1951	6,132	3,600

ASSOCIATE CIVIL ENGINEER

Examples of Benefits Based on Sample Earnings Record.

Retirement and survivors

For retirement 12/31/77—Benefits 1/78:

Wage Earner and Dependents

Age 65—DOB 1/2/13:
Wage earner only, $459.80;
W/E and spouse*, $739.40; and
W/E, spouse and child, $804.10.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, $459.80; and
Spouse and 2 children, $804.10.

Disability and survivors

For disability—onset 11/77—Benefits 4/78:

Wage earner and dependents

Example 1: Age 55—DOB 1/2/22.
Wage earner only, $448.60;
W/E and spouse****, $448.60; and
W/E, spouse and 2 children, $787.20.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***;
Spouse (disabled), $272.60; and
Spouse and 2 children, $787.20.
Example 2: Age 45—DOB 1/2/32.
Wage earner only, $459.80;
W/E and spouse****, $459.80; and
W/E, spouse and 2 children, $804.10.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Spouse and 2 children, $804.10.
Example 3: Age 35—DOB 1/2/42.
Wage earner only, $512.90;
W/E and spouse****, $512.90; and
W/E, spouse and 2 children, $897.30.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Spouse and 2 children, $897.30.
Example 4: Age 25—DOB 1/2/52.
Wage earner only, $622.30;
W/E and spouse****, $622.30; and
W/E, spouse and 2 children, $1,089.00.
For survivors—Death 1/78:

Survivors**

No survivors, 0;
Spouse only, 0***; and
Spouse and 2 children, $1,089.00.

RETIREMENT BENEFITS

To receive retirement benefits a worker needs to have credit for a certain amount of work covered by social security. The chart below shows how much work is needed.

Work Credit For Retirement Benefits

If you reach 62 in	Years of work you need
1975	6
1976	6¼
1977	6½
1978	6¾
1979	7
1981	7½
1983	8
1987	9
1991	10

No one ever needs more than 10 years of covered work.

A retired worker can get full monthly benefit checks at age 65. Reduced benefits are payable at age 62.

The following family members may also receive benefits when the wage earner retires:

Unmarried children under age 18;

Unmarried children 18 or over disabled before 22;

Unmarried childen who are full-time students age 18–22;

Wife or husband age 62 or over;

Wife under 62 caring for worker's eligible children under 18 or disabled;

Divorced wife 62 or over married over 20 years to wage earner; and

Dependent grandchildren under certain conditions.

Monthly benefit amounts payable starting in July 1977 range from a minimum of $114.30 to $437.10 for a worker alone or $171.50 to $764.90 for a family.

See the pamphlet, "Your Social Security" for more information.

DISABILITY BENEFITS

Disability benefits are payable to a worker with the required work credits who has a physical or mental condition which prevents him from engaging in any substantial work activity and which is expected to last at least 12 months or to result in death.

Work credit for disability benefits

Before age 24—1½ years of work in the 3-year period ending when the disability begins.

24 through 30—half the time between 21 and the time the worker becomes disabled.

31 or older—credit for at least 5 years of work out of the 10 years ending when the worker becomes disabled (except the blind). Some workers may need additional credit depending on their age when disability begins.

Disability benefits are payable to:

Disabled worker under 65;

Wife at age 62 or at any age if she has an eligible child under 18, or disabled, in her care;

Unmarried children under 18;

Unmarried children 18–22 who are full-time students;

Unmarried children 18 or over, disabled before age 22;

Husband at age 62;

Divorced wife age 62 or over, married over 20 years to the worker;

Dependent grandchildren under certain conditions;

Disabled widow or surviving divorced wife at age 50; and

Disabled widower at age 50.

Disabled beneficiaries are entitled to Medicare after 24 consecutive months of disability benefits.

Disability benefits payable starting in July 1977 range from $114.30 to $600.40 for an individual, $171.50 to $1050.70 for a family.

See the pamphlet, "If you Become Disabled" for additional information.

SURVIVORS BENEFITS

Survivors Benefits are payable to:

Widow or widower at age 60 or disabled widow or widower at age 50 if the worker is fully insured.

Widow or widower (regardless of age) if caring for an eligible child under 18, or disabled, of the worker if the worker is fully or currently insured.

Dependent children (or, under certain conditions, grandchildren) if the worker is currently insured.

Dependent parent 62 or over if the worker is fully insured.

Lump-sum death payment, if the worker is fully or currently insured.

NOTE.—All types of widow's benefits may be paid to a surviving divorced wife under certain conditions.

Fully insured
Worker born before 1930

Worker reaches 62, dies or becomes disabled in:	Years of work needed
1975	6
1976	6¼
1977	6½
1979	7
1981	7½
1983	8
1987	9
1991 or later	10

Currently insured

The worker is currently insured if credit has been earned for at least 1½ years in the 3-year period before death. As the table at the top of the page illustrates, many benefits are payable to the survivors of a worker who is currently insured even if he is not fully insured.

Beginning in July 1977, benefits range from $57.20 to $600.40 for an individual; $171.50 to $1,050.70 for a family.

Workers born after 1929

Worker dies or become disabled at age	Years of work needed
28 or younger	1½
30	2
32	2½
34	3
36	3½
38	4
40	4½
42	5
46	6
50	7
54	8
58	9
62 or older	10

* Supposition is that spouse is the same age as the W/E in each case.

** $255 death benefit available on each wage earner's record.

*** Will be eligible for widow's benefits at age 60.

**** Spouse's benefits will be payable at age 62.

(Above amounts include 5.9 percent benefit increase payable in July 1977.)

See the pamphlets, "Your Social Security" and "Social Security Information for Young Families" for more information.

MEDICARE

Medicare is a health insurance program for people age 65 and older and some people under 65 who are disabled. There are also special coverage provisions for some people with permanent kidney failure.

Medicare has two parts

Hospital Insurance

Helps pay for:

Inpatient hospital care;

Inpatient care in a skilled nursing facility; and

Home health care.

There is a $124.00 deductible which must be paid before Medicare begins payment in a benefit period.

Supplemental Medical Insurance

Helps pay for:

Doctor's services;

Outpatient physical therapy and speech pathology services;

Other services and supplies not covered by hospital insurance; and

Home health services.

There is a $60.00 annual deductible after which Medicare pays 80% of the reasonable charges for additional covered services for the rest of the year.

Nearly everyone age 65 or older is eligible to enroll in Medicare.

Persons covered by Social Security receive Medicare:

At age 65;

After 24 consecutive months of disability benefits;

Soon after permanent kidney failure is diagnosed for the worker or a member of the immediate family;

Hospital insurance is free after entitlement to benefits; and

Supplemental medical insurance is optional and costs $7.70 a month beginning with July 1977.

Persons not covered by Social Security:

May purchase Medicare only at age 65 or older;

Have no coverage in the event of disability or permanent kidney failure;

Must buy both parts of Medicare at $54.00 per month for Hospital; and

Insurance and $7.70 per month for Supplemental Medical Insurance (rates beginning July 1977).

Refer also to the pamphlet, "A Brief Explanation of Medicare."

WITHDRAWAL FROM SOCIAL SECURITY

A State may, by giving 2 years advance notice, cancel the coverage for any group which has been under the program at least 5 years. Withdrawal, however, is a serious step because of the important benefit rights which may be lost or reduced.

Once social security coverage is terminated for employees of a governmental entity, it may never again be provided for employees of that entity.

A worker with enough work credit to be entitled to benefits will have the benefits substantially reduced since the payment amount depends significantly on the salary earned in the last few years before retirement in most cases.

Disability protection under social security will end 5 years after the termination, or in some cases sooner.

A worker without the required work credits will lose entitlement to all social security benefits if he has no further covered work.

A decision to withdraw groups of public employees from social security should involve an evaluation of a number of complex questions. The Social Security Administration has compiled the following set of questions and comments. Before making a decision, it is recommended that the opinion of an independent expert, such as an actuary, be obtained. The following should be viewed as a starting point for an intensive study of any particular situation.

I. Benefits

A. Retirement:

1. What general form of retirement benefits will be provided in place of social security?

2. What guarantees will attach to benefits?

3. Will monthly benefits also be payable to the retired person's spouse or children?

4. What benefits will continue after the death of a retired employee? Will a continuation require a reduction of the basic retirement benefit?

5. At what ages may retirement occur?

B. Disability:

1. Will the disability benefits provided by social security be replaced?

2. If so, what will be the eligibility requirements for benefits (minimum age, period of service, period of disability, degree of disablement, etc.)?

3. How long will disability benefits continue?

4. If disability benefits do not continue for life, what benefits are available after disability benefits cease?

5. Will monthly benefits also be payable to the disabled person's spouse or children?

C. Death:

1. Will there be provision for monthly benefits similar to the family benefits available under social security? (See section on survivors benefits.)

2. Will monthly benefits be payable to survivors if the worker dies before retirement?

3. How will remarriage affect the payments to a surviving spouse?

D. Health insurance:

1. Will the new benefit program include the payment of hospital insurance benefits to retired employees?

2. If so, will this require additional employee or employer contributions? In what amount?

3. What provisions are made for increases in medical costs?

4. Are medical benefits available during disablement?

5. What limitations and restrictions are placed on medical coverage? Are some forms of hospitalization not covered?

6. Is coverage for physicians' fees available? Does this require additional payment by the employee? By the employer?

7. Is medical coverage provided for life after age 65? If not, when does it cease?

8. Are the expenses of nursing homes covered? For how long? Under what circumstances?

II. Rights of employees

A. Constitutional or legal guarantees:

1. Are accrued pension benefit rights for each employee protected by constitutional or statutory guarantees?

2. Do these guarantees extend to benefits paid by social security?

3. If so, how will these guarantees be met?

B. Vested benefits:

1. Will any benefits currently accrued (e.g., disability) under social security be lost? If so, what steps will be taken to replace them?

2. If benefits to be lost will be replaced, does this include benefits earned in other employment?

3. Will all benefits provided by social security and replaced under another plan be protected if the employee terminates before retirement?

4. Will all benefits earned in the future under any program replacing social security be fully vested in case of termination of employment?

5. If not, will the benefits that are vested be comparable in value to the social security benefits that would have been earned?

C. Portability:

1. Will employees who change jobs be able to take with them all of the retirement benefits they have earned?

2. If not, what will replace this feature of social security, which is a major element in its public and legislative acceptance?

III. Equity between employees

A. By age:

1. Will the employees who are presently older receive retirement benefits comparable to the social security benefits they are forfeiting?

2. Will an employee who is hired in the future be able to accrue adequate retirement benefits, regardless of age?

3. Will the time required for younger employees to become eligible for death and disability benefits be greater than it is under social security?

B. By sex:

1. Will benefits under the replacement program be different for men and women whose service and salaries are the same?

2. If so, will this pose personnel problems?

C. By family status:

1. Will benefits be provided for married employees to replace those they have under social security?

2. Will the replacement program protect the children of employees who die or become disabled? Will the benefits be comparable to those under social security?

D. By employment characteristics:

1. What protection does the replacement plan offer to employees who are laid off temporarily or become disabled—are their accrued benefits saved?

2. Will a part-time employee receive benefits comparable to what he would have obtained under social security?

IV. Protection against inflation

1. If a benefit program will be set up to replace social security, will the benefit levels reflect changes in the cost of living?

2. If comparisons of social security benefits and benefits under a substitute program have been made, do they show comparative benefits with no cost of living increases? Do they also show the effect that salary and living cost changes will have on both social security and the substitute program?

3. If the alternative program does allow for cost of living increases, will those increases be limited to a maximum, will they affect just retirement benefits, or will all benefits, including disability, be increased?

V. Other considerations

A. Tax questions:

1. If social security has been compared with an alternative program, how is the comparison affected by the fact that social security benefits are not subject to Federal income taxes?

2. Are there any special effects of State and local income taxes upon social security or its alternate program? Have these been taken into account in any comparisons between the benefit programs?

B. Personnel matters:

1. If social security is no longer available, will this adversely affect the hiring of new employees?

2. Has consideration been given to the special incentives which social security offers to professional employees such as teachers, administrators, lawyers, etc., may of whom expect to advance in position by changing employers? Will such prospective employees expect higher salaries to make up for the loss of social security benefits?

3. Since the amount of social security benefits payable to an individual depends significantly on the salary earned in the last few years before retirement, will it be more diffi-

cult to hire experienced employees with relatively few years remaining until retirement? Will the hiring of such employees require higher salaries?

C. Professional advice:

1. Has the proposal to withdraw from social security been analyzed by a qualified actuary?

2. If a qualified actuary has studied the proposal, did he analyze the assumptions made in comparing social security with any alternate program?

3. Has competent legal counsel looked over the proposal to withdraw and considered its constitutional and statutory implications?

4. If there is a State agency responsible for reviewing all public pension matters in the State, has this body been asked for advice on the proposal to withdraw from social security, and on any alternate program?

RELIEF FROM HEW'S MEDICAID FUND CUTOFF

Mr. SCHWEIKER. Mr. President, on Tuesday the Senate unanimously passed H.R. 1404, containing a Finance Committee amendment which would prevent the Department of Health, Education and Welfare from executing a threatened reduction in medicaid matching funds in the July 1 quarter due to an over-technical interpretation of the utilization review requirements of section 1903(g) of the Social Security Act. In Pennsylvania, 19 long term care facilities requiring utilization review were inspected late due to the inclement weather of last winter, but all required reviews were completed within 22 days of the deadline. On the basis of this minor variance, HEW had threatened to withhold in excess of $13.5 million in medicaid funds. Nineteen other States are similarly affected.

I have urged the Secretary of HEW to delay imposition of this unwarranted penalty until Congress had the opportunity to review utilization requirements under existing law and evaluate the degree of administrative flexibility available. However, since HEW has shown no inclination to moderate its position, I am pleased that the Senate enacted legislation to clarify the situation. It is now of the utmost importance that the House quickly examine this important Senate amendment to H.R. 1404 and approve it prior to adjourning for the July 4 recess. I commend Senator DOLE and our colleagues for adopting this legislation so quickly and commend it to the other body for expeditious action.

A SENSIBLE STATEMENT ON THE FARM BILL

Mr. McGOVERN. Mr. President, a thoughtful commentator in South Dakota's second largest newspaper, the Rapid City Journal, is Lauren Soth, a Pulitzer Prize winning columnist. Mr. Soth's column will be featured weekly in this paper. His initial commentary appeared in the June 25, 1977, edition of the Journal, entitled "Stability Is Key In Writing Farm Bill."

I found Mr. Soth's comments to show an unusual grasp of both the national and international aspects of agricultural issues. He writes with equal understanding of agricultural problems involving both cattle and grain. I want to congratulate the newspaper in adding his writings to an already informed public and for the edification of others in this body, I ask unanimous consent that the text of the column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STABILITY IS KEY IN WRITING FARM BILL

(Editor's note.—Lauren Soth, a Pulitzer Prize-winning columnist, writes about food and agricultural affairs with the main thrust on food and food policy and the interdependence of farmers and consumers. Soth's columns will be a regular weekly feature on the Forum Page of the Rapid City Journal.)

Stability is the big word in the writing of the new farm bill. Congress and the administration are tussling with the problem of easing the price shocks felt in recent years—shocks in prices of crops and livestock for farmers, in food prices for consumers.

The United States is nakedly exposed to changes in world weather and crop conditions. A crop failure in Russia can place a strain on U.S. export supplies of grain, raise livestock feed prices and cause gyrations in meat prices.

The trade, food and farm policies of most other countries shield their consumers and farmers from the effects of changing world supply-demand relationships. So the effects of a short crop or of a political decision on trade by the Soviet Union, Japan or the European Common Market are concentrated on the United States.

The United States deliberately chose this exposure to the world. Beginning in the early 1960s, our farm policy was altered to set price supports at levels which would make our grain and other commodities competitive with world markets.

American agriculture has become thoroughly integrated into foreign markets. Even farmers growing crops and producing livestock which are not exported are strongly affected by the ups and downs of the producers of grain, soybeans and other export commodities.

Cattle producers, for example, got cracked by a steep rise in feed costs in 1973. In 1971, the average price of choice 900-1,000-pound beef steers at Omaha was equal to the cost of nearly 29 bushels of corn. In 1972, the average was about 25 bushels. But in 1973, reflecting the Russian grain purchase, the ratio was only a little more than 15 bushels. That ratio has continued until just recently.

The same kind of shock hit pork, poultry and dairy producers. But they were able to recover more rapidly by cutting output which raised prices of their products.

Other factors were at play in the prices of these livestock products, including the recession which cut demand from consumers. The continuing upsurge of manufacturing and distribution costs with general inflation raised food prices despite changes in meat prices with changes of supply.

The point I am making here is that some farmers as well as consumers are adversely affected by integration into an unstable foreign market.

As an industry, agriculture gains from full production if the foreign market is large and expanding. But this is not without the pain of considerable adjustment among certain agricultural specialties. And even the big export farmers, the grain growers, are complaining now about low prices.

Is there some way that farmers can be protected against the extremes of price variations caused by outside forces, without having to go back to a tight supply-control system which nobody likes? Can consumers also be shielded against these changes without paying a high cost in farm subsidies?

If anyone thinks he has a simple answer to those questions, please step forward. Congress would like to hear from you. The hard reality is that the congressmen must compromise among several goals.

To achieve a greater measure of stability, the government will have to take a more direct hand in holding reserve grain supplies in big-crop years. That means "meddling" in the grain trade and it could mean lots of nuisance for farmers in getting government commodity loans, fees for storage and so forth. But the alternative of complete hands off by the government puts Americans at the tail end of a crack-the-whip game.

The U.S. Department of Agriculture now publishes two estimates of world crop harvests—one based on good weather and one on less favorable weather—and shows the effect of these harvests on American Prices. USDA formerly published just one estimate, based on normal weather, and if that was badly in error, it caught the wrath of farmers, agri-business and consumers.

This year the estimates for corn and wheat give us a picture of the uncertainty and the volatility of the farm-food price situation.

Assuming "relatively favorable spring and summer weather worldwide," USDA estimates U.S. corn production at 6.5 billion bushels; with unfavorable weather, 5.4 billion.

But with a short crop not only here but abroad, the U.S. probably would export more corn—1.6 billion bushels as against 1.3 billion out of the big crop. Thus the foreign market exaggerates the effect of the domestic fall in production.

The corn loan rate of $1.75 per bushel would be the floor and set the price received by farmers if a normal crop is harvested. In the event of a short crop, corn prices would rise to at least $2.25 a bushel and perhaps to $2.75, says USDA. Even the latter figure looks low to me for a 5.4-billion-bushel crop.

The same general picture is seen for wheat. With a big crop, 2 billion bushels, we would export less than with a small crop, 1.75 billion, on the assumption that other major wheat producing countries also had short crops. (That sometimes happens, but fortunately not often.) Wheat prices would rest on the supports at $2.25 with a big crop and rise to $2.75–$3.25 with a short one.

Some of the shock of the variations in production are taken up by storage even without a government program.

That is, farmers and the grain trade undoubtedly would hold more of the 1977 crops in bins and elevators if the supply were large. But experience shows these relatively small "normal" stockpiles would do little to soften the ups and downs of prices.

That is why the government must get a hand in the reserve stockpile operation if the country is to continue its heavy integration into foreign markets.

CANADIAN NATIVE CLAIMS AND THE ALASKA NATURAL GAS PIPELINE

Mr. STEVENS. Mr. President, tomorrow various Federal agencies will be sending recommendations to the President regarding the selection of a transportation system to carry Alaskan natural gas to the South 48 States.

From what I have heard of the recommendations that are shaping up, there are some very important points that are not being emphasized as they should be. Among these is the issue of Canadian native claims.

On May 9, 1977, volume I of an inquiry of the Canadian Government into the impact of a pipeline on natives in northern Canada was released by Mr. Justice Thomas R. Berger. The report recommended:

There should be no pipeline across the Northern Yukon. It would entail irreparable environmental losses of national and international importance. And a Mackenzie Valley pipeline should be postponed for ten years. If it were built now, it would bring limited economic benefits, its social impact would be devastating, and it would frustrate the goals of native claims.

From the U.S. experience, we know that native claims is an important issue. Alaskan Native claims had to be settled before construction of the Trans-Alaska oil pipeline could begin. This was accomplished by the Alaska Native Claims Settlement Act, which followed several years of debate. Without that settlement, startup of the pipeline, which was just this week, would probably have been delayed for several more years.

The Berger inquiry applies primarily to the Mackenzie Valley route, proposed by the Arctic Gas consortium. Another study is underway, headed by Dean Kenneth Lysyk of the University of British Columbia Law School, to determine the applicability of Justice Berger's conclusions to the Alcan Highway route.

At testimony before the Lysyk study, the Council for Yukon Indians testified that the native issues are just as pressing along the Alcan route as in the Mackenzie Valley. CYI chairman Daniel Johnson expressed their concern that:

If the pipeline is built before our claims are implemented, we will have little control over what happens to us as a people, over what happens to our villages and over what happens to the land which is the basis of our culture and which we now claim through Government and legal processes. The only way we can gain this control is to have our claims settled first. Only if our rights to the land are defined, understood and entrenched and if we have time to develop our own institutions to gain self-determination, will we be able to protect ourselves and ensure that recommendations will be adhered to in order that the impacts may be reduced.

Further on he stated:

We are not willing to abandon our chances for a just claims settlement to get Americans out of trouble they have created for themselves.

We reject such requests. We are not prepared to give up our hopes for our future. We are not prepared to barter away the opportunities for our children tomorrow. If the Federal Government forces this pipeline upon us, it will reveal very clearly that the Government is not prepared to give us justice or the right to govern our own lives.

I have already told the American Congress that we will use all the resources at our disposal to stop this pipeline until our claims are settled and implemented. This will likely take from seven to ten years. That is why we demand the same ten year moratorium that Justice Berger has recommended to the Government.

This issue is important to these people. They will go to court to block a pipeline if they get anything less than a full settlement. And it is important to note that a pipeline through Alaska and Canada could be the subject of litigation in either Canada or the United States.

This should be an important issue for us in the Senate. It is a human rights issue—the rights of people who are descendants of those who lived in North America long before us. We should not force the Canadian Government to jeopardize these rights.

Mr. President, I ask unanimous consent that the May 16, 1977, testimony of Mr. Daniel Johnson be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

COUNCIL FOR YUKON INDIANS PRESENTATION TO THE ALASKA HIGHWAY PIPELINE INQUIRY

Mr. Commissioner and Members of the Inquiry Board, I wish to welcome you to the ancestral lands of the Yukon Indians, the land which we claim as rightfully ours, the land which we have to this day, never surrendered.

I recognize that the Federal Government has imposed upon you a ridiculously short period of time in which to conduct research and hear evidence. We totally oppose this superficial hit and run approach. But the fault lies with the Federal Government, not with you. We participate in this farce only under duress, in the hope that you may be able to talk some sense to the Federal Government. But I wish you to know at the beginning that Yukon Indian people have not had and will not have sufficient time to conduct research, inform our people, help them to gather their thoughts and present their views to you before you make your report to the Federal Government on August 1st. But faced with this rush job, we will do our best to give you some idea of the deep concern we feel about this pipeline proposal and how it might affect our people.

If I may quote from Justice Berger's Report, "We must now address the central questions, can we build the pipeline and at the same time, do justice to native claims?" My people, through their stand taken in the General Assembly of the Council for Yukon Indians give you their very clear answer to that question: "No pipeline building through the Southern Yukon will be considered until after Land Claims have been settled *and implemented*."

There are many reasons why we take this position. I wish you to know what these reasons are.

If the cultural, social and economic well-being and development of our people is to be a reality, then the settlement and implementation of our land claims must occur before a pipeline. This is an essential condition for our healthy development. It does not matter what assurances are given to us by pipeline companies or by the Government. They have difficulty understanding our needs and circumstances or they choose to ignore them. Neither will it do any good for your Inquiry to recommend to the Government, a series of conditions to alleviate impact of the pipeline. Such conditions would make only a minor difference. The only question which has any meaning for our chances for positive development is whether the pipeline is or is not to be built before our land claims are settled.

If the pipeline is built before our claims are implemented, we will have little control over what happens to us as a people, over what happens to our villages and over what happens to the land which is the basis of our culture and which we now claim through Government and legal processes. The only way we can gain this control is to have our claims settled first. Only if our rights to the land are defined, understood and entrenched and if we have time to develop our own institutions to gain self-determination, will we be able to protect ourselves and ensure the recommendations will be adhered to in order that the impacts may be reduced. To be blunt—promises from Government and industry have lost their honour. We have all seen what happened with Native rights in the south after treaties were signed. We are determined that this history shall not be repeated in the Yukon.

Let me speak first about the land itself—the land which is the material extension of my people's soul and the sustenance of our daily existence.

If the pipeline is built before our claims are implemented, then the land that is required for the pipeline right-of-way, the energy corridor and the auxiliary facilities will no longer be available for selection in our claims. Some say that this is not a problem since the highway right-of-way already exists. But this is a clouded view of reality. Justice Berger has already suggested that there is a high probability that an additional oil pipeline or looped gas pipeline will likely follow any gas pipeline which is built. Land along the corridor will be gobbled up for village expansion, for new industries and for all of the other things that grow up around an energy and transportation corridor.

We know from what has happened in other places, that a development of this scale will bring a vast influx of many kinds of people—construction workers, job-seekers, carpet-baggers, family dependents and all the people who are needed to provide services and goods to them. Not least of these will be many new divisions to be added to the bureaucratic armies of both Territorial and Federal Governments and these people will control, regulate, and suppress us even more.

The initial pipeline will begin an accelerated process of large-scale developments here over which we will have no influence. With the Alcan Pipeline in place, the Dempster lateral will become a logical next-step. Our river valleys and renewable resources will be flooded to provide huge reservoirs for hydro-electricity to power new mines and smelters. Also the Alaska Highway will soon be paved. These developments and the massive in-migration which they generate will bring an expansion and entrenchment of southern political economic and social patterns, thereby reducing our ability to control our own lives and prevent further damage to our social and cultural life.

All along the proposed route are lands of special importance to our people. Rapid development at this time would remove these lands from selection. Much of the land still available would be spoiled and useless to my people. Native villages along the route require special protection and land set aside for their use. This pipeline would eliminate these rights and claims for such land use and management for our villages.

If we are to reduce poverty and unemployment among our people, we must control land for economic development. Traditionally, we have a spiritual relationship with the land and live in harmony with it. We wish to continue this but through more modern methods of renewable resource harvesting and non-renewable resource extraction which does not permanently scar the land. This proposed pipeline and spin-off developments would inevitably prevent us from obtaining much of this type of land and would reduce the time available to create viable industries before other types of dominant society developments run us over.

This pipeline would necessitate government regulatory bodies to supervise construction and control land use and manage-

ment. Our people will have negligible influence over these matters and government will have firm control through their greatly expanded bureaucracies. The historical pattern of Indians being shunted aside to make way for White developments, will occur once again. We will get what our southern Indian brothers got—the land no one else wanted. But should it later prove valuable, we will be deluged by expropriations and easements.

A pipeline now, would minimize our chances to participate in developments of potential benefit to our people. Only after land claims implementation will we have the necessary land, capital and skills to participate in larger developments. It will take time to gain these and to ensure that we are once again, left behind and without the benefits which other groups receive.

Some including a few of our own people, will say the pipeline would provide jobs for Indians. For a very few, it would. They would not realize that such jobs are short-term and unskilled and would result in their return to the welfare roles later. Their absence would remove the chance for community development. For the vast majority of Indians, however, they would be out of luck; the skilled, well-paid jobs would go to southerners, probably Americans. A few might get hired as token Indians, but the rest would spend much time in the bars. When the pipeline was completed, most Indians would be without a pay cheque unless Welfare paid them to take alcohol rehabilitation.

There is another important area of our claims which would be severely prejudiced if a pipeline is built now. I refer to our wishes to regain control of our own lives, to be self-reliant and to have the ability to make our own decisions about matters which affect our lives; rights and privileges to freedom and democracy.

A pipeline now would mean a substantial influx of white in-migration both as a direct and indirect result of the project. We would become an even smaller minority in our own land. We would have no land and no resources. We would have almost no political influence and decisions would be made by the vast White majority which would control our lives. We would not have had time to develop our own structures of decisions-making and we would have no land or resources to make decisions about. We would be relegated to the political backwaters of our own land. We would remain an underdeveloped people with no prospect for improvement. Our constitutional and aboriginal claims to self-determination would be effectively lost.

Some have suggested that the Government could develop means to control in-migration and land-use. Based on the experience in Alaska and elsewhere, we do not think this can be realistically accomplished. But even if it could, it would require massive increases in government powers.

This would drastically reduce our own ability for self-determination and would make the development of Indian decision-making almost impossible. So, you see, whichever path results, we, the Indian people of the Yukon, will be the biggest losers and the opportunities we desire from a claims settlement will remain only as unrealized dreams. It would turn the land claims negotiations into an elaborate, although perhaps dramatic, farce, with our people relegated to playing a few bit-parts in the scripts.

If a pipeline is built now, it would also have serious impacts for social problems affecting our people. You know already, that we battle with problems of alcohol abuse, community disorganization and personal breakdowns resulting in numerous harmful symptoms. This has resulted because our people have lost control over their lives. We have temporarily lost the personal and material resources to develop ourselves. We have been relegated to the position of outcasts in the wider society.

We must regain control over our lives and processes of community development if these trends are to be reversed. We must regain the responsibility for dealing with our own problems. This means that through our claims settlement, we must be responsible for managing many social services and for directing the regeneration of our communities.

If a pipeline is built now, alcoholism, crime, family break-downs and Native social and cultural disorganization will increase drastically. This will set our improvement back for decades. Two things could happen. If the Government has no additional money to increase social services, then our people will have no help in solving their social problems. If the Government can find money, it would mean a rapid bureaucratic expansion in social workers, alcohol counsellors, parole officers and policemen. These will be White people who do not understand Native people. They will be foreigners, mostly from the south, who will have even greater control over our lives. Both the increase in the social problems and the bureaucratic solutions will greatly decrease our chances of reducing our social problems. There will be a decrease among our people in the meaningfulness of their lives and in their control over their own destiny.

It would not work to give us lots of money to create instant Native social services. We cannot train our people in time and the sheer magnitude of the pipeline impact on the cultural and social life of our communities would overwhelm both Native clients and Native social service workers. We don't want hand-outs to mop-up increased social problems. We want to prevent the growth of our social problems so we can get on with the business of improving our lives and opportunities.

I have been asked what the implications are of not recognizing our claims and of proceeding with a pipeline before settlement and implementation. I have been asked about the feelings of frustration among our people which have and will result in bitterness and rage. I have been asked about the possibility of violence and civil disorder.

I do not know whether there will be violence and disorder if a pipeline is built here before our claims are settled and implemented. But I do know there will be frustration, bitterness and rage among some of our people. Mr. Blair of Foothills has said there have been no outright threats of violence connected with the Alcan route. We are prepared to use court action if necessary but is Mr. Blair suggesting that we will have to use violence to demonstrate our opposition to this pipeline being built now. We hope that he is not suggesting violence will be the only way to stop it. Perhaps we should recall what Justice Berger said recently in his report:

"There is the real possibility of civil disobedience and civil disorder. We have to believe that these things are possibilities. But I can predict with certainty that if the pipeline is built before a settlement is achieved, the communities that are already struggling with the negative effects of industrial development will be further demoralized. To the extent that the process of marginalization—the sense of being made irrelevant to our own land—is a principal cause of social pathology, the Native people will suffer its effects in ever greater measure.

. . . The lesson to be learned from the events that (19th) Century is not simply that the failure to recognize Native Claims may lead to violence, but that the claims of the White settlers and the railway, once acknowledged, soon made it impossible to carry out the promises made to the Native peoples.

The Government of Canada was then and is now committed to settling the claims of the Native people. White settlement of the West made it impossible for the Government to settle Native claims. Today, the Government of Canada is pledged to settle Native claims in the North, and the pledge is for a comprehensive settlement. It is my conviction that, if the pipeline is built before a settlement of Native claims is made and implemented, that pledge will not and, in the nature of things, cannot be fulfilled."

Judge Berger has spent over two years examining the relationship between pipeline construction in the North and Native land claims. Due to the lack of foresight of the Federal Government, your Inquiry will only be permitted one-tenth that time. Thus, I think it is appropriate for you to thoroughly consult his report. While the circumstances of the MacKenzie Valley region are not identical to those of an Alcan route, his remarks about the Northern Yukon are entirely applicable to this Inquiry. As well, the basic situation regarding the land claims issue is the same in the Yukon as in the MacKenzie Delta. To ensure that you are clear about the position of the Council for Yukon Indians, I wish to quote some of his conclusions which support the position we take:

"In my judgment, we must settle Native claims before we build a MacKenzie Valley Pipeline. Such a settlement will not be simply the signing of an agreement, after which pipeline construction can then immediately proceed. Intrinsic to the settlement of Native land claims is the establishment of new institutions and programs that will form the basis for Native self-determination. . . .

The issue comes down to this: Will Native claims be rendered more difficult or even impossible of achievement if we build a pipeline without first settling those claims? Must we establish the political, social and economic institutions and programs embodied in the settlement before building a pipeline? Unless we do, will the progress of the Native people toward realization of their goals be irremedially retarded? I think the answer clearly is yes. The progress of events, once a pipeline is under construction, will place the Native people at a grave disadvantage, and will place the Government itself in an increasingly difficult position.

In my opinion, a period of ten years will be required in the MacKenzie Valley and Western Arctic to settle Native claims, and to establish the new institutions and new programs that a settlement will entail. No pipeline should be built until these things have been achieved.

You can sign an agreement or you can impose one; you can proceed with land selection; you can promise the Native people that no encroachments will be made upon their lands. Yet you will discover before long that such encroachments are necessary. You can, in an agreement, promise the Native people the right to rebuild the Native economy. The influx of Whites, the divisions created among the Native people, the preoccupations of the Federal and Territorial Governments, faced with the problems of pipeline construction and the development of the corridor, would make the fulfilment of such a promise impossible. That is why the pipeline should be postponed for 10 years.

It would be dishonest to impose a settlement that we know now—and that the Native people will know before the ink is dry on it—will not achieve their goals. They will soon realize—just as the Native people on the Prairies realized a century ago as the settlers poured in—that the actual course of events on the ground will deny the promises that appear on paper. The advance of the industrial system would determine the course of events, no matter what Parliament, the Courts, this Inquiry or anyone else may say.

If we think back to the days when the treaties were signed on the Prairies, we can predict what will happen in the North if a settlement is forced upon the Native people. We shall soon see that we cannot keep the promises we have made.

If a pipeline is built now, it will not be to serve Canadian needs, but rather, American needs. There will be a few short-term benefits for Canada in terms of jobs. But Yukoners will get few of these and Natives, almost none. Those who advocate this pipeline are asking Yukon Native people to bear the massive negative impacts of the project while they reap the benefits. In realistic terms, they are suggesting that we should abandon our chances for a just claims settlement which would give us the opportunities to grow and develop in the ways and at the speed we decide is in our own best interests. We are not willing to abandon our chances for a just claims settlement to get Americans out of trouble they have created for themselves.

We reject such requests. We are not prepared to give up our hopes for our future. We are not prepared to barter away the opportunities for our children tomorrow. If the Federal Government forces this pipeline upon us, it will reveal very clearly that the Government is not prepared to give us justice or the right to govern our own lives.

I have already told the American Congress that we will use all the resources at our disposal to stop this pipeline until our claims are settled and implemented. This will likely take from seven to ten years. That is why we demand the same ten year moratorium that Justice Berger has recommended to the Government.

We ask you to make the recommendation to the Federal Government that no pipeline be built in the northern Yukon in perpetuity and that no pipeline be considered for the southern Yukon until land claims are settled and implemented. We challenge the Federal Government and the Canadian people to demonstrate their good faith by keeping past promises to us about land claims. We wish peace and harmony between us. This pipeline decision will be a measure of such possibilities.

DANIEL JOHNSON,
Chairman, Council for Yukon Indians.

ASIAN POLICY SPEECH BY THE SECRETARY OF STATE

Mr. GLENN. Mr. President, Secretary of State Vance spoke before the Asian Society in New York on June 29, 1977, giving the most complete outline yet of the new administration's policy for the East Asian area. While I do not necessarily concur with all the views expressed by Secretary Vance, I believe it is most important that these issues be clearly understood and considered by every Senator.

As chairman of the Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs, I ask unanimous consent the speech be printed in the RECORD and recommend its serious consideration by my colleagues.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY SECRETARY OF STATE CYRUS R. VANCE

It is a great honor to be with you tonight. For twenty years the Asia Society has been building bridges of understanding between Asians and Americans. Much of the credit belongs to the Society's founder, John D. Rockefeller III. His interest in the cultures of Asia is enduring; his concern for Asian-American relations is profound; the contributions of the Society which he created are legion.

This evening I want to talk to you about America's role in Asia: an Asia that is at last at peace, but an Asia not without its uncertainties.

I should like to advance the basic proposition that our prospects for sustaining and developing effective relationships with the countries of East Asia are more promising than at any time since World War II. The fundamental challenges facing the Administration are to consolidate the positive developments of the past few years—the emergence of an even closer partnership with Japan, a promising "opening" with China, the growing prosperity of the Pacific Basin economy, the emerging cohesion of the ASEAN grouping—and to prevent or mitigate adverse trends which could strain the presently favorable regional environment. High stakes hang on our ability to meet this challenge, for our interests in Asia are enduring and they are substantial.

I hope to leave you with these understandings:

First, the United States is and will remain an Asian and Pacific power.

Second, the United States will continue its key role in contributing to peace and stability in Asia and the Pacific.

Third, the United States seeks normal and friendly relations with the countries in the area on the basis of reciprocity and mutual respect.

Fourth, the United States will pursue mutual expansion of trade and investment across the Pacific, recognizing the growing interdependence of the economies of the United States and the region.

And fifth, we will use our influence to improve the human condition of the peoples of Asia.

In all of this, there can be no doubt of the enduring vitality of our country's relationships with the peoples of Asia and the Pacific.

To the people of Asia I say tonight without qualification that our Nation has recovered its self-confidence at home. And we have not abandoned our interest in Asia.

We are and will remain a Pacific nation, by virtue of our geography, our history, our commerce, and our interests. Roughly one-quarter of all our trade is now with East Asia and the Pacific; last year we sold $22 billion worth of our products in the region. For the last five years more of our trade has been with that region than with any other, including the European Community.

To be able to speak of peace and stability in Asia is a welcome change. But serious problems persist. Our tasks are to help consolidate the emerging peaceful balance in Asia and to promote economic growth that offers promise to its peoples.

The United States will pursue its relations with the nations of Asia with an open mind. We will continue to work closely with allies and friends. And we hope to normalize relations on a mutually constructive basis with those who have been adversaries.

The United States recognizes the importance of its continuing contribution to Asian security. We will maintain a strong military presence in the area.

This presence will be affected by changing technologies, improvements in the security capabilities of our friends and allies, and by our efforts to promote reconciliation and peace.

Of our allies and old friends, none is more important than Japan. Our mutual security treaty is a cornerstone of peace in East Asia. Japan's democratic institutions are firmly rooted. No people anywhere enjoy greater political freedom. Its dedication to peace is unquestioned. Twenty-five years ago, even though Japan had recovered from the devastation of war, its economic advance was just beginning. Today Japan's per capita gross national product is almost $5,000. In 1953 it was only about $700 in current value, less than that in many developing countries today.

Japan's growth has been an indispensable ingredient in the economic advance of the less-developed countries in the region. Its aid has been important in contributing to the well-being of these countries; we welcome its commitment to double its assistance within the next five years.

Japan's great achievements have brought with them corresponding responsibilities. Its actions, like ours, are bound to have an impact far beyond its own borders. An enlarged Japanese market for the manufactured products of other countries would make an important contribution to a healthier world economic equilibrium, as would high rates of expansion in order to stimulate the economies of other countries.

The United States and Japan must proceed in close consultation. Above all, we must settle any issue between us in a spirit of true friendship and understanding.

Our ties with Japan remain the cornerstone of our policy in Asia. But we see great opportunities for building a new relationship with the People's Republic of China.

After 25 years of confrontation, we are carrying on a constructive dialogue with the People's Republic of China.

Vast differences in culture, social systems, ideology, and foreign policy still separate our two countries. But the Chinese and American people no longer face each other with the hostility, misunderstanding, and virtually complete separation that existed for two decades.

We consider friendly relations with China to be a central part of our foreign policy. China's role in maintaining world peace is vital. A constructive relationship with China is important, not only regionally, but also for global equilibrium. Such a relationship will threaten no one. It will serve only peace.

The involvement of a fourth of mankind in the search for the solution of global issues is important.

In structuring our relationship with the Chinese, we will not enter into any agreements with others that are directed against the People's Republic of China. We recognize and respect China's strong commitments to independence, unity, and self-reliance.

Our policy toward China will continue to be guided by the principles of the Shanghai Communique, and on that basis we shall seek to move toward full normalization of relations. We acknowledge the view expressed in the Shanghai Communique that there is but one China. We also place importance on the peaceful settlement of the Taiwan question by the Chinese themselves.

In seven weeks, I shall be in Peking to talk with the leaders of China. A broad range of world issues demands our attention. And we want to explore ways to normalize further our bilateral relationship with the People's Republic of China. Mutual and reciprocal efforts in this regard are essential.

As we prepare to go to Peking, we recognize that progress may not be easy or immediately evident. But this Administration is committed to the process, and we are approaching the talks in Peking with that in mind.

Across Asia we have close and historic ties with many other nations, and we intend to seek new ways to strengthen them.

The Republic of Korea has made good use of the opportunities provided by peace on the peninsula to become increasingly self-reliant and self-sufficient. The standard of living of its people has improved significantly over the past decade. Its trade has grown enormously. Its agriculture has been revolutionized.

Our security commitment to the Republic of Korea and our determination to maintain it are essential to the preservation of peace in Northeast Asia.

South Korea's growth and strength are the basis for President Carter's decision to proceed with a carefully phased withdrawal of American ground troops. This will be done in a way that will not endanger the security of South Korea. We will also seek, with the concurrence of the Congress, to strengthen South Korea's defense capabilities.

Furthermore:

Our ground troops constitute only about 5% of the total ground troops committed to the defense of South Korea.

The gradual withdrawal of these troops over four to five years will be offset by the growing strength and self-confidence of the South Korean armed forces.

Our air, naval, and other supporting elements will remain.

We are working closely with the Koreans to help them increase their own defense capabilities.

The United States and the Republic of Korea share a strong desire to establish a durable framework for maintaining peace and stability on the peninsula.

We support the entry of North and South Korea into the United Nations without prejudice to ultimate reunification.

We are prepared to move toward improved relations with North Korea provided North Korea's allies take steps to improve relations with South Korea.

We have proposed negotiations to replace the existing armistice with more permanent arrangements.

We have offered to meet for this purpose with South and North Korea and the People's Republic of China as the parties most immediately concerned and to explore with them the possibilities for a larger conference. We will enter any negotiations over the future of the peninsula only with the participation of the Republic of Korea.

Ten years ago, even while war raged in Indochina, five Southeast Asian countries created a new instrument for peace—the Association of Southeast Asian Nations or ASEAN. Our ties with one of its members, the Philippines, are rooted in our shared history. The strength of these ties is reinforced by our mutual defense treaty. Each of ASEAN's other four members—Thailand, Indonesia, Malaysia, and Singapore—is an old and valued friend.

Our economic ties with the ASEAN countries have become increasingly important. From the ASEAN area we obtain one-tenth of our crude oil imports and a much higher percentage of our rubber, tin, cocoa, bauxite, and other important raw materials. These five countries with a population larger than all of South America, bought $3.7 million worth of American goods in 1976.

We will maintain close bilateral relations with each ASEAN country. And we welcome the opportunity to deal with them through their organization when this is their wish. We are especially pleased that the first formal U.S.-ASEAN consultation will be held within a very few months, in Manila. These talks will, we hope, form the basis for stronger American support of Southeast Asian regional efforts.

Close relations between the United States, Australia and New Zealand long antedate our formal alliance in ANZUS. Only last week, the President welcomed Australian Prime Minister Malcolm Fraser to Washington. In their wide-ranging talks, particular attention was paid to the Asian region. The contribution Australia and New Zealand make to the region is vital, and we will consult closely with them on all matters of common interest.

While we work with traditional friends, we have begun the process of normalizing relations with the Socialist Republic of Vietnam.

Our old friends in Southeast Asia and the Pacific have been kept fully informed of our talks with the Vietnamese. They agree that the interests of all would be served by the establishment of normal relations between Vietnam and the United States.

The scars of war still exist on both sides. Both sides retain a residue of bitterness that must be overcome. But there is some progress:

Together with the Vietnamese, we have devised a system for identifying and returning the remains of Americans missing in action in Vietnam. Soon the remains of twenty more American pilots will be returned from the land where they died—some as long as a decade ago—to the land they served so honorably and so well.

We have lifted restrictions on travel to Vietnam, and taken other positive steps to assist in the process of reconciliation.

We have offered to lift the trade embargo as we establish diplomatic relations.

And we will no longer oppose Vietnam's membership in the U.N. I expect to see its delegation seated there at the next General Assembly session.

These steps make clear that we seek to move forward in building a new relationship. Remembering the lessons of the past, neither side should be obsessed by them or draw the wrong conclusions. We cannot accept an interpretation of the past that imposes unfounded obligations on us.

Meanwhile, a new flow of Indochinese refugees commands the world's urgent humanitarian concern. Their numbers are growing at a rate of 1,500 a month. A few countries—including Thailand, France, Canada, Australia, and most recently Israel—have done much to help these unfortunate people. Some nations, however, have turned their backs, leaving an increasing number of refugees to perish by drowning or disease.

I urge that shelter and aid be offered to these refugees, until more permanent resettlement can be arranged.

Today, as we look across the vast Pacific, we see the web of relationships that links us together, and America's continuing role in Asia's security. The peace of that region also depends upon our efforts to reduce tensions with the Soviet Union. Any attempt to change the present general equilibrium would be viewed with concern by all others in the region.

Peace has freed the United States and Asia to focus attention on economic growth, which has been such a striking fact about modern Asia.

Japan's economic miracle is well known, but the remarkable economic record of other countries in Asia has received less attention. Over the past five years, for example, the economy of the Republic of Korea expanded by 11 percent, the economies of Singapore, Indonesia, and Malaysia by roughly 8 percent, the economy of the Philippines by almost 7 percent.

Continuation of these gains cannot be taken for granted. We must adopt policies to ensure that economic progress is not reversed and that the benefits are more widely spread.

President Carter's pledges at the Economic Summit are as relevant to Asia as they are to other parts of the world.

We will continue to fight inflation.

We will continue to seek ways of developing new energy resources and to ensure stable and equitable fuel prices.

We will resist protectionist trends and support a liberal trading system.

We will support the establishment of price stabilizing commodity agreements and buffer stocks for selected commodities, financed by producers and consumers and supported by a common fund.

In addition, our policies in Asia will be tailored to the economic problems and opportunities of the region. The role of the Asian Development Bank is of particular importance.

The Administration has submitted to Congress proposals for a $25 million contribution to the Bank's regular funds and a contribution to its capitalization of $60 million annually for the next three years.

We will also work with the other members to diversify and strengthen the Bank's programs. We will encourage Bank support for cooperative projects to be undertaken by the ASEAN countries and by the new states of the South Pacific.

Official resources will, of course, never be adequate to fill requirements for capital, technology, and managerial skills. Substantial additional private capital is also needed. In this connection, we have opportunities to assist through cooperation between the government's Overseas Private Investment Corporation and U.S. private investors.

In the field of development, the United States has recently taken the lead in calling for a concerted international effort to act on an agenda of basic human needs.

In Asia and elsewhere in the developing world, our human needs agenda must include the following essential elements which I outlined last week at the OECD ministerial meetings in Paris:

Development of the Third World's rural areas where the great majority of the poorest people live;

An integrated strategy for increased food production and better nutrition in these areas;

An emphasis on preventive medicine, family planning and prenatal care at minimal cost;

Expanded programs of primary and secondary education and on-the-job technical training;

Renewed efforts to involve women in the process of development.

To all of these efforts the United States pledges its strong support. But in many countries rapid population growth poses a threat to economic development. While pressures of population on the land are already threatening East Asia's natural environment, some East Asia countries will double their 1970 population by the end of the century.

I believe the United States must help countries coping with these difficult problems.

We must be equally concerned with other aspects of human rights—the right to live under a rule of law that protects against cruel, arbitrary, and degrading treatment, to participate in government and its decisions, to voice opinions freely, to seek peaceful change.

We understand cultural differences. Our tradition stresses the individual's rights and welfare; some Asian traditions stress the rights and welfare of the group. We applaud the determination of Asian countries to preserve the ability, won at great cost, to determine their own policies and establish their own institutions.

But we believe strongly that there are new and greater opportunities for improving the human condition in the Asia I have described

today—a continent at peace, the home of gifted and capable people secure in their national independence.

With vigilance and determination, with friendship and understanding, we encourage our Asian friends to grasp their opportunities to promote the human rights of their peoples.

To do so will not weaken any nation.

On the contrary, strength of a deeper sort—the strength that comes from the full participation of all the people—will be the long-term result of dedication to the improvement of the human condition.

Those countries in Asia which have already embarked on this course will be the stronger for it, and we shall be able to work more closely with them.

I began tonight by speaking of the welcome promise of peace, and of peaceful change, that is taking hold across the region. I want to close by stressing my deep hope for a new sense of community in Asia and the Pacific. We seek:

To build on our relationships of mutual respect;

To consolidate the fragile stability already achieved;

To bring greater freedom and greater respect for human rights; and

To erase the divisions that persist.

Toward this I pledge the best efforts of the Administration; for this ask the support of our friends in Asia and of the American people.

NURSING CAPITATION AND ADVANCED TRAINING

Mr. LEAHY. Mr. President, although registered nurses are increasingly being called upon to fill gaps in health care delivery, year after year appropriations for nursing education seem to be the target of severe cuts. The Senate Appropriations Committee has restored some of the cuts for fiscal year 1978, but the funding of these nursing programs is still below last years' level.

In the area of capitation alone, there is a 25 percent reduction. Capitation grants are critical to nursing schools in providing faculty and facilities essential for maintaining quality programs. Capitation grants also provide curriculum improvement and continuation of other administrative aspects of education programs. The status of many schools will be negatively affected through this loss of faculty, support services and curricula offerings, and would result, in many cases, in loss of accreditation. A negative impact on the current faculty-student ratio is also a distinct possibility if capitation is out.

Advanced nurse training is the area of nursing education for which funding is most urgently needed. The funding increase granted in fiscal year 1977 allowed collegiate schools of nursing to begin to address the problem of serious shortages of nurses prepared for leadership positions. Complexities of patient care need direction by nurses at advanced levels of quality care-primary care, acute care and long term care. Nursing teachers, administrators, supervisors, clinical specialists and researchers are among those whose positions generally require additional educational preparation.

At present, only about 20 percent of nurses have baccalaureate or higher degrees, and the need projected for 1980 is for at least 440,000 nurses with advanced preparation. Many State boards of nursing have now set a mandatory cutoff date a few years hence after which all nursing faculty will be required to have masters degree training.

In one Southern State, a major university is trying an extensive outreach project using mobile units in remote areas so that more nurses will have access to further educational preparation without traveling great distances or leaving their homes for extended periods. Part of this effort is to measure cost effectiveness between the traditional and the outreach method.

In some other States the advanced training programs utilize a variety of health agencies and nurses are rendering health services to many rural underserved areas for their clinical component.

In the areas of specialty, one graduate program is focusing on gerontology which prepares nurse leaders at advanced levels on how to influence their practice and education in improving the care of older people. Another is preparing nurses for clinical expertise in the management of burn patients.

The Senate has wisely added funds for fiscal year 1978 for this important area of nursing education and I would urge that the conferees support the Senate figures. It should be noted that Federal money is the only source of support for these vital graduate programs in nursing and these programs deserve the highest priority.

ENERGY CONSERVATION VERSUS COMPETITION: A QUESTION THAT MUST BE ANSWERED

Mr. HUMPHREY. Mr. President, the national effort to develop and implement an effective energy program must be tempered by widespread recognition of the need to maintain the competitive strength of our economic system.

Failure to strictly adhere to this rule can result in tradeoffs which are counterproductive and damage our free enterprise structure. For example, we could find ourselves accepting and utilizing programs and proposals to conserve energy at the cost of diminishing the ability of small business to compete against large corporations.

This concern, I believe, must be carefully addressed as we consider S. 1699, the Diesel Fuel and Gasoline Conservation Act of 1977, for example, the legislation would allow shipment of goods from suppliers to buyers in trucks that might otherwise be making empty deadhead or backhaul runs.

Supporters of this proposal point out that it would result in fuel savings and reduce the cost of the goods shipped. However, spokesmen for the Nation's small business community assert that the provisions of the bill will be most readily used by large truck-fleet owning corporations which would enjoy the cost and pricing benefits. Small businesses, on the other hand, which do not own and operate their own trucks, may be deprived of the benefits of the bill and thus be placed at a competitive disadvantage.

Mr. President, Senator JOHNSTON, as chairman of the Subcommittee on Energy Conservation and Regulation of the Energy and Natural Resources Committee, held a 1-day hearing on the proposal on June 27 and has scheduled a markup on the bill for July 15.

I have written to Senator JOHNSTON and to the other Democratic members of the full committee, urging them to carefully consider the statement made on behalf of the National Small Business Association, the Independent Bakers Association, and the National Independent Dairies Association, which raised serious question about the impact of the legislation on the structure of our competitive enterprise system.

Mr. President, so that other Members of the Senate may familiarize themselves with this issue, I ask unanimous consent to have a copy of my letter to Senator JOHNSTON and the statement submitted by these small business organizations be printed in the RECORD.

There being no objection, the letter and statement were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 28, 1977.

Senator J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy Conservation and Regulation, Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is written in connection with S. 1699, the Diesel Fuel and Gasoline Conservation Act of 1977, which you introduced with the co-sponsorship of Senators Bumpers, McClure and Stone.

Let me say at the outset that I am in complete sympathy with the goals of this legislation, namely to conserve fuel and reduce the cost of food to retailers and to the consumer, so long as everyone affected by the measure is treated equitably.

In this connection the National Small Business Association, one of the largest organizations of its kind in the Nation, has raised questions regarding ways in which the bill may possibly diminish the ability of small business to compete against chains and other large retailers, contrary to the provisions of the Robinson-Patman Act. Specifically, the measure may provide economies to large retailers that their smaller competitors are not equipped to realize. The resulting savings to large businesses could provide them with a pricing edge.

Frankly, Mr. Chairman, I too am concerned about the competitive effects of the bill. I know that it was in no way your intention to achieve fuel conservation at the cost of weakening the competitive ability of small business. I know that you and other members of your Subcommittee and the full Energy and Natural Resources Committee will make every effort necessary to assure that this result is completely avoided. Under the best circumstances, small business, which is the bedrock of our capitalist enterprise system, has a difficult time surviving in the marketplace. Any reduction of their competitive ability could have serious adverse results in terms of our economy in general and the urgent need to reduce intolerable levels of unemployment in particular.

I urge you and the other members of the Committee to carefully consider the testi-

mony of the National Small Business Association, a copy of which is enclosed.

Best wishes.

Sincerely yours,

HUBERT H. HUMPHREY.

Enclosure.

STATEMENT

Mr. Chairman, my name is Thomas A. Rothwell, a partner in the Washington law firm Rothwell, Cappello & Berndtson. I appear here as counsel to National Small Business Association, National Independent Dairies Association, and also submit this statement on behalf of the Independent Bakers Association. The National Small Business Association represents approximately 50,000 small business firms. Its membership is most diverse, involving about 1,000 out of the approximately 1,200 Standard Industrial Classifications.

We are grateful to this Committee for the opportunity to offer testimony on S. 1699. The organizations for whom I speak this morning are opposed to S. 1699 for the reason that it substantially weakens and modifies the Robinson-Patman Act, both in terms of its interpretation and its basic principles of mandating equality of treatment in the marketplace as between the large and the small.

Discrimination in price, preferred treatment for the favored few, the powerful concerns who have the economic muscle to demand and receive price concessions, rebates, special allowances and services are problems that have been with us longer than the antitrust laws themselves. Such preferential practices have in the past been the very bricks and mortar of which monopoly power has been created and sustained.

In 1914 Congress made an early effort to outlaw price discrimination; this effort was ineffectual. In 1936, Congress made another such effort, this time more successfully, by enacting Robinson-Patman. Few laws have engendered more enduring controversy than the Robinson-Patman Act of 1936, and, of course, one industry that has played an extremely prominent role in demonstrating the absolute necessity for an anti price discrimination law has been the food industry.

S 1699 is a measure sought by the national supermarket chains, the great and powerful buyers in that industry. S. 1699 would provide a bonanza of price discrimination and preferential allowances to the national and regional food chain stores. The effect and operation of S. 1699 would impact other industries, of course, but the measure has its origin and most obvious application in reference to the chain grocery store business—the supermarkets.

The problems to which S. 1699 is addressed antedate our current energy concerns by decades. This same proposal was formally advanced to the FTC by the food supermarkets in 1967, resulting in FTC Advisory Opinion No. 147, dated October 24, 1967. It was raised again in 1972 and 1973 before the Cost of Living Council, the Department of Transportation and the Commerce Department, resulting in an additional FTC statement dated December 26, 1973. However, in 1977 the energy conserving aspects of the matter provide yet another opportunity for the large national food chains to again plead their cause.

Grocery manufacturers, both large and small, typically sell their products on a uniform zone delivered price basis. Under this system, the seller absorbs the varying delivery costs in selling to a widely dispersed group of customers. There is initially an inherent price discrimination involved in such a system, as the proximate customers pay more than the actual delivery costs experienced by the seller, while the more remote customers are paying less than the true delivery costs. Under this system, one geographic class is, in effect, subsidizing the physical distribution costs of another geographic class of customers. No doubt this helps explain why the FTC has avoided giving an across-the-board carte blanche approval to uniform zone delivered pricing systems. Litigated cases on this subject have invariably been focused on collusive action by competitors, employing the uniform zone delivered pricing approach to engage in such anti competitive practices as area price discrimination, the creation of market entry barriers and other matters not germane to the problem at hand.

The FTC, in its Advisory Opinion No. 147, and the up-dating thereof, took the position that the seller could have, in addition to the uniform zone delivered price, the option of a true f.o.b. mill price, which price could be lower than the uniform zone delivered price, and by whatever margin the seller found appropriate. This f.o.b. platform price had to be made available on equal and nondiscriminatory terms to all buyers, regardless of who they were or where they were from.

It developed that that price differential, f.o.b. platform v. zone delivered, was not sufficiently attractive from the point of view of the buyer. The buyers argue that they should receive an allowance equal to the seller's cost in delivering to them, on an individual basis. Thus, each buyer would pay a different f.o.b. platform price, depending on the distance between the shipping platform of the seller and the buyer's place of business. The concept of equality of price becomes a casualty under this approach.

Let us consider the position of the buyer, should S. 1699 become law. He has an empty truck in the vicinity and will incur but minor incremental cost in backhauling a load from a supplier's platform. His reward however, will be the fully distributed shipping cost, as if the shipment had been made by common carrier, a substantially higher dollar amount. This difference between the marginal or incremental actual cost experience of the buyer with an empty truck in the vicinity, and the standard shipping cost such as levied by a common carrier, is a phantom cost—it exists in theory only. But the difference will, over time, represent millions of windfall, bonanza profits to be realized by the buyer and for which, needless to say, the public will finally pay in the form of higher prices.

Also, it is palpable that this extra-profit opportunity will exist and benefit the large, for the most part, rather than the small. The "empty truck in the vicinity," the "need for a truckload quantity," which are preconditions to such transactions, describe large-scale enterprise almost exclusively. One might even suspect that large buyers would plan for and schedule such fortuitous events, since the buyer would be receiving compensation for phantom costs—meaning costs never incurred.

We hold no brief for the large grocery manufacturers. They could readily adapt, and I'm certain in a most ingenious manner. Uniform zone delivered pricing systems might be in for an overhaul as our captains of the food industry devise means to shift their additional costs to others, should S. 1699 become law. Experience strongly suggests that the candidates for such cost shifting would be the smaller-scale enterprises in the system, as well as consumers. And it will be an irony of history if the very industry whose abuses gave rise to the Robinson-Patman Act, is also the industry within which the practical effectiveness of the Act is first destroyed.

Turning now to our practical, energy concerned backhaul dilemma, let us all agree that backhauls are permitted, and even encouraged and rewarded as the situation exists today. The proponents of S. 1699 are all potential entrants into the backhaul business; they just want more money—that's what S. 1699 is all about.

The only data on potential energy savings available has been that promulgated by the major food chains, the sponsors of S. 1699. Further, such data was collected, analyzed and distributed for the very purpose at hand. These factors suggest that a low index of credibility be afforded claims based on such data.

Additionally, any statistics relating to the energy-saving potentials forthcoming by virtue of awarding discriminatory backhaul allowances and arising from increased efficiency in the utilization of the buyer's trucks is just half of the picture. The gains in efficiency of fuel utilization on the part of the buyer inevitably will give rise to a correlative decrease in fuel utilization efficiency from the point of view of the seller. His trucks will be making more trips on a "half-empty" basis. The theoretical way to avoid this would be for the seller to cease deliveries of his goods altogether, which of course cannot occur since there will always be some smaller buyers who must rely on the seller's delivery facilities. To compel such smaller units to have recourse to common carriers only would be to effect a brutally punitive additional discrimination.

What about fronthaul? Sending a near-empty truck to the vicinity, which is energy wasting, to take advantage of an available and favorable discrimination in price may emerge as a standard industry practice. In addition, how is the allowance to be computed when the empty truck is loaded, and then runs its delivery route in reverse, arriving back at the buyer's warehouse empty? Are there to be any controls at all on this obvious opportunity to take an unfair advantage?

Just last Thursday, June 23, 1977, the Chairman of the Senate Subcommittee on Antitrust and Monopoly made a statement on the need to assess the competitive effects of energy conserving plans and proposals as follows:

"In addition to asking how the plan will affect competition, we will also be asking how competition or its absence will affect the plan. We will be asking whether the plan assumes the existence of competition in industries where it in fact does not exist, and whether private monopoly power might not frustrate certain objectives of the administration's proposals.

"During recent oversight hearings on antitrust enforcement, this Subcommittee came across indications that competitive considerations were not adequately analyzed by the Administration in its development of the energy plan. For example, Attorney General Bell testified that he was permitted to examine the energy plan only hours before its publication. Neither the Antitrust Division nor the Federal Trade Commission were consulted in the development of specific proposals.

"More recently, in preparing for these hearings the Subcommittee staff found that little thought is being given to energy competition policy. A routine request to FEA for studies and documents relating to competitive issues produced no evidence that the questions had ever been given any serious attention in those quarters. Apparently no analysis of competitive issues existed."

In determining who gets the lowest price by way of the largest backhaul allowance, the proponents of S. 1699 focus on the location of the buyer's place of business as the critical measure. The greater this distance, the lower the purchase price seems to be the formula implicit in S. 1699. Yet geographic location, proximity, has always been a normal and natural competitive consideration. It seems irrational to provide an economic reward and stimulus for remoteness as such.

Proponents of S. 1699 respond by asking for a rebate in the sum of "what it would have cost the seller to deliver." Quite aside from the very real complexities and difficulties the amount of such costs, this resolution comports oddly with the rationale offered for the bill to the effect that "buyers' trucks are returning empty from the vicinity of the seller's warehouse." Should not the critical factor be the proximity of the buyer's empty trucks, rather than the remoteness of the buyer's place of business?

The real world economic basis of S. 1699 would operate to reward remoteness and punish proximity, from the point of view of the buyer. Only buyers of the same quantities located at the same distance from the supplier's warehouse would be treated equally under this scheme. More overt and incongruous discrimination in price is hard to imagine. The fact that the bill recites in its finale "and where the allowance are available to all the seller's consumers on a nondiscriminatory basis" is a meaningless piety under the circumstances. The bill would in fact discriminate in price in favor of buyers (a) large enough to have trucks fleets, and (b) who have delivery routes in the vicinity of a seller's plant.

The possibility of sellers, under large-buyer pressure or otherwise, manipulating their delivery systems and costs to favor large customers cannot be ignored. It is difficult to predict how much fuel energy will be saved, if any. But it is certain that industry will respond by taking maximum advantage of the profit-making opportunity for the favored few that S. 1699 would create.

The sponsors of this bill go to great lengths to disclaim any intent to materially affect the Robinson-Patman Act. It would be most reassuring to members of the Small Business community if that disclaimer appeared in the text of S. 1699. A simple sentence added to the bill's text would suffice. Our suggestion is:

"Nothing contained herein shall be construed or taken to affect or in any way change or repeal any provision of the Robinson-Patman Act."

Last year an Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act and Related Matters, of the House Small Business Committee issued a Report covering several months of hearings. House Report No. 94-1738, September 30, 1976. This is commonly known as the Gonzalez Ad Hoc Subcommittee Report. On pages 111 to 114 of that Report appears a discussion of Backhaul and the Robinson-Patman Act. The discussion found therein is most enlightening, and we request the Chairman's permission to incorporate these pages into the Record of these Hearings.

S. 1699 in its title and intendment is in furtherance of a policy that we all support, energy savings. However, the impact of this measure on normal competitive processes, on other laws, and especially as to small business should not be ignored.

This important proposal requires a full consideration of the economic impact it would have on antitrust policies and a realistic appraisal of its implications and consequences. Among other things, what is needed is reliable and accurate information on the amount of energy that would be saved, the impact of the measure as to all classes of buyers, and the extent to which other important policy areas are impacted.

We have been authorized to state that in addition to the National Small Business Association, the Independent Bakers Association, and the National Independent Dairies Association, both the Automotive Warehouse Distributors Association and the National Beer Wholesalers Association of America, Inc., believe that the Robinson-Patman Act should not be weakened or emasculated in any form and we believe that in the consideration of S. 1699, Congressional intent should be established that weakening the Robinson-Patman Act is not the purpose of this bill.

Because of the shortness of time many other associations want to go on record regarding S. 1699, and we request that the record be kept open at this point for inclusion of their positions regarding S. 1699.

VIETNAMESE LEGACY

Mr. MOYNIHAN. Mr. President, an editorial in this morning's Wall Street Journal offers us a powerful reminder that past failures cannot be wished away merely by ignoring some of their consequences. I refer, of course, to shocking episodes affecting the most recent refugees and escapees from Vietnam—those who were not evacuated or could not flee at the time of the collapse of the Republic of Vietnam in 1975. It is to our credit, of course, that we have resettled 145,000 of our former friends—and yet there is a curious tendency to believe that we can now close the book on the Vietnam war.

The desire of some Vietnamese to escape a totalitarian regime today, makes it impossible. There are now perhaps some 6,000 who have fled, stranded in one or another Asian country, most of them awaiting an opportunity to come to the United States. And here, they seem to have run afoul of bureaucratic procedures and regulatory complexities—so that this country seems unable to fulfill what decent citizens must accept as a national responsibility.

Can it be that the fact that the example of the United States—its enthusiasm for Vietnam refugee resettlement having waned and its willingness to substitute bureaucratic entanglement for the exercise of moral responsibility having grown—explains the poor record of other countries? One cannot be sure. Yet we read in the newspapers that ocean-going vessels of several nations have passed by and ignored, on the high seas, small craft containing fleeing refugees. We read, noting the curious echoes of the "voyage of the damned" in 1941, that mariners who extend a hand to these people find that many nations will not allow these refugees to come ashore. Shameful. And cowardly—if any of these events reflect a desire on the part of any democratic or neutral state not to offend the powers-that-be in Vietnam.

Mr. President, I believe the point is obvious enough. And I ask unanimous consent that the text of the Wall Street Journal editorial on this subject be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 30, 1977]

VIETNAMESE LEGACY

Since the North Vietnamese captured Saigon in the spring of 1975, the United States has admitted 145,000 Indochinese refugees to this country under a series of special "parole" programs that bypass the usual system of immigration quotas. But it's beginning to appear that the problem may be more than just a short-term crisis. Contrary to everyone's expectations, South Vietnamese have continued to escape their country by piling into small boats and simply setting out to sea with as much food and fuel as possible, hoping that they can evade capture by the government and live long enough to be picked up by a passing ship.

Though the parole programs have ended, those newly escaped from Vietnam can still enter the U.S. under a separate provision of the immigration laws that sets aside about 850 places a month in the Eastern hemisphere for refugees. The Immigration and Naturalization Service has allocated a hundred of these slots to the Vietnamese "boat cases," and when the allocation was first made it was assumed that heads of families admitted in this way would be able to bring their families with them under other entry categories.

Because of immigration pressures elsewhere, this extra space disappeared, and entry for the refugees became more difficult. INS has just set aside still more special places to meet the problem, this time 900 slots to be used over the next three months. But by now there are over six thousand of these people waiting in various uneasy havens throughout Southeast Asia. And though the rate of escape attempts varies widely with the season, successful escapes are now estimated to have reached a level of 500 a month.

The successful escapes of course do not include those unfortunates who get caught or who perish at sea. And chances of success are now being made even worse by the fact that passing ships are growing reluctant to pick up the escapees. They are reluctant because Asian ports are trying to turn away the passengers; and the Asian governments, in their turn, are acting in knowledge that it will not be easy to send the Vietnamese on to permanent refuge in some other country like ours.

U.S. policy so far has not come to grips with this deterioration. It has been said that our normal processing of applications is tedious and cumbersome under any circumstances, and that we have been slow in reallocating refugee slots around the world to meet the situations of gravest emergency. But beyond these questions of administration, it now appears that there are going to be enough Vietnamese to put a strain on our refugee ceilings as a whole.

In other situations like this Attorneys General have used their statutory authority to grant special paroles, outside the usual quotas. And it is hard to think of a case where the Carter administration's use of this special authority would be more appropriate. The Vietnamese are not just ordinary refugees, pitiable as that condition is in itself; they are the refugees that we have made, first by transforming their country and then by abandoning it. Our obligation to them is hardly conditional; our policy should be to settle them here, if they want to be here, as quickly as we possibly can.

We have enough to answer for in Vietnam without the continuing sight of these desperate people drifting homeless on the sea in open boats.

APPRECIATION TO THE PROFESSIONAL STAFF OF THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

Mr. STEVENSON. Mr. President, on behalf of the Senate, I would like to express appreciation to several staff members of the former Committee on Aeronautical and Space Sciences for their diligent and effective service. The National Aeronautics and Space Admin-

istration's reputation for effective management of the Nation's aeronautics and space program is due in no small measure to the efforts of this staff of dedicated public servants.

Dr. Glen P. Wilson is retiring from the Senate staff after 22 years of service. Dr. Wilson helped usher in the space age as a professional staff member in the office of then Senator Lyndon B. Johnson, and he has served with distinction on the staff of the Space Committee since its inception. He was principal architect of the National Aeronautics and Space Act of 1958 and, more recently, the Science Policy Act of 1976.

Craig M. Peterson, chief clerk/counsel of the committee, was responsible for a broad range of science and technology concerns, including the Science Policy Act, earthquake research, electric vehicles, independent research and development, and equal employment opportunities within NASA. Mr. Peterson is returning to Salt Lake City to the practice of law. I also understand that he is seriously considering a political career, and I wish him well.

William A. Shumann, public information officer of the committee, performed the essential function of translating into understandable English the highly technical language of the aerospace industry. He served as a trusted point of contact with the aerospace press, having previously served with distinction as a reporter for Aviation Week magazine. During his tenure with the Space Committee, Mr. Shumann was also responsible for studying the utilization of the environment of space and space grant college legislation.

Rhea Bruno served the Aeronautical and Space Sciences Committee as a secretary since 1961. It is no secret that Mrs. Bruno is regarded as one of the most competent professionals working on Capitol Hill. She is moving to new responsibilities as administrative officer of the newly created Subcommittee on Citizens' and Shareholders' Rights and Remedies of the Committee on the Judiciary.

David Haun and L. Nate Pierce served the Aeronautical and Space Sciences Committee as staff assistants with research responsibilities in the area of Earth resources satellites, the National Science Foundation, and Federal research and development activities. Mr. Haun is planning to return to the Salt Lake City area, and Mr. Pierce will be working as a consultant in Washington, D.C.

Earlier this year, Gilbert W. Keyes, the staff director of the Aeronautical and Space Sciences Committee, accepted a managerial position with the Boeing Co. During his tenure on the staff of the U.S. Senate, Mr. Keyes achieved a reputation as a highly competent and effective professional whose training as an engineer was combined with a thorough knowledge of the legislative process. His leadership was an essential factor in helping guide the National Aeronautics and Space Administration into the post-Apollo era.

It is appropriate to thank these dedicated staff members for their faithful and effective service. Those who occupy positions on the Senate's professional staff are not often in the public eye. But their contributions are essential in making Congress the most independent and effective national legislature in the world. We wish the staff of the former Committee on Aeronautical and Space Sciences our very best in the coming years.

THE QUALITY OF INTELLIGENCE

Mr. MATHIAS. Mr. President, I am gratified to note that the Senate Select Committee on Intelligence is giving life to one of the principal recommendations of its predecessor group, the Church committee, of which I was a member: that added attention be given to intelligence analysis and production—those twin endeavors which the Church committee termed the most important of the entire intelligence effort. I am doubly pleased that our new select committee, under the leadership of our chairman, Senator INOUYE, is emphasizing the quality of intelligence, because this aspect has traditionally been given fairly short shrift, in the general hurry to embrace fancy new collection systems, and to assume—too easily—that the more that is collected, the better will be the quality and usefulness of that intelligence.

The select committee is demonstrating its interest in the content of inelligence in a number of ways. The Subcommittee on Budget Authorization, of which I am a member, has scrutinized not only the various sophisticated techniques for the collection and processing of intelligence, but the finished analytical results of those efforts as well. Specific questions on the quality of the intelligence product were asked of many of the 44 witnesses and briefers who appeared before our subcommittee. Our staff followed up those sessions with further ad hoc investigations of specific budget items which proposed to improve intelligence analysis. Additionally, the select committee has recommended changes in the proposed personnel resource allocations which, if accepted, will markedly strengthen analytical capabilities without adding to the budget.

The select committee's emphasis upon the quality of intelligence is being focused by our Subcommittee on the Collection, Production, and Quality of Intelligence, which is chaired by my distinguished colleague, Senator STEVENSON. That subcommittee is preparing a number of in-depth studies. based upon hundreds of interviews and documents, and designed to illustrate how intelligence production and analysis have or have not performed in differing circumstances and to forecast how well U.S. intelligence can be expected to deal with future questions of strategic importance to foreign policy making. These studies, as specified in the committee's annual report, include such subjects as Soviet strategic weapons, China, Arab oil, and strategic questions of energy, food supplies, and population pressures. As these studies are being prepared and their findings cataloged, the committee and staff are drawing conclusions and recommendations for improving the quality of intelligence.

The quality of intelligence is not an end in itself, but it is an important means to the end of making U.S. foreign policy as wise, informed, and constructive as possible. The intelligence provided to policymakers must be of such high quality that it commands their attention and inspires their confidence.

We have tended to allow the purposes of quality intelligence to be obscured by the more flamboyant world of spies, spy satellites, covert activities, and intelligence abuses. But though quieter and less obtrusive, these are and must remain the central purposes of the entire intelligence effort and expenditure: What the whole process is all about.

The select committee's emphasis on quality intelligence will help insure that in our rightful concern to point up past derelictions and prevent future abuses—our oversight function—does not impede the intelligence community's needed, legitimate mission of producing accurate and unbiased intelligence. I am hopeful that the Senate's recommendations in these respects will help enhance the quality of intelligence and help attract the country's most gifted analysts to such service.

STATE, JUSTICE, COMMERCE, AND JUDICIARY APPROPRIATIONS—S. 7556

UP AMENDMENT NO. 545

Mr. WALLOP. Mr. President, on June 24, 1977, I offered an unprinted amendment, No. 545, to S. 7556, making appropriations for the Departments of State, Justice, Commerce, and the Judiciary. The amendment was accepted. It reaffirmed congressional intent concerning the role of the Law Enforcement Assistance Administration in assisting State and local governments. Senator HANSEN was a cosponsor of that amendment, and his name appeared on it. However, his name did not appear as such in the RECORD. I ask unanimous consent that the amendment be properly printed in the RECORD at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material is as follows:

UP AMENDMENT NO. 545

Mr. WALLOP. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) on behalf of himself and Mr. HANSEN, proposes an unprinted amendment numbered 545.

The amendment is as follows:

On page 24, between lines 2 and 3, insert the following:

Provided, That no part of the foregoing appropriation shall be used under title I of the Omnibus Crime Control and Safe Streets Act of 1968 except in accordance with the declarations and purposes set forth in section 100 of title I of Public Law 90-351; that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively, and that it is therefore the declared policy of Congress to assist State and local governments in strengthening and improving law enforcement at every level by national assistance.

REPORT ON CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Mr. EASTLAND. Mr. President, pursuant to section 302(b) of the Congressional Budget and Impoundment Control Act of 1974, the Committee on the Judiciary files the attached report.

COMMITTEE ON THE JUDICIARY REPORT, PURSUANT TO 302(b) OF THE CONGRESSIONAL BUDGET AND IMPROVEMENT CONTROL ACT OF 1974

[$ in thousands]

Judiciary Trust Funds: Judicial survivors' annuity fund, 10 8110 0 7 602:

	Fiscal year 1978
BA	2,333
O	1,443

Federal Prison System:

Federal Prison Industries, Inc., 15 4500 0 4 753:

BA	0
O	—6,769

Claims, judgments, and relief acts, 20 1895 0 1 806:

BA	176,400
O	176,400

Miscellaneous trust funds, 20 9971 0 7 806:

BA	18
O	18

Other Independent Agencies: American Revolution Bicentennial Administration Commemorative activities fund, 76 5077 0 2 806:

BA	150
O	150

[$ in millions]

Appropriated entitlements:

Supreme Court, 10 0100 0 1 752:

BA	8
O	8

Court of Customs & Patent Appeals, 10 0300 0 1 752:

BA	1
O	1

Customs Court, 10 0400 0 1 752:

BA	3
O	3

Court of Claims, 10 0505 0 1 752:

BA	3
O	3

District Courts and Courts of Appeal, 10 0200 0 1 752:

BA	31
O	31

Function 750 Total:

BA	46
O	46

Claims and Judgments, 20 1895 0 1 806:

BA	52
O	52

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Billie Lykins, of Kentucky, to be U.S. marshal for the eastern district of Kentucky for the term of 4 years vice Sherman L. Hansford.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, July 7, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Harold M. Edwards, of North Carolina, to be U.S. attorney for the western district of North Carolina for the term of 4 years vice Keith S. Snyder.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, July 7, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

CURB ON HEW

Mr. HARRY F. BYRD, JR. Mr. President, Senate action on the night of Wednesday, June 29, is, I think, highly significant.

In a rare display of independence of the Department of Health, Education, and Welfare, the Senate, by a vote of 78 to 11, adopted the following legislation:

None of the funds appropriated or otherwise made available in this Title (H.E.W. Appropriations bill) shall be obligated or expended for the Elementary and Secretary school Civil Rights survey: school year 1977–78 in the case of any school district which has completed the Elementary and Secondary school Civil Rights survey: school year 1976–77; provided, however, that whenever the Secretary has reason to believe that there may be a violation of the civil rights laws in a particular school system, and so certifies, he may take an appropriate survey in respect to that particular school system.

The background is this:

During the just ended school year the Department of Health, Education, and Welfare required 16,000 school districts throughout our Nation to complete and file with the Department detailed, comprehensive, mammoth, and complex forms.

The volume of paperwork connected with the report was such that it took the city of Newport News, a city of about 150,000 persons in Tidewater, Va., 10 large envelopes to send the reports to the Office of Civil Rights in Washington.

Dan Roberts, Newport News superintendent of schools, said there were 38 individual reports of nine pages, seven copies of each—2,394 sheets of paper—and in addition there were seven copies of each page of the school division report.

George W. Young, superintendent of schools for Northampton County, Va., says that his report sent to HEW weighed 21 pounds.

This gives some indication of the magnitude of the paper work problem facing the school districts throughout the United States—and helps explain why the budget for the Civil Rights Division of the Department of Health, Education, and Welfare is being increased 15 percent in the pending legislation.

The National Council of Chief State School Board offices estimates that it took 810,000 person-hours at a cost to local school districts of $7,514,000 to complete the 1976–77 survey.

The reports were filed 2 months ago, April 30.

Now the Department of Health, Education, and Welfare wants to require 25 percent of these school districts, some 3,500 selected at random, to fill out the identical mammoth forms for the school year beginning in September, such reports to be filed March 1978.

To me, this is ridiculous—and the Senate agreed.

One of the significant aspects of the vote was that of the 18 newly elected Senators, 16 supported my position.

They are the ones who probably are the closest to the people, and have had the opportunity most recently to know the views of the people.

I am convinced that the American public is becoming outraged at the harassment coming from Washington, D.C.; and that the public is getting very tired of the additional expense and heavy amounts of paperwork being forced upon local and State governments and private businesses. All of these costs and additional burdens must be paid for by taxpayers and consumers.

Some who originally opposed my position in Senate debate stated that Secretary Califano had, and I quote the chairman of the subcommittee handling the appropriation, Senator MAGNUSON of Washington:

Promised in the hearings that he would not conduct any surveys this particular year.

That assertion by Senator MAGNUSON is on page 21509 of the CONGRESSIONAL RECORD of June 29, 1977. On the following page, 21510, Senator MAGNUSON asserted again that he is sure that HEW will not make another survey for the upcoming year.

When I queried Senator MAGNUSON as to the approximate date on which Secretary Califano gave such assurances, Senator MAGNUSON said that it was in testimony before his committee in April.

However, the able Senator from Indiana (Mr. LUGAR) in debate on the Byrd amendment Wednesday night, told the Senate that he had received a letter from Secretary Califano dated May 31 stating that while he appreciated the burden being placed on the school districts, he could give no assurances that a repeat of the survey would not be required for the upcoming school year.

Bear in mind that this was May 31—more than 1 month after Secretary Califano had "promised" the Appropriations Subcommittee, according to Senator MAGNUSON, that no civil rights survey would be made for the school year beginning September.

But I have an even more recent communication from Secretary Califano.

In a letter to me dated June 13, 1977, 2 weeks ago, Mr. Califano wrote:

> The Department's current policies and plans with respect to the 101/102 survey of school districts for 1977 and future years are guided by my February 17 statement on this and related issues, a copy of which I enclose for your reference.

In that statement he said this:

> The Department has decided, eight months in advance of the due date, that filing of Forms 101 and 102 will also be required for the 1977–78 school year by 3,500 school districts.

Although this memorandum was prior to the April date, he mailed it to me on June 13 and stated in his letter of June 13 that it still stands.

Yet Secretary Califano, according to Senator MAGNUSON:

> Promised in the (appropriation) hearings that he would not conduct any surveys this particular year.

Just where does this leave the credibility of Secretary Califano?

Does not the Appropriation Subcommittee have a responsibility to see that the assurances given to that committee by Secretary Califano are adhered to? The amendment adopted Wednesday night will help the subcommittee in this regard.

In any case, Mr. Califano's inconsistent statements clearly dramatize the wisdom of the Senate in adopting my prohibition amendment.

Unless the Congress, representing the people, is willing to assert itself on behalf of the people against bureaucratic redtape and dictation, excesses by unelected officials in the executive departments will continue.

Wednesday's vote suggests that the Senate at long last may be willing to stand up to unchecked bureaucracy—and if so—I give much credit to the newly elected Senators of both political parties.

TRIBUTE TO SIR PETER AND LADY RAMSBOTHAM

Mr. PERCY. Mr. President, it is with a great deal of sadness that Washington bids farewell to the British Ambassador of the United States, Sir Peter Ramsbotham, and his kind and gracious wife, who are leaving us at the end of the month to accept a new assignment in Bermuda.

The Ramsbothams shall be missed by the diplomatic community and those of us in Government who have come to know them well. My wife, Lorane, and I, who have had the privilege of knowing the Ramsbothams during their tenure in Washington, join their many friends in wishing them well.

Knowing such outstanding friends as the Ramsbothams, we develop a genuine appreciation of skilled diplomacy, an attribute which I believe is present to an especially high level among the diplomats stationed in Washington. It is not easy, on a continuing basis, to foster binding relationships between countries and I have always been impressed by the calibre of ambassadors sent to the United States.

Americans have come to regard the British Ambassador to this country not only as his country's official representative, but also as an emissary charged with nurturing the special friendship and deep kinship that exists between the people of our two nations. In his 3½ years in Washington, Sir Peter has accomplished both with admirable grace and skill.

He has visited 38 States and every major U.S. city, including my own city of Chicago twice, and has met with many groups and organizations. Admittedly, he has served here during a time marked by economic trouble and uncertainty for his country, but he has nonetheless displayed qualities of patience, understanding, persistence, determination, enthusiasm, graciousness, and downright hard work to the point where he has raised Washington diplomacy to an even higher level. Sir Peter has been a credit to his Queen and country the common market of which the United Kingdom is an important part, and at the same time a great friend to the United States.

Lady Ramsbotham in her own right has contributed extensively to the life of the capital and has been devoted to the cause of the handicapped, an area in which I share her deep interest. Because of a tragedy in her own family, Lady Ramsbotham has an understanding of the needs of the handicapped and has worked on behalf of such projects as Independent Living for the Handicapped.

Most of all, I think I shall remember the Ramsbothams—and the British Government and people—for the special way in which they shared our Bicentennial Celebration last year. Highlighted by the visit of Her Majesty Queen Elizabeth II and His Royal Highness Prince Philip, this aspect of our 200th anniversary further reinforced the longstanding alliance between our two countries, and opened a new century of closeness and cooperation. As Her Majesty noted in the toast she proposed at the White House:

> Our shared language, traditions, and history have given us a common vision of what is right and just. Both our peoples believe in the worth of the individual and the family. In freedom of religion and expression. That is why, time and time again, in the testing days of war and the constructive years of peace, we have stood together on the things that matter.

Mr. President, I know my colleagues join me in thanking Sir Peter and Frances for the important part they played in helping our two countries stand together during the last 3½ years, and in bidding the Ramsbothams "Godspeed."

ENERGY CONSERVATION IN INDUSTRY COMPATIBLE WITH GROWTH

Mr. KENNEDY. Mr. President, an article in last month's Fortune Magazine by Tom Alexander explains how industry could reduce energy consumption without impairing economic growth. Conservation through cogeneration and other "second law" technologies can reduce costs, make American industries competitive with other industrial countries while, at the same time, reducing oil and gas consumption.

Mr. Alexander points to the growing evidence that prosperity and growth "are not so rigidly coupled to an increasing energy diet as was long supposed." On the contrary, Alexander summarizes conclusions of a number of economists and engineers that the Nation,

> Could wind up around the year 2000 using no more energy than it does now. In the meantime, it could continue achieving respectable economic growth, though perhaps not at the exuberant rates of the cheap-energy years.

This article invites the Congress to encourage conservation in industry without fear of economic stagnation. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INDUSTRY CAN SAVE ENERGY WITHOUT STUNTING ITS GROWTH

(By Tom Alexander)

To the dismay of many businessmen, President Carter's energy program breaks with the policies of previous Administrations by stressing conservation more than the development of new supplies. Ever since the energy crisis hit, the instinctive response of the U.S. has been like that of an animal deprived of its food: a nervous questing after new sources. Behind this drive was the assumption that the economic organism would suffer malnutrition and stunted growth were it not fed the large and growing energy diet to which it was accustomed. A national policy of reducing the rate of growth of consumption, in other words, has been widely equated with the sort of deprivation that is welcomed only by a few middle-class extollers of the simpler life.

But mounting evidence—from other countries, from recent U.S. experience, and even from theoretical physics—suggests that prosperity and growth are not so rigidly coupled to an increasing energy diet as was long supposed. A number of economists and engineers, in and out of government, have been grappling with the question of how the U.S. can curb its gluttonous, and probably unsustainable, energy appetite. Some have been surprised by their own conclusion that the nation, after experiencing an unavoidable bulge in consumption during the next decade or so, could wind up around the year 2000 using no more energy than it does now. In the meantime, it could continue achieving respectable economic growth, though perhaps not at the exuberant rates of the cheap-energy years.

The portrait these experts paint of an energy-efficient society looks to be a far cry from the nontechnological, Thoreauvian rusticity that the word "conservation" evokes in many people's minds. Instead, it would be a tightly organized, capital-intensive society whose hallmark would be meticulous engineering. In the interim, a lot of resources would have to be redirected. Building an energy-efficient society would mean altering or retiring a considerable portion of the capital and consumer goods that were designed for an era when energy was cheap and plentiful.

A $500-BILLION CAPITAL-GOODS BOOM

But change, of course, is what industry is all about. Contrary to businessmen's fears of wrenching decline, constructing that society and its accoutrements represents a seldom-matched opportunity to devise and market a vast array of brand-new goods. This opportunity comes at a time when slowing population growth and saturating consumer markets are making a lot of business lives either boringly routine or bruisingly overcompetitive.

Roger W. Sant, a former head of conservation for the Federal Energy Administration and now a private consultant to government and business, estimates that energy conservation could generate up to $500 billion in capital outlays between now and 1985. And if that sounds prohibitively costly, it is useful to keep in mind that *without* conservation, the nation faces a far higher bill for the additional energy it will need.

LOWERING THE PROJECTIONS

Until fairly recently, most estimates of how much energy the U.S. would require in the future were prepared by the petroleum industry, government officials, and others whose experience and concern were mostly with supply, not conservation. Generally speaking, their projections were extrapolations from growth patterns of the past when energy was cheap and getting cheaper in real terms. Nor did they see much elasticity of demand with rising prices. Accordingly, typical forecasts from the early Seventies saw consumption growing from the 1973 level of 75 "quads" (quadrillions of British thermal units) to between 115 and 125 quads in 1985 and continuing on up to around 200 quads by the year 2000.

The Ford Foundation Energy Policy Project's 1974 report, "A Time to Choose," was the first major study to stress conservation. It drew a lot of flak by asserting that the nation could travel the path of zero energy growth, after reaching the 100-quad level in 1985, with essentially no damage to economic welfare. Critics in industry, government, and the universities found the report unrealistic in its assumptions about how rapidly society could or should change. Last September, though, the Institute for Energy Analysis of Oak Ridge Associated Universities—an organization that includes several individuals, such as nuclear physicist Alvin M. Weinberg, who have traditionally been associated with the "supply" camp—came out with an influential study outlining surprisingly low projections of energy needs.

Using new data and plausible assumptions about trends in energy prices, population growth, productivity, and in the market saturation of automobiles and household appliances, the institute put U.S. energy demand at between 101 and 126 quads by the year 2000—little more than half the figure that seemed likely in most earlier studies. Moreover, the Oak Ridge study concluded, real G.N.P. per capita could easily grow at between 2.4 and 2.6 percent a year, not as fast as in the soaring Sixties and early Seventies but faster than the long-term average rate that has prevailed since 1940.

Researchers working on a still-unfinished study for the National Academy of Sciences see the possibility that consumption at the end of the century might conceivably be even lower—possibly in the 70-quad range. That conclusion has been echoed by researchers working for the Department of Commerce, whose analysts stress that energy consumption will have to continue climbing from now until the late Eighties before it can turn downward again, partly because of the slow pace at which energy-using machines wear out and get replaced.

A major difference between many of the old, high-demand forecasts and the newer ones is that the former took it for granted that most energy conservation would occur in the household, transportation, and commercial sectors. It would consist of measures like insulating homes, turning down thermostats, and driving more efficient automobiles at 55 mph. All these savings would be more than offset by increased consumption in the industrial sector, where it was assumed that most businesses were already operating pretty efficiently and where energy usage would grow in step with output.

So far, what has happened is the exact reverse. Of all the energy-consuming sectors, industry is the only one that consumed less energy in 1976 than it did in 1973. Overall, it consumed 6.2 percent fewer BTU's in producing almost exactly the same volume of goods. Meanwhile, the BTU's consumed by the residential-commercial and transportation sectors increased by 3.4 and 2 percent respectively.

THE BIGGEST GAINS LIE IN REDESIGN

Most of the industrial savings to date, to be sure, have been in the nature of pretty unexciting "housekeeping" measures. They include things like turning off lights and machines that are not being used or repairing leaks in high-pressure steam lines or in the thousands of trouble-plagued "steam traps" that separate live steam from condensed water. Less obvious, more expensive approaches have included tricks like replacing oversized electric motors or even installing small power-generating turbines in place of the pressure let-down valves that reduce the 300-pounds-per-square-inch pressure in a natural-gas pipeline to the 30 psi that a furnace might require.

Obviously, only so many of these comparatively painless savings are possible in any existing plant, and industry has probably spotted many of them by now. Most of the remaining improvements will require far costlier alterations and replacements of existing equipment, and in many cases a complete redesign of industrial processes.

But the amount of energy that can be saved that way is absolutely immense. Most of the plants now in existence were built when energy cost a lot less in the United States than it did almost anywhere in the world—as it still does. Seeking an optimum balance between the costs of labor, capital, materials, energy, and so forth, U.S. designers have generally paid a lot less attention to energy efficiency than have their counterparts elsewhere. Now, energy costs weigh far more heavily and, despite the pretense of the politicians to hold back the tide with oil and gas price controls, they will probably weigh even more heavily in the years ahead.

Europe and Japan furnish clear evidence that the demand for energy is price-elastic. The average price of various fuels in these countries ranges from 1.2 to 2.5 times that in the U.S., while the countries' per capita consumption—in the transportation, residential, and commercial as well as industrial sectors—averages about 50 percent less. Some of the disparity, to be sure, can be put down to differences in per capita income, to cooler summers, more apartment living, shorter commutes and freight hauls, and so forth. But even foreign industries that perform approximately the same jobs as their U.S. counterparts manage to use a lot less energy.

THOSE ENERGY-STINGY FRENCH SMELTERS

In West Germany, for instance, five energy-intensive industry categories—food; chemicals; petroleum and coal products; stone, clay, glass, and concrete products; and primary metals—use around 35 percent less energy per dollar of sales than the same industries in the U.S. The effect of price on energy consumption shows up even in processes that are in most respects identical. Both the U.S. and France employ the electrolytic Hall process for refining aluminum. Since the French pay 70 percent more for their electricity, they operate their smelting pots with less current. The penalty is slightly lower production per man-hour and per dollar of invested capital, but the French expend about 22 percent less energy per ton of aluminum.

Since the OPEC price hike, the energy prices paid by consumers in nearly every major industrialized country in the world have shot up a lot higher than prices paid by consumers in the U.S. The consequence is that U.S. industry is a laggard in reducing consumption. As energy prices climb, however, all kinds of new processes will become competitive. In the case of aluminum, for instance, Alcoa is now developing a chlorine process that purportedly requires around 30 percent less electricity than the best Hall smelters, though it may cost more to build. Dow Chemical Co. has opened a plant for making ethylene dichloride that requires 85 percent less energy per pound than older plants.

Once engineers start looking at most common industrial processes with an eye to cutting energy use, the opportunities generally seem boundless. Engine exhausts, kilns, furnaces, soaking pits, ovens, distillation towers, and so forth are merely a few of the thousands of industrial devices that have long been allowed to spew valuable heat into the atmosphere. In most cases, that heat can be retained or used for some other purpose.

As the opportunities unfold, a huge market should develop for all kinds of heat exchangers—boilers, recuperators, regenerators, etc.—the function of which is to extract heat from one stream of gas or liquid and transfer it to another. One potentially enormous source of heat, for example, is the hot water discharged by electric-power plants and some other industries. In nearly all the countries of both Eastern and Western Europe, much of this water is used for "district heating"—i.e., to heat nearby commercial buildings and apartment houses.

IT PAYS TO KEEP THINGS HOT AND DRY

Often, energy efficiency consists merely of not allowing something to cool off. The basic process streams of steel mills, for instance, consist of ore pellets, sinter, coke, and coke-oven gas going in, and pig iron, steel ingots, slabs, blooms, billets, and coils coming out. Normally each of these is heated more than once. Recent developments, such as continuous casting, reduce the heat required in the output stream, while some companies are investigating the advantages of not permitting newly made ore pellets and coke to cool before they are used.

Just as multiple heating and cooling wastes energy, so does multiple wetting and drying. Most of the energy in the pulp and paper industry, for instance, goes into drying things out. The pulp from a pulp mill is normally dried before it is shipped to a paper mill, where it is moistened again, converted into paper, and dried once more. Making pulp and paper at the same site can save more than 10 percent of the energy. Experiments are under way in Sweden to make paper without water. Many U.S. cement makers still grind cement as a wet slurry that must be dried, while in many other countries they make it dry to begin with. The U.S. textile industry is experimenting with dyeing fabrics with colored foams instead of wet solutions, thereby reducing drying times.

Improvements in the efficiency of energy production are at least as important as improvements in the efficiency of energy use. A lot of the fuel in an industrial boiler just

goes into heating up the air in the fuel-air mixture itself. An obvious first step is to adjust the air-fuel mixture fed into a furnace to optimum proportions. Better yet is to use waste heat from elsewhere to preheat the combustion air before it goes to the furnace. This also enables the furnace to operate on a "leaner" fuel-air mixture: that is, one with a fuel ratio that would be too low to support combustion with cold air.

This principle has recently been put to ingenious bootstrapping use in a coil-coating oven developed by the Canadian firm, BNK Industries, with some help from the U.S. Energy Research and Development Administration. These gas-fired ovens bake out the solvents used in cleaning and painting sheet metal. The Environmental Protection Agency has ordered that all such ovens be fitted with "after-burners" to burn the solvent fumes emitted by the ovens. When the gas crisis began shaping up, it occurred to BNK to modify the ovens so that the solvent fumes themselves become the fuel that fires the oven. With some funding help from ERDA and the National Coil Coaters Association, BNK modified an oven for one of its industrial customers in time for the gas crisis. It worked so well that BNK already has orders for several more modifications.

Over the long haul, the greatest promise for reducing industrial energy consumption lies in applying some long-known but astonishingly neglected insights that are implicit in the physicists' second law of thermodynamics. Most of the calculations of how much energy industry could save have been based exclusively on the *first* law of thermodynamics, the physical law that says that energy is neither created nor destroyed, but only transformed. Efficiency, in the eyes of that law, is the ratio between the useful work that a device performs and the amount of energy put into it.

What the second law addresses, however, is the *quality* of energy. That law holds, in effect, that thermal energy is a bit like water power: it can only power man's devices when it can flow from a region of high potential—high altitude in the case of water, high temperature in the case of thermal energy—to a region of lower potential. The implication, according to the second law, is that the actual usefulness of any given BTU of energy is not a constant but a variable quantity. As soon as a BTU of energy is released in the combustion process, it immediately begins to flow "downhill": that is, to dissipate itself into the cool surrounding environment where it becomes gradually lost to mankind's purposes.

A simple example illustrates the difference between the first and second laws: if you drop a red-hot block of iron into a kettle of water, it will turn some of the water to steam. In principle anyway, the steam could be sent through a turbine to generate a certain amount of electricity. Alternatively, though, the red-hot block could first be mixed with a lot of blocks that were initially at room temperature. Assuming that they have no other way of losing their heat, all the now-lukewarm blocks together would still contain the same number of BTU's of heat that were initially in the first block alone. But that heat wouldn't be able to do much work; if dropped into the same kettle of water, the blocks would produce no steam and no electricity at all.

THE ANALOGY OF A WASTED WATERFALL

Typically, most industrial processes waste huge amounts of the potential available work that the second law says is in every molecule of fuel. More than 45 percent of the energy used by American industry, for example, goes into making "process steam," which is used at a typical temperature of around 350° F. By first-law standards, the boilers in which that steam is made are pretty efficient devices; roughly 85 percent of the BTU's initially in the fossil fuel wind up in the steam.

But by second-law standards, these systems are scandalously inefficient, since they will exploit no more than about 25 percent of the fuel's available work. The reason is that the fuel molecules themselves—whether oil, natural gas, or coal—burn at a temperature around 3,600° F. To immediately dilute that wonderful, high-quality heat to the level of 350° is lamentably wasteful. It is the equivalent of building a 250-foot-high dam at the bottom of a 1,000-foot waterfall, and using only the 250-foot "head" in the man-made lake to generate electricity, instead of constructing penstocks to harness the far more potent 1,000-foot plunge of water from the top of the waterfall.

The era of cheap fuels led to a blithe disregard of second-law fundamentals and to the waste of unbelievable quantities of energy. On contracts from the Ford Foundation and the Federal Energy Administration, Thermo Electron Corp.—a company on Route 128 near Boston that makes furnaces, turbines, and other energy-using equipment for industry—has studied the processing technologies of a number of energy-intensive U.S. industries. It concludes that industry as a whole achieves an overall second-law efficiency of around 13 percent. Thermo Electron calculates that if that efficiency were raised only one percentage point, it would save some 3 percent of the total energy now consumed in the U.S.

DOWN AN ENERGY STAIRCASE

There are many ways to capture more of the available work that's in every pound of fuel. Mostly the techniques involve coupling together different devices that require different temperature levels, a strategy known as "cascading." In principle, the fuel could first be burned inside thermionic or magnetohydrodynamic generators that are under development—devices that requires very high temperatures to operate at all. What they do in effect, is convert into electricity some of the energy carried by the rapidly moving ions emerging from the combustion process itself. After leaving this first stage, the somewhat cooler gases could be ducted directly to some sort of furnace to melt steel. The exhaust from the furnace could then be sent to a boiler to create process steam.

As the final step in this fanciful scenario, the hot water emerging from the manufacturing plant could be used to heat nearby office buildings or houses. It might even be worthwhile from a second-law standpoint to raise the temperature of some of the water by means of an electrically driven heat pump and use it to create some more process steam. By such complicated tactics it would be possible to reach a second-law efficiency of perhaps 30 to 40 percent.

President Carter's new energy policy foresees widespread use of a simpler form of cascading called "cogeneration." This linkup, which combines electricity generation with process heat or steam production, offers great promise of reducing national energy requirements, while at the same time reducing the awesomely burgeoning capital demands of the electrical utilities.

One study, coordinated by Dow Chemical Co. under National Science Foundation sponsorship, estimates that by 1985, industry could economically justify producing about a third of its electric-power needs and half its process steam through co-generation. That would save the country 680,000 barrels of oil per day, reduce the capital requirements of the nation's utilities by $4.1 billion per year between now and the mid-Eighties, and cut the average price of electricity paid by residential and industrial consumers by somewhere between 2.9 and 6 percent. Another study, by Thermo Electron, concludes that if the energy wasted in the paper, steel, and petro-chemical industries alone were fully exploited through co-generation, it would supply a third of the total electrical requirements of the U.S.

Co-generation is nothing new. Industry produces about 29 percent of the total electric power of West Germany, where much of its power is fed into the national grid. Co-generation also supplies around 10 percent of the electricity requirements of American companies, many of which also sold power at one time. Since the 1920's, though, a host of regulatory, institutional, and economic barriers in this country have discouraged co-generation. States have held that companies selling power to utilities must be regulated as utilities themselves. Most companies would rather die.

Utilities long ago became reluctant to buy the power, in part because it was often erratically produced and therefore a certain amount of backup equipment was required. Furthermore, until the late Sixties, electricity from the utilities kept getting cheaper and cheaper. And manufacturing plants found it more economical to replace their cranky coal-fired co-generation plants with low-cost prefabricated boilers that burned cheap oil or gas to make steam alone.

Another form of co-generation, also far more prevalent in Europe than in the U.S., involves a central electric plant that produces and sells steam or hot water to either industry or residential complexes. The general constraint is that everything has to be located close together because of the cost and energy losses associated with piping steam or hot water.

A BETTER WAY TO BURN COAL

This central-station approach to co-generation, lately expanded into a more ambitious "energy center" concept, is being championed in this country by Gerald L. Decker, corporate energy manager for Dow Chemical, among others. Energy centers, a few of which already exist, generally consist of a power plant plus one or more manufacturing plants sited closely enough together to share steam. More such arrangements would save energy and reduce the amount of waste heat that now winds up polluting lakes and rivers—heat that amounts to about two-thirds of the energy consumed in making electricity. They would also further a major aim of U.S. energy policy—the switch from oil and gas to coal.

As of now, most plant managers contemplate the prospect of burning coal with considerable unhappiness. A coal-fired boiler or furnace costs on average three to four times as much as its oil-or gas-fired counterpart. Coal is dirty and inherently polluting; storing it takes up a lot of valuable real estate and hauling it around is a lot more cumbersome than pumping oil or gas. And while the future oil supply may be problematical, the infrastructure for supplying coal is exposed to a range of labor, environmental, and transportation uncertainties that are even scarier to most managers.

Many of the objections to coal are minimized in large central power or steam plants. Stokers, boilers, and stack-gas scrubbers are all proportionately cheaper in larger sizes. Utilities are accustomed to writing long-term supply contracts, and the mining and transportation industries accommodate these well-anticipated demands.

THE ANAMOLIES OF "AVERAGE" PRICING

Already, the pressures of energy scarcity are forcing some major new moves in the direction of energy centers. Many of the petrochemical plants that settled in the Gulf Coast region to take advantage of natural gas at 20 cents per million BTU's now find themselves faced with the prospect of paying

ten times as much and more. Worse than that, it's virtually certain that the government will force them to switch to coal.

Meanwhile, Gulf States Utilities, a principal supplier of electricity to the region, is not only facing similar prospects but also a tremendous burden of paying for the switchover and for new additions to capacity. Recently, Gulf States and the petrochemical companies in several Gulf area locations have been trying to get together on a plan for jointly building large new coal-burning plants that would generate steam and power.

One advantage of such an undertaking is that the power and steam could be sold to users under very long-term contracts that would assure a supply at fixed prices plus some form of escalation. This increased certainty might well offset one of the economic handicaps of most co-generation projects under the present rules of the game. This is the fact that their electricity, in the short run at least, can be undercut in price by power from conventional energy-wasting utility generating plants, even when those plants are built at today's hugely inflated costs.

This is an example of the way politically influenced rate making takes precedence over economic rationality. In free-market commodity transactions, prices generally affect the marginal costs of production. But state public-utility commissions generally base electrical rates on the average costs of owning and operating the utility equipment, which includes the cheaper old generating plants as well as the costly new ones. Moreover, the rate structures tend to favor industrial bulk users of power.

On top of that, the utility has a monopoly in its area and, being in effect a ward of the government, can get by with a lower rate of return on capital. When a manufacturing company—particularly one that is already highly leveraged—can get its hands on investment dollars, it often prefers to spend them on expanding plant or market share rather than on production economies, even when the rates of return favor the latter.

Late last year, a major cement company investigated buying a co-generating system to tap waste heat from some of its kilns and generate 4,700 kilowatts of power. The cost of the equipment would have been around $2.7 million and the "fuel," of course, would have been free. But partly because of the low "average" price that the company currently pays for purchased power, it decided against the project even though the purchased power is subject to unforeseeable rate increases. Even so, the rate of return on the co-generation project would have been a very attractive 22 percent. But this company, like many, had a double standard, insisting on a 30 percent return from cost-cutting projects while settling for only 15 percent on those that expand capacity.

What made sense to the cement company, however, makes no sense for the country. An equivalent amount of new generating capacity, including fuel-supply facilities, transmission lines, etc., will eventually have to be built, at a cost of more than $7 million to the electric utility that supplies the company's power. Thus the nation will waste at least $4 million of scarce capital, burn the equivalent of 180 barrels of unnecessary oil per day, and get some additional air pollution in the bargain.

RULES THAT CAN BACKFIRE

Often, government's instinctive response to such tales is to revert to the whip of law rather than to attack the market incongruities that were responsible in the first place. Among the proposals being considered in Washington, for example, is one that would require that every industrial steam boiler above such-and-such a size be equipped to co-generate electricity. Other proposals would require that every boiler, or every industrial process, meet such-and-such a standard of efficiency.

The Federal Energy Administration already has a so-called "mandatory" program for industry that calls for an average 18 percent efficiency improvement in the fifty largest companies in each of the ten most energy-hungry industries. So far, the only thing really mandatory about the FEA's program is that each company must report how well it is doing. No sanctions—except perhaps embarrassing publicity—are now in the law to enforce those standards.

But even this approach contains elements of inequity and the seeds of its own defeat. Mandatory requirements tend to penalize those companies that have been the most efficient in the past. They would also tend to discourage the changeover to coal, which usually burns less efficiently in boilers than oil or gas. One astute analyst of the complexities of energy usage, Bruce Hannon of the University of Illinois, points out another drawback in shotgun-style efficiency regulations. Companies that now expend energy making their own materials and parts, Hannon says, can achieve huge paper improvements in energy efficiency by simply switching to buying those materials from someone else.

Aside from the new overburden of bureaucracy and regulation that the mandatory approach entails, the substitution of regulations for prices practically guarantees suboptimal behavior. What it would probably do is to lock technology and institutions into their present format—removing the incentive to develop new processes and inhibiting society at large from adopting more energy-efficient arrangements. Without considerable economic incentive, for example, builders will not elect to nestle apartment houses or factories up to coal-burning power plants to share their warmth. Nor is it easy to conceive of any laws acceptable to American society that could force them to do so, except the laws of economics.

3M HAS A BETTER IDEA

All these reasons for being skeptical of mandatory measures don't mean that society—through its government—cannot or should not bring to bear pressures to accelerate conservation, pressures that are stronger than the unaided market alone might muster. Recently, for instance, the 3M Co., in consultation with several other companies and the state of Minnesota, proposed what it calls the "Minnesota Plan." The objective is to reduce energy consumption in the U.S. commercial and industrial sectors by at least 30 percent—the equivalent of about 5.5 million barrels of oil per day—below levels that would otherwise be reached in the coming decade. While the planners estimate that around half that 30 percent could be achieved at little or no cost, the remaining half would require altering or replacing plant and equipment at a cost of around $60 billion.

The key governmental feature in the Minnesota Plan would be a 25 percent tax credit to companies for expenditures related to energy conservation, plus a same-year write-off. The tax incentives would expire within five years—a provision designed to get companies moving at once. 3M contends that the plan would not even result in any long-term loss of revenues to the government, since the short-term loss would be made up quickly through taxes on the companies' subsequent energy savings.

On its face, the Minnesota Plan appears to have a lot to recommend it, but such proposals may find a cool reception in Congress. Legislators are already worried about appearing to reward industry for conserving energy when everyone else is being compelled to make sacrifices. Yet the plan is preferable to a set of governmental measures that attempt to bully the industrial sector into conserving more energy. A more effective stick to wield—along with the carrot of tax breaks—would be high energy prices.

That stick, as it happens, is acquiring more force with every OPEC price increase and every boost in the ceiling price of "new" interstate gas. Having studied the supply-versus-demand question from various perspectives, the experts now pretty much agree that it generally costs a lot less to save energy than to consume it. John A. Belding, director of conservation research and technology at ERDA, says that, as a rule of thumb, it costs somewhere between a few cents and $1.50 to save a barrel of oil, compared with today's going prices of $11 to $18 to industrial users.

Robert O. Reid, vice president of Energy & Environmental Analysis Inc., a consulting firm, estimates that the average after-tax return on energy-conservation investments now lies somewhere between 20 and 30 percent. Thomas F. Widmer, vice president of Thermo Electron, calculates that if the U.S. were to invest $160 billion in conservation measures and another $160 billion on developing new supplies over the next decade, there would be far less of a drag on economic growth than if it spent the $500 billion to $800 billion that economists estimate will otherwise be needed to develop new sources of supply.

The abrupt rise in the marginal cost of supplying new energy—a change that began about 1970, even before OPEC stunned the world with its huge price increases—is the event that will sooner or later trigger a huge new conservation industry. Until 1970, energy consultant Roger Sant points out, the average incremental cost of new energy supplies was about $1.60 per million BTU's, or less than the average price that consumers paid. But today, Sant says, the cost of adding new supplies—exploration, drilling, building power plants, etc.—is in the range of $4 per million BTU's. And the average wholesale price of all forms of energy is being held down to $2.70, primarily by government price controls.

THE COMING INDUSTRIAL SYMBIOSIS

The industrial history of the U.S. has been one of continual dissolution and recrystallization into new patterns. What drives the process is capital depreciation and shifting relative costs of the different factors of production. In the past, many of the changes were energy-related—the replacement of water-powered mills along streams by steam-powered mills in cities and coalfields, the shift of chemical plants to the gas fields of the Gulf states.

The steepening costs of energy seem likely to remobilize this restless process, except that now the only cheap and abundant new sources of energy lie in the vast amount of available but unused work that is discernible through the second law of thermodynamics. The latest episode in the quest after energy may be a coalescence of industry—and perhaps even dwellings—into symbiotic contractual relationships that will allow each participant to nourish itself on that portion of the energy cascade that others can't efficiently exploit. Companies may find, in other words, that the largest, cheapest supply of new energy will be—each other.

MANDATORY EARLY RETIREMENT FOR FOREIGN SERVICE OFFICERS

Mr. DOMENICI. Mr. President, I was delighted to read in yesterday's edition

of the Washington Post that a three-judge Federal court struck down the State Department's mandatory retirement program for Foreign Service officers. The three Federal judges, Roger Robb, Thomas A. Flannery, and Gerald A. Gesell, ruled unanimously that the present system is unconstitutional, "patently arbitrary" and "irrational."

On January 28, I introduced S. 481 which would extent the protection of the Age Discrimination in Employment Act of 1967 to individuals over 65. In my introductory remarks I stated that "chronological age alone is a poor indicator of ability to perform a job." The court found that the plaintiffs in this case "have convincingly shown that reaching age 60 is itself no bar to Government employment overseas."

I believe that this judicial ruling will help our effort to abolish mandatory retirement based upon an arbitrary chronological age. I would hcpe that this decision will expedite the enactment of legislation such as S. 481 and thus open new opportunities for middle age and older workers in this Nation.

Mr. President, I ask unanimous consent that the text of the Washington Post article entitled "Foreign Service Early Retirement Is Ruled Illegal" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 29, 1977]

FOREIGN SERVICE EARLY RETIREMENT IS RULED ILLEGAL

(By Timothy S. Robinson)

Foreign Service officers who work for the State Department and other federal agencies cannot be forced to retire at the age of 60, a three-judge federal court ruled here yesterday.

The judges ruled that the forced retirement age, which affects hundreds of federal employees here and worldwide each year, is unconstitutional because all other federal government workers may continue working until they are 70 years old.

"This system is patently arbitrary and irrational," the judges said in a unanimous ruling banning the earlier retirement. It was signed by U.S. Circuit Judge Roger Robb and U.S. District Judges Thomas A. Flannery and Gerhard A. Gesell.

Attorney Zona F. Hostetler, who represented the plaintiffs in the case, said she believes the ruling is the first in which any court has struck down a mandatory retirement system of any sort.

The State Department had claimed the practice was warranted because the department was trying to create advancement opportunities for younger people and because the overseas work required of Foreign Service officers presented "unusual physical and psychological difficulties."

The first argument was rejected by the judges because they said it was "inherently discriminatory" to recruit and promote younger people solely because of their youth.

The second argument also was rejected after attorneys for the plaintiffs pointed out that more Americans worked overseas in similar jobs under Civil Service regulations that let them work till 70 than under the contested Foreign Service regulations.

Among those Americans who are allowed to work overseas past the age of 60 are Peace Corps volunteers, who, the judges noted, "unlike Foreign Service personnel, often live among the poorest segments of the local populace and face any adverse conditions that may exist."

The judges also looked at the Peace Corps experience of over-60 volunteers to reject another State Department argument that older persons were more likely to need medical attention they could not get overseas.

The judges said the result was that the plaintiffs "have convincingly shown that reaching age 60 is itself no bar to government employment overseas."

For example, the judges pointed out that more than 58,000 American civilians worked overseas for the government in 1976 and only 4,800 of them were under Foreign Service regulations that forced them to retire at the age of 60.

"We are faced with a situation where 10s of thousands of Americans are working for the United States government overeas and only a tiny percentage are singled out for early retirement," the judges said.

"Yet this small group does not appear to serve under any more difficult conditions that the others, nor do they seem to serve for a significantly longer period of time," the judges added.

The ruling came in a case brought by former information officer Holbrook Bradley and other Foreign Service personnel who were or would have been forced into retirement at the age of 60 and an organization whose membership includes such federal employees.

Affected by the Foreign Service regulations are employees of the State Department, the U.S. Information Agency and the Agency for International Development.

Any of those employees who participate in the Foreign Service Retirement and Disability Systemother than a career ambassador or chief of mission—must retire at the age of 60 unless the Secretary of State makes a special determination to allow the employee to stay on another five years.

Exact figures on the number of persons forced to retire at the age of 60 were unavailable yesterday afternoon from a State Department employee, who said he had the figures but did not believe he was authorized to release them.

Others familiar with the process said the actual number of forced retirements may not be significant, since the knowledge of the forced retirement system and other personnel procedures within the State Department prompted even earlier retirements by many Foreign Service officers.

Government attorneys said they had not yet decided whether they would appeal the decision.

CONTROL OF NUCLEAR ARMS

Mr. PELL. Mr. President, on Tuesday of this week our distinguished friend and colleague from Idaho, Senator FRANK CHURCH, was appointed by the Senate majority leader to the Congressional Advisory Committee for the Strategic Arms Limitation Talks. As the chairman of the Senate Subcommittee on Arms Control, Oceans and International Environment I can personally testify to the great concern that Senator CHURCH has shown in the area of controlling the burgeoning arsenal of nuclear arms possessed both by the Soviet Union and the United States. I look forward in the next few months to working closely with Senator CHURCH on the SALT discussions.

In light of the important role the Senate will play in these upcoming arms talks and the significance of a clear understanding of all the issues involved, I would like to include in the CONGRESSIONAL RECORD at this point an interview that Senator CHURCH had recently with the Council for a Livable World. In his interview Senator CHURCH addressed a wide variety of questions, including the meaning of "parity" in today's nuclear environment, the need for verification, and the administration's nuclear export and proliferation policy. I would like to recommend to my Senate colleagues that they take a few seconds to read Senator CHURCH'S insightful comments on these vital issues. They go a long way, I believe, toward placing these issues, too often perceived in a theoretical light, into a human perspective. Mr. President, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

THE COUNCIL TALKS WITH FRANK CHURCH

(NOTE.—In the following interview Senator Frank Church, a member of the Senate Foreign Relations Committee and a Council supported Senator, discusses some of his most urgent concerns: SALT, proliferation, and the breeder reactor.)

Q. Before we go into particular questions do you have any general comments on the nature of the U.S. proposals which we offered in Moscow and on the Soviet response?

A. I respect President Carter's desire to move the two superpowers toward a real reduction of their nuclear arsenals. His stated goals of not only reducing the number of weapons deployed by each side, but also freezing technological advancements which could destabilize the existing nuclear balance, have my full support.

I do think, however, that the sudden change in the American negotiating position, together with the extensive publicity that was given it, may have been ill-advised. The Kremlin was given very little advance warning, and it is clear that the Russians thought the initial Carter proposals were titled too much in our favor.

Q. There has been criticism, especially from people who were involved in the previous phase of the SALT talks, that we should first have completed the business agreed to at Vladivostok in 1974. Vladivostok, after all, provided numerical limits on strategic weapons, and later we could have sought the reduction in numbers that President Carter wants.

In light of the Soviet rejection of our proposals in Moscow, do you find any merit in this criticism?

A. There is an understandable basis for this criticism. The Vladivostok accords had formed the framework for previous arms control discussions. In departing from that framework, the Carter Administration may have given too little weight to the fact that the Soviet government is run by a collective leadership which is both cumbersome and methodical. Abrupt changes in course are not as easily made in the Kremlin as in the White House. Accordingly, it may have been more prudent to have built upon the Vladivostok accords, with some reduction, perhaps, in the agreed ceiling, while leaving a more ambitious limitation package to subsequent talks.

Q. On the other hand, there has been the criticism that Carter's new package of proposals was too one-sided, too clearly to our advantage and at the expense of corresponding Soviet interests. To your mind was this simply an Administration assuming a very tough stance for tactical purposes at the

beginning of the bargaining? Or is there another explanation?

A. Administration spokesmen have said that if the Russians felt the new American proposals were lop-sided, they should have countered with their own. Then, after the usual give-and-take, the middle-ground could be staked out.

This, of course, is normal negotiating technique. But to make it work, the initial offer must not appear so lop-sided that it drives the other party from the table, which seems to have happened in this case. Since I do not doubt the President's sincerity of purpose, I think our "openers" were simply a miscalculation, and that the renewal of the talks in Geneva presents an opportunity to get them back on track again.

Q. What should we expect from the SALT talks at this stage? Given the very heavy Soviet built-up in recent years, can we expect to negotiate a permanent strategic advantage for the U.S.? Or should we seek to stabilize U.S.-Soviet relations by negotiating some sort of durable parity in strategic forces?

A. Parity, or, as it is sometimes expressed, a rough equivalence in strategic nuclear weapons systems, is the only possible basis for a durable arms control agreement. The problem is calculating just what constitutes parity. There are differences in the composition of the two strategic forces which must be reconciled—the Russians have an advantage in throw-weight, we have an advantage in missile accuracy; they have more land-based missiles, we have more bombers; and so on. In agreeing on force level reductions, trade-offs must be found which both sides accept as equitable.

The most difficult trade-off for the Soviet Union is one which calls for it to reduce its numerical advantage in an existing system, such as heavy missiles, in return for an American commitment to forego a potential future advantage in the deployment of a new weapons system, like the MX missile, the Cruise missile, or the B–1 bomber. Suppose the reverse: a Soviet proposal that the United States demolish half of its Minuteman missile force in exchange for a Russian promise to forego the manufacture and deployment of their projected backfire bomber. I seriously doubt that such a trade-off would ever be ratified by the United States Senate.

Q. If parity is to be the basis of the negotiations, what sort of priority would you assign to items such as curbing the qualitative arms race, a comprehensive test ban and substantial reductions in current numerical levels?

A. A high priority must be given to putting a lid on the qualitative arms race so as to avoid technological breakthroughs on either side that would destabilize the present nuclear balance. The further we move toward developing new weapons like the Cruise missile, which are not readily verifiable, the more difficult it will become to negotiate agreements of any kind. If this happens—and we are perilously close to it—the nuclear arms race will spiral completely out of control.

I favor a comprehensive test ban with the Soviet Union, mainly because it may encourage other nuclear weapons states, like France and China, to join in. It would also help influence non-weapons states to refrain from testing. However, the ban's impact on the nuclear arms race itself would be minimal, since both the United States and the Soviet Union have by now developed efficient warheads of all the types and sizes needed for any conceivable delivery system.

As for a substantial reduction in numerical levels, this obviously should be our goal. Today, the United States has 8,400 nuclear warheads in its strategic arsenal—many times more than enough to devastate the 60 major military targets and the 200 largest cities in the Soviet Union. Enough, in fact to drop 32 H-bombs on each of these targets! And the Soviets have, in turn, over 3,300 warheads, more than enough to obliterate every major target in the United States. What lies behind the slide rules, the think tanks, and the argot of Pentagon planners, is the stark reality that both sides can obliterate one another many times over—as if once were not enough. It is proof of the ultimate madness of the nuclear arms race that the two superpowers now define their own security in terms of "mutual assured destruction."

Q. If parity is the basis of the next SALT treaty, do you believe that a two-thirds majority of the Senate will accept parity as the basis for our relations with the Soviet Union?

A. Most Senators would accept the principle of parity as the necessary basis for arms limitation agreements with the Soviet Union. The debate always turns on whether parity has been achieved, or whether, in fact, the agreement somehow gives an advantage to the Russians. The differences in our weapons mix always makes the proposition arguable, even though it is hard to perceive just what an "advantage" could mean when both sides possess such massive overkill capability.

Q. In your judgment will two-thirds of the Senate accept parity with sharply reduced force levels?

A. The Senate, in my judgment, would probably accept an agreement calling for sharply reduced force levels if it were convinced that each side would give up an equivalent degree of strength; that the Russians would not stand to gain a unilateral advantage as the result of such an agreement; that Soviet compliance could be adequately verified by our own surveillance system; and that an overall reduction of forces would mean no loss of security for the United States. Here, again, I question the value of making public the details of any early United States negotiating position. Once the Administration has announced a detailed proposal, any subsequent compromise with the Russians can then be assailed as a "back down" on our part. If that becomes the common perception, Senate ratification is rendered much more difficult.

Q. In this regard, do most members of the Senate have an adequate understanding of the role of verification in arms control? In general terms at least, the mechanics of verification technology? The limitations on our capacity to verify?

I ask this because arms control initiatives are so often criticized on the grounds that you can't trust the Communists—a comment that simply ignores the vital role of verification by unilateral, national means.

A. Among the public at large, it is true, the resistance to arms control tests mostly on the argument, "We can't trust the Russians!" The fact that an agreement contains nothing we can't independently verify is better understood by members of Congress than their constituents. This is the crux of the political problem, since the people cannot be given the secret information which deals with our surveillance capability or the scope and accuracy of the methods we use to monitor the Russians. I do not know the answer to this dilemma.

Q. To what extent are members of the Senate aware of opportunities missed in the past that might have changed the entire history of the arms race?

In 1958–59, there were U.S. initiatives in the Eisenhower Administration to seek a comprehensive test ban. They were sharply opposed by the Pentagon and scientists such as Edward Teller, and they came to nothing.

In 1962–63, there was talk, if less initiative, for a comprehensive test ban.

And, again, in the late 1960's when the U.S. was perfecting MIRV technology, the Senate passed a resolution urging the Nixon Administration to refrain from deployment of MIRV pending negotiations with the Soviets.

Had we achieved a comprehensive test ban in 1959 or 1963, or had MIRV's been permanently shelved in the early 1970's, we would be living in a very different world.

To what extent is the value of restraint understood by members of the Senate?

A. It is always hard to calculate what might have been, and counting "missed opportunities" is, at best, an unproductive exercise. Had there been less fear and distrust during the long years of the Cold War, nuclear force levels might be lower and less lethal than they are today Yet a nuclear arms race would have occurred nonetheless, since we were the first to detonate the bomb, and it is most unlikely that the Russians would ever have agreed to significant nuclear arms limitations until they had caught up with the United States. Arms negotiations do not take place in a vacuum; and perhaps it is only now, in the last few years, that the nuclear stalemate has become sufficiently apparent, and the political climate sufficiently improved, to make a meaningful agreement on nuclear arms limitation possible.

Q. During the debates on the Warnke nomination, you made a speech in his support and quoted him as having said some years ago:

"I am not sure one can debate rationally the nightmare issues of strategic arms."

Could you tell me why you cited that quote and what it means to you?

A. I cited the Warnke quote because it indicated his sensitivity to the awesome risks of an ever-escalating nuclear arms race. There is a tendency, in debating arms control, to get caught up in intricate, arcane questions with respect to this weapon or that. When each side has the capacity to destroy the other several times over, such tunnel vision isn't helpful. Yet this kind of myopia is a characteristic trait of most so-called "experts." Warnke's comments suggested to me that he wouldn't lose sight of the forest because of the trees.

Q. Some people see arms control as separate from national security. Others, the arms controllers especially, see it as central to national security in the nuclear age.

Can we bridge the gap between these differing perceptions, or are we dealing with some fundamental difference in human psychology?

A. Throughout history, nations have equated a larger military force with greater security. Now, in the nuclear age, when the two superpowers possess the capability to destroy not only each other but much, if not all, of civilization besides, the old equation no longer holds. Today, a strong case can be made that the vast accumulation of nuclear arms on both sides has rendered the United States and the Soviet Union the two most endangered nations in the world. Unfortunately, popular perceptions have not caught up with this new reality. Educational efforts by groups such as the Council for a Livable World, are, therefore, terribly important.

Q. As you know, the Council has played a role in the debate on nuclear power for generating energy only as it relates to proliferation and the diversion of peaceful technology for military purposes.

Recently, you have criticized the Carter Administration for its decision to forego plutonium as a source of meeting our energy needs, and you have criticized the decision to curtail sharply development of the Clinch River breeder reactor.

Would you tell me your thoughts in this area?

A. However well-intentioned, the Administration's decision to withhold the development of the breeder reactor is actually a formula for nuclear isolationism. Whether we like it or not, the plutonium genie is out of the bottle. It is the only technology now on the horizon that holds out the promise of energy self-sufficiency for Western Europe and Japan. These countries are almost entirely dependent upon imported oil. They are thus at the mercy of the OPEC cartel, both as to security of supply and price. We tend to underestimate the traumatic effect upon these countries of the 600% rise in international oil prices mandated by OPEC since October of 1973.

The Administration's proposal asks these countries to substitute their present reliance upon one depleting resource, oil, for another, uranium, and their dependence upon one foreign import source, OPEC, for another, the United States. In the post-OPEC world, this is unrealistic. With our ample coal deposits and substantial supply of uranium, we may be able to defer building the breeder. Less fortunate industrialized nations cannot. Thus, instead of fashioning more effective ways to deal with the proliferation problem, our self-imposed restraint runs the grave risk of leaving an international vacuum, which is an invitation to nuclear anarchy.

I would prefer to see us build upon the existing nuclear safeguard structure, the International Atomic Energy Administration, and the Non-Proliferation Treaty arrangements, to design a global system of inspection and control which would minimize the risks of nuclear fuel being diverted into bomb-building. We should aim toward eventual international ownership and control of the fuel cycle necessary to sustain commercial reactors in all non-weapon states, so that no plutonium or other weapons material would ever be produced in a form which could be used for weapons fabrication.

As India proved, bombs can be built from the waste product of conventional light water reactors. Today, at least a dozen countries are in a position, if they choose to do so, to build their own nuclear weapons. The most effective way to encourage them not to start, would be for the United States and the Soviet Union to reach an arms control agreement which leads to a genuine reduction in their nuclear forces. For only as the superpowers show a willingness to reduce their forces, can we hope to dissuade other nations from seeking to develop their own independent nuclear capability. On the other hand so long as the superpowers continue to insist on an exclusive club in which they are free to constantly pile up their nuclear weapons, but no one else is allowed to play, we will never successfully prevent the steady spread of nuclear weapons throughout the world.

B-1 BOMBER

Mr. KENNEDY. Mr. President, I am very pleased to see that President Carter has taken the correct military and politically courageous act of determining that the administration will not fund B-1 bomber production. This is the course which my colleagues and I urged him to take when we met on June 10.

The B-1 bomber is an enormously expensive plane which would contribute little to our national defense. Its alleged technical virtues have very little relevance to its ability to penetrate enemy lands—but the cost of that technology has striking relevance to our ability to provide very necessary programs here at home.

It is estimated that this airplane would cost over $100 million apiece to build in 1977 dollars—so that production of all 244 planes that were being considered would cost over $25 billion. That cost could not be justified in light of the almost meaningless difference between the abilities of the B-1 and the B-52 to provide for our defense.

I am reminded of a similar decision which President Kennedy made early in his Presidency, when he decided along with Secretary of Defense McNamara, that the B-70 bomber program should be cancelled.

I do not believe that President Kennedy ever regretted that decision, nor has anyone said that our defenses suffered because of it. Like the B-1, the B-70 was a technologically impressive aircraft. But the B-70 bomber was completely within the reach of Soviet anti-aircraft missiles, so, like the B-1, it really did not add to our defense capability.

At that time, the B-70 also enjoyed the support of the Air Force and had much support on Capitol Hill. But it simply was not a good way to spend our money.

I am glad to see President Carter make a similar decision and I believe that he will feel as few regrets about it as President Kennedy did about his cancellation of the B-70.

Mr. President, I want to make two points in closing. First, we all have a responsibility to carefully scrutinize whether we want to deploy the cruise missile system or not. A very good case can be made that the cruise missile has a destabilizing effect and that it therefore detracts from and does not add to our security.

I do not regard cancellation of the B-1 and deployment of the cruise missile as inseparable. I think that the health of our national defense would not be improved by the B-1 even if the cruise missile were not available to us.

Finally, I hope that the Soviets regard this as an indication of our desire for progress in the SALT talks. The world desperately needs to curtail the arms race between these two powers. It would be a great disappointment if the Soviet Union did ont respond with an earnest effort to come to an agreement to limit arms production.

Mr. President, I want to thank President Carter for his action this morning.

DEREGULATION OF NATURAL GAS

Mr. DOMENICI. Mr. President, there has recently been much concern and controversy over President Carter's energy program, especially in the issue dealing with price controls and the regulation of natural gas.

I think it is time to become aware of the differing views as to the impact which natural gas regulation may be imposing on the producer, the consumer, and the economy. An article recently appeared in the New Mexico Independent, written by a consulting geologist and a New Mexico State representative, regarding natural gas deregulation.

I would like to bring to the attention of the Senator that various possibilities do exist. On one side of the issue, the consumer is saved by the price controls. It appears to me that the attached article indicates another side to the story.

This article makes very good points regarding regulation and deregulation of natural gas, and because this is a matter which every Senator has had to or will have to deal with, I suggest that it merits the attention of Congress.

Recently, testimony was made before the Senate Energy Committee by Dr. W. Phillip Gramm, professor of economics at Texas A. & M. University, regarding deregulation. He showed that the cost to the consumer of not deregulating is enormous. Deregulation will initially increase the price of natural gas, but it will also expand the supply and displace fuels that are three times as expensive as natural gas. In 1975, the interstate pipelines serving the Northeast were 15 percent empty due to the shortage of natural gas produced by FPC price regulation. The 15 percent of unused pipeline cost the gas consumer $1 billion in added overhead on delivered gas.

Mr. President, I ask unanimous consent that the New Mexico Independent article about natural gas deregulation be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATURAL GAS

Assessing disasters in retrospect, we're always surpised at the seemingly incosequential factors, technical or human, that if recognized and compensated for in time would have averted the tragedy. A Supreme Court decision in 1954 which made natural gas sold to interstate pipelines subject to Federal Power Commission (FPC) price controls is a profund example. The Phillips I decision set the stage for the energy mess the United States finds itself in now. For 20 years hardly anyone besides the more than 4,000 independent gas producers who became regulated public utilities as a result paid much attention.

Until recently, when scarcities developed and prices rose dramatically for uncontrolled intrastate gas in producing states, there has never been a competitive free market based on supply and demand for this basic commodity. By 1969 gas was supplying a third of all our energy and the entire United States was addicted to this clean and versatile fuel. Its availability wherever a pipleline could reach and its politically contrived, artificially low price made obsolete and non-competitive what had been the traditional markets for coal and oil. Combined with a government condoned flood of inexpensive imported crude oil for eastern transportaiton markets, it made no economic sense to explore for and develop new domestic sources of supply.

The number of oil and gas wells drilled annually in the U.S. dropped from 57,111 in 1956 to 25,851 by 1971. Marketed gas production expanded from 8.7 trillion cubic feet (Tcf) the year of the decision to a peak of 22.5 Tcf in 1973, while prices increased from 10.1 cents per thousand cubic feet (mcf) to 21.6 cents. As established fields became fully developed and drilling dropped off, maximum producible reserves peaked at 292.9 Tcf in 1967. Present known reserves remaining in the ground are less than 216.0 Tcf, and our capability to produce gas has declined in three years to the 19.9 Tcf sold last year.

President Carter's energy message to the American people of April 18 acknowledged the dimensions of the dilemma and offered the promise to resolve it. However, the energy plan the administration presented to Congress contains elements of national disaster far greater in magnitude than the Phillips I decision of 1954. What has been offered is not a national energy plan, it is a federal energy program—an important distinction. The program's basic elements are regulation, taxation and redistribution of income to support social objectives. These are not solutions, they are mechanisms a government uses to dictate and manipulate. The program only peripherally relates to national interests of energy self-sufficiency through development of adequate supplies of conventional and unconventional fuels. The new Department of Energy proposed to administer this federal program requires 20,000 employees with a beginning budget of $10.6 billion, or $1.7 billion more than the entire gross receipts from the sale of natural gas at the wellhead in 1975.

The President's energy program is not new. It is described in a 511-page document produced at a cost of $4 million in 1974 by the Ford Foundation, called "A Time to Choose." The director of the project was S. David Freeman, now a ranking member of Dr. James Schlesinger's White House energy staff. Its main conservation ethic is commendable and is a necessary ingredient of a national energy plan.

Missing in the project and the plan is the reason we use more energy than is necessary is simply because a mandated government energy pricing policy encouraged us to do so. The low administered price of natural gas stimulated unrealistic demand and inefficient use, stifled expansion of domestic supply, destroyed the economics of other fuels, virtually guaranteed dependency on foreign oil, lulled the nation into a complacency regarding energy we still haven't shaken off, and helped devastate the integrity of the petroleum industry that supplied it in the rush of policy makers to fix blame for shortages and high prices on anybody but themselves.

Supply is the key to any long range resolution of our energy problem. We are running out of oil and gas. It is an inescapable fact that they are finite resources. But much more can be found that will stretch the supply while other fuel mixes are developed.

It's geologically unreasonable to accept the negative premise of the program designers that we're out of oil and gas when the real point is that there's been little economic incentive to look for it. Those in the White House who developed the National Energy Act of 1977 ignore recent examples of free intrastate markets where higher prices have stimulated exploration and developed new supplies. They don't believe the government's own geologists who predict a 90% probability that undiscovered recoverable resources of natural gas are in the range of 322 to 655 Tcf, one and a half to three times today's known reserves. Their definition of gas that would receive the highest price of $1.75 per mcf as that which must be discovered at least 1000 feet below a producing horizon or 2½ miles from existing production has a better relationship to astrology than realistic geology. It would, for instance, preclude in-fill drilling in major gas fields such as the San Juan Basin, testing of potential reservoirs less than 1000 feet below the Dakota production, and exploration for stratigraphically "stray" sands in and near producing horizons such as the Morrow in southeast New Mexico.

According to the White House Fact Sheet on the President's Energy Program, the proposed $1.75 ceiling price for "new" gas is based on "the btu equivalent of the average refiner acquisition cost of all domestic crude oil." But, domestic crude oil is itself price controlled and bears no relationship to realistic energy economics.

Despite administration rhetoric about potential consumer hardship and windfall profits if new gas were de-regulated, the basic reason for the $1.75 price ceiling on all new gas is simply to remove the competitive position instrastate gas now enjoys in the major producing and highly industrialized states of Texas and Louisiana. The ceiling destroys the integrity of viable intrastate markets (and supplies) in producing states like New Mexico. It also eliminates the present embarrassment of the Washington planners to explain the significant new reserves and production being established where uncontrolled markets exist.

New Mexicans, lacking a large gas consuming industrial base, currently enjoy intrastate prices averaging $1.06, significantly lower than the proposed $1.75. As intrastate contracts expire we will find our "cost of gas adjustment" virtually doubling in order to compete with interstate pipelines. The state's $1.44 price ceiling bill passed by this year's legislature will probably be superseded by the federal act if it is enacted and, eventually, shortages such as those experienced this past winter in the east will be shared by New Mexico and all other states with indigenous-gas supplies.

Price controls, regulation, taxation and reliance on conservation as keystones for an energy plan will not work. It simply creates an artificial austerity that benefits no one except those who administer it. It addresses only the demand side of the problem and does too little for supply. It is the kind of relatively short range solution that, traditionally and historically, is the only perspective government is capable of. With luck and without another OPEC embargo, we might get by the next five or 10 years with nothing worse than the experiences of last winter. Beyond that we're in the kind of trouble that massive switching to environmentally unacceptable coal and conserving ourselves into economic stagnation cannot resolve.

A careful balance of conservation incentives, switching of significant portions of the 69% industrial use of gas to the 31% consumed by residences and commercial establishments, and total de-regulation of new gas prices should be major considerations. Phased de-control of all oil and gas wellhead prices coupled with producer windfall taxes and exploration credits would also be in the national interest. Any shock experienced by the patient now will be minor compared to absence of future alternatives.

Our nation has, so far, survived the consequences of a miserable decision to control gas prices made in 1954. We've survived political misjudgments resulting in serious recessions and unacceptable inflation. We can't survive mistakes in the direction of an energy policy that continues to leave us at the mercy of those countries who would use energy as a political weapon. It would be tragic if, in retrospect several years hence, we find the wrong decisions were made not on the basis of experience and facts, but on the political expediency, an emotional anathema against the petroleum industry, and frustrations based on regionalism.

Our energy crisis may be "the moral equivalent of war." But wars are very unpleasant experiences that require a great deal more sacrifice, political statesmanship and commitment than has so far been asked for or demonstrated in connection with energy by Washington. The ultimate national disaster is an energy Vietnam.

CPSC COMMISSIONER FRANKLIN VOICES STRONG SUPPORT FOR PUBLIC PARTICIPATION IN AGENCY PROCEEDINGS

Mr. KENNEDY. Mr. President, Barbara Hackman Franklin, a member of the Consumer Product Safety Commission, recently delivered a significant address here in Washington at a meeting to the Society of Consumer Affairs Professionals in Business. In it she explained her reasons for changing her mind about the need to provide Commission funds to enable consumers to participate effectively in CPSC proceedings.

Ms. Franklin's change of position resulted in the establishment of a comprehensive program to provide financial assistance to public participants in the Commission's safety standards setting processes. In addition, the Commission has recently established an independent Office of Public Participation to promote effective consumer involvement in all Commission proceedings.

A former member of the White House staff during the previous administration, Commissioner Franklin initially opposed Commission funding for publics participation. Her experience as a commissioner convinced her, however, that she could not fully live up to her responsibility to protect the public interest unless the Commission "took initiative to help put consumers on a more equal footing with industry."

As the Senate moves toward consideration of S. 270, which would authorize all Federal agencies to establish public participation programs, I thought that Members and their staffs would be interested in reading Commissioner Franklin's remarks. Her leadership, together with that of Chairman Byington, Vice Chairman Pittle, and other members of the Consumer Product Safety Commission has firmly secured the Commission's place among the leading Federal agencies who are struggling to establish meaningful public participation programs in the absence of explicit congressional guidance.

Commissioner Franklin's remarks underscore the critical importance of enactment of S. 270, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF THE HONORABLE BARBARA HACKMAN FRANKLIN

I'm very glad to have this opportunity to join you today. SOCAP deserves high marks for sponsoring this very timely conference. It comes on the heels of the new and very enlightening Harris survey of consumer attitudes and problems, during Congressional debate over the proposed consumer protection agency and as the details of President Carter's plans affecting business, consumers and government begin to unfold.

It is, in other words, a time of uncertainty and conjecture. Yet there are unmistakable signs, apparent long before Election Day '76, that a clear direction has emerged and that woe befalls those who do not anticipate, recognize and respond to the current message of consumerism.

While those of us in this room never believed consumerism was a fad or a passing fancy, neither is it a "movement" unless the word is used to imply growing concern and action by many. In 1977, the impact of consumerism is being felt at highest government levels, in local community life, in your corporate boardrooms and at the cash register.

While those of us here never doubted that consumerism could provoke results, the achievements so far are far-reaching and impressive. In 1977, products such as carpets, cribs and cars are safer. Warranties spell out more precisely what is and what is not covered. Clothing labels list fiber content and give instructions for proper care. Labels on food items are more informative, and unit prices are on the grocer's shelves, to name but a few.

Saying this, it should not be difficult to spot the broadening scope of consumerism.

Strong demands continue for products that live up to the seller's promises, for items that are safe, convenient and reasonably priced and for effective redress if products don't work or don't live up to expectations. But today's consumers, as the Harris survey underscored most recently, also expect not more or less—but better—government regulation of business and increasingly, a voice in the top-level decisionmaking to achieve it. Already this has spawned a number of efforts to improve regulation, including greater public involvement—paid for in some instances—in regulatory processes.

The trend is significant, with the consumer voice not only calling for but beginning to make a difference in the national debate over everything from airline rates to asbestos hazards, from the safety of smoke detectors to sexism and violence in TV programming. Equally important, I believe the trend reflects a new awareness by more Americans that they have a big stake in the economy and clout—as contributors to it, as taxpayers and as consumers.

From my own business background and as a regulator for the past 3½ years, I welcome the new attitude and, in all candor, find myself undergoing some shifts in my own thinking.

In 1974, I cast the deciding vote at CPSC not to provide full financial compensation for consumer representatives to take part in the Commission's offeror proceedings, a unique provision of our law which provides for leadership by industry and consumers in the actual development of mandatory safety standards. In 1975, I consistently voted to reimburse consumer members of the various standards committees only for travel and subsistence expenses.

After reviewing our standards processes and talking with a number of consumers and industry representatives who had taken part in them, I concluded early last year that it is only fair and reasonable to take the needed steps to compensate consumers beyond basic expenses.

If we didn't, the Commission would have no way to assure that consumers could take part in those proceedings which require extensive time commitments without undue hardship. Further, I came to recognize that while CPSC has been considered the most open in Washington, accessibility in and of itself does little if anything to assure meaningful participation in those portions of rulemaking where consumers, like industry, deserve to be heard. Lastly, since the Commission has the obligation to take actions which reflect the public interest, I felt we could not fully live up to this responsibility unless we took the initiative to help put consumers on a more equal footing with industry.

Compensation to consumer participants in CPSC standards processes now will be paid—upon demonstration of need and if the particular interest or point of view is determined to contribute to the issue at hand. Last fall we granted a petition from Consumers Union to compensate public participation in most other CPSC proceedings. To implement the program, we have authorized establishment of a new Office of Public Participation.

Moreover, with the support of my colleagues, I have initiated a formal Commission policy on voluntary standards which seeks, for the first time, to give industry some incentive and guidance on how to beat the Commission to the punch with sound voluntary standards. The policy is a long overdue recognition that neither mandatory or voluntary standards alone can solve the product safety problem. It also will insist on a meaningful opportunity for consumer participation in developing those voluntary standards.

I may appear to be discussing structure more than substance, but I do it intentionally. If the thrust of current consumer issues are any indication, the two are inseparable, as more and more business people are learning, sometimes the hard way.

In most areas, American businessmen and women have successfully adapted company policies and performance to changing marketplace trends and times. When a company comes out with a new product or service that corners a larger share of the market, competitors rush to catch up. When a new package design catches the public eye, other companies race to follow suit. And if something flops, everybody seems to learn a lesson.

But too often, in my view, where learning from experience and from others' mistakes seem neglected lies in the area of anticipating public issues and taking the initiative to do something about them while there is still time.

Although the record reflects progress, some companies unfortunately, still try the "stick-the-head-in-the-sand" approach. Others cite reasons of their small size or tight budgets. Some join state or national trade associations and then relax, thinking all their problems automatically will be solved. Still others get involved but seem to be against everything happening in the public sector—even though changes may be inevitable, may truly serve the public interest and may cry out for help from business, both in substance and structuring.

Meanwhile, small problems escalate into major issues and sometimes into fullblown crises, with the public and the press demanding—at about 75 decibels—that something must be done. As time slips away, the range of options to solve the problems narrows, and bad decisions are made when there are no longer good alternatives.

The implications of this to consumer managers in business are many. It lends some perspective to the significance of your work. It also makes it imperative that you are fully tuned into the issues and that your voice—and those of your customers—are heard in your company's top executive suites and boardrooms.

It's no secret that when industry is determined to overcome consumer problems, the voluntary solution can be cheaper, faster and more effective than governmental remedies. This, I believe, strikes at the heart of the message of consumerism and its challenge to business. Today's consumers recognize that they have as much of a stake as you do in the marketplace and in industry self-regulation, and they want it to work. But if it doesn't, they will not and should not hesitate to pursue their case within government or the courts.

In other words, the question of where consumers draw the line between government and business responsibility for meeting consumer needs is basically up to you and your company. Clearly, business should pick up on hints from consumers long before there is need for government intervention—or, if this fails, to sit down with consumers and government to try to resolve the issues in a way that does not permanently cripple the public interest or your own economic self-interest.

Pending at CPSC and other safety and health agencies is a complex issue which serves to make the point.

It is a difficult problem for business. Consumer reactions to it tend to run in extremes—apathy or extreme anxiety. It also is stretching the thinking of plenty of public policymakers.

The subject is chronic hazards. The need is to find a more rational, responsible way to deal with them in pretty short order. The issues are cancer and other ill effects, birth defects and how to prevent them. The difficulty is that no one knows with certainty what the causes are or if the symptons will appear 20 or 30 years from now or ever, and animal testing to find out is very costly, takes years and still can be inconclusive. Nevertheless, there seems to be growing evidence that what we are talking about are some potentially dangerous chemicals in the air we breathe, the food we eat, the industrial processes we depend upon and the consumer products we use.

Over our first four years of existence, CPSC has dealt with fluorocarbons, lead-in-paint, vinyl chloride, asbestos and Tris, and there is reason to believe that this is only the tip of the iceberg.

As a result of the growing concern in this area, we are trying to streamline our capability to deal with these issues and to work closely with other agencies who face many of the same or similar problems. CPSC also has started work on a chronic hazards policy which I hope will address issues including these: what chemicals should be tested in animals and how the results should be interpreted and linked to human experience, the level of information needed before regulatory action is initiated and what factors other than public health should be considered, if at all.

Believe me, the issues are far easier to sketch than they will be for the Commissioners to decide over the next few weeks. At the heart of the decisionmaking is a series of complex philosophical and public policy judgments and the need to act rationally but in a way that is ethically and legally defensible.

For business, the heart of the matter at CPSC or any other agency has to do with decisions which industry can live with, the government can live with and—most important—that the American people can live with. The message of the Toxic Substances Control Act enacted last fall may provide the clearest direction for the future: that is, adequate testing of chemicals before they hit the marketplace, not afterwards.

For those problems that may be posed by some chemicals already out there, my own personal belief is that we must try to avoid excessive costs and unnecessary burdens on industry and not promise the American people more than our limited resources and the still limited scientific state-of-the-art allows us to deliver. At the same time, the government cannot afford to stall or delay—we must take sensible steps now.

But we cannot and should not do it in a vacuum. This is where the help of business and consumers is needed to assure the result that we all desire: a healthy environment, a vital industry whose products we can continue to enjoy and an effective program for protecting the public health and safety against any hazard that chemicals may pose.

PLIGHT OF SMALL COMMUNITIES CAUSED BY RESOURCE DEVELOPMENT

Mr. DOMENICI. Mr. President, I have argued here on the Senate floor the great need for "boom-town" money for the Western States as our natural resources are used by the Nation to meet the energy and mineral crises we face. In recent months, I have seen a refreshing and encouraging sensitivity on the part of my colleagues from other parts of the Nation to the potential severity of this problem.

At times I have talked about the plight of small communities, faced with burgeoning populations caused by mineral or energy resource development; I have outlined the services that must be provided and the money that must come from somewhere to fund these basic services.

During a recent trip to the northwestern part of my State, I talked face-to-face with citizens who are confronting the realities of boom growth associated with rapid energy resource development—city managers faced with too many people and not enough money, mayors worried about crime or lack of housing, and average citizens worried about the impact of this new growth on their way of life.

Mr. President, we in New Mexico want to do our share. We have resources—coal, uranium, natural gas, oil, and other gifts—that we have to share with our neighbors in this unity of States. But, Mr. President, we want our neighbors to understand also the plight that our people will face unless the Federal Government aids in helping us meet the inevitable ugly side of too-rapid development.

The issue is a complex one, not one of easy answers nor one that simple cliches will solve.

In the New York Times of June 29, 1977, one reporter discovered how one very small community in our State views mineral development and growth with some anxiety.

Cerrillos stands at the base of the Sandia Mountains, across the range from my hometown. For those of us who live in New Mexico, Cerrillos embodies much of what we want to preserve and much of what we want to pass on to our children.

Many of the questions raised by these citizens in Cerrillos I hear when I attend town meetings in every community in my State—large or small.

Yes, New Mexico will do its share, and more, as we always have. But, we deserve the sensitive consideration of just what development of our resources will mean by those who will benefit from such exploitation.

In this light, Mr. President, I recommend that my colleagues take a few minutes and read John M. Crewdson's feature story, "New Mexico Town Fearful of Loss of Scarce Water if Mining Starts," in the June 29, 1977, issue of the Times. Mr. President, I also ask unanimous consent that this story be printed in the RECORD.

There being no objection, the story was ordered to be printed in the RECORD, as follows:

NEW MEXICO TOWN FEARFUL OF LOSS OF SCARCE WATER IF MINING STARTS

(By John M. Crewdson)

CERRILLOS, N.M.—By rights, this little town should have vanished long ago, gone the way of other ramshackle mining camps thrown up around here in the boom years of the 1880's, only to be left behind as hulks with boarded windows and creaking doors when the richest of the lodes ran out.

But, through a series of serendipities, Cerrillos survived. Once a film company looking for an authentic 19th-century Western town financed a face-lifting of its main street, for example, and a few years later it was discovered by a small band of artists and musicians seeking, as one of them put it, "a quiet place where people can live and leave each other enough space."

To the newest flock of residents it seemed like a place where they could paint and weave and sculpture and sing untroubled by the world on the other side of the mountains, and it looked as though Cerrillos, the town that refused to die, would live to celebrate its 100th birthday three years hence in its accustomed peace.

A LAND RICH IN MINERALS

But that was before the arrival of Cerrillo's newest neighbor, the giant Occidental Petroleum Company of Los Angeles, whose mining subsidiary, Occidental Minerals, developed an interest in several dozen acres of low-grade copper deposits just outside town.

No one paid much attention at first. This part of northern New Mexico is as rich in minerals as it is perpetually short of water, and the land around Cerrillos is dotted with hundreds of worked-out mines, shafts with names like Cock of the Walk, Blind Tom, Open Sesame, Nick-O-Time and Sleeping Beauty.

Then the residents of Cerrillos discovered how the company intended to mine its copper. The process it proposed, known as leaching, calls for the fracturing of the rock around the copper deposits with a massive explosion and then pumping into the fractures a solution of sulfuric acid and water, millions of gallons of water, the one thing that Cerrillos is not prepared to share with outsiders.

"We have enough water," Deirdre Hazelrigg, a 31-year-old Connecticut expatriate, said the other day, "But it's just enough. There's no extra water."

Like most of New Mexico, Cerrillos relies for its water on underground pools called aquifers, and its aquifer can meet the needs of its 350 or so conservation-conscious citizens, most of whom try to limit their consumption to a meager 10 gallons a day.

But the aquifers here in southern Santa Fe County have never been more than a barely adequate source of water, and these days they are running lower than ever.

HUGE WATER SUPPLY NEEDED

Occidental is now preparing a pilot mining project that will test the commercial feasibility of a full-scale copper leaching operation. The project will require upwards of three million gallons of water, more than twice the annual consumption of Cerrillos.

Occidental says it is impossible to say how much water the full-scale operation will use, but Mr. Reynolds says it will be "considerably more."

Many residents are angry, as one of them said, "that the mining companies can waste water while the rest of us are forced to sacrifice."

One afternoon a few days ago, Mrs. Hazelrigg, a weaver; Lisa Gilkyson, a singer from California; Ross Lockridge, a sculptor from Indiana; Don Dorais, a mechanic from Rhode Island, and Carol Sarkisam, a clothes designer from Boston, sat in the living room of Ann Murray's old stone house and talked about their fears of what will become of their adopted village five or six years from now, after the copper gives out and Occidental is gone.

Apart from their concern over the company's intended use of the precious water, the young people are afraid that some of the acid solution may contaminate their drinking supply and that the explosion, by some estimates half as powerful as the atomic bomb dropped on Hiroshima, will damage the town's fragile old buildings like the Clear Light Opera House, where their fledgling recording company, Kludgit Sound, is installing its studios.

Revenues for a group of neophytes who came here partly to escape the kind of real world conflict in which they now find themselves, they have managed to raise in the minds of their fellow New Mexicans what, for this state, are some seminal questions about the environmental effects of growth.

One of the poorest and least populous states in the country, New Mexico has never been fond of saying no to large corporations and the jobs and tax revenues they bring with them.

But after the members of the Concerned Citizens of Cerrillos put down their guitars and looms and paint brushes and began pulling together and passing out information about Occidental and its mining project, their questions began to echo from high places.

Gov. Jerry Apodaca asked Occidental to stop work on the project until a committee appointed by him could study its proposals. A bill that would regulate leach mining for the first time was introduced in the Legislature, and the Santa Fe County Commissioners adopted a restrictive blasting ordinance.

The state's Cultural Properties Review Committee decided to look into the effects of Occidental's operations on historical sites and archeological ruins in the area, and two other state agencies agreed to hold hearings on the questions of water use and water pollution.

WORRIED ABOUT WATER

It is these last two that most worry Deirdre Hazelrigg and her friends, for it is possible that the aquifer from which Occidental will draw its water is connected to the subterranean pool, 7,000 feet away, that feeds the Cerrillos town well.

Occidental's opinion, according to a spokesman at its Los Angeles headquarters, is that the proposed blasting and leaching operations "should have no effect whatsoever on any surrounding property." He said that conclusion was based on "the technical data in hand."

The citizens of Cerrillos are particularly annoyed by what they see as Occidental's efforts to gloss over their concerns with vague assurances, and as evidence of bad faith they cite an article about the Cerrillos project in a recent issue of the company's in-house magazine.

"The local population," the article reported, "was reluctant at first to allow a copper mining project in the area, but after Oxymin [the company's self-bestowed nickname] held open meetings and gave thorough explanations, the operation has been well received."

GENERAL NOT WORRIED

One of the four or five Cerriollos residents who have not joined with the Concerned Citizens is Samuel McC. Goodwin, a retired Army brigadier general who lives on the edge

of town in a stunning house of redwood and Vermont slate.

As the general, just returned from a mission with the Cerrillos Volunteer Fire Department, settled down in his living room, he maintained that he was "a landowner interested in the environment just like anyone else."

"But I'm also a proud American who knows they have the right to exploit them," he said.

General Goodwin, who once commanded the Army's garrison in West Berlin, acknowledged that there was a danger that Occidental "might fracture the rather delicate dikes which separate the aquifers from which we in this part of the country take our water."

But he argues that if Occidental takes "all reasonable precautions, no one has the right to stop them, and I think Occidental Minerals has taken every precaution to protect those of us who might be affected." He added, "As far as I know, there's no way to test that except to do it."

A TRIBUTE TO A DISTINGUISHED PROFESSOR: THOMAS SWAIN BARCLAY

Mr. CHURCH. Mr. President, a number of us here in the Congress have had the distinct privilege of studying under Dr. Thomas Swain Barclay at Stanford University. No doubt our being here has something to do with the courses he taught and the way he taught them. Tom Barclay made politics come alive; he inspired his students by encouraging them to attend political conventions, by introducing them to the political figures of the day.

A recent article in the Stanford magazine by John Averill explains so well the life and times of Thomas Swain Barclay. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THOMAS SWAIN BARCLAY

It is unlikely that any other American professor, active or retired, can rival the distinction of Stanford's Thomas Swain Barclay, professor emeritus of political science, in being able to claim three U.S. Senators and two House members (one current, one former) as former students. They are Sens. Frank Church (D-Idaho), Mark O. Hatfield (R-Ore.), and Lee Metcalf (D-Mont.) and Rep. Paul N. (Pete) McCloskey and former Congressman Burt L. Talcott, both California Republicans. Barclay, now 84, who retired in 1957 after 30 years of teaching political science at Stanford, also retains close friendships with a fourth Senator, Alan Cranston (D-Calif.), and an additional House member, Don Edwards, a San Jose Democrat, both of whom graduated from Stanford in 1936.

After more than a quarter of a century, Church, Hatfield, McCloskey, and Talcott all have warm memories of their former professor Each of them describes Barclay as one of the greatest teachers he ever encountered. Some of their happiest hours at Stanford were spent sitting around a table or the fireplace at L'Omelette, still a favorite dining and wining spot on El Camino Real, listening to Barclay describing scenes he had witnessed at political conventions and in various political campaigns. There is little doubt in their minds but that this very personal and practical introduction to politics influenced their careers, but none could have foreseen at the time to what degree. Neither Church nor Hatfield would have predicted that he would one day serve as his party's National Convention keynoter, as both have.

"Just sitting there and watching him hold court at L'Ommie's is something I will never forget," McCloskey said in an interview in his cluttered office in the Cannon House Office Building. "The thing I remember the most about him was the warmth of his personality. It has been damn near 30 years since I took Poli Sci 1 from Dr. Barclay. But I think what I learned most from him was outside of the classroom, in informal conversation. He was such a balanced man. He gave us great faith in the American system despite its imperfections. He was often skeptical of the system, but he had absolute faith in it over the long run despite an occasional bad President or a bad act of Congress or the courts. He could be awfully critical, but he never despaired." McCloskey likes to think that his mentor would approve of his action in challenging former President Nixon in the 1972 New Hampshire primary as an attempt to make "the system" live up to expectations. And he would probably be correct. While an extremely loyal "party" man, Barclay does admit to having voted for McCloskey, who currently represents him in Congress. (Barclay says he has never voted for a Republican for President.)

Senator Hatfield, a graduate of Oregon's Willamette University who wrote his master's thesis in political science under Barclay's tutelage in 1947–48, immediately mentioned the Barclay bull sessions. "We used to have many great social occasions with Professor Barclay," Hatfield recalled as he propped his feet on his antique desk in the Russell Senate Office Building. "Dr. Barclay would drink Parke and Tilford." Suddenly jumping to his feet and grinning, Hatfield asked rhetorically, "Now, isn't that strange? You asked me a few moments ago what courses I took from Barclay and I couldn't remember, but I can remember the brand of booze my professor drank." Hatfield seemed doubly amused because he, too, was an academician. He taught political science at Willamette even through the early years of his political career as a State Senator in Oregon. To top it off, Hatfield himself is a teetotaler.

Hatfield described the L'Omelette evening sessions as "a come-one come-all affair, very social—but no women. My impression is that Barclay wouldn't even accept women in his classes until after the war He didn't feel that women had a place in politics."

In an interview, Barclay confirmed that his L'Omelette bull sessions were men-only affairs and that he would continue that practice today if he were still conducting them.

"Oh, I just didn't care to be bothered with them," Barclay said when asked why he hadn't included women. "I have had a lot of girls as students, some who were excellent students and got along very well indeed. I liked them, and I hope they liked me." But where the L'Omelette sessions were concerned, Barclay said, "I thought I had better stick to the other rule [men only]." Yet Barclay's innate trait of the old-fashioned Southern gentleman was quickly manifest when he was asked if he barred women because he felt they were too frivolous.

"Oh, Lord no," he replied in injured tones. "Oh, no. They were not frivolous. Some of them were very interested. There were a lot of girls interested and intelligent in politics but it just never occurred to me to have any but men. It wasn't any blacklist."

Barclay says that his own interest in politics stems from family conversations around the dinner table during his childhood, so the informal sessions with students evolved quite naturally for him. He began frequenting L'Omelette in October 1934, when he was still an associate professor. He was already a member of the Santa Clara County Democratic Central Committee as well as the Democratic State Central Committee of California, giving a practical application to his specialities of politics, political parties, and American government. By 1936 he had earned a seat in the California delegation to the Democratic National Convention. A year after that he became a full professor at Stanford.

On-campus political activity during most of the time that Barclay was an active faculty member was frowned upon. It wasn't until the 1950s that student political groups realized they could hold gatherings at the Stanford Elementary School because it was owned by the taxpayers. A few years later the Trustees established new guidelines allowing formal recognition of partisan organizations. Perhaps this is one reason interested students hung upon the every word of the one professor who *had* been to conventions, *had* talked with the politicians he talked about, *had* the practical experience to bring politics to life.

Asked whom he invited to his bull sessions, Barclay said: "I think it worked both ways. I knew a great many students. Sometimes I would invite them and sometimes they would invite me to go with them. It worked out very pleasantly for me, and I hope very pleasantly for them. I met a great many students without making any formal engagements. They were there and they saw me and we visited back and forth and talked about campaigns and elections and their work and what they were going to do after graduating or what graduate work they planned to do, if any. It was a very beneficial relationship as far as I was concerned."

One of those who unhesitatingly says his relationship with Barclay was indeed beneficial is Idaho's Senator Church. "I have known Tom Barclay since I was a freshman back in 1942," Church said in an interview in his spacious hideaway office in the Capitol, one of the perquisites of a veteran Senator. Although Church is but 52, he is ranked 13th in seniority in the 100-member Senate because of his first being elected in 1956 when he was 32—at the time the youngest Senator. This gave him a national identification far beyond what might be expected from one coming from a comparatively small state. Although generally quite outspoken, his handling of the committee investigating the CIA and other intelligence agencies this year was generally hailed as responsible and discreet.

"Tom Barclay was always one of my special friends," Church said. "The first course I took from him was American Government. It was very popular. He made it a lively subject. He had a great many firsthand political experiences to relate as he was extremely active in the Democratic Party in California. He attended the conventions and he had acquaintances with a great many political figures and a great talent for making the subjects of politics and government come alive. This was before political science became so computerized, and he made it personal through personal experience. Barclay greatly heightened my interest in political affairs. He had an interest in students, was accessible, and he was colorful. He was a man of very strong opinions, which today would be considered quite conservative. As you know, he was a Southern conservative. Charles Beard's book on the Constitution was a bible for Tom Barclay. He talked about government as an exercise of power. He had a way of getting away from rote learning of the textbook. He did a much better job of cultivating interest in government than anyone else in the department. He was a great teacher."

Republicans Talcott and Hatfield have similar impressions of Barclay as a great teacher. "I wasn't much of a student when

I started at Stanford," said Talcott, who received an AB in political science in 1942. "I was raised in Montana and went to Stanford on an athletic scholarship. I played football, basketball, and baseball at Stanford and was on Frankie Albert's freshman team.

"It was Dr. Barclay who inspired me to be a student," Talcot reminisced. "He was always current while other professors taught out of texts which were several years old. Like all good professors, he encouraged students to go a lot further, to do research on their own. He encouraged us to study broadly and to see all sides of the picture and to make up our own minds, which to me made him an outstanding teacher. . . . Unfortunately, today there is a lot of cynicism toward public officials. Tom Barclay never taught cynicism. If political science and economics were taught today as Tom Barclay taught, there wouldn't be this cynicism. There is too much of a tendency today for students to be taught just one side—indoctrination, in effect—and teachers are not teaching from experience. They haven't been to conventions. What Tom Barclay brought to his classroom was experience. He was so far ahead of his time and so dedicated to our system. I don't recall his ever saying a cynical thing, even when he disagreed with what was done in government."

In amplifying his recollections of Barclay, Senator Hatfield said: "I divided my political science professors into two categories—the theorists and the activists. Barclay was an activist. He never missed a national political convention, Democratic or Republican. He never had trouble getting tickets. He would urge his students to get involved while the theorists would ask for a paper on the influence of John Locke (the 17th-century English philosopher) on American politics. The theorists had a leg up on being scholars while the applied political scientists were looked on more as mechanics. That was an unfair judgment by academicians. Barclay has a great mind. Other professors would say of him, 'Oh, he's a political professor,' but Barclay would go to a convention to see how it worked while others would sit back and contemplate or do research."

Hatfield, who at age 54 is a leader of the Senate's dwindling bloc of Republican liberals, wrote his master's thesis on the labor policies of his political idol, Herbert Hoover. "Barclay supervised my work," Hatfield said, "I remember one incident vividly. I had written about the 1938 presidential election, the first year that radio was extensively used in a political campaign. I wrote that Al Smith (Hoover's Democratic presidential opponent) had a very poor radio voice. Barclay crossed out the negative adjective and wrote in "unusual.' It showed a slight trace of partisanship. He was such a loyal Democrat. I was merely reporting."

Asked if he had ever argued politics with Barclay, Hatfield said: "Not really, because he had such a high respect for Mr. Hoover, who was my area of study. He would often talk to me about his relationship with Mr. Hoover. I always felt that Mr. Barclay was more conservative than FDR or the Democrats of those days [the immediate postwar years]. I felt his partisanship was to the party rather than to the New Deal. I found him proud of his party label. One of Barclay's qualities that most impressed me was his ability to stimulate students to do their own thing. He was never that kind of doctrinaire ideologue who would use his classroom to indoctrinate students."

On this point, Barclay is in emphatic agreement with Hatfield. While he proudly confesses to playing a very active role in Democratic politics as first president and organizer of the Palo Alto Democratic Club, as a delegate or alternate to three Democratic National Conventions, as a presidential elector from California, and as an advisor to various Democratic candidates, he insists that he has never injected his partisan views in the classroom.

Barclay bristled when asked if he had ever exhorted students to think a certain way. "Oh, my, no. Oh, no," he retorted with irritation. "Although it was certainly known that I was a member of the Democratic Party, I pride myself on my utter objectivity in class and on the fact that I never paraded before the class my own views unless someone asked me about them, and I never attempted to influence anyone. I was a political scientist and not a missionary. They had to make up their own minds. I tried to analyze situations and lay out the facts and after that it was up to them."

Despite Barclay's classroom objectivity, both Hatfield and Church recall that he had a talent for being controversial. "Dr. Barclay was a man who had an opinion on everything and he was very generous in sharing his thoughts in informal gatherings," Hatfield said. "He had a great capacity for a turn of a phrase. He was never mean, but he could be very barbed, very succinct, and sometimes poignant."

While Senator Cranston knew and respected Barclay when he was an undergraduate, he says his closest contact came later, out in the political arena. "My post-Stanford association with Tom Barclay is stronger," Cranston said the other day "I have vivid memories from the late 1940s and the 1950s when I was getting active in politics and he was the guiding intellectual light of San Francisco Peninsula political life." (Barclay, during this period, was still on the Santa Clara County Democratic Central Committee and active in the Palo Alto Democratic Club. Cranston cut his political teeth as founder of the California Democratic Council.)

Even so, Cranston likes to tell about a Barclay habit that sheds some insight into the character and personality of the professor, who was born in St. Louis and taught at the University of Missouri before coming to Stanford in 1927. "I remember very well," Cranston said. "that for years after Barclay came to Stanford he would always mail his dirty clothes to a Chinese laundry in St. Louis. He thought that laundry was the only one that could do his clothes properly."

Cranston ran across another test of Barclay's loyalty to a friend and to a known quantity when he first ran for public office in 1958. Cranston decided to run against the highly respected State Controller, Bob Kirkwood, another former Barclay student. It was a Democratic year in California and Cranston was elected by a few thousand votes. Barclay, however, was Republican Kirkwood's Stanford area campaign chairman.

Edward's comments tell us a little bit more about the man: "Stanford was a very cold institution in the days when I was there," Edwards reminisced in an interview, "and most professors had nothing to do with students outside of the classroom. But not Barclay He went out of his way to learn students' names. I probably was better known than most students because I was captain of the golf team, but Barclay was one of the very few professors who remembered my name."

An appreciation of this warmth and friendliness was shown when Barclay retired in 1957. More than 100 friends and associates gathered—at L'Omelette—to pay him honor. At the banquet he commented that some of the postwar crop of professors were putting more value in research than teaching and in effect were bored with teaching undergraduates. "The students find it out quick enough," he commented, "and resent it. After all, the training of young minds is the university's big goal. You've got to be accessible to students, be there to advise them, help them over the rough spots. You can't be off writing a treatise or locked up in a laboratory."

Though Barclay devoted a great deal of time to his students and to practical politics, he also had an active professional career. His publications include two books, eight articles on California politics, numerous contributions to the *Encyclopaedia Britannica* and the *Dictionary of American Biography*, and many book reviews.

Honors and words of appreciation did not end with his retirement. A few years ago, Senator Church enlisted his three Senate colleagues who were Barclay devotees in presenting to him a framed statement in his honor. The statement said:

On the occasion of the Fiftieth Anniversary of the Department of Political Science at Stanford University, we take this opportunity to express our heartfelt gratitude to Thomas S. Barclay, mentor, teacher, and friend. We acknowledge with deep appreciation the wisdom of the instruction he offered on the fundamentals of free government; the force of the example he set for independence of thought; and the character of the inspiration he furnished which influenced each of us to enter the public service. Presented this seventeenth day of April, nineteen hundred and seventy, Stanford, California.

It was signed by Church, Hatfield, Metcalf, and Cranston.

"It was really an immense surprise to him," Church recalled. "I presented it to him at the end of a lecture I had given at Stanford. He came to hear me speak and had no advance notice."

In his interview, Barclay spoke with great pride of his former students who are now members of Congress. He did hasten to add that there were a number of judges, lawyers, business leaders, and other professionals to be numbered among his former students. Many would insist that they are better citizens because of the Barclay heritage. Najeeb Halaby, former president of Pan American and onetime head of the Federal Aviation Agency, who studied under Barclay in the early 1930s, has this comment: "He taught us to yearn, to learn, and to act in the service of the public. He made politics the most exciting pursuit, he made public service a high calling, and he did this in one of the most challenging periods in the history of American politics, the coming of the New Deal." And another former Barclay student, Victoria Schuck, who went on to become director of the Amherst-Mount Holyoke Colleges Political Studies Center, has this to add: "He vividly disentangled the theories and practices of political parties and of interest groups and their relation to the issues before Congress. His scholarly intrepidity tore into many sacredly held political myths. His first-hand accounts of Democratic conventions, related with wry humor, made potential delegates out of all of us."

Which ones would be the delegates, the politicians, officeholders of the future? Barclay, while singling out Church and Hatfield as outstanding students, confessed that he has never been able to predict how a particular student would fare in the outside world.

"You can't tell until after they have graduated and gone into their lives," Barclay said. "You can't tell what a student is going to do no matter what you tell him. You can't say. This is one of the difficulties of univer-

sity teaching; you can't tell what is going to happen to students."

At 84, Barclay, who never married, gives every sign of a happy and contented retirement. His voice still is firm and strong, his wit as pungent as ever. And while he moved from the campus several years ago to Channing House, a retirement home in Palo Alto, he visits the campus frequently and is as easily swept into a conversation about the 1976 campaign as he was about the campaigns of 20 or 30 years ago. Asked what he has done in retirement, he said: "Not very much. I read all the time. I've done some work. I've written a couple of articles and a small book, but I haven't been particularly active. My theory of retirement is that you should get out. Younger people want to take over and they have every right to do that. They don't want to be bothered with a lot of retired professors."